

**SUBMISSION TO**

**NSW INDEPENDENT BUSHFIRE INQUIRY INTO THE  
2019-20 BUSHFIRE SEASON**

**FROM  
SAVE HEATHCOTE ACTION COMMITTEE**



**DATE: 17<sup>TH</sup> APRIL 2020**

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### **3. INTRODUCTION**

We thank you and we welcome the opportunity to make a submission to the NSW Independent Bushfire Inquiry into the 2019-20 bushfire season.

Please advise this Committee if this Bushfire inquiry will not be addressing the issues being raised in this Submission as soon as possible to allow other approaches to be initiated.

Our submission illustrates how serious thought has to be given to how we can prevent bush fire disasters occurring based on appropriate risk assessment and management strategies. We are convinced that many lives can be saved if there is a commitment by authorities to comply with existing standards holistically.

The Save Heathcote Action Committee believes that it is now timely to reassess the role of the NSW Rural Fire Service, the National Parks and Wildlife Service, local Councils, NSW Planning Panels and their failure to take an adequate and joint approach to fire management and assessment of risks to local communities in relation to Development Applications in existing bush fire prone areas.

This becomes very evident in the example that we will site for this enquiry here in East Heathcote which is a designated high risk bush fire prone area, south of Sydney. East Heathcote has one-road-in, one-road-out and a medium density Development Application which was recently and unexpectedly approved by the Sydney South Planning Panel.

We will give examples and evidence on how we believe the current process is sadly lacking and placing thousands of people's lives at risk, not only in East Heathcote but in other areas as well, if and when the same poor practices are being adopted as they have been here.

We note that you are requesting submissions outlining key points as being enough to get our message across. However, we would like to invite those conducting this enquiry to visit East Heathcote and see firsthand how the NSW Rural Fire Service, the National Parks and Wildlife Service, Sutherland Council and the NSW Planning Panel have all clearly ignored the bushfire and evacuation risks for this large community.

Sutherland Shire Council have previously identified these risks and now choose to place thousands of people's lives at risk in a high risk bush fire prone area with a history of serious and significant evacuation risks.

**“Prevention is better than cleaning up lives and the mess afterwards.”**

## 4. SAVE HEATHCOTE ACTION COMMITTEE

The Save Heathcote Action Committee was set up in 2015 when a Development Application was lodged by Fuzotin Developers with Sutherland Shire Council. The initial 6 storey Development is in a recognised bush fire prone area with numerous identified evacuation risks and infrastructure issues. After discussion and some protest, the proposed development in this area was finally reduced to five levels including two levels of underground car parking areas.



This Development site has an imposing two storey building designed in the Victorian Italianate style and one of the oldest and grandest buildings in the Sutherland Shire. The building and the 5 acres is across the road from the Royal National Park. Heathcote Hall was listed on the New South Wales State Heritage Register in April 1999. Heathcote Hall is currently abandoned and requires upward of four million dollars for restoration.

After 5 years struggle with over 300 objections submitted to Sutherland Shire Council from the Community Fuzotin Developers were finally granted a Development Application by the Sydney South Planning Panel.

We now understand that the Fuzotin Developers have recently resold this development site. The Development Application that has been approved is for the refurbishment and restoration of Heathcote Hall, construction of 55 dwellings consisting of 35 townhouses and 20 apartments, including two extensive underground car parking areas and the still unspecified commercial use of Heathcote Hall.



## 2.1 Brief History of the area.

We are a community in one square kilometre surrounded by 15,000 hectares of Royal National Park on three sides and the railway line on the western boundary.



There is one entry and exit point over a bridge across the railway line, for in excess of four thousand people including the residents, children from the three schools in the area, a large aged care facility, headquarters for the Heathcote NSW Rural Fire Service, Headquarters for the State Emergency Services, the many visitors to the extensive sports fields in the area and the visitors to the designated walks in the Royal National Park.

East Heathcote has a long history of threats from Bushfires in the Royal National Park. The Community was evacuated 20 years ago when the firefighters fought to save the Community from bushfires which surrounded East Heathcote. Most of the Royal National Park vegetation was severely burnt from these bush fires. We have had two recent evacuation alerts in the last 18 months at Waterfall 8kms to the north and at Loftus 4km to the south.

It must be noted that East Heathcote is a very old subdivision area and does not comply with many critical areas of the standards for bush fire prone areas.

The Community have been very active in relation to the Heathcote Hall Development in East Heathcote in trying to obtain answers from:

- **Sutherland Shire Council**
- **NSW Rural Fire Service**
- **The Department of Planning and Environment**
- **The National Parks and Wildlife Service**

Numerous letters have been written to the above requesting answers and there has been a general refusal to respond to our questions which included the lack of compliance with the above authorities documented standards.

**If requested we will supply copies of all correspondence to this inquiry.**

## **3 RISKS TO THE COMMUNITY ARE BEING IGNORED**

### **3.1 The NSW Rural Fire Service**

All companies in Australia have a legal obligation to comply with their own standards.

- In our attempts to address the problem the Community asked 101 questions and then a further 9 questions to the NSW Rural Fire Service asking them why they were ignoring and did not comply with the NSW RFS documented standards Planning for Bushfire Protection (PBP) 2006 and the newly revised 2019 version. Rob Rogers, Deputy Commissioner of the NSW Rural Fire Service refused to answer our questions and inappropriately stated that our “... continual disruption, hostility and finally inappropriate staff allegations did not allow them the opportunity to properly respond”. We simply asked questions and stated that our concerns would be given to any Royal Commission or Coroner when deaths related to bush fires occur in the area.
- The NSW Rural Fire Service has issued a Bush Fire Safety Authority (BFSA) approval for this development application in a high risk Bush Fire prone area. It is obvious to the community that their BFSA did not adhere to the requirements of their standards and do not take an appropriate holistic approach.

In the standards of the NSW Rural Fire Service Planning for Bush Fire Protection 2019 it is clearly stated in the introduction by the Minister for Police and Emergency Services, the Honourable David Elliott MP:

**The NSW Rural Fire Service has a statutory obligation to protect life, property and the environment. The National Disaster Resilience Strategy (COAG 2011) emphasises the importance of the strategic planning system in contributing to the creation of safer and sustainable communities. The National Disaster Resilience Strategy identifies risk-based land management and planning arrangements as a vital component in building disaster resilient communities.**

Yet, there is no guidance whatsoever in this document on how the NSW Rural Fire Service should go about identifying “risk-based land management and planning arrangements”.

We have been unable to identify if this was ever carried out regarding this Development. We repeatedly requested a copy of the “risk based land management and planning arrangement” so that the community could comment on this. However, no documentation has ever been received and we are now convinced that this does not exist and the required process was not complied with.

The Community identified the following risks, documented these to Sutherland Shire Council and also had a meeting with three senior members of the NSW Rural Fire Service outlining these risks. Details were also given to the Sydney South Planning Panel. All these risks to the community were effectively ignored by each of these authorities.

## **RISK ASSESSMENT LOOKING AT THE CAUSE, EFFECT AND IMPACT INCLUDING AREAS OF NON-COMPLIANCE WITH EXISTING RFS STANDARDS.**

Any risk based assessment and risk management process should have included the following risk based assessment of the existing and critical conditions in the East Heathcote area:

The NSW Rural Fire Service has a standard covering the requirement to minimise risks in Bushfire Prone areas. The non-compliances with these standards have been ignored by, the Sutherland Council staff, the NSW RFS and the Sydney South Planning Panel in at least 8 areas as identified below, these areas include.

1. Due to the two underground car parking areas in this Development with one entry and exit to this Development site only 30 metres from and facing the National Park. This same road has been and would be used for firefighting and evacuation. It is easy to imagine how 100 extra cars from the underground car park impact on fire fighting and evacuation of other residents and on to the existing narrow road used for firefighting. The local bus is unable to navigate this street due to the narrow roads well under the standards prescribed by the NSW RFS. The local bus has had to reverse hundreds of metres back up the narrow road to exit the street. (Video available) These conditions clearly impact on the evacuation of the residents and should have been considered by the Council and the NSW RFS. This situation clearly impacts the lives of the Community in a Bush Fire situation.
2. Due to a large state High school (pupil numbers are increasing currently nearly 925 students and teachers) if, there was catastrophic bush fire conditions all these students would have to be evacuated and this could result in loss of lives of children in the area.
3. Due to the State Primary School with approximately 160 students and pupil numbers increasing and being situated on the edge of the Royal National Park and situated on a dead end road longer than 200 metres (not recommended in the standard Planning for Bush Fire Protection). The Asset Protection Zone beside the school adjacent to the Royal National Park is as narrow as 43.5 metres only, although the NSW RFS standards state it should be at least 100 metres. See appendix 1. These critical conditions may impact on the evacuation and lives of the students if there are bush fire conditions adjacent to the school in the Royal National Park.
4. Due to the Creative Garden Early Learning Centre Heathcote preschool which has 56 children in the area, they would have to be safely evacuated in a bush fire.
5. Due to up to twenty people living in the Royal National Park this may increase the risk of bush fires being lit by smoking or cooking in the National Park at any time causing catastrophic bush fire conditions.



6. Due to the large aged care facility in the area, John Paul Village which has been extended recently and from which up to 450 residents and staff will have to be relocated or evacuated. Refer to last bush fire report. The NSW RFS advised us these residents will not be evacuated during the next bush fire and will be taken a few hundred metres up a hill to the oval across the external road which would be and has previously been used for evacuation and fire fighting vehicles. No consideration has been given that many of these residents have dementia and have mobility issues. 200 of these residents are in High Care/Nursing Home accommodation. Smoke surrounded the John Paul Village during the last bushfire 20 years ago and residents were evacuated with great difficulty with ambulances lined up for hundreds of metres trying to cross the one evacuation bridge.
7. The large aged care facility John Paul Village does not have an adequate Asset Protection Zone on the northern boundary along with timber carports at risk of burning in a bush fire approaching from the north or north east. Trees overhang these carports from the National Park. The APZ is supposed to be at least 100 metres and currently is as narrow as 26 metres. Refer to Appendix 1. There is a requirement that the APZ should be even greater than the standard minimum when residents are disabled or unable to evacuate themselves or when houses or buildings are not built to the appropriate BAL standard. Refer to *Planning for Bush Fire Protection 2006*,
8. Due to the very extensive playing fields at the southern end of Wilson Parade and adjacent to the Royal National Park which are being used more frequently both on the weekends and during the week increasing the risk to hundreds and sometimes thousands of people who attend these events. If there is a short notice catastrophic bush fire event and gale force winds evacuation would be impossible.
9. Due to Hazard reduction burning not being regularly maintained. It has been attempted once in the last 19 years around East Heathcote since the last life threatening Bush Fire surrounded East Heathcote.
10. Due to The Royal National Park authorities refusing to maintain the Asset Protection Zone around East Heathcote to the appropriate standards, this results and impacts on the ability to fight any bush fire in the area because vehicles are unable to safely use the APZ area for fighting fires and to protect the Community. In a meeting with the local Heathcote Rural Fire Service, some years ago Scott Deller a senior RFS officer explained to us how the National Parks and Wildlife refuse to maintain the National Park Asset Protection Zone. He was considering having the APZ cleared and explained that as it is within the means of the NSW RFS to then charge the National Parks and Wildlife authorities. This work has never been adequately undertaken.  
Refer to *Planning for Bush Fire Protection 2006*.
11. Due to the trees in the National Park growing daily and there is currently 19 years growth since the last major bush fire. This is a substantial risk to the



Community. Some of these trees are currently over 30 metres high and some are in the APZ. Some very high trees are in the back yards of homes and are not able to be cut down because they are classified as “protected” by Sutherland Shire Council. Many trees in the APZ were alight in the last Bush Fire 19 years ago.

12. Due to two evacuation alerts in 2018/19 for East Heathcote with an out of control Bush fire 8km to the south at Waterfall and more recently at Loftus only 4km away to the north indicates to the Community the high level of risk. There have been at least five bush fires in the Royal National Park in the last 2 years.
13. Due to Global warming the bush fire risk to the Community has increased and is clearly evident to all concerned and impacts on the Community.
14. Due to the last long dry summer, regular gale force winds frequently experienced and the extremely dry conditions in the Sydney area. These conditions are all increasing the bush fire risk to the Community.
15. Due to the council continuing to approve knock down housing and rebuilds with much larger homes, this is resulting in an increase in the population and traffic in East Heathcote. This will be further increased with the large currently approved Heathcote Hall Development in East Heathcote. It should be noted that this Development is directly across the road from the Royal National Park.
16. Due to two planned underground car parking areas at the above mentioned development, the entry and exit for one of these carparks is onto the external road previously used for firefighting in the last bush fires and metres away from the Royal National Park facing south. This means there will be in excess of 50 extra cars at least trying to escape when emergency vehicles are trying to fight the fires on the same narrow street. This same road is only 6.5 metres wide and currently has car parking issues and the local bus service has not been able to navigate this road, video evidence is available. The east Heathcote area has no perimeter road on three sides and no parking bays although these are required as per the NSW RFS standard PBP 2019.
17. Due to East Heathcote not having any perimeter roads 8 metres wide and not having Parking Bays as prescribed in PBP 2019, this results in an increase in traffic jams in an emergency evacuation hence increasing the risk to the Community and Firefighting personnel. The three sides of East Heathcote facing the Royal National Park only have external roads 6.5 metres wide with houses or school on both sides of the road. Evacuation and firefighting was very difficult 19 years ago when vehicles trying to contain the fire had hoses running down beside the homes in the area and at that time there was considerable time available for the evacuation.
18. Due to the narrow streets near the Heathcote railway station the roads are unable to accommodate the overflow of parked cars from the railway station car park choking roads around Heathcote Station. Again, the local community

bus has also periodically had to reverse 400 metres back up Dillwynia Grove to get out of East Heathcote. We have a video of the bus being unable to navigate the narrow roads due to parked cars on the road near the station.

19. Due to the extensive activities at the ovals at the southern end of Wilson Parade during the week and on the weekends it can take over 15 -30 minutes to leave East Heathcote over the only bridge. School pick up and drop off times also impacts leaving and coming into East Heathcote. This obviously increases the risk of safe emergency evacuation of the Community.
20. Due to the very poor water supply to the area with existing low pressure for residents now. In a bush fire situation when Fire authorities are using the water the remaining pressure is inadequate for residents. Water pressure was a significant problem during the last bush fire. The area is dependent on a header tank for water and generators if there is no power. No change in this infrastructure has occurred in the last twenty years since the last major bushfire.
21. Due to the Heathcote Hall Development their emergency pumping system will seriously reduce water availability and pressure in the vicinity of East Heathcote reducing the water available to the resident's and firefighting personnel.
22. Due to a loss of power in the area, it would be catastrophic for the Community. It is recommended in Planning for Bush Fire Protection 2006 that power lines are underground. All the power lines in East Heathcote are overhead increasing the risk of power failure in any bush fire evacuation emergency and or from falling trees in high wind conditions. Refer to *Planning for Bush Fire Protection 2006*.
23. Due to the fact that most houses in the area are not built to any required BAL rating, they are substantially more susceptible to bush fire attack and act as a means to spread fire to the development at Heathcote Hall estate and other nearby homes. The existing APZ is not adequate in width to protect many homes and is up to 75% less than the width it should be. *refer to Appendix 1 and also refer to Planning for Bush Fire Protection 2006*
24. Due to the railway crossing at East Heathcote railway station not being "trafficable at all times" a requirement of the NSW Rural Fire Service and the LEMC ("The Local Emergency Management Committee"). This anomaly increases the risk to residents trying to evacuate. It would clearly be very difficult and dangerous for in excess of 4,000 people to try and evacuate through hundreds of parked cars on the eastern side and western side of the station car park across the railway crossing in a short notice bush fire emergency.
25. Due to a Bush fire approaching from the north and disabling the road access over the railway bridge (a risk identified by three senior staff of the NSW Rural Fire Service when we met with them) no consideration has been given on how the Community could be evacuated effectively and taking into account the

inaccessibility of the railway crossing at the station. The only tests done by the NSW RFS is to test the railway crossing for effectiveness for emergency vehicles not the evacuation of a whole community of thousands.

26. It would clearly be very difficult and dangerous for in excess of 4,000 people to try and evacuate through hundreds of parked cars on the eastern side and western side of the railway station car park across the railway crossing in a short notice bush fire emergency impacting on the lives of the community.
27. Due to a bushfire and strong winds approaching the Community overnight when residents are asleep is a risk to the Community.
28. Due to a number of dead end road well over 200 metres in length around the circumference of East Heathcote, including access to the primary school. This is a very significant risk to the community and for the school children at the Primary School. This also contravenes NSW RFS standards refer to *Planning for Bush Fire Protection 2006*.
29. Due to the extreme flammability of the trees in the Royal National Park and the density of the bushland these must be considered. Most trees are gum trees and very flammable. Some trees are only 30 metres from houses and many are over 30 metres high.
30. Due to the slope of the Royal National Park on the southern side the width of APZ should be increased. This is clearly increasing the risk to homes and must be considered. Refer to *Planning for Bush Fire Protection 2006*
31. Due to the introduction of NBN in February 2020 communication will be dependent on electricity to the area unless you have a mobile phone, this increases risks dramatically to residents.
32. Due to a previous development being rejected twenty years ago by the Department of Planning because of the poor infrastructure and bushfire risk to the community, a precedent was set however this was ignored by the Council Staff and the SSPP when they assessed the Heathcote Hall Development.
33. Due to no maintenance on the extensive and existing fire trails around East Heathcote increasing the risk to residents and firefighting personnel.

### **3.2 The Sydney South Planning Panel. (SSPP)**

Helen Lockhead Chairperson of the Sydney South Planning Panel stated on the 13 December 2019 during the recording of the Final Determination for this Development, ***that fire containment and risk assessment in the broader area were beyond the realm of this particular application to deal with.***

We ask why and how NSW Planning Panels can be instructed to ignore *fire containment* risks to a community and *risk assessments* of the broader area around a development site as indicated by Helen Lockhead?

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It appears that Helen Lockheed has contravened all the principles regarding identifying risks to the community and indicated publicly that the Planning Panels do not have to even consider risks or fire containment for any Development that are considered by Planning Panels.

There is something critically wrong when the Chairperson Helen Lockheed of the Sydney South Planning Panels states publicly at the final determination approving the development *that fire containment and risk assessment in the broader area were beyond the realm of this particular application to deal with. We ask Why?*

The Community attempted to have this anomaly addressed in correspondence to the SSPP and complaints to the Department of Planning and Environment and we were told the only avenue left for the Community was to go to the Land and Environment Court which was financially way beyond the means of this Community.

This effectively means that the SSPP appear to be allowed to and completely ignore any requirements or fire containment risk controls contained within the standards of the NSW Rural Fire Service.

The SSPP approval is clearly contrary to the Ministers 2019 introduction to the new Planning for Bush Fire Protection 2019 standards which were recently gazetted.

**Recommendation: This NSW Independent Bushfire inquiry establish how Planning Panels in NSW do not have to consider *fire containment* risks to a community and *risk assessments* in the broader area of a Development Application. They are incorrectly able to ignore the fundamental principles of the Australian Standard for Risk Assessments which requires a holistic approach, for example, Developments proposed in Bush Fire Prone areas. This has been proven to result in dangerous outcomes and loss of life.**

### **3.3 The Sutherland Shire Council**

In the past Sutherland Shire Council in consultation with the local Heathcote NSW Rural Fire Service have previously identified that East Heathcote as an area that is a very high risk bush fire prone area. Heathcote area also has significant evacuation issues and infrastructure failings, including narrow roads, overhead power lines, limited water capacity and one road to enter and exit to evacuate over the railway bridge.

**Recently Sutherland Shire implemented the following for East Heathcote:**

**A. E4 Zoning**

E4 Environmental Living is a zone for land with special environmental or scenic values where residential development can be accommodated. Development in this zone is to give priority to preservation of the particular environmental qualities of the land. Much of this zone is subject to bushfire risk. E4 allows for low-impact residential development in areas with special environmental or scenic values.

**B. Banned any further duplexes in the area**

**C. Banned any further dual occupancy housing in the area**

**However we now have a system in place where all the above risks in red and their own zoning requirements are and have been ignored by numerous authorities for a Development which clearly places the lives of a large community at risk.**

We believe Sutherland Shire Council staff has focused on:

- The benefits of the Development Application that is the increase in rates and
- The need for the restoration of the Heritage Listed Building which is part of this Development Application.

We believe the Sutherland Shire Council staff has:

- Failed to adequately consider the risks and safety of the Community.
- Failed to ensure the area complies with the requirements of NSW Rural Fire Service standards.
- Failed to justify the abandoning of E4 zoning, banning of duplexes and dual occupancy to suit over development at Heathcote Hall Estate.

#### **4.0 CAUSES AND CONTRIBUTING FACTORS**

##### **4.1 Failure to comply with legal requirements**

With this Development Application and because there is a Heritage Building on the site it is a legal requirement that the SSLEP 2015 Heritage status **clause (e) “the proposed development would not have any significant adverse effect on the amenity of the surrounding area”**.

After repeated requests by the Community to the Sutherland Shire Council and the Sydney South Planning Panel, they have refused to provide a full assessment on the significant adverse effects on the amenity of the surrounding area. This obviously would include bush fire and evacuation risks to this Community. There were over 300 submissions from the Community outlining our concerns to the Council.

It is a requirement of Sutherland Shire Council to provide a summary of these concerns to the Sydney South Planning Panel. The summary provided by the Council was grossly inadequate and did not effectively address the significant negative impact on amenity of the surrounding area.

##### **4.2 Councillors and council staff.**

After repeated correspondence to the Council, the Councillors put themselves in a unique position of unanimously objecting to this Development. However, the system allows Council staff to continue to support this Development and ignore all the risks to the Community. The System allows this to occur, how and why?

Mayor Carmelo Pesce raised concerns in, 2017 and June 2018 in correspondence to the Sydney South Planning Panel regarding the Development of the Historic Land at Heathcote Hall. He advises them “To closely consider

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concerns residents put to him” and that “Any development needs to respect the amenity and character of the neighbourhood as well as the constraints of the land” and says to the SSPP “you have a very important decision to make which will directly impact upon the lives of many residents in East Heathcote” the Mayor also included documented concerns about:

- “The future use of the heritage building and potential traffic generation;
- Incompatibility of medium density housing
- Bushfire risk and difficulties with evacuation
- Traffic and parking
- Impact on trees
- Impact on the heritage building and its surrounds
- Pedestrian safety
- Inconsistency with the character of the area
- Impacts on amenity during construction”

The Mayor stated in correspondence dated 14<sup>th</sup> February 2019, “In relation to your request that Council makes a submission to the SSPP objecting to the development, I can confirm that this occurred after my Mayoral Minute in June 2017 and the Mayor states that this was unanimous by those Councillors present and able to vote”. Councillors Simpson and Johns apparently abstained from voting because both are on the SSPP and both “declared a conflict of interest”.

We will comment below on some of the concerns listed by the Mayor and made to this SSPP at its last meeting in June 2018.

- **The future use of the heritage building and potential traffic generation:**  
The traffic generation is obvious.  
The use of the heritage building has still not been established despite the developer having approximately 4 years to determine its use.
- **Incompatibility of medium density housing**  
Medium density housing is totally incompatible in an area zoned E4, where dual occupancy and duplexes are also banned because of the high bush fire risk.
- **Bushfire risk and difficulties with evacuation**  
Why would you even consider increasing the population by hundreds in an already high risk bush fire prone area and the resulting evacuation issues?
- **Traffic and parking**  
Traffic and parking is a problem now and increase that by a couple of hundred vehicles and you have a disaster for the residents, the children and the community.
- **Impact on trees**  
Heritage trees would have to be removed to widen roads and put any footpaths in. Hundreds of trees will also be removed from the site.

- **Impact on the heritage building and its surrounds**  
It is obvious the impact of this Development will have a significant negative effect on the surrounding heritage listed site.
- **Pedestrian safety**  
No footpaths exist and pedestrians currently walk on the road. An increase in traffic and residents obviously impacts on the safety of pedestrians and cyclists.
- **Inconsistency with the character of the area**  
This medium density housing development is totally inconsistent with the character of the area.
- **Impacts on amenity during construction**  
Council staff failed to mention the impacts on amenity for the residents during and after construction including the increased risks to the Community as outlined.

Yet we have a system where the Council staff supported this Development and ignored all the unanimous advice and concerns of their own Councillors who unanimously voted against this development.

Council staff also ignored over 300 public submissions from the Community who objected to this Development and outlined the many risks to this Community.

We have a system where the Councillors of Sutherland Shire Council unanimously object to a Development because of the following reasons clearly documented and yet their own council administrative staff approve this development. Two of these councillors are on the 5 person Planning Panel and three other members outside the area can vote 3 to 2 and ignore the risks to the community and approve this development. How is this so?

The two Councillors *disagreed with the majority decision* of the Sydney South Planning Panel and stated *that the proposed development should not be approved, because it is not in the public interest, does not conform with the character and desired future locality, the adverse impacts on the amenity of the surrounding area, the change of the character of the surrounding areas which is zoned E4, would establish an undesirable precedent, may increase the well documented risks, it is out of character for the area, would introduce new density forms and would result in unacceptable visual impacts.*

### **4.3 NSW Rural Fire Service**

The NSW Rural Fire Service state in writing that this development complies with their standards Planning for Bush Fire Protection 2006 and the newly gazetted 2019 version. We have identified numerous areas where this Development clearly does not measure up against these standards.



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There has been no risk Assessment of the area in conjunction with the NSW Rural Fire Service .David Elliot MP's foreword to "*Planning for Bush Fire Protection*" 2018/2019 states: **"The NDRS identifies risk-based land management and planning arrangements as a vital component in building disaster resilient communities."**

**No risk assessment has ever been made available and accessible to the community after repeated requests to the SSPP, Sutherland Shire Council and the NSW Rural Fire Service. This is clear evidence that this Development Application has been approved illegally because the legal requirements have not been complied with. It should be noted that the NSW RFS claim incorrectly that this Development complies with the above standards when it is obvious to the Community that it does not comply in the following critical areas. Refer to Risk Assessment above in red on pages 7-11 of this document.**

## 5.0 “PREPARATION AND PLANNING”

### 5.1 The Asset Protection Zone (APZ)

The SSPP should not have approved this Development when the required Asset Protection Zone (APZ) does not comply with the APZ guidelines on the south and east of the proposed development. This area is not being maintained by the Royal National Park to the satisfaction of the Rural Fire Service. Refer to appendix 1.

It should be noted that most of the homes in East Heathcote are not constructed to any BAL rating to protect them from bush fires as such they are more prone to spreading any fires in the area.

**NOTE:** The Asset Protection Zone is incorrectly shown on the plans in the Development Application and shows the APZ as much wider and extends to the walking trail. The area between the actual APZ and this walking trail is heavily wooded with a continuous tree canopy many metres wide, again increasing the risk to the Community.

Refer to page 157 of Rural Fire Service GIPA. And the enclosed Plan.

### 5.2 Warnings

The SSPP should not have approved this Development as any increase in the population in East Heathcote increases the probability of fatal consequences as evidence by the following. The Rural Fire Service Plan describes Heathcote East area on a catastrophic fire day that **“People in the path of the fire will almost certainly die, or be injured and significant numbers of homes and businesses destroyed or damaged.”** and **“Expect power, water and phone networks to fail as severe winds bring down trees, power lines and blow roofs off buildings well ahead of the fire”** amongst other serious concerns.

**NOTE:** There is obviously a risk to the community. Why have the Local Rural Fire Service placed numerous emergency firefighting equipment trailers around the East Heathcote perimeter.

### 5.3 Emergency Evacuation

The SSPP should not have approved this Development because **Emergency Evacuation had not been adequately analysed.** Many lives are at risk so this must be carried out by an adequate process. It is essential that a “catastrophic risk assessment and management process” be implemented and the outcomes applied. (This process is carried out by the NSW underground mining industry and also some aspects of the NSW railway system) This process is particularly suitable for high consequence low frequency events. This approach is critical because of the unique anomaly of the limited Emergency Evacuation for the Residents, High School, Primary School Preschool, Large Aged Care Facility, Extensive Sporting Fields and Bush Walkers who are already at high risk of bush fires trapping them in the

confined area of East Heathcote. This could mean evacuating in excess of 4,000 people, possibly with very short notice.

### **5.4 Misleading statement by the “Sutherland Local Emergency Planning Committee”**

The SSPP should have rejected this DA due to David Kelly, Chairperson of the “Sutherland Local Emergency Planning Committee” who **MISLEADINGLY** stated in his correspondence to Sutherland Shire Council 21 February 2018 File Ref:2018/296123

**“Based on the responses received, the LEMC members have advised there is nothing specific to this development application which creates unique evacuation management issues compared to other developments currently being undertaken in the Sutherland Shire”.**

The LEMC did not even consult with the local Fire and Rescue authorities for their opinion although they would be directly involved with managing a Fire in East Heathcote.

You only have to consider the concerns raised in this document to realise that the evacuation issues alone are unique to this proposed development and the unique physical evacuation restrictions. The LEMC surely have the obligation to look at ALL the “unique evacuation” issues related to East Heathcote and not rely on a general approach. There are no catastrophic bushfire risks or related evacuation issues at Caringbah, Miranda, Cronulla and many other areas of the Shire.

### **5.5 No adequate escape route.**

The SSPP should not have approved this DA because the Sutherland Shire Council **“does not include an assessment of emergency traffic scenarios.”** It is scandalous that this is so; there is a two lane bridge to evacuate in excess of 4,000 residents, students from three schools, residents, visitors and staff at a Large Nursing Care Facility, the Rural Fire Service, the State Emergency Control Centre and those who could be at events at the extensive sporting fields. Refer to the difficulties during the emergency bush fire evacuation in 2001 when we had a long period of time available to plan and carry out the evacuation, which is not always the case. During this evacuation there was a massive line of ambulances on Wilson Parade evacuating incapacitated residents from the John Paul Village Nursing Care Facility.

The SSPP should not have approved this DA because a secondary escape route from East Heathcote has not been properly analysed, and it is not capable of being quickly and efficiently implemented. The Rural Fire Service have stated **“The Council, together with the Local Emergency Management Committee (LEMC) and relevant government authorities, should ensure that the vehicular crossing of the railway line at Heathcote Station is kept trafficable at all times in case of an**

**emergency”.** This is impossible as the gates are currently locked and it requires hours for approval to have the electricity disconnected and rail traffic stopped. The current DA submission states “there is a risk to low ground clearance vehicles being jammed on the rail tracks and high vehicles contacting high voltage wiring.”

We have been advised by a station master that the railway crossing gates cannot be opened unless the high voltage electricity is turned off and the rail traffic stopped. (Periodic rail track ballasting requires the raised roadway area in the vicinity of the tracks to be removed so that no vehicles can cross the tracks until the raised roadway section is replaced.)



### **5.7 The NSW Rural Fire Service**

The NSW Rural Fire Service have made a scandalous and repeated errors in claiming the Proposed Development complies with both the “Planning for Bush Fire Protection 2006 and the updated 2019 version recently gazetted.

The NSW RFS have continued to be selective and minimalistic in their compliance with the above standards.

Why has the NSW RFS in their BFSA only considered the emergency railway crossing from their standards and ignored every other requirement?

Nika Fomin states that the Perimeter Road “is not a requirement under the provisions of Planning for Bush Fire Protection 2006.

Nika Fomin also states that this BFSA has been “submitted against” the new draft 2019 edition” and states that Perimeter roads do not have to comply with this standard because “The site does not adjoin bushland and is bounded on three sides by public roads”.

They have ignored the fact that the site is 20 metres from the overgrown access road to the Royal National Park and only 50 metres from thousands of acres of bushland of the Royal National Park.

Please note there are no Perimeter roads in existence in East Heathcote. Perimeter Roads should be at least 8 metres wide. The roads close to the circumference of East Heathcote are mainly 6 to 6.5 metres wide except parts of Wilson Parade.

**Please note many other serious issues the NSW RFS have chosen to ignore compliance with the standard. Briefly:**

- Water supply has not yet been assessed.
- Power lines should be underground, all are overhead.
- Dead end roads many longer than 200metres including to the Primary School
- No Parking Bays exist in East Heathcote
- No regular hazard reduction burning is conducted in the area. Once in 20years.

This BFSA submitted on 27 April 2018 to Sutherland Shire Council has not considered any aspects of the legal requirement of planning for Bush Fire Protection for the area around the proposed Development only the railway crossing. Why has the NSW RFS only considered the evacuation requirement of their fire fighting vehicles and ignored the rest of the Community and their own Standards. Either Nika Formin in her Bush Fire Safety Authority is being deliberately evasive or does not know what is in the standard and is also ignoring the requirements of the responsible Minister David Elliot MP who in his introduction to the 2019 version states “the NDRS identifies risks based land management as a vital component in building disaster resilient communities” We have repeatedly asked the NSW RFS and the SSC for a copy of this Risk Assessment, however it has not been provided

### **5.8 National Parks and Wildlife (NPWS)**

The statutory obligations for their primary fire management objectives of the NPWS are:

- ***to protect life, property and community assets from the adverse impacts of fire***
- ***to develop and implement cooperative and coordinated fire management arrangements with other fire authorities, park and reserve neighbours and the community***
- ***to assist other fire agencies, land management authorities and landholders in developing fire management practices that contribute to conserving biodiversity and cultural heritage across the landscape.***

Putting it simply, there is a community of thousands and the NPWS refuse to maintain the Asset Protection Zone around East Heathcote to the required standard which is 100metres and it is currently as narrow as 25 metres. We remind you there are in excess of 4,000 people to be evacuated including aged care residents and school children.

The bushland around most of East Heathcote is very dense and many trees are over 30metres high.

The NSW Rural Fire Service when asked why they do not maintain the APZ to the required standard Scott Deller from the local NSW Rural Fire Service stated to us verbally “they have their own internal document” that they comply with. We have

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tried to obtain this and the NSW RFS refuse to provide this to the Community. This situation we believe should be of serious concern to this Enquiry.

## **4 CONCLUSION**

The Save Heathcote Action Committee urges the NSW Independent Expert Inquiry into the 2019-20 Bushfire Season to address all the issues raised in this submission.

Scientific advice from Australia and around the world declares that in the future the frequency and severity of bush fires will increase, along with the drought, the fire seasons lengthening and climate changes. This obviously should at least result in adherence to the existing standards as set and updated in Planning for Bush Fire Protection 2019 by the NSW Rural Fire Service. Otherwise, why have these documented standards that the NSW Rural Fire Service and the National Parks and Wildlife Service can and continue to ignore.

We are happy to provide copies of all our correspondence with the applicable authorities if these will help with your investigations. We have not included these as your brief asks for *submissions outlining key points as being enough to get our message across*.

We would sincerely welcome an opportunity to meet with you on site to discuss the very serious discrepancies we have identified in the current system which clearly puts lives at risk.



**Appendix 1**

**Please Note on the 1 December 2019 a survey was conducted of the APZ around East Heathcote by a member of the Save Heathcote East Action Committee.**

<b>Location</b>	<b>APZ current width</b>	<b>APZ required width</b>	<b>APZ Inadequacy %</b>
East Heathcote Primary School, Eastern side	43.5 metres	100 metres As per clause, see below for schools	66.5%
North. John Paul Village Aged Care Facility Eastern end carport areas	26 metres	100 metres As per clause, see below for aged care	74%
North. John Paul Village Aged Care Facility Western end carport areas	39 metres	100 metres As per clause, see below for most homes not BAL rated	61%
North East Near Parklands Avenue	31 metres	100 metres As per clause, see below for most homes not BAL rated	69%
North Eastern corner Near end of Forest Road	36 metres	100 metres As per clause, see below for most homes not BAL rated	64%
North Eastern corner At first house on north eastern side The Avenue	28 metres	100 metres As per clause, see below for most homes not BAL rated	72%
South along Dillwynnia Grove	30 -35 metres	100 metres As per clause, see below for most homes not BAL rated	65-70%

Appendix 2

**SUMMARY OF EFFECTS ON THE AMENITY OF THE AREA DURING THE CONSTRUCTION PERIOD**

<b>Amenity issues</b>	<b>Significant for local residents</b>	<b>Significance if proposal is limited to E4</b>
Bush fire risk	Yes significant	Minor
Car parking in street	Yes major	Minor
Character	No	No
Community feel	No	No
Contamination	Yes major	Minor
Congestion	Yes major	No
Damage to Heathcote Hall	Yes significant	No
Damage to Roads	Yes significant	Minor
Damage to Homes	Yes significant	Minor
Drainage	Yes significant	Minor
Dust	Yes major	Minor
Excavation impact	Yes major	Minor
Fauna	Yes major	Minor
Flora	Yes major	Minor
Pleasantness/serenity	Yes major	No
Pedestrian safety	Yes major	Minor
Pollution run off	Yes major	Minor
Privacy	Yes major	Minor
Scale of Development	Yes major	No
Streetscape	Yes major	Yes minor
Traffic	Yes major	Yes minor
Visual effects	Yes major	No
Water pressure	Yes minor	No

**Note: - only major and significant issues will be further analysed.**

**EFFECT ON THE “AMENITY” OF THE AREA AFTER THE PROPOSED DEVELOPMENT IS COMPLETED**

<b>Amenity issues</b>	<b>Significance for residential use exclusively</b>	<b>Increased significance if commercial use permitted</b>	<b>Significance if proposal is limited to E4</b>
++++	Yes major	Yes	Minor
Car parking at station	Yes significant	Yes	Minor
Car parking street	Yes significant	Yes	Minor
Character	Yes significant	Yes	Minor
Community feel	Yes significant	Yes	No
Congestion	Yes significant	Yes	No
Crime	Yes significant	Yes	No
Drainage	Yes significant	No	Minor
Environmental impact	Yes significant	Yes	Minor
Evacuation impact	Yes significant	Yes	Minor
Fauna	Yes significant	No	Minor
Flora	Yes significant	No	Minor
Garbage Collection	Yes significant	Yes	No
Noise	Yes significant	Yes	No
Pleasantness/serenity	Yes significant	Yes	No
Pedestrian safety	Yes significant	Yes	No
Population density	Yes significant	Yes	No
Pollution run off	Yes minor	No	Minor
Privacy	Yes significant	No	Minor
Scale of Development	Yes significant	Yes	No
Streetscape	Yes significant	Yes	No
Traffic	Yes significant	Yes	Minor
Visual effects	Yes significant	no	No
Water pressure	Yes significant	Yes	No