



IRF23/7

## Plan finalisation report – PP-2021-6564

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North Sydney LEP 2013 (Amendment 34)  
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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# 1 Introduction

## 1.1 Overview

### 1.1.1 Name of draft LEP

North Sydney Local Environmental Plan 2013 (Amendment No. 34) – 270-272 Pacific Highway, Crows Nest.

### 1.1.2 Site description

**Table 1 Site description**

Site Description	The planning proposal ( <b>Attachment A</b> ) applies to land at 270-272 Pacific Highway, Crows Nest
Type	Site
Council / LGA	North Sydney Council
LGA	North Sydney

The site at 270-272 Pacific Highway, Crows Nest is within the Crows Nest Town Centre and the St Leonards Health and Education Precinct, which forms part of the Eastern Economic Corridor identified in the North District Plan (Macquarie Park to Sydney Airport). It is covered by the St Leonards Crows Nest 2036 Plan (SLCN 2036 Plan). The site is legally known as Lot 22 DP706776 (**Figures 1 to 4**).

The site has a total area of 3,796m<sup>2</sup> and is currently occupied by two 5 storey mixed use buildings separated by a small public plaza (**Figure 4**). It is located on the western side of Pacific Highway, approximately 280m to the south of the Crows Nest Metro Station currently under construction.

The site has a primary frontage of 73m to the Pacific Highway and a secondary access via Bruce Street. The site is currently zoned B4 Mixed Use, and this is not proposed to change. It is surrounded by mixed use and commercial buildings to the north, south, and on the opposite side of the Pacific Highway, and by low density residential buildings to the west.

It is approximately 1km walking distance from St Leonards and Wollstonecraft train stations with the T1 and T9 lines. The Pacific Highway provides a high frequency bus corridor with high frequency services during a typical weekday peak hour.

The Mater Hospital is located approximately 250m to the south and the Royal North Shore Hospital are located approximately 1.3km to the north along the Pacific Highway. The North Sydney Central Business District (CBD) is approximately 1.2 km to the south of the Site.

The site is not listed a heritage item nor is it in a Heritage Conservation Area (HCA). It is in the vicinity of the Holtermann Estate HCA and numerous local heritage items (**Figure 16**).





**Figure 1** Location map (source: Google Maps)



**Figure 2** SLCN 2036 Plan map (source: the Department)





**Figure 3** Existing subject site (source: Nearmaps)



**Figure 4** Existing subject site from Pacific Highway (source: Google Maps)



### 1.1.3 Purpose of the plan

The planning proposal (**Attachment A**) seeks to increase the development standards at 270-272 Pacific Highway, Crows Nest to facilitate a 13-storey commercial building comprising 22,853m<sup>2</sup> gross floor area (GFA) and 202 parking spaces.

The planning proposal was accompanied by a Voluntary Planning Agreement (VPA) (**Attachment A9**) for a monetary contribution toward community infrastructure and a draft site-specific Development Control Plan (DCP) (**Attachment A10**) to guide development.

The planning proposal states that a future development could potentially include allied health uses.

The current and proposed controls for the LEP are outlined in **Table 2**.

Maps were submitted with the planning proposal (**Attachment A11**). Changes will be required to the Height of Buildings Map (HOB\_001), the Floor Space Ratio Map (FSR\_001) and the Non-Residential FSR Map (LCL\_001).

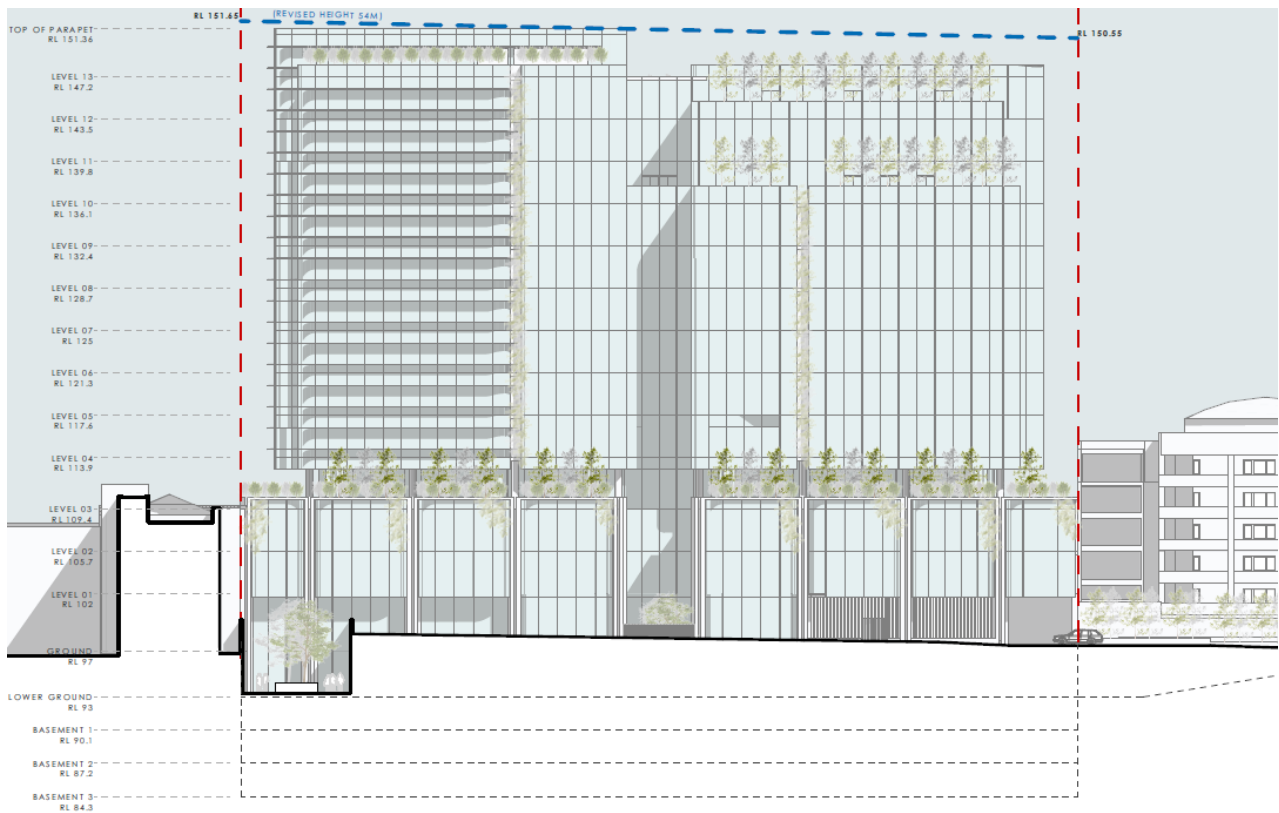
**Table 2 Current and proposed controls**

Control	Current	Proposed
Zone	B4 Mixed Use	B4 Mixed Use*
Maximum height of the building	16m	54m (13 storeys)
FSR	No maximum FSR with a minimum 0.5:1 non-residential	5.6:1 of non-residential FSR
Additional FSR clause	N/A	New site-specific clause to allow a maximum FSR of 6.02:1, (an additional 0.42:1) provided any additional floor space above 5.6:1: <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>
Number of jobs	N/A	730-1154

**\*Note:** the B4 Mixed Use zone changed to become the MU1 Mixed Use zone as part of the Department's Employment Zone Reform on 26 April 2023. This is discussed further in section 5.1

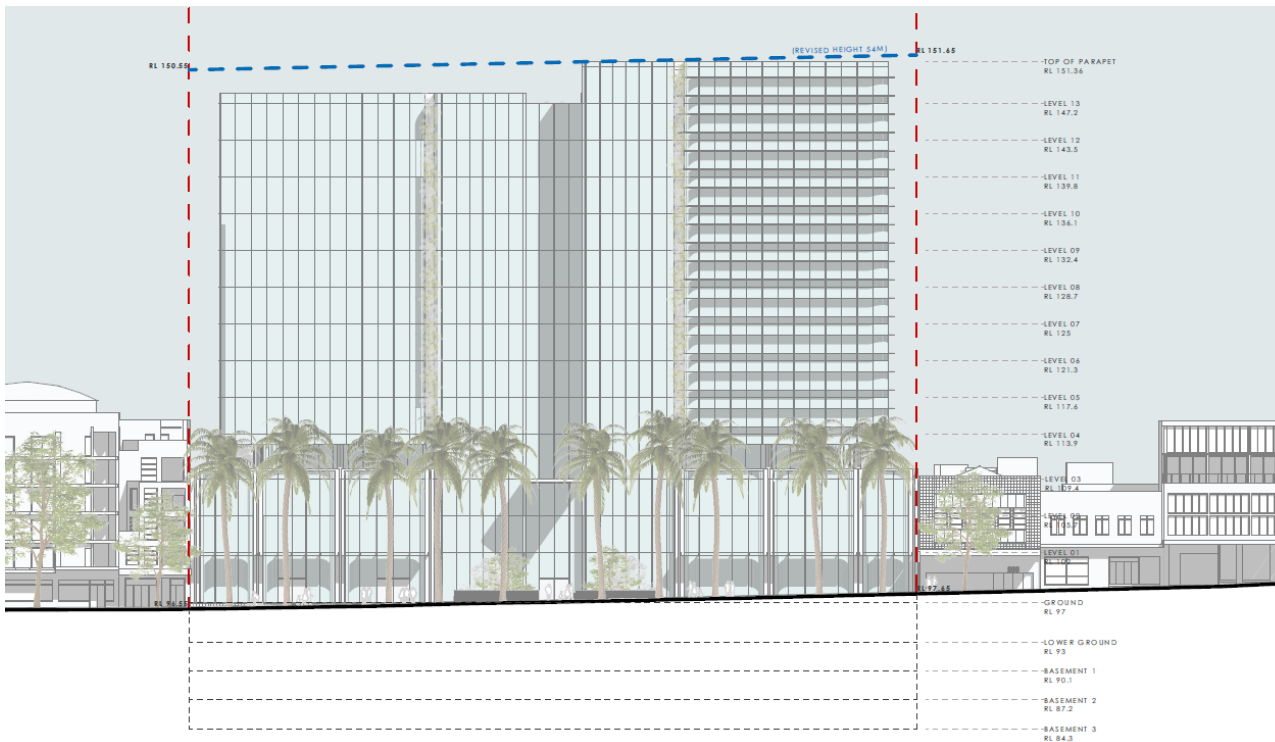


**Figure 5** Proposed concept – approximate north-south section looking east (source: Fitzpatrick and Partners)

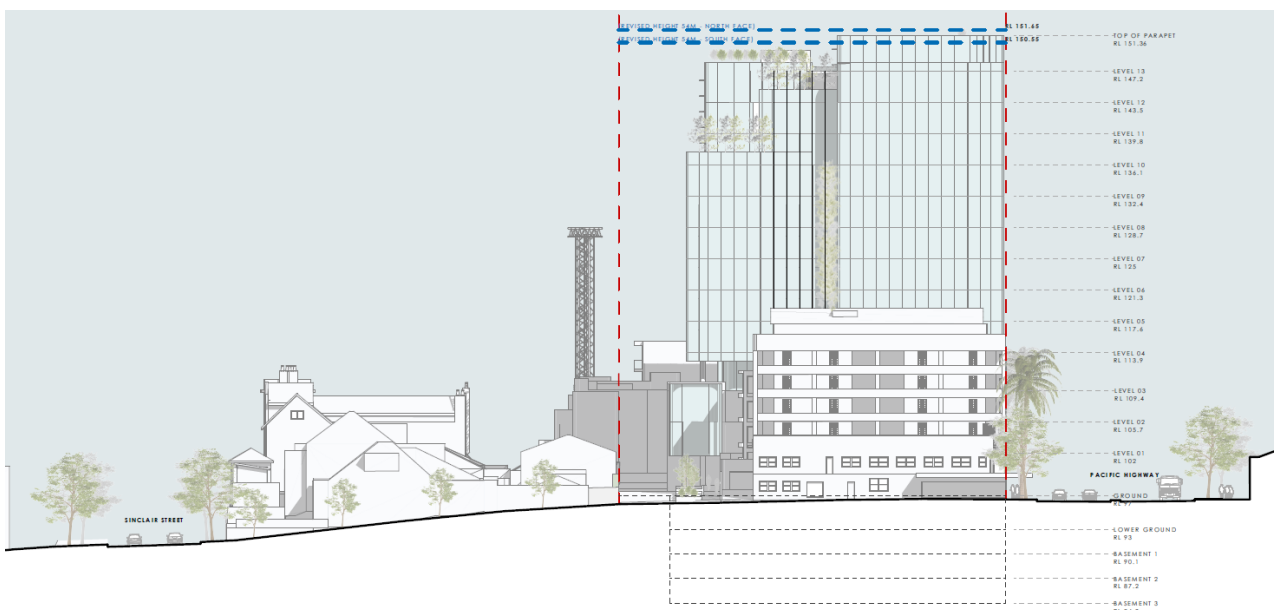


**Figure 6** Proposed concept – west elevation (source: Fitzpatrick and Partners)





**Figure 7** Proposed concept – east elevation (source: Fitzpatrick and Partners)



**Figure 8** Proposed concept – south elevation (source: Fitzpatrick and Partners)

#### 1.1.4 State electorate and local member

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

The site falls within the North Sydney federal electorate. Kylea Tink MP is the Federal Member.

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

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

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

### 1.1.5 Ministerial correspondence

On 9 February 2023, the chairman of the Wollstonecraft Precinct wrote to the Hon Anthony Roberts, Member for Lane Cove and then Minister for Planning and Homes to intervene in the finalisation of the planning proposal and to overturn the *St Leonards Crows Nest 2036 Plan* provisions proposed at the site (**Attachment G**).

The letter raises concerns with issues such as overshadowing, building height and increased traffic. The chairman also requested that no decision be made until after the NSW State election.

There will be some increased overshadowing to the neighbouring residential properties between 9am and 1pm. However, solar access will largely be maintained. There will be 2 hours of solar access maintained to residential areas inside the precinct between 9am – 3pm. This includes the properties located to the west of the site on Sinclair Street which will achieve 2 hours of solar access between 1pm – 3pm. Issues with potential overshadowing can be further assessed at the DA stage.

The maximum height of 54m accommodates a 13-storey commercial building which is consistent with the St Leonards Crows Nest 2036 Plan (SLCN Plan). The SLCN Plan underwent extensive community consultation. The SLCN Plan implements a higher density development corridor along the Pacific Highway close to services. The draft site-specific DCP will guide development to achieve setbacks and a staggered form to minimise adverse visual impact and ensure that future development provides a transition to neighbouring sites.

The site is extremely well serviced by public transport. It is close to the proposed Crows Nest Metro Station and the existing St Leonards and Wollstonecraft train stations, with the Pacific Highway providing a high frequency bus corridor. Given this, and parking controls in the DCP, it is expected that the majority of trips will be via public transport. Council is satisfied that the on-site parking and access arrangements will not result in significant additional adverse traffic impacts. Council has recently refined its parking rates to reduce car use and ownership and encourage modal shift based on proximity to public transport. This is consistent with the submission from TfNSW for this planning proposal.

The Department responded to the letter and noted the issues raised by the Wollstonecraft Precinct would be addressed in this report and that there would be further opportunity to comment on amenity issues should the proposal proceed to finalisation and a development application be submitted.

## 2 Gateway determination

The Gateway determination issued on 16 June 2022 (**Attachment B1**) determined that the proposal should proceed subject to conditions.

Council has met all of the conditions of the Gateway determination. A revised version of the planning proposal dated June 2022 responding to the Gateway conditions was exhibited on Council's 'Your Say' webpage. However, the planning proposal Council exhibited on the NSW Planning Portal was not the updated version.

Council accepted the role of planning proposal authority (PPA) in accordance with the Department's *LEP Guidelines (Local Environmental Plans 2018)*. As the planning proposal was the result of a rezoning review, it was not appropriate to authorise Council as the Local Plan Making Authority (LPMA).

### 3 Public exhibition and post-exhibition changes

Consistent with the Gateway determination, the proposal was publicly exhibited by Council Officers from 17 August 2022 to 28 September 2022, as required by section 29 of the *Local Government Act 1993*.

Council Officers were required to consult with Transport for NSW (TfNSW), Sydney Water, relevant utility providers, Civil Aviation Safety Authority (CASA), Sydney Airport Corporation Limited (SACL) in accordance with Condition 3 of the Gateway determination.

A total of 38 submissions were received. All 34 community submissions raised objections to the planning proposal as stated in Council's officers report (**Attachment E1**). A total of 4 agency submissions were received with none raising any objections.

Council Officers stated that the issues raised in the submissions, when assessed against the SLCN 2036 Plan and the broader context, would not result in the need to amend the planning proposal. Council staff recommended that Council resolve to forward the planning proposal to the Department and request the plan be made.

At its meeting of 14 November 2022, Council considered a report on submissions from the exhibition (**Attachment E**). Council resolved not to support the planning proposal because of the adverse impacts on the neighbouring properties to the west in Sinclair Street and the increase in planning provisions was not in keeping with the future desired character of this section of the Pacific Highway.

Council's position is discussed further in section 3.3.

#### 3.1 Public submissions during exhibition

##### 3.1.1 Submissions supporting the proposal

No public submissions received during the public exhibition supported the planning proposal. Council does not support the amendment. This is discussed further in section 3.3.

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

There were 34 submissions received from the community including one from the Wollstonecraft Committee and one from the Hayberry Precinct Committee. **Table 3** provides a summary of the submissions and responses from Council Officers and the Department.

**Table 3 Summary of Key Issues**

Issue raised	Submissions (%)	Council Officers response and Department assessment of adequacy of response
Traffic and Parking	94%	<p><u>Council Officer's Response:</u></p> <p>The draft site-specific DCP (<b>Attachment A10</b>) includes traffic, access and parking provisions and pedestrian safety would need to be address in a future DA.</p> <p>Council's strategic transport planner stated that visitor parking and bicycle parking should be provided within the site or road reserve close to the building entrance with the appropriate security. End of trip facilities are only needed for workers.</p> <p>Council is satisfied that the on-site parking and access arrangements will not result in significant additional adverse impacts. This can be addressed a part of a future DA.</p>



		<p><u>Department Response:</u></p> <p>The draft site-specific DCP states that on-site parking should be provided at a rate of 1 space per 113m<sup>2</sup>. The provision of 202 car spaces is generally consistent with this rate and can be further assessed at the DA stage.</p> <p>Council adopted a new DCP on 26 April 2023 (amending the NSDCP 2013) relating to off-street parking in new developments in areas close to accessible transport. If adopted by Council, only one DCP can apply to the site, and any future development would need to comply with the adopted amendments. The NSDCP is discussed further in section 5.1.4.</p> <p>The Department considers that Council has responded adequately to this issue.</p>
Bulk and Scale	88%	<p><u>Council Officer's Response:</u></p> <p>The SLCN 2036 Plan recommends a maximum height of 13 storeys for the site. The planning proposal seeks a maximum height of 54m to accommodate a 13-storey commercial building. The draft site-specific DCP will guide development to provide clarity on the height and setbacks to ensure that future development provides a transition to neighbouring sites.</p> <p>There will be additional overshadowing and visual impact, however, these could be minimised with a staggered form and detailed in the draft site-specific DCP.</p> <p><u>Department Response:</u></p> <p>The SLCN 2036 Plan indicates a 13 storey building with an FSR of 5.6 (<b>Figures 9 and 10</b>). The planning proposal is generally consistent with the SLCN 2036 Plan. However, the FSR is 6.02:1 including basement floorspace. This increase is proposed to be provided by a site-specific clause to ensure that any FSR above 5.6:1 is for non-residential purposes.</p> <p>As previously mentioned, Council updated the NSDCP to address commercial and mixed use development (in effect from 20 October 2022) to the SLCN 2036 Plan. Only one DCP can apply to this site. The NSDCP is discussed further in section 5.1.4. The additional 0.42:1 FSR at basement level for commercial uses is proposed to be included in a site-specific clause in the LEP providing greater certainty.</p>



**Figure 9** Recommended height of 13 storeys in the SLCN 2036 Plan (source: the Department)



**Figure 10** Recommended FSR of 5.6:1 in the SLCN 2036 Plan (source: the Department)

The Department considers that Council has responded adequately to this issue.

Solar Access

85%

Council Officer's Response:

The proposal states that it complies with the SLCN Plan to achieve the minimum 2 hours solar access between 9am and 3pm for residential areas inside the precinct boundary. The shadow diagrams show some minor overshadowing to the rear yard of properties to the west of the site between 1pm and 1.30pm, however, the overshadowing will impact non-habitable structures adjoining the shared laneway but potentially rear living areas. These properties will be in shadow prior to this time. The overshadowing impact can be further assessed at a future DA stage including detailed solar modelling.

The draft site-specific DCP includes provisions to mitigate solar impacts to adjoining properties including stepping of the built form to ensure a level of solar access to residential properties at 51-77 Sinclair Street, Wollstonecraft for a minimum of 2 hours between 9am and 3pm.

Department Response:

Retaining solar access is one of the key objectives of the SLCN 2036 Plan to minimise the overshadowing impacts of new development on adjoining residential areas during mid-winter. There will be increased overshadowing to the neighbouring residential properties between 9am and 1pm. however, solar access will largely be maintained. Issues with potential overshadowing can be further assessed at the DA stage.

As previously mentioned, Council has updated the NSDCP for commercial and mixed use development to respond to the SLCN 2036 Plan. Only one DCP can apply to this site. Council may further update the draft NSDCP to guide development for this site. The draft NSDCP is discussed further in section 5.1.4.

The Department considers that Council has responded adequately to this issue.

Future Character	76%	<p><u>Council Officer's Response:</u></p> <p>The section 9.1 Ministerial Direction states that a planning proposal may be inconsistent with the SLCN 2036 Plan if the proposal clearly demonstrates that better outcomes and supporting infrastructure can be delivered.</p> <p>The proposal is consistent with the vision and principles of the SLCN 2036 Plan as it will result in an additional 22,853m<sup>2</sup> of commercial floorspace providing increased employment in a highly accessible area. The site is on the edge of the Crows Nest commercial area and will not set a precedent for surrounding.</p> <p><u>Department Response:</u></p> <p>The SLCN 2036 Plan states that new development must respond appropriately to the built form character of sub-precincts, including height, bulk and scale, as well as the existing and proposed uses. In transition areas between low and high-rise developments, new development should consider the prevailing scale and existing character in the design of their interfaces.</p> <p>The site is within 400m of the new Crows Nest Metro station and close to the St Leonards Health and Education Precinct and the North Sydney CBD.</p> <p>The Five Way Triangle site directly to the east, across the Pacific Highway was recently supported by the Sydney North Planning Panel (SNPP) to proceed to a Gateway determination. The SNPP recommended a maximum height of buildings of 56m, with an additional allowance for lift overrun facilities. The SNPP recognised the potential impact on dwellings in Sinclair Street and supported the preparation of the site specific DCP to minimise impacts. However, as mentioned in the previous issues, Council's draft NSDCP can be updated to strengthen the guidelines to development on this site instead of a site specific DCP. The draft NSDCP is discussed further in section 5.1.4.</p> <p>The planning proposal is consistent with the future desired character of the area as specified in the SLCN 2036 Plan.</p> <p>The Department considers that Council Officers have responded adequately to this issue.</p>
Public Benefit	67%	<p><u>Council Officer's Response:</u></p> <p>An amended VPA letter of offer was provided containing a monetary contribution towards future local community facilities. The proposed redevelopment would support a building with commercial floorspace</p> <p><u>Department Response:</u></p> <p>The VPA offer proposes to provide a monetary contribution of \$3 million towards the provision of community infrastructure.</p> <p>Note: As Council doesn't support the LEP there is a risk that the VPA will not be delivered (Refer s.5.1.1 &amp; s.5.1.2).</p>



It should be noted that the Special Infrastructure Contribution (SIC) to support the implementation of the SLCN 2036 Plan will only apply to new residential development not commercial floorspace.

As the site is for commercial uses, services and employment opportunities will be increased in the Health and Education Precinct close to accessible public transport.

The Department considers that Council Officers have responded adequately to this issue.

### 3.1.3 Other issues raised

Other matters of concern raised by submissions included:

- Commercial floor space in Crows Nest

Concerns were raised with the requirement of need for commercial floorspace in the area.

Council Officer's response – an objective of the SLCN Plan is to provide an additional 1,950-3,020 jobs by 2036. The proposal would result in 22,853m<sup>2</sup> of commercial floor space in close proximity to Crows Nest Station. The proposal is consistent with the SLCN Plan, North District Plan and local planning priorities under the LSPS for employment.

- Quality of the documents

Several submissions stated that the Traffic and Parking Study and Economic Advice findings were not correct and required an independent review.

Council Officer's response – the documents were reviewed by Council officers and the SNPP and deemed to be acceptable for the assessment of the proposal. If the proposal progresses to the DA stage, any supporting documentation will be subject to a detailed review and the applicant will need to address any concerns prior to a determination.

- Privacy, views and setbacks

Concerns were raised with respect to the proposal's impact on privacy, particularly towards the nearby apartments on Shirley Road, and rear yards to the properties along Sinclair Street.

Council Officer's response – the development proposes commercial use with the intensity of use within office hours will somewhat mitigate privacy issues. A site-specific DCP has been prepared and exhibited to ensure that the conceptual transitional interface and setbacks remain key design features of the proposal. Further assessment can be carried out as part of a future detailed design phase.

- Amenity

Concerns were raised with the proposal's impact on the amenity of residents in respect to construction noise, traffic, waste and light pollution.

Council Officer's response – the matters raised can be addressed in Construction Management Plans as a requirement at the DA assessment stage. Conditions of consent would be applied where appropriate if a DA is approved.

- Wind impacts

Some submissions referred to the proposal's impact on the wind conditions in the area.

Council Officer's response – the wind assessment submitted with the planning proposal indicates that the concept will have some impact on the local wind environment. However, the impact is not expected to be significant from a pedestrian comfort and safety perspective. Council Officers are satisfied that any impacts can be assessed further in a future detailed design stage.

- Heritage

Concerns were raised with the impacts to heritage items, particularly the Holtermann Estate Heritage Conservation Area.

Council Officer's response – the proposal was referred to Council's Conservation Planner who commented that the consideration should be given to the design response, material selection and greater front tower setback to better respect the heritage item to the north. The site specific draft DCP includes provisions to relate to the adjoining heritage item at 286-288 Pacific Highway. Council Officers are satisfied that any matters can be addressed in any future DA and any issues will not prevent the progression of the planning proposal.

The Department considers that Council Officers have responded adequately to the issues raised.

## 3.2 Advice from agencies

In accordance with the Gateway determination, Council Officers were required to consult with Transport for NSW (TfNSW), Sydney Water, relevant utility providers, Sydney Airport Corporation Limited and Civil Aviation Safety Authority (CASA). The agencies listed in **Table 4** provided feedback.

**Table 4 Advice from agencies**

Agency	Advice raised	Council response
Sydney Airport Corporation Limited	Raised no objection to the development to a HOB of 150m AHD. Any future crane activity must be approved prior to the commencement of work ( <b>Attachment C1</b> ).	The response was noted and any issues can be dealt with at the DA stage.  The Department considers that Council Officers have responded adequately to this submission.
TfNSW	Future car parking rates and restrictions should be aligned with the North Sydney Transport Strategy;  Council may consider maximum car parking controls to limit private vehicle use;  Appropriate setbacks should be provided along the Pacific Highway frontage to cater for the growth in pedestrian activity;  Council should consider S7.11 contributions for local and regional roads to support growth;  All existing TfNSW road reservations are to be maintained;  Any future DA is to consider the requirements for Development Near Rail Corridors and Busy Roads ( <b>Attachment C2</b> ).	Council officer's report did not provide a comment as TfNSW's response was not available in time for Council's meeting.  Council Officers noted that the planning proposal, draft site-specific DCP (submissions closed 28 September 2022) and VPA was not supported at their meeting of 14 November 2022. Council provided a response to the Department on 22 November 2022 ( <b>Attachment E5</b> ).  The Parking (Car Parking Rates for new high-density developments in areas with high public transport access) DCP amendment which was adopted by Council on 26 April 2023 applies updated maximum car parking rates and bicycle facilities to areas identified as having high public transport accessibility. The draft NSDCP is discussed further in section 5.1.7. <b>Table 12</b> outlines the proposed revised parking rates for all new development near accessible transport.

Agency	Advice raised	Council response
		<p>Council will liaise with TfNSW to achieve the objectives of the North Sydney LSPS and direct any available s7.11 contributions if required.</p> <p>Council Officers noted the comment concerning the road reservations and Development Near Rail Corridors and Busy Roads. This can be assessed at the DA stage.</p> <p>The Department considers that Council Officers have responded adequately to this submission.</p> <p>It should be noted that:</p> <ul style="list-style-type: none"> <li>• if the draft NSDCP amendments are adopted by Council, only one DCP can apply to the site.</li> <li>• The nil proposed setbacks along the Pacific Highway are consistent with the SLCN Plan. The setback is not expected to change for this site. Consistency of setback is needed along the State controlled Pacific Highway. TfNSW concerns about the increase in pedestrian activity will need to be considered and assessed further at a future DA stage.</li> </ul> <p><b>Table 10</b> shows the proposed and NSDCP setbacks. Any new development will need to comply with the requirements of the amended NSDCP. A further assessment can be carried out at a future detailed design phase.</p>
Sydney Water	Amplifications, adjustments and/or minor extensions may be required to water, wastewater servicing and trade wastewater ( <b>Attachment C3</b> ).	<p>Council Officers have noted that the issues raised by Sydney Water can be dealt with at the DA stage.</p> <p>The Department considers that Council Officers have responded adequately to this submission.</p>
Viva Energy	Raised issues that can be considered at the DA stage such as the type and location of vegetation in relation to lines ( <b>Attachment C4</b> ).	<p>Council Officers have noted that the issues raised by Viva Energy can be dealt with at the DA stage.</p> <p>The Department considers that Council Officers have responded adequately to this submission. This area of the North Sydney LGA has no underground</p>



Agency	Advice raised	Council response
		energy pipelines that may be affected by the proposal.

## 3.3 Post-exhibition changes

### 3.3.1 Council resolved to not support the LEP

No post-exhibition changes were made to the planning proposal. However, at their Ordinary Meeting on 14 November 2022 (**Attachment E3**) Council did not agree with the Council Officers' recommendation to request the Department to finalise the LEP. In a unanimous decision, Council resolved to not support the making of the amendment to the LEP because:

- a) *The proposed height is inconsistent with Council's resolved position to oppose the significant increases to the exhibited maximum heights along the western side of the Pacific Highway including the subject site, under the 2036 Plan as resolved at the meeting held on 24 January 2022.*
- b) *The excessive height, bulk and scale of the proposed building envelope will result in significant adverse amenity impacts on the neighbouring properties in Sinclair Street including loss of solar access and traffic impacts due to the constrained nature of the shared access and right of way off Bruce Street.*
- c) *The proposal fails to provide a reasonable transition to the Sinclair Street properties.*
- d) *The amended proposed height is inconsistent with Council's desired future character for this part of the Pacific Highway and will set an unacceptable precedent for future development in this locality.*
- e) *The terms of the proposed Voluntary Planning Agreement do not provide sufficient public benefit to mitigate the significant adverse impacts on the locality and the unacceptable precedent that would be set by the proposed changes to NSLEP 2013.*

This outcome repeated Council's decision at their meetings of 24 January 2022 and 21 February 2022.

### 3.3.2 The Department's position

The Department notes that Council did not support the planning proposal at its meeting on 14 November 2022 with a formal letter to the Department requesting that the finalisation of the plan not proceed (**Attachment E4**).

However, the planning proposal is generally consistent with the SLCN Plan and can potentially provide 22,853m<sup>2</sup> of commercial floor space within the Eastern Economic Corridor and St Leonard Health and Education Precinct close to the new Crows Nest Metro Station and existing public transport options.

The minor variation additional FSR of 0.42:1 will be below ground level for commercial uses only and will not result in additional bulk and scale to the proposed concept and will not undermine the overall intent of the SLCN 2036 Plan.

## 4 Background

**Table 5: Timeline of events**

Date	Event
19 March 2021	Original planning proposal submitted to Council.
13 August 2021	Amended planning proposal submitted to Council.
29 September 2021	North Sydney Local Planning Panel considered the planning proposal and supported Council officers to recommend a reduction in height from 59m to 54m and a draft site-specific DCP.
25 October 2021	Council resolved to defer consideration of the planning proposal to the new Council with the election due to be held 4 December 2021.
29 October 2021	The proponent wrote to the Department requesting a rezoning review (RR-2021-95) as Council failed to make a decision after 90 days.
11 November 2021	The rezoning review application was then submitted on the NSW Planning Portal.
24 January 2022	Council resolved to oppose the increase to the maximum heights on the western side of the Pacific Highway proposed in the SLCN 2036 Plan.
21 February 2022	Council unanimously resolved to not support the planning proposal as it was inconsistent with Council's resolved position to oppose significant increases to the maximum heights in the SLCN 2036 Plan on the western side of the Pacific Highway.
2 March 2022	The Sydney North Planning Panel considered the planning proposal and determined that it demonstrate strategic and site-specific merit and should be submitted for a Gateway determination.
28 March 2022	Council Officers accepted the role of Planning Proposal Authority (PPA).
14 November 2022	Council resolved to not support the increase to the maximum heights on the western side of the Pacific Highway proposed in the SLCN 2036 Plan as in their resolution of 24 January 2022.
15 December 2022	Letter received from Council Officers requesting that the plan not be made.

## 5 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination and report (**Attachment B1 and B2**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

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

The planning proposal exhibited on Council's 'Your Say' webpage and returned to the Department remains generally consistent with:

- the Region Plan and North District Plan;
- Council's Local Strategic Planning Statement;
- Saint Leonards and Crows Nest (SLCN) 2036 Plan, the variation to the FSR is considered minor and is consistent with the overall intent of the SLCN 2036 Plan;
- all relevant Section 9.1 Directions; and
- all relevant SEPPs.

The post-exhibition planning proposal (**Attachment A**) and Council documents (**Attachment E1 to E4**) were returned to the Department on 15 December 2022 for finalisation as a result of Council's resolution of 14 November 2022.

As mentioned in section 3.3.1, Council stated that it did not support the planning proposal as it is Council's position to oppose increases in height along the Pacific Highway and it will result in significant adverse amenity impacts on the neighbouring properties in Sinclair Street.

**Tables 6 and 7** identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage.

**Table 6 Summary of strategic assessment**

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	
District Plan	<input checked="" type="checkbox"/> Yes	
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 5.1
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 5.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 5.1

**Table 7 Summary of site-specific assessment**

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 5.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 5.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 5.1



## 5.1 Strategic assessment

### 5.1.1 Regional Plan

The Department is satisfied the planning proposal gives effect to the Greater Sydney Region Plan, as outlined in **Table 8**.

**Table 8: Consistency of planning proposal with Greater Sydney Region Plan directions**

Region Plan Direction	Consistency
<b>A City of Great Places and a City for People</b>	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.
<b>A Well-Connected City</b>	<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>The proposal seeks to intensify employment uses on a site with access via other centres via the new Metro to:</p> <ul style="list-style-type: none"> <li>• North Sydney (Victoria Cross) by Metro - approximately 7 minutes;</li> <li>• Sydney CBD (Martin Place) by Metro - approximately 12 minutes;</li> <li>• Chatswood by Metro - approximately 10 minutes; and</li> <li>• Macquarie Park by Metro in approximately 18 minutes.</li> </ul>
<b>Jobs and Skills for the City</b>	<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>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>
<b>A Collaborative City</b>	The planning proposal has been prepared in response to strategic studies and reports. The planning proposal is consistent with the Council and the Department endorsed LSPS, LHS, Chatswood CBD Planning and Urban Design Strategy 2036 and the St Leonards Crows Nest Plan 2036.

### 5.1.2 North District Plan

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 9** includes an assessment of the planning proposal against relevant directions and actions.

**Table 9: Consistency of planning proposal with the North District Plan**

District Plan Priorities	Justification
Planning Priority N1: Planning for a city supported by infrastructure	<p>The proposal will facilitate an increase in the amount of employment floorspace close to accessible public transport with the new Crows Nest Metro Station with direct connections to other strategic centres. The site is located on existing road, public transport (bus and rail) and active travel (cycling and pedestrian) infrastructure.</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>
Planning Priority N4: Fostering healthy, creative, culturally rich and socially connected communities	<p>The proposal prioritises opportunities for people to walk, cycle and public transport options. the redevelopment of the site activates the street frontage to the Pacific Highway and Bruce Street, and the podium level provides a human scale with active street life.</p>
Planning Priority N6: Creating and renewing great places and local centres, and respecting the district's heritage	<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 be at a human scale and contribute to an active street frontage.</p> <p>The proposal is accompanied by a Heritage Impact Statement (<b>Attachment A4</b>) that determined that the redevelopment of the site will not result in an unacceptable impact on the nearby heritage items, including the local heritage item, the Former North Shore Gas Co office adjoining the northern boundary of the subject site.</p> <p>The heritage impact is addressed further in section 5.2.</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>The proposal seeks to facilitate the redevelopment of a large commercial site within the St Leonards Health and Education Precinct, 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>

District Plan Priorities	Justification
Planning Priority N12: Delivering integrated land use and transport planning and a 30-minute city	<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>

### 5.1.3 SLCN 2036 Plan

The 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.

The site is in the area covered by the SLCN 2036 Plan (**Figure 2**). *Ministerial Direction 1.13 Implementation of St Leonards Crows Nest 2036 Plan* specifies that minor variation with the plan is permitted if the inconsistency does not undermine the SLCN 2036 Plans vision, objectives and actions.

The revised planning proposal achieves the overall intent of the SLCN 2036 Plan, which focuses on delivering greater employment floor space and jobs balanced with residential development. The additional FSR of 0.42:1 above 5.6:1 specified in the SLCN 2036 Plan will be below ground level. The extra FSR will not have any increased impact on the height, bulk and scale of the future proposed development.

The additional GFA will be used for non-residential purposes and subject to a site-specific clause. It will provide increased employment generating floorspace contributing to the employment targets in the SLCN 2036 Plan and Council's LSPS in an area well serviced by existing and new public transport options.

### 5.1.4 North Sydney Local Planning Panel

On 29 September 2021, the North Sydney Local Planning Panel (NSLPP) considered a report on the planning proposal (**Attachment F**).

The NSLPP supported the proposal because:

- the amended planning proposal is consistent with the SLCN 2036 Plan and the development of this site for commercial purposes will be an important employment node for the precinct;
- the site is well served by public transport being 400m from the Metro and 1 km to St Leonards Station; and
- a draft site-specific DCP is supported to reduce the potential impacts on dwellings in Sinclair Street, including provisions providing a maximum 13 storeys above ground, and for the additional FSR proposed to be below ground for commercial uses.

### 5.1.5 Other Environmental Planning Instruments (EPIs)

Changes to the employment zones as part of the Department's Employment Zones Reform commenced 26 April 2023. The existing Business (B) and Industrial (IN) zones will be replaced with five new employment zones and 3 supporting zones under Standard Instrument LEP.

These changes will provide a simplified framework that provides a clear strategic intent for each zone with a significant increase in mandated permitted uses. This change will manage industrial land use conflicts and amenity impacts and the opportunity for diverse businesses to co-locate.

The changes will apply to the site as the B4 Mixed Use zone is to be retained. The B4 Mixed Use zone will be translated to MU1 Mixed Use in the translation of the employment zones.

The mapping includes changes aligning with the Employment Zone Reform which took effect on 26 April 2023.

### 5.1.6 Sydney North Planning Panel

On 2 March 2022, the Sydney Planning Panel (SNPP) considered the planning proposal. The proposal was referred to the SNPP as a result of a rezoning review request by the applicant as Council failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal.

The SNPP determined that the proposal should be submitted for a Gateway determination as it demonstrated strategic and site-specific merit because:

- the planning proposal reflects the benefit of extensive negotiation with Council including the reduction in height from 59m to 54m;
- the proposal is generally compliant with the SLCN 2036 Plan with the FSR of 5.6:1 above ground and a minor variation to 6.02:1 for below ground floor for commercial uses only; and
- the proponent has worked with Council to prepare a site-specific DCP to reduce the impact on the surrounding existing properties.

### 5.1.7 North Sydney DCP – SLCN 2036 Plan

Council reviewed the controls in the NSDCP as they relate to the St Leonards Crows Nest Planning Area and the future Crows Nest Metro Over Station Development (OSD). On 12 December 2022, Council resolved to support an amendment to Part C of the NSDCP relating to the St Leonards Crows Nest 2036 Plan Area. This amendment came into force on 6 January 2023. The setback requirements in the NSDCP are shown in **Figures 13 to 15**.

Part B Section 10 of the NSDCP was amended to reduce the rate of off-street parking for new high density residential developments in areas having high public transport accessibility in parts of St Leonards and Crows Nest.

The revision to the car parking rates for residential development in the B4 Mixed Use zone was adopted by Council on 26 April 2023.

The amalgamated site is within the Crows Nest Town Centre (**Figure 12**) and the NSDCP (**Attachment E6**) proposes that the site will require

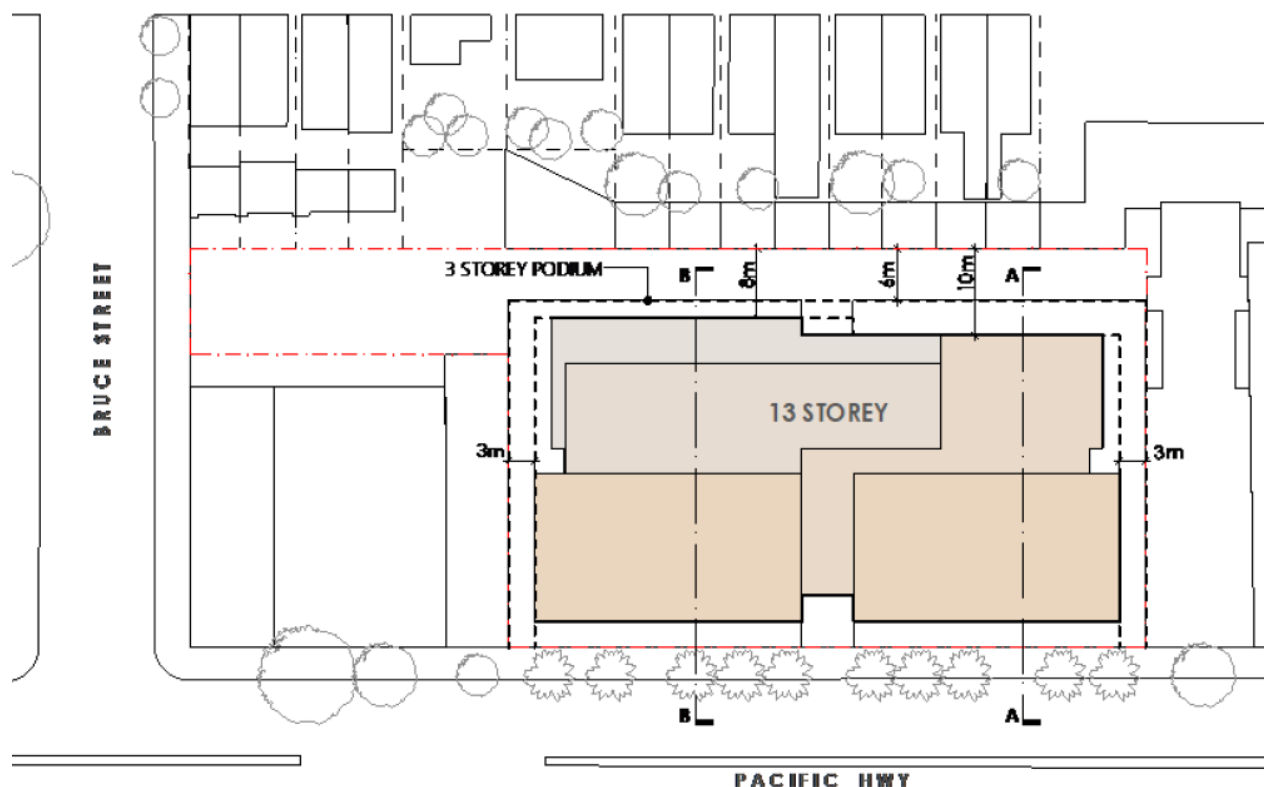
- nil building setback to the Pacific Highway;
- 3 storey podium height to the Pacific Highway; and
- 3m over podium setback to the Pacific Highway.

The NSDCP does not specify any further setbacks to the lower density residential properties adjacent to the western boundary of the site.



The draft site-specific DCP (**Attachment A10**) provides a guide to development at the subject site with recommendation such as setbacks and carparking rates. The setbacks in the draft site specific DCP submitted with the planning proposal is shown in **Figure 11**.

**Table 10** provides a comparison between the draft site-specific DCP (**Attachment A10**) submitted with the planning proposal and the recently amended NSDCP 2013.



**Figure 11** Recommended controls in the site-specific DCP for the site (source: Council)

**Table 10** Comparison with the NSDCP 2013 and the site specific DCP

		Draft Site Specific DCP submitted with the planning proposal	NSDCP 2013 (as amended on 20/10/22)
Podium height to Pacific Highway		3 storey podium that relates to the adjoining heritage item	3 storey
Podium setback	to Pacific Highway	Nil	Nil
	Western boundary (rear)	6m	6m
	North and south boundary	Nil	Not specified
Above podium setbacks	to Pacific Highway	Not specified	3m

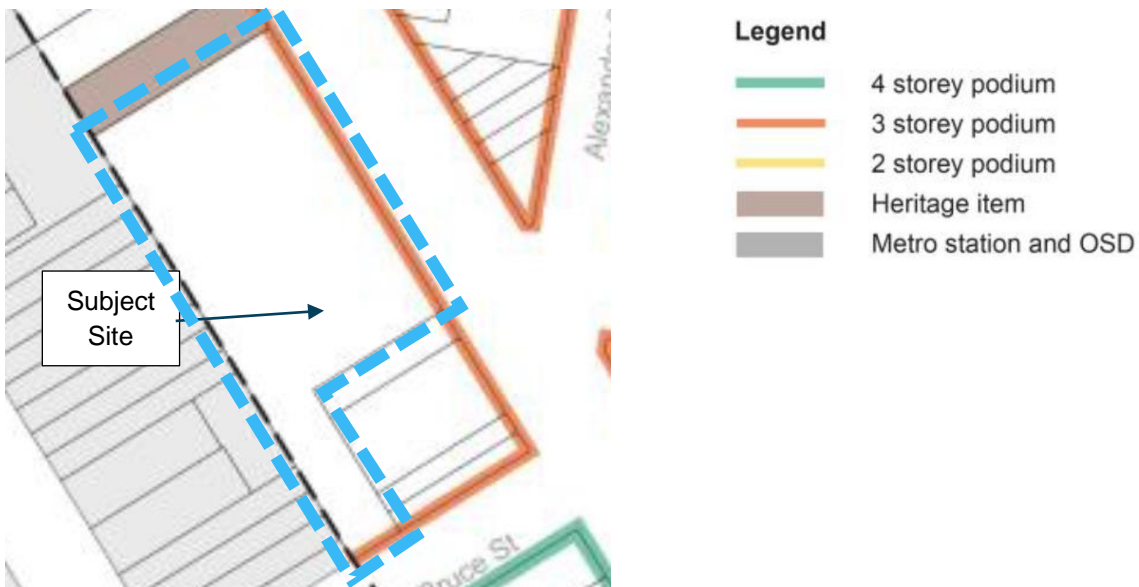
		Draft Site Specific DCP submitted with the planning proposal	NSDCP 2013 (as amended on 20/10/22)
	Western boundary (rear)	8m-10m above 3 storeys	Minimum 15m (buildings over 8 storeys with no road separation - B3 and B4 adjoining residential zones)
	North and south boundary	3m above 3 storeys	Nil
Maximum carparking rate		1 space per 113m <sup>2</sup>	1 space per 400m <sup>2</sup> non-residential GFA



**Figure 12** Crows Nest Town Centre subject to amend in the NSDCP 2013 (source: Council)



**Figure 13** The NSDCP recommends a nil whole of building setback to the Pacific Highway (source: Council)



**Figure 14** The NSDCP recommends a 3-storey podium to the Pacific Highway and to Bruce Street (source: Council)



**Figure 15** The NSDCP recommends a 3m above podium setback to the Pacific Highway and to Bruce Street (source: Council)

### 5.1.8 Ministerial Directions

The planning proposal was updated as a condition of the Gateway determination to address the renumbered Ministerial Directions. The Section 9.1 Directions were agreed to be consistent or justifiably inconsistent at Gateway and remain so.

The Directions that apply to this site are:

- *1.13 Implementation of St Leonards and Crows Nest 2036 Plan (formerly 7.11)*

The FSR of 6.02:1 is beyond the SLCN Plan FSR of 5.6:1. However the additional FSR is provided below ground and will not impact on the bulk and scale of development. The additional FSR will be for non-residential purposes.

A 0.42:1 FSR increase is a minor variation in the context of the impact on parking, transport and the total commercial floor space proposed for the Precinct that provides capacity for 16,5000 additional jobs. The variation would facilitate approximately 45 additional jobs or an increase of 0.003% across the precinct. It is expected that between 730 to 1,154 jobs will be accommodated on the site through the redevelopment.

At Gateway determination it was agreed that the proposed inconsistency with the Direction was minor and consistent with the vision, objectives and actions of the SLCN Plan.

This Direction was addressed in the planning proposal. The variation to the FSR is considered minor and will not undermine the objectives, actions or overall intent of the SLCN 2036 Plan. No further approval is required in relation to this Direction.

At Gateway determination the Minister's delegate agreed that the proposed inconsistency with the Ministerial Direction was minor and justified as consistent with the vision, objectives and actions of the *St Leonards and Crows Nest 2036 Plan*.

- *1.4 Site Specific Provisions (formerly 6.3)*

The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. This includes not imposing any development standards or requirements in addition to those already contained in the principle environmental planning instrument being amended.



The proposal intends to introduce site specific provision. The recommended FSR for this site is 5.6:1. A site-specific provision will be included to provide additional FSR to a below ground level. The Gateway report stated the planning proposal was consistent with this Direction. This increase is not restrictive and is considered minor.

- *3.2 Heritage Conservation*

The planning proposal is accompanied by a Heritage Impact Statement (HIS) (**Attachment A4**) that states that the amended proposal will not have an unacceptable impact on the heritage items in the vicinity.

- *4.4 Remediation of Contaminated Land (formerly 2.6)*

This Direction aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered at the planning proposal stage.

This direction was addressed in the planning proposal. The site is not to be rezoned or used for residential purposes.

The Gateway report and determination did not require the submission of a Preliminary Site Investigation (PSI). The report states that the site was previously redeveloped for commercial purposes in the 1980's and would have been made suitable for commercial purposes. Therefore, the risk of contamination is low.

The planning proposal is consistent with all other relevant Ministerial Directions.

### 5.1.9 State Environmental Planning Policies (SEPPs)

The planning proposal was updated as a condition of the Gateway determination to address the consolidated SEPPs. The SEPP that applies to this site is:

- *SEPP (Transport and Infrastructure) 2021*

This policy aims to facilitate the effective delivery of infrastructure and educational establishments across the State.

Chapter 2 Infrastructure applies to the subject site as it fronts to the classified road, the Pacific Highway. TfNSW's response is in Section 3.2 **Table 4**.

The Department also notes that the site has a secondary access frontage to Bruce Street.

## 5.2 Detailed assessment

Council's resolution of 14 November 2022 to not proceed with the planning proposal is not supported by the Department as the proposal:

- is consistent with the Sydney Regional Plan, the North District Plan and North Sydney LSPS;
- the additional FSR of 0.42:1 would be located underground for commercial uses and will not have an adverse impact on the surrounding area and not undermine the vision of the SLCN 2036 Plan; and
- the increase to the development standards will provide for commercial floorspace that could potentially support over 1100 jobs in the Eastern Economic Corridor and the Health and Education Precinct and leverage off accessible public transport.

## 5.2.1 Social and economic impact

**Table 11 Social and economic impact assessment**

Social and Economic Impact	Assessment
Social	<p>The planning proposal will provide increased employment floor space close to existing and proposed public transport and retail services. The proposed upgrade of retail and commercial tenancies will provide a variety of services to cater for the growing changing population in an identified health and education precinct as well as improving the public domain.</p> <p>The draft VPA proposes a monetary contribution to Council in addition to s7.11, 7.12 or 7.24 contributions for infrastructure.</p>
Economic and employment	<p>The planning proposal will create economic benefits during the construction stage and with ongoing uses. The proposed new employment spaces are expected to generate approximately 1,100 jobs.</p> <p>The planning proposal is supported by an Economic Advice Report (<b>Attachment A6</b>). The report stated that the concept would create needed commercial floor space and not impact of the viability of other development. The proximity to the Mater Hospital will present an opportunity to provide allied medical services in an area supported by ample public transport and other existing and future services.</p>

## 5.2.2 Infrastructure

The site is well serviced by public transport with St Leonards train station approximately 1km north and the new Crows Nest Metro approximately 300m north with regular bus services along the Pacific Highway. Additional public transport infrastructure is not required.

The site is in an established urban area that is well serviced by electricity, telecommunications, water and sewerage infrastructure. Consultation has been carried out with the relevant agencies. No objections were raised with the proposal. Further assessment can be undertaken at the DA stage.

A VPA (**Attachment A9**) has been submitted for a monetary contribution of up to \$3 million, payable prior to the issue of an occupation certificate. This contribution will be in addition to any s7.11 contributions for local infrastructure, or s7.12 contributions. As Council doesn't support the LEP, the VPA may not be implemented. Council staff have been advised that the Minister's delegate is likely to make the LEP, and that they should consider completing the VPA, so that this funding opportunity and community benefit is not lost. The special infrastructure contributions (SIC) apply only to residential developments within the St Leonards Crows Nest 2036 Plan area and will be mapped as such.

## 5.2.3 Environmental impact

The planning proposal states that the future development on the site will incorporate energy and sustainable design measures as well as supporting the use of public and active transport.

The development is within an existing urban area and will not have any additional impact on the environment.

### 5.2.3.1 Overshadowing Impact

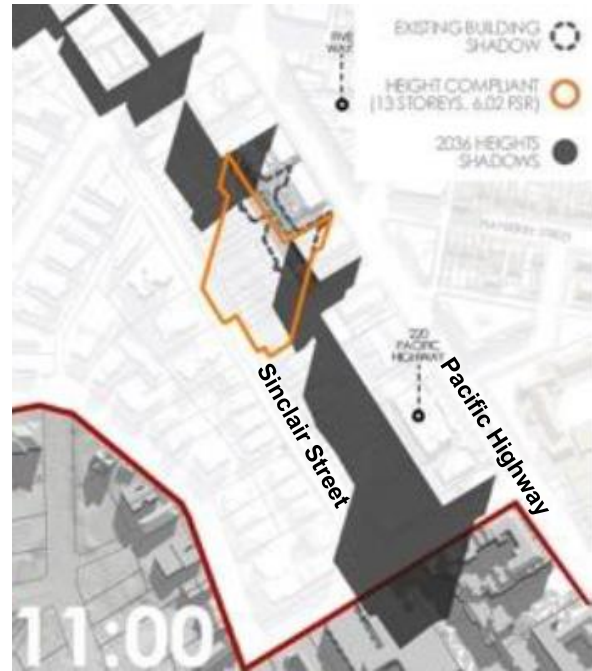
A key objective of the planning of the SLCN 2036 Plan is to maintain solar access to public open space and no additional overshadowing to residential areas between 10am and 3pm.

The proposal states that 2 hours of solar access is maintained to residential areas inside the boundary of the 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. The overshadowing to these properties will be mainly impact to the rear yard area at 1pm.

The diagrams indicate that there is no overshadowing outside of the SLCN 2036 Plan boundaries. Further assessment of the overshadowing impact can be undertaken as part of any future detailed design phase.



**Figure 16** Overshadow diagram 9am 21 June  
(source: Keylan)



**Figure 17** Overshadow diagram 11am 21 June  
(source: Keylan)



**Figure 18** Overshadow diagram 1pm 21 June  
(source: Keylan)



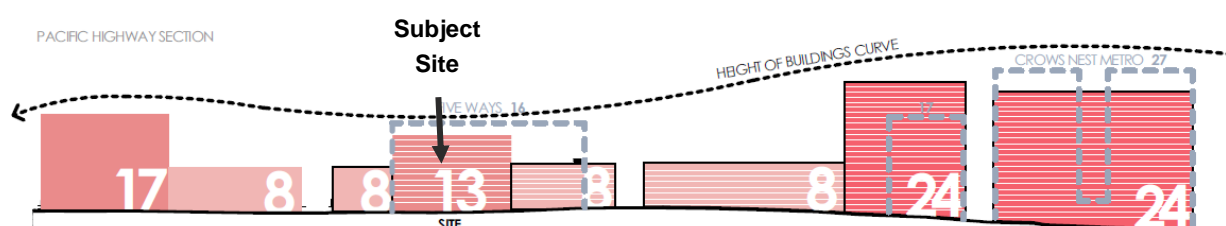
**Figure 19** Overshadow diagram 3pm 21 June  
(source: Keylan)

### 5.2.3.2 Built Form Impact

The proposed concept (**Figures 5 to 8**) indicates a 54m (13 storey) building supporting approximately 22,853m<sup>2</sup> of commercial floorspace.

The proposed increase to the height is consistent with the SLCN 2036 Plan (**Figures 9 and 20**). The proposed FSR of 6.02:1 is greater than the recommended FSR of 5.6:1 (**Figure 10**) in the SLCN 2036 Plan. However, the additional FSR of 0.42:1 will be provided below ground level and not increase the bulk and scale of the concept.

Site specific amendments to the NSDCP can minimise any impact to the surrounding existing environment and further assessment can be carried out as part of a future detailed design phase.



**Figure 20** Recommended heights in the SLCN 2036 Plan indicating a 13-storey built form (source: Fitzpatrick and Partners)

### 5.2.3.3 Traffic and Transport Impact

The site is well located approximately 1km from the existing St Leonards Station and approximately 300m from the new Crows Nest Metro station with access to existing and proposed public transport.

The Traffic and Parking Study dated 26 July 2021 (**Attachment A3**) submitted with the planning proposal concluded that the impacts of the planning proposal are negligible and can be mitigated by encouraging the use of existing and planned infrastructure. Council amended the NSDCP for areas near accessible transport and the parking rates were reduced in accordance with changes to the DCP.

The previous and new maximum NSDCP parking rates are outlined in **Table 12**. This site is proposed to be developed for non-residential land uses only. The revised rate for commercial land uses is 1 per 400m<sup>2</sup>. Based on the GFA of 22,853m<sup>2</sup> the parking would equate to around 58 car spaces. This figure can be further assessed at the DA stage.

**Table 12: NSDCP revised parking rates**

Apartment Type	Previous NSDCP Maximum Spaces per Dwelling	Revised new NSDCP Maximum Spaces per Dwelling
Studio	0.5	0.3
1 Bedroom	0.5	0.4
2 Bedroom	1.0	0.7
3 Bedroom	1.0	1.0



Apartment Type	Previous NSDCP Maximum Spaces per Dwelling	Revised new NSDCP Maximum Spaces per Dwelling
Non-residential	1 per 60m <sup>2</sup>	1 per 400m <sup>2</sup>

#### 5.2.3.4 Heritage Impact

The site is not listed as a State or local heritage item and it is not within a heritage conservation area. It is in the vicinity the Holtermann Estate HCA and multiple local heritage items and adjacent to the former North Shore Gas Company office at 286 Pacific Highway, Crows Nest.

A Heritage Impact Statement (HIS) (**Attachment A4**) submitted with the planning proposal found that the proposed amendment to the LEP is acceptable from a heritage perspective as:

- the amenity, historical and aesthetic significance of the HCA will be retained;
- the cultural significance, contribution and character of the HCA and the heritage items will be retained; and
- the HCA and heritage items will continue to be legible as historic buildings and continue to contribute to the streetscape.



Figure 21 North Sydney Heritage Map (source: NSW Legislation)

## 6 Post-assessment consultation

The Department consulted with the stakeholders outline in Table 13 as part of finalisation.

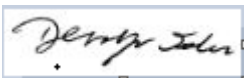
**Table 13 Consultation following the Department's assessment**

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	<p>Council has revised all of their maps as the tiles have been amended. All maps have been reviewed by the North District Team and the Department's GIS team and meet the technical requirements. The maps relevant to the planning proposal are:</p> <ul style="list-style-type: none"> <li>• Height of Buildings HOB_001;</li> <li>• FSR Map FSR_001; and</li> <li>• Non-Residential FSR Map LCL_001.</li> </ul>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under section 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (<b>Attachment H1</b>).</p> <p>Council provided comment on the draft plan on 28 February 2023 and on 3 March 2023 (<b>Attachment H1</b>). Council requested that the draft instrument was amended to be consistent with other recent site specific amendments that are located in Part 4 of the North Sydney LEP 2013. Parliamentary Counsel (PC) advised that Part 6 of the LEP was the appropriate location for this site-specific amendment and future such amendments.</p> <p>As part of requesting an Opinion the Department requested that the location of the control was reconsidered by PC and was advised that moving the amendment to Part 4 was not supported, but acknowledged other amendments were located in Part 4 of the LEP.</p> <p>Council was consulted in terms of the final instrument on 19 April 2023 with a response received on 20 April 2023. Council reiterated their objection to using Part 6 of the LEP but staff acknowledged PC is the final approver of LEP amendments.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	<p>On 19 April 2023, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at <b>Attachment PC</b>.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

## 7 Recommendation

It is recommended that:

- Council amend the NSDCP 2013 to incorporate site specific requirements as required;
- the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:
  - the draft LEP has strategic merit being consistent with Regional Plan and the North Sydney District Plan;
  - the inconsistency with the St Leonards Crows Nest 2036 Plan is justified and considered minor and will not undermine the vision of the Plan;
  - it is consistent with the Gateway Determination;
  - it is generally consistent with all relevant section 9.1 Directions and SEPPs;
  - issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal;
  - the Heritage Impact Assessment submitted with the planning proposal states that the proposed increase to the planning provisions will not have an adverse impact on the heritage items or HCA in the vicinity;
  - the proposal for 22,853m<sup>2</sup> commercial floorspace could potentially support over 1,100 jobs in an identified health and education precinct close to accessible public transport; and
  - the site can be included on the non-residential FSR map of the LEP to ensure that the landuses are for non-residential purposes.



26/4/23

Derryn John

Specialist Planner/Manager, Place and Infrastructure, Metro North



30 May 2023

Brendan Metcalfe

Director, Metro North



5 June 2023

Leah Schramm

A/Executive Director

Metro Central and North

Assessment officer

Christina Brooks

A/Senior Planning Officer, Metro Central and North District

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## Attachments

Attachment	Document
A	Planning Proposal
B	Gateway Determination and Report – 16 June 2022
C	Agency Responses
D	Sydney North Planning Panel Decision
E	Council Resolution and Report – 14 November 2022
F	Local Planning Panel report
G	Wollstonecraft Precinct Letter
H	Consultation with Council on the LEP
PC	Parliamentary Counsel's Opinion
Maps	Draft LEP Maps
LEP	Draft LEP
MCS	Map Cover Sheet
Council	Letter to Council advising of the decision