



## GATEWAY REVIEW Justification Assessment

**Purpose:** To outline the planning proposal, the reasons why the original Gateway determination was made and to consider and assess the request for a review of a Gateway determination.

<b>Dept. ref. no</b>	GR_2018_LANEC_001_00
<b>LGA</b>	Lane Cove
<b>LEP to be amended</b>	Lane Cove LEP 2009
<b>Address/location</b>	2 Greenwich Road, Greenwich
<b>Proposal</b>	Planning proposal to permit shop-top housing as an additional permitted use and increase the maximum building height at 2 Greenwich Rd, Greenwich.
<b>Review request made by</b>	<input type="checkbox"/> Council
	<input checked="" type="checkbox"/> A proponent
<b>Reason for review</b>	<input type="checkbox"/> A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/> A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input checked="" type="checkbox"/> A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or Council thinks should be reconsidered.

## BACKGROUND

### Details of the planning proposal

The planning proposal for 2 Greenwich Road, Greenwich (**Figure 1**) seeks to amend the Lane Cove Local Environmental Plan 2009 (LEP 2009) Greenwich to permit shop-top housing as an additional land use and increase the maximum building height from 25m to 33m.

The proposal does not seek to amend the current B3 Commercial Core zone.

### Subject site

The site has an area of 2,140m<sup>2</sup> and is occupied by the Northside Clinic, which comprises a three-storey mental health care hospital accommodating 92 beds.

The site is zoned B3 Commercial Core under the Lane Cove LEP 2009 and is subject to a maximum floor space ratio (FSR) of 3:1 and a maximum building height of 25m.



**Figure 1:** Location of subject site.

### St Leonards and Crows Nest Investigation Area

In July 2016, strategic planning investigation was announced for the St Leonards and Crows Nest Station Precinct. The investigation sought to capitalise on the new metro station at Crows Nest while building on the existing employment centre. The investigation was to build on the GSC's vision for a 'health and education super precinct' while providing new homes and jobs close to transport, open space and social infrastructure.

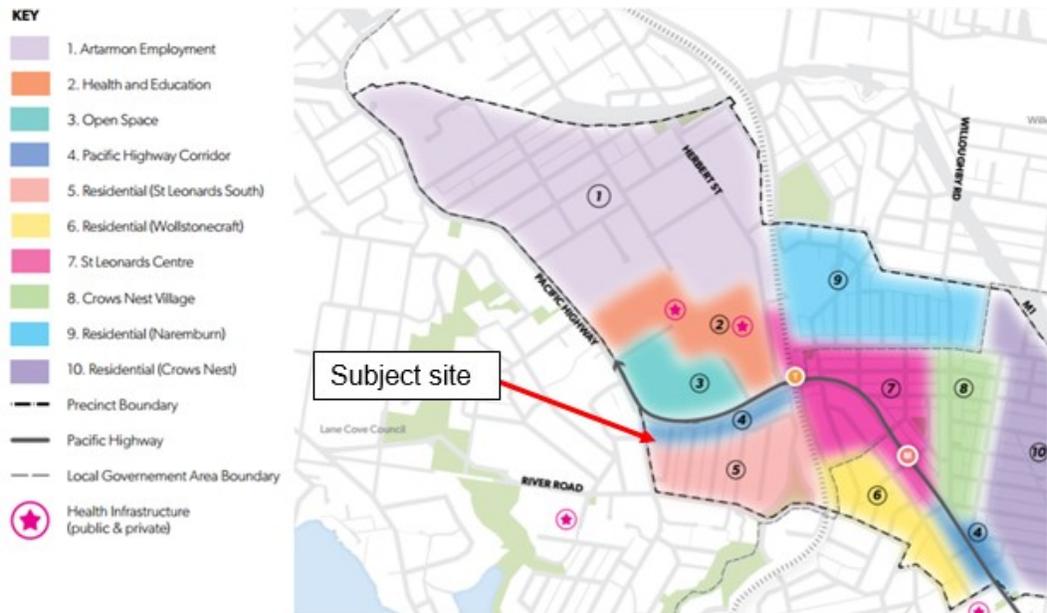
The Department released an Interim Statement in August 2017 to provide the community with preliminary findings of its investigation work and a draft vision and guiding planning principles for the investigation area.

The Pacific Highway corridor was identified as a potential high-density mixed-use corridor, with a key focus on employment. The residential St Leonards South character area was identified as a higher-density residential area, with increased densities focused on areas closest to the station.

While it is recognised that the current B3 Commercial Core zone along the Pacific Highway corridor was investigated for the potential of being a mixed-used corridor under the interim statement, the intent of this was to retain and create opportunities for

additional employment floor space.

In relation to the subject site, the Interim Plan only showed the site positioned between the Residential Area (being part of the former the fuller St Leonards South Planned area proposed by Lane Cove Council), and the Pacific Highway Corridor area (**Figure 2**, next page).



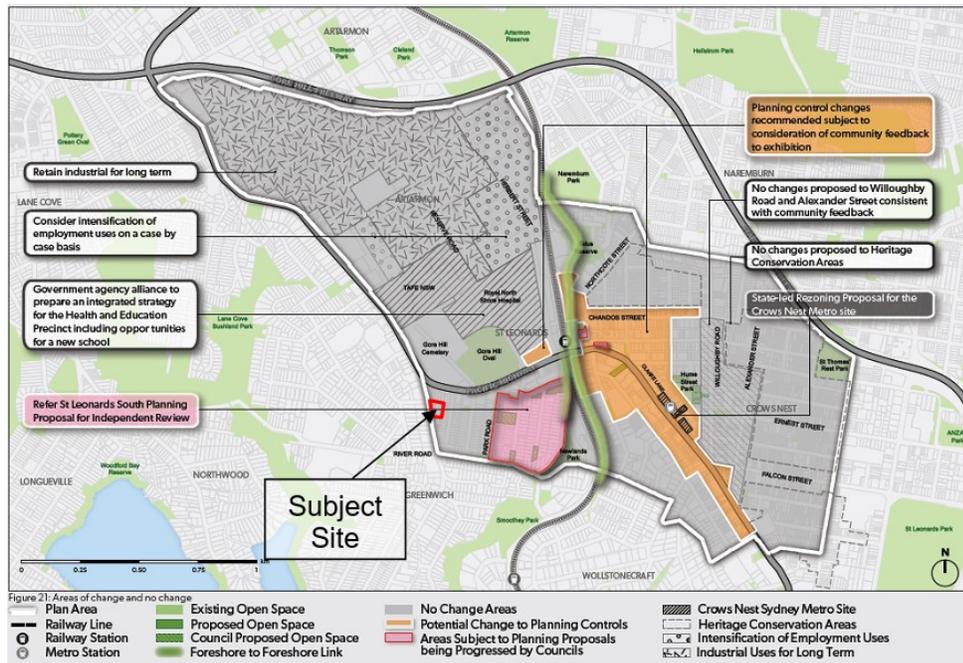
**Figure 2:** Extract from the St Leonards and Crows Nest Station Precinct Interim Statement.

#### Draft 2036 Plan – St Leonards and Crows Nest

On 14 October 2018 the Department commenced public exhibition of draft 2036 Plan until 8 February 2019. This draft plan supersedes the 2017 Interim Statement.

Draft 2036 Plan as a structure plan to provide the direction for the way in which this area will be planned and developed. The draft 2036 Plan does not recommend any land use or density changes for the subject site.

The plan is supported by detailed local character statement, a draft Special Infrastructure Contributions plan and schedule of costs and a Green Plan. The draft plan was developed and relies upon detailed technical studies for traffic, transport, social infrastructure, open space, heritage, utilities and economic feasibility models.



**Figure 2:** Extract from the St Leonards and Crows Nest 2036 Draft Plan overview map.

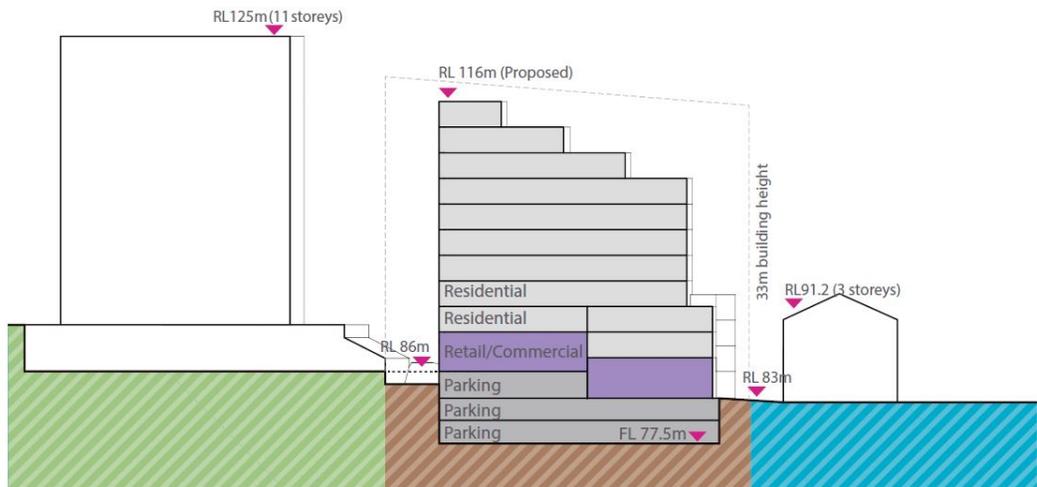
### Proposal

The proposal is supported by two concept designs (or scenarios). Both propose an 11-storey mixed use development with ground-floor commercial/retail space (915m<sup>2</sup>) and 10 storeys of residential above.

Scenario 1 proposes 60 dwellings with an FSR of 2.4:1, and scenario 2 proposes 70 dwellings with an FSR of 2.7:1. Both concepts seek the same amendments to the LEP and do not seek to alter the maximum FSR of 3:1.

According to the proposal, scenario 1 integrates with the current planning controls. Scenario 2 anticipates an uplift in the density of surrounding properties given the site is within the St Leonards and Crows Nest Station Precinct and near the precinct boundary for the St Leonards South Residential Precinct planning proposal. The supporting urban design report provides a framework for the densification of the Greenwich area.

As shown in **Figures 3 and 4** (next page), the roof form and height transitions for each of the proposed scenarios are different. However, the proposed site planning, lower-level setbacks and podium heights for each scenario are the same.



Section (A-B)

Figure 3: Proposed concept 1 – section A–B (source: Roberts Day).



Figure 4: Proposed concept 2 – section A–B (source: Roberts Day).

**Reasons for Gateway determination**

**Rezoning review**

A rezoning review request was submitted on 18 August 2017 as Lane Cove Council did not determine the planning proposal within 90 days.

The Sydney North Planning Panel considered the planning proposal on 25 October 2017. The majority of the panel considered the proposal to have strategic and local merit as it was consistent with the St Leonards and Crows Nest Station Precinct Interim Statement (**Attachment F**).

The panel recommended the proposal proceed to Gateway and the following matters be considered:

- retaining the B3 zoning and including shop-top housing is undesirable as it would make this site the only B3 zone in the Lane Cove LEP 2009 with shop-top housing permissible. The panel recommended this be reconsidered to be consistent with the current adjoining and likely future zoning; and
- that the zoning, density and height should be consistent with the outcomes of the strategic investigation being undertaken by the Department for St Leonards and

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Crows Nest prior to exhibition of the proposal.

On 22 December 2017, the panel was appointed as the planning proposal authority (PPA) as Council did not accept the PPA role within 42 days of the panel's recommendation.

**Reasons for Gateway determination**

The Gateway assessment (**Attachment B**) considered the planning proposal to have strategic merit as it will assist in delivering housing supply and choice in an area supported by existing and future public transport infrastructure, being St Leonards Station and the future Crows Nest Metro station.

The assessment acknowledged that the site's location within the St Leonards and Crows Nest strategic investigation area provided the potential for changes to the zoning and development standards for the site and surrounds. This was also supported by the preliminary findings of the investigation work, outlined in the St Leonards and Crows Nest Station Precinct Interim Statement, which identified that the site may be potentially suitable for higher-density mixed-use or residential development.

The Department's Gateway determination was on hold from 30 January to 6 October 2018, as the intention was to consider and assess the proposal against the draft plan for the St Leonards and Crows Nest Station Precinct in the Gateway assessment of the planning proposal. Given the delays in the release of the resultant Draft 2036 Plan and relying upon the preliminary findings made available in the St Leonards and Crows Nest Station Precinct Interim Statement, it was considered that the proposal demonstrated sufficient strategic merit for a conditional Gateway determination to be issued. This was reflected in the Gateway determination (**Attachment A**) and is also consistent with the panel's recommendations of 25 October 2017 under the rezoning review process.

The Gateway assessment also acknowledged that while the proposal does not rezone the B3 Commercial Core zone and will continue to permit employment-generating activities, the introduction of residential use on the site would reduce the likely development potential for commercial uses.

In relation to commercial areas in strategic centres such as St Leonards, the Greater Sydney Commission's North District Plan states that planning authorities are to create the conditions for residential development in strategic centres but not at the expense of growth in jobs, retail and services. Where appropriate, strategic centres should define commercial cores by an assessment of their need.

The Department's investigations for the St Leonards and Crows Nest Station Precinct involve a strategic employment review to analyse the employment floor space needs for the precinct. The Gateway determination therefore only supported changes to the B3 Commercial Core zone on the site if they are consistent with the precinct-wide land-use planning investigations.

The Department's Gateway assessment also considered that the proposal did not demonstrate that it will enable an appropriate built form that is compatible with surrounding development. A revised concept and urban design analysis were therefore required as a condition of the Gateway considering the key objectives for site planning outlined in the *Apartment Design Guide* of SEPP No 65 – Design Quality of Residential Apartment Development.

After the Gateway determination was issued the St Leonards and Crows Nest 2036 Draft Plan was released in October 2018 by the Department, which recommends no change to the land use or planning controls for the subject site or any of the adjoining sites.

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<b>Request for Advice from Planning Proposal Authority (PPA)</b>	<p>Following the Gateway Review request being made, the proponent provided the Sydney North Planning Panel, as the PPA, with a request to progress the planning proposal as they argued that condition 1(a) of the Gateway determination had been met.</p> <p>On 6 May 2019, the Panel provided a response (<b>Attachment I</b>) to the Department confirming they had reviewed the proponent's request and formed the opinion that the planning proposal had not satisfied condition 1(a) of the Gateway determination.</p> <p>The Panel indicated that the planning proposal should be consistent with the current St Leonards and Crows Nest 2036 Draft Plan and not the St Leonards and Crows Nest Precinct Interim Statement as was the basis for the proponent's request to progress.</p> <p>Once this advice was received the proponent indicated they still wished to progress the Gateway Review.</p>
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## PROPONENT'S JUSTIFICATION FOR REVIEW

### Details of justification

On 17 October 2018, the Department received a Gateway review request from the proponent, Willowtree Planning Pty Ltd (**Attachment C**). The proponent's request is in response to certain conditions imposed on the planning proposal as part of the Gateway determination issued on 6 September 2018.

The proponent requests the deletion or amendment of the following Gateway conditions:

- **deletion of condition 1(a)** – the condition requires the planning proposal to be updated prior to community consultation to demonstrate consistency with the draft findings of the St Leonards and Crows Nest Station Precinct strategic investigation (being undertaken by the Department in consultation with Lane Cove, Willoughby City and North Sydney Councils), including the relevant proposed land use, height and FSR;
- **deletion of condition 5** – the condition requires the planning proposal to be amended to demonstrate consistency with the final strategic planning framework for the St Leonards and Crows Nest Station Precinct prior to finalisation.

The St Leonards and Crows Nest 2036 Draft Plan was released by the Department in October 2018 and recommends no changes to the land use or planning controls for the subject site and its surrounds.

The proponent states the draft 2036 Plan is inconsistent with the planning proposal as assessed to date and would therefore have direct implications for the planning proposal.

The proponent also states that the draft 2036 Plan deviates from the St Leonards and Crows Nest Station Precinct Interim Statement (released by the Department in August 2017) for which the planning proposal is consistent with.

It should be noted that the Interim Statement did not make any specific recommendations or changes to planning controls for the subject site, but rather identified areas for investigation. The areas identified were indicative lines only, with no land use or control changes included in the investigation.

According to the proponent, if the planning proposal were to be amended to be consistent with the 2036 draft plan, it would be significantly altered from the comprehensive assessment carried out by the Department to date. This would make the assessment irrelevant and invalid.

The proponent states that the planning proposal was determined to exhibit strategic and site-specific merit by the panel and the Department prior to the release of the draft plan and there is no need for the planning proposal to be contingent on the precinct-wide investigations. The proponent reiterated need for the proposal to be uncoupled from the draft 2036 Plan.

It is also noted that the proponent has requested that the Sydney North Planning Panel, as PPA, progress the planning proposal as consistency with condition 1(a) has been demonstrated. This request was supported by advice obtained from Mills Oakley (**Attachment H**), which states that it was their view that the proposal is consistent with condition 1(a) of the Gateway determination given that:

- the planning proposal is consistent with the St Leonards and Crows Nest Station Precinct Investigation;
- the planning proposal has strategic and site-specific merit;
- the proposed shop top housing use will act as an ideal transition between the commercial/retail and residential uses surrounding the site;
- the proposal will promote greater housing opportunities and greater housing choice; and

	<ul style="list-style-type: none"> <li>the site is accessible to public transport and promotes walkability.</li> </ul> <p>The Panel has advised the Department that they had formed the opinion that the planning proposal had not satisfied condition 1(a) of the Gateway determination.</p>
<p><b>Material provided in support of application/ proposal</b></p>	<p>In addition to the planning proposal documentation originally submitted to the Department, the proponent provided the following documents to support the Gateway review request (<b>Attachment C</b>):</p> <ul style="list-style-type: none"> <li>Gateway review request application form</li> <li>Gateway review request submission.</li> </ul>
<p><b>Proponent's submission to draft 2036 Plan</b></p>	<p>The 2036 Draft Plan was on public exhibition until 8 February 2019. The proponent made a submission to the Department with regard to this draft plan (<b>Attachment J</b>), specifically in relation to the subject site, and has raised the following issues:</p> <ul style="list-style-type: none"> <li>the site was previously included within the St Leonards and Crows Nest Interim Statement but has now been excluded from the 2036 draft plan;</li> <li>the Department has previously acknowledged the merit of a higher density, mixed use development on the subject site through the Interim Statement and by issuing of the Gateway determination;</li> <li>the proposal has been determined to exhibit strategic and site-specific merit on a standalone basis without being reliant on planning for the wider precinct;</li> <li>the proposed broadening and densification of uses on the site will increase the supply and diversity of available commercial floor space and housing in a highly accessible location;</li> <li>by providing residential accommodation in conjunction with commercial premises, a wide range of people will be accommodated. Specifically, the provision of shop top housing on the site will contribute to the delivery of the new 1,900 dwellings required for Lane Cove over the next 5 years;</li> <li>the proposal will augment the efficiency with which land is used through the diversification and densification of uses that are highly compatible with surrounding development and coordinated with supportive infrastructure;</li> <li>the proposal was consistent with the previous iteration of planning for St Leonards and Crows Nest Station Precinct. The site was identified as being in-between the Pacific Highway Corridor and St Leonards South character areas. Shop top housing would allow for the site to provide a transition between these two character areas;</li> <li>the proposal is consistent with local strategic plans including Liveable Lane Cove 2035;</li> <li>the subject site is not identified in proximity of any area of biodiversity and accordingly the proposal will not exhibit any adverse impact on the natural environment;</li> <li>shop top housing on the site would complement the surrounding context by assisting in the creation of a neighbourhood centre for Greenwich North;</li> <li>the site is highly accessible being within 600m walking distance of St Leonards train station and 1.2km of the new Crows Nest Metro station; and</li> <li>in their favourable assessment and determination of the rezoning review, the Sydney North Planning Panel concluded the proposal demonstrates strategic and site-specific merit.</li> </ul> <p>The proponent has sought for the draft 2036 Plan to be amended to facilitate the intended outcome of the planning proposal.</p>

The proponent also states as part of its submission to the Department that the subject site has been excluded from the draft 2036 Plan. However, the site remains within the plan boundary (**Figure 2** above), with no changes recommended to apply to this site or its surrounds.

### Views of the Sydney North Planning Panel (planning proposal authority)

<b>Date panel advised of request</b>	23 October 2018
<b>Date of panel response</b>	26 November 2018
<b>Panel response</b>	<p>As the planning proposal authority (PPA), the panel was asked to provide comments on the Gateway Review request. The panel advised that it did not support the removal of conditions 1(a) and 5 (<b>Attachment D</b>).</p> <p>The panel advised that its original recommendation that the proposal proceed to Gateway was subject to the condition that the permissible uses, density and height should be consistent with the outcome of the strategic investigation for the St Leonards and Crows Nest Station Precinct. The reasons for the recommendation were:</p> <ul style="list-style-type: none"> <li>• the panel was of the understanding that the improvement in public transport accessibility of the precinct due to the new Crows Nest Metro Station justified a review of the existing planning controls;</li> <li>• the precinct has long suffered from poor coordination of planning decisions because it was administratively divided between North Sydney, Lane Cove and Willoughby City Councils and the panel therefore supported the strategic investigations being undertaken by the Department for the precinct; and</li> <li>• unless zoning decisions within the precinct were consistent with the strategic planning work, the effectiveness of this work was seriously weakened.</li> </ul> <p>The panel also noted that the draft 2036 Plan suggests no change to the zoning or development standards that apply to the site at 2 Greenwich Road. It is reasonable to assume that the zoning and densities of the draft plan have been tested by traffic studies and in relation to the future capacity of public transport.</p> <p>Therefore, the panel considers the rezoning of the subject site should be consistent with the draft 2036 Plan. If the draft plan suggests no changes to the zoning, density and height for the site, the panel formed the view that the planning proposal should not proceed.</p> <p>The panel added that should the final plan for St Leonards and Crows Nest 2036 change from the draft plan in respect of the subject site, the planning proposal should be updated to ensure consistency with the final plan.</p>

## Council's views

Date Council advised of request	23 October 2018
Date of Council response	9 November 2018
Council response	<p>Council was asked to provide comments on the Gateway Review request. Council's comments are available at <b>Attachment E</b>. Council advised that it objects to the removal of conditions 1(a) and 5 because:</p> <ul style="list-style-type: none"> <li>• the planning proposal is inconsistent with the strategic planning framework established by the 2036 draft plan and therefore should not be supported;</li> <li>• undermining the land-use planning set out in the draft plan would set a dangerous precedent;</li> <li>• the proposal undermines the standard instrument by changing the permissibility of the B3 zoning, as highlighted by the panel. Shop-top housing is not consistent with the objectives of the B3 Commercial Core zone. It is the same use as permitted in a B4 Mixed Use zone and is inconsistent with surrounding zonings and the plan;</li> <li>• the requirement for consistency with the 2036 draft plan was a recommendation of the panel through the rezoning review process;</li> <li>• the requirement for consistency with the 2036 draft plan formed part of the Department's Gateway assessment of the planning proposal;</li> <li>• similar conditions requiring consistency with the St Leonards and Crows Nest strategic planning framework were included in the Gateway determinations for 75-79 Lithgow Street and 84-90 Christie Street, St Leonards and for the St Leonards South planning proposal and have been adhered to;</li> <li>• the 2036 draft plan maintains the commercial focus on 2 Greenwich Road, Greenwich while concentrating the highest-density employment and residential growth within 400m of the St Leonards train station and the Crows Nest Metro station;</li> <li>• the planning proposal remains inconsistent with the North District Plan, which:             <ul style="list-style-type: none"> <li>○ envisages the precinct as a 'Health and Education Super Precinct'; and</li> <li>○ supports the strategic objective to 'leverage health, education and knowledge clusters';</li> </ul> </li> <li>• by providing 950m<sup>2</sup> of commercial floor space, a relatively small amount, the proposal undermines the site's potential for future employment use;</li> <li>• the 2036 draft plan seeks to give effect to the Greater Sydney Region Plan and the North District Plan. The proposal would undermine the ability to meet the jobs target and strategic direction of these plans; and</li> <li>• the proposal provided a preferred concept design that envisaged the densification of land surrounding the site, given its location within the strategic investigation area for St Leonards and Crows Nest, to provide justification for the proposal. As the 2036 draft plan has been released and does not recommend the densification of Greenwich, the applicant has sought to distance themselves from the strategic investigations.</li> </ul>

## ASSESSMENT

<b>Department's assessment</b>	<p>The Department agrees with the Sydney North Planning Panel as Planning Proposal Authority's statement that the proposal needs to be consistent with the strategic direction set for the broader St Leonards and Crows Nest area as intended by the work undertaken by Department in consultation with the Councils, key stakeholders, public authorities and the community.</p> <p>This detail work has been comprehensive and lengthy with aim of setting a key planning and infrastructure framework for this area that will not only leverage new Metro infrastructure and connections but that also supports appropriate and compatible employment and housing growth.</p> <p>At the time the Gateway determination was issued the Department acknowledged that the Interim Plan showed opportunity for some land use changes but noted that this was subject to change and would be superseded by a further and detail plan. This newer plan is currently the draft 2036 Plan, which is clear that this site and its surrounds should be retained and should not accommodate growth or land use changes.</p> <p>The draft 2036 Plan is still required to be finalised having regard to feedback obtained during the extensive exhibition period. There is not specific timing on when the plan will be finalised.</p> <p>Given that draft 2036 Plan could be subject to further amendment that may reflect land use and/or density changes for the site the Department is of the view that there needs to be flexibility in the gateway conditions to allow for this potential outcome.</p> <p>In this regard it is recommended that condition 1(a) be redrafted as follows:</p> <p style="padding-left: 40px;"><i>“demonstrate consistency with the proposed land use, building height and floor space ratios identified in the draft or final strategic planning framework for the St Leonards and Crows Nest Planned Precinct (whichever is relevant at the time community consultation is undertaken for the planning proposal)”</i></p> <p>To ensure that the proposal is fully aligned with the broader strategic planning work and endorse framework for the St Leonards and Crows Nest area, condition 5 is recommended to remain unaltered. The intent of this is to ensure that spot rezonings of sites such as sought by this planning proposal remain consistent with broader and endorsed strategic planning.</p>
<b>Conclusion</b>	<p><u>Recommendation</u></p> <p>The Department does not support the proponent's request to remove the conditions of the Gateway determination requiring the proposal to align with the relevant broader strategic planning framework for St Leonards and Crows Nest on the basis that:</p> <ul style="list-style-type: none"><li>• removing these conditions would be inconsistent with the actions and priorities of the Greater Sydney Region Plan and the North District Plan's intent to support strategic planning;</li><li>• removing these conditions would set an undesirable precedent for planning proposals within the St Leonards and Crows Nest Station Precinct and undermine the collaborative strategic investigation work carried out to inform the 2036 draft plan;</li><li>• the 2017 interim statement has been superseded and the original justification no longer applies; and</li><li>• the strategic planning for the St Leonards and Crows Nest area is still under development and may change to indicate that land use and/or density changes are appropriate for the subject site.</li></ul> <p>The Department does recommend that to make clearer the intent of Condition 1(a) and to better reflect the current strategic planning status for the St Leonards and Crows Nest Precinct that condition 1(a) be amended as follows:</p>

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<p><i>“demonstrate consistency with the proposed land use, building height and floor space ratios identified in the draft or final strategic planning framework for the St Leonards and Crows Nest Planned Precinct (whichever is relevant at the time community consultation is undertaken for the planning proposal)”.</i></p>
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## IPC's RECOMMENDATION

**Reason for review: A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or Council thinks should be reconsidered.**

<b>Recommendation:</b>	<input type="checkbox"/>	The planning proposal should proceed past Gateway in accordance with the original submission.
		<input type="checkbox"/> no amendments are suggested to original determination. <input type="checkbox"/> amendments are suggested to the original determination.
	<input type="checkbox"/>	The planning proposal should not proceed past Gateway.

**Any additional comments:**

Endorsed by:

## Attachments

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<b>Attachment</b>	<b>Title</b>
Letters	Letters to the IPC, SNPP, Council and the proponent
Report	Gateway review justification report
A	Gateway determination
B	Gateway determination assessment
C	Gateway review application
D	SNPP comments
E	Council comments
F	Panel rezoning review recommendation
G	Site identification map
H	Proponent's legal advice
I	Panel response to legal advice
J	Proponent submission to 2036 Draft Plan