

Planning Services

Plan Finalisation Report

Local Government Area: Lane Cove

PP Number: PP_2015_LANEC_002_00

1. NAME OF DRAFT LEP

Lane Cove Local Environmental Plan 2009 (Amendment No 22) (draft LEP) (**Attachment LEP**).

2. SITE DESCRIPTION

The planning proposal applies to the following specific land:

- 75-79 Lithgow Street and 84-90 Christie Street (Site A); and
- 546-564 Pacific Highway (Site B).



Figure 1: Sites A and B of the planning proposal.

The site has an area of 3,197m², and is generally rectangular. Existing development on Site A comprises 4 x two-storey and 1 x three-storey commercial buildings. Site B comprises 9 x two-storey commercial buildings with ground floor shops fronting the Pacific Highway.

Part of the site, being 88 Christie St, was previously granted development approval for an 18-storey commercial building under the former NSW Part 3A system. The permissible floor space ratio (FSR) is 14:1 and height 65 metres.

3. PURPOSE OF PLAN

The proposal seeks to:

- rezone Site A from B3 Commercial Core to B4 Mixed Use;
- increase the permitted building height of Site A from 65 metres (approx. 20 stories) to a maximum of RL 227.4 metres (east tower – approx. 44 stories) and RL 166.8 metres (west tower – approx. 26 stories);
- introduce a bonus FSR mechanism on Site A that allows for:
 - an additional FSR of 2:1 for providing a 300-space public car park; and
 - an additional FSR of up to 1.6:1 for the amalgamation and commercial redevelopment of Site B; and
- introduce a minimum 2.5:1 non-residential FSR for Site A. However, if Site B is amalgamated, this can be reduced to 1.5:1.

The proposed zone and development control changes are summarised in the table below.

	Current LEP Controls		Proposed LEP Controls	
	Site A	Site B	Site A	Site B
Zoning	B3 Commercial Core	B3 Commercial Core	B4 Mixed Use	B3 Commercial Core (no change)
Maximum Building Height	65m	45m	227.4m and 166.8m	45m (no change)
Maximum FSR (inc Bonus)	14.1:1	10.1:1	17.1:1	10.1:1 (no change)

A copy of the exhibited planning proposal is available at **Attachment B**.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the state electorate of the North Shore, which is held by the Hon. Felicity Wilson MP. To the regional planning team's knowledge, the MP has not made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

5. SECTION 117 DIRECTIONS

A condition of the Gateway determination required that the proposal be updated to address consistency with section 117 Directions 1.1 Business and Industrial Zones and 7.1 A Plan for Growing Sydney.

Direction 1.1 Business and Industrial Zones

Before exhibition, the planning proposal was updated to address this Direction and the loss of approximately 18,000m² of commercial floor space. An economic impact assessment was prepared, which states:

- there is a low take up of commercial leases within the St Leonards Strategic Centre;
- it is estimated that approximately 43,350m² of office floor space will be required to accommodate the targeted employment growth outlined in the draft Metropolitan Strategy of 8,000 additional jobs by 2031;
- the commercial floor space required to achieve the target employment growth of the draft Metropolitan Strategy can be accommodated with existing vacant floor space and proposed supply, with a surplus of 91,454m² by 2031;
- the redevelopment of Royal North Shore Hospital will drive demand for specialised health service tenancies, which do not require a large corporate office format and can be accommodated in mixed-use development;
- the planning proposal is supported by a voluntary planning agreement (VPA) that will provide improvements to the public domain, attract commercial tenancies and encourage employment.

The planning proposal has adequately addressed the objectives and demonstrated that the inconsistency with this direction is of minor significance.

Direction 7.1 A Plan for Growing Sydney

The planning proposal was updated prior to exhibition to address this Direction, particularly the plan's emphasis on supporting employment growth in strategic centres. It states that the proposal provides a quantum and type of commercial floor space that is appropriate for the St Leonards precinct, as detailed in the economic impact assessment. The planning proposal has adequately addressed consistency with this direction.

6. PUBLIC CONSULTATION

In accordance with the Gateway determination, public exhibition was undertaken by Lane Cove Council from 29 September 2016 to 10 November 2016.

Twenty-two (22) submissions were received, including submissions from Northern Sydney Local Health District, Transport for NSW (TfNSW), and the Greenwich and St Leonards Action Group.

The key issues raised in community submissions have been summarised and considered below. A summary of issues raised in submissions is available in Council's post-exhibition report (**Attachment E**).

Traffic

Concern was raised that the existing street network is unable to cope with the cumulative traffic impacts of the planning proposal and other approved developments in the vicinity of the site. Submissions also noted that Council's cumulative traffic study did not consider the proposed closure of Lithgow Street to traffic nor the impact of the proposed relocation of Christie Lane south linking Lithgow and Christie Streets.

A cumulative traffic study has been provided, which has assessed the traffic impacts of approved developments near the site (proposals known as St Leonards South, Loftex, Winten, Mirvac, New Hope & VIMG). The traffic model that underpins the assessment was prepared in consultation with NSW Roads and Maritime Services (RMS).

Council's traffic consultant updated the traffic model and study to address the closure of Lithgow Street and relocation of Christie Lane and the amended study forms part of the final planning proposal. The updated study showed some change to delays and queues; however, Council considered these to be of minor significance and did not change the conclusions of the report.

Overall, the traffic study found that while a number of relatively minor improvements would be required as a result of the proposal and cumulative impact of surrounding developments, the developments do not generate sufficient additional traffic to require significant infrastructure improvements and the levels of services of the road network remained essentially the same.

As such, the traffic study indicates that traffic flows are not a key constraint for the proposal. Further detailed design work for maintaining and/or improving the local road network and intersection capacities can be undertaken at development application stage.

Parking

Concern was raised that there is insufficient parking for the proposed 450 units as well as insufficient visitor and service vehicle parking.

Council's report states that the lower parking rates reflect the availability of realistic transport alternatives to private car travel, existing road capacity constraints and lower car ownership rates within the area. The proposed parking rates would need to be assessed and justified in any future development application.

It is considered that the reduced parking rate is an appropriate response to the accessibility to public transport and that Council has adequately addressed the issues raised.

Views

Several submissions were concerned about the view impacts of the proposal. Specifically, that it will block the panoramic views of Sydney CBD from 'the Forum'.

Council has acknowledged that the proposal would impact on the current views of the city for properties to the north of the site. However, it would be unreasonable and inequitable to expect that redevelopment would be prevented indefinitely to preserve an unimpeded outlook held by residential properties. The proposal provides a bulk and scale that would ensure slender building forms and a 24-metre separation between the two residential towers to minimise view impacts.

It is considered that view-sharing can be addressed at the development application stage and that Council has adequately addressed the issues raised.

7. ADVICE FROM PUBLIC AUTHORITIES

The Gateway determination of 21 October 2015 (**Attachment C**) required that Council consult with TfNSW in relation to the capacity of the road network to cater for the mix and intensity of uses proposed and recently approved.

On 20 November 2015, Council met with TfNSW and RMS and it was recommended that Council undertake an overarching transport and traffic report to address issues identified in Council's initial Traffic Modelling Report.

Council has provided a revised cumulative traffic impact study that addresses the concerns of TfNSW and RMS and demonstrates that the proposal and recently approved developments will have minimal impact on the levels of service of the road network.

TfNSW's submission of 15 January 2017 recommended that Council defer any further consideration of the planning proposal until after the St Leonards/Crows Nest strategy has been released. TfNSW considers that any significant individual planning proposal should be reviewed once the strategy is exhibited.

The recommendation is not in keeping with the approach agreed upon by the St Leonards/Crows Nest working group, which includes the Department, TfNSW, Lane Cove

Council, Willoughby Council and North Sydney Council. The working group has adopted a policy that the strategy will not hold up existing proposals that are well advanced (**Attachment G**).

Delay of the planning proposal until after the release of the findings of the priority precinct is not considered necessary as the proposal is:

- consistent with the findings of the St Leonards/Crows Nest Priority Precinct interim statement, as explained in further detail in section 10 of this report; and
- has demonstrated acceptable traffic impacts, with modelling prepared in consultation with RMS and TfNSW.

As part of the St Leonards/Crows Nest working group, Council is committed to continue working with TfNSW, Willoughby City and North Sydney councils and the Department in relation to the strategy. Given the proposal is well advanced and consistent with available findings, it is not considered reasonable or necessary that the proposal be put on hold until release of the final strategy, which is expected early 2018.

8. POST EXHIBITION CHANGES

Lithgow Street mapping

Council has requested the removal of the portion of mapping on Lithgow Street that contains a FSR. Lithgow Street is a Council-owned local road and will not be incorporated into an adjoining development. Removal of the portion of mapping will ensure that no additional gross floor area can be incorporated into Site A.

Clarification of bonus FSR mechanism

Council has clarified that the FSR bonuses are intended to incentivise the provision of a 300-space public car park associated with a proposed supermarket on Site A and the commercial redevelopment of Site B. Council has also clarified that the bonus FSR scheme applies to Site A only and is not intended to apply to Site B.

Non-residential floor space

Council's proposal required a minimum non-residential floor space ratio of 2.5:1 for Site A. This could be reduced to 1.5:1 if Site B is amalgamated into one lot. The owners of Site B have since provided evidence that Site B is in single ownership. As such, the option of a reduced non-residential FSR for amalgamation is no longer considered necessary and has been removed from the draft LEP. This provision was drafted as a requirement for at least 4,500 square metres of gross floor area of Site A being used for purposes other than residential accommodation. This is equivalent to an FSR of 1.5:1.

It is recommended that the above changes be endorsed under section 59(2)(a) of the *Environmental Planning and Assessment Act 1979* (the Act) without requiring further exhibition as they do not alter the planning proposal but clarify the exhibited proposal.

Clause 1.8(A) savings provision

Council also requested the addition of a clause 1.8(A) savings provision to allow for a development application to be lodged, but not finally determined, until the new LEP is made. It is anticipated that a development application for the subject site, that relies on the proposed LEP amendments, will be lodged in November 2017. The proposed savings provision was not included in Council's exhibition material or considered by Council.

As part of the legal drafting process, the Department's Legal Services Branch advised that a savings provision is not necessary due to section 72J of the Act. Consequently, this request has not been included in the draft LEP.

9. MAPPING

There are three maps and an accompanying map cover sheet (**Attachments Maps and MCS**) associated with this amendment.

Council submitted the maps via the Department's e-Planning Portal and these have been checked by the ePlanning data and information team.

10. GATEWAY CONDITIONS, EXTENSIONS AND ALTERATIONS

A Gateway determination was issued on 21 October 2015 and two Gateway alterations were subsequently issued for the draft LEP.

Due to the nature of consultation with TfNSW, a 12-month extension of the Gateway determination was requested and granted on 9 September 2016. A second Gateway alteration was issued on 18 October 2016 to change incorrect references to a report in condition 1(a) of the Gateway determination (**Attachment D**).

The Department confirmed on 25 October 2016 that all other conditions of the Gateway determination had been fulfilled and the planning proposal could proceed to public exhibition.

Condition 4 of the Gateway determination required that, prior to finalisation, the planning proposal respond to the findings of the strategic planning review being undertaken by the Department. The St Leonards and Crows Nest Station Precinct interim statement was released in August 2017.

The interim statement describes the location of the subject site as Area 7: St Leonards Centre and Crows Nest Station. The statement proposes:

- the area will be a high-density centre supporting a mix of commercial, retail, community, residential and public domain uses;
- minimum employment floor space controls to ensure employment capacity and diversity will meet the job needs of future generations;
- improvements to the public domain providing for social, cultural and civic needs as the precinct grows; and
- consideration of the amalgamation of key sites to enable development to achieve good design and amenity outcomes.

The proposal is consistent with the findings of the interim statement as it will facilitate a high-density mixed-use development. There is a VPA associated with the planning proposal, which will promote improvements to the public domain through the delivery of a 1,000m² public library, public parking and a full line supermarket. The VPA will also contribute approximately 20% of the funding of a plaza over the railway corridor adjacent to the site, currently proposed by Council.

The proposal provides an incentive to retain at least 21,500m² of commercial floor area, which has been demonstrated by the economic impact assessment to meet the future employment needs of St Leonards. It will also promote the amalgamation and commercial redevelopment of Site B, which is a key site within St Leonards' commercial core along the Pacific Highway.

11. ASSESSMENT

The Department has considered submissions received during public exhibition and amendments made post-exhibition. It is recommended that the draft LEP be supported for the following reasons:

- the proposal will facilitate a high-density mixed-use development close to services and public transport in a precinct with a progressively higher-density character;
- the additional height and bonus FSR provisions will allow for tall slender towers that will minimise impacts on the amenity of surrounding developments and are consistent with the desired future character of the area;
- Council demonstrated that the proposal will not have unacceptable traffic impacts, considering the traffic generation of recently approved development in the vicinity of the site;
- the proposal will contribute to the revitalisation of the public domain to attract commercial growth and renewal to St Leonards;
- the proposal is consistent with the findings of the St Leonards and Crows Nest Station Precinct interim statement, released in August 2017;
- the bonus provisions will incentivise the commercial redevelopment within the B3 commercial core of St Leonards to encourage employment growth and avoid isolation of commercial sites; and
- the proposal will contribute to the housing targets of A Plan for Growing Sydney by facilitating the development of approximately 450 dwellings.

In October 2017, the Greater Sydney Commission released the revised draft North District Plan for consultation. The proposal is located within the North District and is considered consistent with the priorities and actions of the revised draft North District Plan.

The draft Greater Sydney Region Plan was released for consultation in October 2017. It provides a 40-year vision for Greater Sydney promoting collaboration across government to align land-use planning with future transport services. It is designed to inform district plans, local plans and the assessment of planning proposals. The proposal is generally consistent with the *10 Directions* outlined in the plan.

12. CONSULTATION WITH COUNCIL

Under section 59(1) of the Act, Council was consulted on the terms of the draft instrument (**Attachment F**). Ongoing discussions were held with Council in relation to the legal drafting of provisions, including the exclusion of the proposed savings provision. Council confirmed on 11 October 2017 that the draft instrument is consistent with the intent of the planning proposal.

13. PARLIAMENTARY COUNSEL OPINION

On 26 October 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could be legally made (**Attachment PC**).

14. RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate determine to make the draft plan as it will facilitate the delivery of a high-density mixed-use development in an area close to transport and services that is undergoing renewal.



03/11/17

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