

***10 February 2026***  
***Neutral Precinct***

## **Assessment & Determination**

**Low- & mid-rise Development Applications**

## ***Environmental Planning & Assessment Act***

Section 4.15(1) sets out matters to be taken into consideration by the consent authority:

- a) any environmental planning instrument, proposed instrument & development control plan;
- b) likely impacts (environmental, social & economic);
- c) suitability of the site;
- d) submissions made;
- e) the public interest.

## ***State Environmental Planning Policy (Housing)***

Chapter 2 – Affordable Housing (height bonus)

Chapter 4 – Design of residential apartment buildings (incl. Apartment Design Guide or 'ADG')

Chapter 6 – Low- and mid-rise housing ('LMR')

### **Consent Authority:**

< \$30 million: North Sydney Local Planning Panel  
(convened by Council)

> \$30 million: Sydney North Planning Panel  
(convened by Department of Planning)

## Consideration of LMR DAs

State Government objective is to increase density & therefore the Housing SEPP allows increased maximum building height.

There are non-discretionary standards which if complied with must be accepted.

BUT design is required to achieve compatibility with the desirable elements of the character of the local area (or desired future character) and must be assessed for design quality.

Each DA is considered on its merits.

# Recent LMR Development Applications

## *Approvals*

22-24 Carabella St, Kirribilli (DA 121/2025)

53-55 Yeo St, Neutral Bay (DA 10/2025)

## *Refusals*

27-37 Bydown St, Neutral Bay (DA 310/2025)

7-9 Selwyn St, Wollstonecraft (DA 245/2025)

## *Not yet determined*

16 Watson Street, Neutral Bay (DA 456/2025)

54-64 Barry Street, Neutral Bay (DA 10/2026)

57-61 Reynolds St, Cremorne (DA 464/2025)

## 22-24 Carabella St, Kirribilli



22 Carabella Street (existing) - 6 apartments

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## Photomontage - original DA proposal



R4 height 12m, LMR 17.5m, proposed 14.8m  
19 new apartments replacing 12 affordable units

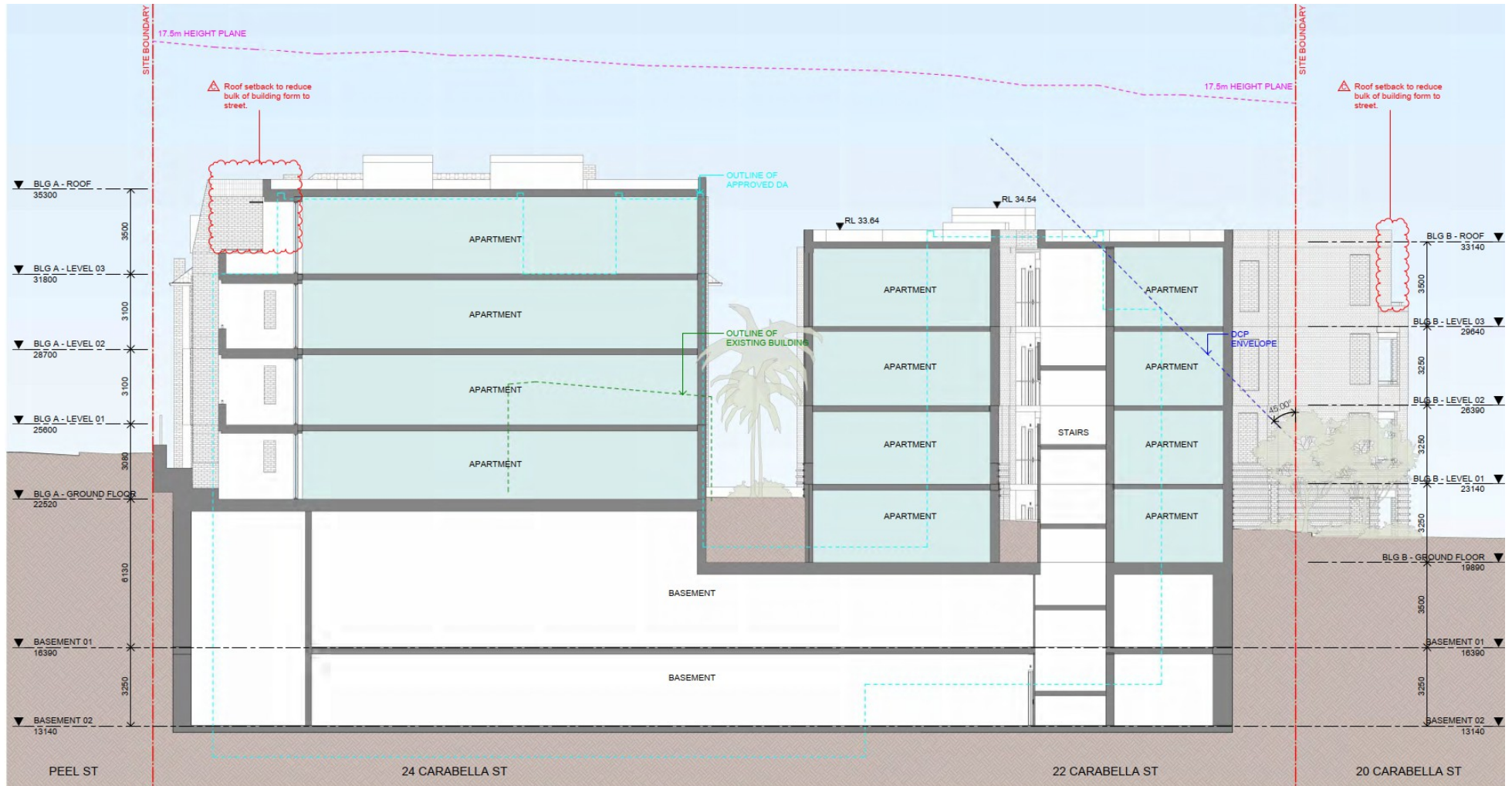
## Revised proposal



Dark brick, top storey setback to 22 Carabella St



# Section showing DCP side setback height plane



No significant amenity impacts

## 27-37 Bydown St, Neutral Bay



8 storeys, 25 apartments including 6 affordable apartments, 44 car spaces, site area 1,211 sqm

## LMR Height & Affordable Housing Bonus

LMR: 22m if site within 400m of town centre.

Plus 30% bonus for 10% 'affordable housing'

Household income of renters needs to be:

'very low': 50% of median, currently \$61,600 pa

'low': 50-80% of median, \$98,600 pa

'moderate': 80-120% of median, \$148,000 pa.

Rent payable: 20% less than market rent. Should be no more than 30% of household income, except developer allowed to recover development costs such as interest.

## **27-37 Bydown St, Neutral Bay**

Key reasons for refusal per planner's report:

Interim Heritage Order

Excessive height, bulk and scale

Does not provide a sympathetic response to the existing or desired future character or context of the area (noting it will set the LMR precedent).

Inadequate setback from Bydown Street.

Inadequate landscaping.

Impacts on amenity of adjacent properties.

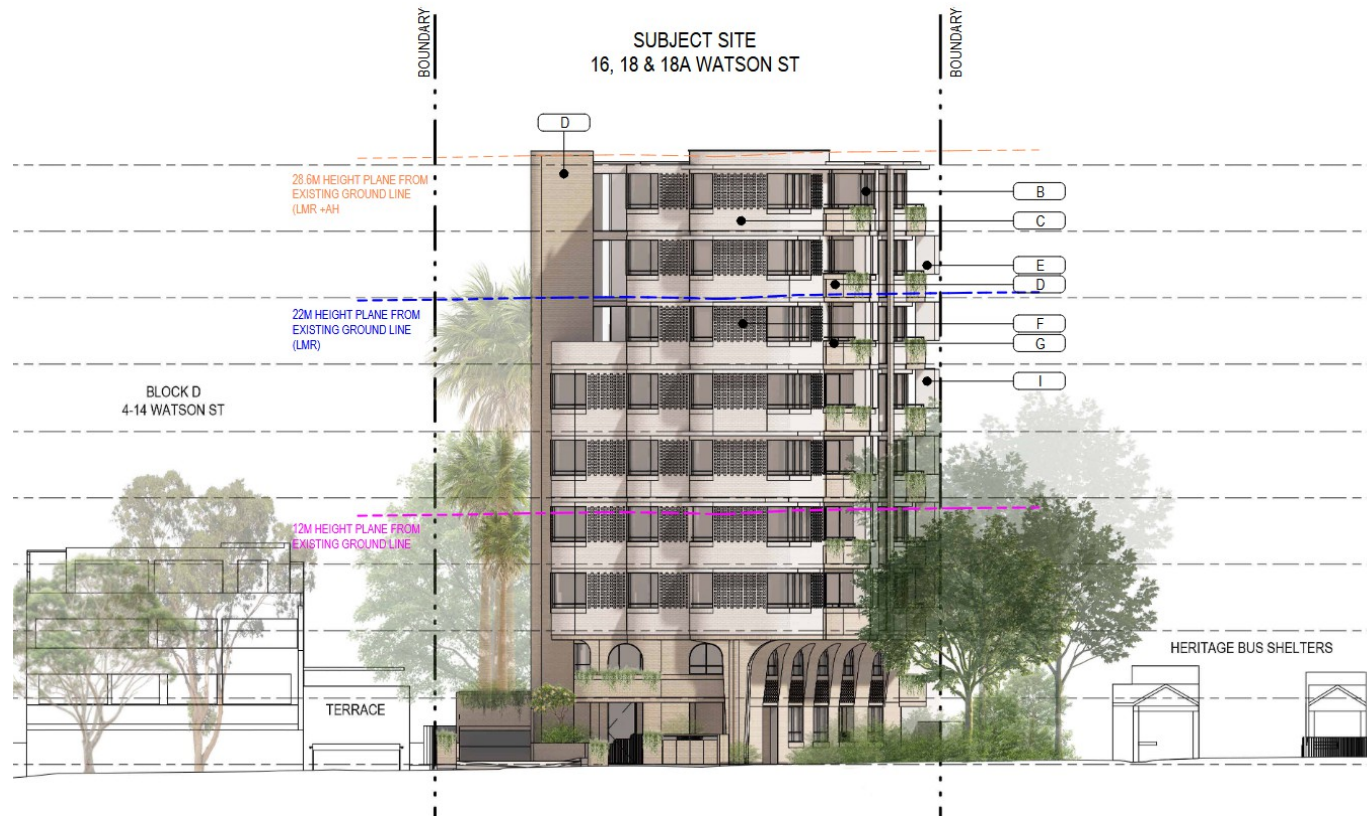
## 27-37 Bydown St, Neutral Bay

However, the Panel said:

“.. the development proposal is generally compliant with the low to mid-rise housing planning controls and development standards that have been introduced by the NSW government.”

... some reasons in the officer's report relate to technical issues which “could well be resolved through design amendments”.

# 16 Watson Street, Neutral Bay



9 storeys, 14 apartments including 3 affordable apartments, 24 car spaces, site area 813 sqm

## Key concerns for neighbours

- height, bulk and scale
- incompatibility of the proposed development with the existing and likely future development in the area
- material impact on solar access
- material loss of visual and acoustic privacy

## Height, Bulk and Scale

Housing SEPP allows:

- FSR of 2.2:1 & height of 22m
- Bonus FSR and height of up to 30% for inclusion of affordable housing (maximum FSR of 2.86:1 and maximum height of 28.6m)

However:

- No automatic entitlement to extend to the maximum controls
- Achieving the maximum is dependent on a full merit assessment.

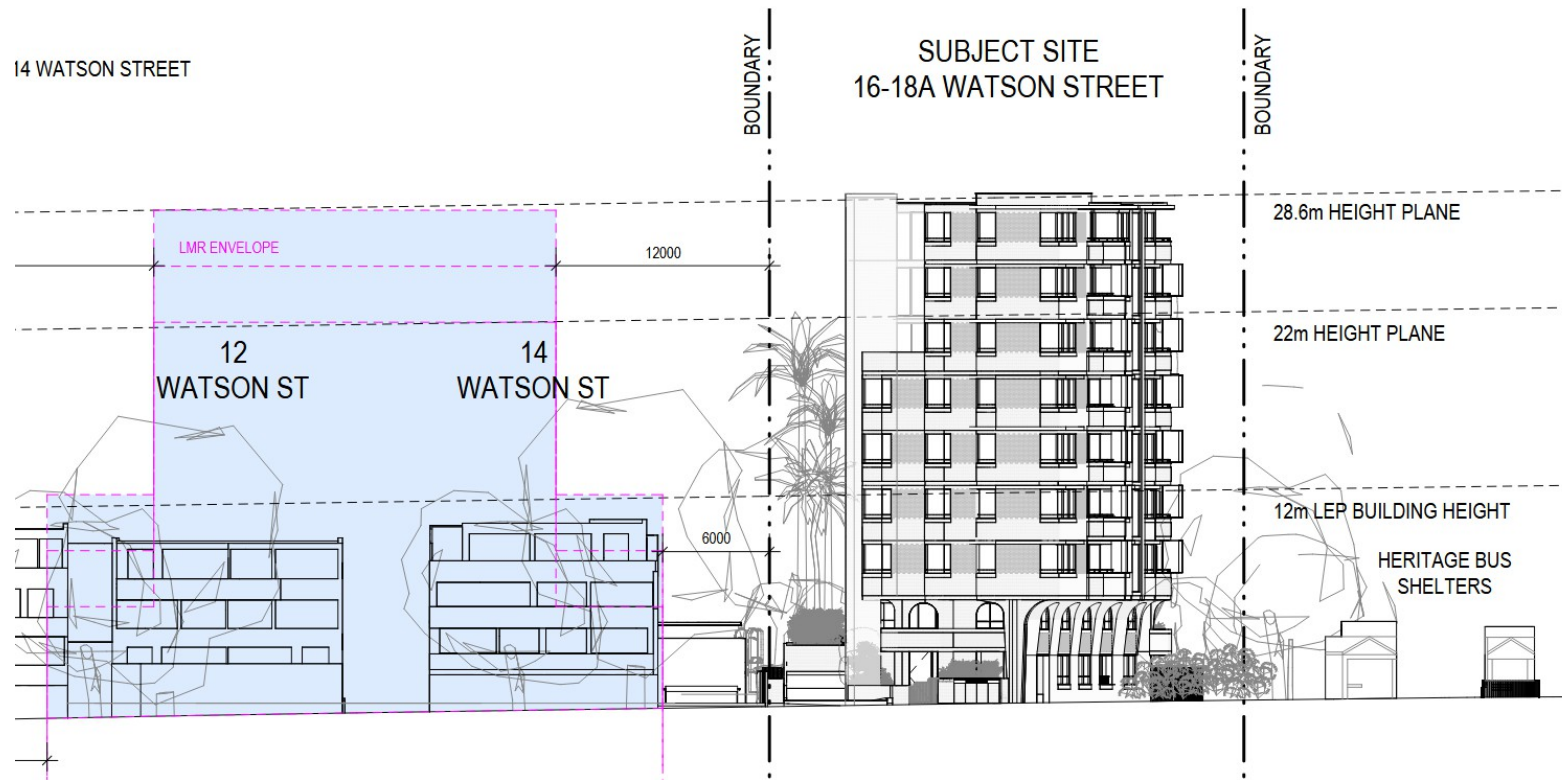
## Boundary setbacks

The Housing SEPP requires the consent authority to have regard for the provisions of the Apartment Design Guide (ADG).

Building height	Habitable rooms	Non-habitable rooms
Up to 12m (4 storeys)	6m	3m
Up to 25m (6-8 storeys)	9m	4.5m
Over 25m (9+ storeys)	12m	6m

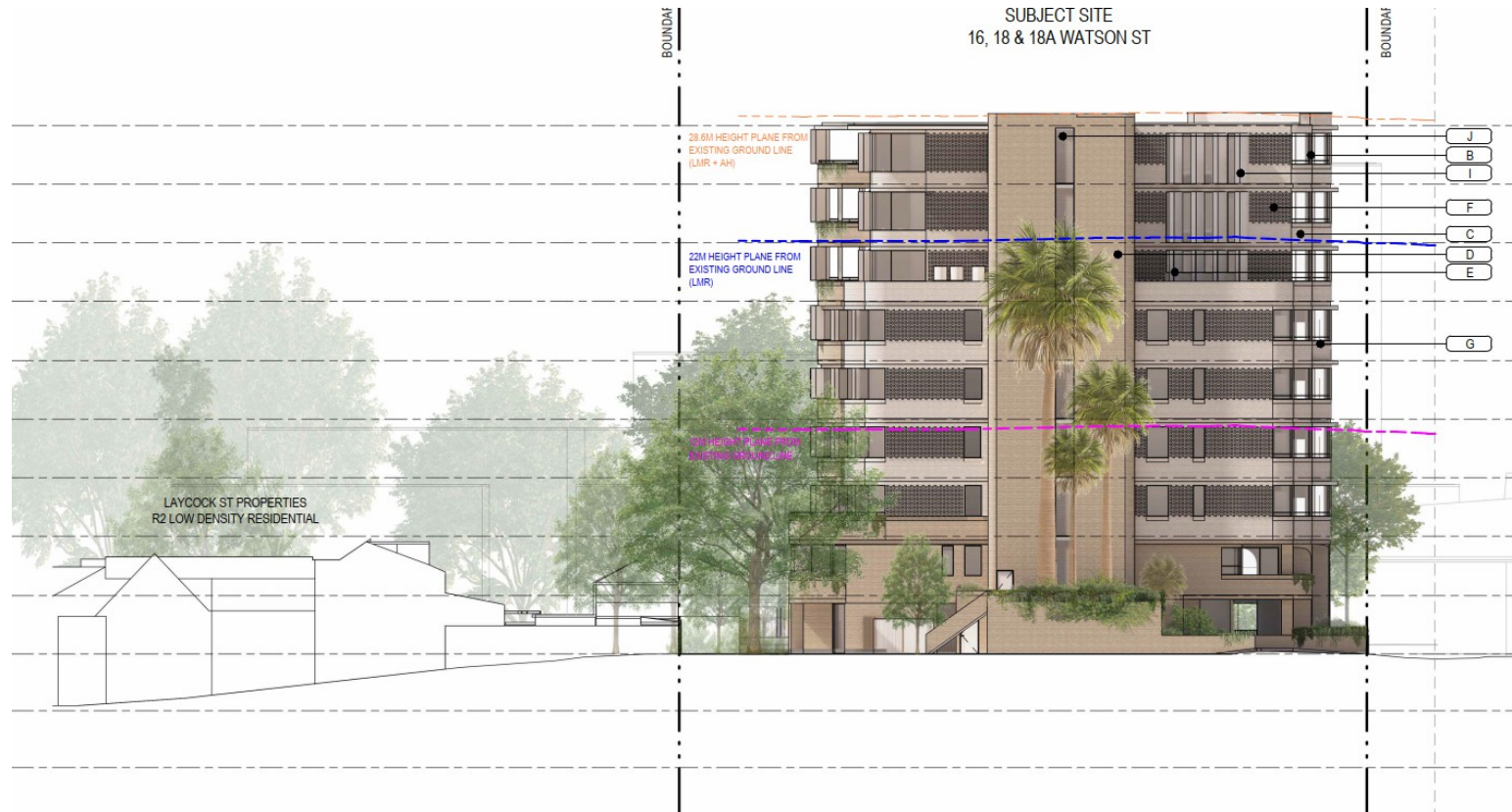
Note: The above should be increased by 3m when adjacent to a lower density zone (eg R2). Building separation distances are double the above.

# Boundary setbacks – Watson St elevation



Blue shading indicates a development with setbacks roughly ADG compliant. Corner windows non-compliant. Should setback further at level 5.

# Boundary setback from rear



Substantial non-compliance affects privacy of internal & external areas of Laycock St properties. Should be 9m for first 4 storeys, 12m for next 4.

## Maximum gross floor area calculation

Gross floor area excludes “car parking to meet any requirements of the consent authority (including access to that car parking)”.



SEPP car space requirements	Calculated for DA's 14 apmts
0.5 per 2 bed affordable apmt	$2 \times 0.5 = 1$
1 per 3 bed affordable apmt	$1 \times 1 = 1$
1 per 2 bed apartment	nil
1.5 per 3 bed apartment	$11 \times 1.5 = 16.5$ , say 17
	Total of 19 required spaces

DA has 24 spaces - a surplus of 5 spaces. This floor area has not been included in the GFA.

## Overshadowing – ADG requirements:

“Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter ..”

(Note: ADG prevails over DCP for solar access for residential flat buildings. DCP requires 3 hours of sunlight, except apartments.)

<u>WINTER SOLSTICE - SUN'S EYE VIEW LEGEND</u>	<u>SOLAR ACCESS: 9AM-3PM</u>
 INDICATES BUILDING GLAZING.	<u>EXISTING:</u> 62.5% (25/40) - APARTMENTS IN BLOCK 4-14 WATSON ST RECEIVE 2HRS SOLAR ACCESS
 INDICATES GLAZING TO LIVING ROOM	<u>PROPOSED</u> 52.5% (21/40) - APARTMENTS IN BLOCK 4-14 WATSON ST RECEIVE 2HRS SOLAR ACCESS

## Landscaping

2-3m setback from Watson St is inadequate for appropriate landscaping.

Basement excavation is larger than building footprint. Landscaping above basement areas will not include plants of substantial size or canopy.

Lack of landscaped buffer between development and 4-14 Watson St.

## 54-64 Barry Street, Neutral Bay



8+ storeys, 45 apartments including 8 affordable apartments, 62 car spaces, site area 1,659 sqm

## Key concerns for neighbours

- height, bulk and scale
- incompatibility of the proposed development with the existing and likely future development in the area
- material impact on solar access
- material loss of visual and acoustic privacy

## Boundary setbacks

### ADG requirements:

Building height	Habitable rooms	Non-habitable rooms
Up to 12m (4 storeys)	6m	3m
Up to 25m (6-8 storeys)	9m	4.5m
Over 25m (9+ storeys)	12m	6m

Note: The above should be increased by 3m when adjacent to a lower density zone (eg R2). Building separation distances are required to be double the above.

# Side setbacks – Barry St elevation



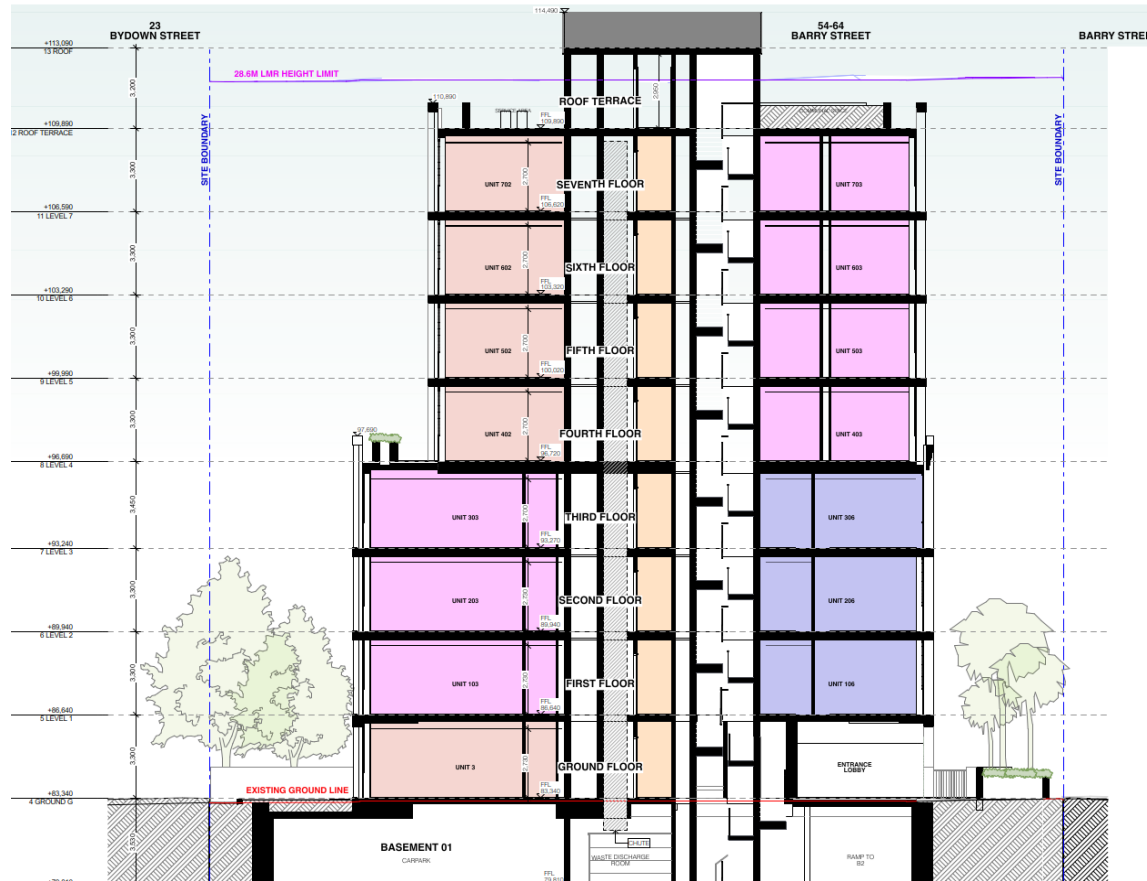
First 4 storeys: < 3m instead of 6m  
5-8 storeys: < 6m instead of 9m

# Side setbacks – Barry St elevation



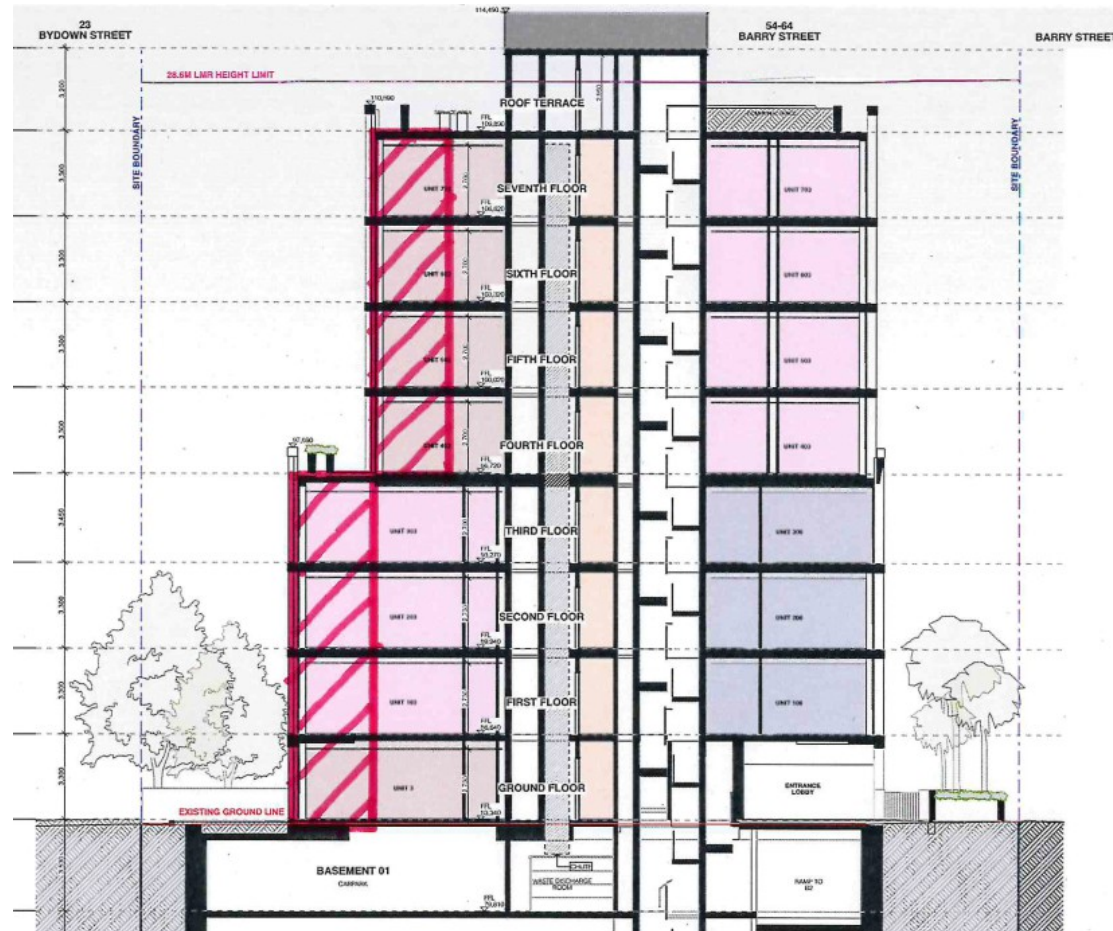
Side setback non-compliances

# Rear setback – section looking north



First 4 storeys: < 6m instead of 9m  
5-8 storeys: < 9m instead of 12m

# Rear setback – section looking north



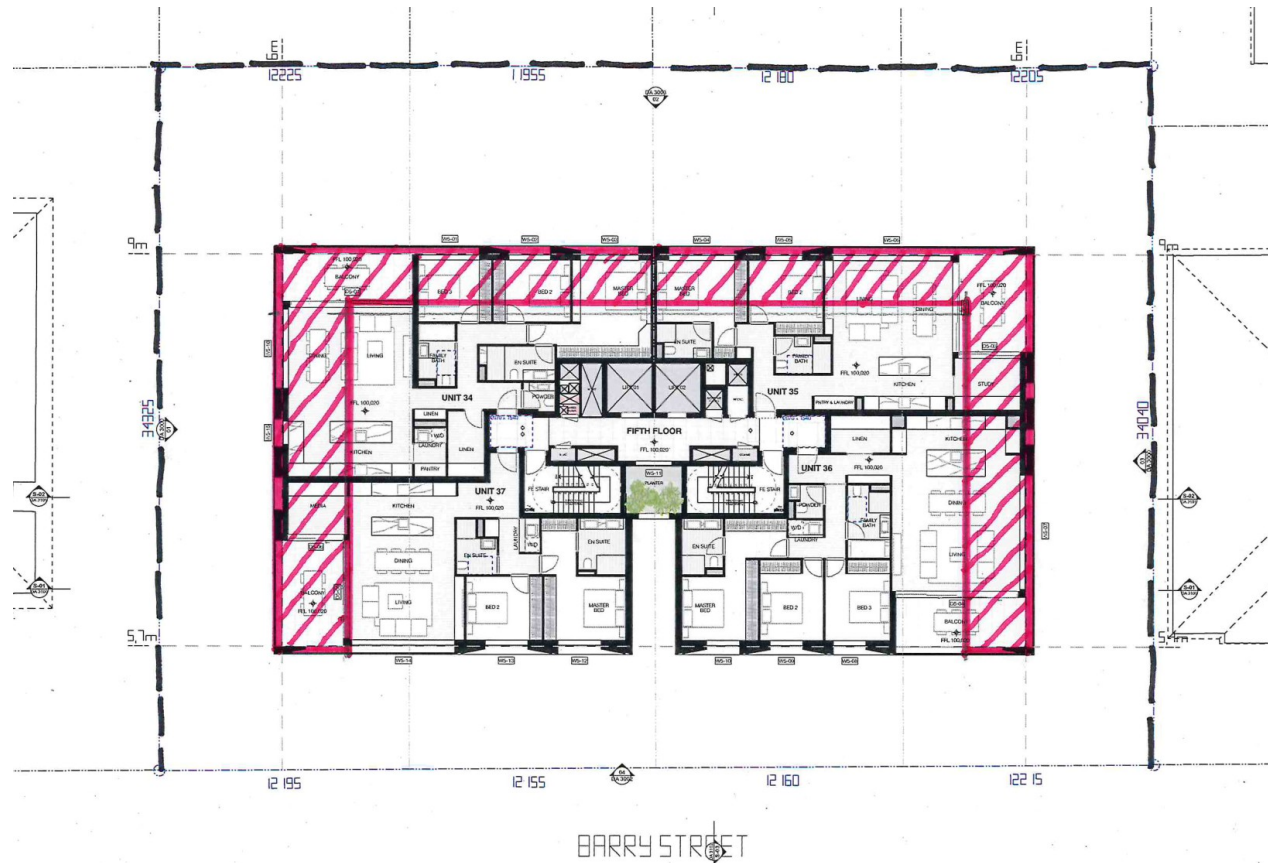
Rear setback non-compliances

## Side & rear setbacks – first 4 storeys



Complying setbacks would mean less visually intrusive, better privacy, room for landscaping

## Side & rear setbacks – 5-8 storeys



Complying setbacks not so overbearing, better privacy, less overshadowing

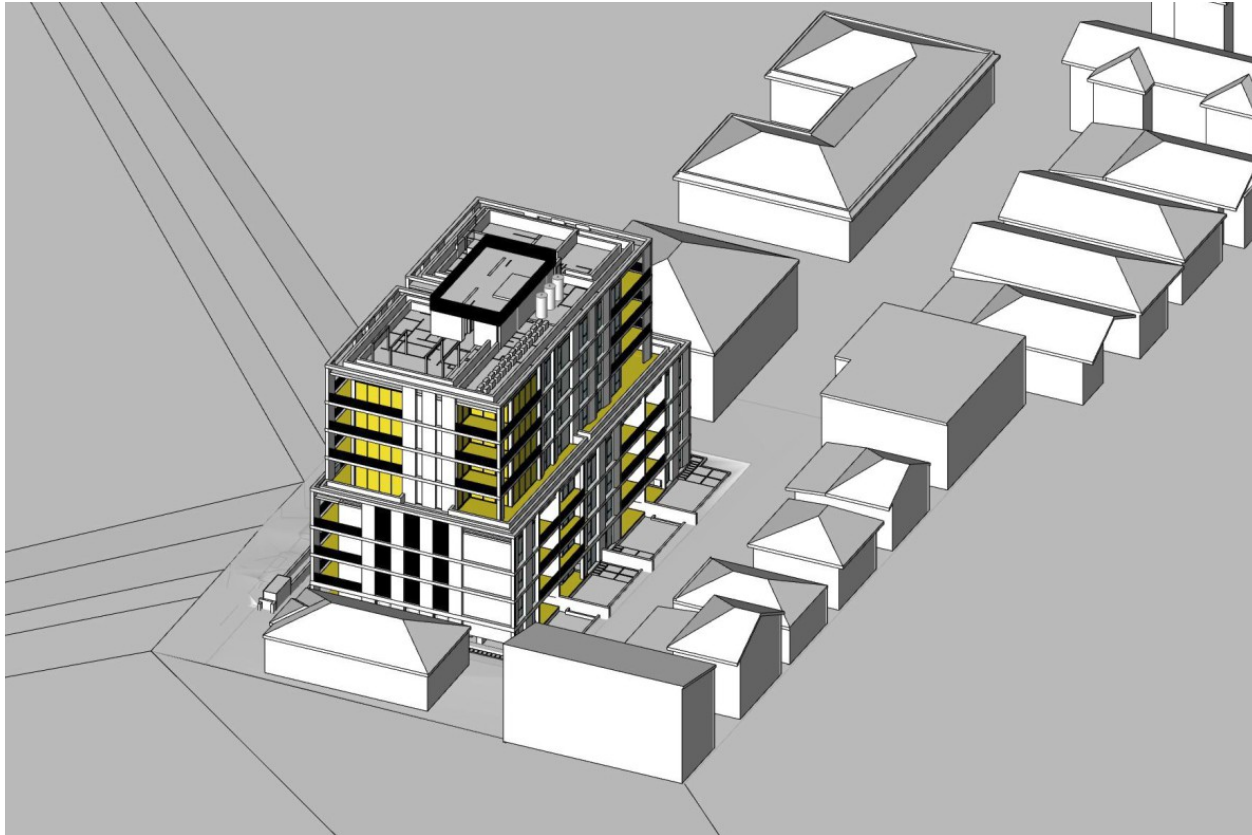
## Maximum gross floor area calculation

Gross floor area excludes “car parking to meet any requirements of the consent authority (including access to that car parking)”.

SEPP car space requirements	Calculated for DA's 45 apmts
0.5 per 2 bed affordable apmt	$8 \times 0.5 = 4$
0.5 per 1 bed apartment	$6 \times 0.5 = 3$
1 per 2 bed apartment	$16 \times 1 = 16$
1.5 per 3 bed apartment	$15 \times 1.5 = 22.5$ , say 23
	Total of 46 required spaces

DA has 56 spaces - a surplus of 10 spaces. This floor area has not been included in the GFA.

# Overshadowing



Substantial overshadowing of 40B Barry St from 9am to 2pm, but said to be affecting bedrooms and bathrooms not living areas.

## Concluding remarks

Developers are not automatically entitled to the maximum height and floor area.

Each DA will be assessed on its merits.

Submissions must be considered. (Note: More than 10 individual submissions means submitters will be entitled to address the panel.)

Developers are tending to go straight to the Land & Environment Court as they believe they will have a good chance of approval.