

26 August 2022

Mr Thomas Watt
Director, Accelerated Projects Delivery
Department of Planning and Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW

Dear Thomas,

Submission to the INSW Blackwattle Bay 'Response to Submissions'

This submission has been prepared by Ethos Urban on behalf of Poulos Bros, as owner of the site at 21-28 Bank Street, Pyrmont. We also thank both INSW and the Department for their time in detailing the INSW Plan and amendments to the documents, as well as the Department's initial considerations.

Poulos Bros Group is a family owned and operated business established in 1967. Their operations have been primarily based at the Bank Street site when it was purchased in 1985 prior to the construction of the Anzac Bridge.

Poulos Bros have been engaged with the NSW State Government, City of Sydney and other key stakeholders since 2017 on the redevelopment and renewal of the Bays Market Precinct. It has held a consistent position for its site that the planning outcomes for the site must allow and facilitate for the relocation of the Poulos Bros operations away from the established synergies with the Fish Markets.

1.0 Overview of Submission

Following review of the re-exhibited documents by the Department on the Planning Portal, we make the following key observations:

- Poulos Bros provide their overall support of the INSW plan. Following over 5 years of engagement, there is overall acceptance of the scheme and supporting documents (subject to requested changes listed below);
- Adopting this Plan as submitted by INSW will accelerate the relocation plans of Poulos Bros and allow for faster activation of the foreshore and for the key site adjoining Bank Street park
- Poulos Bros do not support any reduction in building height, building footprint (i.e. increased setbacks) or reduction in residential uses in any reconfiguration of the ISW scheme. Initial feasibility work undertaken indicates that based on the current INSW Plan relocation is viable however any reduction in yield or residential use will jeopardise any possible relocation. This will of course, jeopardise or severely impede the delivery of the Pyrmont Peninsula Strategy "Key Move 1 – A Harbour Foreshore Walk"
- INSW appear to have gone to great lengths to demonstrate the merit of the proposal, which presents one concept that can be achieved at the site. It is not the role of strategic planning however to then enshrine that concept in the planning framework and allow no flexibility of design or usage. We are of the opinion that there are many items in the Design Code and Revised Explanation of Intended Effects ('**EIE**') that should be left to the development application stage. Specifically we refer to air and noise related issues, as well as solar access and impacts that may or may not determine land use mix at the site. We are of the opinion that this can be determined at the DA stage.

2.0 Key Amendments / Clarifications Sought

2.1 Explanation of Intended Effects

The key list of items raised in this submission are:

1. We agree and support the direction listed in Section 1.3 Summary of proposed planning instrument amendments that identifies the key Sydney LEP amendments.
2. We question the specificity of **Section 2.1.5 Site specific provisions** as it relates to the percentage of the gross floor area of the proposed development that will be used for non-residential development and the utility of such specific requirements mindful that cl4.6 does not apply.
 - a. Clause 4.6 has a valid place in the NSW Planning System and is included in the Standard LEP Template. Despite best intentions, there may be the need to utilise this provision for some unforeseen circumstance.
 - b. We have witnessed first hand the issues created with the abolition of cl4.6 in the recently master planned community of St Leonards South whereby Council have acknowledged the issues created by not allowing the cl4.6 mechanism to reasonably modify a design standard.
3. **Blackwattle Bay Precinct – Foreshore promenade:** The 10m foreshore promenade on land is supported. This is particularly pertinent to the Poulos Site which has reduced site depth from the Western Distributor making redevelopment more difficult. Any reduction in this would jeopardise redevelopment.
4. **clause 6.18 Overshadowing of certain public places:** Poulos Bros have not prepared detailed concepts for the site based on the revised controls so cannot be assured that the solar access requirements to Bank Street Park are acceptable. Considering the concessions given to the Sydney Fish Market Urban Park, there is adequate justification to apply the similar Times of Protection of 12 - 2pm to the Bank Street Park.
5. **Non Residential Floor Space:** as per Point 1 above.
6. **Infrastructure funding and delivery:** Poulos Bros seek confirmation of the City of Sydney s7.11 or s7.12 contributions planning considering the list of State public infrastructure, which includes many items that the City of Sydney would consider in their local contributions planning. We request that the Infrastructure funding and delivery is a deferred matter until agreement can be sought between State and Local Government.

2.2 Revised Draft Design Code

The key list of items raised in this submission are:

7. **1.5. Relationship to the Sydney LEP 2012, Sydney DCP 2012 and other policies:** Poulos Bros support this, however request that supplementary documents to the Pyrmont Peninsula Place Strategy are not referenced in the future planning instrument.
8. **2.5 Staging and delivery:** we question the validity and enforceability of this clause and seek its deletion.
 - a. For example, what is the rationale for PLO2 being sequenced before the Poulos Site when the foreshore promenade and adjoining Bank Street Park are sequenced first?
 - b. Even if undertaken concurrently – as anticipated in the Design Code, an adjoining DA will only become known when it is notified which is likely 6 months into the documentation process.
 - c. Poulos Bros are in a position to accelerate their activation of the site if the outcome of the Plan is favourable and should not be beholden to the development drivers of its neighbour.
9. **3.3 Sun access:** this is not consistent with the EIE which states 10-2pm on 21 June. Regardless, we see it amended to 12-2pm which is the peak lunchtime period for adjoining workers.
 - a. We question the ability to achieve, at point 4, “Two hours of sunlight is to be achieved to new streets to promote tree growth” if this applies to ‘Pedestrian Lanes’ as per Figure 3. We seek clarification added that it does not apply to Pedestrian Lanes be added to the Guide.
10. **3.5.1 Foreshore promenade:** Poulos support this provision however seek clarification in the Guide that 10m is provided ‘on land’ and 10m ‘over water’.
 - a. We assume that this concept has been tested with RMS.

11. **Figure 13 Section showing foreshore promenade adjacent to private landowner sites and Bank St:** Poulos Bros support this ground floor / first floor layout for future development.
12. **Community and cultural uses:** the section requires 'tighter' wording that identifies the land to which the clause relates as its first point. As it reads, it could be interpreted as "**all development is to include floorspace suitable for community facilities**".
13. **7. Building Layout, Form and Design:** Poulos Bros do not agree the Built Form Objective (i) "*Ensure the height of future buildings complement existing landmarks including the pylons of the Anzac Bridge and provide an appropriate context for the new Sydney Fish Market*". This provides little context for the consideration of the pylons and is contradictory to the Pyrmont Peninsula Place Strategy that identifies the 33 – 35 Saunders Street Ground Building, Pyrmont for considerable building height.
14. **Figure 38 Block PLO1-1 and PLO1-2 Controls:** we assume that the testing has been undertaken that demonstrates that the resultant built form meets all Design Guideline criteria, specifically the Solar Access requirements for Open Space.
15. **7.4 Variations to building envelope controls:** we question the intent of this section. The Design Guide should be a non-statutory document that provides further guidance to the LEP controls. To require a site-specific amendment to this Design Code rather than dealing with a proposal on merit is a process that could add up to 6 months or more to any DA process – which has already been subject to over 5 years of analysis and planning assessment. This is contrary to the Minister's edict of speeding the planning process and cutting red tape.
16. **8. Amenity:** Poulos Bros support the guidelines provided in the Design Guide to this effect. We do not however, support the DPE seeking to 'micro' control land use based on noise / air modelling at this stage of the planning process. This can be dealt with at the DA stage – as it is across all sites in the LGA. Further, we cannot predict the air / noise levels that may result from the Western Distributor in, say, 5 years' time at a future DA with the advent and proliferation of electric vehicles.

3.0 Summary

Thank you for providing the opportunity to provide comment on the INSW Blackwattle Bay 'Response to Submissions' and accompanying documents.

Poulos Bros have been an active participant in the INSW process for the Blackwattle Bay precinct for over 5 years. The current scheme and supporting Design Guide (subject to amendments) is supported.

Poulos Bros do not support any amendment by the DPE at what is considered the 11th hour following the rigorous process undertaken by INSW.

If you have any queries in relation to this submission, please contact the undersigned at tgoode@ethosurban.com.

Regards,



Tom Goode
Director