

7<sup>th</sup> June 2019.

Dear Commissioners,

Thank you for agreeing to accept additional comments from me on the St Leonards South Proposal.

After reading the transcript of the interview with Lane Cove Council officers, I was concerned about some of the interpretations and representations made in that interview.

### **Overshadowing of Public Open Spaces**

At the Public Meeting in Crows Nest on 20<sup>th</sup> May, one of the issues I focussed on was overshadowing. Overshadowing was also mentioned many times in the interview transcript with LCC.

For example, at P-4 39, Mr Wrightson says: *"The 2036 actual documents looked at our built form and analysed and said it had no impact on overshadowing, so basically confirmed our work that it didn't overshadow key public open spaces and didn't impact on views."*

I am unaware where in the Draft Plan documents the statement is made that this Planning Proposal will not overshadow key public open spaces or impact on views.

At P-5 1, Mr Wrightson goes on to say: *"...the shadowing itself really doesn't swing around to Newlands Park, which is the other open space, until the afternoon. And as you can see in Newlands Park, it actually has a tree line along its western boundary, so it self shadows itself – the park itself, I should say. So you can see here really it's probably not till about 3 o'clock that the shadows of the buildings are overcoming the shadows created by the own – by the trees within the park."*

Mr Wrightson appears to be suggesting that because there are trees in Newlands Park which create shadowing, the shadowing created by new buildings should not be taken into account, and in any event, will not have any additional impact until 3.00 pm - this is not correct.

Firstly, the Draft Plan makes no comment about shadows from existing trees removing the need for new development to comply with the solar amenity controls – the overshadowing impacts to be adhered to are for new development, and SLS is a proposed new development. Secondly, tree cover does not block all light and sunshine, as the new developments in SLS will. In Lane Cove Council's "Fact Sheet for KJA Report", uploaded to your site under "Additional Information Council", Council states: *"Newlands Park offers opportunities for access to*

*sunlight, dappled light and shaded areas, affording park users a range of options to choose from*". Because of the proposed heights of the towers along Canberra Avenue, these solar access options will disappear should the Plan be approved at the heights proposed. As shown in both the Department's and Council's Shadow Diagrams, Newlands Park will be severely affected by overshadowing in the afternoon.

The following three images were taken in Newlands Park at 1.00 pm, 2.00 pm, and 3.00 pm on 6<sup>th</sup> June 2019. Despite there being some shadows from the trees in Newlands Park, there is still sun and light. Canberra Avenue is to the right. Comparing these images to the shadowing diagrams, it is clear that buildings of the heights proposed in SLS will have major overshadowing impacts on Newlands Park. The trees in Newlands Park create a dappled light effect, not full shadow.







In the interview transcript at P-33 to P-36, there is much discussion about the Department of Planning's shadow diagrams and how they seem to be different from those provided by Lane Cove Council. From the transcript, it is not possible, as a reader, to understand which particular diagrams are being discussed at a given time. But, I would suggest, that is not important. It is clear that both sets of shadow diagrams show that Lane Cove Council's Proposal, at the heights currently proposed, is not consistent with one of the important Design Criteria of the 2036 Draft Plan.

Mr Pelcz states at P-36 5: *"Well, it does say in the urban design report with the solar amenity there that built form controls have considered overshadowing of critical open spaces and surrounding low density area, ensuring future envelopes to not result in additional significant impact within the time periods identified below."*

To check on this statement, I went to Page 62 of the Urban Design Report (uploaded to your site as Attachment B2 Urban Design Report under Draft St Leonards and Crows Nest Plan 2036). What was not explained in the interview is that on Page 62, once again the requirement for **"No Additional overshadowing of Public Open Space"** is emphasised. Once again, the time period of 10.00 am to 3.00 pm is stated.

In regard to **overshadowing of Newlands Park** (and other areas of Public Open Space), **the Draft Plan is unambiguous**. When I spoke at the Public Meeting, I referred to Page 49 of the Draft Plan. I would also like to draw your attention to the following quote on Page 26 of the Draft Plan:

*"Because the community values sun light in public places like parks, a requirement not to overshadow these places (known as a solar access plane) was recommended by the Urban Design study. The solar access plane works by requiring that new development in the area does not produce any additional overshadowing of nominated places during specified hours in mid-winter. **These requirements can restrict the height or width of new developments so they maintain required hours of solar access.**"*

In regard to this specific Design Criterion, it is also clear that the proposed new park in the SLS development in Park Road and Berry Road will be subject to overshadowing for most of day. The Department's shadow diagrams indicate that at least half of this park will be in shadow at all times during the day. This is the only significant new open space in the whole SLS proposal, and its importance is obvious considering the number of new residents that will move into the area. Was it an oversight that this park was not included in the list of Public Open Space to be protected from additional overshadowing from new developments?



## Solar Amenity for Residential Areas

Page 26 of the Draft Plan also includes additional Design Criteria relating to overshadowing which must be adhered to. This relates to the **requirement to provide solar protection to residential areas**.

For **Residential areas outside the boundary**, there must be no overshadowing from new development for the whole time between **9.00 am and 3.00 pm**. The discussion in the interview with Lane Cove Council about the accuracy, or otherwise, of the Department of Planning's shadow diagrams has already been mentioned (please refer to P-33 to P-36 of the transcript). Council staff appear to suggest that while the Department's shadow diagrams showed overshadowing of the low rise residential area on River road, Council's own shadow diagrams did not show any overshadowing between 9.00 am and 3.00 pm along River Road. I would expect that the Department of Planning would have the resources to provide some input as to the accuracy of the Shadow Diagrams, and I will make no further comment on this.

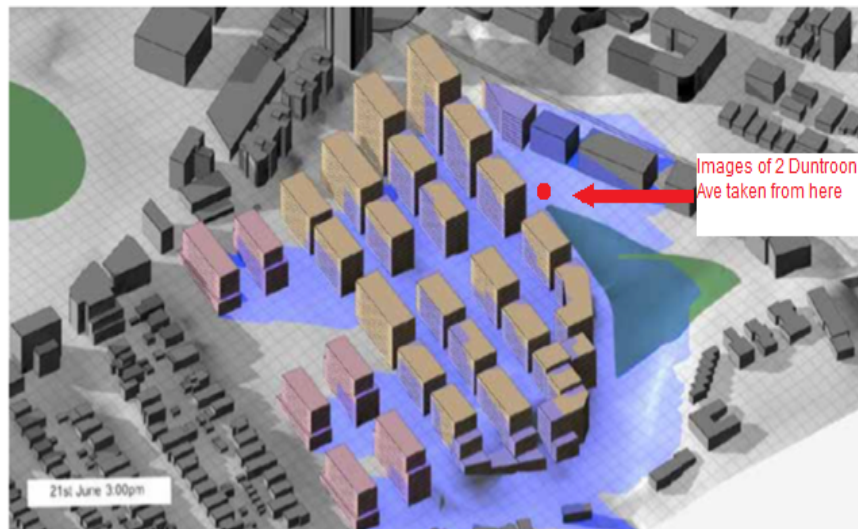
But, there is also the requirement that new development does not produce any additional overshadowing to **Residential areas inside the boundary** and that these residential areas **must maintain solar access for at least three hours between 9.00 am and 3.00 pm**. Upon examining the Department of Planning's Shadow diagrams, it is clear that 2 Canberra Avenue (the triangular site immediately north of 2 Duntroon which is currently under construction – 6 storeys), 2 Duntroon Avenue (5 storeys), and parts of 4 Duntroon Avenue (7 storeys), will not receive the required three hours of sunlight in mid-winter. To understand this, it is necessary to use the Department of Planning's Shadow diagrams, since they are displayed in half hour intervals – those of Lane Cove council are shown in their presentation to you only in 1.5 hour intervals.

It is clear that the residences at 2 and 4 Duntroon Avenue and at 2 Canberra Avenue will be in shadow in the morning from already constructed or currently under construction buildings on the Pacific Highway in St Leonards on the other side of the railway line. While many of these buildings are approved, the only new buildings currently being constructed (apart from those that are currently "holes in the ground") are the two Mirvac towers on the Pacific Highway – these towers will be 27 and 35 storeys high. Additional towers up to 48 storeys are approved – JQZ, Landmark, and a 50 storey tower directly opposite Landmark, in North Sydney Council area. Nothing can be done about these shadow impacts – the buildings are already approved.

From these already approved developments, the shadowing to 2 Canberra Avenue and to 2 and 4 Duntroon Avenue continues up until 11.30 am. By midday, the buildings appear to be receiving sunlight. However, by 1.00 pm, the buildings are again shadowed by the proposed towers (19, 15, and 12 storeys) in the St Leonards South proposal at the top of Canberra Avenue. And, from 1.00 pm, they receive no sunlight for the rest of the day.

This means these buildings receive only 1.5 hours of sunlight a day. **Clearly the apartments at 2 Canberra Avenue, 2 Duntroon Avenue and 4 Duntroon Avenue will not achieve the required hours of solar access (3 hours between 9.00 am and 3.00 pm) as set out in the Draft Plan.**

The map immediately below has a red dot indicating where the following three photos of the apartments at 2 Duntroon Avenue were taken at 1.00 pm, 2.00 pm, and 3.00 pm on 6<sup>th</sup> June 2019. The Department of Planning shadow diagrams show that from 1.00 pm this building will be in shadow for the rest of the day if the SLS plan goes ahead at the heights proposed. As the images show, it is currently not overshadowed at these times.









I would also like to show you the following two images that were taken at 1.00 pm and 2.00 pm on 6<sup>th</sup> June 2019. The construction site is 2 Canberra Avenue where there is going to be a 6 storey apartment building. The building beyond this site is 2 Duntroon Avenue (the building in the above images). In the first image taken at 1.00 pm, the 2 Canberra Avenue site is in full shadow from the 29 storey Embassy Tower on the corner of Marshall Avenue. By 2.00 pm, the shadow from Embassy Tower has passed, and 2 Canberra Avenue is in full sun. I think these images effectively show the gloomy reality of a lack of sun. I hope you will bear this in mind when you consider the Design Criteria relating to overshadowing from the SLS proposal.







To give you an insight into the personal stress this is creating for many people in the area, I would like to share with you a text message I received from one of my friends who lives in 2 Duntroon Avenue. I had messaged her to see if she would be attending the IPC Public Meeting in Crows Nest. This is her reply:

*“Not sure – it makes me so miserable I end up not sleeping – finding it difficult since we lost the morning sun due to St Leonards Square (Mirvac) going up – and they haven’t reached the top yet. I just hate thinking about it and feel we are just hitting our heads against a brick wall.”*

Attachment M, Supplementary Design Report 17 May 2016, uploaded to your site under St Leonards South Residential Planning Proposal Documents, contains considerable information on solar amenity for apartments that would be built within the SLS area should the Plan proceed. **It is important to note that existing residences within the 2036 Draft Plan area appear to have been excluded from this solar amenity testing conducted by the consultant to Lane Cove Council.** Testing appears to have been conducted only for the proposed apartments within the St Leonards South Plan area.

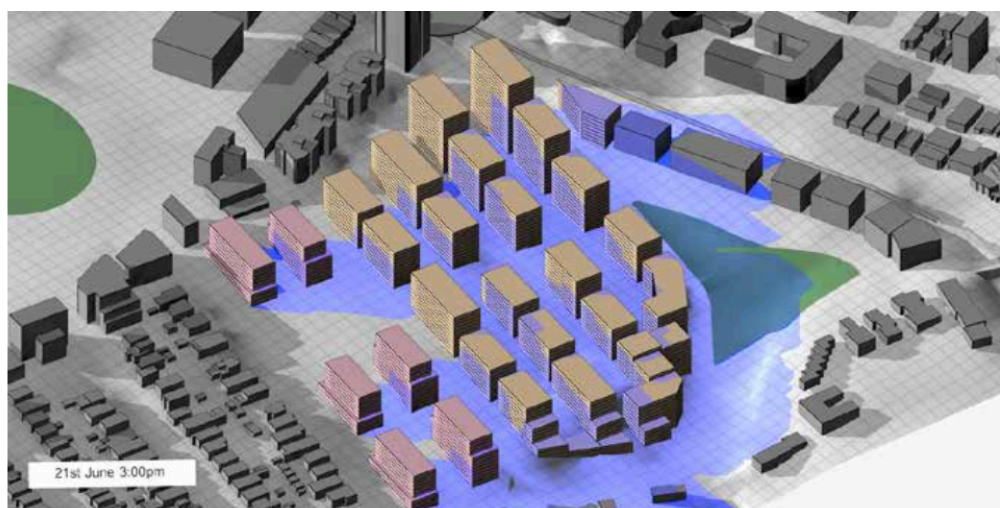
Nevertheless, it would also seem vital to bring to your attention that what is apparent from Attachment M is that there are major solar amenity impacts for the proposed new apartments within the SLS area. **These impacts will mean**

**that the new apartments within the SLS area will not achieve the required solar access as specified by the Design Criteria of the Draft Plan.**

For example, on Page 62 of Attachment M, in section 5.6 Conclusions, the following statements are contained:

- Generally speaking 8 storey street-facing buildings at FSR 2.5-2.75:1 can be developed with ADG compliance
- Solar access to apartments (particularly at lower levels) becomes problematic with heights above 8 storeys in terms of achieving 2 hours at midwinter. This is because of:
  - - South facing slopes
  - - Slightly off north grid

And on Page 84, the following Shadow Diagram is accompanied by the statement that **“2 hours solar access is generally problematic to 70% of units on 21<sup>st</sup> June (midwinter)”**.



2 hours solar access is generally problematic to 70% of units on 21st June (midwinter).

On page 95, in Section 5.8 Conclusions – Further Testing, the following statement is made:

*It would seem from this testing that the period of non-compliance of 2 hours solar access to 70% of units (1.5 hours only achieved mid-winter) is only for a relatively short period mid-winter. Compliance is possible in May and July.*

Had the Draft Plan intended the solar amenity guidelines to be tested in May or July, it is assumed it would have stated as such. In any event, Attachment M seems to be using a solar amenity standard of 2 hours. This is not the Design Criterion contained in the Draft Plan. The Draft Plan unequivocally states, on Page 26, that **solar access is required for at least 3 hours for residential**



**areas inside the boundary between the hours of 9.00 am and 3.00 pm in mid-winter, i.e. 21<sup>st</sup> June.**

It is clear, as for the residences at 2 Canberra Avenue, 2 and 4 Duntroon Avenue, that for 70% of the residences in the SLS proposal area, this standard will not be achieved with the Plan with the heights currently proposed.

### **Additional Comments on Information contained in Interview Transcript**

Mr Wrightson at P - 6 10: *“And we also identified opportunities for cafes within the buildings that address those corners.”*

Mr Wrightson at P-31 – 3: *“If they want to have, you know, a coffee – coffee shops and things are in the plan, as well. I can’t remember exactly the location of those, but...”*

Information on the Public Benefits available in the St Leonards South Plan is contained in Attachment V3 Council Summary Document on your site. This sets out the outcomes that are required to be met by developers in return for additional “incentive” height offered to them. There appears to be no reference to even one coffee shop included in this list. There is provision for minimal Key Worker Housing, and two “multi purpose (child care centre and community hall) facilities”, but no mention of a coffee shop.

Mr Wrightson at P – 6 40: *“We have got key worker housing in the north east quadrant where the higher buildings are.”*

Mr Wrightson at P-32 40: *“...key worker housing, but essentially the – it’s towards the top of the precinct where the additional height has been provided so that in return they deliver key worker housing.”*

Information on the Key Worker housing is contained in Attachment V3 Council Summary Document on your site. Key worker housing is a desirable attribute of the Plan, especially given the proximity to RNS hospital. It is important to point out, however, that there are only 34 key worker housing apartments provided in the whole development of 2,400 apartments – this is a mere 1.4% of the total development.

In return for the provision of these 34 apartments, the developers have been given “incentive” FSR over and above the standard 2.75 : 1 FSR. These “incentives” apply to 7 of the 23 separate Areas identified in the Plan. The Incentive FSR is from 3 : 1 (Area 13), 3.5 : 1 (Areas 6 and 14), 3.7 : 1 (Areas 2, 3, and 4) to 4 : 1 (Area 1).

No information is contained in the Bonuses for Public Benefits section of Attachment V3 as to how many Key Worker apartments will be provided on each individual site. In Area 3, for example, it appears that for providing a

“component of key worker housing”, the FSR has been increased from 2.75 : 1 to 3.7 : 1. In other words, 8 storeys has been increased to 15 storeys. This appears to be an overly generous incentive for having to provide what must be quite a small number of Key Worker apartments, given there are 7 areas to spread the 34 apartments around. And, as pointed out earlier, this is one of the sites that will have the most impact on overshadowing of the apartments opposite in 2 Canberra Avenue and Duntroon Avenue.

Mr Pelcz at P – 8 16 says: *“And this diagram is taken from the SJB urban design report. That’s from page 63, which has the recommended building heights for the precinct.”*

The Draft Plan has not recommended any building heights for St Leonards South. Rather, page 63 of the Draft Plan “recommends referral of the proposal to an independent panel for review to ensure consistency with conditions of the Gateway Determination and this draft Plan”.

Supporting the fact that the Draft Plan has not recommended any building heights for the SLS area, Mr Whitworth, from the Department of Planning, in the Interview Transcript between the IPC and the DPE, at P – 4 13, states:

*“So as not to pre-empt the outcomes of the independent advice to the Commission, the Draft 2036 Plan reflected the council’s exhibited planning proposal for St Leonards South and this was used when we were calculating infrastructure numbers in the area. So there is – that doesn’t mean that there is an assumption that there is support for the plan. What we are doing is using the council numbers to help inform our own planning.”*

Mr Wrightson at P-10 43 says: *“But I think the key piece is too is that council has also, with is over-rail plaza, proposing another 5000 square metres, which is within that 400 metres walkability.”*

On pages 42 – 44 of the Interview Transcript there is considerable discussion about the over rail plaza – its current status, the lack of current government commitment or approval for the project, and Lane Cove Council’s desire for the project to go ahead. At a recent meeting of the Greenwich Community Association, the Mayor of Lane Cove indicated the cost of providing the over rail plaza would be \$89,000,000. This seems to be an enormous amount of money – is the funding guaranteed for this project? Perhaps somewhere on the IPC site there are documents setting out the funding mechanism for this project, but I have been unable to find them.

Mr Wrightson at P-25 31 says: *“And, so essentially, the work we’re doing is our housing strategy. We’re not planning to rezone any other R4 in our LGA in order to achieve our housing target.”*



A number of speakers at the Public Meeting in Crows Nest on 20<sup>th</sup> May expressed concerns that Lane Cove Council was planning to put all of its new housing in St Leonards and St Leonards South. This was expressed along the lines of “East Ward is doing all of the heavy lifting for the Council”.

If this proposal is approved, there will be approximately 4,500 apartments that will have been approved by Lane Cove Council in the immediate area over the last three to four years. As has been pointed out, the impacts of the already approved apartments are yet to be realised, as they are not yet built.

Several speakers at the Public Meeting also spoke of the risk and speculation taken by developers in purchasing land before the plan was approved. Why did they do this? Were the predominantly overseas developers unaware of the process that would need to be followed before rezoning occurred? Were they poorly advised?

Irrespective of the reasons the developers took the decision to purchase at a time when the housing market was in a “frenzy”, as Jacob Saulwick reported in an article in the SMH on 21<sup>st</sup> May 2019 - **“They speculated, they own the risk.”** The remaining community who want to continue living in the area should not have their living amenity seriously eroded because of the need to preserve developer profits. We all know there will be additional development in our area, but this plan is asking too much of the local community on too many levels. And as the shadowing diagrams show, with so many of the apartments not achieving the required level of solar amenity in the SLS area itself, the living amenity for new residents of SLS will also be less than ideal.

As I said at the IPC Public Meeting, the SLS plan should be scaled back in terms of height, density and number of people. Such a scaling back would solve some of the inconsistencies with the Design Criteria of the Draft 2036 Plan.

Thank you for the time and energy you are putting into this process, and for accepting this submission from me.

Yours sincerely,

Suzanne Yelland

