

Our Ref: 0087/12lt5

14 February 2014

Marian Pate
NSW Department of Planning and Infrastructure
PO Box 39
SYDNEY 2001

Dear Marian,

**RE: SUTHERLAND DRAFT LEP REVIEW
92 PRINCES HIGHWAY, SYLVANIA**

We advise that we act on behalf of the owner of the above property and have been instructed to make a submission to be included as part of the independent review of the Draft Sutherland Shire LEP 2013. In accordance with the terms of reference set out by the Minister for Planning and Infrastructure, this submission relates to the appropriateness of the second exhibited version of the Draft LEP.

By way of background, Planning Ingenuity made a submission to Council as part of the initially exhibited Draft LEP requesting that the site be changed from *R4 – High Density Residential* to *B1– Neighbourhood Centre*. The detailed submission is attached to this letter.

Staff did not support the request to amend the Draft LEP. Council's report summarising submissions made the following recommendation:

“ *Based on an assessment of the submissions received, it is recommended that the landowners be invited to lodge a planning proposal for both 86-88 and 92 Princes Highway, Sylvania. These planning proposals must demonstrate, in particular how safe vehicle entry and exit can be accommodated through a traffic analysis. The refinement of proposed building forms and an understanding of likely development on surrounding residential land should also inform the proposals.*”

We note that the subject site was not mentioned in the Mayoral Minute. Planning Ingenuity prepared a further submission in relation to the second exhibited Draft LEP maintaining the view that the most appropriate zone for the site is the *B1 Zone*. The submission responded to the issues raised by Council in their report as mentioned above.

We anticipate that professional staff will be in support of our request in relation to the second exhibited LEP, however, we do not have the benefit of the staff report that deals with the second exhibited version of the LEP. We therefore ask that the Panel endorse our request to identify the subject site within the *B1 – Neighbourhood Centre* zone or provided an additional permitted use clause permitting *business premises* and *shop-top housing* on the subject site. Should you wish to discuss any of the above, please feel free to contact the undersigned.

Yours faithfully,
Planning Ingenuity Pty Ltd



Jeff Mead
DIRECTOR



ANNEXURE A

COPY OF INITIAL SUBMISSION ON DRAFT SUTHERLAND LEP 2013

Our Ref: 0087/12lt1
Council Ref: LP/03/252376

30 April 2013

Environmental Planning Unit
Sutherland Shire Council
Locked Bag 17
SUTHERLAND NSW 1499

Dear Sir/Madam,

**SUBMISSION ON THE DRAFT SUTHERLAND SHIRE LEP 2013
No. 92 PRINCES HIGHWAY, SYLVANIA**

INTRODUCTION

We refer to the *Draft Sutherland Shire LEP (SSLEP) 2013* which is on exhibition from 19 March to 1 May, 2013. We act on behalf of the owner of the subject site and have been instructed to make a submission in relation to the Draft LEP to request that Council rezone the site to *B1 Neighbourhood Centre*, and allow for an increase in density on the site. The requested LEP changes would stimulate redevelopment of the site for mixed use purposes and enable the draft LEP height limit of 16m to be achieved.

In accordance with the zoning of properties that are located on the opposite side of Princes Highway, it is requested that the site be required to provide a minimum landscaped area of 10% (in lieu of the 30% currently required, which equates to 360m² of the site).

Under the Draft LEP, the site is proposed to be zoned *R4 High Density Residential* and within that zone (amongst other uses) *neighbourhood shops*, *residential flat buildings* and *shop top housing* are permissible. However, whilst *shop-top housing* is a form of development that would be suitable on the site (given proximity to the Princes Highway and exposure to traffic noise for ground level residential), Clause 5.4(7) restricts *neighbourhood shops* to a maximum floor area of 80m². This would not produce a desirable built form outcome given that the site has an area of 1,200m² (with street frontages of 30m and 40m).

In forming our opinion on the subject proposal, we have researched the development history of the site, have visited the site and locality and considered the *SSLEP 2006* and *Draft SSLEP 2013* controls in the context of the local and state strategic planning framework. We have also researched the provisions of the Draft NSW Metropolitan Strategy for Sydney 2031.

SITE & CONTEXT

The subject site is located at the corner of Princes Highway and Florida Street, Sylvania, some 22 kilometres south of the Sydney central business district as identified in Figures 1 and 2 below.

The site comprises a single allotment that occupies the south-western corner of the intersection of the Princes Highway and Florida Street.



Figure 1: Site location



Figure 2: Aerial photograph of site context (Source: SSC Mapping)

The subject site is an irregular shape with a total area of approximately 1,200m². The site has a frontage to the Princes Highway of approximately 30m in length and a secondary frontage to Florida Street of approximately 40m in length. The site has splayed north-eastern and south-western corners of approximately 3m and 12m respectively.

The site generally slopes from the north-eastern corner at the intersection of the Princes Highway and Florida Street towards the west and south-west. The site does not contain any significant vegetation and is not affected by flooding or bushfire. The site is identified as being within a Class 5 Acid Sulfate Soils zone, however, such a classification is not likely to impede its future redevelopment.

Existing on the land is a single storey car showroom building located towards the centre of the site and oriented at a 45 degree angle towards the intersection of Princes Highway and Florida Street. The site had been used as a car sales yard for approximately 45 years until last month. The existing building is of older construction and has a modest single storey height. The car yard is set on a level podium, due to the slope of the site away from the Highway. The site also comprises a small gravelled area which is generally used as a storage yard for cars undergoing preparation for sale. A small brick workshop with a flat roof is located along the western boundary of the site adjacent to the sales office.

Vehicular access to the site is from Florida Street. However, left turn out of Florida Street onto the Princes Highway is not permitted. Vehicles must use Pembroke Road to the south to exit onto either Port Hacking Road or onto Canberra Road and then Endeavour Street to exit onto the Princes Highway.



Figure 3: Existing site viewed from Princes Hwy



Figure 4: Rear portion of site viewed from Florida St



Figure 5: Car yard at No. 86-88 Princes Hwy



Figure 6: Telstra exchange adjoining to the west

The site is located on the southern side of the Princes Highway at the intersection of Florida Street and has good vehicular access to the surrounding suburbs and region. As shown in Figure 2, the site forms a small pocket of commercial development that acts as a buffer between the Princes Highway and medium density development to the south, particularly surrounding Pembroke Street towards the Southgate Shopping Centre.

The site is surrounded by the Telstra telephone exchange to the west and south (Figure 2). Immediately opposite the site to the north is a number of commercial allotments, comprising three car dealership showrooms and sales yards. Directly opposite at No. 101-109 Princes Highway is the largest of the three, which is presently used as a BMW dealership. Further to northwest is a vacant car sales yard with a single storey sales office at No. 111-115 Princes Highway. Located on the corner of Madeira Street is another two storey car showroom which is also vacant (No. 117-119 Princes Highway), and has recently received development consent for fit out and use as a restaurant and microbrewery.

To the east, on the northern and southern sides of the Princes Highway are single dwellings. The area to the southeast of the subject property is characterised by detached dwellings and villa and townhouse developments. To the southwest of the site is a Housing NSW site, which contains approximately 70 townhouse dwellings. Also to the west/south-west is the Southgate Sylvania Shopping Centre which comprises a retail mall as well as McDonalds, Sylvania Hotel, Fitness First, AMF Bowling, First Choice wholesale liquor store and a fruit market.

THE REQUEST

Given the proximity of the site to the Princes Highway and its high traffic volumes, redevelopment of the site as a residential flat building is inappropriate and would result in a poor town planning outcome. As indicated previously, to create a *shop-top housing* development, *neighbourhood shops* are permitted on the site however Clause 5.4(7) of the Draft LEP restricts such a land use to a maximum floor area of 80m². The site has an area of 1,200m² and with the exception of basement driveway access and ancillary plant, storage and garbage rooms, the majority of the ground floor should be set aside for non-residential use with apartments above, to create a *shop-top housing* style development.

In addition to the land use permissibility issues outlined above, the Princes Highway offers a significant constraint not only to the production of an appropriate mix of land uses on the site, but also to the commercial viability of new development, particularly with relation to the end sale price of apartments.

On this basis, it is requested that the site be rezoned to *B1 Neighbour Centre*. However, whilst the proposed B1 zoning will create an acceptable form of development on the site, in order to encourage redevelopment in the shorter term and to acknowledge the constraints of the site, we request that the FSR be increased from 1:1 to 1.5:1. This would effectively allow for a 5 storey mixed use development that fits within the 16m building height limit prescribed by the Draft LEP, with a site coverage of approximately one third of the site (above podium level).

Furthermore, the Draft LEP seeks 30% landscaped area on the site (360m²) and this is an impractical outcome as the site has 70 lineal metres of street frontage, which together with future business tenancies with average depth of 10m to 12m and service related areas of the development (driveway access, basement footprint, storage areas and plant rooms), is an impossible figure to achieve. We request that the site be required to provide 10% landscaped area, which would effectively be contained adjacent to the western and southern site boundaries, to create a vegetated buffer to the Telstra exchange.

An alternative to achieving the desired mix of land uses on the site is to include the site in Schedule 1 of the Draft LEP to specifically allow for use of the site as *business premises*. This can be achieved with the following wording under the heading "Sylvania":

" **Use of certain land at Princes Highway, Sylvania**

- (1) This clause applies to land at 92 Princes Highway, Sylvania, being Lot 2 DP 740289.
- (2) Development for the purpose of *business premises* is permitted with consent."

However, as outlined above, should the zoning remain as R4 and the above additional use clause be inserted into the Draft LEP, it is requested that the permitted density on the site increase to facilitate the appropriate built form outcome. In addition, required landscaped area on the site should be reduced from 30% to 10% (as mapped) should the additional use clause referred to above be the preferred outcome.

JUSTIFICATION

Under Sutherland Shire LEP 2006 the site is currently within *Zone 6 - Multiple Dwelling B* and within the zone *residential flat buildings* are a permissible land use. The LEP also specifies a maximum height and density for the site of 3 storeys and 0.7:1, respectively. However, this has failed to promote redevelopment of the site due to the proximity of the site to the Princes Highway, unsuitability of locating apartments at ground level and financial viability of redevelopment.

The proposed B1 zone (or additional use clause specified above) and density increase will promote more economic use of the land which, as a result of changes in the structure of the motor vehicle industry, has been somewhat underutilised for a number of years. The proposal is also consistent with the economic and employment objectives of the *Draft South Subregion Subregional Strategy* which includes the locality within a "potential enterprise corridor" and seeks to promote viable business uses along busy roads.

The proposed alteration to the zoning (or additional use clause specified above) will encourage mixed business and residential land uses on the site. Furthermore, the proposed B1 zone and density increase is consistent with Council's current zoning intentions of encouraging apartment development on the site. To the contrary and for the reasons previously outlined, the Draft LEP controls as currently proposed would see the site lay dormant for the foreseeable future. Such an outcome would be contrary to the objective of achieving additional residential density on the site and would also be at odds with the *Environmental Planning & Assessment Act, 1979*, which seeks to *encourage the orderly and economic use and development of land*.

The Draft Metropolitan Strategy for Sydney 2031 seeks additional residential density within all Local Government Areas, and more specifically in locations that have good proximity to transport, employment, recreation and open space. The site fits these criteria well and also has the added benefit of being entirely separated from nearby residential land uses, with the Telstra Exchange forming the site's western and southern property boundaries. Anticipated building density could therefore be achieved without creating harm to the amenity of nearby residents, and in actual fact, is likely to benefit residential amenity through the creation of a physical break from traffic noise emanating from the Princes Highway. Future apartments on the site would be acoustically treated in accordance with the requirements of *SEPP (Infrastructure) 2007*.

The B1 zone permits a range of land uses including uses such as *shops, restaurants and cafes, and food and drink premises*. The B1 zone also includes the former use of the site as a vehicle sales premises as permissible. The variety of land uses that are permissible on the site have the potential to create varying traffic generating outcomes. However, given that vehicular access to the site is from

Florida Street only and that left turn from Florida Street onto Princes Highway is not permitted, it is anticipated that only small local businesses would occupy the site. For example, land uses such as a local doctor, physiotherapist, convenience store, restaurant or real estate office are likely, all of which are permissible in the B1 zone and would be low traffic generators.

Notwithstanding the comments made above, the actual future business related uses of the site are not yet known and therefore this proposal has been approached on the basis of setting in place an appropriate zoning that will enable a range of development outcomes, dependent on their ability to attract commercially viable businesses, to meet the relevant LEP and DCP controls, and to provide for reasonable amenity outcomes for nearby residents. Providing this flexibility in possible future uses is considered to be entirely appropriate for a transitional corridor location such as this.

CONCLUSION

We thank you for the opportunity to comment on Council's Draft LEP. For the reasons outlined in this submission, it is our view that the requested zoning changes more appropriately respond to Council's Housing and Employment Strategies and will create a form of development that is appropriate to the site and its context.

The subject request can be implemented through inclusion of the subject site in the *B1 Neighbourhood Centre* zone or through amendment to *Schedule 1 – Additional Permitted Uses* to specifically allow for "business premises" on the subject site (within the currently proposed *R4 High Density Residential* zone). The subject request will have no impact on the land use make up of the locality, will not erode residential amenity or create traffic issues.

As demonstrated in this submission, the proposal will meet the overall economic and social objectives of the Environmental Planning & Assessment Act, 1979. We therefore respectfully request that the Draft LEP be amended as detailed in this submission.

We trust that this submission is self explanatory, however, should you require any further clarification, please do not hesitate to contact our office.

Yours faithfully,
Planning Ingenuity Pty Ltd



Jeff Mead
DIRECTOR



ANNEXURE B

COPY OF SECOND ROUND SUBMISSION ON DRAFT SUTHERLAND LEP 2013

Our Ref: 0087/12lt2
Council Ref: LP/03/79340

17 September 2013

Environmental Planning Unit
Sutherland Shire Council
Locked Bag 17
SUTHERLAND NSW 1499

Dear Sir/Madam,

**SUBMISSION ON THE AMENDED DRAFT SUTHERLAND SHIRE LEP 2013
No. 92 PRINCES HIGHWAY, SYLVANIA**

INTRODUCTION

We refer to the *Draft Sutherland Shire LEP (SSLEP) 2013* which is currently being re-exhibited until 1 November, 2013. We act on behalf of the owner of the subject site and have been instructed to make an additional submission in relation to the 'Response to Submissions' document prepared by Council in July 2013. Council's response to our previous Draft SSLEP 2013 submission concludes as follows:

" *Based on an assessment of the submissions received, it is recommended that the landowners be invited to lodge a planning proposal for both 86-88 and 92 Princes Highway, Sylvania. These planning proposals must demonstrate, in particular how safe vehicle entry and exit can be accommodated through a traffic analysis. The refinement of proposed building forms and an understanding of likely development on surrounding residential land should also inform the proposals.*"

By way of background, *Planning Ingenuity* has been working in partnership with the property owner and *McLaren Traffic Engineering* for some time in the preparation of a Planning Proposal for the subject site. This Planning Proposal was similar to our Draft LEP request, supporting an increase in density, reduction of landscaped area and the adoption of a mixed-use zoning for the subject site. Due to the timing of the release of the Draft SSLEP 2013 a full Planning Proposal was completed, however was not submitted. In response to Council's comments above, a copy of this Planning Proposal is enclosed for Council's consideration. This Proposal provides a full discussion on the proposed zoning change with regards to the potential impacts of the surrounding residential uses and is also provided with an accompanying Traffic Report. Concerns raised by Council have been addressed through the preparation of our Planning Proposal.

In the months following the preparation of this Proposal, *Apex Motors* (the previous occupiers of the site) have vacated the site. The site is presently vacant and has been advertised for lease for some time. This is a direct result of the current zoning of the site and the difficulty in securing tenants given that the site can only support car sales purposes, rather than general business usage. As stated previously, because of the proximity of the site to the Princes Highway, redevelopment of it as a residential flat building is inappropriate and would result in a poor town planning outcome. Prompt rezoning of the site to address permissibility issues would enable the redevelopment and occupation of this vacant site for economic purposes.

THE REQUEST

The request can be implemented through inclusion of the subject site in the *B1 Neighbourhood Centre* zone (as discussed in the submitted Planning Proposal) or through amendment to *Schedule 1 – Additional Permitted Uses* to specifically allow for “business premises” and “shop-top housing” on the subject site (within the currently proposed *R4 High Density Residential* zone).

We acknowledge that Council may not wish to include the proposed zoning and FSR changes within the adoption of the Amended SSLEP 2013 in its present form, given the expected time frame for gazettal. As a result, we would welcome consideration of our request within a separate exhibition process (SSLEP 2013 Amendment 1) which could be expected some months after adoption of the new Standard Template LEP.

However, should Council wish to pursue an alternative within adoption of the Amended Draft SSLEP2013, an appropriate interim mechanism to achieve occupation of the site would be to include the site in Schedule 1 to specifically allow for use of the site as “*business premises*” and “*shop-top housing*”. This can be achieved with the following wording under the heading “Sylvania”:

“ **Use of certain land at Princes Highway, Sylvania**

- (1) This clause applies to land at 92 Princes Highway, Sylvania, being Lot 2 DP 740289.
- (2) Development for the purpose of *business premises* and *shop-top housing* is permitted with consent.”

Furthermore, should the zoning remain as R4 and the above additional use clause be inserted into the Draft LEP, it is requested that the required landscaped area on the site be reduced from 30% to 10%. This is appropriate in the context of a mixed-use development

Notwithstanding the comments made above, given the site is now vacant the future for the site is not yet known and therefore this proposal has been approached on the basis of setting in place an appropriate zoning that will encourage a range of development outcomes. Providing this flexibility in possible future uses is considered to be entirely appropriate for the site’s transitional corridor location.

CONCLUSION

We thank you for the opportunity to comment on Council’s Amended Draft LEP. For the reasons outlined in this submission, it is our view that the requested zoning changes more appropriately respond to Council’s Housing and Employment Strategies and will create a form of development that is appropriate to the site and its context.

This request can be implemented through inclusion of the subject site in the *B1 Neighbourhood Centre* zone (as discussed in the submitted Planning Proposal) or through amendment to *Schedule 1 – Additional Permitted Uses* to specifically allow for “business premises” and “shop-top housing” on the subject site (within the currently proposed *R4 High Density Residential* zone). The subject request will have no impact on the land use make up of the locality, will not erode residential amenity or create traffic issues. These concerns are discussed within the submitted Planning Proposal.

As demonstrated in this submission, the proposal will meet the overall economic and social objectives of the Environmental Planning & Assessment Act, 1979. This submission responds to Council's request for a Planning Proposal and further consideration of traffic and residential amenity impacts. We therefore respectfully request that the Draft LEP be amended as detailed in this submission.

We trust that this submission is self explanatory, however, should you require any further clarification, please do not hesitate to contact our office.

Yours faithfully,
Planning Ingenuity Pty Ltd

A handwritten signature in black ink, appearing to read 'J. Mead'.

Jeff Mead
DIRECTOR