

# View Analysis

Mixed Use Development

10 – 28 Lawrence Street, Freshwater

Submitted to Northern Beaches Council  
on behalf of Lawrence Street Pty Ltd



**'Gura Bulga'**

Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.



**'Dagura Buumarri'**

Liz Belanjee Cameron

'Dagura Buumarri' – translates to Cold Brown Country. Representing Victoria.



**'Gadalung Djarri'**

Liz Belanjee Cameron

'Gadalung Djarri' – translates to Hot Red Country. Representing Queensland.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We pay our respects to their Elders past, present and emerging.

In supporting the Uluru Statement from the Heart, we walk with Aboriginal and Torres Strait Islander people in a movement of the Australian people for a better future.

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# Glossary

Abbreviation	Meaning
Applicant	Lawrence Street Pty Ltd
Council	Northern Beaches Council
DA	Development application
FSR	Floor space ratio
LGA	Local government area
Proposal	Mixed use development
RL	Reduced level
SEE	Statement of environmental effects
Site	10-28 Lawrence Street, Freshwater
Tenacity	Tenacity Consulting v Waringah [2004] NSWLEC 140

# Executive summary

Lawrence Street Pty Ltd (the applicant) has submitted a development application (DA) to Northern Beaches Council seeking development consent to redevelop land at 10-28 Lawrence Street, Freshwater (the site) for mixed use development (the proposal).

To support this DA, this view analysis has been prepared by Ethos Urban drawing on material provided by CHROFI on behalf of the applicant. Its purpose is to address council's pre-lodgement advice that requested a 'view analysis for properties most affected (adjacent in Dowling Street and from the south along Queenscliff Road)' (note, the road referred to as Queenscliff Road appears to be Undercliffe Road).

The area that is most susceptible to view impact from the proposal (the primary visual catchment) is generally bound by Lawrence Street to the north, Albert Street to the east, Undercliff Road to the south and Dowling Street to the west.

Lawrence Street is mainly occupied by mixed use buildings comprising apartments on upper levels, while Undercliff Road and Dowling Street comprise a mix of detached houses and smaller scale apartment buildings. Albert Street is mainly occupied by commercial premises.

This view analysis has shown that the proposal will have the greatest view impact on nearby residential properties on Lawrence Street, Undercliff Road and Dowling Street.

These views are largely local to district views mainly of the suburban landscape character area of Freshwater which primarily comprises low rise detached houses in landscaped settings containing trees and other vegetation. From more elevated locations on Undercliff Road to the south of the site and Dowling Street to the west of the site the views extend to include larger parts of Freshwater, and glimpses of part of the Pacific Ocean. The value of these views ranges from low – medium to medium – high.

The views are obtained across front or rear boundaries and from both sitting and standing positions.

The qualitative view impact of the proposal ranges from negligible to moderate.

The proposal seeks to deliver on current strategic planning priorities of delivering a greater amount, choice and affordability of well-located homes in a high-quality environment. The scale and massing of the proposal and therefore its view impact is shaped by the intent to avoid a single block form by creating a public plaza fronting Lawrence Street and its articulation into multiple 'blocks'. While this reduces the appearance of building bulk when seen from Lawrence Street, it results in minor variation to the height controls under the WLEP 2011 and the Housing SEPP, and the front upper-level setback control. This variation is justified by a clause 4.6 variation request. It is not considered that these variations give rise to significant, adverse view impact. In addition, the shaping of massing away from the rear boundary enabled by the employment of these strategies retains a view corridor for impacted properties on Dowling Street, and reduces the impact of building scale and bulk for properties to the immediate south of the site on Undercliff Road. These skilful design measures represent a considered response to site and context parameters, and a balance between retaining the applicant's development potential and amenity and reducing view impact on neighbours.

As such, while acknowledging the proposal will impact existing views, it is considered that the level of impact is acceptable. For this reason, it can be supported on view impact grounds.



# 1.0 Introduction

## 1.1 Purpose of this view analysis

This view analysis has been prepared as part of a development application (DA) made to the Northern Beaches Council (Council) by Lawrence Street Pty Ltd (the applicant) seeking development consent to redevelop land at 10-28 Lawrence Street, Freshwater (the site) for mixed use development (the proposal).

It has been prepared by Ethos Urban drawing on material provided by CHROFI on behalf of the applicant.

Its main purpose is to address council's pre-lodgement advice that requested:

- A 'view analysis for properties most affected (adjacent in Dowling Street and from the south along Queenscliff Road)' (note, the road referred to as Queenscliff Road appears to be Undercliff Road).

## 1.2 Scope and method of this view analysis

Consistent with this purpose, the view analysis:

- based on factors such as topography and built form, identifies the area from which the proposal may ordinarily be seen by people (the visual catchment)
- identifies the area that is most susceptible to view impact from the proposal (the primary visual catchment)
- identifies locations within the primary visual catchment most sensitive to changes in views (sensitive locations)
- understands the extent and nature of views from the primary visual catchment
- based on visual imagery prepared by CHROFI, considers the view impact of the proposal on selected viewpoints that are representative of extent and nature of views from the primary visual catchment and in particular the sensitive locations
- considers the likely view impact of the proposal against the planning principle for views established by the NSWLEC in Tenacity
- recommends measures to mitigate any view impact
- determines the acceptability of view impact.

As its intent is to address council's pre-lodgement request for a view analysis, it does not constitute a full view and visual impact assessment which may be requested by consent authorities subsequent to the public exhibition process.

In addition to any others expressed in the relevant part, the following key assumptions, limitations and exclusions apply to this view analysis:

- it is assumed that all inputs from other parties, including the design team, are accurate
- as with all view analysis, there is considerable interplay between planning, design and visual impact matters. As such, while the view analysis touches on matters such as character, size and scale and amenity, due regard should be given to other relevant documents for full address of these matters
- consideration of the following matters is excluded as it is not within the scope of view analysis and often requires specialist advice:
  - heritage, in particular impact on values and significance

- Aboriginal cultural heritage values and connecting with Country
- night-time impact, including lighting
- outlook
- visual privacy.

### 1.3 Structure of this view analysis

The structure of the view analysis generally reflects this scope:

- **Part 1 – Introduction:** identifies the purpose, scope and structure of this view analysis
- **Part 2 – The proposal:** describes the proposal
- **Part 3 – Planning background:** provides background on the planning history for the site and proposal
- **Part 4 – The site and its view context:** describes the site, adjoining and surrounding land and recent development
- **Part 5 – Planning framework:** identifies the relevant parts of the planning framework to visual analysis
- **Part 6 – View analysis:** provides the visual analysis, including identification of the visual catchment, sensitive locations and the nature and extent of views within this catchment
- **Part 7 – Viewpoints:** provides imagery prepared by CHROFI that assist in understanding likely view impact
- **Part 8 – Assessment against Tenacity:** undertakes a high-level assessment of view impact against the principles of Tenacity
- **Part 9 – Mitigation measures:** identifies mitigation measures which may assist in reducing visual impact
- **Part 10 – Conclusion:** identifies whether the proposal can be supported on view impact grounds as informed by the visual analysis.

As this view analysis forms part of a larger suite of documents prepared to support the proposal, it does not repeat matters more appropriately covered in these documents. As such, it should be read together with these other documents, in particular the Statement of Environmental Effects (SEE) and urban design documentation. In particular, it relies on statements of compliance with controls, statements of consistency with objectives and justification for the variation contained in the SEE and supporting documents.

## 2.0 The proposal

The proposal is for the purposes of mixed-use development and involves:

- site preparation works and the demolition of all existing buildings on the site
- construction and use of a four-storey shop-top housing development 11m – 16.4m in height, comprising:
  - 1,379sqm of retail floorspace across 4-9 tenancies (subject to future fitout) including signage;
  - 3,299sqm of residential GFA, including 522sqm of affordable housing, across 30 residential apartments comprising:
    - 6 one-bedroom apartments
    - 15 two-bedroom apartments

- 9 three-bedroom apartments
- rooftop communal open space
- A bilevel subterranean basement with 44 residential and 62 retail car parking spaces
- a 268sqm public plaza fronting Lawrence Street
- public domain landscaping including within the new public plaza and buffer planting zone along the rear of the site
- vehicular access via Dowling Street and pedestrian access via Lawrence Street.

The proposal will be undertaken in accordance with the Architectural Plans prepared by CHROFI and other supporting technical information provided in the separate SEE prepared by Ethos Urban. Artist impressions of the proposal are shown in **Figure 1** and **2**.



Figure 1 Artist impression of the proposal as seen from Lawrence Street

Source: CHROFI





Figure 2 Artist impression of the proposal as seen from Lawrence Street showing the public open space

Source: CHROFI

## 3.0 Planning background

### 3.1 Previous development consent

In 2011 the Warringah Development Assessment Panel granted development consent to redevelopment of the site for the purposes of mixed-use development comprising commercial premises and residential accommodation (shop top housing) including 19 apartments and a height variation of 1.5m above the maximum height of buildings control in the Warringah Local Environmental Plan 2011.

### 3.2 Engagement with council

Over 2024 pre-lodgement engagement was undertaken with council. As part of this engagement council requested preparation of this view analysis.

## 4.0 The site and its view context

### 4.1 The site

The site is located at 10 – 28 Lawrence Street, Freshwater and is legally described as Lot 1 DP 900061, Lot 1 DP 100563, Lot 1 DP 578401, Lot 45 DP 974653, Lot 1 DP 595422. It is located within the Northern Beaches Local Government Area (LGA).



The site is rectangular and has an area of 2,568sqm (approx.). It is a corner site, with its primary frontage to Lawrence Street to the north and its secondary frontage to Dowling Street to the west. Its eastern boundary is with land on the corner of Lawrence Street and Albert Street, and its southern boundary is with the rear of land having frontage with Undercliff Road.

An aerial of the site is shown in **Figure 3** and site images are shown in **Figure 4** and **5**.



Figure 3 Aerial photograph of the site  
Source: Nearmap, edits by Ethos Urban





Figure 4 The site seen from Lawrence Street

Source: Ethos Urban



Figure 5 Rooftop carpark located at the rear of the site

Source: Ethos Urban

## 4.2 Adjoining and surrounding land

The site is located within the Freshwater Town Centre. The town centre is aligned with Lawrence Street and Albert Street and largely comprising commercial and mixed-use buildings. Built typology largely comprises low to medium rise buildings occupying a large part of their lot with no to minimum separation from each other and built to the street frontage. This creates a distinct 'main street' visual character. Land to the north, east and west is consistent with this character (**Figure 6**).





Figure 6 Albert Street

Source: Ethos Urban

Land to the south having frontage to Undercliffe Road comprises a mix of detached houses and smaller scale apartment buildings (**Figure 7**).



Figure 7 Undercliff Street

Source: Ethos Urban

More broadly the site is located within the suburb of Freshwater within the Northern Beaches district. It is located 550m (approx.) to the north-west of Freshwater Beach and approximately halfway between the major centres of Manly and Brookvale (**Figure 8**).

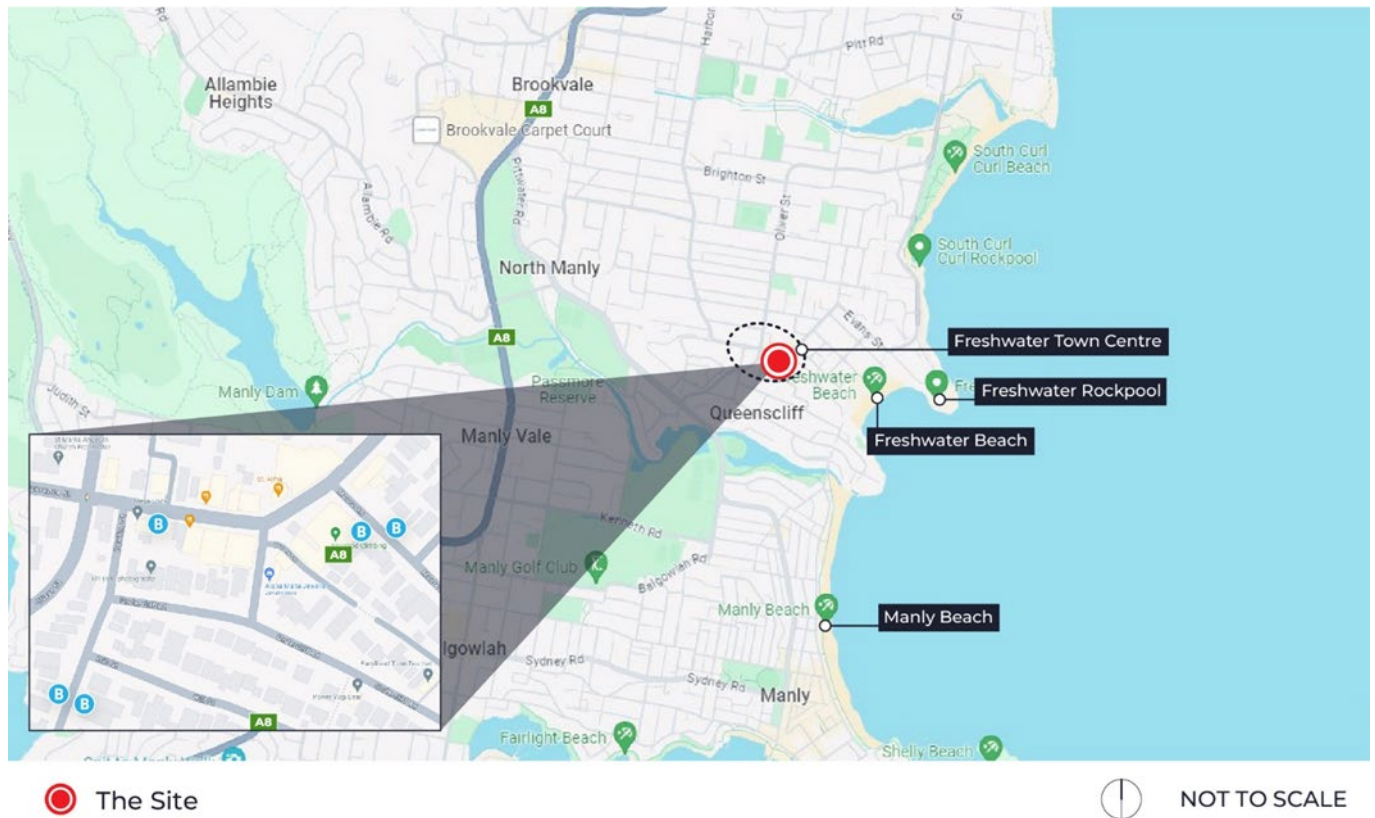


Figure 8 The site context

Source: Nearmap, edits by Ethos Urban

### 4.3 Development context

The Freshwater Centre has been undergoing renewal for larger scale development. This has included development of the 'Oceans' mixed-use complex on Lawrence Street opposite the site, and 22-26 Albert Street 40m (approx.) to the north-east of the site.

More recently, council granted development consent to the redevelopment of 48 Lawrence Street 50m (approx.) to the west of the site for mixed-use development. This included a variation to the maximum height of buildings under the WLEP 2011.

Two submissions received from members of the public to the public exhibition of the DA raised view impact as an issue.

In response to this, the applicant prepared a high-level view analysis. Extracts from this view analysis are provided in **Figure 9** below.





7/52 Lawrence Street, Freshwater (living room) – existing view



7/52 Lawrence Street, Freshwater (living room) – proposed view



14/33 Cavil Street Freshwater (living room) – existing view



14/33 Cavil Street Freshwater (living room) – proposed view

**Figure 9** Impact of redevelopment of 48 Lawrence Street on views obtained from the west

Source: CKDS

As can be seen, this substantiates the ability to obtain filtered district views from more elevated nearby properties. Unlike adjoining and nearby land to the north and south of the 10-28 Lawrence Street, a glimpse of the Pacific Ocean may be obtained in part of the far background above and behind a foreground consisting of built form and vegetation.

These images also show that redevelopment of 48 Lawrence Street will block part of this glimpse from some properties on Lawrence and Oliver Street. As topography climbs upwards to the west, it shows that it will be visible below the lowest part of the glimpse.

While the proposal has a greater height than this development, 10-28 Lawrence Street has a lower elevation relative to this site (**Figure 10**). As such, it is likely that the proposal will sit within the landscape in a similar manner to this development, and as such have similar or lesser view impact.



Figure 10 Fall in elevation to the east

Source: Ethos Urban

In its assessment report that recommended approval, council planning officers made the following statements:

- 'As discussed with regard to clause D7 of WDCP 2011, the proposed level of impact upon existing filtered views towards the ocean is minor and not unreasonable in the circumstances of this application'
- 'The visual impact of the proposed development has been appropriately minimised to a degree that is commensurate with development anticipated within the B2 Local Centre zone'
- 'The proposed development demonstrates consideration of the amenity of neighbouring and nearby development, and does not result in any unreasonable impacts upon views, privacy or solar access'.

The development is currently under construction as is seen in **Figure 11**.





Figure 11 Development currently underway at 48 Lawrence Street

Source: Ethos Urban

## 5.0 Planning framework

The planning framework comprises a series of acts, planning instruments and other NSW government planning documents that together help determine the acceptability of a proposal.

Not all parts of the planning framework are relevant to view analysis. The most relevant parts are:

Environmental Planning and Assessment Act 1979 (EP&A Act)

Warringah Local Environmental Plan 2011 (WLEP 2011)

Warringah Development Control Plan 2011 (WDGP 2011)

Tenacity Consulting v Warringah [2004] NSWLEC 140 (Tenacity).

### 5.1 Environmental Planning and Assessment Act 1979

The most relevant section of the EP&A Act to view analysis is section 4.15 'Evaluation', in particular as it relates to the likely impacts of development.

### 5.2 Warringah Local Environmental Plan 2011

Under the WLEP 2011 the site is subject to the following key provisions of relevance to view analysis:

- Land zoning: E1 Local Centre
- Height of buildings: 11m (maximum).

As such, the most relevant sections of the WLEP 2011 to view analysis are:

- 1.2 Aims of Plan
- 2.3 Zone objectives and Land Use Table
- 4.3 Height of buildings.

### 5.3 Warringah Development Control Plan 2011

The most relevant section of the WDCP 2011 to view analysis is Part D 'Design', Section D7 'Views'.

This 'calls up' the planning principle for views established by Roseth SC of the Land and Environment Court of NSW (LEC) in their judgement in *Tenacity Consulting v Warringah Council* (2004) NSWLEC 140.

### 5.4 *Tenacity Consulting v Waringah* [2004] NSWLEC 140

Dating back to a 1937 decision of the Australian High Court in *Victoria Park Racing and Recreation Grounds Co Ltd v Taylor*, it is a long held common law principle in Australia that no one 'owns' the right to a view across someone else's property.

Nonetheless, view impact may be considered part of broader amenity, impact and public interest considerations under the planning framework. As such, *Tenacity* helps guide consideration of view impact.

As *Tenacity* was an appeal about loss of existing views obtained from a nearby house in a low-density suburban context, in practice it has largely been applied to assessment of view loss from private property. It is important to note that *Tenacity* does not address matters of bulk and scale, streetscape or general character of a locality. Rather, it is about loss of elements and features in views, which can change the composition and characteristics of the view.

*Tenacity* establishes a four-step process for consideration of reasonable view sharing:

1. '26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured
2. '27 The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic
3. '28 The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating
4. '29 The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered

more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable'.

In summary, the four steps focus on:

1. The value of the view
2. The location from where the view can be obtained
3. The extent of impact
4. The reasonableness of the proposal, and by association the reasonableness of the view sharing and the acceptability of the view impact.

Due to their capacity for varied interpretation, value of the view and reasonableness of the proposal benefit from further elaboration.

### **Value of the view**

The concept of value is key to Tenacity.

As they make such a contribution to residential amenity, all views may subjectively be considered to have value. Views can also have particular value due to their extent, with panoramic or 'sweeping' views (which are often called 'vistas') that occupy the entire focal and peripheral field of view having particular value. However, this is not the way in which Tenacity assigns value.

Rather, Tenacity assigns value in terms of the presence of particular elements and features, and the extent of their presence as follows:

- water views having greater value than land views
- views with icons having greater value than views without icons, providing a list of elements and features that can be considered icons
- whole views having greater value than partial views.

It is helpful to categorise views as having low, medium or high value. While there are no hard and fast rules around what makes a view low, medium or high value, there are some useful rules of thumb. The mere presence of one or more high value parts, being water, icons or whole views, is necessary but not sufficient to make a view high value. Rather, they need to be prominent in the view.

Noticeability is often shaped by what part of the view, in terms of composition, and how much of the view, again by reference to composition, they occupy.

In general, noticeability is greater where a high value element is closer to the view, eg it is located in the foreground, and it occupies multiple parts of an axis, eg left and centre of the horizontal axis. Due to the rarity of being able to see icons in totality, the ability to do so may also make a view high value

Whether the high value elements provide a high level of contrast to its surrounds, either by its inherent form or different form, materiality, colour or similar, is also often relevant.

In general, the following definitions of value are used to guide judgements in this report:

- **Lower value:** the view is generally of lower amenity areas (eg, commercial or light industry area, major roads and other transport infrastructure), does not include elements correlated with indicators of scenic amenity (eg, water, native beaches, bushland) and does not contain iconic or high value elements
- **Medium value:** the view is generally of moderate amenity areas (eg, well trees residential areas) and may include elements correlated with indicators of scenic amenity (eg, water, native beaches, bushland), however does not contain iconic or high value elements
- **Higher value:** iconic or high value elements are present and are prominent or visible in totality.

It is acknowledged that these descriptions do not include all possible view scenarios. In these circumstances, views may fall between two value categories, eg low – moderate value.

### **Reasonableness of the proposal, and by association the view sharing and the acceptability of the view impact**

The focus of this part is on the reasonableness of the proposal, and not the view loss. Reasonableness is determined based on:

- compliance with planning controls
- employment of 'skilful design'.

As has been confirmed in LEC judgements consequent to Tenacity, while compliance is preferable, it is not critical to the determination of acceptability of view impact.

Skilful design does not mean architectural merit. Rather, it means whether there is an alternative 'more skilful design' that 'could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours'. This has been interpreted in LEC judgements as looking for opportunities to distribute massing to achieve these outcomes. As can be seen, this is a question of balance.

Where a more skilful design does not exist, 'the view impact of a complying development would probably be considered acceptable and the view sharing reasonable'.

## **6.0 View analysis**

### **6.1 The visual catchment and primary visual catchment**

The visual catchment is the area from which the proposal may ordinarily be visible by people, either in totality or in part, and as such has a visual connection with the site.

Within the visual catchment is a smaller area referred to as the 'primary visual catchment' from where the proposal is likely to be most visible, and as such have the greatest visual impact.

The extent of the primary visual catchment is shaped by the interplay of a number of factors including:

- the scale, and in particular height, of the proposal
- topography
- public domain (streets and parks)
- land use and built form
- vegetation



- distance from the viewer to the site.

### 6.1.1 The scale of the proposal

The proposal has a scale that is compatible with the character of the local area.

In addition, it also has a form that is compatible with the local main street character of Lawrence Street. In particular, it is built to the Lawrence Street alignment at the ground floor, providing opportunity for engagement with and activation of the street, and incorporates staggered setbacks from this boundary as height increases.

Furthermore, the proposal does not incorporate detailed design such as line, colour or texture (eg, materiality) that is discordant with that which prevails in this area.

#### What this means for views

This means the following for views the proposal is unlikely to draw the eye relative to its context.

### 6.1.2 Topography

Much of the suburb of Freshwater, including the Freshwater Centre and the site, is located in a small, shallow north-west to south-east aligned valley defined by higher ground generally to the north of Evans Street and generally to the south of Undercliff Road. The valley terminates to the east at the Pacific Ocean. From here, the valley slopes gently upwards and to the west before transitioning to the steeper slopes of higher ground west of Oliver Street. Similarly, while most of the valley features a gentle north to south slope, land rises steeply upwards from Evans Street north to a ridgeline around Ronald Avenue and from Undercliff Road south to a ridgeline around Crown Street.

This topography establishes the foundational basis of local views.

#### What this means for views

This means the following for views:

- due to the blocking effect of topography, land to the north of the Ronald Avenue ridgeline and to the south of the Crown Street ridgeline will not obtain extensive views towards the site. This includes Queenscliff Road, and confirms the position that properties on this road are not susceptible to changes in views arising from development on the site
- views may be obtained to the site the from locations to the south of the Ronald Avenue ridgeline, north of the Crown Street ridgeline and east of Oliver Street.

### 6.2 Public domain

The local area has a modified grid street pattern. Street do not typically follow topographic contours. The exception to this are those around Crown Street, including Undercliff Road, Hill Street and Crown Street itself. Most local residential streets have an east-west alignment, with shorter streets and main roads (eg Oliver Street) connecting these streets. Streets within the area bordered by the Pacific Ocean, Moore Road, Albert Street and Evans Street have a more north-west to south-east street pattern. The Freshwater Centre and the site are located at the intersection of this area with the broader area.

#### What this means for views

This means the following for views:

- longer range views may be obtained in an east-west direction from many local residential streets.
- in the vicinity of the site, this includes along Lawrence Street and Undercliff Road.
- The site does not terminate a vista from a nearby street, which means it will have minimal to no blocking impact on views obtained along streets.



Figure 12 View looking east along Undercliff Road

Source: Ethos Urban

### 6.2.1 Blocks and lots

This street pattern establishes a generally rectangular block pattern featuring longer north-south distances and shorter east-west distances. Lots within these blocks, in particular residential lots, feature regular, conventional size and shape.

#### What this means for views

This means the following for views:

- views from the front and rear boundaries of lots are mainly obtained in a north-south direction
- this pattern is reflected in the vicinity of the site, with views being obtained to the north from Undercliff Road to the south from Lawrence Street, to the east from Dowling Street and to the west from Albert Street.

### 6.2.2 Land use and built form

The local area comprises two main parts:



- The mixed-use Freshwater Centre along Lawrence Street and Albert Street which comprises ground floor commercial uses and upper floor residential uses
- The surrounding residential area which mainly comprises detached houses, with a number of medium and higher density apartment buildings.

Built form within the Freshwater Centre creates a main street character, featuring low to medium rise buildings built to the street and adjoining or closely spaced relative to each other. The centre is in part undergoing renewal for larger scale built form.

Built form within the surrounding residential area largely comprises multi-level detached houses occupying a large part of their lots. Apartment buildings are mainly of three storey walk up typology. The 8 storey La Hacienda apartment tower at 32 Undercliff Road is anomalous with this pattern.

### What this means for views

This means the following for views:

- views are mainly obtained from residential uses
- views from within the Freshwater Centre are largely limited in extent, with a focus on the Lawrence Street public domain
- due to the highly developed nature of the area, unless where topography or other factors override, views are often obstructed by built form.



Figure 13 11 Lawrence Street opposite the site

Source: REA Group

### 6.2.3 Vegetation

Neither streets nor lots are dominated by extensive, mature canopy tree plantings. However, large trees are scattered throughout the area. Houses within lots are typically surrounded by landscaped private open space comprising grass and shrubs.

#### What this means for views

This means that while views may be blocked in part or whole by trees, overall, they do not provide an extensive blocking role as would otherwise be the case in more treed locations.

### 6.2.4 Distance from the viewer to the site

The view impact of proposals decreases with distance. Beyond a certain distance from the viewer, in most cases proposals appear in the background and tend to integrate with their context and as such view and visual impact is expected to be minimal. There are not universal standards as to what this distance is. However, in varied, visually rich urban contexts such as Freshwater, this distance is likely to be relatively small.

#### What this means for views

This means that the proposal is likely to appear of its greatest size, and therefore have the largest view impact, from properties on the adjoining parts of Freshwater Road to the north, Undercliff Road to the south, Dowling Street to the west and Albert Street to the east.

## 6.3 Extent of the visual catchment and the primary visual catchment

Based on these factors, the visual catchment is bound by:

- **North:** Ronald Avenue ridgeline
- **South:** Crown Street ridgeline
- **East:** Pacific Ocean
- **West:** Oliver Street

The primary visual catchment, and as such the area of greatest interest for this view analysis, is bound by:

- **North:** Lawrence Street between Dowling Street and Albert Street
- **South:** Undercliff Road between Dowling Street and Albert Street (lower numbered properties)
- **East:** Albert Street between Lawrence Street and Undercliff Road
- **West:** Dowling Street between Lawrence Street and Undercliff Road

## 6.4 Sensitive locations

Sensitivity to changes in views in large part depends on the types of people exposed to views.

There are a number of different types of people exposed to views:

- Residents at home.
- Communities where views contribute to the landscape setting enjoyed by residents in the area.
- People, whether residents or visitors, who are engaged in outdoor recreation, including use of public footpaths, whose attention or interest is likely to be focused on the landscape and on particular views.

- Travellers on road, rail or other transport routes.
- Travellers on road, rail or other transport routes where travel involves recognised scenic routes.
- Visitors to heritage assets, or to other attractions, where views of the surroundings are an important contributor to the experience.
- Visitors to facilities or services (eg, shops, offices, cafes) that meet their day-to-day needs.
- People engaged in outdoor sport or recreation which does not involve or depend upon appreciation of views of the landscape.
- People at their place of work whose attention may be focused on their work or activity, not on their surroundings, and where the setting is not important to the quality of working life.

While ultimately subjective, for the purposes of view analysis each type of person can be considered to have a different level of overall sensitivity to change in their visual environment on a spectrum ranging from higher to lower as shown in **Table 1**.

Table 1      Types of people exposed to views

Level of likely sensitivity to change	Type of people exposed to views
Higher	<ol style="list-style-type: none"> <li>1. Residents at home.</li> <li>2. People, whether residents or visitors, who are engaged in outdoor recreation, including use of public footpaths, whose attention or interest is likely to be focused on the landscape and on particular views.</li> <li>3. Travellers on road, rail or other transport routes where travel involves recognised scenic routes.</li> <li>4. Visitors to heritage assets, or to other attractions, where views of the surroundings are an important contributor to the experience.</li> <li>5. Communities where views contribute to the landscape setting enjoyed by residents in the area.</li> </ol>
Lower	<ol style="list-style-type: none"> <li>6. Travellers on road, rail or other transport routes.</li> <li>7. Visitors to facilities or services (eg, shops, offices, cafes) that meet their day-to-day needs.</li> <li>8. People engaged in outdoor sport or recreation which does not involve or depend upon appreciation of views of the landscape.</li> <li>9. People at their place of work whose attention may be focused on their work or activity, not on their surroundings, and where the setting is not important to the quality of working life.</li> </ol>

**Table 2** below identifies the prevailing type of person in the primary visual catchment and their sensitivity to the nature of change proposed.

Table 2      Prevailing type of person in the visual catchment and the overall sensitivity to the nature of change proposed

Direction	Prevailing type of person	Sensitivity to the nature of change proposed
North	1. Travellers on road routes	Lower

Direction	Prevailing type of person	Sensitivity to the nature of change proposed
	2. Residents at home	Higher
	3. Visitors to facilities or services (eg, shops, offices, cafes) that meet their day-to-day needs	Lower
East	4. Travellers on road routes	Lower
	5. Visitors to facilities or services (eg, shops, offices, cafes) that meet their day-to-day needs	Lower
South	6. Residents at home	Higher
	7. Travellers on road routes	Lower
	8. Residents at home	Higher
West	9. Travellers on road routes	Lower
	10. Residents at home	Higher

As can be seen, the primary visual catchment can be considered a sensitive location mainly due to the predominance of residents at home. This sensitivity is greatest for properties with frontage to Undercliff Road and Dowling Street.

Due to it largely being occupied by non-residential uses, that part of Albert Street between Lawrence Street and Undercliff Road to the east of the site is not of relevance for view analysis purposes.

## 6.5 Nature and extent of views

Combining primary visual catchment and sensitivity considerations, the following view location are of interest to this view analysis:

- Views from the northern side of Undercliffe Road
  - 8 Undercliff Road (**Figures 14, 15 and 16**)
- Views from the southern side of Undercliffe Road
  - 3 Undercliff Road (**Figure 17**)
  - 5 Undercliff Road (**Figures 18 and 19**)
- Views from the western side of Dowling Street
  - 28 Dowling Street (**Figure 20**)
- Views from the northern side of Lawrence Street
  - 201/11 Lawrence Street (**Figures 21 and 22**)

Review of publicly available information has shown that photography is available from the following properties corresponding from these view locations. These are provided below in **Figures 14 – 22**.



### 6.5.1 Views from the northern side of Undercliffe Road – 8 Undercliff Road



Figure 14 View from the rear yard of 8 Undercliff Road

Source: Domain



Figure 15 View from the living room of 8 Undercliff Road

Source: Domain





Figure 16    View from balcony of 8 Undercliff Road  
Source: Domain

## 6.5.2 Views from the southern side of Undercliffe Road – 3 Undercliff Road



Figure 17 View from dining room of 3 Undercliff Road

Source: Domain



### 6.5.3 Views from the southern side of Undercliffe Road – 5 Undercliff Road



Figure 18 View from bedroom of 5 Undercliff Road

Source: Domain



Figure 19 View from front yard of 5 Undercliff Road

Source: Domain



#### 6.5.4 Views from the western side of Dowling Street – 28 Dowling Street



Figure 20 28 Dowling Street

Source: REA Group

### 6.5.5 Views from the northern side of Lawrence Street – 201/11 Lawrence Street.

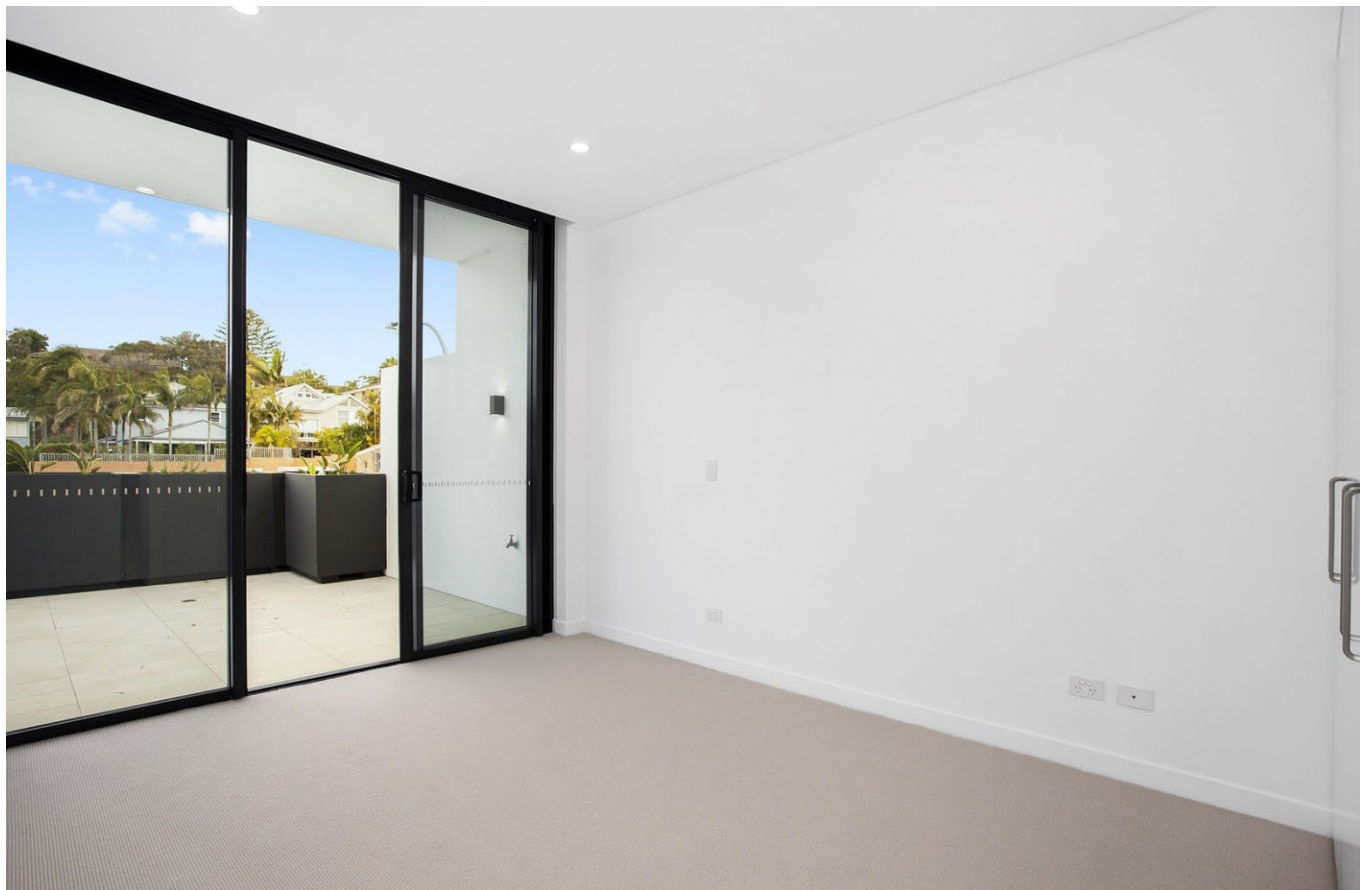


Figure 21 View from apartment 201/11 Lawrence Street

Source: REA Group



Figure 22 View from apartment 201/11 Lawrence Street

Source: REA Group

## 7.0 Viewpoints

To further explore the extent and nature of views and the likely impact of the proposal, CHROFI has prepared visualisations from the following locations in the primary visual catchment:

### Views from the northern side of Undercliffe Road

To align with the existing photography, the following viewpoint was selected:

1. **Viewpoint 1:** 8 Undercliffe Road

### Views from the southern side of Undercliffe Road

To align with the existing photography and provide a spread of views, the following viewpoints were selected:

2. **Viewpoint 2:** 3 Undercliffe Road
3. **Viewpoint 3:** 6-8 Undercliffe Road

### Views from the western side of Dowling Street

To capture the under-construction development and the adjoining property, the following viewpoints were selected:

4. **Viewpoint 4:** 30 Dowling Street
5. **Viewpoint 5:** 48 Lawrence Street (corner with Dowling Street)

### Views from the northern side of Lawrence Street

To align with the existing photography, the following viewpoint was selected:

6. **Viewpoint 6:** 11 Lawrence Street.

The locations of these six viewpoints are shown in **Figure 23** below.





Figure 23 Location of viewpoints

Source: Nearmap and Ethos Urban

## 7.1 Viewpoint 1: 8 Undercliffe Road

### Description of view

This is primarily a short-range local view with elements of a district view.

The foreground comprises the premises rear private open space and associated boundary walls, in particular the high, solid rear wall with the site.

The midground comprises the rear elevations and roofs of buildings in the site and the un-enclosed access driveway to on-site carparking.

The background comprises a glimpse over the roofs of buildings within the site to the suburban landscape character area of Freshwater in the distance, which primarily comprises low rise detached houses in landscaped settings containing trees and other vegetation.

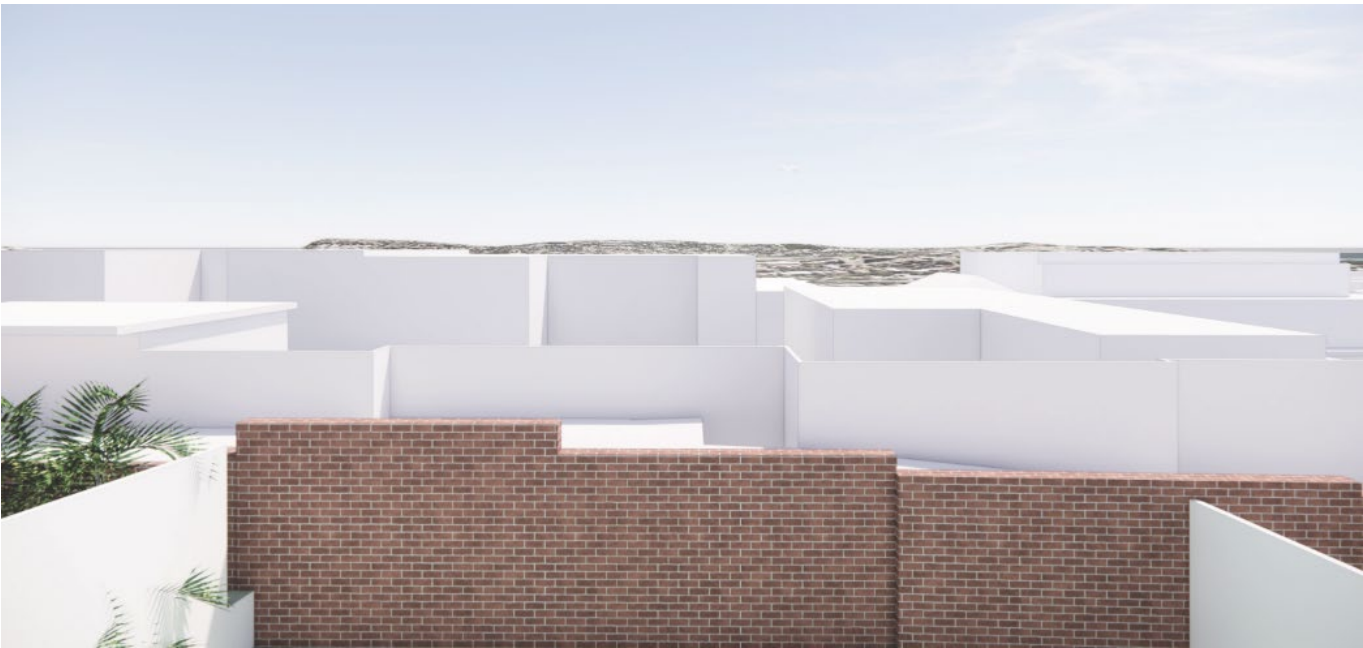


Figure 24    Viewpoint 1: 8 Undercliffe Road – existing view  
Source: CHROFI



Figure 25    Viewpoint 1: 8 Undercliffe Road – proposed view  
Source: CHROFI

**Tenacity Step 1: Assess the view to be affected**

Is water present, and to what extent?	No, water is not present.
Are icons or other high value elements present, and to what extent?	No, high value elements are not present.
Is water, icons or high value elements seen whole?	N/a.



Assessed value of the view, and why?	The value of the view is low – medium. While the midground dominates the view and does not provide for a high level of visual amenity, the ability to obtain a glimpse of Freshwater in the distance has value.
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### **Tenacity Step 2: Consider from what part of the property the views are obtained**

Is this a front, rear or side view?	This is a view obtained across a rear boundary.
Is this a sitting or standing view?	This is a standing view. However, it is reasonable to assume that much of this view may also be obtained from a sitting position.

### **Tenacity Step 3: Assess the extent of the impact**

The proposal represents the insertion of a large new feature in the entirety of the midground of the view.

In doing so, its main view impact is to foreshorten the view and block visibility of the glimpse of Freshwater in the distance.

From what room is the view obtained?	Balcony.
Assessed level of impact, and why?	Moderate. While the proposal will appear dominant in the view, it does not block iconic or high value elements. It will enhance the visual amenity of the midground of the view by replacing the rear elevations and roofs of buildings and the un-enclosed access driveway to on-site carparking with a well-designed, contemporary apartment building.

## **7.2 Viewpoint 2: 3 Undercliffe Road**

### **Description of view**

The foreground of the view comprises Undercliff Road.

The midground consists of low rise detached houses in landscaped settings containing trees and other vegetation on the northern side of Undercliff Road.

The background comprises a glimpse between and over the roofs of buildings to the suburban landscape character area of Freshwater in the distance, which primarily comprises low rise detached houses in landscaped settings containing trees and other vegetation.

A glimpse of the Pacific Ocean is available in the far-right background.



Figure 26    Viewpoint 2: 3 Undercliffe Road – existing view  
Source: CHROFI

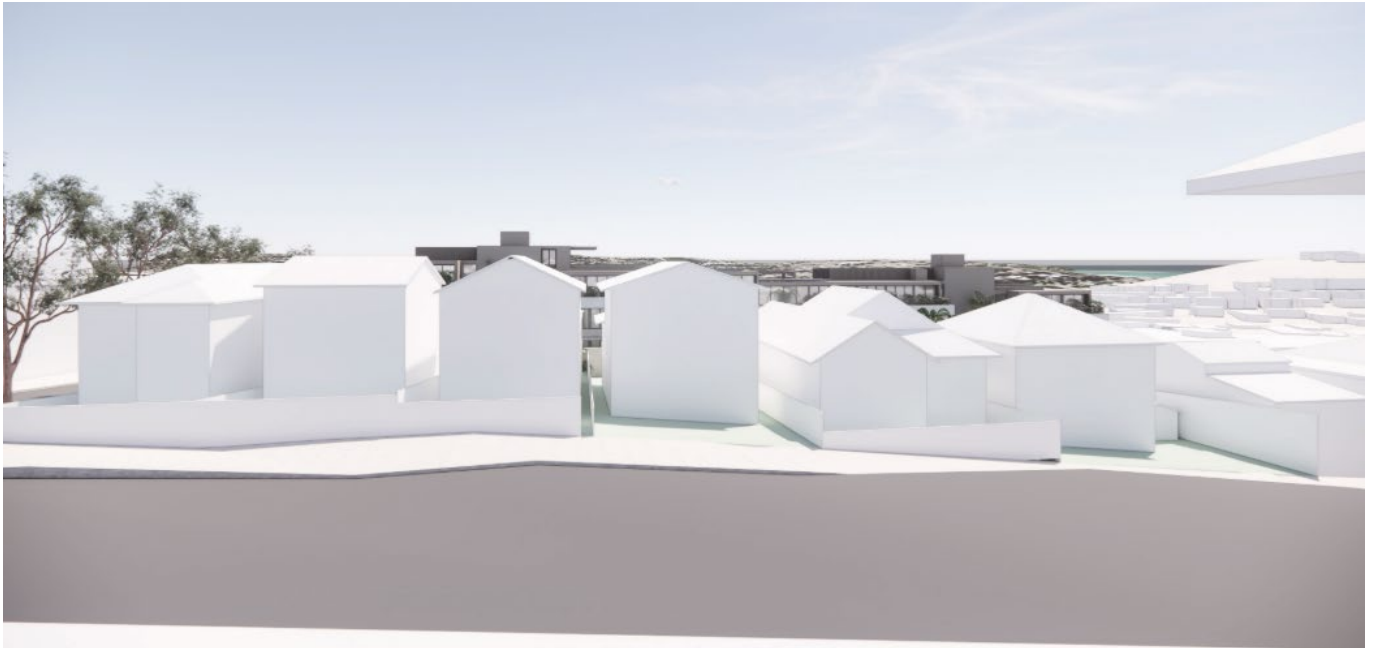


Figure 27    Viewpoint 2: 3 Undercliffe Road – proposed view  
Source: CHROFI

**Tenacity Step 1: Assess the view to be affected**

Is water present, and to what extent?	Yes, water is present in the form of the Pacific Ocean.
Are icons or other high value elements present, and to what extent?	Yes, the Pacific Ocean is a high value element. It is visible in part as a glimpse in the far-right background.
Is water, icons or high value elements seen whole?	High value elements are seen in part.
Assessed value of the view, and why?	The value of the view is medium – high.

	While the foreground and midground provide medium value, its value is elevated by the presence of the Pacific Ocean.
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**Tenacity Step 2: Consider from what part of the property the views are obtained**

Is this a front, rear or side view?	This is a view obtained across a front boundary.
Is this a sitting or standing view?	This is a standing view. However, it is reasonable to assume that much of this view may also be obtained from a sitting position.

**Tenacity Step 3: Assess the extent of the impact**

The proposal represents the insertion of a new element in the midground of the view.

In doing so, its main view impact is to block visibility of part of the Freshwater in the distance.

Apart from 2 relatively small parts it is located below the land and sky interface.

It does not block the glimpse of the Pacific Ocean.

From what room is the view obtained?	Balcony.
Assessed level of impact, and why?	Minor. The proposal does not significantly change the characteristics of the view, retains most of the land and sky interface and does not block visibility of the Pacific Ocean.

**7.3 Viewpoint 3: 6-8 Undercliffe Road**

**Description of view**

The foreground of the view comprises Undercliff Road.

The midground consists of low rise detached houses in landscaped settings containing trees and other vegetation on the northern side of Undercliff Road.

The background comprises the suburban landscape character areas of Freshwater and Dee Why in the distance, which primarily comprise low rise detached houses in landscaped settings containing trees and other vegetation. Public open space in the form of parkland associated with Greendale Creek and Curl Curl Lagoon is visible as part of this background.

A glimpse of the Pacific Ocean and Curl Curl Beach is available in the far-right background.





Figure 28    Viewpoint 3: 6-8 Undercliffe Road – existing view  
Source: CHROFI



Figure 29    Viewpoint 3: 6-8 Undercliffe Road – proposed view  
Source: CHROFI

**Tenacity Step 1: Assess the view to be affected**

Is water present, and to what extent?	Yes, water is present in the form of the Pacific Ocean.
Are icons or other high value elements present, and to what extent?	Yes, the Pacific Ocean and Curl Curl Beach are high value elements. They are visible in part as a glimpse in the far-right background.
Is water, icons or high value elements seen whole?	High value elements are seen in part.
Assessed value of the view, and why?	The value of the view is moderate – high.

	Its value is derived from its depth and the presence of multiple high value elements in the form of the Pacific Ocean and Curl Curl Beach.
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**Tenacity Step 2: Consider from what part of the property the views are obtained**

Is this a front, rear or side view?	This is a view obtained across a front boundary.
Is this a sitting or standing view?	This is a standing view. However, it is reasonable to assume that much of this view may also be obtained from a sitting position.

**Tenacity Step 3: Assess the extent of the impact**

The proposal represents the insertion of a new element in the midground of the view.

In doing so, its main view impact is to block visibility of part of the Freshwater in the distance.

Apart from 2 relatively small parts it is located below the land and sky interface.

It does not block the glimpse of the Pacific Ocean.

From what room is the view obtained?	Balcony.
Assessed level of impact, and why?	Minor. While the proposal blocks part of Freshwater in the distance, it does not significantly change the characteristics of the view, retains most of the land and sky interface and does not block visibility of the Pacific Ocean or Curl Curl.

**7.4 Viewpoint 4: 30 Dowling Street**

**Description of view**

The foreground consists of Dowling Street.

The midground comprises the Dowling Street streetscape and the western end of Undercliff Road. Undercliff Road extends into the midground. The remainder of the midground comprises a mix of low, medium and higher density residential development. The high-rise La Hacienda tower is noticeable

The background comprises Freshwater. A glimpse of the Pacific Ocean is available in the centre and background either side of La Hacienda.

This view is an example of how longer-range views may be obtained downslope along east-west oriented streets.

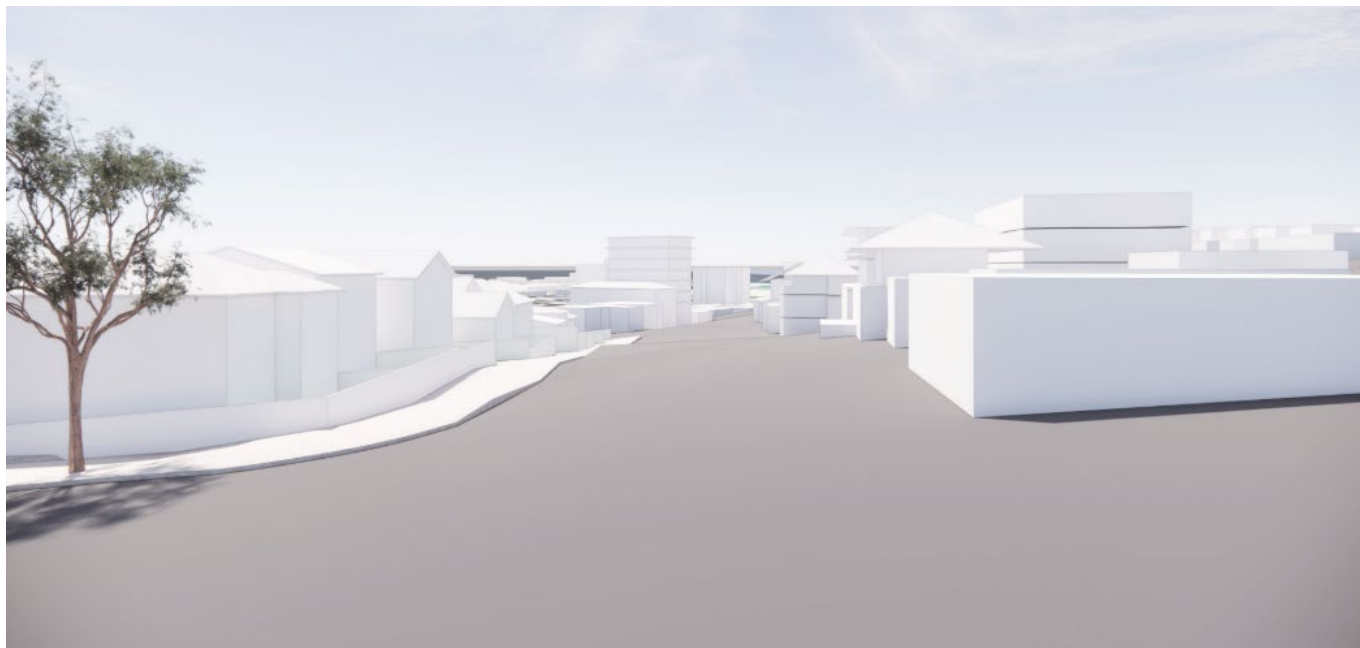


Figure 30 Viewpoint 4: 30 Dowling Street – existing view

Source: CHROFI

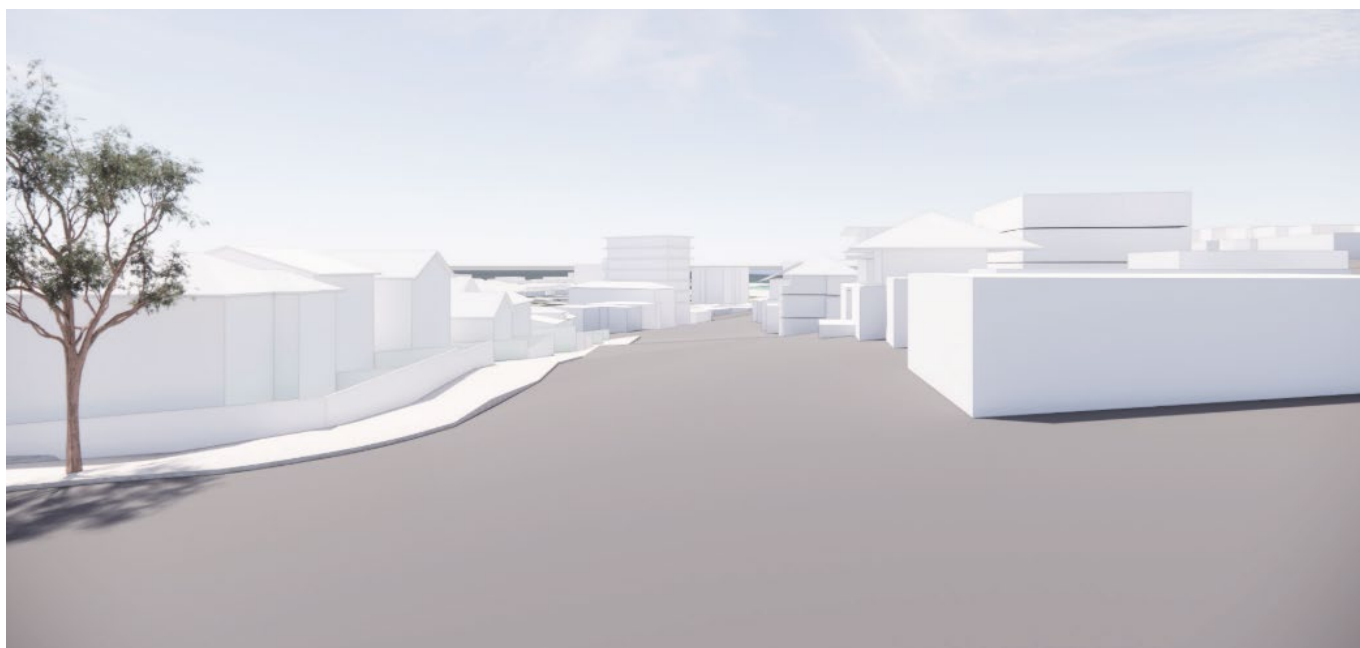


Figure 31 Viewpoint 4: 30 Dowling Street – proposed view

Source: CHROFI

### Tenacity Step 1: Assess the view to be affected

Is water present, and to what extent?	Yes, water is present in the form of the Pacific Ocean.
Are icons or other high value elements present, and to what extent?	Yes, the Pacific Ocean is a high value element. It is visible in 2 parts as a glimpse in the centre background.
Is water, icons or high value elements seen whole?	High value elements are seen in part.
Assessed value of the view, and why?	The value of the view is moderate – high.



	Its value is derived from its depth and the presence of 2 parts of the Pacific Ocean.
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**Tenacity Step 2: Consider from what part of the property the views are obtained**

Is this a front, rear or side view?	This is a view obtained across a front boundary.
Is this a sitting or standing view?	This is a standing view. However, it is reasonable to assume that much of this view may also be obtained from a sitting position.

**Tenacity Step 3: Assess the extent of the impact**

The proposal does not impact the view.

From what room is the view obtained?	Unknown.
Assessed level of impact, and why?	Negligible.

**7.5 Viewpoint 5: 48 Lawrence Street (corner with Dowling Street)**

**Description of view**

The foreground consists of Dowling Street, including street trees, part of the Dowling Street and Lawrence Street streetscapes including the western end of the site, and part of the dwelling and its private open space located on the corner of Dowling Street and Undercliff Road.

The midground comprises part of the Lawrence Street streetscape including the remainder of the site and dwellings, and their private open space located on Undercliff Road.

The background comprises Freshwater, including the elevated ridgeline to the north of Freshwater Beach, and part of the Pacific Ocean in part filtered by trees in the Dowling Street road reserve and segmented into 4 glimpses by the ridgeline and high-rise buildings.



Figure 32 Viewpoint 5: 48 Lawrence Street (corner with Dowling Street) – existing view (with trees)

Source: CHROFI



Figure 33 Viewpoint 5: 48 Lawrence Street (corner with Dowling Street) – proposed view (with trees)

Source: CHROFI

### Tenacity Step 1: Assess the view to be affected

Is water present, and to what extent?	Yes, water is present in the form of the Pacific Ocean.
Are icons or other high value elements present, and to what extent?	Yes, the Pacific Ocean is a high value element. It is visible in 4 parts as glimpses in the background.
Is water, icons or high value elements seen whole?	High value elements are seen in part.
Assessed value of the view, and why?	The value of the view is moderate – high. Its value is derived from its depth and the presence of the Pacific Ocean.

### Tenacity Step 2: Consider from what part of the property the views are obtained

Is this a front, rear or side view?	As the impacted building is a corner site, this is a view obtained across a front boundary.
Is this a sitting or standing view?	This is a standing view. However, it is reasonable to assume that much of this view may also be obtained from a sitting position.

### Tenacity Step 3: Assess the extent of the impact

The proposal represents the insertion of a large new feature in midground of the view.

In doing so, its main view impact is to foreshorten the view and block visibility of part of the Lawrence Street streetscape, part of Freshwater, part of the elevated ridgeline to the north of Freshwater Beach and part of the Pacific Ocean in the background. While the 2 most extensive glimpses of the Pacific Ocean will be retained, all of one glimpse and most of the second glimpse will be blocked.

While reduced in extent, it is considered that the Pacific Ocean will remain a key part of the view. With reference to the LEC judgement in *Rose Bay Marina Pty Limited v Woollahra*

Municipal Council and anor [2013] NSWLEC 1046, ‘the view that will remain after the development (if permitted) is still sufficient to understand and appreciate the nature of and attractive or significant elements within the presently unobstructed or partially obstructed view’. In particular, the juxtaposition of the Pacific Ocean and the elevated ridgeline to the north of Freshwater Beach is still visible.

The view corridors available to the right (south) of the building over the rear setback and the private open space of premises in Undercliff Street and to the left (north) of the building along the Lawrence Street corridor help balance the extent of new built form.

From what room is the view obtained?	Unknown.
Assessed level of impact, and why?	Moderate While representing a change to the view including the reduction in visibility of the Pacific Ocean, the view that will remain is sufficient to understand and appreciate the nature of and attractive or significant elements within the view.

7.6 Viewpoint 6: 11 Lawrence Street

Description of view

The foreground consists of Lawrence Street and its streetscape, comprising a mix of shop top housing, food and retail premises as well as a view of the above-ground carpark associated with the Freshwater Arcade.

The midground mainly comprises low to medium density dwellings in Undercliff Street and associated plantings and vegetation.

The background comprises low to medium density dwellings and associated plantings and vegetation on the northern slope and top of the Crown Street ridgeline.



Figure 34 Viewpoint 6: 11 Lawrence Street – existing view

Source: CHROFI





Figure 35 Viewpoint 6: 11 Lawrence Street – proposed view  
Source: CHROFI

**Tenacity Step 1: Assess the view to be affected**

Is water present, and to what extent?	No, water is not present.
Are icons or other high value elements present, and to what extent?	No, icons or other high value elements are not present.
Is water, icons or high value elements seen whole?	N/a.
Assessed value of the view, and why?	The value of the view is low – medium. The activate Lawrence Street streetscape provides for visual amenity, and the ability to see part of the northern slope and top of the Crown Street ridgeline has value.

**Tenacity Step 2: Consider from what part of the property the views are obtained**

Is this a front, rear or side view?	Front.
Is this a sitting or standing view?	This is a standing view. However, it is reasonable to assume that much of this view may also be obtained from sitting.

**Tenacity Step 3: Assess the extent of the impact**

The proposal represents the insertion of a large new feature in foreground of the view.

In doing so, it enhances the visual quality of the Lawrence Street streetscape and blocks visibility to the midground of low to medium density dwellings in Undercliff Street and their associated plantings and vegetation.

Visibility of the northern slope and top of the Crown Street ridgeline is retained.

From what room is the view obtained?	Unknown.
Assessed level of impact, and why?	Minor.

	While the proposal represents the insertion of a large new feature in the view, this nature of impact is inherent to a multi-storey building seen in proximity to the viewer. The proposal does not block iconic or high value elements.
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## 7.7 Summary of view impact

The proposal will appear as a new element in views. It will not block iconic or high value elements in views. Due to its scale (eg, its height), layout (eg, aligning with Lawrence Street) and design (eg, absence of contrasting materiality or colours), it will integrate with the surrounding landscape and will not constitute introduction of a new, non-characteristic or discordant or intrusive element into views. As such, while representing a change to existing views, the proposal will not represent a significant, adverse view impact. Under Tenacity, it is most likely to represent a minor and at most a moderate view impact.

## 7.8 Tenacity Step 4: Assess the reasonableness of the proposal that is causing the impact

### 7.8.1 Planning policy context

It is a long-standing legal principle in Australia that no one owns views obtained from their land.

In addition, view and visual impact is one of a large number and broad range of matters to be considered by a consent authority when evaluating a SSDA in accordance with section 4.15 'Evaluation' of the Environmental Planning and Assessment Act 1979 (EP&A Act). Relative weight is to be afforded to each of these matters.

As the Commonwealth Government has stated as part of the release of the National Housing Accord, housing is one of Australia's biggest current economic challenges. As a signatory to the National Housing Accord, delivery of a greater amount and choice of homes including affordable housing is a key NSW Government priority. In particular, priority is to be given to delivery of these homes in 'well-located areas near transport, open spaces, schools, hospitals and community facilities' (NSW Government, 2024). As such, considerable weight should be given to delivery of a greater amount and choice of homes in well located locations in the planning balance.

In this regard, the following is noted:

- the site represents a large, consolidated site within the Freshwater Centre that has the capability to deliver on many key planning and design outcomes, including revitalisation of the centre and delivery of new useable public open space
- the site is accessible to services and facilities, transport and amenity.
- the proposal will deliver 522sqm of affordable housing across 30 residential apartments in an area that is recognised as one of Sydney's least affordable areas to live (Northern Beaches Council, 2024)
- as part of the earlier DA, council determined that the site has suitable merit to accommodate development of a scale and form comparable to that now being proposed as part of this DA.

## 7.8.2 Compliance with planning controls

A key focus of Tenacity is 'reasonableness'. Consistent with its 'chain of reasoning' approach, Tenacity first considers reasonableness in terms of compliance with planning controls and then skilful design.

In their judgement in *Tenacity*, Roseth SC noted that blocking the entirety of another property's view 'may, in some circumstances, be quite reasonable'. Further to this, the LEC judged in *Goyer v Pengilly* [2015] NSWLEC 54 that a devastating view impact is not in and of own right determinative of a DA. In this judgement, and as noted by Moore SC and Adam SC in their judgement in *Rose Bay Marina Pty Limited v Woollahra Municipal Council and anor* [2013] NSWLEC 1046 (Rose Bay), view impact is one of a number of factors in the broader assessment process for the proposal.

This interpretation was again in the judgement of O'Neill C in *Arnott v City of Sydney Council* [2015] NSWLEC 1052:

- 'While I am satisfied that the resident objectors' concern regarding the impact of the proposal on their harbour view is well founded; it is fair to weigh the detrimental impact of the proposal on their views against the reasonableness of the proposal'.

Planning controls that have the greatest influence on view and visual impact are those that shape scale and massing, and in particular:

- siting, including site cover, setbacks and separation distances
- height, including overall and podium / street wall
- FSR.

These controls are contained in 3 main planning instruments:

1. WLEP 2011
2. Housing SEPP
3. WDCP 2011.

### WLEP 2011 and the Housing SEPP

As has been noted, the following sections of the WLEP are considered most relevant to view impact:

- section 2.3 'Zone objectives and Land Use Table'
- section 4.3 'Height of buildings'
- section 4.4 'Floor space ratio'.

### Section 2.3 Zone objectives and Land Use Table

The proposal comprises shop top housing (for the residential component) and commercial premises (for the retail component).

These uses are permitted with consent in zone E1 Local Centre.

As has been outlined in the SEE, by delivering retail and residential uses to meet the needs of people who live, work in and visit the area, the proposal is consistent with the objectives for this zone.

### Section 4.3 Height of buildings

The site has a mapped maximum building height of 11 metres.



As is delivers 11.16% (522sqm) of its GFA as affordable housing, a 22.7% height bonus is applicable to the development pursuant to Part 2, Division 1, Section 16 of the Housing SEPP. Application of this bonus results in a maximum building height of 13.45m.

The proposal seeks a maximum height of 16.4m<sup>1</sup>. This represents a 21.93% variation to the 13.45m maximum building height.

This variation has been justified in the Clause 4.6 Variation Request supporting the SEE.

In particular, it is noted that rather than providing additional residential floorspace, the intent of this variation is to:

- deliver additional public benefit in the form of the 268sqm public plaza fronting Lawrence Street
- deliver a high quality, contextually appropriate design comprising a built form that respects the narrow lot character of Freshwater through articulation into 4 distinct 'blocks'.

This public plaza and distinct block form have clear view impact benefits, considerably reducing the appearance of building scale and bulk in particular when seen from Freshwater Road.

Under the WLEP 2014, the objectives of this clause are as follows:

- '(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access
- (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments
- (d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities'

The proposal needs to achieve an appropriate balance between these objectives.

Of most relevance to view analysis are objectives (b) and (d). These largely seek the same outcome, with objective (d) emphasising management not minimisation from public places such as Lawrence Street.

For the purposes of this view analysis, the more stringent test of 'minimise' has been considered.

As was noted by Porter AJ in *Sultan Holdings Pty Ltd v John Fuglsang Developments*:

- 'Minimisation does not mean reduce to nothing or to something negligible, nor in this context is it to be examined in the abstract. The concept is relative to the situation. Assessments need to be made about the environs; and whether proposed measures for minimisation are appropriate given the situation'.

This was confirmed by panel members with respect to visual impact in their judgement in *Mount Wellington Cableway Company Pty Ltd v Hobart City Council and Others* [2022] TASCAT 128

- 'The requirement to avoid adverse impacts will also be something less than absolute, and will not require that impacts are eliminated. In respect to minimisation and mitigation, it

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<sup>1</sup> Note: the proposed 16.4m building height is as calculated under the Bettar method. Under the Merman method, the maximum height would be 18.7m. Refer to accompanying Clause 4.6 Variation Request for further information.

is the result that will be the important consideration. Minimising and mitigating impacts cannot reasonably be seen to be an end in themselves, such that efforts to minimise or mitigate impacts results in a favourable exercise of the relevant discretion irrespective of the impact’.

In terms of height, the proposal adopts a stepped height that increases height with distance from its front boundary with the public domain (Lawrence Street) and its rear boundary with residential premises. This measure has the effect of reducing visual and view impact on nearby properties. In particular, as can be seen in the image prepared for viewpoint 5, this stepped building height preserve a view corridor from elevated properties in the under-construction Dowling Street apartment building.

Given the planning envelope established by the maximum building height, any form of development consistent with the built form typology envisaged by this control would remove views to hills when seen from more elevated locations to the east and west.

As such and on balance the proposal’s height can be considered to minimise visual impact and disruption of views relative to its site and planning context.

#### **Section 4.4 Floor space ratio**

The site is not subject to a FSR maximum.

Under the WLEP 2014, the objectives of this clause are as follows:

- (a) to limit the intensity of development and associated traffic generation so that they are commensurate with the capacity of existing and planned infrastructure, including transport infrastructure
- (b) to provide sufficient floor space to meet anticipated development needs for the foreseeable future
- (c) to ensure that buildings, by virtue of their bulk and scale, are consistent with the desired character of the locality
- (d) to manage the visual impact of development when viewed from public spaces
- (e) to maximise solar access and amenity for public areas.

As with height, the proposal needs to achieve an appropriate balance between these objectives. For example, objective (b) may imply a greater FSR, while objective (c) may imply a lesser FSR.

Of most relevance to view analysis is objective (d).

As has been noted, the proposal incorporates significant massing measures to reduce visual impact in the form of the proposed public plaza and distinct block form.

In addition, its large site cover, zero front setback at the ground plane to Lwrecne Street and zero setback to side boundaries is consistent with the existing and desired future character of the Freshwater centre. While the objective is primarily about impact on the public domain, the large setback to its rear boundary also mitigates visual impact when seen from adjoining and nearby residential premises to the south.

This has been addressed in the discussion in height above. However, these largely seek the same outcome, with objective (d) emphasising management not minimisation from public places such as Lawrence Street.

## WDCP 2011

### Number of storeys

Part B: Built Form Controls, B2: Number of storeys nominates a 3-storey limit for the site.

The proposed development proposes a 4-storey built form.

Under the WDCP 2011 the objectives for height in storeys are:

- to ensure development does not visually dominate its surrounds
- to minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes
- to provide equitable sharing of views to and from public and private properties
- to ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties
- to provide sufficient scope for innovative roof pitch and variation in roof design
- to complement the height of buildings control in the LEP with a number of storeys control.

The same arguments applying to the discussion of height in the context of the WLEP 2011 apply.

In particular, as is seen in the below figure, due to its staggered height the 4<sup>th</sup> storey will not appear prominent. In combination with other measures, this intentional strategy will result in the proposal will not contravene these objectives.



Figure 36 Artist impression of the proposal

Source: CHROFI





Figure 37 Artist impression of the proposal when seen from Lawrence Street

Source: CHROFI

## Setbacks

Under the WDCP 2011 setbacks are as follows:

- **front setback:** ground and first floor are to maintain the street front, and the second floor is setback 5m
- **rear setbacks:** merit assessment having regard to relevant objectives
- **side setbacks:** merit assessment having regard to relevant objectives.

### Front setbacks

While the ground floor setback complies with the control, the second-floor setback is not a continuous 5m.

Relevant objectives are:

- 'To protect and enhance the visual quality of streetscapes and public spaces'
- 'To achieve reasonable view sharing'.

This variable second floor setback is considered to be consistent with an strengthen the well-defined nature of the Lawrence Street streetscape and not overwhelm the street scale. The intentional design strategy of including the public plaza and breaking the building into 4 component 'blocks' assists in mitigating any scale matters.

The variable second floor setback does not unreasonably impact view sharing from nearby properties.

## Rear setbacks

Objectives for rear setbacks do not explicitly address visual and view impact.

The below figures show the proposal's rear boundary. As can be seen, the proposal incorporates a considerable setback to the ground level, and has a considerable setback (10.62m excluding balconies, which are located atop the storey below) at its uppermost level.

This provides a long-range view corridor for the under-construction apartments on the corner of Lawrence Street and Dowling Street over the rear part of the site and the rear yards of dwellings located on Undercliff Road. It is noted that this view corridor retains a glimpse of part of the Pacific Ocean to the right of La Hacienda and the dwelling on Undercliff Road.

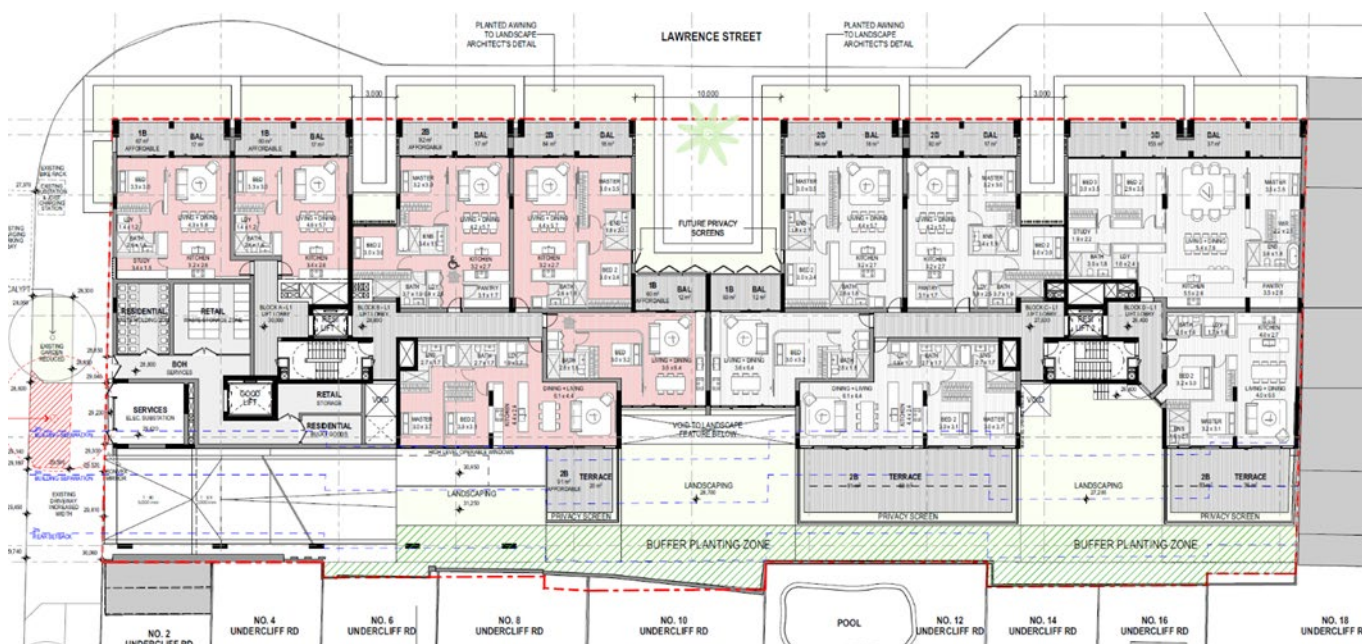


Figure 38 Level 1 layout

Source: CHROFI

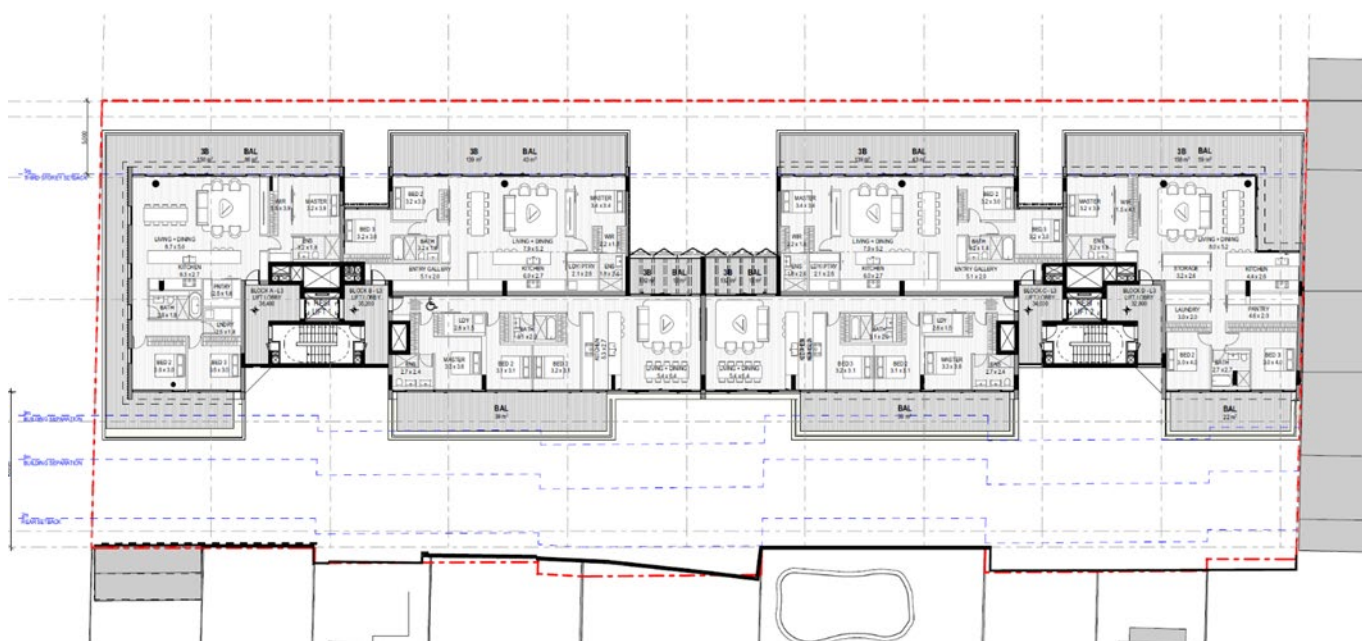




Figure 39 Level 3 layout

Source: CHROFI



Figure 40 Artist impression of the proposal as seen from Dowling Street

Source: CHROFI

### Side setbacks

The proposal has a nil setback to its side boundaries. This is consistent with that of the under-construction apartments on the corner of Lawrence Street and Dowling Street and established a continuous, well defined street wall to Lawrence Street consistent with the desired future character for the Freshwater centre.

Relevant objectives are:

- 'To ensure that development does not become visually dominant'
- 'To provide reasonable sharing of views to and from public and private properties'.

The proposed side boundary setbacks do not result in visual dominance or unreasonably block views.

### 7.8.3 Skilful design

Skilful design as understood by Tenacity involves exploring ways in which the massing of a building, in particular within the envelope established by planning controls, may be distributed to reduce view impact on neighbouring properties while providing the applicant with the same development potential and amenity.

In terms of apartment buildings, it is noted that in their judgement in *Arnott v City of Sydney Council* [2015] NSWLEC 1052, O'Neill C noted the challenges of using impact on individual apartments as a frame in which to consider skilful design:

- 'The Tenacity planning principle is less helpfully applied to impacts on views from individual apartments within residential apartment buildings, as there are generally more



limited opportunities to rearrange massing to preserve what is often a singular orientation to a view. For this reason, it is also appropriate to consider the residential apartment building as a whole in assessing view impacts’.

## Design development

As is outlined in the design documentation and SEE, the proposal has been informed by comprehensive and detailed design process that involves consideration of view impact.

This process identified a number of key challenges that have a direct bearing on massing, which in turn has view impact. These include:

- the sloping nature of site
- the narrow width of site
- its long interface with residential uses to the south.

For example:

- the sloping nature of the site has a bearing on height, with the building presenting greater height to Lawrence Street compared to residential uses to the south
- the narrow width of the site reduces flexibility to configure floorplates
- the long interface with residential uses to the south requires a sensitive interface, including greater and more varied setbacks to reduce the appearance of building scale and bulk.

## Design aspirations

Derived from this design process are the following design aspirations that also influence views:

- deliver high quality, well-located affordable housing with access to services and facilities
- deliver additional public benefit in the form of the 268sqm public plaza fronting Lawrence Street
- deliver a high quality, contextually appropriate design comprising a built form that respects the narrow lot character of Freshwater through articulation into 4 distinct ‘blocks’.

The public plaza and distinct block form have clear view impact benefits, considerably reducing the appearance of building scale and bulk in particular when seen from Freshwater Road.

A consequence of these design aspirations is the concentration of built form in the central portion of the site where it reaches a maximum of 16.4m.

Redistribution of the same floorspace to reduce height will challenge delivery of the public plaza and distinct block form, compromising delivery of the ambition of ‘creating a finer grain village character’ and instead leading to a ‘singular block expression’.

Removal of the floorspace will compromise delivery of the affordable housing.

## Design refinement

In addition to the pre-DA meeting, the applicant met with council’s Design and Sustainability Advisory Panel on 25 July 2024. After the meeting, a series of recommendations were issued by the Panel. The recommendations have informed the further design development of the proposal and a response to each recommendation is provided in the SEE.

Key actions undertaken relevant to view impacts:

- reducing the number of south-facing apartments from 11 to 6.
- reducing the extent of balconies along the southern elevation and incorporating further opportunities for articulation.

### Balancing views with other outcomes

Reducing view impact on neighbouring properties also needs to be considered in the context of other desirable urban outcomes that are arguably more in the public interest such as appropriate interfaces to the public domain (ie, Lawrence Street) that work to shape massing.

Due to its location, any form of development that is consistent with the prevailing and preferred future built form typology of the Freshwater centre has the potential to block views from nearby buildings.

### Viability

Under Tenaicty, the question of retaining the same development potential and amenity for the applicant is a relevant consideration.

As is noted in the SEE, the height and upper front setback variations sought by the proposal are necessary to deliver the public plaza and blocks and achieve a quantum of retail and residential floorspace that is feasible and viable floorplates considering the narrow width of the site and the need to achieve a substantial setback to its rear boundary.

Any further reduction in the proposals size is unlikely to satisfy the test established under Tenacity of achieving a balance between the applicant's development potential and amenity and reducing view impact on neighbouring buildings and apartments.

## 8.0 Mitigation measures

There are three broad types of mitigation measures:

1. avoid
2. minimise
3. offset

There are a number of stages in the development process when mitigation measures should be considered. Of relevance to this proposal are the following:

- **primary measures:** considered as part of design development
- **secondary measures:** considered as part of conditioning a development consent.

As has been outlined in the SEE, the proposal has been the subject to a design process that has included consideration of visual impact. This has resulted in the incorporation of a number of primary measures that seek to avoid and minimise any potential significant adverse visual impacts.

As has been determined by this view analysis, the incorporation of these mitigation measures have been critical to the determination of acceptable visual impact. On this basis, it is not considered necessary to make further fundamental or otherwise large-scale amendments to the proposal in its current form to satisfactorily manage visual impact.

## 9.0 Conclusion

This view analysis has shown that the proposal will have the greatest view impact on nearby residential properties on Lawrence Street, Undercliff Road and Dowling Street.

These views are largely local to district views mainly of the suburban landscape character area of Freshwater which primarily comprises low rise detached houses in landscaped settings containing trees and other vegetation. From more elevated locations on Undercliff Road to the south of the site and Dowling Street to the west of the site the views extend to include larger parts of Freshwater, and glimpses of part of the Pacific Ocean. The value of these views ranges from low – medium to medium – high.

The views are obtained across front or rear boundaries and from both sitting and standing positions.

The qualitative view impact of the proposal ranges from negligible to moderate.

The proposal seeks to deliver on current strategic planning priorities of delivering a greater amount, choice and affordability of well-located homes in a high-quality environment. The scale and massing of the proposal and therefore its view impact is shaped by the intent to avoid a single block form by creating a public plaza fronting Lawrence Street and its articulation into multiple 'blocks'. While this reduces the appearance of building bulk when seen from Lawrence Street, it results in minor variation to the height controls under the WLEP 2011 and the Housing SEPP, and the front upper-level setback control. This variation is justified by a clause 4.6 variation request. It is not considered that these variations give rise to significant, adverse view impact. In addition, the shaping of massing away from the rear boundary enabled by the employment of these strategies retains a view corridor for impacted properties on Dowling Street, and reduces the impact of building scale and bulk for properties to the immediate south of the site on Undercliff Road. These skilful design measures represent a considered response to site and context parameters, and a balance between retaining the applicant's development potential and amenity and reducing view impact on neighbours.

As such, while acknowledging the proposal will impact existing views, it is considered that the level of impact is acceptable. For this reason, it can be supported on view impact grounds.