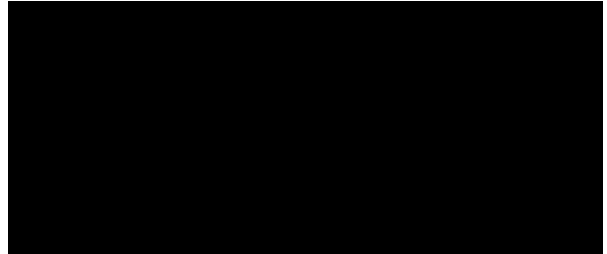





11 January 2019

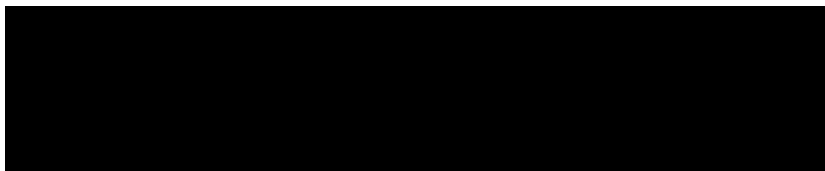
Director
Sydney Central Urban Renewal
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001



Dear Director

Letter of objection to St Leonards and Crows Nest 2036 Draft Plan (also known as the Land Use and Implementation Plan)

1. We act for  who owns, along with 

2. We refer to the St Leonards and Crows Nest 2036 Draft Plan (also known as the Land Use and Implementation Plan) dated October 2018 (**Draft Plan**) which proposes a vision for development and infrastructure in the local government areas of North Sydney, Willoughby and Lane Cove to the year 2036.
3. This Draft Plan specifically considers development controls in and around the new Sydney Metro station which is proposed to be constructed at Crows Nest along the Pacific Highway between Oxley Street and Hume Street (**Proposed Metro**).
4. Our client's land falls within the area governed by the Draft Plan and is located approximately 350 metres south along the Pacific Highway from the Proposed Metro.
5. This letter is a written objection to the Draft Plan on the basis that the Draft Plan as currently exhibited stifles development by unreasonably restricting planning controls in and around the Proposed Metro site. These restrictions make redevelopment in the surrounding area commercially unfeasible and consequently, precludes the aims of the Draft Plan from being practically realised.
6. By undermining and hamstringing the development potential of the Crows Nest area, the Draft Plan effectively bars private developers from taking up the critically necessary residential redevelopments required in order for the Draft Plan to achieve even a semblance of its vision for Crows Nest as a bustling and thriving hub. Given that land use plans must be feasible in order to be made, we request that the Draft Plan be amended in order to address the concerns outlined in this letter.



7. Our understanding is also that as a practical matter, constraints aside, there are only a limited number of sites in the vicinity of the Proposed Metro which are capable of accommodating a reasonable proportion of the dwellings envisaged under the Draft Plan.
8. Consequently, we would ask that before any decision is made as to whether or not to make the Draft Plan, we are given an opportunity to meet with the Department to discuss potential amendments to the Draft Plan. This meeting present a critical opportunity for the Department to consider how it can best serve its community by working alongside developers to ensure that the Crows Nest area is able attract large scale projects and deliver critical community infrastructure.

Summary of objections

9. By way of summary, this letter raises the following objections to the Draft Plan:
 - (a) the controls relating to building height and floor space ratio are too restrictive;
 - (b) the split zoning of land leads to impractical and unacceptable outcomes;
 - (c) the vision of Crows Nest as a commercial centre is futile; and
 - (d) the Draft Plan fails to declare certain sites as significant sites, further eroding the development potential of Crows Nest.

Development proposed under the Plan

10. The Draft Plan proposes, in part, a “*cluster of high density mixed-use development between St Leonards and Crows Nest station*”.¹ This ‘knuckle’ shaped central district focuses the high density development around two peaks located along the Pacific Highway between St Leonards station and the Proposed Metro. These peaks are separated by a slight dip between the two stations and otherwise transitions in height and density away from the stations, over approximately 150 to 200 metres, to low scale development.
11. This is said to be consistent with the urban planning principle of transit-oriented development which aspires to maximise the amount of residential, business and leisure space within walking distance of public transport.
12. This clustered approach is also said to bring ancillary benefits, namely, a “*vibrant, high amenity atmosphere*”² largely resulting from the public domain improvements that come with apartment-style development and other forms of mixed-use development.
13. A further justification is also provided in the Stage 02 Urban Design Report dated October 2018 (**Design Report**) which summarises the factors which have shaped the “*vision*” expressed in the Draft Plan, including the desire to shape the St Leonards/Crows Nest area as an employment hub and “*Strategic Centre*”.³
14. The potential of modifying the residential landscape by increasing the proportion of high-density residential development is also addressed in the Strategic Transport Study dated 3 October 2018 (**Transport Study**). Relevantly, the Transport Study notes that without the implementation of the

¹ St Leonards and Crows Nest 2036 Draft Plan, page 24.

² St Leonards and Crows Nest 2036 Draft Plan, page 24.

³ Stage 02 Urban Design Report dated October 2018 prepared by SJB Urban dated October 2018, page 11.

Draft Plan, the population of the St Leonards/Crows Nest precinct would likely grow from 15,000 to 24,500 residents by the year 2036. The Transport Study further predicts that in the event that the Draft Plan is made this residential growth could increase to between 47,700 to 50,800 residents by 2036. This is largely as a result of the introduction of the Proposed Metro which will provide increased demand for medium to high density residential development in the immediate surrounds of the two stations.

Submissions regarding the Draft Plan

15. Firstly, it is important to note that we agree with many of the principles espoused in the Draft Plan. In particular, we agree that:
 - (a) construction of the Proposed Metro has the potential to transform the local area and make a significant impact in achieving the goals recorded in the Draft Plan;
 - (b) the approach should be that mixed-use development should be permitted within the areas surrounding St Leonards station and the Proposed Metro, in accordance with the principles of transit-oriented development (discussed above at 11);
 - (c) development should be designed in such a manner that it does not have adverse impacts on heritage conservation areas and is otherwise sensitive to existing heritage items; and
 - (d) a number of features that comprise the character of the area should be maintained or preserved as part of the Draft Plan.
16. Despite this, in our view, the Draft Plan is affected by various deficiencies which will, practically speaking, inhibit the effectiveness of the Draft Plan and essentially render it impotent.
17. In our view, the Draft Plan is currently demonstrative of two contradictory intentions. On the one hand, the Draft Plan acknowledges the need for the Department to facilitate a shift in the Crows Nest area from low-to-medium scale development, to medium-to-high scale development. This is necessary in order to realise the vision for Crows Nest as a *“major centre for workers, residents, students and visitors, offering a variety of homes, jobs and activities for the diverse local population”*.⁴
18. Conversely, the Draft Plan also promotes an array of very restrictive planning controls which effectively strip most of the land of its development potential. In this way, it disincentives and handicaps any developers who would otherwise be willing to undertake the necessary mixed-use medium to high density developments required in order to rejuvenate the Crows Nest area and achieve the aims of the Draft Plan.
19. Our specific views regarding these oppressive controls are discussed in more detail below.

The need to expand the controls relating to building height and floor space ratio

20. One of the primary objections which we wish to raise is with regards to the artificial limit on building height for development constructed in and around the Proposed Metro.
21. In particular, we note that the Draft Plan currently only envisages high density development within a 150 to 200 metre radius of the Proposed Metro and St Leonards station.⁵ This means that

⁴ St Leonards and Crows Nest 2036 Draft Plan, page 4.

⁵ St Leonards and Crows Nest 2036 Draft Plan, Figure 24, page 50.

any properties located outside of this extremely small radius are only permitted to have a building height of 8 storeys or less and consequently, are limited to providing medium to low density development. This, in effect, guillotines development opportunities for any properties located outside of this radius including, for example, those between 340 Pacific Highway and 222 Pacific Highway which, relevantly, includes our client's land.

22. This arbitrary restriction on height and floor space ratio (**FSR**) is problematic for various reasons. Firstly, it assumes that the few properties which have been earmarked as being suitable for high density redevelopment can and will be converted to such use. This is contrary to our analysis of the existing constraints (see **enclosed** constraints mapping diagrams) which suggests that, in fact, many of the allotted sites are unsuitable for redevelopment due to:
- (a) existing heritage constraints;
 - (b) incompatible land uses that deem redevelopment unlikely; and
 - (c) large strata titled properties (with 16+ owners) which could only be considered as long-term opportunities, if at all.
23. This has the effect that many of the sites which have the greatest redevelopment potential are located outside of the 150 to 200 metre radius proposed under the Draft Plan. Specifically, the majority of suitable areas are located on the southern side of the Pacific Highway some 400metres from the Proposed Metro. This is, in fact, acknowledged in the Design Report which states that:
- The new metro will put much of the study area within 400m-800m walking distance of a station which presents significant opportunities for transport oriented developments.⁶*
24. The small radius proposed under the Draft Plan is also inconsistent with a report our client commissioned from GMU (**GMU Report**) relating to a planning proposal which it intended to lodge with Council. In this report, a copy of which is **enclosed** for your attention, GMU identifies that as a result of the introduction of the Proposed Metro, many low scale shop-top buildings without heritage value can be redeveloped to make room for higher density development.⁷ In particular, the GMU Report proposes a 400 metre catchment as being suitable to sustain medium to high density development.⁸
25. Under the current Draft Plan, these sites are significantly restricted with respect to height and FSR controls which generally only permit between 2 to 8 storeys. The practical impact of this restriction is that it becomes financially unfeasible for developers to make a return because the height directly limits the yield.
26. The arbitrary nature of this restriction is demonstrated through the fact that this 'knuckle' shaped proposal ignores the obvious 17 storey building at 220 Pacific Highway at the far most Southern end of the area governed under the Draft Plan. Interestingly, we understand that this building was previously occupied as a 16 storey hotel, however, in or about 2011 Council granted consent for the demolition of the existing building and the construction of the 17 storey mixed use apartment building containing 209 apartments, ground floor retail and 150 car parking spaces.⁹

⁶ Stage 02 Urban Design Report dated October 2018 prepared by SJB Urban dated October 2018, page 24.

⁷ Prepared by GMU, page 7.

⁸ Prepared by GMU, page 8.

⁹ Development Consent DA404/10 dated 2 March 2011.

27. The fact that Council agreed to an additional storey as recently as 2011 is illustrative of a long held view that this part of Crows Nest is suitable and appropriate for medium to high density mixed use development. On this basis, we cannot understand why the Department has proposed to extinguish the development potential of any of the surrounding sites. Further, the refusal to permit similar developments on nearby sites means that this building will continue to stand out as an abrupt anomaly rather than fitting into the immediate locality.
28. It is important to note here that the Draft Plan relies heavily on developers undertaking these large-scale projects in order to meet the demand for housing created as a result of the Draft Plan. In fact, in our view, the effectiveness of the Draft Plan and Proposed Metro largely hinges on developers taking up high to medium density redevelopments in the area so that:
 - (a) there is a sufficient number of dwellings to meet the increased demand for housing;
 - (b) the competitive market is able to maintain a proportion of affordable housing;
 - (c) the required patronage of the Proposed Metro is met; and
 - (d) the viability of ground floor retail is increased due to the higher number of residents in the immediate locality.
29. Therefore, it seems counterintuitive that the Draft Plan only permits high-density development within a very small perimeter around the Proposed Metro and, in essence, strips away any incentive for developers to undertake redevelopment projects within the surrounding locality.
30. If the Draft Plan is not amended to provide greater scope for redevelopment within a 200 to 800 metre radius of the Proposed Metro, we are of the view that the Draft Plan will, ultimately, fail to accommodate the forecast population growth or otherwise meet its objectives.
31. **It will also likely have the effect that the Government investment in the Proposed Metro is wasted.** This is because, in our view, the ability to house a sufficient number of residents within walking distance of the stations is critical to converting the area into a hub or strategic centre.
32. **Without this development, Councils will also be unable to generate revenue to develop, service and maintain public amenities by way of section 7.11 (formerly s 94) contributions and/or the proposed special infrastructure contributions. This will mean that the predicted benefits to public open space, bicycle networks and schools will never occur.**

Impractical zoning

33. In addition to the above, we note that the Draft Plan introduces various changes to the land use zoning controls.
34. In particular, we understand from reviewing Figure 28 that the Draft Plan currently proposes that only the properties immediately bordering the Pacific Highway will be zoned B4 Mixed Use. Those with street frontages facing Sinclair Street or Nicholson Street will be zoned either R2 Low Density Residential or R3 Medium Density Residential.
35. This split form of zoning creates practical difficulties which will also likely impact the ability of developers to undertake the residential developments required under the Draft Plan.
36. For example, our client owns a large parcel of land involving multiple lots which sits between the Pacific Highway and Sinclair Street. Under the Draft Plan, their lots have a split zoning where half of the land is zoned B4 Mixed Use and the other half is zoned R2 Low Density Residential.

37. The foremost impact of this is that the development for the purpose of a residential flat building (RFB) is prohibited in the R2 Zone. Accordingly, no part of our client's land that faces Sinclair Street can be used for the purpose of an RFB or even for development that is ancillary to the use of the land as an RFB.
38. The Roads and Maritime Services is not going to create additional access points to the Pacific Highway. Consequently, if our client was to undertake to construct an RFB on their Pacific Highway facing lot, then all of the services ancillary to that RFB such as car parking or communal areas would also need to fit within that one lot. This creates an inefficient planning outcome where the land immediately behind is prohibited from being developed in a manner that would, ultimately, lead to better development and design outcomes.
39. Therefore, in order to provide efficient and meaningful outcomes, we request that Council consider zoning both the lots facing the Pacific Highway and those facing Sinclair Street B4 Mixed Use. This will greater preserve the development potential of the land which will, in turn, ensure that developers take up the mixed-use developments required in order to achieve the goals of the Draft Plan.
40. For the sake of clarity, this objection to split zoning is not concerned with the fact that other development controls such as height and FSR may vary depending on whether or not the land has a street frontage facing Sinclair Street. In our view, these matters can be dealt with despite the fact that the land shares a consistent zoning.

Futility of vision of Crows Nest as a commercial centre

41. We understand that one of the underlying goals of the Draft Plan is to transform Crows Nest and its surrounds into a commercial centre. This "*commercial core*" is largely meant to assist in meeting the employment target of 63,500 total jobs set by the Greater Sydney Commission in the Northern District Plan.¹⁰ Specifically, the Draft Plan envisages the creation of an additional 1,070 new jobs in Crows Nest alone by the year 2036, with a further 1,950 new jobs in neighbouring St Leonards.¹¹
42. This goal is, in our view, unachievable, especially given that Crows Nest has, as we understand it, been on a trajectory of decline. From a retail perspective, we are instructed that over the last few years, many shopkeepers and local businesses have been struggling to remain viable. Similarly, there is already a surplus of existing commercial space within nearby North Sydney which is attracting below market rental. This is exemplified by the fact that 286 Pacific Highway has been unable to lease 1,400m² of B grade office space for the last six years, even at a low rate of \$200/m² (gross) as is currently advertised with local high profile agents. It appears to us that the Draft Plan would seek to increase the requirement for commercial and retail GFA where there is no evidence of demand and in a context where existing businesses are struggling.
43. In contrast, a Draft Plan built around stimulating new residential development is far more persuasive. Not only will an increased population housed locally stimulate the local economy and support local businesses via increased foot traffic, it will also bolster the surrounding commercial centres. In particular, the connectivity brought about by the Proposed Metro will provide a travel time of 4 minutes to Chatswood, 7 minutes to Martin Place and 13 minutes to Macquarie Park.¹² To this extent, the Proposed Metro will allow residents greater access to high capacity rail

¹⁰ St Leonards and Crows Nest 2036 Draft Plan, page 34.

¹¹ St Leonards and Crows Nest 2036 Draft Plan, page 35.

¹² Strategic Transport Study dated 3 October 2018, page 16.

transport infrastructure¹³ and, accordingly, more convenient access to existing commercial centres. This, in our view, demonstrates why residential outcomes are far more achievable than the lofty commercial goals recorded in the Draft Plan.

44. Encouraging residential redevelopment also has the additional benefit of tempering the issue of housing affordability. As is noted in the GMU Report, the introduction of the Proposed Metro will have the effect of increased the demand for new housing. This housing shortage is likely to continue to impact on the affordability of the housing market in the Crows Nest area. Therefore, provision of increased residential densities within walking distances to the Proposed Metro will directly assist in maintaining housing affordability whilst also increasing the economic viability of local businesses.¹⁴

Identification of additional significant sites

45. The Draft Plan identifies several sites as being “*significant sites*”.¹⁵ The effect of being identified as a significant site is that the standard development controls do not apply and rather, design details such as height and FSR are determined based on an assessment of the specific development proposed.¹⁶
46. In order to be classified as a significant site, a development must be consistent with the vision, design principles and other design criteria established in the Draft Plan, for example, it must:
- (a) undertake a design excellence process;
 - (b) be consistent with a sustainable, walkable and liveable city;
 - (c) meet the solar height planes in the Draft Plan;
 - (d) manage cumulative overshadowing impacts;
 - (e) respond to street character and surrounding heritage items;
 - (f) provide exemplary street level activation and contribution to the public domain with ground level setbacks, plazas or similar;
 - (g) have a positive impact on the areas key view lines and vistas;
 - (h) incorporate slender towers to avoid bulk;
 - (i) make significant improvements to the public domain and local infrastructure;
 - (j) provide gradual transitions, sensitive interfaces and be appropriate to the street scale;
 - (k) avoid unreasonably constraining development potential of neighbouring sites; and
 - (l) incorporate tree canopy planting or other landscaping in public places on the site.¹⁷
47. The Draft Plan currently identifies **five sites** as being significant sites for the purpose of applying development controls.¹⁸ One of them is located immediately opposite our client’s land, being the

¹³ Strategic Transport Study dated 3 October 2018, page 17.

¹⁴ Prepared by GMU, page 14.

¹⁵ St Leonards and Crows Nest 2036 Draft Plan, page 62.

¹⁶ St Leonards and Crows Nest 2036 Draft Plan, page 62.

¹⁷ St Leonards and Crows Nest 2036 Draft Plan, page 62.

¹⁸ St Leonards and Crows Nest 2036 Draft Plan, figure 32, page 62.

triangular site at the junction of Falcon Street, Alexander Street and the Pacific Highway. It is unclear on the face of the Draft Plan why these sites have been selected as significant sites and when the above mentioned assessment was undertaken.

48. Our assessment is that our client's site may also be developed in accordance with the criteria outlined above and consequently, **it too should be listed as a significant site under the Draft Plan.**
49. Further, we are of the view that it would be appropriate that the sites identified as significant sites be declared to be State significant development on the basis of a capital investment value of greater than \$20 million. In this way, if the Draft Plan was to be made against this objection, applicants could submit a proposal and have it determined by the Department. This approach would potentially preserve some of the dwelling yield that could be generated from the significant sites.

An alternative proposal

50. Over many months, our client has been working with Council and highly qualified consultants to formulate a planning proposal to facilitate the rezoning of its land.
51. That work has identified a greater potential for high density mixed-use development beyond the Proposed Metro towards North Sydney. In particular, this work has discovered that heights of up to 19 storeys can be easily accommodated within those locations without adverse impacts associated with, for example, traffic, urban design, heritage, character, and overshadowing. By modifying the 'knuckle' to incorporate development over a large number of sites surrounding the Proposed Metro, we are of the view that the Draft Plan could enable a consistent and smooth transition from 27 storeys at the Proposed Metro site down to 17 storeys at 220 Pacific Highway.
52. A Heritage Impact Statement (**HIS**) was also commissioned in relation to this planning proposal (see **enclosed**). In particular, the HIS notes that significant redevelopment works may be undertaken in a manner that is sensitive to the local heritage by, for example, retaining prominent features such as building facades.
53. Similarly, the HIS concludes that, in general, the impacts of an overall altered urban setting for the numerous heritage items located in the wider vicinity of Crows Nest is acceptable as these changes "*are understood as a continuation of changes*" across the wider area.¹⁹ When considering this comment in the context of the Draft Plan, it is clear that Crows Nest has a significantly greater development potential than currently captured under the Draft Plan. Accordingly, many of the sites which are currently subject to stringent development controls may be redeveloped in a manner that is consistent with the heritage fabric of prescribed heritage items and is also in keeping with the heritage character of the area.
54. We are of the view that an alternative scheme accommodating these sorts of building heights and FSRs in these locations is feasible, appropriate and in keeping with the transitioning character of the local area.
55. Further, the Government could reasonably expect that such opportunities would be readily taken up by developers like our client, leading to the outcomes and public benefits identified under the Draft Plan.

¹⁹ Heritage Impact Statement prepared by NBRS Architecture, page 41.

56. In addition we note, for the sake of completeness, that our client is willing to pay far more than \$15,100 per unit, as currently proposed under the St Leonards and Crows Nest Special Infrastructure Contribution. Should Council consider working with our client to preserve the development potential of its Land, our client may be in a position to provide additional contributions which may be used to improve and support critical local infrastructure. This, in our view, strengthens the benefits to the community that may flow from our client's alternative proposal.

Next steps

57. On the basis of the above information, we request that:

(a) the Department does not make the Draft Plan in its current form; and

(b) the Draft Plan is re-exhibited:

(i) with increased height and FSR controls for those properties situated along or around the Pacific Highway; and/or

(ii) with our client's land identified as a significant site.

58. Given the nature of our objections, we also request that the Department consider meeting with our client to discuss how the development potential of Crows Nest may be better preserved so as to promote the overarching goals of the Draft Plan.

59. Should you have any questions regarding the content of this letter, please direct your correspondence to [REDACTED].

Yours sincerely

[REDACTED]