



# Lane Cove Council

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Mr Jim Betts  
Secretary  
NSW Department of Planning, Industry and Environment  
Locked Bag 5022  
PARRAMATTA NSW 2124

27 May 2020  
Ref: 27206/20

Attention: Mr Nick Armstrong

Dear Mr Betts

## **RE: LANE COVE LOCAL ENVIRONMENTAL PLAN – ST LEONARDS SOUTH – PLANNING PROPOSAL FINALISATION**

Following public exhibition between 30 October 2017 and 5 January 2018, followed by IPC referral and advice, and the NSW Government Architect Design Charrette advice, Council has considered all relevant information and resolved on 11 May 2020 to support Planning Proposal 25 in an amended form.

Specifically, the report to the 11 May 2020 Extraordinary meeting considered and responded to the comments received during public exhibition in October 2017 to January 2018, the advice provided by the Independent Planning Commission in 2019, and the findings and recommendations of the Design Charrette

Council has satisfied all Gateway conditions (September 2016), considered all submissions received as part of the consultation process and determined to amend the Planning Proposal (**Attachment A**). Council acknowledges that it is the sole discretion of the Minister for Planning and Public Spaces to determine if the Planning Proposal requires re-exhibition and should he so determine Council is willing to undertake consultation, however, if he determines re-exhibition is not required, the LEP should be made and Gazetted without further delay.

### **Background**

The purpose of Planning Proposal 25 is to create a transit-orientated residential development precinct in close proximity to St Leonards transport hub, a TOD with exemplary liveability, providing for community infrastructure, public open space, pedestrian networks and efficient traffic routes. Council's Local Environmental Plan is to be amended as follows:-

- 1. Rezone the land from R2 Low Density Residential to R4 High Density Residential.*
- 2. Amend the Land Use table for the R4 High Density Residential zone to include 'Recreation areas' as development 'Permitted with consent'.*
- 3. Increase the Floor Space Ratio from 0.5 / 0.6:1 to the various incentive floor space ratios shown in the attached FSR map*

4. *Increase the Height of Buildings from 9.5 metres to various incentive building heights shown in the attached HOB map*
5. *Include an additional Local Provision under Clause 6 - Additional Local Provisions that specifies incentives for specified development (see Clause 6.9 Development in St Leonards South Area).*
6. *Provide an addition to clause 4.6 to prevent both Incentive maps and LEP clause 6.9 from being varied as part of a development application.*
7. *Amend Miscellaneous Provisions under Clause 5 (Land Acquisition within Certain Zones) to identify Council as the authority responsible for acquiring the new road Berry and Park Roads.*

#### *Gateway Determination*

I refer to the Department's letter of 2 September 2016 (your reference: PP 2016-LANEC-001-00) issuing a Gateway Determination (**Attachment B**). Prior to public exhibition, Council was to update the proposal to:

- *Justify the inconsistency with s.117 Direction 2.3 Heritage Conservation, via a study to assess the impacts of the proposal on local heritage houses located at 3, 5, 7 Park Road;*
- *Justify the inconsistency with s.117 Direction 3.1 Residential Zones and s. 117 Direction 3.4 Integrating Land Use and Transport, via a traffic and accessibility study focusing on the impacts of the current proposal and other approved proposals in the immediate area;*
- *Demonstrate that there is no inconsistency with SEPP Affordable Rental Housing;*
- *Replace proposed clauses 4.6(8)(ca), 5.1 and 6.8 with a 'plain English' explanation to explain Council's intention/outcomes for the St Leonards South Precinct while allowing flexibility in the drafting of provisions;*
- *Include an Incentive Height of Buildings and an Incentive Floor Space Ratio Map;*
- *Replace the existing Special Provisions Area Map with a non-LEP version; and*
- *Include a satisfactory arrangements provision for contributions to designated State public infrastructure identified as part of a draft or final strategic planning review for the St Leonards and Crows Nest Station Precinct.*

Council's Letter of Response (see **Attachment C**) to these Gateway pre-exhibition Conditions was submitted to the Department on 29 September 2017, along with an amended Planning Proposal **and was confirmed as satisfactory by the Department on 20 October 2017.**

Due to the pre-exhibition Gateway conditions and the release of the Department's Draft 2036 Plan, a number of requests for extension of time were made. They were granted by the Department, on the following dates:

- 30 August 2017;
- 23 April 2018;
- 26 April 2019; and

- 27 November 2019.

## **Public Exhibition**

The Planning Proposal was publicly exhibited from October 2017 to January 2018, in accordance with the Gateway Determination, planning regulations and Council's Consultation Policy.

### *General Submissions*

Approximately 340 Submissions (82% were more than 500m from the precinct) were received. Approximately 10% of submissions commented on the Planning documents. A summary of key concerns is listed below by order of the greatest number of submissions which raised the issue:-

- Scale (built form and amount of development),
- Character and heritage,
- Transitional built form,
- Topography,
- Commercial development,
- Use of setbacks,
- Amenity,
- Traffic,
- Transport (i.e. links with new Metro Station and existing St Leonards Station),
- Council's bus/rail interchange,
- Parking & Access,
- Open Space (overshadowing and amount of),
- Density,
- Tree Canopy Cover,
- Housing Diversity/Affordable Housing,
- Overshadowing & Privacy,
- Lack of information,
- Impacts on infrastructure – capacity, schools, sewer, water, and delivery,
- Zone boundaries and transition, and
- Economic analysis.

Note: the submissions received as a result of public exhibition and a detailed timeline highlighting all public consultations over a five year period are included in the 11 May 2020 Council report. These issues were also responded to throughout the 11 May 2020 Council report and its attachments (see **Attachment D**).

### *Government Agencies Submissions*

Council received comments from 10 Government Agencies from October 2017 onwards.

The Civil Aviation Safety Authority (CASA) and Federal Department of Infrastructure and Regional Development both requested that the proposal be forwarded to Sydney Airport, but made no comments on the proposal. Sydney Airport raised no objection to any of the proposed building heights. Council's LEP has a clause relating to airspace operations. Notwithstanding such any future Development Applications in this area will also be forwarded to Sydney Airport and Royal North Shore Hospital for abundant caution,

The Northern Sydney Local Health District – Health Promotion unit commended a number of aspects of the plan as well as other work Council is doing in the adjoining area. Additional comments were received from NSW Education supporting Council's plans and their consistency with NSW policies promoting integrated residential and infrastructure growth. North Sydney Council provided in principle support for Council's plans.

Ausgrid provided details of their processes for undergrounding power lines, while Sydney Water confirmed that their infrastructure has adequate capacity to service the development, but also advised that some upsizing may need to occur. This will be addressed at the future Development Application stage.

NSW Office of Environment and Heritage raised some concerns about the potential impacts on the heritage items in Park Road but supported the recommendations of Council's heritage study – which are integrated into the Proposal.

Two separate comments were received from NSW Roads and Maritime Services, both of which are addressed in the attached Council report (see **Attachment D**).

#### *Independent Planning Commission (IPC)*

In May 2019, Council's proposal was referred by the Minister to the IPC for advice. The findings were released in July 2019.

#### *Design Charrette*

To assist Council formulate its response to the IPC report and progress Planning Proposal 25, the Department, the State Design Review Panel and the NSW Government Architect conducted a design charrette on 11 November 2019. The Outcomes and Recommendations Report provided 13 recommendations, for Council to consider. Council received and considered the findings of the Report and sought additional urban design and land economic advice to address concerns raised and evaluate the Charrette findings; elements of which are either supported or not supported by Council.

In response to the Charrette's concerns and findings, additional post Charrette reviews have been undertaken by Council's Urban Design Consultant, an updated economic analysis by HillPDA, co-ordination and facilitation of additional reviews by strategic staff, and internal staff responsible for water, landscaping, waste and development control.

#### *Response to submissions, advice and findings*

Council's response to all submissions, the IPC findings and the Design Charrette Report is contained in the 11 May 2020 Council report (**Attachment D**) and its attachments, and the addendum report (**Attachment E**).

A summary table of the major issues raised by community consultation, the IPC and the Charrette response to these issues, and Council's response in turn, is attached to the 11 May 2020 Council report (refer to *AT-4 - Table of Issues and Responses*).

## Council Resolution

On 11 May 2020, Council resolved (**Attachment F**) to:-

- A. *Receive the Addendum Report and deal with it in conjunction with the substantive report.*
- B. *Note that Attachment 4 outlines the issues raised in submissions received and how each was considered by the IPC, Design Charrette and Council, which are the basis for the report to Council.*
- C. *Note that the IPC held a public hearing in 2019.*
- D. *In response to the submissions received post exhibition of the Planning Proposal, advice from the Independent Planning Commission and Design Charrette conducted by the Department of Planning, Industry and Environment, make the following changes to the scheme:-*
  1. *Adopt a 5% reduction of the base FSR down to 2.6:1 across the entire precinct, resulting in the following changes to the FSR schedule noting that this combined with other changes will reduce the expected number of dwellings to approximately 1,974, representing a 17% reduction in dwellings across the precinct.*

<b>Existing</b>	<b>Amended</b>
2.75	2.6
3.0	2.85
3.1	2.95
3.5	3.35
3.7	3.55
3.8	3.65
4.0	3.85
Refer to Clause 6.8	Refer to Clause 6.8

2. *Adopt the changes to the height controls in the precinct as shown in the revised Figure 13 included in the Addendum Report, noting the following details:-*
  - a. *Area 5 in Canberra Avenue, no adjustment to height and FSR and require a portion of the 15m wide path linking Canberra Avenue and Holdsworth Avenue in addition to providing the multi-purpose facility.*
  - b. *Area 6 in Holdsworth Avenue, increase the height from 10 to 12 storeys, and increase the bonus FSR by an additional 0.3:1 to provide a portion of the 15m wide path linking Canberra Avenue and Holdsworth Avenue and continue to provide affordable/key worker housing.*
  - c. *Area 7 in Canberra Avenue, no longer require a portion of the 15m wide path linking Canberra Avenue and Holdsworth Avenue.*

- d. *Area 8 in Holdsworth Avenue, no longer require a portion of the 15m wide path linking Canberra Avenue and Holdsworth Avenue.*
  - e. *Area 12 in Berry Road, increase the 8 storey height component to 10 storeys, and increase the bonus FSR by an additional 0.5:1 to provide additional affordable/key worker housing.*
  - f. *Area 17 in Berry Rd, no adjustment to height and FSR but require an increased contribution to infrastructure in addition to providing the multi-purpose facility (to ensure an equitable contribution by all areas in accordance with the HillPDA Analysis).*
  - g. *Areas 21 and 22 the frontage of buildings to the central park have a DCP control requiring the western buildings to have a 3m setback at and above Level 3 (a 2 storey element) and the eastern buildings to have a 3m setback at and above Level 5 (a 4 storey element), to improve the park interface.*
  - h. *Area 22 and 23 in Park/Berry Road, increase in the FSR by the inclusion of a bonus FSR of an additional 0.15:1 with no resultant increase in height to provide a new road linking Berry Road to Park Road.*
3. *A clause be included which requires a minimum of 20% studio/one-bedroom apartments, 20% two-bedroom apartments, and 20% 3 and 3+ bedroom apartments for residential development across the precinct.*
  4. *A clause be included to ensure buildings are optimised to minimise shadowing to public and private open spaces and ensure ADG compliance including to surrounding buildings.*
  5. *A clause be included to encourage ground-floor, direct street-access, townhouse-like apartments, particularly in Park Rd.*
  6. *A clause be included which requires the development to demonstrate design excellence and best practice sustainability performance to be eligible for the incentives outlined in Clause 6.8.*
  7. *Consider a set of guidelines for the design of buildings in order to achieve an aesthetically standardised, package approach for the precinct; including but not limited to building design, articulation, materials and finishes, front fencing and colour palette.*
- E. *Amend Planning Proposal 25, DCP and associated documents to reflect A,B,C and D above and submit the revised Planning Proposal 25 to the Minister for Planning and Public Spaces together with updated respective supporting reports and letters in relation to infrastructure support (e.g. Department of Education), being consistent with Council's current position.*
- F. *Delegate Authority to the General Manager to update the draft s7.11 Plan having regard to the amended Planning Proposal and seek approval from IPART for the Plan.*
- G. *Subject to Ministerial approval of Planning Proposal 25:-*
- a. *commence the process to close Canberra Avenue, between River Road at its intersection with Duntroon Avenue to integrate the land into Newlands Park once the section 7.11 Plan funding has been confirmed.*
  - b. *extend the community consultation to the area bound by Pacific Highway, North Shore Railway Line, River Road and Greenwich Road or broader if determined to do so.*

- H. Commit to not considering future rezonings west of Park Road to Greenwich Road in the short - medium term (2021-2026).*
- I. Investigate widening of the River Road footpath to integrate a shared path.*
- J. Note the advice received today that the Terms Sheet for the St Leonards Over-Rail Plaza has been executed by the relevant State Government authorities.*
- K. Prioritise the purchase of properties to create the central park between Park Rd and Berry Rd as s7.11 contributions are received, and Council receive a report annually as part of the budget process on progress of acquiring the properties.*
- L. Ask the Minister to consider re-exhibition of the amended proposal.*
- M. Formally acknowledge the hard work of the General Manager, his executive and non-executive staff and in particular Michael Mason and his staff in delivering a plan for St Leonard's South precinct that will deliver a significant portion of our 2021-2036 housing targets and provide the people of the area with more open space, community infrastructure and other amenities.*

At its 18 May 2020 Ordinary Meeting (**Attachment G**), it was also resolved that Council:

- 1. Notes that extensive community consultation was held during the period 2012 – 2020 including:
 
  - a. Exhibition of Master Plan (Dec 2014 – May 2015) with 545 submissions received;*
  - b. exhibition of draft Planning Proposal (Oct 2017 – Jan 2018) with 340 submissions received;*
  - c. a public hearing conducted by the IPC (2019); and*
  - d. a review by NSW Planning, State Design Review Panel and NSW Government Architect (2019-2020)**
- 2. Notes that despite the lack of a face-to-face public forum at the Extraordinary Council Meeting held on 11 May 2020, that alternate procedures were in place during the pandemic for the public to make last-minute representations to Councilors by email, phone or video and that 97 submissions were in fact received.*
- 3. Considers the pandemic was therefore an irrelevant matter for Council's consideration.*
- 4. Considers that all relevant facts were taken into account in determining the particular merits of the proposal.*
- 5. Acknowledges that it is the sole discretion of the Minister for Planning and Public Spaces to determine if the Planning Proposal requires re-exhibition and should he so determine Council is willing to undertake consultation, however, if he determines re-exhibition is not required, the LEP should be made and Gazetted without further delay.*
- 6. Confirms its intention to create additional open space through the closure of Canberra Avenue South and incorporation into Newlands Park, subject to the appropriate consultation on the closure of Canberra Avenue South, and should the closure*

*proceed, Council seek to rezone the land, RE1 Public Open Space and classify it as Community Land, under the Local Government Act.*

7. *Confirms the 5% reduction in the base FSR proposed in Option 4 in the report, applied across the precinct but did not apply to the floor space bonuses proposed under the LEP to provide community infrastructure (i.e. open space, E-W connections, key worker housing, landscaping, site consolidation, roads).*

## **Conclusion**

Planning Proposal 25 has been amended based on the Council resolutions of 11 May and 18 May 2020. As stated in the Council report, the nature of the proposed amendments directly responds to public consultation and would result in decreased impacts across the precinct, particularly on Newlands Park.

Having satisfied all Gateway conditions, and considered all public submissions prior to amending Planning Proposal 25, Council now requests that the Department finalise the LEP Amendment as follows:

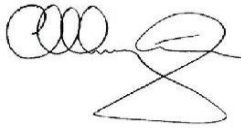
- 1) Amend the following existing clauses of the Lane Cove Local Environmental Plan 2009 (LEP), as stated in **Attachment H** -
  - a. Land Use Table for the R4 High Density Residential zone – to include Recreation areas as a permissible use,
  - b. Clause 4.6(8) to exclude Council's new incentive clause 6.10 from variations, and
  - c. Clause 5.1.
- 2) Insert new LEP incentive clause 6.10 titled St Leonards South Area (explained in **Attachment H**) and clause 6.11 titled Design Excellence in St Leonards South (see **Attachment H**).
- 3) Amend the following existing LEP 2009 maps:
  - a) Land Zoning Map,
  - b) Minimum Lot Size Map, and
  - c) Land Reservation Acquisition Map.
- 4) Retain existing Height of Buildings Map (HOB\_004) and Floor Space Ratio Map (FSR\_004) for the area.
- 5) Insert an Incentive Height of Buildings Map and Incentive Floor Space Ratio Map into the LEP to support the new incentive clauses (Clause 6.10 and 6.11).

Council will forward the final map amendments and amending map cover sheet following the Department's advice on the finalisation of the Planning Proposal.

Please feel welcome to contact Christopher Pelcz, Strategic Planner, on 9911 3516 or at [cpelcz@lanecove.nsw.gov.au](mailto:cpelcz@lanecove.nsw.gov.au) if you wish to discuss the matter.



Yours sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

Craig Wrightson  
**General Manager**

**Attachments**

- A – Amended Planning Proposal – 22 May 2020
- B – Original Gateway Determination – September 2016
- C – Council formal response to Gateway conditions – September 2017
- D – Council REPORT and attachments – 11 May 2020
- E – Council ADDENDUM REPORT – 11 May 2020
- F – Council MINUTE – 11 May 2020
- G – Council MINUTE – 18 May 2020
- H – Amending Local Environmental Plan Clauses – 22 May 2020