

**DECISION OF 3693rd COUNCIL MEETING
HELD ON 24 JULY 2017**

253. CiS03: Planning Proposal - 617-621 Pacific Highway, St Leonards

Report of Ben Boyd, Executive Strategic Planner

On 23 March 2017, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 617-621 Pacific Highway, St Leonards. In particular, the Planning Proposal seeks to:

increase the maximum building height from 49m to 180m;

- impose a maximum floor space ratio (FSR) of 25.4:1;
- impose a minimum non-residential FSR of 4.7:1; and
- incorporate an additional clause within Schedule 1 – *Additional Permitted Uses* such that “shop top housing” is permissible with consent on the subject site.

The Planning Proposal is supported as it:

- generally complies with the relevant Local Environment Plan making provisions under the Environmental Planning & Assessment Act 1979;
- generally complies with the Department of Planning and Environment’s *A guide to preparing planning proposals* (August 2016);
- on balance, does not contradict the ability to achieve the objectives and actions of high level planning strategies;
- is generally consistent with and promotes the desired future outcomes of the *St Leonards / Crows Nest Planning Study for Precincts 2 & 3*; and
- the scale and bulk of any future development on the site is unlikely to result in any significant adverse impacts on the environment or wider community, or has the ability to be appropriately mitigated as part of the development application process.

As such, the Planning Proposal is considered to be satisfactory and should be forwarded to the DPE for Gateway Determination.

The Planning Proposal was also accompanied by a draft Voluntary Planning Agreement (VPA), with an offer to dedicate to Council two entire floor levels within the podium of a future development on the site for the purposes of an Arts Centre. The offer also included the fitout of the space to a high level. The total value of the proposed offer is in the order of \$16.5 million.

The value of the draft VPA has been independently reviewed by an economic consultant, who has advised that the value of the proposed offer is considered fair and reasonable. The draft VPA has also been reviewed by Council’s lawyers and a number of issues have been identified that require resolution. These issues include certainty of outcome, security of payment and enforcement of the agreement. These issues are of a technical nature only and can be resolved prior to placing the Planning Proposal on public exhibition, should Council resolve that the Planning Proposal proceed to Gateway Determination.

Whilst the intent of the draft VPA is considered to be fair and reasonable, it is recommended that if Council resolves to allow the planning proposal to proceed to Gateway Determination, the Planning Proposal should only be forwarded to the Department of Planning and Environment, once the General Manager is satisfied that the issues with the draft VPA, as identified by Council’s lawyers, have been appropriately resolved.

The Planning Proposal and draft VPA should then be exhibited concurrently, so as to allow the community a full appreciation of what is being proposed. Council will have the opportunity to execute the draft VPA when the post-exhibition report is reported to Council.

Local Government Act 1993: Section 23A Guidelines - Council Decision Making During Merger Proposal Period

The Guidelines have been considered in the preparation of this report and are not applicable.

Recommending:

1. THAT upon satisfactory negotiation of issues with the draft VPA as identified by Council’s lawyers, the General Manager be given the authority to forward the attached Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.

2. THAT the associated draft Voluntary Planning Agreement, as endorsed by the General Manager as outlined in Recommendation No.1, be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.

Councillor Bevan left the meeting at 8.37pm.

Mr Stephen White addressed Council.

The Motion was moved by Councillor Baker and seconded by Councillor Clare.

The Motion was put and carried.

Voting was as follows:

For/Against 7/0

Councillor	Yes	No	Councillor	Yes	No
Gibson	Y		Beregi	Y	
Reymond	DoI		Barbour	Y	
Clare	Y		Morris	Y	
Baker	Y		Marchandean	DoI	
Carr	Y		Bevan	Absent	

RESOLVED:

1. THAT upon satisfactory negotiation of issues with the draft VPA as identified by Council’s lawyers, the General Manager be given the authority to forward the attached Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.

2. THAT the associated draft Voluntary Planning Agreement, as endorsed by the General Manager as outlined in Recommendation No.1, be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.



Report to General Manager

Attachments:

1. Planning Proposal (June 2017)
 2. Planning Proposal - Attachments (June 2017)
 3. Draft Voluntary Planning Agreement (April 2017)
-

SUBJECT: Planning Proposal - 617-621 Pacific Highway, St Leonards

AUTHOR: Ben Boyd, Executive Strategic Planner

ENDORSED BY: Marise van der Walt, Acting Director City Strategy

EXECUTIVE SUMMARY:

On 23 March 2017, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 617-621 Pacific Highway, St Leonards. In particular, the Planning Proposal seeks to:

- increase the maximum building height from 49m to 180m;
- impose a maximum floor space ratio (FSR) of 25.4:1;
- impose a minimum non-residential FSR of 4.7:1; and
- incorporate an additional clause within Schedule 1 – *Additional Permitted Uses* such that “shop top housing” is permissible with consent on the subject site.

The Planning Proposal is supported as it:

- generally complies with the relevant Local Environment Plan making provisions under the Environmental Planning & Assessment Act 1979;
- generally complies with the Department of Planning and Environment’s *A guide to preparing planning proposals* (August 2016);
- on balance, does not contradict the ability to achieve the objectives and actions of high level planning strategies;
- is generally consistent with and promotes the desired future outcomes of the *St Leonards / Crows Nest Planning Study for Precincts 2 & 3*; and
- the scale and bulk of any future development on the site is unlikely to result in any significant adverse impacts on the environment or wider community, or has the ability to be appropriately mitigated as part of the development application process.

As such, the Planning Proposal is considered to be satisfactory and should be forwarded to the DPE for Gateway Determination.

The Planning Proposal was also accompanied by a draft Voluntary Planning Agreement (VPA), with an offer to dedicate to Council two entire floor levels within the podium of a future development on the site for the purposes of an Arts Centre. The offer also included the fitout of the space to a high level. The total value of the proposed offer is in the order of \$16.5 million.

The value of the draft VPA has been independently reviewed by an economic consultant, who has advised that the value of the proposed offer is considered fair and reasonable. The draft VPA has also been reviewed by Council's lawyers and a number of issues have been identified that require resolution. These issues include certainty of outcome, security of payment and enforcement of the agreement. These issues are of a technical nature only and can be resolved prior to placing the Planning Proposal on public exhibition, should Council resolve that the Planning Proposal proceed to Gateway Determination.

Whilst the intent of the draft VPA is considered to be fair and reasonable, it is recommended that if Council resolves to allow the planning proposal to proceed to Gateway Determination, the Planning Proposal should only be forwarded to the Department of Planning and Environment, once the General Manager is satisfied that the issues with the draft VPA, as identified by Council's lawyers, have been appropriately resolved.

The Planning Proposal and draft VPA should then be exhibited concurrently, so as to allow the community a full appreciation of what is being proposed. Council will have the opportunity to execute the draft VPA when the post-exhibition report is reported to Council.

FINANCIAL IMPLICATIONS:

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement that proposes to dedicate two entire floor levels within a future building to be erected on the subject site and to be fitted out for the purposes of a state of the art Arts Centre. The total value of the proposed offer is in the order of \$16.5m.

Local Government Act 1993: Section 23A Guidelines - Council Decision Making During Merger Proposal Period

The Guidelines have been considered in the preparation of this report and are not applicable.

RECOMMENDATION:

- 1. THAT** upon satisfactory negotiation of issues with the draft VPA as identified by Council's lawyers, the General Manager be given the authority to forward the attached Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.
- 2. THAT** the associated draft Voluntary Planning Agreement, as endorsed by the General Manager as outlined in Recommendation No.1, be exhibited concurrently with the subject Planning Proposal conditioned on it receiving a Gateway Determination.

LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

- Direction: 1. Our Living Environment
- Outcome: 1.2 Quality urban green spaces
1.5 Public open space, recreation facilities and services that meet community needs
- Direction: 2. Our Built Environment
- Outcome: 2.1 Infrastructure, assets and facilities that meet community needs
2.2 Improved mix of land use and quality development through design excellence
2.3 Vibrant, connected and well maintained streetscapes and villages that build a sense of community
2.5 Sustainable transport is encouraged
2.6 Improved traffic management
- Direction: 3. Our Economic Vitality
- Outcome: 3.1 Diverse, strong, sustainable and vibrant local economy
- Direction: 4. Our Social Vitality
- Outcome: 4.2 Community is diverse
4.3 Enhanced arts and cultural programs and facilities
4.8 Enhanced community facilities, information and services
- Direction: 5. Our Civic Leadership
- Outcome: 5.1 Council leads the strategic direction of North Sydney
5.3 Council is ethical, open, accountable and transparent in its decision making

BACKGROUND

Development Applications

DA 163/11

On 5 October 2011, development consent was granted by the Joint Regional Planning Panel (JRPP) for the demolition of the existing commercial office building at 617-619 Pacific Highway and the erection of a 16 storey mixed use building containing ground floor retail, 21 serviced apartments at levels 1-3 and 48 residential apartments at levels 4-15 over basement car parking (42 spaces). This development approval has not been acted upon and it subsequently lapsed on 19 October 2016.

DA 136/12

On 7 November 2012, development consent was granted by the JRPP for the demolition of the existing commercial office building at 621 Pacific Highway and the erection of a 17-18 storey mixed use building containing ground floor retail, 23 serviced apartments at levels 1-4 and 72 residential apartments at levels 4-17 over basement car parking (33 spaces). This development approval has yet to be acted upon and is due to lapse on 22 November 2017.

Pre-Lodgement Discussions

On 28 February 2013, the applicant first approached Council with a concept to amalgamate the two sites comprising 617-619 and 621 Pacific Highway and developing a mixed use tower on the site to a similar height as the Forum with the inclusion of some public open space at the ground level. It was generally agreed that such a proposal may have merit in line with strategic planning work being undertaken in the locality and could result in a superior built form and planning outcome to the two development application approvals (DA 163/11 and DA 136/12) that currently exist. Council advised that the proponent prepare a number of design options to put before Council's Design Excellence Panel for consideration.

On 7 May 2013, Council's Design Excellence Panel considered a number of options prepared by the applicant. The Panel generally supported the "boulevard" option which generally involved providing a mixed use development with a commercial podium covering the majority of the site and a slender residential tower above. The proposal also included a double storey high colonnade to Atchison Street, providing a generous public domain to Atchison Street.

Council officer then met with the applicant ten (10) times between June 2013 and July 2016 with regard to the progression of the concept proposal.

On 9 August 2016, Council's Design Excellence Panel considered a revised proposal, in accordance with the adopted *St Leonards Crows Nest Planning Study for Precincts 2 & 3*. In particular, the revised proposal removed the two storey colonnade to Atchison Street, and included a two level community facility to be dedicated to Council. The Panel expressed in principle support for additional height on the site, subject to the proposal demonstrating that any impacts on views from existing residential buildings were within acceptable limits. The Panel also reiterated that a number of other attributes of the design need to be looked at closely, including:

- resolving issues with the complicated basement layout to improve street activation and reduce pedestrian and vehicular conflicts;
- giving further consideration to the comfort of pedestrians walking past and through the site;
- investigating the potential impacts on the adjoining property to the east, with regard to incorporating suitable separation requirements;
- simplifying the façade design;
- revising residential floor layouts to improve internal amenity;
- giving further consideration to incorporating a communal space for residents at the mid-levels;
- incorporating more flexible spaces within the Arts Centre to accommodate a variety of community functions, including the potential to accommodate a double-height space;

- potential overshadowing impacts upon neighbouring buildings, including those in the Lane Cove LGA; and
- providing a full wind study to be provided including fluid dynamic detail.

Council met with the applicant a further four (4) times to refine the proposal in response to issues raised by the Panel.

Planning Proposal

On 23 March 2017, Council received the current Planning Proposal (refer to Attachments 1 and 2). The Planning Proposal envisaged the site being redeveloped to accommodate a 50-storey mixed use building incorporating the following elements:

- a 6-storey podium containing:
 - 1-2 levels of retail floor space;
 - 2 levels of community facilities; and
 - 3 levels of commercial floor space, and
- a 44-storey residential tower above the podium containing:
 - 41 levels of residential apartments;
 - 1 level of communal open space; and
 - 2 levels of plant.

The Planning Proposal was also accompanied by a draft Voluntary Planning Agreement (VPA), with an offer to dedicate to Council two entire floor levels within the podium of a future development on the site for the purposes of an Arts Centre. The offer also included the fitout of the space to a high level. The total value of the proposed offer is in the order of \$16.5 million.

On 3 May 2017, Council wrote to the applicant stating that it had completed a preliminary assessment of the Planning Proposal and that whilst it demonstrated merit by being generally compliant with the desired outcomes of the *St Leonards /Crows Nest Planning Study for Precincts 2 & 3* (Planning Study), the Planning Proposal could benefit from further amendment to provide increased clarity and to better justify the proposed variations to the current planning controls. In particular, the Planning Proposal should be revised to:

- Include a maximum floor space ratio (FSR) for the site in accordance with the Planning Study, which reflects the outcomes sought under the associated concept proposal;
- Revise the maximum height of building control to more accurately reflect the outcomes sought under the associated concept proposal;
- Revise the minimum non-residential FSR to more accurately reflect the outcomes sought under the associated concept proposal;
- To provide a discussion on alternative options to achieving the intended outcome of the Planning Proposal;
- To provide additional discussion with regards to consistency with s.117 Directions, in particular in relation to:
 - Direction 1.1 – Business and Industrial zones;
 - Direction 3.5 – Development near licensed Aerodromes
 - Direction 6.3 – Site Specific Provisions
- To provide additional discussion with regard to the proposal's consistency with applicable State Environmental Planning Policies;

- Include an employment study in order to accurately inform a response to s.117 Direction 1.1 - Business and Industrial zones;
- Address a number of design concerns including:
 - More detailed overshadowing analysis;
 - Consideration of the enclosing of balconies and its implication for the concept proposal's gross floor area calculations;
 - Satisfactory arrangements for the removal of waste;
 - Updating the landscape report to reflect to the current concept proposal's design; and
- Minor amendments to the proposed Arts Centre.

The letter also reserved the right to provide additional comments in relation to the associated draft VPA, once Council had received advice from its lawyers as to the adequacy of Agreement.

On 8 June 2017, Council received a revised Planning Proposal (refer to Attachments 1 & 2) that generally addressed the concerns raised in Council's letter of 3 May 2017.

CONSULTATION REQUIREMENTS

Should Council determine that the Planning Proposal can proceed, community engagement will be undertaken in accordance with Council's Community Engagement Protocol and the requirements of any Gateway Determination issued in relation to the Planning Proposal.

SUSTAINABILITY STATEMENT

The following table provides a summary of the key sustainability implications:

QBL Pillar	Implications
Environment	<ul style="list-style-type: none"> • If implemented, the concept proposal has the ability to increase traffic congestion through the provision of increased on-site car parking. • If the VPA is implemented, there is likely to be an increase in Council's energy and water consumption and waste generation through its operation and management of the proposed community facility.
Social	<ul style="list-style-type: none"> • If implemented, the proposal has the potential to improve the vitality of the locality through improved activation of the public domain interface and through increase pedestrian footpath widths. • If implemented, the proposal will be able to maximise the use of nearby mass public transport infrastructure. • If implemented, the proposal will place additional demands for the provision of public open space. • If implemented, the proposal will result in the gifting to Council of a fitted out community facility.
Economic	<ul style="list-style-type: none"> • The applicant has offered to enter into a VPA with the dedication to Council of a fitted out community facility which will have long term maintenance implications.
Governance	<ul style="list-style-type: none"> • If implemented, the proposal has the potential to implement the desired future outcomes of the <i>St Leonards Crows Nest Planning Study for Precincts 2 & 3</i>.

DETAIL

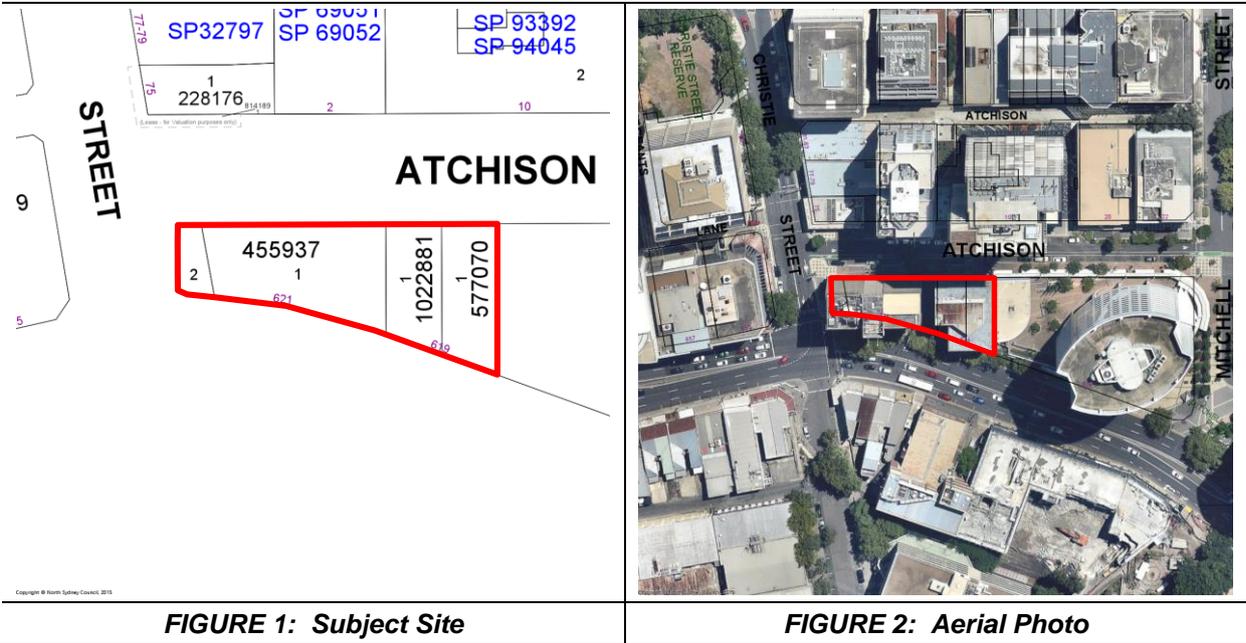
1. Applicant

The applicant for the proposal is Anson City Developments 1 Pty Ltd, who are also the owners of 617-621 Pacific Highway, St Leonards as referred to in Section 2 of this report.

2. Site Description

The subject site comprises 4 allotments, legally described as follows:

- Lot 1, DP 577070 617-619 Pacific Highway, St Leonards
- Lot 1, DP 1022881 617-619 Pacific Highway, St Leonards
- Lot 1 & 2, DP 455937 621 Pacific Highway, St Leonards



The site is bound by the Pacific Highway to the south, Christie Street to the west, Atchison Street to the north and 601 Pacific Highway (commonly referred to as the IBM site) to the east. The site is 1,067sqm and forms a basic irregular rectangle, with a length of approximately 60m and a width that tapers down from its eastern boundary at approximately 27m to approximately 12m at its western boundary. A fall of approximately 4m occurs across the site from east to west. A slight cross fall of 1m occurs across the eastern most portion of the site.

The property comprising 617-619 Pacific Highway contains a 7-storey commercial building over a single level of basement car parking. The ground floor level the building is principally used for retail purposes with offices located on all levels above. The building, which was constructed in the 1970s is built to all boundaries with the exception of Pacific Highway, from which it has been set back. The main pedestrian entry to the building is located from the Pacific Highway with vehicle access located off Atchison Street. A billboard displaying general advertising is located on the topmost part of the eastern façade and is orientated to traffic travelling in a western direction along the Pacific Highway.

The property comprising 621 Pacific Highway contains a 10-storey commercial building over two levels of basement car parking, of which the topmost basement level is fully exposed to the Pacific Highway, Christie Street and Atchison Street at its western end. The ground floor level the building is used for a mix of retail and office purposes, with offices located on all levels above. The building, which was constructed in the 1970s is built to all boundaries with the exception of the Pacific Highway, to which it has been set back. The main pedestrian entry to the building is located off a through site link along its eastern boundary with 2 vehicle access points located off Atchison Street. A rooftop building identification sign is located on the topmost part of the eastern façade and is orientated to traffic travelling in a western direction along the Pacific Highway.

The buildings have a combined nett leasable area of approximately 5,356sqm¹ and a combined gross floor area of approximately 5,815sqm² and parking for 33 vehicles.

3. Local Context

The subject site is located in the heart of the St Leonards Town Centre which is a major commercial centre in the Sydney Metropolitan area and is identified as a “Strategic Centre” under the relevant Regional Plan and draft District Plan. The area is currently undergoing a significant transformation from typically 1-10 storey commercial/industrial buildings constructed between the 1940s and 1970s with contemporary mixed use buildings up to 40 storeys in height, with generally 2 to 3 levels of commercial floor space at the lower levels of the building and residential apartments above.

St Leonards Railway Station is located approximately 100m to the west, which provides regular services to the south to the North Sydney and Sydney City CBDs, and to the north to Chatswood, Macquarie Park and Hornsby. Royal North Shore Hospital is located approximately 400m to the west providing regional health service facilities.

To the north of the subject site, on the opposite side of Atchison Street is a two storey pub, a 17-storey mixed use development (Linea - 2 Atchison street) and a 28-storey mixed use development (Air - 10 Atchison Street). Further to the north lie a mixture of 3 to 12-storey commercial buildings and single storey federation bungalows, which are located within a heritage conservation area.

Directly to the east lies 601 Pacific Highway, also known as the IBM site. It contains a 17-storey commercial tower positioned approximately 25m to the east of the boundary of the subject site. Further to the east are a mixture of aging low scale commercial/industrial buildings, which are being replaced by recently constructed mixed residential and commercial buildings ranging from 6 to 29 storeys in height, with building heights generally decreasing the further east one travels.

To the south of the subject site, on the opposite side of the Pacific Highway and within the Lane Cove LGA, are a line of ageing 2 storey strip shops fronting the Pacific Highway, a 1970s constructed telephone exchange and part of the future St Leonards Square development which is currently under construction. Further to the south are a mixture of 2-4 storey commercial buildings, some of which are subject to future redevelopment for mixed residential and commercial development up to 50 storeys in height.

1 Derived from City Scope and Planning Proposal

2 Derived from DA 163/11 & DA 136/12

Directly to the west of the site, on the opposite side of Christie Street, is 655 Pacific Highway, which contains a 7 storey commercial building constructed circa 1980. Further to the west is the Forum, a mixed use development located over the top of St Leonards Railway Station. The Forum, comprises a complex to three buildings (a 12 storey commercial building to the Pacific Highway and two mixed residential and retail towers of 30 (western) and 38 (eastern) storeys in height encircling a publically accessible plaza over the Railway Station. Further to the west again are a number of 7-12 storey commercial buildings fronting the Pacific Highway and the grounds of Royal North Shore Hospital. The Hospital grounds contain a mixture of wide open landscaped areas and medical buildings ranging in height from 2 to 11 storeys. A helipad is located on the Hospital grounds, atop of the main building approximately 340 metres from the subject site.

4. Current Planning Provisions

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

4.1. NSLEP 2013

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

- Zoned *B3 Commercial Core* (refer to FIGURE 3); and
- A maximum building height of 49m (refer to FIGURE 4).

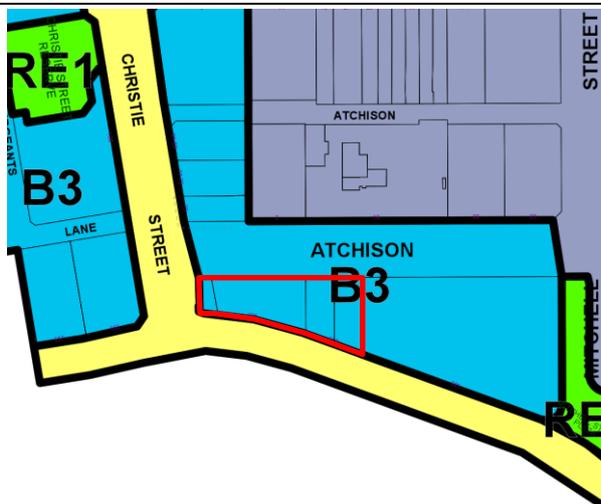


FIGURE 3: NSLEP 2013 Zoning Map extract
The subject site is zoned B3 Commercial Core

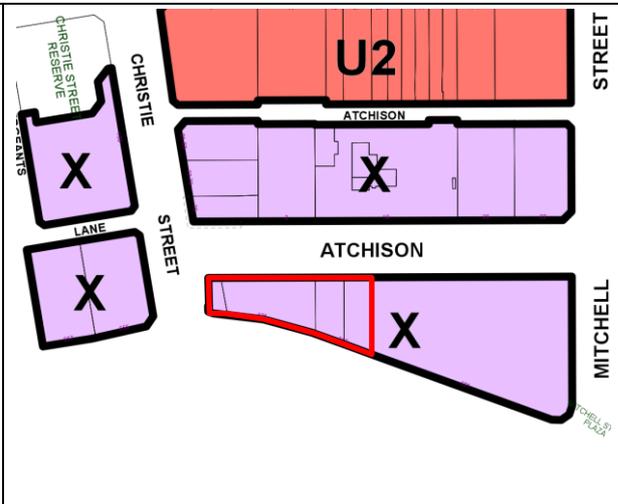


FIGURE 4: NSLEP 2013 Height of Buildings Map extract
The subject site is limited to a max height of 49m

5. Proposed LEP Amendment

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

The primary objective of the proposed rezoning is to amend the North Sydney Local Environmental Plan 2013 (NSLEP 2013) to provide for:

- *Taller building forms on the subject site; and*
- *Shop top housing as a permitted use on the subject.*

The proposed concept proposal has been developed to realise a high quality mixed use redevelopment of the site that will make a meaningful contribution to the growth and enhanced physical quality of St Leonards.

The proposed built form response seeks to promote taller building forms commiserate with the identified development trends in St Leonards whilst respecting the Sydney Airport height limitations to support the growth of the St Leonards Specialised Centre. The concept will also leverage off significant investment in the current and future transport infrastructure accessible to the site, providing increased residential and employment opportunities in well serviced locations.

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

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

It principally seeks to achieve these goals by amending NSLEP 2013 as follows:

- increase the maximum building height from 49m to 180m (approximately a 360% increase);
- impose a maximum FSR of 25.4:1
- impose a minimum non-residential FSR of 4.7:1; and
- incorporate an additional clause within Schedule 1 – Additional Permitted Uses such that “shop top housing” is permissible with consent on the subject site.

5.1. Mapping Amendments

The proposal requires a number of mapping amendments which are described in further detail in the following subsections.

5.1.1. Height of Buildings Map

It is proposed to amend the Height of Buildings Map (ref: 5950_COM_HOB_001_010_20170306) to NSLEP 2013 such that the maximum building height to 617-621 Pacific Highway is increased from 49m to 175m. The applicant's Planning Proposal anticipates that the Map would be amended similar to that depicted in FIGURE 5.

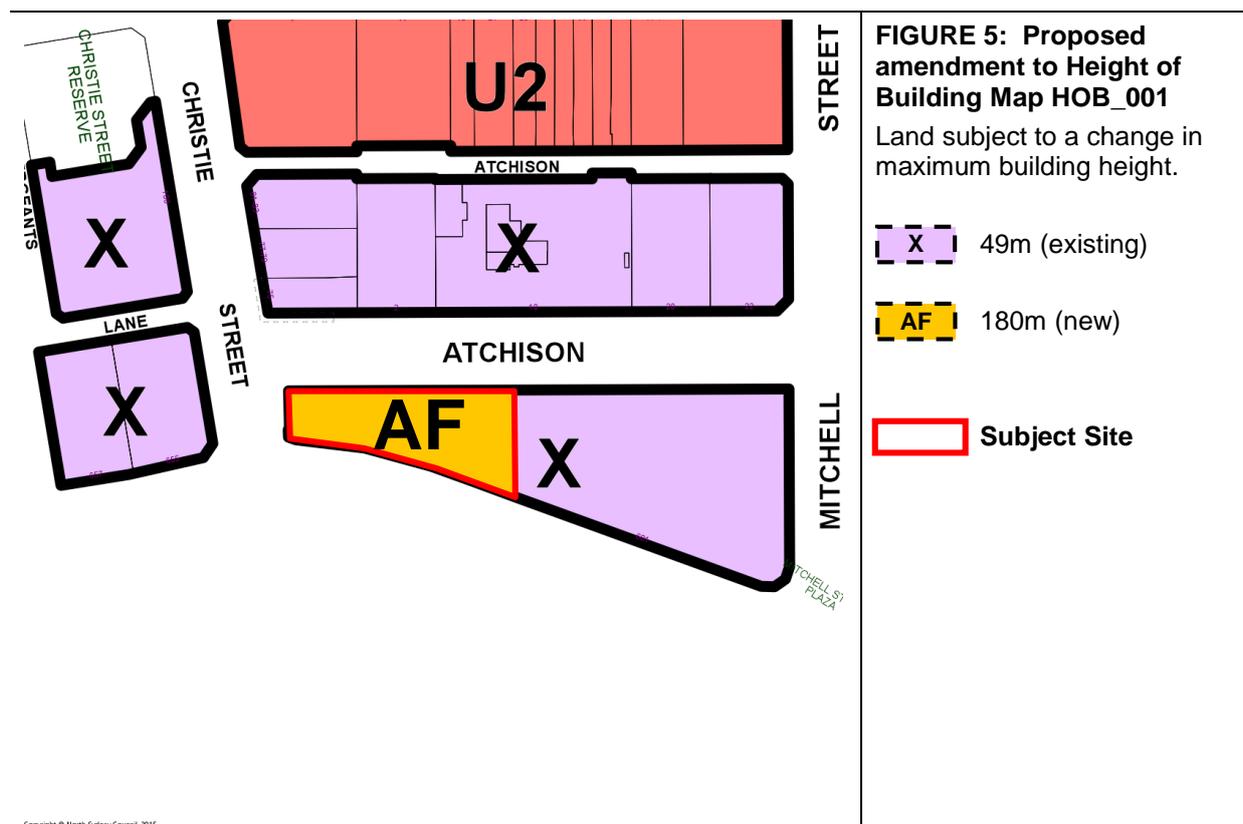
5.1.2. Floor Space Ratio Map

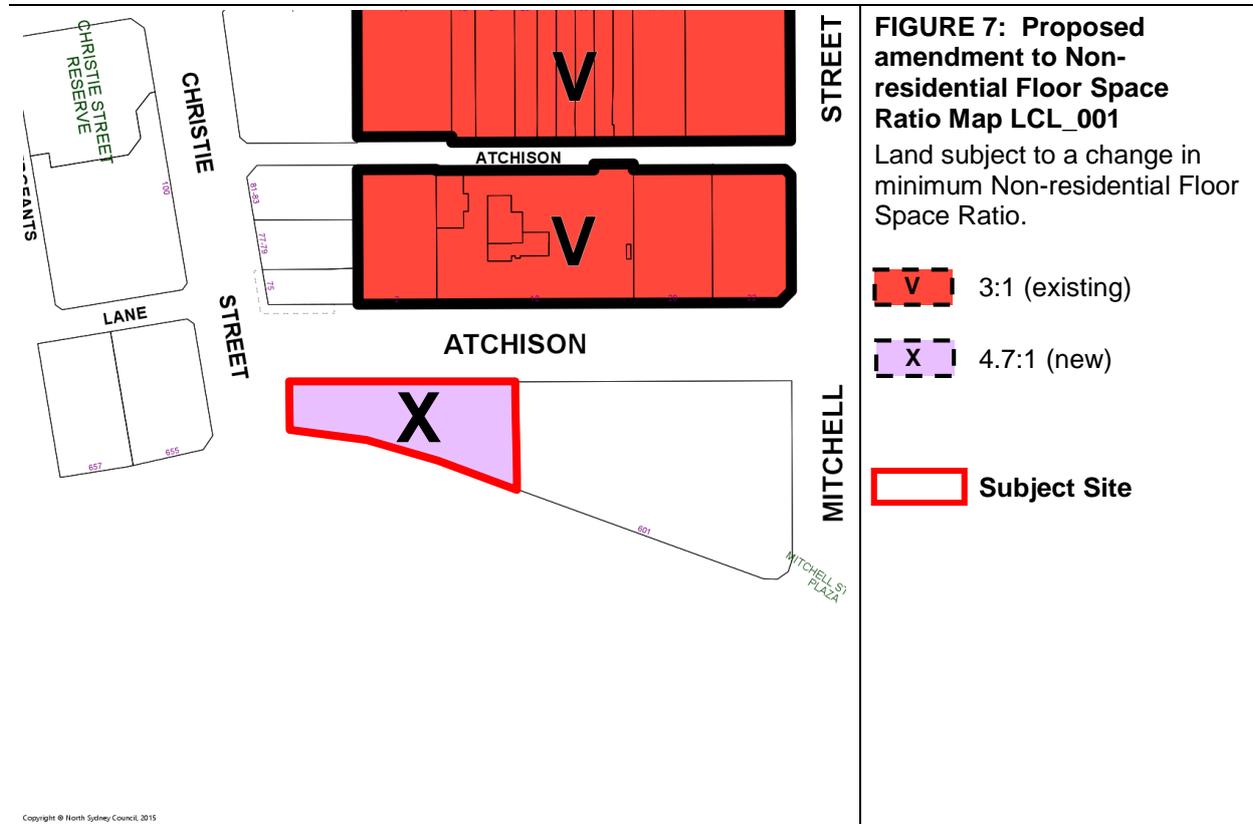
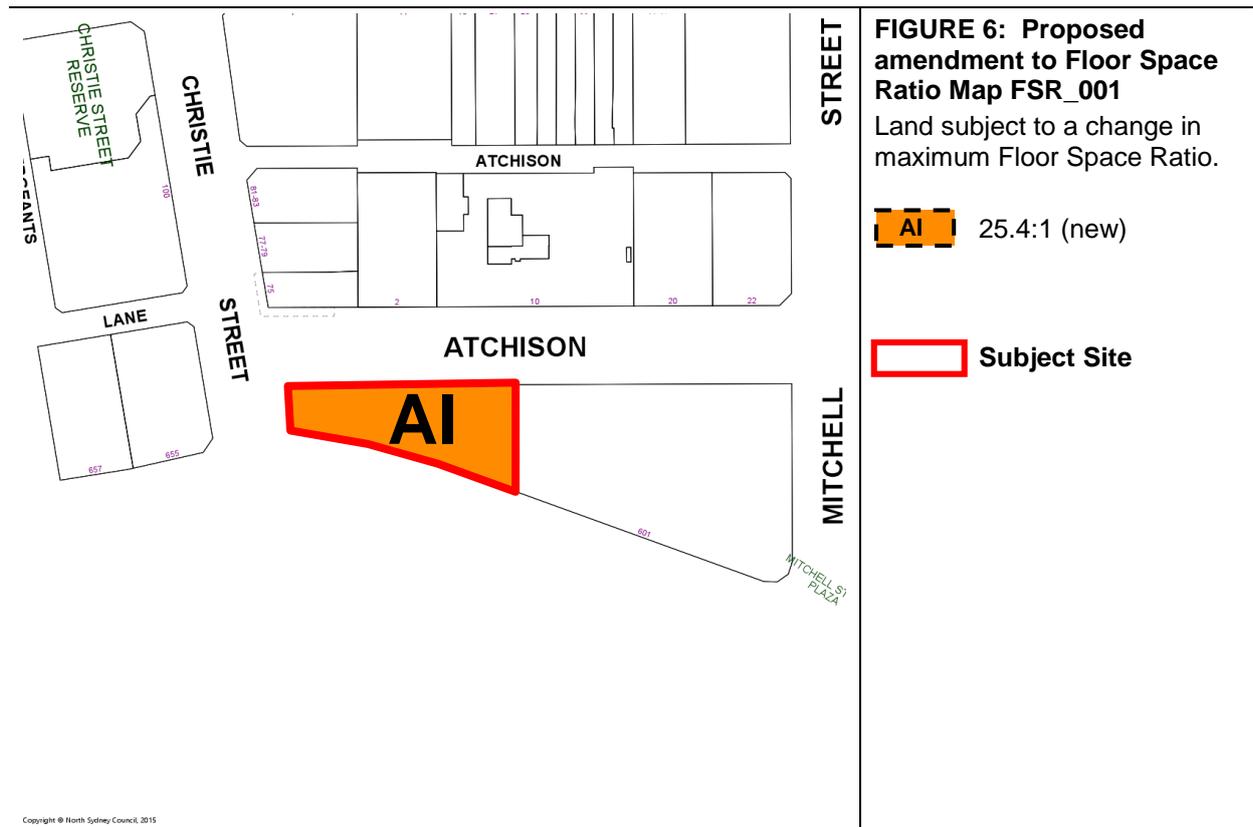
It is proposed to amend the Floor Space Ratio Map (ref: 5950_COM_FSR_001_010_20161025) to NSLEP 2013 such that a maximum FSR of 25.4:1 applies to 617-621 Pacific Highway. The applicant's Planning Proposal anticipates that the Map would be amended similar to that depicted in FIGURE 6.

5.1.3. Non-residential Floor Space Ratio Map

It is proposed to amend the Non-residential Floor Space Ratio Map (ref: 5950_COM_LCL_001_010_20161026) to NSLEP 2013 such that a maximum non-residential FSR of 4.3:1 applies to 617-621 Pacific Highway.

The applicant's Planning Proposal anticipates that the Map would be amended similar to that depicted in FIGURE 7.





5.2. Additional Permitted Uses Clause

In order to permit residential development on the subject site, it is proposed to include a new clause within Schedule 1 – *Additional Permitted Uses* to NSLEP 2013 as follows:

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

6. Draft Voluntary Planning Agreement (VPA)

The Planning Proposal is accompanied by a draft VPA (refer to Attachment 3) which offers to dedicate to Council two entire levels within the podium of a future development on the site for the purposes of an Arts Centre. The offer also includes the fitout of the space to a high level as detailed in the Arts Centre Design Brief prepared by Kannfinch and dated 17 May 2017. The total value of the proposed offer is in the order of \$16.5 million.

Council had the value of the draft VPA reviewed by an independent economic consultant, to determine if was acceptable in terms of best practice and Council's own VPA policy. The consultant advised that the value of the proposed offer was consistent with that suggested by the applicant. However, they also advised that the value of the offer was marginally less (at approximately 40%) than the 50% of the overall uplift that Council typically seeks. Despite the offer being marginally less than that which is normally pursued, it is highly likely that the Council would be unable to secure an appropriate and equivalent built space for this type of facility within the current market and have it appropriately fitted out, if it had been given a monetary contribution for the full 50% of the uplift. Therefore, the value of the current offer is considered appropriate in the circumstances.

The draft VPA has also been reviewed by Council's lawyers and a number of issues have been identified that require resolution. These issues primarily relate to certainty of outcome, security of payment, delivery and enforcement of the Agreement. These issues are of a technical nature only and are not insurmountable and therefore should not be solely used to prevent the Planning Proposal from progressing.

To allow the community a full appreciation of what is being proposed, the draft VPA is to be exhibited concurrently with the Planning Proposal. It is considered that the issues can easily be resolved prior to placing the Planning Proposal on public exhibition, should it be resolved to proceed to Gateway Determination.

On this basis, it is recommended that if Council resolves to allow the Planning Proposal to proceed to Gateway Determination, the Planning Proposal should only be forwarded to the Department of Planning and Environment, once the General Manager is satisfied that the issues with the draft VPA, as identified by Council's lawyers, have been appropriately resolved.

7. Planning Proposal Structure

The Planning Proposal (refer to Attachment 1) is considered to be generally in accordance with the requirements under Section 55(2) of the Environmental Planning and Assessment (EP&A) Act 1979 and the DPE's 'A guide to preparing planning proposals' (August 2016). In particular, the Planning Proposal adequately sets out the following:

- A statement of the objectives or intended outcomes of the proposed local environmental plan;
- An explanation of the provisions that are to be included in the proposed local environmental plan;
- Justification for those objectives, outcomes and provisions and the process for their implementation; and
- Details of the community consultation that is to be undertaken on the Planning Proposal.

8. Justification of the Planning Proposal

8.1. Objectives of the Planning Proposal

Part 7 to the Planning Proposal sets out the objectives and intended outcomes of the Planning Proposal. Part 8 provides an explanation of the proposed amendments to NSLEP 2013 to achieve the objectives and outcomes within Part 7.

On balance, the proposed amendments to NSLEP 2013 generally achieve the objectives and intended outcomes of the Planning Proposal as outlined in TABLE 1.

TABLE 1: Analysis of objectives and intended outcomes	
Objectives and Intended Outcomes	Comment
<i>Providing compatible land uses that will contribute to the creation of a vibrant and active community including residential and commercial activity and community facilities.</i>	<input checked="" type="checkbox"/> The mix of proposed uses will greatly add vitality to the area and are generally consistent with that envisaged under the <i>St Leonards Crows Nest Planning Study for Precincts 2 & 3</i> . <i>Refer to sections 7.8.1.1, 8.8.2, 8.8.3 and 8.8.8 to this report.</i>
<i>Integrating the site with the broader area through improvements to adjoining public domain spaces</i>	<input checked="" type="checkbox"/> The concept proposal illustrates that street activation will be increased, through the creation of more active frontages at street level. <input checked="" type="checkbox"/> The proposal seeks to increase the footpath widths to the Pacific Highway and Christie Street, through increased setbacks at the ground and first floor levels, greatly increasing pedestrian amenity. <i>Refer to sections 8.8.8 to this report.</i>
<i>Realising the current development density on the site through the introduction of residential accommodation without impacting on the potential achievement of overall employment targets for the site and wider precinct.</i>	<input checked="" type="checkbox"/> Whilst the proposal will technically result in a physical loss of non-residential floor space, the proposal will not necessarily result in a loss of employment. The retention of a minimum non-residential FSR and increase in employment densities in modern buildings is likely to result in a net increase in jobs being provided on the site which is consistent with the desired future outcome of the <i>St Leonards Crows Nest Planning Study for Precincts 2 & 3</i> <i>Refer to sections 8.8.1.1, 8.8.2, 8.8.3 and 8.8.8 to this report.</i>
<i>Encouraging and supporting development activity in St Leonards, supporting the diverse mixed use nature of the precinct and contributing to a rejuvenation of St Leonards.</i>	<input checked="" type="checkbox"/> The mix of proposed uses will greatly add vitality to the area and are generally consistent with that envisaged under the <i>St Leonards Crows Nest Planning Study for Precincts 2 & 3</i> . <i>Refer to sections 8.8.8 to this report.</i>

TABLE 1: Analysis of objectives and intended outcomes	
Objectives and Intended Outcomes	Comment
Leverages the site’s strategic location proximate to rail and bus networks and TOD principles by providing high levels of accessibility for residents and workers to the broader metropolitan area	<input checked="" type="checkbox"/> The site’s location in close proximity to mass public transport and position within the St Leonards Centre makes the site suitable for an increase in density and intensity. Refer to sections 7.8.8 and 7.8.9 to this report.
Realises the redevelopment of the land in a manner consistent with the building height and FSR parameters envisaged by the St Leonards/ Crows Nest Planning Study (Precincts 2 and 3).	<input checked="" type="checkbox"/> The concept proposal as realised under the planning proposal reflect the desired outcomes of the St Leonards Crows Nest Planning Study for Precincts 2 & 3. Refer to sections 8.2, 8.4, and 8.8.8 to this report

8.2. Building Height

The proposed amendments to the maximum building height generally comply with the criteria for a Tall Building Site as identified under the *St Leonards Crows Nest Planning Study for Precincts 2 & 3*. Compliance with these criteria is further discussed at section 8.8.8 to this report.

The concept proposal has a maximum height of 179.28m and therefore would comply with the future control. It is not appropriate to apply a height limit of 179.28m, as this provides no flexibility, should some level of variation be required to accommodate a future development generally consistent with the concept proposal.

The proposed height limit generally appears to correspond with reasonable floor to floor height assumptions made by the applicant and reflected in its concept proposal. Therefore, the proposed height limit is satisfactory in this regard.

Allowing an increase to the height limit will ultimately result in additional overshadowing and view impacts.

The proponent has made some effort to document expected overshadowing impact, view sharing impacts and posing alternative massing approaches, as detailed within the attached Planning Proposal and *Concept Design Report* documents. Of note is the impact the proposal will have on the views currently enjoyed from some surrounding buildings and the impact on solar access to buildings located to the south of the site. These impacts are considered to be somewhat mitigated as a result of the slenderness of the proposed tower form and its separation from other towers.

In terms of overshadowing impacts, the slenderness of the tower ensures that any shadows cast are narrow and fast moving, minimising the impact to nearby properties. Existing tall towers to the south in the Lane Cove LGA already heavily impact on solar access to properties located to the south and any proposed additional shadows will not result in properties being continuously in shadow during the winter solstice.

In terms of view impacts, the biggest impact will be to some district views to the western portions of Sydney Harbour from the Air building at 6-16 Atchison Street. However, these views are already largely compromised by tall developments occurring within the Lane Cove LGA (e.g. 88 Christie Street and 520 Pacific Highway). However, the concept proposal is unlikely to completely obstruct these views. It is also recognised that given the Department of Planning and Environment's Priority Precinct process, St Leonards and Crows Nest are very likely to experience significant change in future which will result in new tall buildings being approved on a broader basis throughout the precinct. Given the strategic significance of the precinct and the metro infrastructure that is currently proposed, some level of local impact will be experienced as a result of the consequential precinct wide growth.

Therefore, the proposed height limit is considered acceptable with regard to the associated impacts on solar access and views.

8.3. Proposed floor space ratio requirements

No specific maximum FSR currently applies to the site under NSLEP 2013. The Planning Proposal seeks to apply a maximum FSR of 25.4:1.

The concept proposal has a gross floor area of 27,140sqm which results in an FSR of 25.44:1, which does not technically comply with the proposed requirement. The extent of non-compliance is very minor and only represents the concept proposal exceeding the proposed requirement by 38sqm.

Increasing the proposed maximum FSR control to say 25.5:1 could remove the non-compliance, but it would also permit an additional 68sqm to be accommodated on the site. However, it is anticipated that once detailed plans are prepared to accompany a development application, there is the potential for the development to strictly comply with the proposed control.

In this regard it is not proposed to amend the maximum FSR control of 25.4:1.

8.4. Non-residential floor space ratio

No specific minimum non-residential FSR currently applies to the site under NSLEP 2013, due to the subject site currently being zoned *B3 Commercial Core*. The Planning Proposal seeks to apply a maximum non-residential FSR of 4.7:1 to the subject site (i.e. 5,014.9sqm of gross floor area).

The concept proposal provides 5,280sqm of non-residential floor space over the site, resulting in a non-residential FSR of 4.95:1, which easily complies with the proposed requirement.

The existing buildings on the subject site currently have a gross floor area of approximately 5,815sqm³, which results in non-residential FSR of 5.45:1, which represents a net decrease in non-residential floor space.

Despite a net reduction in the quantum of non-residential floor space, the ability to provide more efficient non-residential floorplates, and a general reduction in floor space requirements for employees (e.g. traditionally allocating 20sqm/employee and currently allocating approximately 15sqm/employee), there would be a net increase in jobs being provided on site

³ Derived from the approvals to DA1077/82 & DA140/04.

(e.g. traditionally accommodating 290 employees in the existing buildings compared to 352 employees under the concept proposal if fully occupied), which is consistent with the desired outcomes under the *St Leonards Crows Nest Planning Study for Precincts 2 & 3*.

The proponent has also indicated that the current DA approvals for the site, if constructed would only result in the provision of 40 full time jobs on site. Therefore, the proposed non-residential FSR requirement will result in providing significantly more jobs in comparison to the existing DA approvals.

It should also be recognised that as discussed in 8.8.8 (Public Benefit), the proposed Arts Centre will also add a level of activity and vibrancy to St Leonards that is currently somewhat missing from the centre.

8.5. Alternative Options

The DPE's *A guide for preparing planning proposals* (August 2016) require planning proposals to consider if there are alternative options to achieving the intent of the proposal.

The Planning Proposal acknowledges there are no alternatives to establishing new building heights, FSR and non-residential FSR. However, it does acknowledge that residential accommodation could be provided on the site through a variety of means including:

- Incorporation of a new clause within Schedule 1 to permit *shop-top housing* with consent (proposed);
- Rezone the land to *B4 Mixed Use*, within which shop-top housing is permissible with consent; and
- Include shop-top housing as a permissible use in the *B3 Commercial Core* zone.

The proposed means of incorporating a new clause within Schedule 1 to permit *shop-top housing* is supported as the most appropriate means of enabling residential accommodation on the site for the following reasons:

- Rezoning the land to *B4 Mixed Use* has the potential to undermine the importance of providing employment generating activities on the subject site, which is located within the core of the St Leonards town centre;
- Incorporating shop-top housing as a permissible use in the *B3 Commercial Core* zone would have wider implications for the LGA, well beyond that of the subject site and would have the potential to undermine Council's ability to meet State set employment targets.

8.6. Wind Impacts

During its consideration of a preliminary concept proposal for the subject site, Council's Design Excellence Panel suggested that the proponent consider the potential wind impacts that the proposed building would have on the surrounding environment.

The Planning Proposal is accompanied by a *Pedestrian Wind Environment Study* prepared by Windtech. The Study concludes that a number of mitigation measures will be required to be implemented to achieve the desired wind conditions for certain outdoor trafficable locations.

The identified measures have no implications for the outcomes of the Planning Proposal and should be incorporated into the design of any future DA made for the site.

8.7. Transport Implications

The Planning Proposal states that whilst the concept proposal will result in a net increase in traffic movements (i.e. due to an increase in the provision of on-site parking spaces from 33 to 80), the level of impact is likely to be negligible and unlikely to adversely affect existing intersection performance.

The Planning Proposal was referred to Council's Strategic Transport Planner for comment. Their comments are provided in the following subsections.

8.7.1. Green Travel Plan

The Planning Proposal is accompanied by a draft Green Travel Plan consistent with the requirements of the *St Leonards Crows Nest Planning Study for Precincts 2 & 3*. However, the Draft Plan does not provide a sufficient level of detail to provide a considered assessment. In particular, it does not set a target for each of the draft Plan's objectives. Targets should be specific, measurable, achievable, relevant and site specific and linked back to specific scalable actions to enable its delivery.

Whilst the overall intent of the draft Plan is generally supported, it would benefit from further amendment to address the issues raised above and accompany any future development application for the site once NSLEP 2013 is amended.

8.7.2. Walking

Main commercial and residential entrances and back-of house facilities facing Atchison Street and Sergeants Lane is consistent with Council's preferred orientation for the proposal. The proposal also provides secondary entrances to the proposed retail spaces fronting the Pacific Highway, to ensure that all street frontages are adequately activated.

The proposed increased setback at the ground floor level to Christie Street and the Pacific Highway will enable the provision of widened pedestrian footpaths to be provided adjacent to the site, thereby improving pedestrian amenity through increased capacity, especially along the Pacific Highway frontage, where a large number of train patrons would traverse past the site.

The applicant should also consider how walking infrastructure could be improved along Atchison Street the principle entries to the proposed concept building. For instance, consideration should be given to a threshold treatment at the commencement of Atchison Street, or a shared space treatment at the intersection of Atchison Street, Christie Street and Sergeants Lane, to improve safety for pedestrians travelling between St Leonards Railway Station and properties to the east of the site.

8.7.3. Cycling

The concept proposal demonstrates that an appropriate number of cycling facilities can be incorporated into the design and suitably distributed across the site. However, future consideration should be given to end of trip facilities for the commercial component of the site.

Such facilities will be a requirement as part of any future DA. In addition, the proposed location of the visitor and commercial spaces along Atchison Street require further consideration to ensure that they achieve appropriate clearance from pedestrian and vehicular access points to the building and minimise impacts on the public domain.

Additional cycling facilities, above and beyond those required by the DCP have been included in the draft Travel Plan for the site and are generally considered acceptable.

8.7.4. Public Transport

The subject site has good access to the existing St Leonards train station and buses and future Crow's Nest Metro station services.

8.7.5. Parking & Traffic

The quantum of car parking proposed under the concept proposal is generally consistent with the maximum parking requirements under NSDCP 2002, including the proposed reduction associated with the provision of "car share" spaces. Furthermore, the proposal is supplemented with other initiatives to reduce reliance on private transportation including the adoption of a draft green travel plan.

Whilst the Traffic Impact Assessment prepared by ARUP suggests that the concept proposal is likely to result in a minor increase in traffic generation over that which currently exists, it has not been clearly demonstrated (e.g. provision of a comparison table). The site currently provides a total of 33 car spaces, there is currently approval for 75 car spaces (via DA 163/11 and 136/12) and it is proposed to increase this number to 80 under the concept proposal. This would indicate that there is likely to be an increase in vehicular trips from the site, the extent of which has not been properly assessed. It is recommended that prior to the lodgement of a development application, that further investigations are undertaken with the view to further reducing the level of car parking being provided on site, to minimise any adverse impact on the capacity of the surrounding road system, and taking full advantage of the site's proximity to two major rail stations (St Leonards and the future station at Crows Nest).

It is very likely that given future likely development growth in the precinct, there will be an increasing focus on non-private car travel within St Leonards.

8.7.6. Loading Facilities

The indicative location of the loading bay from Atchison Street is generally supported and is likely to result in the least number of conflicts with pedestrian movements. The compromised shape of the subject site will require the use of a turntable, which will enable all vehicles to enter and leave the site in a forward direction, managing potential movement conflicts.

8.8. Policy and Strategic Context

8.8.1. Section 117 Directions

Section 117 of the EP&A Act enables the Minister for Planning to issue directions regarding the content of Planning Proposals. There are a number of s.117 Directions that require certain matters to be addressed if they are affected by a Planning Proposal. Each Planning Proposal must identify which s.117 Directions are relevant to the proposal and demonstrate how they are consistent with that Direction.

The Planning Proposal is considered to be generally consistent with all relevant s.117 Directions, with the exception of Direction 1.1 – Business and Industrial Zones and Direction 3.5 – Development near Licensed Aerodromes as discussed in the following subsections. However, the inconsistencies are adequately justified as explained in the following subsections.

8.8.1.1. Direction 1.1 – Business and Industrial Zones

Direction 1.1 – *Business and Industrial Zones* applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone. The specific objectives of the Direction are to:

- (a) *encourage employment growth in suitable locations,*
- (b) *protect employment land in business and industrial zones, and*
- (c) *support the viability of identified strategic centres.*

Subclause (4) to the Direction states:

A planning proposal must:

- (a) *give effect to the objectives of this direction,*
- (b) *retain the areas and locations of existing business and industrial zones,*
- (c) *not reduce the total potential floor space area for employment uses and related public services in business zones,*
- (d) *not reduce the total potential floor space area for industrial uses in industrial zones, and*
- (e) *ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.*

The Planning Proposal is inconsistent with subclause (4)(c) as it will reduce the level of floor space capable of being achieved for commercial purposes. In particular, the proposal seeks to permit “shop top housing” on the subject site as an additional permitted use and the imposition of a minimum non-residential FSR of 4.7:1.

However, subclause 5 to the Direction states:

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- (a) *justified by a strategy which:*
 - (i) *gives consideration to the objective of this direction, and*

- (ii) *identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
- (iii) *is approved by the Director-General of the Department of Planning, or*
- (b) *justified by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction, or*
- (c) *in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) *of minor significance.*

Accordingly, there are a number of options by which a Planning Proposal may justify an inconsistency with the requirements of the Direction.

The Planning Proposal is supported by an *Employment Assessment*, prepared by Urbis. In summary the assessment concludes:

- *The scale and provision of commercial floorspace is better suited to the current and future market and the role of St Leonards as a specialised health based centre as it will attract small -medium businesses in health-related industry.*
- *Total overall employment will be 512 jobs, comprising 292 construction generates jobs and 252 ongoing jobs.*
- *This constitutes a significant growth of employment from the current DA approval (residential and serviced apartments) with an estimated 35 ongoing jobs onsite compared with the proposal incorporating retail, art centre and commercial office space that will generate 252 ongoing jobs.*
- *In addition to the employment benefits, the retail space will have the potential to improve turnover performance of existing retail precincts near the site.*

In summary, the proposal will preserve the economic function of the site, consistent with the core purpose of the St Leonards Strategic Centre and facilitate higher future employment densities and office spaces that will attract health-related business which will strengthen the specialised status of the centre.

The Employment Assessment adequately demonstrates that the Planning Proposal will not adversely impact on the attainment of the objectives to the Direction. Therefore, the inconsistency with this direction is considered acceptable in this instance.

8.8.1.2. Direction 3.5 – Development near Licensed Aerodromes

Direction 3.5 – *Development near Licensed Aerodromes* applies when a relevant planning authority prepares a planning proposal that that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. In particular, subclause (4) to this Direction states:

In the preparation of a planning proposal that sets controls for the development of land in the vicinity of a licensed aerodrome, the relevant planning authority must:

- (a) *consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome,*
- (b) *take into consideration the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth,*
- (c) *for land affected by the OLS:*

- (i) *prepare appropriate development standards, such as height, and*
- (ii) *allow as permissible with consent development types that are compatible with the operation of an aerodrome*
- (d) *obtain permission from that Department of the Commonwealth, or their delegate, where a planning proposal proposes to allow, as permissible with consent, development that encroaches above the OLS. This permission must be obtained prior to undertaking community consultation in satisfaction of section 57 of the Act.*

Despite not being located in close proximity to Sydney Airport, the subject site is affected by an Obstacle Limitation Surface (OLS) of 156m AHD and is located in close proximity to a helipad at Royal North Shore Hospital (RNSH).

The Planning Proposal seeks to introduce a new maximum building height of 180m on the site, which equates to an RL of 263m AHD. This proposed height control exceeds the OLS by approximately 107m. It is also considered that any activities associated with the construction of the concept proposal would further encroach (by approximately 50m) above the OLS on a temporary basis. Therefore, this direction applies.

The Planning Proposal has not been referred to the Commonwealth Department of Infrastructure and Regional Development (DIRD), nor the Sydney Airport Corporation for their comment and permission and therefore is not in accordance with subclauses (4)(a) and (d) of the Direction. However, should the Planning Proposal progress, there is still an opportunity to obtain the relevant approvals prior to placing the Planning Proposal on public exhibition, consistent with the Direction.

Furthermore, subclause 7 to the Direction states:

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- (a) *justified by a strategy which:*
 - (i) *gives consideration to the objectives of this direction, and*
 - (ii) *identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) *is approved by the Director-General of the Department of Planning, or*
- (b) *justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or*
- (c) *in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) *of minor significance.*

The Planning Proposal is accompanied by an *Aeronautical Impact Assessment* prepared by AvLaw, which addresses the intent of the s.117 Direction. The assessment concluded:

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

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

Based on the assessment provided, it is considered that the inconsistency with the Direction is acceptable in the circumstances. However, should the Director-General of the DPE not be satisfied, the Planning Proposal can still be progressed with the relevant permissions obtained as a requirement of any future Gateway Determination.

8.8.2. A Plan for Growing Sydney

In December 2014, the State Government released *A Plan for Growing Sydney* (Regional Plan) covering the North Sydney LGA. The Plan replaced the former *Metropolitan Plan for Sydney 2036* and *Draft Metropolitan Strategy for Sydney to 2031*.

The Regional Plan seeks to provide an additional 664,000 homes and 689,000 new jobs by 2031. No targets are set for any of the subregions (now known as Districts), of which the North Sydney LGA is part of the Inner North subregion. Draft District plans, consistent with the Regional Plan have recently been placed on public exhibition. St Leonards is identified as a *Strategic Centre* under the Regional Plan.

Goals, Directions and Actions identified in the Regional Plan which are relevant to the Planning Proposal are as follows:

Goal 1: A competitive economy with world-class services and transport

- ***Direction 1.6: Expand the Global Economic Corridor***
 - ***Action 1.6.1: Grow high-skilled jobs in the Global Economic Corridor by expanding employment opportunities and mixed-use activities***
 - ***Action 1.6.2: Invest to improve infrastructure and remove bottlenecks to grow economic activity***
- ***Direction 1.7: Grow strategic centres – providing more jobs closer to home***
 - ***Action 1.7.1: Invest in strategic centres across Sydney to grow jobs and housing and create vibrant hubs of activity***
- ***Direction 1.10: Plan for education and health services to meet Sydney's growing needs***
 - ***Action 1.10.2: Support the growth of complementary health and tertiary education activities in Strategic Centres***
- ***Direction 1.11: Deliver infrastructure***
 - ***Action 1.11.3: Undertake long-term planning for social infrastructure to support growing communities***

Goal 2: A city of housing choice, with homes that meet our needs and lifestyles

- ***Direction 2.1: Accelerate housing supply across Sydney***
 - ***Action 2.1.1: Accelerate housing supply and local housing choices***
- ***Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs***
 - ***Action 2.2.2: Undertake urban renewal in transport corridors which are being transformed by investment, and around strategic centres***
- ***Direction 2.3: Improve housing choice to suit different needs and lifestyles***
 - ***Action 2.3.3: Deliver more opportunities for affordable housing***

Goal 3: A great place to live with communities that are strong, healthy and well connected

- ***Direction 3.1: Revitalise existing suburbs***
 - ***Action 3.1.1: Support urban renewal by directing local infrastructure to centres where there is growth***
- ***Direction 3.2: Create a network of interlinked, multipurpose open and green spaces across Sydney***
 - ***Action 3.2.1: Deliver the Sydney Green Grid Project***
- ***Direction 3.3: Create healthy built environments***
 - ***Action 3.3.1: Deliver guidelines for a healthy built environment***

The Planning Proposal is considered to be generally consistent with the above goals, directions and actions of the Regional Plan, in so far that it will:

- provide development opportunities to increase residential accommodation near the heart of a Strategic Centre in proximity of high frequency public transport, without adversely impacting upon the provision of active street frontages; and
- maintaining a substantial level of commercial floor space to promote job retention in the locality; and
- provision of social infrastructure in the form of a community arts centre.

The Regional Plan also sets out a number of priorities for the North Subregion (now known as the North District) and Strategic Centres within subregion. The relevant priorities as they relate to the subject site are as follows:

Priorities for the North Subregion [North District]

A competitive economy

- *Preserve the corridor for Sydney Rapid Transit including a second harbour rail crossing.*

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

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

Priorities for Strategic Centres – St Leonards

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

- *Work with council to provide capacity for additional mixed-use development in St Leonards including offices, health, retail, services and housing.*
- *Support health-related land uses and infrastructure around Royal North Shore Hospital.*
- *Work with council to investigate potential future employment and housing opportunities associated with a Sydney Rapid Transit train station at St Leonards/Crows Nest.*

The Planning Proposal is unlikely to adversely impact upon the implementation of these priorities, with the exception of retaining a commercial core to provide the required level of employment opportunities. However, as discussed in Section 8.8.1.1 of this report, the proposal would result in the provision of more jobs than that which currently could be accommodated on the site or through the implementation of the two yet to commence development approvals.

8.8.3. Draft North District Plan

In November 2016, the NSW Government released the draft North District Plan (draft NDP). The North Sydney LGA is located within the North District along with the other LGAs of Hornsby, Ku-ring-gai, Ryde, Hunter Hill, Lane Cove, Willoughby, Mosman and Northern Beaches. The Draft NDP sets the following relevant targets:

- **Employment:** an additional 6,900-16,400 jobs by 2036 in the St Leonards Strategic Centre; and
- **Housing:** an additional 3,000 dwellings by 2021 for the North Sydney LGA; and
an additional 97,000 dwellings by 2036 for the North District.

Priorities identified in the draft NDP which are relevant to the Planning Proposal are as follows:

- *Productivity Priority 2: Manage growth and change in strategic and district centres and, as relevant, local centres*
- *Productivity Priority 3: Prioritise the provision of retail floor space in centres*
- *Liveability Priority 1: Deliver the North District 5 year housing supply target.*
- *Liveability Priority 2: Deliver housing diversity*
- *Liveability Priority 3: Implement the Affordable Rental Housing Target*
- *Liveability Priority 4: Increase social housing provision.*
- *Liveability Priority 5: Facilitate the delivery of safe and healthy places.*
- *Liveability Priority 6: Facilitate enhanced walking and cycling connections.*
- *Liveability Priority 7: Conserve heritage and unique local characteristics.*
- *Liveability Priority 8: Support the creative arts and culture*
- *Liveability Priority 9: Share resources and spaces.*
- *Liveability Priority 10: Support innovative school planning and delivery.*
- *Liveability Priority 11: Provide socially and culturally appropriate infrastructure and services.*
- *Liveability Priority 12: Support planning for health infrastructure.*
- *Liveability Priority 13: Support Planning for emergency services.*
- *Liveability Priority 14: Support Planning for cemeteries and crematoria.*
- *Sustainability Priority 1: Maintain and improve water quality and waterway health.*
- *Sustainability Priority 2: Protect and conserve the values of Sydney Harbour.*

- *Sustainability Priority 3: Enhance access to Sydney Harbour foreshore and waterways.*
- *Sustainability Priority 4: Avoid and minimise impacts on biodiversity.*
- *Sustainability Priority 12: Mitigate the urban heat island effect.*
- *Sustainability Priority 13: Integrate land use and transport planning to consider emergency evacuation needs.*

The Planning Proposal is considered to be generally consistent with the above priorities of the draft NDP, in so far that it will:

- Provide development opportunities to increase residential accommodation with a Strategic Centre and assist in delivering Council's 5 yearly housing target;
- Increase the provision of social infrastructure, in the form of an Arts Centre; and
- Facilitating improved pedestrian connectivity across the site.

However, the Planning Proposal could be also considered contrary to the above priorities of the draft NDP, in so far that it will hinder appropriate growth and change in strategic centres. In particular, the proposal will result in a physical loss of nett non-residential commercial floor space over that permitted under NSLEP 2013 and that currently existing on the subject site and therefore potentially not strengthen the employment role of a Strategic Centre located within the Global Economic Corridor.

However, as initiated at Section 8.8.1.1 to this report, there is likely to be nett increase in the number of jobs being provided across the site, and therefore negates any potential inconsistencies with these priorities.

8.8.4. Residential Development Strategy

The North Sydney Residential Development Strategy (RDS) identifies the potential for an additional 6,199 dwellings in the North Sydney LGA by 2031 under the provisions of NSLEP 2013. The RDS identifies that St Leonards and Crows Nest, incorporating the subject sites, has the capacity to supply 1,453 additional residential dwellings over the next 14 years, of which 1,358 are identified in the *B4 Mixed Use* zone and 187 dwellings across all land that currently has a non-residential FSR range of 0.6:1 – 2:1. No additional residential accommodation was envisaged to be located within the *B3 Commercial Core* zone, due to such development being prohibited in the zone.

The concept proposal indicates that an additional 195 residential apartments are to be accommodated on the site. This equates to approximately 13% of the anticipated dwellings to be accommodated within the *B4 Mixed Use* zone in St Leonards on a single site.

The State Government has previously indicated that Council needs to accommodate an additional 5,500 dwellings between 2004 and 2031 (Draft Inner North Subregional Strategy) and more recently 3,000 dwellings between 2016 and 2021 (draft NDP).

Whilst NSLEP 2013 had sufficiently zoned land to accommodate the increased dwelling requirements under the Draft Inner North Subregional Strategy, the Planning Proposal will help to achieve the revised increased targets under the draft NDP over and above that envisaged under the RDS.

8.8.5. North Sydney Local Development Strategy

The North Sydney Local Development Strategy (LDS) reflects the outcomes sought by the former Regional Plan, the former District Plan and Council’s RDS. These issues are addressed in the previous subsections to this report.

8.8.6. State Environmental Planning Policies

Each Planning Proposal must identify which State Environmental Planning Policies (SEPP) are relevant to the proposal and demonstrate how they are consistent with that SEPP. The Planning Proposal is considered to be generally consistent with all relevant State Environmental Planning Policies.

8.8.7. North Sydney Development Control Plan

The Planning Proposal is generally consistent with the requirements of North Sydney Development Control Plan 2013 (NSDCP 2013). In particular, the concept proposal generally complies with the built form requirements under Section 2 – *Commercial and Mixed Use Development* to Part B and Section 3.1 – *St Leonards Town Centre* to Part C of NSDCP 2013.

8.8.8. St Leonards Crows Nest Planning Study – Precincts 2 & 3

At its meeting on 5 May 2015, Council adopted the *St Leonards Crows Nest Planning Study for Precincts 2 & 3* (Planning Study). The *Planning Study* provides a strategic planning framework for St Leonards / Crows Nest that aims to:

- Establish a liveable, high amenity mixed use centre;
- Support creative/innovative industries establish and grow;
- Improve urban design and street level amenity;
- Improve building design and residential amenity; and
- Increase investment in St Leonards.

Section 1.5 of the Planning Study sets out the methods by which the proposed outcomes of the *Planning Study* are to be implemented. In particular, it requires owner initiated Planning Proposals to be submitted addressing a number of criteria. The Proposal’s compliance with these criteria are provided within TABLE 2.

TABLE 2: Compliance with St Leonards Crows Nest Planning Study for Precincts 2 & 3			
Criteria	Requirement	Concept Proposal	Complies
Street Frontage	20m	Atchison - 58m (approx.) Pacific – 60m (approx.)	Yes
Site Isolation	Must not isolate, sterilise or unreasonably restrict the development potential of adjacent parcels of land	No sites are left isolated	Yes
Non-residential FSR	Min 4:1	4.9:1 (5,280sqm)	Yes
Building height	Subject to “Tall Building” requirements	50 storeys (179.28m)	Yes
Podium height	6 storeys	Part 6 & part 7 storeys	Generally
Street setbacks	Pacific Hwy	0m &	Yes

Criteria	Requirement	Concept Proposal	Complies
		3m at GL & 1 st FL	3m at GL & 1 st FL
	Christie St	0m & 3m at GL & 1 st FL	0m & >3m at GL & 1 st FL Yes
	Atchison St	0m	0m Yes
Above podium street setbacks	Pacific Hwy	N/A	0m Yes
	Christie St	N/A	8.3m (approx.) Yes
	Atchison St	N/A	2m Yes
Above podium side setbacks	6m (east)		6m Yes
Tall Building Requirements	For selected sites, propose heights, setbacks, and FSR controls that achieve the design criteria for tall buildings		Refer to TABLE 6 of this report Yes
Public Benefits	Include satisfactory arrangements to provide commensurate public benefits that support the proposed scheme.		The proposal includes an offer of entering into a VPA which provides a number of public benefits. Refer to Section 6 to this report. Yes

Building Height

With respect to building height, the Planning Study sets out a number of design principles and seeks to ensure that any Planning Proposal seeking additional height must demonstrate that the proposed built form envelope:

- *reinforces the desired character of the area;*
- *adheres to the podium height, ground level and above podium setbacks in map 6.1 and 6.2;*
- *maximises sunlight access to streets, Mitchell Street Plaza, and the linear parks;*
- *maximises sunlight access and view sharing of nearby residences, likely through laneway setbacks on upper floors;*
- *provides a high level of residential amenity;*
- *creates a safe, comfortable, accessible, vibrant, and attractive public realm and pedestrian environment.*

The concept proposal satisfactorily demonstrates that the redevelopment of the site can achieve these outcomes.

Tall Buildings

The site is identified as a tall building site and the proposal’s compliance with the relevant design principles of the *Planning Study* are illustrated in TABLE 3.

Issue	Design Principle	Proposal	Complies
Floor Plate	the built form must be a slender tower with a maximum gross buildable area (GBA) of 750sqm, including balconies, above a well-proportioned, articulated podium	A maximum of 670sqm	Yes

TABLE 3: Tall Building Design Principles Assessment			
Issue	Design Principle	Proposal	Complies
Tower length	large, elongated floorplates are to be avoided by having tower elements with a maximum length of 40m, with breaks and articulation encouraged along elevations	Approximately 44m. However, due to the site's relatively narrow depth, the slight technical non-compliance is considered acceptable, and does not result in any adverse impacts.	NO However, an acceptable merit variation
Tower Separation	the tower element is to achieve a minimum separation distance of 24m from other tall buildings. A minor portion of the building within a 20m separation distance will be considered if environmental and amenity impacts can be mitigated	North 619 -621 Atchison – 24m (approx.)	Yes
		East 601 Pacific - 39m (approx.)	Yes
		South 530 & 536-542 Pacific – >27m (approx.)	Yes
		West 655 Pacific – 37m (approx.)	Yes
Cumulative impacts	the cumulative impact of multiple towers on the public realm must be carefully considered through detailed overshadowing and view analysis	The Planning Proposal considers the potential overshadowing and view impacts of the concept proposal. As indicated at Section 8.2 to this report, the proposal is considered to have a reasonable level of impact.	Yes
Mitigation Measures	the design must mitigate overshadowing and wind impacts, and protect sunlight and views of the sky from streets, parks, properties	Refer to comments above.	Yes
Amenity	ensures high-quality living and working conditions, natural ventilation and privacy for building occupants.	These criteria are likely to be achieved due to the separation provided by the proposed tower illustrated in the concept proposal.	Yes

Public Benefits

The Planning Study states that one of the driving principles of the Study is that development opportunities beyond those available under existing controls should only be pursued if much needed public benefits are provided. These benefits are in addition to what would normally be required by a new development, such as design excellence and section 94 contributions.

The Planning Proposal indicates that the proponent seeks to enter into a VPA with Council with the view to dedicating to Council two full floor levels within the commercial podium of a future development on the site for the purposes of an Arts Centre. This offer is considered to be fair and reasonable.

An Arts Centre dedicated to Council will provide for a much needed community resource and provide activity and diversity to uses in the centre. It is specifically identified in the *St Leonards Crows Nest Planning Study (Precincts 2 and 3)* as a high need area that would also add to the appeal and vibrance of St Leonards. A feature of this planning study and Council's general approach within the precinct is to manage development pressure in the precinct (which has only been reinforced by the Priority Precinct announcement – see below), whilst adopting a value sharing methodology to new development.

9. Priority Precinct

The subject site forms part of a new Priority Precinct established by the DPE in July 2016. Work within the Precinct is still only at the preliminary stages and there is currently no indication as to how this precinct is to evolve. Due to this lack of direction, and the Planning Proposal's high level of compliance with Council's Planning Study for the locality, the Planning Proposal is considered to be acceptable and should be progressed.

10. CONCLUSION

The Planning Proposal seeks to amend NSLEP 2013 to enable shop top housing to be permitted with consent, increase the maximum building height requirements and to incorporate new FSR and non-residential FSR requirements as it relates to the subject site.

The Planning Proposal is supported as it:

- generally complies with the relevant LEP making provisions under the EP&A Act;
- generally complies with the DPE's *A guide to preparing planning proposals* (August 2016);
- on balance, does not contradict the ability to achieve the objectives and actions of high level planning strategies;
- is generally consistent with and promotes the desired future outcomes of the *St Leonards / Crows Nest Planning Study for Precincts 2 & 3*; and
- the scale and bulk of any future development on the site is unlikely to result in any significant adverse impacts on the environment or wider community, or has the ability to be appropriately mitigated as part of the development application process.

It is therefore recommended that Council resolve to support the forwarding of the Planning Proposal to the DPE, seeking a Gateway Determination under s.56 of the EP&A Act.

The Planning Proposal was also accompanied by a draft VPA, with an offer to dedicated to Council two entire levels within the podium of a future development on the site for the purposes of an Arts Centre. The offer also includes the fitout of the space to a high level. The total value of the proposed offer is in the order of \$16.5 million, the value of which has been deemed by an independent economic consultant as being fair and reasonable.

Council's lawyers have raised a number of issues with the draft VPA that require resolution. These issues, which include certainty of outcome, security of payment and enforcement of the agreement, are of a technical nature only and can easily be resolved prior to placing the planning proposal on public exhibition, should the planning proposal proceed.

Whilst the intent of the draft VPA is considered to be fair and reasonable, it is recommended that if Council resolves to allow the planning proposal to proceed to Gateway Determination, the Planning Proposal should only be forwarded to the Department of Planning and Environment, once the General Manager is satisfied that the issues with the draft VPA, as identified by Council's lawyers, have been appropriately resolved.

The Planning Proposal and draft VPA should then be exhibited concurrently, so as to allow the community a full appreciation of what is being proposed. Council will have the opportunity to execute the draft VPA when the post-exhibition report is reported to Council.

PLANNING PROPOSAL

617-621 PACIFIC HIGHWAY, ST LEONARDS

URBIS

URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

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Report Number	Final - amended

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EXECUTIVE SUMMARY

OVERVIEW

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

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

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

BACKGROUND

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

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

This Planning Proposal responds directly to the recommendations of the Planning Study.

PROPOSED LEP AMENDMENT

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

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

The key features of the Concept Design include:

- A six storey podium comprised of:
 - Lower ground floor and ground floor retail tenancies.
 - Community facilities at Level 1 and Level 2.
 - Commercial (offices) tenancies on Level 3, Level 4 and Level 5.
 - A sky garden for residents on the top of the podium (Level 6).
- A 43 level tower form accommodating:
 - 41 levels of residential apartments (Levels 7-23 and 25-48)

- Two levels of plant (Levels 24 & 49)

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

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

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

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

- Amend the *NSLEP, 2013 Height of Buildings Map* to provide for a building height of 175m on the subject site at 617-621 Pacific Highway, St Leonards (as shown in **Figure 16**); and
- Amend the *NSLEP, 2013 Non-Residential Floor Space Ratio Map* to provide for a Minimum Non-Residential Floor Space Ratio of 4:1 on the subject site at 617-621 Pacific Highway, St Leonards (as shown in **Figure 17**).

PLANNING OUTCOMES

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

- The proposal is consistent with State government policy which supports growth within existing centres: The proposal maximises commercial and residential opportunities in major centres well serviced by public transport. It would generate new employment and housing opportunities, including approximately **195 new dwellings**, within walking distance of major employment, retail, health and education facilities and excellent public transport connectivity.
- Improved pedestrian access and connectivity: It provides an opportunity for improved pedestrian access and connectivity through the St Leonards Centre through the redevelopment of the site to interconnect with adjacent lands and the surrounding footpath network and will enhance the public domain.
- Street activation: It involves the creation of new local retail facilities and public spaces that will activate the surrounding streets and complement the proposed land uses to encourage pedestrian activity and vibrancy.
- Other Public benefits:
 - Construction and dedication to Council of a state-of-the-art Community Arts Centre, with a superior quality fit out that will span two podium levels within the development, accessible from the ground floor and easily identifiable from the street. This will encourage the patronage of the arts to strengthen the St Leonards' image as a highly desirable place to live, work and play.
 - Significant growth of employment from the current DA approval (residential and serviced apartments) with an estimated 35 ongoing jobs onsite compared with the proposal incorporating retail, art centre and commercial office space that will generate 252 ongoing jobs.

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

1. INTRODUCTION

1.1. OVERVIEW

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

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

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

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

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

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

1.2. STRUCTURE OF REPORT

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

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

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

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

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

2. SITE AND SURROUNDS

2.1. THE SITE

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

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

The site comprises two adjoining land parcels (1) Lot 1 in DP1022881 and Lot 1 in DP 577070; and (2) Lots 1 and 2 in DP 455937 which will be consolidated to accommodate future development. The site has a combined site area of approximately 1,067m².

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

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

Table 1 – Property Description

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

2.2. THE SITE: PLANNING HISTORY

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

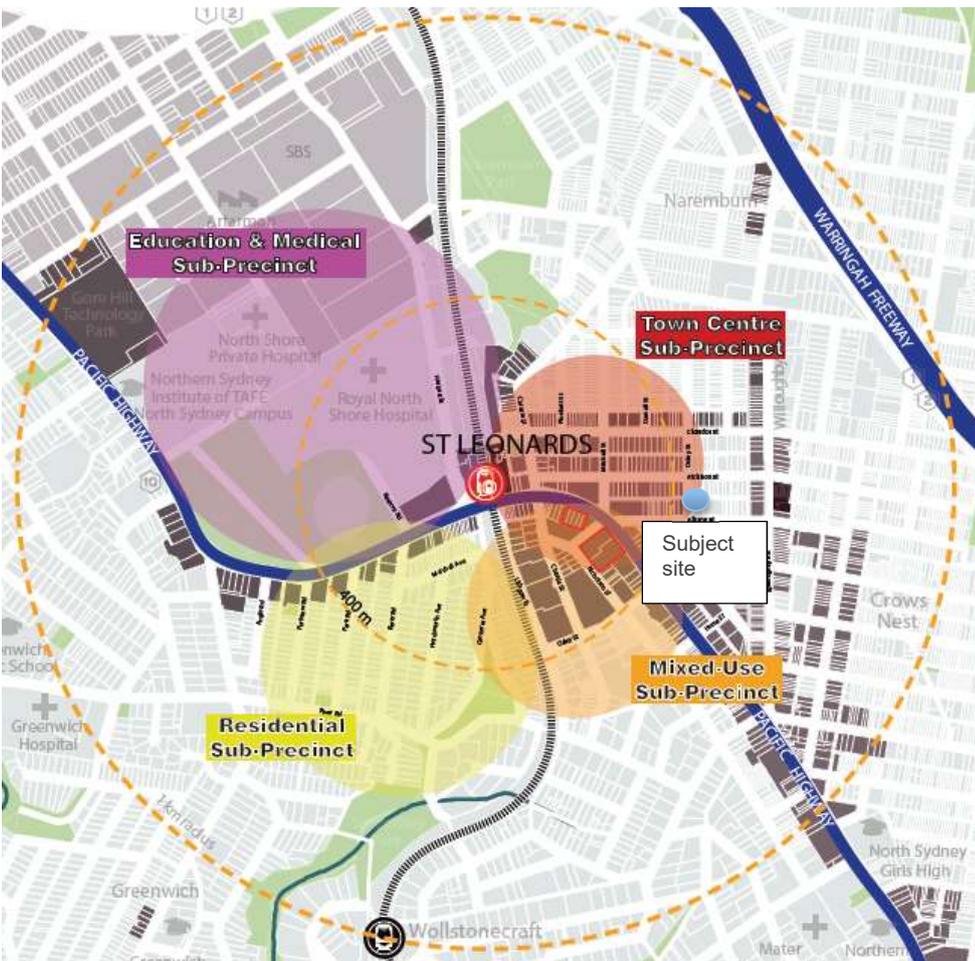
- 619 Pacific Highway: Demolish existing building and construct 16 storey mixed use building comprising retail, 21 serviced apartments, 48 residential apartments and basement parking.
- 621 Pacific Highway: Demolish existing building and construct 18 storey mixed use building comprising 36 serviced apartments,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

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

Figure 1 – Site Plan



Figure 2 – Site Location Plan



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

2.3. SURROUNDING CONTEXT

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

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

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

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

2.4. ST LEONARDS

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

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

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

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

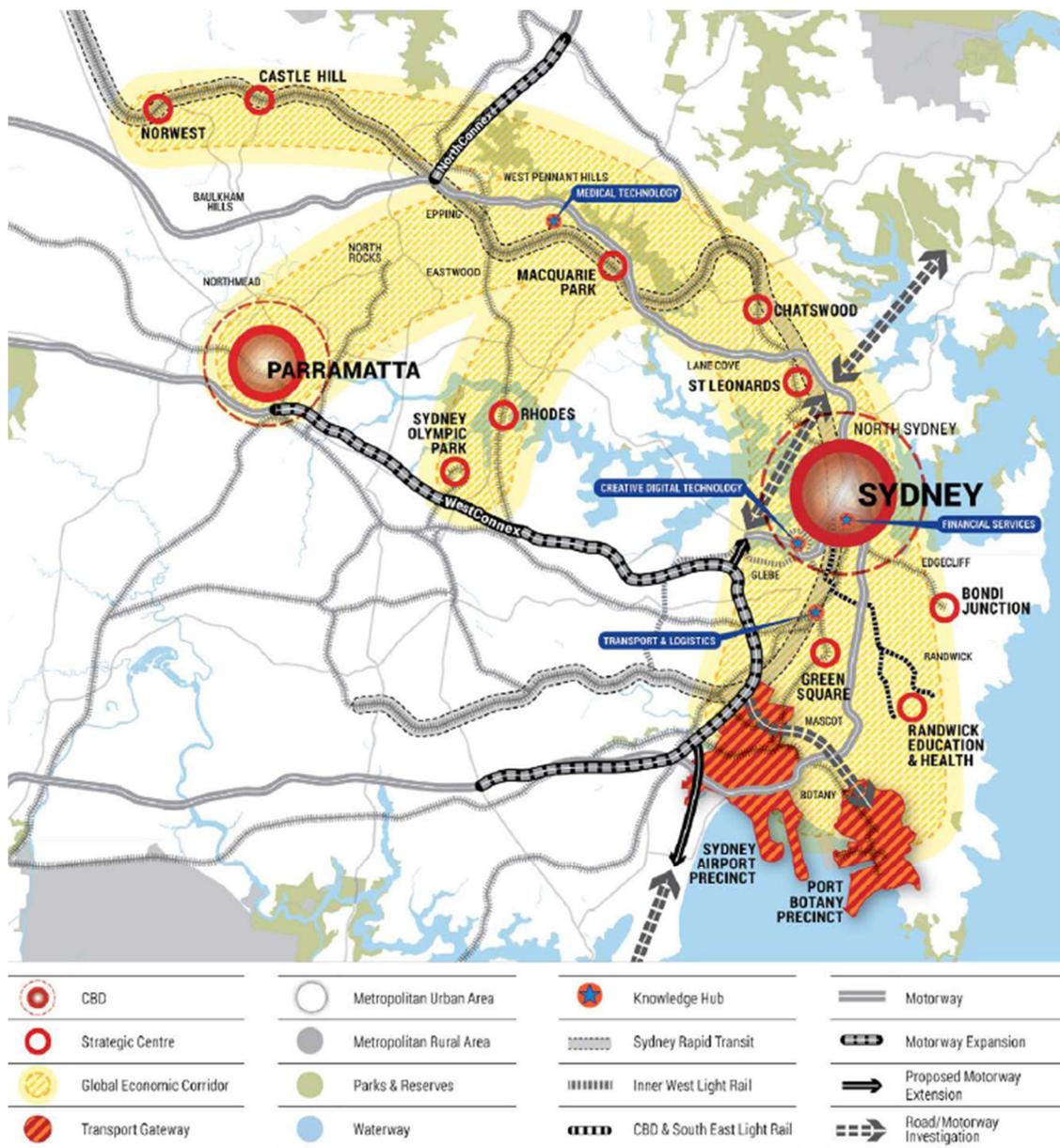
3. STRATEGIC CONTEXT

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

3.1. A PLAN FOR GROWING SYDNEY 2014

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

Figure 3 – Global Economic Corridor



Source: A Plan for Growing Sydney (Figure 15)

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

Figure 4 – Strategic Centres and Transport Gateways



Source: A Plan for Growing Sydney (Figure 16)

3.2. DRAFT NORTH DISTRICT PLAN 2016

The Greater Sydney Commission released the 6 draft District Plans for Sydney in November 2016. The site falls within the North District.

The plan has a range of priorities to primarily guide growth of employment and housing as well as achieving sustainability city goals. Relevant actions include:

- Increase housing choice around all centres through urban renewal in established areas
- Stronger economic development in strategic centres and transport gateways
- Facilitate place-making and growth and diversification of job opportunities in St Leonards

Specifically, the draft District Plan calls for a clear direction for St Leonards to balance the competing needs of residential and commercial development. As outlined below, Council's Planning Study for St Leonards/Crows Nest, provides that clarity of land use and built form density direction.

The proposal satisfies the strategic directions of the draft District Plan in that it provides for a substantial proportion of non-residential floorspace in the form of retail, community arts and commercial office space. This will ensure that the centre maintains a clear employment function and a diversity of employment opportunities as sought for the centre. In addition, the proposal incorporates residential apartments in a tower form that will contribute to North Sydney Council's 5 year housing target of 3,000 dwellings in a high-amenity location with ready access to retail services and transport.

3.3. ST LEONARDS/CROWS NEST INVESTIGATION

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

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

St Leonards is identified as a Strategic Centre in A Plan for Growing Sydney and the investigation will respond to the actions identified in this Plan, including ways to maintain employment in the area, provide new homes, shops, cafes and open space and maximise the great access to public transport.

As part of this investigation, infrastructure needed to support the area into the future will be identified, including improvements to transport, the road network, open space and social infrastructure including community and education facilities. A Special Infrastructure Contribution will be considered as a potential option to fund new infrastructure.

The investigation will be undertaken in a number of stages. The first stage involves an analysis of existing employment in the Precinct and understanding future employment demands and requirements. The outcomes of this study will inform the Land Use and Infrastructure Strategy, stage 2.

At present, no details have been released. Given that Council's Planning study already provides sound strategic direction to inform this Planning Proposal, it is not necessary to delay processing of this Planning Proposal to await further information from this work which we expect will ultimately support the adopted directions by Council for the site.

3.4. METRO RAIL INFRASTRUCTURE

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

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

3.5. ROYAL NORTH SHORE HOSPITAL

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

3.6. ST LEONARDS DEVELOPMENT TRENDS

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

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

Table 2 – Local Development

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

84-90 Christie Street	Awaiting LEP Amendment Gazettal	2 x residential towers:27 and 46 storeys.
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Figure 5 – Major Development Sites in St Leonards



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

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

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

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

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

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



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

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

Specifically within Precinct 2, the study proposes:

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

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

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

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

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

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

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

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

Site Opportunities

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

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

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

4. EXISTING PLANNING CONTROLS

4.1. ZONING

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

The objectives of the B3 zone are as follows:

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

To encourage appropriate employment opportunities in accessible locations.

To maximise public transport patronage and encourage walking and cycling.

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

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

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



4.2. LAND USE

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

Permitted without consent

Nil

Permitted with consent

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

Prohibited

Any other development not specified in item 2 or 4.

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

Commercial premises means any of the following:

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

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

4.3. HEIGHT AND FSR CONTROLS

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

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

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

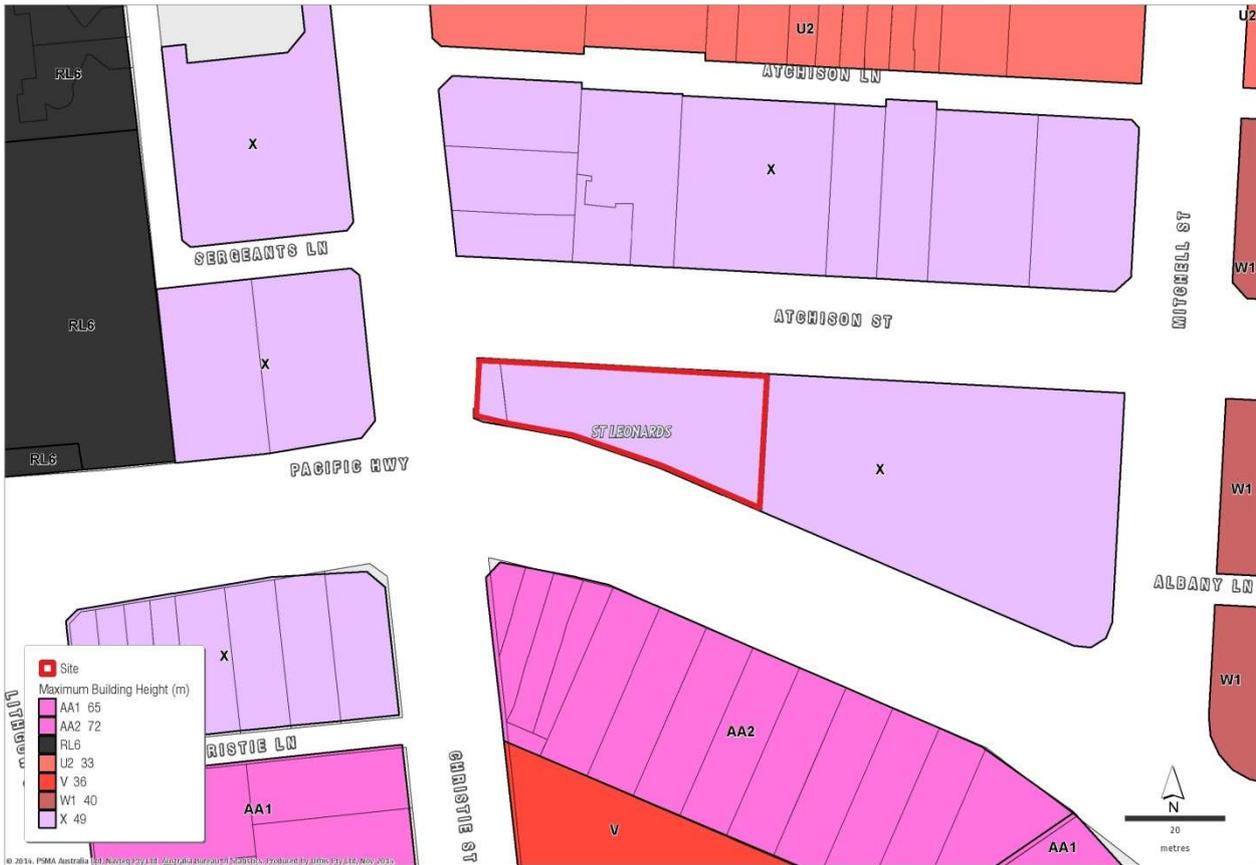


Figure 9 – Existing Floor Space Ratio and Non-Residential Floor Space Controls (NSLEP,2013)



5. THE DEVELOPMENT CONCEPT

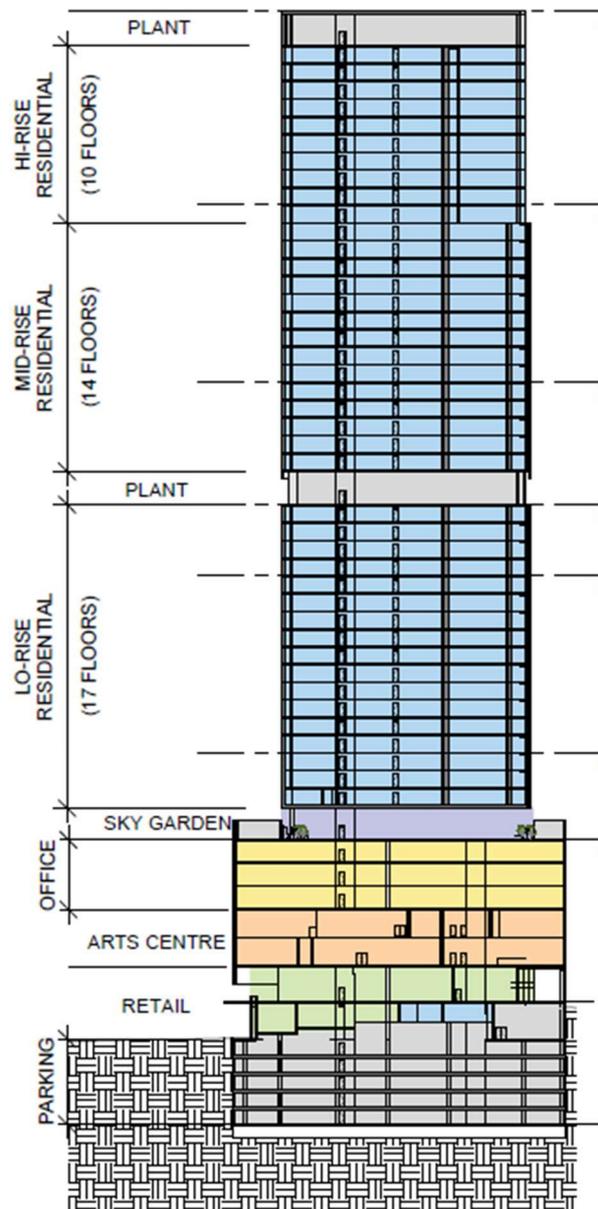
5.1. PROPOSED CONCEPT DESIGN

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

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

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

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



The key features of the concept proposal include:

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

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



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



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

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

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



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

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

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

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

Table 3 – Summary of Proposed Development Concept

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

5.2. VOLUNTARY PLANNING AGREEMENT

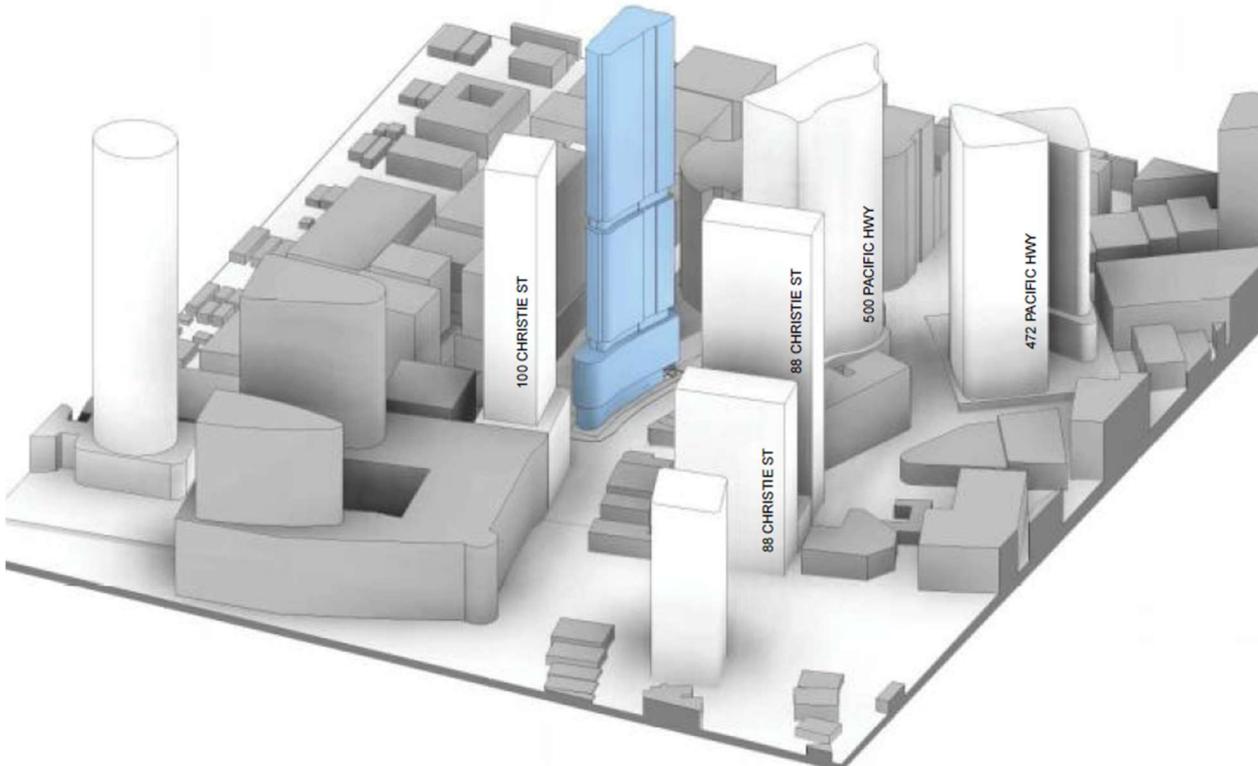
The applicant offers to enter into a Voluntary Planning Agreement (VPA) with Council to enable the delivery of a significant public benefits arising from the change of land use and density. The draft VPA will accompany the Planning Proposal during public exhibition.

The key items of the VPA are summarised below:

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

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

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



5.3. DESIGN DEVELOPMENT

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

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

ST LEONARDS / CROWS NEST PLANNING STUDY

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

Table 4 – Design Criteria for Site Specific Planning Proposals

Criteria	Planning Proposal Response
Relate to a parcel of land with a minimum street frontage of 20 metres	Street frontages to Atchison Street and Pacific Highway in excess of 50 metres.
Relate to a parcel of land that does not isolate, sterilise or unreasonably restrict the development potential of adjacent parcels of land	The proposal will not result in the isolation of any property. Potential massing for future development on the adjoining IBM site has been undertaken which demonstrates that the approach illustrated in the Concept Plan would not impede on the future development potential of the IBM site. Further, it does not rely on access from adjoining lands.
Non-residential floor space ratio control consistent with Map 5.1 – Area 14: Minimum 4:1	The concept plan indicates that non-residential floor space would be provided over six levels. Indicatively the GFA would be in the order of 5,280m ² (FSR 4.9:1)
Site specific Floor Space ratio control having regard to the podium height and setback controls in Maps 6A and 6B: <ul style="list-style-type: none"> • 6 storey podium • 3m: 2 storey ground level setback 	<ul style="list-style-type: none"> • Six storey podium provided. • Two storey 3m ground level set back incorporated.
Height control consistent with Map 6C: Building Height	Site area in excess of 1,000sqm.
For tall buildings identified in Map 6C, to be designed in accordance with the Design Principles for Tall Buildings : <ul style="list-style-type: none"> • Maximum gross buildable area 750sqm • Maximum building length 40m with breaks and articulation encouraged on the elevations. 	<p>The proposed built form is a slender tower with residential floor plates of less than 670m². The small floorplate allows for efficient circulation, adequate natural ventilation and solar access for the apartment units within the residential tower as well as minimising the visual bulk.</p> <p>The maximum length of the tower is approximately 44m in an east- west direction from. This exceeds the maximum building length allowed. However, this is a result of site constraints. The site has a maximum depth of approximately 28m at the eastern end and it is further reduced to 12m in depth at the western end. To achieve an efficient layout the floorplate has been extended to the west, but the bulk has been carefully sculpted and articulated and will not cause negative visual impacts. The full length of the tower will only be seen when viewed directly from the north or south where view corridors are</p>

Criteria	Planning Proposal Response
<ul style="list-style-type: none"> • Minimum separation distance 24m from other tall buildings (20m for minor portions of the building acceptable). • Overshadowing analysis. • Wind, sunlight and view impacts to be addressed. • Provide high quality residential amenity outcomes. 	<p>limited due to the presence of existing buildings. Further, the tower form will be strongly articulated by vertical slots/blades, projecting balconies and variations in the facade.</p> <p>The proposed tower complies with the required separation distances. Specifically:</p> <p>To the north - provides approximately 24m to existing buildings at 2 and 6-16 Atchison Street.</p> <p>To the east - provides approximately 39m to the IBM building,</p> <p>To the west - provides approximately 37m to the existing building at 655 Pacific Highway.</p> <p>To the south - has generous separation to the properties on the opposite side of Pacific Highway due to the width of the Highway (approximately 27m).</p> <p>Shadow and view studies have been prepared and attached at Appendix A. The shadow analysis demonstrates that the proposed tower will have a minor impact on the public realm and that these impacts are mitigated by the slenderness of the tower, the separation from other towers and the street level setbacks. Furthermore, the shadow generated by the proposal will not dwell on any significant open space, heritage item or public facilities.</p> <p>The building design will mitigate overshadowing impacts, wind impacts and protect sunlight and views of the sky through building separation, public domain interface and podium/ tower design.</p> <p>The indicative floor plans of the residential levels demonstrate that three out of five apartments per floor are corner apartments and the two single aspect apartments have depths shallower than 8m. The proposed design will provide high quality living and working conditions for residents, occupants and visitors. The design will optimise sunlight access, natural ventilation and privacy.</p>
<p>Include satisfactory arrangements to provide commensurate public benefits that support the proposed scheme</p>	<p>The applicant offers to enter into a Voluntary Planning Agreement (VPA) with Council to provide a range of contributions in addition to Section 94 contributions payable in respect of the proposed development. A Draft VPA accompanies this proposal.</p> <p>Specifically, the proposal includes the provision of a</p>

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

5.4. AVIATION

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

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

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

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

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

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

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

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

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

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

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

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

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

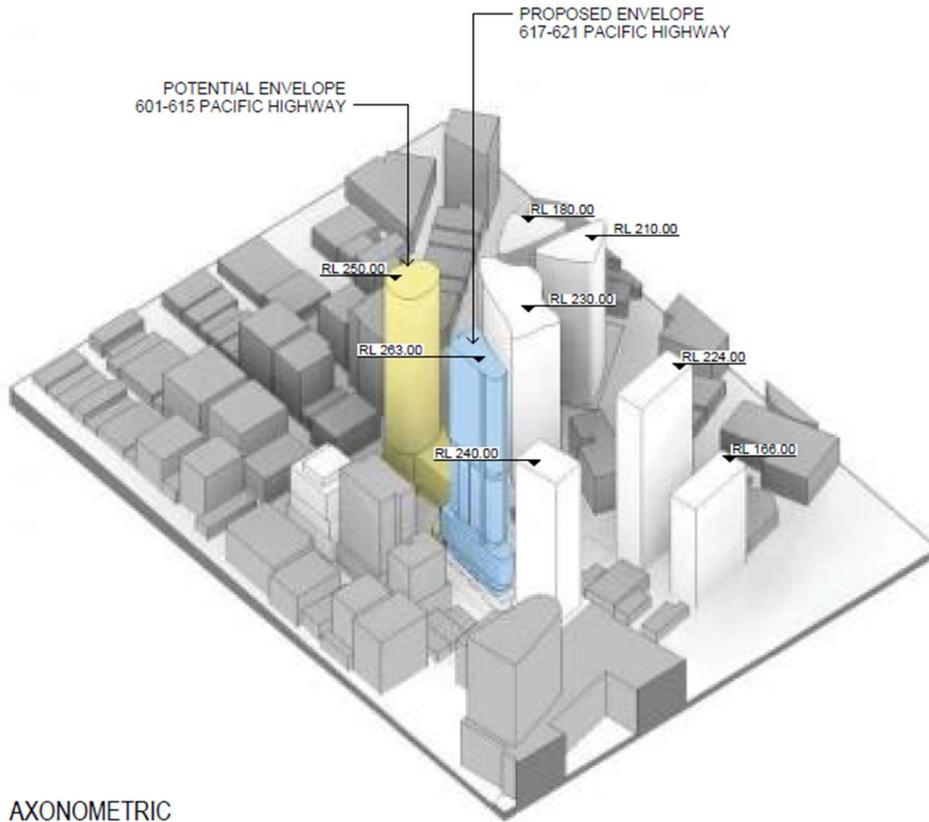
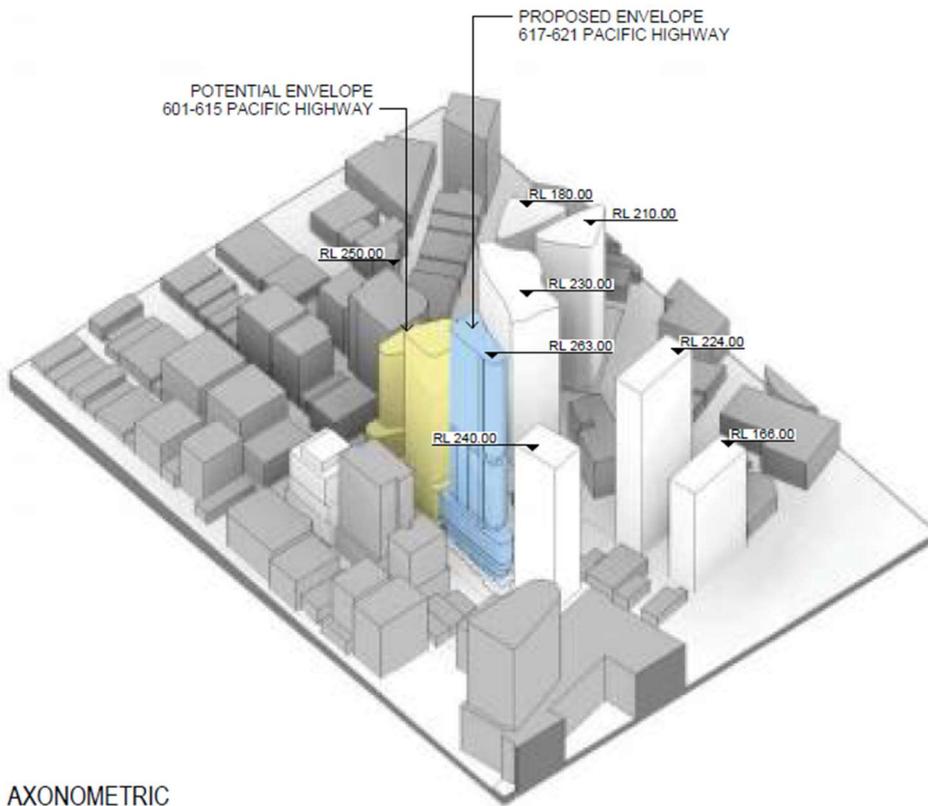


Figure 15 - Potential Massing Model for 601-615 Pacific Highway: Option B (Concept Design Report, Kann Finch)



6. THE PLANNING PROPOSAL

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

Accordingly, the proposal is discussed in the following parts:

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

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

7. PART 1 – OBJECTIVES OR INTENDED OUTCOMES

7.1. OBJECTIVES

The primary objective of the proposed rezoning is to amend the North Sydney Local Environmental Plan, 2013 (NSLEP 2013) to provide for:

- Taller building forms on the subject site; and
- Shop top housing as a permitted use on the subject

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

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

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

7.2. INTENDED OUTCOMES

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

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

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

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

8. PART 2 – EXPLANATION OF THE PROVISIONS

8.1. OVERVIEW

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

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

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

8.2. PURPOSE

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

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

8.3. LAND TO WHICH THE PLAN WILL APPLY

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

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

8.4. PROPOSED LEP AMENDMENTS

ZONING AND LAND USE

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

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

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

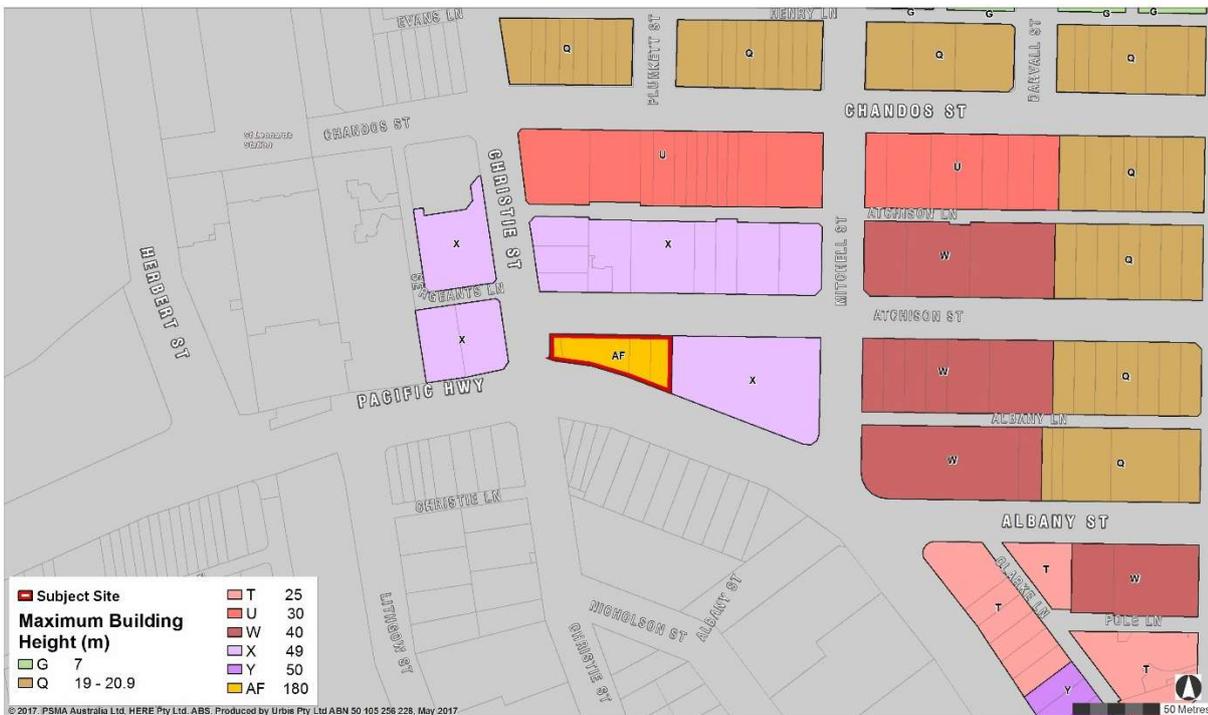
- (1) *This clause applies to land at 617 - 621 Pacific Highway, St Leonards being Lot 1 in DP1022881, Lot 1 in DP 577070 and Lots 1 and 2 in DP455937.*
- (2) *Development for the purposes of shop top housing is permitted with consent.*

BUILDING HEIGHT

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

The proposed outcome will be achieved by amending the existing *Height of Buildings Map Sheet HOB_001* of the North Sydney LEP, 2013 to reflect this maximum height, as shown in **Figure 16**.

Figure 16 – Proposed Height of Buildings Map Sheet HOB_001



Source: NSLEP, 2013 as amended by Urbis

FLOOR SPACE RATIO

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

- To set a minimum non-residential FSR of 4.7:1.
- To set a maximum total FSR of 25.4:1
- While the concept achieves a slightly higher non-residential FSR, this small variation allows for detailed design changes or future tenant requirements (such as a retailer desiring a double height corner shopfront), and thus limits the requirement for the future need to seek a variation to the control.

The proposed outcome will be achieved by amending the existing *Non-Residential Floor Space Ratio Map LCL_001* of the North Sydney LEP, 2013 to reflect this control, as shown in **Figure 17**.

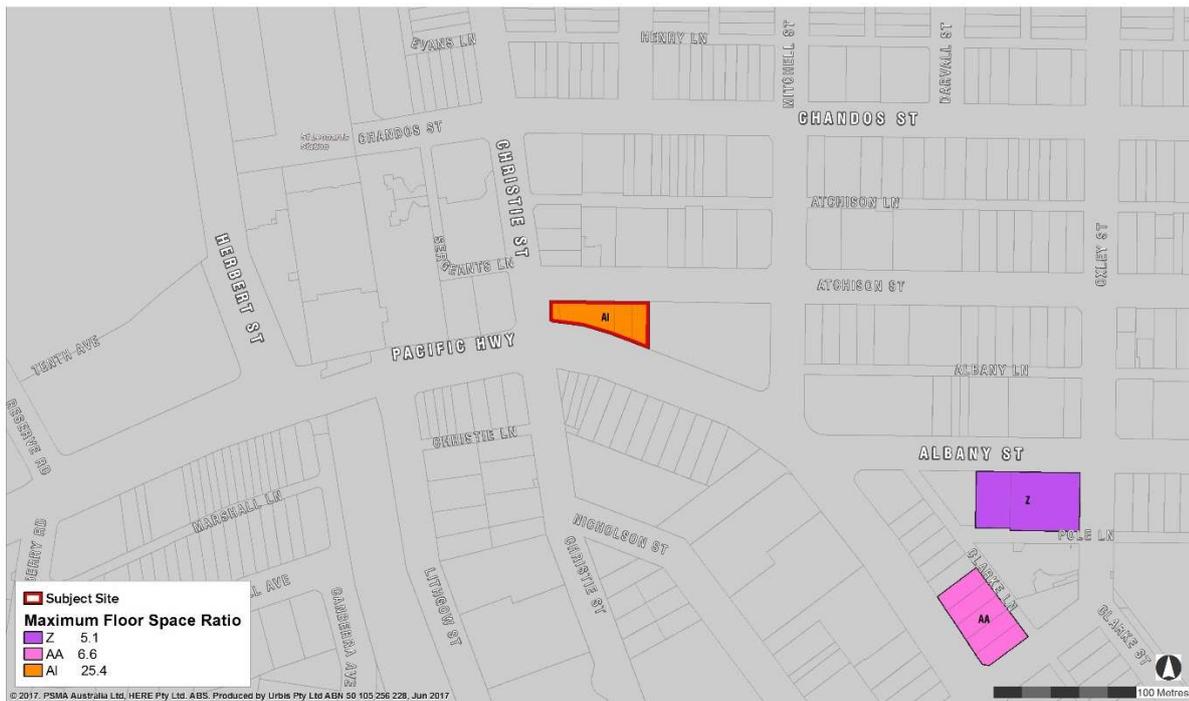
Figure 17 – Proposed Non-Residential Floor Space Ratio Map LCL_001



Source: NSLEP, 2013 as amended by Urbis

The proposed maximum FSR outcome will be achieved by amending the existing *Floor Space Ratio Map Sheet FSR_001* of the North Sydney LEP, 2013 to reflect this maximum height, as shown in **Figure 18** below.

Figure 18 – Proposed Maximum Floor Space Ratio Map FSR_001



Source: NSLEP, 2013 as amended by Urbis

8.5. RELATIONSHIP TO EXISTING LOCAL PLANNING INSTRUMENT

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

8.6. SAVINGS PROVISIONS

It is not considered necessary to include a savings provision.

9. PART 3 – JUSTIFICATION

9.1. SECTION A – NEED FOR THE PLANNING PROPOSAL

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

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

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

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

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

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

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

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

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

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

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

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

9.2. SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

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

Yes, for the reasons outlined below.

9.2.1. A Plan for Growing Sydney

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

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

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

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

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

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

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

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

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

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

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

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

<p>A Plan for Growing Sydney Strategic Directions and Policy</p>	<p>Concept Proposal Response</p>
<p>in centres.</p>	<p>Strategic Centre. Specifically, the proposal will contribute 218 new retail and commercial jobs and as well as hundreds of construction jobs. The proposal will send a clear signal of investor confidence in the area which has the potential to stimulate further development activity.</p> <p>The concept proposal seeks to balance the direction and actions set out in the strategy with commercial imperatives for the site. The provision for residential living opportunities on the site will bring people closer to jobs and services to support the economic growth of St Leonards.</p>
<p>Direction 1.7 Grow strategic centres – providing more jobs closer to home</p> <p>Focus growth in strategic centres and transport corridors</p> <p>Invest in strategic centres across Sydney to grow jobs and housing and create vibrant hubs of activity.</p>	<p>The proposed amendments to the LEP as they apply to the subject site will provide an avenue for greater investment in housing and jobs within St Leonards, strengthening its role as a Strategic Centre and facilitating the creation of a vibrant hub of activity associated with the Global Economic Corridor and the urban renewal anticipated on sites adjacent to the Sydney Metro Northwest.</p> <p>The provision of residential dwellings on the subject site will allow people to live closer to jobs and reduce commute times, achieving sustainability outcomes. Housing a residential population in close proximity to areas designated for employment growth in turn stimulates this growth as it is more desirable for business and education activities have a readily accessible work force.</p> <p>Diversification of land uses to include residential development in the corridor will not diminish the potential employment capacity of the centre. The site benefits from an existing development consent for residential apartments.</p>
<p>Direction 1.10 Plan for education and health services to meet Sydney’s growing needs</p> <p>Support the growth of complementary health and tertiary education activities in strategic centres.</p>	<p>Given the proximity to the Royal North Shore Hospital, the concept proposal includes provision for specific flexible commercial spaces to be utilised by business and/ or health tenants.</p> <p>The residential component of the site is complementary to this Direction as it supports the nearby health facilities by providing places for people to live and work and potentially house the future workers.</p>

A Plan for Growing Sydney Strategic Directions and Policy	Concept Proposal Response
GOAL 2: A CITY OF HOUSING CHOICE, WITH HOMES THAT MEET OUR NEEDS AND LIFESTYLES	
<p>Direction 2.1: Accelerate housing supply across Sydney</p> <p>An additional 664,000 dwellings required across Sydney over the next 20 years</p> <p>Action 2.1.1 Accelerate housing supply and local housing choices</p> <p>Action 2.1.3 Deliver more housing by developing surplus or under-used government land.</p>	<p>The proposal seeks to provide for mixed use development which will permit the development of apartment style dwellings within the strategic centre of St Leonards to contribute to the dwelling supply to meet the dwelling targets.</p> <p>The residential targets identified for each area will be further detailed in the yet to be released District Plan (formerly sub-regional plans) for the North Subregion.</p> <p>The proposed concept plan demonstrates in the order of 195 new dwellings being achieved across the subject site. This figure will greatly contribute to achieving the housing targets for the greater region.</p> <p>The subject site is currently underutilised and the buildings at the end of their economic life. The proposal would see the highest and best use of the land come to fruition.</p>
<p>Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs</p> <p>The government will support Council-led urban infill and local efforts to lift housing production around centres</p> <p>New housing for centres that have public transport able to carry large numbers</p> <p>New housing in strategic centres</p>	<p>The location of mixed use development in this strategic location provides housing within an employment area – achieving sustainability outcomes and leading to employment containment within the region, i.e. residents are employed within the centre within which they live.</p> <p>However, the site is also accessible to a wider catchment through public transport and road infrastructure.</p> <p>The site provides easy access to main arterial road connections, namely the Pacific Highway - a main arterial road.</p> <p>The St Leonards Station is within 100m to the west of the site and has considerable patronage, the 7th most patronised station outside the CBD. It is both a primary destination and interchange node. The site is also easily accessible via an extensive bus catchment that run along the Pacific Highway and Willoughby Road.</p> <p>Further, the proposed Sydney Rapid Transit – as set out in the Plan will further increase the connectivity to the site and key centres by allowing faster and more frequent train services. This policy seeks to capitalise on the improvements to the public</p>

<p>A Plan for Growing Sydney Strategic Directions and Policy</p>	<p>Concept Proposal Response</p>
	<p>transport networks to focus new housing in and around centres on the rail corridor.</p> <p>In this regard, the concept proposal is a prime site for mixed use development as it provides the ability to connect new homes to job-rich locations via good public transport with an approximate 30 minute rail or light rail (future) journey – Action 2.2.2.</p>
<p>Direction 2.3: Improve housing choice to suit different needs and lifestyles</p> <p>Research indicates a shortage of apartments in outer Sydney</p> <p>Deliver more opportunities for affordable housing</p>	<p>The proposal will unlock the potential for in the order of 195 new dwellings in a variety of configurations and residential form.</p> <p>The detail of the dwelling design and configuration has been conceptually explored which demonstrates the possibility for a mix of dwelling typologies and styles that could achieve this direction to meet the evolving housing needs specific to this region. Further, opportunities for the delivery of affordable housing can be realised through this proposal.</p>
<p>GOAL 3: A GREAT PLACE TO LIVE WITH COMMUNITIES THAT ARE STRONG, HEALTHY AND WELL CONNECTED</p>	
<p>Direction 3.3: Create healthy built environments</p>	<p>The concept proposal for the site has been developed to align with key design principles to promote healthy communities and social cohesion. This will be fully developed for DA stage to include key concepts such as:</p> <p>Central leisure and recreational areas for residents, visitors and workers.</p> <p>Provides compatible land uses that will create a vibrant and active community, including residential and ground floor commercial. New spaces will be developed to facilitate active ground level uses and integrate with the concept plan for the adjoining site</p> <p>Meaningful areas of open space that can be used by residents and workers.</p> <p>Key linkages across the site to provide functional and identifiable pedestrian flows between streets.</p> <p>Encouraging walking and cycling through the location of homes and jobs in close proximity to public transport, reducing the need for personal car transport.</p>
<p>NORTH SUBREGION</p>	

A Plan for Growing Sydney Strategic Directions and Policy	Concept Proposal Response
<p><i>The North subregion will continue to be an attractive place to live, work and visit with a thriving economy. The subregion's Gross Regional Product is second only to the Central subregion's, with North Sydney, the second largest office market in Sydney. Increases in the supply of housing and jobs will be focuses on centres with good public transport. The subregion will offer a growing diversity of high amenity living and working environments.</i></p>	
<p>Accelerate housing supply, choice and affordability and build great places to live.</p> <p>Work with councils to identify suitable locations for housing and employment growth coordinated with infrastructure delivery (urban renewal) and train services, including around Priority Precincts, established and new centres, and along key public transport corridors including the North West Rail Link, the Western Line, the Cumberland Line, the Carlingford Line, the Bankstown Line and Sydney Rapid Transit.</p>	<p>As discussed above, the proposal will facilitate increased residential housing supply in conjunction with the protection of an appropriate proportion of employment activity.</p> <p>The opportunity for an increased diversity and mix of housing typologies is realised through the proposal and will contribute to the housing supply, choices and affordability objectives.</p> <p>Further, the site is well connected in terms of access to transport and infrastructure.</p>
<p>Priorities for Strategic Centres: St Leonards</p> <p>Work with Council to retain a commercial core in St Leonards for long-term employment growth.</p> <p>Work with Council to provide capacity for additional mixed use development in St Leonards, including offices, health, retail, services and housing.</p> <p>Support health-related land uses and infrastructure around Royal North Shore Hospital.</p> <p>Work with Council to investigate potential future employment and housing opportunities associated with Sydney Rapid Transit station at St Leonards/ Crows Nest.</p>	<p>Redevelopment of the site for mixed use purposes in the manner intended will allow people to live closer to jobs and reduce commute times, achieving sustainability outcomes for the centre. The housing of a residential population in close proximity to areas designated for employment growth in turn stimulates this growth as it is more desirable for business and education activities have a readily accessible work force.</p> <p>The proposal presents a thorough investigation, undertaken in conjunction with the St Leonards/ Crows Nest Planning Study, of potential future employment and housing opportunities associated with the proposed Sydney Rapid Transit. The proposal capitalises on the existing and proposed infrastructure to provide mixed use development in well serviced and accessible locations.</p>
<p>SUBREGIONAL STRATEGY</p>	
<p>A Plan for Growing Sydney states that:</p> <p><i>Subregional plans will build on the actions set out in A Plan for Growing Sydney. Councils, the community, the Greater Sydney Commission and the NSW Government will work together to finalise and implement these plans.</i></p>	

9.2.2. District Plan North

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

The draft District Plan has the following broad policy objectives:

- Increase housing capacity
- Improve housing choice
- Ensure new housing capacity leverages current and future infrastructure provision
- Ensure St Leonards achieves a balance of residential and commercial space.

The development of the site for mixed use including residential purposes is considered appropriate for the following reasons:

- Fundamentally, the proposal will create a significant amount of new jobs in addition to the other proposed land uses and for that the proposal upholds a key strategic key direction for the Centre. The creation of some 252 ongoing jobs on site represents a substantial increase to the approximately 40 jobs generated through the approved DA's on the site (serviced apartment and small retail components) and positively contributes to the employment growth targets. In addition the project will create close to 300 (direct and indirect) jobs during the construction of the project.
- A Plan for Growing Sydney is clear that significant employment and residential growth will be accommodated within Strategic Centres. The residential areas within the St Leonards Centre can reasonably be expected to significantly contribute to new residential development within the subregion, particularly given its excellent access to existing transport infrastructure.
- The proposed LEP amendment to allow high density residential development represents a valuable opportunity to provide increased housing within close proximity to both an existing centre and a range of transport options that would complement development activity planned within the immediate vicinity. The proposal would greatly assist with the attainment of dwelling and employment targets for the subregion. This can be achieved without compromising the economic focus of the Centre. The site has been consolidated into a viable site capable of accommodating higher density development and therefore represents a strategic opportunity to:
 - Contribute to the achievement of housing and employment targets.
 - Enliven St Leonards through the introduction of more diverse land uses.
 - Provide opportunities to create homes closer to jobs within St Leonards.
 - Increase the supply of transit oriented housing to shift transport movements from cars to public transport, walking or cycling, thereby reducing congestion and CO2 emissions.
- The proposal will deliver an opportunity for centre-supporting housing that allows people to live and work in the same locality. It also supports the vitality of the Centre, activating the area outside business hours.
- The proposal will facilitate the provision of complementary uses that will strengthen the mixed use character of St Leonards Centre to create a vibrant mixed use zone.
- The site represents a logical location to accommodate a range of uses in close proximity of high frequency public transport services. This is a clear direction of A Plan for Growing Sydney.

9.2.3. NSW Long Term Transport Master Plan

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

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

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

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

9.2.4. Strategic Planning Framework Summary

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

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

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

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

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

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

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

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

Table 6 – Consistently of the Concept Design with SEPPs

Policy	Details
SEPP 14 – Coastal Wetlands	Not relevant
SEPP 19 – Bushland in urban areas	Not relevant
SEPP 21 – Caravan Parks	Not relevant
SEPP 26—Littoral Rainforests	Not relevant
SEPP 30 – Intensive Agriculture	Not relevant
SEPP 33 – Hazardous and offensive development	Not relevant
SEPP 36—Manufactured Home Estates	Not relevant
SEPP 44 Koala Habitat Protection	Not relevant
SEPP 47 – Moore Park Showground	Not relevant
SEPP 50 – Canal estate development	Not relevant
SEPP 52 - Farm Dams and Other Works in Land and Water Management Plan Areas	Not relevant
SEPP 55 Remediation of Land	<p>Douglas Partners have prepared a preliminary site investigation assessment involving site visit, review of site information and historical records. Council records have not identified that a site audit statement has been received with respect to the site, and thus is not declared to be significantly contaminated land, nor subject to management or ongoing maintenance orders nor subject of an approved voluntary management proposal.</p> <p>Given the past history of the site, the report states that there is some potential that past demolition works could have exposed potentially hazardous building materials to surface soil. Imported fill from past works could also be present on the site as could be leaking oil for nearby sites.</p> <p>The assessment concludes that the potential contamination is limited to</p>

Policy	Details
	<p>the sources identified and that the site can be made suitable for the proposed development following intrusive investigations at assess the potential contamination source-pathway-receptor linkages and if necessary the development of a remediation action plan.</p>
SEPP 62 – Sustainable Aquiculture	Not relevant
SEPP 65 Design Quality of Residential Flat Buildings	<p>SEPP 65 provides a statutory framework to guide the design quality of residential flat developments. The development concept has been designed to facilitate future detailed building design in accordance with SEPP 65 and the accompanying Apartment Design Guide (ADG). Based on the indicative apartment layout, the following is noted:</p> <p>The residential component consists of 195 apartments suited to a variety of lifestyles. An indicative dwelling mix is 1 bedroom (21%) 2 bedroom (74%) and 3 bedroom (5%).</p> <p>The residential floors have minimum ceiling heights to living/dining/bedrooms of 2.7 metres and 2.4 metres to non-habitable spaces. The floor to floor height is typically 3.1 metres.</p> <p>Each apartment has access to a secure private open space such as a balcony or winter garden with minimum areas of 8-12m² based on apartment size. Most apartments are able to achieve greater private open space than the minimum prescribed by the ADG. A communal open space area with indoor lounge/meeting rooms and outdoor recreation/pool area will also be provided for residents.</p> <p>Dual aspect apartments have a maximum depth of 11.0 metres and single aspect apartments have are a maximum of 6.0 metres to enhance daylight access and natural ventilation.</p> <p>A minimum of 2 hours direct sunlight between 9:00am & 3:00pm in mid-winter will be enjoyed by more than 75% of the apartments. Similarly, more than 75% of apartments will be naturally cross ventilated. These numbers exceed those prescribed by the ADG.</p> <p>Each apartment has access to a minimum of 6-10m³ of private storage space via a combination of space within the apartment or secure storage cage within the basement levels.</p>
SEPP 70 - Affordable Housing (Revised Schemes)	Not relevant
SEPP 71 – Coastal Protection	Not relevant
SEPP (Affordable Rental Housing) 2009	Not relevant
SEPP - (Building Sustainability Index: BASIX)	Capable of complying. A relevant matter to consider at Development Application stage.

Policy	Details
2004	
SEPP (Exempt and Complying development codes) 2008	Not relevant
SEPP (Housing for seniors or people with a disability) 2004	Not relevant
SEPP (Infrastructure) 2007	The future development application will trigger the referral requirements for traffic generating development of the to the RMS.
SEPP (Major Development) 2005	Not relevant
SEPP (Mining, Petroleum production and extractive industries) 2007	Not relevant
SEPP (Miscellaneous consent provisions) 2007	Not relevant
SEPP (State and Regional Development) 2011	Not relevant
SREP (Sydney Harbour Catchment) 2005	Not relevant
SEPP (Buildings Sustainability Index: BASIX) 2004	<p>The BASIX SEPP requires residential development to achieve mandated levels of energy and water efficiency.</p> <p>The proposed development concept has been designed with building massing and orientation to facilitate future BASIX compliance, which will be documented at the development application stage.</p>
SEPP (Infrastructure) 2007	<p>The Infrastructure SEPP aims to facilitate the efficient delivery of infrastructure across the State. The following matters are relevant to the proposal:</p> <p>The proposed development will require existing utility services to be upgraded and/or augmented to enable the future residential population to be accommodated. These works will need to be undertaken in accordance with the provisions of the SEPP.</p>
SEPP - (Integration and Repeals) 2016	Not relevant
SEPP - (Kosciuszko National Park—Alpine Resorts) 2007	Not relevant
SEPP - (Kurnell Peninsula) 1989	Not relevant

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

In addition, while not a State Environmental Planning Policy, we have considered; *Development Near Rail Corridors and Busy Roads – Interim Guideline*. The provisions of the interim guideline will be considered in the assessment of the potential future acoustic impacts associated with the Pacific Highway. Suitable mitigation and management measures will be provided so that a satisfactory level of residential amenity can be achieved through the future detailed design phase associated with a development application involving residential use in proximity to the surrounding roads.

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

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

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

Direction	Comment
<p>1.1 Business and Industrial Zones</p> <p>The objectives of this direction are to:</p> <p>(a) encourage employment growth in suitable locations,</p> <p>(b) protect employment land in business and industrial zones, and</p> <p>(c) support the viability of identified strategic centres.</p>	<p>The proposal is consistent with the Direction as follows:</p> <p>The proposed development will result in a small reduction in nett lettable area from the existing commercial buildings, however due to the proposed mix of uses, the proposal will result in a net increase in employment from current levels of 179 jobs.</p> <p>Urbis has prepared a comprehensive Employment Assessment included in Attachment J.</p> <p>In summary the report concludes the following:</p> <ul style="list-style-type: none"> • The scale and provision of commercial floorspace is better-suited to the current and future market and the role of St Leonards as a specialised health based centre as it will attract small -medium businesses in health-related industry. • Total overall employment will be 512 jobs, comprising 292 construction generates jobs and 252 ongoing jobs. • This constitutes a significant growth of employment from the current DA approval (residential and serviced apartments) with an estimated 35 ongoing jobs onsite compared with the proposal incorporating retail, art centre and commercial office space that will generate 252 ongoing jobs. • In addition to the employment benefits, the retail space will have the potential to improve turnover performance of existing retail precincts near the site. <p>In summary, the proposal will preserve the economic function of the site, consistent with the core purpose of the St Leonards Strategic Centre and facilitate higher future employment densities and office spaces that will attract health-related business which will strengthen the specialised status of the centre.</p>
1.2 Rural Zones	Not applicable
1.3 Mining, Petroleum Production and Extractive Industries	The proposal satisfies the objectives of this Direction
1.4 Oyster Aquaculture	Not applicable
1.5 Rural Lands	Not applicable
2.1 Environment Protection Zones	Not applicable
2.2 Coastal Protection	Not applicable
2.3 Heritage Conservation	The site has no identified or known items of European or Aboriginal significance, as such the proposal does not require to include provisions
2.4 Recreation Vehicle Areas	Not applicable

Direction	Comment
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs.	Not applicable
<p>3.1 Residential Zones</p> <p>(1) The objectives of this direction are:</p> <p>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) to minimise the impact of residential development on the environment and resource lands.</p>	<p>The proposal will seek to broaden the range of housing provided in the LGA through accommodation of a mixed use development containing residential apartments. The subject site is well placed to accommodate high rise residential accommodation.</p> <p>The proposed mixed use development will make efficient use of existing services and infrastructure and will provide sufficient housing to help meet infill housing targets and reduce the need for land release on the metropolitan fringe.</p> <p>Residential accommodation in this location will have minimal impact on the natural environment or resource lands as the precinct and sites are already developed.</p>
3.2 Caravan Parks and Manufactured Home Estates	Not applicable
3.3 Home Occupations	Not applicable
<p>3.4 Integrating Land Use and Transport</p> <p>(1) The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p>	<p>The proposal is consistent with the direction for the following reasons:</p> <p>The site supports the principle of integrating land use and transport.</p> <p>The site exhibits good access to public and private transportation use, being within walking distance of the St Leonards train station.</p> <p>The site's proximity to public transport will provide opportunities for residents and employees to access the site.</p> <p>The proposal will provide additional employment within the North Sydney LGA within close proximity to existing services and infrastructure.</p> <p>The subject site is located within the St Leonards Centre and is within walking distance of the St Leonards train station. The site is extremely well located to make use of existing services and employment opportunities in nearby centres and will complement and support these existing uses. Additional local service provision within walking distance of new dwellings would be incorporated into the future design of the site.</p>

Direction	Comment
(e) providing for the efficient movement of freight.	
3.5 Development near licensed aerodromes	<p>The site is not in close proximity to Sydney Airport however it is affected by obstacle limitation surface of 156 AHD, and the proposal seeks to exceed the OLS by approximately 107m. Accordingly, the provisions of clause (4) to the Direction applies.</p> <p>The proposal is accompanied by an aeronautical assessment addressing the proposal with respect to the OLS and deemed that the proposal is appropriate. Nevertheless, the proposal will require referral as a 'controlled activity' to the Commonwealth Department of Infrastructure and Regional Development and Sydney Airport seeking permission to amend the building height controls on the subject site, at the development application stage. The relevant authority application accompanies the supporting documentation of this planning proposal</p>
3.6 Shooting ranges	Not applicable
4.1 Acid Sulfate Soils	<p>There is no mapping of acid sulfate soils (ASS) by Council. Given the location of the site high on a ridge the likelihood of ASS is low. Evidence of recent construction close to the site demonstrate ASS is not a constraint to the future proposed development of the site. Further assessment can be carried out if necessary as part of the development application.</p>
4.2 Mine subsidence and unstable land	Not applicable
4.3 Flood prone land	Not applicable
4.4 Planning for bushfire protection	Not applicable
5.1 Implementation of Regional Strategies	Not applicable
5.2 Sydney Drinking water catchment	Not applicable
5.3 Farmland of state and regional significance on NSW far north coast	Not applicable
5.4 Commercial and retail development along the Pacific Highway, North Coast	Not applicable
5.5 -5.7	Revoked
5.8 Second Sydney Airport	Not applicable
5.9 North West Rail Link Corridor Strategy	Not applicable

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

Section C – Environmental, Social and Economic Impact

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

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

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

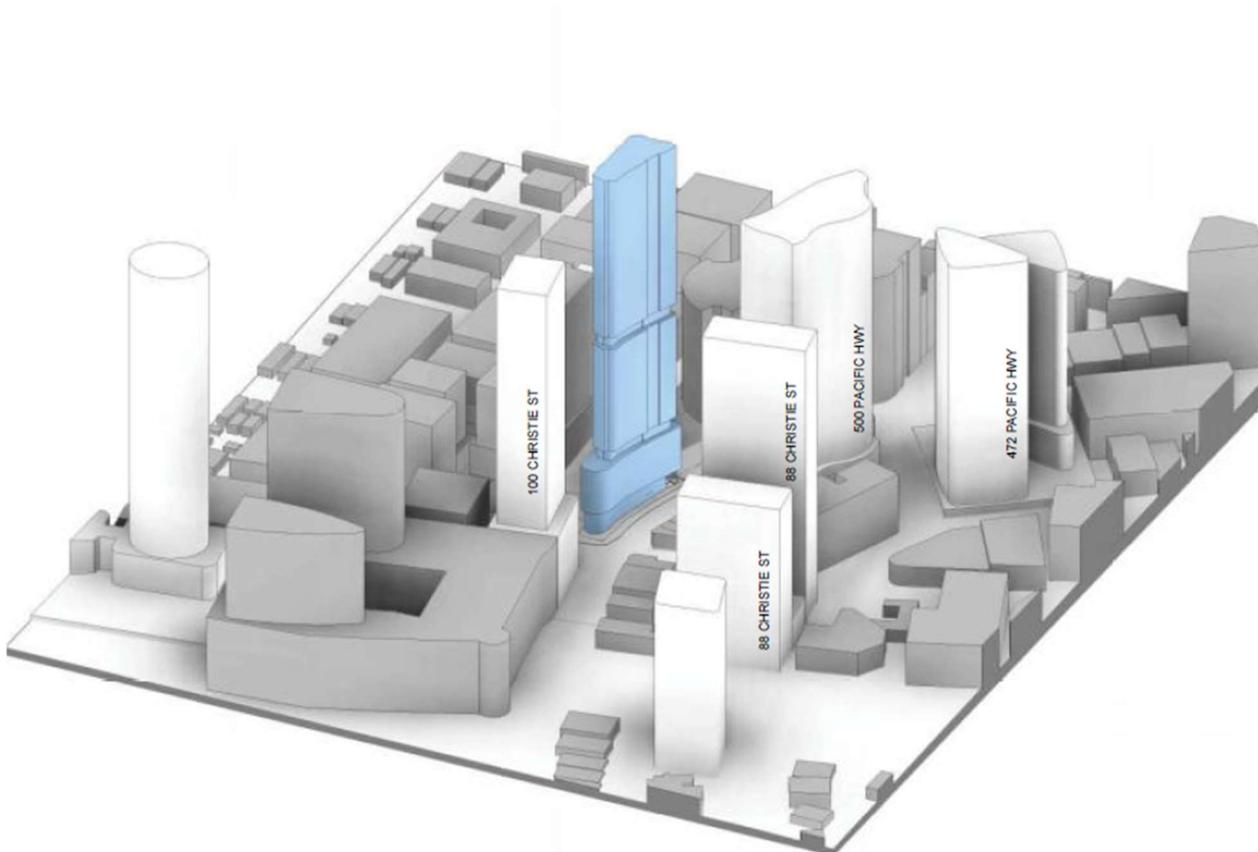
The site is free of major constraints. There are no likely environmental effects associated with the future development of the land that cannot be suitably mitigated through further design development. Preliminary investigations have been undertaken as outlined below.

9.2.5. Visual Impact

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

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

Figure 19 – Model view demonstrating recent taller building form context



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

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

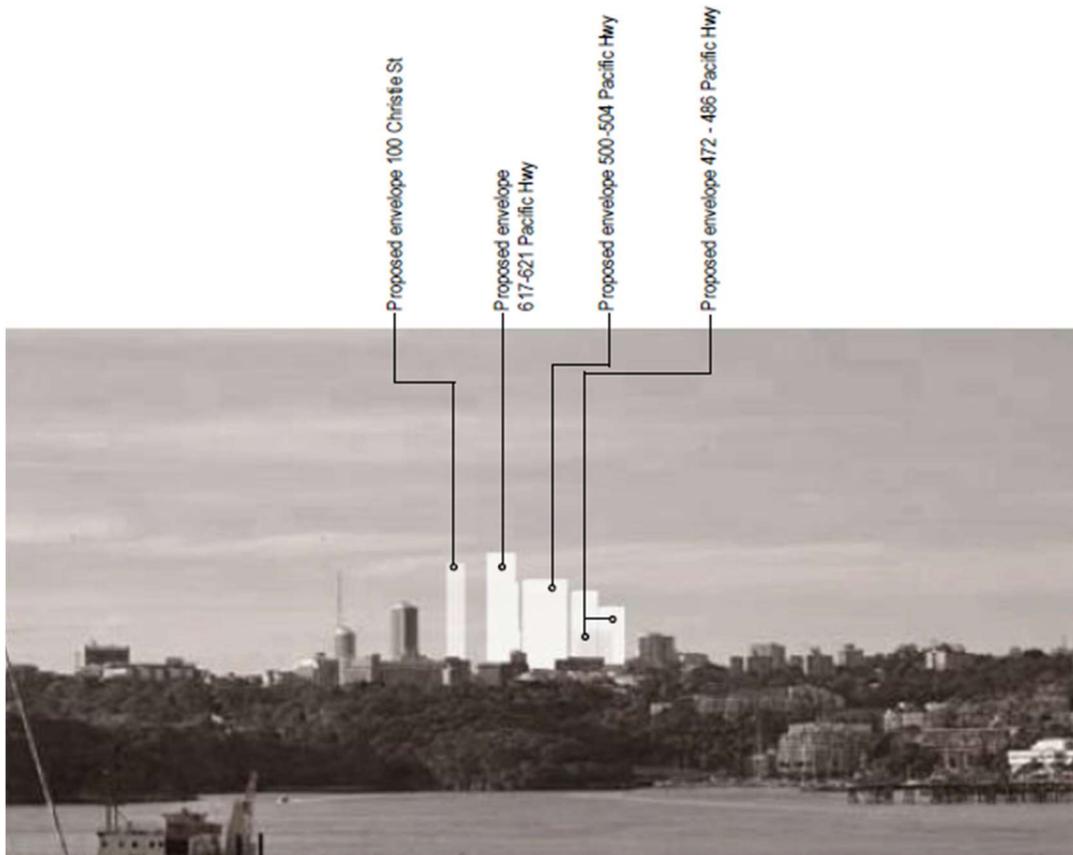
- Differentiate base, middle & top
- Balconies & shading respond to orientation

- Facade texture decreases from bottom to top
- Height module increases from bottom to top

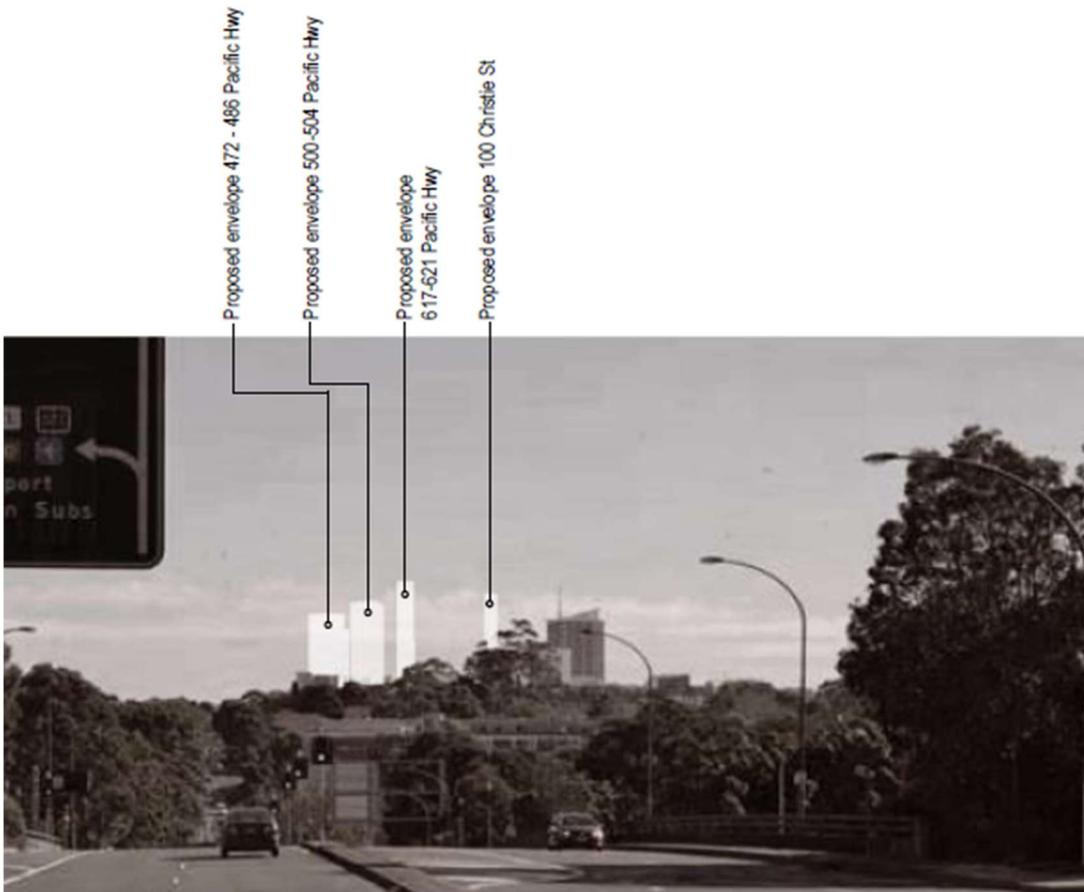
The proposed materials and finishes will be further developed to respond to those in the surrounding environment which include a combination of contemporary and tactile materials. The proposal responds to the contemporary setting and incorporates a finer grain of detail at the pedestrian level. Materials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

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

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



Near Birchgrove Looking North



Near Neutral Bay Looking West

9.2.6. Traffic Impacts

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

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

The key findings of ARUP are summarised as:

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

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

9.2.7. Residential Amenity

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

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

- The residential component consists of 195 apartments suited to a variety of lifestyles. An indicative dwelling mix is 1 bedroom (21%) 2 bedroom (74%) and 3 bedroom (5%).
- The residential floors have minimum ceiling heights to living/dining/bedrooms of 2.7 metres and 2.4 metres to non-habitable spaces. The floor to floor height is typically 3.1 metres.
- Each apartment has access to a secure private open space such as a balcony or winter garden with minimum areas of 8-12m² based on apartment size. Most apartments are able to achieve greater private open space than the minimum prescribed by the ADG. A communal open space area with indoor lounge/meeting rooms and outdoor recreation/pool area will also be provided for residents.
- Dual aspect apartments have a maximum depth of 11.0 metres and single aspect apartments have a maximum of 6.0 metres to enhance daylight access and natural ventilation.
- A minimum of 2 hours direct sunlight between 9:00am & 3:00pm in mid-winter will be enjoyed by more than 75% of the apartments. Similarly, more than 75% of apartments will be naturally cross ventilated. These numbers exceed those prescribed by the ADG.
- Each apartment has access to a minimum of 6-10m³ of private storage space via a combination of space within the apartment or secure storage cage within the basement levels.

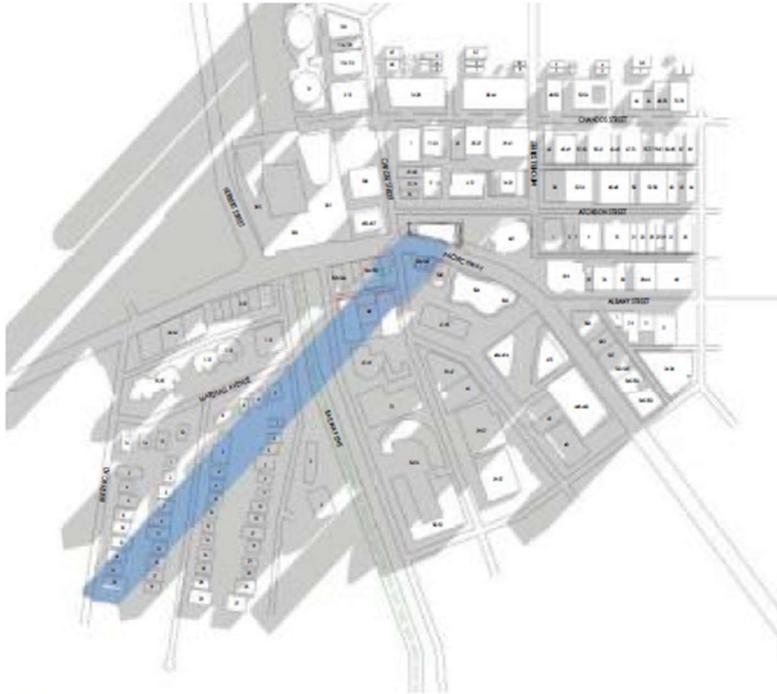
Further, the building separation distances envisaged in the proposal respond to the requirements of SEPP65 and the ADG as they relate to habitable rooms facing habitable rooms in anticipation that the site to the east (IBM site) would similarly be redeveloped for more intensive use including residential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

9.2.8. Overshadowing

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

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

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



09:00am



Midday



03:00pm

9.2.9. Wind

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

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

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

Ground Level:

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

Level 6 Skygarden:

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

Levels 7-23 Balcony Areas:

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

Levels 25-38 Balcony Areas:

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

Levels 39-48 Balcony Areas:

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

Windtech Consultants conclude:

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

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

9.2.10. Sustainability

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

9.2.11. Noise

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

9.2.12. Servicing

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

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

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

9.2.13. Waste Management

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

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

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

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

Recover, reuse and recycle generated waste wherever possible.

Compliance with all relevant codes and policies.

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

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

9.2.14. Contamination

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

The report concludes as follows:

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

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

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

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

9.2.15. Summary

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

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

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

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

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

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

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

9.2.16. Section D – State and Commonwealth Interests

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

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

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

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

No consultation with State or Commonwealth authorities has been carried out to date on the Planning Proposal. It is acknowledged that North Sydney Council will consult with relevant public authorities following the Gateway determination.

10. PART 4 – MAPPING

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

- Height of Buildings Map Sheet HOB_001
- Non-Residential Floor Space Ratio Map LCL_001
- Floor Space Ratio Map FSR_001

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

11. PART 5 – COMMUNITY CONSULTATION

11.1. PUBLIC CONSULTATION

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

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

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

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

12. PART 6 – PROJECT TIMELINE

It is anticipated that the LEP amendment will be completed within 9-12 months. An indicative project timeframe is provided at **Table 8**.

Table 8 – Indicative Project timeline

Stage	Dates
Consideration by North Sydney Council	42 calendar days (March-May 2017)
Council resolution to forward planning Proposal to DPE	May 2017
Planning Proposal referred to Department of Planning and Environment for Gateway Determination	June 2017
Gateway Determination by Department of Planning and Environment	August – September 2017
Commencement and completion of public exhibition	October – November 2017
Consideration of submissions and consideration of the proposal post-exhibition	November – January 2018
Proposal reported back to Council for endorsement	February- March 2018
Date of submission to the Department of Planning and Environment to finalise the LEP	April-May 2018

13. CONCLUSION

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

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

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

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

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

DISCLAIMER

This report is dated March 2017 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd's (**Urbis**) opinion in this report. Urbis prepared this report on the instructions and for the benefit only, of ANSON CITY DEVELOPMENTS 1 PTY LTD (**Instructing Party**) for the purpose of a Planning Proposal (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

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THE FULL VERSION OF THE (ATTACHMENT 2) PLANNING PROPOSAL IS AVAILABLE ON COUNCIL'S WEBSITE

St Leonards Art Gallery: Planning Agreement

Section 93F of the *Environmental
Planning and Assessment Act 1979*

Anson City Developments 1 (Australia) Pty Ltd (**Developer**)
North Sydney Council (**Council**)

MinterEllison

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St Leonards Art Gallery: Planning Agreement

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Details

Date [insert]

Parties

Name **Anson City Developments 1 (Australia) Pty Ltd**
 Short form name **Developer**
 Notice details Telephone: 9299 9987
 Facsimile: 9262 6827
 Email: tom.hu@ansongroup.com.au

Representative: Tom Hu

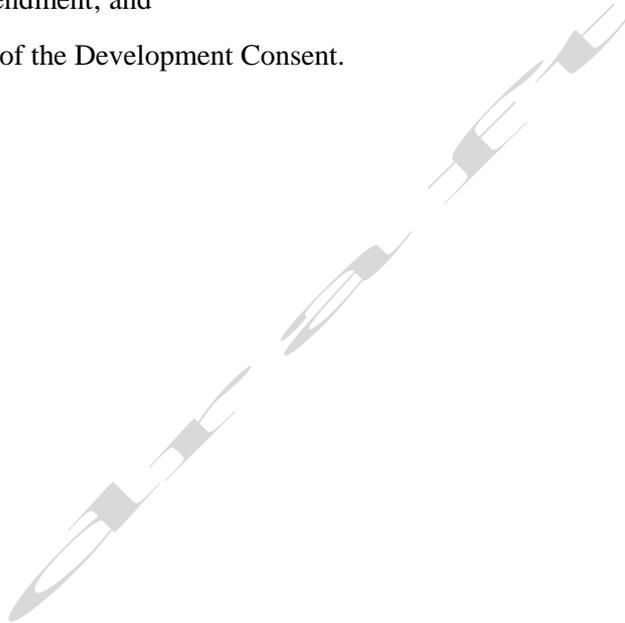
Name **North Sydney Council**
 Short form name **Council**
 Notice details Telephone: [insert]
 Facsimile: [insert]
 Email: [insert]
 Representative: [insert]

Items

- Item 1** **Development Site**
 See definition of Development Site in clause 1.1.
- Item 2** **Development**
 See definition of Development in clause 1.1.
- Item 3** **Development Contributions**
 See Schedule 1.
- Item 4** **Application of s94, s94A and s94EF of the Act**
 See clause 9
- Item 5** **Enforcement**
 See Part D
- Item 6** **Registration**
 This Deed will be registered on the titles to the land on the Development Site.
- Item 7** **Restriction on dealings**
 See Part E
- Item 8** **Dispute Resolution**
 See Part C

Background

- A The Developer is the proponent of the Development.
- B The Council is the relevant local government authority in respect of the Development Site. The JRPP is the relevant planning authority in respect of the Proposed Rezoning in accordance with sections 58 and 59 of the Act.
- C The Developer has lodged the Planning Proposal to request the Proposed LEP Amendment and make permissible the Development.
- D The purpose of this Deed is to agree on the provision of works to be carried out by the Developer that provide a material public benefit to the community for the purposes of the Planning Proposal, namely the construction of the Proposed Art Gallery and its dedication to Council free of charge.
- E The Developer agrees to provide the Development Contributions described in Schedule 1 of this Deed, subject to:
 - (i) the making of the environmental planning instrument that gives effect to the Proposed LEP Amendment; and
 - (ii) the grant of the Development Consent.



Agreed terms

Part A - Preliminary

1. Defined terms & interpretation

In this Deed the following definitions apply:

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

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

Approval includes approval, consent, licence or permission.

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

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

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

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

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

Date of Operation means that date on which:

- (a) the environmental planning instrument that gives effect to the Proposed LEP Amendment is made; and
- (b) Development Consent is granted.

Development means the redevelopment of the Site for a mixed use development including the demolition of existing buildings, five levels of basement parking, a seven storey podium (including retail, community and office facilities) and forty one levels of residential apartments at a height of 175 metres or RL 263.

Development Consent means the grant of development consent in respect of the Development by the relevant consent authority under Part 4 of the Act, generally in accordance with the Development as described in the document entitled "*Planning Proposal 617 – 621 Pacific Highway, St Leonards*" prepared by Urbis and dated March 2017 and provided at Annexure 2 and with a Gross Floor Area as follows:

- (a) residential floor area: 19,600m²
- (b) office floor area: 2,840m²
- (c) community floor area: 1,830m²
- (d) retail floor area: 610 m²

Development Contributions means:

- (a) the construction of the Proposed Art Gallery as described at Schedule 1; and

- (b) the dedication of the Proposed Art Gallery to the Council free of charge as described at Schedule 1.

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

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

Financial Year means each 12 month period during the Term commencing on 1 July and ending on 30 June.

Gross Floor Area has the same meaning as in the *North Sydney Local Environmental Plan 2013*

GST has the same meaning as in the GST Law.

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

JRPP means the Sydney North Joint Regional Planning Panel

Party means a party to this Deed.

Planning Proposal means planning proposal 9/2017/1 lodged by the Developer with the Council requesting the Proposed LEP Amendment.

Proposed Art Gallery means a state of the art, two-level art gallery with a superior quality fit out in the podium levels of the Development in accordance with the design brief entitled "Arts Centre Design Brief" prepared by Kannfinch dated 14 October 2016.

Proposed Art Gallery Stratum Lot means the two levels of airspace of the Proposed Art Gallery, inside the inner surface of the floors, ceilings and external walls.

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

- (a) Amend Schedule 1: Additional Permitted Uses to allow "shop top housing" as a permissible use on the Development Site;
- (b) Amend the NSLEP, 2013 Height of Buildings Map to provide for a building height of 175m on the Development Site; and
- (c) Amend the NSLEP, 2013 Non-Residential Floor Space Ratio Map to provide for a Minimum Non-Residential Floor Space Ratio of 4:1 on the Development Site.

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

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

- (a) the final occupation certificate is issued for the Proposed Art Gallery; and
- (b) the Proposed Art Gallery is dedicated to the Council.

Work means the physical result of any building, engineering or construction work in, on, over or under land.

- (c) In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:
 - (i) Headings are inserted for convenience only and do not affect the interpretation of this Deed.

- (ii) A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (iii) If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
- (iv) A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (v) A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
- (vi) A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (vii) A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (viii) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
- (ix) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (x) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (xi) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (xii) References to the word 'include' or 'including' are to be construed without limitation.
- (xiii) A reference to this Deed includes the agreement recorded in this Deed.
- (xiv) A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, the Party's successors and assigns.
- (xv) A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost.
- (xvi) Any schedules, appendices and attachments form part of this Deed.
- (xvii) Notes appearing in this Deed are operative provisions of this Deed.

2. Status of this Deed

- (a) This Deed is a planning agreement pursuant to section 93F(1) of the Act.

3. Commencement

- (a) This Deed commences on the date when all Parties have executed one counterpart of this Deed.
- (b) The Developer's obligation to provide the Development Contributions only arises on the Date of Operation. This Deed otherwise has no binding obligations on the Developer with respect to the Development Contributions.

- (c) The Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4. Application of this Deed

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

5. Registration of Planning Agreement

- (a) The parties will use all reasonable measures to ensure this Deed is registered within 3 months from the commencement of this Deed pursuant to section 93H of the Act.
- (b) The Parties will co-operate with each other to ensure that the Deed is registered by the Registrar General (LPI) as provided for in section 93H of the Act as soon as possible.
- (c) The Developer will, at its own expense, do all things necessary to procure the registration of the Deed including, but not limited to, attending to any requisitions raised by the Registrar-General in relation to registration as soon as possible.
- (d) When the Development Contributions have been provided to the Council's reasonable satisfaction in accordance with this Deed the Developer may request that the Deed be released from the title of the Development Site.
- (e) The Council will not withhold its consent to the release of the Deed from the title to the Development Site under this clause, provided the terms of this Deed have been complied with.

6. Warranties

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

7. Further Agreements

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

8. Surrender of right of appeal, etc.

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

9. Application of s94, s94A and s94EF of the Act to the Development

- (a) This Deed does not exclude the application of s94 and s94A to the Development.
- (b) This Deed excludes the application of s94EF to the Development.

Part B– Development Contributions

10. Provision of Development Contributions

- (a) The Developer is to make Development Contributions to the Council in accordance with Schedule 1 of this Deed.
- (b) The Council agrees to accept the dedication of the Proposed Art Gallery as described at Schedule 1 of this Deed.
- (c) The Council and the Developer agree that the dedication of land should be exempt from stamp duty pursuant to section 277 of the *Duties Act 1997* (NSW). In the event that stamp duty is found to be payable, Council should take steps to obtain an exemption from paying any stamp duty from the Office of State Revenue. If this exemption cannot be obtained after all reasonable steps to obtain such an exemption have been exhausted, then the Developer will be liable for stamp duty payable on the dedication.

Part C– Dispute Resolution

11. Dispute resolution – expert determination

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

12. Dispute Resolution – Art Gallery

- (a) This clause applies to a Dispute between any of the Parties to this Deed concerning a matter relating to the construction, fit out and finishes of the Proposed Art Gallery.
- (b) A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.

- (c) If a notice is given under clause 12(b), the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- (d) If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the Institution of Engineers Australia to appoint an expert for expert determination.
- (e) The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- (f) Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- (g) The Parties are to share equally the costs of the President, the expert, and the expert determination.

13. Dispute Resolution - mediation

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

Part D - Enforcement

14. Breach of obligations

- (a) If the Council reasonably considers that the Developer is in breach of any obligation under this Deed, it may give a written notice to the Developer:
 - (i) specifying the nature and extent of the breach,
 - (ii) requiring the Developer to:
 - (A) rectify the breach if it reasonably considers it is capable of rectification, or
 - (B) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if it reasonably considers the breach is not capable of rectification,

specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.

- (b) If the Developer fails to fully comply with a notice referred to in clause 14(a), the Council may, without further notice to the Developer, call-up the Security provided by the Developer under this Deed and apply it to remedy the Developer's breach.
- (c) Any costs incurred by the Council in remedying a breach in accordance with clause 14(a) or 14(b) may be recovered by the Council as a debt due in a court of competent jurisdiction.
- (d) Nothing in this clause 14 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer, including but not limited to seeking relief in an appropriate court.

15. Enforcement in a court of competent jurisdiction

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

Part E – Restriction on Dealings

16. Restriction on dealings

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

Part F– Indemnities

17. Release

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

18. Indemnity

The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the

Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

Part G— Other Provisions

19. Termination of Deed

- (a) This Deed will terminate on the earlier of the following events:
 - (i) The Planning Proposal is refused and the Proposed LEP Amendment does not proceed;
 - (ii) Development Consent is not granted by the Consent Authority;
 - (iii) a court of competent jurisdiction declares a Development Consent in respect of the Development to be invalid and the Developer fails, within a further 24 months to obtain a further consent for the Development; or
 - (iv) the Term expires.

20. Notices

- (a) Any notice, consent, information, application or request that is to or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
 - (i) delivered or posted to that Party at its address set out in the Details Page,
 - (ii) faxed to that Party at its fax number set out in the Details Page, or
 - (iii) emailed to that Party at its email address set out in the Details Page.
- (b) If a Party gives the other Party 3 business days' notice of a change of its address, fax number or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted, faxed or emailed to the latest address or fax number.
- (c) Any notice, consent, information, application or request is to be treated as given or made if it is:
 - (i) delivered, when it is left at the relevant address,
 - (ii) sent by post, 2 business days after it is posted,
 - (iii) sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or
 - (iv) sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- (d) If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

21. Approvals and Consent

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

22. Costs

- (a) The Developer is also to pay to the Council the Council's reasonable itemised costs of enforcing this Deed within 7 days of a written demand by the Council for such payment.

23. Entire Deed

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

24. Further Acts

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

25. Governing Law and Jurisdiction

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

26. No Fetter

Nothing in this Deed shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

27. Illegality

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

28. Severability

- (a) If a clause or part of a clause of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.

- (b) If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

29. Amendment

No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with clause 25D of the Regulation.

30. Waiver

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

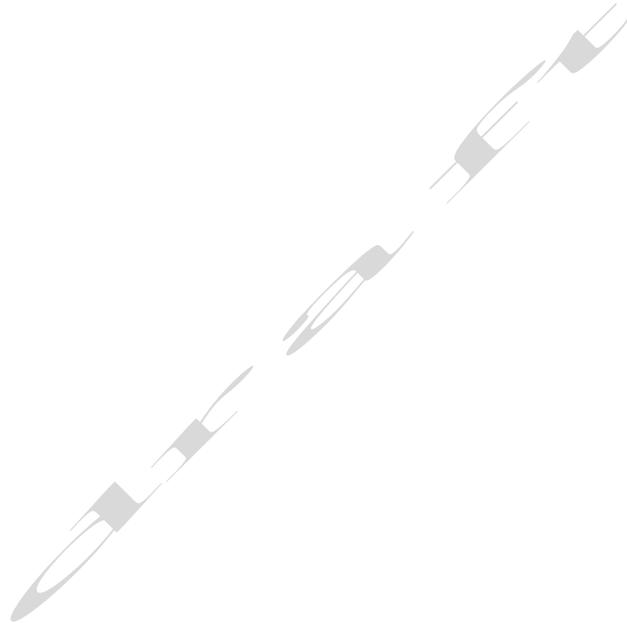
31. GST

- (a) In this clause terms used have the meaning given to them by the GST Law as defined in Section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (the "GST Act").
- (b) If a party to this Deed (the "Supplier") makes a supply under or in connection with this Deed and is liable by law to pay GST on that supply, then the consideration otherwise payable by the recipient of the supply (the "Recipient") will be increased by an amount equal to the GST paid or payable by the Supplier on that supply ("GST Amount").
- (c) If this Deed requires a party to pay for, or reimburse any expense, loss or outgoing ("reimbursable expense") suffered or incurred by another party, the amount required to be paid, or reimbursed by the first party is the amount of the reimbursable expense net of any input tax credit or reduced input tax credit to which the other party is entitled in respect of the reimbursable expense.
- (d) If a party to this Deed has the benefit of an indemnity for a cost, expense, loss or outgoing ("indemnified cost") under this Deed, the indemnity is for the indemnified cost net of any input tax credit or reduced input tax credit to which that party is entitled in respect of the indemnified cost.
- (e) The Recipient need not pay the GST Amount for a supply until the Supplier has issued it with a tax invoice for that supply.
- (f) Subject to the operation of this clause, and unless otherwise expressly stated amounts in this Deed are GST exclusive.

32. Explanatory Note

- (a) Appendix 1 contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.

- (b) Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Planning Deed.



Schedule 1 - Development Contributions (clause 10)

Column 1	Column 2	Column 3	Column 4
Item/Contribution	Public Purpose	Manner & Extent	Timing
A. Public benefit			
<u>1. Provision of Proposed Art Gallery</u>	Services and public amenities	Estimated market value is \$16,500,000 including construction, fit out and land value. Construction to be carried out in accordance with Arts Centre Design Brief prepared by Kannfinch at Appendix 3.	Before an occupation certificate is issued in respect of any residential unit as part of the Development.
<u>2. Dedication of Proposed Art Gallery Stratum Lot</u>	The dedication of land free of cost	Dedication of land in accordance with Schedule 2.	Before an occupation certificate is issued in respect of any residential unit as part of the Development.

Schedule 2 – The Dedication Terms

1. Dedication and Transfer of Land

- (a) The Developer must prepare and procure registration of any necessary plan of stratum subdivision (Plan of Subdivision) to dedicate and transfer the Proposed Art Gallery Stratum Lot.
- (b) The Proposed Art Gallery Stratum Lot is to be used by Council for the purpose of an art gallery.
- (c) In accordance with the timing provisions of Schedule 1, the Developer will appropriately execute and deliver to the Council any necessary Transfer and the items referred to in clause 1(d) and (e).
- (d) The Council is authorised to date and insert into the Transfer particulars of the title to enable the Transfer to be registered. For the avoidance of doubt, the date of the Transfer will be the date of the registration of the Plan of Subdivision creating the area or the lot to be dedicated to Council.
- (e) The Developer will deliver to Council at the same time it delivers the Transfer to Council:
 - (i) a letter addressed to the Registrar General (LPI) authorising and instructing the Registrar General (LPI) to forward the certificate of title to the Proposed Art Gallery Stratum Lot to the Council following registration of the Plan of Subdivision;
 - (ii) discharges of all encumbrances affecting the Proposed Art Gallery Stratum Lot to be dedicated to Council
 - (iii) a cheque in favour Land and Property Information, NSW for the registration fees on the Transfer and discharges of all encumbrances;
 - (iv) a current clear land tax certificate from Office of State Revenue in respect to the Proposed Art Gallery Stratum Lot;
 - (v) appropriate evidence of all outgoing rates having been paid in respect of the Road Land Dedication transfer; and
- (f) Upon dedication and transfer of the Proposed Art Gallery Stratum Lot to the Council the Developer will deliver to Council any updated certificates and appropriate evidence of the items referred to in clause 1(e).
- (g) Following the transfer of the Proposed Art Gallery Stratum Lot to the Council, the Council will, as soon as practicable:
 - (i) have the Proposed Art Gallery Stratum Lot classified as "*community land*" under the provisions of the *Local Government Act 1993*; and
 - (ii) adopt a plan of management under the provisions of the *Local Government Act 1993* for the Proposed Art Gallery Stratum Lot consistent with its proposed use as an art gallery.

Signing page

EXECUTED as a deed.

Executed by Anson City Developments 1 Australia Pty Ltd pursuant to s127(1) of the Corporations Act 2001 by authority of its directors

Signature of Secretary/director

← _____ ←
Signature of director

Name of Secretary/director (print)

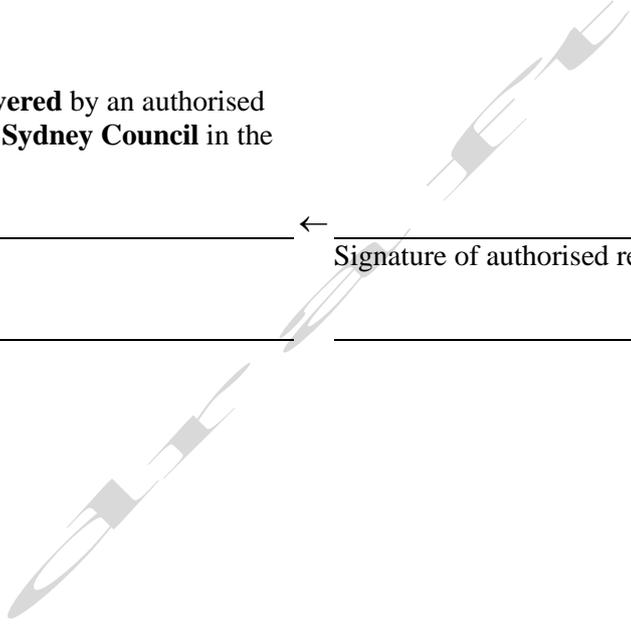
Name of director (print)

Signed, sealed and delivered by an authorised representative of **North Sydney Council** in the presence of

Signature of Witness

← _____ ←
Signature of authorised representative

Name of Witness (print)



Appendix 1 (Clause 32)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s93F of the Environmental Planning and Assessment Act 1979

Parties

North Sydney Council of 200 Miller Street North Sydney 2060 (**Council**)

Anson City Developments 1 (Australia) Pty Ltd (**Developer**)

Description of the Land to which the Draft Planning Agreement Applies

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

Description of Proposed Development

The redevelopment of the site for a mixed use development including the demolition of existing buildings, five levels of basement parking, a seven storey podium (including retail, community and office facilities) and forty one levels of residential apartments at a height of 175 metres or RL 263.

The proposed development also includes a proposed art gallery,

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

Objectives of Draft Planning Agreement

The objective of the Draft Planning Agreement is to require the Developer to provide a significant material public benefit as part of the carrying out the Development, if approved.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the Environmental Planning and Assessment Act 1979 (Act). The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for various public purposes (as defined in s93F(2) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- relates to the carrying out by the Developer of Development on the Development Site,
- does not exclude the application of s94 or s94A of the Act to the Development;
- requires the provision of a material public benefit,
- is to be registered on the titles to the Development Site,
- imposes restrictions on the Parties assigning an interest under the agreement,

- provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation
- provides that the agreement is governed by the law of New South Wales.

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes and co-ordinates of the orderly and economic use and development of the land to which the agreement applies; and
- provides and co-ordinates the provision of public facilities in connection with the Development.

How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement promotes the Public Interest by promoting the objects of the Act as set out in s5(a)(ii), (v) and 5(c).

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils – How the Draft Planning Agreement Promotes the Elements of the Council’s Charter

The Draft Planning Agreement promotes the elements of the Council’s charter by:

[Drafting Note: To be Completed by Council]

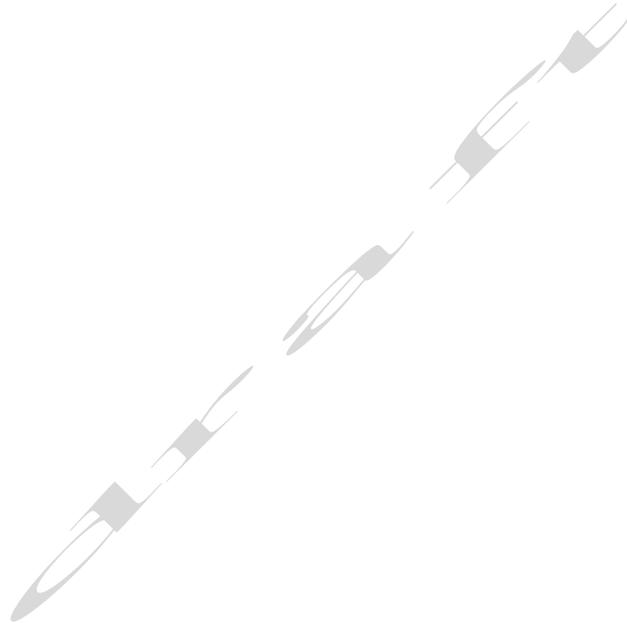
All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority’s Capital Works Program

[Drafting Note: To be Completed by Council]

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

[Drafting Note: To be Completed by Council]

Appendix 2 – Planning Proposal prepared by Urbis



Appendix 3 – Arts Centre Design Brief prepared by Kannfinch

