

## Planning and Assessment

IRF20/1337

### Plan finalisation report

Local government area: North Sydney

#### 1. NAME OF DRAFT LEP

North Sydney Local Environmental Plan 2013 (Amendment No 28).

#### 2. SITE DESCRIPTION

The subject site comprises two allotments in St Leonards, legally described as Lots 2 and 3 of DP 733528 and known as 100 Christie Street and Christie Street Reserve (Figure 1 & 2).

As shown in Figure 2, the southern portion of the site contains a 12-storey commercial office building of brutalist design, with frontages to Christie Street and Sergeants Lane. The building contains a basement car park and is serviced by Sergeants Lane.

The northern portion of the site forms the Christie Street Reserve (a public park in private ownership) that has frontages to Christie Street, Chandos Street and Sergeants Lane. The reserve is lined by several trees along the perimeter of the allotment and comprises paved and turf areas for public use.

Combined, the two parcels occupy the entire block and have an area of 2,414m<sup>2</sup>. The parcel with the commercial building has a site area of 1,343m<sup>2</sup> and the reserve has an area of 1,071m<sup>2</sup>.

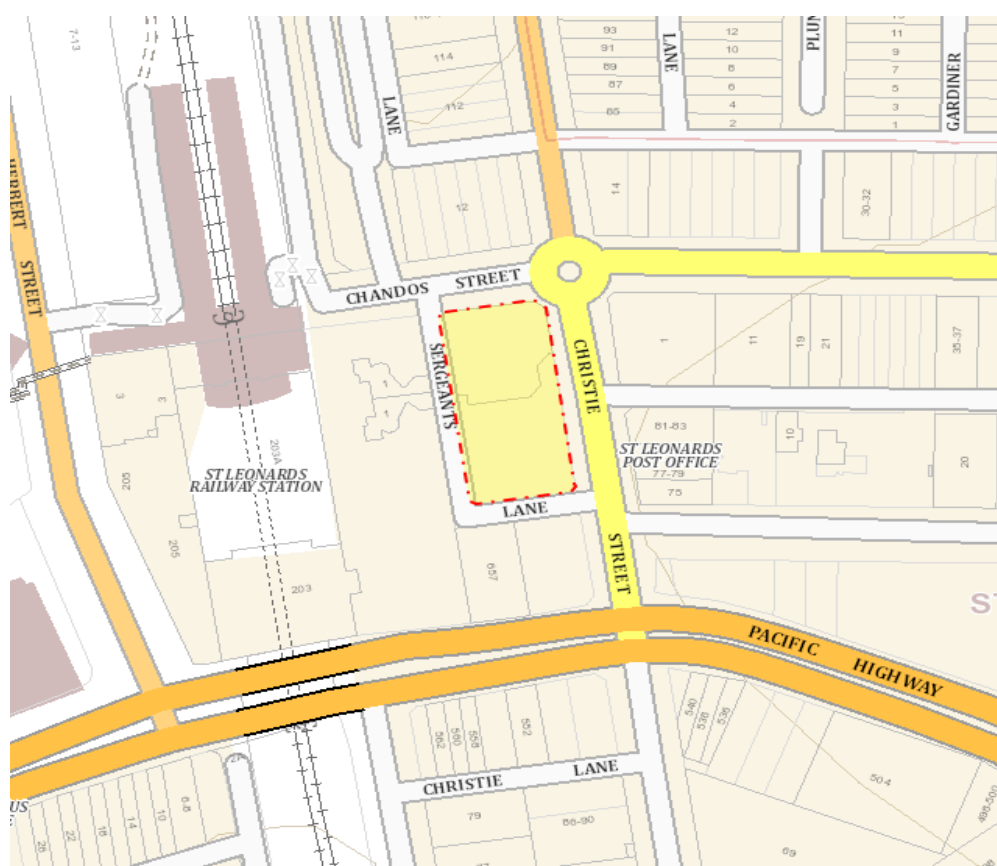


Figure 1: Site Map

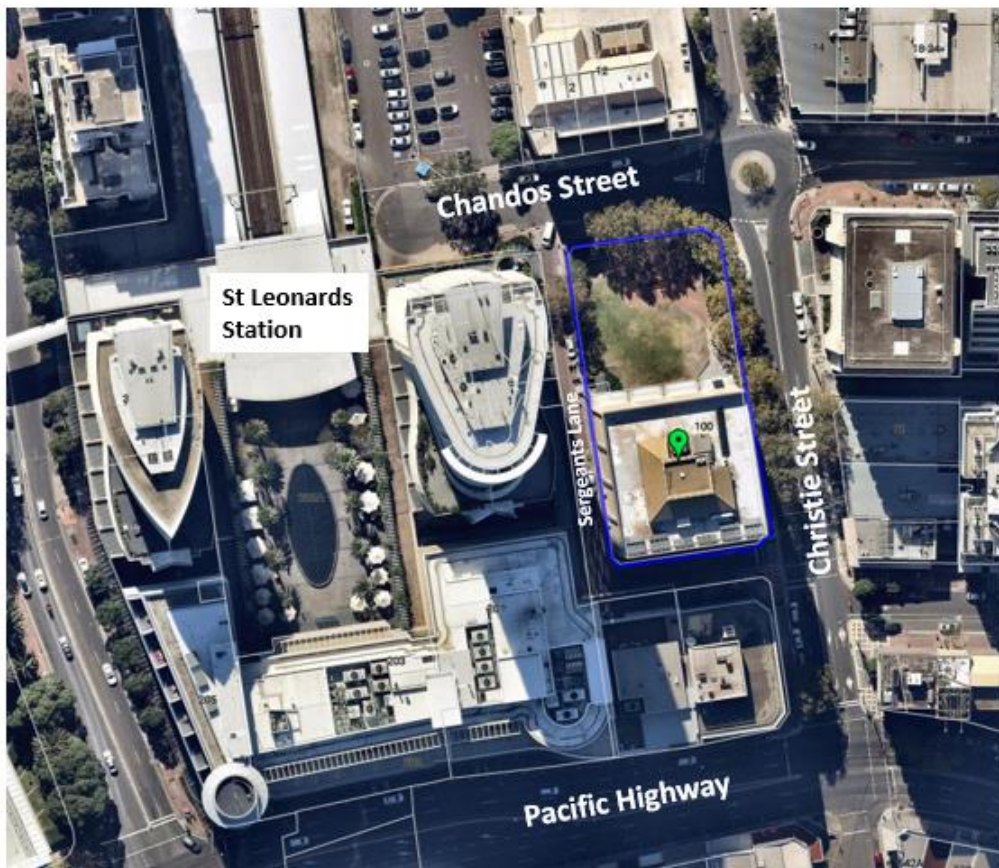


Figure 2: Site Map (Aerial)

### 3. EXISTING PLANNING CONTROLS

The site at 100 Christie Street and Christie Street Reserve is subject to the following planning controls under North Sydney Local Environmental Plan 2013 (North Sydney LEP 2013):

- B3 Commercial Core and RE1 Public Recreation (Figure 3); and
- Maximum building height of 49m (Figure 4).

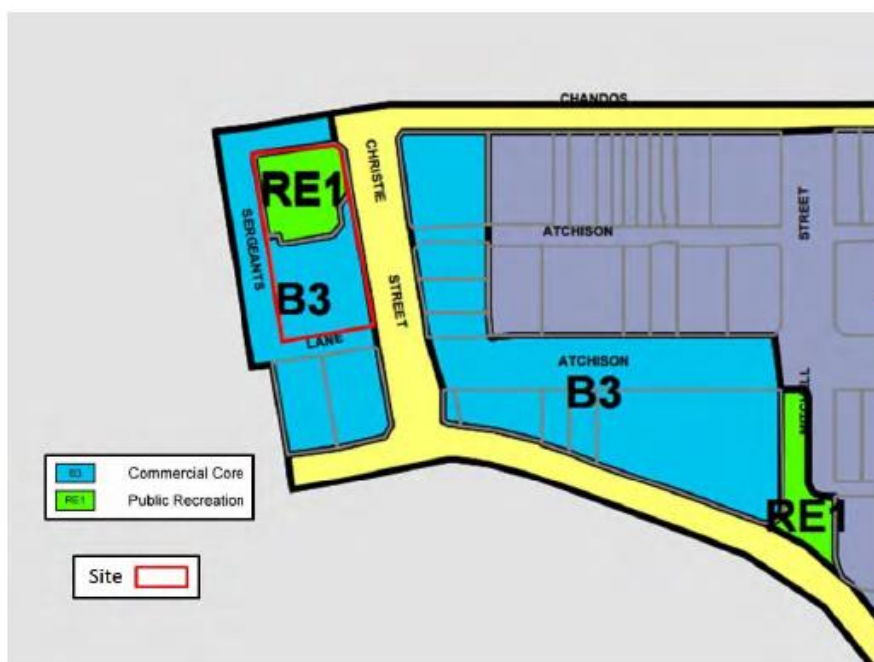


Figure 3: Existing land use map



Figure 4: Existing maximum building height map

#### 4. PURPOSE OF PLAN

The draft LEP seeks to amend the North Sydney LEP 2013 for the site at 100 Christie Street, St Leonards by:

- increasing the maximum building height from 49m to 132m;
- introducing a maximum floor space ratio (FSR) of 18:1;
- introducing a minimum non-residential FSR of 4.25:1;
- identify the site in the Intensive Urban Development Area Map in accordance with clause 6.20;
- adding a clause to Schedule 1 – Additional Permitted Uses to permit shop-top housing with consent on the subject site.
- introduce a clause in Part 6 – Additional Local Provisions for Christie Street Reserve to enable basement parking to be constructed below 50% of the reserve; and
- amend clause 4.6(8) to exclude the use of clause 4.6 to vary the development standard on parking under Christie Street Reserve.

The proposed amendment to North Sydney LEP 2013 seeks to enable the redevelopment of the site for a 36-storey mixed-use building comprising a six-storey commercial podium and a 30-storey residential tower above (providing 239 apartments).

A copy of the planning proposal is in **Attachment A**.

#### STATE ELECTORATE AND LOCAL MEMBER

The site falls within the North Shore State Electorate. Ms Felicity Wilson MP is the State Member for North Shore.

The site falls within the North Sydney Federal Electorate. Mr Trent Zimmerman MP is the Federal Member for North Sydney.

To the planning team's knowledge, neither MP has made any written representations regarding the proposal.

**NSW Government Lobbyist Code of Conduct:** There have been no meetings or communications with registered lobbyists with respect to this proposal.

**NSW Government reportable political donation:** A political donation disclosure statement has been provided.

## 5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 28 August 2018 (**Attachment B**) determined that the proposal should proceed subject to conditions. The Gateway determination was altered on 4 October 2019 to extend the timeframe to make the LEP for a further 6 months to 29 February 2020 (**Attachment C**).

At the time when the Gateway determination was issued, the Department's draft St Leonards and Crows Nest 2036 (draft 2036 Plan) had not been released. A condition was included in the Gateway determination for the proposal to be generally consistent with the Department's plan for the St Leonards and Crows Nest planned precinct prior to finalisation. The consistency with the draft 2036 Plan is discussed in Section 9 of this report.

## 6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 8 November to 6 December 2018.

A total of 58 submissions were received in response to the public exhibition of the planning proposal, which comprised the following:

- 53 public submissions; and
- 5 State government agency submissions.

From the total of 53 public submissions, 2 supported the proposal and 51 objected to the proposal.

Council's detailed response to submissions is at **Attachment D**. The key issues raised by the public are discussed below and in summary related to:

- The proposed height of the building being considered excessive;
- Adverse impact to solar access to the apartments within the Forum building at 1 Sergeants Lane, future buildings located south of the site and public areas such as the St Leonards Plaza;
- The scale of the building being considered inappropriate and incompatible to the locality;
- Building separation concerns such as visual privacy, acoustic impacts and wind impacts to the Forum building at 1 Sergeants Lane;
- Loss of views for residents of the Forum building at 1 Sergeants land;
- Concerns of overdevelopment of the site and locality which may cause amenity and traffic impacts;
- Public benefits secured through the VPA is a trade-off for a significant increase in density;
- Increasing traffic congestion; and
- Concerns with re-location of on-street parking from the eastern side of Sergeants Lane to the from of the Forum building at 1 Sergeants Lane.

Council acknowledged that the issues raised in submissions in the exhibition period did not warrant an amendment to the planning proposal.



## Height

A number of submissions raised concerns regarding the height of the proposed development, stating it is excessive and should not be taller than the adjacent building at 1 Sergeants Lane, also referred to as 'The Forum'.

### *Council's Response*

The proposed height of 132m (36 storeys) is consistent with Council's St Leonards Crows Nest Planning Study Precincts 2 and 3 (SLCN Planning Study). The proposal is one of four sites that were identified in the SLCN Planning Study that can accommodate a 'tall tower'. The location of the tall tower sites were identified with regard to preserving the village scale of the retail strip along Willoughby Road and the low density residential areas surrounding the St Leonards Centre.

### *Department's Comments*

The Department considers Council's response adequately responds to this issue. The proposed height is consistent with Council's SLCN Planning Study and the Department's draft 2036 Plan which proposes a building height of 36 storeys for the subject site.

## Overshadowing

Submissions raised concerns related to the extent of overshadowing that the proposed increase in height would create. The submissions stated the proposal would create adverse impacts upon the solar access to apartments within the Forum development, future development located south of the site (within Lane Cove LGA) and St Leonards Plaza.

### *Council's Response*

#### Overshadowing impacts to the Forum

An analysis of the shadow diagrams indicates that only a minor section of the south-eastern portion of the Forum East will be affected for a maximum of 45 minutes, between 9:00am to 10:00am during the winter solstice (Figure 5 & 6). It is unlikely that the proposal will result in a significant reduction in solar access levels to the Forum. Additionally, the lower levels of the Forum will experience improvements to solar access due to the greater setbacks and the smaller 6 storey podium element provided in replacement of the existing 12 storey commercial building. The concept proposal seeks to provide a 1.5m setback at ground level and 3m setback above podium level along Sergeants Lane West, compliant with the built form strategy of SLCN Planning Study – Precincts 2 & 3.



Figure 5: Winter solstice 21 June 9am (left) and 10am (right)

#### Overshadowing Impacts to Properties South of Pacific Highway

Existing and approved tall developments within the Lane Cove LGA already heavily overshadow the properties south of Pacific Highway. The concept proposal provides a relatively slender form, being less than 33m in length and a compact tower floorplate of 609-750sqm. Further, the tower partially overshadows St Leonards Plaza from 9:00am to 11:45am. However, it does not overshadow the Plaza during the more critical lunchtime hours between 12-2pm during the winter solstice.



Figure 6: Winter Solstice 21 June 12pm (left) and 1pm (right)

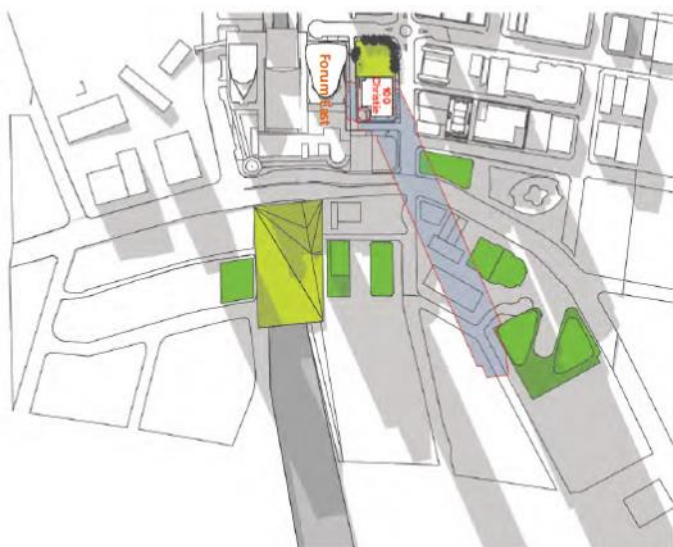


Figure 7: Winter Solstice 21 June 2pm

#### *Department's comments*

The Department considers Council's response adequately responds to this issue. The planning proposal is supported by a shadow analysis prepared as part of the urban design report. There will be overshadowing to the Forum building for 45 minutes between 9:00am to 10:00am during the winter solstice. However, the proposed development will provide better separation and solar access to the lower levels of the Forum due to greater setbacks and a smaller 6 storey podium that the existing 12 storey commercial building. On balance, the Department considers the additional overshadowing of 45 minutes to be acceptable. The final detailed design will be subject to SEPP 65 and Apartment Design Guide requirements at the DA stage.

#### **Scale of Development**

Submissions suggested that the proposal was of inappropriate scale and would disrupt the visual skyline of St Leonards.

### *Council's Response*

The SLCN Planning Study – Precincts 2 & 3 identifies a need to concentrate taller buildings and density to form a centre of urban activity within this precinct. The concept design achieves a slender tower consisting of a setback cutaway section to the south-west corner and a small podium element. This ties in with the other 'tall tower' of 50 storeys located approximately 40m away at 617-621 Pacific Highway, fitting within the bell curve of skyline generated by current and future expected developments (Figure 6 & 7). It will form a positive contribution to the cluster of proposed 'tall towers' identified within the SLCN Planning Study – Precincts 2 & 3. The final detailed design will be subject to SEPP 65 and ADG requirements at the DA stage

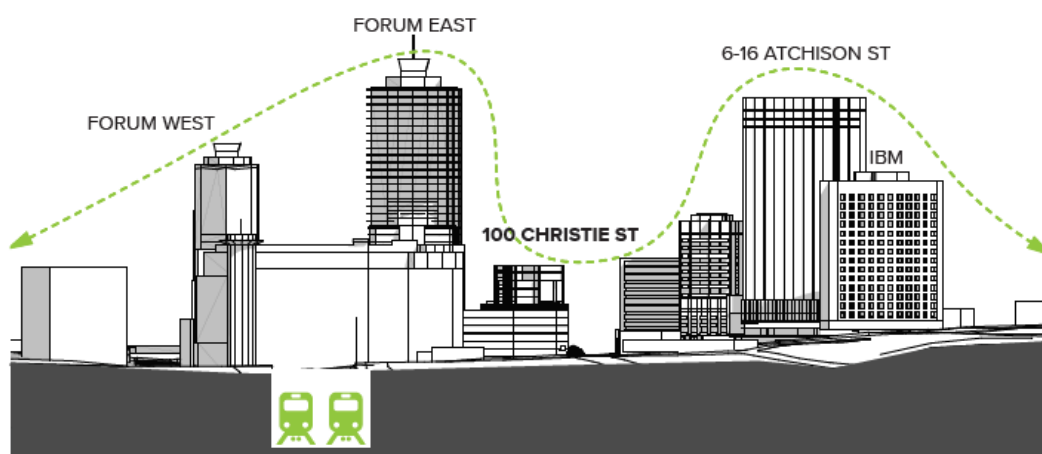


Figure 8: St Leonards existing skyline

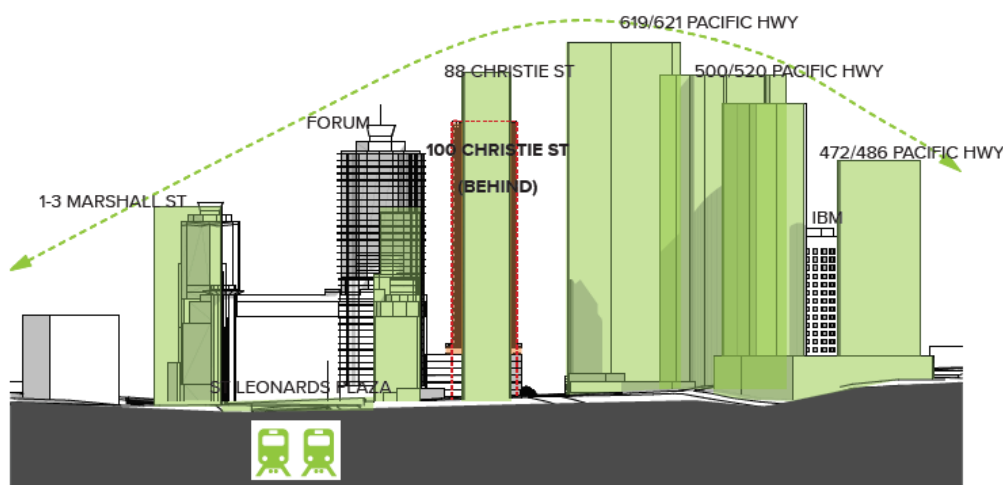


Figure 9: St Leonards future skyline, incorporating proposed/approved buildings within the Lane Cove LGA.

### *Department's Comments*

The Department considers Council's response adequately responds to this issue. The planning proposal is consistent with the planning controls in Council's SLCN Planning Study and the Department's draft 2036 Plan. The Department considers that the proposed development at 100 Christie Street will fit in the desired skyline of St Leonards.

## Building Separation

Submissions from the owners of the Forum objected to the proposed development and its close proximity to their building. The residents raised concerns over visual privacy, acoustic impacts and wind impacts as result of the proposed development.

### *Council's response*

The existing 12 storey commercial building provides an average 12m separation distance between the curved southern base section of the Forum. The proposed development is capable of generally complying with the ADG separation distance requirements of 24m between habitable facades and 18m between non-habitable facades (Figure 8). Where less than 24m separation distance is provided, the concept tower is designed with façade treatments to mitigate privacy and acoustic impacts.

The proposal is accompanied by a wind impact assessment which concluded that the level of wind impact is reasonable subject to the incorporation of a number of amelioration measures which need to be further detailed at the DA stage. The proposal also seeks to provide tower setbacks and awnings around all aspects of the site, which can mitigate any adverse wind impacts within and around the development.

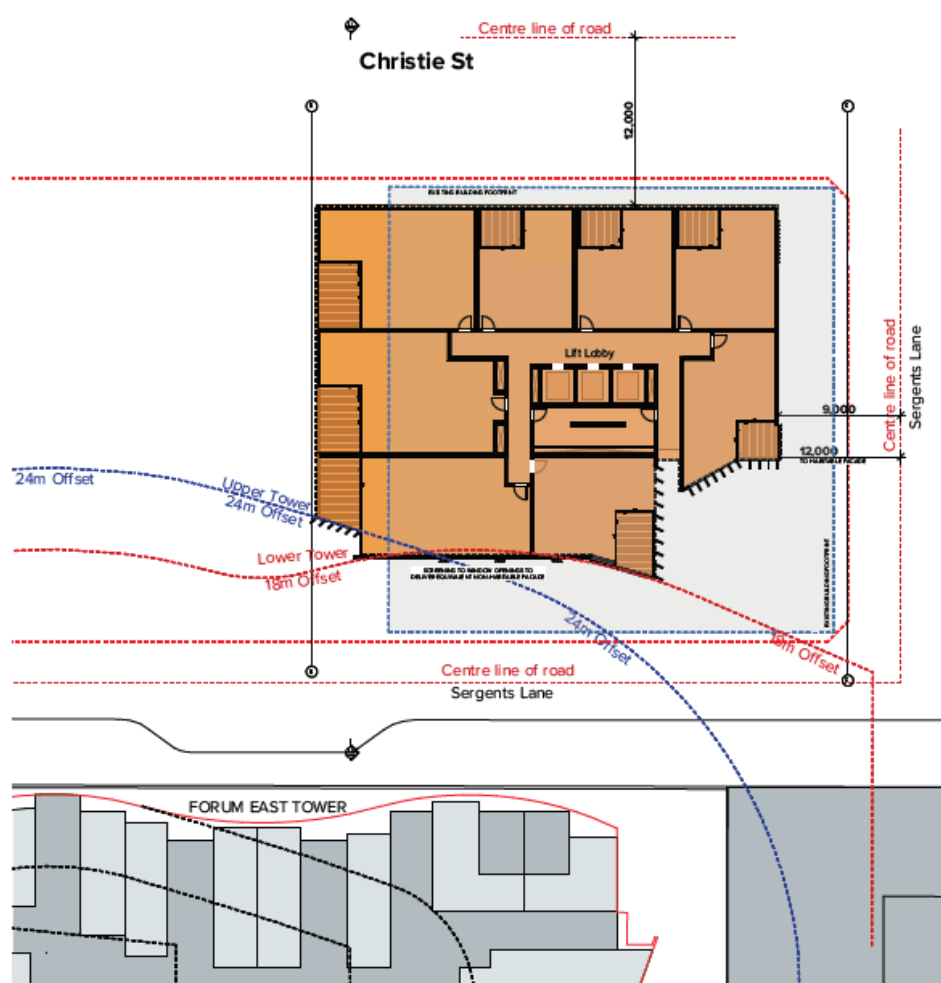


Figure 10: Proposed building setbacks



### *Department's Comments*

The Department considers Council's response adequately responds to this issue. The planning proposal is supported by analysis against the Department's Apartment Design Guide. The proposed development will provide improved setbacks from the existing building having an average of 12m separation distance between the curved southern base section of the Forum to the proposed development which aims to achieve a setback of 17m-18m between the lower residential levels of the Forum East, and 23m-30m between the upper levels of the Forum East. Additionally, the final detailed design will be subject to *SEPP 65* and *ADG* requirements at the DA stage.

### **Views**

Submissions from the owners for the Forum raised concerns over the loss of views as a result of the proposed development.

#### *Council's Response*

The Forum East is 113m in height. The views of the Forum East currently remain largely uninterrupted and are primarily regional and district views obtained from east-facing apartments. However, dependent on the specific apartment location, some Forum residents within the south and east facing apartments may have what are considered more highly valued views of the "iconic elements" of the Sydney Harbour Bridge, Sydney Opera House and the Sydney City skyline.

The proposed increase in height would primarily affect the regional views currently enjoyed by east facing properties within the Forum East and have some minor impact on "iconic elements" of broader views comprised of the Sydney CBD and the Sydney Opera House from a few north-east facing apartments. Currently the views are obtained from the main living room, primary balconies and kitchens from level 13 and upwards of east and north-east facing properties.

The precise extent of any view impacts cannot be determined until such time as a DA has been made on the subject site. However, the proposal is likely to affect regional views and potentially have some impact "iconic view elements" of broader views enjoyed by a number of residents within the Forum. However, these more significant views will be largely impacted by developments greater than 40 storeys already approved along the Pacific Highway in the Lane Cove LGA. A number of these approvals are under construction and will have a substantially greater impact on views to the south than the proposal.

Given the proposal's consistency with the community endorsed Planning Study, the broader context of St Leonards, and its role as a Strategic Centre in the Sydney Region Plan and North District Plan, the full retention of the subject views is therefore not considered to be a reasonable proposition.

### *Department's Comments*

The Department considers Council's response adequately responds to this issue. The planning proposal is consistent with Council's SLCN Planning Study and Department's draft 2036 Plan. The planning proposal is supported by an Urban Design study which concludes the proposed development will have some impact on the regional views enjoyed from a number of residential dwellings within the Forum building. However, it is unlikely that the proposed development will fully obstruct these views. On balance, the Department considers the impact is reasonable given the proposal has incorporated design measures to minimise view loss impacts from the Forum, including siting of the building on the southern corner of the site to avoid direct line of sight into the Forum. Further design measures can be investigated to minimise view loss at DA stage.

## **Overdevelopment**

Submissions stated that the proposed development would contribute to overdevelopment of the site and within the locality which will cause amenity, traffic and safety impacts. They consider that there is inadequate infrastructure such as green space, schools and parking to support the increase population.

### *Council's Response*

The planning proposal is consistent with the objectives and outcomes of the community endorsed SLCN Planning Study – Precincts 2 & 3, demonstrating that the Planning Proposal has been carefully designed to achieve a level of view sharing, solar access, privacy and safety for the surrounding locality. The planning proposal is also accompanied by a VPA that seeks to provide public open space and streetscape upgrades that will help support the proposed additional development capacity consistent under Council's study.

Additionally, the subject site is immediately adjacent to the St Leonards Railway Station and in close proximity to the proposed Crows Nest Metro (approximately 600m away). It is anticipated that the Sydney Metro would improve reliability across the overall public transport network and address current and emerging constraints such as train crowding, and station crowding

### *Department's Comments*

The Department considers Council's response adequately responds to this issue. The planning proposal is consistent with Council's SLCN Planning Study and Department's draft 2036 Plan. The Department is satisfied that the amount of public benefit and proposed infrastructure upgrades will commensurate the increase in density.

## **Public Benefit**

Submissions objected to the public benefits as a trade-off for allowing a significant increase in building height and questioned what the actual public benefits were for the community.

### *Council's Response*

The SLCN Planning Study identifies a set of public benefits that were considered critical to support a 36-storey mixed use development on this site. The public benefits offered as part of the VPA are largely consistent with the items identified in Council's study and will help meet the needs of the community.

These include:

- The upgrade and dedication of Christie St Reserve to Council;
  - this will increase the size and amenity of Christie St Reserve in an area that has been identified as lacking in public open space and ensure the existing lease arrangements of private land will be transferred to Council in perpetuity as public open space;
- The amalgamation of vehicular and loading access of the subject site and future basement connection between 655-657 Pacific Highway;
  - this will reduce the amount of vehicular movements along Sergeants Lane and assist on future pedestrianisation of Sergeants Lane South;
- Streetscape upgrade and improvements to Sergeants Lane/Chandos Street/Christie Street;
  - this will improve pedestrian amenity and safety along the laneway network;
- A new 2,000sqm community co-working space that will be under Council ownership;

- this will provide a much needed community facility /activity for the area and enable the community to access a range of social, economic and educational opportunities;
- A monetary contribution of \$100,000 for the purposes of a bike hub;
  - this will help support sustainable transport options and contribute to the reduction of private vehicle dependency within the area; and
- Local development contributions under section 7.11 of the *Environmental Planning and Assessment (EP&A) Act (1979)* based on the final form of the development.

These are considered to be commensurate public benefits that will support the increased development capacity in an appropriate manner.

#### *Department's Comments*

The Department considers Council's response adequately responds to this issue. The planning proposal will facilitate the redevelopment of the site and is supported by significant public benefits to the local community.

The planning proposal will allow for the addition of residential uses, providing residential accommodation in immediate proximity to public transport, employment, commercial needs and services. The site is next to St Leonards train station and close to the future Crows Nest Metro Station and provides direct access to all basic needs. The proposed higher densities will encourage growth and promote housing choice and affordability.

The proposal will enable positive social impacts in terms of the urban renewal of the site and the public interface of the building and the public realm. The public benefits of the proposal include the dedication of a community co-working space within the commercial podium, the dedication and upgrade of a park, an upgraded laneway network and funding for a bike hub. The proposed implementations will upgrade the amenity of the site and its relationship to the streetscape, encourage activity and generate opportunities for social interaction.

The proposal is expected to contribute to the planning priorities and key actions from the North District Plan and the draft St Leonards and Crows Nest 2036 Plan. This is further discussed in Section 9 of this report.

#### **Traffic Congestion**

Submissions identifies that the proposal would result in an increase in traffic congestion in a locality that is already heavily congested.

#### *Council's Response*

The Traffic and Transport Study prepared by Barker Ryan Stewart states that through the provision of parking consistent with the DCP, there will be '*no discernible change arising in traffic generation from the existing use of the site to the proposed.*' This is largely due to the reduction in higher traffic generating commercial uses from 9,636sqm GFA to 5,250sqm GFA which helps offset the new proposed lower traffic generating residential use rates.

The proposal also seeks to consolidate access to the basement car park and the loading bay which will be via a single entry/exit from Sergeants Lane at the western boundary to the site. This will potentially reduce vehicular movements within Sergeants Lane, improving the safety of pedestrians along this shared zone.

#### *Department's Comments*

The Department considers Council's response adequately responds to this issue. It is understood the concept design proposes a maximum of 113 parking spaces, compliant with North Sydney DCP 2013. Further, the planning proposal is consistent with Council's SLCN

Planning Study which requires a no net increase in traffic generation. Details of the future vehicle entry and basement design will be confirmed and assessed at the DA stage.

## **7. ADVICE FROM PUBLIC AUTHORITIES**

Council was required to consult the following in accordance with the Gateway determination:

- Transport for NSW;
- Roads and Maritime Services;
- Former Office of Environment and Heritage;
- Sydney Airport Corporation Limited;
- Civil Aviation Safety Authority;
- Air services Australia;
- Federal Department of Infrastructure and Regional Development and Cities (DIRDC); and
- Ausgrid.

Council has consulted with all required agencies and received a submission from the following agencies:

- Sydney Airport Corporation;
- Department of Infrastructure, Regional Development and Cities (DIRDC);
- Transport for NSW;
- Roads Maritime and Services; and
- Former Office of Environment and Heritage (OEH).

### **Sydney Airport Corporation**

Sydney Airport Corporation Limited (SACL) did not specifically object or endorse the outcomes of the planning proposal, however advised the following:

- *Any proposed developments taller than 156m AHD would be subject to assessment by the relevant aviation authorities prior to a determination being made by the Secretary of the Federal Department of Infrastructure and Regional Development and Cities.*
- *Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.*
- *Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.*

The matters do not prevent the planning proposal from progressing and in Council's opinion, it can be satisfactorily addressed at the DA stage. The Department notes that Sydney Airport did not object to the proposed development and further consideration and consultation can occur at DA stage.

### **Department of Infrastructure, Regional Development and Cities**

Department of Infrastructure, Regional Development and Cities (DIRDC) did not specifically object or endorse the outcomes of the planning proposal, however advised the following:



- *An approval under the Airports (Protection of Airspace) Regulations 1996, for a height of 206.8 metres AHD, was issued for this address on 29 October 2018. It is noted the proposed height revision for the structure is a height of approximately 213 metres AHD.*
- *A variation of the existing approved height for this building will require Approval under the Airports (Protection of Airspace) Regulations 1996 (the Regulations), including assessment by the Civil Aviation Safety Authority and Air services Australia.*

Council states that referral and assessment under the Airports (Protection of Airspace) Regulations 1996 will be undertaken at DA stage. Civil Aviation Safety Authority and Air Services Australia were notified of the planning proposal, however no submissions were made or received. The Department notes that the submission from DIRDC does not prevent the planning proposal from being finalised and considers it appropriate that further consultation occur at DA stage.

### **Transport for NSW**

Transport for NSW's (TfNSW) submission notes the release of the draft St Leonards and Crows Nest 2036 Plan and no major concerns in relation to the planning proposal have been identified. Detailed comments from TfNSW suggested

- future background growth assumption and cumulative traffic impact to the surrounding network;
- further assessment on the impact of pedestrian facilities provided in the report; and
- implement measures to consider ensuring safety of pedestrians.

Council advises that the suggestions have either been addressed as part of Council's preparation of their Precincts 2 and 3 Planning Study or can be addressed at DA stage. The Department considers that matters suggested by TfNSW does not prevent the planning proposal from being made and that any outstanding matters can be assessed at DA stage.

### **Roads and Maritime Services**

The former Roads and Maritime Services (RMS) did not object or support the planning proposal but provided the following comments:

- The proposed introduction of residential uses is likely to reverse the arrival and departures of traffic to/from the subject the subject site is within the SLCN
- The subject site is within the SLCN Planned Precinct, with substantial transport infrastructure upgrades (including roads, public and active transport) likely to be required to support the significant uplift envisaged for the Precinct.
- Any land required to be set aside for infrastructure improvements should be identified in relevant LEP maps and/or Development Control Plans to ensure that the future development will not hinder the delivery of Precinct infrastructure improvements
- An appropriate contribution towards State and regional infrastructure to support the precinct growth is provided (e.g. through Voluntary Planning Agreement (VPA) or introduction of a satisfactory arrangements clause applicable to the site within the LEP).
- RMS notes a number of issues with the supporting traffic study exhibited with the planning proposal, however these issues can be addressed in an addendum traffic report either before the making of the plan or as part of any future DA for the site.

Council advises that the public benefits identified under the VPA involve the upgrade of Christie St Reserve, the dedication of two co-working spaces to Council, streetscape and footpath upgrades along Sergeants Lane, Chandos Street and Christie Street. These will not hinder the future delivery of the identified Precinct infrastructure improvements.

The potential traffic impacts will be further investigated or addressed at the DA stage and any proposed changes to the shared zone would be submitted to Council's Local Traffic Committee and RMS for review. The Department considers Council's response to the matters raised by RMS to be adequate.

### **Office of Environment and Heritage**

The former Office of Environment and Heritage (OEH) notes the proposed development is in the vicinity of a local heritage item at 1 Chandos Street, St Leonards. It is suggested that a heritage impact statement be undertaken, and that Council should satisfy itself as to the significance of the existing building at 100 Christie Street.

Council considered the significance of the local heritage item at 1 Chandos Street in its report to Council in December 2017 and stated that the item is "*a prime example of a dramatic system of construction which incidentally forms an impressive office block. It is an impressive example of the late twentieth century structuralist space. It is a seven storey commercial building built in 1977 in late twentieth century, it is Brutalist Style with a dominant setting to the street corner. An impressive example of the lift slab and climbing formwork construction*". Council considers the proposed separation provided by Christie Street and Christie Street Reserve is adequate and the potential impacts on the adjacent local heritage item can be further investigate at DA stage.

The Department considers it appropriate a heritage impact statement be undertaken at DA stage, when the detailed design of the proposed development is confirmed.

## **8. POST-EXHIBITION CHANGES**

No post exhibition changes have been made to the planning proposal.

## **9. ASSESSMENT**

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

The local planning study for precincts 2 and 3 was adopted by Council in May 2015. The study was prepared by Council to examine opportunities to increase housing and employment capacity within the area. It was undertaken to deliver quality new open spaces, improved connectivity between main arterial roadways and railway intersections, and upgraded urban design and street-level amenity with a focus on building design and residential amenity in St Leonards.

The planning proposal is in accordance with the study as it supports the existing commercial capacity of the site consistent with the study's recommendation for an additional permitted use of shop-top housing and the introduction of a minimum non-residential FSR of 4:1 (the proposal proposes 4.25:1). The study identifies the southern portion of the site as a 'tall building' but does not suggest a maximum height. The planning proposal is consistent with the built form controls stipulated in the study.

The planning proposal is consistent with the study as it will enable the delivery of employment floor space, housing and public open space.

### St Leonards and Crows Nest Planned Precinct

The draft St Leonards and Crows Nest 2036 Plan (draft 2036 Plan) which was released by the Department in 2018 provides a framework to guide development in the St Leonards and Crows Nest planned precinct. It has been shaped by several design criteria and area-wide planning principles. Planning proposals in the investigation area should consider the vision,

area-wide design principles, design criteria and proposed planning controls identified in the draft plan.

The draft Plan outlines design criteria for future development in the precinct, these include:

- No additional overshadowing to Christie Park between 10:00am-3:00pm in mid-winter;
- Consideration of quality streetscape aspects such as setbacks, street wall height and heritage buildings,
- Acknowledge key views and vistas such as key long-distance vistas which offer sky views, and vistas where a building may terminate the view;
- Avoid a monolithic street wall effect through the distribution of higher buildings; and
- Transition heights from high rise areas down towards existing lower scale areas, including areas not proposed for height changes, and Willoughby Road.

The planning proposal is supported by a shadow analysis as part of the Urban Design Study and concludes that as Christie park is located to the north of the proposed development, there would be no additional overshadowing on the park.

The draft 2036 Plan's proposed planning controls for the site identify a building height of 36 storeys, an FSR of 18:1 and a non-residential FSR of 4.25:1, which is consistent with the planning proposal.

The Department considers that the planning controls in the planning proposal are generally consistent with the draft 2036 Plan. No further changes are required to the planning proposal and it is recommended that the draft LEP be made.

### Economic

The proposed scheme will comprise 5709m<sup>2</sup> of commercial GFA, a reduction from the existing 10,000m<sup>2</sup> on the site.

The proposal is supported by an employment study prepared by Leyshon Consulting. The current employment capacity of the building at 100 Christie Street is likely to be approximately 400 jobs if the building is fully occupied. The proposed development is expected to deliver 398 ongoing jobs.

On 7 November 2013, the Joint Regional Planning Panel issued consent (DA 77/2013) for the adaptive re-use of the existing commercial office building at 100 Christie Street, resulting in a mixed use building with retail and office space and 63 apartments.

Notwithstanding the development consent has since lapsed, the Department considers the reduction in commercial floor space is justified as the commercial space created as a result of the planning proposal is higher than the development approval of 3851m<sup>2</sup> of commercial floor space.

### Satisfactory arrangements provision

The Gateway determination included a condition requiring a satisfactory arrangements provision for contributions to designated State public infrastructure identified as part of a draft of final strategic planning review for St Leonards and Crows Nest planned precinct.

At its meeting on 25 February 2019, Council considered the planning proposal following its public exhibition and resolved to forward the planning proposal to the Department for finalisation and requested the Minister exempt the site from the application of any special infrastructure contribution (SIC).

On 9 January 2020, the Department issued a letter to Council advising that it would exempt planning proposals from paying the proposed SIC if a VPA was in advanced negotiations

prior to the announcement of the proposed SIC. In this instance, the Department agreed that the SIC will not apply to 100 Christie Street because the local VPA negotiations commenced prior to the planned precinct being announced and it provided regional connectivity and open space.

Noting the Department has waived the SIC payment, the site will still be identified in the Intensive Urban Development Map and Clause 6.20 of North Sydney LEP 2012 will apply. This approach is consistent with the amendment for 617-621 Pacific Highway, St Leonards.

### **9.1 Section 9.1 Directions**

Inconsistency with Section 9.1 Direction 1.1 Business Zones and Industrial Zones was assessed as part of the Gateway determination and no further approval was required in relation to this Direction.

The planning proposal is inconsistent with Direction 3.5 Development near licensed aerodromes as the subject site is affected by the OLS of 156 AHD. The proposal seeks to introduce a new maximum building height of 137m on the site which equates to 213m AHD. Consultation with the DIRDC notes that an approval under the Airports (Protection of Airspace) Regulations 1996, for a height of 206.8 metres AHD, was issued for this address on 29 October 2018. It is noted the proposed height revision for the structure is a height of approximately 213 metres AHD.

In accordance with provision 4 of the Direction, the proposal is required to be referred as a controlled activity to the DIRDC and Sydney Airport Corporation Limited (SACL) to obtain permission in regard to the encroachment above the OLS.

As discussed in Section 6 of this report, SACL and DIRDC did not raise any issues that would prevent the draft LEP being finalised.

Council has satisfied provision 4 of the Direction by consulting with DIRDC and SACL. The Department is satisfied that the draft LEP's inconsistency with section 9.1 Direction 3.5 - Development Near Licensed Aerodromes, is justified in accordance with the terms of the Direction.

### **9.2 State environmental planning policies**

The proposal is consistent with the following relevant SEPPs:

- Sydney Regional Environment Plan (Sydney Harbour Catchment) 2005;
- SEPP (Infrastructure) 2007;
- SEPP No 55 – Remediation of Land;
- SEPP (Building Sustainability Index: BASIX) 2004; and
- SEPP No. 65 – Design Quality of Residential Apartment Development.

The relevant SEPPs were assessed as part of the Gateway determination. There are no outstanding inconsistencies with the applicable SEPPs.

Given the intent of the planning proposal has not changed since the Gateway determination further approval is needed.

### **9.3 State, regional and district plans**

#### **North District Plan**

The planning proposal is consistent with the North District Plan and will give effect to the following planning priorities:

- N1 Planning for a city supported by infrastructure;



- N5 Providing housing supply, choice and affordability with access to jobs, services and public transport;
- N8 Eastern Economic Corridor is better connected and more competitive; and
- N12 Delivering integrated land use and transport planning and a 30-minute city.

The planning proposal is generally consistent with the North District Plan planning priorities as it will:

- support approximately 398 jobs in the St Leonards health and education precinct;
- provide approximately 239 new dwellings to increase residential accommodation within a strategic centre and assist in delivering Council's five-year housing target;
- increase the provision of social infrastructure in the form of publicly owned open space, an upgraded streetscape and a Council-owned co-working space; and
- significantly improve pedestrian connectivity across the site to St Leonards train station.

## 10. MAPPING

The following maps will be amended as part of this amendment:

- Floor Space Ratio Map - Sheet FSR\_001
- Non-Residential Floor Space Ratio Map - Sheet LCL\_001
- Height of Building Map – Sheet HOB\_001
- Intensive Urban Development Area Map – Sheet IUD\_001
- Land Zoning Map – Sheet LZN\_001

The map cover sheet and maps have been approved by the Department's e-Planning team and provided to Parliamentary Counsel.

## 11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment E**). Council confirmed on 14 May 2020 that it was happy with the draft and that the plan should be made (**Attachment F**).

## PARLIAMENTARY COUNSEL OPINION

On 14 May 2020, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 12. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- there are no outstanding concerns raised in submissions;
- it is generally consistent with the North District Plan which encourages development that will facilitate increased housing provision in locations well serviced by public transport and in close proximity to employment opportunities;
- it is consistent with the St Leonards/Crows Nest Planning Study (Precincts 2 & 3);
- it is consistent with the St Leonards and Crows Nest 2036 Plan;
- it contributes to the delivery of the housing target set for the North Sydney LGA (3000 additional dwellings by 2021) by allowing for the delivery of approximately 239 dwellings;

- it provides for employment generation by supporting 398 jobs in the St Leonards health and education precinct; and
- it provides housing and employment in close proximity and with convenient accessibility to St Leonards train station and the future Crows Nest Metro Station.



**1 May 2020**

**Stewart Doran  
Acting Manager, North District  
Greater Sydney, Place and Infrastructure**



**7 May 2020**

**Luke Downend  
Acting Director, North District  
Greater Sydney, Place and Infrastructure**



**14 May 2020**

**Malcolm McDonald  
Executive Director, Eastern Harbour City  
Greater Sydney, Place and Infrastructure**

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