



Planning,  
Industry &  
Environment

IRF20/5617

## Gateway determination report

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50 – 56 Atchison Street, St Leonards

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**Table 1: Reports and plans supporting the proposal**

Relevant reports and plans
Attachment A - Planning Proposal (Urbis) – 5 February 2019
Attachment A1 - Planning Proposal Cover Letter – 29 September 2020
Attachment D - North Sydney Council Report – 27 July 2020
Attachment E - North Sydney Council Resolution – 27 July 2020
Attachment F - Concept Design Report – 30 January 2019
Attachment G - Concept Architectural Plans – 25 January 2019
Attachment H - Traffic Impact Assessment – 15 February 2018
Attachment I - Waste Management Plan – 23 February 2018
Attachment J - Building Services Report – 21 February 2018
Attachment K - Special Provision Clause
Attachment L – Letter to North Sydney Council regarding SIC - 20 December 2019

# 1 Planning Proposal

## 1.1 Overview and objectives of planning proposal

**Table 2: Planning proposal details**

<b>LGA</b>	<b>North Sydney</b>
<b>PPA</b>	<b>North Sydney Council</b>
<b>NAME</b>	<b>50-56 Atchison Street, St Leonards (65 homes, 106 jobs)</b>
<b>LEP TO BE AMENDED</b>	<b>North Sydney Local Environmental Plan 2013</b>
<b>ADDRESS</b>	<b>50-56 Atchison Street, St Leonards</b>
<b>DESCRIPTION</b>	<b>Lots 5, 6 and 7 Section 11 DP 2872</b>
<b>RECEIVED</b>	<b>30/09/2020</b>
<b>FILE NO.</b>	<b>IRF20/5536</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

The planning proposal (**Attachment A**) contains objectives and intended outcomes that are considered to adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- amend the North Sydney Local Environmental Plan (LEP) 2013 to facilitate a mixed-use redevelopment of the site at 50-56 Atchison Street, St Leonards.

The intended outcomes of the planning proposal are to:

- enable development that is consistent with the height of buildings (HOB) and floor space ratios (FSR) parameters in the St Leonards/Crows Nest Planning Study (Precincts 2 and 3)
- integrate the subject site with the surrounding area through improvements to adjoining public domain spaces including street activation and improved connectivity between St Leonards train station and surrounding areas;
- satisfy the objectives for the provision of jobs, housing and infrastructure within the St Leonards health and education precinct and priority precinct; and
- provide a mixed-use development including community facilities contributing to community activity, vibrancy and rejuvenation.

The objectives and intended outcome of this planning proposal are generally clear and adequate. However, the height of building and FSR are inconsistent with the controls as recommended under the St Leonards and Crows Nest 2036 Plan (SLCN 2036 Plan) and will require justification.

The planning proposal, Concept Design Report (**Attachment F**) and the Concept Architectural Plans (**Attachment G**) indicates a three-storey street wall height instead of a 4 storey street wall height and there is no 3m reverse setback as required, which are both inconsistent with the SLCN 2036 Plan.

While section 9.1 Ministerial Direction 7.11 Implementation of St Leonards and Crows Nest 2036 Plan allows for some minor inconsistencies within a planning proposal on a case by case basis, the proposal does not address this. Therefore, it is recommended that the proposal to be updated prior to exhibition to demonstrate consistency with this direction.

## 1.2 Explanation of provisions

The planning proposal seeks to amend the North Sydney LEP 2013 per the changes below:

**Table 3: Current and Proposed controls**

Control	Current	Proposed	SLCN 2036 Plan
<b>Zone</b>	B4 Mixed Use	B4 Mixed Use (no change)	B4 Mixed Use
<b>Maximum HOB</b>	20m (5 storeys)	58.1m (16 storeys plus lift overrun)	16 storeys
<b>FSR</b>	0.6:1	6.4:1 (GFA 6,887m <sup>2</sup> )	6:1
<b>Non-residential FSR</b>	0.6:1	1.7:1 (GFA 1,844m <sup>2</sup> )	1:1

On 27 July 2020, Council stated in their report and resolution (**Attachment D and E**) that the HOB should be a maximum of 56m consistent with 16 storey control outlined in the SLCN 2036 Plan. The additional height required for the lift overrun (HOB of 58.1m) will be subject to the drafting of a special clause in the North Sydney LEP 2013 as recommended by the North Sydney Local Planning Panel (NSLPP).

Council's report states that the planning proposal is accompanied by a draft voluntary planning agreement (VPA) for the provision of a:

- through site link from Atchison Street to Atchison Lane; and
- monetary contribution to Council for open space upgrade to public open space within the precinct such as Hume Street Park.

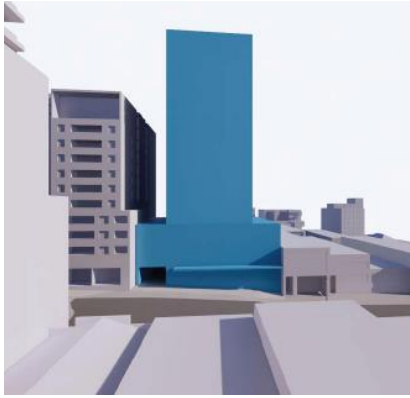
The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

The proposal will facilitate a three level basement with parking spaces, one level of retail floor space at ground level, two levels of commercial floor space (combined retail/commercial space gross floor area (GFA) of approximately 1,885m<sup>2</sup>) and 13 levels of residential dwellings (total of 65 apartments).

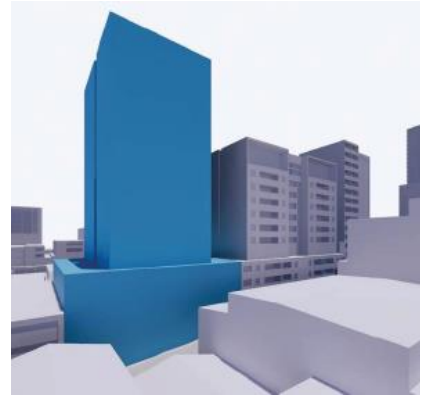
The planning proposal was accompanied by a Concept Design Report (**Attachment F**) and Concept Architectural Plans (**Attachment G**) showing the site massing and concept built form (**Figures 1 – 9**).



**Figure 1: Proposed built form view from Atchison Street looking west (source: Kann Finch)**



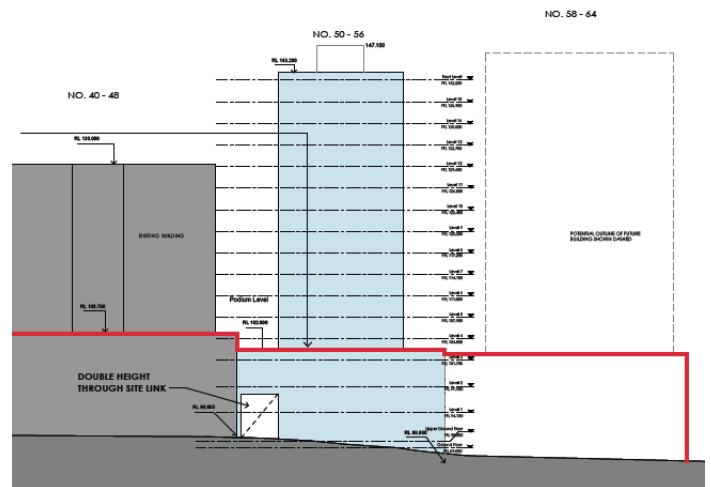
**Figure 2: Proposed built form view from Atchison Lane looking south (source: Kann Finch)**



**Figure 3: Proposed built form view from Chandos Street looking south-west (source: Kann Finch)**



**Figure 4: Concept from Atchison Street looking north-west (source: Kann Finch)**



**Figure 5: Proposed stepping of the streetwall responding to the terrain (source: Kann Finch)**



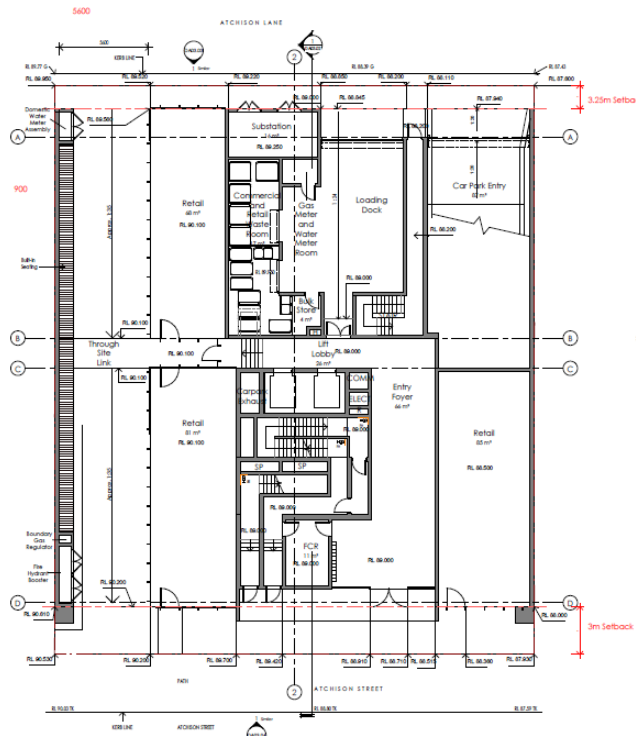


Figure 6: Proposed ground floor plan (source: Kann Finch)



Figure 7: Proposed ground floor with through-site link from Atchison Street to Atchison Lane (source: Kann Finch)

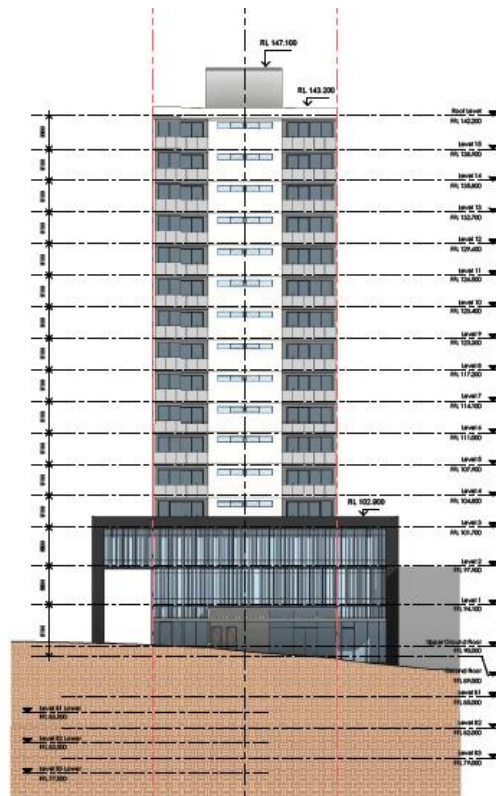


Figure 8: Proposed south elevation from Atchison Street (source: Kann Finch)



Figure 9: Proposed north-south section from Atchison Street to Atchison Lane (source: Kann Finch)



## 1.3 Site description and surrounding area

The site is a rectangular shape and comprises of three allotments with a total area of approximately 1,080m<sup>2</sup>.

The site is bound by Atchison Lane to the north, adjoins the boundary of 58 Atchison Street to the east, adjoins the boundary of 48 Atchison Street to the west and the primary frontage is to the south to Atchison Street (**Figures 10-12**).

The total site is approximately 30m wide and 36m deep. The land falls approximately 2.6m west to east along Atchison Street and 2.3m along Atchison Lane.

The legal description and current development on the site are provided in **Table 4**.

**Table 4: Site and legal description**

Site	Legal Description	Existing Development
50 Atchison Street	Lot 7 section 11 DP 2872	Two-storey commercial building constructed in the 1970's with the main frontage to Atchison Street and a secondary frontage and vehicular access on Atchison Lane to the north.
52-56 Atchison Street	Lot 6 section 11 DP 2872	Four-storey commercial building constructed in the 1970's with the main frontage to Atchison Street and secondary frontage and vehicular access on Atchison Lane to the north.
	Lot 5 section 11 DP 2872	

The site is centrally located within the strategic centre of St Leonards which is undergoing significant transformation and is approximately 400m from St Leonards train station and approximately 200m from the future Crows Nest Metro station (**Figure 13-14**).

The area is characterised by a variety of buildings containing mixed uses including medical and allied health businesses, hotel and residential apartments. The key uses near the site include:

- The Forum, approximately 350m west of the site which is a 38 storey mixed-use development built over the St Leonard Station, comprising residential and commercial uses including retail and other services;
- Royal North Shore Medical Precinct, 650m north-west of the site containing the Royal North Shore Hospital (RNSH), North Shore Private Hospital and TAFE NSW; and
- Gore Hill Oval is approximately 620m to the west.

To the north of the site, across Atchison Lane are commercial office buildings in Chandos Street ranging from two to three-storeys. Adjoining the site to the east are commercial buildings ranging from two to three storeys. To the south across Atchison Street is a 12-storey mixed-use building, commercial office buildings ranging from two to four storeys and at 23-35 Atchison Street on the corner of Oxley Street is a site approved for a building up to 16 storeys.

To the west, adjacent to the site at 40-48 Atchison Street is 'The Arden', a 12-storey mixed-use building. A summary of existing and approved development in the vicinity are provided in **Table 5 and Figure 10**.

The site does not contain or adjoin any heritage items and is not within or adjoining a heritage conservation area.

**Table 5: Existing and approved developments adjacent to and in the vicinity of the site**

Address	Storeys
45 Chandos Street	12 storeys
32-38 Atchison Street	15 storeys
40-48 Atchison Street	12 storeys
50-56 Atchison Street (subject site)	16 storeys (proposed)
23-35 Atchison Street	16 storeys (proposed)

**Figure 10: Subject site with notable surrounding development (Table 5) (source: Near Map, overlay by DPIE)**





Figure 11: Subject site from Atchison Street looking north-east (source: Google Maps, overlay by DPIE)



Figure 12: Subject site from Atchison Lane looking south-east (source: Google Maps, overlay by DPIE)



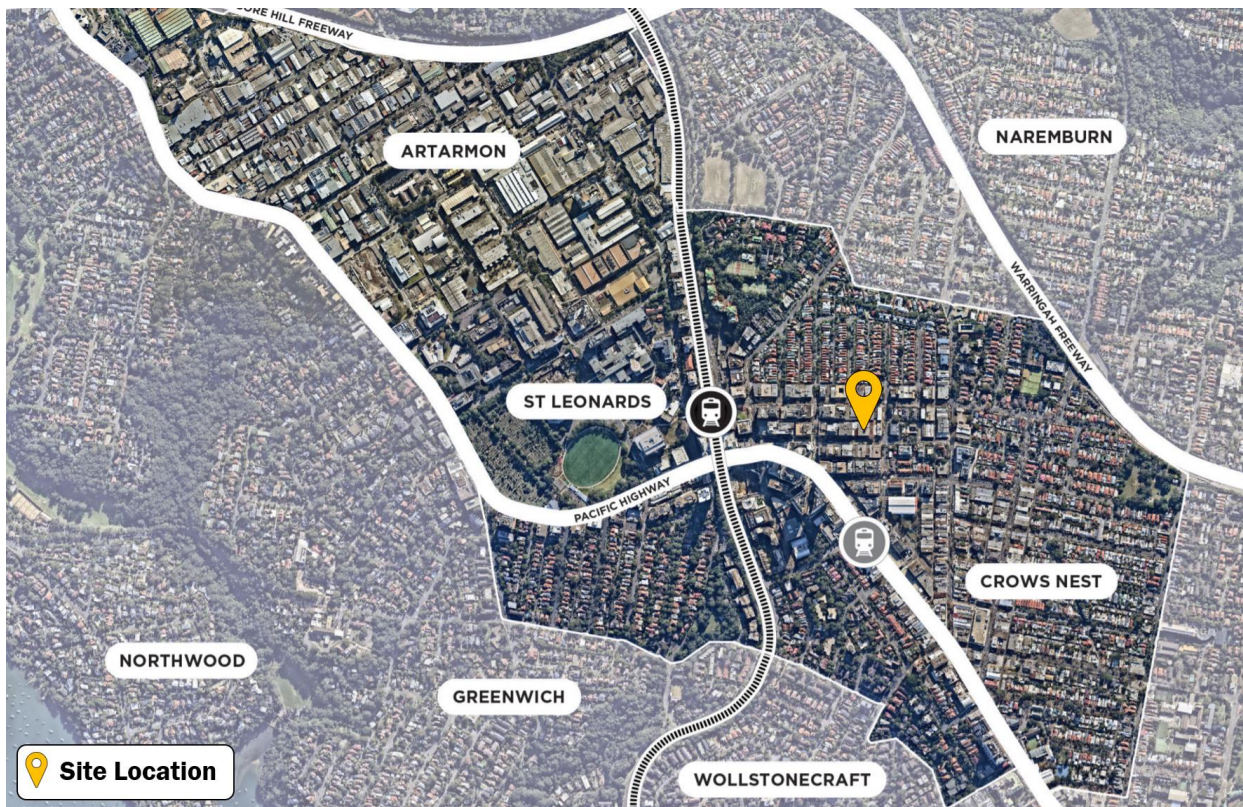


Figure 13: Site location within the SLCN 2036 Plan area (source: DPIE)

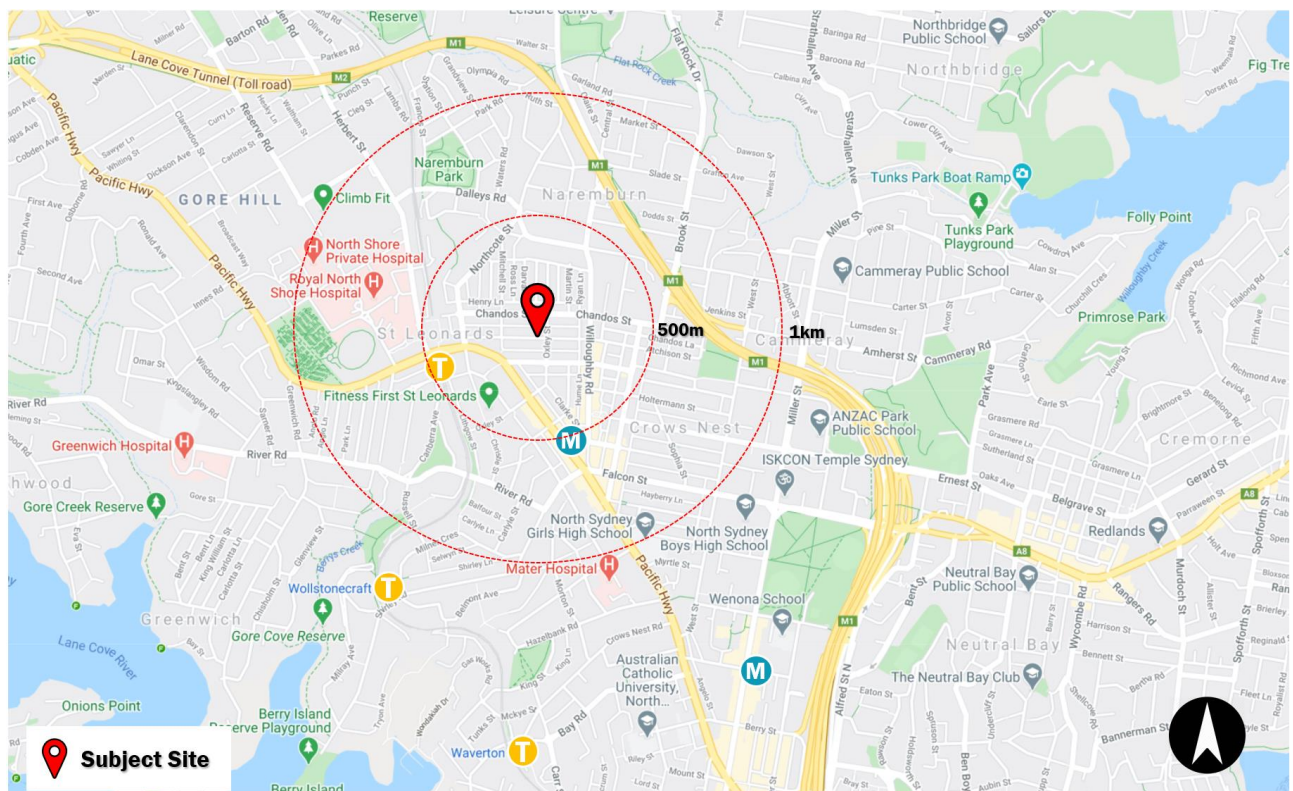


Figure 14: Site context (source: Near Map, overlay by DPIE)



## 1.4 Mapping

The planning proposal includes mapping showing the existing and proposed changes to the North Sydney LEP 2013 maps (**Figures 15-21**). These will require updating to the Department's standard to reflect the current and proposed controls on the site and surrounding land prior to community consultation.

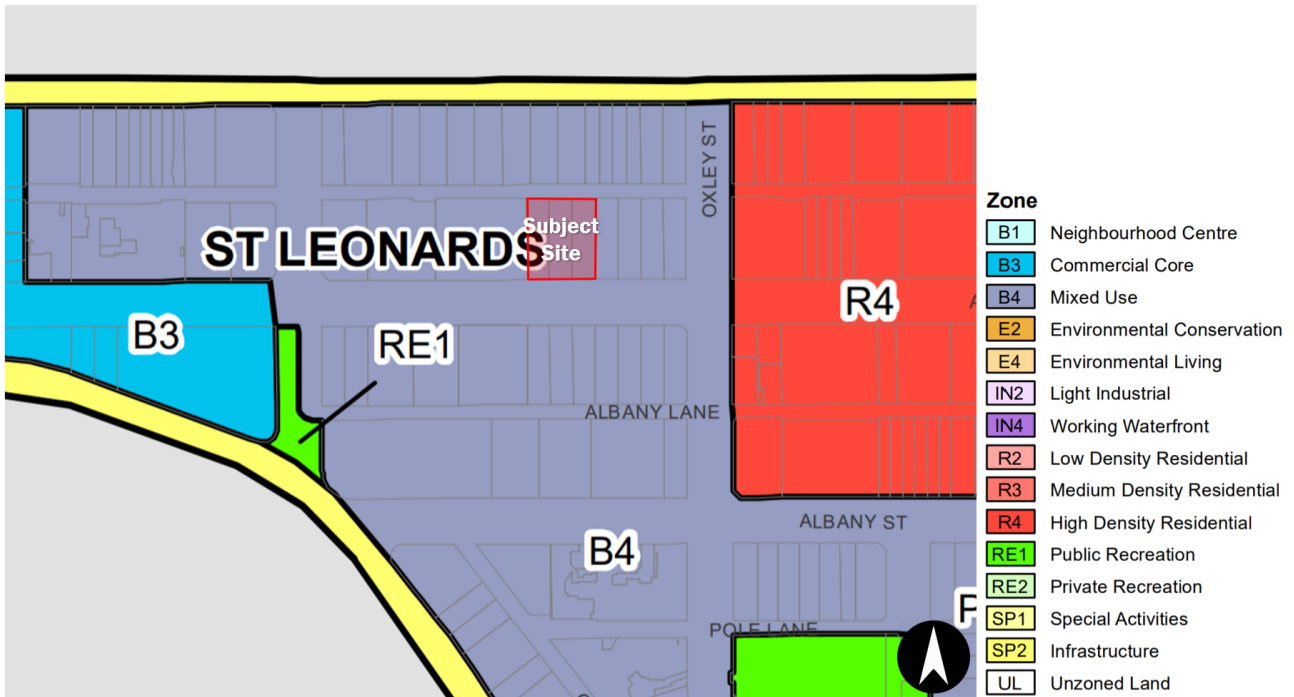


Figure 15: Current zoning map LZN\_001 (no change proposed) (source: NSW Legislation)

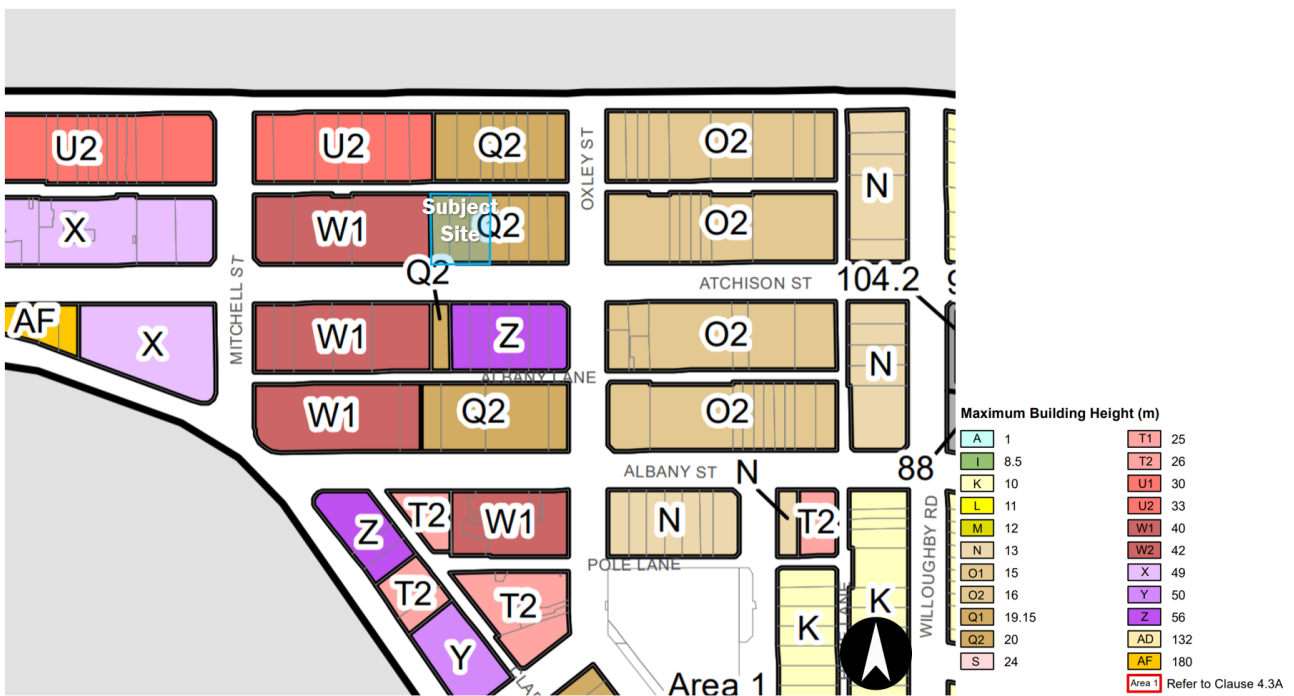


Figure 16: Current height of building map HOB\_001 (source: NSW Legislation)



Figure 17: Proposed height of building map HOB\_001 (source: Urbis)

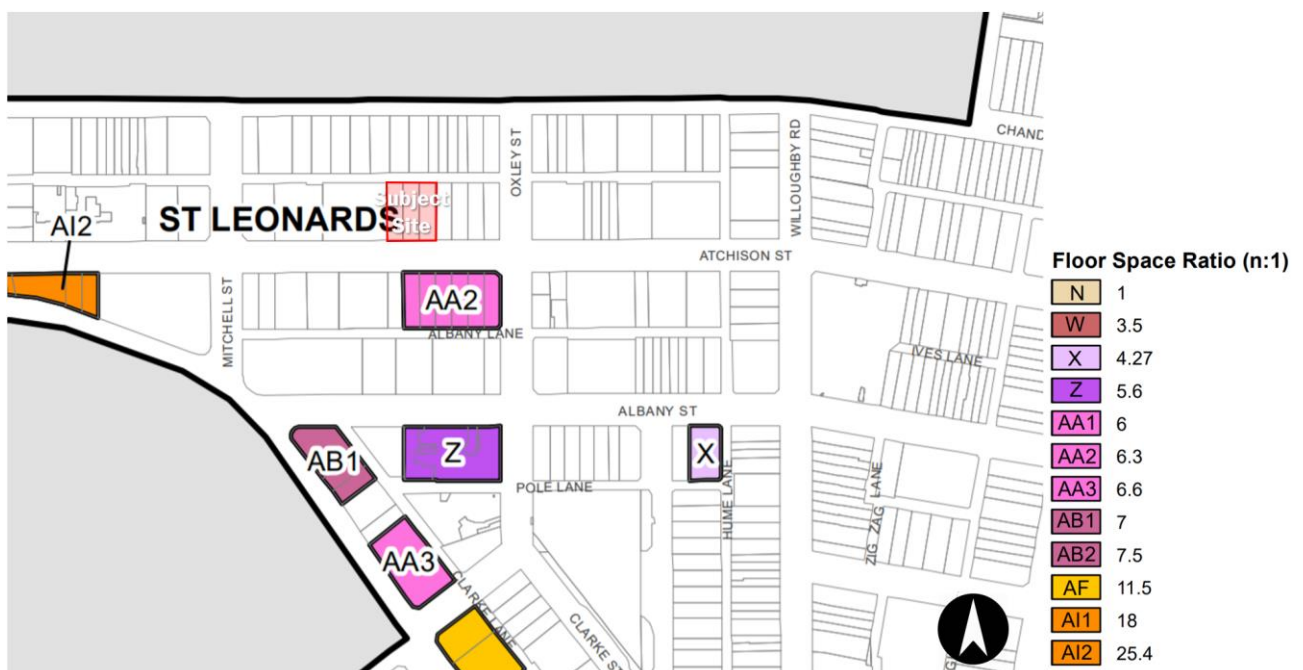


Figure 18: Current FSR map FSR\_001 (source: NSW Legislation)



Figure 19: Proposed FSR map FSR\_001 (source: Urbis)

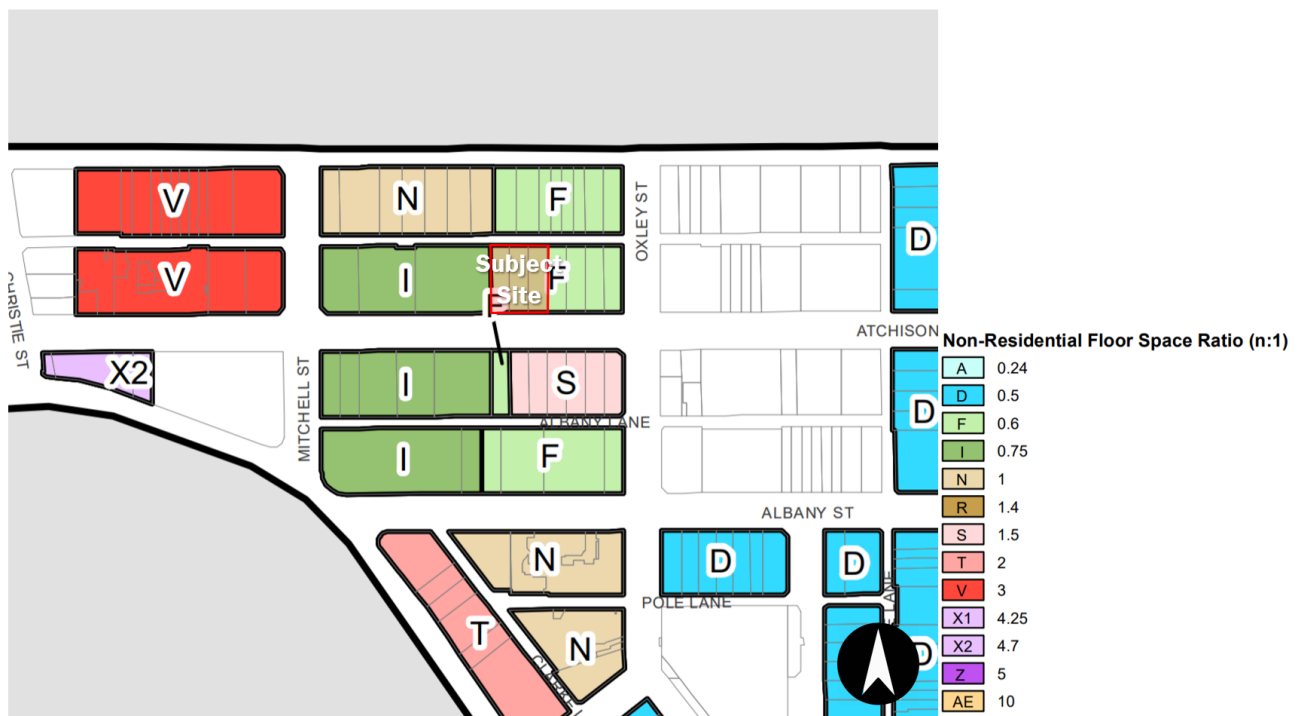


Figure 20: Current non-residential floor space map LCL\_001 (source: NSW Legislation)





Figure 21: Proposed non-residential floor space map LCL\_001 (source: Urbis)

## 2 Need for the planning proposal

The planning proposal (**Attachment A**) was submitted to North Sydney Council pursuant to the framework provided by the St Leonards/Crows Nest Planning Study – Precincts 2 and 3, adopted by Council in May 2015. The subject site is located within Precinct 3 of the study area and is identified as having potential for uplift in accordance with the built form strategy.

The St Leonards Crows Nest 2036 Plan (SLCN 2036) was released in August 2020 and indicates the recommended changes to the planning controls which encompass the subject site at 50-56 Atchison Street, St Leonards.

The site is in a designated growth area and the planning proposal is the best means of achieving the objectives and intended outcomes.

The planning proposal is inconsistent with the built form recommendations of the SLCN 2036 Plan (**Figures 22 to 24**) in respect to the additional height due to the 3.9m lift overrun required to access the communal open space area at roof level. This increases the maximum recommended HOB from 56m to 58.1m.

The provision of extra height will be addressed in Part 6 Additional local provisions in a site-specific clause 6.19C Development at 50-56 Atchison Street, St Leonards as recommended by the North Sydney Local Planning Panel (as discussed in section 3.4). A draft example of the clause is provided in **Attachment K**.

The intended FSR of 6.4:1 is also inconsistent with the SLCN 2036 Plan which sets an FSR of 6:1. In addressing this inconsistency, Council accepts that the provision of additional non-residential and potential employment floor space partially offsets this inconsistency.



Figure 22: Recommended HOB controls outlined in the SLCN 2036 Plan (source: DPIE)



Figure 23: Recommended FSR controls outlined in the SLCN 2036 Plan (source: DPIE)



Regional Plan Objectives	Justification
A well-connected 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.
Jobs and skills for the city	The proposal will also provide upgraded commercial floor space to suit a wider range of businesses and services to benefit the growing population in an area close to the existing St Leonards train station and the future Crows Nest Metro.

## 3.2 NSW Long Term Transport Master Plan and the Future Transport 2056 Strategy

The Long Term Transport Master Plan (LTTMP), released in 2012 was formulated in response to address a need for better infrastructure and services and to address the deficiencies in the transport system. Projects as a result of this plan include the Northern Beaches Bus Rapid Transit, Sydney CBD and South-East Light Rail connecting people to jobs to support productivity and economic growth.

The Future Transport 2056 Strategy (the Strategy) is a 40 year plan to improve infrastructure to unlock investment with a customer centric focus. The Strategy builds on the LTTMP and aligns with the Greater Sydney Region Plan to support the 30-minute city for access to jobs, services and infrastructure. It recognises that transport is fundamentally entwined with land use, tourism and economic development.

The planning proposal is consistent with the LTTMP and the Strategy as it provides development close to existing and proposed public transport with direct connection to employment areas, reducing the need for private vehicle use.

## 3.3 North District Plan

The site is within the North District and the Greater Sydney Commission released the North District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

**Table 7: District Plan assessment**

District Plan Priorities	Justification
<i>Planning priority N1 – planning for a city supported by infrastructure</i>	The planning proposal ( <b>Attachment A</b> ) is consistent with this priority as it 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.



<i>Planning priority N2 – working through collaboration</i>	<p>The planning proposal states that the proponent has made an offer of a VPA and this demonstrates collaboration. The VPA relates to a monetary contribution towards works such as the upgrade of Hume Park for the public benefit.</p> <p>Assessment of the VPA offer is a matter for Council.</p>
<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>	<p>The planning proposal is consistent with this priority as it will broaden and increasing housing choice within walking distance of existing retail services, access to jobs and public transport. The planning proposal and Council's report (<b>Attachment D</b>) states that the provision of a publicly accessible through-site link with ground floor retail will contribute to the creation of vibrancy.</p> <p>The VPA will contribute to additional services and social infrastructure such as the upgrade of Hume Park.</p>
<i>Planning priority N5 – providing housing supply, choice and affordability with access to jobs, services and public transport</i>	<p>The planning proposal is consistent with this priority as it will broaden and increasing housing choice with the provision of 65 new dwellings within walking distance of existing retail services, jobs and high frequency public transport.</p> <p>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 creation of vibrant public domain.</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 N20 – delivering high quality open space</i>	<p>The planning proposal states it will deliver high quality open space by upgrading the street frontage and the provision of a through-site link contributing to a network of pedestrian spaces.</p> <p>The planning proposal is accompanied by a draft VPA that proposes to provide a monetary contribution towards the upgrade of Hume Street Park.</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>Urbis' planning proposal (<b>Attachment D</b>) states that the concept has been developed to facilitate future BASIX compliance and can be further addressed at the development application (DA) stage.</p>

### 3.4 St Leonards and Crows Nest 2036 Plan

The St Leonards and Crows Nest 2036 Plan (SLCN 2036 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 2036 Plan vision, design principles and recommended planning controls as outlined in **Tables 8** and **9**.

The HOB of 58.1m exceeds the planning controls set by the SLCN 2036 Plan due to the lift overrun. The additional height required for the lift overrun is the subject of a site specific clause (**Attachment K**) and the HOB is to be amended to 56m.

The FSR of 6.4:1 exceeds the planning controls set by the SLCN 2036 Plan. The applicant proposed a non-residential floor space of 1.7:1, greater than stipulated in Council's Planning Study of 1.5:1 and the draft SLCN 2036 Plan of 1:1. Council states that the provision of additional employment floor space partially offsets the inconsistency.

The planning proposal achieves the overall intent of the SLCN 2036 Plan, which focuses on delivering greater employment floor space and jobs and is not considered to undermine the achievement of the SLCN 2036 Plan's vision, objectives and actions.

However, there was no assessment of the planning proposal against Section 9.1 Ministerial Direction 7.11 Implementation of St Leonards and Crows Nest 2036 Plan to justify any inconsistency. This will be a condition of the Gateway determination.

**Table 8: 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).	No
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

**Table 9: St Leonards and Crows Nest 2036 Plan assessment**

<b>Strategies</b>	<b>Justification</b>
<i>Vision</i>	<p>The planning proposal is generally consistent with the vision of the SLCN 2036 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 subject site to cater to a wider range of services for a growing population that is compatible with the future character of the area.</p> <p>It will also provide a variety of residential dwellings 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 2036 Plan as;</p> <ul style="list-style-type: none"> <li>• the provision of an active street front and through site link will aid in casual surveillance and contribute to the pedestrian network;</li> <li>• it complies with the built form of locating taller buildings between St Leonards Station and the future Crows Nest Metro Station;</li> <li>• it will improve street amenity and streetscape with the provision of setbacks, awnings;</li> <li>• 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</li> <li>• it is compatible with the surrounding area and will not raise strategic issues concerning cumulative overshadowing, wind and view loss impacts.</li> </ul>
<i>Design criteria</i>	<p>The planning proposal responds to the following design criteria;</p> <ul style="list-style-type: none"> <li>• <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;</li> <li>• <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;</li> <li>• <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;</li> <li>• <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</li> <li>• <i>transition to lower density areas</i> – with the recommended amendment the HOB will be consistent with the SLCN 2036 Plan. The site is centrally located and no impact on the lower density area to the east is anticipated.</li> </ul>

### 3.5 Local Strategies/Plans

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in **Table 10**.



Table 10: 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.</p> <p>The LHS has been submitted to the Department for endorsement and is currently under assessment.</p> <p>The LHS identifies the potential for an additional 11,870 dwellings within the North Sydney LGA by 2036. The SLCN 2036 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 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"> <li> <p><i>Planning priority I1 – Provide infrastructure and assets that support growth and change</i></p> <p>The planning proposal is consistent with the LSPS as it 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> </li> <li> <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 2036 Plan.</p> </li> <li> <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> </li> <li> <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 2036 Plan. The proposal generally conforms with the emerging character of the area and will not impact on local heritage.</p> </li> <li> <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 2036 Plan to support increased job growth. The through site link will improve the amenity of the area to occupants and visitors.</p> </li> </ul>

Local Strategies	Justification
	<ul style="list-style-type: none"> <li><i>Planning priority P4 – Develop a smart, innovative and prosperous North Sydney economy</i> 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.</li> <li><i>Planning Priority P6 and S2 – Support walkable centres and a connected, vibrant and sustainable North Sydney</i> 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.</li> <li><i>Planning priority S3 – Reduce greenhouse gas emissions, energy, water and waste</i> 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 to be exhibited with the planning proposal.</li> </ul>

### 3.6 North Sydney Local Planning Panel recommendation

On 1 July 2020, the NSLPP considered the planning proposal. The NSLPP endorsed council's report and recommendation and supported the proposal being forwarded to the Department for Gateway determination.

The NSLPP stated that the planning proposal seeks to increase the HOB to RL147.1m and this could result in a building that is greater than 16 storeys. However, Council's height control of 56m could potentially exclude the lift overrun which provides access to the communal open space on the rooftop.

As such the NSLPP recommended that the planning proposal amend the maximum HOB to 56m to ensure consistency with the SLCN 2036 Plan and the provision of a special clause is to exclude the lift overrun from the height of the building. A draft example of the clause is provided in **Attachment K**.

The NSLPP noted that the planning proposal was generally consistent with the strategic direction of the State Government and Council. The VPA was considered to be a matter for Council and the proponent to resolve.

### 3.7 Section 9.1 Ministerial Directions

The planning proposal will require updating to address all of the relevant 9.1 Ministerial Directions. The planning proposal's consistency with relevant section 9.1 Directions is discussed in **Table 11**.

**Table 11: section 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Business and Industrial Zones	No	The objectives of this Direction are to encourage employment growth in suitable locations, protect employment lands and support the viability of identified centres.

		<p>The proposed development will support the viability of St Leonards as it transitions into a mixed-use centre offering increased retail services. The proposal provides 1,844m<sup>2</sup> of non-residential floor space (non-residential FSR of 1.7:1) which exceeds the LEP at 0.6:1, the St Leonards and Crows Nest Planning Study at 1.5:1 and the SLCN 2036 Plan at 1:1.</p> <p>The planning proposal will result in a net loss of commercial floor space by 324 m<sup>2</sup>. 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.</p>
2.6 Remediation of Contaminated Land	No	<p>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.</p> <p>The planning proposal states in the assessment against SEPP55 that site has had ongoing commercial uses and it is expected that it will be suitable for the proposed land use. A Phase 1 Preliminary Site Investigation will be undertaken as part of any development application.</p> <p>A condition is recommended to require the submission of information prior to exhibition, including a Phase 1 Preliminary Site Investigation report, to demonstrate consistency with this Direction to the satisfaction of the delegate of the Minister.</p> <p>Should the Phase 1 investigation indicate further studies are required, this will be requested prior to finalisation of the planning proposal by the Department, in accordance with the Contaminated Land Planning Guidelines.</p>
3.1 Residential Zones	Yes	<p>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.</p> <p>The planning proposal is consistent with this Direction as it will provide a mix of dwelling types to meet the future needs of the population in an area close to existing and proposed services, infrastructure and public transport.</p> <p>The site is in an established urban area and will have minimal impact on the natural environment or resource lands</p>
3.4 Integrating Land Use and Transport	Yes	<p>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.</p> <p>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</p>

3.5 Development Near Regulated Airports and Defence Airfields	Yes	<p>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.</p> <p>The proposal seeks to increase the maximum HOB from 20m to 56m (16 storeys) with an overall proposed height of 58.1m to accommodate a lift overrun. The site is subject to the obstacle limitation surface (OLS) of 156 AHD. The planning proposal states that while the proposed maximum height is below the OLS at RL147.1, during construction the crane may exceed this height and temporarily encroach the OLS. As the provisions of the direction will apply, the proposal notes it will require a referral as a 'controlled activity' to Sydney Airport Corporation Limited (SACL), Civil Aviation Safety Authority (CASA) and Air Services Australia and undertaken as part of the Gateway determination.</p> <p>The Section 9.1 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.</p> <p>The Gateway determination has been conditioned to require consultation with Sydney Airport Corporation Limited (SACL), Civil Aviation Safety Authority (CASA) and Air Services Australia and the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications.</p>
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	No	<p>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 2036 Plan.</p> <p>The proposal is generally consistent with the visions, objectives and actions of the SLCN 2036 Plan. However, the proposal is inconsistent with this Direction as it seeks to increase the HOB to 58.1 which is above the HOB outlined in the SLCN 2036 Plan of 56m.</p> <p>The NSLPP has recommended that the planning proposal be amended to indicate a HOB of 56m to ensure consistency with the SLCN 2036 Plan. The extra height required to accommodate the lift overrun to access the communal open space is to be addressed in an LEP clause (<b>Attachment K</b>).</p> <p>The FSR of 6.4:1 is also inconsistent with the SLCN 2036 Plan. Council states that the increase of the non-residential floor space offsets the increase in FSR. This is further discussed in section 3.3 St Leonards Crows Nest 2036 Plan above.</p> <p>The proposal is also inconsistent as it indicates a three-storey street wall height instead of a maximum 4m street wall and no 3m reverse setback as outlined in the objectives of the SLCN 2036 Plan. Council report provides justification for this inconsistency that while the concept proposal has a reduced podium height of 3 storeys to Atchison Street, generous floor to floor heights are provided to give the appearance of a 4 storey podium with an</p>

approx. height of 13.9m. Council has stated that they accept the proponent's justifications relating to the setbacks, increased street wall heights and FSR.

With regard to the inconsistency with the provision of 3m reverse setback as outlined in the SLCN 2036 Plan, 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 design review panel considered a previous scheme that proposed a zero setback for the residential tower to the eastern boundary and agreed to a compromise in the North/south street setbacks to Atchison Street and Atchison Lane.

This setback was in order to provide a minimum 12m building separation along the western and eastern elevations and ensure it doesn't burden the development potential on the adjacent site. It should also be noted that Council's report states that there is potential for the proposal to unfairly impose on the development potential of sites to the north, without appropriate design considerations. Council comments that further design considerations and refinements will be needed to ensure appropriate interfaces with surrounding sites, at any future DA stage, should the LEP amendment proceed.

Council will need to further consider these inconsistencies prior to any future DA.

The planning proposal will require updating to address this Direction prior to community consultation with justification for any inconsistency.

### 3.8 State environmental planning policies (SEPPs)

The planning proposal will require updating to address all relevant SEPPs and to remove SEPPs that have since repealed. The planning proposal is consistent with all relevant SEPPs as discussed in **Table 12**.

**Table 12: Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Proposal	Complies
SEPP 55 – Remediation of Land	The overarching objective of this SEPP is a Statewide approach for the remediation of land to reduce the risk to human health and the environment.	<p>This SEPP does not include any strategic planning objectives or provisions. These, including Clause 6, are now dealt with under Ministerial Direction 2.6 Remediation of Contaminated Land.</p> <p>This SEPP states that the consent authority cannot consent to any development unless it has considered the land is contaminated.</p> <p>A preliminary site investigation will be required to determine the suitability of the site for development.</p>	No

SEPP 65 – Design Quality of Residential Apartment Development	The SEPP and the Apartment Design Guide (ADG) seeks to improve the residential living environment across NSW by providing a way to consistently approach the design and assessment of residential apartment buildings.	<p>The planning proposal states that an analysis of the indicative design for 65 one and two bedroom apartments was carried out by Kann Finch. The analysis indicated that the development can meet the requirements of the SEPP and the Apartment Design Guide (ADG):</p> <ul style="list-style-type: none"> <li>• a maximum of 15% of apartments receive no direct sunlight;</li> <li>• 72% will receive two hours of sunlight during mid-winter;</li> <li>• each apartment will have access to secure open space such as a balcony and a communal open space on the roof top; and</li> <li>• 80% of the apartment will receive cross ventilation.</li> </ul>	Yes
SEPP (Building Sustainability Index: BASIX) 2004	The overall aim of this Policy is to encourage sustainable residential development through establishing targets for thermal comfort, energy and water use.	Development Applications for all future residential development will need to comply with the targets established under BASIX.	Yes
SEPP (Infrastructure) 2007	The aim of this Policy is to facilitate the effective delivery of infrastructure across the State.	<p>The planning proposal is to facilitate 65 residential apartments and a GFA of 2,378m<sup>2</sup> and does not require referral to the former RMS (now TfNSW).</p> <p>The proposal is not adjacent to major roads and does not contain any provisions that are contrary to this policy.</p>	Yes
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	The key aim of this Plan is to ensure the catchment, foreshores and waterways of Sydney Harbour are protected, and to promote a prosperous working harbour and public access.	The subject site is located within the Sydney Harbour Catchment but not in the Foreshore and Waterways area. The proposal is not likely to have any impact on the water quality of Sydney Harbour. Strategies to manage surface runoff and water retention will be considered as part of the detailed design.	Yes

## 4 Site-specific assessment

### 4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

There is no significant vegetation in the vicinity of the site. The site is situated in an established urban area and there are no critical habitats, threatened species, populations or ecological communities or their habitats.

**Table 13: Environmental impact assessment**

Environmental Impact	Assessment
Views	<p>The planning proposal states that the site is situated mid-block and will not impact on the key sightlines and views along the street grid.</p> <p>The planning proposal and Council's report states that there will be some impact on district views to the north and the east currently available to the occupants on the east elevation of 40-48 Atchison Street. There will be some impact with views as the area transforms to a transit oriented high density precinct.</p>
Noise	<p>The site is situated in the vicinity of the Pacific Highway but shielded from noise impact by surrounding existing buildings. It is unlikely noise mitigation measures will be required.</p>
Wind	<p>It is a requirement of the SLCN 2036 Plan that all new development demonstrates the impact of wind through an assessment.</p> <p>The planning proposal was not accompanied by a wind assessment. The planning proposal indicates the provision of an awning to the façade at street level to Atchison Street to mitigate the impact of wind on the public domain.</p> <p>Council states that it is satisfied that further assessment of wind impacts can be undertaken at the DA stage.</p>
Site servicing and waste management	<p>A Waste Management Plan (WMP) carried out by Elephants Foot Recycling Solutions, dated 23 February 2018 (<b>Attachment I</b>) and a Building Services Report (BSR) carried out by Cardno, dated 21 February 2018 (<b>Attachment J</b>) was submitted with the planning proposal.</p> <p>The WMP indicates that the concept has the spatial requirements for waste and recycling and further details can be provided at the DA stage.</p> <p>The BSR outlines general building service standards including utilities such as electrical, sewer, fire mains and stormwater, general building service and spatial requirements and ecological sustainable development principles. These can be assessed at the DA stage.</p>



Transport	<p>A Transport Impact Assessment (TIA) carried out by ARUP, dated 15 February 2018 (<b>Attachment H</b>) was submitted with the planning proposal. This provides a preliminary assessment of the design concept.</p> <p>The key findings in the report are that the:</p> <ul style="list-style-type: none"> <li>• concept design identifies 32 off street parking bays, consistent with the North Sydney Council DCP 2013 requirements;</li> <li>• site is within close vicinity of various mode of public transport and is not expected to generate a large on street parking demand;</li> <li>• proposed servicing arrangements and provisions are via Atchison Lane are acceptable;</li> <li>• additional vehicle trip generation will result in minimal impacts on the surrounding road network, existing intersection performance and main roads;</li> <li>• future development will provide secure bicycle parking; and</li> </ul> <p>future development should include travel demand management measures in a Green Travel Plan (GTP) to improve mode share of public transport and active transport.</p>
Sustainability	<p>The Services Report (<b>Attachment J</b>) outlines the Ecological Sustainable Development (ESD) initiatives that can be incorporated into the building. These initiatives include cross flow ventilation to apartments, after hours switches, rainwater harvesting, solar hot water systems and low flow fittings and fixtures.</p> <p>BASIX can be addressed at the detailed development application stage. The services report indicates that the development can meet the National Construction Code (NCC) energy requirements.</p>

## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 14: Social and economic impact assessment**

Social and Economic Impact	Assessment
Social	<p>The planning proposal would increase housing supply and broaden housing choice in a location which is close to public transport and retail services. The proposed upgrade retail and commercial tenancies will provide a variety of services to cater for the growing 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 works in kind to public open space such as Hume Street Park.</p>
Economic	<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>

## 4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

**Table 3: Infrastructure assessment**

Infrastructure	Assessment
Public transport	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.
Utilities	The site is in an established urban area that is well serviced by electricity, telecommunications, water and sewerage infrastructure.  Consultation can occur with the relevant authorities as a condition of the Gateway.
SIC	<p>The Special Infrastructure Contributions (SIC) supports the SLCN 2036 Plan and the area it applies to is provided in <b>Figure 25</b>. The SIC order, determination and direction came into effect on 31 August 2020. The SIC is a mechanism imposed on the residential component of certain developments to collect contributions to help fund State infrastructure such as road improvements and public open space. The SIC rate is \$15,100 per dwelling for development that results in a change to the planning controls.</p> <p>Contributions are proposed by Council through a VPA as outlined in Council's resolution of 27 July 2020 (<b>Attachment E</b>) and cover letter dated 29 September 2020 forwarding the proposal. However, it should be noted that Council was informed by the Department in a letter dated 20 December 2019 that this site is not exempt from the application of the SIC. This is because the Department did not have sufficient information to demonstrate that negotiations for the VPA had commenced prior to the exhibition of the proposed SIC (<b>Attachment L</b>).</p> <p>Therefore, the SIC will apply to the residential component of the proposal (65 dwellings). The Department has not agreed to exempting the site from the SIC. A condition will be included on the Gateway to require the planning proposal to be updated to clearly state the SIC applies and that contributions towards a SIC will be required. Any Council endorsed VPA will be in addition to the requirements of the SIC</p>
VPA	<p>Council's report states that the planning proposal is accompanied by a draft VPA with a total value of approximately \$2.425 million offering to provide:</p> <ul style="list-style-type: none"> <li>• a 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;</li> <li>• a setback of 3m to the building at ground level, fronting Atchison Street; and</li> <li>• a monetary contribution of \$1.4 million to Council for open space upgrade within the precinct.</li> </ul> <p>The offer is valued at approximately 40% of the overall land value uplift. The draft VPA was reviewed by an independent economic consultant and the benefits provided are considered appropriate for the uplift proposed.</p>

The planning proposal states that the proponent and Council have been negotiating on a VPA as the draft SIC was on exhibition as the time of the preparation of the planning proposal. The planning proposal will require updating to refer to the application of the SIC as the site is not exempt for the application from the SIC (**Attachment L**).

Any contribution of funds via a VPA will be in addition to a SIC. Full details of the VPA have yet to be finalised between Council and the proponent. Council proposes that the VPA be exhibited concurrently with the planning proposal.



**Figure 25 The Special Contributions Area (SCA) where a SIC will apply to certain new residential development (source: DPIE)**

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and will form part of the conditions of the Gateway determination.

### 5.2 Agencies

The proposal does not specifically state which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

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

## 6 Timeframe

The planning proposal proposes a 9-12 month time frame to complete the LEP. The project timeline in the planning proposal does not specifically provide up to date information and will require amending.

The Department recommends a time frame of 12 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates. As such, from the date of the Gateway determination, the planning proposal must be:

- exhibited within 3 months; and
- reported to Council for a recommendation 9 months.

A condition to the above effect is recommended as part of the Gateway determination.

## 7 Local plan-making authority

Council has not requested delegation to be the Local Plan-Making authority.

Given the outstanding unresolved consistency with the section 9.1 Ministerial Directions 2.6 Remediation of Contaminated Land and 7.11 Implementation of St Leonards Crows Nest 2036 Plan, and the site is within the St Leonards and Crows Nest planned precinct, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

## 8 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons as it:

- will facilitate redevelopment of sites close to public transport, including St Leonards train station and the future Crows Nest Metro;
- will provide a mixed-use development with a variety of residential, commercial and communal facilities that will contribute to the creation of a vibrant active community;
- is consistent with the relevant objectives, directions and priorities of the Greater Sydney Region Plan and North District Plan;
- is generally consistent with the St Leonards Crows Nest 2036 Plan; and
- is consistent with the future desired character of the area.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- amend the HOB to 56m to clearly demonstrate consistency with the St Leonards Crows Nest 2036 Plan and any additional height will be included in a site-specific clause;

- provide a plain English explanation relating to the proposed local provision to allow the height of buildings control to be exceeded for a lift overrun providing access to the communal rooftop space;
- clearly state that the VPA will be in addition to the application of the SIC;
- include information to address the current inconsistency with section 9.1 Direction 2.6 Remediation of Contaminated Land; and
- include information to address the current inconsistency with Section 9.1 Direction 7.11 Implementation of St Leonards and Crows Nest 2036 Plan.

## 9 Recommendation

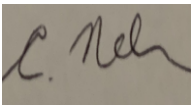
It is recommended the delegate of the Secretary:

- Agree that the inconsistencies with section 9.1 Direction 1.1 Business and Industrial Zones is justified;
- Note that the consistency with the following section 9.1 Directions is unresolved and will require justification prior to the commencement of public exhibition:
  - o 2.6 Remediation of Contaminated Land; and
  - o 7.11 Implementation of St Leonards and Crows Nest 2036 Plan

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated to:
  - (a) remove reference to the 'draft' St Leonards Crows Nest 2036 (SLCN) Plan.
  - (b) clearly specify a maximum height of building to 56m, consistent with the recommendations of the SLCN 2036 Plan and note that any additional height will be included in a site-specific clause.
  - (c) include a plain English explanation for a local provisions for the site to allow the height of buildings control to be exceeded for a lift overrun.
  - (d) clearly state that the VPA is in addition to the application of the SIC.
  - (e) provide updated mapping for the proposed LEP controls to Departments technical standard.
  - (f) include an updated project timeline in section 10 of the proposal.
  - (g) amend the planning proposal to refer to Section 9.1 Ministerial Direction in lieu of Section 117 Ministerial Directions.
  - (h) provide assessment against Section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land and provide a preliminary site investigation to demonstrate consistency with this Direction to the satisfaction of the delegate of the Minister.
  - (i) provide assessment of the planning proposal against Section 9.1 Ministerial Direction 7.11 Implementation of St Leonards and Crows Nest 2036 Plan and provide justification with any inconsistencies with the plan recommendations;
  - (j) remove reference to revoked Section 9.1 Ministerial Directions;
  - (k) remove reference to repealed SEPPs.
2. Prior to community consultation, the planning proposal is to be revised to address condition 1 and forwarded to the Department for review and approval.
3. Ensure all documentation submitted with the Gateway determination request is uploaded to the NSW Planning Portal within 14 days.

4. Prior to public exhibition, consultation is required with the following public authorities to comply with Section 9.1 Direction 3.5 Development Near Regulated Airports and Defence Airfields:
  - Commonwealth Department of Transport, Infrastructure, Regional Development and Communications;
5. Consultation is required with the following public authorities:
  - Ausgrid;
  - Sydney Airport Corporation Limited;
  - Airservices Australia;
  - Civil Aviation Safety Authority;
  - Sydney Water; and
  - Transport for NSW.
6. The planning proposal should be made available for community consultation for a minimum of 28 days.
7. The planning proposal must be exhibited 3 months from the date of the Gateway determination.
8. The planning proposal must be reported to council for a final recommendation 9 months from the date of the Gateway determination.
9. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
10. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.



22 February 2021

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3 March 2021

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