



Planning &
Infrastructure

**MAJOR PROJECT ASSESSMENT:
Mixed - use development
6-16 Atchison Street, St Leonards
(MP09_0187)**



Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

March 2012

ABBREVIATIONS

CIV	Capital Investment Value
Department	Department of Planning and Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning and Infrastructure
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning and Infrastructure
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PEA	Preliminary Environmental Assessment
PFM	Planning Focus Meeting
PPR	Preferred Project Report
Proponent	Bancor Developments Pty Ltd
RtS	Response to Submissions

Cover Illustration: Proposed tower superimposed on surrounding skyline

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EXECUTIVE SUMMARY

This is a report on an application which seeks project approval for a 28 storey mixed use development at 6 - 16 Atchison Street, St Leonards. The proposed building contains 173 apartments, 76 hotel suites, a gymnasium and conference facilities, ground floor lobby areas, a café and open public plaza. It has a Capital Investment Value (CIV) of \$82,193,412 and will generate 460 construction and 41 operational jobs.

The proposal was declared to be a Major Project on 3 December 2009, under the former provisions of clause 13 of State Environmental Planning Policy (Major Development) 2005, as it was a residential project with a Capital Investment Value in excess of \$100 million. Director-General's Assessment requirements (DGRs) were issued on 21 January 2010.

Part 3A of the *Environmental Planning & Assessment Act 1979* (the Act), as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A to the Act, continues to apply to transitional Part 3A projects. As the DGRs were issued prior to 8 April 2011, the project is a transitional Part 3A project.

The application was publicly exhibited from 29 September - 29 October 2010. There were 38 submissions received, 33 of which were objections including the submission from North Sydney Council, while Lane Cove Council and 4 other government agencies identified issues to be addressed. Issues raised included height, bulk and scale, overshadowing, traffic, hotel use, service capacity, and waste collection.

In assessing this application the Department has taken into consideration all relevant Environmental Planning Instruments, codes and policies, together with the issues raised in submissions. The project is permissible under the *North Sydney Local Environmental Plan 2001* (NSLEP 2001). Key issues for assessment are height, setbacks, traffic and parking, residential amenity and public benefit.

The proponent amended the design in their Preferred Project Report (PPR) by reducing the height of the building by 12.5 metres (from 109 metres to 96.5 metres), increasing the height of the podium from 3 to 4 storeys, reducing the number of apartments from 228 to 173, increasing the number of hotel suites from 38 to 76 and adding privacy screens to sections of the eastern and western elevations.

The amendments made did not satisfactorily address all the Department's concerns and it is recommended that the following further amendments be made:

- the height of the building be reduced by a further 14 metres (approx 4 storeys) to a maximum height of RL 167.3 (82.5 metres);
- additional privacy screening the eastern and western façades to prevent overlooking of the neighbouring properties; and
- additional privacy screening to prevent overlooking between the two towers of the proposed building.

The reduction in height will ensure that the project is consistent with the surrounding pattern of development and the desired characteristic building height expressed in North Sydney Council's character statement for St Leonards. The additional screening will provide appropriate levels of privacy to neighbouring properties and within the site.

In accordance with the Minister's delegation of the 14 September 2011, the application is forwarded to the Planning Assessment Commission (PAC) for determination as North Sydney Council has objected and more than 25 objections have been received. There have been no reportable political donations disclosed.

TABLE OF CONTENTS

1.	BACKGROUND	1
1.1	Site and Surrounds	1
1.2	Previous Development Applications for the site	3
2	PROPOSED PROJECT	4
2.1	Project Description	4
2.2	Project Need and Justification	7
3	STATUTORY CONTEXT	9
3.1	Major Project	9
3.2	Permissibility	9
3.3	Objects of the EP&A Act	10
3.4	Ecologically Sustainable Development	10
3.5	Statement of Compliance	10
4	CONSULTATION AND SUBMISSIONS	11
4.1	Exhibition	11
4.2	Public Authority Submissions	11
4.3	Public Submissions	13
5	ASSESSMENT	14
5.1	Built Form	14
5.2	Non Residential Floor Space Ratio.	21
5.3	Traffic and Parking	22
5.4	Public Benefit	24
5.5	Residential Amenity	24
5.6	Other matters	26
6	CONCLUSION	27
7.	RECOMMENDATION	28
APPENDIX A	ENVIRONMENTAL ASSESSMENT	29
APPENDIX B	CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS	30
APPENDIX C	PROPONENT'S RESPONSE TO SUBMISSIONS	35
APPENDIX D	POLITICAL DONATION DISCLOSURES	36
APPENDIX F	RECOMMENDED CONDITIONS OF APPROVAL	37

1. BACKGROUND

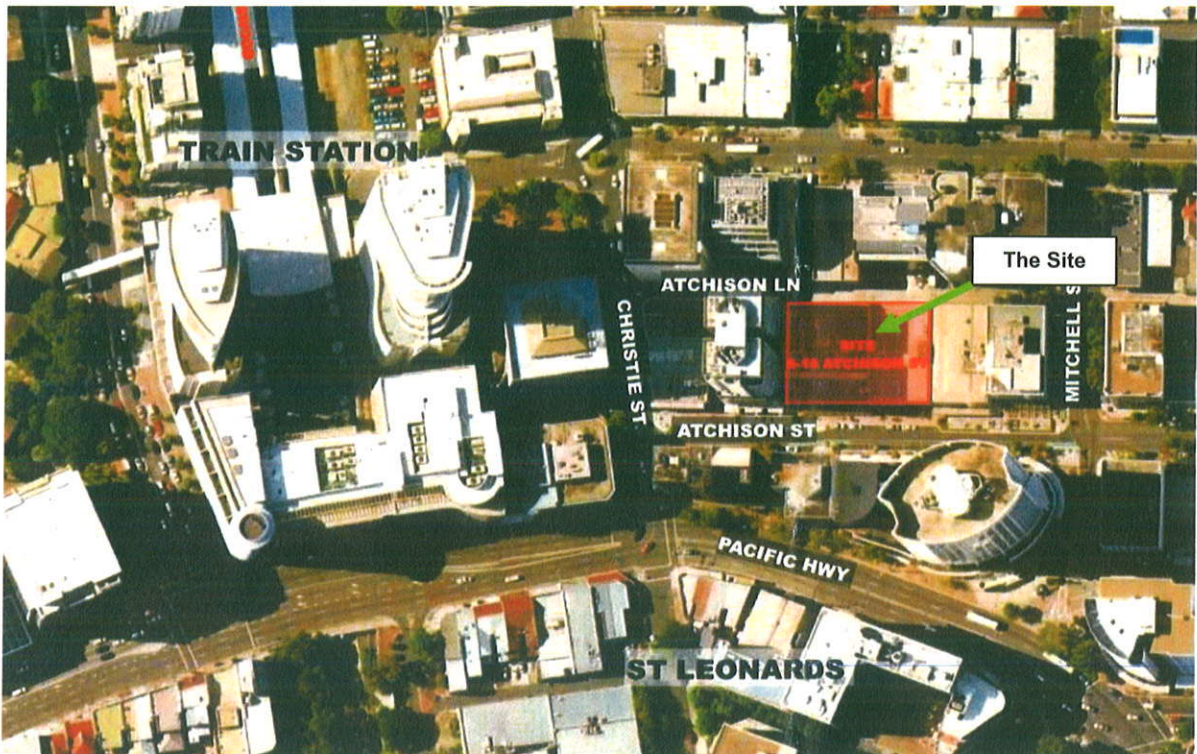
1.1 Site and Surrounds

The site is located within the St Leonards town centre (**Figure 1**), 150 metres to the west of St Leonards railway station. It consists of three parcels, being Lot 1 DP 716374, Lot 6 DP 703275 and Lot 5 Sec 13 DP 2872 and is known as 6 – 16 Atchison St, St Leonards.

The site is generally rectangular in shape with its northern (Atchison Lane) and southern (Atchison Street) boundaries 50.3 metres in length, and its eastern and western boundaries 35.8 and 34.3 metres in length respectively. It has an area of 1740.6m² and generally slopes from east to west, with a fall of 2.7 metres along Atchison Lane and 3.9 metres along Atchison Street.

The site is occupied by three commercial buildings (**Photos 1 & 2**), 3 - 4 storeys in height with basement car parking for 60 spaces and a combined gross floor area of 5000m². The buildings cover the entire site (**Figure 2**).

Fig 1: Site Location



The northern side of Atchison Lane is occupied by 11 Chandos St, which is an 11 storey mixed use building and various commercial buildings ranging in height from 1 – 8 storeys.

At its eastern boundary the site adjoins 20 Atchison St, which is occupied by a 3 storey commercial building. Further to the east is 22 Atchison St, which is occupied by a 6 storey commercial building.

To the southeast on the opposite side of Atchison St is 601 Pacific Highway (**Photo 4**), which is occupied by the IBM tower, a 15 storey (RL 157.4) commercial building. To the southwest is 619 Atchison St, which is occupied by a 7 storey (RL 110.57) commercial building. Further to the southwest is 621 Pacific Highway, which is occupied by a 10 storey commercial building.

At its western boundary the site adjoins a 17 storey (RL 135.4) mixed use development, called Linea (**Photo 3**). The eastern elevation of this building has a centrally located light well with balconies facing into it.

Figure 2 – Site and Surrounds

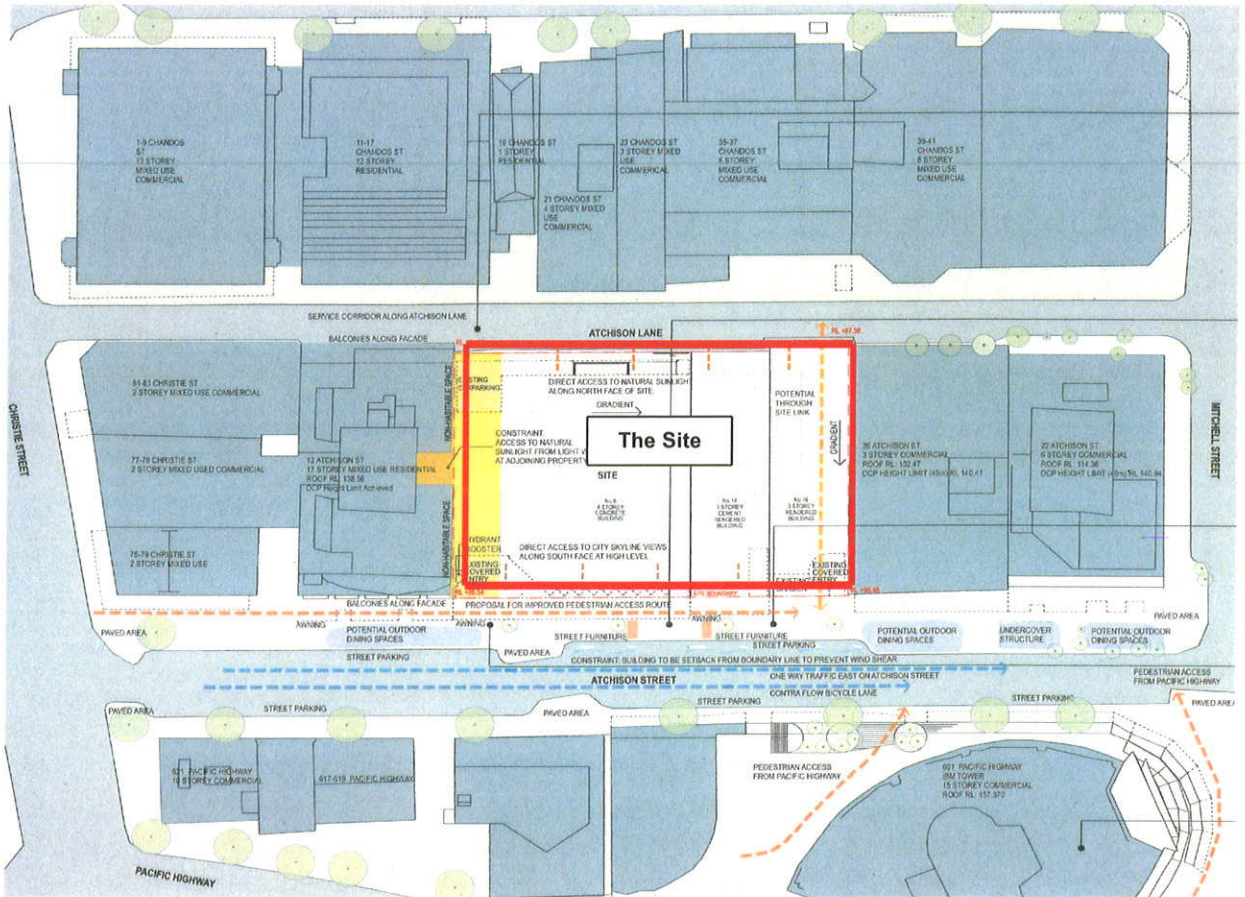


Photo 1: Looking east along Atchison Street



Photo 2: Looking west along Atchison Lane

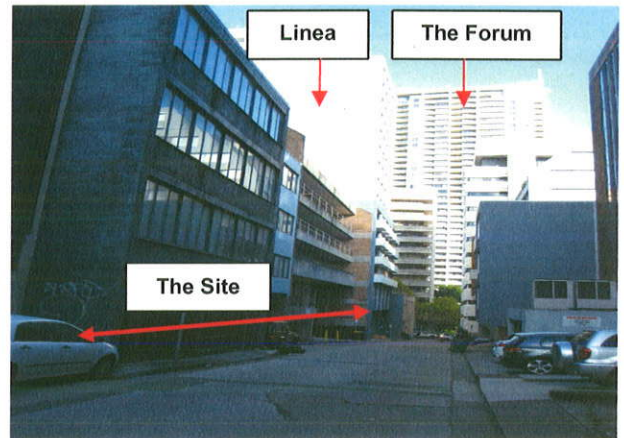


Photo 3: 2 – 4 Atchison Street (Linea)



Photo 4 – Looking east at the southern side of Atchison Street



1.2 Development History

On 27 March 2006, Council resolved to defer consideration of a Development Application (DA469/05) it had before it, for a 24 storey (81.5 metre) mixed use building containing 170 apartments and to advise the applicant that if they wished to proceed, they should seek an amendment to the NSLEP 2001 and consider the following modifications to their plans:

- A revised podium matching the scale of the podium at 2 - 4 Atchison St over the western and central parts of the site;
- Setback the tower to comply with the separation distances in the Residential Design Flat Code and North Sydney Council Development Control Plan 2002;
- Provide adequate commercial floor space within the podium and lower levels of the building to satisfy the objectives of the NSLEP 2001, address solar access and cross-ventilation; and
- Provide adequate loading and parking facilities.

This application was withdrawn in March 2007.

On 11 November 2009, the Proponent for the project the subject of this report presented two designs (83m and 109m) for tower developments to Council's Design Excellence Panel (DEP). The DEP noted the following:

- More work is required on the floor plan of the tower and the floor plate of the tower needs to be further reduced. A thinner building will result in further shadow improvements and better separation distances;
- An average setback for a uniform tower may be acceptable provided it can be demonstrated that the average of the setbacks (vertical and horizontal) generally complies with the rule of thumb recommendations of SEPP 65;
- The Floor Space Ratio (FSR) of the taller building should be the same as a compliant shorter building (around 11:1) and that any increase would only be accepted on the basis of demonstrated additional public benefits such as domain areas, improved solar access etc; and
- Any built form that does not step down from the 'Forum' tower is unacceptable.

2 PROPOSED PROJECT

2.1 Project Description

The project (as presented in the PPR) is for a 28 storey (96.5 metre) mixed use development comprising residential apartments, a hotel with a gymnasium and conference facilities, ground floor lobby areas, a café, an open public plaza, and six levels of basement car parking. The development is shown in **Figures 3 - 10**. The key components of the proposal are listed in **Table 1**.

Table 1: Key Project Components

Aspect	Description
Project Summary	<ul style="list-style-type: none"> • Demolition of existing buildings; • The construction of a 28 storey (plus plant level) mixed use building. The building has a four storey podium, 24 storey tower, plus a plant level. The tower has a split arrangement with northern and southern 'towers' which are connected via a core; • Construction of a 6 level basement to accommodate 168 cars and 18 motorbikes, garbage room, storage cages and associated services; • Ground floor level. The ground floor includes a café, residential lobby, hotel lobby and public plaza. A 6 metre wide public thoroughfare extends along the eastern boundary, connecting Atchison Lane and Atchison Street; • Landscaping. A green wall is proposed along the eastern boundary. The wall has a height of 10 metres at Atchison Lane and 7.5 metres at Atchison St. It includes a series of linear planting boxes, with growing frames between. The roof of the podium will have a gravel garden. • Levels 2 – 6: Hotel. The hotel includes 76 serviced apartments, hotel conference room and gymnasium. The hotel component has a gross floor area of 4,445m²; • Levels 7 – 28: Residential apartments. A total of 173 apartments are proposed, being 30 studios, 64 x 1 bedrooms, 66 x 2 bedrooms, 13 x 3 bedrooms. The northern tower contains 100 apartments and the southern 73. The residential component has a gross floor area of 16,136 m²; • The building has a total gross floor area of 20,819m², which equates to a floor space ratio of 12:1; • A curvilinear framing is proposed to be attached to the façade to provide sun shading, privacy and patterning. The framing is 500mm deep and 50mm wide; • 1 level of roof top plant and equipment, including solar collectors; • The proponent has provided a Voluntary Planning Agreement which proposes to dedicate 6 apartments (4 studios & two 1 bedroom) to Council for Affordable housing; and • The building has a maximum RL of 181.30 and height of 96.5 metres.
Preferred Project Report	<p>Key amendments made to the project in the Preferred Project report were:</p> <ul style="list-style-type: none"> • the height of the building was reduced by 12.5 metres (4/5 storeys) from 109 metres to 96.5 metres; • the number of apartments was reduced from 228 to 173; • the number of hotel suites was increased from 38 to 76; • the podium was increased in height from 3 to 4 storeys; and • Façade redesigned to accommodate apartment changes and in response to SEPP 65 assessment.

Figure 3: View from the North (Source: PPR)

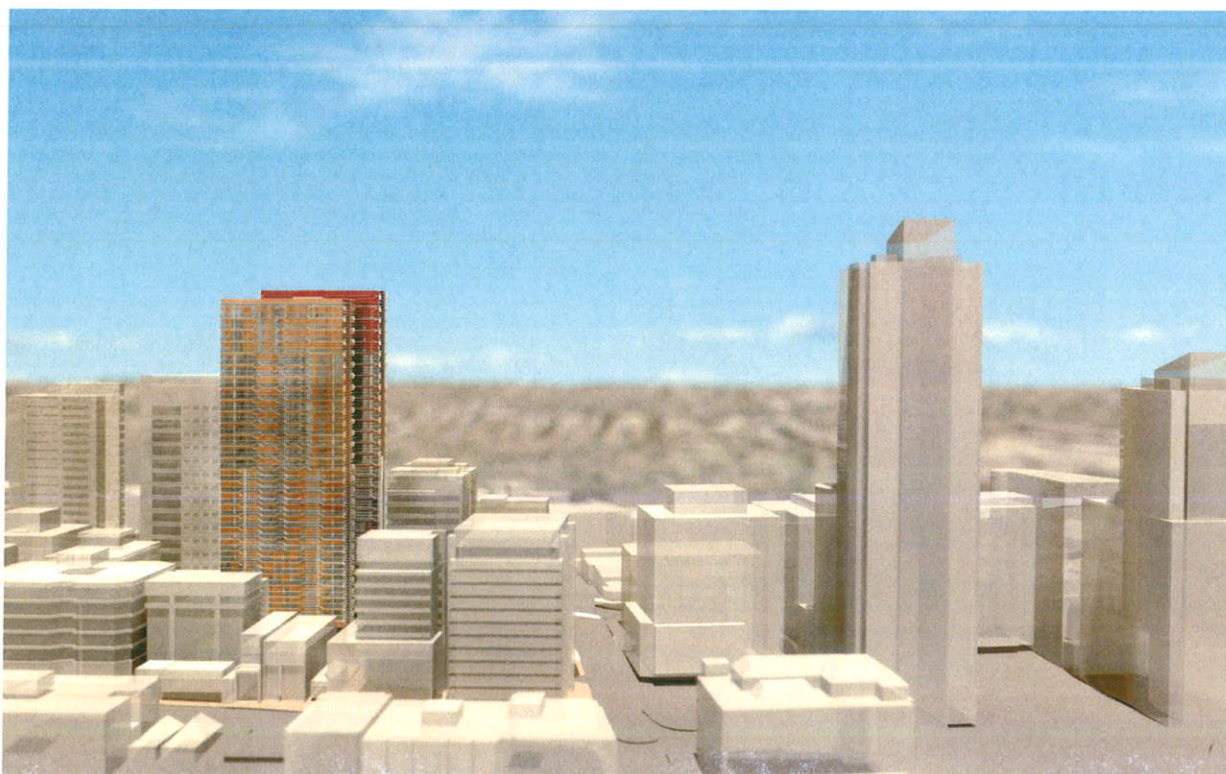


Figure 5: View from the South West (Source: PPR)



Figure 7: View from Atchison St to the hotel lobby entry (Source: PPR)

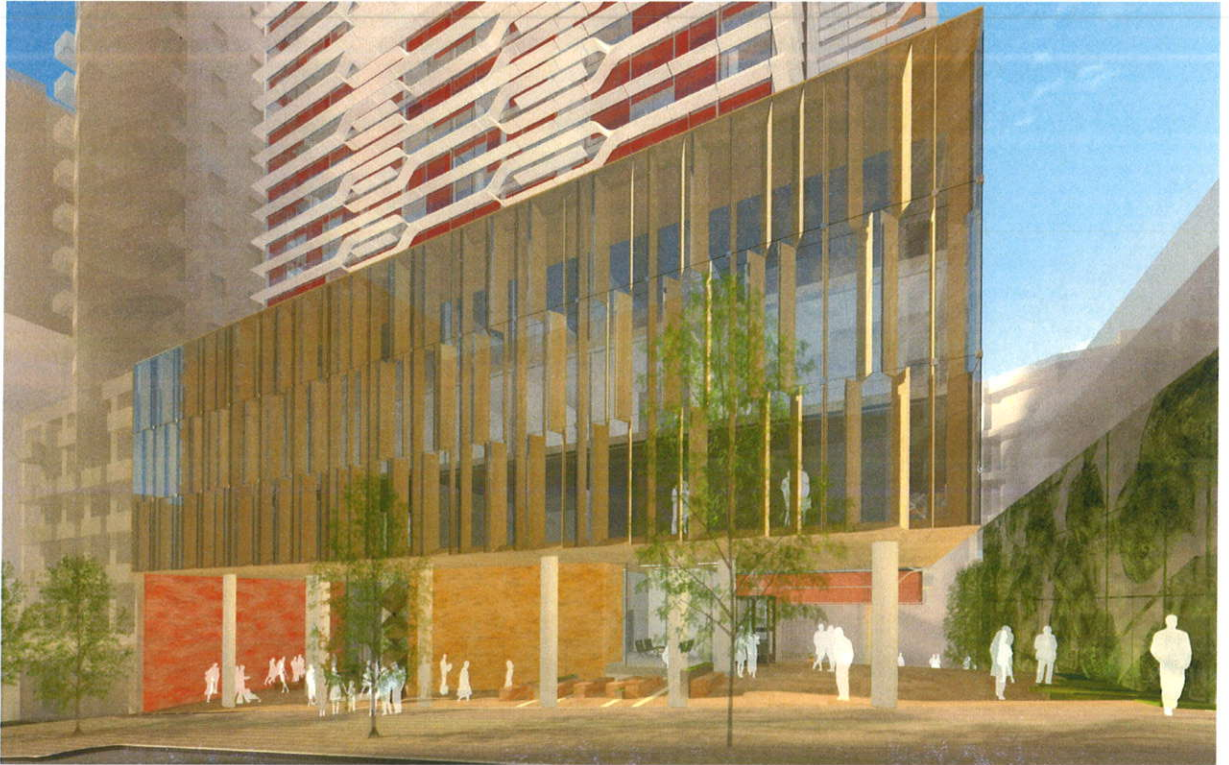


Figure 9: Privacy Screening viewed from high level south west (Source: PPR)



2.2 Project Need and Justification

The proposed project is generally consistent with the following strategic planning documents:

NSW 2021

NSW 2021 is a 10 year plan to rebuild the economy, provide quality services, renovate infrastructure, restore government accountability, and strengthen local environments and communities.

The project is consistent with Goals 5 and 20 of *NSW 2021*, as it will provide dwellings which will assist in achieving the target of delivering 25,000 new dwellings in Sydney per year and it will increase the percentage of the population living within 30 minutes by public transport of a city or major centre.

The Metropolitan Plan for Sydney 2036

The Metropolitan Plan for Sydney 2036 (the Plan) was released in December 2010 and is a strategic document to guide the development of the Sydney Metropolitan area towards 2036. It identifies a Global Economic corridor that extends from Port Botany to Macquarie Park, which contains a clustering of jobs and economic activity and plays a critical role in the metropolitan economy. St Leonards is a specialised centre within the corridor. Specialised centres contain major infrastructure or facilities that perform vital economic and employment roles across the metropolitan area. St Leonards is identified as a business, medical and educational centre.

The plan sets targets of 770,000 additional dwellings and 760,000 new jobs for the Sydney region by 2036. The Plan seeks at least 70% of new dwellings to be located within existing urban areas and 80% of new dwellings to be located within walking distance of a centre.

The Plan refines the Sydney-wide targets, with the inner north sub-region to provide an additional 44,000 new dwellings and an additional 62,000 new jobs by 2036. St Leonards is identified to provide 5000 of these new jobs.

The proposal is generally consistent with the aims of the Metropolitan Plan for Sydney 2036, as it will contribute toward meeting overall dwelling targets by providing approximately 150 dwellings (as amended by conditions), within an existing urban area. Further the project will create 460 construction and 41 operational jobs.

Draft Inner North Subregional Strategy

The Draft Inner North Subregional Strategy (the Strategy) was released in July 2007. It identifies that St Leonards has evolved into a specialised centre, due to the regional scale health and education campuses of the Royal North Shore Hospital and North Sydney College. Crows Nest 'Eat Street' and Artarmon Industrial area are nominated as other key assets and drivers in the centre.

The Strategy sets a target of creating 60,000 new jobs in the region by 2031, with 8,200 to be provided in St Leonards. It is important to note that the area identified by the Strategy as the St Leonards precinct, includes the Royal North Shore Hospital, Northern Sydney TAFE, Gore Hill Technology Park and a portion of the Artarmon employment lands. The Strategy also sets a target to provide 5,500 houses in North Sydney.

The project is consistent with the Strategies key directions relating to improving housing choice and creating sustainable and liveable communities and encouraging the use of public transport.

The loss of commercial floor area is inconsistent with the intent of the strategy to maintain office space. The proposed non-residential floor area will generate 41 operational jobs and is complementary with the vision for the area as it will support other businesses.

St Leonards Strategy

The St Leonards Strategy was commissioned by North Sydney, Lane Cove and Willoughby Councils. The purpose of the strategy is to identify how the economic role of the centre can be maintained, and how sustainability, amenity and sense of place can be strengthened.

The Strategy divides the centre into Precincts. The site is located within the eastern mixed use transitional area. Key recommendations for this area include, retaining commercial floor space at lower levels to promote local service businesses and maintain support for mixed use developments to promote more apartments.

The proposal is a mixed use development and will provide apartments, a hotel and café, but will result in the loss of commercial floor area. The proposed hotel will complement and support businesses. The café will provide a service for local residents.

It is noted that the Strategy identifies that there is a shortage of hotels in the area and that these are a key component of a vibrant business environment.

3 STATUTORY CONTEXT

3.1 Major Project

The proposal was declared to be a Major Project on 3 December 2009, under the former provisions of clause 13 of State Environmental Planning Policy (Major Development) 2005 being a residential project with a Capital Investment Value in excess of \$100 million. Director-General's Assessment requirements (DGRs) were issued on 21 January 2010.

Part 3A of the Act, as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A to the Act, continues to apply to transitional Part 3A projects. As the DGRs were issued prior to 8 April 2011, the project is a transitional Part 3A project.

On 14 September 2011, the Minister for Planning and Infrastructure delegated his powers and functions to the Planning Assessment Commission (PAC) where a private application has more than 25 submissions by way of objection and where the relevant Council has objected to the proposal. This application must be forwarded to the PAC for determination as more than 25 objections have been received and North Sydney Council has objected. There have been no reportable political donations disclosed (refer **Appendix D**).

3.2 Permissibility

The site is zoned mixed use under the *North Sydney Local Environmental Plan 2001 (NSLEP 2001)*. The proposed uses (apartment buildings, a hotel, and a refreshment room) are permissible with consent. The objectives of the zone are to:

- (a) *Encourage a diverse range of living, employment, recreational and social opportunities, which do not adversely affect the amenity of residential areas, and*
- (b) *Create interesting and vibrant neighbourhood centres with safe, high quality urban environments with residential amenity, and*
- (c) *Maintain existing commercial space and allow for residential development in mixed use buildings with non-residential uses at the lower levels and residential above, and*
- (d) *Promote affordable housing.*

The proposal is consistent with these objectives, as:

- the proposed use will create additional living, work and social opportunities contributing to the diversity of the area, whilst not adversely impacting on the amenity of residential areas;
- the proposed plaza area and through site pedestrian links will contribute to an interesting, vibrant, high quality pedestrian environment. The proposed tower is of a high quality design and will positively contribute to the St Leonards skyline;
- the project has non-residential uses at the lower levels with residential uses above;
- although the development will result in the loss of commercial floor space, the proposed hotel will support other commercial uses in the area, by providing temporary accommodation for business travellers; and,
- the proponent has offered to dedicate apartments to Council for affordable housing. Conditions (**conditions B5 & E2**) are recommended to ensure this offer is met.

The project is generally consistent with the Draft North Sydney LEP. The draft LEP retains the objective of maintaining commercial floor space.

The Department has taken into consideration the aims and objectives of the following EPI's in the assessment of this application: State Environmental Planning Policy (Major

Development) 2005; State Environmental Planning Policy (Infrastructure) 2007; and North Sydney Local Environmental Plan 2001.

3.3 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5. The relevant objects are:

- (a) *to encourage:*
- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities, and*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) *ecologically sustainable development, and*
 - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The proposal is consistent with the objects of the Act as summarised below:

- the proposal is an orderly and economic use of the land, providing housing and employment in close proximity to a transport hub and within a 'Specialised Centre';
- the project will be ecologically sustainable, through the use of solar water heating, external sun shading, the use of recycled materials, and utilising passive heating and ventilation techniques; and
- the proposal will add to the stock of Affordable Housing units in the North Sydney Local Government area.

3.4 Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

The project is consistent with the key principles of ESD. A further detailed assessment against the ESD principles is at **Appendix B**.

3.5 Statement of Compliance

In accordance with section 75I of the EP&A Act, the Department is satisfied that the Director General's environmental assessment requirements have been complied with.

4 CONSULTATION AND SUBMISSIONS

4.1 Exhibition

In accordance with the requirements of section 75H (3) of the EP&A Act, the Department publicly exhibited the application from Wednesday 29 September - Friday 29 October 2010 (31 days) on its website and at North Sydney Council offices. The Department also advertised the public exhibition in the Sydney Morning Herald, the Daily Telegraph, and the North Shore Times on 29 September 2010 and notified landholders, local community groups and relevant State and local government authorities in writing.

The Department received 38 submissions during the exhibition, consisting of 6 submissions from public authorities (including an objection from North Sydney Council), and 32 objections from the general public and special interest groups.

A summary of the issues raised in submissions is provided below.

4.2 Public Authority Submissions

Submissions were received from North Sydney Council (objection), Lane Cove Council (raised issues), Transport NSW (raised issues), RailCorp (no objection), Roads and Maritime Services (RMS – formerly RTA) (raised issues), and Sydney Water (raised issues).

Willoughby City Council and the RMS (formerly State Transit Authority (Sydney Buses) were also notified but no submission was received from either authority.

North Sydney Council

Council made submissions in response to the exhibition and the preferred project report. The matters raised in the submissions were:

Submission on exhibited project

- the proposal does not satisfy the zone objectives, as it will not result in a high quality urban environment and fails to maintain commercial floor space on the site;
- the proposed extensive breach of the height control results in a building that is incompatible with the context and the desired future character for the area;
- the proposal does not satisfy the provisions of the St Leonards / Crows Nest Area character statement, as the height does not scale down significantly from the Forum to Willoughby Road and no podium is provided to Atchison Lane;
- the proposal is inconsistent with key design principles in SEPP 65, in that the height and floor plate size would not be in context with the existing and desired surrounding development; and
- the proposed development will result in additional cumulative traffic impacts.

Submission on preferred project report

- The issues raised in the previous submission have not been addressed and the Minister is urged to refuse the application.
- If the Minister approves the application conditions be imposed requiring greater public benefits to address the gross exceedance of the building height controls. The public benefit conditions should comprise of:
 - dedication or cash contribution of \$3 million to Council for the acquisition of public open space within the Crows Nest / St Leonards precinct west of Willoughby Road; and
 - an additional six (6) Affordable Housing units to make 12 in total.

- The loading dock should cater for a minimum size removal vehicle for a development of this size.

Department comment

North Sydney Council's concerns are acknowledged. The issues raised are discussed in Section 5 of this report.

Lane Cove Council

- Supports the ground level pedestrian area but expressed concern over the height of the building.

Department comment

Lane Cove Council's comments are acknowledged. Height is discussed in Section 5 of this report.

Transport NSW

- Requests that the following issues be addressed in any conditions of consent:
 - provision of bicycle parking and facilities;
 - travel packs be produced and distributed to residents, hotel guests and workers;
 - the Construction Management Plan is to identify impacts of the project on surrounding transport network, monitor and maintain existing pedestrian and cycle access in the area; and
 - encourage workers travelling to the site to do so using public or active transport.

Department comment

The Department supports these requests and they have been included in the conditions (**B1 (h)**, **B13** and **F13**) of the Instrument of Approval.

RailCorp

No objection to the project as:

- the site is outside the area of any current planned alignment of the CBD Rail Link; and
- the site is further than 150 metres from the existing rail corridor and outside the 60 metre acoustic zone, accordingly the guidelines relating to developing near rail corridors do not apply.

Department comment

RailCorp's comments are acknowledged.

Roads and Maritime Services (formerly Roads and Traffic Authority)

Raised the following issues:

- the potential for vehicles turning right into Atchison Lane/Christie Street to block northbound vehicles on Christie Street. Consideration should be given to banning this turn;
- swept path analysis be undertaken to demonstrate that a 6.4 metre rigid vehicle can enter and exit Atchison Lane and the access driveway adequately;
- the maximum vehicle size to serve the site should be 6.4 metres; and

- the inclusion of conditions relating to vehicle movements, off-street parking for cars and bicycles, loading docks, and the preparation of a Demolition and Construction Traffic Management Plan.

Department comment

The Department generally supports the RMS's requests and has included them in the conditions (**B1, B2, B8 and F15**). Traffic and access issues are discussed in Section 5 of this report.

Sydney Water

No objection to the project and advised that there is capacity for the project to connect to water and wastewater services, and the possible need for a trade waste permit.

Department comment

Sydney Water's comments are acknowledged (refer to conditions **B20 & B21**).

Sydney Airports Corporation

The project breaches the obstacle limitation surfaces and as such it was necessary to notify Sydney Airport. Sydney Airport has acknowledged receipt of the notification but has not provided any formal comment. Condition C2 requires the proponent to obtain the necessary approvals from Sydney Airport.

4.3 Public Submissions

There were 32 submissions received from the public, all of which were objections to the project. Issues raised in the submissions included;

- Height, bulk & scale: The building is excessive in height, bulk and scale and will dominate the surrounding area;
- Building Separation: The building setbacks are inadequate;
- Traffic impact: Atchison Lane does not function adequately now and is often blocked by trucks (moving, garbage) and traffic and cannot cope with the additional load from the development. The intersection of Christie Street and the Pacific Highway is congested during peak periods, resulting in traffic queuing and delays. The hotel traffic will have different impacts to the residential component;
- Wind: The wind report identifies adverse impacts but these are not properly dealt with;
- Overshadowing: The proposal will overshadow nearby apartments;
- Hotel use: Hotel guest behaviour (noise, alcohol/cigarettes) will adversely impact the amenity of the area;
- Public transport: The proposal will unduly impact on public transport service;
- Services: The utilities are inadequate to service the development; and
- Construction: The construction will adversely impact on the surrounding area through dust, noise and debris.

The Department has considered the issues raised in submissions in its assessment of the project.

5 ASSESSMENT

The Department considers the key issues to be:

- Built form;
- Non - residential floor space;
- Traffic and Parking;
- Public benefit; and
- Amenity Impacts;

5.1 Built Form

Building Height

The North Sydney LEP 2001 establishes a 49 metre height limit on the site. The proposed building has a height of 96.5 metres, exceeding Council's control by 47.5 metres.

The St Leonards centre sits within three local government areas, those being North Sydney, Willoughby and Lane Cove. The height controls across the centre grade up from the low density residential fringe, with the tallest buildings permitted on the highway and along the railway line, in close proximity to the railway station. The height controls reinforce the visual prominence of the Forum development, with the tallest permitted height being 72 metres.

The St Leonards skyline is marked by prominent buildings at its eastern and western ends. The Abode and IBM buildings (65 metres in height each) mark the eastern end of the skyline and the two Forum towers (110 & 86.5 metres) mark the western end. The subject site is located on the eastern side of the centre.

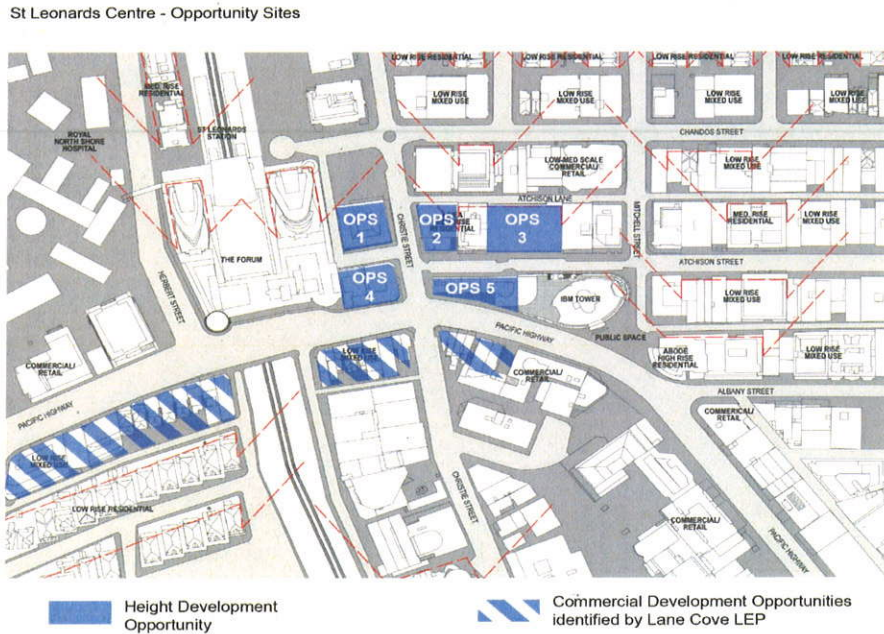
North Sydney Council objected to the exceedance of their height control and did not believe that the tower exhibited any outstanding design attributes which would justify its approval. Council's Design Excellence Panel has acknowledged that the impact from a carefully considered taller tower with a smaller floor plate may be less than a smaller squat compliant tower.

The proponent undertook an urban design analysis of height limits in the St Leonards centre, as part of their PPR. The analysis concluded:

"..presently the height limits in the North Sydney LEP 2001 do not reflect the goal of the development of a centre with increased density around the St. Leonards train station"

The analysis nominated five sites (refer **Figure 11**) which were considered capable of being developed to a height greater than that permitted under the NSLEP 2001 with limited or manageable impacts. The subject site was one of the five sites identified and is described as OPS 3. The five sites form a cluster to the east of the Forum development.

Figure 11 – Opportunity Sites (Source: PPR)



The urban design analysis found that if the heights on the five sites were increased a 'domed' skyline would be created, with a distinctive centre and transitions towards the surrounding lower density precincts (refer Figure 12).

Fig. 12 – Domed skyline profile (Source: PPR)



The 'domed' skyline was one of four skyline profiles considered by the proponent. The different profiles are outlined in Table 2 below.

Table 2: Summary of skyline profiles considered by proponent.

Skyline Profile	Skyline Description	Suggested Height limits for 6-16 Atchison Street	
		East – West Section	North – South Section
Linear	An inclined plane with its highest point being the Forum building.	80 metres	92 metres
Topographical	Where the skyline follows the shape of the land	117 metres	111 metres
Dome	The planning controls are amended to increase the height and densities in the St Leonards centre	114 metres	108 metres
Hybrid	An overlay or each of these three approaches	94 metres	94 metres

The Metropolitan and Sub-Regional strategies support the provision of residential housing close to transport and employment. This site is well located in this regard and it is appropriate to consider the suitability of the site to accommodate a taller building than that permitted under the North Sydney LEP, provided the impacts are acceptable and the height is consistent with the desired future character for the area. It is important to note the North Sydney LEP was gazetted in June 2001 and its provisions may not reflect the strategic aims of the more recently released metropolitan and subregional strategies.

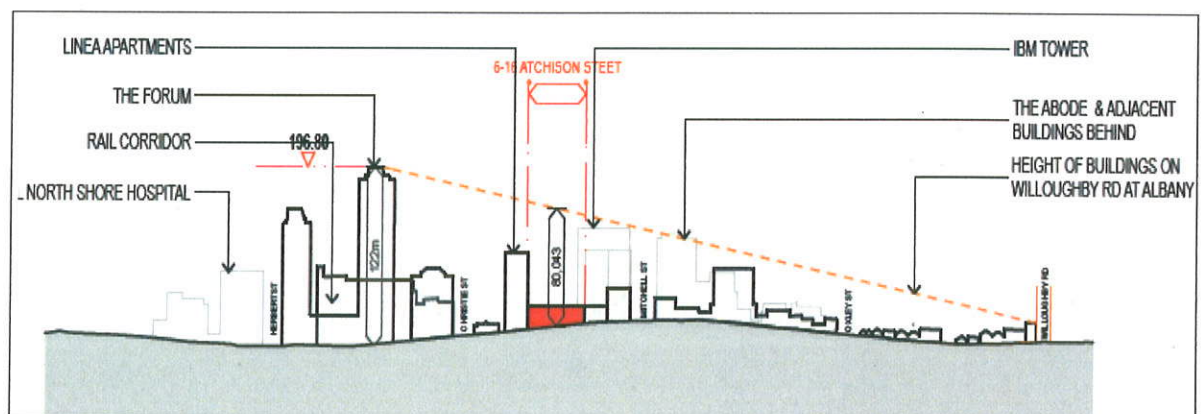
The desired characteristic building height for the area is identified in the St Leonards / Crows Nest planning area character statement in the North Sydney DCP 2002, which states:

“Buildings are scaled down significantly from the Forum development towards Willoughby Road, Hume Street and Chandos Street to fit in with lower scale development and to reduce adverse affects on those lower scale areas”.

The Department has assessed the skyline profiles prepared by the proponent to establish a building height which best achieves this desired character. The proponent's 'domed' approach is not supported. The 'domed' approach requires the height controls for a series of sites to be increased. There is no certainty this will eventuate, potentially leaving the building out of context with its surrounds. The 'domed' approach also does not achieve a significant scaling down of buildings from the Forum, as sought by Council's current controls.

It is the Department's view that the Linear Skyline (refer **Figure 13**) is the most appropriate. The east-west skyline section is based on extending a line from the top of the Forum tower, to those buildings fronting Willoughby Road. Under this skyline profile, an 82.5 metre building could be accommodated on the site. A building of this height also fits within the North - South linear skyline profile.

Fig. 13 – East West Linear Skyline (Source: PPR)



When viewed from a wider catchment, the proposed building has a closer visual relationship with the IBM and Abode buildings than the Forum, and it is appropriate that it more closely match their heights. Under the east-west linear skyline the height of the proposed building steps up from the height of the IBM and Abode buildings (65 metres) and better relates to them. The East – West linear skyline also achieves Council's requirement for building heights to step down significantly towards Willoughby Road.

It is recommended that the proposed building height be reduced by 14 metres (approximately 4 storeys) so that it has an overall height of 82.5 metres consistent with the linear skyline approach. A condition (**Condition B3**) has been included setting the maximum height of the building at RL 167.3 AHD. A building of this height will assist in defining the core and increase the visual presence and importance of the St Leonards centre. It will also fit within the skyline providing a satisfactory transition between the IBM building and the Forum. The

impacts of the taller tower are considered acceptable, with shadow impacts being limited. There is sufficient separation and buffering to nearby residential areas.

The most significant additional impact likely to result from a taller building is overshadowing. The subject site lies on the northern side of St Leonards and shadows from a taller building will be cast across the centre. Sensitive receivers in the vicinity of the site include the public open space at the southern end of Mitchell Street and nearby residences. The shadow impacts from the project are as follows:

- During the equinox periods, the additional shadowing generally falls on the Pacific Highway and the non-residential buildings on its northern side;
- At 9.00am in mid-winter shadows are cast across the centre and onto the dwellings which adjoin the western side of St Leonards. The shadow has left these dwellings by 10.00am and they will still receive more than 3 hours direct sunlight. At 2.30pm, additional shadows are cast upon the northern elevation of the tower element of 599 Pacific Highway (the 'Abode'). The affected dwellings will also receive greater than 3 hours direct sunlight.
- There is no additional shadowing of the Mitchell Street public open space.
- There will be additional overshadowing of the eastern elevation of the adjoining Linea building (2 - 4 Atchison St). The northern tower of the proposed building is setback 12 metres from the western boundary and will allow the eastern elevation of the Linea to obtain 1 hour (approx) of direct sunlight in the morning in midwinter. This level of sunlight access is acceptable, given the high density context, the nil setback of Linea from the boundary, and the generally north and south orientation of the apartments in the Linea.
- The projects additional height will cause additional overshadowing of any mixed use development on the southern side of Atchison St. The street and block arrangement makes it difficult to protect all solar access. The extent of impact is accepted given the high density character of the area.

It is considered that based on this analysis, the proposed tower does not result in any unreasonable overshadowing impacts.

FSR

The North Sydney LEP does not prescribe a maximum floor space for the site. The density of development is instead limited by the building envelope controls (height and setbacks).

Council's Design Panel has expressed a view that the proposed development should have an FSR similar to a compliant building, which they advise is around 11:1. The proposal as presented in the PPR, contains 20, 819m² of Gross Floor Area, which equates to a FSR of 12:1.

The recommended amendments to the building height will result in the loss of 4 floors and approximately 2,960m² leaving a total GFA of approximately 17859m². The FSR of the reduced building will be in the vicinity of 10.3:1, which is consistent with a compliant building.

Building Setback and Separation

The proposed building does not fully comply (refer **Table 3**) with some of the setback and separation requirements of the North Sydney DCP 2002 and the Residential Flat Design Code (RFDC). The proposed setbacks are illustrated in Figure 12.

Table 3 – Compliance with setback/separation controls

Control	Required Setback/Separation	Proposed Setback	Complies
Ground level and Podium Street level			
Residential Flat Design Code	-	-	-
North Sydney DCP	<ul style="list-style-type: none"> 3m from Atchison Street 	<ul style="list-style-type: none"> 5.6m to ground floor Nil to podium 	Yes No
	<ul style="list-style-type: none"> 1.5m from Atchison Lane 	<ul style="list-style-type: none"> 3m & 4.5m 	Yes
Tower setback from street and laneway			
Residential Flat Design Code	Separation distances across Atchison Street: <ul style="list-style-type: none"> Building Height: 0 – 12m: 12m Building Height: 12m – 25m: 18m Building Height: Over 25m: 24m Separation distances across Atchison Lane: <ul style="list-style-type: none"> Building Height: 0 – 12m: 12m Building Height: 12m – 25m: 18m Building Height: Over 25m: 24m 	9.5m* 13m* 13m*	Yes Yes Yes
(Note: Compliance with separation distances are assessed based on adjoining properties equally sharing setback)		6.5m* 6.5m* 6.5m*	Yes No No
North Sydney DCP	<ul style="list-style-type: none"> 4.5m from Atchison Street 3.0m from Atchison Lane 	*From centreline of roadway <ul style="list-style-type: none"> 4.5m from Atchison Street 3.0m from Atchison Lane 	Yes Yes
Side Boundary Setbacks – Eastern and Western boundaries			
Residential Flat Design Code	<ul style="list-style-type: none"> Building Height: 0 – 12m: 12m Building Height: 12m – 25m: 18m Building Height: Over 25m: 24m 	<ul style="list-style-type: none"> 6m, 12m & 13m 6m, 12m & 13m 6m, 12m & 13m 	Yes Partial Partial
(Note: Separation distances are assessed based on adjoining properties equally sharing setback)			
North Sydney DCP	<ul style="list-style-type: none"> 3m 	<ul style="list-style-type: none"> 6m, 12m & 13m 	Yes

contains a number of glass block windows. The northern tower of the proposed building is setback 12 metres from the western boundary, which will allow the light well to receive sufficient light.

The southern tower of the proposal is setback only 6 metres from the western boundary. The west facing windows in the southern tower have been fitted with privacy screens, but they are not proposed for the western sides of “winter gardens” (i.e. balconies) on hotel levels C and D, and residential levels Type 1A and 1D that are within 12 metres of this boundary. The absence of any screening on the “winter gardens” up to a height of 49 metres is unacceptable as it will compromise the privacy of the residents whose balconies are directly opposite. A condition (**Condition B4**) is recommended which requires the introduction of opaque or translucent screening, or appropriately angled louvers, along the western sides of these “winter gardens” to protect the privacy of residents within the Linea apartment building who have balconies served by that light well.

Northern (Atchison Lane) boundary setbacks

The proposed tower has a setback of 6.5 metres from the centreline of Atchison Lane. Figure 13 illustrates the proposed setbacks and required separation distances. The proposed setbacks do not result in the separation distances being equally shared between the opposing properties across the laneway. The proponent argues that a reduced setback is acceptable for their project because:

- The opposing sites are likely to have commercial / non-living area facing the lane, as the living areas would be situated on the northern side of the building; and
- The project includes a hotel use in its lower levels, minimising the potential for any development on the opposite side of the laneway to affect residential apartments.

The Proponent’s rational for a reduced setback is sound. The opposing properties will retain reasonable building envelopes, which are capable of being developed in an appropriate manner.

Figure 13 Cross section through subject site and that to the north



Streetscape and Podium

The North Sydney DCP 2002 requires a 4 storey podium to Atchison Street and a 3 storey podium to Atchison Lane.

At Atchison Street a 4 storey podium is proposed compliant with Council's controls. The upper levels of the podium are built to the street edge, but the ground level is setback creating an undercroft area. The undercroft is publicly accessible and includes an accessible path of travel through to Atchison Lane, seating, public art and landscape features. The podium is setback 6 metres from the eastern boundary to create an open through site link with a café at its northern end. A vertical garden is proposed on the eastern boundary. The residential and hotel lobbies and cafe will provide surveillance and pedestrian movement to these elements which will activate the space. The proposed project will make a positive contribution to Atchison Street.

The project does not include a podium at Atchison Lane. Its absence will afford good solar access and better amenity for the café area and the pedestrian plaza along the Atchison Lane frontage and the pedestrian through site linkage. This linkage is described in the St Leonards Character Statement as an element of 'Quality Built Form' and the Department considers that the construction of a podium as required by the DCP would adversely impact on these elements of the design.

5.2 Non Residential Floor Space

There is currently 5000m² of non-residential floor space on the site, which is used for commercial purposes. The proposed development includes 4683m² of non-residential floor space (hotel, gymnasium and café) which equates to an FSR of 2.7:1. This is outside the range of 3.0:1 (5220m²) - 4.0:1 (6960m²) required by the North Sydney LEP 2001.

Council is of the view that the loss of commercial floor space is unfortunate and results in the development being inconsistent with objectives of the Mixed Use zone, which include to maintain existing commercial space and allow for residential development in mixed use buildings with non-residential uses at the lower levels and residential above.

The Department supports the proposed amount and type of non-residential floor space for the following reasons:

Strategy and Policy

- The St Leonards strategy identifies that the purposes of retaining commercial floor space in this part of St Leonards is to provide for local service businesses. The proposed non-residential uses, being the hotel, conference facilities, gymnasium and café will serve the needs of the local community and will assist in supporting the commercial function of the centre, by providing services required by businesses.
- Under the Draft NSLEP 2001, Council is seeking to rezone lands on the Pacific Highway from mixed use to commercial. This will assist in retaining commercial floor space within the section of St Leonards within the North Sydney LGA.
- The Inner North Sub Regional Strategy identifies a potential enterprise corridor along the Pacific Highway at St Leonards, the intention of which is to provide low cost accommodation for business.

Future Development

- There are a number of commercial activities that are likely to occur in the St Leonards Centre which will enhance its commercial focus. These include:

- The Royal North Shore Hospital and Gore Hill Technology Park, which will provide substantial non-residential areas. The Concept Approval for the Hospital includes 77,500m² for employment generating uses.
- The commercial development containing 32, 599m² at 88 Christie St, St Leonards approved by the Planning Assessment Commission on 19 July 2011.

The proposed mix of uses and allocation of non-residential floor space is supported.

5.3 Traffic, Parking and Loading

Parking

Table 4 details the extent of car parking required under North Sydney DCP 2002 (the DCP):

Table 4 – Car Parking Provision

Type	Number of apartments	Max Rate in DCP	Max Spaces required in accordance with DCP	Spaces Provided	Complies	
Studio	30	1 per 2 apts	15	126	137	No
1 Bed	64	1 per 2 apts	32			
2 Bed	66	1 per apt	66			
3 Bed	13	1 per apt	13			
Disabled parking for residential	-	Not specified	-	2	-	
Visitor parking for residential	-	Not specified	-	12	-	
Serviced Apartments	76	1 per 5 apts	15	15	Yes	
Disabled Parking for hotel	-	Not specified	-	2	-	
Café	238m ²	1 per 50m ²	5	2	Yes	
Motor Cycle		Min 1 per 10 spaces	15	18	Yes	
Car Wash Bay	1	Min 1 within Visitor Parking	1	2	Yes	

The parking provision is generally consistent with the requirements of the North Sydney DCP 2002. The recommended amendments to the height of the building will reduce the number of apartments by 32 (approx). Condition B6 (f) requires the allocation of parking to the residential component to be amended to comply with car parking requirements of the North Sydney DCP 2002.

Loading

A single loading dock is provided at basement level 1. The dock is 8.5 metres in length, 3.6m in width and 3.6m in height, which satisfies the requirements of Council's DCP. In their submission the Roads and Maritime Services stated that the development only needs to cater for a 6.4 metre small rigid vehicle. A vehicle of this size could be accommodated in the loading dock as proposed.

Council has requested that a condition be imposed which requires a loading dock 8.8m in length, 4.2m in width and 4.5m in height, to allow for a medium ridged vehicle, which is in excess of the DCP requirements. Council has requested this larger loading dock to minimise the potential for loading/unloading to occur within Atchison Lane. Objectors noted in their submission that the laneway is sometimes blocked by removalist's trucks.

As the proposed loading dock satisfies the requirements of Council's DCP and is considered suitable by RMS, Council's request for a larger loading dock is not supported.

Traffic

The site currently contains 5000m² of commercial floor space. The RMS's *Guide to Traffic Generating Development* (the Guide) identifies that commercial and office developments generate 2 vehicle movements per 100m² gross floor area (GFA) in peak hour. The existing development on site therefore generates 100 vehicle trips per hour in peak hour.

The proposed development contains residential, commercial (café) and hotel (serviced apartments) uses. The Guide contains traffic generations rates for residential (0.29 per apartment) and commercial uses (2 per 100m² GFA), but does not identify a rate for serviced apartments. The Proponent nominates a rate of 0.4 vehicle trips per apartment as being appropriate. Council has applied the residential rate (0.29) when assessing other serviced apartment developments. A conservative approach is adopted in this assessment and the higher rate nominated by the Proponent is applied. It is calculated that the proposed development will generate 82 vehicle trips per hour in peak hour, which is less than the 100 vehicle trips generated by the existing development on the site.

The proponent's traffic experts modelled the existing and future performance of key intersections, including the Pacific Highway and Christie Street and Atchison Lane and Christie Street and found that they currently operate with a good level of service (A/B) and will continue to do so.

Council is of the view that the proposed development is not of itself likely to result in unacceptable impacts on the local traffic system, but that the cumulative impacts of developments in excess of the planning controls would have a significant impact on the local road network. This report is focused on the merits of this project. It would be necessary to amend the local planning controls to accommodate developments of the scale proposed on other sites. If any such rezoning were proposed, a detailed analysis of cumulative traffic impacts would need to be made at the time. The proponent is of the view that there are four other sites within this part of St Leonards which have the potential to accommodate greater development than permitted by the current controls. The proponent's traffic consultant modelled the future scenario based on this potential and found that the network would operate satisfactorily.

The RMS has expressed concern at the possibility of vehicles waiting to turn right from Christie Street into Atchison Lane blocking southbound traffic in Christie Street and has suggested that consideration be given to banning the right turn with the construction of a raised median in Christie Street. The proponent's traffic expert does not believe this is required. A condition (**Condition B2**) requires that this matter be referred to Council's traffic committee for consideration. If the committee determines that it is required, the proponent will be responsible for its design and funding.

5.4 Public Benefit

The proponent states that the development delivers public benefit through the following measures:

- entering into a Deed of Agreement to allow public access across the ground floor plaza area;
- the provision of Affordable Housing Units; and
- the construction of an environmentally sustainable building.

Council's view of the initial proposal was that *"the 'public benefits' offered are far from commensurate with the level of non-compliance and do not come close to offsetting these non-compliances"*. At its meeting of 22 August 2011, Council resolved that two Public Benefit conditions should be included in any approval requiring:

- *"dedication of/or cash contribution of \$3 million to Council for the acquisition of public open space within the Crows Nest/St Leonards precinct west of Willoughby Road, and*
- *an additional six (6) Affordable Housing units to make 12 in total"*

Council's Section 94 plan establishes a framework under which contributions may be levied from developers for public facilities, including open space, which arise as a consequence of their development. The draft instrument includes a condition (**condition B11**) which requires payment of Section 94 contributions. The additional \$3 million dollars sought by Council is outside of the terms of the Section 94 plan and if imposed would result in the proponent having to pay two contributions for open space. Any contributions required should be identified within a Section 94 plan and accordingly Council's request that an additional \$3 million be provided is not supported. It is noted that Council's Section 94 does not identify any lands within this area for acquisition and that it recognises that increased capacity can be achieved through making improvements to existing open space areas.

Council's Development Control Plan 2002 requires 4% of dwelling space to be dedicated to Council as Affordable Housing. The draft instrument includes a condition (**condition B5**) which requires the dedication of housing in accordance with the DCP, which equates to approx 500m² or 5 apartments. The Department is satisfied that the proponent has made an acceptable contribution to affordable housing if they provide affordable housing in accordance with the requirements of Council's DCP.

The Department is satisfied that the project will provide a reasonable level of public benefit through the upgrading of the public domain, the provision of affordable housing, the creation of construction jobs and the payment of Section 94 contributions in accordance with Council's Section 94 contributions.

5.5 Residential Amenity

Apartment layout

The proposed layout includes a number of non-compliances with the minimum internal and external floor area requirements. The extent of the non-compliance is generally minor (1 – 2 m²). The apartment layouts are generally good, with the space used efficiently. The apartments will be functional in spite of the minor non-compliances.

Apartment Depth

The depth of a number of the centrally located apartments in the northern tower exceeds the maximum 8 metres required by the RFDC by up to 4 metres. The area of the apartments

which is furthest setback from the glazing is generally occupied by a bathroom. The non-compliance is accepted on the basis that the amenity of the apartments is not unduly affected because of the use of the space in the deeper area of the apartment. In addition, it is noted that the majority of apartments comply and are dual aspect. All living areas face large windows and balconies.

Solar Access

The RFDC recommends that 70% of apartments are to receive at least 2 hours of sunlight between 9.00am and 3.00pm in mid-winter in high density locations such as St Leonards. The Department calculates that 71% of apartments will receive the minimum required solar access. A number of units in the northern tower will receive greater than the minimum requirements.

Cross Ventilation

The RFDC requires 60% of apartments to be cross-ventilated. The split building arrangement allows for a high number of units to have dual aspects, which allows them to be cross-ventilated. The Department calculates that 68% of the proposed apartments will be cross ventilated, meeting this requirement.

The proponent has proposed an alternate scheme to cross ventilate the single aspect apartments. It involves a mechanical system which will draw fresh air into the apartments from outside and push stale air into the communal circulation space, where it will flow outside via openings at the ends of the corridors. This system has the potential to improve the amenity of these apartments. The Department has not calculated these apartments as being able to be cross-ventilated for the purposes of the RFDC.

Visual Privacy

It is proposed to have winter gardens on the southeastern and southwestern corners of the northern tower, in the area adjacent to the core, on levels 7 – 14 and 28. The visual privacy of the opposing apartments in the southern tower could potentially be adversely affected by these balconies. A condition (**Condition B4**) is recommended which requires that privacy screening be erected along the southern side of these winter gardens.

Serviced Apartments

The proposed hotel consists of a series of serviced apartments. The SEPP 65 assessment has not included the serviced apartments, as they are not permanent dwellings. Conditions are proposed on the consent which limit the period of occupancy to ensure they are not used for permanent residential long term occupation.

Conclusion

Overall it is considered that the proposal will provide a high quality environment for residents.

5.6 Other matters

There were a variety of other matters raised in submissions. The following table (**Table 5**) lists these matters and the Department's position regarding them:

Table 5 Summary table of other issues

Matter	Department response
Hotel Use	Concern has been expressed at the possible impact from noise and unruly conduct from hotel patrons. The Department notes that there is no bar or restaurant proposed as part of the hotel. Council has not identified this as an issue. The Department does not believe that the hotel use as proposed is likely to result in any significant increase in noise or unruly behaviour of members of the public.
Communal meeting room	Council has requested that a condition be imposed requiring the provision of a meeting room of at least 60m ² . The Proponent contends that residents will be able to use the café (outside standard hours) or hotel conference facilities for meetings and a dedicated room is not required. The Department supports the proponent's position and is of the view that sufficient space is available for communal meetings without the need for a dedicated room (Condition E15).
Adaptable units	A condition (Condition B18) has been included requiring compliance with the requirements of North Sydney DCP 2002 relating to the provision of adaptable units.
Demolition/Construction/ Excavation impacts	A condition (Condition B1) has been imposed requiring a Construction Management Plan to be prepared and approved by Council's Traffic Committee prior to the issuing of the Construction Certificate.
Wind effects	The proponent has submitted a revised Wind Impact Assessment report with the PPR. This report restates that the previous recommendations for ground level landscaping remain. A condition (Condition B14) to this effect has been included in the attached approval.
Loss of views	Views of the city skyline (including the harbour bridge) are available to the south east from the upper levels of the tower buildings on Atchison Street. The project will not result in any greater view loss than a compliant building. It is noted that the greater impact on views to the southeast will result from the development of the southern side of Atchison Street. The Department is satisfied that the proposed development will not have a significant impact on the views of adjoining residents.

6. CONCLUSION

The application seeks approval for a 28 storey mixed use development. The site is zoned mixed use under the *North Sydney Local Environmental Plan 2001* (the LEP) and the project is permissible with consent.

The site is centrally located within the St Leonards centre and is a short walk from the train station. The provision of housing and employment in such a location is consistent with the aims and objectives of State and Metropolitan plans and the draft subregional strategy.

The Department has assessed the project having regard to the issues raised in public and agency submissions. Key issues assessed included built form, non-residential floor space, and public benefit.

The proposed building (96.5 metres) is considered excessive and it is recommended that the height be reduced by 14 metres. This reduction in height will result in the building being more consistent with the height of the surrounding buildings and providing a transition to the Forum development, as is sought by Council's character statement for the area.

The proposed building includes staggered setbacks, which in part do not comply with the requirements of the Residential Flat Design Code. The non-compliance setbacks are supported as the amenity impacts are acceptable and there will be sufficient space between buildings.

The proposed development will result in a reduction in non-residential floor space from 5000m² in the current development to 4600m². The non-residential floor space will also be changed from commercial to a predominantly hotel use. The proposed hotel will support businesses in St Leonards by providing for their accommodation needs and will provide 41 full time jobs.

The public benefits from the project include the creation of construction and operational jobs, the dedication of affordable housing, the provision of a publicly accessible through site link and the payment of Section 94 contributions towards local facilities and services. These benefits are appropriate for the development.

The project is supported and is recommended for approval subject to appropriate conditions of consent.