



IRF22/1785

## Gateway determination report – PP-2021-6564

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270-272 Pacific Highway, Crows Nest

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

Relevant reports and plans
Attachment A – Planning Proposal (April 2022)
Appendix 1 – Proposed Amendments to Mapping under the NSLEP2013 (April 2022)
Appendix 2 – VPA Letter of Offer (April 2022)
Appendix 3 – Strategic Planning Assessment Tables (April 2022)
Appendix 4 – Architecture and Urban Design Report (April 2022)
Appendix 5 – Economic Advice Report (April 2022)
Appendix 6 – Heritage Impact Assessment (April 2022)
Appendix 7 – Traffic and Parking Study (April 2022)
Appendix 8 – Wind Assessment (April 2022)
Appendix 9 – Reflectivity Assessment (April 2022)
Appendix 10 – Building Services Summary Report (April 2022)
Appendix 11 – Council Report including VPA and DCP (April 2022)
Appendix 12 – Council report & Minutes (February 2022)

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>North Sydney</b>
<b>PPA</b>	North Sydney Council
<b>NAME</b>	270-272 Pacific Highway, Crows Nest (0 homes, 730-1154 jobs)
<b>NUMBER</b>	PP-2021-6564
<b>LEP TO BE AMENDED</b>	North Sydney Local Environmental Plan 2013
<b>ADDRESS</b>	270-272 Pacific Highway, Crows Nest
<b>DESCRIPTION</b>	SP 49574
<b>RECEIVED</b>	9/05/2022 (Lodged on portal 20/5/2022)
<b>FILE NO.</b>	IRF22/1785
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

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

The objective of the planning proposal is to amend the height and FSR controls in the *North Sydney Local Environmental Plan (LEP) 2013* to enable the future redevelopment of the site for a 13 storey commercial office building and basement.

The intended outcomes of the planning proposal are to enable the future redevelopment of the site to:

- support the urban renewal of St Leonards and Crows Nest through the redevelopment of site as a vibrant commercial development;
- increase the supply of employment generating floor space to meet the forecast demand for the St Leonards and Crows Nest Precinct;
- integrate the development into the surrounding community through sound planning and environmental considerations;
- leverage the strategic location of the site in between the North Sydney and St Leonards Strategic Centres;
- leverage the site's strategic location nearby to established health uses including the Mater Hospital, Royal North Shore Hospital and the North Shore Private Hospital through the provision of additional employment generating floorspace, including health-related administrative uses, allied health and other health related uses;

- promote transit-orientated development and support the realisation of the economic, social and place making opportunities created by the public investment in the Sydney Metro; and
- support the implementation of the strategic vision identified in the Greater Sydney Regional Plan, the North District Plan, and the St Leonards Crow Nest 2036 Plan.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the North Sydney LEP 2013 as shown in **Table 3**.

**Table 3 Current and proposed controls**

Control	Current	SLCN 2036 Plan	Proposed
Zone	B4 Mixed Use	B4 Mixed Use	B4 Mixed Use (no change)
Maximum height of the building	16m	13 storeys	54m (13 storeys)
Floor space ratio	N/A	5.6:1	5.6:1 (6.02:1 including basement floor space)
Minimum non-residential FSR	0.5:1		
Additional FSR clause	N/A	N/A	<p>Site-specific clause allowing a maximum FSR of 6.02:1, provided any additional floor space above 5.6:1:</p> <ol style="list-style-type: none"> <li>1. is located below ground level</li> <li>2. comprises non-residential uses</li> <li>3. does not comprise retail premises (excluding neighbourhood shops)</li> </ol>

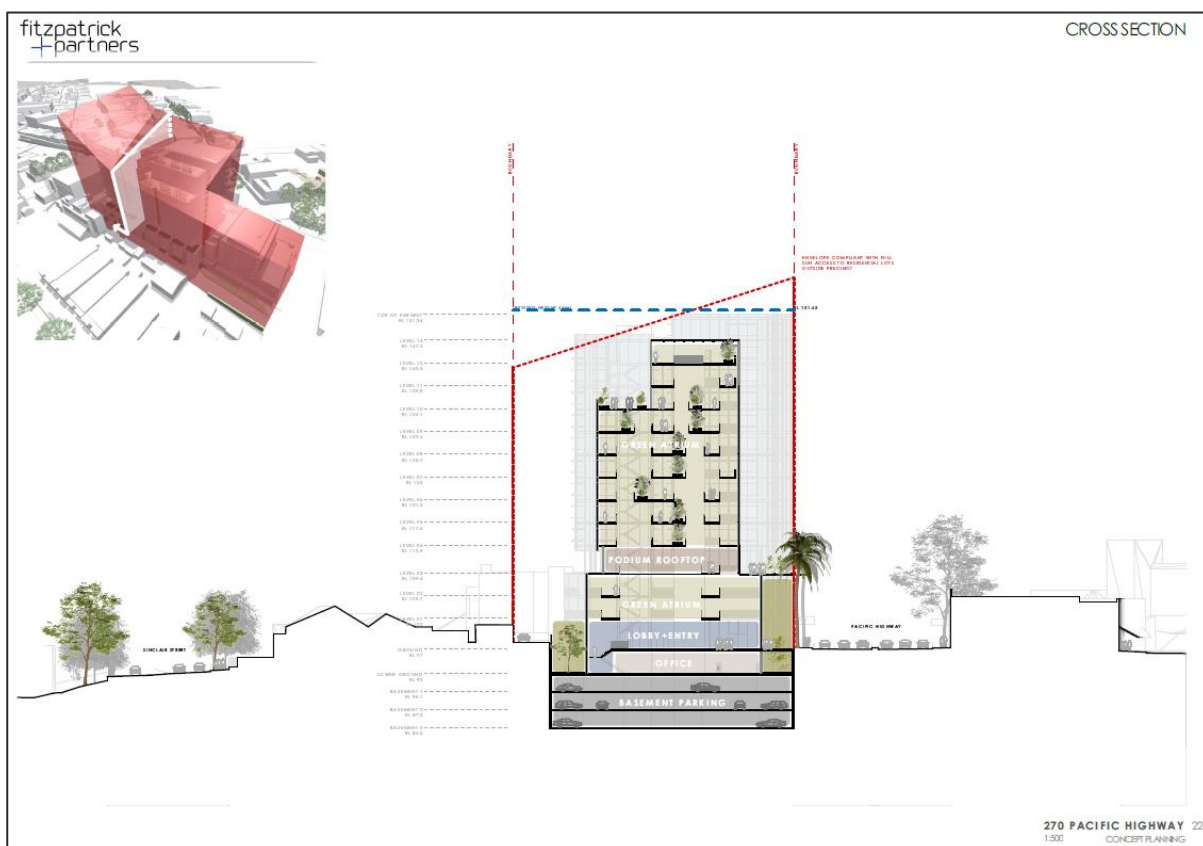
The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

The planning proposal includes proposed wording for the new site-specific clause. The Department notes that the final wording of the clause will be subject to drafting by Parliamentary Counsel. It is recommended that the Gateway include a condition requiring the planning proposal be amended prior to exhibition to include a statement to this effect.

The planning proposal is accompanied by a draft Voluntary Planning Agreement (VPA) offer providing a monetary contribution of \$3 million towards local infrastructure and facilities (**Appendix 2**).

The planning proposal is accompanied by a draft site-specific amendment to the *North Sydney Development Control Plan 2013* (NSDCP 2013) which addresses setbacks, basement floor area, landscaping, traffic, access and parking (**Appendix 11**).

The planning proposal will facilitate a 13 storey commercial building, accommodating 22,853m<sup>2</sup> gross floor area and 202 parking spaces. It is accompanied by an Architecture and Urban Design Report which provides indicative uses of office premises and retail premises and ground level retail and offices, and a medical centre including allied health uses and specialist medical suites. The proposal includes a 3 storey street wall height to Pacific Highway (**Figures 1 and 2**).



**Figure 1 Excerpt from concept scheme – cross section from Sinclair Street (left) to Pacific Highway (right) (source: Planning Proposal Appendix 4 – Architecture and Urban Design Report (April 2022))**

## 1.4 Site description and surrounding area

The site has a total area of 3,793m<sup>2</sup> and is currently occupied by two 5 storey mixed use buildings separated by a small public plaza. It is located on the western side of Pacific Highway, approximately 70m to the south of the Five-Ways intersection in the North Sydney Local Government Area (LGA).

It is within 400m walking distance of both Crows Nest Village and the future Crows Nest Metro station and approximately 1km walking distance from St Leonards and Wollstonecraft train stations (served by the T1 and T9 Lines). The Pacific Highway provides a high frequency bus corridor with 1 service every 3 minutes during a typical weekday AM peak hour.

The Mater and Royal North Shore Hospitals are located approximately 400 metres and 1.3km from the Site respectively, while the North Sydney Central Business District (CBD) is approximately 1.2 km to the south of the Site.





Figure 3 Subject site (source: Planning Proposal (April 2022))

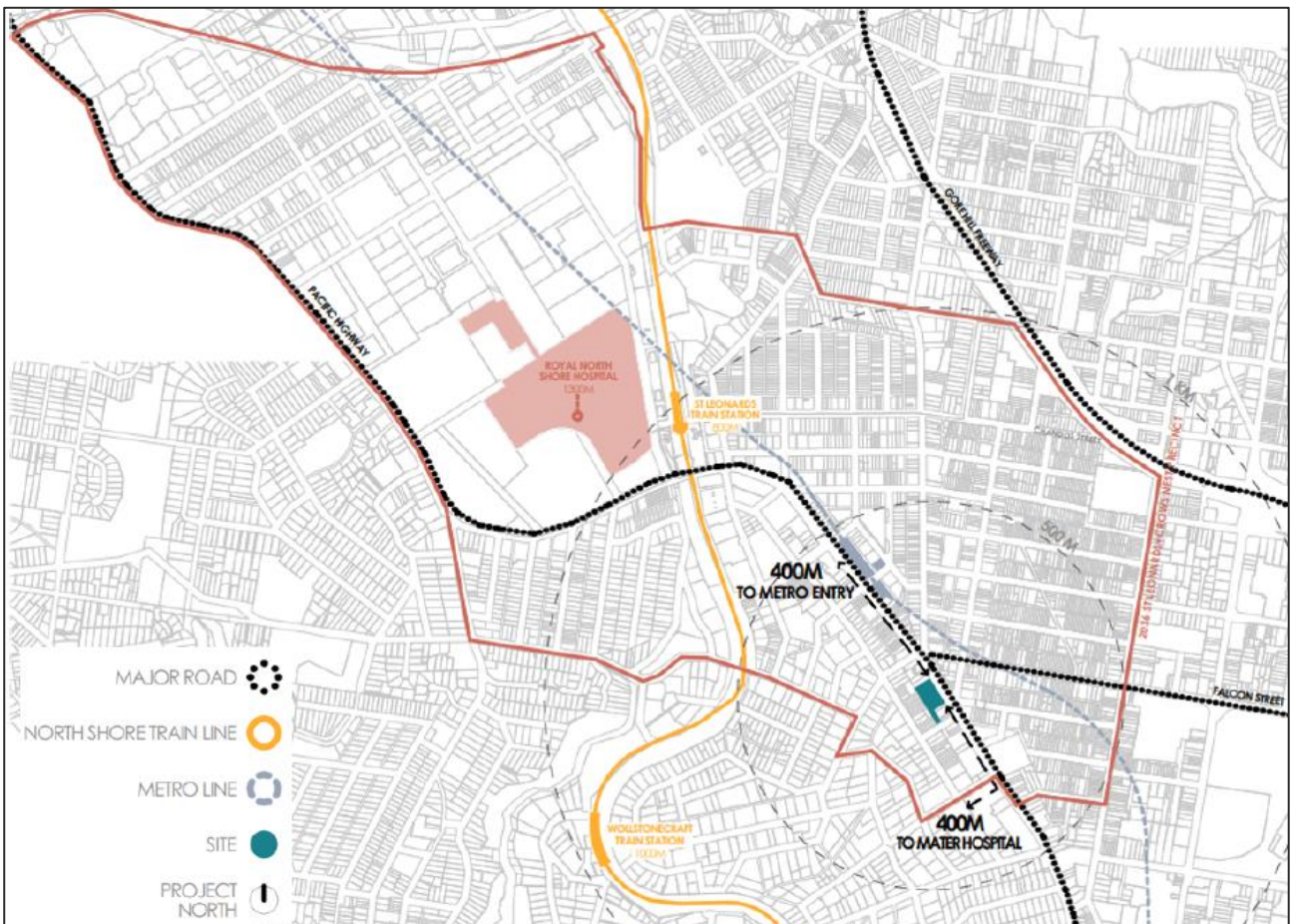


Figure 4 Site context (source: Planning Proposal (April 2022))



## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the height of buildings, floor space ratio and non-residential floor space ratio maps, which are suitable for community consultation.



Figure 5 Current height of building map

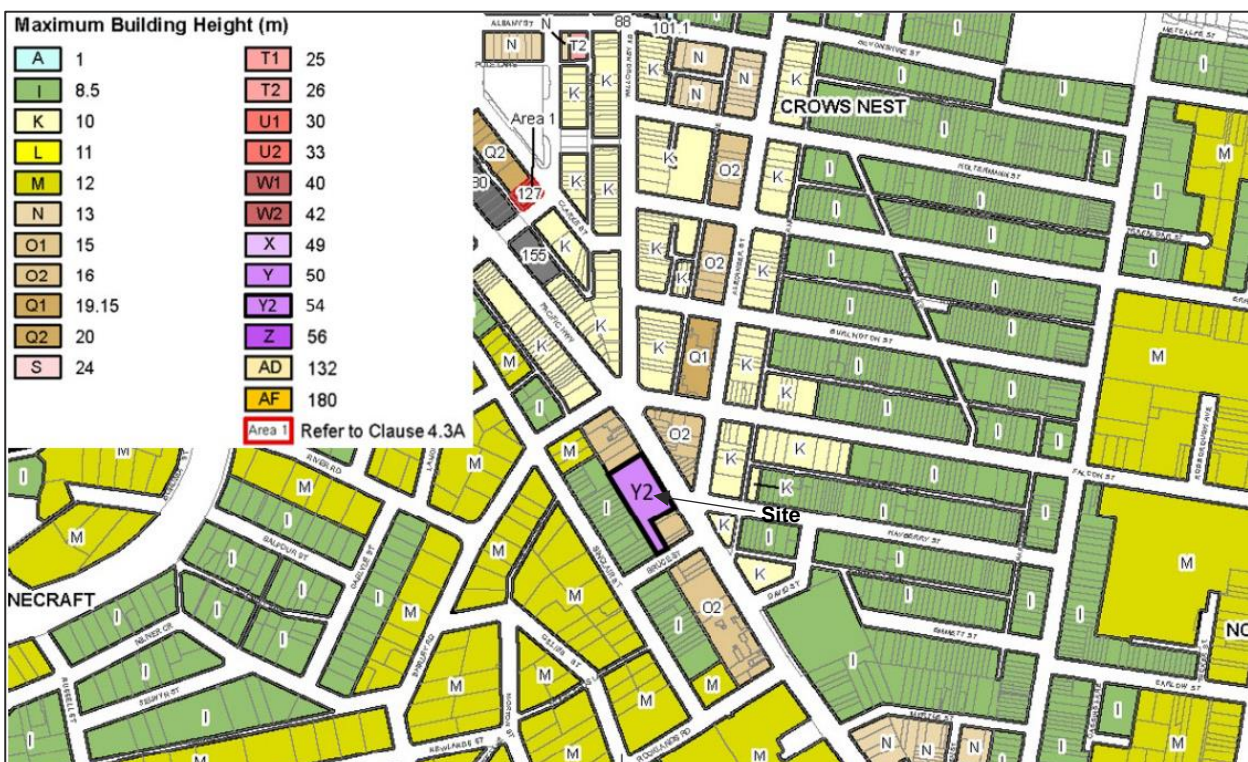


Figure 6 Proposed height of building map (source: Planning Proposal (April 2022))



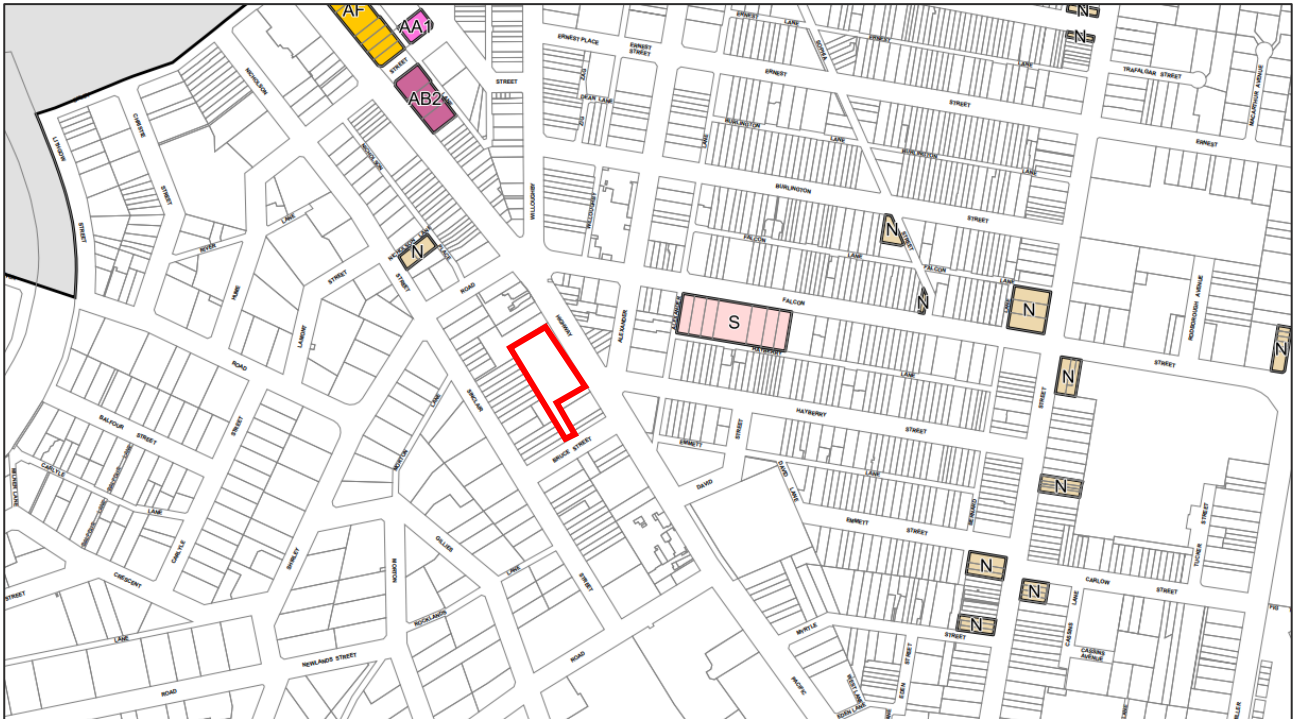


Figure 7 Current floor space ratio map



Figure 8 Proposed floor space ratio map (source: Planning Proposal (April 2022))

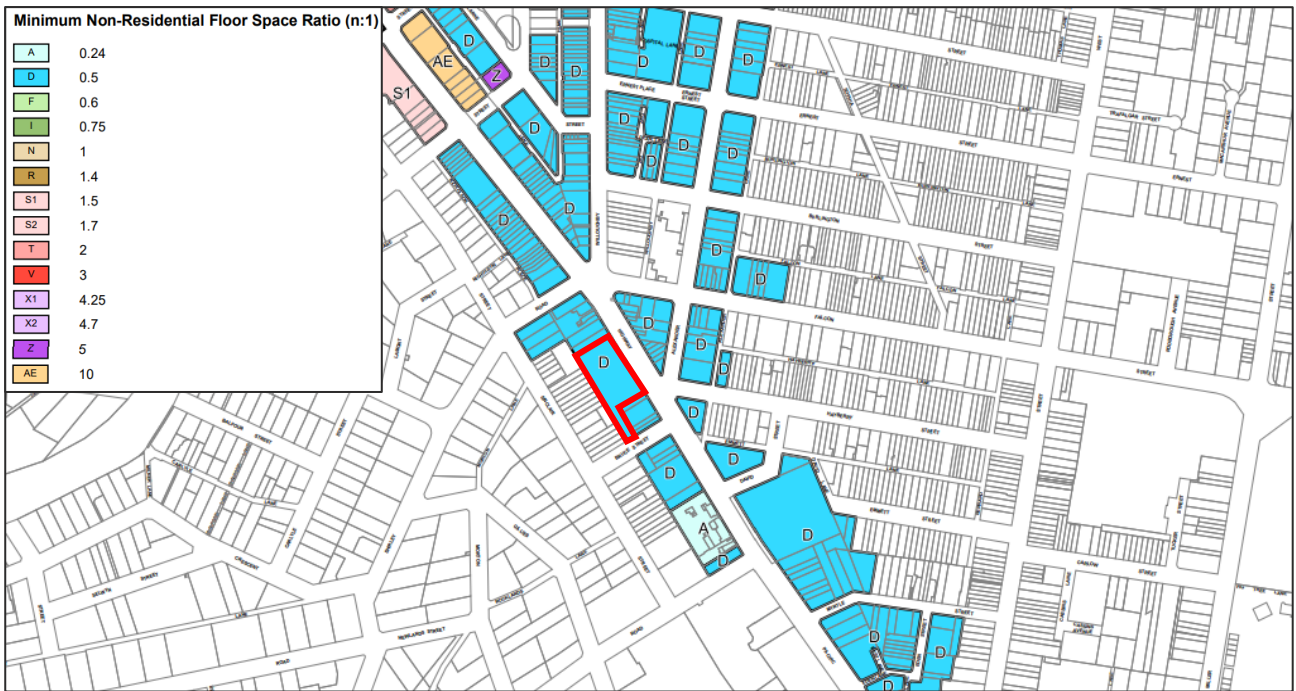


Figure 9 Current non-residential floor space ratio map



Figure 10 Proposed non-residential floor space ratio map (source: Planning Proposal (April 2022))



## 1.6 Background

The planning proposal was lodged with Council on 19 March 2021 and was refused by Council at its meeting of 21 February 2022. A rezoning review was lodged by the proponent and on 2 March 2022 the North Sydney Planning Panel determined it should proceed. Council has since resolved to accept the role of PPA. **Table 4** below contains a timeline of the planning proposal to date.

**Table 4 Timeline**

Date	Milestone / Event
19 March 2021	<b>Original lodgement with Council</b> Proponent lodged the original planning proposal with Council. The proposal sought a height of 59m and a non-residential FSR of 6.87:1 for the site.
3 June 2021	<b>Council's advice</b> Council advised the proponent that it could not support the proposal in its current form due to non-compliance with the St Leonards and Crows Nest 2036 Plan (the 2036 Plan) and other strategic planning policies.
13 August 2021	<b>Revised lodgement with Council</b> Proponent lodged a revised planning proposal with Council, which responded to Council's feedback. The revised proposal sought a height of 59m, a base FSR of 5.6:1, and a site-specific clause to permit an FSR of 6.02:1 provided the additional floor space is below ground level and comprises non-residential uses.
29 September 2021	<b>North Sydney Local Planning Panel support the planning proposal</b> The planning proposal was reported to the North Sydney Local Planning Panel with a recommendation from Council Officers to support the proposal. The North Sydney Local Planning Panel endorsed the Council Officers' report and recommended the proposal proceed to Gateway with amendments to reduce the height to 54m and prepare a site-specific DCP.
25 October 2021	<b>Council resolved to defer the planning proposal</b> The planning proposal, including the advice of the North Sydney Local Planning Panel, was reported to the meeting of 25 October 2022. Council resolved to defer consideration of this item to the new Council.
29 October 2021	<b>Rezoning review request</b> The proponent lodged a rezoning review request because Council had failed to indicate its support for the proposal within 90 days of lodgement.
21 February 2022	<b>Council resolved not to support the planning proposal</b> The new Council considered the planning proposal and resolved to not support it at its meeting on 21 February 2022. This was consistent with Council's resolution from 24 January 2022 to oppose the maximum building heights recommended by the 2036 Plan. Part of the resolution identified sites on the western side of the Pacific Highway having significant adverse amenity impacts on nearby residents and properties.

Date	Milestone / Event
2 March 2022	<p><b>Rezoning review considered by the Sydney North Planning Panel</b></p> <p>The Sydney North Planning Panel considered the rezoning review request and determined that the planning proposal should be submitted for Gateway determination as it has strategic and site-specific merit. The Panel recommended the proposal be updated to prohibit retail premises in the below ground floor space but to permit neighbourhood shops with consent.</p>
28 March 2022	<p><b>Council accepts the role of PPA, the draft DCP and the VPA offer</b></p> <p>Council was given the opportunity to be the planning proposal authority (PPA) and resolved to accept at its meeting on 28 March 2022. Council considered the draft site-specific DCP provisions and resolved to support them for the purposes of public exhibition. Council also resolved to accept, in principle, the draft VPA offer.</p> <p><i>Note: the planning proposal was submitted when the previous LEP Guidelines (Local Environmental Plans 2018) were in effect. Under the 2018 guidelines, Council may accept the role of PPA even if they initially refused the planning proposal.</i></p>
9 May 2022	<p><b>Lodgement of the current planning proposal for Gateway Determination</b></p> <p>Proponent lodged the current version of the planning proposal with the Department for Gateway determination. It has been amended to respond to the feedback of both planning panels by reducing the proposed height to 54m, attaching a draft DCP, and placing additional conditions on the additional FSR. See section 1.3 of this report for explanation of the provisions for sought by the current planning proposal.</p>

## 2 Need for the planning proposal

The planning proposal gives effect to the St Leonards and Crows Nest 2036 Plan (the 2036 Plan). The 2036 Plan was adopted by the Department in August 2020 and identifies the subject site for a building height of 13 storeys, a floor space ratio of 5.6:1 and a minimum non-residential floor space ratio of 5.6:1.

The proposal is generally consistent with the 2036 the planning proposal and seeks to enable future redevelopment for as a 13 storey commercial office building and basement level car parking.

The planning proposal is the only way to achieve this because the disparity between current development controls and the intended scale of development is too significant to be accommodated by a section 3.22 amendment or a clause 4.6 variation.

The planning proposal mechanism is also consistent with the 'Implementation' section of the 2036 Plan which states that "it will be the responsibility of each relevant Council to progress planning proposals through amendments to their respective local environmental plans to give effect to the built form recommendations in the Plan."

## 3 Strategic assessment

### 3.1 Regional Plan

The Department is satisfied the planning proposal gives effect to the Greater Sydney Region Plan, as outlined in **Table 5** below.

**Table 5 Greater Sydney Region Plan assessment**

Region Plan Objectives	Justification
Objective 4: Infrastructure use is optimised	<p><u>Planning proposal</u></p> <p>The proposal will facilitate an increase in the amount of employment floorspace which can be accessed using existing road, public transport (bus and rail) and active travel (cycling and pedestrian) infrastructure. The site is also located within 400m of the future Crows Nest Metro Station.</p> <p>The site is within the existing health and education precinct. Intensifying the site's current use through redevelopment for additional floorspace will increase efficiency of its supporting infrastructure.</p> <p><u>Department assessment</u></p> <p>The Department is satisfied that the proposal meets Objective 4.</p>
Objective 7: Communities are healthy, resilient and socially connected	<p><u>Planning proposal</u></p> <p>The proposal prioritises opportunities for people to walk, cycle and use public transport, it activates the street frontage to both Pacific Highway and Bruce Street, and the podium level provides a human scale with active street life.</p> <p><u>Department assessment</u></p> <p>The Department is satisfied that the proposal meets Objective 7.</p>
Objective 12: Great places that bring people together	<p><u>Planning proposal</u></p> <p>The proposal will contribute to the revitalisation of Crows Nest by facilitating the redevelopment of an existing commercial site to attract new and more workers to the area. The podium structure will maintain a human scale and contribute to an active street frontage.</p> <p><u>Department assessment</u></p> <p>The Department is satisfied that the proposal meets Objective 12.</p>
Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities	<p><u>Planning proposal</u></p> <p>The proposal seeks to intensify employment uses on a site which will (after the opening of the Metro in 2024) be accessible to/from:</p> <ul style="list-style-type: none"> <li>• North Sydney (Victoria Cross) by Metro in approximately 7 minutes</li> <li>• Sydney CBD (Martin Place) by Metro in approximately 12 minutes</li> <li>• Chatswood by Metro in approximately 10 minutes</li> <li>• Macquarie Park by Metro in approximately 18 minutes.</li> </ul> <p><u>Department assessment</u></p>

Region Plan Objectives	Justification
	The Department is satisfied that the proposal meets Objective 14.
Objective 15: The Eastern, GOP and Western Economic Corridors are better connected and more competitive	<p><u>Planning proposal</u></p> <p>The proposal seeks to facilitate the redevelopment of a commercial site within the St Leonards Health and Education Precinct, which forms part of the Eastern Economic Corridor. This will contribute to making the precinct more attractive, efficient, and competitive.</p> <p><u>Department assessment</u></p> <p>The Department is satisfied that the proposal meets Objective 15.</p>
Objective 21: Internationally competitive health, education, research and innovation precincts	<p><u>Planning proposal</u></p> <p>The proposal seeks to facilitate the intensification of a commercial site located within the St Leonards Health and Education Precinct. The intended development will provide opportunities for new medical premises on the site and increased opportunities for strategic partnerships with nearby hospitals and health-related industries.</p> <p><u>Department assessment</u></p> <p>The Department is satisfied that the proposal meets Objective 21.</p>

## 3.2 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 effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. **Table 6** includes an assessment of the planning proposal against relevant directions and actions.

**Table 6 District Plan assessment**

District Plan Priorities	Justification
Planning Priority N1: Planning for a city supported by infrastructure	<p><u>Planning proposal</u></p> <p>The proposal will facilitate an increase in the amount of employment floorspace which can be accessed using existing road, public transport (bus and rail) and active travel (cycling and pedestrian) infrastructure. The site is also located within 400m of the future Crows Nest Metro Station.</p> <p>The site is within the existing health and education precinct, so intensifying its current use through redevelopment for additional floorspace will increase efficiency of its supporting infrastructure.</p> <p><u>Department assessment</u></p> <p>The Department is satisfied that the proposal meets Planning Priority N1.</p>



District Plan Priorities	Justification
<p>Planning Priority N4: Fostering healthy, creative, culturally rich and socially connected communities</p>	<p><u>Planning proposal</u></p> <p>The proposal prioritises opportunities for people to walk, cycle and use public transport, it activates the street frontage to both Pacific Highway and Bruce Street, and the podium level provides a human scale with active street life.</p> <p><u>Department assessment</u></p> <p>The Department is satisfied that the proposal meets Planning Priority N4.</p>
<p>Planning Priority N6: Creating and renewing great places and local centres, and respecting the District's heritage</p>	<p><u>Planning proposal</u></p> <p>The proposal will contribute to the revitalisation of Crows Nest by facilitating the redevelopment of an existing commercial site to attract new and more workers to the area. The podium structure will maintain a human scale and contribute to an active street frontage.</p> <p>The proposal is accompanied by a Heritage Impact Statement which concludes that can be redeveloped in a manner sympathetic to nearby heritage items, especially the heritage listed Former North Shore Gas Co office, which adjoins the northern boundary of the subject site.</p> <p><u>Department assessment</u></p> <p>The Department is satisfied that the planning proposal has addressed heritage and that detailed heritage matters can be suitably addressed through the site-specific DCP and at the DA stage.</p> <p>The Department notes that the draft DCP and concept plan describe a podium structure which seeks to mitigate impacts on the neighbouring heritage item and surrounding streetscape.</p> <p>The Department is satisfied that the proposal meets Planning Priority N6. See section 4.2 of this report in relation to heritage.</p>
<p>Planning Priority N8: Eastern Economic Corridor is better connected and more competitive</p> <p>Planning Priority N9: Growing and investing in health and education precincts</p> <p>Planning Priority N10: Growing investment, business opportunities and jobs in strategic centres</p>	<p><u>Planning proposal</u></p> <p>The proposal seeks to facilitate the redevelopment of a rare, large commercial-only site within the St Leonards Health and Education Precinct, which forms part of the Eastern Economic Corridor. This will contribute to making the precinct more attractive, efficient, and competitive. The additional employment floorspace will also contribute to the District Plan's employment target of between 54,000 and 63,500 jobs in the precinct by 2036 by providing between an estimated 730-1154 jobs.</p> <p>The proposal seeks to facilitate the intensification of a commercial site located within the St Leonards Health and Education Precinct. The intended development will provide opportunities for new medical premises on the site and increased opportunities for strategic partnerships with nearby hospitals and health-related industries.</p> <p><u>Department assessment</u></p> <p>The Department is satisfied that the proposal meets Planning Priorities N8, N9 and N10.</p>

District Plan Priorities	Justification
<p>Planning Priority N12: Delivering integrated land use and transport planning and a 30-minute city</p>	<p><u>Planning proposal</u></p> <p>The proposal seeks to intensify employment uses on a site which will (after the opening of the Metro in 2024) be accessible to/from:</p> <ul style="list-style-type: none"> <li>• North Sydney (Victoria Cross) by Metro in approximately 7 minutes</li> <li>• Sydney CBD (Martin Place) by Metro in approximately 12 minutes</li> <li>• Chatswood by Metro in approximately 10 minutes</li> <li>• Macquarie Park by Metro in approximately 18 minutes.</li> </ul> <p><u>Department assessment</u></p> <p>The Department is satisfied that the proposal meets Planning Priority N12.</p>

### 3.3 St Leonards Crows Nest 2036 Plan

The St Leonards and Crows Nest 2036 Plan (2036 Plan) was finalised on 29 August 2020 and outlines the strategic vision for the St Leonards Crows Nest precinct. The planning proposal implements the built form controls and land use vision for the site described in the St Leonards and Crows Nest 2036 Plan.

The proposal aims to enable redevelopment of the site which will increase commercial floorspace to an estimated 22,853m<sup>2</sup> of employment generating floorspace. The site is within the health and education precinct and within walking distance of well serviced public transport hubs.

The planning proposal generally complies with the proposed controls under the 2036 Plan including a height of 13 storeys, a FSR of 5.6:1, a non-residential FSR of 5.6:1, a 3 storey street wall height and a 6m setback from the rear (western boundary).

It is noted that the planning proposal seeks a height of 13 storeys or 54m, which has been reduced by 5m from 59m through negotiations with Council to ensure the height being sought is appropriate for the site and reflects the controls envisaged by the 2036 Plan. This is discussed further in section 3.5 of the report.

#### 3.3.1 Minor inconsistency with the 2036 plan is acceptable

There is a minor inconsistency with the 2036 Plan as the proposal is seeking an additional site-specific maximum FSR clause of 6.02:1. The planning proposal notes that the proposal exceeds the maximum FSR control recommended under the 2036 Plan when the additional below ground FSR is included. The proposal outlines the justification for the variation as follows:

- the additional FSR above the recommendation in the 2036 Plan is provided below ground level and therefore will have no impact on the height, bulk and scale of the future building on the site;
- the proposed building envelope is fully compliant with the building height, street wall height and setback controls within the 2036 Plan, ensuring the bulk and scale of the development is appropriate for the site;
- the additional GFA will be used for non-residential purposes and will therefore provide employment generating floorspace that will contribute to the achievement of the employment targets in the 2036 Plan and Council's LSPS; and
- the proposal complies with the solar access requirements within the 2036 Plan, maintaining 2 hours of solar access to residential areas inside the boundary of the 2036 Plan between 9am – 3pm. This includes the properties located to the west of the Site on Sinclair Street which achieve 2 hours of solar access between 1pm – 3pm.

Any additional floor space beyond 5.6:1 will be required to be located below ground level for non-residential uses. This additional floorspace ratio is the equivalent of up to 1,600sqm additional floorspace and would have to be used for non-residential and non-commercial (excluding neighbourhood shops) purposes.

The FSR for floorspace above ground reflects the recommendations of the 2036 Plan. The additional below ground floorspace will have little to no impact on the streetscape and above ground built form.

This inconsistency is therefore considered to be of minor significance and does not undermine the Plan's vision, objectives and actions. It is recommended the delegate agree that the proposed inconsistency with section 9.1 Direction 1.13 Implementation of St Leonards and Crows Nest 2036 Plan is minor and consistent with the vision, objectives and actions.

## 3.4 Local

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 7**.

**Table 7 Local strategic planning assessment**

Local Strategies	Justification
North Sydney Local Strategic Planning Statement	<p><u>I2 – Collaborate with State Government Agencies and the community to deliver new housing, jobs, infrastructure and great places</u></p> <p>The proposal provides commercial floorspace which will deliver jobs close to public transport.</p> <p><u>L3 – Create great places that recognise and preserve North Sydney's distinct local character and heritage</u></p> <p>The proposed site-specific controls are generally consistent with standards set out in Council's Planning Study (Crows Nest Placemaking and Principles Study 2016) and the St Leonards Crows Nest 2036 Plan. The proposal scheme generally conforms with the emerging character of the locality and does not adversely impact local heritage.</p> <p><u>P2 – Develop innovative and diverse business clusters in St Leonards/Crows Nest</u></p> <p>The proposal will provide a substantial amount of commercial floorspace to support the Crows Nest centre and will facilitate the location of diverse business clusters within the area.</p> <p><u>P4 – Develop a smart, innovative and prosperous North Sydney economy</u></p> <p>The proposal includes commercial floorspace consistent with the intent of the 2036 plan and will likely improve the prosperity of the centre and the overall north Sydney economy.</p> <p><u>P6 – Support walkable centres and a connected, vibrant and sustainable North Sydney and S2 – Provide a high quality, well-connected and integrated urban greenspace system</u></p> <p>The proposal is located within close proximity to public transport and the new metro station, and will likely encourage active transport for workers moving between the site and surrounding public transport.</p> <p><u>S3 – Reduce greenhouse gas emissions, energy, water and waste.</u></p>

Local Strategies	Justification
	<p>The site is well located to take advantage of current and proposed public transport infrastructure and measures to reduce car reliance and ownership and improve the share of walking, cycling, car share and public transport trips.</p> <p><u>S4 – Increase North Sydney’s resilience against natural and urban hazards</u></p> <p>The proposal site is not subject to flood or bushfire risk. Potential contamination risk can be addressed at any development application stage. The proposal is not expected to significantly exacerbate urban heating in the locality.</p>
North Sydney Local Housing Strategy	<p>Whilst this proposal does not result in additional housing within the precinct, it will create jobs in the area supporting the precincts role as both an employment and residential centre and as such is considered to be compatible with the LHS.</p>

### 3.5 Local Planning Panel (LPP) recommendation

On 29 September 2021, the North Sydney Local Planning Panel (NSLPP) considered a report on this planning proposal. The Panel agreed with the Council officer’s recommendations that the height be reduced from 59m to 54m that the proposal should be accompanied by a site-specific DCP. The Panel recommended the proposal be amended and proceed to Gateway.

The NSLPP’s recommendation is as follows:

*The Panel members have undertaken independent site inspections prior to the meeting and considered all submissions, both written and oral.*

*The Council Officer’s Report is endorsed by the Panel,*

*The reasons are as outlined in the Officer’s Report, and the Panel recommends to the Council the progression of the Planning Proposal to the DPIE seeking a Gateway Determination, noting a reduction in height from 59m to 54m and the recommendation for a site specific DCP. All to be prepared to help guide future detailed design and development application assessment process. The DCP is to be exhibited concurrently with the Planning Proposal.*

*Panel reason:*

*The Panel is satisfied the Planning Proposal as amended above is consistent with the 2036 Strategy, and the development of this site for commercial purposes will be an important employment node for the precinct.*

*The Panel also notes the site is well served by public transport being 400m from the Metro, and 1 kilometre to St Leonards Station.*

*The Panel recognises the potential impact on dwellings in Sinclair Street, and therefore supports the preparation of the site specific DCP to ameliorate the impacts.*

*The Panel recommends that the DCP include a provision providing a maximum 13 storeys above ground, and for the additional FSR proposed to be below ground for commercial uses appropriate to this location.*

*The Panel agrees with the assessment of a maximum height of 54m and acknowledges an architectural design element may be provided over this.*

## 3.6 District Planning Panel (rezoning review) recommended proceeding to Gateway

On 2 March 2022, the Sydney North Planning Panel considered the rezoning review request associated with this planning proposal. The proponent had initiated the rezoning review because Council had failed to indicate its support within 90 days of lodgement.

The Panel determined that the planning proposal should proceed because it demonstrated strategic and site specific merit but recommended that retail (excluding neighbourhood shops) should not be permissible in the basement area.

The Panel provided the following reasons for their decision:

*The Panel believes the planning proposal reflects the benefit of extensive negotiation with Council including the reduction in height from 59 to 54 metres.*

*The proposal is also largely compliant with the 2036 Plan with the minor variation that FSR in total is 6.02:1, but above-ground the FSR is compliant at 5.6:1.*

*The Panel considers it prudent to also add a proviso that prior to submission the planning proposal is updated to remove retail premises in the basement component of the scheme, but allow neighbourhood shops.*

*In relation to the impact of bulk and scale, the proponent has actively worked with Council to prepare a site-specific DCP to ensure future development reduces any impact on surrounding properties.*

*Given the above the Panel believes the planning proposal should proceed to Gateway determination.*

## 3.7 Section 9.1 Ministerial Directions

The Department is satisfied that the inconsistency with Direction 1.13 Implementation of St Leonards and Crows Nest 2036 Plan is minor and justified and that the planning proposal is consistent with all other relevant Ministerial Directions (**Table 8**).

The Department notes that the planning proposal does not address the current Section 9.1 Ministerial Directions (issued 1 March 2022). This should be updated prior to exhibition, including the removal of all references to the Premier's Priorities, which have been repealed. A Gateway condition has been included to this effect.

**Table 8: 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for consistency or inconsistency
1.4 Site Specific Provisions	Yes	<p>The direction requires that the intended land use must be permissible in the land use zone applying to the subject site.</p> <p>The proposal seeks to facilitate the redevelopment of the site for land uses which are already permissible in the B4 Mixed Use zone applying to the site. The proposal does not impose unnecessarily restrictive site-specific provisions.</p>

Directions	Consistent/ Not Applicable	Reasons for consistency or inconsistency
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	No	<p>The proposal seeks to implement the built form controls and land use vision for the site described in the St Leonards and Crows Nest 2036 Plan. The proposal is generally consistent with the controls recommended in the 2036 plan.</p> <p>There is a minor inconsistency with the Plan as the proposal seeks a conditional maximum FSR of 6.02:1 instead of 5.6:1. However, this inconsistency is considered to be of minor significance and does not undermine the Plan's vision, objectives and actions.</p> <p>For more information, see Section 3.3 of this report.</p>
3.2 Heritage Conservation	Yes	<p>There are no heritage items on the site, but there are heritage items nearby, including the heritage listed Former North Shore Gas Co office, which adjoins the northern boundary of the subject site.</p> <p>The proposal is accompanied by a Heritage Impact Statement which concludes that the proposed amendments "are acceptable from a heritage perspective".</p> <p>The proposal is also accompanied by draft DCP controls which address potential heritage impacts, including requirements for a 3 storey podium.</p>
4.4 Remediation of Contaminated Land	N/A	<p>This direction requires a consent authority to consider whether a site is contaminated and if the site is suitable for the use proposed in the planning proposal.</p> <p>The site was redeveloped in the 1980s for commercial purposes and the risk of contamination is considered to be low. The site has been used for office, retail and general commercial purposes since its redevelopment.</p> <p>These activities are not identified as activities in Table 1 of the contaminated land planning guidelines which may cause contamination. The proposal will not result in a land use change. The site is not identified on Council's potentially contaminated land map.</p> <p>The Department considers the planning proposal to be consistent with the terms of the Direction.</p> <p>The Department also notes that land contamination will be considered during the DA assessment.</p>
5.1 Integrating Land Use and Transport	Yes	<p>The proposal will increase commercial floor space for employment generating purposes within walking distance of the future Crows Nest Metro station and Crows Nest Village. It is also within walking distance of St Leonards and Wollstonecraft train stations which are serviced by the T1 and T9 Lines. The proposal will support employment growth in an area accessible by public transport.</p>



Directions	Consistent/ Not Applicable	Reasons for consistency or inconsistency
5.3 Development Near Regulated Airports and Defence Airfield	Yes	<p>The planning proposal seeks a maximum building height of 13 storeys which equates to a height of 156 metres AHD. Although it does not exceed the OLS, there may be a requirement to obtain an approval for a controlled activity if the construction or structure including cranes intrudes into the prescribed airspace.</p> <p>Consultation is therefore required with the relevant authorities. A Gateway condition has been included to this effect.</p>
7.1 Business and Industrial Zones	Yes	<p>The proposal will retain the existing B4 Mixed Use zoning and will encourage employment growth by increasing employment generating floor space. The proposed development controls are estimated to facilitate between 730 and 1,154 additional jobs.</p> <p>The site is appropriately located in the St Leonards Health and Education Precinct which will support the viability St Leonards Centre and North Sydney Centre.</p>

### 3.8 State environmental planning policies (SEPPs)

The Department is satisfied that the planning proposal is consistent with all relevant SEPPs (see **Table 9** below).

The Department notes that the planning proposal references SEPP 55 which should be updated to refer to the Section 9.1 direction 4.4 Remediation of Contaminated Land. The SEPP references should also be updated to refer to the recently consolidated SEPPs. These references should be corrected prior to exhibition. A Gateway condition has been included to this effect.

**Table 9 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Exempt and Complying Development Codes) 2008	The policy aims to provide exempt and complying development codes to carry out development with minimal environmental impact without the need for development consent.	Yes	<p>The SEPP applies to all land in NSW.</p> <p>The planning proposal does not contain any provisions that would interfere with the operation of the SEPP.</p>

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	This policy aims to protect the biodiversity values of trees and other vegetation and preserve amenity of non-rural areas in the State.	Yes	<p>Chapter 2 Vegetation in non-rural areas and Chapter 6 Bushland in urban areas apply to the subject site.</p> <p>The planning proposal does not contain any provisions that would affect biodiversity or otherwise interfere with the operation of the SEPP.</p> <p>The proposal would result in an intensification of existing land uses in an already developed area and would not impact vegetation on or near the vicinity of the site.</p> <p>The site is not identified in mapping by the NSW Office of Environment and Heritage as containing remnant vegetation.</p>
SEPP (Industry and Employment) 2021	This policy aims to protect and enhance the land in the Western Sydney Employment Area. It also aims to ensure that signage is compatible with the desired amenity and visual character of an area and is of high-quality design.	Yes	<p>Chapter 3 Advertising and signage applies to the subject site.</p> <p>The planning proposal does not contain any provisions that would interfere with the operation of the SEPP.</p>
SEPP (Resilience and Hazards) 2021	This policy aims to promote an integrated and co-ordinated approach to land use planning in the coastal zone, to regulate the development of hazardous and offensive land uses and industries, and to provide a Statewide planning approach to the remediation of contaminated land.	Yes	<p>The planning proposal does not contain any provisions that would interfere with the operation of the SEPP.</p>



SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Transport and Infrastructure) 2021	This policy aims to facilitate the effective delivery of infrastructure and educational establishments across the State.	Yes	<p>Chapter 2 Infrastructure applies to the subject site.</p> <p>The planning proposal does not contain provisions that would interfere with the operation of the SEPP.</p> <p>The Department notes that the site has a frontage to a classified road and that TfNSW concurrence is required at the DA stage.</p> <p>The Department also notes that the site has a secondary access frontage to Bruce Street.</p> <p>A Gateway condition has been included to require consultation with TfNSW during the exhibition.</p>

## 4 Site-specific assessment

### 4.1 Environmental

The Department is satisfied that the potential environmental impacts can be addressed through a site-specific DCP and the development application process and should not preclude the planning proposal from progressing to exhibition. Council endorsed the draft site specific DCP on 28 March 2022 for the purposes of exhibiting concurrently with the planning proposal. For more information, see **Table 10** below.

**Table 10 Environmental impact assessment**

Environmental Impact	Assessment
Overshadowing, privacy, and visual amenity	<p><u>Planning proposal:</u></p> <p>The proposal states that it complies with the 2036 Plan's solar access requirements (minimum 2 hours solar access between 9am – 3pm) for residential areas inside the precinct boundary. The Urban Design Report includes shadow diagrams which indicate that in mid-winter, the rear yards of properties along Sinclair Street (adjacent to the site on the western side) will largely be in shadow prior to 1pm.</p> <p>The concept plan demonstrates that the intended building can be articulated to reduce the overall apparent bulk and visual impact of the structure.</p> <p><u>Department's assessment:</u></p> <p>The Council officer's report notes that the concept plans are a "proof of concept" rather than approved building designs, so the final built form can be refined to offer better solar access outcomes at the development application stage. It recommends that this issue be further detailed in a site-specific DCP.</p>

Environmental Impact	Assessment
	<p>The Council officer's report also considers that that any visual impacts are the result of the controls set by the 2036 Plan and future development can be designed to minimise the overall apparent bulk. It also recommends privacy measures and that substantial on-site tree planting to soften the building appearance be included in the site-specific DCP. The draft DCP adopted by council for the purposes of exhibition with the planning proposal includes provisions with regard to height, setbacks and solar access.</p> <p>It is noted that the proposed height and FSR is broadly consistent with the 2036 plan. The Department is satisfied that impacts relating to overshadowing, privacy concerns and visual amenity can be addressed through the site-specific DCP and through the DA process.</p>
Wind	<p><u>Planning proposal:</u></p> <p>The Wind Assessment indicates that the proposed development will have some effect on the local wind environment. It notes that any changes in current wind patterns are not expected to be significant from the perspective of pedestrian comfort or safety. It also notes that local amelioration measure may mitigate these impacts.</p> <p><u>Department assessment:</u></p> <p>It is noted that the proposed height and FSR is broadly consistent with the 2036 plan. The Department is satisfied that wind related impacts can be addressed through the site-specific DCP and through the DA process.</p>
Internal amenity for basement space	<p><u>Planning proposal:</u></p> <p>The planning proposal states suitable amenity can be achieved in the below ground spaces and that this is demonstrated in the concept development.</p> <p><u>Department assessment</u></p> <p>The Department notes that the concept plan incorporates voids and courtyards into the lower ground level and that the draft DCP includes a provision that natural light must be provided to the basement via an atrium.</p> <p>The Department is satisfied that the amenity risks to the basement floorspace (including natural light and ventilation) can be mitigated through skilful design at the DA stage. The draft DCP also requires an atrium to be provided at ground floor to allow sunlight through to the lower ground floor areas.</p> <p>The Department also considers the proposal to exclude residential and retail uses (excepting neighbourhood shops) from the basement floorspace is appropriate.</p>

## 4.2 Social and economic

The Department considers that the proposal is expected to result in positive social and economic outcomes for the area through urban renewal and enhanced employment opportunities.

The Department is satisfied that the potential social and economic impacts can be addressed through the site-specific DCP and at the development application process and should not preclude the planning proposal from progressing to exhibition.

For more information, see **Table 11** below.

**Table 11 Social and economic impact assessment**

Social and Economic Impact	Assessment
Heritage	<p><u>Planning Proposal:</u></p> <p>The proposal is accompanied by a Heritage Impact Statement which concludes that the proposed amendments “are acceptable from a heritage perspective”.</p> <p>There are no heritage items on the site, but there are heritage items nearby, including the heritage listed Former North Shore Gas Co office, which adjoins the northern boundary of the subject site.</p> <p>The proposal is accompanied by draft DCP controls which address potential heritage impacts, including requirements for a 3 storey podium.</p> <p><u>Department's assessment:</u></p> <p>The report by Council officers notes that greater front setbacks to any future tower should be considered to be more sympathetic to the heritage item to the north in relation to podium height and design, awnings, street facades and materials.</p> <p>The Department is satisfied that an appropriate design can be achieved under proposed height and FSR controls and that detailed heritage considerations can be addressed through the site-specific DCP and the DA process.</p>
Employment and urban renewal	<p><u>Planning Proposal:</u></p> <p>The proposal will provide new jobs at the site, with additional jobs generated throughout the wider local economy. The future occupants will support Crows Nest Village and associated commercial and retail businesses, ensuring their long term viability.</p> <p>The proposal will also contribute to the urban renewal of Crows Nest by providing supporting land uses and an improved streetscape with an active frontage to Pacific Highway and street tree planting. This urban renewal will help realise the economic, social and place making opportunities created by the public investment in the Sydney Metro.</p> <p><u>Department's Assessment</u></p> <p>The Department notes that proposal implements the visions, objectives and actions of the 2036 Plan, including a significant contribution towards the jobs target of 16,500 new jobs by 2036 as set by the North District Plan.</p> <p>The Department is satisfied that the proposal will have a positive social impact by contributing to enhanced employment opportunities and urban renewal.</p>

## 4.3 Infrastructure

**Table 12** 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 12 Infrastructure assessment

Infrastructure	Assessment
Public and active transport access	<p><u>Planning Proposal:</u></p> <p>The planning proposal notes that the 2036 Plan leverages the existing public transport infrastructure and the future Crows Nest Metro Station to support the growing St Leonards and Crows Nest community with the provision of new infrastructure.</p> <p>The proposal increases the quantum of employment generating floorspace in a location that is well served by existing road, public transport (bus and rail) and active travel (cycling and pedestrian) infrastructure.</p> <p><u>Department's Assessment:</u></p> <p>The Council officer's report notes that the proposal is near public transport and the new metro station and will likely encourage active transport for workers moving between the site and surrounding public transport. The report discussed visitor and cycle parking recommendations and safety concerns relating to laneway access for cyclists but noted that these matters may be addressed as part of any future detailed DA.</p> <p>The Department is satisfied that the site is suitably accessible by public and active modes of transport and that a design incorporating appropriate access points, parking and end of trip facilities can be further addressed through the site-specific DCP and the development application process.</p> <p>It is recommended TfNSW is consulted on the planning proposal. A Gateway condition has been included to this effect.</p>
Traffic and parking	<p><u>Planning proposal:</u></p> <p>A traffic and parking study prepared by SCT consultation supports the planning proposal (<b>Attachment J</b>). The study noted the site location supports the aspiration of 30-minute access to employment centres by public transport for everyone. The redevelopment will capitalise on its location near to the metro and rail stations to support sustainable travel behaviours</p> <p>The proposed concept includes a total of 202 off street parking spaces. The proposal also seeks to retain the existing vehicular access via Bruce Street.</p> <p>The proposed development is expected to generate up to 79 additional vehicle trips during each of the peak hours. The study concludes that given the good connectivity of the surrounding network, this level of increase of trips will spread out further in various directions further reducing the impacts on the surrounding road network.</p> <p><u>Department's Assessment:</u></p> <p>The Department is satisfied that the site is suitably accessible by private vehicle and that a design incorporating appropriate access points and parking can be further addressed through the site-specific DCP and the DA process.</p> <p>It is recommended TfNSW is consulted on the planning proposal. A Gateway condition has been included to this effect.</p>

Infrastructure	Assessment
Services	<p><u>Planning Proposal:</u></p> <p>The planning proposal states that the site currently has access to potable water, wastewater, electricity, gas and telecommunications. Notwithstanding, these will need to be upgraded to service the proposal.</p> <p><u>Department's Assessment:</u></p> <p>It is recommended the Sydney Water and relevant service providers are consulted on the planning proposal. A Gateway condition has been included to this effect.</p>

## 5 Consultation

### 5.1 Community

The Department recommends a community consultation period of 28 days. This is in accordance with the benchmark timeframes for Standard Planning Proposals set in the Local Environmental Plan Making Guideline (December 2021).

A Gateway condition has been included to this effect.

### 5.2 Agencies

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

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- Transport for NSW
- Sydney Water
- Relevant utility providers
- Civil Aviation Safety Authority
- Sydney Airport Corporation Limited.

## 6 Timeframe

The Department recommends a 9 month time frame to complete the LEP. This is in accordance with the benchmark timeframes for Standard Planning Proposals set in the Local Environmental Plan Making Guideline (December 2021).

The Department also recommends that if the gateway is supported it also includes conditions requiring council to commence the exhibition of the proposal within 3 months. This is in accordance with the benchmark timeframes for Standard Planning Proposals set in the Local Environmental Plan Making Guideline (December 2021).

A gateway condition has been included to this effect.

## 7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making Authority.

As the planning proposal was originally refused by Council and was progressed to gateway assessment via the rezoning review process, 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:

- The proposal has strategic merit, being consistent with the Region Plan, District Plan, 2036 Plan and LSPS.
- The proposal has site specific merit, the site being in a suitable location and the proposed development controls being appropriate for the intended redevelopment.

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

- Include an advisory note that the wording of the site-specific clause will be drafted by Parliamentary Counsel.
- Update all references to the Ministerial Directions to reflect the current numbering system, including the removal of all references to the Premier's Priorities which are no longer in force.
- Update all references to the SEPPs to reflect the consolidated SEPPs.

## 9 Recommendation

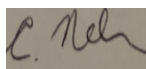
It is recommended the delegate of the Minister:

- agree that the proposed inconsistency with section 9.1 Direction 1.13 Implementation of St Leonards and Crows Nest 2036 Plan is minor and consistent with the vision, objectives and actions.

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

1. Prior to community consultation, the planning proposal is to be updated to:
  - Include an advisory note that the wording of the site-specific clause will be subject to drafting by Parliamentary Counsel.
  - Update all references to the Ministerial Directions to reflect the current numbering system, including the removal of all references to the Premier's Priorities.
  - Update all references to the SEPPs to reflect the consolidated SEPPs.
2. Consultation is required with the following public authorities:
  - Transport for NSW
  - Sydney Water
  - Relevant utility providers
  - Civil Aviation Safety Authority
  - Sydney Airport Corporation Limited.

3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. The planning proposal must be exhibited 3 months from the date of the Gateway determination.
5. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
6. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.



8/6/2022

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16 June 2022

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