



IRF22/119

Plan finalisation report – PP-2021-3531 50-56 Atchison Street, St Leonards

North Sydney Local Environmental Plan 2013
(Amendment No. 33)

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

On 15 December 2021, Council requested that that Department make the Local Environmental Plan (LEP) as per Council's request (**Attachment A1**).

Overview

1.1.1 Name of draft LEP

North Sydney Local Environmental Plan 2013 (Amendment No. 33).

The planning proposal (**Attachment A**) will amend North Sydney LEP 2013 to increase the maximum height of buildings from 20m to 56m (16 storeys), introduce a maximum floor space ratio (FSR) of 6.4:1, increase the minimum non-residential FSR from 0.6:1 to 1.7:1 and introduce a site specific provision to allow a lift overrun to a maximum height of 58.1m at 50-56 Atchison Street, St Leonards.

The planning proposal will facilitate the development of a 16 storey mixed use building with 3 storey podium of non-residential uses and 13 levels of residential dwellings providing a total of 65 apartments and 1,855 sqm of retail/commercial GFA. It is estimated that 106 new jobs will be created on the site.

1.1.2 Site description

Table 1 Site description

Site Description	The planning proposal (Attachment A) applies to land at: 50 Atchison Street, St Leonards (Lot 7, Section 11, DP 2872) 52-56 Atchison Street, St Leonards (Lots 5 & 6, Section 11, DP 2872)
Type	Site
Council / LGA	North Sydney

The planning proposal applies to land at 50-56 Atchison Street, St Leonards (**Figures 1 and 2**). The site is located within the strategic centre of St Leonards, is within the St Leonards Crows Nest 2036 Plan (SLCN Plan) area (**Figure 3**) and is approximately 400m from St Leonards train station and 200m from the future Crows Nest Metro Station. The site has an area of approximately 1,080m² and comprises three allotments.

The site is bounded by Atchison Lane to the north and adjoins 58 Atchison Street to the east, 48 Atchison Street to the west and has a primary frontage to Atchison Street to the south (**Figure 2**). The site is currently occupied by a two storey commercial building at 50 Atchison Street and a four storey commercial building at 52-56 Atchison Street (**Figure 4**).

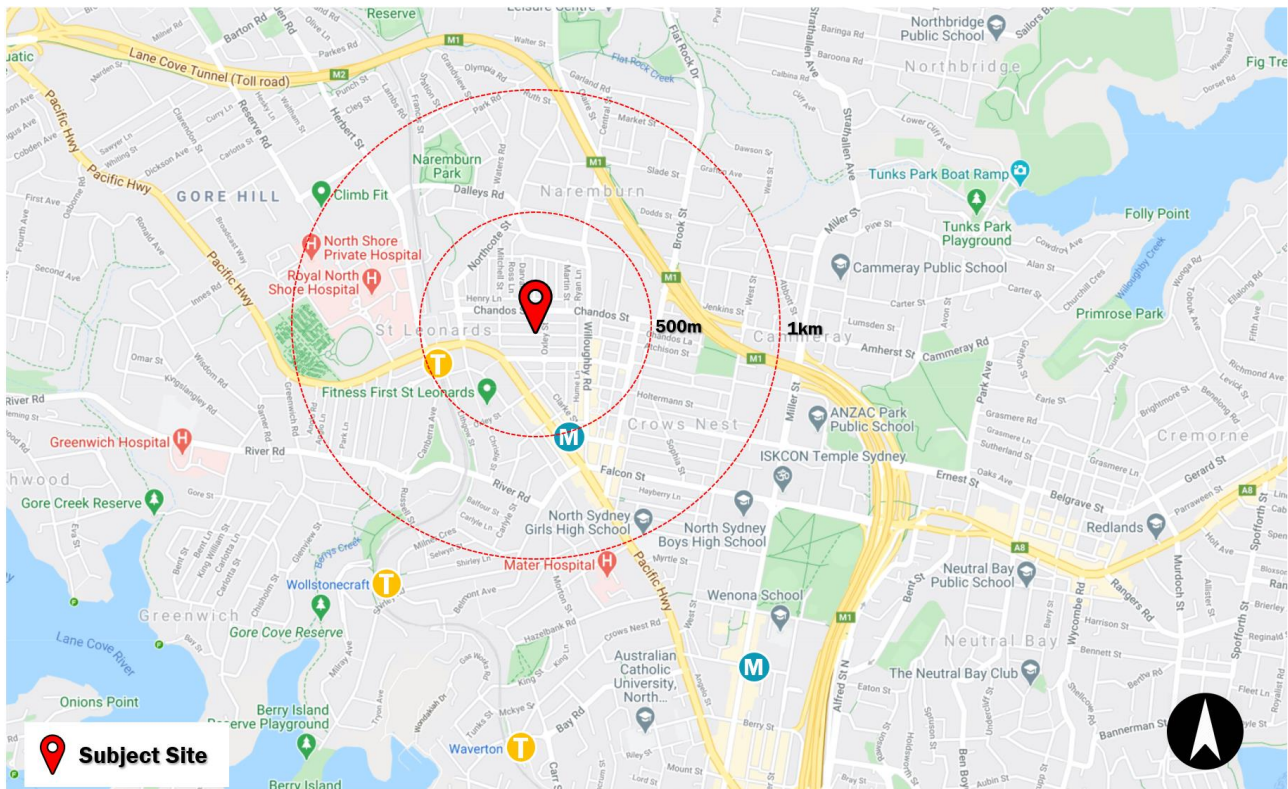


Figure 1: Site context and location (Source: Nearmap)

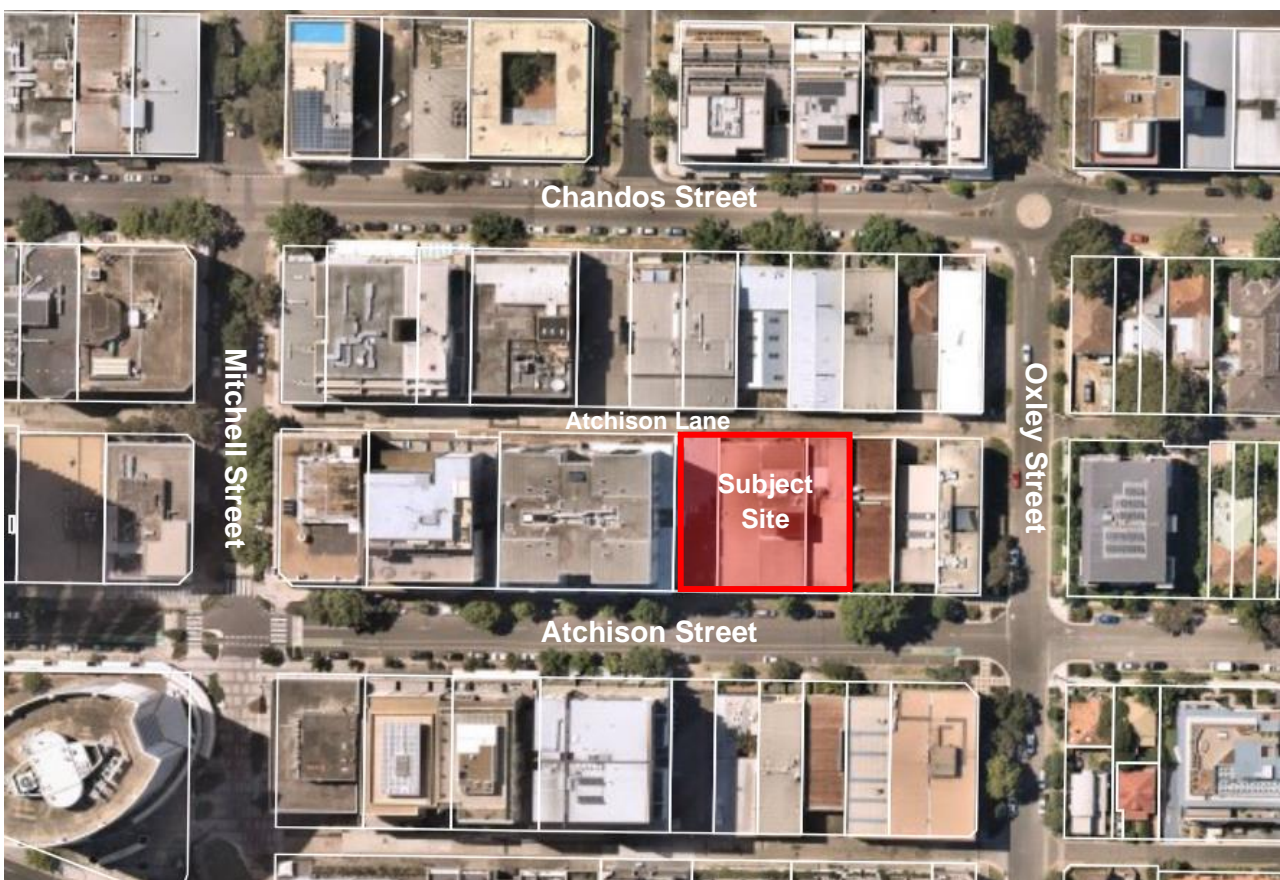


Figure 2: Subject site (Source: Nearmap, overlay by the Department)

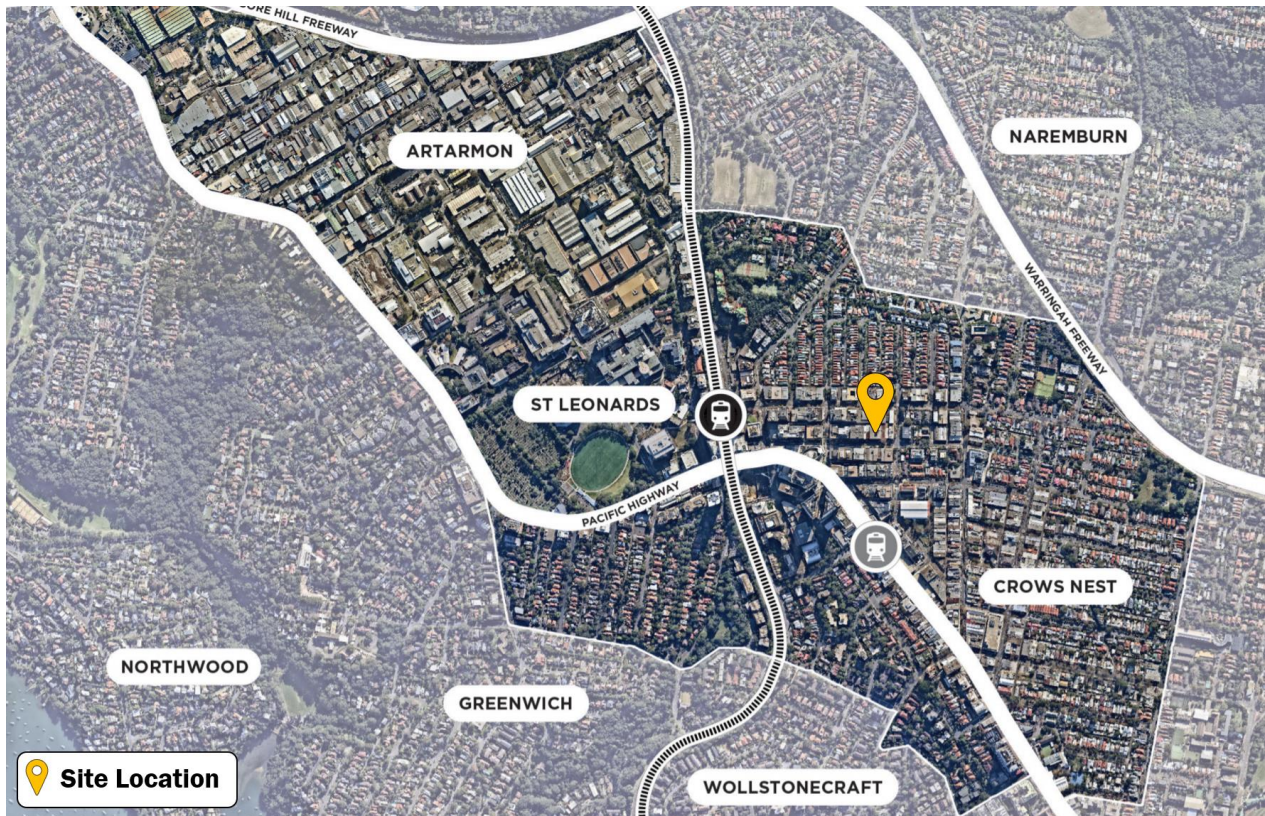


Figure 3: Site location within the St Leonards Crows Nest Plan area (Source: the Department)



Figure 4: Subject site, view from Atchison street, looking north-east (Source: Google Maps, overlay by the Department)

1.1.3 Purpose of plan

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

- increasing the maximum height of buildings from 20m to 56m;
- establishing a maximum FSR of 6.4:1;
- increasing the minimum non-residential FSR from 0.6:1 to 1.7:1 and
- introducing a site-specific provision to allow a lift overrun to exceed the maximum height of buildings control to a height of 58.1m to facilitate communal access to the rooftop.

The planning proposal was prepared by Urbis on behalf of Epic Leisure Pty Ltd. The concept design provides for a 16 storey mixed use building with three storey podium of non-residential uses (retail at ground level and commercial offices on levels 2 and 3). Above the podium, 13 levels of residential dwellings are proposed providing a total of 65 apartments. Three levels of basement parking accessed via Atchison Lane with the detailed design and number of spaces to be provided at development application (DA) stage.

Council has exhibited a draft Voluntary Planning Agreement (VPA) (**Attachment A6**) which would provide a 5.6m wide and 7.2–7.5m high pedestrian through-site link from Atchison Street to Atchison Lane with an easement for public access; and a monetary contribution of \$1.4 million to Council for open space upgrades within the St Leonards and Crows Nest Precinct, which is proposed in lieu of the Special Infrastructure Contribution (SIC) requirement. The SIC is discussed further in section 4.1.2 of this report.

The **Table 2** below outlines the current and proposed controls for the LEP.

Table 2: Current and proposed controls

Control	Current	Proposed
Zone	B4 Mixed Use	B4 Mixed Use - no change
Maximum height of the building	20m	56m
Site Specific Height Provision	N/A	Minor exceedances to the Height of Building Control to allow lift overrun and roof access to 58.1m
Floor space ratio	N/A	6.4:1
Minimum non-residential FSR	0.5:1	1.7:1
Number of dwellings	N/A	65
Number of jobs		106



Figure 6: Concept Plan (Source: Urbis Planning proposal/Kahn Finch)

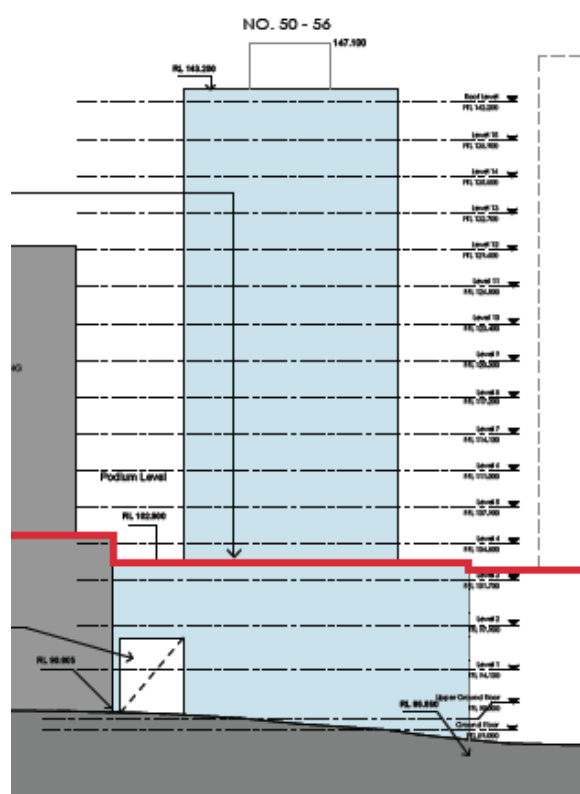


Figure 7: Proposed stepping of the street wall responding to the terrain (Source: Urbis Planning proposal/Kahn Finch)

1.1.4 State electorate and local member

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

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

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

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 15 March 2021 (**Attachment B1**) determined that the proposal should proceed subject to the conditions.

An alteration to the Gateway determination was issued on 9 April 2021 to correct a misdescription in the proposal which referred to increasing the maximum FSR from 0.6:1 to 6.4:1, it was to 'introduce' an FSR of 6.4:1 on the site (**Attachment C**).

Prior to exhibition, the proposal was required to be updated and resubmitted to the Department for endorsement to address the conditions of Gateway.

The planning proposal was updated by the proponent and submitted to Council on 14 May 2021 to address the conditions 1(a) to 1(j) of the Gateway determination. The revised proposal was

submitted to the Department on 18 May 2021. The Department reviewed the proposal and issued a letter on 8 June 2021 endorsing the proposal to proceed to exhibition.

The proposal was required to be submitted to the Department within 9 months of the Gateway determination and is due to be finalised by 15 March 2022.

It is considered that all conditions of the Gateway determination have been satisfied.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council for a period of 28 days from 19 July 2021 to 16 August 2021. The exhibition was extended an additional 2 weeks until 30 August 2021.

Council consulted Ausgrid, Sydney Airport Corporation Limited, Airservices Australia, Civil Aviation Safety Authority, Commonwealth Department of Transport, Infrastructure, Regional Development and Communications, Sydney Water and Transport for NSW, in accordance with Condition 6 of the Gateway determination.

Council considered a report on submissions received during exhibition at its meeting of 27 September 2021 (**Attachment E**). A total of twelve (12) community submissions were received, comprising of five (5) submissions from local residents objecting to the proposal and seven (7) submissions from public agencies which raised no objections. A summary of submissions and Council's response is provided at **Attachment E**.

3.1 Public Submissions during exhibition

A total five (5) submissions were received from local residents objecting to the proposal, including 2 relating to other development proposals (either under assessment or already approved by Council) on adjacent sites.

3.1.1 Submissions supporting the proposal

There were no submissions from the general public that supported the planning proposal.

3.1.2 Submissions objecting to and/or raising issues about the proposal

Of the five (5) submissions received, all objected to aspects of the planning proposal. The Council's report outlined the key issues raised relating to:

- overshadowing impacts;
- noise impacts;
- wind impacts;
- environmental impacts; and
- traffic impacts.

Table 3: Summary of issues raised in submissions

Issue raised	Council comment	Department comment
Overshadowing and solar access	<p>The applicant's shadow analysis indicates that the proposal will have some overshadowing impact to buildings to the west and south of the site and the public domain to the south-east of the site.</p> <p>The St Leonards and Crows Nest 2036 Plan (SLCN Plan) allows a maximum building height of 16 storeys on this site. Solar impacts need to be considered in the context of the broader strategic direction for St Leonards as a 'strategic centre'. Additional design and architectural considerations can still be considered at the DA stage to ensure overshadowing impacts to surrounding properties and the public domain are minimised as far as possible within the proposed planning controls.</p>	<p>The Department considers Council adequately responds to this issue.</p> <p>The proposed building height is consistent with Council's St Leonards Crows Nest Planning Study and the Department's SLCN Plan.</p> <p>The overshadowing impact is discussed further in section 4.1.</p>
Noise impact	<p>Concerns about the proposed communal area on the rooftop may result in adverse noise impacts. A further detailed design at the DA stage will need to consider noise transmission within and between dwellings and demonstrate a reasonable level of acoustic privacy and amenity to nearby residents as required under North Sydney DCP 2013 (NSDCP).</p>	<p>The Department considers Council adequately responds to this issue.</p> <p>It is considered that any issues concerning noise can be further assessed and resolved at the DA stage.</p>
Wind impact	<p>The SLCN Plan contains precinct wide objectives for 'liveability'. New developments are expected to have consideration to wind impacts demonstrated through a wind assessment.</p> <p>The applicant has not provided a formal wind assessment at this stage. However, the Planning Proposal's Concept Plan illustrates that the intended built form will incorporate an awning which will help mitigate wind impacts on the public domain.</p> <p>A Wind Impact Report will need to be submitted at the DA stage to demonstrate pedestrian comfort is not adversely affected by wind at footpaths and public outdoor spaces, in accordance with NSDCP.</p>	<p>The Department considers Council adequately responds to this issue.</p> <p>It is considered that any issues concerning wind impact can be further assessed and resolved at the DA stage.</p>
Environmental impact	<p>North Sydney Council note it is committed to a community greenhouse gas emissions reduction target of 25% by 2030 from 1996 baseline levels.</p> <p>The reduction in community emissions are improved with energy efficiency measures such as upgrading with the latest technology and improved building design. The energy requirements for residential and commercial buildings are set under State Building Sustainability Index (BASIX) legislation and a certificate of compliance will be required at the DA stage.</p>	<p>The Department considers Council adequately responds to this issue.</p>

Issue raised	Council comment	Department comment
	<p>Council seeks to minimise resource consumption by concentrating increased density around transport nodes and transport corridors, with reduced on-site parking requirements to ensure the effective take-up of walking, cycling and public transport use.</p>	
Traffic impact	<p>The Transport Impact Assessment (TIA) prepared by the proponent states that through the provision of parking consistent with the maximum parking rates identified in NSDCP (i.e. 32 off-street parking spaces), the <i>'potential net increase in traffic associated with the proposal is negligible and is not envisaged to affect the existing intersection performances adversely.'</i></p> <p>The TIA indicates that the proposal will generate a net additional 2 vehicles during both AM and PM peak hours and <i>'it is expected that surrounding key roads will continue to operate in the same way.'</i></p> <p>A draft Green Travel Plan (GTP) has been prepared by the proponent identifying travel demand management measures that can be incorporated into the development to reduce the number of car trips and increase the share of walking, cycling, public transport use.</p> <p>Vehicle access to the basement car park is proposed to be maintained on Atchison Lane, unchanged from the existing arrangement. The loading dock is also proposed adjacent to the car park ramp. An analysis of vehicles entering and existing the proposed development has been included in the TIA to demonstrate satisfactory operation of the proposed Atchison Lane access.</p> <p>Further attention to detail of future vehicular accessway and basement design will be required at the DA stage.</p>	<p>The Department considers Council adequately responds to this issue.</p> <p>The traffic impact is discussed further in section 4.1.</p>
Public benefit	<p>The <i>SLCN Planning Study – Precincts 2 & 3</i> identifies public benefits (including new and improved open space, a multi-purpose art centre, childcare facility) considered critical to support future development within the precinct.</p> <p>The public benefits offered as part of the draft VPA, which includes a \$1.4 million monetary contribution towards the upgrade of Hume Street Park and provision of a pedestrian through-site link, are largely consistent with the items identified in Council's study and the SLCN Plan to help meet the needs of the community.</p> <p>In accordance with Council's VPA policy, it is expected that the public benefit provided by the proponent is commensurate to the land value uplift resulting from the proposed changes to the planning controls.</p> <p>Council has sought the advice of an independent property consultant and land valuer to assess the value</p>	<p>The Department considers Council adequately responds to this issue.</p> <p>The public benefit is discussed further in section 4.1 including the Special Infrastructure Contribution Scheme (SIC) and VPA.</p>

Issue raised	Council comment	Department comment
	uplift which will result from the Planning Proposal and considers the value of the public benefits offered fair and reasonable.	

Council's post exhibition report concludes that the issues raised in submissions have been considered against the relevant plans including the Greater Sydney Region Plan, the North District Plan and the St Leonards Crows Nest 2036 Plan and did not warrant any amendments to the planning proposal.

3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below:

- Commonwealth Department of Transport, Infrastructure, Regional Development and Communications (DITRDC);
- Sydney Airport Corporation (SACL);
- Airservices Australia
- Civil Aviation Safety Authority (CASA);
- Ausgrid;
- Sydney Water; and
- Transport for NSW (TfNSW).

Council provided a copy of the planning proposal to these authorities and responses were received from all agencies, except for Ausgrid as documented in Council's post exhibition report (**Attachment E1**).

Table 4: Agency comments and Council's response

Agency	Advice raised	Council response
DITRDC	<p>Advised that the proposed maximum building height is below the Obstacle Limitation Surface (OLS) for SACL and is not considered to constitute a controlled activity in this instance.</p> <p>If an increase to the height of the building or if the crane activity associated with construction intrudes into the OLS, an approval should be sought from SACL prior to construction commencing. It is recommended the proponent continues to advise SACL of the planned final building height and any associated crane activities.</p>	<p>Consultation with SACL was undertaken concurrently with the public exhibition of the Planning Proposal. SACL have no issues with the proposed maximum height of buildings control sought by the proposal.</p> <p>Should there be any cranes erected at the future construction stage, cl. 6.15 of NSLEP 2013 will require these matters to be taken into consideration when assessing a DA.</p>
SACL	No objection was raised. SACL noted that the approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.	<p>SACL comments are noted By Council.</p> <p>Clause 6.15 of NSLEP 2013 will require matters such as cranes erected at the future construction stage to be considered when assessing any future DA.</p>

Agency	Advice raised	Council response
	Should you wish to exceed this height a new application must be submitted.	
Airservices Australia	No objection was raised. It was advised that any future DA on the site would need to be assessed by the operator of Sydney Airport first, and if further assessment is required, the operator of Sydney Airport will request assessment from Airservices Australia.	Council noted that Airservices Australia has no issues with the proposed maximum height of buildings control sought. SACL was consulted as part of the public exhibition of the proposal.
CASA	No objection was raised as the proposed building will not infringe the prescribed airspace for Sydney Airport.	Council has noted the comment from CASA on the planning proposal.
Sydney Water	The submission from Sydney Water comments on water and wastewater access points and provides advice on how connections could be made.	Council has noted the comment from Sydney Water on the planning proposal. The issued raised can be dealt with at a future DA stage.
TfNSW	<p>Transport for NSW (TfNSW) indicated they had no objection to the Planning Proposal.</p> <p>However, it was noted that the Hume Street Park Upgrade is an identified open space project under the SLCN Plan and SIC and that the draft VPA indicates a \$1.4 million monetary contribution towards the upgrade of Hume Street park.</p> <p>It was suggested:</p> <p>Should the monetary contribution be applied towards the Hume Street Park, Council and the Department of Planning, Industry and Environment may wish to consider whether this may qualify for SIC offset provisions noting this is identified in the SIC.</p>	<p>On 12 April 2021, Council wrote to the DPIE's Director of Operations, Infrastructure and Place Division on 12 April 2021 seeking an exemption from payment of the SIC for the site on the basis of there being a duplication between the public benefits proposed under the draft VPA and SIC Plan, in relation to Hume Street Park.</p> <p>This matter has been addressed in section 4.2 of this report with a SIC exemption being supported by DPE on the basis that the of the VPA and the commencement of these negotiations prior to the exhibition of the SIC.</p>

The Department considers Council has adequately addressed the matters raised in submissions from public agencies.

The application of the SIC scheme is discussed further in section 4.1. Correspondence concerning the SIC is at **Attachment F1 & F2**.

3.3 Post-exhibition changes

3.3.1 Council resolved changes

At Council's Ordinary Meeting on 27 September 2021, Council resolved to proceed with the planning proposal with no amendments made to the proposal (**Attachment E**).

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination report (**Attachment B2**) and subsequent planning proposal processes. It has also been subject to public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment B2**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the site;
- Remains consistent with the Council's Local Strategic Planning Statement;
- Remains consistent or justifiably inconsistent with all relevant Section 9.1 Directions; and
- Remains consistent with all relevant SEPPs

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1.

Table 5 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 6 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

4.1 Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

4.1.1 Social and economic impact

An assessment of the potential social and economic impacts associated with the proposal is provided in **Table 7**.

Table 7: Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>The planning proposal will provide approximately 65 new dwellings with a variety of sizes and broaden the housing choice in a location which is close to existing and proposed public transport and retail services. The proposed upgrade of retail and commercial tenancies will provide a variety of services to cater for the growing changing population as well as improving the public domain.</p> <p>The draft VPA proposes a public benefit with a monetary contribution towards the provision of a through-site link and the upgrade and embellishment of Hume Street Park.</p>
Economic and employment	<p>The planning proposal states that there will be economic benefits during the construction stage and with ongoing uses. The proposed new employment spaces are expected to generate approximately 106 jobs.</p>

4.1.2 Infrastructure

The site is well serviced by public transport with the existing St Leonards train station within 400m of the site and the future Crows Nest Metro within 200m and additional public transport infrastructure is not required.

The site is in an established urban area that is well serviced by electricity, telecommunications, water and sewerage infrastructure.

Consultation has been carried out with the relevant agencies (**Table 4**) concerning the availability of utilities. No objections were raised with the proposal. Further assessment can be undertaken at the DA stage.

On 20 August 2020, the Special Infrastructure Contribution (SIC) came into effect for the St Leonards Crows Nest Special Contributions Area (**Figure 8**). The purpose of the determination is to require contributions to be made for the provisions of infrastructure in connection with the intensification of residential development in the area as generally outlined in the SLCN Plan.

From 1 July 2021, the SIC is calculated at a rate of \$15,100 per additional dwelling, excluding public housing, housing for seniors and affordable housing. The contribution rate is to be adjusted annually.

Contributions for the SIC are to be made as:

- a monetary contribution;
- works in kind; or
- dedication of land.



Figure 8: St Leonards Crows Nest SIC area (Source: The Department)

Request for SIC Exemption

On 20 December 2019, the Department granted an 'exemption' to the payment of the SIC for the site at 100 Christie Street, on the basis that the negotiations had commenced prior to the exhibition of the proposed SIC and that the VPA delivered regional connectivity and open space. The Department noted that other planning proposals could be considered for exemption if negotiations concerning VPAs had commenced prior to the exhibition of the proposed SIC. Reference to the subject site was included in the letter.

Council wrote to the Department on 12 April 2021 outlining the background of the planning proposal which provided details on discussions regarding the VPA and letters of offer dating back before the SIC was made.

A draft VPA (**Attachment A6**) was exhibited with the planning proposal offering to provide:

- a 5.6m wide and 7.2-7.5 m high through-site link between Atchison Street and Atchison Lane on the west side of the site with an easement for public access between 6am and 11pm;
- a monetary contribution of \$1.4 million to Council for public benefit towards the upgrade of Hume Street Park or public open space within St Leonards or Crows Nest in the North Sydney LGA; and
- a setback of 3m to the building at ground level, fronting Atchison Street.

The draft VPA was reviewed by an independent economic consultant and the benefits provided are considered appropriate for the uplift proposed.

As Council had not received confirmation from the Department at the time it considered the post-exhibition report, it resolved on 27 September 2021 to request that the site be exempt from the application of the SIC, on the basis of the delivery of defined public benefit within the VPA, in a similar manner as the site at 23-35 Atchison Street (**Attachment E1**).

On 21 January 2022, the Department wrote to Council (**Attachment F1**) to advise that based on the draft VPA, the developer will not be required to make a contribution under the SIC, on the basis that:

- the draft VPA is providing a monetary contribution of \$1.4 million towards regional open space (Hume Street Park); and
- it was satisfied that negotiations had begun prior to the exhibition of the SIC.

The Department advised Council that it would be issuing a Clearance Certificate for the site. If the contribution towards regional open space substantially changes, then the Department may re-assess its decision.

4.1.3 Environmental impact

Overshadowing

Shadow diagrams (**Figures 9 to 11**) were submitted with the planning proposal in the revised Design Concept Report (**Attachment A2**). While mitigated by the slender tower form, some additional overshadowing is expected on the proposed Oxley Street linear park after 2pm (**Figure 11**).

It is expected that some overshadowing and loss of solar access will occur as a result of the uplift in the area. Further assessment of the overshadowing impacts can be carried out at the DA stage.

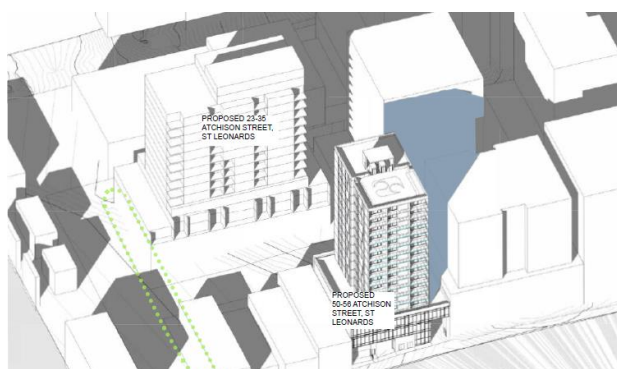


Figure 9: Shadow diagram 9am (Source: Kahn Finch)

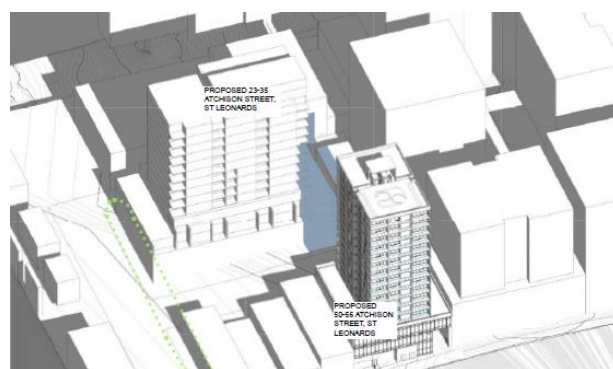


Figure 10: Shadow diagram 12pm (Source: Kahn Finch)

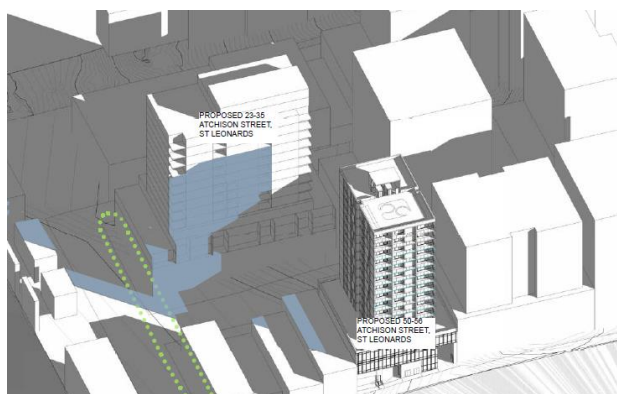


Figure 11: Shadow diagram 3pm (Source: Kahn Finch)

- Existing Shadows
- 50-56 Atchison Street additional Shadows
- Future Linear Park

Built form

The planning proposal was supported by concept plans (**Attachment A3**) that indicate three podium level floors accommodating commercial floorspace with a residential tower above from

levels three to 15 (**Figures 12 to 15**). Street level concepts of the proposal along Atchison Street are shown in **Figures 16 and 17**.

The SLCN Plan recommends a maximum height for this site to 56m (16 storeys) (**Figure 18**) and a maximum FSR of 6:1 (**Figure 19**). An objective of the SLCN Plan is for taller buildings approximately 150m to 200m either side of the station transitioning in height bulk and scale down from the Pacific Highway to lower scale residential areas.

On 27 September 2021, Council resolved to support the proposal (**Attachment E1 and E2**) with the height of 56m and establish an overall FSR of 6.4:1 as outlined in **Table 2** including local provision for a reasonable exceedance of the maximum height to portions of the building to enable access to a communal roof top area.

The street wall height of three storeys is proposed in lieu of the requirement of four which is inconsistent with the recommendations of the SLCN Plan. However, this considered a minor change as the façade to Atchison Street will follow the slope to the terrain (**Figures 13 and 16**) and have the visual appearance of four storeys.

The SLCN Plan also contains an objective for a three (3) metre reverse setback at street level to provide retail at street level and improve the public domain. Council's report outlines that the concept proposal has a significantly reduced above podium setbacks of 0.25m to Atchison St and 1.75m to Atchison Lane.

The changes to the planning controls for the site are in line with the desired future character of the area and the exceedance in height and FSR and the inconsistencies with the concept façade do not detract from the vision of the SCLN Plan.

The SLCN Plan is discussed further in Section 4.1.4 and Section 4.1.7.

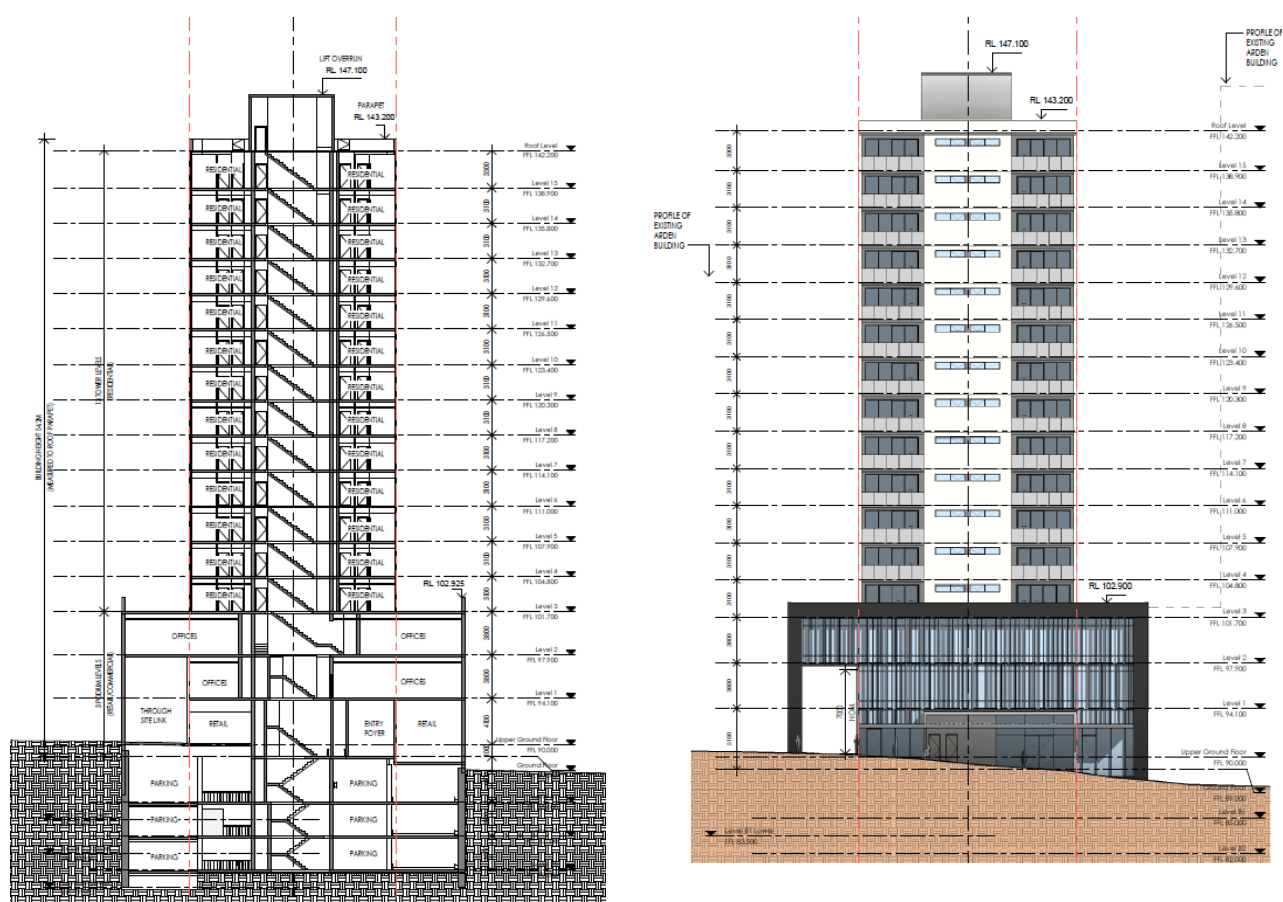


Figure 12: Section – (east -west from Atchison Street) (Source: Kahn Finch)



Figure 14: Section – (north -south) (Source: Kahn Finch)

Figure 13: South elevation – (Atchison Street) (Source: Kahn Finch)

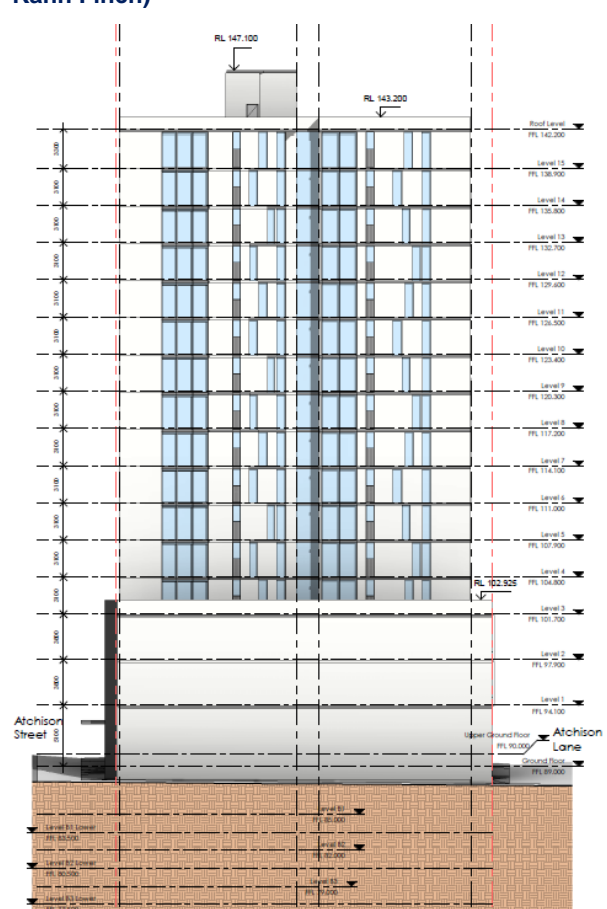


Figure 15: East elevation – (Source: Kahn Finch)



Figure 16: Concept of the Atchison Street facade including the through site link to Atchison Lane (Source: Kahn Finch)



Figure 17: Concept at street level along Atchison Street (Source: Kahn Finch)



Figure 18: SLCN Plan recommended heights (Source: The Department)

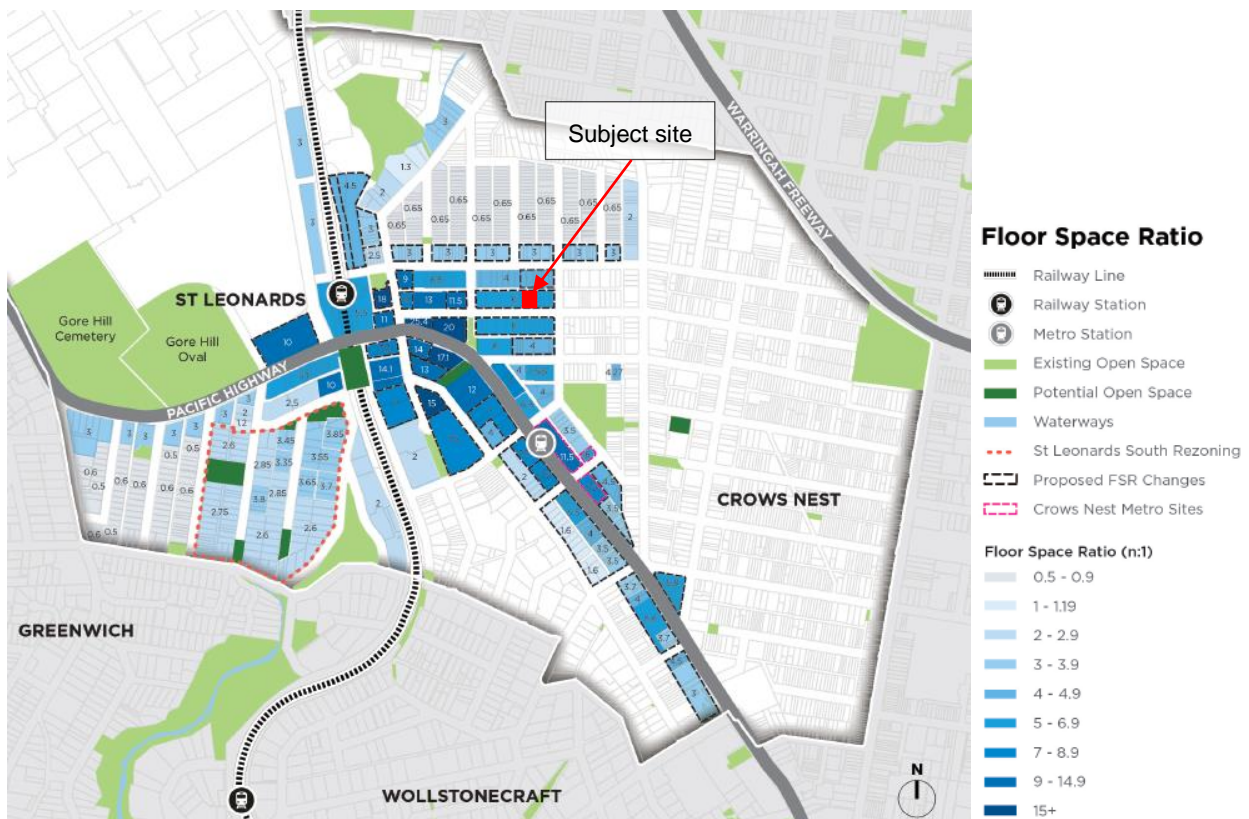


Figure 19: SLCN Plan recommended FSR (Source: The Department)

Traffic and Transport

The site is well located approximately 400m from the existing St Leonards Station and approximately 200m from the future Crows Nest metro station with access to existing and proposed public transport.

A traffic impact assessment (TIA) (**Attachment A4**) submitted with the planning proposal. The TIA indicates that the proposal will generate a net additional two vehicles during both AM and PM peak hours with surrounding key roads continuing to operate similar to the current conditions.

Council states that a draft Green Travel Plan (GTP) has been prepared by the proponent to incorporate measures into the development to encourage active and public transport and reduce private vehicle usage. Measures in a GTP can include end of journey facilities such as bicycle racks, lockers and showers.

Access will be the same as the existing from Atchison Lane. Further access design details can be assessed as part of a future DA.

4.1.4 Section 9.1 Directions

The following Section 9.1 Directions were considered as part of the Department's original Gateway determination report, with no further approvals required in relation to these directions:

- 1.1 Business and Industrial Zones;
- 2.6 Remediation of Contaminated Land;
- 3.1 Residential Zones;
- 3.4 Integrating Land Use and Transport;
- 3.5 Development Near Regulated Airports and Defence Airfields; and
- 7.11 Implementation of St Leonards and Crow Nest 2036 Plan.

1.1 Business and Industrial Zones

The objectives of this Direction are to encourage employment growth in suitable locations, protect employment lands and support the viability of identified centres.

The planning proposal will result in a net loss of commercial floor space by 324 m². The Department considers that the inconsistency with this Direction is justified as the commercial floor space will be upgraded, replacing lower grade commercial floor space to cater for a wider range of businesses and supporting up to 106 jobs. The non-residential floorspace is proposed to be provided at 1.7:1 (1,844 m²) which is greater than the recommendation in the SLCN Plan of 1:1.

2.6 Remediation of Contaminated Land

This Direction was introduced on 17 April 2020 with the objective of reducing the risk of harm to human health and the environment by ensuring contamination and remediation of land are considered.

The Gateway determination recommended that a preliminary site investigation (PSI) be carried out. A PSI report (**Attachment A5**) was submitted that indicated the site was suitable for the proposed mixed use development as the risk for contamination was low.

3.1 Residential Zones

Under this Direction, a planning proposal must broaden housing choice, make efficient use of existing infrastructure, reduce consumption of land for housing on the urban fringe and be of good design.

The planning proposal remains consistent with this Direction as it will provide 65 new dwellings, with a mix of sizes to meet the future needs of the population in an area close to existing and proposed services, infrastructure and public transport.

3.4 Integrating Land Use and Transport

The key objectives of this Direction are to improve access to housing, jobs and services by walking, cycling and public transport and reducing dependency on cars.

The site is within walking distance of St Leonards train station, the future Crows Nest Metro and existing bus services to existing employment and other services, reducing the need for private vehicular movements.

Council requested that the applicant prepare a draft Green Travel Plan (GTP) to be exhibited with the planning proposal. The purpose of the GTP is to identify measures that can be incorporated into the development to reduce private car trips and increase the use of active transport and public transport.

3.5 Development Near Regulated Airports and Defence Airfields

The objectives of this Direction are to ensure the effective and safe operation of airports, so that their operation is not compromised, and to ensure development is not adversely affected by aircraft noise.

This direction requires that permission be obtained from the Department of the Commonwealth, where a planning proposal seeks to allow development that would constitute a controlled activity, prior to undertaking community consultation.

Consultation was carried out in accordance with the Gateway determination. The Department of Infrastructure, Transport, Regional Development and Communications (DITRDC) advised that the maximum building height was below the Obstacle limitation Surface (OLS) for Sydney Airport and was not considered a controlled activity.

7.11 Implementation of St Leonards and Crows Nest 2036 Plan

This Direction came into effect on 27 August 2020. The objective of this Direction is to ensure development within the St Leonards and Crows Nest Precinct is consistent with the SLCN Plan.

The planning proposal was updated to address the consistency with this direction. The revised proposal is generally consistent with the visions, objectives and actions of the SLCN Plan and have been justified as of minor significance. The consistency with the SLCN Plan is discussed further in section 4.1.4 and 4.1.7.

4.1.5 Greater Sydney Regional Plan

The planning proposal remains consistent with the Regional Plan. An assessment of the planning proposal against relevant aspects of the Greater Sydney Regional Plan is provided in **Table 8**.

Table 8: Regional Plan assessment

Regional Plan Objectives	Justification
A city supported by infrastructure	The site is in an established area well serviced by infrastructure. It is approximately 400m from the existing St Leonards Station and approximately 200m from the future Crows Nest metro station.

Regional Plan Objectives	Justification
A city for people A connected city	The proposal is close to existing and future public transport with direct connections to employment, retail and commercial areas reducing the reliance on private cars and contributing the 30-minute city.
Housing the city	The proposal will facilitate the provision of 65 new residential dwellings to cater for the growing population in St Leonards and contribute to the housing targets for the North District.
A city of great places	The proposal will provide high quality public open spaces including an active street frontage. A draft VPA proposed to contribute \$1.4 million towards a pedestrian through site link and upgrades and enhancement to Hume Street Park.
A well-connected city Jobs and skills for the city	St Leonards is in the Eastern Economic corridor and with the Royal North Shore Medical Precinct in the vicinity the site will provide additional dwellings in a convenient location. The proposal will also provide upgraded commercial floor space to suit a wider range of businesses and services. It is estimated that 106 new jobs within the concept will be created as a result.

4.1.6 North District Plan

As detailed in the table below, the Planning Proposal is consistent with the relevant planning priorities of the North District Plan.

Table 9: Summary of consistency with the North District Plan

Planning Priority	Response
<i>Planning priority N1 – planning for a city supported by infrastructure</i>	The planning proposal will increase housing supply and diversity in a location that is well serviced by existing and proposed infrastructure. The site is in a well-established area that is well serviced by infrastructure. It is consistent with this priority.
<i>Planning priority N3 – providing services and social infrastructure to meet people's changing needs</i> <i>Planning priority N4 – fostering healthy, creative, culturally rich and socially connected communities</i> <i>Planning priority N20 – delivering high quality open space</i>	The planning proposal is consistent with this priority as it will increase housing choice within walking distance of existing retail services, access to jobs and public transport. The planning proposal and Council's report states that the provision of a publicly accessible through-site link with ground floor retail will contribute to the network of open spaces. The VPA will contribute to social infrastructure such as the upgrade and embellishment of Hume Street Park.
<i>Planning priority N5 – providing housing supply, choice and affordability with</i>	The planning proposal is consistent with this priority as it will provide 65 new dwellings in a variety of sizes within walking distance of existing retail

Planning Priority	Response
<i>access to jobs, services and public transport</i>	<p>services, jobs and high frequency public transport at St Leonards Station. It is also close to the future Crows Nest Metro Station.</p> <p>The employment opportunities include the Royal North Shore Hospital which is currently undergoing major upgrades.</p>
<i>Planning priority N6 – creating and renewing great places and local centres and respecting the district's heritage</i>	<p>The planning proposal is consistent with this priority as it will provide upgraded retail and commercial floor space as well as a variety of residential dwellings to cater to the area's growing population.</p> <p>The VPA will contribute to additional services and social infrastructure such as a through-site link and upgrade to public open space such as Hume Street Park.</p>
<i>Planning priority N10 – growing investment, business opportunities and jobs in strategic centres</i>	<p>St Leonards is identified as a health and education precinct which includes the Royal North Shore Hospital, North shore Private Hospital and TAFE NSW and a key employment centre. The planning proposal provides a mixed-use development approximately 400m from St Leonards Station and 200m from the proposed Crows Nest Metro Station, with direct and frequent access to major employment centres.</p> <p>The through site link from Atchison Street to Atchison Lane will improve the walkability and create a vibrant quality public realm and attract additional retail and commercial businesses.</p>
<i>Planning priority N12 – delivering integrated land use and transport planning and a 30-minute city</i>	<p>The planning proposal is consistent with the priority as it is within walking distance from the existing St Leonards Station and the future Crows Nest Metro Station. The public transport options have direct connections to major employment centres such as the Sydney CBD, North Sydney, Chatswood and Macquarie Park supporting the 30-minute city.</p>
<i>Planning priority N21 – reducing carbon emissions and managing energy, water and waste efficiently</i>	<p>The site is well located to take advantage of existing and proposed public transport infrastructure. Council recommends the preparation of a Green Travel Plan (GTP) to explore measures to reduce car reliance and ownership and improve active transport.</p> <p>The planning proposal states that the concept has been developed to facilitate future BASIX compliance and can be further addressed at the development application (DA) stage.</p>

4.1.7 St Leonards and Crows Nest 2036 Plan

The St Leonards and Crows Nest 2036 Plan (SLCN Plan) was finalised on 29 August 2020. It requires that future planning proposals within the St Leonards and Crows Nest investigation area reflect the SLCN Plan vision, design principles and recommended planning controls as summarised in **Tables 10** and **11**.

The planning proposal was updated as a condition of the Gateway determination to provide discussion on the consistency with Ministerial Direction 7.11 Implementation of St Leonards and Crows Nest 2036 Plan.

Table 10: St Leonards and Crows Nest 2036 Plan – compliance

Proposed Planning control	Requirement	Concept Proposal	Complies
HOB	16 storeys	16 storeys (56m with additional site-specific clause for lift overrun to a height of 58.1 (RL147.1)).	Generally
FSR	6:1	6.4:1	No
Non-residential FSR	Minimum 1:1	1.7:1	Yes
Street wall height	4 storeys	3 storeys	No
Street setback	3m reverse setback	3m whole of building setback	No

The planning proposal is considered to have minor inconsistencies with the SLCN Plan in respect to:

Height

The SLCN Plan outlines a maximum HOB of 56m. The planning proposal seeks to introduce a maximum height of buildings (HOB) to 58.1m (RL147.1) to allow a lift overrun and access to the rooftop. If the LEP states a maximum HOB of 58.1m there would be an opportunity to provide an additional floor.

The planning proposal was revised to specify a maximum HOB of 56m (RL145) with a site specific provision to exceed the maximum HOB to a total of 58.1 (RL147.1) to allow a lift overrun for access to the communal rooftop. This will place limitations of what type of structure is to be within the additional height.

FSR

The SLCN Plan outlines a maximum FSR of 6:1 and a minimum non-residential FSR of 1:1 (**Figure 20**).

Overall, the proposal represents a net reduction of 324m² of employment floorspace from the existing conditions on the site.

The planning proposal seeks to introduce a maximum FSR to 6.4:1 with a non-residential FSR of 1.7:1.

The overall increase of FSR will facilitate an approximate additional 432m² of floor space. The additional FSR is justified as the increase in FSR of non-residential floorspace will partially offset this inconsistency.

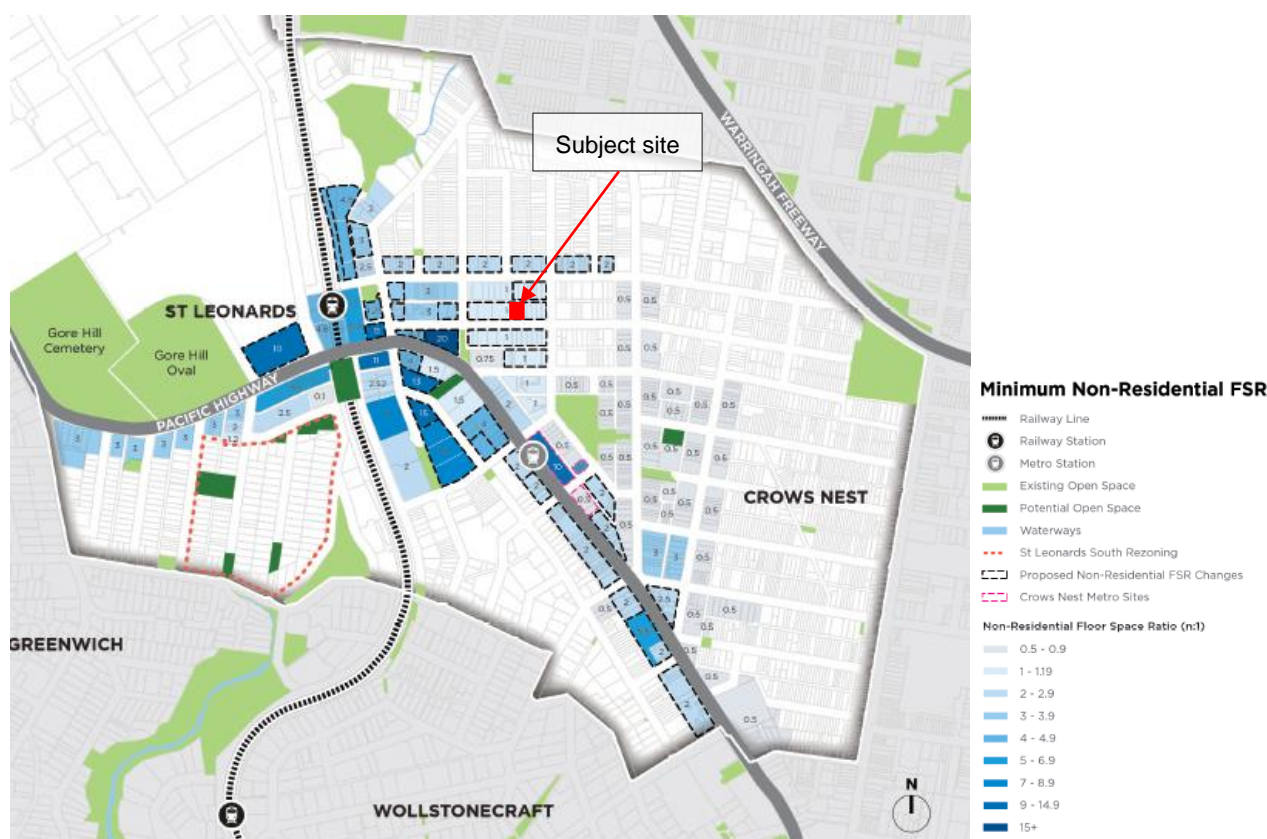


Figure 20: SLCN Plan recommended minimum non-residential FSR (Source: The Department)

Street wall height

The planning proposal, concept indicates a three-storey street wall height instead of a four-storey street wall height and there is no 3m reverse setback as required, both inconsistent with the SLCN Plan.

The three-storey podium maintains the scale of a four-storey podium/street by accommodating increased ceiling heights (**Figures 13 and 16**).

The adjacent buildings along Atchison Street have adopted a tower setback above podium level with a strong street wall. The indicative concept is consistent with this approach. The provision of a through-site link will activate the public domain and promote activity.

It is considered that the inconsistencies in the street wall and non-compliance with the setback does not undermine the achievement of the SLCN Plan's vision, objectives and actions.

Table 11: St Leonards and Crows Nest 2036 Plan assessment

Strategies	Justification
Vision	<p>The planning proposal is generally consistent with the vision of the SLCN Plan as it will promote an active street frontage and include a through site link to improve permeability.</p> <p>The proposal will facilitate renewed and increase to commercial floor space on the site to cater to a wider range of services for a growing population compatible with the future character of the area.</p> <p>A variety of residential dwellings will also be provided to suit a mix of household sizes on a site that has been designated for potential uplift within the plan area.</p>

<i>Design principles</i>	<p>The planning proposal is generally consistent with the design principles of the SLCN Plan as;</p> <ul style="list-style-type: none"> the provision of an active street front and through site link will aid in casual surveillance and contribute to the pedestrian network; it complies with the built form of locating taller buildings between St Leonards Station and the future Crows Nest Metro Station; it will improve street amenity and streetscape with the provision of setbacks and awnings; the inclusion of a non-residential FSR above the minimum requirement set will cater to a wider range of business types and sizes and the through-site link will increase appeal for commercial take up; and it is compatible with the surrounding area and will not raise strategic issues concerning cumulative overshadowing, wind and view loss impacts.
<i>Design criteria</i>	<p>The planning proposal responds to the following design criteria;</p> <ul style="list-style-type: none"> <i>solar height planes</i> – while mitigated by the slender tower form, some additional overshadowing is expected on the proposed Oxley Street linear park after 2pm; <i>quality streetscape</i> – the planning proposal responds to the recommendations of the North Sydney Local Planning Panel with the provision of setbacks, through-site link and active ground floor uses; <i>views and vistas</i> – district views to the north and east will be impacted. However, Council has considered this to be acceptable due to the emerging high-density character of the area; <i>avoidance of the monolithic street wall</i> – the proposal provides a podium height that steps down to the west in line with the street gradient. The two storey through-site link will increase variety at street level and serve to break the podiums bulk; and <i>transition to lower density areas</i> – with the recommended amendment the HOB will be consistent with the SLCN Plan. The site is centrally located and no impact on the lower density area to the east is anticipated.

4.1.8 Local Strategies/Plans

Table 12: Local strategic planning assessment

Local Strategies	Justification
Local Housing Strategy	<p>The North Sydney Local Housing Strategy (LHS) was adopted by Council on 25 November 2019 to provide directions for meeting the needs of the area's growth. It details how and where housing will be provided over the next 20 years. It was approved by the Department on 10 May 2021.</p> <p>The LHS identifies the potential for an additional 11,870 dwellings within the North Sydney LGA by 2036. The SLCN Plan identifies planning controls to support the delivery of 3,515 dwellings within parts of the St Leonards and Crows Nest Planned Precinct.</p> <p>The proposal is consistent with the LHS as it indicates the provision of an additional 65 residential apartments equating to approximately 2% of the amount to be accommodated in the B4 Mixed Use zone.</p>

Local Strategies	Justification
Local Strategic Planning Statement	<p>The North Sydney Local Strategic Planning Statement (LSPS) was adopted by Council on 24 March 2020 following a letter of support from the GSC on 20 March 2020. It guides future land use planning and development in the North Sydney LGA to 2036. The LSPS guides the content of the North Sydney LEP and the Development Control Plan (DCP).</p> <p>The planning proposal is consistent with the relevant planning priorities in the LSPS:</p> <ul style="list-style-type: none"> <p><i>Planning priority I1 – Provide infrastructure and assets that support growth and change</i></p> <p>The planning proposal is accompanied by a draft VPA that proposes to provide monetary and in-kind contributions to Council appropriate with the growth and change proposed on the site.</p> <p><i>Planning priority I2 – Collaborate with State Government Agencies and the community to deliver new housing, jobs, infrastructure and great places.</i></p> <p>The proposal provides housing and commercial floor space at the site and in the locality is generally consistent with the North District Plan, Council's Planning Study and the draft SLCN Plan.</p> <p><i>Planning priority L1 – Diverse housing options that meet the needs of the North Sydney community</i></p> <p>The planning proposal will provide variety of additional residential dwellings in an area well serviced by existing and proposed public transport, services, jobs, infrastructure and public open space.</p> <p><i>Planning priority L3 – Create great places that recognise and preserve North Sydney's distinct local character and heritage</i></p> <p>Site-specific controls are generally consistent with Council's Planning Study and the SLCN Plan. The proposal generally conforms with the emerging character of the area and will not impact on local heritage.</p> <p><i>Planning priority P2 – Develop innovative and diverse business clusters in St Leonards/Crows Nest</i></p> <p>The proposal will include a non-residential FSR above the minimum standard set out in the SLCN Plan to support increased job growth. The through site link will improve the amenity of the area to occupants and visitors.</p> <p><i>Planning priority P4 – Develop a smart, innovative and prosperous North Sydney economy</i></p> <p>The proposal will facilitate a non-residential component to support retail and commercial businesses and potentially yield a net increase in jobs with a flexibly designed commercial podium.</p> <p><i>Planning Priority P6 and S2 – Support walkable centres and a connected, vibrant and sustainable North Sydney</i></p> <p>A draft VPA comprising of an offer to create a pedestrian through-site link to the western boundary of the site and a monetary contribution towards the upgrade of Hume Street Park will contribute to the amenity of the site at a pedestrian scale.</p> <p><i>Planning priority S3 – Reduce greenhouse gas emissions, energy, water and waste</i></p>

Local Strategies	Justification
	The site is well located with access to existing and proposed public transport, reducing the reliance on vehicular trips and promoting active transport. Council recommends the preparation of a draft GTP.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 13: Consultation following the Department's assessment

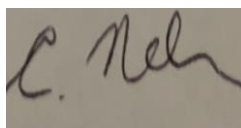
Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	<p>The planning proposal requires changes to three (3) maps (Sheet_001) of the following maps of the North Sydney LEP 2013 (Attachment Maps and Attachment MCS):</p> <ul style="list-style-type: none"> • Height of Buildings Map HOB_001; • Floor Space Ratio FSR_001; and • Minimum Non-Residential FSR LCL_001. <p>The series of Height, FSR and non-residential map sheets comprising twelve (12) maps were required to be amended due to value not previously on the legend of these maps, and have been checked by the ePlanning team:</p> <ul style="list-style-type: none"> • Height of Buildings Map – HOB_002 • Height of Buildings Map – HOB_002A • Height of Buildings Map – HOB_003 • Height of Buildings Map – HOB_004 • Floor Space Ratio Map – FSR_002 • Floor Space Ratio Map – FSR_002A • Floor Space Ratio Map – FSR_003 • Floor Space Ratio Map – FSR_004 • Non-residential Floor Space Map LCL_002 • Non-residential Floor Space Map LCL_002A • Non-residential Floor Space Map LCL_003 • Non-residential Floor Space Map LCL_004 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i>. Council confirmed on 18 January 2022 that it raised no objections to the draft plan and that the plan should be made (Attachment G). Council confirmed that they raise no objections to the final instrument on 1 February 2022.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Parliamentary Counsel Opinion	On 31 January 2022, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC . The final LEP is at Attachment LEP .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

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

- it is consistent with the Gateway Determination;
- it provides housing within close proximity to services, employment and existing and proposed public transport, contributing to the 30-minute city;
- it is consistent with and gives effect to the North District Plan and Greater Sydney Region Plan;
- it is generally consistent with all relevant section 9.1 Directions and SEPPs;
- any inconsistency with the St Leonards and Crows Nest 2036 Plan is justified and considered minor and will not undermine the vision of the Plan; and
- all community concerns have been adequately addressed and there are no outstanding or unresolved agency raised in submissions.



14/02/2022

Charlene Nelson

Manager, Place & Infrastructure, North District



15 February 2022

Brendan Metcalfe

Director, North District

Eastern Harbour City

Assessment officer: Christina Brooks, Planning Officer, North District

Attachments

Attachment	Document
A	Revised Planning Proposal
A1	Letter to DPE - Request to make LEP
A2	Concept Design Report
A3	Concept Architectural Plans
A4	Transport Impact Assessment Report (as exhibited)
A5	Preliminary Contamination Report
A6a	Draft VPA
A6b	Draft VPA Explanatory Note
B1	Gateway determination
B2	Gateway determination report
C	Alteration - Gateway determination
D	Proposed Mapping
E1	Council Post-Exhibition Report
E2	Council Minutes
E3	Summary of Responses
F1	Letter to DPE - SIC Exemption 12.04.2021
F2	Letter to North Sydney - SIC exemption 21.01.22
G	Council – consultation on draft LEP, MCS and maps
H	St Leonards Crows Nest 2036 Plan
LEP	Local Environmental Plan
PC	Parliamentary Counsel Final Opinion
MCS	Map cover sheet
Maps	LEP maps