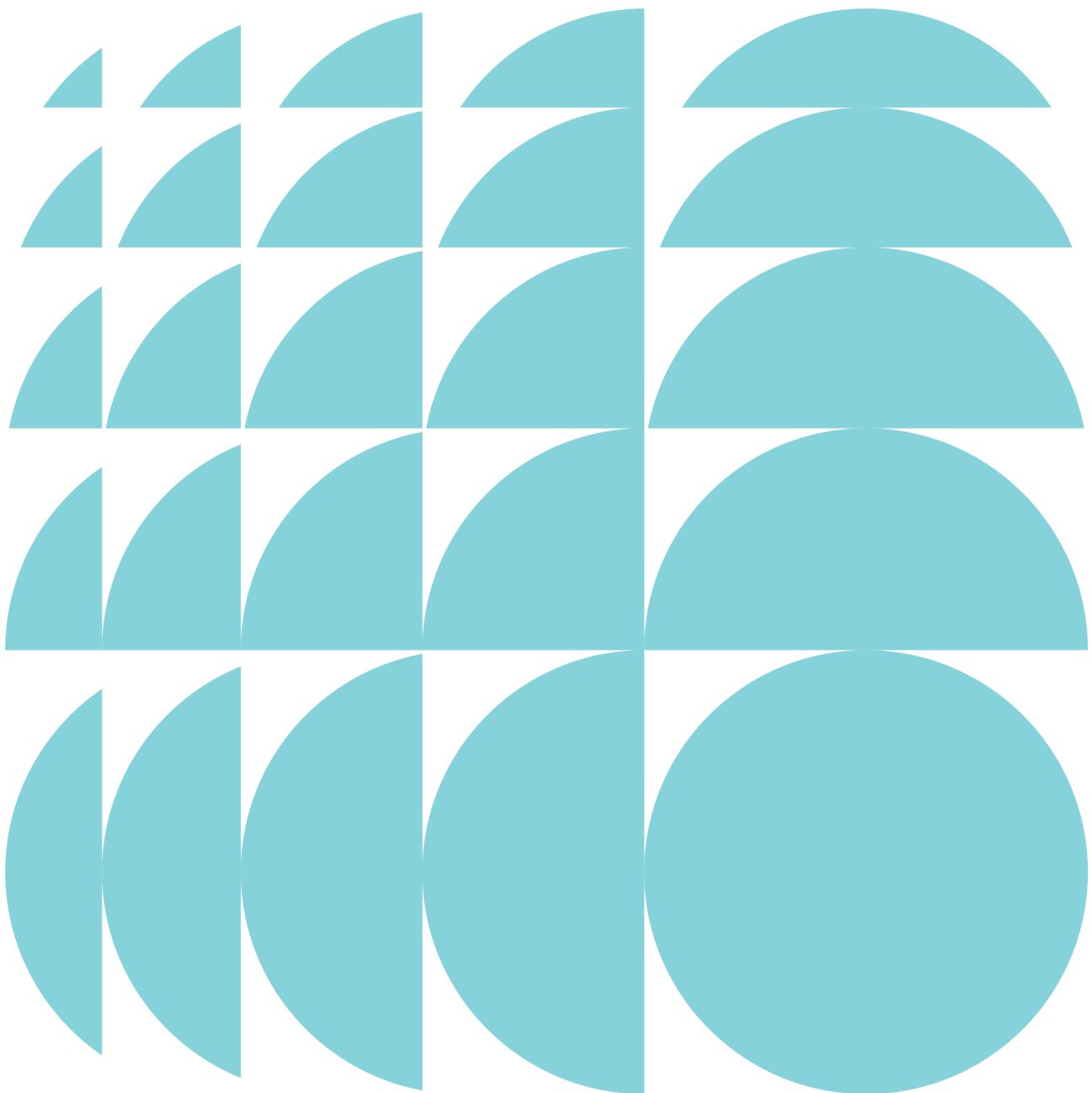


Planning Proposal

27-57 Falcon Street, Crows Nest
Amendment to North Sydney LEP 2013

Submitted to North Sydney Council
On behalf of Lindsay Bennelong Developments
Pty Ltd

Amended 25 February 2021 | 2190018



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1.0 Executive Summary

This report has been prepared by Ethos Urban on behalf of Lindsay Bennelong Developments Pty Ltd (Lindsay Bennelong), the landowners of the site at 27-57 Falcon Street, Crows Nest NSW 2065, in support of a planning proposal to amend the *North Sydney Local Environment Plan 2013*. Specifically, this planning proposal seeks to:

- Rezone the site to R4 High Density Residential;
- Amend the maximum building height to part 21 metres and part 14.5 metres;
- Apply a maximum floor space ratio of 1.85:1 to the site;
- Remove the non-residential floor space ratio requirement;
- Retain 'retail premises' as a permitted land use on the site; and
- Include a site-specific provision under Part 6 Division 2 of the LEP to allow minor exceedances to the Height of Building control to allow ancillary items such as building plant and lift overrun.

This planning proposal revisits the previous planning proposal for the site which was considered by North Sydney Council (Council) and given conditional support in 2015. An indicative reference design has been prepared by Allen Jack + Cottier (AJ+C) to demonstrate the site's capacity to accommodate higher density residential development that reflects the proposed amendments. The concept provides:

- 4 x buildings ranging in height from 3 storeys to 6 storeys
- Approximately 87 apartments and townhouses (comprising a mix of 1, 2 and 3 bedrooms)
- Approximately 7,965m² of gross floor area incorporating:
 - approximately 7,625m² of residential floor area, and
 - approximately 340m² of retail floor area at the corner of Falcon Street and Alexander Lane
- Basement parking
- Road widening of Alexander Lane
- Vehicular access via Alexander Lane
- Communal open space and landscaping.

This planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning & Assessment Act 1979* (EP&A Act), and 'A Guide to Preparing Planning Proposals' prepared by the NSW Department of Planning and Environment.

The Site

The site is two blocks east of the Pacific Highway. It is in a well serviced area suitable for a greater intensity of development. The site is approximately 4,342m² and currently accommodates four two-three storey attached underutilised and poor-quality commercial buildings within the eastern portion of the site and vacant land to the west which has remained undeveloped for 20 years. The site is:

- a short walk from:
 - Bus stops on Falcon Street and the Pacific Highway
 - Crows Nest Shopping Centre Village (50m, less than 1 minutes' walk)
 - North Sydney Girls High School (150m, 2 minutes' walk)
 - North Sydney Boys High School (250m, 3 minutes' walk)
 - the future Crows Nest Metro Station (400m; 5 minutes' walk)
 - St Leonards Station (approx. 800m; 10 minutes' walk)

- in close proximity to district and metropolitan health care services - less than 400m from the Mater Hospital and 1km from Royal North Shore Hospital.
- under 30 minutes travel time on public transport to major existing and future employment centres in Sydney (RNSH, Macquarie Park, North Sydney and the Sydney CBD).
- the site has frontage to Falcon Street to the north, Alexander Lane to the west and Hayberry Lane to the south.
- subject to the *North Sydney Local Environmental Plan 2013* which zones the site B4 Mixed Use with a maximum building height of 10m. There is no existing FSR control.

Further, the site is not burdened by any environmental constraints that would prevent or restrict its development.

Strategic Justification

- The Council note in their submission to the Draft St Leonards and Crows Nest Plan 2036 (which has since been finalised) that the Department of Planning, Industry and Environment (the Department) has undertaken 'regional scale' planning and as such, the 2036 Plan overlooks the specific context and attributes of the site. The 2036 Plan's proposition to maintain the existing controls on the site is contradictory to the Council's previous site-specific analysis which confirmed it was suitable for high density residential development. Notwithstanding, this planning proposal demonstrates that amending the planning controls for the site is justified as it will facilitate future development that is consistent with the vision, area wide design principles, design criteria and area specific design criteria identified in the 2036 Plan.
- Clearly there has been considerable change in infrastructure in the immediate context of the site which justifies the consideration of this planning proposal. The future Crows Nest Metro Station will provide fast connections to the major metropolitan employment centres.
- The site is underutilised and has been largely vacant for 20 years. The existing buildings are generally in poor repair and untenanted. Several development propositions for the site have been brought to Council over the last 13 years including: an aged care facility; a commercial complex comprising cinemas, a supermarket and retail; a mixed-use commercial and shop top housing development; and a predominantly residential flat building development. None of these developments progressed. The current condition of the site and the absence of any material development activity over the last 20 years clearly indicates that the renewal of the site for any purpose is not feasible nor will occur under the current statutory planning controls.
- Council recognise that the site's location on the periphery of the Crows Nest town centre adjacent to existing residential land makes it difficult to deliver significant non-residential floor space and that it is better suited to high density residential. To this end, in 2015 Council officers prepared a report to the General Manager providing conditional support for a proponent led planning proposal that sought the following amendments to the North Sydney LEP 2013:
 - Rezone the site to R4 High Density Residential
 - Apply a maximum floor space ratio of 1.9:1
 - Amend the maximum building heights by applying a stepped building height limit across the site to permit buildings between two and six storeys high
 - Remove the non-residential floor space ratio requirements
 - Retain retail premises as a permitted land use
- The planning proposal put forward is comparable to the planning proposal that received conditional support from Council in 2015.
- Removing the minimum non-residential floor space ratio requirement will not undermine the achievement of the employment targets outlined in the 2036 Plan. The 2036 Plan focuses employment along the Pacific Highway and in St Leonards - appropriate locations to achieve the employment targets without dispersing or fragmenting the employment core of St Leonards and Crows Nest. By not providing significant non-residential floor space at the site, the strength of the commercial core will be maintained and the potential for land use conflicts with the existing residential development will be reduced.
- The analysis undertaken as part of this planning proposal demonstrates that future development will:
 - Maintain solar access, visual and acoustic privacy to the existing dwellings adjacent to the site
 - Generate significantly less traffic than a complying development under the current planning controls

- Provide a sympathetic built form relationship to the heritage conservation area to south
- Provide a high level of residential amenity for future occupants

The Intended Outcome

The intended outcome of this Planning Proposal is to amend the North Sydney LEP 2013 to enable the development of 27-57 Falcon Street, Crows Nest, for a three to six storey residential development with retail uses at the corner of Falcon Street and Alexander Lane.

Explanation of Provisions

The intended outcome can be achieved by amending the North Sydney LEP 2013 as follows:

- Amend the Land Zoning Map Sheet LZN_001 by rezoning the site to be R4 High Density Residential;
- Amend the Height of Building Map Sheet HOB_001 by applying a part height limit of 14.5 metres and a part height limit of 21 metres.
- Amend the Floor Space Ratio Map Sheet FSR_001 by applying a floor space ration of 1.85:1 to the site.
- Amend the Non-Residential Floor Space Ratio Map Sheet LCL_001 by deleting the minimum non-residential floor space ratio of 0.5:1.
- Amend Schedule 1 Additional permitted uses by including a clause that permits, with development consent, the use of certain land at 27-57 Falcon Street, Crows Nest for the purposes of retail premises.
- Site specific provision under Part 6, Division 2 of the LEP to allow specific exceedances of the Height of Building control:
 1. *This clause applies to land at 27-57 Falcon Street, Crows Nest being Lots 25,26, 32 and 33 DP 1720, Lots X and Y DP 407774 and Lot A DP 377050**
 2. *Despite any other provision of this plan, development consent can be granted for development that exceeds the maximum building height shown on the Height of Buildings map if the part of the development that exceeds the maximum building height is for:*
 - a. *providing lift access to rooftop communal open space;*
 - b. *mechanical plant*

A 'plain English' description of these provisions is provided within the document.

*It is noted that these lots are likely to be consolidated following this Planning Proposal. Therefore, this clause shall also apply to the subsequently consolidated lot.

Planning Process and Next Stages

This Planning Proposal was lodged with North Sydney Council on 16 August 2019 and subsequently underwent multiple amendments throughout 2020 in response to comments from Councillors and the North Sydney Local Planning Panel, including the preparation of a Voluntary Planning Agreement and site-specific development control plan relating to the Planning Proposal.

Following these amendments, Council at its meeting on 27 July 2020 resolved to support the Planning Proposal, which was subsequently forwarded to the Department of Planning, Industry and Environment in September 2020 for gateway approval.

A Gateway Determination was issued by the Department of Planning, Industry and Environment on 5 February 2021, which determined that the proposed amendments to the North Sydney LEP should proceed following the inclusion of some minor changes which have been incorporated into this document.

The proposal has been endorsed by Council's Local Planning Panel as well as at a full Council meeting. Further to this, correspondence from RMS has been provided and as such, the Planning Proposal proceeded to Gateway. (see **Appendix I**).

In terms of next stages, the DPIE have stipulated the following maximum timeframes:

- The planning proposal must be exhibited within 3 months from the date of this Gateway determination.
- The planning proposal must be reported to Council for a final recommendation 6 months from the date of the Gateway determination.
- The planning proposal is to be submitted to the Department for finalisation 9 months from the date of the Gateway determination.

Notwithstanding, as a result of previous community engagement and extensive Councillor engagement, the timeframes may be condensed.



Figure 1 Intended timeframes.

Source: Ethos Urban

2.0 Introduction

This planning proposal report is submitted to North Sydney Council (Council) on behalf of Lindsay Bennelong Developments Pty Ltd (Lindsay Bennelong) in support of a planning proposal to amend the *North Sydney Local Environment Plan 2013* (the North Sydney LEP 2013) as it applies to 27-57 Falcon Street, Crows Nest (the site).

The planning proposal is informed by the reference design concept prepared by Allen Jack and Cottier Architects (AJ+C) which demonstrates that the site's location and size is suitable for increased density without generating any unacceptable environmental impacts. Therefore, this planning proposal seeks to:

- Rezone the site to R4 High Density Residential
- Amend the maximum building height to part 21 metres and part 14.5 metres
- Apply a maximum floor space ratio of 1.85:1 to the site
- Remove the non-residential floor space ratio requirement
- Retain 'retail premises' as a permitted land use on the site
- Include a site-specific provision under Part 6 Division 2 of the LEP to allow minor exceedances to the Height of Building control to allow ancillary items such as building plant and lift overrun.

The planning proposal will facilitate the provision of approximately 87 additional dwellings in an appropriate location within walking distance of the new Crows Nest Metro Station and Crows Nest town centre.

This planning proposal describes the site, the proposed amendments to the North Sydney LEP 2013 and provides an environmental assessment. The report should be read in conjunction with the Urban Design Report prepared by AJ+C Architects (**Appendix A**).

This planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning & Assessment Act 1979* (EP&A Act), and 'A Guide to Preparing Planning Proposals' prepared by the NSW Department of Planning and Environment. **Section 5.0** of this report sets out the strategic justification for the planning proposal and provides an assessment of the relevant strategic plans, state environmental planning policies, ministerial directions and the environmental, social and economic impacts of the proposed amendment. This report should be read in conjunction with the relevant expert consultant reports appended (see Table of Contents).

2.1 2015 Planning Proposal

We have reviewed the Council's Report to the General Manager for the 2015 planning proposal (refer **Figure 2**) and understand the following received conditional Council officer support:

- Rezone the site to R4 High Density Residential.
- Amend the building heights by applying a stepped building height limit across the site of 19m, 16m and 10m.
- Remove the non-residential floor space ratio requirements.
- Retain retail premises as a permitted land use.
- Maximum floor space ratio of 1.9:1 (approx. 8,250m²).
- Rear boundary setback of 12m from Hayberry Lane. Not applicable within 20m of Alexander Lane.
- Minimum side setback of 1.5m at the first three storeys. Above the first three storeys, the minimum side setback is 5m.
- Development over the site should be broken into three separate buildings to provide through links between Falcon Street and Hayberry Lane.

We understand the Council did not finalise their assessment due to additional information not being provided and the planning proposal did not proceed. Notwithstanding, the planning proposal that is subject to this report essentially revisits the 2015 planning proposal.

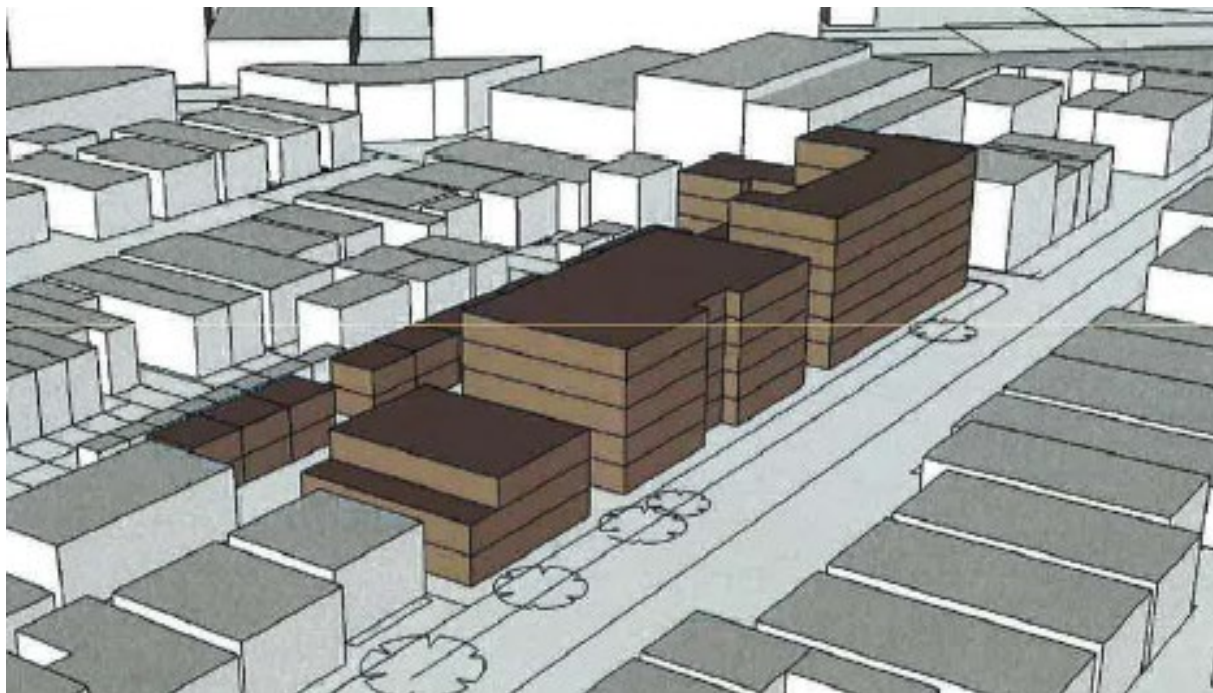


Figure 2 **2015 Planning Proposal**

Source: Marchese Partners

3.0 The Site

3.1 Site Location and Context

The site is located at 27-57 Falcon Street, Crows Nest, on the eastern edge of the Crows Nest town centre in the North Sydney Local Government Area (LGA). Falcon Street forms the boundary to the north of the site, Alexander Lane to the West and Hayberry Lane to the south. The site is approximately 1.3 kilometres north of the North Sydney CBD and 1 kilometre southwest of the St Leonards Town Centre.

The Crows Nest town centre is characterised by a mix of residential apartments, commercial offices, small, ground-floor retail shops and restaurant with outdoor dining facilities. The main road corridors through the town centre are the Pacific Highway and Falcon Street, while Willoughby Road is generally acknowledged as the focus of the retail precinct within the town centre. Buildings along the major road corridors feature multi-storey residential and commercial buildings of various sizes.

To the east of the site is a continuum of low to medium density residential development that addresses Falcon Street. Like the site, this adjoining development also has rear vehicular access from Hayberry Lane.



 The Site

 NOT TO SCALE

Figure 3 Site map of 27-57 Falcon Street

Source: Ethos Urban, Nearmap

3.2 Site Description

The site is legally described as follows:

Address	Lot	DP
27 Falcon Street, Crows Nest	33, section 3	DP 1720
	32, section 3	DP 1720
	X	DP 407774
43 Falcon Street, Crows Nest	Y	DP 407774
47 Falcon Street, Crows Nest	A	DP 377050
49- 51 Falcon Street, Crows Nest	26, section 3	DP 1720
55-57 Falcon Street, Crows Nest	25, section 3	DP 1720

In summary, the site:

- Has a site area of approximately 4,325m² and is in a prominent position at the eastern entry of the Crows Nest Town Centre;
- Has a frontage of approximately 110 metres to Falcon Street and Hayberry Lane, and 40 metres to Alexander Lane (see Site Survey at **Appendix B**);
- Is currently situated between existing residential development and larger scale commercial buildings;
- Has a cross fall of approximately 6.48 metres across the site from the high point at Alexander Lane and Falcon Street to low point on the southern boundary.
- Is currently partially vacant, and the remnant commercial buildings on the site are in poor physical condition, including:
 - 53-57 Falcon Street, which is built to all four boundaries, rises three storeys and has under croft parking at the rear;
 - 49-51 Falcon Street, which is also built to all four boundaries, is 3 storeys in height, is the tallest of the four existing buildings on the Site and also includes under croft parking at the rear;
 - 47 Falcon Street, which is two storeys in height, is setback from Falcon Street, but is generally built to all other boundaries. This is the most recently constructed of the four existing buildings; and
 - 43 Falcon Street, which is a two-storey red brick building. Built to the boundary of Falcon Street, this building is setback from Hayberry Lane and includes a rear at grade parking area.
- Is within 350 metres of the new Crows Nest Metro Station, as well as numerous bus stops on the Pacific Highway and Falcon Street; and
- Is not burdened by environmental constraints including:
 - Heritage and conservation;
 - Critical habitats;
 - Road widening, realignment or Council land acquisition;
 - Bushfire;
 - Acid Sulfate Soils; and
 - Flooding or overland flow.

The location and size of the site establishes it as a key opportunity for development within the Crows Nest. Furthermore, the partial vacancy and lack of current physical aesthetic and amenity provides an opportunity for a positive outcome for the site. Site photographs are provided at **Figure 4-Figure 6**. Further site photos are provided in the Urban Design Report (**Appendix A**).



Figure 4 The vacant western part of the site looking south west from Falcon Street
Source: Ethos Urban



Figure 5 The vacant land with the existing buildings looking east from Hayberry Lane
Source: Ethos Urban



Figure 6 The rear of the 43-45 Falcon Street from Hayberry Lane.
Source: Ethos Urban

3.3 Public Transport

The site is located within close proximity of a number of public transport options. This includes a number of bus services and the new Crows Nest Metro Station, which is set to open in 2024. The current bus services that stop near the site are summarised in **Table 1** below.

Table 1 Nearby Bus Routes

Route	Destination	Frequency
Falcon Street Bus Stops		
144	Manly to Chatswood via Royal North Shore	Every 15-20 minutes from Chatswood, 5am to 11pm. Every 15-20 minutes from Manly, 5am to midnight.
257	Chatswood to Balmoral via Crows Nest	Every 15-20 minutes from Chatswood between 7am and 6pm. Every 15 to 20 minutes from Balmoral between 7am and 7pm.
143	Manly to Chatswood via Balgowlah and St Leonards	Every 20-30 minutes from Chatswood and Manly between 6:30am and 6:30pm.
Pacific Highway Bus Stops		
252	Gladesville to City King Street Wharf via North Sydney	Approximately every 30 minutes from City between 6am and midnight. Every 20-30 minutes from Gladesville between 6am and 11pm.
M20	Gore Hill to Botany	Every 10 minutes from Gore Hill between 6am and 10pm. Every 10 minutes from Botany between 6am and 8pm.
254	Riverview to McMahons Point	Every 20 minutes from McMahons Point between 7:30am and 11:30am. Every 30 minutes from Riverview between 6:30 and 11:00pm.
265	Lane Cove to North Sydney via Greenwich	Every 30 minutes from North Sydney between 6:30am and 7:00pm. Every 30 minutes from Lane Cove between 6:00am and 5:30pm.
291	Epping to McMahons Point	Every 20 minutes from McMahons Point between 6:30am and 11:00pm. Every 20 minutes from Epping between 5:30am and 10:00pm.
261	Lane Cove to City St Wharf via Longueville	Every 30 minutes from City between 7:00am and 9:30pm. Every 30 minutes from Lane Cove between 6:30am and 8:30pm.

3.4 Current Planning Controls

The key planning controls that currently apply to the site under the North Sydney LEP 2013 are outlined in **Table 2** below.

Table 2 Current LEP Provisions

Consideration	Existing Controls
Land use zoning	The site is zoned B4 Mixed Use which permits a range of residential uses (boarding houses, residential flat buildings, seniors housing, serviced apartments, shop top housing) and non-residential uses (amusement centres, backpackers accommodation, car parks, centre-based child care facilities, commercial premises, community facilities, educational establishments, entertainment facilities, function centres, hostels, hotel or motel accommodation, information and education facilities, medical centres, passenger transport facilities, places of public worship, recreation areas, recreation facilities (indoors), registered clubs, respite day care centres, restricted premises, sex services premises, signage, vehicle repair stations).
Building height	The maximum building height on the site is 10 metres above existing ground level.
Floor space ratio	There is no maximum floor space ratio provision currently applicable to the site.
Clause 4.4A Non-residential floor space ratio	The non-residential floor space ratio for the site is 0.5:1.
Clause 5.10 Heritage Conservation	The site is not of any heritage significance, nor is it within a heritage conservation area. However, the site is adjacent to the Hayberry Conservation Area, which is located across Hayberry Lane to the south.
Clause 6.12A Residential flat buildings in Zone B4 Mixed Use	The objective of this clause is to ensure that development for residential flat buildings on land in Zone B4 Mixed Use forms part of mixed-use developments and does not impact on activation of street frontages. As this proposal seeks to rezone the site to R4 High Density Residential, this clause no longer applies.

4.0 Surrounding Area

The site is situated between the commercial and retail precinct of the Crows Nest town centre to the north and west, and existing low to medium-scaled residential development to the south and the east. The surrounding area contains a number of land uses that support the strategic merit of the planning proposal. Key locations and their distance from the site are outlined in **Table 3** below. The site's locational context is shown in **Figure 7**.

Table 3 The site's distance from key locations in the surrounding area

Location	Travel distance from the site
Future Crows Nest Metro Station	350 metres (4 min. walk)
Crows Nest Town Centre	100 metres (2 min. walk)
North Sydney Girls High School	350 metres (4 min. walk)
North Sydney Boys High School	350 metres (4 min. walk)
Cammeraygal High School	400 metres (5 min. walk)
North Sydney Public School	1 kilometre (3 min. bus journey)
North Sydney Oval and associated open space	450 metres (5 min. walk)
North Sydney CBD	1.5 kilometres (5 min. bus journey)
Sydney CBD	4 kilometres (15 min. bus journey)



Figure 7 Aerial context looking north west towards St Leonards

Source: Lindsay Bennelong

North

Development to the North of the site consists of two to three storey commercial and retail developments. The building heights along this section of Falcon Street follow the topography of the street, stepping up in height from the residential areas in the east towards the town centre. A mixed use apartment building is currently being constructed to the north of the site on Falcon Street. Refer to **Figure 8**.

South

Directly across Hayberry Lane to the south are a number of low-density dwellings. These dwellings have frontage to Hayberry Street, and typically consist of garages, with two separate habitable secondary dwellings that front Hayberry Lane. Also to the south of the site is a zoned conservation area, that extends from Hayberry Lane to Emmett Lane, bound by Alexander Lane to the west. Refer to **Figure 9**.

East

Immediately east of the site on Falcon Street, existing development consists of both attached and detached dwellings, with some residential flat buildings occurring further east along Falcon Street. The neighbouring dwelling at the site's eastern boundary is currently overshadowed and dominated by the existing commercial building and has no building separation provided by the site. Refer to **Figure 10**.

West

To the west beyond Alexander Lane, the existing built development consists of a mix of commercial offices and multi storey residential buildings, with rear vehicular access along Alexander Lane and primary street frontages to Alexander St. The buildings feature active ground floor uses with retail stores fronting Alexander Street and Falcon Street.



Figure 8 A mixed use apartment building currently being constructed across from the site on Falcon Street
Source: Ethos Urban



Figure 9 Holtermann Estate Conservation Area to the south of the site looking east along Hayberry Street
Source: Ethos Urban



Figure 10 Adjoining residential properties at the site's eastern boundary along Falcon Street
Source: Ethos Urban



Figure 11 Commercial premises to the west of the site on Falcon Street
Source: Ethos Urban

The Road Network

Falcon Street is a primary collector road that runs from the Pacific Highway in the west to Warringah Freeway in the East. It is two lanes wide and runs through Crows Nest town centre. The Pacific Highway is a main arterial road that runs north and south from Warringah Freeway through Sydney's northern suburbs.

Alexander Lane and Hayberry Lane are both one lane wide laneways, which provide no on-street parking. Both lanes service the rear of various residential and commercial tenancies on Alexander Street and Hayberry Street. The laneway frontages are mostly composed of garages and carports.

5.0 The Reference Design and Planning Proposal

This section of the report outlines the key features of the reference design prepared by AJ+C to demonstrate an indicative built form that could be achieved under the proposed amendments to the North Sydney LEP 2013.

5.1 Urban Design Principles

The primary objective of the planning proposal is to facilitate a development with a built form and land use mix that is complementary to the site's context. The proposed amendments will facilitate an outcome that is similar to the outcome conditionally supported by Council in 2015 and effectively 'unlock' the site's potential and enable a viable and environmentally friendly development. The reference design is cognisant of the concept scheme prepared for the 2015 planning proposal and has been informed by the following design principles:

- Maximise solar access to neighbouring properties, apartments and communal open space
- 'Green the site' by:
 - establishing courtyards to provide breaks in Falcon Street streetscape
 - providing a green link connecting Falcon Street and Hayberry Lane and communal open space separated from the street
 - identifying opportunities for landscaping and deep soil planting
- Create a sense of transition by:
 - proposing an appropriate scale between existing residential development to the south and east and mixed-use character of Crows Nest centre to the north and west
 - setback transition to Falcon Street from zero metres at the western end of the site where commercial use is proposed to 3 metres elsewhere
 - minimum 4.5 metre setback zone to the east adjacent to existing one and two storey Falcon Street neighbours
- Improve the street network by providing:
 - positive street address including clearly defined street entries
 - defined and coherent street edges
 - minimum 2 metre setback zone to Hayberry Lane to provide opportunity for wider footpaths, planting and appropriate separation to neighbours
 - adjusted site boundary to Alexander Lane to permit street widening which will allow two-way vehicle traffic and provide appropriate separations to neighbours

The design principles and design proposal are explained in further detail in the Urban Design Report (**Appendix A**).

5.2 Reference Design Concept

The intended outcome of this planning proposal is to enable the development of the site to accommodate a high-density residential development comprising of three (3) residential flat buildings between three and six storeys in height and eight (8) three storey townhouses, retail premises on ground at the corner of Falcon Street and Alexander Lane, landscaped communal open space and basement parking. The reference design prepared by AJ+C is attached as Appendix 1 to Urban Design Report and is summarised below.

Table 4 Reference Design - Key Features

Element	Detail
No. of buildings	Three residential flat buildings (Building A, B and C) and eight townhouses (Building D).
Building height*	Building A (residential flat building & ground floor retail) – maximum 6 storeys (21m) Building B (residential flat building) – maximum 6 storeys (21m) Building C (residential flat building) – maximum 4 storeys (14.5m) Building D (townhouses) – maximum 3 storeys (10m)
Gross Floor Area	Residential – approximately 7,576m ² Non-residential – approximately 340m ²
FSR	1.85:1 – the proposed FSR is marginally greater than the indicative yield derived from the reference design to allow for flexibility at the detailed design stage.
Setback to Falcon Street	Building A and B – 0 metres Building C – 3 metres
Setback to Alexander Lane	6m from centre line of laneway
Setback to Hayberry Lane	Buildings A and B – 3 metres Building D – 1.5 metres
Setback to eastern boundary	Building C – 4.5 metres Building D – 1.5 metres
Uses	Residential flat buildings (Building A, B and C), multi-dwelling housing (Building D) and retail premises (Building A ground floor)
Dwellings	Apartments – 77 Townhouses – 8
Vehicular access	Access to basement via widened Alexander Lane.
Communal open space	20.5%
Deep soil	21% (min. dimension >6m)
Landscaping	50.2%
Site Coverage	59%

**Note – the maximum height in storeys (six) is the same as the maximum height storeys proposed by the 2015 planning proposal. However, the proposed building height in metres is greater than the maximum height in metres proposed by the 2015 planning proposal. The height in metres proposed in the current planning proposal accounts for minimum floor to floor heights calculated in accordance with the requirements of the Apartment Design Guide, lift overrun and plant areas. It is intended that this will remove any requirement to prepare clause 4.6 variation to development standards as part of any future development application. Further, it is proposed that built form and massing will be regulated by site-specific development controls to ensure that the future development is consistent with the reference design.*

5.2.1 Built Form

Buildings A

Building A is between three and six storeys and addresses the prominent Falcon Street and Alexander Lane corner. It also has frontage to Hayberry Lane. It has a zero street setback to the corner and Falcon Street which responds to the existing condition to the west and will provide a strong presence at the corner. The six storey component is setback from Alexander Lane and Hayberry Lane above a podium. The podium steps down to follow the natural fall of the land and to reduce the lower scale of the Hayberry Lane public domain. The podium reads as a four storey form to Alexander Lane and a three storey form to Hayberry Lane. The upper level apartments are two storey maisonettes which removes the requirement for any lift overrun. Retail premises are proposed on the corner to activate and articulate the street edge.

Building B

Building B is between three and six storeys and addresses both Falcon Street and Hayberry Lane. Building B proposes a six storey street wall to Falcon Street. The Falcon Street façade is setback 2 metres from the street boundary and the podium steps down towards Hayberry Lane in a similar manner to Building A where it is setback 3 metres from the laneway. Building B accommodates communal open space on the podium and roof top. The communal open space will provide high quality district views and will be a high amenity communal asset for future residents and visitors. Lift access to the roof top communal open space will be centralised to mitigate visual, view and shadow impacts to the public or private domain in the surrounding area.

Building C

Building C is a four storey building located towards the eastern boundary of the site. It is setback 3 metres from Falcon Street which reflects the existing residential street setbacks along Falcon Street to the east. It is setback 4.5 metres from the common boundary with the neighbouring properties. The upper level apartments are two storey maisonettes which removes the requirement for lift overruns. Building C provides a transition in scale between Building B and the existing lower density residential to the east.

Building D

Building D comprises eight x three storey townhouses with frontage to Hayberry Lane that will serve to activate the laneway. They are setback three metres from the laneway and 1.5 metres from the eastern boundary. Building D provides a transition in scale between the built form along Falcon Street and the lower density character along Hayberry Lane.

5.2.2 Site Access and Parking

Basement carparking for residents, visitors and employees, and a lower ground floor loading dock will be accessed on Alexander Lane which would be widened in conjunction with the development scheme to provide two-way traffic movement and for trucks to turn from Falcon Street.

5.2.3 Landscape Concept

An Indicative Landscape Concept Design has been prepared by Place Design Group. The concept fulfils the design principle to green the site and proposes a variety of communal areas with varying themes and outlook. Landscaped setbacks and breaks in the massing will soften the built form and provide pleasant amenity for future residents and visitors.

The following figures illustrate the reference design. Further detail is provided in the Urban Design Report (**Appendix A**) and Indicative Landscape Concept (**Appendix C**).



Figure 12 Site plan showing Building A, B, C and D
Source: AJC

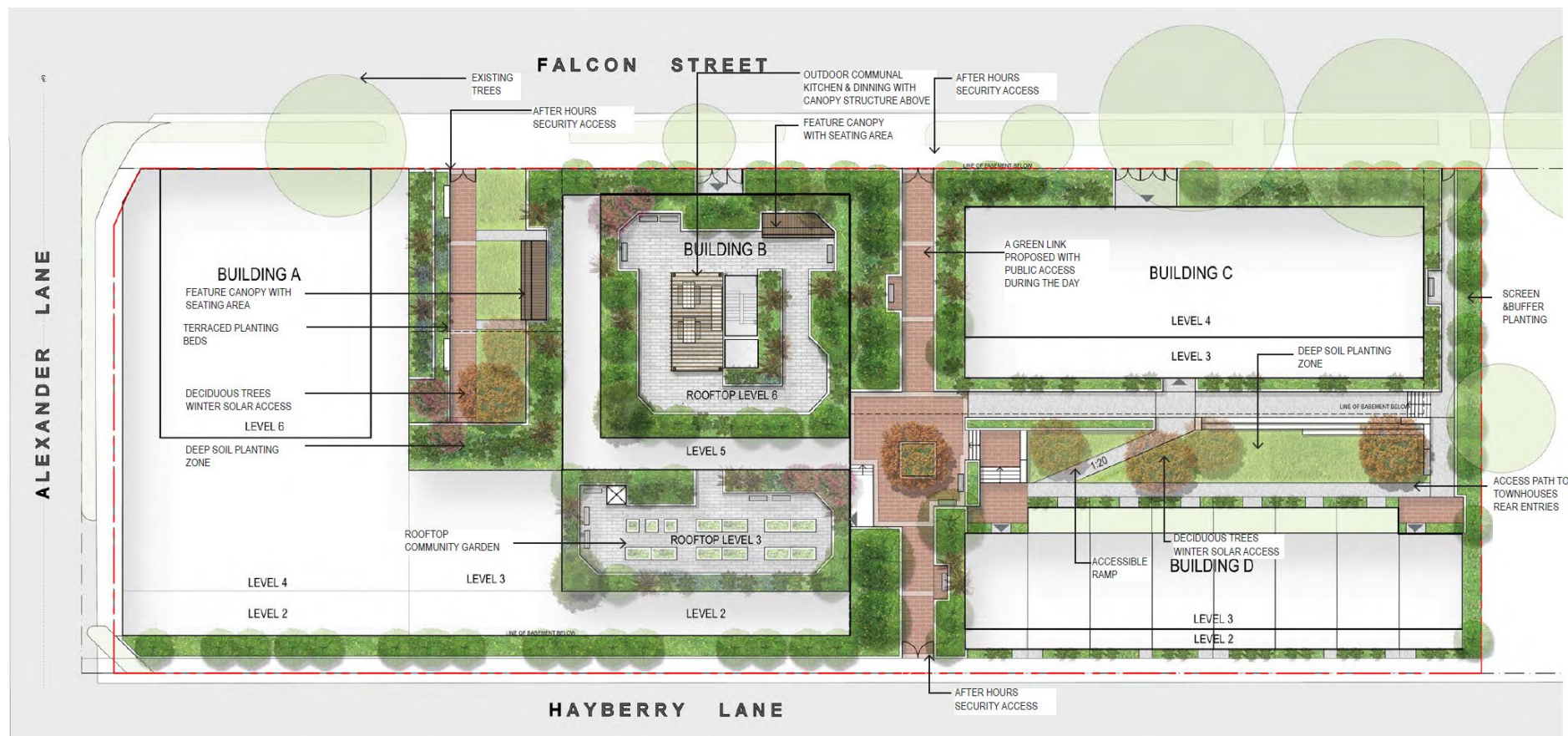


Figure 13 Indicative Landscape Concept
Source: Place Design Group



Figure 14 Conceptual Render of the view east down Falcon Street

Source: AJ+C

5.3 Proposed amendments to the North Sydney Local Environmental Plan 2013

To enable the site to accommodate the reference design, the following amendments are required to the North Sydney LEP 2013.

- Rezone the site to R4 High Density Residential
- Amend the maximum building height to part 21 metres and part 14.5 metres
- Apply a maximum floor space ratio of 1.85:1 to the site
- Remove the non-residential floor space ratio requirement
- Retain 'retail premises' as a permitted land use on the site
- Site specific provision under Part 6, Division 2 of the LEP to allow specific exceedances of the Height of Building control

The following maps (also provided at **Appendix D**) show the updated amendments to the North Sydney LEP 2013 land use zone, height, FSR and non-residential FSR maps.

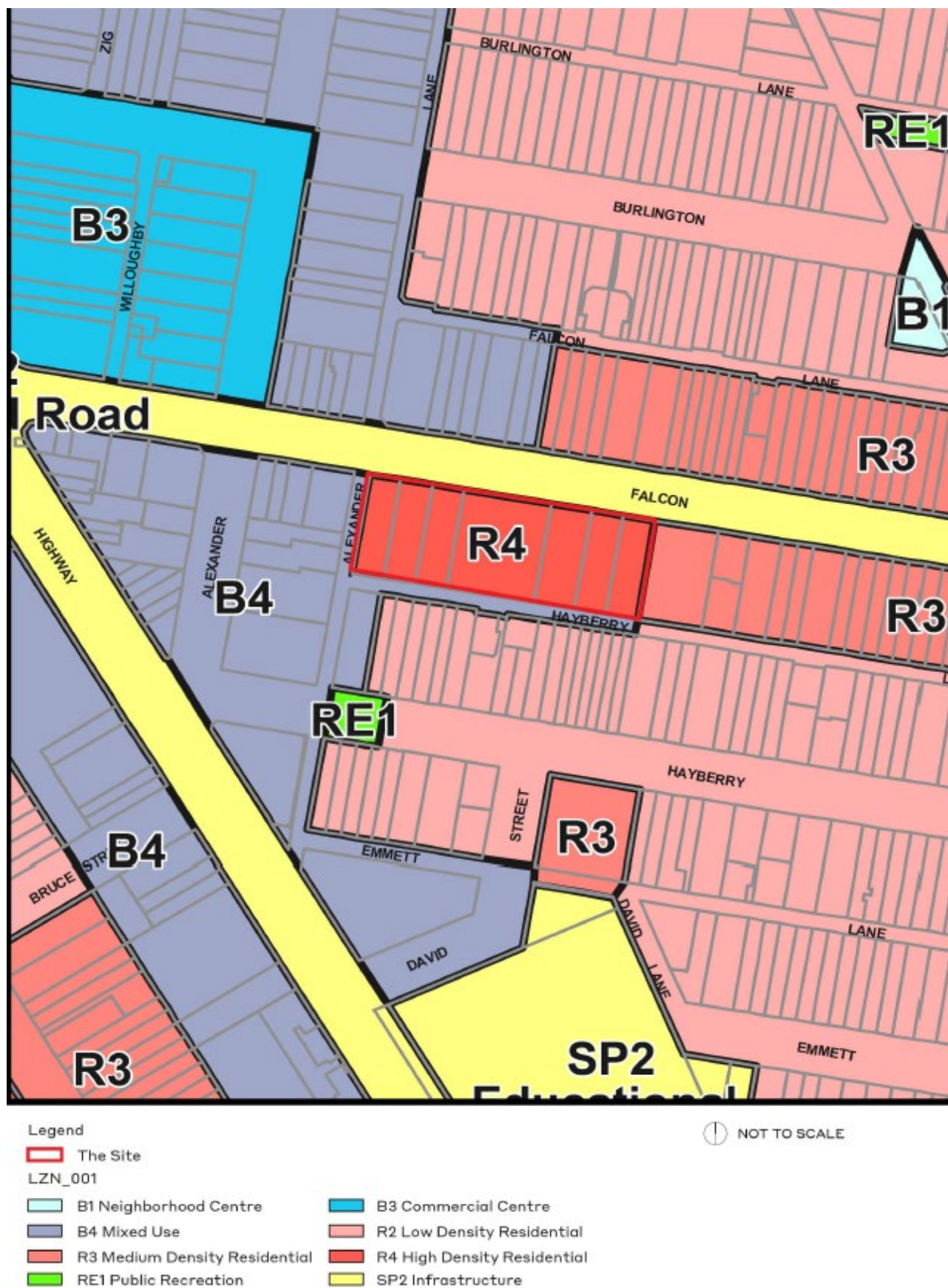


Figure 15 Proposed changes to the Land Use Zoning map relating to the site.

Source: Ethos Urban

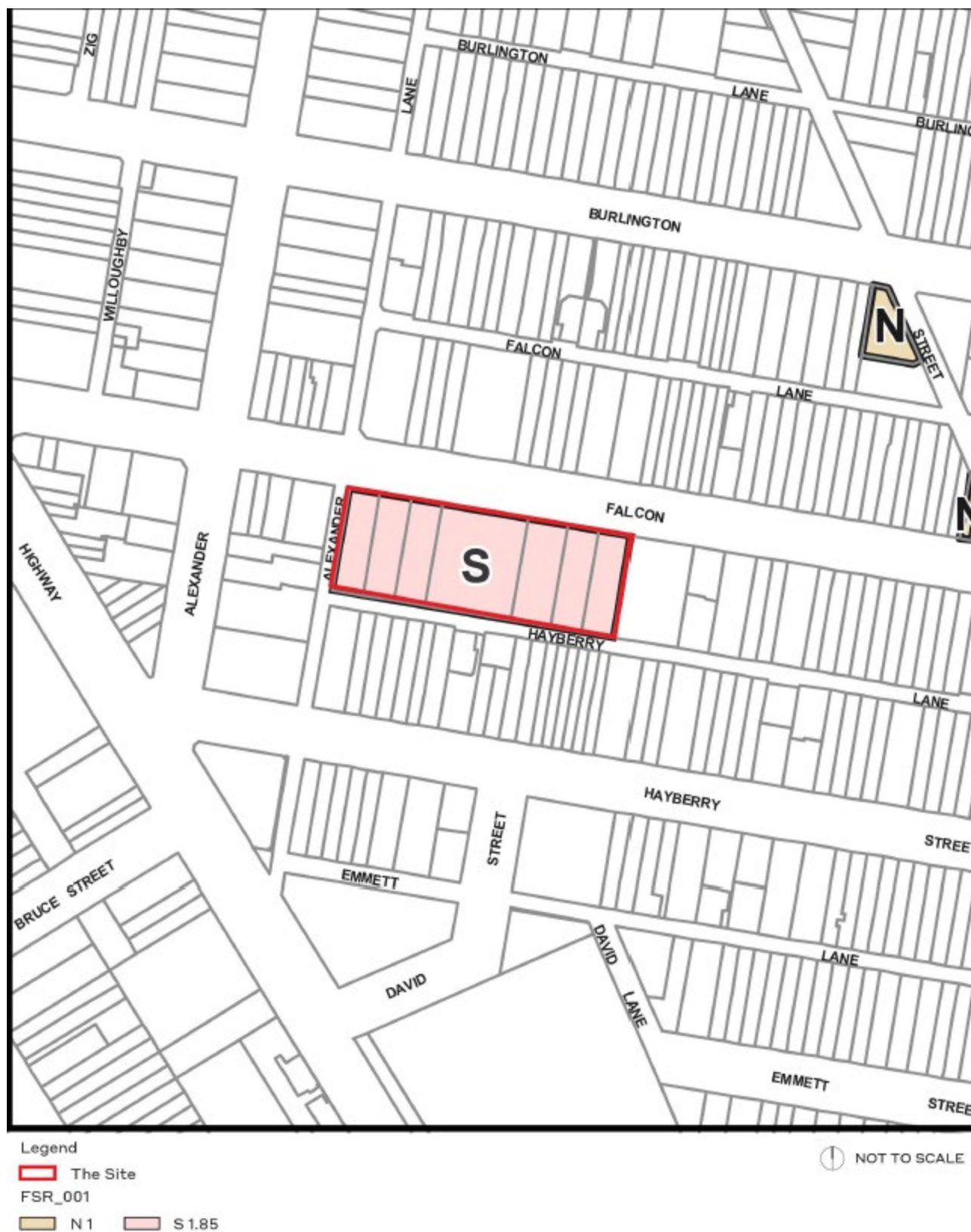


Figure 16 Proposed amendment to the FSR map relating to the site.

Source: Ethos Urban



Figure 17 Proposed amendments to the Height of Buildings map relating to the site.

Source: Ethos Urban



Figure 18 Proposed amendments to the non-residential floor space map relating to the site.

Source: Ethos Urban

5.4 Proposed amendments to the North Sydney Development Control Plan 2013

The North Sydney DCP contains development controls for high density residential development. The reference design has been prepared with reference to the DCP controls. However, for the intended outcome to be realised and to provide additional built form parameters to manage future development, it is necessary to apply site-specific development controls. The application of site-specific development controls is reasonable in these circumstances as, along with LEP amendments, they will facilitate the renewal of the site. Applying the generic residential controls to this site ignores the site's complexities and would likely constrain future development potential. It is proposed that a site-specific DCP is prepared to regulate the following:

- Site coverage
- Building height in storeys
- Falcon Street setback
- Eastern side setback
- Hayberry Lane setback
- Vehicular access
- Alexander Lane road widening

A site-specific Development Control Plan is provided at **Appendix J**.

5.5 Voluntary Planning Agreement

A Voluntary Planning Agreement offer is made by the proponent to accompany the planning proposal, which will contribute to the dedication of land and provision of open space, as follows:

- A monetary contribution of \$800,000 towards increased open space opportunities (e.g. Stage 1 Hume Street Park upgrade), payable to Council.
- Land Dedication including Embellishments to the value of \$330,000 – which is 35% of the total value of these works in recognition of the value of these upgrades to the Subject Site, as set out below:

A Letter of Offer presented by Lindsay Bennelong Developments is attached as Appendix H.

6.0 Strategic Justification

In 2015 the Council determined there was strategic merit to rezone the site to R4 High Density Residential with a maximum FSR of 1.9:1. The Council's decision was made prior to the state government's announcement to locate a station at Crows Nest as part of the new Sydney Metro network which provides greater strategic merit to locate a mix of housing proximate to major state government transport infrastructure investment. Given the proximity of the site to the future Crows Nest Metro station and the continued underutilisation of the site, there is even greater merit to rezone the site in 2019.

6.1 Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released the *Greater Sydney Region Plan: A Metropolis of Three Cities* (the Plan). The Plan presents a strategy for accommodating Sydney's future population growth for the next 20 years and identifies Crows Nest as an area suitable for further strategic urban renewal. The Plan sets out objectives that will guide Sydney's growth; the following discussion demonstrates how the planning proposal is consistent with the relevant strategic objectives.

Objective 10: Greater housing supply

The NSW Government forecasts that an additional 725,000 homes will be needed by 2036 to meet demand based on current population projections. This strong need is forecast to continue, and by 2056 it is anticipated that significant further housing supply will be required to meet Greater Sydney's continued strong population growth.

To facilitate greater housing supply, the Plan sets housing targets for each District. The North District, which includes Crows Nest, is required to deliver a minimum of 25,950 homes in the five years between 2016 and 2021. Beyond this, the Plan sets a 20-year strategic housing target of 92,000 homes for the North District.

While dwelling completions are at their highest levels in 16 years for Greater Sydney, the North District has experienced fluctuations in the amount of dwelling approvals over the past decade from a high in 1999–2000.

While detail in terms of delivery will be determined by councils preparing housing strategies under the principles established by the Plan, given Sydney's sustained population growth, the primary intent is to pursue opportunities for additional housing over the next 20 years. The Plan states that developers play an important role in supporting housing outcomes:

'The development industry needs to continually provide new housing and translate the development capacity created by the planning system into approvals and supply'.

As it will facilitate delivery of additional dwellings on a site that under current planning controls cannot feasibly deliver additional homes, the planning proposal promotes this objective.

Objective 11: Housing is more diverse and affordable

Greater Sydney has been measured as being one of the least affordable housing markets globally and is the least affordable Australian city. Factors that contribute to rental and purchasing affordability challenges include the limited availability of smaller dwellings to meet both the growing proportion of small households, as well as the growing distance between areas where housing is affordable and the location of employment and educational opportunities.

This planning proposal will deliver smaller homes in the form of apartments and townhouses, in the St Leonards and Crows Nest precinct that provides job opportunities and access via public transport to other major employment nodes, such as North Sydney and the Sydney CBD.

Objective 12: Great places that bring people together

The architectural reference design developed by AJ+C will facilitate a high-quality public domain and built form response to its context, including the ability to:

- allow the reconnection of the urban fabric of the area, filling a significant gap in the current development pattern at the fringe of the Crows Nest town centre; and

- provide a contemporary urban response to Falcon Street that will improve the pedestrian experience along Falcon Street and will respond to the fine grain nature of the existing lower density dwellings to the south and east.

Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities

Under the Plan accommodating new homes needs to be linked to local infrastructure – both to optimise existing infrastructure and to maximise investment in new infrastructure.

In established parts of Greater Sydney such as Crows Nest, urban renewal opportunities exist around regional transport and strategic centres, where links for walking and cycling promote a healthy lifestyle and contribute to liveability.

Being located in Crows Nest which is also identified as a Planned Precinct within walking distance of the future Metro station which is the result of major government investment, the proposal is consistent with this objective.

6.1.1 Summary

The Planning Proposal is consistent with the above objectives of the Greater Sydney Region Plan as it will deliver new homes adjacent to the Crows Nest town centre; a short walk from shops, services, high frequency bus stops and the future Crows Nest Metro Station. These attributes make the site a suitable location for higher density housing.

6.2 North District Plan

Consistent with the Regional Plan, overall the District Plan promotes three major housing themes:

- Greater housing supply;
- More diverse and affordable housing; and
- Better located and designed housing

Planning priority number 5 promotes this:

‘Providing housing supply, choice and affordability, with access to jobs, services and public transport’

Under the North District Plan, the North Sydney LGA is required to deliver a minimum of 3,000 homes in the five years between 2016 and 2021. The District Plan notes that more smaller homes, group homes and adaptable homes are required to meet changing population needs and diversity.

New housing should also be provided in the right locations and of the right design, close to local infrastructure and contribute to safe and vibrant neighbourhoods.

The proposal:

- Provides additional housing on a site that under current planning controls, cannot deliver housing or jobs in a location on the fringe of the Crows Nest town centre;
- Provides a greater diversity of housing in the form of apartments and town houses;
- Is located within walking distance of a future Metro station benefiting from major government investment; and
- Is well designed and will contribute to the vitality of Crows Nest.

On this basis, the proposal is consistent with the relevant planning priorities and actions of the District Plan.

The District Plan also contains specific actions for the St Leonards and Crows Nest precinct. Relevant actions are:

- leverage the new Sydney Metro Station at Crows Nest to deliver additional employment capacity
- reduce the impact of vehicle movements on pedestrian and cyclist accessibility

- protect and enhance Willoughby Road's village character and retail/restaurant strip

By providing varied accommodation opportunities in close proximity to the new Crows Nest Metro Station, the Willoughby Road retail/restaurant strip and various employment nodes such as North Sydney and St Leonards, the Planning Proposal meets the above District Plan actions for the St Leonards and Crows Nest area.

6.3 St Leonards and Crows Nest 2036 Plan

The 2036 Plan was finalised on the 29 August 2020 and outlines the strategic vision and direction for the St Leonards and Crows Nest Strategic Centre. The plan has been adopted by the Department including a supporting Section 9.1 Ministerial Direction and Special Infrastructure Contribution scheme.

We note that the 2036 Plan proposes no changes to the existing planning controls for the site. This is inconsistent with the overall vision and objectives of the plan to accommodate increased growth and transit orientated development around Crows Nest Metro Station, and contrary to Council's previous conditional support for building heights up to six storeys and an FSR of 1.9:1 on the site. Council acknowledges in their Local Strategic Planning Statement that the 2036 Plan attempts to undertake local planning at a regional scale which means '*many issues have been overlooked, inadequately considered or not been resolved and will require more work before these proposals can be supported and implemented, particularly of a built form nature.*'

This Planning Proposal represents an opportunity to undertake a considered strategic planning analysis to determine the appropriate built form and land use controls for the site.

The 2036 Plan requires that, in order to justify an increase in height and density, any proposal be consistent with the vision, area wide design principles, design criteria and area specific design criteria identified in the Plan. This hierarchy of considerations is shown in **Figure 19**, as extracted from the 2036 Plan.

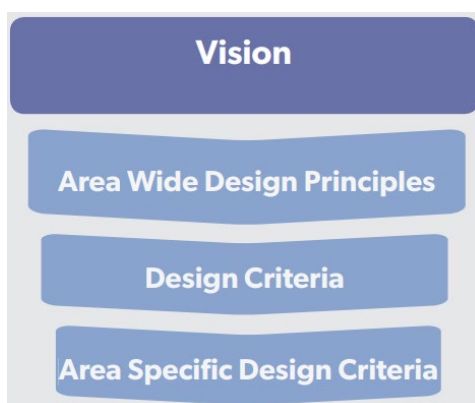


Figure 19 Hierarchy of future development considerations

Source: Department of Planning & Environment

The following points demonstrate how the planning proposal is consistent with the vision, design principles and design criteria outlined in the Plan.

The planning proposal is consistent with the **vision** as it will:

- Increase vibrancy and life around, and within Crows Nest by replacing ageing, poor quality commercial buildings with contemporary dwellings that will provide high quality residential frontages to Falcon Street and activate Hayberry Lane to the rear.
- Protect the past by providing an appropriate built form transition to the heritage conservation area by stepping down the built form in a manner that relates to the scale along Hayberry Lane. Refer to **Section 8.3**.
- Improve pedestrian accessibility and movement by providing housing close to Crows Nest town centre and the future Metro Station.

- Facilitate a built form outcome that will respect the existing character of the local area. AJ+C have prepared a reference design that is conscious of, and responds to, the various types of surrounding development. The reference scheme's relationship to the surrounding area is discussed further at **Section 8.0**.
- Not undermine the delivery of 16,500 additional jobs over the next 20 years. The Economic Advice submitted at **Appendix F** concludes that the removal of the non-residential FSR standard will not have any material impacts on the delivery of job creating employment floor space in the St Leonards and Crows Nest precinct (refer to **Section 8.2**).
- Facilitate the provision of approximately 87 new dwellings of various types and sizes that will be suitable for a broad range of the community including singles, couples and families at all stages of the life cycle.
- Not preclude the provision of additional parks and open space throughout the St Leonards and Crows Nest area. Further, the proposal will add to the growing network of public domain in the area by activating Hayberry Lane which is currently a generally sterile environment comprised of garages and commercial loading areas.

The planning proposal is consistent with the relevant **design principles** as it will:

- Enhance the sense of place in Crows Nest by:
 - Facilitating a future built form that is sympathetic to the setting of the heritage conservation area.
 - Providing apartments and townhouses close to the town centre will contribute to civic atmosphere within and around Crows Nest. The planning proposal will improve the built form relationship between the site and the public domain and increase casual surveillance along Falcon Street and Hayberry Lane.
 - Not generating any additional overshadowing of public open spaces.
- Consider and mitigate potential overshadowing impacts on the surrounding area. The proposal has been developed with careful consideration of shadow impacts on the existing dwellings to the west and south. AJ+C have undertaken detailed analysis which is provided at **Appendix A** discussed further at **Section 8.1.2**.
- Respect and respond to the scale of the lower density dwellings to the south and east by proposing three-four storey buildings at the boundaries and then transitioning height across the site to respond to the higher density buildings to the west. The proposed street setbacks respond to the existing setbacks on adjoining properties and will improve the public domain experience along Falcon Street and Hayberry Lane.
- Provide a range of studio, 1, 2 and 3 bed apartments and 2 and 3 bed townhouses in a centre fringe location that will cater for all life cycles in the community.
- Provide residential land uses on site which will contribute to the activation of the public domain in way that providing non-residential uses would not. Maintaining the minimum non-residential FSR standard would result in either no future development on the site or a sterile Falcon Street ground plane comprised of vacant tenancies. The planning proposal will enable the site to accommodate retail premises at the corner of Falcon Street and Alexander Lane without the requirement to provide a minimum of 2,171m² non-residential floor area that is unlikely to be used.
- Contribute to the improvement of the walking network and pedestrian safety in Crows Nest by creating 'eyes on the street' along Falcon Street, Hayberry Lane and Alexander Lane. Further, replacing the bulk of the existing commercial buildings with future townhouse development setback along Hayberry Lane will improve the laneway environment and public domain amenity along the laneway making it a pleasant thoroughfare for pedestrians.
- Provide a 'balanced' entry from a design perspective to Crows Nest along the key collector of Falcon Street, noting the scale of development on the northern side of the road.

The planning proposal is consistent with the relevant **design criteria** as it will:

- Not overshadow any existing public open space or identified streetscapes. As illustrated in the AJ+C Urban Design Report the site can accommodate up to six storeys while maintaining solar access to adjoining properties.
- Setback from the street, laneways and side boundary in an appropriate manner. The reference design proposes a zero setback at the corner of Falcon Street and Alexander Lane which responds to the adjoining setbacks of the buildings immediately west in the Crows Nest. The street setback of the remainder of the built form along Falcon Street is consistent with the existing residential development to the east. The setbacks to Hayberry Lane respond to the setting and the heritage conservation area to the south.
- Not encroach on any key views or vistas. The building envelopes are orientated to address the street and laneways and activate the frontages of Falcon, Alexander Lane and Hayberry Street. It will also provide an appropriate transition from the edge of the Crows Nest centre to the residential areas to the east of the site and the heritage conservation area to the south.
- Provide an active, fine grain and integrated street frontage to all street frontages. The reference design provides clear and legible breaks in the massing and landscaped setbacks throughout the site further softens the address of the buildings to the streetscape and public realm.

6.3.1 Summary

This planning proposal is consistent with the 2036 Plan's vision as it seeks to provide additional housing within the walkable catchment of the new Crows Nest Metro Station. Furthermore, the proposal seeks to incorporate design principles that will facilitate a high-quality built form outcome, which responds closely to existing and future desired character of the area, especially as the site is located at the gateway to the Crows Nest town centre.

Maintaining the non-residential FSR standard and the three-storey height limit will continue to sterilise the site which has strategic value in a transitional location. Removing the non-residential FSR will not undermine the 2036 Plan's overarching employment objectives and will allow the site to accommodate future development that will represent a responsive and economical use of the land.

6.4 North Sydney Local Strategic Planning Statement

Council finalised the North Sydney Local Strategic Planning Statement (LSPS) in March 2020. The LSPS outlines the Council's strategic vision for Crows Nest, and was endorsed by the Greater Sydney Commission in March 2020. The following points demonstrate that the planning proposal is consistent with the Council's planning priorities outlined in the LSPS.

Priority L1 – Providing a diversity of housing in the right locations that meet community needs

The planning proposal will provide a range of housing types and dwelling sizes in a location that Council have acknowledged is suitable for high density residential development.

Priority L3 – Strengthening social connections through safe and accessible vibrant centres, public domain, villages and streetscapes

The site is currently in poor repair and does not make a positive contribution to the public domain along Falcon Street, Hayberry Lane or Alexander Lane. The planning proposal will facilitate the renewal of the site and significantly improve its relationship to the public domain by activating the Falcon Street and Alexander Lane corner, and by providing residential uses at and above ground level which will provide a strong address to the street and increase the vibrancy of the streetscape.

Priority L4 – Preserving, maintaining and celebrating North Sydney's history and heritage

The planning proposal will facilitate a built form and land use outcome that responds to and respects the heritage conservation area to the south. The height and scale of the reference design transitions from higher density six storey forms along Falcon Street to lower density three storey forms, including townhouses along Hayberry Lane. A Heritage Impact Statement has been prepared (**Appendix G**) and further discussion is provided at **Section 8.3**.

Priority P2 - Providing opportunities for long-term employment growth in St Leonards/Crows Nest across a range of sectors

The planning proposal will support the achievement of this priority by facilitating additional housing close to the Crows Nest Town Centre which will support the viability and vibrancy of the local day and night economy. There is land zoned for employment in St Leonards and Crows Nest that is better placed to meet long-term employment demand. Providing approximately 2,170m² of non-residential floor space on the site (as currently required by the North Sydney LEP 2013) will undermine the role and viability of Willoughby Road as the Crows Nest centre's focus. As discussed above, the location, context and attributes of the site are better suited to a greater proportion of residential uses, given the interface with existing residential to the south and east.

6.5 Strategic and Site-Specific Merit

A Guide to Preparing Planning Proposals sets out that a planning proposal needs to justify that it meets the Strategic Merit Test. The consistency of this planning proposal with the mandated assessment criteria is set out below.

a) Does the proposal have strategic merit?

Part 3 of *A Guide to Preparing Planning Proposals* establishes assessment criteria for determining if planning proposals have strategic merit:

a) Does the proposal have strategic merit? Is it:

- *Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or*
- *Consistent with a relevant local council strategy that has been endorsed by the Department; or*
- *Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.*

The Guide also provides that there is a presumption against a rezoning review that requests to amend LEP controls that are less than 5 years old, unless the proposal can clearly justify that it meets the strategic merit test.

The North Sydney LEP was gazetted in 2013 and as such is now 6 years old. Notwithstanding this, the planning proposal clearly meets the Strategic Merit Test outlined above. Since gazettal of the North Sydney LEP in 2013, the following major changes to the strategic context of the site have occurred:

- The *Greater Sydney Region Plan* and the *North District Plan* were released which identified a need to increase housing supply in strategic centres close to transport and that the Greater Sydney Region required an additional 725,000 homes will be needed by 2036 to meet demand based on current population projections;
- In 2015, Council provided in-principle support to rezone the site to R4 High Density Residential.
- The announcement of the Sydney Metro, providing a train station (Crows Nest Station) within walking distance (400 m) of the site;
- Population forecasts released by DP&E in October 2016 (and included in the District Plan) identify that the North Sydney LGA will need to accommodate an additional 3,000 dwellings over the next 5 years.

For the reasons outlined above, the planning proposal has clear strategic merit and responds to a number of significant changes in the strategic planning context of the site that the LEP controls from 2009 do not respond to.

b) Does the proposal have site-specific merit?

Part 3 of *A Guide to Preparing Planning Proposals* establishes assessment criteria for determining if planning proposals have site-specific merit:

b) Does the proposal have site-specific merit, having regard to the following?

- *the natural environment (including known significant environmental values, resources or hazards) and*

- *the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and*
- *the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

The Planning Proposal has site-specific merit for the following reasons:

- There are no known environmental matters that would prevent the development of the site for higher density residential development.
- The Planning Proposal will facilitate a predominantly residential development whose form and scale will be compatible with the existing residential land uses in the vicinity of the site. This is anticipated under the current controls, with the amendments simply only seeking to delete the ground floor non-residential component from a land use perspective.
- The site is in an area where there is existing public infrastructure, transport, and community facilities, and is close to employment, leisure and other opportunities.
- Has been previously supported in-principle by Council.

Summary

This planning proposal achieves the assessment criteria, as it demonstrates both strategic merit and site-specific merit. Therefore, it is considered that this planning proposal meets the Strategic Merit Test.

7.0 State Legislation and Planning Policies

7.1 Environmental Planning and Assessment Act 1979

The EP&A Act and *Regulation 2000* (EPA Reg.) set out amongst other things the:

- Requirements for rezoning land;
- Requirements regarding the preparation of a local environmental study as part of the rezoning process;
- Matters for consideration when determining a development application; and
- Approval permits and/or licenses required from other authorities under other legislation.

This planning proposal has been prepared in accordance with the requirements set out in Section 3.33 of the EP&A Act in that it explains the intended outcomes of the proposed instrument. It also provides justification and an environmental analysis of the proposal.

Section 9.1 Directions

Ministerial directions under Section 9.1 of the EP&A Act require councils to address a range of matters when seeking to rezone land. A summary assessment of the planning proposal against the Directions issued by the Minister under Section 9.1 of the EP&A Act is provided in **Table 5** below.

Table 5 Ministerial Directions

Ministerial Directions		Consistent		N/A	Comment
		YES	NO		
1. Employment and Resources					
1.1 Business and Industrial Zones		✓			<p>In accordance with clause 5(b) Economic Advice has been prepared which gives consideration to this direction and its objectives (refer Appendix F). In short, the planning proposal will not obstruct the achievement of the objectives as:</p> <ul style="list-style-type: none">• The planning proposal will provide a boost to local demand for goods and services, while also delivering a amount retail premises which will be a commercially viable employment outcome.• While the site is zoned to accommodate a minimum 2,170m2 non-residential floor space, maintaining the current zoning is not protecting employment land. The market has shown a long-term lack of interest in development under current controls.• The planning proposal will assist in improving the viability of the St Leonards and Crows Nest centre. Currently the site is not making any meaningful contribution to the trading performance of the centre, and the low amenity is reducing the attractiveness of the area for potential tenants and developers.• Development of the site consistent with the reference design will improve the amenity and vitality of the area, with the potential for this to benefit adjacent commercial properties which are also underutilised.• It is forecast that the additional residents on the site will increase demand for local goods and services, with the retail spending of residents expected to be in the order of \$3.4 million annually. This increase in local demand will support existing local businesses, reduce current levels of underutilisation in the centre, place downward pressure on vacancies, incentivise further business investment and support greater employment densities within the centre.
2. Environment and Heritage					
2.3 Heritage Conservation	✓				<p>There are no heritage items on site. Notwithstanding this, properties to the south of the site are within a heritage conservation area. The planning proposal does not seek to alter this area. A Heritage Impact Statement is provided at Appendix G and discussed further at Section 8.3.</p>
3. Housing, Infrastructure and Urban Development					

Ministerial Directions	Consistent		N/A	Comment
	YES	NO		
3.1 Residential Zones	✓			The site is proposed to be rezoned R4 High Density Residential. The planning proposal is consistent with this direction as it seeks to increase the residential density on the site which will make better use of infrastructure and proximity to services. The planning proposal will also increase the choice of building and housing types, in an area that is located close to transport, open space, schools, services, and employment in North Sydney, St Leonards and the Sydney CBD.
3.4 Integrating Land Use and Transport	✓			<p>The planning proposal will increase the opportunities to provide new housing to support the use of public transport and improve access to jobs and services by walking, cycling and public transport. The planning proposal is consistent with the objectives of the Ministerial Direction as it will:</p> <ul style="list-style-type: none"> improve access between housing, jobs and services by walking, cycling and public transport; increase housing supply in an area well located to available alternative means of transport, and thereby reducing dependence on cars; reduce travel demand including the number of trips generated by development and the distances travelled, especially by car; and support the efficient and viable operation of the existing public buses transport services and road network.
4. Hazard and Risk				
4.1 Acid Sulphate Soils			✓	The site is not identified under the North Sydney LEP as being potential Acid Sulphate Soils.
4.3 Flood Prone Land			✓	The site is not identified as being located on flood prone land.
6. Local Plan Making				
6.1 Approval and Referral Requirements	✓			No new concurrence provisions are proposed.
6.2 Reserving Land for Public Purposes	✓			The proposal provides the opportunities for laneway widening along Alexander Lane and upgrades to Hayberry Lane. This outcome is expected to improve the function of existing laneways and contribute to general improvement of the public domain.
6.3 Site Specific Provisions	✓			This Planning Proposal amends existing site-specific provisions, without being unnecessarily restrictive. The proposal to include an additional use for retail development will be carried out without applying any additional development standards or requirements in addition to those that pertain to the proposed zone.
7. Metropolitan Planning				
7.1 Implementation of a Plan for Growing Sydney	✓			The Planning Proposal is consistent with the objectives and strategies of the Metropolitan Plan in that it will facilitate the delivery of residential and employment generating floor space, which provides uses, which will contribute to the vitality of the locality close public transport and the St Leonards and Crows Nest centre.
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	✓			The Planning Proposal is consistent with the objectives and strategies of the St Leonards and Crows Nest 2036 Plan in that it will facilitate additional housing within the walkable catchment of the new Crows Nest Metro Station and will provide a high-quality built form outcome, which responds closely to existing and future desired character of the area, especially as the site is located at the gateway to the Crows Nest town centre.

7.2 State Environmental Planning Policies

An assessment of the Planning Proposal against relevant State Environmental Planning Policies (SEPPs) is set out in **Table 6** below.

Table 6 Consistency with State Environmental Planning Policies

SEPP	Consistency		N/A	Comment
	Yes	No		
SEPP No. 1 Development Standards			✓	SEPP 1 does not apply to the North Sydney LEP 2013.
SEPP (State and Regional Development) 2011			✓	The future development of the site is likely to be deemed as 'regional development' (meeting the relevant thresholds under Schedule 4A of the EP&A Act), with the relevant Sydney Planning Panel acting as the determining authority.
SEPP (Affordable Rental Housing)			✓	Not relevant to the proposed amendment.
SEPP (Exempt and Complying Development Codes)	✓			Not relevant to proposed amendment.
SEPP No. 55 Remediation of Land			✓	The site has been previously remediated and is currently not known to be contaminated. Notwithstanding, contamination will be further addressed at the DA stage.
SEPP No. 64 Advertising and Signage	✓			Not relevant to the proposed amendment.
SEPP No. 65 Design Quality of Residential Apartment Development	✓			<p>Detailed compliance with SEPP 65 will be demonstrated in any future DA for any building facilitated by this planning proposal. Testing of SEPP 65 and the Apartment Design Guide (ADG) was conducted throughout the design of the indicative scheme which is capable of satisfying the requirements of the SEPP and associated ADG.</p> <p>As outlined in the Urban Design Report provided at Appendix A, the reference design can achieve the solar access and natural ventilation requirements of the ADG. It is demonstrated that a high level of residential amenity can be achieved on the site under the planning proposal. Continued detailed compliance with SEPP 65 will be demonstrated at the time of future development applications</p>
SEPP No.70 Affordable Housing (Revised Schemes)			✓	Not relevant to the proposed amendments.
SEPP (Affordable Rental Housing) 2009			✓	Not relevant to the proposed amendment.
SEPP (BASIX) 2004	✓			Detailed compliance with SEPP (BASIX) will be demonstrated in a future development application for the scheme facilitated under this planning Proposal.
SEPP (Infrastructure) 2007	✓			SEPP (Infrastructure) will apply to any future development of the site facilitated by the planning proposal given the site's proximity to Falcon Street.

7.3 North Sydney Local Environmental Plan 2013

The North Sydney LEP is the key environmental planning instrument that applies to the site. **Table 7** demonstrates that the planning proposal is consistent with the overall aims and relevant objectives of the North Sydney LEP.

Table 7 Consistency with aims of the North Sydney LEP

Aim	Proposal
a. To promote development that is appropriate to its context and enhances the amenity of the North Sydney community and environment;	The planning proposal will facilitate the renewal of neglected site in a prominent location and is consistent with this aim.
b. to ensure that new development is compatible with the desired future character of an area in terms of bulk, scale and appearance, and	Th reference design demonstrates that the planning proposal will result in a development that is compatible with the surrounding development and the desired future character.
c. to maintain a diversity of activities while protecting residential accommodation and local amenity, and	The planning proposal will facilitate a mix of residential accommodation and retail uses in close proximity of the Crows Nest town centre without generating any unreasonable amenity impacts.
d. to ensure that new development on foreshore land does not adversely affect the visual qualities of that foreshore land when viewed from Sydney Harbour and its tributaries	Not applicable
e. to ensure that new development does not adversely affect residential amenity in terms of visual and acoustic privacy, solar access and view sharing, and	The planning proposal has taken into consideration the residential amenity of the proposed development as well as those surrounding receivers. Residential amenity will continue to inform the design for the development on the site in the future. Refer to Section 8.1 for further discussion.
f. to maintain and provide for an increase in dwelling stock, where appropriate,	The planning proposal directly aligns with this aim by providing an increase in dwelling stock close to social and physical infrastructure, services and community services.
g. to maintain a diversity of employment, services, cultural and recreational activities, and	The planning proposal intends to revitalise currently underutilised and partially vacant employment lands, and provide residential dwellings close to the employment centres of the Sydney and North Sydney CBD and St Leonards. The planning proposal will not undermine the achievement of this aim.
h. to ensure that non-residential development does not adversely affect the amenity of residential properties and public places, in terms of visual and acoustic privacy, solar access and view sharing, and	The minor component of non-residential floor space will not have an adverse impact on the surrounding area.
i. to maintain waterfront activities and ensure that those activities do not adversely affect local amenity and environmental quality,	Not applicable
j. to maintain and protect natural landscapes, topographic features and existing ground levels, and	The planning proposal does not propose any changes to the existing natural landscape or topographic features. Furthermore, the height and siting of the indicative design is based on the natural topography of the site.
k. to minimise stormwater run-off and its adverse effects and improve the quality of local waterways,	Stormwater run-off and local waterways will not be adversely affected by the planning proposal. Stormwater details will be further analysed throughout future applications.
l. To identify and protect the natural, archaeological and built heritage of North Sydney and ensure that development does not adversely affect its significance	There will be no impact to the natural, archaeological and built heritage of North Sydney as a result of this planning proposal. The existing buildings on the site are of no significance and their removal will increase public amenity on Falcon Street.

Aim	Proposal
	A Heritage Impact Statement has been prepared with relation to nearby heritage items and conservation area (refer Appendix G).
m. To provide for the growth of a permanent resident population and encourage the provision of a full range of housing, including affordable housing.	The provision of various dwelling types in this Planning Proposal supports this aim. This will support the growth of a permanent residential population in the Crows Nest Area.

Table 8 Consistency with objectives of the R4 High Density Residential Zone

Aims	Proposal
To provide for the housing needs of the community within a high-density residential environment	The planning proposal will respond to the various housing needs of the community within the precinct, as per this aim.
To provide a variety of housing types within a high-density residential environment	Various dwelling types will be facilitated by the planning proposal. This includes studio, 1,2 and 3 bedroom apartments and 2 bedroom townhouses.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	Non-residential uses will be provided on the site. Furthermore, the site is located in close proximity to the Crows Nest town centre, where various local services and infrastructure is located.
To encourage the development of sites for high density housing if such development does not comprise the amenity of the surrounding area or the natural or cultural heritage of the area	The planning proposal will not compromise the amenity of the surrounding area as discussed at Section 8.0 .
To ensure that a reasonably high level of residential amenity is achieved and maintained.	The planning proposal will facilitate future development that is capable of achieving high levels of residential amenity in accordance with the objectives of the Apartment Design Guide.

Table 9 Consistency with the North Sydney LEP 2013 height objectives

Aims	Proposal
To promote development that conforms to and reflects natural landforms by stepping development on sloping land to follow the natural gradient	The reference design reflects the topography by stepping down in response to the natural gradient of the site.
To promote the retention and, if appropriate, sharing of existing views	The planning proposal will not impact any notable existing views.
To maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,	The planning proposal will maintain reasonable levels of solar access to the surrounding dwellings and public domain. Refer to analysis in the Urban Design Report (Appendix A) and further discussion at Section 8.1.2 .
To maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,	The reference design has been prepared to mitigate opportunities for overlooking between the site and the neighbouring dwellings. Refer to Section 8.1.1 .
To ensure compatibility between development, particularly at zone boundaries	The reference design demonstrates how the planning proposal will facilitate a future built form that is compatible with the lower density residential zone to the south and east and the mixed use zone to the north and west.
To encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.	The scale and density of the planning proposal design has taken into consideration the character of the area and surrounding development. The relationship with the Crows

Aims	Proposal
	Nest Town Centre has also informed the scale and density of the development. Due to the proximity to the new Crows Nest Metro Station and the Town Centre, the proposed level of density is appropriate.

Table 10 Consistency with the North Sydney LEP 2013 floor space ratio objectives

Aims	Proposal
To ensure the intensity of development is compatible with the desired future character and zone objectives for the land	The reference design demonstrates how the planning proposal will facilitate a future built form that is compatible with the desired future character of the surrounding area. Table 8 demonstrates that the planning proposal is consistent with the zone objectives.
Limit the bulk and scale of development	The proposed maximum FSR is 1.85:1. In 2015, the Council provided in-principle support for a maximum FSR of 1.9:1 for the site. The bulk and scale achievable under the proposed FSR is below that previously supported by Council in-principle.

Summary

The North Sydney LEP 2013 is the principal planning instrument for the site. The assessment above demonstrates that the planning proposal and the reference design are consistent with the relevant aims and objectives of the North Sydney LEP 2013. In summary, the planning proposal will:

- Provide appropriate housing types to meet a range of lifestyles in close proximity to transport and services;
- Provide a built form that is sensitive to the existing character of the surrounding residential areas and will not generate any unacceptable impacts on the amenity of the neighbouring dwellings.

8.0 Environmental Impacts

8.1 Impacts on Neighbouring Dwellings

8.1.1 Privacy

The reference design will maintain visual privacy to the neighbouring dwellings. The six storey elements of Buildings A and B are located towards Falcon Street away from the lower density dwellings to the south and east to prevent overlooking. The south facing apartments at the upper levels are setback greater than 20m from the southern boundary which is a reasonable distance to prevent overlooking to the south. The private open space and communal open space areas on Building B are designed with edge planters which will also prevent overlooking to the south (refer to **Appendix C** and **Figure 20**).

The existing setback to the eastern boundary is zero. The planning proposal improves the existing circumstances by setting back Building C a minimum of 4.5m and Building D a minimum of 1.5m. Both buildings are generally orientated to the north and south which will prevent direct overlooking to the existing dwellings to the east.

The existing development on site has windows on the first and second floors at the Hayberry Lane frontage directly overlooking the dwellings to the south. The proposed built form to Hayberry Lane will increase the existing setback to Hayberry Lane by between two – three metres and is located to maintain visual privacy to the existing dwellings at which reference design has been positioned to avoid direct overlooking to the existing dwellings at 26, 28A and 30 Hayberry Lane.

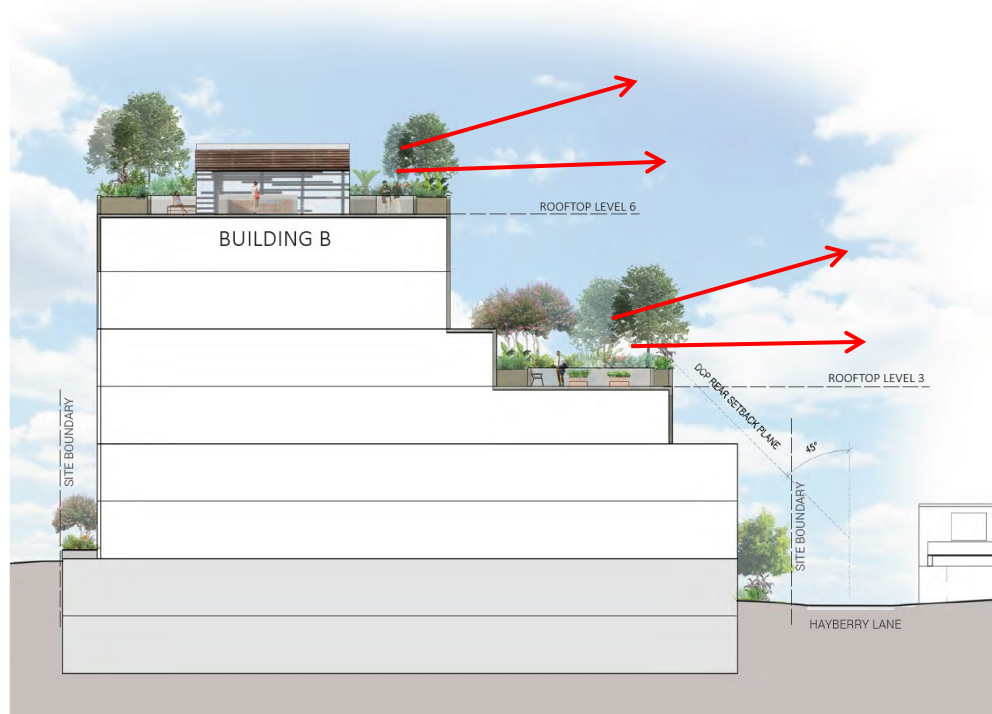


Figure 20 Line of Sight from Communal Open Space Areas

Source: Place Design Group

8.1.2 Overshadowing

Shadow studies and sun-eye analysis is included in the Urban Design Report prepared by AJ+C Architects (**Appendix A**). The shadow studies demonstrate that in mid-winter the reference design will increase solar access to the properties to the east and to those properties on Hayberry Street that are currently impacted by the existing commercial buildings. Properties on Hayberry Street and Hayberry Lane that are impacted by the planning proposal still receive solar access for the same time period as they currently receive to a minimum of 4m² of private open space at mid-winter. The existing dwellings to the south and east will receive good levels of solar access throughout the day at the equinox and mid-summer.

8.1.3 Traffic and parking

The planning proposal will accommodate all resident and visitor parking in basements on site. There will be no impact on the existing availability of on-street parking in the surrounding area. Traffic generation will be minor with one vehicle movement every 2 to 3 minutes during peak periods. The impact on the existing intersection performance for local residents will be negligible.

It is noted that no basement or supporting structures will be located under land which is to be dedicated to Council.

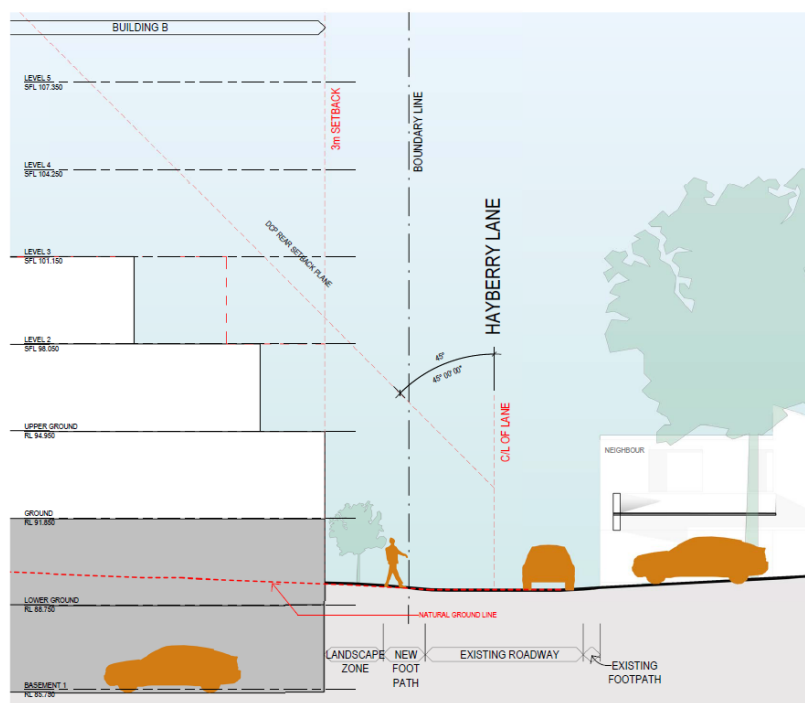


Figure 21 Section of Hayberry Lane and the relationship between the basement and Council land.

Source: AJ+C

8.2 Economic Impacts

Economic Advice has been prepared to consider the proposed amendments to the land use zoning and removal of the minimum non-residential floor space ratio (refer **Appendix F**). In short, the advice concluded that:

- While the site is zoned with a minimum non-residential floor space ratio, the market has shown a lack of interest in developing these lands under the current controls. This is evident by the longstanding vacant lots. Furthermore, existing buildings on the site are either underutilised or vacant. This is evident by these buildings being boarded up and a lack of signage. That these commercial buildings are under-utilised demonstrates that the market cannot deliver employment outcomes on these sites under the current controls. Development of the site consistent with the reference design attached to this planning proposal will help protect employment land in more suitable areas.
- The planning proposal will contribute to the viability of the St Leonards and Crows Nest centre. Currently the site is not contributing, rather, in its current state, it is reducing the viability of the area. Additional residents on

the site will increase demand for local goods and services, with the increase in retail spending expected to be in the order of \$3.4 million annually. This increase in local demand will improve the viability of the centre by supporting existing local businesses, reducing current levels of underutilisation in the centre, place downward pressure on vacancies and incentive further business investment and support greater employment densities within the centre.

The planning proposal will have a positive economic impact and is supportable on these grounds.

8.3 Heritage Impacts

A Heritage Impact Statement has been prepared by Weir Phillips Heritage and Planning to consider the planning proposal with regard to the nearby heritage items and heritage conservation area (HCA) (refer **Appendix G**). Weir Phillips concluded that the *'impact on the heritage items in the vicinity made by the proposed changes to the planning controls is acceptable'* for a number of reasons, including:

- The proposed development is opposite the rear of the dwellings in the HCA, which is not the primary or significant aspect.
- The architectural, historic and social significance of the heritage items and HCA in the vicinity of the site will not be impacted upon.
- The degree of separation from the heritage items is sufficient to have no direct impact on the lot boundary curtilage.
- The wider setting surrounding the heritage items and HCA will change over time in line with strategic planning objectives.
- The proposal responds to the setting of the HCA with improved setbacks from Hayberry Lane and responding podium heights.
- The mass of the proposed built forms responds to the existing built forms along the boundaries of the site, and the density of the proposal reduces to the east and south where adjacent to smaller scale development, the heritage items and the HCA.

Furthermore, none of the existing buildings on site are of any heritage significance and their removal will not impact upon existing heritage conditions in the surrounding context. The planning proposal is supportable on heritage grounds.

8.4 Traffic Impacts

TTPA have undertaken an Assessment of Traffic and Parking Implications for the planning proposal (**Appendix E**). The assessment considered the future development of the site as per the reference design and as a complying development under the current controls. The assessment concluded that:

- *the site will have ready access to bus/rail services and within close proximity to retail, entertainment and employment facilities*
- *there will not be any adverse traffic/safety implications and the traffic generation will be significantly less than that of potential development which is compliant with the current planning provisions*
- *an appropriate parking provision can be made which will be compatible with Council's transport strategy to minimise reliance on private car travel*
- *the envisaged vehicle access, internal circulation and servicing arrangements will be suitable and appropriate subject to the proposed widening of section of Alexander Lane*

Further, the servicing and parking will be accessed via Alexander Lane which will reduce the amount of service traffic that currently utilises Hayberry Lane. For these reasons, the planning proposal is supportable on traffic and parking grounds.

In terms of car parking, the DCP provided as part of the proposal puts forward a significantly reduced car parking ratio than that which is required by the current NSDCP. This is in recognition of the site's location at the fringe of the Crows Nest centre, but within walking distance to the future Crows Nest Metro.

As part of the process of referral to the North Sydney Local Planning Panel and full Council meeting, Council sought referral of the preliminary proposal to the RMS for comment. This is attached as Appendix I.

Whilst we note that the RMS advice is for guidance only, we note the following key concerns.

- The RMS incorrectly references the applicable DCP rate for the scheme – which is for an R4 zone (not B4 as referenced by the RMS).
- Nor is the subject site in the densely developed, high rise ‘Collaboration Precinct’ of St Leonards, with jobs targets of 63,500 by 2036 and corresponding number of new residences.

The applicable control is NSC DCP Residential Rate (i.e. ‘all zones other than B4 – Mixed Use’), however the Proponent accepts that the site’s proximity to the future Sydney Metro presents opportunities to reduce car parking rates. To demonstrate the reduction the proposal puts forward in the DCP, an analysis of the DCP rates and that proposed by the Proponent are provided in the table below.

Table 11 DCP Car Parking Analysis

Unit Type	Studio	1B	2B	3B	Visitor	Retail (sqm)	TOTAL
Mix	14%	18%	44%	25%			
Units	12	15	37	21		300	
NSDCP B4 Rate	0.5	0.5	1	1	1 per 4 dw	1 per 60sqm	
NSDCP B4 Reqmt	6	7.5	37	21	21	5	98
St Leonards B4 Rate	0.25	0.25	0.5	0.5	1 per 4 dw	1 per 60sqm	
St Leonards B4 Reqmt	3	3.75	18.5	10.5	21	5	62
NSCDCP R4 Rate	1	1	1	1.5	1 per 4 dw	1 per 60sqm	
NSCDCP R4 Reqmt	12	15	37	31.5	21	5	122
PP Rate	0	0.5	1	1.5	1 per 6 dw	1 per 60sqm	
PP Reqmt	0	7.5	37	31.5	14	5	95

As per the NSDCP, these rates are maximums and the Proponent is intending a maximum of 90 car spaces to support the proposal which represents a 27% reduction on the applicable rate. The rates will be documented in the DCP, with the maximum total spaces of 90 stipulated.

These car parking rates must be balanced with the overwhelming response from early Community Engagement which saw residents resoundingly seek adequate parking to address their concerns with on-street parking.

We also ask that Council is mindful of the project viability which is directly affected by car parking. The site has a long history of previous proposals that were of far greater yield than that proposed in this Planning Proposal and has lain undeveloped for nearly two decades.

8.5 Social Impacts

The fundamental strategic vision of the North District Plan is the creation of the ‘30-minute city’ whereby residents live within 30 minutes travel of their place of work. The North District Plan also identifies immediate demand for an additional 3,000 dwellings in the LGA. The site is located within walking distance of Crows Nest town centre, high frequency bus stops, and the future Crows Nest Metro Station which will provide frequent and short journeys to the major metropolitan employment centres. The planning proposal will facilitate the provision of a range of smaller housing types in a suitable location. The planning proposal will have a positive social impact on the North Sydney LGA.

8.6 Residential Amenity

The indicative design concept for the residential flat buildings proposed have been designed to meet the requirements of the Apartment Design Guide (ADG) and the indicative concept design for the townhouses has been designed to generally meet the requirements of the North Sydney DCP to achieve good levels of residential amenity for the future residents. Notably, the indicative design concept demonstrates that the site can accommodate high density residential development that will provide:

- Apartments consistent with the ADG minimum size requirements;
- Balconies and private open spaces consistent with the ADG minimum size requirements;
- A minimum of two hours solar access to 90% of the indicative dwellings on the site;
- Natural cross ventilation to 72% of the indicative apartments;
- Separation distances between buildings in accordance with the minimum requirements of the ADG and will provide adequate privacy for residents;
- Circulation cores that service no more than eight apartments per floor; and
- 1,154sqm of communal open space (26.5% of total site) and 752sqm of deep soil area (17% of total site).

It is noted that the reference design prepared by AJ+C is indicative for the purposes of understanding the opportunities on the site. Further design detail regarding apartment and townhouse layouts would be resolved as part of any subsequent development applications. Any future detailed design would also ensure that facades and glazing on the dwellings facing Falcon Street, Alexander Lane and Hayberry Lane mitigate any traffic noise and achieve the relevant internal noise standards.

Notwithstanding the proposed LEP amendment also puts forward a site-specific DCP, in terms of assessment of the proposed concept against the NSDCP 2013, there are two non-compliances:

- Site coverage of 59% (2,537sqm): DCP seeks a maximum site coverage of 45% (1,935sqm) for R4 High Density development;
- Landscaped Area of 19% landscaped area (817sqm): DCP seeks a minimum of 40% landscaped area (1,720sqm).

In response to these, firstly, the scheme meets the Apartment Design Guide requirements of SEPP 65.

Secondly, Council should consider the transitional nature of the site, and the resultant two typologies of land use – western part being B4 Mixed Use in nature and eastern part R4 High Residential in nature. As a result, we have undertaken a review of the proposal against both the R4 Residential and B4 Mixed Use controls for the eastern and western parts of the site as shown in **Figure 22** below:

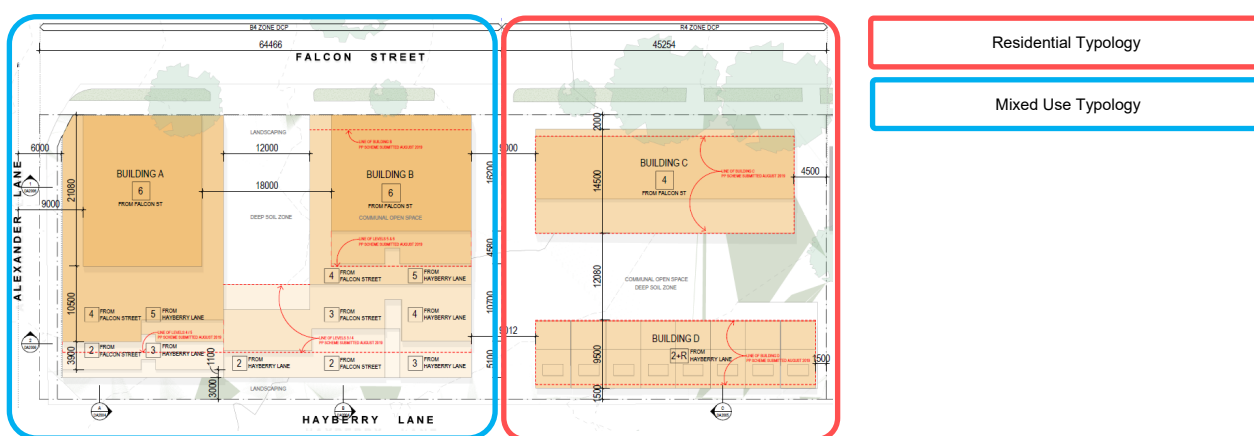


Figure 22 Mixed Use and Residential Development Typologies

Source: AJC + Ethos Urban

The findings are summarised in the below table:

Table 12 Analysis against Split Site Controls

Control	Proposed	Compliance	Comment
Commercial & Mixed Use			
Site area	2,551sqm	–	
Site coverage n/a		✓	
Landscape Area n/a	592.86sqm	✓	Deep Soil: 23.24% where ADG requires 15% Communal Open Space: 27.9% where ADG requires 25%
R4 Residential Development			
Site area	1,791sqm		
Site coverage 45%	50%	✗	Site coverage is 50% (895sqm) which is a 90sqm variation. A Site-specific control is proposed
Landscape Area 40%	40.3%	✓	

When analysed against the relevant provisions, the following is clear that the proposed development is suitable in this context:

- There are no DCP site coverage or landscaped area controls for Mixed Use Development, which reflects the more urban nature of these sites, which expect a higher intensity of development. Council recognise that this is a transitional site and that simply applying the R4 High Density Residential controls is inappropriate.
- When analysed against the split provisions of Council's DCP, only the site coverage control of 50% is not met – by only 5% (90sqm). This is a minor exceedance only and Council should be mindful that the North Sydney DCP applies to all of the North Sydney LGA – from Cammeray to Neutral Bay. It cannot therefore respond to the nuances of every site within the LGA; which is recognised in the wording of Section 3.42 of the EP&A Act. Importantly, the nuances of this site have been recognised by Council as an interface between a key centre undergoing transition and a finer grain residential area. A blanket approach is neither supported by the EP&A Act, nor in the interests of a place-based response to the site.
- Some level of non-compliance with a strict control site coverage is not unusual for nuanced site such as this. A site-specific DCP control has therefore been provided for the site of no more than 65%.
- Where the proposal does not meet Council's site cover DCP controls, the corresponding SEPP 65 ADG Deep Soil and Communal Open Space controls are met. From a planning hierarchy perspective, these take precedence.
- Further, due to the nuance characteristics of the site, the Planning Proposal is submitted with a site-specific DCP that addresses the particulars of the site.

8.7 Comparison to Complying Scheme

The following provides a comparison of the potential development outcomes resulting from the current planning controls and the planning proposal:

The Urban Design Report (**Appendix A**) provide illustrations of the likely scale, bulk and form of the buildings that could potentially be developed as a complying scheme under the currently applicable controls, and a proposed scheme under the proposed provisions and R4 zoning in the context of the Site's surrounds.

The compliant scheme retained the existing commercial building shells, which are built to boundary and exceed the existing height control. In addition to this, the compliant scheme included an additional mixed use building on the western edge, with three floors

The key advantages of the proposed amendments are that:

- The scale of the development transitions between the scale of existing development to the north and west of the site, down towards the south and east;

- Greater form compatibility can be achieved between low density development to the southern edge of Hayberry Lane and the future development on the site;
- The bulk of the development is to be situated along the site's Falcon Street frontage, which is compatible with the scale of existing development along the northern side of Falcon Street;
- Land use outcomes will be more compatible with the surrounding residential development to the south and east, with the ground floor non-residential uses providing a transition into the Crows Nest town centre;
- The bulk of the development is to be situated along Falcon Street, allowing for greater street activation as a result of a variety of density and non-residential frontages; and,
- Improved setback opportunities allow for greater separation from heritage items and conservation areas, and improved privacy outcomes for existing and future residences.
- The planning proposal achieves high levels of residential amenity
- The overall traffic generation would be significantly less.

9.0 NSW Department of Planning and Environmental Guidelines

9.1 Part 1 – The Intended Outcome

The intended outcome of this Planning Proposal is to amend the North Sydney LEP 2013 to enable the development of 27-57 Falcon Street, Crows Nest, for a three to six storey residential development with retail uses at the corner of Falcon Street and Alexander Lane.

9.2 Part 2 – Explanation of Provisions

The intended outcome can be achieved by amending the North Sydney LEP 2013 as follows:

- *Amend the Land Zoning Map Sheet LZN_001 by rezoning the site to be R4 High Density Residential;*
 - **Reason:** This Planning Proposal seeks to amend the zone applying to the site to reflect the changing context of the site and its interface between the Crows Nest Town Centre and lower density areas to the east and south, as well as the focus for jobs away from this fringe site and towards the centre core.
- *Amend the Height of Building Map Sheet HOB_001 by applying a part height limit of 14.5 metres and a part height limit of 21 metres.*
 - **Reason:** To reflect the change in zone, additional height is proposed to allow for a high-quality design outcome on the site that responds to the site's location at the gateway to the Crows Nest Town Centre and proximity to the Crows Nest Metro Station, mindful of solar impacts as per Council's DCP controls.
- *Amend the Floor Space Ratio Map Sheet FSR_001 by applying a floor space ratio of 1.85:1 to the site.*
 - **Reason:** The site does not currently have a floor space ratio applying to the site. Therefore, this Planning Proposal seeks to apply an FSR of 1.85:1 to ensure that the future built form is in line with the indicative scheme proposed.
- *Amend the Non-Residential Floor Space Ratio Map Sheet LCL_001 by deleting the minimum non-residential floor space ratio of 0.5:1.*
 - **Reason:** This Planning Proposal seeks to remove the minimum non-residential floor space ratio that applies to the site as it does not reflect the revised land use zone. The non-residential FSR of 0.5:1 requires a significant portion of the site to be for non-residential uses, which does not respond to the changing commercial nature of both St Leonards and North Sydney CBD to deliver these forms of uses nor the sensitive residential uses to the site's south and east.
- *Amend Schedule 1 Additional permitted uses by including a clause that permits, with development consent, the use of certain land at 27-57 Falcon Street, Crows Nest for the purposes of retail premises.*
 - **Reason:** Despite the above clause to remove the non-residential FSR, a small portion of non-residential use is appropriate on the site. Therefore, this clause seeks to retain some retail uses on the north-west corner of the site.
- *Site specific provision under Part 6, Division 2 of the LEP to allow specific exceedances of the Height of Building control:*
 1. *This clause applies to land at 27-57 Falcon Street, Crows Nest being Lots 25,26, 32 and 33 DP 1720, Lots X and Y DP 407774 and Lot A DP 377050.*
 2. *Despite any other provision of this plan, development consent can be granted for development that exceeds the maximum building height shown on the Height of Buildings map if the part of the development that exceeds the maximum building height is for:*
 - a. *providing lift access to rooftop communal open space;*
 - b. *mechanical plant*
 - **Reason:** The tallest building in the indicative scheme accompanying this Planning Proposal has a top of parapet height of 21 metres, meaning that the main portion of the building will not exceed 21 metres. However, the scheme also proposes to provide resident access to the rooftop, which will require lift overrun and mechanical plant to be located on the roof up to 24 metres. Therefore, this clause seeks to allow for

these features (which are included in the North Sydney LEP definition for Building Height) to sit beyond the main building height. This provides certainty for the future built form and removes the need for a clause 4.6 modification request to allow for a variation of the Height of Building control.

- It should be noted that the cited lots may be amalgamated as part of a future development application.

The proposed mapping changes are submitted as **Appendix D**.

9.3 Part 3 – Justification

9.3.1 Section A - Need for a Planning Proposal

Q1 – Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?

The Planning Proposal is not the result of any specific strategic study or report. The Planning Proposal revives the previous strategic planning process that was commenced by Council for the site. It has been demonstrated at **Section 5.0** that the Planning Proposal is generally consistent with the objectives of the relevant strategic plans and has merit to proceed.

Q2 – Is the Planning Proposal the best means of achieving the intended outcome?

The Planning Proposal is the best means of achieving the intended outcome – the current land use zoning, height and FSR controls prohibit the redevelopment of the site. The proposed outcome has been compared against two options, being ‘do nothing’ and a complying development scheme. This has been discussed below.

Do Nothing

In this option, the site would remain as it is currently and – as history has told us – development is unlikely to occur. This option results in a negative outcome for the site and the surrounding residents, as the site would remain derelict. The buildings on the site are partially vacant and derelict, while the remaining portion of the site is used for parking. The site at present does not provide any amenity outcomes for the surrounding streetscape and its state of disrepair diminishes the visual quality of Falcon Street.

Complying Scheme

The Design Report at **Appendix A** has prepared a scheme that would be permissible under the existing controls applicable to the site. This complying scheme would result in approximately 68% commercial GFA on the site, with the remaining 32% being residential. As outlined in **Section 8.2** and **Appendix F**, there has been an increasing rate of vacancies for commercial premises in the Crows Nest area, as can be seen throughout the commercial vacancies on the site. In addition, the traffic impact of this alternative would not likely be supportable, nor desirable in terms of the amenity of local residents.

Therefore, the current controls do not deliver an outcome that responds to the needs of the area.

Proposed Controls

The controls proposed are intended to develop the site in a way that responds to the site conditions and surrounding context of the Crows Nest village. The controls allow for four separate residential buildings that respond to the neighbouring buildings, with the taller building located towards Crows Nest Village and smaller townhouses located on Hayberry Lane. These controls are designed to maximise solar access, green the site, improve the surrounding street network and create a sense of transition from the site into the adjoining village. The retention of a small portion of commercial on the corner of Falcon Street and Alexander Lane allows for activation of the street and extends the Crows Nest Village.

Therefore, this is the preferred option as the controls proposed respond to the context of the site and provide for amenity for the surrounding streets.

9.3.2 Section B - Relationship to the strategic planning framework

Q3 - Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans and strategies)?

Yes - refer to **Section 6.1 – Section 6.3**

Assessment Criteria – Does the proposal have strategic and site-specific merit?

Yes, refer to **Section 6.5**

Q4 – Will the planning proposal give effect to a council’s endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

The Planning Proposal will contribute to the achievement of the relevant planning priorities of the North Sydney LSPS. Refer to **Section 6.4**.

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

Yes, refer to **Section 7.2**

Q6 - Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Yes, refer to **Section 7.1**.

9.3.3 Section C - Environmental, social and economic impacts

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

The Planning Proposal will not adversely affect critical habitat or threatened species, population or ecological communities in their habitats, as none have been identified on the site.

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

An assessment of the environmental impacts of the Planning Proposal is provided at **Section 8.0**. No unacceptable impacts will result from the achievement of the intended outcome.

Q9 – Has the Planning Proposal adequately addressed any social and economic impacts?

An assessment of the social impacts of the Planning Proposal is provided at **Section 8.5**. An assessment of the economic impacts of the Planning Proposal is provided at **Section 8.2**.

9.3.4 Section D – State and Commonwealth Interests

There is no significant Commonwealth or State interests in the Planning Proposal other than the general objectives to achieve an appropriate planning and development outcome on the site that has considered the State's regional and subregional strategic planning framework as described in this report.

Q10 – Is there adequate public infrastructure for the Planning Proposal?

The site is located in close proximity to a number of public transport options, as discussed in **Section 3.3**. This includes a number of bus routes and the future Crows Nest Metro Station. Additionally, the site is well serviced by social infrastructure in the form of local shops, schools, recreational and sporting facilities.

Q11 – What are the views of State or Commonwealth public authorities consulted in accordance with the Gateway determination?

No formal consultation at the time of writing this Planning Proposal has been undertaken with Commonwealth or State authorities. Where necessary, consultation with relevant authorities will be undertaken with the initial Gateway determination.

9.4 Part 4 – Mapping

Maps of the proposed amendments to the North Sydney LEP zoning, height, FSR and non-residential FSR controls applying to the site are provided at **Appendix D**.

9.5 Part 5 – Community Consultation

Following an earlier request by Council that the development was to be communicated with the local community, a community engagement session was held in Hayberry Street on 12 February. Approximately 50 people attended the community session, which communicated the design intent and the positive outcomes for the wider community. Of the 50 that attended, there were three (3) objections. The key issues raised in relation to this meeting were:

- Traffic and parking impacts on the surrounding street network.
- Potential impact of height and privacy.
- Access by garbage trucks.
- Affordable housing.
- Noise from air conditioning.

It is proposed that in accordance with '*A guide to preparing local environmental plans*' that the Planning Proposal undergo a 28-day public exhibition period. It is noted that confirmation of the public exhibition period and requirements for the Planning Proposal will be given by the Minister as part of the LEP Gateway determination. Any future DA for the site would also be exhibited in accordance with the Council's notification requirements at which time the public and relevant authorities can make further comments on the redevelopment of the site.

The proposal has now been endorsed by the North Sydney Planning Panel, as well as Council.

9.6 Part 6 – Project Timelines

The DPIE have stipulated the following maximum timeframes in their Gateway Determination:

- The planning proposal must be exhibited within 3 months from the date of this Gateway determination.
- The planning proposal must be reported to Council for a final recommendation 6 months from the date of the Gateway determination.
- The planning proposal is to be submitted to the Department for finalisation 9 months from the date of the Gateway determination.

Notwithstanding, as a result of previous community engagement and extensive Councillor engagement, the timeframes may be condensed. At present, the anticipated Project Timeline is as per the below:

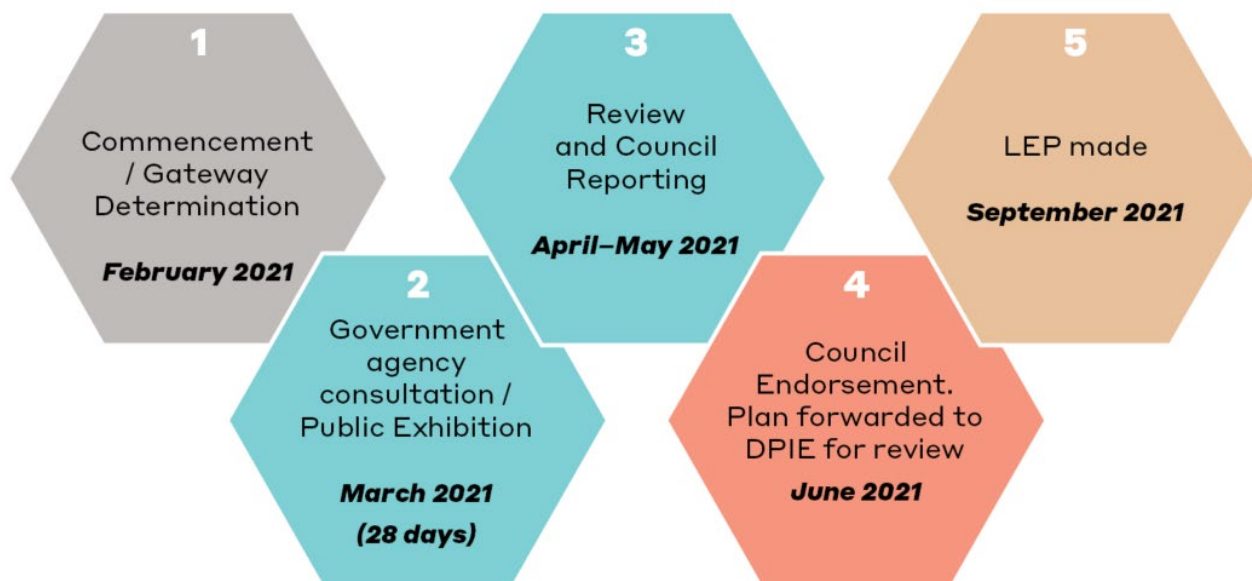


Figure 23 Intended time frames

Source: Ethos Urban

10.0 Conclusion

This Planning Proposal seeks to:

- Rezone the site to R4 High Density Residential
- Amend the maximum building height to part 21 metres and part 14.5 metres
- Apply a maximum floor space ratio of 1.85:1 to the site
- Remove the non-residential floor space ratio requirement
- Retain 'retail premises' as a permitted land use on the site
- Provide a site-specific provision under Part 6 Division 2 of the LEP to allow specific and localised exceedances of the Height of Buildings control.

This Planning Proposal is justified for the following reasons:

- The proposal has been endorsed by Council's Local Planning Panel and full Council (with conditions that have now been met)
- The proposal is consistent with the objects of the EP&A Act, in that it promotes the orderly and economic use and development of land;
- The site is underutilised and has been partially vacant for 20 years. The existing buildings are generally in poor repair and untenanted. Several development propositions for the site have been brought to Council over the last 13 years including: an aged care facility; a commercial complex comprising cinemas, a supermarket and retail; a mixed-use commercial and shop top housing development; and a predominantly residential flat building development. None of these developments progressed. The current condition of the site and the absence of any material development activity over the last 20 years clearly indicates that the renewal of the site for any purpose is not feasible nor will occur under the current statutory planning controls.
- Council recognise that the site's location on the periphery of the Crows Nest town centre adjacent to existing residential land makes it difficult to deliver significant non-residential floor space and that it is better suited to high density residential. To this end, in 2015 Council officers prepared a report to the General Manager providing conditional support for a proponent led planning proposal that sought the following amendments to the North Sydney LEP 2013:
 - Rezone the site to R4 High Density Residential
 - Apply a maximum floor space ratio of 1.9:1
 - Amend the maximum building heights by applying a stepped building height limit across the site to permit buildings between two and six storeys high
 - Remove the non-residential floor space ratio requirements
 - Retain retail premises as a permitted land use
- The planning proposal put forward is comparable to the planning proposal that received conditional support from Council in 2015.
- The proposed building heights will ensure an appropriate transition in scale to the existing lower density residential dwellings to the south and east. The planning proposal will not create any unacceptable or unreasonable privacy or shadow impacts to the surrounding dwellings.
- The planning proposal can meet the design criteria of the Apartment Design Guide.
- The planning proposal will not have any adverse impacts on the future operation of the surrounding road network.
- The planning proposal will deliver preferable outcomes when compared to development that complies with the current planning controls.
- The proposal is consistent with the applicable SEPPs and Ministerial Directions.

In light of the above, we would have no hesitation in recommending that the planning proposal proceed through the Gateway to public exhibition.