



# St Leonards Arts Centre: Planning Agreement

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	<b>Appendix 3 – Arts Centre Design Brief prepared by Kannfinch</b>	

# Details

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## Date

## Parties

Name **Anson City Developments 1 (Australia) Pty Limited** ACN101 638 591  
Short form name **Developer**  
Notice details Telephone: 9299 9987  
Facsimile: 9262 6827  
Email: tom.hu@ansongroup.com.au  
Representative: Tom Hu

Name **North Sydney Council**  
Short form name **Council**  
Notice details Telephone: 9936 8100  
Facsimile: N/A  
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Representative: Ben Boyd

## Items

- Item 1** **Development Site**  
See definition of Development Site in clause 1.1.
- Item 2** **Development**  
See definition of Development in clause 1.1.
- Item 3** **Development Contributions**  
See Schedule 1.
- Item 4** **Application of section 7.11, section 7.12 and section 7.24 of the Act**  
See clause 9
- Item 5** **Enforcement**  
See Part D
- Item 6** **Registration**  
This Deed will be registered on the titles to the land on the Development Site.
- Item 7** **Restriction on dealings**  
See Part E
- Item 8** **Dispute Resolution**  
See Part C

# Background

- A The Developer is the proponent of the Development.
- B The Developer has lodged the Planning Proposal to request the Proposed LEP Amendment and make permissible the Development. In particular, the Developer seeks:
- (i) a change to the Height of Buildings Map referred to in Clause 4.3(2) of NSLEP to allow a maximum building height of 180m for the Development Site. Relevantly, clause 4.3(2) of NSLEP provides that a building is not to exceed the maximum height shown on the land shown on the Height of Buildings Map. The map relating to clause 4.3(2) currently provides a height limit of 49m for the Development Site.
  - (ii) a change to the Floor Space Ratio Map referred to in Clause 4.4(2) of NSLEP 2013 to allow a maximum floor space ratio of 25.4:1 for the Development Site. Relevantly, clause 4.4(2) of NSLEP 2013 provides that a maximum floor space ratio for a building on any land shown on the Floor Space Ratio Map. The map relating to clause 4.4(2) currently shows no maximum floor space ratio for the Development Site.
  - (iii) a change to the Non-residential Floor Space Ratio Map referred to in Clause 4.4A(2) of NSLEP 2013 to require a minimum non-residential floor space ratio of 4.7:1 for the Development Site. Relevantly, clause 4.4A(2) of NSLEP 2013 provides that a minimum non-residential floor space ratio for a building on any land shown on the Non-residential Floor Space Ratio Map. The map relating to clause 4.4A(2) currently shows no minimum non-residential floor space ratio for the Development Site.
- C At the time of executing this Deed, Anson City Developments 1 (Australia) Pty Ltd is the registered proprietor of the Development Site.
- D At the time of executing this Deed, the Developer proposes to carry out the Development on the Development Site. To this end, the Developer proposes to lodge a development application to Council for the Development.
- E Council has adopted (5 May 2015) the St Leonards Crows Nest Planning Study for Precincts 2 & 3, which makes provision for increases in building heights in the area. The Planning Study also recommends a whole of building floor space ratio be applied to sites seeking increases to the building height control and non-residential floor space ratio be applied to minimise the loss of employment floor space. The Development Site is located within the area the subject of the Planning Study.
- F The purpose of this Deed is to agree on the provision of works to be carried out by the Developer that provide a material public benefit to the community for the purposes of the Planning Proposal, namely the construction of the Proposed Arts Centre and its dedication to Council free of charge.
- G The Developer agrees to provide the Development Contributions described in Schedule 1 of this Deed, subject to:
- (i) the making of the environmental planning instrument that gives effect to the Proposed LEP Amendment; and
  - (ii) the grant of the Development Consent.

# Agreed terms

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## Part A - Preliminary

### 1. Defined terms & interpretation

#### 1.1 In this Deed the following definitions apply:

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW).

**Approval** includes approval, consent, licence or permission or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this Deed.

**Authority** means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council constituted under the *Local Government Act 1993*, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

**Bond** means an insurance bond from an AAA credit rated party.

**Certificate of Practical Completion** means the written certificate confirming the Works, or part of the Works, have been completed to the Council's satisfaction issued in accordance with the Construction Terms;

**Claim** includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

**Consent Authority** means the relevant consent authority for any development application in respect of the Development and includes the Land and Environment Court.

**Construction Certificate** has the same meaning as it does under the Act.

**Construction Terms** means the terms set out in Schedule 2.

**Cost** means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

**CPI** means the Consumer Price Index (All Groups – Sydney) published by the Australian Bureau of Statistics.

**Council** means North Sydney Council or the relevant local government authority in respect of the Development Site.

**Date of Operation** means that date the Instrument Change occurs.

**Dedication Terms** means the terms in Schedule 3.

**Deed** means this Deed and includes any schedules, annexures and appendices to this Deed.

**Defects Liability Period** means the period of 12 months from the date on which practical completion is achieved in respect of the Proposed Arts Centre works in accordance with Schedule 2 of this Deed.

**Development** means the redevelopment of the Development Site including the demolition of existing buildings and construction of a mixed use development on the Development Site, containing retail and office facilities, a Proposed Arts Centre and residential apartments and which relies on the Instrument Change, and is generally consistent with the scale and height of the concept development outlined within the Planning Proposal.

**Development Application** means an application for consent under Part 4 of the Act to carry out the Development.

**Development Consent** means the grant of development consent in respect to the Development by the relevant consent authority under Part 4 of the Act.

**Development Contributions** means:

- (a) the construction of the Proposed Arts Centre as described at Schedule 1; and
- (b) the dedication of the Proposed Arts Centre to the Council free of charge as described at Schedule 1.

**Development Site** means Lot 1 and Lot 2 DP 455937, Lot 1 DP 1022881 and Lot 1 DP 577070 located at 617- 621 Pacific Highway, St Leonards.

**Dispute** means a dispute or difference between the Parties under or in relation to this Deed.

**Encumbrances** includes the following or any agreement to create any of the following

- (a) security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention;
- (b) right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off;
- (c) right that a person (other than the owner) has to remove something from land (known as a profit à prendre), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or
- (d) third party right or interest or any right arising as a consequence of the enforcement of a judgment.

**GST** has the same meaning as in the GST Law.

**GST Law** has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

**Guarantee** means an unconditional bank guarantee or bank guarantees, unlimited in time, issued by a bank licensed to carry on business in Australia to pay an amount of money to Council on demand and containing terms and conditions reasonably acceptable to Council.

**Insolvent** means, in relation to a party:

- (a) that party makes an arrangement, compromise or composition with, or assignment for, the benefit of its creditors or a class of them;
- (b) a receiver, receiver and manager, administrator, provisional liquidator, trustee, controller, inspector or analogous person is appointed in relation to, or over, all or any part of that party's business, assets or securities;
- (c) a presumption of insolvency has arisen under legislation because of the party's failure to comply with a statutory demand or analogous process;
- (d) an application for the winding up of, or for the appointment of a receiver to, that party, other than winding up for the purpose of solvent reconstruction or re amalgamation, is presented and not withdrawn or dismissed within 21 days (or such longer period agreed to by the parties), or an order is made or an effective resolution is passed for the winding up of, or for the appointment of a receiver to, that party, or any analogous application is made or proceedings initiated;

- (e) any shareholder or director of that party convenes a meeting for the purpose of considering or passing any resolution for the winding up or administration of that party;
- (f) that is an individual, a creditor's petition or a debtor's petition is presented to the Official Receiver or analogous authority in relation to that party;
- (g) an execution or analogous process is levied or enforced against the property of that party;
- (h) that party ceases or suspends, or threatens to cease or suspend, the conduct of all or a substantial part of its business;
- (i) that party disposes of, or threatens to dispose of, a substantial part of its assets;
- (j) that party stops or suspends, or threatens to stop or suspend, payment of all or a class of its debts; or
- (k) that party is unable to pay the party's debts as and when they become due and payable.

**Instrument Change** means the amendment to NSLEP as published on the NSW Legislation website made as a consequence of the Planning Proposal.

**Law** means:

- (a) any law applicable including legislation, ordinances, regulations, by-laws and other subordinate legislation;
- (b) any Approval, including any condition or requirement under it; and
- (c) any fees and charges payable in connection with the things referred to in paragraphs (a) and (b).

**NSLEP** means the *North Sydney Local Environmental Plan 2013*

**Occupation certificate** means either an interim or final occupation certificate issued in accordance with section 109H of the Act.

**Party** means a party to this Deed.

**Permitted Encumbrance** means any Encumbrance the Council (acting reasonably) agrees in writing is a permitted encumbrance.

**Planning Proposal** means planning proposal 9/2017/1 initially lodged by the Developer with the Council on 23 March 2017 requesting the Proposed LEP Amendment and as subsequently amended.

**Proposed Arts Centre** means a state of the art, two-level arts centre with a superior quality fit out in the podium levels of the Development in accordance with the design brief entitled "Arts Centre Design Brief" prepared by Kannfinch dated 17 May 2017 provided at Appendix 3

**Proposed Arts Centre Stratum Lot** means the two levels of airspace of the Proposed Arts Centre, inside the inner surface of the floors, ceilings and external walls.

**Proposed LEP Amendment** means the amendment of the *North Sydney Local Environment Plan 2013* as follows:

- (a) Amend Schedule 1: Additional Permitted Uses to allow "shop top housing" as a permissible use on the Development Site;
- (b) Amend the Height of Buildings Map to provide for a maximum building height of 180m on the Development Site;
- (c) Amend the Floor Space Ratio Map to provide for a maximum Floor Space Ratio of 25.4:1 on the Development Site; and



- (d) Amend the Non-Residential Floor Space Ratio Map to provide for a minimum Non-Residential Floor Space Ratio of 4.7:1 on the Development Site.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000*.

**Term** means the period commencing on the date that Development Consent is granted and ceasing on the later of:

- (a) the date a final occupation certificate is issued for the Proposed Arts Centre;
- (b) the date the Proposed Arts Centre is dedicated to the Council in accordance with this Deed; and
- (c) the end of the Defects Liability Period for the Proposed Arts Centre under clause 8.4 of the Construction Terms, or if any defects are identified during the Defects Liability Period, the date those defects are rectified in accordance with the Construction Terms.

**Works** means any building, engineering or construction work in, on, over or under land necessary to construct and fit-out the Proposed Arts Centre.

1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Deed.
- (b) A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (e) A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
- (f) A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (g) A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (h) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
- (i) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (j) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (k) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other gender.
- (l) References to the word 'include' or 'including' are to be construed without limitation.
- (m) A reference to this Deed includes the agreement recorded in this Deed.

- (n) A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, the Party's successors and assigns.
- (o) A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost.
- (p) Any schedules, appendices and attachments form part of this Deed.
- (q) Notes appearing in this Deed are operative provisions of this Deed.

## 2. Status of this Deed

- (a) This Deed is a planning agreement pursuant to section 7.4 of the Act.

## 3. Commencement

- (a) This Deed commences on the date when all Parties have executed one counterpart of this Deed.
- (b) The Developer's obligation to provide the Development Contributions only arises on the Date of Operation. This Deed otherwise has no binding obligations on the Developer with respect to the Development Contributions.
- (c) The Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

## 4. Application of this Deed

- (a) This Deed applies to the Planning Proposal, the Development Site and to the Development.

## 5. Registration of Planning Agreement

- (a) The Developer represents and warrants to the Council that, at the date of this Deed, it is the registered proprietor of the Development Site and consents to the registration of this Deed against the title to the Development Site.
- (b) The Developer will use all reasonable measures to ensure this Deed is registered within 3 months from the commencement of this Deed pursuant to section 7.6 of the Act.
- (c) Until such time as the registration of this Deed is completed, the Developer agrees that:
  - (i) Council is deemed to have acquired and the Developer is deemed to have granted an equitable estate and interest in the Development Site for the purposes of section 74F(1) of the *Real Property Act 1900* (NSW);
  - (ii) Council will have a sufficient interest in the Development Site to register a caveat over that land precluding any dealing which is not consistent with this Deed;
  - (iii) it will not object to the Council lodging a caveat in the relevant folios of the Register for the Development Site nor will it seek to remove any caveat lodged by the Council; and
  - (iv) the caveat may be removed, at the Developer's cost, following the registration of this Deed.

- (d) The Parties will co-operate with each other to ensure that this Deed is registered by the Registrar General (LPI) as provided for in section 7.6 of the Act as soon as possible.
- (e) The Developer will, at its own expense, do all things necessary to procure the registration of this Deed including, but not limited to:
  - (i) procuring the consent of each person who has an estate or interest in the Development Site to the registration of this Deed;
  - (ii) executing any documents;
  - (iii) producing the relevant Certificates of Title; and
  - (iv) attending to any requisitions raised by the Registrar-General in relation to registration as soon as possible.
- (f) When the Development Contributions have been provided to the Council's reasonable satisfaction in accordance with this Deed the Developer may request that the Deed be released from the title of the Development Site.
- (g) The Council will not withhold its consent to the release of the Deed from the title to the Development Site under this clause, provided the Council is satisfied the Developer:
  - (i) has duly fulfilled all of its obligations under this Deed and is not otherwise in default of any of the obligations under this Deed; and
  - (ii) has provided a Guarantee or Bond for the Defects Liability Period in accordance with clause 14.1(i).

## 6. Warranties

- (a) The Parties warrant to each other that they:
  - (i) have full capacity to enter into this Deed, and
  - (ii) are able to fully comply with their obligations under this Deed.

## 7. Further Agreements

- (a) Subject to any statutory requirements, the Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

## 8. Surrender of right of appeal, etc.

- (a) The parties are not to commence or maintain, or to cause or procure the commencement or maintenance of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed, or an Approval relating to the Development in so far as the subject-matter of the proceedings relates to this Deed.

## 9. Application of s7.11, s7.12 and 7.24 of the Act to the Development

- (a) This Deed does not exclude the application of section 7.11 or section 7.12 to the Development.
- (b) The parties agree that benefits under this Deed are not to be taken into consideration in determining a development contribution under section 7.11 for the Development.

- (c) This Deed does not exclude the application of section 7.24 of the Act to the Development. Notwithstanding, the parties acknowledge that:
- (i) the Developer does not intend to pay any contributions imposed under section 7.24 of the Act in addition to the delivery of the Development Contributions under this Deed;
  - (ii) Council resolved on 26 March 2018 to request the Instrument Change, subject to the removal of the requirement for the payment of a State Infrastructure Contribution under section 7.24 of the Act; and
  - (iii) the Deputy Secretary of the Department of Planning and Environment has advised by letter dated 17 April 2018 that, given the Council has resolved the delivery of regional infrastructure under this Deed, no further funding from State Infrastructure Contributions towards regional infrastructure will be required and the Department will be in a position to issue a satisfactory arrangements certificate, noting Council's delivery of the regional community facility.
- (d) Upon execution of this Deed and before the Instrument Change is made, the Council will write to the Minister for Planning seeking formal confirmation that the delivery of the Development Contributions under this Deed will satisfactorily meet any requirement for contributions to be paid under Subdivision 4 to Division 7.1 of the Act.
- (e) The parties acknowledge that in the event that Subdivision 4 to Division 7.1 of the Act applies, the consent authority may, under section 7.24(5) of the Act and with the consent of the Minister, accept the Development Contributions to be provided by the Developer under this Deed in satisfaction of any condition imposed under section 7.24 of the Act.

## Part B – Development Contributions

### 10. Provision of Development Contributions

- (a) The Developer is to make Development Contributions to the Council in accordance with Schedule 1 of this Deed.
- (b) The Council agrees to accept the dedication of the Proposed Arts Centre as described at Schedule 1 of this Deed.
- (c) Within 5 business days of registration of the plan of subdivision creating the Proposed Arts Centre Stratum Lot, the Developer must notify Council in writing that the plan has been registered and provide the title details of the Proposed Arts Centre Stratum Lot. Until such time as the Proposed Arts Centre is dedicated to the Council, the Developer agrees that Council may register a caveat over the Proposed Arts Centre Stratum Lot precluding any dealing which is not consistent with this Deed.
- (d) The Developer must, in consultation with the Council, incorporate the Proposed Arts Centre into the Development Application for the Development.
- (e) The Developer agrees and acknowledges that the obligations in clause 10(d) are a relevant consideration for the Council or any other consent authority when determining any future Development Application or Modification Application for the Site and that a failure to comply with this Deed may constitute a reason for refusal of any such application.
- (f) The Council and the Developer agree that the dedication of land should be exempt from stamp duty pursuant to section 277 of the *Duties Act 1997* (NSW). In the event that stamp

duty is found to be payable, Council should take steps to obtain an exemption from paying any stamp duty from the Office of State Revenue. If this exemption cannot be obtained after all reasonable steps to obtain such an exemption have been exhausted, then the Developer will be liable for stamp duty payable on the dedication.

## Part C– Dispute Resolution

### 11. Dispute resolution – expert determination

- (a) This clause applies to a Dispute between any of the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
  - (i) the Parties to the Dispute agree that it can be so determined, or
  - (ii) the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- (b) A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- (c) If a notice is given under clause 11(b), the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- (d) If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- (e) The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- (f) Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- (g) The Parties are to share equally the costs of the President, the expert, and the expert determination.
- (h) This clause does not apply to a Dispute within the scope of clause 12.

### 12. Dispute Resolution – Arts Centre

- (a) This clause applies to a Dispute between any of the Parties to this Deed concerning a matter relating to the construction, fit out and finishes of the Proposed Arts Centre.
- (b) A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- (c) If a notice is given under clause 12(b), the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- (d) If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the Institution of Engineers Australia to appoint an expert for expert determination.
- (e) The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- (f) Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.

- (g) The Parties are to share equally the costs of the President, the expert, and the expert determination.

### 13. Dispute Resolution - mediation

- (a) This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 11 or clause 12 applies.
- (b) Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- (c) If a notice is given under clause 13(b), the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- (d) If the Dispute is not resolved within a further 28 days of the meeting referred to in clause 13(c), the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.
- (e) If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- (f) Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- (g) The Parties are to share equally the costs of the President, the mediator, and the mediation.

## Part D - Enforcement

### 14. Security

#### 14.1 Guarantee

- (a) Within 10 Business Days of the Instrument Change, the Developer must provide a Guarantee in the amount of \$2,750,000, increased in accordance with increases in the CPI from the date of this Deed to the date of the Guarantee.
- (b) In addition to the Guarantee provided under clause 14.1(a), prior to obtaining any Construction Certificate in respect of any part of the Development, the Developer must provide a Guarantee in the amount of \$2,750,000, increased in accordance with increases in the CPI from the date of this Deed to the date of the Guarantee.
- (c) The Council may call on a Guarantee provided under this clause if:
  - (i) the Developer is in material or substantial breach of this Deed and has failed to rectify the breach within a reasonable period of time after having been given reasonable notice (which must not be less than 21 business days) in writing to do so in accordance with clause 15 of this Deed; or
  - (ii) the Developer becomes Insolvent.
- (d) Within 20 business days of each anniversary of a Guarantee provided under clause 14.1(a), the Developer must provide Council with one or more replacement Guarantees (**Replacement Guarantee**) in an amount calculated in accordance with the following:

$$A = \frac{B \times D}{C}$$

Where:

A is the amount of the Replacement Guarantee,

B is the amount of the Guarantee to be replaced,

C is the CPI for the quarter ending immediately before the date of the Guarantee to be replaced,

D is the CPI for the quarter ending immediately before the date of the replacement Guarantee, provided A is greater than B.

- (e) On receipt of a Replacement Guarantee provided under clause 14.1(d), the Council must release and return to the Developer, as directed, the Guarantee that has been replaced as soon as reasonably practicable.
- (f) At any time following the provision of a Guarantee under this clause, the Developer may provide the Council with one or more replacement Guarantees totalling the amount of all Guarantees required to be provided under this clause for the time being. On receipt of such replacement Guarantee, the Council must release and return to the Developer, as directed, the Guarantee(s) which it holds that have been replaced as soon as reasonably practicable.
- (g) Subject to this clause and the provisions of this Deed, the Council may apply the proceeds of a Guarantee in satisfaction of:
  - (i) any obligation of the Developer under this Deed to carry out the Works required by clause 10 of this Deed;
  - (ii) the costs of transferring the Proposed Arts Centre Stratum Lot required by clause 10 of this Deed; and
  - (iii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developer to comply with this Deed.
- (h) The Council must promptly return the Guarantees provided under clause 14.1(b) if requested by the Developer and:
  - (i) a Certificate of Practical Completion has been issued for the works required by clause 10 of this Deed; and
  - (ii) the Proposed Arts Centre Stratum Lot has been transferred to Council in accordance with this Deed.
- (i) Upon the return of Guarantees in accordance with clause 14.1(h), the Developer must provide a Guarantee or Bond for the Defects Liability Period in the Construction Terms, in the amount of \$550,000 increased in accordance with increases in the CPI from the date of this Deed to the date of the Guarantee.
- (j) Nothing in this clause 14.1 prevents or restricts the Council from taking any enforcement action in relation to:
  - (i) any obligation of the Developer under this Deed; or
  - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developer to comply with this Deed,
 that is not or cannot be satisfied by calling on a Guarantee.

## 14.2 Transfer Documents

- (a) Prior to the issue of a Construction Certificate, for any part of the Development, the Developer will deliver to Council:
- (i) a direction to the Registrar-General, duly executed by the Developer, requiring the Registrar-General to deliver the certificate of title for the Proposed Arts Centre Stratum Lot directly to the Council upon it being issued after the registration of any subdivision plan creating that lot;
  - (ii) a form of transfer under the *Real Property Act 1900* for the purpose of transfer of the Proposed Arts Centre Stratum Lot when it is created with the Developer named as transferor and Council named as transferee, properly executed by the Developer but with the description of land omitted, which omission Council is entitled to rectify by inserting the proper title reference to the Proposed Arts Centre Stratum Lot that will be appropriate at the time of lodgement of the transfer; and
  - (iii) any other document (for example a discharge of mortgage or withdrawal of caveat) in registrable form as is necessary to ensure that Council is able to register the transfer of the Proposed Arts Centre Stratum Lot, or an irrevocable undertaking from the relevant person issuing the document that the document together with any certificates of title held by the person will be produced for registration on request for the purposes of transferring the Proposed Arts Centre Stratum Lot to Council under this Deed.
- (b) If, at any time, a certificate of title for the Proposed Arts Centre Stratum Lot is provided, issued to or received by the Developer, the Developer must immediately provide that certificate of title to the Council, to be held by the Council until the transfer of the Proposed Arts Centre Stratum Lot is effected in accordance with this Deed.
- (c) The documents referred to in clause 14.2(a) and 14.2(b) are to be held by Council as security for the performance by the Developer of the obligations imposed on it under this Deed.
- (d) If the Developer is in material or substantial breach of this Deed because of a failure to transfer the Proposed Arts Centre Stratum Lot to Council, after having been given reasonable notice (which must not be less than 21 business days) in writing to do so in accordance with clause 15 of this Deed or if the Developer becomes Insolvent, Council may effect the transfer of the Proposed Arts Centre Stratum Lot using the documents provided to it under clauses 14.2(a) and 14.2(b) and may recover the costs of doing so by calling on any Guarantee provided under clause 14.1.
- (e) The Developer agrees that it will not do anything to affect the validity of the documents at clauses 14.2(a) and 14.2(b) and will ensure that Council has, at all times, registrable versions of those documents.

### **14.3 Restriction on the issue of Certificates**

- (a) In accordance with section 6.8 of the Act and any associated regulations (or if the Former Building and Subdivision Provisions apply, section 109F of the Act and clause 146A of the Regulation) the obligations to:
- (i) provide Guarantees under clause 14.1 at the times specified in that clause; and
  - (ii) provide the documents required under clause 14.2,
- must be satisfied prior to the issue of a Construction Certificate for the Development or any part of the Development.



- (b) In accordance with section 6.10 of the Act and any associated regulations (or if the Former Building and Subdivision Provisions apply, section 109H(2) of the Act) the obligations to:
  - (i) carry out the Works under clause 10; and
  - (ii) transfer or dedicate the Proposed Arts Centre Stratum Lot under clause 10;must be satisfied prior to the issue of an Occupation Certificate for any residential unit forming part of the Development.
- (c) For the purposes of this clause, “Former Building and Subdivision Provisions” has the same meaning as in clause 18 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

## 15. Breach of obligations and Enforcement

- (a) If the Council reasonably considers that the Developer is in breach of any obligation under this Deed, it may give a written notice to the Developer:
  - (i) specifying the nature and extent of the breach,
  - (ii) requiring the Developer to:
    - (A) rectify the breach if it reasonably considers it is capable of rectification, or
    - (B) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if it reasonably considers the breach is not capable of rectification,specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.
- (b) Any costs incurred by the Council in remedying a breach in accordance with clause 14 that is not or cannot be recovered by calling on a Guarantee, may be recovered by the Council as a debt due in a court of competent jurisdiction.
- (c) Nothing in this clause prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer, including but not limited to seeking relief in an appropriate court.

## 16. Enforcement in a court of competent jurisdiction

- (a) Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
- (b) For the avoidance of doubt, nothing in this Deed prevents:
  - (i) a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates, or
  - (ii) the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

## Part E – Restriction on Dealings

## 17. Restriction on assignment and dealings

### 17.1 Assignment under this Deed

- (a) The Developer is not to assign the Developer's rights or obligations under this Deed, or novate this Deed during the Term, to any person unless:
- (i) the Developer has provided Council with a copy of the terms of the assignment or novation;
  - (ii) the Council has given written notice to the Developer stating that it consents to the assignment or novation and considers (acting reasonably) that the purchaser, transferee, assignee or novatee, is reasonably capable of performing its obligations under this Deed (such consent is not to be unreasonably withheld), and
  - (iii) the Developer is not in breach of this Deed.

### 17.2 Transfer of Land

- (a) The Developer may not transfer, assign or dispose of the whole or any part of its right, title or interest in the Development Site (present or future) to another person (**Transferee**) unless before it sells, transfers or disposes of that right, title or interest:
- (i) the Developer satisfies the Council that the proposed Transferee is financially capable of complying with the Developer obligations under this Deed;
  - (ii) the Developer satisfies the Council that the rights of the Council will not be diminished or fettered in any way;
  - (iii) the Transferee delivers to the Council a novation deed signed by the Transferee in a form and of such substance as is acceptable to the Council containing provisions under which the Transferee agrees to comply with all the outstanding obligations of the Developer under this Deed;
  - (iv) any default under any provisions of this Deed has been remedied or waived by the Council, on such conditions as the Council may determine, and
  - (v) the Developer and the Transferee pay the Council's reasonable costs in relation to the assignment.

## Part F– Indemnities

### 18. Release

The Developer releases the Council from any Claim it may have against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

### 19. Indemnity

The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

## Part G– Other Provisions

## 20. Termination of Deed

- (a) This Deed will terminate on the earlier of the following events:
  - (i) Council resolves not to proceed with the Planning Proposal and the applicant has not made a request to the Department of Planning for a Rezoning Review under s.3.34(5) of the Act within 42 days; or
  - (ii) the Minister for Planning, or their delegate, confirms under s.3.35(4) of the Act that the Planning Proposal is not to proceed, either at the request of the applicant, Council or the Minister for Planning or their delegate.
- (b) The parties agree to meet and negotiate in good faith the modification or termination of this Deed if:
  - (i) a Development Application for the Proposed Arts Centre, or any development including the Proposed Arts Centre, is refused by the Consent Authority and either any appeal period has expired or a court of competent jurisdiction on appeal finally determines the Development Application by way of refusal; or
  - (ii) a court of competent jurisdiction declares a Development Consent granted for the Proposed Arts Centre, or any development including the Proposed Arts Centre, to be invalid and the Developer fails, within a further 24 months to obtain a further consent.
- (c) The parties agree that the purpose of any negotiations is to ensure that a contribution equivalent to the Proposed Arts Centre is made to Council in connection with the Instrument Change.

## 21. Notices

- (a) Any notice, consent, information, application or request that is to or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:
  - (i) delivered or posted to that Party at its address set out in the Details Page,
  - (ii) faxed to that Party at its fax number set out in the Details Page, or
  - (iii) emailed to that Party at its email address set out in the Details Page.
- (b) If a Party gives the other Party 3 business days' notice of a change of its address, fax number or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted, faxed or emailed to the latest address or fax number.
- (c) Any notice, consent, information, application or request is to be treated as given or made if it is:
  - (i) delivered, when it is left at the relevant address,
  - (ii) sent by post, 2 business days after it is posted,
  - (iii) sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or
  - (iv) sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.

- (d) If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

## 22. Approvals and Consent

- (a) Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.
- (b) A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

## 23. Costs

- (a) The Developer must pay the Council's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution, carrying into effect, enforcement and release and discharge of this Deed, including the reasonable costs of obtaining any legal advice in connection with this Deed, up to a maximum amount of \$30,000 plus GST.
- (b) The costs referred to in clause 23(a) must be paid no later than 10 business days after receiving a demand from the Council to pay such costs.
- (c) The Developer agrees to pay Council any administrative fees as required by Council, acting reasonably, in connection with the administration of this Deed.

## 24. Entire Deed

- (a) This Deed contains all matters about which the Parties have agreed in relation to the matters it deals with.
- (b) No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

## 25. Relationship between parties

- (a) Nothing in this Deed:
  - (i) constitutes a partnership between the Parties; or
  - (ii) except as expressly provided, makes a Party an agent of another Party for any purpose.
- (b) A Party cannot in any way or for any purpose:
  - (i) bind another Party; or
  - (ii) contract in the name of another Party.
- (c) If a Party must fulfil an obligation and that Party is dependent on another Party, then that other Party must do each thing reasonably within its power to assist the other in the performance of that obligation.

## 26. Time for doing acts

- (a) If the time for doing any act or thing required to be done or a notice period specified in this Deed expires on a day other than a business day, the time for doing that act or thing or the expiration of that notice period is extended until the following business day.
- (b) If any act or thing required to be done is done after 5.00 pm on the specified day, it is taken to have been done on the following business day.

## 27. Further Acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

## 28. Governing Law and Jurisdiction

- (a) This Deed is governed by the law of New South Wales.
- (b) The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- (c) The Parties are not to object to the exercise of jurisdiction by those courts on any basis.

## 29. No Fetter

- (a) Nothing in this Deed shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty. In particular, the Council is not obligated to grant the Development Consent or take any action relating to the Planning Proposal.
- (b) If, contrary to the operation of this clause, any provision of this Deed is held by a court of competent jurisdiction to constitute a fetter on any statutory discretion of the Council, the Parties agree:
  - (i) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause is substantially satisfied,
  - (ii) in the event that (a) cannot be achieved without giving rise to a fetter on the exercise of statutory discretion, the relevant provision is to be severed and the remainder of this Deed has full force and effect, and
  - (iii) to endeavour to satisfy the common objectives of the parties in relation to the provision of this Deed which is to be held to be a fetter on the extent that is possible having regard to the relevant court judgment.

## 30. Illegality

If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

### 31. Severability

- (a) If a clause or part of a clause of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- (b) If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

### 32. Review and Amendment

- (a) This Deed may be reviewed or modified.
- (b) No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with clause 25D of the Regulation.
- (c) A Party is not in breach of this Deed if it does not agree to an amendment to this Deed requested by a Party in, or as a consequence of, a review.

### 33. Waiver

- (a) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- (b) A waiver by a Party is only effective if it is in writing.
- (c) A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

### 34. GST

- (a) In this clause terms used have the meaning given to them by the GST Law as defined in Section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999 (GST Act)*.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Deed are exclusive of GST.
- (c) If GST is imposed on any supply made under or in accordance with this Deed, the Developer must pay the GST or pay to the Council an amount equal to the GST payable on or for the taxable supply, whichever is appropriate in the circumstances.

### 35. Representations and warranties

The Parties represent and warrant that they have the power and authority to enter into this Deed and comply with their obligations under this Deed and that entry into this Deed will not result in the breach of any law.

### 36. Explanatory Note

- (a) Appendix 1 contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.
- (b) Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Deed.

# Schedule 1 - Development Contributions (clause 10)

Column 1	Column 2	Column 3	Column 4
Item/Contribution	Public Purpose	Manner & Extent	Timing
<b>A. Public benefit</b>			
1. Construction and fit-out of Proposed Arts Centre	Community infrastructure	Estimated value is \$16,500,000 including construction, fit out and land value. <sup>1</sup> Construction to be carried out in accordance with Arts Centre Design Brief prepared by Kannfinch at Appendix 3 and the Construction Terms.	Before an occupation certificate is issued in respect of any residential unit as part of the Development. The works will be taken to have been completed when a Certificate of Practical Completion is issued in accordance with the Construction Terms.
2. Dedication of Proposed Arts Centre Stratum Lot	Community infrastructure	Dedication of land free of cost in accordance with the Dedication Terms.	Before an occupation certificate is issued in respect of any residential unit as part of the Development. The dedication of the Proposed Arts Centre Stratum Lot will be completed when an Occupation Certificate is issued for the lot and the Council receives the Certificate of Title for the lot showing Council as the registered proprietor.

<sup>1</sup> The Developer is required to complete the works and transfer the land, regardless of the cost to complete and deliver the contributions.

# Schedule 2 – Construction Terms

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## 1. Interpretation

- (a) For the purposes of this Schedule 2, the defined terms in clause 1.1 of this Deed and the Interpretation principles in clause 1.2 of this Deed will apply and, unless context indicates a contrary intention:

**Builder** means any entity contracted under the Construction Contract to carry out the Works.

**Construction Contract** means the contract to carry out the Works (whether or not that is a contract for the Works only or forms part of a contract for the building of other components of the Development).

**Detailed Design** means the final specifications and finishes for the Works prepared in accordance with clause 5.2 of this Schedule and will include the design of the Works, the location for the Works, installation specifications and estimated costs of construction and/or installation.

**Services** means all water, gas, electricity, television, drainage, sewerage, cable TV, data communications, telecommunications and other services which are required under a development consent within the meaning of the Act or an Approval and which are necessary or desirable for the construction or operation of the Development.

**Superintendent** means the Superintendent appointed under any Construction Contract.

## 2. Requirements of Authorities and Approvals

- (a) These Construction Terms must be read and construed subject to:
- (i) any requirements or conditions of any Development Consent;
  - (ii) the requirements of and conditions imposed by all relevant Authorities and all Laws relating to the Development and the construction of the Development.
- (b) If the Developer requires any Approvals in order to carry out the obligations under this Deed, then the Developer will acquire all Approvals necessary to carry out the Works at its own cost.
- (c) The Developer must ensure that the Works carried out under this Deed are carried out:
- (i) in accordance with the relevant Development Consent for the Works and all Approvals and the requirements of all Laws, including without limitation, work health and safety legislation; and
  - (ii) in a good and workmanlike manner and so that they are diligently progressed until completion;

AND it is acknowledged that to the extent that there is any inconsistency between this Deed and any Approval the terms of the Approval shall take precedence.

## 3. Costs of Works

- (a) All costs of the Works must be borne by the Developer.



## 4. Project Management and Contractor Engagement

- (a) The Developer will be responsible for managing the Works.
- (b) The Developer will ensure that any contractor it engages to carry out the Works agrees to:
  - (i) carry out the Developer's obligations in these Construction Terms as part of any Construction Contract; and
  - (ii) request a Council representative to be present at each on-site meeting attended by the Superintendent and to ensure the Council representative is present at the meeting.

## 5. Design Development and Approvals

### 5.1 Concept Design

- (a) The Works are to be designed and constructed in accordance with the Arts Centre Design Brief prepared by Kannfinch at Appendix 3.

### 5.2 Detailed Design

- (a) Immediately following the lodgement of a Development Application for the Development, the Developer must provide a copy of the draft Detailed Design to the Council for approval.
- (b) Within 15 business days of receiving the Detailed Design, Council will respond to the Developer with any suggested amendments to the Detailed Design.
- (c) Council and the Developer must work in consultation with each other to prepare and agree the Detailed Design and must both act reasonably and with due expedition in their consultations with each other.
- (d) If the Detailed Design is not completed and agreed within 15 business days of Council providing its suggested amendments in accordance with clause 5.2(b) of this Schedule, to avoid possible delays to the issue of a Certificate of Practical Completion, the Council will, in its sole discretion, be entitled to decide on any outstanding or undecided matter or item relating to areas that are to be accessible to the public, provided that any decision made by Council under this clause:
  - (i) is consistent with the obligation to carry out the Works and dedicate the Proposed Arts Centre Stratum Lot under this Deed; and
  - (ii) is consistent with the Development Consent; and
  - (iii) does not materially and adversely affect the Development; and
  - (iv) is not unreasonable.
- (e) The Developer is responsible for any amendments to the Development Application or Development Consent necessary to incorporate the Detailed Design into the Works.
- (f) Any acceptance by the Council of the Detailed Design under this clause is not to be taken as approval of or to any Development Application or Construction Certificate for the Works.

### 5.3 Good faith

The parties must act promptly and in good faith to consult in relation to the Detailed Design.

## 6. Carrying out of Works

### 6.1 Communication

- (a) The Developer must keep Council reasonably informed of progress of the Works and provide to Council such information about the Works as Council reasonably requests.

### 6.2 Standard of Works

- (a) Unless otherwise provided, the Developer shall, and must cause the Builder to, use suitable new materials and proper and tradesmanlike workmanship when carrying out the Works.
- (b) The qualitative standard of the design and finishes for the Works must be no less than those described in the following documents:
  - (i) Any relevant Australian Standard;
  - (ii) Any relevant design standards or guidelines and any other requirements or policies applied by the Council from time to time in assessing the adequacy of the Works.
- (c) The Developer will obtain any relevant standards (including design standards), specifications, or guidelines and any other requirements or policies referred to in clause 6.2(b)(ii) of this Schedule from Council if the Council fails to deliver them to the Developer.

## 7. Inspection

- (a) On completion of the Detailed Design, the Council will provide a schedule of inspections to be undertaken by Council (**Inspection Schedule**) to occur at specified stages of the construction of the Works (**Inspection Stage**). If the Council does not provide the Inspection Schedule, the Developer must request the Inspection Schedule from the Council prior to the Works commencing.
- (b) Five business days prior to reaching an Inspection Stage as set out in the Inspection Schedule, the Developer must notify the Council of the proposed inspection date (**Inspection Date**).
- (c) On the Inspection Date, or other agreed date, the Developer must ensure that any employees, contractors, agents or representatives of Council have access to and may enter the Development Site to inspect the Works.
- (d) In addition to carrying out inspections in accordance with the Inspection Schedule, the Council may enter the Development Site or any part of the Development Site on which the Works are located to inspect the Works, subject to:
  - (i) the terms of the Construction Contract (save for any clause of the Construction Contract which prevents the Council from accessing the Development Site);
  - (ii) giving reasonable notice to the Developer;
  - (iii) complying with all reasonable directions of the Developer; and
  - (iv) being accompanied by the Developer or a nominee, or as otherwise agreed.
- (e) The Council may, acting reasonably, within 5 business days of carrying out an inspection (either under clause 7(c) or 7(d) of this Schedule), notify the Developer of any defect or non-compliance in the Works and direct the Developer to carry out work to rectify that defect or non-compliance within a reasonable period of time. Such work may include, but is not limited to:

- (i) removal of defective or non-complying material;
  - (ii) demolishing defective or non-complying work;
  - (iii) reconstructing, replacing or correcting any defective or non-complying work; and
  - (iv) not delivering any defective or non-complying material to the site of the Works.
- (f) If the Developer is issued a notice to carry out further work under clause 7(e) of this Schedule, the Developer must, at its cost, rectify the defect or non-compliance specified in the notice within the time period specified in the notice, provided that it is reasonable having regard to the nature of the works.
- (g) If the Developer fails to comply with a direction to carry out work given under clause 7(e) of this Schedule, the Council will be entitled to refuse to accept that the Works (or the relevant part of the Works) meet the Council's standards and specifications and may refuse to issue a Certificate of Practical Completion, until the required work has been completed to the Council's satisfaction, acting reasonably.
- (h) For the avoidance of doubt, any acceptance by the Council that the Developer has rectified a defect or non-compliance identified in a notice issued under 7(e) of this Schedule does not constitute:
- (i) acceptance by the Council that the Works comply with all Approvals and Laws; or
  - (ii) an Approval by the Council in respect of the Works; or
  - (iii) an agreement or acknowledgment by the Council that the Works or the relevant part of the Works are complete and may be delivered to the Council in accordance with this Deed.

## 8. Completion

### 8.1 Practical Completion

- (a) When the Developer considers that the Works, or any part of the Works, are complete, the Developer must send a notice to the Council accompanied by complete works as executed plans, any relevant certificates or consents of any public utility authority and a request for written certification from the Council that the Works are complete.
- (b) Within 10 business days of receipt of the notice under clause 8.1(a) of this Schedule, the Council will carry out an inspection of the Works and will, acting reasonably, either:
- (i) provide written certification to the Developer that the Works have been completed; or
  - (ii) notify the Developer of any additional information required or matters which must be addressed by the Developer prior to the certification being issued.
- (c) If the Developer is required to provide additional information or address any matters under clause 8.1(b)(ii) of this Schedule, the Developer will provide that information to Council or address those matters within 10 business days of receiving the notice or within a reasonable period of time and make a further request under clause 8.1(a) of this Schedule for written certification that the Works have been completed.
- (d) Practical completion will be achieved in relation to the Works or any part of the Works when a Certificate of Practical Completion has been issued for those Works.

## 8.2 Delivery of documents

- (a) The Developer must as soon as practicable, and no later than 20 business days after the date on which the Certificate of Practical Completion is issued in respect of the Works or any part of the Works deliver to the Council, complete and legible copies of:
  - (i) all “as built” full-sized drawings, specifications and relevant operation and service manuals;
  - (ii) all necessary certificates including the certificates of any consultants of the Developer that the Council may reasonably require, and Approvals of any public utility authority (where relevant); and
  - (iii) copies of all Approvals required for use of the land subject to the Works.
- (b) The Developer must as soon as practicable, and no later than 20 business days after the date on which the Certificate of Practical Completion is issued in respect of the Works or any part of the Works, provide the Council with a tour of the land subject to the Works and provide reasonable instructions on the operation and use of the Services on that land.

## 8.3 Assignment of Warranties and Causes of Action

- (a) The Developer must assign (as beneficial owner) or cause to be assigned to Council the benefit of any warranties and guarantees obtained by the Developer and the Builder (and capable of assignment) with respect to any material or goods incorporated in or forming part of the Works.
- (b) To the extent that any such warranties or guarantees cannot be assigned, the Developer must at the request of Council do anything reasonably required by Council to enforce such warranties or guarantees for the benefit of Council.

## 8.4 Defects Liability Period

- (a) During the Defects Liability Period, the Council may inspect the Works in accordance with clause 7 of this Schedule and (acting reasonably) may give to the Developer a notice (**Rectification Notice**) in writing that identifies a defect in the Works and specifies:
  - (i) action required to be undertaken by the Developer to rectify that defect (**Rectification Works**); and
  - (ii) the date on which the defect must be rectified (**Rectification Date**).
- (b) The Developer must comply with the Rectification Notice by:
  - (i) procuring the performance of the Rectification Works by the Rectification Date, or such other date as agreed between the parties;
  - (ii) keeping the Council reasonably informed of the action to be taken to rectify the defect; and
  - (iii) carrying out the Rectification Works.
- (c) The Council must give the Developer and its contractors any access required to carry out the Rectification Works.
- (d) When the Developer considers that the Rectification Works are complete, the Developer must notify the Council and provide documentation, plans or invoices which establish that the Rectification Works were carried out.
- (e) The Council may inspect the Rectification Works within 15 business days of receiving a notice from the Developer under clause 8.4(d) of this Schedule and, acting reasonably:

- (i) issue a further Rectification Notice if it is not reasonably satisfied that the Rectification Works are complete; or
  - (ii) notify the Developer in writing that it is satisfied the Rectification Works are complete.
- (f) The Developer must meet all costs of and incidental to rectification of defects under this clause 8.4.
- (g) If the Developer fails to comply with a Rectification Notice, then the Council may do such things or take such action as is necessary to carry out the Rectification Works, including accessing and occupying any part of the Development Site without further notice to the Developer, and may:
- (i) call upon any Bond or Guarantee provided to the Council under clause 14.1(i) of this Deed to meet its costs of carrying out Rectification Works; and
  - (ii) recover as a debt due to the Council by the Developer in a court of competent jurisdiction, any difference between the amount of the security deposit and the costs incurred by the Council in carrying out Rectification Works.
- (h) The Developer must request that Council inspect the Works 28 days prior to the end of the Defects Liability Period. The Council must inspect the Works at any time after receiving the request from the Developer and before the end of the Defects Liability Period.
- (i) If, prior to the end of the Defects Liability Period:
- (i) the Developer fails to request the inspection, or
  - (ii) the Council does not carry out the inspection,
- the Council may extend the Defects Liability Period so that the inspection may be carried out.

## 9. Risk

The Developer undertakes the Works entirely at its own risk.

## 10. Insurance

- (a) Prior to the commencement of the construction of any of the Works, the Developer must ensure the Builder effects and the Developer must produce evidence to the Council of the following insurances issued by an insurer approved by the Council (acting reasonably) in a form approved by the Council (acting reasonably):
- (i) construction works insurance for the value of the Works;
  - (ii) public risk insurance for at least \$20 million;
  - (iii) workers compensation insurance as required by Law.
- (b) The Developer must provide evidence of currency of insurance required by clause 10(a) of this Schedule upon request by the Council, acting reasonably, throughout the term of this Deed.

## 11. Intellectual Property Rights

- (a) The Council acknowledges that the Developer or its contractors hold all rights to copyright and any intellectual property which may exist in the Works. To the extent the

Developer has or receives intellectual property rights for the Works, the Developer shall assign those intellectual property rights to Council or permit use thereof.

## 12. Plans

- (a) The parties acknowledge and agree that further detail and refinement of plans and documents in connection with this Deed may be necessary having regard to the following matters:
  - (i) matters affecting Works not capable of identification on or before the date of this Deed; or
  - (ii) by agreement between the parties.

# Schedule 3 – The Dedication Terms

---

## 1. Dedication and Transfer of Land

- (a) The Developer must prepare and procure registration of any necessary plan of stratum subdivision (**Plan of Subdivision**) to dedicate and transfer the Proposed Arts Centre Stratum Lot.
- (b) Council intends to use the Proposed Arts Centre Stratum Lot for the purposes of an arts centre as its first use.
- (c) In accordance with the timing provisions of Schedule 1, the Developer will appropriately execute and deliver to the Council any necessary Transfer and the items referred to in clause 1(d) and (e) of this Schedule.
- (d) The Council is authorised to date and insert into the Transfer particulars of the title to enable the Transfer to be registered. For the avoidance of doubt, the date of the Transfer will be the date of the registration of the Plan of Subdivision creating the area or the lot to be dedicated to Council.
- (e) The Developer will deliver to Council at the same time it delivers the Transfer to Council:
  - (i) a letter addressed to the Registrar General (LPI) authorising and instructing the Registrar General (LPI) to forward the certificate of title to the Proposed Arts Centre Stratum Lot to the Council following registration of the Plan of Subdivision;
  - (ii) the Proposed Arts Centre Stratum Lot free of all Encumbrances, other than permitted encumbrances, and affectations (including any charge or liability for rates, strata levies or strata management fees, taxes and charges) on the date it is transferred to Council;
  - (iii) a cheque in favour Land and Property Information, NSW for the registration fees on the Transfer and discharges of all Encumbrances;
  - (iv) a current clear land tax certificate from Office of State Revenue in respect to the Proposed Arts Centre Stratum Lot;
  - (v) appropriate evidence of all outgoing rates having been paid in respect of the Proposed Arts Centre Stratum Lot;
  - (vi) a copy of the strata management statement to be registered with the Subdivision Plan that clearly provides the Proposed Arts Centre Stratum Lot is exempt from strata levies or strata management fees payable in connection with the residential components of the building
  - (vii) an Occupation Certificate in respect of the Proposed Arts Centre.
- (f) Upon dedication and transfer of the Proposed Arts Centre Stratum Lot to the Council the Developer will deliver to Council any updated certificates and appropriate evidence of the items referred to in clause 1(e) of this Schedule.
- (g) Following the transfer of the Proposed Arts Centre Stratum Lot to the Council, the Council will:
  - (i) ensure that the Proposed Arts Centre Stratum Lot is used for community and cultural purposes for at least a period of 10 years after the date of transfer; and

- (ii) not use the Proposed Arts Centre Stratum Lot in a manner that competes with the proposed commercial spaces in the Development for at least a period of 10 years after the date of transfer.
- (h) Nothing in this Deed requires the Council to classify the Proposed Arts Centre Stratum Lot as “community land” under the *Local Government Act 1993*.
- (i) The Developer must ensure that Council is consulted about and approves the following that will apply to the Proposed Arts Centre Stratum Lot:
  - (i) any building management statement, or any other proposal requiring the payment of contributions or levies towards the cost of operating, maintaining and repairing shared facilities; and
  - (ii) any proposal to strata subdivide the building (prior to lodgement of any development application for strata subdivision), including any strata management statement or similar document that attributes unit entitlements and requires payment of strata administrative and capital works levies.
- (j) In considering any document under clause 1(i) of this Schedule, the Council undertakes that it will not:
  - (i) require any amendments to a document that would unreasonably interfere with the rights and obligations of the Developer; or
  - (ii) unreasonably withhold approval of a document.
- (k) The Developer must ensure that any strata administrative and capital works levies required to be paid in connection with the Proposed Arts Centre Stratum Lot only relate to the operation of the non-residential components of the building:




# Signing page


---

**EXECUTED** as a deed.

**Executed by Anson City Developments 1 (Australia) Pty Limited (ACN 101 638 591)** pursuant to s127(1) of the Corporations Act 2001 by authority of its directors

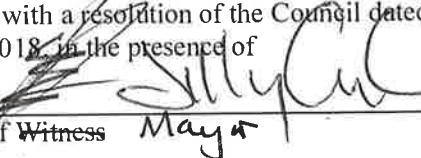
  
\_\_\_\_\_  
Signature of Secretary/director

WEIMIN HU  
\_\_\_\_\_  
Name of Secretary/director (print)



  
\_\_\_\_\_  
Signature of director

PAK WAI NGOR  
\_\_\_\_\_  
Name of director (print)

**Signed, sealed and delivered** by an authorised representative of **North Sydney Council** in accordance with a resolution of the Council dated 26 March 2018, in the presence of

  
\_\_\_\_\_  
Signature of witness Mayor

Julie Lawson Silly Gibson  
\_\_\_\_\_  
Name of Witness (print)

  
  
\_\_\_\_\_  
Signature of authorised representative

KM Gouldthorp  
\_\_\_\_\_  
General Manager

# Appendix 1 (Clause 36)

---

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

## Explanatory Note

### Draft Planning Agreement

The Parties propose to enter into a planning agreement under s93F of the Environmental Planning and Assessment Act 1979 (**Act**).

### Parties

The Parties to the agreement are:

- North Sydney Council of 200 Miller Street North Sydney 2060 (**Council**); and
- Anson City Developments 1 (Australia) Pty Ltd (**Developer**)

### Description of the Land to which the Draft Planning Agreement Applies

The Draft Planning Agreement applies to Lot 1 and Lot 2 DP 455937, Lot 1 DP 1022881 and Lot 1 DP 577070 located at 617- 621 Pacific Highway, St Leonards (**Site**).

### Description of Proposed Development and Proposed Change to an Environmental Planning Instrument

The redevelopment of the Site including the demolition of existing buildings and construction of a mixed use development on the Site, containing retail and office facilities, a Proposed Arts Centre and residential apartments and which relies on proposed changes to the *North Sydney Local Environmental Plan 2013 (LEP)*. The proposed redevelopment of the Site will be generally consistent with the scale and height of the concept development outlined within a planning proposal lodged by the Developer with Council on 23 March 2017 requesting the amendments to the LEP.

The proposed amendment to the LEP includes the following:

- (a) Amend Schedule 1: Additional Permitted Uses to allow “shop top housing” as a permissible use on the Site;
- (b) Amend the NSLEP, 2013 Height of Buildings Map to provide for a maximum building height of 180m on the Site;
- (c) Amend the Floor Space Ratio Map to provide for a maximum Floor Space Ratio of 25.4:1 on the Site; and
- (d) Amend the NSLEP, 2013 Non-Residential Floor Space Ratio Map to provide for a minimum Non-Residential Floor Space Ratio of 4.7:1 on the Site.

### Summary of Objectives, Nature and Effect of the Draft Planning Agreement

#### Objectives of Draft Planning Agreement

Under the Draft Planning Agreement the Developer has offered to provide a material public benefit as part of the carrying out the Development, if approved.

#### Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the Environmental Planning and Assessment Act 1979 (**Act**). The Draft Planning Agreement is a voluntary agreement under which

Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for various public purposes (as defined in s93F(2) of the Act).

The Developer proposes to construct and fit out a Proposed Arts Centre as part of the Development, and dedicate the Proposed Arts Centre (as a stratum lot) to the Council.

### **Effect of the Draft Planning Agreement**

#### **The Draft Planning Agreement:**

- relates to the proposed change to the LEP and the carrying out by the Developer of Development on the Development Site,
- does not exclude the application of s94, s94A or 94EF of the Act to the Development;
- requires the provision of a material public benefit, being the construction, fit out and dedication of a Proposed Arts Centre,
- is to be registered on the titles to the Development Site,
- imposes restrictions on the Parties assigning an interest under the agreement,
- provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation,
- requires the provision of bank guarantees and other measures as security for the Developer's obligations under the agreement;
- provides that the agreement is governed by the law of New South Wales.

### **Assessment of the Merits of the Draft Planning Agreement**

#### **The Planning Purposes Served by the Draft Planning Agreement**

The Draft Planning Agreement proposes the construction and dedication of a Proposed Arts Centre to Council. The facility will provide a new public space in a central location to further the social and cultural needs of the community.

The provision of this public facility will serve the needs of the residents, workers and visitors to the locality and will therefore:

- promote and co-ordinate the orderly and economic use and development of the land to which the agreement applies; and
- provide and co-ordinate the provision of public facilities in connection with the Development.

The North Sydney Community Strategic Plan 2013–2023 (**CSP**) outlines the community-wide priorities and aspirations for the local government area, and provides long-term goals, objectives and actions to achieve these visions. The CSP is Council's most important strategic document and is used to guide and inform Council's decision making and planning for the next ten years.

The relevant Directions, Outcomes, and Strategies of the CSP that will be met by the delivery of the Proposed Arts Centre include:

#### **Direction: 2. Our Built Environment**

Outcome: 2.1 Infrastructure, assets and facilities that meet community needs

Outcome: 2.2 Improved mix of land use and quality development through design excellence

Outcome: 2.3 Vibrant, connected and well maintained streetscapes and villages that build a sense of community

**Direction: 4. Our Social Vitality**

Outcome: 4.3 Enhanced arts and cultural programs and facilities

Outcome: 4.8 Enhanced Community facilities, information and services.

**How the Draft Planning Agreement Promotes the Public Interest and the Objects of the Act**

The Draft Planning Agreement promotes the Public Interest because it will provide public facilities that will serve the needs of the community in the location of the Development.

By providing this public facility as part of the Development, the proposal promotes the following objects of the Act:

*(a) to encourage:*

*(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*

*(ii) the promotion and co-ordination of the orderly and economic use and development of land,*

...

*(iv) the provision of land for public purposes,*

*(v) the provision and co-ordination of community services and facilities ...*

**How the Draft Planning Agreement Promotes the Elements of the Council's Charter, now the Guiding Principles for Councils**

By entering into this agreement for the provision of community facilities, Council is exercising its functions in accordance with the following guiding principles in section 8A of the Local Government Act 1993:

*(a) Councils should provide strong and effective representation, leadership, planning and decision-making.*

*(b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.*

*(c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.*

...

*(f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.*

*(g) Councils should work with others to secure appropriate services for local community needs.*

**Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program**

The Planning Agreement offers contributions that will enable the Council to provide community facilities for arts and cultural purposes, the need for which will be created by the Development. While the Council's Capital Works Program does not include any proposals to acquire land for the Proposed Arts Centre, it does include proposals to improve community facilities and the provision of the contributions under the Planning Agreement will not be inconsistent with the Council's Capital Works Program. The

Planning Agreement will enable Council to provide for the current and future open space needs of the local community.

**Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued**

The Draft Planning Agreement requires:

- (a) the provision of Bank Guarantees and other security prior to the issue of a Construction Certificate for the Development; and
- (b) the completion and the transfer of the Proposed Arts Centre prior to the issue of an occupation certificate for any residential unit in the Development.

# Appendix 2 – Planning Proposal prepared by Urbis

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**PLANNING PROPOSAL**  
**617-621 PACIFIC**  
**HIGHWAY, ST**  
**LEONARDS**

JUNE 2017 (FOR EXHIBITION)  
PREPARED FOR ANSON CITY DEVELOPMENTS 1 PTY LTD

**URBIS**

**URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:**

Director	Stephen White
Senior Consultant	Holly Patrick
Project Code	SA5921
Report Number	Final - amended



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<b>Appendix D</b>	Traffic Report prepared by ARUP
<b>Appendix E</b>	Aviation Advice prepared by AV Law
<b>Appendix F</b>	Design Centre Brief prepared by Kann Finch
<b>Appendix G</b>	Wind Assessment prepared by Windtech consultants
<b>Appendix H</b>	Building Services and Structural Description prepared by Aurecon
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# EXECUTIVE SUMMARY

## OVERVIEW

This report has been prepared on behalf Anson City Developments 1 Pty Ltd to initiate the preparation of an amendment to the North Sydney Local Environmental Plan 2013 (NSLEP 2013). The amendment relates to 617-621 Pacific Highway, St Leonards (Lot 1 in DP1022881, Lot 1 in DP577070 and Lots 1 and 2 in DP 455937) and proposes the following:

- Introduce shop top housing as an additional permitted use and specify a maximum residential floor space by amending Schedule 1 *Additional Permitted Uses*;
- Establish a site-specific height control; and
- Establish a minimum non-residential Floor Space Ratio (FSR) and maximum FSR control for the site.

This report has been prepared to assist Council to prepare a Planning Proposal for the NSLEP 2013 amendment of the site in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

## BACKGROUND

In May 2015 North Sydney Council endorsed a strategic review of its planning framework for the St Leonards /Crows Nest area (the St Leonards /Crows Nest Planning Study – Precincts 2 and 3 (referred to throughout this report as the Planning Study)). The intention of the Planning Study was to explore opportunities for the further intensification of development across the area. The Planning Study acknowledges that existing capacity is available to support more intensive development within St Leonards.

The subject site is included within the defined study area, and is situated within Precinct 2. This Precinct is identified by the Planning Study as a high density commercial and mixed use area. The Planning Study envisages that the subject site will be redeveloped to accommodate a tall building. The Planning Study does not set a height for tall buildings but instead invites the landowners of sites identified as suitable for tall buildings to submit site specific Planning Proposals to Council for individual consideration.

On 25 October 2017, the Department of Planning and Environment issued a Gateway Determination in relation to the Planning Proposal. In accordance with the conditions of the Gateway Determination, this Planning Proposal has been amended to reflect the requirements.

## PROPOSED LEP AMENDMENT

Pursuant to the North Sydney Local Environmental Plan 2013 (NSLEP 2013), the site is zoned B3 Commercial Core. Commercial use is permissible within the B3 zone. All forms of residential use are prohibited. Additionally, the existing height control applicable to the site limits development to 49 metres.

This Planning Proposal has been prepared to enable the provision of a mixed use scheme on the subject site through the preparation of a site specific amendment to NSLEP 2013. To assist in conceptualising the character of the envisaged development, a Concept Design that would form the basis of a future Development Application has been prepared by Kann Finch Architects and is attached to this submission at **Appendix A**.

The key features of the Concept Design include:

- A six storey podium comprised of:
  - Lower ground floor and ground floor retail tenancies.
  - Community facilities at Level 1 and Level 2.
  - Commercial (offices) tenancies on Level 3, Level 4 and Level 5.
  - A sky garden for residents on the top of the podium (Level 6).
- A 43 level tower form accommodating:

- 41 levels of residential apartments (Levels 7-23 and 25-48)
- Two levels of plant (Levels 24 & 49)

The proposed outcome will be achieved by amending NSLEP 2013 as follows:

- Amend *Schedule 1: Additional Permitted Uses* to allow "shop top housing" as a permissible use on the site at Clause 45, proposed wording as follows:

*45 Use of certain land at 617 - 621 Pacific Highway, St Leonards*

- (1) *This clause applies to land at 617 - 621 Pacific Highway, St Leonards being Lot 1 in DP1022881, Lot 1 in DP 577070 and Lots 1 and 2 in DP455937.*
  - (2) *Development for the purposes of shop top housing is permitted with consent.*
- Amend the *NSLEP, 2013 Height of Buildings Map* to provide for a building height of 175m on the subject site at 617-621 Pacific Highway, St Leonards (as shown in **Figure 16**); and
  - Amend the *NSLEP, 2013 Non-Residential Floor Space Ratio Map* to provide for a Minimum Non-Residential Floor Space Ratio of 4:1 on the subject site at 617-621 Pacific Highway, St Leonards (as shown in **Figure 17**).

The Gateway Determination issued by the Department of Planning and Environment requires that prior to community consultation, the planning proposal is to be updated to "*include a satisfactory arrangements provision for contributions to designated State public infrastructure identified as part of a draft or final strategic planning review for St Leonards/Crows Nest.*"

By memorandum dated 3 November 2017, the Council provided advice as to amendments to the planning proposal to ensure consistency with the Gateway Determination. It suggested a further amendment to the LEP as follows:

- "*Amend NSLEP 2013 to include a satisfactory arrangements clause that requires the provision of contributions for designated State public infrastructure identified as part of draft or final strategic planning review.*"

Subject to the provision of further detail in relation to the nature and quantum of contributions, the proponent would be prepared to request such an LEP amendment.

## PLANNING OUTCOMES

In summary, the site will achieve the following key planning outcomes with resultant community benefits:

- The proposal is consistent with State government policy which supports growth within existing centres: The proposal maximises commercial and residential opportunities in major centres well serviced by public transport. It would generate new employment and housing opportunities, including approximately **195 new dwellings**, within walking distance of major employment, retail, health and education facilities and excellent public transport connectivity.
- Improved pedestrian access and connectivity: It provides an opportunity for improved pedestrian access and connectivity through the St Leonards Centre through the redevelopment of the site to interconnect with adjacent lands and the surrounding footpath network and will enhance the public domain.
- Street activation: It involves the creation of new local retail facilities and public spaces that will activate the surrounding streets and complement the proposed land uses to encourage pedestrian activity and vibrancy.
- Other Public benefits:
  - Construction and dedication to Council of a state-of-the-art Community Arts Centre, with a superior quality fit out that will span two podium levels within the development, accessible from the ground floor and easily identifiable from the street. This will encourage the patronage of the arts to strengthen the St Leonards' image as a highly desirable place to live, work and play.

- Significant growth of employment from the current DA approval (residential and serviced apartments) with an estimated 35 ongoing jobs onsite compared with the proposal incorporating retail, art centre and commercial office space that will generate 252 ongoing jobs.

Following our analysis of the site and its surrounding context and the applicable State and local planning policies, it is demonstrated that there is clear planning merit to the Planning Proposal. It is therefore recommended that this Planning Proposal be favourably considered by North Sydney Council and that Council resolve to forward it to the Department of Planning and Environment for Gateway Determination in accordance with the Environmental Planning and Assessment Act, 1979 to prepare the necessary LEP amendment.

# 1. INTRODUCTION

## 1.1. OVERVIEW

This Planning Proposal has been prepared by Urbis on behalf of Anson City Developments 1 Pty Ltd (“the applicant”) to initiate the preparation of a Local Environmental Plan (LEP) to amend the statutory planning controls applying to the land at 617 - 621 St Leonards (“the site”).

The proposal seeks to enable high density mixed-use development on the site, through the following elements:

- Introduce “shop top housing” as an additional permitted use and specify a maximum residential floor space by amending Schedule 1 *Additional Permitted Uses*;
- Establish a site specific height control; and
- Establish a minimum non-residential Floor Space Ratio (FSR) control for the site.

The site is currently zoned B3 Commercial Core under the North Sydney Local Environmental Plan, 2013 (NSLEP, 2013). Despite the site benefitting from two lawful development consents for mixed use multi-storey residential developments, all forms of residential use are currently prohibited within the site should new applications be lodged.

The applicable built form controls that currently apply to the site include:

- Height of buildings: 49 metres (maximum).
- Floor space ratio: no applicable control.

## 1.2. STRUCTURE OF REPORT

The Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 (the EP&A Act) and the relevant guidelines prepared by the NSW Department of Planning and Infrastructure including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*. It includes the following:

- Description of the subject site and its context.
- Indicative site plan showing sufficient detail to indicate the effect of the proposal (concept plan).
- Statement of the objectives and intended outcomes of the proposal.
- Explanation of the provisions of the proposal.
- Summary of the justification of the proposal.

The Planning Proposal is accompanied by a range of plans and reports to provide a comprehensive analysis of the site opportunities and constraints. These include:

- Concept Design Report - prepared by Kann Finch Architects
- Landscape Concept – prepared by Urbis
- Traffic Impact Assessment – prepared by Arup
- Aviation Advice – prepared by AV Law
- Wind Impact Assessment – prepared by Windtech Consultants
- Building Services and Structure Report – prepared by Aurecon

Each of the above plans and reports has informed the proposed rezoning of the site to allow for high density mixed use development under the provisions of a site specific LEP.



## 2. SITE AND SURROUNDS

### 2.1. THE SITE

The site is located at 617 - 621 Pacific Highway, St Leonards on the northern side of the Pacific Highway at the intersection of the Pacific Highway, Christie Street and Atchison Street.

The site is immediately adjacent to 601 Pacific Highway, commonly referred to as the IBM site. We understand that redevelopment opportunities for more intensive mixed use development are similarly being investigated for the IBM site by the land owners and accordingly the Concept Plan takes this into account.

The site comprises two adjoining land parcels (1) Lot 1 in DP1022881 and Lot 1 in DP 577070; and (2) Lots 1 and 2 in DP 455937 which will be consolidated to accommodate future development. The site has a combined site area of approximately 1,067m<sup>2</sup>.

The site features a fall of approximately 4m from east to west along the Pacific Highway and Atchison Street frontages.

The site is fully developed, being occupied by two separate commercial office buildings. The buildings are in poor quality (C-Grade classification) and only at 60% occupancy, support some 179 jobs.

Table 1 – Property Description

Address	Lot/DP	Existing Land Use
617-619 Pacific Highway	Lot 1 DP 577070 and Lot 1 DP1022881	7 storey commercial building
621 Pacific Highway	Lots 1 and 2 DP 455937	12 storey commercial building

### 2.2. THE SITE: PLANNING HISTORY

The existing buildings have reached the end of their economic life and the land owner is seeking opportunities to redevelop the site. The site benefits from two recent (separate and unrelated) development consents for mixed used development as follows:

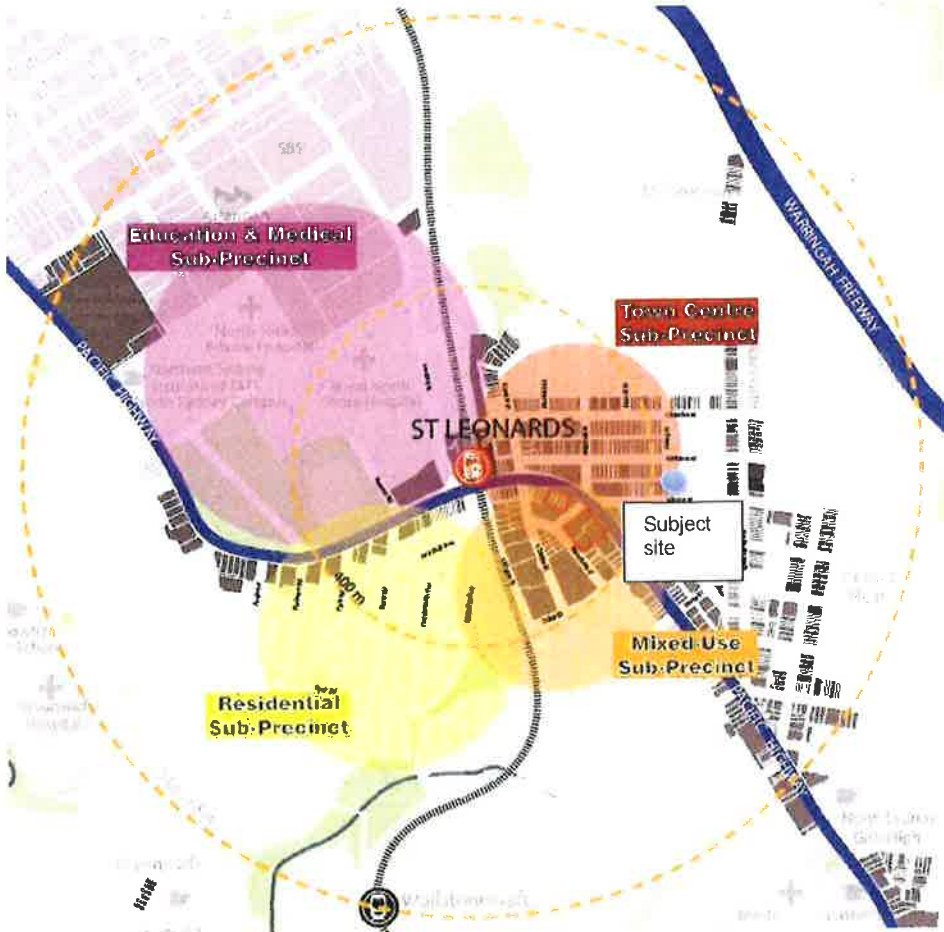
- **619 Pacific Highway:** Demolish existing building and construct 16 storey mixed use building comprising retail, 21 serviced apartments, 48 residential apartments and basement parking.
- **621 Pacific Highway:** Demolish existing building and construct 18 storey mixed use building comprising 36 serviced apartments, 72 residential apartments and ground floor retail with basement parking.

Of note, the DAs were lodged pursuant to the North Sydney LEP 2001 (repealed in September 2013 following the gazettal of NSLEP 2013) which permitted residential development within the site. The consents remain valid.

Figure 1 – Site Plan



Figure 2 – Site Location Plan



Source: [Click here to enter text.](#)

## 2.3. SURROUNDING CONTEXT

The site is located at the heart of St Leonards within convenient walking distance of the facilities and services available within the St Leonards rail precinct. The area is well advanced in its transition from an older style commercial precinct into a thriving mixed use area incorporating a mix of commercial and residential land uses. This transition is being supported by current development activity, recent approvals and further planned development. The immediate surrounds include a range of building forms which are predominantly medium and high rise commercial and multi-storey mixed use residential buildings. The surrounding area is described as follows:

- North: The site is bounded to the north by Atchison Street, a one way street (east bound) within a road reserve of approximately 20 metres which has recently been the subject of road and public domain improvement works undertaken by North Sydney Council. Atchison Lane on the north side of Atchison Street and directly opposite the subject site is a two way laneway within a road reserve varying in width from approximately 6-8 metres.

Built development on Atchison Street generally includes older style commercial buildings but the area is undergoing significant redevelopment activity and is becoming firmly established as a mixed use precinct with several buildings in the immediate vicinity of the site benefitting from development consents for mixed use development (refer to **Figure 3** and **Table 2** below).

- South: The site is bounded to the south by the Pacific Highway (six lane carriageway). The Friedlander Place Precinct which includes 472-486, 500 and 504-520 Pacific Highway is situated directly opposite. The Precinct is the subject of a Planning Proposal and Draft Amendment to Lane Cove LEP 2009. This proposes to rezone the subject site to B4 Mixed Use and increase building heights to 138m. The draft LEP amendment has been publically exhibited and formally adopted by Lane Cove Council and is currently with NSW Parliamentary Counsel awaiting gazettal.
- East: 601 Pacific Highway (known as the IBM site) is situated immediately to the east. Existing development comprises a 17 storey commercial office building. We understand that the site owners are currently investigating opportunities to redevelop the site for mixed use. Further east, Mitchell Street is a two way street with a road reserve varying from 11-13 metres.
- West: To the west the site is bounded by Christie Road. Further west is the St Leonards Railway Station which is articulated by the 38 storey Forum development.

## 2.4. ST LEONARDS

The site is located within the suburb of St Leonards in the North Sydney Local Government (LGA), at the boundary of both Willoughby and Lane Cove LGAs. St Leonards is located 6km north of the Sydney CBD within Sydney's Lower North Shore. The suburb is in close proximity and highly accessible to the commercial centres of North Sydney, Chatswood and Macquarie Park. The St Leonards Train Station is located approximately 100m to the west of the site, on which the St Leonards precinct is centred.

St Leonards is characterised by a mix of land uses generally including medical services, newly constructed mixed use commercial / residential buildings (with a significant number of recently approved mixed use developments currently under construction or soon to be constructed on the North Sydney LGA side of the Pacific Highway) and older B and C grade commercial office stock. The suburb is bisected east-west by the Pacific Highway and north-south by the North Shore Railway Line. Key land uses in the vicinity of the site include:

- **The Forum:** Built over the St Leonards railway station the Forum comprises a high rise development incorporating residential and commercial uses including a shopping centre. It is currently St Leonards' tallest development (38 storeys / 118 metres). Facilities and services available within the Forum, including the St Leonards rail station are within convenient walking distance of the site (approximately 100 metres). St Leonards station provides direct rail services to four primary employment areas: Macquarie Park, Chatswood, North Sydney, and Sydney CBD.
- **Royal North Shore Medical Precinct:** The Medical precinct comprises the Royal North Shore Hospital (RNSH), North Shore Private Hospital and the Northern Sydney Institute of TAFE. It is located in the north west of St Leonards and accommodates a range of health and associated tenancies. The Mater private hospital is also located in close proximity. In addition to being a valuable community resource the facilities provide significant employment opportunities.

- Commercial offices: A fringe of low grade office buildings (one block deep) front the Pacific Highway and west of the railway line. A more focused commercially zoned precinct is located south of the highway and east of the railway line and is characterised by a mix of commercial buildings, medical and allied health premises, along with a hotel and some residential apartments.
- Emerging mixed use development: While recognised as an important employment precinct, the land use character of St Leonards is evolving to support a greater diversity of uses including residential apartments above commercial uses.



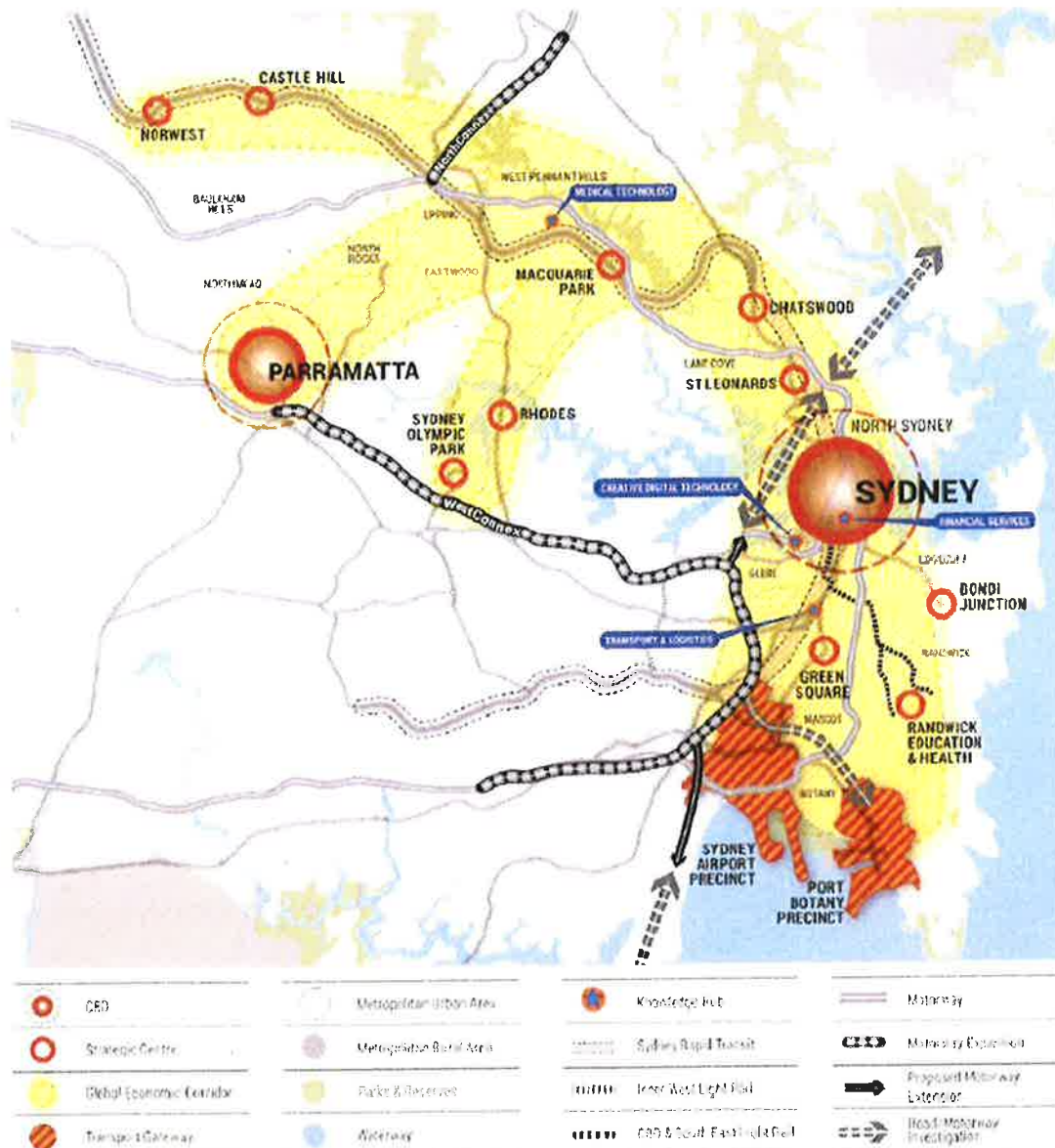
### 3. STRATEGIC CONTEXT

From a strategic context, the site is located within the St Leonards Specialised Centre and is within the St Leonards Centre precinct as identified in the St Leonards Strategy. The key strategic drivers of the planning proposal are generally summarised as follows:

#### 3.1. A PLAN FOR GROWING SYDNEY 2014

**Global Economic Corridor:** St Leonards is an integral part of the Global Economic Corridor which is an identified area of global economic activity stretching from Port Botany and Sydney Airport, through the Sydney Central Business District (CBD), North Sydney and St Leonards to Parramatta. This region accounts for the majority of Sydney's globally orientated commercial businesses and over 40 per cent of the National Gross State Product. The policy direction seeks to expand the Global Economic Corridor (Direction 1.6) through providing for growth of employment opportunities and mixed use activities. St Leonards will make a significant contribution to this through providing for increased employment opportunities in areas supported by efficient transport networks.

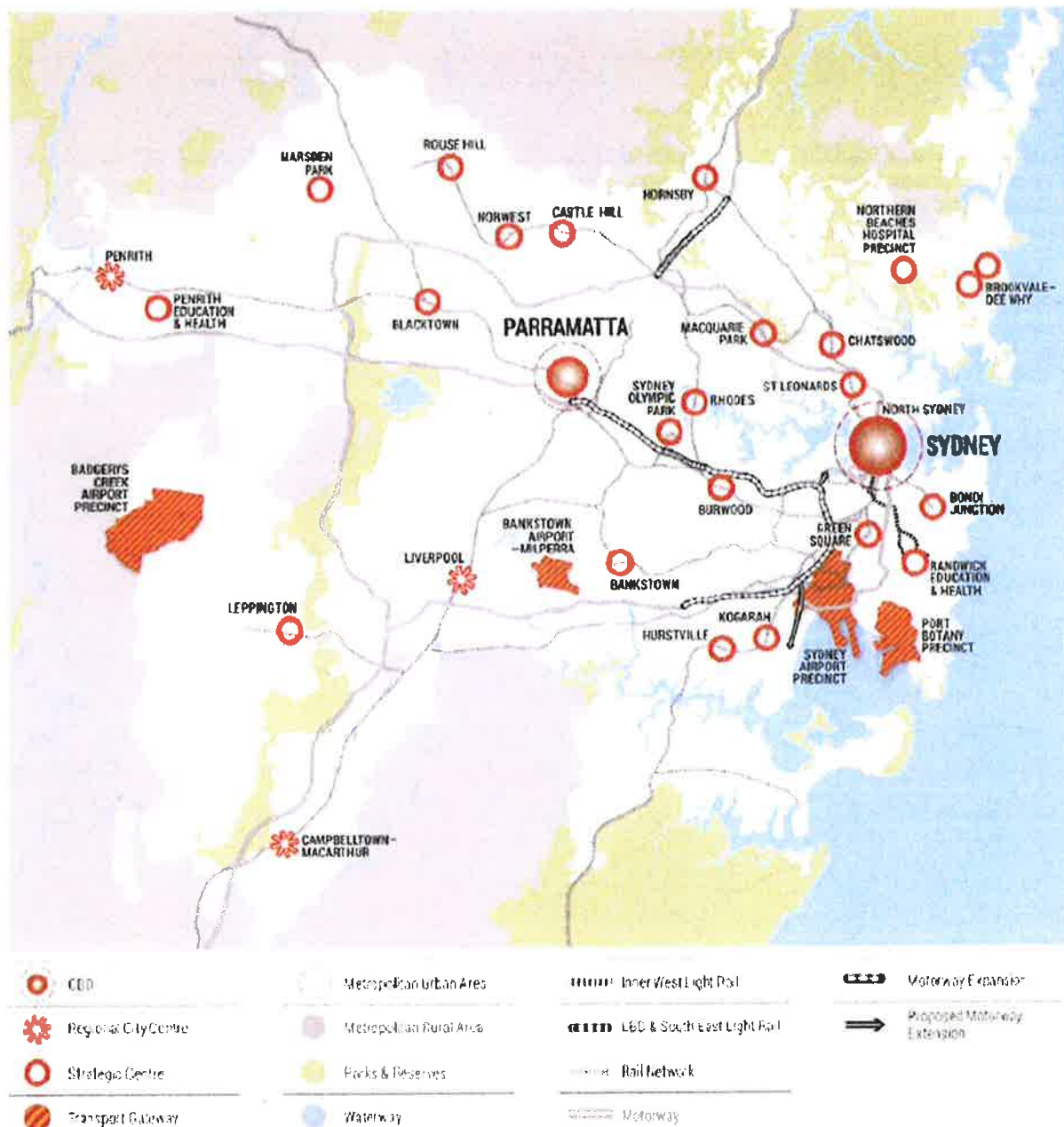
Figure 3 – Global Economic Corridor



Source: A Plan for Growing Sydney (Figure 15)

**Strategic Centres:** St Leonards is identified as a Strategic Centre in a Plan for Growing Sydney. The policy direction seeks to grow these centres to provide more jobs closer to home (Direction 1.7) and recognises that investment in these centres will grow jobs and housing and create vibrant hubs of activity.

Figure 4 – Strategic Centres and Transport Gateways



Source: A Plan for Growing Sydney (Figure 16)

### **3.2. DRAFT GREATER SYDNEY REGIONAL PLAN 2017**

The Greater Sydney Commission released a draft Greater Sydney Region Plan (GSRP) – a Metropolis of three Cities in October 2017 which is intended to replace the current regional plan. The plan is currently on public exhibition.

The GSRP provides amended (increased) housing targets for 2016-2036 (Northern District), as per the following:

- 0-5 year target: 25,950 dwellings;
- 20-year: 92,000 dwellings.

St Leonards and Crows Nest are identified in the GSRP as a Priority Growth Area and Urban Renewal Corridor, with St Leonards defined as forming part of the Eastern Economic Corridor and continuing to be defined as one of Greater Sydney's 9 commercial office precincts. St Leonards, Frenchs Forest and Macquarie Park are further defined as a Collaboration Area in order to share resources and coordinate investment across the area.

As assessment of the proposal against the key objectives and strategies is provided in **Section 9.2** of this report.

### **3.3. DRAFT REVISED NORTH DISTRICT PLAN 2017**

The Greater Sydney Commission released revised Draft District plans in November 2017. The site falls within the North District of Greater Sydney.

Key metric of the Draft North District plan are below:

- Housing targets set for the North District are 464,500 dwellings in 2036, an increase in dwellings by 92,000 on 2016 figures of 372,500 dwellings.
- Job targets - St Leonards is listed as having a job target of 54,000-63,500 by 2036 compared to 2016 figures of 47,100 existing jobs. This represents a minimum target of 7,000 new jobs over 20 years.

As assessment of the proposal against the key objectives and strategies is provided in **Section 9.2** of this report.

### **3.4. ST LEONARDS/CROWS NEST INVESTIGATION**

The Department of Planning & Environment is working with Lane Cove, North Sydney and Willoughby City Councils to undertake a strategic planning investigation of the St Leonards and Crows Nest Station Precinct.

The Sydney Metro Project is Australia's largest public transport project and a new metro station is proposed at Crows Nest. The investigation area incorporates areas that are within walking distance of the existing St Leonards station and the proposed Crows Nest station as well as the industrial and employment areas in Artarmon.

St Leonards is identified as a Strategic Centre in A Plan for Growing Sydney and the investigation will respond to the actions identified in this Plan, including ways to maintain employment in the area, provide new homes, shops, cafes and open space and maximise the great access to public transport. At present, only a Draft Interim Statement (August 2017) has been released which identifies the site as falling within the part of the centre designed for high density mixed commercial, retail and residential uses, consistent with this proposal.

As part of the government investigation, infrastructure needed to support the area into the future will be identified, including improvements to transport, the road network, open space and social infrastructure including community and education facilities.

The Gateway Determination issued by the Department of Planning and Environment requires that prior to community consultation, the planning proposal is to be updated to "include a satisfactory arrangements provision for contributions to designated State public infrastructure identified as part of a draft or final strategic planning review for St Leonards/Crows Nest."

By memorandum dated 3 November 2017, the Council provided advice as to amendments to the planning proposal to ensure consistency with the Gateway Determination. It proposed that the Planning Proposal includes

*"the intention to provide an equitable contribution towards State and local public infrastructure to support the implementation of the St Leonards and Crows Nest Strategy, as required by the Gateway Determination. As the Planning Proposal progresses, the proponent will continue to liaise with the relevant Government agencies to work through the appropriate form of this contribution and any necessary amendments to NSLEP 2013."*

The proponent notes that

1. the feasibility of the project is based on the construction and dedication to Council of a state-of-the-art Community Arts Centre in accordance with a voluntary planning agreement as discussed elsewhere in this document; and
2. the proponent has no information as to the nature and quantum of the contributions that will be levied in accordance with this requirement.

Subject to the provision of further detail in relation to the nature and quantum of contributions, the proponent would be prepared to provide an equitable contribution towards State and local public infrastructure to support the implementation of the St Leonards and Crows Nest Strategy, as required by the Gateway Determination. The proponent assumes that this information will be provided as the Planning Proposal progresses.

### **3.5. METRO RAIL INFRASTRUCTURE**

Public transport services to St Leonards are well established. High frequency bus connections operate along the Pacific Highway. The site is also proximate to St Leonards railway station (within 100m). Regular train services to the major employment centres of Chatswood, Macquarie Park, Sydney CBD and North Sydney are available from this station. St Leonards is extensively served by both bus and rail services. Being a major employment destination in its own right and accommodating the Royal North Shore Hospital Campus, St Leonards has developed as a transport hub that has a high level of connectivity to surrounding suburbs and centres with a high frequency of services. The subject site is located approximately 200 metres from the entrance to the St Leonards railway station. Rail services through this station run on the North Shore Line, linking to the CBD to the south (Parramatta) and to the north (Hornsby). St Leonards Station is a major interchange having one of the highest levels of rail and bus accessibility in the Sydney Metro Area.

In late 2015 the NSW Government made an announcement regarding the location and commissioning of the Metro Station in St Leonards/Crows Nest. The station will be located on the western fringe of the Crows Nest village, between the Pacific Highway and Clarke Lane (eastern side of the Pacific Highway). The station creates a new transport focus on the southern side of the St Leonards specialised centre which supports the St Leonards southern gateway to commercial and mixed-use activities, this will further enhance the accessibility of St Leonards.

### **3.6. ROYAL NORTH SHORE HOSPITAL**

The Royal North Shore Hospital (RNSH) meets the health needs of Mosman, Willoughby, Lane Cove and North Sydney LGAs. RNSH is undergoing significant redevelopment and expansion. The redevelopment of the medical and clinical uses of RNSH will be complemented by the development of a 10,000sqm "support zone" which will include staff accommodation, childcare facilities, administration buildings, car parking and commercial / retail uses. Medical and health related services are principal employment uses within St Leonards accounting for 25 per cent of jobs within St Leonards (based on 2011 data). The importance of the health industry to local employment is expected to continue and grow into the future



supported by the major redevelopment of RNSH.

### 3.7. ST LEONARDS DEVELOPMENT TRENDS

**Increased density and scale:** Recent development has redefined the character of the area and this will continue to evolve over the coming years in line with State government policies for the area (as articulated in A Plan for Growing Sydney and supported by the soon to be released District Plans). New higher density development has been approved as illustrated in **Table 2** and **Figure 3** below.

**Residential use:** The character of St Leonards is evolving from a purely employment based precinct to support a more diverse range of uses. New development includes high density residential uses which complement (rather than replace) the traditional commercial focus and help to activate the Precinct outside business hours. New residential uses are generally concentrated around the St Leonards train station. Recent approvals and current applications for mixed use development within and around St Leonards are described in Table 2 below.

Table 2 – Local Development

Site	Development	Building Height
2-4 Atchison Street	DA consent: Mixed use building	17 storeys
6-16 Atchison Street	Mixed use building -constructed	34 storeys
18-20 Atchison Street	DA consent: Mixed use building	16 storeys
22 -24 Atchison Street	DA consent: Mixed use building	16 storeys
472-494, Pacific Highway	DA consent	2 x mixed use residential towers 36 and 28 storeys
500, 504-520 Pacific Highway	DA under assessment	1 x mixed use tower of 43 storeys
601 Pacific Highway	Existing building	20 storeys
	Developer intention to lodge a Planning Proposal for the comprehensive redevelopment of the site for mixed use.	TBC
1-13A Marshall Street	Current DA: Residential flat building	29 storeys
7-11 Albany Street	DA consent: Mixed use building	13 storeys
100 Christie Street	DA consent: Conversion of existing office building to residential apartments	11 storeys
	<i>Note: A Planning Proposal has been lodged seeking residential tower of 45 storeys.</i>	
84-90 Christie Street	Awaiting LEP Amendment Gazettal	2 x residential towers:27 and 46 storeys.

Figure 5 – Major Development Sites in St Leonards



Source: Extract from St Leonards / Crows Nest Planning Study, May 2015 (Page 28)

### 3.8. ST LEONARDS / CROWS NEST PLANNING STUDY – PRECINCT 2 AND 3

On 29 November 2010 North Sydney Council resolved to undertake a Planning Study of the St Leonards / Crows Nest area with the following objectives:

- New open space in St Leonards / Crows Nest;
- Increased investment in St Leonards and decreased commercial vacancy rates, with particular focus on the rejuvenation of the Pacific Highway between St Leonards train station and the intersection of Pacific Highway and Willoughby Road;
- Improved connectivity, particularly between St Leonards / Pacific Highway and Willoughby Road;
- Improved urban design and street level amenity particularly in St Leonards and along the Pacific Highway; and
- Improved building design and residential amenity in St Leonards.

The broader study area incorporates all of North Sydney's jurisdiction in St Leonards and its interaction and connections with Crows Nest and the Pacific Highway. A precinct-based approach was adopted and divides the area in four precincts. The subject site sits within Precinct 2: the high density commercial and mixed use area immediately east of the St Leonards train station. The planning study for Precincts 2 and 3 was completed in May 2015 with work currently underway to implement the schemes.

Figure 6 – St Leonards/ Crows Nest Planning Study – Area Map



Source: Extract from St Leonards / Crows Nest Planning Study, May 2015. (Page 28)

The intention of the Planning Study was to explore opportunities for the further intensification of development across the area and to investigate opportunities for a more diverse range of land uses, including residential use as a means of meeting the challenging employment and housing targets set out in A Plan for Growing Sydney.

Specifically within Precinct 2, the study proposes:

- upgrading Christie Street Reserve and Mitchell Street Plaza;
- two new linear parks along Mitchell Street and Oxley Street;
- more employment opportunities, including the West Oxley Creative Precinct;
- supporting high quality mixed use towers close to St Leonards Station; and
- a new community arts centre, start-up commercial space, daycare facility and affordable housing.

With regards to the subject site, the study defines the future character for this area as follows:

*Development will reflect the high density character of the centre where the impact on neighbouring buildings and the public domain is mitigated through well located tall, slender towers. Tall buildings on key sites will act as urban landmarks for the precinct, supporting major community facilities and public open space.*

*There will be a strong commercial focus and a wide range of new activity in the centre : including a community arts centre, galleries, entertainment and retail.*

A key emphasis of the Planning Study is to identify opportunities to harness the public benefits that can be gained from increased development density within St Leonards. A number of measures are proposed:

- Major, new public domain upgrades, a community centre and smaller projects that building the precinct's emerging creative economy.
- Improved pedestrian access to the station, bus stops and taxis and complete bike paths.
- Protection of employment function of the precinct through changes to the existing planning controls to support small to medium sized local companies.
- Support for additional housing density near St Leonards station with tall slender towers considered in the centre precinct (the site is nominated as a tall building site).

The Planning Study makes a number of recommendations aimed involving amendments to the existing LEP and DCP controls. The following are directly relevant to this planning proposal:

- To allow consideration for spot rezoning's for shop top housing as an additional permitted use on sites with mixed use approvals in the B3 Commercial Core zone (this includes the subject site which benefits from development consents for mixed use development).
- To increase the non-residential floor space ratio of mixed use land to fill podium levels (minimum 4:1 proposed for the subject site).
- To increase podium height near the station to accommodate non-residential uses.
- New ground level, whole building and above podium setbacks to improve built form.
- Consider landowner initiated planning proposals to increase height on identified sites.
- The height limit on four sites identified for "tall buildings" to be determined on merit (a tall building defined as being over 18 storeys in height).

#### **Site Opportunities**

The site has a number of attributes that make it suitable for more intensive development as recognised with by the Planning Study. These attributes include:

- The site area, being in excess of 1,000sqm, makes high density development possible.
- Excellent proximity to existing infrastructure (including St Leonards train station).
- As noted above, the Planning Study nominates the site as a "tall building site." No maximum height limit has been allocated to these sites, instead landowners are invited to submit site specific Planning Proposals.

The Planning Study reaffirms the intention for St Leonards to further develop as a mixed use hub and enable landowner-initiated planning proposals to be received to by Council to implement the scheme.



## 4. EXISTING PLANNING CONTROLS

### 4.1. ZONING

The North Sydney Local Environmental Plan, 2013 (NSLEP) is the relevant planning instrument for the site. Under the NSLEP, the site is zoned B3 Commercial Core. A plan showing the existing zoning is provided at **Figure 7**.

The objectives of the B3 zone are as follows:

*To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*

*To encourage appropriate employment opportunities in accessible locations.*

*To maximise public transport patronage and encourage walking and cycling.*

*To prohibit further residential development in the core of the North Sydney Centre.*

*To minimise the adverse effects of development on residents and occupiers of existing and new development.*

Figure 7 – Existing Land Use Zone (NSLEP, 2013)



## 4.2. LAND USE

The range of permitted and prohibited uses within the B3 zone are set out within the NSLEP as follows (emphasis added):

### Permitted without consent

*Nil*

### Permitted with consent

*Amusement centres; Backpackers' accommodation; Child care centres; **Commercial premises**; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Serviced apartments; Sex services premises; Signage; Vehicle repair stations; Veterinary hospitals*

### Prohibited

**Any other development not specified in item 2 or 4.**

Commercial premises are permissible within the B3 zone. Commercial premises are defined as follows:

**Commercial premises** means any of the following:

- *Business premises*
- *Office premises*
- *Retail premises*

All forms of residential development are prohibited within the B3 zone.

## 4.3. HEIGHT AND FSR CONTROLS

The development standards under the NSLEP that are applicable to the site include:

- Building Height – Maximum building height 49 metres (as shown in **Figure 8**)
- Floor Space Ratio – no applicable control (as shown in **Figure 9**)
- Non-residential floor space – no applicable control (as shown in **Figure 9**)

Figure 8 – Existing Building Height Control (NSLEP,2013)



Figure 9 – Existing Floor Space Ratio and Non-Residential Floor Space Controls (NSLEP,2013)



# 5. THE DEVELOPMENT CONCEPT

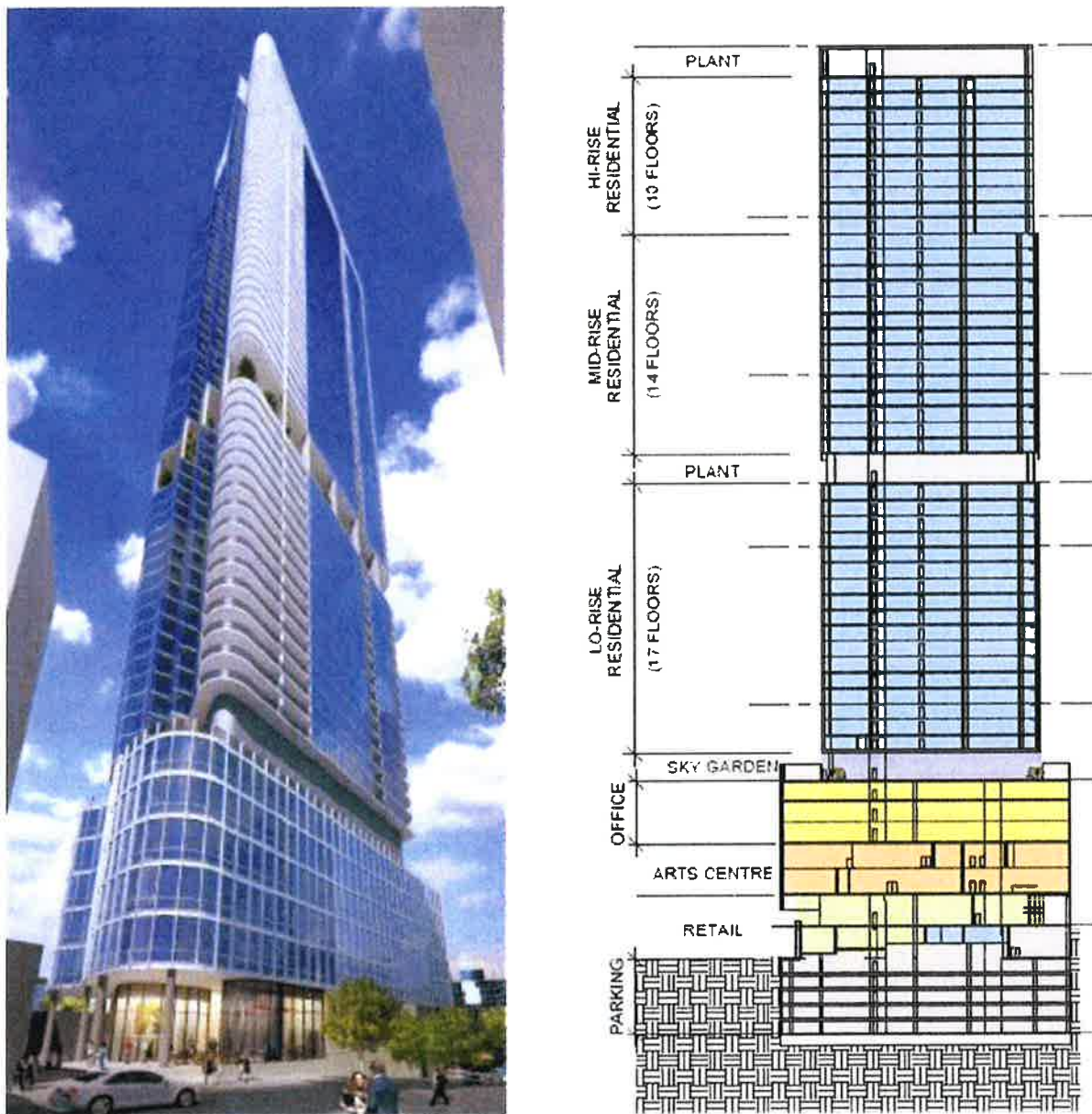
## 5.1. PROPOSED CONCEPT DESIGN

This Planning Proposal is informed by an urban design study and concept architectural schematic, prepared by Kann Finch Architects, which analyses the development opportunities for the site. This development concept will facilitate the redevelopment of the site whilst delivering on metropolitan planning objectives to foster a core mixed use precinct in close proximity to the St Leonards train station. It is intended that a future Development Application will be generally consistent with this draft concept schematic.

A copy of the Concept Design Report and architectural plans are submitted with the Planning Proposal at **Appendix A**.

Broadly, the future mixed use development concept will include retail tenancies at the lower levels, commercial offices and community facilities within the podium and residential apartments within a slender tower form above.

Figure 10 – Perspective view and section showing proposed development concept (Concept Design Report, Kann Finch)





The key features of the concept proposal include:

- A six storey podium comprised of:
  - Lower ground floor and ground floor retail tenancies.
  - Community facilities at Level 1 and Level 2.
  - Commercial (offices) tenancies on Level 3, Level 4 and Level 5.
  - A sky garden for residents on the top of the podium (Level 6).
- A 43 level tower form accommodating:
  - 41 levels of residential apartments (Levels 7-23 and 25-48)
  - Two levels of plant (Levels 24 & 49)
- The opportunity for activated street frontages on Atchison Street, Pacific Highway and Christie Street as a result of the retail/ commercial tenancies (Demonstrated in **Figure 11**).

Figure 11 – Perspectives demonstrating opportunities provided for activation on the ground and first floor levels as viewed from the north west (top image) and the southern side of the Pacific Highway (bottom image)



- STREET EDGE WITH ACTIVE USES
- BLANK FACADE (IF EXPOSED) TO BE TREATED WITH ARCHITECTURAL INTEREST
- FEATURE WALL



- Provision of separate residential and commercial lobbies and associated lift transport, accessed centrally from the Atchison Street frontage.

- Provision of a separate access to the community facilities from Atchison Street, located at ground floor adjacent to the eastern site boundary.
- All back of house and ancillary space located at lower ground level, well separated from the main pedestrian areas on the surrounding streets to minimise blank, inactivated frontages adjacent in these locations.

Figure 12 – Lower Ground (top image) and Ground Floor (bottom image) Plans (Concept Design Report, Kann Finch)



- Provision of basement car parking to support future uses across the site, a maximum of 80 car spaces, within five basement levels.
- Provision of loading facilities to accommodate the service vehicle demand resulting from the proposal.

- A range of conceptual ancillary works to facilitate the new development, including stormwater, landscaping and pedestrian and vehicle access points.

It is noted that the concept detailed above is indicative and does not intend to lock-in design or yield. The future development concept facilitated by the Planning Proposal will:

- Provide a range of housing options.
- Deliver appropriately sized and supported retail and commercial space for the St Leonards market.
- Provide public domain that encourages improved walkability and vibrancy.
- Encourage uses which operate during evening and early morning hours in activity centres, such as cafes, restaurants and community facilities.

Table 3 – Summary of Proposed Development Concept

Element	Proposed
Land uses	Ground floor retail tenancies Podium level community facilities Podium level commercial office space Residential apartments in the tower
Indicative yield	195 residential apartments (21,860m <sup>2</sup> residential GFA) 610m <sup>2</sup> retail GFA (580m <sup>2</sup> NLA) 2,870m <sup>2</sup> commercial GFA (2,700m <sup>2</sup> NLA) 1,830m <sup>2</sup> community facility GFA (1,740m <sup>2</sup> NLA)
Gross Floor Area (GFA)	27,140m <sup>2</sup>
Floor Space Ratio (FSR)	25.4:1
Non-residential floor space (GFA/ FSR)	Approx. 5,280m <sup>2</sup> / 4.9:1
Built form	Slender tower above a six (6) storey commercial podium
Building height	max RL 263 or 179.28m ( <i>Ground at RLs between 86- 89.5</i> )

## 5.2. VOLUNTARY PLANNING AGREEMENT

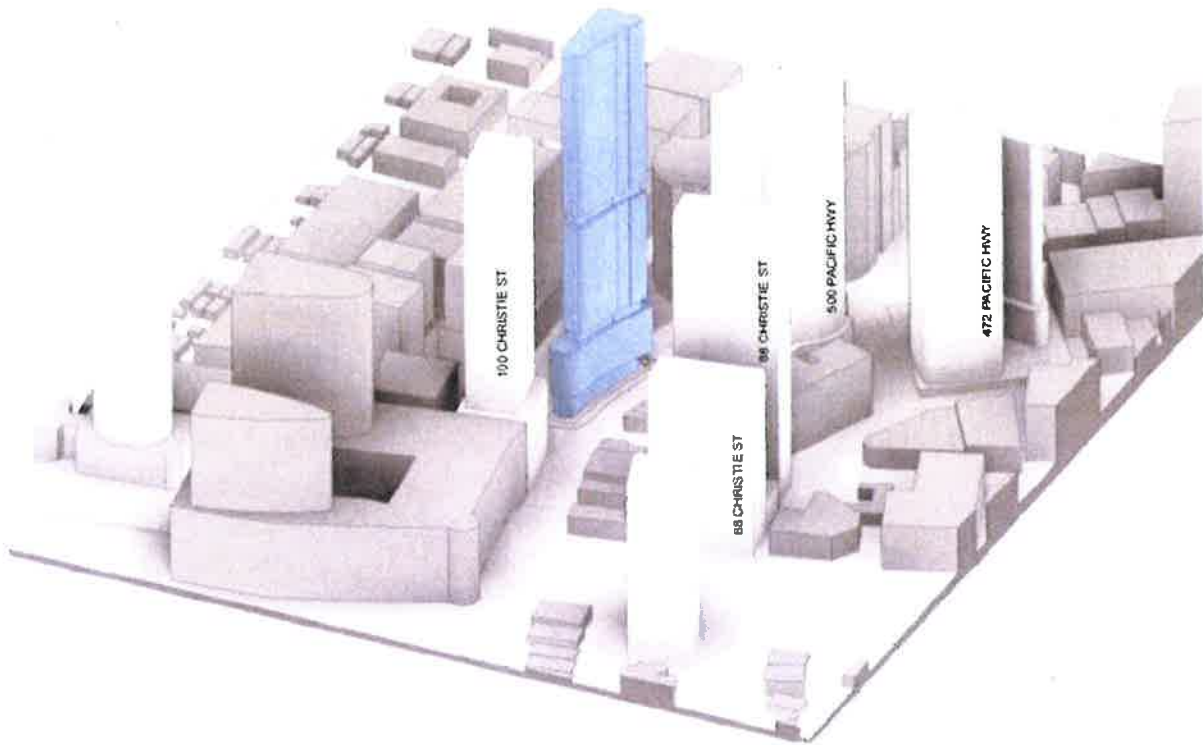
The applicant offers to enter into a Voluntary Planning Agreement (VPA) with Council to enable the delivery of a significant public benefits arising from the change of land use and density. The draft VPA will accompany the Planning Proposal during public exhibition.

The key items of the VPA are summarised below:

- **Proposed Public Works:** Provided that the Planning Proposal is successful and that development consent is granted with respect to the Proposed Development, the Proposed Development will provide a state of the art, two-level art gallery with a superior quality fit out in the podium levels of the development (Proposed Art Gallery). The gallery will be a community facility that will be dedicated to the Council.
- **Cost of Proposed Development and Proposed Public Works:** subject to valuation.
- **Timing for completion of Proposed Public Works:** before an occupation certificate is obtained in respect of any residential apartment in the Proposed Development.

- **Registration of VPA and novation:** Developer to have the VPA registered on the title of the land within 3 months of the entering into of the VPA in accordance with section 93H of the EP&A Act. VPA to include a novation clause that will apply if the ownership of the land changes.
- **Specifications for Arts Centre:** the Developer is to construct the Arts Centre strictly in accordance with the specifications in the "Arts Centre Design Brief" prepared by Kannfinch and dated 21 March 2017.

Figure 13 – Proposed building massing concept showing in light blue, in the context of surrounding planned developments, as viewed from the north east (Concept Design Report, Kann Finch)



### 5.3. DESIGN DEVELOPMENT

The following factors were influential in developing the proposed concept design for the site:

- St Leonards / Crows Nest Planning Study, including Design Principles for Tall Buildings (NSDCP, 2013)
- Aviation Advice
- Future development context
- Potential massing for 601-615 Pacific Highway (IBM site)
- Shadow Analysis
- Provision of residential amenity for future occupants

# ST LEONARDS / CROWS NEST PLANNING STUDY

The proposal has regard to the design criteria for tall buildings outlined in the St Leonards / Crows Nest Planning Study as set out in **Table 4**.

Table 4 – Design Criteria for Site Specific Planning Proposals

Criteria	Planning Proposal Response
Relate to a parcel of land with a minimum street frontage of 20 metres	Street frontages to Atchison Street and Pacific Highway in excess of 50 metres.
Relate to a parcel of land that does not isolate, sterilise or unreasonably restrict the development potential of adjacent parcels of land	The proposal will not result in the isolation of any property. Potential massing for future development on the adjoining IBM site has been undertaken which demonstrates that the approach illustrated in the Concept Plan would not impede on the future development potential of the IBM site. Further, it does not rely on access from adjoining lands.
Non-residential floor space ratio control consistent with Map 5.1 – Area 14: Minimum 4:1	The concept plan indicates that non-residential floor space would be provided over six levels. Indicatively the GFA would be in the order of 5,280m <sup>2</sup> (FSR 4.9:1)
Site specific Floor Space ratio control having regard to the podium height and setback controls in Maps 6A and 6B:	<ul style="list-style-type: none"> <li>• Six storey podium provided.</li> <li>• Two storey 3m ground level set back incorporated.</li> </ul>
<ul style="list-style-type: none"> <li>• 6 storey podium</li> <li>• 3m: 2 storey ground level setback</li> </ul>	
Height control consistent with Map 6C: Building Height	Site area in excess of 1,000sqm.
For tall buildings identified in Map 6C, to be designed in accordance with the <b>Design Principles for Tall Buildings</b> :	
<ul style="list-style-type: none"> <li>• Maximum gross buildable area 750sqm</li> </ul>	The proposed built form is a slender tower with residential floor plates of less than 670m <sup>2</sup> . The small floorplate allows for efficient circulation, adequate natural ventilation and solar access for the apartment units within the residential tower as well as minimising the visual bulk.
<ul style="list-style-type: none"> <li>• Maximum building length 40m with breaks and articulation encouraged on the elevations.</li> </ul>	The maximum length of the tower is approximately 44m in an east- west direction from. This exceeds the maximum building length allowed. However, this is a result of site constraints. The site has a maximum depth of approximately 28m at the eastern end and it is further reduced to 12m in depth at the western end. To achieve an efficient layout the floorplate has been extended to the west, but the bulk has been carefully sculpted and articulated and will not cause negative visual impacts. The full length of the tower will only be seen when viewed directly from the north or south where view corridors are

## Criteria

- Minimum separation distance 24m from other tall buildings (20m for minor portions of the building acceptable).

- Overshadowing analysis.

- Wind, sunlight and view impacts to be addressed.

- Provide high quality residential amenity outcomes.

Include satisfactory arrangements to provide commensurate public benefits that support the proposed scheme

## Planning Proposal Response

limited due to the presence of existing buildings. Further, the tower form will be strongly articulated by vertical slots/blades, projecting balconies and variations in the facade.

The proposed tower complies with the required separation distances. Specifically:

To the north - provides approximately 24m to existing buildings at 2 and 6-16 Atchison Street.

To the east - provides approximately 39m to the IBM building,

To the west - provides approximately 37m to the existing building at 655 Pacific Highway.

To the south - has generous separation to the properties on the opposite side of Pacific Highway due to the width of the Highway (approximately 27m).

Shadow and view studies have been prepared and attached at **Appendix A**. The shadow analysis demonstrates that the proposed tower will have a minor impact on the public realm and that these impacts are mitigated by the slenderness of the tower, the separation from other towers and the street level setbacks. Furthermore, the shadow generated by the proposal will not dwell on any significant open space, heritage item or public facilities.

The building design will mitigate overshadowing impacts, wind impacts and protect sunlight and views of the sky through building separation, public domain interface and podium/ tower design.

The indicative floor plans of the residential levels demonstrate that three out of five apartments per floor are corner apartments and the two single aspect apartments have depths shallower than 8m. The proposed design will provide high quality living and working conditions for residents, occupants and visitors. The design will optimise sunlight access, natural ventilation and privacy.

The applicant offers to enter into a Voluntary Planning Agreement (VPA) with Council to provide a range of contributions in addition to Section 94 contributions payable in respect of the proposed development. A Draft VPA accompanies this proposal.

Specifically, the proposal includes the provision of a



## Criteria

## Planning Proposal Response

Community Arts Centre across two podium levels within the proposal, accessible from the ground floor and easily identifiable from the street. This will encourage the patronage of the arts to strengthen the St Leonards' image as a highly desirable place to live, work and play.

### 5.4. AVIATION

The location of the Obstacle Limitation Surface (OLS) and Radar Terrain Clearance Chart (RTCC) that applies to St Leonards is shown in the ST Leonards/ Crows Nest Planning Study.

The overall building height, including ancillary features and temporary structures, must be below these heights. A specialist Aviation consultant, AV Law, has been engaged to provide advice on the project. This assessment advises as follows:

*As explained in this AIA, AvLaw has determined that no aeronautical surfaces relative to Sydney Airport will be affected by the proposed development, nor will helicopter operations at the Royal North Shore Hospital (RNSH) helipad be adversely impacted.*

*AvLaw's assessment is that the current published Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) height across the site is 335.2m AHD (1100ft) and that the Radar Lowest Sector Altitude (RLSALT) or Radar Terrain Clearance Chart Height (RTCC) is 1100ft AHD (335m). The proposed development is below and clear of these surfaces. The Obstacle Limitation Surface (OLS) across the site is 156m AHD and will be penetrated by the development causing it to be a "controlled activity". Penetration of the OLS requires aeronautical assessment to show whether there is likely to be any adverse impact on the safety or regularity of aircraft operations. This AIA by AvLaw concludes that the proposed development is clear of all aircraft operational surfaces and the controlled activity will not adversely affect safety or significantly affect regularity of operations of aeroplanes for Sydney Airport or helicopter operations at RNSH.*

The report prepared by Av Law is included in **Appendix E**.

### 5.5. POTENTIAL MASSING FOR 601-615 PACIFIC HIGHWAY (IBM SITE)

In developing the redevelopment concept for the subject site, it has been necessary to investigate potential massing options for the IBM site at 601-615 Pacific Highway, adjoining the subject site to the west.

Two massing options, Option A and Option B, are explored in the Concept Design Report (Pages 22 and 23) and shown in **Figure 14** and **Figure 15**.

Option A provides a six storey podium with a 40 storey tower form above. The tower has been positioned to maximise building separation from the subject site to ensure appropriate levels of residential amenity can be achieved on this development site. This option also provides opportunities for street front activation on the Pacific Highway and Atchison Street frontages.

Option B explores two separate five storey podiums with a shared ground floor below. Above each podium level is a tower form, 35 storeys on the eastern side of the site and 20 storeys in the western section of the site.

Option A is considered the most likely development scenario as it allows for large separation distances between neighbouring residential towers and can achieve the desired tall building urban design outcomes that are envisaged for the site.

This process has determined the most appropriate redevelopment concept for the subject site and demonstrates that the proposal can be accommodated on the subject site without resulting in adverse impacts on the future development potential of the neighbouring site to the west, the only site it directly abuts.

Figure 14 – Potential Massing Model for 601-615 Pacific Highway: Option A (Concept Design Report, Kann Finch)

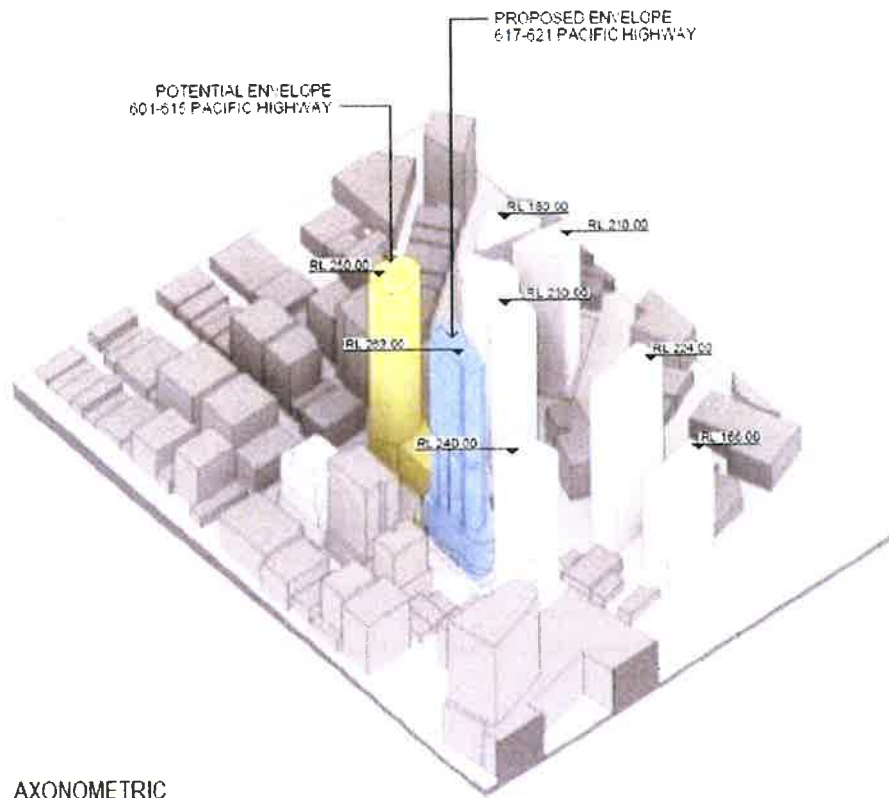
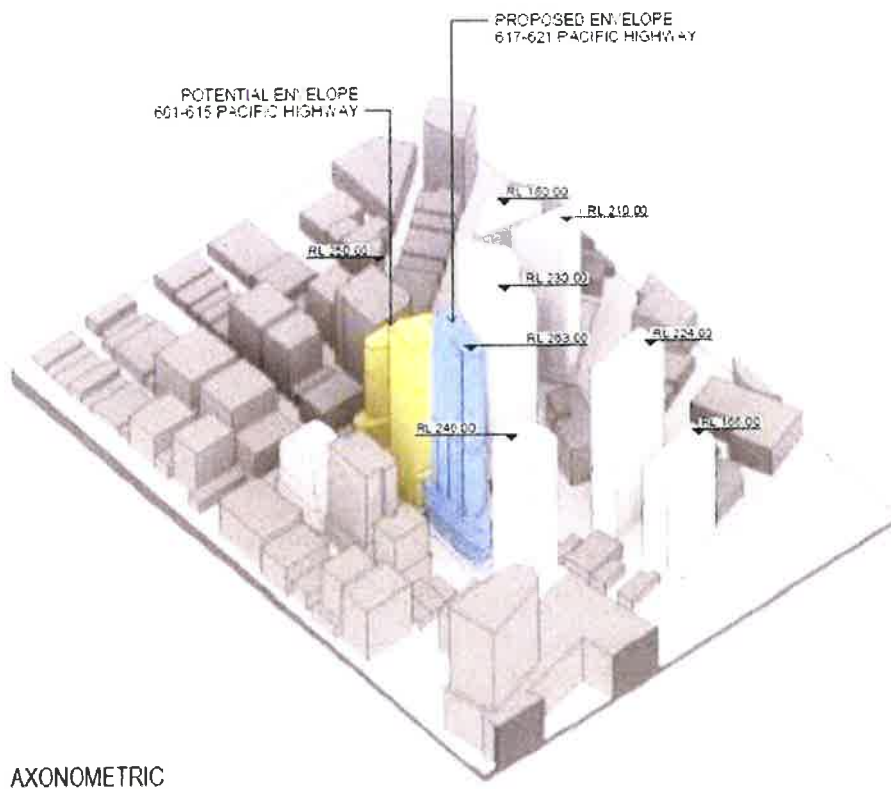


Figure 15 - Potential Massing Model for 601-615 Pacific Highway: Option B (Concept Design Report, Kann Finch)





## 6. THE PLANNING PROPOSAL

This Planning Proposal has been prepared in accordance with Sections 55 (1) and (2) of the Environmental Planning and Assessment Act 1979 with consideration of the relevant guidelines, namely "A guide to preparing planning proposals" issued by the NSW Department of Planning and Environment, August 2016.

Accordingly, the proposal is discussed in the following parts:

- **Part 1** – A statement of the objectives or intended outcomes.
- **Part 2** – An explanation of the provisions that are to be included in the proposed LEP.
- **Part 3** – The justification for the planning proposal and the process for the implementation.
- **Part 4** – Mapping.
- **Part 5** – Details of community consultation that is to be undertaken for the planning proposal.
- **Part 6** – Project timeline.

Discussion for each of the above parts is outlined in the following chapters.

## 7. PART 1 – OBJECTIVES OR INTENDED OUTCOMES

### 7.1. OBJECTIVES

The primary objective of the proposed rezoning is to amend the North Sydney Local Environmental Plan, 2013 (NSLEP 2013) to provide for; taller building forms on the subject site; and shop top housing as a permitted use on the subject.

The proposed concept proposal has been developed to realise a high quality mixed use redevelopment of the site that will make a meaningful contribution to the growth and enhanced physical quality of St Leonards. The proposed built form response seeks to promote taller building forms commiserate with the identified development trends in St Leonards whilst respecting the Sydney Airport height limitations to support the growth of the St Leonards Specialised Centre. The concept will also leverage off significant investment in the current and future transport infrastructure accessible to the site, providing increased residential and employment opportunities in well serviced locations.

The proposed amendments to the NSLEP controls have the objective of facilitating development which achieves the following:

- Providing compatible land uses that will contribute to the creation of a vibrant and active community including residential and commercial activity and community facilities.
- Integrating the site with the broader area through improvements to adjoining public domain spaces.
- Realising the current development density on the site through the introduction of residential accommodation without impacting on the potential achievement of overall employment targets for the site and wider precinct.
- Encouraging and supporting development activity in St Leonards, supporting the diverse mixed use nature of the precinct and contributing to a rejuvenation of St Leonards.
- Leverages the site's strategic location proximate to rail and bus networks and TOD principles by providing high levels of accessibility for residents and workers to the broader metropolitan area.
- Realises the redevelopment of the land in a manner consistent with the building height and FSR parameters envisaged by the St Leonards/ Crows Nest Planning Study (Precincts 2 and 3).

### 7.2. INTENDED OUTCOMES

The intended outcome of the Planning Proposal is to facilitate the timely delivery of the redevelopment of the site to accommodate a high quality mixed use building that successfully integrates with the emerging context of St Leonards. This is proposed through the following actions:

To facilitate the LEP amendment the following changes to the NSLEP 2013 are proposed:

- Amend *Schedule 1: Additional Permitted Uses* to allow "shop top housing" as a permissible use on the site at Clause 45;
- Amend the *NSLEP, 2013 Height of Buildings Map* to provide for a building height of 175m on the subject site at 617-621 Pacific Highway, St Leonards (as shown in **Figure 16**); and
- Amend the *NSLEP, 2013 Non-Residential Floor Space Ratio Map* to provide for a Minimum Non-Residential Floor Space Ratio of 4:1 on the subject site at 617-621 Pacific Highway, St Leonards (as shown in **Figure 17**).

The Gateway Determination issued by the Department of Planning and Environment requires that prior to community consultation, the planning proposal is to be updated to "include a satisfactory arrangements provision for contributions to designated State public infrastructure identified as part of a draft or final strategic planning review for St Leonards/Crows Nest."

By memorandum dated 3 November 2017, the Council provided advice as to amendments to the planning proposal to ensure consistency with the Gateway Determination. It suggested a further amendment to the LEP as follows:

- Amend NSLEP 2013 to include a satisfactory arrangements clause that requires the provision of contributions for designated State public infrastructure identified as part of draft or final strategic planning review.

Subject to the provision of further detail in relation to the nature and quantum of contributions, the proponent would be prepared to request such an LEP amendment.

A Concept Design for future development of the site has been prepared and discussed in **Section 6** and accompanies this Planning Proposal in **Appendix A**. However, the scheme will be refined as part of the DA process once the Planning Proposal has been endorsed by Council and the DPI 'Gateway' issue a determination that supports the preparation of an LEP amendment.

# 8. PART 2 – EXPLANATION OF THE PROVISIONS

## 8.1. OVERVIEW

The purpose of the Planning Proposal is to amend NSLEP 2013 to allow for a high quality mixed use redevelopment of the subject site. Accordingly the proposal seeks amendments to the following provisions as they relate to the subject site as specified in NSLEP 2013:

- Permissible land uses
- Height of buildings
- Non-residential Floor Space Ratio

The proposed Concept Plan and the requisite LEP amendments represent an invaluable opportunity to manage future development of the site in a logical and comprehensive manner, allowing for the introduction of development infrastructure of a suitable scale and nature. The proposed LEP amendments respond to the emerging pattern of development that surrounds the site (both within the North Sydney LGA and the immediately surrounding lands within Willoughby and Lane Cove LGAs). The proposed LEP amendments would facilitate the subsequent lodgement of a development application for the redevelopment of the subject site to North Sydney Council.

It is also proposed to amend NSLEP 2013 to include a satisfactory arrangements clause that requires the provision of contributions for designated State public infrastructure identified as part of draft or final strategic planning review in accordance with the Gateway Determination.

## 8.2. PURPOSE

The proposed amendments will assist in achieving the following on the subject site and surrounding area:

- An improved relationship with the public domain and street frontages.
- The provision of high quality publicly accessible spaces at the ground level, interfacing and connecting with Atchison Street and the Pacific Highway.
- A high quality built form in the centre of St Leonards.
- The provision of increased residential density in close proximity to rail and bus transport.
- High quality commercial space that caters for the evolving nature of St Leonards into a vibrant mixed use centre.

## 8.3. LAND TO WHICH THE PLAN WILL APPLY

The land that is proposed to be included in the site specific LEP amendment is located at 617 - 621 Pacific Highway, St Leonards. It is legally described as:

- Lot 1 in DP 577070
- Lot 1 in DP1022881
- Lot 1 in DP45593
- Lot 2 in DP455937

## 8.4. PROPOSED LEP AMENDMENTS

### ZONING AND LAND USE

As per Council preferred approach, there are no proposed changes to the zoning of the site. The site will remain within the B3 Commercial Core Zone.

It is proposed to include the following in Schedule 1 Additional Permitted Uses of the NSLEP as follows:

*45 Use of certain land at 617 - 621 Pacific Highway, St Leonards*

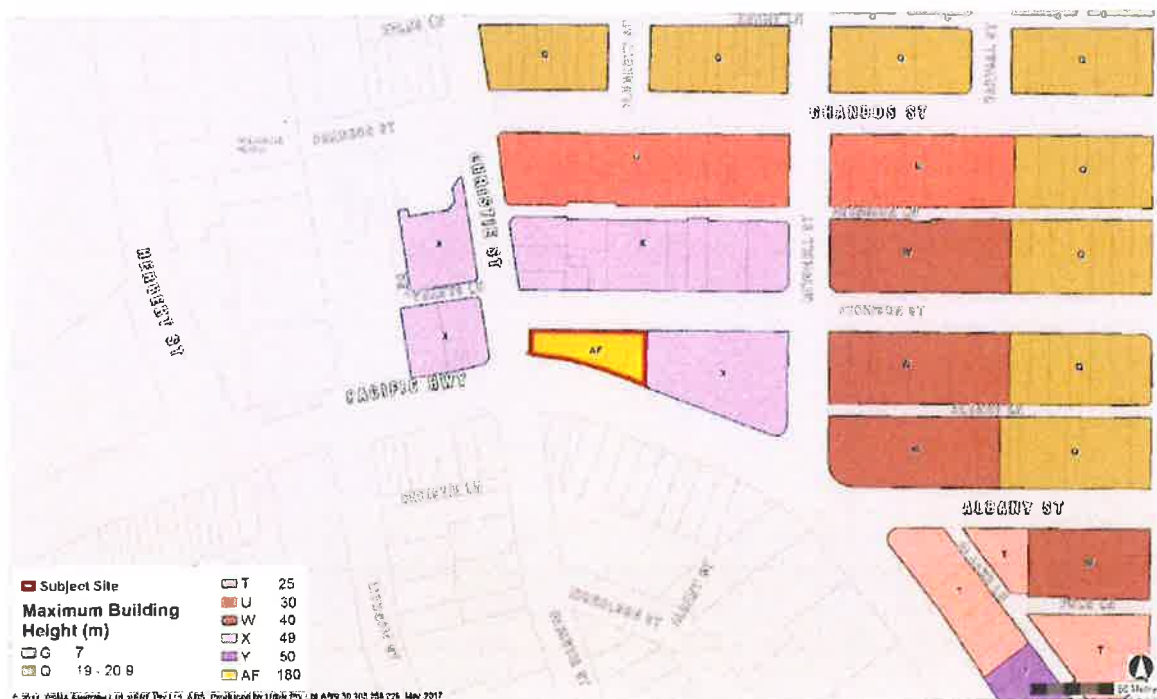
- (1) *This clause applies to land at 617 - 621 Pacific Highway, St Leonards being Lot 1 in DP1022881, Lot 1 in DP 577070 and Lots 1 and 2 in DP455937.*
- (2) *Development for the purposes of shop top housing is permitted with consent.*

### BUILDING HEIGHT

It is proposed that a 180m maximum height control applies to the site, this provides some minor tolerance from the concept maximum height of 179.28m for changes to lift overrun or plant height allowances, avoiding the need for variations to the new control.

The proposed outcome will be achieved by amending the existing *Height of Buildings Map Sheet HOB\_001* of the North Sydney LEP, 2013 to reflect this maximum height, as shown in **Figure 16**.

Figure 16 – Proposed Height of Buildings Map Sheet HOB\_001



Source: NSLEP, 2013 as amended by Urbis

### FLOOR SPACE RATIO

There is no existing FSR control applicable to the site. It is proposed to introduce a site specific non-residential FSR control as follows:

- To set a minimum non-residential FSR of 4.7:1.
- To set a maximum total FSR of 25.4:1



Figure 18 – Proposed Maximum Floor Space Ratio Map FSR\_001



Source: NSLEP, 2013 as amended by Urbis

## STATE INFRASTRUCTURE CONTRIBUTIONS

The Gateway Determination issued by the Department of Planning and Environment requires that prior to community consultation, the planning proposal is to be updated to "include a satisfactory arrangements provision for contributions to designated State public infrastructure identified as part of a draft or final strategic planning review for St Leonards/Crows Nest."

By memorandum dated 3 November 2017, the Council provided advice as to amendments to the planning proposal to ensure consistency with the Gateway Determination. It suggested a further amendment to the LEP as follows:

*"As required by the Gateway Determination, it is proposed to include a new local clause under Part 6 of NSLEP 2013 to include a satisfactory arrangements clause that requires the provision of contributions for designated State public infrastructure identified as part of draft or final strategic planning review. The wording of such a condition will be undertaken in collaboration with Parliamentary Counsel upon the Planning Proposal successfully progressing to the next stage"*

Subject to the provision of further detail in relation to the nature and quantum of contributions, the proponent would be prepared to request such an LEP amendment.

## 8.5. RELATIONSHIP TO EXISTING LOCAL PLANNING INSTRUMENT

It is proposed that NSLEP 2013 will continue to apply to the site and will be amended by the site specific LEP.

## 8.6. SAVINGS PROVISIONS

It is not considered necessary to include a savings provision.

## 9. PART 3 – JUSTIFICATION

### 9.1. SECTION A – NEED FOR THE PLANNING PROPOSAL

#### Q1. IS THE PLANNING PROPOSAL A RESULT OF ANY STRATEGIC STUDY OR REPORT?

Yes. North Sydney Council has completed a strategic review of its planning framework for the St Leonards/ Crows Nest area and endorsed the St Leonards/ Crows Nest Planning Study – Precinct 2 and 3 (the ‘Planning Study’) in May 2015. The purpose of the Planning Study was to explore opportunities for the further intensification of development across the area. The Planning Study acknowledges that existing capacity is available to support more intensive development within St Leonards.

The subject site is included within the defined study area, and is situated within Precinct 2. This Precinct is identified by the Planning Study as a high density commercial and mixed use area. The Planning Study envisages that the subject site will be redeveloped to accommodate a tall building. The Planning Study does not set a height for tall buildings but instead invites the landowners of sites identified as suitable for tall buildings to submit site specific Planning Proposals to Council for individual consideration.

This Planning Proposal is the direct result of the recommendations of the Planning Study.

Furthermore, the proposal is consistent with the policy direction of the draft District Plan North with respect to St Leonards.

#### Q2. IS THE PLANNING PROPOSAL THE BEST MEANS OF ACHIEVING THE OBJECTIVES OR INTENDED OUTCOMES, OR IS THERE A BETTER WAY?

We have considered a range of statutory measures to give effect to achieving the objectives of the proposal, including:

- Applying a Schedule 1 clause for an additional permitted use (as proposed);
- Including shop top housing as a permissible use in the B3 Commercial Core zone; or
- Rezoning the site to something that permits ‘shop top housing’, such as a B4 Mixed Use zone.

Including ‘shoptop housing’ as a permitted use in the B3 zone was not preferred as it would have wider implications through Council’s entire B3 zoned lands which would have consequences beyond that considered for the subject site.

The other alternative to rezone to land to B4 mixed use was considered a reasonable manner to reflect the proposed land uses and it would also marry in with the surrounding land in the balance of the centre which is B4 zoned. If Council as the relevant planning authority for this planning proposal wished to proceed along this planning pathway, that would be acceptable to the proponent.

Ultimately the decision has been to apply a Schedule 1 amendment allowing additional permitted use to the B3 zone. This we understand is the preferred approach of Council in signifying the ‘core’ of the centre which will contain the greatest quantum of commercial uses compared with to the surrounding B4 land.

Without an amendment to the statutory planning controls, the proposed Design Concept for the site cannot be achieved and the associated public benefits would be lost. The site is a logical and appropriate place to concentrate future growth within the North Sydney LGA being within an area designated for future growth and development and conveniently located near to services and public transport infrastructure.

### 9.2. SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

#### Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

Yes, for the reasons outlined below.

##### 9.2.1. A Plan for Growing Sydney

The focus of *A Plan for Growing Sydney* (the Plan) is on boosting housing and jobs growth across all of Sydney. Various strategies and actions underpin this goal, the key being the establishment of revised



subregional dwelling and jobs targets. The Strategy sets out a strategic plan to guide the growth of Sydney for the next 20 years. The plan sets out a vision for Sydney, defined by the following four goals:

- Goal 1: A competitive economy with world class services and transport.
- Goal 2: A city of housing choice, with homes that meet our needs and lifestyles.
- Goal 3: A great place to live with communities that are strong, healthy and well connected.
- Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.

Planning Principles to guide the growth of Sydney are set out as the focus of the document:

- Principle 1: Increasing housing choice around all centres through urban renewal in established areas.
- Principle 2: Stronger economic development in strategic centres and transport gateways.
- Principle 3: Connecting centres with a networked transport system.

In terms of residential growth, the Plan prioritises the acceleration of housing supply in order to meet the specified housing target for Sydney Metropolitan Area of 664,000 dwellings by 2031 (Direction 2.1). A Plan for Growing Sydney focuses new housing in centres which have public transport that runs frequently and can carry large numbers of passengers. The area's most suitable for significant urban renewal are identified as those best connected to employment, including:

- Strategic Centres (host at least 10,000 jobs) - priority locations for increasing employment, retail, housing, services and mixed-use opportunities.
- Priority centres (specifically selected sites for urban renewal)
- In and around centres that are close to jobs and are serviced by public transport services that are frequent and capable of moving large numbers of people

St Leonards is designated as a **Strategic Centre** within the strategy, located within the **Global Economic Corridor** (attracting new economic activity) identified between Parramatta and Sydney; and located along the Sydney Metro Northwest. This connection is set to implement Sydney Rapid Transit and the surrounding land is identified as an Urban Renewal Corridor, which is charged with attracting investment and stimulating new economic activity (As shown in **Figure 3**).

It is clear from the Strategy that St Leonards is a centre where high levels of growth, both commercial and residential in nature, will be encouraged and supported. Urban renewal and additional housing growth will be enabled along the railway corridor to capitalise on the planned upgrades to public transport services. The Strategy sets the scene for St Leonards, as a Strategic Centre, to service a wider catchment and become a key connection point between the Sydney CBD and north western Sydney through the Sydney Rapid Transit infrastructure.

The Strategy sets out policy directions to achieve the identified goals and principles, with each direction underpinned by a number of actions. **Table 5** sets out the relevant directions and actions to the proposal and provides an overview of the planning response to these.

Table 5 – The proposal's response to *A Plan for Growing Sydney*

<b>A Plan for Growing Sydney</b>	<b>Concept Proposal Response</b>
<b>Strategic Directions and Policy</b>	
<b>GOAL 1: A COMPETITIVE ECONOMY WITH WORLD-CLASS SERVICES AND TRANSPORT</b>	
<b>Direction 1.4 Transform the productivity of Western Sydney through growth and investment</b>	The proposal seeks to retain and strengthen the employment role of the site by maintaining the Commercial B3 zoning implement a minimum non-residential FSR control specific to the site. This will ensure that the site continues to make a contribution to jobs and economic growth of the St Leonards
Growth targeted towards strategic centres	
New jobs close to centres; access to knowledge jobs	

## **A Plan for Growing Sydney Strategic Directions and Policy**

in centres.

### **Direction 1.7 Grow strategic centres – providing more jobs closer to home**

Focus growth in strategic centres and transport corridors

Invest in strategic centres across Sydney to grow jobs and housing and create vibrant hubs of activity.

### **Direction 1.10 Plan for education and health services to meet Sydney's growing needs**

Support the growth of complementary health and tertiary education activities in strategic centres.

## **Concept Proposal Response**

Strategic Centre. Specifically, the proposal will contribute 218 new retail and commercial jobs and as well as hundreds of construction jobs. The proposal will send a clear signal of investor confidence in the area which has the potential to stimulate further development activity.

The concept proposal seeks to balance the direction and actions set out in the strategy with commercial imperatives for the site. The provision for residential living opportunities on the site will bring people closer to jobs and services to support the economic growth of St Leonards.

The proposed amendments to the LEP as they apply to the subject site will provide an avenue for greater investment in housing and jobs within St Leonards, strengthening its role as a Strategic Centre and facilitating the creation of a vibrant hub of activity associated with the Global Economic Corridor and the urban renewal anticipated on sites adjacent to the Sydney Metro Northwest.

The provision of residential dwellings on the subject site will allow people to live closer to jobs and reduce commute times, achieving sustainability outcomes. Housing a residential population in close proximity to areas designated for employment growth in turn stimulates this growth as it is more desirable for business and education activities have a readily accessible work force.

Diversification of land uses to include residential development in the corridor will not diminish the potential employment capacity of the centre. The site benefits from an existing development consent for residential apartments.

Given the proximity to the Royal North Shore Hospital, the concept proposal includes provision for specific flexible commercial spaces to be utilised by business and/ or health tenants.

The residential component of the site is complementary to this Direction as it supports the nearby health facilities by providing places for people to live and work and potentially house the future workers.

## **A Plan for Growing Sydney Strategic Directions and Policy**

## **Concept Proposal Response**

### **GOAL 2: A CITY OF HOUSING CHOICE, WITH HOMES THAT MEET OUR NEEDS AND LIFESTYLES**

#### **Direction 2.1: Accelerate housing supply across Sydney**

An additional 664,000 dwellings required across Sydney over the next 20 years

Action 2.1.1 Accelerate housing supply and local housing choices

Action 2.1.3 Deliver more housing by developing surplus or under-used government land.

#### **Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs**

The government will support Council-led urban infill and local efforts to lift housing production around centres

New housing for centres that have public transport able to carry large numbers

New housing in strategic centres

The proposal seeks to provide for mixed use development which will permit the development of apartment style dwellings within the strategic centre of St Leonards to contribute to the dwelling supply to meet the dwelling targets.

The residential targets identified for each area will be further detailed in the yet to be released District Plan (formerly sub-regional plans) for the North Subregion.

The proposed concept plan demonstrates in the order of 195 new dwellings being achieved across the subject site. This figure will greatly contribute to achieving the housing targets for the greater region.

The subject site is currently underutilised and the buildings at the end of their economic life. The proposal would see the highest and best use of the land come to fruition.

The location of mixed use development in this strategic location provides housing within an employment area – achieving sustainability outcomes and leading to employment containment within the region, i.e. residents are employed within the centre within which they live.

However, the site is also accessible to a wider catchment through public transport and road infrastructure.

The site provides easy access to main arterial road connections, namely the Pacific Highway - a main arterial road.

The St Leonards Station is within 100m to the west of the site and has considerable patronage, the 7<sup>th</sup> most patronised station outside the CBD. It is both a primary destination and interchange node. The site is also easily accessible via an extensive bus catchment that run along the Pacific Highway and Willoughby Road.

Further, the proposed Sydney Rapid Transit – as set out in the Plan will further increase the connectivity to the site and key centres by allowing faster and more frequent train services. This policy seeks to capitalise on the improvements to the public

## A Plan for Growing Sydney Strategic Directions and Policy

### **Direction 2.3: Improve housing choice to suit different needs and lifestyles**

Research indicates a shortage of apartments in outer Sydney

Deliver more opportunities for affordable housing

## Concept Proposal Response

transport networks to focus new housing in and around centres on the rail corridor.

In this regard, the concept proposal is a prime site for mixed use development as it provides the ability to connect new homes to job-rich locations via good public transport with an approximate 30 minute rail or light rail (future) journey – Action 2.2.2.

The proposal will unlock the potential for in the order of 195 new dwellings in a variety of configurations and residential form.

The detail of the dwelling design and configuration has been conceptually explored which demonstrates the possibility for a mix of dwelling typologies and styles that could achieve this direction to meet the evolving housing needs specific to this region. Further, opportunities for the delivery of affordable housing can be realised through this proposal.

## **GOAL 3: A GREAT PLACE TO LIVE WITH COMMUNITIES THAT ARE STRONG, HEALTHY AND WELL CONNECTED**

### **Direction 3.3: Create healthy built environments**

The concept proposal for the site has been developed to align with key design principles to promote healthy communities and social cohesion. This will be fully developed for DA stage to include key concepts such as:

Central leisure and recreational areas for residents, visitors and workers.

Provides compatible land uses that will create a vibrant and active community, including residential and ground floor commercial. New spaces will be developed to facilitate active ground level uses and integrate with the concept plan for the adjoining site

Meaningful areas of open space that can be used by residents and workers.

Key linkages across the site to provide functional and identifiable pedestrian flows between streets.

Encouraging walking and cycling through the location of homes and jobs in close proximity to public transport, reducing the need for personal car transport.

## **NORTH SUBREGION**

## A Plan for Growing Sydney

## Concept Proposal Response

### Strategic Directions and Policy

*The North subregion will continue to be an attractive place to live, work and visit with a thriving economy. The subregion's Gross Regional Product is second only to the Central subregion's, with North Sydney, the second largest office market in Sydney. Increases in the supply of housing and jobs will be focuses on centres with good public transport. The subregion will offer a growing diversity of high amenity living and working environments.*

#### **Accelerate housing supply, choice and affordability and build great places to live.**

Work with councils to identify suitable locations for housing and employment growth coordinated with infrastructure delivery (urban renewal) and train services, including around Priority Precincts, established and new centres, and along key public transport corridors including the North West Rail Link, the Western Line, the Cumberland Line, the Carlingford Line, the Bankstown Line and Sydney Rapid Transit.

#### **Priorities for Strategic Centres: St Leonards**

Work with Council to retain a commercial core in St Leonards for long-term employment growth.

Work with Council to provide capacity for additional mixed use development in St Leonards, including offices, health, retail, services and housing.

Support health-related land uses and infrastructure around Royal North Shore Hospital.

Work with Council to investigate potential future employment and housing opportunities associated with Sydney Rapid Transit station at St Leonards/ Crows Nest.

As discussed above, the proposal will facilitate increased residential housing supply in conjunction with the protection of an appropriate proportion of employment activity.

The opportunity for an increased diversity and mix of housing typologies is realised through the proposal and will contribute to the housing supply, choices and affordability objectives.

Further, the site is well connected in terms of access to transport and infrastructure.

Redevelopment of the site for mixed use purposes in the manner intended will allow people to live closer to jobs and reduce commute times, achieving sustainability outcomes for the centre. The housing of a residential population in close proximity to areas designated for employment growth in turn stimulates this growth as it is more desirable for business and education activities have a readily accessible work force.

The proposal presents a thorough investigation, undertaken in conjunction with the St Leonards/ Crows Nest Planning Study, of potential future employment and housing opportunities associated with the proposed Sydney Rapid Transit. The proposal capitalises on the existing and proposed infrastructure to provide mixed use development in well serviced and accessible locations.

### SUBREGIONAL STRATEGY

A Plan for Growing Sydney states that:

*Subregional plans will build on the actions set out in A Plan for Growing Sydney. Councils, the community, the Greater Sydney Commission and the NSW Government will work together to finalise and implement these plans.*

## 9.2.2. Draft Regional Growth Plan

The table below provides a summary of the relevant objectives of the GSRP with reference to the Planning Proposal:

Draft Greater Sydney Region Plan

### Draft Greater Sydney Region Plan

Direction	Relevant Objectives	Response
<b>A city supported by infrastructure</b>	<b>Objective 4:</b> Infrastructure use is optimised.	The introduction of residential and commercial land uses on the site given its strategic location close to existing and planned rail services will positively contribute to this objective by placing density in a highly convenient location that will encourage usage of existing and new transport infrastructure.
<b>A collaborative city</b>	<b>Objective 5:</b> Benefits of growth realised by collaboration of governments, community and business.	<p>The proposal will assist in the collaboration of government, community and business by:</p> <ul style="list-style-type: none"> <li>• The renewal of this site for mixed-use will assist the government in reaching housing and employment targets for the centre ensuring the proposal positively contributes to housing and economic policy of government.</li> <li>• The provision of a community facility integrated into the development represents effective collaboration to maximise the benefits of growth for the community and business.</li> </ul>
<b>Housing the city</b>	<p><b>Objective 10:</b> Greater housing supply.</p> <p><b>Objective 11:</b> Housing is more diverse and affordable.</p>	<p>This Planning Proposal seeks to facilitate a mixed use development which will permit the development of apartment style dwellings within the strategic centre of St Leonards to contribute to the dwelling supply to meet the dwelling targets.</p> <p>The future residential dwellings will positively contribute to achieving the short to medium term housing targets for the North District.</p> <p>The concentration of density within the centre will enable the retention of existing low density residential areas surrounding St Leonards, preserving local character and creating housing diversity.</p>
<b>Jobs and skills for the city</b>	<p><b>Objective 21:</b> Internationally competitive health, education, research and innovation precincts</p> <p><b>Objective 22:</b> Investment and business activity in centres.</p>	As demonstrated in the Economic Impact Study, St Leonards is transitioning from a suburban corporate office market to a health and medical focused mixed use precinct. The provision of flexible commercial space in this Planning Proposal supports growth in medical and health for ancillary industries.

## Draft Greater Sydney Region Plan

Direction	Relevant Objectives	Response
	<b>Objective 24:</b> Economic sectors are targeted for success.	
<b>Sustainability</b>	<b>Objective 31:</b> Public open space is accessible, protected and enhanced.	The proposal provides opportunity to contribute to an enhanced Atchison Street and Pacific Highway frontages by providing land uses that will create attractive and active interfaces with the public domain.
<b>An efficient city</b>	<b>Objective 33:</b> A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change.	<p>The proposal will promote walkable neighbourhoods and low carbon transport options due to its proximity to public transport, being within walking distance of the St Leonards train station and future Crows Nest Station, as well as existing bus services.</p> <p>The site's proximity to public transport would provide opportunities for residents and employees to conveniently use public transport thereby reducing private vehicle trip movements, and assisting the objective to create low-carbon cities.</p>

### 9.2.3. Draft North District Plan

The Draft District Plans were released for public comment in November 2016. The site is located within District Plan North.

**Error! Reference source not found.** details the direct alignment of this Planning Proposal with the relevant draft North District Plan priorities.

Table - Alignment with the Revised Draft North District Plan

Revised Draft North District Plan	Planning Proposal Response
<b>N1.</b> <i>Planning for a city supported by infrastructure</i>	The proposal leverages off the new Crows Nest metro to plan for the population growth of St Leonards. The future metro station will support the growth of St Leonards in order to deliver additional employment and residential capacity, providing housing in close proximity to services and jobs. In 2024, the indicative travel time to Central Station will be 11 minutes from Crows Nest Station, and 5 mins to North Sydney, locating St Leonards well within the desired 30 minutes travel model.
<b>N12.</b> <i>Delivering integrated land use and transport planning and a 30-minute city</i>	
<b>N5.</b> <i>Providing housing supply, choice and affordability, with access to jobs and services</i>	Increasing housing capacity in the St Leonards Town Centre will assist in the retention of low and medium density housing outside of the Town Centre, whilst still contributing to the provision of housing in line with Councils targets. In turn, this encourages the diversity of housing in terms of the age and character of housing
<b>N10.</b> <i>Growing investment, business opportunities and jobs in strategic centres</i>	

stock.

Excellent public transport access and proximity to Macquarie Park, Sydney CBD, North Sydney CBD makes St Leonards strategic centre a highly attractive location for residential. The current DPE study approach is seeking to balance residential intensification with the role to maintain a strong employment function. The subject site can play an important role in this regard.

*N9. Growing and investing in health and education precincts*

As demonstrated in the Urbis Employment Assessment, St Leonards is transitioning from a corporate office market to a health and medical focused mixed use precinct. The provision of flexible commercial space in this Planning Proposal supports growth in medical and health for ancillary industries.

*N13. Supporting growth of targeted industry sectors*

#### **9.2.4. NSW Long Term Transport Master Plan**

The NSW Long Term Transport Master Plan outlines a number of projects that will impact Sydney. The masterplan aims to build efficiently on existing transport connections, including those with the Sydney CBD through the Global Economic Corridor, to connect people with jobs and other opportunities which in turn will support productivity and economic growth.

The Master Plan recognises that businesses and precincts, have the opportunity to grow and expand with investment in transport. The Master Plan includes strategies to improve road capacity, reduce journey times and public transport solutions to promote accessibility across Sydney.

The proposed LEP amendments are consistent with the objectives of the NSW Long Term Transport Master Plan by providing high density residential development in close proximity to train and bus networks which provide excellent linkages to key employment centres.

These short term and long term objectives promote the connectivity of St Leonards to the CBD and surrounding centres as well as ease of travel within the north. The proposal to increase the residential densities and strengthen the employment population on the subject site is timely given the proposed infrastructure upgrades planned to improve travel times between northern Sydney and the CBD.

#### **9.2.5. Strategic Planning Framework Summary**

In summary, the proposal is directly consistent with the principles of a range of broader strategic planning considerations contained within A Plan for Growing Sydney, the North District Plan and the Long Term Transport Master Plan which support a transit-orientated and centres based approach to managing growth. As such, the site represents a logical location to accommodate new housing and employment opportunities in close proximity to existing services and infrastructure consistent with this approach. It allows opportunities for the growing number of people working in St Leonards to live and work in the same district, thereby reducing travel demand and associated car based pollution and congestion. The proposal has the potential to contribute a valuable and sustainable component of the future commercial and residential development of St Leonards.

#### **Q4. IS THE PLANNING PROPOSAL CONSISTENT WITH A COUNCIL'S LOCAL STRATEGY OR OTHER LOCAL STRATEGIC PLAN?**

Yes. The St Leonards/ Crows Nest Planning Study – Precinct 2 and 3 (the 'Planning Study') May 2015, which has been adopted by Council provides the framework to inform future proposals in the locality.

The subject site is included within the defined study area, and is situated within Precinct 2. This Precinct is identified by the Planning Study as a high density commercial and mixed use area.



The Planning Study envisages that the subject site will be redeveloped to accommodate a tall building. The Planning Study does not set a height for tall buildings but instead invites the landowners of sites identified as suitable for tall buildings to submit site specific Planning Proposals to Council for individual consideration. This Planning Proposal responds directly to the recommendations of the Planning Study and provides a robust design and planning analysis that has been undertaken for the site and its context to develop an appropriate building height to be applied to future development of the site (175m).

The Planning Study specifically identifies the subject site as a site where 'shop top housing' should be located and invites the landowners of sites identified as suitable for 'shop top housing' to submit site specific Planning Proposals to Council for individual consideration. Map 5A: *Non-Residential Floor Space Ratio* of the Planning Study (Page 77) identifies the site as being within Area 14 where a minimum non-residential floor space ratio of 4:1 applies to the site. This planning proposal has been developed to align with this requirement and proposes a minimum non-residential floor space ratio of 4:1 across the site.

**Q5. IS THE PLANNING PROPOSAL CONSISTENT WITH APPLICABLE STATE ENVIRONMENTAL PLANNING POLICIES?**

Yes. The proposal is consistent with the relevant State Environmental Planning Policies (SEPPs). The relevant SEPPs are identified in **Table 6**.

Table 6 – Consistency of the Concept Design with SEPPs

<b>Policy</b>	<b>Details</b>
SEPP 14 – Coastal Wetlands	Not relevant
SEPP 19 – Bushland in urban areas	Not relevant
SEPP 21 – Caravan Parks	Not relevant
SEPP 26—Littoral Rainforests	Not relevant
SEPP 30 – Intensive Agriculture	Not relevant
SEPP 33 – Hazardous and offensive development	Not relevant
SEPP 36—Manufactured Home Estates	Not relevant
SEPP 44 Koala Habitat Protection	Not relevant
SEPP 47 – Moore Park Showground	Not relevant
SEPP 50 – Canal estate development	Not relevant
SEPP 52 - Farm Dams and Other Works in Land and Water Management Plan Areas	Not relevant

## Policy

## Details

SEPP 55 Remediation of Land	<p>Douglas Partners have prepared a preliminary site investigation assessment involving site visit, review of site information and historical records. Council records have not identified that a site audit statement has been received with respect to the site, and thus is not declared to be significantly contaminated land, nor subject to management or ongoing maintenance orders nor subject of an approved voluntary management proposal.</p> <p>Given the past history of the site, the report states that there is some potential that past demolition works could have exposed potentially hazardous building materials to surface soil. Imported fill from past works could also be present on the site as could be leaking oil from nearby sites.</p> <p>The assessment concludes that the potential contamination is limited to the sources identified and that the site can be made suitable for the proposed development following intrusive investigations to assess the potential contamination source-pathway-receptor linkages and if necessary the development of a remediation action plan.</p>
SEPP 62 – Sustainable Aquaculture	Not relevant
SEPP 65 Design Quality of Residential Flat Buildings	<p>SEPP 65 provides a statutory framework to guide the design quality of residential flat developments. The development concept has been designed to facilitate future detailed building design in accordance with SEPP 65 and the accompanying Apartment Design Guide (ADG). Based on the indicative apartment layout, the following is noted:</p> <p>The residential component consists of 195 apartments suited to a variety of lifestyles. An indicative dwelling mix is 1 bedroom (21%) 2 bedroom (74%) and 3 bedroom (5%).</p> <p>The residential floors have minimum ceiling heights to living/dining/bedrooms of 2.7 metres and 2.4 metres to non-habitable spaces. The floor to floor height is typically 3.1 metres.</p> <p>Each apartment has access to a secure private open space such as a balcony or winter garden with minimum areas of 8-12m<sup>2</sup> based on apartment size. Most apartments are able to achieve greater private open space than the minimum prescribed by the ADG. A communal open space area with indoor lounge/meeting rooms and outdoor recreation/pool area will also be provided for residents.</p> <p>Dual aspect apartments have a maximum depth of 11.0 metres and single aspect apartments have a maximum of 6.0 metres to enhance daylight access and natural ventilation.</p> <p>A minimum of 2 hours direct sunlight between 9:00am &amp; 3:00pm in mid-winter will be enjoyed by more than 75% of the apartments. Similarly, more than 75% of apartments will be naturally cross ventilated. These numbers exceed those prescribed by the ADG.</p> <p>Each apartment has access to a minimum of 6-10m<sup>3</sup> of private storage</p>

## Policy

## Details

space via a combination of space within the apartment or secure storage cage within the basement levels.

SEPP 70 - Affordable Housing (Revised Schemes) Not relevant

SEPP 71 – Coastal Protection Not relevant

SEPP (Affordable Rental Housing) 2009 Not relevant

SEPP - (Building Sustainability Index: BASIX) 2004 Capable of complying. A relevant matter to consider at Development Application stage.

SEPP (Exempt and Complying development codes) 2008 Not relevant

SEPP (Housing for seniors or people with a disability) 2004 Not relevant

SEPP (Infrastructure) 2007 The future development application will trigger the referral requirements for traffic generating development of the to the RMS.

SEPP (Major Development) 2005 Not relevant

SEPP (Mining, Petroleum production and extractive industries) 2007 Not relevant

SEPP (Miscellaneous consent provisions) 2007 Not relevant

SEPP (State and Regional Development) 2011 Not relevant

SREP (Sydney Harbour Catchment) 2005 Not relevant

SEPP (Buildings Sustainability Index: BASIX) 2004 The BASIX SEPP requires residential development to achieve mandated levels of energy and water efficiency.

The proposed development concept has been designed with building massing and orientation to facilitate future BASIX compliance, which will be documented at the development application stage.

SEPP (Infrastructure) 2007 The Infrastructure SEPP aims to facilitate the efficient delivery of infrastructure across the State. The following matters are relevant to the proposal:

The proposed development will require existing utility services to be upgraded and/or augmented to enable the future residential population to

Policy	Details
	be accommodated. These works will need to be undertaken in accordance with the provisions of the SEPP.
SEPP - (Integration and Repeals) 2016	Not relevant
SEPP - (Kosciuszko National Park—Alpine Resorts) 2007	Not relevant
SEPP - (Kurnell Peninsula) 1989	Not relevant
SEPP - (Mining, Petroleum Production and Extractive Industries) 2007	Not relevant
SEPP - (Miscellaneous Consent Provisions) 2007	Not relevant
SEPP - (Penrith Lakes Scheme) 1989	Not relevant
SEPP - (Rural Lands) 2008	Not relevant
SEPP - (State and Regional Development) 2011	Not relevant
SEPP - (State Significant Precincts) 2005	Not relevant
SEPP - (Sydney Drinking Water Catchment) 2011	Not relevant
SEPP - (Sydney Region Growth Centres) 2006	Not relevant
SEPP - (Three Ports) 2013	Not relevant
SEPP - (Urban Renewal) 2010	The site is located within the St Leonards/Crows Nest precinct that the state government has commenced an urban renewal investigation. Given this proposal has responded to a comprehensive earlier precinct study from council, processing of this application can and should proceed independently of the wider precinct investigation.
SEPP - (Western Sydney Employment Area) 2009	Not relevant
SEPP - (Western Sydney Parklands) 2009	Not relevant

In addition, while not a State Environmental Planning Policy, we have considered; *Development Near Rail Corridors and Busy Roads – Interim Guideline*. The provisions of the interim guideline will be considered in the assessment of the potential future acoustic impacts associated with the Pacific Highway. Suitable

mitigation and management measures will be provided so that a satisfactory level of residential amenity can be achieved through the future detailed design phase associated with a development application involving residential use in proximity to the surrounding roads.

**Q6. IS THE PLANNING PROPOSAL CONSISTENT WITH APPLICABLE MINISTERIAL DIRECTIONS (S.117 DIRECTIONS)?**

Yes. The Planning Proposal has been assessed against the applicable s117 Ministerial Directions and is consistent with each of the relevant matters, as outlined in **Table 7**.

Table 7 – Consistency of the Planning Proposal with the applicable s117 Ministerial Directions

Direction	Comment
<p>1.1 Business and Industrial Zones</p> <p>The objectives of this direction are to:</p> <p>(a) encourage employment growth in suitable locations,</p> <p>(b) protect employment land in business and industrial zones, and</p> <p>(c) support the viability of identified strategic centres.</p>	<p>The proposal is consistent with the Direction as follows:</p> <p>The proposed development will result in a small reduction in nett lettable area from the existing commercial buildings, however due to the proposed mix of uses, the proposal will result in a net increase in employment from current levels of 179 jobs.</p> <p>Urbis has prepared a comprehensive Employment Assessment included in <b>Attachment J</b>.</p> <p>In summary the report concludes the following:</p> <ul style="list-style-type: none"> <li>• The scale and provision of commercial floorspace is better-suited to the current and future market and the role of St Leonards as a specialised health based centre as it will attract small -medium businesses in health-related industry.</li> <li>• Total overall employment will be 512 jobs, comprising 292 construction generates jobs and 252 ongoing jobs.</li> <li>• This constitutes a significant growth of employment from the current DA approval (residential and serviced apartments) with an estimated 35 ongoing jobs onsite compared with the proposal incorporating retail, art centre and commercial office space that will generate 252 ongoing jobs.</li> <li>• In addition to the employment benefits, the retail space will have the potential to improve turnover performance of existing retail precincts near the site.</li> </ul> <p>In summary, the proposal will preserve the economic function of the site, consistent with the core purpose of the St Leonards Strategic Centre and facilitate higher future employment densities and office spaces that will attract health-related business which will strengthen the specialised status of the centre.</p>
1.2 Rural Zones	Not applicable
1.3 Mining, Petroleum Production and Extractive Industries	The proposal satisfies the objectives of this Direction
1.4 Oyster Aquaculture	Not applicable
1.5 Rural Lands	Not applicable
2.1 Environment Protection Zones	Not applicable

Direction	Comment
2.2 Coastal Protection	Not applicable
2.3 Heritage Conservation	The site has no identified or known items of European or Aboriginal significance, as such the proposal does not require to include provisions
2.4 Recreation Vehicle Areas	Not applicable
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs.	Not applicable
<p data-bbox="188 660 437 689">3.1 Residential Zones</p> <p data-bbox="188 723 624 752">(1) The objectives of this direction are:</p> <p data-bbox="188 786 624 884">(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p data-bbox="188 916 624 1077">(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p data-bbox="188 1108 624 1205">(c) to minimise the impact of residential development on the environment and resource lands.</p>	<p data-bbox="643 660 1374 797">The proposal will seek to broaden the range of housing provided in the LGA through accommodation of a mixed use development containing residential apartments. The subject site is well placed to accommodate high rise residential accommodation.</p> <p data-bbox="643 828 1374 965">The proposed mixed use development will make efficient use of existing services and infrastructure and will provide sufficient housing to help meet infill housing targets and reduce the need for land release on the metropolitan fringe.</p> <p data-bbox="643 996 1374 1093">Residential accommodation in this location will have minimal impact on the natural environment or resource lands as the precinct and sites are already developed.</p>
3.2 Caravan Parks and Manufactured Home Estates	Not applicable
3.3 Home Occupations	Not applicable
3.4 Integrating Land Use and Transport	The proposal is consistent with the direction for the following reasons:
<p data-bbox="188 1494 624 1704">(1) The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p data-bbox="188 1736 624 1834">(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p data-bbox="188 1865 624 1964">(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p data-bbox="188 1995 624 2024">(c) reducing travel demand including</p>	<p data-bbox="643 1494 1374 1556">The site supports the principle of integrating land use and transport.</p> <p data-bbox="643 1588 1374 1686">The site exhibits good access to public and private transportation use, being within walking distance of the St Leonards train station.</p> <p data-bbox="643 1718 1374 1780">The site's proximity to public transport will provide opportunities for residents and employees to access the site.</p> <p data-bbox="643 1812 1374 1910">The proposal will provide additional employment within the North Sydney LGA within close proximity to existing services and infrastructure.</p> <p data-bbox="643 1942 1374 2007">The subject site is located within the St Leonards Centre and is within walking distance of the St Leonards train station. The site</p>

## Direction

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.

3.5 Development near licensed aerodromes

3.6 Shooting ranges

4.1 Acid Sulfate Soils

4.2 Mine subsidence and unstable land

4.3 Flood prone land

4.4 Planning for bushfire protection

5.1 Implementation of Regional Strategies

5.2 Sydney Drinking water catchment

5.3 Farmland of state and regional significance on NSW far north coast

5.4 Commercial and retail development along the Pacific

## Comment

is extremely well located to make use of existing services and employment opportunities in nearby centres and will complement and support these existing uses. Additional local service provision within walking distance of new dwellings would be incorporated into the future design of the site.

The site is not in close proximity to Sydney Airport however it is affected by obstacle limitation surface of 156 AHD, and the proposal seeks to exceed the OLS by approximately 107m. Accordingly, the provisions of clause (4) to the Direction applies.

The proposal is accompanied by an aeronautical assessment addressing the proposal with respect to the OLS and deemed that the proposal is appropriate. Nevertheless, the proposal will require referral as a 'controlled activity' to the Commonwealth Department of Infrastructure and Regional Development and Sydney Airport seeking permission to amend the building height controls on the subject site, at the development application stage. The relevant authority application accompanies the supporting documentation of this planning proposal

Not applicable

There is no mapping of acid sulfate soils (ASS) by Council. Given the location of the site high on a ridge the likelihood of ASS is low. Evidence of recent construction close to the site demonstrate ASS is not a constraint to the future proposed development of the site. Further assessment can be carried out if necessary as part of the development application.

Not applicable

Not applicable

Not applicable

Not applicable

Not applicable

Not applicable

Not applicable

Direction	Comment
highway, North Coast	
5.5 -5.7	Revoked
5.8 Second Sydney Airport	Not applicable
5.9 North West Rail Link Corridor Strategy	Not applicable
5.10 Implementation of Regional Plans	The proposal is consistent with this Direction. This proposal outlines an assessment demonstrating the achievement of the objective of this Direction.
6.1 Approval and Referral Requirements	This is an administrative requirement for Council.
6.2 Reserving Land for Public Purposes	This is an administrative requirement for Council.
6.3 Site Specific Provisions	The Planning Proposal seeks to provide an additional permitted use (via Schedule 1 to the LEP) to the existing zone. This is the preferred option to applying a B4 mixed use zone which allows a wide range of uses, some of which may not be appropriate for the site in its context. Furthermore adding shoptop housing as a permitted use to the B3 zone would have a whole of LGA application which would be undesirable and contradict council policies with respect to permitting residential in the North Sydney CBD core.
Direction 7.1 Implementation of A Plan for Growing Sydney  (1) The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	The planning proposal is consistent with the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney. This is further discussed at <b>Section 7</b> .
7.2 Implementation of Greater Macarthur Land Release Investigation	Not applicable
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable



## Section C – Environmental, Social and Economic Impact

### Q7. IS THERE ANY LIKELIHOOD THAT CRITICAL HABITAT OR THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES, OR THEIR HABITATS WILL BE ADVERSELY AFFECTED AS A RESULT OF THE PROPOSAL?

The site is fully developed and comprises little vegetation. There are no known critical habitats; threatened species or ecological communities located on the site and therefore the likelihood of any negative impacts are minimal.

### Q8. ARE THERE ANY OTHER LIKELY ENVIRONMENTAL EFFECTS AS A RESULT OF THE PLANNING PROPOSAL AND HOW ARE THEY PROPOSED TO BE MANAGED?

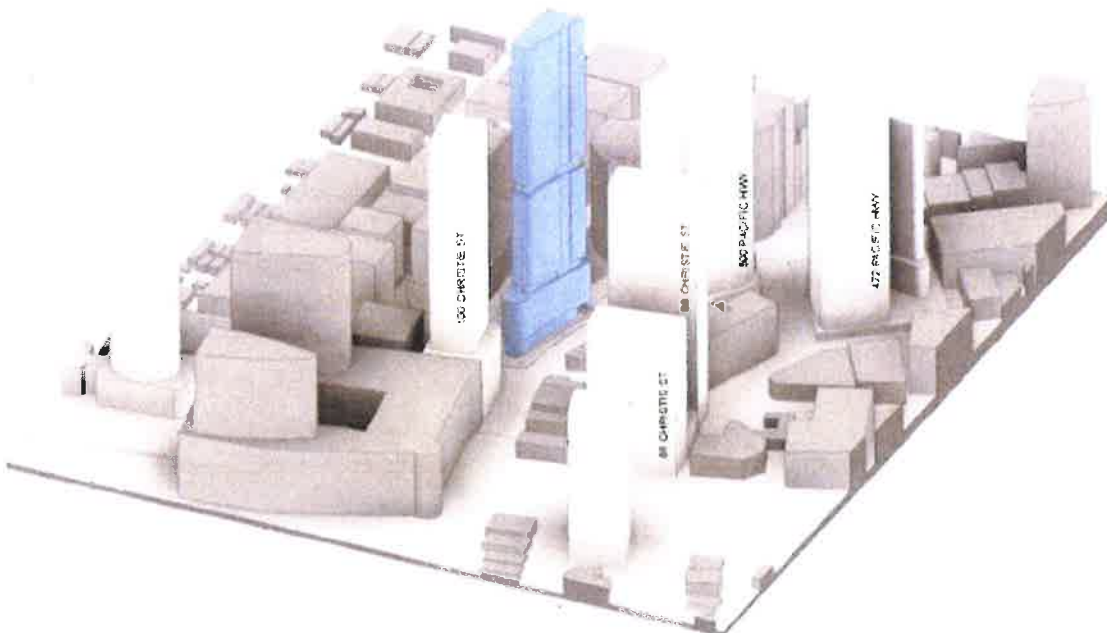
The site is free of major constraints. There are no likely environmental effects associated with the future development of the land that cannot be suitably mitigated through further design development. Preliminary investigations have been undertaken as outlined below.

#### 9.2.6. Visual Impact

The height and bulk of the St Leonards area has already transformed the nature of the local area with a number of tall building forms recently approved or pending approval on surrounding sites, as shown in **Figure 20**. The surrounding lands will continue to undergo transformation over the coming years evidenced through the introduction of new development.

It is likely that there will be an impact on views as a consequence of the development of the Precinct. In this regard, the concept design has been prepared in accordance with the St Leonards/ Crows Nest Planning Study which recognises that taller built form is an appropriate response to the precinct's accessibility to St Leonards Station. Best practice transport oriented design places the tallest buildings closest to areas of the highest activity and transport accessibility and seeks to concentrate height at the centre. The proposed tower (approximately 175m) on the site would be visible from a number of vantage points, as demonstrated in the figure below, and act as a landmark building within the St Leonards Strategic Centre. Therefore, the close proximity to the train station and frontage onto the Pacific Highway mean the site is well positioned to support a tower of this scale.

Figure 19 – Model view demonstrating recent taller building form context



Visual impact remains an important consideration and can be appropriately managed through design with particular consideration being given to well-scaled and proportioned street edge design. In this regard, the concept design proposes a two storey element to the street frontages to promote a human scale which contributes to the activity at street level. The strongly articulated base will support high quality retail tenancies that provide a seamless integration with the surrounding public domain.

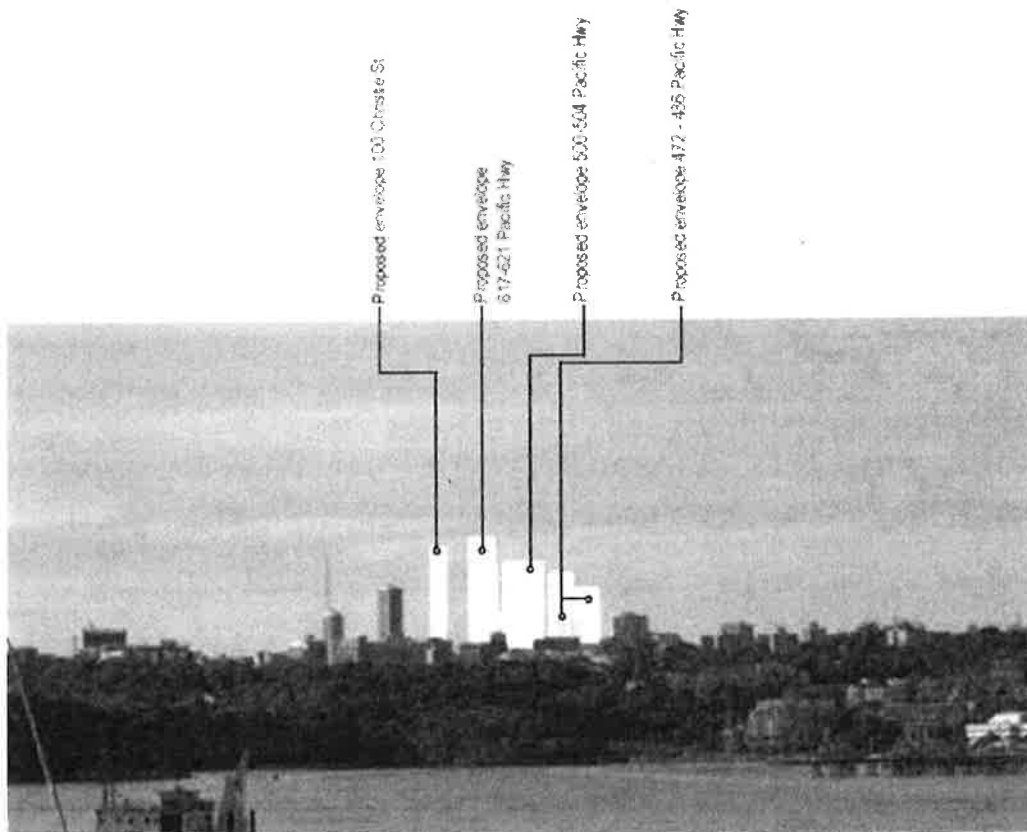
The proposed façade design incorporates the following principles to further mitigate the visual impact of the proposed built form:

- Differentiate base, middle & top
- Balconies & shading respond to orientation
- Facade texture decreases from bottom to top
- Height module increases from bottom to top

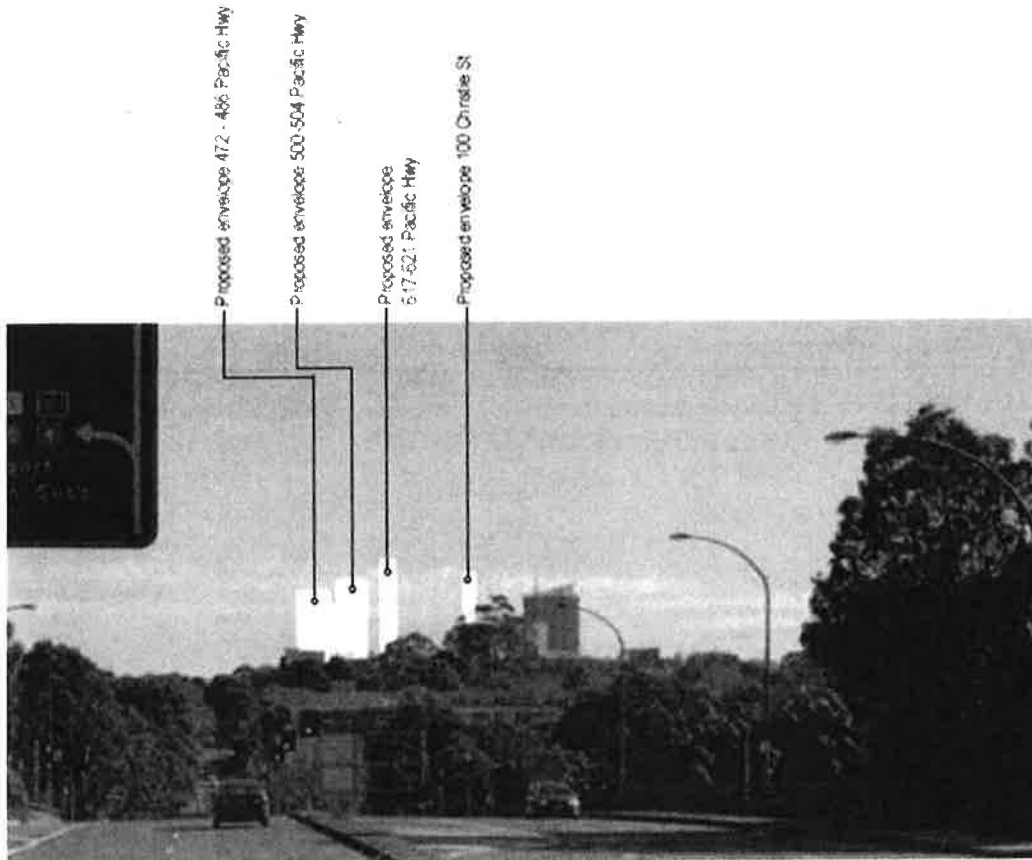
The proposed materials and finishes will be further developed to respond to those in the surrounding environment which include a combination of contemporary and tactile materials. The proposal responds to the contemporary setting and incorporates a finer grain of detail at the pedestrian level. Materials are proposed based on scale, life expectancy, durability, future desired character of the whole area and appropriateness to their particular location. The predominantly glazed facades of the tower will be distinctly different than existing predominantly rendered masonry and glazed buildings on the St Leonards skyline, which is a positive design solution to add diversity in architectural expression of towers.

In summary, the proposed built form presents a well-considered building form that responds to the key site characteristics and framework set by the St Leonards/ Crows Nest Planning Study to ensure the built form is appropriate for this location and compatible with the surrounding built form typologies.

Figure 20 – Photomontages of St Leonards Skyline (Concept Design Report, Kann Finch)



Near Birchgrove Looking North



Near Neutral Bay Looking West

### 9.2.7. Traffic Impacts

ARUP have prepared a Traffic Impact Assessment which accompanies the Planning Proposal submission at **Appendix D**. The assessment describes the existing local traffic context, including access and the potential traffic implications of the proposed concept. The report addresses the following matters:

- Generation of pedestrian and car trips
- Public transport accessibility
- Upgrade requirements for Oxley Street / Pacific Highway intersection
- Car parking arrangements
- Pedestrian and bicycle access
- Green initiatives

The key findings of ARUP are summarised as:

- A total of 80 off-street parking bays, inclusive of car share (with accessible parking provision) are proposed. The development is located within 100m of various modes of St Leonards Station and bus stops thus the development is expected to not generate a large parking demand;
- Based on the traffic distribution and generation assumptions, the analysis indicates that the increase in traffic is negligible and is not envisaged to affect the existing intersection performances adversely;
- The proposed car lifts are sufficient to service the arrival and departure rate of vehicles;
- The development would be responsible for a small increase in peak hour traffic flows along surrounding key roads. Due to the small increase in development traffic, it is expected that surrounding key roads will continue to operate in the same way;
- Secure bicycle parking is to be provided as a component of the proposed development; and

- Travel demand management measures have been suggested that can be implemented through the Development Application phase.

### 9.2.8. Residential Amenity

The Concept Design has been developed with regard to the requirements of State Environmental Planning Policy 65 and the accompanying Apartment Design Guide (ADG).

An analysis of the indicative apartment design has been undertaken by Kann Finch within the Concept Design Report (**Appendix A**). This analysis confirms that the development could achieve an acceptable level of internal amenity for future residents with regard to solar access, natural ventilation and privacy. Based on the indicative apartment layout, the following is noted:

- The residential component consists of 195 apartments suited to a variety of lifestyles. An indicative dwelling mix is 1 bedroom (21%) 2 bedroom (74%) and 3 bedroom (5%).
- The residential floors have minimum ceiling heights to living/dining/bedrooms of 2.7 metres and 2.4 metres to non-habitable spaces. The floor to floor height is typically 3.1 metres.
- Each apartment has access to a secure private open space such as a balcony or winter garden with minimum areas of 8-12m<sup>2</sup> based on apartment size. Most apartments are able to achieve greater private open space than the minimum prescribed by the ADG. A communal open space area with indoor lounge/meeting rooms and outdoor recreation/pool area will also be provided for residents.
- Dual aspect apartments have a maximum depth of 11.0 metres and single aspect apartments have a maximum of 6.0 metres to enhance daylight access and natural ventilation.
- A minimum of 2 hours direct sunlight between 9:00am & 3:00pm in mid-winter will be enjoyed by more than 75% of the apartments. Similarly, more than 75% of apartments will be naturally cross ventilated. These numbers exceed those prescribed by the ADG.
- Each apartment has access to a minimum of 6-10m<sup>3</sup> of private storage space via a combination of space within the apartment or secure storage cage within the basement levels.

Further, the building separation distances envisaged in the proposal respond to the requirements of SEPP65 and the ADG as they relate to habitable rooms facing habitable rooms in anticipation that the site to the east (IBM site) would similarly be redeveloped for more intensive use including residential apartments.

### 9.2.9. Overshadowing

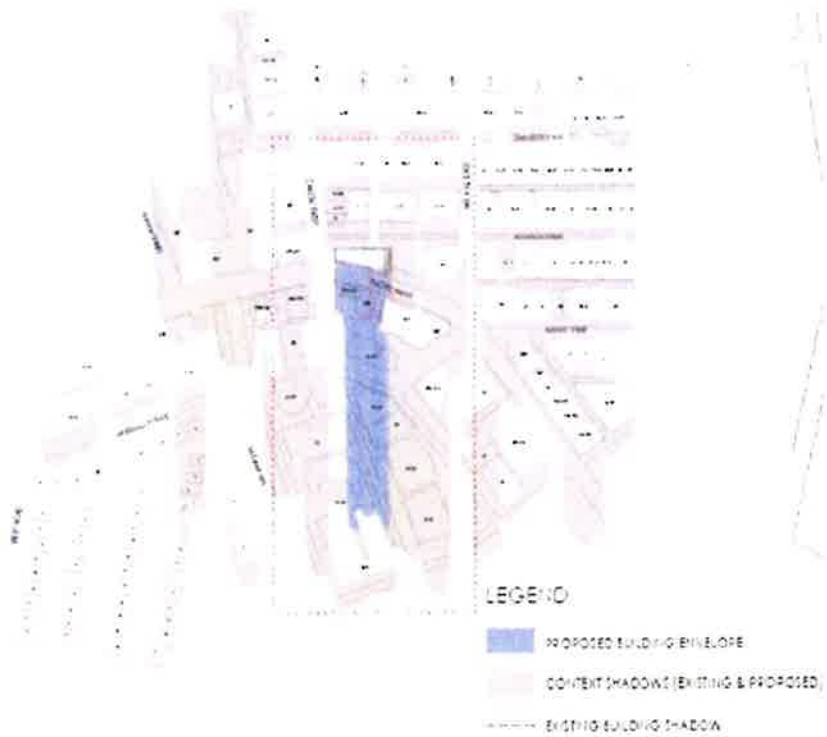
An assessment of the potential shadow impacts of the concept has been undertaken within the Concept Design Report at **Appendix A** (undertaken by Kann Finch and GMU). As shown at **Figure 22**, some overshadowing of future residential properties is expected, however these impacts are mitigated by the slenderness of the tower, the separation from other towers and the street level setbacks.

Furthermore, the shadow generated by the proposal will not dwell on any significant open space, heritage item or public facilities. While the amenity of future residential properties is recognised to be an important consideration this must be balanced with the need to enable St Leonards to grow and the recognition of the context of development – an established and densely populated urban area. Some overshadowing is to be accepted to ensure that the development potential of the St Leonards Centre is not unreasonably restricted.

Figure 21 – Shadow Analysis of the Concept Design at 21 June



09 00am



Midday



03:00pm

### 9.2.10. Wind

A Wind Tunnel Study has been undertaken by Windtech Consultants to provide an assessment of the impact of the mixed-use development on the amenity of the wind environment in and around the site, and is included at **Appendix G**.

The proposed development was modelled in the wind tunnel with the surrounding approved buildings and without any proposed plantings and without the effect of any forms of wind ameliorating devices such as screens, balustrades, awnings which are not already shown in the architectural drawings (as a worst case scenario) to assess the acceptability of the pedestrian level wind environment to inform the detailed design of these areas.

The findings from the study provided recommendations, subsequently incorporated into the proposed building design, to ensure the wind conditions at specific locations are suitable for the intended use of the spaces. The suggested treatments are summarised as follows:

Ground Level:

- Replacement of existing deciduous trees with densely foliageing trees capable of growing to a height of 5m with a 5m canopy along the northern and southern aspects of the development.
- Inclusion of densely foliageing evergreen shrubs capable of growing to a height of 1.5m on the south western corner of the development.
- Inclusion of full height screens with a 50% porosity on the northern and southern perimeter of the western terrace area.

Level 6 Skygarden:

- Inclusion of densely foliageing trees within the proposed landscaping areas. These trees should range in size to fill the landscaping areas and should be capable of growing to a height of 3m with a 3m canopy.

Levels 7-23 Balcony Areas:

- Balconies to be fully enclosed on the south-eastern corner of the development.
- Balconies to be partially enclosed with full height impermeable sliding/folding screens on the north-western corner of the development.

Levels 25-38 Balcony Areas:

- Balconies to be fully enclosed on the south-eastern corner of the development.
- Balconies to be partially enclosed with full height impermeable sliding/folding screens on the north-western and north-eastern corners of the development.

Levels 39-48 Balcony Areas:

- Balconies to be fully enclosed on the south-eastern corner of the development.
- Balconies to be partially enclosed with full height impermeable sliding/folding screens on the north-western and north-eastern corners of the development.

Windtech Consultants conclude:

*With the inclusion of these recommended treatments to the final design, the results of this study indicate that wind conditions for all outdoor trafficable areas within and around the subject development will be suitable for their intended uses. Note the densely foliating trees are of an evergreen species to ensure their effectiveness in wind mitigation throughout the year. The inclusion of additional densely foliating vegetation within and around the outdoor trafficable areas of the subject development is expected to further enhance the localised wind conditions.*

Having regard to the wind study recommendations with respect to balconies, the proposal has now accounted for the potential that all balconies could through the detailed design stage in the DA, below enclosed to protect from high winds and maximise functionality. As Council has indicated an unwillingness to support future FSR variations due to creating enclosed balconies, the proposed FSR is reflective of the likely Da design scenario for all balcony designs having the capability of being enclosed.

### **9.2.11. Sustainability**

The proposed development concept has been designed with building massing and orientation to facilitate future BASIX compliance, which will be documented at the development application stage.

### **9.2.12. Noise**

The site is affected by road noise associated with the Pacific Highway. Mitigation measures will be required to address noise as residential uses are proposed. These will be addressed through the Development Application stage.

### **9.2.13. Servicing**

An assessment of the servicing requirements of the site has been undertaken by Aurecon, submitted at **Appendix H**, to provide preliminary advice in relation to the following building services to inform the proposed development design:

- Mechanical Services (Heating, Ventilation and Air Conditioning).
- Electrical Services (Supply, reticulation, lighting, power, voice and data cabling, access control, and MATV).
- Vertical Transport (passenger, goods and machine room lifts, moving walks and escalators).
- Hydraulic Services (Stormwater / rainwater, sanitary plumbing, sewerage, trade waste, domestic hot and cold water, gas, fire hydrant and hose reels).
- Fire Protection (Sprinklers, Fire + Smoke Detection, OWS and portable fire extinguishers).

In summary, the proposed redevelopment of the site can be appropriately serviced to meet the servicing, safety and capacity requirements for the proposed operations on site.

### 9.2.14. Waste Management

An operational Waste Management Plan has been prepared by Elephants Foot and is submitted at **Appendix I**.

Waste audit and management strategies are recommended for new developments to provide support for the building design and promote strong sustainability outcomes for the building.

*All recommended waste management plans will comply with council codes and any statutory requirements. The waste management plan has three key objectives:*

*Ensure waste is managed to reduce the amount of waste and recyclables to land fill by assisting residents to segregate appropriate materials that can be recycled; displaying signage to remind and encourage recycling practices; and through placement of recycling and waste bins in the retail precinct to reinforce these messages.*

*Recover, reuse and recycle generated waste wherever possible.*

*Compliance with all relevant codes and policies.*

*To assist in providing clean and well-segregated waste material, it is essential that this waste management plan is integral to the overall management of the building and clearly communicated to residents and tenants.*

The report proposes individual waste management systems for the retail, residential and commercial components of the site redevelopment. It is proposed that private recycling and waste service providers will collect waste from the building.

### 9.2.15. Contamination

As outlined earlier in this report, Douglas Partners have undertaken a Preliminary Site Investigation for Contamination. A copy of the report is included in **Attachment K**.

The report concludes as follows:

*Based on a review of site history information and a site walkover, it is considered that the potential for contamination is limited to the sources identified in Table 9 (of the report) and that the site can be made suitable for the proposed development following intrusive investigations to assess the potential contamination source-pathway-receptor linkages identified in the CSM (Section 6) and if necessary the development of a remediation action plan.*

*The investigation should include a preliminary waste classification to inform disposal options for any surplus soils generated by the redevelopment process which is assumed to include basement excavation under which circumstances any necessary remediation may be undertaken during the course of bulk excavations.*

*It is therefore recommended that intrusive soil sampling be undertaken at the development site, particularly in areas that have been filled.*

Given the report concludes the site, if contaminated, can be made suitable for the proposed use, the next stage of investigation will be carried out at the Development Application phase.

### 9.2.16. Summary

Overall, it is considered that the site will not result in any significant environmental effects that would preclude the LEP amendment and the ultimate redevelopment of the site for high density mixed use, including residential development.



## **Q9. HAS THE PLANNING PROPOSAL ADEQUATELY ADDRESSED ANY SOCIAL AND ECONOMIC EFFECTS?**

The key issues to be balanced in weighing the social and economic impacts of the proposal are considered to be:

The potential **economic impacts** associated with the rezoning of employment land to allow for residential uses are addressed as follows:

- The Planning Proposal will not result in potential adverse economic impacts.
- The Planning Proposal supports the State government's current direction of increasing density and broadening land uses in proximity to public transport infrastructure. Accordingly, the Planning Proposal achieves the right balance of maintaining a strong employment focus while also recognising the benefits of providing residential development to take advantage of the locational and amenity benefits that St Leonards offers. The proposal will not dilute the goal of employment growth in St Leonards.
- The existing buildings within the site are nearing the end of their economic life. Optimising the potential to redevelop the site will assist State Government and Council to deliver the targets set out in A Plan for Growing Sydney but also, importantly will ensure that new housing and employment opportunities can be delivered with greater certainty.
- It is also noted that market conditions within St Leonards are not supportive of large scale commercial products. The Planning Proposal does not propose to change the commercial zoning of the land, thereby maintaining the theoretical employment capacity of the land. The proposed changes to the NSLEP will allow for residential uses (Shop top housing through additions to Schedule 1) that would result in increased employment opportunities given the current market conditions.
- Further, the proposal includes a minimum control on non-residential land use, thereby preserving the integrity of the commercial zoning should market conditions change in the future.
- It is considered that the Planning Proposal presents a more flexible approach to enable the landowner to deliver more attractive commercial floorplates at the lower levels whilst creating additional residential capacity for the accessible and well serviced St Leonards centre.
- The proposed development will result in direct economic benefits including the generation of construction jobs and ongoing employment opportunities for staff. Specifically the proposal will result in the creation of some 218 new ongoing jobs on site from the retail and commercial land uses, plus hundreds of construction jobs. This represents a substantial increase to the some 40 jobs which would be generated through the approved DA's on the site (serviced apartment and small retail components) and positively contributes to the employment growth targets.

The impacts on demand for **social infrastructure** services as a result of increased population are addressed as follows:

- A comprehensive audit of existing facilities within the locality and the capacity of these facilities to accommodate increased demand associated with the development of the site will be undertaken to identify any gaps in the availability of social infrastructure.

### **9.2.17. Section D – State and Commonwealth Interests**

#### **Q10. IS THERE ADEQUATE PUBLIC INFRASTRUCTURE FOR THE PLANNING PROPOSAL?**

Yes. The site is served by existing utility services and is located to allow incoming residents and workers to capitalise on the wide range of infrastructure and services existing and planned within the area. It will reinforce existing investment in public transport infrastructure, through increased patronage of the existing station at St Leonards.

A range of established services are available within close proximity of the site, including health, education and emergency services networks.

#### **Q11. WHAT ARE THE VIEWS OF STATE AND COMMONWEALTH PUBLIC AUTHORITIES CONSULTED IN ACCORDANCE WITH THE GATEWAY DETERMINATION?**

No consultation with State or Commonwealth authorities has been carried out to date on the Planning Proposal.

In accordance with the Gateway Determination, public exhibition of the planning proposal is required for a minimum of 28 days and Lane Cove Council must comply with the notice requirements for public exhibition of planning proposals in Section 5.5.2 of *A guide to preparing local environmental plans*.

In addition, consultation is required for the following public authorities:

- Transport for NSW
- NSW Roads and Maritime Services
- NSW Office of Environment and Heritage
- Ministry of Health
- Sydney Airport Corporation;
- AirServices Australia;
- Civil Aviation Safety Authority; and
- Commonwealth Department of Infrastructure and Regional Development

Each public authority/organisation is to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

As per the Gateway Determination, a public hearing is not required to be held into this matter.

## 10. PART 4 – MAPPING

The Planning Proposal seeks to amend the following NSLEP 2013 Maps:

- Height of Buildings Map Sheet HOB\_001
- Non-Residential Floor Space Ratio Map LCL\_001
- Floor Space Ratio Map FSR\_001

The proposed changes are shown in **Figures 16,17 and 18** of this report and reproduced in full at **Appendix C** to this submission.

# 11. PART 5 – COMMUNITY CONSULTATION

## 11.1. PUBLIC CONSULTATION

Clause 57 of the Environmental Planning and Assessment Act 1979 requires the relevant planning authority to consult with the community in accordance with the gateway determination. It is anticipated that the Planning Proposal will be required to be publicly exhibited for 28 days in accordance with the requirements of the Department of Planning and Infrastructure guidelines “*A Guide to Preparing Local Environmental Plans.*”

It is anticipated that the public exhibition would be notified by way of:

- A public notice in local newspaper(s).
- A notice on the North Sydney Council website.
- Written correspondence to adjoining and surrounding landowners.

In terms of consultation with Council, the proponent has had several meetings with Council staff prior to the lodgement of this Planning Proposal. The proposal has also been presented to the Design Excellence Panel for comment. The proponent has taken on board all of council's and the Design Excellence Panel's feedback and refined the scale and definition of the building envelope and the community space design to satisfy their requirements.

## 12. PART 6 – PROJECT TIMELINE

An indicative project timeframe is provided at **Table 8**.

Table 8 – Indicative Project timeline

<b>Stage</b>	<b>Dates</b>
Consideration by North Sydney Council	(March-July 2017)
Council resolution to forward planning Proposal to DPE	August 2017
Planning Proposal referred to Department of Planning and Environment for Gateway Determination	September 2017
Gateway Determination by Department of Planning and Environment	October 2017
Commencement and completion of public exhibition	November – December 2017
Consideration of submissions and consideration of the proposal post-exhibition	December – February 2018
Proposal reported back to Council for endorsement	March- April 2018
Date of submission to the Department of Planning and Environment to finalise the LEP	May-July 2018

## 13. CONCLUSION

This Planning Proposal seeks an amendment to the North Sydney Local Environmental Plan 2013 to allow for high density mixed use development at 617- 621 Pacific Highway, St Leonards. The Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 (the EP&A Act) and the relevant guidelines prepared by the NSW Department of Planning and Infrastructure including "A Guide to Preparing Local Environmental Plans" and "A Guide to Preparing Planning Proposals." It sets out the justification for the proposed LEP amendments applicable to the subject site to allow for a high density mixed use development.

The Concept Design accompanying the Planning Proposal has been informed by a detailed site analysis. As a result, it is considered that the proposed amendments to the NSLEP 2013 will achieve an appropriate development outcome for the following reasons:

- **From a local context perspective:** The Planning Proposal achieves an appropriate built form and scale outcome having regard to the vision for the St Leonards precinct expressed by local planning policy and the existing and emerging scale of development on adjacent and surrounding lands.
- **From a strategic policy perspective:** The proposal will positively contribute to the State planning strategic goals of increasing employment and housing densities in centres with access to public transport. The level of residential development proposed will in no way undermine the predominant commercial character of St Leonards.
- **From a net community benefit perspective:** The proposal will deliver a range of benefits for the community, including:
  - The proposal will generate the potential for some 252 ongoing jobs once operational. Additional 292 direct and indirect jobs would be created during construction period. This represents a significant growth of employment from the current DA approval (residential and serviced apartments) with an estimated 35 ongoing jobs onsite compared with the proposal incorporating retail, art centre and commercial office space that will generate 252 ongoing jobs.
  - The proposal will enable approximately 195 new dwellings to be accommodated which will increase housing choice and diversity within a designated centre and in close proximity of public transport infrastructure.
  - The proposal includes an offer to enter into a VPA to a new community arts centre within the development, designed and delivered to Council's requirements.
  - The proposed development incorporates a Community Arts Centre across two podium levels within the proposal, accessible from the ground floor and easily identifiable from the street. This will encourage the patronage of the arts to strengthen the St Leonards' image as a highly desirable place to live, work and play.
- **From an environmental perspective:** The provision of a mix of uses on the site with good accessibility to services and public transport will achieve environmental benefits by encouraging more trips within and outside of the centre without cars.

Overall, it is considered that the proposal will result in significant public benefits facilitating the development of a high quality mixed use development. This Planning Proposal supports the State government's current direction of increasing density in major centres with good access to public transport and facilities.

The Planning Proposal achieves the right balance of maintaining a strong employment focus while also recognising the benefits of providing residential development to take advantage of the locational and amenity benefits this part of the St Leonards Strategic Centre can provide. In considering the tangible community and economic benefits of the proposal, it is respectfully requested that the Council resolve to forward this planning proposal to the Department of Planning and Environment for LEP Gateway determination.



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This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.





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# Appendix 3 – Arts Centre Design Brief prepared by Kannfinch

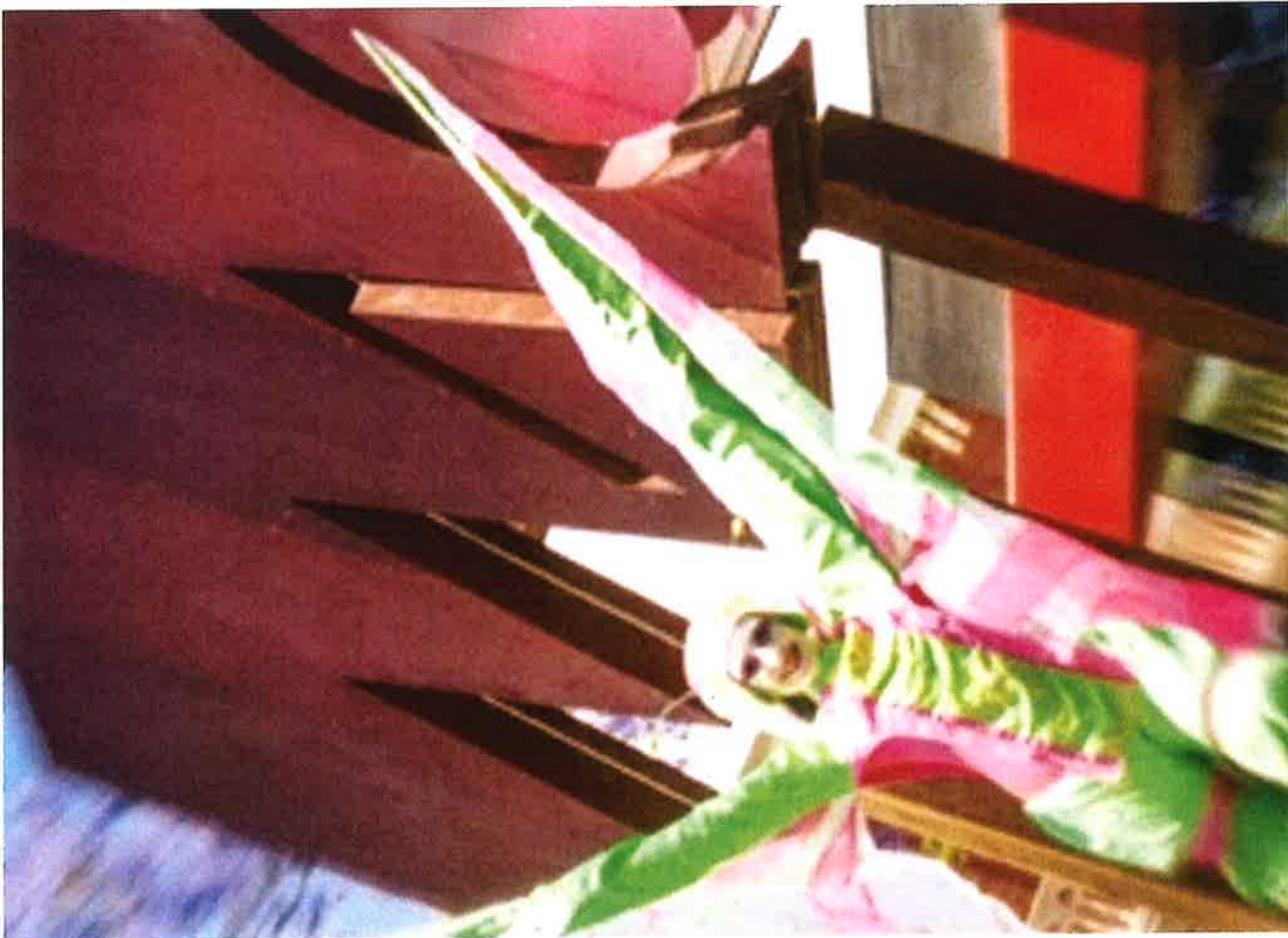
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# ARTS CENTRE DESIGN BRIEF

FOR  
MIXED USE DEVELOPMENT  
617 - 621 PACIFIC HIGHWAY  
ST. LEONARDS

PLANNING PROPOSAL SUBMISSION

21 MARCH 2017



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Blue Mountains Cultural Centre



Blue Mountains Cultural Centre



# THE VISION

## 1.1 Introduction

A Community Arts Centre is identified in the St Leonards / Crows Nest Planning Study as one of the major potential public benefit facilities that could be incorporated into future development projects. The Arts Centre will support various spaces for:

- art & photography studios
- dance rehearsal space
- theatre rehearsal space
- music studios
- workshop space
- gallery/exhibition space

Strong patronage of the arts by Council and the private sector, working in partnership, will strengthen St Leonards' image as a highly desirable place to live, work and play.

The Arts Centre would best be located on the first and second floors within the podium of a 'tall tower' near the station with a presence and direct access from ground level and be clearly visible from the street via glazing and signage.

### Precedents

- Sydney Creative Hub (Greenland Centre) – 2000m<sup>2</sup>
- City of Sydney Creative Spaces program
- Blue Mountains Cultural Centre – 4000m<sup>2</sup>
- Former Collingwood Technical School Project – 5000m<sup>2</sup>
- Mildura Arts Centre – 4000m<sup>2</sup>
- Cabooiture Arts Hub – 5000m<sup>2</sup>

## 1.2 Design Goals

The key design goal for the Arts Centre is to create an engaging Community facility that:

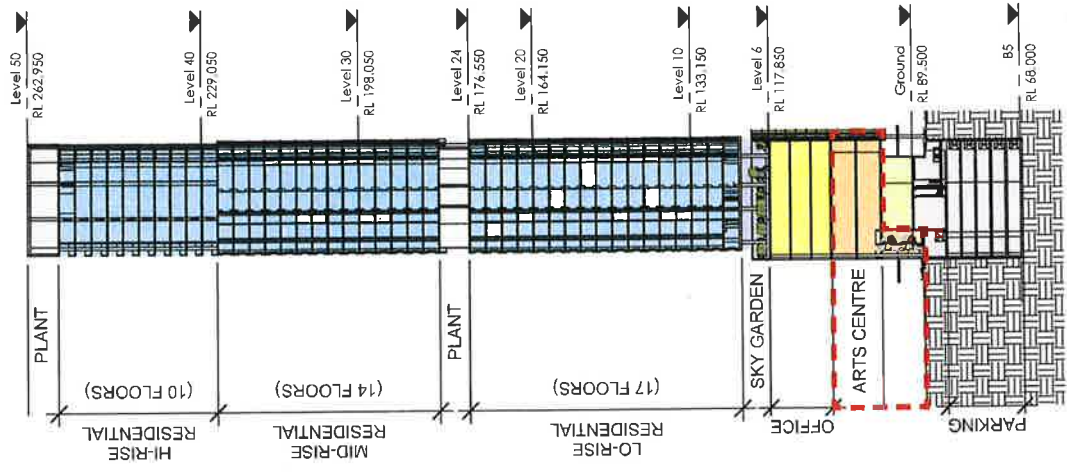
- capitalizes on the synergy of consolidating arts operations and programs under one roof
- captures the vitality of the St Leonards/Crows Nest community,
- is warm, welcoming and accessible,
- has a high degree of visibility,
- supports diverse events including celebratory & day-to-day activities,
- provides much needed cultural facilities for people of all ages,
- has a dramatic architectural/artistic expression,
- creates a unique and engaging place which can become the heart of the community.



Mildura Arts Centre



Cabooiture Arts Hub



Building Section

THE SITE

### 1.3 Site Description

**617-621 Pacific Highway, St Leonards is a 1067 m<sup>2</sup> site that is located on a prominent corner** in the urban block bounded by Atchison Street to the north, Pacific Highway to the south, Mitchell Street to the east and Christie St to the west.

The site has 3 street frontages to the Pacific Highway, Christie Street and Atchison Street, and to the east is the 16 storey IBM building.

**The site is located within 100m of St Leonards station**, within the 'centre' of the St Leonards precinct and is identified as a site for a 'tall' building under North Sydney Councils' development controls.

The proposed Community Arts Centre would be located on level 1 and 2 of the development with a dedicated entrance foyer on Atchison Street.

### 1.4 General Requirements

Provide building services, finishes, fixtures and fittings that are appropriate to the function of each space.

#### Lift Provision

The Community Arts Centre shall be served by two 25person / 2000kg capacity lifts with 1300 wide door openings.

#### Power / Data Provision

Provide skirting mounted, relocatable power and data outlets to all spaces.

Provide CCTV coverage for all spaces.

Provide data / server room.



Aerial Photograph | St Leonards and surrounds

617-621 PACIFIC HIGHWAY  
ST LEONARDS



# DETAILED SPACE PROGRAM

## 2.0 Entry / Exhibition / Meeting

<p><b>2.1 Entry Lobby (Ground Level):</b></p> <p><i>General Description:</i> Space for entry and display of artworks. Clearly organized, highly visible to the street, exciting space. Stair to gallery space above</p> <p><i>Finishes:</i> Polished concrete floor, glazed external walls, plasterboard internal walls, void to gallery space above Painted steel feature stair Double doors to connect loading dock and lift lobby Artwork hanging system</p> <p><i>Services:</i> Feature / exhibition lighting system Electronic information / directional display system</p> <p><i>Relationship Adjacencies:</i> Street, lifts, gallery space (via stair).</p>	<p>40m<sup>2</sup></p>	<p>2.3</p>	<p><b>Art Gallery/Exhibition Space (Level 1):</b> 300m<sup>2</sup></p> <p><i>General Description:</i> This space is intended to provide gallery/exhibition space for community based arts and/or sponsored temporary exhibitions. Flexible/moveable exhibition wall system to be included To have access to views and daylight (blackout blinds to be included) Provision for interactive and digital media to be included Ceiling height approx. 4.5m Security barrier at top of spiral stair Glazed separation of gallery space from general lift and stair circulation and break out area for after-hours security. Include wide entry to allow for larger works.</p> <p><i>Finishes:</i> Polished concrete floor, glazed external walls, plasterboard internal walls Hanging system (ceiling and walls) Track light system Laminate finish joinery Painted concrete soffit/ceiling</p> <p><i>Services:</i> Exposed ductwork/pipework, track lighting Acoustics and building services/lighting to suit exhibition function</p> <p><i>Relationship Adjacencies:</i> Reception, lift lobby, amenities, breakout/lounge</p>	 <p>Fine Street Creative Arts Centre</p>
<p><b>2.2 Reception (Level 1):</b></p> <p><i>General Description:</i> A welcome desk to provide first point of contact for Arts Centre visitors Information point for all elements of the Arts Centre Ceiling height approx. 4.5m</p> <p><i>Finishes:</i> Polished concrete floor, glazed external walls, plasterboard internal walls Painted concrete soffit/ ceiling, timber veneer joinery</p> <p><i>Services:</i> Exposed ductwork/pipework, track lighting</p> <p><i>Relationship Adjacencies:</i> Entry stair, lift lobby and gallery space</p>	<p>10m<sup>2</sup></p>	<p>2.4</p>	<p><b>Gallery/Exhibition Office (Level 1):</b> 15m<sup>2</sup></p> <p><i>General Description:</i> Office for Arts Centre manager Desk, chairs and storage cupboards to be included Ceiling height approx. 3.0m</p> <p><i>Finishes:</i> Carpet floor, glazed external walls, plasterboard internal walls and suspended plasterboard ceiling</p> <p><i>Services:</i> Recessed services fixtures Acoustics and building services/lighting to suit office function</p> <p><i>Relationship Adjacencies:</i> Lift lobby, gallery/exhibition space, breakout/lounge</p>	 <p>Caboolture Arts Centre</p>

## DETAILED SPACE PROGRAM

### 2.5 Breakout/Lounge Space x 2 (Levels 1&2): 25m<sup>2</sup>

*General Description:*

This space is intended to serve as a breakout space for Arts Centre staff, it would also be utilised as a pre-function space for visitors prior to entering the gallery/exhibition or theatre/dance rehearsal spaces.

It will include a kitchennette, storage, table and seats  
Ceiling height approx. 4.5m

*Finishes:*

Sealed concrete floor, plasterboard internal walls,  
Painted concrete soffit/ceiling  
Laminate finish joinery

*Services:*

Exposed ductwork/pipework, track lighting

*Relationship Adjacencies:*

Art gallery/exhibition space, theatre/dance rehearsal, reception, lift lobby and amenities



Meeting Room

### 2.6 Meeting Rooms x 2 (Levels 1&2): 40 - 50m<sup>2</sup>

*General Description:*

Two meeting rooms (14 and 20 person capacity) with AV capacity for use by community, Council and Arts Centre for booked meetings

Bench space and storage cupboards to be included  
Tables and chairs to be included  
Ceiling height approx. 3.0m

*Finishes:*

Carpet floor, glazed external walls, plasterboard internal walls and suspended plasterboard ceiling

*Services:*

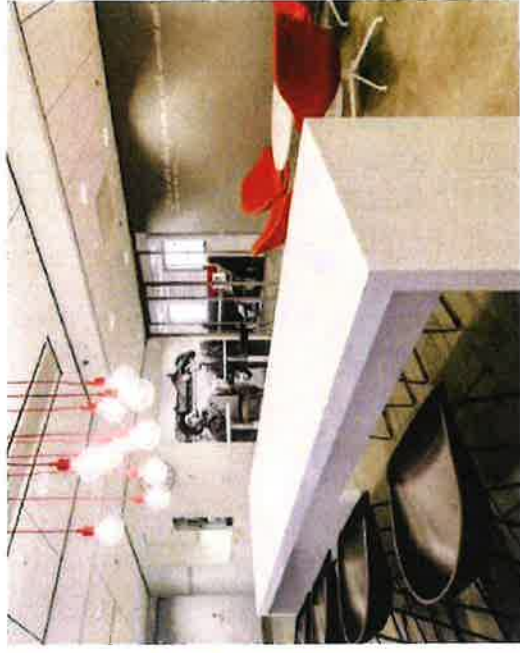
Recessed services fixtures  
Acoustics and building services/lighting to suit meeting function  
Table mounted power / data outlets

*Relationship Adjacencies:*

Lift lobby, gallery/exhibition space, breakout/lounge



Breakout / Lounge Space



Reception



# DETAILED SPACE PROGRAM

## 3.0 Rehearsal Spaces

### 3.1 Performance Rehearsal Space (Level 2): 200m<sup>2</sup>

*General Description:*

Multi-purpose room to host a variety of activities including:

- Dance/Theatre Rehearsals
- Lectures and audio visual presentations
- Education Programs
- Rentals for special occasions

Bench space, sink and storage cupboards to be included  
 Stepped timber platform seating area to be included  
 Ceiling height approx. 4.5m

*Finishes:*

Timber floor, glazed external walls, plasterboard internal walls  
 Painted concrete soffit/ceiling  
 Laminate finish joinery  
 Acoustic treatment in walls & ceiling

*Services:*

Exposed ductwork/pipework, track lighting  
 Acoustics and building services/lighting to suit rehearsal function

*Relationship Adjacencies:*

Lift Lobby, workshop space, amenities, storage

### 3.2 Performance Rehearsal Storage (Level 2): 15m<sup>2</sup>

*General Description:*

Storage for studio activities, supporting education programs.  
 Storage for tables, chairs and props for rehearsals/events.

*Finishes:*

Sealed concrete floor, glazed external walls, plasterboard internal walls  
 Painted concrete soffit/ceiling

*Services:*

Exposed ductwork/pipework

*Relationship Adjacencies:*

Theatre/dance rehearsal space, breakout lounge, amenities



Dance Rehearsal Space



Theatre Rehearsal Space



Artists Studio

# DETAILED SPACE PROGRAM

## 4.0 Studio Spaces

	Photography / New Media Studio (Level 2):	200m <sup>2</sup>
4.1	<p><b>Single Artist Studio (Level 1):</b> 25m<sup>2</sup> 4.3</p> <p><i>General Description:</i> Work space for single artist with good daylight access Bench space, sink and storage cupboards to be included Ceiling height approx. 4.5m</p> <p><i>Finishes:</i> Sealed concrete floor, glazed external walls, plasterboard internal walls Painted concrete soffit/ceiling, Laminate finish joinery</p> <p><i>Services:</i> Exposed ductwork/pipework Good ventilation required Plaster traps to sinks</p> <p><i>Relationship Adjacencies:</i> Shared artist studio, amenities, breakout/lounge</p>	<p><b>Photography / New Media Studio (Level 2):</b> 200m<sup>2</sup></p> <p><i>General Description:</i> Work space for photography Good daylight access with provision for blackout blinds Bench space, sink and storage cupboards to be included Small lockable storage area and screening room (which can be darkened if necessary) Ceiling height approx. 4.5m</p> <p><i>Finishes:</i> Sealed concrete floor, glazed external walls, plasterboard internal walls Painted concrete soffit/ceiling Laminate finish joinery</p> <p><i>Services:</i> Exposed ductwork/pipework Good ventilation required</p> <p><i>Relationship Adjacencies:</i> Artist studios, amenities, breakout/lounge</p>
4.2	<p><b>Shared Artist Studio (Level 1):</b> 175m<sup>2</sup></p> <p><i>General Description:</i> Shared work space for up to 8 artists with good daylight access Bench space, sink and storage cupboards to be included Small, secure storeroom to be included Ceiling height approx. 4.5m</p> <p><i>Finishes:</i> Sealed concrete floor, glazed external walls, plasterboard internal walls Painted concrete soffit/ceiling Laminate finish joinery</p> <p><i>Services:</i> Exposed ductwork/pipework Good ventilation required Plaster traps to sinks</p> <p><i>Relationship Adjacencies:</i> Single artist studio, amenities, breakout/lounge</p>	<p><b>Music Rehearsal Studio (Level 2):</b> 100m<sup>2</sup></p> <p><i>General Description:</i> Rehearsal space for up to 20 musicians with good daylight access Storage cupboards to be included Ceiling height approx. 4.5m</p> <p><i>Finishes:</i> Timber floor, glazed external walls, plasterboard internal walls Suspended, acoustic plasterboard ceiling Laminate finish joinery</p> <p><i>Services:</i> Recessed services fixtures Acoustics and building services/lighting to suit music rehearsal function</p> <p><i>Relationship Adjacencies:</i> Music recording studio, amenities, breakout/lounge</p>



Photography Studio



Music Rehearsal Studio



# DETAILED SPACE PROGRAM

## 4.5 Music Recording Studio (Level 2): 50m<sup>2</sup>

*General Description:*

- Recording space for music
- Control booth to be included
- Storage cupboards to be included
- Ceiling height approx. 3.5m

*Finishes:*

- Timber floor, glazed external walls, plasterboard internal walls with acoustic lining
- Suspended, acoustic plasterboard ceiling
- Laminate finish joinery

*Services:*

- Recessed services fixtures
- Acoustics and building services/lighting to suit recording function

*Relationship Adjacencies:*

- Music rehearsal studio, amenities, breakout/lounge



Music Recording Studio



Music Rehearsal Space



Caboolture Arts Hub

# DETAILED SPACE PROGRAM

## 5.0 Support Spaces

### 5.1 Workshop Space (Level 2): 300m<sup>2</sup>

*General Description:*

The workshop space will primarily include the following functions:

- Set/prop construction
- The preparation area for any exhibits or events
- Screening and registration/processing area of incoming materials/artworks
- Staff work area for detailed restoration work on collection and exhibition materials

The workshop will include floor space for prepping objects, clean work area with a large prep table and a wet area with sink and bench space

Built in lockable storage cupboards for supplies, equipment, etc to be included  
Ceiling height approx. 4.5m  
Double doors opposite lift

*Finishes:*

Sealed concrete floor, glazed external walls, painted fibre cement internal walls  
Painted concrete soffit/ceiling,  
Clear finished plywood joinery

*Services:*

Exposed ductwork/pipework  
3 phase power with earth leakage protection required  
Good ventilation/fume extraction system required  
Eye Wash Station and First Aid Station required  
Plaster trap to sinks  
Acoustic treatment of walls & ceiling

*Relationship Adjacencies:*

Lift lobby, theatre rehearsal space, exhibition space

### 5.2 Amenities x 2 (Levels 1&2): 30m<sup>2</sup>

*General Description:*

Male, female and unisex accessible facilities including wc, urinal, hand basin, hand dryer, etc to be centrally located on each floor for use by staff and visitors.  
Ceiling height approx. 2.4m

*Finishes:*  
Vitrified tile floor and walls, with painted plasterboard ceiling

*Services:*  
Building services/lighting to suit amenities function

*Relationship Adjacencies:*

Breakout/lounge, meeting room, lift lobby

### 5.3 Workshop Office (Level 2): 15m<sup>2</sup>

*General Description:*

Office for workshop staff  
Desk, chairs and storage cupboards to be included  
Ceiling height approx. 3.0m

*Finishes:*

Sealed concrete floor, glazed external walls, plasterboard internal walls and suspended plasterboard ceiling

*Services:*

Recessed services fixtures  
Acoustics and building services/lighting to suit office function

*Relationship Adjacencies:*

Workshop space

### 5.4 Workshop Holding/Storage Space (Lower Ground): 90m<sup>2</sup>

*General Description:*

Secure holding area for crated artworks and workshop supplies  
Located on lower ground floor level (below loading dock)  
Ceiling height approx. 4.5m

*Finishes:*

Sealed concrete floor, painted concrete/blockwork internal walls  
Painted concrete soffit/ceiling

*Services:*

Exposed ductwork/pipework

*Relationship Adjacencies:*

Lift lobby, loading dock and workshop space (via lifts)



Set / Prop Construction

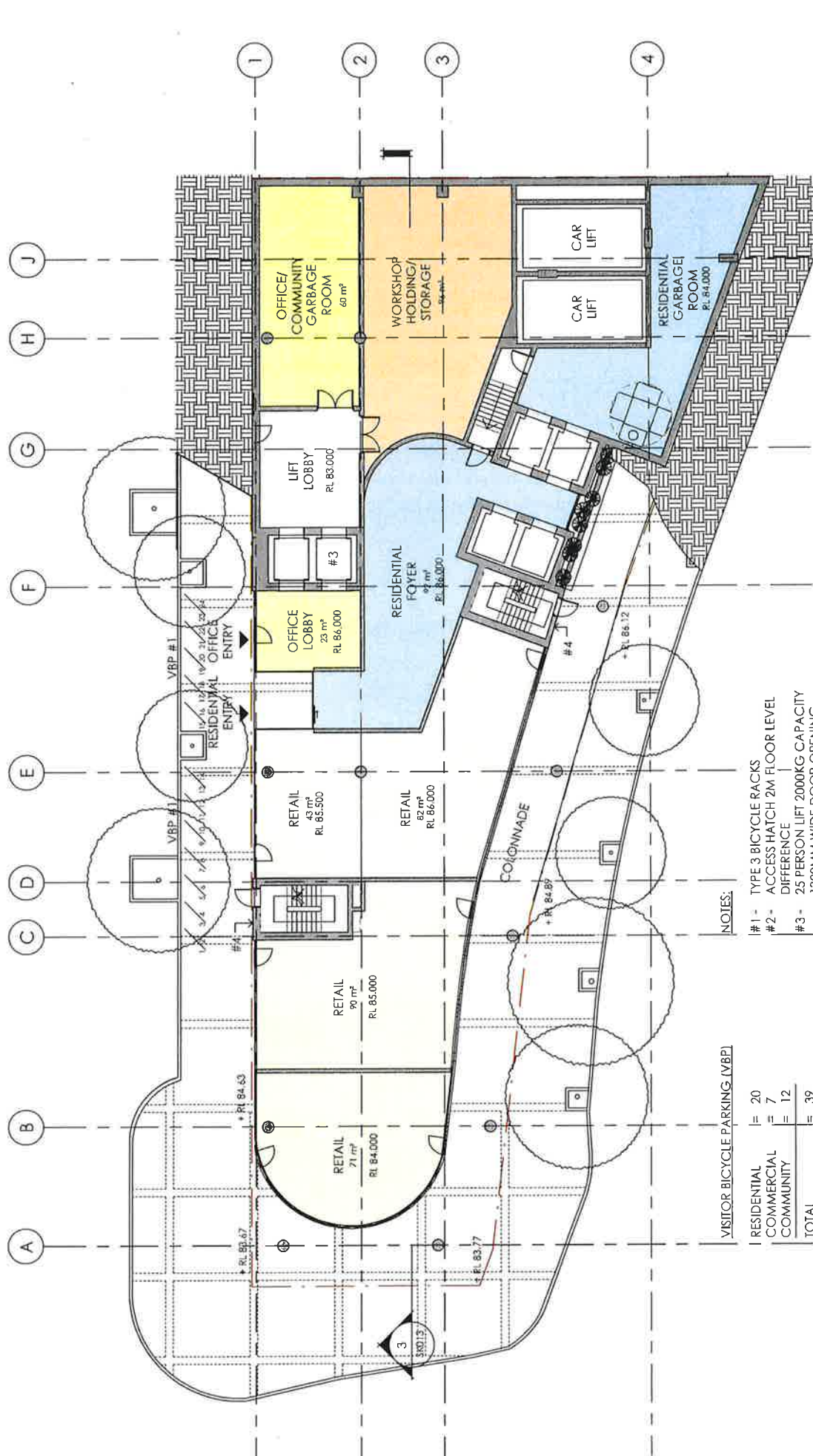


Workshop Space



# INDICATIVE FLOOR PLANS

LOWER GROUND LEVEL

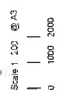


VISITOR BICYCLE PARKING (VBP)

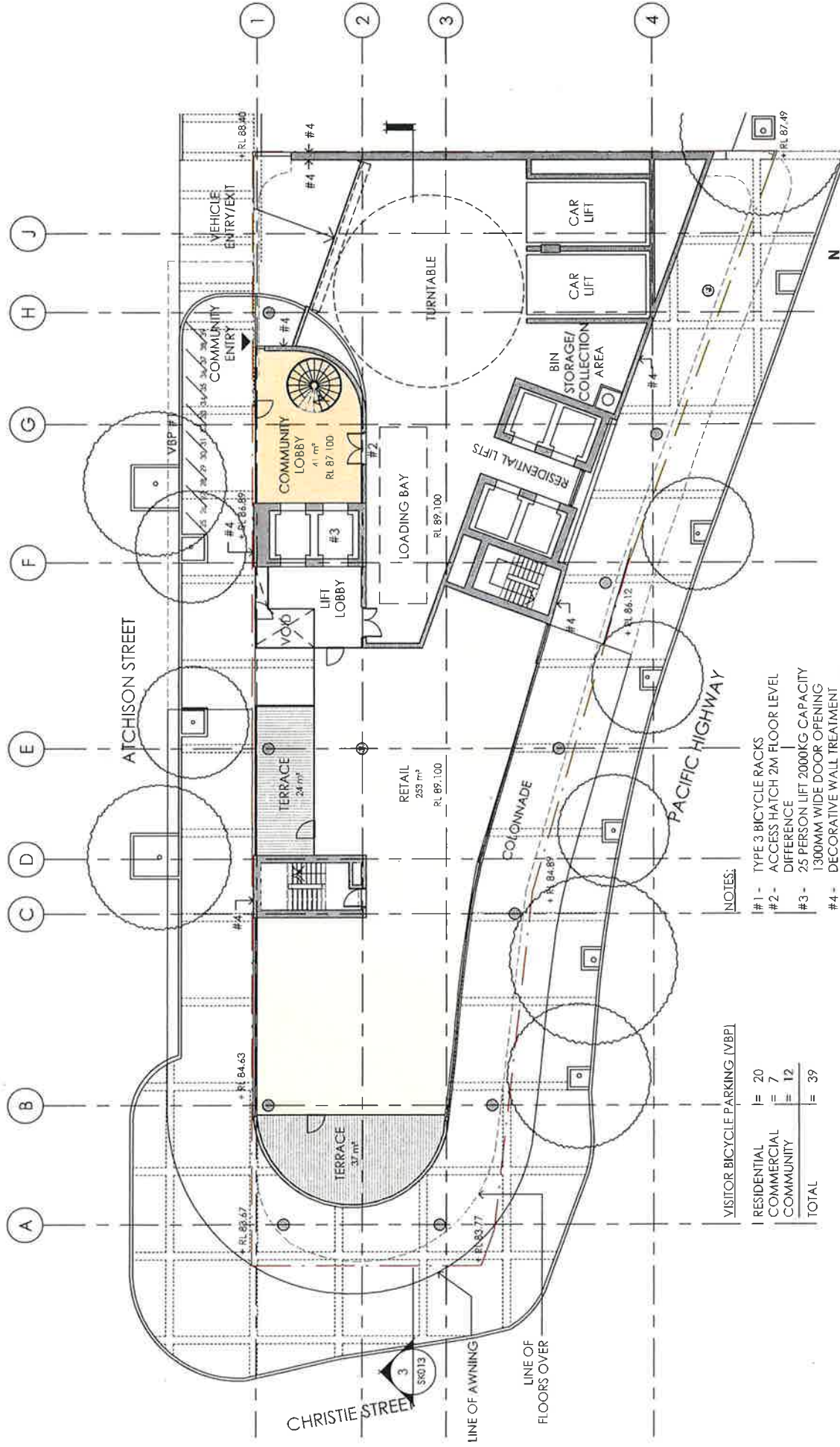
RESIDENTIAL	= 20
COMMERCIAL	= 7
COMMUNITY	= 12
<b>TOTAL</b>	<b>= 39</b>

NOTES:

- #1 - TYPE 3 BICYCLE RACKS
- #2 - ACCESS HATCH 2M FLOOR LEVEL DIFFERENCE
- #3 - 25 PERSON LIFT 2000KG CAPACITY
- #4 - 1300MM WIDE DOOR OPENING
- #5 - DECORATIVE WALL TREATMENT GLAZED SCREEN AND DOORS FOR AFTER HOURS SECURITY



INDICATIVE FLOOR PLANS  
GROUND FLOOR



VISITOR BICYCLE PARKING (VBP)

RESIDENTIAL	= 20
COMMERCIAL	= 7
COMMUNITY	= 12
<b>TOTAL</b>	<b>= 39</b>

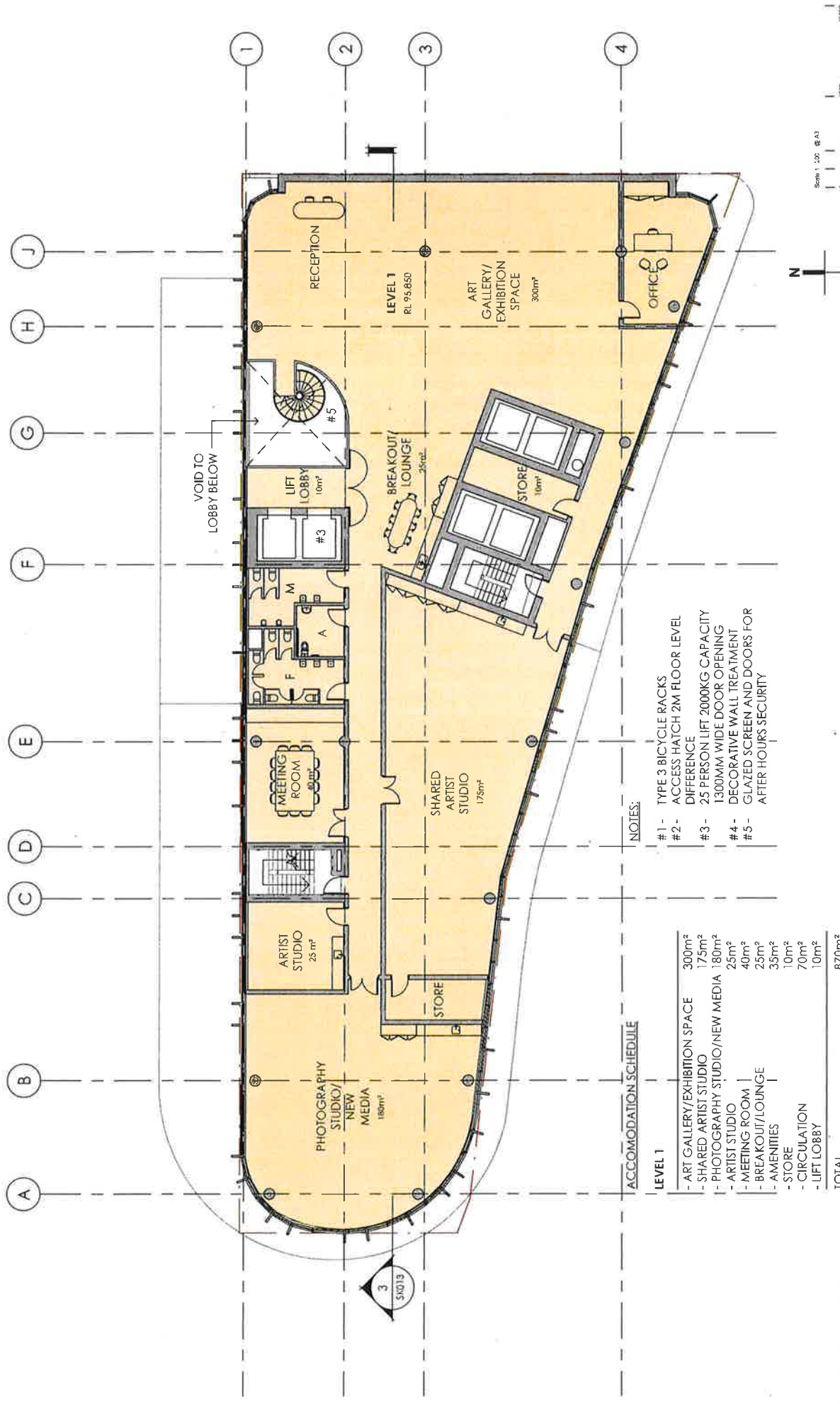
- NOTES:
- #1 - TYPE 3 BICYCLE RACKS
  - #2 - ACCESS HATCH 2M FLOOR LEVEL DIFFERENCE
  - #3 - 25 PERSON LIFT 2000KG CAPACITY
  - #4 - 1300MM WIDE DOOR OPENING
  - #5 - DECORATIVE WALL TREATMENT GLAZED SCREEN AND DOORS FOR AFTER HOURS SECURITY





# INDICATIVE FLOOR PLANS

## COMMUNITY FACILITIES FLOOR (LEVEL 1)



**NOTES:**

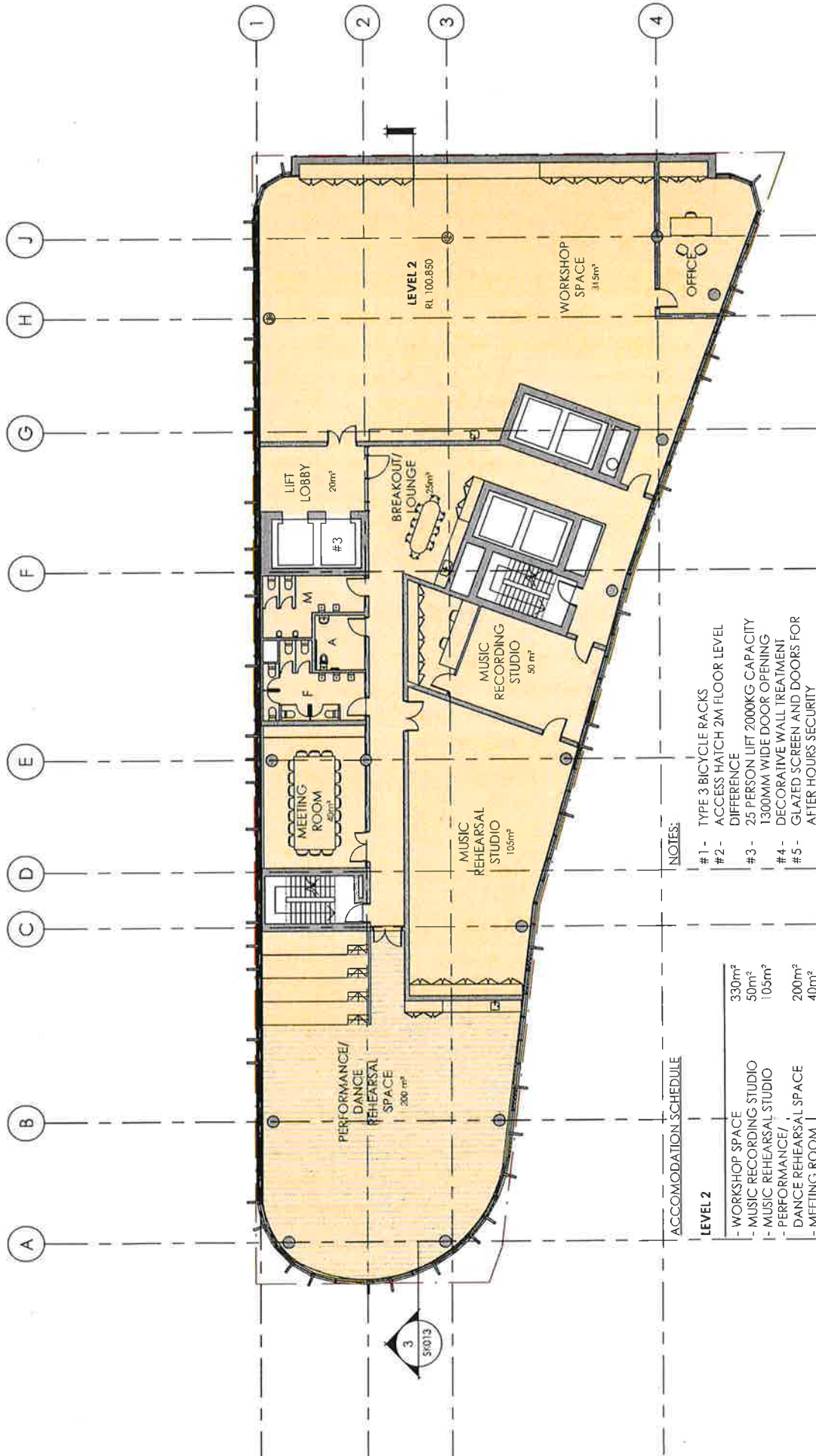
- #1 - TYPE 3 BICYCLE RACKS
- #2 - ACCESS HATCH 2M FLOOR LEVEL DIFFERENCE
- #3 - 25 PERSON LIFT 2000KG CAPACITY
- #4 - 1300MM WIDE DOOR OPENING
- #5 - DECORATIVE WALL TREATMENT GLAZED SCREEN AND DOORS FOR AFTER HOURS SECURITY

**ACCOMMODATION SCHEDULE**

LEVEL 1	AREA	AREA (m <sup>2</sup> )
-	ART GALLERY/EXHIBITION SPACE	300m <sup>2</sup>
-	SHARED ARTIST STUDIO	175m <sup>2</sup>
-	PHOTOGRAPHY STUDIO/NEW MEDIA	180m <sup>2</sup>
-	ARTIST STUDIO	25m <sup>2</sup>
-	MEETING ROOM	40m <sup>2</sup>
-	BREAKOUT/LOUNGE	265m <sup>2</sup>
-	AMENITIES	35m <sup>2</sup>
-	STORE	10m <sup>2</sup>
-	CIRCULATION	70m <sup>2</sup>
-	LIFT LOBBY	10m <sup>2</sup>
<b>TOTAL</b>		<b>870m<sup>2</sup></b>

# INDICATIVE FLOOR PLANS

## COMMUNITY FACILITIES FLOOR (LEVEL 2)



- NOTES:**
- #1 - TYPE 3 BICYCLE RACKS
  - #2 - ACCESS HATCH 2M FLOOR LEVEL DIFFERENCE
  - #3 - 25 PERSON LIFT 2000KG CAPACITY 1300MM WIDE DOOR OPENING
  - #4 - DECORATIVE WALL TREATMENT GLAZED SCREEN AND DOORS FOR AFTER HOURS SECURITY
  - #5 -

ACCOMMODATION SCHEDULE	
<b>LEVEL 2</b>	
- WORKSHOP SPACE	330m <sup>2</sup>
- MUSIC RECORDING STUDIO	50m <sup>2</sup>
- MUSIC REHEARSAL STUDIO	105m <sup>2</sup>
- PERFORMANCE / DANCE REHEARSAL SPACE	200m <sup>2</sup>
- MEETING ROOM	40m <sup>2</sup>
- BREAKOUT/LOUNGE	25m <sup>2</sup>
- AMENITIES	35m <sup>2</sup>
- LIFT LOBBY	20m <sup>2</sup>
- CIRCULATION	70m <sup>2</sup>
<b>TOTAL</b>	<b>875m<sup>2</sup></b>





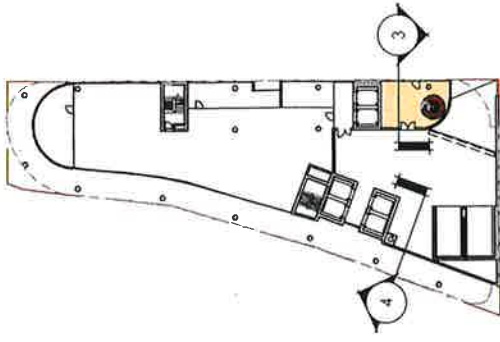
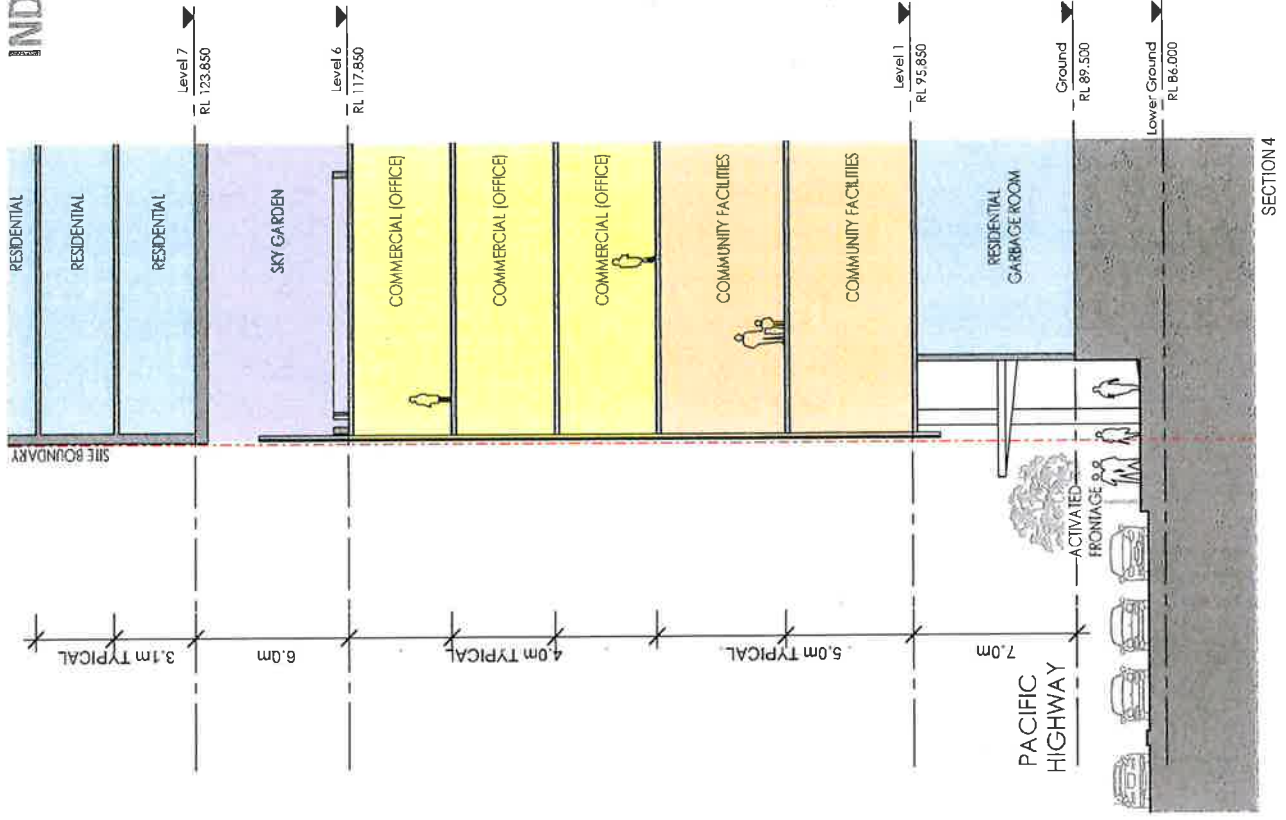
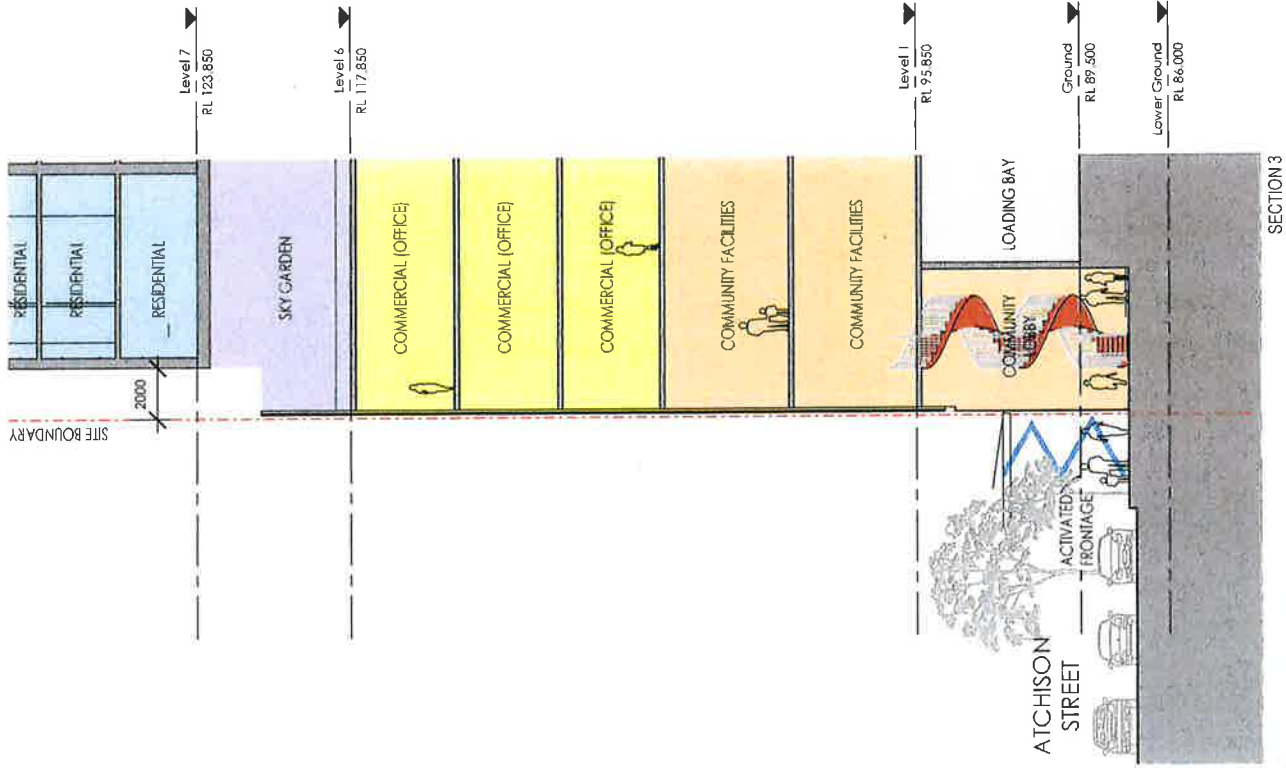
# INDICATIVE SECTIONS

## PODIUM SECTIONS



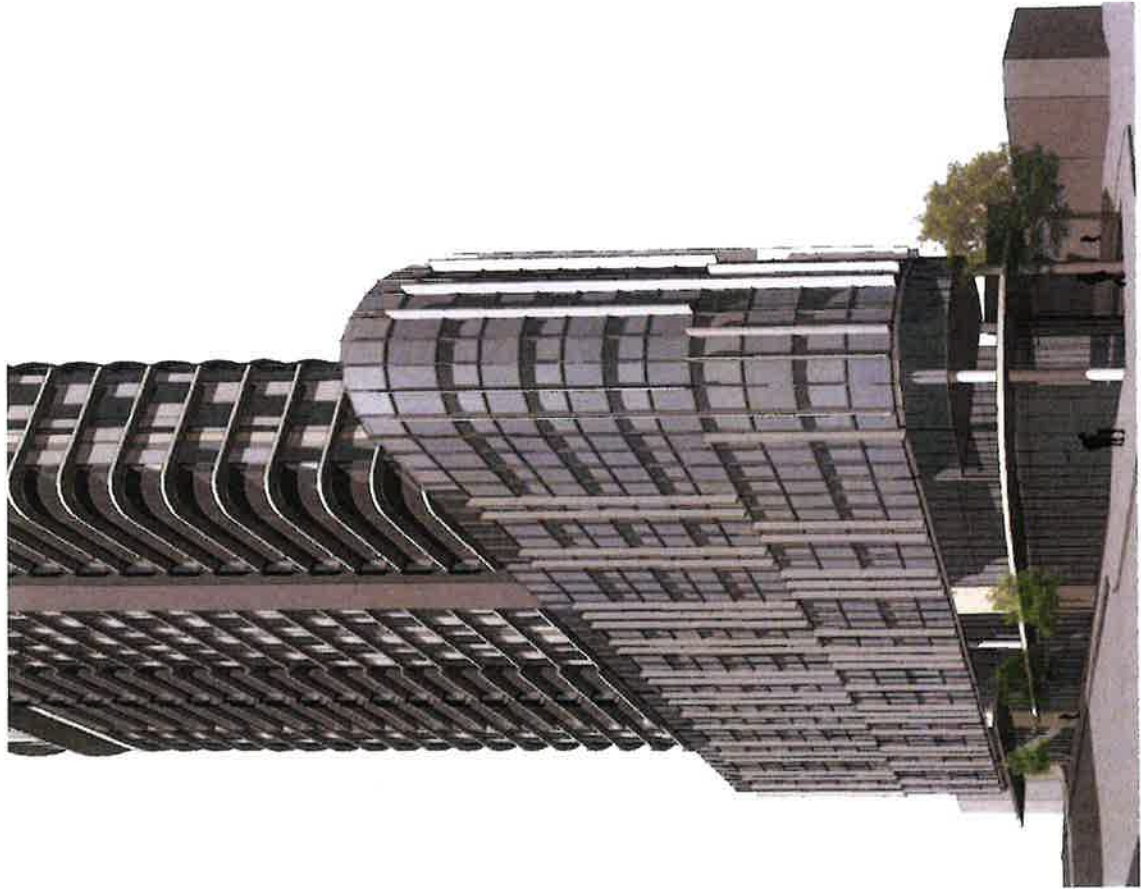
# INDICATIVE SECTIONS

## PODIUM SECTIONS

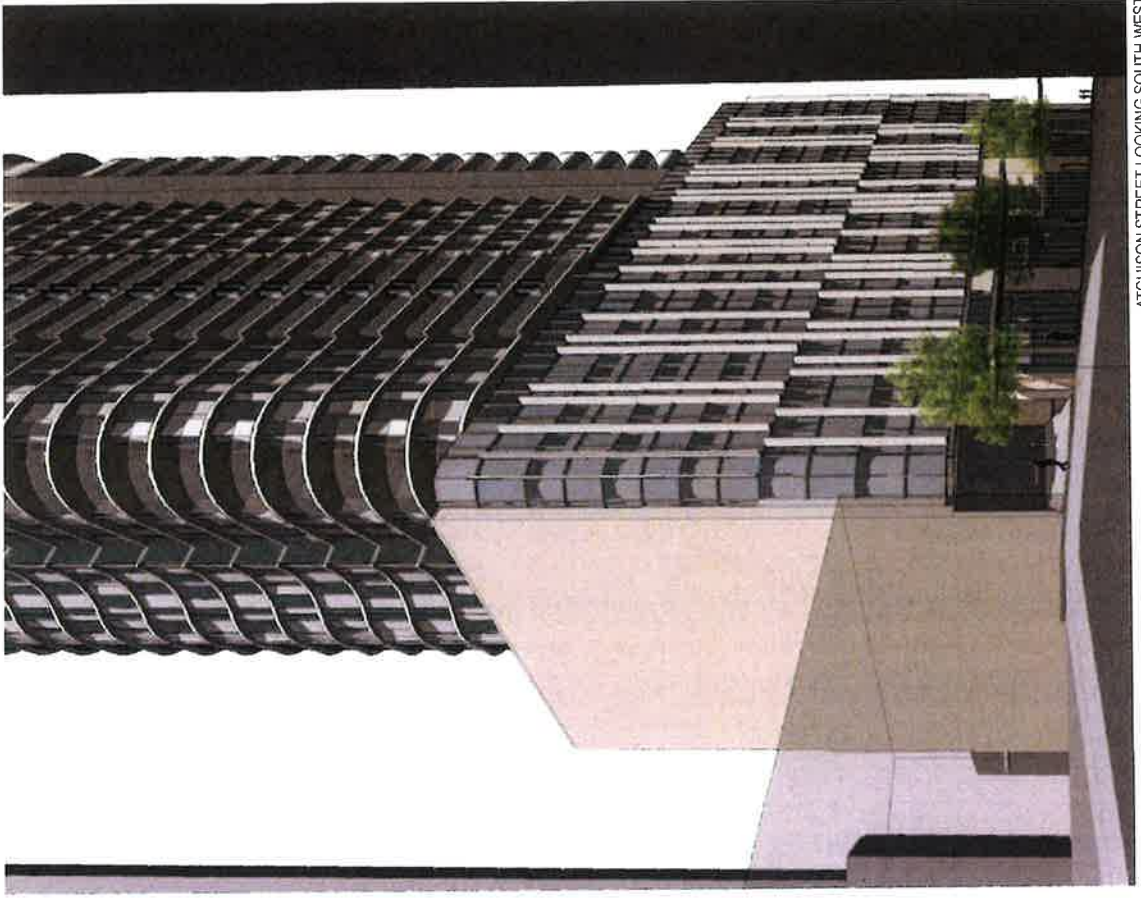


# INDICATIVE 3D PERSPECTIVES

STREET LEVEL PERSPECTIVES



ATCHISON STREET LOOKING SOUTH EAST

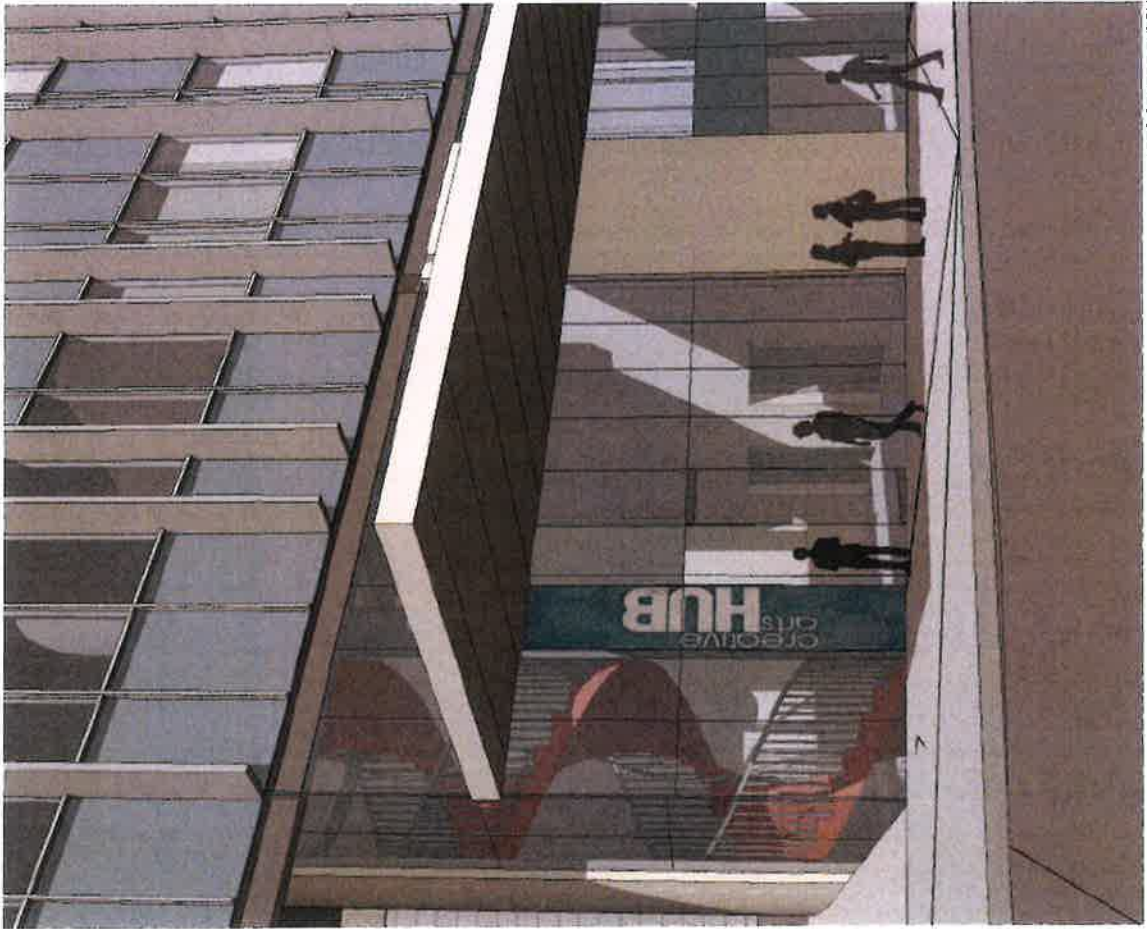


ATCHISON STREET LOOKING SOUTH WEST

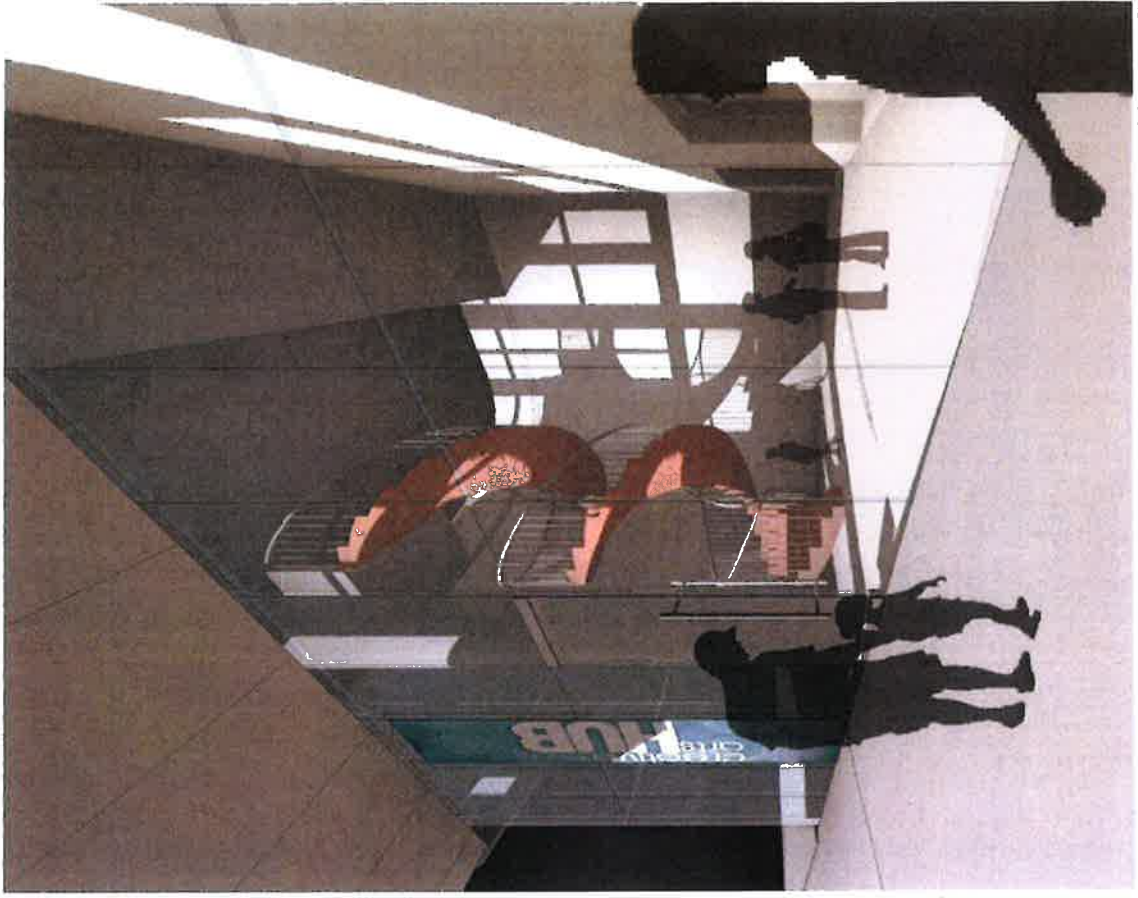


# INDICATIVE 3D PERSPECTIVES

ARTS CENTRE LOBBY ENTRY



ARTS CENTRE ENTRY



ARTS CENTRE ENTRY

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Executed by Anson City Developments 1  
(Australia) Pty Limited (ACN 101 658  
591) pursuant to s127(1) of the Corporations  
Act 2001 by authority of its directors

Signature of Secretary/director

WEI MIN HU  
Name of Secretary/director (print)

Signature of director

PAK WAI NEOR  
Name of director (print)

Signed, sealed and delivered by an authorised  
representative of Anson City Council in  
accordance with a resolution of the Council dated  
26 March 2015 in the presence of

Signature of Witness

Julie Lawson  
Name of Witness (print)

Signature of authorised representative

Ken Guildford