

DRAFT REPORT

Sydney North Planning Panel Meeting 05 March 2025
UPDATED - 12 MARSHALL AVENUE, ST LEONARDS.

Item No:

Subject: Updated - 12 Marshall Avenue, St Leonards.

Record No: DA24/146-01 - 13401/25

Division: Planning and Sustainability Division

Author(s): Andrew Bland

Panel Reference	PPSSNH-572
DA Number	DA146/2024
LGA	Lane Cove Council
Proposed Development	<p>Alterations and additions to the previously approved part 10 and part 12 -storey residential flat building.</p> <p>The alterations and additions are to include;</p> <ul style="list-style-type: none">- The construction of four additional storeys providing a total of 24 additional apartments (120 apartments total) with 21 apartments dedicated to affordable housing accommodation; and- The expansion of the basement parking footprint of levels B4, B3, and B2, to provide an additional 36 parking spaces.
Street Address	Updated - 12 Marshall Avenue, St Leonards. 10 Marshall Avenue, St Leonards 1 Holdsworth Avenue, St Leonards 3 Holdsworth Avenue, St Leonards
Applicant/Owner	Applicant: Willowtree Planning Owner: New Golden St Leonards Pty Ltd
Date of DA lodgment	09/12/2024
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none">• 2 – All submissions are provided to the Sydney North Planning Panel.
Recommendation	Approval
Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021	The development has a capital investment value of more than \$5 million for public infrastructure and community facilities (affordable housing). The total CIV is \$13,674,082.00.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none">• relevant environmental planning instruments• SEPP (Housing) 2021 - Chapter 2, Division 1 In-fill affordable housing;• SEPP (Housing) 2021 - Chapter 4, Division 1 In-fill affordable housing;

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	<ul style="list-style-type: none">• SEPP Resilience and Hazards 2021;• SEPP (Building Sustainability Index) 2004;• Lane Cove Local Environmental Plan 2009.• proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority• Lane Cove Development Control Plan 2009• relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4• Yes – Previously approved voluntary planning agreement that a developer has offered to enter into under Section 7.4 (see Annexure 19)• coastal zone management plan• Nilother relevant plans• St Leonards South Landscape Masterplan;• St Leonards South Section 7.11 Contributions Plan; and• Housing and Productivity Contribution Order 2023																																										
List all documents submitted with this report for the Panel’s consideration	<table><tr><th>Annex.</th><th>Document</th><th>Prepared By</th></tr><tr><td>1</td><td>Draft Conditions of Consent</td><td>Lane Cove Council</td></tr><tr><td>2</td><td>Strategic Context of SLS</td><td>Lane Cove Council</td></tr><tr><td>3</td><td>ADG Assessment</td><td>Lane Cove Council</td></tr><tr><td>4</td><td>Architectural Plans</td><td>PTW</td></tr><tr><td>5</td><td>Landscaping Plans</td><td>Studio IZ</td></tr><tr><td>6</td><td>Statement of Environmental Effects</td><td>Willowtree Planning</td></tr><tr><td>7</td><td>BASIX and NaTHERS Certificate</td><td>PTW / NSW Government</td></tr><tr><td>8</td><td>Traffic Assessment</td><td>MLA Transport Planning</td></tr><tr><td>9</td><td>Operational Waste Management Plan</td><td>Elephant Foot Consulting</td></tr><tr><td>10</td><td>Construction and Demolition Waste Management Plan</td><td>Elephant Foot Consulting</td></tr><tr><td>11</td><td>Natural Ventilation Assessment</td><td>SLR Consulting Australia</td></tr><tr><td>12</td><td>Environmental Wind Impact</td><td>SLR Consulting Australia</td></tr><tr><td>13</td><td>Estimated Cost of Development</td><td>Construction Consultants</td></tr></table>	Annex.	Document	Prepared By	1	Draft Conditions of Consent	Lane Cove Council	2	Strategic Context of SLS	Lane Cove Council	3	ADG Assessment	Lane Cove Council	4	Architectural Plans	PTW	5	Landscaping Plans	Studio IZ	6	Statement of Environmental Effects	Willowtree Planning	7	BASIX and NaTHERS Certificate	PTW / NSW Government	8	Traffic Assessment	MLA Transport Planning	9	Operational Waste Management Plan	Elephant Foot Consulting	10	Construction and Demolition Waste Management Plan	Elephant Foot Consulting	11	Natural Ventilation Assessment	SLR Consulting Australia	12	Environmental Wind Impact	SLR Consulting Australia	13	Estimated Cost of Development	Construction Consultants
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	14	Stormwater Plans	TDL Engineering Consulting PTY LTD
	15	BCA Assessment Report	Jensen Hughes
	16	Acoustic Report	Acoustic Logic
	17	Statement of Compliance Access for People with a Disability	Accessible Building Solutions
	18	Briefing Notes	Lane Cove Council
	19	Voluntary Planning Agreement	Lane Cove Council
	20	Social Infrastructure and Open Space Study	Lane Cove Council
	21	ADG Compliance Assessment & Design Statement	PTW
Clause 4.6 requests	Not applicable.		
Summary of key submissions	<ul style="list-style-type: none"> - Obstruction of views; - Discordant streetscape character; - Decreased solar access; - Increased construction noise; - Wind tunnel impacts; and - Negative precedent. 		
Report prepared by	Andrew Bland		
Report date	20 February 2025		

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**
e.g. Clause 7 of SEPP Resilience and Hazards 2021, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not applicable**

Housing and Productivity Construction Order

Does the DA require Housing and Productivity Construction Order conditions (S7.24)? **Yes**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

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1. EXECUTIVE SUMMARY

Precinct context

The subject development is located within the St Leonards South Precinct (the "Precinct"). The planning context is provided in **Annexure 2** as it relates to the approved consent which the subject application would modify.

History

- On 10th December 2021, Development Application 187/2021 was lodged for the demolition of the existing structures and construction of a part 10 and part 12 -storey residential flat building comprising 96 apartments and basement parking for 110 vehicles;
- On 14th October 2022, the development application was approved under delegation of the Sydney North Planning Panel;
- On 20th April 2023, a s4.55(1A) modification to amend the basement layout approved under DA187/2021 was **approved**;
- On 21st August 2023, a s4.55(1A) modification to amend apartment layout on levels 11 and 12, amend unit mix, changes to basement layout, changes to approved below ground retaining wall under DA187/2021 was **approved**;
- On 26th February 2024, a s4.55(1A) modification to delete a level of basement carparking and extend the modified basement to 1m from the boundary with Holdsworth Avenue was **withdrawn**;
- On 19th April 2024, a s4.55(1A) modification was **approved** to amend the Water NSW conditions to convert from a drained basement instead of a tanked basement;
- On 4th July 2024, a s4.55(1A) modification was **approved** to amend the approved plans, delete conditions FA.8A and FA.8B and amend all approval descriptions to reflect additional car spaces; and
- On 22nd August 2024, a S4.55(1A) modification was approved to amend the approved landscaped plans and Condition F.0.

Planning Context

The application has been lodged in accordance with Chapter 2 Affordable Housing, Division 1 In-fill affordable housing in the Housing SEPP 2021 (the Housing SEPP). The provision of affordable housing enables the applicant to benefit from bonus to the maximum building height (the "height") and bonus to the Floor Space Ratio (the "FSR") development standards. The proposal seeks to benefit from a 30% bonus to the 57.2m incentive height control which would achieve a total height of 56.85m to the lift overrun. The proposal also seeks to benefit from a 30% bonus to the 3.7:1 FSR control which would achieve an FSR of 4.485:1.

These bonuses are subject to satisfying the Housing SEPP Chapter 2 requirements including the non-discretionary standards, design requirements and the dedication of the affordable housing apartments to a register community housing provider for at least 15 years. **Condition A.5B** has been recommended to ensure compliance with these requirements, refer to **Annexure 1**.

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Proposal

The subject development application proposes alterations and additions to DA187/2021 which obtained consent for the construction of a residential flat building comprising of 96 apartments including 2 apartments dedicated to affordable housing, basement parking, and associated landscaping (*approval summarised*).

The subject proposal primarily seeks consent for the construction of 4 additional levels which would accommodate 24 additional apartments (refer to proposal for full breakdown). This increase in density is achieved pursuant to the density bonuses afforded by Chapter 2 of the Housing SEPP.

The proposal includes the dedication of 21 affordable housing apartments in accordance with the Housing SEPP Chapter 2 requirements. These apartments would be located throughout the approved levels of the Lower Ground Level to Level 3, and Level 5, accordingly. These apartments have been identified in **Table 5** later in this report.

The proposal also includes the addition of 36 parking spaces in accordance with the Housing SEPP Chapter 2 requirements, amounting to a total of 146 spaces. These have been identified in the amended basement plan.

The proposal also includes minor changes to the approved development including the internal configuration of the basement levels.

Notification

The development application has been notified in accordance with Council policy and a total of 2 submission were received. The concerns raised in these submissions have been addressed later in this report.

Applicable environmental planning instruments

The following environmental planning instruments are relevant and have been satisfied as discussed later in this report:

- SEPP (Housing) 2021 - Chapter 2 - Division 1 In-fill affordable housing;
- SEPP (Housing) 2021 - Chapter 4 - Design of residential apartment development;
- SEPP (Resilience and Hazards) 2021;
- SEPP (Biodiversity and Conservation) 2021;
- SEPP (Building Sustainability Index) 2004; and
- Lane Cove Local Environmental Plan 2009.

Section 4.15 Matters

The 4.15 matters for consideration (1)(a) – (1)(e) have been satisfied and addressed later in this report.

The development application has been assessed against the requirements of the Housing SEPP.

The Lane Cove LEP 2009 (the “LEP”) and the Lane Cove DCP 2009 (the “DCP”) and other related plans are overridden by the Housing SEPP requirements, in accordance with Section 8, Chapter 1 of the SEPP (Housing) 2021.

8. Relationship with other environmental planning instruments

Unless otherwise specified in this Policy, if there is an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

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2. HISTORIC STRATEGIC PLANNING CONTEXT

St Leonards South Precinct

Precinct Background for context

The St Leonards South Precinct (the Precinct) was brought into effect through amendments to *Lane Cove Local Environmental Plan 2009*. The vision of the Precinct is for a livable, walkable, connected, safe, high density residential precinct which builds upon the transit and land use opportunities of St Leonards and Metro Stations and commercial centre. This vision is to be achieved through the Part 7 Planning Scheme (Part 7) in the LEP and its related documents.

The objectives of Part 7 are to ensure the Precinct provides:

- (a) **community facilities**, open space, including communal open space, and **high-quality landscaped areas**, and
- (b) **efficient pedestrian** and traffic **circulation**, and
- (c) a **mix of dwelling types in residential flat buildings**, providing housing choice for different demographics, living needs and household budgets, including by **providing affordable housing**.

Part 7 establishes an incentive scheme which provides bonuses to the development standards in exchange for the delivery of public benefits. These benefits include affordable housing, childcare facilities and through site links among others. It is intended that all developments achieve these incentive bonuses to facilitate the complete vision for the Precinct.

The site reverts to the base LEP controls (a height 9.5m and an FSR of 0.5:1) if a development does not achieve the aforementioned.

The subject development application seeks to modify (through alterations and additions to) the approved development DA187/2021 which previously satisfied the incentive scheme requirements through the achievement of design excellence and the delivery of the required public benefits.

3. SITE AND SURROUNDS

Subject Site

The subject site encompasses 1 - 3 Holdsworth Avenue and 10 – 12 Marshall Avenue, St Leonards with a total site area of 2631m² (**Figure 1**).

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Figure 1: Aerial Photograph - Subject Site Shaded Red (Source: Nearmaps)

The subject site is centrally located within the northern-most end of the St Leonards South Precinct and is known as **Area 12**. The site would include 400m² of public open space to the northeastern corner of the Marshall Avenue frontage, and the eastern portion of the shared green spine with Area 13.

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Figure 2: Subject Site in Future Envisaged Context (Source: Landscape Master Plan)

The key site characteristics are summarised in **Table 1** below.

Table 1 – Site Characteristics of 1 to 3 Holdsworth Avenue and 10 – 12 Marshall Avenue, St Leonards	
Site Characteristic	Subject Site
Title Particulars	1 to 3 Holdsworth Avenue and 10 – 12 Marshall Avenue Lot 3 to 6 / Section 2 / DP 7259
Total Site Area	2631m ²
Site Frontage	Approx. 39m to Marshall Avenue

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	Approx. 79m to Holdsworth Avenue
Site width	Irregular up to 37 m between Holdsworth Avenue and western boundary within green spine.
Topography	The subject site includes an average cross-fall of approximately 5m from north to south (from Marshall Avenue to southern boundary with Area 14) and an average cross-fall approximately 4m from west to east (from eastern boundary to Holdsworth Avenue).
Zoning	R4 High Density Residential
Existing Structures	The site contains single detached or semi-detached dwelling houses on separate allotments with an assortment of ancillary structures.
Existing Use	The site is being used for residential purposes (single dwellings).
Vehicular Access	Vehicular access (existing) is provided through individual vehicle crossovers for each allotment.

Adjoining Sites

The Precinct is in transition towards a desired future character which is reflected in the planning instruments and recently constructed developments. The following is a tabulated synopsis of the adjoining sites at the time of report;

Table 2 – Adjoining Sites	
Direction	Description
North	To the North is Marshall Avenue which forms the northern boundary of the St Leonards South Precinct. On the opposite side of Marshall Avenue is a 7-storey residential flat building at 15 – 25 Marshall Avenue. Further to the North is Marshall Lane Avenue and beyond are commercial buildings fronting the Pacific Highway.
East	To the East, the site is adjoined by Holdsworth Avenue. Further East is Areas 2 and 4 of S Leonards South located at 6 – 8 Marshall Avenue and 2-6 Holdsworth Avenue. Areas 2 and 4 are currently under construction (DA79/2022).
South	To the South, the site is adjoined by Area 14 located at 5 - 11 Holdsworth Avenue. Area 14 is currently occupied by single and 2-storey dwellings.
West	To the West, the site is adjoined by Area 13 of the St Leonards South Precinct located at 14 – 16 Marshall Avenue and 2 Berry Road. Areas 13 is currently occupied by single and 2-storey dwellings. Further West is Berry Road.

4. PROPOSAL

The subject proposal seeks consent for the alterations and additions to an approved residential flat building including the additions of 4 storeys, 24 apartments (21 affordable), and 36 parking spaces within the basement levels as afforded by Division 1 In-fill Affordable Housing of the Housing SEPP.

The proposed amendments include the following;

B4:

- The increase in area of level B4 to accommodate the additional 36 parking spaces by extending the basement to within 1m of the Holdsworth Avenue boundary (eastern);

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- The addition of 1 disabled parking space; and
- Minor changes to the internal configuration of the basement layout including fire stairs, vehicle spaces, motor bike spaces and storage areas.

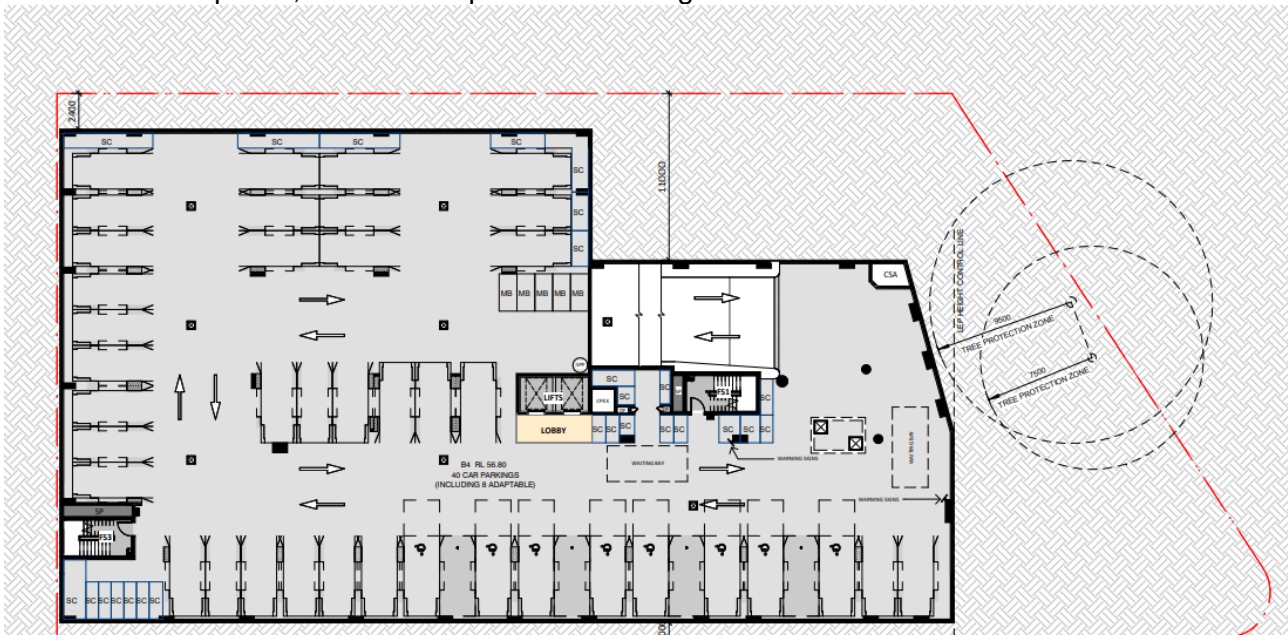


Figure 3: B4 Level Modifications (Source: Plans)

B3:

- The increase in area of level B3 to accommodate the additional 36 parking spaces by extending the basement to within 1m of the Holdsworth Avenue boundary (eastern); and
- Minor changes to the internal configuration of the basement layout including fire stairs, vehicle spaces, motor bike spaces and storage areas.

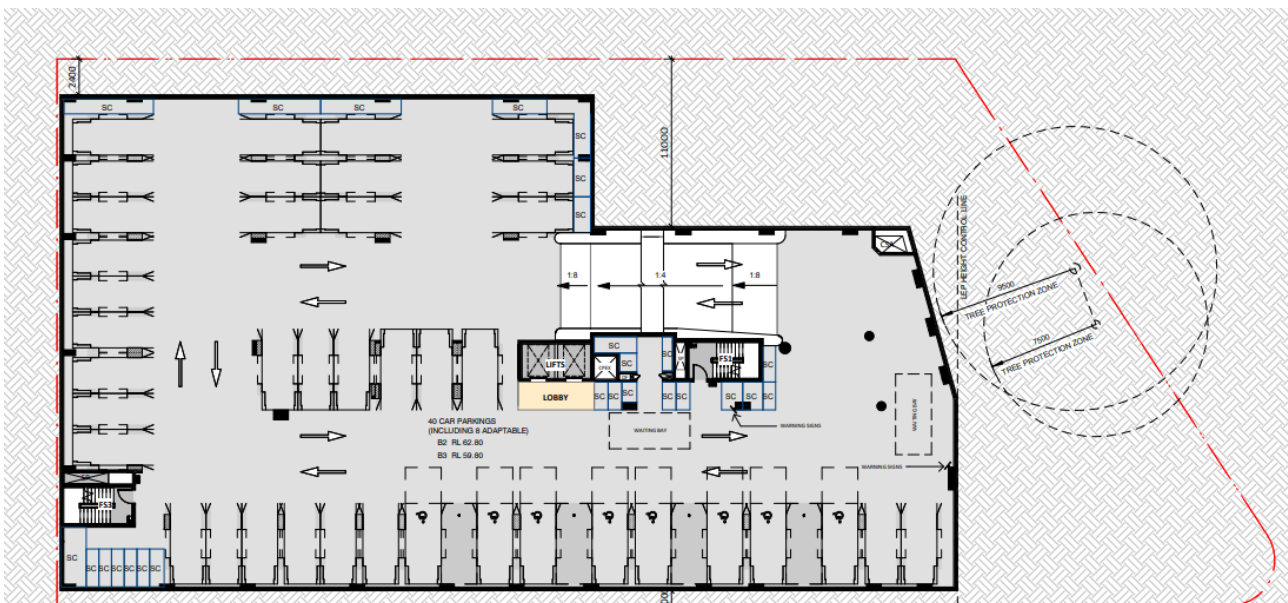


Figure 4: B3 Level Modifications (Source: Plans)

B2:

- The increase in area of level B2 to accommodate the additional 36 parking spaces by extending the basement to within 1m of the Holdsworth Avenue boundary (eastern); and

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- Minor changes to the internal configuration of the basement layout including fire stairs, vehicle spaces, motor bike spaces and storage areas.

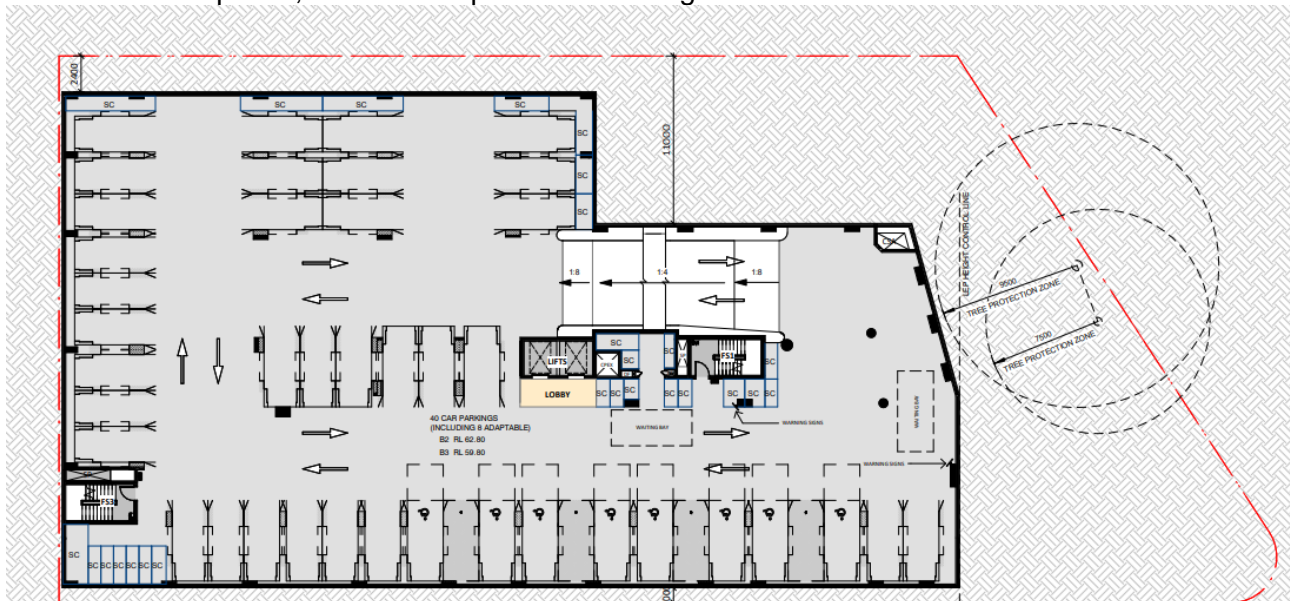


Figure 5: B2 Level Modifications (Source: Plans)

LGF:

- The internal reconfiguration of LG01 and LG03 to become single bedroom affordable housing apartments;
- The addition of 3 car wash bays;
- The increase in area of the bulky storage room; and
- The addition of a fire control room.

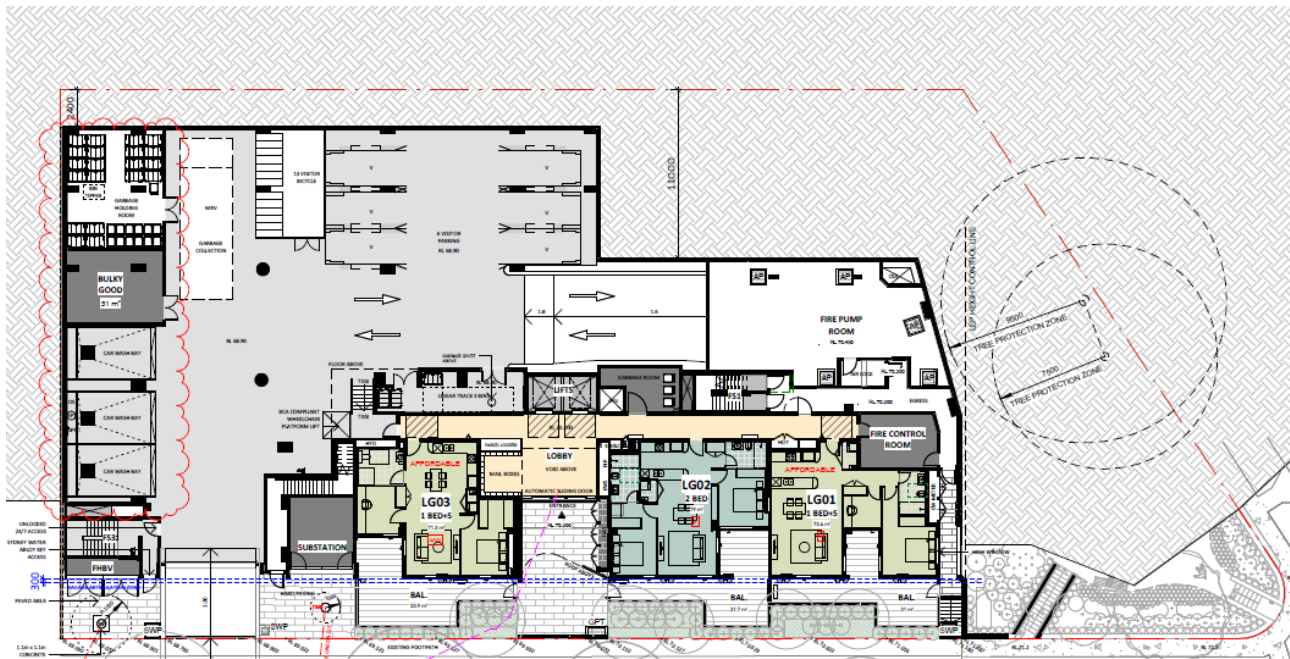


Figure 6: Lower Ground Floor Modifications (Source: Plans)

UGF:

- The minor reconfiguration of the car park intake fan room;

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- The minor reconfiguration of the stair press fan room;
- The minor internal reconfiguration of UG01 and reclassification as an affordable housing apartment; and
- The dedication of UG101, UG102, and UG103 as affordable housing apartments.

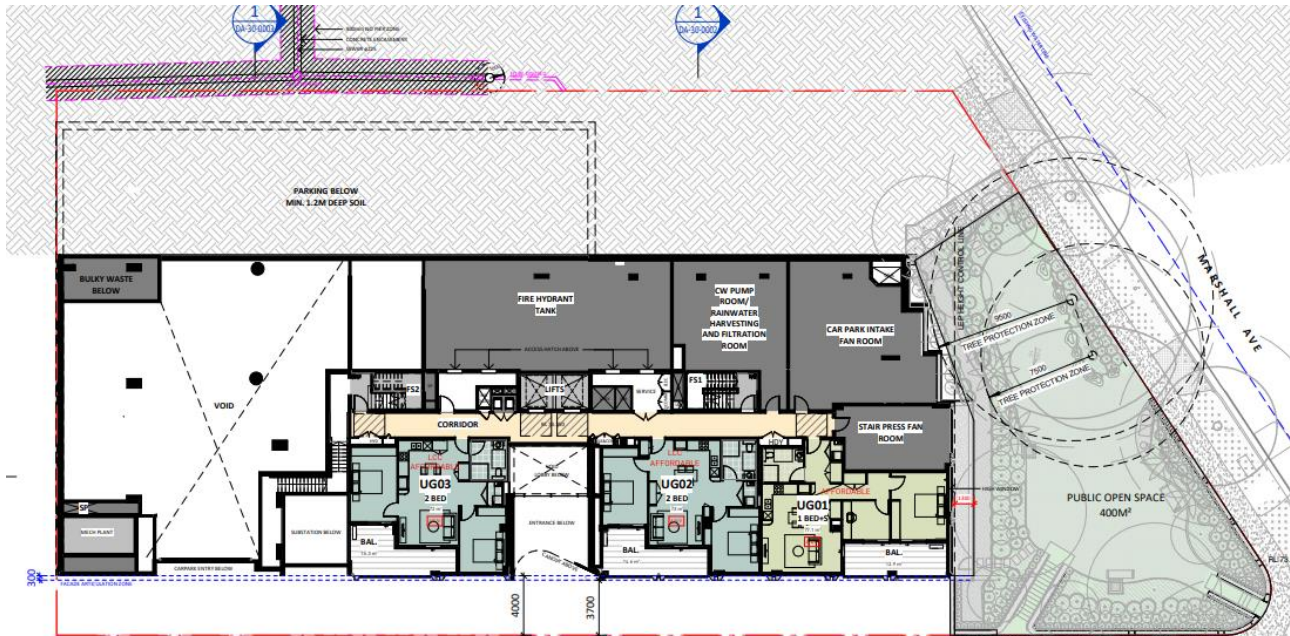


Figure 7: Upper Ground Floor Modifications (Source: Plans)

L1:

- The dedication of U101, U108, and U109 as affordable housing apartments.

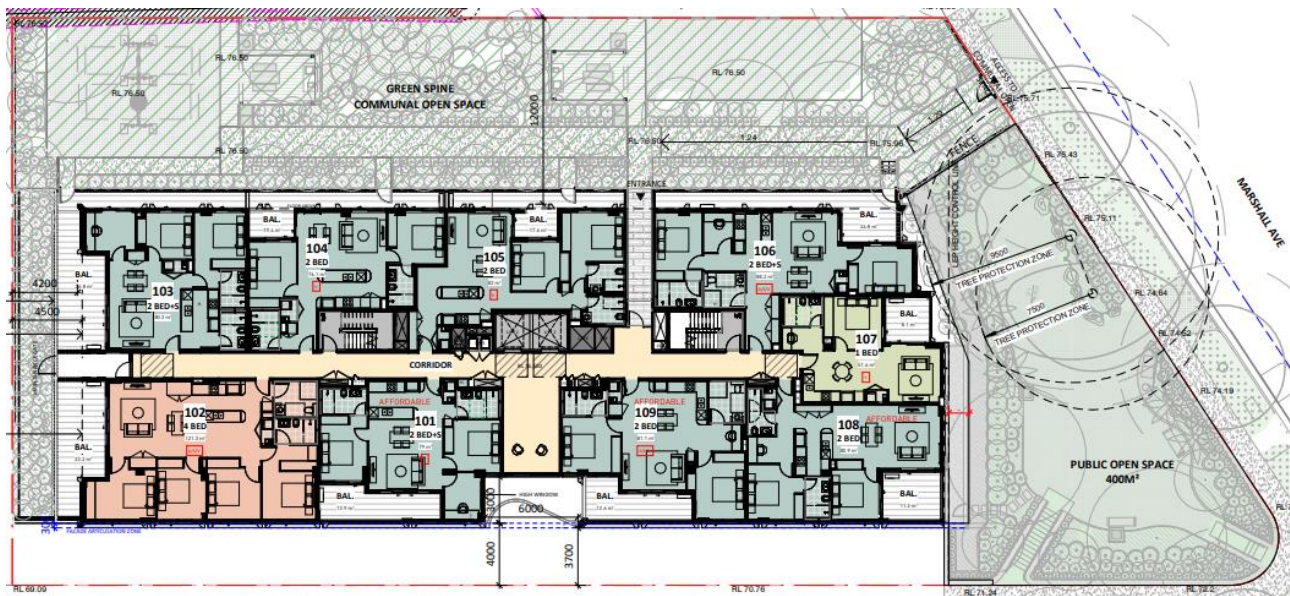


Figure 8: Level 1 Modifications (Source: Plans)

L2:

- The dedication of U202, U206, U207, U208, U210, and U211 as affordable housing apartments.

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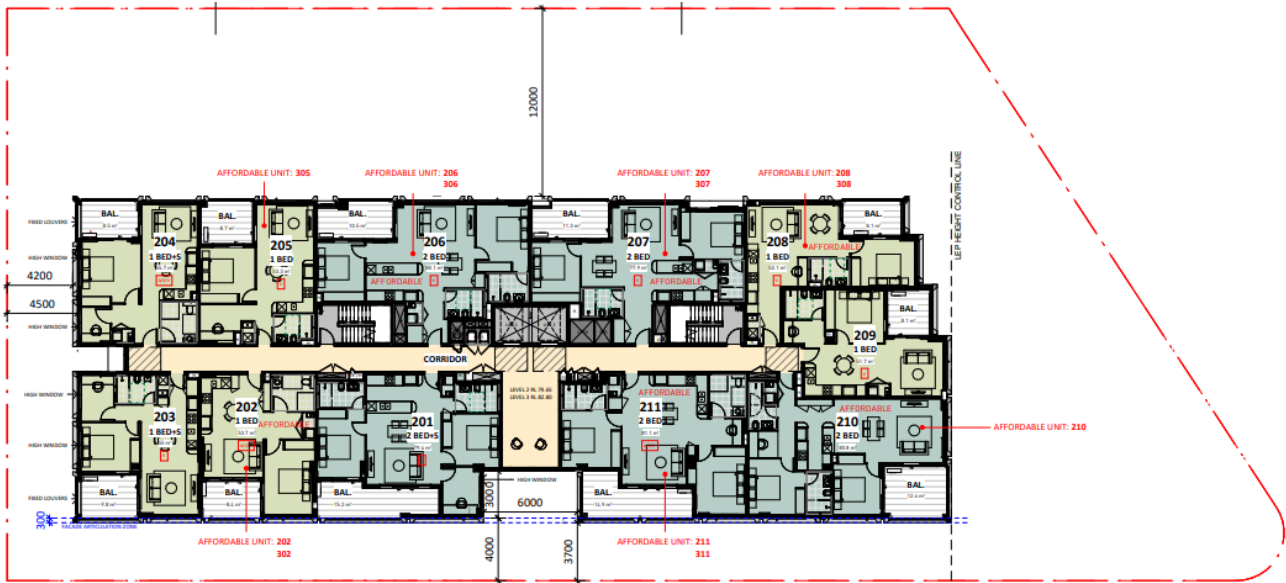


Figure 9: Level 2 Modifications (Source: Plans)

L3:

- The dedication of U302, U305, U306, U307, U308, and U311 as affordable housing apartments.

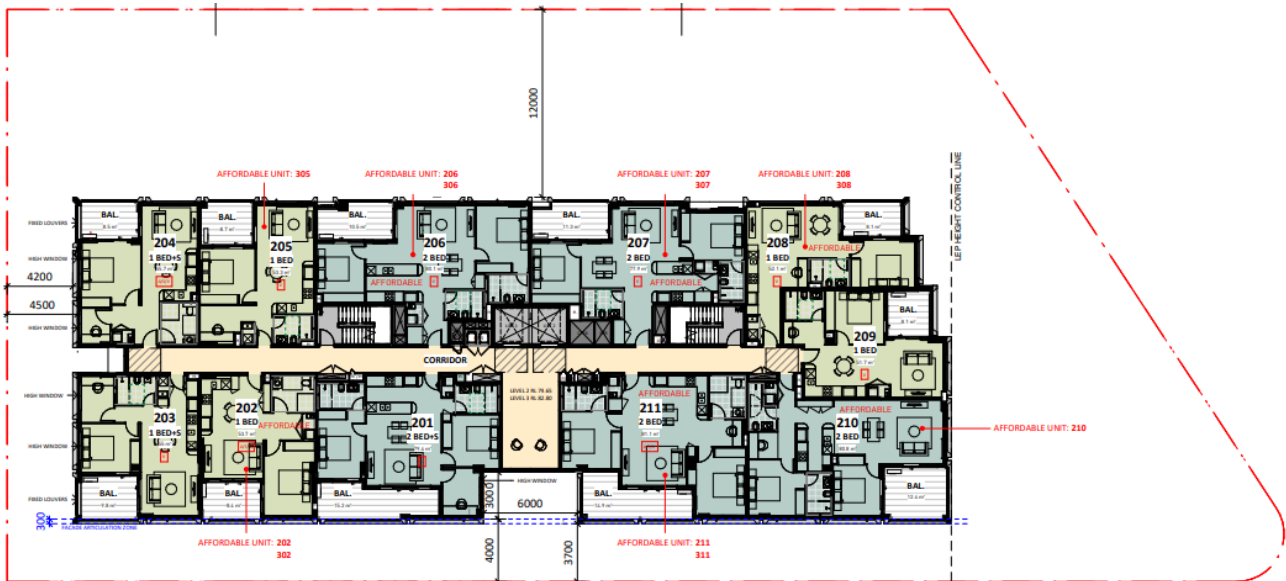


Figure 10: Level 3 Modifications (Source: Plans)

L5:

- The dedication of U503, U504, and U505 as affordable housing apartments.

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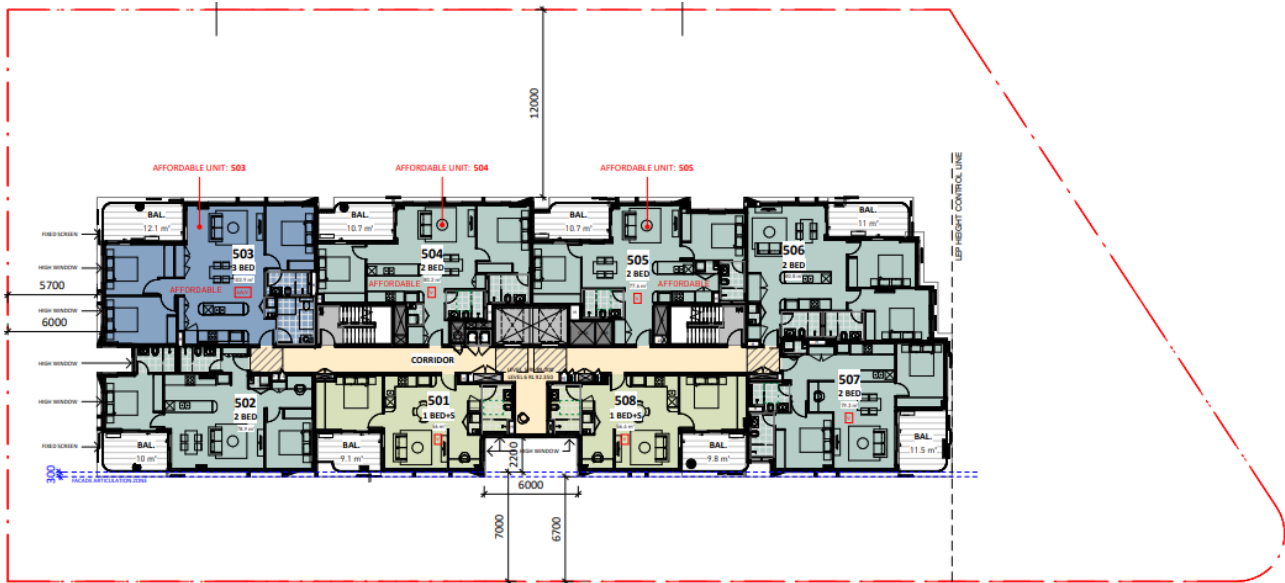


Figure 11: Level 5 Modifications (Source: Plans)

L11:

- The amendment of a previously approved 2-bedroom apartment (U1102-L) to a 3-bedroom apartment referred to as U1103;
- The amendment of a previously approved 3-bedroom apartment (U1101-L) to a 4-bedroom apartment referred to as U1101;
- The addition of a 3-bedroom apartment referred to as U1102; and
- The removal of the communal open space rooftop area



Figure 12: Level 11 Modifications (Source: Plans)

L12:

- The amendment of a previously approved 3-bedroom apartment (U1201-U) to a 4-bedroom apartment referred to as U1201;

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- The amendment of a previously approved 3-bedroom apartment (U1202-U) to a 2-bedroom apartment referred to as U1203;
- The addition of a 3-bedroom apartment referred to as U1202;
- The amendment of the corridor; and
- The relocation of fire stair 2.

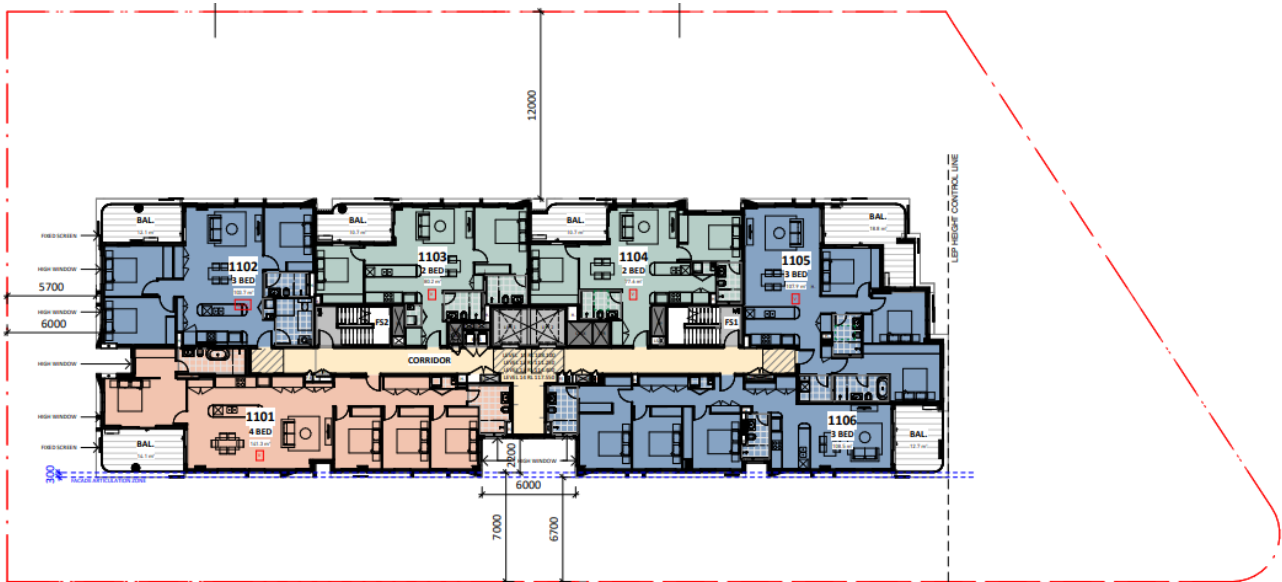


Figure 13: Level 12 Modifications (Source: Plans)

L13 (new level):

- The addition of a full storey consisting of the following;
 - One 4-bedroom apartment referred to as U1301;
 - Three 3-bedroom apartments referred to as U1302, U1305, and U1306; and
 - Two 2-bedroom apartments referred to as U1303 and U1304
- The vertical extension of the lift core structure to service the 13th level; and
- The addition of a centralised corridor.

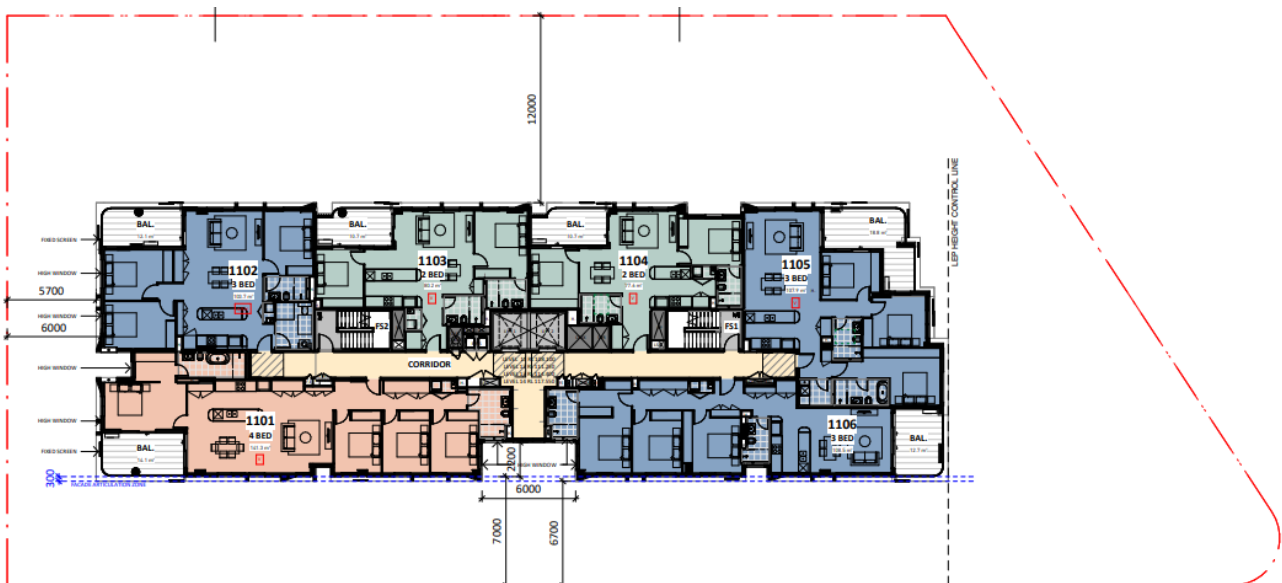


Figure 14: Level 13 Additions (Source: Plans)

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L14 (new level):

- The addition of a full storey consisting of the following;
 - One 4-bedroom apartment referred to as U1401;
 - Three 3-bedroom apartments referred to as U1402, U1405, and U1406; and
 - Two 2-bedroom apartments referred to as U1403 and U1404
- The vertical extension of the lift core structure to service the 14th level; and
- The addition of a centralised corridor.



Figure 15: Level 14 Additions (Source: Plans)

L15 (new level):

- The addition of a full storey consisting of the following;
 - One 2-bedroom apartment referred to as U1501;
 - Four 3-bedroom apartments referred to as U1502, U1503, U1601-L, and U1602-L;
- The vertical extension of the lift core structure to service the 15th level;
- The addition of a centralised corridor; and
- The addition of a communal rooftop space.



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Figure 16: Level 15 Additions (Source: Plans)

L16 (new level):

- The addition of a full storey consisting of the following;
 - One 2-bedroom apartment referred to as U1603;
 - Four 3-bedroom apartments referred to as U1601-U, U1602-U, U1604, and U1605;
- The vertical extension of the lift core structure to service the 16th level; and
- The addition of a centralised corridor.

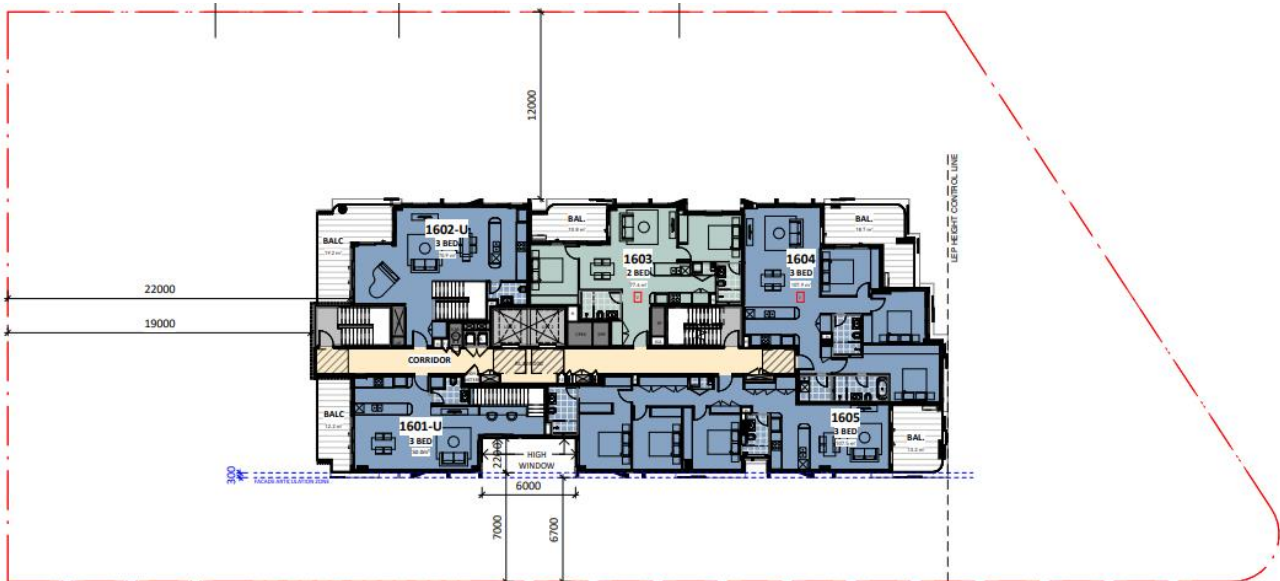


Figure 15: Level 16 Additions (Source: Plans)

Roof:

- The relocation of the previously approved roof design above the 16th level at FRL114.700 and FRL115.700 accordingly.

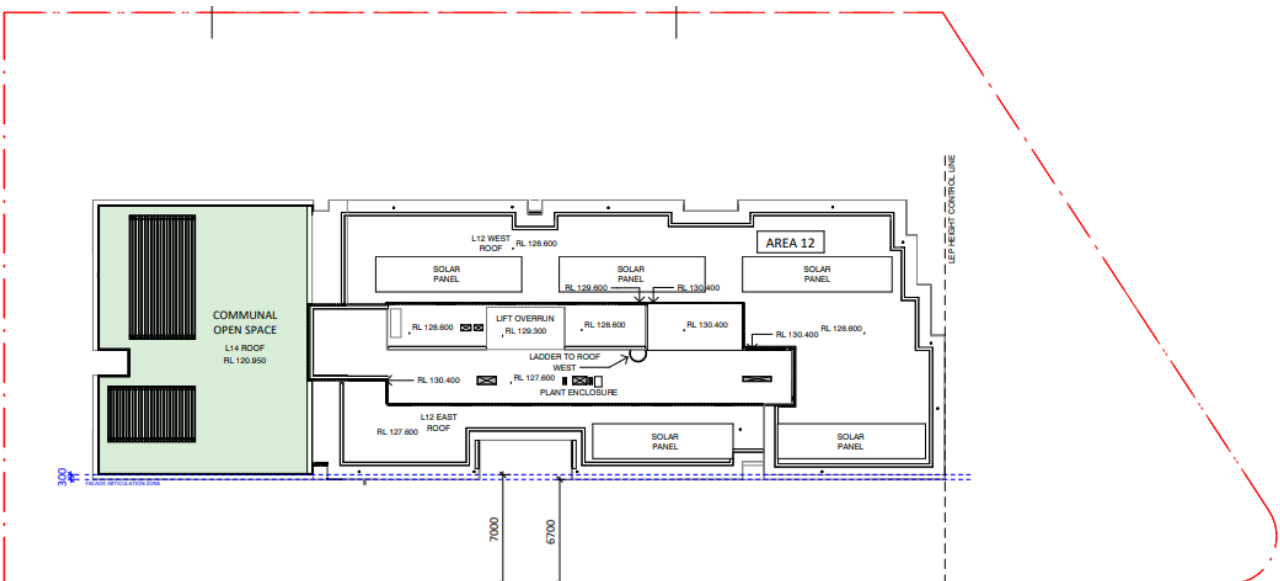


Figure 16: Roof Level Additions (Source: Plans)

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Proposed Apartment Configuration

The previously approved apartment configuration was:

Table 3 – Approved vs Proposed Apartment Configuration		
	Apartment mix	Total
Approved	26 one-bedroom apartments; 46 two-bedroom apartments; 19 three-bedroom apartments; and 5 four bed- room apartments	96
Proposed	29 one-bedroom apartments; 51 two-bedroom apartments; 31 three-bedroom apartments; and 9 four -bedroom apartment.	120 (24 additional) (21 affordable units) (2 affordable previously approved under DA187/2021)

Additional Information

The proposal would not alter the previously approved building setbacks above the natural ground level, however, a minor reduction in the total deep soil area would occur resultant of the extended basement footprint. The extension would occur through levels B4, B3, and B2, where the floorplate would be setback 1m from the eastern boundary (towards Holdsworth Avenue) to enable the provision of the additional 36 parking spaces.

The alterations would result in a minor reduction in the total deep soil area from the previously approved 23.5% under DA187/2021 to 20.9% - a 2.6% variation.

Council's landscape architect stipulated the following requirements to allow for the variation to occur;

- *The top of the basement slab is designed with directional fall to the street;*
- *Appropriate subsoil drainage is incorporated;*
- *Planting areas are to finish at ground level with each planter area providing 40m³ of soil volume specified by a soil scientist with the area utilising a structural root cell system such as Stravault by Citygreen or approved equal. Permeable paving shall be installed in all ground level courtyards; and*
- *The tree species to be planted is to be changed from Tristaniopsis luscious to 100ltr Syncarpia glomulifera to produce greater scale to the planting within the restricted areas provided.*

The requirements have been addressed and are provided within the proposed landscape plans.

5. SECTION 4.15 ASSESSMENT

The following assessment is provided against the relevant provisions of Section 4.15 of the NSW Environmental Planning and Assessment Act, 1979:

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Any environmental planning instrument:

SEPP (Housing) 2021 – In-fill affordable housing

The State Environmental Planning Policy (Housing) 2021 (the “Housing SEPP”) was published on 26 November 2021 and aims to incentivise the supply and ensure the effective delivery of affordable and diverse housing. The Housing SEPP was amended on 14 December 2023 to further incentivise affordable housing in order to address the housing crisis and provide for the needs of moderate, low, and very low-income households throughout New South Wales. The subject application seeks to benefit from these in-fill affordable housing incentives.

The relevant chapters of the Housing SEPP which apply to this development are:

- *Chapter 2 Affordable housing, Division 1 In-fill affordable housing; and*
- *Chapter 4 Design of residential apartment development.*

Chapter 2 Affordable housing, Division 1 In-fill affordable housing

The proposed alterations and additions seek to deliver in-fill affordable housing in accordance with Chapter 2 of the Housing SEPP. Recent reforms have sought to encourage developers through bonuses to the height and FSR development standards in exchange for the provision of additional affordable housing. The affordable housing is to be managed by a registered community housing provider and held for a period of 15 years (minimum), which commences from the issue of an occupation certificate for the development.

Developments are to provide at least 15% of the GFA as affordable housing to achieve 20 – 30% bonuses for height or FSR. The full 30% may not be achieved for both development standards.

Chapter 2 Affordable housing, Division 1 In-fill affordable housing

15C Development to which division applies

The proposed alterations and additions seek to deliver in-fill affordable housing in accordance with Chapter 2 of the Housing SEPP. The subject site is located within an “accessible area” as defined by the Policy which states:

- (1) *This division applies to development that includes residential development if—*
 - (a) *the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and*
 - (b) *the affordable housing component is at least 10%, and*
 - (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 or Port Stephens local government area—in an accessible area, or*
 - (ii) *for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.*

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The subject site is located approximately 300m from the western Herbert Street entrance to St Leonards Railway Station as demonstrated in **Figure 17** below.

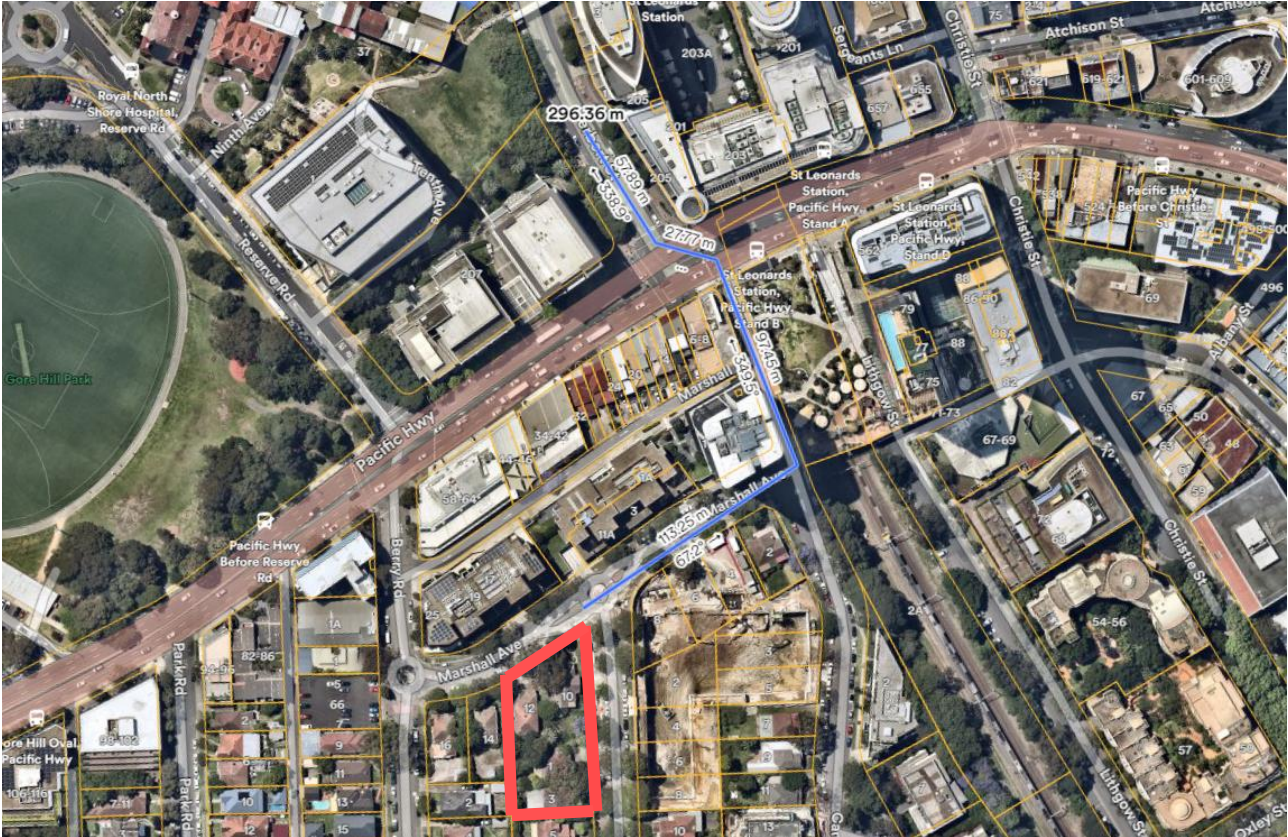


Figure 17: Distance to St Leonards Railway Station (Source: Nearmaps)

16 Affordable housing requirements for additional floor space ratio

Section 16 of the Housing SEPP contains calculations for the provision of floor space ratio and building height bonuses. It is stated in section 16 that:

(1) **The maximum** floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an **additional floor space ratio of up to 30%**, based on the minimum affordable housing component calculated in accordance with subsection (2).

(2) **The minimum affordable housing component**, which must be at least 10%, is calculated as follows—

$$\text{Affordable housing component} = \text{additional FSR (as a percentage)} \div 2$$

(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).

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Table 4: Key Numerical Details			
Previously Approved		Proposed	Numerical Increase
FSR	3.35:1 (3.45:1 permitted)	4.485:1 (+ 1.035:1)	30% FSR
HEIGHT	43.95m (44m permitted)	56.85m (+ 12.9m)	29.35% Height

Affordable housing calculation for FSR

The incentive bonuses under Part 7 of the LEP permits the following on the subject site:

3.45:1 – maximum FSR (Gross Floor Area = 9,076.95m²)

The proposal seeks to attain a total FSR of 4.485:1 (Gross Floor Area = 11,800.035m²).

This equates to an additional FSR of 1.035:1 and a Gross Floor Area of 2,065m². This would be a bonus of 17.5% when compared to the incentive GFA and FSR.

The required affordable housing component has been calculated below:

$$\begin{aligned}\text{Affordable housing component requirement} &= 30\% \div 2 \\ &= 15\%\end{aligned}$$

The required affordable housing component is 15% in relation to the FSR bonus. The development would provide 17.5% of affordable housing amongst the schedule of apartments.

The proposed development provides a total of 1585.6m² as affordable housing, which is 17.468% (equivalent to 17.5%) of the GFA as required. This includes 21 apartments equating to a total of 1548.6m² and 37m² of additional circulation space to service the affordable apartments. This is detailed in **Table 5** below.

Note: Levels coloured in light grey are identified as the additional levels in the proposed development. Level 6 to Level 16 does not contain any dedicated affordable housing and therefore, all additional apartments, internal area, and bedrooms are not incorporated into the final calculations.

Table 5 – Dedicated affordable housing apartments					
	Level	Apartment Count	Apartment Number	Internal Area (m ²)	Number of Bedrooms
Affordable Housing Apartments	LGL	1	LG01	73.4	1
		2	LG03	71.3	1
	UGL	3	UG01	77.1	1
	L01	4	101	79	2
		5	108	80.9	2
		6	109	81.1	2
	L02	7	202	53.7	1
		8	206	80.1	2
		9	207	77.9	2
		10	208	52.1	1
		11	210	80.8	2

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Table 5 – Dedicated affordable housing apartments					
	Level	Apartment Count	Apartment Number	Internal Area (m ²)	Number of Bedrooms
		12	211	81.1	2
	L03	13	302	53.7	1
		14	305	53.3	1
		15	306	80.1	2
		16	307	77.9	2
		17	308	52.1	1
		18	311	81.1	2
	L04	-	-	-	-
	L05	19	503	103.9	3
		20	504	80.2	2
		21	505	77.6	3
	L06	-	-	-	-
	L07	-	-	-	-
	L08	-	-	-	-
	L09	-	-	-	-
	L10	-	-	-	-
	L11*	6	1101, 1102, 1103, 1104, 1105, 1106	141.3, 103.7, 80.2, 77.6, 107.9, 108.5 = 619.2 (63.5 circulation)	17
	L12*	6	1201, 1202, 1203, 1204, 1205, 1206	141.3, 103.7, 80.2, 77.6, 107.9, 108.5 = 619.2 (63.5 circulation)	17
	L13*	6	1301, 1302, 1303, 1304, 1305, 1306	141.3, 103.7, 80.2, 77.6, 107.9, 108.5 = 619.2 (63.5 circulation)	17
	L14*	6	1401, 1402, 1403, 1404, 1405, 1406	141.3, 103.7, 80.2, 77.6, 107.9, 108.5 = 619.2 (63.5 circulation)	17
	L15	-	-	-	-
	L16	-	-	-	-
Total		21	-	1548.6	36
Circulation space		-	-	37	-
Total		21	-	1585.6m ²	36

However, the applicant is seeking to rely on the following Section 18 in order to achieve a larger bonus for the maximum building height.

18 Affordable housing requirements for additional building height

Section 18 provides the calculation for the additional building height in the instance that the Section 16 is not used. This allows the applicant to increase the building height beyond the percentage increase available for the FSR (30%). It is stated in Section 18 that:

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(1) ***This section applies to development that includes residential development to which this division applies if the development—***

- (a) ***includes residential flat buildings or shop top housing, and***
(b) ***does not use the additional floor space ratio permitted under section 16.***

(2) ***The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).***

(3) ***The minimum affordable housing component, which must be at least 10%, is calculated as follows—***

$$\text{Affordable housing component} = \text{additional building height (as a percentage)} \div 2$$

Affordable housing calculation for maximum building height

The incentive bonuses under Part 7 of the LEP permits the following on the subject site:

44m – maximum building height

The proposal seeks to benefit from a 30% bonus to the incentive building height of 44m as achieved under Part 7 of the LEP. This would achieve a maximum building height of 57.2m.

The required affordable housing component has been calculated below:

$$\begin{aligned} \text{Affordable housing component requirement} &= 30\% \div 2 \\ &= 15\% \end{aligned}$$

Conclusion: The development application satisfies the required provision of affordable housing apartments in accordance with Section 18 Division 1, Chapter 2 of the Housing SEPP. The applicant has sought to rely upon Section 18 to benefit from a 29.35% bonus to the maximum building height. This requires that the applicant provides 15% of the total GFA / FSR as affordable housing.

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

Chapter 2 of the SEPP provides development standards for the proposed development which, if complied with, prevent the consent authority requiring more onerous standards. The proposed development satisfies all the non-discretionary development standards. The following **Table 6** identifies the compliance in accordance with these standards:

Table 6 - SEPP (Housing) 2021 – Compliance Table			
Part 2 Development for Affordable Housing			
Division 1 In-fill affordable housing			
19 (2) - Non-discretionary development standards			
Clause	Requirement	Proposal	Complies
(a)	A minimum site area of 450m ²	The site area is 2,631m ²	Yes
(b)	A minimum landscaped area that is the lesser of –	35m ² per dwelling = 4,200m ² .	Yes
	(i) 35m ² per dwelling, or	30% of the site area = 789.3m ² ,	

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Table 6 - SEPP (Housing) 2021 – Compliance Table			
Part 2 Development for Affordable Housing			
Division 1 In-fill affordable housing			
19 (2) - Non-discretionary development standards			
Clause	Requirement	Proposal	Complies
	(ii) 30% of the site area	(ii) is the lesser in this circumstance. The proposal would provide 1,313m ² or 49% of the total site area.	
(c)	A deep soil zone on at least 15% of the site area, where – (i) Each deep soil zone has a minimum dimensions of 3m, and (ii) (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,	Subclause (3) states that subclause (c) and (d) <u>do not apply</u> to development to which Chapter 4 applies. Chapter 4 Design of residential apartment development applies and as such, (c) is not applicable.	<i>Not applicable</i>
(d)	Living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm mid-winter	Subclause (3) states that subclause (c) and (d) <u>do not apply</u> to development to which Chapter 4 applies. Chapter 4 Design of residential apartment development applies and as such, (c) is not applicable.	<i>Not applicable</i>
(e)	The following number of parking spaces for dwellings used for affordable housing – (i) 1 bedroom dwelling – at least 0.4 parking spaces (ii) 2 bedroom dwelling – at least 0.5 parking spaces (iii) 3 bedroom dwellings 1	The affordable housing component includes 21 apartments comprised of: <u>Affordable apartments:</u> 8 x 1 bedroom = 3.2 spaces 12 x 2 bedroom = 6 spaces 1 x 3 bedroom = 1 spaces This requires 10 spaces (rounded down to a full space). The 10 spaces have been provided.	Yes
(f)	The following number of parking spaces for dwellings not used for affordable housing – (i) 1 bedroom dwelling – at least 0.5 parking spaces (ii) 2 bedroom dwelling – at	There would be 99 apartments not dedicated to affordable housing. The full development would require the following 29 x 1 bedroom = 14 spaces 51 x 2 bedroom = 45 spaces	Yes - requires a total of

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Table 6 - SEPP (Housing) 2021 – Compliance Table																			
Part 2 Development for Affordable Housing																			
Division 1 In-fill affordable housing																			
19 (2) - Non-discretionary development standards																			
Clause	Requirement	Proposal	Complies																
	least 1 parking spaces (iii) 3 bedroom dwellings 1.5	31 x 3 bedroom = 46 spaces 9 x 4 bedroom = 14 spaces This requires 120 spaces which have been provided. 146 parking spaces in total where 24 are devoted to visitor parking (1 of which is disabled access). The table below highlights the arrangement between B4 and LGL; <table><tr><th>Level</th><th>Number</th></tr><tr><td>B4</td><td>42</td></tr><tr><td>B3</td><td>40 (8 disabled)</td></tr><tr><td>B2</td><td>40 (8 disabled)</td></tr><tr><td>B1</td><td>18 (all visitor) (1 disabled visitor)</td></tr><tr><td>LGL</td><td>6 (all visitor)</td></tr><tr><td></td><td></td></tr><tr><td></td><td>= 146</td></tr></table>	Level	Number	B4	42	B3	40 (8 disabled)	B2	40 (8 disabled)	B1	18 (all visitor) (1 disabled visitor)	LGL	6 (all visitor)				= 146	120 spaces which have been provided.
Level	Number																		
B4	42																		
B3	40 (8 disabled)																		
B2	40 (8 disabled)																		
B1	18 (all visitor) (1 disabled visitor)																		
LGL	6 (all visitor)																		
	= 146																		
(g)	The minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development.	The proposed apartments satisfy the minimum internal area requirements prescribed by the ADG. The proposed apartments mirror the layout of previously approved apartments.	Yes																
(h)	For development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) – the minimum floor area specified in the low rise housing diversity design guide.	Not relevant for this type of development.	Not applicable																
(i)	(i) if paragraphs (g) and (h) do not apply, the (i) for each dwelling containing 1 bedroom—65m2, (ii) for each dwelling containing 2 bedrooms—90m2, (iii) for each dwelling containing at least 3	Not applicable as (g) and the Apartment Desing Guide applies.	Not applicable																

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Table 6 - SEPP (Housing) 2021 – Compliance Table			
Part 2 Development for Affordable Housing			
Division 1 In-fill affordable housing			
19 (2) - Non-discretionary development standards			
Clause	Requirement	Proposal	Complies
	bedrooms—115m ² plus 12m ² for each bedroom in addition to 3 bedrooms.		

20 Design requirements

Clause 20 of the Housing SEPP requires that the consent authority is to be satisfied that the proposed development meets the desired future character for precincts undergoing transition. The proposed development is located in the St Leonards South Precinct.

The Precinct has experienced several development applications seeking benefit from the affordable housing uplift in accordance with the Housing SEPP. Development Application 33/2024 at 13-19 Canberra Avenue achieved consent for the construction of 4 additional levels and the subsequent creation of 24 additional apartments (21 affordable apartment in total). Similarly, Council is currently assessing an amending Development Application for Areas 1, 2 and 4 of the Precinct (1-5 Canberra Avenue, 4-8 Marshall Avenue, and 2-8 Holdsworth Avenue) under DA79/2022. It is evident that the desired future character of the Precinct encompasses the associated affordable housing uplift.

The proposed development meets the desired future character for the following reasons:

- The proposed development satisfies the overall objectives of the Precinct, and of particular note are the following objectives:
 - *1 To create a highly liveable transit-orientated residential precinct that integrates with St Leonards Station and proposed over-rail public plaza that encourages community interaction, walking, cycling and use of public transport.*
 - *3 To provide a variety of housing (including affordable housing) that is sustainable provides housing choice and that meet the needs of residents including access to community facilities.*
- The proposed development would provide affordable housing which is one of the public benefits desired by the Part 7 Planning Scheme for the Precinct;
- The proposed development would provide (maintain) a high-quality architectural design which is compatible with the desired future character of approved developments within the Precinct;
- The proposed development would maintain the high-quality landscaping. The minor variation from the previously approved deep soil area would not materially impact the total quality of the landscaped area, nor would it present a visible shortfall; and
- The proposed development would maintain the building fenestration, modulation, materiality and roof design as per the approved character under DA187/2021.

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Accordingly, the proposed development meets the desired future character of the Precinct as envisaged by Part 7 and as informed by the Housing SEPP.

21 Must be used for affordable housing for at least 15 years

The affordable housing apartments are required to be managed by a registered community housing provider for a period of at least 15 years. The applicant has acknowledged this requirement in the statement and endorsed that a condition is included to ensure this requirement is satisfied, refer to **Annexure 1**.

22 Subdivision permitted with consent

The statement confirms that subdivision is not sought under this development application.

The Development Application satisfies Chapter 2 of the Housing SEPP 2021.

Chapter 4 Design of residential apartment development - ADG

SEPP 65 – Design Quality of Residential Apartment Development has been consolidated into Chapter 4 of the Housing SEPP. Schedule 9 of the Housing SEPP 2021 includes the “Design Quality Principles” which are required to be satisfied for residential apartment developments. These design quality principles aim to ensure the high-quality delivery of residential flat buildings within New South Wales. This chapter applies to the subject development as it is a residential apartment development, albeit providing additional apartments to an approved development.

The proposal seeks to amend an approved development which has already satisfied all the design quality principles under Development Application 187/2021. The proposed development maintains the high-quality design through the retention of high-quality articulation, materiality, layout of apartments, landscaping and the communal open spaces. This ensures that the proposed development satisfies the required design quality principles.

Referral to a Design Review Panel

Referral to the Design Review Panel is not required in this instance as the overall design of the approved development is maintained. In accordance with Clause 29 of the EP & A Regulations 2021, an ADG Compliance Assessment & Design Statement accompanies the application which confirms that the following design principles and objectives have been achieved.

Assessment against the ADG

Table 7 provides an assessment against the Schedule 9 Design Quality Principles as required by Chapter 4 of the Housing SEPP.

Table 7 - SEPP (Housing) 2021 – Compliance Table	
Schedule 9 Design principles for residential apartment development	
Design quality principle	Satisfaction of the principle
1 Context and neighbourhood character	Satisfactory - The proposed development seeks to provide affordable housing. This is established in the desired future character through the Part 7 planning scheme (for other sites in the Precinct) and through Chapter 2 of the Housing SEPP.

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Table 7 - SEPP (Housing) 2021 – Compliance Table	
Schedule 9 Design principles for residential apartment development	
Design quality principle	Satisfaction of the principle
	<p>The subject site is located in the St Leonards South Precinct, which has been strategically located to provide high density residential developments within proximity to the St Leonards railway station, being a key transport hub.</p> <p>The application would provide affordable housing not only located within proximity to a transport hub (as envisaged by the Housing SEPP amendments), but also in proximity to other key areas such as Royal North Shore Hospital and the education facilities located in North Sydney. The numerous existing services which employ people eligible to live in affordable housing apartments workers are identified in Annexure 20 which identifies the existing services in a social infrastructure study.</p> <p>The amended proposal would provide the opportunity for key workers such as nurses and teachers who rely on affordable housing to live in proximity to their place of work.</p> <p>The development maintains its relationship with the site and neighbouring sites through the retention of high-quality landscaping, the preservation of the established setbacks, and bespoke architectural design.</p>
2 Built form and scale	<p>Satisfactory - The Housing SEPP has informed the built form and scale of development within the Precinct. The proposed development would be constructed in accordance with the envisaged height and scale as prescribed in Chapter 2 of the Housing SEPP.</p> <p>The proposed development achieves an appropriate built form by maintaining the approved setbacks and high-quality architectural design of the development.</p> <p>The public domain remains equally defined through the design of the approved development and retention of the approved ground level internal and external areas.</p> <p>The impacts on views and vistas are considered reasonable as discussed in the view loss section of this report.</p> <p>The proposal largely maintains the internal layout of the previously approved apartments from Level B4 to Level 16. The internal layout of Level 11/Level 12 would be modified to accommodate 6 apartments at each level, Level 13/Level 14 would replicate the approved plans with 6 apartments at each level, and Level 15/Level 16 would accommodate 5 apartments respectively.</p> <p>The above ground setbacks would remain as per the approved</p>

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Table 7 - SEPP (Housing) 2021 – Compliance Table	
Schedule 9 Design principles for residential apartment development	
Design quality principle	Satisfaction of the principle
	<p>plans. The below ground setbacks of the basement garage would be increased to accommodate the increased parking schedule as per the requirements of the affordable housing uplift. There would be no increase in the above ground scale of the development with regard to setback as detailed in the following;</p> <ul style="list-style-type: none"> ▪ LG - UG : 4m to eastern boundary, 9m to northern boundary and 11m to western boundary. ▪ Level 1-3: 4m to eastern boundary, 9m to northern boundary and 12m to western boundary; ▪ Level 4: 7m to eastern boundary, 9m to northern boundary and 13.5m to western boundary; ▪ Level 5-14: 7m to eastern boundary, 9m to northern boundary and 12m to western boundary. ▪ Level 15-16: 7m to eastern boundary, 9m to northern boundary, 12m to western boundary and 19m to southern boundary. <p>The approved communal rooftop facilities would be relocated to Level 15 and maintain the same area, layout, and amenity as the previously approved design.</p> <p>The amendments would ensure a high-quality built form and an appropriate scale in compliance with the Housing SEPP.</p>
3 Density	<p>Satisfactory – The proposed development provides the strategically planned high density residential scale which corresponds with the recently amended R4 Zoning.</p> <p>The proposed development would attain a 29.35% bonus to the height and a 30% bonus to the FSR standard in accordance with the prescribed density by Chapter 2 of the Housing SEPP.</p> <p>The proposed development would achieve a density which is consistent with other developments within the precinct.</p> <p>The apartments sizes exceed the ADG minimum requirements to ensure a high level of amenity for the future residents.</p> <p>The density would be sustained through the proximity to existing infrastructure, the future public benefits to be delivered in accordance with Part 7, key public transport hubs and the proximity to the St Leonards, Crows Nest and North Sydney region more broadly.</p>

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Table 7 - SEPP (Housing) 2021 – Compliance Table	
Schedule 9 Design principles for residential apartment development	
Design quality principle	Satisfaction of the principle
4 Sustainability	<p>Satisfactory – The proposed development the use of renewable energy within the building, the provision of solar photovoltaic systems, and an energy efficient design in accordance with submitted BASIX and NaTHERS certificates.</p> <p>The proposed development is cross ventilated at all levels to ensure a positive environmental outcome through reducing the reliance on cooling and heating systems.</p> <p>Subsequent to the provision of additional parking spaces, the proposal would result in a minor reduction of deep soil from 23.5% as approved under DA187/2021 to 20.9%. The 2.6% decrease in deep soil area would not adversely alter the approved landscaping plan. The green space, canopy coverage and green spine would be retained. The proposed tree schedule is revised through the substitution of 100 litre Syncarpia glomulifera across the eastern section of the Lower Ground Plan. The substitution reflects a greater canopy coverage and an improved vegetative aspect across the elevation.</p> <p>Other sustainable approach includes recycling existing sandstone retaining wall to the stepped terrace in the public open space.</p> <p>A 550m² deep soil zone (min. 6m width) is provided throughout the whole site, which is 20.9% - exceeding the 15% suggested.</p> <p>A 135m² deep soil zone is provided within the communal open space, which is 20% of the total 680m² green spine area. A minimum 1.2m (depth) deep soil zone is also provided throughout the rest of the “green spine” above basement parking.</p> <p>The overall sustainability of the amended design would not be influenced by the addition of 24 apartments resultant of the energy efficient design.</p>
5 Landscape	<p>Satisfactory – The proposed development includes minor changes to landscaping schedule originally approved under DA187/2021. During meetings with the applicant, Council’s landscaping department requested mitigatory design amendments in response to the 3m encroachment of basement levels B2-B4 into the Holdsworth Avenue setback. These requirements are listed below:</p> <ul style="list-style-type: none"> • The top of the basement slab is designed with directional fall to the street; • Appropriate subsoil drainage is incorporated; • Planting areas are to finish at ground level with each planter area providing 40m³ of soil volume specified by a soil

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Table 7 - SEPP (Housing) 2021 – Compliance Table	
Schedule 9 Design principles for residential apartment development	
Design quality principle	Satisfaction of the principle
	<p>scientist with the area utilising a structural root cell system such as Stravault by Citygreen or approved equal. Permeable paving shall be installed in all ground level courtyards; and</p> <ul style="list-style-type: none"> The tree species to be planted is to be changed from Tristaniopsis luscious to 100ltr Syncarpia glomuliferai to produce greater scale to the planting within the restricted areas provided. <p>The amended landscape plans satisfy the aforementioned requirements.</p> <p>The landscaping in the approved communal space has been relocated to level 15.</p>
6 Amenity	<p>Satisfactory – The proposed development provides high quality amenity through the retention of the communal space and deep soil areas on site.</p> <p>The communal space has been relocated to level 15 and would provide internal and external areas, a BBQ, high quality landscaping and significant views towards the Sydney City Skyline. This provides access to high quality communal space both on top of the building, as well as the deep soil areas and communal open spaces located on level 1.</p> <p>All apartments include generously sized private open spaces and living rooms. There are large built in storage areas provided in the apartments, as well as storage areas provided in the basement. At least 50% of the storage will be located within each unit, with the remainder provided in the basement.</p> <p>The proposed development would provide strong solar access and adequate cross ventilation on all levels to foster interaction with the external environment and provide desirable atmospheres when experiencing the units, communal spaces, and common circulation areas.</p> <p>The proposed development maintains high accessibility through the on grade and adequately spaced entrance lobby and 2 lifts which access all 16 levels.</p> <p>All previously design components would ensure that proposed development provides sufficient amenity for the future occupants and their visitors.</p>
7 Safety	<p>Satisfactory – There would no changes to the safety and security provided within the approved development. All previously approved</p>

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Table 7 - SEPP (Housing) 2021 – Compliance Table	
Schedule 9 Design principles for residential apartment development	
Design quality principle	Satisfaction of the principle
	<p>conditions remain relevant to the proposal.</p> <p>All public and private spaces remain clearly defined and there are no changes to the passive surveillance provided.</p> <p>A fire control room has been provided on the lower ground floor to ensure compliance with the fire safety requirements.</p>
8 Housing diversity and social interaction	<p>Satisfactory – The proposed development would provide an additional 21 affordable housing units.</p> <p>The original approved development includes 2 affordable housing units dedicated to Council under Part 7 of the LEP.</p> <p>The identified affordable housing apartments would be constructed to the same high-quality finishing and layout as the other departments throughout the development.</p> <p>The proposed development provides affordable housing in a key area being close to a transport hub, education facilities (TAFE), emergency service facilities and medical facilities (Royal North Shore Hospital).</p> <p>A list of the existing services have been identified in Annexure 20 which is a social infrastructure study for the St Leonards and Crows Nest area.</p>
9 Aesthetics	<p>Satisfactory – The proposed development maintains the high-quality aesthetic design as supported in the approved dwelling.</p> <p>The materials, landscaping and articulation provides for a visually attractive architectural design.</p> <p>This ensures that design excellence is achieved.</p>

Apartment Desing Guide Provisions

The operations of the Apartment Design Guide (ADG) remain relevant and are to be considered for the proposed works. An assessment against the ADG has been provided in **Annexure 3**.

The Development Application satisfies Chapter 4 of the Housing SEPP 2021.

The Development Application satisfies the Housing SEPP 2021 requirements.

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SEPP Resilience and Hazards 2021

The proposal is assessed against the relevant provisions of SEPP Resilience and Hazard as detailed in the **Table 8** below.

Table 8 - Resilience and Hazard Assessment	
Provision	Compliance
<p>(1) A consent authority must not consent to the carrying out of any development on land unless -</p> <p>(a) it has considered whether the land is contaminated</p> <p>(b) if the land is contaminated, it is satisfied the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed, and</p> <p>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p>	<p>Complies - The original development application was accompanied by a Remedial Action Plan (RAP) which provides various recommendations that would allow the subject site to be made suitable for the approved residential flat building. Contamination has therefore been adequately considered under the original DA and no further consideration is required.</p> <p>The additional excavation required between levels B4 and B2 for the accommodation of more parking would not extend the potential to excavate contaminated land.</p>
<p>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</p>	<p>Complies - This requirement was dealt with in the original development application and the submitted RAP was satisfactory.</p> <p>The applicant has confirmed that no contamination has been exposed during the excavation process to date.</p> <p>Given the residential history of the subject site and area, it is unlikely that contamination would be exposed.</p>
<p>(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.</p>	<p>Complies - The Preliminary Site Investigation Report did not give rise to the requirement for a Detailed Site Investigation Report.</p> <p>Conditions of the DA187/2021 consent adequately deal with the potential exposure of any contaminated materials.</p>
<p>(4) The land concerned is—</p> <p>(a) land that is within an investigation area,</p> <p>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital—land—</p>	<p>Complies - The site is not within an investigation area or listed in Table 1 of the guidelines. A preliminary site investigation was submitted to the SEPP's satisfaction in the original development application.</p>

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Table 8 - Resilience and Hazard Assessment	
Provision	Compliance
(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).	

The Development Application satisfies the SEPP Resilience and Hazards 2021 requirements.

SEPP BASIX 2004

A BASIX certificate accompanies the application and is provided as **Annexure 7** to this report. The BASIX Certificate demonstrates compliance with the provisions of the SEPP.

The Development Application satisfies the SEPP BASIX 2004 requirements.

SEPP (Biodiversity and Conservation) 2021

The site is located on land to which the Biodiversity and Conservation SEPP 2021 applies. This SEPP aims to protect environmentally sensitive areas and prevent adverse impacts from development on the natural environment. The chapters of this SEPP which are relevant the development application include the following:

- *Chapter 2 Vegetation in non-rural areas; and*
- *Chapter 6 Water catchments.*

Chapter 2 Vegetation in non-rural areas

Chapter 2 of the Biodiversity and Conservation SEPP 2021 aims to protect the biodiversity values of trees and other vegetation in non-rural areas of NSW, to preserve the natural amenity of these areas. The subject proposal does not propose any tree removal. All tree removal has been previously considered by Council's Arborist in the original development application. The alterations to the planting schedule (as previously discussed) would be minor and an improvement on the previously approved landscape plan. The revised design would relocate the approved communal open space from Level 12 to Level 15. The approved size and quality of this landscaping would be maintained.

Chapter 6 Water catchments.

Chapter 6 of the Biodiversity and Conservation SEPP 2021 aim to prevent the adverse run-off of stormwater whether it be changed run-off patterns or quality of stormwater run-off. The subject proposal does not change the run-off pattern or the quality of stormwater run-off. The additional apartments are located on top of the approved development and there are no changes to deep soil

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landscaping areas. Any new stormwater systems would be connected to the approved stormwater facilities.

The Development Application satisfies the SEPP Biodiversity and Conservation 2021 requirements.

SEPP Planning Systems 2021

The Development Application is referred to the Sydney North Planning Panel for determination as the Capital Investment Value of the Affordable Housing component is \$13,674,082.00 (exceeding \$5 million) satisfying the Schedule 6 Clause 5 (b) requirements of SEPP Planning Systems 2021.

The Development Application satisfies the SEPP Planning Systems 2021 requirements.

Lane Cove Development Control Plan 2010 – Other Sections

The Housing SEPP requirements take precedence over the Lane Cove DCP 2009 (the “DCP”) and other related plans in the event of any inconsistency, in accordance with Section 8, Chapter 1 of the SEPP (Housing) 2021. The relevant sections of DCP have been addressed in the following **Table 9** and through **referrals** where necessary:

Table 9 - Other Section of the DCP and Referrals		
Referral	DCP	Comment
Development Engineer and Civil Engineer	Part O – Stormwater Management	<p>Satisfactory – The proposal was accompanied by stormwater plans which indicates that the additional apartments would be connected to the existing drainage systems.</p> <p>The appropriate engineering conditions have been recommended, refer to Annexure 1.</p>
Traffic Engineer	Part R – Traffic, Transport and Parking	<p>Satisfactory – The proposal was accompanied by an updated traffic report and basement level plans which detail the additional parking spaces and impacts on traffic. Council’s Traffic Engineer has no concerns with the proposed development.</p> <p>The appropriate traffic conditions have been recommended, refer to Annexure 1.</p>
Waste Management	Part Q – Waste management and Minimisation	<p>Satisfactory – The proposal was accompanied by an updated operational waste management plan. This report confirms that the ground floor waste holding room meets the minimum area requirements.</p> <p>The appropriate waste management conditions have been recommended, refer to Annexure 1.</p>

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Table 9 - Other Section of the DCP and Referrals		
Referral	DCP	Comment
Landscaping	Part J – Landscaping	<p>Satisfactory – The proposal was accompanied by an updated landscape plan as required by Part J - Landscaping.</p> <p>The amended landscaping plan was carried out in accordance with Council's recommended notes at a pre-development application meeting as follows;</p> <ul style="list-style-type: none"> • <i>The top of the basement slab is designed with directional fall to the street.</i> • <i>Appropriate subsoil drainage is incorporated.</i> • <i>Planting areas are to finish at ground level with each planter area providing 40m3 of soil volume specified by a soil scientist with the area utilising a structural root cell system such as Stravault by Citygreen or approved equal.</i> • <i>Permeable paving shall be installed in all ground level courtyards.</i> • <i>The tree species to be planted is to be changed from Tristaniopsis luscious to 100ltr Syncarpia glomulifera to produce greater scale to the planting within the restricted areas provided.</i> <p>The communal roof top area is maintained and relocated from Level 12 to Level 15.</p> <p>The appropriate landscaping conditions have been recommended, refer to Annexure 1.</p>
Tree Preservation	Part J – Landscaping	<p>Satisfactory – The proposal does not include any works which would impact retained or proposed trees.</p> <p>The appropriate tree preservation conditions have been recommended, refer to Annexure 1.</p>

ASSESSMENT - ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

PROVISIONS OF ANY LEP, DCP, SEPP OR REGULATION (Section 4.15(1)(a))

The proposal is permissible and does not raise any issues in regard to the Lane Cove Local Environmental Plan 2009.

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The proposal complies with the Floor Space Ratio development standard. The proposal also complies with the Height development standard.

APPLICABLE REGULATIONS

The Environmental Planning and Assessment Regulation 2021 indicates that the standards for demolition and removal of materials should meet with AS 2601-2001 and therefore any consent would require the application of a relevant condition seeking compliance with this Standard.

4.15 (1) (b) Impacts of development:

The proposal achieves a development which is consistent with the desired future character as informed by the Chapter 2 of the Housing SEPP. The proposed development satisfies all the non-discretionary standards and is consistent with the objectives and principles of Chapter 4 of the Housing SEPP.

The proposed development complies with the solar access provisions of the DCP and the ADG. Visual and acoustic privacy has been achieved through a defensive design and privacy mitigation measures where necessary. Council's traffic engineers have supported the proposed basement plan and have confirmed that parking is acceptable as it complies with the requirements of the Housing SEPP.

Whilst the proposed development would result in minor impacts to the public domain, this primarily relate to the construction process and are reasonable in terms of overshadowing, visual privacy, acoustic privacy, traffic and parking. The proposal presents a development outcome that is consistent with the objectives of the relevant planning controls.

4.15 (1) (c) Suitability of site:

The site suitability has been established through the Housing SEPPs identification as being within an "accessible area", being 800m (300m approximately) walking distance from St Leonards Railway Station. The proposal would appropriately locate affordable housing in proximity to key areas such as Royal North Shore Hospital and the education facilities located in North Sydney. Refer which **Annexure 20** - a social infrastructure study for the St Leonards and Crows Nest area.

The site suitability is also established at the strategic planning stage, being located in the St Leonards South Precinct which has been designed to cater for the needs of a transitioning high-density precinct. The proposed development is also permissible in the zone.

The proposed development would positively contribute to the amenity of the site and surrounding area. The proposed development would not constrain the subject site or neighbouring sites.

4.15 (1) (d) Response to notification:

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Council received 2 submissions in response to the notification period. The concerns have been summarised in **Table 10** below;

- Obstruction of views;
- Discordant streetscape character;
- Decreased solar access;
- Increased construction noise;
- Wind tunnel impacts; and
- Negative precedent

Table 10 – Summary of Submissions and Council's Response	
CONCERNS RAISED IN SUBMISSIONS	COUNCIL RESPONSE
1. Obstruction of views	<p>Satisfactory - An assessment against the view-sharing provisions was undertaken in the previously approved development application. The neighbouring property at 15-25 Marshall Avenue was assessed and it was concluded that the development would not adversely obstruct views to the Sydney CBD skyline.</p> <p>The types of development permissible under the Housing SEPP result in some impacts on views.</p> <p>In this instance, the proposed envelope sees the construction of 4 additional levels, resulting in a 16 and 14 storey residential flat building.</p> <p>When measured from Level 6 (the highest level) of the neighbouring property, the assessment shows that the views to the -</p> <ul style="list-style-type: none"> - Lane Cove River; - Huntleys Point; - Sydney Harbour - North Sydney CBD; and - Sydney CBD. <p>Would remain unchanged by the additional stories afforded by the Housing SEPP uplift.</p> <p>The view corridor that is achieved via the green spine would remain unaltered by increased building height.</p>

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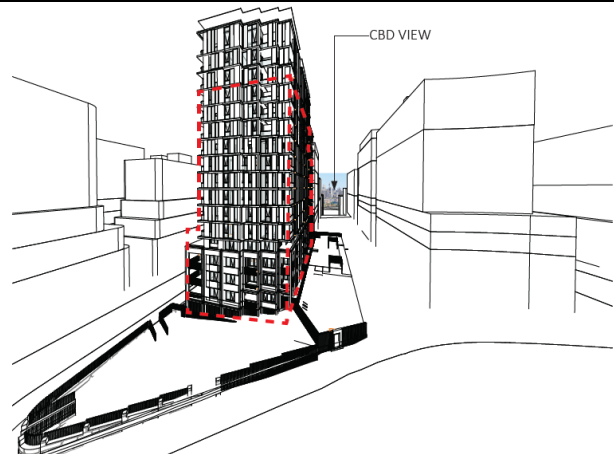


Figure 18 – View Impacts (Source: PTW)

2. Discordance from existing streetscape character

Satisfactory - The addition of 4-levels afforded by the Housing SEPP would not alter the approved designs contribution to the future neighbourhood character.

The St Leonards South Precinct is bounded by Marshall Avenue to the north, Canberra Avenue to the east, Park Road to the west and River Road to the south as shown in **Figure 1**. Key features of the locality within which the precinct is situated include the Pacific Highway, rail/metro to the east, a commercial centre (St Leonards Plaza and St Leonards Square) and Newlands Park and Gore Hill Oval.

The desired future character of the St Leonards South Precinct is for a livable, walkable, connected, safe, Precinct which builds upon the transit and land use opportunities of St Leonards and Metro Stations and commercial centre.

The development was previously referred to the NSROC design review panel for comment on its design and character. The Panel previously provided advice on SEPP 65 and design excellence (Part 7.6 of LCLEP 2009) for development within the St Leonards South Precinct. Support was given to the design as it satisfied the criteria for design excellence.

The previously approved aesthetic qualities such as materiality, colour palette, and façade articulation, would not be adversely altered under the current proposal. The proposal simply seeks to extrapolate the approved

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	<p>design characteristics and apply them to the increased building envelope.</p> <p>Additionally, the building setbacks, open spaces, green-spine, and communal areas would maintain the same areas, distances and features as per the previous approval.</p> <p>Therefore, the proposal would satisfy the objectives specific to the desired future character of St Leonards South.</p>
3. Decrease in solar access to neighbouring properties	<p>Satisfactory - The amended development would provide adequate solar access in accordance with the Apartment Design Guide.</p> <p>As demonstrated in Section 2 of the applicants ADG compliance table, the additional 4-levels would incur minor impacts between the hours of 12pm and 3pm on June 21.</p> <p>The sum of impact would be minor as the additional shadows would fall within areas that area already overshadowed by surrounding developments and the previously approved design.</p>
4. Increase and prolonged construction noises	<p>Satisfactory - Council requires mitigatory measures to reduce acoustic impacts to the neighbouring properties through recommended conditions of consent. The previously recommend conditions would ensure that demolition and construction stages would be carried out in accordance with the relevant Australian standards.</p>
5. Additional wind tunnel impacts	<p>Satisfactory - SLR Consulting Australia Pty Ltd (SLR) was engaged by the applicant to provide a qualitative (expert opinion) study assessing the environmental wind impact of the proposed development at 12 Marshall Avenue, St Leonards.</p> <p>With the incorporation of proposed windbreak mitigation treatments, all amenity locations within the proposed development including ground and all terrace level locations are expected to achieve the target Lawson Comfort Criteria and Melbourne Safety Criterion established for the project.</p> <p>Council concurs with the assessment and is satisfied that the proposed additional levels would not contribute to any further or unreasonable impact on the wind dynamics in the area.</p>

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6. Precedent for future development in the area

Satisfactory - The provision of affordable housing within the high-density residential precinct is a state-wide effort encouraged by the NSW government to improve the quality of housing for all occupants across the economic spectrum.

The proximity of healthcare facilities such as the Royal North Shore and the commercial centre of St Leonards, provides adequate grounds for the affordable housing uplift, and is viewed as an opportunity to improve the variety of housing stock across the Lower North Shore.

Several surrounding areas in the St Leonards region, as well as in the North Sydney LGA, are undergoing transitory stages to incorporate affordable housing to the built environment.

Council refutes that the precedent being set is one of a negative nature, rather, a precedent for development that seeks for the affordability to all economic classes and reduction in state-wide housing shortages.

Contributions

Section 7.11 Contribution

The 7.11 contribution has been calculated with regards to the modification of total occupants within the approved and additional apartments. The amended proposal includes 24 additional apartments that are unaccounted for under the previously established 7.11 contribution. The previous 7.11 contribution calculation is as follows;

Original 7.11 – DA187/2021

Type	Cost per Unit	Number	Total
Studio/1 bedroom	\$20,284.00	29	\$588,236.00
2 bedrooms	\$28,978.00	45	\$1,304,010.00
3 + bedrooms	\$44,917.00	22	\$988,174.00
Total:			\$2,880,420.00

Total credits: 4 x 3-bedroom houses = 4 x \$44,917.00 = (\$179,668.00)

\$2,880,420.00 – \$179,668.00 = **\$2,700,752.00**

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*The total contribution payable to Council under this condition is **\$2,700,752.00** as calculated at the date of this consent, in accordance with St Leonards South Precinct Section 7.11 Development Contributions Plan, March 2022.*

Note: Council has received the 7.11 contribution for the original consent DA187/2021

Additional 7.11 Contribution required

The amended development proposes 29 one-bedroom apartments, 51 two-bedroom apartments, 31 three-bedroom apartments, and 9 four-bedroom apartments. The revised calculations include the difference in total apartments against the updated St Leonards South Contribution Rate 2024/2025 below;

Table 11: Revised Section 7.11 Contributions				
Type	Cost per Unit	Number	Difference	Total
Studio/1 bedroom	\$23,570.52	29	-	-
2 bedrooms	\$33,673.17	51	6	\$202,039.02
3 + bedrooms	\$52,194.69	40	18	\$939,504.42
Difference Payable				= \$1,141,543.44

Conclusion

The matters in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have been satisfied.

The application has satisfied the requirements of Chapter 2 of the Housing SEPP 2021.

The proposal would provide 21 affordable housing apartments which equates to 17.5% of the total GFA in lieu of a 30% bonus to the floor space ratio and a 29.35% bonus to the height development standard.

On balance as the proposed development would be acceptable and it is therefore reported to the Sydney North Planning Panel that the application is recommended for approval subject to the provided conditions.

RECOMMENDATION

That:

(a) The Sydney North Planning Panel determines that it is satisfied:

- (i) The proposed development is in the public interest because it is consistent with the objectives of the R4 zone, the objectives of the standards for maximum building height

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and floor space ratio set out in Clause 4.3(1) and Clause 4.4(1) and the objectives of Chapter 2 Affordable Housing, Division 1 In-fill affordable housing contained in the State Environmental Planning Policy (Housing) 2021.

(b) That pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 the Sydney North Planning Panel, at its meeting of **5 March 2025**, approve Development Application DA146/2024 for;

- The construction of four additional storeys providing a total of 24 additional apartments (120 apartments total) with 21 apartments devoted to affordable housing accommodation; and
- The expansion of the basement parking footprint of levels B4, B3, and B2, to provide an additional 36 parking spaces;

pursuant to the SEPP (Housing) at 12 Marshall Avenue, St Leonards, subject to the conditions contained within **Annexure 1**.

Mark Brisby
Director - Planning and Sustainability
Planning and Sustainability Division

ATTACHMENTS:

There are no supporting documents for this report.