



**NSLPP MEETING HELD ON 19/07/2023**

**Attachments:**

1. Planning Proposal
2. Urban Design Report/Concept Design

**ADDRESS/WARD:** 601 Pacific Highway, St Leonards

**PROPOSAL No:** PP2/23

**PROPOSAL:** To amend North Sydney Local Environmental Plan 2013 as follows:

- Increase the maximum height of buildings limit from 49m to 276.5 RL (equivalent to 189m);
- Introduce a maximum floor space ratio (FSR) of 20:1

**OWNER:** Stockland Development Pty Ltd

**APPLICANT:** Stockland Development Pty Ltd

**AUTHOR:** Paris Wojcik and Haley Rich of Element Environment (on behalf of North Sydney Council)

**DATE OF REPORT:** 26 June 2023

**DATE LODGED:** 19 January 2023

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## EXECUTIVE SUMMARY

On 19 January 2023, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (*NSLEP 2013*) as it relates to land at 601 Pacific Highway, St Leonards. The site is located within the area covered by the St Leonards and Crows Nest 2036 Plan, adopted by the Department of Planning and Environment in August 2020. It is accompanied by a s9.1 Ministerial Direction which requires planning decisions be made consistent with the 2036 Plan.

The Planning Proposal seeks to amend *NSLEP 2013* as it relates to the subject site as follows:

- Increase the maximum building height control from 49m to RL276.5 (equivalent to 189m); and
- Impose a maximum floor space ratio (FSR) of 20:1.

The intent of the proposal is to facilitate the delivery a 42-storey commercial building with a part 5-storey and part 6-storey podium and 36-storey tower above. The indicative reference scheme includes 56,348 sqm of commercial office floor space; 408 sqm of retail floor space and 128 car spaces over 4 basement levels.

Having completed an assessment of the Planning Proposal against the provisions of the *2036 Plan* and relevant Regional, District and Local Plans, it is found that the requested maximum building height is considered excessive for the number of storeys as envisaged under the *2036 Plan* and will result in a greater level of impact (overshadowing and visual) than necessary.

The requested podium height is also considered excessive and is inconsistent with the maximum street wall height under the *2036 Plan* and North Sydney Development Control Plan (*NSDCP 2013*).

To ensure future development on the site is consistent with the number of storeys stipulated under the *2036 Plan*, it is recommended the Planning Proposal and supporting concept design be amended to a maximum building height of RL259 (equivalent to 171m) and a maximum street wall height of between 4 and 5 storeys.

Subject to the above amendments, it is recommended that the Planning Proposal be supported to proceed to a Gateway Determination.

LOCATION MAP



## 1. DESCRIPTION OF PROPOSAL

The subject Planning Proposal (PP2/23) seeks to amend NSLEP 2013 as it relates to land at 601 Pacific Highway, St Leonards (the site) as follows:

- Increase the maximum building height control from 49m to 276.5 RL (equivalent to 189m);
- Impose a maximum FSR of 20:1;

The primary objective of the Planning Proposal as described by the applicant is:

*“To amend the maximum building height and FSR controls that apply to the site to enable built form density uplift and facilitate a commercial development outcome. The proposed change to built form controls will deliver a contextually appropriate building form as envisaged by the 2036 Plan.”*

The accompanying indicative concept design includes a 42-storey commercial development with a part 5-storey and part 6-storey podium and 36-storey tower above; comprising 56,348 sqm of commercial office floor space; 408 sqm of retail floor space; and 128 car spaces over 4 basement levels.

A summary of the key design elements is provided in Table 1.

<b>TABLE 1: Key design elements</b>	
<b>Land Uses</b>	Commercial (office and retail)
<b>Building Height</b>	Max. 188.75m (RL276.25), inclusive architectural roof features but with a predominant height of 178.49m (RL265.990) to the top of the plant room structure at the rooftop.
<b>Floor Space Ratio (FSR)</b>	20:1
<b>Gross Floor Area (GFA)</b>	56,754 sqm (total) <ul style="list-style-type: none"> <li>• 56,348 sqm commercial (office) GFA</li> <li>• 406 sqm retail GFA</li> </ul>
<b>Built Form</b>	42 storeys (total) <ul style="list-style-type: none"> <li>• 5/6 storey podium (retail and office)</li> <li>• 36-storey tower (office)</li> </ul>
<b>Ground Level Setbacks</b>	Pacific Highway (south): 3m Mitchell Street Plaza (east): 5m Atchison Street (north): Nil No.617 Pacific Highway (west): Nil
<b>Level 1 Setbacks</b>	Pacific Highway (south): Nil Mitchell Street Plaza (east): 5m Atchison Street (north): Nil No.617 Pacific Highway (west): Nil
<b>Upper Podium Setbacks (Levels 1 - 5)</b>	Pacific Highway (south): Nil Mitchell Street Plaza (east): 5m Atchison Street (north): Nil No.617 Pacific Highway (west): Nil

<b>Tower Setbacks (Above podium)</b>	Pacific Highway (south): 3m Mitchell Street (east): 3m Atchison Street (north): 3m 617 Pacific Highway (west): 12m
<b>Car Parking</b>	128 car spaces across 4 basement levels.

The Planning Proposal is accompanied by an indicative concept design prepared by Architectus, refer to Figure 1 for an artist's perspective of the supporting concept design.



**FIGURE 1: Artist's impression of the indicative concept design, viewed from the Pacific Highway, looking north-west**

## 2. PANEL REFERRAL

On 23 February 2018, the Minister for Planning released a section 9.1 Direction which outlines the instances when a Planning Proposal must be referred to a Local Planning Panel for advice prior to a council determining whether that Planning Proposal should be forwarded to the Department of Planning and Environment (DPE) for the purposes of seeking a Gateway Determination.

All Planning Proposals are required to be referred to the Local Planning Panel, unless they meet any of the following exemptions:

- the correction of an obvious error in a local environmental plan;
- matters that are of a consequential, transitional, machinery or other minor nature; or
- matters that Council's General Manager considers will not have any significant adverse impact on the environment or adjacent land.

The Planning Proposal does not meet any of the exemption criteria and therefore must be referred to the Local Planning Panel for advice prior to Council making any determination on the matter.

## 3. BACKGROUND

### 3.1 Planning Proposal 4/18 (Refused)

On 27 June 2018, a Planning Proposal (PP4/18) was lodged by Stockland Trust Management Limited to amend NSLEP 2013 as it relates to 601 Pacific Highway. The Planning Proposal sought to amend NSLEP as follows:

- *Amend the Land Zoning Map from B3 Commercial Core to B4 Mixed Use to permit residential uses;*
- *Increase the maximum Height of Buildings (HOB) from 49 metres to 212 metres;*
- *Establish a site-specific minimum non-residential floor space ratio control of 3.9:1; and*
- *Establish a site-specific maximum overall floor space ratio control of 20:1.*

It was envisaged the proposed amendment would deliver a 65-storey mixed use building comprising a total 56,870 sqm GFA, with 11,174 sqm of non-residential floor space and 45,696 sqm of residential floor space, including 516 residential apartments and 255 car spaces across 5 basement levels.

A detailed assessment of the Planning Proposal was completed and referred to the North Sydney Local Planning Panel (NSLPP) for its consideration on 26 September 2018. Consistent with the recommendations of the Council officer's assessment report, the NSLPP recommended that Council not support the progression of the proposal to a Gateway Determination based on the view that it would be premature to make a decision prior to the release of the St Leonards and Crows Nest Draft 2036 Plan (*previously known as Land Use and Implementation Plan or LUIMP*) and undermine the future direction of strategic planning in the area. The *Draft 2036 Plan* was released by the Department of Planning and Environment (DPE) on 15 October 2018 and was not available at the time of the NSLPP's consideration of the Planning Proposal.

On 29 October 2018, Council resolved not to support the Planning Proposal proceeding to Gateway Determination for the reasons outlined in the Council officer's assessment report.

On 4 December 2018, the Applicant submitted a Rezoning Review Request with the DPE. The rezoning review request was heard by the Sydney North Planning Panel (SNPP) on 15 March 2019, where it recommended that the Planning Proposal should not be submitted for a Gateway Determination as it had not demonstrated strategic merit. The SNPP found the Planning Proposal was inconsistent with the strategic plans relating to the site, including the land use and certain 'significant site' principles under the *Draft 2036 Plan*. The SNPP accepted that the site has the capacity for some uplift, however the proposal was premature having regard to the strategic planning work that was not yet completed for the St Leonards Crows Nest Precinct.

### 3.2 Pre-Lodgement Discussions

On 11 October 2022, a Scoping Proposal was submitted to Council by Urbis on behalf of the landowner which provided an overview of the Planning Proposal including supporting concept design, outlined the strategic and site-specific merits of the proposal and identified preliminary environmental considerations.

On 14 November 2022, a pre-lodgement meeting was held between Council staff and the landowner's project team. Council raised various issues in relation to building height, podium height, setbacks, FSR and tower floorplate area, tower floorplate layout, ground level activation, Mitchell Street Plaza integration, driveway access and location, and wind tunnelling impacts. The applicant was also invited to consider entering into a Voluntary Planning Agreement (VPA) to contribute towards the provision of much needed local infrastructure in the precinct.

On 19 January 2023, the subject Planning Proposal was lodged with Council which included a response to the issues raised by Council during the pre-lodgement meeting (refer to Attachment 1 - Table 2 in the Applicant's Planning Proposal).

## 4. DETAIL

### 4.1 Applicant

The Planning Proposal was lodged by Stockland Development Pty Ltd. Owner's consent has been obtained from all landowners.

### 4.2 Site Description

The subject site comprises a single allotment of land. The legal property description and existing development is outlined in Table 2.

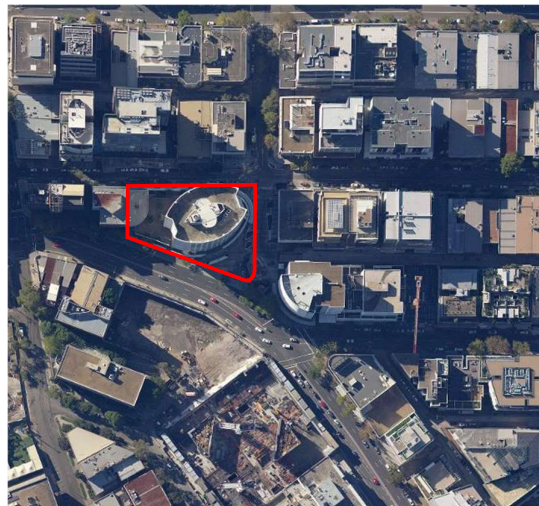
Property Description	Legal Description	Existing development
601 Pacific Highway, St Leonards	Lot 71, DP 749690	14-storey commercial building



The subject site is bound by Atchison Street to the north, the Pacific Highway to the south, Mitchell Street Plaza to the east and No. 617 Pacific Highway to the west and has a total area of 2,843.63m<sup>2</sup>. The site is irregular in shape with a frontage of approximately 71m to the Pacific Highway, 70m to Atchison Street and 53m to Mitchell Street. The land generally falls in a south-westerly direction from its north-eastern corner down to its south-western corner. There is an approximate 2.6m fall from east to west along the Pacific Highway frontage; 3.7m fall from east to west along the Atchison Street frontage; and 2.2m fall from north to south along the Mitchell Street frontage.



**FIGURE 2: Subject Site**



**FIGURE 3: Aerial Photo**



**FIGURE 4: View of subject site from corner Atchison Street and Mitchell Plaza, looking south-west.**



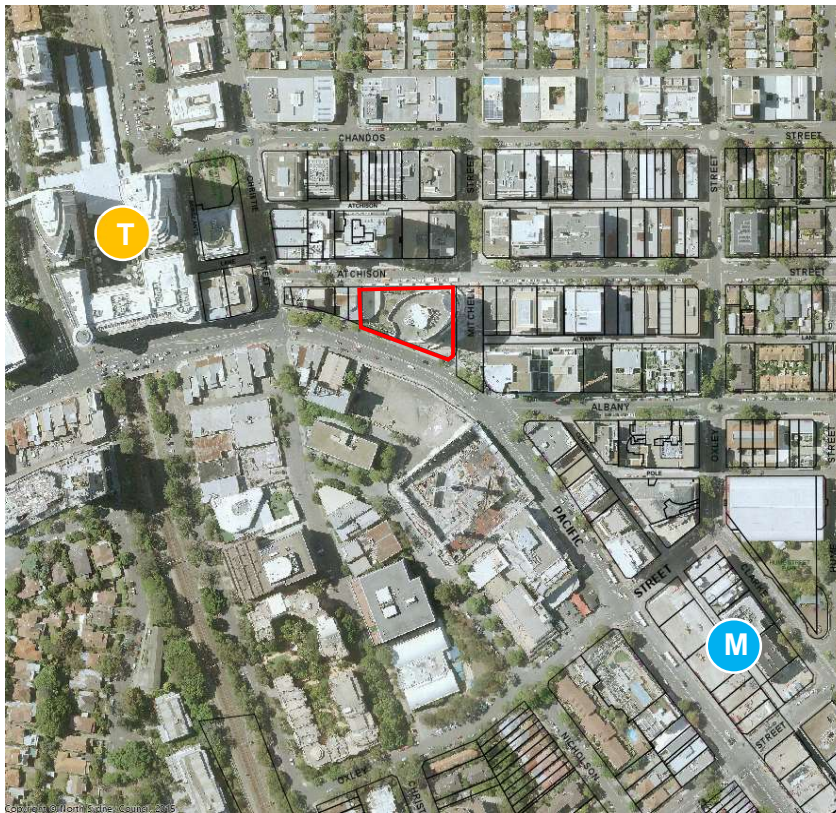
**FIGURE 5: View of subject site looking north-west at the subject site along the Pacific Highway frontage**






### 4.3 Local Context

The subject site is centrally located in the St Leonards and Crows Nest Precinct. St Leonards is identified a 'Strategic Centre' under the Greater Sydney Region Plan – *A Metropolis of Three Cities* and the North District Plan. The area is undergoing significant change from an older style commercial precinct to a contemporary mixed-use area incorporating commercial and residential land uses, in tall tower building forms.

St Leonards Railway Station is located approximately 350m to the west of the site, which provides regular services to the south to North Sydney and Sydney CBD, and to the north to Chatswood, Macquarie Park and Hornsby. The future Crows Nest Metro Station is located approximately 400m to the south-east of the site. Anticipated to open in 2024, Sydney Metro will provide high-frequency services to the regional network including Chatswood (4 minutes) and Barangaroo (8 minutes).



**FIGURE 6:**  
**Local context**

-  Subject Site
-  St Leonards Train Station
-  Crows Nest Metro Station

The subject site is adjoined by the following:

- **To the north**, on the opposite side of Atchison Street, is a 6-storey commercial office building (22-24 Atchison Street), a 3-storey commercial building (18-20 Atchison Street) and a 34-storey recently constructed mixed-use building known as 'Quest/Air' Apartments (6-16 Atchison Street).
- **To the east**, is Mitchell Street Plaza, which includes a green breathable wall, island planters, pedestrian benches, an open lawn area, a shared pedestrian / vehicle zone (10km per hour) and a St Leonards Gateway feature. On the opposite side of Mitchell Street Plaza is a 5-storey commercial office building.

- **To the south**, is the Pacific Highway, a State classified road. On the opposite side of the road within the Lane Cove LGA is 500 & 504-520 Pacific Highway known as the 'The Landmark' development comprising a 44-storey mixed use building, which is currently under construction. Further south-west at 472-494 Pacific Highway is St Leonards Square which contains a mixed-use development comprising a new public plaza, a retail, recreation and leisure precinct, and two residential towers of 28 and 36 storeys.
- **To the west**, on the adjacent site at 617 Pacific Highway is a 7-storey commercial office building and 621 Pacific Highway is an 11-storey commercial building. These properties are subject to an approved planning proposal as an amalgamated site to facilitate a future mixed-use development including residential uses up to 180m (50 storeys) in height, a maximum FSR of 25.4:1 and a minimum non-residential FSR of 4.7:1.

## 5. Current Planning Provisions

The following subsections identify the relevant principal planning instruments that apply to the subject site.

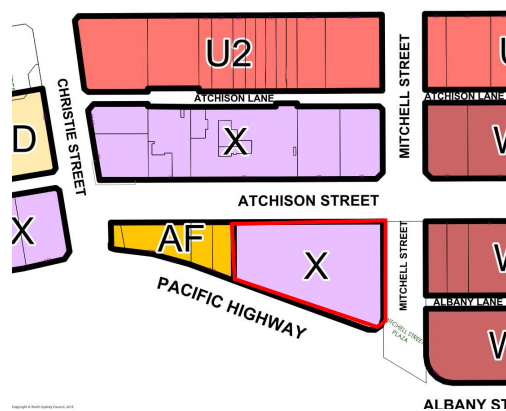
### 5.1 NSLEP 2013

*NSLEP 2013* was made on 2 August 2013 through its publication on the NSW legislation website and came into force on the 13 September 2013. The principal planning provisions relating to the subject site under *NSLEP 2013* are as follows:

- Zoned *E2 Commercial Centre* (refer to Figure 7);
- A maximum building height of 49m (refer to Figure 8);



**FIGURE 7: NSLEP 2013 Zoning Map extract**  
The subject site is zoned E2 Commercial Centre

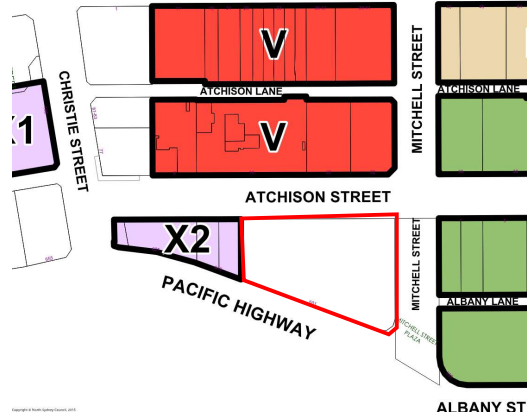


**FIGURE 8: NSLEP 2013 Height of Buildings Map extract**  
The subject site has a maximum height of 49m



**FIGURE 9: NSLEP 2013 Floor Space Ratio Map extract**

*The subject site does not currently have a FSR control*



**FIGURE 10: NSLEP 2013 Non-Residential Floor Space Ratio Map extract**

*The subject site does not currently have a minimum non-residential FSR control*

## 6. Proposed Amendment to NSLEP 2013

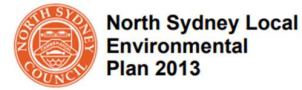
The Planning Proposal seeks to achieve its objectives and intended outcomes by amending *NSLEP 2013* as follows:

- Amending the Height of Buildings Map from 49m to RL276.5 (approximately 189m);
- Amending the FSR Map to introduce a maximum FSR of 20:1;

The Planning Proposal anticipates that the Maps to *NSLEP 2013* would be amended similar to those depicted in Figures 11 and 12. It should be noted that the mapping amendments as lodged do not comply with the DPE's "*Standard Technical Requirements for Spatial Data Maps*" and will need to be amended prior to forwarding the Planning Proposal to a Gateway Determination.



**FIGURE 11: Proposed amendment to the Height of Buildings Map – Sheet HOB\_001**



Height of Buildings Map  
- Sheet HOB\_001

Maximum Building Height (m)

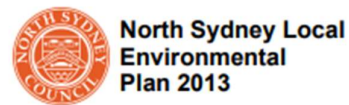
A	1	T2	26
B	8.5	U1	30
K	10	U2	33
L	11	W1	40
M	12	W2	42
N1	13	X	49
N2	14.5	Y	50
O1	15	Z	56
O2	16	AD	132
Q1	19.15	AP	180
Q2	20	Area 1	Refer to Clause 4.3A
R	21	Area 2	Refer to Clause 4.3A(2A)
S	24	Area 3	Refer to Clause 4.3A(2B)
T1	25		

Maximum Building Height (RL m)

0 - 20
21 - 40
41 - 60
61 - 80
81 - 100
101 - 120
121 - 140
141 - 160
161 - 180
181 - 200
200 +



**FIGURE 12: Proposed amendment to the Maximum Floor Space Ratio Map – Sheet FSR\_001 (source: Applicant’s Planning Proposal)**



Floor Space Ratio Map  
- Sheet FSR\_001

Maximum Floor Space Ratio (n:1)

N	1
G	1.85
W	3.5
X	4.27
Z	5.6
AA1	6
AA2	6.1
AA3	6.3
AA4	6.4
AA5	6.6
AO1	7
AO2	7.5
AP	11.5
A1	18
A2	25.4

## 7. POLICY & STRATEGIC CONTEXT

### 7.1 Greater Sydney Regional Plan

In March 2018, the NSW Government released *A Metropolis of Three Cities – Greater Sydney Region Plan* (Region Plan). It provides a long-term vision and plan to accommodate Sydney's anticipated population growth of 1.7 million people and deliver 817,000 new jobs and 725,000 new dwellings by 2036.

*A Metropolis of Three Cities* is built on the vision of three cities – Western Parkland City, Central City and Eastern Harbour City – where residents can live within 30 minutes of their jobs, education and health facilities, services and great places. It sets out the framework for five districts within Greater Sydney, of which the North Sydney LGA is part of the North District. The District Plans, consistent with the Regional Plan, were released at the same time as the Regional Plan.

St Leonards is identified a 'Strategic Centre' and part of the '*Eastern Economic Corridor*' under the Regional Plan. The St Leonards/Crows Nest area is also identified a '*Planned Precinct*.' The NSW Department of Planning and Environment (DPE) is responsible for land use and infrastructure planning and delivery within Planned Precincts.

### 7.2 North District Plan

In March 2018, the NSW Government released the North District Plan, which covers the LGAs of North Sydney, Hornsby, Ku-ring-gai, Ryde, Hunter Hill, Lane Cove, Willoughby, Mosman and Northern Beaches.

St Leonards is identified one of the North Districts '*Strategic Centre's*' and contributes to one of the State's greatest economic assets – the '*Eastern Economic Corridor*'. St Leonards is also identified as a '*Health and Education Precinct*' and is classified as one of the top ten 'office precincts' in Greater Sydney. Specifically, '*Planning Priority N8 - Eastern Economic Corridor is better connected and more competitive*', aims to enhance transport connectivity to and within the Eastern Economic Corridor and grow investment, business opportunities and jobs within strategic centres.

Key actions relevant to St Leonards include;

- *Leverage from the new Sydney Metro Station at Crows Nest to deliver additional employment capacity;*
- *Grow jobs in the centre;*
- *Reduce the impact of vehicle movements on pedestrian and cyclist accessibility;*
- *Deliver new high quality open space, upgrade public areas and establish collaborative place-making initiatives; and*
- *promote synergies between the Royal North Shore Hospital and other health and education-related activities, in partnership with NSW Health (p. 24, North District Plan).*

The North District Plan sets the following jobs targets, as outlined in Table 3 below:

**TABLE 3: Job targets as identified in the North District Plan**

Jobs Target	North Sydney CBD	St Leonards/Crows Nest
20 year (2016 –2036)	+15-600-21,1000 new jobs	+6,900-16,400 new jobs



Following the directions from the Greater Sydney Commission (GSC), North Sydney Council has put in place its Local Housing Strategy (LHS) and the Local Strategic Planning Statement (LSPS) which form part of the hierarchy of plans and provides alignment with the North District Plan.

### 7.3 St Leonards and Crows Nest 2036 Plan (2036 Plan)

In July 2016, the Minister for Planning announced the DPE would undertake a strategic planning investigation into the Crows Nest, St Leonards and Artarmon industrial areas (refer to Figure 13).



**FIGURE 13: St Leonards and Crows Nest Planned Precinct (2036 Plan, p.2)**

On 29 August 2020, the DPE released the finalised *St Leonards and Crows Nest 2036 Plan (2036 Plan)*. The *2036 Plan* aims to deliver significant residential and employment growth including capacity for an additional 16,500 new jobs and 6,683 new homes within the precinct.

The *2036 Plan* identifies desired building heights, density (FSR), employment (non-residential FSR), land use, overshadowing and building setback controls. It is also accompanied by a Special Infrastructure Contribution (SIC) scheme, which pools funds across the precinct to help provide regional open space and infrastructure upgrades to support growth in the precinct. The SIC however does not apply to commercial development and as such does not apply to this Planning Proposal. However, section 7.11 contributions under Council's Local Infrastructure Contributions Plan (2020) continue to apply and will be levied with any future DA.

The site-specific land use, height and density provisions set out in the *2036 Plan* for the subject site are as follows:

- B3 Commercial Core zone (now referred to as E2 Commercial Centre under Recent Employment Zone Reform)
- A maximum building height of 42-storeys
- An overall FSR of 20:1

- A minimum non-residential FSR of 20:1
- Street wall height of 5 storeys
- Setbacks:
  - 5m to Mitchell Street Plaza
  - 0m setback to Atchison Street
  - 1m reverse setback to Pacific Highway

The *2036 Plan* is implemented under section 9.1 of the *Environmental Planning & Assessment Act (EP&A Act) 1979*. The supporting Ministerial Direction requires planning proposals for land within the precinct to be consistent with the *2036 Plan*.

Council's *St Leonards/Crows Nest Planning Study – Precincts 2 & 3 (2015)* also envisaged the delivery of a commercial building on the subject site (*B3 – Commercial Core zone*) and identified it as a 'tall building site' which is defined as developments over 18 storeys in height.

#### **7.4 Local Strategic Planning Statement (LSPS)**

The North Sydney LSPS was adopted by Council on 25 November 2019, and subsequently assured by the Greater Sydney Commission (GSC) on 20 March 2020.

One of the key roles of the *LSPS* is to draw together, in one document, the priorities and actions for future land use planning, and present an overall land use vision for the North Sydney LGA for the next 20 years. The *LSPS* is required to be consistent with the Region Plan and North District Plan and provide a clear line-of-sight between the key strategic priorities identified at the regional and district level and the local and neighbourhood level.

The LSPS incorporates the North Sydney Local Housing Strategy (*LHS*) and *2036 Plan* into the strategic planning framework and links its implementation to the planning priorities under the North District Plan and the objectives of the Region Plan.

The LSPS identifies a jobs target of between 2,620-4,470 new jobs to be delivered by 2036 in the St Leonards area.

## **8. ASSESSMENT**

### **8.1 Planning Proposal Structure**

The Planning Proposal is considered to be in general accordance with the requirements of section 3.33 of the *EP&A Act 1979* and the DPE's '*Local Environmental Plan Making Guideline*' (LEP Making Guideline) published in September 2022. The Planning Proposal adequately sets out the following:

- A statement of the objectives or intended outcomes of the proposed Local Environmental Plan;
- An explanation of the provisions that are to be included in the proposed Local Environmental Plan;
- Justification of the proposal's strategic and site specific merit;
- Identification of associated mapping amendments;
- Details of the community consultation that is to be undertaken in relation to the Planning Proposal;
- A project timeline identifying how the planning proposal is to be implemented, should it progress.



## 8.2 Need for the Planning Proposal

A key objective of the planning proposal is to implement the planning framework identified in the *2036 Plan*. The Plan states that changes to a site's existing statutory planning controls will be required to allow development to occur in accordance with the Plan. It explains that it is the responsibility of each relevant council to progress Planning Proposals and give effect to the provisions of the *2036 Plan*.

## 8.3 Assessment Criteria

Part 3 of the LEP Making Guideline (September 2022) outlines the criteria for assessing Planning Proposals. For a Planning Proposal to be supported to proceed to a Gateway Determination it must demonstrate:

- **Strategic merit** – alignment with the NSW strategic planning framework (i.e. the relevant District Plan, Corridor/Precinct Plan and LSPS); and
- **Site-specific merit** – give regard and assess impacts to the natural environment; existing and likely future uses in the vicinity; and services and infrastructure that will be available to meet the demands arising from the proposal.

Planning Proposals are also required to be consistent with applicable State Environmental Planning Policies (SEPPs) and section 9.1 Ministerial Directions.

As discussed in section 9.3 of this report, the prevailing relevant Corridor/Precinct Plan applying to the subject site is the *2036 Plan*. Council must therefore be satisfied that the provisions of the Planning Proposal are consistent with the *2036 Plan*.

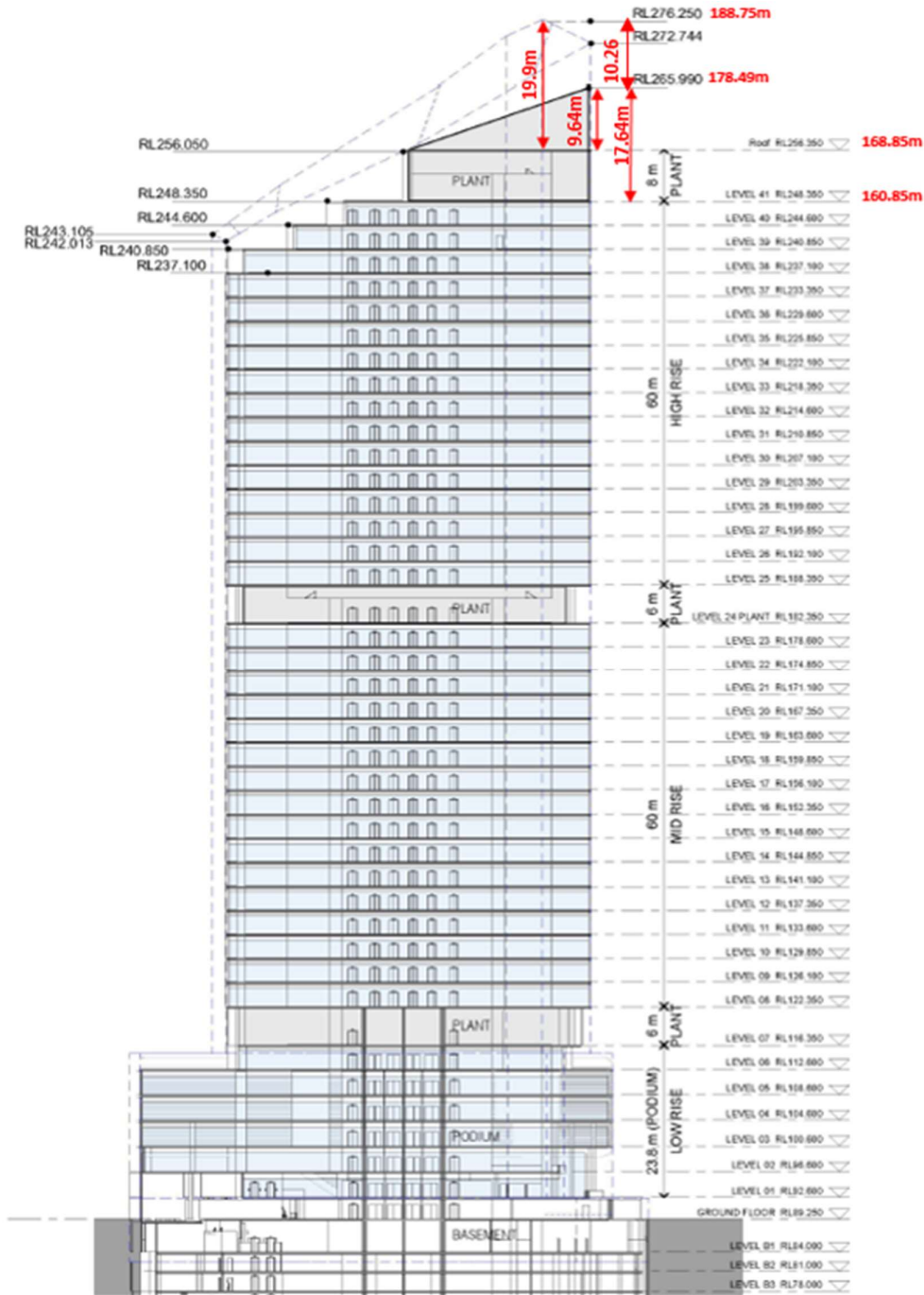
The Planning Proposal and accompanying studies go to some effort to test the indicative concept design and demonstrate the implications of the proposed uplift in height and density in relation to overshadowing, wind and traffic impacts. Council must be satisfied that the potential impacts arising from the Planning Proposal are not significantly different to those envisaged under the *2036 Plan*, as reflected in the Plan's built form controls and urban design principles, and the Plan's Vision, Objectives and Actions.

## 8.4 Proposed Building Height

The *2036 Plan* identifies a maximum potential building height of 42 storeys for the subject site. The Planning Proposal is seeking to increase the maximum height control from 49m (under *NSLEP 2013*) to RL276.5 (equivalent to 189m) to accommodate a 42-storey commercial office building on the site.

It is noted that there is a discrepancy in overall maximum building height throughout the Applicant's documentation. The Applicant's Planning Proposal Report requests a maximum building height of RL 276.5 (equivalent to 189m), whereas the concept design within the Applicant's Urban Design Report illustrates a maximum building height of RL 276.250 (equivalent to 188.75m).

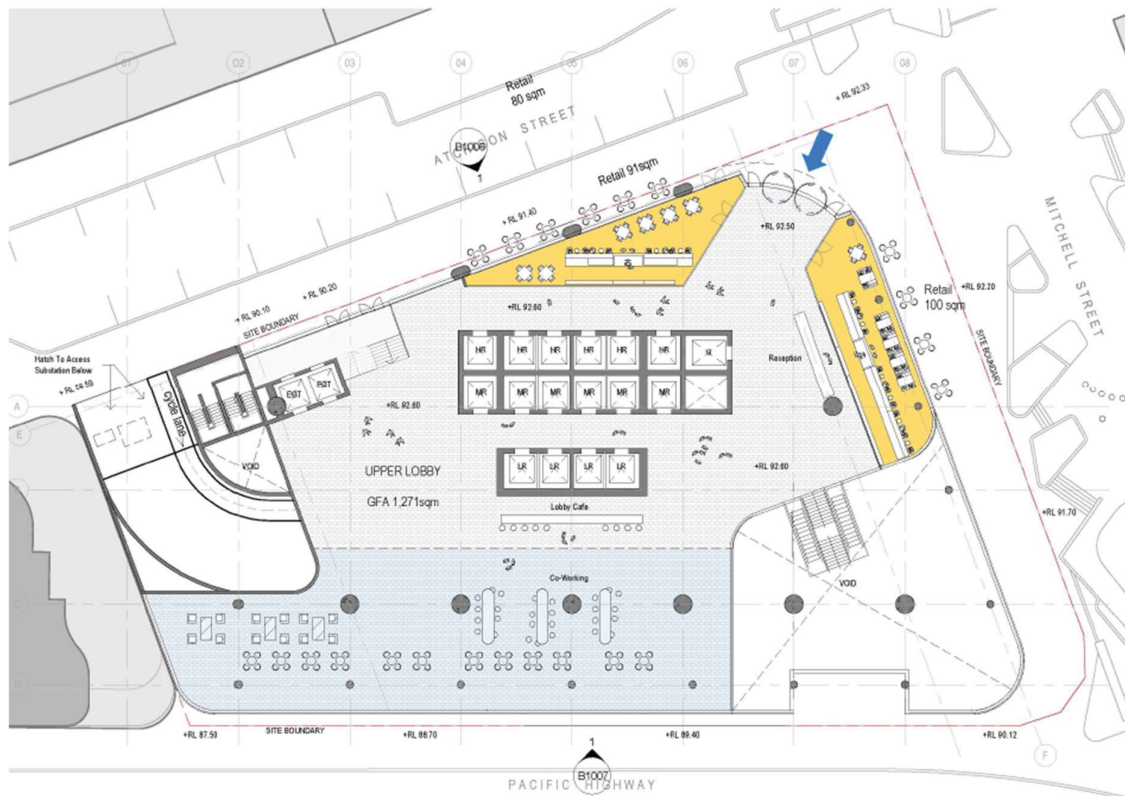
Figure 14 illustrates the Applicant’s indicative concept design with a building height of RL265.990 (equivalent to 178.49m) measured to the top of the roof, inclusive of an 8m high plant room structure and 9.64m clearance above the top-level plant room. An additional allowance of 10.26m is also sought above RL 265.990 for what appears to be for the purposes of an architectural roof feature, which represents a significant height increase above the 42 storey height building height limit under the 2036 Plan.



**FIGURE 14: Indicative Section Plan (Applicant’s Urban Design Report, p.80). Note. The maximum building height has been measured from the lowest point of the site, which is RL 87.5 as noted on the Ground Level Floor Plan on p.65 and 66 of the Applicant’s Urban Design Report.**

It is acknowledged that there are significant changes in the ground levels across the site which must be carefully considered and addressed when establishing a height limit (including overall maximum building height and podium height) for the site.

As illustrated at Figure 15 below, there is an approximate 2.6m fall from east to west along the Pacific Highway frontage; 3.7m fall from east to west along the Atchison Street frontage; and 2.2m fall from north to south along the Mitchell Street frontage.



**FIGURE 15: Indicative Ground Floor Plan (Applicant's Urban Design Report, p.66)**

Whilst the proposed 42 storeys building height is consistent with the *2036 Plan*, an overall building height of 189m for a 42 storey building is considered excessive, as it could potentially result in a future development with more than 42 storeys. It is noted that Council must identify height in metres, not storeys, in its LEP.

The excessive building height is not supported for the following reasons:

- The floor to floor heights of the podium as shown in the indicative concept design are greater than required and could be reduced;
- The additional height sought above the top level plant room, for plantroom clearance and an architectural roof feature, could potentially result in additional developable floor area and a development that is greater than 42 storeys; and
- The proposed maximum building height is inconsistent with the height and transition principles of the *2036 Plan*.

Comparison of other recently approved / under construction commercial buildings

The Applicant’s concept design proposes floor to floor heights ranging 3.35m-7.35m for the ground level, 4m for the podium levels (Levels 1-5) and 3.75m for the tower levels (Levels 8 – 23, and 25-40). Three plant levels are also proposed, measured at 6m (low level plantroom at Level 7), 6m (mid-level plant room at Level 24) and 8m (top level plant room at Level 41). The above floor to floor heights result in an overall building height of 168.85m, measured to the top of the roof inclusive of the 8m top level plant room, but exclusive of the additional 19.9m (i.e. 9.64m clearance + 10.26m architectural roof feature).

The Applicant’s Planning Proposal and supporting documentation provides some rationale for the proposed floor to floor heights, which states that they are appropriate in order to achieve PCA A-Grade quality commercial accommodation and to accommodate relevant mechanical system selection. Refer to pgs. 4-6 of the Applicant’s Planning Proposal, as well as the Floor Heights Letter, prepared by Arup, dated 8 December 2023 and the Pre-lodgement Meeting Response, prepared by Architectus, dated 20 January 2023.

Whilst the intention to develop a PCA A-Grade commercial building is supported, a comparison of other recently approved and constructed premium commercial development in North Sydney LGA has been undertaken. Refer to Table 4 below.

<b>TABLE 4: Comparison of commercial development building heights in North Sydney LGA</b>						
<b>Development</b>	<b>Max Building Height (in metres)</b>	<b>No of storeys</b>	<b>Podium Floor to Floor</b>	<b>Tower Floor to Floor</b>	<b>Plantrooms Floor to Floor</b>	<b>Additional height above the roof level</b>
<b>Subject site</b>						
601 Pacific Highway (the subject Planning Proposal under Assessment*)	RL 276.5 equivalent to 189m	42 storeys (part 5/6 storey podium and 36 storey tower)	Ground level 3.35m – 7.35m and above ground level 4m  (Total 25.1m)	All tower levels at 3.75m  (Total 124m)	Three plant rooms at 6m, 6m and 8m  (Total 20m)	19.9m  (Total 19.9m)
<b>Other recently approved / completed commercial buildings in North Sydney LGA</b>						
Victoria Cross OSD, North Sydney (DA Approved and Under construction)	170.25m	42 storeys (4 storey podium and 38 storey tower)	Ground level 3.85m and above ground level 3.1m, 3.4m and 5.6m	Generally, 3.75m for tower levels (32 storeys) except for three levels at 4.3m, 4.05m and 3.95m	Three plant rooms including 5.9m, 7.1m and 6.7m	2.3m
110-112 Walker Street (DA Approved)	RL 283.85m (equivalent to 222.35m)	53 storeys	Ground level 4 and above ground 3.8m	Tower levels between 3.6m-3.7m	Two levels of plant at 3.7m and 8.250	2.7m (glazed roof feature)
1 Denison Street North Sydney (DA Approved / Completed)	158.35m	39 storeys (4 storey podium and 35 storey tower)	Between 4 and 4.68m	3.75m	Four plant rooms at 2.78m, 3.52m, 4m and 6m	4m

Recommended for compliant 42 storey building						
<b>601 Pacific Highway</b>	RL 259 (equivalent to 171m)	42 storeys (5 storey podium and 37 storey tower)	Ground level 4.5m-6.7m and 3.7m above ground level  (Total 20.5m)	3.75m  (Total 127.5m)	Three plant rooms at 6m, 6m and 8m  (Total 20m)	3m  (Allowance up to 3m)

\*Note. In the Applicant’s written correspondence dated 09 June 2023, the Applicant has requested to reduce the building height to RL 268 (180.5m). No amended documentation has been submitted and as such, this assessment has been undertaken based on the Applicant’s original Planning Proposal as submitted on 19 January 2023.

The Applicant’s proposed floor heights of 3.75m for the tower and the plant room levels ranging from 6-8m do not appear to be unreasonable when compared to other recently approved / constructed commercial buildings. However, the proposed floor to floor heights for the podium are greater than required to be provided for commercial spaces (typically 3.7m) and could be reduced. This is discussed in further detail in section 8.7.1 of this report.

Additionally, the height proposed (19.9m) for top level plantroom clearance and architectural roof feature is much greater than the roof level allowances of comparable commercial developments. Refer to Table 4.

The Applicant’s planning proposal states that the plant structure above the roof is:

*‘an architectural feature that conceals the building maintenance unit (plant and lift overrun) and demonstrates a consistent stepping to lower levels reflecting the solar envelope angle’ (pg.6 of the Applicant’s Planning Proposal, prepared by Urbis)*

AND

*‘the plantroom and roof are designed as an architectural feature that will add to the St Leonards skyline. The roof has been designed to provide character to the building and to the skyline. The roof design is an integral part of the overall building design, and the rooftop plant room is contained in a single structure such that it is not perceptible from any point on the ground floor’ (pgs.9-10 of the Applicant’s Planning Proposal, prepared by Urbis).*

In the Applicant’s supporting documentation to the Planning Proposal, further justification is provided for the height of the top level plant room, which states:

Roof top plantroom

*‘This is effectively two plantroom levels as we have tanks and ventilation plant at low level with cooling towers and heat pumps above. The 8m height is already at the minimum level required to fit the two levels of services equipment. There is a 3m minimum requirement for the ventilation plant to enable ductwork across the floorplate at high level to risers which leaves a 2.1m clear vertical height for access and the air handling unit space beneath. There is also a minimum 5m clear height required for cooling towers above (incl deck/structure) which is already restricting us to slimline units (we usually ask for 6m+ clear)’ (pg.1 of the Applicant’s Pre-lodgement Design Response, prepared by Arup, dated 8 December 2022).*

AND

*'The plant room volume for the proposed scheme is also justified for the fact that it should incorporate the lift overrun. It allows access to each stepped landscaped open space on the roof. The required overrun for high rise lift is 9m' (pg.12 of the Applicant's Pre-lodgement Design Response, prepared by Architectus, dated 20 January 2023).*

Despite the above, it is still unclear why the Applicant has requested an additional 9.64m above the 8m top level plant room, as well as an additional 10.26m for what appears to be for the purposes of an architectural roof feature. Refer to Figure 14 above.

It should be noted that the Applicant's indicative concept design represents one way of achieving the height and FSR control changes. At this stage of the planning process, there is no certainty that the additional height sought above the top level plant room will be utilised for the purposes of an architectural roof feature. The increased height could potentially result in a taller building and with a greater overall bulk and scale, and overshadowing, visual and wind impacts than that of a 42 storey building as envisaged under the *2036 Plan*.

As such, it is recommended that the additional proposed 19.9m above the plant room level be reduced to 3m, to allow for some flexibility in building design whilst ensuring the final proposed building is no more than 42 storeys in height. Any additional height for architectural roof features may be considered later at a DA stage under a Clause 4.6 Variation to Development Standards or Clause 5.6 Architectural Roof Features of *NSLEP 2013*.

#### Height and transition principles of the *2036 Plan*

The proposed overall maximum building height would also result in a built form outcome that would be taller than the adjacent building at 617-621 Pacific Hwy and would therefore be inconsistent with the height and transition principles of the *2036 Plan*.

The building height principle under the *2036 Plan*, indicates that areas around the St Leonards Station and Crows Nest Metro Station will feature height peaks and the reduction in height between the two peaks provides an opportunity for solar access to areas to the south of the Pacific Highway.

The adjacent site at 617-621 Pacific Highway is closer to St Leonards Train Station and has an endorsed height of 50 storeys (180 metres under the North Sydney LEP 2013). Following the *2036 Plan* principle, the redevelopment of the subject site should, therefore, be lower than the height of the adjoining property.

### Recommendation

Having regard to typical floor to floor heights for commercial spaces (NSDCP 2013) and the floor heights of recently approved premium grade commercial developments, and the podium height requirements and building height and transition principles of the *2036 Plan*, it is recommended that the Planning Proposal be amended to a maximum building height of RL 259 (equivalent to 171m) for the site. The recommended building height is based on reducing the floor to floor heights of the podium levels and reducing the additional height sought above the top level plant room. Refer to Table 4 above. This will ensure that future development will remain consistent with the 42 storey maximum building envisaged for the site under the *2036 Plan* and reduce overshadowing and visual impacts arising from the proposal (refer to commentary below in Section 8.8 and Section 8.10).

#### **8.5 Proposed Floor Space Ratio (FSR)**

No specific maximum FSR control currently applies to the site under NSLEP 2013. An FSR of 20:1 is proposed across the site, which equates to approx. 56,872 sqm total GFA and is consistent with that identified in the *2036 Plan*.

The Applicant's indicative design concept proposes 56,754 sqm total GFA, which is compliant with the proposed FSR of 20:1.

It is noted, however, that the proposed mid-rise tower floor plate has applied a GBA-GFA efficiency rate of 78%, which is lower than standard efficiency rates for commercial buildings (typically 80-85%), as per guidance in the Apartment Design Guide (ADG). This suggests that there is some flexibility within the proposed tower floorplate and that it could either be reduced in size (provide increased setbacks) or floorspace from a reduced podium could be reallocated and accommodated. Refer to commentary in Section 8.7.1 below regarding reduced podium height.

Nonetheless, it is recommended that this be further considered at the detailed design stage and adequately addressed as part of any future DA.

#### **8.6 Proposed Non-Residential FSR**

Given that the site will remain zoned E2 Commercial Centre zone and residential accommodation is not a permissible within the zone, a minimum non-residential floor space ratio control is not required.

#### **8.7 Bulk and scale**

In considering the appropriateness of the planning controls being sought, careful consideration has been given to the likely built form that may result and impacts arising. Council has consistently held (at Planning Proposal stage) that the indicative built form should be able to be comfortably accommodated within an envelope established by the *2036 Plan* and other pertinent site or NSDCP 2013 considerations.

##### **8.7.1 Podium**

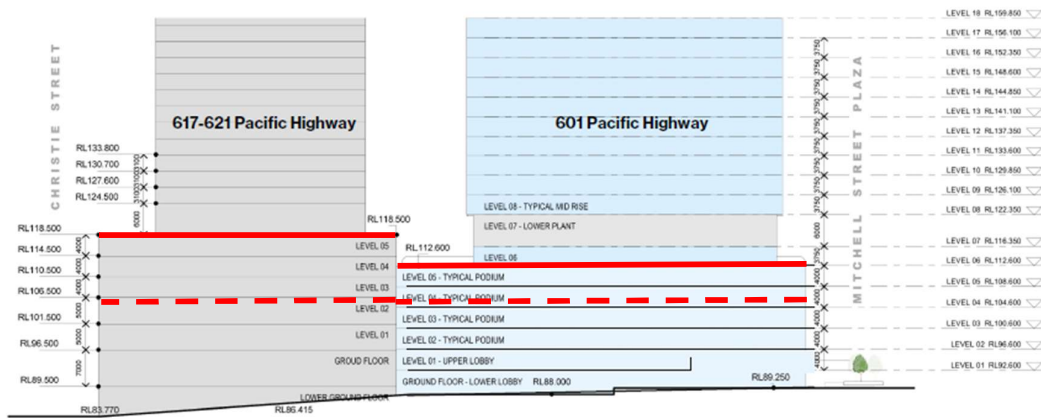
The *2036 Plan* nominates a street wall (podium) height of 5-storeys for the subject site to all street frontages.



On 12 December 2022, Council resolved to adopt an amendment to *NSDCP 2013* which introduced built form provisions associated with the implementation of the *2036 Plan*. The amendment came into effect on 6 January 2023, and requires a podium height of 4 storeys for the subject site.

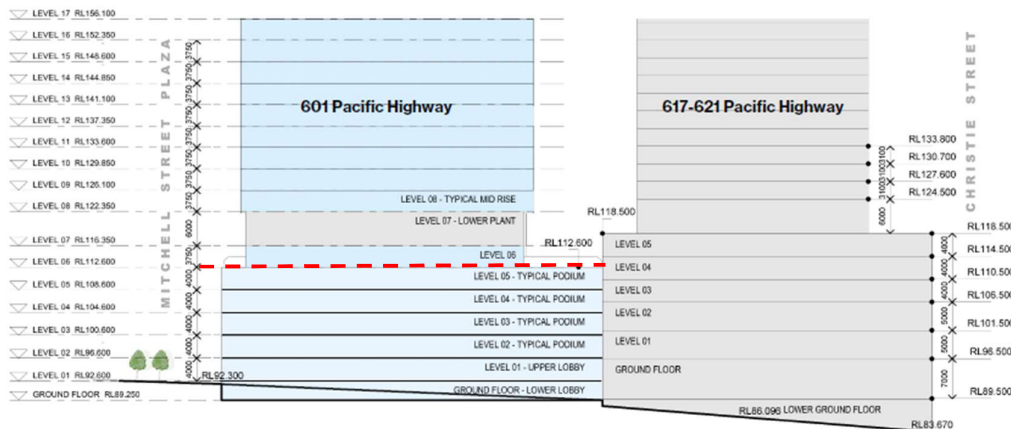
Considering the significant ground level changes across the site, the podium heights are likely to vary at the three street frontages. To provide an appropriate human scale to Mitchell Street Plaza and better contextual response, a 4-storey podium was adopted. This aligns with the podium height requirements under *2036 Plan* for other sites fronting Mitchell Plaza. As such, the intent of *NSDCP 2013* podium height provisions is that a predominant podium height of 4 storeys (15.6m) increasing to a maximum 5 storeys (following the fall across the site) be provided.

The Applicant's supporting concept design presents a 5-storey podium to Mitchell Street Plaza frontage and a 6-storey podium along the Pacific Highway and Atchison Street frontages. This does not comply with the *2036 Plan* or *NSDCP 2013* (refer to Figure 16) and will result in an over scaled podium. Additionally, the proposed floor to heights for the podium (3.35m-7.35m for the ground level and 4m for Levels 1-5) are greater than required and could be reduced.



Pacific Highway Elevation

**FIGURE 16: South Elevation Plans – Pacific Highway (Applicant's Pre-lodgement Response, pg.5)**



Atchison Street Elevation

**FIGURE 17: North Elevation Plans – Atchison Street (Applicant's Pre-lodgement Response, pg.5)**

The Applicant's justification for the proposed podium height is that it aligns with the podium height of the proposed adjoining building at 617-621 Pacific Highway and will provide a consistent podium height across the block. However, the podium height for 617 Pacific Highway is also considered excessive for the required 6 storeys under the *NSDCP 2013*. Further, the 617 Pacific Highway proposal is a concept design only and has not been approved. The 2036 Plan does not nominate a maximum street wall height for the 617-621 Pacific Highway. The *NSDCP 2013*, however requires a maximum 6 storey podium height, which accounts for the continued slope along that falls to the west.

#### Recommendation

It is recommended that the proposal be redesigned to provide a maximum podium height of 4 storeys in accordance with the *NSDCP*. A podium height of 4 storeys (approximately 15.6m-17.8m) to Mitchell Street is recommended that increases to a maximum of 5 storeys along the Atchison Street and Pacific Highway frontages, following the slope of the site (i.e. up to approximately 19.3m for 5 storeys along Atchison Street and 20.4m for 5 storeys along Pacific Highway when taking into account the ground level changes). These heights assume a ground floor level of 4.5m-6.7m and 3.7m for commercial levels above.

#### **8.7.2 Building Setbacks and Separation**

##### Northern elevation (Atchison Street setback)

The Planning Proposal's supporting concept design includes a nil building setback to the site's northern boundary and an additional 3m setback above the podium levels. This is consistent with the setback requirements of the *2036 Plan* and *NSDCP 2013*.

##### Eastern elevation (Mitchell Street Plaza setback)

The Planning Proposal's supporting concept design presents a 5m building setback to the site's eastern boundary (Mitchell Street Plaza) with an additional 3m setback above the podium levels. This is consistent with the setback requirements of the *2036 Plan* and *NSDCP 2013*.

Importantly, the *2036 Plan* envisages "green streets" along Mitchell Street to allow for setbacks with canopy trees. This action has been incorporated into the recently amended *NSDCP 2013* that any basement levels should be consolidated beneath building footprints to enable deep soil planting along the Pacific Highway and identified linear parks along Mitchell Street Plaza.

The proposal seeks to maintain the basement level setbacks established by the existing development on the site. It is observed that the basement parking levels shown on the indicative concept design encroach into the prescribed 5m whole of building setback areas and as a result do not provide sufficient soil depth for street trees within the Mitchell Street Plaza and Pacific Highway setbacks. It is recommended that the proposal provides sufficient setbacks between the basement levels and site boundaries to allow adequate deep soil zones along Mitchell Street and the Pacific Highway to enable planting of canopy trees and contribute to the landscape characters, as per *NSDCP 2013* requirements.

Should the Planning Proposal proceed, this matter can be addressed at a future DA stage.

### Southern elevation (Pacific Highway setback)

A 3m ground level setback is proposed to the southern boundary along the Pacific Highway and Level 01 and upper podium levels are proposed to be built to the Pacific Highway, as per the reverse setback principle in accordance with the *2036 Plan*. An additional 3m setback is then proposed above the podium levels, consistent with the setback requirements of *2036 Plan* and NSDCP 2013.

### Western elevation (617 Pacific Highway)

The Planning Proposal indicative concept design includes a nil ground level and podium setback to the western boundary (617 Pacific Highway) and a 12m above podium setback, which is consistent with the requirements of the *2036 Plan* and NSDCP 2013.

The proposal is setback 12m from the western boundary to maintain appropriate building separation to the adjoining site at 617 Pacific Highway. Whilst this is compliant with the minimum ADG building separation requirements consideration for an increased western setback should be considered at a future DA stage to further reduce visual and wind tunnel impacts.

## **8.8 Overshadowing**

Retaining solar access to public open space, valued streetscapes and residential areas is a key objective of the *2036 Plan*. The "Sustainability" objective of the *2036 Plan* states "*Ensure no additional overshadowing of public open spaces and important places in accordance with solar access controls identified on page 38 of the Plan*".

The *2036 Plan's* solar access controls, relevant to the subject site, require that new development should:

- not produce substantial additional overshadowing to Newlands Park, Hume Street Park and Ernest Place between 10:00am and 3:00pm in mid-winter (21 June);
- not produce substantial additional overshadowing to Mitchell Street, Oxley Street and Willoughby Road between 11:30am and 2:30pm in mid-winter (21 June);
- retain at least 2 hours solar access between 9am-3pm to residential areas inside the precinct boundary in mid-winter;
- retain at least 3 hours between 9am-3pm to heritage conservation areas inside the precinct boundary in mid-winter; and
- consider potential overshadowing impacts for Willoughby Road and Ernest Place at the March and September equinox periods (21 March, 21 September).

The Planning Proposal's indicative concept design is accompanied by a solar access diagram to demonstrate the implications of the proposed uplift in height and density on surrounding residential areas (refer to Figure 18).

### **Overshadowing to surrounding residential areas**



**FIGURE 18: Solar access diagram – 9am – 3pm, 21 June**

Based on the solar access assessment provided by the Applicant, the proposed built form will result in some overshadowing of properties to the south. Whilst the majority of residential properties within the precinct boundary will continue to receive at least 2 hours solar access between 9am-3pm in mid-winter, the solar access diagrams illustrate that there are some north facing apartments at No.500 Pacific Highway which will achieve less than 2 hours solar access between 9am – 3pm in mid-winter and is therefore inconsistent with the *2036 Plan*.







In a dense urban environment, an inevitable degree of overshadowing is expected when redevelopment of the scale envisaged occurs. During the preparation of the *2036 Plan*, it was recognised that, whilst additional height and density may lead to impacts on residential amenity (such as solar access), the concentration of appropriate mixed-use development in close proximity to mass public transport, employment and services would better accommodate significant housing and job growth, than dispersing this growth throughout more sensitive neighbourhoods with lower levels of accessibility.

Without existing shadow diagrams, it is difficult to determine the amount existing sun access the properties at No.500 Pacific Highway currently achieve. This should be further addressed by the Applicant.

### **Overshadowing to key streets and public open space**

The Applicant has provided shadow diagrams to show the extent of the impact from the proposal on Newlands Park, Ernest Place, Hume Street Park, Willoughby Road, Mitchell Street and Oxley Street during the winter solstice at 21 June (refer to Figures 19 – 26).

Note: The Legend below should be read in conjunction with Figures 19 - 26.

- Legend
-  Site boundary
  -  Buildings under construction
  -  DA Approved/ DA being prepared
  -  High Likely development (under LUHIP)
  -  601 Pacific highway
  -  Shadow path of building envelope at 601 Pacific highway



**FIGURE 19: Overshadow assessment diagram – 10am, 21 June**



**FIGURE 20: Overshadow assessment diagram – 11am, 21 June**



**FIGURE 21: Overshadow assessment diagram – 12pm, 21 June**



**FIGURE 22: Overshadow assessment diagram – 1pm, 21 June**



**FIGURE 23: Overshadow assessment diagram – 2pm, 21 June**



**FIGURE 24: Overshadow assessment diagram – 3pm, 21 June**





**FIGURE 25: Overshadow assessment diagram – 3:30pm, 21 June**



**FIGURE 26: Overshadow assessment diagram – 4:00pm, 21 June**

Newlands Park, Hume Street Park and Ernest Place

The shadow diagrams show that the proposal does not create any additional overshadowing to Newlands Park, Hume Street Park or Ernest Place between 10am and 3pm on 21 June and therefore complies with controls under the *2036 Plan*.

Oxley Street

The shadow diagrams also show that the proposal does not create any additional overshadowing to Oxley Street, between 11:30am and 2:30pm on 21 June and therefore complies with controls under the *2036 Plan*.

Willoughby Road

In the Applicant's Urban Design Report, the shadow diagrams show that there will be some additional overshadowing to Willoughby Road between 2.59 and 3:00pm during mid winter. Refer to Figures 29 – 31.

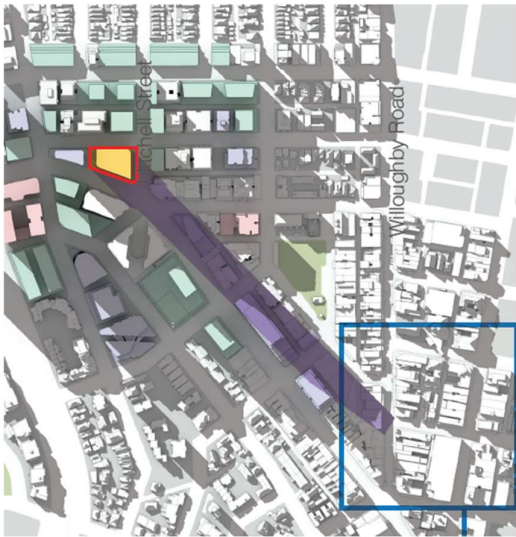
However, it is noted overshadowing occurs predominately outside the controlled hours required by the *2036 Plan* (i.e. between 11:30am and 2:30pm) and therefore remains consistent with the intended outcomes under the *2036 Plan*.



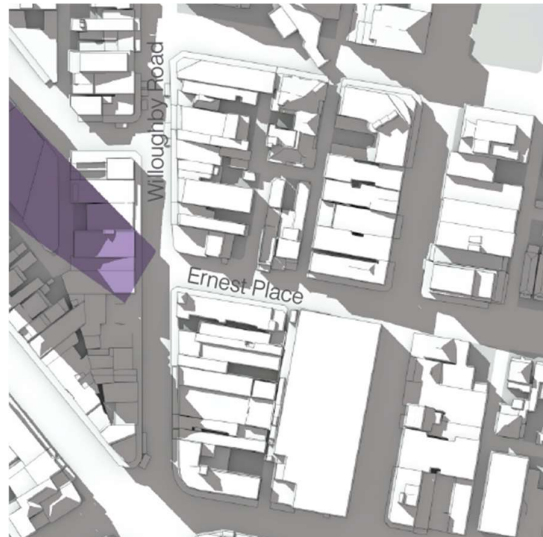
**FIGURE 27: Overshadow assessment diagram – 2pm, 21 June**



**FIGURE 28: Overshadow assessment diagram – 2:30pm, 21 June**



**FIGURE 29: Overshadow assessment diagram – 3pm, 21 June**



**FIGURE 30: Overshadow assessment diagram – 2:58pm, 21 June (zoomed in)**



**FIGURE 31: Overshadow assessment diagram – 2:59pm, 21 June (zoomed in)**



**FIGURE 32: Overshadow assessment diagram – 3pm, 21 June (zoomed in)**

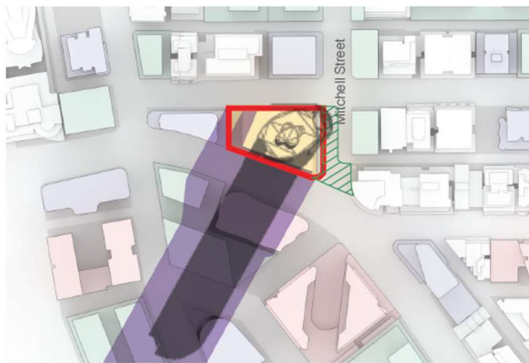
Mitchell Street

The Applicant has also provided shadow diagrams to show the extent of the impact of the proposal on Mitchell Street Plaza between 10am and 4pm (refer to Figures 33- 40).

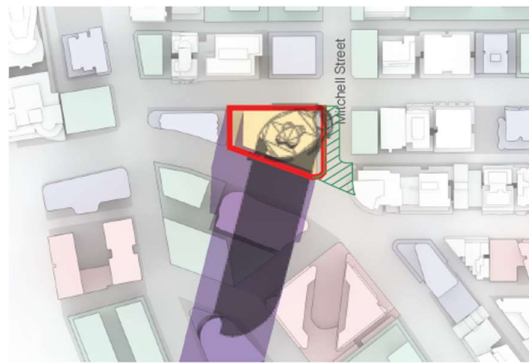


Note: The Legend below should be read in conjunction with Figures 33 - 40.

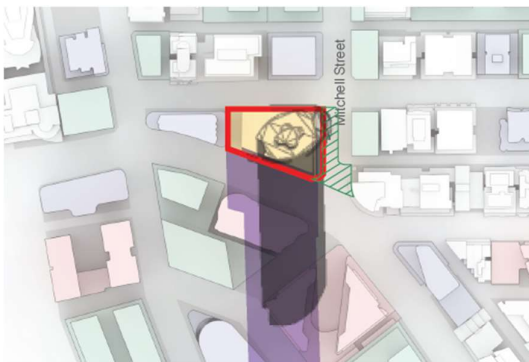
- Legend**
-  Site boundary
  -  Proposed built form
  -  Mitchell street plaza
  -  Existing building shadow path
  -  Shadow overlap
  -  Shadow path of proposed building envelope



**FIGURE 33: Overshadow assessment diagram – 10am, 21 June**



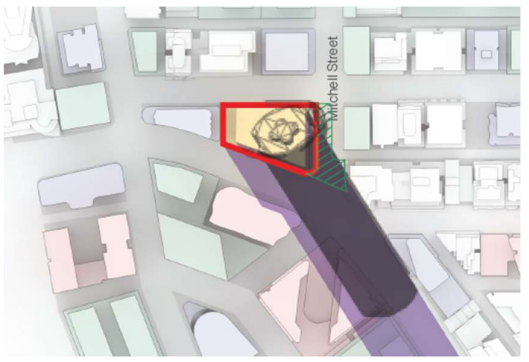
**FIGURE 34: Overshadow assessment diagram – 11am, 21 June**



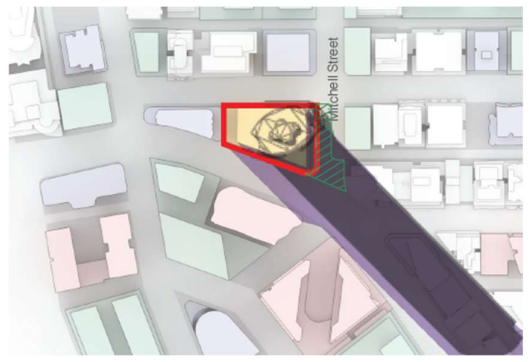
**FIGURE 35: Overshadow assessment diagram – 12pm, 21 June**



**FIGURE 36: Overshadow assessment diagram – 1pm, 21 June**



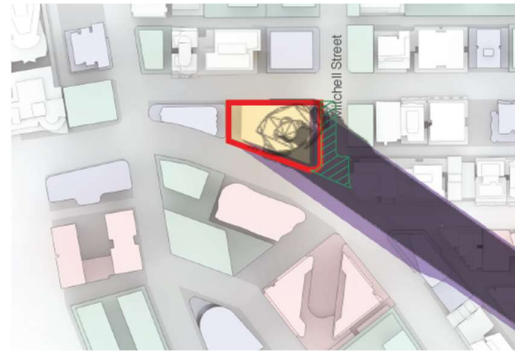
**FIGURE 37: Overshadow assessment diagram – 2pm, 21 June**



**FIGURE 38: Overshadow assessment diagram – 3pm, 21 June**



**FIGURE 39: Overshadow assessment diagram – 3:30pm, 21 June**



**FIGURE 40: Overshadow assessment diagram – 4:00pm, 21 June**

The Applicant's overshadowing diagrams illustrate that Mitchell Street is in shadow under existing conditions. As such, the proposal does not create any additional overshadowing to Mitchell Street Plaza, beyond what is already created by the existing building and is therefore compliant with the *2036 Plan*.

It is noted that the Applicant has not provided overshadowing diagrams during the March and September equinox periods.

Despite the above, the Planning Proposal does create additional overshadowing to residential development to the south and south-east. In the context of excessive height, the additional shadow cast by the planning proposal is resultant of the excessive building height and results in shadow lengths longer than is necessary to accommodate a 42 storey building. A reduction in height would assist in reducing the extent of overshadowing impacts to surrounding residential areas, public open space and important streetscapes.

## **8.9 Public Domain**

The Applicant's Planning Proposal identifies the following opportunities to upgrade the public domain interface (within the site boundary) to the adjoining streetscapes:

- Upgrades to street paving along the Pacific Highway (as per North Sydney Council Public Domain Manual)
- Street tree plantings in planter boxes along the Pacific Highway and Mitchell Street
- Extensions to existing paving layout along the Mitchell Street Plaza to the building edge; and
- Proposed stairs and retaining wall to the north-east corner of the site.

### Mitchell Street Plaza

Under the *2036 Plan*, the intent of the required 5m building setback to Mitchell Plaza and Mitchell Street is to enable additional open space as linear parks along this frontage. The *2036 Plan* envisages additional street tree planting along the Mitchell Street Plaza footpath within the setback zone to create 'green streets' and provide shelter and shade to pedestrians.

According to the Applicant's Landscape Design Report, the proposal provides the opportunity for trees alongside Mitchell Street Plaza in pots or planters only, which is not aligned with the visions and actions of the *2036 Plan*.

In addition, the proposed planter boxes along the Mitchell Street Plaza are built to the property boundary. The design layout does not incorporate the existing Mitchell Street Plaza landscape design or allow for adequate deep soil zones.

The Applicant's justification for the proposed planter boxes is that it is not possible to promote deep soil planting along the Mitchell Street Plaza frontage due to the proposed retention of the existing basement structure.

Should the Planning Proposal proceed, the proposal should provide opportunities for deep soil zones within the Mitchell Street Plaza setback zone to allow for canopy trees, as per the Objectives and Actions of the *2036 Plan*.

#### Ground level activation (Atchison Street and Mitchell Plaza)

In the *2036 Plan*, Atchison Street is identified as an important 'Civic Street' and 'retail heart of St Leonards'. The NSDCP2013 also requires that development along Atchison and Mitchell Streets maximise ground level activation by focusing food and drink premises and retail within a fine grain built form.

The supporting concept design presents opportunities for food and drink or retail tenancies along the Atchison Street and Mitchell Street Plaza frontages. However, the proposed retail shop fronting Mitchell Street Plaza does not have direct access to the plaza and appears only accessible through the lobby.

Should the Planning Proposal proceed, it is recommended that fine grain retail spaces be incorporated in the ground level street frontages facing Atchison Street and Mitchell Street Plaza with direct access to the streets. These detailed design matters could be resolved through the future DA process.

#### **8.10 Visual Impact**

The *2036 Plan* requires that new developments consider cumulative impacts on existing areas, including view loss and visual impacts and emphasises the importance of having an appropriate podium height, overall building height and scale.

The Applicant's Urban Design Report contains a visual impact assessment of the indicative concept design, which assesses the likely visual impacts of the Planning Proposal in the context of both surrounding existing and future development.

It is acknowledged that given the sites prominent location along the Pacific Highway, the future development on the site will be visible from a number of vantage points around the St Leonards centre including the Naremburn Heritage Conservation Area, Holtermann Estate A Conservation Area and Holtermann Estate B heritage conservation areas. Figures 41 - 46 below show visual perspectives provided by the Applicant of the proposal from selected low and medium vantage points.



**FIGURE 41: Falcon Street, Pacific Highway and Willoughby Road**



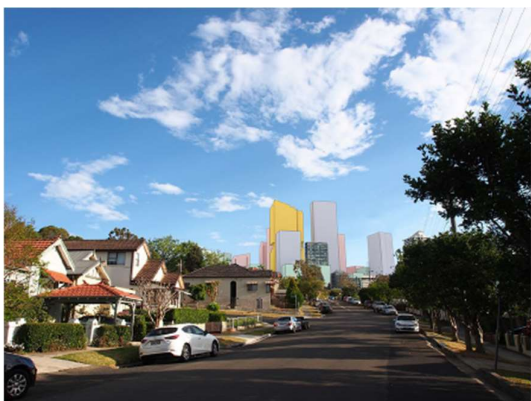
**FIGURE 42: Shirley Road at Nicholson Street**



**FIGURE 43: Pacific Highway at Greenwich Road**



**FIGURE 44: Pacific Highway at Reserve Road**



**FIGURE 45: Naremburn Park - Station at Dalleys Road**



**FIGURE 46: Willoughby Road and Albany Street**

As a result of the primary controls identified in the 2036 Plan it is acknowledged that there will be some visual impact. However, due to the excessive height proposed, particularly with the additional height above the roof level, the building appears to be more dominant in the skyline to that of its neighbours at 617-621 Pacific Highway, especially when viewed in an arc from north-west to south-east.

As such it is recommended that the height control for the site be limit to RL 259 (equivalent to 171m) to achieve a maximum 42 storey building, which would help reduce the overall visual impact of the development.

Should the Planning Proposal proceed, detailed design development including façade detailing and external materials, colours and finishes will help to further mitigate the visual impact of future built form on the site.

### **8.11 Wind**

The Planning Proposal is accompanied by a Pedestrian Wind Environment Statement (Statement) prepared by Windtech, which assesses the likely impacts of future winds expected within and around the proposed development.

The Statement identifies significant wind tunnelling / velocity impacts and only addresses the general wind effects that are identifiable by visual inspection of the architectural drawings. No wind tunnel testing has been undertaken.

The Statement concludes that the site is capable of accommodating future development aligned with the proposed planning control changes subject to a series of wind mitigation measures i.e. awnings, screens, planting and impermeable balustrades and canopies at elevated outdoor areas.

In the absence of wind tunnel testing to accurately quantify existing and future expected wind speeds, it is unclear whether the suggested mitigation measures will provide an acceptable level of wind comfort and amenity that is compliant with NSDCP 2013.

Due to the nature of the existing wind environment and overall massing of the subject development and complexity of building form, further wind tunnel testing is required to quantify existing and future expected wind speeds in and around the proposed development. These matters can be addressed in greater detail at the future detailed DA stage.

### **8.12 Transport Implications**

*Ministerial Direction 5.1 Integrating Land Use and Transport* seeks to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- a) *improving access to housing, jobs and services by walking, cycling and public transport, and*
- b) *increasing the choice of available transport and reducing dependence on cars, and*
- c) *reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- d) *supporting the efficient and viable operation of public transport services, and*
- e) *providing for the efficient movement of freight.*

The increased density on the site supports the patronage of the metro station by co-locating increased job-generating commercial land uses within walking distance of public transport nodes, consistent with Direction 5.1.



### Traffic generation and car parking

The subject site directly adjoins Pacific Highway, a classified State Road. Clause 2.119 of *SEPP (Transport and Infrastructure) 2021* requires that developments with a frontage to a classified road be provided with an alternative access where possible, and that the volume and frequency of vehicles to/from the site not impact on the safety, efficiency and ongoing operation of the classified road.

The Planning Proposal maintains vehicular access off Atchison Street for both servicing and commercial tenant vehicles. No vehicular access is proposed along the Pacific Highway. The proposal is consistent with the requirements of the Transport and Infrastructure SEPP.

#### Car Parking

Based on the NSDCP2013 parking rates, the following maximum car parking rates apply to the subject site:

<b>Development</b>	<b>Current NSDCP 2013 Max. car parking rate</b>	<b>Max. car parking spaces under NSDCP 2013</b>	<b>Applicant's Proposed car parking spaces</b>
Retail - Food and Drink Premises (406 sqm)	1 space / 50 sqm GFA	17	-
Commercial (56,348 sqm)	1 space/400 sqm non-residential GFA	141	-
<b>Total</b>		<b>149 car spaces</b>	<b>128 car spaces</b>

The existing 14 storey building on the site currently accommodates a total 158 car spaces across four basement levels. No visitor parking is proposed. The Applicant's indicative concept design proposes a total 128 car spaces over four basement levels (a net reduction of 30 spaces), which is below the maximum amount of car parking allowed under Council's parking provisions (i.e. the St Leonards Precinct 2 & 3 car parking rates under NSDCP 2013) and is therefore capable of complying within the NSDCP 2013 maximum car parking requirements for a commercial development.

#### Bicycle Parking

Bicycle parking is provided on Basement Level 1 with supporting end of trip facilities on the Ground Level. A loading dock servicing commercial and retail uses is also provided on Basement Level 1.

#### Driveway Access and Location

The proposed driveway access is via Atchison Street, which is considered the most logical location for car access. However, given the high amenity pedestrian environment that is envisioned for Atchison Street, the location and proximity of the proposed driveway with that of the adjoining site at 617-621 Pacific Highway, will create a great expanse of driveway crossing which will undermine the pedestrian amenity objectives and enlivening ambitions for this street.

Following the Pre-Lodgement Meeting, dated 14 November 2022, it was recommended that the Applicant explore opportunities to combine driveway access with the adjoining owner, given the early pre DA stage of the adjoining site. In the Applicant's Planning Proposal, the Applicant notes that due to the significant change in ground levels between the two sites it would compromise the feasibility of a combined vehicle entrance. Whilst this is more a DA issue, it is strongly encouraged that the applicant continue to further explore this issue with the adjoining landowner during any detailed design and subsequent DA stage.

### Traffic Generation

The Planning Proposal is accompanied by a Traffic and Parking Assessment by Arup, which assesses the implications of potential traffic generation of the Planning Proposal.

As previously noted, the indicative concept design proposes to reduce the number of car spaces on site from 158 to 128 car spaces across the four basement levels, which is compliant with the NSDCP 2013 maximum car parking rates.

The Assessment has also assessed the estimated traffic generated by the Planning Proposal and finds that the development will generate in an overall reduction of traffic generation due to an overall reduction in car parking. Given the reduction in vehicle trips compared to the current situation, the impact to the surrounding network is expected to be negligible.

The proposal is also accompanied by a Green Travel Plan (GTP), prepared by Arup which provides an overarching framework to guide the implementation of sustainable travel options and encourage trips by modes other than private vehicles for the proposed commercial development.

Should the Planning Proposal be supported, a more detailed GTP must be developed to accompany any future DA for the proposed commercial development.

## **9. Strategic Merit Assessment**

The proposal is considered to satisfy the following aspects of the strategic merit test:

- does not contradict the ability to achieve the objectives and actions of high-level planning strategies;
- is generally consistent with the provisions of the *St Leonards and Crows Nest* and accompanying *Ministerial Direction 1.13 Implementation of St Leonards and Crows Nest 2036 Plan*; and
- the bulk and scale of any future development on the site, and impacts to the surrounding environment and wider community, can be appropriately mitigated as part of the implementation of appropriate standards within NSDCP 2013 and the development application process.

Further details are provided in the following subsections.



## 9.1 Regional and District Plan consistency

The Planning Proposal may be considered in general terms to be consistent with the *Greater Sydney Region Plan - 'A Metropolis of Three Cities'* (A Metropolis of Three Cities) and the *North District Plan* to the extent that it provides for additional jobs and commercial floorspace within a highly accessible location and identified Planned Precinct. However, the provision of additional employment on the subject site alone does not satisfy the test of consistency.

A key direction of *A Metropolis of Three Cities* is creating a 'city of great places.' This direction underlines the importance of place-based, design-led planning to improve liveability in urban environments. To deliver high-quality places that engage and connect people and communities, the North District Plan states (on page 45) that: "*planning for the district should integrate site specific planning proposals with precinct-wide place and public domain outcomes through place-based planning.*"

Having completed an assessment of the Planning Proposal against the provisions of the 2036 Plan and relevant Regional, District and Local Plans, it is found that the proposed building height of 189m is considered excessive for a 42-storey building as envisaged for the site under the 2036 Plan and will result in a greater level of impact (overshadowing and visual) than necessary. The proposed podium height is also considered excessive and is inconsistent with the maximum street wall height under the *2036 Plan* and the *NSDCP 2013*.

To ensure the Planning Proposal is consistent with the intended outcomes of the 2036 Plan and NSDCP, namely building height and street wall height controls, the Planning Proposal and supporting concept design will need to be amended to satisfactorily address the recommendations of this report before progressing to the next stage of the plan making process.

## 9.2 St Leonards and Crows Nest 2036 Plan consistency

Whilst the indicative concept scheme accompanying the Planning Proposal reflects a 42-storey building consistent with the *2036 Plan*, the requested maximum building height of RL276.5 (equivalent to 189m) is considered excessive and could potentially accommodate a commercial building with a greater number of storeys.

As outlined in Section 8.4, to ensure future development on the site is for no more than 42-storeys, it is recommended that the Planning Proposal be amended to a maximum building height of RL 259 (equivalent to 171m), which has been established based on a reduced podium height and reduced height allowance above the top level plant room for architectural roof features. This will ensure that future development will remain consistent with the 2036 Plan's maximum building height of 42 storeys and reduce overshadowing and visual impacts arising from the proposal (refer to commentary in Section 8.8 and Section 8.10).

The proposed part 5 and part 6 storey podium is also inconsistent with the *2036 Plan*. It is acknowledged that due to the varying slope across the site, the future development outcome on the site will result in differing street wall heights along the site boundaries. As such, it is recommended that the podium height be redesigned to between 4 and 5 storeys in accordance with the *2036 Plan* and *NSDCP 2013* (refer to commentary in Section 8.7.1).

### **9.3 Local Strategic Planning Statement consistency**

The Planning Proposal is considered to be consistent with the LSPS to the extent that it will accommodate approximately 3,346 jobs, 56,348 sqm of commercial floorspace and 406 sqm of retail floor space within a highly accessible location. By virtue of the Planning Proposal's consistency with the 2036 Plan, the Planning Proposal is considered to be consistent with the LSPS and will account for approximately 20.27% of jobs to needed to be accommodated in the Precinct by 2036.

### **9.4 St Leonards/Crows Nest Planning Study – Precincts 2 & 3**

As previously outlined, Council's *St Leonards/Crows Nest Planning Study – Precincts 2 & 3 (2015)* envisaged the delivery of a commercial building on the subject site (*B3 – Commercial Core zone*) and identified it as a 'tall building site' which is defined as developments over 18 storeys in height. The Planning Proposal is considered to be consistent with the intent of Council's Study.

### **9.5 State Environmental Planning Policy (SEPP)**

The proposals consistency with applicable SEPP is considered below.

#### SEPP (Transport and Infrastructure) 2021

The subject site directly adjoins a classified State road being the Pacific Highway. Clause 2.118(2) of *SEPP (Transport and Infrastructure) 2021* requires that developments with a frontage to a classified road be provided with an alternative access where possible, and that the volume and frequency of vehicles to/from the site not impact on the safety, efficiency and ongoing operation of the classified road.

The indicative concept design accompanying the Planning Proposal maintains the existing vehicular access off Atchison Street for both servicing and commercial tenant vehicles. No vehicular access is proposed along the Pacific Highway. In addition, due to the overall reduction in car parking spaces from 158 existing car parking spaces to 128 proposed car parking spaces, the traffic generated by the development is anticipated to reduce by 8 trips in the AM and 6 trips in the PM. Given the reduction in vehicle trips, the impact to the surrounding road network is expected to be negligible.

### **9.6 Section 9.1 Ministerial Directions**

Section 9.1 of the EP&A Act 1979 enables the Minister for Planning to issue directions regarding the content of Planning Proposals. Each Planning Proposal must identify the applicable section 9.1 Directions and demonstrate how they are consistent with that Direction.

The Planning Proposal is considered to be generally consistent with all relevant Ministerial Directions, with the exception of *Direction 4.4 – Remediation of Contaminated Land*.

#### Direction 4.4 – Remediation of Contaminated Land

Direction 4.4 states that a Planning Proposal authority must not include land in a zone that would permit a change of use unless it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which the zone permits.

The Planning Proposal is accompanied by a Preliminary Site Investigation (PSI) report prepared by Golder Associates Pty Ltd. The report identified an underground storage tank (UST) located in the lowest basement level, which is used to store diesel fuel for the backup power generator at the site. The report found the risk for impacted groundwater or vapour intrusion to Site occupants has been assessed as low and suitable for ongoing commercial use.

Council's Environmental Health officer has also reviewed the PSI report and is satisfied that the site can be made suitable for its proposed use, subject to the implementation of the report's recommendations, these include:

- *The UST below the lowest basement slab should be decommissioned in accordance with regulatory requirements prior to future development.*
- *As the proposed redevelopment includes enlarging the basement at the Site the development and implementation of an unexpected finds protocol (UFP) would facilitate the management of the potential contamination sources. Such a document would allow for the management of potential contamination during construction works.*
- *Post demolition of the structure and exposure of underlying bedrock, soils and groundwater, further examination can be undertaken by a suitably qualified professional in the form of a detailed site investigation or unexpected finds protocol and any contamination noted can be addressed and the site made suitable as necessary.*

## **10. Site-specific Merit Assessment**

The proposals consistency with the site-specific merit criteria is considered below.

### **10.1 Environmental Impacts**

The proposed increase in height and density on the site will result in a degree of overshadowing, wind, visual and traffic impacts. It is recognised, however, that the precinct is undergoing significant change. The St Leonards and Crows Nest area is identified a 'strategic centre' and 'Planned Precinct' through a suite of high-level planning documents, including the Greater Sydney Region Plan and the North District Plan. There is an opportunity to renew, activate and manage growth within the precinct through the delivery of the objectives and outcomes as outlined within the *2036 Plan*.

An assessment of the Planning Proposal indicates that an improved built form scale and height transition could be achieved on the site that better meets the objectives and intended outcomes of the *2026 Plan* and further minimises impacts to the surrounding area.

As noted in Section 9.2, a reduction in overall maximum building height, including a reduced podium height is recommended before progressing to the next stage of the plan making process. This will ensure future development will remain consistent with the *2036 Plan* and allow for an improved built form outcome including a consistent podium height for the block and an appropriate contextual response along the Pacific Highway.

As outlined in sections 8.8, 8.10 and 8.11 of this report, overshadowing, wind, visual and traffic impacts arising from the Planning Proposal have been addressed by the Applicant. The Planning Proposal demonstrates that the site is capable of accommodating the indicative concept design and that associated impacts (overshadowing, wind, visual and traffic) can be appropriately mitigated subject to further detail design at a future DA stage.

Whilst further refinement is required with respect to the deep soil and basement setback zones, and enhancement of retail frontages to allow direct access along Atchison Street and Mitchell Street Plaza, it is acknowledged that the proposal could further address these issues at the future DA stage.

## **10.2 Social Impacts**

The Planning Proposal, if progressed would result in the creation of new commercial offices and retail uses, including the creation of approximately 3,346 jobs. Future development on the site is likely to attract significant investment growth and business activity, and contribute significantly to the North District employment generation targets.

Notwithstanding, this considerable proposed increase in density on the subject site is likely to place additional demand on existing services and facilities. Payment of applicable section 7.11 local infrastructure contributions will help alleviate potential impacts on existing local infrastructure. It is noted that Special Infrastructure Contribution (SIC) does not apply to commercial development and therefore does not apply to the subject Planning Proposal.

The proposal also provides the opportunity to provide activated street frontages and help meet the objectives of the *2036 Plan*.

## **10.3 Economic Impacts**

If the proposal proceeds it would result in the opportunity to provide approximately 3,346 jobs on the site as a result of the proposed (56,348m<sup>2</sup> commercial and 406m<sup>2</sup> retail floor space). Future development aligned with the Planning Proposal would result in substantial direct economic benefits during the construction stage and the ongoing operation of the building.

The quantum of commercial floor space proposed for the site is consistent with the requirements of the *2036 Plan* and *LSPS* and will attract significant investment growth and business activity and contribute employment generation and job diversity.

## **10.4 Adequacy of Public Infrastructure**

The site is located in proximity to existing and proposed transport infrastructure, including existing road connections and high-frequency public transport. The site is in a locality that would allow future workers and visitors to capitalise on the wide range of infrastructure and services available and planned within the area.

Consultation would be required with utility providers at the future DA stage to ensure that sufficient capacity exists in water, sewer, gas, telecommunications and other utility services.

There is likely to be adequate services and infrastructure in the area to accommodate the proposed increases in demand, alternatively the Applicant will be required to pay for any upgrades required.

## **SUBMISSIONS**

There are no statutory requirements to publicly exhibit a Planning Proposal before the issuance of a Gateway Determination. However, Council sometimes receives submissions in response to planning proposals which have been lodged but not determined for the purposes of seeking a Gateway Determination. The generation of submissions at this stage of the planning process, arise from the community becoming aware of their lodgement through Council's application tracking webpage and on-site signage.

At the time of reporting, three (3) submissions had been received. Concerns were raised with respect to the proposed increase in height and density, and overall scale and impact of the proposed development including overshadowing, building separation, wind impacts, traffic congestion, as well as noise and air quality impacts during construction.

These issues have been largely addressed in this report, with the exception of noise and air quality impacts during construction. It is recommended the Planning Proposal be revised to address the recommendations of this report and provide a response to submissions before progressing to the next stage of the plan making process. If the proposal proceeds to Gateway Determination the community will be formally consulted about the draft planning proposal and invited to comment.

## **CONCLUSION**

The Planning Proposal (2/23) seeks to amend NSLEP 2013 as it relates to land at 601 Pacific Highway as follows:

- Increase the maximum height of buildings limit from 45m to RL276.5 (equivalent to 187.25m); and
- Introduce a maximum floor space ratio of 20:1

The proposal is accompanied by an indicative concept design to demonstrate how the site could be developed to the requested height and density controls.

Pursuant to Ministerial Direction 7.11 to section 9.1 of the EP&A Act 1979, Council is required to assess the planning proposal for its consistency against the provisions of the *St Leonards and Crows Nest 2036 Plan*.

Whilst the Planning Proposal is generally consistent with the *2036 Plan*, in terms of the number of storeys, the requested maximum building height of RL276.5 (equivalent to 189m) is considered greater than that required to deliver a 42 storey commercial building on the site. The additional height is not supported as it could result in a commercial building greater than 42 storeys, and a greater level of impact (overshadowing, visual) than necessary and is contrary to the design principles and intended outcomes of the *2036 Plan*. As such, it is recommended that the maximum building height be reduced to RL 259 (equivalent to 171m), which would provide sufficient height for a 42 storey commercial A-grade building with associated plant structures.

In addition, the proposed part 5 and part 6 storey podium is not supported as it does not comply with the *2036 Plan* and *NSDCP 2013*. As such it is recommended that the street wall height be redesigned to between 4 and 5 storeys (as detailed in Section 8.7.1).

## **RECOMMENDATION**

For the reasons outlined in this report, it is recommended that the Local Planning Panel support the Planning Proposal being forwarded to the DPE seeking a request for a Gateway Determination subject to the Planning Proposal and supporting concept design being amended to:

- a maximum building height of RL 259 (equivalent to 171m); and
- a maximum street wall height of between 4 and 5 storeys.

It is also recommended that the Applicant's indicative concept design scheme be amended in accordance with other recommendations of this report, prior to being forwarded for a Gateway Determination.

Paris Wojcik of Element Environment  
**CONSULTANT PLANNER**

Haley Rich of Element Environment  
**CONSULTANT PLANNER**

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Reviewed by:  
Neal McCarry of North Sydney Council  
**ACTING MANAGER, STRATEGIC PLANNING**

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