

## 10.6. Planning Proposal 5/22 - 71-89 Chandos Street St Leonards - Post Exhibition Report

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<b>ENDORSED BY</b>	Marcelo Occhiuzzi, Director Community, Planning and Environment
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Planning Proposal (as exhibited) Aug 2023 [<b>10.6.1</b> - 42 pages]</li> <li>2. Draft VPA (as exhibited) Apr 2023 [<b>10.6.2</b> - 45 pages]</li> <li>3. Revised VPA offer Nov 2023 [<b>10.6.3</b> - 6 pages]</li> <li>4. Submissions Summary Table Oct 2023 [<b>10.6.4</b> - 3 pages]</li> </ol>
<b>CSP LINK</b>	<ol style="list-style-type: none"> <li>1. Our Living Environment               <ol style="list-style-type: none"> <li>1.4 Well utilised open space and recreational facilities</li> </ol> </li> <li>2. Our Built Infrastructure               <ol style="list-style-type: none"> <li>2.1 Infrastructure and assets meet diverse community needs</li> <li>2.2 Vibrant public domains and villages</li> <li>2.3 Prioritise sustainable and active transport</li> </ol> </li> <li>3. Our Innovative City               <ol style="list-style-type: none"> <li>3.1 Our commercial centres are prosperous and vibrant</li> <li>3.3 Distinctive sense of place and design excellence</li> </ol> </li> <li>5. Our Civic Leadership               <ol style="list-style-type: none"> <li>5.1 Lead North Sydney's strategic direction</li> </ol> </li> </ol>

### PURPOSE:

The purpose of this report is to present the outcomes of the public exhibition of a Planning Proposal (PP5/22) and accompanying draft Voluntary Planning Agreement for 71-89 Chandos Street St Leonards, and seek Council's endorsement to progress the Planning Proposal to amend North Sydney Local Environmental Plan 2013 and execute the Voluntary Planning Agreement.

### EXECUTIVE SUMMARY:

- On 12 December 2022, Council resolved to forward a Planning Proposal (PP5/22) as it relates to land at 71-89 Chandos Street, St Leonards to the Department of Planning and Environment (DPE) with a request for a Gateway Determination.
- The Planning Proposal seeks to amend the planning controls applying to the subject site under North Sydney Local Environmental Plan 2013 (NSLEP 2013) as follows:
  - increase the maximum building height control from 20m to 43m (12-storeys);
  - impose a maximum floor space ratio control of 4:1;
  - increase the minimum non-residential floor space ratio control from 0.6:1 to 1:1; and
  - introduce a site-specific provision to allow the maximum building height to be exceeded by no more than 2m in height (45m total) for portions of the building providing inclusive access to rooftop communal open space.

- The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) to deliver public benefits consistent with Council's St Leonards/Crows Nest Planning Study – Precincts 2&3 (2015). The public benefits, as initially proposed, included:
  - dedication and embellishment of private land (179m<sup>2</sup>) to Council and embellishment of public land (271m<sup>2</sup>) for the purposes of a linear park along the western side of Oxley Street;
  - delivery of a pedestrian through-site link (approx. 7m wide and fully open-to-sky) connecting Chandos Street to Atchison Lane with easement for public access 24 hours/7 days a week (total 250m<sup>2</sup>); and
  - landscaping and improvements to the public domain.
- On 9 June 2023, the DPE issued a Gateway Determination allowing the Planning Proposal and draft VPA to be placed on public exhibition subject to meeting several conditions.
- The Planning Proposal and draft VPA were placed on public exhibition from 23 August 2023 to 4 October 2023. Five submissions were received during the exhibition period, including two submissions opposing the proposal; two submissions raising no objections; and one submission from the applicant requesting an amendment to their VPA offer.
- The applicant's revised VPA offer, which was formally submitted to Council on 16 November 2023, proposes to reduce the width of the pedestrian through-site link from 7m to 6m (total area approx. 214.8m<sup>2</sup>), whilst remaining fully open-to-sky. The applicant has offered an additional monetary contribution of \$405,000 to Council to offset the reduced value of the through-site link.
- This report recommends that Council proceed with the finalisation of the Planning Proposal as exhibited, and accept the applicant's revised VPA offer.

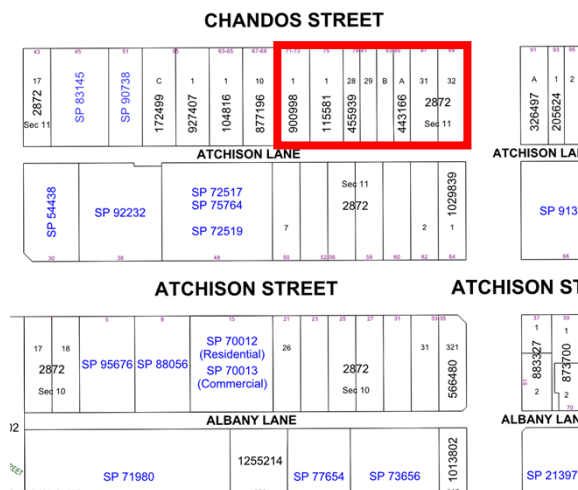
#### **RECOMMENDATION:**

- 1. THAT** Council note the submissions made, forming Attachment 4 of this report.
- 2. THAT** Council proceed under delegation with the making of a Local Environmental Plan in accordance section 3.36 of the Environmental Planning and Assessment Act 1979, to give effect to the Planning Proposal as exhibited, forming Attachment 1 to this report.
- 3. THAT** Council grant delegation to the General Manager to make alterations to the draft Voluntary Planning Agreement (Attachment 2), consistent with the alterations proposed in the applicant's revised letter of offer dated 16 November 2023 (Attachment 3), with the view to have the VPA executed prior to the gazettal of the LEP amendment.
- 4. THAT** Council notify all submitters of Council's decision.

## Background

The following outlines the chronology and milestones of the Planning Proposal process to date:

On 25 March 2022, Planning Proposal 5/22 was lodged with Council to amend the planning controls within North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 71-89 Chandos Street, St Leonards.



**FIGURE 1:** Subject Site



**FIGURE 2:** Aerial Photo

As lodged, the proposal sought the following amendments to NSLEP 2013:

- increase the maximum building height control from 20m to 46m (12-storeys);
- impose a maximum floor space ratio control of 4:1; and
- increase the minimum non-residential floor space ratio control from 0.6:1 to 1:1.

The indicative reference design accompanying the Planning Proposal included a 12-storey mix-use development comprising a four-storey podium and tower, 2,460m<sup>2</sup> of commercial retail/office floor space in the podium, 64 residential apartments within the podium and tower, and 56 car spaces over two basement levels.

The Planning Proposal was also accompanied by an offer to enter into a Voluntary Planning Agreement (VPA) with Council to deliver public benefits consistent with Council' *St Leonards/Crows Nest Planning Study – Precinct 2&3 (2015)*. These included:

- dedication and embellishment of private land (179m<sup>2</sup>) to Council and embellishment of public land (271m<sup>2</sup>) for the purposes of a linear park along Oxley Street (total 450m<sup>2</sup>);
- a pedestrian through-site link (approx. 7m wide and fully open-to-sky) connecting Chandos Street to Atchison Lane with easement for public access 24 hours/7 days a week (total 250m<sup>2</sup>); and
- landscaping and improvements to the public domain on-site.

On 31 May 2022, Council sought further clarification from the applicant on issues relating to building height, podium height and treatment, building separation and overshadowing.

On 14 July 2022, the applicant submitted an amended Planning Proposal and reference scheme addressing Council's concerns. The amended Planning Proposal sought a maximum building height of 44m (previously 46m); and introduced a new site-specific provision to allow the maximum building height to be exceeded to a maximum of 46.7m (RL131.920) for the purpose of providing access to communal open space at the rooftop (i.e., lift overrun).

On 9 November 2022, the Planning Proposal was referred to the North Sydney Local Planning Panel (NSLPP) for its consideration. The NSLPP concurred with the recommendations outlined in the Council Officer's detailed assessment report and recommended the Planning Proposal proceed to a Gateway Determination subject to amendments.

It was specifically recommended that the Planning Proposal be amended to a maximum building height of 43m (for 12-storeys) to ensure future development on the site is consistent with the number of storeys under the *2036 Plan*. Given the significant change in ground levels across the site, it was further recommended that an additional local provision be included allowing the maximum building height to be exceeded by no more than 2m in height (45m total) for portions of the building providing inclusive access to the communal open space at the rooftop (i.e., lift overrun).

On 12 December 2022, a report was considered by Council on the Planning Proposal wherein it resolved the following;:

- 1. THAT the Planning Proposal be amended to Council's satisfaction addressing the recommendations outlined in the Council Officer's assessment report, specifically to show a maximum building height control of 43 metres, and an additional local provisions clause to be included allowing the maximum building height to be exceeded by no more than 2 metres for portions of the building providing inclusive access to the communal open space at the rooftop (i.e. lift overrun).*
- 2. THAT upon satisfactory negotiation of the contents and detailed terms of the draft VPA and completion of Recommendation 1, the Planning Proposal be forwarded to the Department of Planning and Environment, in accordance with section 3.34 of the Environmental Planning and Assessment Act 1979 to seek a Gateway Determination.*
- 3. THAT upon receipt of a Gateway Determination, the associated draft VPA be exhibited concurrently with the subject Planning Proposal.*
- 4. THAT the outcomes of any public exhibition be reported to Council.*

On 11 April 2023, the applicant submitted an amended Planning Proposal and indicative reference design addressing Council's resolution. The amended Planning Proposal and accompanying draft VPA were subsequently forwarded to the DPE on 2 May 2023 with a request for a Gateway Determination.

On 9 June 2023, the DPE issued a Gateway Determination allowing the Planning Proposal and draft VPA to be placed on public exhibition subject to meeting several conditions.



## Report

### 1. Issue of Gateway Determination

The seven conditions imposed on the Gateway Determination are addressed in the following subsections.

#### 1.1 Amendment of Planning Proposal prior to public exhibition

Condition 1 of the Gateway Determination required the Planning Proposal be updated prior to being placed on public exhibition. In particular, the following matters were to be addressed:

- (a) include the number of jobs that may be created as a result of the increase to the planning controls on the site;*
- (b) update the concept scheme to reflect the height control of 43m (with additional 2m height for rooftop facilities only);*
- (c) identify the current MU1 Mixed Use zone applying to the site following commencement of the Employment Zones Reform for all mapping and documents;*
- (d) provide a plain English explanation of the intent of the proposed additional local provision relating to exceptions to building height for the rooftop facilities;*
- (e) attach the proposed drafted clause as an appendix to the planning proposal, with an advisory note that Parliamentary Counsel will provide final drafting of the clause;*
- (f) consider the proposal's consistency with the North Sydney Local Housing Strategy;*
- (g) accurately reference and address current 9.1 Ministerial Directions, remove any revoked directions;*
- (h) provide further justification for Ministerial Direction 1.4 Site Specific Provisions;*
- (i) address Ministerial Direction 5.3 Development Near Regulated Airports and Defence Airfields;*
- (j) include the status of proposed or approved development neighbouring the site;*
- (k) note the application of the Special Infrastructure Contribution (SIC) to the site;*
- (l) remove reference to a site-specific DCP that is no longer required; and*
- (m) include an updated timeline based on the issuing of the Gateway determination.*

The applicant revised the Planning Proposal (Attachment 1) to address all identified matters to Council's satisfaction prior to being placed on public exhibition.

#### 1.2 Public exhibition

Condition 2 of the Gateway Determination required that the Planning Proposal and accompanying draft VPA be placed on public exhibition for a minimum of 20 working days (4 weeks), with the commencement of exhibition to occur within three months (9 September 2023) of the date of the Gateway Determination.

The Planning Proposal and accompanying draft VPA was placed on public exhibition for a total period of 30 working days (six weeks), from 23 August 2023 to 4 October 2013, commencing within three months of the date of the Gateway Determination in accordance

with the Condition.

### **1.3 Consultation with Public Bodies**

Condition 3 of the Gateway Determination stated that the Planning Proposal required referral to the following public authorities and government agencies:

- Transport for NSW;
- Ausgrid; and
- Sydney Water Corporation

The Planning Proposal was referred to the above public authorities on 23 August 2023 through the NSW Planning Portal. Responses were received from Transport for NSW and Sydney Water Corporation only. Their responses are summarised in the following subsections.

#### **1.3.1 Transport for NSW**

No objection was raised regarding the Planning Proposal, noting the proposal is expected to generate low traffic volumes and result in minimal traffic impacts to the surrounding local and regional transport network.

#### **1.3.2 Sydney Water Corporation**

No objection was raised regarding the Planning Proposal, there are appropriate services located in the vicinity of the site, and that matters of augmentation and upgrading can be addressed at the development application stage.

### **1.4 Public Hearing**

Condition 4 of the Gateway Determination did not require the undertaking of a public hearing, in accordance with s.3.34(2)(e) of the Environmental Planning and Assessment Act (EP&A Act). However, the Condition stated that this did not remove the need to undertake a public hearing in response to a submission or if reclassifying land under the Local Government Act, 1993.

The Planning Proposal does not seek to reclassify any land under the Local Government Act, 1993 and therefore did not warrant the holding of a public hearing under s.3.34(2)(e) of the EP&A Act.

### **1.5 Council as Planning Proposal Authority**

Condition 5 of the Gateway Determination stated that Council, as the Planning Proposal Authority, is authorised to exercise the functions of the Local Plan Making Authority under section 3.36(2) of the Act subject to the following:

*(a) the planning proposal authority has satisfied all the conditions of the gateway determination.*

- (b) *the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and*
- (c) *there are no outstanding written objections from public authorities.*

Compliance with these requirements is addressed in the following subsections.

### **1.5.1 Satisfaction of Conditions**

As demonstrated within section 1 of this report, Council has complied with all conditions imposed.

### **1.5.2 Ministerial Directions**

In issuing the Gateway Determination, the DPE did not raise any issue with the Planning Proposal's compliance and consistency with the Ministerial Directions. However, it did request the Planning Proposal be updated to provide further justification for *Ministerial Direction 1.4 – Site Specific Provisions* and address *Ministerial Direction 5.3 –Development Near Regulated Airports and Defence Airfields*. This has been satisfactorily addressed by the applicant in section 9 (Table 9) of the revised Planning Proposal report.

### **1.5.2 Outstanding Objections**

Of the responses received from the public authorities, none have objected to the progression of the Planning Proposal. Therefore, there are no outstanding objections to be resolved.

## **1.6 Completion Timeframes**

Conditions 6 and 7 of the Gateway Determination states that the Planning Proposal must be reported to Council for a final recommendation 6 months (9 December 2023) from the date of the Gateway Determination and an LEP that implements the intent of the Planning Proposal should be made within nine months (9 March 2024) of the date of the Gateway Determination. The Planning Proposal is being reported to Council for final recommendation on 11 December 2023.

## **2. Planning Proposal & VPA (As Exhibited)**

The Planning Proposal as exhibited, which incorporates the recommendations of Council and addresses the conditions of the Gateway Determination proposes the following amendments to NSLEP 2013:

- increase the maximum building height control from 20m to 43m (12-storeys);
- Impose a maximum floor space ratio control of 4:1;
- Increase the minimum non-residential floor space ratio control from 0.6:1 to 1:1; and
- Introduce a site-specific provision to allow the maximum building height to be exceeded by no more than 2m in height (45m total) for portions of the building providing inclusive access to rooftop communal open space.

The indicative reference scheme, as exhibited, includes a 12-storey mix-use development comprising a part three and part four-storey podium and tower above, 2,467m<sup>2</sup> of commercial retail/office floor space in the podium, 64 residential apartments within the podium and tower; and 57 car spaces over 2 basement levels (refer to Figure 3 below).



FIGURE 3: Northern (Chandos Street) Elevation Plan, as exhibited (Applicant's amended Architectural Drawings, p. 19)

<b>TABLE 1: Key design elements (Reference scheme as exhibited)</b>	
<b>Land Uses</b>	Mixed-use (Commercial retail/office and residential)
<b>Indicative yield</b>	64 apartments
<b>Building Height</b>	45m for 12-storeys inclusive rooftop structures but with a predominant height of 43m
<b>Floor Space Ratio (FSR)</b>	4:1 (total)
<b>Non-Residential Floor Space Ratio (FSR)</b>	1:1
<b>Gross Floor Area</b>	9,868 sqm (total) <ul style="list-style-type: none"> <li>• 2,467 sqm non-residential GFA</li> <li>• 7,401 sqm residential GFA</li> </ul>
<b>Built Form</b>	Part 3/part 4-storey podium (retail/commercial; residential) Part 8/part 9-storey tower (residential)
<b>Setbacks (Whole of Building)</b>	Chandos Street (north): 3m Oxley Street (east): 5m

	Atchison Lane (south): 1.5m Western boundary: 7m
<b>Setbacks (Above podium)</b>	Chandos Street (north): 3m Oxley Street (east): 7m Atchison Lane (south): 1.5m Western boundary: 4m
<b>Car Parking</b>	57 car spaces over two basement levels

The VPA as exhibited proposed;

- dedication and embellishment of private land (179m<sup>2</sup>) to Council and embellishment of public land (271m<sup>2</sup>) for the purposes of a linear park along Oxley Street (total 450m<sup>2</sup>);
- a pedestrian through-site link (approx. 7m wide and fully open-to-sky) connecting Chandos Street to Atchison Lane with easement for public access 24 hours/7 days a week (total 250m<sup>2</sup>); and
- landscaping and improvements to the public domain on-site.

As discussed in section 3.5 of this report, the applicant has submitted a revised VPA offer (dated 16 November 2023), proposing to reduce the width of the pedestrian through-site link from 7m to 6m. The revised offer also includes an additional monetary contribution of \$405,000 to Council to offset the reduced 'value' of the through-site link. No other amendments (to the Oxley Street land dedication and embellishment) are proposed to the VPA.

### 3. Public Exhibition Outcomes

The Planning Proposal (Attachment 1) and accompanying draft VPA (Attachment 2) were placed on public exhibition for a total period of 30 working days (6 weeks) from 23 August 2023 to 4 October 2023.

The following provides a summary of the engagement methods that were used to generate awareness of the Planning Proposal and accompanying draft VPA:

- Letter notifications to property owners and occupiers located in vicinity of the site including within the North Sydney and Willoughby LGAs (1,078 letters sent);
- Memo to Precinct Committees;
- Notification in Council's e-newsletters, including:
  - Council eNews (1,550 subscribers)
  - Precincts eNews (167 subscribers)
  - DA eNews (223 subscribers)
- A dedicated exhibition web page, including all documentation and contact information – 162 visits to the project page during the exhibition period and 49 downloads of the Planning Proposal documents;
- Physical copies of all supporting documentation and contact information on display at Council's Customer Service Centre and Stanton Library.

#### 4. Submissions Overview

Five submissions were received. A more detailed summary of submissions is included in Attachment 4.

This included:

- two submissions from local residents objecting to the Planning Proposal;
- two submissions from public authorities/government agencies, raising no objections with the Planning Proposal; and
- one submission from Ethos Urban on behalf of the applicant/landowner, proposing an amendment to the draft VPA.

The following key issues were raised in the submissions received, and are discussed in the subsequent subsections:

- Building height (1);
- Overshadowing and solar access impacts (1);
- Traffic generation (2);
- Construction impacts (1); and
- Draft VPA/Pedestrian through-site link

A more detailed summary of submissions received is provided at Attachment 4.

##### 4.1 Building Heights

One submission objected to the proposed building height of 12-storeys (43m) and considered a maximum building height of 8-10 storeys more appropriate on the southern side of Chandos Street.

##### Comment

The proposed 12-storey height limit is consistent with the building height controls identified in the 2036 Plan and Council's SLCN Planning Study – Precincts 2&3 for the subject site. The building heights identified in these Studies are informed by 'Centre and height transition' urban design principles, whereby large developments are concentrated around mass public transport nodes (i.e., the two stations along the Pacific Highway) and transition or 'step down' in height, bulk, and scale to the surrounding neighbourhood areas.

Planning Proposals seeking additional height must demonstrate that the proposed built form envelope considers and responds appropriately to adjacent character areas. The applicant has demonstrated that the proposed built form envelope will provide an acceptable transition to the lower scale residential area east of Oxley Street by providing a three-four-storey podium that steps down towards the eastern boundary and providing significant whole of building and above podium setbacks to Oxley Street. Whilst a 12-storey building height represents a significant degree of change, the application of the proposed lower and upper-

level setback and massing arrangements will assist in minimising the perceived bulk and scale of the development and achieve a human scale at the street level.

## **4.2 Overshadowing and solar access impacts**

One submission raised concerns that the proposal will significantly reduce solar access to existing surrounding apartments in winter, particularly those located to the south of the site including 38 Atchison Street.

### Comment

The applicant has demonstrated that the proposed built form envelope complies with the solar access controls of the 2036 Plan.

Whilst the proposed built form will cast shadows to existing apartments within the mixed-use zone to the south-west of the site, notably apartments along the north-eastern elevation at 40-48 Atchison Street, the extent of the proposal's shadow impact to these dwellings is between 9-10am in mid-winter and limited to apartments below eight storeys.

It is acknowledged that the cumulative impact of future anticipated development further west along Chandos Street will result in an inevitable degree of additional overshadowing impacts to existing apartments along Atchison Street. During the preparation of Council's Study and the 2036 Plan, it was recognised that, whilst additional height and density may lead to impacts on residential amenity (such as solar access), the concentration of appropriate mixed-use development in close proximity to mass public transport, employment and services would better accommodate significant housing and job growth, than dispersing this growth throughout more sensitive neighbourhoods with lower levels of accessibility.

The proposal's overshadowing impacts are considered to be somewhat mitigated by the proposed setbacks and separation from other towers, particularly along the southern and western boundaries, and the significant setback to Oxley Street above the podium level. Notwithstanding, future detailed design work will need to further consider and address these impacts at the future DA stage to ensure consistency with best practice in a dense urban area such as St Leonards.

## **4.3 Traffic Generation**

Two submissions raised concerns about the cumulative impact of high-rise development in St Leonards and associated traffic generation, noting traffic congestion is an issue in the locality that will be further exacerbated by the scale and rate of development proposed.

### Comment

In response to the growing number of large-scale developments being proposed in North Sydney, St Leonards, Crows Nest, and Milsons Point, Council recently amended NSDCP 2013 to limit off-street parking requirements for development in the areas well connected by public transport. The new parking rates, which came into effect on 4 May 2023, apply to the subject

site and reduce the maximum amount of on-site parking from 56 car spaces (as proposed) to approximately 43 car spaces.

It should be noted that appropriate car parking numbers and vehicular access arrangements, including the potential for new development along Chandos Street and Atchison Street to consolidate and limit the number of basement entries from Atchison Lane, is a matter determined at the future detailed Development Application (DA) stage.

#### **4.4 Construction impacts**

One submission raised concerns with the impacts of consecutive construction projects in St Leonards on local residents, in particular excessive noise and dust pollution.

##### Comment

It is acknowledged that the impact of construction on local residents, whilst temporary, is pronounced particularly in the context of St Leonards where the scale and rate of change is significant at present.

Construction impacts is a matter considered at the future detailed DA stage and appropriate mitigation measures, if required, imposed as conditions of DA consent to ensure any potential impacts arising during construction are appropriately managed.

#### **4.5 Revised VPA Offer/Pedestrian through-site link**

One submission was received from the applicant/landowner requesting an amendment to the proposed pedestrian through-site link connecting Chandos Street to Atchison Lane across the site.

The draft VPA, as exhibited, includes the delivery of a pedestrian through-site link approximately 7m wide, fully open-to-sky with a total area of approximately 250m<sup>2</sup>, along the site's western boundary with easement for public access 24 hours/7 days. The value assigned to the link by the applicant is \$2,875,000.

The applicant's submission requested an amendment the dimensions of the proposed through-site link, specifically to reduce the width of the link from 7m to 6m, consistent with the requirements of NSDCP 2013 and similar through site links in the area. Whilst the proposed amendment would result in a reduced area of 214.8m<sup>2</sup>, the link is proposed to remain fully open-to-sky and located along the western boundary of the site with easement for public access 24 hours/7 days (Refer to Figure 4). The value assigned by the applicant to the revised link is \$2,470,200.

The applicant has offered an additional monetary contribution of \$405,000 to Council to offset the reduced 'value' of the pedestrian link. The proposed changes to the draft VPA, including the additional monetary contribution, is outlined in applicant's revised VPA offer dated 16 November 2023 (Attachment 3). No other amendments (to the Oxley Street land dedication and embellishment) are proposed to the VPA.



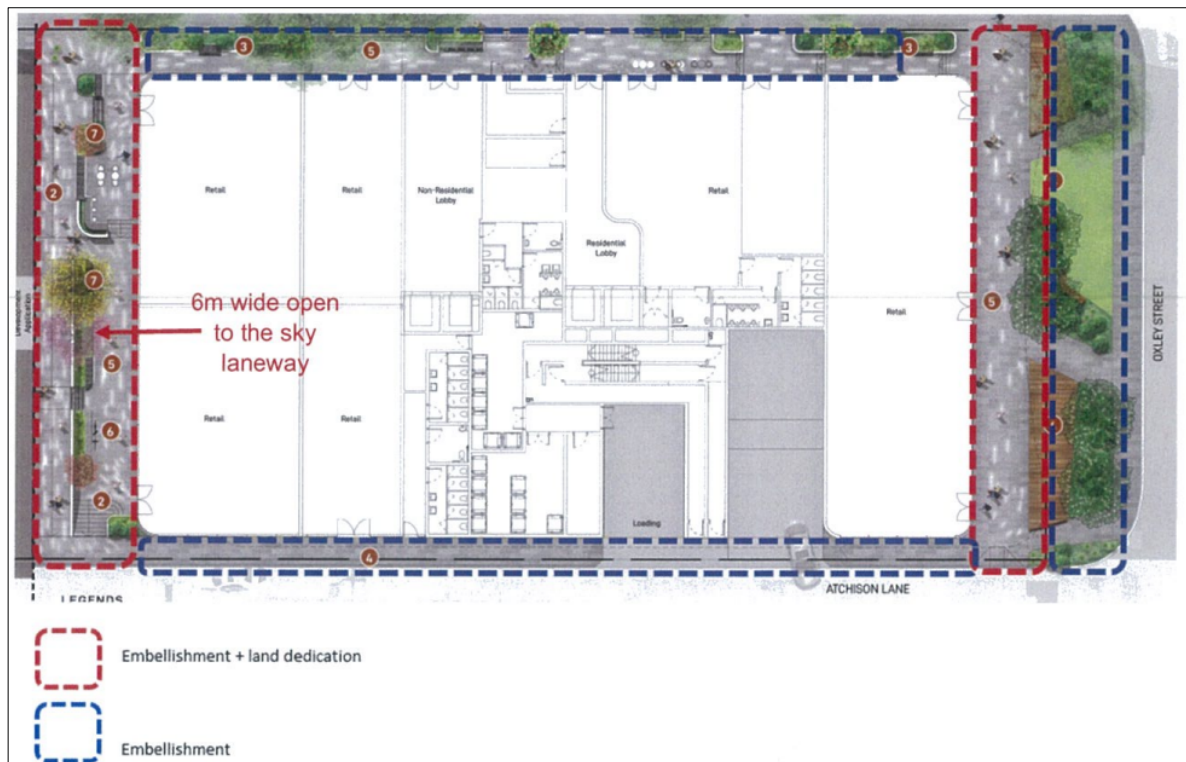


FIGURE 4: Proposed public benefits (Applicant's revised VPA offer dated 16 November 2023)

### Comment

The indicative landscape plans accompanying the applicant's submission initially indicated the intent to still deliver a 7m wide pedestrian link along the western boundary of the subject site, however proposed to reduce the open-to-sky portion of the link to 6m to accommodate a colonnade structure (with residential GFA above) associated with a future proposed development on the adjoining site to the west (at 55-69 Chandos Street).

Council staff sought further clarification from the applicant on the intent of the proposed amendment, and advised the applicant that the projection of a portion of a building on the adjacent site (55-69 Chandos Street) over the Planning Proposal site (71-89 Chandos Street) could not be supported as it pre-empts an outcome on the adjacent site that has not been formally lodged or approved and effectively seeks to transfer floorspace from one site to another, undermining the FSR control of the Planning Proposal.

In correspondence received on 9 and 15 November 2023, the applicant acknowledged Council's concerns with respect to the overhanging building and potential challenge to the FSR control and clarified that the intent is to 'only enshrine a 6m through-site link in the Planning Proposal which is as per Council's DCP requirements. It does not rely on a future DA.' The applicant subsequently submitted a revised VPA offer and accompanying concept landscape plans on 16 November 2023 (Attachment 3), outlining the terms of the proposed VPA amendment, which is a 6m wide and fully-open-to sky link, that is free of any buildings or structures and located along the western boundary of the site.

As the requested amendment is consistent with the requirements of NSDCP 2013 and Council has previously negotiated and approved 6m-wide through-site links in the vicinity (including 23-35 Atchison Street and 50-56 Atchison Street), the proposed amendment request is considered reasonable and will meet the intended purpose and function of the through-site link. No other amendments (to the Oxley Street land dedication and embellishment) are proposed to the VPA.

## Options

Council has the following options in relation to this matter:

- 1) Do nothing/not support the Planning Proposal and accompanying revised VPA offer.
- 2) Support the progression of the Planning Proposal, as exhibited, and the applicant's revised VPA offer (Recommended option).

These options are assessed in the table below.

Option	Finance/Resourcing	Risk/Opportunity	Consultation
1.	Do nothing/not supporting the Planning Proposal and accompanying VPA offer will have a negligible financial/resourcing impact for Council.	The DPE has issued a Gateway Determination and will progress with the finalisation of the Planning Proposal in the absence of securing the public benefits in the accompanying VPA. This will result in a missed opportunity to realise the public domain improvements envisaged under Council's SLCN Planning Study – Precincts 2&3.	No further consultation is required in relation to the Planning Proposal and draft VPA. However, further consultation will be undertaken with any future DA.
2.	Supporting the progression of the Planning Proposal and accompanying revised VPA offer will have a minor financial/resourcing impact to Council.  The terms of the VPA require the Developer to reimburse Council for any legal costs incurred with the preparation and	The recommended course of action would facilitate development outcomes consistent with the 2036 Plan and Council's SLCN Planning Study Precincts 2&3 and deliver public domain upgrades that will improve permeability and activation in St Leonards.	The proposed amendment to the VPA is considered minor and does not warrant re-exhibition. No further consultation is required in relation to the Planning Proposal and draft VPA. However, further consultation will be undertaken with any future DA.

	<p>administration of the VPA.</p> <p>The ongoing maintenance of the pedestrian link will be the landowners' responsibility, as per the terms of the VPA.</p>		
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Option 2 is recommended for the following reasons:

- The Planning Proposal as exhibited and accompanying revised VPA offer is consistent with the objectives and intended outcomes of the DPE's 2036 Plan and Council's St Leonards/Crows Nest Planning Study – Precincts 2&3.
- Should Council not support the progression of the Planning Proposal and revised VPA offer, there is a risk that the DPE, having issued a Gateway Determination, will progress with the finalisation of the Planning Proposal without securing the public benefits of the accompanying VPA. This will result in a missed opportunity to realise the public domain improvements envisaged under Council's St Leonards/Crows Nest Planning Study – Precincts 2&3.

### **Consultation requirements**

Community consultation has occurred in accordance with Council's Community Engagement Protocol. The details of this report provides the outcomes from the Engagement for Council to consider prior to making a decision.

### **Financial/Resource Implications**

This report recommends Council accept the applicant's revised VPA offer which would deliver significant public domain upgrades consistent with the objectives and intended outcomes of Council's *St Leonards/Crows Nest Planning Study – Precincts 2&3*. The provision of an additional \$405,000 will assist in Council being able to deliver public domain improvements in the future.

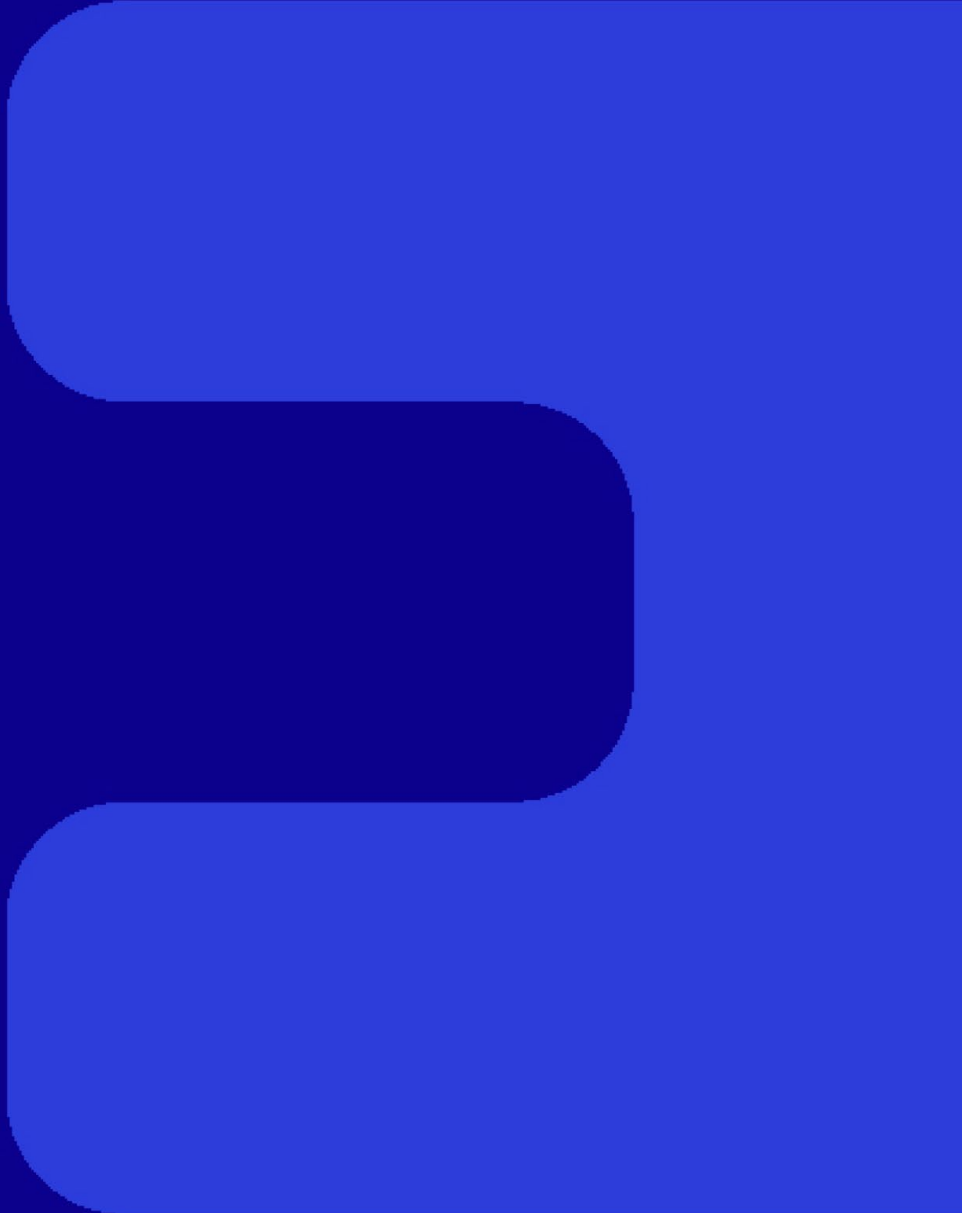
### **Legislation**

The proposal's compliance with the relevant provisions of the Environmental Planning and Assessment Act, 1979 and accompanying Regulations (2021) have been addressed throughout this report.

# Planning Proposal

71-89 Chandos Street, St Leonards

TWT Global



Prepared by Ethos Urban  
Submitted to North Sydney Council

28 July 2023 | 2200651



**'Gura Bulga'**

Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.



By using the green and blue colours to represent NSW, this painting unites the contrasting landscapes. The use of green symbolises tranquillity and health. The colour cyan, a greenish-blue, sparks feelings of calmness and reminds us of the importance of nature, while various shades of blue hues denote emotions of new beginnings and growth. The use of emerald green in this image speaks of place as a fluid moving topography of rhythmical connection, echoed by densely layered patterning and symbolic shapes which project the hypnotic vibrations of the earth, waterways and skies.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We acknowledge the Gadigal people, of the Eora Nation, the Traditional Custodians of the land where this document was prepared, and all peoples and nations from lands affected.

We pay our respects to their Elders past, present and emerging.

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Sarah Papalia	28/07/2023	Tom Goode	28/07/2023
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## 1.0 Executive Summary

This report has been prepared by Ethos Urban on behalf of TWT Global (the proponent) in support of a Planning Proposal to amend the North Sydney Local Environmental Plan 2013 (NSLEP 2013) in accordance with the recommendations of the St Leonards Crows Nest 2036 Plan (2036 Plan). This report follows the issue of the Gateway Determination for the proposal on 9 June 2023 and responds to the DPE conditions attached to that Gateway.

This report relates to 71-89 Chandos Street, St Leonards (the site). Specifically, this planning proposal seeks to:

- Increase the maximum building height to 12 storeys (43m);
- Implement an additional local provision with the intent of allowing the requested maximum building height control of 43m to be exceeded by no more than 2m for lift overrun and associated lift structures only for the purpose of providing inclusive access to the communal open space at the rooftop;
- Establish an overall maximum floor space ratio control for the site of 4:1; and
- Increase the minimum non-residential floor space ratio control to 1:1.

A concept design scheme has been prepared by Smart Design Studio to demonstrate the site's capacity to accommodate mixed use development that reflects the proposed amendments. The concept provides:

- A mixed use building of 12 storeys comprising approximately 64 residential apartments;
- Approximately 9,868m<sup>2</sup> of total gross floor area, incorporating:
  - Approximately 7,401m<sup>2</sup> residential floor area;
  - Approximately 2,467m<sup>2</sup> of non-residential floor area, including commercial and retail land uses.
- Through site link connecting Chandos Street and Atchison Lane.
- Basement parking and loading dock with vehicular access via Atchison Lane.
- Communal open space and landscaping at the Oxley Street Linear Park and ground level.

This planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning & Assessment Act 1979* (EP&A Act), and 'A Guide to Preparing Planning Proposals' prepared by the NSW Department of Planning and Environment.

### The Site

The site is located within the evolving St Leonards centre. It is in a well serviced area suitable for a greater intensity of development as identified in both State and Local Government strategic documents. The site is approximately 2,467m<sup>2</sup> in total and currently accommodates commercial premises at 71-89 Chandos Street. The site is:

- a short walk from the St Leonards Centre and Transport Interchanges (Railway, Metro and Bus);
- near district and metropolitan health care services;
- under 30 minutes travel on public transport to major existing and future employment centres in Sydney (Macquarie Park, Chatswood North Sydney, and the Sydney CBD); and
- Subject to the *North Sydney Local Environmental Plan 2013* which zones the site MUI Mixed Use with a maximum building height of 20m and minimum non-residential FSR of 0.6:1.

Further, the site is not burdened by any environmental constraints that would prevent or restrict its development.

### Strategic Justification

- Being located within the St Leonards Strategic Centre and near the St Leonards Transport Interchange, the proposal is situated on a strategic site that is well serviced with excellent transport connections, various employment opportunities and an abundance of social infrastructure and amenities, therefore making it an ideal site to redevelop into a mixed-use building with residential, commercial, and retail land-uses.
- The proposal is consistent with the aims and objectives of the St Leonards and Crows Nest 2036 Plan, which have been publicly exhibited and endorsed by the Department of Planning, Industry and Environment (DPIE). This plan continued the work of North Sydney Council in their strategic review of the Crows Nest St Leonards centre.

- The proposal will deliver significant public benefits including:
  - A new landscaped linear park along Oxley Street an activated public domain which will have a high level of amenity and solar access,
  - Through site link connecting Chandos Street and Atchison Lane, which will connect with the existing and future pedestrian link network,
  - 64 new dwellings thereby contributing to new homes within accessible places and with high amenity, and
  - 2,467m<sup>2</sup> new employment floorspace.
  - A Voluntary Planning Agreement letter of offer accompanies this proposal. It seeks to provide for the embellishment of the Oxley Street pedestrian areas (both public and private lands) as well as the through-site links put forward as part of this proposal.
- The analysis undertaken as part of this planning proposal demonstrates that future development will:
  - Maintain reasonable solar access, visual and acoustic privacy to the existing dwellings adjacent to the site.
  - Provide a high level of residential amenity for future occupants; and
  - Result in a built form consistent with that anticipated by the 2036 Plan.

#### Planning Process and Next Stages

It is requested that Council consider the proposed amendments to the *North Sydney Local Environmental Plan 2013* contained in this planning proposal and, if Council forms the view that there is strategic merit in proceeding with the recommended amendments, refer the proposal to the NSW Department of Planning, Industry and Environment's Gateway Determination Panel.

Following the issuing of a Gateway Determination, additional design and technical assessment can be prepared if required, in collaboration with North Sydney Council in order to support the final version of the planning proposal for public exhibition in order to obtain community and stakeholder input.

## 2.0 Introduction

This report has been prepared by Ethos Urban on behalf of TWT Global (the proponent) in support of a planning proposal to amend the North Sydney Local Environmental Plan 2013 (North Sydney LEP). This report relates to 71-89 Chandos Street, St Leonards (the site).

This planning proposal is informed by the concept design scheme prepared by Smart Design Studio, which demonstrates that the site's location and size for increased density without generating any unacceptable environmental impacts. Therefore, this planning proposal seeks to:

- Increase the maximum building height to 12 storeys (43m);
- Establish an overall maximum floor space ratio control for the site of 4:1;
- Increase the minimum non-residential floor space ratio control to 1:1; and
- Introduce a site-specific provision allowing the maximum height of buildings control to be exceeded by no more than 2m for portions of the building providing inclusive access to the communal open space at the rooftop (i.e. lift access and overrun).

This planning proposal will facilitate the provision of a mixed-use building comprising of approximately 64 residential dwellings in an appropriate location within walking distance of the St Leonards Centre and Transport Interchange.

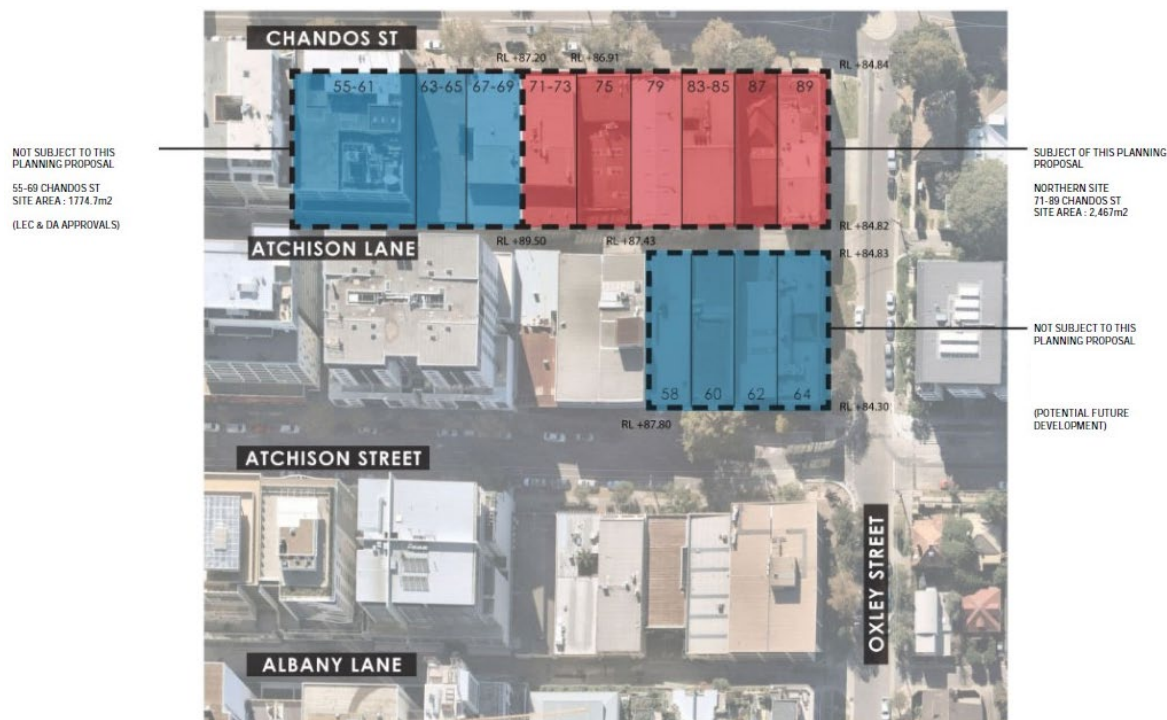
This planning proposal describes the site, the proposed amendments to the North Sydney LEP and provides an environmental assessment. The report should be read in conjunction with reference to the Urban Design Report prepared by Smart Design Studio (**Appendix B**).

This planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and 'A Guide to Preparing Planning Proposals' prepared by the NSW Department of Planning and Environment. **Section 7** of this report sets out the strategic justification for the planning proposal and provides an assessment of the relevant strategic plans, state environmental planning policies, ministerial directions and the environmental, social and economic impacts of the proposed amendment. This report should be read in conjunction with the relevant expert consultation reports appended (See Table of Contents).

## 3.0 Background

### 3.1 TWT Village

The TWT Village refers to a number of buildings proposed by TWT Global, within which the subject site of this planning proposal is located. Whilst all these proposals are capable of standing alone and can be addressed, constructed and operated independent of each other, it is anticipated that these buildings will become an interconnecting village. This planning proposal relates to the northern site illustrated in **Figure 1** (red). It is noted that the original planning proposal also included the southern site however this has been excised in order to deal with interface issues with the recently endorsed Planning Proposal for 50-56 Atchison Street.



**Figure 1 TWT Village**  
Source Smart Design Studio

### 3.2 St Leonards and Crows Nest 2036 Plan

The increased densities in the St Leonards precinct are consistent with the strategic planning framework of the Strategic Centre and the enhanced accessibility provided by the Sydney Metro heavy rail project. This \$11bn State Government investment will see a new rapid transit station built in Crows Nest, located within 400m of the site, providing automated, fast and frequent transport to the CBD (via a second Harbour crossing) as well as key employment destinations at North Sydney CBD and Macquarie Park.

The significance of St Leonards has been recognised by the NSW Department of Planning and Environment (the Department), who have undertaken investigations into the future land use of the precinct over several years. In August 2020, the Department finalised the St Leonards and Crows Nest 2036 Plan (2036 Plan), which sets out both a vision and a strategic framework to guide future development and infrastructure within the precinct. This Plan continued the work of North Sydney Council who commenced a strategic review of the precinct in November 2010.

The 2036 plan presents a vision for the high-rise future of St Leonards and Crows Nest. Leveraging government investment in the new metro station at Crows Nest, the 2036 Plan envisages an increase in density and commercial capacity, whilst ensuring open space and local centres are protected and enhanced.

The 2036 Plan recognises the site and has identified it for change. A comparison of the existing planning controls applicable to the site and those proposed as a result of the St Leonards and Crows Nest 2036 Plan is shown in **Table 1** below.

**Table 1 Existing and proposed controls resulting from the St Leonards and Crows Nest 2036 Plan**

Control	Existing	Proposed
Land Zoning	MU1 Mixed Use	MU1 Mixed Use
Building Height	20 Metres	43 metres (12 Storeys)*
Floor Space Ratio	No Control	4:1
Non-residential Floor Space Ratio	0.6:1	1:1
Street wall height	N/A	4 Storeys
Setbacks	N/A	5 metres to Oxley Street

*\*The planning proposal seeks an additional local provision with the intent of allowing the requested maximum building height control of 43m to be exceeded by no more than 2m for liftoverrun and associated lift structures only for the purpose of providing inclusive access to the communal open space at the rooftop.*

### 3.3 Amended Planning Proposal

A Planning Proposal for the site was submitted to North Sydney Council on 8 July 2021 to amend the site's planning controls under the North Sydney LEP. The proposal originally included both the northern and southern site (58-64 Atchison Street) as identified in **Figure 1**.

The proposal sought to amend the North Sydney LEP by increasing the height to 12 storeys for the northern site and 16 storeys for the southern site, establishing a floor space ratio of 4:1 for the northern site and 6:1 for the southern site, and increasing the non-residential floor space to 1:1 for both sites.

The proponent received a letter from North Sydney Council on 18 January 2022, requesting that the planning proposal either be withdrawn or amended. As such, this amended planning proposal has been prepared in response to Council's request and seeks a number of amendments, including the removal of the southern site from the scheme, and the relocation of massing to ensure a more cohesive design. The proposal will continue to seek approval for the amendments to the North Sydney LEP in line with the 2036 Plan.

The amended planning proposal will seek an improved urban outcome and exhibit design excellence.

### 3.4 Council Meeting – 12 December 2022

The Planning Proposal was considered by Council at its meeting dated 12 December 2022 whereby, the Council resolved the following:

- 1. THAT** the Planning Proposal be amended to Council's satisfaction addressing the recommendations outlined in the Council Officer's assessment report, specifically to show a maximum building height control of 43 metres, and an additional local provisions clause to be included allowing the maximum building height to be exceeded by no more than 2 metres for portions of the building providing inclusive access to the communal open space at the rooftop (i.e., lift overrun).
- 2. THAT** upon satisfactory negotiation of the contents and detailed terms of the draft VPA and completion of Recommendation 1, the Planning Proposal be forwarded to the Department of Planning and Environment, in accordance with section 3.34 of the Environmental Planning and Assessment Act 1979 to seek a Gateway Determination.
- 3. THAT** upon receipt of a Gateway Determination, the associated draft VPA be exhibited concurrently with the subject Planning Proposal.
- 4. THAT** the outcomes of any public exhibition be reported to Council.

As such, the Planning Proposal has been amended in accordance with the recommendations of the NSLPP and Council, and therefore, will be forwarded to the Department of Planning and Environment for Gateway Determination.

### 3.5 Pre-lodgement Consultation

The proponent has consulted with North Sydney Council throughout the progression of the proposed development, with several informal pre-lodgement meetings held to discuss the concept scheme, submission requirements, approval pathway, and next steps.

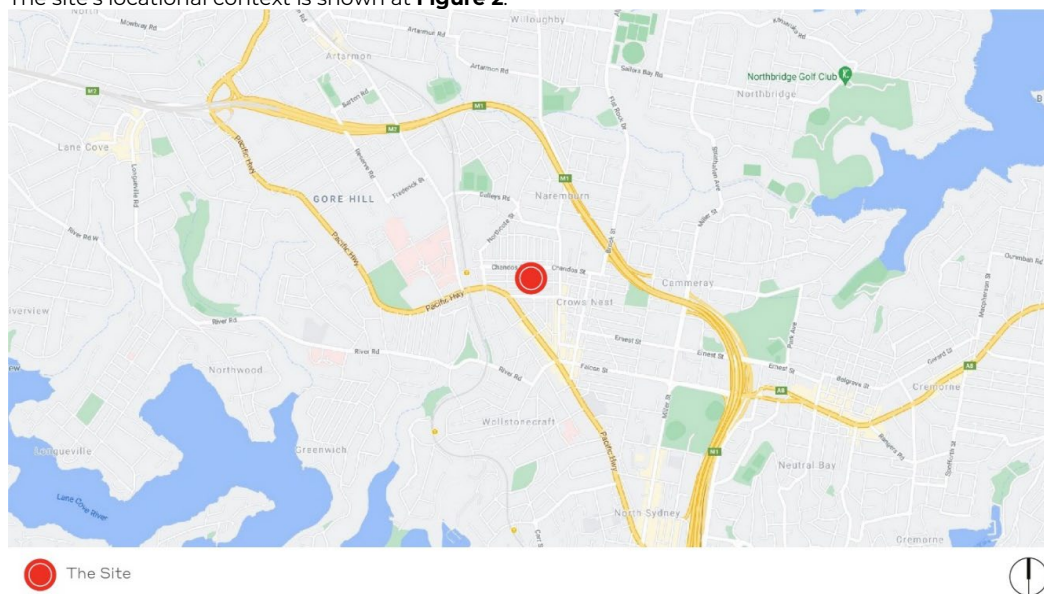
## 4.0 The Site

### 4.1 Site Location and Context

The site is located at 71-89 Chandos Street, St Leonards within the North Sydney Local Government Area (LGA). The site is approximately 400m from both the St Leonards Railway Station and the new Crows Nest Metro Station. Its immediate context, being Crows Nest and St Leonards, is characterised by a mix of land uses including newly constructed commercial and residential buildings. The site is also in close proximity to the commercial centres of St Leonards, North Sydney, and Chatswood.

The site is part of the evolving Strategic Centre of St Leonards, which is subject to the St Leonards and Crows Nest Planning Precinct process led by the Department. This proposal seeks to expedite the planning controls identified in this proposal.

The site's locational context is shown at **Figure 2**.



**Figure 2 Site Location**  
Source: Google Maps / Ethos Urban

### 4.2 Site Description

The site comprises a total of 8 separate allotments. The consolidated site has a combined area of approximately 2,467m<sup>2</sup>, forming a rectangular development parcel of land bounded Chandos Street to the north, Oxley Street to the east and Atchison Lane to the south. The various allotments and their legal descriptions are detailed in **Table 2**.

**Table 2 Legal description of site**

Address	Lot Number
71-73 Chandos Street	Lot 1, DP 900998
75 Chandos Street	Lot 1, DP 115581
79-81 Chandos Street	Lot 28, DP 455939
79-81 Chandos Street	Lot 29, DP 455939
83-85 Chandos Street	Lot B, DP 443166
83-85 Chandos Street	Lot A, DP 443166
87 Chandos Street	Lot 31-11 DP 2872
89 Chandos Street	Lot 32-11 DP 2872





**Figure 3 Aerial Map**  
Source: Nearmap / Ethos Urban

### 4.3 Existing Development

The site is currently occupied by six buildings, all of which are two to three storeys in height. The existing development on site is shown in **Figure 4** to **Figure 6**.



**Figure 4 Existing development from the corner of Chandos Street and Oxley Street**  
Source: Ethos Urban



**Figure 5** Existing development along Chandos Street  
Source: Ethos Urban



**Figure 6** Vehicular access to the site from Atchison Lane  
Source: Ethos Urban

### Topography

The site generally has a flat surface with a slight slope of 5 metres from the western boundary to the eastern boundary dropping from 88m to 83m.

### Contamination

A Preliminary Site Investigation (PSI) has been undertaken by EI Australia and is included at **Appendix G**. The PSI notes that possible contamination sources were identified including hazardous building products and materials, imported fill, and the storage of chemicals by former commercial occupants. The PSI concludes that the likelihood of widespread contamination is low to moderate. Further discussion is provided in **Appendix G** and a **Section 8.5** of this report.

### Heritage

The site is not heritage listed nor is it located in a heritage conservation area.

### Environmental hazards

The site is not identified as being bushfire or flood prone land. Nor does it contain any biodiversity of significance.



## 4.4 Surrounding Development

The surrounding context includes a range of building forms, which are predominately medium and high rise commercial and multi-storey mixed use residential buildings as shown in **Figure 7** to **Figure 10**.

- **North:** Immediately to the north of the site on the opposite side of Chandos Street and within the Willoughby LGA, is a recently constructed 6-storey mixed-use building (66-78 Chandos Street). The area is rapidly changing with several new developments currently underway due to the delivery of the new Sydney Metro stations in the area.
  - **East:** To the east on the opposite side of Oxley Street, is a residential area (zoned R4 – High Density Residential) comprising a mix of dwelling houses, semi-detached dwellings and residential flat buildings up to 5 storeys in height. Further east is the suburb of Crows Nest, which is categorised by medium density-low density residential development. The Warringah Freeway is located beyond this, providing a connection to the Sydney CBD and eastern suburbs, and north towards Lane Cove and Macquarie Park.
  - **South:** The following development is present to the south, on the opposite side of Atchison Lane at:
    - 50-56 Atchison St – A PP to amend NSLEP 2013 to facilitate a 16-storey mixed-use building was finalised in Feb 2022 (Amendment No. 33 to NSLEP 2013). A VPA is registered on title requiring the delivery of a pedestrian through-site link connecting Atchison Lane to Atchison St along its western boundary.
    - 40-48 Atchison St – a recently constructed 12-storey mixed use building ('The Arden')
    - 58-64 Atchison St – currently comprises commercial office buildings ranging 2-4 storeys in height. The site forms part of the broader TWT village and the 2036 Plan envisages a 16-storey mixed use development on this site.
- The future Crows Nest Metro Station will be located 500m from the site on the corner of the Pacific Highway and Oxley Street. The metro line will provide a high frequency service linking the site from the north west through to south-west Sydney.
- **West:** To the west on the adjacent site at 55-69 Chandos St, is a 3-storey and 7-storey office building, which also forms part of the broader TWT village. There are currently two LEC approvals and one North Sydney Local Planning Panel Approval on these sites:
    - 67-69 Chandos St (DA30/2019) - Demolition of existing building and construction of a mixed-use development containing 18 residential apartments (approved by LEC).
    - 63-65 Chandos St (DA219/13) – Demolition of existing building and construction of a 12-13 storey mixed-use development containing 30 residential apartments (approved by NSLPP).
    - 55-61 Chandos St (DA32/2019) - Alterations and additions to existing commercial building resulting in an 11-level shop top housing development (approved by LEC).



**Figure 7** Existing development north of the site along Chandos Street

Source: Ethos Urban



**Figure 8** Existing development east of the site along Oxley Street

Source: Ethos Urban



**Figure 9 Existing development south of the site at 58-64 Atchison Street**

Source: Ethos Urban



**Figure 10 Existing development west of the site at 55-69 Chandos Street**

Source: Ethos Urban

## 4.5 Current Planning Controls

### 4.5.1 North Sydney Local Environmental Plan 2013

The NSLEP 2013 is the principle Environmental Planning Instrument that applies to the site. The existing planning controls that apply to the site are outlined in **Table 3** below.

**Table 3 Existing controls under the North Sydney Local Environmental Plan 2013**

Provision	Control
Land zoning	MU1 Mixed Use
Building height	20 metres
Floor space ratio	A maximum floor space ratio does not apply to the site.
Non-residential floor space	A minimum non-residential floor space ratio of 0.6:1 applies to the site.
Heritage	The site is not a local or state heritage item, nor is it sited within a heritage conservation area. There are no items of heritage significance in the vicinity of the site.

### 4.5.2 North Sydney Development Control 2013

The NSDCP 2013 builds upon and provides more detailed provisions than the NSLEP 2013. The NSDCP 2013 locates the site within the St Leonards Town Centre within the St Leonards / Crows Nest Planning Area. The St Leonards Town Centre is identified as a significant, sustainable and busy urban centre where:

- Creative industries, small to medium sized businesses, start-ups, galleries, entertainment and speciality retail are supported to enhance the economic function of North Sydney.
- a diverse range of living, employment, recreation and social opportunities are provided which serve both local and regional populations and contribute to the vibrancy of the centre
- residents, workers and visitors enjoy a high level of amenity and quality of the natural and built environment
- residents, workers and visitors can easily access the Area through excellent public transport links to the Sydney CBD, other suburban centres and many parts of the Sydney Region by rail and bus.

The NSDCP 2013 also identifies the DA site as part of the Oxley Street Masterplan, and that a comprehensive master planning process may be required. Due to the St Leonards Crows Nest 2036 Plan, this master planning process is no longer necessary.

It is noted that a site-specific DCP was initially lodged with the PP, however, it is no longer required as the suggested DCP controls are either consistent with the existing NSDCP 2013 controls or aligned with the controls relating to podium, setback, accessibility, and permeability that are recommended under the 2036 Plan and have been proposed under Council's Amendment to NSDCP 2013, which was adopted on 6 January 2023.

## 5.0 The Reference Design

This section of the report outlines the key features of the reference design prepared by Smart Design Studio to demonstrate an indicative built form that could be achieved under the proposed amendments to the NSLEP 2013.

This reference design has been informed by the St Leonards and Crows Nest 2036 Plan (2036 Plan) which was finalised by the Department of Planning, Industry and Environment in August 2020. This plan will facilitate the urban renewal of St Leonards and Crows Nest as an expanding employment centre and facilitate a growing residential community in the suburbs of St Leonards, Greenwich, Naremburn, Wollstonecraft, Crows Nest and Artarmon. The 2036 Plan is accompanied by a number of ancillary changes to controls, which will be the responsibility of the relevant Council to progress. This Planning Proposal seeks to expedite this process for the subject site and apply the controls of the 2036 Plan prior to the preparation and gazettal of the controls by North Sydney Council.

### 5.1 Reference Design Concept

The intended outcome of this planning proposal is to enable the development of the site to accommodate a mixed use buildings of 12 storeys in height, with commercial and retail uses on the ground floor and level 1, with residential uses above. A landscaped linear park, basement parking and through site link will also be provided on the site. The development design concept prepared by Smart Design Studio is attached at **Appendix A** and is summarised in **Table 4** below.

**Table 4** Concept Design – Key Features

Element	Detail
Building Height	43 metres (12 storeys)
	<i>Note: The building height of the concept scheme submitted to Council for assessment in July 2022 was 46.72 metres for 12 storeys, however, as per Council's resolution from 12 December 2022, the Planning Proposal and accompanying concept design has been amended to a maximum building height of 43m with an additional allowance of 2m for lift overrun and associated lift structures.</i>
Gross Floor Area	Residential – approximately 7,401m <sup>2</sup> Non-residential – approximately 2,467m <sup>2</sup> Total – approximately 9,868m <sup>2</sup>
Floor Space Ratio	4:1
Non-residential FSR	1:1
Setback	<p><b>Chandos Street:</b></p> <ul style="list-style-type: none"> <li>Podium setback: 3m</li> <li>Above Podium setback: 3m</li> </ul> <p><b>Oxley Street:</b></p> <ul style="list-style-type: none"> <li>Podium setback: 5m</li> <li>Above Podium setback: 7m</li> </ul> <p><b>Atchison Lane</b></p> <ul style="list-style-type: none"> <li>Podium setback: 1.5m</li> <li>Above Podium setback: 4m</li> </ul>
Uses	<ul style="list-style-type: none"> <li>Non-residential uses at ground floor and level 1.</li> <li>Residential apartments from Level 2 to 12.</li> </ul>
Dwellings	64
Vehicular Access	Access is via Atchison Lane
Through Site Link	Publicly accessible through site link connecting Chandos Street and Atchison Lane
Communal Open Space	26%

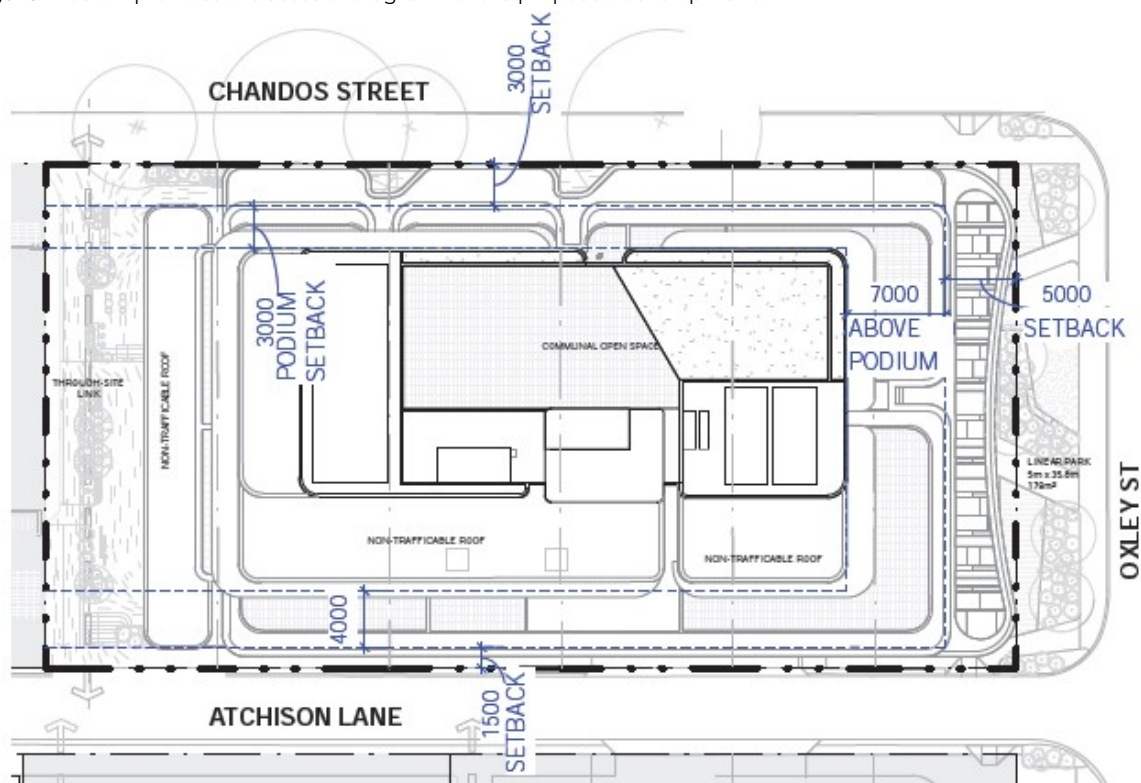
## 5.2 Built Form and Streetscape

The development comprises of a mixed-use building of 12 storeys.

The proposed buildings will include a four-storey podium, which will accommodate non-residential uses on the ground floor and level 1. The podium has been designed to activate and interact with the public domain and is setback 3m from Chandos Street, 5m from Oxley Street, and 1.5m from Atchison Lane on both sides. The above podium setbacks are as follows:

- Chandos Street: 3m
- Oxley Street: 7m
- Atchison Lane: 4m

**Figure 11** below provides the setback diagram for the proposed development.



**Figure 11** Proposed setback diagram

Source: Smart Design Studio

## 5.3 Site Access and Parking

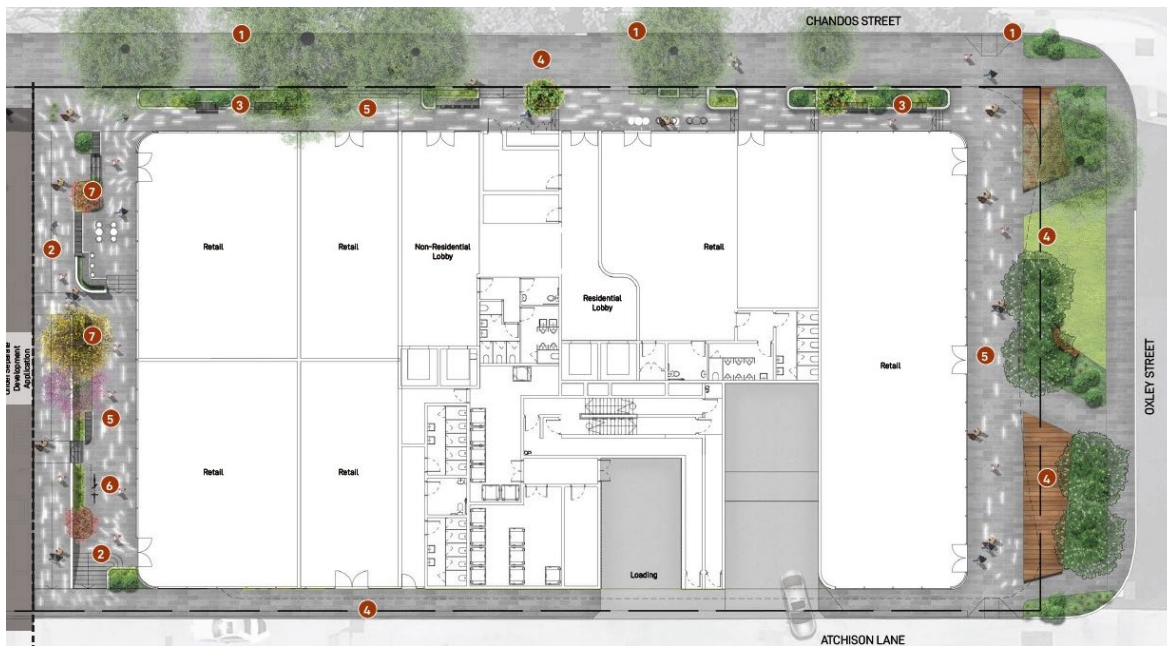
Carparking for residents, visitors and employees will be located in a two-storey basement that is proposed to be connected to the adjacent development at 55-69 Chandos Street. All loading and servicing arrangements will be provided on the ground level. Access to the car park and loading dock is proposed via Atchison Lane.

## 5.4 Landscape

An indicative Landscape Concept Design has been prepared by Ground Ink Landscape Architects. The concept fulfils the vision to green the site and proposed communal areas on the ground floor and the Oxley Street Linear Park. Landscaped setbacks aim to soften the appearance of the built form and provide pleasant amenity for future residents and visitors.

**Figure 12** below illustrates the overall landscape concept design of the development. Future detail is provided in the landscape plans at **Appendix C**.





**Figure 12 Overall Landscape Plan**

Source: Ground Ink Landscape Architects

## 5.5 Public Benefit

A Letter of Intention to enter into a Public Benefit offer with Council was presented by TWT Global and is provided at **Appendix I**.

As such, a Draft Voluntary Planning Agreement (VPA) has been prepared for public exhibition, which specifically includes the right of way over the through site link, as well as the dedication and embellishment of the linear park along Oxley Street.

In addition to the public benefit offer, it is noted that the planning proposal is subject to the Section 7.11 local development contributions as well as the St Leonards and Crows Nest Special Infrastructure Contributions (SIC).

For further detail on the draft terms of the VPA, refer to **Appendix J**.

## 6.0 Planning Proposal

This Planning Proposal has been prepared in accordance with Section 3.33 of the EP&A Act and the 'LEP Making Guidelines' prepared by the NSW Department of Planning and Environment, which requires the following matters to be addressed:

- objectives and intended outcomes of the amendment to the LEP;
- explanation of provisions;
- justification;
- maps;
- community consultation;
- project timeline.

The following Section outlines the objectives and intended outcomes and provides an explanation of provisions in order to achieve those outcomes, including relevant mapping. The justification and evaluation of impacts is set out in **Section 7** and **8.0** of this report.

### 6.1 Objectives and Intended Outcomes

The proposal seeks to deliver on the State Government's preferred outcome for St Leonards as a Strategic Centre with increased employment opportunities and mixed-use activities. The proposal intends to facilitate the delivery of a high-quality, mixed use redevelopment that will complement the evolution of the St Leonards Strategic Centre towards a high-density mixed-use character.

More specifically, the proposal will:

- Provide an integrated mixed-use building in an evolving mixed-use precinct;
- Create a viable commercial presence on the site, at a scale that will meet the future needs of permanent new jobs to support the medical and service-based future role of St Leonards; and
- Deliver new residential apartments to take advantage of this accessible location, proximity to services and existing and planned rail networks with direct connections to major employment destinations.

### 6.2 Explanation of Provisions

The North Sydney LEP 2013 sets out the local planning controls across the North Sydney LGA. The planning proposal seeks to amend the North Sydney LEP 2013 to facilitate the proposed mixed-use development outlined in this report.

The existing and proposed controls, as well as the recommended amendments are outlined below.

#### Existing and proposed LEP controls

The existing and proposed LEP controls are outlined in **Table 5**.

**Table 5 Existing and Proposed LEP Controls**

Control	Existing	Proposed
Land zoning	MU1 Mixed Use	MU1 Mixed Use
Building height	20 metres	43 metres (12 storeys)
Floor space ratio	No control	4:1
Non-residential floor space	0.6:1	1:1

In addition to the above, the Planning Proposal seeks to implement an additional local with the intent of allowing the requested maximum building height control of 43m to be exceeded by no more than 2m for lift overrun and associated lift structures only for the purpose of providing inclusive access to the communal open space at the rooftop.

Specifically, the wording of the new provision will be as follows:

**Clause 4.3 – Exceptions to height of buildings**

(2C) Despite Clause 4.3, the height of a building on land at “Area 4” (71-89 Chandos Street, St Leonards) on the Height of Buildings Map may exceed the maximum height shown for the land on that Map if—

- (a) The height of building does not exceed 45 metres, and
- (b) The part of the building that exceeds the maximum comprises lift overruns and associated structures necessary to provide lift access to communal rooftop space.

Refer to **Appendix O** for the drafting of the new provision.

**6.3 Justification of strategic and site specific merit**

The strategic and site specific merit is explored in detail in **Sections 7** and **8** below.

**6.4 Mapping**

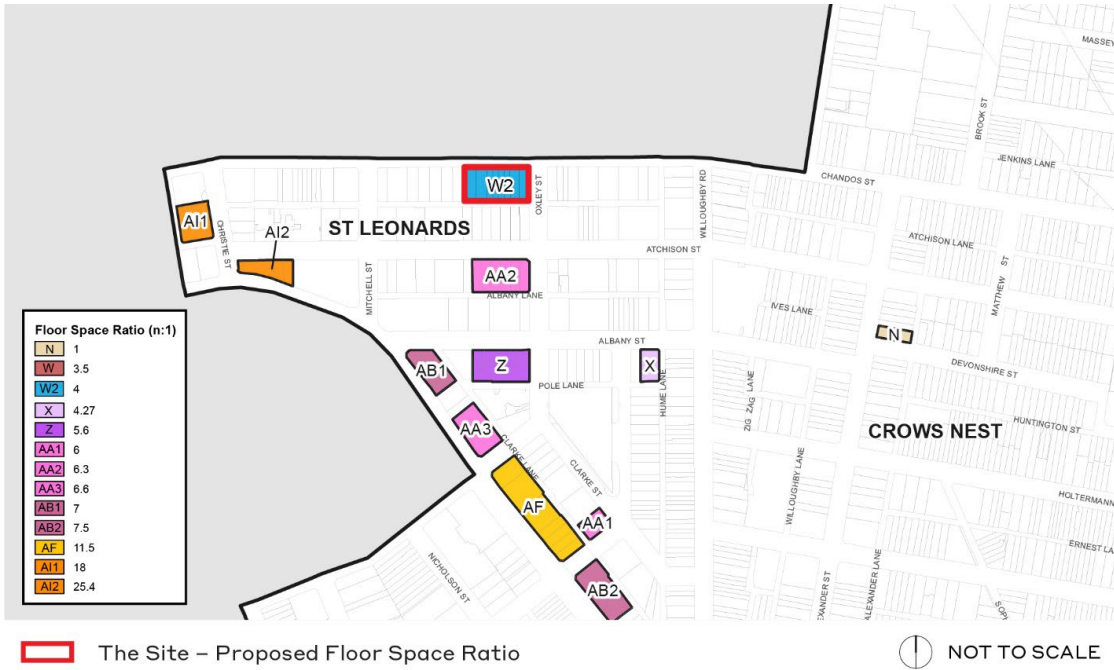
In order to effect the above changes to the planning controls, amendments to the following maps of the North Sydney LEP 2013:

- Height of Buildings Map 001
- Floor Space Ratio Map 001
- Non-Residential Floor Space Map 001

The maps as proposed to be amended are included at **Appendix K**. Extracts of the maps are shown in **Figure 13** through **Figure 15**.



**Figure 13 Amended Height of Building Map 001**  
 Source: North Sydney Local Environmental Plan 2013 / Ethos Urban



**Figure 14 Amended Floor Space Ratio Map 001**  
 Source: North Sydney Local Environmental Plan / Ethos Urban



**Figure 15 Amended Non-Residential Floor Space Ratio Map 001**  
 Source: North Sydney Local Environmental Plan 2013 / Ethos Urban



## 6.5 Community Consultation

It is proposed that in accordance with 'LEP Making Guideline' that the planning proposal undergo a 28-day public exhibition period. It is noted that confirmation of the public exhibition period and requirements for the planning proposal will be given by the Minister as part of the LEP Gateway determination. Any future DA for the site would also be exhibited in accordance with the Council's notification requirements at which time the public and relevant authorities can make further comments on the redevelopment of the site.

## 6.6 Project Timeline

Error! Reference source not found. below outlines the indicative project timeline for the planning proposal, which is proportionate to the nature and scale of the planning proposal.

**Table 6** *Project Timeline*

Milestone	Date
Submission of the Planning Proposal	March 2022
Planning proposal presented to Council	December 2022
Referral to Minister for Gateway Determination	May 2023
Gateway Determination Received	June 2023
Community Consultation	September 2023
Consideration of submissions	October-November 2023
Consideration of Planning Proposal by Council	December 2023
Submission to DPE to finalise LEP	December 2023
Drafting and making of LEP	February 2024

## 7.0 Strategic Merit

This section outlines the strategic planning framework within which the development outcomes for the land have been considered and provides commentary on how the proposal responds to each of these documents.

The DPE 'LEP Making Guide' sets out that a planning proposal needs to justify that it meets the Strategic Merit Test. The consistency of this planning proposal with the mandated assessment criteria is set out below.

**Table 7 LEP Making Guide Matters for Consideration**

Considerations	Comment
<b>Section A</b>	
1. <i>Is the planning proposal a result of an endorsed LSPS, strategic study or report?</i>	Yes, the proposal is in direct response to the adoption of the Crows Nest St Leonards 2036 Plan. Refer to <b>Section 7.3</b>
2. <i>Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?</i>	Yes. The planning proposal is the best means of achieving the intended outcome – the current height controls prohibit the redevelopment of the site in accordance with the 2036 Plan.
3. <i>Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?</i>	Yes. Refer <b>Section 7.1</b> below.
4. <i>Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?</i>	Yes. The planning proposal will contribute to the achievement of the relevant North Sydney LSPS planning priorities. Refer to <b>Section 7.4</b> .
5. <i>Is the planning proposal consistent with any other applicable State and regional studies or strategies?</i>	Yes. The planning proposal is in accordance with key strategic documents such as the Greater Sydney Region Plan and the North District Plan. Refer <b>Sections 7.1</b> and <b>7.2</b> .
<b>Section B</b>	
6. <i>Is the planning proposal consistent with applicable SEPPs?</i>	Yes. Refer <b>Section 9.0</b> .
7. <i>Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?</i>	Yes. Refer <b>Section 9.1</b> .

### 7.1 Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released the *Greater Sydney Region Plan: A Metropolis of Three Cities* (the Plan). The Plan presents a strategy for accommodating Sydney's future population growth for the next 20 years and identifies St Leonards as an area suitable for further strategic urban renewal. The Plan sets out objectives that will guide Sydney's growth; the following discussion demonstrates how the planning proposal is consistent with the relevant strategic objectives.

#### Objective 10: Greater Housing Supply

The NSW Government forecasts that an additional 725,000 homes will be needed by 2036 to meet demand based on current population projections. This strong need is forecasted to continue, and by 2056 it is anticipated that significant further housing supply will be required to meet Greater Sydney's continued strong population growth.

To facilitate greater housing supply, the Plan sets housing targets for each District. The North District, which includes St Leonards, is required to deliver a minimum of 25,950 homes in the five years between 2016 and 2021. Beyond this, the Plan sets a 20-year strategic housing target of 92,000 homes for the North District.

The Plan states that developers play an important role in supporting housing outcomes:

*'The development industry needs to continually provide new housing and translate the development capacity created by the planning system into approvals and supply'*

As it will facilitate delivery of additional dwellings on a site that under current planning controls cannot feasibly deliver additional homes, the planning proposal promotes this objective.

**Objective 11: Housing is more diverse and affordable**

Greater Sydney has been measured as being one of the least affordable housing markets globally and is the least affordable Australian city. Factors that contribute to rental and purchasing affordability challenges include the limited availability of smaller dwellings to meet both the growing proportion of small households, as well as the growing distance between areas where housing is affordable and the location of employment and educational opportunities.

This planning proposal will deliver smaller homes in the form of apartments, in a Strategic Centre (St Leonards) that provides job opportunities and access via public transport to other major employment nodes, such as North Sydney and the Sydney CBD.

**Objective 12: Great places that bring people together**

The concept design developed by Smart Design Studio will facilitate a high-quality public domain and built form response to its context, including the ability to:

- Allow the reconnection of the urban fabric of the area, filling a significant gap in the current development pattern at the fringe of the St Leonards town centre; and
- Provide a contemporary urban response to Chandos Street and Oxley Street that will improve the pedestrian experience and will respond to the fine grain nature of the existing lower density dwellings to the north of the site.

**Objective 12: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities**

Under the Plan accommodating new homes needs to be linked to local infrastructure – both to optimise existing infrastructure and to maximise investment in new infrastructure.

In established parts of Greater Sydney such as St Leonards, urban renewal opportunities exist around regional transport and strategic centres, where links for walking and cycling promote a healthy lifestyle and contribute to liveability.

Being located in St Leonards, which is also identified as a Planned Precinct within walking distance of two rail stations benefiting major government investment, the proposal is consistent with this objective.

**7.1.1 Summary**

The planning proposal is consistent with the above objectives of the Greater Sydney Region Plan as it will deliver new homes adjacent to the St Leonards centre, a short walk from shops, services, high frequency bus stops and the future Crows Nest Metro Station. These attributes make the site a suitable location for higher density housing and new employment floorspace.

## 7.2 North District Plan

Consistent with the Regional Plan, overall, the District Plan promotes the following themes:

- Greater housing supply;
- More diverse and affordable housing;
- Better located and designed housing; and
- Jobs and employment in strategic centres.

This is reflected in Planning Priority N5:

*'Providing housing supply, choice and affordability, with access to jobs, services and public transport'*

Under the North District Plan, the North Sydney LGA is required to deliver a minimum of 3,000 homes in the five years between 2016 and 2021. The key opportunity to provide for additional homes through transit-focused renewal in accordance with the Region Plan is in St Leonards. This is reflected in the District Plan as it identifies St Leonards as a location for additional capacity for housing supply.

In terms of housing diversity and affordability, planning for housing needs to consider the type of dwellings required to respond to expected changes in both household size and age. The District Plan states that this requires more smaller homes, group homes, adaptable homes of universal design and aged care facilities.

New housing should also be provided in the right locations and of the right design, close to local infrastructure and contribute to safe and vibrant neighbourhoods.

Additionally, Planning Priority number 10 promotes this:

*'Growing investment, business opportunities and jobs in strategic centres'*

The proposal will provide jobs and employment opportunities through the provision of retail and commercial land uses as part of the development and is consistent with the planning actions outlined in the District Plan.

The proposal:

- Provides additional housing on a site that under current planning controls, cannot deliver housing or jobs in a location on the fringe of the St Leonards town centre;
- Provides a greater diversity of housing in the form of apartments;
- Is located within walking distance of the St Leonards Rail Station and the future Metro station benefiting from major government investment; and
- Is well designed and will contribute to the vitality of St Leonards.

On this basis, the proposal is consistent with the relevant planning priorities and actions of the District Plan.

The District Plan also contains specific actions for the St Leonards and Crows Nest precinct. Relevant actions are:

- Leverage the new Sydney Metro Station at Crows Nest to deliver additional employment capacity
- Grow jobs in the centre
- Reduce the impact of vehicle movements on pedestrian and cyclist accessibility
- Deliver new high-quality open space, upgrade public areas, and establish collaborative place-making initiatives

By providing varied accommodation and employment opportunities in close proximity to the new Crows Nest Metro Station and enhancing the public domain and landscape open space, the planning proposal meets the above District Plan actions for the St Leonards and Crows Nest precinct.

### 7.3 St Leonards and Crows Nest 2036 Plan

The 2036 Plan is a precinct plan that was released and finalised by the Department in August 2020. The plan will facilitate the urban renewal of St Leonards and Crows Nest for an expanding employment centre and growing residential community. A number of changes to the existing planning controls in certain areas are proposed to implement strategic direction of the Plan. The site is included in these changes.

This Planning Proposal implements the St Leonards Crows Nest 2036 Plan precisely.

The proposal's consistency with the vision, design priorities and objectives, and recommended changes outlined in the Plan is detailed below.

The planning proposal is consistent with the vision as it will:

- Provide a total of 1:1 non-residential floor space ratio to provide employment opportunities within St Leonards and contribute to the delivery of 16,500 additional jobs over the next 20 years.
- Improve pedestrian accessibility and movement by providing housing close to the St Leonards Rail Station and the future Metro Station.
- Increase vibrancy and life around, and within St Leonards by replacing ageing, poor quality commercial buildings with a contemporary mixed use development that will provide high-quality street frontages to Chandos Street and Oxley Street.
- Facilitate a built form outcome that will respect the existing character of the local area. Smart Design Studio have prepared a reference design that is conscious of, and responds to, the various types of surrounding development.
- Enhancing the public domain by providing high-quality landscaped open spaces that will ensure efficiency and sustainability.
- Facilitate the provision of approximately 64 new dwellings of various types and sizes that will be suitable for a range of the community including singles, couples and families at all stages of the life cycle.

**Table 8** provides an assessment of the planning proposal against the relevant planning priorities and objectives of the 2036 Plan.

**Table 8** Consistency with 2036 Plan

2036 Plan	Consistency of Planning Proposal
<b>Planning Priorities</b>	
<b>N5:</b> Providing housing supply, choice and affordability with access to jobs, services and public transport.	The planning proposal will provide a mixed-use development that will provide approximately 64 residential units. The units will have a variety of sizes, configurations and bedroom numbers and will be suitable for a range of residents, including singles, couples and families.
<b>N12:</b> Delivering integrated land use and transport planning and a 30-minute city.	The planning proposal will facilitate a 30-minute city as it proposes a high-quality mixed-use development that will locate residents and workers within a comfortable walking distance of significant public transport infrastructure located in close proximity to the site.
<b>N10:</b> Growing investment, business opportunities and jobs in strategic centres.	The planning proposal will provide a total of 1:1 non-residential floor space ratio, which will accommodate a range of retail and commercial premises at the ground level and level 1 of the development.
<b>N19:</b> Increasing urban tree canopy and delivering Green Grid Connections.	The planning proposal will enhance and improve the public domain by increasing tree canopy and coverage on the street frontages. Specifically, the proposal provides for the Oxley Street greenlink espoused by the Plan.
<b>N20:</b> Delivering high-quality open space.	The planning proposal provides high quality communal open space through the provision of a through site link and a linear park that are well designed and landscaped to deliver high quality open space.
<b>Planning Objectives</b>	
Ensure new development retains and enhances important heritage elements by using	The proposed development will not affect any existing heritage items or heritage conservation areas.

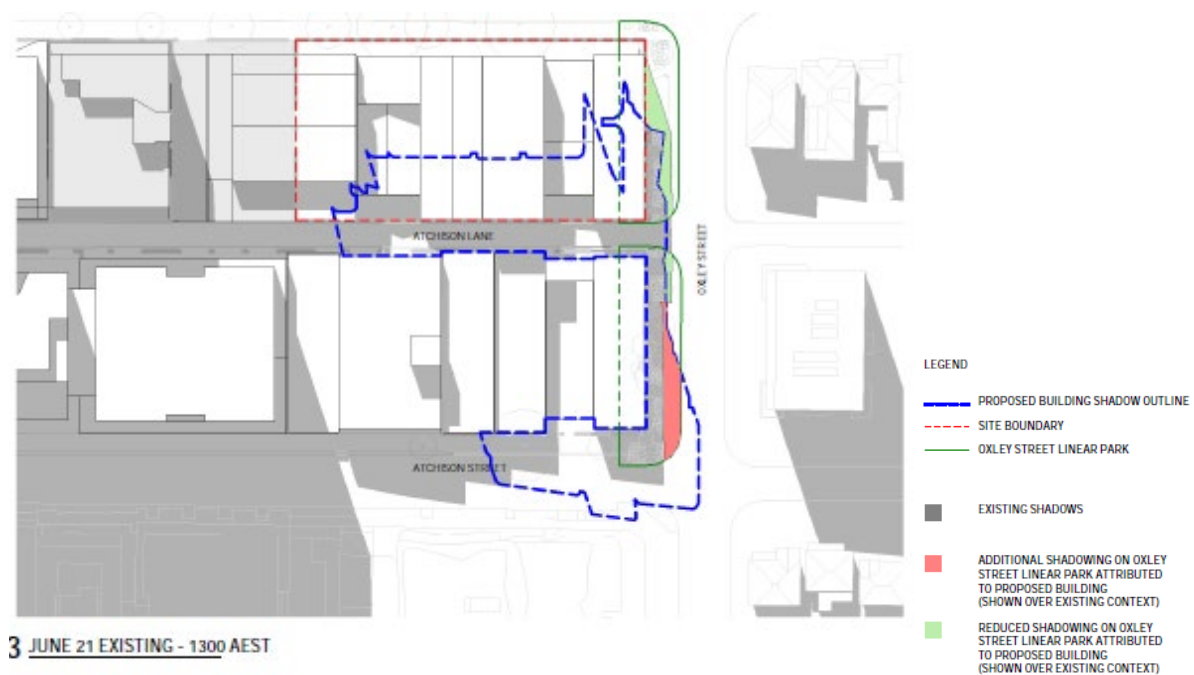
2036 Plan	Consistency of Planning Proposal
<i>sympathetic building materials and preserving key viewing and visits.</i>	
<i>Apply casual surveillance and universal access principles to new development to create a safe, inclusive and comfortable environment.</i>	The future development of the site will incorporate active frontages along Chandos Street and Oxley Street that will provide casual surveillance and activation of the public domain as well as contribute to the creation of a safe environment in St Leonards and in the vicinity of the site.
<i>New development should have consideration to wind impacts demonstrated through a wind assessment.</i>	A Qualitative Wind Assessment has been prepared for this planning proposal. Refer to <b>Appendix F</b> and <b>Section 8.4</b> for further information.
<i>Consider cumulative impacts of new developments on existing areas including overshadowing, wind impacts and view loss.</i>	The proposal has been developed with careful consideration of the cumulative overshadowing, wind and view impacts on the surrounding area. These key issues are further discussed in <b>Section F</b> of this report.
<i>In transition areas between low and high-rise developments, new development should consider the prevailing scale and existing character in the design of their interfaces.</i>	The proposal is located within a transition area and has been designed accordingly with appropriate built form and scale as per the requirements of the Plan.
<i>New building design should provide high on-site amenity and consider street width and character by providing ground and upper level setbacks and awnings to achieve a human scale at street level.</i>	The proposed development has been designed with appropriate setbacks and façade elements to achieve a human scale at street level. Further discussion is provided in <b>Section 8.1.1</b> of this report.
<i>Ensure new development contributes to a range of dwelling types in the area to cater for all life cycles.</i>	<p>The proposed development will provide a range of dwelling types that will meet the housing market demand within the area. Indicatively, the future development could accommodate the following dwelling mix:</p> <ul style="list-style-type: none"> <li>• Studio: 5 (8%)</li> <li>• 1 Bedroom: 17 (27%)</li> <li>• 2 Bedroom: 13 (20%)</li> <li>• 3 Bedroom: 31 (31%)</li> <li>• 4 Bedroom: 9 (9%)</li> </ul> <p>The proposed development will provide adaptable dwellings to cater for all ages and life cycles.</p>
<i>Ensure new employment sites in the area cater to a range of business types and sizes.</i>	The proposal will include provision for a minimum of 1:1 non-residential FSR that will be capable of accommodating a range of commercial and retail uses.
<i>New development in mixed-use areas should contribute to the delivery of active streets by providing a range of uses at ground floor.</i>	Indicatively, the proposal will activate street frontages along Chandos Street and Oxley Street by providing retail and commercial tenancies, and a residential and commercial lobby.
<i>Ensure no additional overshadowing of public open spaces and important places in accordance with solar access controls identified in the plan.</i>	The proposed development will not result in any "substantial additional overshadowing during specific hours" on any public open spaces or places of high value and significance. Further detail on the overshadowing to the Oxley Street Linear Park is provided below.
<i>New development along Chandos, Oxley and Mitchell Streets should provide wider setbacks to enable the creation of greener streets.</i>	The proposed development provides the required and appropriate setbacks that are well designed and landscaped to create greener streets.
<i>New development adjoining the increased setbacks and landscaped areas should contribute to its landscape character. For example, by providing planter boxes, lighting, green walls, deep planting, landscaped setbacks and forecourts.</i>	The concept landscape plans include high quality design elements including, planter boxes, water features, light features and seating.
<i>Incorporate new street trees to realise the tree canopy targets identified in the plan and increase the overall tree coverage in the area.</i>	The proposed development includes street tree planting, which will increase the tree canopy cover and promote greener streets within St Leonards.

2036 Plan	Consistency of Planning Proposal
<b>Site Specific Recommendations</b>	
<b>Land Zoning</b> <i>MU1 Mixed Use</i>	The proposal will provide a mixed-use development and seeks to maintain the existing MU1 Mixed Use zone.
<b>Building Height</b> 12	The proposed development is 12 storeys, which is equivalent to 43m in height and is therefore consistent with the recommended building height.
<b>Floor Space Ratio</b> 4:1	The site has an FSR of 4:1 consistent with the plan.
<b>Minimum Non-Residential Floor Space Ratio</b> 1:1	A non-residential FSR of 1:1 is proposed for the site.
<b>Street Wall Height</b> 4 storeys	The proposed development provides a four-storey podium.
<b>Setbacks</b> <ul style="list-style-type: none"> <li>Chandos Street: 3m</li> <li>Oxley Street: 5m</li> </ul>	The proposed development achieves the recommended setbacks as illustrated in the concept plans provided at <b>Appendix A</b> .

**Solar Access to Oxley Street Linear Park**

The 2036 Plan places strong emphasis on retaining solar access to public open space and identifies solar access controls to ensure that *any new development within the area does not produce substantial additional overshadowing during specific hours in mid-winter*. The 2036 Plan requires Oxley Street must not be overshadowed between 11:30am and 2:30pm.

The concept design has been appropriately designed in accordance with the site-specific built form controls recommended under the 2036 Plan to minimise overshadowing impacts to the surrounding open space. Smart Design Studios have undertaken detailed overshadowing analysis at **Appendix B**, comprising of 15-minute incremental shadow diagrams, which illustrates that the proposed development will cast a shadow over the Oxley Street Linear Park from 12:45pm to 1:45pm however there is a net reduction of shadow that currently exists as a result of the existing built form (built to boundary). Figure 16 below shows the worst case scenario of 1pm which shows that the additional shadow is equivalent to the shadow reduced from that existing.



**Figure 16 Solar Study**

Based on the above assessment, this planning proposal is consistent with the vision, planning priorities and objectives and recommended changes identified in the 2036 Plan.



## 7.4 North Sydney Local Strategic Planning Statement

In March 2020, North Sydney Council adopted the North Sydney Local Strategic Planning Statement (LSPS), which sets out Council's land use vision, planning principles, priorities and actions for the next 20 years. The LSPS outlines Council's vision for St Leonards as a Strategic Centre. The following points demonstrate that the planning proposal is consistent with the Council's planning priorities and objectives outlined within the LSPS.

### Priority L1 – Diverse housing options that meet the needs of the North Sydney Community

The planning proposal will provide a range of housing types and dwelling sizes in a location that Council have acknowledged is suitable for high density residential development.

### Priority L3 – Create great places that recognised and preserve north Sydney's district local character and heritage

The planning proposal will facilitate a built form and land use outcome that responds to and respects surrounding heritage items and heritage conservation areas to the north of the site. The concept design proposes a 12 storey building, which will assist in the transition in height and scale of development within the area.

### Priority P6 – Support walkable centres and a connected, vibrant and sustainable North Sydney

The site's proximity to significant public transport facilitates the realisation of Transit Oriented Development (TOD) on the site. The planning proposal will provide a high-quality mixed-use development that will locate residents and workers within comfortable walking distance to public transport infrastructure and therefore will enhance connectivity and support the 30-minute city.

### Priority S2 – Provide a high quality, well connected and integrated urban greenspace system

The proposal will include high quality landscaping along the Chandos Street and Oxley Street frontages, the through site link, and the linear park. By increasing tree canopy coverage, the proposal will provide greener streets in North Sydney and support a healthy environment and community wellbeing.

## 7.5 North Sydney Local Housing Strategy

The North Sydney Local Housing Strategy (LHS) adopted in October 2019, identifies the housing targets within the area and how they will be delivered over the next 20 years. The LHS indicates that an additional 11,450 dwellings are required to be delivered by 2036 in order to meet the forecasted population of 91,650 people in North Sydney LGA.

Of the total 11,450 dwellings, the LHS estimates that 2,190 dwellings will be located within the St Leonards and Crows Nest Precinct as a result of the urban renewal proposed under the 2036 Plan. The planning proposal will provide an approximate 64 dwellings, and therefore, will contribute to the dwelling target envisaged under the LHS. This proposal implements the St Leonards Crows Nest Plan explicitly – which is also reflected in the North Sydney Housing Strategy.

The planning proposal is consistent with the objectives of the LHS, particularly Objective 3, which is to '*Inform **housing diversity and affordability issues in North Sydney***'. While the planning proposal does not intend on providing any affordable housing, it is emphasised that the dwelling mix proposed maintains a diverse mix in unit sizes and typology to ensure that the demand identified in the LHS is met. In doing so, it also facilitates affordable choices for household types, particularly families who want to live in North Sydney but cannot afford to live in a house.

Overall, the planning proposal is consistent with the North Sydney LHS in that it contributes to the housing target identified for the area, while also ensuring housing diversity within a strategic centre that has been earmarked for uplift and redevelopment.

## 8.0 Site Specific Merit

Local Environmental Plan Making Guideline establishes assessment criteria for determining if planning proposals have site-specific merit:

*b) Does the proposal have site-specific merit, having regard to the following?*

- *the natural environment (including known significant environmental values, resources or hazards); and*
- *the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal; and*
- *the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

The planning proposal has site-specific merit for the following reasons:

- There are no known environmental matters that would prevent the development of the site for higher density residential development.
- The planning proposal will facilitate a mixed use residential development whose form and scale will be compatible with the future mixed use residential land uses in the vicinity of the site.
- The site is located in an area where there is existing public infrastructure, transport, and community facilities, and is close to employment, leisure and other opportunities. The site is therefore provided with services and infrastructure which will cater for the future population of the site.

This section considers the key planning issues associated with the planning proposal as well as those associated with the future development.

### 8.1 Impacts on Neighbouring Dwellings

#### 8.1.1 Privacy and Overlooking

The proposed development will maintain appropriate separation distances for surrounding residential properties which would potentially be impacted by privacy. Specifically, the following building separations have been applied to the development to maintain visual privacy to neighbouring dwellings:

- The podium has a 12m separation to the south between habitable rooms and balconies, and a 7m separation to the west between non-habitable rooms.
- From five to eight storeys, an 18m separation to the south has been applied between habitable rooms and balconies, and a 13.5m separation has been applied to the west between habitable and non-habitable rooms.
- From nine storeys and above, a 24m separation to the south has been applied between habitable rooms and balconies, and an 18m separation has been applied to the west between habitable and non-habitable rooms.

As such, adequate building separation and setbacks have been applied to minimise potential privacy and overlooking issues to surrounding sites. Further detail is provided in the Urban Design Report at **Appendix B**.

#### 8.1.2 Overshadowing

The Urban Design Report (**Appendix B**) provides a shadow analysis to illustrate the impact of overshadowing on adjoining residential properties and the surrounding area. The proposed development has been designed to minimise the impacts of overshadowing on the surrounding area and the shadow analysis demonstrates that the concept design maintains good levels of solar access to the surrounding dwellings and public open space. The existing properties on the north and west of the site will receive good solar access throughout the entire day all year round. Properties to the east along Oxley Street will receive minor additional overshadowing in the afternoon during the equinox and mid-winter.

Overshadowing to the Oxley Street Linear Park is minor. Despite the additional overshadowing to the park between 1:15pm to 1:45pm, there is an overall net reduction of the shadow that currently exists as a result of the existing built form to the boundary. It should also be noted that a Development Application was approved in May 2011 by the Joint Regional Planning Panel with an FSR of 5:1, which would have had significant impacts on the streetscape. The proposed development offers a much better solar access outcome for Oxley Street than both the existing and approved development on site.

### 8.1.3 Visual Impact

The concept has been designed to comply with the built form controls and objectives outlined in the 2036 Plan. Future detailed development will be subject to a design excellence process which will ensure the outcome is visually compatible with the surrounding area and will not result in any unreasonable visual impacts.

### 8.1.4 Traffic and Parking

The planning proposal will accommodate all resident and retail/commercial parking in basements on site. There will be no impact on the existing availability of on-street parking in the surrounding area. Traffic generation will be minor with 17-19 vehicle movements during the peak periods (refer to **Appendix D**).

## 8.2 Residential Amenity

The indicative concept design has been designed to meet the requirements of the Apartment Design Guide (ADG) and will achieve good levels of residential amenity for the future residents. Notably, the indicative design demonstrates that the site can accommodate high density residential that will provide:

- Apartments consistent with the ADG minimum size requirements.
- Balconies consistent with the ADG minimum size requirements.
- A minimum of 2-hour solar access is provided to 81% of the indicative dwellings on the site between 9am to 3pm.
- Natural cross ventilation to 63% of the indicative apartments below level 9.
- Separation distances between neighbouring buildings in accordance with the minimum requirements of the ADG and will provide adequate privacy for residents.
- 640m<sup>2</sup> of communal open space (26% of the total site area). It is noted that the concept design prepared by Smart Design Studio is indicative for the purposes of understanding the opportunities on the site.

An ADG Compliance Table has been prepared by Smart Design Studio and is included as part of the Urban Design Report at **Appendix B**.

## 8.3 Transport and Access

Varga Traffic Planning have undertaken a Transport Impact Assessment for the planning proposal (**Appendix D**). The assessment considered the future development of the site as per the concept design scheme and as a complying development under the current controls. The key findings of the assessment are as follows:

- The potential increase in traffic from the planning proposal is an additional 19 vehicles in the AM peak hour and 17 vehicles in the PM peak hour.
- Vehicular access will be provided off Atchison Lane to minimise conflicts with pedestrians and general traffic along the surrounding road network.
- A loading dock and servicing bay will be provided as part of each building at ground level.
- The proposal is expected to be serviced by a variety of commercial vehicles up to and including Small Rigid Vehicles (SRV).
- The proposal will provide a total of 57 off-street car parking spaces, 106 bicycle parking spaces, and 3 motorcycle parking spaces which are consistent with the current North Sydney DCP parking rates.
- The future development's proximity to various public transport facilities, including St Leonards Transport Interchange and nearby bus stops is not expected to generate significant traffic impacts.

On the basis of the above, the report concludes that the proposed development will not have any unacceptable traffic generation, parking or loading implications.

Varga Traffic Planning have also prepared a Green Travel Plan for the planning proposal to set site-specific actions and incentives to manage travel demands and embrace the principles of sustainable transport to encourage the greater use of transport modes that have a lower environmental impact. Refer to **Appendix D** for further discussion.

## 8.4 Wind Impacts

A Qualitative Wind Assessment Report has been prepared by SLR at **Appendix F** to assess the potential pedestrian wind conditions around the proposed development. The assessment is based on the local wind climate, the current proposed massing design of the proposed development, the existing surrounding buildings and wind tunnel testing of similar buildings.

The wind impact of the proposed development is described by examining the impact of prevailing wind conditions on all public access areas of interest within and external to the development. Based on the findings of the assessment, the report has outlined the following recommendations to mitigate the potential wind impacts of the proposed development:

- The winds along the surrounding footpaths should remain at similar levels providing appropriate landscaping is employed.
- Horizontal wind breaks are recommended over building entries and pedestrian pathways, to protect against potential downwash from the high level development.
- Vertical windbreaks are recommended to the upper level communal open spaces as a result of adverse upper level wind conditions.
- Vertical windbreaks are recommended to the residential private corner balconies on one aspect of the balcony to reduce the impact of corner accelerating winds.

The above recommendations can be adopted at the detailed design stage.

## 8.5 Contamination

A Preliminary Site Investigation was undertaken by EI Australia (**Appendix G**) to determine the potential risk for land contamination from past and current activities in accordance with the requirements of *State Environmental Planning Policy No. 55 – Remediation of Land*.

The report revealed a moderate likelihood for contamination to exist on the site as a result of the following:

- The historic use of the site for various commercial use, including the potential manufacturing of firefighting products, chemicals and the use of solvents;
- Weathering of exposed building materials that may contain hazardous substances or the importation of fill from an unknown origin; and
- Potentially impacted groundwater migrating to site, or from the site as a result of significant soil impacts that may be present.

A detailed (Stage 2) site investigation is recommended to be undertaken prior to demolition to character the site contamination conditions and establish whether remediation is required.

On the basis of the above, EI Australia conclude that the site can be made suitable for its proposed uses.

## 8.6 Geotechnical

A Geotechnical Investigation was undertaken by EI Australia to provide advice and recommendations to assist with the geotechnical aspects of the proposed development. The report found that the proposed development was capable of being accommodated on site with the following recommendations:

- At least three additional cored boreholes following demolition;
- Long term groundwater monitoring and seepage modelling;
- Dilapidation surveys;
- Design of working platforms for construction plant by an experience and qualified geotechnical engineer;
- Classification of all excavated material transported off site;
- Witnessing installation of support measures and proof-testing of anchors;
- Geotechnical inspections of all new footings/piles by an experienced geotechnical professional before concrete or steel are placed to verify their bearing capacity and the in-situ nature of the founding strata; and
- Ongoing monitoring of groundwater inflows into the bulk excavation.

The findings of the report are further discussed in **Appendix H**.

## 8.7 Economic Impacts

The planning proposal will deliver positive economic impacts to St Leonards through the delivery of non-residential floor space and increased population. This will provide additional opportunities for residents of St Leonards and surrounding areas to work closer to home, supporting the Sydney Region Plan's target to increase proximity between homes and job and the designated role of St Leonards as a strategic centre.

As stated in the Economic Job Statement prepared by Ethos Urban, the planning proposal will generate 180 operational jobs and 310 construction jobs as a result of the proposed redevelopment. Refer to **Appendix N** for further information of the economic benefits of the planning proposal.

## 8.8 Social Impacts

The fundamental strategic vision of the North District Plan is the creation of the '30-minute city' whereby residents live within 30 minutes travel of their place of work. The site is situated within St Leonards and is located within walking distance to both St Leonards Rail Station and the future Crows Nest Metro Station. The planning proposal will facilitate the provision of a range of housing types in a strategic location.

In addition to the above, the proposal includes the creation of a new linear park to Oxley Street (approximately 179m<sup>2</sup>) which is to be a landscaped open space that aligns and activated public domain space. This will contribute to the vibrancy and activity within the St Leonards centre and will help North Sydney deliver a centre with a high level of amenity for residents and workers.

## 9.0 State Legislation and Planning Policies

### 9.1 Environmental Planning and Assessment Act 1979

The EP&A Act and *Regulation 2000* (EPA Reg) set out amongst other things the:

- Requirement for rezoning land;
- Requirements regarding the preparation of a local environmental study as part of the rezoning process;
- Matters for consideration when determining a development application; and
- Approval permits and/or licenses required from other authorities under other legislation.

This planning proposal has been prepared in accordance with the requirements set out in Section 3.33 of the EP&A Act in that it explains the intended outcomes of the proposed instrument. It also provides justification and an environmental analysis of the proposal.

#### Section 9.1 Directions

Ministerial directions under Section 9.1 of the EP&A Act require councils to address a range of matters when seeking to rezone land. A summary assessment of the planning proposal against the Directions issued by the Minister under Section 9.1 of the EP&A Act is provided in **Table 9** below.

**Table 9 Ministerial Directions**

Direction	Consistency			Comment
	Yes	No	N/A	
<b>1. Planning Systems</b>				
1.1 Implementation of Regional Plans	✓			The planning proposal is consistent with the Greater Sydney Region Plan, as the proposal provides for additional dwellings and employment generating floor space in proximity to public transport and within a strategic centre.
1.2 Development of Aboriginal Land Council Lane	✓			The site is not subject to a Development Delivery Plan under Chapter 3 of the Planning Systems SEPP.
1.3 Approval and Referral Requirements	✓			This planning proposal is consistent with this Direction in that it does not introduce any provisions that require any additional concurrence, consultation or referral.
1.4 Site Specific Provisions	✓			<p>Given the significant change in ground levels across the site, an additional local provision (under <i>clause 4.3A – Exceptions to Height of Buildings</i>) is recommended with the intent of allowing the maximum building height control (43m) to be exceeded by no more than 2m for lift overrun and associated lift structures only. This is to ensure that any future development on the site is 12 storeys (with a predominant height of 43m), consistent with the 2036 Plan, and any lift overrun providing access to the communal open space at the rooftop is set behind elements of the roof within the maximum building height control and does not result in any material impacts.</p> <p>This site-specific provision is not uncommon and already exists within the North Sydney LEP. Additionally, the planning proposal will remain consistent with the aim and vision of the 2036 Plan in that it proposes a 12 storey building and is consistent with the recommended provisions as outlined in <b>Section 7.3</b> of this report.</p>
<b>1. Planning Systems – Place Based</b>				
1.5 Parramatta Road Corridor Urban Transformation Strategy			✓	Not applicable.
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure			✓	Not applicable.

Direction	Consistency			Comment
Implementation plan				
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan			✓	Not applicable.
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan			✓	Not applicable.
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor			✓	Not applicable.
1.10 Implementation of the Western Sydney Aerotropolis Plan			✓	Not applicable.
1.11 Implementation of Bayside West Precincts 2036 Plan			✓	Not applicable.
1.12 Implementation of Planning Principles for the Cooks Cove Precinct			✓	Not applicable.
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	✓			The planning proposal is consistent with the St Leonards and Crows Nest 2036 Plan as outlined in <b>Section 7.3</b> of this report.
1.14 Implementation of Greater Macarthur 2040			✓	Not applicable.
1.15 Implementation of the Pyrmont Peninsula Place Strategy			✓	Not applicable.
1.16 North West Rail Link Corridor Strategy			✓	Not applicable.
1.17 Implementation of the Bays West Place Strategy			✓	Not applicable.
1.18 Implementation of the Macquarie Park Innovation Precinct			✓	Not applicable.
1.19 Implementation of the Westmead Place Strategy			✓	Not applicable.
1.20 Implementation of the Camellia-Rosehill Place Strategy			✓	Not applicable.
1.21 Implementation of South West Growth Area Structure Plan			✓	Not applicable.
1.22 Implementation of the Cherrybrook Station Place Strategy			✓	Not applicable.
<b>3. Biodiversity and Conservation</b>				
3.1 Conservation Zones			✓	Not applicable.
3.2 Heritage Conservation			✓	Not applicable.
3.3 Sydney Drinking Water Catchments			✓	Not applicable.
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs			✓	Not applicable.

Direction	Consistency			Comment
3.5 Recreation Vehicle Areas			✓	Not applicable.
3.6 Strategic Conservation Planning			✓	Not applicable.
3.7 Public Bushland			✓	Not applicable.
3.8 Willandra Lakes Region			✓	Not applicable.
3.9 Sydney Harbour Foreshores and Waterways Area			✓	Not applicable.
3.10 Water Catchment Protection			✓	Not applicable.
<b>4. Resilience and Hazards</b>				
4.1 Flooding			✓	Not applicable.
4.2 Coastal Management			✓	Not applicable.
4.3 Planning for Bushfire Protection			✓	Not applicable.
4.4 Remediation of Contaminated Land	✓			<p>Chapter 4 of the SEPP relating to Remediation of Land is applicable to the proposed development.</p> <p>A Preliminary Site Investigation (PSI) has been undertaken by EI Australia (<b>Appendix G</b>) to determine the potential contamination on site.</p> <p>Based on the findings of the assessment, the report concludes that the site can be made suitable for its proposed use, subject to the implementation of recommendations outlined by EI Australia. With this, remediation is not required at this stage, however, contamination will be further addressed at the DA stage.</p>
4.5 Acid Sulfate Soils	✓			As detailed within the Preliminary Site Investigation at <b>Appendix G</b> , acid sulfate soils are not known or expected to occur on the site and there it is not mapped under the North Sydney LEP 2013. On this basis, no further investigation or management is necessary for the site in relation to acid sulfate soils.
4.6 Mine Subsidence and Unstable Land			✓	Not applicable.
<b>5. Transport and Infrastructure</b>				
5.1 Integrating Land Use and Transport	✓			<p>The planning proposal will increase the opportunities to provide new housing to support the use of public transport and improve access to jobs and services by walking, cycling and public transport. The planning proposal is consistent with the objectives of the Ministerial Directions as it will:</p> <ul style="list-style-type: none"> <li>• improve access between housing, jobs and services by walking, cycling and public transport;</li> <li>• increase housing supply in an area well located to available alternative means of transport, and thereby reducing dependence on cars;</li> <li>• reduce travel demand including the number of trips generated by development and the distances travelled, especially by car; and</li> <li>• support the efficient and viable operation of the existing public transport services and road network.</li> </ul>
5.2 Reserving Land for Public Purposes	✓			The proposal includes the right of way of a through site link and the embellishment of a linear park along Oxley Street to be offered to Council as a public benefit and will therefore increase the amount of open space within the St Leonards Centre.
5.3 Development Near Regulated Airports and Defence Airfields			✓	The planning proposal facilitates a development with a maximum height of 43m, plus an additional 2m to facilitate the lift overrun. At its highest point, the building will have a maximum height of RL130.32m, which will not penetrate the Obstacle Limitation Surface (OLS) of 156m



Direction	Consistency			Comment
				AHD. Therefore, there is significant allowance for the height of a crane during construction, without breaching the OLS or resulting in an impact on the Sydney Airport. The future construction process will ensure all structures, including temporary structures will be kept well below this OLS limit of 156m.
5.4 Shooting Ranges			✓	Not Applicable.
<b>6. Housing</b>				
6.1 Residential Zones	✓			The planning proposal seeks to maintain the MUI Mixed Use zone on the site. It is noted that the current development on the site does not include any residential uses, however, the concept scheme seeks to delivery new dwellings on the site. Therefore, the proposal will make more efficient use of the surrounding transport infrastructure and will reduce the consumption of land for housing and associated urban development on the urban fringe.
6.1 Caravan Parks and Manufactured Home Estates			✓	Not applicable.
<b>7. Industry and Employment</b>				
7.1 Business and Industrial Zones	✓			This planning proposal will retain the existing MUI Mixed Use zone as part of the future development, and therefore is consistent with this direction at it will continue to permit all types of commercial premises with consent and proposes a minimum non-residential floor space ratio of 1:1.
7.2 Reduction in non-hosted short-term rental accommodation period			✓	Not applicable.
7.3 Commercial and Retail Development along the Pacific Highway, North Coast			✓	Not applicable.
<b>8. Resources and Energy</b>				
8.1 Mining, Petroleum Protection and Extractive Industries			✓	Not applicable.
<b>9. Primary Production</b>				
9.1 Rural Zones			✓	Not applicable.
9.2 Rural Lands			✓	Not applicable.
9.3 Oyster Agriculture			✓	Not applicable.
9.4 Farmland of State and Regional Significance on the NSW Far North Coast			✓	Not applicable.

## 9.2 State Environmental Planning Policies

An assessment of the planning proposal against relevant State Environmental Planning Policies (SEPPs) is set out in **Table 10** below.

**Table 10** Consistency with State Environmental Planning Policies

SEPP	Consistency			Comment
	Yes	No	N/A	
State Environmental Planning Policy (Housing) 2021			✓	Not applicable. The proposed development does not incorporate affordable housing, seniors housing, boarding housing or build to rent.
State Environmental Planning Policy (Biodiversity and Conservation) 2021			✓	Not applicable.
State Environmental Planning Policy (Industry and Employment) 2021			✓	Not applicable. Chapter 3 of the SEPP relating to Advertising and Signage will need to be addressed as part of the detailed development application.
State Environmental Planning Policy (Planning Systems) 2021			✓	The future development of the site is likely to be deemed as 'regionally significant development' (meeting the relevant thresholds under Schedule 4A of the EP&A Act), with the Sydney North Planning Panel acting as the determining authority.
State Environmental Planning Policy (Primary Production) 2021			✓	Not applicable.
State Environmental Planning Policy (Resilience and Hazards) 2021	✓			<p>Chapter 4 of the SEPP relating to Remediation of Land is applicable to the proposed development.</p> <p>A Preliminary Site Investigation (PSI) has been undertaken by EI Australia (<b>Appendix G</b>) to determine the potential contamination on site.</p> <p>Based on the findings of the assessment, the report concludes that the site can be made suitable for its proposed use, subject to the implementation of recommendations outlined by EI Australia. With this, remediation is not required at this stage, however, contamination will be further addressed at the DA stage.</p>
State Environmental Planning Policy (Transport and Infrastructure) 2021			✓	Not applicable.
State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021			✓	Not applicable. The site is not located within a state significant precinct.
SEPP (BASIX) 2004	✓			Detailed compliance with SEPP (BASIX) will be demonstrated in a future development application for the scheme facilitated under this planning proposal.

### 9.3 North Sydney Local Environmental Plan 2013

The North Sydney LEP is the key environmental planning instrument that applies to the site. **Table 11** to **Table 13** demonstrates that the planning proposal is consistent with the overall aims and relevant objectives of the North Sydney LEP.

**Table 11** Consistency with aims of the North Sydney LEP

Aim	Proposal
<i>To promote development that is appropriate to its context and enhances the amenity of the North Sydney community and environment.</i>	The planning proposal will facilitate the renewal of a strategic site in a prominent location and is consistent with the future desired character of the St Leonards as set out in the 2036 plan.
<i>To ensure that new development is compatible with the desired future character of an area in terms of bulk, scale and appearances.</i>	The concept design demonstrates that the planning proposal will result in a development that is compatible with the surrounding development and the desired future character.
<i>To maintain a diversity of activities while protecting residential accommodation and local amenity.</i>	The planning proposal will facilitate a mix of residential accommodation and retail uses in close proximity of the St Leonards Centre and Transport Interchange without generating any unacceptable amenity impacts.
<i>To ensure the new development on the foreshore land does not adversely affect the visual qualities of that foreshore land when viewed from Sydney Harbour and its tributaries.</i>	Not Applicable.
<i>To ensure the new development does not adversely affect residential amenity in terms of visual and acoustic privacy, solar access and view sharing.</i>	The planning proposal has taken into consideration the residential amenity of the proposed development as well as those surrounding receivers. Residential amenity will continue to inform the design for the development on the site in the future. Refer to <b>Section 8.1</b> for further discussion.
<i>To maintain and provide for an increase in dwelling stock, where appropriate.</i>	The planning proposal directly aligns with this aim by providing an increase in dwelling stock close to social and physical infrastructure, services and community facilities.
<i>To maintain a diversity of employment, services, cultural and recreational activities.</i>	The planning proposal will provide additional commercial retail and commercial floorspace thus contributing to the diversity of these types of activities within the centre.
<i>To ensure that non-residential development does not adversely affect the amenity of residential properties and public places, in terms of visual and acoustic privacy, solar access and view sharing.</i>	The non-residential floor space will not have an adverse impact on the surrounding area. Operational details will be assessed at the DA stage.
<i>To maintain waterfront activities and ensure that those activities do not adversely affect local amenity and environmental quality.</i>	Not applicable.
<i>To maintain and protect natural landscapes, topographic features and existing ground levels.</i>	The planning proposal maintains the existing ground levels of the site. There are no natural landscape features existing on the site.
<i>To minimise stormwater run-off and its adverse effects and improve the quality of local waterways.</i>	Stormwater details will be further analysed throughout future applications.
<i>To identify and protect the natural, archaeological and built heritage of North Sydney and ensure that development does not adversely affect its significance.</i>	There will be no impact to the natural, archaeological and built heritage of North Sydney as a result of this planning proposal. The existing buildings on the site are of no heritage significance.
<i>To provide for the growth of a permanent resident population and encourage the provision of a full range of housing, including affordable housing.</i>	The provision of various dwelling types in this Planning Proposal supports this aim. This will support the growth of a permanent residential population in the St Leonards Area.

**Table 12 Consistency with the North Sydney LEP 2013 height objectives**

Objective	Proposal
<i>To promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient.</i>	The concept design reflects the topography by stepping down in response to the natural gradient of the site.
<i>To promote the retention and, if appropriate, sharing of existing views.</i>	The planning proposal will not impact any notable existing views.
<i>To maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development.</i>	The planning proposal will maintain reasonable levels of solar access to the surrounding dwellings and public domain. Refer to solar analysis in the Urban Design Report ( <b>Appendix B</b> ) and further discussion at <b>Section 8.1.2</b> .
<i>To maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings.</i>	The concept design has been prepared to mitigate opportunities for overlooking between the site and the neighbouring dwellings. Refer to <b>Section 8.1.1</b> .
<i>To ensure compatibility between development, particularly zone boundaries.</i>	The concept design demonstrates how the planning proposal will facilitate a future built form that is compatible with the surrounding context.
<i>To encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.</i>	The scale and density of the planning proposal design has taken into consideration the character of the area and surrounding development. Due to the site's proximity to the St Leonards Centre and Transport Interchange, the proposed level of density is appropriate.

**Table 13 Consistency with the North Sydney LEP 2013 floor space ratio objectives**

Objective	Proposal
<i>To ensure the intensity of development is compatible with the desired future character and zone objectives for the land.</i>	The concept design demonstrates how the planning proposal will facilitate a future built form that is compatible with the desired future character of the surrounding area. The planning proposal will retain the existing MUI Mixed Use zone and is compliant with the zone objectives.
<i>To limit the bulk and scale of the development.</i>	The proposed maximum FSR is 4:1 on the site. It is noted that there is no current control relating to FSR on the site and the proposed bulk and scale of the site is consistent with the surrounding development.

### Summary

The North Sydney LEP 2013 is the principal planning instrument for the site. The assessment above demonstrates that the planning proposal and the concept design are consistent with the relevant aims and objectives of the North Sydney LEP 2013. In summary, the planning proposal will:

- Provide appropriate housing types to meet a range of lifestyles in close proximity to transport and services;
- Create new job opportunities within an accessible location;
- Provide a built form that is sensitive to the existing character of the surrounding residential areas and will not generate any unacceptable impacts on the amenity of the neighbouring dwellings; and
- Create new open space and activated public domain thereby contributing to the sense of place.

## 10.0 Conclusion

This planning proposal seeks an amendment to North Sydney LEP 2013 maximum building height, floor space ratio, and non-residential floor space development standards for the subject site.

This planning proposal is justified for the following reasons:

- The proposal is consistent with the objects of the EP&A Act, in that it promotes the orderly and economic use and development of land.
- Being located within the expanding St Leonards Centre and near the St Leonards Transport Interchange, the proposal is situated on a strategic site that is well serviced with excellent transport connections, various employment opportunities and an abundance of social infrastructure and amenities, therefore making it an ideal site to redevelop into a mixed-use building with residential, commercial, and retail land-uses.
- The proposal is consistent with the aims and objectives of the St Leonards and Crows Nest 2036 Plan and proposes the following amendments to the North Sydney LEP 2013 to give effect to that document:
  - Increase the building height control to 43m (12 storeys).
  - Increase the minimum non-residential FSR control to 1:1 on both sites; and
  - Establish an overall maximum Floor Space Ratio (FSR) control of 4:1.
  - Implementatin of an additional local provision allowing the requested maximum building height control of 43m to be exceeded by no more than 2m for liftoverrun and associated lift structures only for the purpose of providing inclusive access to the communal open space at the rooftop
- The proposal will deliver a through site link in the western part of the site at 71-89 Chandos Street, connecting Chandos Street to Atchison Lane, which will provide public benefit to the local community by increasing pedestrian and bicycle connectivity in the area.
- The Reference Design has demonstrated that a development of the density proposed in this application can be accommodated on the site without unacceptable environmental impacts on existing residents or the local road network.
- The planning proposal is consistent with the applicable SEPP's and Ministerial Directions.

In light of the above, we would have no hesitation in recommending that the planning proposal proceed through the Gateway to public exhibition.

# Voluntary Planning Agreement

## **DRAFT**

North Sydney Council  
ABN 32 353 260 317

TWT Development Pty Ltd  
ACN 121 505 824

75 Chandos Street Pty Ltd  
ACN 163 005 678

**Newcastle**

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# Agreement

## Date

## Parties

### First party

**Name** North Sydney Council (**Council**)  
**ABN** 32 353 260 317  
**Contact** General Manager  
**Telephone** First party phone no.

### Second party

**Name** TWT Development Pty Ltd (**TWT**)  
**ACN** 121 505 824  
**Contact** Gavin Zhang  
**Telephone** Second party phone no.

### Third party

**Name** 75 Chandos Street Pty Ltd (**75CS**)  
**ACN** 163 005 678  
**Contact** Gavin Zhang  
**Telephone** Second party phone no.

## Background

- A. The Developer owns the Land.
- B. The Developer proposes to carry out the Development on the Land.
- C. To facilitate the Development, the Developer has lodged a Planning Proposal seeking to amend NSLEP 2013 as it relates to land at 71-89 Chandos Street, St Leonards as follows:
  - a. Increase the maximum building height for the Land to 43m;
  - b. Include a site-specific provision that allows the maximum building height to be exceeded by no more than 2m for the purposes of a lift overrun and providing inclusive access to communal open space at the rooftop level, where the lift overrun is not to be visible from the public domain at street level;
  - c. Impose a maximum FSR of 4:1; and
  - d. Increase the minimum non-residential FSR from 0.6:1 to 1:1.
- D. The Developer has made an offer to enter into this Agreement to provide public benefits at the Developer's cost in connection with the Planning Proposal and Development.

- E. Council has accepted the offer to enter into this Agreement. The Parties wish to formalise that offer by entering into this Agreement in accordance with section 7.4 of the Act.

## Agreed terms

### 1 Definitions and Interpretation

#### 1.1 Definitions

Terms used in this Agreement which are defined in **Schedule 1 (Interpretation)** shall have the same meaning as ascribed to them by that Schedule and such meanings apply unless the contrary intention appears.

#### 1.2 General

In this Agreement the following definitions apply:

- (a) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (b) the singular includes the plural and vice versa;
- (c) the word "person" includes a firm, a body corporate, an unincorporated association or an authority;
- (d) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (e) a reference to anything (including, without limitation, any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (f) "include" or "including" when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
- (g) if a Party is required to do something, that includes a requirement to cause that thing to be done, and if a Party is prohibited from doing anything, it is also prohibited from doing or omitting to do anything which allows or causes that thing to be done;
- (h) a reference to a statute, ordinance, code or law includes a State ordinance code or law of the Commonwealth of Australia;
- (i) a reference to a body, whether statutory or not which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (j) no rule of construction applies to the disadvantage of a Party because that Party was responsible for the preparation of this Agreement;
- (k) any capitalised term used, but not defined in this Agreement, will have the meaning ascribed to it under, and by virtue of, the Act;
- (l) headings are inserted for convenience only and do not affect the interpretation of this Agreement;

- (m) a reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars;
- (n) a reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced;
- (o) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement;
- (p) a reference to this Agreement includes the agreement recorded in this Agreement; and
- (q) any schedules and attachments form part of this Agreement.

## 2 Planning Agreement under the Act

- (a) The Parties agree that this Agreement is a planning agreement within the meaning of section 7.4 of the Act.
- (b) Schedule 5 of this Agreement summarises the requirements for planning agreements under section 7.4 of the Act and the way this Agreement addresses those requirements.

## 3 Application of this Agreement

This Agreement applies to:

- (a) the Instrument Change;
- (b) the Development; and
- (c) the Land.

## 4 Operation of this Agreement

This Agreement commences on and from the date it is executed by all Parties.

## 5 Contributions to be made under this Agreement

### 5.1 Works

- (a) Prior to the dedication of the Dedication Land in accordance with **clause 5.2**, the Developer must carry out the Works, in accordance with the Construction Terms in **Schedule 2**.
- (b) The Works or any part of the Works required under this Agreement will be taken to have been completed for the purposes of this Agreement when a Certificate of Practical Completion has been issued for those Works.
- (c) The Works or any part of the Works required under this Agreement will be taken to have been delivered to Council when the land or interest in land on which those Works are located is dedicated to Council.
- (d) The Works must be delivered to the Council prior to the issue of an Occupation Certificate for the Development or any part of the Development.

- (e) The Parties agree and acknowledge that the Works serve the public purpose of providing public open space and pedestrian amenity in the vicinity of the Development.

### 5.2 *Dedication of Land*

- (a) The Developer must dedicate to the Council, at no cost to the Council, the Dedication Land freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, easements, rights, charges, rates and contracts in, over or in connection with the Dedication Land, including but not limited to, municipal rates and charges, water rates and land tax.
- (b) The obligation to dedicate the Dedication Land will be taken to have been satisfied when:
  - (i) a deposited plan is registered in the register of plans held with the Registrar-General that creates a public reserve under the *Local Government Act 1993* (NSW) and Council must, provided a subdivision certificate has been issued, without delay do all things reasonably necessary including signing documents and providing all such consents to allow for the plan to be registered; or
  - (ii) the Dedication Land has been transferred to Council in accordance with the *Real Property Act 1900* and the *Electronic Conveyancing National Law*.
- (c) The Dedication Land must be dedicated or transferred to Council prior to the issue of an Occupation Certificate for the Development or any part of the Development.
- (d) The Parties agree and acknowledge that the Dedication Land will serve the public purpose of providing public open space and pedestrian amenity in the vicinity of the Development.

### 5.3 *Through-site Link*

- (a) The Developer agrees and acknowledges that:
  - (i) any Development Consent or Modification relating to a building on the Land may require development of the Through-site Link so it is consistent with any standards and specifications provided by the Council, and suitable for public use as a pedestrian thoroughfare; and
  - (ii) prior to the issue of any Occupation Certificate for the Development, it will design and construct the Through-site Link in accordance with any technical requirements in the DCP and Council's Public Domain Style Manual and Design Code, unless otherwise specified by the Council, and any Development Consent.
- (b) Prior to the issue of the first Occupation Certificate for the Development, the Developer must register the Easement in Gross.
- (c) The Easement in Gross will require the owner of the Through-site Link to:
  - (i) maintain and repair the Through-site Link to the satisfaction of the Council;
  - (ii) maintain sufficient public liability insurance;
  - (iii) ensure that no buildings or structures are erected on the Through-site Link other than structures:



- (A) consented to by the Council; or
  - (B) for the purposes of enhancing public domain areas as approved by the Consent Authority; or
  - (C) that are required for services, drainage or as required by the Development Consent, Authority or building code requirement; and
- (iv) ensure that any rules made by an owner's corporation relating to the Through-site Link are approved by the Council, provided that:
- (A) if the Council does not respond to any request for approval within 25 Business Days of receiving the request, the Council will be deemed to have approved the rules; and
  - (B) if Council requests an amendment that is unlawful, then the relevant amendment is not required to be incorporated into the rules.
- (d) The Parties agree and acknowledge that the Through-site Link will serve the public purpose of improving pedestrian safety and amenity in the vicinity of the Development.

## 6 Application of s 7.11, s 7.12 and s 7.24 of the Act to the Development

- (a) Sections 7.11, 7.12 and 7.24 of the Act are not excluded as they apply to the Land and the Development.
- (b) The benefits under this Agreement are not to be taken into consideration in determining a development contribution under section 7.11(6) of the Act.

## 7 Registration of this Agreement

### 7.1 Registration

- (a) TWT and 75CS each represent and warrant to the Council that, on the date of this Agreement, each is the registered proprietor of those parts of the Land as set out in Schedule 4.
- (b) The Developer agrees to procure the registration of this Agreement under the *Real Property Act 1900* (NSW) in the relevant folios of the Register of the Land in accordance with section 7.6 of the Act.
- (c) The Developer will, at its own expense and promptly after the execution of this Agreement, take all practical steps, and otherwise do anything that the Council reasonably requires to procure:
  - (i) the consent of each person who has an estate or interest in the Land registered under the *Real Property Act 1900* (NSW);
  - (ii) an acceptance of the terms of this Agreement and an acknowledgement in writing from any existing mortgagee in relation to the Land that the mortgagee will adhere to the provisions of this Agreement if it takes possession of the Land as mortgagee in possession,
  - (iii) the execution of any documents; and

- (iv) the production of the relevant duplicate certificates of title, or electronic equivalents,
- to enable the registration of this Agreement in accordance with **clause 7.1(b)**.
- (d) The Developer, at its own expense, will take all practical steps, and otherwise do anything that the Council reasonably requires:
    - (i) to procure the lodgement of this Agreement with the Registrar-General as soon as reasonably practicable after this Agreement comes into operation, but in any event, no later than 10 Business Days after that date; and
    - (ii) to procure the registration of this Agreement by the Registrar-General in the relevant folios of the Register for the Land as soon as reasonably practicable after this Agreement is lodged for registration.

### 7.2 *Removal from register*

The Council will, promptly after receipt of a request from the Developer, provide a release and discharge of this Agreement so that it may be removed from the folios of the Register for the Land (or any part of it) provided the Council is satisfied the Developer has duly fulfilled its obligations under this Agreement, and is not otherwise in default of any of the obligations under this Agreement.

### 7.3 *Caveat*

- (a) The Developer acknowledges and agrees that:
  - (i) when this Agreement is executed, the Council will have acquired and the Developer will have granted, an equitable estate and interest in the Land for the purposes of section 74F(1) of the *Real Property Act 1900* (NSW) and, consequently, the Council will have a sufficient interest in the Land in respect of which to lodge a caveat over the Land notifying of that interest; and
  - (ii) it will not object to the Council lodging a caveat in the relevant folios of the Register for the Land, nor will it seek to remove any caveat lodged by the Council, provided the caveat does not prevent registration of any Dealing or plan other than a transfer.
- (b) Council must, at the Developer's cost, lodge a withdrawal of any caveat in respect of the Land on the earlier of:
  - (i) the date that the Developer registers this Agreement under **clause 7.1**; or
  - (ii) the date upon which the Developer would otherwise be entitled to a release under **clause 7.2**.
- (c) If the Land is transferred in accordance with **clause 13**, Council must, within 10 Business Days of the Developer giving notice to Council, provide to the Developer either a consent to register a transfer to the third party or, if the caveat can be withdrawn in accordance with this **clause 7.3**, a withdrawal of the caveat to permit registration of the transfer.

## 8 *Review of this Agreement*

- (a) This Agreement may be reviewed or modified. Any review or modification of this Agreement will be conducted in the circumstances and in the manner determined by the Parties.

- (b) No modification or review of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.
- (c) A Party is not in breach of this Agreement if it does not agree to an amendment to this Agreement requested by a party in, or as a consequence of, a review.

## 9 Dispute Resolution

### 9.1 Reference to dispute

If a dispute arises between the Parties in relation to this Agreement, then the Parties must seek to resolve that dispute in accordance with this **clause 9**, prior to commencing any Court or arbitration proceedings.

### 9.2 Notice of Dispute

The Party wishing to commence the dispute resolution process must give written notice (**Notice of Dispute**) to the other Parties of:

- (a) the intent to invoke this **clause 9**;
- (b) the nature or subject matter of the dispute, including a summary of any efforts made to resolve the dispute other than by way of this **clause 9**; and
- (c) the position which the Party issuing the Notice of Dispute believes is correct.

### 9.3 Representatives of Parties to meet

- (a) The representatives of the Parties must promptly (and in any event within 15 Business Days of the Notice of Dispute provided in accordance with **clause 9.2**) meet in good faith to attempt to resolve the notified dispute.
- (b) The Parties may, without limitation:
  - (i) resolve the dispute during the course of that meeting;
  - (ii) agree that further material, expert opinion or consideration is needed to effectively resolve the dispute (in which event the Parties will, in good faith, agree to a timetable for resolution); or
  - (iii) agree that the Parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

### 9.4 No Party may constrain

If:

- (a) at least one meeting has been held in accordance with **clause 9.3**; and
- (b) the Parties have been unable to reach an outcome identified in **clause 9.3(b)**; and
- (c) one of the Parties, acting in good faith, forms the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under **clause 9.3**,

then that Party may, by 15 Business Days written notice to the other Parties, terminate the dispute resolution process in respect of that dispute and may then commence Court

or arbitration proceedings in relation to the dispute. The termination of the process set out in this clause does not of itself amount to a breach of this Agreement.

#### 9.5 *Urgent relief*

The provisions of this **clause 9** do not prejudice the right of a Party to institute Court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this Agreement.

## 10 Enforcement and security

### 10.1 *Security*

- (a) Prior to the issue of a Construction Certificate for any Works that are above-ground approved under a Development Consent, the Developer is to provide to Council a Security in an amount that is equivalent to the estimated cost of those Works determined by a qualified quantity surveyor and approved by Council.
- (b) Council may call on the Security provided under this clause if:
  - (i) the Developer is in material or substantial breach of this Agreement by failing to carry out the Works as required by this Agreement, and has failed to rectify the breach after having been given reasonable notice (which must not be less than 20 Business Days) in writing to do so; or
  - (ii) Council acquires the Dedication Land or the Easement in Gross in accordance with **clause 10.3**; or
  - (iii) the Developer becomes Insolvent.
- (c) Subject to this clause, the Council may apply the proceeds of a Security in satisfaction of:
  - (i) any obligation of the Developer to carry out the Works;
  - (ii) any obligation of the Developer to pay for the costs of Council acquiring the Dedication Land or the Easement in Gross; 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 Agreement.
- (d) Nothing in this **clause 10.1** prevents or restricts the Council from taking any enforcement action in relation to:
  - (i) any obligation of the Developer under this Agreement; 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 Agreement,

that is not, or cannot, be satisfied by calling on the Security.

### 10.2 *Replacement Security*

- (a) At any time following the provision of the Security, the Developer may provide the Council with one or more replacement Securities totalling the amount of all the Securities required to be provided under this clause for the time being.
- (b) Within 20 Business Days of each anniversary of any Security provided under this Agreement, the Developer must provide Council with one or more replacement

Securities (**Replacement Security**) in an amount calculated in accordance with the following:

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

Where:

A is the amount of the Replacement Security;

B is the amount of the Security to be replaced;

C is the CPI for the quarter ending immediately before the date of the Security to be replaced; and

D is the CPI for the quarter ending immediately before the date of the Replacement Security;

provided A is greater than B.

- (c) On receipt of any Replacement Security, Council must immediately release and return to the Developer, as directed, the Securities it holds that have been replaced.
- (d) Council must promptly return the Security at the request of the Developer if any of the following occurs:
  - (i) the Developer fulfills the relevant obligations under this Agreement;
  - (ii) the Minister refuses to make the Instrument Change and the Developer withdraws the Planning Proposal seeking the Instrument Change; or
  - (iii) a Court of competent jurisdiction invalidates the Instrument Change and all avenues of appeal from that decision have been exhausted.

### 10.3 Acquisition of Dedication Land and Easement in Gross

- (a) This clause constitutes an agreement for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW).
- (b) If the Developer does not transfer or dedicate the Dedication Land to Council as required by this Agreement, or create the Easement in Gross as required by **clause 5.3**, the Council may compulsorily acquire the Dedication Land or Easement in Gross as required, in which case the Developer consents to the Council compulsorily acquiring those interests for compensation in the amount of \$1.00, without having to follow the pre-acquisition procedures in the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW), and Council may call upon any Security provided under **clause 10.1** to cover any costs, including legal costs, incurred by the Council on acquisition of the land.
- (c) Except as otherwise agreed between the Developer and Council, the Developer must ensure the Dedication Land is freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, rights, charges, rates, strata levies and contracts, except as may be permitted by this Agreement on the date that the Council will acquire the land in accordance with this **clause 10.3**.
- (d) The Developer indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the relevant land under this **clause 10.3**.

- (e) The Developer must pay the Council, promptly on demand, an amount equivalent to all costs, including legal costs, incurred by the Council acquiring the whole or any part of the relevant interest in land under this clause and, if the Developer fails to do so, the Council may call on the Security provided under **clause 10.1** for the purposes of reimbursing those costs.

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

- (a) In accordance with section 6.8 of the Act and section 21 of the Certification Regulation, the obligation to provide a Security under **clause 10.1** 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(2) of the Act and section 48 of the Certification Regulation, the obligations to:
  - (i) complete the Works;
  - (ii) dedicate the Dedication Land; and
  - (iii) provide Security for any item of the Works for defects liability under the Construction Terms,
 must be satisfied prior to the issue of an Occupation Certificate for the Development or any part of the Development.

#### 10.5 *General Enforcement*

- (a) Without limiting any other remedies available to the Parties, this Agreement may be enforced by any party in any Court of competent jurisdiction.
- (b) Nothing in this Agreement prevents:
  - (i) a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates; and
  - (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 Agreement or any matter to which this Agreement relates.

#### 10.6 *Acknowledgement regarding security*

The Parties acknowledge and agree that the Security provided under this **clause 10**, together with the requirements under **clause 7** to register this Agreement, and the restrictions on assignment of this Agreement under **clause 13** will provide sufficient security for the performance of the Developer's obligations under this Agreement.

## 11 Notices

- (a) Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement 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 below; or
  - (ii) emailed to that Party at its email address set out below.

to North Sydney Council: 200 Miller Street, Sydney NSW 2060  
Email: council@northsydney.nsw.gov.au  
Attention: General Manager

to TWT Development Pty Ltd: Level 5, 55 Chandos Street, St Leonards NSW 2065  
Email: gavin.zhang@twtglob.com.au  
Attention: Gavin Zhang

to 75 Chandos Street Pty Ltd: Suite 501, 55 Chandos Street, St Leonards NSW 2065  
Email: gavin.zhang@twtglob.com.au  
Attention: Gavin Zhang

- (b) If a Party gives the other Party three Business Days' notice of a change of its address or email address, any notice, consent, information, application or request is only given or made by that Party if it is delivered, posted or emailed to the latest address or email address.
- (c) Any notice, consent, information, application or request is to be treated as given or made at the following time:
  - (i) if it is delivered, when it is left at the relevant address;
  - (ii) if it is sent by email, if an "undelivered receipt" is not received; or
  - (iii) if it is sent by post, five Business Days after it is posted.
- (d) If any notice, consent, information, application, or request is given or made on a day that is not a Business Day, or if it is given or made after 5:00pm on a Business 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.

## 12 Approvals and consents

The Parties acknowledge that:

- (a) except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party;
- (b) a Party is not obligated to give its reasons for giving or withholding consent or for giving consent subject to conditions; and
- (c) this Agreement does not impose any obligation on a Consent Authority to:
  - (i) grant development consent; or
  - (ii) exercise any function under the Act in relation to a change in an environmental planning instrument.

## 13 Assignment and Dealings

The Developer may not sell, transfer, assign, novate, or similarly deal with its right, title, or interest in the Land or rights or obligations under the terms of this Agreement, or allow any interest in them to arise or be varied, in each case, without Council's consent



and unless, prior to any such sale, transfer, assignment, charge, encumbrance or novation, the Developer:

- (a) at no cost to Council, first procures the execution by that person of all necessary documents in favour of Council by which that person agrees to be bound by the Agreement as if they were a party to the original Agreement; and
- (b) satisfies the Council that the Developer is not in material breach of this Agreement.

## 14 Costs

The Developer agrees to pay or reimburse Council all reasonable costs incurred in connection with:

- (a) the negotiation, preparation, execution, stamping, registering, release and discharge of this Agreement, including the reasonable costs of any legal advice Council has received in connection with this Agreement; and
- (b) any administrative fees as required by Council acting reasonably, in connection with the administration of this Agreement,

within 10 Business Days after receipt of a notice from the Council as to the amount of those costs.

## 15 Entire Agreement

The contents of this Agreement constitute the entire agreement between the Parties and supersede any prior negotiations, representations, understandings or arrangements made between the Parties regarding the subject matter of this Agreement, whether orally or in writing.

## 16 Further acts

- (a) Each Party must promptly execute all documents and do all other things that another Party from time to time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.
- (b) If the time for doing any act or thing required to be done or a notice period specified in this Agreement 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.
- (c) 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.

## 17 Governing law and jurisdiction

- (a) The laws applicable in New South Wales govern this Agreement.
- (b) The Parties submit to the non-exclusive jurisdiction of the Courts of New South Wales and any Courts competent to hear appeals from those Courts. The Parties will not object to the exercise of jurisdiction by those Courts on any basis.
- (c) Without preventing any other method of service, any document in an action may be served on a Party by being delivered or left at that Party's address set out in **clause 11(a)**.

## 18 Joint and individual liability and benefits

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by two or more persons binds those persons jointly and each of them individually, and any benefit in favour of two or more persons is for the benefit of them jointly and each of them individually.

## 19 No fetter

### 19.1 Discretion

This Agreement is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of the Council, including, but not limited to, any statutory power or discretion of the Council relating to the Development Application or any other application for Development Consent (all referred to in this Agreement as a '**Discretion**').

### 19.2 No fetter

No provision of this Agreement is intended to constitute any fetter on the exercise of any Discretion. If, contrary to the operation of this clause, any provision of this Agreement is held by a Court of competent jurisdiction to constitute a fetter on any Discretion, the Parties agree:

- (a) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause is substantially satisfied;
- (b) in the event that (a) cannot be achieved without giving rise to a fetter on the exercise of a Discretion, the relevant provision is to be severed and the remainder of this Agreement has full force and effect; and
- (c) to endeavour to satisfy the common objectives of the Parties in relation to the provision of this Agreement, which is to be held to be a fetter on the extent that is possible having regard to the relevant Court judgment.

## 20 Representations and warranties

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

## 21 Severability

- (a) The Parties acknowledge that under and by virtue of section 7.4(4) of the Act, any provision of this Agreement is not invalid by reason only that there is no connection between the Planning Proposal or the Development and the object of the expenditure of any money required to be paid by that provision.
- (b) The Parties agree that to the extent permitted by law, this Agreement prevails to the extent of its inconsistency with any law.
- (c) If a clause or part of a clause of this Agreement 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.
- (d) 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 Agreement but the rest of this Agreement is not affected,

## 22 Modification

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement and is in accordance with the provisions of the Act.

## 23 Waiver

- (a) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement 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.

## 24 GST

### 24.1 Construction

In this clause 24, unless there is a contrary indication, words and expressions which are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law.

### 24.2 GST not payable

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Agreement are exclusive of GST.

### 24.3 Additional amount of GST payable

- (a) The Parties agree, in accordance with Class Ruling 2013/13, that the contributions required to be made under this Agreement are exempt from GST.
- (b) If GST is imposed on any supply made under or in accordance with this Agreement, 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.

## 25 Discharge of Developer's obligations

The Developer's obligations under this Agreement shall be discharged on the occurrence of any of the following:

- (a) the Developer's obligations have been fully carried out in accordance with this Agreement; or
- (b) Council and the Developer otherwise agree to the modification or discharge of this Agreement.

## 26 Explanatory Note

The Explanatory Note annexed at **Annexure D** prepared in connection with this Agreement pursuant to the Regulation is not to be used to interpret this Agreement.

## 27 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

## 28 Relationship between the Parties

- (a) Nothing in this Agreement:
  - (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.

## Schedule 1 Interpretation

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

**Approval** means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this Agreement;

**Authority** means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person, agency or entity and includes a certifier accredited under the *Building Professionals Act 2005* (NSW);

**Bank Guarantee** means an irrevocable and unconditional undertaking that is not limited in time and does not expire by one of the following trading banks: (a) Australia and New Zealand Banking Group Limited, (b) Commonwealth Bank of Australia, (c) Macquarie Bank, (d) National Australia Bank, (e) St George Bank Limited, (f) Westpac Banking Corporation, or (g) Other financial institution approved by the Council, to pay an amount or amounts of money to the Council on demand and containing terms and conditions reasonably acceptable to the Council;

**Bond** means a documentary performance bond in favour of Council which is signed and issued by an AA- credit rated insurer and that is in a form and substance satisfactory to Council, acting reasonably;

**Business Day** means any day except for Saturday or Sunday or a day which is a public holiday in Sydney;

**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 under clause 8.1(b)(i) of the Construction Terms;

**Certification Regulation** means the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*;

**Claim** means any claim, loss, liability, damage, proceeding, order, judgment or expense arising out of the operation of this Agreement;

**Consent Authority** has the same meaning as in the Act;

**Construction Certificate** means a construction certificate as defined under section 6.4 of the Act;

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

**CPI** means the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics;

**DCP** means the *North Sydney Development Control Plan 2013*;

**Dealing**, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land;

**Dedication Land** means the five (5) metre wide strip of land adjacent to Oxley Street with an area of 179 square metres (sqm), as shown on the plan at Annexure B, to be dedicated in accordance with **clause 5.2** of this Agreement, the Dedication Land may be limited in depth to no less than three (3) metres below the ground floor finished floor level;

**Developer** means TWT and 75CS jointly and severally;

**Development Application** has the same meaning as in the Act;

**Development Consent** has the same meaning as in the Act;

**Development** means the proposed development of the Land for the purposes of a multi-storey mixed-use development, a Through-site Link connecting Chandos Street to Atchison Lane, basement carparking;

**Easement in Gross** means an easement in gross limited in depth equal to the ground floor finished floor level and limited in height to no less than one (1) storey above ground floor finished floor level granted in favour of Council that permits public access via the Through-site Link as detailed in the Easement Terms;

**Easement Terms** means the terms of an Easement in Gross set out in **Schedule 3**;

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

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

**Insolvent** means the occurrence of any of the following: (a) a Party is liquidated, whether compulsorily or voluntarily (other than for the purpose of amalgamation or reconstruction whilst solvent); (b) a Party becomes unable to pay its debts as they fall due; (c) a Party enters into any arrangement with creditors; (d) a Party becomes subject to external administration within the meaning of Chapter 5 of the *Corporations Act 2001* (Cth), including having a receiver or administrator appointed over all or any part of its assets; or (e) anything analogous (such as analogous bankruptcy processes) or having a substantially similar effect to the events specified in clauses (a) to (b) of this definition, above, occurs in relation to a Party, including the Court appointment of a receiver;

**Instrument Change** means an amendment to the *North Sydney Local Environmental Plan 2013* in response to the Planning Proposal;

**Land** means the land comprising of six separate allotments of land, being: (a) Lot 1, DP 900998, known as 71-73 Chandos Street; (b) Lot 1, DP 115581, known as 75 Chandos Street; (c) Lot 28 and 29, DP 455939, known as 79-81 Chandos Street; (d) Lot A and B, DP 443166, known as 83-85 Chandos Street; (e) Lot 31, Section 11, DP 2872, known as 87 Chandos Street; and (f) Lot 32, Section 11, DP 2872, known as 89 Chandos Street, as shown on the plan at **Annexure A**;

**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);

**Modification Application** means any application to modify a Development Consent under section 4.55 of the Act;

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

**Occupation Certificate** means an occupation certificate as defined under section 6.4 of the Act and includes an Occupation Certificate for part of a building;

**Party** means a party to this Agreement, including their successors and assigns;

**Planning Proposal** means PP5/22 seeking to amend NSLEP 2013 by: (a) increasing the maximum building height for the Land to 43m; (b) including a site-specific provision that allows the maximum building height for the Land to be exceeded by no more than 2m for the purposes of a lift overrun and providing inclusive access to communal open space at the rooftop level, where the lift overrun is not to be visible from the public domain at street level; (c) imposing a maximum floor space ratio (**FSR**) of 4:1; and (d) increasing the minimum non-residential FSR from 0.6:1 to 1:1;

**Public Domain Works** means the public domain improvement works including footpaths, kerb and guttering and other public facilities;

**Register** means the Torrens title register maintained under the *Real Property Act 1900* (NSW);

**Regulation** means the *Environmental Planning and Assessment Regulation 2021*;

**Security** means a Bank Guarantee or Bond;

**Through-site Link** means a pedestrian thoroughfare approximately seven (7) metres wide and open-to-sky that connects Chandos Street to Atchison Lane subject to the Easement in Gross for public access 24 hours per day, 7 days a week, in accordance with **clause 5.3** of this Agreement, with a total size of approximately 250 square metres (sqm), as generally identified in the location on the plan in **Annexure C**; and

**Works** means the works required to embellish the Dedication Land (approximately 179 sqm) and any adjoining land (approximately 236 sqm) as a public park, and the Through-site Link (approximately 250 sqm), including but not limited to design, survey, planning, obtaining approvals, engineering and construction generally in accordance with the plans in **Annexure C**.



## Schedule 2 Construction terms

### 1 Interpretation

For the purposes of this **Schedule 2**, the defined terms in **Schedule 1** and the interpretation principles in **clause 1** of this Agreement 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 between the Developer and its Builder 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);

**Defects Liability Period** means in respect of each item of building works which together comprise the Works the period of 12 months from the date on which the Works are delivered to Council in accordance with this Agreement;

**Detailed Design** means the final specifications and finishes for the Works prepared in accordance with **clause 5.2** of this **Schedule 2** 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

2.1 These Construction Terms must be read and construed subject to:

- (a) any requirements or conditions of any Development Consent;
- (b) the requirements of and conditions imposed by all relevant Authorities and all Laws relating to the Development and the construction of the Development.

2.2 If the Developer requires any Approvals in order to carry out the obligations under this Agreement, then the Developer will acquire all Approvals necessary to carry out the Works at its own cost.

2.3 The Developer must ensure that the Works carried out under this Agreement are carried out:

- (a) 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
- (b) 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 Agreement and any Approval the terms of the Approval shall take precedence.

### 3 Costs of Works

All costs of the Works must be borne by the Developer.

#### 4 Project Management and Contractor Engagement

- 4.1 The Developer will be responsible for managing the Works.
- 4.2 The Developer will ensure that any contractor it engages to carry out the Works agrees to:
- (a) carry out the Developer's obligations in these Construction Terms as part of any Construction Contract; and
  - (b) 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 Design

- (a) Prior to submitting a Development Application for the Development, the Developer must prepare a draft concept design for the Works in accordance with:
  - (i) the plans for the Works set out in **Annexure C**;
  - (ii) the St Leonards East Public Domain Upgrade Report (or draft version of that report, whichever is applicable at the time the concept design is prepared);
  - (iii) the North Sydney Public Domain Style Manual and Design Codes;
  - (iv) the North Sydney Infrastructure Specification Manual for Roadworks, Drainage and Miscellaneous Works; and
  - (v) any other standards or specifications provided to the Developer by the Council.
- (b) The Developer and the Council must work in consultation with each other to prepare and agree on the concept design and must both act reasonably and with due expedition in their consultations with each other.
- (c) The Developer must incorporate into the final concept design for any Development Application amendments required by Council, acting reasonably.

##### 5.2 Detailed Design

- (a) Prior to submitting an application for a Construction Certificate for the Development, the Developer must provide a copy of the draft Detailed Design to the Council for approval.
- (b) The draft Detailed Design must be consistent with the concept plan for the Works in **Annexure C**, the standards and specifications referred to in **clause 5.1(a)** of this Schedule and the concept design agreed in accordance with **clause 5.1** of this Schedule.
- (c) Within 15 Business Days of receiving the draft Detailed Design, Council will respond to the Developer with any suggested amendments to the Detailed Design.
- (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(c)** 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 of the Developer to carry out the Works and dedicate the Dedication Land under this Agreement; and
  - (ii) is consistent with the Development Consent; and
  - (iii) does not materially and adversely affect the Development; and
  - (iv) is not unreasonable.
- (e) Any acceptance by the Council of the Detailed Design under this **clause 5** of this Schedule is not to be taken as approval of or to any Construction Certificate for the Works.

### 5.3 **Good faith**

The Parties must act promptly and in good faith to consult in relation to the concept design and the Detailed Design of the Works.

## 6 **Carrying out of Works**

### 6.1 **Communication**

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 tradesmanlike workmanship when carrying out the Works.
- (b) The qualitative standard of the design and finishes for the Works must be in accordance with Council's specifications for the Works as provided during the preparation of the concept design and Detailed Design.
- (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** of this Schedule from Council if the Council fails to deliver them to the Developer.
- (d) The Developer may, but is not obliged to, reinstate any Works where damage or destruction is as a result of:
  - (i) any act or omission of Council or its employees, consultants or agents relating to any part of the Works under this Agreement; or
  - (ii) the use or occupation by the Council or its employees, consultants or agents, Council's representatives or other contractor of the Council of any part of the Works.

## 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 Land to inspect the Works.
- (d) In addition to carrying out inspections in accordance with the Inspection Schedule, the Council may enter the Land or any part of the Land on which the Works are located to inspect the progress of 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 Land);
  - (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 direction 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 Works have 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 **clause 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 agreement.

## 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 (**Certificate of Practical Completion**); 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 (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 8.14(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 Land without further notice to the Developer, and may:

- (i) call upon any Security provided to the Council under **clause 8.5** of this Schedule 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 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, the Developer fails to request the inspection, the Council may extend the Defects Liability Period so that the inspection may be carried out.

#### 8.5 Security for Defects Liability

- (a) Prior to the issue of a Certificate of Practical Completion for each item of the Works, the Developer must deliver to the Council Security in an amount equivalent to 2.5% of the construction costs for the particular item of Works.
- (b) The Developer advises and the Council acknowledges its awareness that the Bonds or Bank Guarantees may be supplied by the Builder and form a part of the security held by the Developer from the Builder under the terms of the Construction Contract, provided that:
  - (i) any Bond or Bank Guarantee provided by the Builder benefits the Council and satisfies the requirements of this agreement; and
  - (ii) the Developer procures an agreement from the Builder and the Builder's bank that the Council will be entitled to call on any Bond or Bank Guarantee provided by the Builder, in accordance with the terms of this Agreement and the terms of any Construction Contract.
- (c) Within 10 Business Days after the Defects Liability Period for a particular item of Works has expired Council must (if it has not called on it) return the Bond or Bank Guarantee referred to in **clause 8.5(a)** of this Schedule for that item of Works (or any remaining balance of it) to the Developer.
- (d) Notwithstanding **clause 8.4(c)** of this Schedule, if during the Defects Liability Period for a particular item of Works, the Council issues a Rectification Notice and the Rectification Notice is not complied with, then the Council need not deliver the balance of any Bonds or Bank Guarantees provided to it until that defect has been rectified.
- (e) The Council must deliver the balance of any Bond or Bank Guarantee for the Defects Liability Period to the Developer within 14 days after the Defects Liability Period has ended.

#### 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 2** upon request by the Council, acting reasonably, throughout the term of this Agreement.

**11 Indemnities**

The Developer indemnifies the Council, its employees, officers, agents and contractors from and against all Claims in connection with the carrying out by the Developer of the Works except to the extent such Claim arises either directly or indirectly as a result of the Council or its employees, officers, agents, contractors or workmen's negligence, default, act or omission.

**12 Intellectual Property Rights**

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.

**13 Risk of contamination**

The Developer acknowledges and agrees:

- (a) that it is responsible for the management and remediation of any contamination present upon or under the land on which the Works are to be carried out;
- (b) it will attend to any necessary remediation at its own cost; and
- (c) to the fullest extent permitted by Law indemnify and release the Council from any Claim which might arise from any contamination with respect to the land on which the Works are to be carried out.

**14 Plans**

The Parties acknowledge and agree that further detail and refinement of plans and documents in connection with this agreement may be necessary having regard to the following matters:

- (a) matters affecting Works not capable of identification on or before the date of this agreement; or
- (b) by agreement between the Parties.



## Schedule 3 Easement Terms

### Definitions

For the purpose of this Schedule 3 of this Agreement, the following words have the following meanings:

**Council** means North Sydney Council and its successors;

**Easement** means the Easement created in accordance with this Schedule 3 of this Agreement;

**Easement Site** means the location of the Through-site Link as defined in Schedule 1 of this Agreement;

**Lot Burdened** means the Land;

**Owner of the Lot Burdened** means the registered proprietor of the Lot Burdened from time to time.

### Easement Terms

1. The Owner of the Lot Burdened grants to the Council and members of the public full and free right to go, pass and repass over the Lot Burdened at all times (but only within the Easement Site):
  - a. with or without companion animals (as defined in the *Companion Animals Act 1998*) or other small pet animals; and
  - b. on foot without vehicles (other than wheelchairs or other disabled access aids), unless vehicles are being used to access the building on the Land via clearly identified entry and exit points;

for all lawful purposes.
2. The Owner of the Lot Burdened must, to the satisfaction of Council, acting reasonably:
  - a. keep the Easement Site (including any services in, on or under the Lot Burdened) in good repair and condition;
  - b. maintain and repair the Easement Site and all improvements on it;
  - c. keep the Easement Site clean and free from rubbish; and
  - d. maintain sufficient public liability insurance covering the use of the Easement Site in accordance with the terms of this Easement.
3. The Owner of the Lot Burdened must ensure that any rules made by an Owner's Corporation relating to the Easement Site have been approved by the Council, acting reasonably.
4. If any member or members of the public loiter or congregate, for any purpose which the owner of the Lot Burdened, acting reasonably, considers to be a nuisance or a safety risk, the Owner of the Lot Burdened may either remove those members of the public, or arrange for their removal by an appropriate authority.
5. The Owner of the Lot Burdened may erect safety signage and any other appropriate signage, and may erect CCTV cameras on the Lot Burdened.
6. The Owner of the Lot Burdened may engage security personnel to monitor and control the behaviour of the public including but not limited to prohibiting smoking, consumption of alcohol (except within licensed areas), passage of animals apart from those referred to in clause 1(a) of the Easement Terms, bicycles and skateboards and the like in

accordance with any rules made by an Owner's Corporation relating to the Lot Burdened.

7. The Owner of the Lot Burdened may, with the Council's prior written consent (except in the case of an emergency, in which case the Council's prior written consent is not required) temporarily close or temporarily restrict access through all or part of the Lot Burdened for the time and to the extent necessary but only on reasonable grounds for the purposes of:
  - a. construction, construction access, repairs, maintenance, replacement and alteration to the Lot Burdened or any improvements in, on or under the Lot Burdened; or
  - b. security, public safety or evacuation of the Lot Burdened and adjoining buildings.
8. Subject to ensuring the provision of access in accordance with clause 1 of the Easement Terms, the Owner of the Lot Burdened may, with the consent of Council:
  - a. carry out works in the Lot Burdened for the purposes of enhancing the Lot Burdened;
  - b. install or erect works of art, street furniture, awnings, tables and chairs associated with the ground floor commercial premises, notice boards or any other similar improvements at ground level within the Lot Burdened; and
  - c. use the Lot Burdened;in a manner consistent with any outdoor or footway dining policy of the Council.

**Release and variation of Easement**

9. The Council is solely empowered to release this Easement.
10. The Easement may only be varied by written agreement between the Council and the Owner of the Lot Burdened.

## Schedule 4 Land Ownership

<b>Lot</b>	<b>Address</b>	<b>Land Owner</b>
Lot 1 DP 900998	71-73 Chandos Street	TWT Development Pty Ltd
Lot 1 DP 115581	75 Chandos Street	75 Chandos Street Pty Ltd
Lot 28 DP 455939 Lot 29 DP 455939 (Auto Consol 8493-37)	79-81 Chandos Street	TWT Development Pty Ltd
Lot A DP 443166 Lot B DP 443166	83-85 Chandos Street	TWT Development Pty Ltd
Lot 31 Section 11 DP 2872	87 Chandos Street	TWT Development Pty Ltd
Lot 32 Section 11 DP 2872	89 Chandos Street	TWT Development Pty Ltd

## Schedule 5 Summary of requirements (section 7.4)

Subject and subsection of the Act	Planning Agreement
<p><b>Planning instrument and/or Development Application – Section 7.4(1)</b></p> <p>The Developer has:</p> <p>(a) Sought a change to an environmental planning instrument</p> <p>(b) Made, or propose to make a Development Application</p> <p>(c) Entered into an agreement with, or are otherwise associated with, a person to whom paragraph (a) or (b) applies</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p><b>Description of the land to which the planning Agreement applies – Section 7.4(3)(a)</b></p>	<p>See the definition of “Land” in <b>Schedule 1</b>, and the table to <b>Schedule 4</b>.</p>
<p><b>Description of the change to the environmental planning instrument to which the agreement applies – Section 7.4(3)(b)</b></p>	<p>See the definition of “Instrument Change” and “Planning Proposal” in <b>Schedule 1</b>.</p>
<p><b>The scope, timing and manner of delivery of contribution required by the Planning Agreement – Section 7.4(3)(c)</b></p>	<p>See <b>clause 5</b></p>
<p><b>Applicability of section 7.11 of the Act – Section 7.4(3)(d)</b></p>	<p>Not excluded - see <b>clause 6</b></p>
<p><b>Applicability of section 7.12 of the Act – Section 7.4(3)(d)</b></p>	<p>Not excluded - see <b>clause 6</b></p>
<p><b>Applicability of section 7.24 of the Act – Section 7.4(3)(d)</b></p>	<p>Not excluded - see <b>clause 6</b></p>
<p><b>Whether benefits are to be taken into consideration under section 7.11 – Section 7.4(3)(e)</b></p>	<p>Not taken into account - see <b>clause 6</b></p>
<p><b>Mechanism for dispute resolution – Section 7.4(3)(f)</b></p>	<p>See <b>clause 9</b></p>
<p><b>Enforcement of the Planning Agreement – Section 7.4(3)(g)</b></p>	<p>See <b>clause 10</b></p>
<p><b>Registration of the Planning Agreement – Section 7.4(3)(g), section 7.6</b></p>	<p>See <b>clause 7</b></p>
<p><b>No obligation to grant consent or exercise functions – Section 7.4(9)</b></p>	<p>See <b>clause 19</b></p>

Executed as deed

**Executed** for and on behalf of North Sydney Council ABN 32 353 260 317 by its authorised delegate in accordance with a resolution of the Council dated [...]:

.....  
Signature of witness

.....  
Signature of Authorised Delegate

.....  
Print name of witness

.....  
Print name and position of Authorised Delegate

**Executed by TWT Development Pty Ltd** ACN 121 505 824 in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

.....  
Signature of Director

.....  
Signature of Director/Secretary

.....  
Print name of Director

.....  
Print name of Director/Secretary

Sparke Helmore Lawyers

**Executed by 75 Chandos Street Pty Ltd** )  
ACN 163 005 678 in accordance with )  
section 127 of the *Corporations Act 2001* )  
(Cth) by: )  
 )  
 )

.....  
Signature of Director

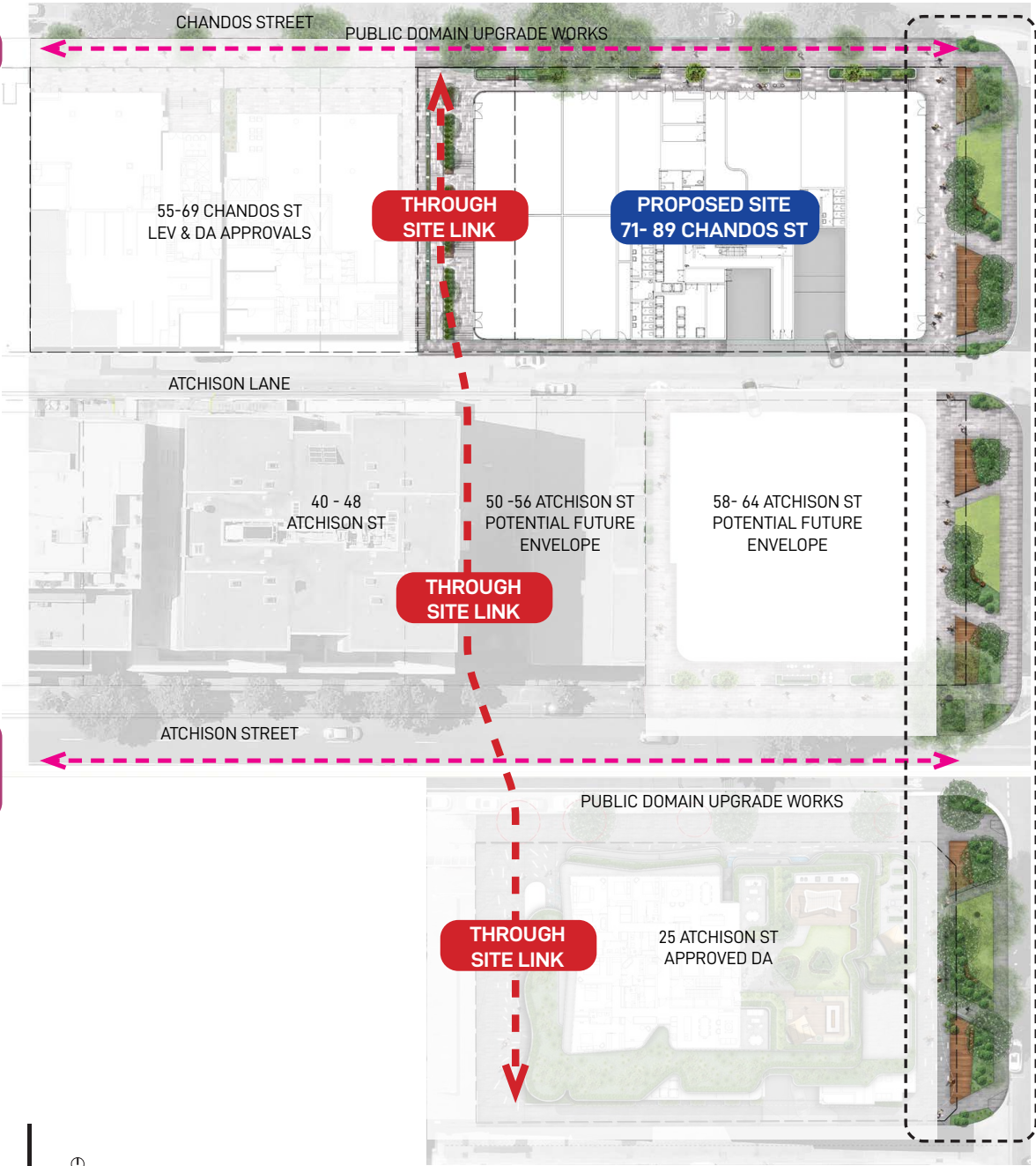
.....  
Signature of Director/Secretary

.....  
Print name of Director

.....  
Print name of Director/Secretary

Annexure A      Plan showing Land

CHRISTIE STREET  
PARK UPGRADE



Public Domain Upgrade Works in accordance with Councils' Public Domain Manual & Design Codes

ST LEONARDS  
GATEWAY  
STATEMENT &  
HILLTOP PLAZA

OXLEY STREET

**GROUND iNK**  
LANDSCAPE ARCHITECTS

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Registered Landscape Architects: Rob Loughman # 7813  
Suite 205, 75 Arthur Street, St Leonards NSW 1570  
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⌚  
NOT TO SCALE

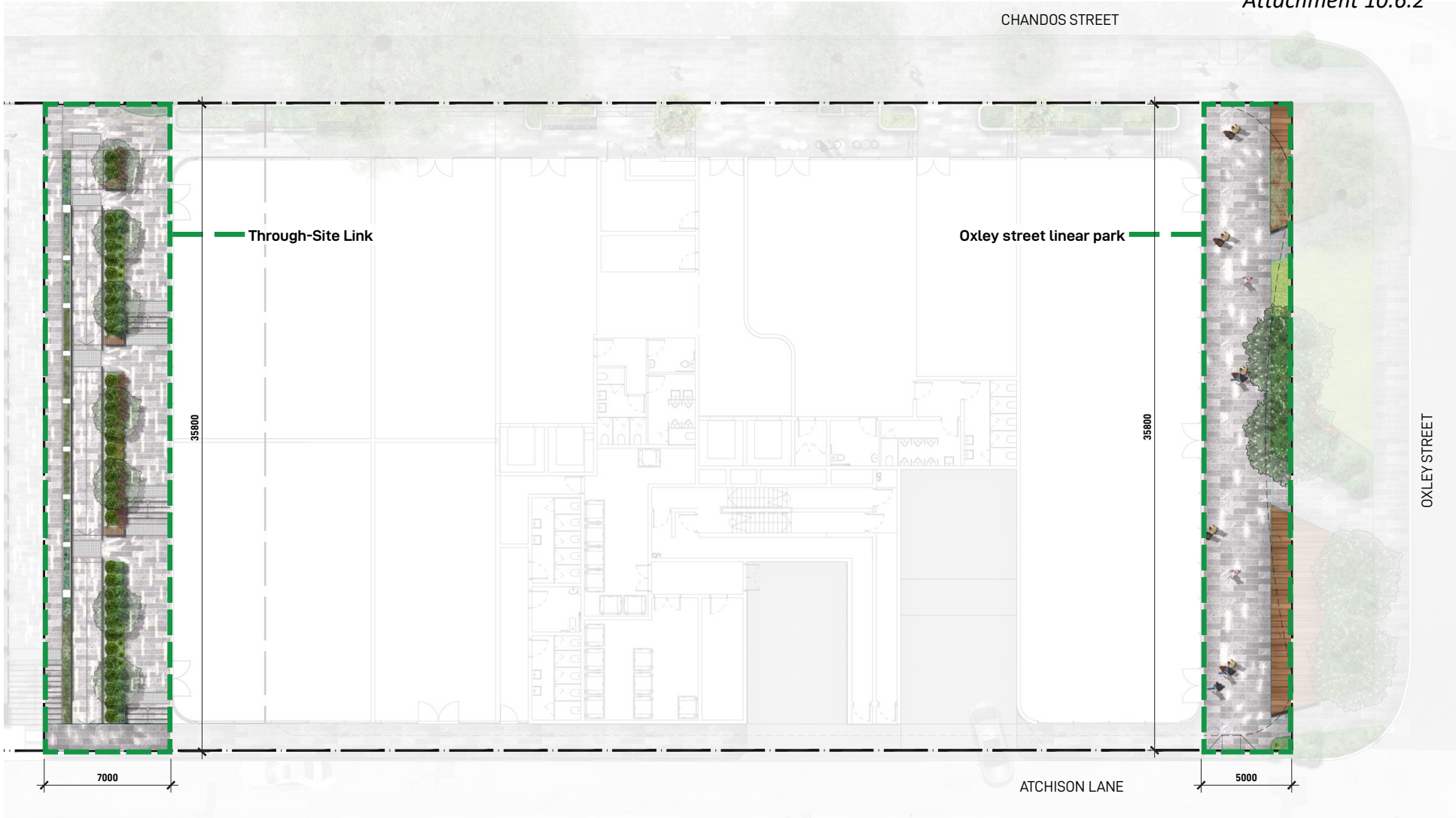
SITE PLAN

**LDA-02**



Sparke Helmore Lawyers

Annexure B      Plan showing Dedication Land



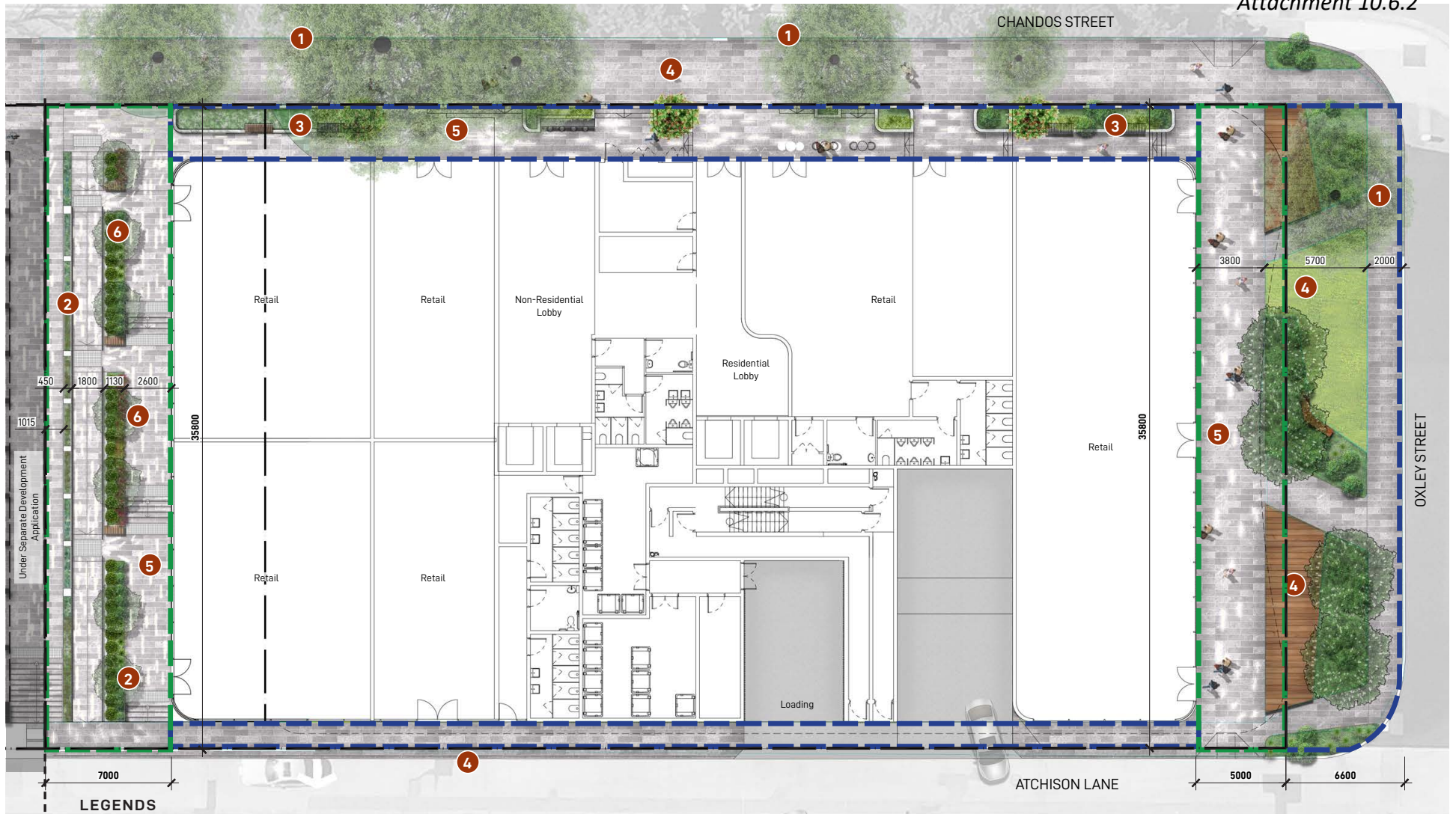
Through-Site Link = 250m<sup>2</sup>  
 Oxley Street linear park = 179m<sup>2</sup>

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Annexure C      Concept Plans for the Works



**LEGENDS**

- |   |                                    |
|---|------------------------------------|
| 1. Existing street trees to be retained and protected   | 5. Feature light strips            |
| 2. Through Site Link provide connection, seating and landscape opportunities along buildings    | 6. Proposed tree providing amenity |
| 3. Seating and planting upgrade along footpath  |                                    |
| 4. Public Domain Upgrade Works in accordance with Councils' Public Domain Manual & Design Codes |                                    |
- 
- |   |  |   |   |
|---|--|---|---|
|  | Embellishment (Oxley street linear park total 415.28m <sup>2</sup> ) |  | Embellishment + land dedication (Through-Site Link 250m <sup>2</sup> + Oxley Street linear park 179m <sup>2</sup> ) |
|---|--|---|---|

**NOTE:**

- Right of way over Through-Site Link will be provided for 24 hours a day, 7 days a week for the public, including pedestrians and cyclists
- The right of way only applies to the ground level of the Through-Site Link at 71-89 Chandos Street of approximately 250m<sup>2</sup> of private land and extends north to south from Chandos Street to Atchison Lane as indicated on landscape plan
- On-going maintenance and management of the Through-Site Link will be provided by the strata committee

GROUND FLOOR LANDSCAPE PLAN

**GROUND INK**

LANDSCAPE ARCHITECTS

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Annexure D Draft Explanatory Note

## Explanatory Note

### Exhibition of draft Voluntary Planning Agreement

#### PP5/22: 71-89 Chandos Street, St Leonards

*Environmental Planning and Assessment Regulation 2021 (section 205)*

#### Planning Agreement

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft Planning Agreement (**the Planning Agreement**) under Section 7.4 of the *Environmental Planning and Assessment Act 1979 (the Act)*.

Section 205(1) of the *Environmental Planning and Assessment Regulation 2021* ("**the EPA Regulation**") requires that an Explanatory Note must be prepared to accompany a planning agreement.

The Explanatory Note must address the requirements of section 205(1)(a)-(b) of the EPA Regulation. This Explanatory Note has been prepared to address these requirements.

Additionally, in preparing the Explanatory Note, the planning authority must consider any relevant practice note prepared by the Planning Secretary under clause 203(6). The relevant practice note is *Planning agreements: Practice note – February 2021* published by the former NSW Department of Planning, Industry and Environment (now the Department of Planning and Environment).

This practice note has been considered by the parties in the course of preparing this Explanatory Note.

#### Parties

TWT Development Pty Ltd and 75 Chandos Street Pty Ltd (**Developer**) made an offer to North Sydney Council (**Council**) to enter into a Planning Agreement in connection with the Planning Proposal for land at 71-89 Chandos Street, St Leonards.

#### Description of the Land

The land to which the Planning Agreement applies is:

- (a) Lot 1, DP 900998, known as 71-73 Chandos Street;
- (b) Lot 1, DP 115581, known as 75 Chandos Street;
- (c) Lot 28 and 29, DP 455939, known as 79-81 Chandos Street;
- (d) Lot A and B, DP 443166, known as 83-85 Chandos Street;
- (e) Lot 31, Section 11, DP 2872, known as 87 Chandos Street; and
- (f) Lot 32, Section 11, DP 2872, known as 89 Chandos Street,

known as 71-89 Chandos Street, St Leonards (**the Land**).

#### The Development

The Planning Agreement relates to proposed development of the Land to which the Planning Agreement applies for redevelopment of the Land for the purpose of a multi-storey mixed use residential and commercial development with basement parking, through-site link and

communal open space and landscaping, including development generally anticipated in the Planning Proposal.

#### **Description of the Planning Proposal to which the Planning Agreement applies**

To facilitate the Development, the Developer has lodged a Planning Proposal. The Planning Proposal (PP5/22 – Council’s reference) seeks to amend the *North Sydney Local Environment Plan 2013 (NSLEP)* to:

- (a) Increase the maximum building height for the Land to 43m;
- (b) Include a site-specific provision that allows the maximum building height to be exceeded by no more than 45m for the purposes of a lift overrun and providing inclusive access to communal open space at the rooftop level;
- (c) Impose a maximum floor space ratio (**FSR**) of 4:1; and
- (d) Increase the minimum non-residential FSR from 0.6:1 to 1:1.

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

##### **Objectives**

The objective of the Planning Agreement is to provide a mechanism by which contributions towards public purposes can be made in connection with the future development of the Land to benefit the community.

The public benefits include the provision of public open space through the embellishment of a linear park, and pedestrian amenity through the establishment and maintenance of a through-site link.

##### **Nature**

A Planning Agreement of this kind may require a developer to dedicate land free of costs, pay a monetary contribution, or provide any other material public benefit to be used for or applied towards a public purpose.

In this case, the Planning Agreement will require the following:

- (a) Dedication and embellishment of approximately 179 m<sup>2</sup> of private land to Council at a depth no less than 3m below ground level, and embellishment of approximately 271m<sup>2</sup> of public land for the purposes of a linear park along Oxley Street;
- (b) Establishment of a pedestrian through site-link approximately 7m wide and 38.5m in length (approximately 250m<sup>2</sup> in total) that is open-to-sky connecting Chandos Street to Atchison Lane with easement for public access for 24 hours a day, 7 days a week;
- (c) Construction of all outdoor lighting for the through-site link;
- (d) Landscaping and improvements to public domain on-site; and
- (e) Providing maintenance and management of the through-site link and Oxley Street linear park.

The contributions, including works, dedication of land and grant of an easement for public access, are to be completed before the issue of an Occupation Certificate for any part of the Development. The Works are also guaranteed by a Security in the form of a Bond or Bank

Guarantee, which will be indexed in accordance with increases in the Consumer Price Index from the date of the Agreement to the date the Works are completed.

#### **Effect**

In general terms, delivery of the contributions is timed in a way that is practicable for the Developer and still provides for the enhancement and improvement of public domain and open space to meet the needs of the new residents and the community.

The Planning Agreement provides for the enforcement of the Planning Agreement by a suitable means if there is a breach by the Developer. The contributions are to be delivered prior to the issue of an occupation certificate for the Development or any part of the Development. An occupation certificate cannot be lawfully issued if the required contributions have not been made.

The Planning Agreement is to be registered on the title to the Land.

Where it is relevant to a development application, a consent authority must take into consideration a planning agreement — or any draft planning agreement — that a developer has entered into or offered to enter into (respectively).

A planning agreement cannot impose an obligation on a planning authority to actually grant a development consent. A merit assessment of the proposed development must still be carried out.

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

#### **How the Planning Agreement Promotes the Objects of the Act and the public interest**

The draft Planning Agreement promotes the following objectives of the Act:

- a. *Promotes the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources* (section 1.3(a)).
- b. *Promotes the orderly and economic use and development of land* (section 1.3 (c)).
- c. *Promotes good design and amenity of the built environment* (section 1.3(g)).

The Planning Agreement will enable the utilisation of the development potential of the Land, while requiring the Developer to make provision for public purposes. The Planning Agreement promotes the public interest because it will require the provision of open space and public domain improvements that will benefit existing and future residents and workers in the area. These contributions will have a positive impact on the public and will provide for the social welfare of the community.

The contribution required under the Planning Agreement is additional to any normal contribution that will ordinarily need to be made in relation to the development.

The proposed contribution under the Planning Agreement is consistent with the Council's strategic plans and policy documents.

#### **The Planning Purposes served by the Planning Agreement**

The Planning Agreement facilitates the implementation of Council's strategic plans and, through the development contributions, provides existing and future residents in the area with improved public open space and pedestrian amenity.

#### **Whether the Planning Agreement conforms with the Council's Capital Works Program**

The Planning Agreement will provide for improvement of the public domain and open space areas in the vicinity of the Development. The Planning Agreement will assist the Council to meet the current and future needs of the local community.

The contribution proposed under the Planning Agreement does not conform with the Council's capital works program. This is because the opportunity to obtain the contributions has arisen outside of the Council's capital works program.

The Planning Agreement will not have an adverse effect on this capital works program. Overall, the Planning Agreement is likely to result in more capital works (to the benefit of the community) than would be the case without the Planning Agreement.

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

The Planning Agreement requires the works, land dedication and grant of the easement to be completed before the issue of an **occupation certificate** for the Development. The registration of the Planning Agreement and the provision of a Security for the obligations under the Planning Agreement must be provided prior to the issue of a **construction certificate** for the Development.

**Status of the Explanatory Note**

This Explanatory Note has been prepared jointly between the parties.

The parties have agreed that this Explanatory Note is not to be used to assist in construing the Planning Agreement.





16 November 2023

Ms Therese Manns  
General Manager  
North Sydney Council  
200 Miller Street  
North Sydney NSW 2060

Dear Ms Therese Manns

### **LETTER OF OFFER – 71-89 CHANDOS STREET, ST LEONARDS**

This Letter of Offer has been prepared by TWT Global, the Proponent for the Planning Proposal for 71-89 Chandos Street, St Leonards (the site). The letter represents the intent to enter into a draft Voluntary Planning Agreement (VPA) to accompany the Planning Proposal submitted to North Sydney Council (Council) for the site.

This letter outlines the scope and background to the Planning Proposal and an indication of the VPA offer upon finalisation of the Planning Proposal by Council.

## **1.0 The Planning Proposal**

The Planning Proposal seeks to implement the endorsed outcomes of the St Leonards and Crows Nest Plan 2036:

- Increase the building height control to 12 storeys (43m);
- Include an additional site-specific local provision that enables the maximum building height to be exceeded by no more than 2m for lift overrun and associated lift structures only for the purpose of providing inclusive access to the rooftop.
- Increase the minimum non-residential FSR control to 1:1; and
- Establish an overall maximum Floor Space Ratio (FSR) control of 4:1.

Importantly, the Housing and Productivity Contribution (HPC) enforces a contribution for \$10,000 per dwelling and \$30/sqm for non-residential floorspace, which goes towards Regional Infrastructure, including the delivery of:

- Open space
- Pedestrian and cycle improvements
- Education
- Road crossing improvements
- Planning and delivery.

As a result, this Planning Proposal will be subject to a future HPC payment of \$864,100 that ask be taken into consideration in its assessment of this Letter of Offer.

## **2.0 Site Location**

The site is located at 71-89 Chandos Street, St Leonards and bounded by Chandos Street to the north, Oxley Street to the East and Atchison Lane to the south and has an area of 2,467sqm. The site currently accommodates commercial land uses.

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PO Box 1399 Crows Nest 1585

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The site is part of the evolving Strategic Centre of St Leonards and located approximately 400m from St Leonards Railway Station and the new Crows Nest Metro Station. Its immediate context, being Crows Nest and St Leonards, is characterised by a mix of land uses including newly constructed commercial and residential flat buildings.

### 3.0 Indicative Development

The Planning Proposal has been prepared in accordance with the St Leonards and Crows Nest 2036 Plan (2036 Plan). An indicative design concept has been prepared by Smart Design Group to demonstrate the site's capacity to accommodate a mixed use development that reflects the proposed amendments. The concept provides:

- A mixed use building of 12 storeys comprising approximately 64 residential apartments;
- Approximately 9,868sqm of total gross floor area incorporating:
  - Approximately 7,401sqm residential floor area;
  - Approximately 2,467sqm of non-residential floor area, including commercial and retail land uses;
- Through site link connecting Chandos Street to Atchison Lane;
- Basement parking and loading dock with vehicular access via Atchison Lane;
- Communal open space and landscaping at the ground level and linear park and rooftop terrace.

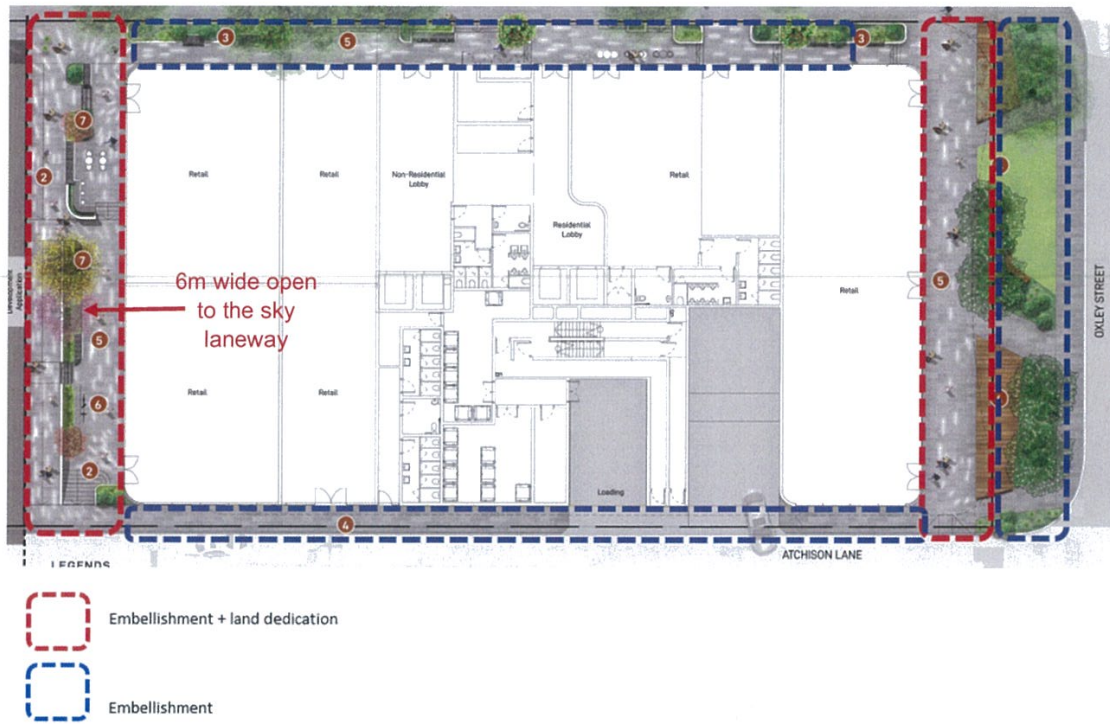
### 4.0 The offer of a Voluntary Planning Agreement

In associated with the Planning Proposal for the site, we intent to offer to Council the following:

- Through-site link: An open to the sky through-site link that is 6m wide x 35.8m in length (214.8sqm)
  - North to south from Chandos Street to Atchison Lane as shown in **Figure 1** and **Annexures 2** and **3**.
  - Right of way over through site link for 24 hours a day 7 days a week for the public, including pedestrians and cyclists.
  - Final design of the through-site link to be designed to be generally consistent with the Concept Plan.
  - We note Council does not seek these lands be dedicated. They will therefore remain in the ownership and management of the future strata.
  - We acknowledge that as there is a private benefit (i.e. ADG setbacks) as well as public benefit (thru-site link, activation, ground floor uses) that we have reduced the valuation by half.
- Oxley Street linear park
  - Dedication and embellishment of private land (179sqm)
  - Embellishment of public lands to Oxley Street (271sqm)
  - Minimum depth of 3m
  - The contribution land will be limited below ground level to a depth to be confirmed, as the basement is located beneath.
- Construction of all outdoor lighting for the through site link.
- Landscaping and improvements to the public domain on site.
- Provision of maintenance and management of the through site link and Oxley Street lands.

The extent of embellishment of the through site link and linear park is illustrated in the Concept Landscape Plans prepared by Ground Ink Landscape Architects provided at **Appendix C** of the Planning Proposal Report. **Figure 1** below shows the lands for embellishment and dedication.

- A monetary contribution of \$405,000 to be paid to Council to facilitate infrastructure upgrades within the local area.



**Figure 1** Indicative Through Site Link  
Source: Ground Ink Landscape Architects



## 5.0 Total Package

The following is a summary of the material public benefits:

Scope of Works	Value
<ul style="list-style-type: none"> <li>Right of way over through site link for 24 hours a day 7 days a week for the public, including pedestrians and cyclists.</li> <li>The right of way only applies to the ground level of the through site link at 71-89 Chandos Street of approximately 214.8sqm of private land and extends north to south from Chandos Street to Atchison Lane. We acknowledge the private benefit (ADG setback of this land) and therefore discount its public benefit by half.</li> </ul>	<p><b>Land Dedication:</b> Based on previous valuations and sales within the area, we have calculated the land value as \$23,000 per square metre<sup>1</sup>. On this basis, the value of the land to be dedicated is as follows:</p> <ul style="list-style-type: none"> <li>Oxley Street Linear Park (281m<sup>2</sup>): \$6,463,000</li> <li>Through Site Link (214.8m<sup>2</sup>) @ 50%: \$2,470,200</li> </ul>
<ul style="list-style-type: none"> <li>Dedication and embellishment of a linear park along Oxley Street of approximately 450sqm.</li> <li>Construction of all outdoor lighting for the through site link.</li> <li>Landscaping and improvements to the public domain on site.</li> <li>Provision of maintenance and management of the through site link.</li> </ul>	<p><b>Embellishment:</b> An estimated cost of works for the landscaping embellishment has been undertaken by the project Landscape Architect, which indicates that both the Oxley Street Linear Park (private and public lands) and the Through Site Link have an approximate embellishment value of \$419,375. Please see Attachment A for breakdown.</p> <p><b>Monetary Contribution</b></p> <ul style="list-style-type: none"> <li>A monetary contribution of \$405,000 to facilitate infrastructure upgrades within the local area.</li> </ul> <p><b>Notwithstanding the above, these values are estimates only and will need to be confirmed by a quantity surveyor following discussion with Council.</b></p>

It is intended that should the Planning Proposal be gazetted; this offer will be formalised into a Voluntary Planning Agreement with the Council. The agreement will comply with the requirements of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* and contain mechanisms for completion of any works and/or land dedication. The Planning Agreement may be registered by the Registrar-General.

Yours sincerely,



**Gavin Zhang**  
TWT

<sup>1</sup> Undertaken by a certified valuer and based on the previously agreed TWT Site 1 valuation

## Appendix A. Landscape Costing

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## Appendix B. Landscape Works

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## ATTACHMENT 3

### Planning Proposal 5/22 and draft Voluntary Planning Agreement 71- 89 Chandos Street, St Leonards Summary of submissions received during public exhibition period (23 August 2023 - 4 October 2023)

The following criteria are used to analyse all submissions received, and to determine whether or not the plan would be amended:

1. The Planning Proposal and draft Voluntary Planning Agreement (VPA) for 71-89 Chandos Street, St Leonards **would be** amended if issues raised in the submission:
  - a provided additional information of relevance.
  - b indicated or clarified a change in government legislation, Council's commitment or management policy.
  - c proposed strategies that would better achieve or assist with Council's objectives.
  - d was an alternate viewpoint received on the topic and is considered a better option than that proposed or;
  - e indicated omissions, inaccuracies or a lack of clarity.
  
2. The Planning Proposal and draft VPA for 71-89 Chandos Street, St Leonards **would not be** amended if the issues raised in the submission:
  - a addressed issues beyond the scope of the Planning Proposal and draft VPA.
  - b was already in the Planning Proposal and draft VPA amendment or will be considered in the assessment of any future Development Application (DA) for the site.
  - c offered an open statement, or no change was sought.
  - d clearly supported the proposal.
  - e was an alternate viewpoint received on the topic, but the recommendation was still considered the best option.
  - f was based on incorrect information.
  - g contributed options that are not possible (generally due to some aspect of existing legislation or government policy) or; involved details that are not appropriate or necessary for inclusion in a document aimed at providing a strategic community direction over the long term.

Planning Proposal 5/22 and draft Voluntary Planning Agreement – 71-89 Chandos Street St Leonards SUBMISSIONS SUMMARY (Exhibition Period – 23 August 2023 to 4 October 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
1.	38 Atchison Street, St Leonards	<ul style="list-style-type: none"> <li>Height</li> <li>Overshadowing/solar access impacts</li> <li>Traffic generation</li> </ul>	<p>Objects to the proposal for the following reasons:</p> <ul style="list-style-type: none"> <li>There is already overdevelopment in the area.</li> <li>The proposed building height of 43m will reduce solar access to apartments to the south of the site, particularly in winter.</li> <li>Recommends maximum buildings heights of 8-10 storeys on the southern side of Chandos St and taller buildings be located along the Pacific Highway corridor.</li> <li>The cumulative impact of new developments and associated traffic generation on safe access in/out of Atchison Lane.</li> </ul>	Refer to section 3.1-3.3 of post-exhibition report.	Nil	2b & 2e
2.	45 Chandos Street, St Leonards	<ul style="list-style-type: none"> <li>Cumulative impacts of development on community infrastructure and liveability (traffic generation, construction impacts)</li> </ul>	<p>Objects to the proposal. The approval of the DA would be detrimental to the quality of life of current residents and overall well-being of the community. The cumulative impacts of such developments on community infrastructure and liveability should not be overlooked. The rapid influx of high-rise development along the Pacific Hwy and Chandos Street has led to severe traffic congestion. Further development projects threaten to reduce property values, increase traffic congestion, and contribute to the deterioration of our living environment.</p> <p>The impacts of consecutive construction projects on the daily lives of local residents has been significant with respect to excessive noise and dust pollution.</p>	<p>Refer to sections 3.3 -3.4 of post-exhibition report.</p> <p>It should be noted that the subject proposal seeks to amend the principal development standards applying to the site under NSLEP 2013 (i.e. building height and density controls). The submitted reference design is indicative only and not determinative, and a further refined design will be required to be submitted and its environmental impacts assessed at the future DA stage.</p>	Nil	2b
3.	Sydney Water Corporation	<ul style="list-style-type: none"> <li>Water infrastructure</li> </ul>	No objection raised. Noted appropriate services are located in the vicinity of the site and matters of augmentation and upgrading can be addressed at the future Development Application (DA) stage.	Submission noted. Refer to section 1.3.2 of report.	Nil	2c



Planning Proposal 5/22 and draft Voluntary Planning Agreement – 71-89 Chandos Street St Leonards SUBMISSIONS SUMMARY (Exhibition Period – 23 August 2023 to 4 October 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
4.	Transport for NSW	<ul style="list-style-type: none"> <li>Traffic generation</li> </ul>	No objection raised. Noted the proposal is expected to generate low traffic volumes and result in minimal traffic impacts to the surrounding local and regional transport network.	Submission noted. Refer to section 1.3.1 of report.	Nil	2c
5.	Ethos Urban on behalf of the applicant (TWT Property Group Pty Ltd)	<ul style="list-style-type: none"> <li>Pedestrian through-site link</li> </ul>	The applicant submits that it wishes to amend the plans/draft VPA to provide a 6m wide (open to sky) pedestrian through site link, consistent with the requirements of NSDCP 2013.	Refer to section 3.5 of post-exhibition report.	Council support the applicant's revised VPA offer dated 16 November 2023.	1a