3.4. NSLEP 2013 Amendments 25, 27 and 28 - Post Gazettal Report

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ATTACHMENTS:

- Amendment No 25 575-583 Pacific Highway, St Leonards Written Instrument [3.4.1 2 pages]
- 2. Amendment No 25 Gazetted Maps [3.4.2 11 pages]
- 3. Amendment No 27 23-35 Atchison Street, St Leonards Written Instrument [3.4.3 2 pages]
- 4. Amendment No 27 Gazetted Maps [3.4.4 4 pages]
- 5. Amendment No 28 100 Christie Street, St Leonards Written Instrument [3.4.5 3 pages]
- 6. Amendment No 28 Gazetted Maps [3.4.6 5 pages]

PURPOSE:

This report is to inform Councillors of the gazettal of three amendments to NSLEP 2013 relating to sites in St Leonards. The report provides a summary of the strategic planning work undertaken in St Leonards/Crows Nest and a brief overview of the progression of each Planning Proposal in this context.

EXECUTIVE SUMMARY:

Council has undertaken considerable strategic planning work in St Leonards and Crows Nest, since the adoption of the St Leonards/Crows Nest Planning Study – Precinct 1 in 2011 and the St Leonards/Crows Nest Planning Study – Precincts 2 & 3 in 2015. These studies were informed by extensive community consultation, as well as detailed urban design, transport and employment analysis. These studies sought to provide a holistic, place-based approach to strategic planning in St Leonards and Crows Nest and to manage the high levels of development interest in the area.

Between 2015 and 2017, three Planning Proposals were lodged for sites in St Leonards at 575-583 Pacific Highway (PP 7/15), 23-35 Atchison Street (PP 1/18) and 100 Christie Street (PP 6/16) all of which were largely consistent with the outcomes of Council's endorsed strategic planning studies for the locality. All proposals were accompanied by Voluntary Planning Agreements (VPAs) seeking to deliver significant public benefits including funds for the upgrade of Hume Street Park, embellishment and dedication of Christie Street reserve, dedication of co-working space, a linear park along Oxley Street and increased setbacks at the ground level along Atchison Street.

In June 2017, the Department of Planning, Industry and Environment (DPIE) announced this area as a Planned Precinct and released the draft St Leonards and Crows Nest 2036 Plan (SLCN Draft 2036 Plan) in October 2018. This has delayed the progression of these Planning Proposals as there has been some uncertainty around the proposed application of Special Infrastructure Contributions (SIC) for these sites. Council subsequently made representations to the DPIE

seeking to ensure that the potential delivery of the VPAs associated with these proposals are not eroded through the potential application of any future SIC requirement. The DPIE has advised that it may accept the VPAs as being a satisfactory arrangement for the delivery of any SIC requirement.

On 15 May 2020, North Sydney Local Environmental Plan Amendments 25, 27 and 28 were gazetted following their publication on the NSW legislation website. These amendments include the following:

- Amendment 25 575-583 Pacific Highway, St Leonards. This amendment increases the maximum building height from 26m to 56m and applies a maximum FSR of 7:1 to the whole site.
- <u>Amendment 27</u> 23-35 Atchison Street, St Leonards. This amendment increases the maximum building height from 20m to 56m, increases the minimum non-residential FSR from 0.6:1 to 1.5:1, and imposes a maximum FSR of 6.3:1.
- Amendment 28 100 Christie Street, St Leonards. This amendment permits 'shop top housing' on the site, under Schedule 1 of NSLEP 2013. It increases the maximum building height from 49m to 132m, introduces a maximum FSR of 18:1 and a minimum non-residential FSR of 4.25:1. The amendment also permits basement parking beneath Christie Street Reserve.

The gazettal of these Planning Proposals represents the culmination of years of Council's strategic planning work in the area. All three proposals will require ongoing monitoring by Council to ensure the delivery of the VPA components of each project.

FINANCIAL IMPLICATIONS:

Council has entered into formal arrangements with each of the proponents to the gazetted LEP amendments to deliver significant public benefits through VPAs. Council will need to monitor the implementation and delivery of these VPAs.

RECOMMENDATION:

1. THAT the NSLEP 2013 Amendments 25, 27 and 28 - Post Gazettal Report be received.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

- 2. Our Built Infrastructure
- 2.1 Infrastructure and assets meet community needs
- 2.2 Vibrant centres, public domain, villages and streetscapes
- 4. Our Social Vitality
- 4.4 North Sydney's history is preserved and recognised

BACKGROUND

Strategic Planning Initiatives

The St Leonards/Crows Nest Planning Study – Precinct 1 was adopted by Council in December 2011, and in May 2015 the St Leonards/Crows Nest Planning Study – Precincts 2 & 3 were adopted by Council. These studies sought to provide a holistic, place-based approach to planning for the area, to protect jobs and deliver much needed public domain and service upgrades. All studies were subject to significant community consultation and were prepared as a direct response to manage the high levels of development interest in St Leonards.

In July 2016, the Minster for Planning announced a strategic planning investigation of the St Leonards and Crows Nest Station Precinct. On 1 June 2017, DPIE announced this area as a Planned Precinct, and released the *draft St Leonards and Crows Nest 2036 Plan* (SLCN Draft Plan) in October 2018. The documents included:

- The St Leonards Crows Nest Draft 2036 Plan (referred to as the draft 2036 Plan);
- The St Leonards & Crows Nest Draft Local Character Statement;
- The St Leonards Crows Nest Draft Green Plan;
- The St Leonards Crows Nest Proposed Special Infrastructure Contributions; and
- The Crows Nest Sydney Metro Site Rezoning Proposal.

The SLCN Draft Plan was placed on public exhibition between October 2018 and February 2019. DPIE is currently in the process of finalising the SLCN Plan.

The release of the draft SLCN Plan caused some delay with the processing of these Planning Proposals, particularly with respect to the VPA component of each proposal due to the Draft Plan's proposal to introduce a SIC requirement in the locality. Council subsequently made representations to DPIE to exclude these Planning Proposals from any requirement to pay a SIC to ensure that the significant public benefits negotiated through the associated VPAs are delivered. The DPIE has advised that it may accept the VPAs as being a satisfactory arrangement for the delivery of any SIC requirement imposed.

The following sections will briefly outline the chronology and milestones of each Planning Proposal to date:

PP 7/15 - 575-583 Pacific Highway, St Leonards

<u>7 December 2015</u> – Council resolved to support a Planning Proposal for a mixed-use development at 575-583 Pacific Highway, St Leonards subject to the refinement of the VPA that was lodged with the proposal.

This Planning Proposal identified a built form with a maximum height of 56m and an FSR of 7.37:1. The draft VPA proposed a range of public benefits, including a monetary contribution of approximately \$5million towards the provision of open space in the precinct. Discussions around the refinement of the VPA continued through 2016 and were complicated by the identification of St Leonards/Crows Nest as a Priority Precinct by the State Government. In response to this the applicant lodged a Rezoning Review in August 2016.

<u>November 2016</u>- The DPIE finalised its report in response to the Rezoning Review. This report concluded that the proposal had sufficient strategic and site-specific merit to warrant referral to the Sydney North Planning Panel (SNPP).

<u>8 February 2017</u> – The SNPP considered the Planning Proposal and recommended that it proceed to Gateway Determination subject to:

- A reduction in FSR from 7.37:1 to 7.0:1 to enable better apartment design;
- The proposal demonstrate consistency with the available findings of the St Leonards/Crows Nest planning review being undertaken by DPIE; and
- The achievement of satisfactory arrangements for the provision of contributions towards infrastructure.

<u>20 March 2017</u> – Council resolved to accept the role of Planning Authority for the Proposal and not to exhibit the Planning Proposal until a satisfactory resolution of the VPA was reached, as per Council's previous resolution (7 December 2015).

<u>25 May 2017</u> – DPIE issued a Gateway Determination advising Council to publicly exhibit the Planning Proposal subject to conditions.

8 March 2018 – The Planning Proposal was placed on public exhibition for 28 days.

<u>28 May 2018</u> – Council considers a post exhibition report and resolves to forward the Planning Proposal to the DPIE with a request that the LEP be made. However, Council also resolved to seek assurances from the DPIE that monetary contributions made towards the delivery of Council's St Leonards/Crows Nest Planning Study – Precinct 1 associated with the VPA are not undermined by any potential future SIC, and requested the Minister for Planning to exclude the site from the application of any SIC.

PP 1/18 – 23-35 Atchison Street, St Leonards

<u>14 March 2017</u> – The applicant supplied Council with a preliminary concept proposal for the subject site which sought a 2 storey departure from the recommended heights in the SLCN Planning Study – Precincts 2 & 3 to develop an 18 storey mixed use building.

<u>5 April 2017</u> – Council provided comments in relation to the concept proposal and requested further considerations to NSLEP 2013, NSDCP 2013, SLCN Planning Study – Precincts 2 &

- 3, Crows Nest Placemaking and Principles Study, Draft Public Domain Upgrade Report St Leonards and the Apartment Design Guide.
- <u>16 August 2017</u> The proposal was reviewed by the Design Excellence Panel (DEP), and they were generally supportive of the type of development. The panel raised strong concerns regarding the proposal's impact on surrounding buildings in relation to height and the departure from the 16 storey height limit, overshadowing, setbacks, site isolation of 21 Atchison street and public benefits.
- <u>16 January 2018</u> Council received a Planning Proposal for the subject site which generally responded to the DEP's comments. This included a 16 storey building, detailed solar analysis, amended distance separation, four storey podium in alignment with Council's planning study and the provision of a potential future redevelopment scheme at 21 Atchison Street.
- <u>13 June 2018</u> The North Sydney Independent Local Planning Panel considered the proposal and recommended Council support it proceeding to Gateway Determination.
- <u>25 June 2018</u> Council resolved to forward the Planning Proposal to the Minister for Planning in order to receive a Gateway Determination subject to the amendment of the proposal to Council's satisfaction, addressing certain issues such as amending the maximum height of buildings to 56m and the satisfactory negotiation of the contents and detailed terms of the draft VPA.
- <u>21 December 2018</u> A Gateway Determination was issued allowing Council to publicly exhibit the Planning Proposal. Council was not authorised to undertake plan making functions as the site is located in the St Leonards Crows Nest Planned Precinct.
- <u>4 April 2019 to 2 May 2019</u> Council placed the updated Planning Proposal and draft VPA on public exhibition.
- 23 September 2019 Council considered a post exhibition report in relation to the Planning Proposal. Council resolved to forward the Proposal to the DPIE with a request that an LEP be made. Council also resolved to finalise the VPA prior to gazettal of the amendment and to write to the Minister for Planning and Public Spaces with a request to exempt the site from any future Special Infrastructure Contributions on the basis of the delivery of the VPA.

PP 6/16 – 100 Christie Street, St Leonards

- <u>21 December 2016</u> Applicant lodged the Planning Proposal with Council which sought to establish a mixed-use building envelope 165m in height (45 storeys) with an FSR of 20.6:1. The Proposal also sought to allow the basement structure to extend beneath the whole of Christie Street Reserve.
- 8 September 2017 Following consultation with Council, the application was formally amended. The amended Planning Proposal sought to establish a mixed-use building envelope 132m in height (36 storeys) with an FSR of 18:1. The proposal sought to implement Concept 1 of Council's Christie Street Masterplan Guidelines.
- <u>10 October 2017</u> The DEP considers the amended Planning Proposal, which provided general support for the 36-storey mixed use tower proposed on the site.

- <u>4 December 2017</u> Council resolved to forward the Planning Proposal to the Minister for Planning to receive a Gateway Determination, subject to the satisfactory negotiation of the issues within the draft VPA.
- <u>29 August 2018</u> A Gateway Determination was issued allowing Council to publicly exhibit the Planning Proposal subject to conditions.
- <u>8 November 2018 6 December 2018</u> The Planning Proposal was on public exhibition for 28 days.
- <u>25 February 2019</u> Council considers a post exhibition report, resolving to forward the Planning Proposal to the DPIE with a request that an LEP be made. Council also resolved to finalise the VPA prior to gazettal of the amendment and to write to the Minister for Planning and Public Spaces with a request to exclude the site from any future SIC requirement on the basis of the delivery of the VPA.

CONSULTATION REQUIREMENTS

Community engagement is not required.

DETAIL

1. Amendment 25 to NSLEP 2013 – 575-583 Pacific Highway, St Leonards

NSLEP 2013 (Amendment No. 25) gives effect to the Planning Proposal and is now in force following its publication on the NSW legislation website on 15 May 2020. A copy of the instrument is provided at Attachment 1 and a copy of the amended Maps at Attachment 2.

The Amendment increases the maximum building height from 26m to 56m and applies a maximum FSR of 7:1 to the entire site.

2. Amendment 27 to NSLEP 2013 – 23-35 Atchison Street, St Leonards

NSLEP 2013 (Amendment No. 27) gives effect to the Planning Proposal and is now in force following its publication on the NSW legislation website on 15 May 2020. A copy of the instrument is provided at Attachment 3 and a copy of the amended Maps at Attachment 4.

The Amendment increases the maximum building height from 20m to 56m, increases the minimum non-residential FSR from 0.6:1 to 1.5:1, and imposes a maximum FSR of 6.3:1.

3. Amendment 28 to NSLEP 2013 – 100 Christie Street, St Leonards

NSLEP 2013 (Amendment No. 28) gives effect to the Planning Proposal and is now in force following its publication on the NSW legislation website on 15 May 2020. A copy of the instrument is provided at Attachment 5 and a copy of the amended Maps at Attachment 6.

The Amendment increases the maximum building height from 49m to 132m, introduces a maximum FSR of 18:1, a minimum non-residential FSR of 4.25:1. The amendment also permits 'shop top housing' on the site, under NSLEP 2013 Schedule 1 – Additional Permitted Uses, adds a clause to Part 6 – Local Provisions allowing basement parking to be constructed

under 50% of the lot containing Christie Street Reserve and amends Clause 4.6 to exclude the use of the clause to vary the proposed development standards under Part 6.



North Sydney Local Environmental Plan 2013 (Amendment No 25)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

MALCOLM McDONALD As delegate for the Minister for Planning and Public Spaces

Published LW 15 May 2020 (2020 No 214)

North Sydney Local Environmental Plan 2013 (Amendment No 25)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is North Sydney Local Environmental Plan 2013 (Amendment No 25).

2 Commencement

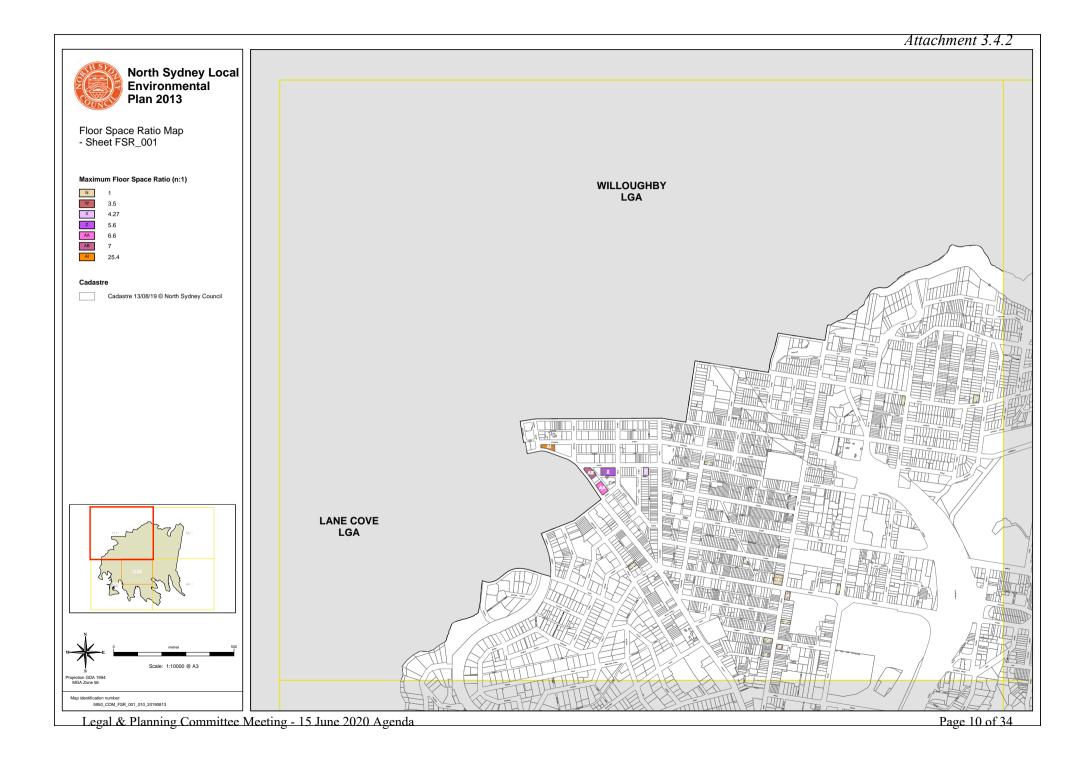
This Plan commences on the day on which it is published on the NSW legislation website.

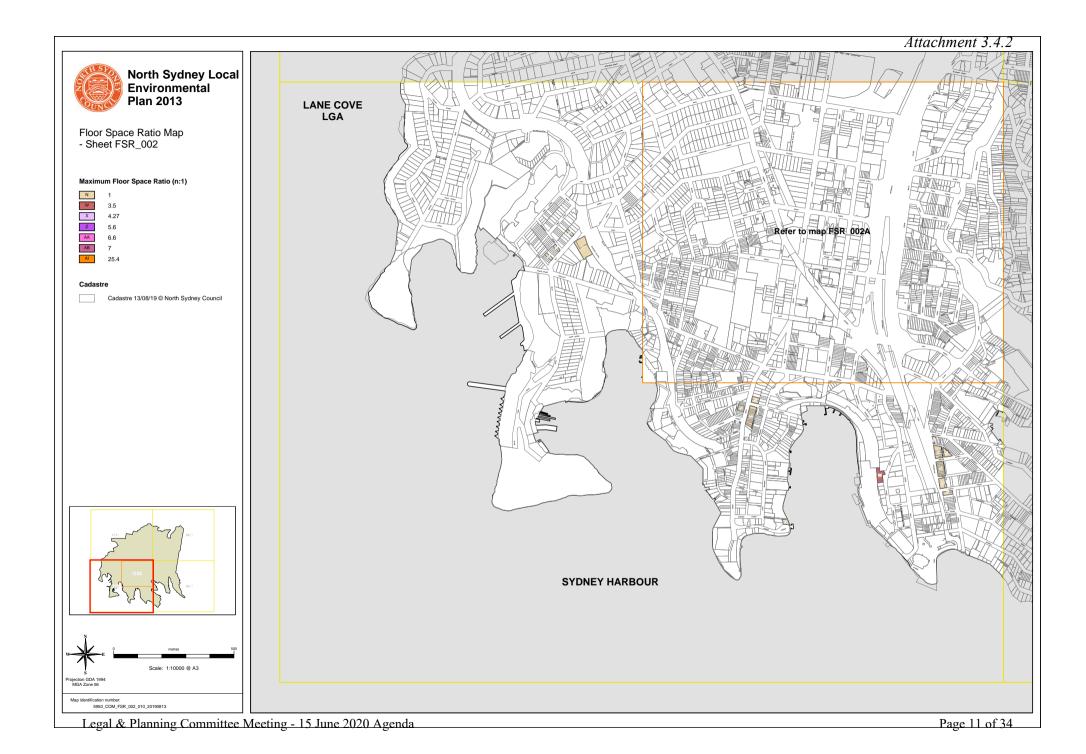
3 Land to which Plan applies

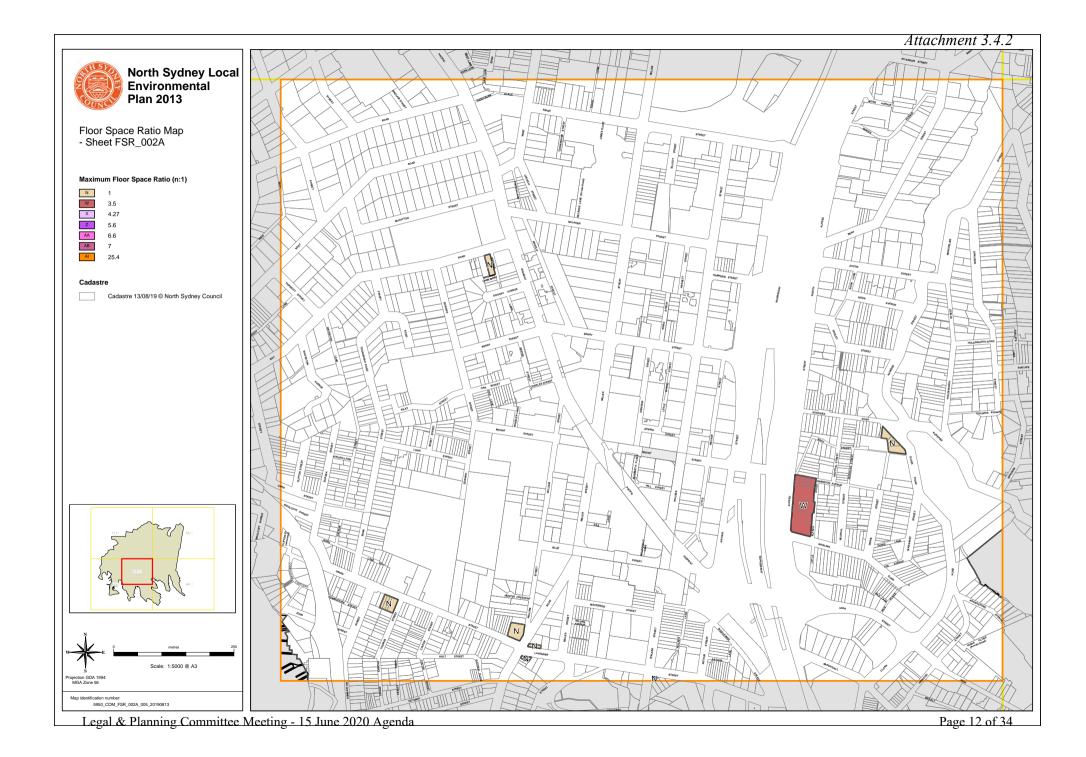
This Plan applies to land at 575–583 Pacific Highway, St Leonards, being Lot A, DP 431687, Lot 10, DP 660453 and Lot 1, DP 772247.

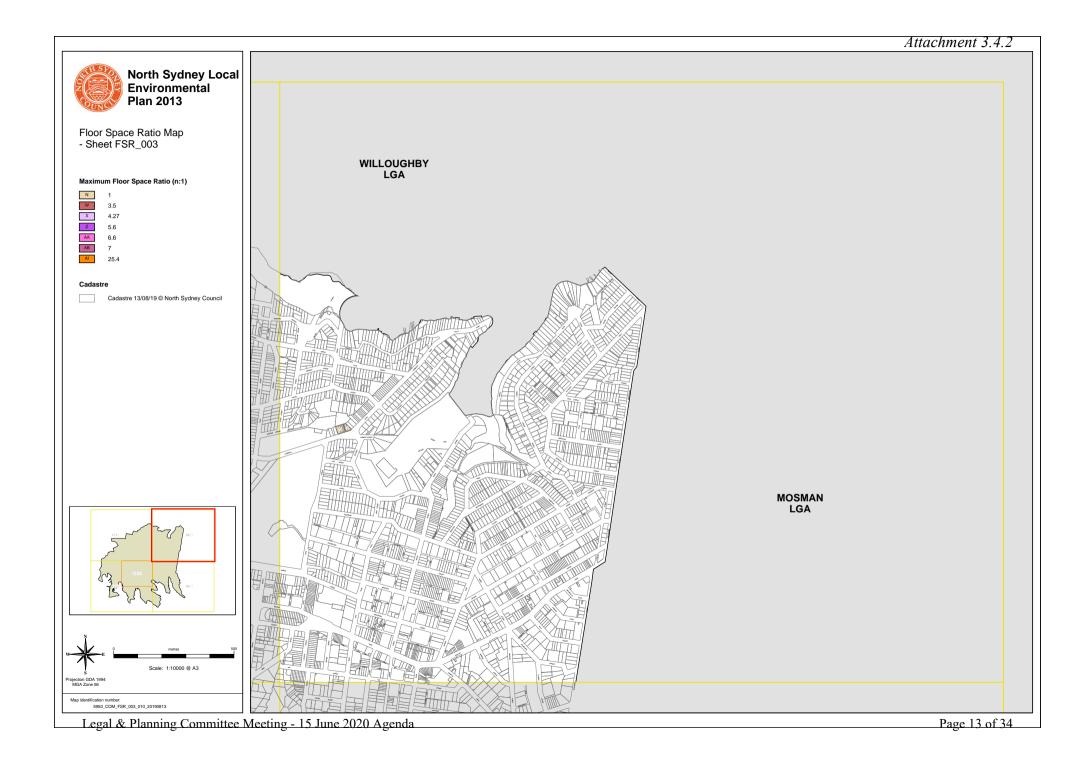
4 Maps

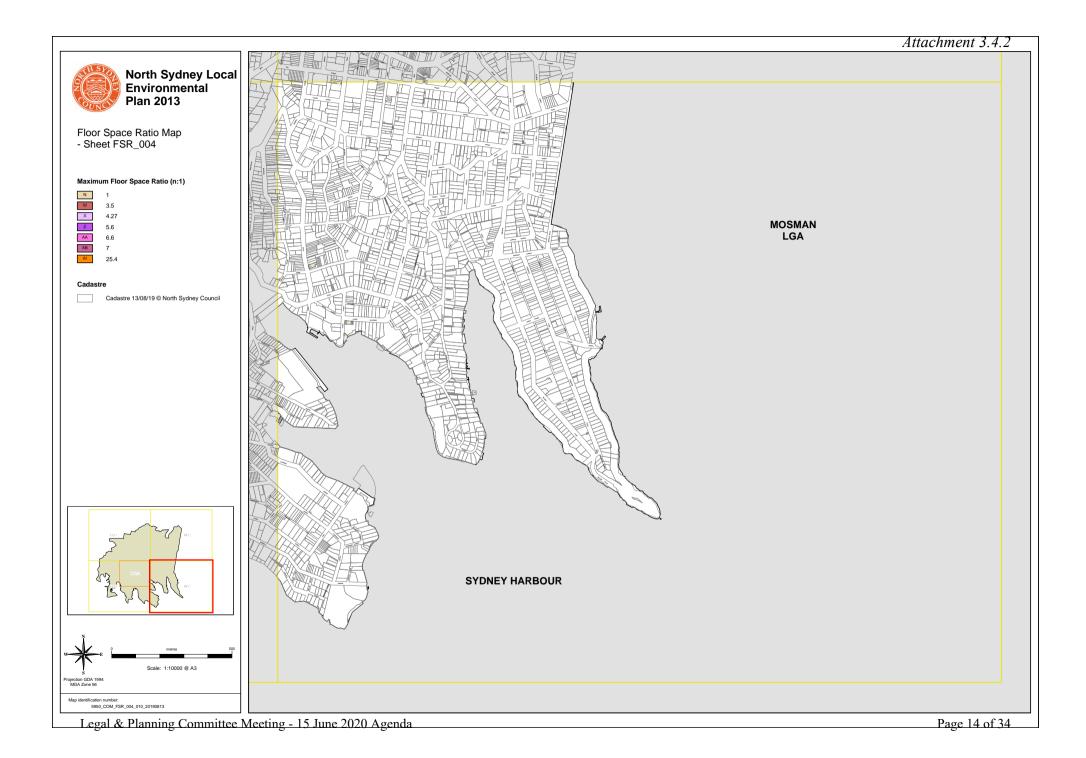
The maps adopted by *North Sydney Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

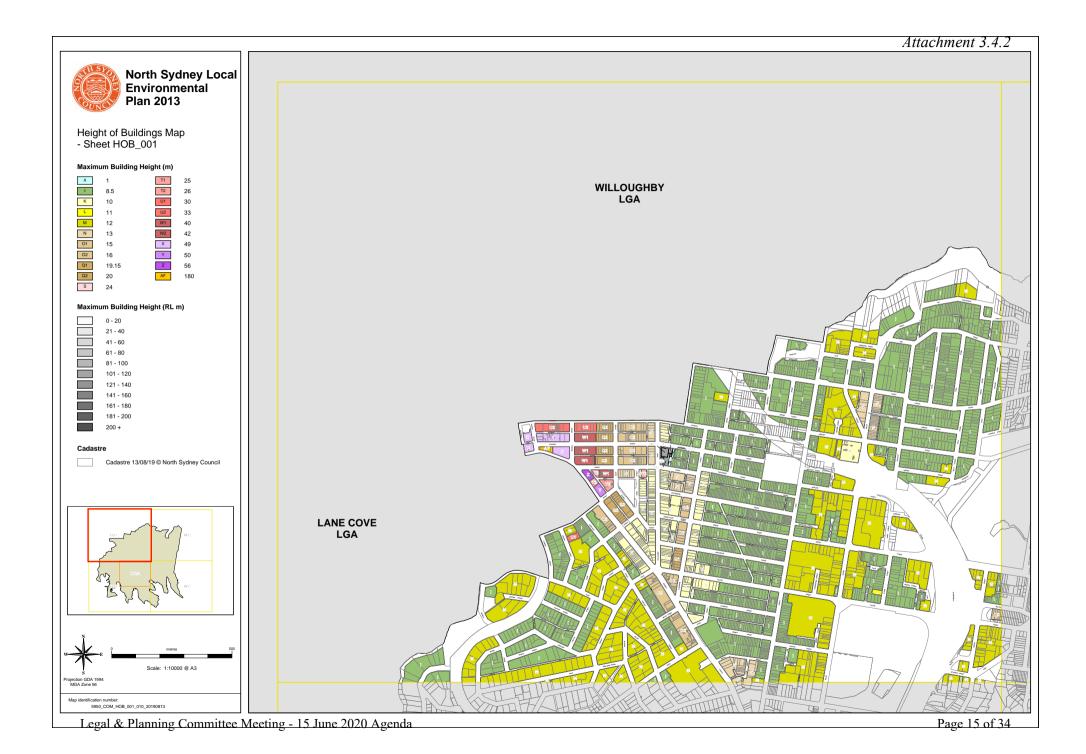


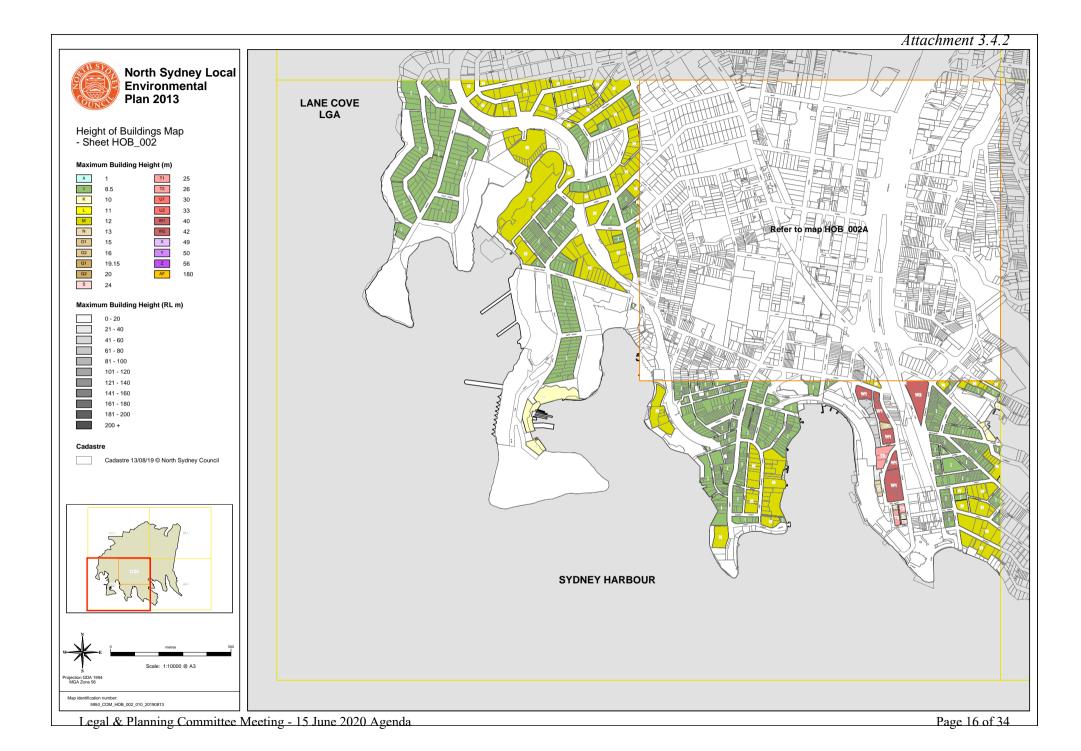


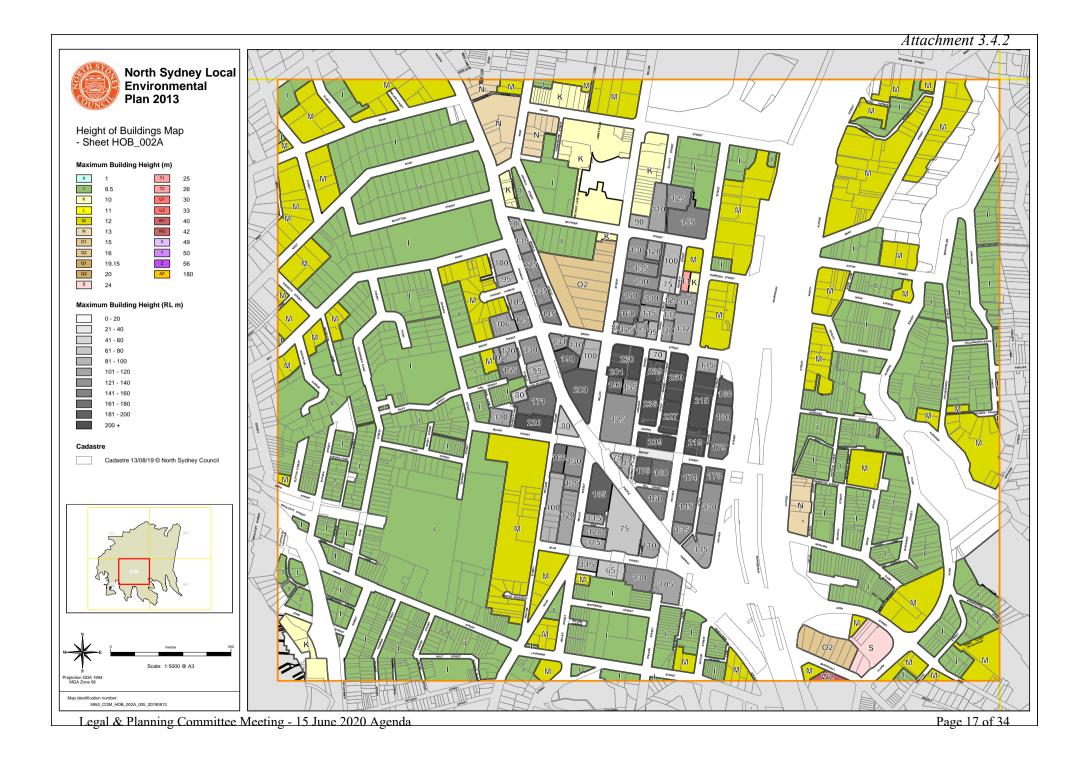


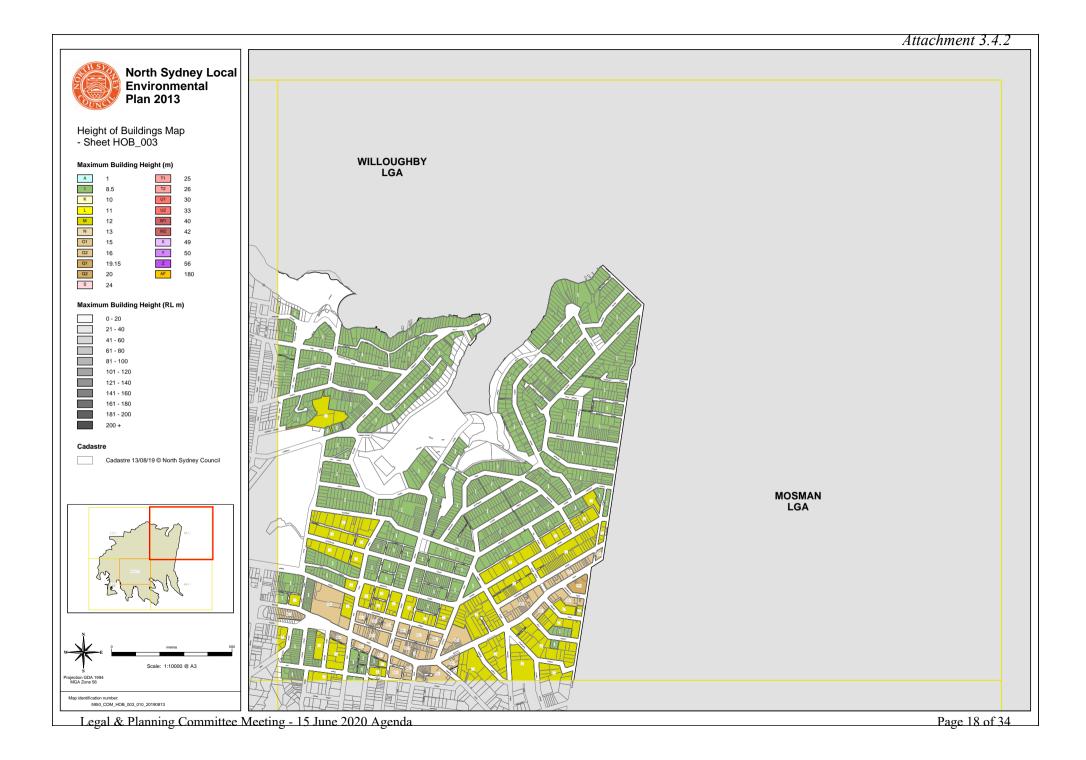


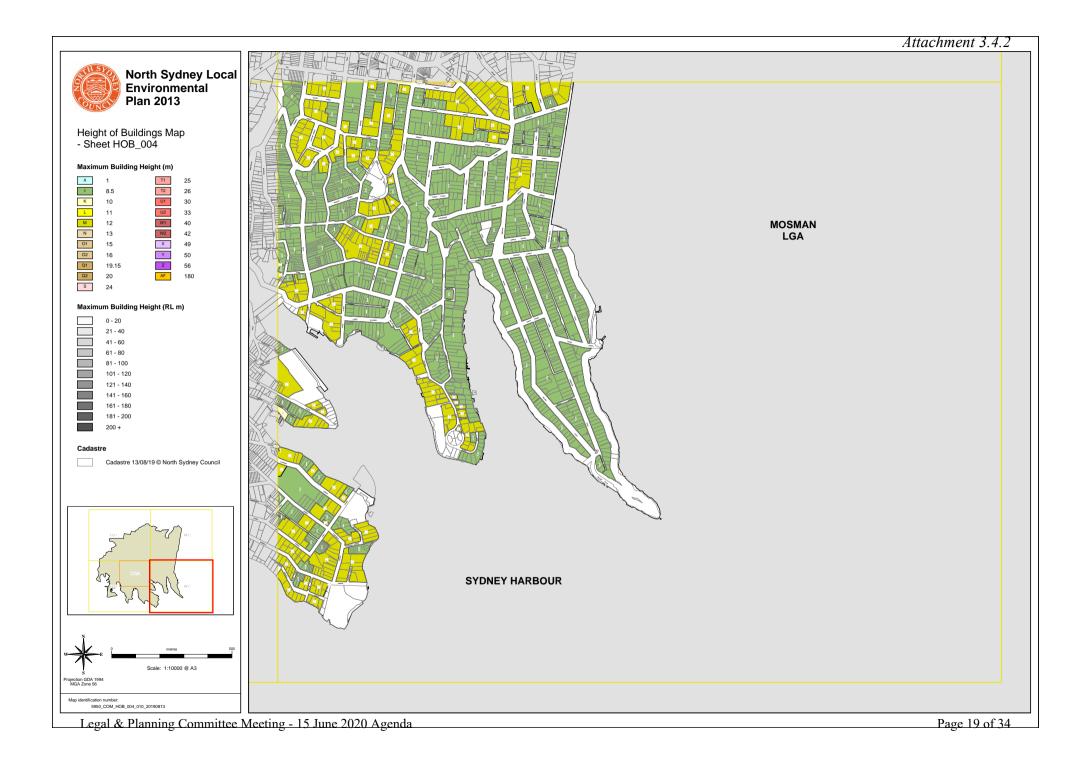


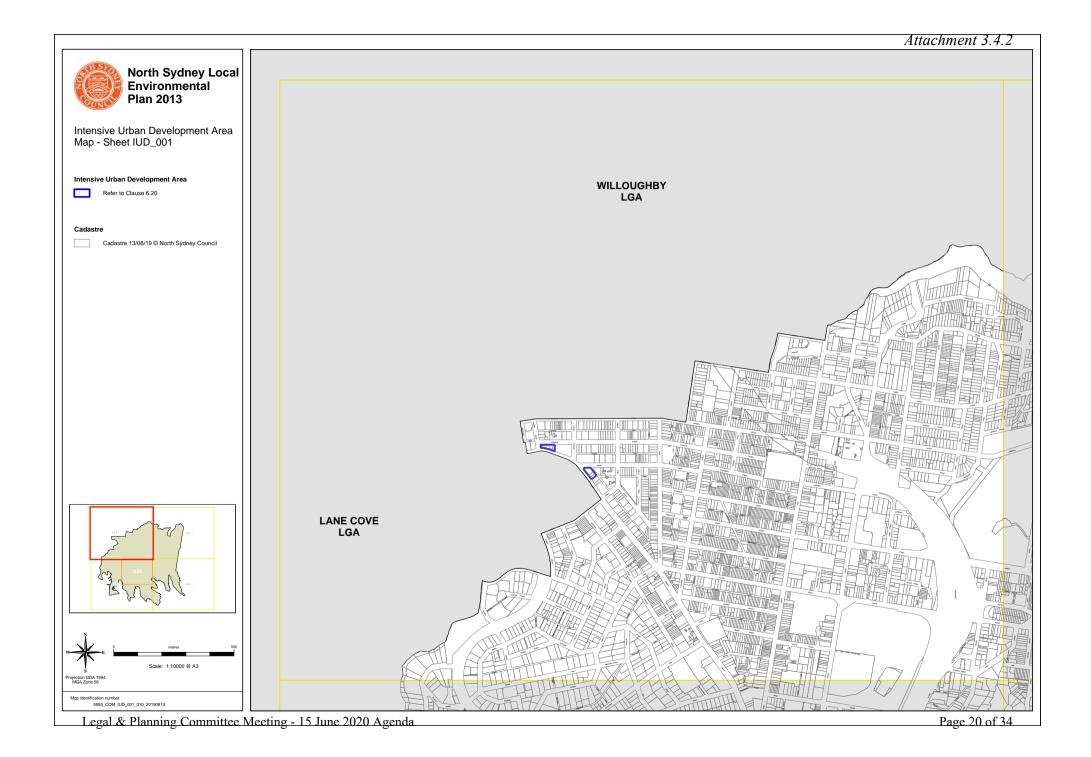














North Sydney Local Environmental Plan 2013 (Amendment No 27)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

MALCOLM McDONALD As delegate for the Minister for Planning and Public Spaces

Published LW 15 May 2020 (2020 No 215)

North Sydney Local Environmental Plan 2013 (Amendment No 27)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is North Sydney Local Environmental Plan 2013 (Amendment No 27).

2 Commencement

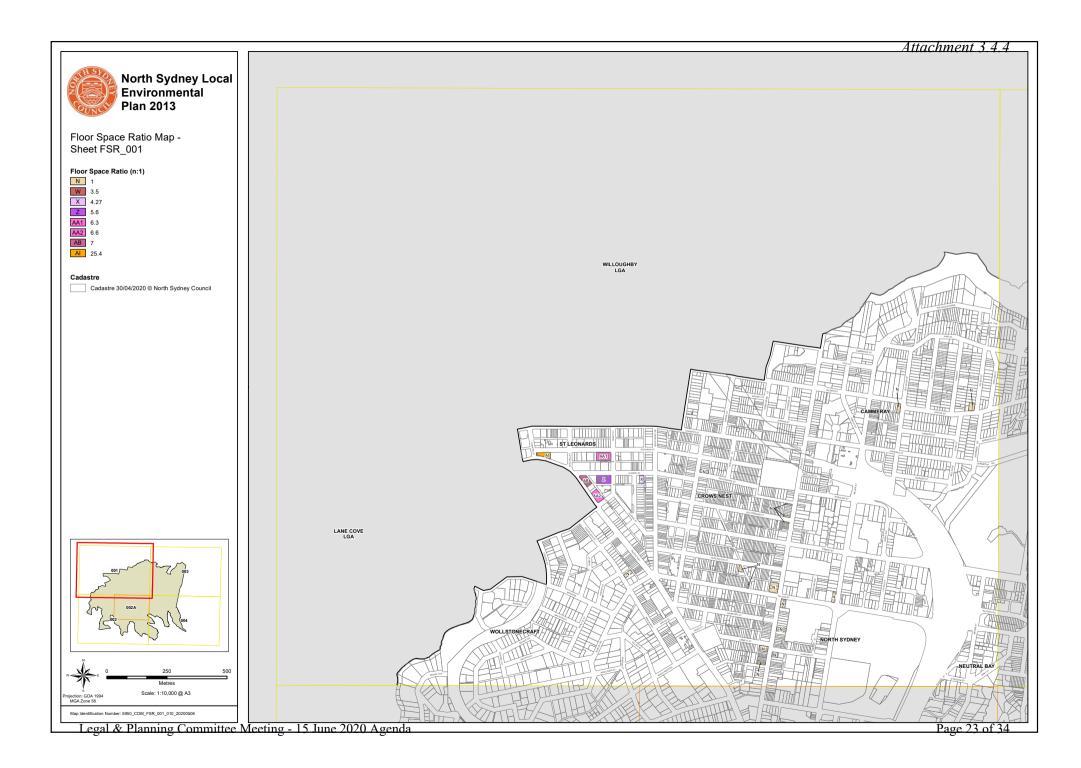
This Plan commences on the day on which it is published on the NSW legislation website.

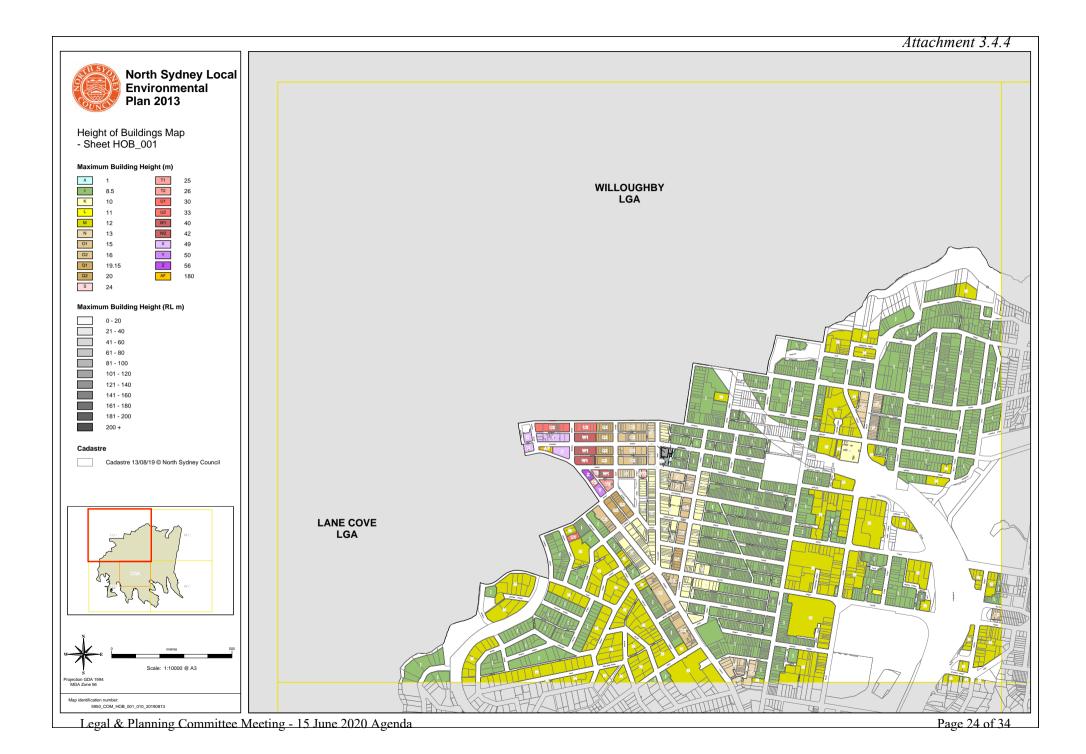
3 Land to which Plan applies

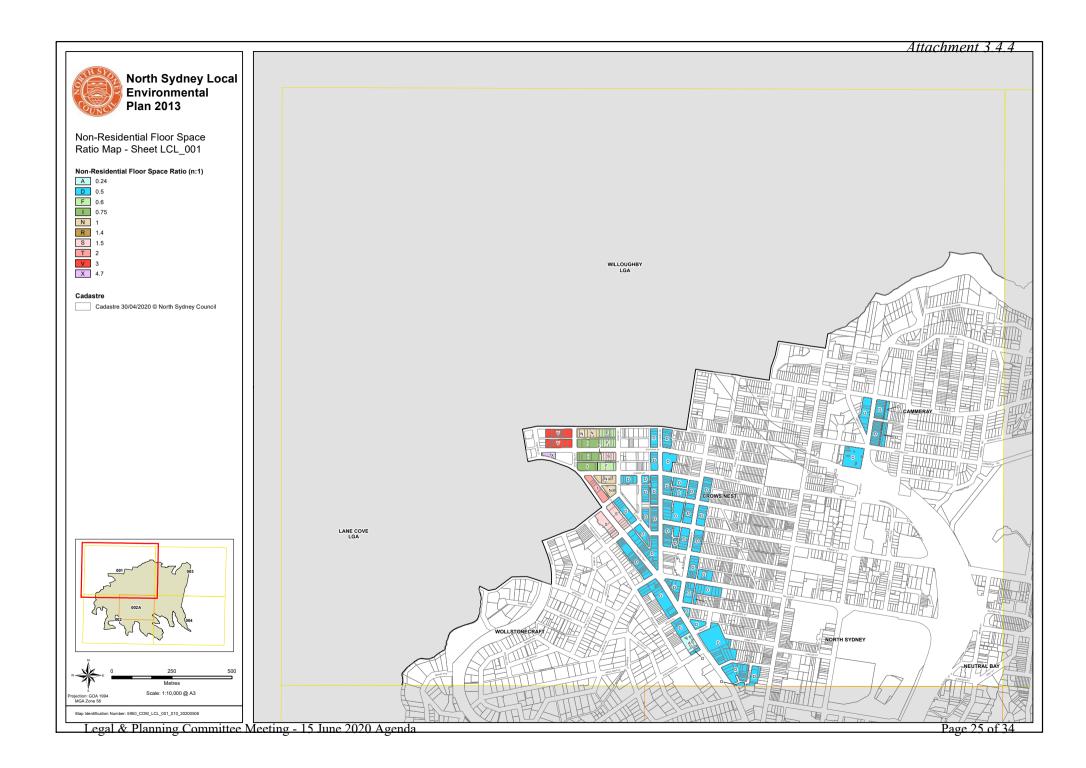
This Plan applies to 23–35 Atchison Street, St Leonards, being Lots 27–31, S10, DP 2872 and Lot 321, DP 566480.

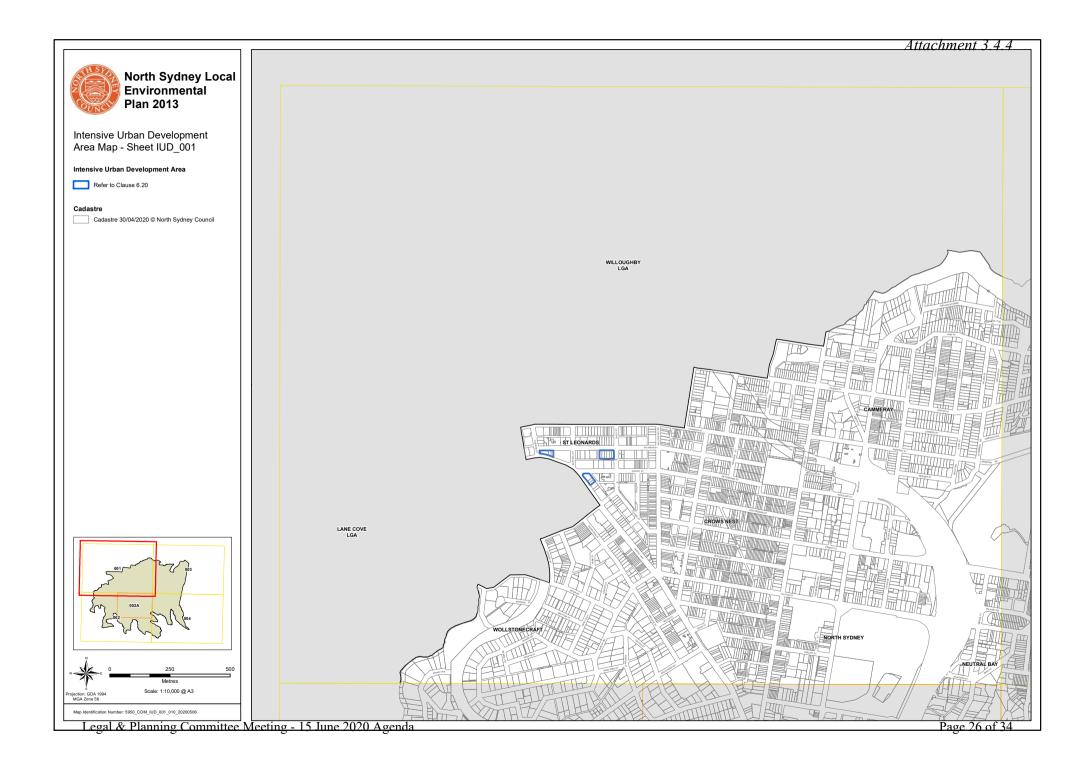
4 Maps

The maps adopted by *North Sydney Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.











North Sydney Local Environmental Plan 2013 (Amendment No 28)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

MALCOLM McDONALD As delegate for the Minister for Planning and Public Spaces

Published LW 15 May 2020 (2020 No 216)

North Sydney Local Environmental Plan 2013 (Amendment No 28)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is North Sydney Local Environmental Plan 2013 (Amendment No 28).

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to land at 100 Christie Street and Christie Street Reserve, St Leonards, being Lots 2 and 3, DP 733528.

4 Maps

The maps adopted by *North Sydney Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

Schedule 1 Amendment of North Sydney Local Environmental Plan 2013

[1] Clause 4.6 Exceptions to development standards

Insert after clause 4.6(8)(cb)—
(cba) clause 6.19A,

[2] Clause 6.19A

Insert after clause 6.19—

6.19A Development at Christie Street, St Leonards

- (1) This clause applies to land at 100 Christie Street and Christie Street Reserve, St Leonards, being Lots 2 and 3, DP 733528.
- (2) Despite any other provision of this Plan, development for the purpose of a car park is permitted with development consent on land to which this clause applies if—
 - (a) the car park is associated with the use of land to which this clause applies in Zone B3 Commercial Core as mixed use development comprising of residential accommodation and commercial premises, and
 - (b) on that part of the land in Zone RE1 Public Recreation, the car park is located at least 1.5 metres below ground level (finished), and
 - (c) the car park does not take up more than 50% of that part of the land that is in Zone RE1 Public Recreation.

[3] Schedule 1 Additional permitted uses

Insert after clause 47—

48 Use of certain land at Christie Street, St Leonards

- (1) This clause applies to land at 100 Christie Street and Christie Street Reserve, St Leonards, being Lots 2 and 3, DP 733528.
- (2) Development for the purpose of shop top housing is permitted with development consent on land to which this clause applies in Zone B3 Commercial Core.

