

8 February 2019

Director
Sydney Central Urban Renewal
Department of Planning and Environment
GPO Box 39 Sydney, NSW 2001

Dear Sir/Madam,

Submission to Draft Planning Package and Draft Special Infrastructure Contribution for St Leonards and Crows Nest 2036

Introduction

This submission has been prepared by *KEYLAN Consulting Pty Ltd* (Keylan) on behalf of Piety THP in response to the Department of Planning and Environment's (Department) exhibition of the *Draft Planning Package 2036* (draft planning package) and the *Draft Special Infrastructure Contribution* (SIC) for St Leonards and Crows Nest.

Piety THP owns or has options over 12 lots within St Leonards as detailed in the Figure below. These sites are located within the boundaries of the draft planning package and the St Leonards South Planning Proposal (Planning Proposal).



Figure 1: Sites owned by Piety THP within St Leonards South (Base Source: Googlemaps)

Background

As you are aware, Council commenced the Community Consultation process for St Leonards South in May 2013, with the draft Planning Proposal being prepared in 2014. The Gateway Determination was issued on 2 September 2016 and the Planning Proposal formally exhibited from 30 October to 22 December 2017 (and subsequently extended until 5 January 2018).

The Gateway Determination was further altered on 23 April 2018 to enable a 12 month extension to the timeframe for Council's completion of the planning proposal. The Department's letter to Council at the time stated that the further 12 months *"is considered to be sufficient time for Council to consider and finalise the planning proposal following the exhibition of the Land Use and Infrastructure Implementation Plan for the St Leonards and Crows Nest Planning Precinct."*

We are also aware that on 19 November 2018, Lane Cove Council resolved to request that the Independent Planning Commission (IPC) review of the Planning Proposal be commenced after the exhibition of the St Leonards and Crows Nest 2036 Plan (draft 2036 plan) is finalised. Further, the Hon Anthony Roberts MP, Minister for Planning, has now requested that the IPC commence its review following the exhibition of the draft 2036 plan.

The above demonstrates that the Planning Proposal process to date has been extraordinarily protracted, with the independent review process now adding to these on-going delays. Our concerns around the timing and process implications of this independent review are further discussed in this submission.

Review of draft Planning Package 2036 and draft State Infrastructure Contribution

Piety THP has worked collaboratively with Council over a period of time on the Master Plan and Planning Proposal. Piety THP considers the Planning Proposal contains several sound principles in relation to higher density residential development in close proximity to transport, employment and services. However, it also has a number of concerns over the inflexibility of the proposed development standards, which may jeopardise the uplift envisaged by Council and the achievement of its housing targets under the North District Plan.

We have also undertaken a detailed review of the draft planning package and identified a number of issues, which are outlined below.

1. St Leonards South Planning Proposal Independent Review Process

Piety THP and other key landowners in the St Leonards South Precinct have already experienced significant delays with the Planning Proposal, noting the Gateway Determination was issued on 2 September 2016 and, well over 2 years later, the Planning Proposal is yet to be made

We note that the key action of the draft planning package in relation to the Planning Proposal is a review by an independent panel. Whilst the draft plan identifies several principles to be considered in the review, it provides very little detail around the scope, timeframes and responsibilities for the review.

We note that the Minister's referral letter, which was recently published on the IPC's website, requests that the IPC consider the Planning Proposal's consistency with a number of elements of the draft 2036 plan, including the Vision, guiding design principles and specific design principles.

It also requests consideration of the outcomes of Council's community workshop held on 12 December 2018 and that the IPC conduct a public meeting after the close of exhibition of the draft 2036 plan. In this regard, there is no information at this stage regarding the dates of the public meeting.

We also note that the Minister has not given a timeframe for the completion of the IPC's review. Furthermore, it is unclear how the IPC's recommendations will be fed into the Planning Proposal process, how they will be considered by both Council and the Department and what the timing implications for finalisation of the Planning Proposal will be. These matters should be clarified by the Department.

As stated above, we are concerned that the review process will result in further unnecessary delays and continuing uncertainty over the process to finalise the Planning Proposal and deliver the housing and infrastructure benefits it envisages. Preferably, the review should have been undertaken concurrently with the exhibition period, with the outcomes of the review then informing the finalisation of the 2036 plan.

However, as this opportunity has been missed, we consider that the IPC review should be undertaken as a matter of priority with the IPC's recommendations be released and made publicly available at the earliest possible time.

It is also important that all relevant stakeholders, including landowners, are given the opportunity to participate in the IPC review.

Recommendations:

- The IPC review is undertaken as a priority and the IPC's recommendations be released and made publicly available at the earliest possible time
- The review includes opportunities for relevant stakeholders, including landowners, to participate in the review
- The Department provide clarification on how the IPC recommendations will be fed into the Planning Proposal process, how they will be considered by both Council and the Department and potential timing implications for the finalisation of the Planning Proposal.

2. Built Form Controls

We note that the draft 2036 plan identifies future built form controls in St Leonards South which are consistent with the St Leonards South Planning Proposal.

However, under the Planning Proposal, the achievement of these controls requires significant infrastructure contributions, site amalgamation and design requirements, which may be difficult to achieve. This should be a key focus of the independent review process.

Piety THP's key concerns with the Planning Proposal, which have been discussed with Council, include:

Land amalgamation

The Planning Proposal incorporates a preferred site amalgamation pattern which must be met in order for the proposed height and FSR increases to be achieved (Figure 2).

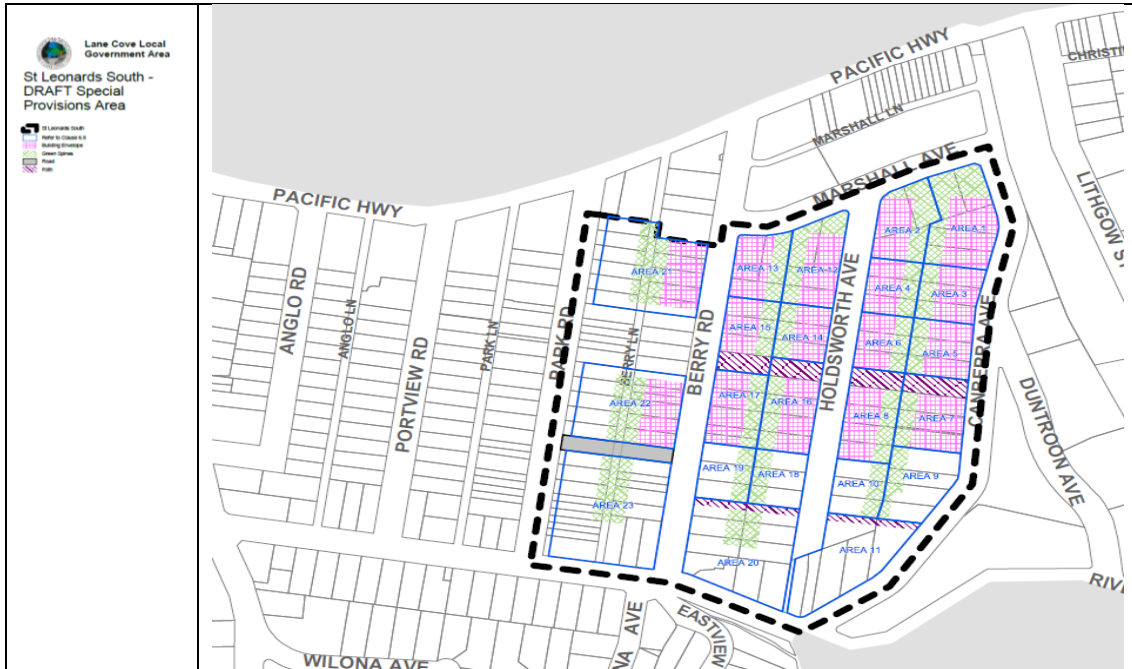


Figure 2: Draft Special provision area map (Source: Lane Cove Council)

Piety THP's land ownership pattern differs from the site amalgamation pattern as it has been unable to negotiate land acquisitions with all landowners. It is understood that other landowners are also experiencing difficulty in achieving the site amalgamation patterns.

Accordingly, as the site amalgamation patterns cannot be achieved, the LEP (once made) will not be able to be fully implemented. Furthermore, irregular built form outcomes for the precinct may result if land amalgamation and resultant height and FSR increases can be achieved in some but not all areas of the precinct - for example, higher scale development in areas to the south, away from the Pacific Highway, and the retention of low density, detached dwellings in areas closer to the Pacific Highway where the land amalgamation patterns have not been achievable.

Proposed height and FSR controls

Jackson Teece, on behalf of Piety THP, previously undertook a detailed urban design analysis of the Planning Proposal. This included consideration of the proposed built form controls in the context of likely land amalgamation patterns and existing site constraints, including overshadowing impacts of new high-rise buildings to the north and north east of the site, and the topography of the precinct (the site falls up to 9.5m from the north to the south and about 8m from the west to the east), which impact on ground floor area and carparks.

This urban design analysis found that:

- Areas 1 and 2 - the maximum height is not realised and the FSR is exceeded

- Area 3 – does not achieve the FSR and does not realise the height
- Area 4 – exceeds the height and does not realise the FSR.

Accordingly, Piety THP considers there should be the ability to transfer unused height and FSR across adjacent sites within the precinct to enable better design and public benefit outcomes.

Jackson Teece also prepared an alternative development scheme for the Piety THP land. This scheme utilises different land amalgamation patterns, building footprints and envelopes and open space configuration (including a new public open space at 2 Marshall Avenue), whilst achieving the open space, affordable rental housing and green spine requirements of the Planning Proposal and compliance with the Apartment Design Guidelines. This demonstrates the importance of flexibility in the development controls in potentially achieving better design and public benefit outcomes for the precinct.

Green Spines

Whilst the principle of additional open space provision and connectivity is supported, there are a number of unresolved issues with the proposed green spines. The implementation of the Green Spines is dependent on the achievement of the land amalgamation pattern. Furthermore, as there will be multiple owners of the Green Spines, there will be significant issues with the on-going ownership, management, and maintenance of these spaces.

Flexibility needed to achieve the aims of the Planning Proposal

As outlined above, there are a number of issues relating to the proposed planning controls which could undermine the implementation of the Planning Proposal and, ultimately, the public benefits it seeks to achieve.

Furthermore, the Planning Proposal, as currently drafted, does not enable development standards to be varied via clause 4.6. This is a major flaw of the Planning Proposal as it will prevent the merit-based consideration of potentially superior design outcomes and results in a major inequity with other major urban renewal areas which benefit from the application of clause 4.6. This issue should be carefully considered in the independent review process.

Recommendation:

- The IPC review should specifically consider the appropriateness of the proposed development controls, including the proposed inability to enable variations of development standards via clause 4.6.

3. Special Infrastructure Contribution

Piety THP notes that the draft planning package proposes that a SIC applies to land identified within the Special Contribution Area (SCA), which includes the St Leonards South Precinct.

The applicable contribution rate in the Draft SIC is \$15,100 per additional dwelling. Based on our discussions with Departmental officers at the Department's drop-in session held on 30 November 2018, it is understood that this proposed rate has not considered potential infrastructure contributions through the St Leonards South Planning Proposal, as the Planning Proposal has no formal status at this stage. However, it is also understood that there is potential flexibility to vary the SIC rate to account for such contributions.

In this regard, we note the SIC feasibility testing report prepared by AEC and dated 8 October 2018, specifically states:

...Feasibility results indicate any introduction of a SIC is not viable as the majority of sites in St Leonards South are observed to have been purchased at prices reflective of the new (proposed) planning controls as indicated by the St Leonards planning proposal (prior announcement of a proposed SIC). Accordingly, any resultant value uplift is subsumed, resulting in little capacity to pay any contribution over s7.11 contributions.

We also understand that Council is seeking an exemption to the SIC for St Leonards South given this lack of capacity to pay for further contributions.

The St Leonards South Planning Proposal requires significant contributions to a range of local infrastructure including roads and drainage, open space, affordable/key worker housing and a multi-purpose community facility. Furthermore, Council's draft Section 94 Contributions Plan for St Leonards South that Council intends to seek a higher contribution rate per dwelling through an IPART assessment process.

Piety THP has undertaken feasibility analyses on its sites in St Leonards South, with regard to the potential infrastructure costs relating to the SIC, affordable/key worker housing and section 7.11 contributions.

This analysis estimates total contributions costs of \$31,724,536 or \$87,880 per unit, as shown in the Table below.

Item	Calculation	Cost
Key Worker Housing	1,339 m ² (based upon percentage land holding of area 1 – 4. At \$18,000 m ² re-sale of NSA within St Leonards.	\$24,097,320
SIC	\$15,100 per dwelling	\$5,451,100
S7.11 Contributions	Based upon Lane Cove Council 2017-18 is \$6,655,000. Based upon Lane Cove Council St Leonards South Section 94 Contribution Plan is \$8,831,116 Additional Cost	\$2,176,116
TOTAL		\$31,724,536
	Per unit	\$87,880

Table 1: Feasibility analysis of planning proposal package (Source: Piety THP)

Furthermore, the analysis found that at an FSR of 4:1, there is insufficient project profit to absorb the \$87,880 per unit. This is further compounded noting that the incentive FSRs which apply to the Piety THP sites in the Planning Proposal are largely 3.7:1, with only some areas subject to a 4:1 incentive FSR, and the current inability to vary these FSRs given the Planning Proposal seeks to exclude the application of clause 4.6 variations.

Accordingly, while it is acknowledged that redevelopment of the St Leonards South locality has the ability to contribute to the funding and provision of essential infrastructure, the current proposed contribution levels are excessive and would not only impact on development feasibility but, ultimately, the ability to deliver the required infrastructure.

Recommendation:

- The Department should undertake further detailed review of the proposed SIC rate, with a view to reducing the rate as it applies to St Leonards South to account for development feasibility and infrastructure costs payable under the Planning Proposal.

4. Affordable Housing

The draft planning package states that affordable housing should be provided in line with the initiatives outlined in the Greater Sydney Commission's (GSC) *Greater Sydney Region Plan* (Region Plan). It also recommends further investigation to support a target for the area.

However, there is no detail provided on the process and timing for this investigation.

We note that the Region Plan states that an affordable rental housing target of 5-10% *subject to viability* will apply in nominated precincts across Greater Sydney. However, it is unclear whether this target range will apply to the St Leonards and Crows Nest Precinct, including St Leonards South.

The St Leonards South Planning Proposal contains requirements for affordable housing ranging from 10 to 19 units per amalgamated site. As outlined above, this is a significant component of the overall infrastructure contributions and should be considered as part of the process for investigating and setting an affordable housing target for the broader precinct.

Recommendations:

- The Department should include clear affordable housing targets for the St Leonards and Crows Nest Precinct
- Affordable housing targets for St Leonards South should account for the affordable housing contributions required under the St Leonards South Planning Proposal.

Conclusion and recommendations:

We note and generally support the draft 2036 Plan's consistency with the St Leonards Planning Proposal. However, we have identified a number of concerns regarding the independent review process for the planning proposal, the proposed built form controls, contributions and affordable housing.

We therefore request that the following recommendations be thoroughly considered by the Department and, where relevant, incorporated into the final plan:

1. The Independent Review should:
 - be undertaken as a priority and the IPC's recommendations be released and made publicly available at the earliest possible time
 - include opportunities for relevant stakeholders, including landowners, to participate in the review
 - specifically consider the appropriateness of the proposed development controls, including the proposed inability to enable variations of development standards via clause 4.6

2. The Department should:

- provide clarification on how the IPC recommendations will be fed into the Planning Proposal process, how they will be considered by both Council and the Department and potential timing implications for the finalisation of the Planning Proposal.
- undertake further detailed review of the proposed SIC rate, with a view to reducing the rate as it applies to St Leonards South to account for development feasibility and infrastructure costs payable under the Planning Proposal
- provide clear affordable housing targets for the St Leonards and Crows Nest Precinct
- ensure affordable housing targets for St Leonards South account for the affordable housing contributions required under the St Leonards South Planning Proposal.

Please do not hesitate to contact Dan Keary on 02 8459 7511 in the first instance if you wish to discuss any aspect of this submission.

Yours sincerely



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Director