

**Item 4.****Development Application: 136-140 Elizabeth Street, Sydney - D/2025/675****File Number: D/2025/675****Summary****Date of Submission:** 22 July 2025 (amended plans and supporting documentation received 24 and 28 October 2025)**Applicant:** Investa 140E Devco Pty Ltd**Architect/Designer:** Mostaghim**Developer:** Investa**Owner:** The Salvation Army (NSW) Property Trust**Planning Consultant:** Colliers**Cost of Works:** \$105,068,700**Zoning:** SP5 Metropolitan Centre

The proposal comprises a mixed-use building for community floor space and co-living residential uses which are permissible with consent.

**Proposal Summary:** The proposal seeks consent for the demolition of the existing building and the construction of a 17-storey mixed use building including 2 storeys of community floor space and 15 storeys of co-living residential uses.

The proposed co-living component includes 251 residential rooms with a total capacity of 441 residents. Co-living facilities include 524 square metres of indoor communal areas spread over two different levels and 269 square metres of outdoor communal areas split over three different levels. The co-living component also provides a communal laundry and bicycle parking facilities.

The proposal also includes approximately 1,420 square metres of community floor space uses, located on the ground and first floors of the development.

The application is referred to the Central Sydney Planning Committee (CSPC) for determination as the proposal is "major development" for the purposes of the City of Sydney Act 1988.

During the assessment of the application, the proposal was amended, and additional information was submitted to address the concerns of Council officers and other public authorities. These concerns primarily related to:

- architectural resolution
- residential amenity
- landscape design
- waste management
- flood and stormwater management
- bicycle parking

These issues were largely addressed by the applicant in amended plans and the submission of additional supporting documentation. Subject to the adoption of the recommended conditions of consent, the proposal is now considered to achieve an acceptable degree of compliance with the relevant planning controls, provides appropriate residential amenity to future residents and will have an acceptable impact on surrounding developments.

The application was notified for 30 days between 30 July 2025 and 28 August 2025, with 10 submissions received. Of the 10 submissions received, one made comment on the proposal, one was in support of the proposal and eight were objecting to the proposal.

The submission of support noted the benefit in providing an increased housing mix to the area, retaining an area of community floor space on the lower levels and the strategic placement of proposed artworks.

Objections raised the following concerns:

- Acoustic, traffic and dust impacts during construction
- Inappropriate setbacks from the street and adjacent buildings
- View and outlook loss
- Acoustic impacts during operation

- Overcrowding of streets and nearby parks from increased population
- Privacy and overlooking from the development to adjacent sites
- Lack of community consultation
- Site overdevelopment
- Lack of competitive design process
- Socio-economic background of future residents

Issues raised above are addressed and discussed within the report. Overall, the proposal is accompanied by documentation demonstrating the development is capable of maintaining appropriate acoustic levels so as to not adversely impact existing surrounding developments and will maintain an appropriate level of residential amenity in surrounding residential development.

The proposal is generally consistent with the applicable planning provisions including those within the Sydney Local Environmental Plan 2012 (SLEP 2012), the Sydney Development Control Plan 2012 (SDCP 2012) and the State Environmental Planning Policy (Housing) 2021.

Proposed non-compliances have been assessed as generally having merit in the specific circumstances of the proposal and are addressed in the report.

As a result of the design modifications made to the application, the amended proposal has a high standard of architectural design, materials and detailing. It presents an improved outcome, comprises an appropriate response to the site conditions and locality and will result in a form and scale that achieves the desired future character. The desired future character includes an overlay of trees including Snow Pear and London Plane trees in accordance with the City's Street Tree Master Plan.

**Summary Recommendation:** The development application is recommended for approval, subject to conditions.

**Development Controls:**

- (i) City of Sydney Act 1988
- (ii) Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2021
- (iii) Sydney Water Act 1994
- (iv) SEPP (Resilience and Hazards) 2021
- (v) SEPP (Industry and Employment) 2021
- (vi) SEPP (Sustainable Buildings) 2022
- (vii) SEPP (Transport and Infrastructure) 2021
- (viii) SEPP (Housing) 2021
- (ix) SEPP (Biodiversity and Conservation) 2021
- (x) Sydney Local Environmental Plan 2012
- (xi) Sydney Development Control Plan 2012

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Submissions

## Recommendation

It is resolved that consent be granted to Development Application Number D/2025/675 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

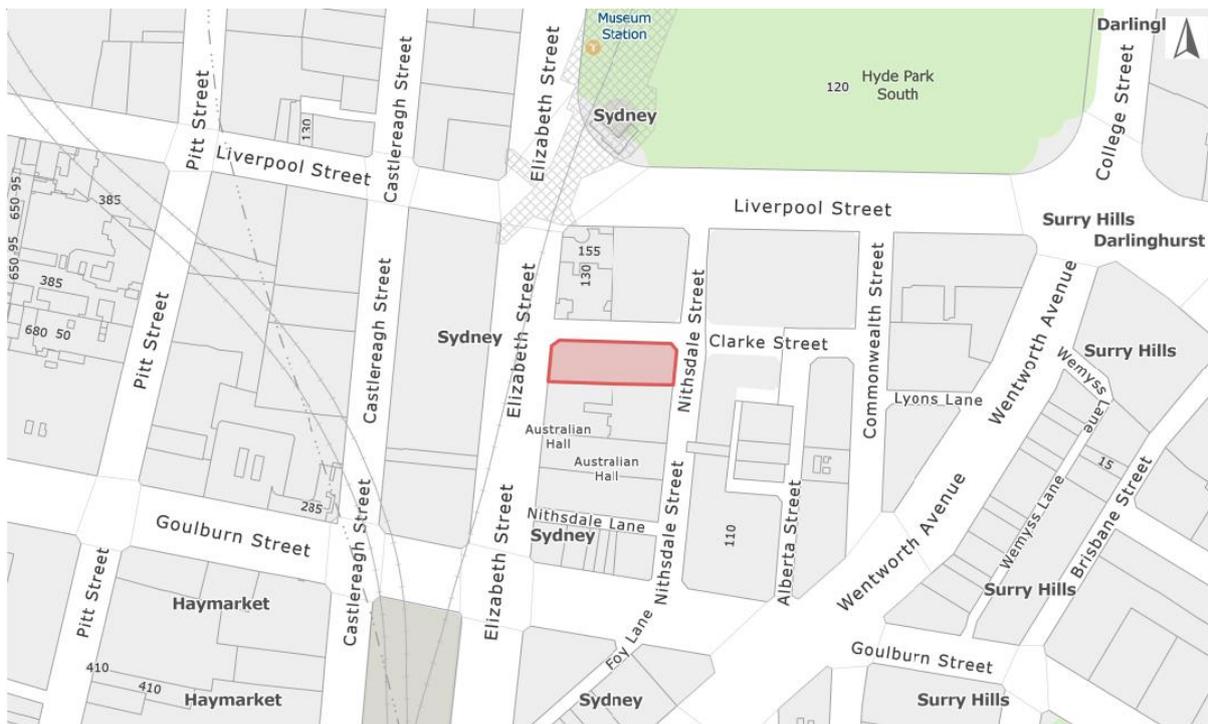
The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposal is consistent with the standards for co-living housing under Chapter 3 Part 3 Section 68 of the State Environmental Planning Policy (Housing) 2021.
- (C) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (D) The proposal is consistent with the objectives and provisions of the SP5 Metropolitan Centre zone.
- (E) The proposed development has a height, scale and form suitable for the site and its context and, subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the Central Sydney locality.
- (F) The development is considered to exhibit design excellence, consistent with the provisions of Clause 6.21C of the Sydney Local Environmental Plan 2012 and the application demonstrates the site is suitable for the proposed uses and is of a high standard of architectural design, materials and detailing
- (G) Subject to the recommended conditions of consent, the proposed development achieves good amenity for the existing and future occupants of the subject and adjoining sites.
- (H) The proposed development is unlikely to result in any significant adverse environmental or amenity impacts on surrounding properties, the public domain, and the broader Central Sydney locality, subject to conditions.
- (I) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City and the community, subject to recommended conditions imposed relating to appropriate management of potential environmental impacts associated with the development.

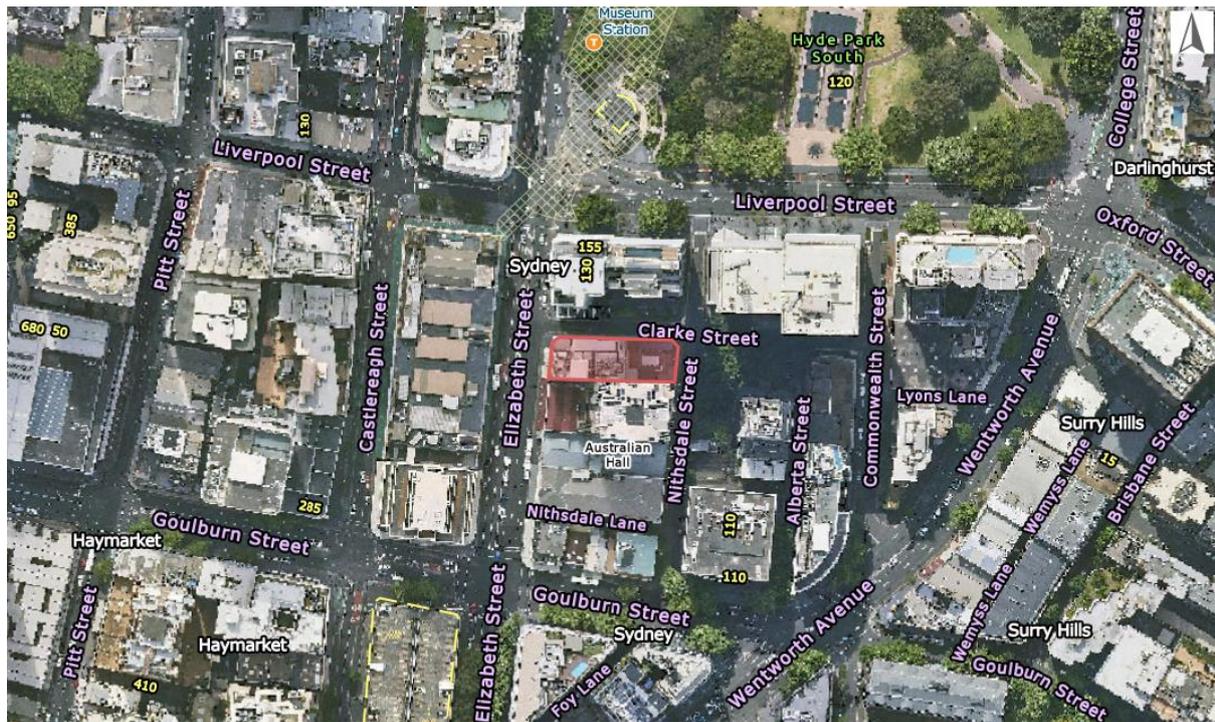
## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 10 DP 812806 and is commonly known as 136-140 Elizabeth Street, Sydney.
2. The site is located in Central Sydney, just south of Museum train station. The site is located at the junction of Elizabeth Street and Clarke Street, just south of the intersection of Elizabeth Street and Liverpool Street. The site is rectangular in shape with an area of approximately 1,046 square metres. It has an eastern frontage of approximately 19m to Nithsdale Street, a northern frontage of approximately 56m to Clarke Street and a western frontage of approximately 19m to Elizabeth Street. The site adjoins a 33-storey residential apartment building to the south.
3. The site is located in close proximity to the underground City Circle railway line, running just west of the site. The site is also located close to the new City and Southwest metro rail line, running to the west of the site.
4. The site is identified on the plan in Figure 1 and an aerial photograph in Figure 2 below, showing the location of the site and its context.



**Figure 1:** Map view of the site and surrounds



**Figure 2:** Aerial view of the site and surrounds

5. The subject site contains a 11-storey community building (refer to Figures 3 and 4 below) and is currently occupied by The Salvation Army Congress Hall and is used for administration and community uses.
6. The site currently has vehicular access along the Nithsdale Street frontage and pedestrian access from Elizabeth Street. The site is not identified as being subject to flooding and is not identified as a heritage item nor located within a heritage conservation area.



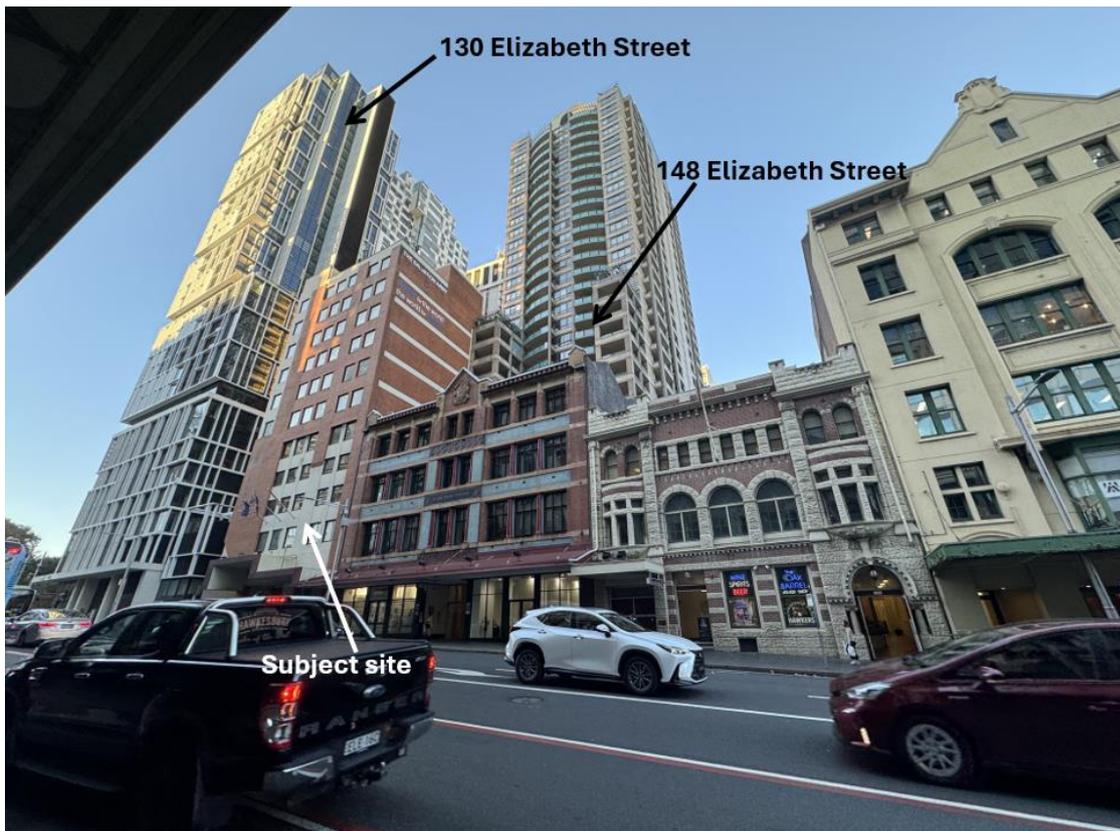
Figure 3: Site viewed from Elizabeth Street



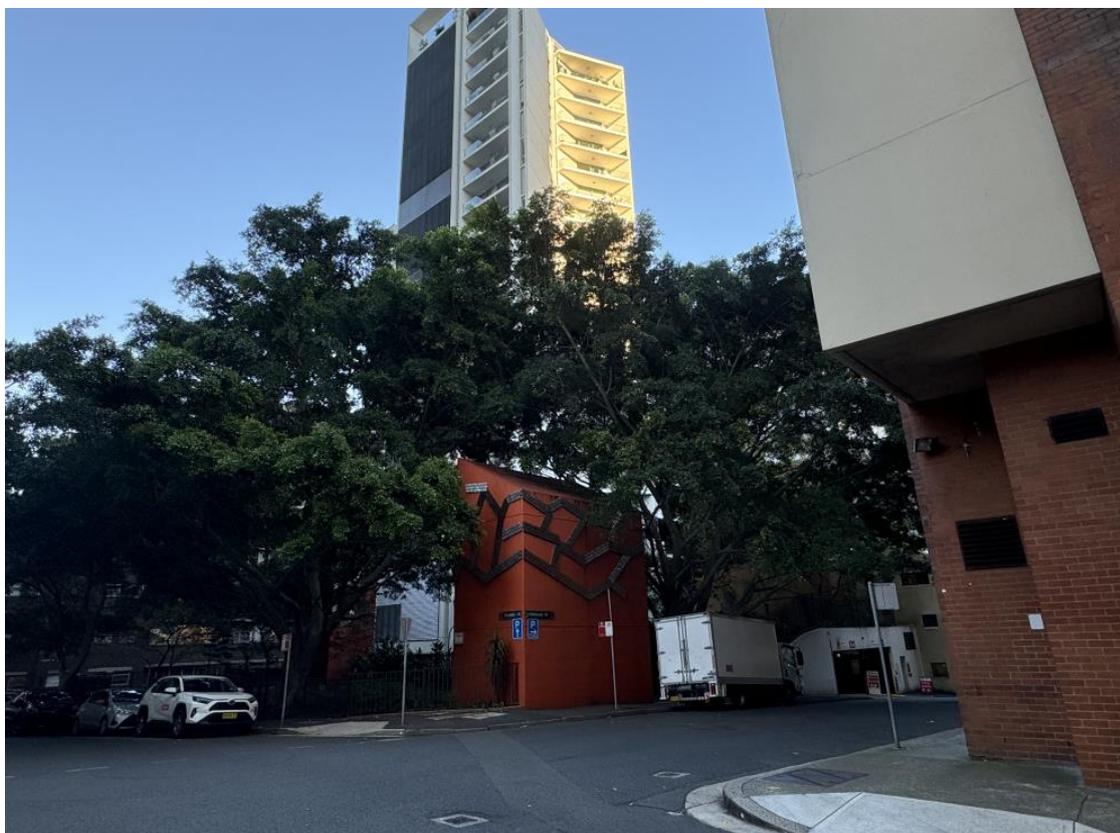
**Figure 4:** Site viewed from the intersection of Clarke Street and Nithsdale Street

### The Locality

7. The surrounding area is characterised by a mix of commercial, residential and civic uses.
8. To the north of the site on the opposite side of Clarke Street at 130 Elizabeth Street, Sydney, is a 38-storey mixed use development containing commercial uses on the ground floor and residential apartments above. Further north is Hyde Park South and the ANZAC Memorial.
9. To the east is a commercial tower and privately owned pocket park located opposite the site on Nithsdale Street. Further east is a mix of commercial and residential developments.
10. Adjoining the site to the south is a 34-storey mixed use building known as Hyde Park Towers comprising commercial tenancies on the ground floor to level 3 and residential apartments and associated parking on the levels above.
11. Opposite the site to the west along Elizabeth Street is the Downing Centre court complex.
12. Figures 5 to 7 show the existing development located within close proximity of the subject site.



**Figure 5:** surrounding development to the north and south of the subject site



**Figure 6:** Existing pocket park opposite the site to the east along Nithsdale Street



**Figure 7:** Downing Centre courts complex located opposite the site to the east along Elizabeth Street

## History Relevant to the Development Application

### Design Advisory Panel

13. During pre-lodgement discussions, a preliminary proposal was submitted for review and discussion with the Design Advisory Panel. The Panel were presented with the preliminary proposal on 13 June 2024. The Panel noted the following:
  - (a) Reconsider extensive open corridors for better habitation
  - (b) Solar protection of north-facing glazing is recommended
  - (c) Locate communal areas in areas that will have suitable access to light
  - (d) Individual unit design should be refined and consider heating/cooling systems
  - (e) The podium levels should respond to the height of the Mark Foy's building (Downing Centre) and align with the podium of the residential building to the north (130 Elizabeth Street)
  - (f) Consideration should be given to acoustic protection of residential areas from services areas and street noise

14. Overall, the proposed amended submission satisfactorily addresses recommendations made by the Design Advisory Panel. The amended design addresses the street wall heights of surrounding significant buildings more appropriately, reduces the extent of open corridors, has consolidated and relocated the main communal indoor and outdoor spaces to allow better access to light and ventilation and includes balconies to north-facing units to reduce direct solar impact onto glazing.
15. The design development of the proposed scheme has resolved many issues raised by Council and the Design Advisory Panel during pre-lodgement discussions and presenting the amended scheme to the Panel was deemed unnecessary.

### **Amendments**

16. Following a preliminary assessment of the proposed development by Council officers, a request for additional information and amendments was sent to the applicant on 29 September 2025. The request sought amendments to the facade, primarily fronting Clarke Street to better articulate the transition between the podium levels and upper floors. The request also sought clarification on floor to ceiling heights, co-living unit types and unit ventilation.
17. In addition to the above, the request sought further information on the technical function of proposed plenums to co-living units, landscape design and laundry function. In regard to building function, amendments were sought to the basement level, seeking an increase to waste storage allow a reduction in the frequency of collection days and an increase in bicycle parking facilities.
18. Additional technical information was also requested relating to stormwater quality assessment and flood management, stormwater drainage design and general public domain upgrade design.
19. The applicant responded to the request on 24 October 2025, and submitted an amended application including additional technical information and design amendments appropriately responding to Council's request.
20. On 23 January 2026, the applicant requested that the development be staged, with construction certificate stages reflected in conditions of consent.

### **Proposed Development**

21. The application seeks consent for the following:
  - (a) Demolition of the existing 11-storey building and associated basement structure
  - (b) Construction of a 17-storey mixed use development comprising:
    - (i) 15 storeys of co-living; and
    - (ii) 2 storeys of community use
  - (c) Construction of a ground floor on-site loading bay accessed off Nithsdale Street, two car parking spaces for community use and loading/servicing and plant
  - (d) Provision of basement bicycle parking facilities, waste storage areas and plant equipment

- (e) Signage zones
  - (f) Public domain improvements to Elizabeth Street, including footpath upgrades
22. The proposed co-living component comprises the following:
- (a) 251 rooms (potential of 441 total residents)
  - (b) 524 square metres of communal indoor space located at levels 8 and 16
  - (c) 269 square metres of communal outdoor space located at levels 3, 8 and roof
23. Detailed drawings of the proposed development are provided in Attachment B, and selected drawings to illustrate the proposal generally are provided below.



**Figure 8:** Photomontage of Elizabeth Street and Clarke Street frontages



Figure 9: Photomontage of Elizabeth Street frontage

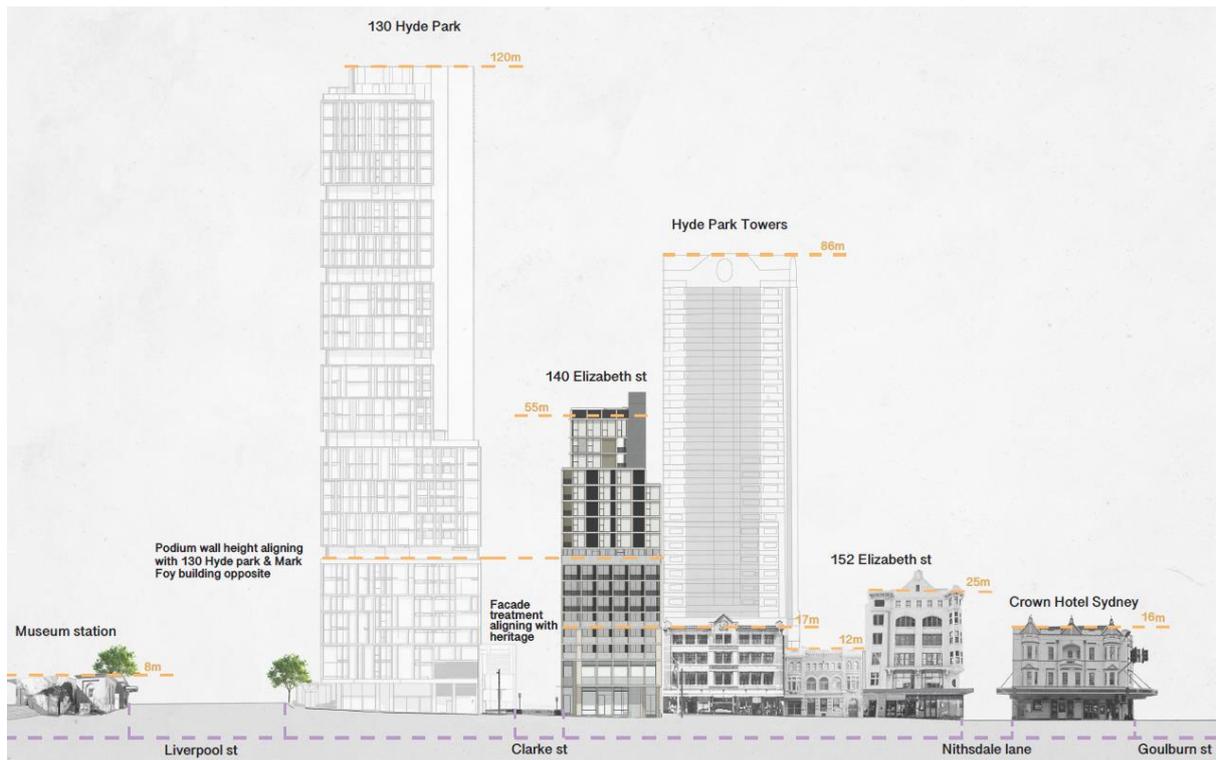


Figure 10: Elizabeth Street frontage with adjacent developments

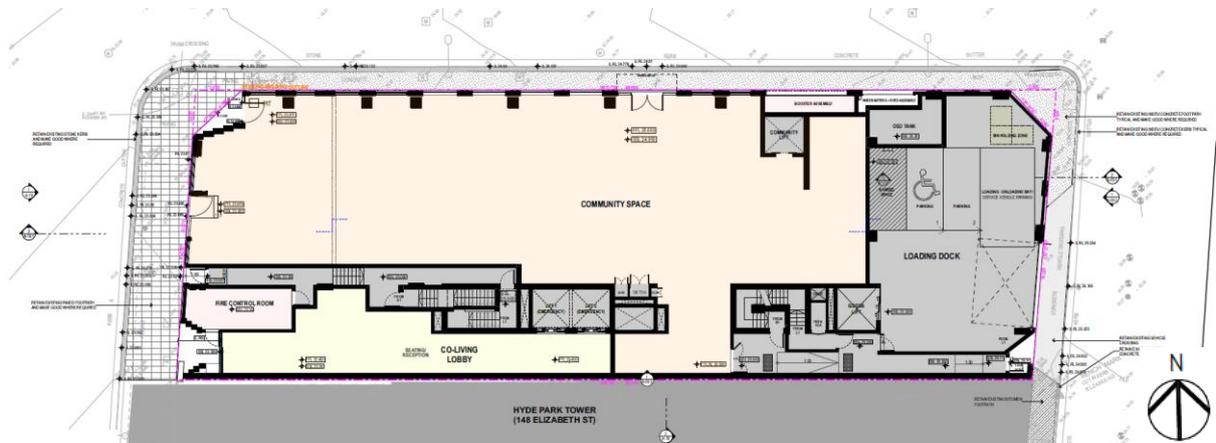


Figure 11: Proposed ground floor

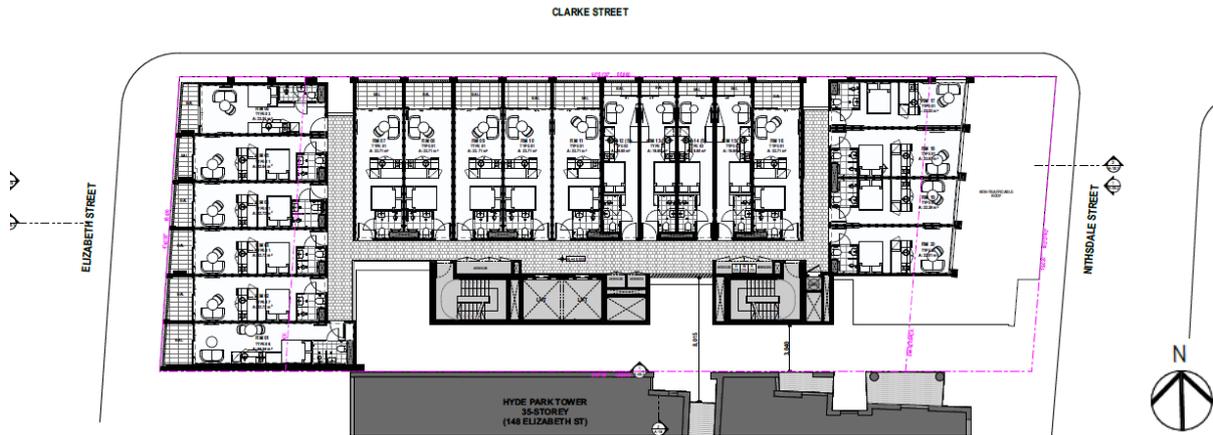


Figure 12: Typical proposed lower residential level

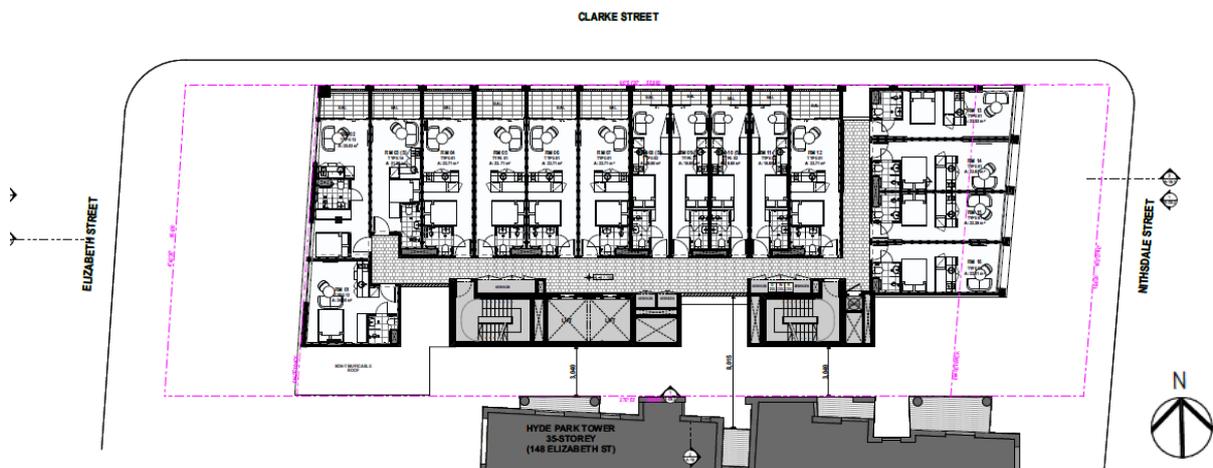


Figure 13: Typical proposed upper residential level

**Assessment**

24. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

**State Environmental Planning Policies**

**Sydney Water Act 1994**

25. Section 78 of the Sydney Water Act 1994 sets out various requirements for the determination of development applications which would:

- (a) increase the demand for water supplied by the Corporation; or
- (b) increase the amount of waste water that is to be removed by the Corporation; or
- (c) damage or interfere with the Corporation's works; or
- (d) adversely affect the Corporation's operation.

26. Subclauses (2) and (4) of Section 78 of the Sydney Water Act 1994 allow for a consent authority to approve an application at any time, subject to a condition requiring that a developer obtain a compliance certificate from the Sydney Water Corporation.
27. Several conditions have been recommended in Attachment A requiring various Sydney Water approvals and certification, including a condition requiring that the developer obtain a Section 73 Compliance Certificate from the Sydney Water Corporation.

## **State Environmental Planning Policy (Resilience and Hazards) 2021**

### **Chapter 4 - Remediation of Land**

28. The aim of SEPP (Resilience and Hazards) 2021 - Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
29. A Detailed Site Investigation report was submitted with the application. The report assesses the historical and current land uses, analyses the detailed site inspection to identify potential AECs and other samples from the site investigation and determines the risk of harm from contamination and the suitability of the site for the proposed land use.
30. The report identified that the site has been under ownership of the Salvation Army Headquarters and Sydney Congress Hall since 1926, utilised for commercial use of the ground level and leased office spaces on the upper levels. The site surface is entirely sealed by concrete.
31. The application proposes to retain the existing basement with some drilling/excavation for footings and lift shafts proposed. The investigation report concluded that soil and groundwater samples analysed do not indicate any significant exceedances of the identified criteria for contaminants of potential concern.
32. As such, the submitted investigation report has determined that the site is suitable for the proposed uses for a community facility on the ground and first floor and residential uses above, concluding that site remediation is not required.
33. Council's Environmental Health Officer has reviewed the information provided and is satisfied that, subject to conditions, the site is suitable for the proposed use. As such, the application satisfied the relevant provisions of the SEPP.

## **State Environmental Planning Policy (Housing) 2021**

34. The site is located within Central Sydney. Clause 1.9(2A) of the Sydney Local Environmental Plan 2012 (SLEP 2012) notes that the specific provisions for co-living as provided in Chapter 3, Part 3 of the Housing SEPP do not apply to land in Central Sydney. As such, the provisions for co-living are used as a guide only.

### **Chapter 3 Diverse Housing**

#### **Part 3 Co-living Housing**

35. Under Clause 68, compliance with any of the following standards must not be used to refuse consent for co-living housing.
36. An assessment of the proposed co-living housing against each standard is provided in the table below.

Clause 68 – Non discretionary development standards

37. If the following non discretionary development standards are complied with the consent authority cannot require more onerous standards for the matters.

Standards that cannot be used to refuse a boarding house.

Provision	Compliance	Guiding Comment (control does not actually apply in Central Sydney)
Density and scale expressed as floor space ratio  An FSR of up to 8:1 plus 10% is permitted.	N/A	The site is located within Central Sydney. Bonus floor space under the Housing SEPP is not applicable however additional floor space is available. See further discussion under the 'Sydney Local Environmental Plan 2012' heading.
Communal living area  For co-living containing more than 6 private rooms a total of at least 30m <sup>2</sup> plus 2m <sup>2</sup> per additional room and a minimum dimension of 3m	Yes	The development satisfies the minimum requirement with communal living areas totalling approximately 524 square metres.
Communal open space  Communal open space with a total area of at least 20% of the site area and a minimum dimension of 3m	Yes	The development satisfies the minimum requirement with communal open spaces totalling approximately 269 square metres.
Parking  Unless a relevant planning instrument specifies a lower number 0.2 spaces per room in an accessible area and 0.5 spaces otherwise	Yes	The proposal does not seek consent for any parking spaces allocated to the co-living use.  The Sydney LEP 2012 does not require the provision of private motor vehicle car parking.

38. The proposed development complies with the relevant provisions of clause 68.
39. Clause 69 (1) states that a consent authority must not grant development consent for the purpose of co-living unless it is satisfied of each of the following provisions.

## Clauses 69 (1) – Standards for co-living housing

Provision	Compliance	Guiding Comment (control does not actually apply in Central Sydney)
1(a) No private room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m <sup>2</sup> and less than 12m <sup>2</sup> for a single occupancy or 16m <sup>2</sup> otherwise	Yes	All boarding rooms are less than 25 square metres.
1(b) in R2 zone the minimum lot size is no less than minimum lot size for manor houses under a relevant planning instrument or 600m <sup>2</sup>  on other land the minimum lot size is no less than minimum lot size under a relevant planning instrument	N/A	There are no minimum lot sizes relevant to the site. The site has an area of 1,046 square metres.
1(c) in R2 zone or equivalent the co-living housing will not contain more than 12 private rooms and will be in an accessible area	N/A	The site is not located in an R2 zone.
1(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space	Yes	The development satisfies this requirement. The site provides appropriate workspaces for management within the co-living lobby.
(1e) for co-living in a business zone no part of the ground floor that fronts a street is to be used for residential purposes unless another environmental planning instrument permits the use	Yes	The site is located within the SP5 Metropolitan Centre zone. The only floor space associated with the co-living use located on the ground floor is a lobby and reception and satisfied this requirement.
1(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant	Yes	Each co-living unit is equipped with private bathroom and kitchen facilities in addition to a common laundry and communal kitchen.

Provision	Compliance	Guiding Comment (control does not actually apply in Central Sydney)
1(g) each private room will be used by no more than 2 occupants	Yes	The development satisfies this requirement.

Clauses 69 (2) provides that development consent must not be granted for co-living housing unless the consent authority considers the following matters-

Provision	Compliance	Guiding Comment (control does not actually apply in Central Sydney)
2(a) in R2 zone the front, side and rear setbacks are no less than those required for multi dwelling housing in another relevant planning instrument	N/A	The site is not located within an R2 zone.
2(b) if the co-living has at least 3 storeys the building complies with the minimum building separation distances in the Apartment Design Guide	No	The development does not satisfy this requirement. This matter is discussed further under the heading 'Discussion'.
2(c) at least 3 hours of solar access will be provided between 9.00am and 3.00pm at mid winter in at least one communal living area	No	The communal living areas are provided on Level 8 and Level 16 of the proposed development. Due to the positioning of the communal living areas, and the existing extent of overshadowing across the site and broader locality, it is not possible to achieve 3 hours of direct solar access. Notwithstanding the communal open space located on Level 8 has been provided where maximum solar access (2 hours) is achieved during mid-winter and is considered satisfactory. Further, additional internal living areas located on Level 16 maximise direct solar access in the morning and afternoon.
2(d) at least one bicycle parking space will be provided for each private room	No	The development does not satisfy this requirement. This matter is further discussed under the heading 'Discussion'.

Provision	Compliance	Guiding Comment (control does not actually apply in Central Sydney)
2(e) at least one motorcycle parking space will be provided for every 5 private rooms	No	No motorcycle parking is provided on site. Given the site's location within Central Sydney and its proximity to several modes of public transport, the provision of motorcycle parking is not deemed necessary.
2(f) the design of the building is compatible with the desirable elements of the character of the local area or for precincts undergoing transition the desired future character of the precinct	Yes	The development satisfies this requirement. The design of the building is compatible with surrounding developments and is sympathetic to the character of the locality.

40. Clause 70 provides that development consent must not be granted for the subdivision of the co-living housing. A condition confirming that the co-living housing cannot be subdivided is recommended.

#### Chapter 4 - Design of Residential Apartment Development

41. Chapter 4 (Design of residential apartment development) specifically notes that the provisions of the chapter do not apply to co-living housing.

#### State Environmental Planning Policy (Industry and Employment) 2021

##### Chapter 3 - Advertising and Signage

42. The aim of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish.
43. The proposed signage has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 1 is provided in the table below.

Provision	Compliance	Comment
Character of the area	Yes	The proposed signage is generally consistent with the character of the area.
Special areas	Yes	The proposed signage generally does not detract from the amenity of visual quality of the locality, subject to conditions.

Provision	Compliance	Comment
Views and vistas	Yes	The proposed signage does not obscure or compromise any important views. It does not dominate the skyline and has no impact on the viewing rights of other advertisers.
Streetscape, setting or landscape	Yes	The proposed signage is generally of an appropriate scale, proportion and form and provides a positive contribution to the streetscape and setting of the area.  Refer to further discussion under Section 3.16 of the Sydney Development Control Plan 2012.
Site and building	Yes	The scale of the proposed signage is acceptable, and the materiality is compatible with the finishes and colours of the building.
Associated devices and logos	N/A	Not applicable. The proposed signs are not advertising signs.
Illumination	Yes	Condition of consent are recommended to ensure that the illumination does not result in unacceptable glare, affect safety or detract from the amenity of any residential accommodation.
Safety	Yes	The proposed signage will not reduce the safety of pedestrians, cyclists or vehicles on public roads or areas.

44. The proposed signage is consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and satisfies the assessment criteria specified in Schedule 5.

#### **State Environmental Planning Policy (Sustainable Buildings) 2022**

45. The aims of this Policy are as follows—
- (a) to encourage the design and delivery of sustainable buildings,
  - (b) to ensure consistent assessment of the sustainability of buildings,
  - (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored,
  - (d) to monitor the embodied emissions of materials used in construction of buildings,

- (e) to minimise the consumption of energy,
- (f) to reduce greenhouse gas emissions,
- (g) to minimise the consumption of mains-supplied potable water,
- (h) to ensure good thermal performance of buildings.

### **Chapter 2 Standards for residential development - BASIX**

46. While a BASIX Certificate is generally required for residential development, the Environmental Planning and Assessment Regulation 2021 define a "BASIX building" as:

"a building that contains at least one dwelling but does not include the following—

- (a) hotel or motel accommodation,
  - (b) a boarding house, hostel or co-living housing that—
    - (i) accommodates more than 12 residents, or
    - (ii) has a gross floor area exceeding 300 square metres".
47. As the residential portion of the development is for co-living accommodation that comprises more than 12 rooms and exceeds 300 square metres, the proposal is not required to address BASIX requirements under Chapter 2 of the SEPP.

### **Chapter 3 Standards for non-residential development**

48. Chapter 3 of the SEPP applies to development, other than development for the purposes of residential accommodation, that involves:-
- (a) the erection of a new building, if the development has an estimated development cost of \$5 million or more, or
  - (b) alterations, enlargement or extension of an existing building, if the development has an estimated development cost of \$10 million or more.

### **Section 3.2 Development Consent for non-residential development**

49. Section 3.2 Development consent for non-residential development provides that:

(1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—

- (a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,
- (b) a reduction in peak demand for electricity, including through the use of energy efficient technology,
- (c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,
- (d) the generation and storage of renewable energy,

- (e) the metering and monitoring of energy consumption,
  - (f) the minimisation of the consumption of potable water.
- (2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.
50. With regard to the above matters the applicant has submitted a City of Sydney Design for Environmental Performance report template to address the above. The template identifies design and technology responses for environmental performance that the applicant proposes to be incorporated in the development. This includes the full electrification of the building, passive architectural design, water capture and targeting a Green Star Buildings rating of 4 stars.
51. With regard to section (2) above the applicant has adequately quantified the embodied emissions attributable to the development. Section 35B of the Environmental Planning and Assessment Regulation determines the form in which embodied emissions are to be quantified. The embodied emissions attributable to the development have been appropriately quantified using the NABERS embodied energy form published on the NSW Planning Portal and certified by an appropriately qualified person as required by the regulations.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

52. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

#### **Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network**

##### **Clause 2.48 Determination of development applications – other development**

53. The application is subject to Clause 2.48 of the SEPP as the development will be carried out immediately adjacent to an electricity substation.
54. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

#### **Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors**

##### **Clause 2.99 – Excavation in, above, below or adjacent to rail corridors**

55. The application is adjacent to the City Circle rail corridor and was subsequently referred to Transport for NSW (TfNSW) for concurrence. TfNSW have recommended conditions which are included in the Notice of Determination.

#### **Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments**

56. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.

57. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

58. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 (SLEP 2012) is provided in the following sections.

#### Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the SP5 Metropolitan Centre zone. The proposed development is defined as co-living housing and community facility and are permissible with consent in the zone. The proposal generally meets the objectives of the zone.

#### Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 110m is permitted.  A height of 61.15m is proposed.  The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio  6.4 Accommodation floor space	Yes	A maximum FSR of 8:1 is permitted under clause 4.4 of the SLEP 2012.  In accordance with clause 6.4, the site is also subject to an additional 6:1 FSR for centre-based child care facilities, community facilities or hotel or motel accommodation.

Provision	Compliance	Comment
		<p>As the application proposes a community facility use within the development, additional floor space granted under clause 6.4 of the SLEP 2012 is apportioned to the site based on the proportion of the community facility floor space contained within the building.</p> <p>Based on the above, the site is subject to a maximum FSR of 8.94:1. This ratio enables a maximum GFA of 9,353 square metres across the site.</p> <p>A FSR of 8.68:1 or 9,081 square metres is proposed.</p> <p>The proposed development complies with the maximum FSR development standard.</p>

#### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is not identified as a heritage item and is not located within a heritage conservation area.</p> <p>The site is within proximity of several heritage items of local and state significance. Of note is the Downing Centre to the west of the site and the 'Former "Mark Foys Parking Station" including facades, internal structure and building elements', a local item adjoining the site to south at 148 Elizabeth Street.</p> <p>Council's Heritage Specialist has reviewed the proposal and raises no objection, subject to conditions, including amendments to the street awning, noting the proposal is not considered to have an adverse impact on the significance of surrounding heritage fabric.</p>

**Part 6 Local provisions – height and floor space**

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
<p>Subdivision 3 Heritage floor space</p> <p>6.11 Utilisation of certain additional floor space requires allocation of heritage floor space (HFS)</p>	Yes	<p>The proposal includes 713 square metres of accommodation floor space to be used for community facility purposes, which is the total GFA above the base 8:1 FSR control.</p> <p>Clause 6.11(a) of the SLEP 2012 requires that HFS is allocated to the site equal to 50% of the accommodation floor space proposed.</p> <p>As such, a total of 356 square metres of HFS is required to be allocated to the site. A condition is recommended in Attachment A to require this HFS to be purchased and allocated to the development.</p>
Division 3 Height of buildings and overshadowing		
6.16 Erection of tall buildings in Central Sydney	Yes	<p>The proposed development is consistent with the objectives of this clause in the following manner:</p> <ul style="list-style-type: none"> <li>• Wind conditions are expected to be similar to the existing site conditions at all locations on the ground level, not impacting amenity within the public domain</li> <li>• No key views from public places are expected to be adversely impacted</li> <li>• The proposal will have an acceptable heritage impact on surrounding heritage items</li> <li>• The proposal has been designed to acknowledge surrounding heritage items and the existing massing along Elizabeth Street, particularly referencing podium heights and vertical articulation of surrounding heritage items</li> </ul>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>The separation distances and setbacks provided will enable free movement of air around the upper levels of the building</li> </ul> <p>Further, the proposal is considered to provide appropriate sun and daylight access to the public domain, noting there are no protected public places or significant publicly accessible places within proximity of the site.</p> <p>Additionally, the proposed development will provide appropriate outlook for future occupants of the building, having residential uses face the three street frontages of the site while the core and services are located along the southern boundary.</p> <p>The proposal is considered to appropriately respond to the height transitions of surrounding developments, including the adjacent heritage item and generally meets the requirements of this provision.</p>
6.18 Overshadowing of certain places	Yes	The proposal does not overshadow any of the specified public spaces under this provision.
Division 4 Design excellence		
6.21C Design excellence	Yes	<p>The built form is compatible with the character of the locality and providing an appropriate relationship with the retained heritage buildings on the site and with the adjacent development.</p> <p>The proposal achieves the principles of ecologically sustainable development (ESD) and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The proposal presents a high standard of architectural design and the overall materiality, articulation and architectural expression of the development is in keeping with the relevant planning</p>

Provision	Compliance	Comment
		<p>controls and reflecting the desired future character of the area.</p> <p>The proposal will also have a positive contribution to the public domain through the retention and improvement of the active frontage along Elizabeth Street.</p> <p>Overall, the proposal satisfies the considerations in Clause 6.21C(2) of the SLEP 2012 and the development is considered to exhibit design excellence.</p>
6.21D Competitive design process	Yes	<p>The application seeks consent for the construction of a new building exceeding 55m in height, triggering the requirement for a competitive design process.</p> <p>A competitive design process has not been carried out for the proposal as the applicant justifies the process is unreasonable and unnecessary in this instance.</p> <p>See 'Discussion' section below for further details.</p>

### Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.9 Other land uses	Yes	<p>The application proposes co-living housing and community facility uses within the site. Neither land use has maximum car parking rates nominated in the SLEP 2012, however, the applicant nominates the proposed community facility use best relates to the rates for places of public worship and entertainment facilities.</p> <p>Based on the above rates, a maximum number of parking spaces allocated to the community facility use is 49 spaces. The application proposes two car parking spaces and is consistent with the requirements of this provision.</p>

Provision	Compliance	Comment
		The application does not propose car parking associated with the co-living use however, draft LEP controls relating to co-living parking are discussed below.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	The development site is located in Central Sydney and is subject to the requirements of section 7.13.  Refer to the discussion below under the heading Financial Contributions heading.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.
7.16 Airspace operations	Yes	The proposal does not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.  Separate consents must be obtained for any cranes or other objects associated with the development that may penetrate the Obstacle Limitation Surface.
7.19 Demolition must not result in long term adverse visual impact	Yes	While the proposal includes partial demolition of the existing building, the proposal also includes construction of a new building under the same application.  Council officers are therefore satisfied that the site will be comprehensively redeveloped under the consent.

Provision	Compliance	Comment
7.20 Development requiring or authorising preparation of a development control plan	No	<p>Clause 7.20(2) of the SLEP 2012 requires the preparation of a site specific DCP (or concept development consent) for development which is over 55 metres in height and located in Central Sydney. The site and proposed development are not subject to a site specific DCP or concept development consent.</p> <p>Refer to the 'Discussion' section below for further details, including Figure 32 illustrating in section detail the portions of the proposed building above 55 metres.</p>
7.26 Public art	Yes	<p>The proposal includes public art which will be integrated with the detailed design of the development.</p> <p>The application was accompanied by a public art strategy which was reviewed and supported by Council's Public Art team.</p>

## Development Control Plans

### Sydney Development Control Plan 2012

59. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>The proposed development is considered to have a positive impact on the public domain.</p> <p>A public art strategy has been reviewed by the City's Public Art Unit and is considered acceptable. A condition is included requiring a detailed public art plan to be submitted for approval, and the installation of public art to the City's satisfaction.</p>

Provision	Compliance	Comment
3.2. Defining the Public Domain		
3.2.1 Improving the public domain	Yes	The proposed development will enhance the public domain by ensuring adequate sun access to publicly accessible spaces and considering public views.
3.2.2 Addressing the street and public domain	Yes	<p>The proposed development provides increased building entries along Elizabeth Street and Clarke Street, positively contributing to the public domain through increased passive surveillance and a greater active frontage.</p> <p>The proposed vehicle entry is located at the rear of the site along Nithsdale Street and not parking protrudes above the street level or the public domain.</p>
3.2.3 Active frontages	Yes	The site's Elizabeth Street frontage is nominated as a Category 2 active frontage. In accordance with the control, over 70% of the frontage is provided as an active frontage and locates entries to residential and community uses at suitable locations.
3.2.4 Footpath awnings	No but acceptable	<p>The Elizabeth Street frontage is identified on the Footpath awnings and colonnades map and requiring a continuous footpath awning. The SDCP 2012 notes the purpose of awnings at particular heights are to provide appropriate solar and weather protection to the public domain. Recommended awnings heights above the footpath level are between 3.2m and 4.2m.</p> <p>Further, the SDCP 2012 recommends a footpath awning width be between 2m and 3.2m and should be set back a minimum 1m from the kerb to allow for smart poles.</p> <p>Whilst an awning is provided along this frontage, it has not been designed in accordance with the recommended heights in the SDCP 2012. The application proposes clearances</p>

Provision	Compliance	Comment
		<p>between 5.4m and 6m. While not strictly complying with the recommended footpath clearance heights, the concrete awning is integrated into the main grid structure of the building and continues the horizontal articulation of the surrounding built forms. Additionally, the awning follows the horizontal proportions of the site to the north.</p> <p>It is noted that submitted architectural drawings show inconsistent setbacks of the Elizabeth Street awning from the kerb. A condition of consent is recommended requiring drawings to be updated to ensure the awning is set back a minimum 1m from the kerb.</p> <p>Further, the application proposes a small awning above the ground floor entry along Clarke Street. While it is acknowledged the awning is for weather protection above the entry, the Clarke Street footpath is narrow, and the awning is set back less than 500mm from the kerb. This creates a potential hazard for vehicles passing. When considering additional provisions relating to projections over or into public roads in Schedule 4 of the SDCP 2012, a minimum 800mm setback is recommended for any projections.</p> <p>A condition of consent is recommended requiring the Clarke Street awning to be set back a minimum 800mm from the face of the kerb.</p>
3.2.6 Wind effects	Yes	The application was accompanied by a Pedestrian Wind Study, confirming the proposed development will not adversely impact the existing wind conditions around the site.
3.2.7 Reflectivity	Yes	A condition in Attachment A is recommended to ensure that light reflectivity from the building facades in the development do not exceed 20%.

Provision	Compliance	Comment
3.2.8 External lighting	Yes	<p>No external lighting is detailed as part of the proposed development beyond generalised references in the application documentation.</p> <p>A condition is recommended in Attachment A to require the lodgement of a separate application for external illumination of the building and/or site landscaping.</p>
3.3 Design Excellence and Competitive Design Processes	No but acceptable	<p>The proposal seeks to 'waive' the requirement to undertake a competitive design process.</p> <p>Refer to the 'Discussion' heading below for further details</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.</p>
3.6 Ecologically Sustainable Development	Yes	<p>Refer to SEPP (Sustainable Buildings) section above.</p>
3.9 Heritage	Yes	<p>Although the site does not contain any heritage items, it is located within close proximity of several heritage items of local and state significance.</p> <p>The proposed development is not considered to have an adverse visual impact on surrounding heritage items and is generally in keeping with the historic built character of the locality.</p>
3.11 Transport and Parking		
3.11.1 Managing transport demand	Yes	<p>The proposal comprises a mixed-use development including co-living accommodation providing more than 25 dwelling units. As such, it generates the requirement for a Transport Impact Study and Transport Access Guide.</p> <p>A Transport Impact Assessment report has been submitted with the application in accordance with these requirements,</p>

Provision	Compliance	Comment
		<p>which has been reviewed by Council's Access and Transport Unit.</p> <p>Conditions are recommended in Attachment A to ensure the development of a Transport Access Guide for the development.</p>
3.11.3 Bike parking and associated facilities	Yes	<p>The DCP does not nominate bicycle parking requirements for co-living developments however, an alternate approach to the provision of bicycle parking in line with Austroads Guide to Traffic Management Part 11: Parking Management Techniques (AGTM-11) is provided and detailed in the submitted Transport Impact Assessment which is considered appropriate.</p> <p>A total of 146 bicycle storage spaces are proposed for co-living uses, including 10 visitor spaces. Given the proximity of the site to several modes of public transport and being within walking distance of several other amenities, less than one bicycle space per co-living unit is acceptable.</p> <p>An additional 10 bicycle spaces are provided for the community facility for staff and visitor use.</p> <p>A total of 8 lockers (3 for staff of both co-living and community uses, and 5 for community uses), with two shower and change spaces will be provided in the Basement Level and is considered to be sufficient to meet the needs of staff and workers of both uses.</p> <p>All spaces are proposed within the Basement Level and will be accessed from Ground Level via the internal lifts.</p>
3.11.6 Service vehicle parking	Yes	<p>Given the constraints of the site, one single service vehicle space is provided on site, located at the ground floor accessed directly from Nithsdale Street.</p> <p>As waste collection is proposed to utilise kerbside collection, the loading dock will be inaccessible during waste collection</p>

Provision	Compliance	Comment
		<p>activities and therefore must be managed through a Loading Dock and Servicing Management Plan.</p> <p>A condition is recommended requiring the submission of a comprehensive Loading Dock and Servicing Management Plan. The plan must also address the use of the loading dock during collection days as the temporary waste holding area encroaches into the service parking space and may be compromised while bins are being moved in and out.</p>
3.11.9 Accessible parking	Yes	The application proposes a single accessible car parking space located at the ground floor, close to the community facility entrance and is consistent with the requirements of this provision.
3.11.10 Vehicle access for development greater than 1000 square metres GFA	Yes	Vehicle access is provided at the south-eastern former of the site from Nithsdale Street and satisfied the requirements of this provision.
3.11.11 Vehicle access and footpaths	Yes	The location of the driveway along Nithsdale Street is designed to minimise impacts on pedestrian movements and amenity.
3.11.13 Design and location of waste collection points and loading areas	Yes	<p>Proposed waste storage and collection points are appropriately located close to the loading area at the ground level.</p> <p>Suitable arrangements are provided for collection vehicles and the proposal is suitable, subject to compliance with an approved Operational Waste Management Plan.</p>
3.11.14 Parking area design	Yes	Conditions are recommended in Attachment A to require all loading to be carried out on site, parking design in accordance with Australian Standard AS 2890.1, and a parking, loading and servicing management plan to be developed.

Provision	Compliance	Comment
3.12 Accessible Design	Yes	<p>The building has been designed to provide accessible entry to the community facility use and the co-living lobby and all shared spaces.</p> <p>The proposal also includes 11 co-living units designed to meet DDA requirements.</p> <p>The proposed development meets the requirements of this provision.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The safety and security of the public domain is enhanced by the proposed increase in activity within the site and casual surveillance of the surrounding streets from the development.</p> <p>The proposal provides separate and secure entrances to the different building uses, adequate passive surveillance and a range of other security measures.</p>
3.14 Waste	No	<p>The proposed development includes waste storage areas on basement Level 1 and a temporary holding area on the ground level while waste collection is proposed to be a wheel-out wheel-back arrangement.</p> <p>While onsite collection is preferred to avoid additional acoustic impacts on surrounding developments, it is acknowledged that the width of the site cannot accommodate a large vehicle and collection by a smaller waste truck is not an efficient solution for waste that will be generated on site.</p> <p>Waste storage areas for co-living uses however, have not been designed to cater for the estimated waste generation rates for co-living developments as provided in the draft Guidelines for Waste Management in New Developments. The Guidelines notes the estimated waste generation rates for co-living housing per occupant are 60L of waste, 60L of recycling and 8L of food organics per week, requiring approximately 21 x 1,100L waste bins to</p>

Provision	Compliance	Comment
		<p>be provided on site. The application proposes 17 x 1,100L bins, a deficit of 4,400L.</p> <p>The applicant's submission notes an audit of similar co-living developments suggests actual waste generation is lower than the estimated generation rates and a larger area is not warranted. Although this is acknowledged, waste areas should be designed in accordance with the estimated rates to ensure waste areas are capable of catering for future waste needs, should waste generation rates increase.</p> <p>A condition is recommended requiring the basement waste storage areas to be designed to provide space for 21 x 1,100L bins.</p> <p>Further, as the application proposes a wheel-out wheel-back arrangement for waste collection, utilising the loading space as a temporary waste holding area, a condition is recommended requiring the Loading Dock and Servicing Management Plan to address the use of the loading dock during collection days.</p>
3.16 Signage and Advertising	Yes	<p>The proposal seeks consent for four signage zones located along the Elizabeth Street frontage and corner of Elizabeth and Clarke Streets. The purpose of the zones will be to display building and business identification signage for the community facility signage and the future co-living operator.</p> <p>The proposed locations of wall and top hamper signs are generally consistent with the relevant requirements of the SDCP 2012.</p> <p>A condition is recommended requiring separate consent to be obtained for the detailed signage.</p>

## Section 4 – Development Types

## 4.2 Residential Flat, Non-Residential and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height	Yes	The application proposes generous floor to ceiling heights on the ground and first floor to cater for the community facility use while co-living floor to ceiling heights are generally 2.7m (except where there is a bulkhead for services).
4.2.2 Building setbacks	Yes	The application proposes a built form commensurate to the desired future character of the locality, including appropriate street wall heights and setbacks above street wall. The application also maintains the splayed corners at the lower levels of the podium at both street corners of the site.
4.2.3 Amenity	Partial compliance	<p>Appropriate solar access is provided to communal living areas within the co-living component of the development. The application will result in additional overshadowing to the adjacent residential apartment building to the south. See further discussion below.</p> <p>In regard to acoustic privacy, the application demonstrates that appropriate acoustic levels can be achieved within co-living units through the provision of acoustic treatments to facades and balconies while still achieving appropriate ventilation.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	The proposal presents an appropriate architectural character, sympathetic in style to the surrounding locality.
4.2.6 Waste and recycling management	No	See discussion above in Section 3.14 of the SDCP 2012. The application does not propose an appropriately sized area for waste storage based on estimated waste generation rates for co-living housing.

Provision	Compliance	Comment
4.2.7 Heating and cooling infrastructure	Yes	The mechanical plant and services are generally located within consolidated areas on the roof level.

#### 4.4 Other Development Types and Uses

##### 4.4.1 Boarding houses and student accommodation

60. While the application does not propose a boarding house use, co-living housing is currently not addressed in the SDCP 2012. The following equivalent provisions relating to boarding houses are used as a guide.

Provision	Compliance	Comment
4.4.1.1 Subdivision	Yes	A condition is recommended restricting the subdivision of the co-living component of the development.
4.4.1.2 Bedrooms	Yes	All rooms have been designed to meet the minimum size requirements of the Housing SEPP co-living development standards and draft DCP provisions noted below.  Rooms are provided with aspects north, east or west with some provided with dual aspects. Each room has been provided with large glazed areas in the form of a window or balcony doors that will facilitate natural light to enter into all rooms
4.4.1.3 Communal kitchen areas	Yes	Each room has been provided with a kitchenette in addition to larger kitchens incorporated within the communal living areas on Levels 8 and 16.
4.4.1.4 Communal living areas and open space	Partial compliance	The SDCP 2012 requires a minimum of 551.25 square metres of communal living space to accommodate residents. The application proposes 523.6 square metres, 25.25 square metres less than the recommendation.  Although not compliant with the required minimum area, the provision of indoor space located adjacent to a large outdoor communal space provides adequate residential amenity and

Provision	Compliance	Comment
		<p>generally meets the requirements of this provision.</p> <p>Additionally, a minimum area of 20 square metres should be provided as outdoor communal space. The application proposes 269 square metres of communal outdoor space located on Levels 3, 8 and at the roof level.</p> <p>Outdoor communal spaces have been designed generally in accordance with the DCP and provides appropriate landscaping and cover.</p> <p>Further, 67% of all rooms are provided with private balconies. Of these rooms, 79 have balconies of at least 4 square metres in size and meets the minimum 30% requirement.</p>
<p>4.4.1.5 Bathroom, laundry and drying facilities</p>	<p>Partial compliance</p>	<p>Each unit contains an ensuite and as such, communal bathroom facilities are not necessary.</p> <p>A communal laundry is located on Level 2 and contains 15 x 9kg washing machines, 10 x 5kg washing machines and 25 x 10.5kg dryers.</p> <p>Whilst less than the required number of washing machines per DCP requirements, larger capacity washing machines are provided, allowing larger loads for double occupancy rooms, also likely reducing water usage.</p> <p>Fewer dryers are also deemed acceptable as larger outdoor drying facilities are provided on site, reducing electricity usage.</p> <p>Drying areas with access to ambient natural light and ventilation are located adjacent to the communal laundry room.</p>
<p>4.4.1.6 Amenity, safety and privacy</p>	<p>Yes</p>	<p>The proposed co-living development provides a high level of residential amenity, safety and privacy.</p>

Provision	Compliance	Comment
		<p>Bedrooms are located away from communal areas or are appropriately screened or separated maintaining acoustic and visual privacy. The proposed communal outdoor areas are screened by planting or larger privacy screens to protect adjacent developments from overlooking.</p> <p>Further, the application was supported by a noise and vibration impact assessment, operational waste management plan and transport impact assessment that confirm appropriate noise levels can be achieved within boarding rooms and will not cause unacceptable acoustic impacts on surrounding developments, waste is appropriately stored and collection processes are managed, and that the development will not have an adverse impact on surrounding local traffic or pedestrian or cyclist safety.</p>
4.4.1.7 Plan of Management	Partial compliance	<p>The application was accompanied by a Plan of Management (POM). The POM has been prepared in accordance with the requirements of the DCP except in relation to hours of use of communal outdoor spaces.</p> <p>While the site is located within Central Sydney, several residential buildings adjoin the site, and outdoor activities should be limited in time to protect the amenity of surrounding uses. A condition is recommended requiring an amended POM to be submitted that restricts all outdoor activities until 10pm.</p> <p>It is also recommended that the plan of management be updated to include details on how building management will manage noise from planned gatherings within communal open spaces.</p>

## Section 5 – Specific Areas

## 5.1 Central Sydney

Provision	Compliance	Comment
5.1.1 Built form controls		
5.1.1.1 Street frontage height and street setbacks	Partial compliance	<p>The application proposes street frontage heights consistent with recommended heights for Elizabeth Street and Nithsdale Street however, exceeds the recommended street frontage height along the Clarke Street frontage.</p> <p>Further, while the Elizabeth Street frontage provides an 8m setback above street wall height, inconsistent setbacks are provided to the Clarke Street and Nithsdale Street frontages.</p> <p>See the 'Discussion' section below for further details.</p>
5.1.1.3 Side and rear setbacks and building form separations	Partial compliance	<p>The proposal's side setbacks have been developed to respond to the proximity to Hyde Park Towers and specifically the apartments that have been built on the site's southern boundary.</p> <p>See the 'Discussion' section below for further details.</p>
5.1.1.4 Built form massing, tapering and maximum dimensions	Yes	<p>The proposed built design is consistent with the requirements of this provision.</p>
5.1.2 Development outlook and demonstrating amenity compliance	Yes	<p>The proposed development is designed to reduce the impact of additional overshadowing on surrounding public domain areas.</p> <p>Further, the proposal does not rely on neighbouring properties for access to view and light and is consistent with the requirements of this provision.</p> <p>All residential windows and balconies are provided with appropriate levels of outlook.</p>

Provision	Compliance	Comment
		Impacts on neighbouring developments are discussed further under the 'Discussion' heading below.
5.1.4 Building exteriors	Yes	<p>The proposal will contribute positively to the streetscape with high quality architecture, meeting the objectives in Section 5.1.4 of the SDCP 2012.</p> <p>The design, materials and detailing are considered to be of a high standard and suitable for the site.</p>
5.1.6 Heritage floor space	Yes	As discussion in Section 6.11 of the SLEP 2012 table above, a condition is recommended requiring the allocation of heritage floor space.
5.1.7 Sun protection of public parks and places	Yes	<p>The site will not impact the Belmore Park or Harmony Park Sun Access Planes as the proposed height of the development is significantly lower than the plane heights.</p> <p>The site is not within close proximity of any protected places that require no additional overshadowing.</p>
5.1.8 Views from public places	Yes	The proposal will not affect views to any significant spaces from the public domain and is consistent with the requirements of this provision.
5.1.9 Managing wind impacts	Yes	The application was accompanied by a wind report confirming that the proposed development will not have an adverse impact on public safety and comfort at ground level in regard to wind.

### Draft Sydney Local Environmental Plan and Development Control Plan

61. A draft environmental planning instrument has recently been exhibited by the City, which provides additional and more comprehensive controls relating to co-living accommodation within the Local Environmental Plan (LEP). The instrument was agreed to Gateway determination by the Department of Planning, Housing and Infrastructure (DPHI) on 8 October 2024. In accordance with section 4.15(1)(a)(ii) of the Act, the draft controls are a matter for consideration in the subject assessment.

- 62. In accordance with Planning Circular PS-24-007, weight should be given to a proposed EPI depending on the likely or unlikely certainty and imminence of the relevant provisions of a proposed EPI coming into force. In accordance with the Gateway determination issue by DPHI, the gazettal of the Draft LEP was estimated to occur in November 2025, now making the adoption overdue. Council's Strategic Planning and Urban Design unit has advised that the adoption of the controls has a moderate level of certainty and imminence given the public exhibition, consideration of public submissions and consideration of proposed amendments recommended by DPHI.
- 63. The changes in the LEP and accompanying DCP relevant to the subject application incorporates recent NSW Government planning policy changes for boarding houses and co-living housing into the DCP. The changes include amenity standards for co-living and boarding houses that are generally consistent with requirements for new apartments and provisions for plans of management and managing local amenity impacts. The proposed changes are to ensure consistency with recent SEPP amendments relating to co-living developments and to further protect the amenity of future occupants and surrounding developments. As such, it is considered that moderate weight is afforded to the draft LEP provisions.
- 64. In addition to draft LEP controls, draft Development Control Plan (DCP) controls were also prepared to incorporate updated provisions for boarding houses and co-living housing in accordance with changes to state government planning policy changes. While the Act does not require the consideration of draft DCP controls, they are considered below as a guide only and hold on weight.
- 65. Relevant provisions are discussed below.

**Draft Sydney Local Environmental Plan 2012**

**Part 7 Local provisions – general**

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing, boarding houses and co-living housing	Yes	<p>A maximum of 25 car spaces is applicable to the co-living portion of the development.</p> <p>No car parking is proposed for co-living uses and the proposal is consistent with the requirements of this provision.</p>

## Draft Sydney Development Control Plan 2012

## 4.4 Other Development Types and Uses

## 4.4.1 Boarding houses and co-living housing

Provision	Compliance	Comment
4.1.1.1 Subdivision	Yes	A condition is recommended restricting the subdivision of the co-living component of the development.
4.4.1.2 Private rooms	Yes	<p>The application proposes a maximum of two residents per room and meets the size requirements for all single and double occupancy rooms.</p> <p>All kitchenettes and bathrooms generally meet the recommended sizes and rooms layouts allow for unimpeded, clear internal circulation.</p> <p>Whilst some rooms do not meet the minimum 3.5m dimension, these rooms are designed in a way to allow for appropriate zones for different uses, locating the sleeping areas further from balconies while kitchen and small living areas are located close to windows, to maximise amenity.</p> <p>All private rooms are provided with natural light and ventilation while approximately 67% of rooms are provided with private balconies. 79 rooms are also provided with balconies at least 4 square metres in size.</p>
4.4.1.2 Communal kitchen, bathroom, laundry and drying areas	Partial compliance	<p>Communal kitchen areas are provided within the indoor communal areas on both Level 8 and Level 16 of the proposed development.</p> <p>As each room is provided with a kitchenette, the minimum area required for a communal kitchen is 6.5m<sup>2</sup>. Two (2) communal kitchens are provided on Levels 8 and 16 and integrated with the communal living areas. The kitchen facilities will be provided with sufficient inclusions to accommodate the needs of residents.</p>

Provision	Compliance	Comment
		As discussed above, communal laundry and drying facilities are located on Level 2.
4.4.1.3 Communal living areas	Partial compliance	The draft DCP requires a minimum area of 532 square metres of communal living areas. As discussed above, the application proposes 524 square metres of communal indoor space located on Levels 8 and 16 and is considered acceptable. The communal living areas are located in areas of the building that will maximise solar access and improve amenity.
4.4.1.4 Communal open spaces	Yes	Communal open spaces located within the site exceed the minimum size requirements of the draft DCP, are located directly adjacent to or are access directly from communal living areas and are located in areas that maximise access to direct sunlight.
4.4.1.5 Amenity and safety	Yes	Communal spaces are located throughout the building within safe and accessible locations with primary communal areas located on the upper levels of the building. Further, access to the property will be secured through controlled access measures as detailed in the submitted POM.
4.4.1.6 Managing local amenity impacts	Partial compliance	<p>Building separation is generally consistent with the separation distances detailed in the Apartment Design Guide between the residential properties to the north.</p> <p>Varied separation distances are provided between the proposal and Hyde Park Towers to the south and are discussed further below.</p> <p>Communal areas and private room windows are located in areas of the building that reduce any potential overlooking impacts on adjacent buildings. Further, small open corridors on each level are provided with 1.8m tall privacy screens that facilitate visual</p>

Provision	Compliance	Comment
		<p>privacy between the subject site and the residential development to the south.</p> <p>Additionally, private rooms located close to Elizabeth Street include noise control measures to allow for access to natural ventilation while still achieving acoustic compliance.</p>
4.4.1.7 Plan of Management	Partial compliance	As discussed above, the submitted POM is generally acceptable, subject to amendments relating to the use of communal outdoor areas being restricted to 10pm.
4.4.1.8 Waste and Recycling Management	Partial compliance	As discussed above, waste management is generally acceptable, subject to amendments to increase waste storage areas within the basement level to respond to estimated waste and recycling generation rates for co-living developments.

## Discussion

### Street frontage height and setbacks

66. Section 5.1.1.1 of the Sydney DCP prescribes a street frontage heights and above street frontage setbacks for buildings outside of Special Character Areas. The site is not located within a Special Character Area nor is it a heritage item. Whilst it is acknowledged the height of the building is greater than 55m, the only building elements exceeding 55m are the upper part of Level 16 and the roof. The building is not seen to present as a large tower in which the general tower controls of the SLEP 2012 and SDCP 2012 ordinarily apply.

#### Elizabeth Street

67. The proposal includes a 30.3m street frontage height to Elizabeth Street with an 8m setback above street frontage height, consistent with the SDCP 2012.

#### Clarke Street

68. The proposed Clarke Street elevation has a street frontage height of 47m and a setback above street wall height of 2m, exceeding DCP recommendations by 12m and 6m respectively.

69. A street frontage height of 47m along the Clarke Street frontage is deemed appropriate as follows:
- (a) Clarke Street currently does not provide a consistent street wall for the development to respond to as the only frontage in the block. All other developments fronting Clarke Street have no strong podium character or no podium at all or are separated from the site by a small park to the east.
  - (b) Appropriate separation is provided between the subject site and existing residential developments to the north.
  - (c) The massing along Clarke Street is of a similar scale to the existing built form which, which currently does not have a significant impact on the amenity of the public domain.
  - (d) Visual separation of the lower and upper levels of the street wall along Clarke Street is provided with the introduction of a solid balustrade at Level 8, continuing around from the Elizabeth Street street frontage.
70. On balance, the proposed street frontage height along the Clarke Street elevation is appropriate as it is considered to provide a good contextual fit with the setting and character of neighbouring buildings, including alignments and datums and is unlikely to have an adverse impact on public amenity.
71. In regard to setback above street frontage heights, although Clarke Street comprises a width greater than 8m wide and is not identified as a lane in the Streets and Lanes Map within the SDCP 2012, its narrow dimensions (approximately 9.2m wide) characterise the street similarly to a laneway, particularly as the street comprises a narrow carriageway used for servicing, loading, waste pickup and basement entrance for the adjacent building at One30 Hyde Park. As such, there is limited opportunity for pedestrians to meaningfully interact with the public domain on Clarke Street given the narrowness of the footpaths. Noting these reasons, the 2m setback is considered suitable and in alignment with what would be required of a above street frontage setback for a laneway.

#### Nithsdale Street

72. The proposed Nithsdale Street elevation proposes a street frontage height of 21m, consistent with the SDCP 2012, and a setback above street wall height of 5.2m, 800mm less than that recommended.
73. Considering the neighbouring development adjoining the site to the south at 148 Elizabeth Street provides a setback less than 6m, a minor departure is acceptable.

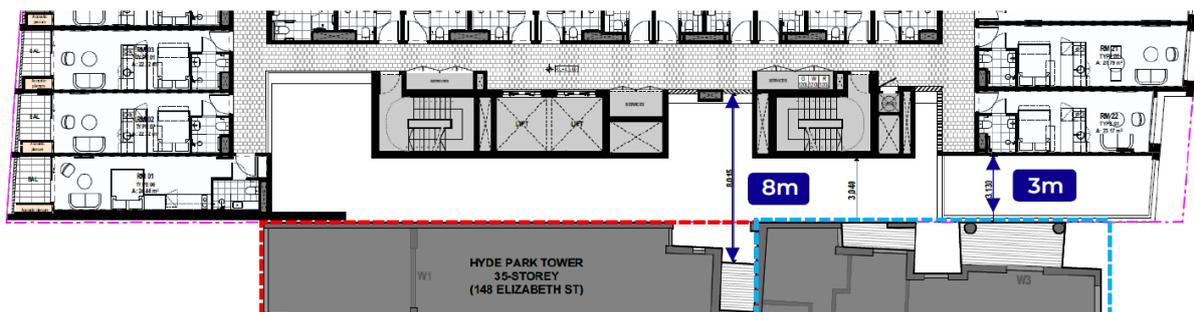
#### Side and rear setbacks and building form separations

74. Section 5.1.1.3 of the SDCP 2012 notes a 4m setback above street frontage height should be provided from the boundary of a neighbouring development to provide building separation. The Housing SEPP, whilst co-living housing controls do not apply to the site, notes that developments are also to consider the building separation and setback controls of the Apartment Design Guide and SDCP 2012.

75. The proposal's setbacks have been developed to respond to the proximity to Hyde Park Towers and specifically the apartments that have been built to the boundary. Setbacks between the upper levels of the proposed development and the adjacent development to the south range between 3 metres and 8 metres and the southern elevation has been designed to ensure visual privacy is maintained and impacts on solar access are minimised.

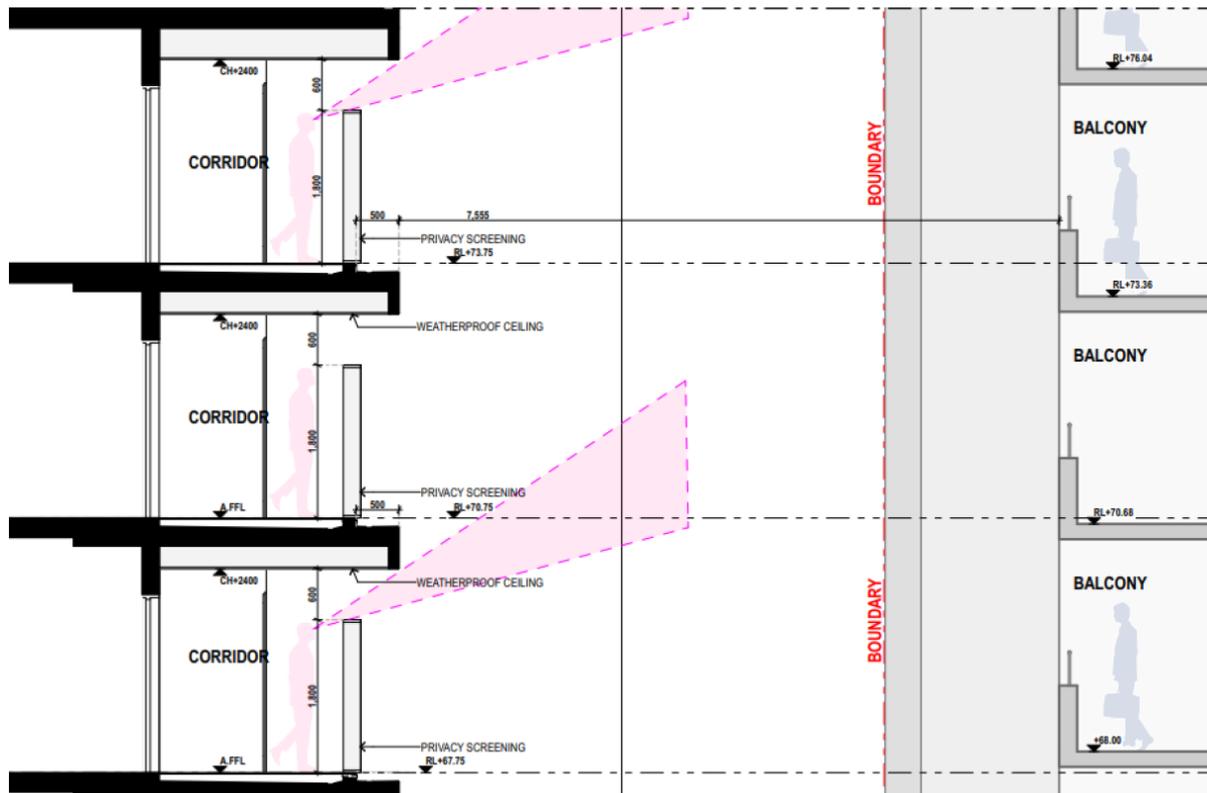
#### Visual privacy

76. Between Levels 5 to 11, apartments located on both the eastern and western portions of Hyde Park Towers contain two (2) private open space areas however the primary private open space associated with the western apartments faces Elizabeth Street and does not directly interface with the proposed built form. From Levels 12 and above, the primary private open space off the western apartments is located on the northern interface which takes the form of a narrow balcony. Both apartments include windows which face north. Separation distances between 3m and 8m have been provided depending on the interface with the following treatments:
- Blank wall (Hyde Park Towers) to proposed core (Levels 5 and above): 3m
  - Eastern secondary balconies off bedrooms (Hyde Park Towers) to proposed core (Levels 5 and above): 3m
  - Western primary living area narrow balconies (Hyde Park Towers) to proposed core (Levels 12 and above): 3m
  - Secondary balconies off bedrooms (Hyde Park Towers) between Levels 5 and above to proposed open corridor (with screening): 8m
  - Eastern primary living area balconies (Hyde Park Towers) to proposed blank wall (Level 5): 3m
  - Eastern primary living area balconies (Hyde Park Towers) to proposed blank wall (Levels 6 and above): 6.2m
77. Figures 14 to 16 depict proposed separation distances between the proposed development and Hyde Park Towers.



**Figure 14:** Level 5 separation distances (western apartment in red and eastern apartment in blue)





**Figure 17:** Typical section showing relationship between subject site and Hyde Park towers

80. When considering the balance of separation distances provided within the proposed development and the site to the south, in which the majority of the northern frontage has been built to the boundary, and is planned to provide all living areas at the east or west of the site and are not impacted by the development, and consideration of solar access and views and outlook (discussed further below), separation distances are acceptable.

#### Solar access and overshadowing

81. The application has been accompanied by an overshadowing study prepared by RWDI to assess the impact of the development on solar access to the adjacent residential development at 148 Elizabeth Street and the pocket park to the east. The analysis took into consideration Objective 4A-1, 3B-2 and 3D-1 of the Apartment Design Guide and Council's draft guideline for Minimising Overshadowing of Neighbouring Apartments.
82. Noting that the northern apartments currently do not receive 2 hours of direct solar access to living areas between 9.00am and 3.00pm on the winter solstice, the study found that the proposed development will result in a reduction of solar access to 20 apartments (primarily between 15 to 30 minutes with one apartment losing 45 minutes of direct solar access), equating to 11.5% of the total number of apartments, well below the maximum reduction of apartments within a building not already receiving the required direct solar access of 20% as noted in Objective 3B-2.

83. The study also found that there is a slight improvement in apartments receiving no solar access between 9.00am and 3.00pm (from 25% to 24%) as two apartments fronting Elizabeth Street will now receive at least 15 minutes of direct solar access due to the built form setback above street frontage height in addition to another four apartments receiving increased solar access.
84. Overall, the subject proposal does not exacerbate the Hyde Park Towers' existing noncompliant levels of solar access as assessed against the ADG solar access requirements contained in the design criteria to ADG objective 4A-1. Therefore, the proposal is consistent with ADG objective 3B-2 which is for overshadowing of neighbouring properties to be minimised.
85. It is acknowledged that any reasonable development on the site would have an impact on solar access to Hyde Park Towers, especially considering that 90% of apartments which are identified as losing a quantum of solar access are located immediately on the southern boundary of the subject site. The extent of solar access loss is considered acceptable for the following reasons:
- (a) The overshadowing impacts caused by the proposal does not change the quantum of units that already achieve 2 hours of solar access.
  - (b) The proposal improves solar access to an additional 2 apartments that previously would not have received any solar access on the winter solstice.
  - (c) If setbacks were increased, particularly the boundary setback, it is unlikely that solar access to northern windows would be improved greatly, given the proposed height of the building and existing shadows cast by developments to the north.
86. Noting the above and the constraints of the site, the proposal is considered to result in an appropriate response to overshadowing and the impacts are not dissimilar to the level of overshadowing impacts to residential developments within the immediate context. The proposal will not impact the existing non-compliant levels of solar access against the ADG solar access design criteria of Objective 4A-1 and overshadowing to neighbouring developments is generally acceptable.

#### **View loss and outlook**

87. A number of submissions received have raised concerns regarding the loss of views, outlook and ambient light from apartments adjacent to the site located within the Hyde Park Towers at 148 Elizabeth Street. Figure 18 below shows the location of the subject site and Hyde Park Towers.



**Figure 18:** Aerial image of the subject site and surrounding area

88. The application was accompanied by a view impact analysis study prepared by Virtual Ideas comprising 3D digital modelling and photomontages of existing and proposed views from impacted apartments within Hyde Park Towers. Although the view loss analysis did not provide specific heights, levels or camera angles, the view images have been reviewed by Council staff to be an accurate representation of views from each respective viewpoint at various heights.
89. Hyde Park Towers is a 34-storey mixed use building containing commercial tenancies on the ground floor to level 3 and 174 residential apartments and associated parking on the levels above. Hyde Park Towers has no building setback to the northern boundary with apartments along the northern boundary utilising lightwells for bedroom windows and small secondary balconies. Other main balconies off living areas are located either on the north-west or north-east corner of the building and are not set back from the boundary.
90. Figures 19 to 22 below provide a sample of the submitted view loss renders from locations within Hyde Park Towers prepared by Virtual Ideas.



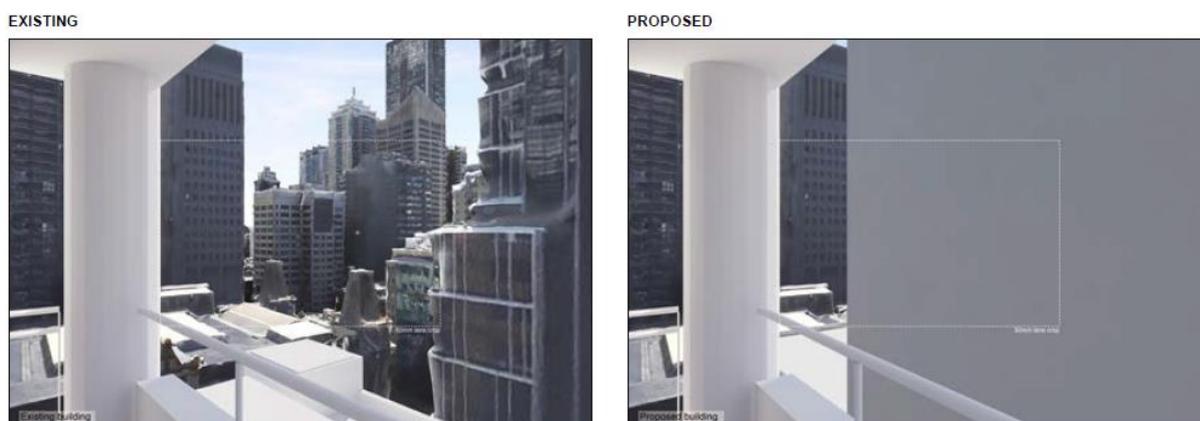
Figure 19: Map illustrating viewpoint locations from Hyde Park Towers



Figure 20: Existing and proposed views from north-east balcony on Level 9 (viewpoint 1)



**Figure 21:** Existing and proposed views from north-facing balcony on Level 15 (viewpoint 2)

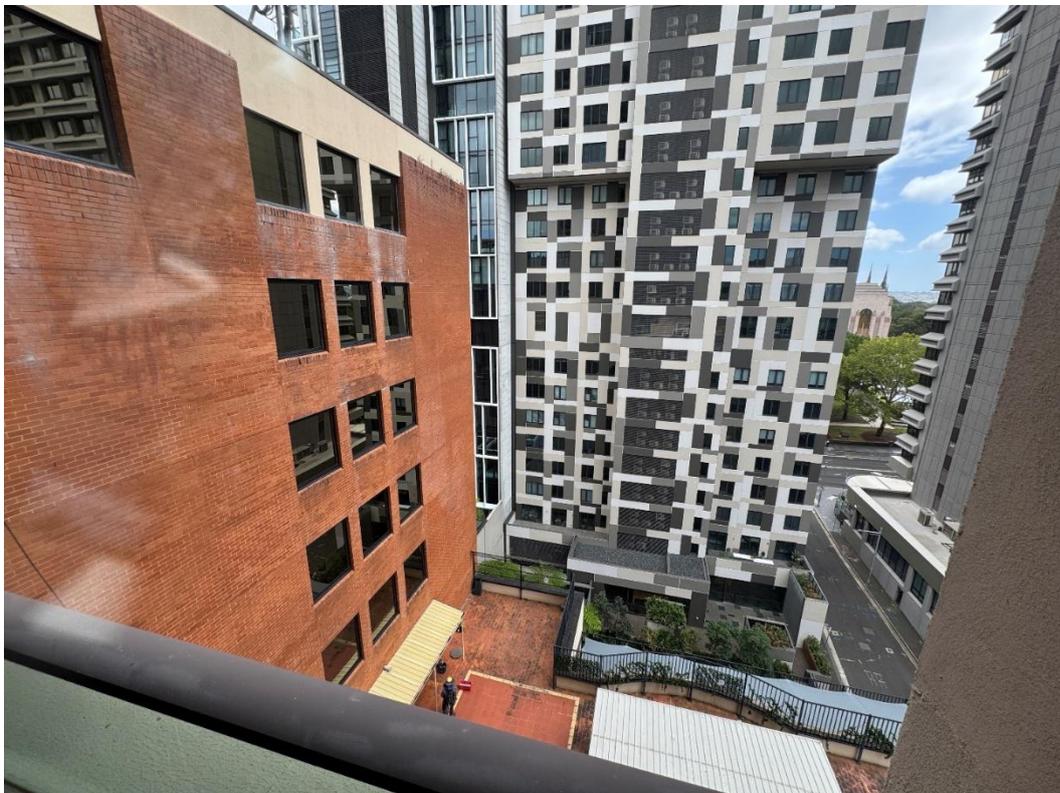


**Figure 22:** Existing and proposed views from north-west balcony on Level 20 (viewpoint 3)

91. Based on the view impact analysis, views from 16 levels within Hyde Park Towers will be impacted, noting that the majority of north-west facing apartments over the lower eight levels are already impacted by the existing building located on the subject site.
92. Council staff also conducted site visits to four apartments located on Levels 11 to 17 to confirm views from balconies and windows within the site. Figures 23 to 25 below show various views from apartments.



**Figure 23:** Existing view from north-east balcony from apartment 1306 (viewpoint 1)



**Figure 24:** Existing views from north-facing balcony from apartment 1306 (viewpoint 2)



**Figure 25:** Existing views from north-west balcony from apartment 1901 (viewpoint 3)

93. While the relevant planning controls make no provision for the preservation of private views or outlook, in order to assess the impact of the proposal on existing views, an assessment has been made against the planning principles established by Senior Commissioner Roseth in the Land and Environment Court decision *Tenacity Consulting v Warringah* [2004] NSWLEC140 in relation to view sharing.

#### Assessment of views to be affected

94. Views with the potential to be affected consist of general skyline views and a small section of Hyde Park South and the ANZAC Memorial cascade water feature. It is noted in the context of this planning principle, these views are not considered iconic views. With the exception of general skyline views, views to Hyde Park south and the ANZAC Memorial are all partial views.
95. All views with the exception of direct east and direct west views, which will not be impacted by the development, are all across the side boundary.

#### Which part of the site is the view available from?

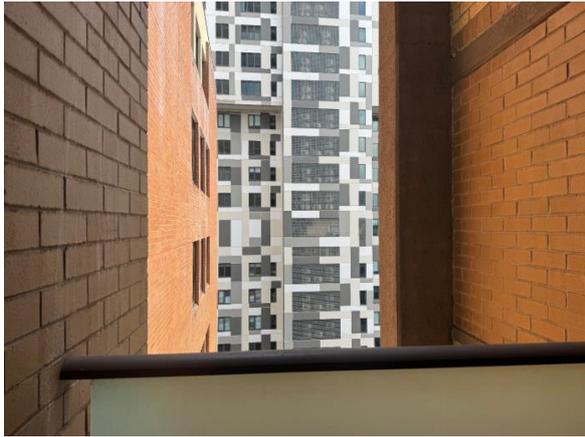
96. The views under assessment are available from the following locations:
- (a) North-facing kitchens
  - (b) North-east balconies and living room windows
  - (c) North-facing balconies from a bedroom
  - (d) North-east windows from a bedroom

(e) North-west windows and balconies from a living room

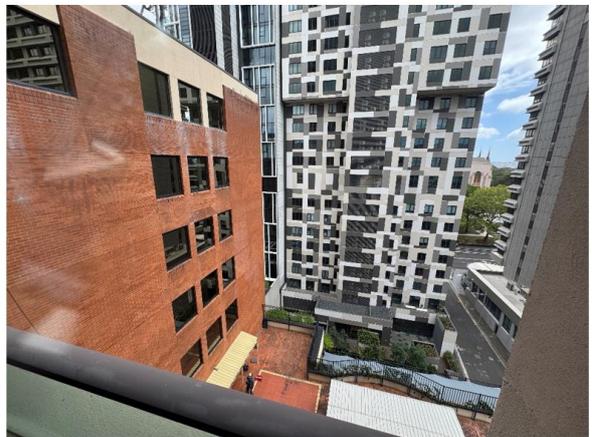
97. The loss of views from living room windows and balconies are considered to be of greater impact than the loss of views from balconies off bedrooms and bedroom windows.
98. It is noted that all view loss resulting from the development is across side boundaries. It is unrealistic to expect that all existing views alongside boundaries can be protected, particularly when the loss of views are already identified as partial views and only impact some levels within the building.

Extent of the impact in relation to views available

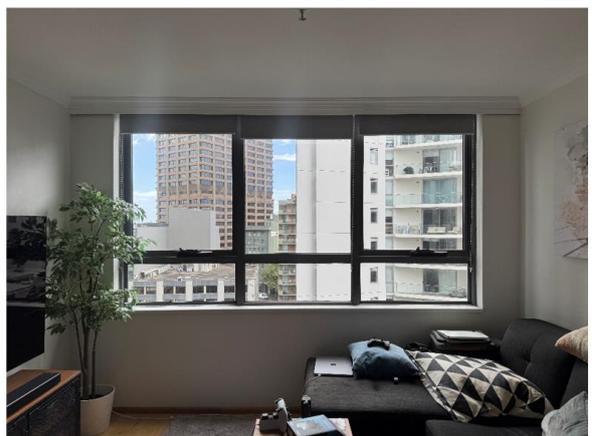
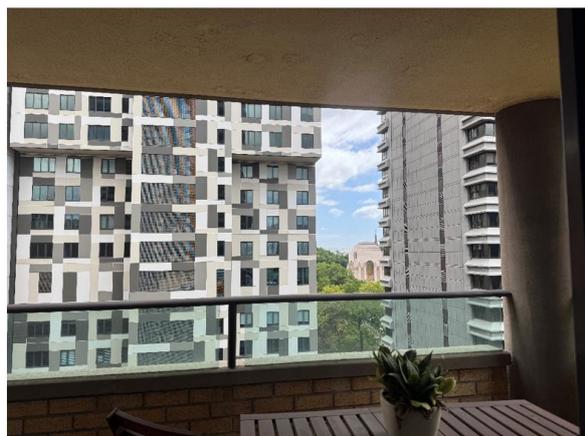
99. Residential apartments are located between levels 7 to 33 of Hyde Park Towers. The general planning of apartments within the building contains two apartments along the northern side of the building. Apartments are dual aspect with bedrooms and kitchens running along the northern elevation and living areas facing predominantly east or west. Each apartment has two balconies, both north facing, with one small balcony accessed from bedrooms located closer to the centre of the building and balconies accessed from the living areas located close to the north-east and north-west corners of the building.
100. East-facing apartments contain living rooms with views facing directly east across Nithsdale Street. West-facing apartments contain living rooms with views facing directly west across Elizabeth Street.
101. Views from north-facing bedrooms and balconies located towards the centre of the building face directly north to the adjoining site and to the southern elevation of the residential buildings fronting Liverpool Street. Views from some bedroom balconies in the east-facing apartments currently have very limited views to Hyde Park south as well. View loss from bedroom balconies will be the most severe as balconies are located either on the boundary or slightly set back from the boundary. While there are no significant views to icons from these bedrooms or balconies, general outlook will be impacted as a result of the development.
102. Additionally, kitchen windows will have the same result from the proposed development with north-facing outlook being severely impacted.
103. Due to the orientation of living rooms within apartments, the potential views loss caused by the proposed development from living room windows within Hyde Park Towers will be negligible. Living room balconies in east-facing apartments will have moderate view loss as some partial views to Hyde Park south will be removed however, general outlook to the north-east and east will be maintained. West-facing apartments on lower floors contain balconies facing west. Views from these balconies will remain the same or improve as the proposed development is set back on the upper levels further than the existing building. Upper floor apartments which have north-facing apartments will have moderate view loss to the north but views to the north-west and west will remain the same.
104. Figures 26 to 31 below show existing views from various apartments along the northern boundary within Hyde Park Towers.



**Figure 26:** Existing views from Apartment 1201 bedroom balcony (left) and primary living room (right). Note primary living room and balcony are west-facing and outlook is not adversely impacted.



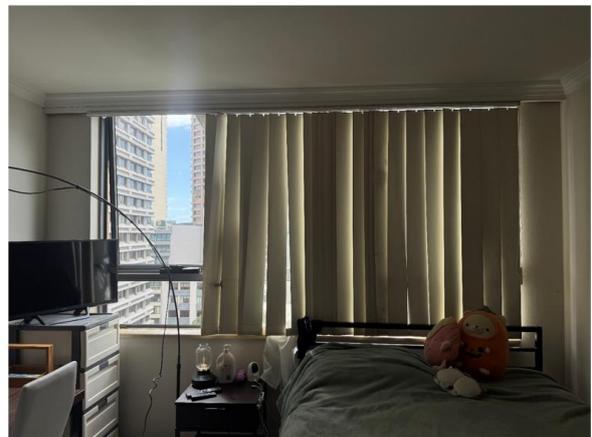
**Figure 27:** Existing views from Apartment 1206 primary bedroom window (left) and secondary balcony (right)



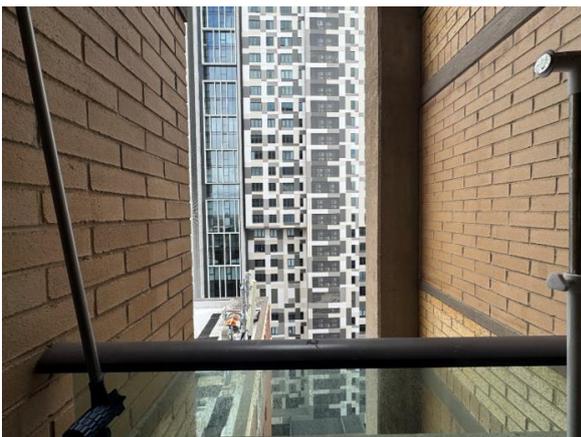
**Figure 28:** Existing views from Apartment 1206 primary balcony (left) and living room window (right)



**Figure 29:** Existing views from Apartment 1306 primary bedroom window (left) and secondary balcony (right)



**Figure 30:** Existing views from Apartment 1306 primary balcony (left) and living room window (right)



**Figure 31:** Existing views from Apartment 1901 bedroom balcony (left) and primary balcony (right)

### Reasonableness

105. The degree to which an impact is considered to be reasonable depends on the extent to which the development complies with the relevant planning controls, and whether impacts could be mitigated by a more skilful design. In the case of the proposed development, most severe view and outlook impacts are as a result of a non-compliant southern setback.
106. As discussed above, the proposed development is adjacent to a site that provides windows and balconies with little to no setback to the boundary. Varied setbacks are provided to the proposed development and setbacks increase on the upper floors of the building, reducing the impacts on outlook loss on residential apartments. While there is a slight variation to the side setbacks where in some areas a 3m setback is proposed, there will be no major difference in outlook or views if the development did have compliant setbacks.
107. It is noted that the most important views from living areas of north-east and north-west apartments are not impacted. It is acknowledged that secondary balconies and views from bedrooms in these apartments will have significant outlook loss however, these are secondary vantage points which are not considered as important as living areas when considering the established test of the planning principle as above.
108. Being located in an urban context within Central Sydney, it is inevitable that any development will affect the views and outlook to an array of residential and commercial developments. An assessment of whether or not the proposed development adversely impacts from other developments has been undertaken and the proposal is considered to have an acceptable impact. The proposal does not significantly or unreasonably reduce the amenity enjoyed by surrounding residential uses while having a negligible impact on views and outlook from living areas. While it is acknowledged that outlook is impacted by the development from north-facing windows and balconies, living room windows are not obstructed by the development and setbacks allow for acceptable outlook and general city skyline views. Impacts on views and outlook from apartments within Hyde Park Towers are considered acceptable.

### Competitive design process and site-specific DCP

109. The proposed development has a maximum height of 61.15 metres. As the proposed building is over 55 metres in height and is located within Central Sydney, the proposal triggers requirements for a site specific development control plan and competitive design process, under the provisions of Clauses 7.20(2)(a) and 6.21(5) (a) and (c) of the SLEP 2012, respectively.
110. Clause 7.20(4) of the SLEP 2012 sets out matters that must be addressed in a site specific development control plan. The proposal satisfies the criteria in Clause 7.20(4) as detailed below:

Requirements as to the form and external appearance of proposed development so as to improve the quality and amenity of the public domain

- (a) The proposed form and external appearance of the new building will provide a positive contribution to the public domain. It is appropriate to its context and is compatible with existing surrounding developments.

Requirements to minimise the detrimental impact of proposed development on view corridors

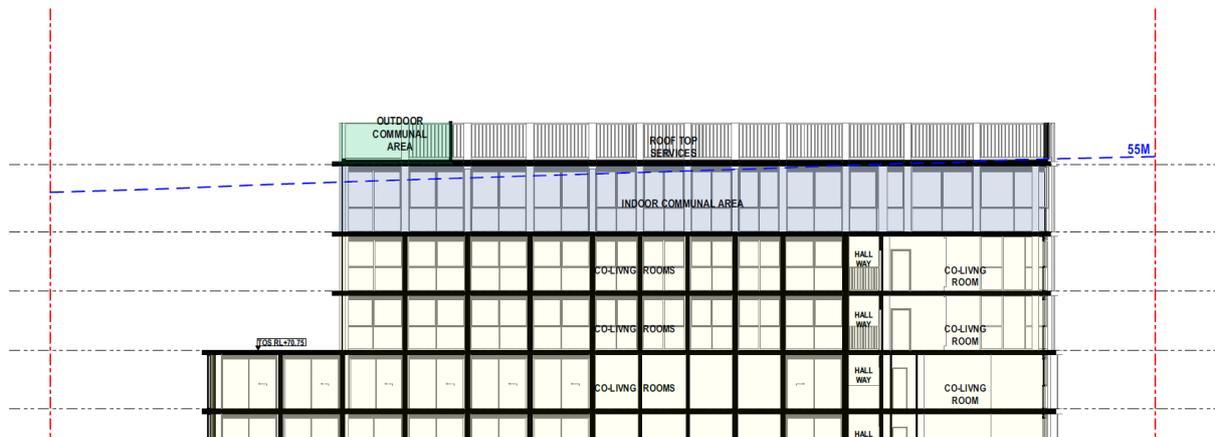
- (b) The proposed development is located approximately 49 metres below the potential maximum height control and the siting, massing and setbacks of this building are contained within the extent of the bulk of the adjoining building to the south at 148 Elizabeth Street. Overall, the proposal will not result in any significantly detrimental impacts on view corridors.

how proposed development addresses the following matters—

- (i) the suitability of the land for development,
  - (ii) the existing and proposed uses and use mix,
  - (iii) any heritage issues and streetscape constraints,
  - (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
  - (v) the bulk, massing and modulation of buildings,
  - (vi) street frontage heights,
  - (vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,
  - (viii) the achievement of the principles of ecologically sustainable development,
  - (ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,
  - (x) the impact on, and any proposed improvements to, the public domain,
  - (xi) the impact on any special character area,
  - (xii) achieving appropriate interface at ground level between the building and the public domain,
  - (xiii) the excellence and integration of landscape design,
  - (xiv) the incorporation of high quality public art into the fabric of buildings in the public domain or in other areas to which the public has access.
- (c) The proposal addresses the above matters in the following manner:
- (i) It comprises community facility and co-living housing uses, permissible within the SP5 Metropolitan Centre. The proposed uses will replace existing community facility and commercial uses with a higher density mixed use development, which is consistent with the objectives of the land use zone.
  - (ii) The proposed bulk, scale and massing, including street frontage heights, responds to the adjoining developments and is consistent with the character of the streetscape.

- (iii) Subject to conditions, it will not have adverse environmental impacts by way of overshadowing, visual and acoustic privacy, noise, wind and reflectivity.
  - (iv) The application is accompanied by environmental reporting which identifies a range of sustainability measures to be incorporated in the development.
  - (v) The proposed bulk, mass, scale and materiality is sympathetic to nearby heritage items.
  - (vi) The development will provide a positive contribution to the public domain and will improve the active frontage to Elizabeth Street.
  - (vii) Loading, servicing and waste management activities are concentrated to Nithsdale Street and reduces any impacts to pedestrian, vehicle and cyclist movements along Elizabeth Street.
  - (viii) Due to the small size of the site, there are limited opportunities for landscaping. Notwithstanding this, the outdoor terrace on Level 8 provides perimeter planting, improving residential amenity for co-living housing residents.
  - (ix) The Public Art Strategy submitted with the application indicates locations for the public artwork along the Elizabeth Street frontage. A condition of consent is recommended requiring the provision of a detailed public art plan to be submitted to determine the final location and type of artwork.
111. Clause 6.21C(2) of the SLEP 2012 sets out the matters which are required to be addressed for a development to be considered to exhibit design excellence, which are consistent with the matters set out in clause 7.20(4) of the SLEP 2012.
112. The development satisfies the design excellence criteria as detailed above and in the SLEP 2012 compliance table. Further, the proposal complies with the applicable height and FSR development standards and does not seek the award of the up to 10% additional height or FSR available under the City's design excellence provisions.

113. Importantly, the part of the building which rises above 55m is minor and limited to the upper ceiling areas of Level 16, rooftop and access stairs and lift to the roof as shown in Figure 32 below. As depicted, the extent of the exceedance is very minor and does not comprise any gross floor area.



**Figure 32:** Long section (west - east) of upper levels showing portions of the building above 55 metres (dashed blue line)

114. Clauses 6.21D(2) and 7.20(3) of the SLEP 2012 notes that a competitive design process and site specific development control plan may not be required if the consent authority is satisfied that such a process or plan would be unreasonable or unnecessary. Given the proposal demonstrates appropriate responses to the matters for consideration under Clause 7.20 and 6.21C of the SLEP 2012 as detailed above, and the limited extent that the building projects above 55m, it is considered that a site specific development control plan and a competitive design process is unreasonable or unnecessary in this case.

### Staged construction

115. The application proposes staging the construction through various construction certificates as follows:
- (a) Stage 1 - Excavation, piling and shoring
  - (b) Stage 2 - Structure - up to and including ground floor
  - (c) Stage 3 - Structure - above ground
  - (d) Stage 4 - Façade
  - (e) Stage 5 - Fitout and services
  - (f) Stage 6 - External works and public domain upgrades
116. While the above staging is generally supported, it is not agreed to separate external works and public domain upgrades. To ensure all external works and public domain works are completed prior to the occupation of the building in any way, it is recommended that stages 5 and 6 are combined into one. Where necessary, the recommended conditions reflect the proposed staging.

## Consultation

### Internal Referrals

117. The application was discussed with Council's:

- (a) City Access and Transport Unit
- (b) Cleansing and Waste Unit
- (c) Environmental Health Unit
- (d) Environmental Projects Unit
- (e) Heritage and Urban Design Unit
- (f) Landscape Specialist
- (g) Public Art Unit
- (h) Public Domain Unit
- (i) Specialist Surveyor

118. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

### External Referrals

119. The application was referred to external bodies including Ausgrid, Sydney Water Corporation and Transport for NSW (acting under delegation of Sydney Trains) in accordance with requirements of legislative requirements as discussed under the heading State Environmental Planning Policies. No objections were received from external referral bodies, subject to conditions.

### Advertising and Notification

120. In accordance with the City of Sydney Community Participation Plan 2022, the proposed development was notified for a period of 30 days between 30 July 2025 and 28 August 2025, with 10 submissions received. Of the 10 submissions received, one made comment on the proposal, one was in support of the proposal and eight were objecting to the proposal.

121. The submission of support noted the benefit in providing an increased housing mix to the area, retaining an area of community floor space on the lower levels and the strategic placement of proposed artworks.

122. Comments and objections received raised the following issues:

Issue	Response
<p>Loud construction activities should include appropriate respite periods.</p>	<p>A construction noise and vibration management plan is recommended to be prepared prior to the commencement of any works to ensure noise generated from construction activities is appropriately managed and protects the amenity of surrounding sensitive uses, including the provision of respite periods.</p>
<p>The building does not include appropriate setbacks and provides a blank wall to the boundary it shares with 148 Elizabeth Street.</p>	<p>As discussed above, the proposed setbacks to Hyde Park Towers are considered appropriate in the context of Central Sydney.</p>
<p>The proposed building reduces direct and ambient natural light to north-facing apartments within the adjacent development at 148 Elizabeth Street.</p>	<p>It is acknowledged that the proposed development will cause a reduction in direct and ambient light to north-facing apartments within Hyde Park Towers. While the loss of ambient light is not specifically a matter for consideration, the application was supported by comprehensive analysis on the impacts on solar access and justified variations to setbacks to neighbouring developments which are discussed in detail above and are supported.</p>
<p>The proposal removes all outlook from north-facing windows and balconies within the adjacent development at 148 Elizabeth Street.</p> <p>Views lost will include view to Hyde Park, St Mary's Cathedral, the ANZAC Memorial and distant harbour views.</p> <p>The applicant's assumptions regarding balconies off bedrooms is outdated and views from these spaces are just as important to residential amenity as primary balconies.</p>	<p>View loss, view sharing and impacts on outlook are discussed in detail above. The application was assessed against the relevant Planning Principle to consider view loss and the proposal is found to have an acceptable impact. This includes the consideration and ranking of importance of views from living areas (most important) to bedrooms and secondary balconies.</p> <p>The apartments within Hyde Park Towers which will be impacted by the development are not considered to have existing views to St Mary's Cathedral or have distant harbour views and the impact on these views were not considered in this report as they are not relevant to the proposal.</p>

Issue	Response
<p>External walkways will cause overlooking to the adjacent residential development.</p>	<p>Due to the level differences between the proposed building and apartments within Hyde Park Towers, the proposed 1.8m louvred privacy screens are considered to provide appropriate visual privacy between the two developments.</p> <p>Further, the only open areas along the southern elevation of the proposed building are walkways and it is unlikely that residents will be spending extended periods of time in these spaces.</p>
<p>Noise generated from outdoor communal spaces will cause unacceptable acoustic impacts to adjacent residential uses.</p>	<p>It is recommended that outdoor areas be restricted to 10pm to reduce acoustic impacts on neighbouring developments.</p> <p>The site is located within Central Sydney and outdoor activities until 10pm is considered appropriate.</p>
<p>The proposed demolition, excavation and construction works will increase dust in the area, will cause structural risks to the adjacent building and will result in unacceptable disruption to surrounding developments.</p>	<p>Conditions of consent are recommended to ensure impacts from construction are reduced as much as possible and managed appropriately. This includes the preparation of a Construction Management Plan.</p>
<p>The developer has not undertaken appropriate consultation with surrounding developments.</p>	<p>Applicants are not required to undertake consultation with stakeholders prior to lodgement. The application has been publicly exhibited in accordance with the City of Sydney Community Participation Plan 2022.</p>
<p>The proposal is taking advantage of co-living provisions and is an overdevelopment of the site.</p>	<p>The proposed development is generally in accordance with the relevant provisions for co-living as provided in the Housing SEPP, and for boarding houses provided in the SDCP 2012. Where there are non-compliances, these variations are generally minor and are discussed above.</p> <p>It is also noted that the proposed height of the development is significantly lower than the maximum height for the site as provided in the SLEP 2012.</p>

Issue	Response
<p>The application has not adequately addressed mitigation measures for construction, traffic and air quality impacts on surrounding developments.</p>	<p>Conditions of consent require the preparation of several mitigation measure documents to ensure construction impacts are managed appropriately. This includes the preparation of a Construction Traffic Management Plan and a Demolition, Excavation and Construction Noise and Vibration Management Plan.</p>
<p>The application does not comply with the design quality principles in the Housing SEPP nor does it meet the Apartment Design Guide separation standards.</p>	<p>As discussed above, the requirements of the Housing SEPP and ADG do not apply to the site. Nonetheless, these controls have been considered as a guide and the proposed development has been designed generally in accordance with these controls. Where there are inconsistencies, the variations are considered minor or will have an acceptable impact.</p>
<p>The applicant has not undertaken a competitive design process, required by the Sydney LEP 2012.</p>	<p>The application has demonstrated that a competitive design process is unreasonable and unnecessary and has been considered comprehensively above.</p>
<p>The significant increase in residents in the area will result in increased pedestrian traffic on surrounding streets and potential overcrowding and antisocial behaviour in the pocket park located at the rear of the site on Nithsdale Street.</p> <p>The pocket park should be made an alcohol-free zone and prohibit smoking.</p>	<p>While it is likely that the development will increase the number of pedestrians using the public domain areas surrounding the site, it is unlikely that this will result in overcrowding of surrounding streets or the rear pocket park. Communal open spaces are provided on site and the proposed development does not rely on surrounding open spaces to provide amenity to residents.</p> <p>A Plan of Management has been provided that outlines expected behaviour of residents.</p> <p>The pocket park to the east of the site is under private ownership and Council cannot enforce alcohol-free zones or prohibit smoking.</p>

Issue	Response
<p>The submitted Plan of Management is deficient in addressing resident behaviour, impact of late-night communal spaces, large-scale events for residents and residents/visitors gathering in outdoor spaces.</p> <p>The Plan of Management also does not consider noise impacts on public holidays.</p>	<p>The Plan of Management sufficiently outlines expected behaviour of residents, noting matters relating to general etiquette, noise, discrimination, harassment, antisocial behaviour, drugs and alcohol, and theft and vandalism.</p> <p>As noted above, it is recommended that the Plan of Management be updated to address noise management from planned gatherings within communal outdoor spaces.</p>
<p>It is unclear whether the intended residents are targeted to 'vulnerable' residents or if units will be leased to professionals and students. This may impact property prices in adjacent buildings.</p>	<p>There is no indication in the application that the proposed development is to be used as social or public housing.</p>
<p>Mixing students, professionals, and vulnerable individuals in a co-living model raises concerns about conflict, exclusion, and safety, with a high risk further suggested by the inclusion of an incident and complaints register in the Plan of Management.</p> <p>A clearer resident criterion should be considered further to ensure resident safety.</p>	<p>The application is not required to list a resident criterion. As noted, the submitted Plan of Management appropriately addresses expected resident behaviour and if not compliant, residents may face eviction.</p>
<p>The building should be a traditional strata-title apartment building or built-to-rent, with co-living for vulnerable residents to be piloted outside the CBD.</p> <p>There is lack of clarity around how incoming residents will be informed about the composition of the vulnerable population within the development and whether The Salvation Army, Investa or another state government agency will be responsible for any failures in the co-living model.</p>	<p>There is no legislative requirement that any future residential use should be a strata-title apartment building or built-to-rent. Co-living housing is permissible with consent within the SP5 Metropolitan Centre zone and has been assessed against the relevant planning controls as being an acceptable development.</p> <p>There is no requirement for the future operator to inform other residents of their residential population financial backgrounds and there is no indication that the building will be managed by a community housing provider.</p>

## Financial Contributions

### Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2000

123. The Central Sydney Development Contributions Plan 2020 applies to the site. The cost of the development is over \$250,000. The development is therefore subject to a s7.12 contribution under this Plan. A condition relating to this contribution has been included in the recommended conditions. The condition requires the contribution to be paid prior to the issue of a construction certificate.

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

124. Section 7.32 of the Act outlines that the consent authority may grant consent to a development application subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing where the section of the Act applies.
125. The Act applies with respect to a development application for consent to carry out development within an area if a State Environmental Planning Policy identifies that there is a need for affordable housing within the area. Clause 14 of the Housing SEPP identifies that there is a need for affordable housing within each area of the State.
126. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:
- (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section, and
  - (b) the condition is authorised to be imposed by a local environmental plan, and is in accordance with a scheme for dedications or contributions set out in or adopted by such a plan, and
  - (c) the condition requires a reasonable dedication or contribution required to be made by the applicant under this section or section 7.11.
127. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable. A condition of consent is recommended requiring the payment of an affordable housing contribution prior to the issue of a construction certificate. The imposition of a condition requiring the payment of affordable housing contributions also satisfies the matters for consideration in Section 15 of the Housing SEPP in that contributions are to fund the delivery of affordable housing as further detailed in the City of Sydney Affordable Housing Program.
128. Section 7.13(1)(d)(iii) of the SLEP 2012 notes that contributions for the purpose of affordable housing applies to land in Central Sydney that involves the erection of a new building the gross floor area of which is more than 200 square metres.
129. In accordance with the SLEP 2012 and in lieu of the delivery of affordable housing, a contribution of 1% of the total floor area to for non-residential uses and 3% of the total floor area of residential uses is required at a rate of \$11,646.80 per square metre. Based on the submitted Total Floor Area drawings, the proposal nominates 'community facility' and 'co-living housing' uses occurring within the development. Both uses are subject to affordable housing contributions.

130. The application proposes approximately 11,409.96 square metres of residential floor area and 1,572.95 square metres of non-residential floor area, resulting in a contribution of \$4,169,884. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.
131. The above monetary contributions are considered reasonable in accordance with Section 7.32(3)(c) of the Act.

### **Housing and Productivity Contribution**

132. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
133. The site is located with the Greater Sydney region, the development is a type of residential development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.
134. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

### **Relevant Legislation**

135. Environmental Planning and Assessment Act 1979.
136. City of Sydney Act 1988.
137. Sydney Water Act 1994.

### **Conclusion**

138. The application seeks consent for the demolition of the existing structures on site and the construction of a 17-storey mixed use building including 2 storeys of community floor space and 15 storeys of co-living residential uses.
139. The proposal is largely compliant with the relevant planning provisions including the Housing SEPP, the SLEP 2012 and the SDCP 2012. Conditions are recommended to address non-compliances where appropriate.
140. The proposed development does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding site. The proposed development will improve the interface between the private and public domain and exhibits design excellence in accordance with Clause 6.21C of the SLEP 2012.

141. Given the proposal demonstrates appropriate responses to the matters for consideration under Clause 7.20 and 6.21C of the SLEP 2012 as detailed above, it is considered that a site specific development control plan and a competitive design process is unreasonable and unnecessary in this case.
142. The proposal will provide new co-living land uses on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
143. Subject to the imposition of the conditions, in Attachment A, the proposal responds appropriately to the site constraints and contributes positively to the existing and desired future character of Central Sydney. The proposed , development is therefore in the public interest and is recommended for approval by the CSPC.

**GRAHAM JAHN AM**

Chief Planner / Executive Director City Planning, Development and Transport

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