

**JOINT REGIONAL PLANNING PANEL  
(Sydney Region East)**

|                              |   |
|------------------------------|---|
| <b>JRPP No</b>               | <b>2013SYE059</b>   |
| <b>DA Number</b>             | <b>187/13</b>   |
| <b>Local Government Area</b> | <b>NORTH SYDNEY COUNCIL</b>   |
| <b>Proposed Development</b>  | <b>STAGED 1 CONSTRUCTION OF 16 STOREY MIXED USE DEVELOPMENT AT 22 ATCHISON STREET AND STAGE 2 BUILDING ENVELOPE CONCEPT APPROVAL FOR NO.20 ATCHISON STREET, ST LEONARDS</b> |
| <b>Street Address</b>        | <b>20 &amp; 22 ATCHISON ST LEONARDS</b>   |
| <b>Applicant/Owner</b>       | <b>RADACA INVESTMENTS PTY LTD (20 ATCHISON) &amp; PRIME CITY PROPERTIES PTY LTD (22 ATCHISON STREET)</b>  |
| <b>Submissions</b>           | <b>3</b>  |
| <b>Recommendation</b>        | <b>Approval with Conditions</b>   |
| <b>Report by</b>             | <b>Lara Huckstepp, Executive Planner</b>  |

**ASSESSMENT REPORT AND RECOMMENDATION**

**EXECUTIVE SUMMARY**

The development application is for staged development, with Stage 1 construction of a 16 storey mixed use building with basement parking at 22 Atchison Street and Stage 2 building envelope approval for a 15 storey mixed use building with basement carparking at 20 Atchison Street. This application was lodged on 14 June 2013 prior to LEP 2013 coming in to force.

The Council's Notification attracted three submissions, raising particular concerns about design and setbacks of the development, views, building height and various other issues as outlined within this report. The assessment has considered these concerns as well as the performance of the application against Council's planning controls. The application is recommended for **approval** with conditions.

**DESCRIPTION OF PROPOSAL**

The development application is for staged development, with Stage 1 construction of a 16 storey mixed use building with basement parking at 22 Atchison Street and Stage 2 building envelope approval for a 15 storey mixed use building with basement carparking at 20 Atchison Street. In detail:

**Stage 1: 22 Atchison Street** incorporates the following:

- Provision of ground floor level retail;
- Provision of 24 serviced apartments over levels 1 – 3
- 68 Residential apartments over levels 4-15, with the following composition:
  - 36 x 1 bedroom apartments
  - 32 x 2 bedroom apartments
- Provision of a rooftop communal facility including an indoor entertainment area and a roof garden with an outdoor cinema.
- Rooftop plant.
- Basement over 7 levels providing 57 car parking spaces including 2 x retail parking spaces and 45 residential car parking spaces, 7 motorbike and bicycle parking.
- A loading bay is provided on the Atchison Lane frontage.

**Stage 2: 20 Atchison Street** involves concept approval for a building envelope comprising:

- Provision of ground floor level retail;
- Commercial uses at Levels 1 – 7 (Note: Total non-residential floorspace of 4,426sqm)
- Residential use at Levels 8-14
- Provision of rooftop communal facility and rooftop plant.

***Perspective***



## **STATUTORY CONTROLS**

North Sydney LEP 2001

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

S94 Contribution

Environmental Planning & Assessment Act 1979

SEPP No. 1 Objection

SEPP No. 55 - Contaminated Lands

SREP (Sydney Harbour Foreshores) 2005

Local Development

NSLEP 2013

## **POLICY CONTROLS**

DCP 2002 & NSDCP2013

## **DESCRIPTION OF LOCALITY**

20 Atchison Street, St Leonards

This site is described as Lot 1 in DP740017 and has a site area of 690sqm. The site is located on the northern side of Atchison Street and has a Laneway frontage on its northern boundary to Atchison Lane. The site is generally rectangular in shape and has a fall from the Atchison Street frontage down to the northern rear lane frontage of up to 3m. The site also has a cross fall from the east down to the western boundary by approximately 800mm. The site has a frontage to Atchison Street of 20.1m and a site depth of 34.3m. Existing on the site is a three storey commercial building.

***Existing building 20 Atchison Street***



22 Atchison Street, St Leonards

This site is described as Lot 120 in DP564606 and has a site area of 684sqm. The site is a corner property with primary frontages to Atchison Street and Mitchell Street. The rear northern site boundary fronts Atchison Lane. The site is generally rectangular in shape and has a fall from the Atchison Street frontage down to the northern rear lane frontage of up to 2.6m. The site has a cross fall from the east down to the western boundary by approximately 1.2m. The site has a frontage to Atchison Street of 20.1m and a site depth of 34.3m. The site is splayed at its north-eastern and south-eastern corners. Existing on the site is a 6 storey commercial building.

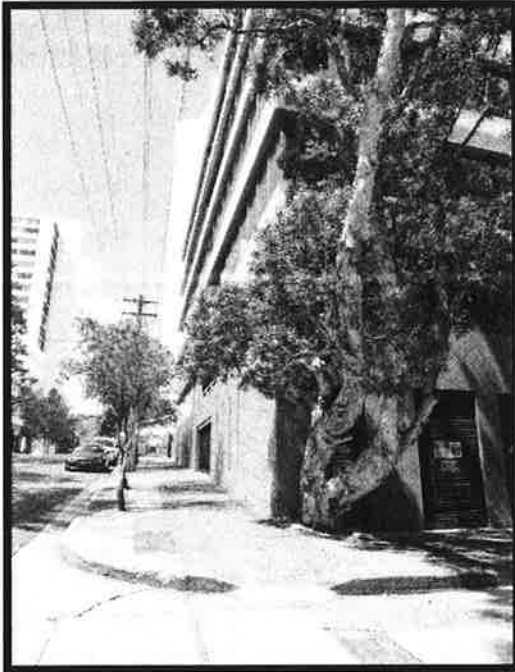
**22 Atchison Street**



**22 Atchison Street**



**22 Atchison St – Mitchell Street elevation – looking south**



Surrounding sites

Adjoining development to the west known as 6-16 Atchison Street is a construction site wherein approval has been granted by the PAC for an 80m building. Excavation works have been undertaken on the site.

***No.6-16 Atchison Street***



Development on the eastern side of Mitchell Street at No. 30 Atchison Street comprises a 5 storey commercial building. Development to the immediate south at No.601 Pacific Highway is an 18 storey commercial building.

Development to the south-east of the subject site at No.1 Atchison Street comprise comprises of a 5 storey commercial building. To the south of this site at No.599 Pacific

Highway is a mixed use development having a height of up to 20 storeys (The Abode).

Development to the north comprise a number of commercial buildings of approximately 6 – 7 storeys in height.

## **RELEVANT HISTORY**

The subject development application was lodged with Council on 19 June 2013. Following a detailed assessment, the applicant was requested to address the following outstanding issues:

- Building Height breaches not supported where they result in material overshadowing.
- SEPP 65 setbacks to Atchison Lane non-compliances.
- Overshadowing impacts to the Mitchell St open space area and the podium of 601 Pacific Highway to be addressed.
- Car parking is non-compliant and must not exceed Council's maximum controls. (20 additional carparking spaces proposed)
- Loading facility should be redesigned to allow for cars to enter / exit in a forward direction.
- Non-compliances with SEPP 65 including
  - 20 out of 36 one bedroom apartments are undersized (less than 50sqm);
  - 24 out of 32 two bedroom apartments are undersized (less than 70sqm)
  - 16 out of 68 balconies are less than 8sqm.
  - 19 out of 68 balconies have a depth of less than 2sqm
- Design Excellence Panel comments to be addressed (discussed later)
- Privacy devices to be provided to all north-facing apartments given limited setbacks.
- Applicant to reasonably demonstrate Stage 2 could comply with SEPP65.

On 30 September 2013 the applicant submitted draft sketch plans which outlined a number of options for the reconfiguration of the ground level to address the comments of the Design Excellence Panel. The applicant was advised:

- Option 3 was considered most appropriate which provided the residential entry for No.22 Atchison Street via Mitchell Street. However, the applicant was requested to provide separate lift access for the commercial component (serviced apartments).

The applicant submitted amended plans on 15 October 2013 involving a number of amendments including increase in size of some apartments and balconies, number of car parking spaces amended to comply with Council's controls, additional information regarding SEPP65 compliance for 20 Atchison Street, amendments at ground floor level including a 3m ground floor setback to Atchison Street, and various other amendments discussed within the report.

On 9 December 2013 the applicant provided additional information in response to Council's concerns regarding security of the shared lifts and lobbies which is discussed further within this report. The applicant also confirmed they would accept a condition to increase the eastern balconies on levels 4-11 to require the balconies to be increased

to 8sqm.

## REFERRALS

### Building

The application has not been assessed specifically in terms of compliance with the Building Code of Australia (BCA). It is intended that if approved, Council's standard condition relating to compliance with the BCA be imposed and should amendments be necessary to any approved plans to ensure compliance with the BCA, then a Section 96 application to modify the consent may be required.

### Engineering/Traffic

The application was referred to Council's Manager Traffic Planning (A.Lindaya) wherein the following comments were provided:

*'I refer to your request for comments on the proposed development at 20-22 Atchison Street, St Leonards (DA 187/13). I have read the Assessment of Traffic, Transport and Parking Implications (the Traffic Report), dated June 2013, prepared by Transport and Traffic Planning Associates. My comments are as follows:*

#### **Existing Development**

*The site at 22-24 Atchison Street is currently occupied by an older style 5-level plus basement commercial building of approximately 2,576m<sup>2</sup> GFA.*

#### **Proposed Development**

*The proposed development includes the demolition of the existing building and the construction of a new 17-storey building comprising 68 residential apartments (9 adaptable) (36 x one-bedroom, 32 x two-bedroom), 24 serviced apartments (15 x studio, 3 x one-bedroom, 6 x two-bedroom) and 461m<sup>2</sup> GFA of retail space.*

#### **Car Parking**

*The North Sydney DCP 2002 (NSDCP) outlines a maximum car parking provision as follows:*

|                           | <b>Rate</b> | <b>No.</b> | <b>Parking Provision Required</b> |
|---------------------------|-------------|------------|-----------------------------------|
| <i>One-bedroom</i>        | <i>0.5</i>  | <i>36</i>  | <i>18</i>                         |
| <i>Two-bedroom</i>        | <i>1</i>    | <i>32</i>  | <i>32</i>                         |
| <i>Serviced apartment</i> | <i>0.2</i>  | <i>30</i>  | <i>6</i>                          |

|        |        |     |        |
|--------|--------|-----|--------|
| Retail | 0.0025 | 461 | 1.1525 |
|        |        |     | 57     |

*The development proposes to provide 72 spaces which exceeds Council's maximum allowable provision by 15 car spaces. This is unacceptable given the site's close proximity to the St Leonards train station and other major bus routes.*

*The parking rates in NSDCP 2002 were a deliberate policy decision of Council to restrict car parking and therefore car ownership and commuting by car in the busy CBD/retail areas close to good public transport. Council's strategic plan, the 2020 Vision states, "Public transport and alternative means of transport are the mode of choice for trips to, from and within North Sydney. The community's reliance on the car has reduced. Considerable effort has been made to improve public transport and reduce traffic congestion, particularly through the use of more innovative and environmentally friendly systems."*

*Council must consider this development in the context of the St Leonards area as a whole. Traffic generation is one of the key impacts associated with new developments and traffic congestion and traffic generation issues are of particular concern to the community and impact greatly on resident amenity*

*Accordingly the proposed development should be restricted to having a maximum of 57 car parking spaces.*

### **Motorcycle Parking**

*The NSDCP requires Mixed Use Zones to provide parking for motorcycles at a minimum rate of 1 space per 10 cars.*

*The development proposes to provide 7 motorcycle spaces which complies with the NSDCP.*

### **Loading Bay Provision**

*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 implies 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 are 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 a 10.2m waste vehicle. I would recommend that this matter be referred to Council's Waste*



*Department for further comment.*

*With regards to traffic planning, a development of this size and type should be able to accommodate, as a minimum, a Medium Rigid Vehicle (MRV), as defined in AS2890.2. All aspects of the loading bay should comply with AS2890.2.*

### **Bicycle Parking**

*The NSDCP requires mixed use developments to provide on-site, secure bicycle parking spaces and storage at the following rate for residential component - 1 bicycle locker per 3 dwellings and 1 visitor bike rack per 12 dwellings. For the mixed-use/commercial component the development requires 1 bicycle locker per 600m<sup>2</sup> GFA and a visitor bike rack per 2500 GFA.*

*A development of the size and landuse type would require a minimum of:*

- *A secure bicycle compound capable of storing 33 bicycles for residents*
- *Bicycle racks/rails capable of storing 8 bicycles for resident's visitors*
- *1 x bicycle locker for commercial staff*
- *1 x bicycle rack/rail for visitors to the commercial component.*

*The traffic report indicates that the number of bicycle spaces generally complies with the NSDCP. However, the bicycle storage typologies and its allocations must be implemented as conditions of consent.*

*All aspects of bicycle parking facilities should comply with AS2890.3*

*The development site is situated along a major cycle route and with the development of the North Sydney cycleway network and the Northern Regional Bicycle Network it is expected that bicycle traffic will increase.*

*It is therefore important that the development include some form of end of trip facilities for staff and visitors to the commercial component of the development. This may include shower facilities in close proximity to the retail area.*

### **Driveway Design**

*The design plans show that the driveway is designed as a "roadway" and not a standard North Sydney Council style driveway, as specified in North Sydney Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works 2013-2014.*

*To improve pedestrian accessibility in Atchison Lane, the driveway is to be designed in accordance with the NSC Infrastructure Spec Drawing No. S101A. The kerblin in Atchison Lane should be continuous and match existing.*

### **Traffic Impacts**

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

*Application of the RMS Guide to Traffic Generating Developments reveals that a development of this size and landuse type will generate approximately 21 vehicle trips in the AM peak hour and 24 vehicle trips in the PM peak hour.*

*I concur that the potential peak generation would be less compared to the existing uses (commercial) (30 – 40 vtp/h).*

*It should be noted that Council and the RMS are currently considering installing traffic signals at the intersection of Christie Street and Sargeants Lane. This is envisaged to be constructed early 2013/2014 financial year. These traffic signals will improve pedestrian accessibility to the site.*

### **Conclusion**

*Should this development be approved, it is recommended that the following conditions of consent be imposed:*

- 1. That a Construction Management Plan be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
- 2. That the developer pay to upgrade the lighting levels on Atchison Lane, Atchison Street and Mitchell Street, adjacent to the site, to the satisfaction of Council.*
- 3. **That a maximum of 57 car parking spaces be provided on-site.***
- 4. That the development includes **a minimum of 7 motorcycle parking spaces** within the basement car park.*
- 5. That the development includes **a bicycle cage capable of storing a minimum of 33 bicycles for residents, a minimum of 8 x bicycle racks for resident's visitors, a minimum of 1 x bicycle locker for retail tenants and a minimum of 1 x bicycle rack for retail tenant's visitors.** The bicycle racks for visitors should be located on-site, on the ground floor, in a safe, attractive and accessible location along the Atchison Street frontage.*
- 6. That end-of-trip bicycle facilities be provided for staff working in the commercial component of the development.*
- 7. That all aspects of the carpark comply with the Australian Standard AS2890.1 Off-Street Parking.*
- 8. That all aspects of the access driveway, including width and grades, comply with AS2890.1*
- 9. That all aspects of parking spaces for people with disabilities comply with the AS 2890.6.*
- 10. That all aspects of the bicycle parking and storage facilities comply with the AS2890.3.*
- 11. The driveway to the site must be designed such that there are minimum sight lines for pedestrian safety as per Figure 3.3 of AS 2890.1.*
- 12. The driveway to the site must be designed as a "driveway" in accordance with NSC Specification Drawing S101A and not a road.*
- 13. That "STOP" control treatment ("STOP" sign and "STOP" pavement markings) be installed in accordance with AS2890.1 at the driveway exit.*

14. *That the location of any gate, intercom or security access point for driveway entry to the car park should be located a minimum 12 metres within the boundary of the property, such that two queued vehicles can be contained wholly within the boundary of the property, as per AS2890.1.*

**Planning Comment:** The amended plans have reduced car parking to 57 parking spaces to comply with Council's controls. The applicant has demonstrated that the loading dock provides a suitable turning circle for a 10.2m garbage truck or MRV. Whilst the truck will not be able to enter / exit in a forward direction, this is considered to be a limitation of the width of the site. Given the proposed use of the site, additional end-of-trip facilities for bike users is not considered to be a reasonable requirement in this instance given the predominance of residential and serviced apartment users.

With regards to street lighting, the Atchison Street frontage would provide under awning lighting and as such, an upgrade is not warranted in this instance.

All other recommended conditions of consent will be generally imposed as recommended.

### **Engineering/Stormwater Drainage**

The application was referred to Council's Development Engineer (Z.Cvetkovic) who raised no objection to the proposed development subject to imposition of conditions of consent regarding stormwater, vehicular access, roadworks, bonds and construction works.

### **Landscaping**

The application was referred to Council's Landscape Development Officer (B.Smith) who raised no objection to the removal of the following trees:-

- 4 x semi-mature bottle brush trees located adjacent to the Mitchell Street frontage to the property. These trees are only 'fair' specimens and their removal is supported.
- 3 x mature Paperbark Trees growing near the corner of Mitchell Street and Atchison Lane. These trees have caused damage to Council's infrastructure and considered to be inappropriate in species and location.

Council's Landscape Development requires these trees be replaced with 3 x London Plane Trees located adjacent to the Mitchell Street frontage.

## External Referrals

### Ausgrid

The application was referred to Ausgrid who raised no objections however advised the detail design of any new substation would be subject to further consideration at a later stage. Ausgrid suggested that consideration be given to undergrounding existing powerlines in this location. A condition will be imposed to ensure that the powerlines are constructed to ensure they can be connected underground should the infrastructure be upgraded in the future.

### NSW Roads and Maritime Services

The application was referred to the NSW Roads and Maritime Services and the following comments were provided:

*RMS has reviewed the subject application. Should Council approve the application, RMS would like the following requirements to be incorporated into the determination:*

- 1. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.*
- 2. The swept path of the longest vehicle (to service the site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.*
- 3. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS2890.1-2004.*
- 4. The proposed development should be designed such that traffic noise from adjacent public roads is mitigated by durable materials and comply with requirements of Clause 102 – (Impact of road noise or vibration on non-road development) of State Environmental Planning Policy (Infrastructure) 2007.*
- 5. All works / regulatory signposting associated with the proposed development are to be at no cost to the RMS.*

*In addition to the above, RMS provides the following advisory comments to Council for consideration in its determination of the development application:*

- 1. It should be noted that a contra flow bicycle lane operates along the Atchison Street frontage of the proposed development. Council should*

*consider the impact of the construction activity associated with the development on the bicycle lane.*

2. *Any proposed landscaping and / or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.*
3. *All vehicles are to enter and leave the site in a forward direction.*
4. *All vehicles are to be wholly contained on site before being required stop.*

**Planning Comment:** The above conditions will be generally imposed as recommended. All vehicles will be able to enter and exit in a forward direction, with the exception of vehicles within the loading dock. Given the limited width of the site, this arrangement, on balance, is supported.

### **Design Excellence Panel**

The Panel considered the proposal on 6 August 2013 and provided the following comments:

*'Pre lodgement plans were before the Panel at its meeting of 5 March 2013. The Panel commented on height, overshadowing of public areas, setbacks, SEPP 65 separation, podium height, balconies and building articulation. These comments are also relevant to the proposal now before the Panel.*

### **The Proposal**

*A Development Application has been submitted to Council for determination by the Joint Regional Planning Panel. The proposal comprises the following:*

#### **Stage 1:**

- *Concept for the development of the entire site;*
- *Building envelope for 18-20 Atchison Street; and*
- *Detailed design and use of 22-24 Atchison Street including:*
- *Demolition of existing 6 story building; and*
- *Construction of a 16 storey mixed use building with 8 levels of basement car parking.*

#### **Stage 2 (Separate DA)**

- *Demolition of existing three storey building and detailed design of 18-20 Atchison Street.*

*Each stage is to have separate basement parking and loading facilities accessed from Atchison Lane, separate lift and stairway core.*

*The Panel and Council staff inspected the site prior to the meeting. The project architects and planners were available for discussion.*

*The architect advised the Panel that the non residential floor space ratio now complies. The height was also claimed to be compliant subject to the 3m height allowance. The architect did not support further setback from the western boundary or compliance with SEPP 65 separation to the lane on the basis of the sites being too small. The architect also questioned the relevance of the public space as it was considered to have low amenity. The architect did not support a colonnade to Atchison Street*

### **Panel comments**

*The Panel noted the comments from the architect with regard to the Panel's previous comments. The Panel also notes that a planning study is underway to identify better public domain for St Leonards that includes Atchison Street and Mitchell Street Plaza.*

*The Panel felt that a better proposal would result from the consolidation of the sites (particularly with regard to the loading and parking arrangements) and that compromises should not be made on the basis of site size or vehicle access.*

*The Panel's previous comments on height, overshadowing of public areas, setbacks, SEPP 65 separation, podium height, balconies and building articulation are relevant to the proposal now before the Panel.*

*The Panel concentrated on the ground floor design and the public domain and did not comment further on SEPP 65 compliance with the apartments above. The immediate challenge for the architect is to ensure that the proposed application devises the best possible transition from the approved building next door, to provide continuity of pedestrian cover, pleasant scale and a cohesive streetscape.*

*The Panel identified the Atchison Street frontage and the corner at Mitchell Street as being important to the public domain. The design should be activating and improving Atchison Street as the primary building address.*

*The approved building at 6-16 is not just a set back but an entirely different model with a huge undercroft area. There needs to be a cohesive and well thought through relationship between the buildings. For example there isn't any continuous canopy cover as you walk up Atchison Street.*

*The design should develop a landscape and tree planting plan that takes note of the situation of the whole Atchison Street frontage including the adjoining site. The whole street should feel like a cohesive place. While the pavement widens outside this property, this provides for additional amenity, not a reason to bring the ground level facades closer than the other buildings.*

*The Mitchell Street edge is not well resolved and the circulation is confused. There should be a better connection between the ground floor uses and the*

*pavement.*

*The Panel supports the proposed communal roof garden and suggested an enclosed connection from the lifts to the residents lounge.*

*The three sites (including 6-16) have been the subject of many reviews for some years. Atchison Street has changed considerably over this time. It has great potential. It would be a pity if this application was determined before a design for the public domain could be developed and adopted by Council.*

### **Conclusion**

*The current design is not supported by the Panel. The matters outlined above should be addressed with any proposal.*

**Planning Comment:** The amended plans propose a 3m ground level setback to Atchison Street in line with the Panel's comments. A connection has been provided from the roof level lobby to the lounge. Issues regarding SEPP 65, overshadowing and setbacks are addressed within relevant LEP & DCP sections of this report.

### **SUBMISSIONS**

Adjoining properties and all precincts were notified of the proposed development between 28 June 2013-12 July 2013. A notice was placed in the Mosman Daily on 27 June 2013. A total of three (3) submissions were received with the main issues summarised below:-

| <b>Name<br/>Address<br/>Submitter</b> | <b>&amp; Basis of Submissions<br/>of</b> |
|---------------------------------------|--|
|---------------------------------------|--|

- |   |   |
|---|---|
| Pat Quirke-Parry<br>1803/599 Pacific<br>Hwy | <ul style="list-style-type: none"><li>• The additional height will result in view loss of Levels 16 &amp; 17 of our building. We will lose iconic views to the north of the spectacular 'Emerald City' skyline of Chatswood.</li><li>• The state government approval of 6-16 Atchison Street cannot be used to justify the non-compliance.</li><li>• With the proposed development, No.6-16 Atchison Street and 621 Pacific Hwy, is going to become a concrete canyon.</li><li>• Access to the development from a 5m lane (Atchison Street) with no reasonable potential for traffic to exit onto Chandos Street will force traffic to go through Atchison Lane to Oxley Street and from there to either Chandos or Albany Street, both at grid lock for significant parts of the day.</li><li>• The comments regarding density are pathetic and totally untrue and the statement about public benefit defies all reason.</li><li>• The proposed non-residential floor space at 18-20 Atchison Street is non-compliant and is simply self serving providing the developer with a greater profit.</li><li>• Council declared some years ago that all new development on our beleaguered 5m lanes must include a ground level loading bay that would minimally accept a medium rigid removal truck.</li></ul> |
|---|---|

This appears to have been ignored in this development. There is a lack of extended thought about the implications of the number and size of the developments involved. This will contribute to a disastrous result for all of those developments that rely on Atchison Lane for their entry and exit.

Evelyn Boulton  
W1005/599  
Pacific Hwy St  
Leonards

- The Traffic and Parking assessment prepared by TTPA Traffic concludes that concept development will likely be similar or less than the existing traffic circumstances. The fact is that these Traffic surveys are not 'real', they are based on flawed technology and do not consider the existing or current developments around the development under consideration. Ask any traffic expert (who is not involved in producing these reports) and they will confirm this opinion.
- The SEPP 1 Objections should not be approved.
- I live on the 10<sup>th</sup> floor in the north west corner of the west tower of the Abode.
- The SEPP 1 Objection states that the 'these views are not significant' my entire view of the Chatswood skyline would be obliterated.
- I will be overshadowed in the afternoon, one of my main concerns in purchasing here was to have winter sun.
- Other developments have already had an impact – 6-16 Atchison Street, and developments in Albany & Chandos Streets being used by non local commuters will cause traffic gridlock to only worsen.
- By permitting mixed use development in the area it seems the residential component amenity is not being served with overdevelopment along the borders of North Sydney Council.
- The development should be refused because it does not comply with development standards of FSR, height, setbacks, building separation, open space and more.

Sue Francis  
City Plan  
Services  
On behalf of  
Holdmark  
Property Group,  
6-16 Atchison  
Street, St  
Leonards

- **Outcome of staged development-** The proposal provides insufficient information to address the presentation of the western façade of Site A until such time that Site B will be constructed, if its construction ever eventuates. Staging is therefore not supported.
- **Rooftop presentation and use** – The proposed rooftop plant and equipment is excessive in height and will present as a visually dominant and obtrusive structure. The excessive mass and height is unnecessary and should be reduced. This is especially a concern if Site B is not constructed and the development at Site A results in a blank wall of substantial size when viewed from 6-16 Atchison Street.
- Insufficient information is provided regarding the roof terrace of Site B, particularly given the insufficient setbacks to 6-16 Atchison Street. The proposal fails to demonstrate the potential impacts to 6-16 Atchison Street with regard to visual and acoustic privacy. The treatment of the proposed rooftop terrace should be detailed at this stage, otherwise access to the rooftop should be restricted given the potential adverse amenity impacts.
- **Treatment of the Atchison Lane frontage** – The treatment for



the lower ground level for Site A is entirely occupied by a two way vehicular ramp, loading facilities, emergency access stairs and a substation, resulting in a poor relationship with the public domain. This is particularly poor when compared to the presentation and arrangement of No.6-16 Atchison which is highly accessible for pedestrians with high quality treatments including landscaping which directly addresses Atchison Lane.

- The basement layout is highly constrained with passing bays on each level and the entirety of Atchison Lane consists of services. This indicates that the site is too constrained and should be amalgamated.
- **Public domain** – The concept plan for Site B does not demonstrate that the through site link along the western boundary will result in a good urban design outcome. It is a poor extension of the adjoining public domain at No.6-16 Atchison Street.
- The outdoor area proposed on Atchison St appears to be a spill out public domain area. Compared to the approved 6-16 Atchison St, this proposal provides a reduced footpath width and no parking bays along Atchison Street. This treatment is not a suitable urban design outcome given it results in a constrained pedestrian pathway area with poor treatment.
- **Geotechnical and Excavation Issues** – The Geotechnical Report states that the excavation will be located 'near' the boundary. However, the excavation on the plans is detailed to occur on the boundary. Section 7.3.4 states that ground anchors will be required. No approval has been granted by the owners of 6-16 Atchison for any works on the adjoining property.
- **Setbacks** – The proposal does not comply with RFDC setbacks. It relies on the setbacks approved at No.6-16 Atchison which is considered to be unacceptable.
- **Consistency with the concept plan** – The proposed concept plan for site B and detailed plan for site A prevents consideration of improved design, parking and access aspects of the development. Should site B not be developed, the proposal has not demonstrated the impact of such. Given both sites are in different ownership, there is no certainty Site A would not object to changes proposed to Site B, and the result may potentially be a disorderly development.
- **Conclusion** – The proposal for concept approval for Site B is flawed and Council cannot be satisfied as to the impact of the concept application on the adjoining development or that on Site A.
- The delivery of increased front and side setbacks to Atchison Street to match those of the development at 6-16 Atchison together with the provision of through site links are compromised no doubt by separate site ownership where the provision of such a link is on one site and not another.
- It is not possible to understand whether the development on Site B will be able to satisfy the RFDC nor is it possible to ensure the

- impact of Site A if Site B does not develop.
- It is strongly recommended that a detailed proposal be submitted for site B and that the development of both sites be considered in detail in one application. Alternatively, Site A should be developed in isolation.
- It is suspected however, that there is an opportunity cost of separation of the two sites and developing them in isolation. This being the case, a joint and detailed DA should be submitted.

The amended plans submitted to Council on 15 November 2013 were considered against Section 4.2 NSDCP 2012. The amended plans do not significantly change the building envelope or height compared to the originally submitted development application that was notified to adjoining properties. The modifications were not considered likely to result in a greater adverse effect on or a different adverse effect on adjoining or neighbouring land and were not notified.

## CONSIDERATION

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

The application has been assessed against the relevant numeric controls in NSLEP 2001 and DCP 2002 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

### STAGE 1: 22 ATCHISON STREET

#### Compliance Table – 22 Atchison Street


| <b>STATUTORY CONTROL – North Sydney Local Environmental Plan 2001</b> |                 |   |                |                 |
|---|-----------------|---|----------------|-----------------|
| <b>Site Area – 684m<sup>2</sup></b>                                   | <b>Existing</b> | <b>Proposed</b>   | <b>Control</b> | <b>Complies</b> |
| Mixed Use Zone  |                 |   |                |                 |
| Building Height (Cl. 29)<br>(max)                                     | 10m approx      | 58.95m (top of lift core)<br>55.25m (top of plant)<br>52m (top of habitable floors) | 49m            | NO              |
| Floor Space (Cl. 31)<br>(max)   | 2.65:1          | 3:1   | 3:1- 4:1       | NO              |

#### DCP 2002 Compliance Table – 22 Atchison Street

| <b>DEVELOPMENT CONTROL PLAN 2002</b> |
|--------------------------------------|
|--------------------------------------|

|  | <b>complies</b>          | <b>Comments</b>   |
|--|--------------------------|---|
| <b>6.1 Function</b>  |                          |   |
| <b>Diversity of activities, facilities, opportunities and services</b> | Yes                      | The proposed development incorporates a suitable diversity of uses envisaged by Council's controls.<br><br>A communal roof top facility has been provided.  |
| <b>Mixed residential population</b>                                    | No<br>(merit assessment) | The mix of dwellings is assessed as follows:- <ul style="list-style-type: none"> <li>• Studios – Max 15% allowed - Nil proposed.</li> <li>• 1 Bed – Max 30% allowed – 53% proposed</li> <li>• 2 Bed – Min 40% required – 47% proposed</li> <li>• 3 Bed – Min 30% required – Nil proposed</li> </ul> <p>The resultant mix will generally achieve the intent of the control, despite the numeric non-compliance, with an approximate mix of small (studio &amp; 1 bed) and large (2 + bed) apartments provided. Any amendment required to meet numeric controls would be without merit in this instance.</p>  |
| <b>Maximum use of public transport</b>                                 | Yes                      | The parking provision generally complies with DCP provisions. The site is well served by public transport being within 300m of St Leonards Train Station.   |
| <b>6.2 Environmental Criteria</b>                                      |                          |   |
| <b>Clean Air</b>   | Yes (with conditions)    | Can be dealt with by condition.   |
| <b>Noise</b>   | Yes (with conditions)    | Can be dealt with by condition.   |
| <b>Acoustic Privacy</b>  | Yes (with conditions)    | Can be dealt with by condition.   |
| <b>Visual Privacy</b>  | No<br>(merit assessment) | Adequate setbacks are provided to the east and south to adjoining properties to address visual privacy. No new windows are proposed within the western elevation.<br><br>With regards to the northern elevation, the existing development on the northern side of Atchison Lane at 39-41 Chandos Street is an 8 storey commercial building. Notwithstanding this, the site is zoned mixed use and consideration must be given should the property be redeveloped to include residential development in the future.<br><br>Levels 1-3 are proposed for serviced apartments and privacy screens are provided to their northern balconies.<br><br>Levels 4-15 provide a 3m setback to Atchison Laneway which is 6m wide. Separation required by Council's controls and SEPP65 up to level 7 would be 18m, whereas should the adjoining development |

|                        |                      |   |
|------------------------|----------------------|---|
|                        |                      | <p>be developed in a similar composition to that proposed, a setback of only 12m would be provided. At levels 8 &amp; 9, this separation is required to be 24m. In this instance, the non-compliance is supported given that:</p> <ul style="list-style-type: none"> <li>• The development has orientated all but one apartment on each level to the east, rather than the north. It is considered therefore that the opportunity would exist to allow for the offsetting of windows and balconies on the south-facing façade of No.39-41 Chandos Street should it be developed in the future.</li> <li>• Given this setback is located on the northern elevation, there are no material overshadowing impacts resulting from this non-compliance.</li> <li>• A condition is recommended to be imposed to require operable louvres be installed on north-facing balconies over levels 4-9 where separation is required, to ensure an adequate level of privacy could be provided to these balconies should the property to the north be redeveloped to include residential development while maintaining solar access and daylight access.</li> </ul> <p>It is noted that the maximum height on the adjoining development at No.39-41 Chandos Street is 33m, and as such there are setback requirements on the subject property above these levels.</p> <p>The proposed rooftop structures are adequately set back from adjoining properties.</p> |
| <b>Wind Speed</b>      | Yes                  | <p>The applicant has submitted a Wind Report Statement prepared by Vipac Engineers &amp; Scientists who concluded they do not expect the proposed development to generate any wind conditions in excess of the criterion for safety.</p> <p>However, the consultant did recommend additional testing in relation to meeting the criterion for sitting in outdoor sitting areas on the roof garden. Inadequate consideration has been provided to the use of the rooftop as an outdoor cinema and a condition recommends its deletion.</p>   |
| <b>Reflected light</b> | Yes (with condition) | Can be dealt with by condition.   |

|                         |                       |   |
|-------------------------|-----------------------|---|
| <b>Artificial light</b> | Yes (with condition)  | A condition is recommended restricting the use of the rooftop to 11pm.  |
| <b>Awnings</b>          | Yes                   | The proposed awning over the Atchison Street footpath is considered to be acceptable.   |
| <b>Solar access</b>     | No (merit assessment) | <p>The proposed development results in additional overshadowing to the Mitchell Street plaza. This is further discussed following the DCP table.</p> <p>The proposed rooftop area will receive adequate level of sunlight.</p> <p>The proposed development will not result in any material overshadowing to any adjoining residential properties. Any impacts upon the future development at No.6-16 Atchison Street is considered to be an anticipated outcome of a generally complying development on the site.</p>   |
| <b>Views</b>            | Yes                   | <p>The proposed development would likely remove some views / outlook to Chatswood and district views to the north across the site. The existing view of Chatswood and district views from Level 10/599 Pacific Highway can be seen below</p>  <p>The proposed building is adequately set back from surrounding properties and will not unreasonably block any immediate outlook from surrounding properties. The loss of or reduction of, views to the north of the district views and Chatswood, whilst being a pleasant and valued view, is not considered to be material on the basis this is considered to be a generally expected outcome of development on the subject site.</p> <p>In addition, the development would likely remove some existing harbour / possibly Harbour Bridge views to the south from No.6-16 Atchison should this</p> |

|  |                          |  |
|--|--------------------------|--|
|  |                          | development be completed prior to the subject site. Any views / outlook lost would be generally 'borrowed' views, only achieved from levels of the building being located above Council's building height control, and in this regard impacts could not be considered to be unreasonable given they are caused by a generally compliant building envelope. The rooftop structures are considered to be a reasonable protrusion in this instance.   |
| <b>6.3 Quality built form</b>              |                          |  |
| <b>Context</b>                             | Yes                      | The site is contextually appropriate based applicable planning controls and surrounding development.   |
| <b>Public spaces and facilities</b>        | Yes                      | Appropriate integration of the non-residential areas within the public domain is proposed.   |
| <b>Skyline</b>                             | Yes                      | The skyline appearance will be acceptable.   |
| <b>Junction and termination of streets</b> | Yes                      | A splay has been provided to each corner in accordance with Council's controls.  |
| <b>Through-site pedestrian links</b>       | Yes                      | There is no requirement to provide a through site link on the site.  |
| <b>Streetscape</b>                         | Yes                      | Active uses are proposed at ground level.  |
| <b>Subdivision</b>                         | Yes                      | The proposed development meets the minimum site frontage size of 20m.  |
| <b>Setbacks</b>                            | Yes                      | Setback heights and podiums have been provided in accordance with Council's DCP on the front (Atchison St), side (Mitchell St) and rear (Atchison Lane) facades.   |
|  | No                       | A 3m side setback is required above the podium however the concept approval also provides no side setback to adjoin this site, and the resultant built form is acceptable.   |
| <b>Entrances and exits</b>                 | No<br>(merit assessment) | <p>The ground floor retail uses are proposed to be separately accessed.</p> <p>Separate lobbies are proposed for the residential and serviced apartment uses. The applicant has agreed to secure access to the residential lobby to only residential occupants and not serviced apartment users. However, residential occupants will be able to access both lobbies to ensure 2 lifts are available. On balance, this allows for a separate residential lobby to provide for mail boxes, strata information and the like, and ensures that residents have the option of a secure and private entry. Entry / exit through the serviced apartment lobby, whilst available to residents, could be secondary as required. Further, a condition recommends access to use these lifts by the residents are limited to between 6am – 8pm daily to ensure the security of the residential apartments at this time.</p> |

|   |                          |  |
|---|--------------------------|--|
|   |                          | <p>Whilst a separate lift would have been desirable, the applicant argues that given the limited site size, a third lift would be uneconomical, and also argues that the use for serviced apartments and residential apartments are compatible uses.</p> <p>On balance, the proposed arrangement is acceptable. Conditions are recommended accordingly.</p>  |
| <b>Street frontage podium</b>                 | Yes                      | Complying 3m setbacks above podium have been provided to the Atchison St and Mitchell Street frontages.  |
| <b>Laneway frontage</b>                       | No<br>(merit assessment) | A 1.5m building setback has been provided to Atchison Lane. Council's controls require 10m podium height be provided wherein the subject site provides approximately 13m. Whilst this fails to comply with numeric controls, this generally matches the podium height at No.6-16 Atchison Street, and is considered to be acceptable. A 1.5m tower setback has been provided above the podium.   |
| <b>Building design</b>                        | Yes                      | Floor to ceiling heights for the ground floor level will exceed 3.6m in accordance with Council's controls.  |
|   | No<br>(merit assessment) | Serviced apartments and residential levels will all have a floor to ceiling height of greater than 2.7m. Whilst the first floor has not provided 3.3m, given the proposed use for serviced apartments in this instance the non-compliance is supported.  |
| <b>6.4 Quality urban environment</b>          |                          |  |
| <b>High quality residential accommodation</b> | No<br>(merit assess)     | <p>The DCP specifies the following minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio apartments – 40sqm.</li> <li>• 1 bedroom apartments – 55sqm</li> <li>• 2 bedroom apartments – 80sqm</li> <li>• 3 bedroom apartments – 100sqm</li> </ul> <p>The proposal comprises the following unit sizes:</p> <ul style="list-style-type: none"> <li>• 1 bedroom apartments – between 50–57sqm</li> <li>• 2 bedroom apartments – between 69-81sqm.</li> </ul> <p>Despite the numeric non-compliance with Council's DCP, the apartment layout and configuration are considered to be acceptable. It is noted that the RFDC (SEPP65) rules of thumb set out that a minimum apartment size of 50sqm for a 1 bedroom apartment, and 70sqm for a 2 bedroom apartment, contribute to housing affordability and choice. Eight 2 x bedroom apartments propose 1sqm below this minimum, and all other apartments comply with this rule of thumb.</p> |

|                            |                   |  |
|----------------------------|-------------------|--|
|                            | No<br>(condition) | On balance, the apartment sizes are supported. The applicant has agreed to this condition.   |
|                            | Yes               | 16 out of the 68 residential apartments are proposed to provide a balcony of only 5sqm. These apartments are all 50sqm 1 bedroom apartments. It is considered that given the eastern orientation and location of these apartments, a minimum 8sqm balcony should be provided. Whilst this would result in the apartment size being reduced to 47sqm, this outcome is preferred, and results in a useable open space area being provided for all apartments.                                |
|                            | Yes               | There are no more than 6 apartments sharing a lift well.   |
|                            | Yes               | The maximum depth of a habitable room from a window will not exceed 10m.   |
|                            | Yes               | 70% of apartments receive 2 hours of sunlight.   |
|                            | Yes               | 61% of apartments are cross ventilated whereas Council's controls 75%. However, it is noted that the RFDC (SEPP65) requires a minimum of 60%.  |
|                            | Yes               | All apartments will have a minimum width of 4m.  |
| <b>Balconies</b>           | No<br>(condition) | As set out within this report, a condition is recommended for imposition requiring the 16 non-complying balconies be extended to provide 8sqm balconies for all apartments.  |
| <b>Accessibility</b>       | Yes               | The development has submitted a report advising that the proposal can comply with the BCA.   |
| <b>Safety and security</b> | Yes               | The proposed development raises no known safety and security concerns. Issues relating to the shared lift access have been addressed elsewhere.  |
| <b>Car parking</b>         | Yes               | Council's DCP requires 50 residential parking spaces be provided, as well as 7 parking spaces for the serviced apartment / retail uses. The proposal provides 57 spaces in accordance with Council's maximum controls. At least 2 spaces are detailed to be accessible.<br><br>7 motorbike spaces are proposed which comply with Council's minimum requirements.<br><br>A loading bay has been provided on Atchison Lane and has demonstrated appropriate turning circles can be provided. |



|  |     |   |
|--|-----|---|
| <b>Bicycle storage</b>                               | Yes | The provision of bicycle parking in the basement generally complies with Council's controls and a condition is recommended accordingly. |
| <b>Vehicular access</b>                              | Yes | Council's Development Engineer supports the proposed Atchison Lane vehicular access location.   |
| <b>Garbage Storage</b>                               | Yes | Garbage chutes are provided on each level and a store is located in the basement.   |
| <b>Commercial garbage storage</b>                    | Yes | Provision can be made for separate residential / commercial storage.  |
| <b>Site facilities</b>                               | Yes | Adequate storage is provided within the development.  |
| <b>6.5 Efficient use and management of resources</b> |     |   |
| <b>Energy efficiency</b>                             | Yes | A BASIX Certificate for the residential component of the development has been submitted.  |

## STAGE 2: 20 ATCHISON STREET BUILDING ENVELOPE APPROVAL


### Compliance Table – 20 Atchison Street

| <b>STATUTORY CONTROL – North Sydney Local Environmental Plan 2001</b> |                 |   |                |                 |
|---|-----------------|---|----------------|-----------------|
| <b>Site Area –690m<sup>2</sup></b>                                    | <b>Existing</b> | <b>Proposed</b>   | <b>Control</b> | <b>Complies</b> |
| <b>Mixed Use Zone</b>   |                 |   |                |                 |
| Building Height (Cl. 29) (max)  | 20m approx      | 58.95m (top of lift core)<br>55.25m (top of plant)<br>52m (top of habitable floors) | 49m            | NO              |
| Floor Space (Cl. 31) (max)  | 4.15:1          | 6.4:1   | 3:1 – 4:1      | NO              |

Given that only building envelope approval is sought, DCP compliance would be subject to detailed assessment as part of a future detailed design for this building. However, controls relating to the building envelope are discussed below:-

### DCP 2002 Compliance Table – 20 Atchison Street

| <b>DEVELOPMENT CONTROL PLAN 2002</b> |                        |   |
|--------------------------------------|------------------------|---|
|                                      | <b><i>complies</i></b> | <b><i>Comments</i></b>  |
| <b>6.2 Environmental Criteria</b>    |                        |   |
| <b>Visual Privacy</b>                | Yes                    | The building envelope proposes similar front (south), rear (north) and side (east) setbacks to Stage 1. It is noted that there are less opportunities for overlooking for Stage 2 given that Levels 1-7 are proposed to be used for commercial development. |

|                     |                       |  |
|---------------------|-----------------------|--|
|                     |                       | <p>A 3m setback above podium has been provided to the western side setback and complies with Council's controls.</p> <p>A detailed assessment would be required as part of any future development application to ensure windows and balconies were appropriately designed and off-set to minimise overlooking and address impacts accordingly.</p>   |
| <b>Solar access</b> | No (merit assessment) | Overshadowing to Mitchell St Plaza is discussed further elsewhere within this report.  |
| <b>Views</b>        | Yes                   | <p>The proposed development would likely remove some views / outlook to Chatswood and district views to the north across the site. The existing view of Chatswood and district views from Level 10/599 Pacific Highway can be seen below</p>  <p>The proposed building is adequately set back from surrounding properties and will not unreasonably block any immediate outlook from surrounding properties. The loss of or reduction of, views to the north of the district views and Chatswood, whilst being a pleasant and valued view, is not considered to be material on the basis this is considered to be a generally expected outcome of development on the subject site.</p> <p>In addition, the development would likely remove some existing harbour / possibly Harbour Bridge views to the south from No.6-16 Atchison should this development be completed prior to the subject site. Any views / outlook lost would be generally 'borrowed' views, only achieved from levels of the building being located above Council's building height control, and in this regard impacts could not be considered to be unreasonable given they are caused by a generally compliant building envelope. The rooftop structures</p> |

|   |                                  |  |
|---|----------------------------------|--|
|   |                                  | are considered to be a reasonable protrusion in this instance.   |
| <b>6.3 Quality built form</b>                 |                                  |  |
| <b>Context</b>                                | Yes                              | The proposed envelope is considered to be contextually appropriate.  |
| <b>Public spaces and facilities</b>           | Yes                              | The 3m ground level setback will align with 6-16 Atchison Street and will improve pedestrian circulation on Atchison Street.   |
| <b>Through-site pedestrian links</b>          | Yes                              | There is no requirement on the site to provide a through site pedestrian link.   |
| <b>Subdivision</b>                            | Yes                              | The proposed development meets the minimum site frontage size of 20m.  |
| <b>Setbacks</b>                               | Yes                              | The envelope details generally compliant setbacks.   |
| <b>Entrances and exits</b>                    | Yes                              | Entrances would be considered as part of a future detailed development application. It is considered that given the quantum of commercial floorspace proposed, an additional lift would likely be required within this building.   |
| <b>Street frontage podium</b>                 | Yes                              | Podiums have generally been provided in accordance with Council's controls to Atchison Street and Mitchell Street.   |
| <b>Laneway frontage</b>                       | Yes<br><br>No (merit assessment) | A 1.5m building setback is proposed to Atchison Lane complying with Council's controls.<br><br>Council's controls require a 10m (3 storey) podium to Atchison Lane. The podium height is 14.5m at 3 storeys, and will generally match the height of the adjoining development at No.6-16 Atchison Street, and is supported in this instance. |
| <b>6.4 Quality urban environment</b>          |                                  |  |
| <b>High quality residential accommodation</b> | Yes                              | The applicant has submitted a report that demonstrates that the building envelope could provide adequate cross ventilation and solar access to future dwellings, however would be subject to a detailed assessment for a future development application.   |
| <b>Car parking</b>                            | Yes                              | The proposed building envelope is likely to provide adequate floor area to accommodate required car parking however would be subject to further assessment based upon proposed uses at the time of lodgment of a detailed Development Assessment.  |
| <b>Vehicular access</b>                       | Yes                              | No objection is raised by Council's Development Engineer to the provision of vehicular access from Atchison Lane.  |

### **Solar Access – Mitchell Street Plaza**

The impact of the proposed development and particularly its eastern element is a determinative consideration. The St Leonards Town Centre Character Statement in the NSDCP 2002 requires the provision of solar access as follows:

*'Development to the north of Atchison Street and east of Mitchell Street is restricted in height and massing to maintain and improve existing solar access on June 21 between 12pm and 5pm to the proposed open space at the south end of Mitchell Street.'*

The proposed development will result in additional overshadowing to the identified area, known as Mitchell Street Plaza. This area comprises an open paved area, with four seats to the west of Mitchell Street and two seats to the south of Mitchell Street. The southern end of the Plaza adjoins the Pacific Highway.

***Mitchell Street Plaza looking south***



***Mitchell Street Plaza looking west***



During the midwinter solstice, much of this plaza is overshadowed by the adjacent building at No.601 Pacific Highway. However, the four seats on the western side of the plaza, and the two seats on the southern side of the plaza generally receive solar access between 12pm, and with solar accessing decreasing until 1.30pm when these seats are mostly overshadowed.

The proposed development will generally remove all sunlight to this seating at these times. The applicant has submitted shadow diagrams which demonstrate that whilst these impacts are predominantly caused by complying building elements, there are some protrusions on the roof that contribute to this overshadowing impact. As can be seen in the shadow diagrams, the additional overshadowing between 12pm and 12.50pm during the midwinter solstice falls upon the primary useable area of this space, despite the impact being generally minor. It is considered that any overshadowing caused by non-complying elements is unreasonable where it can be addressed. To address this, the following design requirements are requested by way of imposition of a condition of consent:

- The floor to ceiling height of the ground floor level shall be reduced from 4m to 3.6m, to lower the overall building height by 400mm.
- The blade wall above the roof level (being RL140.75) along the eastern building facade shall be deleted.
- The indoor entertainment area shall be reduced in length by 3m so as to be set back from the eastern boundary by at least 8m.

Subject to these requirements, the solar access impacts will be generally caused by complying building elements. Whilst it is unfortunate and undesirable to further overshadow this plaza, those impacts caused by complying building elements on balance are considered to be reasonable given that:

- The building form is generally the expected outcome of development on the site

determined by Council's controls.

- It is considered that a redesign to preserve the sunlight at this time would be substantive, and estimated to involve the a reduction in height at the southern building end by at least one third, however possible greater. This is considered to be unreasonable in the circumstances.
- Whilst these impacts are undesirable for the winter solstice, this space will remain generally unaffected during the equinox and summer months.

For these reasons, despite the non-compliance with the provisions of the Character Statement, the proposal on balance is considered acceptable on the basis of the level of compliance it demonstrates with LEP controls, subject to imposition of conditions to delete the non-complying elements at roof level.

## **NORTH SYDNEY LEP 2001**

### **1. Permissibility within the zone:**

The subject site is zoned Mixed Use pursuant to NSLEP 2001. Development for the purpose of the construction of a mixed use building is permissible with the consent of Council.

#### ***Mixed Use Zone***

### **2. Objectives of the zone**

The particular objectives of the Mixed Use zone, as stated in Clause 14 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 proposed development will provide benefit in terms of increasing the range of living, employment, recreational and social opportunities within the St Leonards area. Impacts of the proposed development are considered to be reasonable given that the development is a generally expected outcome for the site. The proposed development will be consistent with the objectives of the zone.

### **3. Building Height**

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 proposed development results in an overall building height of 58.95m which occurs at the roof plant and common area. It is noted that the height of the roof over the uppermost residential level has a maximum height of 52m. The applicant has submitted a SEPP1 Objection in relation to the breach. The proposal is considered against the objectives of Clause 29 of NSLEP 2001 below:

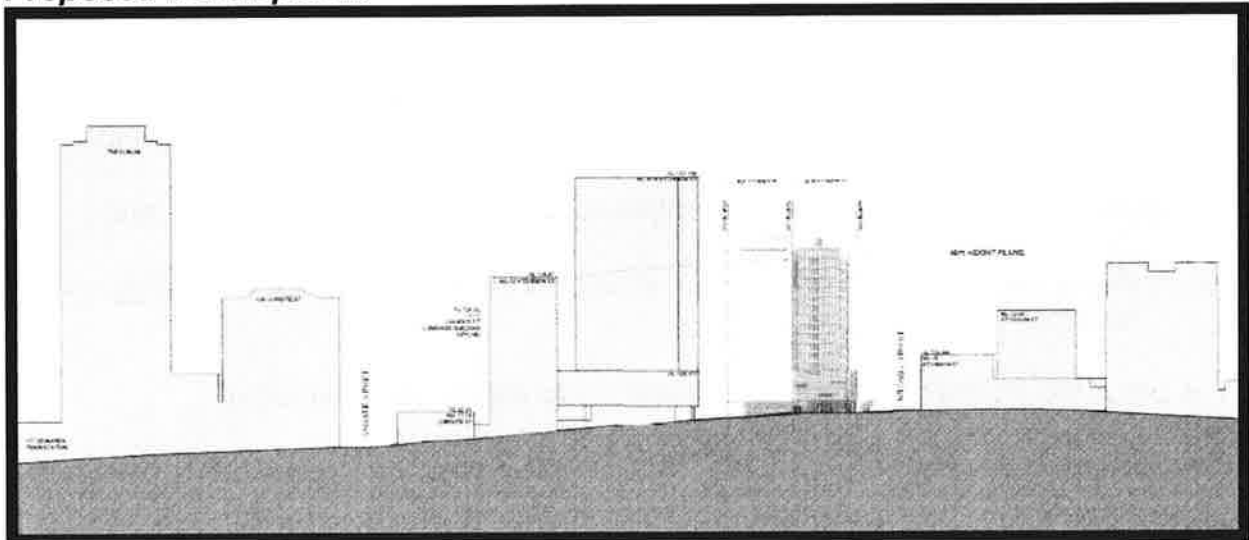
- (a) *Ensure compatibility between development in the mixed use zone and adjoining residential areas and open space zones*

The site does not immediately adjoin residential or open space zones.

- (b) *Encourage an appropriate scale and density of development for each neighbourhood that is in accordance with, and promotes the character of, the neighbourhood*

The proposed scale and density of the development is considered to be consistent with the characteristic height of development in the locality and the expected outcome envisaged by Council's controls. The height in context with the adjoining property can be seen below:-

***Proposed Development in context***



The roof top communal structures are located above the height limit however in this instance are considered to have merit for the following reasons:-

- As set out within this report, a condition is recommended to address overshadowing to delete the eastern blade walls above rooftop level, the lower the building by 400mm by reducing the ground level floor to ceiling levels, and to reduce the length of the common room on the roof. Subject to these amendments, there are considered to be no material overshadowing impacts resulting from the development.
- There are no material privacy or view impacts caused by these structures.
- The structures are appropriately articulated and set back from the common boundary subject to conditions outlined above.

- The height of the structures continues is contextually appropriate.

The resulting height is considered to be contextually appropriate and will promote the desired future character of the locality as dictated by the applicable site controls.

- (c) *Provide reasonable amenity for inhabitants of the building and neighbouring buildings, and*

The development provides adequate amenity to all proposed dwellings in accordance with this objective as set out within this report.

With regards to neighbouring buildings, as set out within this report, the proposed development is considered to result in reasonable amenity with regards to overshadowing, privacy and views as out within this report. Any impacts are considered to be consistent with the expected outcome of development.

- (d) *Provide ventilation, views, building separation, setback, solar access, light and avoid overshadowing of windows, landscaped areas, courtyards, roof decks, balconies and the like, and*

An acceptable level of amenity is provided to all dwellings within the proposed building.

- (e) *Promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient, and*

The proposed development will adequately conform to the stepping of the land..

- (f) *Avoid the application of transitional heights as justification for exceeding height controls*

The proposed height has been considered on its merits as acceptable.

### *Conclusion*

The proposed development is considered to satisfy the objectives of the control. The applicant's SEPP 1 Objection is considered to be well-founded and worthy of support. Strict compliance with the numeric standard is considered to be unnecessary and unreasonable in this instance.

It is noted that NSLEP 2013 restricts any non-compliance with the building height limit for development in this area to no greater than 3m (excluding plant rooms and similar structures). Whilst the NSLEP 2013 and this provision do not apply to the subject development application, the following is noted:

- The breach of the building height for the residential levels does not exceed 3m.
- Structures which result in a building height greater than 3m comprise plant rooms, common area, terraces, lift overrun and the like, which is considered to comply with these provisions which specifies 'similar structures'.
- The form of development proposed is considered to be generally consistent with



the form of these controls.

#### 4. Floor Space

The proposal is compliant with the non-residential floor space range for the site pursuant to Clause 31 of NSLEP 2001 having regard to No.22 Atchison Street.

However, the application proposes a non-compliance with the non-residential floorspace on the Stage 2 envelope concept for No.20 Atchison Street. NSLEP 2001 requires a floorspace of between 3.1-4.1, however the applicant proposes 6.4:1 and has a lodged a SEPP 1 objection accordingly. Notwithstanding this, it is noted that Council's NSLEP 2013 does not set a maximum non-residential floorspace on this site. Given this is now in force, any future development application for this building would comply with Council's controls. However, the SEPP 1 has been considered against the objectives of the control as follows:

- (a) ***Ensure a diverse mix of uses in each building in the mixed use zone*** – The proposed increase in commercial floorspace is considered to provide the opportunity for the existing floorspace in the building to be maintained within a new building, which could provide for a mix of business opportunities. This is considered to achieve the intent of the control, whilst continuing to also provide residential dwellings.
- (b) ***Minimise traffic generation from commercial development*** – The additional commercial floorspace would likely require less car parking than is required for a commensurate area of residential development. Any future commercial use that would require additional car parking beyond this yield would be considered on its merits as part of a future development application.

In this instance, the additional commercial floorspace is considered to satisfy the objectives of the Clause 31 NSLEP 2001, and whilst not strictly applicable, would satisfy the numeric controls of NSLEP 2013 relating to floorspace. The application therefore reflects the future planning intent for the area. The applicant's SEPP 1 Objection is considered to be well-founded and worthy of support. Strict compliance with the numeric standard is considered to be unnecessary and unreasonable in this instance.

#### 5. Design of Development

The proposed development incorporates the non-residential component on the ground and first three floors. Separate entries are provided between the residential and commercial entries and are further discussed within this report. Podium setbacks are considered to be acceptable. The proposal is considered to satisfy the provisions of Clause 32 of NSLEP 2001.

#### 6. Excavation of Land

Significant excavation is proposed to accommodate car parking and services. Conditions recommended by Council's Development Engineer will be imposed that include the requirements for a geotechnical investigation to be undertaken as well as various dilapidation surveys. Subject to these conditions, the proposal is able to comply with the provisions of Clause 39 NSLEP 2001.

## **7. Heritage Conservation**

The proposed development will not result in any adverse impacts upon any surrounding heritage items.

## **8. 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 as the site based on the previous uses of the site, contamination is unlikely to be an issue.

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

The application has been assessed by the Design Excellence Panel having regard for the Design Quality Principles set out in SEPP65. The Panel generally supported the proposed development as set out within this report.

The proposed design for **No.22 Atchison Street** is considered against the principles as follows:-

- **Principles 1, 2 and 3: Context, Scale and Built Form:**

The context, scale and form of the development is considered to be in keeping with the surrounding locality and the future desired character of the locality.

- **Principle 4: Density**

The proposed mix of apartments, amenity of apartments and building envelope are considered to be acceptable. The proposed density is considered to be generally acceptable.

- **Principle 5: Resource, energy and water efficiency**

A BASIX Certificate has been provided with the application. Adequate cross ventilation and solar access has been provided.

- **Principle 6: Landscape**

Limited opportunity exists on the site for planting given the mixed use zone location. Conditions are recommended requiring street tree planting.

- **Principle 7: Amenity**

The proposed development provides 62% of apartments with cross ventilation which complies with the RFDC requirement of 60%.

The proposed development provides 70% of apartments with solar access for a minimum of 2 hours during the midwinter solstice complying these controls which require 70%.

Balconies are provided to each apartment and an acceptable level of amenity is provided to each apartment.

- **Principle 8: Safety and Security**

There are no known safety and security concerns arising from the proposed development.

- **Principle 9: Social Dimensions**

The proposed development provides an acceptable mix of dwellings having regard for the site's context. The proposed rooftop communal facility will be of benefit to the building's occupants.

- **Principle 10: Aesthetics**

The design of the development is well modulated and articulated. The proposed development will have an acceptable streetscape appearance and will have a positive impact within the locality.

#### **10. SEPP (Building Sustainability Index: BASIX) 2004**

A suitable BASIX Certificate has been submitted with the application.

#### **11. SEPP 2007 (Infrastructure)**

The application was referred to the RMS who have recommended conditions to be imposed.

#### **12. SREP (Sydney Harbour Catchments) 2005**

The site is located within the area covered to the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. However, no primary views to the site exist from the Harbour. It is considered that the proposed development would be acceptable with regards to this Policy.

#### **13. North Sydney Local Environmental Plan 2013**

The North Sydney Local Environmental Plan 2013 was gazetted on 2 August 2013. Any application lodged up to the commencement date must be considered under NSLEP 2001. However, Council must consider the provisions of the new LEP, including the zoning and development standards applicable to the development. Consideration of the relevant provisions of the NSLEP 2013 is as follows:

##### **(a) Part 2 – Land-use table and zoning**

The site is identified under the LEP as being included within the B4 Mixed Use. The proposal is permissible in the zone.

##### **(b) Part 4 - Principle development standards**

The development standards under the NSLEP 2013 relate to subdivision lot size; height of buildings and floor space ratio. It is considered that the proposal is consistent with the relevant provisions in the LEP and its objectives. It is noted that floor space has been discussed further within this report.

### **(c) Part 6 – Additional local provisions**

There are no additional local provisions applicable to the proposed development. A detailed assessment of the matters relating to departures/non-compliances with the current development standards/controls has been provided above in this report. Having regard to the above, the proposal is considered satisfactory with regard to the provisions of the NSLEP 2013.

### **North Sydney DCP 2013**

North Sydney Development Control Plan 2013 was adopted by Council on 2 September 2013 and is therefore a matter for consideration under S.79C of the Environmental Planning and Assessment Act 1979. The proposal has been considered against the new DCP and is considered generally acceptable save for those issues highlighted under similar provisions within NSDCP 2002.

### **ST LEONARDS / CROWS NEST PLANNING STUDY PRECINCT 1 DRAFT**

The above-mentioned draft plan has been recently publicly exhibited. This study aims to develop new strategies and initiatives that will provide for a number of outcomes including new open space in the locality, rejuvenation of the commercial area and improved urban design outcomes. The study identifies sites within St Leonards as having the potential for additional height. This study however is neither immanent nor certain and carries no weight at this time. The proposed development can be considered only having regard to current controls.

### **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**

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

The application has been assessed against the relevant controls in the DCP 2002 with regards to the St Leonards / Crows Nest Planning Area. All controls including setbacks and podiums have been considered within this report as acceptable. The characteristic height is considered to have been provided by this development. The proposal is considered to be consistent with the future desired character of the area.

### **SECTION 94 CONTRIBUTIONS**

Due to the provision of additional residential floor space, a contribution would be levied

in accordance with Council's Section 94 Contributions Plan.

## **DESIGN & MATERIALS**

The design and materials of the proposed development is unacceptable as detailed previously in this report. The Design Excellence Panel supported the proposal in this regard.

## **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 Carparking 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. As such, consent to the development may be granted.

## **SUBMITTORS CONCERNS**

Three submissions were received. Many issues raised have been addressed within this report. Additional issues are summarised and addressed below:-

- ***View loss from Levels 16 & 17 of 599 Pacific Highway.***

**Comment:** As set out within the report, the building will remove district views including the Chatswood skyline from a number of properties within No.599 Pacific Highway. Whilst this loss of outlook is unfortunate, it is not considered to be material. These properties continue to enjoy a district outlook.

- ***View loss from Level 10 of 599 Pacific Highway***

**Comment:** As set out above, district views and outlook from Level 10, 599 Pacific Highway to the north including the Chatswood skyline would be removed by the proposed development. However, given the level of compliance with the height control at this level, the loss of outlook proposed is considered to be reasonable, and is an expected outcome of development on the site as dictated by Council's controls.

- ***Non-residential floorspace is not compliant with Councils controls and self serving providing the developer with greater profit.***

**Comment:** As set out within this report, the NSLEP 2013 have removed the restriction for a maximum non-residential floorspace on the site, requiring only a minimum. Any future development application lodged within this composition of non-residential floorspace would comply with Council's controls in any case. The application reflects the intended outcome of future controls.

- ***Overshadowing to No.599 Pacific Highway in the afternoon.***

**Comment:** Shadow diagrams have been submitted that the additional overshadowing during midwinter would fall upon the podium facade of this building, however would not impact upon the above podium wherein the residential levels are located.

- ***The proposed development will result in additional traffic impacts to St Leonards.***

**Comment:** Council's Traffic Engineer raises no concerns with the additional level of traffic resulting from the proposed development.

- ***The development should be refused as it results in a loss of FSR, height, setbacks, building separation, open space and more.***

**Comment:** These issues have been addressed within the report.

- ***Insufficient information has been provided to address the presentation of the western facade.***

**Comment:** In response to this objection, the applicant provided additional details to undertake to provide the western wall to No.22-24 Atchison Street as painted render, with pre-cast concrete panelling, which is considered to result in an acceptable appearance.

- ***The rooftop plant and equipment is excessive in height and will present as a visually dominant and obtrusive structure.***

**Comment:** As set out within this report, the rooftop structures are considered to have been suitably limited in size. The rooftop level common area is a common feature within St Leonards and the resultant height is considered to be acceptable, particularly in the context of surrounding development.

- ***Proposal fails to demonstrate the potential impacts to 6-16 Atchison Street with regard to visual and acoustic privacy.***

**Comment:** There are no potential visual or acoustic privacy impacts to No.6-16 Atchison Street caused by No.20-24 Atchison Street. The detailed design of No.18-20 Atchison Street will be subject to a future development application. In any case, the 3m western side setback has been provided in accordance with Council's controls, and no additional setbacks could reasonably be requested to facilitate the built form on No.6-16 Atchison Street.

- ***The Atchison Lane frontage provides a poor presentation when compared to No.6-16 Atchison Street.***

**Comment:** The limited size of the site has dictated the Laneway outcome in this instance, and on balance is supported.

- ***The proposed basement level is highly constrained.***

**Comment:** Council's Development Engineer raises no concerns with the basement layout.

- ***The through-site link in the concept plan does not demonstrate good urban design outcome and is a poor extension of the adjoining public domain at No.6-16 Atchison Street.***

**Comment:** There is no requirement on the subject site to provide a through site link. The proposed ground level layout of No.18-20 Atchison Street would be subject to a detailed assessment of a future development application.

- ***The proposal provides a reduced footpath width on Atchison Street compared to 6-16 Atchison Street.***

**Comment:** In response to this concern, the applicant has proposed a 3m ground level setback to Atchison Street to align with the setback on the adjoining property at No.6-16 Atchison Street.

- ***The geotechnical report states that development will be located near the boundary and that rock anchors will be required. No.6-16 Atchison Street have provided no owner's consent for any works on the adjoining property.***

**Comment:** Impacts of excavation on No.18-20 Atchison Street would be subject to detailed assessment when a future development is submitted. Council's controls do not require any setbacks for basement levels within this zone. Notwithstanding this, any future development application would have to obtain owner's consent for any such excavation to rely on rock anchors, or alternatively provide a solution whereby rock

anchors were not required.

- ***The proposal does not comply with the RFDC setbacks and relies upon No.6-16 Atchison Street which is considered to be unacceptable.***

**Comment:** Detailed assessment with regards to RFDC compliance would be undertaken when a future development application is lodged. Notwithstanding this, the 3m western side setback has been provided, the lower 7 levels are proposed for commercial use, and development can also rely on the northern aspect for orientation given the height limit of No.39-41 Chandos Street is 33m, and to the south wherein Atchison Street provides a generous setback to the adjacent commercial building at No.601 Pacific Highway. It is considered unreasonable to require additional setbacks to accommodate the constructed building form at No.6-16 Atchison Street in this regard.

- ***The proposed concept plan for site B and detailed plan for site A prevents consideration of an improved design, parking and access aspects of the development.***

**Comment:** Each proposed stage has been considered on its merits and is considered to be acceptable.

- ***The proposal should provide increased front and side setbacks to match No.6-16 Atchison Street.***

**Comment:** The proposed development provides front and western side setbacks in accordance with Council's controls.

- ***It is not possible to understand whether the development on site B will be able to satisfy the RFDC nor is it possible to ensure the impact of Site A if Site B does not develop.***

**Comment:** The detailed design of Site B will be subject to a further development application. Notwithstanding this, the applicant has satisfactorily demonstrated to Council that the proposed envelope could reasonably comply with SEPP65. This would be subject to consideration regarding impacts to adjoining properties as part of a detailed development application.

## **CONCLUSION**

The proposed development has been assessed under the provisions of the Environmental Planning and Assessment Act 1979, North Sydney Local Environmental Plan 2001, Development Control Plan 2002 and all other relevant statutory and non-statutory controls, as satisfactory subject to the imposition of conditions.

## **RECOMMENDATION**

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

A. **THAT** the Joint Regional Planning Panel, as the consent authority, assume the



concurrence of the Director General of the Department of Planning and invoke the provisions of SEPP 1 regarding Clause 29 (Building Height) and Clause 31 (Floor space) and grant consent to Development Application No. 187/13 for stage 1 construction of a 16 storey mixed use building at 22 Atchison Street and Stage 2 envelop consent approval for a 15 storey mixed use building within basement car parking at 20 Atchison Street, subject to the attached conditions including the following site specific conditions:

**No Approval for Outdoor Rooftop Cinema**

- C#. No approval is granted nor implied for the outdoor rooftop cinema. The area shall be utilised as a common terrace for the residential occupants only. The Certifying Authority issuing the Construction Certificate must ensure that the building plans and specifications submitted by the applicant, referenced and issued with the Construction Certificate satisfy the requirements of this condition.

(Reason: Inadequate information)

**Eastern balconies to be increased in depth to 2m**

- C#. All east facing balconies on levels 4-11 (detailed on typical plans as Apartments 4.03 & 4.04) shall be amended to have a depth of 2m, and a total area of 8sqm. The eastern building alignment shall be maintained.

The Certifying Authority issuing the Construction Certificate must ensure that the building plans and specifications submitted by the applicant, referenced and issued with the Construction Certificate satisfy the requirements of this condition.

(Reason: To ensure useable balconies are 8sqm to provide a useable outdoor area)

**All north-facing balconies to be provided with operable louvres**

- C#. All north-facing balconies on levels 4-9 (detailed on typical plans Apartment 4.01 and 9.01) shall be provided with full-height operable louvers.

The Certifying Authority issuing the Construction Certificate must ensure that the building plans and specifications submitted by the applicant, referenced and issued with the Construction Certificate satisfy the requirements of this condition.

(Reason: To ensure privacy to these balconies should the site on the northern side of Atchison Lane be redeveloped)

**Lift Access**

- C#. The lift and foyer security shall be configured and implemented as follows:

- 1) Access to the residential lobby and lift shall be secure and accessed only by residents.
- 2) Residents shall have access to the serviced apartment lobby and lift only between 6am and 8pm daily.

The Certifying Authority issuing the Construction Certificate must ensure that the building plans and specifications submitted by the applicant, referenced and issued with the Construction Certificate satisfy the requirements of this condition.

(Reason: Security)

### **Amendment to Building Height and Rooftop Structures**

C#. The following design amendments shall be undertaken:

- 1) The floor to ceiling height of the ground floor level shall be reduced from 4m to 3.6m, to lower the overall building height by 400mm.
- 2) The blade wall above the roof level (being above RL140.75) along the eastern building facade shall be deleted.
- 3) The rooftop indoor entertainment area shall be reduced in length by 3m so as to be set back from the eastern boundary by at least 8m.

The Certifying Authority issuing the Construction Certificate must ensure that the building plans and specifications submitted by the applicant, referenced and issued with the Construction Certificate satisfy the requirements of this condition.

(Reason: To comply with Clause 29 NSLEP 2001 and reduce overshadowing impacts)



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