

**Report to General Manager**

Attachments:

1. Council Report – 25 November 2019
2. Minutes – Local Planning Panel 5 February 2020
3. Reference Design Extracts

SUBJECT: Planning Proposal No. 6/2019 – 27-57 Falcon Street, Crows Nest – Interim Assessment Report

AUTHOR: Neal McCarry, Team Leader Strategic Planning

ENDORSED BY: Joseph Hill, Director City Strategy

EXECUTIVE SUMMARY:

Council received a Planning Proposal for the site at 27-57 Falcon Street, Crows Nest. The Planning Proposal seeks to make the following amendments to the North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- Rezone the site from B4 – Mixed Use to R4 – High Density Residential.
- Increase the maximum building height from 10m to part 24.5m and part 14.5m.
- Apply a maximum floor space ratio control of 1.85:1.
- Remove the current non-residential floor space requirement applying to the site.
- Retain ‘retail premises’ as a permitted land use on the site.

On 25 November 2019, Council considered an Interim Assessment Report on the Planning Proposal. This report is provided at Attachment 1. At this meeting Council resolved:

1. *THAT Council note the Planning Proposal.*
2. *THAT Council refer the Planning Proposal application to the North Sydney Local Planning Panel (NSLPP) for advice on the following matters: a. Rezoning of the site from B4 Mixed Use to R4 High Density Residential. b. Increasing the maximum building height to Part 24.5 metres and Part 14.5 metres. c. An indicative FSR.*
3. *THAT the advice from the NSLPP be provided to the first Council meeting in 2020.*
4. *THAT Council write to the Minister and the Greater Sydney Commission once again seeking indicative time frames in relation to the making of the Draft 2036 Plan for Crows Nest and St Leonards.*
5. *THAT Council seek assurances from Ethos Urban to communicate factually and extensively with Hayberry Precinct and its members for all issues pertaining to Planning Proposal No. 6/19.*

On 5 February 2020, the Local Planning Panel considered a report on this planning proposal and supported its progression in principle. The minutes of this meeting are provided at Attachment 2.

This report provides the outcomes of the referral to the Local Planning Panel and outlines the issues and steps required before the matter can be further reported to Council for a potential request to issue a Gateway Determination.

FINANCIAL IMPLICATIONS:

The Planning Proposal is not accompanied by any formal letter of offer to enter into Voluntary Planning Agreement. Should the proposal receive a level of in-principle support from Council, negotiations may commence with the proponent to determine an appropriate level of public benefit to accompany any development uplift.

RECOMMENDATION:

1. THAT following advice from the North Sydney Local Planning Panel:

- a.** Council confirm its in-principle support for the proposed change in zoning to R4 noting the desire for some ground level active use to be provided on the north-western corner of the site.
- b.** Council note the design, character and amenity concerns outlined in the report contained at Attachment No 1 and that these concerns and principles form the basis of development of a revised reference design that will inform the development of detailed planning controls for the site.
- c.** Council support, in-principle, the development of a revised reference design that may accommodate a maximum building height in the order of 5-6 storeys provided a satisfactory outcome is able to be achieved with respect to site layout, heritage, transition to lower scale development to the south and east, overshadowing, provision for landscaped area and the like.

2. THAT upon satisfaction of concerns raised in the report contained at Attachment No 1, a site-specific Development Control Plan be developed to help guide any future development application on the site.

3. THAT the applicant be invited to provide an offer of public benefit for potential inclusion in a Voluntary Planning Agreement.

4. THAT upon satisfaction of the matters contained in Items 1, 2 & 3 the matter be reported back to Council.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

- Direction: 1. Our Living Environment
Outcome: 1.4 Public open space and recreation facilities and services meet community needs
- Direction: 2. Our Built Infrastructure
Outcome: 2.2 Vibrant centres, public domain, villages and streetscapes
Outcome: 2.3 Sustainable transport is encouraged
- Direction: 3. Our Future Planning
Outcome: 3.1 Prosperous and vibrant economy
- Direction: 4. Our Social Vitality
Outcome: 4.1 North Sydney is connected, inclusive, healthy and safe

BACKGROUND

On 25 November 2019, Council considered an Interim Assessment Report on the Planning Proposal. The reasons for the presentation of an Interim Assessment report are provided in the report provided at Attachment 1. At this meeting Council resolved:

1. *THAT Council note the Planning Proposal.*
2. *THAT Council refer the Planning Proposal application to the North Sydney Local Planning Panel (NSLPP) for advice on the following matters: a. Rezoning of the site from B4 Mixed Use to R4 High Density Residential. b. Increasing the maximum building height to Part 24.5 metres and Part 14.5 metres. c. An indicative FSR.*
3. *THAT the advice from the NSLPP be provided to the first Council meeting in 2020.*
4. *THAT Council write to the Minister and the Greater Sydney Commission once again seeking indicative time frames in relation to the making of the Draft 2036 Plan for Crows Nest and St Leonards.*
5. *THAT Council seek assurances from Ethos Urban to communicate factually and extensively with Hayberry Precinct and its members for all issues pertaining to Planning Proposal No. 6/19.*

CONSULTATION REQUIREMENTS

Whilst the proposal is yet to be formally exhibited, three submissions have been received regarding the Planning proposal. The concerns raised included; increased demand on services, lack of justification for heights and density, increased traffic impacts on Hayberry Lane, excessive height, and inconsistency with State Government-led strategic planning for the St Leonards Crows Nest. Whilst these matters were broadly put to the Local Planning Panel, they will be addressed in detail in any future Council report, should the Planning Proposal progress to a point where it is potentially recommended to progress to a Gateway determination.

SUSTAINABILITY STATEMENT

The sustainability implications did not warrant a detailed assessment at this stage of the planning proposal process.

DETAIL

Local Planning Panel

On 5 February 2020, the Local Planning Panel considered a report on this planning proposal. The minutes of this meeting are provided at Attachment 2. The advice provided by the panel includes the following:

The Council Officer's report on the Planning Proposal is endorsed and the Panel recommends to Council, subject to further examination and resolution of certain issues, that it may proceed to a Gateway Determination. The site clearly has strategic merit to be rezoned to R4 from B4. This presents the opportunity to provide an appropriate domestic scale of development to the Hayberry Conservation Area while orienting the bulk towards the north-west. At the same time further opportunities for deep soil planting need to be explored. Given its context the Panel agrees this site is more appropriate for residential rather than a mixed use development and the inherent flow-on effects where access to the site is problematic for a large commercial component. However, given the objective of employment growth opportunities, this requires further analysis.

The Panel agrees that further investigation including: overshadowing; height and bulk distribution; laneway treatment and activation; vehicular access and parking; Falcon Street frontage and setback; and areas of deep soil planting on the site needs to be the subject of a DCP or concept plan to be exhibited concurrently with the Draft LEP. This is required to demonstrate the site-specific merits of the rezoning and to assist in the community consultation.

Council Officer's Response

The commentary and advice provided by the panel is generally consistent with the concerns raised in Council officer's assessment report. The comments relating to the development of a site specific Development Control have been incorporated into the recommendation of this report.

Next Steps

Following receipt of advice from the Local Planning Panel, the applicant will be required to amend the proposed reference design to satisfactorily address the issues raised by Council officers (as detailed in Attachment 1), prepare a site specific Development Control Plan (DCP) and consider a public benefit offer to be delivered via Voluntary Planning Agreement (VPA). The inclusion of recommendations on each of the key issues identified should form the basis of any further discussions with the applicant. This approach will allow the formulation of a better informed and clearer framework to guide the development of an indicative reference design. Upon development of this, key controls including maximum FSR and Height should be able to

be determined and would be further supported by a site specific Development Control Plan to guide any future re-development of the site.

Provided these matters are satisfactorily addressed the Planning Proposal can be reported back to Council for potential endorsement for the purposes of seeking a Gateway Determination. At this point it is not considered necessary to refer the Planning Proposal back to the Local Planning Panel prior to this occurring.

In respect to the item No 4 of Council's resolution of 25 November 2019, a letter has been sent to the Department of Planning and Environment and Greater Sydney Commission seeking an update on the progress of the St Leonards Crows Nest 2036 plan. At the date of finalization of this report, a response had not been received.

In respect to item No 5 of Council's resolution of 25 November 2019, it is understood that the applicant has organised an information session to be held on 12 February 2020 and has been in discussion with residents in Hayberry Lane.

Conclusion and Way Forward

The attached report provides an interim assessment of the recent planning proposal for this site. Direction is sought on several key strategic planning issues as detailed in this report. Several concerns are also outlined with respect to character and amenity impacts arising from the height, scale and layout of the proposed built form. Whilst the reference design provided does not constitute a formal development application, it should provide a reliable '*proof of concept*' to justify and support the planning controls being sought.

Given the nature of concerns raised, it is recommended that an amended reference design be developed before progressing the proposal any further including reaching any agreement on any maximum Floor Space Ratio and Building height to apply to the site. The development of a site specific DCP will provide further guidance and control of any future re-development of the site.

Council will be presented with a further report before any decision is made as to whether to seek a Gateway Determination for this site.

**Report to General Manager**

Attachments:
1. Reference Design Extracts

SUBJECT: Planning Proposal No. 6/2019 - 27-57 Falcon Street Crows Nest - Interim Assessment Report

AUTHOR: Neal McCarry, Team Leader Strategic Planning

ENDORSED BY: Joseph Hill, Director City Strategy

EXECUTIVE SUMMARY:

Council received a Planning Proposal for the site at 27-57 Falcon Street, Crows Nest. The Planning Proposal seeks to make the following amendments to the North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- Rezone the site from B4 – Mixed Use to R4 – High Density Residential;
- Increase the maximum building height from 10m to part 24.5m and part 14.5m;
- Apply a maximum floor space ratio control of 1.85:1;
- Remove the current non-residential floor space requirement applying to the site; and
- Retain ‘retail premises’ as a permitted land use on the site.

Due to the uncertain status of the wider precinct planning for this area, the complex site attributes and considerations as well as the extended history of this site, an interim assessment report has been prepared to seek Council’s direction on the following key issues;

- land use (i.e. level of non-residential floorspace);
- Council’s willingness to progress a site specific Planning Proposal in light of the direction included in the State Governments draft St Leonards Crows Nest 2036 Plan;
- Council’s moratorium on residential planning proposals; and
- height and scale as well as principles on design, heritage, transition, overshadowing, site layout and the like.

This approach will allow the formulation of a better informed and clearer framework to guide the development of an indicative reference design. Upon development of this, key controls including maximum FSR and Height should be able to be determined. In order to ensure an appropriate built form outcome on the site, this could be further supported by the development of a site specific development control plan.

This report is also prompted due to the significant length of time before the next available Council meeting (24 February 2020). In the event that a re-zoning review were to be lodged, the review could potentially take place without a formally resolved Council position. As such, it is prudent that a Council resolution be sought at this time.

Report of Neal McCarry – Team Leader Strategic Planning
Re: Planning Proposal No. 6/2019 - 27-57 Falcon Street, Crows Nest - Interim Assessment
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FINANCIAL IMPLICATIONS:

The Planning Proposal is not accompanied by any formal letter of offer to enter into Voluntary Planning Agreement. Should the proposal receive a level of in-principle support from Council, negotiations may commence with the proponent to determine an appropriate level of public benefit to accompany any development uplift.

RECOMMENDATION:

- 1. THAT** Council support, in-principle, the proposed change in zoning to R4 High Density Residential, noting the desire for some ground level active use to be provided on the north-western corner of the site.
 - 2. THAT** Council notes the design, character and amenity concerns outlined in the report with respect to the reference design provided with the Planning Proposal application and that these concerns and principles form the basis of development of a revised reference design that will inform the development of detailed planning controls for the site.
 - 3. THAT** Council support, in-principle, the development of a revised reference design that may accommodate a maximum building height in the order of 5-6 storeys provided a satisfactory outcome is able to be achieved with respect to design, heritage, transition to lower scale development to the south and east, overshadowing, site layout, provision for landscaped area and the like.
 - 4. THAT** upon satisfaction of concerns raised above, the proposal be referred to the Local Planning Panel for advice prior to further consideration by Council.
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LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

Direction: 1. Our Living Environment

Outcome: 1.4 Public open space and recreation facilities and services meet community needs

Direction: 2. Our Built Infrastructure

Outcome: 2.2 Vibrant centres, public domain, villages and streetscapes

2.3 Sustainable transport is encouraged

Direction: 3. Our Future Planning

Outcome: 3.1 Prosperous and vibrant economy

Direction: 4. Our Social Vitality

Outcome: 4.1 North Sydney is connected, inclusive, healthy and safe

Direction: 5. Our Civic Leadership

Outcome: 5.1 Council leads the strategic direction of North Sydney

5.2 Council is well governed and customer focused

BACKGROUND

Strategic Planning St Leonards Crows Nest

The St Leonards/Crows Nest Planning Studies Precincts 1, 2 & 3 were led by Council and were initiated as a direct response to manage the high level of development interest near St Leonards Station, protect jobs and deliver much needed public domain and services throughout the study area. The most recent of which was adopted by Council in May 2015 following significant community consultation.

In early 2016, Council commenced early investigation work for ‘precinct 4 – Crows Nest’ which would have included the subject site. This work halted when in July 2016, the Minister for Planning announced the strategic planning investigation of the St Leonards and Crows Nest Station Precinct.

On 1 June 2017, the DPIE announced the investigation area as a “Planned Precinct”.

On 15 October 2018, the DPIE released the SLCN Draft Plan which was placed on public exhibition until 8 February 2019. The exhibition material included:

- St Leonards & Crows Nest Draft 2036 Plan;
 - St Leonards & Crows Nest Draft Green Plan;
 - St Leonards & Crows Nest Draft Local Character Statement;
 - Draft Special Infrastructure Contribution; and
 - Draft proposed rezoning for the Crows Nest Metro station site.
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The package provided a draft strategic planning framework to guide future development in the area and infrastructure delivery over the next 20 years.

During the exhibition period, approximately 1000 submissions were received. Since that time, the State Government has been considering the issues raised as well as re-examining the development options of the Crows Nest Metro Site.

More recently on 2 November 2019, the Minister for Planning and Public Spaces announced changes to the way some 50 priority precincts will be progressed across the Sydney Metropolitan Area. Billed as a “new approach”, the aim is to refocus the State’s efforts on 22 of those precincts, play a coordinating role in others and allow councils to lead the rezoning process for the remaining precincts.

The announcement suggests the NSW Government aims to work collaboratively with each council, which are at varying stages in the State-led process, to resolve issues and fast-track the delivery of these schemes. For North Sydney Council, the announcement appears to represent no change.

Site Specific Background

The site the subject of this planning proposal is known as 27-57 Falcon Street, Crows Nest (Refer Figure 1 below). The site is 4325m² in area and is located on the southern side of Falcon Street on the corner of Alexander Lane and has a rear boundary to Hayberry Lane. The site is identified in the location plan overleaf.

The site has a fall of some 6m from west to east and is occupied by 2-3 storey commercial buildings at No’s 43-57 Falcon Street with the remainder of the site being vacant. The Holterman Estate Conservation Area is located to the south of the site.



Figure 1 - Site location plan – source Ethos Urban Planning Proposal

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Under the SLCN Draft Plan, the application site is identified as ‘no change’ to the current planning controls. With the exception of the nearby ‘5 ways - triangle’ site (i.e the parcel of land bound by Pacific Hwy, Falcon St and Alexander Street) which is identified as a significant site, the area surrounding the application site was also identified as not being subject to change.

Since the demolition and remediation of an old service station on the western portion of the site, there has been a number of changes in ownership and different approaches to Council over the last decade.

In 2009, a site compatibility certificate for an aged care facility was issued by the then Department of Planning for an aged care facility. This subsequently lapsed and no development was pursued.

In July 2015, Council considered a Planning Proposal for the site. At this meeting, Council resolved to reject the Planning Proposal and associated draft Voluntary Planning Agreement. It also resolved to invite a revised Planning Proposal which addressed Council’s concerns as well as a revised VPA. The then applicant did not proceed with a revised scheme nor was any agreement reached on the associated VPA offer. It is noted, however, that the assessment report undertaken for the proposal included in-principle support for; a change in zoning to R4, the application of a maximum FSR control of 1.9:1, an increase in building heights up to 19m and 16m, removal of the (0.5:1) non-residential floor space requirement and retaining retail premises as a permitted land use on the site. The need was also identified to amend the NSDCP to provide for setback and building separation controls.

As an amended scheme was never progressed to the satisfaction of Council, it can not be assumed that an FSR of 1.9:1 could have been satisfactorily provided for on the site as the application of the then recommended setback controls and Hayberry Lane building heights would likely have considerably reduced the amount of Floorspace able to be achieved on the site.

After another change in ownership, in May and June 2019, pre-lodgement discussions were held with Council officers. Written advice was provided on two occasions outlining key issues and matters for consideration.

On 16 August 2019, the current planning proposal was submitted to Council. A preliminary assessment has been undertaken and for the reasons outlined previously, an interim assessment report has been prepared to seek Council’s direction on a number of key planning issues.

CONSULTATION REQUIREMENTS

Should the Planning Proposal progress, community engagement will be undertaken in accordance with Council’s Community Engagement Protocol and any Gateway Determination issued by the Department of Planning and Environment.

SUSTAINABILITY STATEMENT

The following table provides a summary of the key sustainability implications:

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QBL Pillar	Implications
Environment	<ul style="list-style-type: none"> • New green spaces in built up areas reduce heat island effects and reduce the need for artificial cooling. • Open space and greening of public domain potentially provides for ecological processes and habitat. • If implemented, the concept proposal has the ability to increase traffic congestion through the provision of increased on-site car parking.
Social	<ul style="list-style-type: none"> • Improved street level amenity will make pedestrian journeys more enjoyable. • Improved linkages between origins and destinations will improve connectivity and amenity, making public spaces more accessible for residents/workers. • Rejuvenation of site will contribute to improved night-time safety.
Economic	<ul style="list-style-type: none"> • Improved amenity in Crows Nest will improve its attractiveness for investment and boost local economic activity.
Governance	<ul style="list-style-type: none"> • If implemented appropriately, the planning proposal has the potential to implement some of the agreed visions and objectives contained in the draft St Leonards Crows Nest 2036 Plan.

DETAIL

The following section provides commentary on the key planning issues identified in the assessment undertaken to date. It does not form a comprehensive or complete assessment but rather is intended to assist Council in formulating a position on several key planning considerations in order to provide a clearer direction and way forward should Council wish to facilitate the Planning Proposal.

It is also highlighted that the proposal has yet to be considered by the North Sydney Local Planning Panel (NSLPP) who provide a (mandated) advisory function for Council's consideration before deciding whether to progress a planning proposal for the purposes of seeking a Gateway Determination.

Should the proponent pursue a revised scheme responding to the issues raised, a detailed assessment would be undertaken and the proposal referred to the NSLPP prior to Council's further consideration of the proposal. Extracts of the proposed reference design are attached to this report. The full documentation submitted may be viewed at: https://www.northsydney.nsw.gov.au/Building_Development/LEP_DCP/Planning_Proposals

Department of Planning and Environment Led Planning Process

As detailed above, the Department led work on the wider St Leonards Crows Nest area has not identified any change to the site the subject of this Planning Proposal. Whilst the area was examined during the wider precinct study, it was not the focus of the Department's work nor was any detailed urban design and land use analysis the subject of discussion with Council. With the exception of the nearby 'Five-ways triangle site' all areas surrounding the site are identified to retain existing planning controls.

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Since the commencement of the Department's work on the St Leonards Crows Nest priority precinct, the Department has facilitated the progression of several site specific planning proposals within the North Sydney and Lane Cove Council areas. The sites that have progressed have been consistent with either Council led strategic planning work and/or the Department's Draft Plan.

It is unclear as to whether the Department of Planning and Environment would be supportive of a planning proposal progressing which was inconsistent with the Draft St Leonards Crows Nest 2036 Plan. In light of the reduced level of focus this area of the precinct received, it is reasonable to assume that, provided a well prepared and justified proposal that demonstrated a level of consistency with the overarching vision, objectives and planning direction for the precinct, would be able to be progressed.

Council Moratorium on Planning Proposals

On 30 July 2018, Council resolved to only accept Planning Proposals involving a residential use where located within and consistent with a Council endorsed planning study. At this meeting, Council resolved to write to the Minister seeking an exemption (similar to that issued to Ryde City Council) whereby any proposals would not be able to be the subject of a re-zoning review. Council wrote to the then planning Minister following this resolution and is yet to receive a written decision in regard to this request. It was advised, however, that a decision would be made following receipt of advice from the Greater Sydney Commission.

This position was taken by Council due to the number and nature of several speculative planning proposals received and to express clearly to the community that Council-led strategic planning on a precinct wide basis was Council's long established practice and preferred manner to manage change. This approach has allowed Council to identify public benefits and infrastructure needs to accompany growth and is underpinned by early community consultation.

As mentioned, this site was within an area that underwent some very preliminary review by Council officers before the precinct was declared a 'Priority Precinct' by the State Government in July 2016. Had the work been progressed further by Council, a clearer vision and objective for any growth would have been established.

The site in question is over 4300m² in area and whilst partially occupied by four relatively unremarkable commercial buildings has laid underutilised/vacant for well over 10 years. The progression of a well-considered development on the site in close proximity to local services and transport is, at a high level, supported.

The current controls (B4 – Mixed Use, 10m height limit and 0.5:1 non-residential floorspace) already allow residential development on the site. The exact number of residential dwellings that might be able to be accommodated under the current controls has not been accurately modelled. However, the current Planning Proposal seeks to apply a height limit greater than the current controls along with the removal of the current non-residential floorspace requirement to facilitate a development that is predominantly residential. An R4 (High Density) Residential zoning would better reflect the intended development of this site. It is therefore considered that in this circumstance the consideration of this proposal would not be directly contrary to Council's Notice of Motion of 30 July 2019.

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Officer Recommendation – That Council acknowledge the unique circumstances applying to this site and agree to consider the progression of a Planning Proposal on this site.

Land Use

The current controls applying to the site require a minimum non-residential floorspace ratio of 0.5:1. On a site this size this equates to approximately 2150sqm of floorspace.

One of the key considerations in any proposal seeking to amend planning controls from a Business zone to a residential zone is the potential impact on loss of employment opportunities. This is a mandated requirement that is outlined in considerable detail in the relevant Ministerial Direction issued under section 9.1 of the Act - previously section 117(2). The key objectives under this direction include;

- a) *Encourage employment growth in suitable locations*
- b) *Protect employment land in business and industrial zones*
- c) *Support the viability of identified centres*

Subsection 4 of the Ministerial Direction states; (**emphasis** added)

A planning proposal must:

- a) *give effect to the objectives of this direction,*
- b) *retain the areas and locations of existing business and industrial zones,*
- c) ***not reduce the total potential floor space area for employment uses and related public services in business zones,***
- d) *not reduce the total potential floor space area for industrial uses in industrial zones, and*
- e) *ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.*

Section 5 of the Ministerial Direction then states;

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are:

(a) justified by a strategy which:

- (i) gives consideration to the objective of this direction, and*
- (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
- (iii) is approved by the Secretary of the Department of Planning and Environment, or*

(b) justified by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction, or

(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning and Environment which gives consideration to the objective of this direction, or

(d) of minor significance.

The Proposal is accompanied by an economic report which includes a detailed analysis of the current market conditions (on a sector basis), the site and the overarching objective and role of

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employment floorspace in the context of the centre function and hierarchy of St Leonards (Strategic) and Crows Nests (Local). The report concludes that the re-development of the site in the manner proposed will not compromise the identified additional jobs targets for Crows Nest.

Under the current controls, the site would likely only be able to accommodate retail uses on the ground floor and does not lend itself to a purely commercial development being progressed on the site. The implications and inter-relationship of the quantum and location of provision of retail floorspace is also explored in the accompanying study.

Whilst the previous planning proposal was never formally progressed, Council officers did, in the report to Council (CiS03 - 20 July 2015), form the view that given the site's location on the periphery of the centre and attributes, that it would likely continue to struggle to deliver significant commercial floorspace.

Whilst strategic planning and policy decisions should hold a long-term outlook and not be overly reactive to short term market conditions, it is recognised that the site has been partially vacant and under-utilised for an extended period of time (some 15-20 years).

Any longer term growth of the commercial and retail aspect of the Crows Nest town centre is not considered to be best placed in this direction.

Officer Recommendation – That Council agree, in principle, to the proposed change in zoning on the site to R4 – High Density Residential.

Building Typology and Relationship to Zoning

Under the current B4 Mixed Use zoning, the current planning controls (LEP & DCP) lend themselves to redevelopment of sites where buildings occupy almost the entirety of the site. This is common in local centres where retail/commercial uses occupy the majority of the site and often contain servicing/access functions to the rear.

The application site is unusual in that at 4300sqm, it is uncommon for sites of this size to be redeveloped as a whole (when viewed against other comparable local centres in the North Sydney LGA).

The Planning Proposal seeks to change the zone from B4 Mixed Use to R4 High Density with an allowance for a small component of retail floorspace (320m²) to be located on the North-western corner of the site.

Accompanying the Planning Proposal is a reference design which seeks to demonstrate how the site may be able to be re-developed under the planning controls sought. This reference design is provided at Attachment No 1 and relevant extracts are provided further below. The indicative scheme includes a total of eighty-seven (87) dwellings.

The building form presented for buildings 'A' & 'B' are more consistent with the B4 Mixed Use typology and zone objectives.

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Buildings C & D are more consistent with the R4 High Density Residential typology and objectives.

As a result, the overall scheme proposes a site coverage of 59% (2537m²) whereas the DCP identifies a maximum site coverage of 45% (1935m²) for R4 High Density development.

With respect to Landscaped Area, the proposal includes only 19% landscaped area (817m²) whereas Councils' DCP prescribes a minimum of 40% landscaped area (1720m²).

Given the site's location, it may be argued that the site presents as a transition between the 'centre' character element of the site and the surrounding lower density development. However, the intent of seeking an increase in building height and change in zoning is to facilitate a predominantly residential development. It is therefore not unreasonable to expect a built form outcome to be generally consistent with that expected under the relevant DCP controls for residential flat buildings. It would appear that the resulting 'non-compliances' are as a result of the proposal seeking to achieve an excessive intensity of development on the site.

Officer Recommendation – That an amended reference design be prepared that demonstrates a reduced level of non-compliance with the site coverage and landscaped area controls for residential flat buildings as prescribed in NSCDP 2013.

Scale and Height

Below is an extract of the proposed building heights (in storeys) over the site.

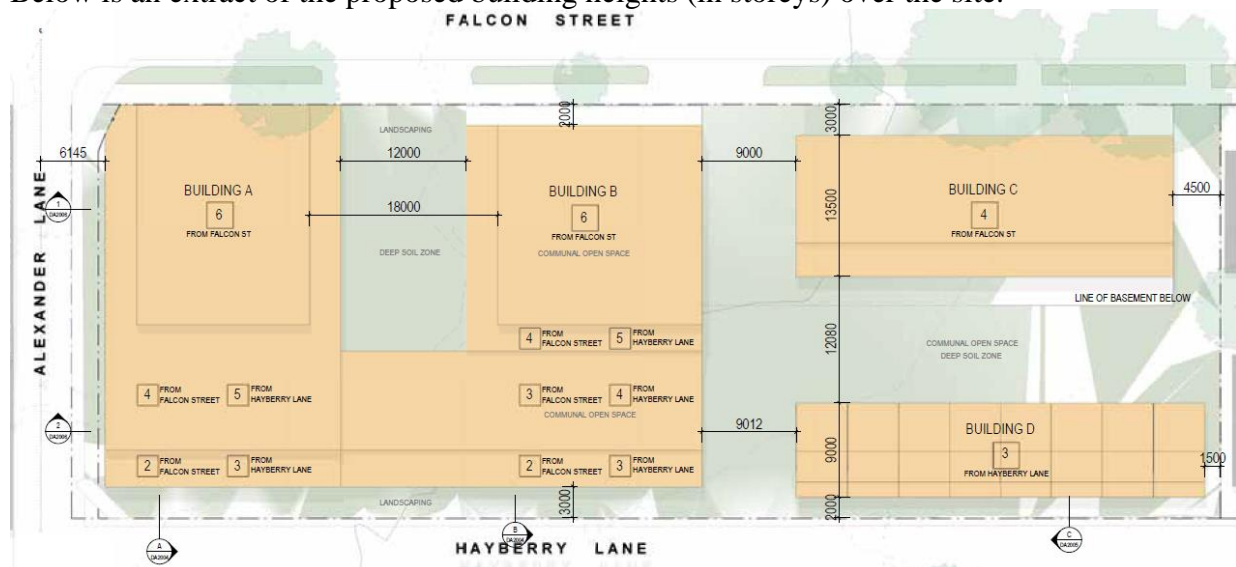


Figure 2 – Reference design indicating proposed building heights

The proposed increase in building height to (up to 6 storeys) is proposed at Buildings 'A' and 'B' at the Falcon Street frontage of the site. These buildings then step down in height to 4 & 5 storeys then to 2 and 3 storeys at the Hayberry Lane frontage of the site. These buildings are conjoined at the lower levels and Building B also proposes two shared roof top open space areas.

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Proposed building 'C' presents to Falcon Street at 4 storeys in a more typical Residential Flat Building form and proposed building 'D' is three storeys in height and addresses Hayberry Lane in what is described as a 'row' or 'mews' style typology.

As mentioned previously, the site is surrounded by development of a lower scale (single and two storey) to the rear and east. Development to the west is generally in the order of 3 storeys with some buildings containing 4-5 storeys.

Whilst a precinct wide urban design context analysis has not been undertaken, given the concept of the provision of taller building elements being located towards the Falcon Street frontage and Alexander Lane end of the site, then transitioning down to lower scale areas, is considered to have merit. Due to the potential amenity and character issues arising as a result of increased building height the degree of transition (i.e. gradual or sharp) is discussed in more detail under the heading below.

It is noted that the proposed building height sought in the planning proposal is up to 24.5m. This building height is considerably greater than that typically applied to a six storey building and requires further review. This figure (of 24.5m) may be as a result of the scheme including lift and stair access to a roof top communal open space area Building 'B' as well as providing an excessive allowance for the sloping nature of the site and what appears to be an over-height servicing/access provision within Building 'A'.

Extracts of proposed elevations/sections from Falcon Street (Fig.3) and Hayberry Lane (Fig.4) are provided below.

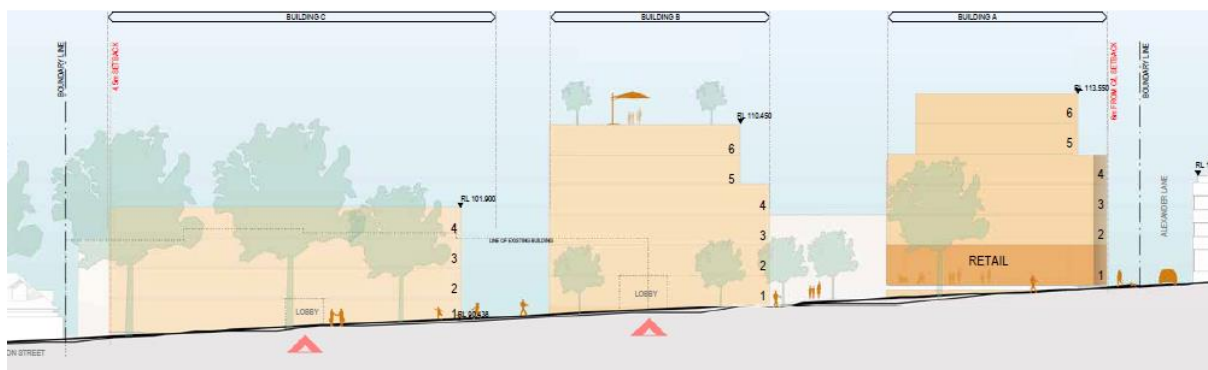


Figure 3 – Proposed Falcon Street elevation

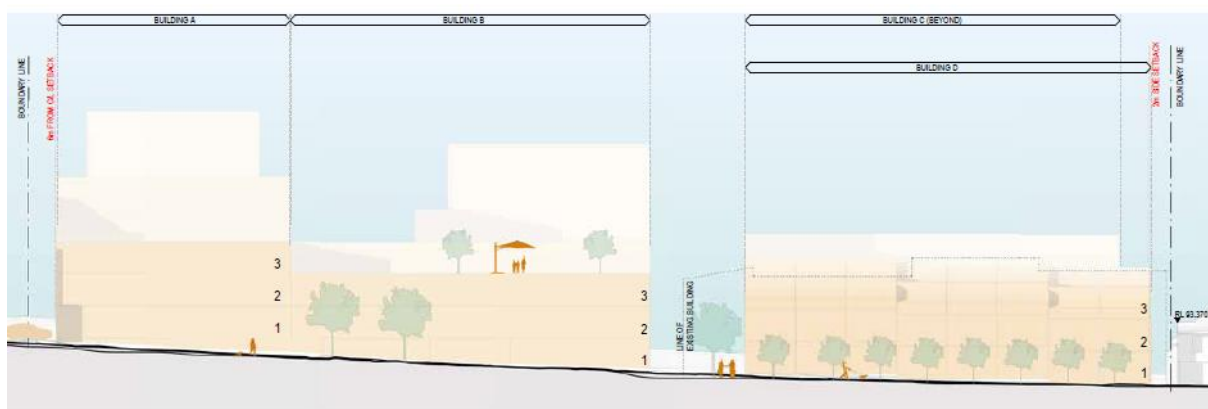


Figure 4 – Proposed Hayberry Lane elevation

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Officer Recommendation – That Council support the progression of the development of a revised reference design that may accommodate building elements up to a maximum building height in the order of 5-6 storeys provided a satisfactory outcome is able to be reached with respect to related issues identified in this report.

Transition in Scale to Surrounds

Below are a series of sections demonstrating the relationship in scale of the proposal to the low scale residential development to the south. The location of each section or ‘slice’ through the buildings is labelled below and is also indicated in Figure 2.

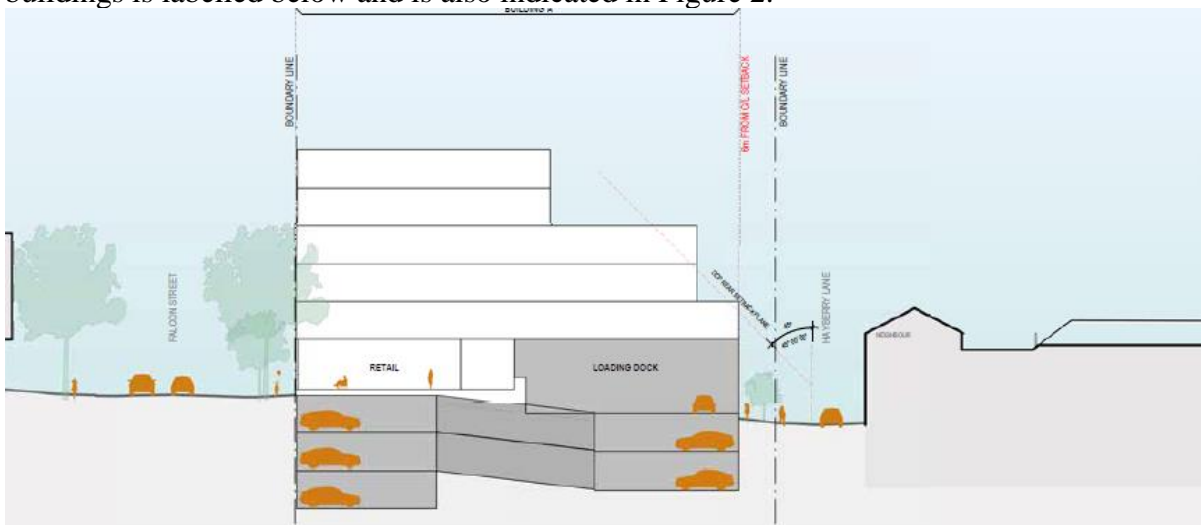


Figure 5 – Section ‘A’ indicating relationship of proposed building to Hayberry Lane (looking east)

Concern is raised that the scale and massing of development is overbearing and dominant when viewed in the context of the finer grain and scale of Hayberry Lane which represents the northern side of the Holtermann Estate ‘C’ Conservation Area . It is noted that this section is taken where the only two storey element of Hayberry Lane is located. The remainder of Hayberry Lane is single storey.

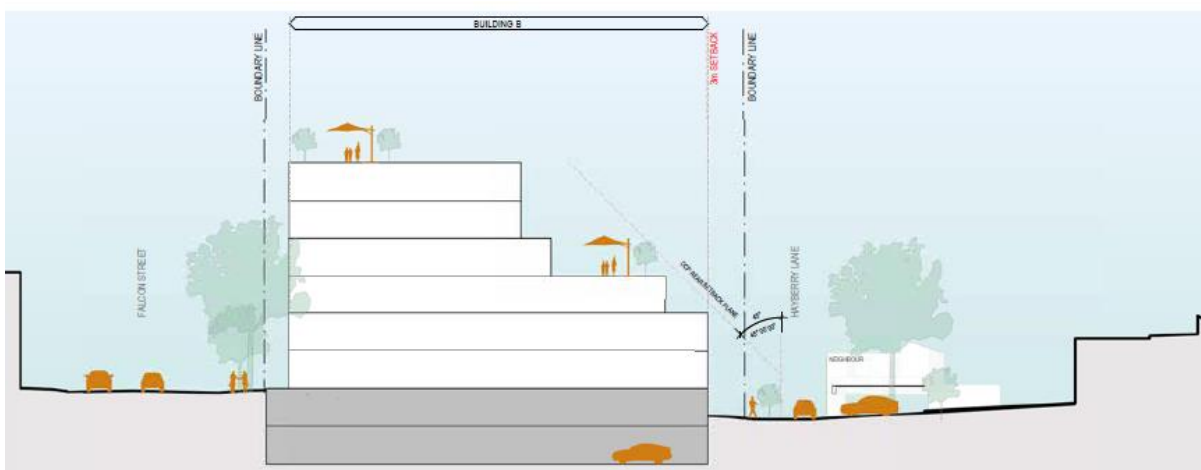


Figure 6 – Section ‘B’ indicating relationship of proposed building ‘B’ to Hayberry Lane (looking east)

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Whilst a 3m building setback has been provided to Hayberry Lane, the scale of development in this location is considered to also be overbearing and unreasonably dominant.

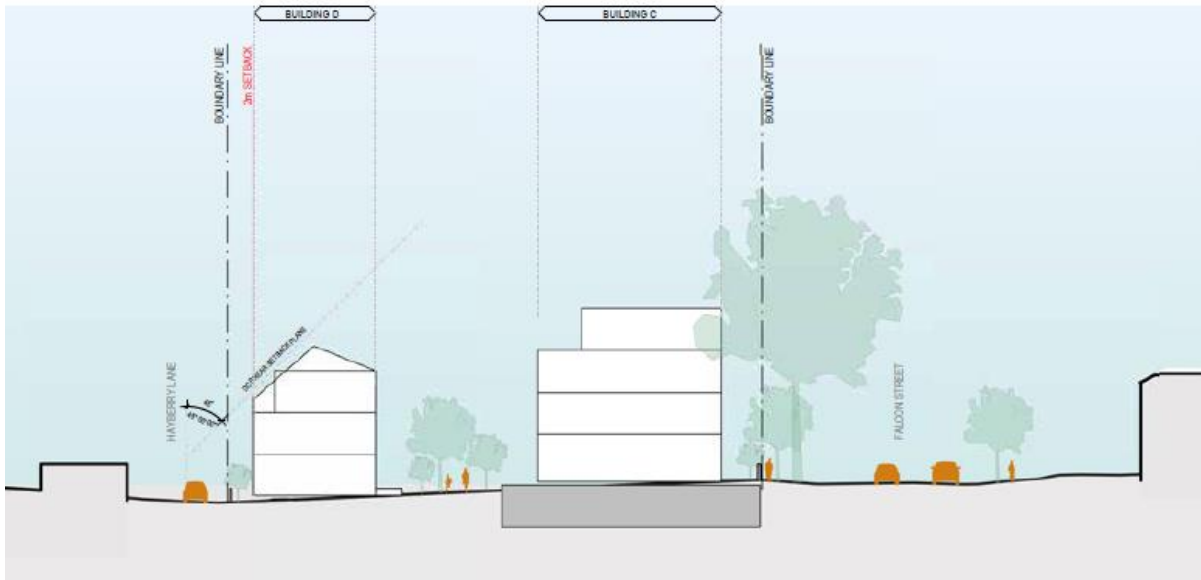


Figure 7 – Section indicating relationship of proposed buildings ‘D’ to Hayberry Lane and C to Falcon Street (looking west).

Whilst the predominant character of Hayberry Lane is single storey there are a number of two storey buildings observed. The proposed ‘row’ or ‘mews’ style housing identified in building ‘D’ presents effectively as 3 storeys in scale. It is considered that a two storey form (with potential attic/loft elements contained within roof form) would provide a more appropriate built form and transition to Hayberry Lane.

The previous scheme (2015) was provisionally supported subject to the provision of a rear boundary setback of 12m to Hayberry Lane with the exception of the first 20m of the site (measured from Alexander Lane).

Hayberry Lane is a low scale residential laneway that contains numerous outbuildings/garaging servicing the rear of properties facing Hayberry Street and Falcon Street . The majority of these are single storey structures. Along its length, however, it also contains several dwellings that address and face Hayberry Lane. These are generally of a two storey scale. The dwellings addressing Hayberry Lane, in closest proximity to the site, include No’s 21, 26 and 28A Hayberry Lane.

Due to the somewhat varied nature and function of building elements facing Hayberry Lane and its likely further evolution, the provision of a larger setback as previously suggested warrants re-consideration.

Officer Recommendation – That a principle of a more gradual transition to Hayberry Lane be applied to the site. With the exception of the first 20m of Hayberry Lane (from the western entrance) a two storey presentation should be provided.

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Overshadowing & Privacy

Council's current planning controls identify the need to provide for at least 3 hours sunlight to the north facing living areas and areas of open space of surrounding dwellings. This approach to provision of solar access is also re-enforced within the '*Built Form Actions and Recommendations*' section of the draft '*St Leonards Crows and Crows Nest 2036 Plan.*'

The documentation accompanying the Planning Proposal includes a solar access analysis of the proposed built form. A review of this reveals that the proposed development would result in overshadowing to:

- 9 Alexander Street – removing all sunlight to east facing residential apartments;
- 26, 28A and 21 Hayberry Lane which have primary frontages to Hayberry Lane; and
- Rear gardens of Hayberry Street properties.

Whilst the specific impacts of overshadowing may be further interrogated in detail in a development application process, the extent of overshadowing is a direct product of the proposed increased building height and massing. It is therefore incumbent on the applicant in a Planning Proposal process to demonstrate why a proposed change to planning controls will result in an at least acceptable, if not improved, amenity outcome to surrounding properties.

Officer Recommendation – That any revised reference design demonstrate solar access impacts consistent with Council's current DCP controls.

The reference design includes two elevated communal areas of open space within building 'B'. Notwithstanding the indicative landscape screening treatment to these areas, the elevated siting of these spaces gives rise to acoustic and visual privacy concerns (Refer Figures 8 & 9 further below). Whilst the use of roof top areas for open space is not uncommon in higher density established centres, this is typically only pursued where ground or podium level open space is not available. Given the site's significant size (>4300m²) and the immediate proximity of low density residential areas, it is considered better practice to locate areas of communal open space at ground level rather than rely upon screening measures to mitigate impact.

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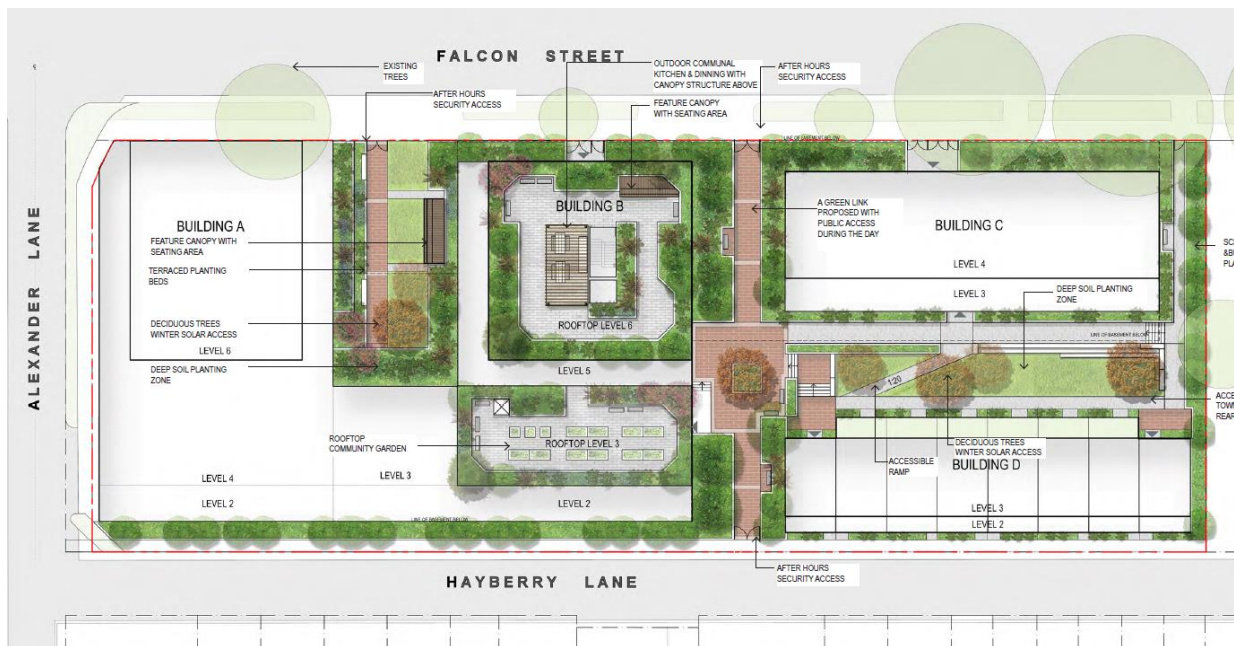


Figure 8 – Indicative landscape plan showing elevated rooftop communal spaces

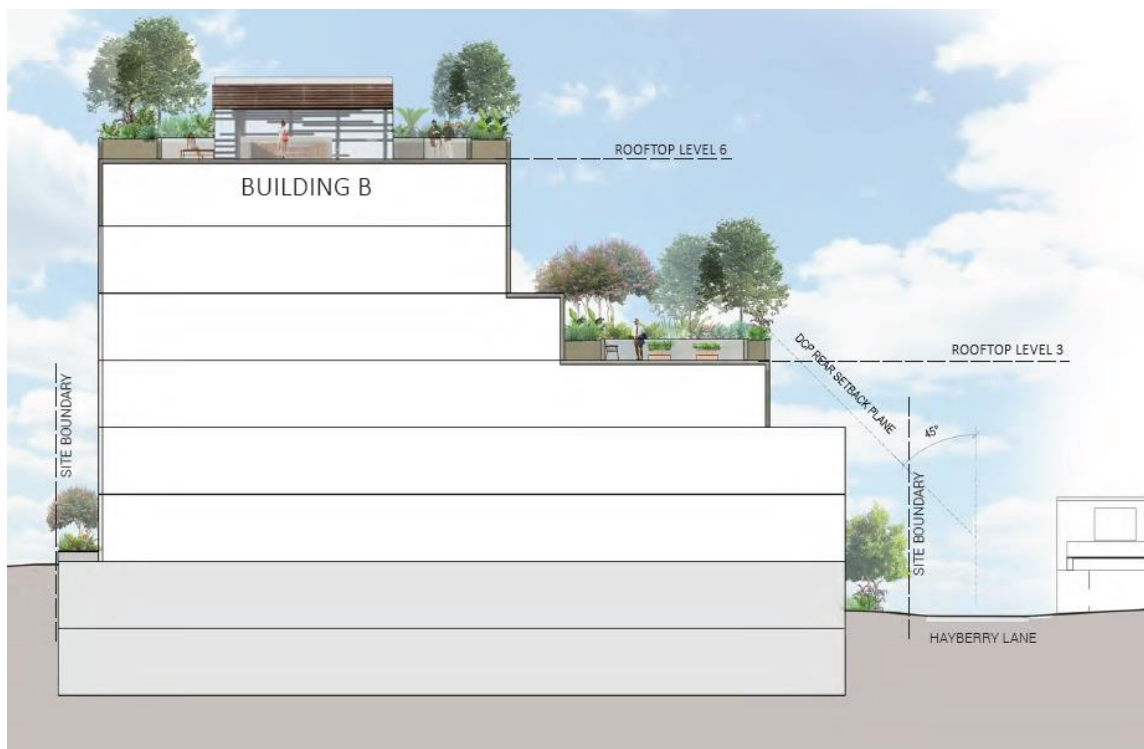


Figure 9 – Section demonstrating relationship of rooftop areas to nearby low density housing on Hayberry Lane

Officer Recommendation – That any revised reference design further explore the provision of areas of communal areas of open space at ground level.

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Setbacks and Apartment Design Guidelines (ADG)

The reference design includes indicative setbacks to all frontages and between building elements on the site. These are included in Figure 2 within this report and also contained within Attachment 1.

In a planning proposal seeking a change in land use and increase in scale and density on a site, the current DCP controls do not strictly apply. They do, however, form a useful guideline to establish principles to assist in the assessment of amenity impacts and guide any future development application process. Further, the Apartment Design Guidelines are applicable to any future development application process and should frame design development.

A number of non-compliances are identified in the reference scheme. For example, building proposed building 'C' provides a side setback of 4.5m. The ADG prescribes a side setback of 6m for buildings over 10m in height. Several building separation control non-compliances are observed in the scheme due to the zoning change which requires an additional 3m separation which do not appear to have been provided for. Other setbacks/separation distances appear to 'borrow' upon the future redevelopment potential of nearby development such as 11-15 Alexander Street and 25 Falcon Street. Whilst these sites contain established buildings, the redevelopment of the application site to a greater height will potentially prompt additional requests for height increases to facilitate re-development of these sites.

Officer Recommendation – That any revised reference design review the setbacks and separation distances having regard to SEPP 65 Apartment Design Guideline requirements.

Heritage

Hayberry Lane is an important element for the role it plays in defining the northern edge of the '*Holtermann Estate C*' Conservation area and as an access link (both pedestrian and vehicular) to and from the Crows Nest Town Centre. The lane itself provides a separation between (future) new built forms and the conservation area.

Council's Heritage Planner has reviewed the proposal and raised concerns that the bulk and scale of the proposed buildings have the potential to impact the amenity and views to and from the Conservation area as well as be overbearing in relation to the predominantly single storey scale of the conservation area.

Officer Recommendation – That careful consideration be given to the facades along Hayberry Lane such that they are sensitive in their design, scale, massing and detailing to facilitate a well-considered response to transition between any new built forms and the predominantly low, single storey scale of the conservation area. Opportunities to soften the interface and impact should be provided for.

Transport

A detailed assessment with respect to transport had not been undertaken at the time of completion of this report. Several initial observations have however been made. Given the site's reliance upon the proximity to services and transport (current and future) to support and justify the increased development density, the reference scheme provides an excessive number of

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parking spaces (121 in total). Vehicular access to servicing, visitor and resident parking is proposed from Alexander Lane, however concern is raised that the oversupply of parking may lead to increased localised congestion and be contrary to principles of environmentally sustainable and transit oriented development. Further, the extensive areas provided for basement parking reduce opportunities for the provision of deep soil landscaping.

Officer Recommendation – That any revised reference scheme apply a reduced level of private parking spaces consistent with maximum parking rates contained within Section Section B - 10.2 of the North Sydney DCP for the area identified within St Leonards Crows Nest Planning Studies Study stages 2/3.

Conclusion and Way Forward

This report provides an interim assessment of the recent planning proposal for this site. Direction is sought on several key strategic planning issues as detailed in this report. Several concerns are also outlined with respect to character and amenity impacts arising from the height, scale and layout of the proposed built form. Whilst the reference design provided does not constitute a formal development application it should provide a reliable '*proof of concept*' to justify and support the planning controls being sought.

Given the nature of concerns raised, it is considered prudent to require an amended reference design to be developed before progressing the proposal any further including reaching any agreement on any maximum Floor Space Ratio to apply to the site. Failure to do so would potentially facilitate adverse and undesirable impacts to arise under any redevelopment of the site.

The inclusion of recommendations on each of the key issues identified should form the basis of any further discussions with the applicant.

The interim report approach seeks to establish a Council position at this time, noting the significant length of time before the next available Council meeting (24 February 2020) in the event that a re-zoning review were to be lodged. It offsets, to an extent, a low level risk that the review could potentially take place without a formally resolved Council position.

Further the interim report approach allows the formulation of a better informed and clearer framework to guide the development of an indicative reference design. Upon development of this, key controls including maximum FSR and Height should be able to be determined.

3.4 DESIGN PROPOSAL

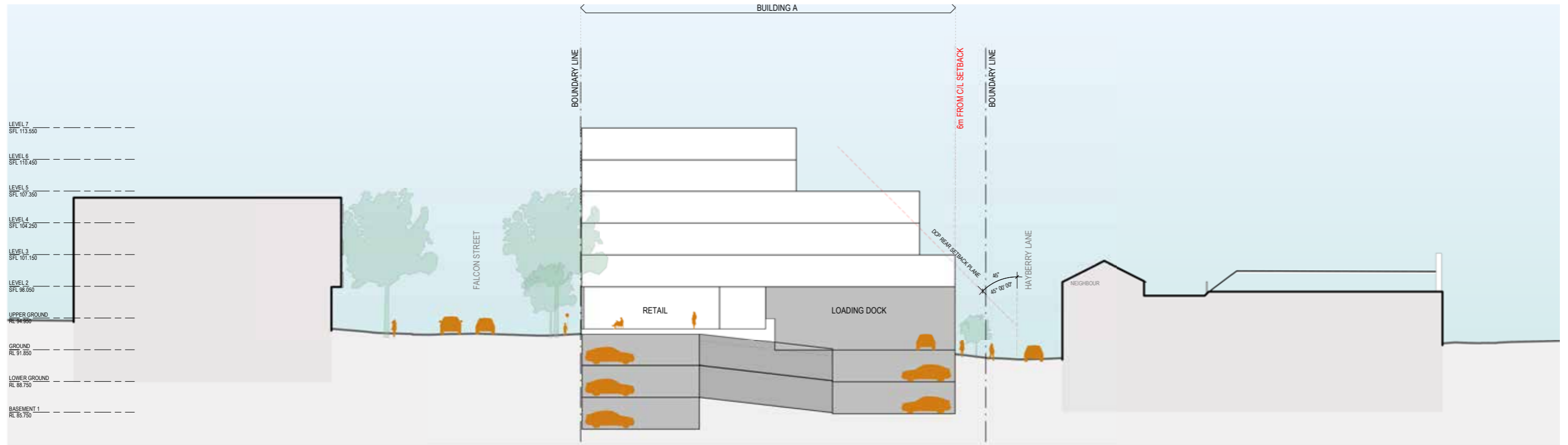
The following pages describe the resulting design proposal. This is shown here as a building envelope, in order to establish base controls used as the basis of the main Planning Proposal document.

Appendix 2 provides a Reference Design, identifying how the envelope could be distributed into particular building uses. The Reference Design shows that the proposed controls can produce an outcome that complies with SEPP65 and the ADG.



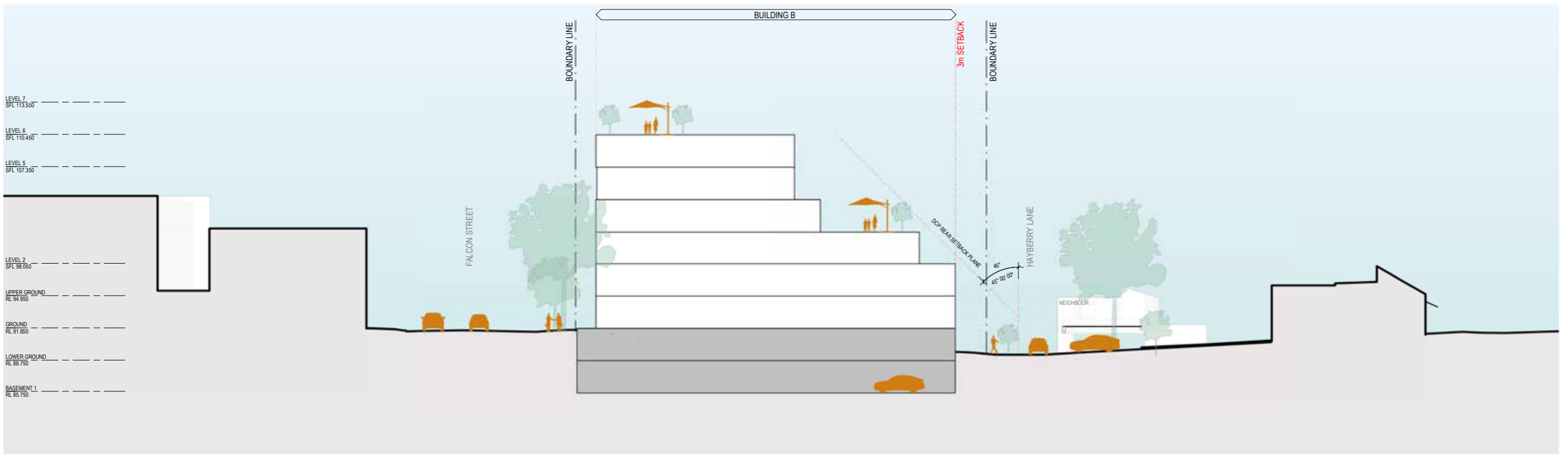
Site Plan
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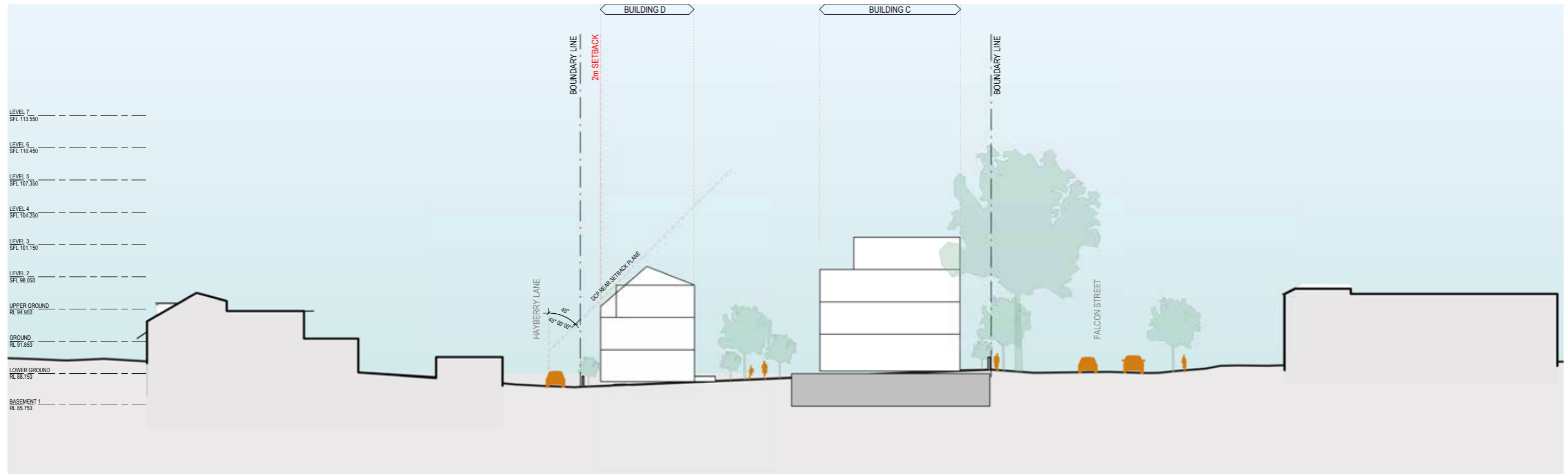
Section A-A

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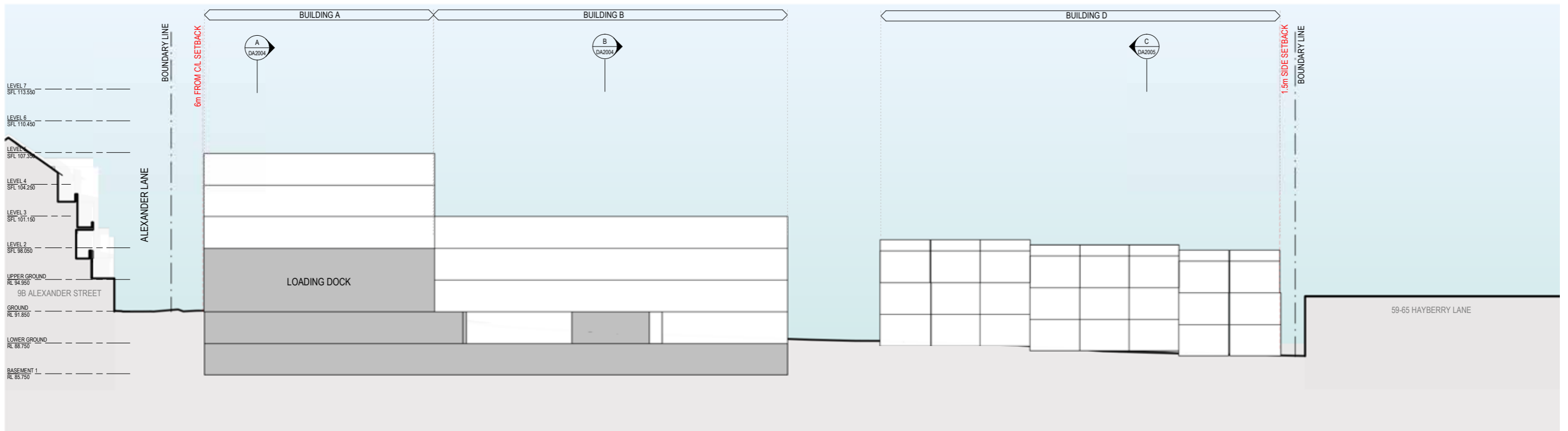


Section B-B

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Section A-A
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Long Section
1:400 @ A3

**NORTH SYDNEY LOCAL PLANNING PANEL – PLANNING PROPOSALS****DETERMINATIONS OF THE NORTH SYDNEY LOCAL PLANNING PANEL MEETING
HELD IN THE COUNCIL CHAMBERS, NORTH SYDNEY,
ON 5 FEBRUARY 2020, AT 2PM.****PRESENT****Chair:**

Jan Murrell in the Chair.

Panel Members:

Peter Brennan, Panel Member
David Brigden, Panel Member
Jane Van Hagen, Panel Member/Community Representative

Staff:

Marcelo Occhiuzzi, Manager Strategic Planning
Neal McCarry, Team Leader Policy
Jayden Perry, Strategic Planner
David Hoy, Team Leader (Assessments)
Robyn Pearson, Team Leader (Assessments)

Administrative Support

Melissa Dunlop, Governance Co-ordinator (Minutes)

Apologies: Nil.

1. Minutes of Previous Meeting

Not applicable.

2. Declarations of Interest

Nil.

NORTH SYDNEY LOCAL PLANNING PANEL – PLANNING PROPOSALS – 5/02/2020
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3. Business Items

On 23 February 2018, the Minister for Planning released a Section 9.1 Direction which outlines the instance when a Planning Proposal must be referred to a Local Planning Panel for advice prior to a Council determining as to whether that Planning Proposal should be forwarded to the Department of Planning and Environment for the purposes of seeking a Gateway Determination.

The Panel has considered the following Business Item and provides the following recommendation to the council on the Planning Proposal.

ITEM 5 (considered after Development Applications)

PROPOSAL No:	6/19
ADDRESS:	27-57 Falcon Street, Crows Nest
PROPOSAL:	<p>To amend the North Sydney Local Environmental Plan 2013 (NSLEP 2013):</p> <ul style="list-style-type: none"> • Rezone the site from B4 – Mixed Use to R4 – High Density Residential • Increase the maximum building height from 10m to part 24.5m and part 14.5m. • Apply a maximum floor space ratio control of 1.85:1 • Retain ‘retail premises’ as a permitted land use on the site.
REPORT BY NAME:	Neal McCarry, Team Leader Policy
APPLICANT:	Lindsay Bennelong Developments Pty Ltd

Public Submissions

Submitter	Applicant/Representative
Davie Macdonald	Tom Goode
Sue Yelland	Leigh Manser

Panel Recommendation to Council:

The Panel conducted an extensive site inspection in the context of the surrounding development that has a direct interface with the conservation area on Hayberry Lane and larger scale development along Falcon Street and Alexander Lane. This large 4,325 sqm site is generally vacant and unoccupied and has been for over a decade.

The Panel considered the submissions made both orally and written in providing advice to the Council.

The Council Officer’s report on the Planning Proposal is endorsed and the Panel recommends to Council, subject to further examination and resolution of certain issues, that it may proceed to a Gateway Determination. The site clearly has strategic merit to be rezoned to R4 from B4. This presents the opportunity to provide an appropriate domestic scale of development to the Hayberry Conservation Area while orienting the bulk towards the north-west. At the same time further opportunities for deep soil planting need to be explored. Given its context the Panel agrees this site is more appropriate for residential rather than a mixed use development and the inherent flow-on effects where access to the

NORTH SYDNEY LOCAL PLANNING PANEL – PLANNING PROPOSALS – 5/02/2020
Page No 3

site is problematic for a large commercial component. However, given the objective of employment growth opportunities, this requires further analysis.

The Panel agrees that further investigation including: overshadowing; height and bulk distribution; laneway treatment and activation; vehicular access and parking; Falcon Street frontage and setback; and areas of deep soil planting on the site needs to be the subject of a DCP or concept plan to be exhibited concurrently with the Draft LEP. This is required to demonstrate the site specific merits of the rezoning and to assist in the community consultation.

Voting was as follows:

Unanimous

Panel Member	Yes	No	Community Representative	Yes	No
Jan Murrell	Y		Jane Van Hagen	Y	
David Brigden	Y				
Peter Brennan	Y				

The public meeting concluded at 4.10pm.

The Panel Determination session commenced at 4.15pm (including Development Applications).

The Panel Determination session concluded at 6.20pm.

Endorsed by Jan Murrell
 North Sydney Local Planning Panel
5 February 2020

3.4 DESIGN PROPOSAL

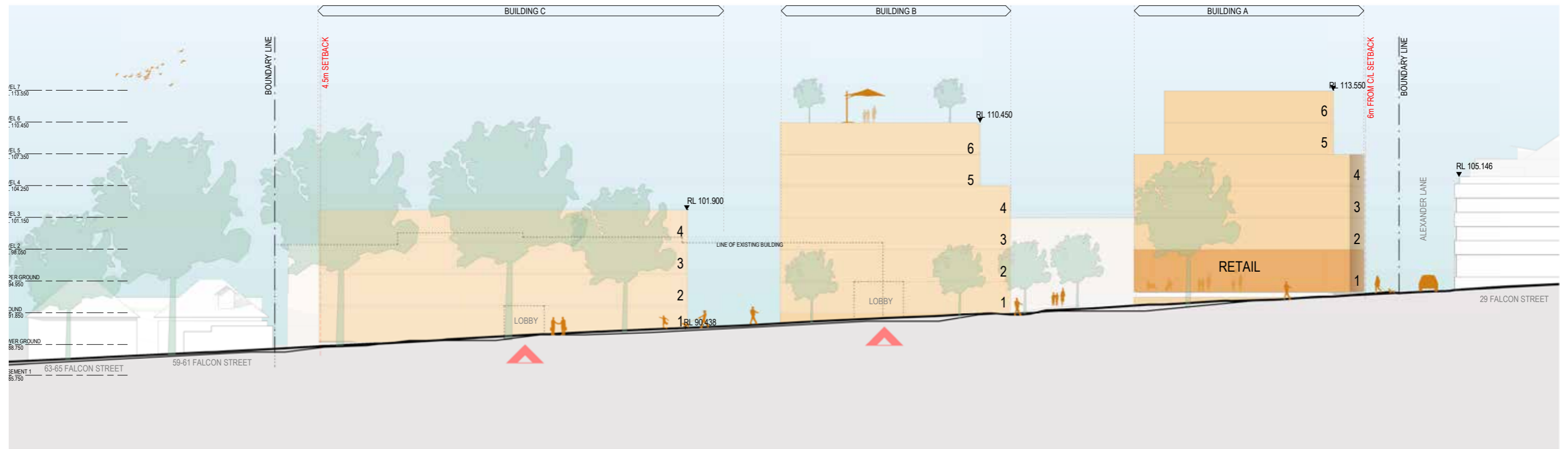
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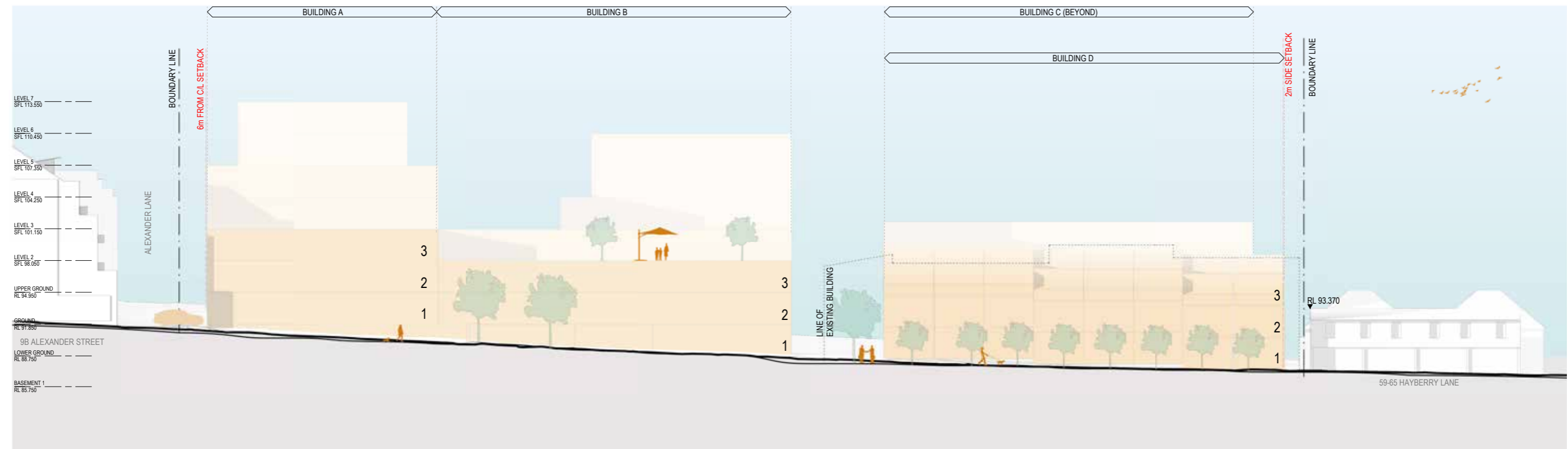


Site Plan
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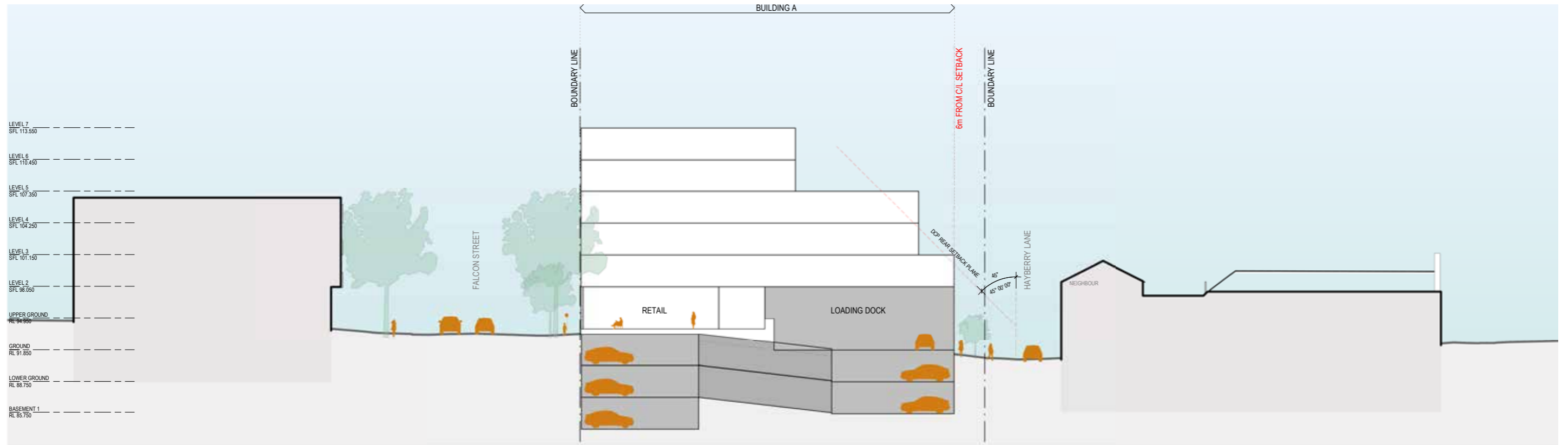




North Elevation - Falcon Street
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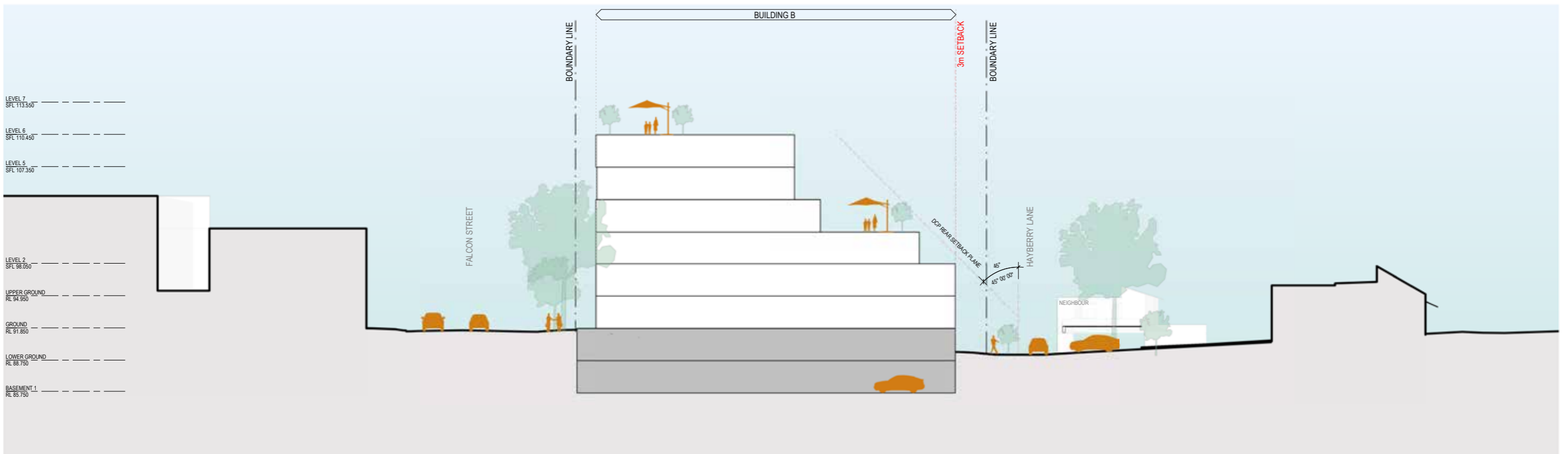


South Elevation - Hayberry Lane
1:400 @ A3



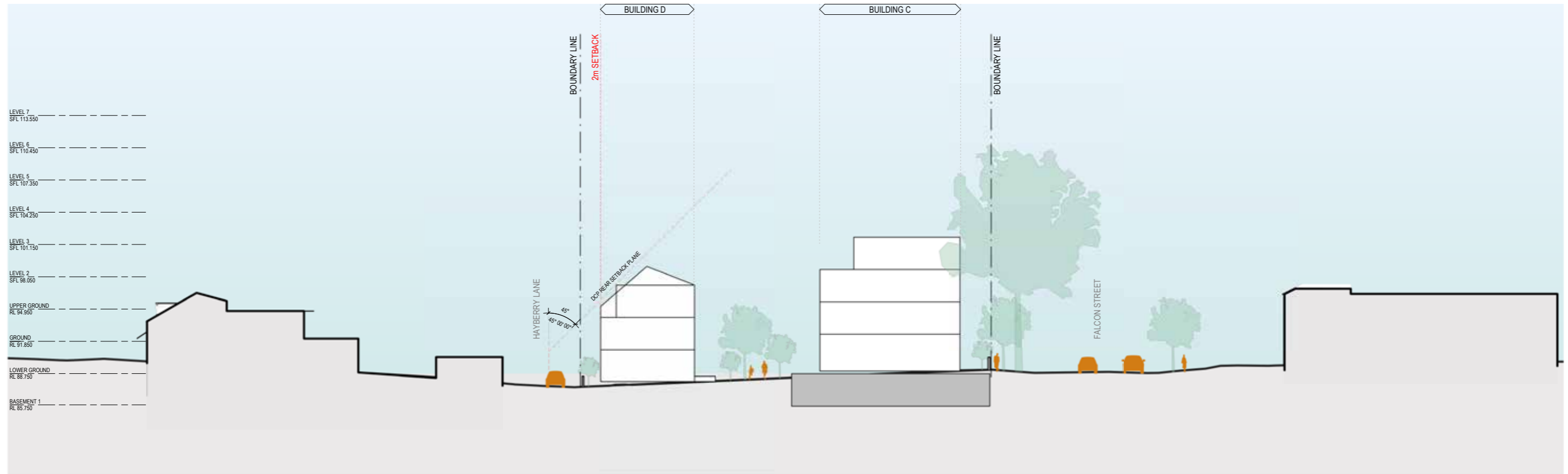
Section A-A

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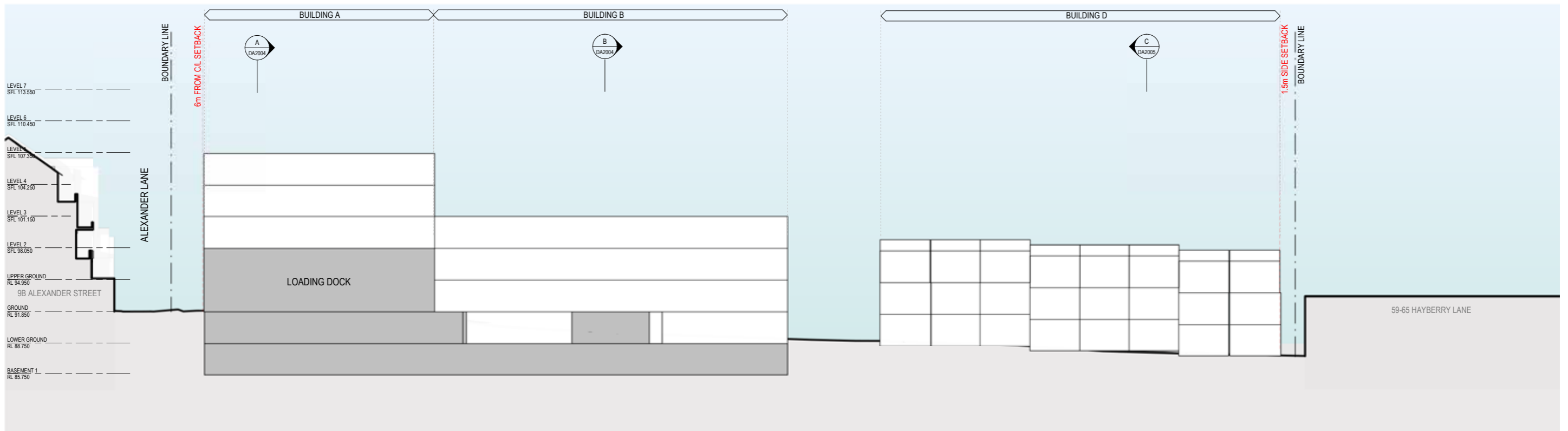


Section B-B

1:400 @ A3



Section A-A
1:400 @ A3



Long Section
1:400 @ A3