

## Greater Sydney, Place and Infrastructure

IRF19/7644

### Plan finalisation report

Local government area: North Sydney Council

#### 1. NAME OF DRAFT LEP

North Sydney Local Environmental Plan 2013 (Amendment No 27)

#### 2. SITE DESCRIPTION

The planning proposal (**Attachment A**) applies to land at 23-35 Atchison Street, St Leonards. The site comprises six lots with a total area of approximately 2,109.8m<sup>2</sup> and is legally described as:

- 23 Atchison Street, St Leonards:
  - Lot 27 S10 DP2872;
- 25 Atchison Street, St Leonards:
  - Lot 28 S10 DP2872;
- 27-29 Atchison, Street, Leonards:
  - Lot 29 S10 DP 2872;
- 31 Atchison Street, St Leonards:
  - Lot 30 S10 DP 2872;
- 33-35 Atchison Street, St Leonards:
  - Lot 31 S10 DP 566480;
  - Lot 321 DP 566480.

The site is bound by Atchison Street to the north, Oxley street to the east and Albany Lane to the south. To the western boundary adjoining the site is 21 Atchison Street. The site currently contains five commercial buildings constructed between the 1950's and the 1970's. The buildings are generally built to the property boundaries and range from two to four storeys (**Figures 1 and 8-10**).

Under the North Sydney Local Environmental Plan (LEP) 2013 the site is zoned B4 Mixed Use and has a maximum building height of 20m and a minimum non-residential FSR of 0.6:1. Currently, no maximum FSR control applies to the site (**Figures 3-6**).

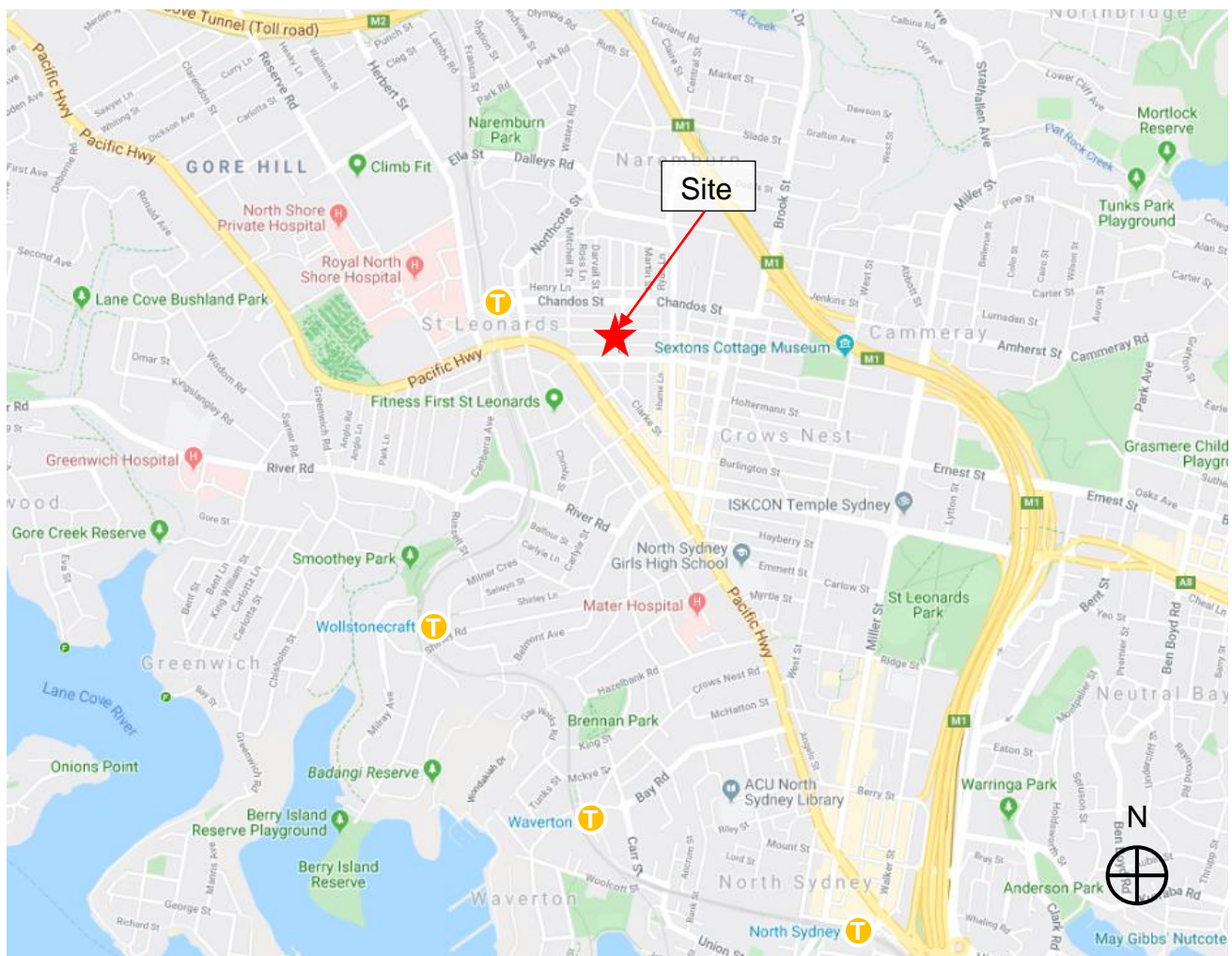
The surrounding area is generally zoned B4 Mixed Use. To the immediate east of the site the land is zoned R4 High Density Residential (**Figure 3**) but currently contains some low-density residential dwellings and a residential flat building under construction.

The site does not contain or adjoin any heritage items and is not within or adjoining a heritage conservation area (**Figure 7**).

A site locality map is shown at **Figure 2**.



**Figure 1:** Aerial view of the subject site (Source: Near Map – overlay by DPIE)



**Figure 2:** Site location (Source: Near Map – overlay by DPIE)

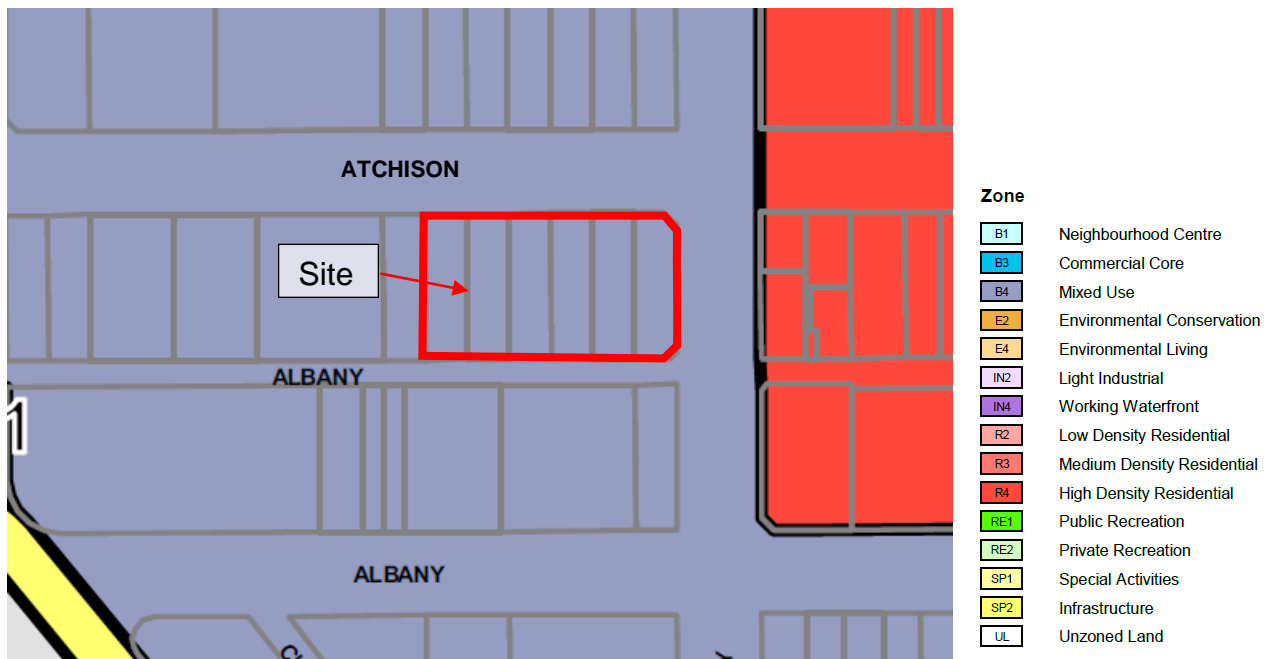


Figure 3: North Sydney LEP Land Zoning Map LZN\_001

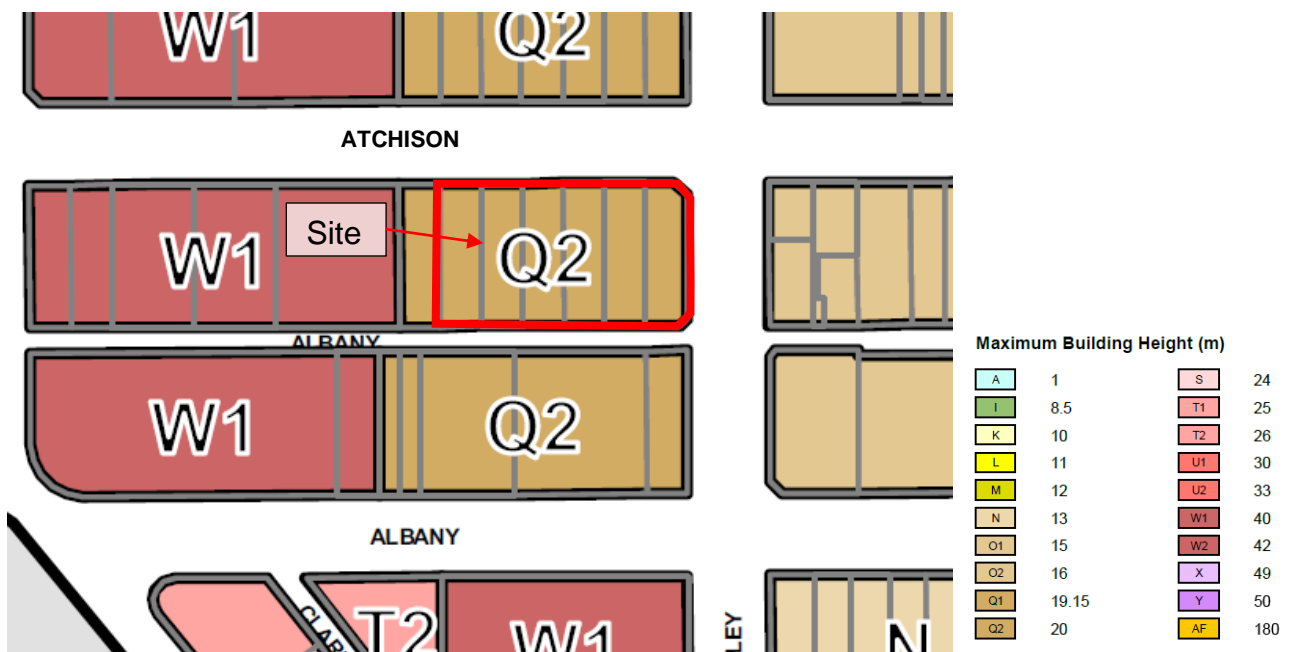


Figure 4: North Sydney LEP Height of Buildings Map HOB\_001



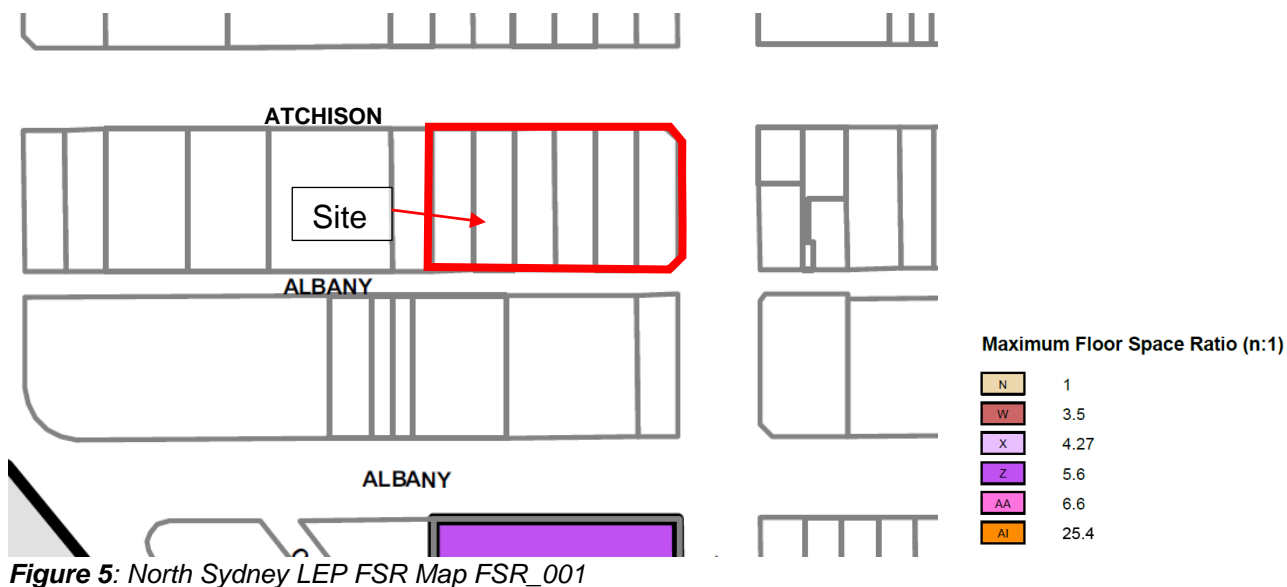


Figure 5: North Sydney LEP FSR Map FSR\_001

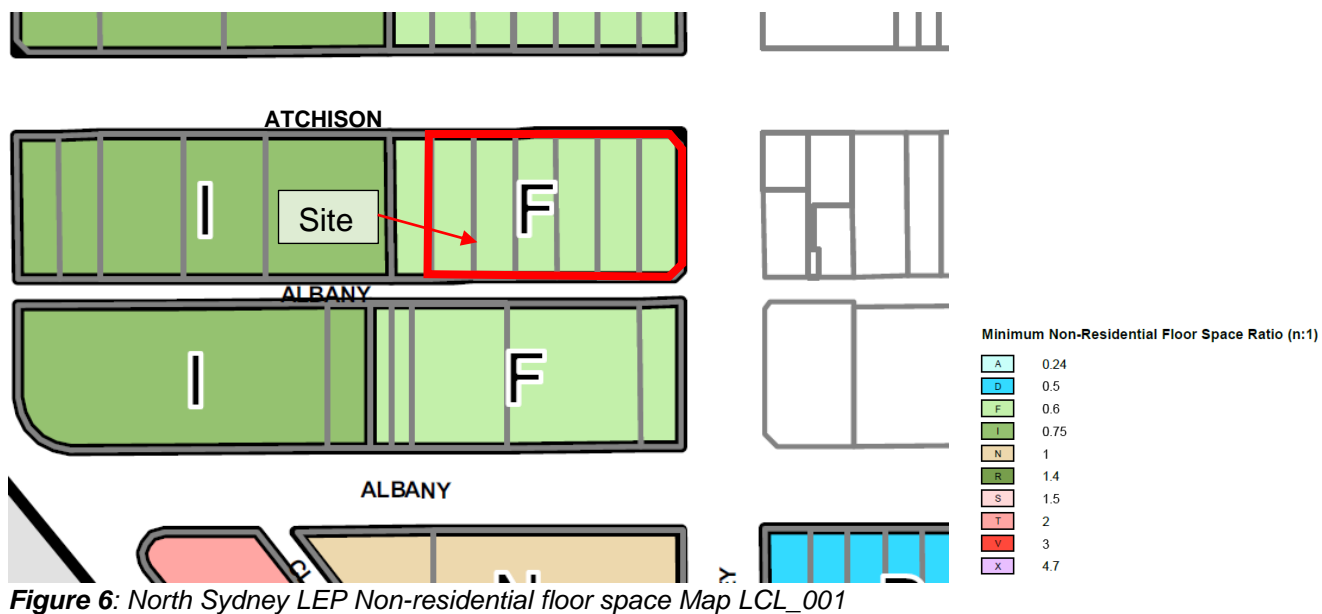


Figure 6: North Sydney LEP Non-residential floor space Map LCL\_001

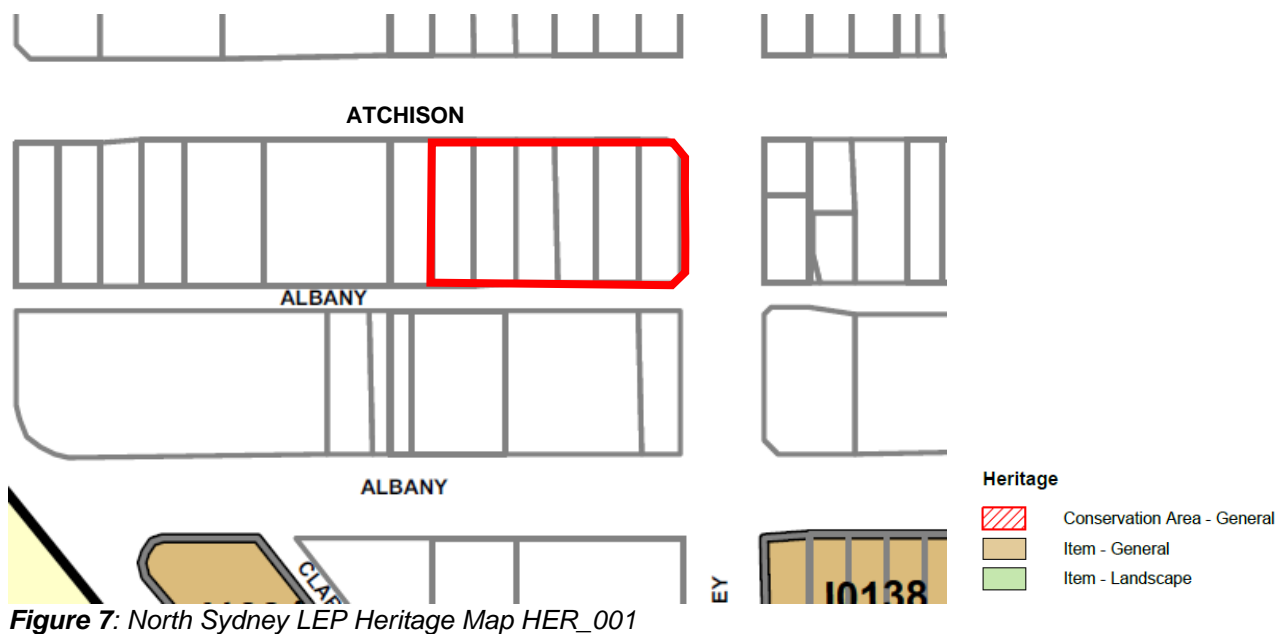


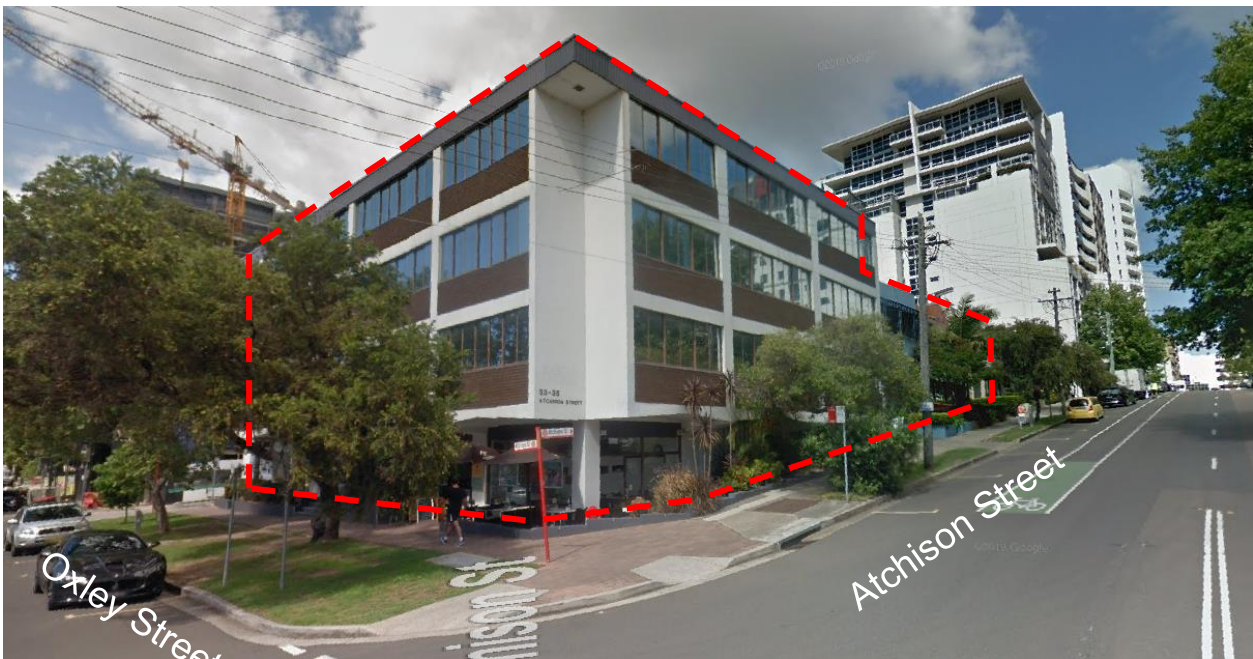
Figure 7: North Sydney LEP Heritage Map HER\_001



**Figure 8:** View of the site (red outline) from Atchison Street and Oxley Street looking south-east (Source: Google)



**Figure 9:** View of the site (red outline) from Atchison Lane looking north (Source: Google)



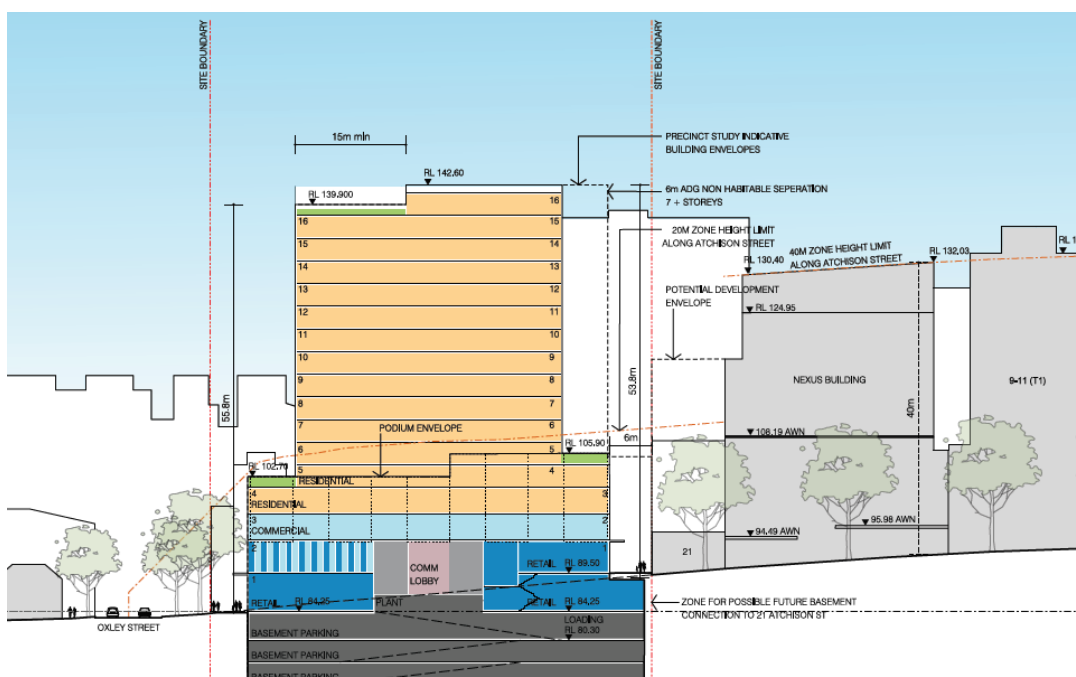
**Figure 10:** View of the site from the corner of Atchison Street and Oxley Street looking south-west (Source: Google)

### 3. PURPOSE OF PLAN

The draft LEP (**Attachment LEP**) seeks to amend the North Sydney LEP 2013 by:

- increasing the maximum height of buildings from 20m to 56m;
- increasing the minimum non-residential floor space ratio (FSR) from 0.6:1 to 1.5:1; and
- introducing a maximum FSR of 6.3:1.

It is expected that the proposal will provide 102 residential dwellings with 3,170m<sup>2</sup> of non-residential floor space. During the construction phase it is expected to facilitate 43 direct jobs and 61 indirect jobs and yield ongoing employment of 216 direct and 88 indirect jobs from retail and commercial uses. This will result in a net increase of 42 jobs from the existing uses.



**Figure 11:** Atchison Street elevation (Source: AJC Architects)





**Figure 12:** Concept design of the podium showing the Atchison Street elevation (Source: AJC Architects)

#### 4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the North Shore state electorate. Ms Felicity Wilson MP is the State Member.

The site falls within the North Sydney federal electorate. Mr Trent Zimmerman MP is the Federal Member.

To the regional 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:** There are no donations or gifts to disclose and a political donation disclosure is not required.

#### 5. GATEWAY DETERMINATION

The Gateway determination issued on 21 December 2018 (**Attachment B**) determined that the proposal should proceed subject to conditions. The planning proposal is located in the St Leonards and Crows Nest Planned Precinct, as such, Council was not authorised to be the plan making authority.

On 23 September 2019, Council reviewed the report (**Attachment D**) on submissions received during the public exhibition and resolved to forward the planning proposal to the Department for finalisation.

#### 6. REQUEST FOR SIC EXEMPTION

On 30 July 2019, Council also sought an exemption from the Special Infrastructure Contributions (SIC) (**Attachment F**) on the basis of the delivery of defined public benefits in a voluntary planning agreement (VPA) (**Attachment E**).

On 20 December 2019, the Department responded to Council's request for a SIC waiver for the subject site confirming that it did not exempt the site from the SIC because insufficient information was provided to demonstrate that VPA negotiations had begun prior to the exhibition of the proposed SIC (**Attachment G**).

## 7. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 4 April 2019 to 2 May 2019.

A total of 56 submissions (**Attachment C**) were received in response to the public exhibition of the planning proposal, 54 came from the general public. The submissions comprised of the following:

- 53 public submissions;
- 1 Precinct Committee submission; and
- 2 public authority submissions.

Of the 54 public submissions, three supported the proposal, including one from a Precinct Committee and 51 objected to the proposal. Of the submissions that object to the proposal, 52% were from the owners and occupiers of the Aria building at 38-46 Albany Street and 7-19 Albany Street, further to the south.

Council, in its post exhibition report (**Attachment D**) stated that the issues raised in submissions in the exhibition period did not warrant an amendment to the planning proposal.

The key issues raised related to:

- height;
- overdevelopment;
- overshadowing;
- bulk and scale;
- traffic and parking impacts;
- view loss;
- site isolation; and
- public benefit.

### Height Impact

A large number of public submissions referred to the height as excessive and considered the proposal incompatible with the surrounding area, particularly the height transition from the Pacific Highway to lower buildings along Willoughby Road. Some submissions suggested that the proposal would lead to an unacceptable precedent.

### *Council's response*

The proposal for a building with a height of 56m for a 16-storey mixed use building was supported by the North Sydney Planning Panel (NSLPP). It is also consistent with the desired outcomes of the *St Leonards Crows Nest Planning Study – Precincts 2 and 3 (SLCN Planning Study)*. The proposal is consistent with the recommendations for a mixed-use development of a 12-storey residential tower on a 4-storey podium.

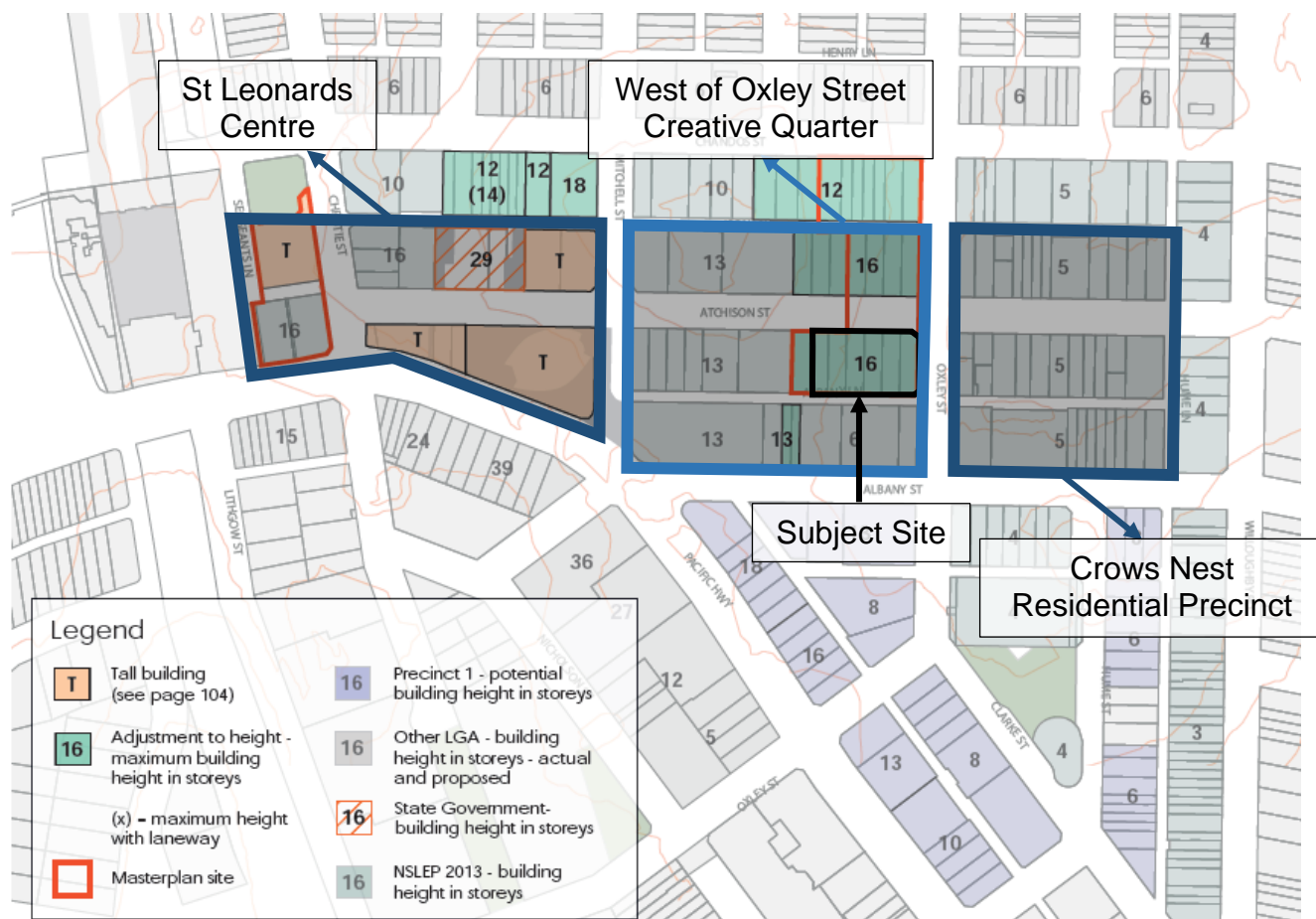
The *SLCN Planning Study – Precincts 2 and 3* moves away from stepping down of heights to concentrate height and density around mass public transport, employment and services. This will be able to support population growth with lower levels of traffic generation and deliver well-located public benefits. It is not considered that the proposal would be unacceptably breaking the transition of height from the Pacific Highway to Willoughby Road.

Additionally, the Design Excellence Panel (DEP) found that the height of 16 storeys on the subject site could assist in defining the edge of St Leonards and delineate between West



Oxley Street 'creative quarter' and the Crows Nest residential precinct to the east (**Figure 13**).

The Department's St Leonards Crows Nest Draft 2036 Plan also identified the site as capable of accommodating a building of up to 16-storeys in height (**Figure 14**) as such Council has adequately responded to this issue.



**Figure 13:** Building heights (in storeys) and future character under Council's SLSN Planning Study – Precincts 2 & 3 (Source: North Sydney Council – overlay by DPIE)



**Figure 14:** The Departments St Leonards Crows Nest Draft 2036 Plan showing building heights (in storeys) (Source: DPIE)

### Overdevelopment

Submissions suggest that the proposal was an overdevelopment of the site and will destroy the village character and atmosphere of Crows Nest. Some submissions stated that there was no demand for more high-rise developments and others stated that the infrastructure was inadequate to support the increase in population.

### Council's response

Under the relevant Regional and District plans, St Leonards is identified as a 'Health and Education Precinct' and identified to accommodate an increase on employment floorspace and residential dwellings.

The proposal is expected to deliver an estimated 102 apartments, contributing only 3.4% of the 5-year housing target of 3,000 dwellings as outlined in the North District Plan for the North Sydney Local Government Area (LGA). Across the whole St Leonards Crows Nest Planned Precinct the proposal only delivers 1.3% of the 7,525 additional dwellings that will be delivered in the precinct to 2036. The proposal is considered appropriate to assist Council to provide housing and employment targets close to existing public transport, services and facilities.

Design measures have been put in place to lessen the impact of scale on the village atmosphere towards the east end of Crows Nest. These include a 5m setback of the proposal to contribute to the Oxley Street Linear park and the 7m above podium setback along Oxley Street. This is consistent with the built form strategy of the community endorsed *SLCN Planning Study*. The setbacks combined with the proposed height of 16 storeys will assist to define the edge of St Leonards and is considered to be a positive contribution to revitalise the area.

The planning proposal is accompanied by a draft VPA (**Attachment E**) that seeks to provide a number of public benefits. The draft VPA will include:

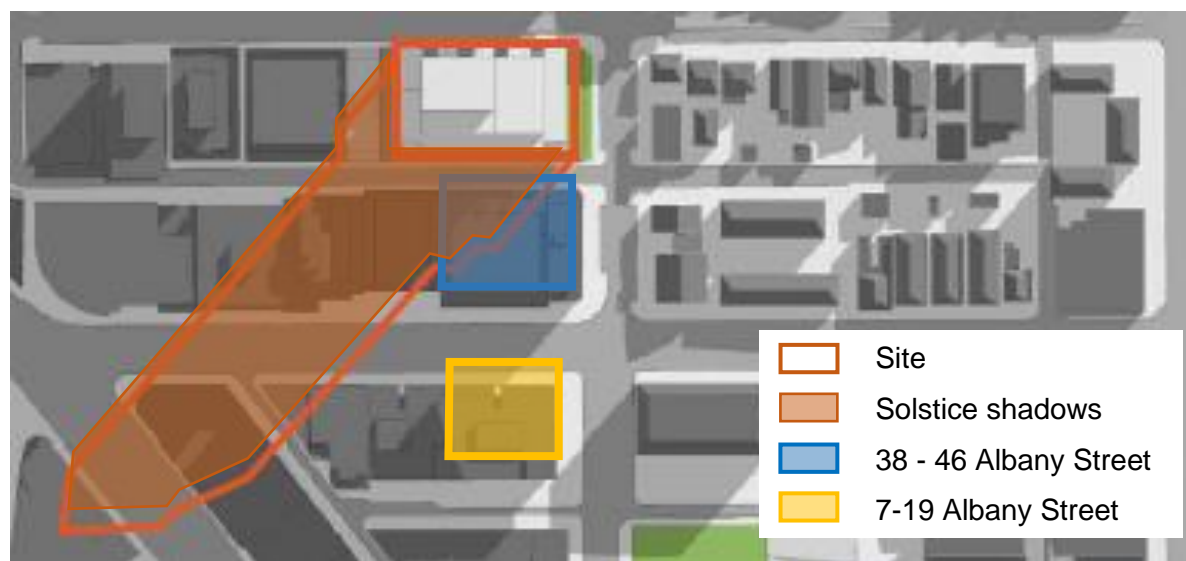
- a monetary contribution of \$2,800,000 for the upgrade of Hume Street Park;
- the dedication of a 5m wide strip of land for the purpose of a linear park along Oxley Street; and
- a publicly accessible 6m wide laneway on the western boundary running from between Atchison Street to Albany Lane.

The Department's *St Leonards Crows Nest Draft 2036 Plan* identifies further residential growth. Council has made submissions to the Department, in particular the need for the SIC to be appropriately allocated to ensure future growth in the St Leonards Crows Nest area is well supported by infrastructure.

#### Overshadowing and Solar Access Impact

A large number of submissions raised overshadowing as an issue. The majority of these submissions were from owners and occupiers of Aria, 38-46 Albany Street to the south of the site and 7-19 Albany Street (**Figure 15 to 17**) further to the south who were concerned that the proposal would:

- adversely impact upon the solar access to the living rooms, balconies and the communal rooftop terrace of the Aria apartments;
- adversely impact upon the solar access to the apartments on 7-19 Albany Street; and
- adversely impact upon the solar access to the general streetscape especially on Atchison Street and Albany Lane.



**Figure 15:** Shadow diagram winter solstice, 9am June 21<sup>st</sup>





**Figure 16:** Shadow diagram winter solstice, 12pm June 21<sup>st</sup>



**Figure 17:** Shadow diagram winter solstice, 3pm June 21<sup>st</sup>

### *Council's response*

The preparation of the *SLCN Planning Study – Precincts 2 & 3* recognised that increased height and density may impact on residential amenity, including solar access. The concentration of appropriate mixed-use development in close proximity to mass public transport, employment and services is a better outcome than dispersing growth throughout more sensitive neighbourhoods with reduced levels of access. Council received community support for the study to unlock additional development capacity within the precinct. This support was conditional on the provision of corresponding public benefits and efforts are made to limit the impacts of new buildings.

The public benefits provide by the proponent in line with the *SLCN Planning Study – Precincts 2 & 3* as well as a number of design measures to lessen the impacts of overshadowing especially on the mixed- use developments at 38-46 Albany Street and 7-19 Albany Street. These have been shown in the design concept through:

- increased setbacks to the podium of Albany Lane from 1.5m to 2m;
- the provision of a 6m wide open to sky laneway between Atchison Street and Albany Lane;
- the provision of two storey cut-outs in the podium form along Albany Lane; and
- the provision of 2.5m deep cut-outs in the tower form (levels 5-8) along Albany Lane.

The solar studies show that the communal rooftop terrace at 38-46 Albany Street will receive morning sun from approximately 9am to 10.30am during the winter solstice and almost 3 hours during the equinox. In a dense urban environment undergoing renewal, the accepted industry goal of two hours of sunlight during the winter solstice is not always achievable.

The issue of solar access is not sufficient to delay the progress of the planning proposal as St Leonards Crows Nest has been identified as a 'Health and Education Precinct'.

The Department considers that Council has responded adequately to this issue.

### Bulk and Scale

Submissions suggested that the proposal was inappropriate in scale, visually dominating and incompatible with the existing new buildings and density and future character of the area.

### *Council's response*

The proposal is consistent with the future heights and density under the *SLCN Planning Study – Precincts 2 & 3* as well as the Department's plans for St Leonards Crows Nest. The height is consistent with the heights future heights of 16 storeys proposed on the opposite side of Atchison Street.

To ensure the building is appropriate to the character of the surrounding street and buildings the proposal (**Figure 18**) provides:

- no set back to the podium along Atchison Street, consistent with the built forms to the west at 21 and 15 Atchison Street;
- a 6m double storey setback at ground level along Atchison Street for widened footpaths and active ground levels;
- a 5m setback along Oxley Street contributing to the Oxley Street Linear park (**Figure 19**) and acts as a transition towards the Crows Nest residential area;

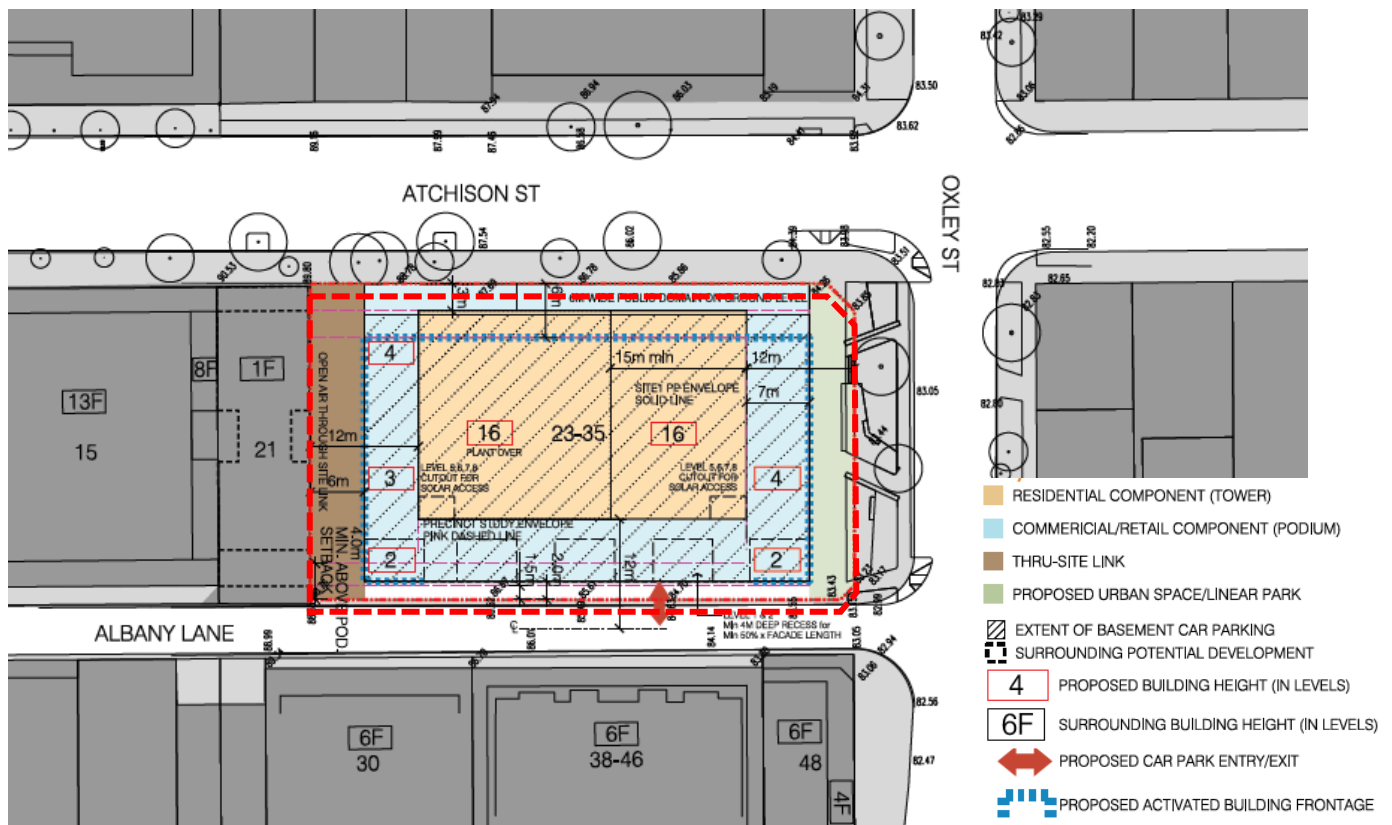
- a 6m pedestrian laneway for better accessibility in St Leonards and helps to address the site isolation of 21 Atchison Street as well as lessen the impacts on the residential dwellings on the south side of Albany Lane;
- a 2m building setback along Albany Lane with a 3m above podium setback along Atchison Street consistent with the *SLCN Planning Study – Precincts 2 & 3*; and
- a four-storey podium along Atchison and Oxley Street continuing the alignment and configuration along these street frontages.

The proposal is to provide a 23m tower with a 12m separation to the centreline of the laneway to the south (**Figure 18**). On 16 August 2017, the DEP considered the proposal including the built form acceptable, subject to SEPP 65 objectives and the mitigation of overshadowing impacts. Impacts concerning the bulk and scale can be dealt with at the development application stage.

The proposal is considered to correspond to the emerging skyline of St Leonards with height and density concentrated close to the existing St Leonards train station and proposed Crows Nest metro station (**Figure 20**).

The planning proposal does not establish a detailed design for approval. It is a concept to demonstrate a capacity to develop the site within the planning amendments being proposed.

The Department considers that Council has responded adequately to this issue.

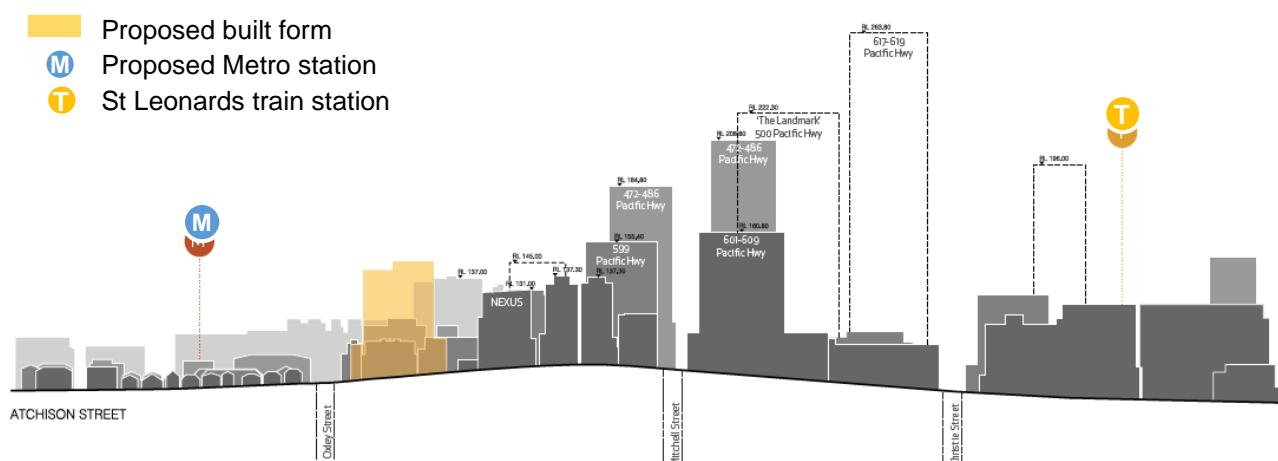


**Figure 18:** Concept site plan with heights and setbacks (Source: AJC Architects)





**Figure 19:** Concept landscape plan detailing Oxley Street linear park and setback to Atchison Street (Source: AJC Architects)



**Figure 20:** Concept of the built form in relation to the surrounding area. Section looking south (Source: AJC Architects)

## View Impact

Public submissions objected to the proposal due the loss of views. Most of the objections came from owners and occupiers of 15 Atchison Street, 38-46 Albany Street and 7-19 Albany Street.

### Council's response

Heights and density are expected to change as the area is undergoing significant transformation as outlined in Council's and the Department's strategic plans, as such, some views may be impacted. The extent of any potential impact cannot be determined until a DA has been made on the subject site.

A preliminary analysis of views and vistas (**Figure 21**) has been undertaken for various sites near the proposal including:

- 15 Atchison Street – 13 storey mixed-use building;
- 48 Atchison Street – 11 storey mixed-use building;
- 38-46 Albany Street – six storey mixed-use building; and
- 11-19 Albany Street – 10 storey mixed-use building.

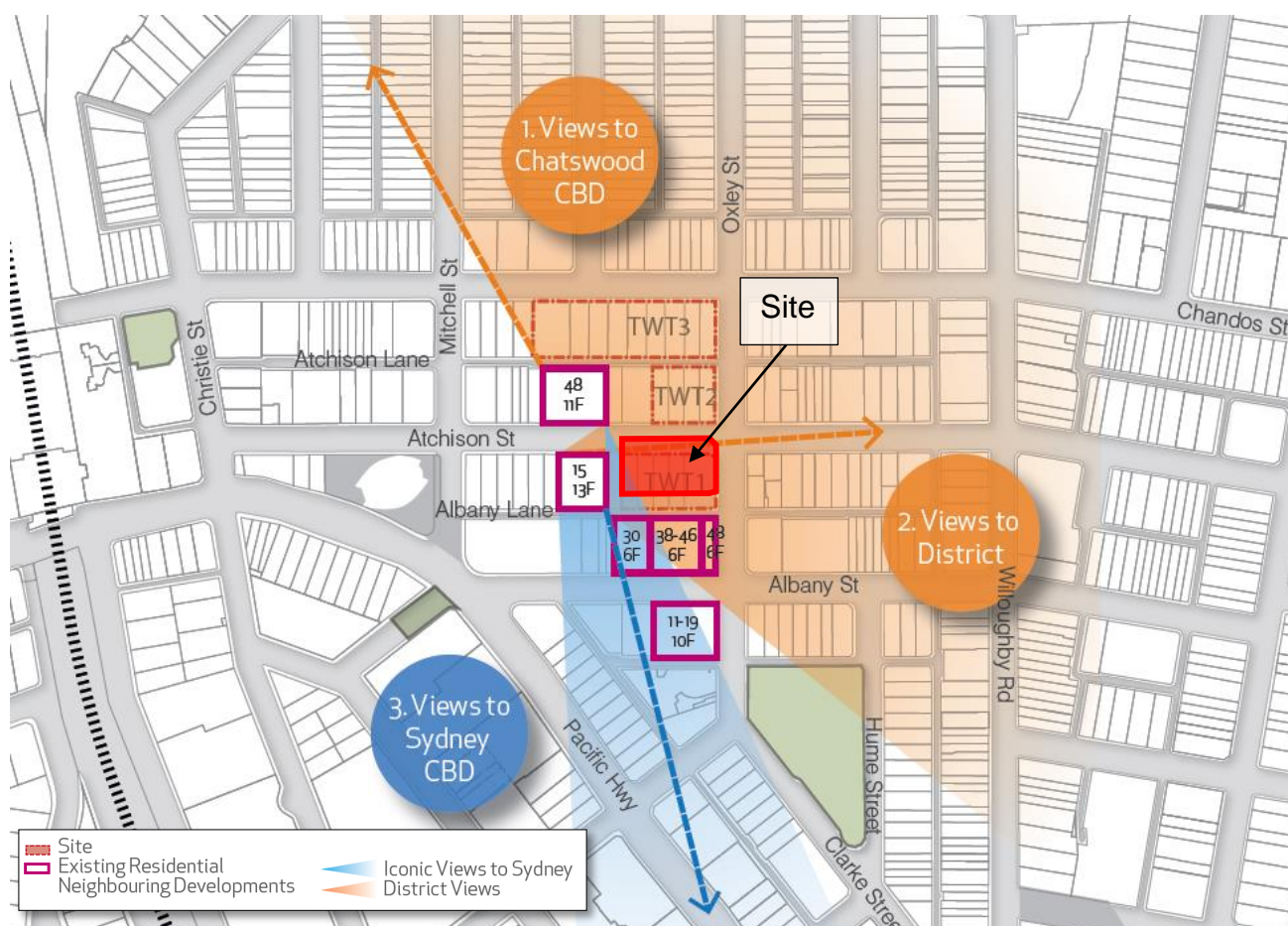
The analysis found that the proposal is likely to affect some regional views from the upper levels of 38-46 Albany Street and 11-19 Albany Street. The two buildings most likely affected by the proposal are:

- 48 Atchison Street currently has views to the east and north. Views to the Sydney CBD are restricted by 15 Atchison Street;
- 15 Atchison Street currently has district views to the east from the top four levels and Sydney CBD views available from the top four levels on the southern façade.

The views are likely to be affected by the future building heights outlined under Council's *SLCN Planning Study – Precinct 2 & 3* and the Department's *St Leonards Crows Nest Draft 2036* for sites on Atchison Street and Atchison Lane.

Views to the North Sydney CBD and the Sydney CBD are unlikely to be affected. Council advised that no changes are required to the planning proposal to retain views from existing buildings.

The Department considers that Council has responded adequately to this issue.



**Figure 21:** Analysis of views from residential developments near the subject site (Source: AJC Architects)

### Public Benefits

Some submissions objected to the public benefits as a trade-off for an increase in building height and that the proposal was not a positive contribution to the surrounding community.

However, two submissions, including one from the precinct committee supported the proposal with the contributions outlined in the draft VPA.

Some submissions stated that the 5m setback was not enough space to be described as a 'park' with one submission suggesting it should be increased to 10m.

One submission suggested that the public benefits of the laneway between Atchison Street and Albany Lane were limited with no further connections.

#### *Council's response*

The public benefits offered as part of the draft VPA are principally consistent with Council's *SLCN Planning Study – Precincts 2 & 3* and critical to support the increase in height and density within the precinct. These include a:

- monetary contribution of \$2,800,000 towards the upgrade of the regionally significant Hume Street Park;
- 5m setback dedicated to Council along Oxley Street as public open space, contributing to the Oxley Street linear park (**Figure 19**) as outlined in Council's *SLCN Planning Study – Precincts 2 & 3*; and
- 6m setback to the west of the site for a public through-site link between Atchison Street and Albany Lane to enable activation of the lane and site permeability.

The provision of a 5m whole setback for a linear park along Oxley Street is consistent with the *SLCN Planning Study – Precincts 2 & 3* and Council's North Sydney Development Control Plan 2013. The size is considered to be reasonable as there is a lack of public open space in the St Leonards Crows Nest area. The north-south orientation will provide a good level of sunlight and the fall to the east will facilitate water sensitive urban design.

The provision of the laneway between Atchison Street and Albany Lane is consistent with the *SLCN Planning Study – Precincts 2 & 3* and contributes to the fine grain network of laneways within the St Leonards Crows Nest precinct. A laneway is also being negotiated for 50-56 Atchison Street to the north of the site. This will improve permeability with more publicly accessible spaces adding to the vibrancy of the area.

The Department considers that Council has responded adequately to this issue.

#### Traffic and Parking Impacts

Submissions stated that the proposal would cause an increase in traffic congestion in an area with narrow streets that is already heavily congested and suggested the widening of Albany Lane. Submissions also stated that reducing parking resulting in reduced traffic was unrealistic.

Submissions stated that there was a need to resolve traffic congestion to cope with the additional residential capacity. These submissions stated that the proposal would exacerbate the lack of parking in the vicinity and result in parking in surrounding streets.

#### *Council's response*

The Traffic Impact Assessment states that parking is consistent with parking rates for the St Leonards Crows Nest Precincts 2 & 3 outlined in the development control plan. A future development application will provide no more than 49 car spaces. A green travel plan will assist in encouraging sustainable transport with the proposed Sydney Metro within three minutes walk of the site. An overall net decrease to the total volume of traffic is expected compared to the existing uses. This is mostly due to the reduction in commercial floor space and the removal of the existing car repair business currently at 31 Atchison Street.

The proposal will result in consolidating five existing driveways along Atchison Street and Albany Lane into one single driveway access on Albany Lane reducing vehicular crossovers



and improving pedestrian safety. The relocation of the driveway into Albany Lane will support Atchison Street as a civic high-street and an increase in amenity for residents and visitors. Further assessment of future vehicular access will occur in the development application stage.

Road widening is inconsistent with the *SLCN Planning Study – Precincts 2 & 3* which aims for a zero net increase in traffic generation. The Roads and Maritime Services' *Guide to Traffic Generating Development* outlines a clear relationship between parking, road infrastructure and traffic generation. As such, the provision of new parking and traffic infrastructure increases traffic demand and decreases the uptake of active transport and public transport usage. Additional traffic infrastructure is not considered an appropriate form of public benefit as it would increase traffic congestion.

The Department considers that Council has responded adequately to this issue.

#### Site Isolation Impact

Submissions referred to the potential isolation of 21 Atchison Street and that the site would be dwarfed by taller buildings and restrict development on the site. A submission from the representatives of the owner of 21 Atchison Street stated that their site would remain under the current maximum height of 20m while the others benefitted from greater building heights. This submission indicated that they were willing to enter into discussions to sell or work with the proponent of 23-35 Atchison Street for a better outcome.

#### *Council's response*

The proponent of 23-25 Atchison Street stated that they had recommenced discussions with the owner of 21 Atchison Street and were unable to reach an agreement. Prior to this, numerous attempts had been made between 2015 and 2018 to purchase the property but these were unsuccessful. As such, the proponent has satisfactorily demonstrated that a reasonable effort has been made to acquire 21 Atchison Street.

A site amalgamation may not be the best outcome due to greater levels of overshadowing of properties to the south of the subject site.

The proponent has provided design considerations to address potential site isolation of 21 Atchison Street and reviewed at the DEP meeting in 2017 and Council's meeting on 25 June 2018. These include:

- a potential development scheme of an eight-storey mixed-used building for the site;
- shared basement parking access between 21 Atchison and 23-35 Atchison Street should future development of 21 Atchison Street occur with a right of way and a break out panel on the western boundary of the underground carpark; and
- a separation of 6m at the podium level and 12m above podium to the western boundary of 23-35 Atchison Street to enable 21 Atchison Street to be built to the boundary.

The design considerations were an acceptable outcome to ensure 21 Atchison Street could be redeveloped on its own.

A letter of commitment from the proponent was submitted to Council on 28 August 2019 to provide assurance for the delivery of a future shared basement access. The letter was accompanied by advice from TTPP Transport Planning outlining how this could occur at the development application stage for 21 Atchison Street.

Council considers that appropriate measures have been taken to mitigate site isolation of 21 Atchison Street and the issue of site isolation is not sufficient to delay the progression of the proposal.

The Department considers that Council has responded adequately to this issue.

#### Holtermann Precinct Committee

The submission from the Holtermann Precinct Committee was in support of the proposal. However, concerns were raised with the wording of the VPA and the monetary contribution being spent on other public open space in the North Sydney LGA. They request that Council ensure the \$2,800,000 contribution be spent solely on the Hume Street Park.

#### *Council's response*

Clause 5.1(C) of the draft VPA states that:

*(c) The Council must, on receipt of the Monetary Contribution paid by the Developer in accordance with clause 5.1(b) and within a reasonable time, use that Monetary Contribution as it sees fit to:*

- (i) acquire land for the improvement of the Hume Street Park, as required;*
- (ii) carry out the embellishment of the Hume Street Park; and*
- (iii) care for and maintain the Hume Street Park.*

Clause 5.1(d) provides a degree of future flexibility should further change occur as a result of the St Leonards Crows Nest 2036 Plan released by the Department. It is Council's intention that the monetary contribution be used to fund the Hume Street Park upgrade in accordance with the *SLCN Planning Study – Precincts 2 & 3*.

## **8. ADVICE FROM PUBLIC AUTHORITIES**

Prior to community consultation Council was required to consult with:

- Federal Department of Infrastructure, Regional Development and Cities (DIRDC);
- Airservices Australia;
- Sydney Airport Corporation Limited (SACL); and
- Civil Aviation Safety Authority (CASA).

Council received responses from:

#### Airservices Australia

Airservices Australia advised that Sydney Airport will determine if the development requires referral to Airservices for assessment and recommended that Sydney Airport be consulted in the first instance.

#### *Council comment*

As the proposed built form did not penetrate the Obstacle Limitation Surface (OLS), Sydney Airport advised Council that no comment would be required from other aviation authorities and further referral was not needed.

As such the planning proposal can progress and with no amendments.

The Department considers that Council has responded adequately to this issue.

#### CASA

With the proposal at a height of 56m Above Ground Level (AGL) or approximately 140m AHD, CASA advised they had no issues with the proposal. However, they advised that the cranes will be controlled activity if they are above the OLS for Sydney Airport at 156m AHD.

#### *Council comment*

The operation of cranes during the construction phase will be taken into consideration when assessing the DA.

The Department considers that Council responds adequately to this issue.

#### SACL

SACL indicated that they had no objection to the maximum height of the building at 142.6m AHD and advised that this was inclusive of lift over-runs, vents, chimneys, aerials, TV antennae and construction cranes.

#### *Council comment*

Council acknowledged that Sydney Airport Corporation had no issues with the proposed height of buildings under the planning proposal. As such, the planning proposal can progress and be placed on public exhibition without amendment.

The Department considers that Council has responded adequately to this issue.

In accordance with the conditions of the Gateway, Council consulted with the following public authorities:

- Transport for NSW (TfNSW);
- Roads and Maritime Services; and
- Ausgrid.

Council received responses from:

#### TfNSW

TfNSW reviewed the planning proposal and provided no specific comment.

#### *Council comment*

Council has noted that TfNSW raised no concerns. As such, the planning proposal can progress and be placed on public exhibition without amendment.

#### Ausgrid

Ausgrid reviewed the planning proposal and raised no objections subject to the requirements outlined in the *SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice*.

This document outlines statutory requirements regarding the clearance to existing overhead mains and especially relevant to the operation and positioning of cranes and scaffolding. Although the development during the construction phase is not expected to encroach into minimum clearances, verification of distances is the responsibility of the developer and relevant contractor. Any relocation of overhead mains will be at the developers cost.

Underground electricity network assets are located near the property and any excavation work within 2m from the transmission will require an Ausgrid spotter on the work site. Ausgrid recommends that the developer locate and record the depth of all known underground services prior to any excavation on footpaths.

Ground anchors, if required, must not be installed within 300mm of any cable and must not pass over the top of any cable. The *SafeWork Australia – Excavation Code of Practice and Ausgrid's Network Standard NS156* outlines the minimum requirements for working around Ausgrid's underground cables.



### *Council comment*

A building to the height of 56m can be developed without any impact on the existing Ausgrid infrastructure, subject to the conditions stated in the Ausgrid submission. The conditions concerning overhead and underground cables can be dealt with at the DA stage.

## **9. POST-EXHIBITION CHANGES**

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

## **10. ASSESSMENT**

### **Section 9.1 Ministerial Directions**

#### 1.1 Business and Industrial Zones

Inconsistency with this Direction was assessed as part of the Gateway determination and no further approval was required.

#### 3.1 Residential Zones

The planning proposal provides a mix of dwelling types in high-rise accommodation to meet the future needs of residents. The site is close to existing and proposed public transport and the redevelopment of the site will reduce the need for land release on the urban fringe and minimal impact on the natural environment. It is consistent with the scale supported by Council through its adopted planning study.

#### 3.4 Integrating Land Use and Transport

The planning proposal is consistent with this Direction as it will provide increased density near existing and proposed public transport and services reducing the dependency on private vehicles and provide additional employment within close proximity to existing services and infrastructure.

#### 3.5 Development Near Licensed Aerodromes

The subject site is affected by the OLS of RL 156 AHD. The proposal seeks to introduce a new maximum building height of 56m on the site which equates to approximately 140m AHD. While the proposed height is below the OLS, it is possible that cranes may temporarily encroach the OLS during construction. Construction equipment above the OLS for Sydney Airport at 156m AHD will be controlled activity and require a new approval prior to the commencement of construction.

In accordance with this Direction, the proposal is required to be referred as a controlled activity to the Department of the Commonwealth and the relevant lessee or operator of the airport.

As discussed above in *Section 7 – Advice from Public Authorities*, Council referred the planning proposal to DIRDC, Airservices Australia, CASA and SACL.

DIRDC did not provide a response. Airservices Australia, CASA and SACL did not raise any issues that would prevent the draft LEP being finalised.

The proposal is consistent with this Direction.

#### 4.1 Acid Sulfate Soils

There is no mapping of acid sulfate soils by council. Evidence of recent construction close to the site demonstrate that acid sulfate soils are not a constraint to the future development of the site. Further assessment can be carried out as part of a future DA.

### 6.3 Site Specific Provisions

The planning proposal is consistent with this direction as does not seek to impose unnecessarily restrictive planning controls that would restrict development.

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

The planning proposal is generally consistent with the following State Environmental Planning Policies (SEPP):

- SEPP (Urban Renewal) 2010;
- SEPP (Infrastructure) 2007; and
- SEPP (Building Sustainability Index: BASIX) 2004.

#### SEPP No. 55 Remediation of Land

This SEPP is to promote the remediation of contaminated land to reduce harm to human health and the environment.

The preliminary site investigation by WSP Australia Ltd found that:

- the site was developed to its current state between 1951 and 1961;
- site is situated in an area that is unlikely to be impacted by industry;
- the risk of leakages to the underlying soil from within the automotive workshop at 31 Atchison Street is low as the surface is fully covered with concrete and asphalt in generally good condition;
- no potential asbestos containing materials were observed in or outside the building;
- no licences or notices have been issued for the site under the *Protection of the Environment Operations Act 1997* or notices or order to investigate or remediate the site under the *Contaminated Land Management Act 1997 No 140*.

#### SEPP 65 Design Quality of Residential Apartments Development

An analysis the indicative concept design was carried out by AJC Architects who found that the development could achieve an acceptable level of internal amenity and noted that:

- the provision of 102 apartments with an indicative dwelling mix of 33 percent of one bedroom, 58 percent of two bedrooms and nine percent of three bedrooms would suit a variety of lifestyles;
- the floor to floor height of 3.2m allows a minimum ceiling height;
- each apartment:
  - has access to a secure private open space such as a balcony with minimum areas of approximately 8-12m<sup>2</sup>;
  - has access to communal open space with indoor lounge and meeting rooms; and
  - is able to achieve greater open space than outlined in the apartment design guide (ADG);
- In the mid-winter solstice:
  - approximately 77% of living areas and 66% of apartment balconies will receive two hours of sun
  - approximately 60% will receive cross ventilation; and

- a maximum of 15% will have no direct sunlight.

These are in line with the aims and objectives of the ADG.

### 9.3 State, regional and district plans

#### North District Plan

Planning priority	Response
<b>N1</b> – Planning for a city supported by infrastructure <b>N12</b> – Delivering integrated land use and transport planning and a 30-minute city	<p>The planning proposal is consistent with these planning priorities as it leverages off the new Crows Nest metro station. The site is located within walking distance of the future station. The future station will provide housing in close proximity to services and jobs supporting the growth of St Leonards</p>
<b>N3</b> – Fostering healthy, creative, culturally rich and socially connected communities	<p>The site is within the area identified as the West Oxley Creative Quarter and will positively contribute through the creation of a public art laneway.</p> <p>The laneway will be flexibility designed so that any future development at 21 Atchison Street can have shopfronts and residential lobbies to the lane. As such, the planning proposal is consistent with this planning priority.</p>
<b>N5</b> – Providing housing supply, choice and affordability with access to jobs and services <b>N10</b> – Growing investment, business opportunities and jobs in strategic centres	<p>The planning proposal is consistent with these planning priorities as it will increase in housing capacity in the St Leonards Town Centre supporting the retention of low and medium density housing outside of the town centre and contribute to Council's housing targets.</p> <p>St Leonards has public transport connections to Macquarie Park, Sydney CBD and North Sydney CBD. The Departments approach is to provide a balance of residential and employment functions.</p> <p>Housing growth is to be in areas that meet locational criteria for urban growth close to existing and proposed public transport services and infrastructure.</p>
<b>N6</b> – Creating and renewing great places and local centres and respecting the District's heritage	<p>The proposal is consistent with this planning proposal as it will provide a positive contribution to improving the public realm through widened street level setbacks to Oxley Street for a linear park creating open public space. The creation of a new pedestrian laneway will help shape the desired new street level character and quality.</p>
<b>N9</b> – Growing and investing in health and education precincts <b>N13</b> – Supporting growth of targeted industry sectors	<p>The planning proposal is consistent with these planning priorities as the focus of St Leonards is the RNSH, North Shore Private Hospital and TAFE and to grow jobs complementary to these facilities.</p> <p>Complementary and flexible employment space is a focus for the proposed commercial space to promote diversity in industries and provide a variety of job opportunities.</p>
<b>N12</b> – Delivering integrated land use and transport planning and a 30-minute city	<p>The site is within walking distance of the St Leonards train station and future metro station. The proposal is for a mixed-use development that will deliver an integrated land use and transport outcome. As such, the planning proposal is consistent with this planning priority.</p>



<b>N20</b> – Delivering high-quality open space	The proposal provides new public open space in the form of a linear park along Oxley Street and an open to air through site, pedestrian link. As such, the planning proposal is consistent with this planning priority.
---	---

**Table 1:** Assessment of proposal against North District Plan priorities.

### Draft St Leonards and Crows Nest 2036 Plan

The draft 2036 Plan provides a framework to guide future development in the St Leonards and Crows Nest Planned Precinct area. The draft 2036 Plan has been shaped by a number of design criteria and area wide planning principles.

In accordance with the draft 2036 Plan, planning proposals within the investigation area should have regard to the vision, area wide design principles, design criteria and proposed planning controls identified in the draft Plan.

The proposal will contribute to the emerging character of the area. It is consistent with the proposed heights of buildings and the FSR changes in the North Sydney LEP. The setbacks along Atchison Street and Oxley Street are also consistent with the plan which incorporates provision for increasing public open space, improved site pedestrian permeability and cycle way improvements.

The proposal comprises a mix of retail and commercial uses and satisfies the non-residential FSR provision of 1:1.

### St Leonards Crows Nest Planning Study – Precinct 2 & 3

The St Leonards Crows Nest Planning Study – Precinct 2 & 3 was adopted by Council provides a framework to inform future proposals in the locality.

The planning proposal provides a mixed-use 16-storey residential building within Precinct 3 which is designated to be medium density mixed use residential area as identified in the planning study.

### NSW Long Term Transport Master Plan & the Draft Future Transport 2056 Strategy

The NSW Long Term Transport Master Plan outlines projects that will have an impact on Sydney. It aims to connect people through the Global Economic Corridor to jobs and other opportunities. The plan includes strategies to improve road capacity, reduce journey times and public transport solutions.

This planning proposal is consistent with the objectives of this plan by providing high density residential, commercial and community development in close proximity to public transport networks with links to nearby key employment centres.

The draft Future Transport 2056 Strategy is the update of the NSW Long Term Transport Master Plan and outlines the vision for a Greater Sydney mass transit network with St Leonards as a strategic centre link to the Sydney CBD via North Sydney. The strategy sets a framework for network planning and investment aimed at supporting transport infrastructure.

The site is well placed to take advantage of the future transport network proposed in regard to frequency of services and upgraded infrastructure.

## **11.MAPPING**

The following maps will be amended as part of this planning proposal:

- Height of Buildings Map - HOB\_001\_010;
- Non-residential Floor Space Ratio Map - LCL\_001\_010;

- Maximum Floor Space Ratio Map - FSR\_001\_010.

The map cover sheet and maps have been approved by the Department's GIS team. Draft mapping is provided at **Attachment Maps**.

## 12. 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 H**). Council confirmed on 1 May 2020 that it was happy with the draft and that the plan should be made (**Attachment I**).

## 13. PARLIAMENTARY COUNSEL OPINION

On 1 May 2020, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 14. 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:

- it is consistent with all relevant section 9.1 Directions, or justified in accordance with the Direction, and SEPPs;
- it is consistent with and gives effect to all relevant priorities of the North District Plan;
- it is consistent with the draft St Leonards and Crows Nest 2036 Plan; and
- all community concerns have been adequately addressed and there are no outstanding or unresolved agency raised in submissions.



13 May 2020

**Stewart Doran**  
**Acting Manager, North District**



13 May 2020

**Luke Downend**  
**Acting Director**  
**North District**  
**Greater Sydney Place, Design and**  
**Public Spaces**

Contact officer: Nick Armstrong  
Senior Planning Officer, North District  
Phone: 8275 1219

## **ATTACHMENTS**

**Attachment A** – Planning Proposal

**Attachment B** – Gateway Determination

**Attachment C** – Council’s submissions report

**Attachment D** – Council’s Post-exhibition report

**Attachment E** – Draft VPA

**Attachment F** – Council request for exemption from SIC

**Attachment G** – DPIE response to Council on SIC exemption

**Attachment H** – Section 3.36(1) consultation with Council

**Attachment I** – Council comments on draft LEP

**Attachment PC** – Parliamentary Counsel’s Opinion

**Attachment Maps** – Draft LEP Maps

**Attachment LEP** – Draft LEP

**Attachment MCS** – Map Cover Sheet

**Attachment Council** – Letter to Council advising of the decision