

JRPP No:	2012SYE051
DA No:	DA 136/12
PROPOSED DEVELOPMENT:	621 Pacific Highway, St Leonards Demolition of existing 11 storey commercial building and construction of 17-18 storey mixed use development
APPLICANT:	Bill Paterson
REPORT BY:	George Youhanna, Executive Planner North Sydney Council

Assessment Report and Recommendation

Attached: SEPP 1 objections

EXECUTIVE SUMMARY

The subject development application seeks to demolish the existing 11 storey commercial building and erect a 17-18 storey mixed use building containing ground floor retail, 23 serviced apartments ("hotel") at levels 1-4, 72 residential apartments at levels 5-16 and three levels of basement carparking for 33 vehicles.

The application was reported to the JRPP for determination on 12 July 2012 and was recommended for refusal for a number of reasons including poor internal amenity for both the serviced apartments and residential units, inadequate building setback to the Pacific Highway excessive building height and inadequate activation of the Atchison Street frontage at street level.

At that JRPP meeting on 12 July 2012, the Panel resolved as follows:

1) The Panel has considered the planning assessment report, the submission of the applicant and that of the elected council to defer the application. It has unanimously resolved to defer the application.

2) The Panel has reached the above decision on the understanding that the applicant will lodge amended drawings by 10 August 2012, and that those drawings will meet the following criteria:

- a) the height of the main roof (excluding lift overruns and plant rooms) is no higher than that of the approved height for the adjacent building, No 619 Pacific Highway (RL 135.80);*
- b) at least 70% of the apartments (including the serviced apartments) achieve 2 hours of sunlight in mid-winter;*
- c) the tower part of the building (excluding the lift shaft) is set back 3m from Pacific Highway for at least half the length of the frontage;*
- d) the loading dock accommodates a medium sized rigid vehicle;*
- e) the "activation" of the Atcheson Street frontage is increased; and*
- f) all studio apartments and serviced apartments have a minimum area of 38 square metres.*

The Panel's requirements (a) to (f) inclusive have all been adequately addressed.

The site has an area of 581.8m² with frontages of 38.9m to the Pacific Highway and 37.805m to Atchison Street, with a width of 20.14m adjoining the property to the south at 619 Pacific Highway and 11.8m to Christie Street on the northern boundary. The site is narrow and irregular in shape.

The amended proposal was notified and assessed by Council's Design Excellence Panel which raised concern at the lack of detail in relation to the facade treatments, and provided additional comments on the scheme. Amended plans addressing the DEP's concerns have been submitted and the proposal is now considered to be satisfactory in the context of the JRPP's decision of 12 July 2012, subject to a number of conditions of consent to address any remaining issues.

DESCRIPTION OF PROPOSAL

The subject application proposes demolition of the existing 11 storey commercial building at 621 Pacific Highway, St Leonards, and construction of a 17-18 storey mixed use development on the site. The proposed building form comprises a 4 storey podium with a further 12 storey tower extending to maximum height of RL 140.00 (54.4m).

The proposed development incorporates the following:

Basement -

- Levels B2-B4: Three (3) levels of basement car parking for 33 vehicles, utilising a car lift and turntable, and conventional aisle and car parking space design.
- Level B1: Ramp down, residential storage, 11 bicycle racks, 1 motorbike space, services/utilities, passenger lift and stairs, 1 car waiting bay, combined car lift and turntable.

Ground Floor -

- Driveway and ramp to basement, loading dock for MRV, substation, lift and stairs, through site link, retail spaces, garbage room

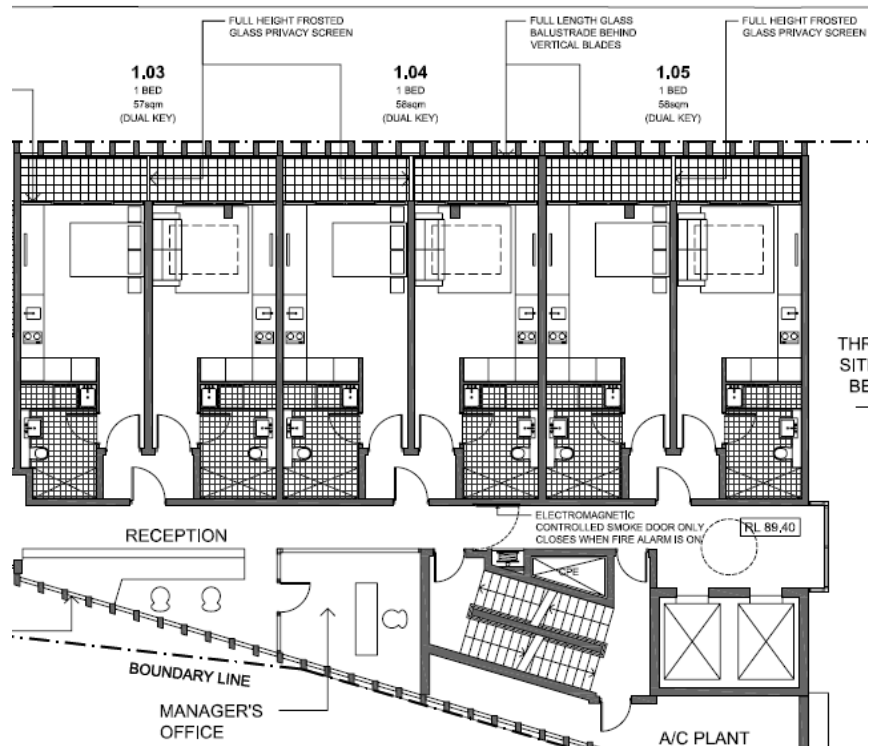
Levels 1-4

- 23 x serviced apartments, with dual key configuration allowing for separate occupancy. If separately occupied, the total number of serviced apartments is 38.

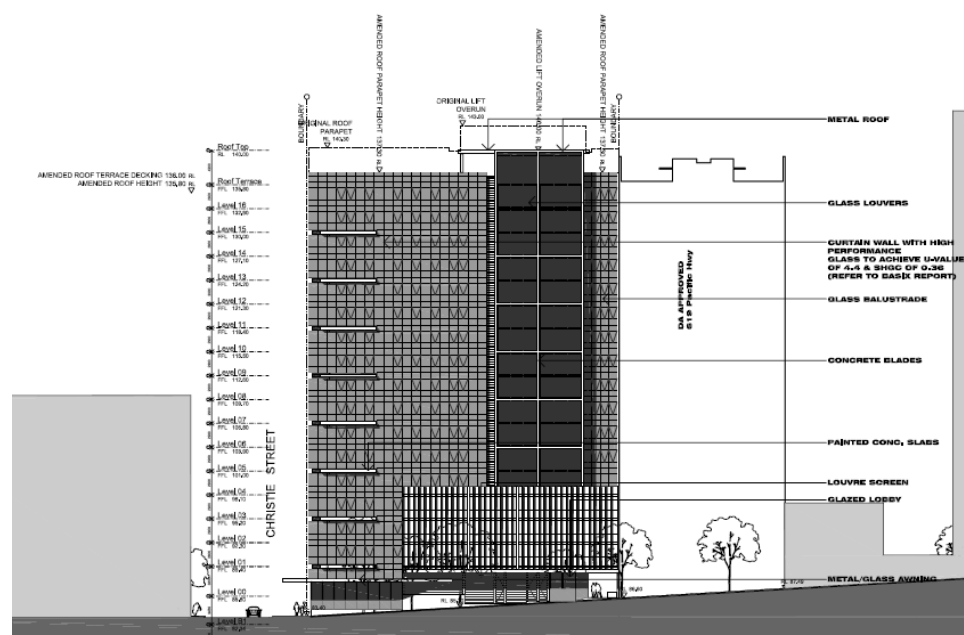
Levels 5-16

- 72 residential units, comprising 36 x studio units, 12 x 1 bedroom units and 24 x 2 bedroom units

Serviced apartments – dual key entry:



South elevation (Pacific Highway)



Photomontage (corner of Pacific Highway and Christie Street)



STATUTORY CONTROLS

North Sydney LEP 2001

- Zoning – Mixed Use
- Item of Heritage – No
- In Vicinity of Item of Heritage – No
- Conservation Area – No
- FSBL - No

Section 94 Contributions

Environmental Planning & Assessment Act 1979

SEPP No. 1 – Development Standards:

SEPP No. 55 – Remediation of Land

SEPP No.65 – Design Quality of Residential Flat Development

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Infrastructure) 2007

Sydney Harbour Catchment REP and DCP

Draft North Sydney LEP 2009

POLICY CONTROLS

DCP 2002

DESCRIPTION OF LOCALITY

The subject site is has frontages to Christie Street, Atchison Street and the Pacific Highway. The site has an area of 581.8m² with frontages of 38.9m to the Pacific Highway and 37.805m to Atchison Street, with a width of 20.14m adjoining the property to the south at 619 Pacific Highway and 11.8m to Christie Street on the northern boundary. The site is narrow and irregular in shape. The site is legally described as Lots 1 and 2, DP455937.



Aerial photo showing site and surrounding buildings



Existing development on the site comprises an 11 storey commercial building with two levels of basement parking, and a pedestrian thoroughfare linking Pacific Highway and Atchison Street.

Surrounding development includes a range of building forms, from two storey retail to high-rise office towers. To the west of the site at No.655 Pacific Highway is an 8 storey office building with St Leonards Tavern located at the ground floor. To the east of the site is No.619 Pacific Highway which is a 7 storey commercial building, the IBM building which is a 17 storey commercial building and the Abode building, a 19 storey mixed use development at No.599 Pacific Highway. Opposite the site to the north on the corner of Atchison and Christie Streets is Gilroy's Hotel, being a two storey hotel development. At No.2-4 Atchison Street is a 16 storey mixed use building and a 25 storey tower development (lodged under the now repealed Part 3A provisions) at 6-16 Atchison Street was recently approved by the PAC. Development to the south comprises 2 storey retail buildings.

The site is approximately 150 metres from St Leonards railway station and in close proximity to a number of bus routes.

RELEVANT HISTORY

Relevant history prior to lodgement

On 5 October 2011, DA163/11 for a 15 storey mixed use development at No.619 Pacific Highway (the adjoining site to the east) was approved by the JRPP. During the assessment of this application it was stated by the applicant that amalgamation with No.621 Pacific Highway was unfeasible, in part due to the lack of interest from the owner of No.621 and the existing unit leases.

On 7 November 2011, a Pre-Lodgement meeting was requested by the owner of No.621 Pacific Highway in relation to a proposed mixed use development on No.621.

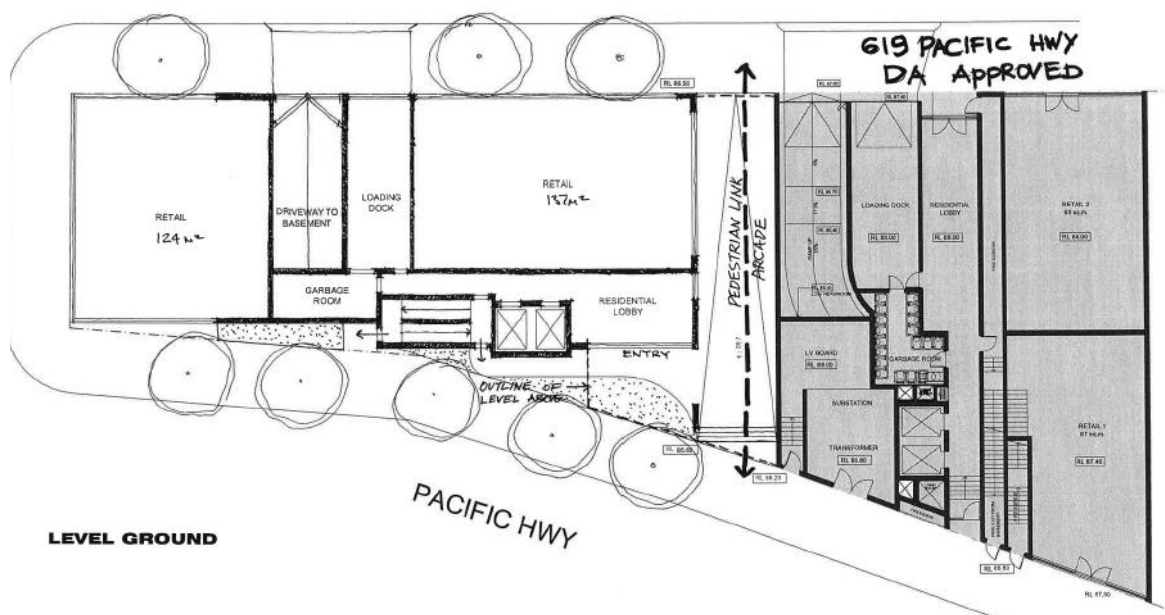
On 22 November a pre-lodgement meeting for redevelopment of the site was held involving the proponents and Council staff. The development proposed was a 19 storey mixed use building, with 30 serviced apartments and 90 residential units. The key issues identified with the proposal were as follows:

- *The Draft LEP seeks to rezone the site from mixed use to commercial. It is not known at this time if or when the draft LEP will be gazetted and it may need to be re-exhibited and/or amended. On this basis, the Draft LEP is considered not to be "certain or imminent".*
- *The set backs at ground level should be increased for improved pedestrian amenity. Concern was raised in relation to the proliferation of loading bays and driveways to Atchison Street. Site consolidation with No.619 Pacific Highway is the preferred outcome, particularly given that both sites will potentially be redeveloped concurrently. A consolidated development would have particular benefits in relation to the Atchison Street ground level design, and would avoid the need for two driveways, loading docks, etc, while increasing the proportion of*

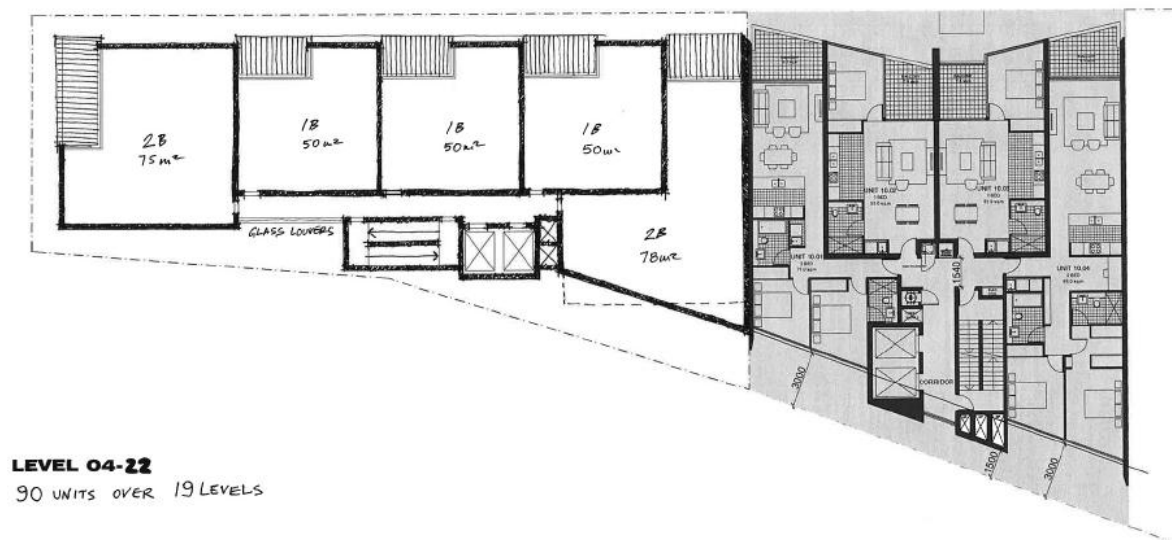
active street front usage to Atchison Street. It would also facilitate an improved basement parking configuration, allowing conventional ramps to be constructed rather than mechanical stackers and car lifts.

- *The draft St Leonards study would require a ground level set back of 3 mtrs from the Pacific Highway.*
- *The present height is excessive and unacceptable as it is significantly over the height limit in the Draft LEP, and would need a planning proposal to vary the current 49m height limit under North Sydney Local Environmental Plan 2001.*
- *The possibility of increasing the building height based on the provision of a tangible public benefit at the lower levels was briefly discussed. While no specifics were tabled, it was acknowledged that a ground or podium level public open space would be a desirable feature of any redevelopment of the site. The open space would ideally be oriented to the north and shielded from traffic noise from Pacific Highway to provide an acceptable level of user amenity.*

Pre-Lodgement Meeting Plan of Ground Level



Pre-Lodgement Meeting Plan of Levels 4 to 22



DA History

9 May 2012 – DA136/12 Lodged.

25 May to 8 June 2012 – DA notification period.

5 June 2012 – Design Excellence Panel (DEP) meeting.

14 June 2012 – JRPP Briefing Meeting.

12 July 2012 – JRPP Meeting. The application was deferred to allow the applicant to address a number of issues.

27 August to 26 October 2012 – Amended plans, revisions and additional details provided to Council during this period

14 September to 28 September 2012 – Amended DA notification period.

2 October 2012 - Design Excellence Panel (DEP) meeting.

REFERRALS

Traffic

The original application was referred to Council's Manager Traffic Planning to assess the acceptability of the proposed development with regards to traffic and parking. Council's Manager Traffic Planning raised concerns as follows:

Existing Development

The existing development is a 10-storey commercial office building with approximately 7,600m² GFA and 23 parking spaces which is accessed by two separate driveways in Atchison Street.

Proposed Development

The proposed mixed use development includes a new 17 story mixed-use residential/retail development. It incorporates 33 serviced apartments (27 x studio, 4 x one-bedroom, 2 x two-bedroom), 72 residential apartments (36 x studio, 12 x one-bedroom, 24 x two-bedroom) and 300m² of retail floor space.

Parking

The North Sydney DCP 2002 outlines a maximum parking space provision as follows:

Development Component	Residential	Serviced	PARKING RATE	REQUIRED PARKING
Studio Apartments	36		0.5	18
1 bed	12		0.5	6
2 bed	24		1	24
Studio Apartments		27	0.2	5.4
1 bed		4	0.2	0.8
2 bed		2	0.2	0.4
RETAIL (300)			1/400m 2	0.75
			TOTAL	55

The applicant is proposing to install 42 car parking spaces which complies with the NSDCP 2002.

Motorbike Parking

The development provides only 1 motorcycle space. The North Sydney DCP 2002 requires Mixed Use Zones to provide parking for motorcycles at a minimum rate of 1 space per 10 cars. Accordingly 5 motor cycle parking spaces should be provided.

Bicycle Parking

The development provides only 11 wall mounted bicycle racks. The North Sydney DCP 2002 requires Mixed Use Zones to provide 1 bicycle locker per 3 dwellings and 1 bicycle rail per 12 dwellings for visitors.

The applicant should provide a bicycle parking suitable to accommodate 24 bicycles for residents and 7 bicycle rails for visitors.

For this type of development current best practice is to provide "Class 2" type bicycle parking, as detailed in AS2890.3.

The bicycle rails for visitors choosing to cycle to the site should be located on the ground floor in a highly visible and accessible location.

The location of all bicycle parking spaces should be safe, attractive and convenient.

Traffic Generation

The report's traffic generation methodology (RMS Guide to Traffic Generating Developments) is acceptable to Council's Traffic Planning Section.

I concur that restraining the parking provision will reduce the traffic generated by the "residential component" of the development. Based on the RMS Guide to Traffic Generating Developments, the residential component of the development is likely to generate 10 vehicular trips in the peak hour.

The commercial component of the development, which is omitted in the report, is likely to generate 18 vehicular trips in the peak hour (Thursday evening).

I agree that the traffic generated by the proposed development can be accommodated by the existing road network.

Queuing Length

The development proposes to use a car stacker, identical to the recently approved development located at 619 Pacific Highway.

Concerns are raised with vehicles queuing from the development into the existing road network.

The use of mechanical parking equipment should always be the last alternative for vehicular access. With any vehicular lift, there are concerns that the motorists will chose not to use the lift because of the time delay and inconvenience, and this will place demands on the on-street parking. Particularly if the residents are returning home for only a short time, it is likely that they will not "bother" with the inconvenience of the mechanical parking system.

The proposed parking system is by its very nature a highly mechanical systems, which therefore makes it highly likely to break down. There is the concern that if there is a mechanical problem with the system then residents of the building will be unable to access the off-street parking. Vehicles may get "stuck" underground.

Further, with a development of this size, if the parking system is broken down for an extended period of time, this will place significant strain on the already very high demand for parking in this area.

Australian Standard 2890.1 states in relation to mechanical parking installations, "Access to mechanical parking installations such as car stackers, shall be by means of access driveways and circulation roadways designed in accordance with this Standard, and providing sufficient vehicle storage to ensure that queues of vehicles awaiting service by the installation do not extend beyond the property boundary of the parking facility under normally foreseeable conditions.

“When determining the amount of vehicle storage required, queue lengths shall be calculated by applying conventional queuing theory to estimated mean arrival rates during normal peak periods, and mean service rates under continuous demand, determined as closely as possible from observing the operation of similar facilities. The storage area shall be designed to accommodate the 98th percentile queue under such conditions.”

A statistical queuing analysis has not been undertaken by the applicant. An amended traffic report should be submitted which includes a statistical queuing analysis.

Parking for People with Disabilities

The Klaus automated parking system documentation outlines that the system can accommodate a vehicle with a maximum height of 1600mm. Section B6 of Australian Standard 2890.1 outlines that the height of all passenger cars and station wagons is below 1.5 metres. However, the Standard outlines that people with disabilities require headroom for a vehicle of up to 2200mm in height. The Standard therefore in Section 5.3.1 outlines that headroom should be 2200mm. The proposed parking system does not allow for parking for people with disabilities.

The other more minor concern associated with the proposed mechanical parking system is that it cannot accommodate all sizes and models of vehicles, particularly given the increasing prevalence of larger vehicles such as 4WDs.

Loading Dock

A loading dock is provided in the ground floor level, adjacent to the top of the basement ramp.

Concerns are raised with the proposed operation of the loading dock. The traffic report states that trucks will be reversing off the street into the site. The manoeuvre is unacceptable in any new development. This particular area is highly pedestrianised and reversing trucks is likely to increase the potential for pedestrian/vehicle collisions.

The loading dock should be designed to allow for trucks to enter and leave the site in a forward direction. If this is not possible, then a suitably qualified traffic controller should be provided during the times when the loading dock is in operation.

The traffic report states that the loading dock can accommodate vehicles up to and including a 6.4m long small rigid vehicle. A development of this size requires provision for a medium rigid truck as defined by Australian Standard 2890.2.

The population of North Sydney is highly mobile. Nearly half of all residents rent and, over a five-year period, over 65% move to a new address. This is particularly the case for apartments, and particularly for the smaller apartments included in the proposed development. Smaller apartments are more likely to be utilised by

renters, who move in and out more readily. Given that this development is for residential apartments, it could be assumed that there will be a substantial number of residents moving in and out of the building on a weekly basis. It would be entirely unacceptable to have furniture removalist vans parked on the Pacific Highway or Atchison Street. Further, it is noted that removalist vans often double-park, park in "No Stopping" areas or other undesirable locations if they are unable to obtain a parking space directly in front of the building they wish to service. Furniture would have to be carried from the building to the kerb, across the footpath that is heavily used by pedestrian. Given the significant volume of vehicles and pedestrians that utilise the Pacific Highway and Atchison Street, this type of impact is unacceptable.

Conclusion

For the reasons outlined above, it is recommended that this proposed development be refused until such time as the car parking and loading dock issues are resolved. Given the size of this development and the associated number of parking spaces, the only way that this development can be recommended for approval is if:

- 1. Conventional circulating access ramps are provided OR another mechanical parking system is proposed, which the applicant can demonstrate through queuing analysis, complies with section 3.5 of Australian Standard 2890.1.*
- 2. A loading dock which can accommodate a Medium Rigid Vehicle as defined by Australian Standard 2890.2 is provided on-site.*

Comment – The proposal has been amended to now include a MRV loading bay and conventional aisles and parking spaces at the basement levels, accessed via a car lift and turntable. No Traffic comments have been received in relation to the amended scheme. The proposal is considered satisfactory with regard to traffic and parking, particularly given the close proximity to St Leonards railway station and public transport facilities.

Development Engineer

Council's Development Engineer raised no objection to the originally proposed development, subject to conditions of consent.

Landscaping

Council's Landscape Development Officer has reviewed the proposal and raises no objections subject to conditions.

Design Excellence Panel

Council's Design Excellence Panel (DEP) considered the application at its meeting on 5 June 2012. The DEP provided the following comments:

Panel's Comments

The Panel notes that the building height is approximately 8m above the current 49m height limit and the Draft North Sydney LEP 49m height limit. The Panel considers that in the absence of any notable design features or public benefit resulting from the development, there is no design justification for the height exceedance.

The Panel notes that the site is extremely tight, particularly with regard to parking, access and ground floor facilities. The site to the east (619 Pacific Highway) is also constrained and despite the recent approval of a mixed use development at 619 Pacific Highway, amalgamation of the two sites would produce a better outcome than would be achieved by two separate developments, particularly with regard to rationalising the Atchison Street ground floor treatment. An amalgamated site would result in substantially greater streetscape activation to Atchison Street by avoiding the need for two loading docks, two carpark entries, fire stair exits, electricity substations, etc, and would allow a greater proportion of active uses such as cafes/restaurants and retail development. As currently proposed, the Atchison Street frontage has an inadequate level of active uses (approximately 32% of the Atchison Street frontage). Amalgamation of the two sites resulting in consolidation of the service areas and substantially greater streetscape activation to Atchison Street would be a tangible public benefit, and may justify a slightly greater building height.

The Panel considers that the internal layout at ground level would also be improved with an amalgamated site, providing a greater proportion of retail/commercial areas and a more functional layout. The Panel supports the proposed arcade through link.

The Panel has particular concerns with the internal amenity of both the proposed units and the serviced apartments. The proposal achieves only 2hrs solar access to only 45% of the serviced apartments and only 50% of the residential apartments.

The Panel notes that the lift core is located on the northern side of the building, contributing to the high number of units with a southern orientation and inadequate solar access. Relocating the lift core to the southern side of the building would significantly increase the number of dwellings with a northerly aspect and adequate solar access.

In relation to the serviced apartments, the Panel considers that as they are readily adaptable for use in the future as residential dwellings, and with regard to their proposed use as short term residential accommodation, they should provide adequate internal amenity for occupants consistent with the provisions of SEPP 65 and the RFDC. Particular concern is raised with the very poor amenity of the serviced apartments facing south and the Highway, with no sunlight and exposure to constant road noise. The acoustic conditions in bedrooms of the other apartments will also require attention. The Panel did not comment on other SEPP 65 matters that are required to be met.

The Panel acknowledges that the development at No.619 Pacific Highway was required by the JRPP to provide a 3m above podium setback (excluding the lift

core) to the Pacific Highway and on this basis considers that the proposed above podium setback to the Highway should maintain a 3m setback for the tower element.

The Panel supports the communal space on the roof, which could be improved by providing suitable wind protection to the perimeter and a covered area with a sink, with the remainder of the roof being a green roof. Provision of seating in the entrance lobby and internal access to the mail collection would also be desirable.

Conclusion

The Panel considers that a substantial redesign is required, whether or not the development is included in an amalgamated site, to overcome the Panel's concerns.

Council's DEP then considered the substantially redesigned scheme at its meeting on 2 October 2012. The DEP provided the following comments:

Background

The Panel and Council Staff have previously inspected the site and surrounding area on a number of occasions.

This proposal is an amended application to be determined by the Joint Regional Planning Panel. The development application is for the demolition of the existing 11 storey commercial building and site structures; excavation and construction of a 4 level basement for building services, storage and car parking stacker system comprising 44 car spaces; and construction and use of a 17 storey mixed use building.

The application was before the Panel at its meeting of 5 June 2012 when a number of concerns were raised regarding height; site amalgamation; amenity of apartments and setback of the tower to the Highway. The Panel considered that a substantial redesign was required, whether or not the development is included in an amalgamated site, to overcome the Panel's concerns

The application was reported to the JRPP at its meeting of 12 July 2012 with a recommendation for refusal. The JRPP deferred the application to allow amended plans to meet the following criteria:

- *the height of the main roof (excluding lift overruns and plant rooms) is no higher than that of the approved height for the adjacent building, No 619 Pacific Highway (RL 135.80);*
- *at least 70% of the apartments (including the serviced apartments) achieve 2 hours of sunlight in mid-winter;*
- *the tower part of the building (excluding the lift shaft) is set back 3m from Pacific Highway for at least half the length of the frontage;*
- *the loading dock accommodates a medium sized rigid vehicle;*
- *the "activation" of the Atchison Street frontage is increased; and*

- *all studio apartments and serviced apartments have a minimum area of 38 square metres.*

Panel's Comments

The Panel commented that the amended plans represent a substantial improvement on the original design. The Panel felt that the plans were incomplete with regard to detail and inaccurate with regard to the floor plans/elevations.

The following matters should be addressed by the architect and included on the plans before the application is determined by the JRPP:

- *Details of finishes and materials. The building is in a prominent location and full details are required to ensure that adequate specifications are included in any approval to ensure that the envisaged building is built. Colour details of the glass curtain wall is considered to be essential at DA stage.*
- *Full details of window/doors that are to open including the proposed facade of the north facing studios on levels 5 – 16. The lack of balconies to the studios is of serious concern, and there appears to be no reason why these should not be provided, as long as the articulation and detailed design of the northern facade is well resolved. (It is noted that the serviced apartments do have balconies, although for short-stay residents balconies are in fact less important)*
- *Details of screens and solar protection for north facing apartments.*
- *Details of ground floor treatment facing Highway.*
- *Need for walls or lockable screens between balconies of dual key serviced apartments for security/privacy.*
- *Suggest that there be acoustic absorption treatment to soffits of balconies.*
- *Suggest solid balustrades, or at least obscure glazing to western balustrades of first 5 levels. It is also very desirable to provide adjustable screens to all balconies, not only those at lower levels.*
- *Suggest further consideration of wind impacts to through site link, -possible treatment to party wall and/or wind screens at southern entry. The wind consultant suggested planting in the arcade, but this would be difficult to maintain and not necessarily very effective. With careful design access to the units from the arcade away from the road noise should work very effectively*
- *The 'pedestrian plaza' should be revised to face Atchison Street with the shop area modified to face the street rather than the corner or suitable screening be provided along Christie Street for protection. As proposed the space is very exposed to westerly winds.*
- *The elevations are incorrect with regard to the height of the through site link.*
- *Retail space 2 does not need to be setback from the street and could have stacker doors at boundary, wider street awning is required along Atchison Street.*
- *The roof communal area should be improved with enclosure for shelter from wind etc.. Note that the report of the wind consultant is equivocal about the amenity of the communal area as proposed.*

Conclusion

The Panel considers that the matters outlined above should be addressed in the plans prior to determination.

Roads and Maritime Services (RMS)

The RMS have raised no objections, subject to conditions.

SUBMISSIONS

The owners of adjoining and nearby properties and the Holtermann Precinct Committee were notified of the originally proposed development, with the notification period being from 25/5/12 to 8/6/12. In response to this notification, a total of two (2) submissions were received. The issues raised in the submissions are summarised as follows:

Name & Submitter	Address	of	Basis of Submissions
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Mr D Carter	1506/2-4 Atchison Street	St Leonards	<ul style="list-style-type: none">• Building height/height limit• Traffic impacts• Local road network inadequate• Parking• Infrastructure inadequate• Cumulative impact from recent approvals• Serviced apartments generating additional traffic• Side setback
Holtermann Precinct (Contact : Laura Tilsed)			<ul style="list-style-type: none">• Building height/height limit• Proliferation of serviced apartments to achieve minimum commercial floor area• Unit mix and sizes• Unit amenity• Separation of serviced apartments and residential uses• Setback and podium non-compliances• Traffic impacts• Local road network inadequate• Parking• Loading dock inadequate

The owners of adjoining and nearby properties and the Holtermann Precinct Committee were notified of the amended proposal, with the notification period being from 14/9/12 to 28/9/12. In response to this notification, a total of one (1) submission was received. The issues raised in the submission are summarised as follows:

Name & Submitter	Address	of	Basis of Submissions
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Marian Higgins, on behalf of Stockland, as the owners of 601 Pacific Highway, St Leonards			<ul style="list-style-type: none">• SEPP 1 objection inadequate• Building height/height limit• Inconsistent with desired future character and objectives
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- Overdevelopment of site

CONSIDERATION

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

JRPP RESOLUTION

At the JRPP meeting of 12 July 2012, the Panel resolved as follows:

- 1) *The Panel has considered the planning assessment report, the submission of the applicant and that of the elected council to defer the application. It has unanimously resolved to defer the application.*
- 2) *The Panel has reached the above decision on the understanding that the applicant will lodge amended drawings by 10 August 2012, and that those drawings will meet the following criteria:*
 - a) *the height of the main roof (excluding lift overruns and plant rooms) is no higher than that of the approved height for the adjacent building, No 619 Pacific Highway (RL 135.80);*
 - b) *at least 70% of the apartments (including the serviced apartments) achieve 2 hours of sunlight in mid-winter;*
 - c) *the tower part of the building (excluding the lift shaft) is set back 3m from Pacific Highway for at least half the length of the frontage;*
 - d) *the loading dock accommodates a medium sized rigid vehicle;*
 - e) *the “activation” of the Atcheson Street frontage is increased; and*
 - f) *all studio apartments and serviced apartments have a minimum area of 38 square metres.*

In response the applicant has satisfactorily addressed all of the above criteria and has satisfied the JRPP's requirements.

NORTH SYDNEY LEP 2001

The application has been assessed against the relevant numeric controls in NSLEP 2001 as indicated in the following compliance table. Additional more detailed comments with regard to the major issues are provided later in this report.

Compliance Table

STATUTORY CONTROL – North Sydney Local Environmental Plan 2001				
Site Area – 581.8m ²	Existing	Proposed	Control	Complies
Mixed Use Zone				
Building Height (Cl. 29)	11 storeys		49m	NO *

(max)		54.4m		
Non-Residential Floor Space (Cl. 31) (max)	-	3.15:1	3:1 to 4:1	YES
Design of Development (Cl. 32)	-	Building has both residential & non-residential uses, with non-residential (retail and serviced apartments) at lower levels; No residential at ground level; Separate lobbies; Tower is set back above podium	Building to have residential and non-residential uses, with non-residential at lower levels; No residential to be at ground level; Separate residential entry Building to be set back above podium	YES YES YES YES

* SEPP No 1 objection received from applicant

DCP 2002 Compliance Table

DEVELOPMENT CONTROL PLAN 2002		
	Complies	Comments
6.1 Function		
Diversity of activities, facilities, opportunities and services	Yes	This mixed use proposal incorporates 2 separate retail spaces on the ground level, thus providing an adequate diversity of non-residential spaces and activities. An appropriate communal space has been provided on the roof level.
Mixed residential population	Yes	The proposed dwelling yield of one unit per 66m ² of GFA (4748m ²) is greater than the DCP range of 1 unit per 100m ² -150m ² gross GFA.

	No	The proposed dwelling mix does not include any 3 bedroom units. Further, the combined studio and 1 bedroom unit mix is approximately 66.6% of the development, exceeding Council's dwelling mix for small units (combined studio and 1 bedroom total of 45%) by a significant degree. The JRPP have indicated that the unit mix is acceptable in this instance given both the close proximity of the site to St Leonards station and the limited site area.
	Yes	Eight (8) adaptable units are provided (excluding the serviced apartments), in accordance with the DCP 10% minimum requirement.
	Yes	Non-residential parking does not exceed DCP controls. The site has excellent access to public transport, located within close proximity of St Leonards railway station and numerous bus routes on Pacific Highway.
6.2 Environmental Criteria		
Clean Air	Yes	Satisfactory.
Noise and acoustic privacy	Yes (with conditions)	An Acoustic Report, prepared by Sebastian Giglio, was submitted with the application. The report indicates that the proposal is capable of satisfying the DCP noise and acoustic privacy requirements subject to mitigation and construction recommendations.
Visual Privacy	Yes	The proposal includes appropriate design and privacy mitigation measures to ensure adequate visual privacy for occupants and neighbours.
Wind Speed	Yes	An amended wind impact assessment was provided with the application. The report concludes that the wind impact will be acceptable.
Awnings	Yes	
Solar access	Yes	The submitted shadow diagrams indicated that there is no shadowing impact on existing or proposed areas of public open spaces between 11.30am and 2.30pm on the winter solstice as a result of the proposed development. .
Views	Yes	The view analysis submitted with the application demonstrates that the most

		affected dwellings are at No.2-4 Atchison Street, and that the majority of the view impact results from that part of the building below the 49m height limit.
6.3 Quality built form		
Context	Yes	The proposed height and scale is considered satisfactory and represents a suitable response to the site's context. The building height is in excess of the 49m height limit and is acceptable with regard to surrounding development, as discussed in this report.
Skyline	Yes	The architectural treatment of the upper levels of the proposed building would result in a satisfactory skyline appearance.
Public spaces & facilities	Yes	Appropriate integration of the retail areas and residential entries with the public domain is proposed.
Through-site pedestrian links	Yes	The existing through-site link is retained.
Streetscape	Yes	An acceptable degree of activation of the Pacific Highway and particularly Atchison Street frontages is now provided in the revised design.
Setbacks	Yes	<p>The proposed eastern and western sides of the building do not provide the required 3m above podium setback. The applicant has provided justification for the proposed side setbacks above the podium.</p> <p>The proposed above podium setbacks to Atchison Street, Christie Street and Pacific Highway are slightly below the required setbacks, however, the building reads appropriately as a 4 storey podium base with tower above to both the north and south elevations and appropriately addresses Christie Street.</p>
Entrances and exits	Yes	Access is satisfactory, with residential entry provided from both Atchison Street and Pacific Highway via the through site link. Separate retail entries are provided.
Street frontage podium	Yes	As discussed above, the 4 storey Atchison Street and Pacific Highway podiums are satisfactory.
Building design	Yes	The building has satisfactory floor to

		ceiling heights and the podium is built to all boundaries. All residential floors will have the required minimum 2.7m floor to ceiling height.
6.4 Quality urban environment		
High quality residential accommodation	Yes	The proposed one bedroom units are slightly under the required 55m ² , at 50m ² in area. The proposed two bedroom units are 75m ² being slightly below the 80m ² requirement. The proposed minor non-compliance is satisfactory given that the areas exceed the 'rule of thumb' minimum of 50m ² and 70m ² in the SEPP 65 Residential Flat Design Code, and given that the unit configuration and internal amenity is satisfactory to all units. The 38m ² studios are now satisfactory, as per the JRPP resolution.
	Yes	83% of the units (excluding the serviced apartments) will receive at least two hours of solar access in midwinter, which is uncommon in a high density urban area.
	No	Cross-ventilation to 50% of the apartments is proposed. This is satisfactory given the unit configuration and the location of the units within the tower element at levels 5 to 16, being exposed to a range of wind directions and intensities.
Balconies	Yes	The proposed studios do not include balconies, however, this was considered acceptable by the JRPP in the circumstances, given the north facing orientation and the provision of full height openings (see plans)
Accessibility	Yes	An Accessibility Report has been submitted with the application to demonstrate that the development would comply with requirements of

		AS1428.3 for disabled access. Lift access is proposed to all levels and at grade access is provided from Atchison Street.
Safety and security	Yes	Satisfactory.
Car parking	Yes	The proposal provides a total of 33 parking spaces. The parking provision is below the maximum parking requirements of Section 9 of the DCP. This is satisfactory with regard to the availability of public transport in close proximity to the site.
Bicycle parking	Yes	11 wall mounted bicycle storage racks are proposed, in addition to multiple general storage areas for all units.
Vehicular access	Yes	Access is provided from Atchison Street to the ramp down to the car parking lift/turntable and the street level loading dock. The proposal has been modified to allow conventional aisle and parking space access via the car lift. The loading dock has width, height and length dimensions to accommodate a Medium Rigid Vehicle.
Garbage Storage	Yes	A Waste Management Plan has been submitted, outlining the management of waste and recycling materials generated on site. The residential levels are provided with a garbage chute on each floor and the central garbage room is accessed via the loading dock.
Commercial garbage storage	Yes	The proposal includes one central garbage room for the development at ground level.
Site facilities	Yes	Satisfactory.
6.5 Efficient use and management of resources		
Energy efficiency	Yes	An amended BASIX certificate for the residential component of the development has been submitted and an appropriate condition can be imposed to ensure compliance with these commitments.

NORTH SYDNEY LEP 2001

1. Permissibility within the zone:

The subject site is zoned Mixed Use pursuant to NSLEP 2001. Development for the purposes of the construction of a mixed use building is permissible with the consent of Council. The proposed uses (retail and serviced apartments) are also permissible under the zoning with Council consent, it being noted that serviced apartments are only permissible under the definition of “hotel”, which requires the provision of facilities “...such as a restaurant or bar”. A condition will be applied requiring the provision of this facility in the retail area.

2. Objectives of the zone

The particular objectives of the Mixed Use zone, as stated in clause 14 of NSLEP 2001, are:

- “(a) encourage a diverse range of living, employment, recreational and social opportunities, which do not adversely affect the amenity of residential areas, and*
- (b) create interesting and vibrant neighbourhood centres with safe, high quality urban environments with residential amenity, and*
- (c) maintain existing commercial space and allow for residential development in mixed use buildings with non-residential uses at the lower levels and residential above, and*
- (d) promote affordable housing.”*

The amended proposal is now consistent with the objectives of the zone.

3. Building Height

The Clause 29(1) building height objectives for the mixed use zone are as follows:

(1) Building height objectives

The specific objectives of the building height controls in the mixed use zone are to:

- (a) ensure compatibility between development in the mixed use zone and adjoining residential areas and open space zones, and*
- (b) encourage an appropriate scale and density of development for each neighbourhood that is in accordance with and promotes the character of, the neighbourhood, and*
- (c) provide reasonable amenity for inhabitants of the building and neighbouring buildings, and*
- (d) provide ventilation, views, building separation, setback, solar access, light, and avoid over shadowing of windows, landscaped areas, courtyards, roof decks, balconies and the like, and*
- (e) promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient, and*
- (f) avoid the application of transitional heights as justification for exceeding height controls.*

Clause 29(2) of NSLEP 2001 states that:

“A building must not be erected in the mixed use zone in excess of the height

shown on the map.”

Pursuant to Map 2 – ‘*Floor Space Ratios, Heights and Reservations*’ of NSLEP2001, a maximum height of 49 metres is applicable to the subject site. The maximum height of the proposed development is 54.4m. As such, the height of the proposal would exceed the maximum 49m building height specified in NSLEP 2001 by 5.4m. It is noted that the building height has been reduced by one storey from the original building height.

The applicant has submitted a SEPP No 1 objection in respect of the variation from the building height control. This objection seeks support for the non-compliance largely based on the objectives of the standard being achieved and a claim that the North Sydney Local Environmental Plan 2001 height control of 49m has been “...*virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard...*” (Wehbe SEPP 1 test).

In relation to the objectives of the control, the amended proposal is in keeping with the desired future character of the neighbourhood as expressed in the DCP Character Statement, and is consistent with the objectives of the standard, despite non-compliance. In this regard, the SEPP 1 objection is considered to be well founded and is supported.

In relation to internal amenity for inhabitants of the building, the proposal is now satisfactory. However, the transitional height argument (Forum to IBM), as a justification for exceeding the height limit is directly in conflict with the mixed use zone building height objective and is not accepted.

The claim that the 49m height limit has been “...*virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard...*”, is not accepted and the following relevant information should be noted:

- The non-compliance at No.619 Pacific Highway related to rooftop plant and was a total of 4.15m in height
- The IBM building pre-dates the relevant height limit/development standard and is therefore irrelevant to the application of the North Sydney Local Environmental Plan 2001 provisions.
- 2-4 Atchison Street also pre-dates the relevant height limit/development standard and is a total of 1m over the current 49m height limit.
- The Abode building also pre-dates the relevant height limit/development standard. Moreover, the massing of the building is such that the site yield is similar to that of a fully compliant building extending across the entire site.
- 32-38 Atchison Street was the subject of LEC proceedings and following a section 34 conference and the filing of amended plans, the Court accepted a SEPP 1 objection to the height limit and consent orders were entered into. Additionally, regard was had for the massing of the exceedance which “borrows” its height from other parts of the building.
- 5-11 Atchison Street includes a communal room only at roof level, which breaches the height limit by 3m.

4. Draft Planning Proposal

It should also be noted that Council has forwarded a planning proposal to the DPI seeking to limit the use of SEPP 1 in the St Leonards town centre to a maximum of 3m (one storey) plus plant and lift overruns, which is intended to provide a degree of flexibility in applying height controls on sloping sites, without significant exceedances of the height limit. The planning proposal is currently being considered by the DPI. The proposal is generally consistent with this approach.

5. Floor Space

Clause 31(2) of NSLEP 2001 states:

“A building must not be erected in the mixed use zone if the floor space ratio of the part of the building to be used for non-residential purposes is not within the range specified on the map.”

Pursuant to Map 2 – ‘Floor Space Ratios, Heights and Reservations’ of NSLEP 2001, the non-residential component for a development on this site must have a floor space ratio (FSR) of between 3:1 and 4:1. The proposed development has a non-residential FSR of 3.15:1, and is therefore compliant with Clause 31 of NSLEP 2001. A café or restaurant use to cater for the serviced apartments is required at ground level, in order to satisfy the definition of “hotel” in NSLEP 2001.

6. Design of Development

Clause 32 of NSLEP 2001 provides a number of objectives and controls with regard to the design of development in the mixed-use zone. The objectives in clause 32(1) seek the following

- (a) promote development containing a mix of residential and non-residential uses, and*
- (b) protect the amenity and safety of residents, and*
- (c) concentrate the non-residential component of development in the mixed use zone at the lower levels of a building.*

The proposed development is satisfactory with regard to the amenity of residents as discussed previously.

In relation to the controls for the design of development in Clause 32 (2), the proposal is assessed as follows:

A new building in the mixed use zone must not be erected unless:

- (a) the building contains both residential and non-residential uses,*

Comment: The building complies in this regard with both apartments and non-residential uses within the development, subject to the provision of a cafe or restaurant to service the “hotel” component, as previously discussed.

- (b) *the non-residential component of the building is provided at the lower levels of the building and the ground level is not used for residential purposes, except access,*

Comment: The proposed development contains the non-residential component (retail and serviced apartments) at the ground level and levels 1-4.

- (c) *the residential component of the building is provided with an entrance separate from the entrances to the remainder of the building,*

Comment: The residential apartments now have a separate entrance to the serviced apartments.

- (d) *the building is set back above a podium.*

Comment: The proposal includes a tower element above a podium.

In summary the proposed development is considered satisfactory in relation to the design controls and objectives of Clause 32 of NSLEP 2001.

7. Excavation

Clause 39 of NSLEP 2001 provides a number of objectives and controls with regard to minimising excavation and ensuring land stability and the structural integrity of neighbouring properties.

In this instance, the extent of excavation comprises a total of four levels of basement car parking which is required to satisfy Council parking requirements. The extent of excavation is considered acceptable in the circumstances and the proposal satisfies the objectives of the control. Council's standard conditions concerning geotechnical and structural engineering certification to protect adjoining properties would be conditioned if consent is granted.

8. Heritage

The site is not a heritage or contributory item and is not located in the vicinity of any heritage item nor within a Conservation Area. Accordingly the heritage provisions of the NSLEP 2001 are not a relevant consideration.

SEPP No.55 (Remediation of Land) and Contaminated Land Management Issues

The subject site has been considered in light of the Contaminated Lands Management Act and it is considered that based on the previous uses of the site, contamination is unlikely to be an issue.

SEPP No.65 (Design Quality of Residential Flat Development)

The application has been assessed by Council's Design Excellence Panel in terms of the Design Quality Principles set out in SEPP 65.

Assessment is summarised as follows:

Principles 1, 2 and 3: Context, Scale and Built Form: The context is set by the development surrounding the site and the development controls for the site. The proposal is in context with existing surrounding development and consistent with building height controls for the precinct containing the subject site. The proposal is in context with the desired future character of the area and consistent with the predominant scale and built form of surrounding development.

Principle 4: Density: The density (in terms of GFA) is consistent with the desired future character.

Principle 5: Resource, energy and water efficiency The design now provides adequate solar access and natural ventilation and a BASIX Certificate has been provided with the application.

Principle 6: Landscape: The proposed building covers almost the entire site and no ground level landscaping is proposed. Street trees will improve the streetscape of Atchison Street and Pacific Highway.

Principle 7: Amenity: The amended design is now satisfactory with regard to amenity.

Principle 8: Safety and Security: The proposed development is generally considered to provide adequately for the safety and security of future residents.

Principle 9: Social Dimensions: The development does not respond adequately to the social context, with a predominance of small units. A communal area for residents at the roof level is proposed to promote social interaction and provide greater amenity for residents, which is supported.

Principle 10: Aesthetics: The amended design represents an acceptable architectural response to the constraints of the site, the applicable development standards and controls and the criteria set out by the JRPP.

SEPP (Building Sustainability Index: BASIX) 2004

A suitable BASIX Certificate has been submitted with the application. In the event of approval, a condition would be imposed requiring compliance with the commitments contained in the certificate.

SEPP (Infrastructure) 2007

SEPP (Infrastructure) 2007 establishes a framework for certain types of development to be referred to the RMS for consideration.

The application was referred to the RMS which raised no objections, subject to conditions.

SREP (Sydney Harbour Catchments) 2005

The site is not located within or close to the Foreshore and Waterway Area designated in this SREP.

Draft North Sydney Local Environmental Plan 2009

The Draft North Sydney Local Environmental Plan 2009 was on public exhibition until 31 March 2011, following certification of the plan by the Director-General of the Department of Planning. It is therefore a matter for consideration under S.79C of the Environmental Planning and Assessment Act 1979. However at this stage little weight can be given to the plan since the final adoption of the plan is neither imminent nor certain.

The provisions of the draft plan have been considered in relation to the subject application. Draft LEP 2009 is the comprehensive planning instrument for the whole of Council's area which has been prepared in response to the planning reforms initiated by the NSW state government.

The provisions of the Draft Plan largely reflect and carry over the existing planning objectives, strategies and controls in the current North Sydney LEP 2001, however, in relation to this site the zoning is proposed to be changed to B3 Commercial Core. The proposed development would not be permissible in the draft B3 Commercial Core zone.

It should be noted that Draft North Sydney Local Environmental Plan 2012 is currently on exhibition. Draft LEP 2012 retains the proposed B3 zoning for the subject site.

Given that the draft plan (2009 and/or 2012) is neither imminent nor certain, it is not reasonable to refuse the application on the basis of the zoning change in the draft plan.

Suspensions of Covenants, agreements and similar instruments

Council is unaware of any covenants, agreements or the like which may be affected by this application.

DEVELOPMENT CONTROL PLAN 2002

The application has been assessed against the relevant controls in DCP 2002 as indicated in the DCP 2002 compliance table provided earlier in this report.

Relevant Planning Area (St Leonards/Crows Nest Planning Area)

The proposal is generally consistent with the St Leonards/Crows Nest Planning Area Character Statement.

The specific Character Statement for the St Leonards Town Centre identifies a number of design controls. Of particular relevance are the following:

- **Setbacks:** *1.5m above podium to Atchison Street / 3.0m above podium to Pacific Highway and Christie Street:* The proposed setbacks are now satisfactory, as previously discussed.

- Building design: Balconies not accommodated in setback area: As previously discussed, the proposal does not comply with this requirement to Christie Street, however this is an acceptable treatment to this frontage in the circumstances.
- Characteristic building height: *Buildings are scaled down significantly from the Forum development towards surrounding areas and lower scale development on Chandos Street, Willoughby Road, Crows Nest Village, the Upper Slopes and Crows Nest Neighbourhood:* As discussed above, the proposal is now satisfactory with regard to characteristic building height and scaling down from the Forum development.

The development satisfies the provisions of the St Leonards/Crows Nest Area Character Statement.

SECTION 94 CONTRIBUTIONS

Section 94 Contributions in accordance with Council's S94 plan are applicable. A suitable condition would be applied if consent is granted.

DESIGN

The amended design is now considered to be suitable for the proposed site as discussed throughout this report.

MATERIALS

The application is acceptable with regard to materials (refer to finishes and materials board).

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL CONSIDERED

1.	Statutory Controls	YES
2.	Policy Controls	YES
3.	Design in relation to existing building and natural environment	YES
4.	Landscaping/Open Space Provision	YES
5.	Traffic generation and Car parking provision	YES
6.	Loading and Servicing facilities	YES

- | | | |
|----|--|-----|
| 7. | Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.) | YES |
| 8. | Site Management Issues | YES |
| 9. | All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979 | YES |

CLAUSE 14 NSLEP 2001

Consistency With The Aims Of Plan, Zone Objectives And Desired Character

The provisions of Clause 14 of NSLEP 2001 have been examined.

It is considered that the development is consistent with the specific aims of the plan and the objectives of the zone and of the controls.

SUBMITTORS' CONCERNS

The concerns raised with regard to the impacts of the proposal have been largely been addressed within this report. It should also be noted that the sole objection received to notification of the amended building design (which was amended to address all of the criteria set down by the JRPP on 12 July 2012) refers to a building height of 57.7m, which is the height of the originally proposed building. The building height has been reduced by one storey (3m) to approximately 54.4m. The proposed building height is satisfactory with regard to the JRPP criteria and the adequacy of the submitted SEPP 1 objections, as previously discussed in this report.

CONCLUSION

The amended application has satisfactorily addressed all of the criteria set down by the JRPP on 12 July 2012. The proposal also includes a number of ancillary refinements and revisions which are considered satisfactory. Internal amenity for both the serviced apartments and residential units has been significantly improved. The Atchison Street frontage at street level now features significantly greater activation.

In relation to the SEPP 1 objection to the building height development standard, the amended (reduced) height is in keeping with the desired future character of the neighbourhood and is now consistent with the recently approved adjoining development at No.619 Pacific Highway.

With regard to all of the above, the application is recommended for **approval** by the Joint Regional Planning Panel.

RECOMMENDATION

PURSUANT TO SECTION 80 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the Joint Regional Planning Panel, as the consent authority, grant development consent to 2012SYE051 - Development Application No.136/12 to demolish the existing

building and erect a 17-18 storey mixed use building containing ground floor retail, 23 serviced apartments (“hotel”) at levels 1-4, 72 residential apartments at levels 5-16 and four levels of basement carparking for 33 vehicles, subject to conditions of consent.

George Youhanna
EXECUTIVE PLANNER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES
