

DECISION OF 3734th COUNCIL MEETING HELD ON MONDAY 27 JULY 2020

8.18. Planning Proposal No. 6/19 and Draft Development Control Plan - 27-57 Falcon Street, Crows Nest

AUTHOR: Jayden Perry, Strategic Planner

Assessment report for the Planning Proposal No. 6/19 and draft Development Control Plan relating to the site at 27-57 Falcon Street, Crows Nest.

Council received a Planning Proposal for the site at 27-57 Falcon Street, Crows Nest. The site is located within the St Leonards and Crows Nest 'Planning Precinct' established by the Department of Planning, Industry and Environment (DPIE) in July 2016. The Planning Proposal seeks to make the following amendments to the North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- Rezone the site from B4 – Mixed Use, to R4 – High Density Residential;
- Increase the maximum building height from 10m to part 21m and part 14.5m;
- Apply a maximum floor space ratio control of 1.85:1;
- Remove the current non-residential floor space requirement applying to the site;
- 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 facilitate access to roof / lift overrun.

The indicative concept scheme accompanying the Planning Proposal seeks to provide a high density residential development comprising three (3) residential flat buildings between three and six storeys in height and two- three storey townhouses, retail premises are proposed at ground floor level at the corner of Falcon Street and Alexander Lane, landscaped communal open space and basement parking. The Planning Proposal is also supported by a draft DCP to help guide future detailed design and assessment at DA stage.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) comprising monetary and in-kind contributions towards open space infrastructure in the precinct and land dedication and embellishment works on Alexander Lane and Hayberry Lane frontages.

Having completed an assessment of the Planning Proposal and draft VPA against the DPIE's draft 2036 Plan and relevant Regional and District Plans, it is recommended that the Planning Proposal be supported to proceed to Gateway Determination.

Should Gateway Determination be issued, the Planning Proposal, draft DCP and draft VPA should then be exhibited concurrently, so as to allow the community a full appreciation of what is being proposed.

The Planning Proposal is accompanied by an offer to enter into a draft Voluntary Planning Agreement (VPA) that proposes to provide monetary and in-kind contributions to Council. These include:

- A monetary contribution of \$800,000 towards increased open space opportunities (e.g. Hume Street Park upgrade), payable to Council.
- Land dedication including embellishments to the value of \$330,000.

RECOMMENDATION:

- 1. THAT** the Planning Proposal (Attachment 1) be amended to Council's satisfaction addressing the recommendations outlined in this report.
- 2. THAT** the General Manager be authorised to negotiate the terms and detailed provisions of a Voluntary Planning Agreement consistent with the applicant's offer (Attachment 2) and as outlined in this report.
- 3. THAT** upon satisfactory negotiation of the contents and detailed terms of the draft VPA and completion of Recommendation 1, the Planning Proposal be forwarded in accordance with Section 3.34 of the Environmental Planning and Assessment Act 1979 seeking a Gateway Determination.
- 4. THAT** upon receipt of a Gateway Determination, the associated draft Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal and draft DCP.
- 5. THAT** the site specific draft DCP (Attachment 3) be endorsed for the purpose of concurrent public exhibition.

A Motion was moved by Councillor Barbour and seconded by Councillor Drummond,

- 1. THAT** the Planning Proposal (Attachment 1) be amended to Council's satisfaction addressing the recommendations outlined in this report.
- 2. THAT** the General Manager be authorised to negotiate the terms and detailed provisions of a Voluntary Planning Agreement consistent with the applicant's offer (Attachment 2) and as outlined in this report.
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- 4. THAT** upon receipt of a Gateway Determination, the associated draft Voluntary Planning Agreement be exhibited concurrently with the Planning Proposal and draft DCP.
- 5. THAT** a site-specific draft DCP be re-presented to Council for endorsement prior to public exhibition including controls for additional parking on the site.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 6 / 2

For: Councillor Gibson, Councillor Keen, Councillor Brodie, Councillor Barbour, Councillor Drummond, Councillor Mutton

Against: Councillor Beregi, Councillor Baker

Absent: Councillor Carr and Councillor Gunning

88. RESOLVED:

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8.18. Planning Proposal No. 6/19 and Draft Development Control Plan - 27-57 Falcon Street, Crows Nest

AUTHOR: Jayden Perry, Strategic Planner

ENDORSED BY: Joseph Hill, Director City Strategy

ATTACHMENTS:

1. Indicative Reference Design - PP 6/19 27-57 Falcon Street, Crows Nest [**8.18.1** - 19 pages]
2. Draft Site Specific DCP - PP 6/19 27-57 Falcon Street, Crows Nest [**8.18.2** - 5 pages]
3. Letter of Offer - Voluntary Planning Agreement - 4 June 2020 [**8.18.3** - 5 pages]
4. NSLPP Minutes - Planning Proposal - 5 February 2020 [**8.18.4** - 3 pages]

PURPOSE:

Assessment report for the Planning Proposal No. 6/19 and draft Development Control Plan relating to the site at 27-57 Falcon Street, Crows Nest.

EXECUTIVE SUMMARY:

Council received a Planning Proposal for the site at 27-57 Falcon Street, Crows Nest. The site is located within the St Leonards and Crows Nest 'Planning Precinct' established by the Department of Planning, Industry and Environment (DPIE) in July 2016. The Planning Proposal seeks to make the following amendments to the North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- Rezone the site from B4 – Mixed Use, to R4 – High Density Residential;
- Increase the maximum building height from 10m to part 21m and part 14.5m;
- Apply a maximum floor space ratio control of 1.85:1;
- Remove the current non-residential floor space requirement applying to the site;
- 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 facilitate access to roof / lift overrun.

The indicative concept scheme accompanying the Planning Proposal seeks to provide a high density residential development comprising three (3) residential flat buildings between three and six storeys in height and two- three storey townhouses, retail premises are proposed at ground floor level at the corner of Falcon Street and Alexander Lane, landscaped communal open space and basement parking. The Planning Proposal is also supported by a draft DCP to help guide future detailed design and assessment at DA stage.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) comprising monetary and in-kind contributions towards open space infrastructure in the precinct and land dedication and embellishment works on Alexander Lane and Hayberry Lane frontages.

Having completed an assessment of the Planning Proposal and draft VPA against the DPIE's draft 2036 Plan and relevant Regional and District Plans, it is recommended that the Planning Proposal be supported to proceed to Gateway Determination.

Should Gateway Determination be issued, the Planning Proposal, draft DCP and draft VPA should then be exhibited concurrently, so as to allow the community a full appreciation of what is being proposed.

FINANCIAL IMPLICATIONS:

The Planning Proposal is accompanied by an offer to enter into a draft Voluntary Planning Agreement (VPA) that proposes to provide monetary and in-kind contributions to Council. These include:

- A monetary contribution of \$800,000 towards increased open space opportunities (e.g. Hume Street Park upgrade), payable to Council.
- Land dedication including embellishments to the value of \$330,000.

RECOMMENDATION:

1. **THAT** the Planning Proposal (Attachment 1) be amended to Council's satisfaction addressing the recommendations outlined in this report.
2. **THAT** the General Manager be authorised to negotiate the terms and detailed provisions of a Voluntary Planning Agreement consistent with the applicant's offer (Attachment 2) and as outlined in this report.
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5. **THAT** the site specific draft DCP (Attachment 3) be endorsed for the purpose of concurrent public exhibition.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment

1.4 Public open space and recreation facilities and services meet community needs

2. Our Built Infrastructure

2.1 Infrastructure and assets meet community needs

2.2 Vibrant centres, public domain, villages and streetscapes

2.3 Sustainable transport is encouraged

3. Our Future Planning

3.1 Prosperous and vibrant economy

3.4 North Sydney is distinctive with a sense of place and quality design

4. Our Social Vitality

4.1 North Sydney is connected, inclusive, healthy and safe

5. Our Civic Leadership

5.1 Council leads the strategic direction of North Sydney

5.3 Community is informed and consulted

BACKGROUND

Strategic Planning St Leonards Crows Nest

The St Leonards/Crows Nest Planning Studies Precincts 1, 2 & 3 were led by Council and were initiated as a direct response to manage the high level of development interest near St Leonards Station, protect jobs and deliver much needed public domain and services throughout the study area. The most recent study (precinct 2/3) was adopted by Council in May 2015 following significant community consultation.

In early 2016, Council commenced early investigation work for ‘precinct 4 – Crows Nest’ which would have included the subject site. This work halted when in July 2016, the Minister for Planning announced the strategic planning investigation of the St Leonards and Crows Nest Station Precinct.

On 1 June 2017, the DPIE announced the investigation area as a ‘Planned Precinct’ (previously referred to as ‘Priority Precinct’).

On 15 October 2018, the DPIE released the SLCN Draft Plan which was placed on public exhibition until 8 February 2019. The exhibition material included various technical and policy documents. The package provided a draft strategic planning framework to guide future development in the area and infrastructure delivery over the next 20 years.

During the exhibition period, approximately 1,000 submissions were received. Since that time, the State Government has been considering the issues raised as well as re-examining the development options of the Crows Nest Metro Site.

More recently, the DPIE has announced the creation of a 'Project Delivery Unit (PDU)' to prioritise the delivery of key strategic projects and planning matters. It is understood that a revised (and possibly final) St Leonards and Crows Nest Draft 2036 Plan may be released in the coming months. There is a real concern given the level of community interest and history of this process, that there has been a lack of real collaboration with Council in finalising this plan. These concerns have been comprehensively documented in various reports to Council in the past as well as being informally communicated to the Department. Council has been willing and keen to participate in this process, but disappointingly, not been invited to do so.

Site Specific Background

The planning proposal relates to a site known as 27-57 Falcon Street, Crows Nest (Figure 1 below). It is 4,325m² in area and located on the southern side of Falcon Street on the corner of Alexander Lane and has a rear boundary to Hayberry Lane.

The site has a fall of some 6m from west to east and is occupied by 2-3 storey commercial buildings at No's 43-57 Falcon Street with the remainder of the site being vacant. The Holtermann Estate Conservation Area is located to the south of the site.



Figure 1 – Subject site location map.

In 2009, a site compatibility certificate for an aged care facility was issued by the then Department of Planning for an aged care facility. This subsequently lapsed and no development was pursued.

In July 2015, Council considered a Planning Proposal for the site. At that meeting, Council resolved to reject the Planning Proposal and associated draft Voluntary Planning Agreement.

It also resolved to invite a revised Planning Proposal which addressed Council's concerns as well as a revised VPA. The then applicant did not proceed with a revised scheme nor was any agreement reached on the associated VPA offer. It is noted, however, that the assessment report undertaken for the proposal included in-principle support for; a change in zoning to R4, the application of a maximum FSR control of 1.9:1, an increase in building heights up to 19m and 16m, removal of the (0.5:1) non-residential floor space requirement and retaining retail premises as a permitted land use on the site. The need was also identified to amend the NSDCP to provide for setback and building separation controls.

As an amended scheme was never progressed to the satisfaction of Council, it cannot be assumed that an FSR of 1.9:1 could have been satisfactorily provided for as the application of the then recommended setback controls and Hayberry Lane building heights would likely have reduced the amount of floorspace able to be achieved on the site.

After another change in ownership, in May and June 2019, pre-lodgement discussions were held with Council officers. Written advice was provided on two occasions outlining key issues and matters for consideration.

Planning Proposal

On 16 August 2019, Council received an application for the subject Planning Proposal. As lodged, the application sought to:

- Rezone the site from B4 – Mixed Use to R4 – High Density Residential;
- Increase the maximum building height from 10m to part 24.5m and part 14.5m;
- Apply a maximum floor space ratio control of 1.85:1;
- Remove the current non-residential floor space requirement applying to the site; and
- Retain 'retail premises' as a permitted land use on the site.

The Planning Proposal was accompanied by an indicative reference design to demonstrate how the site could be developed to the requested height and FSR controls. The Planning Proposal envisaged the site being developed to accommodate three (3) residential flat buildings between three and six storeys in height and two-three storey townhouses fronting Hayberry Lane, retail premises on ground at the corner of Falcon Street and Alexander Lane, landscaped communal open space and basement parking incorporating the following elements:

- 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.

On 25 November 2019, Council considered an Interim Assessment Report on the Planning Proposal. The report sought to discern Council's direction on the following key issues;

- Land use (i.e. level of non-residential floorspace);
- Council's willingness to progress a site specific Planning Proposal in light of the direction included in the State Governments draft St Leonards Crows Nest 2036 Plan;
- Council's moratorium on residential planning proposals; and
- Height and scale as well as principles on design, heritage, transition, overshadowing, site layout and the like.

At that meeting, Council resolved:

1. *THAT Council note the Planning Proposal.*
2. *THAT Council refer the Planning Proposal application to the North Sydney Local Planning Panel (NSLPP) for advice on the following matters:*
 - a. *Rezoning of the site from B4 Mixed Use to R4 High Density Residential.*
 - b. *Increasing the maximum building height to Part 24.5 metres and Part 14.5 metres.*
 - c. *An indicative FSR.*
3. *THAT the advice from the NSLPP be provided to the first Council meeting in 2020.*
4. *THAT Council write to the Minister and the Greater Sydney Commission once again seeking indicative time frames in relation to the making of the Draft 2036 Plan for Crows Nest and St Leonards.*
5. *THAT Council seek assurances from Ethos Urban to communicate factually and extensively with Hayberry Precinct and its members for all issues pertaining to Planning Proposal No. 6/19.*

On 5 February 2020, the Local Planning Panel considered a report on this planning proposal. The minutes of this meeting are provided at Attachment 5. The panel supported its progression in principle, however, provided the following advice:

"The Council Officer's report on the Planning Proposal is endorsed and the Panel recommends to Council, subject to further examination and resolution of certain issues, that it may proceed to a Gateway Determination. The site clearly has strategic merit to be rezoned to R4 from B4. This presents the opportunity to provide an appropriate domestic scale of development to the Hayberry Conservation Area while orienting the bulk towards the north-west. At the same time further opportunities for deep soil planting need to be explored. Given its context the Panel agrees this site is more appropriate for residential rather than a mixed use development and the inherent flow-on effects where access to the site is problematic for a large commercial component. However, given the objective of employment growth opportunities, this requires further analysis.

The Panel agrees that further investigation including overshadowing; height and bulk distribution; laneway treatment and activation; vehicular access and parking; Falcon Street frontage and setback; and areas of deep soil planting on the site needs to be the subject of a DCP or concept plan to be exhibited concurrently with the Draft LEP. This is required to demonstrate the site-specific merits of the rezoning and to assist in the community consultation."

On 24 February 2020, Council considered a report on the Planning Proposal which provided the outcomes of the referral to the Local Planning Panel. At this meeting Council resolved:

1. *THAT following advice from the North Sydney Local Planning Panel:*
 - a. *Council confirm its in-principle support for the proposed change in zoning to R4 noting the desire for some ground level active use to be provided on the northwestern corner of the site.*
 - b. *Council note the design, character and amenity concerns outlined in the report contained at Attachment No 1 and that these concerns and principles form the basis of development of a revised reference design that will inform the development of detailed planning controls for the site.*
 - c. *Council support, in-principle, the development of a revised reference design that may accommodate a maximum building height in the order of 5-6 storeys provided a satisfactory outcome is able to be achieved with respect to site layout, heritage, transition to lower scale development to the south and east, overshadowing, provision for landscaped area and the like.*
 - d. *Council seek advice from NSW Transport (RMS) in relation to whether it will support a left-hand turn from Falcon Street into the site or alternative access arrangements.*
2. *THAT upon satisfaction of concerns raised in the report contained at Attachment No 1, a site-specific Development Control Plan be developed to help guide any future development application on the site. The site-specific DCP is to be exhibited concurrently with the Planning Proposal and to include detailed controls relating to traffic and access to the site, informed by advice from NSW Transport.*
3. *THAT the applicant be invited to provide an offer of public benefit for potential inclusion in a Voluntary Planning Agreement.*
4. *THAT upon satisfaction of the matters contained in Items 1, 2 and 3 the matter be reported back to Council.*

On 24 March 2020, Council received revised documentation from the applicant which included a reduction in the overall bulk and scale of the proposal including the following elements:

- Reduced building mass on southern end of Building A, increasing rear Level 2 setback from 3m to 4.1m and Level 3 setback from 6.5m to 8m, measured from Hayberry Lane.
- Reduced building mass on southern end of Building B, increasing rear Level 2 setback from 6.5m to 8.1-8.9m and Level 6 setback from 18.5m to 23m, measured from Hayberry Lane.
- Changed upper level massing of Building C, and reducing the setback from 3m to 2m, measured from Falcon Street.
- Reduction in building height of Building D from 3-storeys to 2-storeys plus a pitched roof.
- Reduced Building D rear setback from 2m to 1.5m, measured from Hayberry Lane.
- Reduction in on-site car parking from 121 down to 94 spaces.
- Increased deep soil area.

Following receipt of the amended documentation, further issues were raised with the applicant and these included the proposed height and scale of the proposal, DCP issues and concerns including proposed parking rates and concerns with the proposed terms of the VPA offer.

In response to Council resolution 1(d), Council write to TfNSW seeking feedback on the car access arrangements proposed for the site. This was received on 23 April 2020 and in-principle

support was provided to the proposed access arrangements. This would be the subject of further formalisation and design detail at the DA stage.

Revised Planning Proposal

On 5 June 2020, Council received a further revised Planning Proposal (attachment 1). As lodged, the revised proposal seeks to amend the originally proposed controls, with the main changes of note being the reduction in overall maximum height of 24.5m down to 21m and the addition of a site-specific provision to allow minor exceedances of the Height of Building control to facilitate access to a rooftop communal area on building 'B'. The concept plans also indicated increases in various setbacks and other design changes to reduce overshadowing. The revised proposal seeks to make the following amendments to the North Sydney LEP:

- Rezone the site from B4 – Mixed Use to R4 – High Density Residential;
- Increase the maximum building height from 10m to part 21m and part 14.5m;
- Apply a maximum floor space ratio control of 1.85:1;
- Remove the current non-residential floor space requirement applying to the site; and
- 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.

A numerical overview of the revised concept scheme is provided below:

Height	21m
Gross Floor Area (GFA)	7,945m ² <ul style="list-style-type: none"> • 7625m² residential (approx. 77 apartments, 8 townhouses) • 320m² non-residential
Non-Residential FSR	NIL
Floor Space Ratio	1.85:1
Whole of building setbacks	<p>Falcon Street – Building A – Nil Building B – Nil Building C – 2m</p> <p>Alexander Lane – Building A – 6m</p> <p>Hayberry Lane – Building A – 3m Building B – 3m Building D – 1.5m</p>
Above podium setbacks	<p>Falcon Street – Building A – Nil Building B – Nil</p> <p>Alexander Lane –</p>

Height	21m
	<p>Building A – 9m</p> <p>Hayberry Lane –</p> <p>Building A – 3m to 2/3 storey component, 8m to 4/5 storey component, 18.5m to 6 storey component.</p> <p>Building B – 3m to 2/3 storey component, 8.1m to 3/4 storey component, approx. 17m to 4/5 storey component, approx. 23.4m to 6 storey component.</p> <p>Building D – 1.5m</p>

The revised Planning Proposal was also accompanied by a draft Voluntary Planning Agreement (VPA) that proposes to provide monetary and in-kind contributions to Council. These include:

- A monetary contribution of \$800,000 towards increased open space opportunities (e.g. Hume Street Park upgrade), payable to Council.
- Land dedication including embellishments to the value of \$330,000.

A revised draft DCP was also submitted and is discussed later in this report.



Figure 2 – Indicative design of proposal as seen looking south-east toward the corner of Falcon Street and Alexander Lane (source: AJ+C 2020)



Figure 3 – Indicative design of proposal as seen looking east along Hayberry Lane (source: AJ+C 2020)

CONSULTATION REQUIREMENTS

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

It is noted that in response to Council’s resolution of 25 November 2019 the applicant held community consultation sessions on 12 January 2020 and 12 February 2020.

DETAIL

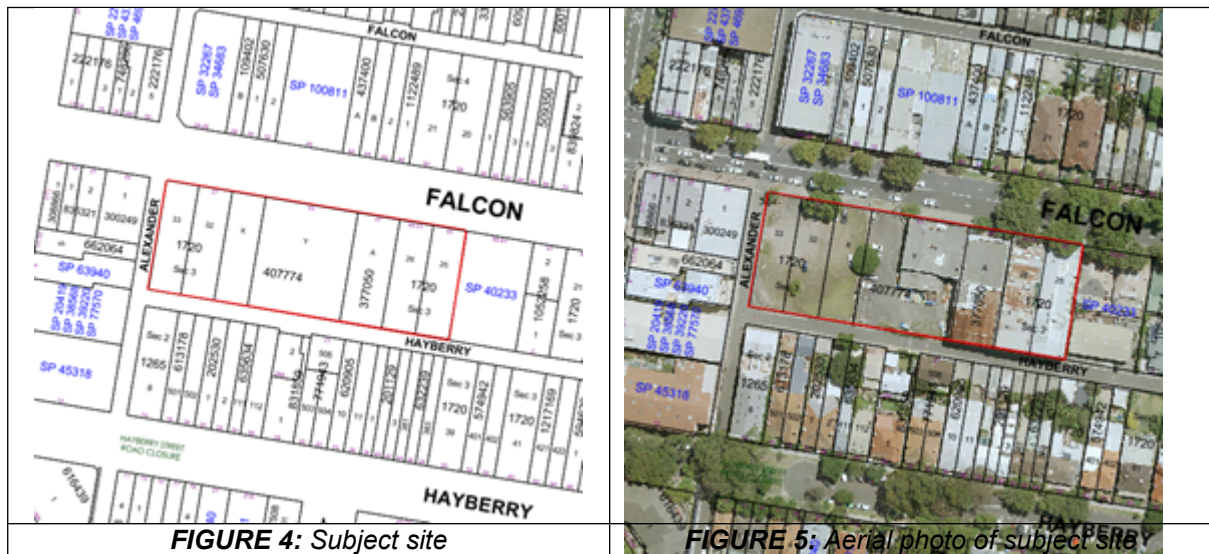
1. Applicant

The Planning Proposal was lodged by Ethos Urban Pty Ltd on behalf of Epic Leisure Pty Ltd, the applicant and owners of the subject sites at 27-57 Falcon Street, Crows Nest.

2. Site Description

The subject site comprises of seven (7) allotments of land. The legal property description and existing development is outlined in Table 1 below:

TABLE 1: Property Description		
Property Description	Legal Description	Existing development
27 Falcon Street, Crows Nest	Lot 33, section 3, DP 1720	Vacant lot
	Lot 32, section 3, DP 1720	Vacant lot
	Lot X, DP 407774	Vacant lot
43 Falcon Street, Crows Nest	Lot Y, DP 407774	Two storey red brick building
47 Falcon Street, Crows Nest	Lot A, DP 377050	Two storey building
49-51 Falcon Street, Crows Nest	Lot 26, Section 3, D1720	Three storey building
55-57 Falcon Street, Crows Nest	Lot 25, Section 3, SP 1720	Three storey building



The subject site is bound by Falcon Street to the north, Hayberry Lane to the south, Alexander Lane to the west and 59 Falcon Street to the east (refer to Figures 4 and 5). It is rectangular in shape with a frontage of approximately 110m to Falcon Street and Hayberry Lane and a depth of 40m along Alexander Lane. The site is 4,325m² in area. The land falls approximately 6.48m across the site from the high point at Alexander Lane and Falcon Street to low point on southern boundary.

The site consists of three vacant lots which previously included a service-station. The eastern portion of the site contains three older style commercial buildings which range from 2-3 storeys in height (refer to Figures 6 and 7).



FIGURE 6: Photo of subject sites from Falcon Street (source: Ethos Urban)



FIGURE 7: Photo of subject sites from Hayberry Lane (source: Ethos Urban)

3. Local Context

The subject site is centrally located within Crows Nest, which is identified as being within the eastern economic corridor under the relevant Regional Plan (A Metropolis of Three Cities) and North District Plan. The area is situated on the south-eastern edge of the commercial and retail precinct of the Crows Nest town centre. The surrounding area includes low scale older style commercial buildings and residential development including the Holtermann Estate Heritage Conservation Area to the south of the site.

St Leonards Railway Station is located approximately 1km walk to the north-west of the subject site, which provides regular services to the south to North Sydney and Sydney CBD, and to the north to Chatswood, Macquarie Park and Hornsby. An access point to the future Crows Nest Metro Station is proposed to be located approximately 400m to the north-west of the site.

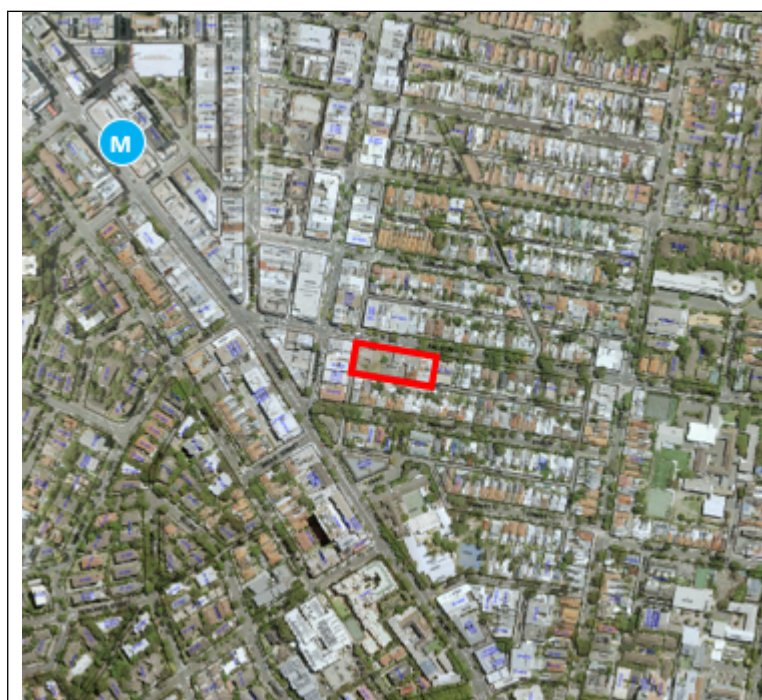



FIGURE 8: Contextual Relationships

 Subject Site

 Crows Nest Metro Station

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.

Directly across Hayberry Lane to the south are a number of low-density dwellings. These dwellings generally front Hayberry Street, and typically present garages to Hayberry Lane, however there are dwellings that front Hayberry Lane (No's 21 Hayberry Lane, 26 and 28A Hayberry Street) being located directly adjacent to the subject site and several dwellings further east along Hayberry Lane. The southern side of Hayberry Lane is a heritage conservation area, that extends from Hayberry Lane to Emmett Lane, bound by Alexander Lane to the west.

To the North of the site (across Falcon Street) are several two to three storey commercial and retail developments. The building heights along this section of Falcon Street generally 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.

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 (No. 59-61 Falcon Street) is currently overshadowed and dominated by the existing commercial building and has no building separation provided by the site.

4. Current Planning Provisions

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

4.1 NSLEP 2013

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

- Zoned B4 - Mixed Use (refer to Figure 9);
- A maximum building height of 10m (refer to Figure 10);
- A minimum non-residential floor space ratio of 0.5:1 (refer to Figure 11).

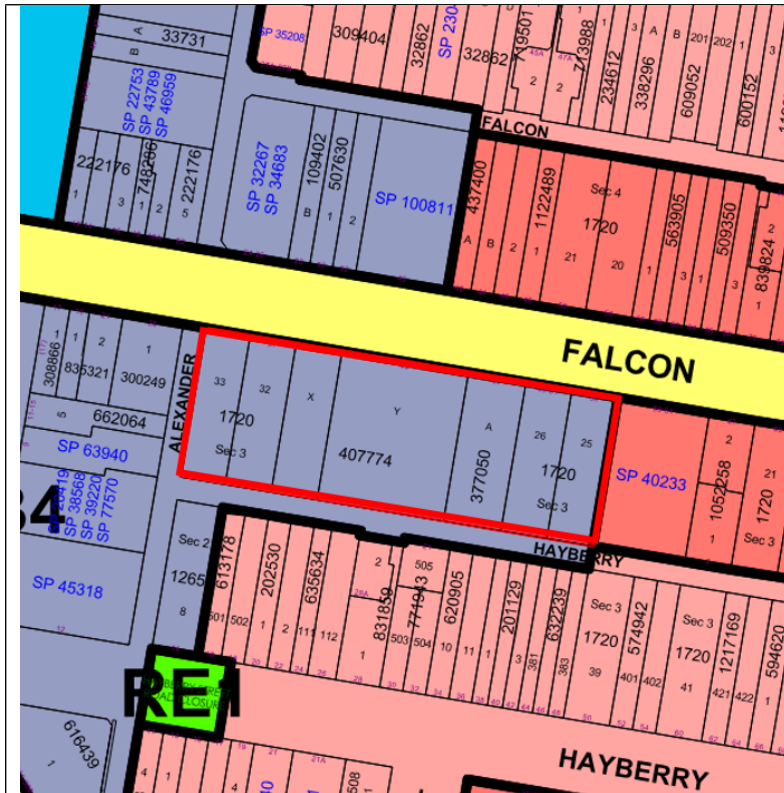


FIGURE 9: NSLEP 2013 Zoning Map extract

The subject site is zoned B4 – Mixed Use

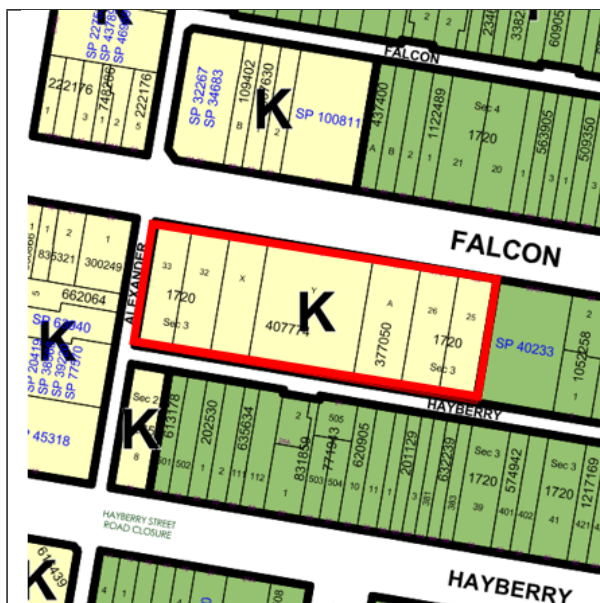


FIGURE 10: NSLEP 2013 Height of Buildings Map extract

The subject site has a maximum height of 10m

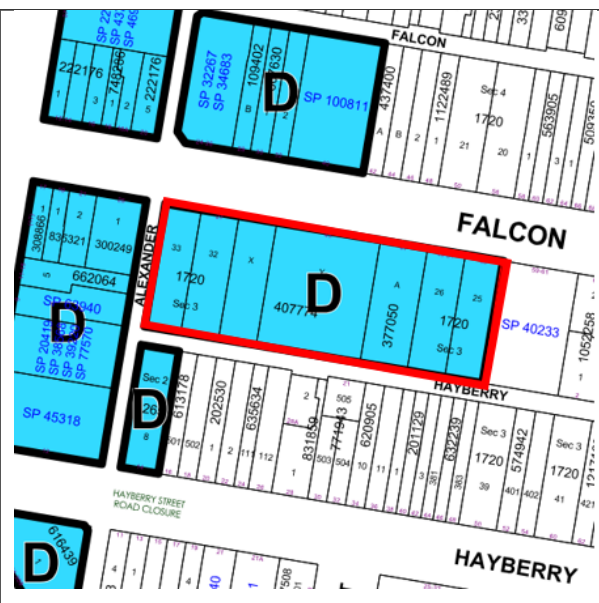


FIGURE 11: NSLEP 2013 Non-residential Floor Space Ratio Map extract

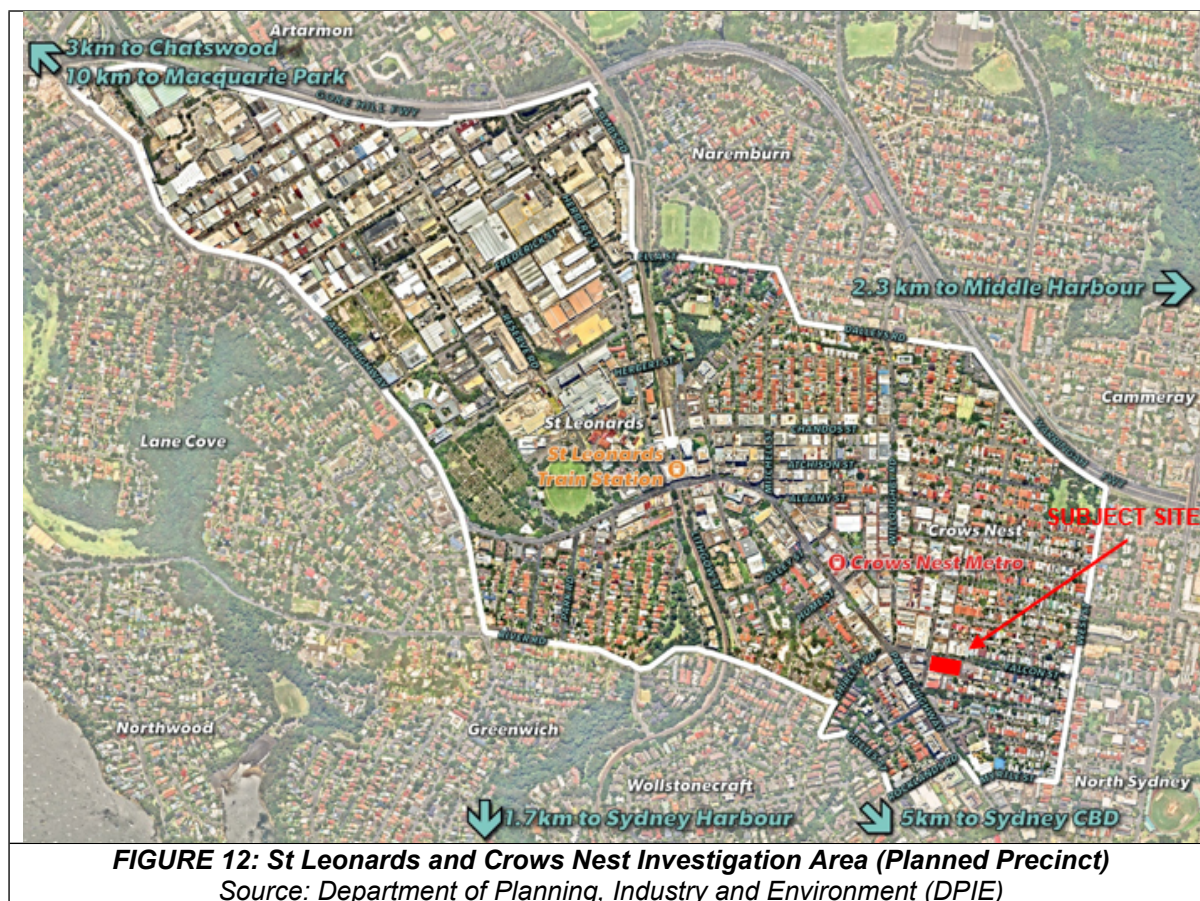
The subject site must provide a minimum non-residential residential floor space of 0.5:1

4.2 St Leonards and Crows Nest Draft 2036 Plan (2018)

In July 2016, the Minister for Planning announced that the Department of Planning, Industry and Environment (DPIE) would undertake a strategic planning investigation into the Crows Nest, St Leonards and Artarmon industrial areas (refer to Figure 12).

On 15 October 2018, the DPIE released the draft *St Leonards and Crows Nest 2036 Plan* (draft 2036 Plan) and a suite of supporting documents for public exhibition. The draft 2036 Plan aims to deliver significant residential and employment growth within the precinct, principally as a result of the new Crows Nest Metro station opening in 2024. The draft 2036 Plan identifies desired building heights, density (FSR), employment (non-residential FSR), land use, overshadowing and building setback controls. It also includes a draft Special Infrastructure Contribution (SIC) to fund a variety of infrastructure projects.

The subject site is identified as having no change to the site under the draft 2036 Plan.



4.3 Department of Planning and Environment Led Planning Process

Whilst the site was examined during the wider precinct study, it was not the focus of the Department's work nor was any detailed urban design and land use analysis the subject of discussion with Council. With the exception of the nearby 'Five-ways triangle site' all areas surrounding the site are identified to retain existing planning controls under the draft plan.

Since the commencement of the Department's work on the St Leonards Crows Nest priority precinct, the Department has facilitated the progression of several site-specific planning proposals within the North Sydney and Lane Cove Council areas. The sites that have progressed have been consistent with either Council led strategic planning work and/or the Department's Draft Plan.

4.4 Council Moratorium on Planning Proposals

On 30 July 2018, Council resolved to only accept Planning Proposals involving a residential use where located within and consistent with a Council endorsed planning study. At this meeting, Council resolved to write to the Minister seeking an exemption whereby any proposals would not be able to be the subject of a re-zoning review. Council wrote to the then planning Minister following this resolution and is yet to receive a written decision in regard to this request. It was advised, however, that a decision would be made following receipt of advice from the Greater Sydney Commission.

As mentioned, this site was within an area that underwent some preliminary review by Council officers before the precinct was declared a 'Priority Precinct' by the State Government in July 2016. Had the work been progressed further by Council, a clearer vision and objective for any growth would have been established.

The site in question is over 4,300m² in area and whilst partially occupied by four relatively unremarkable commercial buildings, has remained underutilised/vacant for well over 15 years. This is considered a unique site and circumstance which is very unlikely to be replicated elsewhere in the precinct. The progression of a well-considered development on this unique site, which is in close proximity to local services and transport is, at a high level, supported.

5. Proposed LEP Amendment

The Planning Proposal seeks to achieve the intended objectives and outcomes by amending NSLEP 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 ratio 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
- Include a site-specific provision under Part 6 Division 2 of the LEP to allow minor exceedances to the Height of Building control to facilitate access to roof / lift overrun.

5.1 Mapping Amendments

The proposal requires a number of mapping amendments which are described in further detail below:

5.1.1 Floor Space Ratio Map

It is proposed to amend the *Floor Space Ratio Map* (ref: 5950_COM_FSR_001_010_20200508) to NSLEP 2013 such that a maximum FSR of 1.85:1 applies to 27-57 Falcon Street, Crows Nest.

5.1.2 Land Zoning Map

It is proposed to amend the *Land Zoning Map* (ref: 5950_COM_LZN_001_010_20200508) to NSLEP 2013 such that the zone R4 applies to 27-57 Falcon Street, Crows Nest.

5.1.3 Height of Buildings Map

It is proposed to amend the *Height of Buildings Map* (ref: 5950_COM_HOB_001_010_20200508) to NSLEP 2013 such that a maximum building height for 27-57 Falcon Street, Crows Nest is increased from 10m to partly 14.5m and partly 21m.

5.1.4 Non-residential Floor Space Ratio Map

It is proposed to amend the *Non-residential Floor Space Ratio Map* (ref: 5950_COM_LCL_001_010_20200508) to NSLEP 2013 such that the non-residential FSR requirement be removed from 27-57 Falcon Street, Crows Nest.

The applicant's Planning Proposal anticipates that the Maps would be amended similar to those depicted below (refer to Figures 13, 14, 15 and 16).

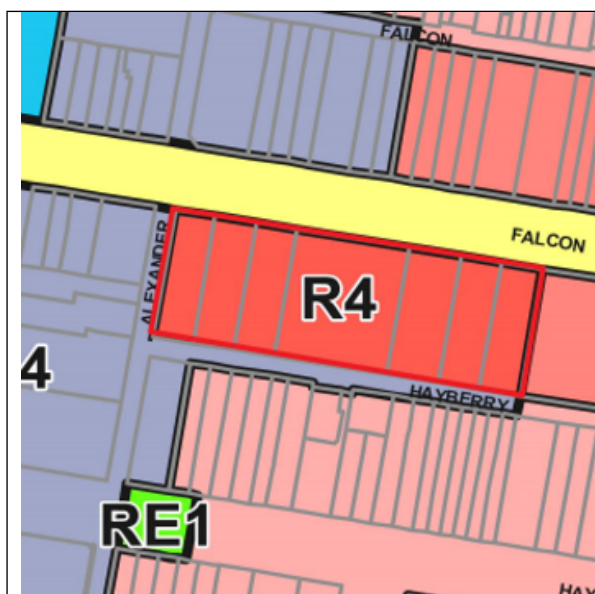


FIGURE 13: Proposed amendment to Land Zoning Map - Sheet LZN_001 Land subject to a change in land zone.

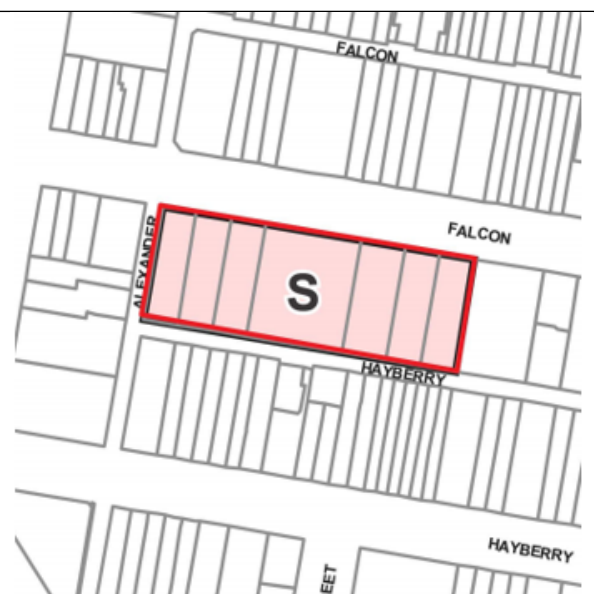







FIGURE 14: Proposed amendment to Floor Space Ratio Map FSR_001 Land subject to a change in maximum Floor Space Ratio.

 B4 (existing)	 S (new)
 R4 (new)	 Subject Site
 Subject Site	

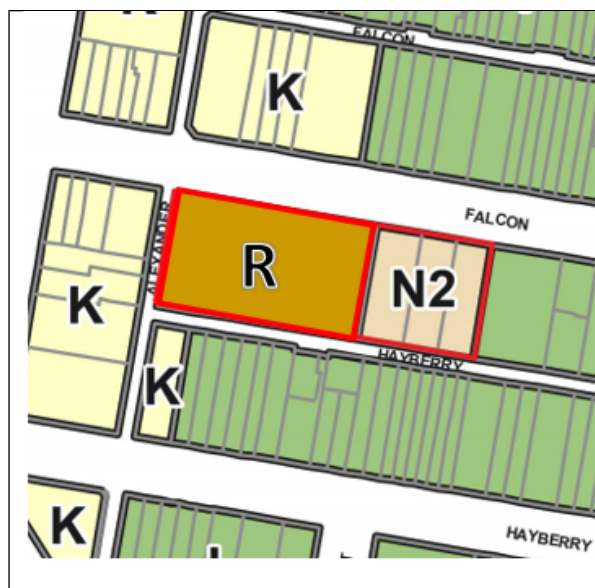



FIGURE 15: Proposed amendment to Height of Building Map HOB_001 Land subject to a change in maximum building height.

 K	10m (existing)
 N2	14.5m (new)
 R	21m (new)

 **Subject Site**

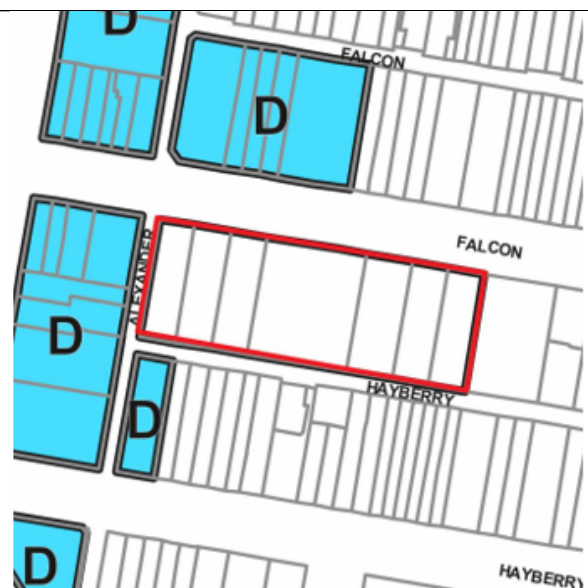


FIGURE 16: Proposed amendment to Non-Residential Floor Space Ratio Map LCL_001 Land subject to a change in Non-Residential Floor Space Ratio.

 **Subject Site**

6. Draft Voluntary Planning Agreement (VPA)

A draft VPA (refer to Attachment 4) has been provided by the applicant which offers to provide:

- A monetary contribution of \$800,000 towards increased open space opportunities (e.g. Hume Street Park upgrade), payable to Council.
- Land Dedication including Embellishments estimated to have a value of \$330,000 (beyond typical civil works required under a Development Application).

The total value of the proposed offer is calculated to be in the order of \$1.13 million.

In consideration of Planning Proposals seeking uplifts in development controls, Council undertakes an evaluation of the value of the development extent available under the current planning controls and those being sought.

The value of the proposed offer is calculated as representing approximately 35% of the land value uplift between the current controls and the proposed controls. In this circumstance, having regard to Council not acting to unduly restrict the viability of re-development of the site, this is considered a reasonable offer.

To allow the community a full appreciation of what is being proposed, the draft VPA is recommended to be exhibited concurrently with the Planning Proposal.

7. Planning Proposal Structure

The Planning Proposal (refer to Attachment 1) is considered to be generally in accordance with the requirements under s.3.33 of the Environmental Planning and Assessment (EP&A) Act 1979 and the DPIE's 'A Guide to Preparing Planning Proposals' (August 2016).

The Planning Proposal adequately sets out the following:

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

8. Justification of the Planning Proposal

8.1 Statement of Objectives and Intended Outcomes

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

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.

The proposed amendments to NSLEP 2013 generally achieve the objectives and intended outcomes of the Planning Proposal as the proposal will;

- Contribute to housing demand and targets identified,
- Provide housing in close proximity to public transport,
- Deliver significant public domain improvements including active street frontages and high quality public domain,
- Contribute to the rejuvenation of Crows Nest by encouraging and supporting development activity.

8.2 Building Typology and Relationship to Zoning

Under the current B4 Mixed Use zoning, the current planning controls (LEP & DCP) lend themselves to redevelopment of sites where buildings occupy almost the entirety of the site. This is common in local centres where retail/commercial uses occupy the majority of the site and often contain servicing/access functions to the rear.

The application site is unusual in that at 4325m², it is uncommon for sites of this size to be redeveloped as a whole (when viewed against other comparable local centres in the North Sydney LGA).

The Planning Proposal seeks to change the zone from B4 Mixed Use to R4 High Density with an allowance for a small component of retail floorspace (340m²) to be located on the Northwestern corner of the site.

Accompanying the Planning Proposal is a reference design which seeks to demonstrate how the site may be able to be re-developed under the planning controls sought. This reference design is provided at Attachment No 2 and relevant extracts are provided further below. The indicative scheme includes a total of eighty-seven (87) dwellings.

The building form presented for buildings 'A' & 'B' are more consistent with the B4 Mixed Use typology and zone objectives. Buildings C & D are more consistent with the R4 High Density Residential typology and objectives.

As a result, the overall scheme proposes a site coverage of 59% (approx. 2,537m²) whereas the DCP identifies a maximum site coverage of 45% (1,935m²) for R4 High Density development.

With respect to Landscaped Area, the proposal includes 19% landscaped area (817m²) which is less than Councils' DCP control for residential flat buildings of 40% (1,720m²). It is noted that in order to be considered landscaped areas under councils DCP, a minimum soil depth of 6m is required. If areas of lesser depth (as identified under the reference design) were to be included the total landscaped area this would equate to some 30% (see figure 17 below).



Figure 17 – Reference design landscape plan

Notwithstanding the non-compliances, given the site's location, it is reasonable to consider that the site presents as a transition between the 'centre' character element of the site and the surrounding lower density development.

The proponent has submitted an assessment against a complying development scheme (under the current controls) if the site were to be redeveloped under the current B4 – Mixed Use provisions. The 'compliant' scheme would potentially result in a commercial building being built to all lot boundaries albeit at a lower height, creating a large expanse of covered area without separation or landscaped relief. When taking this into consideration, and the accepted approach of providing a mixed building typology on the site, in response to its transitional nature, the proposed landscaped provisions are considered reasonable.

It is considered that the proposed landscaping and site coverage in this instance is acceptable and will result in an appropriate balance between built form and open space that aligns acceptably with the desired future character of the Crows Nest centre and surrounds.

8.3 Proposed Building Height

Below is an extract of the proposed building heights (in storeys) over the site.

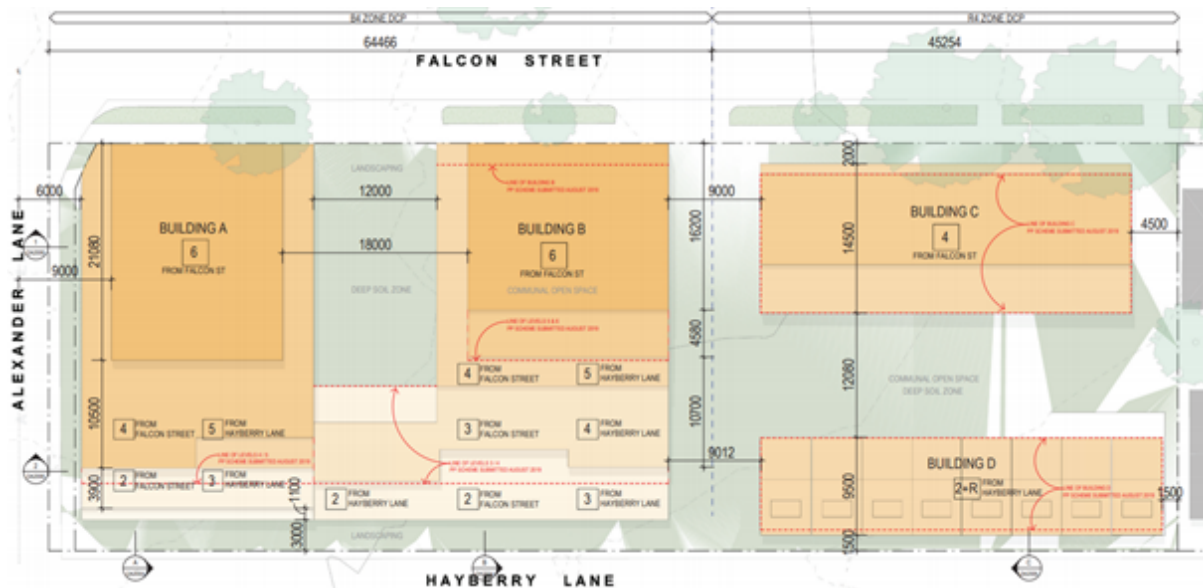


Figure 18 – Reference design indicating proposed building heights

The proposed increase in building height to (up to 6 storeys) is proposed at Buildings ‘A’ and ‘B’ at the Falcon Street frontage of the site. These buildings then step down in height to 4 & 5 storeys then to 2 and 3 storeys at the Hayberry Lane frontage of the site. These buildings are connected at the lower levels.

Proposed building ‘C’ presents to Falcon Street at 4 storeys in a more typical Residential Flat Building form and proposed building ‘D’ is two storeys plus attic and addresses Hayberry Lane in what is described as a ‘row’ or ‘mews’ style typology.

As mentioned previously, the site is surrounded by development of a lower scale (single and two storey) to the rear and east. Development to the west is generally in the order of 3 storeys with some buildings containing 4-5 storeys.

Given the concept of the provision of taller building elements being located towards the Falcon Street frontage and Alexander Lane end of the site, then transitioning down to lower scale areas, the proposal is considered to have merit. Due to the potential amenity and character issues arising as a result of increased building height the degree of transition (i.e. gradual or sharp) is discussed in more detail under the heading below.

It is noted that the proposed building height sought in the planning proposal is up to 21m. This building height is comparable to that typically applied to a six storey building. Notwithstanding this, it is noted that a site-specific provision has been included which allows for lift-access and mechanical plants to exist at a height above 21m, reflecting the proposed lift access to a roof top communal open space area Building ‘B’ as well as providing considerable allowance for the sloping nature of the site and what appears to be an over-height servicing/access provision within Building ‘A’.

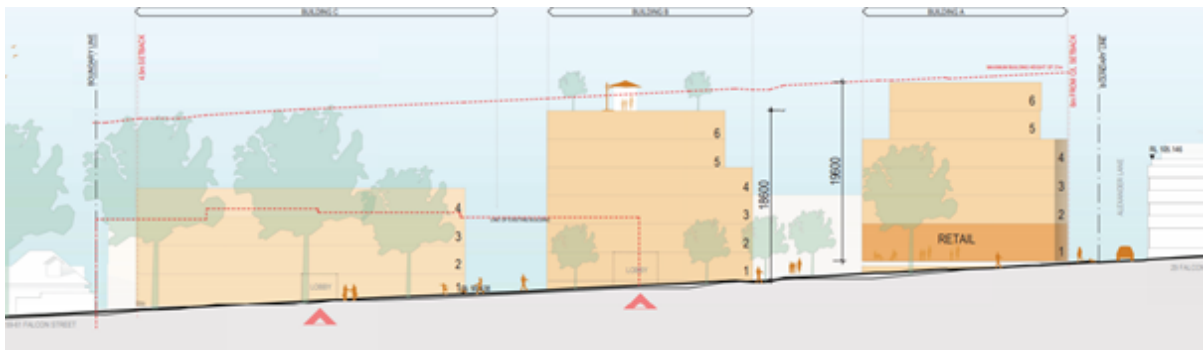


Figure 19 – Proposed building envelopes – Falcon Street frontage.

8.4 Transition in Scale to Surrounds

Below are a series of sections demonstrating the relationship in scale of the proposal to the low scale residential development to the south. The location of each section or ‘slice’ through the buildings is labelled below and is also indicated in Figures 18 and 19.

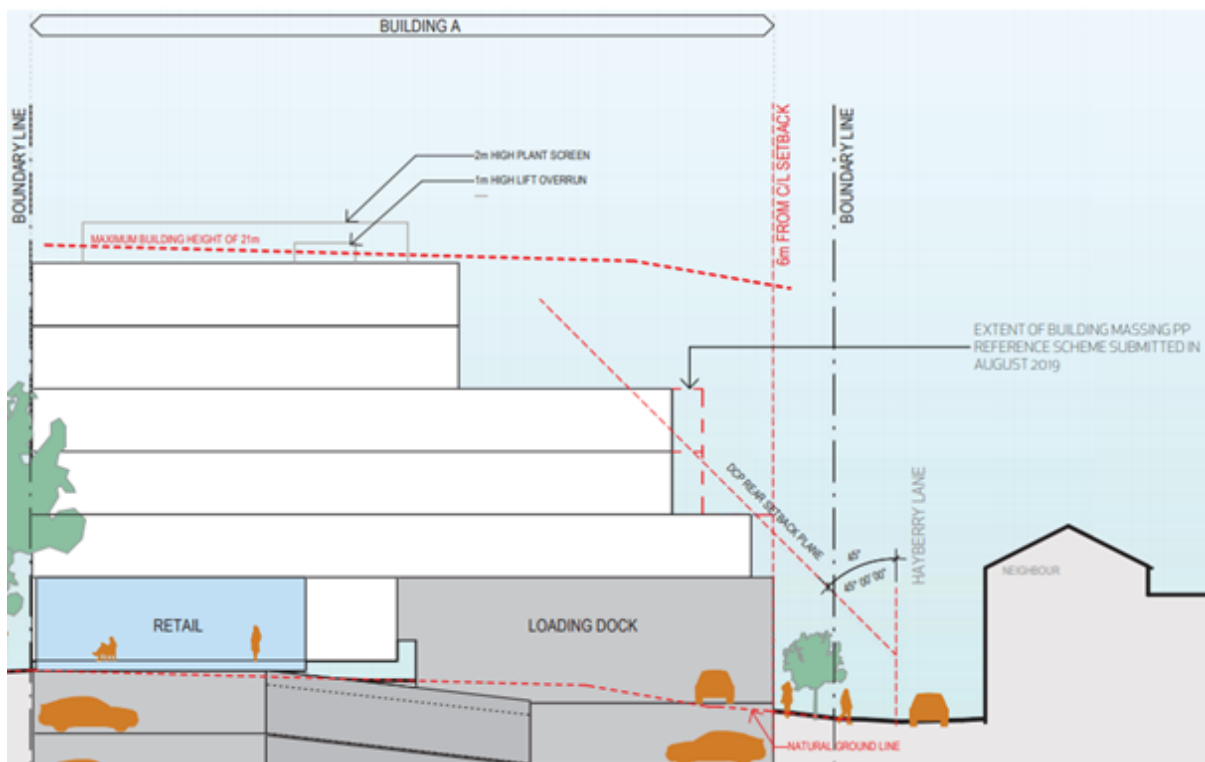


Figure 20 – Section ‘A’ indicating relationship of proposed building ‘A’ to Hayberry Lane (looking east)

Hayberry Lane is a low scale residential laneway that contains numerous outbuildings/garaging servicing the rear of properties facing Hayberry Street and Falcon Street. The majority of these are single storey structures. Along its length, however, it also contains several dwellings that address and face Hayberry Lane. These are generally of a two storey scale. The dwellings addressing Hayberry Lane, in closest proximity to the site, include No’s 21, 26 and 28A Hayberry Lane.

The revised concept scheme includes an increased setback to the upper levels of buildings 'A' and 'B' and slight reduction in height and increased setback to roof plane of building 'D'. This acts to reduce some of the apparent bulk as viewed from Hayberry Lane, with building D presenting as a two storey form with an attic / roof area above.

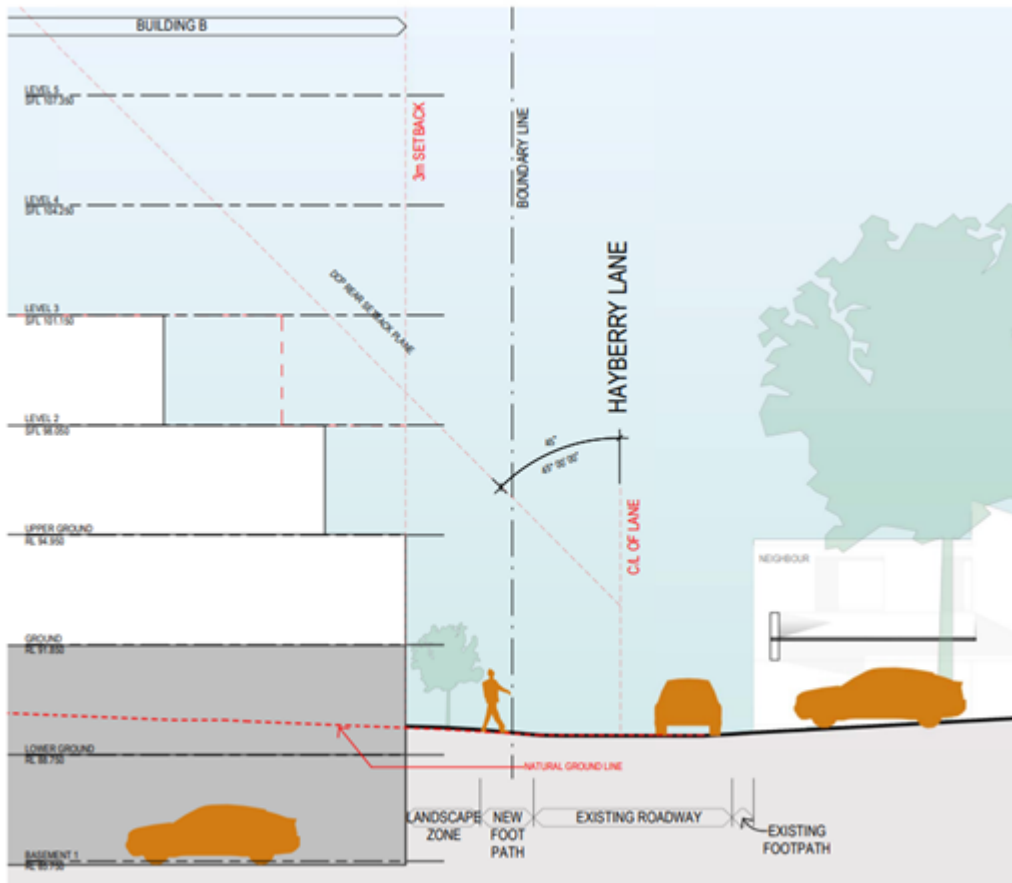


Figure 21 – Section 'B' indicating relationship of proposed building 'B' to Hayberry Lane (looking east)

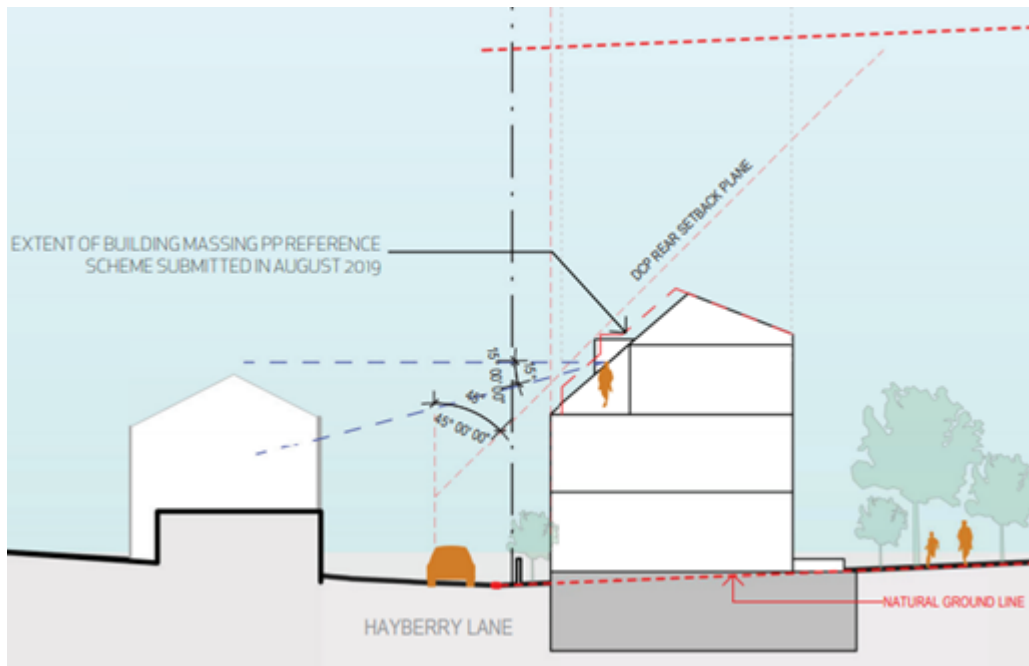


Figure 22 – Section indicating relationship of proposed buildings ‘D’ to Hayberry Lane and C to Falcon Street (looking west).

The previous scheme (2015) was provisionally supported subject to the provision of a rear boundary setback of 12m to Hayberry Lane with the exception of the first 20m of the site (measured from Alexander Lane). Whilst the proposal in this instance does not reflect the same setback, the building form with a concentration of massing on the Falcon Street / Alexander Lane corner graduating down toward Hayberry Lane and sites to the east then considered an appropriate reflection of the transitional nature of the site. Furthermore, the proposed draft DCP provides greater clarity on building height and setbacks which will act to ensure any future development applications respects the transitional nature of the site.

8.5 Proposed Floor Space Ratio (FSR)

No specific maximum FSR currently applies to the site under NSLEP 2013. The draft St Leonards and Crows Nest 2036 Plan indicates the site as ‘no change’. The Planning Proposal seeks to apply a maximum FSR of 1.85:1 (i.e. 7,965m² of GFA).

The applicant has provided a reference design which seeks to demonstrate how the site may be able to be re-developed under the planning controls sought. It is considered in this instance that the accompanying material submitted by the applicant adequately demonstrates that a building of the bulk and scale outlined in the reference scheme could be accommodated within an FSR of 1.85:1. It is noted, however, that the reference design is not a development application but rather a ‘proof of concept’ to support the proposal’s controls being sought.

It is considered that the proposed FSR can be acceptably accommodated on the site and is largely reflective of proposed heights and identified setbacks which act to restrict the allowable building envelope on site. Furthermore the draft site-specific DCP will provide additional assurance to any future development application for the site. As such the proposed FSR of 1.85:1 is considered to be appropriate for the site.

8.6 Heritage Consideration

Hayberry Lane is an important element for the role it plays in defining the northern edge of the 'Holtermann Estate C' Conservation area and as an access link (both pedestrian and vehicular) to and from the Crows Nest Town Centre. The lane itself provides a separation between (future) new built forms and the conservation area. Following concerns raised regarding the original proposal and its potential to impact the conservation area, the revised proposal has included an increased setback of the upper levels to Buildings 'A' and 'B' to Hayberry Lane along with a further setback to the roof plane of Building D to Hayberry Lane. Whilst these do not entirely alleviate concerns relating to views to and from the conservation area, they act to increase solar access to properties to the south of the site and further reduce the impact associated with the bulk and scale of the proposal.

Furthermore, the proposed streetscape improvements along Hayberry Lane including the provision of a footpath and vegetation will act to reduce the apparent bulk of the proposal as compared to the structures along Hayberry Lane and will generally improve the streetscape character.

Further details on opportunities to soften the interface and impact should be provided at a development application stage.

8.7 Alternative Options

The DPIE's 'A Guide for Preparing Planning Proposals' (2016) requires Planning Proposals to consider if there are alternative options to achieving the intent of the proposal.

The Planning Proposal considers three alternate options, these include the following (as described by the applicant):

- **Option 1: 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;

- **Option 2: 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;

- **Option 3: 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.

The Planning Proposal acknowledges that without establishing a new building height control, the proposed Design Concept for the site cannot be achieved. The intent of the Planning Proposal cannot be achieved through the application of clause 4.6 - Exceptions to development standards under NSLEP 2013 due to the extent of height increase sought.

Leaving the controls in their current state would most likely result in the site remaining underdeveloped given the prolonged history of the site. Furthermore the site is considered to have the ability to support additional floorspace given its relative proximity to the Crows Nest metro station and numerous existing bus services.

As such, the proposed means of amending the Height of Building, FSR and non-residential FSR maps to permit additional height and floorspace on the site are considered the most appropriate means of achieving the intent of the Planning Proposal.

8.8 Environmental Impacts

The Planning Proposal identifies foreseeable impacts that will result from the proposed increase in the height control. As outlined in sections below, the applicant has gone to some effort to document expected overshadowing and associated impacts as detailed within the attached Planning Proposal and accompanying Indicative Design documents.

8.8.1 Overshadowing

Council's current planning controls identify the need to provide for at least 3 hours sunlight to the north facing living areas and areas of open space of surrounding dwellings. This approach is also re-enforced within the 'Built Form Actions and Recommendations' section of the draft 'St Leonards Crows and Crows Nest 2036 Plan.'

The documentation accompanying the Planning Proposal includes a solar access analysis of the proposed built form. A review of this reveals that the proposed development would result in overshadowing to:

- 9 Alexander Lane – reduces solar access to private open space (POS) of three lower level apartments;
- 26, 28A and 21 Hayberry Lane which have primary frontages to Hayberry Lane; and
- Rear gardens of Hayberry Street properties.

Whilst the specific impacts of overshadowing may be further interrogated in detail in a development application process, the extent of overshadowing is a direct product of the proposed increased building height and massing. It is therefore incumbent on the applicant in a Planning Proposal process to demonstrate why a proposed change to planning controls will result in an at least acceptable, if not improved, amenity outcome to surrounding properties.

The applicant's shadow analysis demonstrates that in mid-winter the reference design will impact solar access to the properties to the east on Alexander Lane and to those properties fronting onto Hayberry Lane, however will result in a reduction in overshadowing to the rear of properties further east along Hayberry Lane as compared with the existing commercial building on site.

Regarding the properties fronting Hayberry Lane, it is acknowledged that it is difficult to retain solar access to north facing windows and private open space given the unusual alignment of these properties fronting to the rear lane of a commercial area. The proposal seeks to retain a reasonable level of solar access to portions of the front yard and north facing windows with the building massing being distributed such that each of the impacted single residential dwellings still maintain a minimum 4m² of area receiving 3-hours of sunlight in mid-winter with the separation between building B and D creating a window of sunlight. Further articulation may provide additional solar access to sites to the rear and this may be further assessed at any future development application stage.

Similarly, in relation to the properties to the west of the site fronting Alexander Lane, these properties are orientated to the east being across from a commercial laneway and as such it would be difficult to maintain complete solar access to these properties even with a design compliant with the existing controls on site. Further articulation to the south-western corner of building A would create additional opportunity for solar access and should be considered at any future development application stage.

Council is satisfied that this should not preclude the Planning Proposal progressing to a Gateway Determination, but detailed design work will need to consider and respond to this impact at any future development application stage.

8.8.2 Views

The proposal is located on the periphery of the existing Crows Nest centre, with the site and surrounds having a relatively gentle slope. The existing vacant lot on the site provides somewhat of an outlook (albeit relatively unsightly) to residents to the north of the site across Falcon Street. This outlook would not be retained under current controls. It is considered that the increased height and density will have some unavoidable impact on the outlook and any wider district views available from surrounding taller buildings.

Taking these points into account and the built form envisaged by the Civic Precinct Planning Study, Council is satisfied that likely view impacts are acceptable in an emerging environment of increased development intensity.

8.8.3 Setbacks

The reference design includes indicative setbacks to all frontages and between building elements on the site. These are included in Figure 16 within this report and also contained within Attachment 2. In a planning proposal seeking a change in land use and increase in scale and density on a site, the current DCP controls do not strictly apply. They do, however, form a useful guideline to establish principles to assist in the assessment of amenity impacts and guide any future development application process. Further, the Apartment Design Guidelines are applicable to any future development application process and should frame design development.

Following Council's initial consideration of the proposal in November 2019, the revised scheme has been the subject of several meetings with Council staff and it is now considered generally consistent with the type of development to be expected within a transitional area and should not preclude the Planning Proposal progressing further.

8.8.4 Privacy

The reduced reference design includes one elevated communal area of open space within building 'B' (previously two spaces were proposed). Notwithstanding the indicative landscape screening treatment to these areas, the elevated siting of these spaces may give rise to acoustic and visual privacy concerns (Refer Figures 25 below).

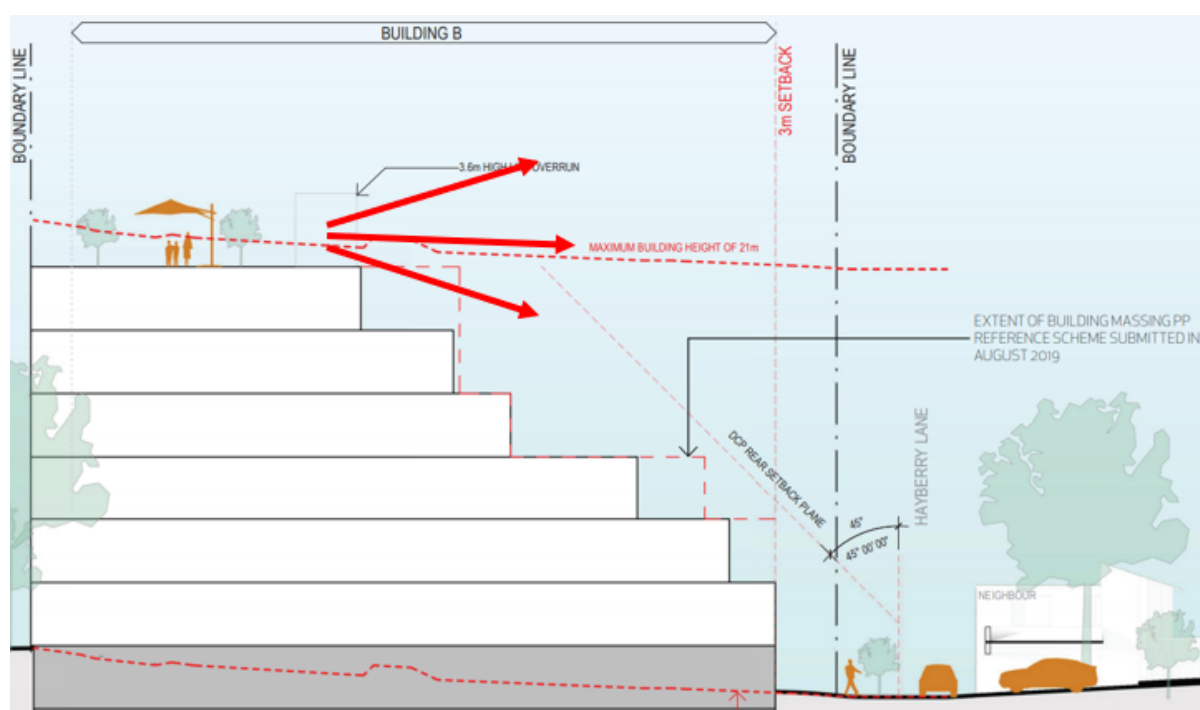


Figure 23 – Section showing rooftop areas of proposed building 'B' looking east along Hayberry Lane (red arrows added for view analysis).

Whilst the use of roof top areas for open space is not uncommon in higher density established centers, this is typically only pursued where ground or podium level open space is not available. Given the site's proximity to a low-density residential area, the applicant has deleted a second rooftop area proposed under a previous revision of the proposal and has reduced the depth of the remaining space to create greater separation.

Through the introduction of planters of substantial width this should be acceptable, however, should be further assessed in detail at any future development application stage.

Council is satisfied that this matter can be addressed in greater detail in any future development application and should not preclude the Planning Proposal progressing further.

8.8.5 Wind

As outlined in the draft 2036 Plan under the area wide design principles for 'place', new developments are expected to have consideration to wind impacts demonstrated through a wind assessment.

The applicant has not provided a formal wind assessment at this stage, but the Planning Proposal's Concept Plan illustrates that the intended built form will incorporate an awning which will mitigate wind impacts on the public domain. Further, the proposal at maximum 6 storeys in height is less likely to create adverse wind impacts than tall sheer tower forms.

Council is satisfied that this matter can be addressed in greater detail in any future development application and should not preclude the Planning Proposal progressing further.

8.8.6 Parking and Transport implications

The draft DCP proposes up to 94 car spaces being provided on site, which is lower than the current NSDCP controls for R4 sites which would allow for up to 122 cars on site. This is higher than St Leonards Crows Nest Planning Studies Study stages 2/3 which would allow for a maximum of 62 car spaces on site.

Part of the strategic justification for provision of additional dwellings on this site is its close proximity to services and transport (current and future). The reference scheme provides for what is considered an excessive number of parking spaces (94 in total). Vehicular access to servicing, visitor and resident parking is proposed from Alexander Lane, however, concern is raised that the oversupply of parking will lead to increased localised car movements and congestion and be contrary to principles of environmentally sustainable and transit oriented development.

There is a need to balance the demand for parking spaces resulting from the development (both internally and within the surrounding area) with Council's adopted policy position with respect to increased development within the St Leonards Crows Nest Area as well Council's Transport Strategy.

The applicant has indicated a preference for provision of a higher number of spaces. It is recommended that the DCP be exhibited at the lower rate and for Council to have the benefit of community input before a final decision is made in this regard.

8.8.7 Access

Concern has been raised with respect to the proposed access arrangement from Alexander Lane. This would require the widening of this lane and the provision of two way movement (currently one way north bound). In light of this, Council resolved at its meeting of February 2020 to seek input from TfNSW.

This was received on 23 April 2020 and in principle support given to the proposed access arrangements. This would be the subject of further formalisation and design detail at the DA stage.

8.9 Policy and Strategic Context

8.9.1 Section 9.1 Ministerial Directions – Change from B4 to R4 Zone

Section 9.1 of the EP&A Act enables the Minister for Planning to issue directions regarding the content of Planning Proposals. There are a number of Section 9.1 Directions that require certain matters to be addressed if they are affected by a Planning Proposal. Each Planning Proposal must identify which Section 9.1 Directions are relevant to the proposal and demonstrate how they are consistent with that Direction.

The Planning Proposal is considered to be generally consistent with all relevant Ministerial Directions, with the exception of *Direction 1.1 – Business and Industrial Zones* as discussed below.

Direction 1.1 – Business and Industrial Zones

Direction 1.1 – Business and Industrial Zones applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed business or industrial zone.

The current controls applying to the site require a minimum non-residential floorspace ratio of 0.5:1. On a site this size this equates to approximately 2150sqm of floorspace.

One of the key considerations in any proposal seeking to amend planning controls from a Business zone to a residential zone is the potential impact on loss of employment opportunities. This is a mandated requirement that is outlined in considerable detail in the relevant Ministerial Direction issued under section 9.1 of the Act - previously section 117(2). The key objectives under this direction include;

- a. Encourage employment growth in suitable locations*
- b. Protect employment land in business and industrial zones*
- c. Support the viability of identified centres*

Subsection 4 of the Ministerial Direction states; (**emphasis** added)

A planning proposal must:

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

Section 5 of the Ministerial Direction then states;

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

(a) justified by a strategy which:

- i. gives consideration to the objective of this direction, and*
- ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
- iii. is approved by the Secretary of the Department of Planning and Environment, or*

(b) justified by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction, or

(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning and Environment which gives consideration to the objective of this direction, or

(d) of minor significance.

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

The Proposal is accompanied by an economic report which includes a detailed analysis of the current market conditions (on a sector basis), the site and the overarching objective and role of employment floorspace in the context of the centre function and hierarchy of St Leonards (Strategic) and Crows Nests (Local). The report concludes that the re-development of the site in the manner proposed will not compromise the identified additional jobs targets for Crows Nest.

Under the current controls, the site would likely only be able to accommodate retail uses on the ground floor and does not lend itself to a purely commercial development being progressed on the site. The implications and inter-relationship of the quantum and location of provision of retail floorspace is also explored in the accompanying study.

Whilst the previous planning proposal was never formally progressed, Council officers did, in the report to Council (CiS03 - 20 July 2015), form the view that given the site's location on the periphery of the centre and attributes, that it would likely continue to struggle to deliver significant commercial floorspace.

Whilst strategic planning and policy decisions should hold a long-term outlook and not be overly reactive to short term market conditions, it is recognised that the site has been partially vacant and under-utilised for an extended period of time (some 15-20 years).

Any longer-term growth of the commercial and retail aspect of the Crows Nest town centre is not considered to be best placed in this direction. Further the state governments Draft St Leonards and Crows Nest 2036 Plan provides direction and controls in regard to this wider land use issue and does not rely upon this site for significant delivery of jobs.

Accordingly, the loss of non-residential FSR in this instance is considered to be acceptable.

8.9.2 Greater Sydney Region Plan (*A Metropolis of Three Cities*)

In March 2018, the NSW Government released the Greater Sydney Regional Plan: *A Metropolis of Three Cities* (Regional Plan). The Plan sets a 40-year vision (to 2056) and establishes a 20-year Plan to manage growth and change for Greater Sydney within an infrastructure and collaboration, liveability, productivity and sustainability framework.

The Regional Plan is guided by a vision of three cities where most people live within 30 minutes of their jobs, education and health facilities, services and great places. The Regional Plan aims to provide an additional 725,000 new dwellings and 817,000 new jobs to accommodate Sydney's anticipated population growth of 1.7 million people by 2036.

Crows Nest is identified as being within the Eastern Economic Corridor under the Regional Plan.

The Planning Proposal is considered to be generally consistent with the strategic directions, objectives and strategies of the Regional Plan, as it will:

- increase residential accommodation near the heart of a Strategic Centre in proximity of high frequency public transport, jobs and services without adversely impacting upon the provision of active street frontages; and
- maintain a level of commercial floor space that will promote job retention in the locality.

The Planning Proposal is considered to be consistent with the directions and objectives identified in the Plan.

8.9.3 North District Plan

In March 2018, the NSW Government released the North District Plan. The Plan provides the direction for implementing the Greater Sydney Regional Plan: *A Metropolis of Three Cities* at a district level and sets out strategic planning priorities and actions for the North District.

The North District Plan has also established the following housing and jobs targets:

Housing Target	North Sydney LGA	North District
5 year (2016-2021)	+3,000 new dwellings	+25,950 new dwellings
20-year (2016-2036)	Council to prepare Local Housing Strategy (LHS)	+92,000 new dwellings

Jobs Target	North Sydney LGA	North District
20-year (2016-2036)	+15,600 – 21,100 new jobs	+54,400-86,900 new jobs

The Planning Proposal is considered to be generally consistent with the planning priorities of the North District Plan, as it will:

- provide 87 new private dwellings, within close proximity to jobs, services and high frequency public transport; and

- provide 340m² of retail floorspace, which will contribute to the Crows Nest centre being located on the fringe of the commercial area;

8.9.4 Civic Precinct and Surrounds Planning Study (2020)

The draft *Civic Precinct and Surrounds Planning Study (draft study 2020)* was endorsed by Council on 18 May 2020 for public exhibition and is a relevant matter when considering a planning proposal.

The proposal's performance against these criteria, including a justification for where the concept proposal seeks to implement an alternate solution to the criteria, is discussed below.

Vision

The Planning Proposal is considered to be generally consistent with the vision of the draft 2020 study insofar as it will:

- Contribute to the modern, connected atmosphere of the precinct;
- Facilitate the generation of more journeys by walking.

Design Principles

The Planning Proposal is considered to be generally consistent with the principles of the draft 2020 study insofar as it will:

- Act to define the edges of Crows Nest Village;
- Promote housing diversity and affordability.

Design Concept

The Planning Proposal is considered to be generally consistent with the area wide design concept of the draft 2020 study insofar as it will:

- Result in a mixed use development which acts to complement the transition between the centre of the precinct and the higher density node of Crows Nest centre.

Proposed Planning Controls

No numerical planning controls have been applied to the site; however, the site is adjacent to buildings indicated for a 6 storey height limit.

The proposal is considered to generally reflect the vision and intent of the study and will result in a development that responds appropriately to the unique character of the Civic Precinct area.

8.9.5 Draft St Leonards and Crows Nest 2036 Plan

The draft *St Leonards and Crows Nest 2036 Plan* (draft 2036 Plan) requires all future planning proposals and development applications within the St Leonards and Crows Nest investigation

area to have regard to the draft 2036 Plan's vision, area wide design principles, design criteria and proposed planning controls.

The proposal's performance against these criteria, including a justification for where the concept proposal seeks to implement an alternate solution to the criteria, is discussed below.

Vision

The Planning Proposal is considered to be generally consistent with the vision of the draft 2036 Plan insofar as it will:

- Assist in achieving a vibrant community by providing an active frontage, while avoiding any significant impact on built heritage;
- Provide uplift in an accessible place and improve permeability and legibility through the provision of improved pedestrian amenity;
- Result in the creation of 87 new dwellings incorporating a mix of household sizes which will help to bring vibrancy to the outer edge of the precinct.

Design Principles

The Planning Proposal is considered to be generally consistent with the area wide design principles of the draft 2036 Plan insofar as it will:

- Apply casual surveillance and universal access principles and contribute to the improvement of the walking network through the inclusion of active street level uses and pedestrian amenity,
- Provide an adequate transition from high rise down towards existing lower scale areas so as to not adversely impact on surrounding areas,
- Result in a sufficiently articulated design which will seek to avoid creating a large street wall along Falcon Street.

Proposed Planning Controls

While it is noted that the draft Plan indicates there be 'no change' to the planning controls on the site, a merit-assessment based on vision and design controls outlined within the draft Plan has been undertaken. It is considered in this instance that the proposed controls and indicative built form are not inconsistent with the vision and design of the draft Plan and will not result in significant adverse impacts to the surrounding community.

The finalised 2036 Plan will be accompanied by a section 9.1 Direction requiring future rezoning and development to be consistent with the final Plan. The Draft Plan states that, under this Direction, Planning Proposals may be inconsistent with the Plan if, in addition to achieving the vision, objectives, planning principles and actions identified in the Plan, the proposal clearly demonstrates that better outcomes and supporting infrastructure can be delivered. For reasons outlined in the report above, the Planning Proposal demonstrates that, on balance, better outcomes and supporting infrastructure can be delivered through the proposed uplift and public benefits proposed.

8.9.6 Draft North Sydney Local Strategic Planning Statement (LSPS)

New legislative requirements introduced by the NSW Government in March 2018, require all councils to prepare a Local Strategic Planning Statement (LSPS) to guide future land use planning and development. The LSPS is required to be consistent with the Greater Sydney Regional Plan ('A Metropolis of Three Cities') and the North District Plan, providing a clear line-of-sight between the key strategic priorities identified at the regional and district level and the local and neighbourhood level.

Following the issue of a formal letter of assurance from the Greater Sydney Commission (GSC), the North Sydney LSPS was formally 'made' on 24 March 2020.

This document sets out Council's land use vision, planning principles, priorities and actions for the North Sydney LGA for the next 20 years. It outlines the desired future direction for housing, employment, transport, recreation, environment and infrastructure. The LSPS will guide the content of Council's Local Environmental Plan (LEP) and Development Control Plan (DCP) and support Council's consideration and determination of any proposed changes to development standards under the LEP via Planning Proposals.

An assessment of the proposal against relevant North Sydney LSPS local planning priorities is undertaken in Table 2 below.

TABLE 2: Compliance with draft North Sydney Local Strategic Planning Statement	
I1 – Provide infrastructure and assets that support growth and change	The Planning Proposal is accompanied by a draft VPA that proposes to provide monetary and in-kind contributions to Council, commensurate with the growth and change proposed on this site.
I2 – Collaborate with State Government Agencies and the community to deliver new housing, jobs, infrastructure and great places.	The proposal provides a housing and commercial floorspace offer that is generally consistent with that envisaged for the site and locality under the <i>North District Plan</i> , Council's Planning Study and the DPIE's draft 2036 Plan.
L1 – Diverse housing options that meet the needs of the North Sydney community	The Planning Proposal provides capacity for a residential scheme incorporating a mix of household sizes.
L2 – Provide a range of community facilities and services to support a healthy, creative, diverse and socially connected North Sydney community.	N/A
L3 – Create great places that recognise and preserve North Sydney's distinct local character and heritage.	The proposed site-specific controls are generally consistent with standards set out in Council's Planning Study and the DPIE's 2036 Plan. The proposal scheme generally conforms with the emerging character of the locality and does not adversely impact local heritage.
P1 – Grow a stronger, more globally competitive North Sydney CBD	N/A
P2 – Develop innovative and diverse business clusters in St Leonards/Crows Nest	The proposal will provide an adequate amount of commercial floorspace to support the Crows Nest centre reflective of its location being on the periphery of the centre.
P3 – Enhance the commercial amenity and viability of North Sydney's local centres.	N/A

TABLE 2: Compliance with draft North Sydney Local Strategic Planning Statement	
P4 – Develop a smart, innovative and prosperous North Sydney economy.	The proposal includes commercial area which will contribute to the Crows Nest centre.
P5 – Protect North Sydney's light industrial and working waterfront lands and evolving business and employment hubs	N/A
P6 – Support walkable centres and a connected, vibrant and sustainable North Sydney	The proposal includes a monetary contribution of \$800,000 towards the upgrade of Hume Street Park and pedestrian facilities, both contributing to the attractiveness of the site and the locality at a pedestrian scale.
S2 – Provide a high quality, well-connected and integrated urban greenspace system.	See comment above.
S3 – Reduce greenhouse gas emissions, energy, water and waste	The site is well located to take advantage of current and proposed public transport infrastructure and measures to reduce car reliance and ownership and improve the share of walking, cycling, car share and public transport trips.
S4 – Increase North Sydney's resilience against natural and urban hazards	The proposal site is not subject to flood or bushfire risk. Potential contamination risk can be addressed at any development application stage. The proposal is not expected to exacerbate urban heating in the locality.

8.9.7 Draft North Sydney Local Housing Strategy (LHS)

The Draft North Sydney Local Housing Strategy (LHS) establishes Council's vision for housing in the North Sydney LGA and provides a link between Council's vision and the housing objectives and targets set out in the GSC's *North District Plan*. It details how and where housing will be provided in the North Sydney LGA over the next 20 years, having consideration of demographic trends, local housing demand and supply, and local land-use opportunities and constraints.

On 25 November 2019, Council resolved to adopt the draft North Sydney LHS with an action to forward to the DPIE for its approval.

The draft North Sydney LHS identifies the potential for an additional 11,870 dwellings by 2036 under the provisions of NSLEP 2013 and proposed changes envisaged by the DPIE under the draft *St Leonards and Crows Nest 2036 Plan*. The draft 2036 Plan identifies planning controls to support the delivery of an additional 3,515 dwellings within the parts of the St Leonards and Crows Nest Planned Precinct located within the North Sydney LGA.

The concept proposal indicates an additional 87 residential apartments are to be accommodated on the site. This equates to approximately 2.5% of the anticipated dwellings to be accommodated within the R4 High Density Residential in Crows Nest on a single site.

8.9.8 State Environmental Planning Policies (SEPPs)

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

8.9.9 North Sydney Development Control Plan 2013 (NSDCP 2013)

The proposal includes a draft site-specific DCP addressing matters relating to design, character and future controls on site. Having regard to the character statement for the Crows Nest Town Centre under Section 3.2 of Part C of the NSDCP 2013, the proposal is considered to be generally consistent with the statement in that it will result in a medium scale residential accommodation along Falcon Street with the potential for a portion of commercial area closest to the existing Crows Nest centre.

The proposed draft DCP includes provisions relating to building design considerations including setbacks, height transition, landscaping and coverage, parking and general design principles which act to create a suitable building envelope and associated development. The DCP is considered to be adequate in that it is prescriptive enough so as to guide future detailed assessment at the development application stage and is largely reflective of the supplied reference design however provides an appropriate degree of flexibility to allow an optimal design and amenity outcome.

9. Community Consultation

There are no statutory requirements to publicly exhibit a Planning Proposal before the issuance of a Gateway Determination.

However, Council sometimes receives submissions in response to Planning Proposals which have been lodged but are not determined for the purposes of seeking a Gateway Determination. The generation of submissions at this stage of the planning process arises from the community becoming aware of their lodgment through Council's application tracking webpage.

Whilst the proposal is yet to be formally exhibited, four submissions have been received at the time of reporting, raising the following matters:

- The proposal is out of keeping with the surrounding area.
- The proposal will create additional traffic along Hayberry Lane which will exacerbate existing conditions and may restrict it from one day becoming a shared laneway.
- The proposal is lacking in affordable housing and is well below the targets set by the GSC of 5-10% per development.
- The proposal should include more parking so as to limit the shared burden of parking being placed on the surrounding community.
- The proposal should go ahead (with parking concerns being resolved) as further delays will result in the site remaining un-developed which will negatively impact upon the community.
- Loss of commercial space.

These matters have been addressed in detail in the above report. In short, the site is transitional in nature being located between the existing Crows Nest commercial core and the lower scale surrounding residential neighbourhood. The proposal includes a graduation in height stepping down from the high point on the corner of Falcon Street and Alexander Lane towards Hayberry Lane and properties to the east and it is considered that the proposal adequately addresses the character of the surrounding areas.

In relation to parking and traffic, it is acknowledged that there is a need to balance the demand for parking spaces resulting from the development (both internally and within the surrounding area) with Council's adopted policy position with respect to increased development within the St Leonards Crows Nest Area as well Council's Transport Strategy.

The applicant has indicated a preference for provision of a higher number of spaces. It is recommended that the DCP be exhibited at the lower rate and for Council to have the benefit of community input before a final decision is made in this regard.

With respect to affordable housing concerns, there is currently no mandated provision or mechanism to implement this GSC direction. Council's adopted LHS includes relevant actions in this regard. The LHS is currently awaiting approval and endorsement by the DPIE.

Regarding the loss of commercial space, it is considered to be acceptable in this instance given the transitional nature of the site being located on the periphery of the Crows Nest centre. See section 9.1 of the report for further discussion.

Conclusion

Planning Proposal 6/19 seeks to amend NSLEP 2013 to re-zone the land to R4 High Density Residential, increase the maximum building height requirements, to incorporate new FSR and to remove non-residential FSR requirements as it relates to the subject site.

The Planning Proposal is supported as it:

- Generally complies with the relevant Local Environment Plan making provisions under the Environmental Planning & Assessment Act 1979;
- Generally complies with the Department of Planning, Industry and Environment's 'A Guide to Preparing Planning Proposals (August 2016)';
- On balance, does not contradict the ability to achieve the objectives and actions of high level planning strategies;
- Is generally consistent with and promotes the desired future outcomes of the 7.8.4 Draft St Leonards and Crows Nest 2036 Plan; and
- The scale and bulk of any future development on the site is unlikely to result in any significant adverse impacts on the environment or wider community or has the ability to be appropriately mitigated as part of the development application assessment process.
- Represents a unique site, the likes of which is unlikely to be replicated anywhere else in the precinct.

It is therefore recommended that Council resolve to support the forwarding of the Planning Proposal to the DPIE, seeking a Gateway Determination under s.3.34 of the EP&A Act 1979 subject to satisfactory amendments to the proposal and negotiation of the draft VPA.

The Planning Proposal, draft DCP and draft VPA should then be exhibited concurrently, so as to allow the community a full appreciation of what is being proposed.

27-57 FALCON STREET CROWS NEST URBAN DESIGN REPORT

JUNE 2020 | NORTH SYDNEY COUNCIL



Lindsay
Bennelong

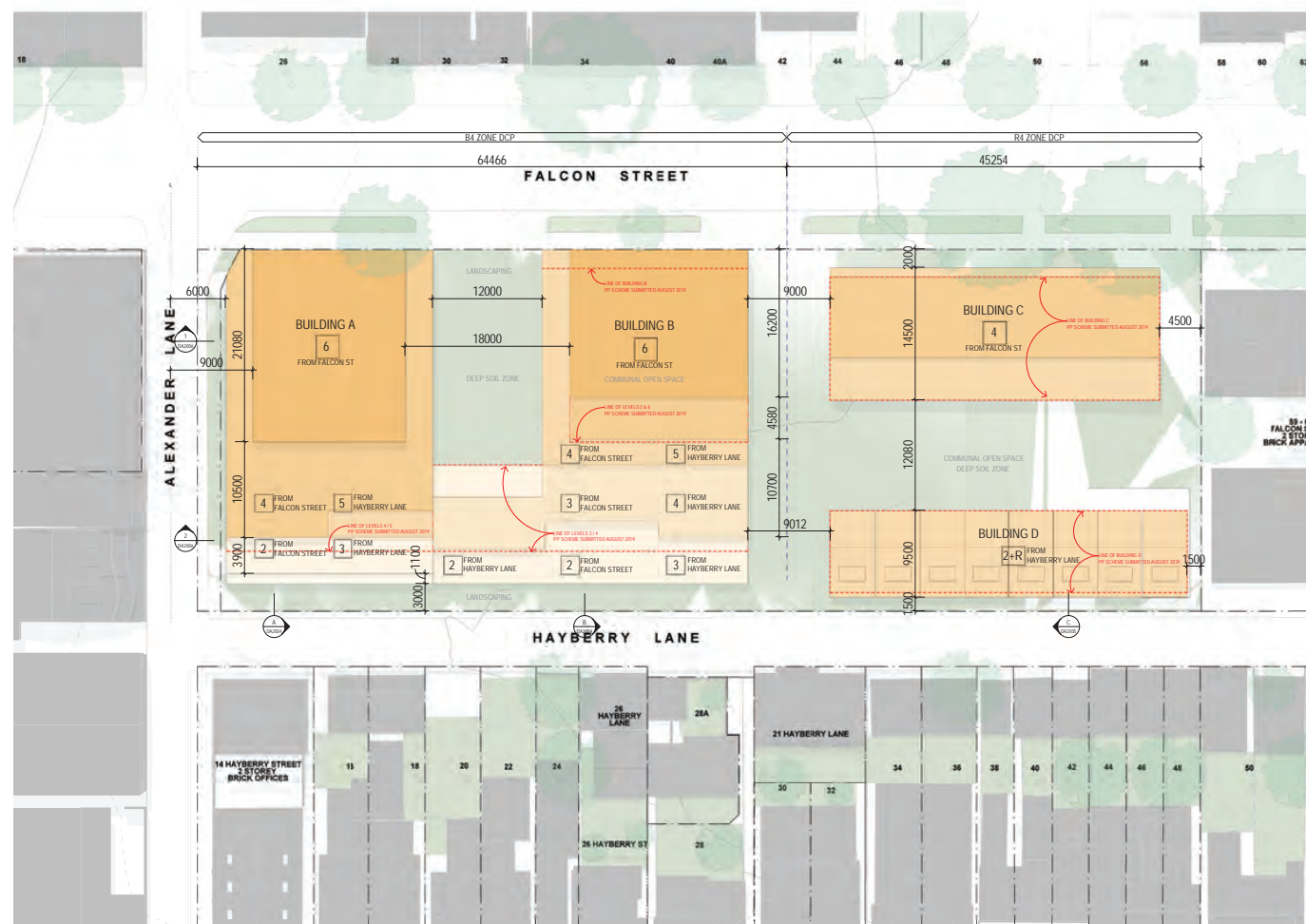
AJ+C
ALLEN JACK+COTTIER

ETHOS
URBAN

3.4 DESIGN PROPOSAL

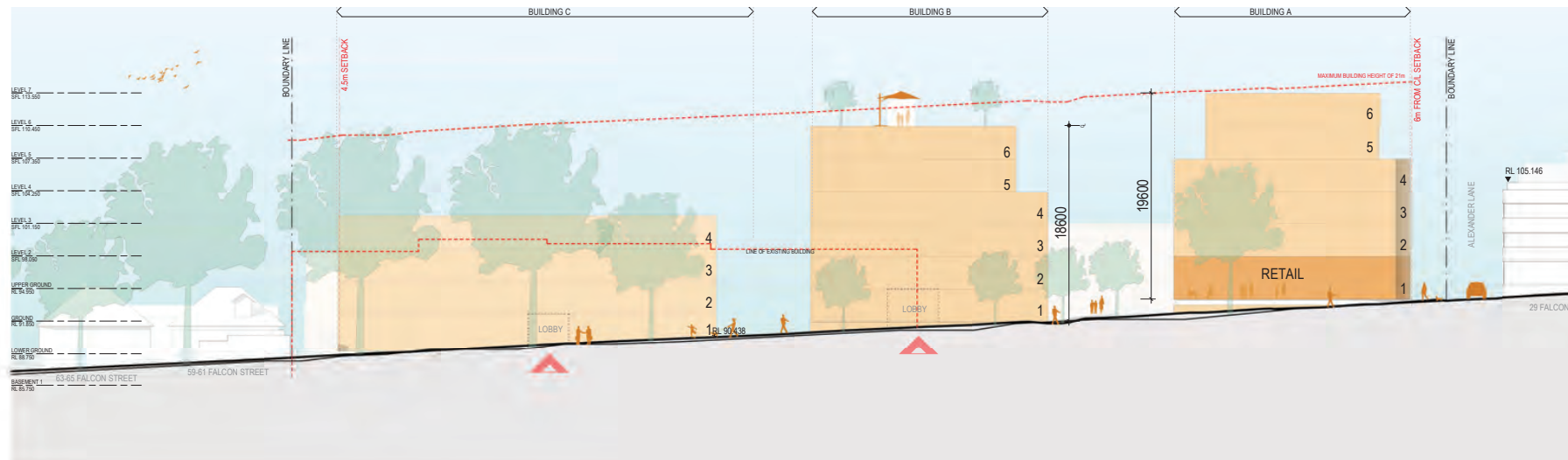
The following pages describe the resulting design proposal. This is shown here as a building envelope, in order to establish base controls used as the basis of the main Planning Proposal document.

Appendix 2 provides a Reference Design, identifying how the envelope could be distributed into particular building uses. The Reference Design shows that the proposed controls can produce an outcome that complies with SEPP65 and the ADG.

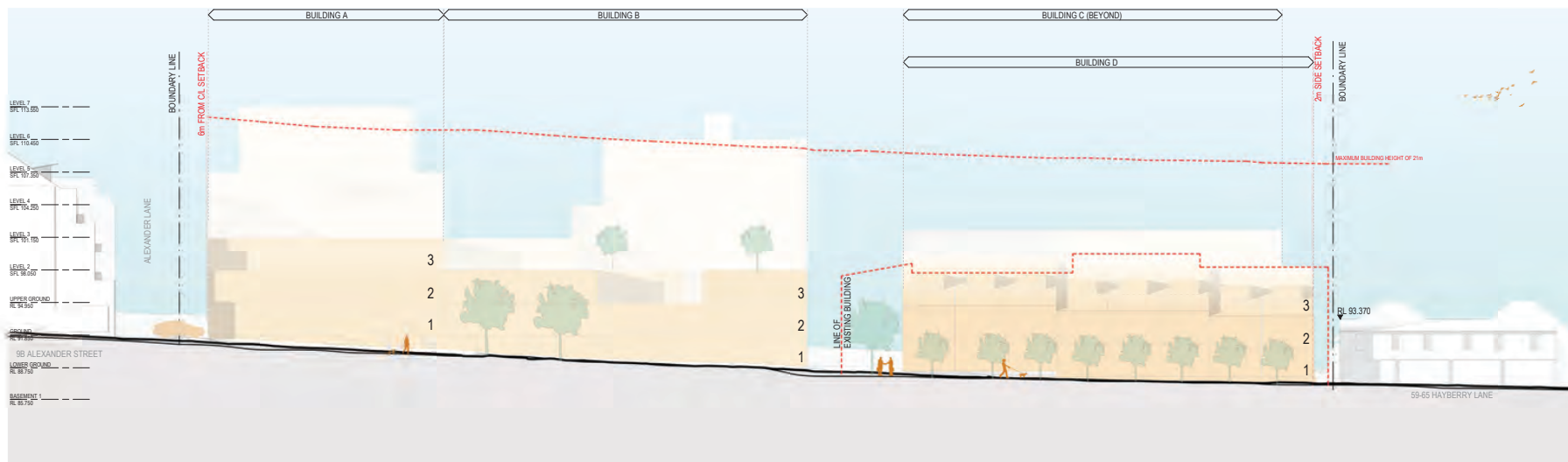


Site Plan
1:500 @ A3





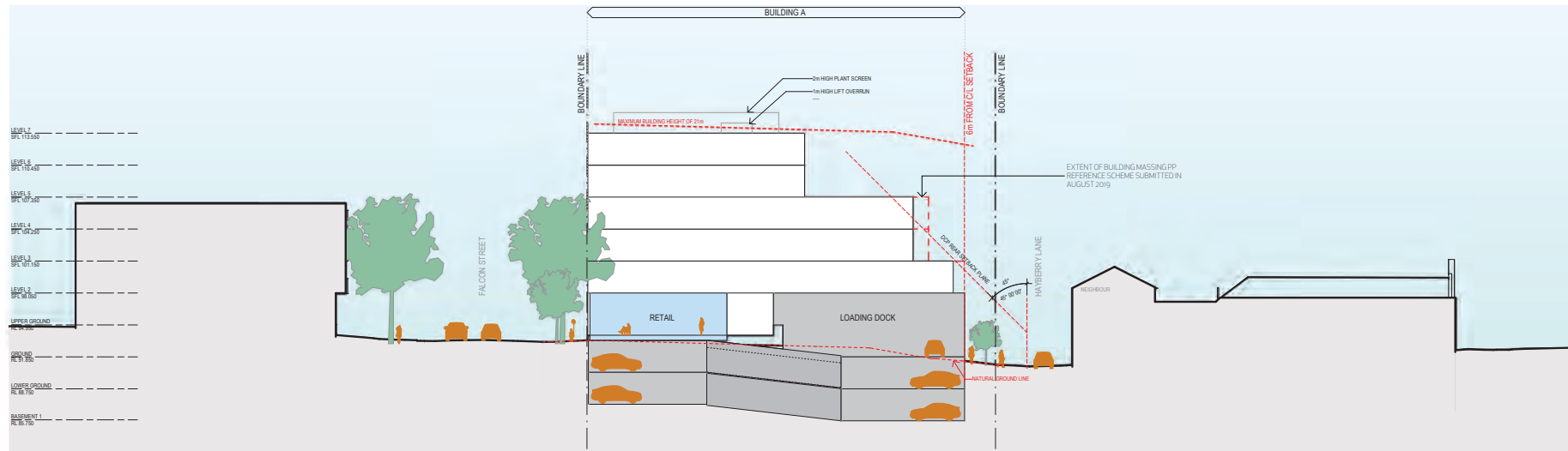
North Elevation - Falcon Street
1:400 @ A3



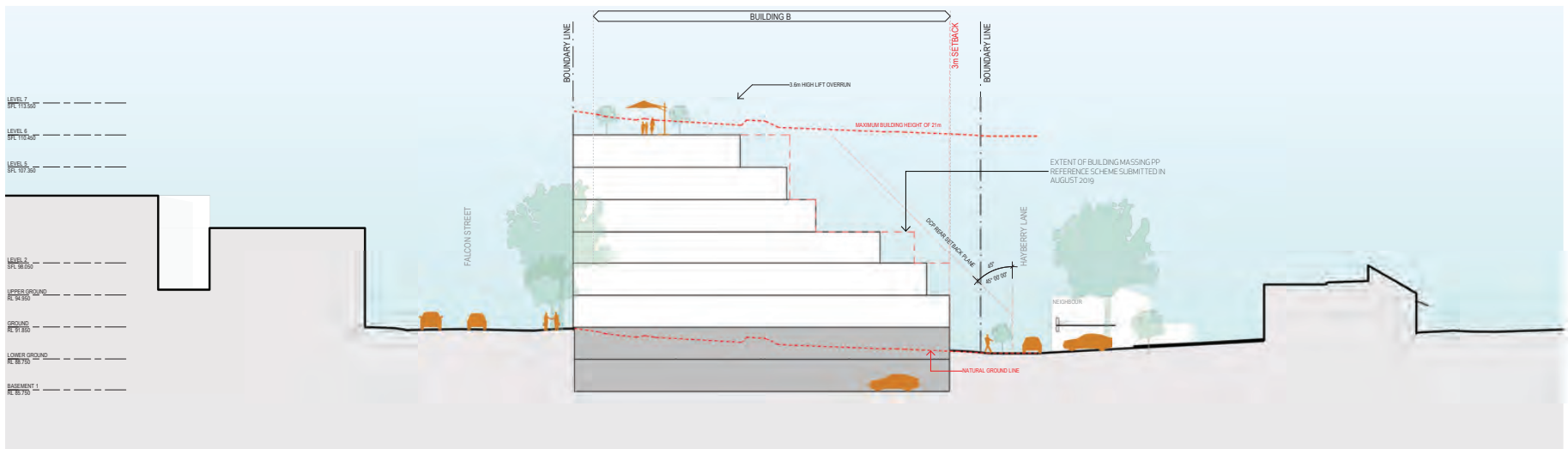
South Elevation - Hayberry Lane
1:400 @ A3

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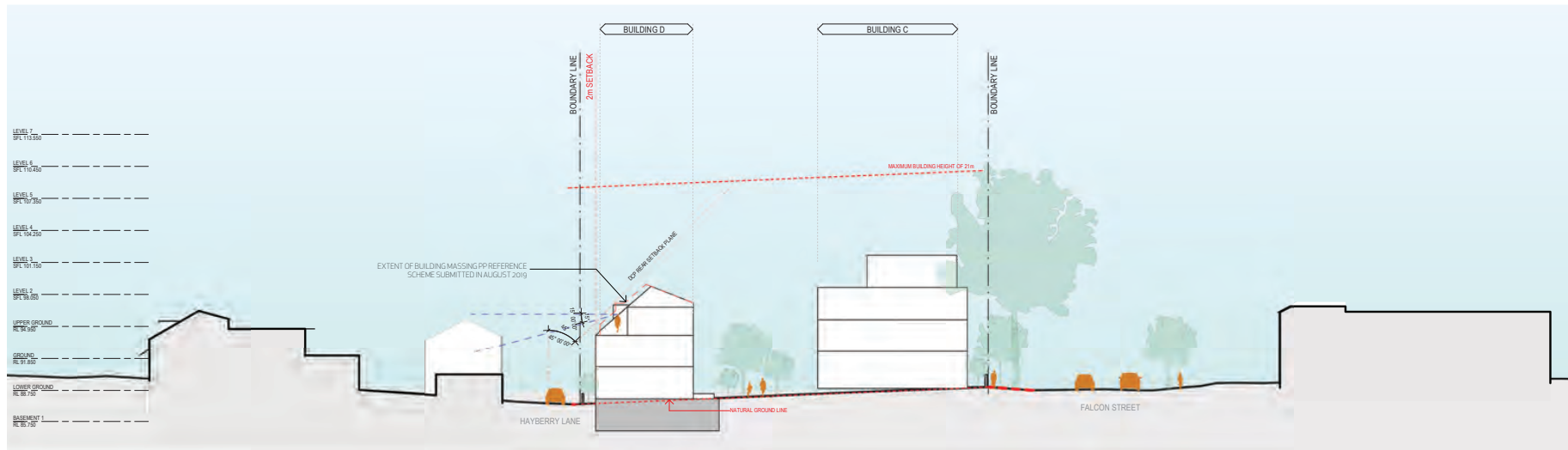
Section A-A
1:400 @ A3



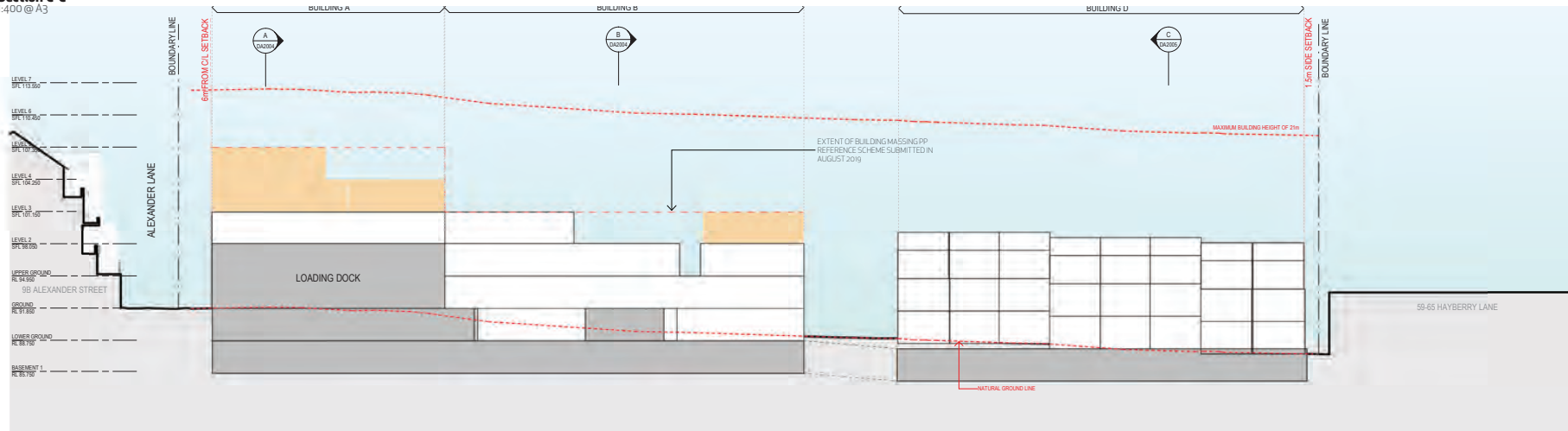
Section B-B
1:400 @ A3

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Section C-C
1:400 @ A3



Long Section
1:400 @ A3

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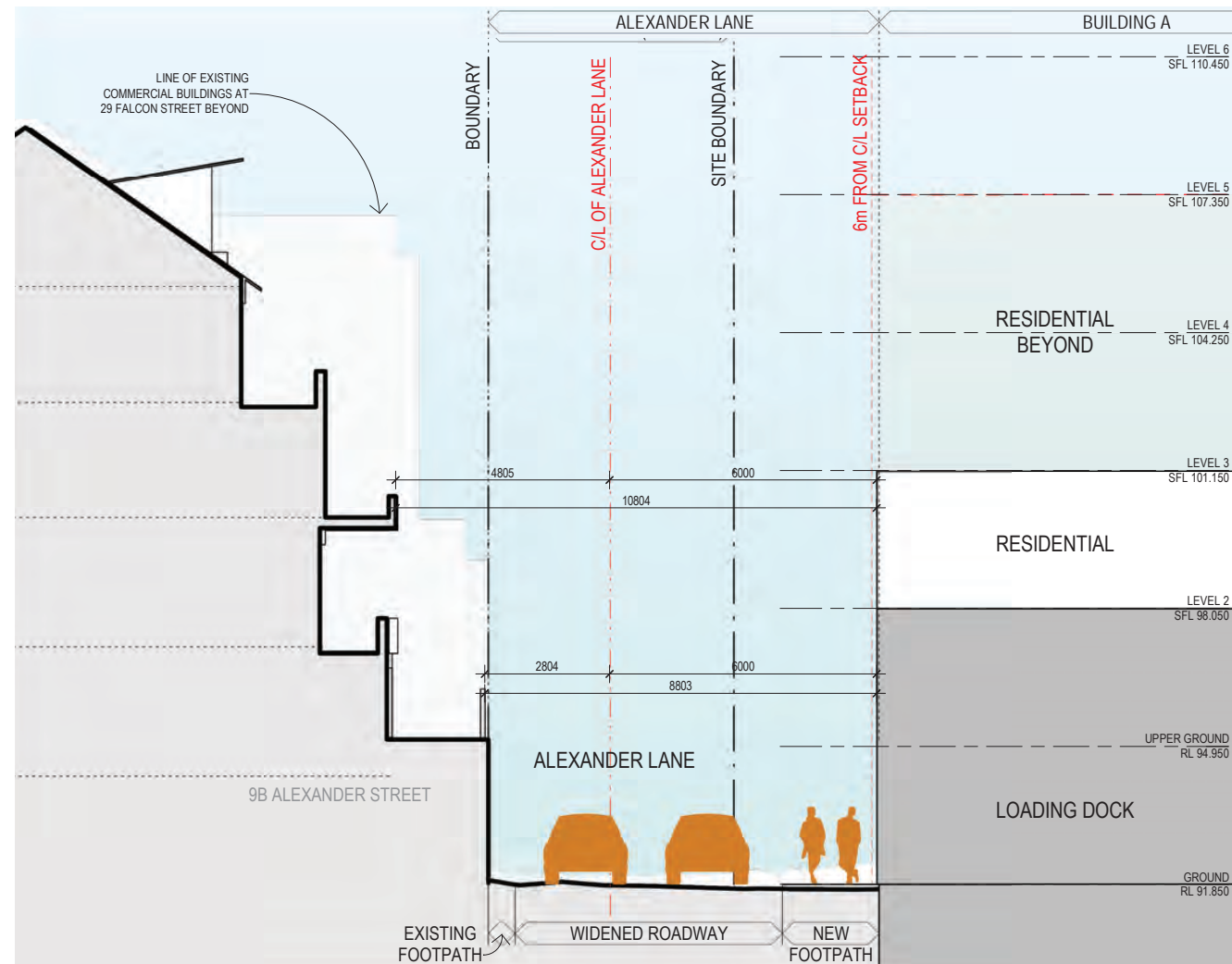
ALEXANDER LANE SECTION

As part of the indicative design, we have proposed increasing the width of Alexander Lane to allow two-way traffic and add a wider footpath to the eastern side of the lane to facilitate safe pedestrian access to and from the Crows Nest Centre.

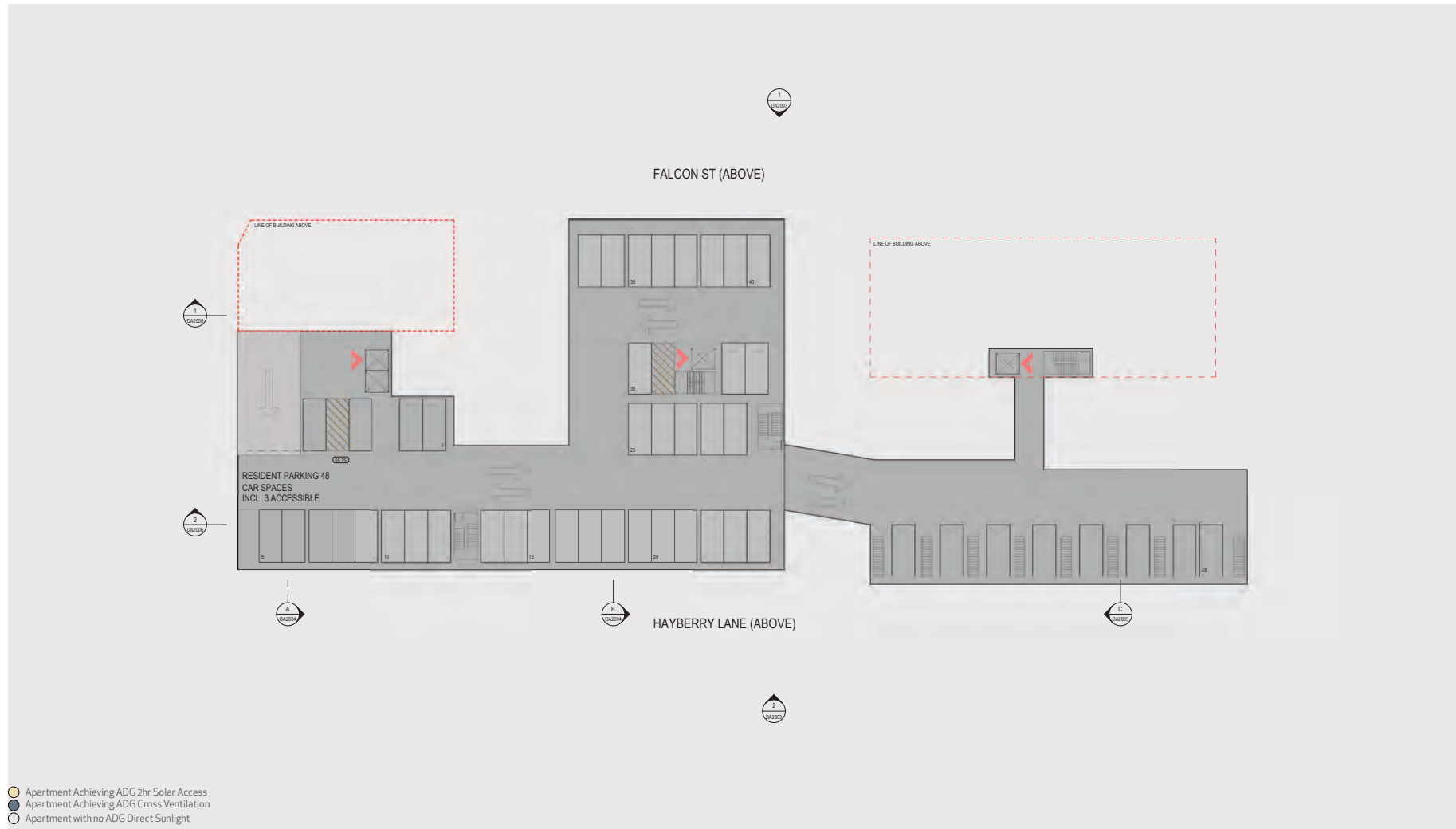
The setback to the western face of Block A is therefore increased to 6m from the centreline of Alexander Lane, which is an equal share of the required ADG setback of 12m between habitable rooms up to 4 storeys.

The Residential Flat Building at 9 Alexander Street appears to have been built before SEPP65 came in to effect and is in part built to the street boundary on Alexander Lane.

The neighbouring zone is similar in density to the subject site so additional setbacks across zone boundaries do not apply



5.1 BASEMENT PLAN





5.3 MIDDLE GROUND PLAN



- Apartment Achieving ADG 2hr Solar Access
- Apartment Achieving ADG Cross Ventilation
- Apartment with no ADG Direct Sunlight

KEY:

RETAIL

STUDIO
1 BED

2 BED
3 BED



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5.4 UPPER GROUND PLAN



- Apartment Achieving ADG 2hr Solar Access
- Apartment Achieving ADG Cross Ventilation
- Apartment with no ADG Direct Sunlight

KEY:

RETAIL

STUDIO
1 BED

2 BED
3 BED



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5.5 LEVEL2 TYPICAL PLAN



- Apartment Achieving ADG 2hr Solar Access
- Apartment Achieving ADG Cross Ventilation
- Apartment with no ADG Direct Sunlight

KEY:

RETAIL

STUDIO

1 BED

2 BED

3 BED



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5.6 LEVEL3 TYPICAL PLAN



- Apartment Achieving ADG 2hr Solar Access
- Apartment Achieving ADG Cross Ventilation
- Apartment with no ADG Direct Sunlight

KEY:

RETAIL

STUDIO
1 BED

2 BED
3 BED



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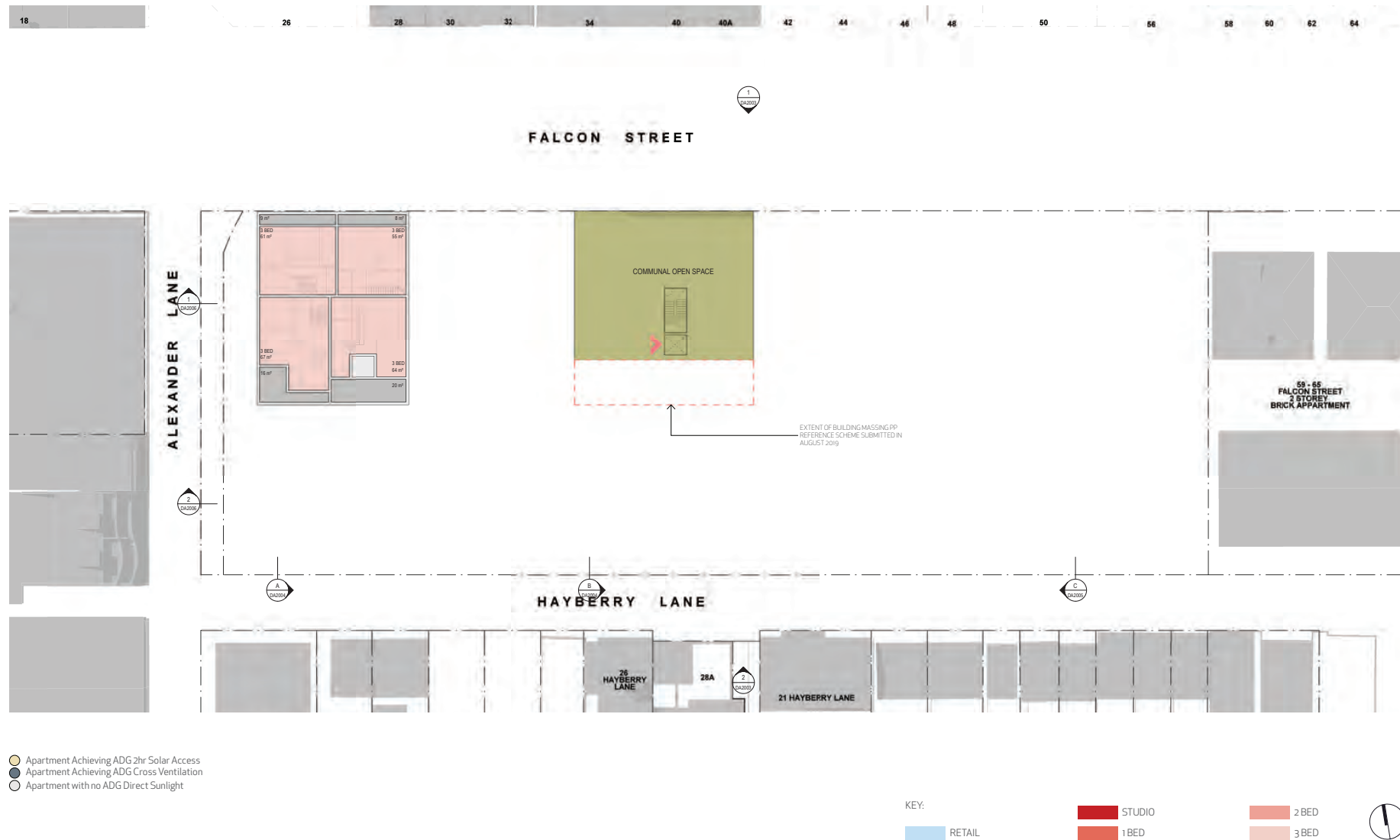
5.7 LEVEL 4 TYPICAL PLAN



5.8 LEVEL 5 TYPICAL PLAN



5.9 LEVEL 6 TYPICAL PLAN



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5.10 CONCEPTUAL RENDERS

Note: rendered views are indicative only, provided to indicate future neighbourhood character.



Falcon St, Facing East

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Note: rendered views are indicative only, provided to indicate future neighbourhood character.



Falcon Street, Facing West

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Note: rendered views are indicative only, provided to indicate future neighbourhood character.



Alexander Lane, Facing North

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Note: rendered views are indicative only, provided to indicate future neighbourhood character.



Hayberry Lane, Facing East

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3.2.5 – 27-57 Falcon Street, Crows Nest

3.2.5.1 - Desired Future Character, Design Objectives and Key Principles

- P1. Development is to respond to the scale and character of the existing development and desired future character of the surrounding area.
- P2. Built form, scale and massing is to transition in scale across the site from a mixed use, higher density typology in the western portion reflective of the Crows Nest Strategic Centre to a lower to medium density residential typology on the eastern portion.
- P3. Development should balance the provision of new residential apartment buildings within a Strategic Centre, while maintaining a reasonable level of amenity, privacy and solar access for low density neighbouring residents on Alexander Lane, Falcon Street and in the Hayberry Conservation Area.
- P4. A mixed-use typology with medium rise residential apartment buildings built to the boundary with commercial on ground level at the corner of Falcon Street and Alexander Lane. A residential typology to the eastern part of the site along Falcon Street setback from the street, with townhouses fronting Hayberry Lane to respond to the existing scale of the Hayberry Conservation Area.
- P5. Built form to transition to the existing lower scale development in the Hayberry Conservation Area
- P6. Road widening along Alexander Lane with pedestrian amenity and road widening with a landscaped response and pedestrian amenity to Hayberry Lane.
- P7. Vehicular access from Alexander Lane with two-way access from / to Falcon Street.
- P8. A Secure pedestrian through site link between Falcon Street and Hayberry Lane.

3.2.5.2 Desired Built Form

Objectives

- To provide for increased opportunity for height and density in the growing Crows Nest Local Centre, close to public transport and services.
- Building envelopes are to respond to the site's surrounding context which transitions in character from the Crows Nest Strategic Centre to the lower scale Heritage Conservation Area on Hayberry Street.
- To achieve appropriate separation distances between existing and proposed buildings and ensure reasonable privacy and solar access is maintained to surrounding dwellings, mindful of the need for renewal at the site.
- To ensure appropriate building lengths, a variety of building facades and a 'fine-grain' response to the public domain.

Building Height Provisions

- P1. The maximum height in storeys of any building must comply with the heights in storeys shown on the Site Layout Plan at Figure 1.
- P2. Building A is to be a maximum height of 6 storeys and step down in height to a maximum of 3 storeys at the Hayberry Lane frontage.
- P3. Building B is to be a maximum of 6 storeys and step down in height to a maximum of 2-3 storeys at the Hayberry Lane frontage.
- P4. A site-specific LEP clause will allow minor exceedances of the LEP Height of Building control for plant and lift overruns only.
- P5. Building C is to be a maximum of 4 storeys.
- P6. Building D is to be a maximum of 3 storeys with a 2 storey street frontage height to Hayberry Lane. The third storey is to be generally accommodated within the roof form.

Street and Side Setbacks Provisions

- P1. Building setbacks must comply with the setbacks shown on the Site Layout Plan at Figure 1.
- P2. The following minimum setbacks are required to Falcon Street:
 - a. Building A is to be setback zero metres.
 - b. Building B is to be setback zero metres.
 - c. Building C is to be setback 2 metres.
- P3. The following minimum setbacks are required from Hayberry Lane:
 - a. Buildings A and B are to be setback from Hayberry Lane by 3 metres.
 - b. Building D is to be setback by 1.5 metres.
- P4. The following minimum side setbacks are required to 56-63 Falcon Street:
 - a. Building C is to be setback 4.5 metres.
 - b. Building D is to be setback 1.5 metres.
- P5. Building A is to be setback a minimum of 6 metres from the existing centreline of Alexander Lane.

3.2.5.3 Residential Apartment Building Design**Objectives**

- Ensure that the residential apartment buildings consider and are consistent with the nine design quality principles within *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development*.

Provisions

- P1. The residential apartment building design is subject to the requirements of State Environmental Planning Policy 65 – Design Quality of Residential Flat Development including the Design Quality Principles and the Apartment Design Guide.

3.2.5.4 Site Coverage**Objectives**

- To ensure that development is balanced and in keeping with the optimum capacity of the site acknowledging its unique size and location within the Crows Nest Strategic Centre at the interface between business and residential zones that accommodates a mix of building typologies.
- To achieve appropriate building envelopes that ensure the development responds to its surrounding context and provides appropriate open space and landscaped area for residents and visitors.

Site Coverage Provisions

- P1. The maximum site coverage for this site is 65%.

3.2.5.5 Communal Open Space**Objectives**

- To provide high quality communal open space at ground level and on buildings with a reasonable level of outdoor amenity without reducing privacy to neighbouring dwellings.
- To provide a level of communal open space commensurate with Apartment Design Guidelines that is mindful of the site's unique location and building typologies.
- To ensure communal open space is useable.

Communal Open Space Provisions

- P1. Communal open space is provided in the locations shown on the Site Layout Plan at Figure 1.
- P2. Communal open space can be provided on the Building B rooftop only if the space is designed such that there is no potential for overlooking into private open space and its location will not create any noise issues for surrounding dwellings.

3.2.5.6 Landscaped Area**Objectives**

- To ensure that landscaping is used to provide appropriate amenity for development and soften the appearance of buildings and their interface with the neighbouring dwellings and the public domain.
- To provide a level of landscaped area commensurate with Apartment Design Guidelines that is mindful of the site's unique location and building typologies.

Landscaped Area Provisions

- P1. The minimum landscaped area for the site is 20%

3.2.5.7 Traffic, Access and Parking**Objectives**

- To regulate traffic movements and reduce congestion on Falcon Street.
- To ensure that vehicular access is safe for motorists and pedestrians.
- To facilitate road widening along Alexander Lane.
- To facilitate road widening and the provision of a shared way along Hayberry Street.
- To create a safe, accessible and shared laneway network.
- To provide appropriate amount of basement parking spaces for residents, visitors and staff.

Traffic, Access and Parking Provisions

- P1. Vehicular access to the site must be from Alexander Lane.
- P2. To facilitate vehicular access from Hayberry Lane, Alexander Lane is to be widened to allow for the provision of two-way traffic between Falcon Street and Hayberry Lane. No access is to be provided south of the site into Hayberry Lane or Alexander Lane (south).
- P3. A total of 94 car space are to be provided on the site.

3734th Council Meeting - 27 July 2020 Agenda



4 June 2020

The General Manager
North Sydney Council
PO Box 12
North Sydney NSW 2059

[via email: yoursay@northsydney.nsw.gov.au]

Dear Neal

Re: VOLUNTARY PLANNING AGREEMENT LETTER OF OFFER
Development of 27-57 Falcon Street, Crows Nest

This Letter of offer has been prepared on behalf of CN Land Pty Ltd and Lindsay Bennelong Pty Ltd for a Voluntary Planning Agreement associated with the Planning Proposal relating to the development of 27-57 Falcon Street, Crows Nest.

This letter provides an outline of the Heads of Agreement in relating to the public benefits that are proposed to be included within the Voluntary Planning Agreement, which is to be negotiated by a mediation process and publicly exhibited with the Planning Proposal post Gateway Determination.

The public benefits have provided for enhancement of the public domain and safety as well as the provision of open space in the LGA.

HEADS OF AGREEMENT

Parties	North Sydney Council (Council); and CN Land Pty Ltd (Landowner)
Background	<p>Ethos Urban on behalf of the Landowner has lodged a Planning Proposal with Council seeking amendments to the North Sydney Local Environment Plan 2013</p> <p>The Landowner offers to enter into a planning Agreement (the Agreement) with Council to make Development Contributions on the terms set in this outline of the Heads of Agreement.</p>



Planning Agreement under the Act	This Agreement will be a planning agreement within the meaning of Section 7.4 of the Act
Application of the Agreement	This Agreement will apply to: <ul style="list-style-type: none"> • The Land; and • The Development
Commencement	This Agreement will commence from the date the Agreement is signed by the Parties, following the Amendments to North Sydney LEP 2013 and approval of a site specific DCP for the development site.
The Offer	<p>The Landowner agrees to provide a total contribution of \$1,130,000 in conjunction with future Development Consent(s) which is made up of the following:</p> <ul style="list-style-type: none"> • A monetary contribution of \$800,000 towards increased open space opportunities (e.g. Stage 1 Hume Street Park upgrade), payable to Council. • A 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: <ul style="list-style-type: none"> – Dedication of land from the Subject Site and embellishment of 129sqm to Alexander Lane and 245sqm to Hayberry Lane to create a new public pedestrian footpath where one currently does not exist as well as associated public domain, landscaping and traffic calming measures. – The land to be dedicated to Council is shown on Drawing SK1502 at Appendix A and has been valued at \$375,000 as supported by Savills valuation, shown in Appendix B. We have apportioned 35% of these costs as a Council and Public Benefit, thus valuing the contribution at \$130,000. – The Embellishment works to the value of \$567,441 which have been supported by a RLB Quantity Surveyors as shown in Appendix C. We have apportioned 35% of these costs as a Council and Public Benefit, thus valuing the contribution at \$200,000.



Review	<p>The parties agree that in the event that either:</p> <ul style="list-style-type: none"> (i) a Special Infrastructure Contribution under Section 94EF of the Act is required to be paid pursuant to a condition of the Development Consent; or (ii) the LEP following gazettal of the Planning Proposal contains a provision that satisfactory arrangements are to be made for the provision of contributions to designated state public infrastructure; <p>the Council and the Landowner must meet to review the Agreement using their best endeavours and acting in good faith.</p>
Bank Guarantee	The Landowner will provide a Bank Guarantee for the amount of the VPA offer following execution and registration of the LEP amendment until such time that the contribution is payable at a Construction Certificate stage.
Application of Section 7.11 of the Act	The Agreement does not exclude the application of Section 7.11 of the Act to the Development.
Registration of the Agreement	The Landowner will do all things necessary to enable the Council to register the Agreement after Gateway Determination.
Dispute resolution	If the Parties are not able to resolve any dispute within 20 business days of a dispute notice being served, then they may have recourse to litigation or other dispute resolution processes.
Enforcement	The Agreement may be enforced by any Party in any court of competent jurisdiction.
Assignment of dealings	A Party must not assign or novate the Agreement without the prior written consent of the other Party which consent is not to be unreasonably withheld.
Costs	Each Party must pay its own costs of negotiating, preparing and executing the Agreement (and any other instrument executed under the Agreement).



Defined Terms	<p>Act means the Environmental Planning and Assessment Act 1979 (NSW)</p> <p>Development means the development of the Land proposed to be carried out, by the landowner in accordance with the Planning Proposal.</p> <p>Development Consent means consent granted under Part 4 of the Act to carry out the future development of the Land. Land means land at 27-57 Falcon Street, Crows Nest NSW.</p> <p>Planning Proposal means the Planning Proposal Report prepared by Ethos Urban.</p>
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Summary and Conclusion

CN Lands Pty Ltd and the applicant (Lindsay Bennelong Developments) look forward to working collaboratively with North Sydney Council to facilitate an appropriate concept development outcome for the site and wish to contribute to the surrounding community and wider LGA through the provision of funds towards affordable housing and local on-site public improvements.

Should Council require any further information in relation to the matters raised within this submission, please do not hesitate to contact the undersigned.

Yours sincerely,

Lindsay Bennelong
Developments

A handwritten signature in black ink, appearing to read 'Leigh Manser', written over a light blue horizontal line.

Leigh Manser
Development Director

Incl. under separate cover:

- APPENDIX A - AJ+C Drawing – Embellishment Area SK1502
- APPENDIX B – Savills Valuation – Estimate of Market Uplift
- APPENDIX C – Rider Levett Bucknall – External Works Embellishments Estimate

N O R T H S Y D N E Y C O U N C I L



NORTH SYDNEY LOCAL PLANNING PANEL – PLANNING PROPOSALS

**DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING
HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,
ON 5 FEBRUARY 2020, AT 2PM.**

PRESENT

Chair:

Jan Murrell in the Chair.

Panel Members:

Peter Brennan, Panel Member
David Brigden, Panel Member
Jane Van Hagen, Panel Member/Community Representative

Staff:

Marcelo Occhiuzzi, Manager Strategic Planning
Neal McCarry, Team Leader Policy
Jayden Perry, Strategic Planner
David Hoy, Team Leader (Assessments)
Robyn Pearson, Team Leader (Assessments)

Administrative Support

Melissa Dunlop, Governance Co-ordinator (Minutes)

Apologies: Nil.

1. Minutes of Previous Meeting

Not applicable.

2. Declarations of Interest

Nil.

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3. Business Items

On 23 February 2018, the Minister for Planning released a Section 9.1 Direction which outlines the instance when a Planning Proposal must be referred to a Local Planning Panel for advice prior to a Council determining as to whether that Planning Proposal should be forwarded to the Department of Planning and Environment for the purposes of seeking a Gateway Determination.

The Panel has considered the following Business Item and provides the following recommendation to the council on the Planning Proposal.

ITEM 5 (considered after Development Applications)

PROPOSAL No:	6/19
ADDRESS:	27-57 Falcon Street, Crows Nest
PROPOSAL:	<p>To amend the North Sydney Local Environmental Plan 2013 (NSLEP 2013):</p> <ul style="list-style-type: none"> • Rezone the site from B4 – Mixed Use to R4 – High Density Residential • Increase the maximum building height from 10m to part 24.5m and part 14.5m. • Apply a maximum floor space ratio control of 1.85:1 • Retain ‘retail premises’ as a permitted land use on the site.
REPORT BY NAME:	Neal McCarry, Team Leader Policy
APPLICANT:	Lindsay Bennelong Developments Pty Ltd

Public Submissions

Submitter	Applicant/Representative
Davie Macdonald	Tom Goode
Sue Yelland	Leigh Manser

Panel Recommendation to Council:

The Panel conducted an extensive site inspection in the context of the surrounding development that has a direct interface with the conservation area on Hayberry Lane and larger scale development along Falcon Street and Alexander Lane. This large 4,325 sqm site is generally vacant and unoccupied and has been for over a decade.

The Panel considered the submissions made both orally and written in providing advice to the Council.

The Council Officer’s report on the Planning Proposal is endorsed and the Panel recommends to Council, subject to further examination and resolution of certain issues, that it may proceed to a Gateway Determination. The site clearly has strategic merit to be rezoned to R4 from B4. This presents the opportunity to provide an appropriate domestic scale of development to the Hayberry Conservation Area while orienting the bulk towards the north-west. At the same time further opportunities for deep soil planting need to be explored. Given its context the Panel agrees this site is more appropriate for residential rather than a mixed use development and the inherent flow-on effects where access to the

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site is problematic for a large commercial component. However, given the objective of employment growth opportunities, this requires further analysis.

The Panel agrees that further investigation including: overshadowing; height and bulk distribution; laneway treatment and activation; vehicular access and parking; Falcon Street frontage and setback; and areas of deep soil planting on the site needs to be the subject of a DCP or concept plan to be exhibited concurrently with the Draft LEP. This is required to demonstrate the site specific merits of the rezoning and to assist in the community consultation.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane Van Hagen	Y	
David Brigden	Y				
Peter Brennan	Y				

The public meeting concluded at 4.10pm.

The Panel Determination session commenced at 4.15pm (including Development Applications).

The Panel Determination session concluded at 6.20pm.

Endorsed by Jan Murrell
 North Sydney Local Planning Panel
5 February 2020