

10.4. Planning Proposal 1/21 - 270-272 Pacific Highway, Crows Nest - Post Exhibition

AUTHOR: Tom Mojsiejuk, Strategic Planner

ENDORSED BY: Joseph Hill, Director City Strategy

ATTACHMENTS:

1. Gateway Determination - 270-272 Pacific Highway, Crows Nest - P P-2021-6564 [10.4.1 - 2 pages]
2. Planning Proposal Report - Gateway Revised - 270-272 Pacific Highway, Crows Nest [10.4.2 - 86 pages]
3. Draft DCP Amendment to Section 3 - St Leonards Planning Area - pp 1 21 [10.4.3 - 12 pages]
4. Draft Voluntary Planning Agreement - 16 August 2022 - Exhibition Version [10.4.4 - 31 pages]
5. 8. Public Submissions Table - pp 1 21 -270-272 Pacific Highway Crows Nest [10.4.5 - 77 pages]

PURPOSE:

The purpose of this report is to present to Council the outcomes of the public exhibition of Planning Proposal 1/21, the accompanying draft Voluntary Planning Agreement (VPA), the site-specific DCP amendment for 270-272 Pacific Highway Crows Nest, and to recommend a way forward.

EXECUTIVE SUMMARY:

In response to Council's non-determination of the Planning Proposal (PP1/21) lodged for 270-272 Pacific Highway in March 2021, the applicant lodged a "rezoning review" on 11 November 2021. Subsequent to this, Council at its meeting in February 2022, resolved to not support Planning Proposal.

At its meeting on 2 March 2022, the Sydney North Planning Panel recommended that the Planning Proposal should proceed and a Gateway Determination was issued by the Department of Planning and Environment on 16 June 2022, enabling the proposal to be publicly exhibited. The public exhibition occurred between August and September 2022.

The Planning Proposal, as exhibited, seeks to amend *North Sydney Local Environment Plan 2013* (NSLEP 2013) to:

- Increase the maximum Height of Buildings Map from 16m to 54m;
- Impose a maximum Floor Space Ratio Map of 5.6:1;
- Increase the minimum Non-residential Floor Space Ratio Map from 0.5:1 to 5.6:1;

- Insert a site-specific clause allowing a maximum FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and comprises non-residential uses.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) comprising a monetary contribution of a minimum \$1.0 million, with the potential for a maximum of \$3.0 million (depending on a number of conditions being met including the site being developed to its full potential under the proposed changes to the LEP). The monetary contribution would go towards the provision of local infrastructure and facilities.

A total of 38 submissions were received during the public exhibition with 34 being from the public and 4 from public authorities. All 34 public submissions raised objections and concerns with the planning proposal.

The main issues raised included; overshadowing impacts and loss of solar access, traffic and parking, height and scale of the development, inconsistency with the *2036 Plan*, undesirable precedent and significant impact the Crows Nest Village, impacts to property value, cyclist and pedestrian safety, quality of the documentation provided, the Voluntary Planning Agreement, the need for additional office space in Crows Nest and concerns around amenity impacts including wind tunnel, drainage, visual amenity, construction traffic and privacy.

It is acknowledged that the vast majority of issues raised in the submissions made arise from the development expectations included in the *2036 Plan*. Genuine attempts have been made to manage and ameliorate many of these impacts throughout the assessment process by Council staff. Notwithstanding this, the area is undergoing significant change and the 2036 Plan includes a Ministerial Direction which requires that planning proposals be consistent with the *2036 Plan*.

The issues raised in the submissions, when critiqued against this study and the broader context, are not considered to warrant any significant amendments to the Planning Proposal.

It is therefore recommended that Council resolves to forward the Planning Proposal to the DPE with a request that the Plan be made. Should Council not seek that an amendment be made to the North Sydney Local Environmental Plan 2013, it is likely that the SNPP will assume the role of Planning Proposal Authority.

FINANCIAL IMPLICATIONS:

Should the draft VPA be executed, it will result in monetary contributions to Council, including a monetary contribution of minimum \$1.0 million with the potential for a maximum of \$3.0 million (depending on a number of conditions being met including the site being developed to its full potential under the proposed changes to the LEP). The monetary contribution would go towards the provision of local infrastructure and facilities.

RECOMMENDATION:

- 1. THAT** having completed the community consultation requirements outlined in the Gateway Determination, Council forward the Revised Planning Proposal (Attachment 3) to the Department of Planning and Environment with a request that a Local Environmental Plan be made in accordance with section 3.36 of the Environmental Planning and Assessment Act 1979, to give effect to the Planning Proposal.
- 2. THAT** Council finalise the Voluntary Planning Agreement with the view to have it in force prior to the gazettal of the LEP amendment.
- 3. THAT** Council finalise the draft North Sydney Development Control Plan 2013 amendments with the view to have it come into effect with the gazettal of the LEP amendment.
- 4. THAT** Council notify all submitters of its decision.

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 diverse community needs

3. Our Innovative City

3.1 Our commercial centres are prosperous and vibrant

3.3 Distinctive sense of place and design excellence

5. Our Civic Leadership

5.1 Lead North Sydney's strategic direction

5.3 Community is engaged in what Council does

BACKGROUND

St Leonards and Crows Nest 2036 Plan (2036 Plan)

On October 2018, the DPE released the draft St Leonards and Crows Nest 2036 Plan (draft 2036 Plan) and a suite of supporting documents for public exhibition. The draft 2036 Plan outlined capacity for significant residential and employment growth within the precinct (principally as a result of the new Crows Nest Metro station opening in 2024) and identified desired building heights, density (FSR), employment (non-residential FSR), land use, overshadowing and building setback controls.

On 29 August 2020, the final 2036 Plan was published. The finalised Plan seeks to provide planning capacity for an additional 16,500 new jobs and 6,683 new homes within the precinct. The finalised 2036 Plan was also accompanied by a Special Infrastructure Contribution (SIC) scheme, to help support identified growth in the precinct. The design priorities and objectives of the 2036 Plan are informed by the planning priorities of the North District Plan.

The final 2036 Plan diverges from the draft version in a number of ways, including removing previously identified "significant sites" and including site-specific built form controls. The site-specific height and density controls set out in the 2036 Plan for the subject site are as follows:

- a maximum building height of 13 storeys;
- an overall FSR of 5.6:1; and
- minimum non-residential FSR of 5.6:1 (ie entirely commercial land use).

The 2036 Plan is implemented under section 9.1 of the Environmental Planning & Assessment Act (EP&A Act) 1979. The supporting Ministerial Direction requires planning proposals for land within the precinct to be consistent with the 2036 Plan.



FIGURE 1: St Leonards and Crows Nest Planned Precinct (p. 2, 2036 Plan)

Chronology and Milestones of the Planning Proposal Process to Date

On 19 March 2021, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 270-272 Pacific Highway, Crows Nest. On 13 August 2021, Council received revised documentation from the applicant which included a reduction in the overall bulk and scale of the proposal.

The Planning Proposal (as amended) seeks to make the following amendments to the North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- Increase the maximum Height of Buildings Map from 16m to 59m (13 storeys);
- Impose a maximum Floor Space Ratio Map of 5.6:1;
- Increase the minimum Non-residential Floor Space Ratio Map from 0.5:1 to 5.6:1;
- Insert a Site-specific clause allowing a maximum FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and comprises non-residential uses.

The indicative concept scheme accompanying the Planning Proposal includes a 13-storey building, comprising approximately 22,853m² Gross Floor Area (GFA), and basement car parking over three levels.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) offer which proposes to provide:

- A monetary contribution of up to \$3.0 million for the provision of local infrastructure and facilities.

29 September 2021 - the North Sydney Local Planning Panel (NSLPP) considered a report on this planning proposal. The panel supported its progression, noting the recommended reduction in height from 59m to 54m and agreed with the recommendation that a site-specific DCP be prepared in relation to the proposal.

25 October 2021 – Council considered a report on the Planning Proposal which provided the outcomes of the referral to the Local Planning Panel. At this meeting Council resolved to defer this matter for consideration by the new Council (after the Local Government Elections conducted in December 2021).

Due to Council not having made a determination within 90 days of lodgement of the Planning Proposal, on 11 November 2021 the applicant lodged a rezoning review with the Department of Planning and Environment (DPE).

21 February 2022 – Council considered a deferred report on the Planning Proposal which provided the outcomes of the referral to the Local Planning Panel. At this meeting Council resolved not to support Planning Proposal 1/2021 in respect of 270-272 Pacific Highway, Crows Nest proceeding to Gateway Determination for the following reasons:

- a) The proposed height of 59m (and the proposed reduction to 54m) is inconsistent with Council's resolved position to oppose the significant increases to the exhibited maximum heights along the western side of the Pacific Highway including the subject site, under the 2036 Plan as resolved at the meeting held on 24 January 2022*
- b) The excessive height, bulk and scale of the proposed building envelope will result in significant adverse amenity impacts on the neighbouring properties in Sinclair Street including loss of solar access and traffic impacts due to the constrained nature of the shared access and right of way off Bruce Street.*
- c) The proposal fails to provide a reasonable transition to the Sinclair Street properties. The lack of a site-specific Development Control Plan at this stage of the strategic planning process.*
- d) The amended proposed height of 54m is inconsistent with Council's desired future character for this part of the Pacific Highway and will set an unacceptable precedent for future development in this locality.*

2 March 2022 - the Sydney North Regional Planning Panel considered the request for the Rezoning Review and handed down its recommendation on 8 March 2022. The panel recommended that the Planning Proposal proceed to Gateway Determination on both strategic and site-specific merit grounds and gave the following reasons for its decision:

The Panel believes the planning proposal reflects the benefit of extensive negotiation with Council including the reduction in height from 59 to 54 metres.

The proposal is also largely compliant with the 2036 Plan with the minor variation that FSR in total is 6.02:1, but above-ground the FSR is compliant at 5.6:1.

The Panel considers it prudent to also add a proviso that prior to submission the planning proposal is updated to remove retail premises in the basement component of the scheme, but allow neighbourhood shops.

In relation to the impact of bulk and scale, the proponent has actively worked with Council to prepare a site-specific DCP to ensure future development reduces any impact on surrounding properties.

Given the above, the Panel believes the planning proposal should proceed to Gateway determination.

In addition, the SNRPP requested that Council indicate whether it would like to assume the role of Planning Proposal Authority (PPA) for the ongoing processing of the Planning Proposal (i.e. to undertake the public exhibition and prepare the post exhibition report) within 42 days of its letter.

28 March 2022 - At its meeting on 28 March 2022, Council resolved:

1. *To accept the role of the Planning Proposal Authority for Planning Proposal 1/21 - 270-272 Pacific Highway, Crows Nest.*
2. *To advise the Sydney North Planning Panel and Department of Planning and Environment and request that any recommendations of the Sydney North Planning Panel form conditions to any Gateway Determination issued;*
3. *To endorse the draft Development Control Plan provisions contained at attachment 4 for the purposes of public exhibition;*
4. *To accept, in principle, the contents of the VPA offer with the intention that it be placed on public exhibition upon the satisfactory negotiation of the detailed VPA terms.*
5. *THAT once a Gateway Determination is issued, the Planning Proposal, any VPA and site specific DCP controls, be placed on public exhibition concurrently.*
6. *THAT the outcomes of the public exhibition be reported back to Council.*

16 June 2022 - Gateway Determination issued by the DPE to proceed to public exhibition.

17 August 2022 to 28 September 2022 - The proposal was publicly exhibited in accordance with the Gateway Determination.

CONSULTATION REQUIREMENTS

Community engagement has occurred in accordance with Council's *Community Engagement Protocol*. The detail of this report provides the outcomes from the engagement for Council to consider prior to adoption.

DETAIL

1. Assessment against Gateway Determination Conditions

Eight (8) conditions were imposed on the Gateway Determination (refer to Attachment 1) and have been addressed in the following subsections.

1.1 Revision of Planning Proposal

Condition 1 of the Gateway Determination required that:

1. *Prior to public exhibition the planning proposal is to be updated to:*
 - a) *Include an advisory note that the wording of the site-specific clause will be drafted by Parliamentary Counsel;*
 - b) *Update all references to the Ministerial Directions, including removal of all references to the Premiers Priorities; and*
 - c) *Update all references to the SEPPs to reflect the consolidated SEPPs.*

Council received a revised Planning Proposal on 20 June 2022 which satisfactorily addressed requirements a. – c. of the condition by way of updating various sections in the report. All documentation associated with the proposal was uploaded to the portal on 19 August 2022, thus satisfying condition 3 of the determination.

1.2 Public Exhibition

Condition 2 of the Gateway Determination required that:

2. *Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 of the Act as follows:*
 - a) *The planning proposal is categorised as standard as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 28 days; and*
 - b) *the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021).*

In accordance with this condition, the Planning Proposal was placed on public exhibition from Wednesday 17 August 2022 to Wednesday 28 September 2022 inclusive, which resulted in the Planning Proposal being exhibited longer than the identified minimum of 28 days. Council notified all landowners who are directly affected by the Planning Proposal and those who may be impacted by the Planning Proposal of its public exhibition.

1.3 Consultation with Public Bodies

Condition 3 of the Gateway Determination required that the Planning Proposal be referred to the following public bodies and be provided the opportunity to comment within 30 days:

- Transport for NSW;
- VIVA Energy;
- Jemena Gas Networks (NSW) Ltd
- Sydney Water Corporation.
- Sydney Airport Corporation
- Civil Aviation Safety Authority

A copy of the Planning Proposal and all public exhibition material was forwarded to all of the above public authorities and given 28 days within which to comment.

Responses were received from the following public authorities.

- Sydney Water Corporation.
- VIVA Energy;
- Sydney Airport Corporation
- Civil Aviation Safety Authority

1.4 Public Hearing

Condition 4 did not require the undertaking of a public hearing in accordance with s. 3.34(2)(e) of the Act.

1.5 Timeframes

Condition 5 required that the planning proposal be exhibited within 3 months from the date of the Gateway determination. The proposal was exhibited within 1.5 months from the date of gateway determination.

Condition 6 requires that the proposal be reported to Council for a final recommendation, 6 months from the date of this Gateway determination. It is noted that this report is being reported within the 6 month timeframe.

Condition 7 requires that the Planning Proposal be submitted to the DPE for finalisation, 9 months from the date of the Gateway determination. Should Council resolve to, the proposal will be submitted to the Department within this timeframe, following consideration by Council.

2. Consideration of Submissions

A total of 38 submissions were received in response to the public exhibition of the Planning Proposal, which comprised the following:

- Thirty-four public submissions (including two from the Wollstonecraft Precinct Committee and Hayberry Precinct Committee)
- Four public authorities (Sydney Water, Sydney Airport and CASA, VIVA Energy)

A summary and response to all public submissions received are located in the attached Submissions Summary Table (refer to Attachment 5).

These submissions are further discussed in the following subsections.

2.1 Public Submissions

Of the 34 public submissions:

- None supported the proposal;
- 34 objected to the proposal (including two from the Wollstonecraft Precinct Committee and Hayberry Precinct Committee).

A summary of the key themes of submissions and frequency of issues raised is presented below:

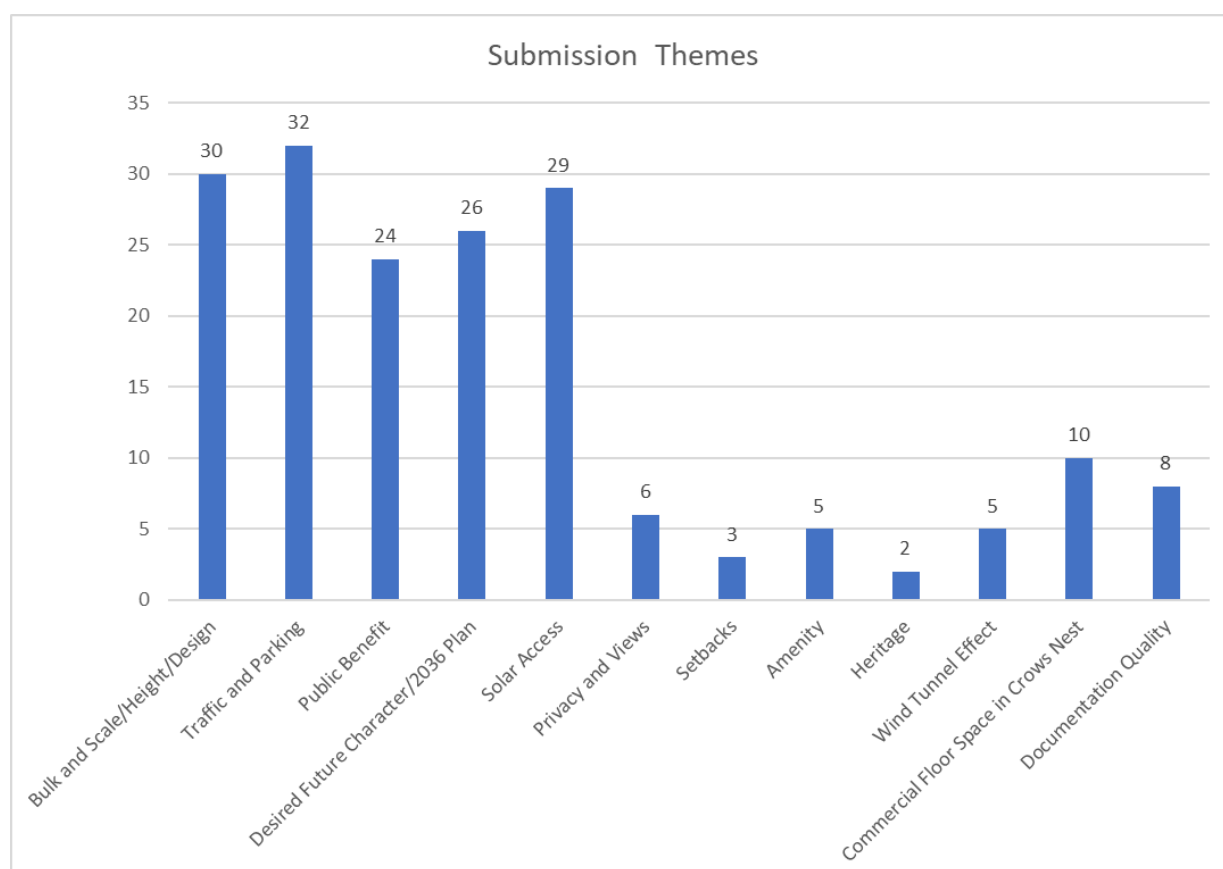


FIGURE 2: Summary of submissions

The key issues raised in the public submissions are discussed in detail in the following subsections. The main issues raised included concerns about the overshadowing and loss of solar access, concerns about traffic generation and parking, issues with the height and scale

of the development, concerns that the proposal was inconsistent with the 2036 plan, would set an undesirable precedent in the area and significantly impact the Crows Nest Village, impacts to property value, cyclist and pedestrian safety, quality of the documentation provided, the community benefit, the need for additional office space in Crows Nest, and concerns around amenity impacts including wind tunnel effect, drainage, visual amenity, construction traffic and nuisance and privacy.

2.1.1 Solar Access and Overshadowing

Twenty-nine submissions expressed concern that the proposed increase in height would create significant overshadowing on adjoining properties along Sinclair Street and to a void between 258 and 250 Pacific Highway that allows for sunlight to the apartments on the north of 250 Pacific Highway.

Comment:

The St Leonards Crows Nest 2036 plan, Chapter 3 – Built form, contains Urban Design principles - Solar Access provisions (page 37) which state;

Retaining solar access to public open space, valued streetscapes, and residential areas is a key objective of the Plan. Solar access controls – are outlined in the Solar Access Map. The solar access controls protect these key places by requiring that new development in the area does not produce substantial additional overshadowing during specific hours in mid-winter (21 June). These requirements can limit the bulk and scale of new development in order to maintain hours of solar access.

The solar access map (page 38) identifies the neighbouring sites along Sinclair Street (map reference 11) and provides that Residential areas inside boundary receive solar access for at least 2 hours.

The proposal states that it complies with the 2036 Plan's solar access requirements for residential areas inside the precinct boundary to the extent that these residential areas still achieve the minimum required 2 hours solar access between 9am – 3pm. The applicant's Urban Design Report includes shadow diagrams which indicate that there will be some minor overshadowing on the rear yards of properties to the west of the site between 1pm and 1:30pm. These sites will, in mid-winter, be largely in shadow prior to this time. Below are extracts from the accompanying reference design provided by the applicant.

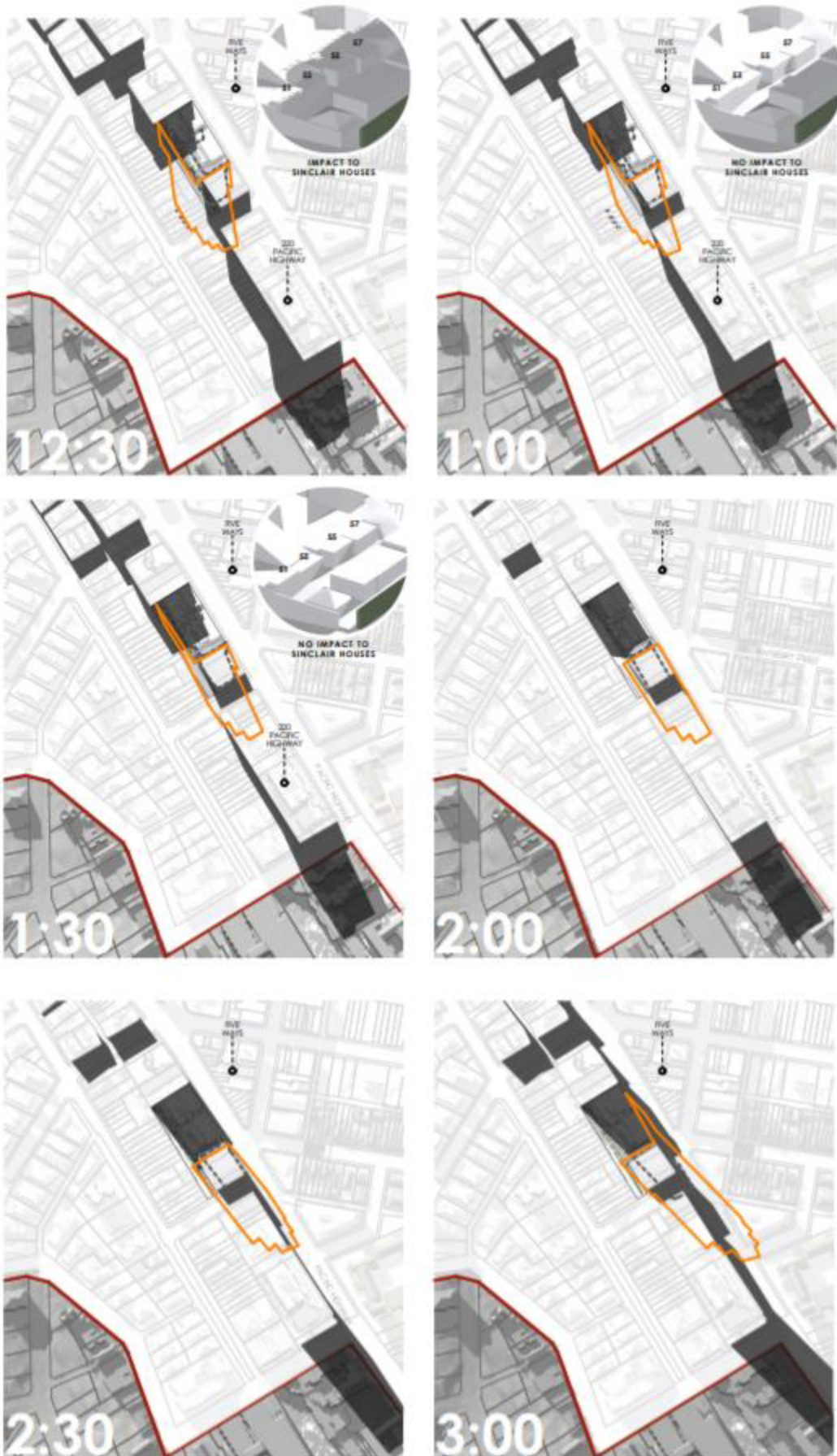


FIGURE 3: Extract from applicant's submission - 21 June shadows cast by proposal

The impacts to the rear open space of properties along Sinclair Street are somewhat mitigated when considering that the structures in this area are largely garages and boundary fences at the rear of the properties adjoining the shared laneway between the sites. These structures are not habitable structures and cast some afternoon shadowing themselves under existing conditions. It is also noted that the rear setback identified in the concept scheme is for an 8-10m setback as opposed to the 6m setback identified in the 2036 Plan.

Notwithstanding this, the plan prescribes a relatively modest minimum amount of solar access than would otherwise ordinarily be expected to be maintained in a low-density residential environment and these dwelling will be largely in shadow (mid-winter) prior to 1pm. The shadows cast appear to be largely clear of the dwellings themselves however the rear yards, and potentially some rear living windows, will have some level of overshadowing (after 1pm) which would be preferable to be minimised. Bearing in mind that the concept plans are intended to serve as a “proof of concept” rather than approved building designs, it is considered that further massaging of the built form can potentially reasonably be achieved to offer better solar access outcomes at the development application stage of the process. Particularly, the concerns in relation to impacts to a void between 258 and 250 Pacific Highway that currently allows for sunlight to the apartments on the north of 250 Pacific Highway would be further investigated through detailed solar access modelling of any future development application proposal.

In this context, the draft site-specific DCP includes provisions with respect to preventing solar impacts to adjoining properties including controls that the building height should step away from the west and southwest boundary to ensure some level of solar access is retained to the residential properties at 51-77 Sinclair Street, Wollstonecraft (for a minimum of 2 hours between 9am and 3pm), as well as provide a degree of physical separation to reduce the level of visual impacts.

It clear that the visual and shadowing impacts of the “proof of concept” design are largely a result of the primary controls established in the 2036 Plan and it is a reasonable conclusion that the Plan foreshadowed such impacts in its formulation. The interface between the Planning Proposal site and adjacent lower density residential development is acknowledged to be dramatic. It is considered that the proposed reference design building has, in the circumstances, been reasonably articulated in an attempt to reduce the overshadowing and solar access impacts of the structure on adjoining properties.

2.1.2 Traffic Generation and Parking and Safety

Thirty-two submissions identified concerns that the proposal would result in an increase in traffic congestion and considered this as unacceptable given that the locality is already heavily congested. Concern was also raised that the proposal would result in additional traffic using Rocklands Road and put added strain on the Rocklands Road/Sinclair Road and Rocklands Road/Pacific Hwy intersections. Concerns were also raised in relation to impact to pedestrians attending the nearby Cammeraygal High School and Mater Hospital, as well as towards cyclists. Comment was made that Council should undertake an independent traffic and access study for the proposal as the submitted reports had incorrect findings. It was also requested

that traffic calming measures be implemented to protect pedestrians, and that infrastructure improvements be implemented for the cycling network.

Comment:

The proposed concept includes a total of 202 off-street parking spaces. The proposal also seeks to retain the existing vehicular access point from via Bruce Street.

Council's strategic transport planner has commented that the proposal should provide visitor / customer cycling parking at grade, either within the site boundary or within the nearby road reserve (with Council's permission), as close as feasible to building entrances for associated land uses. These spaces should be visible from the current/future cycling network (visibility), overlooked by adjacent land uses (security), covered (weather) and well lit (night-time security). Conversely, end of trip facilities such as lockers and showers need only be provided for workers at the site.

Further comment has been made that the interaction of the "existing (cycle) ramp" and the laneway at the rear of the site does not appear to provide appropriate sightlines to the laneway for cyclists exiting the site on to the laneway at the top of the ramp. This could have particular safety implications for cyclists. It is also unclear how the ramp links to the basement area where the cycling compound is located.

The Draft Site Specific DCP includes the following provisions in respect to traffic, access, and parking:

3.0.6.6 Traffic, Access, and Parking

Objectives

O1 To ensure that vehicular access is safe for motorists and pedestrians.

O2 To ensure the existing private laneway (under right of carriageway X129789) is retained for shared use by both the future building on the site and the benefited residential properties.

O3 To provide an appropriate amount of basement parking spaces noting that the area is highly accessible via public transport and is within 400m of the Crows Nest Metro Station.

Provisions

P1 Vehicular access to the site must be from the private laneway which connects to Bruce Street.

P2 Vehicular access to the rear of the benefiting residential properties to the west on Sinclair Street, Wollstonecraft via the private laneway is to be retained.

P3 Bicycle parking and facilities is to be provided in accordance with Part B Section 10 of this DCP.

P4 Notwithstanding Part B, Section 10 of this DCP, a maximum provision of car parking of 1 space per 113m² is applicable. Given the site's proximity to the location of the Crows Nest Metro station, and it being a purely commercial use, a lower provision of car parking is strongly encouraged.

Compliance with these controls would be required to be addressed as part of any future detailed development application. In addition, any impacts toward the safety of pedestrians in the general vicinity by future construction works would also be considered as part of the assessment of any future development application on the site.

Council is satisfied that the parking provided on-site, and proposed access arrangements, are suitable for the proposal and will not result in significant additional adverse impacts on the surrounding area. Other matters raised can be addressed in greater detail in any future development application and should not preclude the proposal from progressing at this point.

TfNSW was requested to comment on the proposal but at the time of drafting this report no correspondence was received.

2.1.3 Building Height and Scale

Thirty submissions stated that the height of the proposal was excessive and would set an unacceptable precedent in the area. In particular, that the proposal is significantly taller than what was envisioned in the draft 2036 Plan and Council's current LEP.

Comment:

The 2036 Plan identifies a maximum building height of 13-storeys for the subject site. The Planning Proposal has sought to realise this by seeking a maximum building height of 54m in order to accommodate a 13-storey commercial building on the site. The proposed Site Specific DCP provides a suite of controls which provide greater clarity on building height and setbacks which will act to ensure any future development application better respects the transitional nature of the site.

The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.

In consideration of the surrounding controls and development, the proximity of the site to Crows Nest Metro station, and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the *2036 Plan*.

2.1.4 Public Benefit and Voluntary Planning Agreement

Twenty-four submissions made comment that the Voluntary Planning Agreement offer is not beneficial to Council or residents, would benefit the developer, and set a precedent for similar types of offers.

In addition, a further fifteen concerns were raised with respect to the lack of and strain on existing infrastructure, lack of green space and lack of cycling infrastructure.

Comment:

In consideration of Planning Proposals seeking uplifts to existing development controls, Council typically undertakes an evaluation of the value of the development extent available under the current planning controls and those being sought. The vast majority of these secured to date by Council have related to predominantly residential developments (currently also experiencing favourable market conditions). In this instance, consideration has been given to valuation advice received by Council and alternate methodologies, assumptions, and considerations by the applicant.

As a result, an amended VPA letter of offer was provided, offering to provide a monetary contribution of up to \$3.0 million towards future local community facilities. The re-development of the site for commercial purposes is supported by the *2036 Plan* which aims to facilitate job creation in the area. Given the relative contraction of employment floor space over time within the precinct, redevelopment of the site for a commercial (job generating) use is supported. It is also noted that there are a very limited number of sites identified within the *2036 Plan* precinct for purely commercial purposes. It is further noted that entering into a VPA is a voluntary exercise on the part of the applicant.

In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with Council's Local Infrastructure Contribution Plan 2020. Council will also work with relevant service providers and state agencies to address any infrastructure shortfalls.

2.1.5 Requirement for Additional Commercial Office Space

Ten submissions raised concerns with respect to the requirement and need for additional commercial office space in the area.

Comment:

The *2036 Plan* has the objective of providing an additional 1,950- 3,020 jobs in Crows Nest by 2036, whilst maintaining the village atmosphere along Willoughby Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036, and encourage innovation and growth within the eastern economic corridor. The Planning Proposal would result in the creation of 22,853m² of commercial floor space in Crows Nest, and in close proximity to the Crows Nest Station.

The Planning Proposal is consistent with the *2036 Plan*, *North District Plan*, and local planning priorities under the North Sydney Local Strategic Planning Statement in regard to employment.

2.1.6 Privacy/Visual Impact

Six submissions raised concerns with respect to the proposal's impact on privacy, particularly towards the nearby apartments on Shirley Road, and rear yards to the properties along Sinclair Street.

Comment:

The visual impact of the building will be pronounced from several viewpoints as shown in the view diagrams submitted with the proposal. This will be particularly obvious from properties to the south-west of the site, and also from surrounding residential streets.

Notwithstanding this, the visual impacts are largely a result of the primary controls established in the *2036 Plan*, and it is a reasonable conclusion that the Plan foreshadowed such impacts in its formulation. It is considered that the proposed building has been reasonably articulated in an attempt to reduce the overall apparent bulk and appearance of the structure.

The draft Site Specific DCP includes provisions that open spaces near to residential properties be appropriately mitigated and managed, and that landscaping is used to provide appropriate amenity and to soften the appearance of any future structure through the use of planter boxes on the podium and terraces, suitable of accommodating mature vegetation.

It is noted that the use would be a commercial one with reasonable expectations of the highest intensity of use being within office hours, hence privacy would be somewhat mitigated on this basis. Notwithstanding, other measures to ensure adequate levels of privacy to surrounding properties and their adequacy would be assessed in detail at the development application stage.

2.1.7 Setbacks

Three submissions raised concerns with respect to the proposed setbacks and their impact on adjoining properties.

Comment:

The 2036 Plan sets a minimum rear setback of 6m for the subject site, with the proposed concept design showing a setback of 6m for the podium levels and between 8m and 10m for the upper levels. Whilst the concept scheme provided is numerically compliant with these controls, it is also necessary to consider the urban design principles of the 2036 Plan.

The Plan includes the '*transition and interfaces*' principle, which makes references to the fact that height transitions should be sought for development adjacent to lower scale areas. The concept design included with the proposal shows a 'stepping' of the built form at higher levels. The applicant has provided the following comment on the building transition:

Whilst it is observed that the interface or physical spatial relationship between the existing low density residential and that proposed is dramatic, this is difficult to entirely

avoid considering the vast difference in allowable heights between the sites as stipulated under the 2036 Plan. The Pacific Highway is identified as a major development corridor in the area, with other sites along Pacific Highway earmarked to present comparable transitions and interfaces to what is proposed. In light of the proposal being compliant with the building envelopes envisaged by the 2036 Plan and considering the future heights and density identified along the corridor and throughout the precinct, the proposed building transition or interface to the rear in this instance is considered to be acceptable in this context.

With respect to the front setback area, the proposed podium height complies with the 2036 Plan and is equivalent to the 2-storey heritage building height to the north. This provides a contextual response along Pacific Highway. The concept scheme proposes an upper tower setback of 3m, however shows building articulation elements encroaching upon this setback. It is noted that, generally, articulation elements are preferred to be located behind the setback area so as to reduce the visual bulk of the structure.

The 2036 Plan did not stipulate side setbacks for the site. The concept scheme proposes a nil setback to the podium level and a tower setback of 3m to both the northern and southern boundaries. It is noted that the Plan identifies the site to the north and south as having the potential to house up to 8-storey mixed use buildings. Such setbacks in the context of neighbouring developments would be considered small and have potential to reduce amenity to existing and future surrounding development. Consideration should be given to further increasing these setbacks at the future detailed design stages.

A site-specific DCP has been prepared and exhibited to ensure that the conceptual transitional interface (provided in the supplied reference design) and setbacks remain key design features of the proposal. Provisions for canopy tree planting are also included, with the intention of providing for improved visual amenity to the surrounding area and to adjacent residential properties.

Notwithstanding this, it should be noted that the visual impacts are largely a result of the primary controls established in the 2036 Plan, and it is a reasonable conclusion that the Plan foreshadowed such impacts in its formulation.

It is considered that the proposed building has been reasonably articulated in an attempt to reduce the overall apparent bulk and appearance of the structure in the context of development expectations, established by the 2036 Plan.

The draft Site Specific DCP includes provisions that open spaces nearby to residential properties be appropriately mitigated and managed, and that landscaping is used to provide appropriate amenity and to soften the appearance of any future structure through the use of planter boxes on the podium and terraces to facilitate mature vegetation.

2.1.8 St Leonards - Crows Nest 2036 Plan/Desired Future Character and Precedent

Twenty-six submissions made note of the fact that the proposal was not in the land falling under the 2036 Plan, not consistent with the recently finalised 2036 Plan which indicated that

the village feel of Crows Nest would not be disturbed, and objected to the process that raised the number of storeys' control under the draft exhibited plan, from 8 storeys to 13 storeys in the final plan. Concerns were raised that approval of the proposal would result in the erosion of the public's trust of the Plan and planning system, and would set a precedent for other developers to flaunt the rules of the Plan.

Comment:

The (finalised) *2036 Plan* is accompanied by a section 9.1 Ministerial Direction, requiring that any rezoning and future development be consistent with the Plan. The Plan states that, under this Direction, Planning Proposals may be inconsistent with the Plan if, in addition to achieving the vision, objectives, planning principles and actions identified in the Plan, the proposal clearly demonstrates that better outcomes and supporting infrastructure can be delivered.

It is considered that the proposal is consistent with the vision and principles of the plan insofar as it will:

- Result in the creation of 22,853m² of commercial floorspace in the outer edge of the precinct, providing a much needed employment centre in the Crows Nest area;
- Provide uplift in an accessible place, and improve permeability and legibility through the provision of improved pedestrian amenity.
- Assist in achieving a vibrant community by providing an active frontage, while avoiding any significant impact on built heritage;

The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east, residential uses to the west, and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan, and as such will not set a precedent for surrounding development outside that identified under the 2036 Plan.

With regard to the differences between the previously exhibited height limit for the site and the finally endorsed height limit, it is noted that Council has previously made representations to the Minister and the DPE but these have failed to result in any changes to the Plan.

2.1.9 Amenity

Five submissions raised concerns with respect to the proposal's impact on amenity of existing residents, particularly through construction noise, traffic and waste and light pollution.

Comment:

Matters relating to the amenity impacts as raised in some submissions are not generally considered under the assessment of a Planning Proposal. These matters would be addressed, and further documentation such as a Construction Management Plan and Construction Traffic

Management Plan will be required, at the development application stage for further assessment. Any applicable conditions of consent would be applied where appropriate, to ameliorate these concerns should a development application be determined.

2.1.10 Heritage

Two submissions raised concerns with respect the impacts to built heritage, particularly the impacts upon the Holtermann Estate C Heritage Conservation Area.

Comment:

Council's Conservation Planner provided comments specific to the design of any future building. These can be broken down into two categories focussing on:

1. building scale and form, and
2. specific architectural design and materials.

With respect to building scale and form, it was noted that consideration should be given to a greater front setback to any future tower to better respect the heritage item to the north; that the podium height should respond to the item by way of limiting its height, to not be higher than the flat pilasters on the sides of the first floor level of the item (286-288 Pacific Highway), and that any future building include a massing and form that better responds to the heritage item.

Having regard to the specific architectural design and materials, it was noted that the awning height should match the heritage item to the north and should be of a design that responds to the form and materials of surrounding awnings, that the character of any future podium respond to the character of surrounding shopfronts, that the proposal include less glazing and more of a solid style, and that any future building materials used should reflect the character of the Crows Nest area, including exposed brick among other materials.

The draft Site Specific DCP also includes a provision that the building shall incorporate a 3-storey podium which relates to the adjoining heritage item (former North Shore Gas Co office (I0150)) at 286-288 Pacific Highway, Crows Nest.

Council is satisfied that this matter can be addressed in greater detail in any future development application, and should not preclude the Planning Proposal from progressing.

2.1.11 Wind Tunnel

Five submissions raised concerns with respect to the proposal's impact on existing wind conditions, particularly at the street level, and increased wind tunnels to the area in the vicinity.

Comment:

As outlined in the *2036 Plan* under the area-wide design principles for 'place', new

developments are expected to have consideration to wind impacts demonstrated through a wind assessment.

The applicant has provided a wind assessment which indicates that, being slightly larger than most surrounding structures, the proposed development will have some effect on the local wind environment. It notes that any changes in current wind patterns are not expected to be significant from the perspective of pedestrian comfort or safety. Furthermore, it makes reference to the fact that measures of local amelioration may be used to mitigate these impacts.

Council is satisfied that this matter can be addressed in greater detail in any future development application, and should not preclude the proposal from progressing.

2.1.12 Documentation Quality

Eight submissions raised concerns with the quality of the documentation provided with the planning proposal, namely the Traffic and Parking Study and Economic Advice, that the findings were flawed and incorrect, and called for an independent review.

Comment:

In response to these concerns, it should be noted that the supporting documentation has been reviewed by Council's officers as well as the SNPP and deemed acceptable for the purposes of the Planning Proposal assessment. Should the proposal progress to a development application, the supporting documentation will be reviewed in further detail and if required the applicant would be required to address these concerns prior to determination.

2.1.13 Stormwater Drainage

One submission was concerned with the potential future stormwater drainage impacts to adjoining properties.

Comment:

In terms of stormwater drainage impacts, no stormwater details have been provided with the Planning Proposal, and stormwater impacts are not generally a matter for consideration at the concept planning proposal stage. Further considerations with respect to stormwater would be addressed in greater detail in any future development application if the proposal were to proceed in its current form. This may include measures such as on-site detention and other water management techniques to minimise impacts on the existing storm water network infrastructure.

2.1.14 Views

One submission was concerned with the prospect of being able to view the proposal from their property due to the increase in height, impacting upon their views/visual amenity.

Comment:

In terms of view impacts, the proposal will have some impacts on the outlook of surrounding properties. However, this is largely a result of the increased height of the building as foreshadowed in the 2036 Plan, with the existing buildings on the site still likely having impact on view potential of surrounding properties. Further considerations of view loss could be addressed in greater detail in any future development application that may occur on the site.

2.2 Consideration of Public Authority Submissions

Council received submissions from the following public authorities:

- Sydney Water Corporation
- Viva Energy Australia
- Sydney Airport Corporation/CASA

An assessment of these submissions is provided in the following subsections.

2.2.1 Sydney Water Corporation

The submission from Sydney Water does not specifically object or endorse the outcomes of the Planning Proposal. They made comment on water access points and further provided advice on how connections could be made, and approvals sought at the time that development was to occur.

Comment:

Noted. This will be dealt with at the Development Application stage.

2.2.2 Viva Energy Australia

The submission from Viva Energy Australia does not specifically object or endorse the outcomes of the Planning Proposal. They made comment on the location of vegetation plantings, location of stockpiles, location of fencing and works within 10 metres of energy pipelines and provided advice on how to obtain permits.

Comment:

Noted. This will be dealt with at the Development Application stage.

2.2.3 Sydney Airport Corporation/CASA

The submission from Sydney Airport Corporation/CASA does not specifically object or endorse the outcomes of the Planning Proposal. They made comment that no part of the building can be greater than 150 metres AHD inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes and the like.

Comment:

This is noted. This will be dealt with at the Development Application stage.

3. Conclusion

A variety of issues were raised by the 34 submissions objecting to the exhibition of the Planning Proposal for 270-272 Pacific Highway. This report notes that significant efforts have been made by staff to manage and ameliorate some of the impacts that have been raised in submissions, but that ultimately many of these relate to the significant development expectations, including height and density of future development, that is established by the *2036 Plan*.

The issues raised in the submissions, when critiqued against the *2036 Plan* and the broader context of significant change within the precinct, are not considered to warrant any significant amendments to the Planning Proposal.

It is recommended that the draft Development Control Plan, as an instrument to help manage and somewhat mitigate some of the impacts associated with the future development of the site, be adopted by Council. Similarly, the draft Voluntary Planning Agreement includes infrastructure funding to contribute towards public amenities that will be required as the precinct grows and develops.

These impacts also need to be considered in the context of the broader strategic direction of the St Leonards / Crows Nest area and its designation as a priority precinct by the State Government. The precinct is undergoing significant change, and North Sydney Council have proactively sought to manage this change appropriately through significant planning work.

The proposal presents a good opportunity for Council to realise the objectives of the *St Leonards and Crows Nest 2036 Plan*, along with the associated public benefits defined therein. Notable is a monetary contribution of minimum \$1.0 million and up to \$3.0 million (should the maximum FSR be achieved on the site) towards increased open space opportunities in the area.

Given the proposal's consistency with the desired visions and principles of the studies mentioned above, it is recommended that the Planning Proposal be forwarded to the Department of Planning, Industry and Environment with a request that the plan be made under the EP&A Act. Should Council not seek that an amendment be made to the North Sydney Local Environmental Plan 2013 it is likely that the SNPP will assume the role of Planning Proposal Authority.



Department of Planning and Environment

Gateway Determination

Planning proposal (Department Ref: PP-2021-6564): to amend the height and FSR controls in the *North Sydney LEP 2013* to enable the future redevelopment of 270-272 Pacific Highway, Crows Nest as a 13 storey commercial office building and basement.

I, the Director, North District at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the North Sydney Local Environmental Plan 2013 to amend the height and FSR controls for 270-272 Pacific Highway, Crows Nest should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
 - (a) Include an advisory note that the wording of the site-specific clause will be drafted by Parliamentary Counsel;
 - (b) Update all references to the Ministerial Directions, including removal of all references to the Premiers Priorities; and
 - (c) Update all references to the SEPPs to reflect the consolidated SEPPs.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 28 days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
 - Transport for NSW
 - Sydney Water.

Consultation is also required with the following organisations

- Relevant utility providers
- Civil Aviation Safety Authority
- Sydney Airport Corporation Limited.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The planning proposal must be exhibited within **3 months** following the date of the Gateway determination.
6. The planning proposal must be reported to Council for final recommendation within **6 months** from the date of the Gateway determination.
7. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.
8. Given the nature of the proposal and that Council initially determined not to support it, Council is not authorised to be the local plan making authority.

Dated 16th day of June 2022.



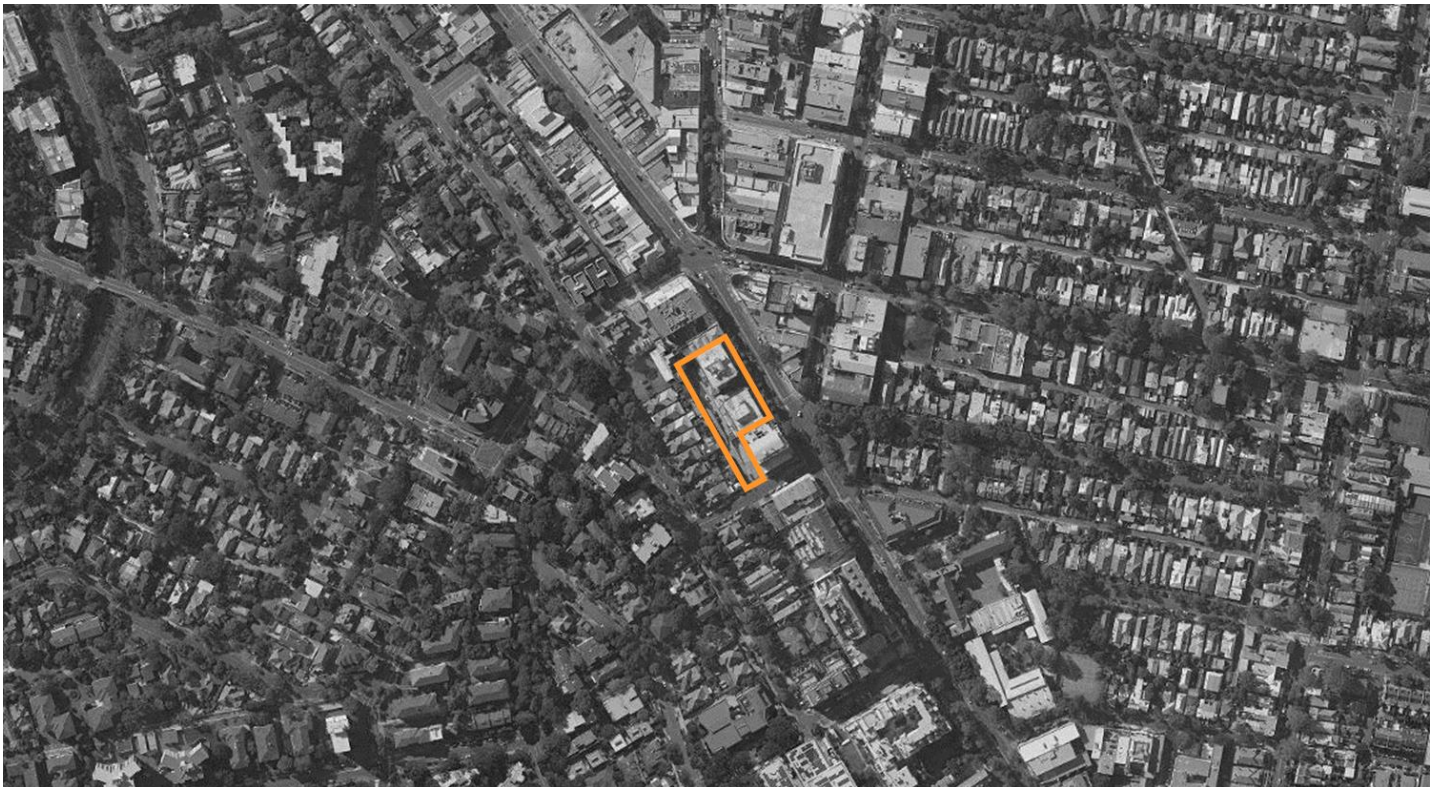
Brendan Metcalfe
Director, North District
Metro Central and North
Department of Planning and Environment

Delegate of the Minister for Planning



Planning Proposal

270-272 Pacific Highway
Crows Nest



Amendment to North Sydney Local Environmental Plan 2013

Prepared for Silvernight (Crows Nest) Landowner Pty Ltd
Submitted to North Sydney Council

June 2022



This report has been prepared by:

Padraig Scollard BA MRUP
Senior Planner
E: padraig@keylan.com.au

This report has been reviewed by:

Dan Keary BSc MURP MPIA
Director
E: dan@keylan.com.au

Cover image: the Site (Source: Keylan)

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Revision	Prepared by	Reviewed by	Date	Revision Type
1	PS	DK	18/2/21	Draft
2	PS	DK	17/3/21	Final
3	PS	DK	5/8/21	Draft (Amended)
4	PS	DK	13/8/21	Final (Amended)
5	PS/CT	DK	22/4/22	Final (Amended v2)
6	PS/CT	DK	20/6/22	Final for Exhibition



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Appendix 11	28 March 2022 Council Report including Draft DCP and VPA

Abbreviations

Applicant	Silvernight (Crows Nest) Landowner Pty Ltd
CBD	Central Business District
DA	Development Application
DP	Deposited Plan
DPE	Department of Planning and Environment
DR	Design Report
EA	Economic Advice
ESD	Ecologically Sustainable Design
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPI	Environmental Planning Instrument
FSR	Floor space ratio
GFA	Gross floor area
NSDCP 2013	<i>North Sydney Development Control Plan 2013</i>
NSLEP 2013	<i>North Sydney Local Environmental Plan 2013</i>
LEP	Local Environmental Plan
LGA	Local government area
SGS	SGS Economics and Planning
SEPP	State Environmental Planning Policy
TPS	Transport and Parking Study
VPA	Voluntary Planning Agreement



Executive Summary

This Planning Proposal has been prepared by *Keylan Consulting Pty Ltd* (Keylan) on behalf of *Silvernight (Crows Nest) Landowner Pty Ltd* (the Applicant) for a Site at 270-272 Pacific Highway, Crows Nest (the Site) in the North Sydney Local Government Area (LGA).

The Planning Proposal seeks to amend the current development standards that apply to the Site under the *North Sydney Local Environmental Plan 2013* (NSLEP 2013) to facilitate its future redevelopment as a 13 storey commercial office building and basement level car parking.

The proposal has been designed to capitalise on the Site's strategic location within the St Leonards Health and Education Precinct and in close proximity to the Mater Hospital, Royal North Shore Hospital and the Crows Nest Metro Station, as well as the St Leonards and North Sydney Centres.

The Planning Proposal is intended to facilitate an entirely non-residential development that will strengthen the local and regional economy, stimulate the retail village at Crows Nest, contribute significantly to State level job targets, and help fulfil the vision for the St Leonards Crows Nest Area under relevant strategic plans, including the recently adopted St Leonards Crows Nest 2036 Plan (2036 Plan).

Whilst no change to the Site's current B4 Mixed Use zoning is required, the current planning height control of 16 metres is well below the 13 storeys contained in the 2036 Plan. Accordingly, the current controls do not allow for redevelopment of the Site for employment generating purposes as envisioned under the 2036 Plan and therefore sterilise the otherwise strong strategic potential of the Site.

This Planning Proposal is a revision to PP1/21 which was first lodged with North Sydney Council (Council) in March 2021 and first revised in August 2021. Following lodgement of the original Planning Proposal, correspondence was received from Council on 3 June 2021 advising that it did not support the proposal in its current form due to the extent to which the proposed FSR of 6.87:1 exceeds the proposed FSR in the 2036 Plan of 5.6:1.

In response, potential revisions to the proposal were discussed with Council officers. In July 2021, Council officers advised that they are able to support a scheme that provides a maximum FSR of 5.6:1 on the site plus additional floorspace (approx. 1,600sqm provided below ground level), on the basis that the additional floor space does not add to the perceived bulk and scale of the building and promotes an employment outcome on the site.

The revised Planning Proposal was lodged with Council in August 2021. Following this, the proposal was presented to the North Sydney Local Planning Panel with a recommendation from Council Officers to support the proposal which the Panel endorsed. Despite this, Council resolved to defer consideration of the item in October 2021 and resolved not to support the proposal in February 2022.

In response to delays, the Applicant initiated a Rezoning Review which was considered on 2 March 2022. The Sydney North Planning Panel determined that the proposal should be submitted for a Gateway Determination as it has demonstrated strategic and site-specific merit. However, the panel recommended the proposal be updated to prohibit retail premises in the basement component of the scheme, but permit neighbourhood shops with consent.



Accordingly, the proposal has been revised in response to the Sydney North Planning Panel's feedback. Assessment within this Planning Proposal only relates to the proposal as amended and does not address the original proposal.

The Site

The Site is situated at 270-272 Pacific Highway, Crows Nest, and is legally described as SP 49574. The Site has an area of approximately 3,793m² with frontages to Pacific Highway and Bruce Street in Crows Nest and is in single ownership. The Site is located on the western side of Pacific Highway, approximately 70 metres to the south of the Five-Ways Intersection.

The Site is situated within the vicinity of the Crows Nest Village in between the St Leonards and North Sydney strategic Centres which are approximately 900m and 1.2km away respectively. The Site is located within 400m of the future Crows Nest Station as well as the Mater Hospital and Melanoma Institute Australia.

The Site is currently occupied by two mirroring 5 storey commercial buildings over a single level basement. The buildings comprise restaurant, medical and office uses. Vehicular access to the Site is from Bruce Street via a private laneway which runs parallel to the Pacific Highway.

The Site does not contain any heritage items under the NSLEP 2013, however, it is in the vicinity of multiple heritage items and conservation areas, including the adjacent Former North Shore Gas Co office at 286 Pacific Highway, Crows Nest.

The Planning Proposal

The Planning Proposal has been developed with regard to the key objectives and proposed development controls in the *St Leonards and Crows Nest 2036 Plan*. It retains the B4 Mixed Use zoning of the Site but seeks to amend the Site's maximum building height and floor space ratio (FSR) controls, as set out in the NSLEP 2013.

The primary objective of the Planning Proposal is to facilitate the future development of a 13 storey commercial building, with potential to include allied health uses, and basement level car parking (subject to a future development application).

The amendments proposed to the existing land use zones and development controls that apply to the Site are summarised in the table below.

Planning control	Existing development controls (NSLEP 2013)	St Leonards & Crows Nest 2036 Plan	Proposed development controls
Land use zone	B4 Mixed Use	B4 Mixed Use	B4 Mixed Use
Height of buildings	16m	13 storeys	54m (13 storeys)
Floor space ratio (FSR)	N/A	5.6:1	5.6:1
Additional FSR clause	N/A	N/A	Site-specific clause allowing a maximum FSR of 6.02:1,



Planning control	Existing development controls (NSLEP 2013)	St Leonards & Crows Nest 2036 Plan	Proposed development controls
			provided any additional floor space above 5.6:1 is: <ol style="list-style-type: none"> 1. located below ground level 2. comprises non-residential uses 3. does not comprise retail premises (excluding neighbourhood shops)
Non-residential FSR	0.5:1	5.6:1	5.6:1

Table 1: Summary of Planning Proposal

As noted in Table 1, in response to Council officers' advice and subsequent advice from the Sydney North Planning Panel, a new clause is proposed to permit an FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and comprises non-residential uses but not retail premises (excluding neighbourhood shops and ancillary development). Given the additional space is located within the lower ground level, there will be no impact on the height, bulk and scale of the future building on the Site.

The proposed wording for the new clause in the NSLEP 2013 is provided below:

19D 270-272 Pacific Highway Crows Nest—floor space

- (1) *The objective of this clause is to provide for additional floor space on certain land to encourage additional employment.*
- (2) *This clause applies to 270-272 Pacific Highway Crows Nest, being SP 49574.*
- (3) *Despite clause 4.4, the maximum floor space ratio for a building is 6.02:1, but only if—*
 - (a) *the floor space ratio of the part of the building that is above the ground level of the building at the Pacific Highway frontage does not exceed 5.6:1,*
 - (b) *any additional gross floor area above 5.6:1 is used for non-residential purposes; and*
 - (c) *any gross floor area within the part of the building that is below the ground level of the building at the Pacific Highway frontage does not comprise retail premises, excluding:*
 - (i) *neighbourhood shops, and*
 - (ii) *ancillary development (such as parking, storage, utility services access for fire services) for any retail premises that is at or above the ground level of the building at the Pacific Highway frontage.*

*Advisory note: Final wording of the site-specific clause will be drafted by Parliamentary Counsel

The proposal complies with the building height of 13 storeys but exceeds the maximum FSR control recommended for the Site under the 2036 Plan when the additional below ground FSR is included. This variation is considered to be acceptable as:

- the additional FSR above the recommendation in the 2036 Plan is provided below ground level and therefore will have no impact on the height, bulk and scale of the future building on the Site



- the proposed building envelope is fully compliant with the building height, street wall height and setback controls within the 2036 Plan, ensuring the bulk and scale of the development is appropriate for the Site
- the additional GFA will be used for non-residential purposes and will therefore provide employment generating floorspace that will contribute to the achievement of the employment targets in the 2036 Plan and Council's Local Strategic Planning Statement
- the proposal complies with the solar access requirements within the 2036 Plan, maintaining 2 hours of solar access to residential areas inside the boundary of the 2036 Plan between 9am – 3pm. This includes the properties located to the west of the Site on Sinclair Street which achieve 2 hours of solar access between 1pm – 3pm

Should the Planning Proposal be supported in its current form, the Site is envisaged to support approximately 22,853m² of much needed employment generating floor space, consistent with the 2036 Plan and Council's Local Strategic Planning Statement.

The Planning Proposal is supported by Economic Advice (EA) prepared by SGS Economics and Planning (SGS) (Appendix 5). The EA considers the potential economic opportunities for a development of this type in this location. The key findings of this advice include:

- Mixed use developments dominate the current employment pipeline in St Leonards and Crows Nest. These developments are mostly decreasing the current quantum of commercial floorspace. Consequently, mixed use developments may not provide the consolidated A-grade office floorspace which would be needed to attract large corporate tenants to St Leonards Crows Nest area, enabling it to compete with other major employment centres.
- In addition to currently planned development, between 122,154 – 275,054m² of additional commercial (predominately office) floorspace would be needed to achieve employment growth in line with the St Leonards Crows Nest 2036 plan and employment projections. This gap is higher than the 119,979m² estimated to be needed in the St Leonards Plan 2036, as a result of increased employment projections and the development pipeline, which contains many mixed use developments currently associated with an overall decrease in the quantum of commercial office floorspace.
- The subject site is located near Willoughby Road and the future Crows Nest Station, increasing its potential level of attractiveness for businesses following redevelopment. There are also likely to be opportunities for medical premises on the subject site given its proximity to the Mater Hospital and other large medical facilities and premises, as well as accommodating local population-serving businesses seeking proximity to the local Crows Nest Centre rather than the more commercial St Leonards centre.

On the basis of the findings of the EA, it is apparent that there is demand for employment generating floor space within the St Leonards and Crows Nest. The proposal will provide approximately 22,853m² of employment generating floorspace which will contribute towards meeting demand without absorbing all forecast demand to the detriment of other potential development.

Furthermore, in the context of the COVID-19 pandemic, commercial tenants are generally seeking decentralised office locations given shifting population trends, an affordable rental profile and ease of access. More particularly, tenants are seeking large, efficient floorplates that promote safe, efficient and collaborative work practices. In addition, medical practices require large floor plates which are accessible at ground level.



The market analysis undertaken for the site has identified demand for modern A-grade commercial office space at an affordable price point. The proposal suitably addresses this demand in an appropriate location.

Strategic context

The Planning Proposal has been prepared in consideration of the following strategic plans and policies prepared by the NSW State government and North Sydney Council (Council):

- *Greater Sydney Region Plan – A Metropolis of Three Cities*
- *North District Plan*
- *St Leonards and Crows Nest 2036 Plan*
- *North Sydney Local Strategic Planning Statement*
- *North Sydney Community Strategic Plan 2018-2028*

The Planning Proposal demonstrates consistency with the relevant objectives and actions set out in the above listed strategic plans and policies. In particular, the Planning Proposal provides for new employment generating floor space for commercial and health-related uses, located in close proximity to the St Leonards Health and Education Precinct, Crows Nest Village and Metro Station.

The Site is located within the Five Ways South Education and Medical Precinct and nearby to the Crows Nest Village as per the *North Sydney Local Strategic Planning Statement* (North Sydney LSPS). In addition, the 2036 Plan establishes a job target of 16,500 additional jobs by 2036, and identifies a commercial floor space target of 119,979m².

The strategic justification for the Planning Proposal and detailed consideration of the above listed strategic plans and policies is discussed in Section 5.3 and Appendix 3.

St Leonards and Crows Nest 2036 Plan

The Planning Proposal gives effect to the St Leonards and Crows Nest 2036 Plan (2036 Plan) in accordance with Ministerial Direction 1.13 – Implementation of St Leonards and Crows Nest 2036 Plan.

The 2036 Plan seeks to facilitate the urban renewal of St Leonards and Crows Nest for an expanding employment centre and growing residential community in the suburbs of St Leonards, Greenwich, Naremburn, Wollstonecraft, Crows Nest, and Artarmon. This is to be achieved through changes to existing planning controls to support the objectives and actions within the 2036 Plan.

The 2036 Plan proposes to maintain the B4 Mixed Use zoning for the Site and provides a building height of 13 storeys and an FSR of 5.6:1 for the Site, which is required to be entirely non-residential. The site is the only 100% non-residential site identified within Crows Nest under the 2036 Plan, indicating its strategically important location and attributes and its recognised role in contributing to the Plan's employment targets.

The Planning Proposal is largely consistent with the 2036 Plan as the B4 Mixed Use zoning is retained and a maximum building height of 54 metres is proposed, equating to 13 storeys.



Whilst a base FSR of 5.6:1 is proposed, it is also proposed to include a new clause to permit an FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and is used for non-residential purposes but not retail premises (excluding neighbourhood shops).

The proposed maximum FSR of 6.02:1 results in a minor exceedance of the FSR proposed under the 2036. However, the relevant section 9.1 Ministerial Direction for the 2036 Plan permits minor inconsistencies, if a proposal achieves the overall intent of the 2036 Plan and does not undermine the achieve of the Plan's vision, objectives and actions.

The proposed FSR provisions are considered acceptable as the additional FSR above 5.6:1 is provided entirely below ground level and therefore will have no impact on the height, bulk and scale of the future building on the Site. Subsequently, the concept building envelopes are compatible with the desired future character of the area as established under the 2036 Plan. The resultant bulk and scale does not result in adverse overshadowing impacts to neighbouring residential properties.

Statutory context

The Planning Proposal has been prepared in accordance with the requirements of Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and in consideration of the Department of Planning and Environment's (DPE) *A guide to preparing Planning Proposals* (2018) and *A guide to preparing local environmental plans* (2018). The Planning Proposal is supported by technical information and investigations to justify the proposed amendments.

An assessment has also been undertaken against the relevant environmental planning instruments (EPIs) that apply to the Site and Local Directions issued by the Minister for Planning and Public Spaces under section 9.1 of the EP&A Act (formerly section 117). The Planning Proposal is consistent with the statutory controls, including the relevant EPIs and Local Directions.

Environmental, social and economic considerations

The Planning Proposal is accompanied by various technical reports and studies that assess the relevant environmental, social and economic issues to the proposed amendments to the NSLEP 2013 including the following:

- built form, urban design and public domain
- economic
- heritage
- traffic, access and car parking
- environmentally sustainable design
- wind and reflectivity
- servicing
- aviation

The Planning Proposal is found to have a minimal and acceptable environmental impact and will provide net social and economic benefits for Crows Nest and the wider area. These issues are discussed in further detail in Section 5.3.3.



Public benefits

The Planning Proposal will deliver significant public benefits, including:

- an increase in the supply of employment generating floor space to meet the forecast demand of 16,500 jobs within the St Leonards and Crows Nest Precinct by 2036
- contribute to the urban renewal of Crows Nest by providing supporting land uses and an improved streetscape outcome with an active frontage to Pacific Highway
- streetscape upgrades, including street tree planting that will reinforce and contribute to the character of the locality
- realisation of the economic, social and place making opportunities created by the public investment in the Sydney Metro.
- implementation of the strategic vision identified in the Greater Sydney Regional Plan, the North District Plan, and the St Leonards Crow Nest 2036 Plan.

The Planning Proposal is accompanied by a letter that outlines the monetary contribution that Silvernight (Crows Nest) Landowner Pty Ltd may include in a letter of offer to enter into a VPA with Council.

Next steps

The Planning Proposal is submitted to Council. The intent is for Council to support the proposed amendments to the NSLEP 2013 and refer the Planning Proposal (as the Planning Proposal authority) to DPE for review and subsequent issue of a Gateway Determination.

Following the issue of a Gateway Determination, the applicant will continue to liaise closely with Council while also commencing comprehensive consultations with DPE, relevant State agencies and community stakeholders, prior to the formal public exhibition of the Planning Proposal.

Conclusion

The primary objective of the Planning Proposal is to facilitate a 13 storey commercial office building, with potential to include allied health uses, and basement level car parking.

There is a compelling strategic justification for the Planning Proposal as it:

- is one of the largest sites in the St Leonards Crows Nest precinct with capacity for uplift and in the ownership of a single entity
- is strategically located in the St Leonards Health and Education Precinct, providing opportunities for strategic partnerships with nearby hospitals for health-related uses
- would facilitate the redevelopment of the Site for commercial purposes providing new jobs and strengthening the St Leonards Health and Education Precinct
- the Site benefits from access to existing and planned public transport infrastructure including the future Crows Nest Sydney Metro Station, located within 400m of the Site
- multiple proposals in the locality seek to increase height and FSR controls. This demonstrates the evolving built form character and an intensification of commercial, business and residential uses.
- will meet identified demand for modern A-grade commercial office space at an affordable price point in the locality



- is supported by NSW strategic planning framework including the:
 - Greater Sydney Region Plan – increased commercial, business and health/medical floor space within the Eastern Economic Corridor
 - North District Plan – employment growth in the St Leonards Health and Education Precinct close to the future Crows Nest Sydney Metro Station
 - St Leonards and Crows Nest 2036 Plan – health sector growth and contribution to the delivery of 16,500 new jobs required by 2036



1 Introduction

This Planning Proposal has been prepared by *Keylan Consulting Pty Ltd* (Keylan) on behalf of *Silvernight (Crows Nest) Landowner Pty Ltd* (the Applicant), to support amendments to the *North Sydney Local Environmental Plan 2013* (NSLEP 2013). The Planning Proposal relates to a site located at 270-272 Pacific Highway, Crows Nest in the North Sydney Local Government Area (LGA).

The Proposal seeks to amend the current development standards that apply to the Site under the *North Sydney Local Environmental Plan 2013* (NSLEP 2013) to facilitate its urban renewal and future redevelopment as a 13 storey commercial office building and basement level car parking.

This Planning Proposal is a revision to PP1/21 which was first lodged with North Sydney Council (Council) in March 2021 and first revised in August 2021. Following lodgement of the original Planning Proposal, correspondence was received from Council on 3 June 2021 advising that it did not support the proposal in its current form due to the extent to which the proposed FSR of 6.87:1 exceeds the proposed FSR in the 2036 Plan of 5.6:1.

In response, potential revisions to the proposal were discussed with Council officers. In July 2021, Council officers advised that they are able to support a scheme that provides a maximum FSR of 5.6:1 on the site plus additional floorspace (approx. 1,600sqm provided below ground level), on the basis that the additional floor space does not add to the perceived bulk and scale of the building and promotes an employment outcome on the site.

The revised Planning Proposal was lodged with Council in August 2021. Following this, the proposal was presented to the North Sydney Local Planning Panel with a recommendation from Council Officers to support the proposal which the Panel endorsed. Despite this, Council resolved to defer consideration of the item in October 2021 and resolved not to support the proposal in February 2022.

In response to delays, the Applicant initiated a Rezoning Review which was considered on 2 March 2022. The Sydney North Planning Panel determined that the proposal should be submitted for a Gateway Determination as it has demonstrated strategic and site-specific merit. However, the panel recommended the proposal be updated to prohibit retail premises in the basement component of the scheme but permit neighbourhood shops with consent.

Accordingly, the proposal has been revised in response to the Sydney North Planning Panel's feedback. Assessment within this Planning Proposal only relates to the proposal as amended and does not address the original proposal.

The Site is located on the western side of Pacific Highway, approximately 70 metres to the south of the Five-Ways Intersection. The Site encompasses an area of approximately 3,793m² with frontages to the Pacific Highway and Bruce Street in Crows Nest.

The Site is currently occupied by two mirroring 5 storey commercial buildings over a single level basement. The buildings comprise restaurant, medical and office uses. Vehicular access to the Site is from Bruce Street via a private laneway which runs parallel to the Pacific Highway.



The Planning Proposal has been developed with regard to the key aims and proposed development controls in the *St Leonards and Crows Nest 2036 Plan*. It retains the B4 Mixed Use Zoning for the Site but seeks to amend the maximum building height and floor space ratio controls, as set out in the NSLEP 2013. The proposed amendments to the NSLEP 2013 are outlined in the table below.

Planning control	Existing development controls (NSLEP 2013)	St Leonards & Crows Nest 2036 Plan	Proposed development controls
Land use zone	B4 Mixed Use	B4 Mixed Use	B4 Mixed Use
Height of buildings	16m	13 storeys	54m (13 storeys)
Floor space ratio (FSR)	N/A	5.6:1	5.6:1
Additional FSR clause	N/A	N/A	Site-specific clause allowing a maximum FSR of 6.02:1, provided any additional floor space above 5.6:1 is: <ol style="list-style-type: none"> located below ground level comprises non-residential uses does not comprise retail premises (excluding neighbourhood shops)
Non-residential FSR	0.5:1	5.6:1	5.6:1

Table 2: Summary of Planning Proposal

As noted in Table 2, in response to Council officers' advice and subsequent advice from the Sydney North Planning Panel, a new clause is proposed to permit an FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and comprises non-residential uses but not retail premises (excluding neighbourhood shops and ancillary development). Given the additional space is located within the lower ground level, there will be no impact on the height, bulk and scale of the future building on the Site.

The proposed wording for the new clause in the NSLEP 2013 is provided below:

19D 270-272 Pacific Highway Crows Nest—floor space

- (1) *The objective of this clause is to provide for additional floor space on certain land to encourage additional employment.*
- (2) *This clause applies to 270-272 Pacific Highway Crows Nest, being SP 49574.*
- (3) *Despite clause 4.4, the maximum floor space ratio for a building is 6.02:1, but only if—*
 - (a) *the floor space ratio of the part of the building that is above the ground level of the building at the Pacific Highway frontage does not exceed 5.6:1,*
 - (b) *any additional gross floor area above 5.6:1 is used for non-residential purposes; and*
 - (c) *any gross floor area within the part of the building that is below the ground level of the building at the Pacific Highway frontage does not comprise retail premises, excluding:*
 - (i) *neighbourhood shops, and*



- (ii) ancillary development (such as parking, storage, utility services access for fire services) for any retail premises that is at or above the ground level of the building at the Pacific Highway frontage.

*Advisory note: Final wording of the site-specific clause will be drafted by Parliamentary Counsel

The Planning Proposal is submitted to North Sydney Council (Council). The intent is for Council to support the proposed amendments to the NSLEP 2013 and refer the Planning Proposal (as the Planning Proposal authority) to the Department of Planning and Environment (DPE) for review and subsequent issuing of a Gateway determination.

The Planning Proposal has been prepared in accordance with the requirements of Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and in consideration of the DPE's *A guide to preparing Planning Proposals* (2018) and *A guide to preparing local environmental plans* (2018). The Planning Proposal is supported by technical information and investigations to justify the proposed amendments.

1.1 Project Team

The project team formed to deliver the Planning Proposal is outlined in Table 3.

Discipline	Consultant
Urban Planning	Keylan Consulting
Architecture and Urban Design Report	Fitzpatrick + Partners
Economic Advice	SGS Economics and Planning
Heritage Impact Statement	NBRS & PARTNERS Pty Ltd
Traffic and Parking Study	SCT Consulting
Wind Assessment	CCP
Reflectivity Assessment	CCP
Building Services Summary Report	NDY

Table 3: Project Team

1.2 Consultation

1.2.1 Pre-lodgement Consultation (February 2020 to March 2021)

The Applicant and its project team undertook extensive consultation with both Council and DPE throughout the preparation of the original Planning Proposal, which assisted in the refinement of the proposed development controls that are proposed for the Site.

A summary of the consultation carried out prior to lodgement is provided in the table below.

Date	Authority	Matters discussed
February 2020	Council	<ul style="list-style-type: none"> Introduction of new site owners Establishment of new vision for the site as a wholly commercial redevelopment rather than residential as proposed by previous owners
5 May 2020	DPE	<ul style="list-style-type: none"> Overview of strategic importance of site Overview of the Site context, site analysis, design principles and proposed built form across the Site



Date	Authority	Matters discussed
		<ul style="list-style-type: none"> Discussion of Draft St Leonards and Crows Nest 2036 Plan and proposed controls across the Site
30 June 2020	DPE	<ul style="list-style-type: none"> Discussion of how proposed built form and solar access controls in the Draft 2036 Plan apply to site
5 August 2020	DPE	<ul style="list-style-type: none"> Discussion of how the proposed built form and solar access controls in the Draft 2036 Plan apply to site Status of Draft 2036 Plan
17 December 2020 (formal pre-lodgement meeting)	Council	<ul style="list-style-type: none"> Overview of strategic importance of site, particularly noting the finalisation of the 2036 Plan Overview of the Site context, site analysis, design principles, concept proposed built form across the Site Discussion of design progression and options Proposed scheme provided a building height of 16 storeys and a FSR of 7.47:1 Detailed discussion of the adopted 2036 Plan, in particular building height, FSR and solar access controls Differences of interpretation of the solar access controls adopted by the 2036 Plan were identified and a meeting between Council, DPE and the proponent was suggested
8 February 2021	Council and DPE	<ul style="list-style-type: none"> Presentation of revised scheme which responded to Council's feedback at the pre-lodgement meeting Council and DPE stated support for proposal being entirely commercial Revised scheme provided a building height of 13 storeys and FSR of 6.87:1, as proposed under the Planning Proposal Discussion of how the proposal complies with the recommended built form and solar access controls in the 2036 Plan DPE confirmed that recommended controls in the 2036 Plan are based on higher-level, precinct wide analyses and that it was up to individual planning proposals to undertake more detailed, site-specific studies and provide appropriate justification for any proposed departures from the recommended controls in the 2036 Plan
19 February 2021	Council	<ul style="list-style-type: none"> Meeting with Council's Strategic Planning and Community Management Teams Presentation of revised scheme and discussion of potential VPA offer comprising a community facilities building fronting Bruce Street Council advised the following: <ul style="list-style-type: none"> specifications of any community facilities building would need to be clearly outlined direct street access is preferred rather than a commercial suite in a tower an estimation of the value of the offer should be included in the offer

Table 4: Consultation with Council and DPE



1.2.2 Post-lodgement Consultation (March 2021 to August 2021)

On 19 March 2021, the original Planning Proposal was lodged with Council. The proposal as submitted sought the following amendments to the NSLEP 2013:

- retain the existing B4 Mixed Use zoning
- increase the maximum building height from 16m to 59m
- introduce a maximum FSR of 6.87:1
- increase the non-residential FSR requirement from 0.5:1 to 6.87:1

Following lodgement of the original Planning Proposal, the Applicant and project team continued to consult with Council.

On 3 June 2021, Council formally advised the Applicant that it could not support the Planning Proposal in its current form for the following reasons:

- *It is inconsistent with the site-specific FSR control identified in the St Leonards and Crows Nest 2036 Plan and by virtue of the degree of non-compliance and impacts arising, is inconsistent with the vision, objectives and actions of the 2036 Plan;*
- *It is inconsistent with Direction 7.11 – Implementation of St Leonards and Crows Nest 2036 Plan to section 9.1 Ministerial Directions under the Environmental Planning and Assessment Act (EP&A Act) 1979, which requires Planning Proposals be consistent with the 2036 Plan; and*
- *The Planning Proposal if implemented would undermine the integrity of the strategic planning policies relating to the site, including:*
 - *Greater Sydney Regional Plan and North District Plan;*
 - *St Leonards and Crows Nest 2036 Plan and supporting Special Infrastructure Contribution (SIC Plan); and*
 - *North Sydney Local Strategic Planning Statement (LSPS).*

On 29 June 2021, a meeting was held between the Applicant and Council to present alternative options to progress the proposal.

Following this meeting, Council officers advised on 2 July 2021 that they could support a scheme comprising a maximum FSR of 5.6:1 plus an additional ~1,600m², provided this floorspace is below ground level and promotes an employment outcome on the site.

This revised Planning Proposal has been prepared in response to Council's advice and seeks a base FSR of 5.6:1 with a site-specific clause to permit an FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and comprises non-residential uses. The revised Planning Proposal retained the 59m height and B4 Mixed Use zoning as originally proposed.

This scheme ensured the site realises its employment potential whilst addressing Council's previous concerns regarding the bulk and scale of any future development on the site. The revised Planning Proposal was lodged with Council in August 2021.

1.2.3 Revised Planning Proposal and Rezoning Review (September 2021 to Present)

Following submission of the revised Planning Proposal in August 2021, the proposal was reported to the North Sydney Local Planning Panel on 29 September 2021 with a recommendation from Council Officers to support the proposal.



The Panel determination was as follows:

The Council Officer's Report is endorsed by the Panel. The reasons are as outlined in the Officer's Report, and the Panel recommends to the Council the progression of the Planning Proposal to the DPIE seeking a Gateway Determination, noting a reduction in height from 59m to 54m and the recommendation for a site specific DCP. All to be prepared to help guide future detailed design and development application assessment process. The DCP is to be exhibited concurrently with the Planning Proposal.

The Applicant accepted the recommendation to revise the proposed height from 59m to 54m and to prepare a site specific DCP.

On 25 October 2021, the Planning Proposal was reported to Council with a recommendation it be supported and sent to DPE for Gateway Determination subject to the above amendments. Council resolved to defer consideration of this item to the new Council.

In response to the above, the Applicant initiated a Rezoning Review with DPE to be considered by the Sydney North Planning Panel.

On 21 February 2022, the newly elected Council resolved not to support the Planning Proposal on the basis that Council had resolved a position to oppose the heights for several sites under the 2036 Plan.

On 2 March 2022, the Sydney North Planning Panel considered the Rezoning Review initiated by the Applicant. The Sydney North Planning Panel determined that the proposal should be submitted for a Gateway Determination as it has demonstrated strategic and site-specific merit. However, the panel recommended the proposal be updated to prohibit retail premises in the basement component of the scheme but to permit neighbourhood shops with consent.

This revised Planning Proposal has been prepared to implement the above recommendation of the Sydney North Planning Panel and previous resolutions relating to revising the height from 59m to 54m.

Following the successful Rezoning Review, Council was offered the opportunity to be the Planning Proposal Authority which was considered in conjunction with the VPA offer and site-specific DCP at the Council Meeting on 28 March 2022. The Council Report for this meeting including the VPA offer and site specific DCP is included at Appendix 11.

The Council Resolution was as follows:

- 1. THAT** Council accept the role of the Planning Proposal Authority for Planning Proposal 1/21 – 270-272 Pacific Highway, Crows Nest.
- 2. THAT** in accepting the Planning Proposal Authority role, Council advise the Sydney North Planning Panel and Department of Planning and Environment and request that any recommendations of the Sydney North Planning Panel form conditions to any Gateway Determination issued;
- 3. THAT** Council endorse the draft Development Control Plan provisions contained at attachment 4 for the purposes of public exhibition;
- 4. THAT** Council accept, in principle, the contents of the VPA offer with the intention that it be placed on public exhibition upon the satisfactory negotiation of the detailed VPA terms.
- 5. THAT** once a Gateway Determination is issued, the Planning Proposal, any VPA and site specific DCP controls, be placed on public exhibition concurrently.
- 6. THAT** the outcomes of the public exhibition be reported back to Council.



2 The Site and Locality

2.1 Site Description

The Site is known as 270-272 Pacific Highway, Crows Nest, has a total area of 3,793m², and it is legally described as SP 49574.

The Site is located on the western side of Pacific Highway, approximately 70m to the south of the Five-Ways intersection. The Site is situated within the suburb of Crows Nest, in the North Sydney Local Government Area (LGA).

The Site is within 400m walking distance of both Crows Nest Village and the future Crows Nest Metro station. St Leonards and Wollstonecraft train stations (served by the T1 and T9 Lines) are just beyond 800m walking distance from the Site.

The Mater and Royal North Shore Hospitals are located approximately 400 metres and 1.3km from the Site respectively, while the North Sydney Central Business District (CBD) is approximately 1.2 kilometres to the south of the Site.

The Site has a primary frontage of 73m to the Pacific Highway and a secondary access frontage of 12m to Bruce Street. The Site is bound by 286 Pacific Highway to the north, 246-258 Pacific Highway and Bruce Street to the south and low density residential properties to the west at 51 to 77 Sinclair Street.

The Site is also bound by Pacific Highway to the east which provides a high frequency bus corridor with one service every three minutes during a typical weekday AM peak hour.

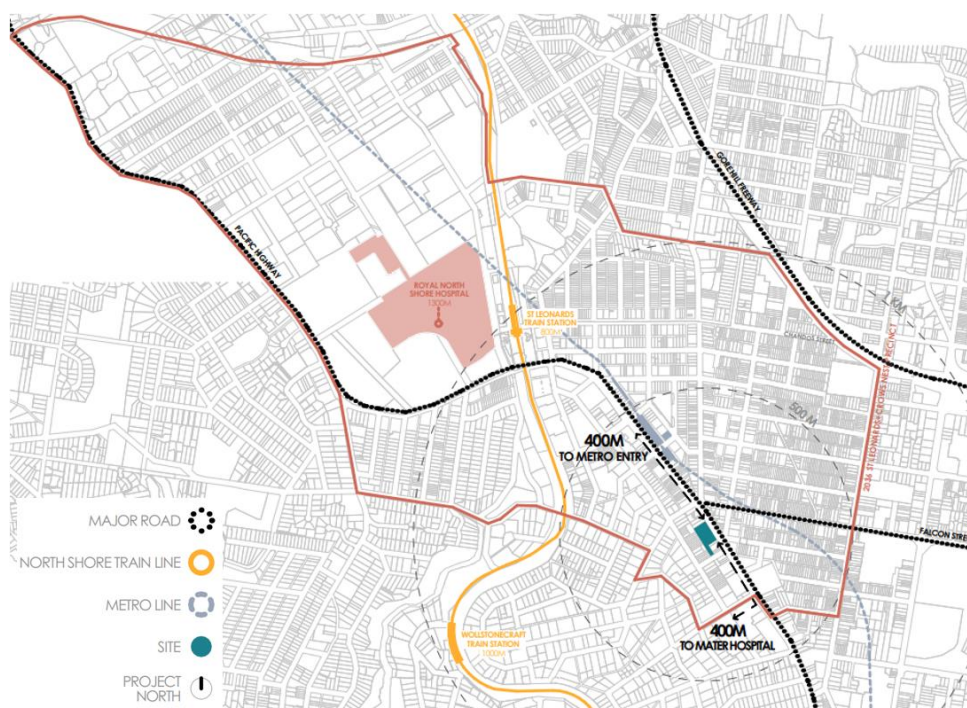


Figure 1: Site locality Plan (Source: Fitzpatrick + Partners)

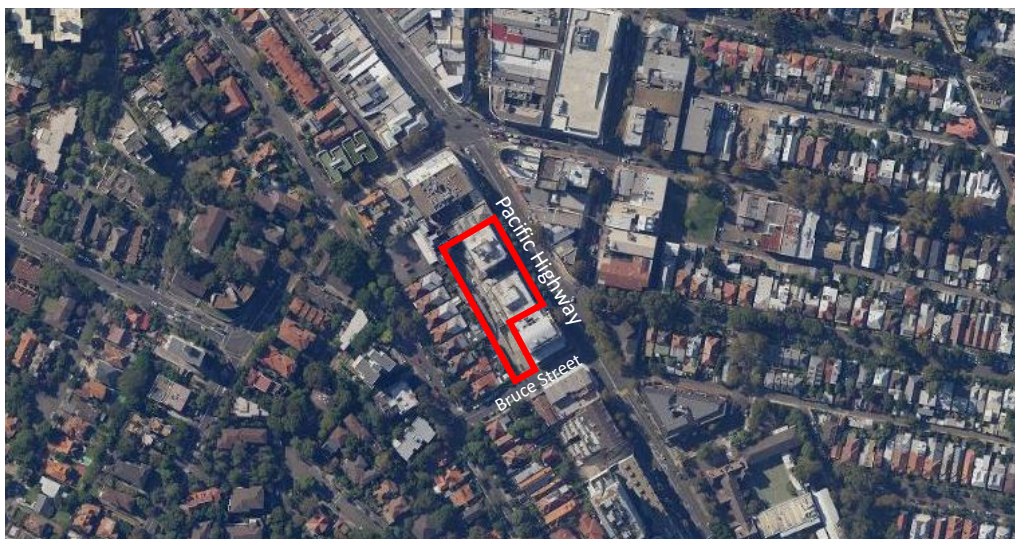


Figure 2: The Site (Source: SixMaps)

2.1.1 Built Form

The Site is currently occupied by two mirroring 5 storey mixed use buildings that read as one development. The buildings sit over a single level combined basement which contains approximately 100 parking spaces. The buildings are separated by a small public plaza with bench seating and planter boxes.

The buildings have a glass and concrete exterior and contain ground level retail and four storeys of commercial office space above. The development is currently tenanted by a range of uses including restaurant, medical and office uses.

The development includes an awning which spans across both buildings to cover the pedestrian pathway along the Pacific Highway, which is interspersed with a row of ten mature palm trees.

The Site also contains a private internal laneway, which provides vehicular access to the Site from Bruce Street and runs parallel to both Pacific Highway and Sinclair Street. This laneway is burdened by a right of carriageway as it also provides vehicular access to the rear of the residential dwellings fronting Sinclair Street.

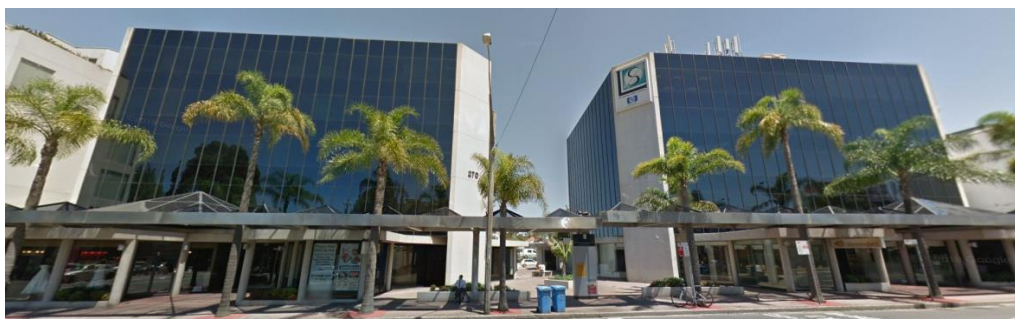


Figure 3: Existing development on the Site (Source: Google)



2.1.2 Services

The Site currently has access to potable water, wastewater, electricity, gas and telecommunications. Notwithstanding, these will need to be upgraded to service the proposal.

A Building Services Summary Report prepared by NDY accompanies the Planning Proposal (Appendix 10). This report provides a high level design brief for the building engineering services.

2.1.3 Transport

The Site is well serviced by public transport in the form of bus and train services. The Site is located within 400m walking distance (5 minute walk) of the future Crows Nest Metro station and is just beyond 800 metres walking distance from both the St Leonards and Wollstonecraft train stations.

The Sydney Metro City & Southwest is a rapid, high frequency transport service, that will connect people to jobs and services, improving Sydney's liveability and supporting economic growth. The metro line is scheduled to commence operation in 2024, with the following indicative timeframes for travel from Crows Nest of:

- 4 minutes to Chatswood Station
- 5 minutes to Barangaroo Station
- 7 minutes to Martin Place Metro Station

St Leonards and Wollstonecraft train stations are serviced by the T1 and T9 lines providing services every 5-10 minutes.

A bus stop is located at the north east corner of the Site along the Pacific Highway and on the opposite side of the road. Bus frequencies on Pacific Highway are mostly greater than one service every three minutes during a typical weekday AM peak hour. Slightly less frequent services are provided at bus stops along Falcon Street and Willoughby Road in the north and east of the Site.

Table 5 shows the frequency of bus services in the vicinity of the Site. The data shows that the Site is well serviced by buses during the peak hours for weekdays with an interval of around one minute per bus, covering origins and destinations including a wide range of strategic centres and local centres across Sydney, such as Bondi Junction, Chatswood, Kingsford, Ryde, Epping, Mascot, Manly and Castle Hill.

Route	Terminals	Total trips in two directions	
		AM (8am to 10am)	PM (4pm to 6pm)
602X	Bella Vista Station - North Sydney	10	12
612X	Castle Hill - North Sydney	14	16
622	Milsons Point - Dural	4	4
252	North Sydney - Gladesville	13	13
254	McMahons Point - Riverview	14	11
257	Mosman - Chatswood	15	14
261	Lane Cove - Sydney	8	9
265	North Sydney - Lane Cove	10	10



Route	Terminals	Total trips in two directions	
		AM (8am to 10am)	PM (4pm to 6pm)
286	Denistone East - Milsons Point	3	6
287	Ryde - Milsons Point	4	3
291	McMahons Point - Epping	11	9
143	Manly - Chatswood	11	17
144	Manly - Chatswood	19	17
200	Chatswood - Bondi Junction	13	12
343	Chatswood - Kingsford	26	27
320	Mascot - Gore Hill	19	22
Total		194	202

Table 5: Bus route details for the Site (Source SCT Consulting)

2.1.4 Topography

The Site is relatively flat with a fall of approximately 0.7 metres from north to south and a cross fall of 1.4 metres from west to east. It is noted that the change in levels to the rear/ west of the Site are primarily attributable to the vehicular access arrangements to the rear of the properties that front Sinclair Street.

2.1.5 Vegetation

The Site is currently predominantly built up and paved and contains very minimal vegetation. The Site contains a total of five trees, with two palm trees located within planter boxes fronting Pacific Highway and three located to the north western corner boundary with 286 Pacific Highway. A further 10 palm trees are located just outside of the Site within the footpath to the Pacific Highway street frontage.

2.1.6 Flooding

There are no flooding maps in NSLEP 2013. Notwithstanding, following a review of the North Sydney Council's Flood Study it is understood that the Site is not known to be flood-affected.

2.1.7 Contamination

The Site was previously redeveloped for commercial purposes in the 1980's. It is considered that the Site would have been made suitable for commercial purposes at this stage and that the contamination risk of the Site is low. It is further noted that there are no acid sulphate soils maps in NSLEP 2013 and is therefore considered to have a very low probability of containing acid sulfate soils.

On this basis, and given no land use change is proposed under the Planning Proposal, a contamination report has not been commissioned at this early stage of planning. Nonetheless, any future development application would include a contamination assessment.

2.1.8 Heritage

2.1.8.1 Aboriginal

The Site is not known to have any archaeological potential for items of Aboriginal significance given the Site has been previously developed. The Site is also not known to be a site of Aboriginal significance.



Based on the above, no further assessment of Aboriginal heritage has been undertaken for the purpose of this report.

2.1.8.2 European

The Site does not contain any items of European heritage, nor is it located within a heritage conservation area.

The Site adjoins a heritage item of local significance to the north at 286 Pacific Highway. This item is the Former North Shore Gas Co office (I0150). The item is a two storey commercial building fronting the Pacific Highway, with an at grade carpark to the rear and accessed from Sinclair Street.

There is also a number of other heritage items and heritage conservation areas within close proximity to the Site as detailed in Section 5.3.3. A Heritage Impact Statement has been prepared by NBRS + Partners and is included at Appendix 6.



Figure 4: View of 270-270 Pacific Highway (left) and 286 Pacific Highway (right) (Source: Google)

2.2 Surrounding Locality

The surrounding locality is largely characterised by commercial, health and medical, educational and residential uses. Crows Nest Village is located approximately 70 metres north of the Site and is predominantly occupied by retail and dining premises.

The Site is strategically located along the Pacific Highway within 400 metres of the new Crows Nest Metro Station and between two major strategic centres, with the St Leonards Health and Education Precinct and the North Sydney CBD located 900 metres and 1.2km from the Site respectively.



There is an opportunity for the Site to support growth and jobs as it is able to leverage connections to well established health and education developments in close physical proximity including (measurements are direct):

- Mater Hospital (~250m)
- Royal North Shore Hospital (~1.2km)
- Kolling Institute (~1.3km)
- Greenwich Hospital (~1.6km)
- Northside Mental Health Clinic (~1.5km)
- Melanoma Institute Australia (~200m)
- North Shore Private Hospital (~1.4km)
- TAFE NSW St Leonards (~1.4km)
- ACU North Sydney (~1km)

Surrounding land uses and the Site's local context is shown in Figure 5.

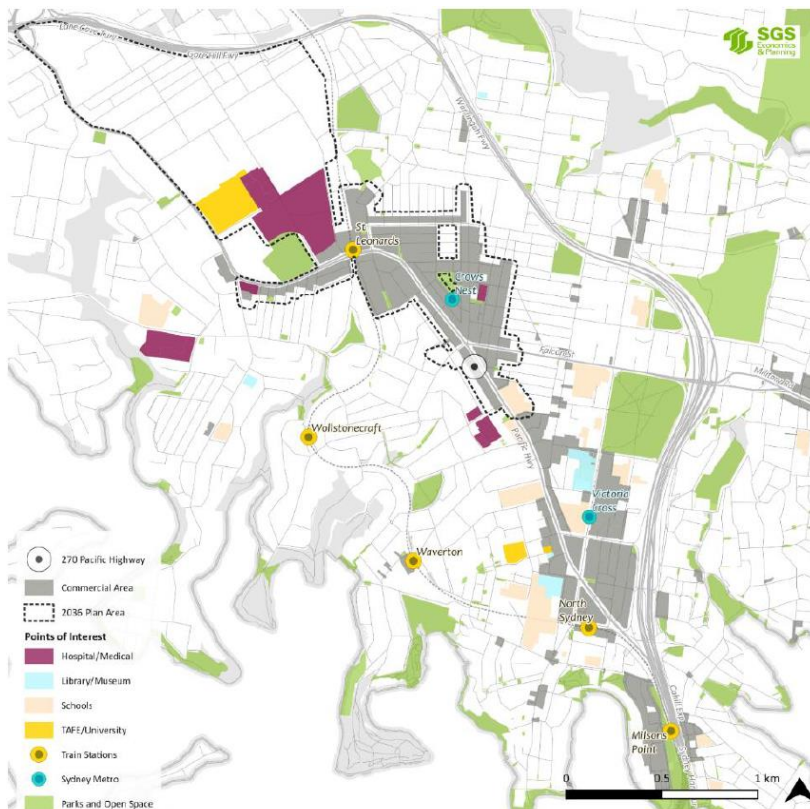


Figure 5: Site context (Source: SGS Economics and Planning)

The surrounding built form is generally in the range of 2 to 6 storey buildings with taller buildings interspersed on Pacific Highway, notably the 17 storey mixed use development to the south of the Site at 220 Pacific Highway, Crows Nest.

The surrounding area is seeing an increase in higher density development particularly with the proposed 8 - 27 storey Crows Nest Over Station Development (SSD 9579) and the Planning Proposal for the Fiveways Triangle Site (Section 2.3). The changing nature of development in Crows Nest reflects the vision for the area under the 2036 plan. The 2036 Plan provides a building height of 13 storeys for the Site, indicating its suitability for uplift.



In addition, the 2036 Plan envisages greater height and density for the surrounding locality, establishing the emerging character for the area.

The surrounding built form and proposed heights are shown in Figure 6.

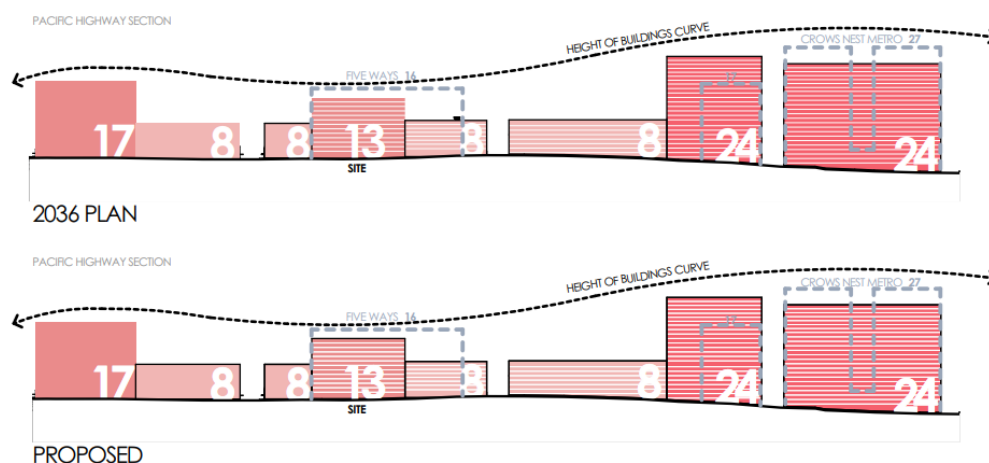


Figure 6: Height transition comparison (Source: Fitzpatrick+Partners)

2.3 Fiveways Triangle Site: Planning Proposal (PP7/20)

On 4 December 2020, a Planning Proposal was submitted for the Site at 3 & 15 Falcon Street and 391-397 Pacific Highway, Crows Nest (Fiveways site) which is located opposite the subject site. The 2036 Plan proposes the following controls for the Site:

- building height of 16 storeys
- FSR of 5.8:1
- non-residential FSR of 2.5:1.

The Planning Proposal seeks the following planning control amendments under the NSLEP 2013 for the Fiveways site:

- increase the Height of Buildings development standard from 16 metres to 75 metres
- increase the Non-Residential FSR from 0.5:1 to 2.5:1
- apply an FSR of 9.3:1
-

The amendments seek to facilitate a 19 storey mixed use building comprising:

- approximately 233 residential dwellings
- 8,000m² of commercial and retail space
- seven levels of basement car parking (385 spaces)

The Planning Proposal for the Fiveways site reflects the emerging character of the Pacific Highway corridor at Crows Nest with multiple proposals in the locality seeking to increase height and FSR controls. This also demonstrates the evolving built form through an intensification of commercial, business and residential uses.



On 24 May 2021, Council resolved not to support the Planning Proposal for the Fiveways Site proceeding to Gateway Determination for the following reasons:

- the degree of non-compliance with the building height and FSR proposed under the 2036 Plan
- the Planning Proposal will create a precedent for significant non-compliance with the maximum building height and FSR controls contained within the 2036 and will undermine the integrity of all strategic planning policies for the precinct
- the Planning Proposal is inconsistent with section 9.1 Ministerial Directions including Direction 1.1 – Implementation of the Regional Plans and Direction 1.13 – Implementation of St Leonards and Crows Nest 2036 Plan

Following Council's resolution, the applicant lodged a request for a rezoning review. On 18 October 2021, the Sydney North Planning Panel resolved not to support the Planning Proposal for Gateway Determination on the basis that the proposal has not demonstrated strategic merit. This was due to the scale of departures from the 2036 Plan.



Figure 7: Location of the Fiveways site in relation to 270-272 Pacific Highway (Source: SixMaps)

2.4 Surrounding Development Applications and Planning Proposals

A review of the key Planning Proposals and Development Applications in the vicinity of the Site has been undertaken to establish the existing and emerging character of the precinct. This review demonstrates that there has been and will continue to be an increase in heights and densities in Crows Nest, consistent with the evolving built form character of the area envisaged under the 2036 Plan. This includes Council's approval of a 17 storey mixed use development and residential development neighbouring the Site at 220 Pacific Highway.



The tables below are a summary of relevant Planning Proposals and Development Applications nearby to the Site.

Planning Proposal	Description	Decision
PP7/20 15 Falcon Street (Fiveways Site)	Proposed amendment: <ul style="list-style-type: none"> Amend HOB from 16 metres to 75 metres Amend Non-Residential FSR from 0.5:1 to 2.5:1 Amend FSR Map to apply 9.3:1 Planned to facilitate a 19 storey mixed use building with approximately 233 residential dwellings and 8,000m ² of commercial and retail space.	Not supported: 18/10/2021
Crows Nest Sydney Metro 14 Clarke Street, 497 Pacific Highway, 477 Pacific Highway	Proposed amendment: <ul style="list-style-type: none"> Amend HOB to up to RL 180m (21 storeys) Introduce FSRs ranging from 6:1 to 11.5:1 Include design excellence clause Rezoned via the <i>State Environmental Planning Policy Amendment (Crows Nest Metro Station) 2020</i> to amend the NSLEP 2013.	Made: 31/08/20
PP6/19 25-57 Falcon Street, Crows Nest	Proposal Seeks to <ul style="list-style-type: none"> Rezone site from B4 to R4 Increase maximum building height from 10m to part 21m and part 14.5m Apply a maximum FSR of 1.85:1 Remove the non-residential floor space ratio requirement Retain 'retail premises' as a permitted land use on the site Include a site-specific provision to allow minor exceedances to the height of building control to facilitate access to roof / lift overrun. Development will involve 4x buildings ranging from 3 to 6 storeys comprising approximately 87 apartments and 340m ² of retail floor area.	Under assessment Returned to DPE for assessment and drafting of LEP: 12/07/2021
PP-2020-370 31-33 Albany Street, Crows Nest	Proposed amendments: <ul style="list-style-type: none"> An increase in height from 13m to 26m The introduction of a FSR control of 4.27:1 To facilitate an 8-storey mixed use retail and residential building	Made: 25/11/2016

Figure 8: Summary of relevant Planning Proposals



Figure 9: Planning Proposal applications in locality (Base source: Google)

The table below is a summary of relevant DAs within surrounding the Site.

Development Application	Description	Decision
SSD-9579 Crows Nest Metro Over Station Development	Concept DA for an Over Station Development above the new Crows Nest Metro station. Includes residential, tourist and visitor accommodation, commercial and social infrastructure uses. Up to 21 Storeys.	Approved 23/12/20
SSD-13852803 Crows Nest Metro OSD Site C- Stage 2	Design and construction of a nine storey commercial building at Crows Nest OSD Site C	Approved 17/12/21
DA 430/17 137 Alexander Street, Crows Nest	Demolish existing buildings and construction of four storey mixed use building with basement parking. Building comprises retail premises at ground floor and 10 residential units located above.	Approved 04/07/18
DA 453/16 104 Alexander Street, Crows Nest	Development Application - Construction of 4 storey shop top housing development, rooftop communal terrace and basement car parking.	Approved 07/06/17
DA 327/16 31 Albany Street, Crows Nest	Development Application - Demolition and construction of an 8-storey mixed use retail and residential development and basement carpark.	Approved 03/08/15
DA 488/15 88 Alexander Street, Crows Nest	Development Application - Demolition of existing building and construction of 5 storey mixed use building comprising retail and 16 apartments.	Approved 03/08/15



Development Application	Description	Decision
DA 359/17 35 Rocklands Road, Wollstonecraft	Development Application - Alterations and additions to hospital (Mater Hospital) comprising a three storey extension to the existing ward block and a new building off the northern boundary linked by a landscaped level over the existing car parking. This application is to be determined by the Sydney North Planning Panel.	Approved 30/10/18
DA 90/16 118 Alexander Street, Crows Nest	Development Application - Demolition of existing building and construction of 4 storey mixed use development comprising 12 apartments and basement parking. Determined by NSLPP	Approved 05/10/16
DA 473/15 51 Alexander Street, Crows Nest	Development Application - Demolish existing building and construct a 3 storey mixed use development comprising retail, 7 apartments, basement parking and communal rooftop outdoor space. Determined by NSLPP	Approved 06/07/16
DA 471/15 34 Falcon Street, Crows Nest	Development Application - Demolition of existing buildings and construction of part 3, part 4 storey mixed use development containing 16 apartments with basement parking. Determined by JRPP.	Deferred Commencement Approval 07/09/16
DA 127/17 160 Willoughby Road, Crows Nest	Development Application - Demolition of existing building; construction of four (4) storey mixed use building consisting ground floor retail and nine (9) apartments. Determined by NSLPP.	Approved 06/09/17
DA 327/15 101 Willoughby Road, Crows Nest	Development Application - Excavation of site and construction of part 4; part 6 storey mixed use development consisting of supermarket; retail tenancies; 66 apartments; public plaza; public through site link; 4 levels of basement parking. Closure of Zig Zag Lane. Draft Volunteer Planning Agreement to be amended. This application to be determined by the Joint Regional Planning Panel.	Approved 08/06/16
DA 404/10 200-220 Pacific Highway, Crows Nest	The proposal is for demolition of building 1 (2 storeys) and partial demolition of buildings 2 (7 storeys) and 3 (17 storeys), and a mixed use redevelopment of the site, comprising 203 apartments, 7 serviced apartments, ground floor retail and 150 car parking spaces. The redevelopment will result in a 5 storey building to the Pacific Highway, an 8 storey building to the southern part of the site and a 17 storey tower building.	Approved 02/03/11

Table 6: Summary of relevant Development Applications

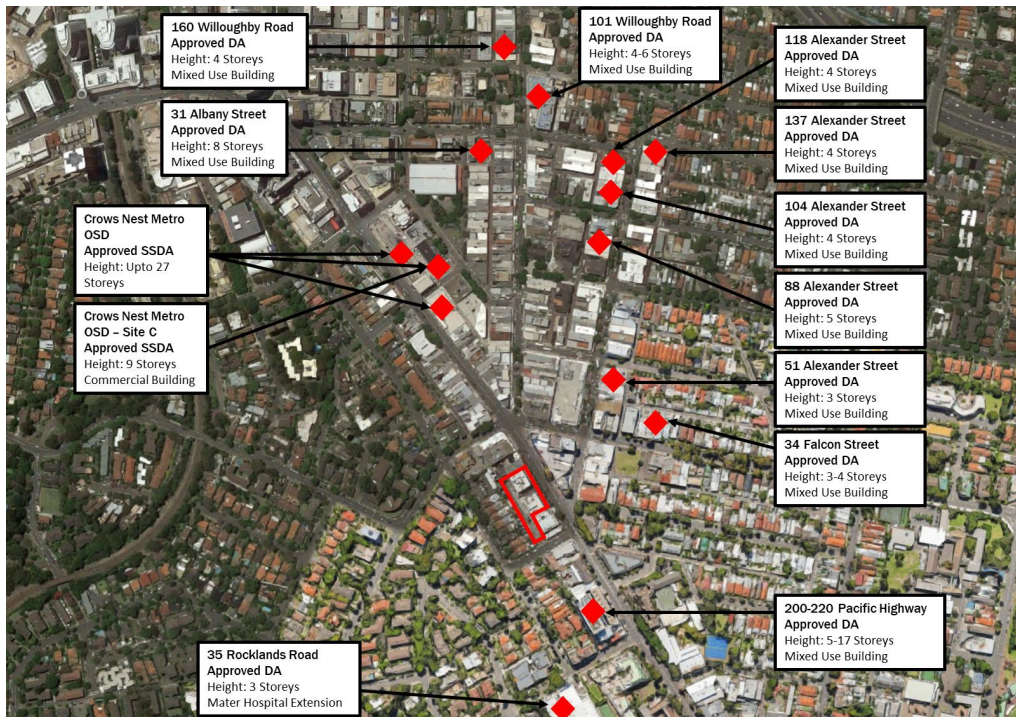


Figure 10: Key Development Applications in the Crows Nest locality (Base source: Google)



2.5 Constraints and Opportunities

An Opportunities and Constraints analysis has been undertaken to inform the development of the Planning Proposal. This work informed the proposed land use and indicative built form as illustrated in the Design Report (Appendix 4).

Constraints to future development on the Site include:

- the Site is located within the vicinity of several heritage items and conservation areas
- Heritage Item I0150 (Former North shore Gas Co) directly adjoins to the north at 286 Pacific Highway
- the Site is burdened by a right of carriageway which provides access to the rear of 51 to 77 Sinclair Street
- existing low to medium density residential development to the west of the Site
- potential to overshadow properties to the east, west and south of the Site, including residential developments
- noise impacts generated by the proposal on neighbouring residential properties during and post construction

The Site **opportunities** include:

- B4 Mixed Use zoning under the NSLEP 2013
- one of the largest sites in the St Leonards Crows Nest precinct with capacity for uplift
- single ownership to ensure certainty of delivery
- the Site is identified by the 2036 Plan as appropriate for uplift
- opportunity to provide a large commercial only development in St Leonards and Crows Nest to satisfy the employment targets identified by the 2036 Plan
- strategically located in the St Leonards Health and Education Precinct, providing opportunities for strategic partnerships with nearby hospitals for health-related uses including the Mater Hospital, Royal North Shore Hospital and North Shore Private Hospital
- access to existing and planned public transport infrastructure including the future Crows Nest Sydney Metro Station
- in close proximity to the Crows Nest Village Centre and between the North Sydney and St Leonards strategic centres
- multiple proposals in the locality seek to increase height and FSR controls. This demonstrates the evolving built form character and an intensification of commercial, business and residential uses.
- substantial frontage to the Pacific Highway with a dedicated access off Bruce Street



3. Existing Planning Controls

The NSLEP 2013 sets out the legislative framework for land use and development in the North Sydney LGA through the application of land use zones and development controls. This Planning Proposal seeks to amend the maximum building height, FSR and non-residential FSR controls that currently apply to the Site by way of an amendment to the NSLEP 2013.

In summary, the Planning Proposal seeks to:

- retain the B4 Mixed Use zone
- amend the height of building controls to 54m
- add a base maximum FSR control of 5.6:1
- amend the non-residential FSR control to 5.6:1
- introduce a site-specific clause to permit an FSR up to 6.02:1 provided any additional floor space above 5.6:1 is:
 - located below ground level
 - used for non-residential purposes
 - does not comprise retail premises (excluding neighbourhood shops and ancillary development)

The relevant land use zoning and development controls that currently apply to the Site are outlined in Section 3.1 to Section 3.6. As the Site is within the Area of Recommended Changes to Planning Controls in the 2036 Plan, the recommended controls for the Site under that Plan are also described below (and described in more detail in Section 5).

The proposed amendments that are sought as part of the Planning Proposal are described in Section 5.

3.1 Land Use Zone

The Site is currently zoned B4 Mixed Use under the NSLEP 2013. An extract of the current zoning map is shown in Figure 11 below.

The intended future use of the Site, defined under the NSLEP 2013 as commercial premises and health services facilities, are permissible with consent in the B4 Mixed Use zone and are consistent with the zone objectives, ie:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.*
- *To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses concentrated on the lower levels and residential uses predominantly on the higher levels.*

The 2036 Plan proposes the retention of the B4 zoning of the Site.

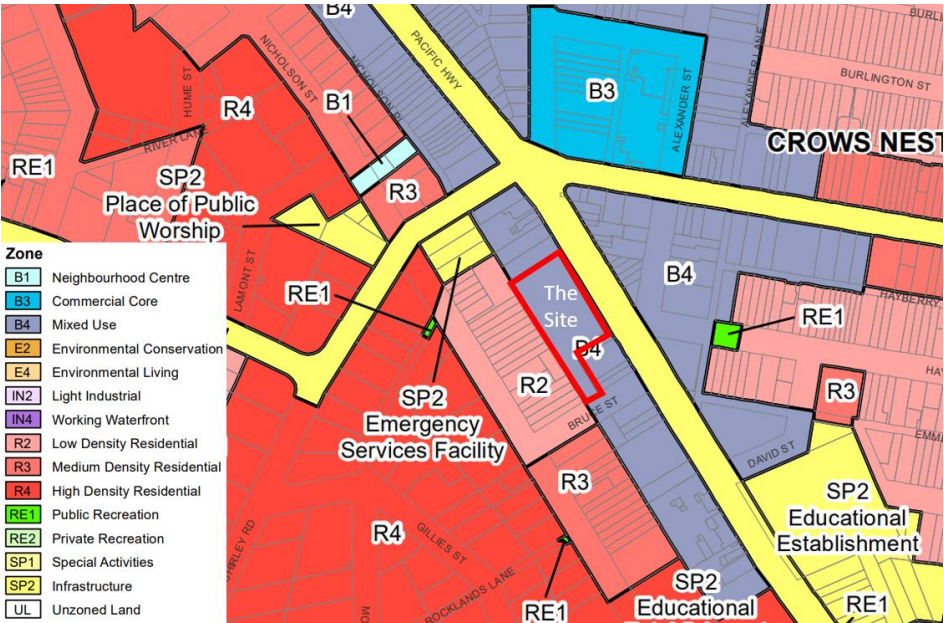


Figure 11: Land Zoning Map (Source: NSLEP 2013)

3.2 Height of Buildings

A maximum building height of 16 metres applies to the Site as shown in Figure 12 below.

The 2036 Plan recommends a 13 storey building height for the Site.

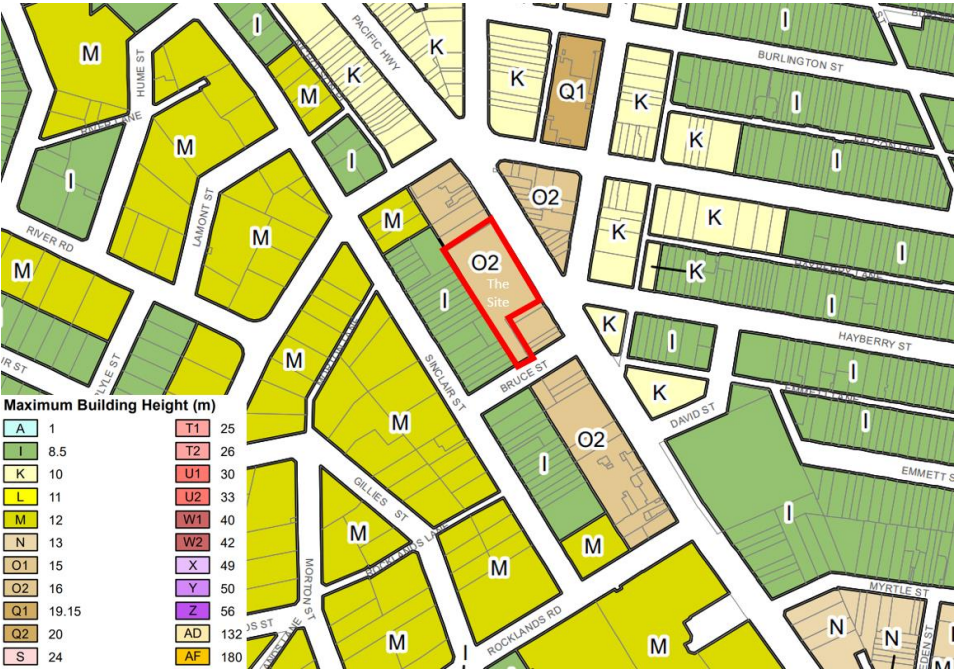


Figure 12: Height of Buildings Map (Source: NSLEP 2013)



3.3 Floor Space Ratio

The NSLEP 2013 does not establish a maximum FSR for the Site, as illustrated in Figure 13.

The 2036 Plan recommends a FSR of 5.6:1.

3.4 Non-Residential Floor Space Ratio

Under the NSLEP 2013, a minimum non-residential FSR of 0.5:1 applies to the Site. This has been applied to ensure commercial floor space is provided within the Crows Nest Village Centre and along the Pacific Highway.

An extract from the non-residential FSR Map is provided at Figure 14.

The 2036 Plan recommends a minimum non-residential FSR of 5.6:1 for the Site (ie, all floor space is to be used for non-residential purposes).



Figure 13: FSR Map (Source: NSLEP 2013)



Figure 14: Minimum Non-Residential Floor Space Ratio Map (Source: NSLEP 2013)

3.5 Heritage

The Site is not heritage listed, nor is it within a heritage conservation area. However, it is within the vicinity of the following items of heritage significance, as illustrated in Figure 15:

- Item No. I0150 – Former North Shore Gas Co office located at 286-288 Pacific Highway
- Item No. I0173 – Crows Nest Fire Station located at 99 Shirley Road
- Item No. I0151 – Bank located at 306 Pacific Highway
- Item No. I0152 – Former National Australia Bank at 308 Pacific Highway
- Item No. I0172 – Willoughby House, former OJ Williams store at 429 Pacific Highway
- Item No. I0407 – North Sydney Bus Shelter to the west of the Five-Ways intersection on Shirley Road
- Item No. I0181 – Crows Nest Hotel located at 1-3 Willoughby Road
- Item No. I0144 – Former hall located at 14 Hayberry Street
- Item No. I0165 – North Sydney Girls High School located at 365 Pacific Highway

The Site is also located within the vicinity of the following heritage conservation areas:

- Item No. CA08 – Holtermann Estate B
- Item No. CA09 – Holtermann Estate C

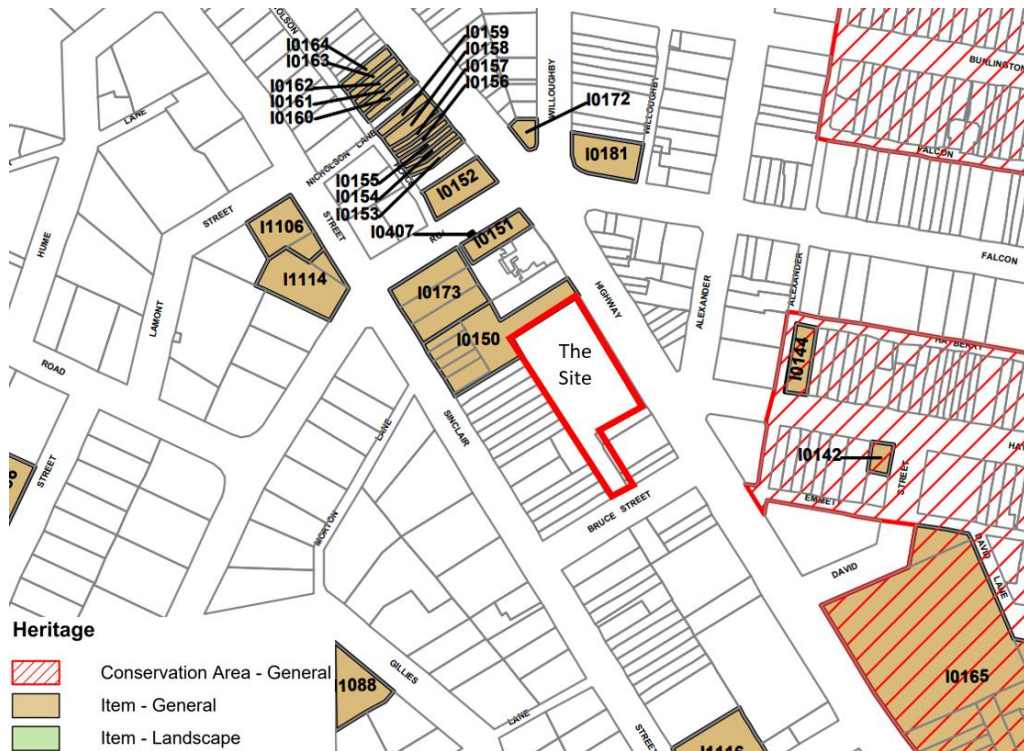


Figure 15: Heritage Map (Source: NSLEP 2013)

There are no recommended changes to the listing of these items under the 2036 Plan.

3.6 Other Provisions

Clause 6.12A of the NSLEP 2013 requires any residential flat building within the B4 Mixed Use zone to be a part of a mixed use development and no residences are permitted on the ground floor facing the street. This does not impact the proposal as no residential uses are proposed.

Clause 6.15 of the NSLEP 2013 establishes that Council may grant consent to development which exceeds the Obstacle Limitation Surfaces of 156m AHD, provided no objection is raised by the relevant Commonwealth body (Sydney Airport). The proposal will be 13 storeys and therefore does not exceed the OLS. The proposal is therefore considered to be compatible with the current and future operations of Sydney Airport. This will be further addressed at the DA stage.

Under the NSLEP 2013, the Site does not have a minimum lot size control, any additional permitted uses and is not identified for acquisition. There are no other planning controls relevant to the Site as part of this Planning Proposal.



4 The Case for Change

This Planning Proposal provides the opportunity to redevelop an underutilised site that is strategically located in close proximity to the Crows Nest Metro Station, the Mater Hospital and Royal North Shore Hospitals, as well as Crows Nest Village and the St Leonards and North Sydney Centres.

On 29 August 2020, DPE adopted the St Leonards and Crows Nest 2036 Plan which seeks to facilitate the urban renewal of St Leonards and Crows Nest as an expanding employment centre and growing residential community. This is to be achieved through changes to existing planning controls to support the objectives and actions within the 2036 Plan.

The 2036 Plan leverages the existing public transport infrastructure and the future Crows Nest Metro Station to support the growing St Leonards and Crows Nest community with the provision of new infrastructure, open spaces, upgraded cycle lanes and planning for health and education. The plan aims to deliver 6,683 new dwellings, an extra 119,979m² employment floor space and 16,500 new jobs in health, education, professional services and the knowledge sector.

In addition, the North Sydney LSPS identifies that the LGA's population is to increase by an additional 19,500 persons by 2036 and forecasts that it will continue to shift towards an economy based on knowledge and innovation with an estimated job growth of between 22,500 to 37,400 by 2036.

The Site is located within the Five Ways South Education and Medical Precinct and nearby to the Crows Nest Village as per the North Sydney LSPS. The proposal provides an opportunity to leverage the Site's strategic location nearby to established health uses including the Mater Hospital, Royal North Shore Hospital and the North Shore Private Hospital through the provision of additional employment generating floorspace, including health-related administrative uses, allied health and other health related uses. Accordingly, the Planning Proposal is consistent with the provisions of the LSPS relating to the provision of additional employment generating floorspace to assist in the achievement of the significant job growth forecast.

The current planning controls under the NSLEP 2013 do not facilitate the redevelopment of the Site as envisioned under the 2036 Plan and sterilise its otherwise strong strategic potential to significantly contribute the employment floor space uplift needed to support the high job growth envisaged in the 2036 Plan.

The Planning Proposal seeks to give effect to the LSPS and the vision of the 2036 Plan through the urban renewal and redevelopment of the Site as a 13 storey commercial building, with potential to include allied health uses to capitalise on its proximity to the Mater Hospital, accommodating approximately 22,853m² of employment generating floor space.

The Planning Proposal is supported by an Economic Advice Report prepared by SGS. This advice considers the potential economic opportunities for a development of this type in this location. The key findings of this report include:



- Mixed use developments dominate the current employment pipeline in St Leonards and Crows Nest. These developments are mostly decreasing the current quantum of commercial floorspace through an increased proportion of residential floor space. Consequently, mixed use developments will not provide the consolidated A-grade office floorspace which would be needed to attract large corporate tenants to St Leonards Crows Nest area, enabling it to compete with other major employment centres.
- In addition to currently planned development, between 122,154 – 275,054m² of additional commercial (predominately office) floorspace would be needed to achieve employment growth in line with the St Leonards Crows Nest 2036 plan and employment projections. This gap is higher than the 119,979m² estimated to be needed in the St Leonards Plan 2036, as a result of increased employment projections and the development pipeline, which contains many mixed use developments currently associated with an overall decrease in the quantum of commercial office floorspace.
- The subject site is located near Willoughby Road and the future Crows Nest Station, increasing its potential level of attractiveness for businesses following redevelopment. There are also likely to be opportunities for medical premises on the subject site given its proximity to the Mater Hospital and other large medical facilities and premises, as well as accommodating local population-serving businesses seeking proximity to the local Crows Nest Centre rather than the more commercial St Leonards centre.

The Economic Advice Report prepared by SGS also identifies that COVID-19 is likely to dampen overall employment growth and office demand in Greater Sydney in the short and perhaps medium term. However, into the longer term there will continue to be a need for more office floorspace to permit economic growth. COVID-19 also creates the potential for reconfiguration of the office market towards out of CBD locations. Crows Nest and St Leonards are ideally located to benefit from this trend, given their location within a designated health and education precinct and excellent public transport access, but modern A-grade office space would be needed to leverage this opportunity.

On the basis of the findings of the Economic Advice Report, it is apparent that there is strong demand for employment generating floor space within the St Leonards and Crows Nest area. The proposal will provide approximately 22,853m² of employment generating floorspace which will contribute towards meeting demand without absorbing all forecast demand to the detriment of other potential development.

The Planning Proposal seeks to act upon the many opportunities of the Site including:

- B4 Mixed Use zoning under the NSLEP 2013
- one of the largest sites in the St Leonards Crows Nest precinct with capacity for uplift
- single ownership to ensure certainty of delivery
- opportunity to provide a large commercial only development in St Leonards and Crows Nest to satisfy the employment targets identified by the 2036 Plan
- strategically located in the St Leonards Health and Education Precinct, providing opportunities for strategic partnerships with nearby hospitals for health-related uses including the Mater Hospital, Royal North Shore Hospital and North Shore Private Hospital
- access to existing and planned public transport infrastructure including the future Crows Nest Sydney Metro Station
- in close proximity to the Crows Nest Village Centre and between the North Sydney and St Leonards strategic centres



- multiple proposals in the locality seek to increase height and FSR controls. This demonstrates the evolving built form character and an intensification of commercial, business and residential uses.
- substantial frontage to the Pacific Highway with a dedicated access off Bruce Street

In addition to the above site opportunities the Planning Proposal is also supported by the NSW strategic planning framework including the:

- *Greater Sydney Region Plan* – increased commercial, business and health/medical floor space within the Eastern Economic Corridor
- *North District Plan* – employment growth in the St Leonards Health and Education Precinct close to the future Crows Nest Sydney Metro Station
- *St Leonards and Crows Nest 2036 Plan* – health sector growth and contribution to the delivery of 16,500 new jobs required by 2036



5 The Planning Proposal

The Planning Proposal has been prepared in accordance with Section 3.33(2) of the EP&A Act which outlines the required contents of a Planning Proposal. Accordingly, this Planning Proposal includes:

- a description of the Site and the surrounding locality (refer Section 2)
- a statement of the objectives or intended outcomes of the proposed instrument (refer Section 5.1)
- an explanation of the provisions that are to be included in the proposed instrument (refer Section 5.2)
- the justification for those objectives, outcomes and provisions and the process for their implementation, including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1 of the EP&A Act (refer Section 5.3)
- maps to be adopted by the proposed instrument (refer Section 5.4)
- details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument (refer Section 5.5)
- details on the proposed project timeframe for the completion of the Planning Proposal (refer Section 5.6).

The Planning Proposal has also been prepared in accordance with DPE's *A Guide to Preparing Local Environmental Plans* (2018) and *A Guide to Preparing Planning Proposals* (2018).

5.1 Part 1: Objectives and Intended Outcomes

Objectives

The objective of the Planning Proposal is to:

Amend the *North Sydney Local Environmental Plan 2013* to enable the future redevelopment of the Site for as a 13 storey commercial office building and basement level car parking.

The intended outcomes of the Planning Proposal are to enable the future redevelopment of the Site (subject to a future development application) which provides a unique opportunity to:

- support the urban renewal of St Leonards and Crows Nest through the redevelopment of Site as a vibrant commercial development
- increase the supply of employment generating floor space to meet the forecast demand for the St Leonards and Crows Next Precinct
- integrate the development into the surrounding community through sound planning and environmental considerations
- leverage the strategic location of the Site in between the North Sydney and St Leonards Strategic Centres
- leverage the Site's strategic location nearby to established health uses including the Mater Hospital, Royal North Shore Hospital and the North Shore Private Hospital through the provision of additional employment generating floorspace, including health-related administrative uses, allied health and other health related uses



- promote transit-orientated development and support the realisation of the economic, social and place making opportunities created by the public investment in the Sydney Metro
- support the implementation of the strategic vision identified in the Greater Sydney Regional Plan, the North District Plan, and the St Leonards Crow Nest 2036 Plan

The amendments proposed to the existing land uses and development controls applicable the Site are summarised in the table below.

Planning control	Existing development controls (NSLEP 2013)	St Leonards & Crows Nest 2036 Plan	Proposed development controls
Land use zone	B4 Mixed Use	B4 Mixed Use	B4 Mixed Use
Height of buildings	16m	13 storeys	54m (13 storeys)
Floor space ratio (FSR)	N/A	5.6:1	5.6:1
Additional FSR clause	N/A	N/A	Site-specific clause allowing a maximum FSR of 6.02:1, provided any additional floor space above 5.6:1 is: <ol style="list-style-type: none"> 4. located below ground level 5. comprises non-residential uses 6. does not comprise retail premises (excluding neighbourhood shops)
Non-residential FSR	0.5:1	5.6:1	5.6:1

Table 7: Summary of Planning Proposal

As noted in Table 7, in response to Council officers' advice and subsequent advice from the Sydney North Planning Panel, a new clause is proposed to permit an FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and comprises non-residential uses but not retail premises (excluding neighbourhood shops and ancillary development). Given the additional space is located within the lower ground level, there will be no impact on the height, bulk and scale of the future building on the Site.

The proposed wording for the new clause in the NSLEP 2013 is provided below:

19D 270-272 Pacific Highway Crows Nest—floor space

- (1) *The objective of this clause is to provide for additional floor space on certain land to encourage additional employment.*
- (2) *This clause applies to 270-272 Pacific Highway Crows Nest, being SP 49574.*
- (3) *Despite clause 4.4, the maximum floor space ratio for a building is 6.02:1, but only if—*
 - (a) *the floor space ratio of the part of the building that is above the ground level of the building at the Pacific Highway frontage does not exceed 5.6:1,*
 - (b) *any additional gross floor area above 5.6:1 is used for non-residential purposes; and*

- (c) any gross floor area within the part of the building that is below the ground level of the building at the Pacific Highway frontage does not comprise retail premises, excluding:
- neighbourhood shops, and
 - ancillary development (such as parking, storage, utility services access for fire services) for any retail premises that is at or above the ground level of the building at the Pacific Highway frontage.

*Advisory note: Final wording of the site-specific clause will be drafted by Parliamentary Counsel

The proposed amendments to the NSLEP 2013 maps require amendments to the Height of Buildings Map, Floor Space Ratio Map and Non-Residential Floor Space Ratio Map, as shown in Section 5.4 and below.



Figure 16: Proposed height map (Base source: NSLEP 2013)



Figure 17: Proposed FSR Map (Base source: NSLEP 2013)



Figure 18: Proposed non-residential FSR map (Base source: NSLEP 2012)

Intended Outcomes

The Planning Proposal is accompanied by a Design Report by Fitzpatrick + Partners (Appendix 4). The study includes a concept building design to demonstrate the form which would be achieved within the proposed planning controls:

The concept design was prepared following a comprehensive site analysis and detailed consideration of the 2036 Plan. Key features of the concept design are described in the below Table.

Element	Proposed
Indicative land uses	<ul style="list-style-type: none"> Commercial Premises, principally office premises and retail premises, comprising ground level retail and café/s Medical centre/s, including allied health uses and specialist medical suites
Building height	13 storeys 54 metres (total height above ground)
FSR	6.02:1 (5.60:1 plus 0.42:1 provided below ground and comprising non-residential purposes but not retail premises [excluding neighbourhood shops])
Non-residential FSR	5.6:1 (with any additional FSR up to 6.02:1 being used for non-residential purposes)
GFA	22,853m ²
NLA	18,975m ²
Car parking	202 (approximate)

Table 8: Development overview



Built Form

The concept design (which will be subject to a future development application should the NSLEP 2013 be amended as proposed) is for a 13 storey building, with a 3 storey street wall height to Pacific Highway, in response to adjoining heritage item at 286 Pacific Highway. Both the overall building height and street wall height comply with the controls recommended for the Site under the 2036 Plan.

The proposal provides a maximum permissible FSR of 6.02:1, which is greater than the 5.6:1 recommended under the 2036 Plan. However, this exceedance has no impact in terms of the bulk and scale of the building and is considered acceptable as:

- the proposed amendment to the NSLEP 2013 restricts above ground FSR to 5.6:1 which is consistent with the 2036 Plan. The additional FSR above 5.6:1 must be located below ground, as this space is subterranean it does not contribute to the overall height or scale of the proposal
- the proposed building envelope is fully compliant with the building height, street wall height and setback controls within the 2036 Plan, ensuring the bulk and scale of the development is appropriate for the Site
- the proposal complies with the solar access requirements within the 2036 Plan, maintaining 2 hours of solar access to residential areas inside the boundary of the 2036 Plan between 9am – 3pm. This includes the properties located to the west of the Site on Sinclair Street which achieve 2 hours of solar access between 1pm – 3pm

The scale of the building is effectively broken down through design techniques including the provision of appropriate setbacks, in accordance with the 2036 Plan, and tiering the upper levels of the building. These elements ensure that the proposal is compatible with the desired future character of the area.

Further design controls are also proposed for the site within the Draft Site-Specific DCP (Appendix 11)

Voluntary Planning Agreement

The Planning Proposal is accompanied by a letter that outlines the monetary contribution that Silvernight (Crows Nest) Landowner Pty Ltd may include in a letter of offer to enter into a VPA with Council (Appendix 2).



5.2 Part 2: Explanation of provisions

The Planning Proposal seeks to achieve the intended outcomes outlined under Part 1 (refer Section 5.1) by:

- amending the NSLEP 2013 **Height of Buildings Map**, Sheet 1 (HOB_001)
- amending the NSLEP 2013 **Floor Space Ratio Map**, Sheet 1 (FSR_001)
- amending the NSLEP 2013 **Non-Residential Floor Space Ratio Map**, Sheet 1 (LCL_001)

The proposed amendments to the relevant maps under the NSLEP 2013 are provided Section 5.4 and in Appendix 1.

5.2.1 Rationale for Proposed Development Standards

This Planning Proposal makes the case for change to amend development standards to enable the urban renewal of the Site and facilitating employment generating uses and floor space.

The consideration of an appropriate land use zoning and key built form controls (height and FSR) follows an evidence-based approach which investigated in detail the economic, environmental and social impacts of a new commercial development of the Site.

A planning justification and rationale for the land use and key built form controls is detailed below.

Land Use

This proposal seeks to retain the B4 Mixed Use zone. ***The proposal does not seek to amend the current zoning nor is a Schedule 1 Amendment sought.*** The future land uses are expected to include:

- commercial Premises, principally modern office premises and retail premises, comprising ground level retail and café/s
- medical centre/s, including allied health uses and specialist medical suites

These uses are permitted with consent in the B4 Mixed Use zone and are consistent with the zone objectives. In particular, the proposal will:

- support the mixture of compatible land uses within the surrounding B4 Mixed Use zone
- provide employment generating floor space in close proximity to Crows Nest Village and the St Leonards and North Sydney Strategic Centres, supporting the urban renewal and long term development of these areas
- support the St Leonards and Health and Education Precinct, providing opportunities for strategic partnerships with nearby hospitals and health related uses
- encourage walking, cycling and the use of public transport including the future Crows Nest Metro Station



Proposed Built Form Controls (Height & FSR)

The Design Report prepared by Fitzpatrick + Partners (Appendix 4) outlines the guiding methodology and design principles for the proposal. This report investigates the Site and considers potential impacts on adjoining properties and the evolving character of the precinct.

The 13 storey building height is consistent with the controls envisioned under the 2036 Plan for the Site and is reflective of the emerging character of the surrounding area.

The bulk and scale of the building has been limited through the proposed site-specific clause which ensures any additional FSR above 5.6:1 must be located below ground. As this space is subterranean it does not contribute to the overall height or scale of the proposal. Despite being located below ground level, the concept design illustrates that suitable amenity can be achieved to this space including access to sunlight and ventilation.

The building envelope has been effectively managed through the provision of appropriate setbacks and by tiering the upper levels of the building. These elements ensure that the proposal is compatible with the desired future character of the area and also ensure the development does not unnecessarily overshadow neighbouring residential properties.

The proposal complies with the solar access requirements within the 2036 Plan, maintaining 2 hours of solar access to residential areas inside the boundary of the 2036 Plan between 9am – 3pm. This includes the properties located to the west of the Site on Sinclair Street which achieve 2 hours of solar access between 1pm – 3pm

The adopted street wall height responds to and maintains a human-scale to development in Crows Nest, which is a highly valued attribute of this part of the precinct. The podium level also responds to and aligns with the height of the adjoining heritage item at 286 Pacific Highway.



5.3 Part 3: Justification

5.3.1 Section A: Need for a Planning Proposal

Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?

On 29 August 2020, DPE adopted the St Leonards and Crows Nest 2036 Plan which seeks to facilitate the urban renewal of St Leonards and Crows Nest as an expanding employment centre and growing residential community. This is to be achieved through changes to existing planning controls to support the objectives and actions within the 2036 Plan.

The 2036 Plan leverages the existing public transport infrastructure and the future Crows Nest Metro Station to support the growing St Leonards and Crows Nest community with the provision of new infrastructure, open spaces, upgraded cycle lanes and planning for health and education. The plan aims to deliver 6,683 new dwellings, an extra 119,979m² employment floor space and 16,500 new jobs in health, education, professional services and the knowledge sector.

The Planning Proposal is consistent with and seeks to give effect to the vision of the 2036 Plan through the urban renewal and redevelopment of the Site as a 13 storey commercial building, with potential to include allied health uses to capitalise on its proximity to the Mater Hospital, accommodating approximately 22,853m² of employment generating floor space.

The 2036 Plan states that it will be the responsibility of each relevant Council to progress Planning Proposals through amendments to their respective local environmental plans to give effect to the built form recommendations in the Plan.

The Planning Proposal is also consistent with the goals and priorities outlined in the following Council strategic plans and reports:

- *North Sydney Local Strategic Planning Statement*
- *North Sydney Community Strategic Plan 2018-2028*

The above listed plans are addressed in further detailed below.

North Sydney Local Strategic Planning Statement

The North Sydney Local Strategic Planning Statement (LSPS) was adopted in March 2020. The LSPS sets out Council's land use vision, planning principles, priorities, and actions for the next 20 years. It outlines the desired future direction for housing, employment, transport, recreation, environment and infrastructure for North Sydney LGA.

The population of the North Sydney LGA to increase by an additional 19,500 persons by 2036. In addition, the LSPS forecasts the LGA will continue to shift towards an economy based on knowledge and innovation with an estimated job growth of between 22,500-37,400 by 2036.



The LSPS identifies that the intensification of health and education facilities at St Leonards will continue to support jobs growth within the precinct and acknowledges that supporting all the opportunities that the existing education, medical, telecommunications and multimedia clusters can bring will ensure North Sydney remains competitive and nationally significant.

The LSPS lists 15 Planning Priorities and sets out specific actions to deliver these priorities consistent with Council's and the community's future vision for the LGA. The Planning Priorities relate to the following key areas:

- Infrastructure and collaboration
- Liveability
- Productivity
- Sustainability

The LSPS includes a Structure Plan that provides the land use vision for the North Sydney LGA. The structure plan aligns with the regional and district strategic directions outlined in the Greater Sydney Region Plan and the North District Plan. The Site is located within the Five Ways South Education and Medical Precinct and nearby to the Crows Nest Village.

The proposal provides an opportunity to leverage the Site's strategic location nearby to established health uses including the Mater Hospital, Royal North Shore Hospital and the North Shore Private Hospital through the provision of additional employment generating floorspace, including health-related administrative uses, allied health and other health related uses.

The proposal is consistent with the LSPS as it provides employment generating floor space in a suitable location. A large amount of additional commercial and office floorspace is needed in the North Sydney LGA to meet the employment targets in line with employment projections to 2036. The Site is strategically located within the Five Ways South Education and Medical Precinct, nearby to the Crows Nest Village and the future Crows Nest Metro Station. An assessment against the relevant planning priorities is provided in Appendix 3.

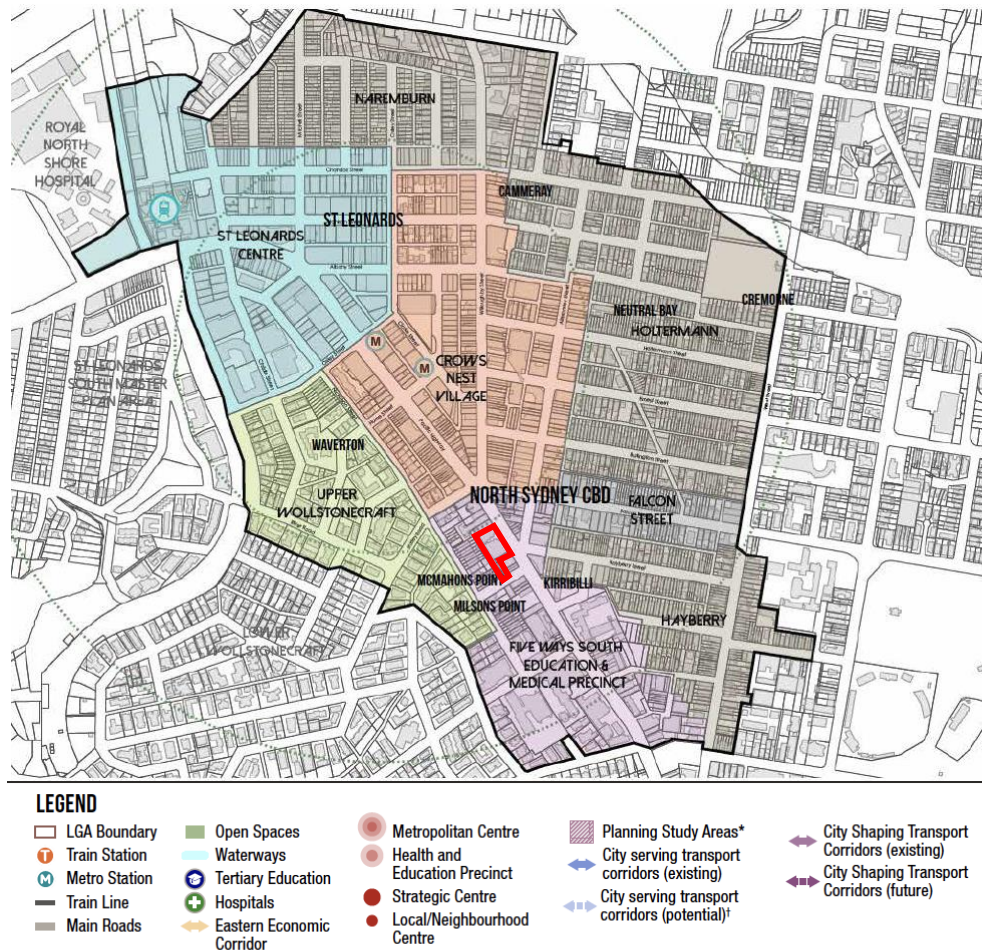


Figure 19: Structure Plan (Source: LSPS)

North Sydney Community Strategic Plan 2018-2028

North Sydney Community Strategic Plan 2018-2028 (Community Strategic Plan) is the Council's vision and priorities for the LGA, the Community Strategic Plan has a broader focus than the LSPS as it addresses long term social, environmental and economic goals for the community that have been developed following extensive community consultation and engagement.

Relevant outcomes sought as part of the Community Strategic Plan include:

- 2.1: Infrastructure and assets meet community needs
- 2.2: Vibrant centres, public domain, villages and streetscapes
- 2.3: Sustainable transport is encouraged
- 3.1: Prosperous and vibrant economy
- 3.3: North Sydney is smart and innovative
- 3.4: North Sydney is distinctive with a sense of place and quality design
- 4.1: North Sydney is connected, inclusive, healthy and safe



The proposal is consistent with the Community Strategic Plan as it will:

- promote a prosperous and vibrant economy
- encourage a diverse mix of business type and size
- support existing businesses and attract and foster new businesses
- promote public transport use
- exhibit a high quality design

The proposal will help grow and contribute to North Sydney's national status as a prosperous and vibrant CBD that attracts businesses and visitors to form a successful commercial hub for the region, NSW and Australia.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best and most appropriate means of achieving the desired future redevelopment of the Site. As demonstrated in this proposal, the existing built form controls under the NSLEP 2013 do not allow the Site to be developed in a manner that will deliver opportunities to support existing businesses or attract and foster new businesses.

The current built form controls sterilise the Site for future redevelopment and prohibit the Site from realising its strategic potential. The existing controls are inconsistent with the built form controls and uplift envisioned for the Site under the 2036 Plan.

The 2036 Plan states that it will be the responsibility of each relevant Council to progress Planning Proposals through amendments to their respective local environmental plans to give effect to the built form recommendations in the Plan.

Furthermore, detailed site analysis undertaken as part of this Planning Proposal confirm that the Site is capable of achieving a higher FSR than recommended in the 2036 Plan through the lower ground level. The proposal remains compliant with other key recommended controls in the 2036 Plan including height and solar access.

The Planning Proposal is therefore considered the best means of providing an increase in the supply of employment generating floor space within the Site and the wider St Leonards and Crows Nest Precinct.

The Economic Advice prepared by SGS (Appendix 5) found that there are few prospects for a large commercial-only development in St Leonards and Crows Nest, with only mixed-use developments found on the Cordell Connect development database and little land intended to be zoned B3 Commercial Core in St Leonards.

Given the Sites consolidated ownership it provides an opportunity to facilitate commercial-only development in the short-medium term. Increased development would support the economic objectives in the 2036 Plan and other strategic planning documents, as well as supporting Crows Nest Village as a vibrant local centre.

Accordingly, the proposed amendments of built form controls for the Site through an amendment to the NSLEP 2013 is considered the most appropriate method to deliver the desired outcomes.



5.3.2 Section B: Relationship to Strategic Planning Framework

Will the Planning Proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The Planning Proposal aims to give effect to the objectives and actions of the following metropolitan, district and other plans:

- *Greater Sydney Region Plan – A Metropolis of Three Cities*
- *North District Plan*
- *St Leonards Crows Nest 2036 Plan*
- *NSW Future Transport 2056*

Greater Sydney Region Plan

The *Greater Sydney Region Plan* (Region Plan) outlines how Greater Sydney will manage growth and change in the context of social, economic and environmental matters. It sets the vision and strategy for Greater Sydney, to be implemented at a local level through District Plans. The overriding vision for Greater Sydney in the Region Plan is to rebalance Sydney into a metropolis of 3 unique but connected cities:

- the established Eastern Harbour City
- the developing Central River City
- the emerging Western Parkland City

Historically, Greater Sydney's jobs and transport have been focused to the east, requiring many people to make long journeys to and from work and other services. The 3 cities vision allows opportunities and resources to be shared more equitably while enhancing the local character we value in our communities.

By integrating land use, transport links and infrastructure across the three cities, more people will have access within 30 minutes to jobs, schools, hospitals and services.

The Region Plan provides broad *Priorities and Actions* which focus on the following 4 key themes:

- *Infrastructure and collaboration*
- *Liveability*
- *Productivity*
- *Sustainability*

As part of the vision for the Eastern Harbour City, the Region Plan identifies Crows Nest and St Leonards for urban renewal. The Region Plan identifies the Site as part of the Eastern Economic Corridor which includes St Leonards as a Health and Education Precinct and North Sydney as part of the Harbour CBD.

The proposal seeks to optimise its location in relation to surrounding strategic centres, in particular the Health and Education Precinct. The applicant is investigating opportunities for collaboration with surrounding hospitals including the nearby Mater Hospital.

An analysis of the consistency of the Planning Proposal with the objectives of the Region Plan is provided in Appendix 3.

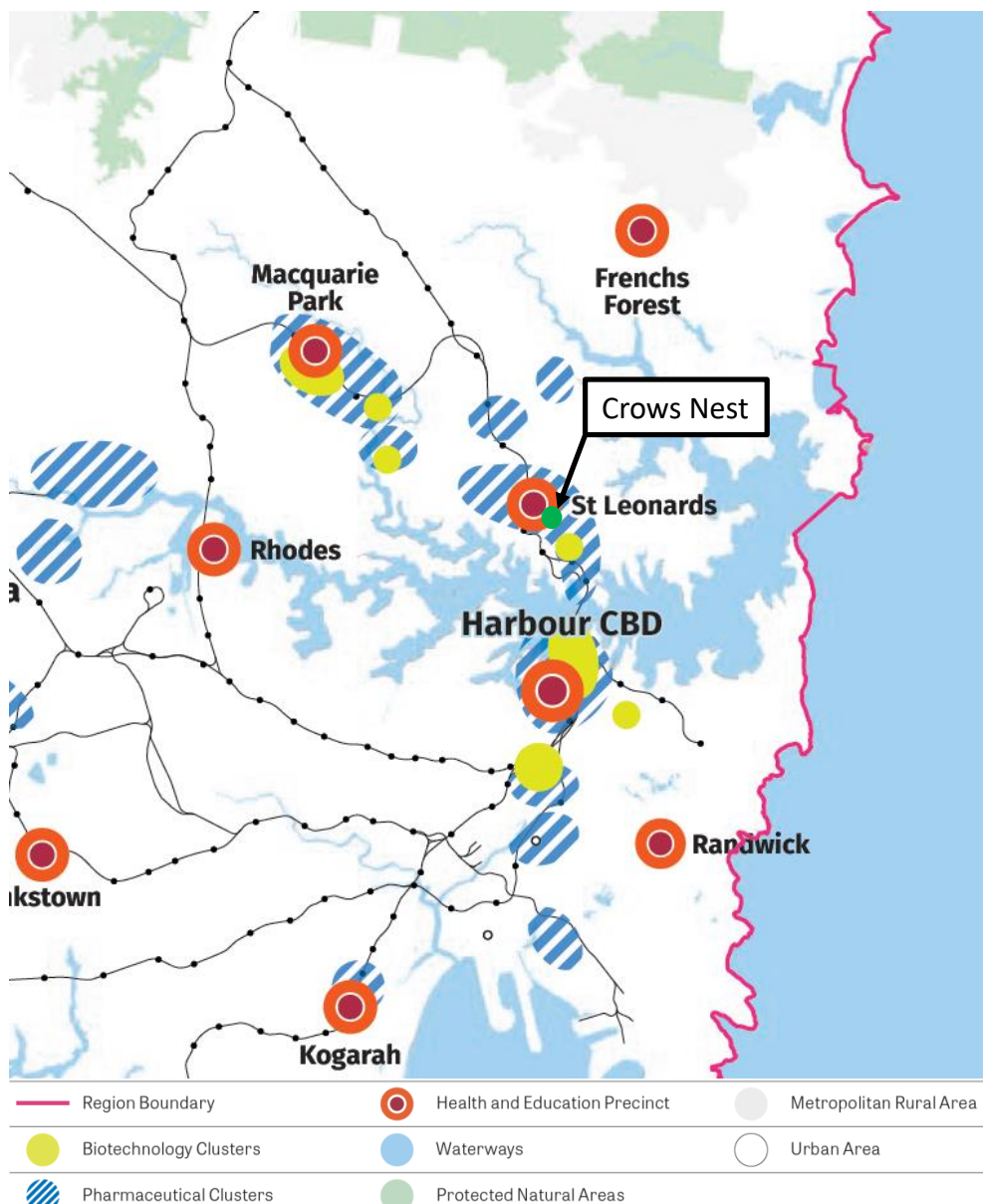


Figure 20: Health and Education Precincts and Industry Clusters (Source: GSC)

North District Plan

The *North District Plan* (District Plan) was prepared by the Greater Sydney Commission (GSC) in March 2018. It seeks to manage growth in the context of economic, social and environmental matters in the North District. It provides the district level framework to implement the goals and directions outlined in the Region Plan.



The District Plan states that Crows Nest is a great, dynamic place due to its street life and vibrant restaurant and retail strip along Willoughby Road. The plan further highlights the opportunity for renewal and activation in Crows Nest as a result of the new Metro station.

The plan also emphasises the strategic value and potential of the St Leonards Health and Education Precinct. St Leonards has been assigned a baseline jobs target of 54,000 jobs by 2036 and a higher target of 63,500 jobs by 2036. The proposed commercial development on the Site resulting from the Planning Proposal will provide new jobs at the Site, with additional jobs generated throughout the wider local economy.

The Site's location within the precinct and the employment areas within the precinct are shown in the figure below.

An analysis of the proposal against the relevant planning priorities of the District Plan is provided in Appendix 3.



Figure 21: Location of jobs and services within the St Leonards Health and Education Precinct (Source: North District Plan)



St Leonards and Crows Nest 2036 Plan

The St Leonards and Crows Nest 2036 Plan was prepared by DPE and finalised in August 2020. The precinct plan coordinates the planning for a precinct which encompasses land in three separate local government areas and includes a new Sydney Metro Station which is considered as the catalyst for rejuvenation of St Leonards and Crows Nest.

The precinct plan sets a vision to 2036 for the urban renewal of the St Leonards and Crows Nest area which seeks to expand the area's role as an employment centre, improve its public spaces and connections.

The plan guides future land use planning and consideration of the plan is required by the associated section 9.1 Ministerial Direction (addressed in Section 5.3).

The 2036 Plan leverages the existing public transport infrastructure and the future Crows Nest Metro Station to support the growing St Leonards and Crows Nest community with the provision of new infrastructure, open spaces, upgraded cycle lanes and planning for health and education. The plan will deliver 6,683 new dwelling, planning capacity for an extra 119,979m² employment floor space and 16,500 new jobs in health, education, professional services and the knowledge sector.

The 2036 Plan has been shaped by a number of objectives and priorities for the St Leonards and Crows Nest Precinct. It also identifies indicative changes to the existing planning controls that have been developed to achieve the key urban design principles envisioned by the plan.

The controls recommended for the Site under the 2036 Plan are identified in the below table.

Planning control	St Leonards & Crows Nest 2036 Plan	Compliance
Land use zone	B4 Mixed Use	Complies
Height of buildings	13 storeys	Complies
Floor space ratio (FSR)	5.6:1	Yes, subject to proposed additional FSR clause, discussed below
Non-residential FSR	5.6:1	Complies
Street wall height	3 storey street wall height	Complies
Setbacks	Front: 0 metres (to Pacific Highway):	Complies
	Rear: 6 metres (to rear of properties fronting Sinclair Street)	Complies
Solar Access	No additional overshadowing of nominated public open space between 10am - 3pm	Complies
	No additional overshadowing of nominated streetscapes between 11.30am - 2.30pm	Complies
	Maintain at least 2 hours of solar access to residential areas inside the boundary of the plan between 9am - 3pm	Complies



Planning control	St Leonards & Crows Nest 2036 Plan	Compliance
	Maintain at least 3 hours solar access to Heritage Conservation Areas inside the boundary of the plan for at between 9am – 3pm	Complies
	Maintain solar access to residential areas outside the boundary of the plan for the whole time between 9am – 3pm	Complies

Table 9: 2036 Plan Controls for the Site

The Planning Proposal is generally consistent with the 2036 Plan as the B4 Mixed Use zoning is retained and a maximum building height of 54 metres is proposed, equating to 13 storeys.

A base FSR of 5.6:1 is proposed accompanied by a new clause to permit a FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and used for non-residential purposes but not retail premises (excluding neighbourhood shops and ancillary development).

The proposed maximum FSR of 6.02:1 on the site results in a minor exceedance of the FSR proposed under the 2036. However, the relevant section 9.1 Ministerial Direction for the 2036 Plan permits minor inconsistencies, if a proposal achieves the overall intent of the 2036 Plan and does not undermine the achieve of the Plan's vision, objectives and actions.

The proposed FSR & new clause is acceptable as the additional FSR above 5.6:1 is provided entirely below ground level and therefore will have no impact on the height, bulk and scale of the future building on the Site. Subsequently, the concept building envelopes are compatible with the desired future character of the area as established under the 2036 Plan.

The resultant bulk and scale does not result in adverse overshadowing impacts to neighbouring residential properties. These issues are further addressed in Sections 5.3.3.

Furthermore, the additional GFA above 5.6:1 is to be used for non-residential purposes only, which will increase the site's contribution towards meeting the targets of 16,500 new jobs in the precinct established of in the 2036 Plan.

The proposal is consistent with the relevant objectives as detailed in the below table. The proposal also satisfies the relevant priorities of the 2036. An assessment against the relevant priorities is provided in Appendix 3.



Objective	Comment
Infrastructure and collaboration	<p>The proposal increases the quantum of employment generating floorspace in a location that is well served by existing road, public transport (bus and rail) and active travel (cycling and pedestrian) infrastructure.</p> <p>The Site is also located within 400 metres of the future Crows Nest Metro Station and facilitates the realisation of the economic, social and place making opportunities created by public investment.</p> <p>The Sites location, within walking distance of rail, metro and bus services, will ensure that infrastructure use is optimised.</p> <p>This Planning Proposal will implement the outcomes of St Leonards Crows Nest 2036 plan, which was collaboratively developed by government, the community, businesses and key stakeholders. This is to be achieved through collaboration with existing health and education uses within the St Leonards and Crows Nest area to strengthen and develop the wider health and education precinct.</p>
Liveability	<p>The Site is strategically located in proximity to services and infrastructure including the Crows Nest Village, the St Leonards and North Sydney Strategic Centres.</p> <p>The Site has good access to infrastructure services including the future Crows Nest metro station and St Leonards and Wollstonecraft train stations.</p> <p>The Plan states that integrated planning for health services is required to make it easier for people to access a comprehensive health system, including allied health services. The Site is strategically located in the St Leonards Health and Education Precinct, providing opportunities for strategic partnerships with nearby hospitals, including the Mater Hospital, Royal North Shore Hospital and North Shore Private Hospital, for allied health-related uses.</p> <p>The Planning Proposal is accompanied by a letter that outlines the monetary contribution that Silvernight (Crows Nest) Landowner Pty Ltd may include in a letter of offer to enter into a VPA with Council.</p>
Productivity	<p>The North District Plan includes three health and education precincts, including the St Leonards Health and Education Precinct.</p> <p>The Site is strategically located in this precinct, providing opportunities for strategic partnerships with nearby hospitals for health-related uses including the Mater Hospital, Royal North Shore Hospital and North Shore Private Hospital.</p> <p>The North District Plan establishes an employment target of between 54,000 and 63,500 jobs in the St Leonards Health and Education Precinct by 2036.</p> <p>There are few prospects for a large commercial-only development in St Leonards and Crows Nest. Sites with consolidated ownership such as the subject site provide opportunities to facilitate commercial-only development in the short-medium term.</p> <p>The Planning Proposal supports the economic objectives of the North District Plan as it represents a significant investment in the St Leonards Health and Education Precinct and will provide additional employment generating floor space, required to achieve the abovementioned job targets.</p>



Objective	Comment
Sustainability	<p>This Planning Proposal seeks to facilitate greater use of public transport to combat the use of private vehicles and in doing so reduce greenhouse emissions.</p> <p>The Applicant is committed to managing resource consumption by minimising waste, increasing energy efficiencies and lessening environmental impact where possible. Such measures will be explored in greater detail at the detailed design stage. A Building Services Summary Report (Appendix 10) has been prepared by NDY which outlines the sustainability targets of the proposal which include a Green Star Design and As Built equivalency performance of 5 Star and a NABERS Office Energy 5.5. Star.</p>

Table 10: Assessment against the objectives of the 2036 Plan

Future Transport 2056 Strategy

The *NSW Future Transport Strategy 2056* was published in March 2018 and acknowledges the vital role transport plays with regards to land use, tourism and economic development. The Strategy is support by a suite of plans to achieve a 40-year vision for transport in New South Wales to cater for the estimated increase in population to 12 million by 2056.

The strategy focuses on the role of transport in delivering movement and place outcomes that support the character of the places and communities for the future. It emphasises technology-enabled mobility and its role in transforming the mass transit network.

The proposed site is strategically located near existing and future transport links such as St Leonards and Wollstonecraft train stations and the Crown Nest metro station. The strategy identifies Crows Nest as being located within both a city-serving corridor and along a city-shaping corridor. The proposal aims to support Greater Sydney by providing further employment opportunities and business growth within an established economic corridor.

As detailed within the Traffic and Parking Study prepared by SCT Consulting (Appendix 7) the location of the development near supports the aspiration of 30-minute access to employment centres by public transport for everyone. The development will capitalise on its location near to the metro and rail stations to support sustainable travel behaviours.

Strategic and site-specific merit

The strategic and site-specific merit test is outlined in DPE's A Guide to Preparing Planning Proposals to assist proponents in justifying a Planning Proposal. An assessment against this test is provided in the below table.



Provision	Consistency
Does the proposal have strategic merit? Will it:	
<ul style="list-style-type: none"> give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the Site, including any draft regional, district or corridor/precinct plans released for public comment; or 	<ul style="list-style-type: none"> The Planning Proposal is consistent with the relevant objectives and planning priorities of the Region Plan, District Plan, and the 2036 Plan as it retains the B4 Mixed Use zoning for the site and provides for significant additional employment generating floor space to meet the job targets contained in these plans. The site is strategically located in the St Leonards Health and Education Precinct, providing opportunities for strategic partnerships with nearby hospitals for health-related uses including the Mater Hospital, Royal North Shore Hospital and North Shore Private Hospital. The provision of 22,853m² of employment generating floorspace is likely to provide opportunities for medical premises on the subject site which will support and strengthen the health and education precinct.
<ul style="list-style-type: none"> give effect to a relevant local strategic planning statement or strategy that has been endorsed by the Department or required as part of a regional or district plan or local strategic planning statement; or 	<ul style="list-style-type: none"> As detailed in this report, the Planning Proposal is consistent with the: <ul style="list-style-type: none"> North Sydney Local Strategic Planning Statement North Sydney Community Strategic Plan 2018-2028
<ul style="list-style-type: none"> responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing strategic plans. 	<ul style="list-style-type: none"> The Planning Proposal responds to the investment in infrastructure within the St Leonards and Crows Nest Planning Precinct, including the delivery of the new Crows Nest Metro Station, and the employment trends and targets for St Leonards-Crows Nest outlined in the Region, District and 2036 Plans and Council's LSPS. The site is situated in close proximity to transport infrastructure links and within 400 metres walking distance of the new Crows Nest Metro Station.
Does the proposal have site-specific merit, having regard to the following?	
<ul style="list-style-type: none"> the natural environment (including known significant environmental values, resources or hazards) and 	<ul style="list-style-type: none"> The site is heavily modified and there are no known site-specific environmental considerations identified in the Planning Proposal and supporting material that would preclude further consideration of the proposed urban renewal.
<ul style="list-style-type: none"> the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and 	<ul style="list-style-type: none"> The site is located within the St Leonards and Crows Nest Precinct. The 2036 Plan recommends the site remain zoned B4 Mixed Use. The Planning Proposal retains the B4 zoning for the site and the identified potential future uses are permitted with consent in the zone. The 2036 Plan recommends increased building heights and densities within the Precinct. The Planning Proposal is consistent with the emerging built form character of the area. The proposal complies with the solar access requirements within the 2036 Plan, maintaining 2 hours of solar access to residential areas inside the boundary of the 2036 Plan between 9am – 3pm. This includes the properties located



Provision	Consistency
	to the west of the Site on Sinclair Street which achieve 2 hours of solar access between 1pm – 3pm
<ul style="list-style-type: none"> the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision. 	<ul style="list-style-type: none"> The site is well serviced by existing infrastructure, utilities and services. The Applicant proposes to deliver further benefits to the community through a VPA.

Table 11: Strategic and site-specific merit test

Is the Planning Proposal consistent with a Council's Local Strategy or Other Local Strategic Plan?

Yes. The Planning Proposal is consistent with the following local strategies prepared by Council:

- *North Sydney Local Strategic Planning Statement*
- *North Sydney Community Strategic Plan 2018-2028*

The above listed local strategies are addressed in detail at Section 5.3.1 and Appendix 3.



Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Chapter 2 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* aims to facilitate the effective delivery of infrastructure across the State. This includes identifying matters to be considered in the assessment of development adjacent to types of infrastructure development and providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.

Many of the provisions relate to development by the Crown and exempt development of certain development by on behalf of the Crown, which is not relevant to the Planning Proposal.

Chapter 2 also contains provisions that, while not relevant to the Planning Proposal, would be considered at future DA stage:

- Section 2.118 stipulates that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that vehicular access to the land is provided by a road other than the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected.

The development fronts the Pacific Highway, which is a classified road. However, vehicular access to the Site is proposed from Bruce Street, as currently provided.

- Section 2.121 requires that development applications for certain traffic generating development, as set out in Schedule 3 of the policy, be referred to the RMS (now known as Transport for NSW (TfNSW)). The proposal exceeds the threshold criteria for commercial premises and the future DA will therefore require referral to TfNSW.

Noise considerations to and from the proposed development can be addressed through the detailed design stage and would not be a determinative factor in the Planning Proposal.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* aims to provide for a State-wide consistent planning approach to the remediation of contaminated land, with various objectives and provisions, particularly to reduce the risk of harm to human health and the environment.

Section 4.6 of the SEPP requires a consent authority, in determining a development application, to consider whether a site is contaminated and whether the site is suitable for the proposed use (before or after remediation).



The Site was previously redeveloped for commercial purposes in the 1980's. It is considered that the Site would have been made suitable for commercial purposes at this stage and that the contamination risk of the Site is low. It is further noted that there are no acid sulphate soils maps in NSLEP 2013 and is therefore considered to have a very low probability of containing acid sulfate soils.

On this basis, a contamination report has not been commissioned at this early stage of planning. Nonetheless, any future development application would include an appropriate contamination assessment.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

Chapter 2 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* was one of a suite of Land Management and Biodiversity Conservation (LMBC) reforms that commenced on 25 August 2017. Chapter 2 works together with the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016* to create a framework for the regulation of clearing of native vegetation in NSW.

The Site is predominantly built up and contains very minimal vegetation. The Site contains a total of five trees, with two palm trees located within planter boxes fronting Pacific Highway and three located to the north western corner. A further 10 palm trees are located just outside of the Site within the footpath to the Pacific Highway street frontage. The Site is not mapped as containing areas of remnant vegetation within maps published by the NSW Office of Environment and Heritage.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 of *State Environmental Planning Policy (Industry and Employment) 2021* aims to ensure that advertising and signage is well located, compatible with the desired amenity of an area and of high quality.

Chapter 3 applies to all signage, advertisements that advertise or promote any goods, services or events and any structure that is used for the display of signage that is permitted under another environmental planning instrument.

Chapter 3 is not relevant to this Planning Proposal. Any signage and associated assessment against the SEPP will be addressed at future DA stage.

Draft Remediation of Land State Environmental Planning Policy

Draft Remediation of Land State Environmental Planning Policy (Remediation SEPP) aims for better management of remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works.

Once adopted, the Draft Remediation SEPP will:

- Provide a state-wide planning framework for the remediation of land
- Require consent authorities to consider the potential for land to be contaminated when determining DAs



- Clearly list the remediation works that require development consent
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent

As discussed, the Site was previously redeveloped for commercial purposes in the 1980's. It is considered that the Site would have been made suitable for commercial purposes at this stage and that the contamination risk of the Site is low. It is further noted that there are no acid sulphate soils maps in NSLEP 2013 and is therefore considered to have a very low probability of containing acid sulfate soils.

On this basis, a contamination report has not been commissioned at this early stage of planning. Nonetheless, any future development application would include an appropriate contamination assessment.

Is the Planning Proposal consistent with applicable Ministerial Directions (section 9.1 directions)?

Yes. The Planning Proposal is consistent with the Directions issued by the Minister for Planning and Public Spaces under section 9.1 of the EP&A Act (formerly section 117). The Directions that are relevant to the Planning Proposal are addressed in Table 12.

Relevant Ministerial Direction	Consideration
Focus area 1: Planning Systems	
Direction 1.1: Implementation of Regional Plans	<p>The objective of Direction 1.1 is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>The Greater Sydney Region Plan is addressed in Section 5.3.2 and the proposal is considered to be consistent with the plan. The proposal is consistent with this direction.</p>
Direction 1.2: Development of Aboriginal Land Council Land	<p>The Site is not in the ownership of the Aboriginal Land Council nor are there any known Aboriginal objects or places of heritage significance within the Site.</p>
Direction 1.3: Approval and Referral Requirements	<p>The objective of Direction 1.3 is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>The Planning Proposal does not include consultation, concurrence or referral above and beyond the existing provisions of the NSLEP 2019. The Planning Proposal is consistent with this Direction.</p>
Direction 1.4: Site Specific Provisions	<p>The objective of Direction 1.4 is to discourage unnecessarily restrictive site specific planning controls.</p> <p>The Planning Proposal includes a site specific provision to permit a FSR of 6.02:1, provided any additional floor space above 5.6:1 is located below ground level and used for non-residential purposes. The site specific provision ensures the above ground portion of the development does not exceed an FSR of 5.6:1 as recommended by the 2036 Plan.</p> <p>The site specific provision is required to maximise employment generating floorspace on the site whilst ensuring the additional GFA</p>



Relevant Ministerial Direction	Consideration
	<p>does not alter the height, bulk and scale envisaged for the site in the 2036 Plan.</p> <p>Inconsistency with this Direction is considered to be of minor significance and justifiable as the proposed additional FSR will strengthen employment outcomes on the site without resulting in additional building height or bulk.</p>
Focus area 1: Planning Systems – Place-based	
Direction 1.13: Implementation of St Leonards and Crows Nest 2036 Plan	<p>The objective of this direction is to ensure development within the St Leonards and Crows Nest Precinct is consistent with the St Leonards and Crows Nest 2036 Plan (the Plan).</p> <p>The 2036 Plan is addressed in detail at Section 5.3.2. In particular, the proposal complies with the building height of 13 storeys but exceeds the maximum FSR control recommended for the Site under the 2036 Plan when the additional below ground FSR is included. As outlined in this report, this variation is considered to be acceptable as:</p> <ul style="list-style-type: none"> the additional FSR above 5.6:1 is provided below ground level and therefore will have no impact on the height, bulk and scale of the future building on the Site the proposed building envelope is fully compliant with the building height, street wall height and setback controls within the 2036 Plan, ensuring the bulk and scale of the development is appropriate for the Site the proposal complies with the solar access requirements within the 2036 Plan, maintaining 2 hours of solar access to residential areas inside the boundary of the 2036 Plan between 9am – 3pm. This includes the properties located to the west of the Site on Sinclair Street which achieve 2 hours of solar access between 1pm – 3pm <p>Direction 1.13 for the 2036 Plan permits minor inconsistencies, if a proposal achieves the overall intent of the 2036 Plan and does not undermine the achieve of the Plan's vision, objectives and actions. As addressed in Section 5.3.2, the proposal is consistent with the 2036 Plan and the proposed minor variation does not undermine it's vision, objectives and actions.</p>
Focus area 3: Biodiversity and Conservation	
Direction 3.1: Conservation Zones	Not applicable to the site.
Direction 3.2: Heritage Conservation	<p>The objective of Direction 3.2 is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The Site does not contain any heritage items nor is it located within a heritage conservation area.</p>



Relevant Ministerial Direction	Consideration
	<p>An item of local heritage significance known as the Former North Shore Gas Co office (I0150) adjoins the northern site boundary.</p> <p>The Site is also in close proximity to a number of locally listed heritage items, including several which have landmark status in Crows Nest and which define the Five Ways intersection and form the character of the Crows Nest shopping strip along the Pacific Highway.</p> <p>In addition to these individually listed items, the Site is also in the vicinity of the Holtermann Estate C Conservation Area, the western edge of which is bordered by the Pacific Highway.</p> <p>A HIS has been prepared by NBRS + Partners which identifies that the proposal will retain the established cultural significance of the Holtermann Estate Conservation Area and the heritage items in the vicinity. The contribution each heritage item makes to the historic character of the area will be retained, albeit in the altered urban context as envisaged in the 2036 Plan. These items will continue to be legible as historic buildings of high architectural quality, making an important contribution to the streetscape.</p> <p>The HIS concludes that the proposed amendments are acceptable from a heritage perspective and are consistent with the heritage objectives of the NSLEP 2013 and the NSDCP 2013.</p>
Direction 3.3: Sydney Drinking Water Catchment	Not applicable to the site.
Direction 3.5: Recreation Vehicle Areas	Not applicable to the site.
Focus area 4: Resilience and Hazards	
Direction 4.1: Flooding	<p>The objectives of Direction 4.3 are:</p> <ul style="list-style-type: none"> to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and to ensure that the provisions of an LEP on flood prone land is commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land. <p>The NSLEP 2013 does not contain any flood mapping. Notwithstanding, following a review of the North Sydney Council's Flood Study it is understood that the Site is not known to be flood-affected.</p>
Direction 4.2: Coastal Management	Not applicable to the site.
Direction 4.3: Planning for Bushfire Protection	The Site is not identified as being bushfire prone land.
Direction 4.4: Remediation of Contaminated Land	The Site was previously redeveloped for commercial purposes in the 1980's. The Planning Proposal does not propose any land use change to the Site. Furthermore, it is considered that the Site would have been made suitable for commercial purposes at this stage and that the contamination risk of the Site is low. It is further noted that this site is not identified as containing acid sulphate soils under the



Relevant Ministerial Direction	Consideration
	<p>NSLEP 2013 and is therefore considered to have a very low probability of containing acid sulfate soils.</p> <p>On this basis, a contamination report has not been commissioned at this early stage of planning. Nonetheless, any future development application would include an appropriate contamination assessment.</p>
Direction 4.5: Acid Sulfate Soils	<p>The objective of Direction 4.5 is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>The Site is not identified as being affected by Acid Sulfate Soils under the NSLEP 2013 and is therefore considered to have a very low probability of containing acid sulfate soils.</p>
Direction 4.6: Mine Subsidence and Unstable Land	Not applicable to the site.
Focus area 5: Transport and Infrastructure	
Direction 5.1: Integrating Land Use and Transport	<p>The objectives of Direction 5.1 is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> • improving access to housing, jobs and services by walking, cycling and public transport • increasing the choice of available transport and reducing dependence on cars • reducing travel demand including the number of trips generated by development and the distances travelled, especially by car • supporting the efficient and viable operation of public transport services • providing for the efficient movement of freights <p>The Site is located within a highly accessible location in close proximity to Crows Nest Village and the St Leonards and North Sydney Strategic Centres.</p> <p>The Site is within walking distance of the Crows Nest metro station and the St Leonards and Wollstonecraft train stations. In addition, a bus stop is located along the Sites frontage on Pacific Highway which provides frequent bus services.</p> <p>The proposal is consistent with this direction as it will increasing the number of jobs available close to public transport and will increase the viability of public transport services within the area.</p>
Direction 5.2: Reserving Land for Public Purposes	The Site is not identified on the Land Reservation Acquisition Map under the NSLEP 2013 and has not been identified by any authority with acquisition powers.
Direction 5.3: Development Near Regulated Airports and Defence Airfields.	<p>The objectives of Direction 5.3 is to ensure the operations of airports and airfields are not compromised by development.</p> <p>This direction requires appropriate height controls for land affected by the prescribed airspace. Prescribed airspace under the <i>Airports</i></p>



Relevant Ministerial Direction	Consideration
	<p>(Protection of Airspace) Regulations 1996 includes anywhere above any part of an Obstacle Limitation Surface (OLS). The OLS map for Sydney Airport assigns the OLS at 156 metres AHD for the Site.</p> <p>The proposal will be 13 storeys which equates to a height of 156 metres AHD and therefore does not exceed the OLS. The proposal is therefore considered to be compatible with the current and future operations of Sydney Airport.</p>
Direction 5.4: Shooting Ranges	Not applicable to the site.
Focus area 6: Housing	
Direction 6.1: Residential Zones	<p>The objectives of Direction 6.1 is to:</p> <ul style="list-style-type: none"> encourage a variety and choice of housing types to provide for existing and future housing needs make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services minimise the impact of residential development on the environment and resource lands. <p>Despite residential development being permitted within the B4 Mixed Use zone, the primary objective of the Planning Proposal is to facilitate a commercial development and associated employment generating floor space. The proposed land uses are permitted with consent in the B4 Mixed Use zone and will contribute to achieving the employment target of an additional 16,500 jobs established by the 2036 Plan.</p>
Direction 6.2: Caravan Parks and Manufactured Home Estates	Not applicable to the site.
Focus area 7: Industry and Employment	
Direction 7.1: Business and Industrial Zones	<p>The objective of Direction 7.1 is to:</p> <ul style="list-style-type: none"> encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified centres, <p>The proposal is consistent with this direction as it retains the B4 zoning of the Site and will facilitate a significant uplift in commercial and employment generating use floor space that could provide between 730 to 1,154 new jobs at the Site.</p> <p>The Site is located between and will support the North Sydney and St Leonards strategic centres which are considered identified centres under the Greater Sydney Region Plan.</p>
Direction 7.2: Reduction in non-hosted short term rental accommodation period	Not applicable to the site.
Focus area 8: Resources and Energy	



Relevant Ministerial Direction	Consideration
Direction 8.1: Mining, Petroleum Production and Extractive Industries	Not applicable to the site.
Focus area 9: Primary Production	
Direction 9.1: Rural Zones	Not applicable to the site.
Direction 9.2: Rural Lands	Not applicable to the site.
Direction 9.3: Oyster Aquaculture	Not applicable to the site.

Table 12: Section 9.1 Directions by the Minister



5.3.3 Section C: Environmental, Social and Economic Impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the Proposal?

The Site is currently developed and located within a heavily urbanised, built up area with minimal natural vegetation, as addressed in Section 2.1.5. The Site is not identified within any environmental planning instrument as containing critical habitat, threatened species or ecological communities.

It is therefore considered that the proposal is extremely unlikely to have any adverse biodiversity impacts.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

The Planning Proposal includes a detailed consideration of a range of relevant issues which demonstrates that it will have minimal environmental impact and is an appropriate response to the Site and its context. These issues include:

- built form and urban design
- overshadowing
- heritage
- traffic, access and car parking
- environmentally sustainable design
- wind and reflectivity
- servicing
- aviation

Built Form and Urban Design

Bulk and Scale

The 2036 Plan indicates a building height of 13 storeys for the Site. The proposal is consistent with this building height providing 13 storeys above ground level. The Site is in close proximity to existing taller buildings with heights of up to 17 storeys at 220 Pacific Highway.

As detailed in Section 2, a number of proposals have recently been approved or are under assessment that will further increase the building height of the surrounding area. These include 21 storeys above the Crown Nest Metro Station site.

These building heights are reflective of the emerging character of the area and the increased densities and heights envisaged under the 2036 Plan.



The Planning Proposal includes a proposed maximum permissible FSR of 6.02:1, which is greater than the 5.6:1 recommended under the 2036 Plan. However, this exceedance has no impact in terms of the bulk and scale of the building and is considered acceptable as:

- the proposed amendment to the NSLEP 2013 restricts above ground FSR to 5.6:1 which is consistent with the 2036 Plan. The FSR above 5.6:1 must be located below ground, as this space is subterranean it does not contribute to the overall height or scale of the proposal.
- the proposed building envelope is fully compliant with the building height, street wall height and setback controls within the 2036 Plan, ensuring the bulk and scale of the development is appropriate for the Site
- the proposal complies with the solar access requirements within the 2036 Plan, maintaining 2 hours of solar access to residential areas inside the boundary of the 2036 Plan between 9am – 3pm. This includes the properties located to the west of the Site on Sinclair Street which achieve 2 hours of solar access between 1pm – 3pm

The scale of the building is effectively broken down through design techniques including the provision of appropriate setbacks and tiering the upper levels of the building. These elements ensure that the proposal is compatible with the desired future character of the area.

A view analysis is provided in the Design Report prepared by Fitzpatrick + Partners (Appendix 4) which demonstrates that the proposed bulk and scale of the development is appropriate for the Site and that it will sit comfortably within its surroundings. Extracts of the view analysis are provided below in Figures 22 to 24.



VIEW 01 - PACIFIC HIGHWAY NORTH

Figure 22: Indicative view analysis – View 1 (Source: Fitzpatrick + Partners)



VIEW 02 - HAYBERRY STREET



VIEW 03 - PACIFIC HIGHWAY (SOUTH)



VIEW 04 - WILLOUGHBY ROAD

Figure 23: Indicative view analysis – Views 2 to 4 (Source: Fitzpatrick + Partners)



VIEW 05 - CORNER OF SHIRLEY RD & SINCLAIR ST



VIEW 06 - CORNER OF SINCLAIR & BRUCE STREETS

Figure 24: Indicative view analysis – Views 5 to 6 (Source: Fitzpatrick + Partners)

Street Wall Height

The 2036 Plan identifies a street wall height of 3 storeys for this site, which responds to the neighbouring heritage street wall height. The Planning Proposal provides a 3 storey street wall height to Pacific Highway.

The Site is adjoined to the north by a 2 storey local heritage item known as the Former North Shore Gas Co office (I0150). Due to the large floor to ceiling heights this building is equivalent to a 3 storey podium. To the south the Site is adjoined by a residential building with a 4 storey street wall height. The proposed 3 storey street wall height aims to address the existing conditions by creating an articulated podium that respects the scale and fine grain of the existing heritage listed item.

Setbacks

The 2036 Plan provides a nil (0 metre) street setback to Pacific Highway and a 6 metre rear setback. The proposal is consistent with these controls.



The proposed development responds to these controls by creating a podium and tower built to the street boundary (Pacific Highway - 0m setback). The two components are separated by a recessed floor set by the heritage street height of the Former Northshore Gas Co. creating a shadow gap between the two volumes

The podium is proposed to be built to the boundary on 3 sides except facing west where a 6 metre setback is proposed to maintain a level of privacy and amenity to the existing neighbouring properties. The tower takes a similar approach, but with a 3 metre setback to the north and south to minimise constraints of potential developments on neighbouring sites. As per the podium, a 6 metre setback is proposed to the west with terraced top floors to respond to the solar height plane controls.

Setback controls are also included within the Draft Site-Specific DCP (Appendix 11).

Overshadowing

Retaining solar access to public open space, valued streetscapes, and residential areas is a key objective of the 2036 Plan. The proposed building envelope has been carefully designed to ensure compliance to the solar access objectives and principles outlined in the 2036 Plan. These controls include:

- no additional overshadowing of nominated public open space between 10am - 3pm
- no additional overshadowing of nominated streetscapes between 11.30am - 2.30pm
- maintain at least 2 hours of solar access to residential areas inside the boundary of the plan between 9am – 3pm
- maintain at least 3 hours solar access to Heritage Conservation Areas inside the boundary of the plan for at between 9am – 3pm
- maintain solar access to residential areas outside the boundary of the plan for the whole time between 9am – 3pm

As illustrated in the below Figure the proposal complies with the above controls. In particular:

- the proposal does not overshadow any nominated area of public open space between 10am - 3pm
- the proposal does not overshadow any nominated streetscapes between 11.30am - 2.30pm
- the proposal maintains 2 hours of solar access to residential areas inside the boundary of the plan between 9am – 3pm. This includes the properties located to the west of the Site on Sinclair Street which achieve 2 hours of solar access between 1pm – 3pm
- the proposal does not overshadow any nominated Heritage Conservation Areas inside the boundary of the plan between 9am – 3pm
- the proposal does not overshadow any residential areas outside the boundary of the plan for the whole time between 9am – 3pm. In particular, the shadows cast by the proposal extend to but not beyond the boundary of the 2036 Plan at 9am. From 9am the shadows move eastward away from the boundary.



Figure 25: Shadow impacts at 9:00am, 11:00am, 1:00pm and 3:00pm (Source: Fitzpatrick + Partners)

Heritage

A detailed assessment of heritage impacts has been undertaken for the Site by NBRS + Partners (Appendix 6). The Heritage Impact Statement (HIS) has been prepared in accordance with the assessment criteria contained within the *North Sydney LEP 2013*, the *North Sydney Development Control Plan (DCP) 2013* and the New South Wales Heritage Office (now NSW Heritage Division) guidelines, *Altering Heritage Assets* and *Statements of Heritage Impact*, which is subsequently contained within the NSW Heritage Manual.



The HIS presents a number of key findings which are summarised:

- the proposed amendments to the North Sydney LEP 2013 will allow for the commercial redevelopment of the Site, which will be guided by a series of heritage principles to ensure that the resulting building is respectful of the heritage items in its vicinity.
- the Site is bounded to the north by the locally listed heritage item at 286 Pacific Highway, the Former North Shore Gas Co Building (I0150). The front façade of this heritage item comprises two storeys, of which the ground floor has been substantially altered and includes a single glazed entry at the northern end.
- the podium design of the new building is an important aspect responding to the scale of the neighbouring heritage item. The height of the podium will align with the height of this heritage item and design principles will ensure the proposal appropriately responds to the façade design of the Former North Shore Gas Co Building.
- in the wider context, the Site is located to the south of the Five Ways intersection containing four heritage items. These buildings, together with the heritage listed shops on the Pacific Highway north of the intersection, play a key role in contributing to the historic character of the area where the urban form is generally fine grain, particularly at streetscape level. The small lot sizes in this location make a substantial contribution to the character of the streetscape. While the large lot size of PP site represents a transition away from the historic character of the intersection, the HIS found that the heritage character and views along the Pacific Highway to and from the Five Ways intersection will be retained.
- the concept design supporting the Planning Proposal presents an architectural response which will address the prevailing pattern of development in this part of the Pacific Highway which comprises the articulation of the podium element of the building as multiple fine grain forms, similar to the existing smaller lots in this part of the Pacific Highway.
- the HIS states that the 13-storey height limit for the subject site will alter the immediate context of the neighbouring heritage item and those in the vicinity. Notwithstanding the HIS identifies that the proposed height and FSR will not make a substantial difference to this context as the heights of the heritage items (generally two to four storeys) have already been substantially exceeded.
- the Site is in the vicinity of the Holtermann Estate Conservation Area of which the western edge is bordered by the Pacific Highway. In response to the proximity of the Conservation Area, the massing of the proposal has been articulated to avoid overshadowing onto this area. Accordingly, the amenity of this conservation area will be retained and not affected by the increase in the height control at this development site.

Overall, the Planning Proposal is considered consistent with the heritage objectives contained within the North Sydney LEP 2013 and the heritage assessment guidelines prepared by NSW Heritage.

Traffic, Access and Car Parking

The Traffic and Parking Study (TPS) accompanying the Planning Proposal (Appendix7) considers the proposed vehicle access, servicing, car parking and bicycle parking provision and a preliminary assessment of the traffic and transport impacts associated with the redevelopment of the Site.



The TPS has assumed the proposal would contain a GFA of approximately 22,853m² and 202 car parking spaces. The findings of the TSP are summarised as follows:

- The Site is located within the 400m walking catchment of Crows Nest metro station and hence supports the aspiration of 30-minute access to employment centres such as North Sydney, Chatswood and Sydney CBD by high frequency and high-quality mass transit.
- The Site's proximity to frequent bus services along Pacific Highway / Falcon Street will encourage future employees to commute by bus.
- The Site's proximity to future cycling network and continuous footpath system will also encourage local short trips to be made by walking and cycling. Pedestrian crossing on Bruce Street at the Pacific Highway intersection is recommended.
- The provision of end of trip facility on site caters for future cycling demand of the Site and facilitate both employee and visitor's travel by bike.
- Vehicular and bicycle access to the development is proposed via Bruce Street. The access will be shared with current access to individual properties at 63-77 Sinclair Street. Traffic safety measures would be taken on internal road to mitigate potential conflicts between different vehicular movements.
- A three-level basement car park is designed that could accommodate up to 202 parking spaces, which is significantly less than the maximum standard set out in the NSDCP 2013. The proposal of restrained parking at this site would restrict private car use and minimise the impact on road network.
- The proposed development is expected to generate up to 79 additional vehicle trips during each of the peak hours based on similar office land use in Sydney with restrained parking and located in proximity to frequent public transport services. Given the good connectivity of the surrounding network, this level of increase of trips will spread out further in various directions further reducing the impacts on the surrounding road network. Hence, traffic modelling is considered not necessary at the planning proposal stage.
- The 302 additional person trips will be mainly using public transport and active transport, which is considered to be accommodated by the existing and planned services.
- On site car share spaces can be designated to densify the car share locations in the local area and further reduce business-related car trips.

Ecologically Sustainable Design

The future redevelopment of the site will seek to incorporate energy efficiency and sustainable measures to reduce its carbon footprint. A Building Services Summary Report has been prepared by NDY (Appendix 10). This report outlines the sustainability targets of the proposal which include the following:

- Green Star Design and As Built equivalency performance of 5 Star
- NABERS Office Energy 5.5. Star
- NABERS Office Water 4 Stars
- Optimisation of building orientation and shading to minimise air conditioning energy consumption.
- Photovoltaic Panels will provide on-site renewable energy
- A rainwater tank is proposed to capture rainwater for irrigation and toilet flushing reuse.



In addition to the above, the proposal seeks to facilitate greater use of public transport and sustainable modes of transport including walking and cycling through the provision of end of trip facilities. This approach will combat the use of private vehicles and contribute to a reduction in greenhouse emissions.

These matters will be addressed in more detail at future development application stage.

Wind

A Qualitative Wind Assessment has been prepared by CPP (Appendix 8) and provides an assessment of the impact of the proposal on the local wind environment in and around the development site.

Given the scale of the future development, it will have some effect on the local wind environment, however any changes are not expected to be significant from the perspective of pedestrian comfort or safety.

Wind conditions around the development are expected to be classified as acceptable for pedestrian standing or walking. Local amelioration would likely be necessary for areas intended for long term stationary or outdoor dining activities and can be appropriately addressed at detailed design stage through a future development application.

Reflectivity

A Solar Reflectivity Assessment has been prepared by CPP (Appendix 9). This report reviewed the proposal to determine the potential for sunlight to reflect off exterior cladding surfaces of the development and generate solar disability glare onto vehicular traffic using surrounding public roadway locations.

Surrounding existing buildings will provide solar blockage to many potential receiver locations surrounding the Site and most of the investigated locations were found the experience levels of glare within criteria levels. Notwithstanding, the Solar Reflectivity Assessment recommends the reflectivity coefficient of glazing to the east façade should not exceed 10% to minimize impact of glare at all locations.

The Solar Reflectivity Assessment concludes that the proposed development as currently configured, and subject to recommendations contained in this report, will not produce significant disability glare onto vehicles travelling toward the development. These issues will be further addressed through a future development application.

Servicing

The Site currently has access to potable water, wastewater, electricity, gas and telecommunications. It is acknowledged that these services will need to be upgraded to service the proposal. Notwithstanding this can be addressed at the detailed design stage.



Has the Planning Proposal Adequately Addressed Any Social and Economic Effects?

Economic Impact Assessment

An Economic Advice Report has been prepared by SGS Economics and Planning (Appendix 5) and considers the potential economic opportunities for a development of this type in this location. This advice provides an analysis of the current development pipeline, demand and opportunities for the Site.

Current development pipeline and economic prospects

The Economic Advice Report provides an analysis of the development pipeline for commercial floorspace in the St Leonards Crows Nest Area, including development completed since 2016. This analysis found in most cases the amount of commercial floorspace is expected to decrease through redevelopment. This is a result of solely commercial buildings being replaced by mixed use developments, of which only a portion is re-provided for commercial purposes. Consequently, there is a net loss of commercial floorspace per site.

As development economics generally favour the provision of residential over commercial floorspace (due to the high returns provided by residential development), continued, mixed-use redevelopments in the St Leonards-Crows Nest area are unlikely to provide the consolidated A-grade office floorspace needed to attract large corporate tenants to the area to enable it to compete with other major employment centres.

As a result, the expected decrease in the quantum of commercial floorspace represents a reduction in the employment potential of the St Leonards Crows Nest precinct, which is contrary to the 2036 Plan.

Demand

The Economic Advice Report identifies that large amounts of additional commercial and office floorspace are needed in the St Leonards-Crows Nest Strategic Centre to meet employment targets of the 2036 Plan.

The report has undertaken an analysis of floorspace projections utilising both low and high demand scenarios. This analysis found that in addition to currently planned development, between 122,154m² – 275,054m² of additional commercial (predominately office) floorspace would be required in order to achieve employment growth in line with the 2036 plan.

This gap is higher than the 119,979m² estimated to be needed in the St Leonards Plan 2036, as a result of increased employment projections and the development pipeline, which contains many mixed use developments that result in an overall decrease in the quantum of commercial office floorspace

The report therefore concludes that a commercial development of around 22,853m² GFA, as per this Planning Proposal, would contribute to meeting modelled demand, but would not flood the market to the detriment of other potential opportunity sites and developments.



The report also states that while COVID-19 is likely to dampen overall employment growth and office demand in Greater Sydney in the short and perhaps medium term, in the longer term there will continue to be a need for more office floorspace to permit economic growth. COVID-19 also creates the potential for reconfiguration of the office market towards out of CBD locations. Crows Nest and St Leonards could benefit from this trend, but modern A-grade office space is needed to leverage this opportunity.

Opportunities for the Site

The report also identifies that there are few prospects for a large commercial-only development in St Leonards and Crows Nest.

Sites with consolidated ownership, such as the subject site, provide opportunities to facilitate commercial-only development in the short-medium term. This will support the economic objectives in the St Leonards and Crows Nest 2036 Plan and the North Sydney LSPS, as well as supporting Willoughby Road as a vibrant local centre.

Crows Nest offers proximity to the CBD, high amenity and cheaper rents than other sub-markets on the North Shore and than the Sydney CBD. It is also well placed to leverage proximity to office markets in both North Sydney and St Leonards.

The subject site is located near Willoughby Road and the future Crows Nest metro station, increasing its potential level of attractiveness for businesses following redevelopment. There are also likely to be opportunities for medical premises on the subject site given its proximity to the Mater Hospital and other large medical facilities and premises, as well as accommodating local population-serving businesses seeking proximity to the local Crows Nest Centre rather than the more commercial St Leonards centre.

On the basis of the findings of the Economic Advice, it is apparent that there is demand for employment generating floor space within the St Leonards and Crows Nest. The proposal will provide approximately 22,853m² of employment generating floorspace which will contribute towards meeting demand without absorbing all forecast demand to the detriment of other potential development.

Social Impact

The proposal will have significant positive social impacts as it:

- will provide approximately 22,853m² of employment generating floor space in a suitable location in close proximity to existing and planned public transport infrastructure including the future Crows Nest Sydney Metro Station, located within 400m of the Site
- future occupants will support Crows Nest Village and associated commercial and retail businesses, ensuring their long term viability
- will provide new jobs at the Site, with additional jobs generated throughout the wider local economy
- contribute to the urban renewal of Crows Nest by providing supporting land uses and an improved streetscape with an active frontage to Pacific Highway
- streetscape upgrades, including street tree planting that will reinforce and contribute to the character of the locality
- realisation of the economic, social and place making opportunities created by the public investment in the Sydney Metro



- the Planning Proposal is accompanied by a letter that outlines the monetary contribution that Silvernight (Crows Nest) Landowner Pty Ltd may include in a letter of offer to enter into a VPA with Council.

5.3.4 Section D: State and Commonwealth interests

Is there Adequate Public Infrastructure for the Planning Proposal?

Future development on the Site will make use of existing public infrastructure and services including connections to water, sewerage, electrical and telecommunications infrastructure.

What are the views of State and Commonwealth Public Authorities Consulted in Accordance with the Gateway Determination?

The applicant has consulted with DPE and Council prior to the lodgement of this proposal. Consultation with DPE will continue once the Planning Proposal has been referred for its review and subsequent issuing of a Gateway determination. Consultation with other State and Commonwealth public authorities will also be carried out at the Gateway determination stage.

5.4 Part 4: Mapping

The Planning Proposal is accompanied by height and FSR maps, which have been prepared in accordance with the Planning Proposal guidelines and if approved will be consistent with the standard technical requirements for LEP maps:

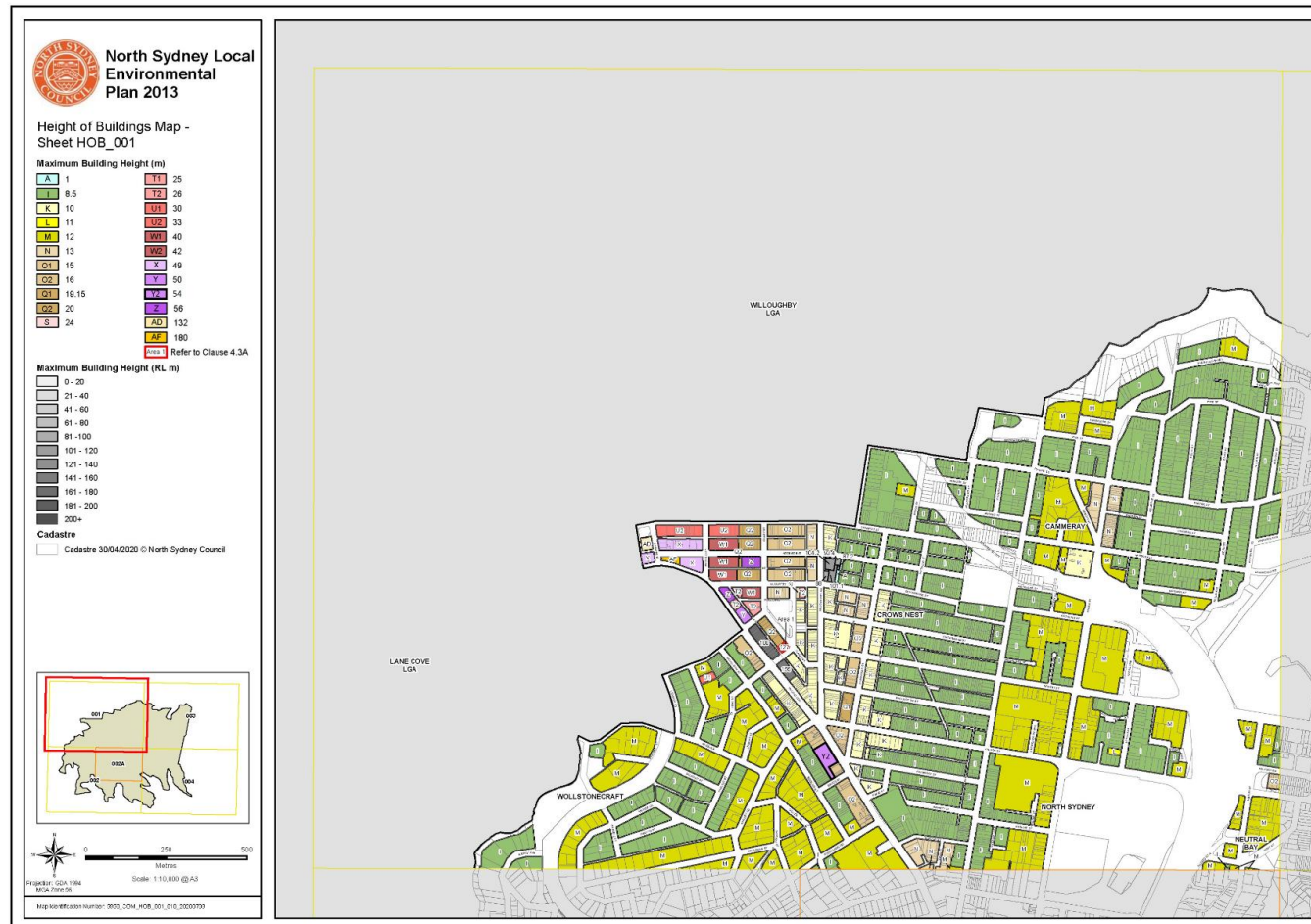


Figure 26: Proposed Height Map (Base source: NSLEP 2013)

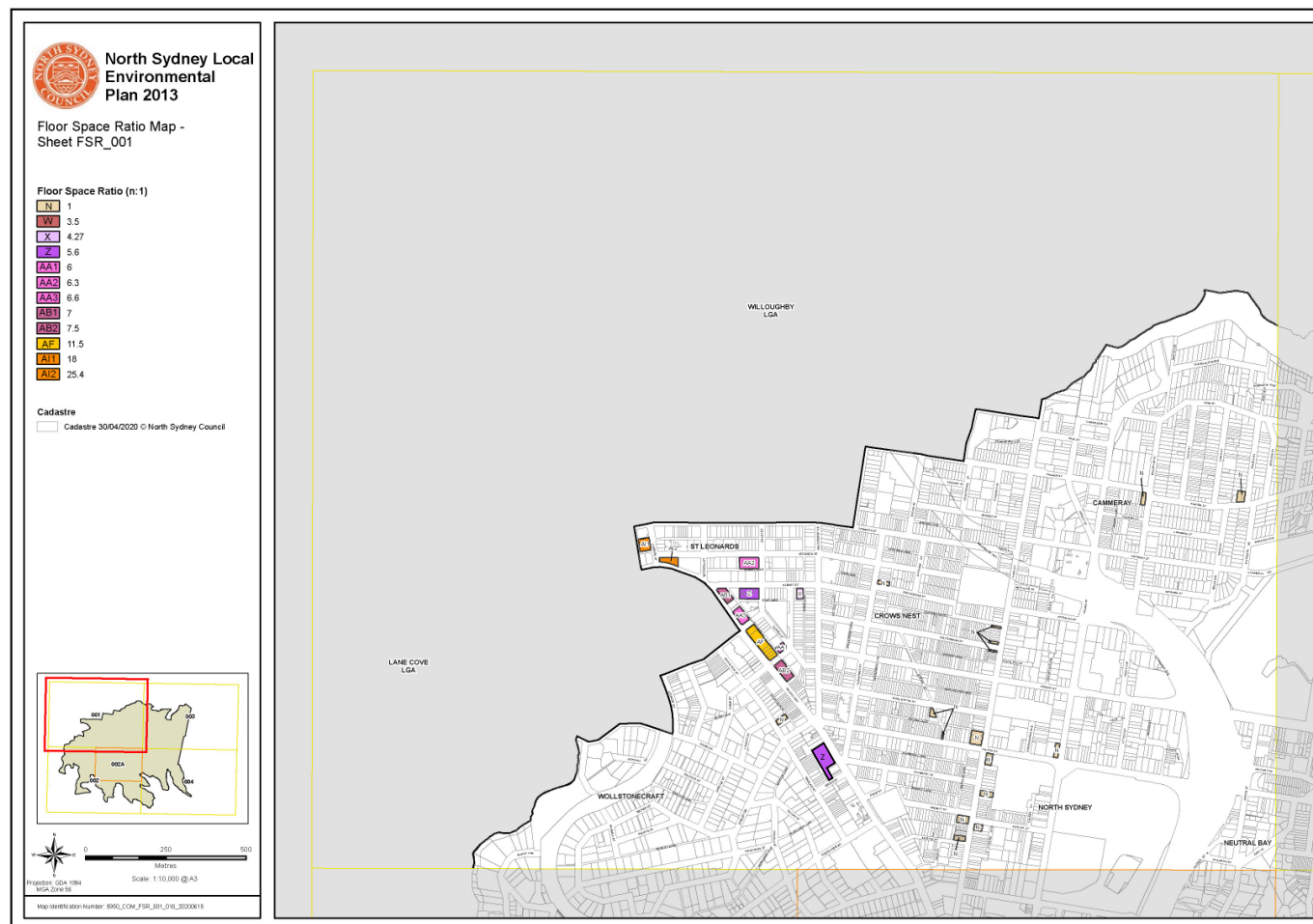


Figure 27: Proposed FSR Map (Base source: NSLEP 2013)

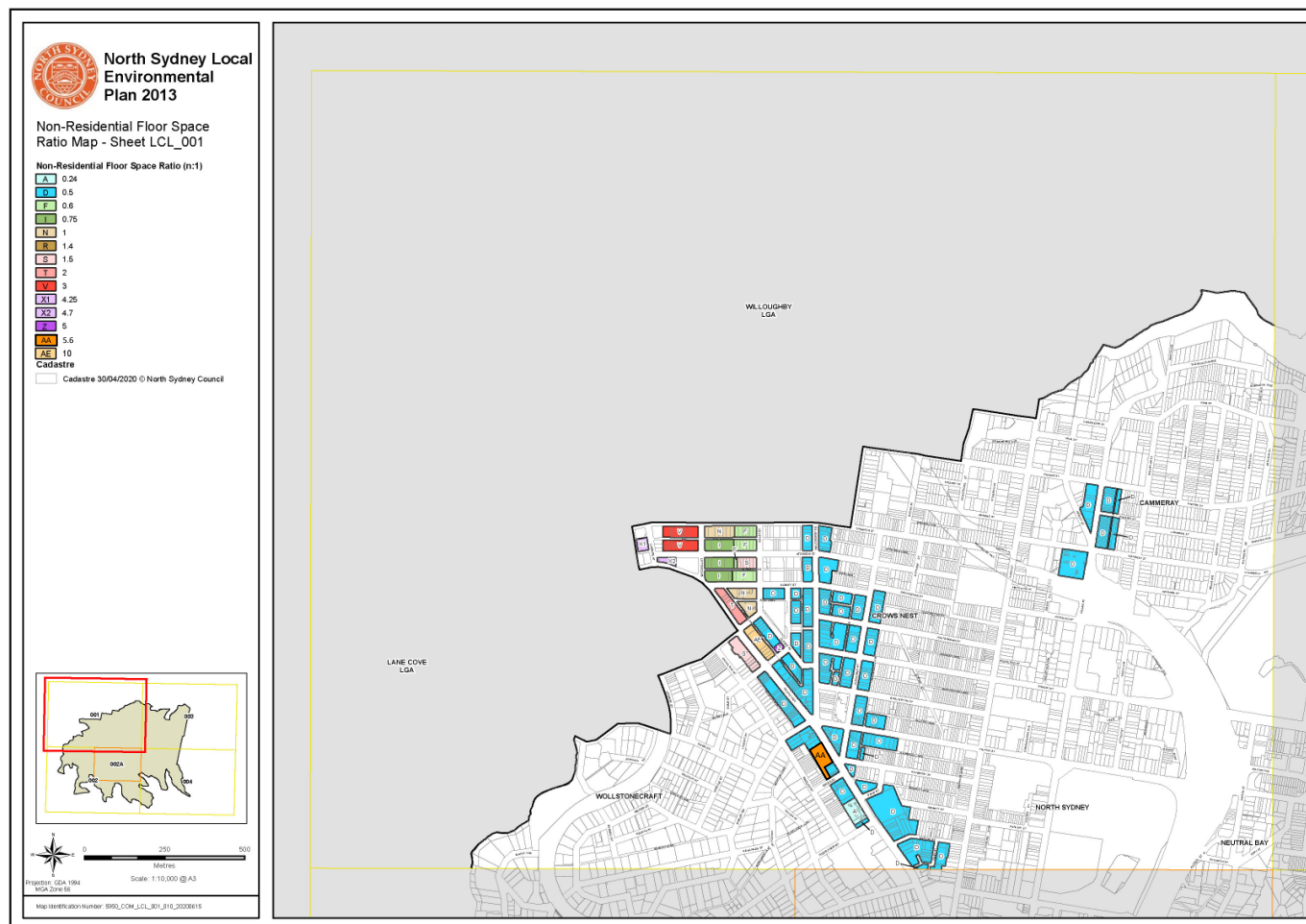


Figure 28: Proposed Non-Residential FSR Map (Base source: NSLEP 2013)



5.5 Part 5: Community consultation

Community consultation will take place following Gateway Determination. This Planning Proposal has been updated in accordance with the Gateway Determination for the purposes of public exhibition.

5.6 Part 6: Project Timeline

The proposed project timeframe for the completion of the Planning Proposal is dependent on the nature of any additional information that may be required by Council and DPE, including the need for agency and community consultation. The application proposes to work in collaboration with Council, DPE and other relevant agencies on a proposed project timeline which will include the following key milestones:

- anticipated commencement date (date of the Gateway determination)
- anticipated timeframe for the completion of any additional technical information required to support the Planning Proposal
- the timeframe for government agency consultation (pre- and post-exhibition, as required by the Gateway determination)
- commencement and completion dates for public exhibition period
- the timeframe for consideration of submissions
- the date of submission to DPE to finalise the LEP
- anticipated date the Relevant Planning Authority will make the plan (if delegated)



6 Conclusion

The Planning Proposal has been prepared in accordance with section 3.33 of the EP&A Act, as well as DPE's *A Guide to Preparing Local Environmental Plans* (2018) and *A Guide to Preparing Planning Proposals* (2018) and relevant section 9.1 Directions. The Planning Proposal is supported by technical information and investigations to justify the proposed amendments to the NSLEP 2013.

The Planning Proposal seeks to amend the current maximum building height and FSR controls that apply to the Site under the *North Sydney Local Environmental Plan 2013* (NSLEP 2013) to enable its future redevelopment as a 13 storey commercial office building, with potential to include allied health uses, and basement level car parking.

The Planning Proposal has been developed with regard to the key objectives and proposed development controls in the St Leonards and Crows Nest 2036 Plan. It retains the B4 Mixed Use zoning of the Site but seeks to amend the Site's maximum building height and floor space ratio (FSR) controls, as set out in the NSLEP 2013.

The proposal has been designed to capitalise on the Site's strategic location near to the Mater Hospital, Royal North Shore Hospital and the Crows Nest Metro Station, as well as the St Leonards and North Sydney Centres.

The proposed development will comprise solely employment generating and ancillary floor space that will strengthen the local and regional economy, contribute significantly to job targets, and help fulfil the vision for the St Leonards Crows Nest Area under relevant strategic plans, including the recently adopted St Leonards Crows Nest 2036 Plan (2036 Plan).

The current planning controls do not allow for redevelopment of the Site as envisioned under the 2036 Plan and sterilise the otherwise strong strategic potential of the Site.

The Planning Proposal demonstrates consistency with the aims and objectives set out in the NSW State Government's strategic plans including the *Greater Sydney Region Plan*, *North District Plan* and the *St Leonards and Crows Nest 2036 Plan*

The Planning Proposal also demonstrates consistency with the goals and objectives set out in the following strategic plans and reports that have been prepared and endorsed by Council:

- *North Sydney Local Strategic Planning Statement*
- *North Sydney Community Strategic Plan 2018-2028*

Consistent with DPE's guidelines, there is a convincing strategic justification for the Planning Proposal as it:

- is one of the largest sites in the St Leonards Crows Nest precinct with capacity for uplift and in the ownership of a single entity
- is strategically located in the St Leonards Health and Education Precinct, providing opportunities for strategic partnerships with nearby hospitals for health-related uses
- will provide new jobs, strengthening the St Leonards Health and Education Precinct
- the Site benefits from access to existing and planned public transport infrastructure including the future Crows Nest Sydney Metro Station, located within 400m of the Site



- multiple proposals in the locality seek to increase height and FSR controls. This demonstrates the evolving built form character and an intensification of commercial, business and residential uses
- will meet identified demand for modern A-grade commercial office space at an affordable price point.

The Planning Proposal will also deliver significant public benefits to the local community and the wider North Sydney LGA, including the following:

- will provide approximately 22,853m² of employment generating floor space in a suitable location in close proximity to existing and planned public transport infrastructure including the future Crows Nest Sydney Metro Station, located within 400m of the Site
- future occupants will support Crows Nest Village and associated commercial and retail businesses, ensuring their long term viability
- will provide new jobs at the Site, with additional jobs generated throughout the wider local economy
- contribute to the urban renewal of Crows Nest by providing supporting land uses and an improved streetscape with an active frontage to Pacific Highway
- streetscape upgrades, including street tree planting that will reinforce and contribute to the character of the locality
- realisation of the economic, social and place making opportunities created by the public investment in the Sydney Metro
- the Planning Proposal is accompanied by a letter that outlines the monetary contribution that Silvernight (Crows Nest) Landowner Pty Ltd may include in a letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council

In consideration of the above listed strategic justification and public benefits, it is considered that a compelling case is provided to Council to refer the Planning Proposal (as the Planning Proposal authority) to DPE for review and subsequent issue of a Gateway determination.

Proposed Amendment to North Sydney Development Control Plan 2013**Area Character Statements - St Leonards / Crows Nest Planning Area****3.2 CROWS NEST TOWN CENTRE****3.2.1 Significant elements****Land Use**

- P1 Predominantly mixed commercial and residential development.
- P2 Public parking facilities.
- P3 Community facilities.
- P4 Medium density residential accommodation.
- P5 Passive and active recreational spaces.

Topography

- P6 Slight falls to the east and north east from the Pacific Highway which generally follows the ridgeline.

Natural Features

- P7 Ridge line following the alignment of Pacific Highway.

Views

- P8 The following views and vistas are to be preserved and where possible enhanced:
 - (a) Vista north along Willoughby Road and Pacific Highway.
 - (b) District views from the upper levels of taller buildings.

Identity / Icons

- P9 Crows Nest five ways intersection.



Proposed Amendment to North Sydney Development Control Plan 2013

Area Character Statements - St Leonards / Crows Nest Planning Area

P10 Formalised outdoor dining on Willoughby Road, Burlington, Ernest and Holtermann Streets.

P11 Pacific Highway and Falcon Streets, major sub-arterial thoroughfares.

P12 Hume Street Park.

Subdivision

P13 Regular grid pattern interrupted by diagonal streets.

P14 Generally long narrow allotments with dual street frontages.

Streetscape

P15 In mixed use areas, buildings are built to the street and aligned with the street frontage.

P16 Continuous awnings provided for shops, cafes and other commercial uses.

P17 Wide footpaths with designated outdoor dining areas on Willoughby Road, Burlington, Ernest and Holtermann Streets.

P18 Landscaping provided along Willoughby Road to improve amenity for pedestrians and outdoor diners.

P19 Traffic calming and pedestrian crossings provided near shops and cafes on and around Willoughby Road.

P20 Irregular planting of street trees and shrubs.

Public transport

P21 Development is to take advantage of the Area's high levels of accessibility to public train and bus services.

3.2.2 Desired Future Character

Diversity of activities, facilities, opportunities and services

P1 Willoughby Road, between Falcon Street and Albany Street, and Pacific Highway, between Shirley Road and Hume Street, two storey parapet shopfront with shops at ground level, non-residential or residential above, with additional height set back above 2 storey parapet.

P2 Remainder of the Centre medium rise, mixed use development, boundary to boundary, with setbacks at laneway, public spaces and above podium - shops at ground level, non-residential/residential on first floor, residential above.

P3 Medium density residential development along Falcon Street.

P4 Provision of a large connected piece of open space connecting Willoughby Road to Oxley Street.

Accessibility and permeability

P5 Pedestrian access from Willoughby Road to through to Alexander and Hume Streets, improves access to the Council car parks.

Public spaces and facilities

P6 Ernest Place is a focus for the Town Centre.

P7 A significant urban park (Hume Street Park) is provided on land bound by Pole Lane, Oxley Street, Clarke Street and Hume Street.

P8 A public plaza with a pedestrian link to Willoughby Road is provided between Hume Street and Hume Lane adjacent to Hume Street Park.

Proposed Amendment to North Sydney Development Control Plan 2013**Area Character Statements - St Leonards / Crows Nest Planning Area****3.2.3 Desired Built Form****Subdivision**

- P1 Maintain a 10m - 15m frontage (consistent with two storey parapet shopfront scale), especially along Willoughby Road and Alexander Street.
- P2 Frontages of sites larger than this have their apparent width broken down with detailing and design features.

Setbacks

- P3 Zero setback to all street frontages
- P4 A 1.5m setback to all laneways.

Podiums

- P5 A podium of 13m (4 storey) to all streets with a setback of 3m above the podium level, with the following exceptions:
- (a) A podium of 13m (4 storey) with a weighted average setback of 4m above the podium level to:
 - (i) the northern, eastern and southern frontages of the street blocks bounded by Falcon Street, Alexander Street, Holtermann Street and Willoughby Lane, and
 - (ii) the triangular street block bounded by Falcon Street, Alexander Street and the Pacific Highway.
 - (b) A podium of 8.5m (2 storey) with a setback of 3m above the podium to:
 - (i) Willoughby Road, between Falcon Street and Albany Street, and
 - (ii) Pacific Highway, between Shirley Road and Hume Street
 - (c) A podium of 10m (3 storeys) to all laneways, with a setback of 3m above the podium.

Building design

- P6 Consistent parapet facade heights are provided along Willoughby Road and the Pacific Highway.
- P7 Off-street car parking must be provided underground except when owned and operated by Council as a public car park.

Noise

- P8 Elevations of buildings fronting Falcon Street and Pacific Highway are to be designed and incorporate design features to minimise traffic noise transmission (e.g. the use of cavity brick walls, double glazing, minimal glazing, solid core doors, concrete floors, enclosed balconies etc).

Awnings

- P9 Awnings must be provided to all street frontages, except laneways.

Car accommodation

- P10 No vehicular access is permitted to:
 - (a) Willoughby Road, between Falcon Street and Albany Street, and
 - (b) Pacific Highway, between Shirley Road and Hume Street.
- P11 Shared vehicular access to Shirley Road must be maintained to all properties between 286 and 306 Pacific Highway.

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Proposed Amendment to North Sydney Development Control Plan 2013

Area Character Statements - St Leonards / Crows Nest Planning Area

3.2.4 Hume Street Park

Plan of Management

- P1 Development is not permitted on the Hume Street Park site:
- (a) until a Plan of Management has been prepared for the site; and
 - (b) the development is consistent with the Plan of Management.

Diversity

- P2 The principal purpose is to provide a large recreational area and urban plaza with a variety of community, recreational and business purposes provided below ground level.

Form, massing and scale

- P3 Development is predominately located below ground, to ensure that the land is highly accessible for pedestrians and can be actively used as a recreational space and urban plaza.
- P4 Any development located above ground shall not exceed 1 storey in height.

3.2.5 27-57 Falcon Street

3.2.5.1 Desired Future Character, Design Objectives and Key Principles

- P1 Development is to respond to the scale and character of the existing development and desired future character of the surrounding area.
- P2 Built form, scale and massing is to transition in scale across the site from a mixed use, higher density typology in the western portion reflective of the Crows Nest Town Centre to a lower to medium density residential typology on the eastern portion.
- P3 Development should balance the provision of new residential flat buildings within a Town Centre, while maintaining a reasonable level of amenity, privacy and solar access for low density neighbouring residents on Alexander Lane, Falcon Street and in the Hayberry Conservation Area.
- P4 A mixed-use typology with medium rise residential flat buildings built to the boundary with commercial on ground level at the corner of Falcon Street and Alexander Lane. A residential typology to the eastern part of the site along Falcon Street setback from the street, with multi dwelling housing fronting Hayberry Lane to respond to the existing scale of the Hayberry Conservation Area.
- P5 Built form to transition to the existing lower scale development in the Hayberry Conservation Area.
- P6 Road widening along Alexander Lane with pedestrian amenity and road widening with a landscaped response and pedestrian amenity to Hayberry Lane.
- P7 Vehicular access from Alexander Lane with two-way access from / to Falcon Street.
- P8 A secure pedestrian through site link between Falcon Street and Hayberry Lane.

3.2.5.2 Desired Built Form

Objectives

- O1 To provide for increased opportunity for height and density in the growing Crows Nest Town Centre, close to public transport and services.
- O2 Building envelopes are to respond to the site's surrounding context which transitions in character from the Crows Nest Town Centre to the lower scale Heritage Conservation Area on Hayberry Street.
- O3 To achieve appropriate separation distances between existing and proposed buildings and ensure reasonable privacy and solar access is maintained to surrounding dwellings, mindful of the need for renewal at the site.

Proposed Amendment to North Sydney Development Control Plan 2013**Area Character Statements - St Leonards / Crows Nest Planning Area**

- O4 To ensure appropriate building lengths, a variety of building facades and a 'fine-grain' response to the public domain.

Provisions**Building Height**

- P1 Buildings must not exceed the maximum height in storeys as shown on the Site Layout Plan at Figure C-3.5 and the following provisions:

- (a) Building A - a maximum height of 6 storeys and stepping down in height to a maximum of 3 storeys at the Hayberry Lane frontage.
- (b) Building B - a maximum height of 6 storeys and stepping down in height to a maximum of 2-3 storeys at the Hayberry Lane frontage.
- (c) Building C - a maximum height of 4 storeys.
- (d) Building D - a maximum height of 3 storeys with a maximum 2 storey presentation to Hayberry Lane, with the third storey generally accommodated within the roof form.

- P2 NSLEP 2013 may allow minor exceedances of the maximum heights stipulated on the Height of Buildings Map where it relates to plant and lift overruns only.

Street and Side Setbacks

- P3 Building setbacks must, at a minimum, comply with the setbacks shown on the Site Layout Plan at Figure C-3.5 and the following provisions:

- (a) The following minimum setbacks are required to Falcon Street:
 - (i) Building A - 0m.
 - (ii) Building B - 0m.
 - (iii) Building C - 2m.
- (b) The following minimum setbacks are required to Hayberry Lane:
 - (i) Building A - 3m
 - (ii) Building B - 3m.
 - (iii) Building D - 1.5m.
- (c) The following minimum side setbacks are required to 56-63 Falcon Street:
 - (i) Building C - 4.5m.
 - (ii) Building D - 1.5m.
- (d) Building A is to be setback a minimum of 6m from the existing centreline of Alexander Lane.

3.2.5.3 Residential Apartment Building Design**Objectives**

- O1 Ensure that the residential apartment buildings consider and are consistent with the nine design quality principles within [SEPP 65 – Design Quality of Residential Apartment Development](#).

Provisions

- P1 The residential apartment building design is subject to the requirements of [SEPP 65 – Design Quality of Residential Apartment Development](#) including the *Design Quality Principles* and the *Apartment Design Guide*.

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Proposed Amendment to North Sydney Development Control Plan 2013

Area Character Statements - St Leonards / Crows Nest Planning Area

3.2.5.4 Site Coverage

Objectives

- O1 To ensure that development is balanced and in keeping with the optimum capacity of the site acknowledging its unique size and location within the Crows Nest Town Centre at the interface between business and residential zones that accommodates a mix of building typologies.
- O2 To achieve appropriate building envelopes that ensure the development responds to its surrounding context and provides appropriate open space and landscaped area for residents and visitors.

Provisions

- P1 The maximum site coverage for this site is 65%.
- P2 For the purposes of P1, site coverage is to be determined in accordance with P2 to S.1.5.5 to Part B of the DCP.

3.2.5.5 Communal Open Space

Objectives

- O1 To provide high quality communal open space at ground level and on buildings with a reasonable level of outdoor amenity without reducing privacy to neighbouring dwellings.
- O2 To provide a level of communal open space commensurate with *Apartment Design Guidelines* that is mindful of the site's unique location and building typologies.
- O3 To ensure communal open space is useable.

Provisions

- P1 Communal open space is provided in the locations shown on the Site Layout Plan at Figure C-3.5.
- P2 Communal open space can be provided on the Building B rooftop only if the space is designed such that there is no potential for overlooking into private open space and its location will not create any noise issues for surrounding dwellings.

3.2.5.6 Landscaped Area

Objectives

- O1 To ensure that landscaping is used to provide appropriate amenity for development and soften the appearance of buildings and their interface with the neighbouring dwellings and the public domain.
- O2 To provide a level of landscaped area commensurate with *Apartment Design Guidelines* that is mindful of the site's unique location and building typologies.

Provisions

- P1 The minimum landscaped area for the site is 20%.
- P2 For the purposes of P1, landscaped area is to be determined in accordance with P2 to S.1.5.6 to Part B of the DCP.

3.2.5.7 Traffic, Access and Parking

Objectives

- O1 To regulate traffic movements and reduce congestion on Falcon Street.
- O2 To ensure that vehicular access is safe for motorists and pedestrians.
- O3 To facilitate road widening along Alexander Lane.
- O4 To facilitate road widening and the provision of a shared way along Hayberry Street.
- O5 To create a safe, accessible and shared laneway network.

Proposed Amendment to North Sydney Development Control Plan 2013**Area Character Statements - St Leonards / Crows Nest Planning Area**

- O6 To provide appropriate amount of basement parking spaces for residents, visitors and staff.

Provisions

- P1 Vehicular access to the site must be from Alexander Lane and be located as far as practicable from Falcon Street.
- P2 To facilitate vehicular access from Hayberry Lane, Alexander Lane is to be widened to allow for the provision of two-way traffic between Falcon Street and Hayberry Lane.
- P3 Provide on-site parking, including visitor parking at the maximum rates stated Table C-3.1.

TABLE C-3.1: Parking Rates		
Development type		Maximum Parking Rate
Residential accommodation	Studio / 1 bedroom	0.5 space / dwelling
	2 or more bedrooms	1.0 space/dwg 0
	Visitor	0.25 space/dwg
Non-residential development		1/60sqm of non-residential GFA

- P4 On-site car parking provision significantly below maximum rates specified in Table C-3.1 will only be considered if the proposed development has good access to public transport due to the impact that unmet on-site parking demand may have on surrounding residential streets, if viable alternative transport modes are not available.



Proposed Amendment to North Sydney Development Control Plan 2013

Area Character Statements - St Leonards / Crows Nest Planning Area

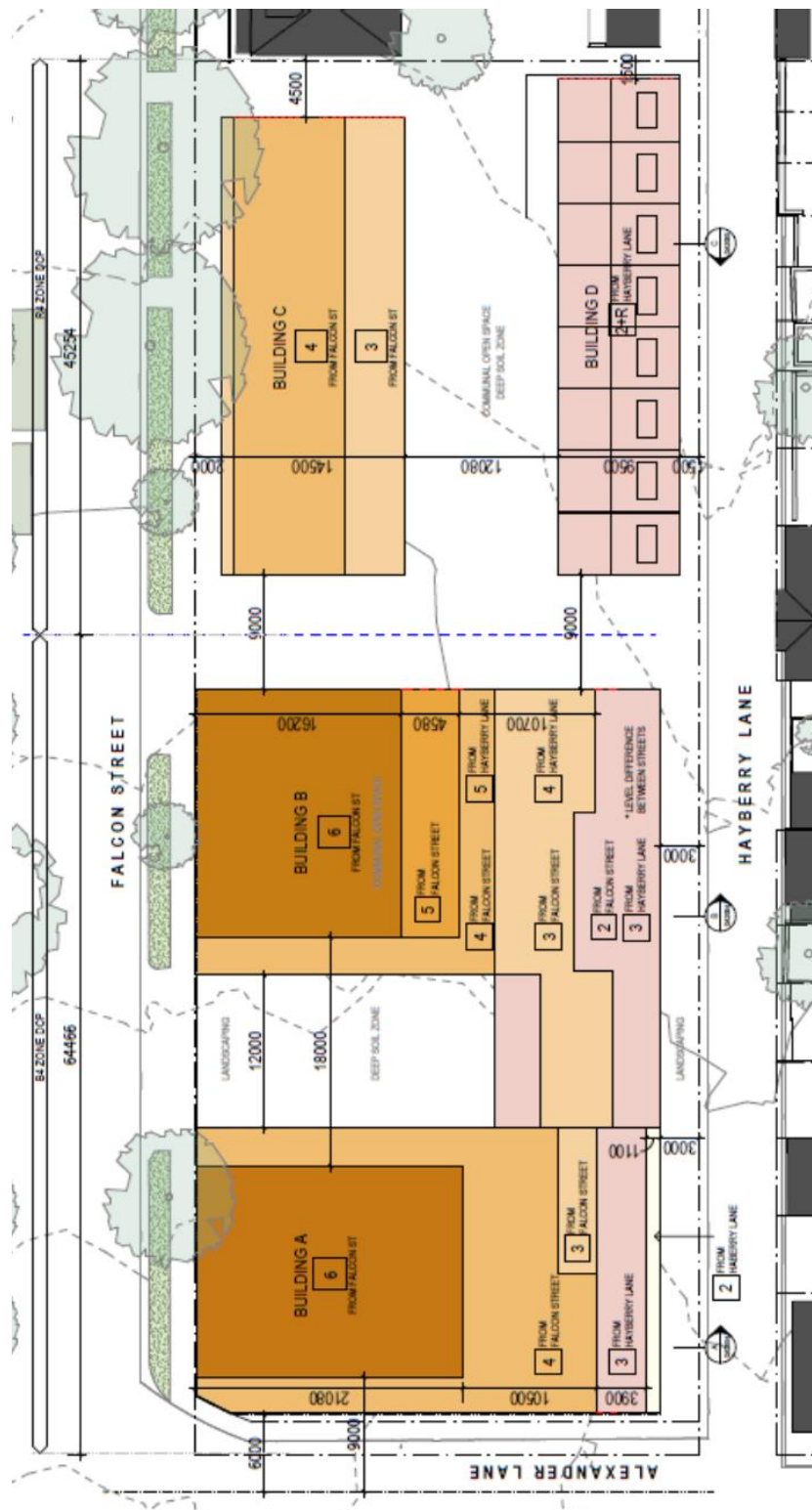


Figure C-3.5: Site Layout Plan

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Proposed Amendment to North Sydney Development Control Plan 2013**Area Character Statements - St Leonards / Crows Nest Planning Area****3.2.6 270-272 Pacific Highway, Crows Nest****3.2.6.1 Desired Future Character, Design Objectives and Key Principles**

- P5 Development is to respond to the desired future character of the surrounding area and the site as established by the *St Leonards and Crows Nest 2036 Plan*.
- P6 Development should include appropriate design measures to mitigate visual and solar impacts to residential properties to the southwest.
- P7 The built form and massing are to transition in height and scale towards the existing lower scale residential development to the west of the site.
- P8 Landscaped podiums and terraces are to be incorporated within the design and used to provide high amenity to future occupiers and employees as well as mitigating and softening impacts, particularly to the south-west.
- P9 Vehicular access is to be provided from Bruce Street.
- P10 Avoid a "wall effect" along Pacific Highway by providing appropriate design measures including setbacks and articulation along the eastern facade.

3.2.6.2 Desired Built Form**Objectives**

- O1 To provide sufficient commercial floorspace to support increased job density and economic activity within the St Leonards and Crows Nest precinct.
- O2 To implement the built form controls envisioned for the site under the *St Leonards and Crows Nest 2036 Plan*.
- O3 To provide a building with massing and articulation that responds to the site's surrounding context and retains solar access to adjoining residential properties in accordance with the *St Leonards and Crows Nest 2036 Plan*.
- O4 To ensure appropriate building articulation and treatment to the public domain.
- O5 To facilitate a degree of below ground level floor space that does not impact on the height, bulk or scale of the future building.

Provisions**Building Height**

- P11 The maximum number of storeys -for the site is 13 storeys above the ground level and 54 metres.
- P12 The building shall incorporate a 3 storey podium which relates to the adjoining heritage item (Former North Shore Gas Co office (I0150)) at 286-288 Pacific Highway, Crows Nest.
- P13 The building height should step away from the west and southwest boundary to ensure solar access is retained to the residential properties at 51-77 Sinclair Street, Wollstonecraft (for a minimum of 2 hours between 9am and 3pm) as well as provide a degree of physical separation to reduce the level of visual impact.
- P14 Any variation to the height limit as foreshadowed by clause 5.6 of the North Sydney LEP is to represent no additional visual or solar impacts to surrounding and nearby land and its occupants.

Note: Clause 5.6 of the LEP allows for exceedances of the LEP Height of Building control for architectural roof features which can include plant, lift overruns and the like.

Street and Side Setbacks

- P15 The minimum building setbacks are as shown below.
- P16 The following minimum setbacks are required for all parts of the building above the basement at the podium level:

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Proposed Amendment to North Sydney Development Control Plan 2013

Area Character Statements - St Leonards / Crows Nest Planning Area

(a) Frontage to Pacific Highway - 0m.

(b) Western boundary (rear) – 6m

(c) Northern boundary – 0m

(d) Southern boundary – 0m.

Upper-Level Setbacks

P17 The following minimum above podium level setbacks are required:

(a) Northern and southern boundaries – 3m above 3 storeys

(b) Western (rear) boundary – 8m-10m above 3 storeys.

Note: The above minimum building setbacks are illustrated in the Site Layout Plan at Figure C-3.6.

3.2.6.3 Basement Floor Area

Objectives

O1 To ensure additional gross floor area provided below ground level permitted under the site-specific LEP provision retains an appropriate level of amenity.

Provisions

P18 An atrium is to be provided on the ground floor to allow sunlight through to lower ground floor areas.

3.2.6.4 Open Space

Objectives

O1 To provide high quality open space for occupiers of the development.

O2 To ensure open space is useable.

Provisions

P19 Podium/terrace areas are to be designed as open space for use by occupiers of the building as employee break out areas. Such space may be assigned for the exclusive use of the occupier(s) of particular parts of the premises.

P20 Key areas of open space should be oriented away from the busy environment of the Pacific Highway.

P21 Open space is to be useable noting the primary user of these areas is likely to be employees on their breaks.

P22 Privacy impacts arising from the location and design of open spaces to the adjoining and nearby residential properties are to be appropriately mitigated and managed.

3.2.6.5 Landscaping

Objectives

O1 To ensure that landscaping is used to provide appropriate amenity for tenants of the development.

O2 To ensure that landscaping is used to soften the appearance of buildings and their interface with the neighbouring dwellings and the public domain.

Provisions

P23 There is no minimum landscaped area or deep soil area requirements for the site, due to the functionality of the vehicular laneway and nil side and front setbacks prescribed under the *St Leonards and Crows Nest 2036 Plan*.

P24 Podium/terrace areas are to include landscaped elements including planter boxes with appropriate dimensions to facilitate mature vegetation.

Proposed Amendment to North Sydney Development Control Plan 2013**Area Character Statements - St Leonards / Crows Nest Planning Area**

P25 Existing street tree planting along the Pacific Highway is to be retained and enhanced. A schedule of plant species is to be submitted with any development application on the site for Council's approval.

P26 Landscaping should be integrated adjacent to the private laneway to soften the appearance of the proposed building from adjoining residential properties.

3.2.6.6 Traffic, Access and Parking**Objectives**

O1 To ensure that vehicular access is safe for motorists and pedestrians.

O2 To ensure the existing private laneway (under right of carriageway X129789) is retained for shared use by both the future building on the site and the benefited residential properties.

O3 To provide an appropriate amount of basement parking spaces noting that the area is highly accessible via public transport and is within 400m of the Crows Nest Metro Station.

Provisions

P27 Vehicular access to the site must be from the private laneway which connects to Bruce Street.

P28 Vehicular access to the rear of the benefiting residential properties to the west on Sinclair Street, Wollstonecraft via the private laneway is to be retained.

P29 Bicycle parking and facilities is to be provided in accordance with Part B Section 10 of this DCP.

P30 Notwithstanding Part B, Section 10 of this DCP, a maximum provision of car parking of 1 space per 113m² is applicable. Given the site's proximity to the location of the Crows Nest Metro station, and it being a purely commercial use, a lower provision of car parking is strongly encouraged.

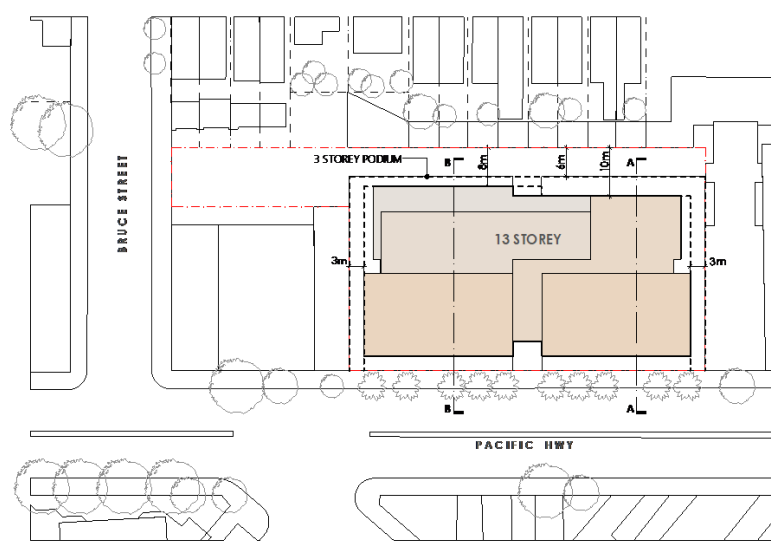


Figure C-3.6: Site Layout Plan



Proposed Amendment to North Sydney Development Control Plan 2013

Area Character Statements - St Leonards / Crows Nest Planning Area

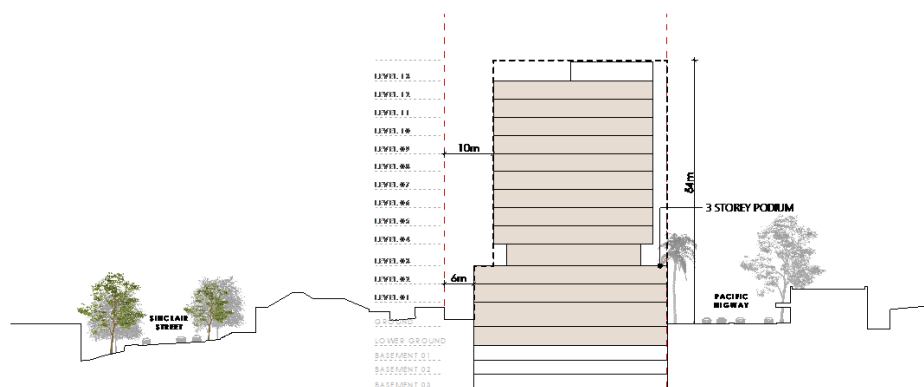


Figure C-3.7: Section A

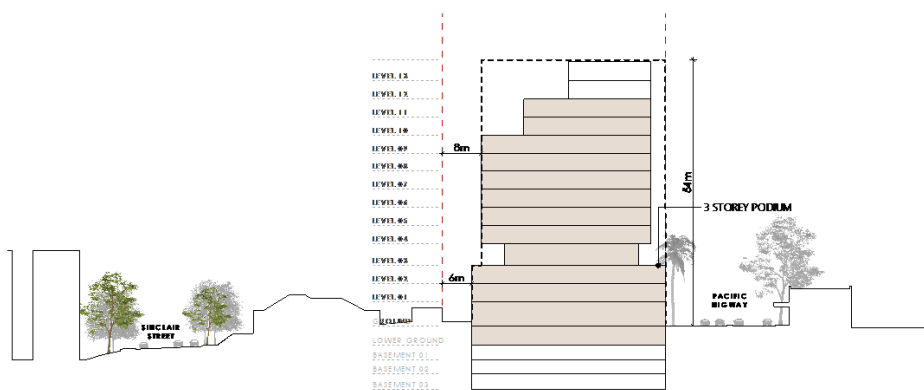


Figure C-3.8: Section B

Voluntary Planning Agreement

North Sydney Council
ABN 32 353 260 317

Silvernight (Crows Nest) Landowner Pty Ltd
ACN 634 866 069

Newcastle

Sparke Helmore Building, Level 7, 28 Honeysuckle Dr, Newcastle NSW 2300
PO Box 812, Newcastle NSW 2300
t: +61 2 4924 7200 | f: +61 2 4924 7299 | DX 7829 Newcastle | www.sparke.com.au
adelaide | brisbane | canberra | darwin | melbourne | newcastle | perth | sydney | upper hunter

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Agreement

Date

Parties

First party

Name	North Sydney Council (Council)
ABN	32 353 260 317
Contact	General Manager
Telephone	(02) 9936 8100

Second party

Name	Silvernight (Crows Nest) Landowner Pty Ltd (Developer)
ACN	634 866 069
Contact	
Telephone	

Background

- A. The Developer owns the Land at 270-272 Pacific Highway, Crows Nest.
- B. The Developer proposes to carry out the Development which will include a multi-storey commercial development with underground car parking and associated publicly accessible areas.
- C. To facilitate the Development, the Developer has lodged the Planning Proposal seeking amendments to LEP 2013.
- D. The Developer has made an offer to enter into this agreement to provide public benefits in connection with the Instrument Change and proposed future Development of the Land.

Operative part

1 Definitions

In this agreement, unless the context indicates a contrary intention:

Act means the *Environmental Planning and Assessment Act 1979* (NSW);

Additional Gross Floor Area means the sum of the additional square metres of Gross Floor Area in the Development, as approved or as subsequently modified, that exceeds 21,258 square metres;

Address means a party's address set out in the Notices clause of this agreement;

Approval means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this agreement;

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person; agency or entity and includes a registered certifier under the *Building and Development Certifiers Act 2018* (NSW).

Business Day means a day on which banks are open for general banking business in Sydney, excluding Saturdays and Sundays;

Claim means any claim, loss, liability, damage, proceeding, order, judgment or expense arising out of the operation of this agreement;

CPI means the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics;

Damages means all liabilities, losses, damages, costs and expenses, including legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties;

Dealing, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land;

Development means a proposed multi-storey commercial development on the Land as modified from time to time, including offices and basement level car parking permitted as a consequence of the Instrument Change;

Development Application has the same meaning as in the Act;

Development Consent has the same meaning as in the Act;

Final Lot means a lot created in the Development for separate residential, retail or commercial occupation and disposition and which is not:

- (a) intended to be further subdivided (including to create a strata or community lot);
- (b) a Service Lot; or
- (c) a lot of a kind or created for a purpose that is otherwise agreed by the parties;

Floor Space Ratio Map means the Floor Space Ratio Map in the LEP 2013;

GST has the same meaning as in the GST Law;

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition of or administration of the GST;

Gross Floor Area has the same meaning as in the LEP 2013 at the date of this agreement.

Height of Buildings Map means the Height of Buildings Map in the LEP 2013;

Instrument Change means an amendment to LEP 2013 that gives full effect to the Planning Proposal; and does not include any other new or amended provisions (when compared with what was in place on 8 March 2022) that would have the practical effect of preventing the realisation of a development of the height, bulk and scale anticipated by the numerical maximums sought by the Planning Proposal as at the date of gateway determination on 16 June 2022, other than the proposed reduction in the maximum building height from 59 metres to 54 metres;

Land means all land held within Lot 22 DP706776, known as 270-272 Pacific Highway, Crows Nest;

Law means:

- (a) any law applicable including legislation, ordinances, regulations, by-laws and other subordinate legislation;
- (b) any Approval, including any condition or requirement under it; and
- (c) any fees and charges payable in connection with the things referred to in paragraphs (a) and (b);

LEP 2013 means the *North Sydney Local Environmental Plan 2013*;

Monetary Contribution — means a monetary contribution payable by the Developer in accordance with clause 6.1;

Non-Residential Floor Space Ratio Map means the Non-Residential Floor Space Ratio Map in the LEP 2013;

Novation Deed means the draft deed in Annexure A;

Occupation Certificate means an occupation certificate as defined under section 6.4 of the Act, and includes an Occupation Certificate for part of a building;

Planning Proposal means PP 1/21 lodged with the Council on 19 March 2021 and amended on 31 August 2021 seeking the following amendments to LEP 2013:

- (a) an amendment to the Height of Buildings Map to allow a maximum building height of 59m on the Land;
- (b) an amendment to the Floor Space Ratio Map to allow a maximum floor space ratio for the Land of 5.6:1;
- (c) inclusion of a site specific clause allowing a maximum floor space ratio for the Land of 6.02:1, provided:
 - (i) the floor space ratio of the part of the building that is above the ground level of the building at the Pacific Highway frontage does not exceed 5.6:1; and
 - (ii) any additional gross floor area above 5.6:1 is used for non-residential purposes; and
- (d) an amendment to the Non-Residential Floor Space Ratio Map to provide a minimum non-residential floor space ratio for the Land of 5.6:1.

Register means the Torrens title register maintained under the *Real Property Act 1900* (NSW);

Regulation means the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*;

Related Body Corporate has the meaning given to that term in s 9 of the *Corporations Act 2001* (Cth);

Service Lot means a lot that is created for one or more of the following purposes:

- (a) to be dedicated or otherwise transferred to an Authority;
- (b) for any public utility undertaking (within the meaning of the *Standard Instrument (Local Environmental Plans) Order 2006* as at the date of this Agreement);

- (c) for roads, open space, recreation, environmental conservation, water cycle management or riparian land management;
- (d) for avoidance of doubt — association property within the meaning of the *Community Land Development Act 1989* that is to be used for any one or more of the purposes set out in (c) above.

2 Interpretation

In this agreement, unless the context indicates a contrary intention:

- (a) **(documents)** a reference to this agreement or another document includes any document which varies, supplements, replaces, assigns or novates this agreement or that other document;
- (b) **(references)** a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this agreement;
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this agreement;
- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns;
- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (f) **(president, CEO or managing director)** the president, CEO or managing director of a body or Authority means any person acting in that capacity;
- (g) **(requirements)** a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (h) **(including)** including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;
- (i) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning;
- (j) **(singular)** the singular includes the plural and vice-versa;
- (k) **(gender)** words importing one gender include all other genders;
- (l) **(parts)** a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation;
- (m) **(rules of construction)** neither this agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting;
- (n) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;

- (o) **(time and date)** a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Sydney, Australia, even if the obligation is to be performed elsewhere;
- (p) **(joint and several)** an agreement, representation, covenant, right or obligation:
 - (i) in favour of two or more persons is for the benefit of them jointly and severally; and
 - (ii) on the part of two or more persons binds them jointly and severally;
- (q) **(writing)** a reference to a notice, consent, request, approval or other communication under this agreement or an agreement between the parties means a written notice, request, consent, approval or agreement;
- (r) **(replacement bodies)** a reference to a body (including an institute, association or Authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions;
- (s) **(Australian currency)** a reference to dollars or \$ is to Australian currency;
- (t) **(month)** a reference to a month is a reference to a calendar month; and
- (u) **(year)** a reference to a year is a reference to twelve consecutive calendar months.

3 Planning Agreement under the Act

- (a) The parties agree that this agreement is a planning agreement within the meaning of section 7.4 of the Act.
- (b) **Schedule 1** of this agreement summarises the requirements for planning agreements under s 7.4 of the Act and the way this agreement addresses those requirements.

4 Application of this agreement

This agreement applies to:

- (a) the Land;
- (b) the Development; and
- (c) the Instrument Change.

5 Operation of this agreement

- (a) This agreement commences on and from the date it is executed by all parties.
- (b) Despite **clause 5(a)**, the obligation under clause 6 to pay the Monetary Contribution does not operate unless and until the Instrument Change is made.

6 Contributions to be made under this agreement

6.1 Monetary Contribution

- (a) Subject to clause 6.1(b) below, the **Monetary Contribution** is \$1 million plus \$1,433.70 for each square metre of Additional Gross Floor Area, indexed in accordance with increases in the CPI from the date of this agreement to the date of payment.

- (b) If the Developer does not use its best endeavours to obtain Development Consent for 22,653 square metres of Gross Floor Area (or a similar number) or seeks to reduce the approved Gross Floor Area after the grant of Development Consent (other than as a consequence of applying for a construction certificate as defined under section 6.4 of the Act if the proposed reduction is reasonably required for the purpose of constructing the Development generally in accordance with the Development Consent) the **Monetary Contribution** is \$3,000,011.50, indexed in accordance with increases in the CPI from the date of this agreement to the date of payment.
- (c) The Developer is not taken to have not used its best endeavours under clause 6.1(b) because of any of the following:
 - (i) The Developer has not appealed any determination (including any deemed refusal) of a Development Application to the Land and Environment Court.
 - (ii) The Developer has appealed a determination (including any deemed refusal) of a Development Application to the Land and Environment Court, but has discontinued the proceedings.
 - (iii) The Developer has sought to amend its Development Application to reduce the proposed Gross Floor Area in response to a criticism by the consent authority or Council officers of the Development Application.
 - (iv) The Developer has amended its Development Application to reduce the proposed Gross Floor Area in response to a criticism by the consent authority or Council officers of the Development Application.
 - (v) The Developer has lodged and pursued a new Development Application with reduced Gross Floor Area following the refusal of an earlier Development Application (that was refused, at least in part, on the basis of excessive Gross Floor Area).
 - (vi) The Developer has not sought to changes to planning controls for the site to overcome difficulties the Developer encounters in progressing its Development Application.

6.2 Payment of the Monetary Contribution

- (a) The Developer must pay to Council the Monetary Contribution in accordance with this **clause 6.1**.
- (b) The Monetary Contribution must be paid to Council prior to the issue of an Occupation Certificate for any part of the Development.
- (c) The Monetary Contribution must be paid by way of bank cheque in favour of Council or by deposit by means of electronic funds transfer into an account specified by Council.
- (d) The Monetary Contribution will be taken to have been made when:
 - (i) the bank cheque has been received; or
 - (ii) cleared funds or electronic funds have been deposited in the Council's bank account.
- (e) The Council must notify the Developer forthwith upon the Council receiving the bank cheque, cleared funds or electronic funds under clause 6.2(d).

- (f) The parties agree and acknowledge that the Monetary Contribution will be used by the Council for the embellishment and maintenance of other land for the purposes of public open space and recreation within the North Sydney Local Government Area and in the vicinity of the Development.
- (g) For the avoidance of doubt, nothing in this agreement requires the Council to:
 - (i) spend the Monetary Contribution made under this agreement by a particular date; or
 - (ii) refund to the Developer any contribution made under this agreement.

7 Application of s 7.11, s 7.12 and s 7.24 of the Act

- (a) This agreement does not exclude the application of section 7.11 of the Act to the Development.
- (b) This agreement does not exclude the application of section 7.12 of the Act to the Development.
- (c) This agreement does not exclude the application of section 7.24 of the Act to the Development.
- (d) The benefits under this agreement are not to be taken into consideration in determining a development contribution under section 7.11 of the Act.

8 Not Used

9 Registration of this agreement

9.1 Developer Interest

The Developer represents and warrants to the Council that on the date of this agreement it is the registered proprietor of the Land.

9.2 Registration of this agreement

- (a) The Developer agrees to procure the registration of this agreement under the *Real Property Act 1900* (NSW) in the relevant folios of the Register of the Land in accordance with section 7.6 of the Act.
- (b) The Developer must, at its own expense, promptly after the execution of this agreement, take all practical steps, and otherwise do anything that the Council reasonably requires to procure:
 - (i) the consent of each person who:
 - (A) has an estate or interest in the Land registered under the *Real Property Act 1900* (NSW); or
 - (B) is seized or possessed of an estate or interest in the Land,
 - (ii) the execution of any documents; and
 - (iii) the production of the relevant duplicate certificates of title,to enable the registration of this agreement in accordance with this **clause 9.2**.
- (c) The Developer must, at its own expense, take all practical steps, and otherwise do anything that the Council reasonably requires:

- (i) to procure the lodgement of this agreement with the Registrar-General as soon as reasonably practicable after this agreement comes into operation, but in any event, no later than 10 Business Days after that date; and
- (ii) to procure the registration of this agreement by the Registrar-General in the relevant folios of the Register for the Land as soon as reasonably practicable after this agreement is lodged for registration.

9.3 Removal from Register

- (a) The Council must provide a release and discharge of this agreement so that it may be removed from the folios of the Register for the Land (and any part of it) if either:
 - (i) the Council agrees, acting reasonably:
 - (A) that the Developer has provided the Monetary Contribution in accordance with this agreement;
 - (B) that the Developer is not otherwise in a material unremedied default of any of the obligations under this agreement; and
 - (C) either:
 - 22,653 square metres of Gross Floor Area has been developed on the Land and the Development is complete; or
 - less than 22,653 square metres of Gross Floor Area has been developed on the Land, but the development of Additional Gross Floor Area is not practicable,

(and such agreement is not to be unreasonably withheld); or
 - (ii) this agreement is terminated in accordance with clause 14.
- (b) If the Developer is not in a material unremedied default of any of the obligations under this agreement, the parties agree to do all things reasonably required by the other party to promptly release and discharge this agreement and remove any notation relating to this agreement from the title to the Land with respect to any Final Lot or a Service Lot that is the subject of an Occupation Certificate.

9.4 Caveat

- (a) The Developer acknowledges and agrees that:
 - (i) when this agreement is executed, the Council is deemed to have acquired and the Developer is deemed to have granted, an equitable estate and interest in the Land for the purposes of section 74F(1) of the *Real Property Act 1900* (NSW) and consequently the Council will have a sufficient interest in the Land in respect of which to lodge a caveat over the Land notifying that interest;
 - (ii) it will not object to the Council lodging a caveat in the relevant folios of the Register for the Land nor will it seek to remove any caveat lodged by the Council provided the caveat does not prevent registration of any dealing or plan other than a transfer.
- (b) The Council must, at the Developer's cost, register a withdrawal of any caveat in respect of the Land within five (5) Business Days after the Developer complies with **clause 9.2** and must not lodge any other caveats on the titles to any of the Land.

10 Review of this agreement

- (a) This agreement may be reviewed or modified by agreement between the parties using their best endeavours and acting in good faith.
- (b) No modification or review of this agreement will be of any force or effect unless it is in writing and signed by the parties to this agreement.
- (c) A party is not in breach of this agreement if it does not agree to an amendment to this agreement requested by a party in, or as a consequence of, a review.

11 Dispute Resolution

11.1 Reference to Dispute

- (a) If a dispute arises between the parties in relation to this agreement, the parties must not commence any court proceedings relating to the dispute unless the parties have complied with this clause, except where a party seeks urgent interlocutory relief.
- (b) Clause 11.1(a) (and the balance of this clause 11) does not affect the Developer's ability to commence and/or conduct any class 1 proceedings (as set out in section 17 of the *Land and Environment Court Act 1979*) and, in doing so, rely on this agreement as a matter for consideration under section 4.15(1)(a)(iia) of the Act, provided that the validity or reasonableness of, or the need for this agreement is not questioned by the Developer in those proceedings.

11.2 Notice of Dispute

The party wishing to commence the dispute resolution process must give written notice (**Notice of Dispute**) to the other parties of:

- (a) The nature of the dispute,
- (b) The alleged basis of the dispute, and
- (c) The position which the party issuing the Notice of Dispute believes is correct.

11.3 Representatives of Parties to Meet

- (a) The representatives of the parties must promptly (and in any event within 14 business days of the Notice of Dispute) meet in good faith to attempt to resolve the notified dispute.
- (b) The parties may, without limitation:
 - (i) resolve the dispute during the course of that meeting,
 - (ii) agree that further material or expert determination in accordance with **clause 11.6** about a particular issue or consideration is needed to effectively resolve the dispute (in which event the parties will, in good faith, agree to a timetable for resolution); or
 - (iii) agree that the parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

11.4 Further Notice if Not Settled

If the dispute is not resolved within 14 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the

dispute (Determination Notice) by mediation under **clause 11.5** or by expert determination under **clause 11.6**.

11.5 Mediation

If a party gives a Determination Notice calling for the dispute to be mediated:

- (a) The parties must agree to the terms of reference of the mediation within 15 Business Days of the receipt of the Determination Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply;
- (b) The mediator will be agreed between the parties, or failing agreement within 15 Business Days of receipt of the Determination Notice, either Party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (c) The mediator appointed pursuant to this clause 11.5 must:
 - (i) have reasonable qualifications and practical experience in the area of the dispute; and
 - (ii) have no interest or duty which conflicts or may conflict with his or her function as a mediator he or she being required to fully disclose any such interest or duty before his or her appointment;
- (d) The mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties;
- (e) The parties must within 15 Business Days of receipt of the Determination Notice notify each other of their representatives who will be involved in the mediation (except if a resolution of the Council is required to appoint a representative, the Council must advise of the representative within 5 Business Days of the resolution);
- (f) The parties agree to be bound by any mediation settlement and may only initiate judicial proceedings in respect of a dispute — which is the subject of a mediation settlement — for the purpose of enforcing that mediation settlement; and
- (g) In relation to costs and expenses:
 - (i) Each party must bear its own professional and expert costs incurred in connection with the mediation; and
 - (ii) The costs of the mediator must be shared equally by the parties unless the mediator determines that a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.

11.6 Expert determination

If the dispute is not resolved under **clause 11.3** or **clause 11.5**, or the parties otherwise agree that the dispute may be resolved by expert determination, the parties may refer the dispute to an expert, in which event:

- (a) The dispute must be determined by an independent expert in the relevant field:
 - (i) agreed upon and appointed jointly by the parties; and

- (ii) in the event that no agreement is reached or no appointment is made within 20 Business Days of the agreement to refer the dispute to an expert, appointed on application of a party by the then President of the Law Society of New South Wales;
- (b) The expert must be appointed in writing and the terms of the appointment must not be inconsistent with this clause;
- (c) The determination of the dispute by such an expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination;
- (d) The expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;
- (e) Each party must bear its own costs in connection with the process and the determination by the expert and must share equally the expert's fees and costs; and
- (f) Any determination made by an expert pursuant to this clause is final and binding upon the parties except unless:
 - (i) Within 20 Business Days of receiving the determination, a party gives written notice to the other party that it does not agree with the determination and commences litigation; or
 - (ii) The determination is in respect of, or relates to, termination or purported termination of this agreement by any party, in which event the expert is deemed to be giving a non-binding appraisal.

11.7 *Litigation*

If the dispute is not finally resolved in accordance with this **clause 11**, then either party is at liberty to litigate the dispute.

11.8 *No suspension of obligations*

Subject to any interlocutory order obtained under **clause 11.1**, the referral to or undertaking of a dispute resolution process under this **clause 11** does not suspend the parties' obligations under this agreement.

12 *Enforcement*

12.1 *Default*

- (a) In the event a party considers another party has failed to perform and fulfil an obligation under this agreement, it may give notice in writing to the other party (**Default Notice**) giving all particulars of the matters in respect of which it considers default has occurred and by such notice require the default to be remedied within a reasonable time not being less than 20 Business Days.
- (b) In determining a reasonable time, regard must be had to both the nature of the default and the work or other action required to remedy it and whether or not the continuation of the default constitutes a public nuisance or raises other circumstances of urgency or emergency.
- (c) If a party disputes the Default Notice it may refer the dispute to dispute resolution under **clause 11** of this agreement.

12.2 *Restriction on the issue of Certificates*

In accordance with section 6.10 of the Act and clause 48 of the Regulation, an Occupation Certificate for any part of the Development must not be issued unless the Council has confirmed in writing that the Monetary Contribution required under **clause 6.1** has been paid in full.

12.3 *General Enforcement*

- (a) Without limiting any other remedies available to the parties, this agreement may be enforced by any party in any Court of competent jurisdiction.
- (b) Nothing in this agreement prevents:
 - (i) a party from bringing proceedings in the Land and Environment Court to enforce any aspect of this agreement or any matter to which this agreement relates; and
 - (ii) the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this agreement or any matter to which this agreement relates.

13 *Assignment and Dealings*

13.1 *Assignment*

- (a) The Developer is not to settle on the sale or assignment or novation of its interest under this agreement to another party (**Incoming Party**) unless before settlement the Developer:
 - (i) procures the execution by the Incoming Party of an agreement in favour of the Council on the same terms as this agreement;
 - (ii) delivers any replacement Securities provided by the Incoming Party as required under this agreement; and
 - (iii) satisfies the Council that the Developer is not in breach of this agreement at the time of settlement of the sale, assignment or novation.
- (b) Any purported dealing in breach of this clause is of no effect.
- (c) This clause 13.1 does not apply:
 - (i) when this agreement is registered under clause 9.2; or
 - (ii) after this agreement has been removed from the register under clause 9.3.

13.2 *Transfer of Land*

- (a) The Developer (**Transferor**) may not transfer, assign or dispose of the whole or any part of its right, title or interest in the Land (present or future) or in the Development to another person (**Transferee**) unless before it sells, transfers or disposes of that right, title or interest it obtains the consent of Council.
- (b) The Council must give its consent under clause 13.2(a) if:
 - (i) the Developer has, at no cost to the Council, first procured the execution by the Transferee a deed of novation on reasonable terms (being a deed generally in terms of the Novation Deed);
 - (ii) the Developer is not in an unremedied material breach of this Agreement; and

- (iii) the Transferor agrees to pay the Council's reasonable legal costs in relation to the transfer, assignment or disposition, including any costs in connection with the execution of the deed of novation.
 - (c) The Council, on giving consent under clause 13.2(a), must enter into the deed of novation referred to in clause 13.2(b)(i).
 - (d) Clause 13.2(a) does not apply to a transfer, assignment or disposition of the Developer's interest in the Land:
 - (i) if the Developer has satisfied Council that all obligations of the Developer under this agreement have been met; or
 - (ii) if the Council has released or discharged the Developer from any obligations under this agreement in connection with the part of the Land to be transferred.
 - (e) This clause 13.2 does not apply:
 - (i) when this agreement is registered under clause 9.2; or
 - (ii) after this agreement has been removed from the register under clause 9.3.
- 13.3** *Land may be used for finance, sales contracts may be exchanged and agreements for lease entered into*
- (a) This clause 13.3 takes precedence over the other provisions in this clause 13.
 - (b) For the avoidance of doubt, once this agreement is registered under clause 9.2:
 - (i) the Developer may mortgage, charge, encumber and/or grant a security interest (however defined or described) over or in respect of all or any of the Developer's right, powers, title, benefit and/or interest in, to, under or derived from the Land, this agreement and/or any other asset or property of the Developer to or in favour of any financier or creditor of the Developer (or to or in favour of any agent or trustee of or for any such financier or creditor); and
 - (ii) the Developer may enter into any agreement to sell, transfer, option or lease which, if exercised, may result in the formation of an agreement to sell, transfer or lease any Final Lot comprised in or forming part of the Development, provided that the sale, transfer, option or lease cannot be exercised under the agreement until the Final Lot is the subject of an Occupation Certificate.

14 Termination

- (a) Either party may terminate this agreement by giving 42 days written notice to the other party if all of the following circumstances exist:
 - (i) this agreement has commenced prior to the Instrument Change being made;
 - (ii) the Instrument Change has not been made within 12 months of the date this agreement commenced;
 - (iii) the party seeking to terminate this agreement gives the other party notice of its opinion, which must have been reasonably formed, that the Instrument Change is unlikely to be made;
 - (iv) at least one calendar month has elapsed since the date of the notice referred to in clause 14(a)(iii); and

- (v) the Instrument Change has not been made; and
 - (vi) the Council is satisfied, acting reasonably, that the Instrument Change will not be made.
- (b) Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this agreement for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

15 Approvals and consents

Except as otherwise set out in this agreement, and subject to any statutory obligations, a party may give or withhold an approval or consent to be given under this agreement in that party's discretion, acting reasonably, and subject to any conditions determined by the party.

16 No fetter

16.1 Discretion

This agreement is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of the Council, including, but not limited to, any statutory power or discretion of the Council relating to the Planning Proposal, Development Application or any other application for Development Consent (all referred to in this agreement as a "**Discretion**").

16.2 No fetter

No provision of this agreement is intended to constitute any fetter on the exercise of any Discretion. If, contrary to the operation of this clause, any provision of this agreement is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the parties agree:

- (a) They will take all practical steps, including the execution of any further documents, to ensure the objective of this clause is substantially satisfied,
- (b) In the event that (a) cannot be achieved without giving rise to a fetter on the exercise of a Discretion, the relevant provision is to be severed and the remainder of this agreement has full force and effect, and
- (c) To endeavour to satisfy the common objectives of the parties in relation to the provision of this agreement which is to be held to be a fetter on the extent that is possible having regard to the relevant court judgment.

17 Notices

17.1 Notices

Any notice given under or in connection with this agreement (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be addressed as follows and delivered to the intended recipient by hand, by prepaid post or by email at the address below, or at the address last notified by the intended recipient to the sender after the date of this agreement:

- (i) to North Sydney Council: 200 Miller Street, North Sydney 2060
Email: council@northsydney.nsw.gov.au
Attention: General Manager
- (ii) to Silvernight (Crows Nest) P.O.Box 22 Concord NSW 2137
Landowner Pty Ltd: Email: sp@ascentpropertygroup.com.au
Attention: Steven Papadopoulos
- (c) is taken to be given or made:
 - (i) in the case of hand delivery, when delivered;
 - (ii) in the case of delivery by post, three Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of delivery by email, when the sender receives an email acknowledgement from the recipient's information system showing the Notice has been delivered to the email address stated above or when the Notice is first opened or read by the recipient, whichever occurs first; and
- (d) if under clause (c) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4.00 pm (local time), it is taken to have been given or made at the start of business on the next Business Day in that place.

18 General

18.1 Relationship between parties

- (a) Nothing in this agreement:
 - (i) constitutes a partnership between the parties; or
 - (ii) except as expressly provided, makes a party an agent of another party for any purpose.
- (b) A party cannot in any way or for any purpose:
 - (i) bind another party; or
 - (ii) contract in the name of another party.
- (c) If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

18.2 Time for doing acts

- (a) If the time for doing any act or thing required to be done or a notice period specified in this agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5.00 pm on the specified day, it is taken to have been done on the following Business Day.

18.3 Further assurances

Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this agreement.

18.4 Variation

A provision of this agreement can only be varied by a later written document executed by or on behalf of all parties and in accordance with the provisions of the Act.

18.5 Counterparts

This agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

18.6 Legal expenses, valuation costs and stamp duty

The Developer must pay Council's reasonable legal costs incurred with the negotiation, preparation, execution, stamping and registering of this agreement, including the costs of obtaining any legal advice in connection with this agreement.

18.7 Entire agreement

The contents of this agreement constitute the entire agreement between the parties and supersede any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of this agreement, whether orally or in writing.

18.8 Representations and warranties

The parties represent and warrant that they have the power and authority to enter into this agreement and comply with their obligations under the agreement and that entry into this agreement will not result in the breach of any law.

18.9 Severability

If a clause or part of a clause of this agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this agreement, but the rest of this agreement is not affected.

18.10 Invalidity

- (a) A word or provision must be read down if:
 - (i) this agreement is void, voidable, or unenforceable if it is not read down;
 - (ii) this agreement will not be void, voidable or unenforceable if it is read down; and
 - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
 - (i) despite the operation of **clause (a)**, the provision is void, voidable or unenforceable if it is not severed; and
 - (ii) this agreement will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this agreement has full effect even if **clause 18.10(b)** applies.

18.11 Waiver

- (a) A right or remedy created by this agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.
- (b) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

18.12 GST

- (a) Words and expressions which are not defined in this agreement but which have a defined meaning in GST Law have the same meaning as in the GST Law.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this agreement are exclusive of GST.
- (c) If GST is imposed on any supply made under or in accordance with this agreement, the Developer must pay the GST or pay to the Council an amount equal to the GST payable on or for the taxable supply, whichever is appropriate in the circumstances.

18.13 Governing law and jurisdiction

- (a) The laws applicable in New South Wales govern this agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

Schedule 1 Summary of requirements (section 7.4)

Subject and subsection of the Act	Planning Agreement
Planning instrument and/or Development Application – Section 7.4(1) The Developer has: <ul style="list-style-type: none"> Sought a change to an environmental planning instrument <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Made, or propose to make a Development Application <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Entered into an agreement with, or are otherwise associated with, a person to whom paragraph (a) or (b) applies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 	
Description of the land to which the planning Agreement applies – Section 7.4(3)(a)	See the definition of “Land” in clause 1.
Description of proposed change to environmental planning instrument or development – Section 7.4(3)(b)	See the definitions of “Development”, “Instrument Change” and “Planning Proposal” in clause 1.
The scope, timing and manner of delivery of contribution required by the Planning Agreement – Section 7.4(3)(c)	See clause 6
Applicability of section 7.11 of the Act – Section 7.4(3)(d)	The application of section 7.11 of the Act is not excluded in respect of the Development.
Applicability of section 7.12 of the Act – Section 7.4(3)(d)	The application of section 7.12 of the Act is not excluded in respect of the Development.
Applicability of section 7.24 of the Act – Section 7.4(3)(d)	The application of section 7.24 of the Act is not excluded in respect of the Development.
Mechanism for dispute resolution – Section 7.4(3)(f)	See clause 11.
Enforcement of the Planning Agreement – Section 7.4(3)(g)	See clause 9 and clause 12.
Registration of the Planning Agreement – Section 7.4(3)(g) and section 7.6	See clause 9.2
No obligation to grant consent or exercise functions – Section 7.4(9)	See clause 16.

Executed as an agreement

Executed for and on behalf of **North**)
Sydney Council by its authorised)
 delegate in accordance with a resolution)
 of the Council dated 27 September 2021:)
)
)

.....
 Witness

.....
 Authorised Delegate

.....
 Name of Witness

.....
 Name of Authorised Delegate

Executed by **Silvernight (Crows Nest)**)
Landowner Pty Ltd ACN 634 866 069 in)
 accordance with section 127 of the)
Corporations Act 2001 (Cth) by:)
)
)

.....
 Company Secretary/ Director

.....
 Director

.....
 Name of Company Secretary/ Director
 (print)

.....
 Name of Director (print)

Annexure A Draft Deed of Novation

Deed of Novation

North Sydney Council

[Insert name of existing developer]

[Insert name of new developer]

Deed of Novation

Dated

Parties

1. **North Sydney Council** of 200 Miller Street North Sydney NSW 2060 (**Minister**)
2. **[Drafting Note: insert details of Transferor] (Existing Developer)**
3. **[Drafting Note: insert details of Transferee] (New Developer)**
4. **[Drafting Note: insert details of each of the continuing developers] (Continuing Developer)**

Background

- A. The Council, the Existing Developer and the Continuing Developer(s) have entered into the Agreement.
- B. The Existing Developer intends to transfer **[Insert title reference(s)]** to the New Developer.

[If, as a result of the transfer, the Existing Developer will no longer own any of the Land:]

- C. The Existing Developer has agreed to transfer the Rights and Obligations to the New Developer.
- D. The Council has consented to the transfer of the Existing Developer's Rights and Obligations to the New Developer and those parties have agreed to enter into this Deed to give effect to their common intentions.
- E. The Continuing Developer(s) agree to enter into this Deed to give effect to the common intentions of the Council, the Existing Developer and the New Developer.

[If, as a result of the transfer, the Existing Developer will still own part of the Land:]

- C. The New Developer has agreed to accept the Rights and Obligations as a Developer under the Agreement.
- D. The Council has consented to the transfer of the relevant land to the New Developer and the inclusion of the New Developer as a Developer party to the Agreement and those parties have agreed to enter into this Deed to give effect to their common intentions.
- E. The Continuing Developer(s) agree to enter into this Deed to give effect to the common intentions of the Council, the Existing Developer and the New Developer.

Operative provisions

1 Defined meanings

Words used in this Agreement and the rules of interpretation that apply are set out and explained in the definitions and interpretation clause at the back of this Agreement.

2 Novation

[If, as a result of the transfer, the Existing Developer will no longer own any of the Land:]

2.1 With effect on and from the Effective Date:

- (a) The New Developer is substituted for the Existing Developer under the Agreement as if the New Developer had originally been a party to the Agreement instead of the Existing Developer and all references in the Agreement to the Existing Developer in any capacity must be read and construed as if they were references to the New Developer;
- (b) The New Developer is bound by, and must comply with, the provisions of the Agreement and the obligations imposed on the Existing Developer by the Agreement and the New Developer enjoys all the rights and benefits of the Existing Developer under the Agreement (even if an obligation, right or benefit, arose or accrued before the Effective Date); and
- (c) If, as a consequence of clauses 2.1(a) and (b), the Developer under the Agreement comprises more than one entity, any agreement, representation, covenant, or obligation under the Agreement on the part of the Developer binds those entities jointly and severally.

[If, as a result of the transfer, the Existing Developer will still own part of the Land:]

2.2 With effect on and from the Effective Date:

- (a) The New Developer is taken to be a party to the Agreement and the definition of Developer in clause 16.1 of the Agreement is taken to include the New Developer; and
- (b) The New Developer is bound by, and must comply with, the provisions of the Agreement and the obligations imposed on the Developer by the Agreement and the New Developer enjoys all the rights and benefits of the Developer under the Agreement (even if an obligation, right or benefit, arose or accrued before the Effective Date); and
- (c) If, as a consequence of clauses 2.2(a) and (b), the Developer under the Agreement comprises more than one entity, any agreement, representation, covenant, or obligation under the Agreement on the part of the Developer binds those entities jointly and severally.

3 Consent

[If, as a result of the transfer, the Existing Developer will no longer own any of the Land:]

3.1 With effect on and from the Effective Date, the Council:

- (a) consents to the New Developer being substituted for Existing Developer on the terms outlined at clause 2 of this Deed;

- (b) accepts the assumptions by the New Developer of all the liabilities of the Existing Developer under the Agreement instead of those liabilities being liabilities of the Existing Developer; and
- (c) agrees to be bound by the terms of the Agreement in every way as if the New Developer were a party to the Agreement instead of the Existing Developer.

[If, as a result of the transfer, the Existing Developer will still own part of the Land:]

3.2 With effect on and from the Effective Date, the Council:

- (a) consents to the New Developer becoming a Developer under the terms of the Agreement as outlined at clause 2 of this Deed;
- (b) agrees to be bound by the terms of the Agreement in every way as if the New Developer were a party to the Agreement.

4 Release and Indemnity

[If, as a result of the transfer, the Existing Developer will no longer own any of the Land:]

4.1 *Release and Discharge (the Council)*

On and from the Effective Date, the Council and the Continuing Developer(s) release the Existing Developer from all Rights and Obligations and from all Claims that they may have against the Existing Developer under or in respect of the Agreement.

4.2 *Release and Discharge (the Existing Developer)*

On and from the Effective Date, the Existing Developer releases the Council and the Continuing Developer(s) from all their obligations under the Agreement and from all Claims that it may have against the Council or Continuing Developer(s) under or in respect of the Agreement.

4.3 *Indemnity*

On and from the Effective Date, the New Developer indemnifies the Council and the Continuing Developer(s) from and against all Liabilities and Claims that either may have against the Existing Developer in respect of the Agreement.

[Omit clause 4 if, as a result of the transfer, the Existing Developer will still own part of the Land]

5 Representations and Warranties

5.1 *Power*

Both the Existing Developer, the New Developer and the Continuing Developer(s) represent and warrant to the Council and to each other that:

- (a) it is an individual or corporation validly existing under the laws of Australia;
- (b) if it is a corporation – that it has the corporate power to enter into and perform its obligations under this Deed and has taken all necessary corporate action to authorise execution, delivery and performance of this Deed;
- (c) this Deed is valid and binding upon it and is enforceable against it in accordance with its terms; and
- (d) if it is a corporation – that no application or order has been made for the winding up or liquidation of it, no action has been taken to seize or take possession of any

of its assets, there are no unsatisfied judgments against it and it is able to pay its debts as and when they come due and payable.

5.2 *Reliance by the Council*

The Existing Developer, the New Developer and the Continuing Developers each acknowledge that the Council has entered into this Deed in reliance on the representations and warranties detailed in clause 5.1.

6 General provisions

6.1 *Developer Costs*

The Existing Developer, the New Developer and the Continuing Developers must pay their own costs in relation to:

- (a) the negotiation, preparation, execution, performance, amendment or registration of, or any consent given or made; and
- (b) the performance of any action by that party in compliance with any liability arising,

under this Deed, or any agreement or document executed or effected under this Deed, unless this Deed provides otherwise.

6.2 *The Council's Costs*

The Existing Developer and the New Developer are jointly and severally responsible for Council's reasonable costs in relation to this Deed.

6.3 *GST*

If any payment made by one party to any other party under or relating to this Deed constitutes consideration for a taxable supply for the purposes of GST or any similar tax, the amount to be paid for the supply will be increased so that the net amount retained by the supplier after payment of that GST is the same as if the supplier was not liable to pay GST in respect of that supply. This provision is subject to any other agreement regarding the payment of GST on specific supplies, and includes payments for supplies relating to the breach or termination of, and indemnities arising from, this Deed.

6.4 *Duties*

- (a) The New Developer must promptly, within the initial applicable period prescribed by law, pay any duty payable in relation to the execution, performance and registration of this Deed, or any agreement or document executed or effected under this Deed.
- (b) The New Developer indemnifies Council and the Existing Developer against any loss incurred by any other party in relation to any duty specified in this provision, whether through default by the New Developer under this provision or otherwise.

6.5 *Assignment*

A party must not transfer any right or liability under this Deed without the prior consent of each other party, except where this Deed provides otherwise.

6.6 *Notices*

- (a) Any notice may be served by delivery in person or by post or transmission by facsimile to the address or number of the recipient specified in this provision or most recently notified by the recipient to the sender.

[Insert address for notices for each of the parties]

- (b) Any notice to or by a party under this Deed must be in writing and signed by either:
 - (i) the sender or, if a corporate party, an authorised officer of the sender; or
 - (ii) the party's solicitor.
- (c) Any notice is effective for the purposes of this Deed upon delivery to the recipient or production to the sender of a facsimile transmittal confirmation report before 4.00pm local time on a day in the place in or to which the written notice is delivered or sent or otherwise at 9.00am on the next day following delivery or receipt.

6.7 Governing law and jurisdiction

- (a) This Deed is governed by and construed under the law in the State of New South Wales.
- (b) Any legal action in relation to this Deed against any party or its property may be brought in any court of competent jurisdiction in the State of New South Wales.
- (c) Each party by execution of this Deed irrevocably, generally and unconditionally submits to the non-exclusive jurisdiction of any court specified in this provision in relation to both itself and its property.

6.8 Amendments

Any amendment to this Deed has no force or effect, unless effected by a document executed by the parties.

6.9 Third parties

This Deed confers rights only upon a person expressed to be a party, and not upon any other person.

6.10 Pre-contractual negotiation

This Deed:

- (a) expresses and incorporates the entire agreement between the parties in relation to its subject matter, and all the terms of that agreement; and
- (b) supersedes and excludes any prior or collateral negotiation, understanding, communication or agreement by or between the parties in relation to that subject matter or any term of that agreement.

6.11 Further assurance

Each party must execute any document and perform any action necessary to give full effect to this Deed, whether before or after performance of this Deed.

6.12 Continuing performance

- (a) The provisions of this Deed do not merge with any action performed or document executed by any party for the purposes of performance of this Deed.

- (b) Any representation in this Deed survives the execution of any document for the purposes of, and continues after, performance of this Deed.
- (c) Any indemnity agreed by any party under this Deed:
 - (i) constitutes a liability of that party separate and independent from any other liability of that party under this Deed or any other agreement; and
 - (ii) survives and continues after performance of this Deed.

6.13 *Waivers*

Any failure by any party to exercise any right under this Deed does not operate as a waiver and the single or partial exercise of any right by that party does not preclude any other or further exercise of that or any other right by that party.

6.14 *Remedies*

The rights of a party under this Deed are cumulative and not exclusive of any rights provided by law.

6.15 *Severability*

Any provision of this Deed which is invalid in any jurisdiction is invalid in that jurisdiction to that extent, without invalidating or affecting the remaining provisions of this Deed or the validity of that provision in any other jurisdiction.

6.16 *Party acting as trustee*

If a party enters into this Deed as trustee of a trust, that party and its successors as trustee of the trust will be liable under this Deed in its own right and as trustee of the trust. Nothing releases the party from any liability in its personal capacity. The party warrants that at the date of this Deed:

- (a) all the powers and discretions conferred by the deed establishing the trust are capable of being validly exercised by the party as trustee and have not been varied or revoked and the trust is a valid and subsisting trust;
- (b) the party is the sole trustee of the trust and has full and unfettered power under the terms of the deed establishing the trust to enter into and be bound by this Deed on behalf of the trust and that this Deed is being executed and entered into as part of the due and proper administration of the trust and for the benefit of the beneficiaries of the trust; and
- (c) no restriction on the party's right of indemnity out of or lien over the trust's assets exists or will be created or permitted to exist and that right will have priority over the right of the beneficiaries to the trust's assets.

7 Definitions and interpretation

7.1 *Definitions*

In this Deed unless the context otherwise requires:

Claims includes actions, proceedings, suits, causes of action, arbitration, verdicts and judgments either at law or in equity or arising under a statute, debts, dues, demands, claims of any nature, costs and expenses.

Agreement means the voluntary planning agreement between the Council and the Existing Developer dated [insert date], a copy of which is annexed to this Deed as Annexure A.

Deed means this Deed and includes any Annexures to this Deed.

Effective Date means the date upon which the Existing Developer provides the New Developer with an instrument, in registrable form, that (when registered) will effect the transfer of the title to the land from the Existing Developer to the New Developer.

GST means any tax, levy, charge or impost implemented under the *A New Tax System (Goods and Services Tax) Act (GST Act)* or an Act of the Parliament of the Commonwealth of Australia substantially in the form of, or which has a similar effect to, the GST Act.

Liabilities include all liabilities (whether actual, contingent or prospective), losses, damages, costs and expenses of whatever description.

Rights and Obligations means all of the rights, benefits and obligations imposed or conferred on the Existing Developer by the Agreement.

7.2 Interpretation

In this Deed unless the context otherwise requires:

- (a) clause and subclause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any other entity recognised by law and vice versa;
- (e) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (f) any reference to a party to this Deed includes its successors and permitted assigns;
- (g) any reference to any agreement or document includes that agreement or document as amended at any time;
- (h) the use of the word **includes** or **including** is not to be taken as limiting the meaning of the words preceding it;
- (i) the expression **at any time** includes reference to past, present and future time and the performance of any action from time to time;
- (j) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (k) an agreement, representation or warranty on the part of two or more persons is for the benefit of them jointly and severally;
- (l) any ambiguities in the interpretation of this Deed shall not be construed against the drafting party; and
- (m) reference to an exhibit, annexure, attachment or schedule is a reference to the corresponding exhibit, annexure, attachment or schedule in this Deed.

Executed as a deed.

[Insert relevant attestation clauses]

[Insert the executed planning agreement that is the subject of the novation as Annexure A]

Exhibition Version

ATTACHMENT 5

**Planning Proposal 1/21 to amend North Sydney Local Environmental Plan 2013
Summary of submissions received during public exhibition period
(17 August – 28 September 2022)**

The following criteria are used to analyse all submissions received, and to determine whether or not the plan would be amended:

1. The Planning Proposal to amend North Sydney Local Environmental Plan 2013 **would be** amended if issues raised in the submission:
 - a provided additional information of relevance.
 - b indicated or clarified a change in government legislation, Council's commitment or management policy.
 - c proposed strategies that would better achieve or assist with Council's objectives.
 - d was an alternate viewpoint received on the topic and is considered a better option than that proposed in the Planning Proposal or;
 - e indicated omissions, inaccuracies or a lack of clarity.
2. The Planning Proposal to amend North Sydney Local Environmental Plan 2013 **would not be** amended if the issues raised in the submission:
 - a addressed issues beyond the scope of the Planning Proposal.
 - b was already in the Planning Proposal or will be considered during the development of a subordinate plan (prepared by Council).
 - c offered an open statement, or no change was sought.
 - d clearly supported the Planning Proposal.
 - e was an alternate viewpoint received on the topic but the recommendation of the Planning Proposal was still considered the best option.
 - f was based on incorrect information.
 - g contributed options that are not possible (generally due to some aspect of existing legislation or government policy) or; involved details that are not appropriate or necessary for inclusion in a document aimed at providing a strategic community direction over the long term.

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
9058 086	1	Resident/Owner	Privacy	Concerned that the proposed height of the building would allow for overlooking into the private balcony	See Section 2.1.6 of Council Report Noted. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to protecting privacy of adjoining neighbours.	N/A	2E
			Solar Access	Concern that the height of building would result in the loss of natural light to balcony.	Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties.	N/A	2E
9057 319	2	Wollstonecraft Precinct Committee	Crows Nest Village/2036 Plan	<p>The proposed rezoning from the NSLEP 2013 from 16m to 54m will forever create a precedent for other developments along the Pacific Highway and inevitably contribute to extend the changed character of Crows Nest village which is on its doorstep.</p> <p>St Leonards is the predominant centre with large developments to transition in height, bulk and scale from the highway to surrounding neighbourhood areas</p> <p>The proposed rezoning will forever change the character of adjoining residential properties in Sinclair Street</p> <p>It is a poor planning outcome</p>	<p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development.</p>	N/A	2E
			Building Height/Bulk And Scale	<p>Its transition of extra height should be reduced (not increased) to meet the objectives of reducing building heights as development moves away from the Crows Nest station</p>	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				Creating a visual wall impact to those properties in Sinclair Street despite its 10 metres setback from the western property boundary	ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.		
			Solar Access	Impact adversely on properties to the south-west in Sinclair Street Wollstonecraft by way of denying all existing solar access in the early mornings,	In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically those on Sinclair Street..	N/A	2E
			Access Issues	Create access issues on the joint carriage way that have not been demonstrated as being resolved, given that all vehicular access (private cars and commercial delivery vehicles) will be required to share this carriageway into the future and during construction.	See section 2.1.2 of Council Report. The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation. It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Process/2036 Plan	The decision to have this proposal proceed to Gateway Determination was taken without regard for the NSW Premier's Priorities that amongst other things requires that the NSW government puts the community at the centre of everything they do. In that regard, the decision to finalise the 2036 Plan with increased height of 5 more storeys than provided in the draft plan was a critical error and should be reversed.	increase to traffic when compared to existing conditions. Noted.	N/A	2G
			Council Report Predates Draft VPA And Documents.	Council report predates all documentation.	Noted. The Council report is an appendix and was drafted prior to the negotiation of the VPA that was placed on public exhibition.	N/A	2C
			Documentation Quality	Justifies the Planning Proposal by making links with development such as the "Fiveways" site as similar. These applications are primarily for mixed use and largely residential proposals and not commercial uses. The argument is not justified.	Noted. See 2.1.12 of Council report.	N/A	2C
			Inconsistencies Within Traffic And Parking Study	The traffic and parking study has a number of errors which lead to drastically incorrect conclusions about how the redevelopment could support active transport and cycling in particular The study claims that there is no cycling infrastructure in the close vicinity of the development. This is incorrect. Sinclair Street contains an uphill fully separated contraflow cycleway from Bruce Street to Shirley Rd. Cyclists heading south downhill currently use the general traffic lane. This forms part of a signposted cycle route through the low traffic backstreets of North Sydney, Waverton and Wollstonecraft connecting Mount Street to St Leonards Station and links a number of key locations including Cammeraygal High School (now years 7-9 campus),	Noted. See section 2.1.2 and 2.1.12 of Council Report.	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Impacts To Cyclists	<p>North Sydney Demonstration School and Mater Hospital. It also provides a connection to the key upcoming cycleway along West St (recently approved for public consultation on 26th September 2022) that will have a large number of children using it since the Cammeraygal High School 10-12 years were moved to the old TAFE site.</p> <p>This route, and Sinclair Street in particular, provides a safe, low traffic route for nonhardcore cyclists and particularly children and women who aren't confident enough to ride along the Pacific Hwy. The study implies that a cycleway will be provided along the Pacific Hwy. While this is likely to be correct between Milsons Point and West Street, the cycleway won't continue further north due to heritage listed buildings preventing the necessary works to place a cycleway around the bus stops.</p> <p>The cycle route will divert cyclists along West Street and through the back of Crows Nest to connect to St Leonards. This means that any cyclists needing to continue north and continue to the schools, Mater hospital, Crows Nest Metro Station and other locations on the western side of the Pacific Hwy and are even more dependent on this existing, low traffic, backroad route. Contrary to the claim that the majority of the traffic is expected to turn into Bruce St from the Pacific Hwy, cars approaching the site from the north will need to access the site by driving down Sinclair Street section of the cycling route from Shirley Rd.</p> <p>Additionally, almost all the traffic leaving the site (not turning left from Bruce onto the Pacific Hwy) will need to head back down Bruce Street and then along the lower end of Sinclair Street cycling route</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Traffic And Parking	<p>(where there isn't even a separated cycleway) to use the traffic lights at Rocklands Rd. It's likely that even cars wanting to turn left into Pacific Hwy and then use the right-hand turn lane into Alexander St will also use this route because of too many lanes of traffic to get into the RH turn lane from Bruce St. All these extra vehicles will make this existing, critical, low car traffic cycling route that is currently used by less-experienced riders much more dangerous. It also provides a huge disincentive for senior Cammeraygal High School students who have had their campus moved to the old TAFE site at the north end of West St to cycle once the West Street cycleway is complete.</p> <p>Rather than make cycling more accessible as the study claims, a thorough analysis of the actual cycle routes and users surrounding the site demonstrates clearly that this development will lead to a large negative impact on cycling along the critical Sinclair Street route and generally in the area from the increase in car traffic induced by the 100+ increase in parking spaces on site</p> <p>The huge requested huge increase in parking spots is particularly galling considering that the whole reason the heights have been dramatically increased is because it's supposedly so close to the metro that cars aren't needed. Rather than an increase, there should have been a significant reduction in spots (which the proposed amendments to the DCP are proposed to rectify)</p>	<p>and access such that there will not be a significant impact resulting from cars towards cyclists using the existing cycling infrastructure. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site as well as provide safe, simple and direct access points to the site. These combined with existing DCP controls would be sufficient.</p> <p>It is considered in this instance that the impacts toward cyclists and pedestrians should not preclude the planning proposal from progressing. These matters and would be thoroughly assessed at the development application stage.</p> <p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Voluntary Planning Agreement/Public Benefit	Offer is very different to initial offer. VPA is not beneficial to Council and is a win-win for the applicant	can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions. See section 2.1.4 of Council Report. It is noted that the real estate market can fluctuate wildly within a brief period of time, thus quickly dating valuations. Notwithstanding this, the valuation at the time was made in good faith and has been the basis for initial VPA discussions. It would be inappropriate to reconsider the agreement at this time, having regard to the fact that it is entirely possible that the market could have gone backward rather than forward which under this logic may also warrant a reconsideration to reducing the contribution.	N/A	2E
			Economic Advice Report/Commercial Floor Space	It is not needed because there is insufficient evidence of enough jobs being created within the 2036 Plan of the type in this proposal to support even the minimum Gross Floor Area space of 21,258 Sqm Concerns that the report has excluded the non residential GFA approved in the Crows Nest OSD. The findings are not accurate to justify further commercial floor space. Based on the 2036 Plan and the research behind these numbers, it is apparent that there will be low demand from within the Precinct for office space of the type described by this planning proposal. Jobs will need to be imported from outside the precinct. The intention is to import jobs from other commercial office areas including the North Sydney CBD	Noted. See section 2.1.5 of Council report. The 2036 Plan has the objective of providing an additional 1,950- 3,020 jobs in Crows Nest by 2036 whilst maintaining the village atmosphere along Willoughby Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036 and encourage innovation and growth within the eastern economic corridor. The Planning Proposal would result in the creation of 22,853m2 of commercial floor space in Crows Nest and in close proximity to the	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				which itself, has recently completed a very large increase in office space as mandated by the NSW government. Consequently, workers from well outside the 2036 Plan area will travel by public transport to work in Crow's Nest. Because North Sydney CBD has sufficient commercial office space capacity there is no need for such a large development as defined in this PP1/21. Especially when considering the large amount of office space in the Crows Nest station OSD.	Crows Nest Station. The Planning Proposal is consistent with the 2036 Plan, North District Plan, and local planning priorities under the North Sydney LSPS in regard to employment		
9057 318	3	Resident/Owner	Height And Scale	<p>Concern with height and scale of the building and that the height was 8 storeys under the draft 2036 Plan but has now increased to 13 storeys. No documents provided to justify the change.</p> <p>Bulk and scale does not fit in with the character of the area. The development must be broken up so it is not so imposing when viewed from the Pacific Hwy and Shirley/River and Falcon Streets.</p>	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan</p>	N/A	2E
			Setbacks/Podium	The building should be setback further above the 3m podium similar to the 17 storey building on the Pacific Highway. The building height could be reduced as the applicant proposes to increase the FSR by using below ground space.	<p>Noted. See Section 2.1.7 of Council Report</p> <p>It is considered that the proposed building has been reasonably articulated in an attempt to reduce the overall apparent bulk and appearance of the structure. The draft Site Specific DCP includes provisions that open spaces nearby to residential properties be appropriately mitigated and managed and that landscaping is used to provide appropriate amenity and to soften the appearance of any future structure through the use of planter boxes on the</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Precedent/2036 Plan	The proposal would set a undesirable precedent for the Pacific Highway and does not respond to the fine scale buildings along the Pacific Highway and heritage conservation areas surrounding the site.	<p>podium and terraces to facilitate mature vegetation. Additionally, other measures to ensure adequate levels of privacy to surrounding properties and their adequacy would be assessed in detail at the development application stage</p> <p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development</p>	N/A	2E
9057 316	4	Resident/Owner	Height And Scale	<p>The proposed increase in the maximum Height of Buildings from 16m to 54m is completely excessive.</p> <p>The excessive height, bulk and scale of the proposed building envelope will result in significant adverse amenity impacts on the neighbouring properties in Sinclair Street including loss of solar access.</p> <p>Bulk and scale does not fit in with the character of the area. The development must be broken up so it is not so imposing when viewed from the Pacific Hwy and Shirley/River and Falcon Streets.</p>	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Sunlight Access	<p>The excessive height, bulk and scale of the proposed building envelope will result in significant adverse amenity impacts on the neighbouring properties in Sinclair Street including loss of solar access.</p> <p>This will mean that many properties in Sinclair St will not have any solar access till after 2.00pm on most days of the year.</p>	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically those on Sinclair Street.</p>	N/A	2E
			Desired Future Character/Precedent/2036 Plan	<p>The proposal fails to provide a reasonable transition to the Sinclair Street properties. This will destroy the urban character of Sinclair St.</p> <p>The amended proposed height of 54m is inconsistent with Council's desired future character for this part of the Pacific Highway and will set an unacceptable precedent for future development in this locality.</p>	<p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development</p>	N/A	2E
9057 315	5	Resident/Owner	Traffic	<p>Traffic- The report states that there will be 'negligible traffic impact' I totally disagree with this statement. Bruce Street is a small street and is accessed by residents and patients of the Mater Dialysis Unit. This will impact the traffic massively driving down Bruce Street to the Highway.</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Sunlight Access	Sunlight/shadowing increasing the building height from 16m to 54m will mean that the residents of Sinclair Street will lose the sunlight, especially because these properties have a north aspect. This is the main reason we purchased these properties because of the aspect and the light and sun from the north. By taking this away it will stop residents entertaining and using their yards. Especially in the winter, as the properties will be difficult to heat..	<p>Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p> <p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties</p>	N/A	2E
			Privacy	The new height of this proposed properties will also cause privacy issues and these backyards will be overlooked by the workers. Totally unfair for all residents	<p>See Section 2.1.6 of Council Report</p> <p>Noted. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to protecting privacy of adjoining neighbours.</p>	N/A	2E
			Wind Tunnel	The height of this building will also create a wind tunnel which we do not want.	<p>Noted. See Section 2.1.11 of Council Report. Council is satisfied that the wind assessment report provided is sufficient and that this matter can be addressed in greater detail in any future development application on the site.</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Infrastructure/Public Benefit	<p>Infrastructure – We currently have issues parking on our street now, with the increase of traffic and additional people in the area, our infrastructure will be compromised.</p> <p>local community feedback, people want more parks, ovals and green space not more high rise concrete towers!</p>	<p>Noted. See Section 2.1.4 of Council Report</p> <p>In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with Council's Local Infrastructure Contribution Plan 2020. Council will also work with relevant service providers and state agencies to address any infrastructure shortfall.</p>	N/A	2E
			2036 Plan	<p>The 2036 LEP refers to high rise development between St Leonards Station and the Crows Nest Metro.</p> <p>270 Pacific Highway is outside of this parameter and further south of the Crows Nest Metro.</p>	<p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development</p>	N/A	2E
			VPA Proposed/ Public Benefit	<p>In summary, what the community wants and needs far outweighs the \$1 - \$3 million price tag on offer to the government to proceed with this development! If this development proceeds, it will open the flood gates for further high-rise development in the area.</p>	<p>See section 2.1.4 of Council Report.</p> <p>It is noted that the real estate market can fluctuate wildly within a brief period of time, thus quickly dating valuations. Notwithstanding this, the valuation at the time was made in good faith and has been the basis for initial VPA</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				Please listen to the people in our community and what they want... and this is not it	discussions. It would be inappropriate to reconsider the agreement at this time, having regard to the fact that it is entirely possible that the market could have gone backward rather than forward which under this logic may also warrant a reconsideration to reducing the contribution.		
9057 314	6	Resident/Owner	Loss Of Privacy	I am concerned the new development will reduce the privacy of the unit due to the overlook of the proposed development site.	See Section 2.1.6 of Council Report Noted. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to protecting privacy of adjoining neighbours.	N/A	2E
			Views	I am concerned it will also effect the outlook from the property as well as the surrounding balcony due to the sheer size of the proposed development.	Noted. See Section 2.1.14 of Council Report. the proposal will have some impacts on the outlook of surrounding properties. However, this is largely a result of the increased height of the building as foreshadowed in the 2036 Plan, with the existing buildings on the site still likely having impact on view potential of surrounding properties. As such, it is not expected that the proposal will result in any significant view loss to surrounding properties. Further considerations of view loss could be addressed in greater detail in any future development application that may occur on the site.	N/A	2E
			Desired Future Character Of Crows Nest/ 2036 Plan	Being a regular visitor to the Crows Nest area I feel the proposed development does not conform with local surrounding historic sites or the current village feel of the suburb, due to the modern large-scale design that is being proposed. I feel the site could be developed in a way that is more cohesive to fit in with the current local surrounding buildings and	See Section 2.1.8 of Council Report. The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				within or near the height restrictions that are currently prescribed for the site.	merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development		
9057 313	7	Resident/Owner	Height Of Buildings	While it is reasonable for the height of the existing development to be increased, it is excessive for the increase to be 13 storeys. The 8 storeys originally submitted in the draft 2036 plan is a fair compromise based on required office space, other building heights and ability for the surrounding streets to cope with the increased traffic.	See Section 2.1.3 of Council Report. The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP. In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan	N/A	2E
			Solar Access	The dramatic increase in height will significantly impact the solar access for residents in Sinclair Street but also create a large disincentive for installing rooftop solar panels (or at least delaying them) on the existing residential buildings.	Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically Sinclair Street.	N/A	2E
			Traffic And Parking Report	The traffic and parking study has a number of errors which lead to drastically incorrect conclusions about how the redevelopment could support active transport and cycling in particular. The study claims that there is no cycling infrastructure in the close vicinity of the development. This is incorrect. Sinclair Street contains an uphill fully separated	See section 2.1.2 of Council Report. The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions	N/A	2E

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				<p>contraflow cycleway from Bruce Street to Shirley Rd. Cyclists heading south downhill currently use the general traffic lane. This forms part of a signposted cycle route through the low traffic backstreets of North Sydney, Waverton and Wollstonecraft connecting Mount Street to St Leonards Station and links a number of key locations including Cammeraygal High School (now years 7-9 campus), North Sydney Demonstration School and Mater Hospital.</p> <p>It also provides a connection to the key upcoming cycleway along West St (recently approved for public consultation on 26th September 2022) that will have a large number of children using it since the Cammeraygal High School 10-12 years were moved to the old TAFE site, via Hazelbank PI and also Ridge St. This route, and Sinclair Street in particular, provides a safe, low traffic route for non-hardcore cyclists and particularly children and women who aren't confident enough to ride along the Pacific Hwy. The study implies that a cycleway will be provided along the Pacific Hwy. While this is likely to be correct between Milsons Point and West Street, the cycleway won't continue further north due to heritage.</p>	<p>are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p>		
			Negative Impacts On Cyclists/Cycling Infrastructure	<p>It also provides a huge disincentive for senior Cammeraygal High School students who have had their campus moved to the old TAFE site at the north end of West St to cycle once the West Street cycleway is complete. Rather than make cycling more accessible as the study claims, a thorough analysis of the actual cycle routes and users surrounding the site demonstrates clearly that this development will lead to a large negative impact on cycling along the critical Sinclair Street route and generally in the area from</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars towards cyclists using the existing cycling infrastructure. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site as well as provide safe, simple and direct access points to the site. These</p>	N/A	2E

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				<p>the increase in car traffic induced by the 100+ increase in parking spaces on site.</p> <p>This load will increase once the WHT is opened because the exit onto Falcon Street will funnel an even more cars down Shirley Street and into Sinclair Street, rather than up the Pacific Hwy and directly into Bruce St.</p> <p>Additionally, almost all the traffic leaving the site (not turning left from Bruce onto the Pacific Hwy) will need to head back down Bruce Street and then along the lower end of Sinclair Street cycling route (where there is not even a separated cycleway) to use the traffic lights at Rocklands Rd. It's likely that even cars wanting to turn left into Pacific Hwy and then use the right-hand turn lane into Alexander St will also use this route because of too many lanes of traffic to get into the RH turn lane from Bruce St. All these extra vehicles will make this existing, critical, low car traffic cycling route that is currently used by less-experienced riders much more dangerous.</p>	<p>combined with existing DCP controls would be sufficient.</p> <p>It is considered in this instance that the impacts toward cyclists and pedestrians should not preclude the planning proposal from progressing. These matters and would be thoroughly assessed at the development application stage.</p>		
			Reduction Of Scale And Car Parking Spaces	<p>Based on this, I request the increase in height should be much more moderate and that rather than increase, the number of car parking spaces should be significantly reduced from its current levels given that the justification for the height increase is that the building is close to the upcoming Crows Nest Metro Station in order to maintain the safety of inexperienced and children cyclists currently (and future users) using the Sinclair Street route listed buildings preventing the necessary works to place a cycleway around the bus stops.</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Impacts To Cyclists	The cycle route will divert cyclists along West Street and through the back of Crows Nest to connect to St Leonards. This means that any cyclists needing to continue north and continue to the schools, Mater hospital, Crows Nest Metro Station and other locations on the western side of the Pacific Hwy and are even more dependent on this existing, low traffic, backroad route. Contrary to the claim that the majority of the traffic is expected to turn into Bruce St from the Pacific Hwy, cars not approaching the site by heading north up the Pacific Hwy will need to access the site by driving down Sinclair Street section of the cycling route from Shirley Rd.	<p>proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p> <p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars towards cyclists using the existing cycling infrastructure. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site as well as provide safe, simple and direct access points to the site. These combined with existing DCP controls would be sufficient.</p> <p>It is considered in this instance that the impacts toward cyclists and pedestrians should not preclude the planning proposal from progressing. These matters and would be thoroughly assessed at the development application stage.</p>	N/A	2E
9057 311	8	Resident/Owner	Traffic Impacts	I oppose the development of 270-272 Pacific Highway due to the resulting increased road traffic it will create on Rocklands Road, Sinclair Street and Bruce Street. As my apartment fronts Rocklands Road, the increase car usage will increase disruptive traffic sound within my unit.	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
					It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.		
9057 310	9	Resident/Owner	Impact To Character Of Crows Nest/ 2036 Plan	<p>The proposed plan will change the character of the surrounding Sinclair Street Wollstonecraft and the Crows Nest neighbourhood.</p> <p>The 2036 plan being finalised with 270-272 Pacific highway with 13 Storeys limit was a mistake and should be reversed back to the 8 storeys as in the draft.</p>	<p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development</p>	N/A	2E
			Solar Access	The proposed plan will deny the solar access of Sinclair Street in the early morning.	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically Sinclair Street.</p>	N/A	2E
			Insufficient Jobs Created To Support The Change/Commercial Floor Space	According to the St Leonards Crows Nest 2036 plan, there are insufficient jobs created to support the change from the original 5 storeys to 16 storeys	<p>Noted. See section 2.1.5 of Council report.</p> <p>The 2036 Plan has the objective of providing an additional 1,950- 3,020 jobs</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
					in Crows Nest by 2036 whilst maintaining the village atmosphere along Willoughby Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036 and encourage innovation and growth within the eastern economic corridor. The Planning Proposal would result in the creation of 22,853m2 of commercial floor space in Crows Nest and in close proximity to the Crows Nest Station. The Planning Proposal is consistent with the 2036 Plan, North District Plan, and local planning priorities under the North Sydney LSPS in regard to employment		
9055 891	10	Resident/Owner	Height Of Building	<p>Having lived through the planning process for the past 8 years as an owner on Sinclair Street directly affected by the proposed development, I am astonished by the lack of consideration /justification for the increase in height from 5 to 13 storeys. In 2020, when the 2036 Plan was in draft and we were invited to make submissions, the owners on Sinclair Street made a joint submission to which we received no reply. The decision made by the NSW Government to significantly increase the height from 5 to 13 storeys was made without giving consideration to local council votes, actual residents submissions, a Planning Study, Traffic Study, or any consideration for the surrounding suburbs.</p> <p>For these reasons North Sydney Council unanimously voted against PP1/21, only for the 'developers' to bypass council and go directly to the NSW Government, again, where it has been automatically referred for public exhibition. This planning proposal should not have been</p>	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				<p>able to progress unchallenged to public exhibition stage.</p> <p>The objective is to pack as much height and FSR into the site as possible. For the developers to ask for an extra 5m height over the already gross overreach of the 2036 plan, "to provide for flexibility", and to increase FSR by adding 3 levels underground, is unquestionably serving only one purpose and that is to maximise the profits for the developers / NSW Government. The fact that the Planning Proposal is seeking increased FSR via an extra 3 levels underground without proper enquiry into the proposed use of the 3 underground levels shows a lack of due consideration.</p> <p>The increase in height is unjustified over-development and the scale and size of the development will significantly degrade the present amenity enjoyed by the residents on Sinclair Street along with surrounding suburbs, impacting traffic and solar, and introducing congestion and noise not currently experienced by those who live here. The planning proposal therefore should be rejected.</p>			
			Solar Access	<p>I also challenge the consideration given to Solar impact. A 13 storey building atop the ridge on Pacific Highway will cast the suburb of Wollstonecraft below into darkness until midday. The area currently enjoys sunshine from 8am in the morning. The solar impact study attached to the planning proposal is again, inadequate.</p>	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically Sinclair Street.</p>	N/A	2E
			Traffic Impacts	<p>The traffic study commissioned by the developers is a shell of a report, it has no substance and is completely inadequate. I have great concern over the impact a</p>	<p>See section 2.1.2 of Council Report.</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				<p>proposed development of this size and scale, on this site, in this location, will have on traffic throughout North Sydney, Crows Nest, Wollstonecraft, Lane Cove and St Leonards. Pacific Highway is the main artery between St Leonards and North Sydney and the proposed site is within 50m of the cross roads of Falcon Street, Shirley Road and Alexander Street, all of which are critical for people commuting to and from the City, and across the North Shore. These streets already bottleneck in peak hour, further blockage will result in commuters diverting through the backstreets of Wollstonecraft to avoid the traffic. Rocklands Rd, Sinclair St and Shirley Rd are the only entry points to Wollstonecraft, all of which will be significantly impacted.</p>	<p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p>		
			Pedestrian Safety For Vulnerable Users	<p>The site is also within 100m of the Mater Hospital and North Sydney Girls High School, increased congestion at the corner of Rocklands Road and Pacific Hwy poses a significant risk to pedestrians.</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars towards cyclists using the existing cycling infrastructure. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site as well as provide safe, simple, and direct access points to the site. These combined with existing DCP controls would be sufficient.</p> <p>It is considered in this instance that the impacts toward cyclists and pedestrians should not preclude the planning proposal from progressing. These matters and would be thoroughly assessed at the development application stage.</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Commercial Office Space	There is no justification for a 13 storey commercial building development in this location. You only need to look at the number of vacant commercial premises in Crows Nest, let alone the CBD. When the Crows Nest Metro station is completed it will be only two stops to Barangaroo where there is currently an abundance of excess vacant office space. Most residents of the area work in the CBD. For the avoidance of doubt, we do NOT want a 13 storey residential building!	Noted. See section 2.1.5 of Council report. The 2036 Plan has the objective of providing an additional 1,950- 3,020 jobs in Crows Nest by 2036 whilst maintaining the village atmosphere along Willoughby Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036 and encourage innovation and growth within the eastern economic corridor. The Planning Proposal would result in the creation of 22,853m2 of commercial floor space in Crows Nest and in close proximity to the Crows Nest Station. The Planning Proposal is consistent with the 2036 Plan, North District Plan, and local planning priorities under the North Sydney LSPS in regard to employment	N/A	2E
			Public Benefit	There is no benefit to the community in this Planning Proposal.	Noted. See Section 2.1.4 of Council Report In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with Council's Local Infrastructure Contribution Plan 2020. Council will also work with relevant service providers and state agencies to address any infrastructure shortfall.	N/A	2E
9055 890	11	Resident/Owner	Height Of Building	Having lived through the planning process for the past 8 years as an owner on Sinclair Street directly affected by the	See Section 2.1.3 of Council Report.	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				<p>proposed development, I am astonished by the lack of consideration /justification for the increase in height from 5 to 13 storeys. In 2020, when the 2036 Plan was in draft and we were invited to make submissions, the owners on Sinclair Street made a joint submission to which we received no reply. The decision made by the NSW Government to significantly increase the height from 5 to 13 storeys was made without giving consideration to local council votes, actual residents submissions, a Planning Study, Traffic Study, or any consideration for the surrounding suburbs.</p> <p>For these reasons North Sydney Council unanimously voted against PP1/21, only for the 'developers' to bypass council and go directly to the NSW Government, again, where it has been automatically referred for public exhibition. This planning proposal should not have been able to progress unchallenged to public exhibition stage.</p> <p>The objective is to pack as much height and FSR into the site as possible. For the developers to ask for an extra 5m height over the already gross overreach of the 2036 plan, "to provide for flexibility", and to increase FSR by adding 3 levels underground, is unquestionably serving only one purpose and that is to maximise the profits for the developers / NSW Government. The fact that the Planning Proposal is seeking increased FSR via an extra 3 levels underground without proper enquiry into the proposed use of the 3 underground levels shows a lack of due consideration.</p>	<p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan</p>		
			Solar Access	<p>I also challenge the consideration given to Solar impact. A 13 storey building atop the ridge on Pacific Highway will cast the</p>	Noted. See Section 2.1.1 of Council Report.	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Traffic Impacts	<p>suburb of Wollstonecraft below into darkness until midday. The area currently enjoys sunshine from 8am in the morning. The solar impact study attached to the planning proposal is again, inadequate.</p> <p>The traffic study commissioned by the developers is a shell of a report, it has no substance and is completely inadequate. I have great concern over the impact a proposed development of this size and scale, on this site, in this location, will have on traffic throughout North Sydney, Crows Nest, Wollstonecraft, Lane Cove and St Leonards. Pacific Highway is the main artery between St Leonards and North Sydney and the proposed site is within 50m of the cross roads of Falcon Street, Shirley Road and Alexander Street, all of which are critical for people commuting to and from the City, and across the North Shore. These streets already bottleneck in peak hour, further blockage will result in commuters diverting through the backstreets of Wollstonecraft to avoid the traffic. Rocklands Rd, Sinclair St, and Shirley Rd are the only entry points to Wollstonecraft, all of which will be significantly impacted.</p>	<p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically Sinclair Street.</p> <p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p>	N/A	2E
			Pedestrian Safety For Vulnerable Users	<p>The site is also within 100m of the Mater Hospital and North Sydney Girls High School, increased congestion at the corner of Rocklands Road and Pacific Hwy poses a significant risk to pedestrians.</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars towards cyclists using the existing cycling infrastructure. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site as well as provide safe, simple and direct access points to the site. These</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Commercial Office Space	There is no justification for a 13 storey commercial building development in this location. You only need to look at the number of vacant commercial premises in Crows Nest, let alone the CBD. When the Crows Nest Metro station is completed it will be only two stops to Barangaroo where there is currently an abundance of excess vacant office space. Most residents of the area work in the CBD. For the avoidance of doubt, we do NOT want a 13 storey residential building!	<p>combined with existing DCP controls would be sufficient.</p> <p>It is considered in this instance that the impacts toward cyclists and pedestrians should not preclude the planning proposal from progressing. These matters and would be thoroughly assessed at the development application stage.</p> <p>Noted. See section 2.1.5 of Council report.</p> <p>The 2036 Plan has the objective of providing an additional 1,950- 3,020 jobs in Crows Nest by 2036 whilst maintaining the village atmosphere along Willoughby Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036 and encourage innovation and growth within the eastern economic corridor. The Planning Proposal would result in the creation of 22,853m² of commercial floor space in Crows Nest and in close proximity to the Crows Nest Station. The Planning Proposal is consistent with the 2036 Plan, North District Plan, and local planning priorities under the North Sydney LSPS in regard to employment</p>	N/A	2E
			Public Benefit	There is no benefit to the community in this Planning Proposal.	<p>Noted. See Section 2.1.4 of Council Report</p> <p>In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Overdevelopment/2036 Plan	The increase in height is unjustified over-development and the scale and size of the development will significantly degrade the present amenity enjoyed by the residents on Sinclair Street along with surrounding suburbs, impacting traffic and solar, and introducing congestion and noise not currently experienced by those who live here. The planning proposal therefore should be rejected.	<p>Council's Local Infrastructure Contribution Plan 2020. Council will also work with relevant service providers and state agencies to address any infrastructure shortfall.</p> <p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development</p>	N/A	2E
9055 826	12	Resident/Owner	Height Of Building	Having lived through the planning process for the past 8 years as an owner on Sinclair Street directly affected by the proposed development, I am astonished by the lack of consideration /justification for the increase in height from 5 to 13 storeys. In 2020, when the 2036 Plan was in draft and we were invited to make submissions, the owners on Sinclair Street made a joint submission to which we received no reply. The decision made by the NSW Government to significantly increase the height from 5 to 13 storeys was made without giving consideration to local council votes, actual residents submissions, a Planning Study, Traffic Study, or any consideration for the surrounding suburbs.	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				<p>For these reasons North Sydney Council unanimously voted against PP1/21, only for the 'developers' to bypass council and go directly to the NSW Government, again, where it has been automatically referred for public exhibition. This planning proposal should not have been able to progress unchallenged to public exhibition stage.</p> <p>The objective is to pack as much height and FSR into the site as possible. For the developers to ask for an extra 5m height over the already gross overreach of the 2036 plan, "to provide for flexibility", and to increase FSR by adding 3 levels underground, is unquestionably serving only one purpose and that is to maximise the profits for the developers / NSW Government. The fact that the Planning Proposal is seeking increased FSR via an extra 3 levels underground without proper enquiry into the proposed use of the 3 underground levels shows a lack of due consideration.</p>			
			Solar Access	<p>I also challenge the consideration given to Solar impact. A 13 storey building atop the ridge on Pacific Highway will cast the suburb of Wollstonecraft below into darkness until midday. The area currently enjoys sunshine from 8am in the morning. The solar impact study attached to the planning proposal is again, inadequate.</p>	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically Sinclair Street.</p>	N/A	2E
			Traffic Impacts	<p>The traffic study commissioned by the developers is a shell of a report, it has no substance and is completely inadequate. I have great concern over the impact a proposed development of this size and scale, on this site, in this location, will have on traffic throughout North Sydney, Crows Nest, Wollstonecraft, Lane Cove and St Leonards. Pacific Highway is the main artery between St Leonards and North</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Pedestrian Safety For Vulnerable Users	<p>Sydney and the proposed site is within 50m of the cross roads of Falcon Street, Shirley Road and Alexander Street, all of which are critical for people commuting to and from the City, and across the North Shore. These streets already bottleneck in peak hour, further blockage will result in commuters diverting through the backstreets of Wollstonecraft to avoid the traffic. Rocklands Rd, Sinclair St, and Shirley Rd are the only entry points to Wollstonecraft, all of which will be significantly impacted.</p> <p>The site is also within 100m of the Mater Hospital and North Sydney Girls High School, increased congestion at the corner of Rocklands Road and Pacific Hwy poses a significant risk to pedestrians.</p>	<p>are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p> <p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars towards cyclists using the existing cycling infrastructure. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site as well as provide safe, simple and direct access points to the site. These combined with existing DCP controls would be sufficient.</p> <p>It is considered in this instance that the impacts toward cyclists and pedestrians should not preclude the planning proposal from progressing. These matters and would be thoroughly assessed at the development application stage.</p>	N/A	2E
			Commercial Office Space	<p>There is no justification for a 13 storey commercial building development in this location. You only need to look at the number of vacant commercial premises in Crows Nest, let alone the CBD. When the Crows Nest Metro station is completed it will be only two stops to Barangaroo where there is currently an abundance of</p>	<p>Noted. See section 2.1.5 of Council report.</p> <p>The 2036 Plan has the objective of providing an additional 1,950- 3,020 jobs in Crows Nest by 2036 whilst maintaining the village atmosphere along Willoughby</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				excess vacant office space. Most residents of the area work in the CBD. For the avoidance of doubt, we do NOT want a 13 storey residential building!	Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036 and encourage innovation and growth within the eastern economic corridor. The Planning Proposal would result in the creation of 22,853m2 of commercial floor space in Crows Nest and in close proximity to the Crows Nest Station. The Planning Proposal is consistent with the 2036 Plan, North District Plan, and local planning priorities under the North Sydney LSPS in regard to employment		
			Public Benefit	There is no benefit to the community in this Planning Proposal.	Noted. See Section 2.1.4 of Council Report	N/A	2E
			Overdevelopment/2036 Plan	The increase in height is unjustified over-development and the scale and size of the development will significantly degrade the present amenity enjoyed by the residents on Sinclair Street along with surrounding suburbs, impacting traffic and solar, and introducing congestion and noise not currently experienced by those who live here. The planning proposal therefore should be rejected.	See Section 2.1.8 of Council Report. The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
					and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development		
9055 788	13	Resident/Owner	Existing Structure	The existing structure, which is proposed to be replaced with a new taller structure, already dominates our local environment and is less than 10 meters from the rear boundaries to 14 houses along Sinclair Street. Residents along our street already have to deal, on a daily basis, with issues such as privacy, solar access and congestion.	Noted	N/A	2C
			Privacy	Privacy (those in the commercial building have a direct view into our backyards);	See Section 2.1.6 of Council Report Noted. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to protecting privacy of adjoining neighbours.	N/A	2E
			Solar Access	Solar access (the existing structure blocks the sunlight almost entirely until the afternoon hours);	Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically Sinclair Street.	N/A	2E
			Traffic Generation/Congestion	Despite this, the applicant's traffic report concludes (at 6.2) that: The Traffic and Parking Study concluded that the impacts of the planning proposal are negligible and are able to be mitigated by the existing and planned infrastructure. There is nothing negligible at all about this issue. The potential impact on residents is both clear and significant. To give those	See section 2.1.2 of Council Report. The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				<p>councillors unfamiliar with the laneway a sense of what I am describing, it is a narrow laneway which is already burdened day and night with commercial traffic (i.e. large trucks and other commercial vehicles), making the free access to and from our garages difficult at the best of times. These issues will only be compounded with both a large-scale demolition/construction site and any commercial premises with even more occupants (and, therefore, traffic and parking needs). As I hope can be seen, the traffic issue alone represents a powerful basis to reject this PP though there are others well (solar, privacy, incompatibility with the built environment). Our primary position remains that this PP should be rejected</p> <p>Requirement For An Independent Traffic Report For Council's Consideration.</p> <p>However, if not rejected, the secondary position is that council cannot approve this PP in the absence of a further opinion which can shed some light on the traffic issue (and the obvious problems associated with it). Only with a further independent traffic report can councillors be satisfied that all interests have been appropriately considered. It is an approach which promotes both transparency and fairness for all parties concerned.</p>	<p>of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p> <p>Noted</p>	N/A	2G
9055 756	14	Resident/Owner	Height Of Buildings	<p>I am concerned regarding the proposed height of the development</p> <p>It would be great to see a proposal that is much more modest in height. 10 stories at a maximum a compromise between the developers wishes and closer in keeping with the 2036 plan for Crows Nest.</p>	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Desired Character Plan	Future /2036 Having recently visited the St Leonards area I was disappointed to see how the recent developments has destroyed the suburb due to the severe overshadowing, lack of open green space and increased airflow, creating air tunnels between buildings. It feels oppressed, cold, dark and a place that is not one someone would like to come and visit. I hope this would not happen to our vibrant Crows Nest. As developers continue to push the envelope of height restrictions it creates a standard that they can keep increasing heights as others developers have done previously, this is especially evident in this proposal. They in several occasions make reference to the height of the panorama building and the five way proposed development to justify their huge increase in their building height above current restrictions. Which really doesn't positively impact the local area only positively impacts the developers profits. Having read the 2036 plan it is my understanding that the Crows Nest area is to remain a village residential feel with lower height restrictions on buildings as a transition between the higher density builds in North Sydney and St Leonards	of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan See Section 2.1.8 of Council Report. The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development	N/A	2E
			Overshadowing	Having a look at the plan the developers have not considered the over shadowing in the morning of the 1 story houses on Sinclair Street and the several single dwelling houses in the surrounding area	Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Public Green Space/ Public Benefit	They haven't considered the need for increased publicly accessible open green spaces in the area.	access of a minimum 2 hours between 9am and 3pm to adjoining properties Noted. See Section 2.1.4 of Council Report In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with Council's Local Infrastructure Contribution Plan 2020. Council will also work with relevant service providers and state agencies to address any infrastructure shortfall.	N/A	2E
			Heritage	Nor have they considered trying the blend in and be cohesiveness with the look and feel of the historical Crows Nest area and the local vibe of our community	See Section 2.1.10 of Council Report. The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development Having regard to the specific architectural design and materials, it was noted that the awning height should match the heritage item to the north and should be of a design that responds to the form and materials of surrounding awnings, that the character of any future podium respond to the character of	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Vpa/Public Benefit	I also found the voluntary planning agreement monetary contribution to be a joke, for the size of the proposed development. The contribution is minuscule and nowhere near enough to make a real positive impact to any local infrastructure project or any real benefit to the local community.	<p>surrounding shopfronts, that the proposal include less glazing and more of a solid style and that any future building materials used should reflect the character of the Crows Nest area including exposed brick among other materials.</p> <p>Council is satisfied that this matter can be addressed in greater detail in any future development application and should not preclude the proposal from progressing.</p> <p>See section 2.1.4 of Council Report.</p> <p>It is noted that the real estate market can fluctuate wildly within a brief period of time, thus quickly dating valuations. Notwithstanding this, the valuation at the time was made in good faith and has been the basis for initial VPA discussions. It would be inappropriate to reconsider the agreement at this time, having regard to the fact that it is entirely possible that the market could have gone backward rather than forward which under this logic may also warrant a reconsideration to reducing the contribution.</p>	N/A	2E
9055 746	15	Resident/Owner	Light Pollution	Such a building will dramatically increase the light pollution.	See Section 2.1.9 of Council Report Noted. This will be addressed as part of the assessment of any future DA at the site..	N/A	2E
			Height Of Building	The proposed height of 59m is excessive and completely against the local residents and North Sydney Council's vision for that area of Pacific Highway.	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Commercial Floor Space	St Leonards and North Sydney already provide commercial centres.	<p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan</p> <p>Noted. See section 2.1.5 of Council report.</p> <p>The 2036 Plan has the objective of providing an additional 1,950- 3,020 jobs in Crows Nest by 2036 whilst maintaining the village atmosphere along Willoughby Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036 and encourage innovation and growth within the eastern economic corridor. The Planning Proposal would result in the creation of 22,853m2 of commercial floor space in Crows Nest and in close proximity to the Crows Nest Station. The Planning Proposal is consistent with the 2036 Plan, North District Plan, and local planning priorities under the North Sydney LSPS in regard to employment</p>	N/A	2E
			Impact On Local Amenities/ Benefit	The impact on amenities for a building of such excessive height, bulk and scale, have not been completely considered.	<p>Noted. See Section 2.1.4 of Council Report</p> <p>In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with Council's Local Infrastructure Contribution Plan 2020. Council will also</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Drainage Issues	The size and scale of the building, built on the Pacific Highway ridge line, will create drainage issues for properties to the west.	work with relevant service providers and state agencies to address any infrastructure shortfall. Noted. See Section 2.1.13 of Council Report.	N/A	2E
			Overshadowing	The development will cause shadowing and loss of solar access to neighbouring properties.	Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties.	N/A	2E
			Precedent/2036 Plan/ Impact To Crows Nest Village Feel	Increasing the maximum Height of Buildings to such an extent, will set an unacceptable precedent for future developments in Crows Nest. Such a building will negatively impact the much-treasured Crows Nest village atmosphere.	See Section 2.1.8 of Council Report. The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development	N/A	2E
9053 932	16	Resident/Owner	Overshadowing Of 258 And 250 Pacific Highway	Although the proposal notes solar compliance for the houses on the site's west, Sinclair Street, overshadowing of 258 and 250 Pacific Highway has not been considered within the proposal. The residences at these two addresses contain over 100 people.	Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties.	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Light Void Between 258 And 250 Pacific Highway Impacted	<p>Additionally, a reduced set back from the site's western boundary (laneway access from Bruce Street) will result in increased overshadowing of the residences of 258 and 250 Pacific Highway.</p> <p>The site's south boundary is 258 Pacific Highway, a narrow predominately residential apartment block There is a light void between 258 and 250 Pacific Highway to allow sunlight to the apartments on the north side of 250 Pacific Highway (also a residential apartment block) and to the residences of 258.</p> <p>This proposed 54m high development will have a huge impact on these residences to the south as the sun will be blocked for most of the day, especially in winter (blocked for 70% plus).</p>	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties.</p> <p>The concerns in relation to impacts to a void between 258 and 250 Pacific Highway that currently allows for sunlight to the apartments on the north of 250 Pacific Highway would be further investigated through detailed solar access modelling of any future development application proposal.</p>	N/A	2E
			Lack Of Parking	<p>The other concern is the proposed development whilst adding between 730 and 1154 jobs will only add another 102 parking spaces. The parking in the surrounding streets such as Bruce and Sinclair and further into Gillies are already at capacity Monday to Friday.</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
					proposal would not result in a noticeable increase to traffic when compared to existing conditions.		
9053 931	17	Resident/Owner	Height Of Building	Increasing the maximum Height of Buildings Map from 16m to 54m, would seem to be a massive increase in scale & bulk of any building on the site.	See Section 2.1.3 of Council Report	N/A	2E
			Building Height And Bulk And Scale	Increasing the minimum Non-residential Floor Space Ratio Map from 0.5:1 to 5.6:1, and then a further Site-specific clause allowing a maximum FSR of 6.02:1. Again this allows for a massive increase in scale from what is currently allowable.	See Section 2.1.3 of Council Report. The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP. In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan	N/A	2E
			210-220 Pacific Highway As An Example Of Local Building Heights	Any reference in the report to the 17 storey building at 210-220 Pacific Highway as an example of local building heights. This building was a residential redeveloped of an existing over height hotel building. A new build 17 storey building would never have been allowed here under the current planning rules.	Noted	N/A	2C
			Traffic	I believe this will have a significant impact on our building. Page 36 of Appendix 7 paragraph 5.2.4. This correctly notes that "Given the left-in left-out configuration at Bruce Street / Pacific Highway, incoming southbound traffic may turn right at Rocklands Road (the next intersection to the south) and access Bruce Street via Sinclair Street and the outgoing	See section 2.1.2 of Council Report. The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				<p>southbound traffic will also use the same route and signals at Rocklands Road to turn right to Pacific Highway.</p> <p>"It then notes that "The resultant additional traffic would be therefore less than 40 vehicles in each direction given a peak hour trip generation of 80 vehicle trips (assuming some traffic does not use Pacific Highway, such as Falcon Street, Shirley Road).</p> <p>This increment of the traffic volume on the surrounding road network is expected to be negligible based on speed and traffic volume analysis in Section 3.6." They have obviously not experienced the peak hour traffic snarls on Rockland Rd. It notes that "The exit movement from Bruce Street - Pacific Highway - Alexander Street to access Falcon Street requires a three lane changing manoeuvring within a short spacing of the intersections. However, given relative low demand, the opportunity to undertake this movement safely can be created by gaps of traffic created at the intersection of Pacific Highway / Rocklands Road</p>	<p>maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p>		
			Rocklands Rd And Impacts On Queuing, School Traffic, Accidents	<p>The Sinclair / Rockland junction is often busy with hospital entry traffic (many not familiar with the area). Drivers regularly cut the corner when entering Sinclair from Rocklands. Rocklands Rd east of Sinclair is narrow between street parking & parking bays and has no centre line marking, which often leads to idiots driving up the centre of the road. Rockland / Pacific is usually backed up, especially in the mornings. Made worse by parents illegally stopping near the top to drop kids off. Drivers doing illegal U turns at the lights or at the top of Rocklands Rd. The pedestrian crossings are packed with school kids entering / exiting North Sydney</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			VPA Is Not Sufficient	<p>Girls & nearby Cammeraygal school. I've seen a number of close calls & accidents at this junction.</p> <p>The offer of a VPA of a minimum \$1m with the potential for a maximum of \$3m, if the site is allowed to be developed to its full potential. How can this not be considered anything other than a sweetener to influence the decision making process</p>	<p>can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p> <p>See section 2.1.4 of Council Report. It is noted that the real estate market can fluctuate wildly within a brief period of time, thus quickly dating valuations. Notwithstanding this, the valuation at the time was made in good faith and has been the basis for initial VPA discussions. It would be inappropriate to reconsider the agreement at this time, having regard to the fact that it is entirely possible that the market could have gone backward rather than forward which under this logic may also warrant a reconsideration to reducing the contribution.</p>	N/A	2E
9053 930	18	Resident/Owner	Building Height	<p>The height would severely limit the light and sunshine for the surrounding residences particularly as it is on a ridge. During covid we all realised how important it is to have natural light and sunshine for our mental health. A tall building, such as that proposed, would shadow a lot of residences, not just those on Sinclair St.</p>	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan</p>	N/A	2E
			Privacy	<p>It would also severely impact the privacy of all residences in all directions, including</p>	<p>See Section 2.1.6 of Council Report</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Traffic	<p>all the apartments down Shirley Rd and other nearby roads. Blinds would forever have to be closed so as to avoid being viewed from multiple higher apartments.</p> <p>The traffic around the streets would be chaotic. Unless the residents are coming from south on the highway they will have to do rat runs around the local streets or turn right from Shirley Rd to access the parking. Shirley Rd is already constantly at a standstill as the left hand lane waits for the left hand light to change and the right lane is full of all the cars avoiding the wait. Allowing cars to then turn right into Sinclair will create a continual traffic jam down Shirley and River Road. Other cars will take all the back roads and create traffic around Mater Hospital delaying urgent access to the hospital.</p>	<p>Noted. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to protecting privacy of adjoining neighbours.</p> <p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p>	N/A	2E
			Lack Of Parking	<p>Parking is already non existent and workers/residents without an official carpark will further clog the streets.</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Precedent/ Loss Of Crows Nest Village Atmosphere/ No Justification For Planning Proposal	<p>If this proposal is approved it will set a precedent for the rest of the highway in Crows nest and we'll end up with a whole suburb cast in shade and a long wall of buildings with dark, windy areas surrounding them.</p> <p>Crows Nest is the only area that has a vibrant, busy village atmosphere and it would be devastating to lose that. North Sydney and St Leonards are deserted. No amount of brochures advertising about extra cafes and retail space creating any 'atmosphere' will actually become a reality. St Leonards and North Sydney are excellent examples of overdevelopment leading to a lifeless suburb. People need to have sunshine, see the sky, breathe, and not be blocked in by tall buildings.</p> <p>With the development of business and residential towers in the surrounding suburbs there is no justification for additional towers in Crows Nest.</p> <p>Lane Cove is also building massive apartment blocks just down the road so the development for housing is well and truly covered. We cannot let this amendment happen and destroy Crows Nest</p> <p>No matter what the design the building will be a wall creating dark, cold streets and completely out of place in a suburb with older homes and smaller apartment blocks.</p>	<p>can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p> <p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
9053 929	19	Resident/Owner	Overshadowing Of 258 And 250 Pacific Highway	Although the proposal notes solar compliance for the houses on the site's west, Sinclair Street, overshadowing of 258 and 250 Pacific Highway has not been considered within the proposal. The site's south boundary is 258 Pacific Highway, a narrow predominately residential apartment block	Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties.	N/A	2E
			Light Void Between 258 And 250 Pacific Highway Impacted	There is a void between 258 and 250 Pacific Highway to allow sunlight to the apartments on the north of 250 Pacific Highway (also a residential apartment block) and to the residences of 258. This proposed 54m high development will have a considerable impact on these residences to the south as the sun will be blocked for most of the day, especially in winter.	Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties.	N/A	2E
			Setback	Additionally, a reduced set back from the site's western boundary (laneway access from Bruce Street) will result in increased overshadowing of the residences of 258 and 250 Pacific Highway	Noted. See Section 2.1.7 of Council Report It is considered that the proposed building has been reasonably articulated in an attempt to reduce the overall apparent bulk and appearance of the structure. The draft Site Specific DCP includes provisions that open spaces nearby to residential properties be appropriately mitigated and managed and that landscaping is used to provide appropriate amenity and to soften the appearance of any future structure through the use of planter boxes on the	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Lack Of Parking	The other concern is the proposed development whilst adding between 730 and 1154 jobs will only add another 102 parking spaces.	<p>podium and terraces to facilitate mature vegetation. Additionally, other measures to ensure adequate levels of privacy to surrounding properties and their adequacy would be assessed in detail at the development application stage</p> <p>See section 2.1.2 of Council Report.</p> <p>The proposed number of parking spots is for proof of concept only. Council has included provisions to reduce the number of parking spaces per Council's policy and given that the site is facing significant uplift due to the location within 400 metres to Crows Nest Station the proposal in its current form is supported.</p>	N/A	2E
9050 349	20	Resident/Owner	Overshadowing/Light Pollution	<p>The proposed building will adversely affect properties to the west in that it will</p> <ol style="list-style-type: none"> Dominate the Pacific Highway ridge line Cause shadowing and loss of solar access to residential properties to the west Dramatically increase the light pollution for properties to the west. 	<p>Noted. See Sections 2.1.1, 2.1.3, and 2.1.9 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties</p>	N/A	2E
			Loss Of Crows Nest Village Feel/ 2036 Plan	<p>The proposed building will</p> <ol style="list-style-type: none"> Negatively impact the much-treasured Crow's Nest village atmosphere Detract from the nearby important heritage sites. 	<p>See Section 2.1.8 and 2.1.10 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
					<p>instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development</p> <p>Having regard to the specific architectural design and materials, it was noted that the awning height should match the heritage item to the north and should be of a design that responds to the form and materials of surrounding awnings, that the character of any future podium respond to the character of surrounding shopfronts, that the proposal include less glazing and more of a solid style and that any future building materials used should reflect the character of the Crows Nest area including exposed brick among other materials.</p> <p>Council is satisfied that this matter can be addressed in greater detail in any future development application and should not preclude the proposal from progressing.</p>		
9049 125	21	Resident/Owner	Overshadowing/Light Pollution	<p>The proposed building will adversely affect properties to the west in that it will</p> <ul style="list-style-type: none"> a. Dominate the Pacific Highway ridge line b. Cause shadowing and loss of solar access to residential properties to the west c. Dramatically increase the light pollution for properties to the west 	<p>Noted. See Sections 2.1.1, 2.1.3, and 2.1.9 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties</p>	N/A	2E
			Loss Of Crows Nest Village Feel/ 2036 Plan	The proposed building will	See Section 2.1.8 and 2.1.10 of Council Report.	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				<ul style="list-style-type: none"> a. Negatively impact the much-treasured Crow's Nest village atmosphere b. Detract from the nearby important heritage sites. 	<p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development</p> <p>Having regard to the specific architectural design and materials, it was noted that the awning height should match the heritage item to the north and should be of a design that responds to the form and materials of surrounding awnings, that the character of any future podium respond to the character of surrounding shopfronts, that the proposal include less glazing and more of a solid style and that any future building materials used should reflect the character of the Crows Nest area including exposed brick among other materials.</p> <p>Council is satisfied that this matter can be addressed in greater detail in any future development application and should not preclude the proposal from progressing.</p>		
9049 115	22	Resident/Owner	Solar Access	As described in the Architecture and Urban Design Report, we will lose significant amounts of solar access. In mid-winter we will no longer have direct sunlight into our back yard until after 1.00	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Traffic	<p>pm, meaning our principal private space will have significantly less than 3 hours of sunlight between 9 am and 3 pm. This is approximately 1.5 hours less than currently and due to the angle of the sun at this time, means that we will get less than 30 minutes of direct sunlight into the house!</p> <p>It is reasonable to expect significantly more traffic along Sinclair St and Bruce St as people attempt to enter the new development.</p> <p>We live on the corner of these two streets so will have more traffic noise to contend with.</p>	<p>includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties</p> <p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p>	N/A	2E
			Loss Of Privacy	Increased loss of privacy to our backyard due to the height of the proposed development and number of windows facing towards us.	See Section 2.1.6 of Council Report Noted. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to protecting privacy of adjoining neighbours.	N/A	2E
			Visitor Parking	Parking for visitors is already difficult in our area and will only get worse with more residents.	See section 2.1.2 of Council Report. <p>The proposed number of parking spots is for proof of concept only. Council has included provisions to reduce the</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Construction Activity/Nuisance	1-2 years of construction activity with attendant noise and dust with all construction traffic driving past our house on Sinclair St, Bruce St and the site access behind our property. Note that previous nearby developments on Pacific Highway have led to increased amounts of rubbish on the Bruce St nature strip as tradies park there early in the morning.	number of parking spaces per Council's policy and given that the site is facing significant uplift due to the location within 400 metres to Crows Nest Station the proposal in its current form is supported. The number of off street parking/visitor spaces will be determined at the development application stage. See Section 2.1.9 of Council Report Noted. This will be addressed as part of the assessment of any future DA at the site..	N/A	2E
			VPA Not Sufficient	In addition, compared to the property values in the area, a voluntary monetary contribution of between \$1M and \$3M is insignificant compared to the scale of the development and the amount of infrastructure Council would need to provide or upgrade to cater for the increased population and usage of the surrounding area.	See section 2.1.4 of Council Report. It is noted that the real estate market can fluctuate wildly within a brief period of time, thus quickly dating valuations. Notwithstanding this, the valuation at the time was made in good faith and has been the basis for initial VPA discussions. It would be inappropriate to reconsider the agreement at this time, having regard to the fact that it is entirely possible that the market could have gone backward rather than forward which under this logic may also warrant a reconsideration to reducing the contribution.	N/A	2E
9041 106	23	Resident/Owner	Overshadowing	If Council allows a complex with a 54-metre-high tower to be built on the Site, this is likely to create considerable overshadowing to the east and west of the Site. This will be particularly detrimental for residential properties located to the west of the Site on Sinclair Street.	Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Wind Tunnel	If Council allows a complex with a 54-metre-high tower to be built on the Site, this is likely to create a "wind tunnel" effect with increased wind speed from all directions. This will have a detrimental impact on pedestrians along the Highway and for commuters waiting at the government bus stop opposite the Site on the Pacific Highway.	access of a minimum 2 hours between 9am and 3pm to adjoining properties Noted. See Section 2.1.11 of Council Report. Council is satisfied that the wind assessment report provided is sufficient and that this matter can be addressed in greater detail in any future development application on the site.	N/A	2E
			Overdevelopment	If Council allows a complex with a 54-metre-high tower to be built on the Site, this will constitute, in layman's terms, a considerable overdevelopment which is not in keeping with the height of the apartment buildings standing to the north and south of the Site.		N/A	2E
9034 487	24	Resident/Owner	Loss Of Village Atmosphere Of Crows Nest/Precedent/2036 Plan	The proposal will significantly increase the scale and size of the development of the site (i.e. intended 13 level building) which will have negative impacts on the community by detracting from the village atmosphere of Crows Nest, which is critical to its identity, and enjoyment of residents. This type of development should be more targeted to the St Leonards or North Sydney business district. Setting a precedent for future planning proposals and developments along the Pacific Hwy corridor to St Leonards which negatively impacts the area and compounds the issues noted above.	See Section 2.1.8 of Council Report. The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development	N/A	2E
			Wind Tunnel	Creating a wind tunnel along the Pacific Hwy corridor (a problem which is already experienced close to St Leonards station), thereby negatively impacting walkability,	Noted. See Section 2.1.11 of Council Report. Council is satisfied that the wind assessment report provided is sufficient and that this matter can be addressed in	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Traffic Impact	<p>and patronage of shops and cafes near the area.</p> <p>Increasing traffic in the Pacific Hwy / Falcon Street intersection, which is already a busy area, and is close to the fire station.</p> <p>This intersection already supports traffic towards Neutral Bay, North Sydney, and the City, and is currently a bottle neck.</p>	<p>greater detail in any future development application on the site.</p> <p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p>	N/A	2E
			Pedestrian Safety	<p>Pedestrians frequent this crossing, and it is known that walkability of the area (connecting residents on the Wollstonecraft side to the Crow's Nest side) is adversely impacted.</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars towards cyclists using the existing cycling infrastructure. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site as well as provide safe, simple and direct access points to the site. These combined with existing DCP controls would be sufficient.</p> <p>It is considered in this instance that the impacts toward cyclists and pedestrians should not preclude the planning</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
					proposal from progressing. These matters and would be thoroughly assessed at the development application stage.		
9021 499	25	Resident/Owner	Traffic	<p>Traffic impact assessment - The report states that there will be 'negligible traffic impact' and I strongly disagree to this statement. Bruce Street is a small, suburban street accessed by residents and those accessing small local businesses as well as the Mater Dialysis Unit (end of laneway behind the proposed development) and Mater Hospital (end of Sinclair Street).</p> <p>Excessive numbers of heavy vehicles required during construction would significantly impact both residents and local businesses. The rear lane access utilised by the Mater Dialysis Unit, local residents of Sinclair Street requiring rear lane access and Young & Rashleigh Wine Merchants (2 Bruce St) will all be significantly impacted with limited or no access at various times throughout the day.</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p>	N/A	2E
			Construction Traffic	<p>During construction in a practical sense, access to vehicles will simply not be feasible. If you have a look at the photos attached, you will see that the narrow rear lane access is not suitable for these types of heavy vehicles. The other issue is you're unable to turn right onto Pacific Highway and have to drive down Sinclair Street towards the Mater Hospital, then turn left onto Rocklands Road to then turn right onto Pacific Highway.</p> <p>This will create significant traffic congestion for hospital patrons as well as local residents. There will also be flow on impacts to other already congested streets such as River Road and there will</p>	<p>See Section 2.1.9 of Council Report</p> <p>Noted. This will be addressed as part of the assessment of any future DA at the site..</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Infrastructure/ Public Benefit	<p>be increased utilisation of back streets to avoid bottle necks throughout Wollstonecraft, Waverton, Crows Nest and Lane Cove.</p> <p>Also what about the large number of children walking to schools - Will increased infrastructure such as crossings be put in place to accommodate the additional cars?</p>	<p>Noted. See Section 2.1.4 of Council Report</p> <p>In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with Council's Local Infrastructure Contribution Plan 2020. Council will also work with relevant service providers and state agencies to address any infrastructure shortfall.</p>	N/A	2E
			Sunlight Access	<p>Sunlight - increasing the building height from 16 metres to 54 metres will mean little or no sunlight to local residents on Sinclair Street. This proposal is nearly 3.5 times the current height. This is not good for the mental health of those impacted. With the majority of properties on Sinclair Street being semis, the sunlight from the rear of the properties (on the Pacific Highway side) is relied upon. This will mean less or not time enjoying our backyard in the warm sun, less sunlight, less time outside entertaining family and friends. Local children in the street play in the sunlight in the rear laneway and this will be taken away from them. With little to no sunlight, this will mean more reliance on heaters and dryers to dry our clothes and keep our properties warm during Winter months as the result of little to no sunlight.</p>	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Wind Tunnel	The other impact will be the creation of a 'wind tunnel' down Pacific Highway which residents have already spoken up about and are strongly against.	Noted. See Section 2.1.11 of Council Report. Council is satisfied that the wind assessment report provided is sufficient and that this matter can be addressed in greater detail in any future development application on the site.	N/A	2E
			Lack Of Infrastructure/ Public Benefit	Lack of Infrastructure - The proposed building will result in an increase in more people in the area. What additional infrastructure will be built to accommodate the additional people in the area? The current infrastructure as it stands does not cater for an increased population. I am doubtful that the proposed number of cycling spaces/lockers will be utilised - people are simply too frightened to ride on Sydney roads during peak times. What bikes paths connect with this site? None! People will have to be confident enough to ride along Pacific Highway during peak hour to obtain access to their new workplace. Put simply, the area is close to maximum population capacity and a building of this size will result in over population that the current infrastructure cannot handle.	Noted. See Section 2.1.4 of Council Report In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with Council's Local Infrastructure Contribution Plan 2020. Council will also work with relevant service providers and state agencies to address any infrastructure shortfall.	N/A	2E
			Commercial Office Space	Current office utilisation - what is the current occupancy rate of the 270 Pacific Highway building? I would suggest it would be at 50% or less as a result of my observations of minimal businesses having their lights on in the late afternoon/evening. If the building has a low occupancy rate, why would we make it even bigger? Many people work from home now - according to the ABS 2021 47% of employees now have a flexible working arrangement, so why is more office space required?	Noted. See section 2.1.5 of Council report. The 2036 Plan has the objective of providing an additional 1,950- 3,020 jobs in Crows Nest by 2036 whilst maintaining the village atmosphere along Willoughby Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036 and encourage innovation and growth within the eastern economic corridor. The Planning	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Lack Of Green Space/Public Benefit	Lack of green space - where is the proposal for additional parks in the local area? If you listen to local community feedback, people want more parks, ovals and green space not more high rise concrete towers!	<p>Proposal would result in the creation of 22,853m2 of commercial floor space in Crows Nest and in close proximity to the Crows Nest Station. The Planning Proposal is consistent with the 2036 Plan, North District Plan, and local planning priorities under the North Sydney LSPS in regard to employment</p> <p>Noted. See Section 2.1.4 of Council Report</p> <p>In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with Council's Local Infrastructure Contribution Plan 2020. Council will also work with relevant service providers and state agencies to address any infrastructure shortfall.</p>	N/A	2E
			Site Outside Of 2036 Plan/Precedent	<p>The 2036 LEP refers to high rise development between St Leonards Station and the Crows Nest Metro. 270 Pacific Highway is outside of this parameter and further south of the Crows Nest Metro.</p> <p>If this development proceeds, it will open the flood gates for further high rise development in the area.</p> <p>Please listen to the people in our community and what they want... and this is not it!</p>	<p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			VPA Not Sufficient	what the community wants and needs far outweighs the \$1 - \$3 million price tag on offer to the government to proceed with this development!	See section 2.1.4 of Council Report. It is noted that the real estate market can fluctuate wildly within a brief period of time, thus quickly dating valuations. Notwithstanding this, the valuation at the time was made in good faith and has been the basis for initial VPA discussions. It would be inappropriate to reconsider the agreement at this time, having regard to the fact that it is entirely possible that the market could have gone backward rather than forward which under this logic may also warrant a reconsideration to reducing the contribution.	N/A	2E
9014 626	26	Resident/Owner	Traffic	<p>Traffic impact assessment - The report states that there will be 'negligible traffic impact' and I strongly disagree to this statement. Bruce Street is a small, suburban street accessed by residents and those accessing small local businesses as well as the Mater Dialysis Unit (end of laneway behind the proposed development) and Mater Hospital (end of Sinclair Street). Excessive numbers of heavy vehicles required during construction would significantly impact both residents and local businesses. The rear lane access utilised by the Mater Dialysis Unit, local residents of Sinclair Street requiring rear lane access and Young & Rashleigh Wine Merchants</p> <p>There will also be flow on impacts to other already congested streets such as River Road and there will be increased utilisation of back streets to avoid bottle necks throughout Wollstonecraft, Waverton, Crows Nest and Lane Cove</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p>	N/A	2E
			Construction Traffic Impacts	Bruce St will all be significantly impacted with limited or no access at various times throughout the day. during construction In a practical sense, access to vehicles will simply not be feasible. If you have a look	See Section 2.1.9 of Council Report Noted. This will be addressed as part of the assessment of any future DA at the site.	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Sunlight Access	<p>at the photos attached, you will see that the narrow rear lane access is not suitable for these types of heavy vehicles. The other issue is you're unable to turn right onto Pacific Highway and have to drive down Sinclair Street towards the Mater Hospital, then turn left onto Rocklands Road to then turn right onto Pacific Highway. This will create significant traffic congestion for hospital patrons as well as local residents.</p> <p>Sunlight - increasing the building height from 16 metres to 54 metres will mean little or no sunlight to local residents on Sinclair Street. This proposal is nearly 3.5 times the current height.</p> <p>This is not good for the mental health of those impacted. With the majority of properties on Sinclair Street being semis, the sunlight from the rear of the properties (on the Pacific Highway side) is relied upon. This will mean less or not time enjoying our backyard in the warm sun, less sunlight, less time outside entertaining family and friends. Local children in the street play in the sunlight in the rear laneway and this will be taken away from them. With little to no sunlight, this will mean more reliance on heaters and dryers to dry our clothes and keep our properties warm during Winter months as the result of little to no sunlight</p>	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties</p>	N/A	2E
			Lack Infrastructure/ Public Benefit	<p>Of What about the large number of children walking to schools - Will increased infrastructure such as crossings be put in place to accommodate the additional cars?</p> <p>The proposed building will result in an increase in more people in the area. What additional infrastructure will be built to accommodate the additional people in the</p>	<p>Noted. See Section 2.1.4 of Council Report</p> <p>In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				area? The current infrastructure as it stands does not cater for an increased population. I am doubtful that the proposed number of cycling spaces/lockers will be utilised - people are simply too frightened to ride on Sydney roads during peak times. What bikes paths connect with this site? None! People will have to be confident enough to ride along Pacific Highway during peak hour to obtain access to their new workplace. Put simply, the area is close to maximum population capacity and a building of this size will result in over population that the current infrastructure cannot handle.	Council's Local Infrastructure Contribution Plan 2020. Council will also work with relevant service providers and state agencies to address any infrastructure shortfall.		
			Wind Tunnel Effect	The other impact will be the creation of a 'wind tunnel' down Pacific Highway which residents have already spoken up about and are strongly against	Noted. See Section 2.1.11 of Council Report. Council is satisfied that the wind assessment report provided is sufficient and that this matter can be addressed in greater detail in any future development application on the site.	N/A	2E
			Commercial Office Space	Current office utilisation - what is the current occupancy rate of the 270 Pacific Highway building? I would suggest it would be at 50% or less as a result of my observations of minimal businesses having their lights on in the late afternoon/evening. If the building has a low occupancy rate, why would we make it even bigger? Many people work from home now - according to the ABS 2021 47% of employees now have a flexible working arrangement, so why is more office space required?	Noted. See section 2.1.5 of Council report. The 2036 Plan has the objective of providing an additional 1,950- 3,020 jobs in Crows Nest by 2036 whilst maintaining the village atmosphere along Willoughby Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036 and encourage innovation and growth within the eastern economic corridor. The Planning Proposal would result in the creation of 22,853m2 of commercial floor space in Crows Nest and in close proximity to the Crows Nest Station. The Planning Proposal is consistent with the 2036 Plan, North District Plan, and local	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Lack Of Green Space/ Benefit Public	Lack of green space - where is the proposal for additional parks in the local area? If you listen to local community feedback, people want more parks, ovals and green space not more high rise concrete towers!	planning priorities under the North Sydney LSPS in regard to employment Noted. See Section 2.1.4 of Council Report In relation to the lack of infrastructure, strain on existing infrastructure and lack of cycling infrastructure, the proceeds of the Voluntary Planning Agreement and other applicable Section 7.11 levies would go towards improving existing infrastructure in accordance with Council's Local Infrastructure Contribution Plan 2020. Council will also work with relevant service providers and state agencies to address any infrastructure shortfall.	N/A	2E
			Precedent/2036 Plan	The 2036 LEP refers to high rise development between St Leonards Station and the Crows Nest Metro. 270 Pacific Highway is outside of this parameter and further south of the Crows Nest Metro. If this development proceeds, it will open the flood gates for further high-rise development in the area. Please listen to the people in our community and what they want... and this is not it!	See Section 2.1.8 of Council Report. The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development	N/A	2E
			VPA Not Sufficient	What the community wants and needs far outweighs the \$1 - \$3 million price tag on offer to the government to proceed with this development!	See section 2.1.4 of Council Report. It is noted that the real estate market can fluctuate wildly within a brief period of time, thus quickly dating valuations. Notwithstanding this, the valuation at the time was made in good faith and has	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
					been the basis for initial VPA discussions. It would be inappropriate to reconsider the agreement at this time, having regard to the fact that it is entirely possible that the market could have gone backward rather than forward which under this logic may also warrant a reconsideration to reducing the contribution.		
9014 661	26 (copy)	Resident/Owner	Same As Submission 26				
9021 480	26 (copy)	Resident/Owner	Same As Submission 26				
9017 433	27	Resident/Owner	Height Of Building	<p>I object to the proposed changing of the height limit at this site and sites nearby. Topographically this is amongst or close to the highest points in Crows Nest. Allowing buildings greater than 16 metres will not only dominate the landscape at this point of the suburb but set a precedent for further high rise development nearby. This high point of the landscape should be protected from high rise development to avoid further crowding of the Pacific Highway. Further north skyline has been sacrificed to high rise, it should be banned from moving south past the Crows Nest Village at this elevated point, as this sets a precedent to then allow filling in the gap between Bruce St and the planned Metro Station with buildings of equal or greater height.</p>	See Section 2.1.3 of Council Report	N/A	2E
			Loss Of Crows Nest Village Atmosphere And Precedent/ High Rise On Ridge/ Objection To 2036 Plan Height Control	<p>This destroying the village atmosphere of Willoughby Rd shops and creating a city landscape in what is a residential community and village. I urge all members of Council and state Planning Panels to consider the precedent and bigger picture of the area.</p> <p>High rise should be restricted to the topographical dips along the Pacific</p>	<p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				<p>Highway to avoid creating a dark, wind tunnel like St Leonards has become</p> <p>Developers are welcome to redevelop properties in this area but the height restrictions must not be negotiable, the legacy effect to the area will be tragic. Keep the height restrictions in place from Albany St, south to Bruce St and resist the corrupted State Governments influence on behalf of, and for, the benefit of property developers.</p>	and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development		
9014 651	25 (copy)	Resident/Owner	Same As Submission 26				
9013 938	28	Resident/Owner	Height Of Building/ Bulk And Scale/ Overdevelopment	<p>The approval of this planning proposal with a over 300% increase in North Sydney Local Environmental 2013 height standard, and an a ten fold increase in the FSR standard is a greedy gross overdevelopment of the site.</p> <p>The approval of this planning proposal will result in a severe loss of amenity to the surrounding buildings in relation to overshadowing, loss of privacy (overlooking), visual bulk, undesirable increase in traffic .</p> <p>It is my opinion that the justification for such a large variation from Council's height and FSR standard is totally unacceptable. Notwithstanding its location on Pacific Highway, at most, a minor variation to the height standard to allow a six storey development on this site may be considered reasonable in view of the existing development in the area and the current height and FSR standards for the nearby adjoining sites in the vicinity</p>	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan</p>	N/A	2E
			Non-Residential FSR/ Loss Of	The increase in height from the permitted 16m to 54m and increase in non-	See Section 2.1.8 of Council Report.	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Crows Nest Village/ Atmosphere/Precedent/2036 Plan	<p>residential floor space from 0.5:1 to 5.6:1 will allow a development that will be totally out of character with the village atmosphere of Crows Nest.</p> <p>This type of development is more appropriate in St Leonards. Approval of this proposal will result in an undesirable precedent for such further development in Crows Nest.</p> <p>Approval of this proposal will result in an undesirable precedent for such further development in Crows Nest.</p>	<p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development</p>		
			Overshadowing	<p>The approval of this planning proposal will result in a severe loss of amenity to the surrounding buildings in relation to overshadowing, loss of privacy (overlooking), visual bulk, undesirable increase in traffic .</p>	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties</p>	N/A	2E
			Privacy	<p>The approval of this planning proposal will result in a severe loss of amenity to the surrounding buildings in relation to overshadowing, loss of privacy (overlooking), visual bulk, undesirable increase in traffic.</p>	<p>See Section 2.1.6 of Council Report</p> <p>Noted. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to protecting privacy of adjoining neighbours.</p>	N/A	2E
			Traffic	<p>The approval of this planning proposal will result in a undesirable increase in traffic in Crows Nest and surrounding locality</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
					It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.		
9013 938	28 (copy)	Resident/Owner	Same As Submission 25				
9012 116	29	Resident/Owner	Overdevelopment, Access To Light, Overshadowing	This is a totally inappropriate and appalling PP. The council has height regulations for very good reasons that relate to populations density, resources for local residents, access to light, overshadowing, noise and traffic. All of these important aspects would be severely impacted in an extremely negative way which was clearly why the council rejected the PP in the first place.	Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties	N/A	2E
			Height Of Building	The increase in height grossly in excess of the current height limit - an already generous 16 metres with the suggestion of an increase to 54 metres. This proposal should be rejected without further consideration and right of appeal as totally inappropriate for the area and site location.	See Section 2.1.3 of Council Report. The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP. In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan	N/A	2E
			Noise And Traffic Impacts	In addition to gross over-crowding, increased noise and pollution, the traffic in	See section 2.1.2 of Council Report.	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				the area is already severely congested and would surely mean total gridlock for this location.	The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation. It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.		
			VPA Not Sufficient	The trivial amounts mentioned in the VPA would in no way help ameliorate the huge impact of such a massive development and are laughably inadequate.	See section 2.1.4 of Council Report. It is noted that the real estate market can fluctuate wildly within a short period of time, thus quickly dating valuations. Notwithstanding this, the valuation at the time was made in good faith and has been the basis for initial VPA discussions. It would be inappropriate to reconsider the agreement at this time, having regard to the fact that it is entirely possible that the market could have gone backward rather than forward which under this logic may also warrant a reconsideration to reducing the contribution.	N/A	2E
			Reject	Either way, this PP proposal should be again rejected with a clear message that avaricious property developers should respect council guidelines and the wishes of the local population.	Noted	N/A	2C
9073 900	30	Sydney Water	Water Wastewater Servicing	And Potable water servicing to the site should be available via a 100mm CICL water main (laid in 1922) on Falcon St.	See section 2.2.1 of Council Report Noted.	N/A	2A

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Trade Wastewater	Amplifications, adjustments, and/or minor extensions may be required. Wastewater servicing should be available via 225mm VC wastewater mains (laid in 1892, 1893 and 1900) within the property boundary. Amplifications, adjustments, and/or minor extensions may be required	See section 2.2.1 of Council Report Noted.	N/A	2A
			General Information On Legislative Matters Relating To Approval And Use Of Sydney Water Services	The submission includes general information on legislative matters relating to approval and use of Sydney Water services and information on how to send through DA plans for approval. These include the following topics: <ul style="list-style-type: none"> - Sydney Water Servicing - Building Plan Approval - Trade Wastewater Requirements - Backflow Prevention Requirements - Water Efficiency Recommendations Contingency Plan Recommendations	See section 2.2.2 of Council Report Noted. This will be dealt with at the DA stage.	N/A	2A
9073 904	31	Sydney Airport Corporation	No Objections	No objection to the erection of this development to a maximum height of 150 metres AHD. The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.	See section 2.2.2 of Council Report Noted.	N/A	2A
9073 905	32	Sydney Airport Corporation/CASA	No Objections	No objection to the erection of this development to a maximum height of 150 metres AHD. The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.	See section 2.2.3 of Council Report Noted. See section 2.2.3 of Council Report Noted.	N/A N/A	2A 2A
9066 852	33	Resident/Owner	Concerns Regarding Scale of Development And	I'm writing to express my concern over new proposed developments around 270-272 Pacific Highway. This include	See Section 2.1.8 of Council Report.	N/A	2A

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Similar Developments In Area/2036 Plan	Planning Proposal 1/21 - 270-272 Pacific Highway which I was informed of via post and the progress of this from being rejected by council through to that being overturned by various authorities. What concerns me even further are the following links which look to propose large developments at 286 Pacific Highway at the HCA previous site of North Shore Gas Co Office.	The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development.		
9073 906	34	Viva Energy Australia	No Objection To Development Raised.	<p>No vegetation will be planted within 3m either side of the pipeline (distance is calculated from the outermost point of the pipeline)</p> <ul style="list-style-type: none"> Any vegetation planted between 3-6m from the pipeline must be low lying with a non-invasive root system and discussed with Viva Energy Australia prior to planting. The applicant must lodge a Dial Before You Dig, prior to commencement of any works and advise Viva Energy Australia of any works or activity intersecting or within 10m of a viva energy pipeline at least 2weeks prior to commencement The applicant must contact viva and apply for permits by emailing dbydsw@Vivaenergy.com.au (To avoid delays in processing of your permits please ensure you include a full scope of works including all offsets/alignments/depths and details of the equipment and materials you propose to use) 	<p>See section 2.2.2 of Council Report</p> <p>Noted.</p>	N/A	2A

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				<ul style="list-style-type: none"> No fencing or structures are to be installed across and or within the pipeline corridor and easement/s whichever is greater. No stockpiling or equipment to be stored or cross over pipeline and associated corridor/easement. 			
9059 031	35	Resident/Owner	Crows Nest Village/2036 Plan	<p>The proposed rezoning from the NSLEP 2013 from 16m to 54m will forever create a precedent for other developments along the Pacific Highway and inevitably contribute to extend the changed character of Crows Nest village which is on its doorstep.</p> <p>St Leonards is the predominant centre with large developments to transition in height, bulk and scale from the highway to surrounding neighbourhood areas</p> <p>The proposed rezoning will forever change the character of adjoining residential properties in Sinclair Street</p> <p>It is a poor planning outcome</p>	<p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development.</p>	N/A	2E
			Building Height/Bulk And Scale	<p>Its transition of extra height should be reduced (not increased) to meet the objectives of reducing building heights as development moves away from the Crows Nest station</p> <p>Creating a visual wall impact to those properties in Sinclair Street despite its 10 metres setback from the western property boundary</p>	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Solar Access	Impact adversely on properties to the south-west in Sinclair Street Wollstonecraft by way of denying all existing solar access in the early mornings,	acceptable in the context of the provisions of the 2036 Plan Noted. See Section 2.1.1 of Council Report. This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically those on Sinclair Street..	N/A	2E
			Access Issues	Create access issues on the joint carriage way that have not been demonstrated as being resolved, given that all vehicular access (private cars and commercial delivery vehicles) will be required to share this carriageway into the future and during construction.	See section 2.1.2 of Council Report. The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation. It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.	N/A	2E
			Process/2036 Plan	The decision to have this proposal proceed to Gateway Determination was taken without regard for the NSW Premier's Priorities that amongst other things requires that the NSW government puts the community at the centre of everything they do. In that regard, the decision to finalise the 2036 Plan with increased height of 5 more storeys than	Noted.	N/A	2G

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				provided in the draft plan was a critical error and should be reversed.			
			Council Report Predates Draft VPA And Documents.	Council report predates all documentation.	Noted. The Council report is an appendix and was drafted prior to the negotiation of the VPA that was placed on public exhibition.	N/A	2C
			Documentation Quality	Justifies the Planning Proposal by making links with development such as the "Fiveways" site as similar. These applications are primarily for mixed use and largely residential proposals and not commercial uses. The argument is not justified.	Noted. See 2.1.12 of Council report.	N/A	2C
			Inconsistencies Within Traffic And Parking Study	The traffic and parking study has a number of errors which lead to drastically incorrect conclusions about how the redevelopment could support active transport and cycling in particular The study claims that there is no cycling infrastructure in the close vicinity of the development. This is incorrect. Sinclair Street contains an uphill fully separated contraflow cycleway from Bruce Street to Shirley Rd. Cyclists heading south downhill currently use the general traffic lane. This forms part of a signposted cycle route through the low traffic backstreets of North Sydney, Waverton and Wollstonecraft connecting Mount Street to St Leonards Station and links a number of key locations including Cammeraygal High School (now years 7-9 campus), North Sydney Demonstration School and Mater Hospital. It also provides a connection to the key upcoming cycleway along West St (recently approved for public consultation on 26th September 2022) that will have a large number of children using it since the Cammeraygal High School 10-12 years were moved to the old TAFE site.	Noted. See section 2.1.2 and 2.1.12 of Council Report.	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
				<p>This route, and Sinclair Street in particular, provides a safe, low traffic route for nonhardcore cyclists and particularly children and women who aren't confident enough to ride along the Pacific Hwy. The study implies that a cycleway will be provided along the Pacific Hwy. While this is likely to be correct between Milsons Point and West Street, the cycleway won't continue further north due to heritage listed buildings preventing the necessary works to place a cycleway around the bus stops.</p> <p>The cycle route will divert cyclists along West Street and through the back of Crows Nest to connect to St Leonards. This means that any cyclists needing to continue north and continue to the schools, Mater hospital, Crows Nest Metro Station and other locations on the western side of the Pacific Hwy and are even more dependent on this existing, low traffic, backroad route. Contrary to the claim that the majority of the traffic is expected to turn into Bruce St from the Pacific Hwy, cars approaching the site from the north will need to access the site by driving down Sinclair Street section of the cycling route from Shirley Rd.</p>			
			Voluntary Planning Agreement/Public Benefit	Offer is very different to initial offer. VPA is not beneficial to Council and is a win-win for the applicant	<p>See section 2.1.4 of Council Report.</p> <p>It is noted that the real estate market can fluctuate wildly within a brief period of time, thus quickly dating valuations. Notwithstanding this, the valuation at the time was made in good faith and has been the basis for initial VPA discussions. It would be inappropriate to reconsider the agreement at this time, having regard to the fact that it is entirely possible that the market could have gone backward rather than forward which under this logic may also warrant a</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Economic Advice Report/Commercial Floor Space	<p>It is not needed because there is insufficient evidence of enough jobs being created within the 2036 Plan of the type in this proposal to support even the minimum Gross Floor Area space of 21,258 Sqm</p> <p>Concerns that the report has excluded the non residential GFA approved in the Crows Nest OSD. The findings are not accurate to justify further commercial floor space. Based on the 2036 Plan and the research behind these numbers, it is apparent that there will be low demand from within the Precinct for office space of the type described by this planning proposal. Jobs will need to be imported from outside the precinct. The intention is to import jobs from other commercial office areas including the North Sydney CBD which itself, has recently completed a very large increase in office space as mandated by the NSW government. Consequently, workers from well outside the 2036 Plan area will travel by public transport to work in Crow's Nest. Because North Sydney CBD has sufficient commercial office space capacity there is no need for such a large development as defined in this PP1/21. Especially when considering the large amount of office space in the Crows Nest station OSD.</p>	<p>reconsideration to reducing the contribution.</p> <p>Noted. See section 2.1.5 of Council report.</p> <p>The 2036 Plan has the objective of providing an additional 1,950- 3,020 jobs in Crows Nest by 2036 whilst maintaining the village atmosphere along Willoughby Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036 and encourage innovation and growth within the eastern economic corridor. The Planning Proposal would result in the creation of 22,853m2 of commercial floor space in Crows Nest and in close proximity to the Crows Nest Station. The Planning Proposal is consistent with the 2036 Plan, North District Plan, and local planning priorities under the North Sydney LSPS in regard to employment</p>	N/A	2E
9059 030	36	Resident/Owner	Sunlight Access	<p>The development would completely rob residents of Sinclair St, and also those residents of Gillies St whose units have an easterly aspect, of any morning sun. This will have an especially devastating effect on residents for whom morning sun is their only solar access.</p>	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically those on Sinclair Street..</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Bulk and Scale/ Height 2036 Plan	<p>be totally out of scale with - and therefore visually overwhelm - the existing residences in Sinclair and Gillies St (primarily single storey semi or detached houses and 3-4 storey apartment blocks).</p> <p>I also object, as a matter of principle, on the grounds that the 13 storey height exceeds the maximum height limit of 8 storeys proposed in the Draft St Leonards Crows Nest 2036 Plan - in itself a compromise supported by North Sydney Council, following extensive community consultation. That compromise was made in good faith in recognition of the need for increased development while preserving at least some solar access and related amenities to existing residences.</p> <p>The subsequent decision by the DPE to further arbitrarily increase the height limit to 13 storeys without any further consultation, in my view, was unacceptable and should be subject to ongoing challenge.</p>	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan</p>	N/A	2E
			Traffic	<p>lead to an unacceptable increase in vehicle congestion in Sinclair St which is currently a relatively quiet and safe street that has with a separate cycle path and attracts considerable pedestrian traffic, including people accessing the Mater Hospital complex and nearby schools.</p>	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
					measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.		
9050 981	37	Resident/Owner	Bulk and Scale/ Height 2036 Plan	The proposed rezoning from the NSLEP 2013 from 16m to 54m will forever create a precedent for other developments in the area and inevitably contribute to ruin the character of Crows Nest village which is one of the few remaining mixed use retail/commercial precincts of its size in Sydney. The rest have all been deveoped into giant generic shopping malls limited to franchise retail with no variation and lacking individualism.	See Section 2.1.3 of Council Report. The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP. In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan	N/A	2E
			Commercial Floor Space	It is not needed because there is insufficient evidence of enough jobs being created within the 2036 Plan of the type to support even the minimum Gross Floor Area space of 21,258 Sqm (~1,200 jobs)	Noted. See section 2.1.5 of Council report. The 2036 Plan has the objective of providing an additional 1,950- 3,020 jobs in Crows Nest by 2036 whilst maintaining the village atmosphere along Willoughby Road and promoting standalone commercial sites closer to the Crows Nest Station. Additionally, the North District Plan has set planning priorities that 16,500 jobs be provided within the wider St Leonards and Crows Nest Precinct by 2036 and encourage innovation and growth within the eastern economic corridor. The Planning Proposal would result in the creation of 22,853m2 of commercial floor space in Crows Nest and in close proximity to the	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			2036 Plan/ Character/ Street	<p>St Leonards is the predominant centre with large developments already sacrificed to the development gods, there is no need to begin setting the precedent to facilitate mowing down the rest of the Pacific Highway and turn eventually turn Crows Nest village into a Stockland Mall one day.</p> <p>The proposed rezoning will forever change the character of adjoining residential properties in Sinclair Street</p>	<p>Crows Nest Station. The Planning Proposal is consistent with the 2036 Plan, North District Plan, and local planning priorities under the North Sydney LSPS in regard to employment</p> <p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and as such will not set a precedent for surrounding development.</p>	N/A	2E
			Solar Access	will a. impact adversely on properties to the south-west in Sinclair Street Wollstonecraft by way of denying all existing solar access in the early mornings,	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically those on Sinclair Street..</p>	N/A	2E
			Access	create access issues on the joint carriage way that have not been demonstrated as being resolved, given that all vehicular access (private cars and commercial delivery vehicles) will be required to share this carriageway.	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			2036 Plan Process	The decision to have this proposal proceed to Gateway Determination was taken without regard for the NSW Premier's Priorities. The decision to finalise the 2036 Plan with increased height of 5 more storeys than provided in the draft plan was an error and should be reversed. Further more I cannot believe we have a development application system where the Voluntary Planning Agreement essentially evidences a 'legalised bribe' for increased developer contributions tied to increased guaranteed square metres approved by Council and State governments !	would address the concerns in respect to traffic generation. It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions. Noted.	N/A	2G
			VPA	For example: this Voluntary Planning Agreement has been amended and legally qualified to ensure that it will guarantee the applicant will only contribute a maximum of \$3 million upon achievement of a certain sqm of gross floor area (GFA). It is an attempt to ensure that Council will not reduce the bulk of the scale of the development without financial consequences. Development in the State of NSW seems no longer to be about benefiting communities and the improvement of infrastructure and lifestyle, but simply about exploiting areas with high lifestyle amenity for the benefit of development corporations. Governments,	See section 2.1.4 of Council Report. It is noted that the real estate market can fluctuate wildly within a brief period of time, thus quickly dating valuations. Notwithstanding this, the valuation at the time was made in good faith and has been the basis for initial VPA discussions. It would be inappropriate to reconsider the agreement at this time, having regard to the fact that it is entirely possible that the market could have gone backward rather than forward which under this logic may also warrant a reconsideration to reducing the contribution.	N/A	2E

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				both Local and State must fight to return 'development' to mean the improvement of a Community lacking in something. NOT how much can be profited out of an existing Community at the expense of the residents.			
9098 823	38	Hayberry Precinct Committee	Bulk and Scale/ Height 2036 Plan	<p>It is too bulky</p> <p>It is out of scale with the surrounding Streetscape</p> <p>It would present as a long wall of Development facing Pacific Highway</p> <p>Has no gaps between buildings as currently exist between buildings</p>	<p>See Section 2.1.3 of Council Report.</p> <p>The development would have additional overshadowing and visual bulk impacts, however, attempts have been made to ameliorate these would through a staggered form of the building envelope as detailed in the draft Site Specific DCP.</p> <p>In consideration of the surrounding controls and development, the proximity of the site to the Crows Nest Metro station and the consistency with the overarching strategic document, it is considered that the proposed height is acceptable in the context of the provisions of the 2036 Plan</p>	N/A	2E
			Crows Nest Village/2036 Plan	Will set a precedent for other development in Crows Nest	<p>See Section 2.1.8 of Council Report.</p> <p>The site itself is unique given its location on the fringe of the Crows Nest commercial area, being bordered by commercial uses to the east and by residential uses to the west and mixed use uses to the north and south of the site. Proposals are assessed on a site-by-site basis and are considered on their merits with regard to relevant controls and surrounding context. In this instance, the proposal is considered to be located within an unusual context and demonstrates compliance with the vision and principles of both the 2036 Plan and</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			Setbacks/Podium	Setbacks from podium are insufficient.	<p>as such will not set a precedent for surrounding development.</p> <p>Noted. See Section 2.1.7 of Council Report</p> <p>It is considered that the proposed building has been reasonably articulated in an attempt to reduce the overall apparent bulk and appearance of the structure. The draft Site Specific DCP includes provisions that open spaces nearby to residential properties be appropriately mitigated and managed and that landscaping is used to provide appropriate amenity and to soften the appearance of any future structure through the use of planter boxes on the podium and terraces to facilitate mature vegetation. Additionally, other measures to ensure adequate levels of privacy to surrounding properties and their adequacy would be assessed in detail at the development application stage</p>	N/A	2E
			Solar Access	Will increase overshadowing to Residential areas to the west and south	<p>Noted. See Section 2.1.1 of Council Report.</p> <p>This will be addressed as part of the assessment of any future DA at the site. It is also noted that the site-specific DCP includes reference to ensuring sunlight access of a minimum 2 hours between 9am and 3pm to adjoining properties specifically those on Sinclair Street..</p>	N/A	2E
			Parking	the lack of sufficient vehicle parking to accommodate employees tenants and visitors (many intra state) vehicles which will increase pressure on surrounding streets.	<p>See section 2.1.2 of Council Report.</p> <p>The proposed access arrangements are expected to sufficiently manage traffic and access such that there will not be a significant impact resulting from cars using the existing access points to Bruce</p>	N/A	2E

ECM No	No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
					<p>Street from the private laneway be maintained. Additionally, DCP provisions are recommended to reduce the number of car parking spaces on the site which would address the concerns in respect to traffic generation.</p> <p>It is considered in this instance that traffic impacts resulting from the development can be appropriately managed by way of proposed access arrangements, sufficient signage, and traffic calming measures where appropriate and that in context of the wider road network the proposal would not result in a noticeable increase to traffic when compared to existing conditions.</p>		