



PERICA & ASSOCIATES
URBAN PLANNING P/L

Date: 12 December 2025

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Ms Kierstan Fishburn
Secretary
NSW Department of Planning Housing and Infrastructure
4 Parramatta Square
12 Darcy Street
Parramatta
NSW 2150

Attention: Mr Jude Urbanik, Assessing Planner

Re: Submission – SSDA 88113706 – Nicholson Street Build to Rent

Dear Mr Urbanik

I write in strong objection to the proposal cited above, on behalf of my client, the Body Corporate representing owners of 529 apartments and other lots at 472-486 Pacific Highway, St Leonards, to the immediate north-east of the subject site.

This submission is structured as follows:

1. Summary
2. Understanding the Site and Context;
3. Understanding the History and Change at the Site and Key Aspects of the TOD controls;
4. Key Issues and Impacts Warranting Refusal;
5. Public Interest – Balance of Benefits and Impacts;
6. Application Aspects Warranting Close Checking, Correction and/or Revision;
7. Requests.

1. Summary

1. The SSDA and associated Planning Proposal ('PP', collectively 'the proposal') should be refused.
2. The key issue and concern for my client is the devastating, significantly adverse view impacts upon 486 Pacific Highway, St Leonards ('St Leonards Square', or 'SLS'), brought about by the additional height and bulk of the proposal, well above the existing maximum height and recent 2025 Concept SSDA for the site.

3. The existing maximum height for the site is RL 175. This followed detailed analysis, expert reports and processes associated with 2 Council Planning Proposals and the Transit Oriented Development ('TOD') controls/key urban design principles, led by the State. These controls were appropriate following review and an understanding of the site and surrounds in their physical and planning context. The existing controls are very dense, near the highest in the State, and should be maintained.
4. My client has reasonable concerns and has taken a reasonable position regarding the proposal – concentrating on direct impacts to their building from the additional height and bulk proposed above current maxima and a recent SSDA approval, and not on matters not directly affecting them.
5. The site is surrounded by an arc or amphitheatre of tall buildings in close proximity to the site, to the immediate north. There are 4 existing or approved buildings who have highly-valued views over the site and there is a multiplier effect in amenity considerations and impact of 4:1.
6. The balance of benefits and impacts associated with the proposal leads to a reasoned and logical conclusion the impacts outweigh the benefits. It is in the public interest to refuse the proposal.
7. There are key aspects and omissions with the proposal that warrant close checking and some are fatal. Some procedural requests are also made.

2. Understanding the Site and Context

Apart from existing planning controls, an independent review of the context of a site, surrounds, topography, key relationships with surrounding land, orientation of buildings to views, potential impacts, site constraints and wider planning context is an important and common starting point for both development assessment and for an appropriate design response to a site. In this case, potential precedent is also an important consideration. In considering these matters relative to the subject site, the following is apparent:

1. Topography



Figure 1 – Source: Crows Nest Urban Design Report Nov 2024 (SJB), pg. 31.

The topography of the area is characterised by a ridge generally aligned with the Pacific Highway, and a west-facing hill in the blocks south and west of the Highway. This is illustrated in the Figure above (associated with the recent TOD study documents).

In turn, this topography has implications for built form, flooding and limited open space options in a hilly area. It also provides an obvious and practical location for vehicular access, at the low point of the site.

2. Building Typology and Building/Zone Transitions

The building typology is characterised by taller buildings along the ridge along the Pacific Highway and lower buildings to the south and west of the Highway. This is due to a combination of planning controls, topography and key areas of open space, as the area transitions from mixed commercial/residential uses along Pacific Highway (with increasing residential uses), to residential uses to the south and west, diminishing in scale and form.

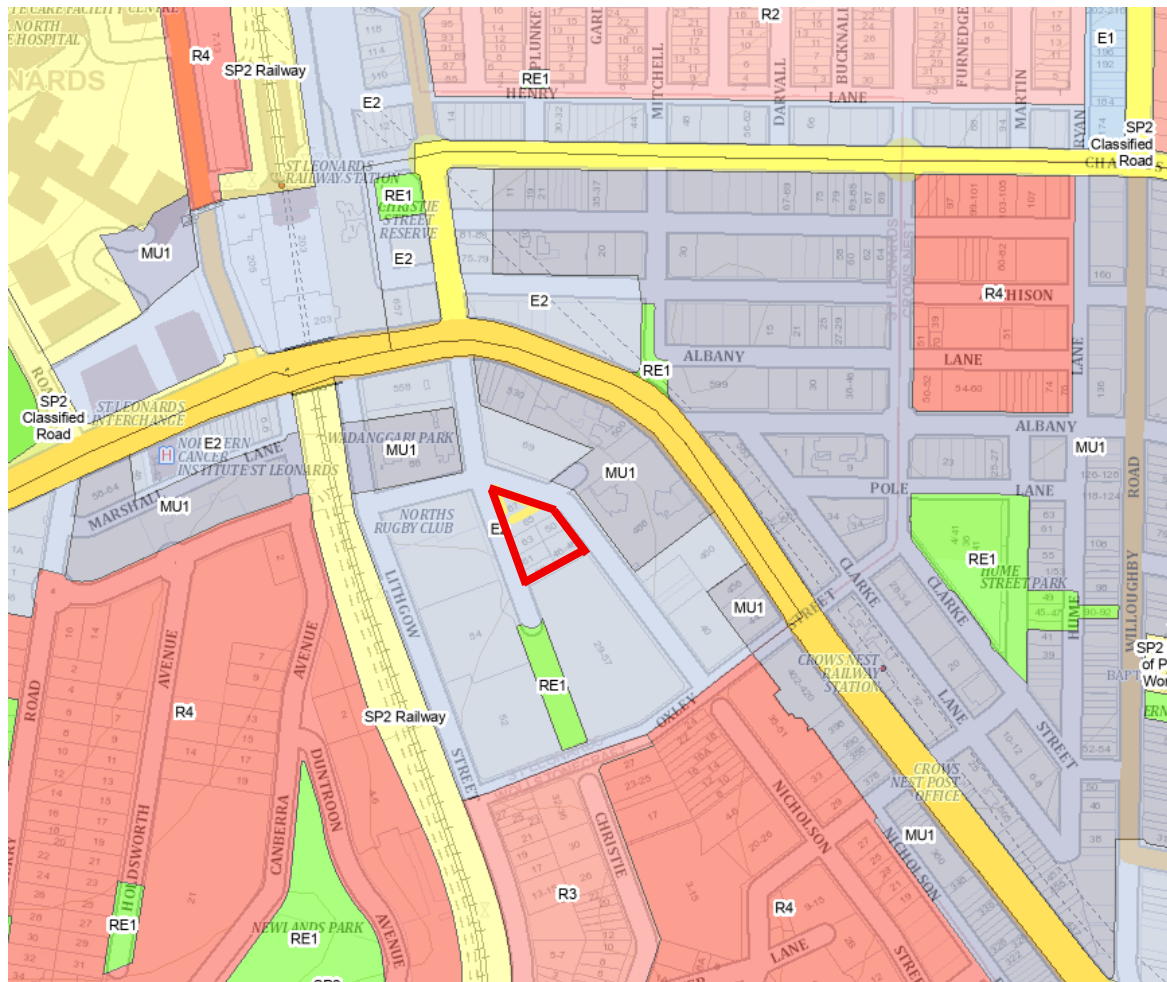


Figure 2 – Zoning of surrounds (NSW E-Spatial Viewer)

In terms of the subject site, it falls within taller buildings to the north (and arc from north-east to north-west) along Pacific Highway and lower building forms which are essentially

fixed due to both strata-titling and lower development controls, and key open space areas warranting solar access considerations.



Photos 1-2 – mid-rise units along Christie St. and road reserve open space south of site

The area lacks overall built form homogeneity. This is reflected in the lack of a Heritage Conservation Area listing for the area, or individual heritage listing. There is a wide variety of site sizes, orientation and building types. The main differentiating feature is buildings stepping down in height and form with the topography.

3. Access to Services, and Transport Options

The site has reasonably good access to public transport and services uses. This favours low car-parking provision and issues which do not rely on high levels of parking. The nature of surrounding uses favours non-residential and active uses at ground floor.

4. Limited Open Space in areas west of the Highway

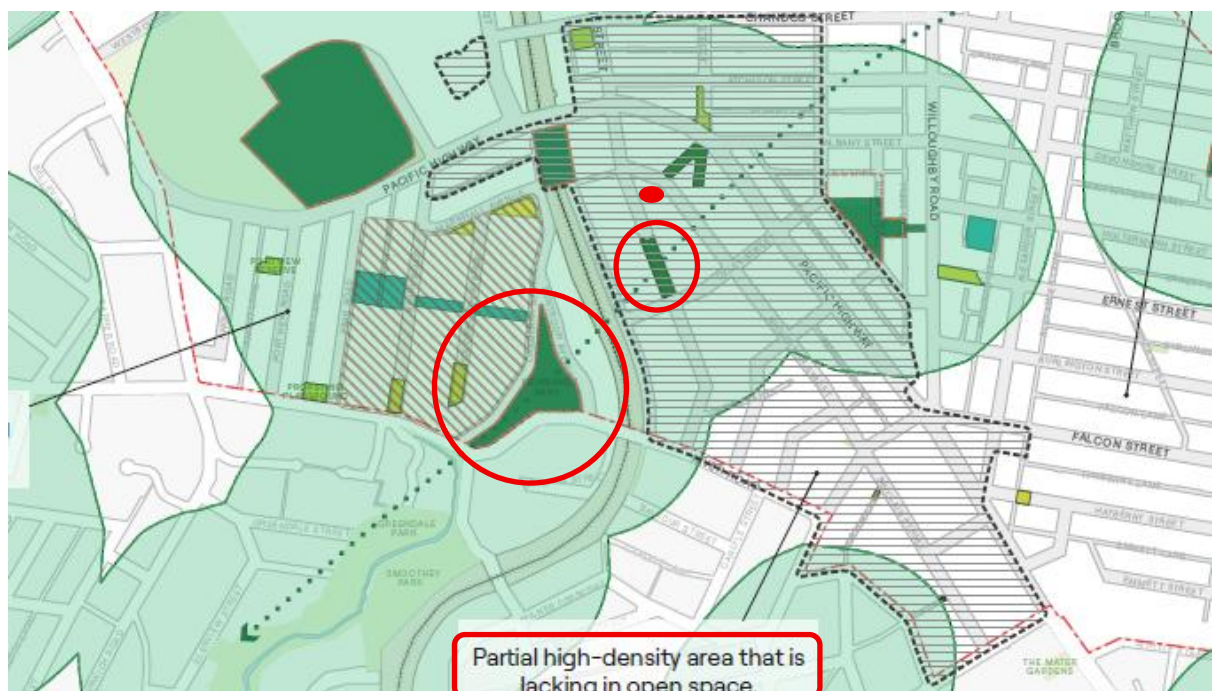


Figure 3 – Source: Crows Nest Urban Design Report Nov 2024 (SJB) pg. 29

While densities of development in the area have significantly increased recently, the provisions of open space, particularly to the south and west of the highway is very limited, as highlighted above.

Newlands Park is to the south-west of the site, although this is separated physically and in terms of accessibility due to the railway line running to its east.

The key area of open space (as highlighted in the Figure above) is a small area of informal street open space and public domain on Christie Street to the south of the site.

This open space location and relationship with the site has two main implications: (a) the need to consider transition in form with open space assets; and (b) Overshadowing considerations.

5. Areas of Localised Flooding

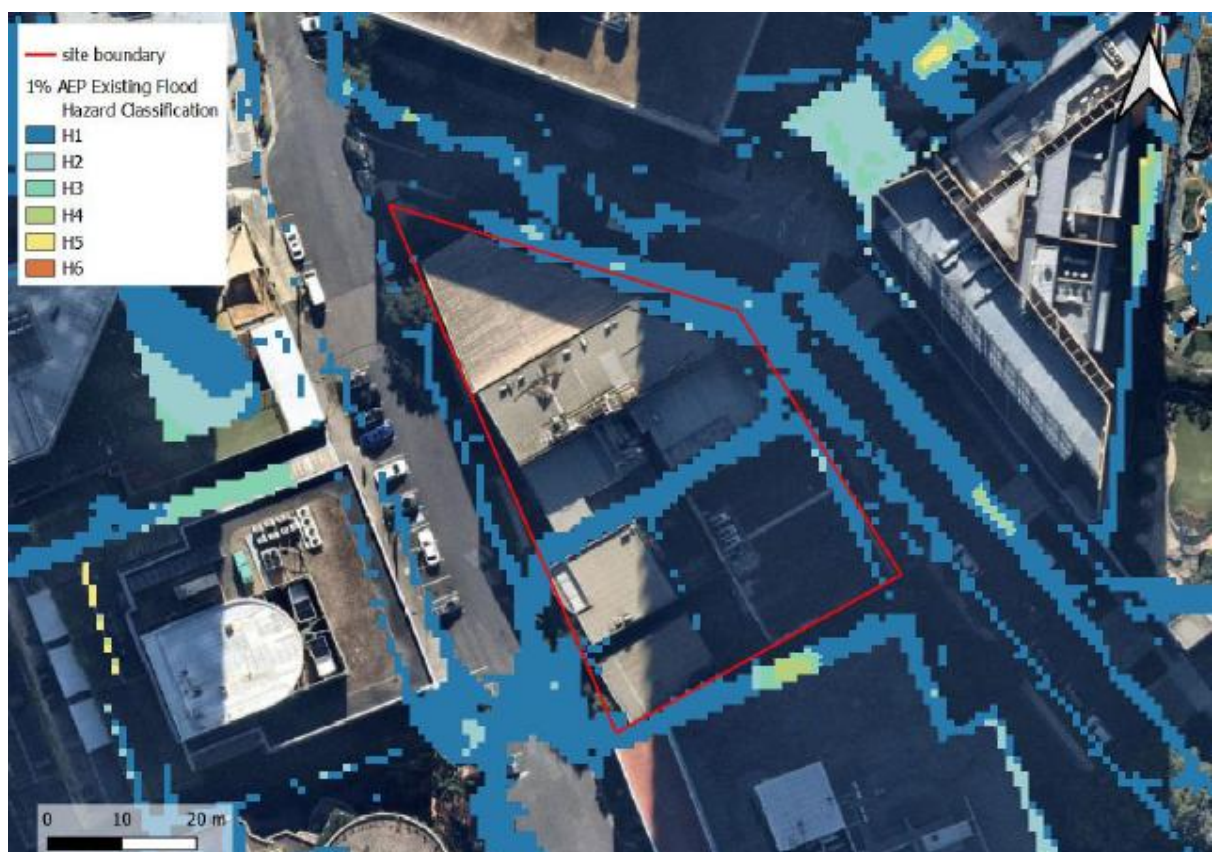


Figure 4 – Site and 1% AEP Flooding (Source: SSDA Docs, Mott McDonald, pg. 14)

Due to the topography and dip in Nicholson Street, the site is subject to flooding. This is acknowledged in the proposal, which points out two main implications: (a) flash flooding with little warning (up to 6 hours); and (b) an according flood strategy of “shelter in place”.

In turn, these considerations do not favour significant increases in density on the site, particularly when considered with other contextual matters and existing dense controls.

6. Views/Outlook, Density and Building Orientation.

The building typology, subdivision pattern, outlook and topography result in an “amphitheatre” of 4 buildings in an arc to the north of the site, with highly-valued water views over the site.



Figure 5 – Site/Proposal and Buildings adjoining to the north (applicant VViA, pg. 20)

The adjoining 4 buildings with views over the site include (from east to west):

- ‘St Leonards Square’, No. 486 Pacific Highway St Leonards (my client) – 529 units within two building forms (“The Jackson” most proximate), 35 storeys above ground;
- ‘The Landmark’, No. 500 Pacific Highway St Leonards – 429 units, 43 storeys above ground;
- ‘The Telstra Exchange’, No. 524-542 Pacific Highway St Leonards – 366 units approved but not yet constructed, 43 storeys above ground; and
- ‘Eighty Eight’, No. 88 Christie Street St Leonards – 654 units, 43 storeys above ground.

These buildings total nearly 2000 existing or approved units and are shown in the figure above from the applicant’s Visual and View Impact Assessment (Ethos Urban), although No. 88 Christie Street St Leonards is not labelled and is to the immediate left of the buildings labelled.

Nicholson Street is approximately 23m wide and a combination of the width and close relationship with adjoining buildings means the site is extremely sensitive to view and visual impacts to its close northern neighbours.

7. Equity of Amenity and Precedence issues.

The high-density area and considerable uplift from recent zoning reviews raises considerations regarding the equity of amenity distribution across sites, as well as precedence from significantly varying recent detailed design-led controls, which are already very dense.

In simple terms, as illustrated in the previous diagram, 4 buildings have key and highly-valued views over the site, so there is a multiplication factor of 4:1 when considering views gained and views lost.

The density and changes in controls is outlined further in a following section of this submission.

3. Understanding the History and Change at the Site and Key Aspects of the TOD Controls

To say the site and area have been subject to considerable changes in planning controls recently (over the past 5 years) is an understatement.

It is also an understatement to say local residents have and are suffering change and consultation fatigue and stress, not helped by the timing and limited exhibition of this proposal.

The following provides a brief summary of recent changes related to the site and area:

- To 2018 – Planning controls established through *Lane Cove Local Environmental Plan 2009* ('the LEP') including a revision in 2017 for the Nicholson Precinct, equating to allowance of up to 6-7 storeys for the site;
- 2018-2020 – St. Leonards and Crows Nest 2036 Plan – Broad Strategic Plan by the NSW State Government for the area. The site had an 18-storey control in the draft plan, increasing to 30 storeys in the final plan;
- 2020 - Planning Proposal ('PP') for the subject site, with Lane Cove Council as the 'relevant planning authority'. That PP sought a height of RL 198.6 (and a FSR of 16.45:1) but the height was reduced to RL175 after rigorous review, but otherwise approved. This included a significant increase in FSR to 15:1 for commercial use (amongst the highest in Sydney), albeit linked to commercial uses, as then sought.
- 2021 – Further PP lodged by the site owner, with Lane Cove Council as the relevant planning authority. The owner submitted a bulky proposal, still at RL175m and a FSR 15:1 for commercial use, but lacking setbacks to the boundaries or a podium. The PP was approved and the DCP amended but with various setback requirements the most significant being 16m at the southern boundary;

- 2024 - Crows Nest Transport Oriented Development (TOD) process announced and progressed, led by the NSW State Government through NSW Department of Planning, Housing and Infrastructure ('DPHI'), including the Office of Government Architect ('OGA'), and including a wide, detailed and comprehensive suite of reports by very well-regarded firms, with expertise in urban design/architecture, planning, traffic/transport, flood/stormwater, economic demand, heritage, archaeology and aboriginal issues, servicing/utilities and contamination. No changes were made to the subject site, noting previous significant uplift and principles of the urban design led analysis, expanded upon below;
- 2024-2025 – SSDA Concept Plan assessment and approval (February 2025, SSDA 56527976), with variations to the controls, including (a) primarily Build to Rent ('BTR') use, including reduction in the quantum of required commercial uses within the LEP, to a very significant degree as the FSR of 15:1 was only achievable if the building was 100% commercial in use due to Clause 6.10 of the LEP, and the building had only around 20% commercial uses; (b) reduction in the southern side setback by 4m to 12m; and (c) revisions and refinements to the podium and setback above the podium. All these changes suited the developer and achieved effective greater yield. The approval included a commercial podium and accommodated approximately 271 units (being a concept, not a detailed design);
- Dec 2025 – exhibition of the subject SSDA and concurrent PP seeking an extra 6-7 levels (22m), further reduction in the southern side setback to 9m, reduced floor-to-ceiling heights and essentially no non-residential use. It is noted the previous very-recent SSDA approval accommodated 271 Build to rent ('BTR') units and the current proposal is for 541 BTR units (essentially double). If the proposal was reduced by 6 levels to the same previously-approved height of RL 175, this would still result in 433 BTR units, an increase of 162 units compared to the recent concept approval of 271 units, equating to a dwelling increase of 60%.

Key Aspects of the 2024 TOD Planning Review

Before outlining the recent key urban design aspects and guidelines of the TOD Review by DPHI, it is very noteworthy that:

1. The overall density for St Leonards is significantly high. At just under 400 people per hectare, this is amongst the highest planned densities in Sydney and NSW.
2. The current FSR of 15:1 at the site is also at the upper end of densities in Sydney (CBD sites have a maximum FSR of 14:1 with some incentives in small localised areas).
3. Consistent with other TOD reviews, the State Government "switched off" bonuses available under *SEPP (Housing) 2021*, which otherwise allow potential bonuses up to 30% additional height and FSR. This is because of 4 main considerations:
 - (a) the significant uplift associated with TOD reviews;

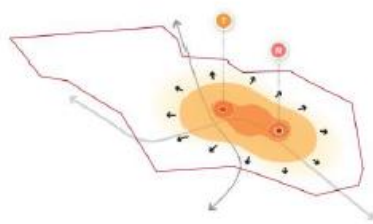
- (b) the mechanisms to secure permanent (as opposed to temporary) affordable housing and affordable housing contributions through the TOD controls themselves;
 - (c) the controls are urban-design-led, following detailed multi-disciplinary analysis regarding appropriate heights, transitions, contextual matters, sunlight access and desired character of areas and spaces; and
 - (d) to give certainty to the controls and significant uplift for developers and the community, which in turn is important in dense areas when purchasers of units undertake due diligence.
4. My client has been very reasonable in their position over the past 5 years, since completion of their building in April 2020. Essentially the key issue for them has continually been the height allowed at the subject site, noting the view considerations and relationship between the sites. While concerns were initially held with the height of RL 175, this was accepted as reasonably balancing urban design and amenity considerations, and after the detailed analysis undertaken both by Council and the State. Since then, my client has not raised concerns regarding the numerous changes sought to increase density and yield at the site, including changes to podium heights, podium setbacks, reduction in the southern side setback, changes from commercial to residential/BTR uses or car parking within the approved envelope and height. Their key position has been, and remains, the RL established from long and detailed local and State analysis should remain at RL 175.

As mentioned, the vision and urban design principles underpinning the current controls are important, sound and logical. They are also outlined in the Urban Design Guidelines for the TOD, led by an experienced and well-regarded architectural, urban design and planning firm.

Of particular relevance for development of the subject site are two particular principles:

1. Reinforcing the ridge along Pacific Highway, also recognising important transport, services and health assets; and
2. Stepping down from the Highway ridge to the surrounding areas.

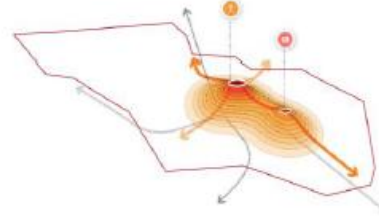
These principles are reflected in the following diagrams from the Urban Design Report by SJB:



1. Proximity to Stations

Density located close to transport hubs such as St Leonards Station or Crows Nest Metro.

Taller buildings located within 150-200m of a transport hub and transitions in height to surrounding areas.



2. Centre and Height Transition

St Leonards is the predominant centre to reinforce its commercial role. Crows Nest as a secondary lifestyle destination.

Large developments are located between the stations and transition in height, bulk and scale from the Pacific Highway to the surrounding neighbourhood.

Figure 7 – Principles 1-2 of 6, Crows Nest TOD Design Guide (pg. 10)

It is clear the proposal is inconsistent with these principles following detailed analysis of the TOD, particularly the desired height transition in the Design Guide.

5. Key Issues and Impacts Warranting Refusal

As previously mentioned, the key issue for my client is the proposed height and associated view impacts from increased height. Other issues are peripheral or secondary to this key and justifiable concern. Due to this, I have concentrated on this aspect, rather than a "scattergun" approach of listing numerous concerns including ones not of direct amenity impact, in the hope that one "sticks" in terms of refusal of the proposal. This reflects a reasoned and reasonable approach in responding to the SSDA and PP proposal.

In terms of view impacts, there are two areas of feedback worth raising: (a) those related to methodology, including perceived omissions, errors or deficiencies; and (b) commentary on the view impact directly. These are outlined below.

1. Methodological Issues

(a) Inaccurate depiction of St Leonards Square Building/Height across Nicholson Street

The relationship, and thereby impact, between the subject site and St Leonards Square ('SLS') at 486 Pacific Highway, to the north-east across Nicholson Street is important. And it is important to accurately illustrate this relationship.

Unfortunately, the depiction of SLS across Nicholson Street in the 'Chapter 4 Housing Assessment' by Cox does not accurately portray my client's building/SLS and omits it altogether:

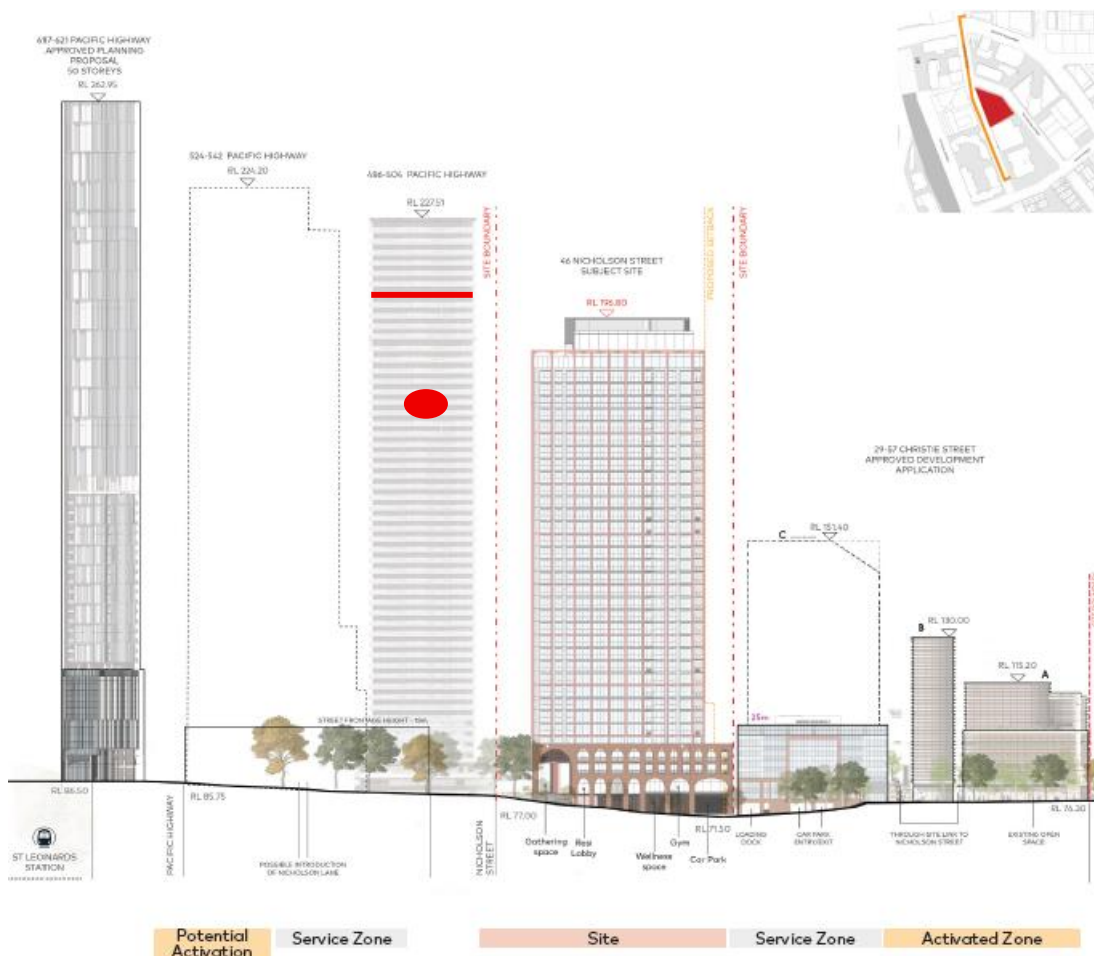


Figure 8 – Extract Chapter 4 Housing SEPP Assessment, Cox (pg. 6)

It may be this is meant to be the Landmark building and the labelled address of 486 Pacific Highway is wrong. But it does have the effect of omitting No. 486 Pacific Highway/SLS altogether, to create a visual effect of greater stepping down across Nicholson Street than actually occurs (the red line in the Figure above is the approximate height of SLS, 23m lower than the building illustrated).

The SLS building has a height to RL 204.46, just 7.5m (approximately) higher than the proposal. This is an important visual omission, given the TOD Guidelines which seek to step the form down at the subject site from the height of SLS, not essentially match it.

(b) Not using the clear Methodology in the Land and Environment Court Technical Guide

The VViA states or implies it uses the Land and Environment Court technical guide for the use of montages. But it does not.

Use of photomontages

The following requirements for photomontages proposed to be relied on as or as part of expert evidence in Class 1 appeals will apply for proceedings commenced on or after 1 October 2013. The following directions will apply to photomontages from that date:

Requirements for photomontages

1. Any photomontage proposed to be relied on in an expert report or as demonstrating an expert opinion as an accurate depiction of some intended future change to the present physical position concerning an identified location is to be accompanied by:

Existing Photograph

- a) A photograph showing the current, unchanged view of the location depicted in the photomontage from the same viewing point as that of the photomontage (the existing photograph);
- b) A copy of the existing photograph with the wire frame lines depicted so as to demonstrate the data from which the photomontage has been constructed. The wire frame overlay represents the existing surveyed elements which correspond with the same elements in the existing photograph; and
- c) A 2D plan showing the location of the camera and target point that corresponds to the same location the existing photograph was taken.

Survey data

- d) Confirmation that accurate 2D/3D survey data has been used to prepare the Photomontages. This is to include confirmation that survey data was used:
 - i. for depiction of existing buildings or existing elements as shown in the wire frame; and
 - ii. to establish an accurate camera location and RL of the camera.
2. Any expert statement or other document demonstrating an expert opinion that proposes to rely on a photomontage is to include details of:
 - a) The name and qualifications of the surveyor who prepared the survey information from which the underlying data for the wire frame from which the photomontage was derived was obtained; and
 - b) The camera type and field of view of the lens used for the purpose of the photograph in (1)(a) from which the photomontage has been derived.

Figure 9 – Extract L&E technical guide – use of montages

The guide is relatively straight forward and logical, requiring a photo of an existing view, with and adjoining wire frame from the 3D software used (verified against that photo with survey data), and then the modelled impact. For the view impact analysis (as opposed to public domain analysis), the View Impact Methodology Report by Virtual Ideas (and the VViA by Ethos Urban) neither shows the existing photo/view, nor the wire frame verification against that photo, prior to showing the montaged impact.

This has the effect of not illustrating the view impact and not visually verifying the accuracy of the base model.

(c) Diminishing the categorisation of View Value

The VViA by Ethos Urban generally outlines the process, case law and considerations for view impact analysis accurately.

However, one matter which I think incorrectly summarises the findings of *Tenacity Consulting v Warringah [2004] NSWLEC 140* ('Tenacity') is the categorisation of the value of a view.

The VViA (pg. 9-10) essentially states that the only 'high value view' is one where iconic or high value elements are prominent. This is an incorrect summation of the Tenacity view sharing principles. Rather, a view may contain a range of components, and some are more valued than others (such as iconic elements, water, land/water interface etc.). To try to put every view panorama into a category and to set an artificially high bar for a 'high' value view has the

effect of diminishing view impacts and views that contain range of valued elements, some more valued than others.

The other matter not accounted for or discussed is the importance of a wide panorama of views such as occurs over the site in surrounding buildings.

(d) Visually reducing the comparison to the recent Concept DA height/bulk

The key issue with this proposal is the additional impact from the additional 22m of height compared to the previous SSDA concept approval (and current maximum height), equating to 6-7 storeys (7 at 3.15m floor-floor as proposed for units).

The use of a faint dashed yellow line to depict the previous DA approval is very difficult to discern and also visually diminishes the impact of this key difference.

(e) Providing limited view impact modelling from key levels affected by the proposed increased height

As above and throughout this submission, the key issue is the view impacts from the additional height above RL 175 (as approved and the existing maximum height).

There is limited view modelling in surrounding buildings in this zone of RL 175-RL 196.8, although some modelling has been done within this zone, which is appropriate.

(f) Having an incorrect level for Level 34 of St Leonards Square (486 Pacific Highway)

While view modelling has been done at level 34 of St Leonards Square, the assumed RL appears wrong.

Viewpoint 3, 4 and 6 all appear to be from Level 35 of St Leonards Square ('SLS', 486 Pacific Highway). However, the RL given in the methodological report by Virtual Ideas states this RL is 196.3.

The floor level given for views 3, 4 and 6 within my clients building is 196.3. However, the RLs I have from the elevation (supplied by my client) shows level 35 (top level) of SLS has an RL of 196.8, while the floor level of level 34 (one below the top level) is RL 193.7. So, the RL of 196.3 does not seem to align with an expected eyeline (floor + 1.5-1.6m).

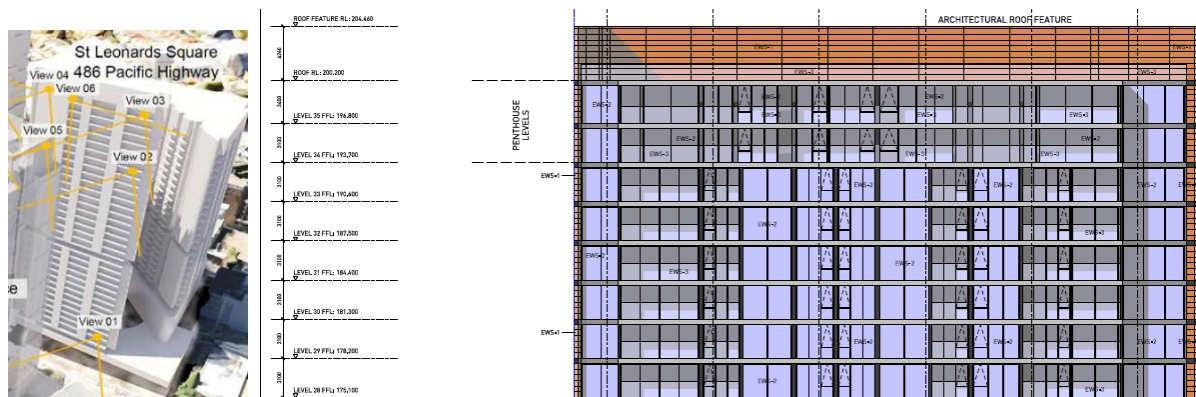


Figure 10 – View modelling relative to SLS, 486 Pacific Highway and levels of SLS

(g) Omitting No. 88 Christie Street, St Leonards from assessment;

The view impact analysis has omitted No. 88 Christie Street, St Leonards. This is an important omission, given the proposal will have significantly adverse view impacts from that building towards the City and harbour.

The sensitive relationship with the site, and the omission is illustrated in the applicant's own View and Visual Impact Assessment ('VViA'):



Figure 11 – Site/Proposal and No. 88 Christie Street to the N-W (applicant VViA, pg. 20)

2. View Impact

The key issue is the additional view impacts from the additional proposed height above RL 175, given this is the existing maximum height and the approved height of a recent Concept DA approval. The comparison of the previous recent Concept DA approval and the current proposal are shown below, illustrative the height (and width) changes:



Figure 11 – Comparison of Nicholson St elevations (Concept approval v current proposal)

While this proposal is a new DA, the owners of my client's building at SLS (486 Pacific Highway) are reasonable and are not seeking less height than current maximum controls (derived from recent detailed analysis as outlined earlier) can accommodate. There is some additional view impact from the reduction of the southern side setback down from 12 to 9m, although this is less critical than the devastating impact from the additional height. It is noted this side setback does not comply with the Apartment Design Guide, and is a matter for DPHI and the Office of Government Architect to consider.

As such, the key levels and units impacted by the proposal are units between RL 175 and the new maximum proposed height of RL 196.8 (RL 197 in the PP). The height of the proposal is shown as red in an overlay of the SLS elevation below:

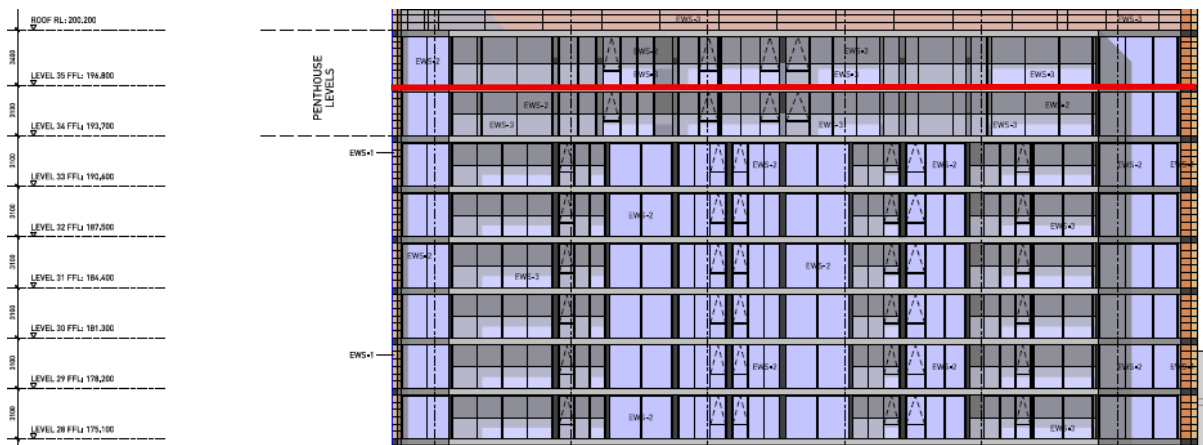


Figure 12 – Upper Levels of SLS Building

In turn, this directly impacts units from Level 28 (RL 175.1) and above in SLS, being 8 levels, noting the top level also has downward views over the site towards the Harbour waters.

The floor plan of Jackson Building in SLS on levels up to level 34 is below, showing 4 units per level. Levels 34 and 35 have 2 units per floor facing Nicholson Street.

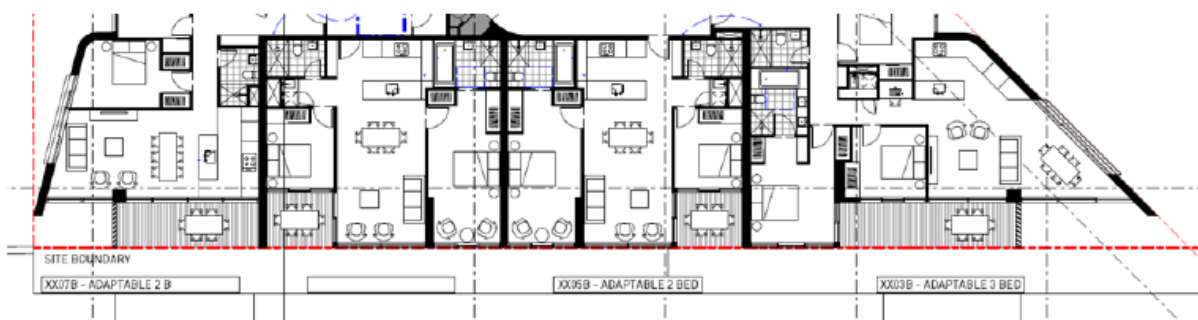


Figure 13 – Typical Floor Plan - SLS Building

The impacts are greatest to the western (left) side of the building, although significantly adverse for all units, given views towards the Harbour as part of a wider view arc.

As mentioned, the proposal will directly and significantly affect views of 8 levels of SLS (28 units). To illustrate the view impacts (which will be similar for these top 8 levels), the following photos are from the living room (standing) and adjoining outdoor balcony (standing) at the western unit on level 34.

As can be seen, these views include wide views of Sydney Harbour, spanning from Sydney Olympic Park to Cockatoo Island. The view includes highly valued view aspects of the waters of Sydney Harbour, a working harbour including the visual interest of moving boats and craft to and around Cockatoo Island, Iron Cove and Gladesville Bridges spanning water, horizon, landscaped water edges, land-water interfaces and sky.

These views are from primary living areas, are highly valued and will be lost.



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URBAN PLANNING P/L



Photos 3-4 – From internal living area and balcony over the site (to be blocked) – Level 34



Figure 14 – Applicants view impact analysis from a similar position as above

In the nomenclature and considerations within 'Tenacity':

- The views are from key living areas, both internal and external;
- The views are not across a side boundary;
- The views are highly valued;
- The impacts are devastating; and
- The impacts are unreasonable, given the significant breach of existing height and FSR controls, which are already very generous and derived from careful recent urban design analysis.

Objective and rational analysis in accordance with established accepted planning methodology and practice comes to the simple conclusion view sharing is not achieved, the impact is unreasonable and severe, and the application should not be approved (and this is from one building let alone 4 surrounding the site to the north).

Further, the proposal does not achieve key aspects of the SEARs for the project, including:

- Demonstrating design excellence, given contextual considerations and design guidelines for the area (Item 5);
- Responsiveness to context (Item 6); and
- [Acceptable] amenity impacts on the surrounding locality, including solar access, visual privacy, *view loss and view sharing*, as well as wind, lighting and reflectivity

impacts. *A high level of environmental amenity for any surrounding residential or other sensitive land uses must be demonstrated* (Item 7) – emphasis added in red.

Lastly, the proposed building includes 6.5m of plant facing north at the top of the building. This seems excessive for plant and adds adverse visual impacts to SLS and other buildings, with the visual impacts and reduction in indirect light exacerbated by the narrow width of Nicholson Street and proximity between buildings.

6. Public Interest – Balance of Benefits and Impacts

There are different planning pathways in NSW, including ones directed to the State, in general recognition of wider potential benefits and implications.

It is recognised that there are benefits from the proposal, principally from more dwellings in the form of 'Build to rent' units and greater housing supply. This is the principal justification by the applicant, essentially arguing: 'there is a housing crisis, the area is densely urban, and yield should be maximised'.

The term 'public interest' in Section 4.15 of the EPA Act 1979 is not defined and means different things to different people. To me, it essentially means 'does the balance of wider benefits outweigh the impacts'?

Development assessment is essentially about balancing benefits and impacts, although of course this is simplistic as it must be done within the legislative context, including current controls and legislation, and having regard to a site and its context. In terms of the benefits and impacts of the proposal, it is noted:

- There are benefits of additional housing in an urban area for rental housing and to support greater housing diversity and options;
- 'Build to rent' housing is nonetheless market housing. It is not rented at levels below the market and is not affordable housing. This is reflected on where it sits in *SEPP (Housing) 2021*, within Chapter 3 (Diverse Housing), not Chapter 2 (Affordable Housing). This is also reflected in this type of housing not receiving potential bonuses, as occurs for affordable housing in areas outside TOD areas;
- The previous very-recent SSDA approval accommodated an estimated 271 Build to rent ('BTR') units and the current proposal is for 541 BTR units, essentially double. Even allowing for the reduction of 6 levels to the same approved and existing height of RL 175 would result in 433 BTR units, an increase of 162 units compared to the previous recent concept approval, equating to a dwelling increase of 60%;
- There is an amphitheatre of buildings around this site, notably 4 large buildings (3 existing, 1 approved), with direct and highly valued water and harbour views over the site. This means there is a multiplication factor of 4:1 in amenity considerations. The view benefits from the site from the additional levels are outweighed by this multiplication factor of amenity impact. This seems obvious and a strong reason for refusal;

- The impacts on views are significantly adverse and widespread. Where views exist, particularly highly-valued ones, this understandably constitutes the most valued aspect of amenity for residents (and a value reflected by the market).

Another consideration indirectly linked to public interest is public confidence in the planning system. In this area, the local community has been subject to various reviews and considerable change, and processes associated with rezonings, as is appropriate and in accordance with legislation and practice. The long and recent process of zoning reviews and the TOD process involved considerable community and developer consultation, review and detailed analysis. Subsequently, people would have also bought units in the area based on the expectation that detailed and recent design-led planning controls established by the State would be observed, such as height limits where a view exists over other properties. To then undermine that process and outcome by opportunism and significant breaches, in an area of considerable planned density, does erode the confidence in the planning system and the role of community consultation involved in rezonings. And this it is not a case of outdated planning controls, but instead 4 rounds of reviews over the last 5 years, and very detailed recent urban design analysis creating some of the densest controls in the State.

7. Application Aspects Warranting Close Checking, Correction and/or Revision

My client is primarily concerned with the proposed height and view impacts, justifiably for reasons already outlined. However, in undertaking an independent review of the proposal and supporting information, there were a number of omissions, conflicts or potential errors warranting close review and resolution.

While not central to my client's concerns, these issues are raised below due to a perceived professional obligation to raise with the consent authority, and as some are considered fatal to the proposal:

- The Tree Removal Plan shows removal of many trees on the adjoining privately-owned site to the south, and no apparent written owner's consent or reference to works on the adjoining property in the documentation;
- Contravention with non-discretionary development standards in SEPP (Housing) 2021 (including minimum size of units and car parking minima in Chapters 2 and 4), yet without any apparent written contravention request(s) in accordance with Clause 4.6 (commonly referred to as 'a Clause 4.6 request'), noting the provisions of Section 4.15(3)(b) of the Environmental Planning and Assessment Act 1979 and the Department's own guidelines for the preparation of such requests;
- Inconsistency between the ESD report regarding reference and depiction of rooftop solar panel (70kW) and the architectural plans not depicting this;
- Lack of an arborists report and Economic Impact Assessment, despite reference in the SEARs and/or applicant's documentation;
- No apparent BASIX Certificate;
- FSR calculation exclusions are questionable, including areas of horizontal circulation, garbage/bulky goods storage not in the basement and the Level 2 "external corridor";

- Inconsistencies regarding the number of car parking spaces proposed within the Traffic Impact Assessment and EIS/other documents;
- Limited intersection modelling, including excluding the main intersection near the site at Pacific Highway/Christie Street;
- Prior community consultation statements undertaken by the applicant in various documents, noting my client's building, being one of the most affected and containing 529 units, advised no letterbox flyers were received. Consequently, the statements about 2,700 flyers being circulated may be questionable, including conclusions arising from the apparent zero feedback, which in itself should have raised queries about that process, given the significant impacts; and
- Statements regarding compliance with key ADG requirements, despite the key southern minimum building separation requirement not complying.

8. Requests

The following requests are respectfully made:

- (a) The SSDA and associated Planning Proposal be refused;
- (b) The proposal be referred to The NSW Office of Government Architect for review;
- (c) The Department independently interrogate aspects of the proposal, including issues identified as inaccurate or omitted with the DA, outlined in this submission, and require the applicant to address such issues as appropriate;
- (d) Any new information, together with any amendments, be made available on-line, with notice to neighbours, and a further opportunity be provided for comment, for procedural fairness; and
- (e) Prior advice being given with adequate time to prepare and make representations to any IPC or other public meeting, if the application is not withdrawn.

This submission raises relevant issues and appropriate reasons to refuse the DA. We hope you agree, and look forward to your consideration. I am available to assist in that process if required. If you have any queries, please contact me on 0448-413-558.

Yours sincerely



Jason Perica
Director
B.Sci (Arch), M.U.R.P

(brief C.V. attached)



Jason Perica

Positions held

2009 - current	Director, Perica & Associates Urban Planning
2006 – 2009	Executive Director, Strategic Sites and Urban Renewal, NSW Department of Planning
2004 – 2006	Director City Planning, City of Sydney Council
2001 – 2004	Manager Development, City of Sydney Council
2000 – 2001	Manager Development Services, Mosman Council
1998 – 2000	Area Planning Manager, City of Sydney Council
1988-1998	Strategic and statutory planning positions at Woollahra, Rockdale and South Sydney Councils

Qualifications

1988	Bachelor of Science (Architecture), University of New South Wales
1991	Master of Urban and Regional Planning, University of Sydney

Affiliations

Current:	LPPs – Canada Bay (Chair), Central Coast and Strathfield (Alt Chair), Expert Member – Fairfield, Cant. Bank., Camden, Northern Beaches, Willoughby, Lane Cove, Sutherland, SOPA DRP
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Past:	
2024	Interim Chair Inner West and Camden LPP
2018 – 2024	Chair, Penrith LPP
2018 – 2024	LPP Expert Randwick, Liverpool
2018 - 2021	Director, Bondi Junction RSL Club
2018 - 2021	Chair – Sutherland LPP (Panel)
2018 - 2021	Alternate Chair – Nth Sydney LPP
2009 - 2019	Joint Regional Planning Panel (Hunter and Central Coast), chairperson from July 2016
2013 - 2018	North Sydney and Sutherland Shire Independent Planning Panels
2012	Ministerial Taskforce – Green Paper for new EPA Act
2009 - 2010	Design Review Panel – Nation Building and Jobs Plan Taskforce
2008 - 2009	Sydney Opera House Conservation Council
2007 - 2009	Central Sydney Planning Committee voting member
2004 - 2006	City of Sydney Small Permits Appeal Panel

Areas of expertise

- Knowledge and experience from working within both the State and Local Government at senior levels, across strategic and statutory planning, involving a wide range of issues and development
- Statements of Environmental Effects, submissions
- Preparation of planning proposals, environmental planning instruments (State and Local), DCPs and policies
- Expert evidence in the Land and Environment Court and other courts
- Land use planning and transport integration
- Thorough knowledge of the EPA Act, State Government Plans and Policies, and Acts related to development assessment and realisation
- Navigation through approval processes at local and State level and understanding issues and priorities of local and State Government
- Crown mediation and disputes regarding developer contributions
- Voluntary Planning Agreements, State Infrastructure contributions and infrastructure funding
- Review and Determination Panels, Business Case formulation and review

Recent projects

Private –
Planning proposals/re-zonings, State Significant Site Proposal, EISs for designated development, many S.E.E.s, Part 3A and SSD Environmental Assessments for Concept Plans and Modifications, Metropolitan Strategy and District Plan submissions, Many DA Modifications, Land and Environment Court expert, s8.2A reviews, due diligence, valuation advice, peer reviews, all for a variety of projects and clients in a variety of areas

Government –
Court expert, INSW Business Case Gateway Reviews (Chair and expert), DA assessment, Major Project/SSD assessment, policy advice to DPIE (incl. Ministerial working group), project management (affordable housing), major rezoning and precinct planning project director for RWA/UGDC, probity review for Council DA processes, DA lodgement, Crown mediation advice, Determination Panels

Contact

You can contact Jason by phone – 0448 413 558 or email - j.perica1@bigpond.com