

18 November 2014

Our Ref: P-13027

Mr Matthew Rosel

NSW Department of Planning & Environment
GPO Box 39,
SYDNEY NSW 2001

Dear Matthew,

RE: PROPONENT'S RESPONSE TO THE DEPARTMENT'S RESPONSE TO SUBMISSIONS IN RELATION TO THE S75W MODIFICATION TO NOS. 6-16 ATCHISON STREET, ST LEONARDS - MP09_0187 MOD 2

I refer to the above s75W Modification Application, the Department's letter dated 20 August 2014 and agency and public submissions. Firstly I would like to apologise for the delay in responding. This has not been as a consequence of being tardy per se, but rather due to the desire to be able to present more 'concrete' evidence to the Department of the changing nature (heights and FSR) of the St Leonards area and specifically the area around the site. Accordingly on behalf of the proponent, the following response is provided.

1. DPE - Schedule 1 - Principal Key Issue

The key issue raised by the Department is that there is insufficient justification for the increase in height back to the Preferred Project Report (PPR) height and that further detailed analysis is required to justify the increase in height in the context of the skyline and local context parameters established within the approval. To address this, the following key information has been provided:

Additional Information Requested	Proponent's Comment
1. An updated East/West Linear Skyline Response diagram, including recent approvals noted in the modification report.	Refer to the Attached Skyline Response Diagram reference Attachment A prepared by R+M Architects.
2. Updated photomontage images (approved and proposed) and North/South Linear Skyline Response diagram, including recent approvals noted within the modification application report.	Refer to the attached Photomontage reference Attachment B and Linear Skyline Response Diagram reference Attachment A prepared by R+M Architects.

3. Further discussion of how the proposed increased building height would relate to the approved buildings of 18-24 Atchison Street and the IBM and Abode buildings and the visual impact of the increased step/transition between the proposal and those neighbouring buildings.	Refer to discussion at Section 3.1 below and as shown on the attached plans, referenced Attachment A, B and C.
4. An updated elevation PA-300-3/5, including approved 18-24 Atchison Street.	Refer to the attached Elevation Plan reference PA-300-3/6 (reference Attachment C) prepared by R+M Architects.
5. An additional photomontage image (proposed and approved) towards the proposal from the south eastern corner of the Atchison Street / Albany Lane intersection, including the approved 18-24 Atchison Street building.	Refer to the attached 'Photomontage' reference Attachment B prepared by R+M Architects.

2. DPE - Schedule 2 - Other Key Issues to be addressed

2.1 Affordable housing and public benefit

Concern is raised that the Condition B5 does not take into account the affordable housing contribution calculation based on the entire residential floorspace. Refer to the detailed assessment in **Section 3.5** below (Public Benefit Offer), which explains that the offer also includes a monetary allowance to take into account an affordable housing contribution.

However, the Proponent is willing to allow the 4% calculation for Affordable Housing to be applied over the amended residential GFA (see letter to Council attached as Attachment D).

2.2 Affordable housing and public benefit

The Department is concerned that a monetary contribution towards affordable housing is not a true public benefit. This Public Benefit Offer is considered appropriate as it secures a monetary contribution for the purpose of public domain improvements in the St Leonards locality. As above, the Proponent will provide Affordable housing at 4%. Therefore there is a direct correlation with public benefits to the benefit of the community. This proposal and accompanying Draft PBO therefore warrants endorsement. The Proponent notes Council's concerns with the quantum of the monetary value offer and is willing to consider an increase in this offer as per its letter to Council (see Attachment D).

2.3 Affordable housing and public benefit

The Department has requested clarification of how the proposed monetary contribution has been calculated and how it relates to Council's St Leonards / Crows Nest Planning Study.

The subject Draft PBO has been prepared in line with the approach developed by the existing St Leonards / Crows Nest Planning Study (Precinct 1 (Addendum)). The Draft PBO comprises a monetary contribution for the additional GFA (approximately 3,199sqm) relating to Levels 24 to 28 (inclusive). The offer included a monetary allowance to take into account an affordable housing contribution. Based on this, the rate per additional square which is

offered by the applicant is \$600, which equates to a total of approximately \$1,919,400 (final figures to be agreed by Council) for the purpose of public domain improvements or any other preferred purpose which Council considers may be more appropriate in relation to the provision of affordable housing. This figure was put forward to Councillors at the briefing meeting held on 17 September 2013.

The value of the VPA offer is considered to be commensurate with the dollar rate per square metre when compared to recent contributions via VPAs for additional floorspace in North Sydney for 545-553 Pacific Highway Crows Nest (the 'Ralan' development) and 7-19 Albany Street St Leonards (see draft VPAs attached at Attachment E). Accordingly, the PP will have a positive and long term effect on the local economy and community.

However, having regard to comments above the Proponent is willing to consider the provision of 4% Affordable housing on site plus review the value of the monetary offer (see letter to North Sydney Council Attachment D) and having regard to Council's draft study for St Leonards being considered by Council on 17 November 2014.

2.4 Non-residential floorspace

The Department has recommended that the increased residential floor space which results from this proposal should be accompanied by a proportionate increase to the non-residential floor space. That is, the non-residential floor space ratio (FSR) should be increased from 2.5:1 (as approved in MP09_0187 Mod 2) to a FSR of 2.69:1 (as originally approved in MP09_0187). This equates to an additional FSR of 0.19:1 or approximately 318sqm.

It is noted that the Department's position in reducing the non-residential FSR to 2.5:1 concluded that "the non-residential floor space is not of a scale that is likely to have any strategic planning implications and is considered a reasonable adjustment in response to the requirements of the Project Approval" (as per the Director-General's Environmental Assessment Report for MP09_0187 Mod 2 dated February 2014).

Notwithstanding, this proposal maintains that it is not strategically beneficial to increase the non-residential floor space on the site by approximately 318sqm given that the required non-residential space has already been carefully designed into the building and the construction works are already at Level 7 (as at 4 November 2014) which is 3 levels above the commercial zone. So to add further commercial space at this stage (for which there is very little demand) would be extremely difficult and contrary to market demands.

However, if the Department strongly disagrees with this position, the Proponent is willing to accept a condition to increase the non-residential GFA.

2.5 Car parking provision

The Department has requested that the quantum of car parking spaces is reduced given the site benefits from public transport connections within the St Leonards town centre.

As discussed below, we acknowledge the direction to restrict car parking and therefore car ownership and commuting by car in the busy CBD/retail areas close to good public transport. Should the Council feel it necessary, we accept that the total provision of car parking spaces is reduced to 183 basement car parking spaces.

2.6 Clarification - RFDC

The Department has requested a RFDC compliance schedule which assesses the approved (MP09_0216 Mod 2) and proposed RFDC rules of thumb design/amenity requirements.

The outcome of the proposal adjusts the RFDC figures as follows:

- Natural ventilation increases from 66% to 67%
- Daylight / solar access is maintained at 54%

Therefore, the amenity outcome of this proposal is improved overall and achieves a suitable level of amenity for the future occupants of the units.

2.7 Clarification - Schedule and Statement of Commitments

a) Refer to the attached accommodation schedule (residential, serviced apartment, non-residential and ancillary accommodation) for the approved (MP09_0216 Mod 2) and proposed schemes (Attachment F).

b) Refer to the Statement of Commitments which highlights the changes and reasons for the changes to the updates. For clarity, the revised version is dated November 2014 and relates to plan references only (Attachment G).

2.8 Clarification - Consolidation of Apartments

Refer to the attached indicative floor plans which demonstrate the possible consolidation and floor plan layout of apartments (Attachment H). The market demand will dictate what the appropriate mix should be so the Proponent requires flexibility in the final apartment configuration.

2.9 Clarification - accompanying reports

In light of the above revisions, the reports submitted with this modification application are still relevant / updated and attached.

3. Submission from North Sydney Council

3.1 Building Height and Form

The proposal seeks to modify the height of the approved mixed use building. The overall height sought is the same as in the original PPR, being RL181.3 or 30 storeys. The proposal is for 4 additional storeys (in addition to the 26 storeys already approved) which is not discernible as viewed from the public domain and therefore presents as the same building bulk as currently approved. When considered in light of the current planning regime, the proposed height is in keeping with the overall building heights in this precinct, and is in fact equivalent to 9 storeys lower than the existing Forum development to the west of the site, and 8 storeys lower than the highest tower which will result from a recently accepted Planning Proposal within the Lane Cove Council LGA at 472-520 Pacific Highway and 95 Nicholson Street to the south-west of the site. It is noted that at its meeting on Monday 27 October 2014, Lane Cove Council resolved to support the LEP Planning Proposal for 472-520 Pacific Highway.

Further, as can be seen from the attached 'Skyline drawings', since the approval of the subject development, St Leonards, in the immediate vicinity of the site, has either already changed by virtue of approvals:

- 619/621 Pacific Highway - RL 139.45
- 1-13a Marshall Avenue - RL 138 and RL 140

- 18-20 + 22-24 Atchison Street - RL 147.475 and RL 147.475

Or, by proposed Planning Proposals accepted by the requisite Council:

- 500-504 Pacific Highway, Lane Cove - RL 226.5
- 472-494 Pacific Highway, Lane Cove - Tower 1 RL 179.5 and Tower 2 RL: 203.5
- Alto Ford PP in Willoughby where a future PP of 39 and 55 Levels is being considered (see Attachment I)

Or, by Development Applications submitted and considered favourably by Council:

- 1-13a Marshall Avenue - RL 166.8

Or, by virtue of Precinct Studies, notably the St Leonards Precinct Study for Precinct 2 and 3 which are being prepared to facilitate additional yield in the area and which are anticipated early 2015 with the draft Study being reported by Council 17 November 2014 (Attachment J).

The proposed 30 storey building height is therefore arguably smaller and lower than what will be the desired future scale of St Leonards in 1-2 years. Further, the proposal is complemented by an architectural design which delivers a high level of amenity for the future occupants of the dwellings, and protects the privacy and amenity of current residents on neighbouring sites, as well as future residents should the neighbouring sites also be redeveloped. The increased height offers further individuals to reside in this area which benefits from public transport, employment opportunities and general services. This follows State Government Policy in respect of locating new housing close to transport nodes. The Draft PBO which accompanies this application also offers a direct monetary contribution to enhance the public domain in the immediate vicinity. Overall, the proposal actively promotes the development of St Leonards in a holistic, strategic and timely manner.

In fact, should the height of the proposal not increase to RL 181.3, it is arguable that its currently approved scale will be uncharacteristic and an opportunity lost to the area.

3.2 Non-residential Floor Space

The provision of non-residential floor space as approved in the Project Application (MP08_0187 92) totals 4,365sqm and provides a FSR of 2.5:1. This application maintains the amount of non-residential FSR as approved. It is noted that the non-residential FSR is not a ratio of the residential floor space, and therefore the non-residential FSR is a fixed amount as approved. Given this, this proposal seeks to increase the residential floor space only, and does not relate to an increase in the non-residential FSR (see response in paragraph 2.4).

However, if the strongly Department disagrees with this position, the Proponent is willing to accept a condition to increase the non-residential GFA to maintain the relative proportions of residential and non residential as are currently approved.

3.3 Car Parking

The proposal is for a total of 202 car parking spaces. We acknowledge Council's direction to restrict car parking and therefore car ownership and commuting by car in the busy CBD/retail areas close to good public transport. Should Council feel it necessary, we accept that the total provision of car parking spaces is reduced to 183 basement car parking spaces.

3.4 Amenity

The internal unit layout of the development as approved includes a floor plan layout which is generally open plan and fosters an internal living area which flows through to the balcony areas. The design of the balcony areas are in the form of winter gardens, being an outdoor private open space area in which the occupants can manually modify the internal and/or external doors to suit their needs and the varying weather conditions. This design intent is maintained for this proposal.

Although the balconies do not meet the numerical requirements of the Residential Flat Design Code (RFDC), the proposal satisfies the objectives of the RFDC and provides well-organised, functional and high quality apartment layouts.

3.5 Public Benefit Offer

This s75W Modification Application is accompanied by an offer of a Public Benefit Offer (PBO).

By way of background, since the approval of the original Project Approval in May 2012 and our recent meeting discussed above, a series of development approvals have been granted in the immediate vicinity of this site and the built form of the St Leonards area is continuing to transform. Most notably being the Planning Proposal at Nos. 472-520 Pacific Highway and 95 Nicholson Street, St Leonards which is within the Lane Cove LGA on the southern side of the Pacific Highway. This PP seeks to rezone the sites to enable a mixed use development in the form of three towers with building heights at 91, 115 to 138 metres. In comparison the main tower form will be 8 storeys higher than our subject proposal. Similarly, The Forum development to the west of our site is also 9 storeys higher than our subject proposal. Therefore the proposed increase to building height for Nos. 6-16 Atchison Street is now even more appropriate.

In recognition of the marginal impact on the local services which the additional GFA and resulting dwellings will create this proposal was accompanied by a Draft Public Benefit Offer (PBO) from Holdmark Property Group Pty Ltd to North Sydney Council.

The subject Draft PBO has been prepared in line with the approach developed by the existing St Leonards / Crows Nest Planning Study (Precinct 1 (Addendum)). The Draft PBO comprises a monetary contribution for the additional GFA (approximately 3,199sqm) relating to Levels 24 to 28 (inclusive). The offer also includes a monetary allowance to take into account an affordable housing contribution. Based on this, the rate per additional square which is offered by the applicant is \$600, which equates to a total of approximately \$1,919,400 (final figures to be agreed by Council) for the purpose of public domain improvements.

The value of the VPA offer is considered to be commensurate with the dollar rate per square metre when compared to recent contributions via VPAs for additional floorspace in North Sydney for 545-553 Pacific Highway Crows Nest (the 'Ralan' development) and 7-19 Albany Street St Leonards (see draft VPAs attached at Attachment E). Accordingly, the PP will have a positive and long term effect on the local economy and community.

This Public Benefit Offer is considered appropriate as it secures a monetary contribution for the purpose of public domain improvements in the St Leonards locality and therefore has a direct correlation with public benefits to the benefit of the community. This will be consistent with the expectations of the Draft Precinct 2/3 Study - Attachment J.

However, the Proponent is willing to increase the monetary contribution in consultation with Council (see letter to Council Attachment D).

3.6 Section 94 Contributions

The relevant Section 94 contributions will be paid in addition to the PBO amount and in accordance with Council's Section 94 Development Contribution Plan, and Condition B11 will be amended accordingly.

3.7 Levels and Structures Adjacent to Eastern Boundary

Council's comment with regard to the relationship between the subject site and the adjoining eastern property at No. 20 Atchison Street is acknowledged. It is noted that the revised public domain treatment approved in MP09_0187 Mod 2 was designed to minimise the extent of structures along the eastern boundary. The Proponent agrees to liaise with the adjoining property owner at No. 20 Atchison Street to ensure that the levels relate.

3.8 Height Comparison

For the purpose of assisting with a comparative analysis, the Environmental Assessment Report provides a comparison of the proposal and buildings in the precinct in the form of storeys, RLs and metres where this information was available (see Attachments A, B and C).

3.9 Obstacle Limitation Surface of 156 AHD

We understand that the Department of Planning and Environment will make a copy of the advice from the Civil Aviation Safety Authority publically available, which was provided on 27 August 2014.

4. Support from Lane Cove Council

Lane Cove Council has confirmed in their correspondence dated 30 July 2014 the following:

"Council raises no objection to the proposal, having regard to the evolving character and scale of the St Leonards Specialised Centre, and the site's proximity to the St Leonard rail station and bus interchange.

In this context, Council draws the attention of the Department and Planning Assessment Commission to the existing approval by the NSW LEP Gateway for exhibition of Lane Cove Planning Proposal for No. 18 for mixed use towers between 91 metres and 138 metres height at 472-520 Pacific Highway, on the opposite side of the highway immediately south of the precinct within which 6-16 Atchison Street is located. The exhibition will be undertaken for six weeks from 15 August 2014."

Further to the letter of support from Lane Cove above, the exhibition period for the 472-520 Pacific Highway, Lane Cove PP has been completed, and it was resolved at the Lane Cove Council meeting of 27 October 2014 to be adopted and submitted to the NSW Department of Planning and Environment for finalisation. The Voluntary Planning Agreements (VPAs) in association with this PP were also resolved to proceed.

The Department's Gateway Determination also indicated that the timeframe for completing the LEP be 12 months, being March 2015.

5. Willoughby Council

From a review of the DPE website, there is no record of a submission being received from Willoughby Council.

6. Issues raised in Public Submissions

The following is a summary of the issues raised by the public.

Issue	Comment
Disagree that the proposed height is appropriate in the context of recent development approvals and recently constructed buildings.	Refer to Section 3.1 above which explains why extra height is appropriate.
The additional height is compared to other developments which are at an early stage of proposal, such as 472-520 Pacific Highway, all of which affect the amenity of the existing 3,000 residents in one way or another.	<p>The PP in relation to 472-520 Pacific Highway, St Leonards was resolved at the Lane Cove Council meeting of 27 October 2014 to be adopted and submitted to the NSW Department of Planning and Environment for finalisation. The Voluntary Planning Agreements (VPAs) in association with this PP were also resolved to proceed.</p> <p>The Department's Gateway Determination also indicated that the timeframe for completing the LEP be 12 months, being March 2015.</p> <p>Therefore, this PP has substantially progressed and is not considered to be at an early stage.</p>
Wind effects are not being dealt with in a reasonable manner.	<p>The wind effects of this site and development were considered in detail in the original Concept Approval and subsequent modification applications with regard to the street level and the upper levels.</p> <p>These considerations have been maintained in this proposal.</p>
Traffic issues are not resolved. Traffic lights at the intersection of Pacific Highway and Christie Street are at maximum rotation. Traffic cannot enter Christie Street from the Highway. Traffic can enter Atchison Street from Christie Street (one way). This building will incur incoming traffic issues which are not resolved.	As detailed above, this proposal maintains the number of approved parking spaces. Therefore there is no further impact on traffic demand as a result of this proposal.

Atchison Lane has a 5 metre width and it is difficult to exit into Christie Street at busy times, so traffic must go south to Oxley Street which faces congestion to and from the Warringah Freeway.	In recognition of traffic impacts, the proposal maintains the number of parking spaces as approved.
Interference with light (particularly westerly) - leaving a building like Habitat in complete shade.	Detailed shadow analysis was provided with this application. The building as approved shadows the Habitat building in the morning, however the shadows which result from the additional storeys the subject of this proposal do not result in additional shadow impacts on the Habitat building.
Object to additional car parking.	The concerns with regard to the number of car parking spaces is noted, and it is accepted that the approved number of car parking spaces is maintained.
The height is not appropriate.	Please refer to detailed discussion and justification of the proposed building height in line with the recent developments and approvals in the immediate locality in Section 1 and 3.1 above.
Evidence that the monetary contribution will result in supporting the local infrastructure and public domain.	Refer to the discussion at Section 3.5 above.
This strategy is in contrast to the adjacent Willoughby precinct.	<p>It is noted that the Willoughby LGA is considering development uplift, most notably at the "Alto Ford" site which is the subject of recent investigations for a concept plan and a feasibility assessment. The site is owned by Council, state agencies and a private owner and is to be known as "St Leonards Central."</p> <p>Such a concept is anticipated to involve 3 towers with an anticipated height ranging from 39 to 55 levels over the land comprising residential, retail, commercial and community uses. A deck is proposed to be built over the railway line to create a large open plaza, accessible to the public of some 7,500sqm.</p> <p>The proposal includes a child care centre, affordable housing and a bike station as well as improvement of the pedestrian access to Talus Reserve. (Source: Transport, Access & Environment Committee Meeting 7 October</p>

	<p>2014).</p> <p>Whilst the planning pathway differs for the subject site, the outcome of the development is aligned in terms of providing development uplift which is supported by improvements to the public domain and infrastructure.</p>
<p>The additional height will increase the shadows on Atchison Lane and other units fronting the Laneway.</p>	<p>Atchison Lane is located to the north of the site, and will not result in shadow impacts from the development on this site.</p> <p>The additional shadow which results from this proposal is generated by the additional 4 levels, and the overshadowing impacts are marginal due to the fast moving shadows of this built form. Refer to detailed discussion in the Environmental Assessment which accompanied this s75W application, dated May 2014.</p>

7. Conclusion & Recommendations

It is considered that the foregoing commentary explains and justifies the additional height now sought by the Proponent. Further it is important to note that this additional height merely seeks to recover the 4 levels lost from the original PPR. As you will be aware, the development is under construction and will be completed, likely, late 2015. Therefore the opportunity for the additional floors likely expires due to construction timing around April/May 2015. Having regard to the substantial and tangible changes to the scale of development in St Leonards occurring at present, failure to seize the opportunity on the subject site will likely render it, in the future, a site of under realised GFA.

Accordingly, it is recommended that the Department supports the application for additional height and recommends to the PAC that it issue and approval for the Proponent's s75W modification application.

Should you have any queries, I would be please to discuss this with you further. Please do not hesitate to contact me directly.

Regards,



Susan E Francis
Executive Director

8. Attachments

- A.** Skyline Response Diagram prepared by Robertson + Marks Architects.
- B.** 'Photomontage' prepared by Robertson + Marks Architects.
- C.** Elevation Plan reference PA-300-3/6 prepared by Robertson + Marks Architects.
- D.** Letter to North Sydney Council regarding "Offer of a public benefit offer in relation to the s75W Modification to NOs. 6-16 Atchison Street, St Leonards - MP09_0187 Mod 2", dated 18 August 2014. [Please note that the Attachments of the letter to North Sydney Council are included as Attachments of this letter]
- E.** 7-19 Albany Street, St Leonards Draft VPA & 545-553 Pacific Highway, St Leonards Draft VPA.
- F.** Accommodation schedule (residential, serviced apartment, non-residential and ancillary accommodation) for the approved (MP09_0216 Mod 2) and proposed schemes.
- G.** Updated Statement of Commitments dated November 2014.
- H.** Indicative floor plans prepared by Robertson + Marks Architects.
- I.** Council Minutes 13 October 2014 - Alto Ford Planning Proposal in Willoughby.
- J.** Draft St Leonards / Crows Nest Planning Study - Precincts 2 and 3 - being reported by Council 17 November 2014.