Subject: 46-52 Nicholson Street and 57-67 Christie Street, St Leonards - Planning Proposal 38

Record No: SU8044 - 70375/20

Division: Environmental Services Division

Author(s): Lara Fusco

Executive Summary

The purpose of this report is to consider the planning merits for land at 46-52 Nicholson Street and 57-67 Christie Street, St Leonards to redevelop the site as a commercial office building.

The Proposal currently seeks to retain the existing B3 Commercial Core zoning with an increase in floor space ratio and height to permit a single 32-storey commercial office tower development. The proponent-led Planning Proposal seeks the following amendments to Lane Cove Local Environmental Plan 2009:

- Increase the FSR controls from 4.5:1 to 16.45:1; and
- Introduce a solar height plane control to avoid shadowing of Newlands Park to control building height.

It is important to note that this Proposal was lodged prior to the release of the final St Leonards and Crows Nest 2036 Plan in August 2020. The applicant has provided an updated analysis to respond to the final plan, which is attached.

Council has provided an alternative building envelope to mitigate concerns regarding loss of district and iconic views due to the proposed height and bulk of the applicant's proposal.

It is recommended that Council forward the amendments of Planning Proposal No. 38 to the Local Planning Panel for advice and the General Manger be given delegation to forward the proposal to the Minister for a Gateway Determination.

Background

Site

The site is located at 46-52 Nicholson Street and 59-67 Christie Street, St Leonards (refer to Figure 1).

Figure 1: Location of proposal

The site contains six commercial buildings ranging in height from two to four storeys, which are reaching the end of their economic lifespan, are in poor repair and in some cases unusable. The eight lots have been combined under a single landholding ownership.

Sites to the north and south side of the Pacific Highway have been principally redeveloped with larger mixed-use buildings, and several underdeveloped properties are subject to development consent. Further north of the site is 'The Forum' which forms a town centre of St Leonards and acts as a commercial, retailing and transport hub.

Current Planning Controls

The current planning controls for the site are as follows:

Zoning	B3 Commercial Core	Lot 11 in DP 654462; Lots A & B in DP 334878; Lot 2 in DP 945933; Lot 2 in DP 528060; Lot 1 in DP 9409064; SP54127; and SP18047
Site Area	2,300 sqm (proposal)	
Current FSR	4.5:1	
Possible GFA	10,350 sqm	
Height Limit	25 m (6-7 storeys)	

Table 1: Current Planning Controls

Strategic planning context in St Leonards

In pursuing the revitalization of the St Leonards CBD, Council has taken a measured approach by targeting specific sites to stimulate and broaden the economic base, by permitting a small number

of mixed use (B4) sites within the CBD as a whole. The remainder of the sites were to remain as B3 Commercial Core. This approach has been implemented since 2012, through Council's:-

1. Four Pilot projects;
2. Proposed Rail Plaza; and
3. St Leonards Public Domain Master Plan.

This targeted approach, with supporting projects, is a finely tuned policy designed to stimulate the centre's long-term commercial and employment potential with residential development only providing a supporting role in the St Leonards CBD. Council is firmly of the view that further residential land uses should only be considered after the 4 pilot projects have been evaluated to gauge impacts and benefits to the Commercial Core.

While this Planning Proposal in principle validates Council's approach, there are now other (finalised) strategic planning documents to consider.

The Greater Sydney Region Plan, A Metropolis of Three Cities, and the North District Plan

Both *A Metropolis of Three Cities* and the *North District Plan (NDP)* identify St Leonards as a 'strategic centre'. The District Plan considers that the strategic centres play an important economic role in supporting the growth of Sydney as a global city such as the health and education (employment) 'super precinct' (page 60).

Council must assess this planning proposal against Planning Priorities N9 & N10 and Action 34 of the District Plan, in regards to St Leonards.

Planning Priority N9: Growing and investing in health and education precincts

Page 64 reinforces "***the importance of the precinct as a key employment centre in Greater Sydney***". Action 34, a Productivity Action, is primarily focused on additional employment capacity by growing jobs. In particular, a higher jobs target of an extra 16,400 jobs identified by 2036.

This Proposal states that it would realise 3,430 additional jobs (**21%) of the total employment potential of the strategic centre of St Leonards Crows Nest.** Medical office suites are also proposed to be delivered at the lower levels of the building. This would further support the health and education precinct of St Leonards and Royal North Shore Hospital.

Planning Priority N10: Growing investment, business opportunities and jobs in strategic centres

Page 67 of the NDP reinforces that, "*the growth, innovation and evolution of centres will underpin the economy of the North District*."

The Proposal is consistent with the central objective of supporting an employment hub, such as St Leonards, that can provide 16,400 additional jobs over the next 20 years. If combined with Council's 'pilot project' sites, approximately 4,691 additional jobs will be created in the Lane Cove portion of St Leonards. This would be counted towards the high jobs target for the area.
St Leonards and Crows Nest 2036 Plan

The St Leonards/Crows Nest Planned Precinct is identified by the North District Plan (NDP) **as "*a mixed-use centre with high-rise offices, and high-density residential development".* Action**

34 of the NDP focuses growth subject to *"growing jobs in the centre*". Additional capacity for housing supply is a secondary but important function of the precinct. It is from these two purposes of the North District Plan that the 2036 Plan has emerged.

The NSW Department of Planning, Industry and Environment (DPIE) released the Draft St Leonards Crows Nest 2036 Plan (2036 Plan) and supporting documents in October 2018.

The final 2036 Plan for the area was released by DPIE on 29 August 2020; it states that this site remain as B3 Commercial Core with an increased height and floor space ratio. The 2036 Plan also introduced a Special Infrastructure Contributions rate to apply to all new residential and mixed-use residential development in the area.

It is important to note that page 63 of the final 2036 Plan states that all controls shown in the 'Implementing the Plan' section are **indicative** only. Further, on page 76:

> *"Planning Proposals **may be inconsistent with the Plan if** it can be demonstrated to the Secretary of the Department of Planning, Industry and Environment that **the inconsistency is of minor significance while still achieving the vision, objectives and actions identified in the Plan**".*

Special Infrastructure Contributions

The Special Infrastructure Contribution (SIC) is to apply to this area of St Leonards and Crows Nest as part of the finalised 2036 Plan. However, because this site is proposed to be a commercial office building, the SIC would not apply to this site.

Local Planning Panel

Ordinarily, a planning proposal will be referred to the Local Planning Panel for advice prior to Council's resolution. Given scheduling availability, Council has not been able to seek or receive advice from the Local Planning Panel for the proposal by the end of this year (prior to the Ordinary Meeting of Council in December). Notwithstanding, the proposal has been scheduled for the Local Planning Panel meeting on 17 December 2020.

Council's report to the Panel will discuss the proponent's compliance with the relevant strategic planning documents as well as urban design, environmental, economic, and social considerations for their proposal.

It is therefore recommended that upon receiving Local Planning Panel report for the preferred option, the General Manager seek Gateway Determination by a resolution of Council.

PROPOSAL

The proponent-led Planning Proposal (see **AT-1** and **AT-2**) seeks the following amendments to Lane Cove LEP 2009:

- Increase the FSR controls from 4.5:1 to 16.45:1 (see **AT-6**); and
- Introduce a solar height plane control to avoid shadowing of Newlands Park to control building height.*

* Height of building only to be defined by wording that*: "the development does not result in any additional overshadowing on the land shown with blue hatching as 'Newlands Park'– between 10.00am and 3.00pm on 21 June in each year"*.

Overall, the proposed controls could potentially result in the following outcomes:

- A 32-storey commercial office building with ground floor retail and top two levels as plant. The site comprises a total Gross Floor Area of 37,842 sqm to increase in employment (jobs) to meet North District Plan high jobs target (see **AT-5**);
- Three levels of basement car parking with capacity for 122 car spaces with access from Christie Street (see **AT-4**);
- Public domain improvements including an activated ground floor with public open space on the corner of Christie Street and Nicholson Street, and public through-site link from Christie Street to Nicholson Street; and
- Roof top garden terraces, and above-ground balconies (up to Level 27);
- Capacity to achieve a 6 star-green energy and NABERS rated building (see **AT-7**); and
- Minimal overshadowing of Newlands Park through the built form and articulation of the building (see **AT-9, AT-10** and **AT-11**)

A Voluntary Planning Agreement (VPA) letter of offer (see **AT-8**) was also submitted. However, Council's policy is that any VPA be assessed separately at a later stage to ensure that any Planning Proposal is considered on its own merits.

	CURRENT LEP CONTROLS	**2036 PLAN**	**PROPOSAL**		
Zoning	B3 Commercial Core	B3 Commercial Core	Retain zoning		
FSR	4.5:1 (commercial)	15:1 (indicative)	15.96:1 (commercial)	0.49:1 (retail)	***16.45:1 (Total)***
Gross Floor Area	10,350 sqm (commercial)	34,500 sqm (indicative)	36,693 sqm (commercial)	1,149 sqm (retail)	***37,842 sqm (Total)***
Height	25 metres (6-7 storeys)	30 levels/storeys - indicative (no height shown in metres or RL)	Solar height plane control (to Newlands Park) but proponent's plans show RL 198.6m (32 storeys)		
Parking Spaces	367 (based on Council's parking controls)	No control, but action to "*limit the amount of car parking provided for new developments*".	122		

Table 2: Current and Proposed Planning Controls

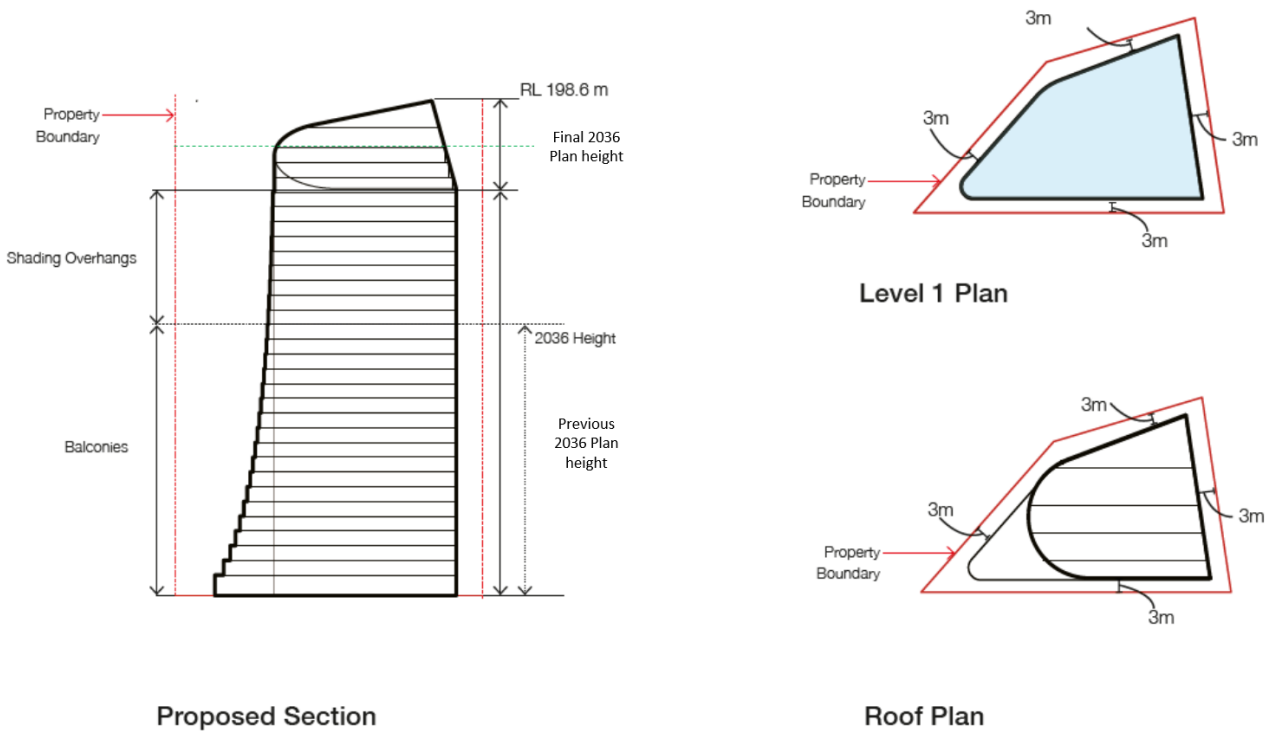

Figure 3: Proposed section and roof plan.

Figure 4: Sketch of proposal.

Discussion

Considerations of the proposal

Council's assessment of the applicant's proposal has highlighted issues of consideration. Each matter has been assessed below.

1. *Height & FSR above 2036 Plan*

   The proposed height of the building is 32 storeys, which is two storeys higher than the 2036 indicative height. Similarly, the proposed FSR is 16.45:1 which is 1.45:1 above the 15:1 of the 2036 Plan.

   Additionally, the 3m ground level setback and 4 storey street wall height, which are consistent with the 2036 Plan, create an undesirable built form in terms of bulk and scale.

   Comment:

Notwithstanding the proposal's compliance with the 2036 Plan for setbacks and street wall heights, variations to the indicative FSR and height in storeys is not supportable from an amenity perspective.

Modifications to the height, FSR and setbacks of the proposal were investigated by Council and are addressed elsewhere in this report (refer to *Amended proposal – Architectus).*

2. *Uncertain height defined by solar impact on Newlands Park*

   The proposal seeks to define height in terms of a solar height plane to Newlands Park where no shadow falls on Newlands Park between 10.00am-3.00pm on 21 June. This is a requirement of the Draft 2036 Plan.

   Comment:

This is no longer a requirement of the final 2036 Plan. One of the new actions on page 33 of the 2036 Plan states that new development must:

> *"**Minimise overshadowing of key open spaces, public places and adjoining residential areas**. Solar height planes should be adhered to as indicated within the Solar Access Map" (page 33 of 2036 Plan).*

When read in conjunction with the solar access map (on page 38 of the Plan), it is made clear that any new building must seek to 'minimise overshadowing of key open spaces' between the hours of 10am – 3pm (mid-winter), in this case Newlands Park.

Notwithstanding that, shadow modelling in Figure 7 shows that the proposed building will not overshadow Newlands Park at all after 10am mid-winter. Therefore, the proposed LEP height control in the Planning Proposal is no longer applicable or consistent with the action of the final 2036 Plan.

An RL, as seen in the applicant's proposal (RL 198.6 metres) and/or equivalent height in metres gives assurance of height to adjoining land owners. Based on the above, the definition of height in terms of a solar height plane is uncertain and unnecessary in this Planning Proposal due to a new action in the final 2036 Plan.

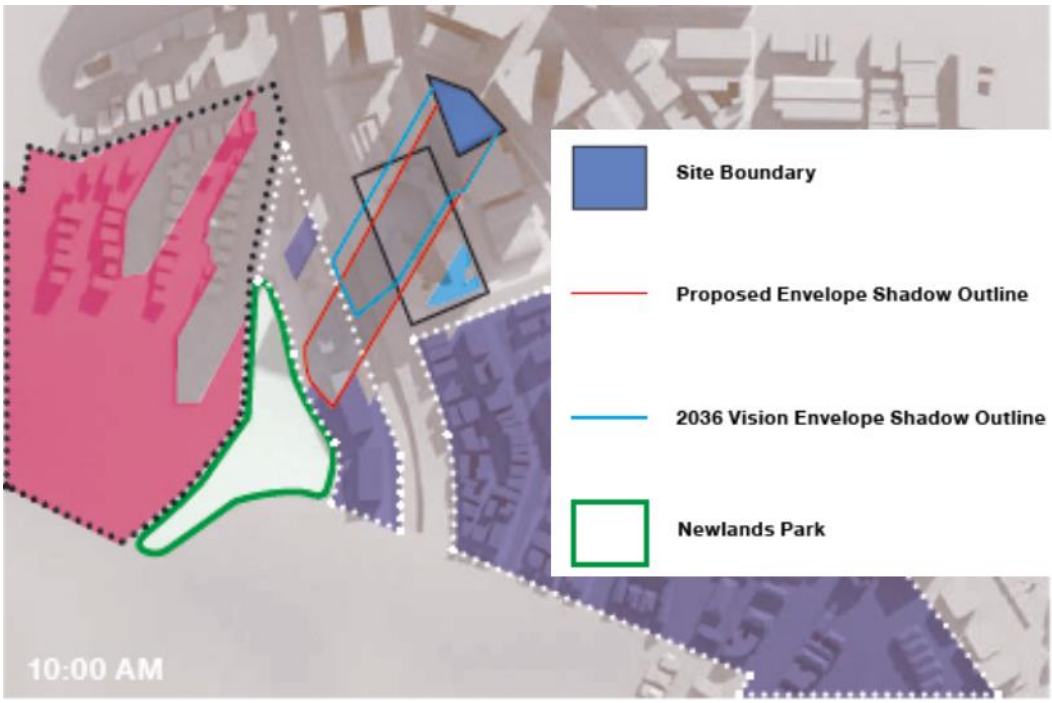

Figure 7: Shadow modelling at 10am

3. *District views from residential neighbours impacted*

Impacts on district views, including iconic views to the Sydney Harbour Bridge and the Sydney CBD, are addressed in the Urban Design Report (**AT-2**), and View Impact Assessment (**AT-3**).

The impacts are measured from the nearby residential towers at 472, 486 (Mirvac development) and 504 (Landmark development) Pacific Highway, St Leonards. These buildings are within the line-of-sight of this Proposal. Views are from apartments between the far west and far east.

Comment:

In summary:

	Height of top of the building (in RL metres)	No. of storeys	46 Nicholson Street Proposal (RL 198.6; 32 storeys)	Council's preferred option for 46 Nicholson Street (RL 175.2; 26 storeys)
(Mirvac) Rear Tower	RL 204.46	35 levels + roof and plant	Approximately 2 storeys of unimpeded views	Approximately 9 storeys of unimpeded views
(Mirvac) Front Tower	RL 180.46	27 levels + roof and plant	Minimal impact	Minimal impact
504 Pacific Hwy (Landmark)	RL 227.4	43 storeys	Approximately 9 storeys of unimpeded views	17 storeys of unimpeded views
88 Christie St (JQZ)	RL 227.31	47 storeys	Approximately 15 storeys of unimpeded views	21 storeys of unimpeded views

Table 3: District view loss

It is anticipated that view sharing is to be expected from residential use in a CBD as views may be lost. District view loss occurs from 486 (Mirvac) and 504 (Landmark) Pacific Highway. View sharing is to be expected from residential use in a central business district, where residential use is ancillary to the commercial function of the precinct.

4. *Christie Street park overshadowed till approx. 1.30pm*

The 2036 Plan requires development to avoid "substantial additional overshadowing" of Newlands Park & the new St Leonards South park from 10am-3pm. This does not apply to Christie Street Park (see figure 8).

Comment:

Shadow modelling provided by the applicant demonstrates that the Christie Street Park (south end) would experience overshadowing until approx. 1.30pm.

Although the park would be protected under Council's current 25 metre height limit, the 30 levels stated in the 2036 Plan and this proposal would significantly overshadow Christie Street park. Notwithstanding, the park still retains solar access due to the alignment of Christie Street, which is north facing.

The proposed development would need to be approximately half its current height to result in any reduction in overshadowing of the park. This is an onerous requirement of a commercial building in a Commercial Core zone and is against the intent, objectives and actions of the 2036 Plan.

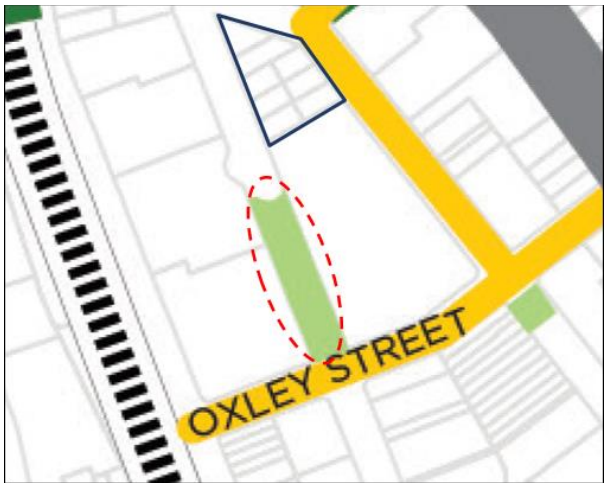

Figure 8: Christie Street Park

5. *Overshadowing of adjacent residential properties*

The 2036 Plan requires that development "*Minimise overshadowing of … adjoining residential areas.*" The solar access map states that this applies to "*residential areas inside the boundary (for at least 2 hours)*".

Comment:

The proponent's shadow modelling is contained on pages 64-71 (in **AT-2**). It highlights that in:

- Lithgow Street residential (Northmark/Shoremark) – shadow gone by 12:15 pm. Additional shading is very similar to 2036 Plan potential shadowing.
- Duntroon Ave – shadow gone by 12:30am.
- Canberra Ave – shadow gone by 9:30am.

At between 5.5 hours sunlight and 2.75 hours sunlight midwinter, these are considered acceptable levels of solar access as defined by the final 2036 Plan and Apartment Design Guide. However, it is important to note that this is a commercial office building and the same standards (as defined in the Apartment Design Guide) do not necessarily apply to this site.

6. Tree canopy cover

A tree canopy cover target of 25.7% has been identified for this 'urban' sub-precinct in the 2036 Plan. This matter, however, has not been addressed in the Planning Proposal or its documents by the applicant.

Comment:

In the 2036 Plan vision map, Nicholson Street is identified as a "*tree-lined green street*" while Christie Street is not. The objectives are to "*incorporate new street trees to realise the tree canopy targets*" but there are no related actions that apply to this site.

The proposed ground floor plan (Figure 9) shows that there is consistent street tree planting proposed along both street frontages (Nicholson and Christie Streets) but the exact amount of tree canopy cover has not been specified by the proponent.

However, there are no direct actions in the 2036 Plan on tree canopy cover which affect this site. Notwithstanding this, it appears that there is potentially enough space to accommodate increased tree planting if needed, based on the proposed ground floor plan.

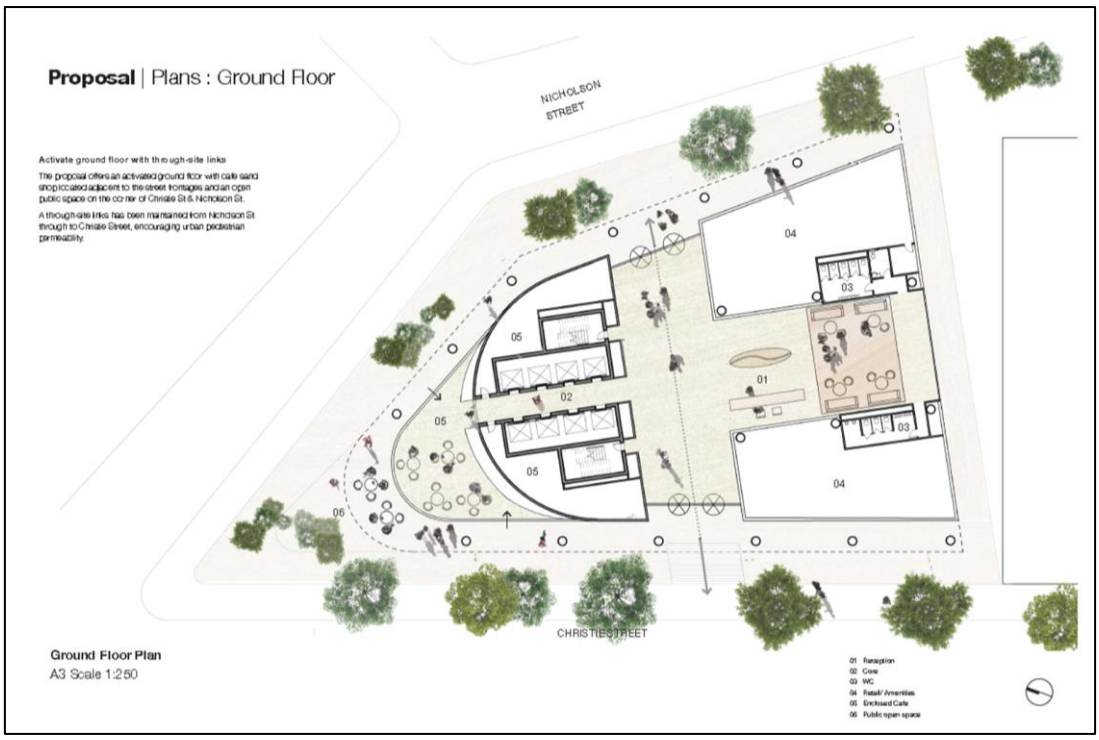

Figure 9: Ground Floor Plan of proposal.

7. *Traffic and parking*

The proponent's traffic and transport study (**AT-4**) states that:

> *"… will not result in adverse impacts on the surrounding road network. All intersections retain an acceptable level of service during both the AM and PM peak hours, with no additional measures required to accommodate future traffic demands.*" (p. 25).

<u>Comment:</u>

Parking is proposed for 122 bays which is lower than Council's DCP Part R requirement of 367 spaces (see Table 2). This rate is much closer to the rate for North Sydney which uses 1 space/400m^2 of GFA. Using this calculation, 92 parking spaces would be required.
This significantly reduced parking rate is consistent with the action of the 2036 Plan to "*Limit the amount of car parking provided for new developments*".

The proponent's traffic and transport study (**AT-4**) also outlines a Green Travel Plan with a suite of measures to reduce the need to travel and promotion of sustainable means of transport. This includes cycling, walking, public transport (St Leonards train station and Crows nest Metro), and carshare/carpooling. All of these measures are consistent with Part R of Council's Development Control Plan and will assist in achieving the action of the 2036 Plan. Hence the impacts on the surrounding network are considered acceptable.

Entry to the basement is proposed off Christie Street (at the south-east end). Council's DCP suggested off Nicholson (thereby forcing southbound arrivals to turn across Nicholson). By this route the proposed entry is a preferable solution.

Submissions
Whilst the proposal has not been publicly exhibited, approximately 44 submissions have been received at Council from neighbouring residential properties.

The largely pro forma structure of the submission raised concern primarily with the following:

1. St Leonards Crows Nest 2036 Plan, including the increase in indicative heights from the Draft exhibited 2036 Plan, and a lack of consultation on the plan; and
2. View loss by residences along the Pacific Highway and neighbouring residences in St Leonards.

Other issues raised by submissions included:

- Lack of green space;
- Traffic impacts, especially increases to the traffic network;
- Lack of public benefit to residential;
- Uncertain demand for office space (post COVID-19 environment);
- Overshadowing;
- Built environment – FSR, height, setbacks;
- Environmental impacts of development – i.e. wind tunnel effect;
- Privacy and overlooking of the development into neighbouring residential.

The above issues have been addressed elsewhere in the report. It is noted that some of the issues raised by submissions overlap with Council's considerations, especially with regards to view loss and built envelope.

Amended proposal - Architectus

In response to the issues and concerns addressed above, Council sought external advice from planning firm Architectus to consider alternative built forms for the subject proposal (see **AT-12**).

The alternative building envelope recommended for the proposal comprises the following:

- 26 storeys, with 24 office floors plus a plant level plus part rooftop plant;
- 15:1 FSR;
- 8 storey podium (street wall height) with 0m setback along Christie Street;
- 3m setback to Nicholson Street and southern boundary (rear); and
- 3m setback above podium.

The reduction in height responds to the concerns raised above, by minimising the impacts of over-looking and loss of district views to adjoining/neighbouring residences, as well as transitioning the height and bulk more appropriately to the surrounding context (see figure 10).

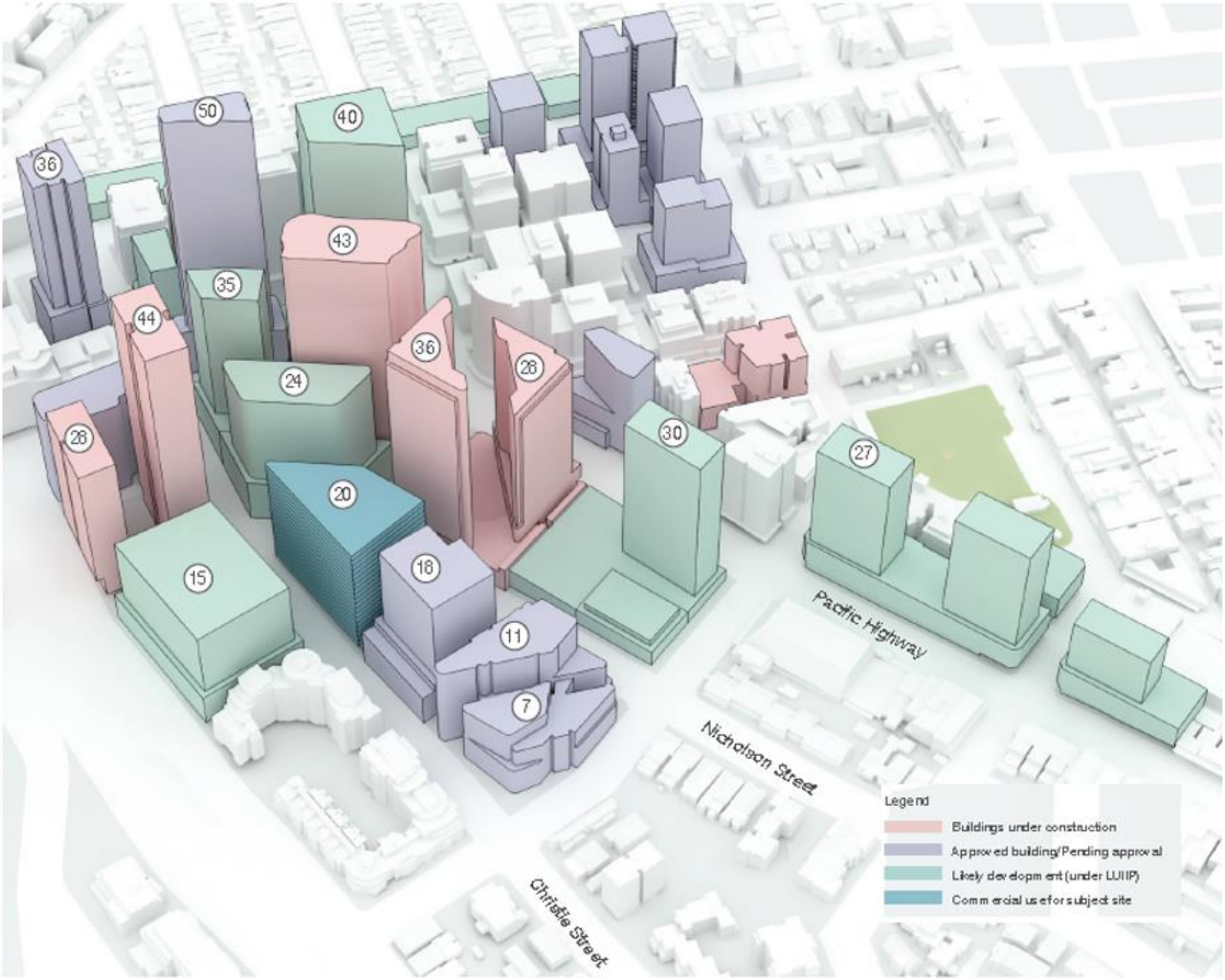

Figure 10: Heights and building envelopes with Council's preferred proposal (26 storeys).

It is noted that this revised building envelope is not consistent with Council's current DCP or the 2036 Plan for all setbacks. However, given the amendments to the height of the building, this approach provides a balanced position regarding setbacks between the applicant's proposal, the 2036 plan and the DCP.

Applicant's submission

On 1 December 2020, a submission was made by the applicant regarding the revised building envelope in Council's preferred option for a reduced height and FSR, and modifications to the setbacks and wall street height. The applicant is accepting of a reduced FSR of 15:1 but does not support the reduced height of 26 storeys in Council's preferred option, and seeks an additional 10% to the height (approximately 2-3 storeys). The applicant maintains that the additional height demonstrates a superior urban design outcome. However Council's urban design analysis demonstrates that a reduced height minimises impacts of over-looking and loss of district views to adjoining/neighbouring residences, as well as transitioning the height and bulk more appropriately to the surrounding context. It is also worth noting that Council's preferred option will also deliver A grade commercial office space.

The applicant will afforded a further opportunity to respond to Council's preferred option at the December Local Planning Panel meeting.

Conclusion

The revised Proposal is considered to be consistent with both the Regional Plan and North District Plan as it will allow for a commercial office building to provide jobs which will contribute to the high jobs target for the area. The preferred option is also largely consistent with the vision, objectives and actions of the final St Leonards/Crows Nest 2036 Plan.

The land uses (commercial while accommodating pedestrian connectivity) of this Proposal is also consistent with Council's Local Strategic Planning Statement Priorities and Actions as it would achieve a balance in the St Leonards Commercial area of residential and commercial development.

Modifications made to reduce the overall built form of the proposal provide the most balanced outcome in achieving the urban design principles, and mitigating concerns regarding view loss and privacy. Council's preferred building envelope achieves a 15:1 FSR consistent with the 2036 Final Plan but at a lower height by 4 storeys which enables better view sharing with nearby residential neighbours and a better transition in building heights from surrounding lower scale residential areas to the highest buildings along Pacific Highway.

The preferred option appears to be a well-designed building that responds to and considers the likely interests and concerns of its neighbours as well as the stated future desired character of the CBD as expressed is the expectation for all development proposals.

Having regard to the above, it is recommended that an amended Planning Proposal No. 38 be forwarded to the Local Planning Panel for advice. Once the advice has been received, Council's General Manager be given delegation to forward the Planning Proposal to the Minister for a Gateway Determination.

RECOMMENDATION

That Council:-

1. Support in principle an LEP amendment with a revised built form, with a reduced height of 26 storeys (RL 175.2), and FSR of 15:1.
2. Note the amended proposal includes revised setbacks and street wall heights to Nicholson Street, Christie Street and southern boundary;
3. Seek advice on the Planning Proposal from the Local Planning Panel on 17 December 2020;
4. Delegate authority to the General Manager, upon receiving the Local Planning Panel advice from the Planning Proposal, to seek Gateway Determination from the Department of Planning, Industry and Environment.

Mark Brisby
Executive Manager
Environmental Services Division

ATTACHMENTS:

AT-1 View	Planning Proposal Report	57 Pages	Available Electronically
AT-2 View	Appendix A: Urban Design Report	79 Pages	Available Electronically
AT-3 View	Appendix B: View Impact Assessment	24 Pages	Available Electronically
AT-4 View	Appendix C: Traffic and Transport Assessment	39 Pages	Available Electronically
AT-5 View	Appendix D: Economic Impact Assessment	29 Pages	Available Electronically
AT-6 View	Appendix E: LEP Maps	2 Pages	Available Electronically
AT-7 View	Appendix F: Sustainable Timber Construction	2 Pages	Available Electronically
AT-8 View	Addendum information: Letter from Applicant	9 Pages	Available Electronically
AT-9 View	Addendum information A - St Leonards Crows Nest Plan 2036 Comparison	9 Pages	Available Electronically
AT-10 View	Addendum information B: Friedlander Place View Corridor	5 Pages	Available Electronically
AT-11 View	Addendum information C - Christie Street Reserve Solar Study	4 Pages	Available Electronically
AT-12 View	Urban Design Analysis - Architectus - 46 Nicholson Street	54 Pages	Available Electronically