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Director Sydney Central Urban Renewal
NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

SUBMISSION - ST LEONARDS AND CROWS NEST 2036 - DRAFT PLAN

INTRODUCTION

This submission has been prepared on behalf of the Casella Family who own and have interests in land bound by Nicholson Street, Oxley Street and the Pacific Highway in St Leonards. This land is identified in the St Leonards and Crows Nest 2036 - Draft Plan (Draft Plan) as a '*significant site*' (site).

Our submission to the draft plan can be summarised as follows:

- The Casella Family welcomes the release of the Draft Plan and commends the NSW Department of Planning and Environment for taking an active role in planning this regionally significant precinct.
- The Casella Family supports the Draft Plan's Vision for St Leonards and Crows Nest including a balance of new jobs and a greater mix of homes and new development to provide energy and life along the Pacific Highway and St Leonards.
- The Casella Family commends the Draft Plan for recognising that appropriate mixed-use development is essential to unlock employment floorspace opportunities which are key to achieving the Vision for St Leonards and Crows Nest as well as the productivity and liveability objectives of the North District Plan.
- Further clarity is required when refining the Draft Plan regarding the process for implementing significant sites, in particular:
 - It needs to be made clear that planning proposals can be prepared by proponents for consideration by the relevant local council, and that the established rezoning review process applies.
 - Clarity is required regarding the design excellence process for significant sites. We recommend that the design excellence process should consist of design review by the State Design Review Panel or Government Architect NSW.
- Further clarity is also required in the draft Special Infrastructure Contribution (SIC) to allow voluntary planning agreements to be negotiated at the local government level with an allowance for offsets, where appropriate, against both local contribution plans and the SIC.

SITE AND LOCALITY

The site is shown in Figure 1 below and is comprised of seven parcels of land as outlined in Table 1 below. The Casella Family own 448, 452 and 454-456 Pacific Hwy and 67-69 Nicholson Street and own or have interests in other properties within the site.

Table 1 - Site description

Street address	Legal Description
65 Nicholson Street	Lot 27 DP 3175
67-69 Nicholson Street	Lot 1 DP 737890
40 Oxley Street	Lot 101 DP 748012
448 Pacific Highway	Lot 1 DP 3175
452 Pacific Highway	Lot 3 DP 3175
454-456 Pacific Highway	Lot C DP 414984
460 Pacific Highway	SP 73221



Figure 1 - Subject site identified by yellow outline (Source: Nearmap)

The site has frontages to the Pacific Highway, Oxley Street and Nicholson Street and adjoins the south-eastern boundary of Mirvac's St Leonards Square Development, which is currently being constructed.

The site is located approximately 350m from the St Leonards railway station and 50m from the entrance to the Crows Nest Metro Station, also currently being constructed.

The Crows Nest Metro Station is one of 29 stations along the new Sydney Metro, which is Australia's largest public transport infrastructure project. The Sydney Metro extends from the North West of Sydney to the City and South West and will carry a train every four minutes in the peak. Rather than merely duplicating the T1 North Shore Line, the Sydney Metro provides direct access to parts of North Sydney and the Sydney CBD not currently served by rail. As such, the Crows Nest Sydney Metro Station will serve a wide catchment overlapping with the catchment for the existing St Leonards Rail Station.

The site is located only 5km from the Sydney CBD and in addition to the Sydney Metro is already very well served by public transport as well as health and education infrastructure. The site is located at the edge of the Lane Cove local government area and adjoins the North Sydney Sydney LGA.

APPROPRIATE MIXED-USE DEVELOPMENT

The North District Plan is a statutory matter for consideration which establishes, among other things, 20-year employment targets for St Leonards and Crows Nest. They comprise a 'baseline target' of 54,000 jobs and a 'higher target' of 63,500 jobs. We note that the Draft Plan makes provision to achieve the 'higher target' through a carefully considered balance of mixed-use developments and standalone commercial development. We further note that the Draft Plan recognises that "*new A Grade employment floorspace can be unlocked through mixed use development with minimum requirements for office floor space to balance the proportion of employment to residential uses.*"

We consider it essential that mixed-use development is permitted in order to make site assembly and redevelopment economically viable and we agree that appropriate mixed-use development will unlock sites that are currently underperforming in terms of their productivity.

We strongly support the proposal to extend the B4 Zone further south along the Pacific Highway to include the subject site and to nominate minimum non-residential floor space ratios.

SIGNIFICANT SITES - IMPLEMENTATION

Design Excellence

The Draft Plan makes detailed recommendations regarding future building height controls and overall floor space ratio controls, except in the case of five 'significant sites', one of which is the subject site.

In relation to the significant sites, the Draft Plan says that they "... *may be appropriate for additional height, subject to further assessment and community consultation.*"

Further, the Draft Plan says that:

"These significant sites will be subject to a rigorous design excellence process to determine the appropriate height, floor space ratio and other design details. Proposals for significant sites would need to demonstrate consistency with the vision, design criteria and area wide design principles in this Plan (page 4, 10 & 11)

and significant site design principles. Significant sites are expected to meet the highest design standards and provide additional community benefits to ensure their overall impact is a positive one.”

The Significant Site Design Criteria are well founded and, in recognition that some flexibility may be required, the Draft Plan also notes that *“Subject to further detailed urban design analysis, the site specific design criteria may be varied in circumstances where a proposal clearly demonstrates a better design outcome and the proposal demonstrates consistency with the vision and area wide planning principles identified in the Plan.”*

For clarity, we believe that the Draft Plan should explain what constitutes a rigorous design excellence process? The design excellence criteria have been spelt out in the Draft Plan, what is missing is the assessment process. We submit that because of their regional significance, the design excellence process in the case of significant sites should involve review by the NSW State Design Review Panel or by Government Architect NSW. The draft plan, therefore, should be amended to clearly articulate the design excellence process to avoid unnecessarily delays to implementation.

Planning Proposals

While the Draft Plan makes a series of recommendations regarding changes to the land use and built form controls in each of the three local environmental plans applying to the study area, the plan states *“It will be the responsibility of each relevant Council to progress the rezonings with the exception of Crows Nest Sydney Metro Station, which will be progressed by the Department.”* In relation to the significant sites, the Draft Plan says that *“Any revised development controls for these sites would be established through a Council-led planning proposal and further community consultation. (p. 62)”*

It is not clear what is meant by *“a Council-led planning proposal”* and whether this is intended to preclude proponent-led planning proposals prepared and submitted to the local Council for their consideration with the opportunity to seek a rezoning review in the usual manner.

As outlined in Section 1.2 of the DPE *‘Guide to Preparing Planning Proposals’*, the *Environmental Planning and Assessment Act 1979* does not specify who can prepare the information required to support and initiate a Planning Proposal. In practice, the Planning Proposal document can be prepared by a Council, a landowner or developer seeking to change the planning controls relating to a particular site, or by a third party on behalf of a landowner or Council.

Where the Draft Plan identifies specific changes to land use zoning, maximum building height and/or floor space ratio controls, a Planning Proposal initiated by Council would appear to be the most expeditious means of establishing the necessary development controls to implement the recommendations and intended outcomes of the Plan.

This would not be the case for ‘significant sites’, however, which are not subject to specific recommendations regarding future maximum building height and/or floor space ratio controls. We anticipate that it is not the Department’s intent to set out a process that could potentially result in unnecessary delays. For significant sites, a Planning Proposal initiated and prepared by landowners in close consultation with the relevant local council (or councils) would be the most effective and efficient means of determining the appropriate development controls which will achieve design excellence, maximise community benefits and give effect to the St Leonards and Crows Nest Plan 2036. It will also enable site-specific technical issues, some which may impact on development feasibility, to be thoroughly addressed via supporting technical studies. This

approach would still enable Council to have significant input into the Planning Proposal in their statutory capacity as the Planning Proposal Authority.

There is also a risk that the St Leonards and Crows Nest 2036 Plan would be thwarted in the absence of a review process which allows regional strategic considerations to be balanced with local concerns. This is particularly so given the position of Lane Cove Council, which resolved on 4 February 2019 to ""

To avoid uncertainty and ensure the timely implementation of the final St Leonards and Crows Nest 2036 Plan, we submit that the statement on page 62 of the Draft Plan should be clarified to state:

Any revised development controls for these sites would be established through a planning proposal prepared by or for the relevant council and subject to further community consultation. Such planning proposals would be subject to the normal rezoning review process if prepared by proponents.

Additional Community Benefits

We note that "*Significant sites are expected to meet the highest design standards and provide additional community benefits to ensure their overall impact is a positive one.*" Redevelopment of the subject site has the potential to provide a range of community benefits not the least of which would be to improve pedestrian connectivity at the intersection of Oxley Street and the Pacific Highway. This is a key intersection which provides access to the new Metro Station, as well as the Crows Nest Village and the proposed Hume Street Park. Once again, appropriate mixed-use development has the potential to unlock additional community benefits that potentially accrue from significant sites.

VOLUNTARY PLANNING AGREEMENTS

The draft Special Infrastructure Contribution (SIC) Plan has been prepared to enable the sharing of costs of delivering identified infrastructure as timing and demand requires. It is noted that the identified infrastructure items outlined in the Infrastructure List is not exhaustive and that many of the items are subject to further investigation. There may be other infrastructure needs identified by Councils or in response to emerging circumstances over time to manage impacts of future development and to facilitate positive place and community-based outcomes.

It is essential that any requirements for a SIC dovetail appropriately with other mechanisms at the local government level (i.e. local contribution plans and voluntary planning agreements) that are necessary to facilitate delivery of future infrastructure needs. The draft SIC Plan advises that local contribution plans (such as Section 7.11 and 7.12) would still apply and will be complementary to SIC requirements. This is understood and supported.

Page 6 of the draft SIC Plan, however, advises that Voluntary Planning Agreements previously negotiated with landholders would be taken into consideration and potentially offset against SIC requirements. While this is supported, this section of the document is silent on the potential for a VPA to be negotiated with Council once the SIC becomes operational. The SIC would not override future potential for local councils to negotiate VPAs via the Planning Proposal process, but it appears that the draft SIC does not consider the potential for VPAs to offset SIC requirements in appropriate circumstances. This would effectively inhibit

potential for Councils to negotiate VPAs, effectively reducing Council's ability to respond to emerging or previously unforeseen circumstances or opportunities that are not already prescribed in local contribution plans or the future SIC once adopted.

The SIC should not inhibit negotiation of VPAs with Council, as such agreements are essential to respond to circumstances and opportunities that may not have been considered in preparing the identified Infrastructure List and the draft SIC Plan. It is noted that many of the items on the Infrastructure List identified to be State administered are of local rather than district importance. Examples include improvements to and the provision of local parks and playgrounds and cycle lanes, which are intended to be funded via the SIC. We note the exception of item C1 Community Arts Centre, which would be funded via a VPA.

The SIC should allow for VPAs to be negotiated at the local government level and taken into consideration in relation to potential offsets against both local contribution plans and the SIC. This is especially important given a number of the identified infrastructure items provide for local amenities rather than infrastructure of district importance such as improvements to Pacific Highway intersections.

To this effect, we recommend that page 6 of the draft SIC Plan be amended to state:

There may be circumstances where negotiation of a Voluntary Planning Agreement with Local Government is warranted to enable Councils to respond to local or site specific opportunities to provide or improve infrastructure. In determining the required contribution, the Department may consider offsets relating to a VPA against a local contribution plan or the SIC Plan where appropriate.

The above clarification would provide local councils with a more appropriate degree of flexibility to adapt to emerging or previously unknown circumstances, opportunities or demands. It will result in a more agile approach to funding and delivering infrastructure to ensure that the needs of the local and wider community are adequately met.

CONCLUSION

We trust that this submission will help to finalise the St Leonards and Crows Nest 2036 Draft Plan and once again we commend the NSW Department of Planning for taking an active role in planning for this regionally significant precinct.

Should the Department wish to discuss any aspect of this submission please do not hesitate to contact the undersigned.

Yours sincerely



Stephen Kerr
Executive Director