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GM (CIS)

21 December 2018

Dear Ms Leung

SYDNEY METRO CROWS NEST OVER STATION DEVELOPMENT (SSD 9579)

Thank you for the opportunity of reviewing the Sydney Metro Crows Nest over station development which has recently been exhibited for public comment. Council also wishes to acknowledge the Department's kind extension of the exhibition period in which to make a submission to this State Significant Development (SSD).

The elected Council considered a report at its meeting of 10 December 2018 in response to the exhibition of the SSD. It is acknowledged that this is a concept SSD and further detailed application(s) will be lodged, notified and assessed in due course. Council resolved:

1. ***THAT*** Council make a submission to the concept State Significant Development Application for the Crows Nest Metro Over Station Development.
2. ***THAT*** the discussion and assessment contained in this report, be the basis of Council's submission to the Department of Planning and Environment.

The attached submission summarises the Council's position in the context of the above resolution and should be considered as an objection to the granting of consent at this time. I am also attaching a copy of the Council Officer's report that was considered by Council.

Should you have any queries in relation to this application please do not hesitate to contact Mr Geoff Mossmenear on 9936-8100.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Beattie', written over a circular stamp.

STEPHEN J BEATTIE
ACTING DIRECTOR CITY STRATEGY

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NORTH SYDNEY COUNCIL SUBMISSION

SYDNEY METRO CROWS NEST OVER STATION DEVELOPMENT (SSD 9579)

A concept State Significant Development (SSD) Application for the Crows Nest Over Station Development(OSD) proposing development of 3 sites integrated with the future Crows Nest Station has been lodged with the Department of Planning for determination by the Minister for Planning being the consent authority.

There are several references in the application that make clear that as far as Metro is concerned,

their contention is that they will not pay their share of the Special Infrastructure Contribution (SIC) for key infrastructure, nor S7.11 (formerly S94) contributions on the basis of the wider benefit of the Metro. As these contributions are policies of the State Government and the Council it is considered that a voluntary planning agreement (VPA) needs to be negotiated prior to any development application being considered.

Council's practice is to insist on a planning proposal where there is a significant variation of controls to allow a proper and thorough process with regard to Community Consultation similar to the process that was involved when the original control was adopted by Council. It is noted that there are two zoning reviews on exhibition that are yet to be assessed against Community and Council feedback so the proposed controls are not certain or imminent.

There is a real concern that approval of the proposal will enable buildings that are out of scale with the fine grain nature and village atmosphere of Crows Nest, which overshadow Ernest Place and Willoughby Road and brings limited employment opportunity and public benefits to the area.

Greater collaboration with local government and the community is needed to refine the 2036 Plan, the state levy (SIC) and Metro rezoning proposal to ensure growth is well managed and supported by the timely delivery of upgraded open space, recreation and social infrastructure prior to the consideration of such a decisive development application.

After these plans are resolved following thorough assessment of community and Council feedback, informed controls with regard to height, FSR and overshadowing can be established, and a Development Application can be properly considered and determined.

St Leonards and Crows Nest Planned Precinct – Infrastructure needs and Sec 7.11 contributions

In October 2018, DPE released a *draft Rezoning Proposal for the Crows Nest Sydney Metro* site. This Rezoning Proposal increases the relevant planning controls commensurate with the built form proposed in this concept SSD Application.

The release of the Rezoning Proposal was simultaneous to the release of other draft strategic planning documents including the *St Leonards and Crows Nest 2036 Draft Plan*. The 2036 Draft Plan in its self recommends significant changes to the planning controls for the immediate area surrounding the Crows Nest OSD site subject to consideration of community feedback to its exhibition.

The *proposed Special Infrastructure Contribution (SIC) for St Leonards and Crows Nest* is also currently on exhibition. Once the SIC for St Leonards and Crows Nest is in place, the Department will consult with other State Government agencies and Lane Cove, North Sydney and Willoughby Council's to determine the timing of project delivery, having regard to

current and forecast development rates and infrastructure capacity. A Special Infrastructure Contribution (SIC) is paid by developers within Special Contribution Areas (SCAs) to ensure funding for key infrastructure required to support growing communities. Special Infrastructure Contributions allow priority infrastructure to be funded and delivered at the same time development is occurring, ensuring new and growing communities have access to the infrastructure and services they need in a timely manner.

Metro are proposing to enter into a voluntary planning agreement (VPA) with Council so these items will need to be more fully defined and negotiated. There are several references in the volumes of material that make clear that as far as Metro is concerned, their contention is that OSD will not pay their share of the SIC, nor S7.11 contributions on the basis of the wider benefit of the Metro.

The suggested SIC contribution is \$15,100 per dwelling so for 350 dwellings the contribution would be \$5,285,000. There is considerable uplift on this site and this area is extremely deficient in open space. There are no identified sites available for new parks. Hume Street Park is adjacent to the site and the residents of the 350 new apartments and visitors in the 250 Hotel rooms will have the benefit of the Park. The OSD should be contributing significantly towards the Park by contributions in addition to any Section 7.11 contribution. The Metro is infrastructure to serve the existing population because it is needed. Future development can only rationally occur with the provision of the Metro or other significant transport infrastructure. Any development that is uplifted because of the Metro still places additional demands on community facilities such as open space, libraries, and child care. Where there is considerable uplift involved there should be public benefit provided, not just the station required to allow the growth. A VPA needs to be negotiated with Council prior to a DA being considered.

The estimated Section 7.11 (Section 94) contribution payable to Council based on 350 dwellings and 17,90m² of the OSD would be \$7,245,000. There is no demonstrated reason to waive the payment of the contribution contained within the application documents.

This application is premature in that proper community consultation and assessment of feedback has not been finalised with regard to the St Leonards and Crows Nest 2036 Draft Plan; draft Rezoning Proposal for the Crows Nest Sydney Metro and the proposed Special Infrastructure Contribution (SIC) for St Leonards and Crows Nest.

North Sydney Local Environmental Plan 2013 – Clause 4.6 variation - Height

The aim of Clause 4.6 to provide an appropriate degree of flexibility to achieve better outcomes for and from development. Council's long standing practice is to allow only minor variations due to the topography of the site and where there is minimal additional density or gross floor area created. Environmental benefits have been key to these considerations. Lift overruns, plant and communal roof space are allowed but only where there are no adverse impacts through overshadowing or loss of views.

Council's practice is to insist on a planning proposal where there is a significant variation to allow a proper and thorough process with regard to Community Consultation similar to the process that was involved when the control was adopted by Council. There are two zoning plans on exhibition that are yet to be assessed against Community and Council feedback so the proposed controls are not certain or imminent. Previous amendments to building heights in the North Sydney part of St Leonards have only occurred following detail planning studies informed by public consultation.

Council has not abandoned its controls through the misuse of Clause 4.6 variation requests. In fact, Council insists on Planning Proposals to be lodged, determined and gazetted where substantial policy changes or control changes are proposed before a development application determination is made.

Two clause 4.6 variation statements are submitted with this concept SSD Application to provide strategic justification for non-compliance with the height of buildings (cl. 4.3) and non-residential FSR (cl 4.4A) provisions in NSLEP 2013 prior to the statutory amendment being made. The proposed changes under the draft planning proposals have not been finalised or gazetted and are neither certain or imminent. Both Clause 4.6 requests are considered to be poorly drafted in that they do not satisfactorily address the objectives of the relevant controls and as such are not considered to be well founded and the application should fail. The acceptance of such significant variations to established planning controls prior the related amendment to a Local Environmental Plan being made is without known lawful precedent.

Heritage conservation

The site is surrounded by a number of local heritage items as detailed in the EIS. Thorough heritage assessment has not been carried out by Council within the limited time given for submission but it is clear that the proposed buildings on Sites A and B will clearly over sail the Heritage Item at 20 Clarke Street and is considered not to appropriately address the issue. The disparity in scale and form between the Heritage item at 28 Clarke Street and the OSD is of particular concern.

Overshadowing

Council policy (under Crows Nest Placemaking and Principles Study) is for no overshadowing of Ernest Place; no overshadowing of Willoughby Road before 4pm year round and no overshadowing of Hume Street Park between 10am and 2pm.

The overshadowing of Ernest Place and Willoughby Road is unacceptable. The parts of the buildings causing the overshadowing need to be identified and modified.

Built form

The applicant claims that the proposed building envelopes have been designed to provide an appropriate response to the surrounding and emerging context, while also enabling the delivery of a development at the site.

While some of these comments may be correct at some reasonable foreseeable time in the future, that future has yet to be established by the underlying planning controls. The bulk and massing of building form is of particular concern given the tall slender tower forms currently under construction and consideration for the future.

Visual and view impacts

The visual impact of the development, in the context of the surrounding skyline, has been assessed by the applicant from a number of key vantage points around the North Shore and Central Sydney. In this assessment, the envelope of the building has been superimposed within the existing and forthcoming building form context of the site, in order to confirm the cumulative impact of the development on the skyline of St Leonards and Crows Nest.

The montages provided in the application appear to be misleading as it includes some buildings that are yet to be approved, other buildings that are incorrectly located and with incorrect proposed building forms, further they are not the future scale of buildings proposed in the, yet to be finalised, 2036 plan.

Transport

It is proposed to provide additional loading facilities on a rolled top kerb in Clarke Lane. This is a poor outcome for pedestrians and overall amenity of the laneway. The development should be designed with appropriate facilities on site.

The provision of parking needs to be questioned where the development is directly above the station. It is acknowledged that due to the station being underground, basement parking is not readily possible so the parking is located at higher levels over a number of levels with access from car lifts. There are no queuing areas provided for cars waiting for the car lifts. The additional parking levels add to the height of the building and if the parking was removed, the scale could be reduced or the floor space could be better used for community facilities. Parking provided above ground at the Metro location is neither a good transport planning, or architectural outcome.

Economic impacts

It is acknowledged that the OSD would provide a range of different economic benefits, reflective of the different uses proposed. The provision of approximately 250 hotel rooms would increase the visitor accommodation capacity which would have flow on effects on the tourist economy in Sydney more broadly.

The residential development would assist in increasing the population of the St Leonards/Crows Nest strategic centre, providing for 'out of hours' activation at the site and contributing to the economic impact of the local residential population base.

Although the hotel would generate tourist economy, the number of ongoing jobs on site are minimal. Council's preference would be for considerably more office space that would add greater opportunity to meet future employment targets.

No affordable housing provided

The State Government has recommended 5-10% of new apartments (where there is an uplift on the site) should be Affordable Housing. The provision of affordable housing is also an object (1.3(d)) of the EP & A Act. No affordable housing appears to be proposed. It needs to be clearly identified as a requirement and included in a VPA negotiated with Council.

Insufficient detail about community facilities to be provided on site

The location, type and quantum of community facilities need to be clearly identified and included in a VPA negotiated with Council.