

**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST LEONARDS**

**Subject:** 22-44 Berry Road, 21-31 Holdsworth Avenue and 42-46 River Road, St Leonards  
**Record No:** DA22/60-01 - 5282/23  
**Division:** Environmental Services Division  
**Author(s):** Greg Samardzic

<b>Panel Reference</b>	PPSSNH-316
<b>DA Number</b>	60/2022
<b>LGA</b>	Lane Cove Council
<b>Proposed Development</b>	Demolition of existing structures and construction of five residential flat buildings comprising a total of 230 apartments and basement parking for 411 vehicles
<b>Street Address</b>	22-44 Berry Road, 21-31 Holdsworth Avenue and 42-46 River Road, St Leonards
<b>Applicant/Owner</b>	Applicant: Helena Miller (MG Planning P/L) Owner: CIFI St Leonards P/L and Greateon St Leonards Holdings P/L
<b>Date of DA lodgement</b>	1 June 2022
<b>Total number of Submissions</b>	<ul style="list-style-type: none"> <li>• 10 under/around the public exhibition/1<sup>st</sup> notification period;</li> <li>• One under the 2<sup>nd</sup>; and</li> <li>• One under the 3<sup>rd</sup>.</li> </ul>
<b>Number of Unique Objections</b>	<ul style="list-style-type: none"> <li>• Total: 12</li> </ul>
<b>Recommendation</b>	<b>Approval</b>
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	Development has a capital investment value of more than \$30 million.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• <b>relevant environmental planning instruments</b> <ul style="list-style-type: none"> <li>- SEPP 65 – Design quality of Residential Apartment Development;</li> <li>- SEPP Resilience and Hazards 2021;</li> <li>- SEPP Building Sustainability Index 2004;</li> <li>- SEPP Transport and Infrastructure 2021</li> <li>- SEPP Planning Systems 2021; and</li> <li>- Lane Cove Local Environmental Plan 2009.</li> </ul> </li> <li>• <b>proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority</b> <ul style="list-style-type: none"> <li>- N/A</li> </ul> </li> <li>• <b>relevant development control plan</b> <ul style="list-style-type: none"> <li>- Lane Cove Development Control Plan 2009</li> </ul> </li> </ul>

	<ul style="list-style-type: none"><li>• <b>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 section 7.4</b></li><li>- Yes – draft planning agreement that a developer has offered to enter into under Section 7.4 (<b>see Annexures 6 and 7</b>)</li><li>• <b>relevant regulations e.g. Regs 92, 93, 94, 94A, 288</b></li><li>- Clause 92(1)(b) – Demolition of Structures</li><li>• <b>coastal zone management plan</b></li><li>- Nil</li><li><b>other relevant plans</b></li><li>- Apartment Design Guide (ADG)</li><li>- St Leonards South Landscape Masterplan</li><li>- St Leonards South Section 7.11 Contributions Plan</li><li>- Special Infrastructure Contribution Levy Direction</li></ul>																																																
<b>List all documents submitted with this report for the Panel’s consideration</b>	<table><tr><th><b>Annex.</b></th><th><b>Document</b></th><th><b>Prepared By</b></th></tr><tr><td>1</td><td>Draft Conditions of Consent</td><td>Lane Cove Council</td></tr><tr><td>2</td><td>SEPP 65 Assessment (ADG)</td><td>Lane Cove Council</td></tr><tr><td>3</td><td>Development Control Plan Assessment</td><td>Lane Cove Council</td></tr><tr><td>4</td><td>Summary of Submissions</td><td>Lane Cove Council</td></tr><tr><td>5</td><td>NSROC DRP Minutes</td><td>NSROC Design Review Panel</td></tr><tr><td>6</td><td>NSROC DEP Minutes</td><td>NSROC Design Review Panel</td></tr><tr><td>7</td><td>SNPP Briefing Notes</td><td>Lane Cove Council</td></tr><tr><td>8</td><td>Public Benefit Offer</td><td>CIFI St Leonards P/L and Greateon St Leonards Holdings P/L</td></tr><tr><td>9</td><td>Draft Planning Agreement</td><td>CIFI St Leonards P/L and Greateon St Leonards Holdings P/L</td></tr><tr><td>10</td><td>Draft 88B Instrument</td><td>LTS Lockley</td></tr><tr><td>11</td><td>Architectural Plans</td><td>Koichi Takada Architects</td></tr><tr><td>12</td><td>Landscape Plans</td><td>Aspect Studios</td></tr><tr><td>13</td><td>Civil Drawings</td><td>Robert Bird Group</td></tr><tr><td>14</td><td>Statement of Environmental Effects</td><td>MG Planning P/L</td></tr><tr><td>15</td><td>Building Code of Australia Preliminary Issues Report</td><td>CityPlan</td></tr></table>	<b>Annex.</b>	<b>Document</b>	<b>Prepared By</b>	1	Draft Conditions of Consent	Lane Cove Council	2	SEPP 65 Assessment (ADG)	Lane Cove Council	3	Development Control Plan Assessment	Lane Cove Council	4	Summary of Submissions	Lane Cove Council	5	NSROC DRP Minutes	NSROC Design Review Panel	6	NSROC DEP Minutes	NSROC Design Review Panel	7	SNPP Briefing Notes	Lane Cove Council	8	Public Benefit Offer	CIFI St Leonards P/L and Greateon St Leonards Holdings P/L	9	Draft Planning Agreement	CIFI St Leonards P/L and Greateon St Leonards Holdings P/L	10	Draft 88B Instrument	LTS Lockley	11	Architectural Plans	Koichi Takada Architects	12	Landscape Plans	Aspect Studios	13	Civil Drawings	Robert Bird Group	14	Statement of Environmental Effects	MG Planning P/L	15	Building Code of Australia Preliminary Issues Report	CityPlan
<b>Annex.</b>	<b>Document</b>	<b>Prepared By</b>																																															
1	Draft Conditions of Consent	Lane Cove Council																																															
2	SEPP 65 Assessment (ADG)	Lane Cove Council																																															
3	Development Control Plan Assessment	Lane Cove Council																																															
4	Summary of Submissions	Lane Cove Council																																															
5	NSROC DRP Minutes	NSROC Design Review Panel																																															
6	NSROC DEP Minutes	NSROC Design Review Panel																																															
7	SNPP Briefing Notes	Lane Cove Council																																															
8	Public Benefit Offer	CIFI St Leonards P/L and Greateon St Leonards Holdings P/L																																															
9	Draft Planning Agreement	CIFI St Leonards P/L and Greateon St Leonards Holdings P/L																																															
10	Draft 88B Instrument	LTS Lockley																																															
11	Architectural Plans	Koichi Takada Architects																																															
12	Landscape Plans	Aspect Studios																																															
13	Civil Drawings	Robert Bird Group																																															
14	Statement of Environmental Effects	MG Planning P/L																																															
15	Building Code of Australia Preliminary Issues Report	CityPlan																																															

**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST**  
**LEONARDS**

	16	Quantity Surveying Preliminary Cost Report	Quantex Consulting
	17	Traffic, Parking and Access Study	SCT Consulting
	18	Aboricultural Impact Assessment & Tree Protection Specification	L&Co Consultancy
	19	Additional Arborist Advice and Attachment	L&Co Consultancy
	20	DA Acoustic Report	PKA Acoustic Consulting
	21	Preliminary (Stage 1) Site Investigation	JK Environments
	22	Response to Council's Preliminary Assessment of DA60/2022 – Contamination Advice	Douglas Partners
	23	Aboriginal Heritage Due Diligence	RPS
	24	Site Waste Minimisation Plan	Waste Audit
	25	Operational Waste Management Plan	Waste Audit
	26	BASIX Certificate	JHA Consulting Engineers
	27	Survey	LTS Lockley
	28	Geotechnical Investigation	JK Geotechnics
	29	Preliminary Groundwater Level Investigation	Geo-Logix
	30	ESD Report	JHA Services
	31	Stormwater Management Report	Robert Bird Group
	32	Preliminary Public Art Strategy	UAP
	33	Landscape Design Report	Aspect Studios
	34	DA Design Report	Koichi Takada Architects
	35	Accessibility Review Report – DA Review	ABE Consulting
	36	Notification Extent Map	Lane Cove Council
	37	NSW Police Response	North Shore PAC
	38	Office of Water General Terms of Approval	Office of Water
	39	Ausgrid Comments	Ausgrid
	40	Transport for New South Wales Comments	TfNSW
	41	Aboriginal Heritage Office Comments	AHO
	42	Council's Request for Further Information (RFI) Letter	Lane Cove Council
	43	Oculus Comments	Oculus
	44	Summary of RFI Response	MG Planning P/L
	45	Detailed RFI Response	MG Planning P/L

**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST LEONARDS**

	46	Response to DRP Comments	Koichi Takada & Aspect Studios
	47	Response to Submissions	MG Planning P/L
	48	Cover Letter – Submission of Final Amended Architectural Plans	MG Planning P/L
	49	Erosion and Sediment Control Plan	Robert Bird Group
<b>Clause 4.6 requests</b>	Not applicable.		
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• FSR</li> <li>• Design excellence/quality</li> <li>• Height, bulk and scale</li> <li>• Setbacks</li> <li>• Street wall height</li> <li>• Inconsistent with existing character and topography</li> <li>• Solar access</li> <li>• Natural ventilation</li> <li>• Overshadowing</li> <li>• Edge treatments/basement protrusions above ground</li> <li>• Traffic, transport and access</li> <li>• Parking</li> <li>• Flora and fauna</li> <li>• Through site link</li> <li>• Information insufficient to allow assessment</li> <li>• Sustainability</li> <li>• Lack of open space</li> <li>• Safety and security</li> <li>• Loss of privacy</li> <li>• Loss of views</li> <li>• Loss of property values</li> <li>• Construction impacts</li> <li>• Design Review Panel concerns</li> </ul>		
<b>Report prepared by</b>	<b>Greg Samardzic</b>		
<b>Report date</b>	22 February 2023		

**Summary of s4.15 matters**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Yes**

**Legislative clauses requiring consent authority satisfaction**

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?

**Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6

**Not applicable**

**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST**  
**LEONARDS**

of the LEP) has been received, has it been attached to the assessment report?

**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Yes**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**

*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*

**1. EXECUTIVE SUMMARY**

The Development Application is for the demolition of existing structures and construction of five residential flat buildings comprising a total of 230 apartments and basement parking for 411 vehicles on land known as 22 – 44 Berry Road, 21-31 Holdsworth Avenue and 42 - 46 River Road, St Leonards.

The Development Application is referred to the Sydney North Planning Panel for determination under SEPP (Planning Systems) 2021 as the Capital Investment Value exceeds \$30 million.

The Development Application had followed an extensive design process through the Northern Sydney Region of Council's Design Review Panel and Design Excellence Panel prior to the lodgement of the Development Application. The resulting and subject Development Application does provide for a design that exhibits *design excellence* as required for all development within the St Leonards South Precinct.

The proposal has been assessed against the relevant parts of Section 4.15 of the Environmental Planning and Assessment Act, 1979. A detailed assessment of the relevant environmental planning instruments is provided in Section 6 of this report. A summary of the matters requiring consent authority satisfaction is provided in **Table 1** below.

<b>Table 1 – EPI Matters to be Satisfied</b>		
<b>EPI</b>	<b>Clause</b>	<b>Recommendation Summary</b>
SEPP 65 – Design Quality of Residential Apartment Development	28(2) – Advice of design review panel, the design quality principles and the ADG to be considered	Satisfied – see below report
SEPP Resilience and Hazards 2021	7 – Contamination and remediation to be considered in determining an application.	Satisfied subject to a condition requiring submission of a Detailed Site Investigation prior to the issue of the construction certificate. The submitted Preliminary Site Investigation indicates that the subject site would likely to be suitable for continued residential use
LCLEP 2009 – Incentive	7.1(4) – Provide required unit mix, green spine setbacks, site area and pedestrian	Satisfied – refer to <b>Table 6</b> of this report.

**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST LEONARDS**

Provisions	link.	
LCLEP 2009 – Earthworks	6.1 - This clause generally requires development consent for earthworks and requires that the consent authority consider certain matters before granting consent for earthworks to ensure the works will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The proposed earthworks would not have a detrimental impact on environmental functions or surrounding lands (refer Erosion and Sediment Control Plan at Appendix 49 and Geotechnical Report at Appendix 28).

The Development Application was notified, and a total of 10 submissions under/around the public exhibition/1<sup>st</sup> notification period, one under the 2<sup>nd</sup> and one under the 3<sup>rd</sup>. The submissions relate the following matters:

- FSR
- Design excellence/quality
- Height, bulk and scale
- Setbacks
- Street wall height
- Inconsistent with existing character and topography
- Solar access
- Natural ventilation
- Overshadowing
- Edge treatments/basement protrusions above ground
- Traffic, transport and access
- Parking
- Flora and fauna
- Through site link
- Information insufficient to allow assessment
- Sustainability
- Lack of open space
- Safety and security
- Loss of privacy
- Loss of views
- Loss of property values
- Construction impacts
- Design Review Panel concerns

The submissions have been summarised and addressed within Attachment 4 of this report. The Development Application is considered to achieve the required design quality standard for development within the St Leonards South Precinct and is reported to the Sydney North Planning Panel with a recommendation for **approval** subject to conditions of consent.

## **2. STRATEGIC CONTEXT**

### **2.1 St Leonards South Precinct**

The subject site is located within the St Leonards South Precinct. The St Leonards South Precinct was brought into effect on **1 November 2020** through amendments to *Lane Cove Local Environmental Plan 2009* and *Lane Cove Development Control Plan 2009*. The precinct planning was finalised concurrently with the *St Leonards Crows Nest 2036 Plan*.

## 2.2 Location

The St Leonards South Precinct is bounded by Marshall Avenue (north), Canberra Avenue (east), Park Road (west) and River Road (south) as shown in **Figure 1** below. Key features of the locality within which the precinct is situated include the Pacific Highway, rail/metro to the east, a commercial centre (St Leonards Plaza and St Leonards Square) and Newlands Park and Gore Hill Oval.



**Figure 1: St Leonards South Precinct**





**Figure 2: St Leonards South Precinct – Concept Photomontage**

### 2.3 Vision

The vision of the St Leonards South Precinct is described within *Lane Cove Development Control Plan 2009 Part C – Residential Localities – Locality 8* as follows:

*The desired future character of the St Leonards South Precinct is for a liveable, walkable, connected, safe, Precinct which builds upon the transit and land use opportunities of St Leonards and Metro Stations and commercial centre.*

A concept photomontage of the St Leonards South Precinct is shown in **Figure 2** above.

### 2.4 Planning Controls

The planning controls and mechanisms to achieve the vision of the Precinct are detailed and addressed in **Section 6** of this report. The planning controls are principally contained within [Part 7 of Lane Cove Local Environmental Plan 2009](#) and supported by a precinct-specific part of *Lane Cove Development Control Plan 2009*, a Landscape Master Plan, a Section 7.11 Contributions Plan and designation as a Special Infrastructure Contribution area.

The Precinct is divided into 'Areas' which are the envisaged amalgamated development sites (see **Figure 3** below).





**Figure 3: St Leonards South Precinct – Area Designation**

The key provisions of *Lane Cove Local Environmental Plan 2009* are summarised as follows:

**i. Zoning**

The Precinct is zoned R4 High Density Residential.

**ii. Incentive Building Height and FSR**

The planning scheme operates with an incentive building height and incentive floor space ratio control. The incentive maximum building height and floor space ratio are available only if the incentive provisions of Part 7.1(4) of *Lane Cove Local Environmental Plan 2009* are provided which are summarised as follows:

- **Unit Mix:** Minimum 20% of each 1, 2 and 3-bedroom dwellings (Part 7.1(4)(a)-(c);
- **Green Spine:** Setbacks to establish communal open space between buildings (Part 7.1(4)(d))
- **Minimum Site Area:** Site amalgamations (Part 7.1(4)(e) and Part 7.2);
- **Affordable Housing:** The provision of affordable housing (Part 7.1(4)(f) and Part 7.3);
- **Recreation Areas and Community Facilities:** The provision of recreation areas and community facilities (Part 7.1(4)(g) and Part 7.4); and
- **Pedestrian Links and Roads:** The provision of pedestrian links and roads (Part 7.1(4)(h) and Part 7.5).

**Note:** Unit mix, green spine and site area provisions apply to all sites. Affordable housing, recreation areas and community facilities, and pedestrian links and roads are allocated on a per site/area basis.

**iii. No Clause 4.6 Variation Requests for Height and FSR**

The planning scheme precludes the use of Clause 4.6 to vary the incentive building height, incentive floor space ratio, incentive provisions (**with exception of the minimum site area provisions to allow for site hold-out scenarios**) and design excellence provisions.

**iv. Design Excellence**

The planning scheme seeks to provide design excellence in relation to architectural, urban and landscape design. The criteria for achieve design excellence is listed in [Part 7.6 of Lane Cove Local Environmental Plan 2009](#). The consent authority cannot grant development consent unless it is satisfied that design excellence is achieved.

**v. NSROC Design Review Panel**

The North Sydney Region of Council's Design Review Panel was established to coincide with the commencement of the St Leonards South Precinct planning scheme. The Panel will provide advice on SEPP 65 and design excellence (Part 7.6 of LCLEP 2009) for development within the St Leonards South Precinct. The Panel process occurs **prior to lodgement of the Development Application** aiming to resolve key issues and provide for higher quality lodgements. The NSROC Design Review Panel comments would assist Council and the Sydney North Planning Panel in determining SEPP 65 and design excellence.

A Precinct-specific Development Control Plan is contained within [Lane Cove Development Control Plan 2009 Part C – Residential Localities – Locality 8 – St Leonards South Precinct](#). The DCP guides infrastructure, access, built form (setbacks etc.), public domain, private domain, sustainability, and landscaping (including calling up the Landscape Master Plan). Key unique provisions of the DCP are discussed as follows:

**vi. Green Spines - Shared Communal Open Space**

Green spines are a key feature of the St Leonards South Precinct. The green spine is a 24m wide shared communal open space between residential flat buildings. Ordinarily a residential flat building development would provide communal open space for its own use only. The green spines will combine the communal open space of multiple residential flat buildings with each contributing to, and sharing in, a larger communal open space area. The shared communal open space will be grouped in accordance with **Figure 4** and is characterised by shared facilities and significant landscaping (50% minimum deep soil).



**Figure 4: Green Spines (Shaded Green)**

#### **vii. Part Storey Control**

The DCP includes a maximum number of storeys control. Importantly, the DCP includes the following in relation to calculating the number of storeys:

*Part storeys resulting from excavation of steep slopes or semi basement parking will not count as a storey.*

This is being applied where there is any part of a storey beneath the ground level (existing) resulting from (1) excavation of a steep slope **or** (2) including basement parking, the entire storey will not be counted as a storey.

As per Amendment 20 the definition of a part storey is:

- a) *“part storey means a storey where the floor level is partly more than 1 metre below ground level (existing) and where 50% of the space within the storey is used as non-habitable space (such as for car parking, vehicular access, plant rooms, mechanical services, loading areas, waste storage or the like) that is ancillary to the main purpose for which the building is use.”*

It is noted that at the same time as amending the definition of a ‘part storey’ Council also amended Clause 1.6 Savings Provisions to include a ‘note’ as shown in bold italics below:

**Note : The provisions of this DCP as amended by Lane Cove Development Control Plan 2009 (Amendment No. 20) apply to development applications made both before and after Lane Cove Development Control Plan 2009 (Amendment No. 20) came into effect, despite any other provision of this DCP.**

#### **Landscape Master Plan**

The private and public domain, and landscape design are further detailed within the [St Leonards South Landscape Master Plan](#). The Landscape Master Plan provides design guidance to the **public domain** (materiality, lighting, street trees, road infrastructure etc.), **private domain** (green

spine levels, green spine facilities and landscaping calculations) and **public/private domain interface** (such as ground floor apartment fencing/landscaping design). An overview of the Landscape Master Plan (LMP) design is provided in **Figure 5** below. It is noted that the proposal complies with the LMP design where it has been assessed by Council's Landscaped Architect and no objections are raised.



**Figure 5: Landscape Master Plan (LMP)**

### **St Leonards South Section 7.11 Plan**

The provision of infrastructure is proposed to be facilitated in part through the [St Leonards South Section 7.11 Contributions Plan](#) which is now in force.

### **Special Infrastructure Contribution**

The site is within the [St Leonards and Crows Nest Special Contributions Area](#) which requires the payment of a contribution to support the St Leonards and Crows Nest 2036 Plan.

### **2.5 Site in Future Envisaged Context**

The subject development site is centrally located within the southern central part of the St Leonards South Precinct and is known as **Areas 18-20**. The site in the future envisaged context would include provision of a 6m wide east-west public pedestrian link through the development site.





**Figure 6: Subject Development Site in Future Envisaged Context**

### **3. SITE**

#### **3.1 Subject Site**

The subject site is known as 22-44 Berry Road, 21-31 Holdsworth Avenue and 42-46 River Road, St Leonards, St Leonards with a total site area of 8,758m<sup>2</sup> known as Areas 18-20 (see **Figure 7** below) within the St Leonards South Precinct planning scheme. The site located in the southern central part of the Precinct.





**Figure 7: Subject Site in Shaded Blue**

The key site characteristics are summarised in **Table 2** below.

<b>Table 2 – Site Characteristics of 22-44 Canberra Avenue, 21-31 Holdsworth Avenue and 42-46 River Road St Leonards</b>	
<b>Site Characteristic</b>	<b>Subject Site</b>
<b>Title Particulars</b>	22-44 Canberra Avenue, 21-31 Holdsworth Avenue and 42-46 River Road St Leonards (Lots 15-22 & 24-29 Section 2 DP 7259 and Lots 1 & 2 DP1037926)
<b>Total Site Area</b>	Total: 8,758sqm
<b>Site Frontage</b>	Approx. 110m to Berry Road Approx. 132m to Holdsworth Avenue Approx. 77m to River Road
<b>Site width</b>	Irregular up to 44 m between Berry Road and Holdsworth Avenue.
<b>Topography</b>	See existing site survey plans with spot RLs at <b>Annexure 27</b> .
<b>Zoning</b>	R4 High Density Residential
<b>Existing Structures</b>	The site contains detached dwelling houses on separate allotments with an assortment of ancillary structures and trees.
<b>Existing Use</b>	The site is being or has been used for residential purposes.
<b>Vehicular Access</b>	Vehicular access (existing) is provided through individual vehicle crossovers for each allotment.

### **3.1.1 Topography**

The subject site includes a significant slope or maximum fall of approximately 22.75m from the north west to the south east.

### 3.1.2 Site Photographs



**Figure 8: Berry Road Looking South East**



**Figure 9: Berry Road Looking South to River Road**



**Figure 10: River Road Frontage Looking East**





**Figure 11: Holdsworth Avenue Looking North**



**Figure 12: Holdsworth Avenue Looking South**

### **3.1.3 Site Surrounds**

The site adjoins two residential lots at 20 Berry Road and 19 Holdsworth Avenue to the north. These allotments currently accommodate detached dwellings that have been purchased and consolidated for future development as part of Areas 16 & 17 which is now subject to Development Application No. 115/2022 for the construction of two residential flat buildings with a community hall and a centre-based childcare facility. The application is yet to be determined.

Land to the east comprising Areas 7-11 which currently accommodates detached dwellings which has obtained development consent (Development Consent No. 99/2021) for redevelopment from the Sydney North Planning Panel on 2 March 2022. Approval was granted for “demolition of existing structures and construction of five residential flat buildings (ranging from 6 to 10 storeys) comprising a total of 330 apartments and basement parking for 372 vehicles”. To the south the site is adjoined by River Road which forms the southern boundary of the St Leonards South redevelopment area.

Land to the west comprising Areas 22 & 23 which also accommodates detached dwellings, Council has received a Development Application (DA No. 154/2022) for construction four residential flat

buildings with four levels of basement car parking, comprising a total of 314 dwellings and a proposed new road connecting Park and Berry Road. The application is yet to be determined.

Further to the south detached dwellings front River Road with their private open space located to the south (rear) of the dwellings.

The site is located within the following context:

- ♣ Immediately to the north of River Road;
- ♣ 280m south of the Pacific Highway;
- ♣ 560m to the south west of the St Leonards Railway Station and St Leonards Commercial Centre;
- ♣ 580m to the west of the future Crows Nest Metro Station;
- ♣ 590m to the north of Wollstonecraft Station;
- ♣ 560m to the south of Royal North Shore Hospital, and
- ♣ 780m to the west of Crows Nest Village.

## **4. PROPOSAL**

### **4.1 Overview**

The Development Application is for the demolition of existing structures and construction of five residential flat buildings comprising a total of 230 apartments and basement parking for 411 vehicles at 22-44 Canberra Avenue, 21-31 Holdsworth Avenue and 42-46 River Road, St Leonards known as Areas 18-20. The architectural plans are provided as **Annexure 11** to this report and a summary of the key development statistics are provided in **Table 3** as follows:



**Figure 13: Proposed Photomontage (from Berry Road)**

#### 4.1.1 Key Development Statistics

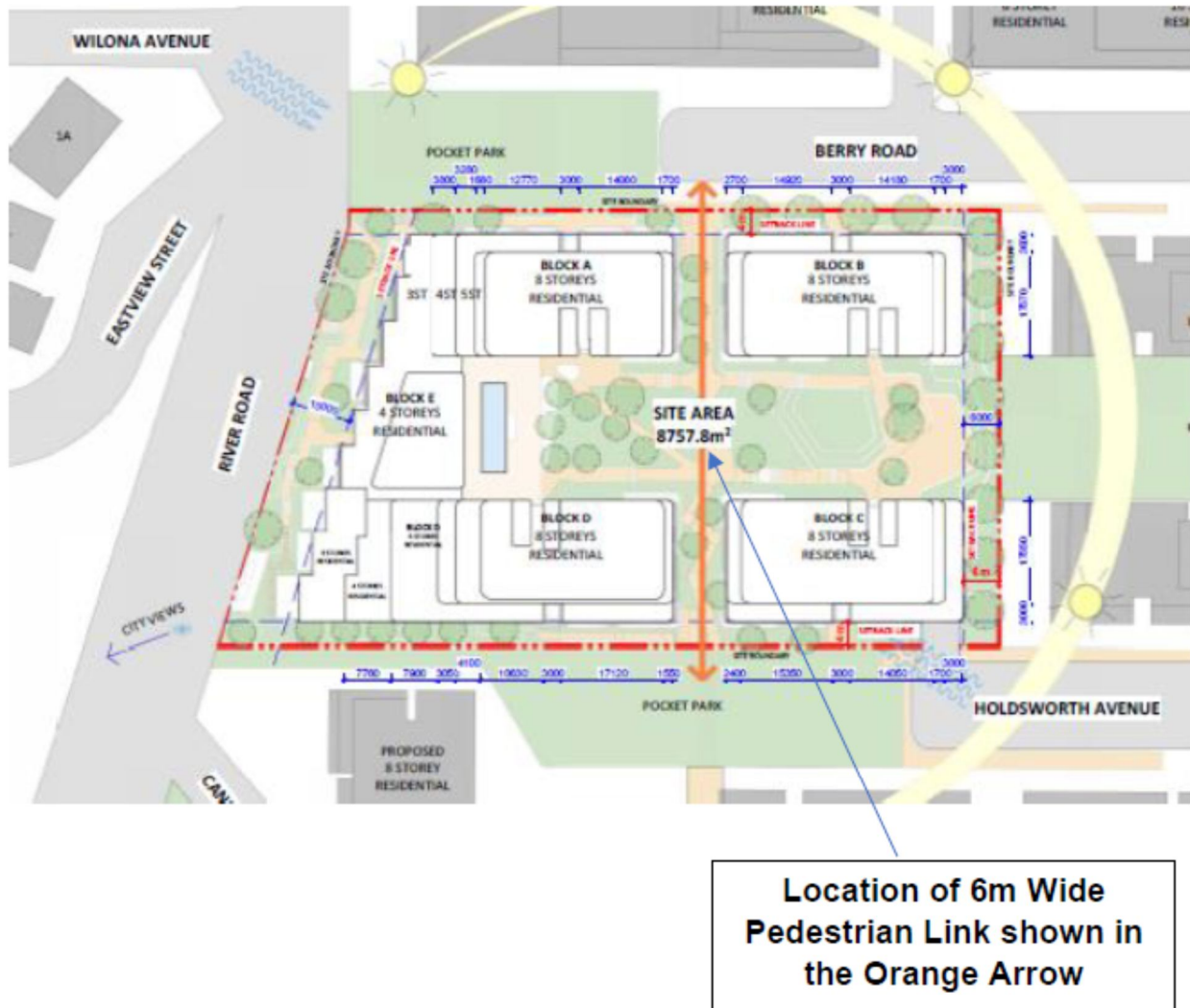
<b>Table 3 – Development Statistics</b>	
<b>Component</b>	<b>Description</b>
<b>Number of Buildings</b>	Five with basement
<b>Number of Storeys</b>	4-8 storeys
<b>Part Storeys</b>	One proposed for each building at Buildings A-D
<b>Building Height</b>	15m & 31m
<b>Gross Floor Area</b>	22,770m <sup>2</sup>
<b>Floor Space Ratio</b>	2.6:1
<b>Total Apartments</b>	230 apartments
<b>Unit Mix</b>	74 x 1 bedroom (32%) 110 x 2 bedroom (48%) 46 x 3 bedroom (20%)
<b>Vehicular Access</b>	Singular vehicular access point from Holdsworth Avenue.
<b>Parking</b>	411 vehicles
<b>Pedestrian Link</b>	The provision of 6m wide pedestrian link through the subject development site (to be dedicated to Council).
<b>Deep Soil within Green Spine</b>	Greater than 50% of Green Spine

#### 4.1.2 Detailed Development Description

The Development Application is for the demolition of existing structures and construction of five residential flat buildings comprising a total of 230 apartments and basement parking for 411 vehicles on land known as 22 – 44 Berry Road, 21-31 Holdsworth Avenue and 42 - 46 River Road, St Leonards. The proposal comprises the following key elements:

- ♣ Demolition and site preparation works;
- ♣ Construction and use of five residential flat buildings (ranging in height from 4 to 8 storeys) totaling 22,770m<sup>2</sup> GFA (2.6:1 FSR) and that include:
  - A total of 230 residential apartments (74 x 1 bedroom (32%), 110 x 2 bedroom (48%) and 46 x 3 bedroom (20%);
  - A total of 2,411m<sup>2</sup> of communal open space (28% of the site area) including a central north south 'green spine' including a swimming pool area;
  - A 4 storey + mezzanine basement with a total of 411 car parking spaces, motorcycle and bicycle parking; and
  - Vehicular access provided from Holdsworth Avenue via a single egress/ingress point.
- ♣ Tree removal and replacement planting;
- ♣ A 6m wide east west through-site link connecting Holdsworth Avenue and Berry Road (to be dedicated to Council); and
- ♣ Associated landscape works.





**Figure 14: Proposed Site Plan**

#### **4.2 Buildings A-E**

Building A & Building B address Berry Road to the west and the internal green spine. The timber-look awnings provide for architectural streetscape identity to the buildings and entrance points. Both buildings have a street wall height and base element with lighter upper levels set back further from the street frontages. The buildings reflect a stepping down of height to the south towards River Road presenting a consistent street wall height to Berry Road.

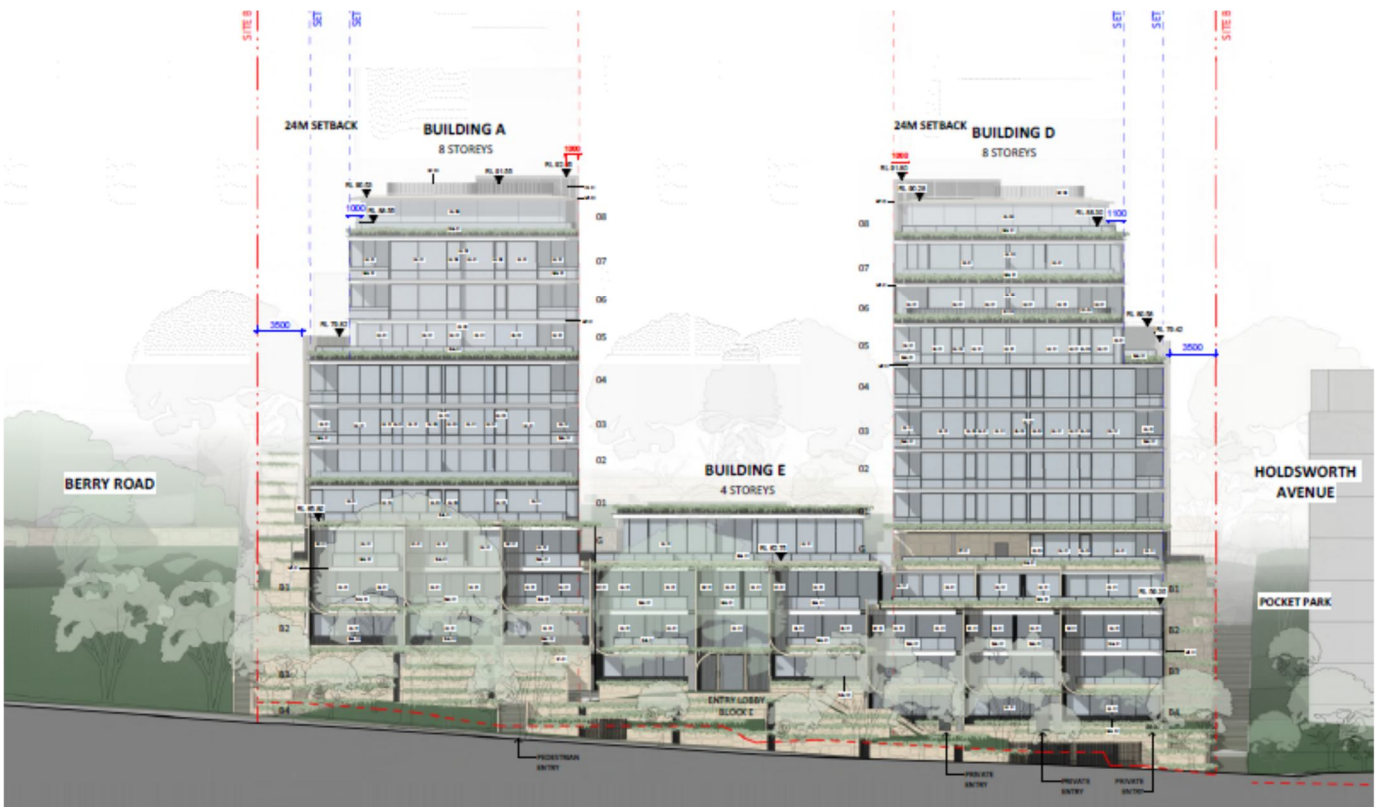
Building C & Building D address Holdsworth Avenue to the west and the internal green spine. As with Buildings A & B timber-look awnings are proposed. Both buildings present also has a street wall height and base element with lighter upper levels set back further from the street frontages. The buildings also reflect a stepping down of height to the south towards River Road.

Building E is orientated to River Road with most units having direct access to River Road via a ground level access pathway. A central entrance is also provided with accessible access via lift to the communal facilities. Building E units are configured with private terraces/courtyards fronting River Road and with separate entries. Units step with the fall of the land to the south eastern corner of the site.

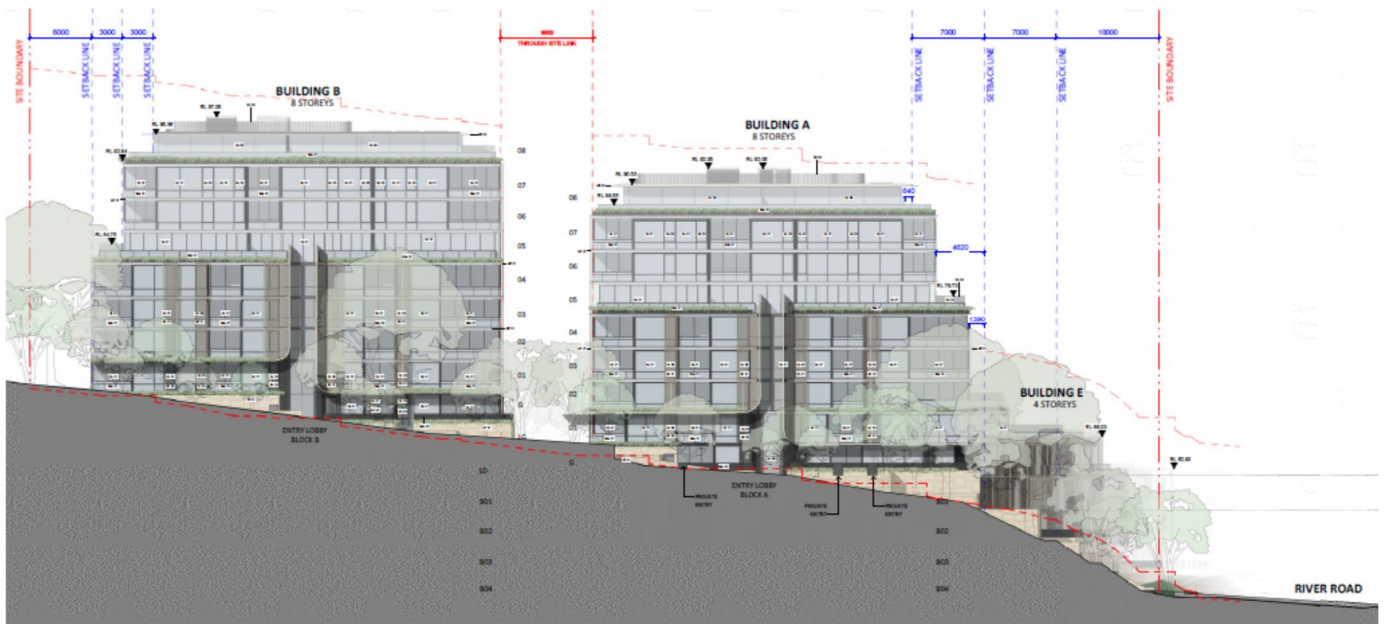
**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST**  
**LEONARDS**



**Figure 15: Proposed East (Holdsworth Avenue) Elevation**



**Figure 16: Proposed South (River Road) Elevation**



**Figure 17: Proposed West (Berry Road) Elevation**

#### **4.3 Materials and Finishes**

The main design features of the buildings include horizontal slab edges to the street detailed with timber look screens, combined with soft edges. A continuous and contrasting coloured banding emphasises the façades.

The curved balcony corners, timber screens and feature awning all create an architectural expression that would reduce the perceived bulk and scale and enhance the landscape character that is prevalent in the masterplan.

The natural material palette is comprised of sandstone utilised to define the interface with the site and ground the design into the steeply sloping terrain. The timber look screening in an oak texture and colouring creates a correlation to the landscaped surrounds.

The horizontal planters provide for increased privacy to the units and defines the ground level lobby entries to the street. The feature timber awning, turning 90 degrees, strengthens the vertical breaks in the form. The buildings steps back above the fifth storey enhanced with a perimeter planter.

The top level of the towers is recessed from the floors below and takes on a lighter façade expression. With a thin roof overhang, and large expanses of glass, the top-level units enjoy district views and large wrap around. The sandstone base includes the terraces on River Road which have a unique typology differentiated from the rest of the project in materiality and aesthetic.

The proposed materials are detailed in the DA Design Report at Appendix 34 and as illustrated below:



**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST**  
**LEONARDS**



**Figure 18: Proposed Materials Pallet**

#### 4.4 Landscaping and Open Space

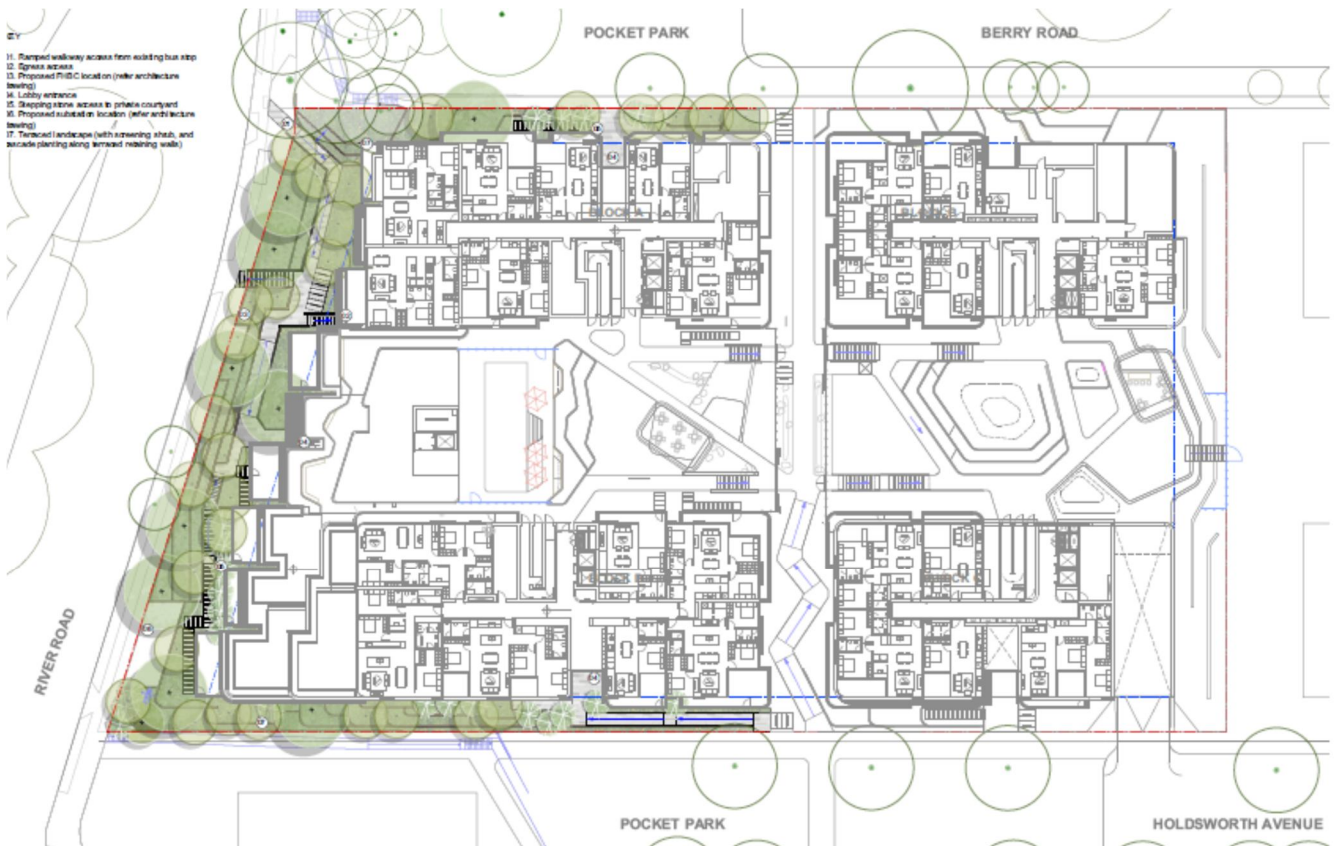
The proposal includes high quality public domain and landscape areas in the form of a central connecting green spine which extends through the centre of the site to realise Council's vision for the area and to retain the leafy character of the neighbourhood and street tree planting.

The green spine is a generous 24m wide communal open space area with a range of residential type amenities. It also includes an extensive landscaped setback (10m wide) on the River Road frontage to provide a significant expansive transition from the development to the low scale residential development across River Road to the south.

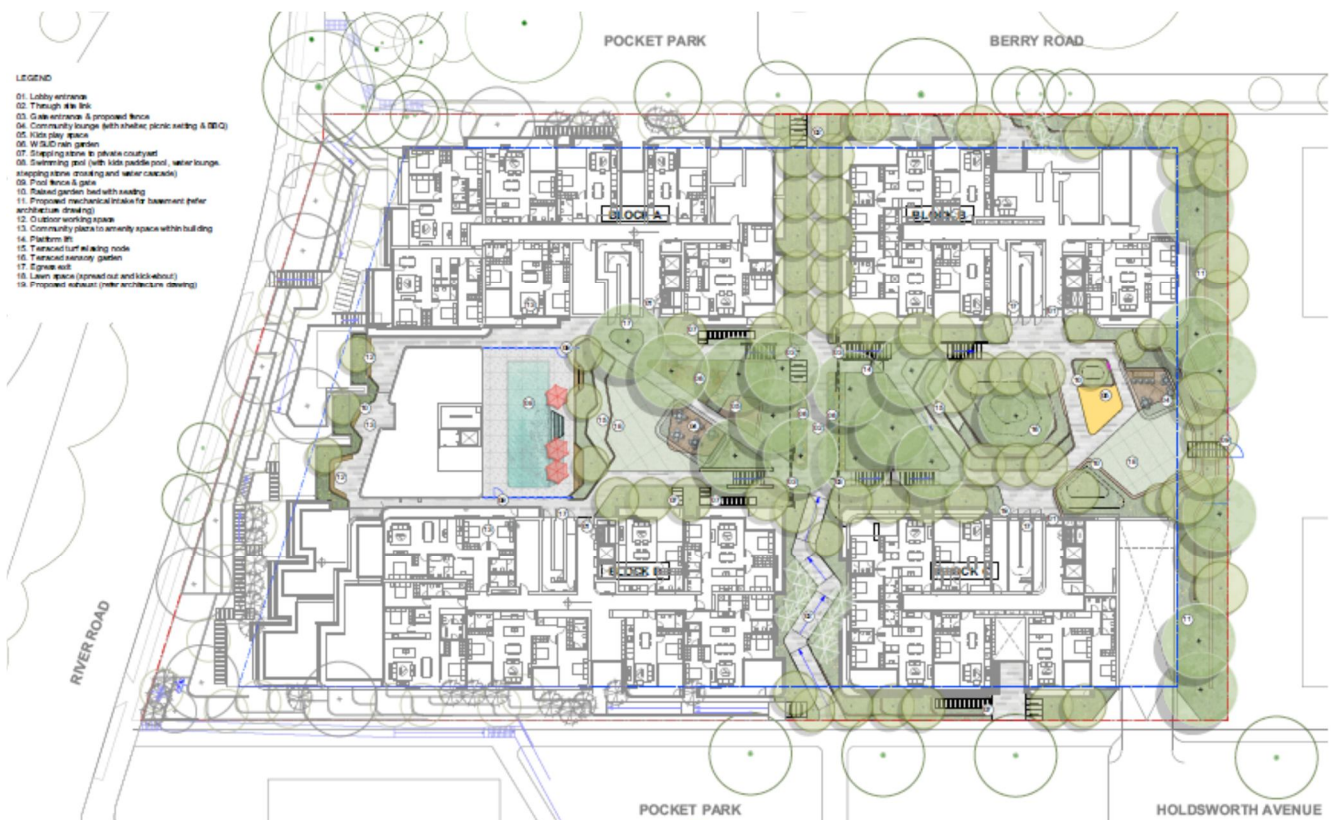
The landscape design intent is as follows:

- ♣ Sufficient soil depth is provided above the basement in the green spine area to ensure sustainable growth of proposed planting.
- ♣ The landscape design reinforces existing strategic objectives of Council visions for the St Leonards South precinct including the principles and design vision of the St Leonards South Landscape Master Plan and Lane Cove DCP. It will provide a level of comfort, familiarity for local residents, and a place that will be distinctive and an attractive asset to the development and local community.
- ♣ The project draws inspiration from this distinct landscape and landforms of the Sydney landscape and specifically, the unique micro-climates of the St Leonards and Crows Nest region. The existing landscape of the St Leonards South areas shifts from an open woodland landscape typology at its ridge (Pacific Highway) and transitions into a wet, gully landscape (Smoothery Park/Berrys Creek). By reflecting this transition of landscape, the applicant had attempted to create an inspiring and contextually rich landscape character to the St Leonards South residential development.
- ♣ A distinct palette and arrangement of materials and planting within the Green Spine reflect the changing landscape experiences, moving between open woodland spaces with large trees and open grass areas, to a more intimate, dense gully environment with steep escarpments and dense understorey planting.

**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST**  
**LEONARDS**



**Figure 19: River Road Level Landscape Plan**



**Figure 20: Green Spine Level Landscape Plan**



The landscape plans are provided at Appendix 12. Further details of the landscape philosophy are provided in the Landscape Design Report at Appendix 33. Replacement planting is proposed, and the Green Spine is proposed to have extensive mature tree canopy coverage.

#### **4.5 Pedestrian and Bicycle Access**

The proposal incorporates a 6m wide public pedestrian through site link running in an east west direction and connecting Holdsworth Avenue and Berry Road. It will also connect to the pocket parks planned for the southern end of both Holdsworth Avenue and Berry Road. The link is to be located to the north of Buildings A & D and to the south of Buildings B & C which will provide a high-quality landscaped connection that is accessible. The path would be required to be constructed to Council's standards and specifications.

The new through site link would also connect into the wider pedestrian/cycle network planned by Council that will ultimately connect the area to the east to the new Crows Nest Metro Station and to the north. Controlled pedestrian access for residents will also be provided through the site in a north south direction through the proposed 'Green Spine' connecting through Building E via lift to River Road to the south. Controlled access would also be provided through the entrance lobbies from Holdsworth Avenue and Berry Road to the Green Spine area including access to the adjoining development to the north at Areas 16 & 17 from the Green Spine area.

#### **4.6 Vehicular Access, Parking and Servicing**

The proposal provides access via a single crossover into a connected basement off Holdsworth Avenue at the north eastern boundary of the site. This location both takes account of the fall of the land and minimises the potential impact of vehicular access to the site on the proposed new pocket parks planned at the southern termination of both Berry Road and Holdsworth Avenue. The proposed crossover will provide access for a basement mezzanine level in the north western corner of the site to provide a loading dock for two Council waste trucks, waste room, waste holding area and visitor parking with a head height of 4.6m to accommodate the service vehicles. Entry to and from this area for these trucks are to be provided in a forward direction.

The basement configuration is provided within the attached architectural plans and would provide for a total of 411 car parking, 28 motorcycle, 92 bicycle and two service vehicle spaces.

#### **4.7 Tree Removal and Planting**

Approximately 132 trees are on the subject site and within vicinity have been assessed in the detailed Arboricultural Impact Assessment at Appendix 18 & 19. The proposal requires the removal of a total of 109 trees to facilitate the proposed development and retention of 23 trees on the site. The proposal requires tree removal of approximately 12 street verge or Council reserve trees which are in poor condition. Replacement tree planting at a ratio of 1:1 is required and a mature canopy coverage within the Green Spine is proposed.

#### **4.8 Public Art**

The proposal includes a preliminary public art strategy at Appendix 32 which provides for public art to be provided as part of the proposal to the value of 0.1% of the development construction value in accordance with the LCDCP 2009 requirement. Public art will be provided at the entrance to the pedestrian through site link on Holdsworth Avenue. This site has been selected as it is highly accessible and:

- ♣ facilitates access to a green spine corridor;
- ♣ is adjacent to the public pocket park which bounds the site; and
- ♣ offers potential to provide maximal opportunities for community engagement, contribute to placemaking, and could effectively sit within a broader network of public art being developed in other areas in St Leonards South, encouraging movement throughout the new precinct.

#### **4.9 ESD**

The aim of the project is to revitalise the Lane Cove precinct with a focus on sustainability. The proposed design incorporates the following embedded sustainability initiatives:

- ♣ Passive design ensuring minimum 6 Star NatHERS rating;
- ♣ Energy efficient LED lighting;
- ♣ Control systems tuned to maximise building performance;
- ♣ Solar photovoltaic system;
- ♣ WELS star rated fixtures;
- ♣ Supplemental bicycle parking spaces;
- ♣ Outdoor motion activated misters and water features to provide relief on hot days, and
- ♣ Activated public and communal open space with inclusive, passive, active and growing zones.

Project commitments are outline in the ESD report at Appendix 30.

#### **4.10 Waste Management and Servicing**

An Operational Waste Management Plan has been prepared and is provided at Appendix 25. The plan outlines the estimate waste to be generated by the development during its operational phase and the proposed waste collection and storage methods. The plan identifies that the primary sources of waste will consist of:

- ♣ General waste;
- ♣ Paper recycling, and
- ♣ Comingled recycling.

Each individual level will include a waste chute and recycling bin. Residents will be responsible for disposing their recycling via the chute system located on each level. The building caretaker will be responsible for transporting recycling. Appropriately sized waste storage rooms are provided in the basement beneath each building and a bulky waste storage area provided in the loading dock along with the waste holding area. Further details are provided at Appendix 25.

#### **4.11 Infrastructure and Services**

All required services exist within the site and are understood to have capacity to accommodate the proposal development. Existing infrastructure and services on site will be decommissioned, demolished and removed as part of the proposed works. The proposed works will include the replacement of this infrastructure including the installation of a new electricity kiosk to service the development on the River Road frontage. Screening of the kiosk is proposed as outlined on the architectural plans at Appendix 11. In terms of wider infrastructure, the subject application would include a Section 7.11 contributions condition in accordance with Council's Contributions Plan for St Leonards South (refer to Appendix 1).

#### **4.12 Demolition and Excavation**

Site preparation works will include:

- ♣ Site clearing and the demolition of all existing buildings and structures;
- ♣ Excavation to provide for the construction of the basement;
- ♣ Implementation of erosion and sediment controls measures, and
- ♣ Associated earthworks.

A detailed Construction Management Plan will be required to be prepared prior to the construction phase.

#### **4.13 Subdivision**

No subdivision is proposed as part of this Development Application. Lot consolidation will be required as a draft condition of consent. Any subsequent subdivision would require separate approval.

#### **4.14 Stormwater Management**

Stormwater management is detailed in the submitted stormwater management report (**Annexure 31**).

#### **4.15 Private Open Space**

The proposal provides private open space to each apartment in the form of balconies or ground level terraces.

#### **4.16 Public Domain Works**

The proposal includes the following required public domain works:

- Public Space: the dedication to Council in perpetuity the 6m wide pedestrian path.
- The undergrounding of utility services in the public domain adjacent to the site (e.g. electricity poles and wires).
- The provision of supplementary street tree planting.

A list of required public domain works is specified in draft conditions of consent **A.7** (see **Annexure 1**).

#### **4.17 Additional Amenity Areas**

The proposal includes additional amenity areas on the ground levels of Buildings A-D as follows:

- **Drying Rooms** - the addition of drying rooms in each building is in keeping with the project's ESD commitments. The Drying Rooms are communal rooms where residents can dry washing, particularly larger items, without the need to use tumble dryers or hang washing on balconies where it can be seen from the public domain.

The rooms are naturally ventilated via windows to the green spine and can also be mechanically ventilated using low-energy fans subject to weather. This will reduce reliance on tumble dryers, thus reducing energy use and carbon emissions for the buildings.

- **Communal Recycling Room** - the communal recycling room is a dedicated area where residents can recycle waste that cannot be adequately dealt with by disposal in the traditional bins. This includes organic wastes for composting, soft plastics, batteries/e-waste, and household items/clothing.

The recycling room further underpins the project's ESD commitments by allowing residents to minimise their environmental footprint consistent with Lane Cove Council's RecycleSmart initiative.

- **Workshop** - the communal workshop is a room for residents to store gardening equipment for use in the communal garden and any hardware/maintenance tools that they will use for bike, car or other maintenance. It will also double as a studio/maker's space for larger projects.

- **Pet Washroom** - a dedicated room for pet washing and grooming. There is a growing trend of pet ownership in apartments with residents requiring a dedicated space to wash and groom pets, particularly dogs.

- **Parcel Locker Rooms** - parcel locker rooms are provided on both the Holdsworth Avenue and Berry Road frontages. The rooms provide residents with a secure location to which couriers and Australia Post can deliver goods such as groceries, take-away and online shopping.

The room can be accessed externally by couriers who can store the goods within a secure parcel locker for collection by residents. The parcel locker electronically notifies the resident that their goods have arrived allowing for timely collection.

- **Amenity/Change Rooms** - male and female changerooms have been provided adjacent to the outdoor swimming pool and wellness/fitness pavilion. The change rooms provide accessible toilets and change facilities.

- **Communal Outdoor Area** – in addition to the communal green spine and swimming pool areas, a further covered communal outdoor area has been provided that includes BBQ's, tables and lounge seating. The area provides a weatherproof outdoor area for residents with southern district views.

Additional bicycle parking will be provided at the ground level connected to the public domain in a secure, clean and dry above ground storage area.

These types of facilities are highly valued by residents many of whom own very expensive bicycles for which such a facility is required as an alternative to in-unit accommodation.

**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST**  
**LEONARDS**



**Figure 21: Ground Floor Level (Building D) Plan with Communal Amenities**

The proposed amenity areas will provide in demand shared spaces whilst concurrently making the best use of internal facing ground floor areas within proximity of the communal pool area to minimise potential aural privacy impacts and overlooking.

## **5. ASSESSMENT HISTORY**

### **5.1 Assessment Timeline**

The assessment timeline is provided in **Table 4** below.

<b>Table 4 – Proposal Timeline</b>	
<b>Date</b>	<b>Description</b>
9 March 2021	NSROC Design Review Panel Meeting and Council Pre-DA Meeting.
14 December 2021	NSROC Design Excellence Panel Meeting.
1 June 2022	Subject Development Application lodged for construction of five residential flat buildings comprising a total of 245 units and 4 levels of basement carparking.
8 June 2022	Public notification of Development Application commenced.
6 July 2022	Public notification of Development Application concluded.
4 August 2022	Letter sent to the applicant requesting additional information (See Council's Request for Further Information letter in Appendix 42 for further details).
7 September 2022	Public notification of the VPA commenced.
5 October 2022	Public notification of the VPA concluded.
10 October 2022	Applicant provided additional information.
17 October 2022	2nd notification period of Development Application commenced.
14 September 2022	2nd notification period of Development Application concluded which included one submission.
9 November 2022	Briefing to the Sydney North Planning Panel which raised concerns with the proposed number of storeys and building encroachment into the maximum 2.5m building height within the green spine area.
15 November 2022	Meeting with the applicant to discuss the above concerns.
20 December 2022	Amended plans lodged to comply with the maximum number of storeys and building height requirements.



**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST**  
**LEONARDS**

21 December 2022	3rd notification period of Development Application commenced.
18 January 2023	3rd notification period of Development Application concluded which included one submission.
22 February 2023	Determination by the Sydney North Planning Panel.

## 5.2 Design Amendments

A summary of the architectural plan amendments made is provided in **Table 5** below.

<b>Table 5 – Plan Amendments</b>	
<b>Revision</b>	<b>Description</b>
Revision 1	<p>Submitted on 10 October 2022 as part of the response to request for additional information in particular in relation to building setback, number of storeys/part storeys and building encroachments into the Green Spine area (see Council's Request for Further Information letter in Appendix 42 for further details). The principal amendments are as follows:</p> <ul style="list-style-type: none"> <li>• Building C has had 1 typical lower level removed.</li> <li>• Building E fronting River Road had a "4th" storey portion added.</li> <li>• Buildings A, D and E amended to be consistent with the DCP River Road setbacks of 10m, 17, and 24m with additional dimensions provided on the plans to clearly delineate the building level and relevant DCP setback guideline. An averaging of the 24m setback is provided on Level 6 and above for Building A, due to the significant splayed site boundary. The top floor of Building A had also been set back 3m to maintain a recessed upper level and recessive architectural reading. A stepped massing has therefore been applied to Building A consistent with the DCP guideline and similar with Building D.</li> <li>• The massing of Building D had been adjusted with the building form stepping towards River Road well behind the DCP setback line and wholly within the LEP maximum height plane.</li> <li>• The floorplate of the penthouse levels of all buildings had marginally increased resulting in the east and west facades moving further out (Note: this change didn't have any major impact on the building mass and remained compliant with the DCP setbacks)</li> <li>• The slab edge of buildings within the Green Spine area had been amended to reduce the depth of these elements such that they do not encroach into the 24m Green Spine setback zone and where elements do encroach it was clarified that these are lightweight architectural shading elements only and do not form part of the structure of the building according to the applicant. According to the applicant, the 2.5m LEP height limit do not apply to these elements.</li> <li>• Pedestrian access from the central green spine to Area 16 &amp; 17 had been introduced.</li> <li>• The landscape design around the amenity block had been amended to accommodate architectural changes.</li> <li>• Upper level terraces planter box locations had been amended similarly to accommodate architectural changes.</li> </ul> <p>The applicant maintained that the proposed ground floor levels of Buildings A-D were appropriately designed to be considered as part storeys however</p>

	upon further review by Council they were still not considered to be part storeys.
Revision 2	<p>Submitted on 20 December 2022 as part of Council's advice that the amended plans lodged on 10 October 2022 did not address Council's original concerns in relation to the number of storeys and building encroachments to the Green Spine area. The amended plans submitted on 20 December 2022 now fully comply with the maximum number of storeys control and the new part storey definition for the proposed floor levels of Buildings A-D by redesigning the ground floor plates in the following manner:</p> <ul style="list-style-type: none"> <li>• Ground floors of Buildings A-D had been amended with some units facing in to the green spine removed and further non-habitable amenity areas provided in their place including drying rooms, workshop/studio, pet wash room, amenities, bicycle storage, communal recycling rooms, parcel lockers, storage areas etc.</li> </ul> <p><b>Note:</b> these changes ensure that the ground floor of Buildings A-D now comprise as a part storey (as per Council's interpretation of the DCP definition) with less than 50% of the floor plate now being used as habitable space.</p> <p>Other amendments to address Council's concerns included:</p> <ul style="list-style-type: none"> <li>• Removal of all projections (including buildings slabs, screens and architectural articulation elements) from with the 24m side Green Spine area to comply with the maximum 2.5m Building Height LEP control.</li> <li>• Associated changes to the building façades addressing the green spine to reflect internal uses and to provide for the removal of protections whilst maintaining design quality and a high level building presentation (consistent with the street facing facades), privacy and ensuring a high level of sustainability and environmental performance.</li> <li>• Associated access and landscaping changes to reflect the amended layout.</li> </ul>

### 5.3 Additional Information

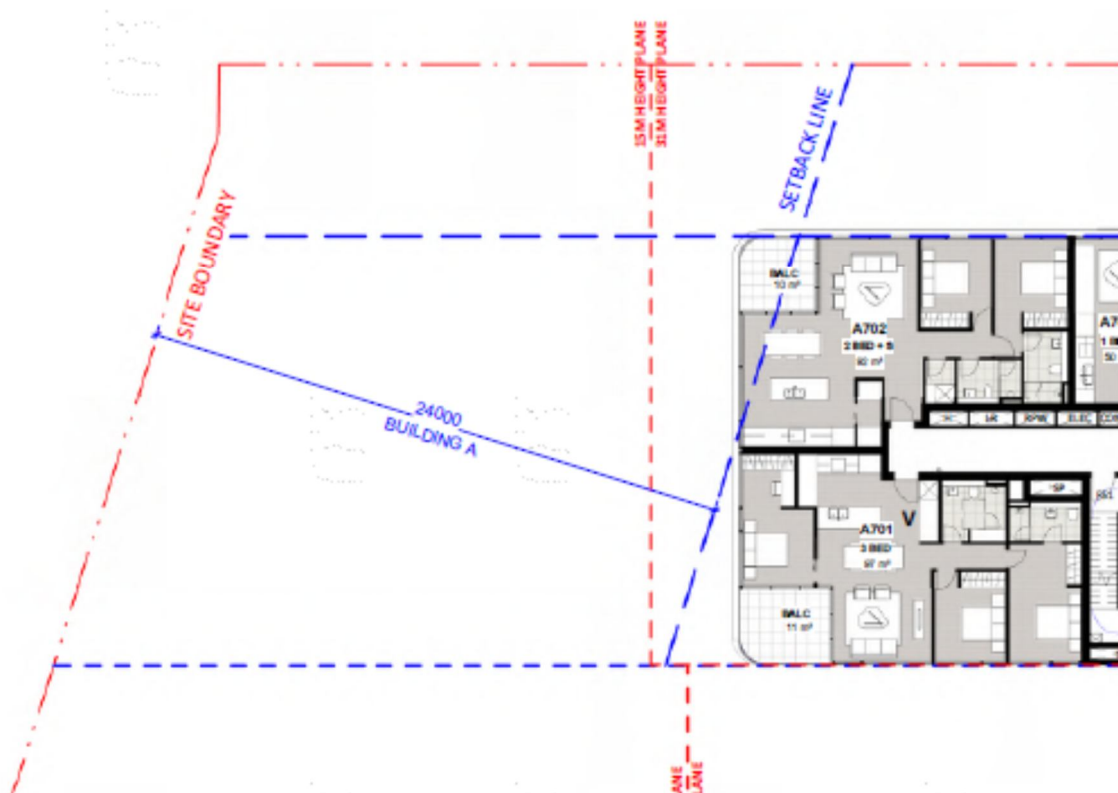
A summary of the additional information provided (but not limited) is provided as follows:

- RFI Responses
- Revised Architectural Plans
- Contamination advice
- Revised Acoustic Report
- Erosion and Sediment Control Plan
- Revised Landscape Plans
- Revised Landscape Design Report
- Additional Arborist advice
- Revised Access Report
- Revised DA Design Report
- Aboriginal Heritage Due Diligence Assessment
- Response to Submissions

The applicant in their responses and amended plans had addressed the building setbacks, number of storeys/part storeys and building encroachments into the green spine (maximum 2.5m building

height) area concerns raised (see Council's Request for Further Information letter in Appendix 42 for further details).

Given the significant splay of the River Road boundary, an average 24m setback for Building A on Level 5 and above on the submitted floor plans and for Building D on Level 5 on the submitted floor plan had been adopted to comply with the minimum 24m setback requirement (for Levels 6 and above to River Road under the DCP). This would allow for a more logical building layout where a stepped massing design approach had been applied to Building A which is consistent with the DCP guidelines and objectives similar with the design of Building D.



**Figure 22: Proposed Average 24m Building Setback to River Road**

The applicant had also amended the setback of Level 6 to allow for a minimum of 7m setback to Holdsworth Avenue to fully comply with the DCP.

To comply with the maximum number of storeys and part storeys controls, the applicant had deleted a full level on Building C and the relevant ground floors of Building A-D had been amended with some units facing in to the green spine removed and with the introduction of further non-habitable amenity areas provided in their place. These amendments had ensured that Buildings A-D now comply with the maximum 8-storey control and to comprise a permitted part-storey level in accordance with the new updated DCP definition.



**Figure 23: Typical Ground Floor/Part Storey Level (Building B) Plan with Communal Amenities**

The amended plans also indicate that there are now no building elements encroaching into the Green Spine area over the maximum LEP 2.5m building height zone.

## **6. SECTION 4.15 ASSESSMENT**

The following assessment is provided against the relevant provisions of Section 4.15 of the NSW Environmental Planning and Assessment Act, 1979:

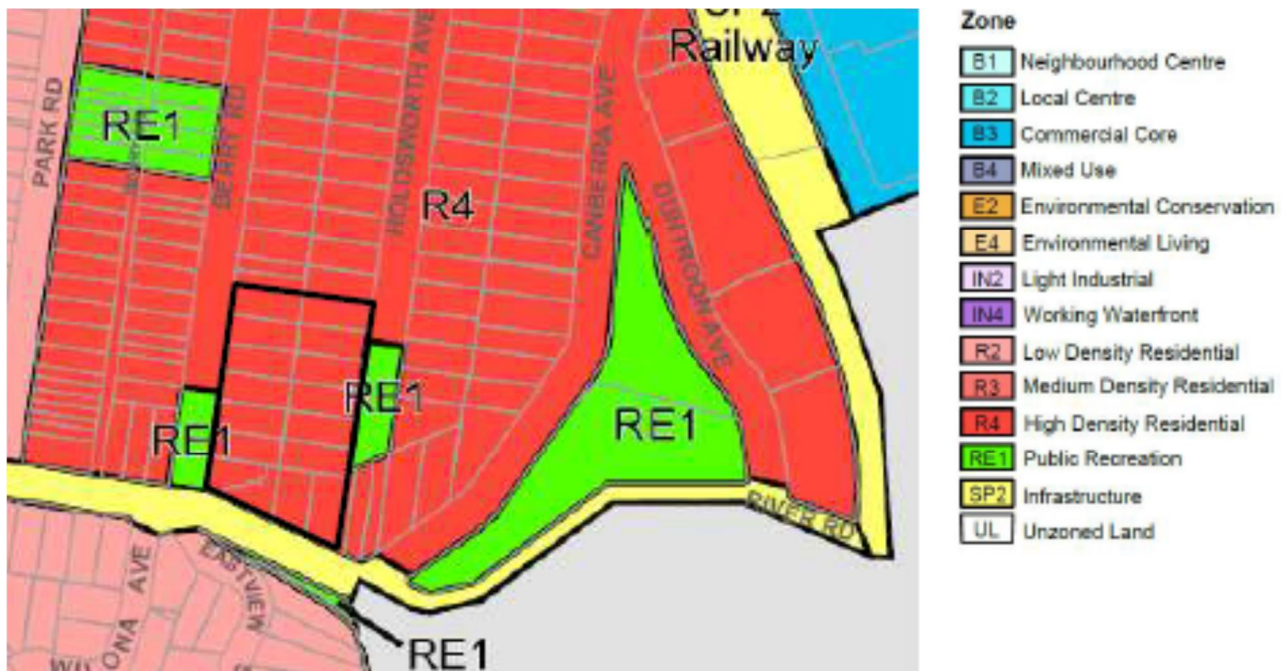
### **6.1 Any environmental planning instrument:**

#### **6.1.1 Lane Cove Local Environmental Plan 2009**

##### **6.1.1.1 Permissibility**

The site is zoned R4 High Density Residential under LCLEP 2009. Residential flat buildings are permissible with consent in the R4 High Density Residential zone. The proposed development is therefore permissible with consent.





**Figure 24: Zoning Map**

#### **6.1.1.2 Incentive Building Height and Floor Space Ratio**

An incentive building height and floor space ratio control apply to the site under LCLEP 2009.

##### **6.1.1.2.1 Accessing Incentive Provisions**

The incentive building height and floor space ratio are available only if the incentive provisions of Part 7.1(4) of LCLEP 2009 are met (see **Section 2.4ii** of this report for further full details or requirements).

##### **6.1.1.2.2 Compliance with Incentive Provisions**

An assessment against the relevant incentive provisions is provided in **Table 6** as follows:

<b>Table 6 – Applicable Incentive Provisions</b>			
<b>Category</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Unit Mix</b>	Minimum 20% of 1/2/3-bedroom units	74 x 1 bedroom (32%) 110 x 2 bedroom (48%) 46 x 3 bedroom (20%)	Yes
<b>Green Spine Setbacks</b>	The provision of setbacks to establish communal open space and green spines between buildings.	24m wide setbacks provided for the required and planned green spine widths.	Yes
<b>Minimum Site Area</b>	Area 18: 1500sqm Area 19: 1500sqm Area 20: 5200sqm	The proposal complies with Council's required amalgamation pattern and the minimum site areas providing for a	Yes

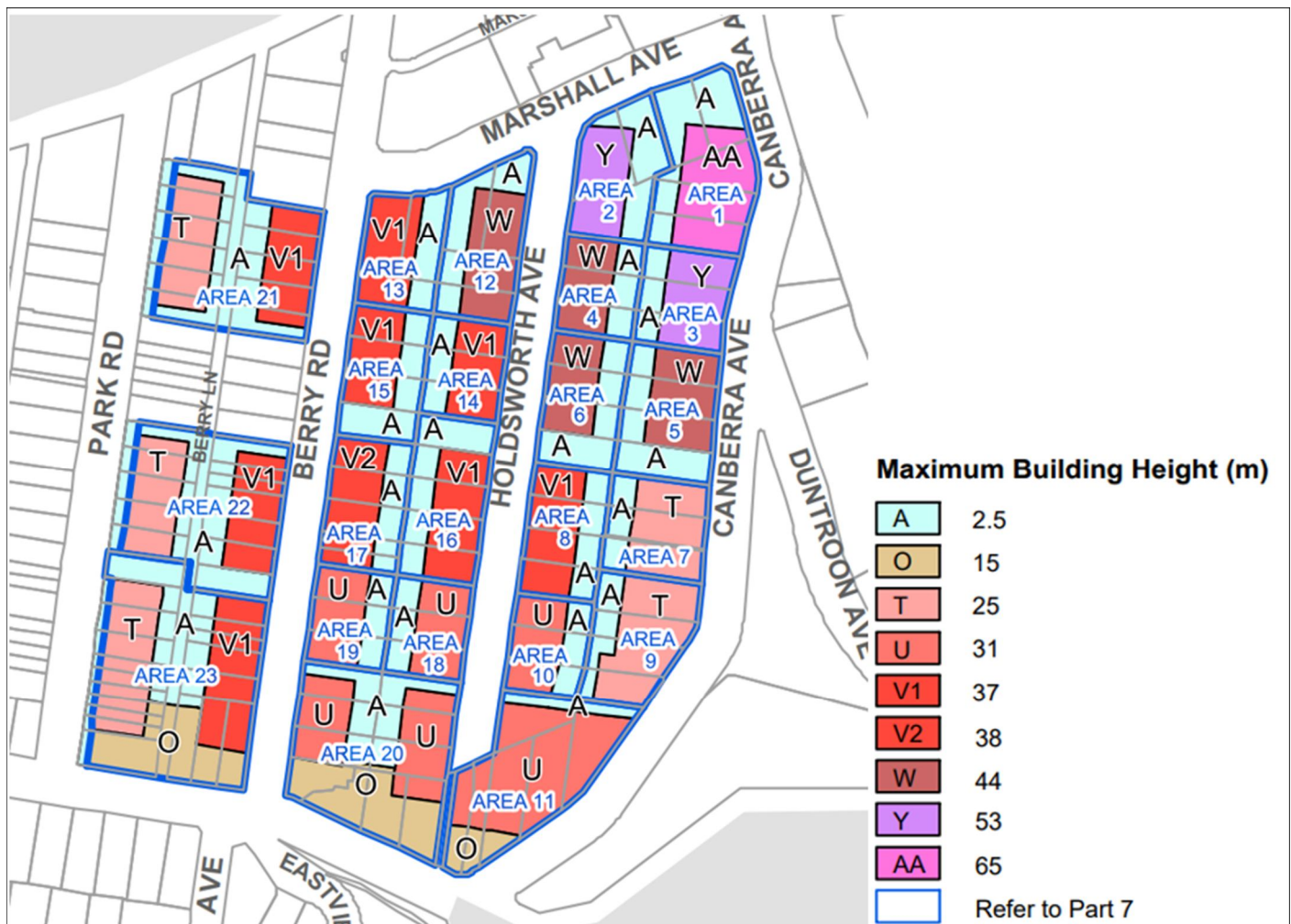
**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST**  
**LEONARDS**

		site totalling 8,758m2 and comprising all lots in Areas 18, 19 & 20.	
<b>Affordable Housing</b>	Areas 18-20 are not required to provide for any affordable housing	Not applicable to Areas 18, 19 & 20	N/A
<b>Recreation Area</b>	Areas 18-20 are not required to provide for any recreational area and community facilities	Not applicable to Areas 18, 19 & 20	N/A
<b>Pedestrian Link</b>	Area 20 is required to provide a pedestrian link	6m wide pedestrian link to be provided	Yes

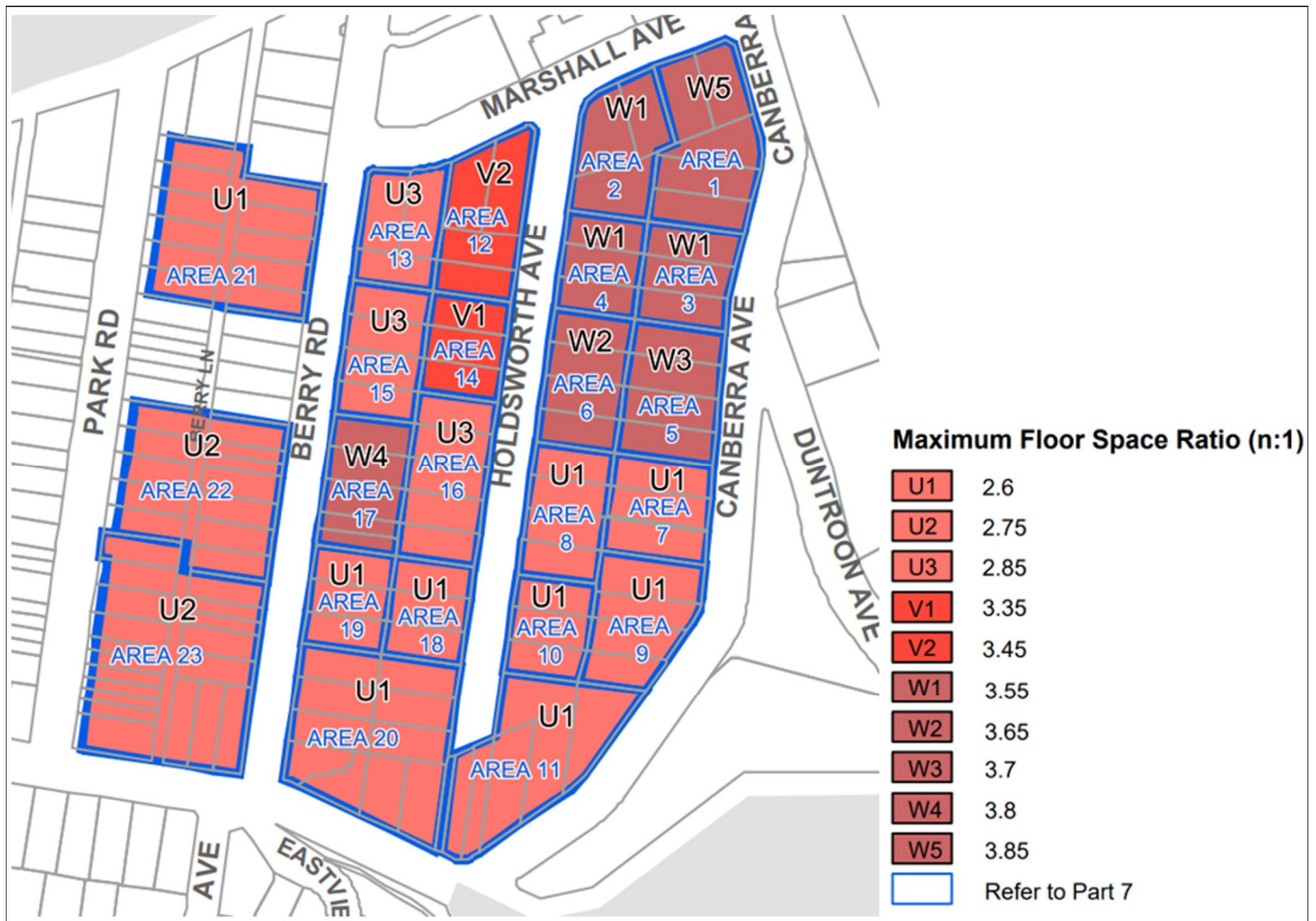
The proposal complies with the provisions of 7.1(4) of LCLEP 2009.

#### 6.1.1.2.3 Incentive Building Height and Floor Space Ratio Controls

The incentive building height (**Figure 25**) and incentive floor space ratio (**Figure 26**) apply to the development.



**Figure 25: Maximum Building Height Map**



**Figure 26: Maximum Floor Space Ratio Map**

#### 6.1.1.2.4 Compliance with Incentive Building Height and Floor Space Ratio Controls

##### i. Building Height

An assessment of the proposal against the incentive building height provisions is provided in **Table 7** below.

Table 7 – Compliance with Incentive Building Height			
Category	Incentive Building Height (Max.)	Proposed	Compliance
Areas 18 & 19	31m & 2.5m	Max. 31m & 2.5m	Yes
Area 20	31m, 15m & 2.5m	Max. 31m, 15m & 2.5m	Yes

**Note:** The incentive building height map includes a 2.5m zone through the pedestrian link and green spine. The proposal as amended complies with this provision in addition to the above building height provisions.

##### ii. Floor Space Ratio

An assessment of the proposal against the incentive floor space ratio provisions is provided in **Table 8** below.

<b>Table 8 – Compliance with Incentive Floor Space Ratio</b>			
<b>Category</b>	<b>Incentive FSR (Max.)</b>	<b>Total Proposed</b>	<b>Compliance</b>
<b>Areas 18-20</b>	2.6:1 (22,770.8sqm)	2.6:1 (22,770sqm)	Yes

**Note:** It is noted that namely:

- i. The FSR is the same (2.6:1) across Areas 18-20; and
- ii. 'Site Area' is defined under LCLEP 2009 by the development site boundaries not individual areas.

If either (i) or (ii) were not satisfied above, the proposed approach to FSR would not be supportable. The proposal is considered satisfactory with respect to the maximum floor space ratio.

#### **6.1.1.3 Design Excellence**

Part 7.1.6 of LCLEP 2009 states that consent authority must not grant consent unless it considers the development exhibits design excellence. The criteria and associated assessment have been provided in **Table 9** as follows:

<b>Table 9 – Compliance with Design Excellence Provisions</b>			
<b>Clause</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
7.1.6(4)(a)	<i>whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved</i>	The proposal has incorporated high standards of architectural design, materiality and detailing. It would set a precedent for high quality future development in the SLS Precinct. The submitted DA retains and enhances these elements. The proposal includes a colour and material palette which are supported.	Yes
7.1.6(4)(b)	<i>whether the form and external appearance of the development will improve the quality and amenity of the public domain,</i>	The form and external appearance integrate appropriately with the public domain. The overall massing of the five residential flat buildings draw from the existing masterplan intent of individual building forms sitting within a densely landscaped context.  It presents a human scale to the street, steps down the site consistent with the topography and ensures that taller elements are setback and recessive. It will provide high	Yes



**Sydney North Planning Panel Meeting 22 February 2023**  
**22-44 BERRY ROAD, 21-31 HOLDSWORTH AVENUE AND 42-46 RIVER ROAD, ST**  
**LEONARDS**

		quality landscaping to the street and internally and ensures adequate solar access to public domain areas.	
7.1.6(4)(c)	<i>whether the development protects and enhances the natural topography and vegetation including trees or other significant natural features,</i>	<p>The proposal seeks to respond to the topography through the provision of activated part storeys and retains all canopy trees in the public domain and within the site where possible. The proposal incorporates vigorous landscaping within the building setback areas and into the communal green spine.</p> <p>While trees will be removed to allow for the proposed development substantial replacement planting at a rate of 1:1 is required and ensuring that over time the landscape character of the area will be improved. Further 60% of trees to be planted will be medium to large trees.</p>	Yes
7.1.6(4)(d)	<i>whether the development detrimentally impacts on view corridors,</i>	The proposal sits within the key DCP building envelope planes. The proposal would not detrimentally impact on view corridors.	Yes
7.1.6(4)(e)	<i>whether the development achieves transit-oriented design principles, including the need to ensure direct, efficient and safe pedestrian and cycle access to nearby transit nodes,</i>	<p>The site is serviced by a range of well-established and frequent public transport services. There are nearby bus stops and the site is located within walk distance to the St Leonards Railway Station to the north.</p> <p>The proposal would provide for a high-level of integration into pedestrian and cycle infrastructure including shared user paths at all street frontages and comprehensive network of pedestrian infrastructure including walking paths with the green spine.</p> <p>The ESD report indicates low carbon transport options including provision of secure bicycle parking facilities.</p>	Yes

7.1.6(4)(f)	the requirements of the <i>Lane Cove Development Control Plan</i> ,	<p>The proposal has been assessed against the Lane Cove Development Control Plan and is considered satisfactory.</p> <p>As amended, it complies with all setback requirements, the maximum storey height and provides a stepping down of buildings towards River Road in accordance with the storey provisions. Further it includes part storeys consistent with the new DCP definition.</p>	Yes
7.1.6(4)(g)	<p><i>how the development addresses the following matters—</i></p> <p>(i) <i>the suitability of the land for development,</i></p> <p>(ii) <i>existing and proposed uses and use mix,</i></p> <p>(iii) <i>heritage issues and streetscape constraints,</i></p>	<p>(i) The land is suitable for the development. A high level of care has been taken in the design to ensure that it responds to site specific characteristics.</p> <p>(ii) The proposed use (a high-density residential development) is appropriate given the zoning. The development is not required to provide any other alternate uses (childcare etc). The unit mix is consistent with Council requirements of a minimum of 20% 1 bedroom, 2 bedroom and 3-bedroom units.</p> <p>(iii) The proposal does not include heritage items or a specific heritage interface, and the streetscape presentation is of a high quality. All buildings have clear and identifiable building entries and the upper levels of buildings are setback to ensure a strong street wall with recessive upper elements. Materials and finishes are</p>	Yes

	<p><i>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</i></p> <p><i>(v) bulk, massing and modulation of buildings,</i></p> <p><i>(vi) street frontage heights,</i></p>	<p>of a high quality such that they will ensure an exceptional design quality that is durable and low maintenance thus ensuring a continued high-quality presentation over time.</p> <p>(iv) The separation, setbacks, amenity, accessible landscape connections and urban form is satisfactory. The interrelationship between the site and neighbouring sites have been carefully managed. A compliant setback to all street frontages is provided for. Further glazing and screening to window openings have been provided to enhance privacy and amenity.</p> <p>(v) The proposal provides for massing and modulation in line with the DCP in relation to street wall heights, horizontal articulation and the number of storeys. The building steps down the site consistent with the topography and although a significant change from existing development on site, will provide a high-quality development consistent with Council's vision for the area.</p> <p>(vi) Street frontage heights comply with the DCP factoring in the allowance of part storeys on a significantly sloping site and will provide a human scale. Upper levels of building are setback significantly behind the street wall height thus ensuring these levels do</p>	
--	---	--	--

	<p><i>(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,</i></p> <p><i>(viii) the achievement of the principles of ecologically sustainable development,</i></p> <p><i>(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,</i></p> <p><i>(x) the impact on, and any proposed improvements to, the public domain,</i></p>	<p>not dominate the street frontage.</p> <p>(vii) The environmental impacts have been reduced through significant landscaping, sustainability initiatives (such as Nathers etc) and minimising adverse overshadowing, wind and reflectivity impacts where possible. The proposed development will ensure a high level of amenity for future residential and the public domain.</p> <p>(viii) ESD is achieved as outlined in the submitted ESD Report and in achieving compliance with the DCP. Further the inclusion of a high level of landscaping both on site and within the building design itself will ensure the development contributes significantly to the tree canopy coverage in accordance with State and local targets.</p> <p>(ix) The development provides for a high level of pedestrian and cycling connectivity within and in the adjacent public domain to the site. Vehicular and service access is of a high quality with a single driveway entry from Holdsworth Avenue. The proposal consolidates the number of existing vehicle crossings into the public domain. Parking is also provided in accordance with Council requirements.</p> <p>(x) The proposal would provide for substantial</p>	
--	---	---	--



	<p>(xi) the configuration and design of publicly accessible spaces and private spaces on the site.</p>	<p>improvements to the public domain as outlined in the proposed plans and draft conditions of consent. It will also contribute significant funding to the development of the new major park, pocket parks and other infrastructure upgrades within the Precinct</p> <p>(xi) The concept pedestrian link plans are of a high quality. The private spaces on site are provided through the green spine and along the relevant street frontages which would provide the anticipated level of amenity, facilities and depth and quality of landscaping.</p>	
--	--	--	--

The proposal has been assessed against the following additional provisions of LCLEP 2009 as detailed in **Table 10** below.

<b>Table 10 – Additional LCLEP 2009 Provisions</b>			
<b>Clause</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
<b>6.1A - Earthworks</b>	<p>(3) Before granting development consent for earthworks, the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</p> <p>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated</p>	<p>The proposal would result in extensive excavation to accommodate the proposed basement levels.</p> <p>The proposal was accompanied by geotechnical investigation and construction and demolition waste management plans that ensure proper fill disposal, detail soil stability conditions and considerations, and a referral has been sent to Water NSW in relation to groundwater impacts</p>	Yes

	<p><i>material,</i></p> <p><i>(f) the likelihood of disturbing relics,</i></p> <p><i>(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</i></p>	<p>and their concurrence received.</p> <p>All matters required to be addressed under Clause 6.1A are addressed by the applicant.</p>	
--	---	--	--

**The Development Application complies with Lane Cove Local Environmental Plan 2009.**

### **6.1.2 SEPP 65 – Design Quality of Residential Development**

Clause 28(2) of SEPP 65 states that in determining a Development Application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) –

- (a) the advice (if any) obtained from the design review panel (see **Section 6.1.2.1**),
- (b) the design quality of the development when evaluated in accordance with the design quality principles (see **Section 6.1.2.2**), and
- (c) the Apartment Design Guide (see **Section 6.1.2.3**).

#### **6.1.2.1 Design Review Panel**

The Development Application was referred to the Northern Sydney Region of Council's Design Review Panel on 9 March 2021 and Design Excellence Panel on 14 December 2021. The minutes of these meeting are provided as **Annexure 5 & 6** to this report. The applicant's response to these meetings are included in **Annexure 46** and it is considered that the applicant had satisfactorily addressed the relevant matters raised by the panel.

#### **6.1.2.2 Design Quality Principles**

The design quality of the development has been assessed in relation to the design quality principles contained within SEPP 65. The principles are quoted and then addressed in turn.

#### **PRINCIPLE 1: CONTEXT AND NEIGHBOURHOOD CHARACTER**

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

**Comment:** The proposal responds to its context and neighbourhood character. The design that responds well to the significant topography and the provision of significant deep soil within the green spine. The proposal is considered to contain responsive design elements that will contribute to the existing future character, which is higher density and heights, while being sensitive to the

interface with the established character. Ground levels of all five buildings promote street activation and an articulated built form.

Taking on a universal accessibility strategy, the through site link connection from the east and west pocket parks to the central Green Spine has been amended to ensure it is accessible by all. The Building D lobby facing the Holdsworth Ave pocket park is to be connected by a ramped walkway, leading pedestrians to a congregation point of the through site link and park. While the lobby entry is still at a higher FFL, a visual connection from the lobby to the pocket park is provided for. Further resolution of levels within the green spine has occurred to minimise changes both within the site itself and to the adjacent land.

The proposed single point of vehicular access and basement below the built form has been maintained thereby maximising deep soil both within the green spine and on the street frontages/adjacent to the development site to the north. The proposed design satisfies Principle 1: Context and Neighbourhood Character.

### **PRINCIPLE 2: BUILT FORM AND SCALE**

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

**Comment:** The built form and scale reflects the anticipated built form specified in the LEP and DCP controls for the SLS precinct. The development complies with the maximum building height, the number of storeys, building setback, building separation and street wall height controls. All main buildings are characterised by street podium elements with appropriate setback transitions above. The building facades have been well articulated and containing appropriate setbacks sympathetic to the relevant street conditions when viewed from surrounding areas.

The proposed design provides a high level of articulation to the internal elevations that face into the Green Spine. The façade has a feature timber-look awning that defines the ground level and entries to the street frontage, providing a canopy above the lobbies, with an integrated planter. The central core is expressed on the façade with the same feature timber look battens to provide a vertical break and reduce the building lengths. The images and elevations provided with the Development Application show the refined and more developed building facades.

As detailed throughout the submitted RFI response one full level had been removed from Building C to ensure the proposal now fully complies with the storey height control. Part storeys have been included due to the steep site slope and has been redesigned to ensure consistency with the new part storey DCP definition. The lift lobbies have access to natural light facing into the green spine, allowing light and an outlook in a central position to all lobbies. The proposed design satisfies Principle 2: Built Form and Scale.

### **PRINCIPLE 3: DENSITY**

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's

existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

**Comment:** The proposed density of the development is at the maximum incentive floor space ratio and would not exceeding the anticipated density envisaged for the subject development site. The proposed design satisfies Principle 3: Density.

#### **PRINCIPLE 4: SUSTAINABILITY**

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

**Comment:** The proposal provides for substantial deep soil zones in accordance with the Landscape Master Plan, with a high-quality ground level communal open space, compliant natural ventilation, and solar access. The aim of the project is to revitalise the Lane Cove precinct with a strong focus on sustainability to promote a healthier way of living not just for the present but in the years to come. Embedded in the design are the following sustainable initiatives:

- Passive design ensuring minimum 6 Star NatHERS rating.
- Energy efficient LED lighting.
- Control systems tuned to maximise building performance.
- Solar photovoltaic system.
- WELS star rated fixtures.
- Supplemental bicycle parking spaces.
- Outdoor motion activated misters and water features to provide relief on hot days.
- Activated public and communal open space with inclusive, passive, active and growing zones.

Other sustainability measures are provided for as required by BASIX and the recommended draft conditions of consent regarding EV charging for instance. The deep soil area of the Green Spine is equal to 52% of the total Green Spine area. The site wide deep soil is equal to 28% of the total site area. The proposed design satisfies Principle 4: Sustainability.

#### **PRINCIPLE 5: LANDSCAPE**

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.

Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long-term management.

**Comment:** The proposal provides for a high-quality landscape scheme and universal access to the street frontages, future pocket parks, to adjoining future development to the north, within the site



and green spine, and in-between buildings with key landscape amenities. It is responsive to the specific conditions created across the site through building placement, topography and site orientation. Over 50% of the green spine would be unencumbered deep soil capable of accommodating significant replacement canopy trees. Street trees on all street frontages will be retained where possible. Suitable tree replacements would occur for the proposed trees to be removed resulting from the proposed development.

Responding to the existing terrain and proposed floor levels, ramped walkways are proposed to mitigate level changes between destinations. Platform lifts within the Green Spine area is introduced where ramped walkway is not feasible due to the area constraints, ensure the universal accessibility strategy is well implemented throughout the precinct. The proposed design satisfies Principle 5: Landscape.

#### **PRINCIPLE 6: AMENITY**

*Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.*

**Comment:** The design provides for high levels of external amenity within the green spine (accessible to all buildings). The proposed internal amenity in relation to room layouts, solar access and natural ventilation is satisfactory in this instance.

All building lobbies provide levels access to the communal open space directly from the lift core. The lobbies also have a line of sight from the street. The communal open space has been designed with a series of integrated ramps to ensure equitable access to the recreational areas and landscape zones. The proposed design satisfies Principle 6: Amenity

#### **PRINCIPLE 7: SAFETY**

*Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.*

**Comment:** The proposal would provide for appropriate safety through the provision of active street frontages, passive surveillance of public and communal areas and the incorporation of crime prevention through relevant environmental design principles (CPTED). Pedestrian entries are well-lit and visible from internal communal areas and the public domain. The entry to the lobbies and circulation paths adjacent the pocket parks have been designed close to/or within the property boundary to ensure proximity for casual surveillance from the building. The paths will be level and straight, and well defined with lighting to create good lines of sight from the surrounding lobbies and drop off points for safe access.

The proposal was referred to NSW Police Local area command who raised no objections subject to conditions. The proposed design satisfies Principle 7: Safety.

### **PRINCIPLE 8: HOUSING DIVERSITY AND SOCIAL INTERACTION**

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

**Comment:** The proposal provides for an appropriate apartment mix and sizes. The proposal provides for adaptable apartments, visitable apartments and well-connected communal open space areas including the green spine area. An internal communal facility is positioned within the green spine, complementing the pool and outdoor communal facilities within the landscaped green spine area. The amenities include the pool, open lawn, outdoor working space, built in BBQ areas, sensory gardens and kids play spaces. The access to the facilities is by ramps, and one platform lift to ensure equitable access the communal facilities. The proposed design satisfies Principle 8: Housing Diversity and Social Interaction.

### **PRINCIPLE 9: AESTHETICS**

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

**Comment:** The proposed materiality is supported. A variety of design elements were introduced to all five buildings to provide legibility and visual interest to the facades. The buildings have been designed with appropriate colours and finishes which reflect each street frontage and natural conditions. The proposal provides for a highly integrated aesthetic (built-form, landscape, public/private domain interfaces). The proposed materials and finishes meet Council's requirements and are supported.

The proposed design provides a higher level of articulation. The façade has a feature timber-look awning that defines the ground level and entries, providing a canopy above the lobbies, with an integrated planter to the street. The facade incorporates integrated shading to ensure visual privacy and allow daylight to enter bedrooms and living rooms without excessive heat gain through the building envelope. Privacy between buildings is addressed through use of glazing and screening. Overlooking is avoided between apartments through use of these elements. Operable glazing is protected by screening across all buildings. The proposed design satisfies Principle 9: Aesthetics.

#### **6.1.2.3 Apartment Design Guide (ADG)**

A SEPP 65 assessment against the ADG is provided as **Annexure 2** to this report.

**The Development Application complies with SEPP 65.**

### 6.1.3 SEPP Resilience and Hazards 2021

The proposal is assessed against the relevant provisions of SEPP Resilience and Hazards 2021 as detailed in **Table 11** below.

<b>Table 11 – SEPP No. 55 Clause 7 Compliance Table</b>	
<b>Provision</b>	<b>Compliance</b>
<p>(1) A consent authority must not consent to the carrying out of any development on land unless –</p> <p>(a) it has considered whether the land is contaminated</p> <p>(b) if the land is contaminated, it is satisfied the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed, and</p> <p>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p>	<p><b>Complies</b> - the proposal was accompanied by a Preliminary Site Investigation Report (PSI) (<b>Annexure 21</b>) to assist Council in determining compliance with Clause 7(1) of SEPP Hazards and Resilience which does not raise any issues of contamination. However, for completeness, it is recommended that submission of a Detailed Site Investigation (DSI) prior to the issue of the construction certificate occurs.</p>
<p>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</p>	<p><b>Complies</b> – the PSI Report is considered satisfactory by Councils Environmental Health Officer subject to recommended condition requiring submission of a DSI prior the issue of the Construction Certificate.</p>
<p>(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.</p>	<p><b>Complies</b> – see above</p>
<p>(4) The land concerned is—</p> <p>(a) land that is within an investigation area,</p> <p>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital—land—</p> <p>(i) in relation to which there is no knowledge (or</p>	<p><b>Complies</b> - the site is not within an investigation area or listed in the guidelines. The current and the required future reporting is satisfactory</p>

<b>Table 11 – SEPP No. 55 Clause 7 Compliance Table</b>	
<b>Provision</b>	<b>Compliance</b>
<i>incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</i>	

#### **6.1.4 SEPP (BASIX) 2004**

A BASIX certificate accompanies the application and is provided as **Annexure 26** to this report. The BASIX Certificate demonstrates compliance with the provisions of the SEPP and is consistent with the architectural documentation submitted.

**The Development Application complies with SEPP (BASIX) 2004**

#### **6.1.5 SEPP (Transport and Infrastructure) 2021**

The proposal has been assessed against the relevant provisions of SEPP (Transport and Infrastructure) 2021 as detailed in **Table 12** below.

<b>Table 12 – SEPP (Transport and Infrastructure) 2021</b>		
<b>Clause</b>	<b>Assessment</b>	<b>Compliance</b>
<b>2.120 – Impact of road noise or vibration on non-road development</b>	The proposal was accompanied by an Acoustic Report which appropriately addresses the impact of road noise on the development in accordance with the Guidelines.	Yes
<b>2.122 – Traffic-generating development</b>	The proposal was referred to Transport for NSW under in accordance with Schedule 3 of State Environmental Planning Policy (Transport and Infrastructure) 2021. TfNSW submitted comment which raised no objections subject to the developer providing monetary contributions towards local and regional transport infrastructure consistent with the developer contribution mechanisms.	Yes

**The Development Application complies with SEPP (Transport and Infrastructure) 2021.**

#### **6.1.6 SEPP (Planning Systems) 2021**

The Development Application is referred to the Sydney North Planning Panel for determination as the Capital Investment Value is \$138,059,712.00 (exceeding \$30 million) satisfying the requirements of SEPP (Planning Systems) 2021.

**The Development Application complies with SEPP (Planning Systems) 2011.**

#### **6.1.7 SEPP (Biodiversity and Conservation) 2021**

The subject site is within the Sydney Harbour Catchment generally but is significantly outside any foreshore or waterways area. Therefore, the relevant part of SEPP (Biodiversity and Conservation) 2021 is the planning principles for the Sydney Harbour Catchment. The principles have been reviewed and the proposal satisfies the relevant matters. Specifically, the proposal provides for appropriate stormwater management to protect the catchment including pollutant control and with additional landscaped areas on the site.

**The Development Application complies with SEPP (Biodiversity and Conservation) 2021.**

#### **6.2 Any proposed instrument (Draft LEP, Planning Proposal)**

N/A

#### **6.3 Any development control plan**

##### **6.3.1 Lane Cove Development Control Plan 2009**

The Development Application has been assessed against the relevant provisions of Lane Cove Development Control Plan 2009 as detailed in **Annexure 3**. The assessment indicates that the proposal complies with all the relevant provisions.

#### **6.4 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The impacts of the development have been considered and addressed where there are no significant adverse impacts either to the natural and built environments, social and economic or amenity of the locality as detailed within this report.

#### **6.5 The suitability of the site for the development**

The site suitability has been established at the strategic planning stage and is further confirmed in the submitted documentation and within this planning report.

#### **6.6 Any submissions made in accordance with this Act or the regulations**

The proposal was notified in accordance with Lane Cove Council's Notification Policy.

##### **i. Notification Extent**

The Development Application was notified on three separate occasions to the extent shown in the Public Notification Map included as **Annexure 36** to this report.



## ii. Notification Period

The notification period and the number of submissions received are summarised in the following table (see **Table 13** below):

<b>Table 13 - Public Notification</b>			
<b>Plan Revision</b>	<b>Lodgement Date</b>	<b>Notification Period</b>	<b>Unique Submissions Received</b>
<b>DA Lodgement Revision</b>	1 June 2022	08/06/2022 – 06/07/2022	10
<b>Revision 1</b>	10 October 2022	17/10/2022 – 14/09/2022	1
<b>Revision 2</b>	20 December 2022	21/12/2022 – 18/01/2022	1
<b>Total</b>			12

## iii. Summary of Submissions

The submissions received are summarised and addressed in **Annexure 4** to this report.

## 6.7 Public Interest

The proposal would not be contrary to the public interest as the development would meet the objectives of the R4 High Density Residential Zone, is highly consistent with the supporting planning scheme and future desire character of the area and provides for dwellings within a high-density residential environment.

## 7. Contributions

### 7.1 Voluntary Planning Agreement and St Leonards South Section 7.11 Contributions Plan

The provision of infrastructure is proposed to be facilitated in part through the [St Leonards South Section 7.11 Contributions Plan](#) and a relevant condition has been imposed – refer to Annexure for the relevant condition imposed. Further, the applicant had lodged a draft Voluntary Planning Agreement (VPA) with Council as being proposed by the applicant as a mechanism to provide for the proposed 6m pedestrian link as a works-in-kind offer to support the development. The Draft VPA was notified separately with the Development Application and had been adopted by Council.

### 7.2 Special Infrastructure Contribution

The site is within the [St Leonards and Crows Nest Special Contributions Area](#) which requires the payment of a contribution to support the St Leonards and Crows Nest 2036 Plan – refer to Annexure 1 for the relevant condition imposed.

### 7.3 Conditions of Consent

Refer to **Annexure 1**.

## **8. CONCLUSION**

The Development Application has been assessed in accordance with the Environmental Planning and Assessment Act, 1979 and is considered satisfactory. The proposed development responds to the site constraints, is consistent with the planning controls, would provide for the planned density and achieve design excellence on one of the more topographically constrained sites within the St Leonards South Precinct. The Development Application is reported to the Sydney North Planning Panel with a recommendation for approval subject to conditions.

## **RECOMMENDATION**

That pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979 the Sydney North Planning Panel at its meeting of 22 February 2023 approve Development Application DA162/2021 for the demolition of existing structures and construction of five residential flat buildings comprising a total of 230 apartments and basement parking for 411 vehicles on land known as 22 – 44 Berry Road, 21-31 Holdsworth Avenue and 42 - 46 River Road, St Leonards. subject to conditions.

Mark Brisby  
**Executive Manager**  
**Environmental Services Division**

## **ATTACHMENTS:**

There are no supporting documents for this report.