

## SYDNEY NORTH PLANNING PANEL

<b>Panel Reference</b>	PPSSNH-183																								
<b>DA Number</b>	DA171/2020																								
<b>LGA</b>	Lane Cove																								
<b>Proposed Development</b>	Concept development application to establish three building envelopes (18, 12 and 8 storeys) and detailed development application for the demolition of an existing building on the site, construction of two commercial buildings, alterations to the existing car park, landscaping, and public domain works.																								
<b>Street Address</b>	29-57 Christie Street, St Leonards																								
<b>Applicant/Owner</b>	Applicant: Arrow Capital Partners c/o Urbis (Contact: Elyse Kenny) Owner: The Trust Company (Australia) Ltd ATF Christie Street Property Trust																								
<b>Date of DA lodgement</b>	2/12/2020																								
<b>Number of Submissions</b>	45																								
<b>Recommendation</b>	<b>DEFERRED COMMENCEMENT APPROVAL</b> (Pending adoption of VPA).																								
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	Development that has a capital investment value of more than \$30 million (CIV \$173,020,000.00).																								
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• <b>List all of the relevant environmental planning instruments: s4.15(1)(a)(i)</b> <ul style="list-style-type: none"> <li>- SEPP 55 – Remediation of Land;</li> <li>- SEPP (Infrastructure) 2007; and</li> <li>- Lane Cove Local Environmental Plan 2009;</li> </ul> </li> <li>• <b>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii)</b> <ul style="list-style-type: none"> <li>- Nil</li> </ul> </li> <li>• <b>List any relevant development control plan: s4.15(1)(a)(iii)</b> <ul style="list-style-type: none"> <li>- Lane Cove Development Control Plan 2010</li> </ul> </li> <li>• <b>Other relevant plans:</b> <ul style="list-style-type: none"> <li>- Lane Cove Section 94 Contributions Plan 1996 (as amended)</li> </ul> </li> <li>• <b>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under s7.4: s4.15(1)(a)(iv)</b> <ul style="list-style-type: none"> <li>- Draft VPA (See Annexure 20)</li> </ul> </li> <li>• <b>List any coastal zone management plan: s79C(1)(a)(v)</b> Nil</li> <li>• <b>List any relevant regulations: s4.15(1)(a)(iv) e.g. Regs 92, 93, 94, 94A, 288</b> <ul style="list-style-type: none"> <li>- 92: Additional matters the consent authority must consider</li> <li>- 98(1)(a): Compliance with Building Code of Australia</li> </ul> </li> </ul>																								
<b>List all documents submitted with this report for the Panel's consideration</b>	<table border="1"> <thead> <tr> <th>Annexure</th><th>Document</th></tr> </thead> <tbody> <tr><td>1.</td><td>Draft conditions of consent</td></tr> <tr><td>2.</td><td>Architectural plans</td></tr> <tr><td>3.</td><td>Detailed survey</td></tr> <tr><td>4.</td><td>Architectural design statement</td></tr> <tr><td>5.</td><td>Concept masterplan</td></tr> <tr><td>6.</td><td>Shadow analysis</td></tr> <tr><td>7.</td><td>Addendum view analysis</td></tr> <tr><td>8.</td><td>Revised landscape plans</td></tr> <tr><td>9.</td><td>Revised landscape design statement</td></tr> <tr><td>10.</td><td>SEE</td></tr> <tr><td>11.</td><td>Updated clause 4.6 – Height of buildings</td></tr> </tbody> </table>	Annexure	Document	1.	Draft conditions of consent	2.	Architectural plans	3.	Detailed survey	4.	Architectural design statement	5.	Concept masterplan	6.	Shadow analysis	7.	Addendum view analysis	8.	Revised landscape plans	9.	Revised landscape design statement	10.	SEE	11.	Updated clause 4.6 – Height of buildings
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	12.	Clause 4.6 – FSR
	13.	Traffic impact assessment
	14.	Addendum traffic response
	15.	Arboricultural impact assessment
	16.	Access report
	17.	Noise Impact Assessment
	18.	Geotechnical report
	19.	Economic benefits report
	20.	Draft VPA
	21.	Response to RFI
<b>Clause 4.6 requests</b>	<ul style="list-style-type: none"> <li>• Building height</li> <li>• FSR</li> </ul>	
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• traffic and parking concerns</li> <li>• height/FSR variation</li> <li>• building height, bulk, and scale</li> <li>• loss of views to St Leonards Square</li> <li>• loss of existing community facilities</li> <li>• loss of solar access to residential development to the south</li> <li>• amenity impacts during construction</li> </ul>	
<b>Report prepared by</b>	Ms. P Frecklington, Sydney Planning (Consultant)	
<b>Report date</b>	23 June 2021	
<b>Summary of s4.15 matters</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?		<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>		<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?		<b>Yes</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>		<b>No</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment? <i>Note: In order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>		<b>Yes</b>
<b>Land and Environment Court Appeals</b>		<b>No</b>

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## 1. EXECUTIVE SUMMARY

- a) The subject site is located in the St Leonard Precinct on the western side of the Pacific Highway. This area is undergoing extensive change as part of revitalisation of the precinct in accordance with strategic objectives for St Leonards under the *Greater Sydney Region Plan*, *North District Plan* and the *St Leonards Crows Nest 2036 Plan* to deliver employment opportunities in strategic centres close to public transport. Revitalisation of the precinct has commenced with four pilot mixed-use projects (**Section 2.2**) and expansion of existing commercial sites such as the subject site.
- b) Of relevance to the application, a Gateway Determination has been granted (9 April 2021) for a Planning Proposal for the adjoining site at 38-46 Nicholson Street and 59-67 Christie Street (lodged prior to release of the Final 2036 Plan) which involves increasing the maximum FSR to 15:1 and building height to RL 175.2m (approximately 31 storeys), noting 30-storeys is nominated under the *St Leonards and Crows Nest 2036 Plan* (2036 Plan).
- c) The subject site is located at the southern end of Christie Street and is bounded by Christie Street to the west, Nicholson Street to the north, and Oxley Street to the south. The site contains two commercial buildings, an 8-storey office building on the northern side of the site and 2-storey building tenanted by Fitness First gym on the southern portion. There are three (3) levels of existing basement parking, which are proposed to be retained with minor alterations and additions.
- d) On 2 December 2020, the subject concept and staged development application was lodged to establish three building envelopes (18, 12, and 8 storeys) across the site and involves:
  - detailed DA for demolition of the existing building on the southern portion of the site and construction of two new commercial buildings (A & B), alterations to the existing basement car park, landscaping, and public domain works under Stage 1;
  - concept approval for Building C to be the subject of a future DA under Stage 2; and
  - total gross floor area (GFA) of 57,267m<sup>2</sup> (includes *Building C*).
- e) A draft Voluntary Planning Agreement (VPA) has been prepared for the public domain works including the provision of two through-site linkages and council footpaths, public open space upgrade, provision of public toilets and monetary contribution as part of the Stage 1 works. On 19 October 2020, Council resolved to place the draft VPA on public exhibition for 28 days in conjunction with the DA. The exhibition period for the draft VPA closed 18 June 2021 and was endorsed by Council at its 21 June 2021 Meeting, subject to an amendment to the VPA regarding maintenance and refurbishment of the public toilets. A deferred commencement condition is included which requires the VPA to be executed, prior to the consent becoming operative.
- f) It is noted that a condition of entering into the Planning Agreement would require Council to release the Public Positive Covenant from title which requires the owner of the land to maintain existing community facilities including a child care centre, gymnasium, and full-sized tennis court at no cost to the Council.

- g) On 17 February 2021, the Panel was briefed on the application. The main issues discussed included:
- Height and floor space ratio (FSR) non-compliance and reliance on the *St Leonards and Crows Nest 2036 Plan* to justify the significant variations sought to the existing LEP height/FSR controls via clause 4.6. The Panel resolved to consider the height and FSR variations via the clause 4.6.
  - Minor non-compliance with solar access requirements to 23-25 Christie Street and Newlands Park to the south-west.
  - View impacts to surrounding residential development, particularly St Leonards Square.
  - Non-compliance with the accessible car parking (15 space shortfall) and car parking requirement (4 space shortfall) under Council's Development Control Plan (DCP), noting the bicycle parking surplus.
- h) On 6 April 2021, a *Request for Further Information* was issued to the Applicant following a preliminary assessment of the DA by Council staff. The following additional information was requested:
- Revised cause 4.6 written request (building height) to address amenity impacts (views, privacy amenity, and solar access) for a compliant scheme for Buildings A & B.
  - Justification/amended design to address partial non-compliance with the street setback and street wall height controls under the *2036 Plan*.
  - Details of facilities to rooftop communal open space areas.
  - Revise landscape plans to show planting relative to two exhaust towers, species suitability to solar access provision, details of street trees to the Christie Street entrance, and accessibility compliance of access to external spaces, and line of existing basement.
  - Revised traffic modelling, provision of an additional 15 accessible car parking spaces, driveway profile details, and details of waste vehicle clearance and swept path analysis.
  - Details of integration of utilities and services infrastructure.
  - Details of awning projections on the western side of Building A and B in the architectural plans.
- i) An RFI package was submitted to Council on 27<sup>th</sup> April. Explanation of the RFI submission and discussion of outstanding issues was held at a meeting between the Applicant and Council staff on 14 May 2021. Key outcomes of the meeting are listed below:
- Justification for partial non-compliance with the street setback and street wall height controls is accepted. A 10m wide landscape strip between the site boundary and Oxley Street is to be upgraded under the proposal. A further 5m setback is not warranted.
  - The proposed 600mm setback on the western tip of Building B will align with Building C and the new civic green and is supported.
  - The proposed street wall height of 4 storeys to Oxley Street exceeds the 3-storey guidance under the *2036 Plan* but is supported on merit based on a contextual analysis, and highly modulated built form.
  - Further information agreed to be submitted to Council includes softworks plans of vertical planting structures, planter troughs and species as represented in the drawings. A revised landscape/architectural package was submitted to Council on 31 May 2021.
  - The Applicant's traffic engineers to liaise with Council's Traffic Engineers directly to resolve traffic modelling issue and accessible parking non-compliance.

- j) A meeting was held with the Applicant's traffic engineers and Council staff on 9 June. In summary, the following was resolved:
- Council will impose a condition of consent requiring the SIDRA traffic modelling to be converted to AIMSUM format (in order to align with Council's future traffic modelling of the precinct). No further modelling is required prior to the DA determination.
  - PTC will prepare an addendum statement outlining the constraints associated with retaining the existing car park and justifying the shortfall in accessible parking. This was issued to Council on 11 June. The statement relies upon the reduced accessible parking requirement under the Willoughby and North Sydney DCP to demonstrate that the proposed 8 accessible parking spaces would comply.
  - It was agreed that an additional 4 spaces could be allocated as potential accessible spaces (able to be converted to accessible spaces) should the demand arise. This is conditioned.
- k) Clause 4.6 written requests have been submitted for the height and FSR departures. The applicant relies upon the building envelope controls under the *St Leonards and Crows Nest 2036 Plan* to justify derogation from the existing LEP controls. The application proposes an exceedance to the height controls under the *2036 Plan* for Buildings A & B, and reduced height for Building C. A summary of the proposed height/FSR against the LEP controls and *2036 Plan* is provided below:

Lane Cove LEP 2009	Control	Proposed		Variation to LEP Control	2036 Plan
Clause 4.3 – Height	25m (6-7 storeys)	Building A	RL 115.20 - 8 storeys	13.7m (54.8%)	6 storeys
		Building B	RL 130 - 12 storeys	28.5m (114%)	11 storeys
		Building C	RL – 151.40 - 18 storeys	47.9m (191.6%)	25 storeys
Clause 4.4 – FSR  (Site Area – 7,636m <sup>2</sup> )	4.5:1 (34,362m <sup>2</sup> )	Buildings A & B	25,905m <sup>2</sup>	22,905m <sup>2</sup> (67%)	7.5:1
		Total	57,267m <sup>2</sup> (7.5:1)		

- l) The *St Leonards and Crows Nest Plan 2036* was finalised in August 2020 and is to be implemented under Section 9.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Ministerial Direction Section 9.1 Direction 7.11 applies to Planning Proposals and does not reference the weight to be given to the *2036 Plan* in the assessment of development applications. The Ministerial Direction does not preclude the application of clause 4.6 (unlike for St Leonards South).
- m) The variation permitted to the height and FSR control by virtue of clause 4.6 would facilitate the delivery of a high-quality commercial development that includes office, retail and community uses such as a gym and public bathrooms in a highly accessible location between St Leonards Railway Station and the future Crows Nest Metro Station. This is consistent with the strategic planning framework for St Leonards.
- n) The proposed built form, massing, and scale is contextually appropriate and is consistent with the emerging character of St Leonards under the *2036 Plan*. While a variation is sought to the

heights nominated for Buildings A and B under the *2036 Plan*, the overall FSR would be compliant. In addition, the reduced height of Building C (*18-storeys proposed, 25-storeys permitted*) would facilitate greater view sharing with residential units in Building B of the *St Leonards Square* development at 486 Pacific Highway to the south-east. The proposed development would also enhance the existing Christie Street Reserve.

- o) The proposal has been skilfully designed to distribute bulk and massing across the site through varying forms, shapes, heights and setbacks to reduce the actual and perceived bulk of the development and to reduce amenity impacts to surrounding residential development in terms of view impacts to *St Leonards Square*, privacy impacts, and solar access impacts to residential development to the south and Newlands Park. The proposed height variations would allow for reduced building footprints and provision of two through site links by relocating floor space from lower levels to higher within the tower forms. The proposed development would improve the pedestrian environment of the strategic centre and enable better connectivity and increased permeability throughout the precinct to both the future Crows Nest Metro Station and St Leonards station.
- p) In light of the above analysis, the clause 4.6 written requests are considered to be well founded. The consent authority may be satisfied that the applicant's written requests have adequately addresses the matters required to be demonstrated under clause 4.6(3) and that the proposed development is in the public interest.
- q) An extensive view analysis has been undertaken as part of this assessment including site inspections of the objector's units within *St Leonards Square* who raised concerns of view loss. These photographs were provided to Fitzpatrick & Partners Architects along with the finished floor levels of the impacted apartments to estimate view loss based on the current LEP controls, building heights under the *2036 Plan*, and proposed building heights. In conclusion, the views impacts resulting from the proposal are considered to be reasonable on the basis that the height/FSR variations would facilitate a better planning outcome that aligns with planned growth and built-form guidelines for the site under the *Greater Sydney Region Plan*, *North District Plan*, and *2036 Plan*.
- r) Council's Strategic Planning Coordinator has determined that the proposal is consistent with the *2036 Plan* and broader strategic planning framework for St Leonards.
- s) All outstanding matters have been satisfactorily resolved. No further objections are raised by Council's referral staff, subject to conditions. General terms of approval have been obtained from WaterNSW.
- t) The proposal is generally consistent with the built form controls under the *St Leonards Crows Nest 2036 Plan*. The variations sought to the street wall height and street setback guidelines are acceptable on merit. The proposal is acceptable against the Lane Cove DCP 2010 and Lane Cove LEP 2009.
- u) A total of 45 submissions have been received since the DA was lodged. The primary issues raised include the following:
  - traffic and parking concerns
  - height/FSR variation
  - building height, bulk, and scale
  - loss of views to St Leonards Square

- loss of existing community facilities
- loss of solar access to residential development to the south
- amenity impacts during construction

- v) The application is recommended for Deferred Commencement Approval pending execution of the VPA. Draft conditions of consent are provided at **Annexure 1**.

## 2. BACKGROUND

### 2.1. Application History

<b>Pre-lodgement meeting – 18/06/2020</b>	
<b>Key issues raised:</b>	
<b>Strategic planning context</b>	<ul style="list-style-type: none"> <li>• North District Plan, Local Strategic Planning Statement, Draft 2036 Plan to be addressed.</li> </ul>
<b>Overshadowing</b>	<ul style="list-style-type: none"> <li>• Overshadowing impacts to Newlands Park and residential area south of Oxley Street to be addressed.</li> </ul>
<b>VPA</b>	Public benefits to be commensurate with the degree of built form uplift sought.
<b>Tree management</b>	<ul style="list-style-type: none"> <li>• Tree removal to be replaced with avenue of canopy trees along Nicholson Street.</li> <li>• 1:2 tree replacement ratio encouraged.</li> <li>• Arboricultural impact report to be submitted.</li> </ul>
<b>Height and FSR non-compliance</b>	<ul style="list-style-type: none"> <li>• Clause 4.6 written requests to height and FSR control to address Draft 2036 Plan.</li> <li>• Clause 4.6 written requests to be considered on merit.</li> </ul>
<b>Sustainability</b>	<ul style="list-style-type: none"> <li>• ESD report encouraged with DA submission.</li> </ul>
<b>Traffic and parking</b>	<ul style="list-style-type: none"> <li>• Shortfall of more than 600 spaces not supported.</li> <li>• Traffic consultant to use Council's Aimsun traffic model.</li> <li>• Construction Management Plan (CMP) to be submitted with the DA</li> </ul>
<b>Engineering</b>	<ul style="list-style-type: none"> <li>• Stormwater Management Plan to be prepared including details of OSD design</li> </ul>
<b>Accessibility</b>	<ul style="list-style-type: none"> <li>• Access Report to be submitted with DA.</li> </ul>
<b>Requests for Further Information - (RFI)</b>	
<b>6 April 2021 – RFI</b>	
<ul style="list-style-type: none"> <li>• Cause 4.6 written request to vary the building height and FSR development standards to be revised to address amenity impacts (views, privacy amenity, and solar access) of a compliant scheme for Buildings A &amp; B on existing and approved surrounding residential development.</li> <li>• Justification/amended design to address partial non-compliance with street setback and street wall height controls under the 2036 Plan.</li> <li>• Swept path analysis for waste vehicles.</li> <li>• Details of facilities to rooftop communal open space areas.</li> <li>• Revise landscape plans to show planting relative to two exhaust towers, species suitability to solar access, details of street trees to the Christie Street entrance, accessibility compliance of access to external spaces, and line of existing basement.</li> <li>• Revised traffic modelling, provision of an additional 15 accessible car parking spaces, driveway profile details, and details of waste vehicle clearance.</li> <li>• Details of integration of utilities and services infrastructure.</li> </ul>	



- Details of awning projections on the western side of Building A and B in the architectural plans.

#### **27 April 2021 – RFI package submitted to Council**

- **Revised view analysis and clause 4.6** to the height of buildings development standard submitted as part of RFI package demonstrating amenity impacts for a compliant scheme for Buildings A and B.
- **Revised architectural plans** – inclusion of utilities/services/facilities details, and details of retractable shade devices and awning projections.
- **Revised landscape plans and landscape design report** – details of plant species and solar access, details of shade devices, details of facilities such as seating, inclusion of new Christie Street trees, and details of accessibility compliance of access to external areas.
- **Addendum traffic response** to address traffic modelling, accessible parking shortfall, overall car parking shortfall, waste vehicle clearance and swept path analysis, and retention of pedestrian access from Oxley Street to Christie Street.

#### **14 May 2021- Meeting**

Meeting with Council and Applicant to run through RFI package and any outstanding issues. Key outcomes of the meeting are listed below:

- Justification for partial non-compliance with the street setback and street wall height controls is accepted. A 10m wide landscape strip between the site boundary and Oxley Street is to be upgraded under the proposal. A further 5m setback is not warranted.
- The proposed 600mm setback on the western tip of Building B will align with Building C and the new civic green and is supported.
- The proposed street wall height of 4 storeys to Oxley Street exceeds the 3-storey guidance under the 2036 Plan but is supported on merit based on a contextual analysis and highly modulated built form.
- Further information agreed to be submitted to Council includes softworks plans of vertical planting structures, planter troughs and species as represented in the drawings. A revised landscape/architectural package was submitted to Council on 31 May 2021/
- The Applicant's traffic engineers to liaise with Council's Traffic Engineers directly to resolve traffic modelling issue and accessible parking non-compliance.

#### **31 May 2021 - RFI**

- Revised landscape/architectural package submitted to Council including softworks plans of vertical planting structures, planter troughs and species.

#### **9 June 2021 - Meeting**

Meeting held between Applicant's Traffic Engineer's and Council's Traffic Engineers. The following was resolved:

- Council will impose a condition of consent requiring the SIDRA traffic modelling to be converted to AIMSUM format (in order to align with Council's future traffic modelling of the precinct). No further modelling is required prior to the DA determination.
- PTC will prepare an addendum statement outlining the constraints associated with retaining the existing car park and justifying the shortfall in accessible parking. This was issued to Council on 11 June. The statement relies upon the reduced accessible parking requirement under the Willoughby and North Sydney DCP to demonstrate that the proposed 8 accessible parking spaces would comply.
- It was agreed that an additional 4 spaces could be allocated as potential accessible spaces (able to be converted to accessible spaces) should the demand arise. This is conditioned.

### 11 June 2021

- Addendum Traffic Statement submitted to Council.

### 21 June 2021

- Addendum view analysis submitted to Council using Assessment Officer's photographs of Objectors units at Level 12, 13 and 17 of St Leonards Square (486 Pacific Highway).

## 2.2. Relevant Development Applications / Planning Proposals

Details of Council's four (4) 'pilot projects' as part of revitalisation of St Leonards are provided below:

DEVELOPMENT APPLICATIONS			
DA No.	Address	Description	Status
222/2014	472-494 Pacific Highway, St Leonards - <i>Mirvac's 'St Leonards Square'</i>	Demolition and construction of a mixed-use development comprising two towers (35-storeys and 27-storeys), retail, 539 units, commercial, community and recreational uses and parking for 672 cars.	Approved – 26/05/2016 (former JRPP)
212/2015	496-498, 500, 504-520 Pacific Highway, St Leonards - <i>New Hope 'Landmark'</i>	Mixed-use building of 43-storeys comprising non-residential podium, 495 residential dwellings, car parking and upgrade works to Friedlander Places.	Approved – 19/12/2017 (Sydney North Planning Panel)
205/2015	1-13 Marshall Avenue, St Leonards - <i>Loftus 'Embassy Tower'</i>	Mixed use development of maximum 29 storeys comprised of two (2) buildings over a common basement car park including 269 apartments, 291 parking spaces, and commercial/retail space.	Approved – 29/06/2016 (Former Sydney East Joint Regional Planning Panel)
6/2018	71-79 Lithgow Street, 82-90 Christie Street, 84A Christie Street, Christie Lane and Lithgow Street, 546-564 Pacific Highway - <i>JQZ '88 Christie Street'</i>	Mixed-use development comprised of two towers of 47- storeys and 26-storeys, and 14-storey commercial building, 637 residential units, 10 basement parking levels, 316 public car parking spaces, public library, new laneway, civic plaza, and retail space.	Approved 28/11/2018 (SNPP)
PLANNING PROPOSALS			
PP-2021-2071	38-46 Nicholson Street and 59-67 Christie Street	Increasing the maximum FSR to 15:1 and building height to RL 175.2m (approximately 31 storeys) in accordance with the <i>St Leonards and Crows Nest 2036 Plan</i> (2036 Plan).	Gateway Determination Approved 09/04/2021

DEVELOPMENT APPLICATIONS			
DA No.	Address	Description	Status
			Note: Lodged prior to release of Final 2036 Plan.

### 3. PRIMARY ISSUES

Issues	Conclusion	Section
Height and FSR non-compliance	<ul style="list-style-type: none"> <li>Reliance on the <i>2036 Plan</i> to justify derogation from the existing LEP height/FSR controls is supported.</li> <li>Clause 4.6 written requests have been submitted.</li> </ul>	8.4.4
Minor street setback and wall height non-compliance with <i>2036 Plan</i>	<ul style="list-style-type: none"> <li>The minor variations sought to the street wall height and setback controls under the <i>2036 Plan</i> are acceptable on merit.</li> </ul>	7.1
View impacts	<ul style="list-style-type: none"> <li>Comparative view analysis undertaken for the permissible envelope under the LEP controls, built form under the <i>2036 Plan</i>, and proposed building envelope.</li> <li>Site inspections of objector's units in <i>St Leonards Square</i> carried out.</li> <li>View loss to surrounding residential units, particularly <i>St Leonards Square</i> are supported on the basis of contextual analysis and strategic planning framework.</li> </ul>	8.4.4
Car parking provision	<ul style="list-style-type: none"> <li>The proposal shortfall of 4 car parking spaces (281 proposed for Buildings A and B) is acceptable due to the proximity of the site to existing and planned public transport.</li> </ul>	8.5
Vehicular access	<ul style="list-style-type: none"> <li>No objections are raised by Council's Traffic Engineer to the proposed vehicular access via a consolidated driveway from Oxley Street to the lower ground floor (waste collection and loading dock), and basement car park.</li> </ul>	8.5
Accessible parking	<ul style="list-style-type: none"> <li>A condition is included to provide an additional 4 car parking spaces capable of being converted to accessible parking spaces should the demand arise.</li> <li>The provision of total car parking spaces including accessible parking provision and adaptable accessible spaces, bicycle parking, and motorcycle parking is conditioned.</li> </ul>	8.5
Traffic	<ul style="list-style-type: none"> <li>Traffic generation associated with the concept proposal is acceptable.</li> </ul>	8.5
Execution of VPA	<ul style="list-style-type: none"> <li>Deferred commencement approval is recommended, subject to execution of the VPA prior to the consent becoming operative.</li> </ul>	8
Timing of works-in-kind under the VPA	<ul style="list-style-type: none"> <li>A condition of consent is included enforcing the completion of all works-in-kind under the VPA as part of the Stage 1 works.</li> </ul>	5

Issues	Conclusion	Section
Maintenance/upkeep of public toilets under the VPA	<ul style="list-style-type: none"> <li>Council resolved at its Ordinary Meeting on 21/6/2021 to enter into the VPA with the developer, subject to a further condition that the public toilets be cleaned daily and refurbished every 15 years. A separation condition to this effect is included.</li> </ul>	5
Overshadowing / solar access	<ul style="list-style-type: none"> <li>Minor non-compliance (maximum 15 minutes) with the solar access requirements to 23-25 Christie Street of 2 hours under the <i>2036 Plan</i> and 3 hours under the LCDCP 2010.</li> <li>Solar access to Newlands Park to the south-west is compliant with <i>2036 Plan</i> requirements</li> </ul>	8.4.4
Community facilities	<ul style="list-style-type: none"> <li>Release of Public Positive Covenant from title which protects maintenance of a child-care centre, gymnasium, and tennis-court as a condition of entering into the VPA is supported by the Council.</li> <li>Public benefits offered under the VPA includes public domain improvements and provision of public toilets.</li> </ul>	1

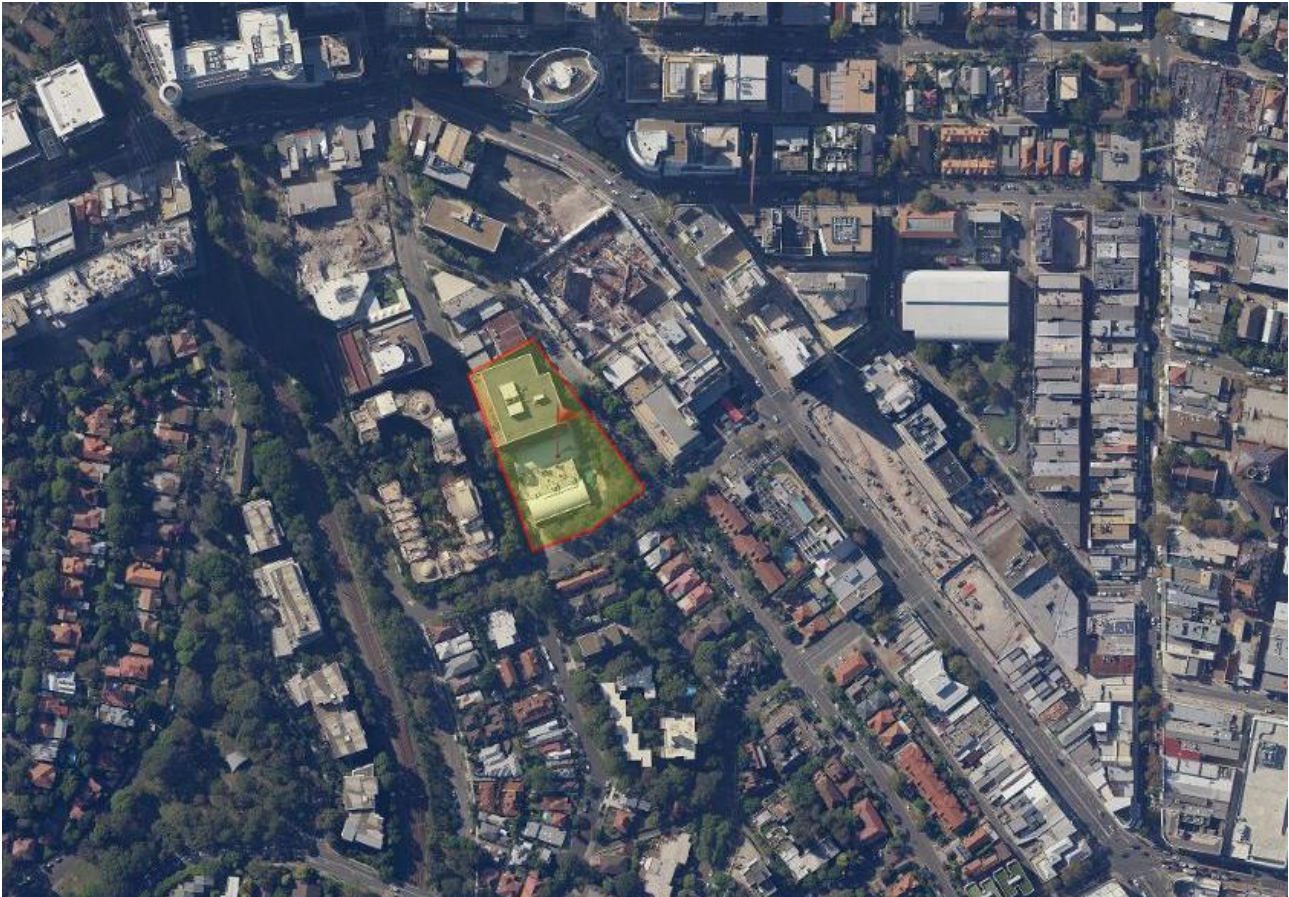
## 4. DESCRIPTION OF THE SITE AND LOCALITY

### 4.1. Site Description

Feature	Description
<b>Street address</b>	29-57 Christie Street, St Leonards
<b>Legal description</b>	Lot 1 in Deposited Plan 773862
<b>Site area</b>	7,636 m <sup>2</sup>
<b>Site dimensions</b>	Christie Street frontage: 115.45m (west) Oxley Street frontage: 83.48m (south) Nicholson Street frontage: 112.42m (north) Northern boundary: 48.14m
<b>Site topography</b>	The site and existing buildings sit below the Nicholson Street frontage by approximately 4m. The site slopes down from south-east (RL83) to south-west (RL76) by 7m and north-west (RL 72) by 11m.
<b>Existing buildings and vegetation</b>	The site contains two commercial buildings, an 8-storey office building on the northern side of the site and 2-storey building tenanted by Fitness First gym on the southern portion. There are three (3) levels of basement parking existing providing a total of 305 car parking spaces for commercial tenants. Existing vegetation includes tree plantings along the Nicholson Street and Oxley Street frontages and Christie Street reserve adjacent the site.
<b>Surrounding development</b>	<p><b>North:</b> Existing 2, 3 and 4-storey commercial building on land at 38-46 Nicholson Street and 59-67 Christie Street. Gateway Determination has been granted (9 April 2021) for a Planning Proposal on this site (lodged prior to release of the Final 2036 Plan) which involves increasing the maximum FSR to 15:1 and building height to RL 175.2m (approximately 31 storeys).</p> <p><b>East:</b> Multi-storey commercial and mixed-use development</p>

	including the recently completed 36-level mixed-use development (St Leonards square) at 472-492 Pacific Highway, St Leonards.
<b>South:</b>	Low density residential development on the southern side of Oxley Street and multi-dwelling housing.
<b>West:</b>	Residential flat buildings at 52, 54-56 Christie Street.

A locality plan is provided at **Figure 1** below.



**Figure 1.** *Locality Plan (Source: SixMaps).*

#### **4.2. Site and Surrounding Area**





**Figure 2.** *Subject site.*



**Figure 3.** *Christie Street as viewed from its northern end adjacent the subject site. The existing commercial building (shown) is the subject of the concept envelope for Building C (Stage 2).*

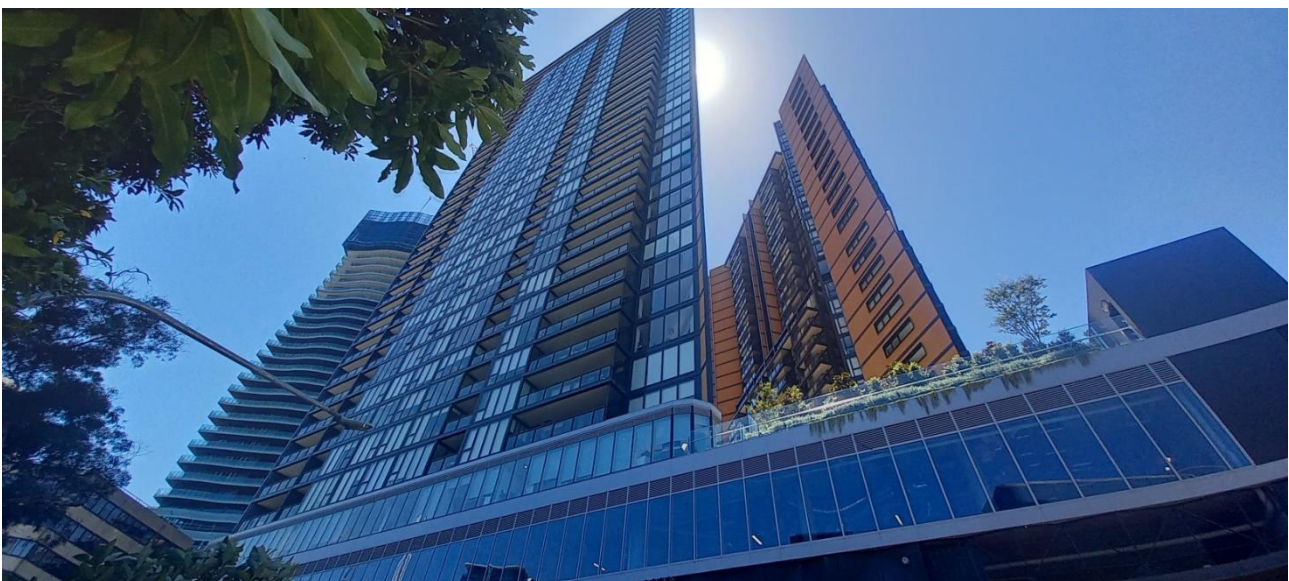




**Figure 4.** Existing building on the northern portion of the site (subject to concept Building C), as viewed from Christie Street. Building B of St Leonards Square is located to its rear.



**Figure 5.** Existing building on the northern portion of the site (subject to the proposed concept Building C with height of 18m) fronting Nicholson Street.





**Figure 6.** *Mirvac building (St Leonards Square) to the north-east of the site at Nicholson Street frontage (Max RL of 204.5m and 180.5m (orange building) – B4 Zoning). To its left (visible) is a separate development approved to a height of RL 227.4 – B4 Zoning).*

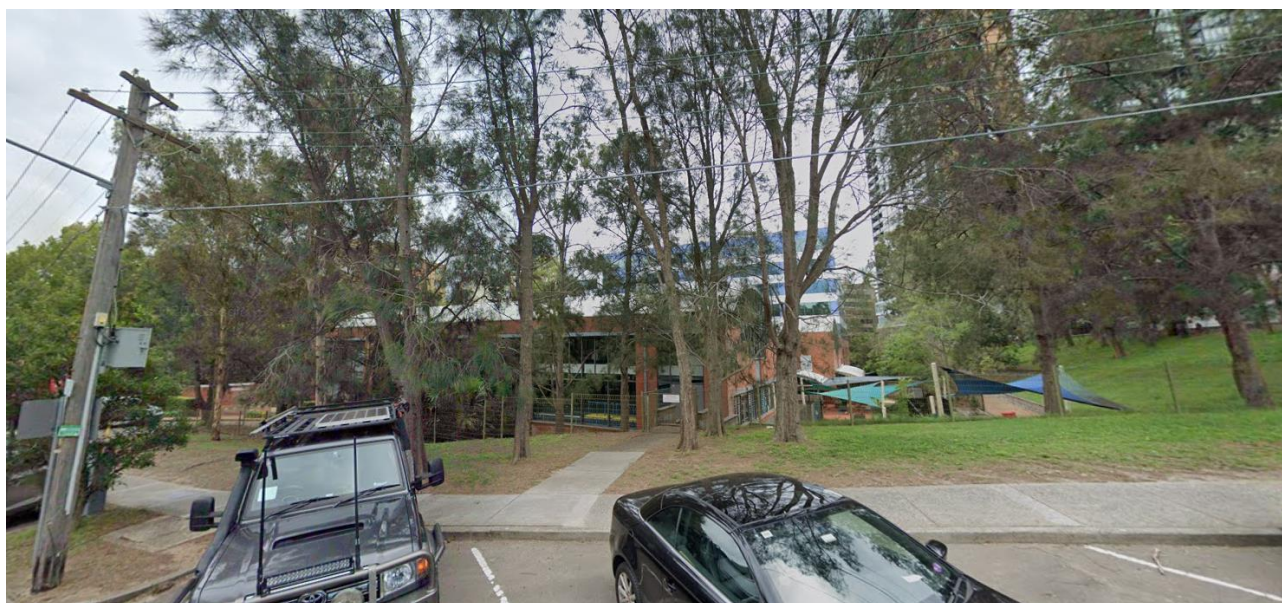


**Figure 7.** *Christie Street Reserve (RE1) adjacent the southern portion of the site. B3 Zoned land to the west of the reserve is developed with residential flat buildings.*



**Figure 8.** *Existing building on the southern portion of the site occupied by Fitness First. This is to be demolished under Stage 1 of the proposal to accommodate Buildings A and B.*



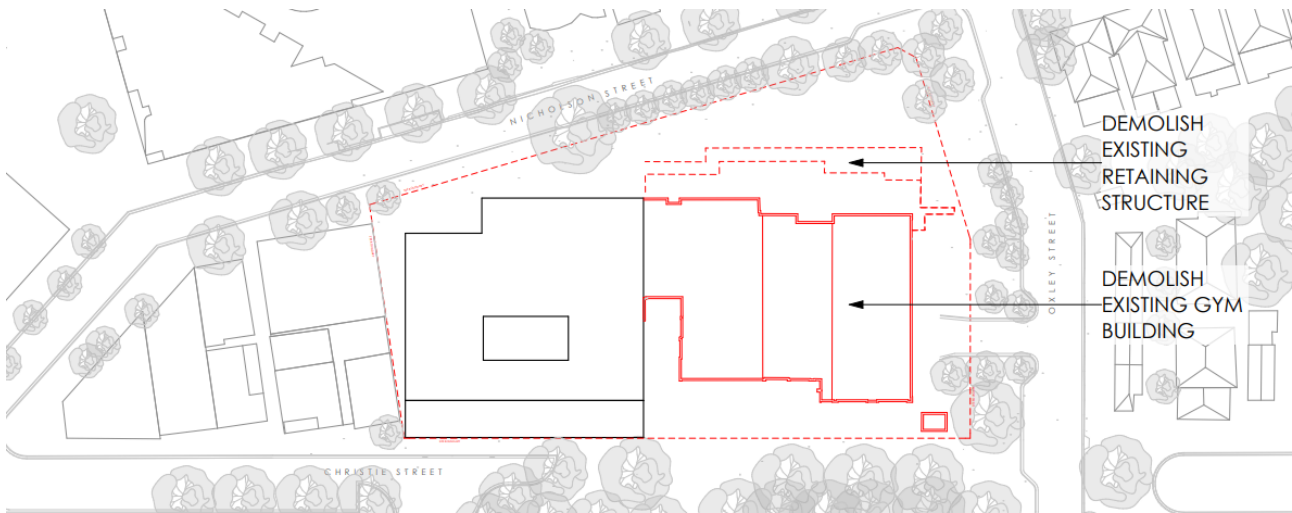


**Figure 9.** Subject site (Fitness First) as viewed from Oxley Street.

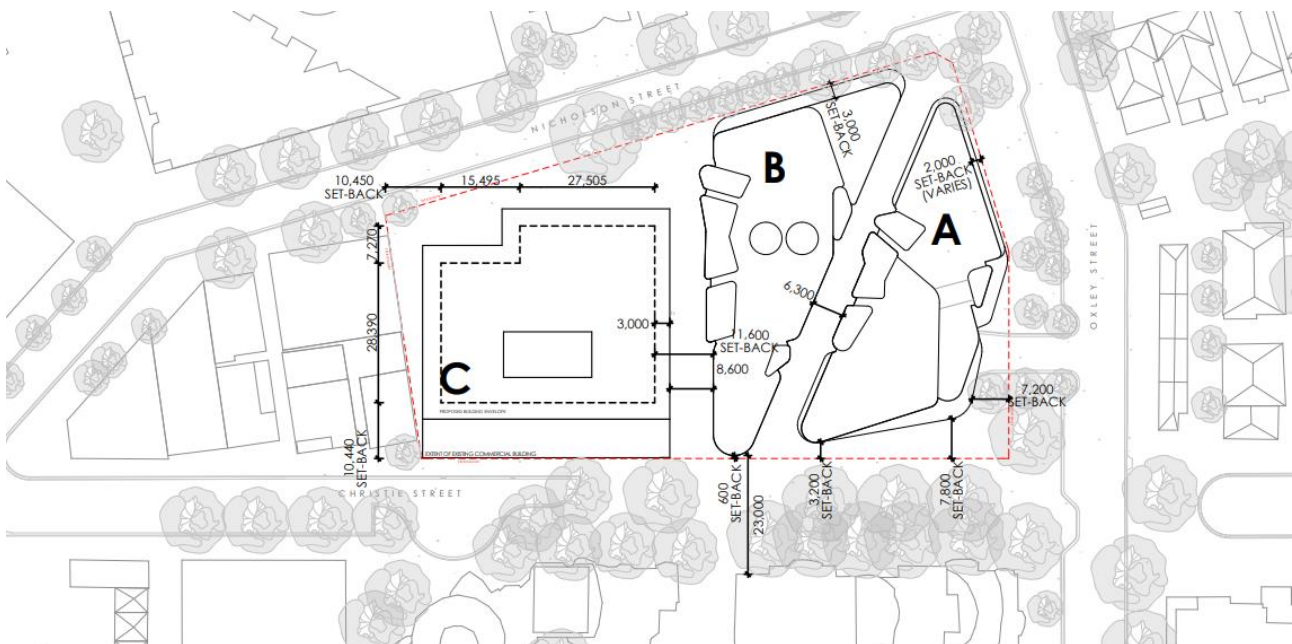
## 5. PROPOSAL OVERVIEW

The proposal involves a concept staged development application to establish three building envelopes (18, 12 and 8 storeys) on the site, as follows:

Stage	Development description
<b>Stage 1</b>	<ul style="list-style-type: none"> <li>Detailed DA for demolition of the existing building on the southern portion of the site occupied by Fitness First and construction of Buildings A &amp; B (<b>Figures 10 &amp; 11</b>).</li> <li>Alterations and additions to the existing basement car park under Buildings A &amp; B.</li> <li>Public domain works to be executed as part of a VPA including upgrading of public domain/public open space works, creation of two through-site links, and new public toilets.</li> <li>Landscaping works.</li> <li>Provision of 281 car parking spaces for Buildings A and B including 8 accessible parking spaces.</li> <li>Vehicular access is proposed via a consolidated driveway from Oxley Street to the lower ground floor (waste collection and loading dock), and basement car park.</li> <li>Provision of 124 bicycle parking spaces and 50 racks</li> <li>20 motorcycle spaces.</li> <li>Retention of the northern office building (future Building C)</li> </ul>
<b>Stage 2</b>	Concept DA for Building C.



**Figure 10.** Building on the southern portion of the site to be demolished.



**Figure 11.** Proposed site plan showing the location of Building C (concept only), and Buildings A & B (detailed DA).

Photomontages of the proposal submitted with the architectural package are provided below:





**Figure 12.** Photomontage 1 – Site as viewed from Oxley Street (Source: Fitzpatrick + Partners, Drawing DA-28).



**Figure 13.** Photomontage 2 - Through-site link between Buildings A & B looking to the south-east (Source: Fitzpatrick + Partners, Drawing DA-29).



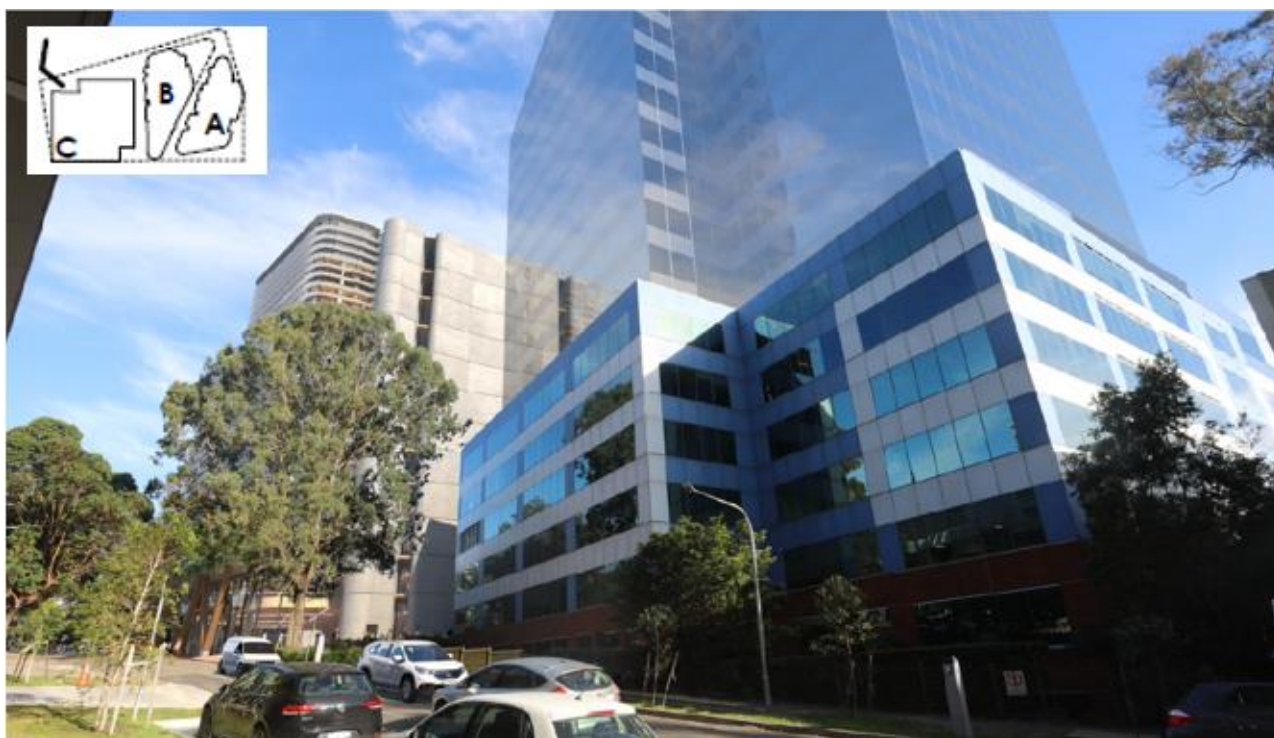


**Figure 14.** Photomontage 3 – Buildings A & B as viewed from the west (Source: Fitzpatrick + Partners, Drawing DA-30).



**Figure 15.** Photomontage 4 – Buildings A & B as viewed from the west (Source: Fitzpatrick + Partners, Drawing DA-31).





**Figure 16.** Photomontage 5 – Buildings B and C as viewed from Nicholson Street (Source: Fitzpatrick + Partners, Drawing DA-32).

## 6. REFERRALS

Referral	Comments	Satisfactory
<b>Tree Preservation Officer</b>	Satisfactory subject to conditions. <i>Key comments:</i> <ul style="list-style-type: none"> <li>Tree removal and replacement tree planting acceptable.</li> </ul>	✓
<b>Landscape Architect</b>	The revised landscape package is satisfactory subject to conditions. <i>Key comments:</i> <ul style="list-style-type: none"> <li>Issues identified in the preliminary assessment satisfactorily addressed.</li> </ul>	✓
<b>Building Surveyor</b>	Satisfactory subject to conditions. <i>Key comments:</i> <ul style="list-style-type: none"> <li>The proposal can comply with deemed to satisfy provisions of the BCA, subject to recommended conditions of consent.</li> </ul>	✓
<b>Development Engineer</b>	Satisfactory subject to conditions. <i>Key comments:</i> <ul style="list-style-type: none"> <li>Concept stormwater plans generally satisfactory subject to minor amendments at the CC stage (conditioned).</li> </ul>	✓
<b>Environmental and Waste</b>	Satisfactory subject to conditions. <i>Key comments:</i> <ul style="list-style-type: none"> <li>Special condition included requiring a Detailed Site Investigation following demolition works to address potential historical contaminants finding in the preliminary site investigation.</li> </ul>	✓
<b>Traffic</b>	Satisfactory subject to conditions. <i>Key comments</i> <ul style="list-style-type: none"> <li>Upgrade to AIMSUM traffic model conditioned.</li> </ul>	✓

Referral	Comments	Satisfactory
	<ul style="list-style-type: none"> <li>Sustainable Transport Action Plan (STrAP) conditioned.</li> <li>Construction Management Plan conditioned.</li> <li>Shortfall of 4 car parking spaces acceptable.</li> <li>Provision of accessible parking spaces acceptable, subject to a condition requiring an additional four spaces to be capable of being converted to accessible parking spaces.</li> </ul>	
<b>Strategic Planning</b>	<p>No objections raised to the proposed development and height/FSR variations.</p> <p><i>Key comments</i></p> <ul style="list-style-type: none"> <li>Overall, the application is consistent with the strategic planning framework of the <i>Greater Sydney Region Plan</i>, <i>North District Plan</i>, <i>2036 Plan</i> and Council's <i>Local Strategic Planning Statement</i>.</li> <li>The application would achieve the Commission's expectations and actions for strategic centres and co-locate a wide mix of appropriate land uses, while delivering an increase in commercial floor space and jobs.</li> <li>These commercial offices are focused around the St Leonards train station and Crows Nest Metro Station – maintaining it as a commercial office precinct. Given that the proposed development would provide opportunity for increased jobs growth it has significant strategic and site-specific merit.</li> <li>The application is consistent with the B3 Commercial Core zoning and future land uses of the <i>2036 Plan</i>. The variation to the heights under the 2036 plan for Buildings A and B (1-2 storeys) is considered to be minor. A reduced height is proposed for Building C from 25 storeys (permitted) down to 18 (proposed).</li> <li>The entire built form achieves the indicative floor space ratio envisaged by the 2036 Plan (of 7.5:1).</li> <li>The proposed built form would still provide at least 2 hours solar access in mid-winter to the majority of dwellings. This is entirely consistent with the actions of the 2036 Plan.</li> <li>Overall, the application is consistent with the vision, objectives, and actions of the <i>2036 Plan</i>. The variation to the indicative building heights (in storeys) is considered to be minor but will help the site achieve the envisaged floor space ratio while being consistent with the solar access principles and actions of the <i>2036 Plan</i>.</li> </ul>	✓
<b>WaterNSW</b>	General Terms of Approval provided	✓
<b>TfNSW</b>	Concurrence obtained	✓

## 7. ST LEONARDS CROWS NEST 2036 PLAN (2036 Plan)

### 7.1. 2036 Plan compliance summary table

Control	2036 Plan	Proposed	Compliance
<b>Zone</b>	B3 Commercial Core (no	Commercial development	Yes

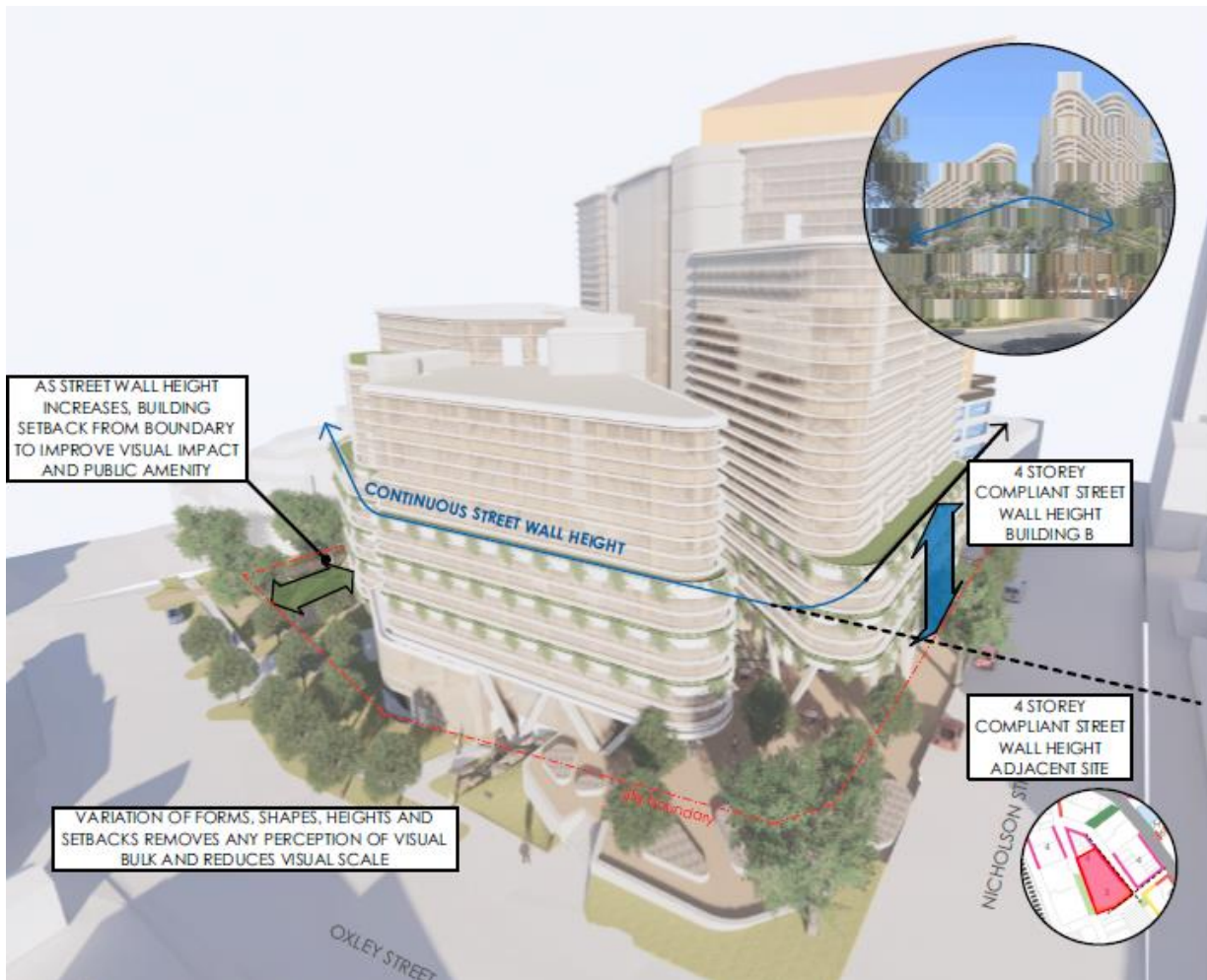
	change)	(Building A and B)	
<b>Height</b>	Building A: 6 storeys Building B: 11 storeys Building C: 25 storeys	Building A: 8 storeys Building B: 12 storeys Building C: 18 storeys	Marginal non-compliance for Building A and B – refer clause 4.6 discussion in <b>Section 8.4.4</b> . Building C complies.
<b>FSR</b>	7.5:1	7.5:1	Yes
<b>Street Setbacks</b>	3m to Nicholson Street, 5m to Oxley Street	Varied setbacks proposed	Minor variation – refer discussion in <b>Section 8.5.1</b> .
<b>Street Wall</b>	3 storeys to Oxley Street, 4 storeys to Nicholson and Christie Street	4-storey street wall	Minor variation – refer discussion below
<b>Car Parking</b>	2036 Plan supports reduced parking in new developments, particularly in proximity to St Leonards and Crows Nest station.	281 car spaces proposed in total	4 space shortfall reasonable given proximity to public transport.
<b>Solar Access</b>	Retain solar access to Newlands Park between 10am and 3pm, and 2 hours to residential area to the south between 9am and 3pm.	Newlands Park will receive full sun between 10am and 3pm. Residential areas will receive a minimum 2-hours solar access with the exception of 23-25 Christie Street - A maximum reduction of 15 minutes is proposed to the 2 hour requirement for some surfaces on the northern and eastern elevations (measured in 1m <sup>2</sup> areas).	Yes – Newlands Park. Partial compliance for residential solar access requirement is considered reasonable – addressed in <b>Section 8.4.4</b> .

## Street wall height

The variation sought (*4m proposed*) to the 3m street wall height requirement along the Oxley Street frontage is supported for the following reasons:

- The proposed 4m street wall height to Oxley Street would maintain a continuous street wall height with existing development to the east of the site, as demonstrated in the *street wall study*, prepared by Fitzpatrick + Partners at **Figure 17**.
- The inclusion of horizontal planting on structures and wide landscaped verge would reduce the actual and perceived bulk of the development from the pedestrian scale.
- The curvilinear and organic form of Building A would ensure that solar access provision to residential development to the south is acceptable.

- The lobby to Building A is recessed at the intersection of Oxley Street and Nicholson Street behind a deep timber colonnade which would provide a secondary space for undercover pedestrian movement.



**Figure 17.** Street wall study (Source: Council RFI, Fitzpatrick + Partners)

## 8. SECTION 4.15 EVALUATION

### Any Environmental Planning Instruments: S4.15(1)(A)(I)

#### 8.1. State Environmental Planning Policy No. 55 – Remediation of Land

*State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)* aims to provide a framework for the assessment, management, and remediation of contaminated land.

Clause 7(1) of SEPP 55 states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and it is satisfied that the land is suitable (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The *Preliminary Site Investigation* by Douglas Partners indicates potential historical contaminants on the site. As such, a *Detailed Site Investigation* is recommended following demolition of the existing Fitness First building (Conditioned).



## 8.2. State Environmental Planning Policy (State and Regional Development) 2011

Pursuant to Schedule 7 of SEPP (State and Regional Development) 2011, the proposal is deemed to be regionally significant development as it has a capital investment value of more than \$30 million and is required to be determined by a regional planning panel.

## 8.3. State Environmental Planning Policy (Infrastructure) 2007

<b>SEPP (Infrastructure) 2007 Compliance Summary</b>	
<b>Provision</b>	<b>Compliance</b>
Clause 3 Aim of Policy	Yes
Clause 104 Traffic-generating development (Schedule 3)	Yes. The application was referred to TfNSW. Concurrence has been provided.

## 8.4. Lane Cove Local Environmental Plan 2009

### 8.4.1. Compliance summary table

<b>Lane Cove LEP 2009 Compliance Summary</b>	
<b>Provision</b>	<b>Compliance</b>
Clause 1.2 Aims of the plan	Yes
Clause 2.3 Permissibility	Yes
Clause 2.3 Zone objectives	Yes - B3 Commercial Core Detailed assessment in clause 4.6 assessment
Clause 2.7 Demolition requires development consent	Yes
Clause 4.3 Building Height	No – refer clause 4.6 assessment
Clause 4.4 Floor Space Ratio	No – refer clause 4.6 assessment
Clause 4.6 Exceptions to development standards (Height and FSR)	Yes – refer clause 4.6 assessment
Clause 6.1 Acid Sulfate Soils	Yes The subject site is not identified on the Acid Sulfate Soils Map under LCLEP 2009 as being affected by acid sulfate soils. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation.
Clause 6.1A Earthworks	Yes Minimal excavation is proposed as the proposed development will utilise the existing basement car park. Where additional excavation is required for alterations and additions to the basement car park, recommendations for appropriate site preparation, earthworks and excavation support is provided in the submitted Geotechnical Report (Compliance with recommendations conditioned).

Non-compliances are discussed below:

### 8.4.2. Clause 4.3 Height of buildings

Lane Cove LEP 2009						
Clause	Control	Proposed		Complies	Variation to LEP Height Control	2036 Plan
4.3 – Height of buildings	25m (6-7 storeys)	Building A	RL 115.20 - 8 storeys	No	13.7m (54.8%)	6 storeys
		Building B	RL 130 - 12 storeys (including roof plant)	No	28.5m (114%)	11 storeys
		Building C	RL – 151.40 - 18 storeys	No	47.9m (191.6%)	25 storeys

\* Notes: RL's include roof plant

The proposal does not comply with the maximum height prescribed by clause 4.3.

A clause 4.6 assessment is detailed and assessed in **Section 8.4.4** of this Report.

### 8.4.3. Clause 4.4 Floor Space Ratio

Lane Cove LEP 2009					
Clause	Control	Proposed		Variation to LEP Control	2036 Plan
Clause 4.4 – FSR  (Site Area – 7,636m <sup>2</sup> )	4.5:1 (34,362m <sup>2</sup> )	Buildings A & B	25,905m <sup>2</sup>	22,905m <sup>2</sup> (67%)	7.5:1
		Total	57,267m <sup>2</sup> (7.5:1)		

The proposal does not comply with the maximum FSR prescribed by clause 4.4.

A clause 4.6 assessment is detailed and assessed in **Section 8.4.4** of this Report.

### 8.4.4. Clause 4.6: Exceptions to Development Standards

#### Departure

The proposal involves a departure to the height of buildings (clause 4.3) and floor space ratio (clause 4.4) development standards under Lane Cove LEP 2009. The extent of variation is outlined in the tables above.

#### Purpose

Part 4.6 allows a contravention of a development standard with the objectives being to allow an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The proposal is consistent with the objective of Clause 4.6 in that the variation sought to the development standards would facilitate the delivery of a commercial development that is consistent with the desired future character of the area under the *2036 Plan* and *North District Plan*.

### Written Request

Clause 4.6(3) requires the consent authority to consider the applicant's written request that seeks to justify the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided written requests to vary the height of buildings (HOB) and FSR development standards. These are included at **Annexures 10 & 11**.

The following justification is provided by the Applicant to vary the HOB control:

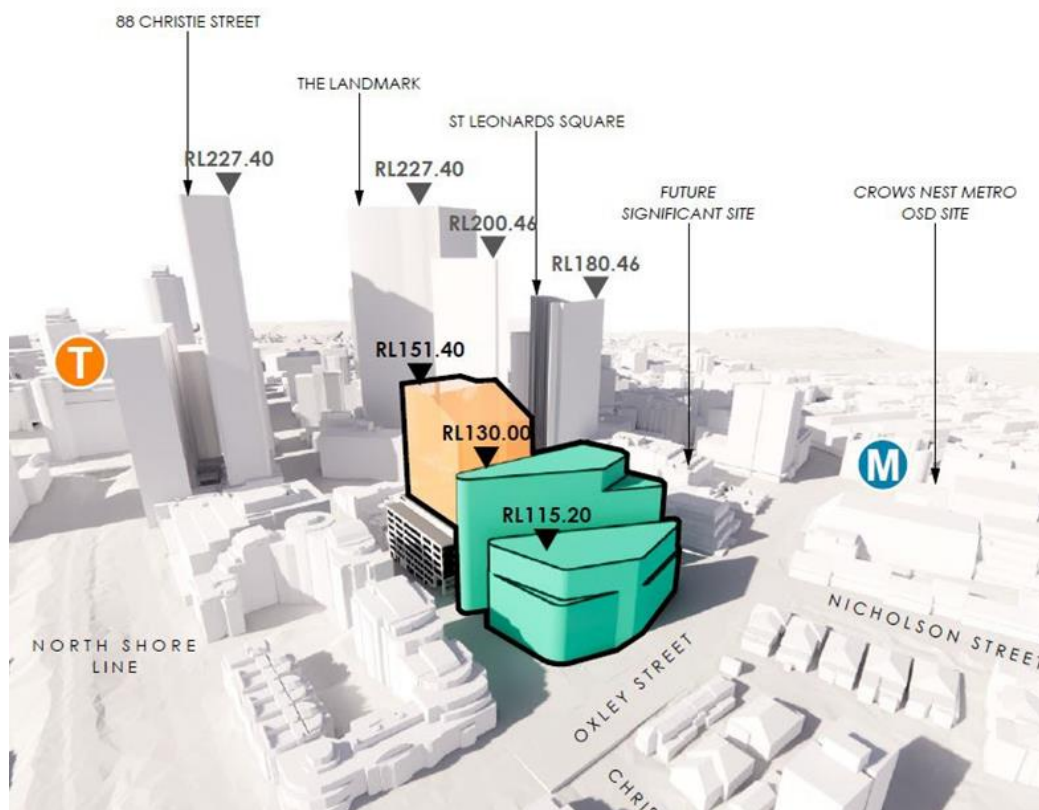
*'The objectives of the standard are achieved notwithstanding non-compliance with the standard'*

<b>Objectives</b>	<b>Assessment</b>
a) to ensure development allows for reasonable solar access to existing buildings and public areas,	<ul style="list-style-type: none"> <li>• The proposed development has been specifically designed to retain a compliant level of solar access to the low-density residential dwellings to the south of the site and to Newlands Park to the south-west of the site, as required by the <i>2036 Plan</i>.</li> <li>• The overshadowing analysis prepared by Fitzpatrick + Partners (Appendix C of the SEE dated 18 November 2020) sets out the detailed methodology followed. The analysis demonstrates that the proposed building envelopes will enable continued solar access to surrounding properties and public open space and solar access will not be unreasonably reduced to those properties. The analysis examines the solar access controls and built form controls for the site under the <i>2036 Plan</i> and <i>Lane Cove DCP 2010</i>.</li> <li>• Buildings A and B and the envelope for Building C will not result in an unreasonable shadow impact when considered against the planning controls.</li> <li>• The proposed built form of Buildings A and B and the envelope for Building C does not reduce the existing extent of solar access to Newlands Park.</li> <li>• The overall development envelope was designed to not reduce solar access to the dwellings to the south to less than 3 hours (applying to dwellings that receive more than 3 hours). For dwellings that currently receive less than 3 hours, this building envelope would not reduce the current level of solar access.</li> <li>• Whilst the majority of the proposed development fits within this development envelope, attempts to fit wholly within the envelope generated an awkward and undesirable tiered built form, therefore a minor extent of the proposed built form sits outside.</li> <li>• The solar study analysed the extent of built form (Building A and B) sitting outside the envelope and found that the maximum reduction in solar access is 15 minutes on 21 June and is limited to the dwellings at 23-25 Christie Street.</li> </ul>

	<ul style="list-style-type: none"> <li>• The area of study has high levels of tree coverage, which were not accounted for in the overshadowing analysis, and the results of the study are considered to be more conservative than real life conditions.</li> <li>• The solar access requirements set out in the 2036 Plan require that the dwellings to the south receive a minimum of 2 hours solar access. The proposed development (Building A and B and the envelope for Building C) complies with this requirement.</li> <li>• The proposed design response protects the solar access to surrounding properties and public open space. The variation of the LCLEP 2009 height of building control for Building A and B and the Concept Envelope for Building C will provide more than reasonable solar access to public open space and adjacent dwellings.</li> </ul>
b) to ensure that privacy and visual impacts of development on neighbouring properties, particularly where zones meet, are reasonable,	<ul style="list-style-type: none"> <li>• Privacy and visual impacts between the proposed development and surrounding residential properties is managed through separation distances, building location and orientation.</li> <li>• Building A is separated from the dwellings to the south and the residential development to the west by a distance of approximately 25m.</li> <li>• The visual impacts of the proposed development, particularly on the low-density residential zone to the south, have been addressed through building design with stepping of the built form, with the lowest building fronting Oxley Street.</li> <li>• The proposed development will be viewed from the residential dwellings to the south against much taller buildings recently approved or currently under construction in St Leonards, including 88 Christie Street (RL227.4), 500 Pacific Highway (RL227.4), St Leonards Square (RL180.46) and the potential development adjoining the site to the north at 46 Nicholson Street where a Planning Proposal has been lodged to increase the height of building control to RL175.2m.</li> <li>• The proposed concept development has a modest height and built form in this context, particularly in relation to Building C.</li> <li>• The proposed concept development has been designed with an FSR of 7.5:1 consistent with the provisions of 2036 Plan. The proposed bulk and scale is suitable for the site and is compatible with surrounding existing and future character of the commercial centre without adverse visual impact on the adjacent residential area.</li> </ul>
c) to seek alternative design solutions in order to maximise the potential sunlight for the public domain,	<ul style="list-style-type: none"> <li>• The proposed height variation allows the development to deliver a variety of publicly accessible open space at ground level and provide open air through site links between Buildings A, B and C by relocating floor space from ground and lower levels to higher in the tower forms.</li> <li>• These design solutions increase the extent of solar access through the site and maximise the sunlight to the public domain.</li> </ul>
d) to relate development to topography.	<ul style="list-style-type: none"> <li>• The proposal has been deliberately designed to relate to the site's topography as well as the topography of the broader locality. In this regard, the sites fronting the Pacific Highway to the north and east are at a higher level, while the sites to the south and south west are lower than the site.</li> <li>• The design places the greater height to the north with buildings stepping down to the south, with the lowest building (Building A) being closest to the low density residential zone to the south. The</li> </ul>

*highest building (Building C) will be located closest to the taller buildings on Christie Street and Pacific Highway.*

- *The proposed development responds to the varying levels of the site and adjoining and adjacent land. The main lobby entrance to Building A and Building B will be located on the higher side of the site on Nicholson Street, whilst a lower ground floor level will allow access to both buildings from Christie Street.*
- *The proposed development and associated height variation provide a well-considered design response which is appropriate for the scale and emerging character of St Leonards.*
- *The context of building heights within St Leonards is demonstrated in **Figure 7** below:*



*Figure 7 – Height variation within the context of taller buildings in St Leonards (Source: Fitzpatrick + Partners).*

*There are sufficient environmental planning grounds to justify contravening the development standard*

- *There is an absence of environmental harm arising from the proposed built form and associated variation and the height of building control and positive planning benefits arising from the proposed development.*
- *The proposed height variation facilitates the delivery of high-quality employment floor space in Building A and B consistent with the strategic objectives for St Leonards under the Greater Sydney Region Plan, North District Plan and the 2036 Plan as well as Council's objectives for employment growth in Strategic Centres close to public transport.*
- *The proposed height of Building A and B is generally consistent with the height controls set out in the 2036 Plan and the variation to the control will deliver a built form appropriate for*

the site and within the broader context of the St Leonards CBD. The proposed height of Building C is below the 25-storey height limit nominated by the 2036 Plan and positively contributes to the height transition desired by the 2036 Plan.

- The proposed height of buildings is able to be accommodated on the site without creating any significant overshadowing impacts beyond that of a compliant built form, under LCLEP 2009 and the 2036 Plan controls.
- The proposed height variation also retains a greater degree of view sharing in relation to Building C in comparison to compliant building height of 25-storeys from the residential units to the north-west. This is demonstrated in the updated view analysis prepared by Fitzpatrick + Partners. In this regard, residential units in the upper levels of 472-494 Pacific Highway (above RL175) will retain views to the south as a result of the proposed height of Building C. A compliant 25-storey building on the Building C site would obstruct some district and broader views from these units, as demonstrated in **Figure 8** below.

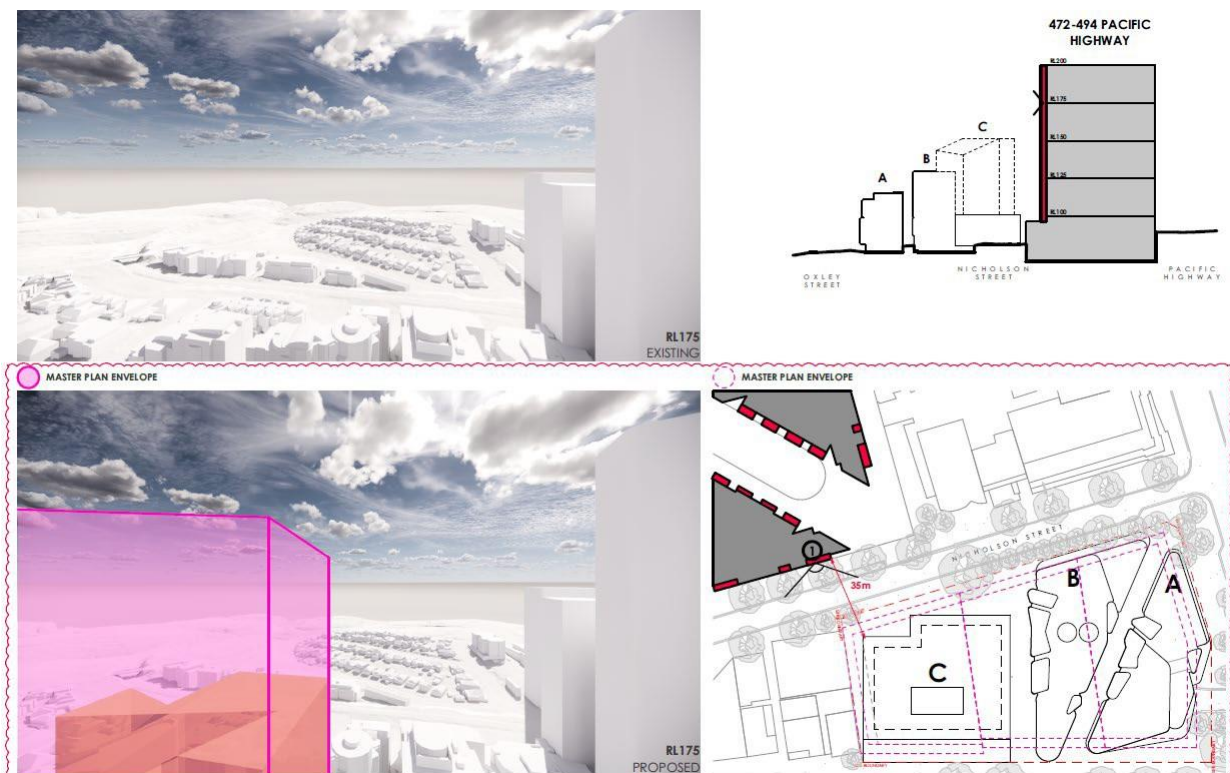


Figure 8 - View analysis demonstrating extent of views retained by proposed height of Building C (Source: Fitzpatrick + Partners). The orange form represents the proposed 18-storey Building C envelope. The pink outline represents the 25-storey height nominated by the 2036 plan.

- The minor exceedance of the 2036 Plan heights for Building A and Building B result in some minor obstruction of immediate district views, however views to North Sydney CBD are retained from all levels of the residential units at 472-494 Pacific Highway, as demonstrated in **Figure 9** below.



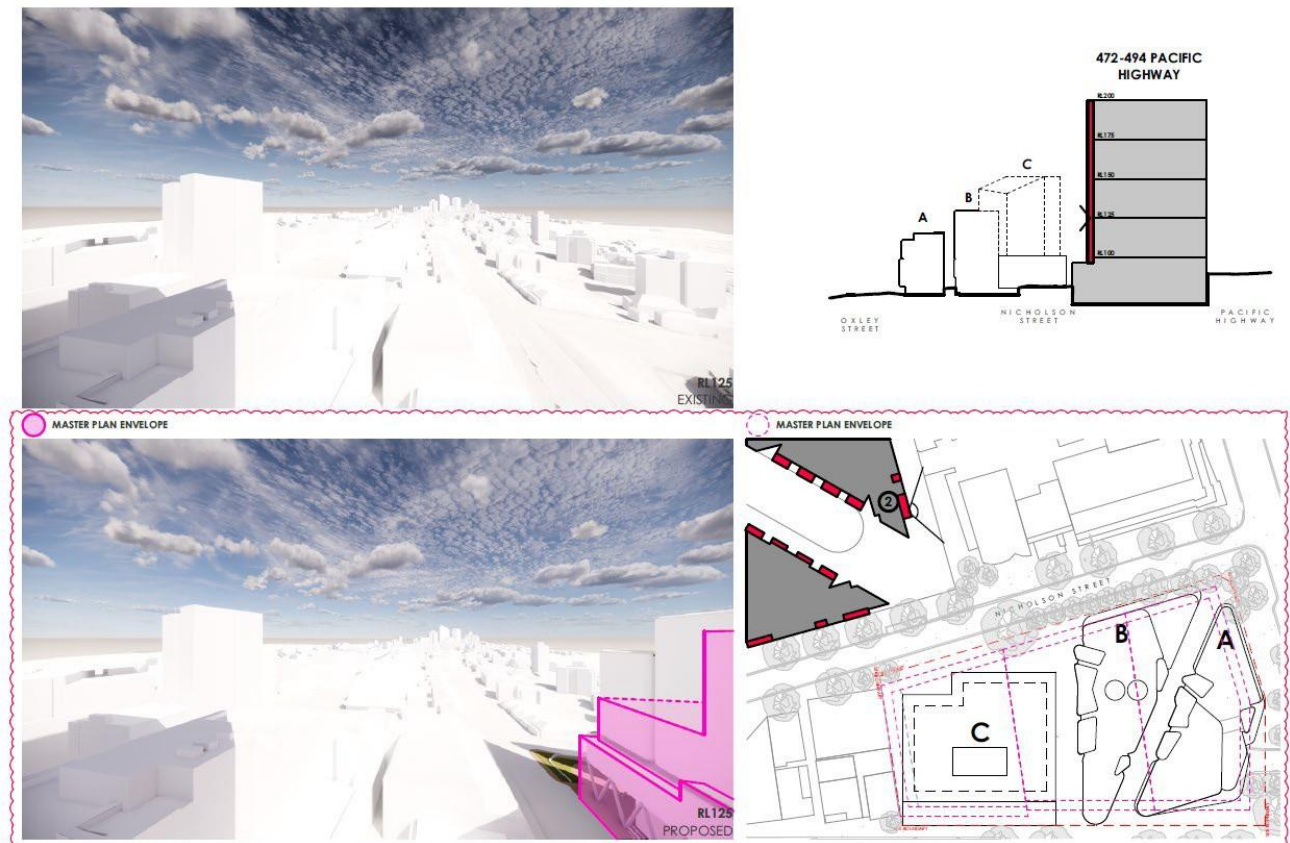


Figure 9 Views to North Sydney CBD will be retained (Source: Fitzpatrick + Partners). The pink outline represents the 6 and 11-storey height nominated by the 2036 Plan.

- The proposed height variation of Building A and B allows for reduced building footprints, smaller floor plates and provision of through site links at ground level which allows for the integration of onsite landscaping and public open space. This is considered to be a better planning outcome for the site and is in the public interest. Smaller building footprints also promote greater access to light and ventilation through the development.
- It is evident that there are sufficient environmental planning grounds to justify the proposed height variation in this instance.

The proposed development is in the public interest – Assessment of compliance with land use zone objectives

Objectives	Assessment
<ul style="list-style-type: none"> <li>• To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.</li> </ul>	<ul style="list-style-type: none"> <li>• The proposed height variation for Building A and B will facilitate the delivery of a commercial development that includes office, retail and community-serving uses including a gym and public bathrooms. The proposed use of Building C will be subject to a future detailed DA.</li> <li>• The proposed development also seeks to enhance the existing Christie Street Reserve adjacent to site to create a greater degree of useable public open space that will be integrated with the publicly accessible spaces within the proposed development.</li> </ul>

<ul style="list-style-type: none"> <li>To encourage appropriate employment opportunities in accessible locations.</li> </ul>	<ul style="list-style-type: none"> <li>The proposed height variation for Building A and B will accommodate new employment opportunities without seeking to exceed the FSR provided for under the 2036 Plan in a highly accessible location between St Leonards Railway Station and the future Crows Nest Metro Station.</li> <li>The proposed commercial floorspace will achieve PCA Office Grade A classification which will attract a variety of commercial tenants.</li> </ul>
<ul style="list-style-type: none"> <li>To maximise public transport patronage and encourage walking and cycling.</li> </ul>	<ul style="list-style-type: none"> <li>The site is located within 300m of both the existing St Leonards Railway Station and the Crows Nest Metro Station currently under construction which facilitates public transport patronage.</li> <li>The proposed development will enhance pedestrian connections to these Stations through the provision of through site links and an enhanced public domain, offering an enjoyable alternative to the busy Pacific Highway route.</li> <li>Such improvements will encourage walking and cycling in proximity to the site.</li> </ul>
<ul style="list-style-type: none"> <li>To integrate business, retail and other development in accessible locations.</li> </ul>	<ul style="list-style-type: none"> <li>The detailed proposal for Building A and B provides for a mix of retail and commercial tenancies within a highly accessible location in the B3 Commercial Core zone that will service the needs of the local and visitor population of St Leonards.</li> <li>The mix of uses will be integrated within a high- quality architectural development that will provide an enhanced public domain, public open spaces and landscaped areas.</li> </ul>
<ul style="list-style-type: none"> <li>To maximise sunlight for surrounding properties and the public domain.</li> </ul>	<ul style="list-style-type: none"> <li>The proposed building massing across the site has been informed by the height controls and solar access requirements set out in the 2036 Plan. In this regard, the proposed development achieves a compliant level of solar access to the residential dwellings to the south and Newlands Park to the south-west, notwithstanding the height non- compliance.</li> <li>Therefore, the proposed height variation is not responsible for any unreasonable additional overshadowing beyond that anticipated for a compliant building height.</li> <li>In addition, the proposed site plan is considered to promote sunlight through the site and to public places adjacent to the site by splitting the massing in to three built forms and reducing the site coverage from what could be achieved if a single lower built form was proposed.</li> </ul>
<ul style="list-style-type: none"> <li>To encourage urban design maximising attractive public domain and adequate circulation space throughout the St Leonards commercial centre for current and future users.</li> </ul>	<ul style="list-style-type: none"> <li>The proposed development will provide attractive built forms within an enhanced public domain and landscaped setting.</li> <li>The proposed site layout will improve circulation space through St Leonards CBD by enhancing pedestrian connections between the site and nearby transport nodes including St Leonards Train Station and Crows Nest Metro Station and providing a greater degree of public open space.</li> </ul>

Is there a public benefit of maintaining the planning control standard?

- The proposed development achieves the objectives of the height standard and the B3 Commercial Core zone objectives notwithstanding the height variation.



- *The proposed height variation results in a better planning outcome for the site as it allows for building heights that better respond to the context of the site, as it proposes a built form that fits contextually better with the emerging character of St Leonards.*
- *The proposed height variation allows for reduced building footprints and provision of two through site links by relocating floor space from lower levels to higher within the tower forms. The proposed development will improve the pedestrian environment of the Strategic Centre and enable better connectivity and increase permeability throughout the precinct to both the future Crows Nest Metro Station and St Leonards station.*
- *The proposed height variation therefore allows for a greater degree of public open space to be provided on the site. In this regard, it is noted that the proposal seeks to enhance and expand the existing Christie Street public open space which will integrate with the public domain within the proposed development.*
- *As there are indiscernible amenity impacts associated with the proposed height variation, there is no material impact or benefit associated with strict adherence to the development standard and there is no compelling reason or public benefit derived from maintenance of the standard.*

### Conclusion

- *For the reasons set out in this written request, strict compliance with the height of buildings development standard contained within clause 4.3 of the LCLEP 2009 is unreasonable and unnecessary in the circumstances of the case. Further, there are sufficient environmental planning grounds to justify the proposed variation and it is in the public interest to do so.*
- *It is reasonable and appropriate to vary the height control to the extent proposed for the reasons detailed within this submission and as summarised below:*
  - *The proposed building heights are generally consistent with the height controls set out in the St Leonards and Crows Nest 2036 Plan and therefore the extent of variation sought is considered to be a technical non-compliance only.*
  - *The bulk and scale of the proposed development is compliant with that anticipated for the site under the 2036 Plan as demonstrated by compliance with the FSR nominated for the site by the 2036 Plan.*
  - *The proposed height variation facilitates the delivery of high-quality employment floor space in Building A and B consistent with the strategic objectives for St Leonards under the Greater Sydney Region Plan, North District Plan and the 2036 Plan as well as Council's objectives for employment growth in Strategic Centres close to public transport.*
  - *The proposed building height is compatible with the emerging context of St Leonards CBD, particularly in relation to the much taller buildings to the north on Christie Street and Pacific Highway.*
  - *The proposed height variation will not result in any unreasonable amenity impacts to neighbouring properties open spaces.*
  - *The proposed height variation allows for a superior public domain outcome and is therefore in the public interest.*
- *For the reasons outlined above, the clause 4.6 request is well-founded. The development standard is unnecessary and unreasonable in the circumstances, and there are sufficient environmental planning grounds that warrant a variation of the standard. In the circumstances of this case, flexibility in the application of the height of buildings development standard should be applied.'*

The following justification is provided by the Applicant to vary the FSR control:

*The objectives of the standard are achieved notwithstanding non-compliance with the standard*

<b>Objectives</b>	<b>Assessment</b>
(a) to ensure that the bulk and scale of development is compatible with the character of the locality.	<ul style="list-style-type: none"> <li>The proposed bulk and scale of the concept development is considered to be compatible with the character of the locality for the following reasons:</li> <li>The proposed FSR variation facilitates three built forms that are compatible with the emerging context of St Leonards CBD which is increasingly being characterised by podium and tower developments. This is evident by the recently approved or constructed developments to the north at 88 Christie Street, the New Hope building at 500 Pacific Highway and the Mirvac building at 472-486 Pacific Highway.</li> <li>The proposed bulk and scale respond appropriately to the low density development to the south by locating the lowest building (Building A) closest to the R2 Zone and increasing the scale of Building B and C towards the central CBD to the north where taller buildings are located. The proposed floor area is distributed across three buildings on the site, providing a transition from low density to high rise towers front the Pacific Highway.</li> <li>The proposed FSR complies with the recently finalised 2036 Plan which recognises St Leonards' significant economic role as the sixth largest office market in the Greater Sydney Region. The 2036 Plan seeks to reinforce this status. In this regard, the proposed FSR variation allows for additional commercial floor space in Building A and B which is compatible with the B3 Commercial Core zone in which it is located and satisfies State and Council strategic objectives for St Leonards, which include: <ul style="list-style-type: none"> <li>Providing A-Grade commercial office within highly accessible areas</li> <li>Contributing to the St Leonards jobs target for the Precinct</li> <li>Growing employment and collaboration areas within the Eastern Economic Corridor and St Leonards Strategic Centre.</li> </ul> </li> <li>Promote potential synergies with the Royal North Shore Hospital and other health or education activities.</li> </ul>

*There are sufficient environmental planning grounds to justify contravening the development standard*

- There is an absence of environmental harm arising from the contravention and positive planning benefits arising from the proposed development as outlined in detail above.
- The proposed FSR complies with the recommended 2036 Plan controls for the site. It is therefore demonstrated that the site and locality have the capacity to accommodate the proposed bulk and scale.
- The proposed FSR variation facilitates the delivery of high-quality employment floor space in Building A and B consistent with the strategic objectives for St Leonards under the Greater Sydney Region Plan, North District Plan and the 2036 Plan as well as Council's objectives for employment growth in Strategic Centres close to public transport.
- The proposed development will deliver a public benefit in the form of two new through site

*links, upgrades to the public domain and adjacent public open space and new amenities as well as a monetary contribution towards local public infrastructure.*

- *The proposed bulk and scale of the development is compatible with the emerging context of St Leonards CBD, particularly in relation to the much taller buildings to the north on Christie Street and Pacific Highway. The proposed FSR will be contained within three building envelopes that are stepped down to provide a clear transition in density across St Leonards.*
- *The proposed FSR will not result in any unreasonable amenity impacts to neighbouring properties or open spaces in regard to solar access, privacy and visual bulk.*
- *The proposed FSR variation is associated with a development that provides a superior public domain outcome that will contribute to the ‘Green Grid’ and enhance the local character of St Leonards and is therefore in the public interest.*
- *It is evident that there are sufficient environmental planning grounds to justify the proposed height variation in this instance.*

**The proposed development is in the public interest – Assessment of compliance with land use zone objectives**

<b>Objectives</b>	<b>Assessment</b>
<ul style="list-style-type: none"> <li>• <i>To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>The proposed FSR variation will facilitate the delivery of commercial floor space in Building A and B that includes office, retail and community- serving uses including a gym and public bathrooms.</i></li> <li>• <i>The use of Building C will be subject of a future development application.</i></li> <li>• <i>The proposal also seeks to enhance the existing Christie Street Reserve adjacent to site to create a greater degree of useable public open space that will be integrated with the public domain of the proposed development.</i></li> </ul>
<ul style="list-style-type: none"> <li>• <i>To encourage appropriate employment opportunities in accessible locations.</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>The proposed FSR variation will provide for additional employment floor space in Building A and B in a highly accessible location between St Leonards Railway Station and the future Crows Nest Metro Station.</i></li> <li>• <i>The proposed commercial levels in Building A and B will achieve PCA Office Grade A classification which will attract a variety of commercial tenants.</i></li> </ul>
<ul style="list-style-type: none"> <li>• <i>To maximise public transport patronage and encourage walking and cycling.</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>The site is located within 300m of both the existing St Leonards Railway Station and the Crows Nest Metro Station currently under construction which facilitates public transport patronage.</i></li> <li>• <i>The proposed development will enhance pedestrian connections to these Stations through the provision of through site links and an enhanced public domain, offering an enjoyable alternative to the busy Pacific Highway route.</i></li> <li>• <i>Such improvements will encourage walking and cycling in proximity to the site.</i></li> </ul>
<ul style="list-style-type: none"> <li>• <i>To integrate business, retail and other development in accessible locations.</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>The proposal provides for a mix of retail and commercial tenancies in Building A and B within the B3 Commercial Core zone that will service the needs of the local and visitor population of St Leonards.</i></li> <li>• <i>The mix of uses will be integrated within a high- quality architectural development which will provide an enhanced public</i></li> </ul>

<ul style="list-style-type: none"> <li>To maximise sunlight for surrounding properties and the public domain.</li> </ul>	<p><i>domain, public open spaces and landscaped areas.</i></p> <ul style="list-style-type: none"> <li>The proposed building massing across the site has been informed by the FSR controls and solar access requirements set out in the 2036 Plan. In this regard, the proposed development achieves a compliant level of solar access to the residential dwellings to the south and Newlands Park to the south-west, notwithstanding the height non-compliance.</li> <li>Therefore, the proposed FSR variation is not responsible for any additional overshadowing beyond that anticipated for a compliant building development.</li> <li>In addition, the proposed site plan is considered to promote sunlight through the site and to public places adjacent to the site by splitting the massing into three built forms and reducing the site coverage from what could be achieved if a single tower built form was proposed.</li> </ul>
<ul style="list-style-type: none"> <li>To encourage urban design maximising attractive public domain and adequate circulation space throughout the St Leonards commercial centre for current and future users.</li> </ul>	<ul style="list-style-type: none"> <li>The proposed development will provide attractive built forms within an enhanced public domain and landscaped setting.</li> <li>The proposed site layout will improve circulation space through St Leonards CBD by enhancing pedestrian connections between the site and nearby transport nodes including St Leonards Train Station and Crows Nest Metro Station and providing a greater degree of public open space.</li> </ul>

Is there a public benefit of maintaining the planning control standard?

- The proposed development achieves the objectives of the FSR development standard and the B3 Commercial Core zone objectives notwithstanding the technical non-compliance.
- The proposed FSR variation results in a better planning outcome for the site as it allows for a development of a scale that better responds to the emerging context of the site and locality. In addition, the proposed density is able to be accommodated without creating any discernible amenity impacts beyond those anticipated for the site under the 2036 Plan controls.
- The proposed variation also allows for a greater degree of employment floor space in Building A and B within an accessible location. The mix of uses within Building A and B, as well as the enhanced public domain will contribute to the vitality of St Leonards centre.
- As there are indiscernible amenity impacts associated with the proposed FSR variation, there is no material impact or benefit associated with strict adherence to the development standard and there is no compelling reason or public benefit derived from maintenance of the standard.

Conclusion

- For the reasons set out in this written request, strict compliance with the FSR development standard contained within clause 4.4 of Lane Cove LEP is unreasonable and unnecessary in the circumstances of the case. Further, there are sufficient environmental planning grounds to justify the proposed variation and it is in the public interest to do so.
- It is reasonable and appropriate to vary the FSR standard to the extent proposed for the reasons detailed within this submission and as summarised below:
  - The proposed 7.5:1 FSR complies with the recommended FSR control for the site under the St Leonards and Crows Nest 2036 Plan and therefore the variation from the 4.5:1 LEP control is considered to be a technical non-compliance only.

- *The proposed FSR variation from the LEP development standard facilitates the delivery of additional high-quality employment floor space within Building A and B consistent with the strategic objectives for St Leonards under the Greater Sydney Region Plan, North District Plan and the St Leonards and Crows Nest 2036 Plan as well as Council's objectives for employment growth in Strategic Centres close to public transport.*
- *The proposed bulk and scale is compatible with the emerging context of St Leonards CBD, particularly in relation to the much taller buildings to the north on Christie Street and Pacific Highway.*
- *The proposed FSR will not result in any unreasonable amenity impacts to neighbouring properties or open spaces.*
- *The proposed FSR variation is associated with a development that provides a superior public domain outcome and is therefore in the public interest.*
- *For the reasons outlined above, the clause 4.6 request is well-founded. The development standard is unnecessary and unreasonable in the circumstances, and there are sufficient environmental planning grounds that warrant contravention of the standard. In the circumstances of this case, flexibility in the application of the FSR control should be applied.'*

#### Clause 4.6(4) Assessment

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be addressed by Cl 4.6(3). There are two separate matters for consideration contained within Cl 4.6(3) and these are addressed below.

a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

Comment: The applicant's written request has demonstrated that the objectives of the HOB and FSR development standards are achieved, notwithstanding the departure to the development standards.

#### ***Objectives of the HOB development standard***

The objectives of the HOB development standard strive to ensure reasonable solar access is provided to existing buildings and public spaces and that privacy and visual impacts of development on neighbouring properties, particularly where zones meet, are reasonable. The proposal is consistent with the objectives of the HOB development standard, as demonstrated below:

#### ***Solar access***

Solar access requirements under the 2036 Plan and LCDCP 2010 (*Clause 1.10, Part D.1*) are as follows:

##### **2036 Plan**

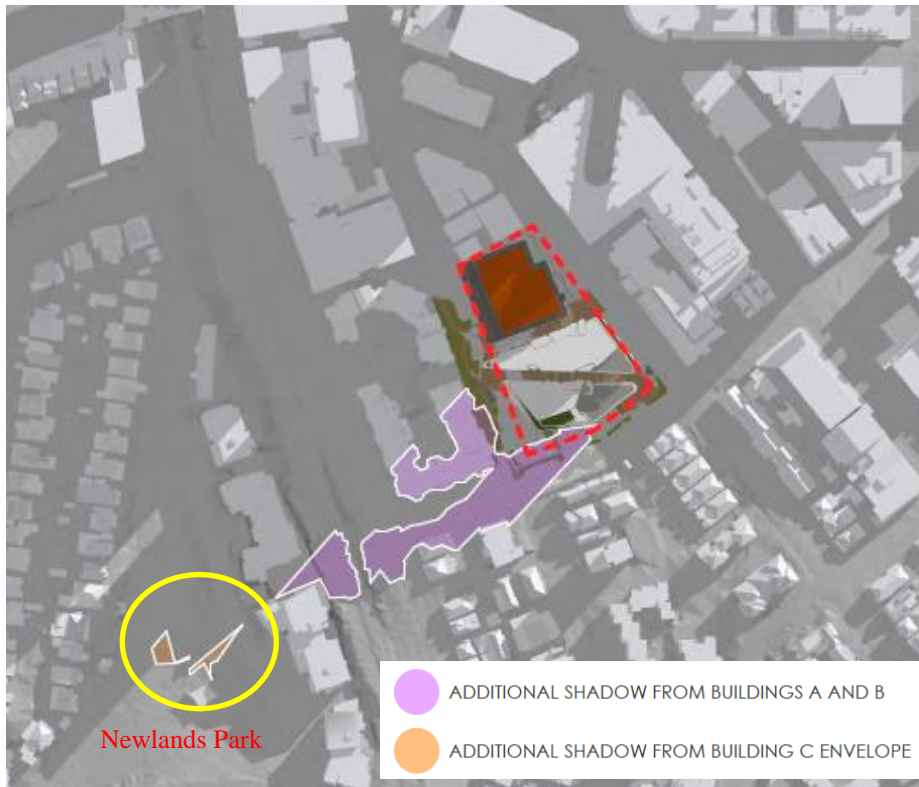
- Newlands Park – Full sun between 10am – 3pm
- Residential areas surrounding the site (Zone 11 in map at **Figure 19**) – Minimum 2 hours solar access between 9am to 3pm

##### **LCDCP 2010**

- Dwellings in the adjacent or same zone – Minimum 3 hours solar access on a portion of the windows of the habitable rooms between 9am – 3pm on 21 June, and that where adjacent dwellings and their open space already receive less than

the standard hours of sun, new development should seek to maintain this solar access where practicable.

A minor shadow would be cast by Building C at 9am mid-winter on Newlands Park (**Figure 18**). The Park will receive full sun between 10am – 3pm in accordance with the *2036 Plan*.



**Figure 18.** Minor additional shadow cast by Building C at 9am on Newlands Park. The Park receives full sun between 10am – 3pm in accordance with the *2036 Plan* (Source: Drawing DA-38, Fitzpatrick + Partners)

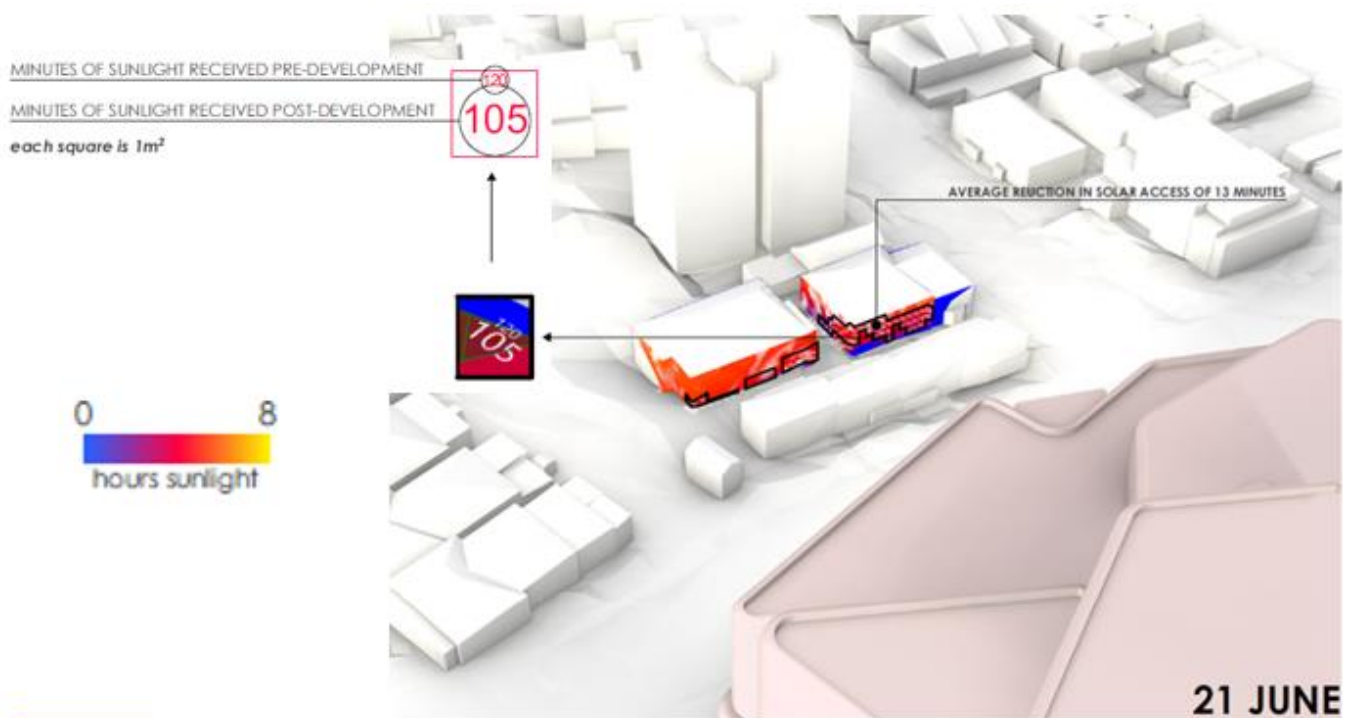
The concept envelope for Building C (18-storeys), whilst below the 25 storeys nominated under the *2036 Plan*, and distribution/form of Buildings A and B has been skilfully designed to ensure that the solar access requirements under the *2036 Plan* are complied with.

Compliant levels of solar access will be provided to the majority of residential dwellings to the south of the site on R3 and R4 zoned land, with the exception of 23-25 Christie Street (**Figure 19**).



**Figure 19.** Location of 27 Christie Street and 23-25 Christie Street (Source: 2036 Plan).

Where facades (northern and eastern) of 23-25 Christie Street do not receive the 3 hours, they are not below 2 or the reduction is a maximum of 15 minutes and average of 13 minutes (Average across  $1m^2$  areas). This is demonstrated in the detailed solar access analysis at **Appendix 6** and at **Figure 20** below. This minor variation is considered to be a reasonable outcome.



**Figure 20.** Overshadowing impacts to 23-25 Christie Street (Source: Solar Access Analysis, Fitzpatrick + Partners).

No additional overshadowing will occur to 27 Christie Street beyond that of the current LEP compliant envelope (25m).



It is noted that the shadow cast by existing landscaping along Oxley Street has not been taken into account in the overshadowing analysis (**Figure 21**).



**Figure 21.** Existing dense mature planting along Oxley Street. The red square shows the roof of 23-25 Christie Street.

### **Building separation**

The proposal complies the building separation requirements under LCDCP 2010 (*0m ground and first floor, 6m above*). Buildings A and B would have a separation distance of 6.3m, while Building B and C would have a minimum separation distance of 8.6m and 11.6m at the upper levels.

The **Apartment Design Guide** (ADG) (*3F Visual Privacy*) prescribes the following setbacks for residential buildings next to commercial buildings:

Building height	Habitable rooms and balconies	Non-habitable rooms
Up to 12m (4 storeys)	6m	3m
Up to 25m (5-8 storeys)	9m	4.5m
Over 25m (9+ storeys)	12m	6m

The following **minimum** separation distances are proposed to the surrounding residential development:

Residential development	Minimum building separation proposed	ADG Compliance
52-54 Christie Street (to the west)	23m	Yes
472-494 Pacific Highway (Building B, St Leonards Square)	35m	Yes
24 and 27 Oxley Street - Residential development fronting Oxley Street opposite the site	30.5m	Yes

Therefore, adequate building separation is proposed to ensure adequate privacy amenity is maintained to nearby residential development.



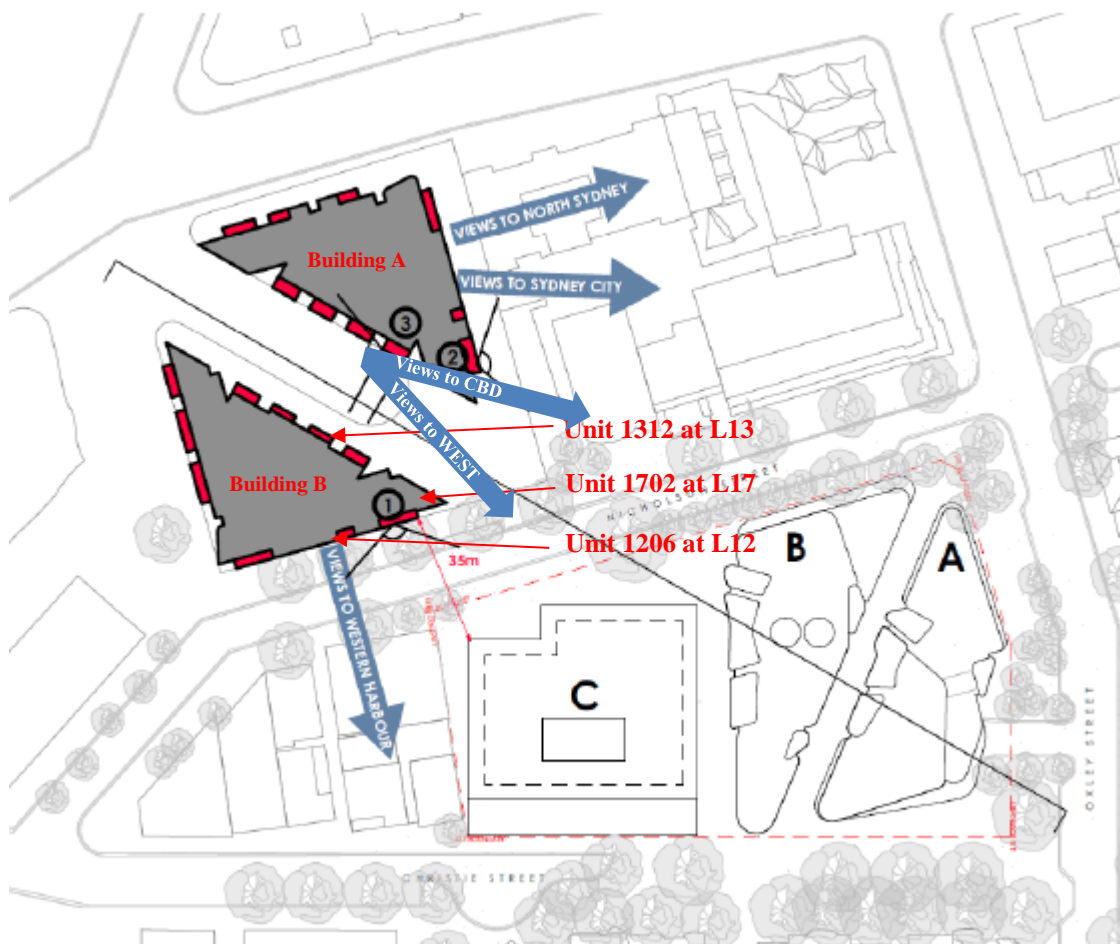
**View impacts** is considered under ‘visual impacts’ (*objective b, clause 4.3(1)*). In assessing the reasonableness or otherwise of the degree of view loss, this Report has had regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 140* which has established a four-step assessment of view sharing. The steps are as follows:

1. The assessment of the views affected

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

The affected views (**Figure 22**) are from the *St Leonards Square development* (472-494 Pacific Highway) as follows:

- Western Harbour water views (**View 1**);
- North Sydney CBD (**View 2**); and
- Obscured and oblique views to Sydney CBD including iconic views of Centrepont and the Sydney Harbour Bridge (**View 3**).



**Figure 22.** *Key views from the St Leonards Square development (Source: Fitzpatrick + Partners). Objections were received from Units 1206, 1312, and 1702. The location of these units is also shown.*

## 2. Consideration from what part of the property the views are obtained

*The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

Views within the *St Leonards Square* development are obtained from living rooms and private balconies located on the:

- southern elevations of Buildings A and B across a side boundary;
- western side of Building A across a side boundary; and
- western side of Building B across the rear boundary.

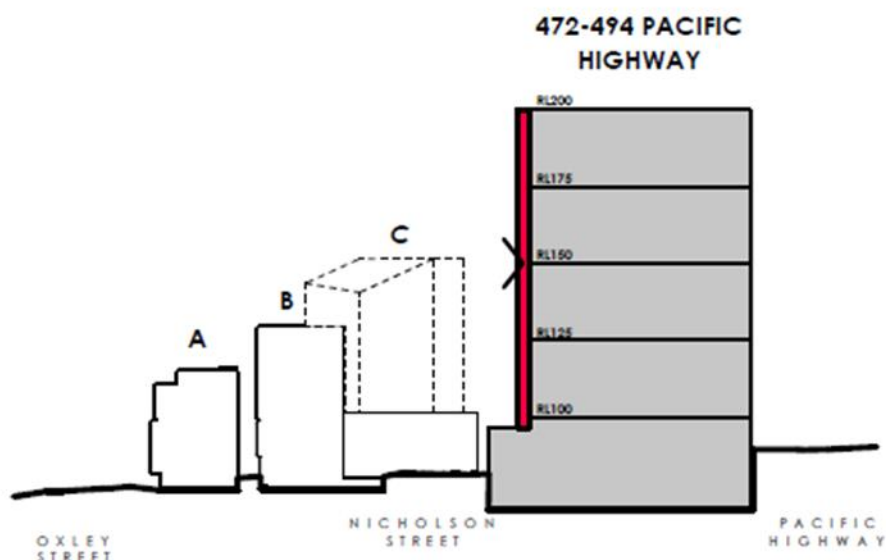
## 3. The extent of the impact

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

An extensive view analysis by *Fitzpatrick + Partners* is included at **Appendix 2**. A supplementary view analysis is included at **Appendix 7**.

### **Note:**

- The view analysis contained within the architectural plan set assesses the view impacts to 472-494 Pacific Highway (*St Leonards Square*) at 25m RL intervals from RL100 (level 4) to RL200 (**Figure 23**).



**Figure 23.** View analysis levels contained in architectural set (Source: Fitzpatrick + Partners)

- The supplementary view analysis from the 3 objector's units (1206, 1312, and 1702) within the western most building (Building B) has been prepared using the finished floor levels at level 12, 13 and 17.
- The supplementary view analysis includes the permissible envelope (30-storeys) on the adjoining site at 38-46 Nicholson Street and 59-67 Christie Street under the *2036 Plan*.

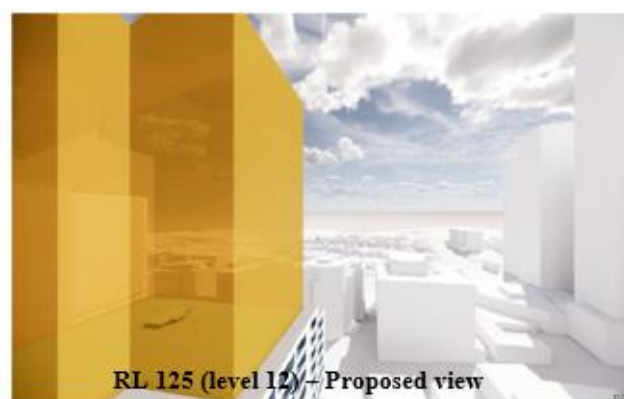
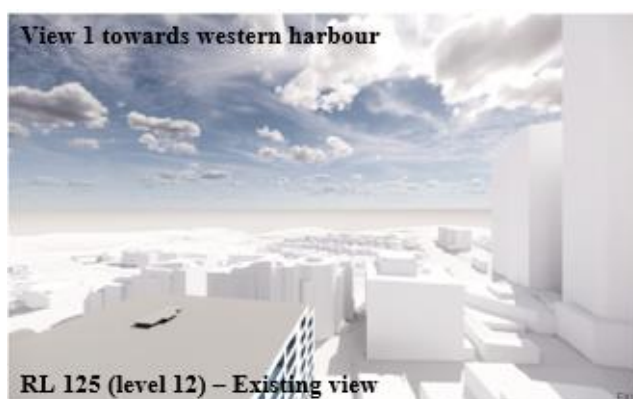
The following summary table outlines the impacted levels to Buildings A and B within *St Leonards Square* based on the existing LEP height control of 25m and the overall RL of the proposed Buildings A, B and C:

LEP height control	Impacted levels at Building A in <i>St Leonards Square</i>	Impacted levels at Building B in <i>St Leonards Square</i>
25m (RL 108)	Level 6 down (L6 FFL 107.500)	Level 6 down (L6 FFL 106.900)
<b>Proposed building height</b>		
Building A – RL 121.30 (8-storeys)	Level 10 down (L10 FFL 119.900)	Level 10 down (L10 FFL 119.300)
Building B – RL 130.00 (12-storeys)	Level 13 down (L13 FFL 129.200)	Level 13 down (L13 FFL 128.600)
Building C – RL 151.400 (18 storeys)	Level 19 down (L19 FFL 149.700)	Level 20 down (L20 FFL 150.300)
<b>2036 Plan</b>		
Building A – 6-storeys	Level 5 down (L5 FFL 103.800)	Level 5 down (L5 FFL 104.400)
Building B – 11-storeys	Level 11 down (L11 FFL 122.400)	Level 11 down (L11 FFL 123.000)
Building C – 25 storeys	Level 28 down (L28 FFL 175.100)	Level 27 down (L27 FFL 174.500)

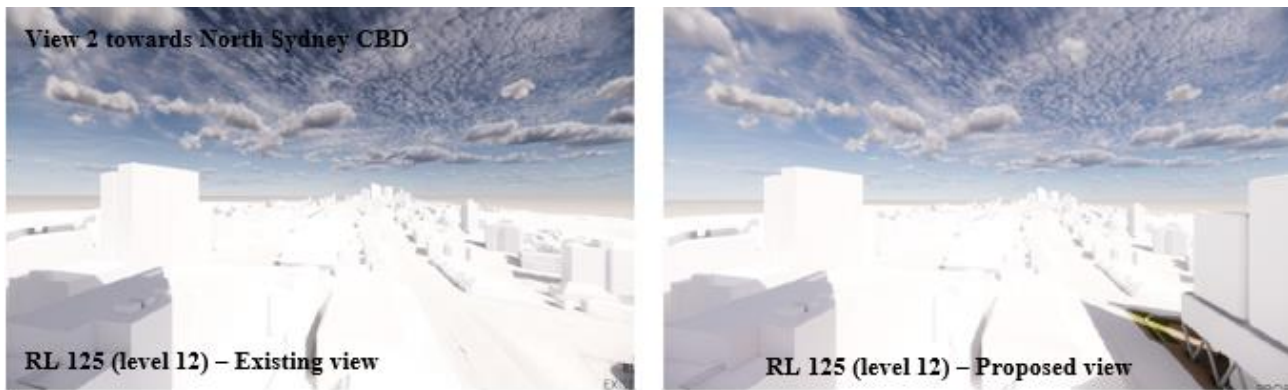
A summary of the extent of view impacts is provided below:

- The variation sought to the heights nominated for Building A and B under the *2036 Plan* (6 and 11 storeys respectively) would impact 1 additional level within the *St Leonards Square* development.
- The reduced height to the concept envelope for Building C would enable more highly valued water and CBD views to the south and south-west to be retained for levels 19 to 27 for Building A and levels 20 to 26 for Building B.
- A summary of the view impacts measured at RL25m intervals in the view analysis at **Appendix 2** (Drawings DA-42 to DA-55) is outlined below:

RL	Corresponding level at St Leonards Square	View	Extent of impact
RL100	4	<b>View 1</b>	<ul style="list-style-type: none"> <li>Negligible impact.</li> <li>No view is presently available due to the existing buildings on the site.</li> </ul>
		<b>View 2</b>	<ul style="list-style-type: none"> <li>Minor impact.</li> <li>North Sydney CBD views retained. Some district view loss (<b>Figure 25</b>).</li> </ul>
		<b>View 3</b>	<ul style="list-style-type: none"> <li>Negligible impact.</li> <li>No existing CBD views available at this level.</li> </ul>
RL 125	12	<b>View 1</b>	<ul style="list-style-type: none"> <li>Minor to moderate impact and loss of water views (see <b>Figure 24</b>).</li> </ul>
		<b>View 2</b>	<ul style="list-style-type: none"> <li>Minor impact.</li> <li>North Sydney CBD views retained. Some district view loss (<b>Figure 25</b>).</li> </ul>
		<b>View 3</b>	<ul style="list-style-type: none"> <li>Minor to moderate impact.</li> <li>Sydney CBD, water views will be lost, however, these views are obtained from an oblique angle and views are already obstructed by the <i>St Leonards Square</i> development itself (<b>Figure #</b>).</li> </ul>
RL 150	20	<b>View 1</b>	<ul style="list-style-type: none"> <li>Minor to moderate impact and loss of water views (see <b>Figure 24</b>).</li> </ul>
		<b>View 2</b>	<ul style="list-style-type: none"> <li>Negligible impact</li> <li>North Sydney CBD and district views retained.</li> </ul>
		<b>View 3</b>	<ul style="list-style-type: none"> <li>Minor to moderate impact.</li> <li>Sydney CBD, water views will be lost, however, these views are obtained from an oblique angle and views are already obstructed by the <i>St Leonards Square</i> development itself (<b>Figure 26</b>).</li> </ul>
RL 175	28	<b>View 1</b>	<ul style="list-style-type: none"> <li>Negligible impact.</li> <li>All water views will be retained.</li> </ul>
		<b>View 2</b>	<ul style="list-style-type: none"> <li>Negligible impact</li> <li>North Sydney CBD and district views retained.</li> </ul>
		<b>View 3</b>	<ul style="list-style-type: none"> <li>Negligible impact</li> <li>Sydney CBD and district views retained.</li> </ul>
RL 200	Roof level of Building B	<b>View 1</b>	<ul style="list-style-type: none"> <li>Negligible impact.</li> </ul>
		<b>View 2</b>	<ul style="list-style-type: none"> <li>Negligible impact</li> <li>North Sydney CBD and district views retained.</li> </ul>
		<b>View 3</b>	<ul style="list-style-type: none"> <li>Negligible impact</li> <li>Sydney CBD and district views retained.</li> </ul>



**Figure 24.** View 1 towards western Harbour at RL 125 (level 12).



**Figure 25.** View 2 towards North Sydney CBD at RL 125 (level 12).



**Figure 26.** View 3 towards Sydney CBD at RL 125 (level 12).

Concerns of view loss were raised by objectors within the *St Leonards Square* development. The Assessing Officer attempted to contact all objectors who raised concerns of view loss. Site inspections were undertaken of Units 1206, 1312, and 1702 of the western most building (B known as the *Jackson Building*) of the *St Leonards Square* development at 486 Pacific Highway. The extent of view impacts has been estimated by *Fitzpatrick + Partners* for accuracy using FFLs of the affected units. The impacts are demonstrated below:

**Unit 1206 (level 12 – FFL 125.5)**





**Figure 27.** Existing view to the south west/west from the living room and adjoining balcony.



**Figure 28.** Estimated impact for a compliant envelope with the existing 25m LEP control (Source: Fitzpatrick + Partners).



**Figure 29.** Estimated impact for the nominated envelope under the **2036 Plan** (Source: Fitzpatrick + Partners).



**Figure 30.** Estimated impact for the **proposed envelope** (Source: Fitzpatrick + Partners).

**Unit 1312 (level 13 – FFL 128.600)**

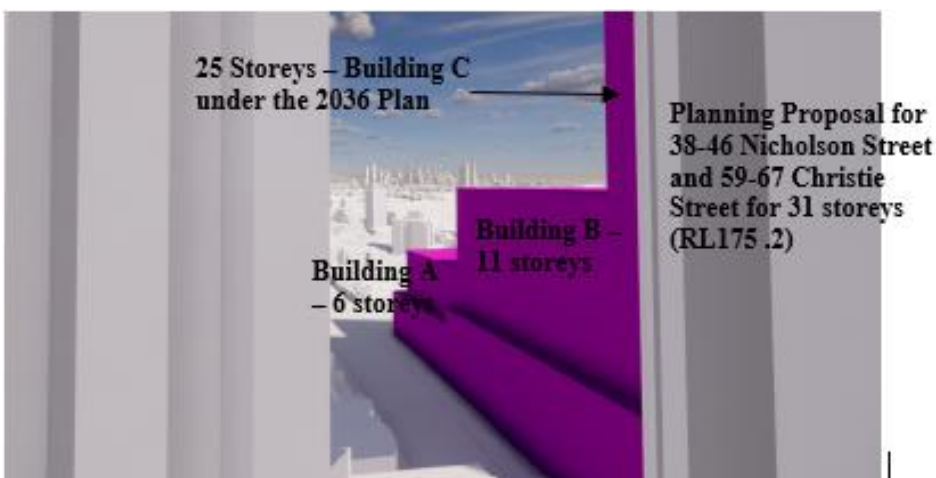




**Figure 31.** Existing view to the south west/west from the side facing balcony.



**Figure 32.** Estimated impact for a compliant envelope with the existing 25m LEP control (Source: Fitzpatrick + Partners).



**Figure 33.** Estimated impact for the nominated envelope under the 2036 Plan (Source: Fitzpatrick + Partners).



**Figure 34.** *Estimated impact for the **proposed envelope** (Source: Fitzpatrick + Partners).*

**Unit 1702 (level 17 – FFL 141,000)**



**Figure 35.** *Existing view to the Sydney CBD from the living room and adjoining balcony.*





**Figure 36.** Existing view to the west from the balcony adjoining the living room.



**Figure 37.** Estimated impact for a compliant envelope with the existing LEP controls (Source: Fitzpatrick + Partners).



**Figure 38.** Estimated impact for the nominated envelope under the 2036 Plan (Source: Fitzpatrick + Partners). Iconic views of centrepiece and the harbour bridge and views to North Sydney CBD would be retained.



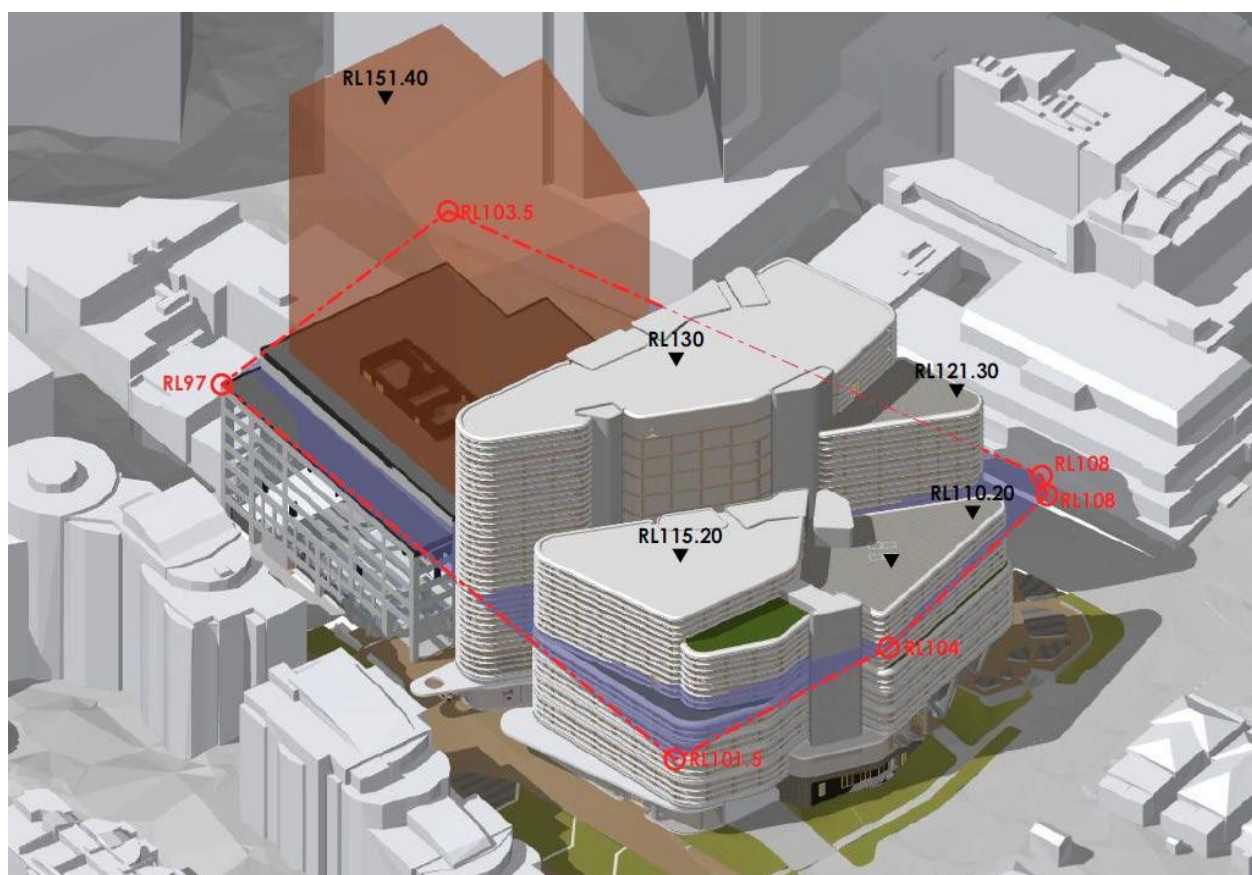
**Figure 39.** *Estimated impact for the proposed envelope (Source: Fitzpatrick + Partners). The existing view of the harbour bridge and centre point tower would be retained.*

4. The reasonableness of the proposal that is causing the impact

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The extent of height variation from the LCLEP 2009 building height control is demonstrated in the height blanket diagram at **Figure 40**.





**Figure 40.** Height Blanket Diagram (Source: Fitzpatrick and Partners, Clause 4.6 written request prepared by Urbis).

A summary of the proposed exceedance to the LEP height control and compliance with the nominated heights under the 2036 Plan is outlined below:

Lane Cove LEP 2009	Control	Proposed		Variation to LEP Control	2036 Plan
Clause 4.3 – Height	25m (6-7 storeys)	Building A	RL 115.20 - 8 storeys	13.7m (54.8%)	6 storeys
		Building B	RL 130 - 12 storeys	28.5m (114%)	11 storeys
		Building C	RL – 151.40 - 18 storeys	47.9m (191.6%)	25 storeys
Clause 4.4 – FSR	4.5:1 (34,362m <sup>2</sup> )	Buildings A & B	25,905m <sup>2</sup>	22,905m <sup>2</sup> (67%)	7.5:1
(Site Area – 7,636m <sup>2</sup> )					

The view loss to *St Leonards Square* is deemed to be reasonable for the following reasons:

- The 13.7m and 28.5m height variation to the 25m height control for Buildings A and B respectively would not give rise to any significant view loss impacts.
- The variation sought to the height control would facilitate the delivery of a high-quality commercial development that promotes employment opportunities in a highly accessible location in accordance with the *Greater Sydney Region Plan*, *North District Plan* and *2036 Plan*.
- The view impacts resulting from the variation sought to the nominated heights under the *2036 Plan* for Buildings A and B would be negligible.

- While Building C exceeds the 25m height limit to a greater extent (47.9m), the height of Building C at 18-storeys is well below the 25 storeys under the *2036 Plan* and would facilitate greater view retention to the *St Leonards Square* development.
- The FSR across the total site is compliant with the *2036 Plan*.
- The proposal would not give rise to any adverse district visual impacts.
- The height of the buildings is contextually appropriate with the emerging character of St Leonards and consistent with the strategic objectives for St Leonards under the *Greater Sydney Region Plan*, *North District Plan*, and *St Leonards Crows Nest 2036 Plan* (**Figure 42**).

The proposal relies upon the building heights (**Figure 41**) and FSR (**Figure 43**) nominated under the *2036 Plan* to justify the proposed building heights and FSR on the site.



**Figure 41.** Building heights of 6, 11, and 25 storeys for Buildings A, B and C nominated under the '2036 Plan' (Source: *St Leonards and Crows Nest 2036 Plan*, Clause 4.6 written request - HOB prepared by Urbis).





- The siting, bulk, massing and scale of the 3 x buildings on the site has been skilfully designed to balance solar access requirements under the *2036 Plan* with view sharing.

As such, the proposal is considered to maintain acceptable view sharing with the *St Leonards Square* development.

Therefore, in view of the analysis set out above, the Panel may be satisfied that the objectives of the HOB development standard are met by the proposal in terms of solar access, views, and privacy (building separation) despite derogation from the standard.

### *Objectives of FSR development standard*

The objective of the FSR development standard is to ensure that the bulk and scale of the development is compatible with the character of the locality. The proposal is deemed to be consistent with this objective for the following reasons:

- The proposed FSR is distributed across three (3) buildings on the site of varying heights which is compatible with the emerging context of St Leonards CBD as defined in the *2036 Plan*.



**Figure 43.** FSR of 7.5:1 for the site nominated under the '2036 Plan' (Source: St Leonards and Crows Nest 2036 Plan, Clause 4.6 written request - FSR prepared by Urbis). The proposal complies with this.

- The proposed development has been skilfully designed to maintain an appropriate bulk and scale to existing residential development to the south by locating the lowest building (Building A) closest to Oxley Street and increasing the scale of Building B and C towards the central CBD to the north.
- The proposal has been skilfully designed to distribute the FSR across the site through built form of varying forms, shapes, heights and setbacks to reduce the actual and perceived bulk of the development and to reduce amenity impacts to surrounding residential development in terms of view impacts to *St Leonards Square*, privacy impacts, and solar access impacts to residential development to the south and Newlands Park.
- The proposed height variation allows for reduced building footprints and provision of two through site links by relocating floor space from lower levels to higher within the tower forms. The proposed development will improve the pedestrian environment of the Strategic Centre and enable better connectivity and increased permeability throughout the precinct to both the future Crows Nest Metro Station and St Leonards station.
- The proposed FSR complies with that nominated for the site under the *2036 Plan*.
- The proposed FSR will facilitate employment opportunities in accordance with the strategic planning framework for the site and B3 commercial core zoning.

Therefore, in light of the reasons set out above, the Panel may be satisfied that the objectives of the FSR development standard are met despite derogation from the standard.

***b) That there are sufficient environmental planning grounds to justify contravening the development standard.***



**Comment:** The applicant's written requests have demonstrated that there are sufficient environmental planning grounds to justify contravening the development standards for the reasons outlined below:

- The variations sought to the HOB and FSR development standards would facilitate a better planning outcome in that the variations would facilitate the delivery of high-quality employment floor space consistent with the strategic objectives for St Leonards under the *Greater Sydney Region Plan*, *North District Plan*, and *St Leonards and Crows Nest 2036 Plan*.
- The proposed development would deliver public benefit in the form of improved connectivity through the provision of 2 x through-site linkages, public domain upgrades, new toilet block amenities, and monetary contribution towards local public infrastructure.
- The variations would not give rise to any unreasonable amenity impacts to neighbouring buildings or open space regarding solar access, privacy, and visual bulk.

#### **Clause 4.6(4)(a)(ii) - Assessment**

Clause 4.6(a)(a)(ii) requires the consent authority to be satisfied that:

- ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

In considering whether or not the proposed development would be in the public interest, consideration must be given to the underlying objectives of the HOB and FSR development standards, and the objectives of the B3 commercial core zone.

As demonstrate above, the proposal would be consistent with the objectives of the standards.

The proposal is deemed to be consistent with the objectives of the B3 zone as follows:

Objective	Comments	Complies
<i>To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.</i>	<ul style="list-style-type: none"> <li>• The proposed development would facilitate the delivery of a high-quality commercial development that includes office, retail, and community uses including a gym and public bathrooms.</li> <li>• Buildings A and B will achieve PCA Office Grade A classification to attract a variety of commercial tenants.</li> </ul>	Yes
<i>To encourage appropriate employment opportunities in accessible locations.</i>	<ul style="list-style-type: none"> <li>• The proposed site is strategically located in close proximity to St Leonards train station and the Crows Nest Metro Station. The site is also serviced by frequent bus services in close proximity.</li> <li>• These transport options provide frequent and reliable transport options to visitors and workers of the site.</li> </ul>	Yes
<i>To maximise public transport patronage and encourage walking and cycling.</i>	<ul style="list-style-type: none"> <li>• Bicycle parking provision exceeds Council's DCP requirement.</li> <li>• The proposed through-site linkages and public domain upgrades would encourage walking and cycling through and around the site from neighbouring development and workers on the site.</li> </ul>	Yes

Objective	Comments	Complies
<i>To integrate business, retail, and other development in accessible locations.</i>	<ul style="list-style-type: none"> <li>The proposed development would integrate with the emerging character of St Leonards defined under the <i>2036 Plan</i> and in Council's <i>Strategic Local Planning Statement</i>.</li> </ul>	Yes
<i>To maximise sunlight for surrounding properties and the public domain.</i>	<ul style="list-style-type: none"> <li>The proposed building massing across the site has been informed by the building height, FSR, and solar access requirements under the <i>2036 Plan</i>.</li> <li>The proposal has been skilfully designed to reduce massing towards residential development to the south and increase building height towards the north in order to minimise amenity impacts to surrounding residential properties in terms of views, privacy, and solar access.</li> <li>Compliance solar access will be maintained to Newlands Park. The minor variation (maximum of 15 minutes) sought to the 2 hour solar access requirement under the <i>2036 Plan</i> and 3 hour solar access requirement under the LCDCP 2010 is a reasonable outcome.</li> </ul>	Yes
<i>To encourage urban design maximising attractive public domain and adequate circulation space throughout the St Leonards commercial centre for current and future users.</i>	<ul style="list-style-type: none"> <li>The proposed development would involve public domain upgrades under the VPA as part of the Stage 1 works.</li> <li>The two through-site linkages would promote circulation through the site from workers in the surrounding area to connect with public transport linkages in the vicinity.</li> </ul>	Yes

#### **Clause 4.6(4)(a)(b) - Assessment**

The Department issued Planning Circular No.PS18-003 (dated 21<sup>st</sup> February 2018) which notified Councils of arrangements “...where the Director General’s concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...” Clause 64 of the EPA Regulations provides that Council may assume the Director-General’s [Secretary’s] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

#### **Conclusion**

The written submissions from the applicant have adequately demonstrated that the variations to the height and buildings (clause 4.3) and floor space ratio (clause 4.4) development standards is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

Therefore, the applicant’s written requests are considered to be well founded.

**Any development control plan: s4.15(1)(a)(iii)**

#### **8.5. Lane Cove DCP 2010**

### 8.5.1. Compliance summary table

Table 14 - Lane Cove DCP 2010 – Table of Compliance	
Provision	Compliance
<b>Part B General Development Controls</b>	
B.1 General objectives for the DCP	Yes
B.2 Public domain	<p>Yes - Public domain upgrades are proposed via a VPA as part of the Stage 1 works and include:</p> <ul style="list-style-type: none"> <li>• The provision of additional public open spaces through the improvement of Christie Street Reserve.</li> <li>• Provision of two through-site linkages</li> <li>• Upgrades to surrounding footpaths (conditioned to ensure consultation with Council).</li> <li>• The provision of public toilet amenities (maintenance/upkeep conditioned).</li> <li>• Monetary contribution (in addition to 7.11 contribution).</li> </ul> <p>Note: Execution of the VPA is enforced via a <i>deferred commencement condition</i> prior to the consent becoming operative. This is accepted by the Applicant.</p>
B.3 Site amalgamation	Yes
B.4 View sharing	Yes – Detailed discussion in <b>Section 8.4.4</b> in clause 4.6 assessment.
B.6 Environmental Management	Yes
6.1 Sunlight to public spaces	Yes - The envelope of the three buildings has been designed to maintain full sun to Newlands Park between 10am and 3pm in accordance with the <i>2036 Plan</i> .
6.2 Wind standards for St Leonards	No – Clause 6.2 applies to all new buildings in the St Leonards centre. Wind criteria of 13m/second along major streets and public places and 16m/second in all other streets applies. As the development is not located on a major street, the 16m/second criteria applies. The preparation of a Wind Report demonstrating compliance with wind criteria and compliance with recommendations conditioned.
6.3 Energy and Water Efficiency for Buildings	Yes – An ESD report has been submitted with the DA. The proposal will achieve a 5 star rating under NABERS.
B.8 Safety and security	Yes – The inclusion of through-site linkages and clearly defined lobby spaces would ensure adequate safety and security. A further condition is included to provide wayfinding signage throughout the development.
<b>Part D Commercial Development and Mixed Use</b>	
<b>D.1 General Provisions</b>	
<b>1.1 Building form</b>	
1.1.3 Street frontage activities	Yes – Retail/commercial uses are proposed at ground level along the Nicholson Street and Oxley Road frontages to maximise activation of the adjoining public domain. Potential uses include cafes, potential child care centre and Fitness First lobby gym. The primary laneway through the centre of the site is activated with a café at the Christie Street Reserve interface. A lobby café spilling into the laneway at the mid-point, and access to public bathrooms and the lobby access at the

	Nicholson Street frontage would ensure activation of all frontages.
1.1.4 Building depth and bulk	Yes – The maximum floor plate for Building A and Building B of 1,300m <sup>2</sup> and 1,372m <sup>2</sup> respectively complies with the maximum allowable floorplate of 2,000m <sup>2</sup> . Each building façade would not exceed 50m in accordance with clause 1.1.4.
1.1.5 Building separation	Yes – A separation distance of 6.3m is proposed for Building and B, while B and C will have a minimum separation distance of 8.6m, and 11.6m at the upper level addition. This complies with the setback controls of 0m at ground and first floor and 6m above in accordance with clause 1.1.5.
1.1.6 Setbacks	Partial compliance – refer detailed discussion below.
1.1.7 Building design and exteriors	Yes – the proposed floor to ceiling height complies with the DCP requirement (3.3m). The proposed floorplates to Buildings A and B would enable flexibility to accommodate a variety of tenants. The proposal indicates how potential skybridges can be accommodated between Buildings A and B but does not form part of this application (conditioned to be the subject of a future DA).
1.2 Excavation	Yes – minimal excavation proposed in relation to alterations and additions to the existing basement car park for Buildings A and B. Compliance with recommendations in the geotechnical report conditioned. Minimal excavation associated with deep soil planting acceptable.
1.3 Design and location of on-site parking	Yes - No objections are raised by Council's Traffic Engineer to utilisation of the existing vehicular entry on Oxley Street and existing basement car park. There will be no visual impacts associated with the existing car parking.
1.4 Car parking	Yes – Assessed in detail against <i>Part R Traffic, Transport and Parking</i> of LCDCP 2010.
1.5 Awnings	n/a – the site is not located along a major street or major retail street. Albeit the main entrances to the lobbies to Buildings A & B would be recessed behind the building lines of the levels above to provide adequate weather protection and well defined entries.
1.6 Reflectivity	Yes – the materials schedule submitted with the DA package indicates that glazing would have a visibility light reflectivity of less than 20% in accordance with clause 1.6. In addition, horizontal landscaping along the lower levels of the building would further minimise reflectivity and potential glare.
1.7 External lighting of buildings	Yes - external lighting integrated into building design and public domain works. Compliance with external lighting with Australian Standard conditioned.
1.8 Landscaping	Yes – expansion of the existing basement car park is supported. No numerical standard is provided for deep soil planting. 753m <sup>2</sup> of deep soil planting is proposed within the site boundary with an additional 101m <sup>2</sup> of on-structure planting. An additional 2,836m <sup>2</sup> of deep soil planting is proposed outside of the site boundary.



1.9 Planting on structures	Yes – conditioned to comply with landscaping specifications/requirements regarding drainage and soil depth. Planting on structures is proposed to the rooftop, on terraces, on the façade of Buildings A and B and at ground level.
1.10 Solar access	Yes – detailed analysis in <b>Section 8.4.4</b> .
1.11 Access and mobility	Yes - The finished levels of the site have been designed to provide compliant access provision. An <i>Access Report</i> has been submitted with the DA. Recommendations contained in the Report conditioned.
1.12 Toilet facilities	Yes – Accessible public toilets are provided at ground level of Building B and accessed via the through-site link between Building A and Building B.
<b>Part F Access and Mobility</b>	Yes – Compliance with the recommendations contained in the <i>Access Report</i> conditioned.
<b>Part J Landscaping</b> J.2 Tree preservation and landscape guidelines Clause 2.2 Tree preservation	Yes – A comprehensive landscape package and design report has been submitted. Revisions to the landscape package have satisfactorily addressed the request for further information from Council’s landscape officer. Appropriate replacement tree planting is proposed to offset tree removal.
<b>Part O Stormwater Management</b>	Yes – Concept Stormwater management plans have been submitted with the DA. These are endorsed by Council’s drainage engineer subject to refinements at the CC stage (conditioned).
<b>Part Q Waste Management and Minimisation</b>	Yes – Swept path analysis indicates that waste vehicles are able to enter/exit the site in a forward direction. An operation and construction waste management plan has been submitted with the DA. The site accommodates waste management facilities in accordance with DCP requirements. No objections are raised by Councils Waste Officer, subject to conditions.
<b>Part R Traffic, Transport and Parking</b>	Yes
2.1 Parking general	Yes – refer detailed parking provision below.
2.2 Car parking rates	Acceptable on merit. Shortfall of 4 car parking spaces reasonable due to the highly accessible location of the site in close proximity to public transport.
2.6 Bicycle parking	Yes – surplus bicycle parking provision with 124 spaces provided and 50 storage racks proposed (89 spaces and 46 racks required).
2.7 Motorcycle parking	Yes – 20 spaces proposed, 19 required.
2.8 Disabled parking provision	No – variation sought to accessible car parking requirement supported by Council’s Traffic Engineer, subject to 4 additional accessible spaces (conditioned).
2.10 Parking and access for service vehicles	Yes
2.11 Parking area access and design	Yes – Compliance with AS/NZS 2890.1:2004 conditioned.
3.1 Public transport – general	Yes
4.3 Bicycle facilities and infrastructure	Yes – bicycle parking and bicycle rack provision compliant.
R.6 Traffic Impact Assessment	Yes – upgrade to AIMSUM model conditioned.

R.7 Construction Traffic Management Plan	Yes – conditioned.
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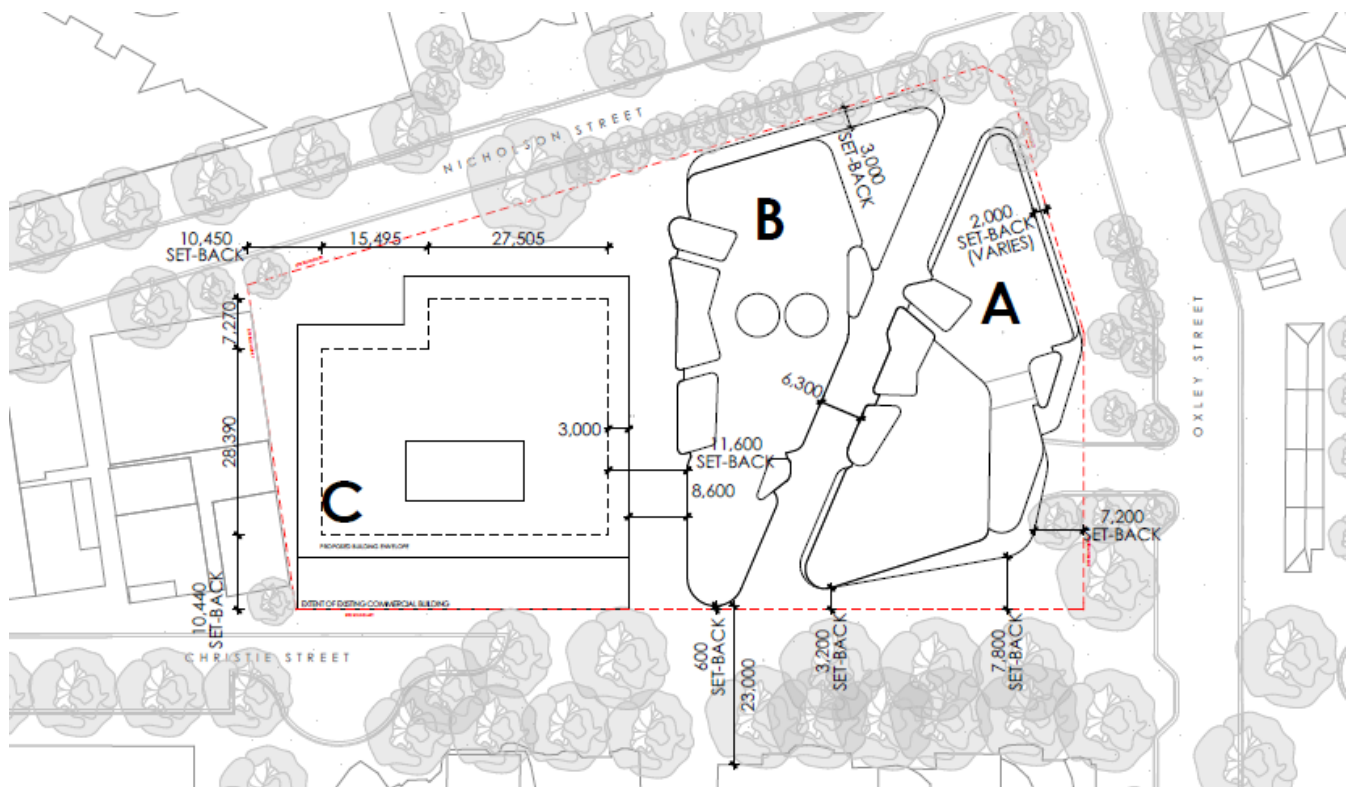
### Clause 1.1.6 – Setbacks

Clause 1.1.6 prescribes the following setbacks:

- Front/street – 5m
- Secondary street frontage – 0m at ground floor and first floor, 3m above
- Side – 0m at ground and first floor, 6m above
- Rear – 3m at ground and first floor, 6m above.

The site has frontages to Oxley Street, Nicholson Street, and partial frontage to Christie Street. The application proposes the following setbacks (**Figure 44**):

- 3m to Nicholson Street
- 2m-7.2m to Oxley Street
- 600mm, 3.2m-7.8m to Christie Street



**Figure 44.** Proposed setbacks (Source: Drawing DA-05, Fitzpatrick + Partners).

The proposed setbacks are supported for the following reasons:

- The setbacks range in response to the irregular shape and sloping nature of the site.
- Oxley Street has an overly wide verge which would provide a greater separation of Building A from Oxley Street. In addition, the Oxley Street verge is proposed to be upgraded with new street tree plantings and soft landscape to provide a significant visual barrier to the southern residential precinct.
- Whilst not strictly compliant with the setback controls, the varying setbacks facilitate the proposed built form of varying form, setbacks, shape, and heights which would reduce the actual and perceived bulk of the development.

- The setbacks and proposed built form include two through site-linkages which would improve connectivity and circulation through the site for workers within the site and for residents/workers/visitors in the surrounding area connecting to public transport in the vicinity.
- Christie Street Reserve would be enhanced under the proposal and has been integrated into the design of the development. This would provide an additional visual buffer to the development from the west.
- The proposed setbacks would not give rise to any unreasonable overshadowing impacts (discussed in **Section 8.4.4**).

Therefore, for the reasons above, the variations sought to the setback requirements is acceptable.

## Part R Traffic, Transport and Parking

Below is a summary of the car parking/motorcycle/bicycle parking provision against the DCP requirements:

### *Car parking provision*

Land Use	Public or Private use	GFA (m <sup>2</sup> )	Parking Rate	Parking Provision Requirement	Proposed Parking Provision
Office	Private	22,747	1 space / 100m <sup>2</sup> GFA	227 (227.47)	236
Cafeteria	Public	553	1 space / 110m <sup>2</sup> GFA	5 (5.03)	2
Gymnasium	Public	2,073	2 space / 100m <sup>2</sup> GFA	41 (41.46)	42
	Private	8 staff	1 space / 8 staff	1	1
<b>TOTAL</b>				<b>274</b>	<b>281</b>

### *Accessible Parking Provision*

Land Use	No. Car Parking Spaces	Parking Rate	Parking Provision Requirement	Proposed Parking Provision
Office	227	1 space / 10 car spaces	23 (22.7)	8
Cafeteria	5	1 space / 20 car spaces	1 (0.25)	4 spaces conditioned
Gymnasium	42	1 space / 20 car spaces	2 (2.1)	
<b>TOTAL</b>			<b>26</b>	<b>12</b>

### *Bicycle Parking Provision*

Component	No. Employees / GFA (m <sup>2</sup> )	DCP Parking Rate (min)	DCP Parking Provision Requirement	Proposed Parking Provision
Office				
Employees	22,747	1 space / 300m <sup>2</sup> GFA	76 (75.82) spaces	
Visitors		1 rack + 1 rack / 800m <sup>2</sup> GFA	30 (29.43) racks	

Component	No. Employees / GFA (m <sup>2</sup> )	DCP Parking Rate (min)	DCP Parking Provision Requirement	Proposed Parking Provision
Total Office Parking Spaces			76 spaces 30 racks	
Cafeteria				
Employees	553	1 space per 50m <sup>2</sup> GFA	12 (11.06) spaces	
Customers		2 racks + 1 rack / 200m <sup>2</sup> over 200m <sup>2</sup> GFA	4 (3.77) racks	
Total Cafeteria Parking Spaces			12 spaces 4 racks	
Gymnasium				
Employees	8	1 space per 10 staff	1 (0.8) space	
Customers	2,073	1 rack + 1 rack / 200m <sup>2</sup> of gymnasium area	12 (11.37) racks	
Total Gymnasium Parking Spaces			1 space 12 racks	
TOTAL:			89 spaces 46 racks	124 spaces 50 racks

### ***Motorcycle Parking Provision***

No. Car Parking Spaces	Parking Rate	Parking Provision Requirement	Proposed Parking Provision
281	1 space per 15 car spaces	<b>19 (18.27)</b>	<b>20</b>

The proposal is acceptable regarding Part R of LCDCP 2010.

### **Any planning agreement or draft planning agreement: s4.15 (1)(a)(iia)**

A draft Voluntary Planning Agreement (VPA) has been prepared for the public domain works as part of Stage 1 and includes:

- The provision of additional public open spaces through the improvement of Christie Street Reserve.
- Provision of two through-site linkages
- Upgrades to surrounding footpaths (conditioned to the satisfaction of Council).
- The provision of public toilet amenities (maintenance/upkeep conditioned).
- Monetary contribution (in addition to 7.11 contribution).

### ***Background***

- At an Ordinary Meeting on 19 October 2020, Council resolved to place the draft VPA on public exhibition for 28 days in conjunction with the DA.
- The exhibition period for the draft VPA closed 18 June 2021 and was endorsed by Council at its 21 June 2021 Meeting, subject to a condition being included in relation to cleaning/upkeep of the public toilets.

A deferred commencement condition is included which requires the VPA to be executed, prior to the consent becoming operative. This is accepted by the Applicant. Additional conditions are included regarding:



- Maintenance/upkeep of the toilets (cleaned daily between 7am to 6pm, refitted every 15 years.
- Installation of wayfinding signage to the satisfaction of Council around/within the building and park.
- Completed of works-in-kind as part of Stage 1 works in accordance with the timing specified under the planning agreement.

**The regulations: s4.15 (1)(a)(iv)**

**8.6. Environmental Planning and Assessment Regulation 2000**

Clause 92 of the Environmental Planning and Assessment Regulation 2000 (the Regulation) requires Council to consider Australian Standard AS 2601-2004: *The demolition of structures*. Compliance is conditioned.

Compliance with the Building Code of Australia is a prescribed condition of development consent under Clause 98 of the Regulation. Compliance is conditioned.

**The likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality: s4.15(1)(b)**

All likely impacts have been addressed elsewhere in the report or are considered to be satisfactory and not warrant further consideration.

**The suitability of the site for the development: s4.15(1)(c)**

The proposal is suitable to the site for the following reasons:

- The proposal is acceptable having regard to *Lane Cove LEP 2009* and *Lane Cove DCP 2010* (as amended) and relevant SEPPs.
- The proposal is consistent with the strategic objectives for St Leonards under the *Greater Sydney Region Plan*, *North District Plan* and the *St Leonards Crows Nest 2036 Plan* as well as Council's objectives for employment growth in Strategic Centres close to public transport.
- There are no burdens or constraints that would preclude the proposed development.
- The proposal would not give rise to any unacceptable environmental impacts on both the natural and built environments, and social and economic impacts in the locality.
- The proposal is in the public interest.

**Any submissions made in accordance with this act or the regulations: s4.15(1)(d)**

Following notification of the application, **45 submissions** were received from:

1. Adrian Chau - *St Leonards Square*, 486 Pacific Highway, St Leonards
2. Alix Russell – no address
3. Andy Ling – no address
4. Anne Brettingham-Moore – 32/56 Christie Street, St Leonards
5. Chloe Burton-Green – Unit 1312, *St Leonards Square Jackson Building*, 486 Pacific Highway, St Leonards
6. Collin Sheppard – no address
7. Daniel Brink – no address

8. Darren Mack – no address
9. David Rees – Nicholson Street resident
10. Debbie Brink – no address
11. Derek Wong – 52-54 Christie Street, St Leonards
12. Ed Stipnieks – *St Leonards Square* resident
13. Fei Hong & Dan Wang - Unit 1203, 486 Pacific Highway St Leonards.
14. Gary Smerdon – no address
15. Grant Johnson - Wollstonecraft resident
16. Guy Freeland - *St Leonards Square* resident
17. Ian Clark - no address
18. Jack Longstaff – no address
19. James Catting - no address
20. Jane Curbishley – 12 Nicholson Street, Wollstonecraft
21. Jason Soon – 49-52 Christie Street, St Leonards (*'Northmark'*)
22. Jayne Longstaff – no address
23. John Hancox, Chair Wollstonecraft Precinct – 4/56 Shirley Road, Wollstonecraft
24. Anonymous objection in response to submission from Mr. John Hancox
25. Josephine Wong -
26. Karen Asawa – Christie Street resident
27. Kim Delamont – 49-52 Christie Street, St Leonards (*'Northmark'*)
28. Kit Wai To - Unit 1607, *St Leonards Square Jackson Building*, 486 Pacific Highway, St Leonards
29. Lucinda Flanagan - 19 Lithgow Street, Wollstonecraft
30. Mal Chandler - no address
31. Martin Dobes - Oxley Street resident
32. Merri Southwood - President, Greenwich Community Association Inc
33. Michaela Hou - Unit 2606, *St Leonards Square Jackson Building*, 486 Pacific Highway, St Leonards,
34. Murray Davies - Unit 1702, *St Leonards Square Jackson Building*, 486 Pacific Highway, St Leonards
35. Nizar Noor – no address
36. North Sydney Council – 200 Miller Street, North Sydney
37. Rui Ma – no address
38. Sean Macken on behalf of the owners of 65 Nicholson Street, St Leonards
39. Sharon Coley - St Leonards resident
40. Strata Plan 57540 – Northmark – 52 Christie Street, St Leonards
41. Sue Fong Foong – 49-52 Christie Street, St Leonards (*'Northmark'*)
42. Sue Yelland – no address
43. Victor Chau - Unit 51, 50 Oxley Street, St Leonards
44. Wiley To – no address
45. Yue Dai - Unit 1206, *St Leonards Square Jackson Building*, 486 Pacific Highway, St Leonards

The submissions raise the following issues:

- cumulative traffic impacts on surrounding area;
- height/FSR variation should be dealt with via a planning proposal and not clause 4.6;
- B4 zoning more appropriate to the area;
- increased occupancy will impact cleanliness and security in the area;
- loss of value of surrounding properties;

- current green and low-rise sporting facility provides important service/function to surrounding area;
- excessive building height and FSR non-compliance with LEP controls;
- bulk, height, and scale are grossly divergent with the location;
- enforceability of compliance with 18-storeys proposed for Building C;
- loss of solar access to surrounding properties including 50 Oxley Street, 27 Oxley Street, 52-54 Christie Street, 12 Nicholson Street ;
- impact of proposed vehicular entry on existing access to Oxley Street residences
- mitigation of noise from any mechanical plant;
- proposed heights exceed those under the St Leonards Crows Nest 2036 Plan;
- no guarantee that any new facilities for the public (other than public toilets) will be included;
- loss of views from surrounding residential units;
- view impacts to 46 Nicholson Street;
- establishment of undesirable precedent;
- height limits permitted under the 2036 Plan (not specific to DA);
- dust/amenity impacts during construction;
- no wind assessment provided (required under the *2036 Plan*);
- loss of child-care centre and community facilities; and
- 4 submissions (including one from the Manager of North Sydney Council) objecting to the process for dealing with the proposed variations, asserting that implementation of increased density controls (height and FSR) in accordance with the 2036 Plan should occur through a detailed planning proposal.

The issues raised in the submissions are addressed below:

- traffic generation from the proposed development is acceptable. The AIMSUM model is conditioned to be upgraded to establish the cumulative traffic impacts in the locality.
- The proposed height/FSR variation can be considered via clause 4.6. All impacts associated with the height/FSR departure have been assessed in detail – refer **Section 8.4.4**.
- Retention of the B3 zoning and strengthening of the economic significance of the St Leonards area is validated in relevant strategic planning documents and Economics Benefits Report submitted with the DA (**Appendix 19**).
- The proposed through-site linkages would enhance connectivity and permeability through the site from the surrounding area.
- The proposal would improve activation and passive surveillance along the Christie Street, Oxley Street and Nicholson Street frontages.
- The loss of existing community uses will be offset by public benefit offerings under the VPA. Potential future uses include the provision of a child care centre.
- Suitable conditions are recommended to mitigate amenity impacts during the construction period.
- The proposal is consistent with the vision for St Leonards under the *2036 Plan*.
- Future assessment of the concept envelope for Building C would have regard to this approval.
- The submission of a wind report is conditioned.
- Noise impact assessment undertaken. Noise of mechanical plant to be addressed in revised noise report once confirmed at the CC stage (conditioned).
- View impacts to the existing building at 46 Nicholson Street (*4 storey commercial building*) would be blocked by an LEP compliant envelope. It is noted that a Gateway Determination has been granted for a 31-storey building on the site (30-storeys

permitted under the *2036 Plan*, 32-storeys proposed).

- The issues raised in the submissions are addressed in detail previously in this Report.

### **The public interest: s4.15(1)(e)**

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation and consideration of any submissions received relating to it by Council.

## **9. SECTION 7.11 CONTRIBUTION**

In addition to the monetary contribution under the VPA, payment of a 7.11 contribution is conditioned.

## **10. CONCLUSION**

The proposal is recommended for approval for the following reasons:

- The proposed variations to the LEP height/FSR controls by virtue of clause 4.6 would facilitate the delivery of high-quality employment floor space in Buildings A and B consistent with the strategic objectives for St Leonards under the *Greater Sydney Region Plan*, *North District Plan* and the *St Leonards Crows Nest 2036 Plan* as well as Council's objectives for employment growth in Strategic Centres close to public transport.
- The proposal has been skilfully designed to distribute bulk and massing across the site to reduce the actual and perceived bulk of the development. The proposed height variations would allow for reduced building footprints and provision of two through site links by relocating floor space from lower levels to higher within the tower forms.
- The proposed development would improve the pedestrian environment of the Strategic Centre and enable better connectivity and increase permeability throughout the precinct to both the future Crows Nest Metro Station and St Leonards station.
- The proposal would enhance activation of the Nicholson Street, Oxley Street, and Christie Street frontages and would provide public domain upgrades to enhance amenity of the surrounding area.

## **11. RECOMMENDATION**

That the Sydney North Planning Panel approve the variation sought to the height of buildings (*clause 4.3*) and floor space ratio (*clause 4.4*) development standards contained in *Local Environmental Plan 2009*, as it may be satisfied that the applicant's written requests have addressed the matters required to be demonstrated by Clause 4.6 of that Plan and the proposed development would be in the public interest because it is consistent with the objectives of the standards and the objectives for development in the B3 zone, and there are sufficient environmental planning grounds to justify the variations.

Pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, the Sydney North Planning Panel as Consent Authority grant development consent to Development Application No. 171/2020 for a concept development application to establish three building envelopes (18, 12 and 8 storeys) on the site and detailed development application for the demolition of an existing building on the site, construction of two commercial buildings (Building A and Building B), alterations to the existing car park, landscaping, and public domain works on land at 29-57 Christie Street, St Leonards, subject to the recommended conditions of consent at **Annexure 1**.



## 12. ANNEXURES

Annexure	Document
1.	Draft conditions of consent
2.	Architectural plans
3.	Detailed survey
4.	Architectural design statement
5.	Concept masterplan
6.	Shadow analysis
7.	Addendum view analysis
8.	Revised landscape plans
9.	Revised landscape design statement
10.	SEE
11.	Updated clause 4.6 – Height of buildings
12.	Clause 4.6 – FSR
13.	Traffic impact assessment
14.	Addendum traffic response
15.	Arboricultural impact assessment
16.	Access report
17.	Noise Impact Assessment
18.	Geotechnical report
19.	Economic benefits report
20.	Draft VPA
21.	Response to RFI