

OBJECTION TO MAJOR PROJECT APPLICATION - MP09_0210 COMMERCIAL DEVELOPMANT



**No. 88 Christie Street
St Leonards**

Prepared for:
Australian Dental Association (NSW Branch)

St Leonards NSW 2065
and
NSW Pharmacy Guild
84 Christie Street
St Leonards NSW 2065

August 2010

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1.0 INTRODUCTION

This submission has been prepared for the Australian Dental Association (NSW Branch) and The Pharmacy Guild NSW.

This submission to the NSW Department of Planning is an objection to the Concept Plan for a 16 storey commercial development at No. 88 Christie Street, St Leonards (hereafter referred to as the subject site). The proposal will increase the existing height from between two (2) and four (4) stories to over four times this, resulting in a total of 16 storeys. The proposed built form does not comprise a tower and podium as required by the DCP and the excessive height will result in an inappropriate interface with the low to medium scale commercial and residential development adjoining the subject site.

In this submission the Concept Plan is inappropriate for the following reasons:

- Inappropriate Urban Design and Streetscape;
- Contrary to the Lane Cove Local Environmental Plan (LEP) 2009;
- Contrary to the Lane Cove Development Control Plan (DCP);
- The Environmental Impact Report does not satisfy Issue 3 of the Director General's Requirements; and,
- The Concept Plan will result in Additional Traffic.

Accordingly, our submission will describe the site, the surrounds and context, provide our response to the proposed concept Plan and present a conclusion.

2.0 SITE ANALYSIS

This section will contain a description of the following: The Locality; The Site; Topography; Existing Built Form; Existing Landscaping; The Character and Context; and Surrounding Road Network.

2.1 The Locality

The subject site is located approximately 7km north of the Sydney GPO, 200m from St Leonards train station and is located within the local Government Area (LGA) of Lane Cove (see Figure 1).



Source: NSW Department of lands



Australian Dental Association Site
– Nos. 71-73 Lithgow Street



Pharmacy Guild of Australia Site
– No. 84 Christie Street



The Subject Site – No. 88 Christie Street



Not to Scale



Figure 1:
Location Plan

2.2 The Site

The Subject Site

The subject site is an irregular shaped parcel of land containing four (4) allotments and is known as No. 88 Christie Street and Nos. 75, 77 and 79 Lithgow Street. The site has a total area of 2,589.5m² and an approximate gross floor area (GFA) of 5,195m².

No. 88 is a two (2) storey commercial building located on the corner of Christie Street and Christie Lane. No. 75 Lithgow Street is a two (2) storey commercial building fronting Lithgow Street. No. 77 Lithgow Street is a (2) storey commercial building fronting Lithgow Street. No. 79 Lithgow Street is a three (3) storey commercial building located on the corner of Lithgow Street and Christie Lane.

The Objector's Sites

Nos. 71-73 Lithgow Street is located on the eastern side of Lithgow Street and is described as Lot 11 Section 18 in DP 3175. The site is a rectangular shaped parcel with a total site area of 415.8m².

This site is occupied by the NSW Branch of the Australian Dental Association and contains a four (4) storey commercial office building with a ground floor car parking level, glass façade to Lithgow Street and metal roof (see Photograph 1). The building comprises administration offices, library, conference rooms and a dental training facility with lecture theatre. The building has a total gross leasable floor area of 874m² and is a vital establishment in the community for the promotion of the health of the public.



Photograph 1: Australian Dental Association site at Nos. 71-73 Lithgow Street.

No. 84 Christie Street is located on the western side of Christie Street and is described as Lot 2 in DP 4116. Both sites are located between the Pacific Highway to the north and Oxley Street to the south (see Figure 1). This site is a rectangular shaped parcel of land with a northern boundary of 31.79m, an eastern frontage to Christie Street of 14.98m, a southern boundary of 31.82m and a western boundary of 19.5m, providing a total site area of approximately 690.62m² (see Figure 2).

This site is occupied by the Pharmacy Guild of Australia (NSW Branch) and contains a four (4) storey commercial office building ground floor car parking and basement level (see Photograph 2). The building comprises administration offices and lobby and has a total gross leasable floor area of 1085m².

The Pharmacy Guild has occupied the site at No. 84 Christie Street for approximately eight years, where it provides an important network for social and professional development through its advocacy, support and advice lines, training and research resources, seminars and conferences, industrial relations, professional services, events and referral services.



Photograph 2: the Pharmacy Guild of Australia at No. 84 Christie Street.

Both buildings are relatively new and provide state of the art facilities to their respective members. These organisations provide vital health services to the community as well as continually developing their field through important research and training.

2.3 The Surrounds and Context

The area surrounding the subject site at No. 88 Christie Street comprises a mixture of medical centres, educational establishments, commercial, retail, entertainment and residential uses. The site is located in close proximity to the Pacific Highway, St Leonards Railway Station and the Royal North Shore Hospital. The St Leonards commercial area is characterised by a mixture of heights and architectural styles.

To the north of the subject site are Christie Lane and a strip of two (2) storey retail developments fronting the Pacific Highway. Further to the north is the St Leonard's Railway Station and Town Centre.

To the east on the opposite side of Christie Street is a seven (7) storey commercial building, which is occupied by the Australian Medical Association. Further to the east are more commercial buildings.

Immediately to the south are the Australian Dental association and Pharmacy Guild sites. Further to the south is the Cabana Bar and Lounge and commercial and residential development.

To the west of the subject site is the North Shore railway line. Further to the west, on the opposite side of the railway line, are low density dwellings.

3.0 DETAILS OF THE CONCEPT PLAN

The Concept Plan establishes the planning and development framework which will be used by the consent or approval authority to assess future development proposals on and within the subject site.

The proposed Concept Plan is for a 16 storey development envelope for commercial and ancillary retail use. In accordance with the Environmental Assessment Report, prepared by JBA Planning, Concept Approval is being sought for the following:

- Demolition of the existing structures on the site;
- A building envelope for the concept commercial building and basement car park;
- A maximum Gross Floor Area (GFA) of 36,253m²;
- A maximum FSR of 14:1;
- A maximum height of 69.25m (RL 149.75);
- Land uses;
- Pedestrian and vehicle access arrangements; and,
- A maximum 330 car parking spaces to service the tenants of the building.

The concept plan includes some landscaped works along the site's southern boundary. It is also proposed to provide a pedestrian plaza on the northern end of Lithgow Street. The proposed development will have two commercial lobbies, a main lobby accessed via Christie Street and a secondary lobby accessed via Lithgow Street. The two lobbies will be connected by a new, publicly accessible through-site link, which connects Christie Street with Lithgow Street.

4.0 REASONS FOR THE OBJECTION

The reasons for the objection to the 16 storey commercial development at No. 88 Christie Street, St Leonards include: inappropriate urban design and streetscape; contrary to the Lane Cove Local Environmental Plan (DCP) 2009; contrary to the Lane Cove Development Control Plan (DCP); the Environmental Impact Report does not adequately demonstrate that the adjacent land to the south can achieve development outcomes which maximise the opportunities available under the LEP controls; and, the Concept Plan will result in additional traffic. This section will consider these reasons under the following headings:

4.1 Inappropriate Urban Design and Streetscape

The proposal in its current form is considered to be inappropriate from an urban design and streetscape point of view. The subject site contains buildings of between two (2) and four (4) stories. Development north of the Pacific Highway in the vicinity of the subject site comprises high rise developments, which form part of the St Leonards Town Centre. Development south of the Pacific Highway in the vicinity of the subject site comprises predominantly two (2) to seven (7) storey buildings. There is a clear delineation of building scales on both sides of the Pacific Highway (see Figure 2).



(Source: Bates Smart Architectural Drawings)

- Australian Dental Association Site – Nos. 71-73 Lithgow Street
- Pharmacy Guild Site – No. 84 Christie Street

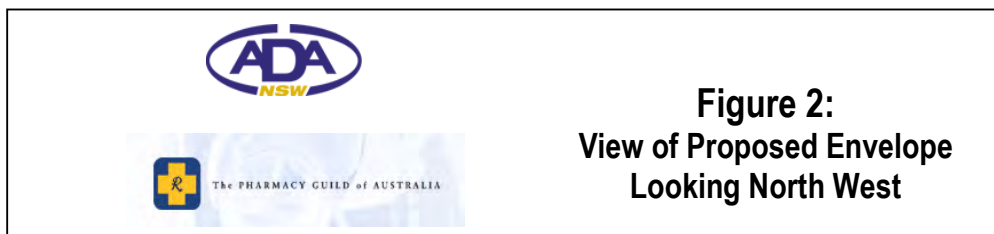


Figure 2:
View of Proposed Envelope
Looking North West

The proposed concept plan at 16 storeys would dramatically alter the medium scale commercial character of Lithgow and Christie Streets and result in a development that is out of context in this locality. The proposed height on the subject site is likely to create an over bearing building presence when viewed from the street and from the Australian Dental Association and Pharmacy Guild's properties.

The proposal does not comply with the height limit contained in the Lane Cove LEP and is inconsistent with the DCP built form objective for major blocks to be a tower and podium form. This is discussed further in Sections 4.2 and 4.3. The concept plan, with a non-compliant height and built form, does not provide an appropriate transition between the proposed high rise development and the medium scale commercial development and low scale residential development to the south of the subject site.

4.2 Contrary to the Lane Cove Local Environmental Plan 2009

The proposal is contrary to the Lane Cove Local Environmental Plan 2009, which came into force on 19 February 2010. Clause 4.3 of the LEP relates to height of buildings and states that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum height for the subject site is 65m. The Concept Plan proposes a maximum height of 65m at the Christie Street frontage, which complies with the development standard. However, the maximum height at the Lithgow Street frontage is 69.25m, which exceeds the LEP provision by approximately 2 storeys (see Figure 3).

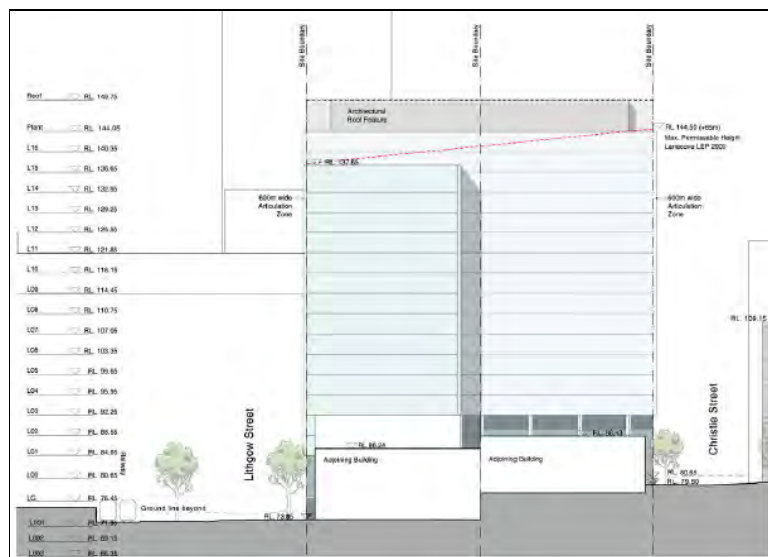


Figure 3: Proposed Height

The Lane Cove LEP is a recently adopted planning instrument and is based on recent studies in the locality and community consultation. The proposed Concept Plan, which exceeds the height limit by two storeys, undermines the spirit of the new LEP and disregards the extensive studies undertaken to formulate the document.

The relevant objectives of the height control are stated, inter alia:

- (a) to relate development to topography.

The subject site falls approximately 7m from Christie Street to Lithgow Street and approximately 3m from north to south. The proposal, with a non-complaint height at the Lithgow Street frontage (69.25m) does not respond to the topography of the site and is inconsistent with the objectives for the LEP development standard.

In our opinion, the proposed height is considered out of scale and context with its adjoining neighbours, out of character with the locality and inconsistent with the LEP standard. Moreover, the development of a 16 storey building would significantly extend the expected construction time compared with a building that is consistent with the existing surrounding development of two (2) – four (4) storeys. This results in a protracted point of disruption to our properties during the construction process.

4.3 Contrary to the Lane Cove Development Control Plan

The proposal conflicts with the Lane Cove Development Control Plan (DCP), which came into force on 22 February 2010. The DCP is a recently adopted planning policy document and is based on recent studies in the locality and community consultation. As with the new LEP, the proposed Concept Plan does not have regard to the purpose of the new DCP, which is to provide objectives and provisions to achieve high quality development that is responsive to the existing and desired future character of the area, best practice urban design and quality community outcomes for all neighbourhoods and centres within Lane Cove LGA.

The subject site is zoned to B3 Commercial Core under the LEP 2009 and the proposal is for a multi storey commercial development. Part D – Commercial Development and Mixed Uses of the DCP is therefore applicable to the site. The DCP identifies the subject site as being located within the Block 2 (B2): Lithgow-Christie Precinct.

The DCP provides a concept envelope plan for the precinct, which will accommodate a mix of retail and commercial activities and includes a podium and tower built form (see Figure 4).

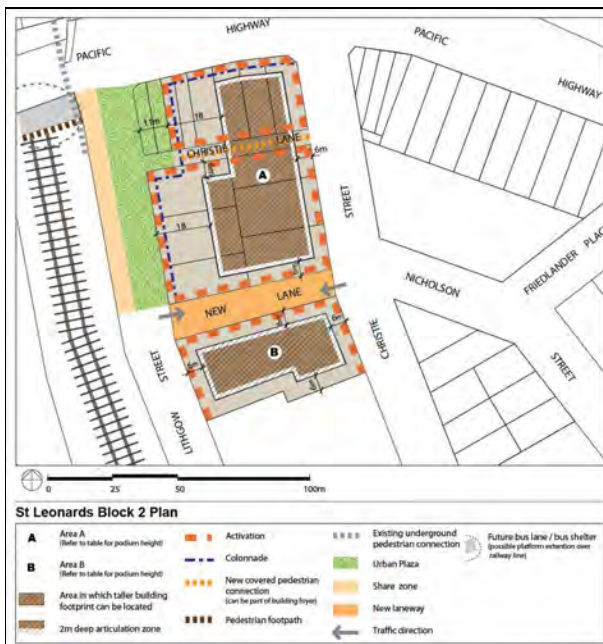


Figure 4: St Leonards Block 2 Plan

Under the DCP, a complying development on the subject site would have street setbacks of 5m to 10m, tower setbacks of 6m to 18m and a maximum building height of 65m (see Figure 5).

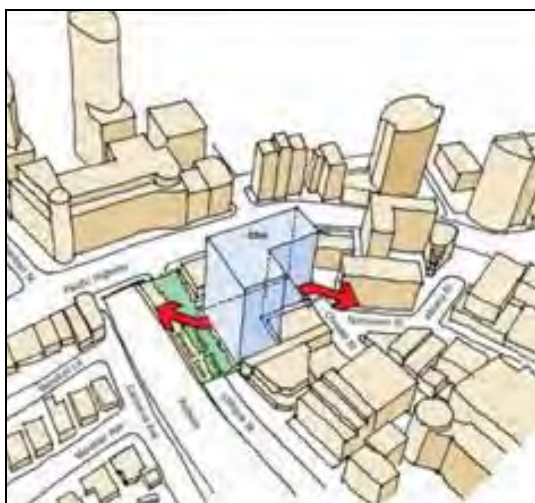


(Source: Bates Smart Architectural Drawings)

Figure 5: Compliant Envelope under DCP Controls

The proposed Concept Plan for the subject site does not comprise a podium and tower built form and is inconsistent with the DCP (see Figure 6). The proposal provides a 5.29m setback to Lithgow Street and a 5.29m setback to Christie Street, which does not comply with the DCP control. The DCP also requires a maximum tower footprint of 1,600m² and height of 65m. The Concept Plan proposes a tower footprint of 2,220m² and a maximum height of 69.25m and does not comply.

The proposed design does not have regard to the existing built form of the site and surrounds and does not comply with Council's precinct controls. Accordingly, the proposal is inconsistent with the DCP



(Source: Bates Smart Architectural Drawings)

Figure 6: Concept Plan

4.4 The Environmental Impact Report does not Satisfy Issue 3 of the Director General's Requirements

The Proposal has not adequately addressed Issue 3 of the Director General Requirements, which states that it is to seek to amalgamate the adjoining sites. If the proposal has been unsuccessful in its attempts to amalgamate the sites, the Assessment Report must then demonstrate that the adjacent land can achieve development outcomes which maximise the opportunities available under the LEP controls.

In the first instance, the Environmental Assessment Report has indicated that attempts were made to amalgamate the sites in the Lithgow-Christie Precinct over a five year period up to July 2009. The application to the Minister requesting the proposal to be assessed as Part 3A Major Project was not lodged until 9 December 2009. However, no further attempts were made after July 2009 to amalgamate the sites.

The Assessment Report has also indicated that the Australian Dental Association and Pharmacy Guild are not willing to sell and relocate on the basis of recent refurbishment and upgrades on their premises and the high relocation costs. In accordance with the DCP Block Diagrams, the Australian Dental Association and Pharmacy Guild sites would be significantly impacted on in order to provide a new laneway. These Associations have been operating from their sites since the 1995 and perform viable business, training and research activities.

To facilitate the extent of the new road assumed in Council's DCP, Nos. 71-73 Lithgow Street would lose their entire site and No. 84 Christie Street could potentially have to dedicate a portion of their site for the laneway. Given that these buildings are reasonably new and have in no way reached the end of their economic life, the uses are likely to continue for a number of years. The business, educational and research activities operating in these buildings provide the foundation to drive innovation and economic growth in the region and metropolitan areas. These assets build the research base for advances in health related industries and train future professionals and can generate commercial success in the form of business expansion and new technologies. Given the age and condition of the existing buildings on the sites to the south of the proposal, the offers made by the Winten Group to amalgamate the sites have been unreasonable and inappropriate. Accordingly, the proposal has not satisfactorily sought to amalgamate the sites.

Given that the sites have not been amalgamated, the proposal must demonstrate that the adjacent land can achieve development outcomes which maximise the opportunities available under the LEP controls. The proposal provides an indicative podium and tower floor plan for the sites to south and states that if these properties were amalgamated in a similar fashion to the subject site, they could realise their development potential under the LEP. The proposal does not address the potential of individual allotment's to realise their maximum development outcome.

Furthermore, pursuant to the DCP, new development is required to provide a tower setback of 12m. The concept plan does not provide a tower setback on the southern boundary, which is inconsistent with the DCP and will restrict the development potential of the buildings immediately adjoining the subject site to the south. Any new development at Nos. 71-73 Lithgow Street and No. 88 Christie Street would be required to provide a setback of 12m from the proposed tower at the subject site. A 12m tower setback is considered excessive in the

circumstances of this case as it would significantly reduce the permissible floorplate on the adjoining sites to the south and impact on their building viability.

Accordingly, the proposal is likely to impact on the development potential of adjoining sites and this has not been adequately addressed. The proposal does not satisfy the Director General's Requirements under Issue 3.

4.5 The Concept Plan will result in additional traffic

The Traffic Report accompanying the proposed concept plan estimates the proposed development will generate some 110 additional vehicles per hour (2-way) in the morning and afternoon peak period. The Traffic Report states that the assessment of the additional generation of 110 vehicles per hour is conservative. This is a significant increase in traffic over and above what would have been generated by the existing development on the site.

As important, the proposed concept plan for No. 88 Christie Street encourages retail uses, which will occupy the ground floor level and commercial uses on the upper levels. The future commercial and retail character of the site is likely to be a major traffic generator. It is proposed that 330 car parking spaces will be provided. It is likely that the parking demand in surrounding streets will increase as a result of commercial and retail development in the area. In our opinion, the desirability of a significant traffic generator in a less intense commercial centre is questionable from a planning and traffic point-of-view.

5.0 CONCLUSION

In conclusion, in our opinion, the proposed concept plan for No. 88 Christie Street is unreasonable in its present form and should not be supported by the Minister and the Department of Planning.

The proposed 16 storey commercial development does not comply with Council's LEP height limit of 65m. The proposed height does not respond to the topography of the site and is inconsistent with the objectives for the LEP development standard.

In addition, the proposal is inconsistent with the Lane Cove DCP in terms of built form, height, setbacks and tower footprint. The proposed height and built form will result in a change in character and amenity of Christie and Lithgow Streets, which is not conducive to low to medium scale commercial and residential development.

We submit our concerns to the Department of Planning for consideration and we request to be notified of any amendments or additional information that may be received on this proposal to enable us the opportunity to consider new material.



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3 September 2010

Ms. Amy Watson
Development Assessment and Systems Performance
Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000

Dear Ms. Watson,

**SUBMISSION - PART 3A MAJOR PROJECT - 88 CHRISTIE STREET, ST. LEONARDS
(DOP REF: MP 09_0210)**

Introduction

We act for Challenger in this matter who are the owners of two properties located at 201 and 203 Pacific Highway, St Leonards and who are directly affected by the proposed development, positioned approximately 200m away on the other side of the highway. Each of Challenger's properties comprise 10 office floors and associated ground floor retail (26 retail tenancies in total).

This letter is an objection to the proposal in its current form. It seeks a re-design of the proposal to more closely reflect the intentions of the principal design instrument that applies to the site, being the Lane Cove Development Control Plan 2010 (the DCP), and by doing so reduces various impacts the proposal has upon Challenger's assets, as well as other adjoining and surrounding properties. It is intended that further (and supporting) submissions will be lodged with the Department of Planning within the coming days including a Traffic Study Review and Urban Design Statement.

This letter also raises concerns at the lack of neighbour notification that has taken place, especially in light of the impacts the proposal has on nearby properties that were not notified. Accordingly, it requests that the Department of Planning re-notify the application to a broader landowner group (in line with the potential impacts incurred by the proposal) allowing adequate time for consideration and an informed response to be prepared by these parties.

Challenger's property holdings in the area include two major buildings within the 'Forum' development on the northern side of the Pacific Highway. These properties are described as Lot 15 of DP1017606 (201 Pacific Highway), and Lots 2 and 5 of DP879307 (203 Pacific Highway) and are shown in Figure 1 along with the proposed development site.

Currently, these properties enjoy significant southerly views as illustrated in Figure 2, including direct primary views of the Sydney Harbour Bridge and CBD skyline. These views have been a primary factor in the consideration of tenants when choosing to locate or remain within Challenger's buildings.

Our review of the proposal has concluded these direct views will be largely blocked by the proposed development. Accordingly, this will impact on the ability to lease tenancies within the buildings and diminish our client's property value (current market value in excess of \$160 million), potentially resulting in considerable financial loss. Our review also concludes that if the proposed development was to comply with the setbacks contained within the DCP (particularly the 18m tower setback to Lithgow Street) that these impacts would be significantly reduced.

Figure 1: Challenger Site in Context of Proposed Development

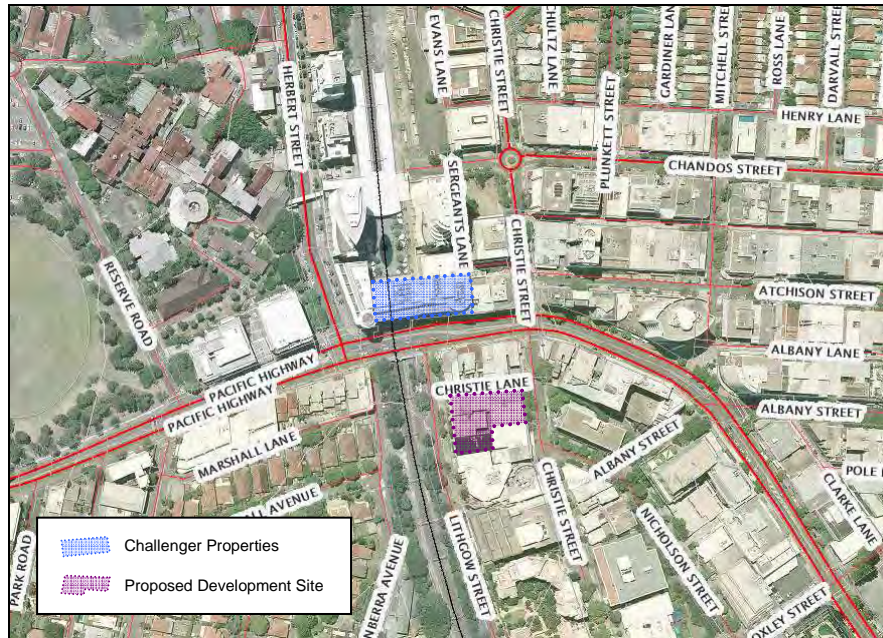


Figure 2: Existing Views from Challenger Property



It is important to note from the outset that view sharing is a major consideration for development within this area. The regulation of development to achieve view sharing is slightly complicated by the fact the

site is near the confluence of three different LGAs, however it is clear that controls applicable to both Lane Cove Council (where the development sits) and within North Sydney Council (that effectively encircles the broader area to the north, east and south) and also within Willoughby Council (where the Forum development is located) strongly promote view sharing. View sharing is explicit in Objective B4 of the Lane Cove DCP.

Given these factors, and that St Leonards' success as a transit-orientated development, is in part derived through its views to the City, the Department of Planning should have significant regard to the protection and sharing of views in the assessment of this proposal. Indeed the importance of maintaining views from the Forum to the City seems to be a key issue in the formulation of controls for the four blocks that make up the St Leonards Specialised Centre. The proposal's building height and massing should therefore be critically evaluated in terms of its impact on view sharing, as well as other related impacts such as overshadowing, its relationship to the immediate public domain and contextual fit within the overall townscape of St Leonards.

Request for Re-Notification

Challenger have only recently been made aware, inadvertently and indirectly through a third party, of the details of the proposal and, along with various properties on the northern side of the Pacific Highway (that are also similarly affected by view loss) were not notified of the proposal. Further, we also note that Challenger and other landowners in the immediate area affected by the proposal, were not consulted by the applicant in accordance with the Department's Major Project Community Consultation Guidelines (October 2007). The applicant's consultation was limited to only a handful of properties being the adjoining landowners to the south and AMP as property owners of land to the north (refer Section 5.12 of the EA Report prepared by JBA Planning). Additional advice regarding notification from Norton Rose is included as Attachment A.

In light of the proposal's potential impacts to various nearby properties, the potential level of such impacts, and that limited applicant consultation and public notification that has occurred, resulting in the inability for nearby affected landowners to properly assess impacts and make an informed submission, the Department is requested to re-notify the proposal. This re-notification should occur to a broader landowner group, appropriate to the scale and nature of the proposal and occur for the full statutory period.

Design Philosophy for the St Leonards Specialised Centre (SLSC)

Considerable strategic planning has occurred in recent years to inform the future role of St Leonards. This work has, in turn, led to the preparation of design objectives and controls to assist in guiding the desired future layout and form of development to fulfil this vision. These objectives and controls are contained within the DCP and represent the most current and relevant guidance for applicants in the design of proposals, as well as Government and/or Council in the assessment of proposals.

The design of the SLSC incorporates four broad street blocks (Blocks 1-4). While each block has its own controls, other general controls and design philosophy has been applied to the SLSC. When considered 'as a whole' the four blocks demonstrate several key characteristics, as follows:

- A town plaza that straddles the railway line equivalent to the width of the Forum site immediately to the north.
- 'Framed space' to this plaza in the form of an 'L shape' and 'reverse L shape' building area on Block 1 (Area C) and Block 2 (Area A), respectively.
- Buildings providing a linear definition of streets with a consistent 6m setback, except for the following special criteria
 - Termination of key vistas - zero setback (Block 1 - Area A, Block 3 - Area A)
 - Plaza buildings with a 18m setback (Block 1 - Area C and Block 2 - Area A)
- Height gradient from the Pacific Highway, stepping down to the southern end of the SLSC

Figure 3: St. Leonards View Sharing Principles

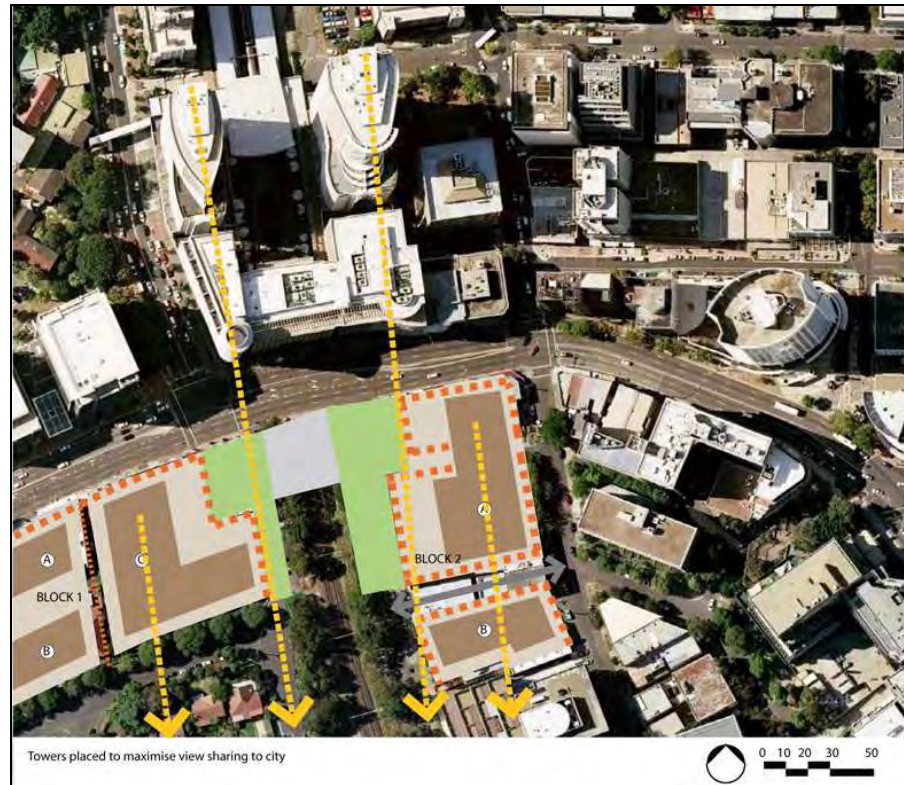
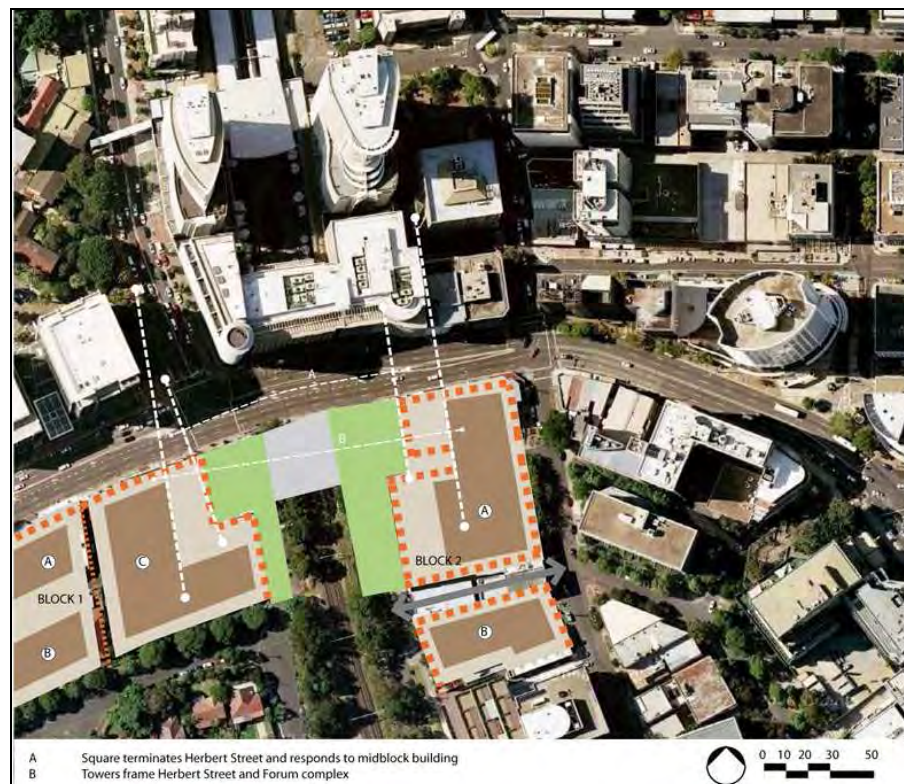


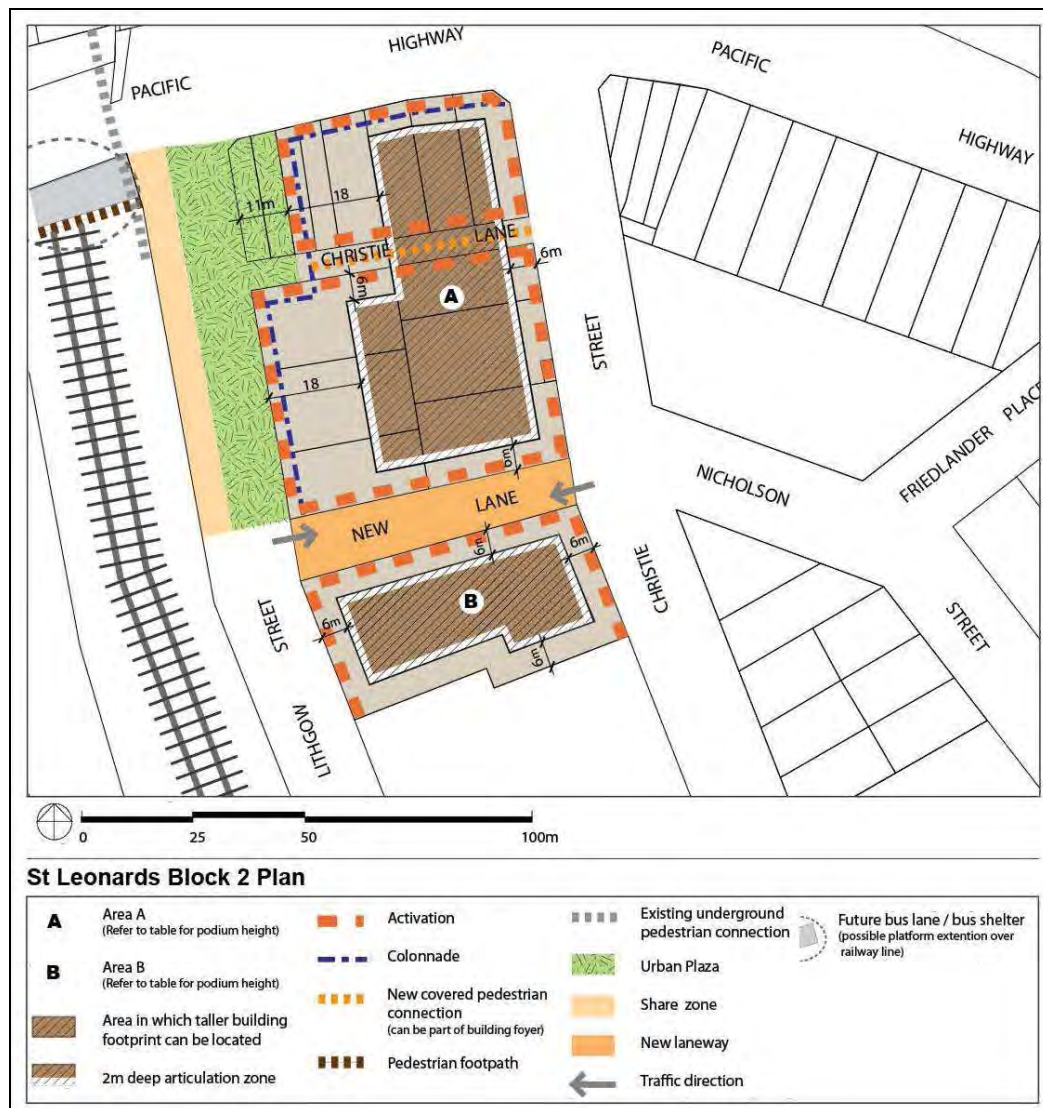
Figure 4: St. Leonards Urban Design Composition



More specifically, the DCP identifies the site within Block 2 of the SLSC: Lithgow-Christie Precinct. Development within this precinct is generally sought to be consistent with the objectives and the desired precinct plan in Figure 3 below:

- To create a distinctive character onto Pacific Highway and the 'heart' of the southern side of St Leonards.
- To provide a major high quality public plaza or town square to the west of podium A. This public open space is to include the upgrade of the existing pedestrian link to the station. Ideally the link should be provided as part of a 1-2 storey kiosk building development adjacent to the rail line.
- To provide high quality tower forms.
- To provide a new laneway connector to provide an improved vehicular and pedestrian connection to the rail underpass.
- To provide safety and amenity.
- To maintain public amenity including solar access to the park on southern end of Christie St.

Figure 3: Lithgow-Christie Precinct



Based on both the broader objectives within Part B of the DCP and the more specific objectives above, it is clear the design intent for the precinct is to:

- Contribute to the overall planning of the SLSC, and
- Establish a high quality environment which meets the employment needs of the area while minimising the impact on surrounding properties.

In order to achieve this, the DCP includes the desired precinct plan (Figure 3) and specifically seeks the amalgamation of sites, a tower-over-podium form, significant tower setbacks, and allows floor plates up to a maximum of 1600sqm. In addition, the DCP anticipates the orientation of the longer tower edge on the north-south axis.

Given the currency and relevance of the DCP in the consideration of this matter (adopted by Council only 6 months ago), any non-compliances with its controls need to be thoroughly examined and justified against the underlying objectives of the DCP, relevant not only to Block 2, but also the broader SLSC. The Director-General's Environmental Assessment Requirements (DGRs) have recognised all of the above issues, and have subsequently required the applicant to respond to these issues.

In response, the applicant has presented a scheme which is at complete odds with the form and layout of the development encouraged within the DCP. The proposal:

- Presents numerous and significant departures from the 'brand new' DCP that applies to the site (refer to Table 1 below for further detail).
- Introduces various impacts arising from these departures to adjoining and nearby properties
- Prohibits the ability for the future development of Block 2 to be designed in the manner set out in the DCP.
- Is inconsistent with the broader urban design principles established within the DCP relating to the future development of the SLSC.

The proposal is an "inverted podium/tower" design which results in a colonnade/undercroft plaza at ground level with a large block like tower above, rather than a tower-above-podium format.

The applicant has argued that the proposed "inverted tower/podium" design has been developed as a result of an inability to amalgamate the site with adjoining sites to the south, limiting the development area of the site. In light of the broader design philosophy of the area, the inability to achieve this amalgamation should not necessarily allow the applicant to dismiss the intent of the design controls for the site and the broader locality, and certainly should not allow the applicant to construct a development form that would prohibit any prospect of this design outcome being achieved in the future.

Rather, the applicant should consider a re-design option that better reflects the objectives for the site and broader area.

Amalgamation / Restriction of Development Potential

Site amalgamation is a key issue in this proposal and has been flagged by the Department of Planning in the Minister's Declaration and the issue of the DGRs.

Although the DCP states that Council will assess development applications using a 'merits based approach' and will 'take into account factors including the realistic redevelopment potential/time-frame of other sites within the vicinity', the DCP makes various other 'overriding' comments- in line with those that we have previously made in this submission. It states that the block plan diagrams 'are intended to indicate the elements which should together comprise the urban design for the area' and that (despite not being able to amalgamate sites in accordance with the block plans) 'achievement of the stated objectives is the overriding goal'.

Despite the information provided by the applicant, the proposal fails to 'promote the desired urban design outcomes' (as earlier articulated within this submission) and specifically fails to provide the new laneway required by the objectives relating to Block 2.

It is unclear as to how the orderly development of the adjoining sites to the south would be promoted by the proposed development, particularly with regard to the DCP requirement for 12m tower separation which would result in a constrained design given the lack of proposed setbacks on the 88 Christie Street site. Under the DCP, a tower separation of 12m is required for the precinct. Whilst the proposal only seeks one tower, a lack of appropriate setbacks to the southern and northern boundaries will significantly limit the ability of adjoining sites to be developed in an orderly manner.

In the absence of an amalgamated site, the proposal has departed from the DCP objectives and controls in order to ensure it takes full benefit from the FSR and height controls of the LEP. This is not considered appropriate and defeats the purpose of the DCP's intent to promote commercial development in the area in a manner which provides a positive design outcome and minimises adverse impacts.

Issues of Non-Compliance

Whilst the proposed development is compliant with the FSR controls of the LEP, it exceeds the 65m height control presenting a total height of 69.25m with the architectural roof feature further extending beyond this point. The proposal also fails to meet several requirements of the DCP.

A summary of the proposal's compliance with the controls of the LEP and the DCP is provided in Table 1 below.

Table 1: Areas of Non-Compliance

Element	Control	Proposal	Compliance
Height	65m	69.25m (plus architectural roof feature)	No
FSR	14.1:1	14:1	Yes
Street Frontage Height	18m	No podium / tower provided	No
Tower Separation	12m	A lack of appropriate setbacks to will limit the ability of adjoining sites to meet their full development potential due to excessive setbacks they will require in order to meet the 12m tower separation requirement.	No
Tower Footprint	1600sqm.	2200sqm.	No
Street Setback	10m (Lithgow Street)	0m – 5.29m	No
Tower Setback	Minimum 18m above podium (To public open space and share zone on Lithgow Street)	No podium / tower provided	No
	6m above podium (Christie Street)	No podium / tower provided	No
New Laneway and Mid Block Connection	Relocate Christie Lane to south - adjacent to No. 80 and provide new pedestrian mid-block link generally in the existing location of Christie Lane	No relocation of Christie Street and no pedestrian link created in this location.	No
Tower Orientation	North to South long axis to Pacific Highway	Long axis is east to west.	No

As illustrated above, the proposal represents significant areas of non-compliance, especially with the DCP. A discussion of these items of non-compliance is provided below

Height

The proposal seeks a height of 69.25m (plus architectural roof feature) which is not compliant with the LEP. In light of other more significant non-compliances (most notably setbacks), the departure of the proposal from the relevant height control further compounds impacts associated with view loss (for those commercial and residential properties to the north of the site) as well as overshadowing (for those commercial and residential properties) that lie within the southern 'shadow arc' to the south of the site.

Street Frontage Height

As the proposal does not involve the tower-over-podium form that is specifically encouraged through the DCP, the street frontage height of 18m specified under the DCP is not achieved. This results in a more bulky building design which is not in line with the overall objectives of the DCP seeking "*high quality tower forms*."

Tower Separation

Under the DCP, a tower separation of 12m is required for the precinct. Whilst the proposal only seeks one tower, a lack of appropriate setbacks to the southern and northern boundaries will impact upon the ability of adjoining sites to be developed.

At the very least the proposed southern boundary setback should be provided in a manner that provides 'its 6m share' of the 12m separation. Currently, this setback ranges from 0m – 3m requiring the future development of the site to the south to provide greater than its share and further reducing its development potential.

Tower Footprint

A 1600sqm maximum tower footprint is required under the DCP. The proposal establishes a 2200sqm tower footprint, clearly exceeding the DCP control for this matter and contributing to the bulky nature of the proposal's design.

Street Setback

The DCP specifies a 10m setback to Lithgow Street. The proposal provides a setback of approximately 1.53m to 5.29m along this street frontage. In failing to comply with this requirement an unreasonably large building form is established further impacting on the view loss, overshadowing and amenity issues created by the proposal.

Tower Setback

A minimum 18m setback above podium is sought to the public open space and share zone on Lithgow Street under the DCP. In addition, the DCP requires a minimum setback of 6m above podium to Christie Street. As the proposal does not present a traditional tower-over-podium design no tower setback is provided, resulting in the proposed street setbacks (0m – 2.29m) applying to the full height of the building.

New Laneway and Mid Block Connection

The DCP precinct design seeks the reconfiguration of the existing road layout to relocate Christie Lane to the south and create a mid-block pedestrian link. As the proposal does not incorporate the wider precinct design, these factors have not been provided.

Tower Orientation

As part of the overall precinct design the DCP requires tower orientation to establish the long axis in a north south direction. The design of the proposal creates a long axis in an east-west direction creating unnecessary overshadowing and unduly resulting in substantial view loss.

Impacts

A number of negative impacts will occur as a result of the proposed development. The nature and extent of these impacts will vary between property owners. It is relevant to note the impact of most concern to Challenger is that of view loss. Other impacts include:

- Solar access (relating to sites to the south)
- Local traffic impacts (separate traffic study to be submitted)
- Building bulk and its impact upon the public domain
- Broader urban design issues, including building form and townscape
- Economic impacts (relating to the adjoining sites to the south given their reduced ability to achieve any real development potential)

It is relevant to note that all of these issues (i.e. the issues of concern to Challenger, and those directly affecting other property owners) are caused by the type of development proposed- being the 'inverted podium' or 'sheer tower' format. If the scheme was to be re-designed in a manner involving a podium and a more slender tower setback from the Lithgow Street frontage, then all of these impacts could be reduced.

Some initial comments on these impacts are made below.

View Loss

As identified earlier in this submission, the protection and sharing of views is an important theme within the DCP, as well as other planning instruments applicable within the LGAs that surround the site.

The sheer tower form blocks a primary view corridor from Challenger's assets towards the Sydney Harbour Bridge and CBD skyline. This is of particular economic value to Challenger. The proposal also blocks views from other adjoining commercial and residential buildings as part of the Forum development.

This impact would be substantially reduced if the proposal were to comply with the required setbacks that seem to specifically provide for the retention of a view corridor for the Forum development towards the south.

Solar Access

While Challenger's assets are unaffected by shadows cast as a result of the proposed development, it is noted that many commercial and residential properties to the south will be affected, including those that would otherwise have not been affected had the proposal complied with the relevant height and setback controls included within the DCP.

It is assumed that other submissions will raise this issue and provide particular details of the level of impact. While this matter does not affect Challenger it serves to reinforce that the proposal should meet the controls within the DCP. A more slender tower on a podium format would not only reduce shadows cast over private properties, but would also reduce shadows cast on the public domain, thereby increasing amenity in line with the objectives of the DCP.

Traffic

Specialist advice on traffic and transport matters relating to the proposal has been sought from Traffix and a supporting submission addressing these matters will be lodged within the next few days. It is noted that preliminary advice from Traffix has raised the following issues:

- Parking: insufficient justification for the adoption of the maximum rates under Council's DCP has been provided and as such does not respond adequately to the DGRs which aim to reduce parking and increase non car travel modes.
- Traffic Generation: the Traffic Report lodged as part of the EA documentation adopts a trip rate of 0.4 trips/hr/space which is significantly less than the rate published in the RTA's Guide to Traffic Generating Developments which adopts a rate of 0.8 trips/hr/space during peak periods.

- Residential Amenity: no assessment of the environmental amenity of local residential streets and how the current amenity of residents will be impacted by the proposed development has been provided.
- Christie Lane Closure: if this were to occur, all traffic exiting the site would need to turn left into the Highway from Lithgow Street. This will have local impacts that have not been addressed and the performance of this intersection at the Highway also requires assessment. This relatively poor level of site accessibility in our view warrants a fundamental rethink concerning the amount of parking that this site is capable of sustaining.
- Lithgow Street Shared Zone Proposal: This section of road is expected to carry 235 veh/hr in the PM peak, of which 90 veh/hr will be associated with the subject site. This is substantially higher than can be considered for a shared zone and accordingly the development in its current form will not be able to co-exist with a shared zone.
- Site Access Arrangements: The provision of a single access driveway serving cars and trucks is supported in principle. However, no swept path analysis has been provided to demonstrate satisfactory manoeuvring by an 8.8m MRV.
- External Traffic Impacts: The report provides no information that would enable the credibility of the traffic assessment to be undertaken relating to intersection performances.
- Internal Car Park Design: The basement car parks need to accommodate uninterrupted two-way flow on all ramps and internal intersections where traffic volumes exceed 30 veh/hr, based on AS 2890.1. No swept path analysis has been undertaken to establish whether this is possible.
- Internal Design (Service Area): The proposed service area requires a swept path assessment to establish whether all docks can be accessed while a truck is present in other docks, with forward entry and exit movement being possible.

Summary

We anticipate the matters raised within this submission will be given strong and close consideration by the Department. In light of the significant variations to the DCP, its currency and relevance to the future development of the site and broader area, the impacts caused due to these variations, and especially that such impacts can be significantly reduced through compliance with these controls, we anticipate that the Department will seek a re-design of the proposal.

For the reasons detailed in this submission, we request the Department re-notify the proposal to a broader land-owner group in line with the potential impacts this proposal has on surrounding properties (please refer also to the attached correspondence from Norton Rose).

If you have any questions regarding the above, please contact me on 8233-9935.

Yours sincerely,



Leah Schramm
Consultant



ATTACHMENT A: CORRESPONDENCE FROM NORTON ROSE

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3 September 2010

Major Projects Assessment
Department of Planning
GPO Box 39
Sydney NSW 2001

By email

Your reference
MP09_0210

Our reference
FJR:NAB:2640402

Direct line
+61 (0)2 9330 8710

Email
nikolina.babic@nortonrose.com

Dear Sirs

**Exhibition of Environmental Assessment for Concept Plan for Commercial and Retail Development at
88 Christie Street, St Leonards
Major Project Reference MP09_0210**

1 Introduction

- 1.1 We act for Challenger Life Nominees Pty Limited and Challenger Listed Investments Limited (**Challenger**) who jointly own the two properties located at 201 and 203 Pacific Highway, St Leonards. These properties each comprise 10 office floors and associated ground floor retail (26 retail tenancies in total).
- 1.2 Our clients have confirmed that they were not notified of the exhibition of the Environmental Assessment for the Concept Plan for the proposed commercial and retail development at 88 Christie Street, St Leonards (**Proposed Development**). We understand that the exhibition period commenced on 4 August 2010 and will close on Friday 3 September 2010.
- 1.3 Our clients' properties are in close proximity to the Proposed Development – being located approximately 200 metres to the north of the Proposed Development - and will be affected by the Proposed Development in a number of ways. Our clients wish to lodge a submission with the Department of Planning. However as they were not formally notified of the Proposed Development, and as the exhibition period is about to expire on Friday 3 September 2010, our clients now have a very limited opportunity within which to properly assess the Proposed Development, the impacts on their properties and to prepare a robust submission.
- 1.4 For the reasons set out below, it is our view that the notification and consultation undertaken in respect of the Proposed Development to date is inadequate and cannot be said to provide the "appropriate and justified" level of consultation which is required.
- 1.5 Accordingly we request that the Department of Planning:
 - (1) re-notify the Proposed Development to an appropriately wide group of persons including, at a minimum, the landowners on the northern side of the Pacific Highway in the vicinity of the Proposed Development; and

APAC-#7296392-v2

- (2) thereafter recommence the process of public consultation under s75H of the *Environmental Planning & Assessment*, to provide nearby landowners with an adequate opportunity to make submissions.

2 Consultation undertaken by Proponent and Department of Planning

- 2.1 The Proposed Development site lies close to the boundaries of the Lane Cove, North Sydney and Willoughby local government areas (LGAs).
- 2.2 According to the Environmental Assessment, the Proponent met with adjoining land owners to the south of the site and with AMP (the owner of a number of sites to the north of the Proposed Development), as part of the consultation process (paragraph 5.12, page 47). We are instructed that that meeting did not include our clients or other landowners from properties to the north of the Pacific Highway, notwithstanding the proximity of the Proposed Development to those landowners.
- 2.3 We are further instructed on the basis of enquiries made with Departmental officers, that despite the fact that the Proposed Development is located near the very edge of the Lane Cove LGA, the Department of Planning did not notify by letter the landowners of **any** properties outside the Lane Cove LGA, including the commercial strata owner at 205 Pacific Highway, Challenger, or the residents in the various strata lots within the Forum Complex.
- 2.4 We understand that the Department of Planning had regard to Lane Cove Council's notification policy with respect to development applications and that the Department decided to notify by letter only certain landowners within the Lane Cove LGA. Our clients' inquiries suggest that none of the neighbouring properties to the north of the Pacific Highway (but which are outside the Lane Cove local government area) were notified, despite the close proximity of several of these properties to the Proposed Development.
- 2.5 Given the scale of the Proposed Development and its potential impact on nearby landowners including those located across the LGA boundary, we consider that the decision apparently taken to rely on the LGA boundary to delineate the extent of notification by letter was arbitrary and it indicates that the notification process undertaken to date is inadequate.

3 Consultation requirements for this development are not satisfied

- 3.1 Pursuant to clause 11 of the Director General's Environmental Assessment Requirements for the Proposed Development, the Proponent is required to undertake an "appropriate and justified" level of consultation for the project in accordance with the Department's *Major Project Community Consultation Guidelines* October 2007.
- 3.2 The Guidelines provide that "adequate and appropriate" consultation will be determined by a range of matters. The Guidelines also provide that the consultation process may be considered adequate if it is demonstrated that:
- (4). *Those individuals and organisations likely to have an interest in the proposal had enough opportunity to express their views. The community of interest can be broadly categorised into three groups:*
- (a) *those directly impacted by the Project (e.g. neighbouring residents or those located on transport corridors affected by road or rail transport associated with the Project);*
 - (b) *individuals and groups likely to have an interest in the local or regional implications of the Project (e.g. local councils, local members of Parliament and P&Cs, environmental, indigenous, heritage, business and other community organisations in the area);*
 - (c) *organisations with a State and national interest.*

4 Inadequacy of consultation

- 4.1 The enclosed submission prepared by Urbis clearly demonstrates that our clients will be directly and negatively impacted by the Project.
- 4.2 The failure to consult our clients to date, and the very limited opportunity now provided to them (and to other landowners on the northern side of the Pacific Highway) to make submissions, means in our opinion that the consultation has failed to meet the test of adequacy set out in the Guidelines.

5 Submission by Challenger

- 5.1 Whilst Challenger has made every effort to lodge a submission with the Department of Planning prior to the current exhibition closing date of 3 September 2010, given the late notice and lack of time, this submission will not be accompanied by all of the expert reports that Challenger would wish to lodge with its submission. We foreshadow that Challenger's submission will be supplemented with additional documentation following the current submission closing date.

6 Conclusion

- 6.1 Having regard to the matters set out above, we consider that the notification and consultation undertaken in respect of the Proposed Development to date is inadequate and cannot be said to provide the "appropriate and justified" level of consultation which is required for major developments of the kind proposed. Furthermore, it is clear that individuals and organisations likely to have an interest in the proposal, including our clients, have not *"had enough opportunity to express their views"*, as the Department's consultation guidelines require.
- 6.2 Accordingly, and given the extent of the impact which the Proposed Development will have on our clients (as detailed in the Urbis submission) and on others who by reason of the narrow notification and consultation carried out to date have not had an adequate opportunity to make submissions, the Department should in our view re-notify the Proposed Development to an appropriately wide group of persons and thereafter recommence the process of public consultation under s75H.

Yours faithfully


Felicity Rourke
Partner
Norton Rose Australia
Contact: Nikolina Babic



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Reference: 10 209

09 September 2010

Ms. Amy Watson
Development Assessment and Systems Performance
Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000

Dear Ms Watson

Re: Part 3A Application for Commercial Development at 88 Christie Street, St. Leonards
(DOP Ref: MP 09-0210)

We refer to the subject Major Project and confirm that we act on behalf of Challenger, which is the owner of two nearby significant properties located at 201 and 203 Pacific Highway St. Leonards. We note that Urbis has also been engaged to prepare a planning response to this Project and this letter should be read in conjunction with that submission.

In this regard, we have reviewed all relevant documentation provided to us and have inspected the site. In particular, we refer to the plans submitted by Bate Smart Architects and the Traffic & Accessibility Impact Study submitted as part of the Environmental Assessment prepared by Colston Budd Hunt & Kafes Pty Ltd (CBHK), dated May 2010. We therefore now wish to raise the following matters.

Proposal

The application is for the construction of a commercial development at 88 Christie Street, St. Leonards. The overall development will include 36,650m² of commercial floor space and the provision of 330 parking spaces within a multi-Level basement car park accessed via Lithgow Street. The proposal also includes the construction of a servicing area that is intended to accommodate up to an 8.8 metre MRV (Medium Rigid Vehicle as defined under AS 2890.2).

Parking

Under Lane Cove Council's DCP the development attracts a maximum allowable parking rate of 1 space/110m² of GFA, resulting in 333 spaces as an upper limit. These rates have been adopted without question on the basis that it is a "comparatively low rate". In this regard, it is not comparatively low compared with (for example) the North Sydney Council's controls which would permit a rate of only 1 space/400m². Public transport availability is comparable to the North Sydney CBD (with excellent exposure to both rail and bus services). While we do not recommend that North Sydney's controls should necessarily be adopted, the report provides insufficient justification for the adoption of the maximum rates under Council's DCP and does not therefore respond adequately to the Director General's Requirements (DGR's). Importantly, these aim to reduce parking and increase non car travel modes, so that it is concluded that the development, in its present form, is contrary to current State Government policy.



It is noted, for example that the maximum rate of 1 space/110m² GFA as set out in Clause 1.3.1(a) of Part D of Council's DCP relates to commercial developments within an 800 metre radius of St. Leonards Railway Station. It is reasonable in our view that within this radius, those sites furthest away would tend towards the maximum level of provision; while sites closer to the station would tend towards a lower rate. The subject site is directly opposite the station entrance and in our view this warrants parking at rates below the maximum. This position is strengthened by the fact that there are potential unacceptable impacts arising from the higher traffic levels that will result from parking at the maximum levels permitted and these impacts are unnecessary and avoidable. These relate to impacts on residential amenity to the south of the site, with the only means of access for many arrivals and departures being through residential areas; and implications for Council's aspirations to provide improved pedestrian amenity in the immediate locality, as expressed in its Precinct Plans. These matters are discussed further below.

Traffic Generation

The traffic report has assessed the traffic generation of the site based on a trip per parking spaces assessment which is considered appropriate. However, the report adopts a trip rate of 0.4 trips/hr/space which is significantly less than the rate published in the RTA's Guide to Traffic Generating Developments which adopts a rate of 0.8 trips/hr/space during peak periods. It is also lower than surveys previously reported upon by CBHK at comparable sites in North Sydney, which have adopted 0.6 trips/space/hr.

In the circumstances, sensitivity testing should be undertaken in our view using the rate of 0.6 trips/space/hr, in the absence of survey data that validates the parking rate that has been adopted. It will be appreciated that the analysis of traffic impacts is very sensitive to this assumption and is a very critical factor.

In addition to the above, no surveys have been undertaken to establish the existing site generation which has been discounted from future traffic volumes by applying assumed trip rates. This is considered unreliable and introduces an unnecessary potential for errors in the calculations which need to be reliable given the implications of increased traffic volumes in this sensitive locality.

Residential Amenity

The report makes no assessment of the environmental amenity of local residential streets; and how the current amenity of residents will be impacted by the proposed development. For example, Oxley Street and Lithgow Street (on approach to the site) presently carry 135 veh/hr and 116 veh/hr presently during the AM peak and PM peak respectively and this will increase by 90 veh/hr (based on the assumed low trip rates) to 225 veh/hr and 206 veh/hr respectively. These volumes are above the 200 veh/hr 'environmental goal' adopted in the RTA's Guideline for a residential street. In the event that a higher trip rate was to be applied, this outcome would be exacerbated and this warrants further sensitivity testing. These approach routes are shown in Figure 1 attached.

While it is accepted that the RTA's Guideline accepts a maximum environmental threshold of 300 veh/hr for a residential street, the fact remains that residents will enjoy an improved amenity with reduced volumes if parking is provided below the maximum rates and this is a benefit that might reasonably be expected to be enjoyed.

It will also be appreciated that not only will increased trip rates have an added impact on residential amenity, but so too will the cumulative impacts of other future development within the Lithgow-Christie Precinct. These cumulative impacts therefore present a serious potential concern to residents in the locality. It is accepted however that the applicant should not necessarily be required to shoulder the responsibility of establishing the implications of these cumulative impacts,



which would seem to be the responsibility of Council in consultation with the DOP having regard for their respective strategic planning responsibilities.

Christie Lane Closure

The traffic report correctly identifies Council's intention to close Christie Lane to permit pedestrian use only, as expressed in the "St. Leonards Block 2 Plan" within the Lithgow-Christie Precinct. If this is to occur, then all traffic exiting the subject site will need to turn right into Lithgow Street, then left into the Highway from Lithgow Street (Refer to Figure 2 attached). This will have local impacts that have not been addressed, including the need for the 55 veh/hr that need to travel to/from the south (assuming the adopted trip rate), to re-route via the local road network. The performance of this intersection at the Highway also requires assessment. This relatively poor level of site accessibility in our view also indicates that parking below the maximum rate would be a beneficial outcome.

It is noted that the proposed closure of Christie Lane to vehicular traffic is to be 'offset' by a substitute "New Lane" to the immediate south of the site, connecting Christie Street with Lithgow Street. This will provide no benefit to the traffic exiting the site and will not overcome the potential problems referred to above. Specifically, exiting traffic cannot access this new lane due to the one-way flow of Lithgow Street that arises under the integrated one-way (northbound) shared zone in Lithgow Street, north of the proposed new lane. This is clearly shown in Drawing PA02-GL prepared on behalf of the applicant by BatesSmart Architects.

It is possible that this poor level of accessibility for exiting traffic in particular could be assisted if traffic exiting the site were permitted to turn left out onto Lithgow Street, to then traverse a section of two-way shared zone and hence then be able to depart via the "New Lane". This however requires the delivery of "New Lane" as an integral part of this Major Project, especially if parking at maximum levels is to be entertained.

Lithgow Street Shared Zone Proposal

The report correctly identifies Council's intention to introduce a shared zone in Lithgow Street between the 'new laneway' and the Highway. This section of road is expected to carry 235 veh/hr in the PM peak, of which 90 veh/hr will be associated with the subject site. This is substantially higher than can be considered for a shared zone and in our view the development in its current form will not be able to co-exist with a shared zone. In this regard, the RTA's Shared Traffic Zone Guidelines adopts a limit of 300 veh/day (30 veh/hr) as an appropriate maximum volume for shared zones. While some flexibility with regard to traffic volumes might be appropriate based on other shared zone experiences, this RTA design volume threshold is exceeded to such a degree that the shared zone concept is seriously compromised, if not extinguished.

The implications of this need to be assessed as the Project has the potential to compromise Council's Precinct Planning in general and its pedestrian improvement plans in particular. For the shared zone to be pursued in its present form, it is expected that reduced parking will be essential, to minimise traffic volumes within the shared zone. It may also be necessary to permit traffic to turn left out of the site to then traverse a section of two-way shared zone and hence then be able to depart via the "New Lane", as discussed above. Again, this requires the delivery of "New Lane" as an integral part of this Major Project.

The ability of a large service dock and the truck traffic generated by it to co-exist within a shared zone also requires assessment.



Site Access Arrangements

The provision of a single access driveway serving cars and trucks is supported in principle as these classes of vehicles are separated internally (setting aside the issue of compatibility with the shared zone). However, no swept path analysis has been provided to demonstrate satisfactory manoeuvring by an 8.8m MRV.

External Traffic Impacts

The report provides no information that would enable the credibility of the traffic assessment to be undertaken relating to intersection performances. There are no Sidra outputs and the assumptions underpinning the modelling are not able to be validated. This is essentially a matter for the RTA in relation to the operation of the Pacific Highway and it is assumed that the application will be assessed by the SRDAC; including whether assessment based on the Sidra modelling (which examines intersections in isolation) is appropriate. In this regard, assessment taking into account the coordination of traffic signals along the Highway may be required.

Internal Car Park Design

The basement car parks need to accommodate uninterrupted two-way flow on all ramps and internal intersections where traffic volumes exceed 30 veh/hr, based on AS 2890.1. No swept path analysis has been undertaken to establish whether this is possible and on the basis of the information available, compliance with AS 2890.1 cannot be assumed.

Internal Design (Service Area)

The proposed service area requires a swept path assessment to establish whether all docks can be accessed while a truck is present in other docks, with forward entry and exit movement being possible.

Summary

In summary, the application as submitted is considered deficient in several respects, such that any approval based on the current information would result in potentially adverse external traffic impacts as well as internal safety concerns. The impacts on residential streets and the loss of the opportunity for Council to implement the closure of Christie Lane and/or the Lithgow Street shared zone also need to be considered. The application should therefore be opposed on traffic planning grounds unless and until the above matters can be satisfactorily addressed. Notwithstanding, the adoption of minimum parking rates rather than the maximum rates as proposed would in our view achieve superior transport planning outcomes having regard for all matters discussed above.

We request that this submission be considered and we are available to discuss any issues that might arise from them. Please contact the undersigned in the first instance.

Yours faithfully,

traffix

Graham Pindar
Director

Attachments: Figures 1 and 2



Figure 1: Existing access routes





10 September 2010

Ms Amy Watson
Development Assessment and Systems Performance
Department of Planning
23 - 33 Bridge Street
SYDNEY NSW 2000

Dear Ms Watson,

Urban Design Implications - 88 Christie Street, St Leonards (MP 09_0210)

I refer to our previous submission dated 3 September 2010 setting out various grounds for objection in relation to the above project. We understand that we have an additional period until 10 September 2010 to elaborate on the grounds previously provided, particularly with respect to the urban design and traffic implications of the scheme. This small extension of time does not reduce our previous request to re-notify the matter for the full statutory period for the reasons set out in our submission of 3 September 2010.

This letter expands on the topics of view sharing, design and amalgamation raised in the previous submission. A separate assessment of traffic and parking matters also raising concerns with the current proposal, has been prepared by Traffix Pty Ltd and is attached.

This submission calls for a considered re-design of the proposal to more closely align with the primary controls relevant in the development of the site and immediate precinct- being the Lane Cove DCP 2010 (the DCP), or otherwise refusal of the current proposal.

View Sharing

As set out in our submission of 3 September, view sharing is a relevant consideration to the assessment of buildings. This is an explicit objective (B4) in the Lane Cove DCP, and NSLEP 2001 at s19(1), 18(1)(c) and 18(5)(c), (noting that whilst the NSLEP 2001 is not directly relevant, the North Sydney LGA surrounds the site to the north, east and south) as well as a well established planning principle adopted by the NSW Land and Environment Court.

Roseth in *Tenacity Consulting v Warringah [2004] NSWLEC 140* gives four tests for reasonableness of view loss, extracted here (with emphasis):

- 1) "... assessment of the views to be affected. Water views are valued more highly than land views. **Iconic views** (eg of the Opera House, **the Harbour Bridge** or North Head) **are valued more highly than views without icons...**"
- 2) "...from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than **the protection of views from front and rear boundaries...**"
- 3) "...extent of the impact. ... The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, **it is unhelpful to say that view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.**"

- 4) "...reasonableness of the proposal that is causing impact. **A development that complies with all planning controls would be considered more reasonable than one that breaches them...**"

In this case, the views of an **icon** (the Harbour Bridge), from the **front** boundary, that results in a **severe** loss of view (noting that some CBD views are retained), due to a development that **breaches** planning controls, would appear to be a classic case of an unreasonable view loss. The difference between a DCP compliant scheme and the proposal is illustrated below as an overlay to Figure 2 of the Objection.

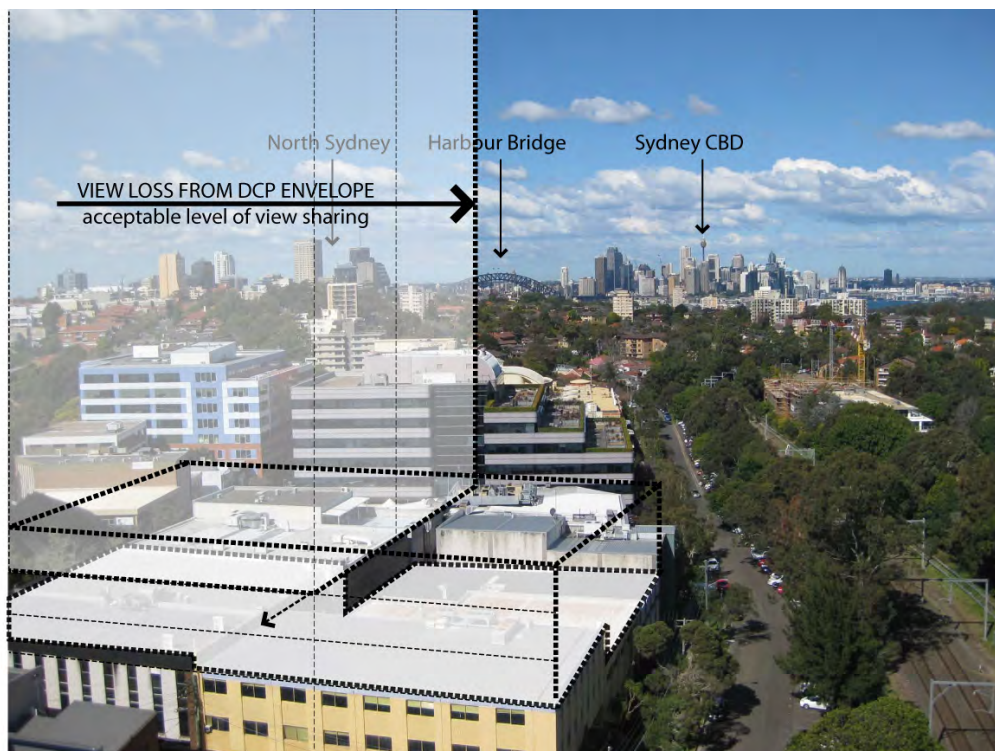


Figure 1 – Estimated View Loss from a DCP Envelope

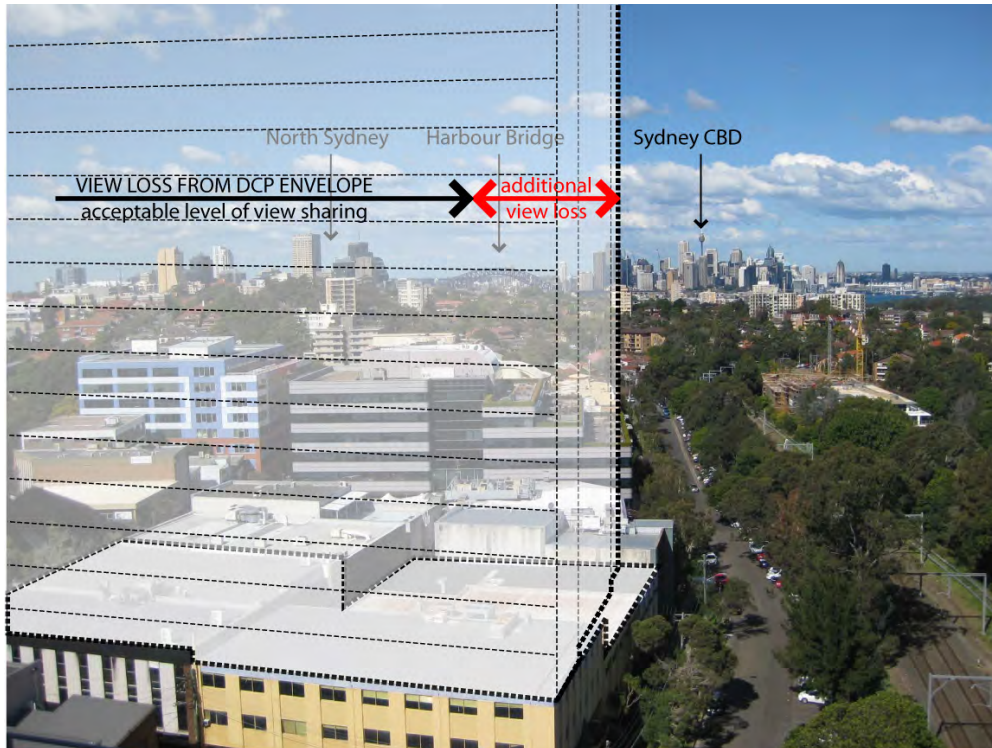


Figure 2 – Estimated View Loss from the Proposal

Design

Orientation

Clearly, the view impact is largely due to the orientation of the building east-west, and the lack of setbacks to the tower. Orientation is explicitly a result of the current holdings, discussed below in the section entitled “Amalgamation”. Orientation also has the effect of increasing overshadowing, and presenting a greater bulk to the south, affecting the ‘townscape’ of St Leonards when seen from North Sydney, the CBD and the train line. Cumulatively, these issues all warrant the design being sent back for redesign to ensure that a primary north-south orientation is adopted.

The lack of setbacks is separable from the issue of block constraints, and represents a design choice made by the applicant (perhaps to maximise yield above DCP expectations). It is described as an “*innovative approach of inverting the podium and tower*”¹. Leaving aside the question of innovation², the effect is to reduce the level of enclosure of the ground plane, while increasing the bulk and scale of the tower building. Both are considered to be poor outcomes, as follows:

Ground Plane

The DCP clearly envisages an enclosed and active ground plane, to define the “*major high quality public plaza or town square to the west of podium A*” as well as provide active uses “*to provide safety and amenity*” as set out in Block B2 objectives 2 and 5 and controls 3 (active uses – street level retail),

¹ JBA Planning “*Environmental Assessment Report Concept Plan*”, July 2010, p.29

² It is in fact the first ‘point’ in Corbusier, “*Les 5 Points D’une Architecture Nouvelle*”, 1926

7 (colonnade) and 14 (kiosks ... around the pedestrian crossing ... to activate entrance and provide natural surveillance). The issue of activation and Crime Prevention Through Environmental Design (CPTED) is a major factor in the podium design.

The EA Report states CPTED is provided through commercial lobbies (natural surveillance), site links and a plaza (territoriality), a space that is clean, well lit and filled with people (ownership) and management. In fact, each of these things would tend to inhibit rather than strengthen CPTED – commercial lobbies and commercial cafes only activate during work hours (8 – 6pm M-F), with no night or weekend activity, and the scheme provides weak territorial definition due to the ambiguous undercroft spaces and deep recesses that depend on the building generating activity. The building is spatially removed from the natural activity spine of the Pacific Highway and the train station node.

This is apparently acknowledged by the designers, with Bates Smart's Architectural Design Statement describing the podium concept as "*creat[ing] a 'destination space' to attract public use and interaction*" – rather than responding to the pedestrian paths and activity nodes of the surrounding area. Conversely, the explicit requirements of the DCP to activate the area around the underground link are not addressed in the proposal – Figure 38 of the Environmental Assessment Report would indicate that no allowance for an underground link has been made. Even if this link could be accommodated in the remainder of the Lithgow Street plaza, the lack of integration may render it unsafe and underused.

In addition to these comments, we also note the pedestrian safety concerns associated with public domain raised in the Traffix submission attached to this letter.

Tower

The tower does not modulate with setbacks, bays or projections. This in itself is not necessarily bad – the design has a high quality architectural finish, and its rectilinear form may be appropriate elsewhere. However, the proposal disregards the intention of the DCP setbacks in this location defining urban form. The 18m tower setbacks can clearly be related back to a 'set piece' comprised of the Forum building and Blocks B1 and B2 of the St Leonards Specialised Centre. It also relates to view sharing in Figure 1 above – the low rise podium masses together with other adjacent buildings, predominantly affecting already occluded views – while high rise elements step back to frame the Forum and its important views to the south. The 6m perimeter setbacks also have a role in opening up view corridors down streets and avoiding a canyon effect, such as that created on Christie Lane by the proposal.

Integrity of the St Leonards Strategy

A final design consideration is the contribution the building makes to the desired future context. In this case, three councils have (commendably, and somewhat unusually) come together to form a coherent cross-boundary strategic plan – the St Leonards Strategy (Nov 2006). In the subsequent 4 years, each council has realised the strategy in its own manner – the Forum development in Willoughby LGA, the NSLEP height and view sharing controls, and the 'St Leonards Specialised Centre' in the new Lane Cove DCP are all manifestations of that strategy.

Figure 3 (below) demonstrates the careful matching of building positions and orientation, including:

- the Forum (Willoughby) and the plaza between Blocks 1 and 2 (Lane Cove), and
- the gateway formed by the IBM building (North Sydney) and Block 3 (Lane Cove).

These efforts should not be blithely set aside due to short-term difficulties in realising the strategy.

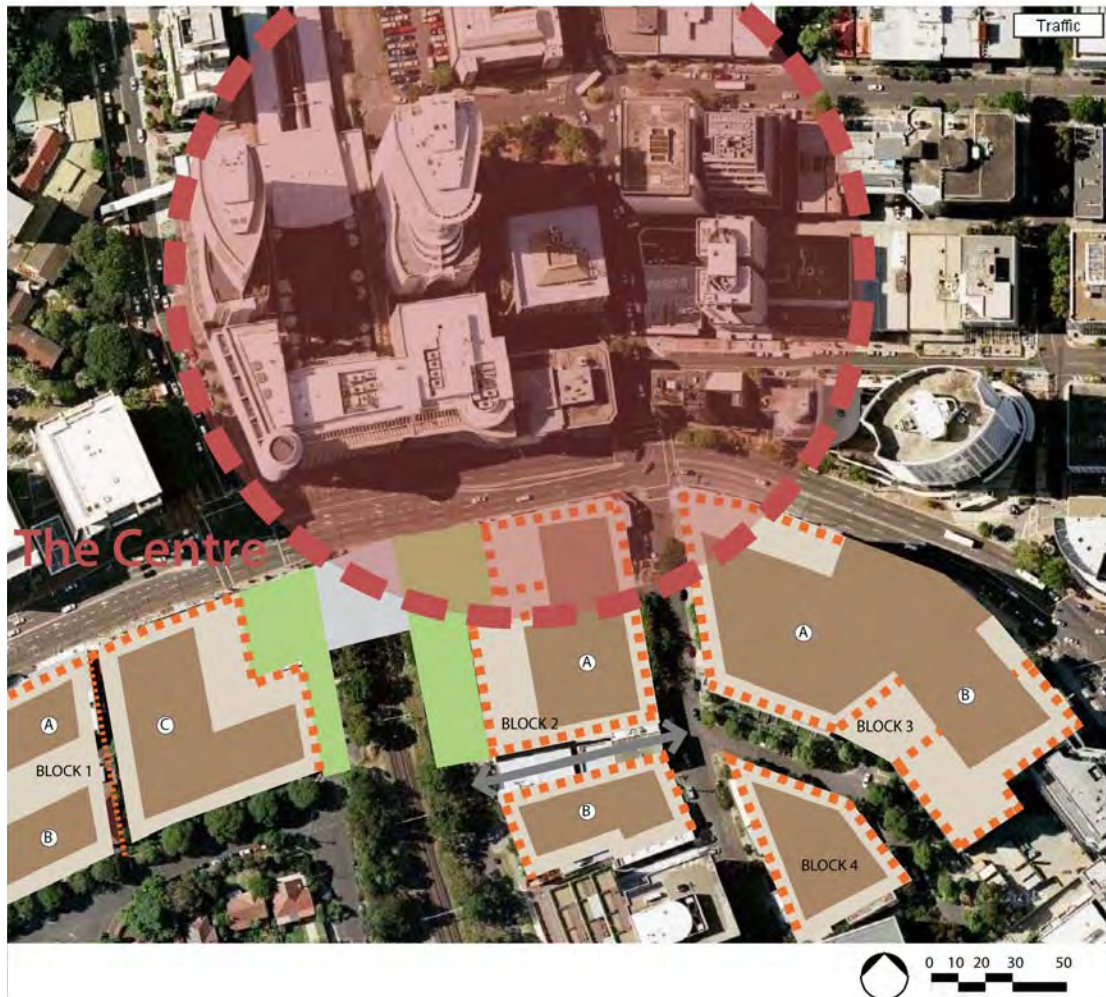


Figure 3 – The St Leonards Strategy diagram and as realised by the three councils.

Amalgamation

The Environmental Assessment Report addresses amalgamation to a degree. In particular, the inability to amalgamate with 82 and 84 Christie Street and 71 – 73 Lithgow Street. Even if it was accepted no viable scheme can be developed, serious consideration should be given as to whether the long term prejudicing of both 84 Christie Street and a new laneway is an acceptable long term planning and traffic management outcome.

However, Block B2 also envisages the use of the Pacific Highway frontage, yet the EA only touches on amalgamation to Pacific Highway lots, with “2 of 8 lots purchased”. It would be pertinent to know which 2 lots have been acquired. The DCP shows that only 3 lots are required for development of a tower.

As set out in the submission, it is necessary to explore all of these options before seeking a non-compliant scheme due to the significant weight given to a fresh DCP (*Stockland Development Pty Ltd v Manly Council* [2004] NSWLEC 472). If the Department were entertaining a reasonable departure from the DCP, then a scheme which adopted this solution would be closer to the objectives of the St Leonards Strategy.

In these circumstances, we would recommend that the scheme be referred back to Winten Property Group for redesign, and with a recommendation that they pursue and demonstrate all reasonable attempts to acquire the Pacific Highway sites to do so. If this cannot be achieved, then the Department of Planning should place determinative weight on the issues raised in Urbis previous submission, this submission as well as the details set out in the Traffic and Parking submission by Traffix Pty Ltd and refuse the current proposal.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Marc Lane".

Marc Lane
Senior Consultant - Planning & Design

Encl. Traffic and Parking Assessment by Traffix Pty Ltd dated 10 September 2010