

## 10.9. Planning Proposal 2/23 - 601 Pacific Highway, St Leonards - Post Exhibition Report

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<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Exhibited Planning Proposal 601 Pacific Highway St Leonards 18 06 2024 [<b>10.9.1</b> - 91 pages]</li> <li>2. Exhibited Draft VPA 601 Pacific Highway St Leonards 17 07 2024 [<b>10.9.2</b> - 32 pages]</li> <li>3. Submissions Summary Table redacted [<b>10.9.3</b> - 16 pages]</li> </ol>
<b>CSP LINK</b>	<ol style="list-style-type: none"> <li>2. Our Built Infrastructure               <ol style="list-style-type: none"> <li>2.3 Prioritise sustainable and active transport</li> <li>2.4 Efficient traffic mobility and parking</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>4. Our Social Vitality               <ol style="list-style-type: none"> <li>4.1 North Sydney is connected, inclusive, healthy and safe</li> <li>4.2 A centre for creativity and learning</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 to Council the outcomes of the public exhibition of Planning Proposal (PP2/23) and accompanying draft Voluntary Planning Agreement for 601 Pacific Highway St Leonards, and to seek Council’s endorsement to progress the Planning Proposal to amend the *North Sydney Local Environmental Plan 2013* and proceed with the execution of the Voluntary Planning Agreement.

### EXECUTIVE SUMMARY:

- On 27 November 2023, Council resolved to support and forward a Planning Proposal (PP2/23) lodged by Stockland Pty Ltd as it relates to land at 601 Pacific Highway, St Leonards to the Department of Housing and Infrastructure (DPHI) with a request for a Gateway Determination.
- The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA), which proposes a \$172,000 monetary contribution to Council to be used towards community infrastructure.

- The Planning Proposal seeks to amend *North Sydney Local Environmental Plan (NSLEP) 2013* to increase the maximum building height control for the site from 49m to RL 259 (equivalent to 171m) and establish a maximum floor space ratio (FSR) control of 20:1. No amendment to the existing land use zone is proposed. The site is currently zoned E2 – Commercial Centre under NSLEP 2013.
- The intent of the Planning Proposal is to facilitate a 42-storey commercial retail/office development, as envisaged for the subject site under the NSW Government’s *St Leonards and Crows Nest 2036 Plan (2036 Plan)*.
- The Planning Proposal and draft VPA were placed on public exhibition from 18 July - 22 August 2024. 26 submissions were received, including 22 submissions that objected to or raised concerns with the proposal.
- The site is within an area subject to the State-led Crows Nest Transit Oriented Development (TOD) accelerated rezoning process, announced by the NSW Government on 7 December 2023. The TOD draft rezoning proposal, which was exhibited in July 2024, includes planning controls for the subject site consistent with the Planning Proposal. The most current advice from the DPHI is that the Crows Nest TOD rezoning proposal will be finalised in November - December 2024.
- Notwithstanding, it is recommended that Council support the Planning Proposal and accompanying VPA to proceed to finalisation, subject to the inclusion of an additional provision to address Council’s concerns regarding the ongoing application of the NSW Government’s ‘Build-to-Rent’ (BTR) housing provisions to the subject site, which could significantly compromise St Leonards’ employment capacity and ability to meet identified State employment targets.
- It is recommended that a minimum non-residential FSR control of 19:1 be included in the Planning Proposal to ensure the intended commercial outcome of the Planning Proposal is achieved. Alternatively, a special provision to exclude the site from ‘Built-to-Rent’ provisions under Part 4 of *State Environmental Planning Policy (Housing) 2021* could be requested. This is consistent with the policy position expressed in Council’s resolution of 26 August 2024 regarding to the Crows Nest TOD exhibition.
- The inclusion of a minimum non-residential FSR control is recommended to provide greater certainty that the intended employment outcome will be achieved on the site. It is consistent with both the *2036 Plan* and Crows Nest TOD and does not materially change the Planning Proposal nor trigger the need for re-exhibition.

**RECOMMENDATION:**

- 1. THAT** Council endorse the Planning Proposal provided at Attachment 1 subject to the inclusion of a minimum non-residential floorspace provision of 19:1 to ensure the site delivers an employment outcome.
- 2. THAT** Council note that the finalisation of the Planning Proposal and LEP amendment process will be incorporated into the State Government's Crows Nest Transit Oriented Development Program.
- 3. THAT** Council, in supporting the progression of this Planning Proposal, consistent with its resolution of 26 August 2024, reiterate to the State Government the need for St Leonards to provide for adequate employment generating floorspace capacity to fulfil its identified function as a Strategic Centre.
- 4. THAT** Council grant delegation to the Chief Executive Officer to execute the Voluntary Planning Agreement (VPA) (Attachment 2) with a view to having this VPA executed as soon as practical.
- 5. THAT** Council note the submissions made, forming Attachment 3 to this report.
- 6. THAT** Council notify all submitters of Council's decision and thanked for their submission.

## Background

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

On 19 January 2023, Council received a Planning Proposal (PP) to amend the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)* as it relates to land at 601 Pacific Highway, St Leonards.

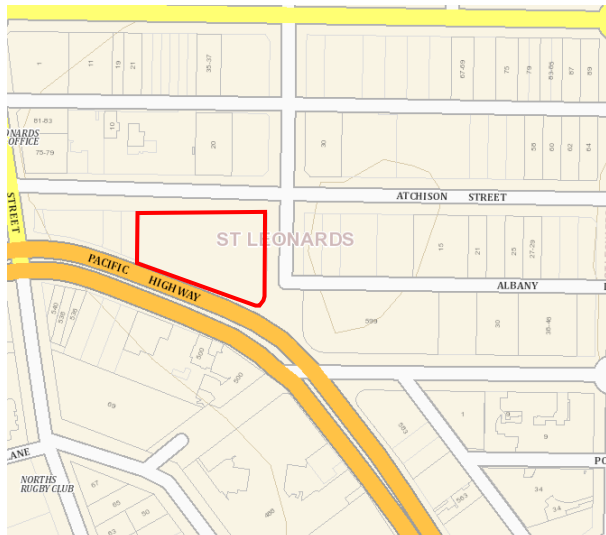


Figure 1: subject site

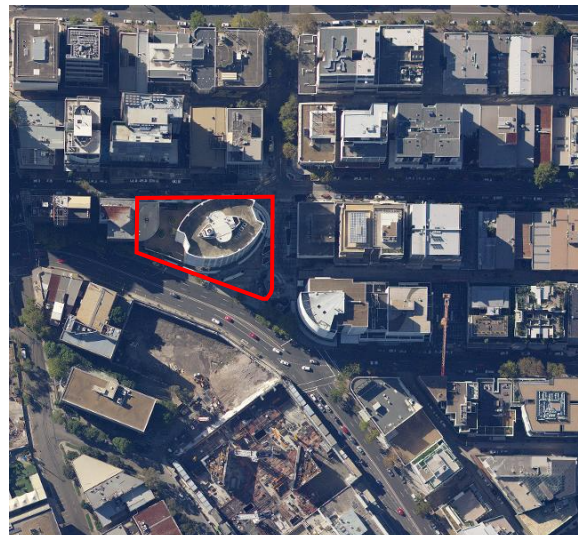


Figure 2: aerial photo

As lodged, the Planning Proposal sought the following amendments to NSLEP 2013:

- increase the maximum building height control from 49m to RL 276.5 (equivalent to 189m); and
- impose a maximum floor space ratio control of 20:1.

The proposal did not seek to amend the land use zone, which is currently E2 – Commercial Centre under NSLEP 2013.

The indicative concept scheme accompanying the Planning Proposal included a 42-storey commercial development with a five to six-storey podium and 36-storey tower above, comprising 56,348 sqm of commercial office floor space, 408 sqm of retail floor space, and 128 car spaces over four basement levels.

On 19 July 2023, the Planning Proposal was referred to the North Sydney Local Planning Panel (NSLPP) for its consideration. The NSLPP agreed with the recommendations outlined in a detailed assessment report prepared by consultants Element Environment (on behalf of Council), which found that the requested building height of RL 276.5 (equivalent to 189m) to be excessive for the number of storeys envisaged under the 2036 Plan for the site and would result in a greater level of impact (overshadowing, visual) than necessary.



The Panel recommended the Planning Proposal proceed to a Gateway Determination subject to the proposal and accompanying reference design being amended to a maximum building height of RL 259 (equivalent to 171m) for 42-storeys and a maximum street wall (podium) height of 20.5m for four to five storeys.

The Panel also recommended the applicant be invited to consider making an offer to deliver public/community benefits via a Voluntary Planning Agreement (VPA) with Council, in addition to the applicable s7.11 local infrastructure contributions which will be levied with any future Development Application (DA) approval for the site and the NSW Government's Housing and Productivity Contribution (HPC).

On 14 August 2023, Council resolved:

- 1. THAT the Planning Proposal, including the accompanying indicative concept scheme, be amended to Council's satisfaction addressing the recommendations of the detailed assessment report undertaken by Element Environment (on behalf of Council). Specifically, the maximum building height be amended to RL 259 (equivalent to 171m) and a maximum street wall (podium) height of 20.5m for 4 to 5 storeys.*
- 2. THAT the applicant be invited to consider making an offer to deliver public/community benefits via a Voluntary Planning Agreement (VPA) with Council, and that the outcome be reported to Council.*
- 3. THAT upon completion of Recommendations 1 and 2, the report return to Council complete with the offer of any Voluntary Planning Agreement put forward by the Proponent, prior to being forwarded to the Department of Planning and Environment.*

On 29 September 2023, the applicant submitted an amended Planning Proposal and reference design through the NSW Planning Portal which incorporated a reduced building height of RL 265 (a 11.5m reduction in height), above the recommended building height of RL 259 (a 17.5m reduction in height), in order to provide sufficient scope for the servicing of the project.

The applicant indicated that they were not willing to amend the proposed building height in line with the NSLPP recommendation and Council's resolution.

The applicant submitted a non-binding letter of offer to enter into a VPA, which proposed a \$172,000 monetary contribution to Council for the purposes of delivering community infrastructure.

On 27 November 2023, the applicant's amended Planning Proposal and VPA offer was reported to Council for its consideration. Council resolved:

- 1. THAT Council support a Planning Proposal at a maximum building height to RL 259 and accept the accompanying VPA offer in-principle, and that 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 seeking a*

*Gateway Determination at a maximum building height of RL 259, consistent with the recommendations of the detailed assessment undertaken by Element Environment (on behalf of Council) and the North Sydney Local Planning Panel.*

*2. THAT the General Manager be authorised to negotiate the detailed terms and provisions of a VPA consistent with the applicant's letter of offer, and as outlined in this report.*

*3. THAT upon receipt of a Gateway Determination, the associated draft Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal.*

On 7 December 2023, the NSW Government announced the Transit Oriented Development (TOD) Program and identified Crows Nest as one of the eight 'TOD Tier 1 precincts' for accelerated, state-led rezoning under the program. The subject site is located within the Crows Nest TOD precinct boundary.

On 18 December 2023, Council submitted the Planning Proposal to the DPHI, with a request for a Gateway Determination.

To address the impasse between Council and the applicant on the issue of height, it was requested that a condition be imposed on the Gateway Determination requiring the Planning Proposal be amended to detail a maximum building height of RL 259 (inclusive rooftop structures), consistent with the NSLPP's recommendation and Council's resolution of 27 November 2023, prior to public exhibition.

On 2 April 2024, the DPHI issued a Gateway Determination allowing the Planning Proposal and draft VPA to be placed on public exhibition subject to meeting several conditions. Conditions of the Gateway Determination included a requirement that the Planning Proposal be amended to apply a maximum building height of RL 259, as recommended by the NSLPP and resolved by Council on 27 November 2023, prior to being placed on public exhibition.

### **Crows Nest TOD Rezoning Proposal**

On 16 July 2023, the NSW Government released the Crows Nest TOD Rezoning Proposal for public comment. The 'Explanation of Intended Effect' (EIE) identified a maximum building height of RL 259 and FSR of 20:1 for the subject site consistent with the Planning Proposal actively being progressed by Council. The EIE clearly stipulated that: "Where there is an active planning proposal that has been considered by Council, these controls have been included in the EIE" (p.9).

The intent of this is not to introduce new controls that differ to, or undermine, active Planning Proposals in the precinct but rather provide a more efficient means of incorporating draft site-specific amendments in one process. This will occur as a result of an amendment (to the precinct) being implemented via a SEPP instead of an amendment specific to this site being undertaken individually to the *North Sydney LEP* as would usually be the case.

## Report

### 1. Issue of Gateway Determination

The four 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. Specifically, the Planning Proposal be amended to address the following;

- (a) Consistently apply a maximum building height control of RL 259 as resolved by North Sydney Council on 27 November 2023, including in supporting documents; and*
- (b) Include an updated timeline based on the issuing of the Gateway Determination.*

On 20 June 2024, the applicant submitted a revised Planning Proposal (Attachment 1) addressing the requirements of the Gateway Determination.

#### 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 (four weeks).

The Planning Proposal and accompanying draft VPA were placed on public exhibition for a total period of 25 working days (five weeks), from 18 July 2024 to 22 August 2024, commencing within 95 working days of the date of the Gateway Determination in accordance with the timeframes for the DPHI's 'standard' categorisation of the Planning Proposal in the Local Environmental Plan Making Guidelines (August 2023).

#### 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;
- Sydney Water Corporation;
- Sydney Airport;
- Civil Aviation Safety Authority (CASA);

- Airservices Australia; and
- Commonwealth Department of Transport, Infrastructure, Regional Development, Communications and the Arts (DTIRDCA).

The Planning Proposal was referred to the above public authorities on 22 August 2024 through the NSW Planning Portal. Responses were received from Transport for NSW, Sydney Water Corporation, and CASA 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 within an existing commercial centre and result in minimal traffic impacts to the surrounding local and regional transport network.

Advisory comments were provided to guide any future Development Application (DA), including a recommendation that ground level setbacks along the Pacific Highway be free of obstructions, that tree planting be located within the property boundary and improved bicycle parking infrastructure be incorporated into any future development on the site.

### **1.3.2 Sydney Water Corporation**

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

### **1.3.3 Civil Aviation Safety Authority**

No objection was raised regarding the Planning Proposal, noting that CASA will assess controlled activities (building and cranes) at the appropriate stage and upon receipt of request from Sydney Airport.

It was recommended that NSW Health Infrastructure also be consulted as CASA does not regulate Helicopter Landing Sites (at nearby Royal North Shore hospital).

## **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 discharge Council from any obligation it may

otherwise have to conduct a public hearing such as in response to a submission or 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**

The Gateway Determination stated that Council, as the Planning Proposal Authority (PPA), 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.

### **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**

The Gateway Determination states that the Planning Proposal should be completed on or before 24 January 2025.

In a letter accompanying the Gateway Determination, the DPHI noted that the site is subject to the Crows Nest TOD State-led rezoning process, and advised Council that:

*Should the Crows Nest State Led Rezoning conclude prior to Council making a LEP amendment for this planning proposal, the controls implemented in the State Led Rezoning will be supported by the Department to remain on the site. This may necessitate Council withdrawing the planning proposal or the Department issuing a do not proceed Gateway alteration.*

*Alternatively, should the planning proposal process conclude prior to the State Led Rezoning, the controls implemented by the proposal would not be further amended unless considered necessary.*

At the time this report was prepared, the DPHI was yet to finalise the Crows Nest TOD rezoning proposal. However, the most current advice is that it is anticipated that it will be finalised sometime in November -December 2024.

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

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

- increase the maximum building height control from 49m to RL 259 (equivalent to 171m); and
- impose a maximum floor space ratio (FSR) control of 20:1.

The indicative concept scheme as exhibited reflects a maximum building height of RL 259 inclusive rooftop structures (refer to Figure 3). It includes a 41-storey commercial tower comprising a five to six-storey podium and 35-storey tower above, with a total 56,348 sqm of commercial office floor space, 408 sqm of retail floor space, and 128 car spaces over four basement levels.

The draft VPA as exhibited, proposes the provision of a monetary contribution in the sum of \$172,000 to Council to be used towards community infrastructure delivered by the Council. This contribution is in addition to any applicable s7.11 local infrastructure contributions which will be levied with any future Development Application (DA) approval for the site.

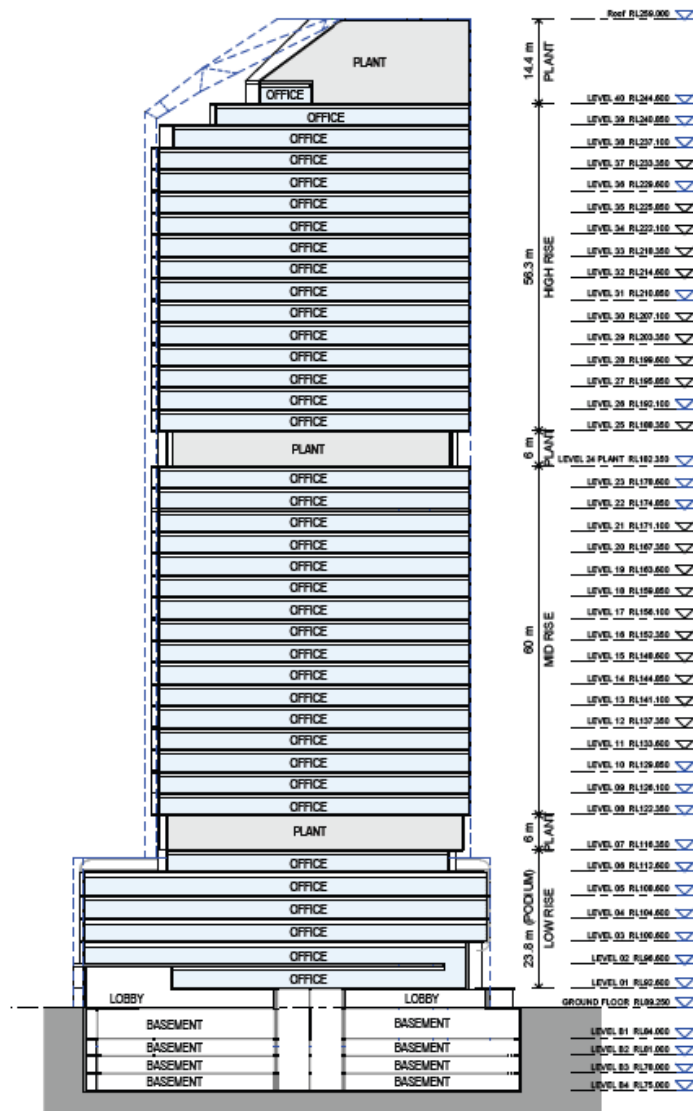


Figure 3: Indicative Concept Scheme (Revised Planning Proposal, p. 28)

### 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 25 working days (5 weeks) from 18 July 2024 to 22 August 2024.

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 Lane Cove Local Government Areas (LGA) (6,107 letters sent);
- memo to precinct committees;

- notification in Council’s e-newsletters, including:
  - Council eNews (1,868 subscribers)
  - Precincts eNews (266 subscribers)
  - DA eNews (270 subscribers)
- a dedicated exhibition web page, including all documentation and contact information – 348 visits to the project page during the exhibition period and 162 downloads of the Planning Proposal documents; and
- physical copies of all supporting documentation and contact information on display at Council’s Customer Service Centre and Stanton Library.

#### 4. Submissions Overview

26 submissions were received. A more detailed summary of submissions is included in Attachment 3. This included:

- 22 submissions from local residents objecting to, or raising concerns with, the Planning Proposal, including one submission from the Strata Owners Corporation of 500 Pacific Highway (‘Landmark’ Building) and one submission from the St Leonards Strata Community Group which represents 22 strata committees (totaling some 2,992 units and 8,865 residents) in the St Leonards area;
- one submission supportive of the Planning Proposal; and
- three submissions from public authorities/government agencies, raising no objections with the Planning Proposal.

#### 5. Concerns Raised

The following provides a summary of the frequency of issues and concerns raised during the public exhibition.

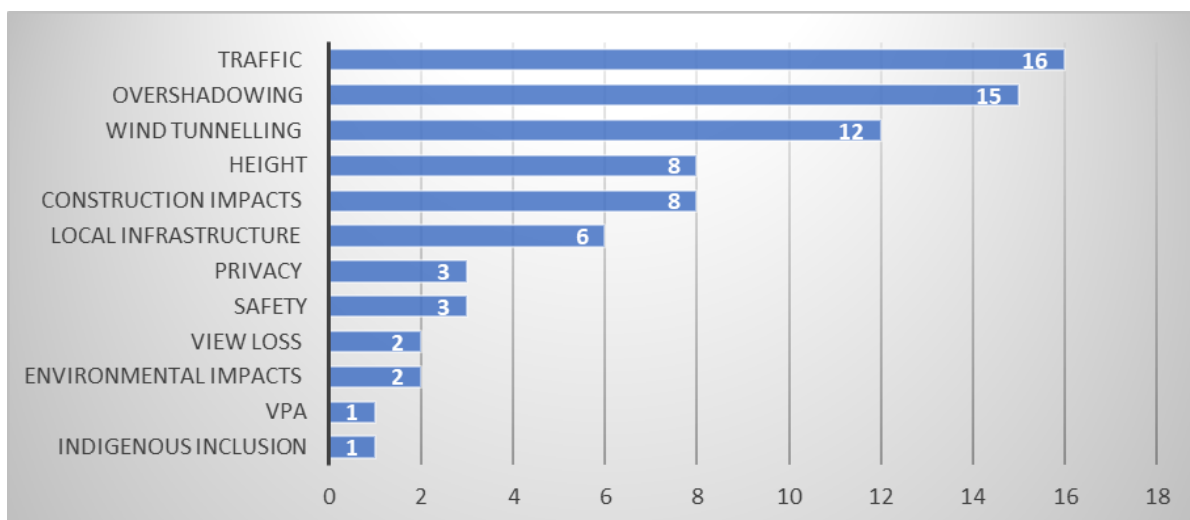


FIGURE 4: Breakdown of key issues raised in submissions



The key issues raised in the submissions received are discussed in the following subsections. A more detailed summary of submissions and responses is provided at Attachment 3 to this report.

## 5.1 Building Height

Many submissions (approximately 30%) considered the proposed building height of 171m excessive for the following reasons:

- the proposed height being 'well above North Sydney local planning requirements, goes against local planning, and the values and wishes of the local community';
- the height and scale of the proposal is not in keeping with or would alter the character of St Leonards; and
- the cumulative impacts of tall buildings, specifically overshadowing and wind tunnelling impacts, have not been adequately considered.

One submission objected to any increase in height above 49m throughout the precinct, whilst one submission suggested a 20-25 storey tower be more appropriate for the subject site.

### *Comment*

The subject site is located within the area covered by the *St Leonards and Crows Nest 2036 Plan (2036 Plan)*, finalised by the NSW Department of Planning in August 2020. The *2036 Plan* aims to deliver significant residential and employment growth, including capacity for an additional 16,500 new jobs and 6,683 new homes within the North Sydney portion of the precinct. When the *2036 Plan* was finalised, it was accompanied by a Ministerial Direction requiring planning proposals to demonstrate consistency with the vision, design principles, and built form controls identified in the *2036 Plan*.

The *2036 Plan* envisages a commercial building on the subject site to provide for employment within the precinct with a maximum potential height of 42-storeys and a 20:1 floor space ratio. The site is located within a height 'knuckle area,' an identified cluster of high-density development in the St Leonards commercial core and focal point for height in the precinct.

A maximum height limit of RL259 (equivalent to 171m) was recommended by Council's independent consultants and the NSLPP to accommodate a 42-storey commercial building, taking into consideration the unique servicing requirements of commercial buildings and the heights of buildings within the immediate context.

Whilst the proposed height represents a significant degree of change and will result in impacts to development in the vicinity (such as solar access and wind impacts), the proposal will have capacity to deliver approximately 41,650 sqm of net additional commercial floorspace and

approximately 2,000 additional jobs in an established and highly accessible centre, strengthening St Leonards regionally significant economic and employment functions. This land use outcome was a key justification for the Council's initial recommendation of support of the Planning Proposal.

## **5.2 Overshadowing and solar access impacts**

Overshadowing/loss of solar access was the second most frequently raised issue in the submissions received. The concerns were predominantly broached by residents of 500 Pacific Highway (the 'Landmark Building') to the south of the subject site, and 10 Atchison Street to the north. Several submissions questioned the adequacy of the applicant's shadow analysis which excluded several recent major developments including St Leonards Square, the Landmark Building, and 88 Christie Street.

One submission noted that the applicant's analysis indicated solar access to residents in the Landmark Building would be reduced to less than one hour. It was suggested that the solar access controls applying to other residential areas should also apply to the Landmark Building. Two submissions questioned the proposal's compliance with the *2036 Plan's* solar access controls and guidelines in mid-winter.

### *Comment*

In a dense urban environment such as St Leonards, an inevitable degree of overshadowing is expected when redevelopment occurs, and strict adherence to SEPP 65 and Apartment Design Guideline (ADG) requirements may be difficult to achieve.

During the preparation of the *2036 Plan* it was recognised that, whilst the quantum of height and density proposed 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 targets, rather than dispersing this growth throughout more sensitive neighbourhoods with lower levels of accessibility.

The *2036 Plan* incorporates provisions that aim to protect solar access to selected 'key' public open spaces and valued streetscapes, and to residential areas (R2, R3, and R4-zoned land) inside and outside the precinct boundary. The planning proposal has demonstrated that a future building on the site, envisaged under the proposed planning controls for the site, can comply with these solar access provisions.

It should be noted that St Leonards Square (within the Lane Cove LGA) was excluded from the *2036 Plan's* open space solar protection provisions. 500 Pacific Highway (Landmark Building) is located within the mixed-use zone.

Notwithstanding, additional design and architectural considerations can still be explored at the future DA stage to ensure overshadowing impacts are further mitigated to the abovementioned properties and surrounding areas of the public domain.

### **5.3 Traffic impacts**

Traffic congestion was another frequently raised concern in the submissions received. Heavy traffic conditions in and around St Leonards during peak hours (Pacific Highway and side streets) were noted, and concerns raised that the proposed development will further deteriorate traffic conditions.

Several submissions raised concerns that no recent traffic study had been undertaken that assessed the cumulative impact of large-scale development approvals on the existing road network in St Leonards. It was noted that the last comprehensive traffic study was conducted in 2013 and that recent studies focused on pedestrian and cycle movements, not vehicular movements. Two submissions suggested no new development be approved until a comprehensive traffic study is undertaken. One submission raised safety concerns, notably increased emergency response times due to traffic congestion.

#### *Comment*

An overall reduction in the quantum of on-site parking and traffic generated by the development is proposed; the existing 14-storey commercial building on the subject site includes a 158-space basement carpark. It is proposed to be reduced to a 128-space carpark (a net reduction of 30 spaces), which is below the maximum amount of car parking allowed under Council's parking provisions. Due to the overall reduction in parking, traffic generated by the proposed development is expected to reduce (-eight car trips during the morning peak and -six car trips during the pm peak), and the overall impact of the proposed development to the surrounding network is expected to be negligible.

In May 2023, Council reduced the rate of permitted off-street parking spaces for new residential development in areas of high public transport accessibility. The revised rates apply to new residential developments in the R4-High Density and MUI-Mixed Use zones in areas identified as having high public transport accessibility (i.e., parts of St Leonards, Crows Nest, North Sydney, Wollstonecraft, Lavender Bay, and Milsons Point). The amendment was introduced to address emerging development density increases, capitalise on new transport infrastructure (Metro), and minimise traffic growth and impacts on amenity and place-making.

## **5.4 Wind tunnelling**

Approximately 45% of submissions raised concerns that the proposal will further exacerbate St Leonards' wind tunnelling issues. The concentration of tall towers in St Leonards, and its location along a ridge line, contribute to strong winds at the ground level and a compromised pedestrian environment.

The adequacy of the applicant's wind assessment was questioned, with a number of submissions stating that the applicant's reports do not take into consideration a number of recent major developments such as St Leonards Square, the Landmark Building, and 88 Christie Street.

### *Comment*

It is acknowledged that the applicant's wind assessment is preliminary and that further detailed wind modelling is required to quantify existing and future expected wind speeds in and around the proposed development.

Notwithstanding, any future DA lodged for redevelopment of the site will be required to be accompanied by a detailed wind impact assessment and identify suitable wind mitigation measures to ensure an acceptable level of wind comfort and amenity (as outlined in *NSDCP 2013*) is achieved, both within the proposed development and to the surrounding private and public domain.

## **5.5 Construction impacts**

Approximately 45% of submissions stated that the volume of simultaneous development approvals in St Leonards is causing severe congestion, road closures, and prolonged construction disturbances (e.g., noise, dust) for local residents. Several submissions attributed a lack of coordination between Council and the State government on the sequencing and management of approvals, and construction, for exacerbating the issues.

### *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, exacerbated by the extended construction period for the Crows Nest Metro station.

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

construction project timeframes are clearer, Council will also play a role in co-ordinating particularly impactful activities, such as temporary road closures, crane deliveries, loading areas and the like within the precinct.

## **5.6 Local Infrastructure and Services**

Approximately 25% of submissions raised concerns about the amount of high-density development in the pipeline, projected population increases and its impact on local infrastructure and services, and the overall 'liveability' of St Leonards. Concerns included the overburdening of public services already near capacity, the lack of green space and public amenities, and inadequate pedestrian infrastructure connecting new development to stations.

### *Comment*

Council recognises the need for supporting infrastructure to accompany growth and made strong representations to that effect in its Crows Nest TOD submission to the State Government.

This Planning Proposal will attract a s7.11 local infrastructure contribution of approximately \$7.96 million if the development proceeds. The contribution is in addition to site frontage upgrade works ordinarily associated with a development of this nature. The Proposal will also attract a Housing and Productivity Contribution (HPC) of approximately \$1.29 million. The HPC, which replaced the State Government's former Special Infrastructure Contribution (SIC), pools funds across the precinct to help provide regional open space and infrastructure upgrades to support growth in the precinct. In addition to these mandatory levies, the VPA accompanying the proposal offers to provide Council an additional \$172,000 for the delivery of community infrastructure. Whilst the contribution is modest, Council has limited capacity to negotiate a greater contribution.

## **6. Application of 'Built-to-Rent' provisions in E2-Commercial Centre zoned land**

In November 2021, the NSW Government amended the Housing SEPP to permit 'Build-to-Rent' (BTR) housing within the E2 - Commercial Centre zone (effectively overriding the residential prohibition in *NSLEP 2013* for this zone). Council has, on numerous occasions, raised concerns with DPHI about the implications of BTR on the North Sydney CBD and St Leonards/Crows Nest.

There is concern that the ongoing application of the NSW Government's BTR housing provisions in the E2 – Commercial Centre zone could be taken up on the subject site, significantly compromising the precinct's employment floorspace capacity and ability to meet

state employment targets, which would erode its standing as a Strategic Centre (the second highest order centre in the Metropolitan Plan).

The *2036 Plan* aims to reinforce St Leonards' role as a regionally significant employment centre, and identifies a 'high' employment target of 16,500 new jobs for the precinct. This is largely to be delivered via long-term employment growth on the Royal North Shore Hospital Site and a select number of commercial towers in small pockets of E2 – Commercial Centre zoned land, including Crows Nest metro over-station development and the 601 Pacific Hwy (the subject site).

In Council's recent submission on the Crows Nest TOD, concern was raised that the combined effect of reduced non-residential floorspace (largely due to the proposed affordable housing bonus provisions) and the potential take up of BTR provisions in the precinct would reduce the planned employment capacity of the precinct by an estimated -165,300 to 174,600m<sup>2</sup> or -11,000 jobs. The conversion of the subject site from commercial to residential alone could result in the loss of -56,348m<sup>2</sup> of employment generating floorspace or 2,680 jobs.

Whilst there are a number of restrictions imposed on BTR housing when undertaken in the E2 – Commercial Centre zone, such as not being able to subdivide individual BTR dwellings in perpetuity and a requirement that BTR dwellings are designed in such a way that the space can be converted to commercial purposes again in the future, it is highly unlikely that once constructed, the space would ever revert back to non-residential purposes.

St Leonards is a relatively compact employment centre, with only a few small pockets of E2-Commercial Centre zoned land. The MU1-Mixed Use zone, which has very wide application throughout the North Sydney LGA including St Leonards, provides sufficient capacity to deliver BTR housing. The subject site, in terms of its size and proximity to both St Leonards and Crows Nest Metro stations, is one of the few sites with the ability to have a meaningful delivery of commercial floorspace.

The potential introduction of residential on the site also introduces a very different set of planning considerations that have not been taken into account in the assessment of the proposal. These include different solar access, setbacks, and separation, floor heights, servicing and parking requirements that would result in sub-optimal amenity and greater impacts. A residential use on the site would also likely necessitate a considerable lower FSR applying to the site – due to planning considerations cited above and the reduced floorspace/GBA efficiency applying to residential development.

The Planning Proposal has been assessed and progressed on the basis of facilitating a commercial outcome on the site, consistent with the land use and built form controls identified in the *2036 Plan* (and more recently reflected in the exhibited Crows Nest TOD

rezoning package). Considering the risks and impacts associated with the potential take up of BTR on the subject site, it is recommended that measures be incorporated to ensure the intent of the Planning Proposal, as expressed by the applicant in their submitted documentation, is achieved. This is further discussed in section 7 below.

## **7. Recommendation**

To ensure a commercial outcome is delivered on the site, and to protect the long-term economic/employment function of St Leonards, there are two potential options:

- a) a minimum non-residential FSR of 19:1 is included in the Planning Proposal; OR
- b) a special provision that excludes the site from eligibility for the BTR provisions currently available under Part 4 of *State Environmental Planning Policy (Housing) 2021*.

Option a) is considered to be the clearest and most practical means of ensuring a commercial outcome is achieved on the site. Option b) is less likely to be supported by the DPHI as it entails a more complex amendment to another planning instrument, being the Housing SEPP.

The 2036 Plan identified both a maximum FSR control of 20:1 and a minimum non-residential FSR control of 20:1 for the subject site. This was also reflected in the exhibited Crows Nest TOD rezoning package (p. 21, Explanation of Intended Effects) which stated:

It is proposed to amend the minimum non-residential FSR as follows:

- *amend for sites in North Sydney consistent with the 2036 Plan and urban design review with a range from approximately 0.5:1 to 20:1*

(NB the only site identified in the 2036 Plan with a minimum non-residential FSR of 20:1 is the subject site).

It is recommended that a slightly lower minimum non-residential FSR control of 19:1 be applied due to the difficulties in achieving exact compliance when both the same minimum and maximum FSR figures are adopted for a site, and to reduce the need for any further (clause 4.6) variations to the FSR controls at the future DA stage.

The incorporation of a minimum non-residential FSR control or BTR exclusion (in addition to the maximum height and FSR controls already sought under the proposal) provides greater certainty and consistency with the stated objectives of the endorsed and exhibited Planning Proposal and does not trigger the need for a re-exhibition.

## Options

The following options are available to Council:

- 1) Do nothing/not support the Planning Proposal and accompanying VPA offer.
- 2) Proceed with the finalisation of the Planning Proposal and VPA, as exhibited, with no further changes.
- 3) Recommended Option – Support the finalisation of the Planning Proposal and VPA, to be undertaken by DPHI, provided a minimum non-residential FSR control of 19:1 is applied to the site.

These options are assessed in the table below.

Option	Finance/Resourcing	Risk/Opportunity	Consultation
1.	Do nothing/not support the Planning Proposal and VPA will have no financial/resourcing impact for Council.	The DPHI will progress with the finalisation of the Planning Proposal/Crows Nest TOD Rezoning. This will be in the absence of securing the public benefits in the VPA and represent a missed opportunity for Council to receive an additional \$172,000 monetary contribution towards the delivery of community infrastructure.	No further consultation is required.
2.	Supporting the finalisation of the Planning Proposal and VPA, as exhibited, with no further changes will have a minor financial/resourcing impact for Council.	This option could potentially facilitate an outcome inconsistent with the 2036 Plan, due to the application of 'Build-to-Rent' provisions under the Housing SEPP. The introduction of residential on the site would significantly compromise St Leonards' employment capacity and ability to meet state employment targets.	No further consultation beyond this report is required. However, further consultation will be undertaken with any future DA.
3.	Supporting the finalisation of the Planning Proposal and VPA, subject to the recommended changes, will have a minor financial/resourcing impact for Council.	The recommended course of action would facilitate an employment development outcome consistent with the 2036 Plan and Crows Nest TOD and assist Council, by securing an additional \$172,000, in the delivery of community infrastructure.	No further consultation beyond this report is required. However, further consultation will be undertaken with any future DA.



Option 3, is recommended for the following reasons:

- Supporting the finalisation of the Planning Proposal and execution of the VPA, provided a minimum non-residential FSR control of 19:1 is included, will facilitate a commercial and employment outcome on the site that is consistent with the *2036 Plan* and the Crows Nest TOD. It will also assist Council, by securing an additional \$172,000 monetary contribution, in the delivery of community infrastructure.
- Should Council not support the Planning Proposal and VPA, there is a risk that the DPHI will progress with the finalisation of the Planning Proposal and/or the Crows Nest TOD Rezoning proposal regardless of Council's decision, and in the absence of the public benefits proposed in the VPA.

### **Consultation requirements**

Community consultation has occurred in accordance with Council's Community Engagement Protocol. The detail 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 enter into the VPA to receive a \$172,000 monetary contribution towards the delivery of community infrastructure. This contribution would be in addition to the developer contributions applicable under the (s7.11) *North Sydney Local Infrastructure Contributions Plan 2020* and will represent a financial benefit to Council.

The detailed terms of the VPA require the landowner/developer to cover all legal costs associated with the administration of the agreement. Whilst additional staff time will be required to implement the agreement, the resourcing implications of entering into the agreement will be negligible.

### **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.

URBIS

# PLANNING PROPOSAL (GATEWAY DETERMINATION)

601 Pacific Highway,  
St Leonards

Prepared for  
**STOCKLAND DEVELOPMENT PTY LTD**  
18 June 2024

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

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Project Code	P0028339
Report Number	Final (Gateway Determination)

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# EXECUTIVE SUMMARY

## Overview

This report has been prepared on behalf of Stockland Development Pty Ltd (**Stockland**) to support a planning proposal request to North Sydney Council (**Council**) in relation to 601 Pacific Highway, St Leonards (**the site**). The planning proposal seeks to change the statutory planning controls that apply to the site under the North Sydney Local Environmental Plan 2013 (**LEP**) as follows:

- Establish a site-specific building height control, with maximum building height of RL259; and
- Establish a site-specific floor space ratio (FSR) control, with a maximum FSR of 20:1.

The planning proposal is accompanied by an indicative concept proposal which establishes a building envelope and footprint, with a maximum building height of RL 259, for future development. The proposal is consistent with the vision, objectives, and built form guidance within the St Leonards and Crows Nest 2036 Plan (**2036 Plan**).

This report is to be prepared prior to public exhibition of the planning proposal, which is required under section 3.34(2)(c) and clause 4 of Schedule 1 of the Environmental Planning and Assessment Act 1979 (**EP&A Act**).

## Strategic Planning Background

In May 2015, North Sydney Council endorsed a strategic review of its planning framework for the St Leonards and Crows Nest area (the St Leonards/Crows Nest Planning Study – Precincts 2 and 3) (**the 2015 Planning Study**). The site was included in Precinct 2 of the study area and identified as a ‘tall tower’ site.

On 7 July 2016, the NSW Department of Planning and Environment (**DPE**) formally commenced a strategic planning investigation of St Leonards, Crows Nest, and the Artarmon industrial area. Accordingly, on 1 June 2017 St Leonards and Crows Nest was declared a “planned precinct”.

On 29 August 2020, the NSW Government finalised the planning package for St Leonards and Crows Nest. This contained the final St Leonards and Crows Nest 2036 Plan (**the 2036 Plan**), the Special Infrastructure Contribution (**SIC**) Determination, St Leonards and Crows Nest Local Character Statement, St Leonards and Crows Nest Green Plan, Urban Design Study, and other supporting documents and legislative amendments.

The site is identified within a cluster of high-density commercial and mixed-use developments along Pacific Highway between St Leonards Station and Crows Nest Metro Station. The site is earmarked for increased density and as suitable for transit-oriented development to take advantage of increased accessibility to jobs.

## Intended Statutory Planning Outcomes

This planning proposal seeks to amend the statutory planning controls that apply to the site through a site-specific amendment to NSLEP to enable future redevelopment at this prominent location.

This planning proposal is informed by an indicative concept proposal which establishes a building envelope and footprint, with a maximum building height of RL 259, for a future development proposal. The key components of the indicative concept proposal are:

- 41 storey commercial tower;
- Four levels of basement car parking below ground level;
- Lower ground floor retail and commercial uses (including café / bar, retail premises, and reception area);
- Upper ground floor (upper lobby, potential for co-working spaces, and café); and
- Upper tower levels for commercial offices (including plant levels and communal terrace gardens).



The indicative concept proposal can be achieved by amending the NSLEP as follows:

- Amend NSLEP 2013 *Height of Buildings Map* to provide for a maximum building height of RL259;
- Amend NSLEP 2013 *Maximum Floor Space Ratio Map* to provide a maximum floor space ratio (FSR) control of 20:1.

The amended planning proposal seeks to unlock the potential of a strategically-located landholding and facilitate transit-oriented commercial development in a location earmarked for density uplift in the 2036 Plan.

## Planning, Community, and Public Domain Outcomes

The planning proposal facilitates the following key planning outcomes and community benefits:

- **Consistent with State Government policy which supports growth in St Leonards:** Future development will accommodate a range of commercial land uses in a major strategic centre that is well serviced by public transport. It will generate new employment opportunities within walking distance of major employment, retail, health and education facilities, and excellent public transport connectivity.
- **Increased and diversified employment opportunities:** The high amenity and contemporary office accommodation will facilitate commercial activity and business with flexible floorplates and tenancies.
- **Job creation:** Future development has the potential to create approximately 3,346 full time jobs.
- **Improved pedestrian access and connectivity:** The proposal provides opportunities for improved pedestrian circulation and connectivity throughout the St Leonards centre through the establishment of site connections with adjacent properties and enhanced integration with the surrounding footpath network, Mitchell Street Plaza, and key transport nodes such as St Leonards train station.
- **Landmark tower and building envelope:** The indicative concept proposal envisages a commercial tower that has a slender and articulated form. The design maximises separation from adjoining development in order to allow for view sharing and minimise the effect of 'tower crowding'. The ground floor provides activation and engagement with the public domain with clearly defined building entries.
- **Public domain enhancement:** The proposal provides significant potential to deliver meaningful public domain enhancements and activation along the Pacific Highway, Mitchell Street, and Atchison Street.
- **Solar amenity:** The proposal preserves solar access to key public open spaces, surrounding residential areas, and heritage conservation areas.
- **Mitchell Street Plaza enhancements:** The proposal presents opportunities to deliver a dynamic interface to the Mitchell Street Plaza, with lobby entries and outdoor dining activity contributing to its role as a focal point for the precinct.
- **Atchison Street activation day and night:** New retail uses to the Atchison Street frontage will create opportunities for outdoor / sunlit alfresco dining and other ground plane activations (such as pop-up installations). Public domain activation will complement the principal commercial office use, encourage pedestrian activity, and reinforce Atchison Street as a vibrant day and night dining precinct.
- **Community infrastructure contribution:** The proponent has submitted a Letter of Offer to enter into a planning agreement with North Sydney Council to provide a monetary contribution for the construction of a future signalised pedestrian improvements at the corner of Albany Street and Pacific Highway.

A detailed analysis of the site and its surrounding context and the prevailing State and local planning policy demonstrates that there is clear strategic and site-specific planning merit to the planning proposal. It is recommended that the proposed amendment to the NSLEP be considered by Council and that Council resolve to forward it to DPE for Gateway Determination in accordance with the EP&A Act.

# 1. INTRODUCTION

## 1.1. OVERVIEW

This report has been prepared on behalf of Stockland Development Pty Ltd (**the proponent**) to support a planning proposal (Council reference: PP-2023-92) in relation to 601 Pacific Highway, St Leonards (**the site**). The planning proposal seeks to amend the North Sydney Local Environmental Plan 2013 (**NSLEP**) to facilitate a high-density mixed-use development on the site. The planning proposal seeks to change the planning controls apply to the site under the NSLEP as follows:

- Establish a site-specific building height control, with maximum building height of RL259; and
- Establish a site-specific floor space ratio (**FSR**) control, with a maximum FSR of 20:1.

The site is currently zoned E2 Commercial Centre under the NSLEP. No change to this zoning is proposed.

The planning proposal is accompanied by an indicative concept proposal which establishes a building envelope and footprint, with a maximum building height of RL 259, for future development. The proposal is consistent with the vision, objectives, and built form guidance within the St Leonards and Crows Nest 2036 Plan (**2036 Plan**).

The amended planning proposal has been prepared in accordance with the provisions of Section 3.33 of the Environmental Planning and Assessment Act 1979 (**EP&A Act**).EP&A Act. It has been prepared having regard to the relevant guidelines including the *Local Environmental Plan Making Guideline* (August 2023) (DPE).

## 1.2. ACCOMPANYING DOCUMENTATION

The amended planning proposal is accompanied by the following consultant documentation, to consider the maximum building height of RL 259.

Table 1 Amended Planning Proposal Documentation

Document	Consultant	Appendix
Urban Design Report	Architectus	A
Landscape Concept Report	Oculus	B
Preliminary Site Investigation	Golder Associates Pty Ltd	C
Geotechnical Desktop Report	Arup	D
Structural Engineering Report	Arup	E
Traffic Impact Assessment (+ Green Travel Plan)	Arup	F
Wind Environment Statement	WindTech	G
Preliminary Aeronautical Impact Assessment	Avlaw Consulting	H
Council's Pre-Lodgement Minutes	North Sydney Council	I
Pre-Lodgement Design Response	Architectus & Arup	J
Planning Agreement Letter of Offer	Stockland	K

### 1.3. PRE-LODGE MENT CONSULTATION


On 11 October 2022, Urbis submitted a Scoping Proposal to Council. The intent of the Scoping Proposal was to provide an overview of the original planning proposal, outline the strategic and site-specific merits, and identify preliminary environmental considerations for pre-lodgement consultation with Council. The Scoping Proposal provided a high-level overview of the existing strategic and statutory policy context of the site and presented the proposed vision for the original planning proposal, supported by a Concept Urban Design prepared by Architectus. The Scoping Proposal was prepared in accordance with Attachment A of the *Local Environmental Plan Making Guideline*, published by DPE in December 2021.

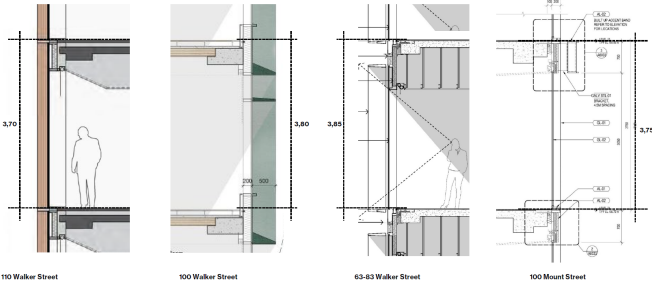
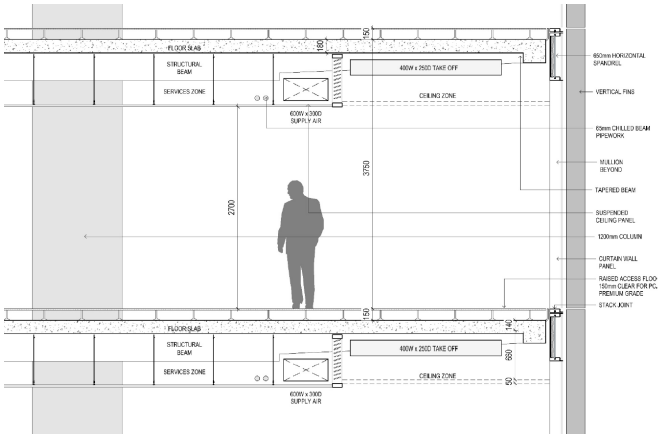
A pre-lodgement meeting was held on 14 November 2022, attended by the applicant and representatives of the applicant's project team and Council officers (Marcelo Occhiuzzi, Neal McCarry, Jing Li, and Jim Davies). The applicant received Council's pre-lodgement meeting minutes on 24 November 2022 (at **Appendix I**).

**Table 2** below identifies applicant's response at the time of lodgement of the planning proposal. Further detail is provided in the Pre-Lodgement Meeting Response Report prepared by Architectus (**Appendix J**).

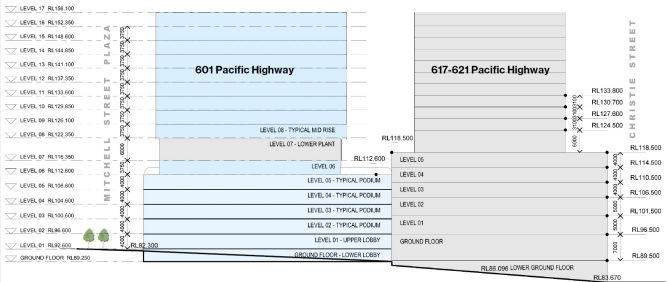
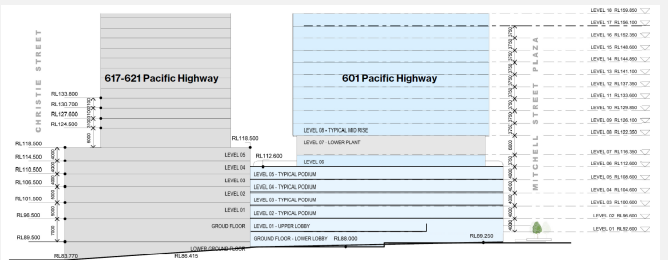
Table 2 Applicant Response to Pre-Lodgement Meeting

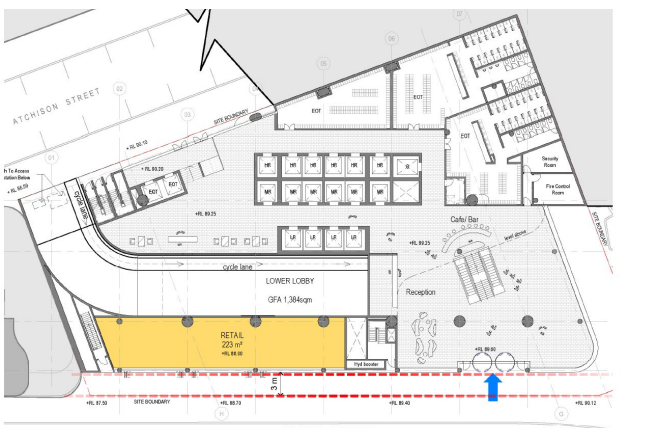
Council Comment	Applicant Response
<b>2.1 FSR</b>	
<p><i>Given that the site will remain zoned E2 Commercial Centre zone, the minimum non-residential floor space ratio will not be required. If imposed, this will lead to a situation where the exact FSR will need to be complied with otherwise, a clause 4.6 variation will be required, either for more floor space than outlined in the maximum total FSR or less floor space than identified in the minimum non-residential FSR.</i></p>	<p>The planning proposal retains the site's existing Commercial Centre and proposes a maximum FSR of 20:1. The planning proposal does not propose any additional land uses (including residential land uses). Accordingly, as noted in Council's meeting minutes, it is not necessary to apply to the site a non-residential FSR equivalent to the maximum FSR given that the E2 Zone prohibits residential uses.</p>
<b>2.2 Building Height</b>	
<p><i>Height is a sensitive issue in the precinct and one that requires careful management in terms of visual impact, solar access and relationship to other development. The following is observed:</i></p> <ul style="list-style-type: none"> <li>▪ <i>The three plant levels are proposed as 8m, 6m and 6m in height which provide for a more generous plant room height than may otherwise be expected.</i></li> </ul>	<p>The plant area has been allocated that is appropriate to achieve PCA-A grade level of servicing. Arup has provided the following statements to detail the proposed heights of the three plant levels.</p> <p><u>Roof Top Plantroom</u></p> <p>This is effectively two plantroom levels as it has tanks and ventilation plant at low level with cooling towers and heat pumps above. The 8m height is already at the minimum level required to fit the two levels of services equipment. The plant is required to be stacked as there is insufficient room on the rooftop to accommodate a single level of plant. There is a 3m minimum requirement for the ventilation plant to enable ductwork across the floorplate at high level to risers which leaves a 2.1m clear vertical height for access and the air handling unit space beneath. There is also a minimum 5m clear height required for cooling towers above (including deck / structure) which already restricts to slimline units (typically this is 6m+ clear).</p> <p><u>Mid-Level Plantroom</u></p> <p>The key equipment item informing the 5.4m clear minimum height requirement is the upper chamber substation. Ausgrid's standard</p>


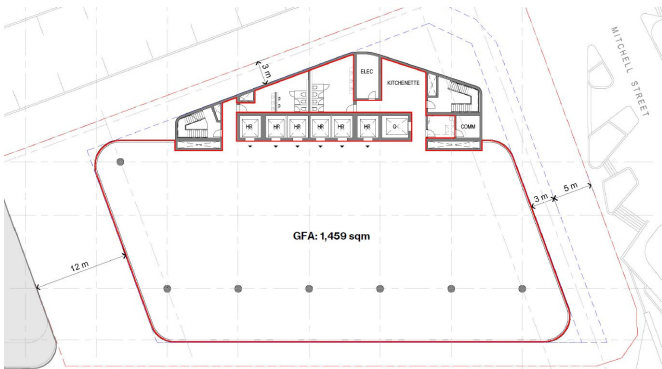
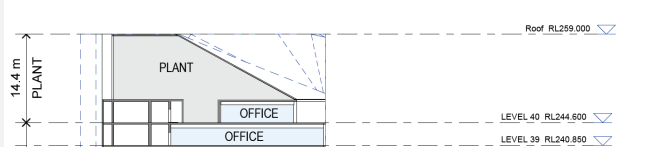
Council Comment	Applicant Response
	<p>(NS113) mandates 4.2m clear height (3.2m for the substation and 1m for the cabling/trench) and there is a requirement to hoist the transformers to ground level for replacement, at which height this requires a lifting beam / drum depth of circa 1.2m. Additionally at this plantroom level, it is proposed to have double stacking equipment for the other half of the floor plate with ventilation plant on top of chilled water plant and switch rooms. Allowing for structure above, 6m is the most reasonable lowest height (ideally it is a 6m clear height).</p> <p><u>Low Level Plantroom</u></p> <p>This level is for ventilation plant and there is a need for a degree of flexibility to accommodate kitchen exhaust treatment systems, which could require 5m clear to include maintenance and duct crossovers. For this reason, a 6m floor-to-floor height is required for this level.</p>
<ul style="list-style-type: none"> <li>The proposed 4m floor to floor height for the commercial storeys at podium levels is greater than the minimum 3.6m non-residential level requirement in the NSDCP 2013.</li> </ul>	<p>The floor-to-floor heights for the podium levels are appropriate to achieve PCA A-grade quality office accommodation. The podium floors have less access to daylight and are larger in size than the tower. In order to gain adequate daylight, the floor plates require more floor-to-floor height than upper floors. It is common for floor-to-floor height of 4m at podium levels. As Council notes, 3.6m is a minimum level, thus the concept is compliant with the DCP.</p> <p>The Pre-Lodgement Meeting Response Report (at <b>Appendix J</b>) contains a typical podium floor section detail diagram, as below.</p>  <p>The diagram is a vertical section through a podium floor. It shows two levels of floor plates. The top level is labeled 'FLOOR 3.6M' and has a person walking on it. Below it is another level labeled 'FLOOR 3.6M'. The diagram shows structural beams, a suspended ceiling, and various mechanical components like ductwork and a raised floor. Labels on the right side include: 'HORIZONTAL FING', 'BLANK CHILLED BEAM POSITION', 'BLANK BEYOND', 'SUSPENDED BEAM', 'SUSPENDED CEILING PANEL', 'CORE WALL PANEL', 'RAISED ACCESS FLOOR', 'RIBBED COLUMN', and 'STACK JOINT'. Dimensions and labels like 'STRUCTURAL BEAM', '400x1200 TANG OFF', and 'FLOOR 3.6M' are also present.</p>
<ul style="list-style-type: none"> <li>The proposed 3.75m floor to floor height for the commercial storeys at tower level is greater than the minimum 3.6m non-residential level requirement in the NSDCP 2013.</li> </ul>	<p>The floor-to-floor heights are appropriate in order to achieve PCA A-grade quality office accommodation. Floor-to-floor height for typical A and Premium grade office floors is 3.75m to 3.85m in order to achieve a minimum 2.7m ceiling height and accommodate a 150mm raised floor depending on the core location, floor plate size, and mechanical system selection. A floor-to-floor lower than 3.75m would limit the mechanical system selection and restrict the flexibility for a commercial office floor.</p>

Council Comment	Applicant Response
	<p>The proposed 3.75m floor-to-floor heights is appropriate based on likely structure sizing and is comparable to other recently approved and constructed commercial buildings in the North Sydney LGA.</p> <p>As stated above, the proposed floor to floor heights are marginally greater than the DCP minimum control and thus comply with the DCP.</p> <p>The Pre-Lodgement Meeting Response Report identifies building heights for comparable commercial buildings in the LGA, as follows.</p>  <p>The Pre-Lodgement Meeting Response Report contains a typical commercial floor section detail diagram, as below.</p> 
<ul style="list-style-type: none"> <li>▪ The proposed roof has a 9.65m high structure, which represents a significant height increase above the 42 storey built form. It is unclear what uses are proposed at the roof top level.</li> <li>▪ Above the roof structure, the proposed 187.25m building height includes a void envelope which is 10.51m in height.</li> </ul>	<p>The structure is an architectural feature that conceals the building maintenance unit (plant and lift overrun) and demonstrates a consistent stepping to lower levels reflecting the solar envelope angle.</p>
<p>A reduction in height between the two peaks provides an opportunity for solar access for areas to the south of the Pacific Highway. The adjacent 617-621 Pacific Highway site is closer to St Leonards Railway Station with an endorsed height of 50 storeys (180m</p>	<p>The built form controls in the 2036 Plan are established by clear urban design principles of:</p> <ul style="list-style-type: none"> <li>- Density located close to the rail and metro stations, with taller buildings within 150-200m of either station with height transitioning down to surrounding areas; and</li> </ul>

Council Comment	Applicant Response
<p><i>under the North Sydney LEP 2013). Following the 2036 Plan principle, the redevelopment of the subject site should be lower than 617-621 Pacific Highway.</i></p>	<p>- Focus of height in the 'knuckle area' within the commercial core.</p> <p>The principle for a reduction in height between the two peaks in order to provide opportunities for solar access is achieved in part by the staggering of proposed building heights along the Pacific Highway.</p> <p>It is clear that the principle is thus about concentrating density in small clusters, rather than the urban design principles directing the need for a particular building to be the dominant or higher building.</p> <p>The proposed building height will sit comfortably in the context of the cluster of towers in the St Leonards centre skyline. The built form reinforces the site's location at the topographical high point of the 'knuckle area' identified in the 2036 Plan as a concentrated cluster of high-density development fronting the Pacific Highway between St Leonards station and the new Crows Nest Metro Station.</p> <p>Furthermore, the following should be recognised when comparing the future building heights with the adjoining development:</p> <ul style="list-style-type: none"> <li>▪ For a 50 storey residential building compared to a 42 storey commercial building, the higher relative floor to floor heights for the commercial tower will mean the actual height will be taller compared to a 42 storey residential tower; and</li> <li>▪ The subject site lies on significantly elevated land compared to the adjoining site and that clearly contributes to the relative height relationship between the future buildings.</li> </ul>
<p><b>2.3 Podium Heights</b></p>	
<p><i>The indicative built form includes a 6 storey podium height fronting Pacific Highway, and a 5 storey podium height fronting Atchison Street, which does not comply with the 2036 Plan and the NSDCP 2013.</i></p> <p><i>Within the same block, the 617-621 Pacific Highway site is adjacent to the subject site to the west, which has a 6 storey podium height control fronting Pacific Highway under the NSDCP 2013. The maximum existing ground level difference between the two sites along Pacific Highway is 7m, which is equivalent to approximately 2 storeys. As this block only contains these two sites, and Pacific Highway is a major street frontage, it is important to have a consistent podium height for this block to provide a good contextual response along Pacific Highway.</i></p> <p><i>It is recommended that a 4 storey podium height is applied to Atchison Street, Mitchell</i></p>	<p>The 2036 Plan incorporates specific built form parameters for the subject site that have been informed by detailed urban design analysis. It is considered that the built form parameters of the 2036 Plan prevail to the extent of any inconsistency with the DCP 2013 particularly given the terms of the Section 9.1 Ministerial Direction.</p> <p>The indicative concept proposal has been designed to achieve compliance with the 2036 Plan podium street wall heights controls. However, the site's topographical conditions do not allow strict compliance with the five storey street wall height. The varied podium height is a direct response to the gradient, which falls from the north-east by 2.5 metres to the south and 3.5 metres to the west. This is long accepted urban design response to site conditions.</p> <p>Notwithstanding the minor variance, at the site's most visible and prominent frontage to the intersection of Atchison Street and Mitchell Street, the podium expression establishes a five storey street wall height. This is consistent with the 2036 Plan and establishes a consistent podium datum line that aligns to the prevailing streetscape in the surrounding locality.</p> <p>The Pre-Lodgement Meeting Response Report includes the following elevations to indicate that the indicative concept proposal achieves an</p>

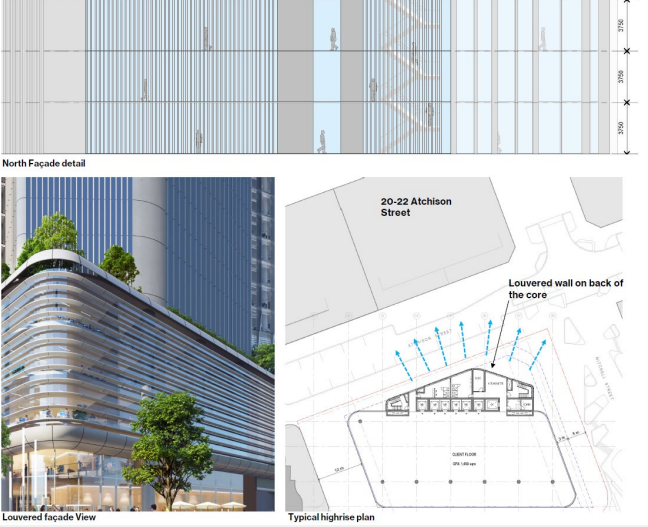
Council Comment	Applicant Response
<p>Plaza and the majority of the Pacific Highway frontages. Where the site is adjacent to 617-621 Pacific Highway, a 5 storey podium height can be considered to address the site level difference. In addition, the proposed podium height should reflect general floor to floor height to avoid an oversized podium.</p>	<p>appropriate contextual response in terms of podium datum lines along the Pacific Highway and to the Atchison Street frontage.</p> <p><b>Atchison Street Elevation</b></p>  <p><b>Pacific Highway Elevation</b></p> 

2.4 Setback	
<p>The proposal provides a mix of 3m and 0m setbacks at ground level to the Pacific Highway, which does not comply with the 2036 Plan and the NSDCP 2013. The 3m setback is consistently applied along the Pacific Highway and adherence to this is required in future documentation. This will provide a better pedestrian experience along this stretch of the Pacific Highway. Colonnades should also be avoided in this zone to create a barrier free pedestrian environment.</p> <p>The ground floor setback along Pacific Highway to comply with the minimum requirements in the 2036 Plan and NSDCP 2013.</p>	<p>The indicative concept proposal has been modified to comply with the setback requirements of the 2036 Plan and DCP. The lower ground floor has been revised by removing all podium architectural features, hydrant booster value, and the columns from the 3m setback zone. These revisions provide a more generous and continuous footpath along the Pacific Highway. They also provide continuous weather protection and amenity along this portion of the Pacific Highway which overall results in a superior outcome and more friendly pedestrian experience along the Pacific Highway. The Pre-Lodgement Meeting Response Report contains the revised ground floor plan, as below.</p> <p><b>Ground Floor Plan</b></p> 

Council Comment	Applicant Response
<p><b>2.5 FSR and Tower Floorplate Area</b></p>	
<p>On the indicative floor plans of the typical mid-rise and high-rise levels, the GFA calculation includes the office areas, but excludes the toilet, kitchenette, and corridor areas. This appears to be an error (see diagram below). The correct GFA would increase per commercial tower level, and as a result, the overall FSR would exceed the proposed 20:1.</p> <p>It is recommended that the applicant reviews the calculation of GFA with particular regard to inclusion of toilet, kitchenette and corridor areas and recalculate FSR as required.</p>	<p>The Pre-Lodgement Meeting Response Report includes diagrams to identify the GFA for the typical mid-rise floors and typical high-rise floors. These diagrams confirm the accuracy of the GFA calculations and confirm the GFA includes toilets, kitchenettes, and corridors.</p> <p><u>Typical Mid-Rise Floor</u></p>  <p><u>Typical High-Rise Floor</u></p> 
<p>According to the indicative section, there are three plant room levels proposed within the 42 storeys height limit, and the proposed retail / commercial levels are 39 storeys. It is questioned whether the proposed building requires three levels of plant rooms with full size floorplates.</p> <p>Clarification is sought as to whether three plant room levels are required.</p>	<p>The Pre-Lodgement Meeting Response Report details the requirement for the three plant levels, summarised as follows.</p> <p><u>Top Plant Room</u></p> <p>The top plant room is necessary to accommodate tanks, ventilation plant, and cooling towers and heat pumps. .</p> <p>The plantroom and roof are designed as an architectural feature that will add to the St Leonards skyline. The roof has been designed to provide character to the building and to the skyline. The roof design is an integral part of the overall building design, and the rooftop plant room is contained in a single structure such that it is not perceptible from any point on the ground floor.</p> 



Council Comment	Applicant Response
	<p><u>Mid-Level Plantroom</u></p> <p>The key component for the mid plant room height is the upper chamber substation as Ausgrid’s standard (NS113) mandates 4.2m clear height (3.2m for the substation and 1m for the cabling/trench). In addition there is a requirement to hoist the transformers to ground level for replacement, which at this height requires a lifting beam / drum depth of circa 1.2m. At this level, the plant rooms are proposed as double stacked for the other half of the floor plate by having ventilation plant on top of chilled water plant and switch rooms.</p> <p><u>Level Plantroom</u></p> <p>The purpose of the low level plant room is to accommodate ventilation plant. The necessary equipment (air handing units and duct work) requires a minimum 5m clearance (maintenance and duct crossovers). Subsequently it is necessary to consider the floor structure (slab, beams, and raised floors). For this reason, a 6m floor to floor height is adequate for the low level plant room.</p>
<p><b>2.6 Tower Floorplate Layout</b></p>	
<p><i>It is recommended that the orientation of the services and hence “blank wall” treatment of the tower be reconsidered to provide a tower façade with windows fronting the main pedestrian environments of the Mitchell Street Plaza and Atchison Street.</i></p>	<p>The north façade treatment is part of the general façade treatment for the tower which concept provides an elegant vertical expression delivering a floor-to-ceiling window solution providing view access to the city below and maximizes daylight deep into the floor.</p> <p>The design of the north façade proposes a simple conceptual approach that requires solid portions to help protecting the privacy of the building to the north (20-22 Atchison Street). The Pre-Lodgement Meeting Response Report contains diagrams to show the proposed design of the north façade with an appropriate proportion between vertical louvers and glazing. This façade treatment protects privacy and passively shades the tower (reducing solar heat gain and energy consumption). It also avoids creating a solid and sterile wall.</p> <p>The north façade is envisaged as a careful, active, and dynamic element of the tower that balances privacy, performance, views, and activation to the adjacent urban environment. It is considered essential to deliver a great tower outcome for St. Leonards.</p> <p><u>North Façade Detailing and Façade View</u></p>

Council Comment	Applicant Response
	 <p>North Façade detail</p> <p>Louvered facade View</p> <p>Typical highrise plan</p> <p>20-22 Atchison Street</p> <p>Louvered wall on back of the core</p>

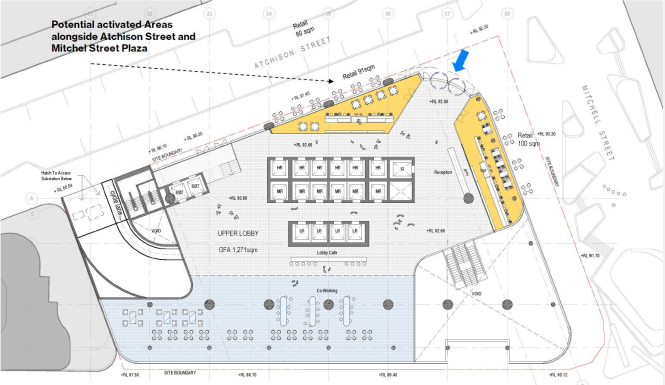
**2.7 Ground Level Activation**

*The proposed ground level design includes large lobbies fronting Atchison Street, Mitchell Plaza and the eastern corner of the Pacific Highway. It does not provide opportunities for fine grain retail activities along Atchison Street and Mitchell Plaza. The Atchison Street elevation from the driveway to several metres from the corner of Mitchell Street, are hostile to the enlivening objectives of Atchison Street and improved pedestrian amenity.*

*It is recommended that fine grain retail spaces should be explored along the ground level street frontages facing Atchison Street and Mitchell Street Plaza.*

The design has been revised to respond to Council’s direction for Atchison Street which is envisaged as a “Civic high Street” with high degree of activation at ground level. The amendments, include food and drinks or retail tenancies will activate the precinct to Atchison Street and Mitchell Street Plaza. These tenancies directly address the public domain and ensure lively and activated street frontages which are flexible in terms of area and can operate as food and beverage or retail spaces. The spaces can also be fragmented in smaller scale tenancies to provide a more diverse offering to the public.

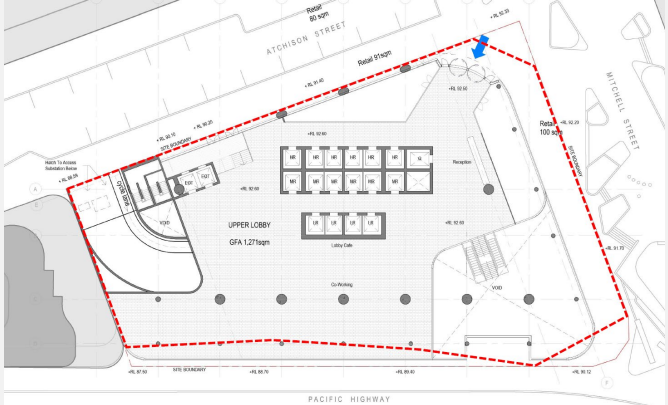
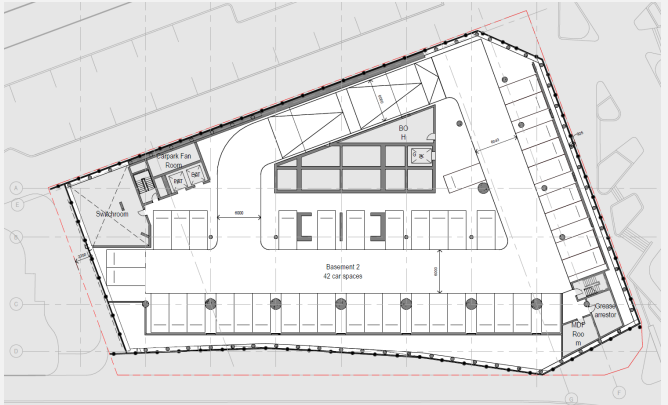
Upper Ground Floor

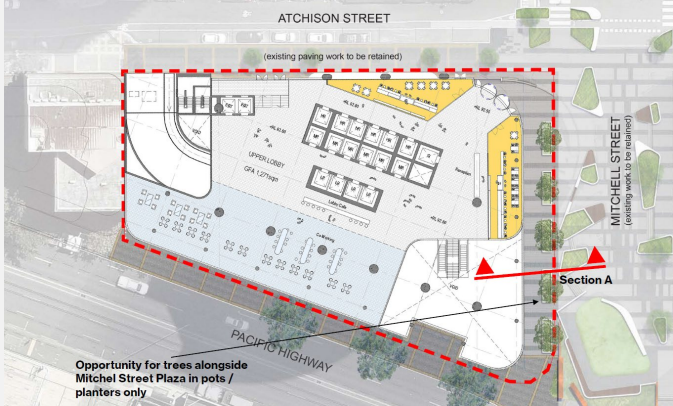


**2.8 Mitchell Street Plaza**

*According to the landscape ground level plan, the proposal does not include any street trees in the setback zone along Mitchell Street Plaza. Instead, the setback zone incorporates hard paving.*

The introduction of trees is envisaged in order to create “green streets” as envisaged in the 2036 Plan. Council has encouraged densifying biophilia in the Mitchell Street Plaza, in particular on the western side of the subject site (601 Pacific Highway) frontage through the introduction of deep soil planting in the 5m setback zone.

Council Comment	Applicant Response
<p><i>In addition, the proposed basement levels are built to the boundary along Mitchell Plaza without a 5m setback. This arrangement will limit the opportunities for street trees in the setback zone.</i></p>	<p>The indicative concept proposal retains the existing car park structure. The Pre-Lodgement Meeting Response Report includes a diagram to illustrate the extent of the existing car park compared with the site area. This area does not allow sufficient area for deep soil planting therefore alternative landscape solutions are considered.</p> <p><u>Extent of Existing Basement</u></p>  <p><u>Extent of Proposed Basement</u></p> 
<p><i>Tree lined linear parks along Mitchell Street and Mitchell Plaza are important features of the 2036 Plan. The basement levels are required to be located beneath the building footprint to allow for adequate deep soil zones.</i></p>	<p>The proposal has been revised to accommodate trees along Mitchell Street Plaza to promote a "greener" space. This design revision provides shade, amenity, and a more aesthetically pleasant urban environment for pedestrians. However, it is not possible to promote deep soil planting on Mitchell Street Plaza frontage due to the existing basement structure which is to be retained. The Pre-Lodgement Meeting Response Report includes the diagram to depict options for new planting along Mitchell Street Plaza in pots or planters.</p> <p><u>Upper Ground Floor Landscape Plan</u></p>

Council Comment	Applicant Response
	
<p><b>2.9 Driveway Access and Location</b></p>	
<p><i>The driveway access via Atchison Street is the logical location for car access. Given the high amenity pedestrian environment that is envisioned for Atchison Street, the location and proximity of the proposed driveway with that of the adjoining site at 617-621 Pacific Highway, will create a great expanse of driveway crossing which will undermine the pedestrian amenity objectives and enlivening ambitions for this street.</i></p> <p><i>Efforts should be made to combine driveway access with the adjoining owner, given the early pre DA stage of that site.</i></p>	<p>The site at 617-621 Pacific Highway is under separate land ownership and subject to separate planning controls and an independent planning approval pathway. Future development (if it occurs) at 617-621 Pacific Highway will be progressed pursuant to the new planning controls that apply under an approved planning proposal. Further, there is significant change in ground levels between the two sites, compromising the feasibility of a combined vehicle entrance. In terms of development delivery, commercial feasibility, and design outcomes, it is considered unreasonable and impractical to combine the driveway access with the adjoining site at 617-621 Pacific Highway.</p> <p>The location and design of the entry / exit driveway to Atchison Street is eminently reasonable for an access and urban design perspective in that it retains the existing vehicle point arrangement, allowing access to the basement level car park, service areas, and loading docks. The proposed driveway to Atchison Street also includes a designated cycle lane that leads to the basement level.</p>
<p><b>2.10 Wind Modelling</b></p>	
<p><i>The 18m separation between the potential future development of the subject site and the adjoining development at 617-621 Pacific Highway may give rise to wind tunnelling/velocity issues given the potential respective heights of these proposals. A study identifying wind impacts of these development and strategies to mitigate and reduce any impacts particularly in the context of pedestrian comfort at the ground plane, should be included with a planning proposal submission.</i></p>	<p>The planning proposal is accompanied by a Pedestrian Wind Environment Statement prepared by Windtech Consultants (at <b>Appendix G</b>). This assesses the likely impacts of the indicative concept building envelope on the local wind environment that affects pedestrians in the proposed outdoor areas and communal open spaces. Comprehensive wind tunnel testing and assessment of the pedestrian wind environment associated with a detailed proposal will be provided with a future development application for the site.</p> <p>The Pedestrian Wind Environment Statement concludes that, subject to implementation of recommendations contained within, the site is capable of accommodating a future development aligned with the planning proposal and relevant wind controls and considerations.</p>
<p><b>3. Voluntary Planning Agreement</b></p>	

Council Comment	Applicant Response
<p><i>The State Infrastructure Contribution (SIC) that is applicable in the 2036 Plan precinct, does not apply to commercial development. In the context of a very significant increase in development potential being foreshadowed for the site as part of the 2036 Plan, the applicant is strongly encouraged to consider entering into a voluntary planning agreement towards the provision of much needed local infrastructure for the precinct.</i></p>	<p>Council correctly states that the 2036 Plan incorporated a clear plan to impose a special infrastructure contribution (<b>SIC</b>) to support state and regional infrastructure needs arising from the growth of housing.</p> <p>The applicant will be subject to local contributions at the DA stage.</p> <p>Given this context, it is considered that the proposal results in a net community benefit and thus does not warrant a special VPA offer to Council. Substantial community benefits that will be delivered include:</p> <ul style="list-style-type: none"> <li>▪ Direct economic benefits and the creation of additional employment opportunities, during the phases of construction, marketing, fitout, and ongoing operation.</li> <li>▪ New A-grade commercial office accommodation and easily identifiable and permeable ground level retail uses. Future uses will encourage the patronage of the locality and establish a landmark location to strengthen the realisation of St Leonards as a highly desirable place to live, work and play.</li> <li>▪ Public domain activation and streetscape upgrades along Atchison Street, Mitchell Street Plaza, and the Pacific Highway interfaces.</li> </ul> <p><b>[Note.</b> As detailed in <b>Section 1.4</b> below, the planning proposal is accompanied by a Letter of Offer (at <b>Appendix K</b>). The proponent submits the Letter of Offer to volunteer to enter into a planning agreement with North Sydney Council to provide a monetary contribution for the construction of a future signalised pedestrian improvements at the corner of Albany Street and Pacific Highway.</p>

## 1.4. POST-LODGE MENT COUNCIL ENGAGEMENT

The original planning proposal request was submitted to North Sydney Council on 19 January 2023.

The below summarises key milestones subsequent to the submission of the planning proposal:

- **23 January 2023** – Planning proposal review by Council and accepted for Preliminary Assessment.
- **25 January 2023** – Planning proposal referred to Council’s internal departments.
- **2 June 2023** – Urbis submitted correspondence to Council to provide supplementary details regarding floor-to-floor ceiling allowances for plant rooms and recent comparable commercial developments.
- **9 June 2023** – Urbis submitted correspondence to Council to provide clarifications regarding the maximum building height and propose an 8.25m reduction to maximum building height to RL268.
- **19 July 2023** – Planning proposal referred to the North Sydney Local Planning Panel (**NSLPP**), with Council’s recommendation that it is forwarded for Gateway Determination subject to the following:
  - Amended maximum building height of RL259 (equivalent to 171m);
  - Amended maximum street wall height of between 4 and 5 storeys; and
  - Amendments to indicative reference scheme.
- **25 July 2023** – NSLPP published recommendations in relation to:
  - Overall building height and podium height (to provide transitions as envisaged by 2036 Strategy);
  - Plant room accommodated within maximum overall building height;
  - Reduction in podium from 4 storeys to 5 storeys (with maximum height of 20.5 metres); and
  - Opportunity for a VPA to deliver public / community benefits.
- **14 August 2023** – Planning proposal considered at a North Sydney Council Meeting with the following recommendations of the planning officer:
  1. *“THAT the Planning Proposal, including the accompanying indicative concept scheme, be amended to Council’s satisfaction addressing the recommendations of the detailed assessment report undertaken by Element Environment (on behalf of Council). Specifically, the maximum building height be amended to RL259 (equivalent to 171m) and a maximum street wall (podium) height of 20.5m for 4 to 5 storeys.*
  2. *THAT the applicant be invited to consider making an offer to deliver public/community benefits via a Voluntary Planning Agreement (VPA) with Council, and that the outcome be reported to Council.*
  3. *THAT upon completion of Recommendation 1 and 2, 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.*
  4. *THAT upon receipt of a Gateway Determination, the Planning Proposal and any associated draft VPA be exhibited concurrently.*
  5. *THAT the outcomes of any public exhibition be reported to Council.”*
- As recorded in the minutes of the Council Meeting on 14 August, 2023, Council resolved as follows:
  1. *“THAT the Planning Proposal, including the accompanying indicative concept scheme, be amended to Council’s satisfaction addressing the recommendations of the detailed assessment report undertaken by Element Environment (on behalf of Council). Specifically, the maximum building height be amended to RL259 (equivalent to 171m) and a maximum street wall (podium) height of 20.5m for 4 to 5 storeys.*
  2. *THAT the applicant be invited to consider making an offer to deliver public/community benefits via a Voluntary Planning Agreement (VPA) with Council, and that the outcome be reported to Council.*

3. *THAT upon completion of Recommendations 1 and 2, the report return to Council complete with the offer of any Voluntary Planning Agreement put forward by the Proponent, prior to being forwarded to the Department of Planning and Environment.*"
- **25 August 2023** – Proponent received a letter from Council acknowledging the recommendation made at the Council Meeting on 14 August 2023 and providing the following comments.
    - *“The applicant is requested to update the Planning Proposal and accompanying indicative concept scheme to address the recommendations of the detailed assessment report undertaken by Element Environment and submit it to Council for review as soon as practicable.*
    - *The applicant is also invited to consider making an offer towards the provision of identified public benefits. The upgrade of Hume Street Park is an identified infrastructure project under both the 2036 Plan and St Leonards/Crows Nest Planning Study - Precincts 2 and 3 (2015). The offer is to be in addition to any applicable section 7.11 local infrastructure contributions that would be levied at the future Development Application stage.”*
  - The amended planning proposal responded (in part) to the above recommendations in that:
    - **The amended planning proposal sought a reduced maximum building height from RL276.5 to RL265.** The reduction in the building height positively responds to Council’s recommendations in that it maintains compliance with the 2036 Plan’s solar access controls and reduces overshadowing impacts to public open spaces, streetscapes, and nearby residential areas identified in the 2036 Plan. The reduced solar impacts of the amended planning proposal are demonstrated in **Figures 22, 23, and 24** of this planning report. The proposed building height of RL265 is required to provide sufficient flexibility in the future detailed design, structural, and engineering arrangements for plant services (and the need to avoid a future building height variation). Council’s recommended height of RL259 does not provide sufficient scope for future servicing, in terms of accommodating volume and area for plant room heights, lift overruns, ventilation plants, cooling towers, and water tanks.
    - **The amended planning proposal was accompanied by a Letter of Offer to provide additional public benefit (at Appendix K).** The proponent submits the Letter of Offer to volunteer to enter into a planning agreement with Council to provide a monetary contribution to the construction of a future signalised pedestrian improvement at the corner of Albany Street and Pacific Highway.
  - **8 September 2023** – Urbis submitted a letter to Council advising that Stockland was reviewing its position and response to Council’s requested amendments to the maximum building height and recommendation to make an offer to deliver public / community benefits.
  - **26 September 2023** – Urbis (on behalf of Stockland) submitted a Letter of Offer to commit to additional public benefits for North Sydney Council to provide a monetary contribution for the construction of a future signalised pedestrian improvements at the corner of Albany Street and Pacific Highway as identified in the schedule of works to support the vision in the 2036 St Leonards Crows Nest Plan. Urbis also submitted an amended planning proposal and reference design with a reduced maximum building height of RL265.
  - **27 November 2023** – North Sydney Council resolved to support the progression of the planning proposal, seeking a Gateway determination at a maximum building height of RL259 consistent with the recommendations of the assessment undertaken by Council and the North Sydney Local Planning Panel.
  - **19 December 2023** – The updated planning proposal was lodged to the Department for gateway determination.
  - **22 December 2023** – The Department wrote to North Sydney Council requesting that the planning proposal and urban design report be updated prior to Gateway assessment to be consistent with the controls resolved by Council on 27 November 2023 (maximum height of RL259). The applicant decided to wait until Gateway Determination to make these changes.
  - **2 April 2024** – The Department issued Gateway Determination on 2 April 2024. The Determination included a condition requiring the planning proposal to be updated to reflect Council’s resolution, including the maximum building height control of RL259.



## 2. SITE & SURROUNDING CONTEXT

### 2.1. THE SITE

The planning proposal relates to 601 Pacific Highway, St Leonards, within North Sydney Local Government Area (LGA). The site is approximately 4.5 km north of the Sydney CBD, 3 km from the North Sydney CBD, and within close proximity to the commercial centres of St Leonards, Chatswood, and Macquarie Park.

The site has a primary (south-facing) frontage to the Pacific Highway and secondary frontages to Mitchell Street (to the east) and Atchison Street (to the north) (see **Figure 1**).

The site comprises a single allotment (Lot 71 in DP 749690) with a total area of 2,840 sqm (approximate).

The site is currently occupied by a 14-storey commercial office building, with ground and plaza level retail land uses, and four basement parking levels (accommodating 158 spaces).

Figure 1 Site Location



Source: Urbis

### 2.2. SURROUNDING CONTEXT

#### 2.2.1. Immediate Context

The site occupies a prominent location on the corner of the Pacific Highway and Mitchell Street, with a secondary frontage to Atchison Street. The site is located in the heart of St Leonards within convenient walking distance of the facilities and services available within the St Leonards rail precinct (see **Figure 2**).

The area is well advanced in its transition from an older style commercial precinct to a thriving mixed-use area incorporating commercial and residential land uses, in tall tower building forms. This transition is facilitated by ongoing construction activity, recent development approvals, and further planning proposals.

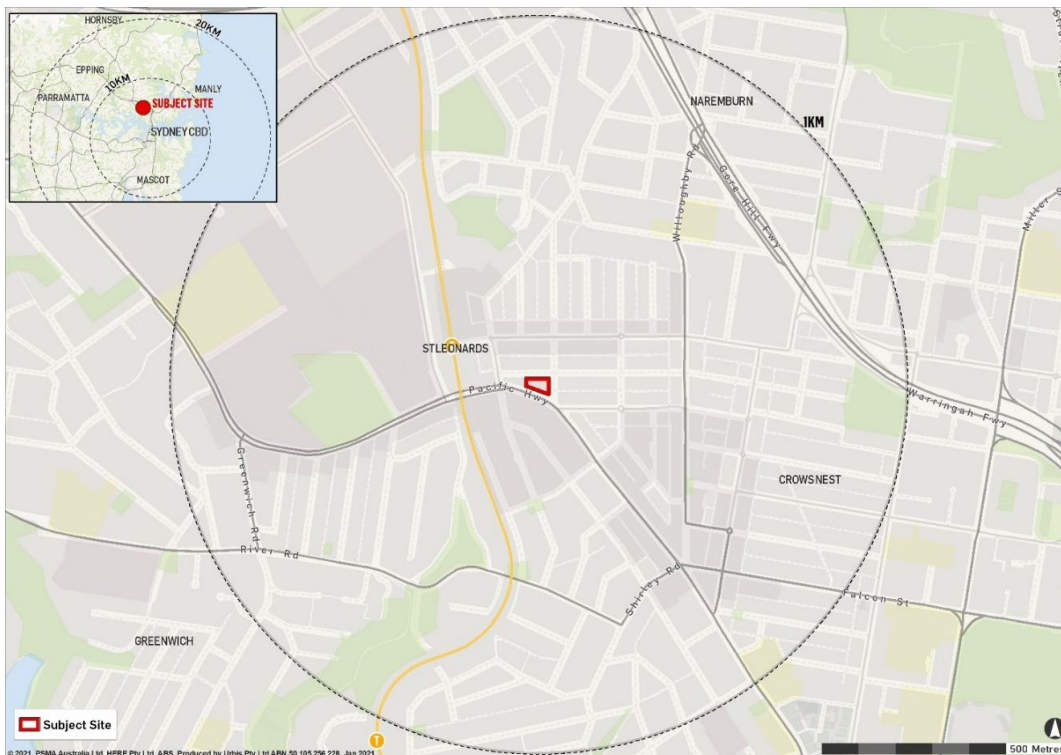
The immediate surrounds include a range of building forms which are predominantly medium and high rise commercial and multi-storey mixed-use residential buildings.



The surrounding area is described as follows:

- **North:** The site is bounded by to the north by Atchison Street, a one way street (east bound) within a road reserve of approximately 20 metres. The road has recently been the subject of public domain improvement works undertaken by Council. On the immediate opposite side of Atchison Street is:
  - 22-24 Atchison Street (a six storey commercial office building);
  - 18-20 Atchison Street (a three-storey commercial building); and
  - 6-16 Atchison Street (a 34 storey mixed-use Quest /Air Apartment development).
- **East:** The site is bounded to the east by the Mitchell Street Plaza, which has been subject to public domain upgrades and embellishments works undertaken by Council. The recently completed public plaza incorporates a green (breathable) wall, island planters, pedestrian benches, an open lawn area (for passive recreation and relaxation), a shared pedestrian / vehicle zone (10km per hour), and a 'St Leonards Gateway' feature. Beyond Mitchell Street Plaza is a 5 storey commercial office building.
- **South:** The site is bounded to the south by Pacific Highway, a State classified road. Beyond the road is:
  - The Landmark (500 and 504-520 Pacific Highway): a 44 storey mixed use building currently under construction; and
  - St Leonards Square (472-494 Pacific Highway): a mixed use development comprising a new public plaza, a retail, recreation, and leisure precinct, and two residential towers of 28 and 36 storeys.
- **West:** Land adjoining the site to the west comprises No 617 Pacific Highway (a 7 storey commercial office building) and 621 Pacific Highway (an 11 storey commercial building.). These properties have been subject to a planning proposal as an amalgamated site to facilitate a future mixed use development (including residential land uses) with an indicative maximum building height of 50 storeys.
- The site's surrounding context is indicated in **Figure 2** below.

Figure 2 Surrounding Context



Source: Urbis

## 2.2.2. Surrounding Development Context

Recent development activity is redefining the character of St Leonards along the Pacific Highway corridor, between St Leonards train station and the new Crows Nest Metro station and contributing to its transformation to a high density precinct in line with State Government policy. **Table 3** identifies recent high density development approvals and proposals in the surrounding locality.

Table 3 Surrounding Development Context

Site Address	Development	Building Height
2-4 Atchison Street	Approved mixed use building.	35 storeys
6-16 Atchison Street	Constructed mixed-use Quest /Air Apartment building.	34 storeys
23-35 Atchison Street	Planning proposal lodged with North Sydney Council.	16 storeys
20-22 Atchison Street	Planning proposal not supported by SNPP.	35 storeys
472-494 Pacific Highway [St Leonards Square]	Mixed use development (public plaza, retail and leisure precinct, and residential towers).	28 and 36 storeys
500, 504-520 Pacific Highway [The Landmark]	Mixed use development (currently under construction).	44 storeys
575-583 Pacific Highway	Gazetted planning proposal for a future mixed-use building.	56 metres
617-621 Pacific Highway	Planning proposal to facilitate a future mixed use development (including residential land uses).	50 storeys
1-13A Marshall Street	Residential flat building (construction complete).	29 storeys
7-11 Albany Street	Approved mixed use building.	13 storeys
16-100 Christie Street	LEP changes gazetted allow mixed use development (including shop top housing).	36 storeys (132 metres)
82-90 Christie Street 546-564 Pacific Highway 71-70 Lithgow Street	Approved two residential towers and commercial office building.	Tower 1 – 47 storeys Tower 2 – 26 storeys Tower 3 – 14 storeys
Sydney Metro Crows Nest Over Station Development (OSD)	Concept approval for mixed use development (commercial floor space and residential apartments).	21 storeys (for Site A) 17 storeys (for Site B) 9 storeys (for Site C)
46 Nicholson Street, St Leonards	Planning proposal for commercial development.	32 storeys

## 2.3. WIDER CONTEXT

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

Key land uses in the vicinity of the site include:

- **The Forum:** Built over the St Leonards railway station, the Forum comprises a high rise development incorporating residential and commercial uses including a shopping centre. It is currently St Leonards' tallest development (38 storeys / 118 metres). Facilities and services available within the Forum, including the St Leonards railway station, are within convenient walking distance of the subject site (approximately 100 metres). St Leonards railway station provides direct rail services to four primary employment areas: Macquarie Park, Chatswood, North Sydney, and Sydney CBD.
- **Royal North Shore Medical Precinct:** Royal North Shore Hospital (RNSH) occupies an area of approximately 13 hectares on Reserve Road, St Leonards. The NSW Government has announced the redevelopment of the Herbert Street Precinct of the RNSH in May 2020, to ensure a world class health, education and wellness facility is available to serve the community well into the future. The indicative concept plan comprises a 60 storeys residential tower with a RL 274.5, a primary school, a short stay accommodation and commercial office. Public consultation was undertaken in December 2020.
- **Commercial offices:** A fringe of low grade office buildings (one block deep) front the Pacific Highway and west of the railway line. A more focused commercially zoned precinct is located south of the highway and east of the railway line and is characterised by a mix of commercial buildings, medical and allied health premises, and residential apartments.
- **Emerging mixed use development:** While recognised as an important employment precinct, the land use character of St Leonards is evolving to support a greater diversity of uses including residential uses above commercial level podiums (for instance St Leonards Square and The Landmark).

## 2.4. SURROUNDING ROAD, RAIL, AND BUS NETWORK

### Rail Network

The site is located 350 metres (walking distance) east of St Leonards railway station. Trains connecting St Leonards station and the Sydney CBD provide a frequent and quick service. The train line also connects residents and workers to northern suburbs (including Chatswood and Hornsby) and Parramatta in the west.

### Sydney Metro

Sydney Metro is Australia's largest public transport project, delivering 31 metro stations between Rouse Hill in the north west and Bankston in the south west. The site is approximately 400m from the Crows Nest Metro station to the southeast. Early works for the new Metro station began in March 2017, with service operation set to commence in 2024. Trains will depart every 4 minutes, connecting St. Leonards and Crows Nest to the CBD in 7 minutes. The station will create a new transport focus to St Leonards commercial core and Crows Nest neighbourhood. The Metro will provide much needed infrastructure to revitalise the area, generate a night time economy, and increase connectivity to nearby strategic centres within the global economic arc.

### Road Network

The site has a primary frontage to the Pacific Highway, a State classified road. This road connects Sydney's north western suburbs to North Sydney and links the Bradfield Highway and Cahill Expressway to the CBD.

### Bus Services

The site is well connected to bus services along the Pacific Highway and Willoughby Road. These stops provide frequent services throughout the day and express services operating during peak periods. The bus services connect the site with the North Sydney CBD, Sydney CBD, Bondi Junction, Gladesville, Lane Cove, Chatswood, Ryde, Kingsford, and Botany.

## 2.5. PHOTOGRAPHIC REVIEW

Figure 3 provides a photographic review of the site and the surrounding context.

Figure 3 Site Photography



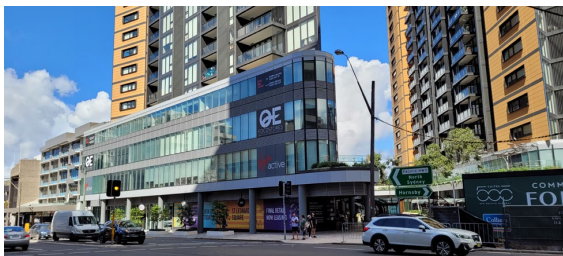
Picture 1 Mitchell Street Plaza (looking north)

Source: Site visit (6 April 2021)



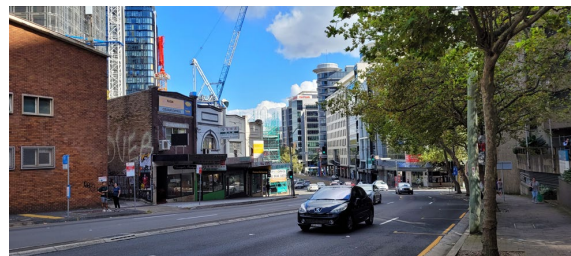
Picture 2 Existing building (looking south-east)

Source: Site visit (6 April 2021)



Picture 3 St Leonards Square (looking south)

Source: Site visit (6 April 2021)



Picture 4 Pacific Highway (looking west)

Source: Site visit (6 April 2021)



Picture 5 Existing building (looking southwest)

Source: Site visit (6 April 2021)



Picture 6 Quest apartments (looking northwest)

Source: Site visit (6 April 2021)



### 3. EXISTING STATUTORY PLANNING CONTEXT

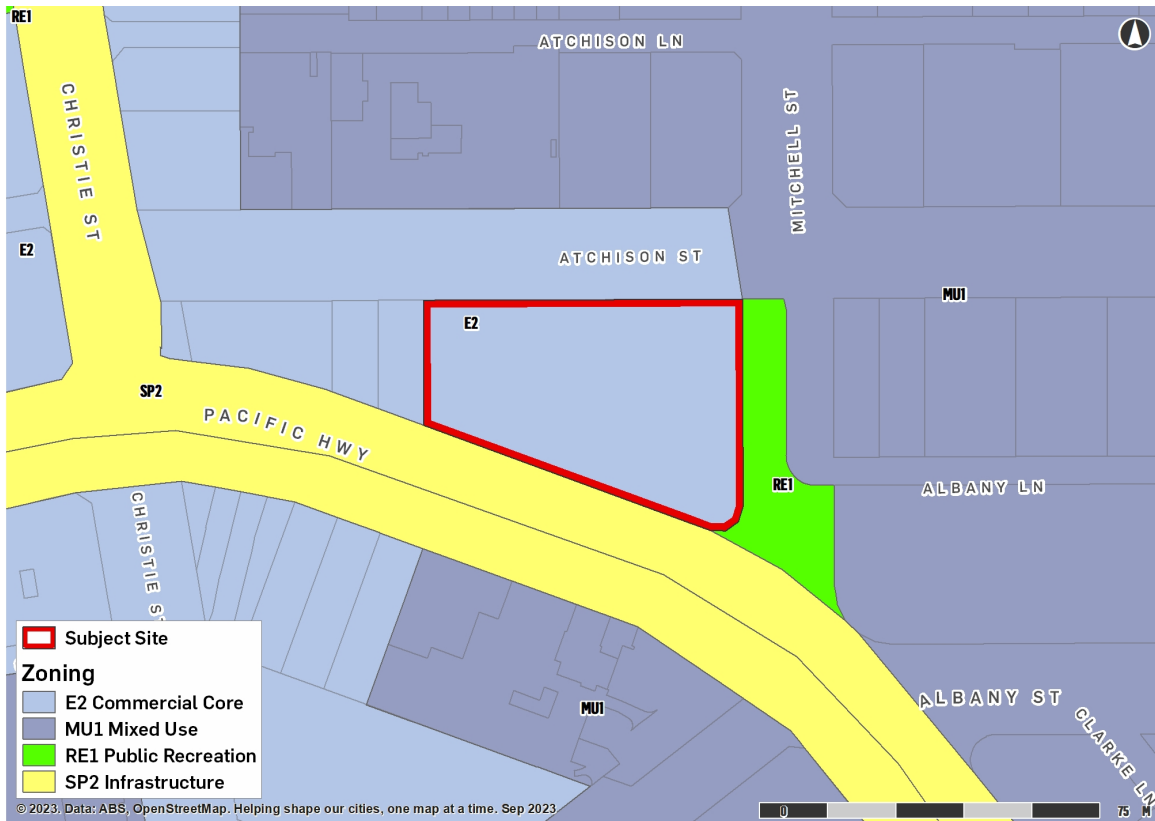
#### 3.1. NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013

The North Sydney Local Environmental Plan 2013 is the principal Environmental Planning Instrument which applies to the North Sydney LGA. The NSLEP was gazetted on 13 September 2013.

##### 3.1.1. Zoning

Pursuant to NSLEP 2013 the site is zoned E2 Commercial Centre (refer to **Figure 4**).

Figure 4 NSLEP 2013 Zoning Map



Source: Urbis

##### 3.1.2. Objectives and Permissibility

Table 4 identifies the objectives and permissible land uses of Zone E2.

Table 4 E2 Zone Objectives and Permissibility

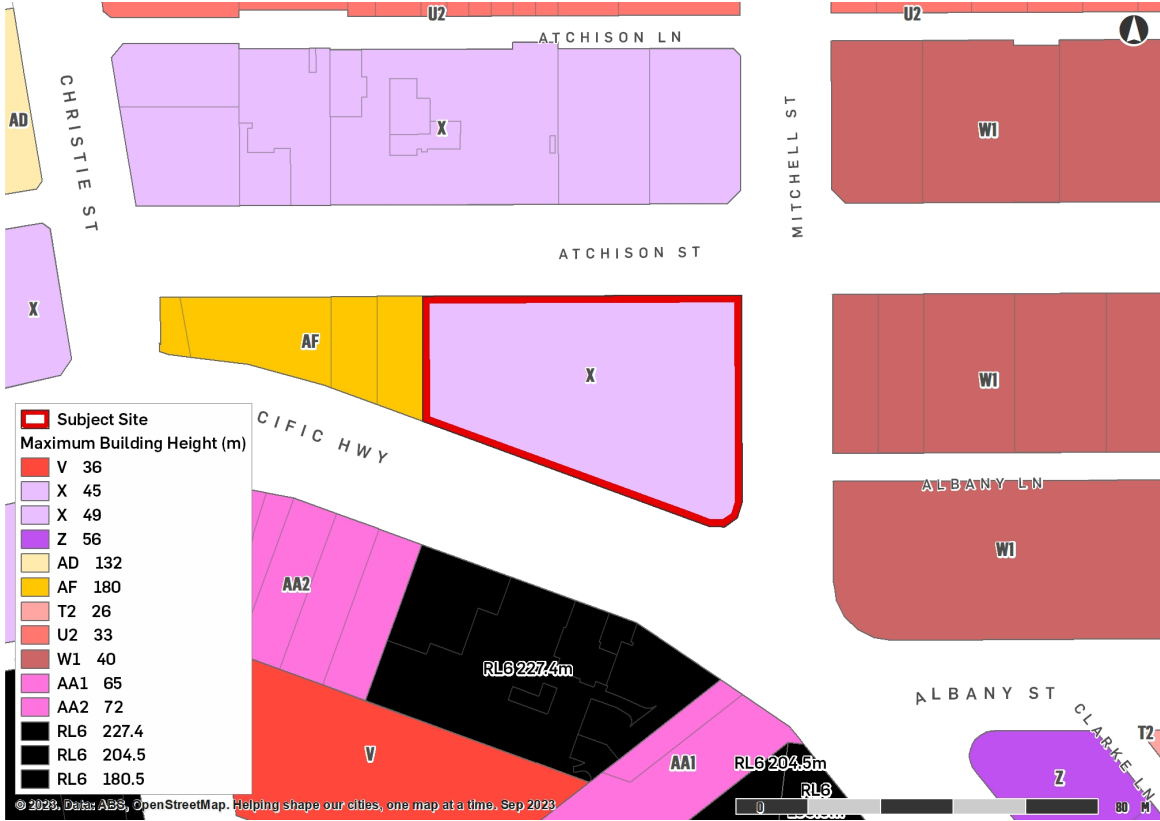
<p><b>Zone Objectives</b></p>	<ul style="list-style-type: none"> <li>▪ To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.</li> <li>▪ To encourage investment in commercial development that generates employment opportunities and economic growth.</li> <li>▪ To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.</li> </ul>
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	<ul style="list-style-type: none"> <li>▪ To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.</li> <li>▪ To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.</li> <li>▪ To encourage employment opportunities to strengthen the Eastern Economic Corridor of the Greater Cities Commission.</li> <li>▪ To maximise public transport patronage and encourage walking and cycling, including by protecting and encouraging safe and accessible pedestrian routes.</li> <li>▪ To support the role of St Leonards as a health and education centre.</li> <li>▪ To strengthen the role of Chatswood as a strategic centre for the North District of the Greater Cities Commission.</li> <li>▪ To improve the public domain and pedestrian links in Chatswood.</li> <li>▪ To enhance the visual appearance of the area by ensuring new development achieves high architectural, urban design and landscape standards.</li> </ul>
<b>Permitted without consent</b>	<i>Nil</i>
<b>Permitted with consent</b>	<i>Amusement centres; Artisan food and drink industries; Backpackers' accommodation; Centre-based child care facilities; Commercial premises; Community facilities; Entertainment facilities; Function centres; Home businesses; Home industries; Home occupations; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Sex services premises; Signage; Tank-based aquaculture; Vehicle repair stations; Veterinary hospitals</i>
<b>Prohibited</b>	<i>Any other development not specified in item 2 or 3</i>

### 3.1.3. Maximum Height of Buildings

The site is subject to maximum building height of 49 metres under NSLEP 2013 (as **Figure 5**).

Figure 5 NSLEP 2013 Building Height Map

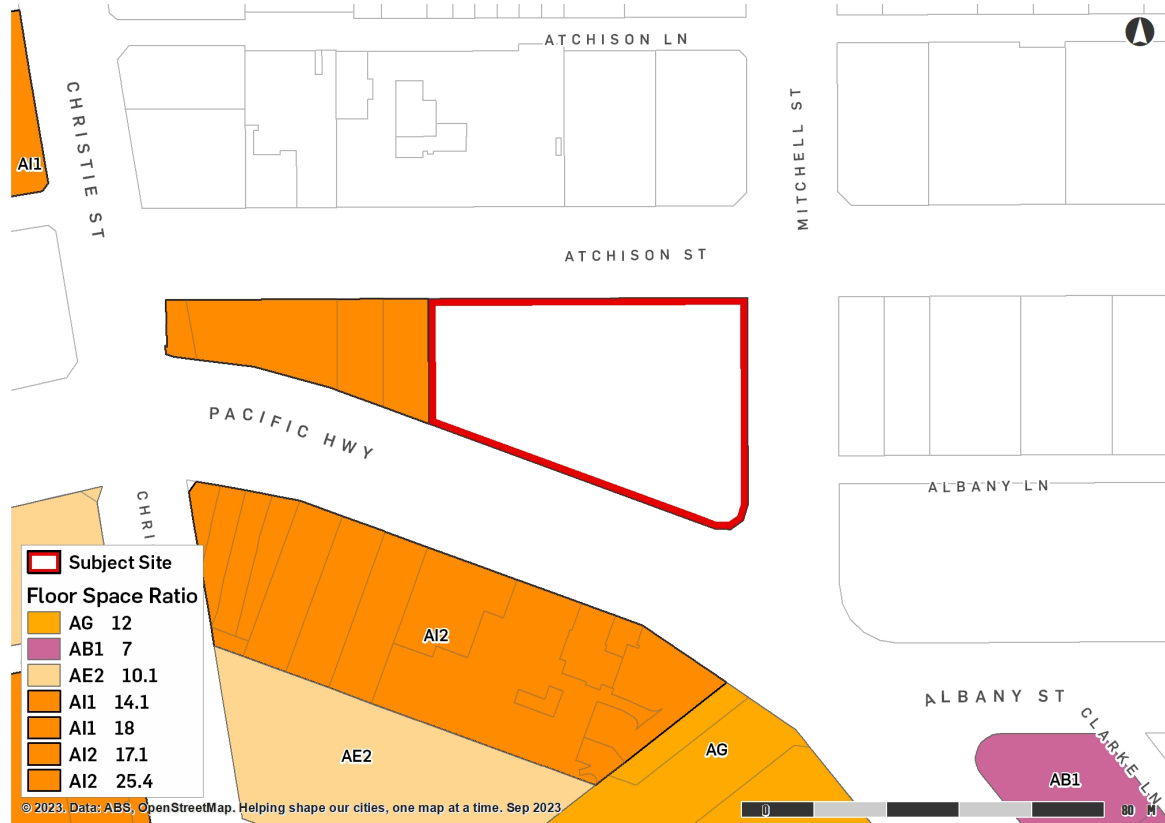


Source: Urbis

### 3.1.4. Floor Space Ratio

The site is not subject to a maximum floor space ratio (FSR) control under NSLEP 2013 (as **Figure 6**).

Figure 6 NSLEP 2013 Floor Space Ratio Map



Source: Urbis



## 4. INDICATIVE DEVELOPMENT OUTCOME

The planning proposal seeks to unlock the potential of a strategically-located landholding and facilitate future high-quality transit-oriented commercial development in a precinct earmarked for density uplift. The proposal will generate public benefit and make a significant economic contribution to St Leonards.

The intended outcome of this planning proposal is to amend the NSLEP 2013 as follows:

- Establish a site-specific maximum building height control, with maximum height of RL259; and
- Establish a site-specific maximum floor space ratio control, with a maximum FSR of 20:1.

The planning proposal does not amend the site's E2 Commercial Centre zoning. It is envisaged that future development aligned with the planning proposal will comply with the permissible land uses and objectives of Zone E2.

### 4.1. INDICATIVE CONCEPT PROPOSAL

This planning proposal is supported by an Addendum Urban Design Report prepared by Architectus (at **Appendix A**) which contains an indicative concept proposal. This establishes an indicative building envelope for future development aligned with the NSLEP planning controls.

The indicative concept proposal is for a 42 storey commercial building, comprising:

- Four levels of basement car parking below ground level;
- Lower ground floor retail and commercial uses (including café / bar, retail premises, and reception area);
- Upper ground floor (upper lobby, potential for co-working spaces, and café); and
- Above podium tower for commercial offices (including plant levels and communal terrace gardens).

The indicative concept proposal is illustrated in **Figure 7**.

Figure 7 Artist Impression



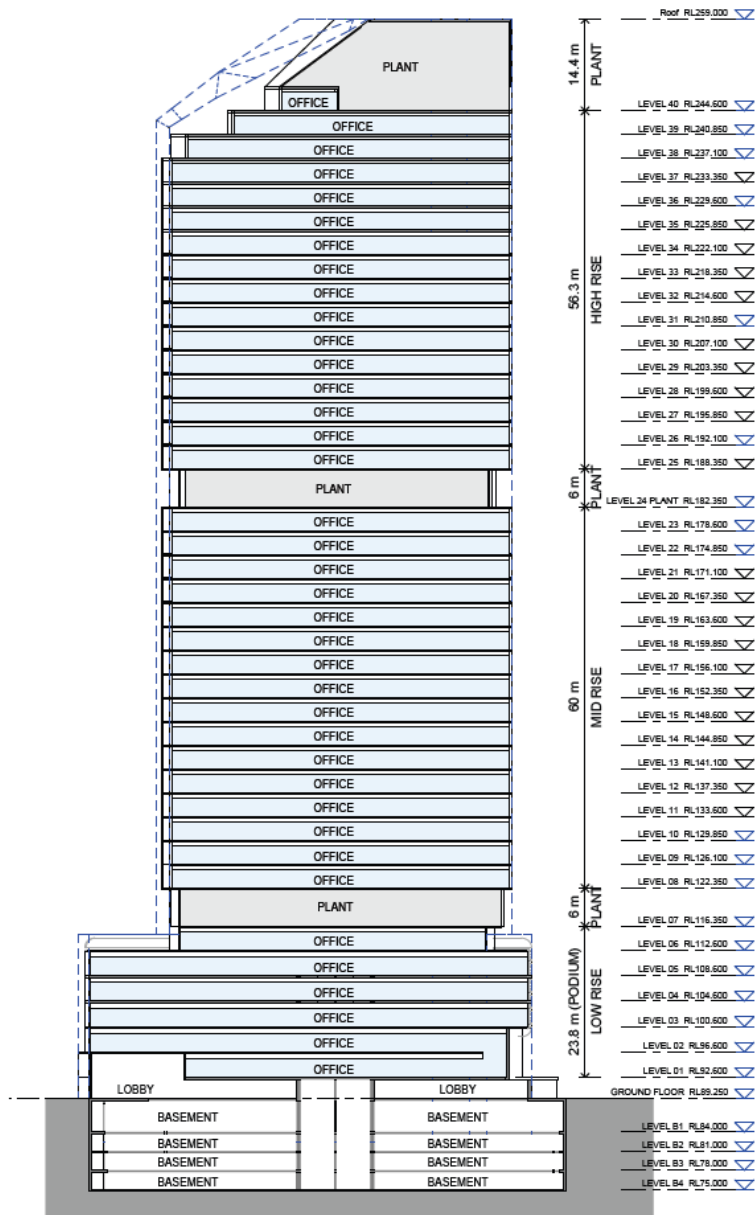
Source: Architectus



Source: Architectus

Figure 8 provides a plan in section of the amended indicative concept proposal.

Figure 8 Indicative Concept Proposal



Source: Architectus

Key numerical details of the indicative concept proposal are provided in **Table 5**.

Table 5 Indicative Concept Proposal

Component	Indicative Concept Proposal
Land Uses	Commercial premises (including office premises and retail premises)
Indicative Yield (Yields are based on the indicative test fit design detailed in the Urban Design Report)	56,348 sqm commercial (office) floor space 406 sqm retail floor space
Gross Floor Area (GFA)	Total GFA: 56,754 sqm
Floor Space Ratio (FSR)	20:1
Built Form	4x basement levels 5-storey podium (ground floor to Level 05) 36-storey tower above podium (Level 06 to Level 41)
Building Height	41 storeys (RL259)
Car Parking	128 basement car parking spaces

## 4.2. INDICATIVE CONCEPT DESIGN PRINCIPLES

The indicative concept proposal is specifically tailored to respond to the site's opportunities and the surrounding evolving urban character of the St Leonards centre.

The key guiding principles inform and underpin the indicative concept design are detailed as follows:

- **Urban renewal:** The proposal capitalises on an unparalleled opportunity to redevelop a strategically-located landholding and deliver high amenity commercial office space in a precinct earmarked for density uplift. Future commercial development will generate substantial public benefit and make a significant economic contribution to St Leonards centre.
- **Transport orientated development:** The proposal maximises the site's advantageous accessibility to the St Leonards railway station and new Crows Nest Metro station to deliver a transit-orientated development which is an attractive place for people to visit and work.
- **Employment Generation:** The proposal creates a highly efficient commercial tower with high amenity contemporary office accommodation and flexible floorplates and tenancies. The new office space will deliver substantial additional high quality commercial space to the centre.
- **Iconic corner:** The site occupies the topographic high point of St Leonards centre on a prominent bend of the Pacific Highway. The position of the site is an entry to St Leonards and is ideally positioned to accommodate a landmark tower to mark the vista. The sensitive and elegant architectural form of the development results in an iconic gateway to St Leonards.
- **Tower separation and view sharing:** The proposal is set back 18 metres from the western boundary to maintain appropriate building separation to the adjoining site (619-621 Pacific Highway). The design maximises separation to allow for view sharing and reduces the perceived effect of 'tower crowding'.
- **Solar Access:** The slender design and proportionality of the tower creates a fast-moving shadow and ensures reasonable solar access to adjoining properties and open spaces. The podium footprint is set back at the corner of Mitchell Street and Atchison Streets to mitigate additional overshadowing to the Mitchell Street Plaza (to achieve compliance with the St Leonards and Crows Nest 2036 Plan).

- **Improved pedestrian access and connectivity:** The proposal provides opportunities for improved pedestrian circulation and connectivity throughout the St Leonards centre through the establishment of site connections with adjacent properties and enhanced integration with the surrounding footpath network, nearby open spaces, and key transport nodes such as St Leonards train station.
- **Mitchell Street Plaza:** The proposal makes a meaningful contribution to activating the Mitchell Street Plaza. The Plaza itself has been embellished through Council-led public domain upgrades, which include a green wall, island planters, pedestrian benches, open lawn area, shared pedestrian / vehicle zone, and a 'St Leonards Gateway' feature. The proposal delivers a dynamic and permeable interface, with operable and transparent lobby frontages enhancing the role of the plaza as a focal point for the precinct.
- **Through-site link:** The ground floor provides pedestrian permeability via lobbies during business hours. Escalators offer a convenient means of negotiating the gradient changes around the site frontages.
- **Biophilia and workplace design:** The proposal integrates terrace gardens within the podium rooftop level and the upper tower levels. These gardens comprise generous landscaped outdoor spaces and offer amenity to tenants. The external building façades can accommodate greenery and vegetation.
- **Retail activation:** The ground floor retail tenancy will create pedestrian activation along the Pacific Highway frontage and add vibrancy and vitality to what is currently a poor pedestrian environment.
- **Atchison Street activation day and night:** A new café / bar could be accommodated to the Atchison Street frontage (as shown in the indicative concept proposal). This would create opportunities for outdoor alfresco dining and other ground plane activations (such as pop-up installations). Public domain activation will complement the principal commercial office use, encourage pedestrian activity, and reinforce Atchison Street as a vibrant day and night dining precinct.

The key principles demonstrate the clear strategic and site-specific planning merits of the proposal.

### 4.3. BUILDING MASSING AND KEY DESIGN ELEMENTS

The indicative concept proposal demonstrates the following building massing and key design elements.

#### Basement Levels

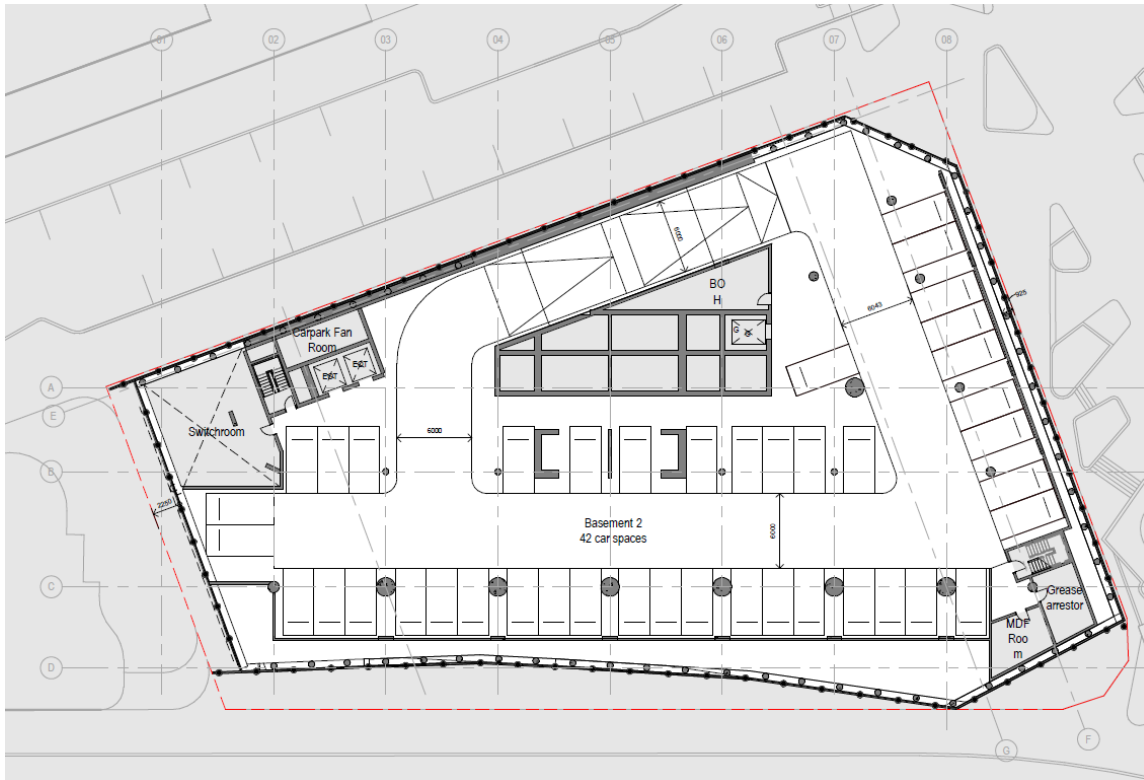
The indicative concept proposal integrates four basement levels that comprise the following:

- 128 car parking spaces (including up to 3 accessible spaces in total);
- 16 motorcycle parking spaces;
- Bicycle storage areas;
- Waste storage rooms;
- Loading dock (allowing for one medium rigid vehicle (**MRV**) bay, two small rigid vehicle (**SRV**) bays, and three van bays);
- Lift cores; and
- Plant and back-of-house areas (including switch-rooms and car park fan rooms).

**Figure 9** demonstrates the indicative typical basement level layout.



Figure 9 Typical Basement Level Layout



Source: Architectus

### Lower Lobby Floor (Ground Level)

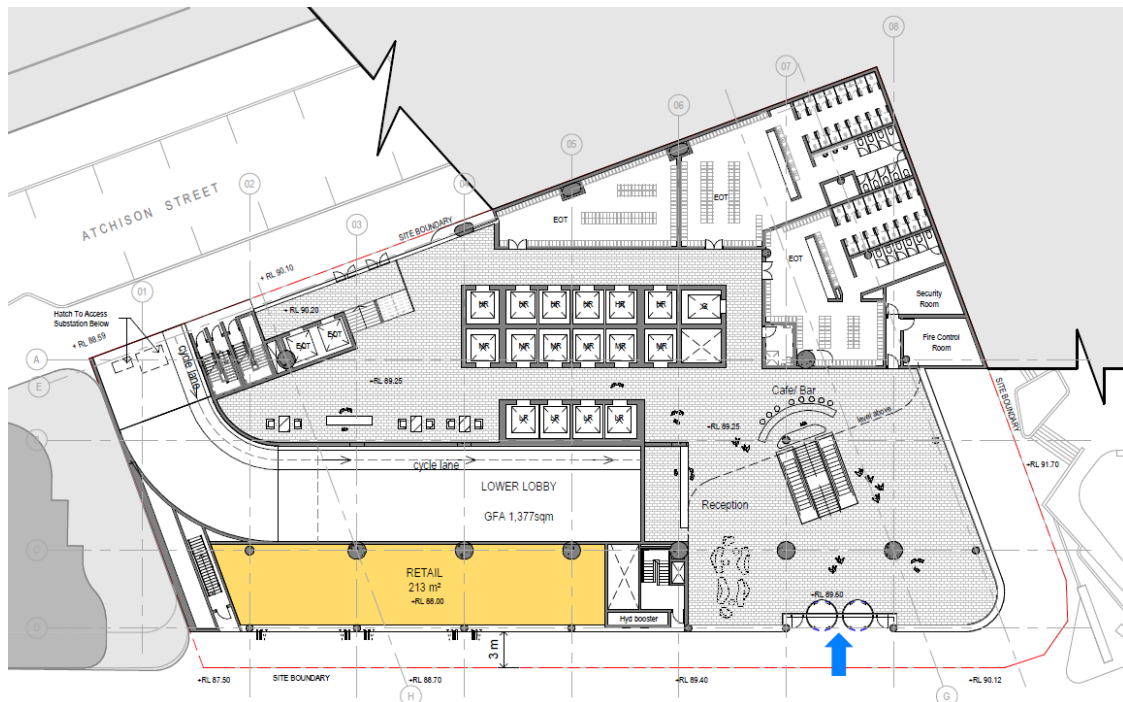
The lower ground level provides at-grade pedestrian access from the Pacific Highway frontage. The lower ground level presents a 3 metre setback to the Pacific Highway (south-facing frontage) and a 5 metre setback to the Mitchell Street Plaza (east-facing frontage). The lower ground level is built to the boundary to Atchison Street (north-facing frontage) and No 617 Pacific Highway (west-facing frontage).

The indicative concept design for lower ground level comprises:

- Lobby entrance and reception area at ground floor level from the Pacific Highway frontage;
- Café / bar / flexible retail use (with opportunities for outdoor sitting areas to Mitchell Street Plaza);
- Retail tenancy fronting Pacific Highway (213 sqm GFA);
- Stairwells and lift cores (separate lift lobbies for low rise podium levels and high rise tower levels);
- End-of-trip facilities;
- Back-of-house areas (including plant, hydrant boosters, a security room, and a fire control room);
- Vehicle and bicycle access driveway from Atchison Street; and
- Pedestrian thoroughfare and active street frontages at ground level to Mitchell and Atchison Streets.

**Figure 10** demonstrates the indicative lower lobby layout.

Figure 10 Lower Lobby Plan



Source: Architectus

### Upper Lobby Floor (Level 01)

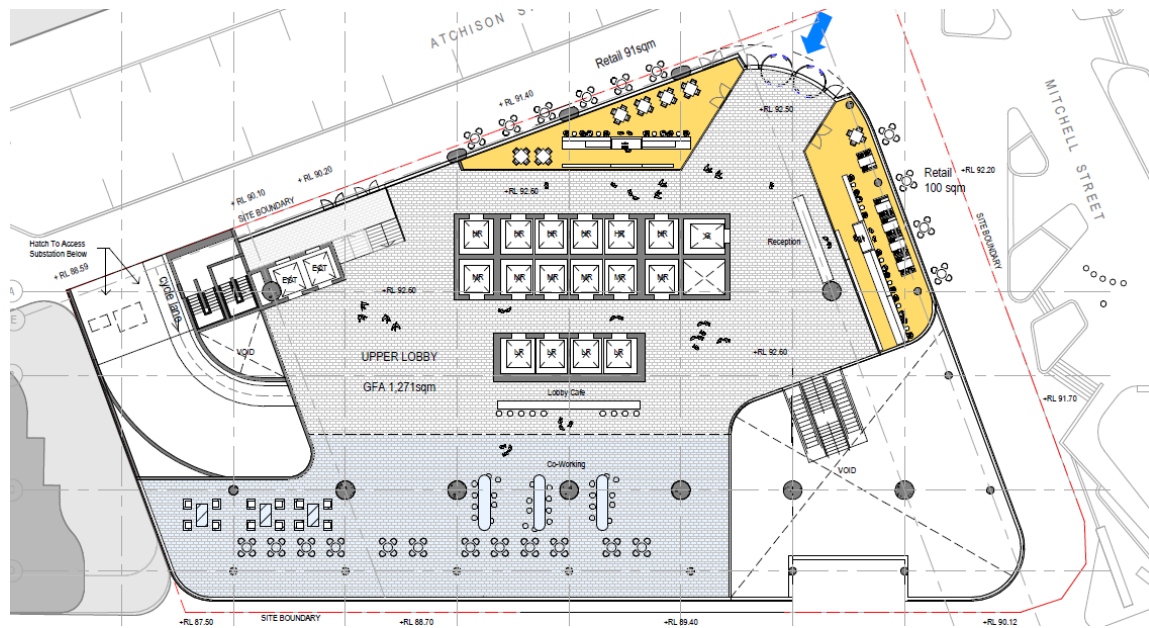
At-grade pedestrian access to the upper ground level is provided from Atchison Street and an entrance lobby to the corner of Mitchell Street / Atchison Street. The upper ground level presents a 5 metre setback to the Mitchell Street Plaza, and nil setbacks to Pacific Highway, Atchison Street, and No 617 Pacific Highway.

The indicative concept design for the upper ground level comprises:

- Lobby entrance and reception area at ground floor level from Mitchell Street / Atchison Street corner.
- Potential for co-working space;
- Lobby café / flexible retail space (with opportunities for outdoor sitting areas to Mitchell Street Plaza);
- Stairwells and lift cores (separate lift lobbies for low rise podium levels and high rise tower levels); and
- Void space above the lower ground level lobby entrance to the Pacific Highway frontage.

**Figure 11** demonstrates the indicative upper lobby floor layout.

Figure 11 Upper Lobby Plan



Source: Architectus

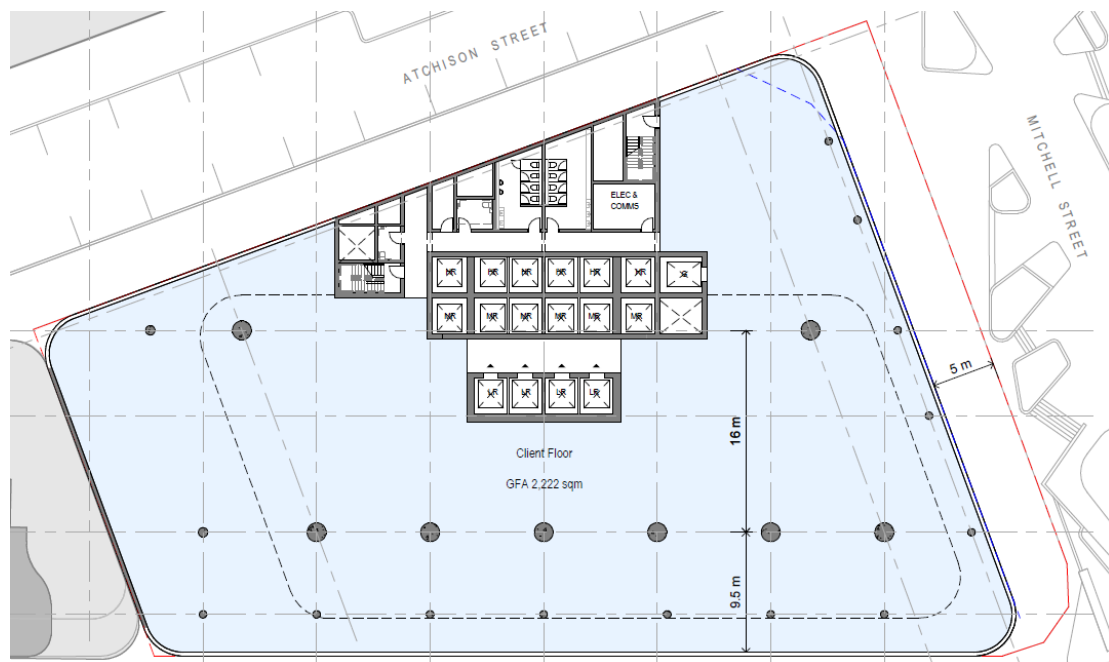
### Upper Podium Floors (Levels 02 – 05)

Above the lower and upper lobby levels is a podium transfer level (Level 02) with an indicative commercial GFA of 1,672 sqm and three client floors (Levels 03 – 05) with an indicative GFA of 2,222 sqm. These provide flexible commercial space that can accommodate a range of tenant configurations and formats (open plan or strata). The podium level floors include bathroom facilities, stairwells and lift cores, and plant areas.

Figure 12 demonstrates the typical podium floor layout.



Figure 12 Typical Podium Floor Plate



Source: Architectus

### Upper Tower (Levels 06 – 41)

The indicative concept design proposes a 36-storey tower above the podium (Levels 06 – 40). The tower presents an 8 metre setback to Mitchell Street, 3 metre setback to the Pacific Highway, 3 metre setback to Atchison Street, and 12 metre setback to No 617 Pacific Highway. The tower levels provide flexible spaces to suit a range of tenant configurations and formats (open plan or subdivided into smaller office suites).

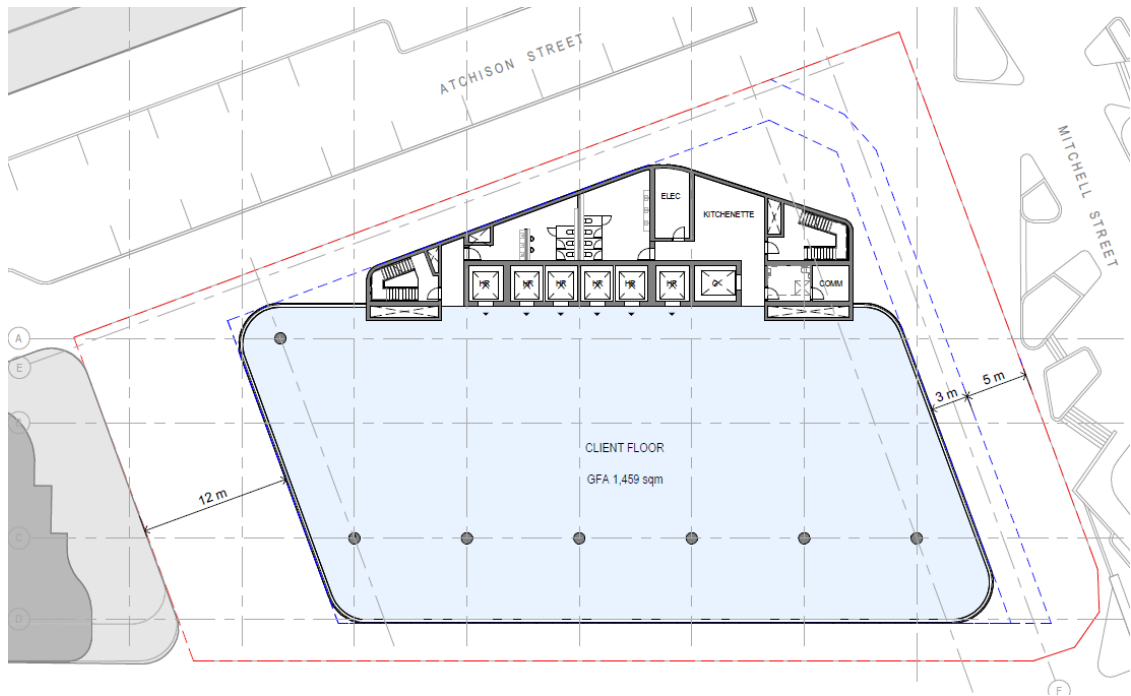
The tower reaches a maximum building height of 41 storeys (RL 259) to the top of the roof plant.

The indicative concept design for the tower comprises:

- Level 06 (client floor) – commercial floor plate (indicative 1,059 sqm GFA), tenant bathroom facilities, stairwells and lift cores, plant and back-of-house areas, and wraparound outdoor terrace garden.
- Level 07 (lower plant) – plant, stairwells, lift cores, and back-of-house areas.
- Levels 08 – 21 (client floors) – commercial floor plate (indicative 1,387 sqm GFA), a kitchenette, tenant bathroom facilities, stairwells and lift cores, plant, and back-of-house areas.
- Level 22 (client floor) – commercial floor plate (indicative 1,286 sqm GFA), a kitchenette, tenant bathroom facilities, stairwells and lift cores, plant, back-of-house areas, and outdoor terrace garden.
- Level 23 (client floor) – commercial floor plate (indicative 1,228 sqm GFA), tenant bathroom facilities, stairwells and lift cores, plant, back-of-house areas, and outdoor terrace garden.
- Level 24 (upper plant) – plant, stairwells, lift cores, and back-of-house areas.
- Levels 25 – 37 (high rise client floors) – commercial floor plate (indicative 1,459 sqm GFA), a kitchenette, tenant bathroom facilities, stairwells and lift cores, plant, and back-of-house areas.
- Levels 38 – 40 (terrace client floors) – commercial floor plate (indicative 944 sqm – 1,342 sqm GFA), tenant bathrooms, stairwells and lift cores, plant, back-of-house areas, and outdoor terrace gardens.
- Level 41 (plant) – plant, stairwells, lift cores, and back-of-house areas.

Figure 13 demonstrates an indicative typical layout for the high rise commercial levels (Levels 25 – 37).

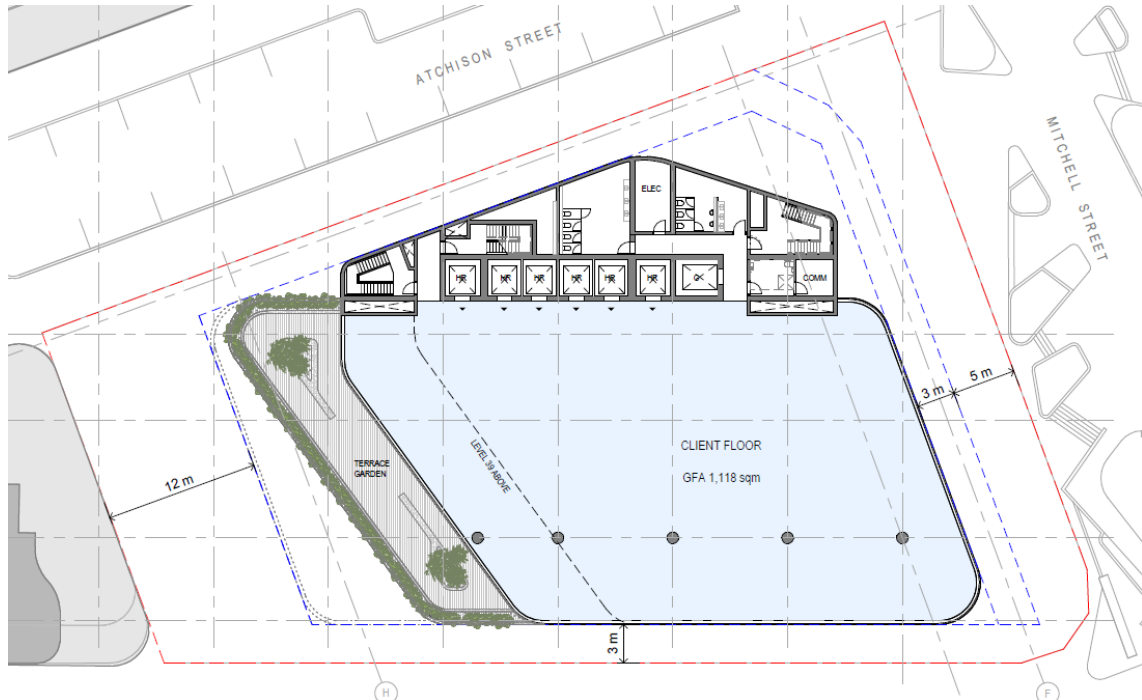
Figure 13 Typical High Rise Commercial Level Layout



Source: Architectus

Figure 14 demonstrates an indicative typical layout for the terrace commercial levels (Levels 38 – 40).

Figure 14 Typical Terrace Level Layout



Source: Architectus

## Site Access

Vehicular access will be provided via an entry / exit driveway to Atchison Street in the north-west portion of the site. The driveway is in the same location as the current access point arrangement. The driveway allows access to the basement level car park, service areas, and loading docks. The proposed driveway to Atchison Street also includes a designated cycle lane that leads to the basement level bicycle storage areas.

Pedestrian access to the lower lobby level is provided from a lobby entrance to the Pacific Highway frontage and a staircase and lifts from Atchison Street. Pedestrian access to the upper lobby level is provided from an entrance to Mitchell Street Plaza. Access to the retail tenancy is provided directly to Pacific Highway.

## 4.4. LANDSCAPING AND PUBLIC DOMAIN

The indicative concept proposal incorporates an integrated landscaping and public domain strategy prepared by Oculus, as detailed in the Landscape Report (at **Appendix B**).

Key design principles of the indicative landscaping strategy are:

- Connection and continuity;
- Activation;
- Shared spaces
- Distinct places; and
- A green focus.

The vision for the indicative landscape design is to integrate public domain and landscape initiatives to make a significant contribution to the centre and create a vibrant, richly layered and engaging urban destination.

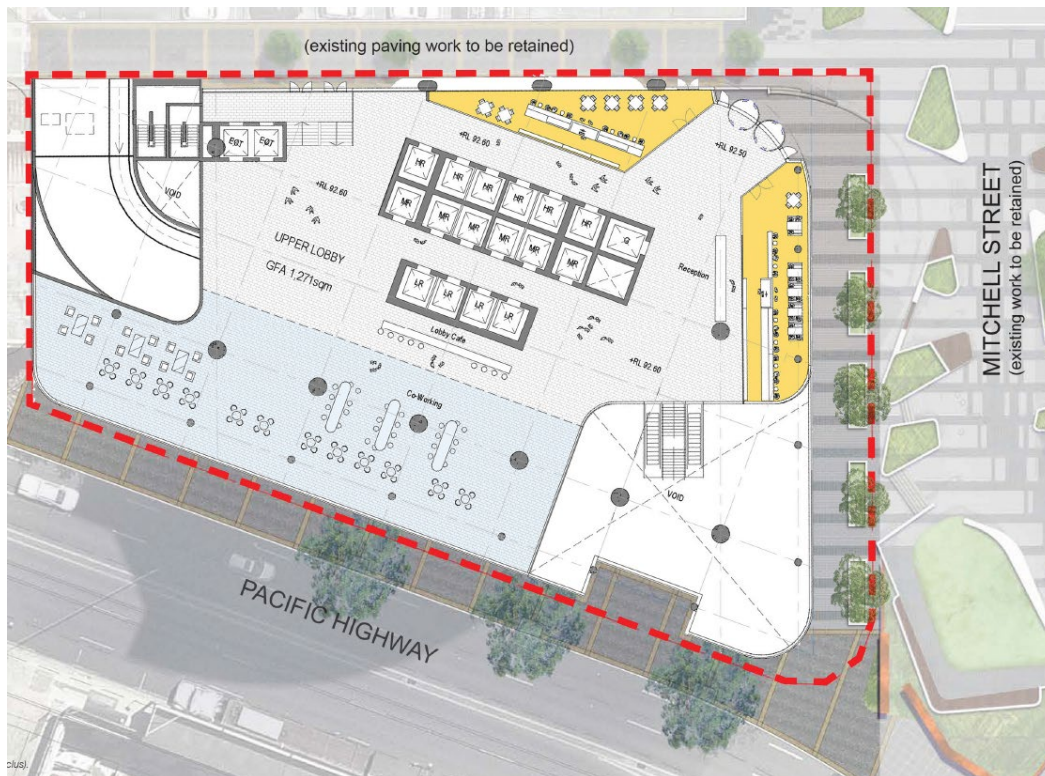
The integrated components of the indicative landscape design are described as follows.

### Ground Plane Public Domain Interface

As indicated in **Figure 15**, the indicative concept design provides opportunities to enhance the ground plane and public domain interface (within the site boundary) to the adjoining streetscape through the following:

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

Figure 15 Ground Plane Public Activation



Source: Architectus

The public domain built form activates the following key public domain spaces and streetscapes:

- Mitchell Street Plaza: activation to urban plaza with lobby entrances and al fresco dining opportunities;
- Atchison Street: commercial / retail tenancies provide activation along street frontage; and
- Pacific Highway: visual engaging retail frontages and pedestrian activation.

The proposal promotes pedestrian connectivity within and around the site by introducing:

- DDA compliant access connections along Atchison Street, Pacific Highway, and Mitchell Street Plaza;
- Through-site connections between lower and upper ground floor levels;
- Lobby entries with strong street presence to Atchison Street, Mitchell Street Plaza, and Pacific Highway;
- Activation to civic gathering and meeting places (for relaxation and passive recreation); and
- Upgrades to pedestrian pathways around the site (under building colonnades).

### Interface to Mitchell Street Plaza

The indicative landscape design activates public domain connectivity to the civic gathering and meeting spaces along the Mitchell Street Plaza. The proposal envisages outdoor seating and dining opportunities, human-level planted edges, public gathering spaces, tree canopies, bench seating, open space spill out areas, and shared pedestrian walkways. These spaces can be utilised for a wide range of seasonal events such as weekend markets, 'pop-up' installations, and community engagement initiatives within the Plaza.

### Tenant Open Spaces

The indicative concept design incorporates 'terrace gardens' and 'sky gardens' as commercial outdoor terrace spaces for future users of the commercial tenancies. These spaces achieve high quality open areas for future tenants and provide opportunities for flexible outdoor gathering and passive recreation.

The Level 06 garden terrace features peripheral landscaping, raised planters with seating edges and tree plantings, flexible dining areas, passive seating areas, an outdoor kitchen / BBQ area, and fixed furniture.

Figure 16 Level 06 Garden Terrace



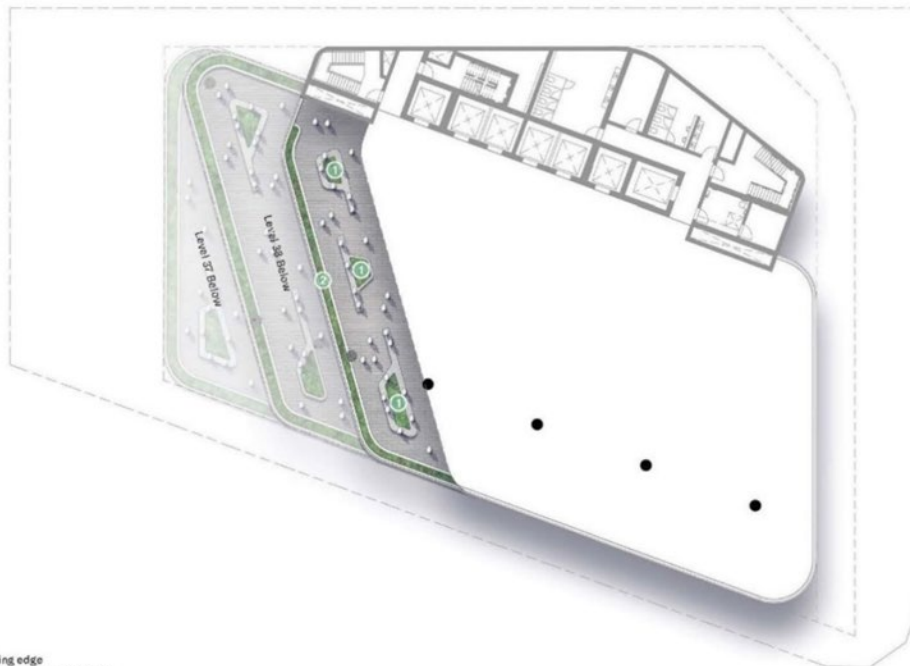
**Legend**

- 1. Outdoor kitchen/BBQ area
- 2. Flexible dining area
- 3. Raised planter with seating edge and tree planting
- 4. Passive seating area
- 5. 1m+ raised planter edge to act as a balustrade

Source: Oculus

The sky gardens at Levels 22-24, and 38-41 gardens feature peripheral landscaping, raised planters with seating edges and tree plantings, passive seating areas, and bespoke fixed furniture.

Figure 17 Typical Roof Terrace



**Legend**

- 1. Raised planter with seating edge
- 2. 1m+ raised planter edge to act as a balustrade

Source: Oculus

## 5. PLANNING PROPOSAL ASSESSMENT

This planning proposal has been prepared in accordance with Section 3.33 of the EP&A Act with consideration of *Local Environmental Plan Making Guideline* (August 2023) (DPE).

Accordingly, the planning proposal is assessed in the following parts:

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

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

## 6. PART 1 – OBJECTIVES & INTENDED OUTCOMES

### 6.1. OBJECTIVES

The primary objective of the planning proposal is to amend the maximum building height and FSR controls that apply to the site to enable built form density uplift and facilitate a commercial development outcome. The proposed changes to built form controls will deliver a contextually appropriate building form as envisaged by the 2036 Plan. The proposal does not amend the site's current E2 Commercial Centre zoning.

The proposed amendments to NSLEP have the following objectives of enabling future development:

- Deliver high-amenity commercial office space aligned with the 2036 Plan;
- Realise the development potential of this significant strategically-located landholding;
- Facilitate development activity in identified key location in St Leonards, supporting the evolution of a diverse retail and commercial precinct and contributing to a rejuvenation of the town centre;
- Provide compatible commercial and retail land uses that contribute to the creation of a vibrant and active community, within close proximity to an existing railway station and future new Metro station; and
- Integrate within the ground plane of surrounding public open spaces and activate the streetscape.

### 6.2. INTENDED OUTCOMES

The intended outcome of the planning proposal is to establish planning controls that will facilitate the future redevelopment of the site for a new high density commercial tower form.

This is proposed through the following changes to the NSLEP 2013:

- Amending the NSLEP *Height of Buildings Map* to provide for a maximum building height of RL259; and
- Amending the NSLEP *Maximum Floor Space Ratio Map* to provide a maximum floor space ratio (**FSR**) control of 20:1.

## 7. PART 2 – EXPLANATION OF PROVISIONS

### 7.1. LAND TO WHICH THE PLAN WILL APPLY

The land that is proposed to be included in the LEP amendment is located at 601 Pacific Highway, St Leonards. The legal property description of the site is Lot 71 in Deposited Plan 749690.

### 7.2. PROPOSED LEP AMENDMENTS

This section is to be read in conjunction with **Section 9** of this planning proposal report, which contains the proposed amended NSLEP 2013 maps for the maximum building height and floor space ratio controls.

#### Land Use Zoning

The proposal does not seek to amend the current E2 Commercial Centre zoning. The indicative concept for the future development is consistent with the objectives of the E2 Commercial Centre zone.

#### Building Height

It is proposed that an RL259 maximum building height development standard be applied to the site.

This outcome can be achieved by amending the existing *Height of Buildings Map – Sheet HOB\_001* of NSLEP 2013.

#### Floor Space Ratio

There is no existing FSR development standard applicable to the site.

It is proposed that a maximum FSR development standard of 20:1 be applied to the site. This outcome can be achieved by amending the existing *Floor Space Ratio Map – Sheet FSR\_001* of NSLEP 2013.



## 8. PART 3 – JUSTIFICATION

### 8.1. NEED FOR THE PLANNING PROPOSAL

**Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?**

**Yes.** The planning proposal is a result of the following local strategic planning statement and strategic plans:

- St Leonards and Crows Nest 2036 Plan;
- North Sydney Local Strategic Planning Statement; and
- St Leonards/Crows Nest Planning Study (2015).

#### **St Leonards and Crows Nest 2036 Plan**

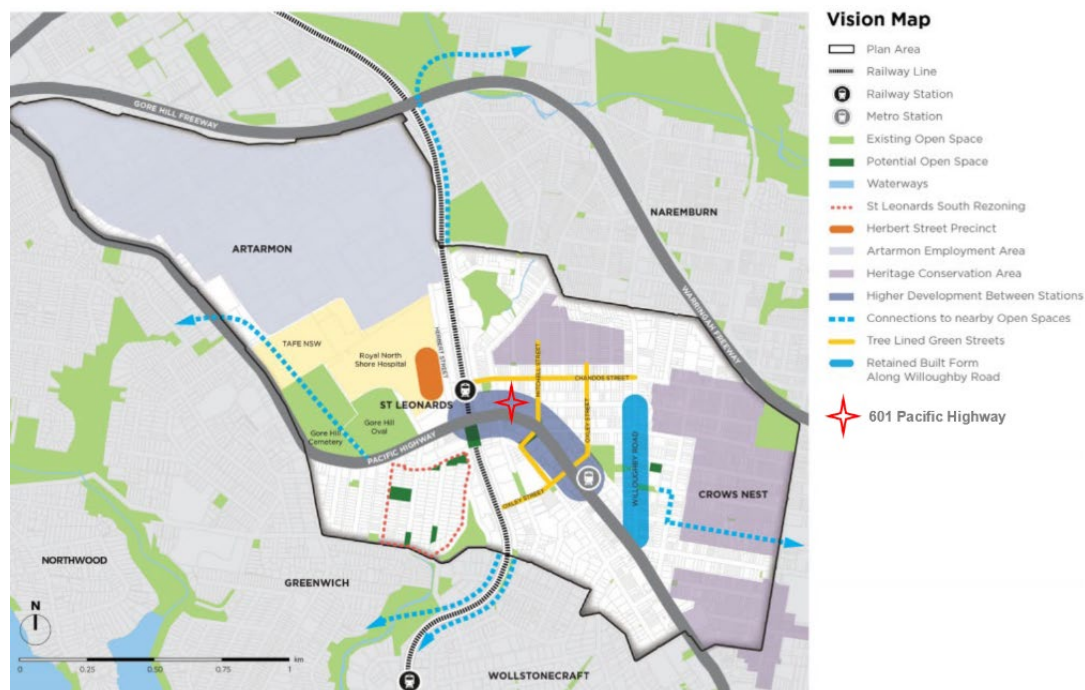
On 29 August 2020, the NSW Government finalised the planning package for St Leonards and Crows Nest. This contained the final St Leonards and Crows Nest 2036 Plan (**2036 Plan**), the Special Infrastructure Contribution (**SIIC**) Determination, St Leonards and Crows Nest Local Character Statement, St Leonards and Crows Nest Green Plan, Urban Design Study, and other supporting documents and legislative amendments.

The 2036 Plan presents the following overarching vision for St Leonards and Crows Nest:

*Sitting at the heart of the Eastern Economic Corridor; connectivity, innovation and a commitment to great design will see the St Leonards and Crows Nest area transform as a jobs powerhouse. Mixing commercial and residential, the centre will offer workers, residents, students and visitors a variety of homes, jobs and activities with increased accessibility with a new world class metro service.*

The subject site is within a cluster of high-density commercial and mixed-use development along Pacific Highway between St Leonards Station and new Crows Nest Metro Station (see **Figure 18**). This cluster is earmarked for high density transit-oriented development that leverages accessibility to deliver more jobs.

Figure 18 2036 Plan Vision



Source: St Leonards and Crows Nest Plan 2036

**Table 6** details the proposal's consistency with the objectives and built form parameters of the 2036 Plan.

Table 6 Achieving the outcomes of the St Leonards and Crows Nest 2036 Plan

2036 Plan	Planning Proposal Response	Compliance
<b>Theme 01 Place</b>		
<i>Improve the public domain by introducing 'green streets' along Mitchell Street to allow for setbacks with grass and canopy trees</i>	<p>The proposal creates a vibrant and richly layered public domain and civic destination. The Mitchell Street ground level setback provides opportunities for extended street paving, tree canopies, and planted edges (fulfilling 'green street' principles).</p> <p>The proposal achieves a high level of solar access to Mitchell Street. Shadows cast by the proposal to Mitchell Street fall within shadows cast by the existing building on the site. The proposal does not create any additional shadows to the street.</p>	Yes
<i>Improve active streets and pedestrian movement to create a more vibrant streetscape and contribute to passive surveillance and safer places</i>	<p>Contemporary retail and commercial land uses at ground floor level will encourage pedestrian activation and streetscape vibrancy along Atchison Street and the Mitchell Street Plaza.</p> <p>A strong pedestrian presence across the ground plane will also contribute to passive surveillance within the streetscape.</p>	Yes
<b>Theme 02 Landscape</b>		
<i>Mitchell Street - Tree lined green street</i>	The indicative landscape and public domain strategy provides opportunities for planted edges and tree canopy plantings.	Yes
<i>Introduce landscaped street setbacks along Mitchell Street to allow for additional street trees</i>	The 5 metre ground level setback to Mitchell Street allows for the extension of street paving and additional tree plantings.	Yes
<i>Landscaped setbacks for avenue tree planting proposed along the Pacific Highway</i>	The indicative landscape and public domain strategy provides opportunities for new tree plantings along Pacific Highway.	Yes
<b>Theme 03 Built Form</b>		
<i>New development should be sympathetic to existing buildings with appropriate setbacks and street wall height</i>	<p>The built form is consistent with the 2036 Plan, relating to FSR, building height, setbacks, and street wall heights. It responds to desired street widths and provides ground and upper level setbacks and awnings to achieve a human scale.</p> <p>The tower has a slender form that sits appropriately amongst comparable-sized existing and future tall buildings in the area.</p>	Yes
<i>Future commercial development should contribute to a vibrant, high amenity atmosphere and activate the area between St Leonards station and Crows Nest Metro station during the daytime, in the evenings, and on weekends</i>	<p>Retail and commercial land uses at ground level will activate the following street frontages and create streetscape vibrancy:</p> <ul style="list-style-type: none"> <li>▪ <b>Mitchell Street Plaza:</b> activation to urban plaza with lobby entrances and al fresco dining opportunities;</li> <li>▪ <b>Atchison Street:</b> commercial / retail uses create a high amenity environment along the street frontage; and</li> <li>▪ <b>Pacific Highway:</b> visual engaging retail frontages and pedestrian activation.</li> </ul>	Yes

2036 Plan	Planning Proposal Response	Compliance
<i>Minimise overshadowing of key open spaces, public places, and adjoining residential areas</i>	<p>The solar access analysis in the Addendum Urban Design Report (<b>Appendix A</b>) demonstrates that the proposal does not result in additional overshadowing at mid-winter (21 June) to:</p> <ul style="list-style-type: none"> <li>▪ Newlands Park (between 10:00am – 3:00pm);</li> <li>▪ Ernest Place (between 10:00am – 3:00pm);</li> <li>▪ Willoughby Road (between 11:30am – 2:30pm); and</li> <li>▪ Mitchell Street (between 11:30am – 2:30pm).</li> </ul> <p>Shadows cast by the proposal onto Mitchell Street fall within shadows cast by the existing building on the site. The proposal does not create any additional overshadowing to the street.</p>	Yes
<i>St Leonards should be the predominant centre to reinforce its commercial role</i>	<p>The proposal will make a significant economic contribution to St Leonards by attracting investment growth and business activity and contributing employment generation and diversity.</p>	Yes
<i>Large developments to be located between stations and transition in height, bulk and scale from the highway to the surrounding areas  Taller buildings are to be located within 150 - 200m of stations and transition in height to the surrounding areas</i>	<p>The site is ideally located for substantial uplift in height, bulk, and density. It is within the 'knuckle area' identified as a cluster of high-density developments along Pacific Highway.</p> <p>The site will leverage from the existing and emerging transport network through the frequency of transport services and infrastructure upgrade projects. It is 350 metres (walking distance) east of St Leonards train station and 400 metres north-west of the new Crows Nest Metro station.</p>	Yes
<i>Reduce impact on Heritage Conservation Areas</i>	<p>The site is not located within close proximity of a Heritage Conservation Area. The proposal does not result in additional overshadowing to a Heritage Conservation Area.</p>	Yes
<i>Improve accessibility through appropriate frontage treatment and provision of arcades, laneways, and enhanced public domain</i>	<p>The proposal improves pedestrian accessibility connectivity by:</p> <ul style="list-style-type: none"> <li>▪ DDA compliant access connections along Atchison Street, Pacific Highway, and Mitchell Street Plaza;</li> <li>▪ Through-site connections between lower and upper ground floor levels;</li> <li>▪ Lobby entries with strong street presences;</li> <li>▪ Activation to civic gathering and meeting places (for relaxation and passive recreation); and</li> <li>▪ Upgrades to pedestrian pathways around the site.</li> </ul>	Yes
<i>New development must respond to built form character of sub-precincts, including height, bulk, and scale and existing and proposed uses</i>	<p>The proposal is consistent with the envisaged high density character along the Pacific Highway. It is compliant with the FSR, building height, setbacks, and street wall heights.</p>	Yes
<i>The North District Plan identifies a high jobs target of 63,500 for the area by 2036</i>	<p>The proposal will foster investment, economic growth, and business activity and make a significant contribution to the employment generation targets for the North District.</p>	Yes

<b>2036 Plan</b>	<b>Planning Proposal Response</b>	<b>Compliance</b>
<b>Theme 04 Land Use</b>		
<i>Concentrate higher density along the Pacific Highway between the St Leonards Station and Crows Nest Metro Station</i>	The proposal facilitates high-quality transit-oriented commercial on a strategically-located site along the Pacific Highway between St Leonards and the new Crows Nest Metro stations.	Yes
<i>Retain B3 Commercial Centre zone on appropriate sites to maintain future viability of the St Leonards Core</i>	The proposal facilitates commercial development that supports and contributes to the economic viability of St Leonards.	Yes
<i>Encourage renewal of St Leonards through the delivery of new A-grade commercial floor space</i>	Future development is capable of achieving high amenity A-grade office accommodation with flexible commercial floor plate configurations to appeal to a range of tenant markets.	Yes
<i>More diverse uses along Atchison Street to define a new retail focus (including restaurants and extended trading hours to stimulate night-time economy)</i>	The proposal supports Atchison Street as a new retail focus that will leverage existing activity along Willoughby Road and the St Leonards Forum plaza. Potential retail opportunities may include outdoor / alfresco dining and ground plane activations to stimulate night-time economy. Public domain activation will reinforce Atchison Street as a vibrant day and night precinct.	Yes
<i>Public domain improvements will also make Atchison Street more attractive for boutique retail</i>	Proposed commercial and retail uses fronting Atchison Street will contribute to the public domain activation of the street.	Yes
<b>Theme 05 Movement</b>		
<i>Provide clear, continuous, and direct pedestrian and cycle routes to priority destinations (including St Leonards Station and surrounding commercial core)</i>	Landscape and public domain upgrades proposed along Atchison Street, Mitchell Street, and Pacific Highway will contribute to the quality and amenity of pedestrian routes to priority destinations around St Leonards including the station.	Yes
<i>Promote the provision of end of trip facilities to support cycling</i>	The proposal includes a designated cycle lane from Atchison Street, and basement bicycle storage and end-of-trip facilities.	Yes
<b>Built Form Parameters for the Site</b>		
<b>Land Zoning</b> <i>Zone E2 Commercial Centre</i>	The amended planning proposal retains the site's E2 Commercial Centre zoning.	Yes
<b>Building Height</b> <i>42 storeys</i>	The amended planning proposal seeks a maximum building height of RL259 to accommodate a building of 42 storeys.	Yes
<b>Floor Space Ratio</b> <i>20:1</i>	The Planning proposes a maximum floor space ratio of 20:1.	Yes

2036 Plan	Planning Proposal Response	Compliance
<b>Minimum Non-Residential FSR</b>	Given Zone E2 prohibits residential uses, it is not necessary to seek a non-residential FSR equivalent to the maximum FSR.	Yes
<b>Street Wall Height</b> <i>5 storey street wall height to all four boundaries of the site</i>	<p>The indicative concept proposal comprises a part-5, part-6 storey podium and presents the following street wall heights:</p> <ul style="list-style-type: none"> <li>▪ Part-five, part-six height to Atchison Street;</li> <li>▪ Part-five, part-six height to Mitchell Street;</li> <li>▪ Six storey height to Pacific Highway; and</li> <li>▪ Six storey height to 617 Pacific Highway.</li> </ul> <p>Starting at ground level, the proposed podium comprises:</p> <ul style="list-style-type: none"> <li>▪ Lower lobby floor (Ground Level) (at-grade pedestrian access from Atchison Street and Pacific Highway);</li> <li>▪ Upper lobby floor (Level 01) (at-grade pedestrian access from intersection of Atchison Street and Mitchell Street);</li> <li>▪ Upper podium floors (Levels 02 – 05).</li> </ul> <p>The site's topographical conditions do not allow compliance with the five storey street wall height. The varied podium height is a direct response to the gradient, which falls from the north-east by 2.5 metres to the south and 3.5 metres to the west.</p> <p>However at the site's most visible and prominent frontage to the intersection of Atchison Street and Mitchell Street, the podium expression establishes a five storey street wall height.</p> <p>The proposal establishes a consistent podium datum line that aligns to the prevailing streetscape in the surrounding locality.</p>	Part compliance, intent achieved
<b>Setbacks</b> <i>5 metre setback to Mitchell Street</i> <i>Nil setback to Atchison Street</i> <i>3 metre reverse setback to Pacific Highway</i>	<p><u>Mitchell Street Setback</u>: <b>Compliant</b>. The proposal presents a 5 metre setback to Mitchell Street at the upper lobby level (Level 01) and above podium levels (to Level 06). The building is partly built to the Mitchell Street boundary at the lower lobby level; however this part of the building is set below street level.</p> <p><u>Atchison Street Setback</u>: <b>Compliant</b>. The lower ground level and above podium is built to Atchison Street (nil setback). Upper tower levels are setback a further 3 metres.</p> <p><u>Pacific Highway Setback</u>: <b>Compliant</b>. A nil setback is provided to Pacific Highway. Level 01 and upper podium levels are built to Pacific Highway as per a reverse setback principle.</p>	Yes
<b>Existing Open Space</b> <i>Mitchell Street Plaza is identified as an existing open space</i>	<p>The landscape design activates public domain connectivity to the civic gathering spaces along the Plaza. The proposal offer outdoor seating and dining opportunities, human-level planted edges, public gathering spaces, tree canopies, bench seating, open space spill out areas, and shared pedestrian walkways.</p> <p>These spaces can be utilised for a wide range of seasonal events such as weekend markets, 'pop-up' installations, and community engagement initiatives.</p>	Yes

### North Sydney Local Strategic Planning Statement

On 24 March 2020, Council adopted the North Sydney Local Strategic Planning Statement (LSPS).

Aligned with the Region Plan and the District Plan, the LSPS identifies St Leonards as a 'strategic centre' within the economic corridor extending between Sydney CBD, North Sydney CBD, and Macquarie Park. St Leonards provides a density and diversity of economic and employment activity of metropolitan significance.

Consistent with the LSPS, the planning proposal will facilitate employment land uses and contribute to St Leonards as a strategic centre in the short, medium, and long term. It will also support Council's focus on development intensification in St Leonards, connecting the Crows Nest Metro and St Leonards stations.

The planning proposal is consistent with LSPS planning priorities for St Leonards (see **Table 7**).

Table 7 Consistency with North Sydney LSPS

Planning Priorities	Consistency
<b>Productivity</b>	
<i>P2. Develop innovative and diverse business clusters in St Leonards/Crows Nest</i>	<p>The proposed high amenity office space will attract significant future investment growth and business activity and contribute employment generation and job diversity. Diverse, flexible commercial floor plates will appeal to a wide range of tenant markets.</p> <p>The proposal will make a significant contribution to meeting the employment target of between 6,900 (base) and 16,500 (high) new jobs in St Leonards by 2036.</p> <p>New 'A Grade' employment floorspace will revitalise the current aging commercial office stock in St Leonards, a key reason for the centre not realising its employment function.</p> <p>Future redevelopment will create opportunities for activating the public domain, enhancing pedestrian amenity, and contributing to night-time economy and investment.</p> <p>The proposal responds to productivity objectives for St Leonards to facilitate a growing and evolving economy, support skills growth, attract investment and talent.</p>
<i>P6. Support walkable centres and a connected, vibrant and sustainable North Sydney</i>	<p>The proposal responds to the 30-minute city vision embedded in the Region Plan and LSPS by facilitating high amenity employment space. The site is highly accessible to public transport infrastructure, enabling tenants and visitors to leverage public transport usage. The proposal achieves high density transit-oriented development within a walkable distance to commercial, mixed-use, and neighbourhood centres.</p>
<b>Liveability</b>	
<i>L2. Provide a range of community facilities and services to support a healthy, creative, diverse and socially connected North Sydney community</i>	<p>The proposal provides opportunities for improved pedestrian circulation and connectivity through the establishment of through-site connections and enhanced integration with the footpath network and nearby open spaces. It will deliver high quality public domain and services to support the current and future community's needs,</p> <p>A dynamic and permeable interface to Mitchell Street Plaza, with operable and transparent lobby frontages, will enhance this space as a focal point for the precinct.</p>

### St Leonards/Crows Nest Planning Study

In May 2015, Council adopted the St Leonards / Crows Nest Planning Study (**2015 Study**) to manage high level development interest near St Leonards station, protect jobs, and deliver public domain and services.

Whilst the 2015 Study remains in effect, the St Leonards and Crows Nest 2036 Plan has effectively become the adopted strategic plan for St Leonards. Notwithstanding, the planning proposal responds to the high density character and design criteria for St Leonards envisioned in the 2015 Study as per **Table 8**.

Table 8 Consistency with St Leonards / Crows Nest 2015 Planning Study

Design Criteria	Planning Proposal Response	Compliance
<i>Relate to a parcel of land with a minimum street frontage of 20 metres</i>	The site has three street frontages that exceed 20 metres.	Yes
<i>Relate to a parcel of land that does not isolate, sterilise or unreasonably restrict the development potential of adjacent parcels of land</i>	Future development would not result in the isolation of any adjoining land. The proposal is sympathetic to the massing of the adjoining building to the west (619-621 Pacific Highway) and the emerging built form of the locality.  The proposal does not rely on access from adjoining land.	Yes
<i>Site specific floor space ratio control having regard to the podium height, minimum setback controls in Maps 6A and 6B.</i>  <ul style="list-style-type: none"> <li>▪ 4-storey podiums</li> <li>▪ 3 metre whole of building setback to Mitchell Street</li> <li>▪ 3m ground level setback for 1 storey to Pacific Highway</li> <li>▪ 3 metre above podium setback to Atchison Street, Mitchell Street, and Pacific Highway</li> </ul>	The 2036 Plan incorporates specific built form parameters for the subject site that have been informed by detailed urban design analysis. The built form parameters of the 2036 plan prevail to the extent of any inconsistency with the 2015 Study and are the primary consideration.  Notwithstanding, the proposed setbacks are generally consistent or greater than that envisaged in the 2015 Study.  <u>Podium: Non-compliant.</u> The proposed podium is part five, part six storeys in height. However the proposal is consistent with the 2036 Plan for a five storey street wall height to all boundaries as detailed in <b>Table 5</b> .  <u>Whole of building setback to Mitchell Street: Compliant.</u> The proposal presents a 5 metre setback to Mitchell Street at the upper lobby and above podium levels. The building is partly built to Mitchell Street at the lower lobby level; however this part of the building is set below street level. The upper tower levels are setback a further 3 metres.  <u>Ground level setback to Pacific Highway: Compliant.</u> The proposal presents a nil setback (reverse) at ground level (1 storey) to Pacific Highway.  <u>Podium setbacks: Compliant.</u> The proposal presents a consistent 3 metre above podium setback to the Atchison Street, Mitchell Street, and Pacific Highway boundaries.	Generally compliant  Non-compliance justified by compliance with the 2036 Plan (which supersedes the 2015 Study)
<i>Height control consistent with Map 6C</i>	While the 2015 Plan detailed the site as a 'tall building' site, it did not set a height limit, instead inviting the landowners to submit site-specific planning proposals to Council for individual consideration, having regard to design criteria.	Yes

Design Criteria	Planning Proposal Response	Compliance
<i>The site is identified for a 'Tall building', without an indicative building height.</i>	The 2036 Plan now specifies a building height in storeys control with which the planning proposal complies.	
<i>For tall buildings identified in Map 6C, propose height, setback and floor space ratio controls that address the design principles for tall buildings</i>	<p>* Refer commentary below responding to each principle.</p> <p><b>Note</b> the indicative concept proposal has been prepared to demonstrate one possible reference design scheme which could be delivered on the site. Future development will be subject to separate detailed design development.</p>	
<i>If commercial, the built form must result in a tower with a maximum 1,000 sqm gross floor area floorplate</i>	<p>As detailed in <b>Table 6</b>, the proposal is compliant the above podium setback distances established in the 2036 Plan. This compliant built form yields a commercial tower form where the floor plates exceed 1,000 sqm in size. The 2036 Plan prevails to the extent of any inconsistency with the 2015 Study and is the primary consideration.</p> <p>The proposal delivers on the built form and redevelopment intent of the 2036 plan which identifies the site as one of few sites designated for commercial only development in St Leonards. A future building will present a slender and well-articulated form which will sit appropriately amongst comparable-sized existing and future buildings in the locality. The tower maximises separation from other tower buildings in the immediate surrounding locality to facilitate view sharing and minimise the effect of 'tower crowding'.</p>	No Non-compliance justified by compliance with the 2036 Plan
<i>Large, elongated floorplates are to be avoided with tower elements not exceeding 40m in length, with breaks and articulation encouraged along elevations</i>	<p>As above, the proposal complies with the built form parameters of the 2036 Plan (including the above podium setback controls). Compliance with these controls yields a tower form where the floor plates exceed 40 metres.</p> <p>Notwithstanding that the 2036 Plan prevails to the extent of any inconsistency with the 2015 Study, the length and configuration of the floor plates achieves commercial flexibility and high amenity contemporary office space.</p>	No Non-compliance justified by compliance with the 2036 Plan
<i>The cumulative impact of multiple towers on the public realm must be carefully considered through detailed overshadowing analysis</i>	<p>The detailed shadow analysis in the Urban Design Report demonstrates that the indicative concept proposal:</p> <ul style="list-style-type: none"> <li>▪ does not create any additional overshadowing to Newlands Park between 10am and 3pm at mid-winter.</li> <li>▪ does not create any additional overshadowing to Ernest Place between 10am and 3pm at mid-winter.</li> <li>▪ does not create any additional overshadowing to the Mitchell Street Plaza beyond the shadows cast by the existing building on the site and existing neighbouring buildings (overshadowing is mitigated by the 5m setback street setback to Mitchell Street and 3m tower setback above the podium);</li> </ul>	Yes



Design Criteria	Planning Proposal Response	Compliance
	<ul style="list-style-type: none"> <li>▪ does not create any additional overshadowing to Willoughby Road between 11:30am and 2:30pm at mid-winter;</li> <li>▪ does not result in overshadowing to the Holtermann Estate Heritage Conservation Areas at mid-winter; and</li> <li>▪ provides 5 – 6 hours direct sunlight at mid-winter to the vast majority of residential areas inside the boundary.</li> </ul>	
<p><i>The design must mitigate overshadowing and wind impacts, and protect sunlight and views of the sky from streets, parks, and properties</i></p>	<p>The indicative concept proposal can mitigate wind impacts and protect sunlight and views of the sky through building separation, public domain interface, and podium/ tower design. These impacts are assessed in the following documentation ():</p> <ul style="list-style-type: none"> <li>▪ Visual Assessment (refer to <b>Section 8.3.2</b>); and</li> <li>▪ Solar access analysis (refer to <b>Section 8.3.4</b>); and</li> <li>▪ Wind Assessment (refer to <b>Section 8.3.5</b>).</li> </ul>	Yes
<p><i>The design ensures high-quality living and working conditions, natural ventilation, and privacy for building occupants.</i></p>	<p>Future detailed design development will ensure high quality working conditions for future users of the commercial uses.</p>	Yes
<p><i>Propose satisfactory arrangements that provide commensurate public benefits that support the proposed scheme</i></p>	<p>The indicative concept design provides opportunities to enhance the public domain interface with the adjoining streetscape through the following design components:</p> <ul style="list-style-type: none"> <li>▪ Upgrades to street paving along Pacific Highway (as per North Sydney Council Public Domain Manual);</li> <li>▪ Proposed street tree plantings along Pacific Highway (subject to existing services);</li> <li>▪ Extensions to existing paving layout along the Mitchell Street Plaza to the building edge; and</li> <li>▪ Proposed stairs and retaining wall to the north-east corner of the site.</li> </ul>	Yes

**Q2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

**Yes.** Without an amendment to the statutory planning controls, the indicative concept proposal for the site cannot be achieved and the associated public benefits would not be realised.

The following alternative scenarios were considered to give effect to and achieve the objectives of the planning proposal. However, these were not pursued as the best means to achieve the intended outcome.

- Lodging a development application under the current NSLEP 2013 planning controls; and
- 'Do nothing' – wait for future amendments to NSLEP 2013 planning controls.

**Development Application**

Lodging a development application was considered as the existing E2 Commercial Centre permits a mixed use development incorporating retail and office uses (as 'commercial premises'). However, the existing NSLEP maximum building height control only permits a building height of 45 metres. The existing building height control is considered obsolete and does not reflect the local and state strategic planning direction for the site and thus would represent an under-development of a prominent and strategically-located site.

A clause 4.6 variation request could be lodged with a development application to vary the building height control. However, there are limitations to the practical application of clause 4.6 to vary the maximum building height development standard. As the existing building height control is highly restrictive, it would not be appropriate nor expected that legal powers exist within the intent of clause 4.6 to be used to support the significant variation to the maximum building height. Consequently, this option was not pursued.

**Do nothing – NSLEP 2013 Update**

It is understood that North Sydney Council was awarded funding for LEP acceleration as one of the priority Councils to undertake LEP review within two years. Council was required to have a draft LEP submitted to the Greater Sydney Commission (GSC) / DPE by June 2020. A range of housing, employment and associated studies have commenced to inform the updated LEP.

The North Sydney Local Strategic Planning Statement was adopted by Council on 24 March 2020. The LSPS guides the strategic framework of Council's Local Environmental Plan and Development Control Plan and supports Council's consideration and determination of any proposed changes to the development standards under the LEP (via Planning Proposals). However the pending LEP amendments will not include any built form uplift for St Leonards given the timing of the recently adopted Plan 2036.

Accordingly, it is considered that amendments to the built form LEP planning controls is the most appropriate approach as it would enable a timelier delivery of high density commercial development on the site, taking advantage of the new Crows Nest Metro Station. The adoption of the 2036 Plan has resolved the position that the site warrants density uplift, such that there is no reason for further delay.

## 8.2. RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

### 8.2.1. Guide to Preparing Planning Proposals – Assessment Criteria

The planning proposal demonstrates both strategic and site-specific planning merit in accordance with the Assessment Criteria in *A guide to preparing planning proposals* (DPIE). **Table 9** below contains an assessment of the planning proposal against the Guide.

Table 9 Guide for Preparing Proposals Assessment Criteria

Assessment Criteria	Response
<p>(a) Does the proposal have <b>strategic merit</b>? Will it:</p> <ul style="list-style-type: none"> <li>▪ give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or</li> </ul>	<p>Yes.</p> <p>Refer to below assessment addressing Question 3.</p> <p>The planning proposal gives effect to the objectives of the following regional and district plans:</p> <ul style="list-style-type: none"> <li>▪ Greater Sydney Region Plan – A Metropolis of Three Cities (detailed in <b>Table 10</b>); and</li> <li>▪ North District Plan (detailed in <b>Table 11</b>).</li> </ul>
<ul style="list-style-type: none"> <li>▪ give effect to a relevant local strategic planning statement or strategy that has been endorsed by the Department or required as part of a regional or district plan or local strategic planning statement; or</li> </ul>	<p>Yes.</p> <p>Refer to below assessment addressing Question 4.</p> <p>The planning proposal will give effect to and is consistent with the North Sydney Local Strategic Planning Statement (detailed in <b>Table 7</b>).</p>
<p>(b) Does the proposal have <b>site-specific merit</b>, having regard to the following?</p> <ul style="list-style-type: none"> <li>▪ the natural environment (including known significant environmental values, resources or hazards) and</li> </ul>	<p>Yes.</p> <p>Refer to below assessment addressing Question 7 (<b>Section 8.3</b>).</p>
<ul style="list-style-type: none"> <li>▪ the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and</li> </ul>	<p>Yes.</p> <p>Refer to below assessment addressing Question 8 (<b>Section 8.3</b>).</p>
<ul style="list-style-type: none"> <li>▪ 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.</li> </ul>	<p>Yes.</p> <p>Refer to below assessment addressing Question 9 (<b>Section 8.4</b>).</p>

**Q3. 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)?**

**Yes.** The planning proposal gives effect to objectives of the following regional and district plans:

- Greater Sydney Region Plan – *A Metropolis of Three Cities*; and
- North District Plan.

**Greater Sydney Region Plan – A Metropolis of Three Cities (2018)**

The Greater Sydney Region Plan – *A Metropolis of Three Cities* (**Region Plan**) sets out policy directions to achieve identified goals and principles, with each direction underpinned by actions. **Table 10** demonstrates how the planning proposal responds and aligns to the directions and actions of the Region Plan.

Table 10 Assessment against Greater Sydney Region Plan

Greater Sydney Region Plan	Planning Proposal Response
<b>Direction 1: A city supported by infrastructure</b>	
<i>Objective 4: Infrastructure use is optimised</i>	<p>The proposed density uplift is highly appropriate given the site's proximity to existing rail and future metro rail services. The proposal contributes positively to this objective by facilitating density in a highly convenient location that will encourage use of existing and new transport infrastructure.</p> <p>The proposed mix of commercial and retail land uses will positively contribute towards a diversity of land uses within the precinct and generation of demand and use of the public transport infrastructure.</p> <p>As detailed in Traffic Impact Assessment (at <b>Appendix F</b>), resultant traffic increase is negligible and will not adversely affect the existing intersection performances. Future development in line with the planning proposal will be responsible for a small increase in peak hour traffic flows along surrounding key roads. The small increase in development traffic will ensure that the surrounding road network will continue to operate efficiently.</p> <p>The delivery of density uplift in the correct locations (such as the site) will promote better travel behaviour in future residents and workers and encourage increased reliance on public transport.</p>
<b>Direction 2: A collaborative city</b>	
<i>Objective 5: Benefits of growth realised by collaboration of governments, community and business</i>	<p>St Leonards Strategic Centre is recognised as a Collaboration Area, to share resources and coordinate investment. This planning proposal will assist in collaboration of government, community, and business:</p> <ul style="list-style-type: none"> <li>▪ Renewal of this site for contemporary commercial development will contribute towards realising employment targets for St Leonards and positively align with economic policy of government.</li> <li>▪ The community will be enhanced through the delivery of high grade commercial and retail uses in proximity to services.</li> <li>▪ The proposal is consistent with the precinct objectives and site-specific principles and design criteria of the St Leonards and Crows Nest 2036 Plan as detailed in <b>Table 6</b> of this report.</li> </ul>

Greater Sydney Region Plan	Planning Proposal Response
<b>Direction 6: A well-connected city</b>	
<p><i>Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities</i></p> <p><i>Objective 15: The Eastern, GPOP and Western Economic Corridors are better connected and more competitive</i></p>	<p>St Leonard is defined in the Greater Sydney Region Plan as an integral part of the 'Eastern Economic Corridor' with a direction to continue as one of Greater Sydney's nine commercial office precincts. Density uplift for contemporary and flexible office accommodation on the site will support the commercial offerings of St Leonards into the future.</p> <p>The proximity of the site to existing and planned public transport connectivity will assist in promoting walkable cities and enhance the attractiveness of the site to future commercial tenants. The provision of contemporary office space within proximity to existing and future residential land uses will optimise jobs closer to home and overall self-containment levels in the LGA.</p>
<b>Direction 7: Jobs and skills for the city</b>	
<p><i>Objective 21: Internationally competitive health, education, research and innovation precincts</i></p> <p><i>Objective 22: Investment and business activity in centres</i></p> <p><i>Objective 24: Economic sectors are targeted for success</i></p>	<p>The provision of flexible commercial tenancies on the site could support growth in medical and allied health industry companies seeking to locate within proximity to the Royal North Shore Hospital.</p> <p>The floorplates are designed to accommodate flexible office arrangements and enterprise style employment models. This will promote employment generation and diversify job opportunities. Larger commercial floorplates could suit small to medium local enterprises and high end commercial tenancies. This will encourage employment containment in the LGA.</p> <p>Future development aligned with the planning proposal would result in substantial direct economic benefits during the construction stage and the ongoing operation of the building (including indirect supply chain jobs).</p>
<b>Direction 8: A city in its landscape</b>	
<p><i>Objective 31: Public open space is accessible, protected and enhanced</i></p>	<p>The planning proposal provides significant opportunities to contribute to the accessibility, activation, and enhancement of the public domain, through:</p> <ul style="list-style-type: none"> <li>▪ Mitchell Street Plaza upgrades;</li> <li>▪ Increased urban greening and streetscape amenity;</li> <li>▪ Improved active frontages;</li> <li>▪ Accessible public domain space;</li> <li>▪ Activated and human-level street edge; and</li> <li>▪ Iconic gateway into St Leonards.</li> </ul> <p><b>Section 8.3.1</b> of this report describes the enhanced public open space and public domain outcomes of the planning proposal.</p>
<b>Direction 9: An efficient city</b>	

Greater Sydney Region Plan	Planning Proposal Response
<p><i>Objective 33: A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change</i></p>	<p>The planning proposal facilitates walkable neighbourhoods and low carbon transport options given to its proximity to public transport, particularly its location within walking distance of the St Leonards train station and future Crows Nest Metro Station and existing bus services.</p> <p>The site's proximity to public transport provides opportunities for workers and visitors to conveniently use public transport, thereby reducing private vehicle trip movements and contributing towards the creation of low-carbon cities.</p> <p>Sustainability measures can be further explored in the detailed design of redevelopment of the site as part of a future DA.</p>

#### **North District Plan (2018)**

The site is located within the North District of Greater Sydney. The North District Plan was adopted in March 2018 and reflects the broader vision of the Sydney as a three-city metropolitan.

The North District Plan envisages St Leonards contributing a total job target between 54,000 (baseline target) and 63,500 (higher target) by 2036, representing a minimum target of 7,000 new jobs over 20 years.

**Table 11** details how the planning proposal aligns with relevant priorities of the North District Plan.

Table 11 Assessment against the North District Plan

North District Plan	Planning Proposal Response
<p><i>Planning Priority N1. Planning for a city supported by infrastructure</i></p>	<p>The planning proposal leverages the new Crows Nest Metro plan for the economic growth of St Leonards. It provides new commercial floor space in a location within close proximity to existing and future transport infrastructure. Future commercial and retail land uses will support the growth of St Leonards and the new Metro services.</p>
<p><i>Planning Priority N6. Creating and renewing great places and local centres, and respecting the District's heritage</i></p>	<p>The planning proposal creates a great place in that it:</p> <ul style="list-style-type: none"> <li>▪ provides opportunities for improved pedestrian circulation and connectivity throughout the St Leonards centre (through the establishment of site connections with adjacent properties);</li> <li>▪ integrates with the surrounding footpath network, nearby open spaces, and key transport nodes (such as St Leonards train station);</li> <li>▪ makes a meaningful contribution to activating the Mitchell Street Plaza, delivering a dynamic and permeable interface to the western side of the plaza;</li> <li>▪ provides pedestrian permeability via lobbies (during business hours) and convenient paths of travel;</li> <li>▪ creates pedestrian activation along the Pacific Highway frontage and adds vibrancy and vitality to what is currently a poor pedestrian environment; and</li> <li>▪ generates opportunities for outdoor / sunlit alfresco dining and other ground plane activations along Atchison Street.</li> </ul>

North District Plan	Planning Proposal Response
<p><b>Planning Priority N9.</b> <i>Growing and investing in health and education precincts</i></p>	<p>The planning proposal contributes to the growth and strengthening of the St Leonards centre in that it:</p> <ul style="list-style-type: none"> <li>▪ leverages the new Sydney Metro Station at Crows Nest to deliver additional employment capacity;</li> <li>▪ delivers economic growth and employment in the centre;</li> <li>▪ encourages the use of public transport and pedestrian and cyclist accessibility;</li> <li>▪ contributes to the activation and embellishment of public open spaces along Atchison Street and the Mitchell Street Plaza; and</li> <li>▪ maximises the site’s accessibility to the St Leonards train station and new Crows Nest Metro station to deliver a transit-orientated development and an attractive place for people to visit and work.</li> </ul>
<p><b>Planning Priority N10.</b> <i>Growing investment, business opportunities and jobs in strategic centres</i></p>	<p>The planning proposal facilitates a future high quality contemporary commercial development with high amenity office accommodation and flexible floorplates and tenancies. The development will attract significant future investment growth and business activity and contribute employment generation and job diversity. The proposal will make a significant economic contribution to the St Leonards centre.</p>
<p><b>Planning Priority N12.</b> <i>Delivering integrated land use and transport planning and a 30-minute city</i></p>	<p>The planning proposal will facilitate urban renewal of a strategically-located site within an identified strategic centre and optimise the value and use of the Sydney Metro City and Southwest service.</p> <p>In 2024, the indicative travel time on the Sydney Metro to Central Station will be 11 minutes from Crows Nest Station, and 5 minutes to North Sydney, locating St Leonards well within the desired 30 minutes travel model. The site is ideally located within a short walking distance to the future Metro station. Future development will integrate a commercial use well within the desired 30 minutes travel model.</p>

#### **Future Transport Strategy 2056**

The Future Transport 2056 Strategy (2018) outlines the vision for the Greater Sydney mass transit network, with St Leonards as a ‘strategic centre’ linked directly to the ‘Harbour City’ (Sydney CBD) via North Sydney. The vision sets six state-wide outcomes to guide investment, policy and reform, and service provision. These provide a framework for network planning and investment with the aim to support transport infrastructure.

The site is well placed to take advantage of the future transport network and projected infrastructure upgrades which will increase both the frequency of transport services for all forms of mobility.

The planning proposal leverages from its proximity to the St Leonards train station and the new Crows Nest Metro station, which will see higher frequency metro transport offering to move more people more quickly.

The future development of the site has potential to contribute to and enhance walking and cycle connectivity between the existing and future stations.

**Q4. Will the Planning Proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?**

Yes. The planning proposal will give effect to and is consistent with the following endorsed strategic plans:

- St Leonards and Crows Nest 2036 Plan (as detailed in **Table 6**);
- North Sydney Local Strategic Planning Statement (as detailed in **Table 7**); and
- St Leonards / Crows Nest Planning Study 2015 (as detailed in **Table 8**).



**Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

Yes. The planning proposal is consistent with the relevant State Environmental Planning Policies (SEPPs), as demonstrated in **Table 12** below.

Table 12 Consistency with State Environmental Planning Policies

SEPP	Consistency
State Environmental Planning Policy (Resilience and Hazards) 2021	<p>The Resilience and Hazards SEPP sets out the statutory planning framework to manage and assess contaminated land. It requires a consent authority to consider whether land is contaminated prior to granting development consent.</p> <p>The only known land use of the site is as a commercial office. In this regard, there is no evidence that the subject site contains or is likely to contain any material of contamination. Notwithstanding, site investigations under the SEPP can be undertaken at a subsequent DA stage.</p>
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>The Transport and Infrastructure SEPP provides a consistent planning regime for the provision of infrastructure and services and prescribes the requirements for consultation with relevant public authorities during the assessment process. The provisions of the SEPP may be applicable to any infrastructure works associated with future development.</p>
State Environmental Planning Policy (Biodiversity and Conservation) 2021	<p>The Biodiversity and Conservation SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas (including North Sydney) and amenity of non-rural areas of through preservation of trees and other vegetation. The provisions of the SEPP may need to be considered in the assessment of a future detailed development proposal on the site.</p>

**Development near Rail Corridors and Busy Roads – Interim Guideline**

In addition to the relevant SEPPs, this planning proposal has given consideration to the objectives and principles of *Development Near Rail Corridors and Busy Roads – Interim Guideline* (DPE).

The provisions of the interim guideline will be considered in the assessment of acoustic impacts of future development associated with the site's location on the Pacific Highway. Suitable mitigation and management measures will be provided such that a satisfactory level of acoustic amenity can be achieved. Acoustic mitigation can be addressed in detailed design development as part of a future development application.

**Q6. Is the Planning Proposal consistent with applicable Ministerial Directions (Section 9.1 Directions)?**

**Yes.** The planning proposal has been assessed against the applicable Section 9.1 Ministerial Directions and is consistent with each of the relevant matters, as outlined in **Table 13**.

Table 13 Assessment against Section 9.1 Directions

Section 9.1 Direction	Consistency
<b>Focus Area 1 – Planning Systems</b>	
1.1 Implementation of the Minister’s Planning Principles	Principles issued by the Minister in December 2021 to be noted.
1.2 Development of Aboriginal Land Council land	Not applicable
1.3 Approval and Referral Requirements	This is an administrative requirement for Council.
1.4 Site Specific Provisions	The planning proposal has been prepared in accordance with the provisions of the Standard Instrument and in a manner consistent with the NSLEP 2013.
1.5 Parramatta Road Corridor Urban Transformation Strategy	Not applicable
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable
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	<b>Table 6</b> provides a detailed assessment of the planning proposal against the St Leonards and Crows Nest 2036 Plan.

<b>Section 9.1 Direction</b>	<b>Consistency</b>
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
<b>Focus Area 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
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>Focus Area 4 – Resilience and Hazards</b>	
4.1 Flooding	Not applicable

Section 9.1 Direction	Consistency
4.2 Coastal Management	Not applicable
4.3 Planning for Bushfire Protection	Not applicable
4.4 Remediation of Contaminated Land	The only known land use of the site is as a commercial office. There is no evidence that the subject site contains or is likely to contain any material of contamination. The reduction in building height to RL259 is not likely to have any resultant contamination impacts as per the Preliminary Site Investigation Report (provided at <b>Appendix C</b> ). It is anticipated that site investigations can be undertaken at a subsequent DA stage.
4.5 Acid Sulfate Soils	There is no LEP mapping of acid sulfate soils. Given the location of the site and ridge height, the likelihood of acid sulfate soils is low. Evidence of recent construction near the site demonstrate that acid sulfate soils is not a constraint to future development. Further assessment can be carried out at a future DA stage.
4.6 Mine Subsidence and Unstable Land	Not applicable
<b>Focus Area 5 – Transport and Infrastructure</b>	
5.1 Integrating Land Use and Transport	<p>The planning proposal is consistent with the direction for the following reasons:</p> <ul style="list-style-type: none"> <li>▪ The site has excellent access to public transport, being within walking distance of the St Leonards train station and the Crows Nest Metro Station and existing bus services.</li> <li>▪ The increased density will support the patronage of the metro station and accords with the key direction from the state government, which seeks to co-locate increased densities within walking catchment of public transport nodes.</li> <li>▪ The proposal will provide a mix of employment opportunities (retail and commercial) within the North Sydney LGA, within close proximity to existing services and infrastructure.</li> </ul>
5.2 Reserving Land for Public Purposes	Not applicable
5.3 Development Near Regulated Airports and Defence Airfields	<p>Avlaw Aviation Consulting has prepared an Addendum to the Preliminary Aeronautical Impact Assessment (<b>Appendix H</b>) to assess airspace constraints of the planning proposal and identify building height restrictions against prescribed airspace limits. The Assessment identifies the following:</p> <ul style="list-style-type: none"> <li>▪ Obstacle Limitation Surfaces (OLS) – Conical Surface: 156m AHD</li> <li>▪ Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS): 340m AHD</li> </ul>

Section 9.1 Direction	Consistency
	<ul style="list-style-type: none"> <li>▪ Radar Terrain Clearance Chart (RTCC): 1100 ft / 335.28m AHD</li> <li>▪ Combined Radar Departure Assessment Surfaces: 455m AHD</li> </ul> <p>Key conclusions and recommendations of the Addendum are:</p> <ul style="list-style-type: none"> <li>▪ The critical airspace protection surface for operations at Sydney Airport is the Outer Horizontal Surface of the OLS. As this surface will be penetrated permanently by a future building and temporarily by crane(s), each will require aeronautical assessment and classified as a “controlled activity”, requiring approval to be carried out. The OLS penetration should be acceptable for the reason that the site is clear of the approach and take-off areas for all runways at Sydney Airport.</li> <li>▪ The Combined Radar Departure Assessment Surfaces should be acceptable because Sydney Noise Abatement Procedures (NAP) will be followed by all aircraft operating to and from Sydney Airport. This dictates that there will be no random aircraft departures deviating from Standard Instrument Departures (SIDs). Required safety clearances for these procedures are accounted for in the PANS-OPS surfaces.</li> </ul> <p>The Addendum concludes that aviation approval can be granted subject to the temporary construction cranes and building envelope (inclusive of plant room and ancillary features) remaining below the Radar Terrain Clearance Chart (RTCC) height (335.28m AHD).</p>
5.4 Shooting Ranges	Not applicable
<b>Focus Area 6 – Housing</b>	
6.1 Residential Zones	Not applicable
6.2 Caravan Parks and Manufactured Home Estates	Not applicable
<b>Focus Area 7 – Industry and Employment</b>	
7.1 Business and Industrial Zones	<p>The planning proposal does not seek to change the existing E2 Commercial Centre zone. Consistent with this Direction, the planning proposal will deliver contemporary commercial and retail land uses and retail employment generating uses.</p> <p>The planning proposal will optimise a development outcome that facilitates retail and commercial uses by amending built form planning controls. The economic benefits of the proposal include:</p>

Section 9.1 Direction	Consistency
	<ul style="list-style-type: none"> <li>▪ Providing for a broader variety of job types, including retail and commercial offices, which adds to the diversity of workers;</li> <li>▪ Inclusion of retail land uses will activate the site's strategically important location, adding to a sense of place and safety and activating the ground plane both day and night; and</li> <li>▪ Revitalise the existing building by providing for high amenity, flexible office layouts, creating a higher density of workers, and contributing to employment generation in St Leonards.</li> </ul>
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	As detailed in this Report, the planning proposal is appropriate in the site's context along the Pacific Highway. It will reinforce the role of commercial development in St Leonards.
<b>Focus Area 8 – Resources and Energy</b>	
8.1 Mining, Petroleum Production and Extractive Industries	Not applicable
<b>Focus Area 9 – Primary Production</b>	
9.1 Rural Zones	Not applicable
9.2 Rural Lands	Not applicable
9.3 Oyster Aquaculture	Not applicable
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable

## 8.3. ENVIRONMENTAL, SOCIAL, AND ECONOMIC IMPACTS

### ***Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?***

The site is occupied by a 14-storey commercial building and perimeter hardstanding. There are no known critical habitats, threatened species, or ecological communities located on the site. Therefore the likelihood of any negative impacts are minimal.

### ***Q8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?***

The site is free of major environmental constraints. There are no likely environmental effects associated with the future development of the land that cannot be suitably mitigated through detailed design development.

This section assesses potential environmental impacts of the planning proposal. This assessment is informed by a suite of technical investigations that accompany the planning proposal.

### 8.3.1. Built Form and Context

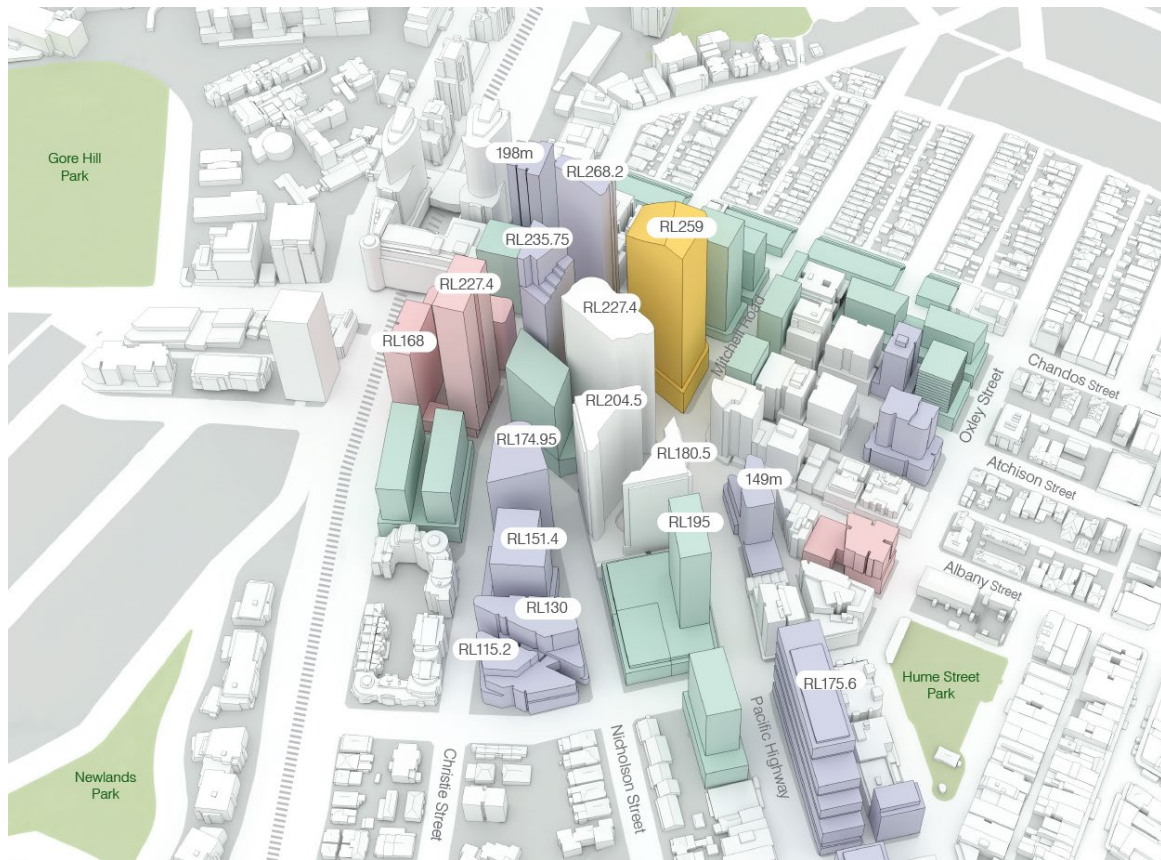
#### **Building Height and Tower Form**

The planning proposal is entirely consistent with the 2036 Plan and delivers on the vision for St Leonards centre. The built form complies with the desired future character and built form principles identified for the site, specifically the 20:1 FSR, 42 storey building height, and building setback parameters.

As detailed in **Table 8**, recent development activity in the surrounding locality, including development approvals for high density tall buildings along the Pacific Highway, is redefining the character of St Leonards and contributing to its ongoing transformation to a high density mixed use precinct in line with the 2036 Plan. The built form of the proposal is contextually appropriate within the emerging cluster of future tower forms.

**Figure 19** indicates the proposed concept proposal height and built envelope in the context of surrounding developments under construction and developments either approved and likely to be approved in the future.

Figure 19 Concept Building Envelope within Adjacent Development Context



Source: Architectus

The maximum building height (RL259) will sit comfortably in the context of the cluster of towers in the St Leonards centre skyline. The built form reinforces the site's predominant location at the topographical high point of the 'knuckle area' identified in the 2036 Plan as a concentrated cluster of high-density development fronting the Pacific Highway between St Leonards station and the new Crows Nest Metro Station.

Future development in line with the indicative concept proposal will present a slender and well-articulated tower form which will sit appropriately amongst comparable-sized existing and future buildings in the surrounding locality. The proposed built form of the tower maximises separation from other tower buildings in the immediate surrounding locality to facilitate view sharing and minimise the effect of 'tower crowding'.

### Podium Design

Whilst the indicative concept proposal has been designed to achieve compliance with the 2036 Plan podium street wall heights controls, the site's topographical conditions do not allow strict compliance with the five storey street wall height to be achieved. However, at the site's visible and prominent frontage to the Atchison Street and Mitchell Street intersection, the podium expression establishes a five storey street wall height.

The concept building envelope establishes a consistent podium datum line that aligns to existing and future development in the surrounding locality, principally along Atchison Street and Mitchell Street. The design of the podium reflects key podium datum lines of the surrounding built forms (existing and future).

**Figure 20** presents indicative concept renders for the podium design from key public domain perspectives.



Figure 20 Indicative Podium Design



Picture 7 Lobby view from Pacific Highway, looking north, with Mitchell Street Plaza to the right



Picture 8 Atchison Street corner looking west with Mitchell Street Plaza to the left

Source: Architectus **[Note. These are artists impressions, and likely subject to future change]**

### Public Domain Built Form

The built form of the public domain responds to the principles and controls of the 2036 Plan to activate the ground plane of the surrounding streetscape (including Atchison Street and the Mitchell Street Plaza).

The public domain contributes to the public domain activation with outdoor seating and dining opportunities, human-level planted edges, public gathering spaces, tree canopies, bench seating, open space spill out areas, and shared pedestrian walkways. These spaces can be utilised for a wide range of seasonal events such as weekend markets, 'pop-up' installations, and community engagement initiatives within the Plaza.

### 8.3.2. Visual Impact

The Addendum Urban Design Report (at **Appendix A**) contains a visual impact assessment of the indicative concept proposal illustrating views from all directions at a local (short) and suburban (medium) distance.

The character of the site and immediate visual context is transitioning from predominantly lower commercial buildings to taller mixed-use towers aligned with the strategic planning context and desired future character of the St Leonards centre. The 2036 Plan identifies the site within a cluster of high-density commercial and mixed-use development along Pacific Highway between the St Leonards Station and the new Crows Nest Metro Station. The concentration of higher density along the Pacific Highway indicates a transition towards significant height and density increase and a transformation of views from the surrounding locality.

Given its prominent location along the Pacific Highway, the site has a potentially large visual catchment. However, the potential visual impacts of the indicative concept proposal will be predominantly restricted to the nearby vantage points around St Leonards centre, including the Pacific Highway, Atchison Street and Mitchell Street. The upper part of the tower form would be visible from distant locations predominantly to the north, west and east and will be visible in the context of the cluster of towers in the St Leonards skyline.

The figures below show visual perspectives of the proposal from selected local and medium vantage points. These visual perspectives include approved developments and likely future development proposals.



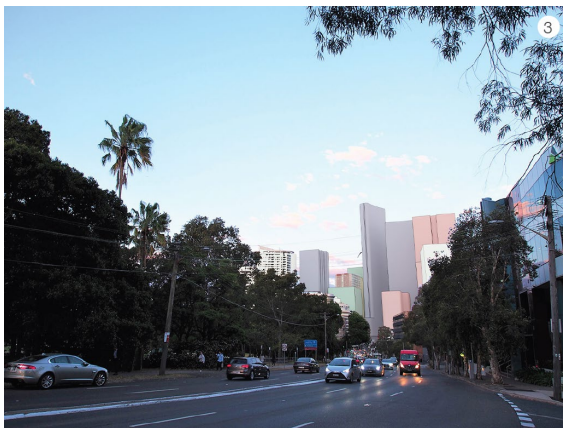
Figure 21 Photomontages of Indicative Concept Proposal



Picture 9 Falcon Street, Pacific Highway and Willoughby Road



Picture 10 Shirley Road at Nicholson Street



Picture 11 Pacific Highway at Greenwich Road



Picture 12 Pacific Highway at Reserve Road



Picture 13 Naremburn Park - Station at Dalleys Road



Picture 14 Willoughby Road and Albany Street

The following provides a summary of the visual impact assessment:

- The concept proposal will have a moderate impact on views, considering the importance of public views, timing of view and screening provided by approved and likely future development in the vicinity.
- In most views, the proposal will partially obstruct views of the sky; however the proposal is consistent with the scale of future development in the centre and presents a slender form against the sky.

- When viewed from the Pacific Highway from the south and the north, and from Falcon Street, the proposal is partially obscured by approved and likely adjacent future development.
- From the Pacific Highway at Reserve Road, a large portion of sky view is preserved.
- When viewed from local vantage points in Willoughby Road, the concept proposal is shorter than other likely future development and has minimal impacts on views of the sky.
- When viewed from medium vantage points in Northbridge, Artarmon, Greenwich, and Willoughby, the proposal has a moderate impact on the skyline.
- The tower will be particularly visible from Willoughby Road Crows Nest; however its visual impact is mitigated by the slender tower form and the approved and future adjacent built form in the locality.

Detailed design development for a future proposal as part of a new development application will address façade detailing in order to mitigate the visual impact of built form. External materials, colours, and finishes for a future development can be selected to respond to the surrounding environment and add diversity in architectural expression of the tower.

### 8.3.3. Traffic Impact

This planning proposal is supported by a Traffic Impact Assessment prepared by Arup (at **Appendix F**) to describe the existing local traffic context, including access and the potential traffic implications of the planning proposal. The report addresses the following matters:

- An overview of the existing transport network and planning context
- Trip generation of future development
- Traffic impacts of future development
- Public transport accessibility
- Car parking arrangements
- Pedestrian and bicycle access
- Green travel initiatives

Calculated in accordance with the maximum car parking rates prescribed in the North Sydney DCP, a maximum 159 car parking spaces is permitted on the site. The indicative concept proposal includes a 4-level basement car park with provision for 128 parking spaces. This complies with the DCP car parking rates.

Assessed against the existing condition of the site, the Traffic Impact Assessment estimates that the subject development will generate a net decrease of 8 car trips during the AM peak hour and net decrease of 6 car trips during the PM peak hour. The analysis indicates that due to an overall reduction in parking, the estimated traffic generated by the development will reduce. Accordingly, given the reduction in vehicle trips compared to the condition situation, the impact to the surrounding network is expected to be negligible.

The Traffic Impact Assessment recommends travel demand management measures, including preparation of a Green Travel Plan (**GTP**) to mitigate negative impacts of private vehicle travel on the environment. A GTP can be incorporated in the future detailed design at the development application stage.

### 8.3.4. Overshadowing

The Addendum Urban Design Report (at **Appendix A**) includes an assessment of potential shadowing impacts associated with the indicative concept proposal. The solar access study is assessed in accordance with the solar access provisions of the 2036 Plan.

The planning officer's assessment report to the Council Meeting of 14 August 2023 acknowledged that the existing proposal (with a maximum height of RL 265) complied with the 2036 Plan's solar access controls and did not create additional overshadowing to Newlands Park, Ernest Place, or Hume Street Park between 10am-3pm at mid-winter or and does not create additional overshadowing to Oxley Street, Mitchell Street, or Willoughby Road between 11.30am and 2.30pm at mid-winter. However, the Gateway Determination Report noted that the maximum building height resolved by Council (RL 259) had not been modelled and therefore the Urban Design Report has updated the maximum building height to reflect RL 259. The further reduced maximum building height (RL 265 to RL 259) maintains compliance with the 2036 Plan's solar access

controls and reduces overshadowing impacts. The reduced solar impacts of the amended planning proposal are demonstrated in **Figures 22, 23, and 24** below..

Table 14 assesses the shadow impacts of the indicative concept proposal against the 2036 Plan.

Table 14 Solar Impact Assessment

Solar Access Provision	Proposal Impact	Compliance
<p><u>Public Open Space</u></p> <p>Development must not produce additional overshadowing in mid-winter (21 June) to:</p> <ul style="list-style-type: none"> <li>▪ Newlands Park (10:00am – 3:00pm)</li> <li>▪ Ernest Place (10:00am – 3:00pm)</li> </ul>	<p><b>Figure 22</b> indicates that the proposal:</p> <ul style="list-style-type: none"> <li>▪ does not create any additional overshadowing to Newlands Park between 10am and 3pm at mid-winter.</li> <li>▪ does not create any additional overshadowing to Ernest Place between 10am and 3pm at mid-winter.</li> </ul>	<p>Yes</p> <p>Yes</p>
<p><u>Streetscape</u></p> <p>Development must not produce additional overshadowing in mid-winter (21 June) to:</p> <ul style="list-style-type: none"> <li>▪ Mitchell Street and Oxley Street (11:30am – 2:30pm)</li> <li>▪ Willoughby Road (11:30am – 2:30pm)</li> </ul>	<p><b>Figure 23</b> indicates that the proposal does not create any additional overshadowing to the Mitchell Street Plaza beyond the shadows cast by the existing building. Overshadowing to the Plaza is mitigated by the 5m setback street setback to Mitchell Street and 3m tower setback above the podium.</p> <p><b>Figure 22</b> indicates that the proposal does not create any additional overshadowing to Willoughby Road between 11:30am and 2:30pm at mid-winter.</p>	<p>Yes</p>
<p><u>Residential Areas</u></p> <p>Development must not produce additional overshadowing in mid-winter (21 June) to:</p> <ul style="list-style-type: none"> <li>▪ Residential areas inside boundary (for at least 2 hours)</li> <li>▪ Heritage Conversation Areas inside boundary (for at least 3 hours)</li> <li>▪ Residential outside boundary (for the whole time between 9am and 3pm)</li> </ul>	<p>The solar access diagram at <b>Figure 24</b> indicates:</p> <ul style="list-style-type: none"> <li>▪ The vast majority of residential areas inside the boundary (zoned R4 and R3) receive 5 – 6 hours direct sunlight at mid-winter.</li> <li>▪ A small area of land zoned R4 adjacent to the rail corridor inside the boundary) receives 4 – 5 hours direct sunlight at mid-winter.</li> <li>▪ The indicative concept proposal does not result in any overshadowing to the Holtermann Estate Heritage Conservation Areas at mid-winter.</li> </ul>	<p>Yes</p>

### Public Open Space – Newlands Park and Ernest Place

The solar access diagram at **Figure 22** below demonstrates that additional shadows cast by the indicative concept proposal will not impact on Newlands Park or Ernest Place between 10am and 3pm at mid-winter.

Figure 22 Solar Access to Newlands Park, Ernest Place and Willoughby Road



Source: Architectus

**Streetscape – Willoughby Road**

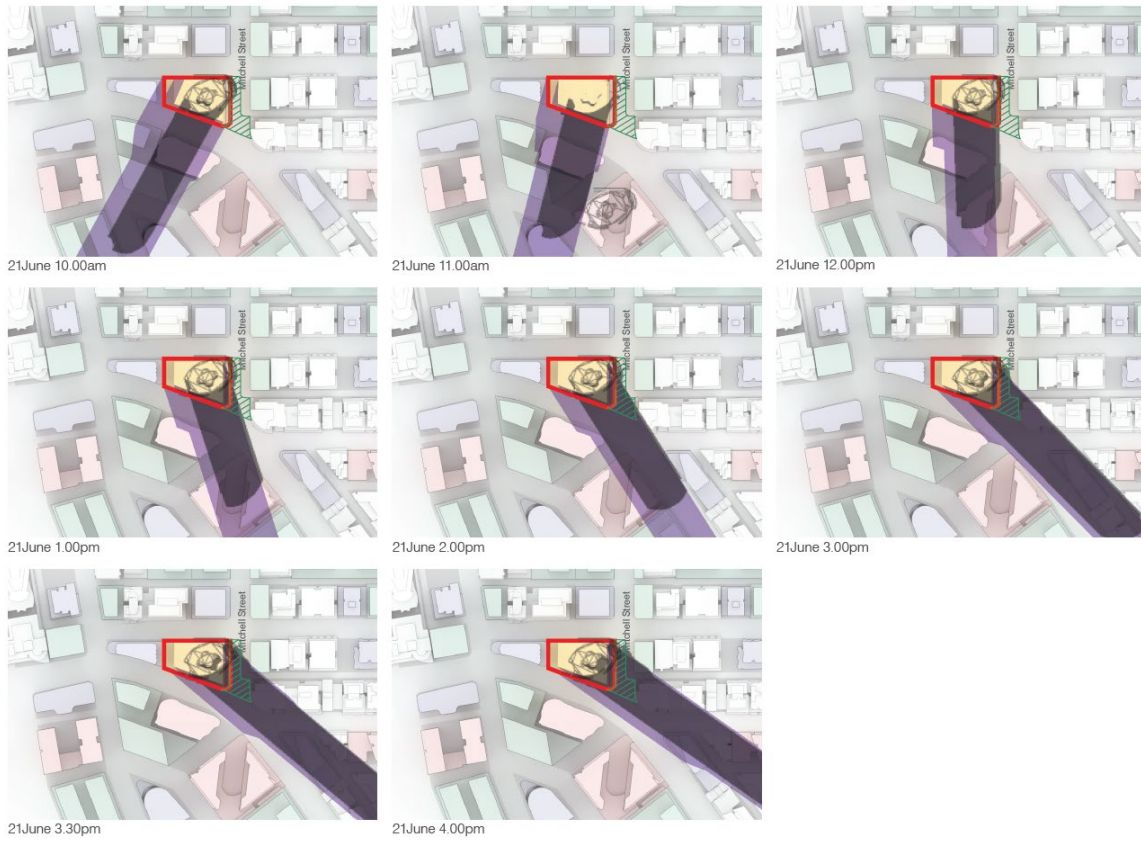
The solar access diagram at **Figure 22** above demonstrates that the indicative concept proposal does not cast any additional overshadowing to Willoughby Road between 11:30am and 2:30pm at mid-winter.

**Streetscape – Mitchell Street**

The solar access diagram at **Figure 24** indicates that the indicative concept proposal does not create any additional overshadowing to the Mitchell Street Plaza beyond the shadows cast by the existing building.



Figure 23 Solar Access to Mitchell Street



Source: Architectus

### Residential Areas and Heritage Conservation Areas

Figure 24 indicates overshadowing to residential areas and Heritage Conservation Areas.

Figure 24 Solar Access to Residential Areas and Heritage Conservation Areas



Source: Architectus

**Figure 24** indicates that following additional overshadowing cast by the indicative concept proposal in mid-winter (21 June) to residential areas and Heritage Conservation Areas.

- The vast majority of residential areas inside the St Leonards and Crows Nest Precinct boundary (land zoned R4 and R3) receive 5 – 6 hours direct sunlight at mid-winter.
- A small area of land zoned R4 adjacent to the rail corridor to the south-west of the site (inside the St Leonards and Crows Nest Precinct boundary) receives 4 – 5 hours direct sunlight at mid-winter.
- The indicative concept proposal does not result in any overshadowing to the Holtermann Estate Heritage Conservation Areas (extending to the east of the site) at mid-winter.

In summary, this analysis confirms that the proposal complies with the 2036 Plan solar access provisions.

### 8.3.5. Wind

The planning proposal is accompanied by a Pedestrian Wind Environment Statement prepared by Windtech Consultants (at **Appendix G**) to assess the likely impacts of the indicative concept building envelope on the local wind environment that affects pedestrians in the proposed outdoor areas and communal open spaces.

The below summarises conclusions and recommendations of the Statement and the Addendum:

- The effect of wind activity has been examined for the three predominant wind directions for the Sydney region, namely winds from a north-easterly, southerly, and westerly direction.
- The majority of ground level pedestrian trafficable areas around the site are exposed to southerly and westerly winds as a consequence of the alignment of the site and adjacent roads to the prevailing winds.
- High-rise development to the west (619-621 Pacific Highway) and the south (including The Landmark and St Leonards Square) is expected to provide significant shielding from prevailing southerly winds.



- However surrounding high-rise development (existing and proposed) is expected to cause some funnelling of the prevailing westerly winds along Atchison Street and Pacific Highway, and adversely impact pedestrian footpaths, entrances, and seating areas along the northern portion of the site.
- Further, these high-rise developments are also expected to direct the prevailing north-easterly winds to funnel through Atchison Street and Mitchell Street, impacting the proposed lobby entrance at the street corner, the pedestrian footpaths, and proposed seating areas along the streets.
- There is the potential for the prevailing winds to impact the adjacent development to the west (619-621 Pacific Highway) and downwash down into the trafficable areas at the southern perimeter of the site.
- The proposed building setbacks (including the above podium setbacks) will assist in reducing the effect of downwash onto the ground plane from the prevailing winds.
- The following treatment strategies can be implemented into the detailed design of a future development application in order to mitigate wind effects at ground level areas:
  - Impermeable awning along the northern and eastern aspects of the podium façade.
  - Localised baffle screens or densely foliating evergreen planting within and around seating areas along Atchison Street and Mitchell Street.
  - Densely foliating evergreen planting along Pacific Highway, Atchison Street, and Mitchell Street.
- The elevated outdoor podium area is exposed to prevailing north-easterly and westerly winds, streaming along the tower's northern façade and funnelling through the gap towards the south-west. Further, prevailing southerly winds are expected to flow around the adjacent tower to the south and accelerate to the west funnelling through the gap between the subject site and the adjacent tower to the west.
- Communal terrace areas located on the upper levels are exposed to direct prevailing winds from the north-east, south, and west. Development on the adjacent site (619-621 Pacific Highway) is expected to provide some shielding to terrace areas and reduce the direct impact of the prevailing westerly winds. The prevailing north-easterly and southerly winds are expected to directly impact these terrace areas and accelerate around the north-western and south-western corners respectively into the terrace areas.
- The following treatment strategies can be implemented into the detailed design of a future development application in order to mitigate wind effects at elevated outdoor areas:
  - Impermeable balustrades around the terrace areas.
  - Impermeable canopy over the terrace areas.
  - Densely foliating landscaping throughout the terrace areas.

The Pedestrian Wind Environment Statement does not include wind tunnel testing of future development. At this stage, the assessment addresses only the general wind effects and any localised effects identifiable by visual inspection of the indicative reference drawings (for the purpose of the indicative concept proposal). Recommendations provided in the Statement are made only in-principle.

Comprehensive wind tunnel testing and assessment of the pedestrian wind environment associated with a detailed development proposal will be required as part of a future development application for the site.

The assessment concludes that, subject to implementation of recommendations, the site is capable of accommodating a future development aligned with the planning proposal and relevant wind controls.

### 8.3.6. Aviation

The planning proposal is accompanied by an Addendum Preliminary Aeronautical Impact Assessment (PAIA) prepared by Avlaw Aviation Consulting (at **Appendix H**) to assess airspace constraints associated with the amended indicative concept proposal and identify maximum building height restrictions against prescribed airspace limits.

This PAIA assesses the current airspace protection surfaces that cover the site against the maximum building height of RL259. Sydney Airport airspace protection surfaces are the most relevant with respect to the site.

The below summarises the PAIA findings.

Airspace Surface (Sydney Airport)	Height of surface over site
Obstacle Limitation Surfaces (OLS) – Conical Surface	156 metres AHD
Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS)	340 metres AHD
Radar Terrain Clearance Chart (RTCC)	1100 ft / 335.28 metres AHD
Combined Radar Departure Assessment Surfaces	455m AHD (N/A)

The conclusions and recommendations of the Addendum and PAIA can be summarised as follows:

- The critical airspace protection surface for operations at Sydney Airport that apply to the site is the Outer Horizontal Surface of the OLS. As this surface will be penetrated permanently by a future building and temporarily by crane(s), each will require aeronautical assessment and be classified as a “controlled activity”, requiring approval to be carried out. The OLS penetration itself should be acceptable for the reason that the site is clear of the approach and take-off areas for all runways at Sydney Airport.
- The Combined Radar Departure Assessment Surfaces should be acceptable because Sydney Noise Abatement Procedures (NAP) will be followed by all aircraft operating to and from Sydney Airport. This dictates that there will be no random aircraft departures deviating from Standard Instrument Departures (SIDs). Required safety clearances for these procedures are accounted for in the PANS-OPS surfaces.
- The minimum vertical distance between the indicative maximum building height of 276.5m AHD and the next lowest and relevant airspace protection surface (the RTCC) is 59.03m, providing a generous buffer for temporary crane activity.
- The “Northshore Lane” is the most relevant helicopter transit lane published in the *Aeronautical Information Publication-En Route Supplement Australia (AIP-ERSA)* with respect to the subject site. This helicopter transit lane is well clear to the south-east of the site.
- Airspace protected under National Airport Safeguarding Framework (NASF) - *Guideline H for strategically important helicopter landing sites* does not apply to the proposal. Helicopter approaches and departures at the Royal North Shore Hospital Helipad are to the north-east and south-west of the site.

The Preliminary Aeronautical Impact Assessment concludes that aviation approval can be granted subject to the temporary construction cranes and overall building envelope (inclusive of plant room and ancillary features) remaining below the Radar Terrain Clearance Chart (RTCC) height (335.28m AHD).

#### **Q9. Has the Planning Proposal adequately addressed any social and economic effects?**

Yes. The planning proposal will deliver a range of economic benefits which will create a positive social on-flow effect, which in turn will realise significant public benefit through job creation and the provision of new A-grade commercial accommodation and retail uses. The economic and social benefits are summarised as:

- **Renewal of a key site:** The planning proposal will facilitate urban renewal of a strategically-located site and contribute to the ongoing transformation of the St Leonards centre and the Pacific Highway corridor.
- **Significant employment creation:** Future development aligned with the planning proposal would result in substantial direct economic benefits during the construction stage and the ongoing operation of the building (including indirect supply chain jobs). The proposal will create approximately 3,346 jobs.
- **New and greater variety of job types:** the proposal is designed to accommodate flexible office arrangements and enterprise style employment models. This will promote diversify employment opportunities. Larger commercial floorplates could suit small to medium local enterprises and high end commercial tenancies. Direct and indirect jobs will be created during the construction stages. The proposal may also contribute to the creation of additional full-time, part-time, and casual retail jobs.
- **Economic catalyst:** The development will attract significant investment growth and business activity and contribute employment generation and job diversity. It will foster investment, economic growth, and business activity to deliver a significant contribution to the North District employment generation targets.

- **Improving the quality of the commercial floorspace:** the proposal is capable of achieving high amenity A-grade office space with flexible commercial floor plate configurations to appeal to a range of markets. The development of new office space would create a more modern, flexible, and contemporary working environment. New commercial floorspace would be designed to better suit tenant needs and demand, including co-working spaces better accommodate to creative and new age industries. The provision of flexible commercial tenancies on the site could support growth in medical and allied health industry companies seeking to locate within proximity to the Royal North Shore Hospital.
- **Additional retail activity:** The proposal envisages retail uses at ground floor level which will encourage pedestrian activation and streetscape vibrancy and support Atchison Street as a new retail focus for St Leonards that leverages existing activity along Willoughby Road and the St Leonards Forum plaza.
- **Ground floor activation to the public domain:** Future redevelopment of the site will offer significant opportunities for the ground plane activation of the public domain to Atchison Street and Mitchell Street Plaza, enhancing pedestrian amenity, and contributing to night-time economy and investment. The provision of a dynamic and permeable interface to the western side of Mitchell Street, with operable and transparent lobby frontages, will enhance the role of the Plaza as a focal point for the precinct.
- **Contribution to community infrastructure:** The proponent has submitted a Letter of Offer to enter into a planning agreement with North Sydney Council to provide a monetary contribution for the construction of a future signalised pedestrian improvements at the corner of Albany Street and Pacific Highway.

## 8.4. STATE AND COMMONWEALTH INTERESTS

### **Q10. Is there adequate public infrastructure for the planning proposal?**

Yes. The planning proposal is informed by preliminary public infrastructure investigations that conclude:

- The planning proposal leverages from the existing St Leonards train station and the new Crows Nest Metro station, which provide higher frequency metro transport to allow quicker pedestrian circulation. As envisioned by the 2036 Plan, future redevelopment of the subject site has the potential to contribute to a transit orientated development and enhance walking and cycle connectivity between stations.
- Capacity exists within the road network to support future development on the site as envisaged by the planning proposal. The Traffic Impact Assessment (at **Appendix F**) concludes that due to an overall reduction in car parking provision at the site, the traffic generated by the indicative concept proposal will reduce from its existing condition. Given the net reduction in vehicle trips, the impact to the surrounding road network during the peak periods is expected to be negligible. A Green Travel Plan can be incorporated in the future detailed design of the site and at the development application stage.
- The existing building is serviced by utility services and connections and is located to allow future workers and visitors to utilise existing and planned infrastructure and services within the area.
- The 2036 Plan introduces a Special Infrastructure Contribution (**SIC**) scheme to ensure that development which relies on State and regional infrastructure provides a contribution to assist in the delivery and improvements of assets. However the SIC scheme only levies contributions to residential development.

### **Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

No consultation with State or Commonwealth authorities has been undertaken to support the planning proposal. It is noted that North Sydney Council will undertake consultation with relevant state and Commonwealth public authorities following the Gateway determination.

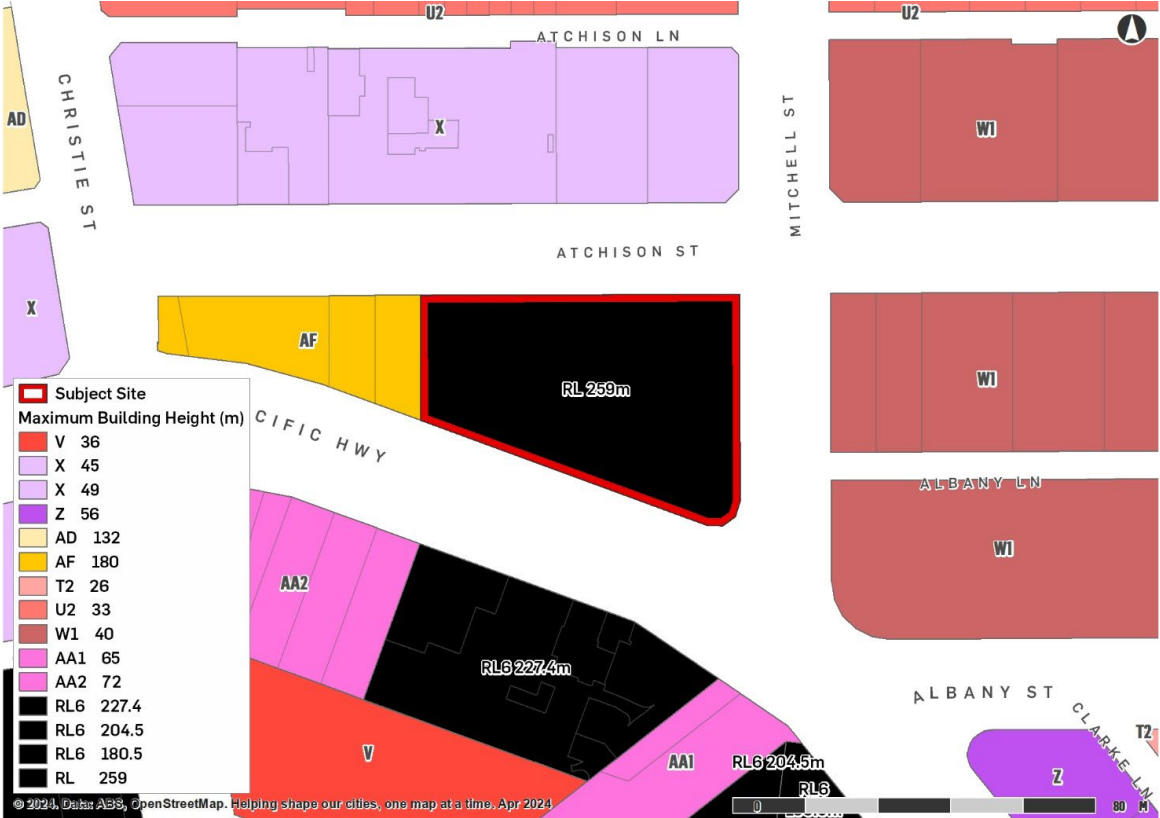
# 9. PART 4 - MAPPING

The planning proposal seeks to amend the following NSLEP 2013 Maps:

- Height of Buildings Map – Sheet HOB\_001
- Maximum Floor Space Ratio Map – Sheet FSR\_001

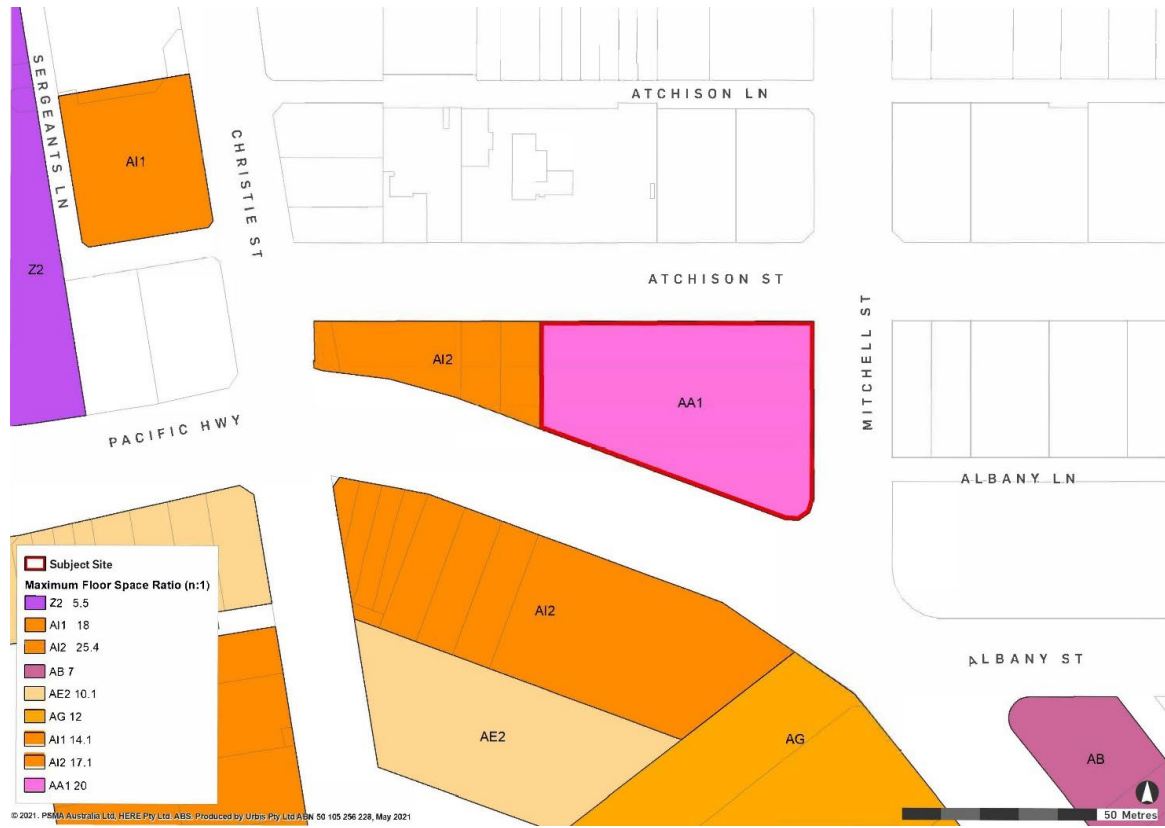
The proposed amendments to NSLEP maps are identified in the figures below.

Figure 25 Amended Height of Buildings Map – Sheet HOB\_001



Source: Urbis

Figure 26 Amended Maximum Floor Space Ratio – Sheet FSR\_001



Source: Urbis

## 10. PART 5 - COMMUNITY CONSULTATION

Section 3.34 of the Environmental Planning and Assessment Act 1979 requires the relevant planning authority to consult with the community in accordance with the Gateway determination.

It is anticipated that the planning proposal will be required to be publicly exhibited for 28 days in accordance with the requirements of *A Guide to Preparing Local Environmental Plans (DPE)*. It is anticipated that the public exhibition would be notified by way of:

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

Within the public consultation process, Stockland will review all submissions, consult with Council and DPE (as required), and provide a written response to assist in the assessment of the planning proposal.

## 11. PART 6 - PROJECT TIMELINE

An indicative project timeframe is provided below.

Table 15 Project Timeline

Stage	Timeframe and / or Date
Planning proposal submitted to North Sydney Council	December 2022
Preliminary review and consideration by Council	January 2023
Local Planning Panel recommend the planning proposal be submitted to DPE for Gateway Determination	October 2023
Council Meeting to submit planning proposal to DPE	November 2023
Planning proposal referred to DPE for Gateway Determination	November 2023
DPE issue Gateway Determination	April 2024
Proponent response to matters in Gateway Determination	May 2024
Public exhibition and agency consultation	June 2024
Post exhibition review of submissions	August 2024
Council endorsement of planning proposal	October 2024
Submission to DPE for finalisation	November 2024
Legal drafting of amendment to LEP	December 2024
Gazettal of amendment to LEP	24 January 2025



## 12. CONCLUSION

This planning proposal seeks an amendment to the North Sydney Local Environmental Plan 2013 to establish planning controls that would enable high density commercial development at 601 Pacific Highway St Leonards.

The planning proposal sets out the justification for the proposed LEP amendment. It is supported by an indicative concept proposal and a suite of technical documentation (including amended documentation as required) that provides an analysis of the site and its surrounding to demonstrate that the proposal is sound and suitable for its context.

It is considered that the proposed amendments to NSLEP 2013 would enable an appropriate development outcome and generate significant economic and community benefit for the following reasons:

- From a local context perspective: The planning proposal has site-specific merit insofar it will facilitate future development that would achieve an appropriate built form and scale outcome for this significant site. Future development in line with the planning proposal will contribute to the emerging cluster of towers within the St. Leonards Centre and complement the existing and emerging character of the surrounding locality. The planning proposal is consistent with local planning objectives and outcomes, including site specific opportunities and constraints in the 2036 Plan.
- From a strategic planning policy perspective: The planning proposal has strategic planning merit insofar as it will positively contribute to the achievement of State and Local Government strategic planning policy, including the significant site objectives in the 2036 Plan. The indicative concept design proposes a development that will facilitate the provision of high grade and high amenity commercial office space.
- From a net community benefit perspective: The planning proposal has the potential to create a range of benefits for the community, including:
  - Direct economic benefits and the creation of additional employment opportunities, during the phases of construction, marketing, fitout, and ongoing operation.
  - New A-grade commercial office accommodation and easily identifiable and permeable ground level retail uses. Future uses will encourage the patronage of the locality and establish a landmark location to strengthen the realisation of St Leonards as a highly desirable place to live, work and play.
  - Public domain activation along Atchison Street, Mitchell Street Plaza, and the Pacific Highway.
- From a job creation perspective (short term): future development has potential to create approximately 3,346 full time jobs.
- The indicative concept proposal is appropriately and sensitively designed to minimise adverse environmental impacts on the locality in relation to privacy, wind, overshadowing, and traffic.
- From an urban renewal perspective: Future redevelopment of this key site will assist in the ongoing transformation and renewal of St Leonards centre through built form improvements and public domain improvements and more efficient use of land that is more aligned with commercial market demand.
- Contribution to community infrastructure: The proponent has submitted a Letter of Offer to enter into a planning agreement with North Sydney Council to provide a monetary contribution for the construction of a future signalised pedestrian improvements at the corner of Albany Street and Pacific Highway.

The amended planning proposal achieves an appropriate balance of strengthening commercial and employment focus and capitalising on its strategically location and frontage to the Pacific Highway and the associated amenity and public transport facilities provided in this part of the St Leonards Strategic Centre. Overall, it is demonstrated that the planning proposal would result in significant public benefits by creating new planning controls and a public benefit offer that would facilitate future redevelopment of a key urban renewal site. The planning proposal seeks a reduced maximum building height from RL265 to RL259. This amendment responds to Council's recommendation for a maximum building height of RL 259 and maintains compliance with the 2036 Plan's solar access controls and reduces overshadowing impacts to public open spaces, streetscapes, and nearby residential areas identified in the 2036 Plan.

### 13. DISCLAIMER

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All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

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

# APPENDIX A

# APPENDIX



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# Voluntary Planning Agreement

## Draft for Exhibition

North Sydney Council  
*ABN 32 353 260 317*

Stockland Development Pty Limited  
*ACN 000 064 835*

Stockland Trust Management Limited as trustee for the 601  
Pacific Highway Trust  
*ACN 001 900 741*

**Newcastle**

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# Agreement

## Date

## Parties

### First party

<b>Name</b>	North Sydney Council ( <b>Council</b> )
<b>ABN</b>	32 353 260 317
<b>Contact</b>	General Manager

### Second party

<b>Name</b>	Stockland Development Pty Limited ( <b>Developer</b> )
<b>ACN</b>	000 064 835
<b>Contact</b>	Chief Legal and Risk Officer

### Third party

<b>Name</b>	Stockland Trust Management Limited as trustee for the 601 Pacific Highway Trust ( <b>Landowner</b> )
<b>ACN</b>	001 900 741
<b>Contact</b>	Chief Legal and Risk Officer

## Background

- A. The Landowner owns the Land.
- B. The Developer proposes to carry out the Development on the Land.
- C. On 19 January 2023, the Developer submitted a planning proposal seeking to amend NSLEP 2013 to increase the maximum building height control for the Land from 49m to RL276.5 (equivalent to 189m) and establish a maximum floor space ratio control of 20:1.
- D. On 2 April 2024, the Minister issued a gateway determination requiring the planning proposal to be amended to apply a maximum building height control of RL259 (equivalent to 171m).
- E. The Developer has made an offer to enter into this agreement to make a contribution towards community infrastructure in connection with the Planning Proposal (as amended) and the Development.
- F. 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.



## Operative part

### 1 Definitions

In this agreement, unless the context indicates a contrary intention:

**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);

**Business Day** means a day on which banks are open for general banking business in Sydney, excluding Saturdays and Sundays;

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

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

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

**Development** means any future development of the Land that has a greater height than the maximum building height applying to the Land prior to the Instrument Change and relies on the Instrument Change;

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

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

**Environmental Planning Instrument** has the same meaning as in the Act;

**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 the GST;

**Instrument Change** means an amendment to the NSLEP 2013 substantially consistent with the Planning Proposal, or the coming into effect of any Environmental Planning Instrument or amendment to an Environmental Planning Instrument that has the effect of increasing the maximum building height and maximum floor space ratio controls that apply to the Land substantially consistent with what is proposed in the Planning Proposal;

**Land** means Lot 71 DP 749690, known as 601 Pacific Highway, St Leonards;

**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);

**Monetary Contribution** means the monetary contribution payable by the Developer under clause 6 of this agreement;

**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;

**Planning Proposal** means planning proposal PP-2023-92, as amended, seeking to amend NSLEP 2013 as it relates to the Land as follows:

- (a) Amend the maximum building height from 49 metres to RL259 (equivalent to 171 metres).
- (b) Introduce a maximum floor space ratio of 20:1.

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

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

**Related Body Corporate** has the meaning given to that term in s 9 of the *Corporations Act 2001* (Cth);

## 2 Interpretation

In this agreement, unless the context indicates a contrary intention:

- (a) **(documents)** a reference to this agreement or another document includes any document which varies, supplements, replaces, assigns or novates this agreement or that other document;
- (b) **(references)** a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this agreement;
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this agreement;
- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns;
- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (f) **(president, CEO or managing director)** the president, CEO or managing director of a body or Authority means any person acting in that capacity;
- (g) **(requirements)** a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (h) **(including)** including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;

- (i) (**corresponding meanings**) a word that is derived from a defined word has a corresponding meaning;
- (j) (**singular**) the singular includes the plural and vice-versa;
- (k) (**gender**) words importing one gender include all other genders;
- (l) (**parts**) a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation;
- (m) (**rules of construction**) neither this agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting;
- (n) (**legislation**) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- (o) (**time and date**) a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in , Australia, even if the obligation is to be performed elsewhere;
- (p) (**joint and several**) an agreement, representation, covenant, right or obligation:
  - (i) in favour of two or more persons is for the benefit of them jointly and severally; and
  - (ii) on the part of two or more persons binds them jointly and severally;
- (q) (**writing**) a reference to a notice, consent, request, approval or other communication under this agreement or an agreement between the parties means a written notice, request, consent, approval or agreement;
- (r) (**replacement bodies**) a reference to a body (including an institute, association or Authority) 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 power or functions;
- (s) (**Australian currency**) a reference to dollars or \$ is to Australian currency;
- (t) (**month**) a reference to a month is a reference to a calendar month; and
- (u) (**year**) a reference to a year is a reference to twelve consecutive calendar months.

### 3 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 1 of this agreement summarises the requirements for planning agreements under section 7.4 of the Act and the way this agreement addresses those requirements.

### 4 Application of this agreement

This agreement applies to:

- (a) the Instrument Change,

- (b) the Development, and
- (c) the Land.

## 5 Operation of this agreement

- (a) This agreement commences on and from the date it is executed by all parties.
- (b) Despite any other provision of this agreement the Developer is under no obligation to make any monetary contribution in accordance with this agreement unless the Instrument Change has been made.

## 6 Contributions to be made under this agreement

### 6.1 Monetary Contribution

- (a) The Developer must pay to Council a monetary contribution of \$172,000.00 or an amount calculated in accordance with the following formula, whichever is the greater:

$$\$172,000.00 \times \frac{\text{The CPI at the time of payment}}{\text{The CPI at the date of this agreement}}$$

- (b) The Monetary Contribution must be paid to Council prior to the issue of an Occupation Certificate for the Development or any part of the Development.
- (c) Nothing in this agreement precludes the payment of the Monetary Contribution earlier than it is required.
- (d) The Monetary Contribution must be paid by way of bank cheque in favour of Council or by deposit by means of electronic funds transfer into an account specified by Council.
- (e) The Monetary Contribution will be taken to have been made when the Council notifies the Developer in writing that the bank cheque has been received and cleared funds or electronic funds have been deposited in the Council's bank account.
- (f) The parties agree and acknowledge that the Monetary Contribution will be used by the Council towards community infrastructure to be delivered by Council.

## 7 Application of s 7.11, s 7.12 and Division 7.1, Subdivision 4 of the Act

- (a) This agreement does not exclude the application of section 7.11 of the Act to the Development.
- (b) This agreement does not exclude the application of section 7.12 of the Act to the Development.
- (c) This agreement does not exclude the application of Division 7.1, Subdivision 4 of the Act to the Development.
- (d) The benefits under this agreement are not to be taken into consideration in determining a development contribution under section 7.11 of the Act.

## 8 Registration of this agreement

### 8.1 Landowner Interest

The Landowner represents and warrants to the Council that on the date of this agreement it is the registered proprietor of the Land.

### 8.2 Registration of this agreement

- (a) 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.
- (b) The Developer at its own expense will, 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:
    - (A) has an estate or interest in the Land registered under the *Real Property Act 1900* (NSW); or
    - (B) is seized or possessed of an estate or interest in the Land,
  - (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 certificate of title or electronic equivalent,

to enable the registration of this agreement in accordance with clause 8.2.
- (c) The Landowner consents to the registration of this agreement in accordance with this clause 8.2.
- (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 45 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.

### 8.3 Removal from Register

The Council will promptly after receipt of a request from the Landowner 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 Developer has paid the monetary contribution under this agreement and is not otherwise in default of any of the obligations under this agreement.

## 9 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.

## 10 Dispute Resolution

### 10.1 Reference to Dispute

If a dispute arises between the parties in relation to this agreement, the parties must not commence any court proceedings relating to the dispute unless the parties have complied with this clause, except where a party seeks urgent interlocutory relief.

### 10.2 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 nature of the dispute,
- (b) the alleged basis of the dispute, and
- (c) the position which the party issuing the Notice of Dispute believes is correct.

### 10.3 Representatives of Parties to Meet

- (a) the representatives of the parties must promptly (and in any event within 10 Business Days of the Notice of Dispute) 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 about a particular issue 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.

### 10.4 Further Notice if Not Settled

If the dispute is not resolved within 20 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (Determination Notice) by mediation under clause 10.5.

### 10.5 Mediation

If a party gives a Determination Notice calling for the dispute to be mediated:

- (a) the parties must agree to the terms of reference of the mediation within 10 Business Days of the receipt of the Determination Notice (the terms shall

- include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply;
- (b) the mediator will be agreed between the parties, or failing agreement within 10 Business Days of receipt of the Determination Notice, either Party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
  - (c) the mediator appointed pursuant to this clause 10.5 must:
    - (i) have reasonable qualifications and practical experience in the area of the dispute; and
    - (ii) have no interest or duty which conflicts or may conflict with his, her or their function as a mediator he, she or they being required to fully disclose any such interest or duty before his, her or their appointment;
  - (d) the mediator shall be required to undertake to keep confidential all matters coming to his, her or their knowledge by reason of his, her or their appointment and performance of his, her or their duties;
  - (e) the parties must within 10 Business Days of receipt of the Determination Notice notify each other of their representatives who will be involved in the mediation (except if a resolution of the Council is required to appoint a representative, the Council must advise of the representative within 5 Business Days of the resolution);
  - (f) the parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement; and
  - (g) in relation to costs and expenses:
    - (i) each party will bear its own professional and expert costs incurred in connection with the mediation; and
    - (ii) the costs of the mediator will be shared equally by the parties unless the mediator determines that a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.

### 10.6 *Litigation*

If the dispute is not *finally* resolved in accordance with this clause 10, then either party is at liberty to litigate the dispute.

### 10.7 *No suspension of contractual obligations*

Subject to any interlocutory order obtained under clause 10.1, the referral to or undertaking of a dispute resolution process under this clause 10 does not suspend the parties' obligations under this agreement.

## 11 Enforcement

### 11.1 *Default*

- (a) In the event a party considers another party has failed to perform and fulfil an obligation under this agreement, it may give notice in writing to the other party (**Default Notice**) giving all particulars of the matters in respect of which it

considers default has occurred and by such notice require the default to be remedied within a reasonable time not being less than 21 days.

- (b) In determining a reasonable time, regard must be had to both the nature of the default and the work or other action required to remedy it and whether or not the continuation of the default constitutes a public nuisance or raises other circumstances of urgency or emergency.
- (c) If a party disputes the Default Notice it may refer the dispute to dispute resolution under clause 10 of this agreement.

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

In accordance with section 6.10(2) of the Act and section 48 of the Certification Regulation the obligation to pay the Monetary Contribution in accordance with clause 6 must be satisfied prior to the issue of an Occupation Certificate for the Development or any part of the Development.

### 11.3 *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.

## 12 **Assignment and Dealings**

### 12.1 *Assignment*

- (a) Subject to clause 12.3, a party must not assign or deal with any right under this agreement without the prior written consent of the other parties. Council will act reasonably in the grant of consent and may require a novation deed similar to that at Annexure B.
- (b) Any purported Dealing in breach of this clause is of no effect.

### 12.2 *Transfer of Land*

- (a) Subject to clause 12.3, the Landowner may not transfer, assign or dispose of the whole or any part of its right, title or interest in the Land (present or future) to another person (**Transferee**) unless before it sells, transfers or disposes of that right, title or interest:
  - (i) the Transferee delivers to the Council a novation deed signed by the Transferee in the form at Annexure B;
  - (ii) any default under any provisions of this agreement has been remedied or waived by the Council, on such conditions as the Council may determine, and
  - (iii) the Landowner and the Transferee pay the Council's reasonable costs in relation to the assignment.



### 12.3 *Exception*

- (a) Clauses 12.1 and 12.2(a) do not apply where:
- (i) the Monetary Contribution has been made under this agreement; or
  - (ii) the agreement is registered on the title of the Land; or
  - (iii) if the Council has released or discharged the Developer from any obligations under this agreement in connection with the part of the Land to be transferred.

## 13 Approvals and consents

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. A party is not obligated to give its reasons for giving or withholding consent or for giving consent subject to conditions.

## 14 No fetter

### 14.1 *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 Instrument Change, any Development Application or any other application for Approval (all referred to in this agreement as a '**Discretion**').

### 14.2 *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.

## 15 Notices

### 15.1 *Notices*

Any notice given under or in connection with this agreement (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;

- (b) must be addressed as follows and delivered to the intended recipient by hand, by prepaid post or by email at the address, or at the address last notified by the intended recipient to the sender after the date of this agreement:
- (i) to North Sydney Council: 200 Miller Street, Sydney NSW 2060  
Email: [council@northsydney.nsw.gov.au](mailto:council@northsydney.nsw.gov.au)  
Attention: General Manager
  - (ii) to Stockland Development Pty Limited and Stockland Trust Management Limited: 133 Castlereagh Street, Sydney NSW 200  
Email: [legal4@stockland.com.au](mailto:legal4@stockland.com.au)  
Attention: Chief Legal and Risk Officer
- (c) is taken to be given or made:
- (i) in the case of hand delivery, when delivered;
  - (ii) in the case of email, if an “undelivered receipt” is not received; and
  - (iii) in the case of delivery by post, five Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country).
- (d) if under clause (c) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 5:00 pm (local time), it is taken to have been given or made at the start of business on the next Business Day in that place.

## 16 General

### 16.1 *Relationship between 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.

### 16.2 *Time for doing acts*

- (a) If the time for doing any act or thing required to be done or a notice period specified in this 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.
- (b) If any act or thing required to be done is done after 5:00 pm on the specified day, it is taken to have been done on the following Business Day.

**16.3 Further assurances**

Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this agreement.

**16.4 Variation**

A provision of this agreement can only be varied by a later written document executed by or on behalf of all parties and in accordance with the provisions of the Act.

**16.5 Counterparts**

This agreement may be executed in any number of counterparts, each of which:

- (a) may be executed electronically or in handwriting; and
  - (b) will be deemed an original whether kept in electronic or paper form,
- and all of which taken together will constitute one instrument.

**16.6 Legal expenses and stamp duty**

The Developer must pay the Council's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution, and release and discharge of this agreement.

**16.7 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.

**16.8 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.

**16.9 Severability**

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. 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.

**16.10 Invalidity**

- (a) A word or provision must be read down if:
  - (i) this agreement is void, voidable, or unenforceable if it is not read down;
  - (ii) this agreement will not be void, voidable or unenforceable if it is read down; and
  - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
  - (i) despite the operation of clause (a), the provision is void, voidable or unenforceable if it is not severed; and

- (ii) this agreement will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this agreement has full effect even if clause 16.10(b) applies.

**16.11 Waiver**

- (a) A right or remedy created by this agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.
- (b) 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. A waiver by a party is only effective if it is in writing. 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.

**16.12 GST**

- (a) Words and expressions which are not defined in this agreement but which have a defined meaning in GST Law have the same meaning as in the GST Law.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this agreement are exclusive of GST.
- (c) 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.

**16.13 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.

**16.14 Explanatory Note**

The Explanatory Note at Annexure A prepared in connection with this agreement pursuant to the Regulation is not to be used to interpret this agreement.

**16.15 Capacity and liability**

- (a) Interpretation
  - (i) All provisions of this agreement will have effect and be applied subject to this clause.
  - (ii) For the purpose of this clause:
    - "Assets" includes all assets, property and rights of personal or any nature whatsoever.
    - "Obligations" means all obligations and liabilities of whatsoever kind, undertaken or incurred by, or devolving upon the Trustee as Landowner under or in respect of this agreement or other instrument collateral to this

agreement whether express or implied by statute or other legal requirements or arising otherwise howsoever.

"Trust" means the trust set out in 601 Pacific Highway Trust ABN 35 126 065 644.

"Trustee" means Stockland Trust Management Limited ACN 001 900 741 or such other party as is the trustee for the time being of the Trust.

- (b) Trustee's limitation of liability
- (i) Any liability of the Trustee arising in connection with this agreement is limited to the extent that the Trustee is able to be indemnified for that liability pursuant to the Trust.
  - (ii) The Council acknowledges and agrees that it may enforce its rights against the Trustee with respect to the non-observance of the Trustee's obligations under this agreement only to the extent necessary to enforce the Council's rights, powers and remedies pursuant to the Trust by subrogation or otherwise.
  - (iii) However, despite anything in this clause, the Trustee is liable to the extent that a liability under this agreement arises out of the Trustee's own fraud, gross negligence, wilful default, breach of trust or breach of duty which disentitles it from an indemnity pursuant to the Trust in relation to the relevant liability.
- (c) Change in trustee, responsible entity or custodian
- (i) If:
    - (A) the Landowner is (or becomes) a trustee, a responsible entity or custodian; or
    - (B) any person who becomes landlord under this lease is (or becomes) a trustee, responsible entity or custodian; or
    - (C) there is a change to the party that is the Trustee or a change to the Trust,then, if requested, the Council must sign a variation of this agreement under which the limitation of liability clause of the trustee, responsible entity or custodian is included in this lease, or under which the new Trustee or Trust is referred to in the agreement, as the case may be.
- (d) The Trustee warrants that:
- (i) it holds the Land on trust for the Trust;
  - (ii) it has the power to:
    - (A) enter and deliver its obligations under the agreement;
    - (B) perform its obligations under the agreement;
  - (iii) all action to authorise:
    - (A) its execution and delivery of this agreement; and
    - (B) the performance of its obligations under this agreement,has been taken;

- (iv) the execution by it of this agreement and the performance by it of its obligations or the exercise of its rights under this agreement does not contravene the Trust deed;
- (v) it is the sole trustee and no action is currently taking place or pending to remove it as trustee of the Trust, or appoint a new or additional trustee to the Trust;
- (vi) it has a right to be fully indemnified out of the assets of the Trust in respect of the obligations incurred by it under this agreement and it has not released, disposed of or restricted its equitable lien over the Trust which secures that indemnity;
  - (i) it is not aware of any reason why the assets of the Trust might be insufficient to satisfy or discharge the obligations and liabilities incurred by it under this Deed;
  - (ii) it is not and has never been in breach of the Trust;
  - (iii) it has complied with its obligations in connection with the Trust;
  - (iv) the Trust has not been terminated and no action is pending to terminate the Trust; and
  - (v) no vesting date for the Trust has been determined.
- (e) The Trustee indemnifies the Council, and agrees to keep the Council indemnified, in respect of any loss or liability in any way connected with a breach of a warranty in clause 16.15(d). The indemnity in this clause is capped to the extent of the Monetary Contribution, costs payable under clause 16.6 and any reasonable costs incurred by Council in enforcing this agreement.

## Schedule 1 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 clause 1.</p>
<p><b>Description of the change to the environmental planning instrument to which the Planning Agreement applies – Section 7.4(3)(b)</b></p>	<p>See the definition of “Instrument Change” in clause 1.</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>The Developer is required to pay a monetary contribution. See clause 6.</p>
<p><b>Applicability of section 7.11 of the Act – Section 7.4(3)(d)</b></p>	<p>Not excluded. See clause 7.</p>
<p><b>Applicability of section 7.12 of the Act – Section 7.4(3)(d)</b></p>	<p>Not excluded. See clause 7.</p>
<p><b>Applicability of Division 7.1, Subdivision 4 of the Act – Section 7.4(3)(d)</b></p>	<p>Not excluded. See clause 7.</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 clause 7.</p>
<p><b>Mechanism for dispute resolution – Section 7.4(3)(f)</b></p>	<p>See clause 10.</p>
<p><b>Enforcement of the Planning Agreement – Section 7.4(3)(g)</b></p>	<p>See clause 11.</p>
<p><b>Registration of the Planning Agreement – Section 7.4(3)(g)</b></p>	<p>See clause 8.</p>
<p><b>No obligation to grant consent or exercise functions – Section 7.4(9)</b></p>	<p>See clause 14 (no fetter).</p>

Executed as an agreement

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 Stockland Development Pty Limited ACN 000 064 835 by its Attorney pursuant to Power of Attorney Book 4814 No. 13 and the Attorney declares that the Attorney has not received any notice of the revocation of such Power of Attorney, in the presence of:

Signature of Witness

Signature of Attorney

Print name of Witness

Print name of Attorney



Sparke Helmore Lawyers

**Executed by Stockland Trust** )  
**Management Limited** ACN 001 900 741 )  
by its Attorney pursuant to Power of )  
Attorney Book 4814 No. 13 and the )  
Attorney declares that the Attorney has )  
not received any notice of the revocation )  
of such Power of Attorney, in the presence )  
of

.....  
Signature of Witness

.....  
Signature of Attorney

.....  
Print name of Witness

.....  
Print name of Attorney

## Annexure A Draft Explanatory note

**Explanatory Note****Exhibition of draft Voluntary Planning Agreement****Lot 71 DP 749690, known as 601 Pacific Highway, 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 voluntary Planning Agreement (**the Planning Agreement**) under Section 7.4 of the *Environmental Planning and Assessment Act 1979 (the Act)*.

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.

The Planning Agreement will require the provision of monetary contributions in relation to a proposed change to provisions of the North Sydney Local Environmental Plan 2013 (**LEP**) that affect land at Lot 71 DP 749690, known as 601 Pacific Highway, St Leonards.

**Parties**

Stockland Development Pty Limited (**the Developer**) made an offer to North Sydney Council (**the Council**) to enter into a voluntary Planning Agreement, in connection with a Planning Proposal relating to the subject land. The **Landowner**, Stockland Trust Management Limited is also a party to the agreement.

**Description of subject land**

The land to which the Planning Agreement applies is described as Lot 71 DP 749690, known as 601 Pacific Highway, St Leonards (**the Land**).

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

The Developer has lodged a Planning Proposal. The Planning Proposal (PP2/23; PP-2023-92) seeks to amend the LEP to:

- (a) increase the maximum building height for the Land from 49 metres to RL259 (equivalent to 171 metres); and
- (b) impose a maximum floor space ratio (FSR) of 20:1.

The Planning Agreement will apply to any amendment to the LEP that is substantially consistent with the Planning Proposal, or to any environmental planning instrument or amendment to any environmental planning instrument that has the effect of increasing the maximum building height

and floor space ratio controls that apply to the Land substantially consistent with what is proposed in the Planning Proposal (**Instrument Change**).

The Planning Agreement will apply to any future development of the land that relies on the Instrument Change.

## **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 proposed amendment to the LEP and the future development of the Land relying on the amendment, to benefit the community.

### **Nature**

The nature of the Planning Agreement is an agreement between Council, the Developer and the Landowner that has the effect of binding the Developer and the Landowner and is also enforceable by Council including under the Act.

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 payment of a monetary contribution in the sum of \$172,000.00 indexed in accordance with increases in the Consumer Price Index from the date of the agreement to the date of payment.

The monetary contribution will be payable in addition to monetary contributions payable under section 7.11, section 7.12 and Division 4 of Part 7 of the Act.

### **Effect**

The monetary contribution will be used by Council to deliver community infrastructure that meets the needs of the local 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 future development of the Land. 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.

## **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 enhance 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 facilitate the provision of community infrastructure 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, will provide existing and future residents in the area with improved facilities.

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

The Planning Agreement will contribute towards meeting the demand for community infrastructure in the local government area. 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 payment of the monetary contribution prior to the issue of an occupation certificate for the future development of the Land relying on the Instrument Change.

**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.

Annexure B      Novation Deed

# Novation Deed

## **Draft**

**[Date]**

[Party Name]

ABN [No.]

[Party Name]

ACN [No.]

[Party Name]

ACN [No.]

[Party Name]

ACN [No.]

# Deed

## Date

## Parties

### First party

**Name** [Name] (**Council**)

**ABN** [No]

**Address** [Address]

### Second party

**Name** [Name] (**Developer**)

**AN** [No]

**Address** [Address]

### Third party

**Name** [Name] (**Landowner**)

**ACN** [No]

**Address** [Address]

### Fourth party

**Name** [Name] (**Transferee**)

**ACN** [No]

**Address** [Address]

## Recitals

- A. The Council, the Developer and the Landowner are parties to the Original Agreement.
- B. The Original Agreement relates to the whole of the Land.
- C. The parties to this deed have agreed to the novation of the obligations under the Original Agreement to the Transferee.

## This deed provides

### 1 Definitions and interpretation

#### 1.1 Definitions

**Act** means the *Environmental Planning and Assessment Act 1979*.

**Effective Date** means the date the Land is transferred to the Transferee [or in case of an assignment, the date of the assignment from the Developer].

**Land** has the meaning given to that term in the Original Agreement.

**Original Agreement** means the voluntary planning agreement made under section 7.4 of the Act.

**Required Obligations** means the obligations of the [Developer and/or Landowner – insert as applicable] under the terms of the Original Agreement, either individually or jointly and severally.

## 1.2 *References to certain general terms*

In this deed unless the contrary intention appears:

- (a) a reference to this deed or another instrument includes any variation or replacement of them;
- (b) 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;
- (c) the singular includes the plural and vice versa;
- (d) the word person includes a firm, body corporate, an unincorporated association or an authority;
- (e) 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;
- (f) an agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally;
- (g) a reference to anything (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to anyone or more of them;
- (h) "include" in any form 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 nature; and
- (i) capitalised terms which are used in this deed but are not otherwise defined have the meaning given to them in the Original Agreement.

## 1.3 *Headings*

Headings are inserted for convenience and do not affect the interpretation of this deed.

# 2 **Novation**

## 2.1 *Original Agreement*

Subject to clause 2.4 and with effect from the Effective Date:

- (a) the Transferee is substituted for the [Developer and/or Landowner] as a party to the Original Agreement, and agrees to perform the Required Obligations of the [Developer and/or Landowner];

- (b) the Transferee will be bound by the Original Agreement, and will be entitled to the benefit of the Original Agreement, as if the Transferee was a party to the Original Agreement instead of the [Developer and/or Landowner];
- (c) all references to the [Developer and/or Landowner] in the Original Agreement shall be taken to be a reference to the Transferee; and
- (d) the [Developer and/or Landowner] is released and discharged from all obligations and liabilities, and from all claims (whether for Costs, Legal Costs, damages, fees or otherwise), arising under the Original Agreement insofar as the Original Agreement relates to the Required Obligations.

## 2.2 Performance by Transferee

The Transferee must perform all the obligations of, the [Developer and/or Landowner, or both jointly and severally], under the Original Agreement, whether or not the relevant obligations relate to works performed prior to the date of this deed, including, but not limited to:

- (a) the delivery of all public benefits to Council (including the Contribution Items).

## 2.3 Release of Securities [Not Used]

## 2.4 Liability before Effective Date

- (a) The [Developer and/or Landowner] warrant to the Council and the Transferee that, up to and including the Effective Date, they have complied with all their obligations under the Original Agreement due as at the Effective Date.
- (b) Notwithstanding any other provision of this deed, the [Developer and/or Landowner] are not released, relieved or discharged from liability under the Original Agreement before the Effective Date, or in relation to any breach of any provision of the Original Agreement occurring before the Effective Date (to the extent that it is not remedied by the Effective Date) in so far as the Original Agreement relates to the Required Obligations.

## 3 Affirmation of the Original Agreement

The Original Agreement will be read and construed subject to this deed, and in all other respects the provisions of the Original Agreement are ratified and confirmed, and, subject to the variation and novation contained in this deed, the Original Agreement will continue in full force and effect.

## 4 GST

Where a supply made under this deed gives rise to a liability for GST, the consideration to be provided for that supply (other than under this clause) shall be increased by an additional amount equal to the GST payable on the supply. The additional amount must be paid, and the supplier must provide a tax invoice, at the same time as the other consideration for that supply is to be provided under this deed. Terms used in this clause have the meanings in the *A New Tax System (Goods and Services Tax) Act 1999*.

## 5 Stamp duty and costs

- (a) The [Developer and/or Landowner] and the Transferee are jointly and severally liable for the Council's legal costs of and incidental to the negotiation, preparation



and execution of this deed, and must reimburse the Council for such legal costs promptly on demand.

- (b) The Transferee will pay any stamp duty arising directly or indirectly from this deed.

## 6 General

### 6.1 Further Acts

- (a) Each party will take all steps, execute all deeds and do everything reasonably required by any other party to give effect to any of the actions contemplated by this deed.
- (b) This deed binds each party which signs it even if other parties do not, or if the execution by other parties is defective, void or voidable.

### 6.2 Authority and power

- (a) Each party represents and warrants that:
- (i) it has the full power and authority to enter into and to perform its obligations under this deed;
  - (ii) the execution, delivery and performance by it of this deed does not and will not contravene any provision of:
    - (A) any Law, authorisation, ruling, consent, judgment, order or decree of any Authority; or
    - (B) its constituent documents,

and does not and will not result in a breach or default in any material respect under any agreement binding it; and
  - (iii) any authorisations required in connection with the execution, delivery and performance by it and the validity and enforceability against it of this deed have been obtained or effected and are in full force, and there has been no material default by it in the performance of any of the terms and conditions of any of those authorisations.
- (b) [OPTIONAL CLAUSE – If Transferee is a trustee then include this clause] - The Transferee entering into this deed as a trustee warrants that:
- (i) it holds the Land on trust for the [name of trust] (**Trust**);
  - (ii) it has the power under the [name of trust deed] (**Trust Deed**):
    - (A) enter and deliver this Deed; and
    - (B) perform its obligations under this Deed;
  - (iii) all action required by the Trust Deed to authorise:
    - (A) its execution and delivery of this Deed; and
    - (B) the performance of its obligations under this Deed,

has been taken;
  - (iv) the execution by it of this Deed and the performance by it of its obligations or the exercise of its rights under this Deed does not contravene the Trust Deed;

- (v) it is the sole trustee and no action is currently taking place or pending to remove it as trustee of the Trust or appoint a new or additional trustee of the Trust;
  - (vi) it has a right to be fully indemnified out of the assets of the Trust in respect of the obligations incurred by it under this Deed and it has not released, disposed of or restricted its equitable lien over Trust which secures that indemnity;
  - (vii) it is not aware of any reason why the assets of the Trust Deed might be insufficient to satisfy or discharge the obligations and liabilities incurred by it under this Deed;
  - (viii) it is not and has never been in breach of the Trust Deed;
  - (ix) it has complied with its obligations in connection with the Trust;
  - (x) the Trust has not been terminated and no action is pending to terminate the Trust; and
  - (xi) no vesting date for the Trust has been determined.
- (c) The Transferee indemnifies the Council, and agrees to keep the Council indemnified, in respect of any loss or liability in any way connected with a breach of a warranty in clause 2(b).

### 6.3 *Invalidity*

- (a) A word or provision must be read down if:
  - (i) this deed is void, voidable, or unenforceable if it is not read down;
  - (ii) this deed will not be void, voidable or unenforceable if it is read down; and
  - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
  - (i) despite the operation of clause 6.3(a), the provision is void, voidable or unenforceable if it is not severed; and
  - (ii) this deed will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this deed has full effect even if clause 6.3(b)(i) or (ii) applies.

### 6.4 *Notices*

Any notice given under or in connection with this deed (**Notice**):

- (a) must be in writing;
- (b) must be addressed and delivered to the intended recipient by hand, by post, or by email at the address below or to the latest address for the party as notified in writing:
  - (i) to Council: [\[Address\]](#)  
[Email: \[email\]](#)  
[Attention: \[contact\]](#)

- (ii) to Developer [Address]  
Email: [email]  
Attention: [contact]
  - (iii) to Landowner: [Address]  
Email: [email]  
Attention: [contact]
  - (iv) to Transferee [Address]  
Email: [email]  
Attention: [contact]
- (c) is taken to be given and received:
- (i) in the case of hand delivery, when delivered;
  - (ii) in the case of email, if an “undelivered receipt” is not received; and
  - (iii) in the case of delivery by post, five Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country).
- (d) if under clause (c) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 5:00 pm (local time), it is taken to have been given or made at the start of business on the next Business Day in that place.

#### 6.5 Assignment

A party may not assign or otherwise deal with their rights under this deed or allow any interest in them to arise or be varied without the consent of the other parties.

#### 6.6 Governing law

This deed is governed by the law in force in the place specified in the New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of that place.

#### 6.7 Counterparts and electronic execution

- (a) This deed may be executed electronically by electronic signature and may be executed in any number of counterparts and the counterparts taken together constitute one and the same instrument.
- (b) In this clause 6.7 electronic signature means a digital signature or other visual representation of a person’s handwritten signature or mark placed or typed on a copy of this agreement by electronic or mechanical means (or any other means of electronic signing this agreement used by agreement between the parties) and electronically signed has a corresponding meaning.
- (c) Where this agreement is electronically signed by or on behalf of a party, the party warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the party intends to be bound by this agreement.

Executed as a deed

[Insert execution blocks for Novation Deed]

## ATTACHMENT 3

### Planning Proposal 2/23 and draft Voluntary Planning Agreement 601 Pacific Highway, St Leonards Summary of submissions received during public exhibition period (18 July 2024 – 22 August 2024)

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 for 601 Pacific Highway, 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 Voluntary Planning Agreement for 601 Pacific Highway, 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 2/23 and draft Voluntary Planning Agreement – 601 Pacific Highway, St Leonards SUBMISSIONS SUMMARY (Exhibition Period – 18 July 2024 to 22 August 2024)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
1.	10 Atchison Street ST LEONARDS	Objection.	St Leonards has sufficient commercial development. Residential buildings are consequently affected.	St Leonards is identified as a 'strategic centre' through a suite of high-level planning documents. The <i>2036 Plan</i> seeks to reinforce and strengthen St Leonards' regionally significant economic and employment functions, and leverage opportunities created by the new Metro to deliver additional employment capacity and realise identified State jobs targets. The subject site is located within one of the small pockets of <i>E2-Commercial Centre</i> zoned land in St Leonards and is one of the few sites in the centre with the ability to have a meaningful delivery of commercial floorspace.	Nil	2E
2.	2 Atchison Street ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>• Traffic</li> <li>• Overshadowing</li> </ul>	Objects to the size of the proposed development for the following reasons; <ul style="list-style-type: none"> <li>• The surrounding road network is already strained during peak hours (Chandos St, Pacific Hwy)</li> <li>• Loss of solar access to surrounding residential dwellings.</li> </ul>	Refer to section 5.2 and 5.3 of main report on overshadowing and traffic concerns.	Nil	2B

Planning Proposal 2/23 and draft Voluntary Planning Agreement – 601 Pacific Highway, St Leonards SUBMISSIONS SUMMARY (Exhibition Period – 18 July 2024 to 22 August 2024)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
3.	Local resident – Unknown address	Supportive. <ul style="list-style-type: none"> <li>Traffic</li> <li>Viability of retail uses</li> <li>VPA offer</li> </ul>	Supports the proposal. Redevelopment will result in superior building and revitalise the area. However, raised the following concerns; <ul style="list-style-type: none"> <li>Questions the assumptions in the applicant's Traffic Impact Assessment, in particular peak our trip generation. An assessment of intersection quality impacts has not been undertaken. Suggests the development should include on-site visitor parking to reduce demand for off-street parking.</li> <li>Questions the viability of retail tenancies fronting Pacific Hwy and Atchison St. Suggests advice from a retail specialist be obtained and recommendations incorporated into DCP.</li> <li>The proposed monetary contribution relative to land value and uplift is inconsequential. A greater contribution should be requested by Council.</li> </ul>	Refer to section 5.3 of main report on traffic concerns. <p>The VPA offer of \$172,000 to Council is in addition to applicable s7.11 local infrastructure contributions (estimated \$7.96 million), site frontage works and Housing and Productivity Contribution (estimated \$1.29 million). It is acknowledged the VPA offer is modest, however Council has limited ability to negotiate a greater contribution.</p> <p>The 2036 Plan incorporates built form controls (ground level setbacks) to ensure new development improves the public domain, encourages pedestrian activity and supports retail uses particularly along Atchison Street which is envisaged as a 'civic street.'</p>	Nil	2B

Planning Proposal 2/23 and draft Voluntary Planning Agreement – 601 Pacific Highway, St Leonards SUBMISSIONS SUMMARY (Exhibition Period – 18 July 2024 to 22 August 2024)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
4.	500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>Traffic</li> <li>Local infrastructure</li> </ul>	Objects to the proposal. Increased population density will create pressure and unintended side effects such as overcrowding, traffic congestion and insufficient public spaces for leisure. Consideration should be given to balancing the benefits and costs of the proposal on the community.	Refer to section 5.3 and 5.6 of main report on traffic and local infrastructure concerns.  The <i>2036 Plan</i> , which identifies significant housing and employment growth in the precinct, seeks to capitalise on the opportunities created by the new Crows Nest Metro to renew, activate and strengthen the productive role of St Leonards. Whilst increased height and densities may lead to some amenity impacts, it is considered that concentrating appropriate commercial development near highly accessible mass transit nodes, employment and services, is more sustainable and desirable than dispersing growth throughout more sensitive neighbourhoods with lower levels of accessibility.	Nil	2E
5.	500 Pacific Highway (‘Landmark Building’) St LEONARDS	Objection. <ul style="list-style-type: none"> <li>Traffic</li> <li>Local Infrastructure</li> <li>Height</li> </ul>	Objects to a 78-storey building at 601 Pacific Hwy. The proposal is part of a trend of unchecked high-density development that does not consider the cumulative impacts on traffic, infrastructure and community wellbeing. <ul style="list-style-type: none"> <li>The existing road network is not designed to accommodate the traffic volumes generated from several recent major developments. The proposal will exacerbate traffic congestion.</li> <li>The development will overburden public services already near capacity.</li> <li>The scale of the proposal is not in keeping with the character of the St Leonards area</li> </ul>	The proposal seeks a maximum building height of RL 259 (equivalent 171m) to accommodate a 42-storey commercial development. Refer to section 5.1, 5.3 and 5.6 of main report on height, traffic and local infrastructure concerns.	Nil	2B & 2E



Planning Proposal 2/23 and draft Voluntary Planning Agreement – 601 Pacific Highway, St Leonards SUBMISSIONS SUMMARY (Exhibition Period – 18 July 2024 to 22 August 2024)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
6.	500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>• Traffic</li> <li>• Height</li> <li>• Overshadowing</li> <li>• Wind tunnelling</li> <li>• Construction Impacts</li> </ul>	Concerned the size of the proposed development will have a detrimental impact on existing residents. It is well above North Sydney local planning requirements. Goes against local planning, and the values and wishes of local residents. Raised the following issues; <ul style="list-style-type: none"> <li>• St Leonards is already one of the most densely populated areas in NSW and its density set to double in an area already heavily congested.</li> <li>• The area suffers from heavy traffic flows in peak hours (Pacific Hwy and side streets). The NSW and local govts have not undertaken a major vehicular traffic study for many years. The studies referred to in the reports date back to 2013 and do not consider current congestion. Recent studies relate to cyclists and pedestrians.</li> <li>• The proposed height of 171m is excessive. Overall size and effect of shadowing to the Landmark Building is of concern.</li> <li>• St Leonards currently has major wind tunnelling issues that will be exacerbated by the proposed development.</li> <li>• Wind tunnelling and overshadowing reports inadequate as they were completed prior to St Leonards Square, Landmark and 88 Christie St developments.</li> <li>• The volume of concurrent development is causing major disruptions and does not appear to be coordinated between Council and State Govt.</li> </ul>	Refer to section 5.1, 5.2, 5.3, 5.4 and 5.5 of main report on height, overshadowing, traffic, wind tunnelling and construction impacts concerns.	Nil	2B & 2E

Planning Proposal 2/23 and draft Voluntary Planning Agreement – 601 Pacific Highway, St Leonards SUBMISSIONS SUMMARY (Exhibition Period – 18 July 2024 to 22 August 2024)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
7.	10 Atchison Street ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>View loss</li> <li>Privacy</li> <li>Overshadowing</li> <li>Traffic</li> <li>Wind tunnelling</li> </ul>	Objects to the proposal as it will result in significant amenity impacts for residents at 10 Atchison Street, in particular: <ul style="list-style-type: none"> <li>A 42-storey development will completely block all harbour views from existing dwellings</li> <li>Lack of building separation will result in unacceptable visual privacy impacts</li> <li>Reduce sunlight to existing dwellings</li> <li>Increased traffic congestion and insufficient capacity of existing road network</li> <li>Wind impacts</li> </ul>	Refer to section 5.2, 5.3 and 5.4 of main report on overshadowing, traffic and wind tunnelling concerns.  It is acknowledged that the obstruction of views could arise and affect surrounding properties, however there is an expectation that within a dense urban environment like St Leonards that tall new buildings will be built and thereby result in potential impacts on views.  The proposed building envelope has been established with regard to the building setback requirements under the 2036 Plan and NSDCP 2013. The accompanying reference design demonstrates compliance with ADG building separation requirements. Notwithstanding, increased levels of privacy can be provided at the development application stage through various architectural treatments, such as use of opaque glazing and or privacy screens.	Nil	2B & 2E
8.	100 Alexander Street CROWS NEST	Supportive.	Supportive of increased density in North Sydney due to housing crisis.	Noted.	Nil	2D

Planning Proposal 2/23 and draft Voluntary Planning Agreement – 601 Pacific Highway, St Leonards SUBMISSIONS SUMMARY (Exhibition Period – 18 July 2024 to 22 August 2024)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
9.	Netstrata 500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>• Height</li> <li>• Overshadowing</li> <li>• Wind tunnelling</li> <li>• Construction Impacts</li> <li>• Traffic</li> </ul>	<p>Supports further development in St Leonards provided genuine consultation is undertaken to address concerns such as liveability, necessary infrastructure and amenities.</p> <p>Objects to the proposal as it exceeds North Sydney local planning requirements and would have detrimental impacts on current residents. St Leonards is experiencing significant issues with heavy traffic, overburdened services, construction related noise and congestion, lack of green space and public amenities compared to neighbouring suburbs.</p> <p>The proposed height (171m) raises significant concerns about loss of sunlight and exacerbated wind tunnelling. The reports on wind and overshadowing do not reflect current conditions and pre-date the completion of St Leonards Square, Landmark and 88 Christie St.</p> <p>The volume of concurrent development is causing major disruptions and the lack of coordination between Council and State Govt is exacerbating issues.</p> <p>No recent comprehensive vehicular traffic study has been undertaken. Existing studies referenced date back to 2013 and do not account for current traffic congestion. Only recent studies relate to cyclists and pedestrians. No new development should be approved until a detailed traffic study is undertaken. Pacific Hwy and side streets are highly congested with insufficient access to existing developments.</p>	<p>Refer to section 5.1, 5.2, 5.3, 5.4 and 5.5 of report on height, overshadowing, wind tunnelling, construction impacts and traffic concerns.</p> <p>During the preparation of the <i>2036 Plan</i> and <i>Crows Nest TOD</i>, public consultation was undertaken by the State government in which Council made submissions and raised concerns on various matters including proposed land use and built form controls, infrastructure funding and provision. Council has strongly advocated for the provision of new public open space and community facilities through new developments and Planning Proposals, including the Oxley Street linear parks and expansion of Hume Street Park, as identified in Council’s endorsed <i>St Leonards/Crows Nest Planning Studies</i>.</p>	Nil	2B & 2E
Additional	500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>• Height</li> </ul>	Objects to the proposed height increase above 49m and any future development in St Leonards/North Sydney that exceeds 49m.	Refer to section 5.1 of report on height concerns.	Nil	2E

Planning Proposal 2/23 and draft Voluntary Planning Agreement – 601 Pacific Highway, St Leonards SUBMISSIONS SUMMARY (Exhibition Period – 18 July 2024 to 22 August 2024)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
11.	Unknown address	Objection. <ul style="list-style-type: none"> <li>Traffic</li> </ul>	The rezoning of St Leonards is set to accommodate 12,000 new employment opportunities, with the proposal generating 3,000 employment opportunities. St Leonards not ready to take on an employment population double its residential population. Higher density development will lead to traffic congestion and air pollution.	Refer to section 5.3 of main report on traffic concerns.  The <i>2036 Plan</i> seeks to capitalise on the opportunities created by the new Crows Nest Metro, identify additional employment capacity and strengthen the economic and employment functions of St Leonards to meet State jobs targets. It is considered that concentrating growth near highly accessible mass transit nodes, employment and services, is more sustainable and desirable than dispersing growth throughout more sensitive neighbourhoods with lower levels of accessibility.	Nil	2E

Planning Proposal 2/23 and draft Voluntary Planning Agreement – 601 Pacific Highway, St Leonards SUBMISSIONS SUMMARY (Exhibition Period – 18 July 2024 to 22 August 2024)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
12.	500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>Height</li> <li>Overshadowing</li> <li>Wind tunnelling</li> <li>Construction Impacts</li> <li>Local infrastructure</li> <li>Safety</li> </ul>	The Landmark, representing 417 units and 1,100 residents, objects to the proposal. Key objections include; <ul style="list-style-type: none"> <li>The 171m height raises concerns about overshadowing and wind tunnelling effects. The applicant’s reports predate the completion of St Leonards Square, Landmark and 88 Christie St developments.</li> <li>Simultaneous development approvals are causing severe congestion, closures and prolonged construction disturbances. There is a lack of coordination between Council and State Govt in managing these impacts.</li> <li>Insufficient traffic analysis. The most recent traffic study dates back to 2013 and does not account for current congestion levels generated by recent developments which have limited entry and exit points. Recent studies focus on cyclists and pedestrian movements. Suggests no new approvals until a comprehensive traffic study is completed.</li> <li>The underpass from the west of Pacific Hwy to Metro has been abandoned with no planned underpass or overpass. Despite <i>2036 Plan</i> prioritising pedestrians, there are no improvements to pedestrian accessibility.</li> <li>Increased risk of fire spreading due to close proximity of tall buildings.</li> </ul>	Refer to section 5.1, 5.2, 5.3, 5.4 and 5.5 of main report on height, overshadowing, traffic, wind tunnelling, construction impacts and local infrastructure concerns.  Ensuring that a high level of (fire) safety is provided within developments is a matter addressed at the future detailed development application stage.	Nil	2B & 2E
13.	500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>Overshadowing</li> </ul>	The applicant’s solar analysis (p.85 Urban Design Report) indicates solar access to residents in Landmark Building will be reduced to <1hour. The solar access controls applying to other residential areas should also apply to the Landmark Building.	Refer to section 5.2 of main report on overshadowing concerns.	Nil	2B & 2E

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14.	St Leonards Strata Community Group PO Box 94 CROWS NEST	Objection. <ul style="list-style-type: none"> <li>• Height</li> <li>• Overshadowing</li> <li>• Wind tunnelling</li> <li>• Construction Impacts</li> </ul>	<p>The St Leonards Strata Community Group (SLSCG) represents 22 strata committees, 3,993 units and 8,865 residents in the St Leonards area.</p> <p>SLSCG is supportive of further development provided genuine consultation is undertaken to address concerns such as liveability, necessary infrastructure and amenities.</p> <p>Objects to the proposal as it exceeds North Sydney local planning requirements and will have detrimental impacts on current residents. St Leonards is experiencing significant issues with heavy traffic, overburdened services, construction related noise and congestion, lack of green space and public amenities compared to neighbouring suburbs.</p> <p>The proposed height of 171m (50m higher than the Landmark) and overall size of the proposal will result in significant overshadowing impacts and exacerbate wind tunnelling issues. The reports pre-date the completion of St Leonards Square, Landmark and 88 Christie St.</p> <p>The volume of concurrent development is causing major disruptions (road closures, heavy traffic, noise and dust) and the lack of coordination between Council and State Govt is exacerbating issues.</p>	<p>During the preparation of the 2036 <i>Plan</i> and <i>Crows Nest TOD</i>, public consultation was undertaken by the State government in which Council made submissions and raised concerns on various matters including proposed land use and built form controls, infrastructure funding and provision. Council has strongly advocated for the provision of new public open space and community facilities through new developments and Planning Proposals, including the Oxley Street linear parks and expansion of Hume Street Park, as identified in Council's endorsed St Leonards/Crows Nest Planning Studies.</p> <p>Refer to section 5.1, 5.2, 5.4 and 5.5 of main report on height, overshadowing, wind tunnelling and construction impacts concerns.</p>	Nil	2B & 2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
15.	Local resident - Unknown address	Objection. <ul style="list-style-type: none"> <li>Safety</li> <li>Local infrastructure</li> <li>Overshadowing</li> <li>Wind tunnelling</li> <li>Traffic</li> <li>Environmental Impacts</li> </ul>	Objects to the proposal. Raised the following concerns; <ul style="list-style-type: none"> <li>Safety risks associated with high-rise buildings including structural integrity, long-term maintenance, fire, increased emergency response times due to traffic congestion, wind tunnel effects for pedestrians at ground level.</li> <li>The proposal will place additional pressure on existing local infrastructure (water, sewerage, waste management)</li> <li>The proposal will significantly alter the character of the area, overshadowing and devaluing surrounding properties.</li> <li>The proposal will generate noise and air pollution</li> <li>The proposed height will block sunlight with adverse health impacts to residents.</li> </ul>	Refer to section 5.2, 5.3, 5.4 and 5.6 of report on overshadowing, traffic, wind tunnelling and local infrastructure impacts.  Ensuring that a high level of safety is provided within developments is a matter addressed at the future detailed development application stage.  NSDCP 2013 requires new development incorporate measures to reduce their resource use (energy, water, waste) and is a matter determined at the future detailed Development Application stage.	Nil	2B & 2E
16.	34 Oxley Street ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>Height</li> <li>Overshadowing</li> <li>Wind tunnelling</li> <li>Environmental Impacts</li> </ul>	<ul style="list-style-type: none"> <li>The proposed building height is excessive and will overshadow residential properties.</li> <li>The applicant's wind assessment is inadequate.</li> <li>The existing commercial building is fully-functioning, and its redevelopment will have significant environmental costs/impacts.</li> <li>There needs to be an environmental metric to determine the environmental cost/benefit of new development proposals compared to what exists.</li> </ul>	Refer to section 5.1, 5.2 and 5.4 of main report on height concerns.  NSDCP 2013 requires new development incorporate measures to reduce their resource use (energy, water, waste) and is a matter determined at the future detailed Development Application stage.  Notwithstanding, the implementation of integrated transport and planning outcomes where increased densities are concentrated around transport nodes combined with reduced on-site parking requirements, is to ensure the effective take-up of walking, cycling and public transport use and decreased reliance on private vehicles.	Nil	2B & 2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
17.	500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>• Overshadowing</li> <li>• Wind tunnelling</li> <li>• Traffic</li> <li>• Safety</li> </ul>	Objects to the proposed increase in building height and associated impacts on residents of the Landmark Building, including overshadowing and wind tunnelling impacts.  St Leonards is already prone to wind tunnelling and the proposal will exacerbate the issue. Traffic congestion resulting from increased development approvals. Increased fire risks associated with the increase in height of the building.	Refer to section 5.2, 5.3 and 5.4 of main report on overshadowing, traffic and wind tunnelling concerns.  Ensuring that a high level of safety is provided within developments is a matter addressed at the future detailed development application stage.	Nil	2B & 2E
18.	500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>• Overshadowing</li> <li>• Traffic</li> <li>• Construction Impacts</li> </ul>	Concerned about the scale and pace of development and approvals in the pipeline and the cumulative impacts on residents, in particular traffic congestion and further decreased solar access to Landmark building dwellings.	Refer to sections 5.2, 5.3 and 5.5 of main report on overshadowing, traffic and construction impacts concerns.	Nil	2B & 2E
19.	500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>• Overshadowing</li> <li>• Wind tunnelling</li> <li>• Traffic</li> <li>• Construction Impacts</li> <li>• Local infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• The proposal does not comply with 2036 Plan solar controls in mid-winter.</li> <li>• Wind tunnelling is already an issue for residents which will be exacerbated by the proposal and other tall buildings.</li> <li>• The rapid increase in population is overburdening the road network with congestion on Pacific Hwy, Christie St, Oxley St and Nicholson St in peak hours.</li> <li>• The increased number of construction sites is causing significant disruption, noise and air pollution.</li> <li>• Concerned about the amount of development approved or to be approved and impact on liveability, in particular lack of green spaces and public amenities to cater for rapid population increase.</li> </ul>	Refer to sections 5.2, 5.3, 5.4, 5.5 and 5.6 of main report on overshadowing, traffic, wind tunnelling, construction impacts and local infrastructure concerns.	Nil	2B & 2E



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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
20.	500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>• Height</li> <li>• Overshadowing</li> <li>• Wind tunnelling</li> <li>• View loss</li> <li>• Privacy</li> <li>• Traffic</li> </ul>	<ul style="list-style-type: none"> <li>• The proposed height of 171m (42 storeys) is excessive and will significantly overshadow the Landmark building (northern elevation). A 20-25 storey tower would be more appropriate.</li> <li>• The 3m setback above podium along Pacific Hwy is insufficient and will result in adverse privacy impacts for Landmark Building residents.</li> <li>• The proposed height and design will exacerbate wind tunnelling effects. The applicant’s wind analysis was completed prior to the completion of St Leonards square, Landmark and 88 Christie St developments.</li> <li>• The proposal will result in significant view loss for residents in surrounding buildings.</li> <li>• The proposed rooftop terraces will cause noise disturbances</li> <li>• The proposed development will further deteriorate traffic conditions. A comprehensive traffic study has not been undertaken by the State Govt or Council since 2013 and an updated study of current conditions required.</li> </ul>	<p>Refer to sections 5.1, 5.2, 5.3 and 5.4 of main report on height, overshadowing, traffic and wind tunnelling concerns.</p> <p>It is acknowledged that the obstruction of views could arise and affect surrounding properties, however there is an expectation that within a dense urban environment like St Leonards that tall new buildings will be built and thereby result in potential impacts on views.</p> <p>The proposed building envelope has been established with regard to the building setback requirements under the <i>2036 Plan</i> and NSDCP 2013. The proposal is also compliant with ADG building separation requirements.</p>	Nil	2B & 2E

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21.	500 Pacific Highway (‘Landmark Building’) ST LEONARDS	Objection. <ul style="list-style-type: none"> <li>• Construction Impacts</li> <li>• Wind tunnelling</li> <li>• Traffic</li> <li>• Overshadowing</li> </ul>	Objects to the proposal for the following reasons; <ul style="list-style-type: none"> <li>• The rapid increase in development approvals in Crows Nest/St Leonards has resulted in significant and prolonged construction disturbances and a lack of coordination between local and State govt.</li> <li>• The applicant’s wind assessment is out of date - conducted prior to completion of St Leonards Square, the Landmark and 88 Christie St. The design and placement of high-rise buildings has created wind tunnels and high-speed winds at ground level.</li> <li>• Inadequate traffic analysis – the last comprehensive traffic study conducted in 2013 and does not consider impact of recent major developments on road network. Recent studies focus on cyclist and pedestrian movements and not vehicular traffic.</li> <li>• The proposal fails to consider overshadowing impacts to the Landmark building. The proposed heights contradict the 2036 Plan’s guidelines on solar impacts in mid-winter.</li> </ul>	Refer to sections 5.2, 5.3, 5.4 and 5.5 of main report on overshadowing, traffic, wind tunnelling and construction impacts concerns.	Nil	2B & 2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
22.	Local resident - Unknown address	Objection. <ul style="list-style-type: none"> <li>• Construction Impacts</li> <li>• Wind tunnelling</li> <li>• Traffic</li> <li>• Local infrastructure</li> <li>• Overshadowing</li> </ul>	<p>The proposal will have numerous negative effects on people who live and work in St Leonards.</p> <p>Raised the following issues;</p> <ul style="list-style-type: none"> <li>• The surge in development approvals in Crows Nest/St Leonards has led to significant and prolonged construction disruptions and inadequate coordination between local and State govt.</li> <li>• The applicant's wind assessment is out of date - conducted prior to completion of St Leonards Square, the Landmark and 88 Christie St. The design and placement of high-rise buildings has created wind tunnels and high-speed winds at ground level.</li> <li>• The proposed 171m height will result in significant overshadowing and wind tunnelling effects.</li> <li>• Inadequate traffic analysis – the last comprehensive traffic study conducted in 2013 and does not consider impact of recent major developments on road network. Recent studies focus on cyclist and pedestrian movements and not vehicular traffic.</li> <li>• Inadequate pedestrian infrastructure connecting new developments to Metro and railway station.</li> <li>• The proposal does not account for overshadowing impact to the Landmark building. The proposed heights conflict with the 2036 Plan's guidelines on solar impacts in mid-winter.</li> </ul>	Refer to sections 5.2, 5.3, 5.4, 5.5 and 5.6 of the main report on overshadowing, traffic, wind tunnelling, construction impacts and local infrastructure concerns.	Nil	2B & 2E
23.	Unknown address	<ul style="list-style-type: none"> <li>• Indigenous inclusion in built environment</li> </ul>	<p>The proposal does not contain any information on how Council and related parties have engaged with the local Dharug community and including indigenous perspectives within the Built Environment. The proposed landscaping plans contain various non-indigenous and invasive plant species that affects the growth of native plants and attracts insects causing injury to humans and animals.</p>	The concept landscape design accompanying the proposal is indicative only. Public domain works, including detailed landscape design, is a matter determined at the future detailed Development Application stage.	Nil	2B

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24.	Civil Aviation Safety Authority (CASA)	<ul style="list-style-type: none"> <li>Height (Airport Obstacle Limitation Surface)</li> </ul>	<p>No objection raised. CASA agrees with the recommendations of the applicant's submitted Preliminary Aeronautical Impact Assessment.</p> <p>CASA will assess the controlled activities (building and cranes) at the appropriate stage and on receipt of an invitation from Sydney Airport.</p> <p>NSW Health Infrastructure should be consulted as CASA does not regulate Helicopter Landing Sites.</p>	Noted.	Nil	2C
25.	Transport for NSW	<ul style="list-style-type: none"> <li>Traffic</li> </ul>	<p>No objection raised. The proposal is expected to generate low traffic and have minimal traffic impacts to surrounding local and regional transport network.</p> <p>Advisory comments;</p> <ul style="list-style-type: none"> <li>The proposed 3m ground level setback along Pacific Hwy is strongly supported to improve pedestrian amenity. The setback should be free of obstructions.</li> <li>Tree planting is to be setback from the kerb and gutter and located within the property boundary for improved safety and maintenance.</li> <li>The applicant's Green Travel Plan should be reviewed to include updated Metro and bus route information. Bicycle parking should be located near main pedestrian entrances and basement cycle lane should be widened for bidirectional traffic.</li> </ul>	Noted.	Nil	2C
26.	Sydney Water Corporation	<ul style="list-style-type: none"> <li>Water infrastructure</li> </ul>	<p>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.</p>	Noted.	Nil	2C