

# STATEMENT OF ENVIRONMENTAL EFFECTS

Amending DA for Alterations and Additions and  
Change of Use to the Approved DA No.  
DA2022/2256, from Mixed Use Development to  
Shop Top Housing with Associated Works at

**No. 22 Raglan Street, Manly**

Prepared for:

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**Acknowledgement of Country**

We respect and honour Aboriginal and Torres Strait Islander Elders past, present and emerging. We acknowledge the stories, traditions and living cultures of Aboriginal and Torres Strait Islander peoples. We would like to recognise their ongoing connection to land, water and community.

This report has been prepared and reviewed in accordance with our quality control system. The report is a preliminary draft unless it is signed below.

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| Abbreviation | Abbreviation Meaning                                      |
|--------------|-----------------------------------------------------------|
| ADG          | Apartment Design Guide                                    |
| AHD          | Australian Height Datum                                   |
| ANEF         | Australian Noise Exposure Forecast                        |
| AS           | Australian Standard                                       |
| ASS          | Acid Sulfate Soils                                        |
| BCA          | Building Code of Australia                                |
| CBD          | Central Business District                                 |
| CC           | Construction Certificate                                  |
| CIV          | Capital Investment Value                                  |
| CMP          | Construction Management Plan/Conservation Management Plan |
| Council      | the Council                                               |
| CPTED        | Crime Prevention Through Environmental Design             |
| CRZ          | Critical Root Zone                                        |
| DA           | Development Application                                   |
| DCP          | Development Control Plan                                  |
| DP           | Deposited Plan                                            |
| DPIE         | Department of Planning, Industry and Environment          |
| EIS          | Environmental Impact Statement                            |
| EPA Act      | Environmental Planning and Assessment Act 1979            |
| EPA Reg      | Environmental Planning and Assessment Regulations 2021    |
| EUR          | Existing Use Rights                                       |
| FFL          | Finished Floor Level                                      |
| FSR          | Floor Space Ratio                                         |
| GFA          | Gross Floor Area                                          |
| HCA          | Heritage Conservation Area                                |
| HIA/HIS      | Heritage Impact Assessment/Heritage Impact Statement      |
| LEP          | Local Environmental Plan                                  |
| LGA          | Local Government Area                                     |
| LMR          | Low and Mid Rise                                          |
| MHWM         | Mean High Water Mark                                      |
| NCC          | National Construction Code                                |
| NSW          | New South Wales                                           |
| NSWLEC       | NSW Land and Environment Court                            |
| OC           | Occupation Certificate                                    |
| OSD          | On-Site Detention                                         |
| PCA          | Principal Certifying Authority                            |
| PoM          | Plan of Management                                        |
| POS          | Private Open Space                                        |
| PP           | Planning Proposal                                         |
| REF          | Review of Environmental Factors                           |
| RFB          | Residential Flat Building                                 |
| RL           | Reduced Level                                             |
| RMS          | Roads and Maritime Services (see TfNSW)                   |
| SEE          | Statement of Environmental Effects                        |
| SEPP         | State Environmental Planning Policy                       |
| SREP         | Sydney Regional Environmental Plan                        |
| SP           | Strata Plan                                               |
| SWMP         | Stormwater Management Plan                                |
| TfNSW        | Transport for New South Wales                             |
| TPZ          | Tree Protection Zone                                      |
| VENM         | Virgin Excavated Natural Material                         |
| WMP          | Waste Management Plan                                     |
| WSUD         | Water Sensitive Urban Design                              |
| ZFDTG        | Zero Fort Denison Tide Gauge (0.925 below AHD)            |

## 1.0 INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared for Para-ere Holdings Pty Ltd by George Karavanas Planning Pty Ltd – (hereafter referred to as GSA Planning). GSA Planning has expertise in Urban Design, Environmental & Traffic Planning.

This SEE is to accompany a Development Application (DA) to Northern Beaches Council, for the proposed amendment of approved DA No. 2022/2256 at No. 22 Raglan Street, Manly. The approved development is a three storey mixed use development, comprising a neighbourhood shop and a residential flat building with eight units, and associated works. The primary amendment to the approval is the addition of five storeys above the existing approved envelope, containing residential units; provision of in-fill affordable housing; modifications to the approved levels; and a change of use from mixed use development to shop top housing. Importantly, the proposed primary building footprint and streetscape activation will be largely consistent with the approved development, with improvements proposed to the style and character of the built form.

The development, designed by Carlisle Architects, will result in a high-quality eight storey shop top housing building that contributes to the local economy and employment in the area, and satisfies the residential needs of the community. The development will provide a retail tenancy on the Ground Floor Level, and high quality accommodation on the upper levels. The residential component includes a total of 15 units, comprising of two x one-bedroom units, nine x two-bedroom units and four x three-bedroom units. Of the 15 units, three units are to be affordable units, and four units are to be adaptable units. Car parking spaces are provided on the Basement and Ground Floor Levels.

The proposed building contributes to the transformation of the architectural landscape, from early to mid-20th century styles with brick façades and pitched roof forms, to more contemporary styles with rendered and modulated facades and flat roof forms, that take cues from the surrounding neighbourhood and conservation area. The proposed development presents a contemporary interpretation of the 1930s seaside architectural style with Mediterranean influences, while respecting the heritage character of the Pittwater Heritage Conservation Area. The proposal will continue to incorporate high quality landscaping with a mix of deep soil, tree canopy and soft landscaped area across the site. The development will remain well-articulated, featuring substantial side setbacks above the three storey podium, recesses, incorporation of balconies in curved forms, arched openings, and a varied palette of materials which are informed by the surrounding character.

The proposal will be complementary to the emerging character of the locality which is guided by the Low and Mid-Rise Housing (LMR) policy provisions under the State Environmental Planning Policy (Housing) 2021 (Housing SEPP). The LMR has been enforced in order to encourage additional housing, and improved housing choice for people at different stages of life. The proposal responds to the need for more low and mid-rise housing options to fill the gap between freestanding homes and high-rise apartment buildings. The proposed shop top housing has a mix of one- to three-bedroom units, which targets families and downsizers, thus responding to the demand of the local housing market and the overarching aim of the LMR.

The proposed development provides in-fill affordable housing under the Housing SEPP, delivering new affordable housing to meet the needs of very low, low and moderate income households within accessible areas. The three affordable units account for 16% of the total proposed floor space ratio (FSR), which equates to 17.5% of the residential GFA. As such, 30% bonuses for FSR and building height as outlined in Division 1, Section 16 of the Housing SEPP apply in addition to the non-discretionary development standards under LMR policy. The proposal generally satisfies the relevant objectives and controls of the in-fill affordable housing provisions under the Housing SEPP.

Overall, the Amending DA will substantially improve the housing opportunities on the site, whilst ensuring an elegant streetscape presentation is achieved without detracting from the significance of the Pittwater Heritage Conservation Area and nearby heritage listed items.

In our opinion, the proposed development satisfies the relevant zone objectives in the Manly Local Environmental Plan (LEP) 2013. The proposal complies with the major building envelope provisions being FSR and building height of the Housing SEPP. The proposal also complies with a number of key provisions in the Manly Development Control Plan (DCP) 2013, and takes into account the design guidance provided under the Apartment Design Guide (ADG) where the DCP controls do not readily account for the permitted increase in density for the site, under the LMR provisions. Where there are departures from the DCP controls, these have been justified throughout this report.

As outlined, this application seeks to amend the approved development under Development Consent DA No. 2022/2256 through a Development Application (Amending DA), in accordance with section 4.17(5) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Section 4.17(5) of the EP&A Act allows for development consent to be amended in accordance with the Regulations. Clause 67 of the Environmental Planning and Assessment Regulation 2021 (the Regulations) provides the procedural mechanism for modifying an existing development consent. Specifically, Clause 67(1) states that a consent may be modified by the applicant giving written notice to the consent authority, and that the modification takes effect when the consent authority provides written notice of receipt.

Accordingly, until such notice is given and acknowledged in writing by the consent authority, the existing consent is not amended by the Amending DA. To ensure clarity and legal certainty regarding the commencement of this consent, it is recommended that a condition of consent be imposed as follows:

**Notice of Modification of DA#**

*Pursuant to section 4.17(5) of the Environmental Planning and Assessment Act 1979, a Notice of Modification of Development Consent .... in accordance with clause 67 of the Environmental Planning & Assessment Regulation 2021 (**Notice of Modification**) is required to be delivered to Council prior to works commencing under this consent.*

*The Notice of Modification is to provide for **DA#** to be modified in accordance with **Condition #** of this consent.*

**Modification of DA#**

*The consent granted to .... is required to be modified as follows:*

**(1) Deletion and Replacement of Conditions:**

*Conditions # under development consent DA# are to be deleted and replaced with new Condition A.3 as follows:*

**1. Approved Plans and Supporting Documentation**

*Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.*

*The relevant documents and plans which form the subject of the Amending DA would then be listed.*

This document is divided into six sections. Section 2 contains a site analysis; Section 3 provides details of the proposal; Sections 4 and 5 contains the detailed assessment of the application in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (EPA Act); and Section 6 concludes the report.

## 2.0 SITE ANALYSIS

This section contains a description of the following: The Locality; Site Description; Existing Built Form and Landscaping; and Existing Character and Context.

### 2.1 The Locality

The subject site is located approximately 10km northeast of the Sydney CBD, immediately adjoining Manly Town Centre to the east and is located within the Local Government Area (LGA) of Northern Beaches (see **Figure 1**).



Source: SDT Explorer

 Subject Site

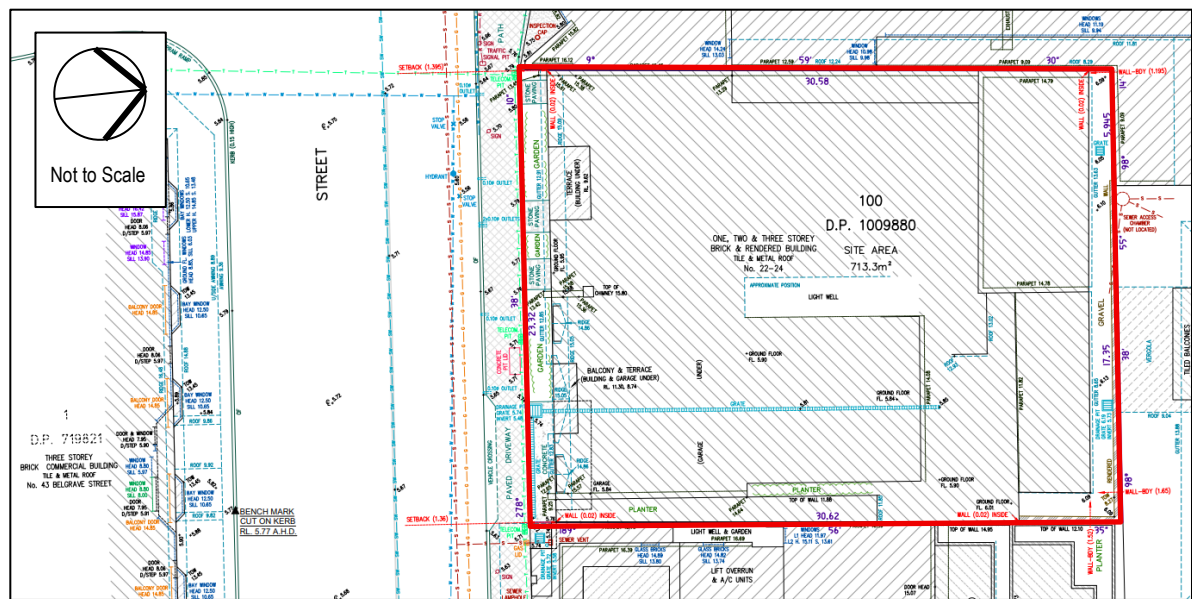
**Figure 1: Location Plan**

## 2.2 Site Description

The subject site is located on the northern side of Raglan Street, between Pittwater Road and Whistler Street and is known as No. 22 Raglan Street, described as Lot 100 in DP1009880. For the purposes of this report, the frontage to Raglan Street is described as southern boundary.

The site is a rectangular parcel of land, with a northern boundary of 23.295 metres, an eastern boundary of 30.62 metres, a southern boundary of 23.32 metres, and a western boundary of 30.58 metres, providing a total site area of 713.3m<sup>2</sup> (see **Figure 2** and Survey Plan separately submitted).

The site is relatively flat, with a fall of 0.17 metres (RL 5.80 – 5.63 AHD) from west to east along Raglan Street and another 0.33 metres (RL 6.10 – 5.77 AHD) from north to south.



Source: Bee & Lethbridge Pty Ltd

**Figure 2: Survey Plan**

Subject Site

## 2.3 Existing Built Form and Landscaping

The site is occupied by two separate two to three storey rendered structures both built to the allotment boundaries which was later amalgamated and is currently used as a backpackers accommodation, known as “Stoke Beach House” (see **Photograph 1**). The development presents to the streetscape as a part two and part three storey rendered development with a terracotta mansard roof form to the street, with two dormers and a series of steel skillion roof forms beyond the façade. The hostel currently provides 33 rooms for rent.

The site has no deep soil landscaped area, with some soft landscaping along the Raglan Street frontage. Vehicular access is provided at the eastern end of the street frontage.



**Photograph 1:** The subject site, as viewed from Raglan Street

## 2.4 Existing Character and Context

Development in the surrounding area comprises predominantly medium density residential development of varying ages and architectural styles. There is a gradual transformation from early to mid-20<sup>th</sup> century three storey residential flat buildings with brick facades and pitched or hipped tiled roofs, to four+ storey contemporary mixed use and shop top housing developments with rendered facades and flat roof forms.

To the east and along the waterfront are a range of commercial, residential, mixed use and hotel buildings, generally ranging up to 10 storeys. To the west along Pittwater Road, and the wider Manly Town Centre, there is a mix of one to five storey commercial, mixed use, and tourist accommodation. The topography of the area is relatively flat, with an increase in slope further to the west of the site.

### Development to the North

To the north is No. 23 Whistler Street, a three storey brick residential flat building with a pitched tile roof (see **Photograph 2**). Further to the north is No. 31 Whistler Street, a three storey brick residential flat building with a pitched tile roof (see **Photograph 3**). Both properties share a vehicular access point from Whistler Street, providing access to the basement parking level with a gated entry. Both sites have hedges along the street frontage and trees behind the hedges.



**Photograph 2:** No. 23 Whistler Street, as viewed from Whistler Street



**Photograph 3:** No. 31 Whistler Street, as viewed from Whistler Street

### Development to the East

To the east is No. 18 Raglan Street, a three storey rendered mixed use development approved under DA No. 19/2014. The development comprises a café with outdoor seating on the ground floor level and residential units above with a modular contemporary facade (see **Photograph 4**). Further to the east is the St Mary's Catholic Church at No. 8 Raglan Street, a part one and part two storey sandstone church with a steep tiled roof and a hardstand outdoor car park facing Raglan Street. The site is connected to St Mary's Catholic School to the north and Manly Freshwater Parish Centre to the east (see **Photograph 5**).



**Photograph 4:** No. 18 Raglan Street, as viewed from Raglan Street



**Photograph 5:** No. 8 Raglan Street, as viewed from Raglan Street

### Development to the South

To the south is Nos. 9 Raglan Street and 35-42 Belgrave Street, currently a vacant amalgamated lot (see **Photographs 6 and 7**). The site has an approved development application (DA No. 2023/0987) for a five storey rendered shop top housing development with two levels of basement parking and a central courtyard, which is currently under construction (see **Figure 3**).



**Photograph 6:** No. 9 Raglan Street, as viewed from Raglan Street



**Photograph 7:** No. 9 Raglan Street, as viewed from Whistler Street



Source: SJB Architects

**Figure 3:** Photomontage of Approved DA No. 2023/0987 at No. 9 Raglan Street, currently under construction

### Development to the West

To the west is No. 2 Pittwater Road, a part two and part three storey rendered commercial building with a flat roof. The building has dual frontages to both Raglan Street and Pittwater Road (see **Photograph 8** on the following page). Further to the west across Pittwater Road is No. 5 Pittwater Road, a two storey rendered commercial building with a front parapet, currently occupied by a gym (see **Photograph 9** on the following page).



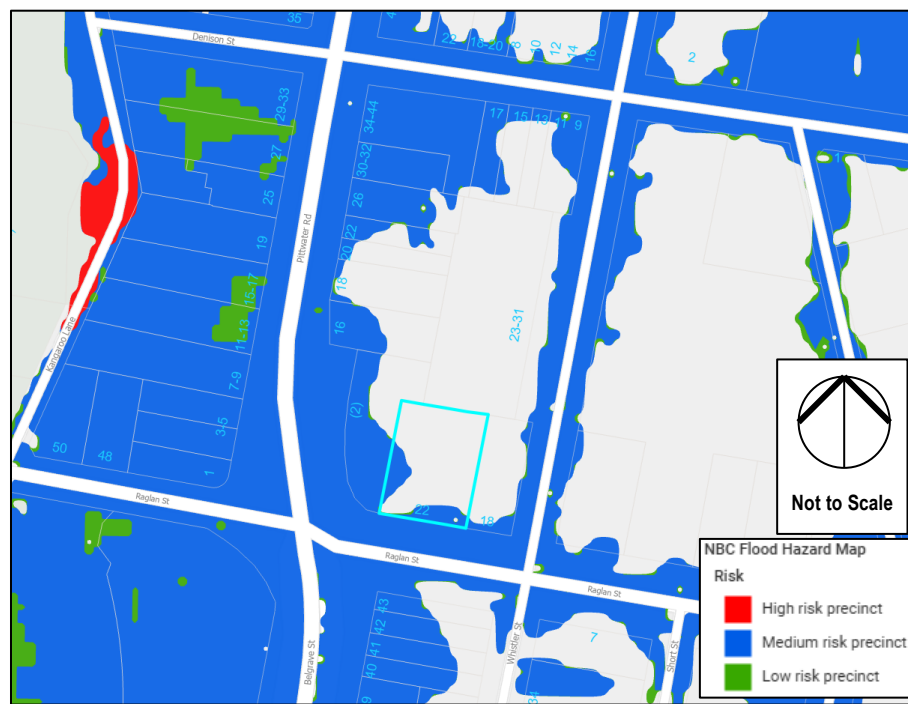
**Photograph 8:** No. 2 Pittwater Road, as viewed from Pittwater Road



**Photograph 9:** No. 5 Pittwater Road, as viewed from Raglan Street

## 2.5 Site Constraints

The subject site is partially identified as being a “medium risk precinct” of flood hazard (see **Figure 4**). The proposal is accompanied by a Flood Management Report prepared by van der Meer Consulting (separately submitted).



Source: Northern Beaches Mapping

  Subject Site

**Figure 4:** Northern Beaches Council Flood Hazard Map

## 3.0 THE PROPOSAL

This section will describe the following: The Background to the Proposal; Built Form and Land Use; Height; Gross Floor Area and Floor Space Ratio; Landscaping, Private Open Space and Balconies; Access and Parking; and Operation.

### 3.1 Background to the Proposal

#### Previous Approval

On **25 January 2023**, a Development Application (DA No. 2022/2256) was submitted with Northern Beaches Council for demolition works and construction of a mixed use development with basement car parking. On **11 December 2023**, the application was refused by Northern Beaches Local Planning Panel. On **28 March 2024**, the application was approved by the Land and Environment Court (*Para-ere Holdings Pty Ltd v Northern Beaches Council* [2024] NSWLEC 1138) (see **Figure 5**).



Source: Carlisle Architects

**Figure 5: Approved Development at No. 22 Raglan Street (the Subject Site)**

#### SEPP (Housing) 2021 Amendments

In **December 2023**, an Explanation of Intended Effects (EIE) was released in relation to proposed changes to the Housing SEPP for Low and Mid Rise Housing (LMR), to address NSW's growing housing crisis by enabling more diverse and affordable housing options in well-located urban areas. The changes aim to reduce reliance on unsustainable urban sprawl, make better use of existing infrastructure, and provide homes where people want to live, which is near established town centres, public transport, jobs, and amenities. This addresses the immediate urgency of the housing crisis by giving NSW households more choice and promoting vibrant, sustainable and liveable communities.

To facilitate these developments, non-discretionary standards (non-refusal standards) have been set which allow more density in the outer part of the precincts from 400 metres to 800 metres and even more density in the inner part of the LMR precincts within 400 metres of the stations and centres. Non-discretionary standards provide certainty and flexibility for councils and proponents and overrule LEP or DCP provisions. If a development complies with the standard, a consent authority must not refuse consent on those grounds. These non-discretionary standards have been calibrated to enable a typical 3- to 6-storey apartment building that can achieve an appropriate level of amenity for the apartments and to neighbouring dwellings. In addition to the LMR provisions, the Infill Affordable Housing provisions of the SEPP are able to be applied to these developments, being within an 'accessible area'.

Along with these standards, it was also sought to vary some provisions of the Apartment Design Guide. New mid-rise housing design provisions were proposed that were appropriately differentiated to facilitate smaller apartment buildings. However, this was not included as part of the amendments to the Housing SEPP.

On **28 February 2025**, the Housing SEPP was amended to include uplifts for Low and Mid Rise Housing within 400m and 800m of select local centres and train stations.

This Amending DA seeks to alter the approval under DA No. 2022/2256, with a detailed description of the works in this Amending DA provided in the following section.

### **3.2 Built Form and Land Use**

As indicated, the proposal is a DA to amend the approved DA No. 2022/2256. The proposal involves the addition of five storeys of residential units; provision of in-fill affordable housing; modifications to the approved levels; and a change of use from mixed use development to shop top housing. The proposed building footprint and architectural style will be consistent with the approved development.

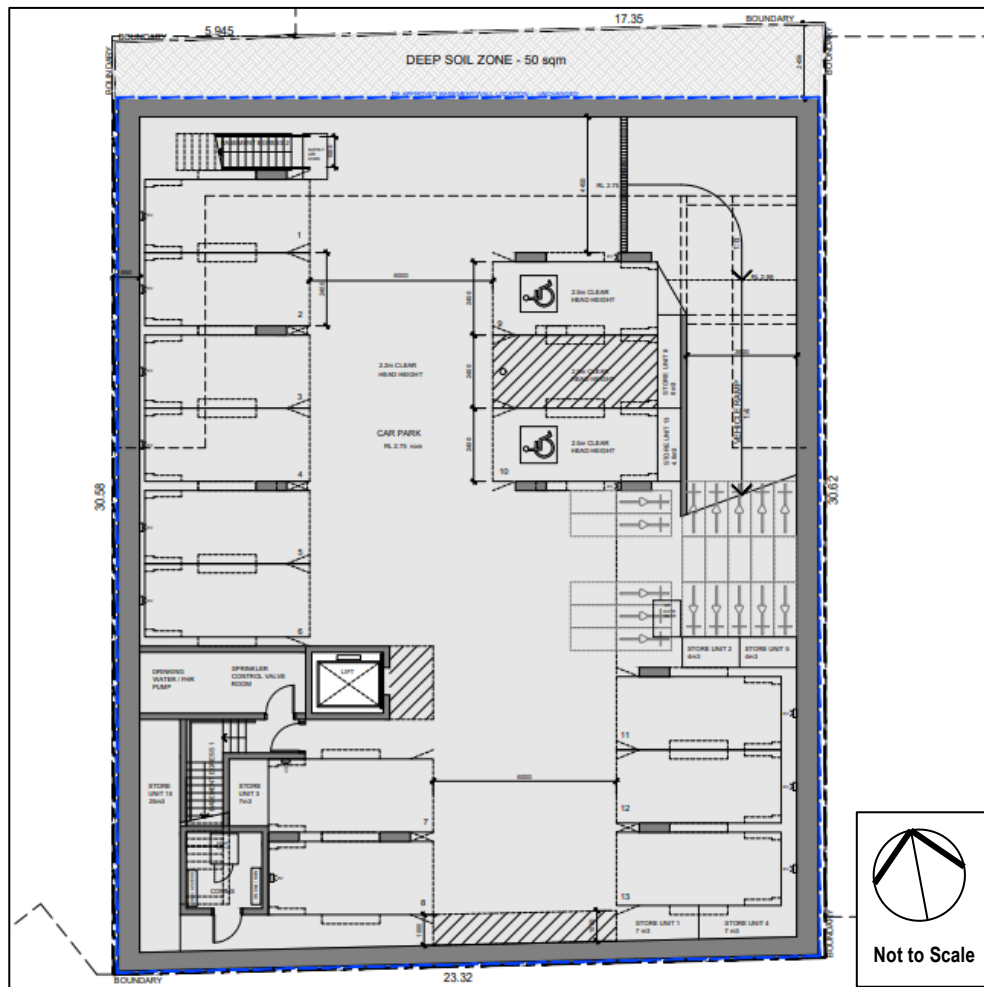
The resulting development will be a new eight storey residential flat building with a basement level and a flat roof form. The proposed shop top housing will comprise a retail tenancy and 15 residential units, comprising of two x one-bedroom units, nine x two-bedroom units and four x three-bedroom units, with a Gross Floor Area (GFA) of 2,038m<sup>2</sup>. Of the 15 units, three units are to be affordable units, and four units are to be adaptable units. Car parking spaces are provided on the Basement and Ground Floor Levels.

Private open spaces are proposed in the form of front and rear balconies. A mix of landscaping including deep soil, tree canopy and soft landscaping is proposed. The development will provide a high quality, elegant and contemporary building, being well-articulated with a modulated façade and a varied palette of materials to Raglan Street. The three storey podium will be built to the side boundaries, with the upper levels being set back from the side boundaries and the podium facade.

A floor by floor description of both the approved levels (where relevant) and the proposed amended levels is provided in the following pages. Further details of the proposed development are contained in the architectural drawings, separately submitted.



The **proposed** Basement Level is at RL 2.75 AHD and is fully contained within the approved building footprint. This level is accessed from a ramp which leads to the Ground Floor Level and Raglan Street, consistent with the approval. This proposed level comprises 13 EV parking spaces, including 2 accessible parking spaces; 15 bicycle parking spaces; eight storage areas for eight units; a sprinkler control valve room including the drinking water / FHR pump; and a comms room (see **Figure 7**). Lift and stairs provide access to the upper levels.



Source: Carlisle Architects

**Figure 7: Proposed Basement Floor Plan**

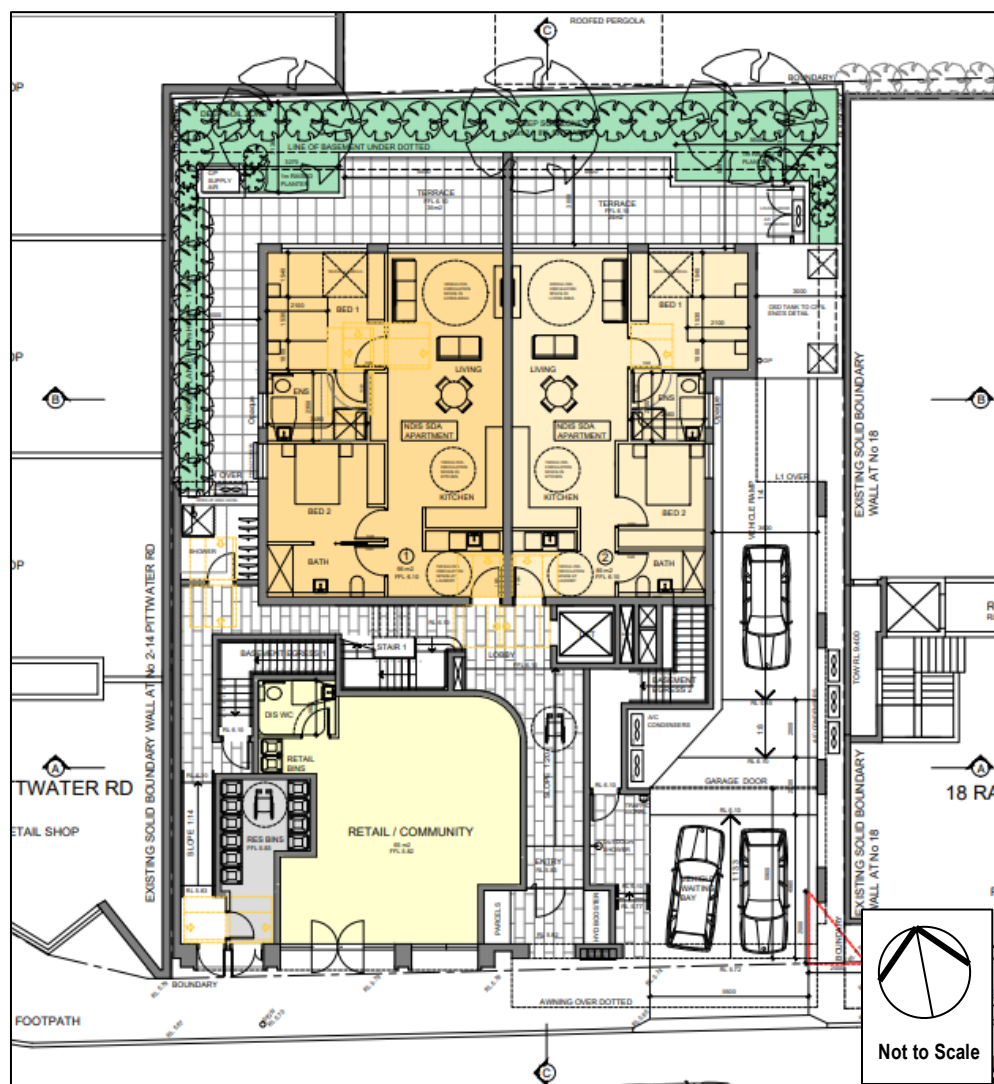
## Ground Floor Level

The **approved** Ground Floor Level ranges from RL 5.82 to 6.10 AHD and is the main entry level from Raglan Street. This approved level comprises a retail/community tenancy with a bin storage area and a DDA bathroom, a lobby, two NDIS SDA apartment units, a residential bin room, and two outdoor shower areas (see **Figure 8**). Fire hydrant booster, letter box and parcels area are provided at the entry. An awning is provided along the entry to driveway over the footpath of Raglan Street. An OSD tank and the vehicular access to the basement parking are provided along the eastern boundary. There are deep soil and soft landscaped area along the northern boundary. Lift and stairs provide access to the upper and lower levels.

The layout details of each unit on this level are as follows:

**Unit 1:** This approved unit is a two-bedroom NDIS SDA unit and has a master bedroom with ensuite; another bedroom; a bathroom; a laundry; and an open plan living/dining/kitchen area. There is a wrap-around terrace oriented to the west and north accessed from the master bedroom and the open plan living area.

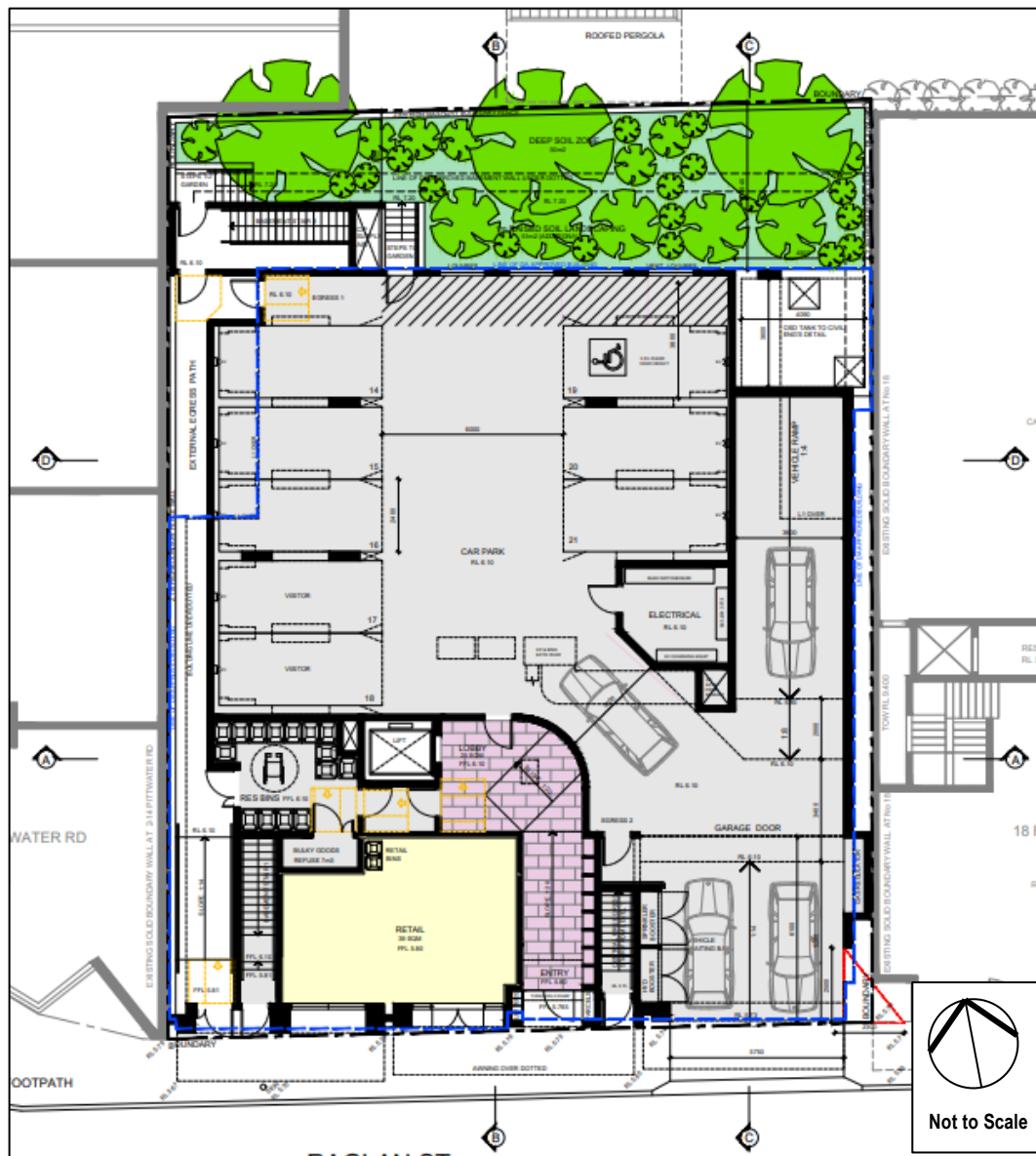
**Unit 2:** This approved unit is a two-bedroom NDIS SDA unit and has a master bedroom with ensuite; another bedroom; a bathroom; a laundry; and an open plan living/dining/kitchen area. There is a terrace oriented to the north accessed from the master bedroom and the open plan living area.



Source: Carlisle Architects

**Figure 8: Approved Ground Floor Plan (To be Amended)**

The **proposed** Ground Floor Level ranges from RL 5.80 to 6.10 AHD and continues to be the main entry level from Raglan Street. This proposed level comprises a retail tenancy, 8 EV parking spaces, including 2 visitor parking spaces and 1 accessible parking space, a residential bin room, and a bulky goods refuse (see **Figure 9**). Three awnings are provided over the footpath of Raglan Street. An OSD tank and the vehicular access to the basement parking are provided along the eastern boundary. There are deep soil and soft landscaped area along the northern boundary. Lift and stairs provide access to the upper and lower levels.



Source: Carlisle Architects

**Figure 9: Proposed Ground Floor Plan**

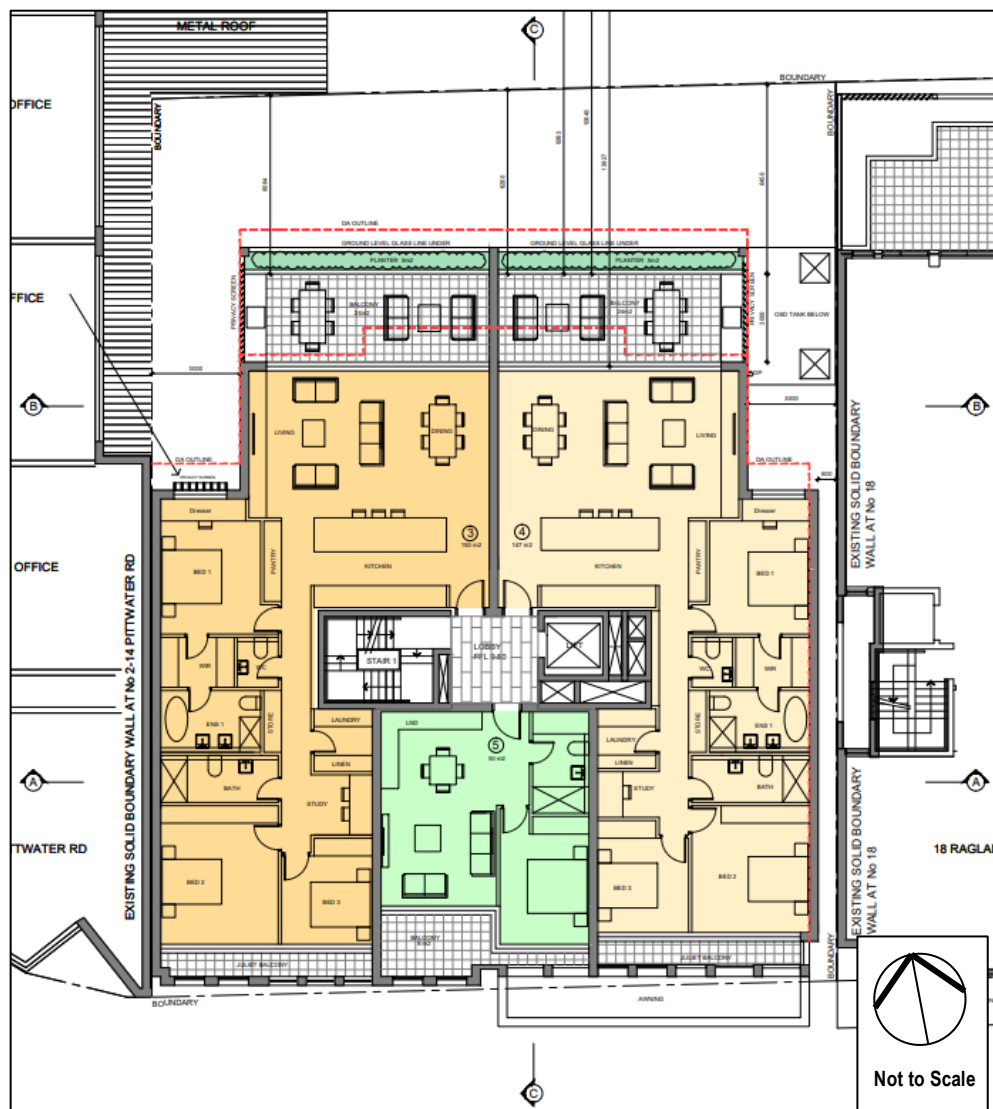
### Level 1

The **approved** Level 1 is at RL 9.50 AHD and comprises 2x three-bedroom units and a one-bedroom unit (see **Figure 10**). Lift and stairs provide access to the upper and lower levels. The layout details of each unit on this level are as follows:

**Unit 3:** This approved unit is a three-bedroom unit and has a master bedroom with walk-in robe and ensuite; another two bedrooms; a bathroom; a study; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony with planters accessed from the open plan living area, and a south facing Juliet balcony shared by Bedrooms 2 and 3.

**Unit 4:** This approved unit is a three-bedroom unit and has a master bedroom with walk-in robe and ensuite; another two bedrooms; a bathroom; a study; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony with planters accessed from the open plan living area, and a south facing Juliet balcony shared by Bedrooms 2 and 3.

**Unit 5:** This approved unit is a one-bedroom unit and has a bedroom; a bathroom; and an open plan living/dining/kitchen area. There is a south facing balcony accessed from the bedroom and the open plan living area.



Source: Carlisle Architects

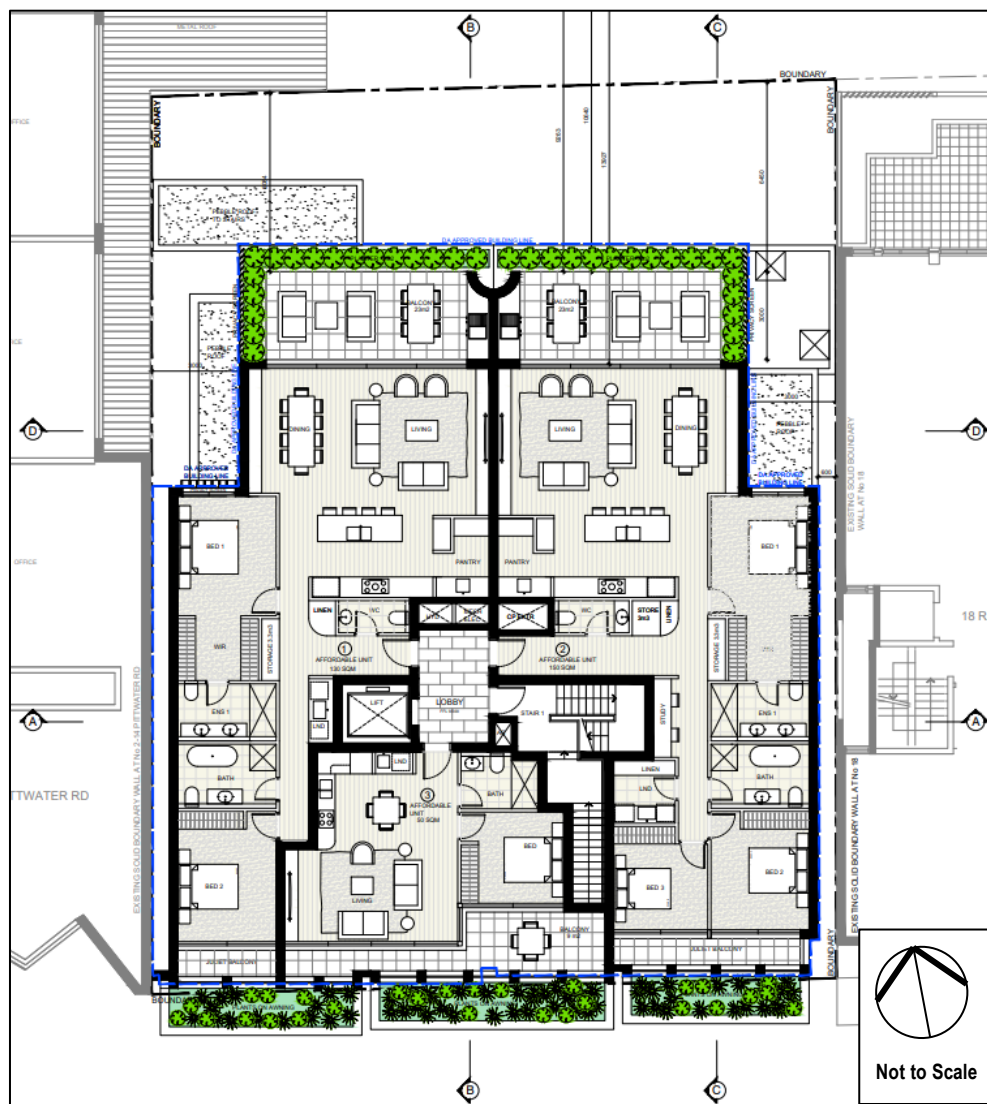
**Figure 10: Approved Level 1 Floor Plan (To be Amended)**

The **proposed** Level 1 is at RL 9.50 AHD and is fully contained within the approved building footprint. This proposed level comprises three affordable units, including a one-bedroom unit, a two-bedroom unit and a three-bedroom unit, and services and mechanical plant equipment (see **Figure 11**). Lift and stairs provide access to the upper and lower levels. The layout details of each unit on this level are as follows:

**Unit 1:** This unit is a two-bedroom affordable unit and has a master bedroom with walk-in robe and ensuite; another bedroom; a bathroom; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and a south facing juliet balcony for Bedroom 2.

**Unit 2:** This unit is a three-bedroom affordable unit and has a master bedroom with walk-in robe and ensuite; another two bedrooms; a bathroom; a laundry; a study; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and a south facing juliet balcony shared by Bedrooms 2 and 3.

**Unit 3:** This unit is a one-bedroom affordable unit and has a bedroom; a bathroom; and an open plan living/dining/kitchen area. There is a south facing balcony accessed from the bedroom and the open plan living area.



Source: Carlisle Architects

**Figure 11: Proposed Level 1 Floor Plan**

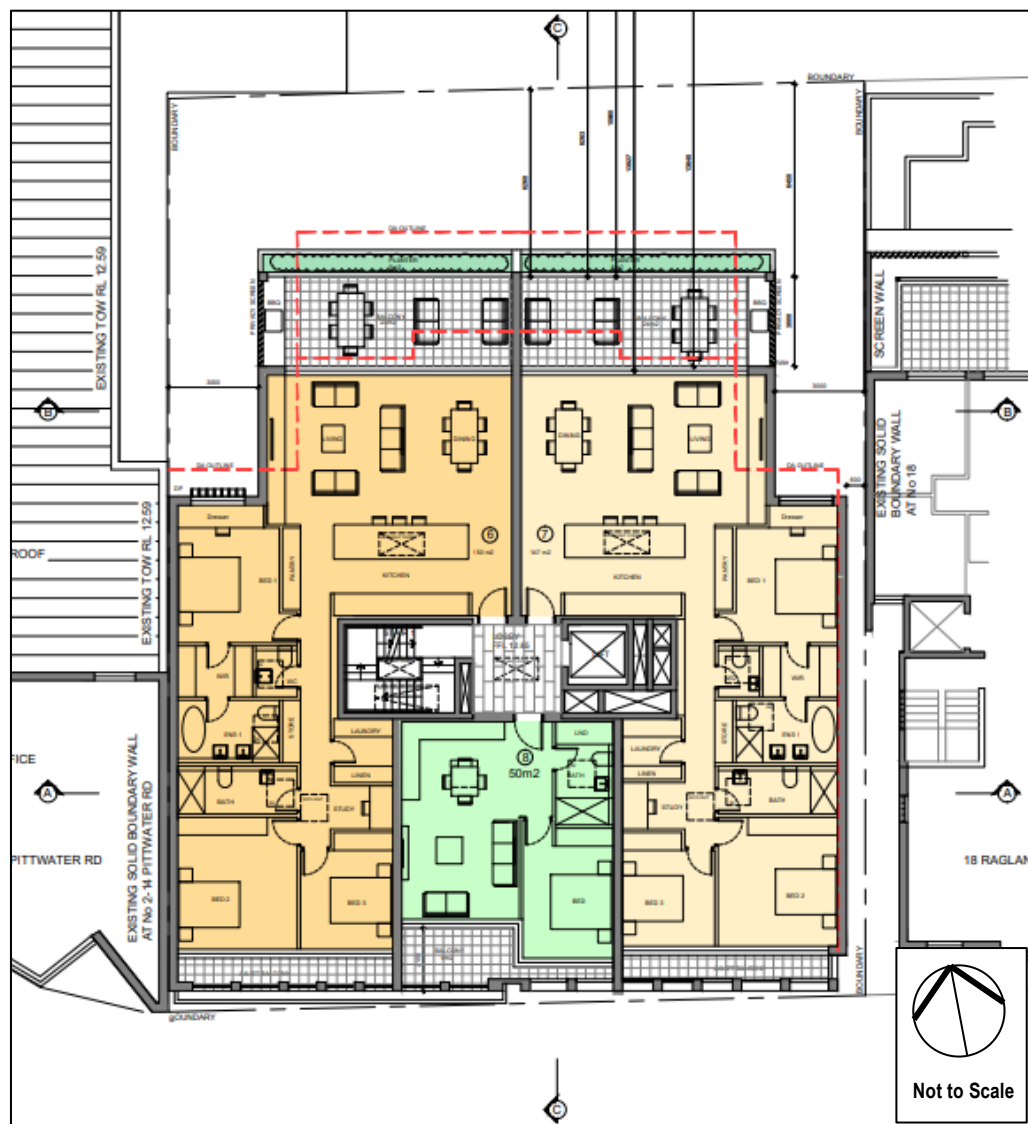
## Level 2

The **approved** Level 2 is at RL 12.65 AHD and comprises 2x three-bedroom units and a one-bedroom unit (see **Figure 12**). Lift and stairs provide access to the upper and lower levels. The layout details of each unit on this level are as follows:

**Unit 6:** This approved unit is a three-bedroom unit and has a master bedroom with walk-in robe and ensuite; another two bedrooms; a bathroom; a study; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony with planters accessed from the open plan living area, and a south facing Juliet balcony shared by Bedrooms 2 and 3.

**Unit 7:** This approved unit is a three-bedroom unit and has a master bedroom with walk-in robe and ensuite; another two bedrooms; a bathroom; a study; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony accessed from the open plan living area, and a south facing Juliet balcony shared by Bedrooms 2 and 3.

**Unit 8:** This approved unit is a one-bedroom unit and has a bedroom; a bathroom; and an open plan living/dining/kitchen area. There is a south facing balcony accessed from the bedroom and the open plan living area.



Source: Carlisle Architects

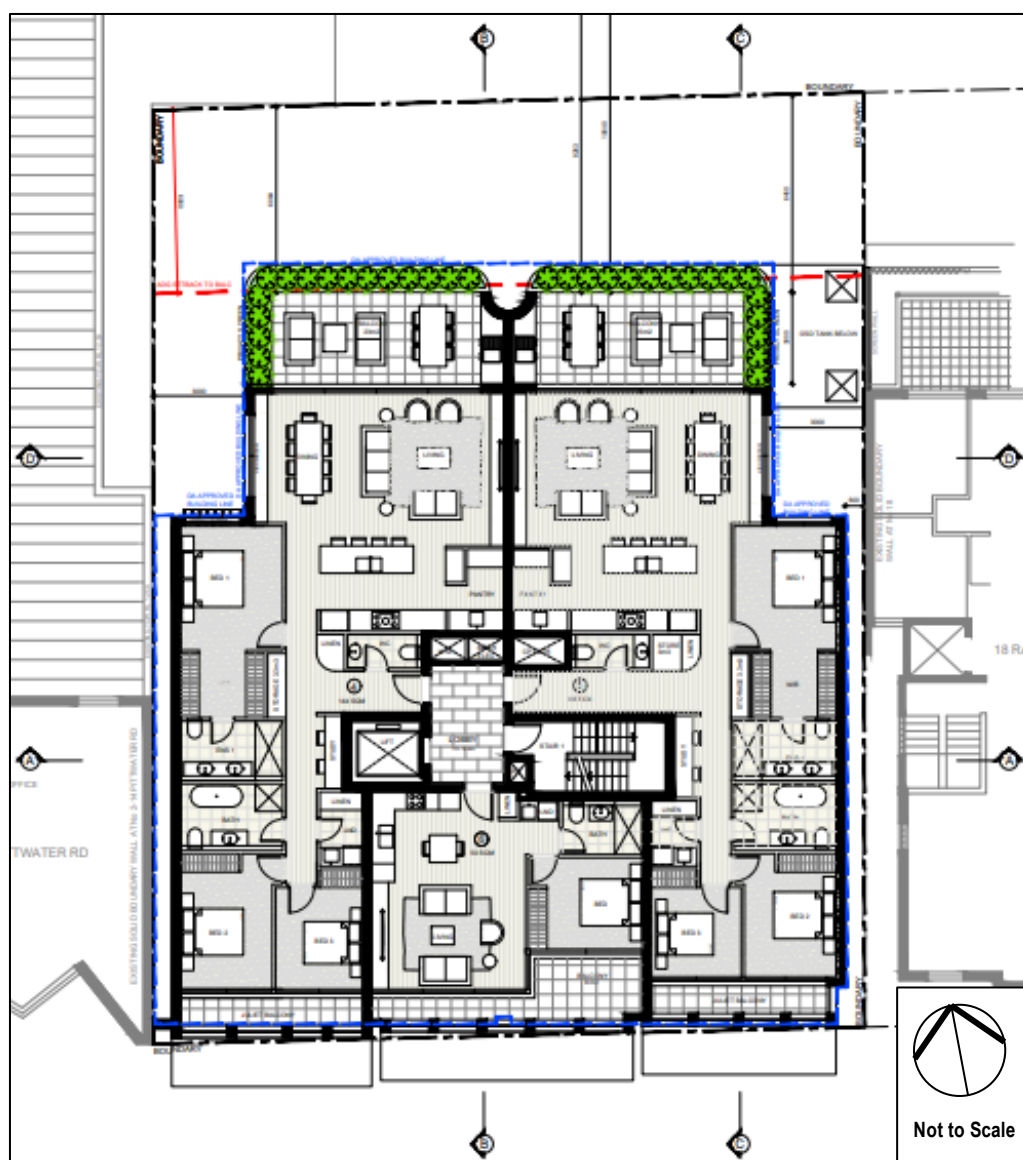
**Figure 12: Approved Level 2 Floor Plan (To be Amended)**

The **proposed** Level 2 is at RL 12.65 AHD and comprises 2x three-bedroom units and a one-bedroom unit (see **Figure 13**). Lift and stairs provide access to the upper and lower levels. The layout details of each unit on this level are as follows:

**Unit 4:** This unit is a three-bedroom unit and has a master bedroom with walk-in robe and ensuite; another two bedrooms; a bathroom; a study; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and a south facing juliet balcony shared by Bedrooms 2 and 3.

**Unit 5:** This unit is a three-bedroom unit and has a master bedroom with walk-in robe and ensuite; another two bedrooms; a bathroom; a study; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and a south facing juliet balcony shared by Bedrooms 2 and 3.

**Unit 6:** This unit is a one-bedroom unit and has a bedroom; a bathroom; and an open plan living/dining/kitchen area. There is a south facing balcony accessed from the bedroom and the open plan living area.



Source: Carlisle Architects

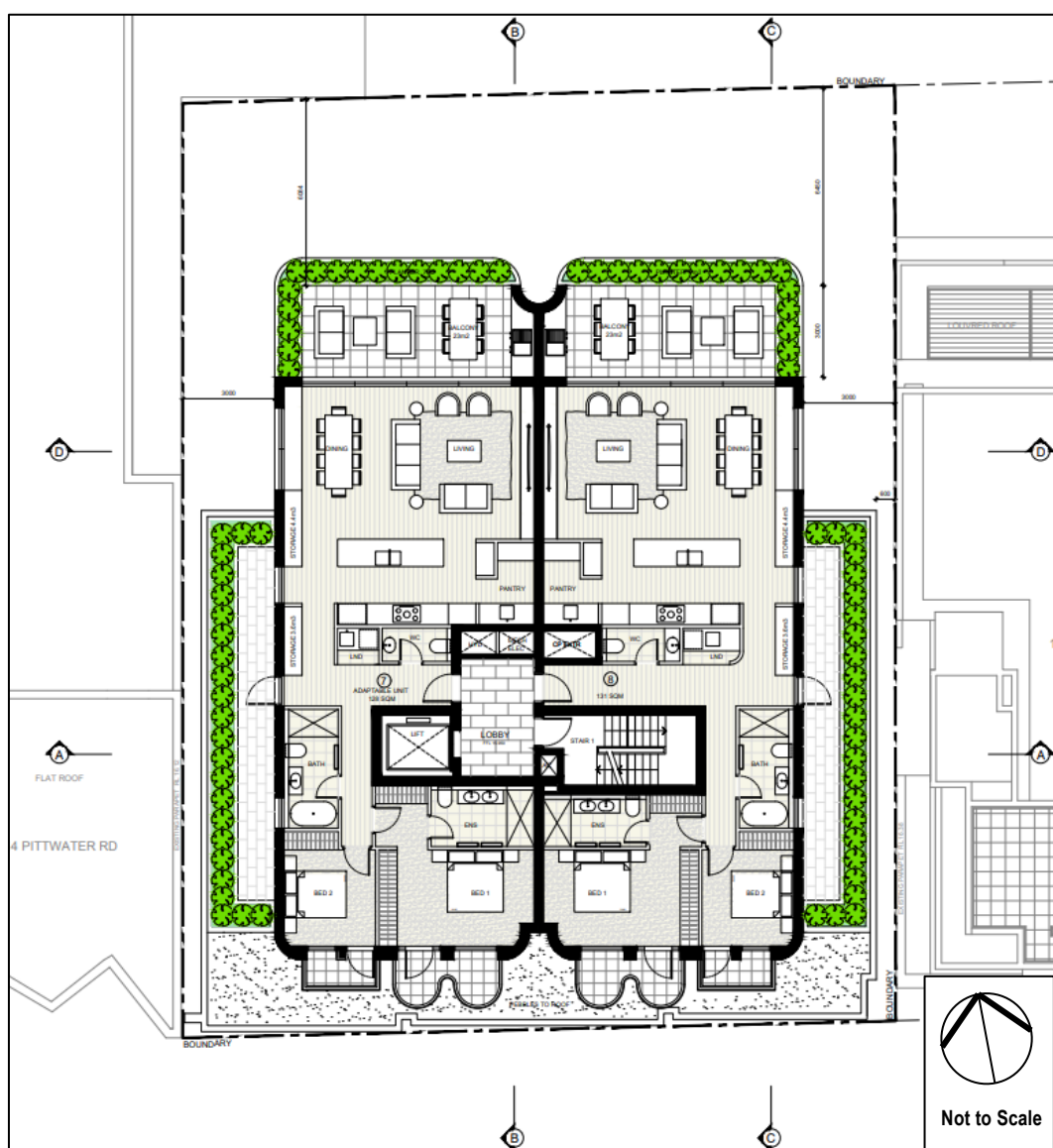
**Figure 13: Proposed Level 2 Floor Plan**

### Level 3

Level 3 is a new level at RL 15.95 AHD and comprises 2x two-bedroom units (see **Figure 14**). One of the units on this level is an adaptable unit. Lift and stairs provide access to the upper and lower levels. The layout details of each unit on this level are as follows:

**Unit 7:** This approved unit is a two-bedroom adaptable unit and has a master bedroom with ensuite; another bedroom; a bathroom; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and two south facing balconies accessed from the bedrooms respectively.

**Unit 8:** This approved unit is a two-bedroom unit and has a master bedroom with ensuite; another bedroom; a bathroom; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and two south facing balconies accessed from the bedrooms respectively.



Source: Carlisle Architects

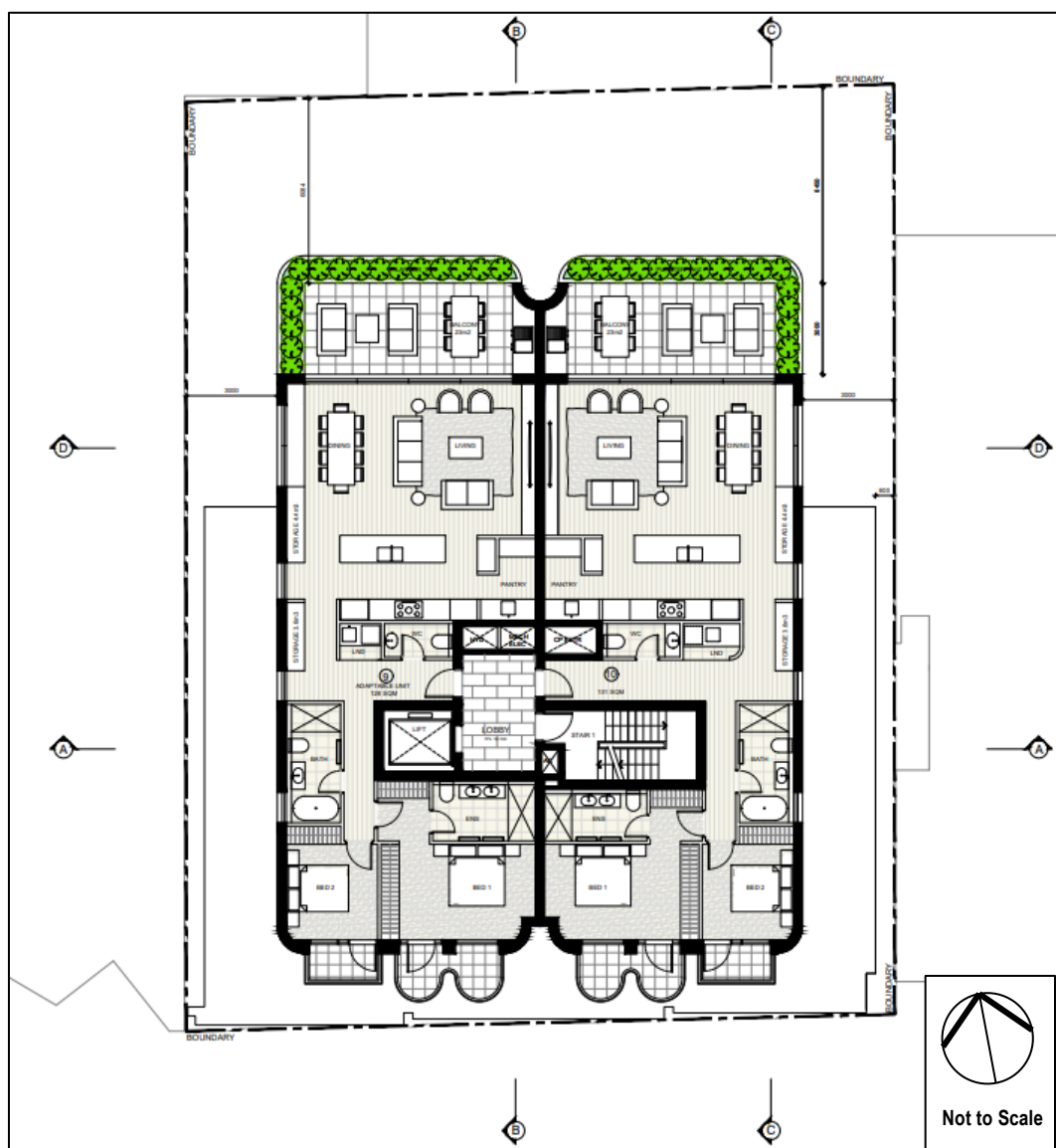
**Figure 14: Proposed Level 3 Floor Plan**

#### Level 4

Level 4 is a new level at RL 19.1 AHD and comprises 2x two-bedroom units (see **Figure 15**). One of the units on this level is an adaptable unit. Lift and stairs provide access to the upper and lower levels. The layout details of each unit on this level are as follows:

**Unit 9:** This unit is a two-bedroom adaptable unit and has a master bedroom with ensuite; another bedroom; a bathroom; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and two south facing balconies accessed from the bedrooms respectively.

**Unit 10:** This unit is a two-bedroom unit and has a master bedroom with ensuite; another bedroom; a bathroom; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and two south facing balconies accessed from the bedrooms respectively.



Source: Carlisle Architects

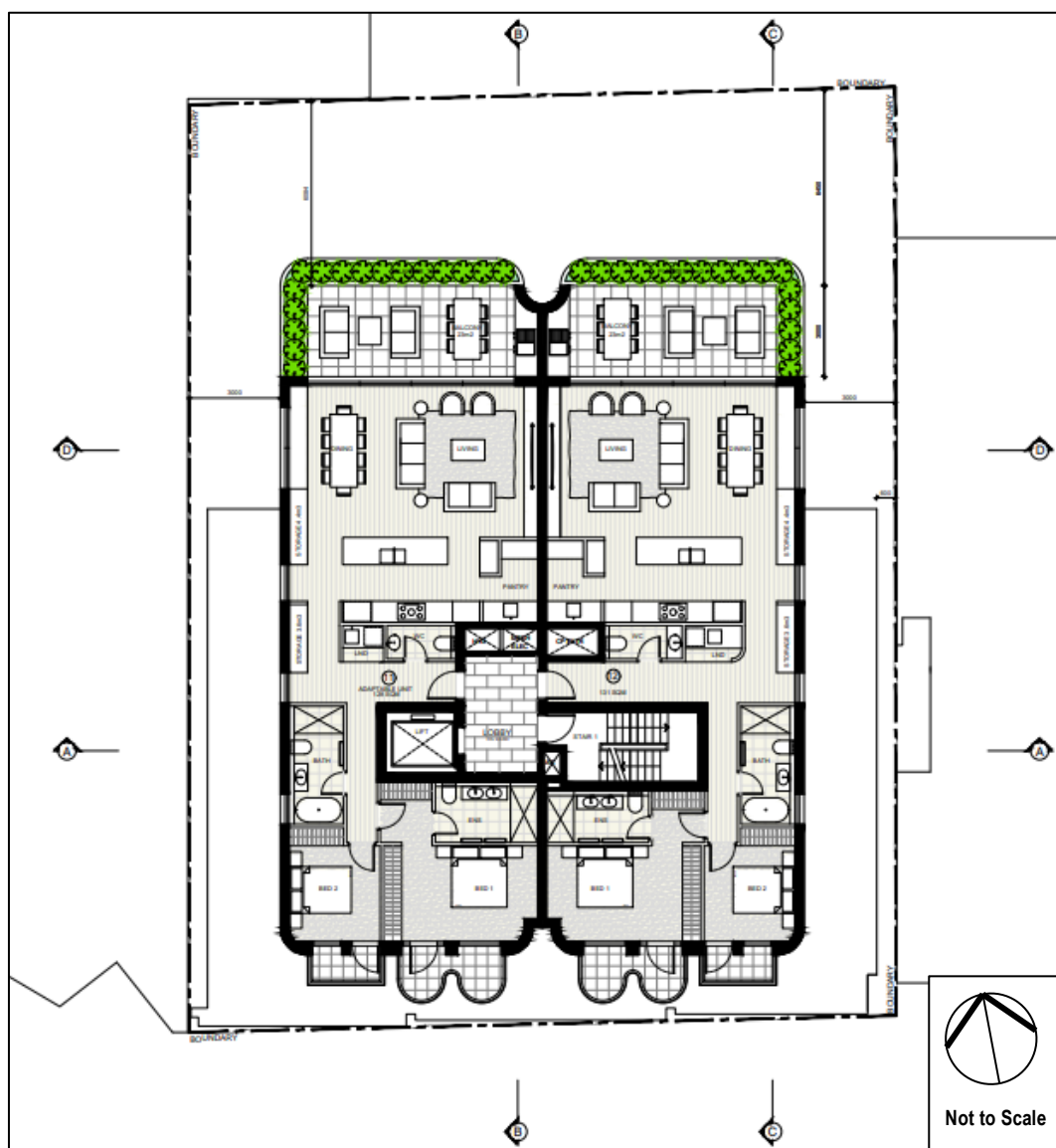
**Figure 15: Proposed Level 4 Floor Plan**

### Level 5

Level 5 is a new level at RL 22.25 AHD and comprises 2x two-bedroom units (see **Figure 16**). One of the units on this level is an adaptable unit. Lift and stairs provide access to the upper and lower levels. The layout details of each unit on this level are as follows:

**Unit 11:** This unit is a two-bedroom adaptable unit and has a master bedroom with ensuite; another bedroom; a bathroom; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and two south facing balconies accessed from the bedrooms respectively.

**Unit 12:** This unit is a two-bedroom unit and has a master bedroom with ensuite; another bedroom; a bathroom; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and two south facing balconies accessed from the bedrooms respectively.



Source: Carlisle Architects

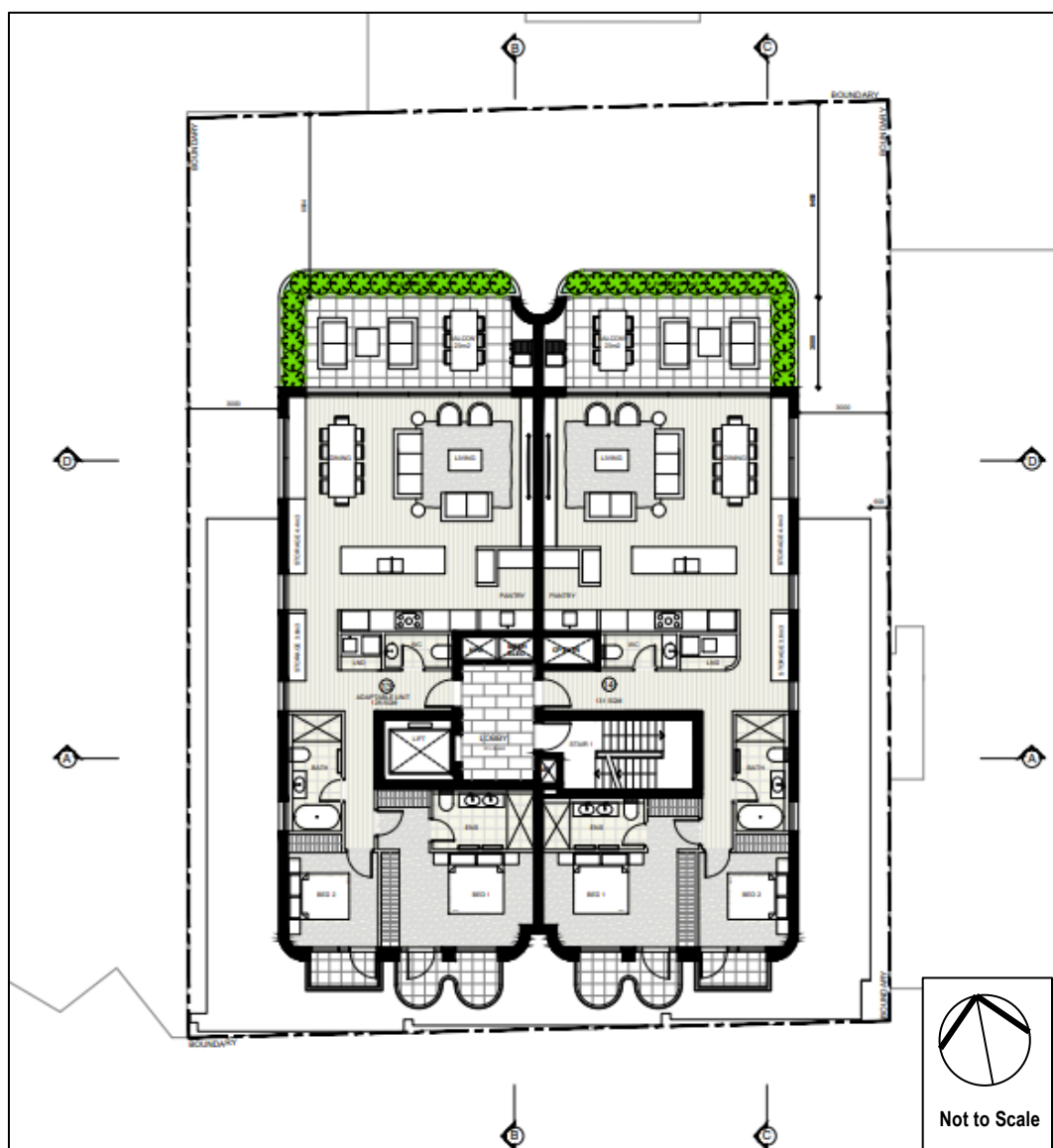
**Figure 16: Proposed Level 5 Floor Plan**

## Level 6

Level 6 is a new level at RL 25.6 AHD and comprises 2x two-bedroom units (see **Figure 17**). One of the units on this level is an adaptable unit. Lift and stairs provide access to the upper and lower levels. The layout details of each unit on this level are as follows:

**Unit 13:** This unit is a two-bedroom adaptable unit and has a master bedroom with ensuite; another bedroom; a bathroom; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and two south facing balconies accessed from the bedrooms respectively.

**Unit 14:** This unit is a two-bedroom unit and has a master bedroom with ensuite; another bedroom; a bathroom; a laundry; a powder room; and an open plan living/dining/kitchen/pantry area. There is a north facing balcony surrounded by planters accessed from the open plan living area, and two south facing balconies accessed from the bedrooms respectively.



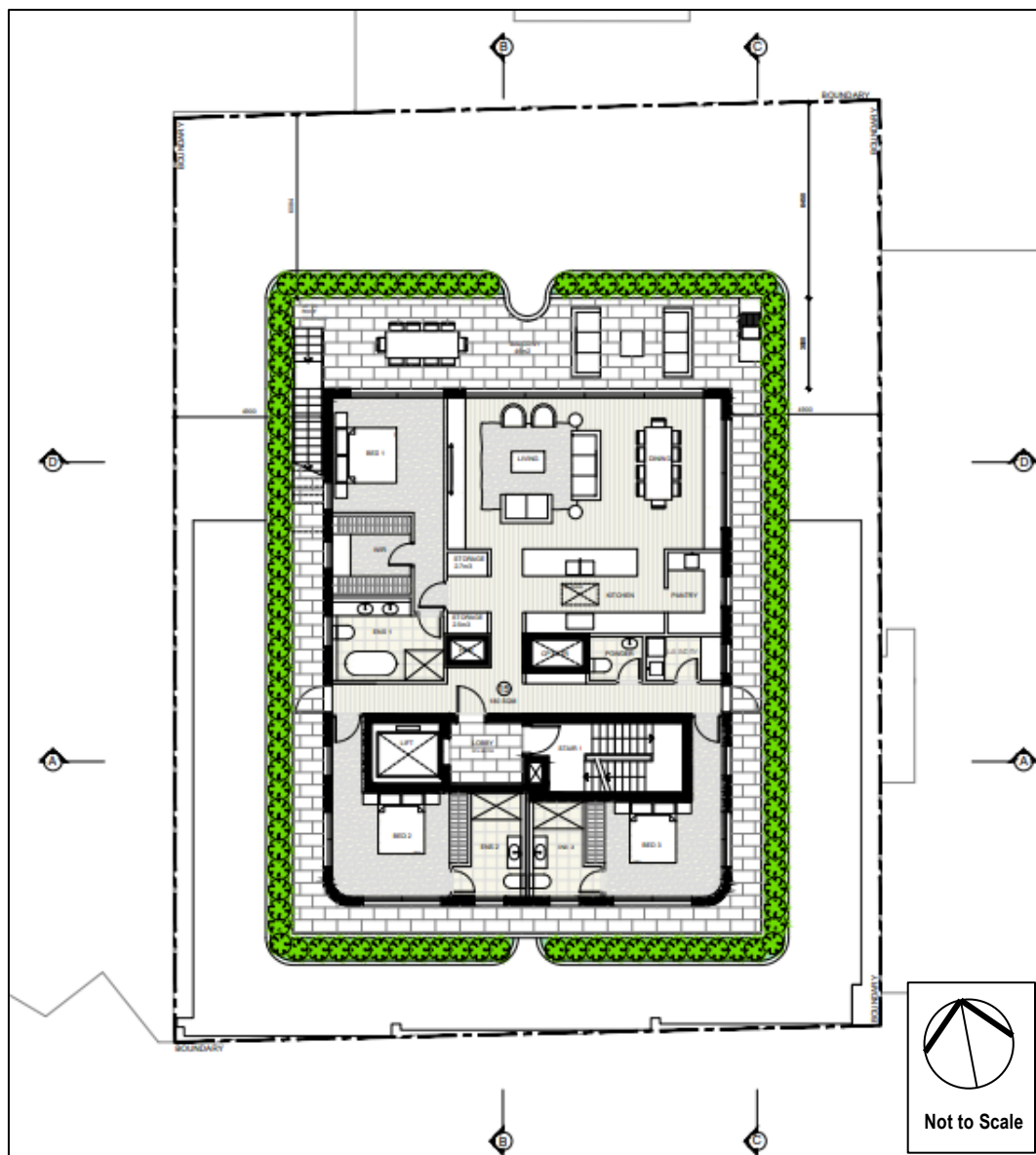
Source: Carlisle Architects

**Figure 17: Proposed Level 6 Floor Plan**

### Level 7

Level 7 is a new level at RL 28.7 AHD and comprises a three-bedroom unit (see **Figure 18**). Lift and stairs provide access to the upper and lower levels. The layout details of this unit are as follows:

**Unit 15:** This unit is a three-bedroom unit and has a master bedroom with walk-in robe and ensuite; another two bedrooms with ensuites; a powder room; a laundry; and an open plan living/dining/kitchen/pantry area. A balcony which is surrounded by planters and runs along the building edges is proposed. Stairs located along the western boundary at the balcony provide access to the roof terrace.

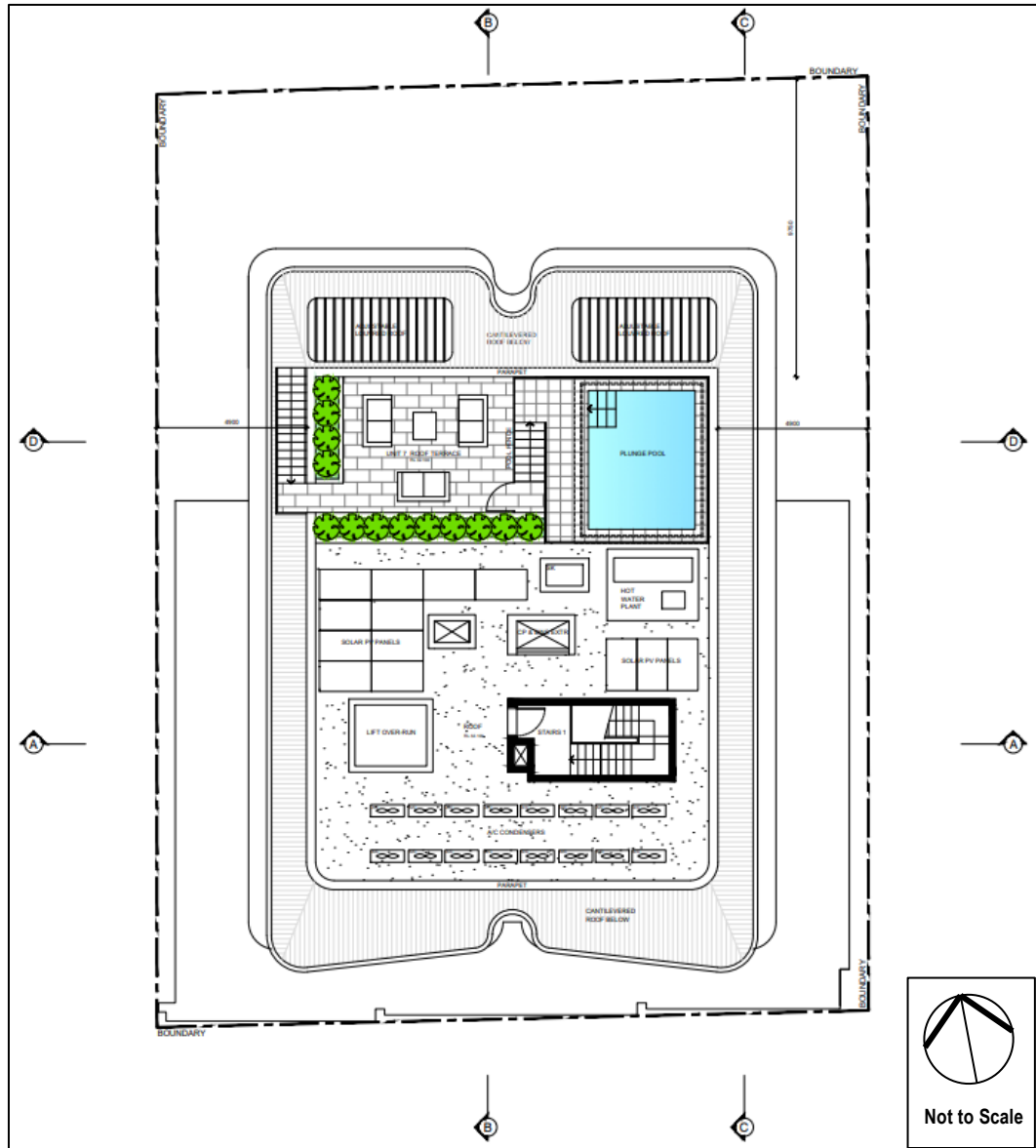


Source: Carlisle Architects

**Figure 18: Proposed Level 7 Floor Plan**

### Roof Plan

The Roof Level is at RL 32.10 AHD and comprises a roof terrace and plunge pool for the use of Unit 15; and a plant area accommodating solar panels, lift overrun, air conditioning condensers, hot water plant and bin exhaust (see **Figure 19**). A skylight is proposed above the kitchen of Unit 15 on Level 7. Adjustable louvred roofs are proposed to the north above the balcony on Level 7. Stairs provide access to this level.

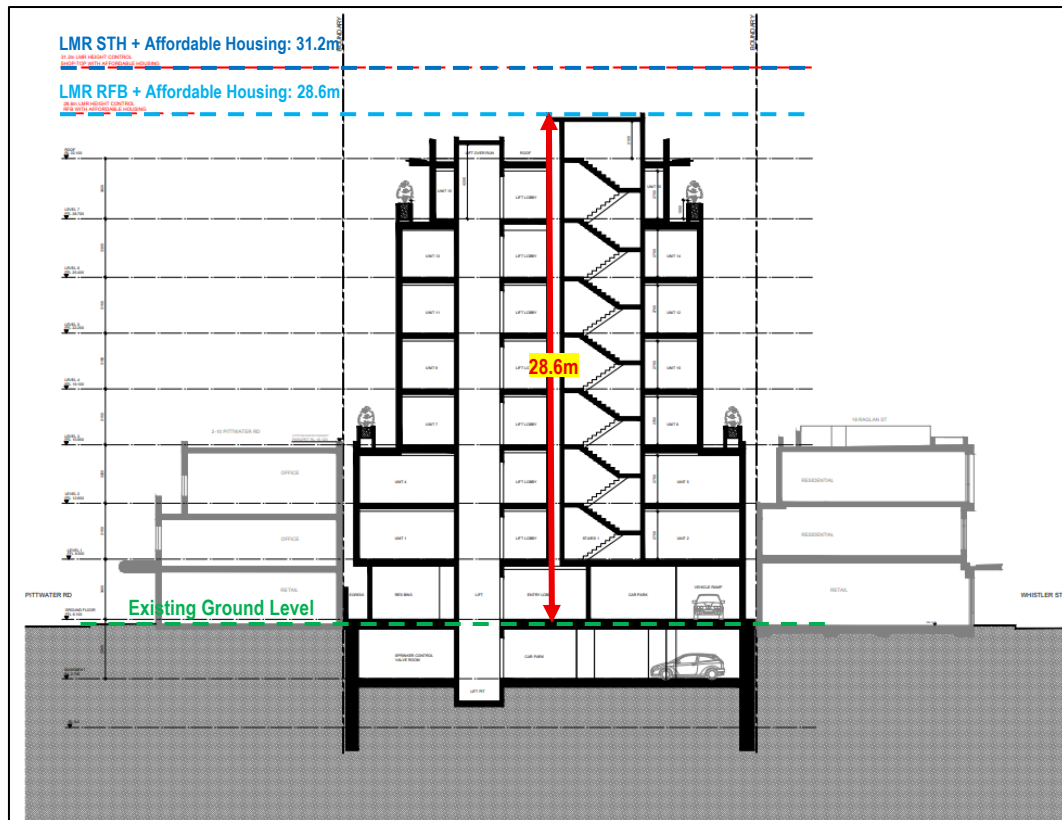


Source: Carlisle Architects

**Figure 19: Proposed Roof Plan**

### 3.3 Height

The proposed eight storey shop top housing will have a maximum height of 28.6m, measured from the highest level at RL 34.7 AHD to the existing ground level immediately below at RL 6.10 AHD (see **Figure 20**). The Basement Level is fully below the existing ground level, and the floor level of the storey immediately above is less than 1m above ground level, which satisfies the definition of “basement” in the Standard Instrument. Therefore, the proposed Basement Level is not considered as a storey.



Source: Carlisle Architects

**Figure 20: Section AA Showing Proposed Height**

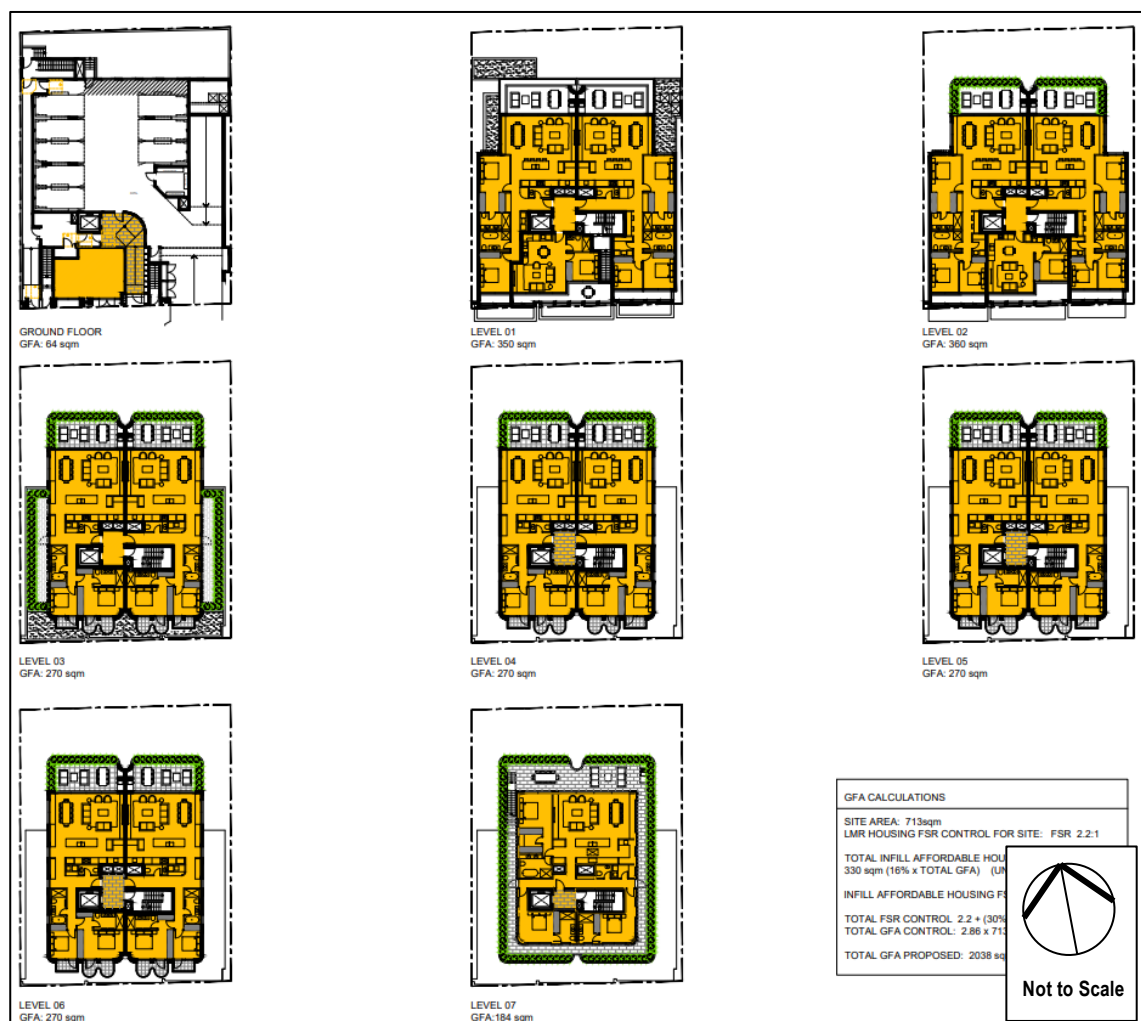
### 3.4 Gross Floor Area and Floor Space Ratio

The proposed shop top housing development has a Gross Floor Area (GFA) of 2,038m<sup>2</sup> with a Floor Space Ratio (FSR) of 2.86:1. A summary of the uses on each floor and GFA is described below (see **Table 1**).

| TABLE 1: DETAILS OF THE PROPOSAL   |                                                                                               |                   |
|------------------------------------|-----------------------------------------------------------------------------------------------|-------------------|
| Floor Level                        | Details by Level                                                                              | Gross Floor Area  |
| Ground Floor<br>(RL 5.8 – 6.1 AHD) | Retail tenancy and lobby                                                                      | 64m <sup>2</sup>  |
| Level 1<br>(RL 9.5 AHD)            | Lobby<br>Unit 1: Two-bedroom unit<br>Unit 2: Three-bedroom unit<br>Unit 3: One-bedroom unit   | 350m <sup>2</sup> |
| Level 2<br>(RL 12.65 AHD)          | Lobby<br>Unit 4: Three-bedroom unit<br>Unit 5: Three-bedroom unit<br>Unit 6: One-bedroom unit | 360m <sup>2</sup> |

|                           |                                                                                                                          |                           |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------|---------------------------|
| Level 3<br>(RL 15.95 AHD) | Lobby<br>Unit 7: Two-bedroom unit<br>Unit 8: Two-bedroom unit                                                            | 270m <sup>2</sup>         |
| Level 4<br>(RL 19.1 AHD)  | Lobby<br>Unit 9: Two-bedroom unit<br>Unit 10: Two-bedroom unit                                                           | 270m <sup>2</sup>         |
| Level 5<br>(RL 22.25 AHD) | Lobby<br>Unit 11: Two-bedroom unit<br>Unit 12: Two-bedroom unit                                                          | 270m <sup>2</sup>         |
| Level 6<br>(RL 25.4 AHD)  | Lobby<br>Unit 13: Two-bedroom unit<br>Unit 14: Two-bedroom unit                                                          | 270m <sup>2</sup>         |
| Level 7<br>(RL 28.7 AHD)  | Lobby<br>Unit 15: Three-bedroom unit                                                                                     | 184m <sup>2</sup>         |
| <b>TOTAL</b>              | <b>15 dwellings comprising</b><br><b>2 x 1-bedroom units</b><br><b>9 x 2-bedroom units</b><br><b>4 x 3-bedroom units</b> | <b>2,038m<sup>2</sup></b> |

Drawings prepared by Carlisle Architects show the areas included in GFA calculations, and areas excluded by reason of the definition or as basement area (see **Figure 21**).



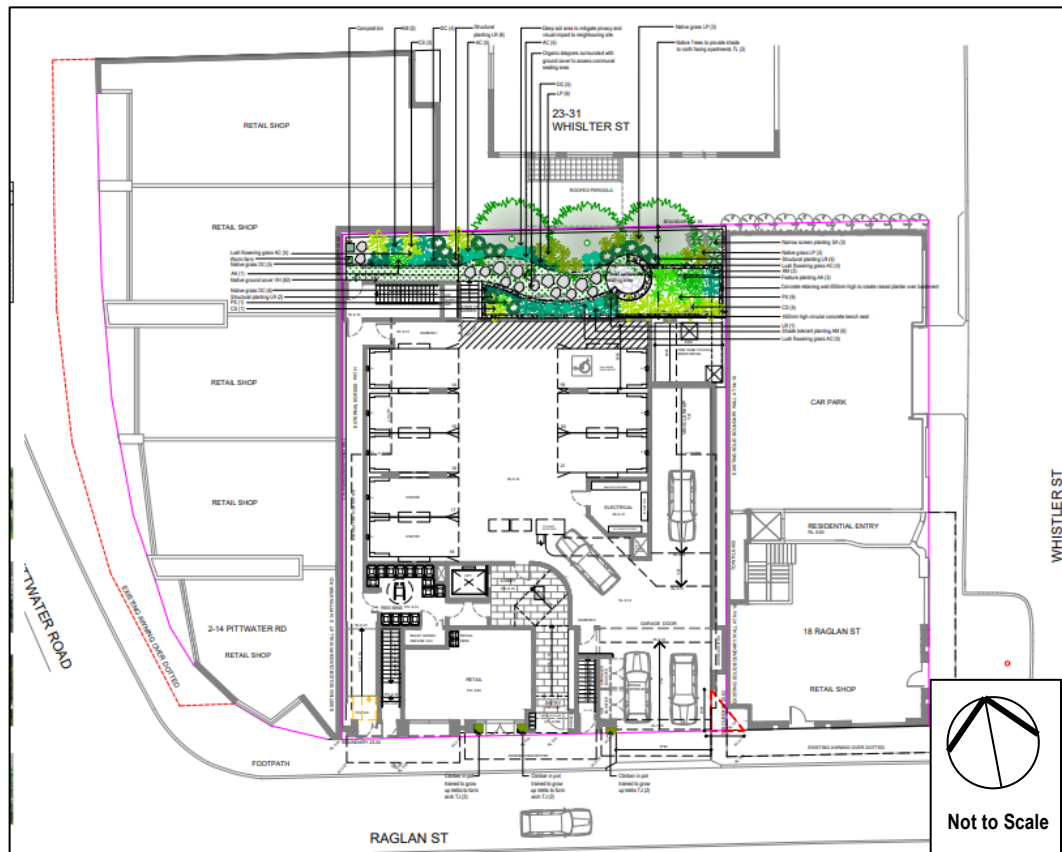
Source: Carlisle Architects

**Figure 21: Diagrams Showing GFA Calculations (GFA in Orange)**

### 3.5 Landscaping, Private Open Space and Balconies

The proposed development will provide 50m<sup>2</sup> deep soil landscaping at the rear, which comprises 7% of the site area (see **Figure 22**). Three trees, comprising 150m<sup>2</sup> tree canopy area, are planted within the deep soil landscaped area.

On the Ground Floor Level, 51m<sup>2</sup> of soft landscaped area with 1m soil depth is proposed next to the deep soil area. On each level from Levels 1 to 7, soft landscaping is proposed in the form of planters. The total soft landscaped area contributed by the planters are 182m<sup>2</sup>.



Source: Space Landscape Designs Pty Ltd

**Figure 22: Landscape Plan**

Further details of the proposed landscaping, species and design intent are in the Landscape Report and Plan, prepared by Space Landscape Designs Pty Ltd (separately submitted).

Each unit will have private open space in the form of front and rear balconies, accessible from primary living area and bedrooms of each unit. Unit 15 on Level 7 will have a roof terrace. All private open spaces are of ADG compliant sizes and dimensions.

### 3.6 Access and Parking

The site has pedestrian access from Raglan Street, via the main entrance of the proposed building.

The 21 car parking spaces of the proposed development are on the Basement and Ground Floor Levels, comprising 19 resident and 2 visitor spaces. Of the 19 resident spaces, 3 accessible spaces are provided. The proposed basement car park is accessible via a driveway from Raglan Street. A waiting bay is proposed at the garage entrance.

Further details about access and parking are contained in the Traffic Report, prepared by Varga Traffic Planning Pty Ltd (separately submitted).

## 4.0 PLANNING CONTROLS

Pursuant to Section 4.15 of the EPA Act, this section assesses compliance with the planning instruments applicable to the site in accordance with the relevant matters for consideration. The relevant planning instruments include:

- Manly Local Environmental Plan (LEP) 2013;
- State Environmental Planning Policy (SEPP) (Sustainable Buildings) 2022;
- State Environmental Planning Policy (SEPP) (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021;
- State Environmental Planning Policy (SEPP) (Housing) 2021;
- Manly Development Control Plan (DCP) 2013.

### 4.1 Manly Local Environmental Plan (LEP) 2013

The subject site is zoned R3 Medium Density Residential under the LEP, which commenced operation on 29 April 2013 (see **Figure 23**). The proposal of shop top housing is permissible with development consent.



Source: NSW Planning Portal Spatial Viewer

Subject Site

**Figure 23: LEP Zoning Map**

#### 4.1.1 Objectives

The LEP Land Use Table contains the objectives for the R3 Medium Density Residential Zone. The relevant objectives and our responses are as follows:

**Objective:** *To provide for the housing needs of the community within a medium density residential environment.*

**Response:** The proposal will amend the approved building to facilitate an increase from 8 to 15 residential units. The proposed units are well-designed with a high degree of internal and external amenity and accessibility, which will provide for the housing needs of the medium density residential environment and positively contribute to housing stock.

**Objective:** *To provide a variety of housing types within a medium density residential environment.*

**Response:** The proposed building provides a variety of unit types within a medium density residential environment, with 2 x one-bedroom units, 9 x two-bedroom units and 4 x three-bedroom units. Three of these units are designated as affordable units and four of these are adaptable units.

**Objective:** *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

**Response:** The proposed shop top housing development has a retail tenancy on the Ground Floor Level which will provide facilities or services to meet the day to day needs of residents. The broader retail use can facilitate a shop, café or small restaurant, which would all be suitable uses for the size and location of the tenancy.

**Objective:** *To encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

**Response:** The proposal will revitalise the residential areas by uplifting the approved development at the subject site to provide a suitable bulk and scale as envisaged by the LMR policy, while respecting the diverse character of the conservation area and broader neighbourhood.

**Objective:** *To encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination.*

**Response:** The current tourist accommodation will be replaced, consistent with the approval under DA No. 2022/2256.

Accordingly, in our opinion, the proposal satisfies the relevant objectives of the LEP.

#### 4.1.2 LEP Compliance

A summary of our assessment of the proposed development against the LEP is following (see **Table 2**).

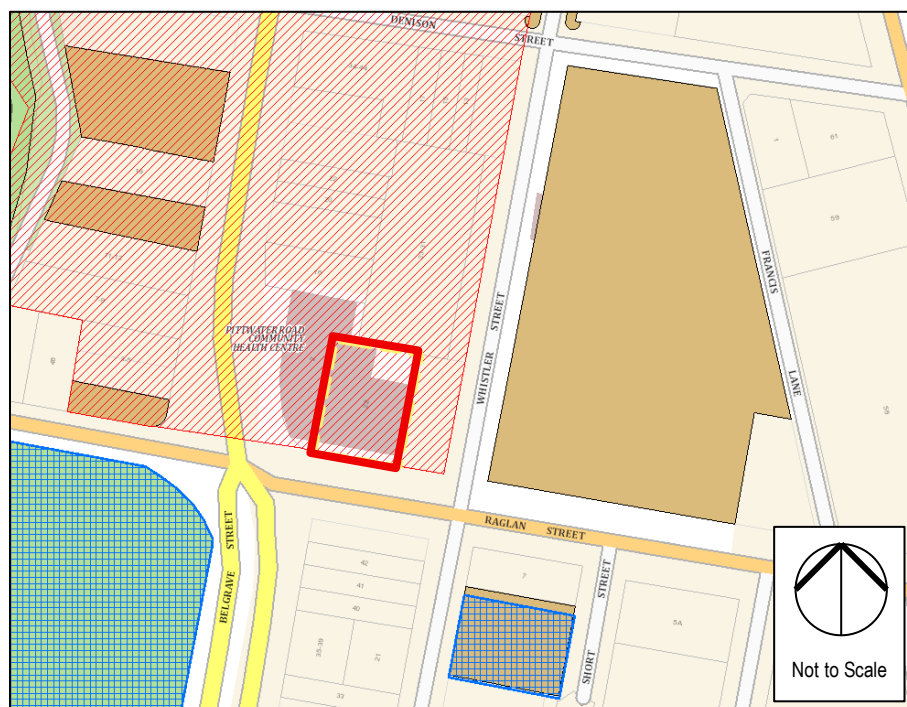
| TABLE 2: PROJECT COMPLIANCE – MANLY LEP 2013 |                                                                                                                                                                           |                                   |                                              |
|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|----------------------------------------------|
| Site Area: 713.3m <sup>2</sup>               |                                                                                                                                                                           |                                   |                                              |
| Development Standard                         | Requirement                                                                                                                                                               | Proposal                          | Complies                                     |
| Site Area (Min) for RFB                      | N/A (LMR)                                                                                                                                                                 | 713.3m <sup>2</sup>               | N/A                                          |
| Building Height (Max)                        | 11m (LEP)<br>24m (LMR – shop-top)<br>31.2m (LMR + 30% Infill Affordable Housing)                                                                                          | 28.6m                             | YES<br>(LMR + 30% Infill Affordable Housing) |
| Floor Space Ratio (Max)                      | 0.75:1 (LEP)<br>(534.98m <sup>2</sup> )<br><br>2.2:1 (LMR)<br>(1,569.26m <sup>2</sup> )<br><br>2.86:1m (LMR + 30% Infill Affordable Housing)<br>(2,040.04m <sup>2</sup> ) | 2.86: 1<br>(2,038m <sup>2</sup> ) | YES<br>(LMR + 30% Infill Affordable Housing) |

| LEP Provisions                       |                               | Complies / Comments                                                                                                                        |
|--------------------------------------|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Permissibility                       | R3 Medium Density Residential | Proposal is permissible within the zone                                                                                                    |
| Heritage Item                        | NO                            | The site is not a heritage item however is within the Pittwater Road Conservation Area, and nearby Heritage Item 254 (see Section 4.1.3)   |
| Conservation Area                    | YES                           |                                                                                                                                            |
| Within the vicinity of Heritage Item | YES                           |                                                                                                                                            |
| Flood Planning                       | YES                           | The site is in a medium risk flood precinct, with a Flood Hazard Assessment undertaken (see Section 4.1.4)                                 |
| Acid Sulfate Soils                   | Class 4                       | The proposal has been informed by a PSI, separately submitted (see Section 4.1.5)                                                          |
| Earthworks                           | YES                           | Excavation to a similar extent as approved is proposed on site, accompanied by a Geotechnical Report (see Section 4.1.6)                   |
| Foreshore Scenic Protection Area     | YES                           | The amended proposal has been designed with consideration of the site's location in a foreshore scenic protection area (see Section 4.1.7) |

The proposal satisfies the relevant objectives of the LEP, is permissible in the Zone and complies with the building height and FSR development standards contained in the Housing SEPP.

#### 4.1.3 Heritage Conservation

Clause 5.10 of the LEP relates to heritage conservation. Any effect of the proposed development on the heritage significance of the nearby item and the conservation area must be considered in the assessment of any proposed development. The site is located with the C1 Pittwater Road Conservation Area and is in the vicinity of Item No. 254 – St Mary's Church, presbytery and school (see **Figure 24**).



Source: NSW Planning Portal Spatial Viewer   Subject Site

**Figure 24: LEP Heritage Map**

Although the subject site is located in a heritage conservation area pursuant to the LEP, a Statement of Heritage Impact prepared by Weir Phillips Heritage concluded the proposal is unlikely to affect nearby heritage values, inter alia:

*The site is situated on the periphery of the Conservation Area, in a transitional location between the lower-scae shop-top buildings of the historical Manly Town Centre and larger, more recent developments along Raglan and Pittwater Road. As such, the increased height will be visually contained within this evolving built context and will not dominate or diminish the overall character of the Conservation Area.*

...

*The proposed works are physically separated from the nearest heritage items and will not involve any alteration or impact to their fabric.*

The proposal is considered appropriate in respect of heritage conservation.

#### **4.1.4 Flood Planning**

As the site is partially identified as being a “medium risk precinct” of flood hazard, the consent authority is required to be satisfied a proposal is compatible with the land’s flood hazard. This includes being satisfied that the proposal will not adversely affect flood behaviour by increasing potential affectation of other properties, manages risks to life from flooding and is not likely to result in unsustainable social and economic costs to the community from flooding.

A Flood Management Report has been prepared by van der Meer Consulting and states, inter alia:

*The subject site is located within the Medium Flood Risk Precinct. As previously mentioned in the report, the PMF Flood waters will have an impact on the site ranging from 6.04m to 6.13m. The current Flood Planning Level (FPL) for the proposed development is 6.10m AHD.*

*Evacuation from site is considered feasible as the site is located within the Medium Flood Risk Precinct which indicates the site is to have “no significant evacuation difficulties”. The retail spaces at the ground floor are to be at the footpath level, below the FPL. However, they are to be floodproofed in structure and services up to the FPL.*

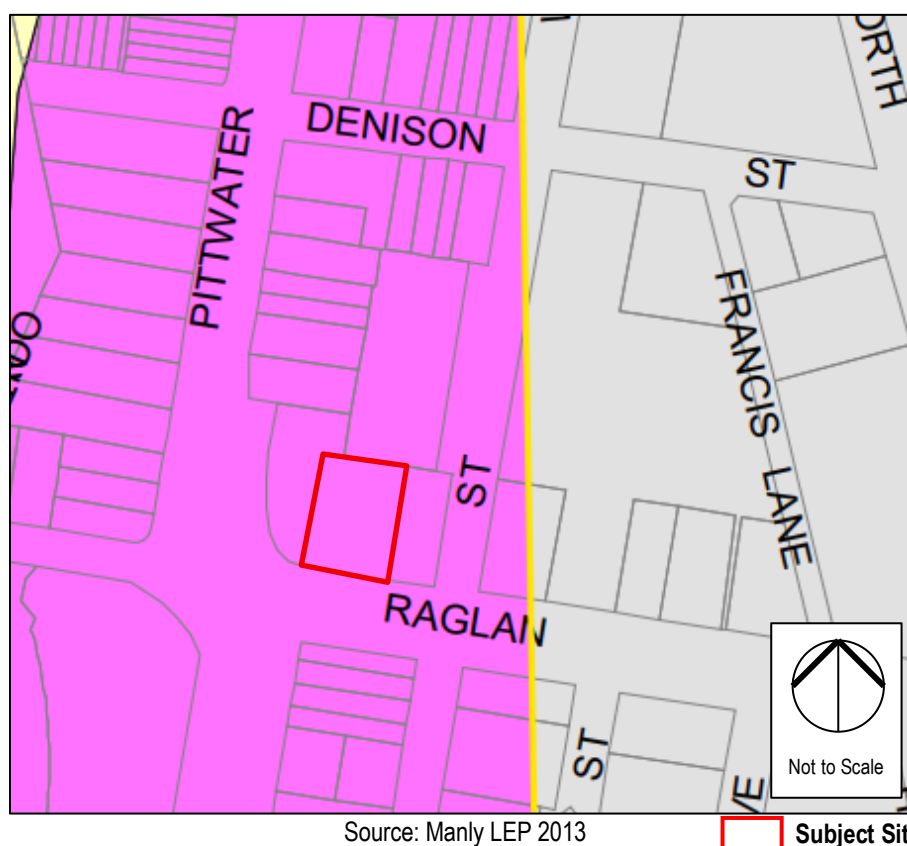
*The proposed development is to be capable of withstanding the loads imposed by the PMF Flood waters. As the existing footprint of the building is not going to increase in size, the effective storage capacity of the site and surrounding areas will not change. Flood compatible building materials are to be used below 6.10m AHD where relevant, specifically the retail space. Guidance on appropriate Flood compatible building materials is provided in Section 4.3.*

*Based on the foregoing, we are of the view that a proposed development in accordance with this report will generally comply with the requirements contained within Northern Beaches Council DCP 2022 and the Northern Beaches Council LEP 2022 provisions for sites affected by Flooding.*

Accordingly, the proposal demonstrates there are no significant flooding impacts on the subject site or neighbouring properties as a result of the proposal.

#### 4.1.5 Acid Sulfate Soils (ASS)

The subject site is within an area mapped as containing Class 4 Acid Sulfate Soil (see **Figure 25**).



Source: Manly LEP 2013

Subject Site

**Figure 25: LEP Acid Sulfate Soils Map**

A Preliminary Acid Sulfate Soil Assessment has been prepared by JK Environments. The report concluded, inter alia:

*Based on the weight of evidence collected and evaluated for this assessment, there is considered to be a negligible risk from disturbing ASS materials (AASS or PASS) down to a depth of approximately 1.85m below existing ground levels. However, due to access constraints, the soil sampling depths were limited and the boreholes did not extend to the anticipated bulk excavated depth for the proposed basement. Therefore, we consider that an ASSMP is required so that potential risks can be managed. The ASSMP is included in the following sections of this letter and is based on the following:*

- Preliminary ASS assessment data confirmed that ASS materials will not be disturbed during the demolition works, which are not expected to disturb soils far below the ground surface (i.e. demolition is largely above ground and only minor soil disturbance at shallow depths is expected to occur to remove existing footings etc.);
- Additional investigation will need to occur utilising a suitable drill rig, following demolition of the existing structures when the site is accessible. This is a requirement of the ASSMP; and
- A contingency management measure and other requirements are included for the management of ASS materials, should ASS conditions be encountered during the additional investigation.

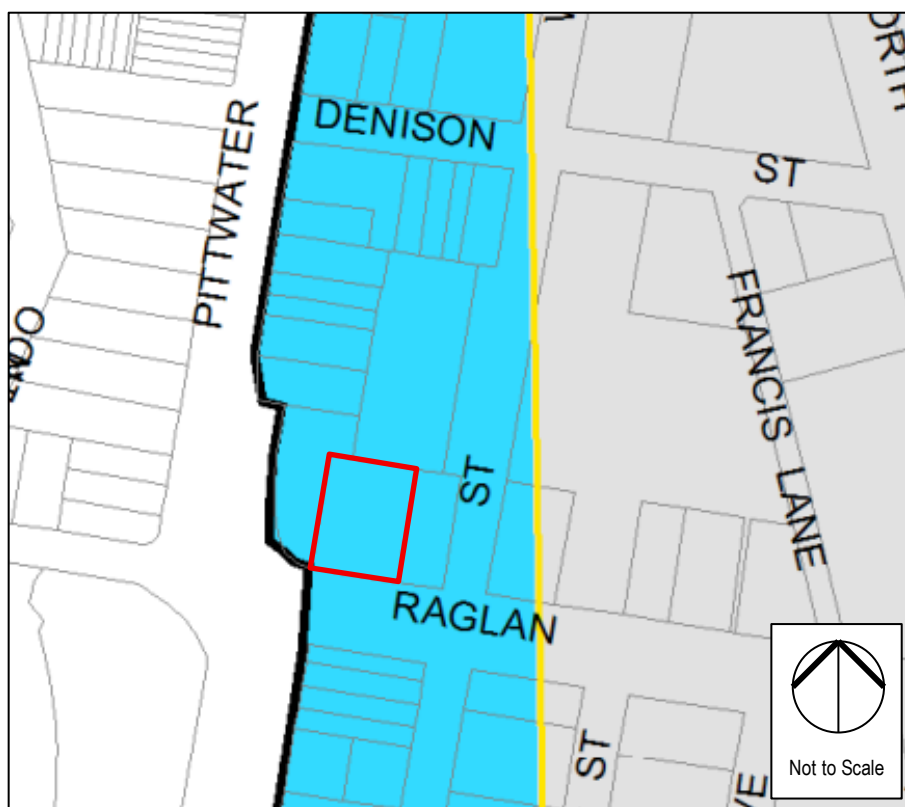
Based on the above findings, an Acid Sulphate Soil Management Plan has been prepared and included in the Preliminary Acid Sulfate Soil Assessment Report.

#### 4.1.6 Earthworks

The LEP requires the consent authority to consider the effects of earthworks on drainage patterns and soil stability. The Geotechnical Report has investigated the existing rock types and considered excavation methods to limit effects on nearby residents and developments. Disposal methods and destinations for excavated material will be outlined in a future Construction Management Plan.

#### 4.1.7 Foreshore Scenic Protection Area

Clause 6.9 of the LEP relates to scenic foreshore scenic protection area. The subject site is within the foreshore scenic protection area mapped area (see **Figure 26**).



Source: Manly LEP 2013

  Subject Site

**Figure 26:** LEP Foreshore Scenic Protection Area Map

The provisions of clause 6.9(3) and our response are as follows:

(3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters—*

*Point (a): impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*

**Response:** The shadow diagrams confirm that there will not be any overshadowing of the foreshore. It does not appear there are view corridors from a public place to the foreshore across the subject site.

*Point (b): measures to protect and improve scenic qualities of the coastline,*

*Point (c): suitability of development given its type, location and design and its relationship with and impact on the foreshore,*

**Response:** Given the generally eight+ storey massing of Manly Pacific Hotel and other nearby properties, the proposed building will blend seamlessly with the surrounding context along the foreshore area.

*Point (d): measures to reduce the potential for conflict between land-based and water-based coastal activities.*

**Response:** As the proposal remains within the approved building footprint, it is unlikely to reduce the potential for conflict between land-based and water-based coastal activities.

Accordingly, the proposal can satisfy the relevant objectives and criteria under Clause 6.9 of the LEP.

## 4.2 State Environmental Planning Policy (SEPP) (Sustainable Buildings) 2022

SEPP (Sustainable Buildings) 2022 was gazetted on 1 October 2023 and applies to the subject site. The Sustainable Buildings SEPP requires all new residences in NSW to meet sustainability targets for energy and water use relative to their climate zones. In considering the merits of the proposal, it is appropriate to refer to the sustainability targets of the SEPP.

A BASIX Report prepared for the amended development (separately submitted) shows the proposed shop-top housing development can satisfy the relevant water and energy reducing targets and thermal performance.

## 4.3 State Environmental Planning Policy (SEPP) (Biodiversity and Conservation) 2021

SEPP (Biodiversity and Conservation) 2021 was gazetted on 1 March 2022 and applies to the site. The provisions relating to Regulated Catchments are further discussed below.

The provisions of Part 6.2 of SEPP (Biodiversity and Conservation) 2021 relate to development in regulated catchments. The subject site is identified within the Sydney Harbour Catchment area. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management.

The proposal has been designed, sited and will be managed to minimise any adverse effects on the following:

- Waterways, natural waterbodies, water table, ground water and environmental impacts on the Sydney Harbour Catchment;
- Terrestrial, aquatic or migratory animals or vegetation, aquatic reserves and wetlands;
- Erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody;
- Water quality of a natural waterbody if flooding were to occur;
- Natural recession of floodwaters into wetlands or other riverine ecosystems;
- Recreational land uses or public access to and around foreshores; and
- The Sydney Harbour Catchment area overall.

The proposal is also considered to satisfy the provisions of Chapter 6.2 by implementing the proposed Stormwater Management Plan and by implementation of flood mitigation measures.

## 4.4 State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021

SEPP (Resilience and Hazards) 2021 came into effect on 1 March 2022 and consolidated the previous Coastal Management, Remediation of Land and Hazardous and Offensive Development SEPPs as Chapters 2, 3 and 4 within the new SEPP. The remediation of land provisions is relevant in this instance.

Section 4.6(1) requires the consent authority to consider whether land is contaminated prior to the consent of development on that land. The Land and Environment Court and Council have considered and indicated that this provision has been satisfied because the site has historically been used exclusively for residential use. In any event, an Acid Sulphate Soil Management Plan has been prepared and included in the Preliminary Acid Sulfate Soil Assessment Report.

## 4.5 State Environmental Planning Policy (Housing) 2021

SEPP (Housing) 2021 was gazetted on 26 November 2021. The former SEPP No. 65 Design Quality of Residential Apartment Development was repealed on 14 December 2023 and Chapter 4 'Design of Residential Apartment Development' and Schedule 9 'Design Principles' were incorporated into the subject SEPP. The LMR and In-fill affordable housing provisions are under Chapters 6 and Chapter 2 of SEPP Housing respectively.

#### 4.1.1 In-fill affordable housing

Chapter 2, Part 2, Division 1 of the Housing SEPP pertains to in-fill affordable housing.

##### Section 15C: Development to which division applies

Section 15C specifies the residential development to which this division applies. Our responses to the specific points in Section 15C are as follows:

*Point (a): the development is permitted with consent under Chapter 3, Part 4, Chapter 5, Chapter 6 or another environmental planning instrument, and*

**Response:** The proposed development comprises a shop top housing development, which is permitted with consent in the R3 Medium Density Residential zone under the Manly LEP 2013.

*Point (b): The affordable housing component is at least 10%, and*

**Response:** The affordable housing component is 16% (330m<sup>2</sup>) of the total proposed GFA (2,038m<sup>2</sup>).

*Point (c): All or part of the development is carried out –*

- (i) for development on land in the Six Cities Region, other than in the city of Shoalhaven LGA – in an accessible area, or*
- (ii) for development on other land – within 800m walking distance of land in a relevant zone or equivalent land use zone.*

**Response:** The proposed development is within the Six Cities Region. Therefore, Section 15C(c)(i) applies. The definition of accessible area in SEPP Housing is as follows:

**accessible area** means land within—

- (a) 800m walking distance of—*
  - (i) a public entrance to a railway, metro or light rail station, or*
  - (ii) for a light rail station with no entrance—a platform of the light rail station, or*
  - (iii) a public entrance to a wharf from which a Sydney Ferries ferry service operates, or*
- (b) (Repealed)*
- (c) 400m walking distance of a bus stop used by a regular bus service, within the meaning of the Passenger Transport Act 1990, that has at least 1 bus per hour servicing the bus stop between—*
  - (i) 6am and 9pm each day from Monday to Friday, both days inclusive, and*
  - (ii) 8am and 6pm on each Saturday and Sunday.*

As the subject site is of 550m walking distance to Manly Wharf, it is located in an accessible area.

Accordingly, Division 1 (in-fill affordable housing) applies to the proposal.

##### Section 16: Affordable housing requirements for additional floor space ratio

Subsection 1 allows for residential development to have an additional FSR of 30%, on the basis that a minimum 15% of affordable housing component is provided, in accordance with the formula contained in subsection (2):

$$\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$$

Accordingly, the proposed development will have a maximum FSR of:

$$2.2:1 \text{ (LMR)} + 30\% \text{ (In-fill affordable housing Bonus)} = 2.86:1$$

Section 16(3) allows for residential development to have additional building height the same percentage as the additional floor space ratio permitted under subsection (1). This equates to a maximum building height of:

$$24m \text{ (Shop top housing under LMR)} + 30\% \text{ (In-fill affordable housing Bonus)} = 31.2m$$

### Section 19: Non-discretionary development standards—the Act, s 4.15

Section 19 contains standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

| TABLE 3: IN-FILL AFFORDABLE HOUSING PROJECT COMPLIANCE |                                                                                                                                                                                                                                                                                                                                                 |                                                                                |                         |
|--------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|-------------------------|
| Provision                                              | Requirement                                                                                                                                                                                                                                                                                                                                     | Proposal                                                                       | Complies                |
| Site Area                                              | Min 450m <sup>2</sup>                                                                                                                                                                                                                                                                                                                           | 713.3m <sup>2</sup>                                                            | YES                     |
| Landscaped Area                                        | Min landscaped area that is the lesser of<br>- 35m <sup>2</sup> per dwelling (450m <sup>2</sup> ), or<br>- 30% of the site area (214m <sup>2</sup> )<br><b>Requirement</b> = 30% of the site area (214m <sup>2</sup> )                                                                                                                          | 7% (50m <sup>2</sup> )                                                         | As Approved (see below) |
| Deep Soil Area                                         | Pursuant to Subsection 3, Subsection (2)(c) and (d) do not apply to development to which Chapter 4 (Design of Residential Apartment Development) applies.                                                                                                                                                                                       | N/A                                                                            | N/A                     |
| Solar Access                                           |                                                                                                                                                                                                                                                                                                                                                 |                                                                                |                         |
| Parking (Affordable Housing)                           | 1-bed: Min 0.4<br>2-bed: Min 0.5<br>3-bed or more: Min 1<br><b>Requirement</b> = Min 1.9 space                                                                                                                                                                                                                                                  | The proposed development provides a total of 21 off-street car parking spaces. | YES                     |
| Parking (Non-Affordable Housing)                       | 1-bed: Min 0.5<br>2-bed: Min 1<br>3-bed or more: Min 1.5<br><b>Requirement</b> = Min 13 space                                                                                                                                                                                                                                                   |                                                                                |                         |
| Minimum Internal Area / Dwelling Size                  | Part 4D of the ADG<br>Studio – Min 35m <sup>2</sup><br>1-bed: Min 50m <sup>2</sup><br>2-bed: Min 70m <sup>2</sup><br>3-bed or more: Min 90m <sup>2</sup><br>Additional bathrooms increase Min internal area by 5m <sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the Min. internal area by 12m <sup>2</sup> each. | All units comply with the minimum dwelling size requirement.                   | YES                     |

### Section 19(b): Landscaped Area

Section 19(2)(b) of SEPP (Housing) 2021 requires a minimum landscaped area of 30% of the site area, or 35m<sup>2</sup> per dwelling, whichever is the lesser. The requirement for the subject development is 30% of the site area, which is equivalent to 214m<sup>2</sup>. While the proposal provides 50m<sup>2</sup> deep soil landscaped area, it is same as the approved development which does not indicate overdevelopment or an unreasonable ground floor footprint. The proposal has significantly increased the provision of landscaping. Three trees, comprising 150m<sup>2</sup> tree canopy area, are planted within the deep soil landscaped area. The proposal will provide 51m<sup>2</sup> soft landscaped area with 1m soil depth next to the deep soil landscaping.

On each level from Levels 1 to 7, soft landscaping of in the form of planters is proposed. Planters surrounding the balconies are of 600mm soil depth and those above the street awnings are of 300mm soil depth. The total soft landscaped area contributed by planters is 182m<sup>2</sup>. The soft landscaping softens the appearance of the development to neighbouring properties, providing an improved visual amenity.

## Section 20: Design Requirements

Section 20 relates to design requirements. Subsection 3 states development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with the desirable elements of the character of the local area, or for precincts undergoing transition the desired future character of the precinct.

The meaning of 'desired future character' is derived from the text and context of the planning provisions in which it is used to form the urban character and built form of the neighbourhood. The proposal is consistent with the desired future character established by the LEP through consistency with the zoning and zone objectives. The proposal of shop top housing is permissible in the R3 Medium Density Residential zoning under the LEP.

The desired future character of the surrounding is also envisaged by the LMR policy and the in-fill affordable housing bonuses, introduced by the State Government. The proposed eight storey built form reflects the desired height, bulk and scale under these policies. The proposal is also compatible with the future building envelopes of surrounding lots, as envisioned by the policies. The proposal has a consistent architectural style as the previously approved design contained within DA No. 2022/2256, respecting the heritage character of Pittwater Heritage Conservation Area.

The proposal will replace the existing aged backpackers' accommodation with an architecturally designed shop top housing development above basement parking, which is more consistent with the zone and the area's desired, evolving character, and provide a mix of one- to three-bedroom units within a residential environment.

## Section 21: Must be used for affordable housing for at least 15 years

Section 21 requires the affordable housing component of the proposed development to be used for at least 15 years and managed by a registered community housing provider. Section 26 of the Environmental Planning and Assessment Regulation 2021 further stipulates that a development application where the in-fill affordable housing provisions apply must specify the name of the registered community housing provider who will manage the affordable housing component.

A letter from the registered community housing provider who will manage the affordable housing component of the development has been submitted with the development application. The registered community housing provider is Norwood Living Communities Ltd, who have confirmed they will manage all three nominated affordable apartments within the development.

In addition to the infill affordable housing provisions outlined in Chapter 2, the provisions in Chapter 4 and Chapter 6 — Low and Mid-Rise Housing (LMR) — which came into force on 28 February 2025, also apply.

### 4.1.2 Chapter 4 Design of residential apartment development and Schedule 9 Design Principles for residential apartment development

A Design Verification Report prepared by Carlisle Architects has verified that a qualified designer has directed the design of the development, and that the proposal is consistent with the Design Principles in Schedule 9 of the SEPP. The proposal also complies with various key provisions of the Apartment Design Guide (ADG) which informs the SEPP. An assessment against all relevant objectives of the ADG are provided separately, and any full or partial departures are summarised below (including architect comments):

- **Part 3D Communal and Public Open Space**
  - 101sqm north facing communal garden area provided at ground level in landscaping at north end of site.
  - As all apartments have large balconies, and the site is located 150m from Manly Beach and opposite Manly Oval, the communal open space does not need to be large.
  - 50% of the communal garden receives minimum 2 hours direct sunlight in winter

- **Part 3F Visual Privacy**

- Rear: Living room windows and balconies comply at L1-3, Living room windows comply at L4-7, planters on balconies provide visual screening
  - Distance from balcony edge to rear boundary = 6.0m - 6.4m (average)
  - Distance from rear living rooms to rear boundary = 9.0m - 9.4m
- Side: Doesn't comply but secondary windows to living & kitchen look at blank wall to east and over top of commercial bldg to west
  - Distance from east and west side secondary living room and kitchen windows to side boundaries = 3.0m but these look at blank masonry wall to east and non-residential retail / office building to west so no visual privacy issues to sides. 6m separation unnecessary and would make property undevelopable. Would comply if east and west side windows were deleted but this is deemed unnecessary and undesirable for amenity
- 1m high planter boxes located on rear balconies and deep soil with trees on north boundary enhance visual privacy to rear neighbouring apartment building

- **Part 4P Planting on Structures**

- Three medium trees are proposed in the deep soil landscaped area to the north boundary. The soil depth is over 5m, the width about 2.5m but also connects to 51sqm of additional 3m wide x 1m deep soil zone in the rear garden which is adequate for the proposed trees.
- The north balcony, Level 3, Level 7 and roof terrace raised planters have 650mm soil depth which is adequate for shrubs and plants proposed
- The street awning soil depth is 250mm adequate for native grasses and small plants, and all above ground soil areas have drainage cells and adequate falls to water outlets

#### 4.1.3 Low and Mid Rise Housing Policy

Chapter 6 of the Housing SEPP pertains to low and mid rise housing. This Chapter aims to encourage the development of low and mid rise housing in areas that are well located with regard to goods, services and public transport. LMR housing area is subject to higher development incentive. Our assessment of the proposed development against this Chapter is provided below.

#### Section 164: Land to which chapter applies

Section 164 specifies the residential development to which this division applies. Our responses to the specific points in this Section are in **Table 4**:

| <b>TABLE 4: CONSIDERATION OF EXCLUSIONS FROM SEPP HOUSING, SECTION 164 IN CHAPTER 6 LOW AND MID-RISE HOUSING</b>                                                                                            |    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| <b>Section 164, Land to which chapter applies</b><br><b>(1) This chapter applies to the whole of the State, other than the following—</b>                                                                   |    |
| (a) bush fire prone land                                                                                                                                                                                    | NO |
| (b) land identified as a coastal vulnerability area or a coastal wetlands and littoral rainforests area within the meaning of State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 2, | NO |
| (c) land to which Chapter 5 applies,                                                                                                                                                                        | NO |
| (d) land that is a heritage item or on which a heritage item is located,                                                                                                                                    | NO |
| (e) the following local government areas—<br>(i) Bathurst Regional, (ii) City of Blue Mountains, (iii) City of Hawkesbury,<br>(iv) Wollondilly,                                                             | NO |
| (f) flood prone land in the Georges River Catchment and Hawkesbury-Nepean Catchment under State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6,                              | NO |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| (g) land in a flood planning area in the following local government areas—<br>(i) Armidale Regional, (ii) Ballina, (iii) Bellingen, (iv) Byron, (v) City of Cessnock, (vi) Clarence Valley, (vii) City of Coffs Harbour, (viii) Dungog, (ix) Goulburn Mulwaree, (x) Kempsey, (xi) Kyogle, (xii) City of Lismore, (xiii) City of Maitland, (xiv) Nambucca Valley, (xv) City of Newcastle, (xvi) Port Stephens, (xvii) Queanbeyan-Palerang Regional, (xviii) Richmond Valley, (xix) City of Shoalhaven, (xx) Singleton, (xxi) Tweed, (xxii) Upper Hunter Shire, (xxiii) Walcha, | NO |
| (h) land in an ANEF contour of 25 or greater or ANEC contour of 20 or greater,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | NO |
| (i) land within 200m of a relevant pipeline within the meaning of State Environmental Planning Policy (Transport and Infrastructure) 2021, section 2.77                                                                                                                                                                                                                                                                                                                                                                                                                       | NO |
| (j) land identified as “Deferred Transport Oriented Development Areas” on the Deferred Transport Oriented Development Areas Map,                                                                                                                                                                                                                                                                                                                                                                                                                                              | NO |
| (k) land within 800m of a public entrance to a railway, metro or light rail station listed in Schedule 12.                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | NO |
| (2) This chapter does not apply to land identified as an “Accelerated TOD Precinct” on the Accelerated Transport Oriented Development Precincts Rezoning Areas Map.                                                                                                                                                                                                                                                                                                                                                                                                           | NO |

As the subject site is not subject to any exclusion criteria as listed in **Section 164**, Chapter 6 of the Housing SEPP applies.

### Section 175: Development standards – low and mid rise housing inner area

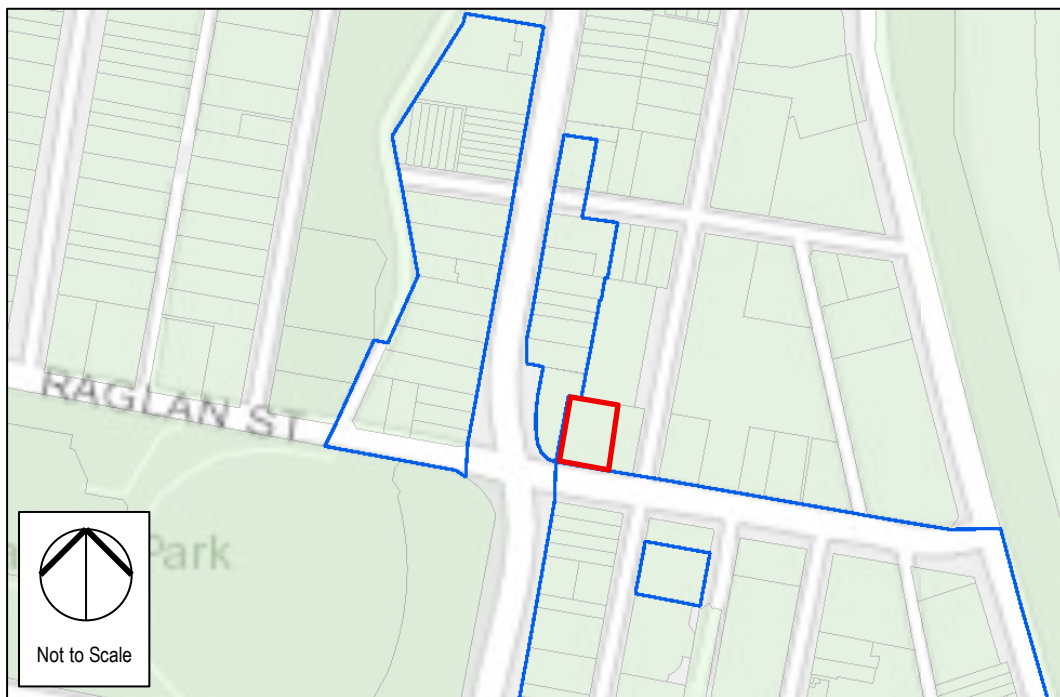
- Point (1): This section applies to land in a low and mid rise housing inner area in Zone R3 Medium Density Residential or R4 High Density Residential.*
- Point (2): Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.*
- Point (3): Development consent must not be granted for development for the purposes of a building containing shop top housing with a building height of up to 24m unless the consent authority is satisfied the building will have 6 storeys or fewer.*

The definition of low and mid rise housing inner area under **Section 163** is as follows:

**low and mid rise housing inner area** means land within 400m walking distance of—

- (a) land identified as “Town Centre” on the Town Centres Map, or
- (b) a public entrance to a railway, metro or light rail station listed in Schedule 11, or
- (c) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station.

As the subject site immediately adjoins the Manly Town Centre to the east, it is well within the 400m walk distance of a “Town Centre” on the Town Centres Map (see **Figure 27**). Accordingly, the subject site is within a low and mid rise housing inner area.



Source: SEPP Housing 2021

**Figure 27: Town Centres Map**

The proposal complies with the 31.2m building height standard, afforded by the shop top housing height standard for LMR inner area and the 30% bonus under the in-fill affordable housing provisions in Chapter 2.

#### **Section 177: Landscaping – residential flat buildings or shop top housing**

- Point (1): This section applies to land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.*
- Point (2): Development consent must not be granted for development for the purposes of residential flat buildings or shop top housing unless the consent authority has considered the Tree Canopy Guide for Low and Mid Rise Housing, published by the Department in February 2025.*

The State Government introduced the *Tree Canopy Guide for Low and Mid Rise Housing* (the Guide). As the subject site is located within a low and mid rise housing area in R3 Medium Density Residential Zone, it is a relevant matter of consideration.

The Guide states that where the ADG applies, deep soil and tree canopy should be provided in line with Table 6, which requires a minimum of 15% of the site area to be tree canopy and 7% of the site area to be deep soil. It also states that the development should seek to enhance tree canopy outcomes by providing deep soil and either the tree canopy percentage targets or the tree planting rates in Table 7. For sites with an area between 650m<sup>2</sup> and 1500m<sup>2</sup>, Table 7 also requires a minimum of 15% of the site area to be tree canopy and 10% of the site area to be deep soil.

The proposal provides 21% (150m<sup>2</sup>) tree canopy area, which is compliant with the provisions under the Guide. While the proposal has 7% (50m<sup>2</sup>) deep soil landscaped area, it does not satisfy the definition of deep soil landscaped area under the Guide which requires a minimum dimension of 3m. As addressed above, as the proposal is contained within the approved building footprint, the approved deep soil area will be retained. While there is a shortfall in width of the deep soil, it directly connects to an additional 51m<sup>2</sup> of 3m wide x 1m deep landscaping, providing a total width of 5.5m. Additionally, the proposal significantly increases the provision of landscaping, in the form of soft landscaping and canopy trees.

Accordingly, it is in our opinion that the consideration of the Guide has been achieved, and that the shortfall of deep soil landscaped area is considered appropriate on merit.

## Section 180: Non-discretionary developments standards – residential flat buildings and shop top housing in Zone R3 and R4

Section 180(2) provides non-discretionary development standards in relation to development on land in a Low and Mid Rise housing inner area. The relevant provisions are:

- Point (a): a maximum floor space ratio of 2.2:1,*  
*Point (c): for a building containing shop top housing—a maximum building height of 24m.*

The proposal comprises a building height of 28.6m and an FSR of 2.86:1, which is compliant with the standards afforded by the shop top housing height standard for LMR inner area and the 30% bonus under the in-fill affordable housing provisions in Chapter 2.

Accordingly, Section 180 is satisfied.

In conclusion, the site and proposal are subject to the low and mid-rise housing (inner area) provisions and comply with the non-discretionary development standards.

## 4.6 Manly Development Control Plan (DCP) 2013

The DCP came into force on 19 April 2013 and applies to the site and the proposed development. The DCP was recently amended to include Part 5.7 – Low and Mid-Rise Housing Areas, which contains specific controls for developments located within the LMR housing area.

### 4.6.1 DCP Compliance

A summary of our assessment of the proposed development against the DCP is following (see **Table 5** on the following pages). Our planning assessment should be read in conjunction with the plans and consultant reports that accompany this DA. It must be noted that pursuant to Chapter 4 of the Housing SEPP, Section 149 states that the ADG prevails over DCPs in relation to the following matters, inter alia:

- (1) *A requirement, standard or control for residential apartment development that is specified in a development control plan and relates to the following matters has no effect if the Apartment Design Guide also specifies a requirement, standard or control in relation to the same matter—*
  - (a) visual privacy,*
  - (b) solar and daylight access,*
  - (c) common circulation and spaces,*
  - (d) apartment size and layout,*
  - (e) ceiling heights,*
  - (f) private open space and balconies,*
  - (g) natural ventilation,*
  - (h) storage.*
- (2) *This section applies regardless of when the development control plan was made.*

Accordingly, the sections of the DCP that conflict with the matters listed above will not be considered in the following DCP assessment.

TABLE 5: PROJECT COMPLIANCE - MANLY DCP 2013

| Provision                                        | Requirement                                                                                                                                                                                                                                                                         | Proposal                                                                                                                                                                                                                                                                                                                                                            | Complies              |
|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| <b>Part 3: General Principles of Development</b> |                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                     |                       |
| Streetscape (Residential Areas)                  | Development in the streetscape (including buildings, fences and landscaping) should be designed to:<br>complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality;                               | The proposed development has a three storey podium, which matches and complements with the height of the adjoining properties. The building has been designed to provide a contemporary interpretation of the 1930s seaside architectural style with Mediterranean influences, while respecting the heritage character of the Pittwater Heritage Conservation Area. | YES                   |
|                                                  | ensure the bulk and design of development does not detract from the scenic amenity of the area when viewed from surrounding public and private land;                                                                                                                                | The bulk of the development is envisaged by the LMR and in-fill affordable housing provisions. As discussed in Section 4.1.7, given the generally eight+ storey massing of Manly Pacific Hotel and other nearby properties, the proposed building will blend seamlessly with the surrounding context along the foreshore area.                                      | YES                   |
|                                                  | maintain building heights at a compatible scale with adjacent development particularly at the street frontage and building alignment, whilst also having regard to the LEP height standard and the controls of this plan concerning wall and roof height and the number of storeys; | The development is compliant with the non-discretionary building height development standard afforded by the LMR and in-fill affordable housing provisions. The proposed development has a three storey podium, which matches and complements with the height of the adjoining properties.                                                                          | YES                   |
|                                                  | avoid elevated structures constructed on extended columns that dominate adjoining sites such as elevated open space terraces, pools, driveways and the like.                                                                                                                        | While there will be a plunge pool and a roof terrace on the roof level, they are elevated above the adjoining neighbours and the street level which will not be visible.                                                                                                                                                                                            | YES                   |
|                                                  | address and compliment the built form and style any heritage property in the vicinity to preserve the integrity of the item and its setting.                                                                                                                                        | As discussed in Section 4.1.3 and the HIS:<br><br><i>The proposed works are physically separated from the nearest heritage items and will not involve any alteration or impact to their fabric.</i>                                                                                                                                                                 | YES<br>(Refer to HIS) |
|                                                  | visually improve existing streetscapes through innovative design solutions; and                                                                                                                                                                                                     | The proposal will be well articulated with a palette of materials and a number of architectural elements, which will visually improve the existing streetscape.                                                                                                                                                                                                     | YES                   |
|                                                  | incorporate building materials and finishes complementing those dominant in the locality. The use of plantation and/or recycled timbers in construction and finishes is encouraged.                                                                                                 | Materials and finishes which are consistent with the historical character of the area will be incorporated.                                                                                                                                                                                                                                                         | YES                   |

|                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                        |                        |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
|                         | In higher density areas (including LEP Zones R1 & R3), careful consideration should be given to minimising any loss of sunlight, privacy and views of neighbours. This is especially relevant in the design of new residential flat buildings adjacent to smaller developments.                                                                                                                                                                                                                                                                                                                                                                                       | The proposal has been designed to minimise the amenity impacts on the neighbours.                                                                                                                                                                                                                                                      | YES<br>(see Section 5) |
|                         | Roof forms should complement, but not necessarily replicate the predominant form in the locality and in particular those of adjacent buildings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | The proposed flat roof is compatible with the approved development on the subject site and surrounding recently approved developments. It is unlikely to detract the appearance in the streetscape.                                                                                                                                    | YES                    |
|                         | Roofs should be designed to avoid or minimise view loss and reflectivity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | The proposed roof has been designed to avoid or minimise view loss and reflectivity.                                                                                                                                                                                                                                                   | YES                    |
|                         | Buildings with more than 1 dwelling require garbage storage enclosures which are:<br><br>a) not visible off site;<br>b) integrated into the building design;<br>c) unobtrusive and blend in with the design of front fences and walls when forward of the building; and<br>d) located and designed with consideration given to the amenity of adjoining properties.                                                                                                                                                                                                                                                                                                   | The proposed residential bin room is located behind the front building line and integrated into the building, which will not be visible off site. Given that the adjoining neighbour does not have any openings to the subject site, the amenity of the adjoining property is unlikely to be affected by the location of the bin room. | YES                    |
| Heritage Considerations | In addition to LEP listings of Environmental Heritage (LEP Schedule 5), this DCP requires consideration of the effect on heritage significance for any other development in the vicinity of a heritage item or conservation area.                                                                                                                                                                                                                                                                                                                                                                                                                                     | The relevant considerations have been addressed in the Statement of Heritage Impact prepared by Weir Phillips Heritage, separately submitted.                                                                                                                                                                                          | YES<br>(Refer to HIS)  |
|                         | Proposed development in the vicinity of a heritage item or conservation area must ensure that:<br><br>i) it does not detract or significantly alter the heritage significance of any heritage items, conservation area or place;<br>ii) the heritage values or character of the locality are retained or enhanced; and<br>iii) any contemporary response may not necessarily seek to replicate heritage details or character of heritage buildings in the vicinity, but must preserve heritage significance and integrity with complementary and respectful building form, proportions, scale, style, materials, colours and finishes and building/street alignments. |                                                                                                                                                                                                                                                                                                                                        |                        |

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                    |                                          |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
|                                   | <p>The impact on the setting of a heritage item or conservation area is to be minimised by:</p> <ul style="list-style-type: none"> <li>i) providing an adequate area around the building to allow interpretation of the heritage item;</li> <li>ii) retaining original or significant landscaping (including plantings with direct links or association with the heritage item);</li> <li>iii) protecting (where possible) and allowing the interpretation of any archaeological features; and</li> <li>iv) retaining and respecting significant views to and from the heritage item.</li> </ul> |                                                                                                                                                                                                                                                                                                                    |                                          |
| Landscaping Design                | <p>The design, quantity and quality of open space should respond to the character of the area. In particular:</p> <ul style="list-style-type: none"> <li>ii) In higher density areas: the provision of adequate private open space and landscaped areas are to maximise residential amenity. Site works must be minimised to protect natural features.</li> </ul>                                                                                                                                                                                                                                | All proposed private open space areas comply with the ADG size and dimension requirements. The approved deep soil landscaped area will be retained.                                                                                                                                                                | YES                                      |
| Amenity                           | <p>Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private viewpoints.</p>                                                                                                                                                                                                                                                                                                                                                                        | As addressed above, the development proposed building will blend seamlessly with the surrounding context along the foreshore area which is unlikely to detract the scenic amenity of the area.                                                                                                                     | YES                                      |
|                                   | <p>The use of materials and finishes is to protect amenity for neighbours in terms of reflectivity. The reflectivity of roofs and glass used on external walls will be minimal in accordance with industry standards.</p>                                                                                                                                                                                                                                                                                                                                                                        | The proposed materials and finishes have been selected to protect amenity for neighbours in terms of reflectivity.                                                                                                                                                                                                 | YES                                      |
| Sunlight Access and Overshadowing | <p>New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June)</p>                                                                                                                                                                                                                                                                                                                                                            | The north-facing units on Level 4 of No. 9 Raglan Street will not be overshadowed by the proposed built form. However, a total of nine north-facing units, three on each level of Levels 1 to 3, and their private open space areas will only receive approximately two to three hours of solar access on 21 June. | Appropriate on Merit (see Section 5.3.2) |
|                                   | <p>In relation to sunlight to the windows or glazed doors to living rooms of adjacent properties: for adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 4 hours from 9am to 3pm on the winter solstice (21 June)</p>                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                    |                                          |
|                                   | <p>A minimum of 6 hours solar access be retained to solar collectors on neighbouring properties.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Less than 6 hours of solar access will be provided to the solar collectors at No. 18 Raglan Street.                                                                                                                                                                                                                |                                          |
|                                   | <p>All external material and finishes incorporated into the development must consider and mitigate any excessive glare or reflectivity nuisance.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                             | The proposed materials and finishes have been selected to mitigate any excessive glare or reflectivity nuisance.                                                                                                                                                                                                   | YES                                      |
| Privacy and Security              | <p>Use narrow, translucent or obscured glass windows to maximise privacy where necessary.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Narrow, translucent or obscured glass windows will be used where necessary.                                                                                                                                                                                                                                        | YES                                      |

|                       |                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                    |                            |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                       | When building is close to boundaries, windows must be offset from those in adjacent buildings.                                                                                                                                                                                                                                                                    | There are no windows to the side boundaries from Ground Floor Level to Level 2. Sightlines from windows on Levels 3 to 7 will overlook the roof of the neighbours. | YES<br>(see Section 5.3.1) |
|                       | Architectural or landscape screens must be provided to balconies and terraces to limit overlooking nearby properties. Architectural screens must be fixed in position and suitably angled to protect visual privacy.                                                                                                                                              | Planter boxes are proposed to surround the balconies to limit overlooking.                                                                                         |                            |
|                       | Recessed design of balconies and terraces can also be used to limit overlooking and maintain privacy.                                                                                                                                                                                                                                                             | The roof terrace is recessed to limit overlooking.                                                                                                                 |                            |
|                       | Consideration must be given to the protection of acoustical privacy in the design and management of development.                                                                                                                                                                                                                                                  | A Noise Impact Assessment report has been prepared and submitted with the Development Application.                                                                 | YES                        |
|                       | Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas. | As the private roof terrace is elevated from the adjoining neighbours and the street level, it is unlikely to adversely impact the acoustic privacy of neighbours. | YES                        |
| Maintenance of Views  | The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and public spaces.                                                                                                                                                                                            | The proposal minimises loss of views from nearby properties and public spaces.                                                                                     | YES<br>(see Section 5.3.3) |
|                       | Views between and over buildings are to be maximised, and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.                                                                                                                                                      |                                                                                                                                                                    |                            |
| Sustainability        | Council require that the principles of ecologically sustainable development be taken into consideration when determining development applications under section 79C (now section 4.15) of the Environmental Planning and Assessment Act 1979 and under this plan.                                                                                                 | A BASIX Certificate has been prepared and submitted with the Development Application, satisfying the relevant sustainability requirements.                         | YES                        |
| Accessibility         | All DAs are to have regard to state and federal accessibility requirements, particularly residential development with more than 4 dwellings and non- residential development.                                                                                                                                                                                     | An Access Report has been prepared and submitted with the Development Application.                                                                                 | YES                        |
| Stormwater Management | In support of the purposes of LEP clause 6.4(3), all developments must comply with Northern Beaches Council's 'Water Management for Development Policy'                                                                                                                                                                                                           | A Stormwater Management Plan has been prepared and submitted with the Development Application.                                                                     | YES                        |
| Waste Management      | All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.                                                                                                                      | Waste Management Plans have been prepared and submitted with the Development Application.                                                                          | YES                        |

|                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                   |     |
|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Mechanical Plant Equipment | Plant rooms are generally required to accommodate mechanical plant systems for commercial buildings or major residential development and used exclusively for that purpose. The design and size of these rooms will vary depending on the technical specifications of the systems and other factors such as access and ventilation.                                                                                                                                                                                                                                                                                                                                                                                    | Plant rooms are proposed on the Basement Level. The size of these rooms has been designed to suit the relevant requirements.                                                                                                                                                                                                                                                      | YES |
|                            | Roof-top plant and lift towers must be inconspicuous and / or designed as an integral part of the building in such a way as to appear as an appropriate part of the overall townscape. Plant equipment is to be appropriately located and designed such that it is not apparent from the street level view or from other active pedestrian areas and must not compromise street character, landscaping or pedestrian amenity or conflict with townscape objectives of this plan.                                                                                                                                                                                                                                       | The proposed plant equipment area on the Roof Level is elevated above the street level and the surrounding neighbours, which will not be readily visible. It is unlikely to cause any adverse amenity impacts.                                                                                                                                                                    | YES |
|                            | External mechanical plant systems (for pools, air conditioning and the like) must be acoustically enclosed and located centrally and away from neighbours living areas of neighbouring properties and side and rear boundaries.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                   |     |
| Safety and Security        | <p>Vehicular Access is to be designed and located to achieve safety by:</p> <ul style="list-style-type: none"> <li>i) locating car park entry and access on secondary streets or lands where available;</li> <li>ii) minimising the number and width of vehicle access points;</li> <li>iii) providing clear sight lines at pedestrian and vehicular crossings; and</li> <li>iv) separating pedestrian and vehicular access. This separation is to be distinguishable and design solutions in this regard may include changes in surface materials, level changes and use of landscaping for separation.</li> </ul>                                                                                                    | The vehicular access is at the same location as the approved development. The number of vehicle access points has been minimised. The width of vehicle access point is limited to accommodate two vehicles, with a car space as a waiting bay. There will be a splay to provide clear sightlines at the vehicular crossing. Pedestrian and vehicular access points are separated. | YES |
|                            | <p>In order to promote safety and security, all development is to be designed to maximise opportunities for passive surveillance of public and communal areas by:</p> <ul style="list-style-type: none"> <li>a) orientating some rooms to the street;</li> <li>b) providing sight lines to the street frontage from the window(s) of at least one habitable room unobscured by trees or any other object;</li> <li>c) ensuring the design of fences, walls and landscaping minimise opportunities for concealment and encourage social interaction; and</li> <li>d) preferring double glazing on windows in areas of high street noise rather than the high fences or walls as a sound attenuation measure.</li> </ul> | All proposed units in the building will have habitable rooms orientating to the street, and provide sight lines to the Raglan Street frontage.                                                                                                                                                                                                                                    | YES |

| Part 4.1: Residential Development Controls |                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                        |                                          |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| Residential Density and Dwelling Size      | Density Area D2: 1 unit per 150m <sup>2</sup> of site area                                                                                                                                                                                                                                                                                                                                         | The approved development has 8 units, while the proposed development has 15 units. There is an approved non-compliance. While the proposal further exceeds the control, the units are contained within a built form that is compliant with the non-discretionary development standards under the LMR policy and in-fill affordable housing provisions. | Appropriate on Merit                     |
| Wall Height                                | Max. wall height:<br>9m – on flat land (no gradient)                                                                                                                                                                                                                                                                                                                                               | >9m                                                                                                                                                                                                                                                                                                                                                    | Appropriate on Merit (see Section 4.6.2) |
|                                            | Buildings must not exceed 3 storeys notwithstanding the wall and roof height controls in this plan.                                                                                                                                                                                                                                                                                                | The proposal is of eight storeys, which is consistent with what is envisaged by the LMR policy and in-fill affordable housing provisions.                                                                                                                                                                                                              | Appropriate on Merit                     |
|                                            | Variation to the maximum number of storeys may be considered:<br>i) where specific physical site constraints warrant an exception to this requirement. In these circumstances the development must still fully comply with other numeric height controls and development standards; and<br>ii) to allow an additional understorey where that storey satisfies the meaning of basements in the LEP. |                                                                                                                                                                                                                                                                                                                                                        |                                          |
| Street Front Setbacks                      | Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.                                                                                                                                                                                                                                               | The proposed three storey podium is built to the Raglan Street frontage, which is consistent with the approved development and the immediate streetscape.                                                                                                                                                                                              | As approved                              |
|                                            | Where the streetscape character is predominantly single storey building at the street frontage, the street setback is to be increased for any proposed upper floor level.                                                                                                                                                                                                                          | The streetscape character is predominantly three storey building at the street frontage. The upper levels above the three storey podium are set back from the podium façade.                                                                                                                                                                           | YES                                      |
| Side Setbacks                              | Side setback min. 1/3 of the adjacent external wall height                                                                                                                                                                                                                                                                                                                                         | The proposed built form protrudes outside the required side setback.                                                                                                                                                                                                                                                                                   | Appropriate on Merit (see Section 4.6.3) |
|                                            | All new windows are to be min. 3m from side boundaries.                                                                                                                                                                                                                                                                                                                                            | Windows to the east and west are of minimum 3m from the boundaries.                                                                                                                                                                                                                                                                                    | YES                                      |
|                                            | Side setbacks must provide sufficient access to the side of properties to allow for property maintenance, planting of vegetation and sufficient separation from neighbouring properties.                                                                                                                                                                                                           | Sufficient access to the side of properties will be provided.                                                                                                                                                                                                                                                                                          | YES                                      |

|                                       |                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                              |                                          |
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| Rear Setbacks                         | Min. 8m.                                                                                                                                                                                                                                                                                                                                                                                                              | Basement: 2.459m, as approved<br>Ground Floor: 3.022m – 5.54m<br>Levels 1 to 2: 6.084m – 6.45m, contained within the approved envelope<br>Level 3 to Level 7: 6.084m – 6.45m | Appropriate on Merit (see Section 4.6.4) |
|                                       | Rear setbacks must allow space for planting of vegetation, including trees, other landscape works and private and/or common open space. The character of existing natural vegetated settings is to be maintained.                                                                                                                                                                                                     | The approved deep soil landscaped area at the rear setback area will be retained. Additional soft landscaping will be provided.                                              | YES                                      |
|                                       | Rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity to minimise overshadowing, visual privacy and view loss.                                                                                                                                                                                                                                                                    | The rear setback is consistent with the adjoining neighbour at No. 18 Raglan Street.                                                                                         | YES                                      |
| Open Space                            | Min. 50% of site area = 357m <sup>2</sup><br>Min. dimension of 3m and an unbroken area of 12m <sup>2</sup>                                                                                                                                                                                                                                                                                                            | 210% (748m <sup>2</sup> )                                                                                                                                                    | YES                                      |
|                                       | Above Ground Open Space<br>Max. 40% of Total Open Space = 143m <sup>2</sup>                                                                                                                                                                                                                                                                                                                                           | 181% (647m <sup>2</sup> )<br><br>The non-compliance is due to the provision of ADG compliant balconies to each residential unit.                                             | Appropriate on Merit                     |
| Landscaped Area                       | Min. 30% of Total Open Space = 107m <sup>2</sup>                                                                                                                                                                                                                                                                                                                                                                      | 71% (254m <sup>2</sup> )                                                                                                                                                     | YES                                      |
|                                       | Minimum dimensions and areas must provide for the following:<br>i) soil depth of at least 1m for all landscaped areas either in ground or above ground in raised planter beds; and<br>ii) a minimum horizontal dimension of 0.5m measured from the inner side of the planter bed/ box, wall or any other structure which defines the landscaped area and incorporating an appropriate drainage and irrigation regime. | Planter boxes included in total landscaped area are 1m deep and 600mm wide with drainage and irrigation system.                                                              | YES                                      |
|                                       | Min. 3 native trees (site area over 800m <sup>2</sup> )<br><br>The minimum tree requirement may include either existing established native trees or new native trees planted at a pot/container size to be at least 25 litres capacity and being a species selected in accordance with Schedule 4 Part B - Native Tree Selection.                                                                                     | Three native trees will be planted.                                                                                                                                          | YES                                      |
| Parking, vehicular access and loading | In LEP Residential Zones:<br>1 resident parking space for each dwelling (irrespective of number of bedrooms), plus<br>0.2 resident space for 2-bedroom unit<br>0.5 resident space for 3-bedroom unit<br>0.25 visitor space for each dwelling                                                                                                                                                                          | 21 spaces provided, 19 residential (including 3 disabled) and 2 visitor spaces<br>Shortfall of 2 visitor spaces                                                              | Appropriate on Merit (See Section 5.4.2) |
|                                       | All vehicles should enter and leave the site in a forward direction.                                                                                                                                                                                                                                                                                                                                                  | All vehicles will be able to enter and leave the site in a forward direction.                                                                                                | YES                                      |
|                                       | The design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality.                                                                                                                                                                                                              | The proposed vehicular access point is same as existing and approved development. The parking locations are consolidated on the Ground Floor Level and Basement.             | YES                                      |
|                                       | Vehicular access and parking for buildings with more than 1 dwelling is to be consolidated within one location, unless an alternative layout/design would better reflect the streetscape or the building form.                                                                                                                                                                                                        |                                                                                                                                                                              |                                          |

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|                                                  | Vision of vehicles entering and leaving the site must not be impaired by structures or landscaping.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | The vision of vehicles entering and leaving the site is unlikely to be impaired by structures or landscaping. A splay is provided.                                                                  | YES |
|                                                  | Particular attention should be given to separating pedestrian entries and vehicular crossings for safety.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Separate pedestrian and vehicular entries are provided.                                                                                                                                             | YES |
| Swimming Pools, Spas and Water Features          | Swimming pools and spas must be built on or in the ground and not elevated more than 1m above natural ground level. Consideration of any exception to exceed the height above ground must demonstrate that any swimming pools and/or spa and their curtilage and/or concourse more than 1m above natural ground level:<br><br>i) would not detract from the amenity or character of the neighbourhood; and<br>ii) is a minimum distance from any side boundary equivalent to the height of the swimming pools and/or spa and their curtilage and/or concourse at any point above existing ground level.                                                                                                                                                                                                                            | As the plunge pool is located on the Roof Level, elevated above the adjoining neighbours and the street level, it is unlikely to be visible, detract the amenity or character of the neighbourhood. | YES |
|                                                  | Swimming pools and associated concourse areas must not comprise more than 30% of the total open space.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 4.5% (16m <sup>2</sup> )                                                                                                                                                                            | YES |
| Excavation                                       | Excavation is generally limited to 1m below natural ground level with the exception of basement parking areas (which will be contained within the footprint of the building) and swimming pools;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Excavation is proposed for basement parking, access and services, which is contained fully within the approved building footprint.                                                                  | YES |
| <b>Part 5: Special Character Areas and Sites</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                     |     |
| Foreshore Scenic Protection Area                 | Development in the Foreshore Scenic Protection Area must also:<br>i) minimise the contrast between the built environment and the natural environment;<br>ii) maintain the visual dominance of the natural environment;<br>iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;<br>iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;<br>v) locate rooflines below the tree canopy;<br>vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and<br>vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality. | As discussed in Section 4.1.7 above, the proposal is unlikely to have adverse impacts on the visual aesthetic amenity and views to and from Sydney Harbour.                                         | YES |
|                                                  | Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                     |     |
| Flood Prone Land                                 | Development on flood prone land requires the preparation of a Flood Management Report by a suitably qualified professional.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | A Flood Management Report has been prepared and submitted with the development application.                                                                                                         | YES |

| Part 5.7: Low and Mid-Rise Housing Areas                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                            |                                          |
|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| Site Layout                                                       | Individual dwellings fronting a public road should have habitable rooms oriented towards the street, public spaces, or communal areas, with a clearly identifiable entry. Blank walls that limit opportunities for casual surveillance of the street, common areas, or internal pedestrian pathways should be avoided.                                                                                                                                                                             | All proposed units in the building will have habitable rooms and balconies orientating to the street, and provide opportunities for casual surveillance of Raglan Street.                                                  | YES                                      |
|                                                                   | Pedestrian pathways are to be well-lit, separated from vehicular access, and provide a minimum 1 metre wide clear path. Individual dwelling entries should ensure safe access and easy wayfinding. Pedestrian entries are to be directly visible from the public street.                                                                                                                                                                                                                           | Pedestrian entry to the building is to be well-lit. The path is more than 1m wide. The entry is directly visible from the public street and easy to find.                                                                  | YES                                      |
| Setbacks and Height                                               | The ground floor should be no more than 1.3 metres above ground level (existing) and no more than 1 metre below ground level (existing), except where a higher finished floor level is required to meet the applicable Flood Planning Level.                                                                                                                                                                                                                                                       | The ground floor finished floor level follows the existing ground level.                                                                                                                                                   | YES                                      |
| Landscape Design                                                  | For 650-1,500m <sup>2</sup> :<br>For every 350 m <sup>2</sup> of site area or part thereof, plant at least 1 medium tree in the deep soil area.<br><br>The size of trees at maturity is to be as follows: medium trees are 9–14 metres high.                                                                                                                                                                                                                                                       | 21% (150m <sup>2</sup> )<br>Compliant with the provisions under the Tree Canopy Guide for Low and Mid Rise Housing                                                                                                         | Appropriate on Merit (see Section 4.1.1) |
|                                                                   | For 650-1,500m <sup>2</sup> : 10% Deep Soil                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 0%<br>While the proposal includes 7% (50m <sup>2</sup> ) of deep soil area, it does not satisfy the minimum 3m dimension requirement. Additional soft landscaping and planter boxes are proposed to soften the built form. |                                          |
| Vehicle Access, Parking Design and Electric Vehicle (EV) Charging | Vehicle access is to be consolidated and be integrated with the building design.                                                                                                                                                                                                                                                                                                                                                                                                                   | Vehicle access is consolidated and integrated with the building.                                                                                                                                                           | YES                                      |
|                                                                   | The total width of all garages, carports or hardstand areas, for all dwellings combined, facing a street frontage is not to exceed 50% of the lot frontage or 7 metres, whichever is the lesser.                                                                                                                                                                                                                                                                                                   | 5.75m                                                                                                                                                                                                                      | YES                                      |
|                                                                   | Basements are to remain within the building footprint and not extend into setback or deep soil areas.                                                                                                                                                                                                                                                                                                                                                                                              | The proposed Basement Level is contained within the approved building footprint.                                                                                                                                           | YES                                      |
|                                                                   | Development is to incorporate electric vehicle (EV) charging infrastructure in accordance with the following provisions:<br><br>a. All residential development is to provide EV charging or EV Ready infrastructure for 100% of resident parking spaces, car share spaces and visitor parking.<br>b. 100% of visitor and car share parking spaces and 20% of resident parking spaces are to be fitted with a dedicated charging station (Level 2) prior to the issue of an Occupation Certificate. | All car parking spaces have EV charging points.                                                                                                                                                                            | YES                                      |

|                                                                        |                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                             |                       |
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| Heritage Conservation Areas – Demolition                               | Demolition of buildings, structures and landscape features (including rock formations and outcrops, trees and vegetation) contribute to the value of the heritage conservation area is generally not supported. Poor condition due to lack of maintenance and neglect is not justification for demolition.                        | Demolition of the existing building is approved under DA No. 2022/2256.                                                                                                                                                                                                                                                                                                                     | YES                   |
| Heritage Conservation Areas – Views and Vistas                         | Development in heritage conservation areas is not to impact or obstruct important public views or vistas to heritage items, iconic views or views along historic streetscapes.                                                                                                                                                    | The HIS stated:<br><i>The proposed height increase will not obstruct significant public domain views too far from the identified heritage items within the Conservation Area. The orientation and alignment of the development remain consistent with the existing urban pattern established by the approved scheme.</i>                                                                    | YES<br>(Refer to HIS) |
|                                                                        | New development should consider the impact of views and include appropriate setbacks, siting and scale to ensure that important views and vistas are retained.                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                             |                       |
| Heritage Conservation Areas – External Materials, Finishes and Colours | New buildings should use materials that complement the traditional materials and historic character of the heritage conservation area.                                                                                                                                                                                            | The HIS stated:<br><i>The use of deep masonry façades, arched openings, and robust, high-quality materials such as copper, face brick, and off-white render ensures a strong and respectful dialogue with the historical architectural vocabulary of the area, particularly referencing the former ambulance station/backpackers building without resorting to replication or pastiche.</i> | YES<br>(Refer to HIS) |
|                                                                        | Dark colours, such as black and grey, are not acceptable.                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                             |                       |
|                                                                        | A colours and material palette with sample board should be submitted with development applications.                                                                                                                                                                                                                               | Schedule of Materials and Finishes will be submitted with the Development Application.                                                                                                                                                                                                                                                                                                      |                       |
| Heritage Conservation Areas – Infill Buildings                         | New buildings should be sited to reinforce the rhythm and spacing of buildings in the heritage conservation area.                                                                                                                                                                                                                 | A three storey podium with articulation of the façade is proposed for the built form to respect the heritage conservation area.<br><br>The design of the proposed building responds in scale, form, siting, materials, colours and detailing.<br><br>The proposed typology is consistent with the surrounding area.                                                                         | YES<br>(Refer to HIS) |
|                                                                        | The design of replacement buildings is to sympathetically respond in scale, form, siting, materials, colours and detailing of surrounding heritage items, particularly where there is a general consistency in the building scale within the streetscape, and within the heritage conservation area.                              |                                                                                                                                                                                                                                                                                                                                                                                             |                       |
|                                                                        | The bulk and scale of new development should be consistent with the key historic elements of the heritage conservation area and respond to the scale, form and typology of surrounding heritage items and buildings which contribute to the heritage character and significance of the heritage conservation area.                |                                                                                                                                                                                                                                                                                                                                                                                             |                       |
|                                                                        | Within groups of buildings such as rows of shops, infill building and façade design should respond to the scale, materials and massing of heritage items by aligning eave lines, cornices and parapets, façade articulation, proportion and/or rhythm of existing elements and use complementary colours, materials and finishes. |                                                                                                                                                                                                                                                                                                                                                                                             |                       |
|                                                                        | When infill development, large scale change or demolition is proposed, an interpretation plan is required to be provided with the development application.                                                                                                                                                                        | Demolition of the existing building is approved under DA No. 2022/2256.                                                                                                                                                                                                                                                                                                                     | YES                   |

The proposal satisfies the relevant objectives of the DCP, and complies with a number of amenity controls. The proposal exceeds controls relating to wall height, side rear setbacks, which will be discussed below. Aural and visual privacy; solar access; views; and waste will be addressed in Section 5.3.

#### 4.6.2 Wall Height

Part 4.1.2.1 of the Manly DCP prescribes a maximum wall height of 9m on flat land, where the LEP maximum building height is 11m. The proposed flat roof building has a building height and wall height of 28.6m.

There is a discordance between the DCP control and the provisions of the Housing SEPP which permit a maximum of building height of 24m for a shop top housing development located within the low and mid rise housing inner area under the LMR policy, with a 30% increase when at least 15% of the GFA is dedicated for in-fill affordable housing. The additional building height is not reflected in the DCP wall height control and thus results in a technical departure.

The proposed building complies with the relevant 31.2m building height development standard. The proposed wall height is considered more suitable, as compared to a compliant wall height. It is critical to note that the wall height departure is what facilitates the addition of five storey of residential units. Without this additional wall height, these additional five levels would be lost, and the proposal would have the same massing of three storeys as the approved development. This would result in the loss of additional housing and affordable housing on the site. It is clear that a greater wall height on this site is a better planning outcome, as it meets an identified need for additional housing supply including affordable units in the Northern Beaches LGA. It also contributes to increasing the site's dwelling density from 8 (approved) to 15 (proposed).

While the building is technically non-compliant with the wall height control, it has a modulated and well-articulated built form that softens the visual presence of the building. This is achieved through insets, arch openings and curved form balconies, which break up the appearance of the building when viewed from neighbouring properties and the public domain.

Additionally, the development upholds the objectives of the wall height control, which are the same objectives as the LEP building height standard, as detailed below:

*Objective:* To provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality

**Response:** The proposal responds to the desired future character of the street and local area envisaged by the LMR policy and in-fill affordable housing provisions. The proposed three storey podium responds to the prevailing building height. The flat roof form will be consistent with the topographic landscape.

*Objective:* To control the bulk and scale of buildings

**Response:** As the proposal is compliant with the building height and FSR development standards afforded by LMR and in-fill affordable housing provisions, the bulk and scale of the proposed building is considered appropriate.

*Objective:* To minimise disruption to the following—

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),
- (iii) views between public spaces (including the harbour and foreshores),

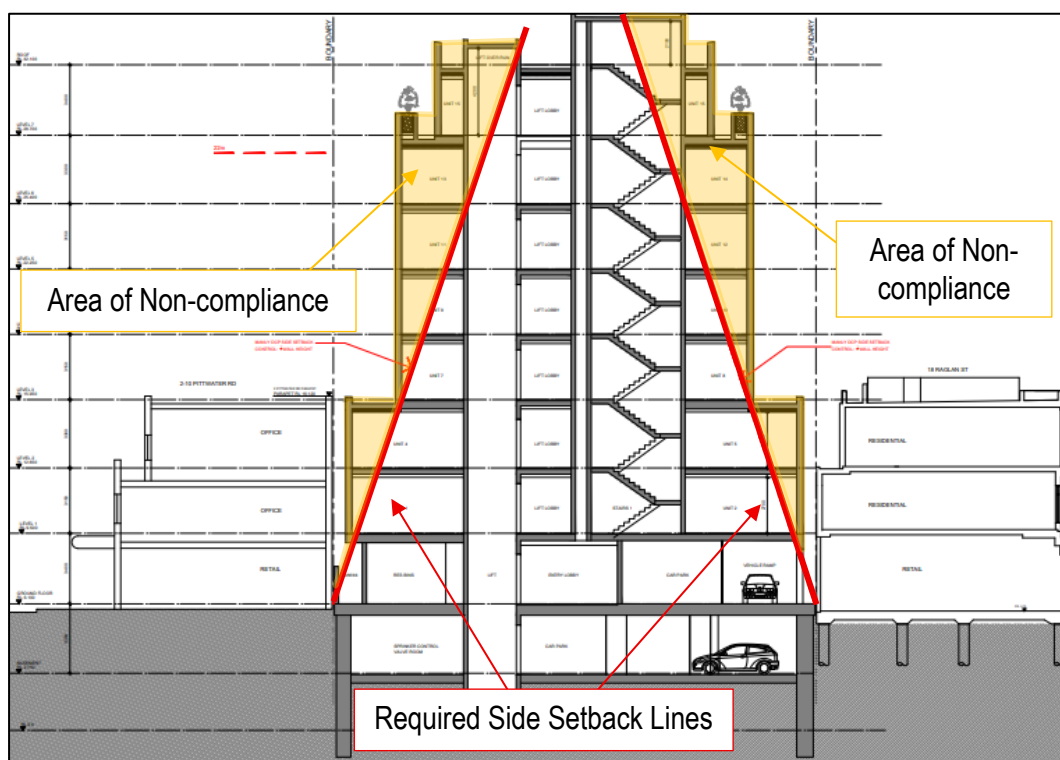
**Response:** There will not be any unreasonable view impacts from the proposal. Further details are contained in Section 5.3.3 below and Visual Impact Assessment prepared by Urbaine Design Group.

- Objective:** To provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings
- Response:** Adequate sunlight access to public and private open spaces, and habitable rooms of adjacent dwellings has been provided. Any overshadowing impacts are resultant from a compliant bulk and scale.
- Objective:** To ensure the height and bulk of any proposed building or structure in a recreation or conservation zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses
- Response:** The height and bulk of the proposed building is appropriate with regards to the heritage conservation, as discussed in the Statement of Heritage Impact prepared by Weir Phillips Heritage. The subject site does not adjoin to bushland or recreation zone.

Accordingly, the proposed wall height is considered appropriate in this instance.

#### 4.6.3 Side Setback

Part 4.1.4.2 of the Manly DCP requires any side setback to be at least one third of the height of the adjacent external wall of the proposed building. The required side setback increases as the wall height increases at the upper levels. The side setbacks of Basement, Levels 1 to 2 are contained within the approved building envelope; the ground floor eastern side setback is contained within the approved envelope, while part of the western side setback protrudes outside the approved envelope; the side setbacks for Levels 3 to 6 are 3m on each side and 4.9m on each side for Level 7. The required side setbacks and areas of non-compliance are demonstrated in **Figure 28** below.



Source: Carlisle Architects

**Figure 28:** Section Showing Side Setback and Area of Non-Compliance

An alternative reading of the control, which is one third of the overall wall height, would require a minimum 8.6m setback each side on all levels. Strict compliance with any interpretation of the control would require reallocation of floor space to additional upper storeys, which result in non-compliance with the non-discretionary building height development standard and does not represent a better planning outcome.

The relevant objectives of the side setback control and our responses are as follows:

**Objective:** *To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

**Response:** The built form from Level 3 onwards is set back from the front façade and the side boundaries, providing spatial proportions to the street. Soft landscaping is provided despite the non-compliance, contributing to the landscape character of the street. The reduction of ground floor western side setback is unlikely to be visible from the streetscape or the neighbours.

**Objective:** *To ensure and enhance local amenity by:*

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

**Response:** There will not be any unreasonable privacy impacts as a result of the non-compliance with the side setback controls. Ground floor sightlines will be concealed. Sightlines from the windows to the west and east will overlook the roof of adjoining neighbours. There will not be any unreasonable solar access and view sharing impacts on the surrounding neighbourhood. Any impacts resulted from the proposal are of a compliant bulk and scale. Further details of amenity impacts are discussed in Section 5 below. As discussed above, the proposed built form from Level 3 onwards is set back from the side boundaries, adequate space between buildings will be provided.

**Objective:** *To promote flexibility in the siting of buildings.*

**Response:** Flexibility in the siting of the proposed building will facilitate a better planning outcome, as discussed above.

**Objective:** *To enhance and maintain natural features by:*

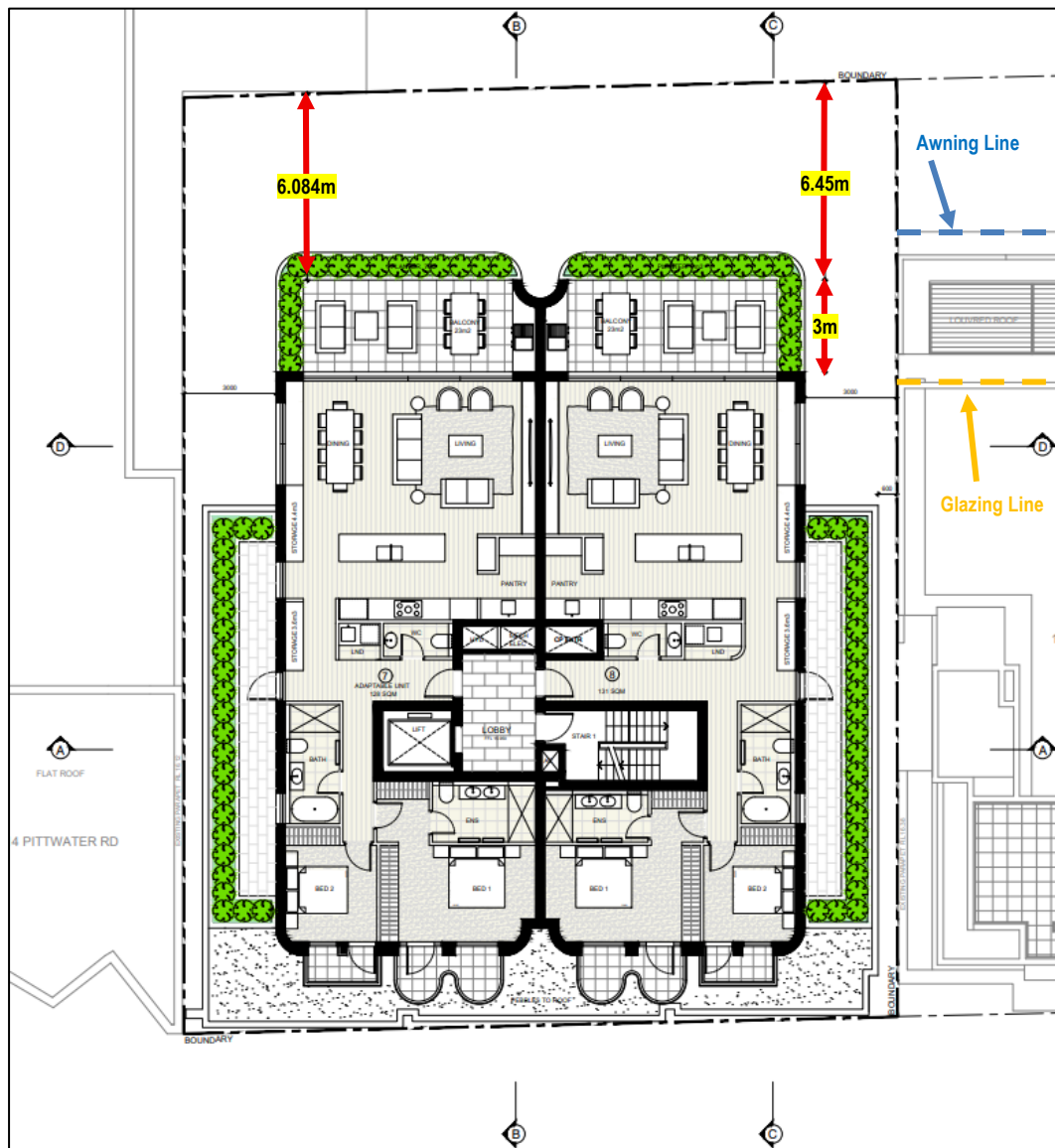
- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

**Response:** The proposed development will provide deep soil and soft landscaping, and compliant tree canopy throughout the site. The subject site does not adjoin to any open space lands and National Parks.

Accordingly, the proposed side setback is considered appropriate, as there will not be any unreasonable amenity impacts.

#### 4.6.4 Rear Setback

Part 4.1.4.4 of the Manly DCP stated the rear setback must not be less than 8m. The rear setback of Basement, and Levels 1 to 2 are same as approved; the rear setback for Ground Floor Level ranges from 3.022m to 5.54m; the rear setback for Levels 3 to 7 ranges from 6.084m to 6.45m, when measured to the outer face of the rear balconies. The DCP also stipulates that the rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity. The proposed rear setback is consistent with that of No. 18 Raglan Street to the east (see **Figure 29**).



Source: Carlisle Architects

**Figure 29: Level 3 Plan Showing Rear Setbacks**

The reduction of the rear setback on the Ground Floor Level is due to the addition of external stairs, which is unlikely to result in any adverse privacy impacts. The area of rear setback non-compliance pertains to the proposed north-facing balconies. As these balconies are considered forming an articulation zone, it will not contribute to significant bulk and scale. If the proposed rear setback were taken from the rear boundary to the rear glazing line, the rear setback would have an additional 3m, as demonstrated in **Figure 29** above. The proposal would have complied with this control. It will also not result in unreasonable overshadowing to the adjoining neighbours due to the site orientation.

The objectives of the side setback control and our responses are as follows:

**Objective:** *To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

**Response:** N/A – the rear setback does not have any presentation to Raglan Street.

**Objective:** *To ensure and enhance local amenity by:*

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

**Response:** There will not be any unreasonable privacy impacts as a result of the non-compliance with the rear setback controls. The sightlines from the new stairs on the Ground Floor Level is concealed by the external wall. Balconies on Level 3 have an ADG compliant separation distance of 6m. Any downward sightlines from the north-facing balconies on Levels 4 to 7 will be on the roof of the property adjoining to the rear. In any event, the proposed planter boxes will filter sightlines. As discussed above, the non-compliance will not result in unreasonable overshadowing to the adjoining neighbours due to the site orientation. The view impacts are relatively minor due to the quality of the view lost. Further details of amenity impacts are discussed in Section 5 below. As discussed above, these balconies form an articulation zone which will not contribute to significant bulk and scale.

**Objective:** *To promote flexibility in the siting of buildings.*

**Response:** Flexibility in the siting of buildings will not result in unreasonable amenity impacts, as mentioned above.

**Objective:** *To enhance and maintain natural features by:*

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

**Response:** The proposed development will provide deep soil and soft landscaping, and compliant tree canopy throughout the site. The subject site does not adjoin to any open space lands and National Parks.

Accordingly, the proposal is considered appropriate on merit, as it achieves the objectives of the control.

## 5.0 PLANNING ASSESSMENT

This section will consider the following: The Assessment of the Natural Environmental Impact; the Built Environment Impacts; the Site Suitability and the Public Interest in accordance with Section 4.15 of the EPA Act.

### 5.1 Assessment of Natural Environmental Impacts

This section will assess the topographic and scenic impacts as well as the water and air quality impacts of the proposed development.

#### 5.1.1 Topography & Scenic Impacts

The proposal respects the topography and scenic qualities of the site. The proposed excavation is similar to the approved development, which accommodates basement parking, access and services. The proposed Basement Level is contained fully within the approved building footprint. Excavation will be undertaken in accordance with Council's standard conditions of consent, the Geotechnical Report prepared by JK Geotechnics (separately submitted). The recommendations pertain to new footings, dilapidation surveys, shoring, and excavation techniques.

The proposal will accommodate high-quality landscaping throughout the site. Further details of the proposed landscaping, species and design intent are in the Landscape Plan, prepared by Space Landscape Designs Pty Ltd (separately submitted).

#### 5.1.2 Water & Air Quality Impacts

With implementation of the proposed Stormwater Management Plan, the proposed development is unlikely to result in any adverse effects on the locality in terms of water and air quality. Stormwater and runoff will be managed in accordance with the Stormwater Engineer's recommendations and any Council conditions of consent.

### 5.2 Assessment of Built Environmental Impacts: Character and Context

The surrounding development predominantly comprises medium density residential development of varying ages and architectural styles. There are early to mid-20<sup>th</sup> century three storey residential flat buildings with brick facades and pitched or hipped tiled roofs in the vicinity. This character is evolving with recent approvals and construction of contemporary developments of four+ storey contemporary mixed use and shop top housing developments with rendered facades and flat roof forms. In our opinion, the proposed eight storey shop top housing building with a flat roof has been carefully designed to harmonise with the bulk and scale of the surrounding buildings, making a positive contribution to the suburb of Manly through its built form, sympathetic design, detailing and materials.

Desired future character is derived from the text and context of the planning provisions in the LEP and Housing SEPP. The proposal of a shop top housing is permissible and aligned with the objectives and use that is anticipated by the R3 Medium Density Residential under the LEP. The desired future character in terms of bulk and scale is derived from the non-discretionary building height and FSR development standards under the LMR policy and in-fill affordable housing provisions in the Housing SEPP, which override the more onerous provisions in the LEP or DCP. For the subject site and the surrounding lots zoned R3 Medium Density Residential, which are within the 400m walking distance from the Manly Town Centre, the desired bulk and scale are informed by the 31.2m building height (shop top housing) and 2.86:1 FSR non-discretionary development standards. As the proposal complies with these key development standards, it is consistent with the desired future character. The proposal is also compatible with the future building envelopes of surrounding lots. In other words, the bulk and scale of the proposed building are consistent and compatible with the neighbourhood's desired future character.

When viewed from Raglan Street, the proposal presents as an eight storey built form with a three storey podium which matches the parapet height of the adjoining properties at Nos. 2-10 Pittwater Road and No. 18 Raglan Street (see **Figure 30** on the following page). The upper levels are substantially set back from the side boundaries and the podium façade, with the uppermost level being further recessed. The side setbacks for Levels 3 to 7 provide spatial relief when viewed from the public domain and neighbouring properties. Recesses are incorporated for the façade, with the podium being divided into three blocks, and the built form for Levels 3 to 7 being divided into two blocks. The façade is also articulated through the provision of a varied palette of materials and finishes including copper and off-white render, curved form balconies, and arched openings. The planter boxes above the awnings and surrounding the balconies will soften the built form. Balconies are oriented towards the street front to create an active interface between the private and public domain. Overall, the modulation of the proposed building reduces the visual bulk. The architectural elements inspired by the contemporary interpretation of the 1930s seaside architectural style with Mediterranean influences creates visual interest to the street.

Additionally, the proposed building is unlikely to detract the heritage significance and the character of Pittwater Heritage Conservation Area. Rather, the proposed development demonstrates design excellence, balancing heritage conservation and the uplift opportunities. The Statement of Heritage Impact, prepared by Weir Phillips Heritage concluded, inter alia (**emphasis added**):

*Under the Low and Mid-Rise Housing Policy and in-fill affordable housing provisions of the Housing SEPP, the surrounding precinct is expected to experience further mid-rise intensification, leading to a more diverse built form in the Sydney Metropolitan Area. **The proposal represents a contextually appropriate transition between the fine-grained heritage fabric of the town centre and newer, higher-density development envisaged under current planning controls.***

In summary, the proposed development will be compatible with the desired medium density character of the area envisaged by the planning provisions under the Housing SEPP. The development has been thoughtfully designed to be consistent with the heritage character of the area while providing an uplifted built form. The proposal is a high-quality development that contributes positively to the locality.



Existing



Approved



Proposed

Source: Carlisle Architects

**Figure 30: The Existing, Approved and Proposed Development in the Streetscape**

### 5.3 Assessment of Built Environmental Impacts: Privacy and Amenity

This section considers any aural and visual privacy effects resulting from the proposal and needs to be considered in conjunction with Section 4.6. It will also specifically address solar access, view sharing and waste management.

#### 5.3.1 Aural and Visual Privacy

The proposed development has been carefully designed to ensure aural and visual privacy for both the future residents and those in adjacent properties. Mechanical plant equipment, roof terrace, and plunge pool are all located on the Roof Level, which are elevated above the adjoining neighbours and street level, and separated from habitable areas. A Noise Impact Assessment Report has been prepared and submitted with the Development Application.

In terms of visual privacy, the design responds through considered setbacks, screening, and building orientation. Private open space areas have been designed to prevent overlooking between units within the development, by locating balconies with the same orientation directly below or above each other. There will not be any windows to the west and east at Levels 1 and 2. Windows or open space to the west and east from Levels 3 to 7, and the Roof Level will overlook the roof of the adjoining properties at No. 2-10 Pittwater Road and No. 18 Raglan Street respectively. To the north, balconies on Levels 1 to 3 have an ADG compliant separation distance of 6m. From Levels 4 to 7, any downward sightlines from the north-facing balconies will be on the roof of the adjoining property at Nos. 23-31 Whistler Street. In any event, the planter boxes surrounding these north-facing balconies at the proposed building filter downward sightlines to the balconies at Nos. 23-31 Whistler Street. As the roof terrace is further setback from the northern boundary, there is unlikely to be any adverse privacy impacts on the neighbour at Nos. 23-31 Whistler Street from this level.

Accordingly, the proposed building will provide appropriate acoustic and visual privacy to the surrounding neighbours.

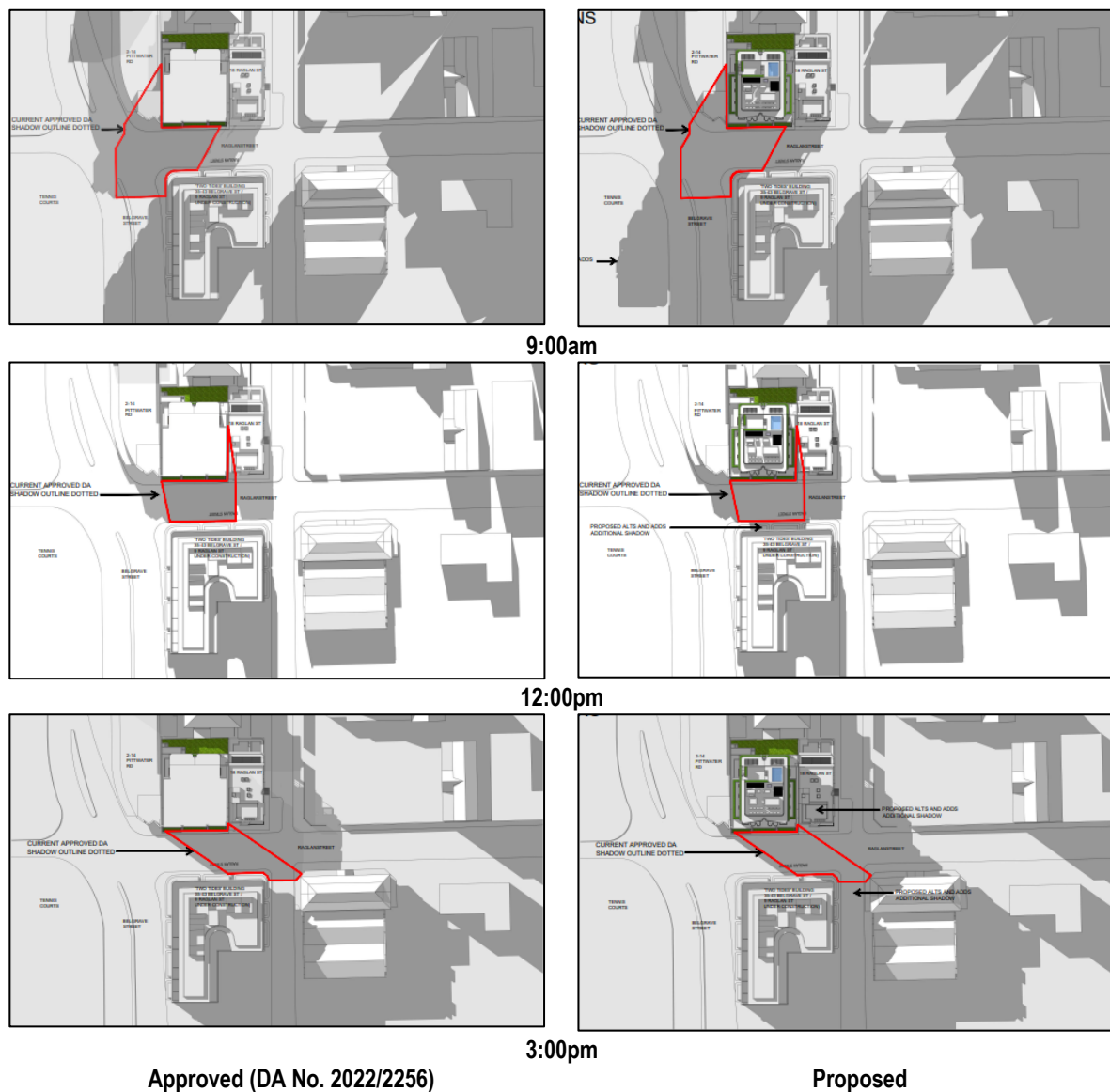
#### 5.3.2 Solar Access

To assess the effect of the proposed development in terms of solar access, hourly shadow diagrams have been prepared for 9:00am to 3:00pm on the winter solstice (June 21) (see **Figure 31** on the following page). These diagrams compare the shadows from the approved and the proposed development.

At 9am, the proposed shadows are on the roof of Nos. 2-10 Pittwater Road, a corner of the footpath on the southern side of Raglan Street, roadway of Pittwater Road, a portion of Manly Oval, and partly on the façade of the building opposite at 9 Raglan Street.

At 12pm, the additional shadows will be on the footpath on the southern side of Raglan Street and on the façade of the building opposite at 9 Raglan Street.

At 3pm, the proposed extent of additional overshadowing will be on a corner of the roof of Nos. 5-7 Raglan Street, the footpath on the southern side of Raglan Street, the roadways of Raglan and Whistler Streets, and on the façade of the building opposite at 9 Raglan Street.



**Figure 31: Shadow Diagrams for 21 June**

In addition, hourly elevational shadow diagrams for 9:00am to 3:00pm on the winter solstice have been prepared to demonstrate the overshadowing impacts on the north elevation of No. 9 Raglan Street.

The DCP requires the provision of at least 4 hours of solar access to the windows or glazed doors to living rooms of adjacent properties with a north-south orientation on 21 June. The north-facing units on Level 4 of No. 9 Raglan Street will not be overshadowed by the proposed built form. However, a total of nine north-facing units, three on each level of Levels 1 to 3, and their private open space areas will only receive approximately two to three hours of solar access on 21 June, which does not comply with the relevant DCP control. Further, the DCP requires solar access of a minimum of 6 hours to be provided to the adjacent properties. The proposal only provides four to five hours of solar access to the collectors at No. 18 Raglan Street.

It is noted that the relevant DCP controls were formulated when the LMR policy and the in-fill affordable housing bonuses were not in effect. It was only in consideration of the scale envisaged by the LEP provisions. Also, the recently added controls for LMR specific developments do not have a new solar access control. On this basis, the relevant design criteria provided under the ADG is assessed against.

While the proposal does not comply with the 4 hours solar access control in the DCP, at least 2 hours of solar access to the north-facing units and private open space areas on Levels 1 to 3 of No. 9 Raglan Street will be preserved, complying with the relevant ADG requirements.

It is important to note that the overshadowing impact is from a bulk and scale which complies with the non-discretionary development standards under the LMR provisions and the in-fill affordable housing provisions.

Accordingly, in our opinion, the proposed shadow impacts on surrounding properties have been carefully minimised and are acceptable under these circumstances.

### 5.3.3 View Sharing

In the assessment of development applications relating to view issues, the NSW Land and Environment Court rely on the planning principle in *Tenacity v Warringah Council* [2004] NSWLEC 140 (*Tenacity*). Our assessment of the proposal against this planning principle is included below. The four steps in assessing view affectation are considered as follows:

- *Assessment of the Views Affected*
- *From What Part of the Property are the Views Obtained?*
- *The Extent of the Impact*
- *The Reasonableness of the Proposal*

It is noted that our assessment is based on the site inspection, Visual Impact Assessment (VIA) prepared by Urbaine Design Group, aerial photography and survey information available at the time of preparing this report. We have not had the opportunity to inspect the nearby properties.

#### ***Assessment of the views Affected***

In respect of the first step, *Tenacity* states that water views are valued more highly than land views and iconic views (Opera House or Harbour Bridge) are valued more highly than views without icons. In addition, whole views are valued more highly than partial views.

There is no public view corridors across the subject site identified in the DCP. As the subject site is in the Foreshore Scenic Protection Area, and that the Sydney Harbour is to the east of the site, properties on elevated locations further to the west of the subject site appear to rely on the rear setback area of the proposed development to obtain private views. The Virtual Photomontages indicate that properties/locations at Kangaroo Street, Augusta Lane, Ocean Road, Ocean Lane and Birkley Road have partial harbour views and regional views of the Manly Town Centre.

#### ***From what Part of the Property are Views Obtained?***

In respect of the second step, *Tenacity* states that the protection of views from across side boundaries is more difficult than the protection of views from front or rear boundaries. In addition, sitting views are more difficult to protect than standing views.

The photomontages in the VIA prepared by Urbaine indicate that views can be obtained from the following viewpoints (VP):

- VP5 – Level 2 window at No. 7 Kangaroo Street
- VP7 – Elevated public viewpoint at Augusta Lane
- VP8 – Elevated public viewpoint at No. 8 Ocean Road
- VP9 – Elevated public viewpoint at No. 5 Ocean Lane
- VP10 – Public viewpoint at Ocean Lane
- VP11 – Elevated public viewpoint at No. 24 Birkley Road

### ***The Extent of Impact***

In respect of the third step, *Tenacity* states that the views from living areas is more significant than from bedrooms or service areas.

When viewed from VP5, the proposal will take away the partial water views east of the Pacific Hotel. When viewed from VP7 to VP11, the proposal will only take away a corner or a slither of the partial water views east of the Pacific Hotel. Broader water views and views of horizon line will be retained. The extent impacts are shown in **Figure 32** below.



VP5: Level 2 window at No. 7 Kangaroo Street



VP7: Elevated public viewpoint at Augusta Lane



VP8: Elevated position at No. 8 Ocean Road



VP9: Elevated position at No. 5 Ocean Lane



VP10: Public viewpoint at Ocean Lane



VP11: Elevated public viewpoint at No. 24 Birkley Road

Source: Urbaine Design Group

**Figure 32: Virtual Photomontages Showing View Impact from Elevated Locations**  
(Visual Impact in Cyan with red outline)

### **The Reasonableness of the Proposal**

In respect of the fourth step, *Tenacity* states that a development that complies with all planning controls would be considered more reasonable than a development that breaches the controls. With a complying development proposal, the issue is whether the same development potential could be achieved with a more skilful design without affecting the views of the neighbours.

The proposal complies with the non-discretionary building height and FSR development standards under the LMR policy and in-fill affordable housing provisions. While there is a loss of a sliver of partial water views from the above locations, these views are not considered as quality views. Broader water views and views of horizon line will be retained. Accordingly, the loss of view is considered to be very minor and the proposal is in our opinion reasonable on the basis of *Tenacity*.

#### **5.3.4 Waste Management**

The proposal includes a residential bin room on the Ground Floor Level. The bin room is capable of accommodating the estimated 5 x 240L general waste bins, 4 x 240L recycling – paper and cardboard bins, 4 x 240L recycling – glass, plastic and metals, and 2 x 240L green waste – food and organics. The bin storage area for the retail tenancy will accommodate 1 x 240L general waste bin and 1 x 240L recycling bin. The bins will be transported to the kerbside location adjacent to the subject site on the collection day. Further details are provided in the Waste Management Plan submitted with the Development Application.

### **5.4 Assessment of the Site Suitability**

This section will consider the proximity of the site to services and infrastructure; traffic, parking and access issues; and hazards; and safety, security and crime prevention.

#### **5.4.1 Proximity to Services and Infrastructure**

This site is well located in terms of public transport. The Manly ferry wharf provides services to Circular Quay. This connects to the wider Sydney train network. The nearest bus stop is located 50metres away on Pittwater Road and services route Nos. 166, 167 and 199, providing regular access to Frenchs Forest, Palm Beach, and Warringah Mall.

As the site is within an established area, electricity, telephone, water and sewerage are also readily available.

#### **5.4.2 Traffic, Parking and Access**

A separate report has been prepared by Varga Traffic Planning Pty Ltd and concludes, inter alia:

*Accordingly, it is likely that the proposed development will result in a nett increase in the traffic generation potential of the site of approximately 2 vph during the AM commuter peak period and approximately 1 vph during the PM commuter peak period*

...

*That projected increase in the traffic generation potential of the site as a consequence of the development proposal is minimal, and will clearly not have any unacceptable traffic implications in terms of road network capacity.*

*The proposed development makes provision for a total of 21 off-street car parking spaces, thereby satisfying SEPP (Housing) 2021 and Council's off-street car parking requirements.*

*The geometric design layout of the proposed car parking facilities has been designed to comply with the relevant requirements specified in the Standards Australia publication Parking Facilities Part 1 - Off-Street Car Parking AS2890.1 - 2004 in respect of parking bay dimensions, aisle & driveway widths, ramp grades & grade transitions, and overhead clearances.*

*A number of swept turning path diagrams have been prepared using the Autodesk Vehicle Tracking 2022 program in accordance with the requirements of AS2890.1 – 2004, confirming that vehicles will be able to enter and exit the site whilst traveling in a forward direction at all times. The swept turning path diagrams are reproduced in the following pages.*

While the proposal has a shortfall of two visitor parking spaces, this is appropriate on merit, and it was accepted by Council under the assessment of the original DA. This is due to the location of the subject site, proximity of the site to good public transport, shops and recreational uses and the high level of walking and cycling activity. The provisions of motorcycle and bicycle parking spaces facilitate alternative travel mode options. Additionally, visitor parking spaces are readily available in the vicinity of the subject site within walking distance. There are 170 spaces at the Pacific Waves public carpark and 311 spaces at the Whistler St public carpark.

As the proposal will satisfy the likely parking demand for the proposal, it is therefore suitable from a traffic and parking point of view.

#### **5.4.3 Hazards**

The site is in an area recognised by Council as being subject to flooding. The proposed development will not increase the likelihood of such hazards. As discussed in Section 4.1.4, the Flood Management Report prepared by van der Meer Consulting concludes that no adverse impacts resulted from the proposed development in terms of flooding.

The site is not in an area recognised by Council as being subject to landslip and bushfire. The proposed development will not increase the likelihood of such hazards.

#### **5.4.4 Safety, Security and Crime Prevention**

The proposal will improve the safety and security within and around the subject site. This is achieved by orienting the balconies of all proposed dwellings towards Raglan Street to increase casual surveillance over the public domain. Secure access to the building and carpark will also discourage criminal activities. Separate pedestrian and vehicular access are proposed to ensure safety.

## **5.5 The Public Interest**

This section will consider the social and economic effects of the proposal and the public interest.

### **5.5.1 Social and Economic Impact**

The proposal will have social and economic benefits in the area with the construction of a well-designed and elegant new shop top housing building. This will provide additional dwellings and contribute to meeting the demand for affordable housing in the LGA.

The building will be constructed from compatible materials and include landscaping which will enhance the streetscape appearance when viewed from Raglan Street. The new shop top housing will reduce water and energy consumption through efficient fixtures, fittings and insulation. This will reduce water consumption.

The new shop top housing will provide additional off-street parking for residents and their visitors. This will reduce parking congestion in the area.

The proposal will provide employment during demolition and construction and in the provision of maintenance services once the dwellings are occupied.

### **5.5.2 The Public Interest**

The proposal has been designed with consideration of the adjoining residents' amenity and the streetscape. Importantly, the proposal meets the zone objectives of providing a shop top housing development that aligns with the desired future character.

It will provide a contemporary, well-designed shop-top housing development which is a contextually appropriate scale and form for the area. The building has been designed to maintain neighbours' and local amenity and contribute positively to the streetscape and local character. The proposal is a quality development which is in the public interest.

## 6.0 CONCLUSION

The proposed shop top housing development at No. 22 Raglan Street, Manly, has been assessed in accordance with Section 4.15 of the EPA Act and Council's planning instruments. The proposal is permissible in the R3 Medium Density Residential Zone under the LEP and in our opinion achieves the relevant objectives of the Zone. In our assessment, the proposal is also consistent with the provisions and objectives related to flood planning, excavation, harbour foreshore scenic protection, and heritage conservation in the LEP.

This SEE demonstrates the proposal for a contemporary shop top housing development will achieve the desired future character of the locality. The architectural design by Carlisle Architects provides a built form that is well-articulated, consistent in scale, form, proportions, setbacks, and materials. This design approach ensures that the proposal will enhance the local streetscape character.

The subject site is located within 400m walking distance from the Manly Town Centre. The proposal complies with the LMR housing inner area non-discretionary development standards with 30% bonus under the in-fill affordable housing provisions, being the 31.2m building height and 2.86:1 FSR pursuant to the SEPP Housing. The proposal increases the dwelling density of the site from eight dwellings approved to a total of fifteen dwellings, comprising a mix of one- and three-bedroom apartments.

The ADG Assessment prepared by Carlisle Architects confirms the development meets the design quality principles of the Apartment Design Guide and residential apartment development under the SEPP Housing. The proposal complies with the majority of relevant numerical provisions in the Manly DCP 2013, with any departures remaining consistent with the objectives of the control.

The proposal has been designed to minimise impacts on neighbouring properties, maintaining compliant levels of solar access, visual and acoustic privacy, and ensuring a reasonable degree of residential amenity for both future residents and the surrounding community. The building bulk and scale are appropriate in the context of the desired future character for this precinct, as set by the LMR policy and in-fill affordable housing provisions under SEPP Housing.

The SEE is accompanied by architectural drawings, landscape plans, survey plan and consultant documentation including Access, Geotechnical, Stormwater, Traffic, Waste and BASIX. These documents have informed our assessment and confirm the proposal is suitable in the locality. The proposed development will provide additional housing, increase dwelling density and maintain neighbours' amenity. Accordingly, the proposal is in the public interest.