

Graythwaite Concept Plan & Project Application

Justification for departure from height standard

1.0 Introduction

This paper accompanies a Preferred Project Report (**PPR**) for a Concept Plan and Project Application that propose expansion of the Sydney Church of England Grammar School (**Shore**) *educational establishment* onto the Graythwaite site at 20 Edward Street, North Sydney (the **site**).

The paper justifies a proposed departure from the 8.5m building height development standard in North Sydney Local Environmental Plan 2001 (**NSLEP 2001**).

As the project is a Part 3A transitional project, there is no statutory requirement to submit a State Environmental Planning Policy No. 1 - Development Standards (**SEPP 1**) Objection. Notwithstanding, this document is structured as a SEPP 1 objection and has been prepared to demonstrate that compliance with the building height standard is unreasonable and unnecessary in the circumstances of the case.

2.0 Background

The site is in a Special Uses Zone. Pursuant to Clause 34 of NSLEP 2001, buildings must not be erected in the Special Use Zone unless they are consistent with the objectives, permissible uses and development standards for the particular building type on adjoining land and land directly across the road. The most restrictive planning regime applies when a site is near more than one zone.

Adjoining Residential A2 Zone is the most restrictive zone adjoining the site. The following Residential A2 development standards therefore apply to the site:

- Minimum lot size (cl.15) 450m²
- Building height (cl.17) 8.5m
- Building height plane (cl.18) 1.8m above existing ground level and projected at an angle of 45 degrees
- Landscaped area - sites >900m² (cl. 20) 60% of the site area

The site/project is consistent with the following Residential A2 standards:

- The site complies with the 450m² minimum lot size (having an area of 2.678ha).
- The proposed building envelopes (most notably the West Building) are well below the building height plane standard, as illustrated by the sections on

Drawing A.161 (Revision G) in Volume 2 of the Revised EAR. As there are no specified setback standards, setbacks are determined by the building height plane. For a building with a height of 8.5m, the building height plane necessitates an effective setback of around 6.7m. Well above this minimum, the proposed building envelope for the West Building has a ground level setback of 20.8m to 27.8m.

- With a proposed landscaped area equivalent to 77% of the site area, the project complies with the 60% minimum landscaped area standard.

The Concept Plan proposes the following new buildings (as building envelopes only) noting the maximum building height of each new building and compliance with the height standard:

- North Building (Stage 2): 4m (which complies with the 8.5m height standard)
- East Building (Stage 2): up to 10m (which exceeds the 8.5m height standard)
- West Building (Stage 3): up to 12m (which exceeds the 8.5m height standard)
- Certain conservation works to Graythwaite House (stage 1) also have a height greater than 8.5m.

The extent of non-compliance is illustrated on the Concept Plan drawings by Mayoh Architects (Sections A, B + C, Drawing A.161 Revision G).

This paper considers these departures from the 8.5m height standard.

2.0 SEPP 1 considerations

In accordance with the provisions of SEPP 1 and the decisions in *Wehbe v Pittwater Council* (2007) NSWLEC 827, *Hewitt v Hurstville Council* (2001) NSWLEC 294, *Winten Property Group Limited v North Sydney Council* (2001) NSWLEC 46 and *Hooker Corporation Pty Limited v Hornsby Shire Council* NSWLEC 2 June 1986, unreported, an objection under SEPP 1 requires consideration of the following matters:

- 1) What is the planning control and is it a development standard?
- 2) What is the underlying object or purpose of the standard?
- 3) Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act?
- 4) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- 5) Is the objection well founded?

These questions are addressed below.

1) What is the planning control and is it a development standard?

This objection relates to the building height development standard at clause 17 of NSLEP 2001. Clause 17(2) prescribes an **8.5m building height standard** for the site (pursuant to the clause 34(3) of NSLEP 2001 which sets out building controls for land buildings in a Special Use Zone) and states:

(3) Building height controls

Except as otherwise provided in this clause, a building must not be erected, in a residential zone, in excess of 8.5 metres in height.

The building height control is not framed as a prohibition. The control is therefore a *development standard*¹ as defined at clause 4 of the *Environmental Planning and Assessment Act, 1979 (EPA Act)* (part (c) of the definition refers to height).

2) What is the underlying object or purpose of the standard?

The building height objectives at Clause 17(1) of NSLEP 2001, and the project's satisfaction of same, are detailed below:

Building height objective (a)

(a) limit the height of buildings in residential zones to:

- (i) one storey, at the street façade, where that is the characteristic building height, or*
- (ii) subject to subparagraph (i), heights which are the same as or similar to the characteristic building heights, or*
- (iii) if neither subparagraph (i) nor (ii) applies, two storeys,*

The project satisfies building height objective (a) as:

- The proposed works are located away from the site's street frontages and as such none of the new building envelopes address a street.
- The project (including the non-compliance with the height standard) is consistent with the endorsed Conservation Management Plan (**CMP**).
- The Heritage Council in its submission on the Revised EAR states that the project is acceptable on heritage grounds.

¹ Pursuant to clause 4 of the EP&A Act:

development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

...

- (c) the character, location, siting, bulk, scale, shape, size, **height**, density, design or external appearance of a building or work, (our emphasis)*

- The East Building has two and three storeys and has been designed to create a transition in scale from the four storey School House (adjoining to the east) and Graythwaite House to the west which is predominantly two storeys. The western elevation of the East Building, which addresses Graythwaite House, has a height of less than 8.5m, complying with the height standard. The East Building therefore has a height that is similar to the characteristic building height.
- The West Building also has two and three storeys. Importantly the interfaces of the West Building have a height that is similar to the characteristic building height as:
 - Its eastern elevation which addresses Graythwaite House, has two storeys and a height of less than 8.5m, complying with the height standard
 - Its western elevation which addresses detached housing on Bank Street has two storeys and a height of less than 8.5m, complying with the height standard.
- The conservation works to Graythwaite House that exceed the 8.5m height standard do not increase the existing building height and are therefore consistent with the characteristic building height.

Building height objective (a1)

(a1) promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient, and

The project satisfies building height objective (a1) as:

- The East Building is located on a portion of the site that is relatively level.
- The West Building, proposed on land that slopes steeply to the west, has been designed to step down the existing landform.

Building height objective (b)

(b) promote gabled and hipped roofs in all residential zones and avoid other roof forms except:

- (i) skillion roofs over verandas and rear extensions to buildings that have a main roof that is gabled or hipped, or*
- (ii) where it is desirable to preserve views, other roof forms that are characteristic of the area, and*

The project satisfies building height objective (b) as the provision of flat roofs on the East and West Buildings is desirable to minimise the visual bulk of the new buildings and to make them subservient to Graythwaite House.

Building height objective (c)

(c) promote the retention of and, if appropriate, sharing of existing views, and

The project satisfies building height objective (c) as adjoining residential properties have an outlook to existing vegetation on the site, but do not have what is typically referred to as a “view”. Notwithstanding, this existing outlook is to be preserved by retention of existing significant trees and new landscaping particularly along the western boundary (to be completed as part of the Stage 1 works). The visual impact of the project is considered in detail at Section 7.4 and Volume 3 (photomontages) of the Revised EAR.

As detailed later (and illustrated in the plans in **Attachment 1**), reconfiguration of the West Building to achieve compliance with the 8.5m height standard (whilst respecting the upper terrace cartilage and retaining significant trees) would necessitate reduced boundary setbacks and thereby increase visual impact.

Building height objective (d)

(d) maintain solar access to new and existing dwellings, public reserves and streets, and promote solar access to new buildings, and

The project satisfies building height objective (d) as detailed shadow studies in the Revised EAR (Volume 2) show that the project will have very minor and reasonable shadow impacts, as explained at Section 7.5.1 (p. 109) of the Revised EAR. North Sydney Council in its submission on the Revised EAR (on page 49) acknowledges that the project provides adequate solar access in midwinter.

Building height objective (e)

(e) maintain privacy for residents of existing dwellings and promote privacy for residents of new buildings, and

The project satisfies building height objective (e) as privacy protection measures are proposed, including setbacks, restricted access, window design and enclosure of spaces (as detailed at Section 7.5.2 (p. 111) of the Revised EAR). North Sydney Council in its submission on the Revised EAR (on page 49) acknowledges that the project can address privacy impact.

Building height objective (f)

(f) prevent the excavation of sites for building works, other than for garages and car parking.

The project satisfies building height objective (d) as:

- The need to minimise the footprint and height of new buildings has necessitated some excavation beneath the West Building. As illustrated on Sections A, B + C, Drawing A.161 (Revision G), excavation below the West Building is limited to one storey.
- Consistent with this objective, the two levels of excavation proposed beneath the East Building are to be used for car parking.

3) Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?

Clause 5(a)(i) and (ii) of the EP&A Act state:

The objects of the Act are:

- (a) to encourage:*
 - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) the promotion and co-ordination of the orderly and economic use and development of land,*

In the Revised EA, the gross floor area (**GFA**) of the West Building was reduced. Given the reasonable impacts of the project and the educational needs of Shore School, it is unreasonable to further reduce the West Building GFA. Compliance would therefore necessitate redistribution of the proposed non-complying volume.

Mayoh Architects has considered design changes that would reconfigure the West Building to achieve compliance with the 8.5m height standard (Diagrams SK.01 – SK.05, **Attachment 1**). Like the envelope proposed by the Revised EAR, these studies (by necessity) comply with the upper terrace curtilage specified in the endorsed CMP and retain significant vegetation on the site. The reconfigured envelope also complies with the building height plane development standard and would not compromise compliance with the landscaped area development standard.

A review of the complying scheme diagrams shows that:

- Compliance with the 8.5m height standard would result in reduced setbacks to the western boundary (from 20.8m - 27.8m proposed by the Revised EAR, to a minimum of 8.8m – 21.7m in the complying scheme). As noted above the West Building cannot be expanded:
 - To the east (above ground level) given the upper terrace curtilage specified in the endorsed CMP
 - To the south or north due to the proximity to existing significant trees/vegetation
 - Underground to the east as the resulting spaces would have inadequate access to natural light and ventilation, compromising their suitability for educational activities.

Expansion to the west, as shown on the complying scheme diagrams, is the only viable redistribution option.

- The complying scheme redistributes approximately 313m² of gross floor area (GFA) and 108m² of circulation GFA (421m² in total). This redistributed area includes some complying volume (below the 8.5m standard) to enable redistribution of full floor to ceiling spaces. With a total GFA of 2,681.1m², the redistributed area equates to approximately 15% of the West Building's total GFA.
- The complying scheme has five levels (extra storey located underneath Level 1, northern section) whereas the Revised EAR shows four levels.
- The complying scheme provides GFA that is dislocated from the rest of the teaching spaces, necessitated enlargement of the central circulation area and provision of another lift to provide disabled access to the new lower level.
- Supervision in the lower westernmost areas of the building would be more difficult due to its remote location.
- The visual impact of the West Building when viewed from the adjoining Bank Street properties would be increased (reduced setback).
- Opportunities for new planting along the western boundary would be diminished by the reduced setback area, further increasing visual impact.
- The building footprint of the complying scheme is greater than the building footprint shown in the Revised EAR, reducing the landscaped area.

Given the above points and the assessment of compliance with the height standard objectives, compliance with the building height development standard would tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EPA Act as it would increase the impacts of the West Building.

It would also necessitate a larger building footprint for the East Building and preclude the proposed Graythwaite House Conservation works that have a height greater than 8.5m.

4) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

In this instance, strict compliance with the building height development standard is unreasonable as the project has been designed to appropriately respond to the site constraints and will not unreasonably impact upon the amenity of adjoining properties.

Notably the proposed West Building, which has been the subject of most debate in relation to the height standard, is sited and scaled to ensure impacts on adjoining properties are minimised as follows:

- The setback of the building from the western side boundary exceeds 20m to ensure possible impacts are internalised within the Graythwaite site.

- The building conforms to the height standard of 8.5m at the western interface with the neighbouring residential properties.
- Owing to the irregular nature of the site topography in this area (with the site sloping from east to west and north to south), parts of the building - equivalent to approximately 10% of the total building volume – exceed a height of 8.5m. These parts of the building are setback variously between 27m and 32.5 from the western boundary.
- The north-south orientation of the building, the limited apertures to its western façade and its stepped form ensure that the areas which exceed a height of 8.5m do not result in a loss of privacy or overshadowing for the adjoining properties.
- Alternative development options to redistribute the building volume below the 8.5m height standard would not conform to heritage parameters in the endorsed CMP and would result in a reduction of the setback from the western boundary to 8.8 metres (refer attached diagrams SK-01 to SK05).
- The height of the West Building conforms to the policies contained within the endorsed Graythwaite CMP.
- Owing to the topography and existing and proposed dense vegetation, the proposed building will not be visible from significant public vantage points from Union Street or from more distant vantage points to the west.
- The site of the proposed West Building is an area of limited heritage and archaeological value.
- Development in other areas of the site such as the Union Street lower terrace would result in a considerably greater heritage and visual impact on the site and its surroundings.

5) Is the objection well founded?

For the reasons set out above, the proposed departure from the building height development standard is well founded.

Conclusion

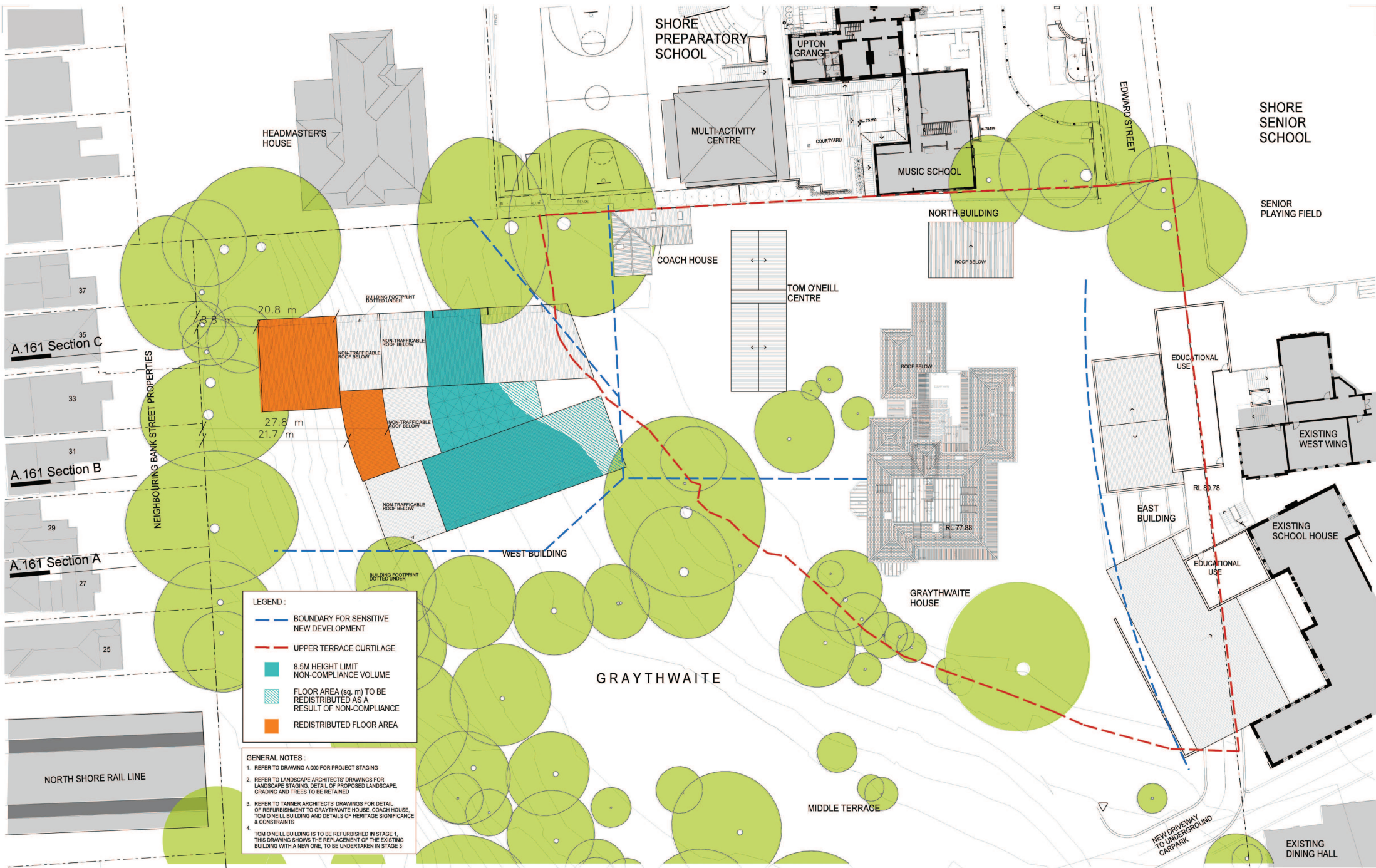
Whilst components of the project do not strictly comply with the building height development standard at clause 17(2) of NSLEP 2001; it nevertheless satisfies the five SEPP 1 tests established by the Court.

Compliance with the development standard is therefore unreasonable in the circumstances of the case.

ATTACHMENT 1

West Building – Stage 3 – 8.5m Height Limit Comparative Study (SK-01 to SK05)

by Mayoh Architects



GRAYTHWAITE - SYDNEY CHURCH OF ENGLAND GRAMMAR SCHOOL
West Building - Stage 3 - 8.5m Height Limit Comparative Study



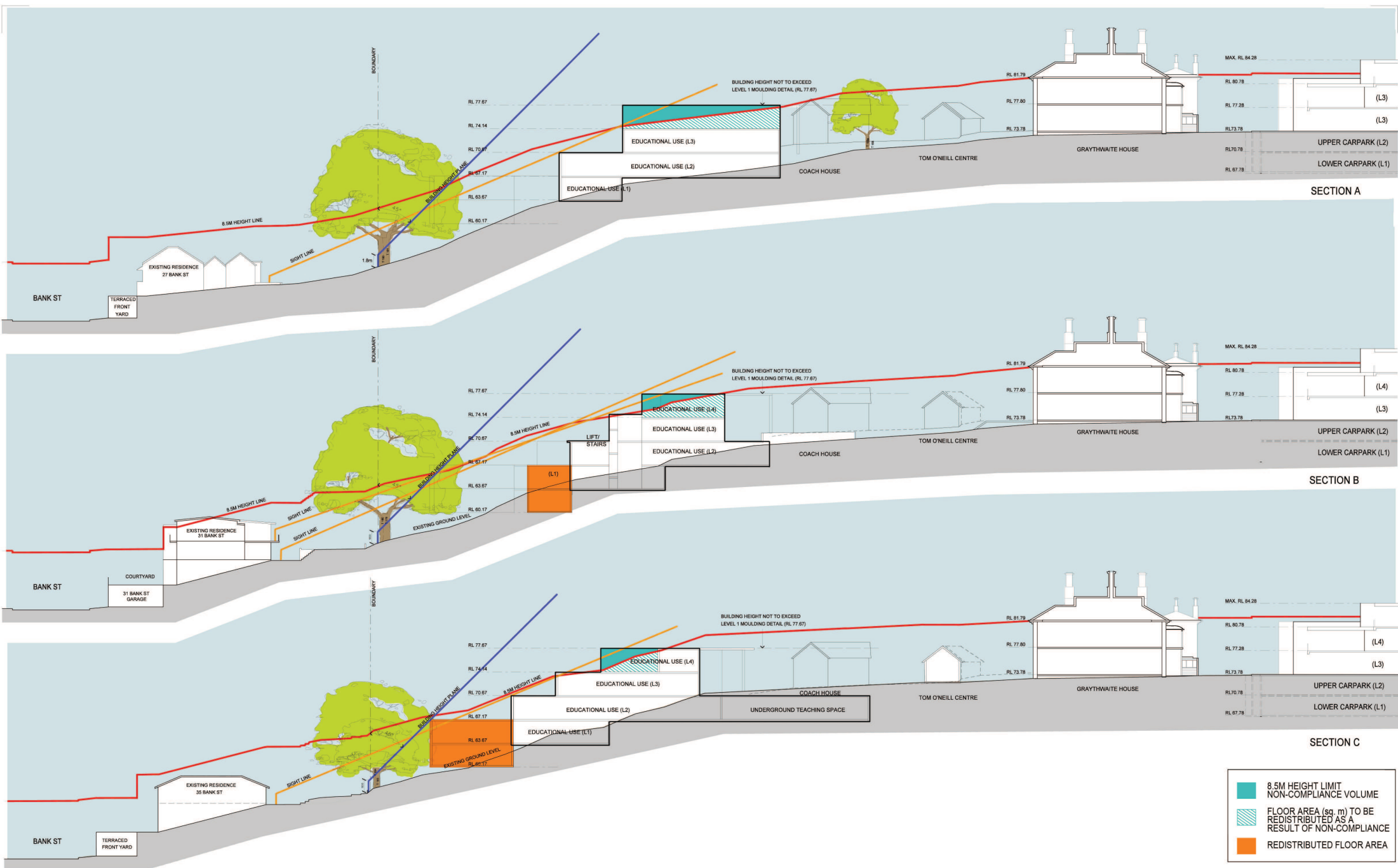
1:250 @ A1
0 1 2 3 4 5 10

SK.01 - Roof Plan • Revision A • 10.02.2012

taylor
brammer

MAYOH
ARCHITECTS

tanner Architects



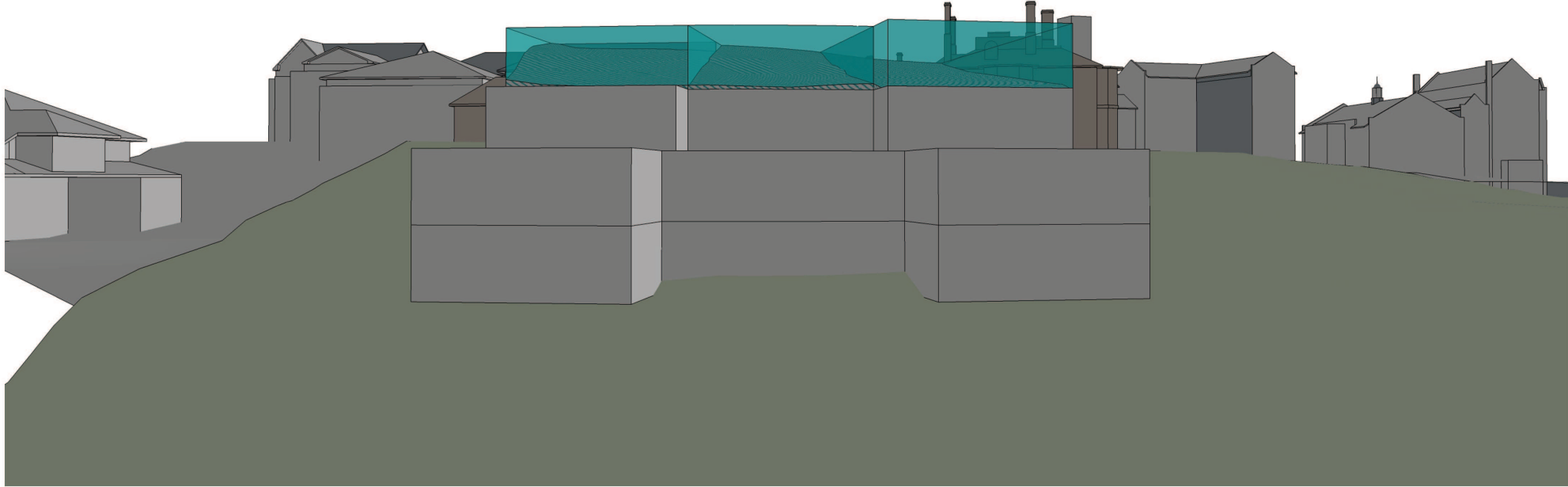
GRAYTHWAITE - SYDNEY CHURCH OF ENGLAND GRAMMAR SCHOOL
West Building - Stage 3 - 8.5m Height Limit Comparative Study

1:250 @ A1

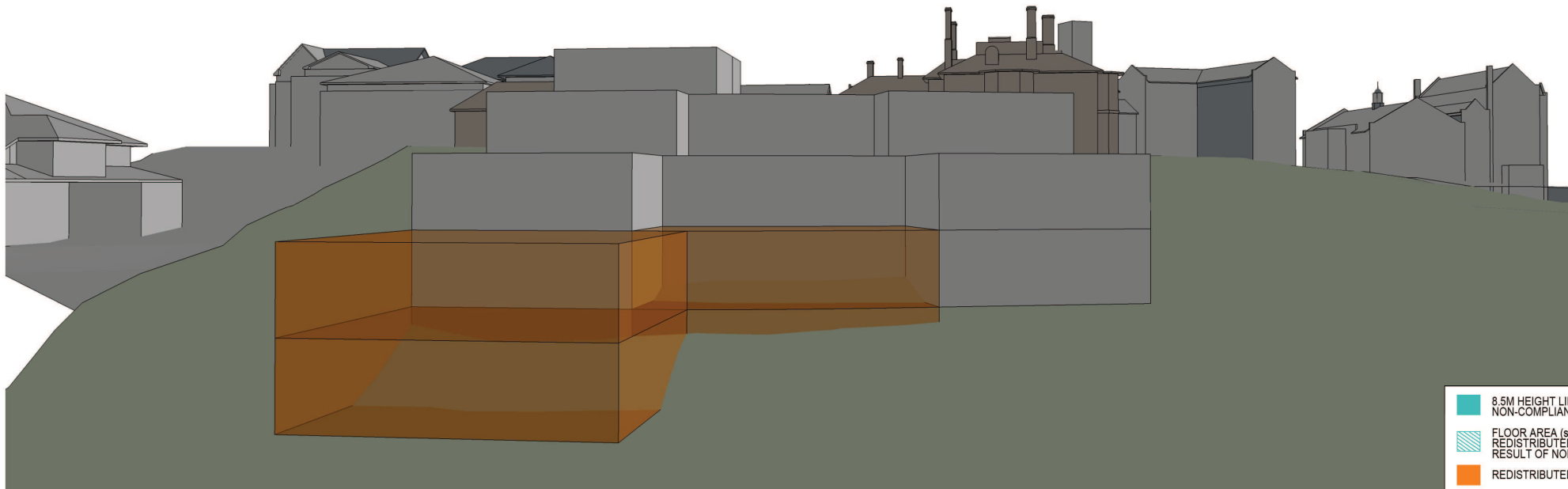
SK.02 - Sections A, B & C • Revision A • 10.02.2012



tanner Architects



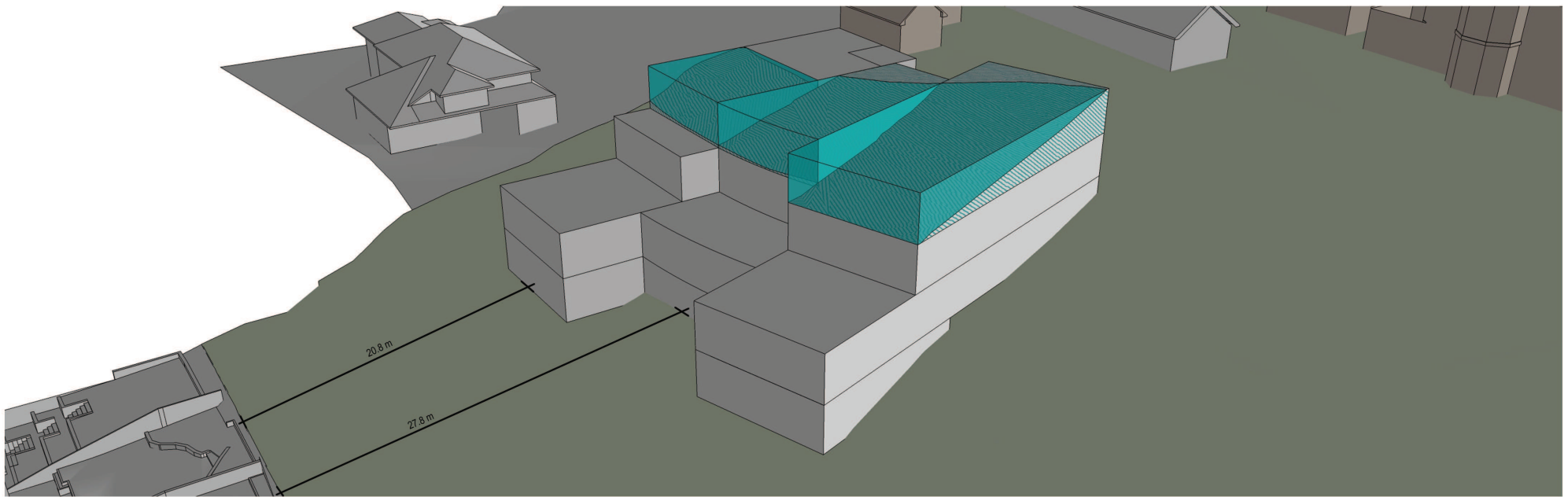
Original Revised EA - Highlighting volumes of non-compliance with 8.5m height limit



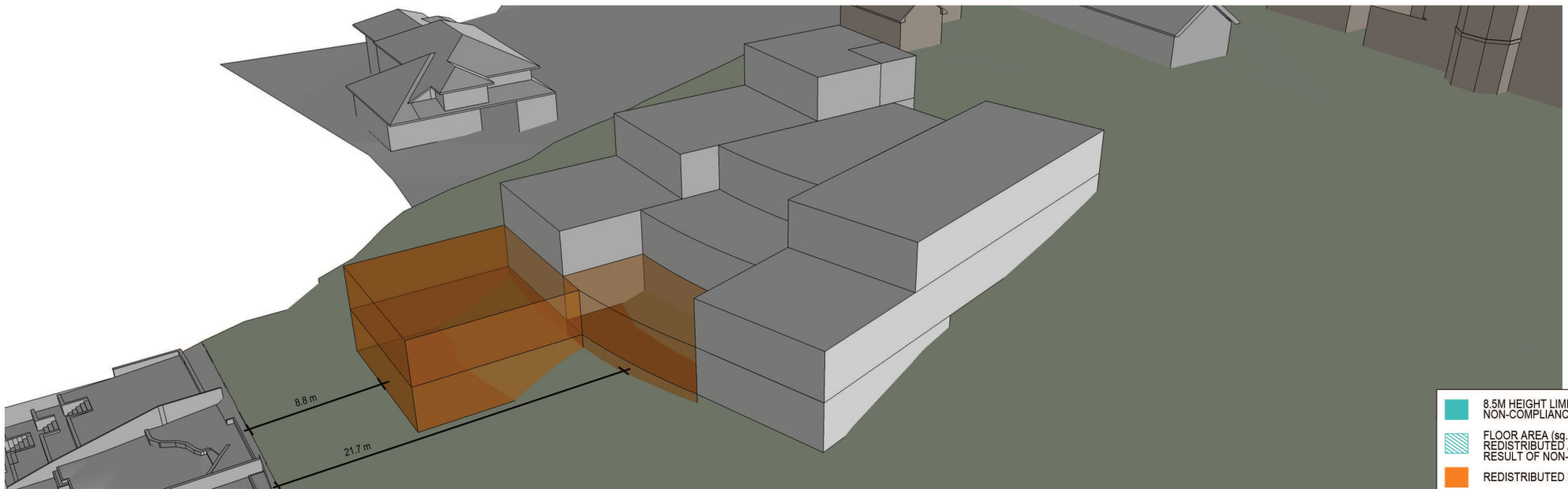
Option to redistribute non-complying floor areas to west & add another storey (under current level 1)

- 8.5M HEIGHT LIMIT NON-COMPLIANCE VOLUME
- FLOOR AREA (sq. m) TO BE REDISTRIBUTED AS A RESULT OF NON-COMPLIANCE
- REDISTRIBUTED FLOOR AREA





Original Revised EA - Highlighting volumes of non-compliance with 8.5m height limit



- 8.5M HEIGHT LIMIT NON-COMPLIANCE VOLUME
- FLOOR AREA (sq. m) TO BE REDISTRIBUTED AS A RESULT OF NON-COMPLIANCE
- REDISTRIBUTED FLOOR AREA

Option to redistribute non-complying floor areas to west & add another storey (under current level 1)





Original Revised EA - Highlighting volumes of non-compliance with 8.5m height limit



Option to redistribute non-complying floor areas to west & add another storey (under current level 1)

- 8.5M HEIGHT LIMIT NON-COMPLIANCE VOLUME
- FLOOR AREA (sq. m) TO BE REDISTRIBUTED AS A RESULT OF NON-COMPLIANCE
- REDISTRIBUTED FLOOR AREA

