

24 May 2019

Ms Mary O’Kane
Chair
Independent Planning Commission
Level 3, 201 Elizabeth Street
Sydney, NSW 2000

Dear Ms O’Kane,

Submission to the Independent Planning Commission Review of the Planning Proposal for St Leonards South Residential Precinct

1. Introduction

This submission has been prepared by *KEYLAN Consulting Pty Ltd* (Keylan) on behalf of Piety THP in response to the Independent Planning Commission’s (IPC) review of the Planning Proposal for St Leonards South Residential Precinct No 25 (Planning Proposal). It follows our verbal presentation at the IPC’s Public Meeting held on 20 May 2019.

Piety THP owns or has options over 12 lots within St Leonards as detailed in Figure 1. These sites are located within the boundaries of the Planning Proposal and the Department of Planning and Environment’s (DP&E) draft St Leonards and Crows Nest 2036 planning package (draft 2036 Plan).

Piety THP has worked collaboratively with Council over a substantial period of time on the Masterplan, Planning Proposal and supporting Development Control Plan.

We note that the Planning Proposal is based on sound strategic planning and urban design principles and has been produced on the basis of a comprehensive evidence base, including design, traffic, and feasibility studies, and extensive community and stakeholder engagement.

Piety THP therefore supports the timely implementation of the Planning Proposal, subject to the issues raised for the IPC’s consideration in this submission.



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

2. Background

As summarised below, the Planning Proposal has had an unusually protracted history:

- **15 October 2012:** Lane Cove Council (Council) resolved to prepare a draft scoping paper to assist an independent consultant to prepare a Masterplan for the St Leonards South precinct.
- **19 November 2012:** the scoping paper was prepared and reported to Council.
- **19 November 2012:** Council resolved to initiate a St Leonards Community Liaison Committee for the preparation of the Masterplan and subsequent LEP amendments.
- **8 December 2014:** Council endorsed public exhibition of the draft St Leonards South Masterplan, prepared by Annand Associates Urban Design. The Masterplan was informed by extensive Community Consultation, including community workshops, development feasibility testing and financial analysis of potential developments within the precinct. The Masterplan documents the analysis of appropriate building forms, investigates development potential and development implications for the precinct and found that development to about 8 storeys and to a density of 2.75:1 to 3:1 could be readily achieved throughout the precinct. The Masterplan also identified opportunities for east-west connections, community facilities and other public benefits in the precinct. The Masterplan and findings formed the basis for the Planning Proposal.
- **19 December 2014 to 1 May 2015:** draft Masterplan publicly exhibited.
- **13 July 2015:** Council resolved to prepare a planning proposal to amend Lane Cove LEP 2009 (and accompanying Development Control Plan and Landscape Masterplan) in accordance with the draft Masterplan.
- **2 September 2016:** Gateway Determination issued.

- **30 October to 22 December 2017:** Planning Proposal formally exhibited (exhibition extended to 5 January 2018).
- **23 April 2018:** Gateway Determination amended 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."*
- **14 October 2018 and 8 February 2019:** DP&E publicly exhibited the draft 2036 Plan and the *Draft Special Infrastructure Contribution (SIC)* for St Leonards and Crows Nest. The St Leonards South Precinct is covered by the draft 2036 Plan.
- **15 November 2018:** the then Minister for Planning wrote to the IPC requesting advice regarding:
 - the Planning Proposal's consistency with the vision and design principles of the *St Leonards Crows Nest draft 2036 Plan* having regard to matters raised in public submissions as well as the need for the proposal to meet Council's housing targets
 - the following principles outlined in the draft 2036 Plan:
 - accessibility to St Leonards and Crows Nest Stations
 - minimising overshadowing of the public open space and streets with a significant public domain function
 - minimise overshadowing of heritage conservation areas and residential areas outside of the Plan boundary
 - locate new open spaces so that they improve connections to other open spaces
 - plan for improved active transport connections
 - consider cumulative traffic impacts
 - ensure appropriate transitions to lower scale buildings
 - the scale of residential development contained in the proposal and whether the whole site needs to be rezoned to meet housing targets identified by the Greater Sydney Commission (GSC).
 - whether some staging of the proposal is appropriate
- **20 December 2018:** the then Minister for Planning wrote to the IPC with an updated request to seek advice regarding:
 - the Planning Proposal's consistency with the vision and design principles of the *St Leonards Crows Nest draft 2036 Plan* having regard to matters raised in public submissions as well as the need for the proposal to meet Council's housing targets
 - consistency with the overall vision, guiding design principles and the specific design principles relevant to the planning proposal in the draft 2036 plan
 - the scale of residential development in the proposal and whether the whole site needs to be rezoned to meet the housing targets identified by the GSC
 - whether some staging of the proposal is appropriate
 - a public meeting to be held after the close of exhibition of the draft 2036 Plan
- **19 November 2018:** Council resolved to request that the IPC review of the Planning Proposal be commenced after the exhibition of the draft 2036 Plan is finalised.

The above demonstrates that the Planning Proposal process has now taken over 6 years, which is an extraordinarily long process to implement the sound strategic planning objectives which underpin the proposal. Our concerns around the timing and process implications of this independent review are further discussed in this submission.

The independent review process has now added to these on-going delays and, without a timely outcome, risks even further delays.

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.

Piety THP is therefore rightly concerned that the IPC review process will result in further unnecessary delays and continuing uncertainty for all stakeholders over the process to finalise the Planning Proposal and deliver the housing and infrastructure benefits it envisages.

Preferably, the IPC 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 completed as a matter of priority, with no further undue delays such as re-exhibition of the Planning Proposal.

Recommendations:

- ***That the IPC review is completed as a matter of priority with the IPC's recommendations released and made publicly available at the earliest possible time.***
- ***Any recommended amendments to the Planning Proposal are of a minor nature that would not require re-exhibition and further delays.***

3. Review of the Planning Proposal

Piety THP notes that the Masterplan and Planning Proposal are based on extensive research and specialist studies, sound strategic planning objectives and thoroughly considered urban design principles. It has also entailed significant community and other stakeholder consultation to date.

The Planning Proposal provides for higher density residential development in close proximity to transport, employment and services which we note:

- a) is consistent with the *Greater Sydney Region Plan* and *North District Plan* and the concept of a 30-minute city, as it provides increased housing and infrastructure benefits in close proximity to the identified strategic centre and major transport interchange of St Leonards
- b) contributes to the housing targets outlined in the North District Plan for both the District and the Lane Cove LGA
- c) is entirely consistent with the principles and built form controls for the precinct outlined in the draft 2036 Plan
- d) provides for an appropriate scale of development in a locality that is undergoing significant transition towards greater development densities
- e) incorporates sound built form and design outcomes, as outlined in the Masterplan, with carefully considered design provisions to ensure appropriate landscape and amenity outcomes, including minimising privacy impacts and overshadowing of residential areas to the south of River Road and existing and new open space areas
- f) includes scope for substantial local infrastructure improvements, including community facilities, open space and affordable housing

Notwithstanding this support for the Planning Proposal’s fundamental principles, Piety THP does have concerns over the inflexibility of the proposed development standards, which may jeopardise the above benefits (eg, housing supply and diversity and public benefits) envisaged by Council and the achievement of its housing targets under the North District Plan.

Under the Planning Proposal, the achievement of the built form controls requires significant and prescriptive infrastructure contributions and 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 the overly prescriptive nature of the outcomes listed in column 5 of draft clause 6.8 (and reproduced in the draft DCP), which must be achieved if the ‘bonus’ heights and FSRs are to be realised. These matters are further discussed below:

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).

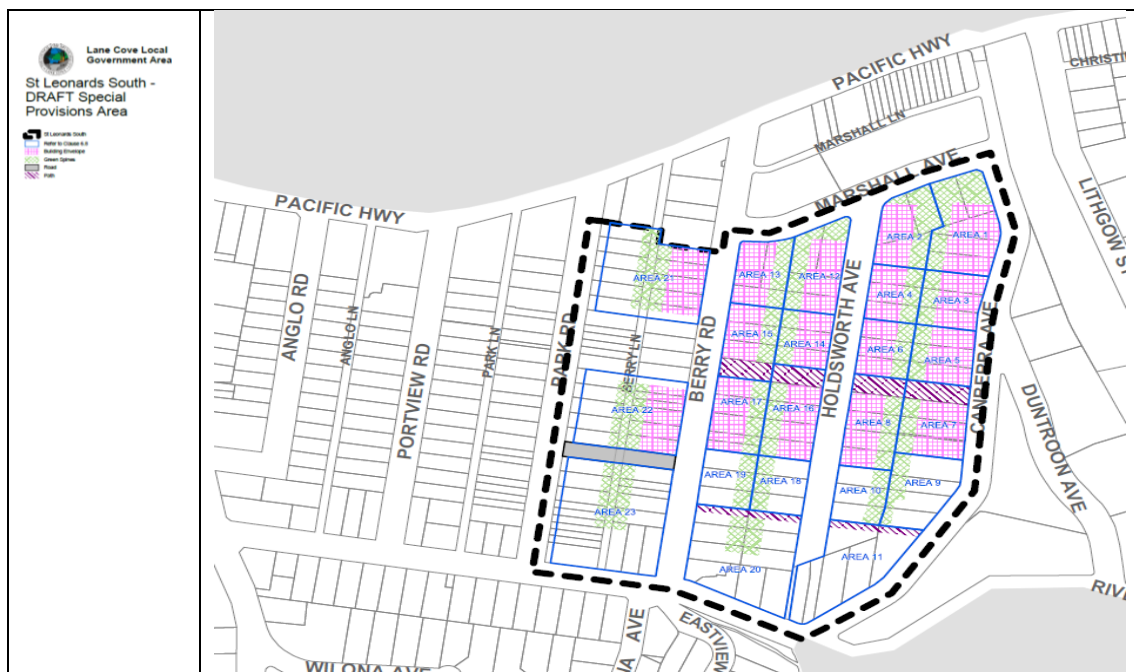


Figure 2: Draft Special provision area map (Source: Lane Cove Council)

Whilst Council has stated that this amalgamation pattern is based on maximising solar access, and ensuring no lot is isolated by development, it does not account for potentially superior amalgamation outcomes or, indeed, the market reality of site acquisitions. On this point, we note that the Masterplan (page 2) specifically identifies “expensive site amalgamations” as one of the precinct’s major constraints.

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 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. This would be contrary to the plan's underlying objectives and design principles.

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. It also considered the amenity requirements of the Apartment Design Guide.

This urban design analysis found that the heights and FSRs in the Planning Proposal may not be realised and that superior amenity outcomes, including solar access improvements, could be achieved through alternative building arrangements including siting and heights.

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 Guide.

This demonstrates the importance of flexibility in the development controls in potentially achieving better design and public benefit outcomes for the precinct.

Open space and community facilities

The Planning Proposal includes provisions for extensive new open spaces and connections, which would supplement existing open space areas in the area. This open space provision is reinforced by the draft 2036 plan.

Whilst the principle of additional open space provision and connectivity is supported, we note that the proposed open space network is dependent on the land amalgamation pattern which, as we have outlined, may not be achieved.

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.

There are also highly prescriptive requirements for the community facilities, including the provision of a 600 m² ground floor multi-purpose facility with direct connection to an outdoor play space of 450 m². These are extremely prescriptive numeric controls for an LEP and would ordinarily be contained in a DCP or VPA, with the necessary flexibility to provide alternative and innovative outcomes through detailed design at the development application stage.

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:

- ***That the IPC review the poor outcomes that are likely to result from the inflexibility of the proposed development controls and that the ability to address this inflexibility through clause 4.6 is included in the Planning Proposal.***

4. Infrastructure Contributions

The 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 intends to seek a higher contribution rate per dwelling through an IPART assessment process.

We also note that the draft 2036 Plan 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 the proposed SIC rate of \$15,100 per dwelling 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.

Furthermore, 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 note that, on the basis of the above, Council's submission to the draft 2036 Plan states that Council does not support the imposition of the SIC for the St Leonards South Precinct and requests a formal exemption from the imposition of the SIC on the St Leonards South area only.

A related issue is affordable housing. The Planning Proposal contains requirements for affordable housing for certain sites, including Piety THP's sites, which is a significant component of the overall infrastructure contributions.

The draft 2036 Plan states that affordable housing should be provided in line with the initiatives outlined in *Greater Sydney Region Plan* and 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 *Greater Sydney 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 South Precinct.

Recommendations:

- ***That the IPC gives careful consideration to the combined contributions proposed in both the Planning Proposal and the draft 2036 Plan to ensure that they are reasonable and would not only impact on development feasibility but, ultimately, the ability to deliver the required infrastructure.***
- ***That a clear and reasonable affordable housing target be set for the St Leonards South Precinct.***

5. Conclusion

Piety THP generally supports the Planning Proposal and its key objectives and benefits. As outlined in this submission, the Planning Proposal has strategic and site-specific merit, is based on comprehensive strategic and design studies and extensive community and stakeholder consultation. It has an unusually protracted history for a site that is demonstrably suitable for higher density residential development which meets the 30-minute city concept.

Piety THP remains highly concerned about on-going delays in the finalisation and implementation of the Planning Proposal and considers that the IPC review should be completed as a matter of priority. The IPC's recommendations should then be released and made publicly available at the earliest possible time.

In addition, there are several specific provisions of the Planning Proposal which should be carefully reviewed by the IPC to ensure that the Planning Proposal can be implemented and its housing supply and diversity and public benefits realised.


We therefore request that the matters and recommendations outlined in this submission be carefully considered by the IPC in its review of the Planning Proposal and its advice to the Minister for Planning. These recommendations are:

- ***That the IPC review is completed as a matter of priority with the IPC's recommendations released and made publicly available at the earliest possible time.***
- ***Any recommended amendments to the Planning Proposal are of a minor nature that would not require re-exhibition and further delays.***

- *That the IPC review the poor outcomes that are likely to result from the inflexibility of the proposed development controls and that the ability to address this inflexibility through clause 4.6 is included in the Planning Proposal.*
- *That the IPC gives careful consideration to the combined contributions proposed in both the Planning Proposal and the draft 2036 Plan to ensure that they are reasonable and would not only impact on development feasibility but, ultimately, the ability to deliver the required infrastructure.*
- *That a clear and reasonable affordable housing target be set for the St Leonards South Precinct.*

Please do not hesitate to contact Dan Keary on [REDACTED] in the first instance if you wish to discuss any aspect of this submission.

Yours sincerely



Dan Keary BSc MURP MPIA
Director