

**Item 7.****Development Application: 277-279 Broadway, Glebe - D/2024/71**

File No.: D/2024/71

**Summary**

<b>Date of Submission and amendments:</b>	8 February 2024, amendments submitted 5 July 2024, 26 August 2024
<b>Applicant:</b>	D & T Pty Ltd
<b>Architect:</b>	SJB Architects
<b>Owner:</b>	D & T Pty Ltd
<b>Planning Consultant:</b>	SJB Planning
<b>DAPRS:</b>	7 May 2024
<b>Cost of Works:</b>	\$27,938,870
<b>Zoning:</b>	E1 Local Centre Zone, proposal is permissible with consent
<b>Proposal Summary:</b>	<p>Demolition of existing buildings and construction of a 7 to 8 storey mixed use development with two basement levels, commercial and recreation facility (indoor) uses at the basement and ground levels, co-living housing throughout and a signage strategy. The co-living component comprises of 120 co-living rooms, loading and waste facilities at the Grose Street level, 128 bicycle parking spaces at the lower mezzanine level, common open space at the ground and roof levels, and communal living areas on levels 1 to 6.</p> <p>Site specific planning controls prepared as part of a planning proposal apply to the site under Sydney LEP 2012 and Sydney DCP 2012.</p> <p>This development application follows a competitive design process for the development held in January 2023. The application was reviewed by the Design Advisory Panel Residential Subcommittee on 7 May 2024. Comments and suggestions provided by the subcommittee are shown in the amended plans.</p>

The application is referred to the Local Planning Panel for consideration as the proposal includes a request to vary the height of buildings development standard by more than 10%. The roof form sits outside the site specific height standard by up to 13%. The application also includes a request to vary the maximum room size standard for co-living housing rooms.

The application was notified for 21 days between 28 February 2024 and 21 March 2024. 213 properties were notified, and 16 submissions were received, 15 in support, and 1 objecting to the proposal. The issues raised in the submission include an objection to height and the impact on heritage character. The issues raised have been considered within the report. The development application maintains the integrity of the design competition winning scheme.

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

**Development Controls:**

- (i) SEPP (Resilience and Hazards) 2021
- (ii) SEPP (Housing) 2021
- (iii) SEPP (Industry and Employment) 2021
- (iv) SEPP (Sustainable Buildings) 2022
- (v) SEPP (Transport and Infrastructure) 2021
- (vi) SEPP (Biodiversity and Conservation) 2021
- (vii) Sydney Local Environmental Plan 2012
- (viii) Sydney Development Control Plan 2012
- (ix) City of Sydney Development Contributions Plan 2015
- (x) City of Sydney Affordable Housing Program

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Request - Height of Buildings
- D. Clause 4.6 Request - Maximum Room Size
- E. Submissions

## Recommendation

It is resolved that:

- (A) the request to contravene clause 4.3 'Height of Buildings' development standard in accordance with clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (B) the request to contravene Section 69(1)(a) relating to maximum co-living room sizes, of the State Environmental Planning Policy (Housing) 2021 in accordance with clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (C) consent be granted to Development Application Number D/2024/71 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 is permissible with consent in the E1 Local Centre Zone.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant has demonstrated that compliance with the height of buildings development standard in clause 4.3 of the Sydney LEP is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012;
  - (ii) the applicant has demonstrated that compliance with the maximum room size development standard in Section 69(1)(a) of the State Environmental Planning Policy (Housing) 2021 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012;
- (C) The proposed development complies with the maximum Floor Space Ratio development standard contained in Clause 4.4 of the Sydney Local Environmental Plan 2012 and Section 68(2)(a) of State Environmental Planning Policy (Housing) 2021.
- (D) The proposal provides communal living area and communal open space in accordance with Chapter 3 Part 3 Section 68(2) of State Environmental Planning Policy (Housing) 2021.
- (E) The proposal is generally consistent with the standards for co-living housing under Chapter 3 Part 3 Section 69 of State Environmental Planning Policy (Housing) 2021.

- (F) The proposal exhibits design excellence in accordance with the requirements contained in Clause 6.21C of Sydney Local Environmental Plan 2012.
- (G) The proposal retains the heritage significance of the Glebe Point Road Heritage Conservation Area and heritage items within the vicinity of the site.
- (H) The proposal promotes uses that attract pedestrian traffic along the ground floor frontage of Grose Street, Glebe.
- (I) The proposal is generally consistent with the relevant objectives and provisions of Sydney Development Control Plan 2012.

## Background

### The Site and Surrounding Development

1. The development site is identified as Lots 100, 101 and 102 in DP 1067149 and is located at 277-279 Broadway, Glebe. The site is located on the northeastern corner of the intersection of Broadway and Glebe Point Road. The site has a combined frontage of 52m to Broadway and Glebe Point Road, a rear frontage of 29.7m to Grose Street, an average depth of 28.8m and a site area of 1,215.7sqm. Levels on the site fall approximately 6m from Broadway to Grose Street.
2. The site contains three, 2-4 storey commercial buildings of brick construction built to all boundaries, which are proposed to be demolished, with some of the perimeter walls to be retained.
3. Photos of the site and surrounds are provided below.



**Figure 1:** Aerial view of site and surrounds



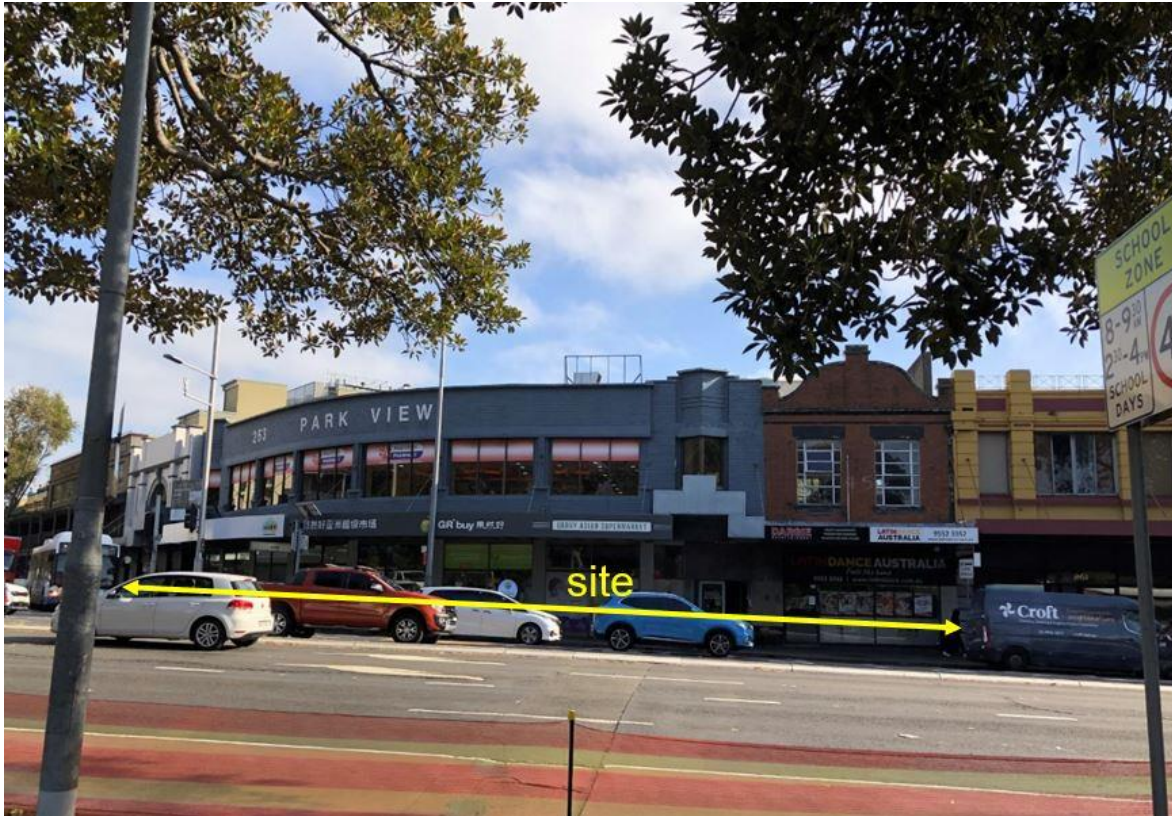


Figure 2: Site viewed from Victoria Park looking north



Figure 3: Site viewed from Glebe Point Road looking southeast



Figure 4: Site viewed from Broadway looking northwest





**Figure 5:** Site viewed from Grose Street looking west

4. The surrounding area is characterised by a mixture of land uses. Development adjoining the site includes:
  - (a) to the east at 261 Broadway, a 2 to 4 storey commercial building
  - (b) to the north across Grose Street, the Broadway Shopping Centre (back of house)
  - (c) the west at 1-9 Glebe Point Road, a 2 to 6 storey commercial building
  - (d) to the south across Broadway, is Victoria Park.



5. The site is located within the Glebe Point Road Heritage Conservation Area. The existing buildings on the site are identified as being neutral within the conservation area. Heritage items in the vicinity of the site include:
  - (a) at 255 Glebe Point Road, the Former International Harvester Company of America warehouse and Showroom (1664A), an item of local significance
  - (b) across Glebe Point Road, the Commemorative fountain "Jubilee Fountain" (1776), an item of local significance
  - (c) at 281-285 Broadway, University Hall (I665), an item of state significance
  - (d) at 13A Glebe Point Road, the Former "Australian Gaslight Co Showroom" (I685), an item of local significance
  - (e) across Broadway, Victoria Park an item of local significance (I39).
6. The site is not identified as being subject to flooding in the 1 in 100 year levels, but is affected in by the probable maximum flood level along Grose Street.

### **History Relevant to the Development Application**

7. Site specific controls prepared as part of a planning proposal apply under Sydney LEP 2012 and Sydney DCP 2012 being part of 225 - 279 Broadway, Glebe. The controls allow for additional FSR for particular land uses and specify height and built form controls.
8. A competitive design process was held for the proposed development in January 2023. Three architectural designs were reviewed by a four person jury panel, with the selected winning scheme prepared by SJB Architects. This development application proposal is a design development of the winning scheme, with key amendments from the design competition scheme being:
  - (a) The introduction of a through-site link between Broadway and Grose Street
  - (b) Relocation of indoor communal space to the rooftop
  - (c) Removal of car parking
9. The development application design was reviewed by the Design Advisory Panel Residential Subcommittee (DAPRS) on 7 May 2024. The panel generally supported the proposal with recommendations given for facade design and expression, natural ventilation, and landscaping. These items are addressed in design amendments. See further discussion on these items under the heading 'Discussion' within this report.
10. Design amendments and additional information were provided in support of the application on 5 July 2024 and 26 August 2024 in relation to architectural design, acoustic information, contamination, flooding and sustainability.

## Proposed Development

11. Development approval is sought for the demolition of existing buildings on the site and construction of a 7 to 8 storey mixed use development with a 120 room co-living use comprising of:
  - Basement level: vehicle access from Grose Street to truck turntable, loading, waste storage, plant and services, retail, commercial and gym spaces, through-site link access and deep soil landscaped area.
  - Mezzanine basement level: retail/commercial spaces, commercial bicycle parking and end of journey facilities, co-living bicycle parking, laundry facilities, and plant and services.
  - Ground level: retail tenancy spaces to Broadway and Glebe Point Road, through-site link access to Broadway, co-living lobby entry point, internal open space and landscaping, co-living rooms overlooking Grose Street to the north.
  - Levels 1 to 5, co-living rooms and communal living areas.
  - Level 6, roof level: communal living area, communal open space, mechanical plant and solar panels.
12. Plans and elevations of the proposed development are provided below.

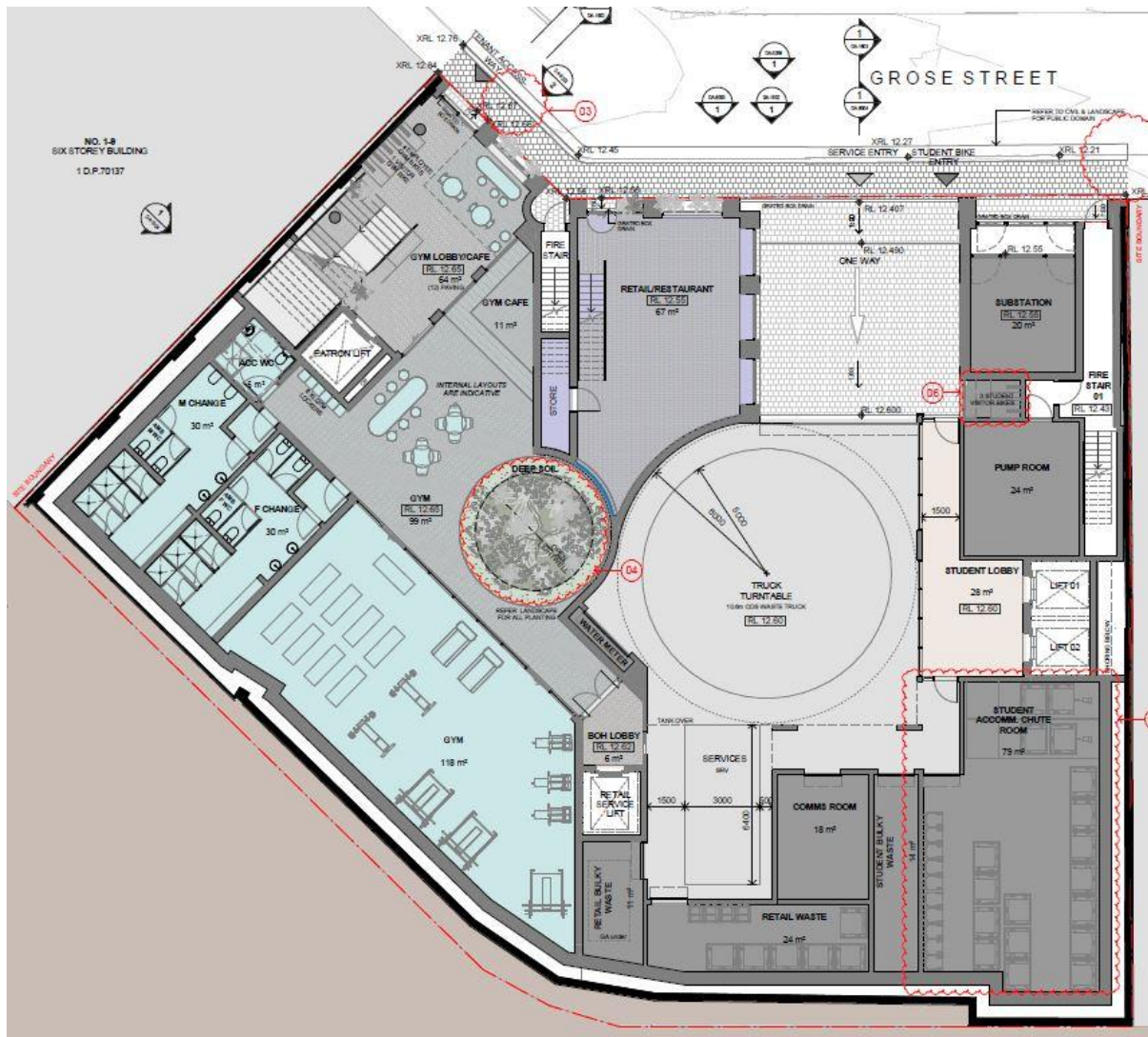


Figure 6: Basement level floorplan (Grose Street level)





Figure 7: Basement mezzanine level floorplan

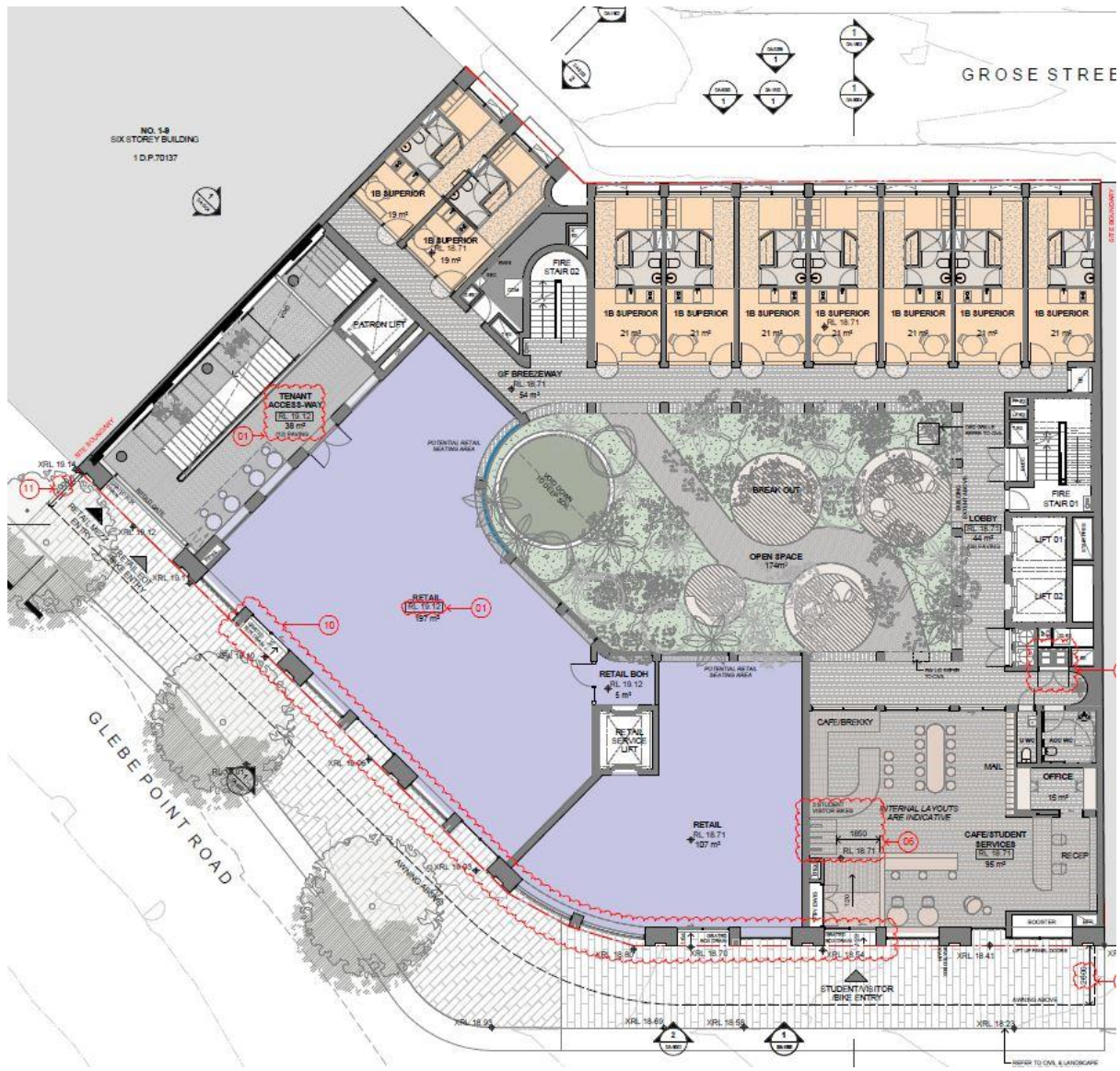


Figure 8: Ground level floorplan (Glebe Point Road / Broadway level)



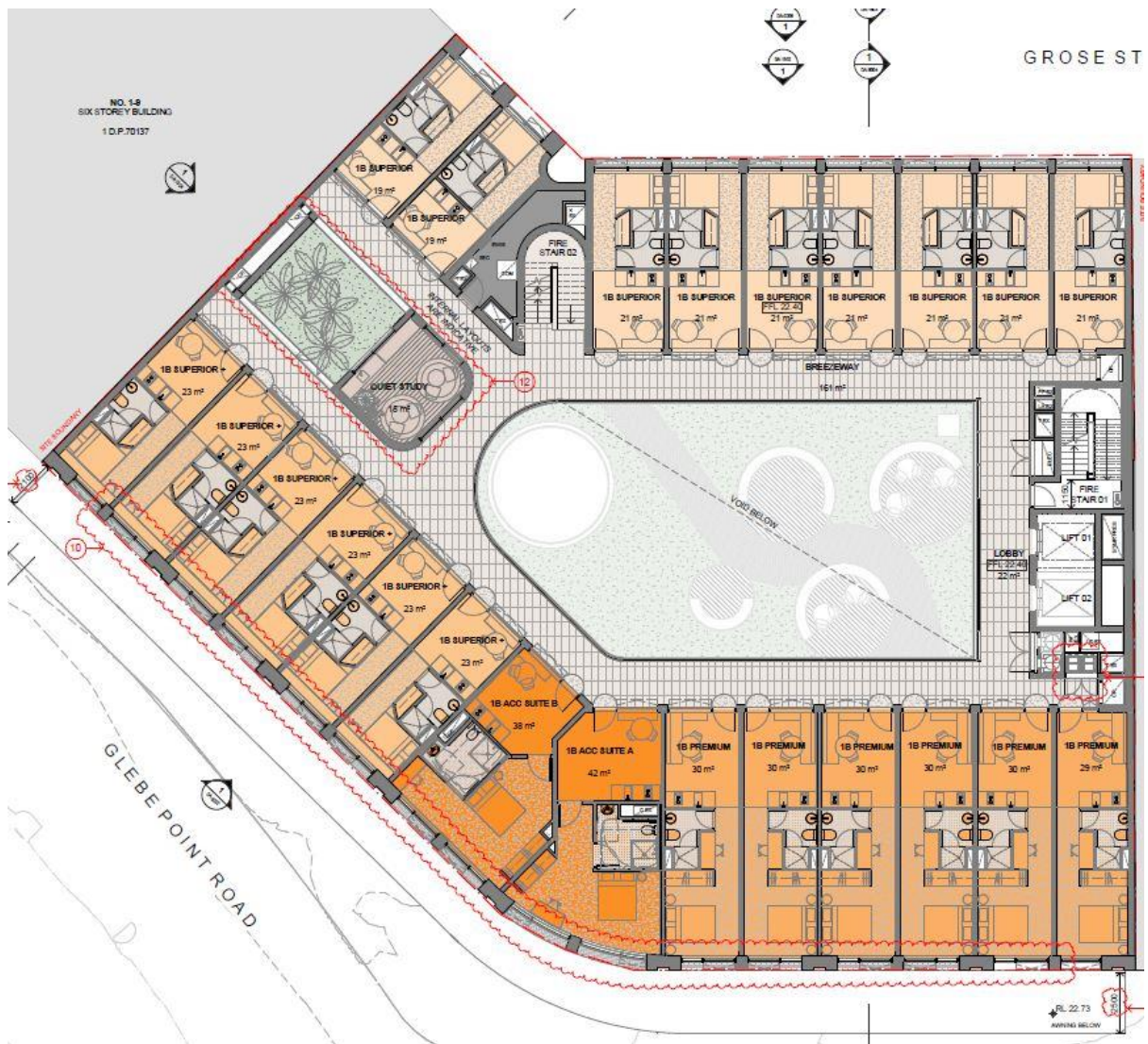


Figure 9: Level 1 floorplan



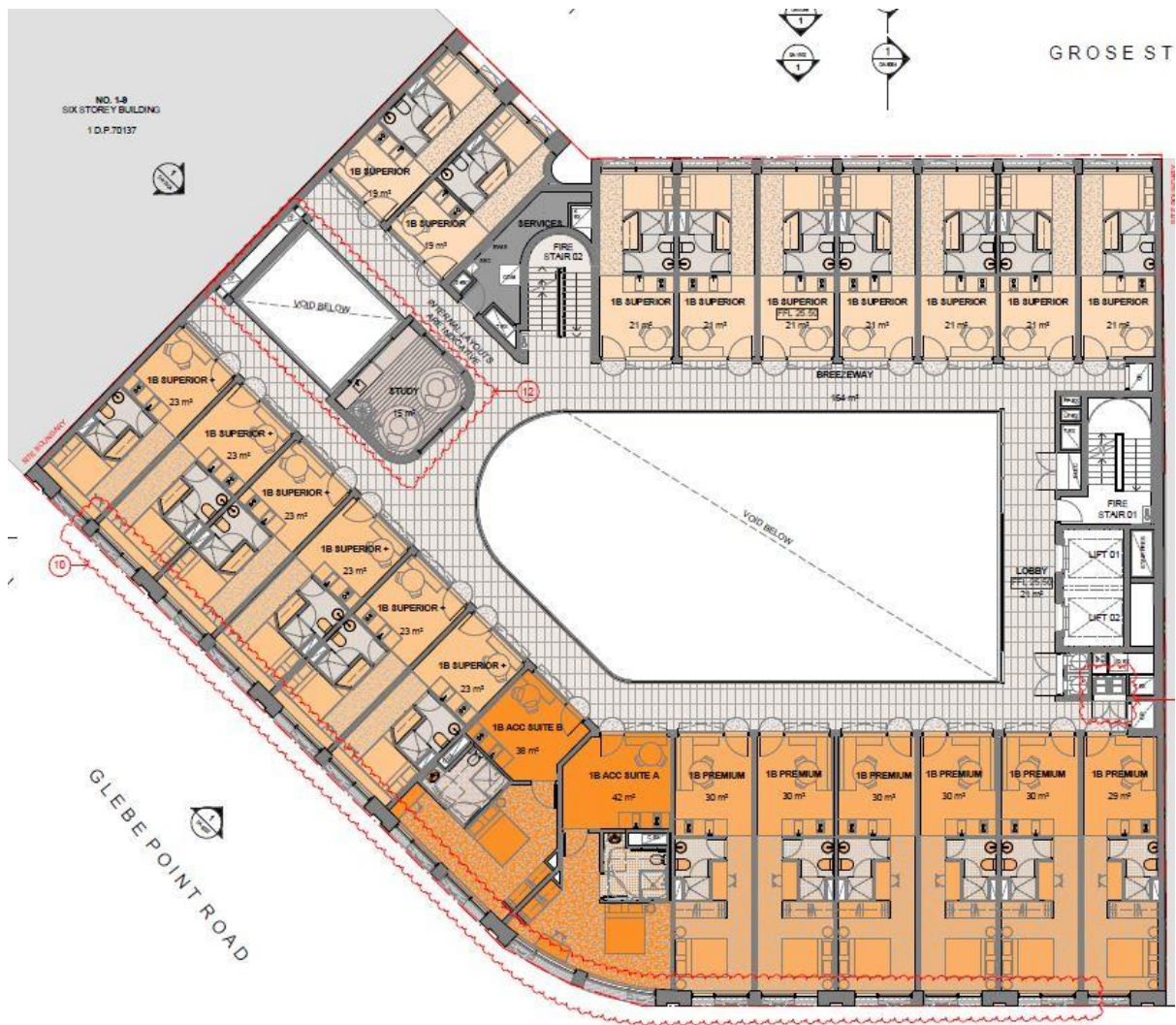


Figure 10: Level 2 floorplan

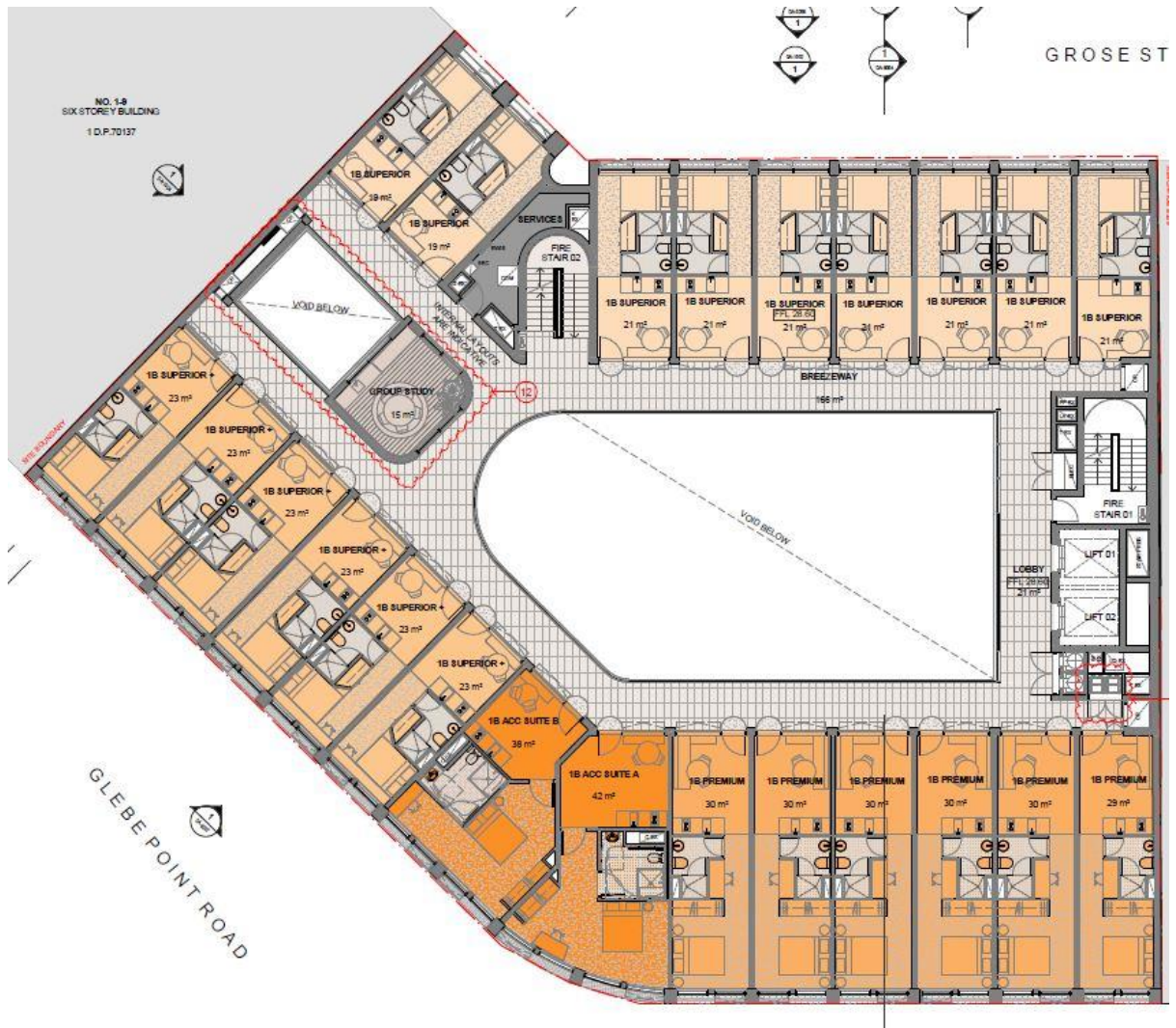


Figure 11: Level 3 floorplan





Figure 12: Level 4 floorplan





Figure 13: Level 5 floorplan

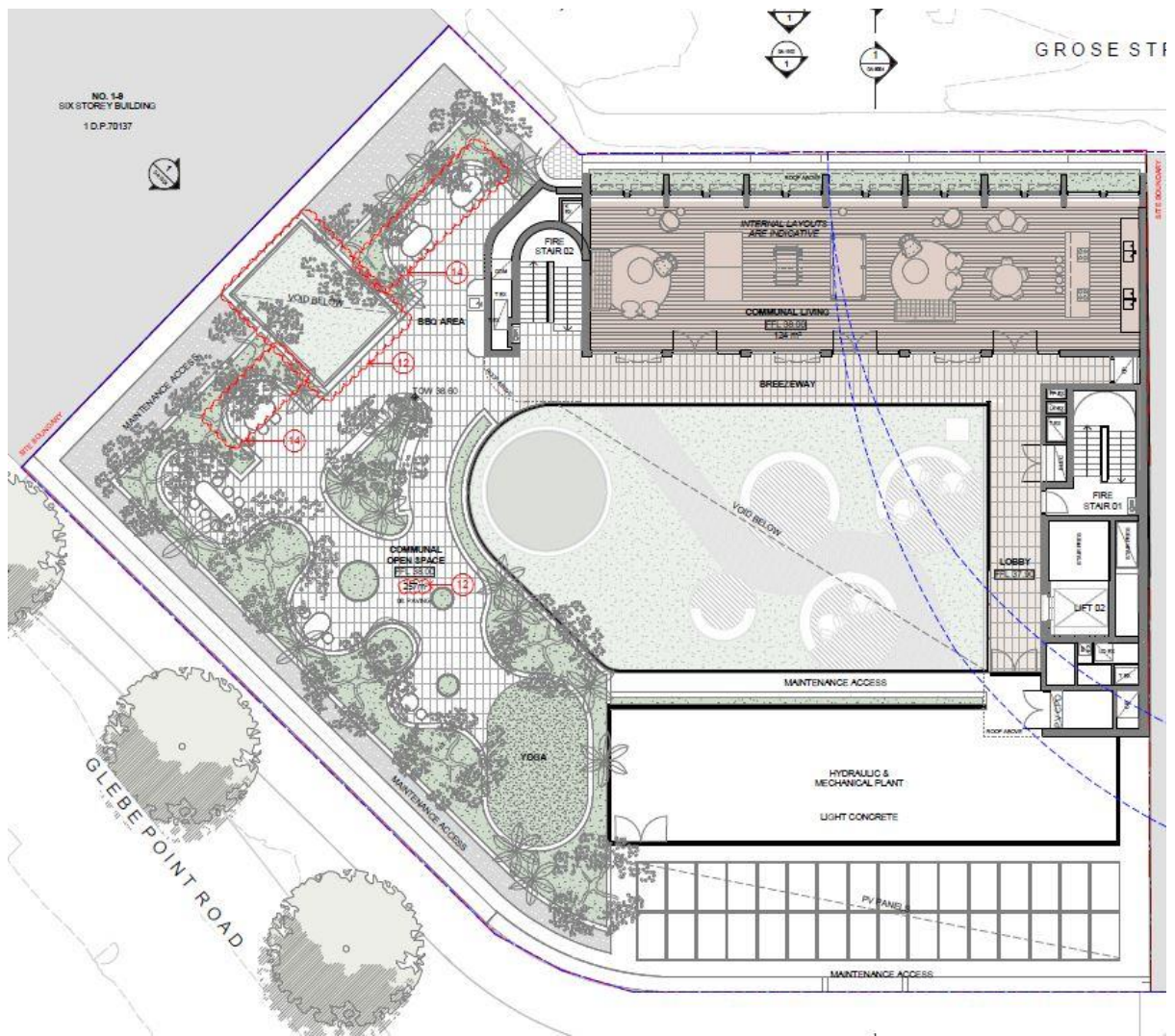


Figure 14: Level 6 roof level plan



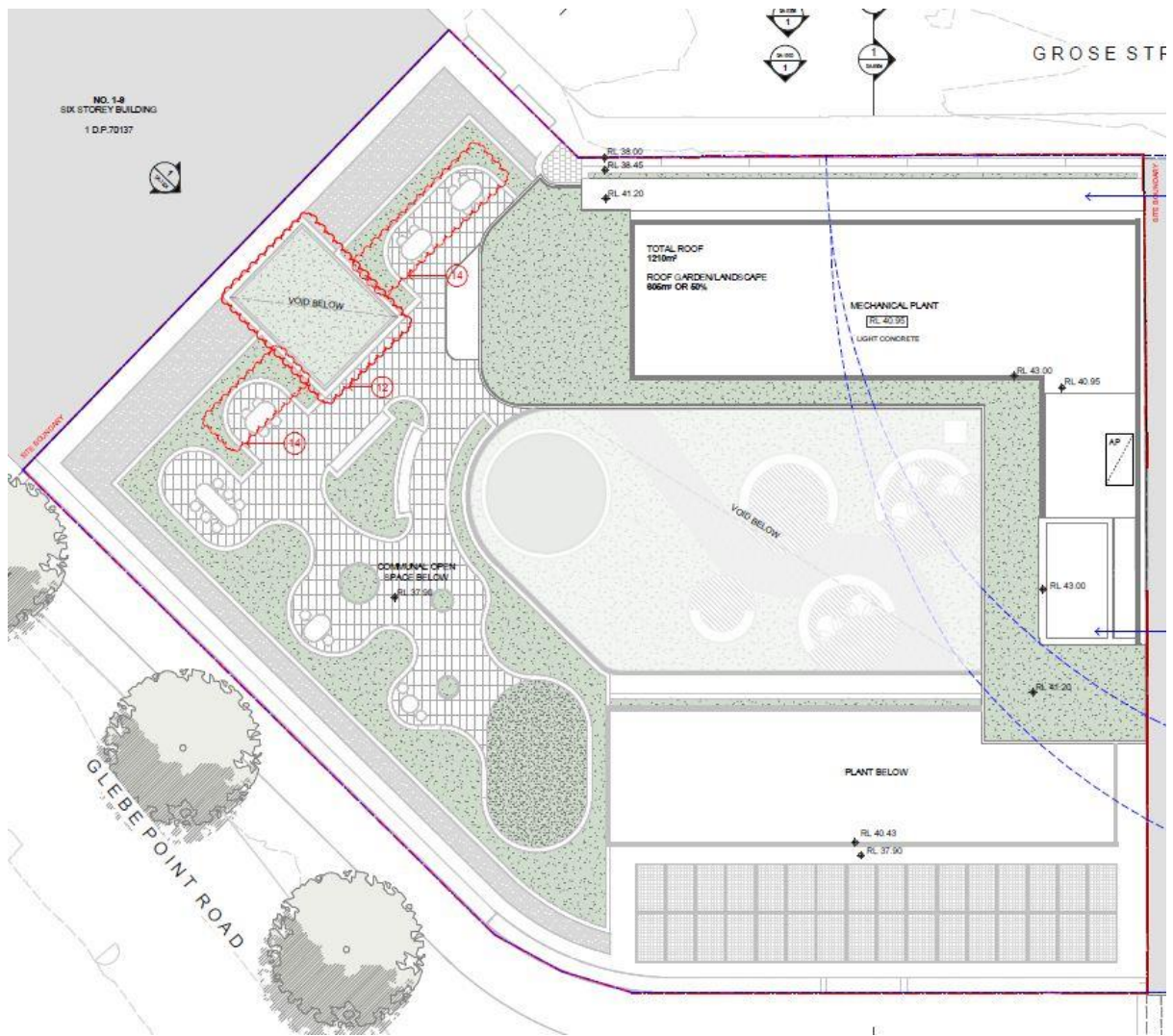


Figure 15: Roof plan





Figure 16: South elevation (Broadway)

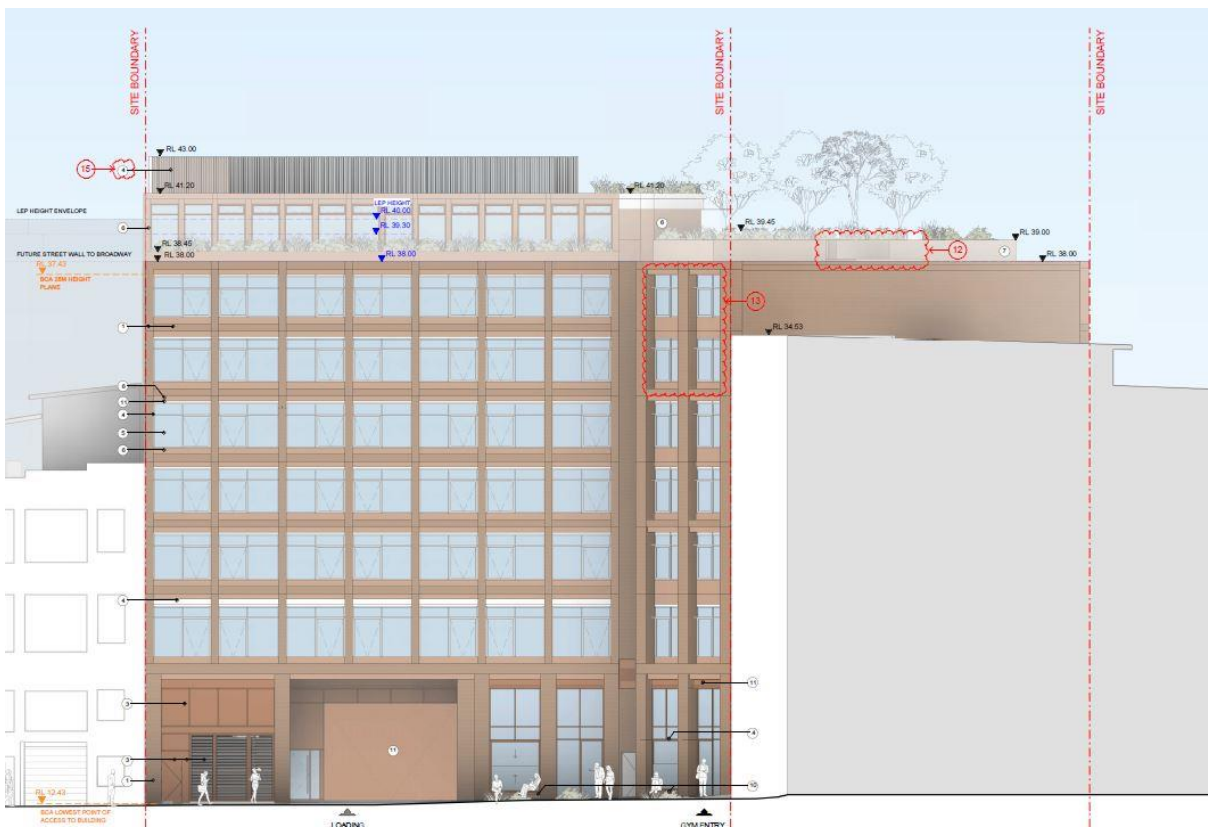


Figure 17: North elevation (Grose Street)

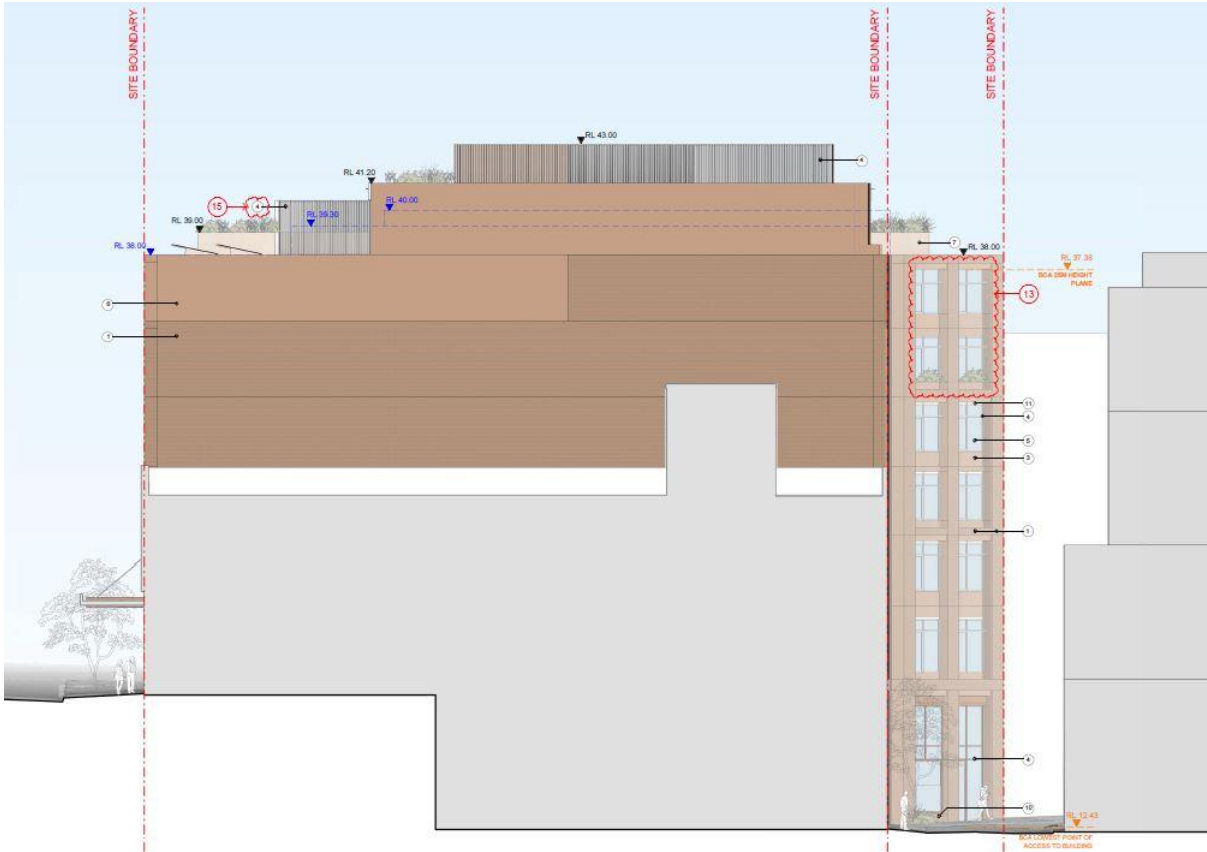


Figure 18: East elevation

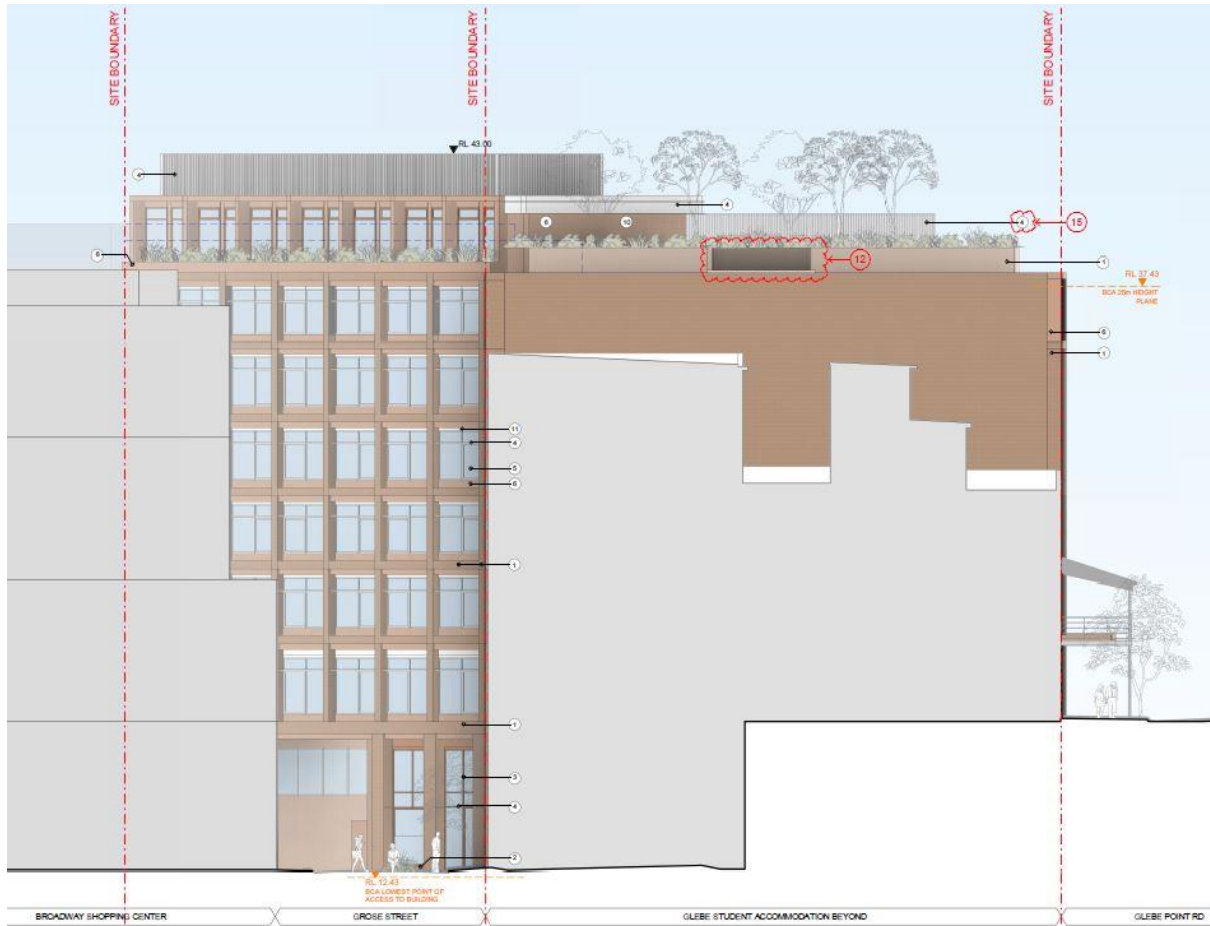


Figure 19: West elevation



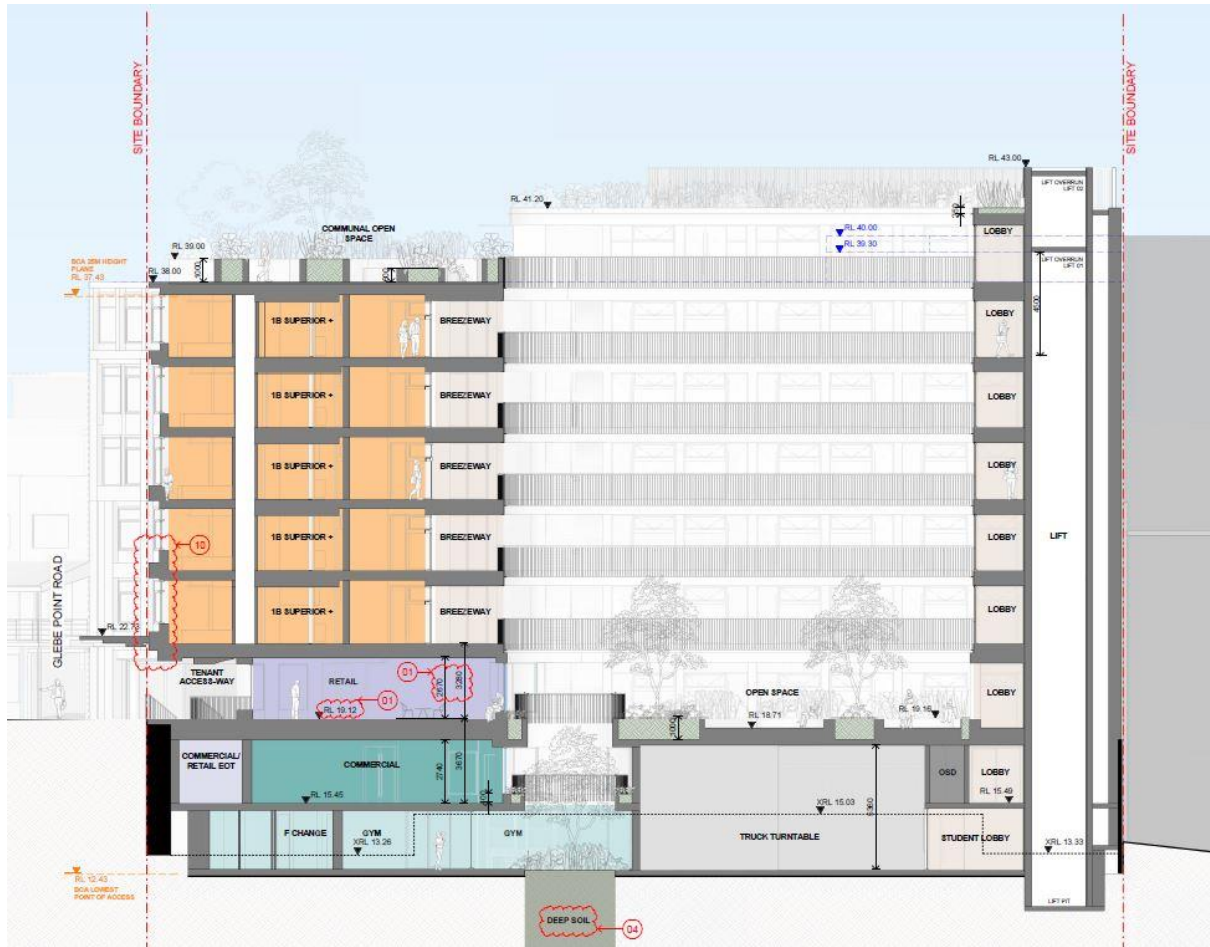


Figure 20: Section A

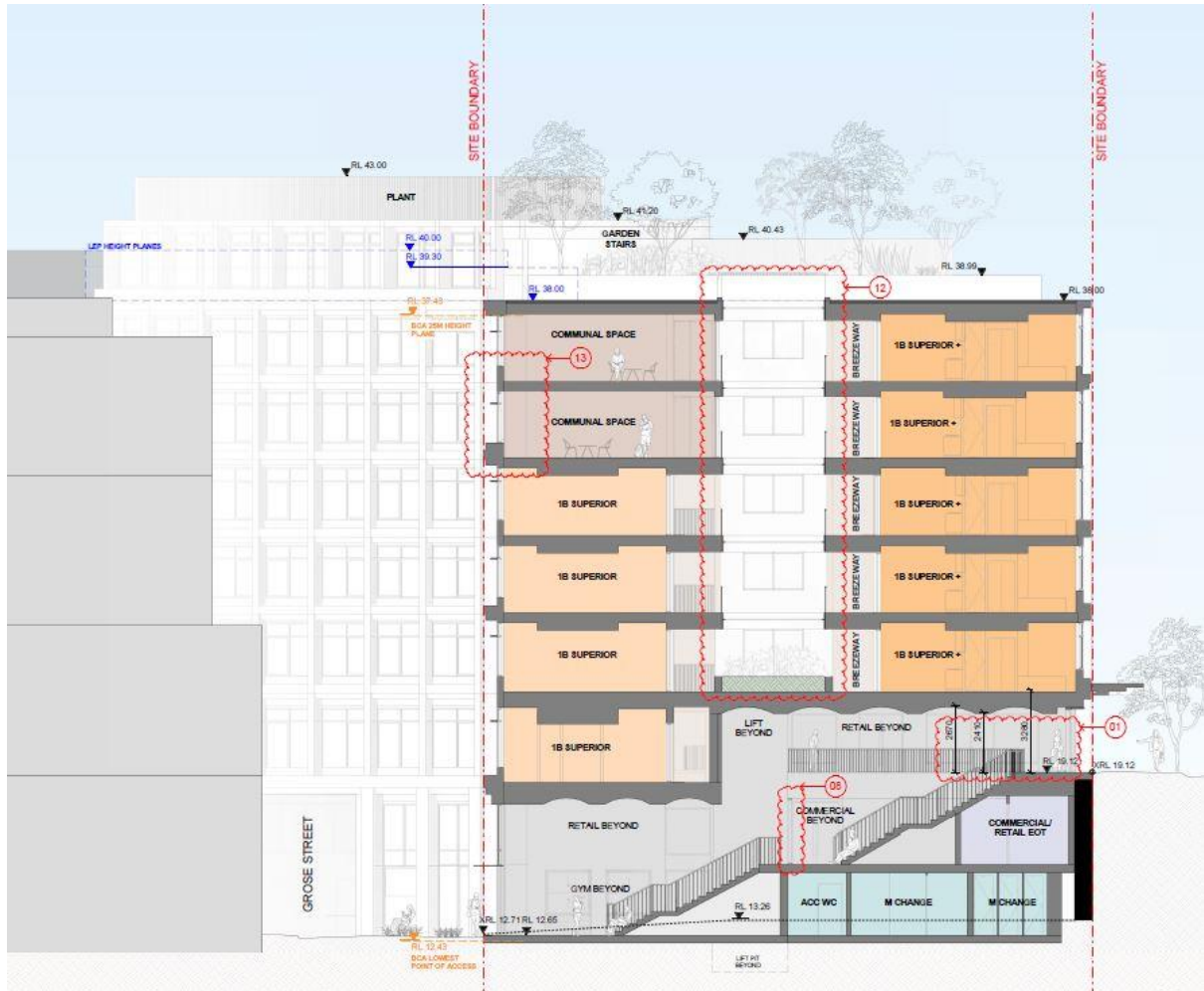


Figure 21: Section B



Figure 22: Materials and finishes schedule





Figure 23: Photomontage image of the Broadway elevation



**Figure 24:** Photomontage image showing the proposal from the intersection of Broadway and Glebe Point Road

## Assessment

13. 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

### State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

32. 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.

33. The application included a preliminary environmental site investigation of the site (Stage 1 PSI). The conclusions of the Stage 1 PSI are that the potential for unacceptable contamination is low. At the request of Council officers, the applicant supplemented this report with a letter of interim advice from a NSW EPA Contaminated Land Accredited Site Auditor. This letter of advice also concludes that the risk of unacceptable contamination is low.
34. The Council's Health Unit reviewed the information provided and recommended standard conditions of consent to ensure compliance with the remediation measures. Conditions are also recommended notifying Council should there be any changes to the strategy for remediation.
35. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

### State Environmental Planning Policy (Housing) 2021

36. The principles of the SEPP (Housing) 2021 are to provide a planning regime for the provision of a range of housing types, including purpose-built rental housing.

### Chapter 3 Diverse Housing

#### Part 3 Co-living housing

Section 67 - Co-living housing may be carried out on certain land with consent

37. The proposed co-living housing is permissible with consent in the E1 Local Centre Zone.

Clause 68 – Non-discretionary development standards

38. Under Clause 68, compliance with any of the following standards must not be used to refuse consent for co-living housing. If the following non-discretionary development standards are complied with the consent authority cannot require more onerous standards for the matters.
39. An assessment of the proposed co-living housing against each standard is provided in the table below.

Provision	Compliance	Comment
(2) (a) Density and scale expressed as floor space ratio  The maximum permitted FSR is calculated as follows: <ul style="list-style-type: none"> <li>• Base FSR - 2:1</li> <li>• Additional 1.6:1 under clause 6.48 of SLEP (for use for co-living housing used for student</li> </ul>	Yes	A FSR of 3.6:1 is proposed.



Provision	Compliance	Comment
<p>accommodation and commercial premises)</p> <ul style="list-style-type: none"> <li>plus 10% of the maximum permissible FSR, if the additional floor space is for the purposes of co-living housing</li> </ul>		
<p>(2) (c) Communal living area</p> <p>For co-living containing more than 6 private rooms a total of at least 30sqm plus 2sqm per additional room and a minimum dimension of 3m</p> <p>In total, 258sqm is required</p>	Yes	Areas totalling 335sqm provided.
<p>(2) (d) Communal open space</p> <p>Communal open space with a total area of at least 20% of the site area and a minimum dimension of 3m</p> <p>243sqm required</p>	Yes	Areas totalling 431sqm provided.
<p>(2) (e) Parking</p> <p>Unless a relevant planning instrument supersedes this a lower number 0.2 spaces per room in an accessible area and 0.5 spaces otherwise</p>	Yes	<p>No parking spaces provided.</p> <p>Sydney LEP 2012 does not require a minimum parking provision for residential development, therefore the proposal satisfies the provision.</p>

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

40. 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.

Provision	Compliance	Comment
<p>1(a) No private room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25sqm and less than 12sqm for a</p>	No, clause 4.6 request submitted	<p>Rooms sized between 12sqm to 27sqm (excluding kitchenette and bathrooms).</p> <p>5 of the accessible room types exceed the maximum 25sqm standard. A</p>

Provision	Compliance	Comment
single occupancy or 16sqm otherwise		request to vary the standard pursuant to cl 4.6 is submitted.  The request is discussed below under the heading 'Discussion'.
1(b) the minimum lot size is no less than 800sqm	Yes	The site has an area of 1,216sqm.
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	N/A
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	Workspace provided at ground lobby area.
1(e) 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	Residential uses not located to front of ground floor.
1(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant	Yes	A bathroom and kitchen are provided in each room, with additional communal kitchen spaces also provided.  Shared laundry facilities including 10 washing machines, and 10 dryers are provided.
1(g) each private room will be used by no more than 2 occupants	Yes	Maximum occupancy of 2 persons per room.
1(h) The co-living housing will include adequate bicycle and motorcycle parking spaces	Yes	131 bicycle parking spaces are provided.  No motorcycle parking is provided which is in accordance with the relevant DCP control.

41. Clause 69 (2) states that a consent authority must not grant development consent for the purpose of co-living unless it considers the following matters.

Clauses 69 (2) – Matters for consideration

Provision	Compliance	Comment
2(a) in R2 zone the front, side and rear set backs are no less than those required for multi dwelling housing in another relevant planning instrument	N/A	Site not located within an R2 zone.
2(b) if the co-living has at least three storeys, the building complies with the minimum building separation distances in the Apartment Design Guide	Acceptable	<p>Side separation:</p> <ul style="list-style-type: none"> <li>• Zero setback to side boundaries appropriate with existing pattern of zero setbacks.</li> <li>• Zero setback to Broadway and Glebe Point Road is appropriate in the immediate built form context.</li> <li>• Zero setback to northern boundary to Grose Street provides a setback of 7m to 10m to the Broadway Shopping Centre building (back of house) rather than 9m for first four storeys and 12m for Levels 3-6.</li> </ul> <p>As the proposal addresses the DCP built form controls and sufficient privacy and amenity is provided to the co-living rooms, the non-compliance is acceptable.</p>
2(c) at least 3 hours of solar access will be provided between 9.00am and 3.00pm at mid-winter in at least 1 communal living area	Yes	Communal living areas at Level 4, 5 and 6 receive more than 3 hours' solar access.
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 proposal relates to the character of the heritage conservation area, nearby heritage items and locality, and addresses the desired future character of the locality.



**Section 70 - No subdivision**

42. Clause 70 provides that development consent must not be granted for the subdivision of the co-living housing. No subdivision of the co-living housing is proposed. A condition confirming that the co-living housing cannot be subdivided is recommended.

**State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage**

43. 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.
44. The proposed signage strategy 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
1. Character of the area	Yes	The proposed signage is generally consistent with the character of the area including the Broadway and Parramatta Road signage precinct subject to conditions.
2. Special areas	Yes	The proposed signage does not detract from the amenity or visual quality of the locality or the Glebe Point Road Heritage Conservation Area, subject to conditions.
3. 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.
4. Streetscape, setting or landscape	Yes	The proposed signage is of an appropriate scale, proportion and form and provides a positive contribution to the streetscape and setting of the area, subject to conditions.
5. Site and building	Yes	The scale, proportion and positioning of the proposed signage is acceptable and the materiality is compatible with the finishes and colours of the building.

Provision	Compliance	Comment
6. Associated devices and logos with advertisements and advertising structures	N/A	Not applicable.
7. Illumination	Yes	Lighting would be internal and be required to be designed so as to not cause a nuisance in accordance with relevant lighting standards.
8. Safety	Yes	The proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

45. The proposed signage strategy is generally 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. It is recommended that one above awning sign not be endorsed as part of the strategy at this point as discussed in the assessment of Sydney DCP 2012 provisions below.

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

46. 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 3 Standards for non-residential development**

47. 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, or
- (b) alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.

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

48. 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.

49. 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:

- (a) 100% lighting is energy efficient LED.
- (b) VRF heat recovery pumps.
- (c) Air-cooled HVAC systems.
- (d) Development fully electrified.
- (e) Natural ventilation to co-living rooms through central void space.
- (f) Natural light through void spaces.
- (g) Low-e double glazing.
- (h) Roof top vegetation and green roofs.
- (i) PV system.
- (j) Rainwater tank sized 15KL.
- (k) Metering to track and monitor energy consumption.
- (l) Target of NABERS energy for hotels 5 star rating.
- (m) Target of NABERS water for hotels 4 star rating.
- (n) >80% construction waste by weight being diverted from landfill.



50. 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. The level of embodied emissions from the development proposal are certified by an appropriately qualified person as required by the regulations.

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

51. The provisions of SEPP (Transport and Infrastructure) 2021 are considered in the assessment of the development application.

### **Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations**

#### **Clause 2.119 – Development with frontage to classified road**

52. The application is subject to Clause 2.119 of the SEPP as the site has frontage to Broadway which is a classified road.
53. The proposed development satisfies the provisions of Clause 2.119 subject to conditions of consent, as access to the site is not provided from the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, subject to the recommended conditions of consent.

#### **Clause 2.120 – Impact of road noise or vibration on non-road development**

54. The application is subject to Clause 2.120 of the SEPP as the site is adjacent to Broadway (Great Western Highway) which has an annual average daily traffic volume of more than 20,000 vehicles and the development is likely to be adversely affected by road noise or vibration. The application has included an acoustic assessment of the proposal including the criteria specified under the SEPP. The application satisfies Clause 2.120 subject to conditions of consent.

### **Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 6 Water catchments**

55. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.
56. 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 control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

57. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan (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 E1 Local Centre zone. The proposed development is defined as co-living housing, commercial premises and recreation facility (indoor) and is 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	No cl 4.6 request submitted	Varied height planes apply to the site to an RL of 38 RL, 39.3 RL and 40 RL. The proposal exceeds areas and heights of the curved 39.3 RL and 40 RL areas with a maximum height of RL 43.  A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
4.4 Floor space ratio	Yes	An FSR of up to 3.96:1 applies under the SLEP as follows: <ul style="list-style-type: none"> <li>• Base FSR - 2:1</li> <li>• Additional 1.6:1 under cl 6.48 of SLEP (for use for co-living housing used for student accommodation and commercial premises)</li> </ul> An FSR of 3.6:1 is proposed.
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the development standard prescribed under Clause 4.3 Height of Buildings, and the maximum room size standard under s69(1)(a) of SEPP Housing 2021.

Provision	Compliance	Comment
		<p>Clause 4.6 variation requests have been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

#### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is located within the Glebe Point Road Heritage Conservation Area.</p> <p>The City's Heritage Specialist reviewed the proposal and advises that the proposed development including demolition of existing buildings will not have a detrimental impact on the heritage significance of the heritage conservation area and nearby heritage items.</p>
5.21 Flood planning	Yes	<p>The site is identified as being subject to flooding in the probable maximum flood level.</p> <p>The application proposes development at or below the flood planning level. A flood report accompanies the application demonstrating that the development is able to comply with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard.</p>

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

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.13 End of journey floor space	Yes	<p>The proposed development is eligible for an additional floor space ratio of 0.03:1 for the commercial end of journey facilities and bicycle parking.</p> <p>Site specific provisions under cl 6.48 apply for GFA below the ground level and therefore the additional floor space does not apply.</p>

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence	Yes	<p>The proposal is a design development of the winning scheme from a competitive design process. The proposal was reviewed by the Design Advisory Panel Residential Subcommittee (DAPRS,) with suggested design amendments. These were incorporated in amended plans.</p> <p>The amended proposal achieves a high standard of architectural design.</p> <p>The proposed development exhibits design excellence.</p> <p>See further details in the 'Discussion' section below.</p>
Division 5 Site specific provisions		
<p>6.48 225-279 Broadway, Glebe - floor space</p> <p>Under s6.48(8) the consent authority is to consider whether the development promotes uses that attract pedestrian traffic along ground floor frontages on Grose Street.</p>	Yes	<p>An additional FSR of 1.6:1 applies if the proposed building is used for the purposes of:</p> <ul style="list-style-type: none"> <li>• Co-living housing used for student accommodation</li> <li>• Commercial facilities</li> <li>• And does not include residential accommodation other than co-living housing</li> </ul> <p>The proposed through-site link and commercial tenancies to the Grose Street frontage will promote uses that attract pedestrian traffic.</p>

#### Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.6 Office premises and business premises	N/A	No car parking spaces are proposed.



Provision	Compliance	Comment
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	A contribution for affordable housing applies to the proposal.
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.
7.20 Development requiring or authorising preparation of a development control plan	Yes	Site specific DCP controls apply, refer to assessment of section 6.3.15 of Sydney DCP 2012 below.

## Development Control Plans

### Sydney Development Control Plan 2012

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

#### Section 2 – Locality Statements

59. The site is located within the Glebe Point Road locality. The proposed development is in keeping with the unique character and the design principles of the locality.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	<p>The proposal provides a footpath awning to Broadway and Glebe Point Road as required.</p> <p>The proposal provides activation to Glebe Point Road and Broadway.</p> <p>The proposed through-site link is not required but is encouraged under s6.3.15. The through-site link is a minimum of 3m wide and maintains clear lines of site.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	A competitive design process was held for the proposal prior to the lodgement of the application.

Provision	Compliance	Comment
		<p>The application is a development of the competition winning scheme.</p> <p>The proposal was reviewed by DAPRS who generally endorsed the design subject to amendments.</p>
3.5 Urban Ecology	Yes	<p>The proposal does not involve the removal of any trees.</p> <p>The proposal will include tree plantings within the site at the ground and roof level and within the public domain.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies environmental requirements. Refer to SEPP (Sustainable Buildings) section.
3.7 Water and Flood Management	Yes	The City's Public Domain Unit reviewed the submitted flood reports (as amended) and have advised the proposal is supported subject to conditions.
3.9 Heritage	Yes	<p>The site is located within the Glebe Point Road Heritage Conservation Area.</p> <p>The existing buildings on site are noted as neutral buildings within the conservation area.</p> <p>The City's Heritage Specialist reviewed the proposal and has advised that the proposed development including demolition of existing buildings will not have a detrimental impact on the heritage significance of the heritage conservation area and nearby heritage items.</p>
3.11 Transport and Parking	Yes	<p>One service vehicle loading space with turntable is provided.</p> <p>131 bicycle parking spaces provided for co-living.</p> <p>12 bicycle parking spaces provided for commercial tenancies.</p> <p>The City's Transport Unit reviewed the proposal and advised that it is acceptable subject to minor amendments and conditions for</p>

Provision	Compliance	Comment
		wayfinding and loading dock management.
3.12 Accessible Design	Yes	The submitted access design report outlines compliance with relevant standards and legislation.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	The proposed waste arrangements have been reviewed by the City's Waste Unit and are satisfactory subject to conditions.
3.15 Late Night Trading Management	N/A	Separate applications will apply for the fitout of commercial tenancies.
3.16 Signage and Advertising	Yes, subject to condition	<p>The site is located with the Parramatta Road and Broadway signage precinct.</p> <p>The application includes a signage strategy that includes locations and concepts for future signage including the following signage types:</p> <ul style="list-style-type: none"> <li>• Horizontal projecting wall signs for commercial tenancies.</li> <li>• Top hamper building identification signages (below awning)</li> <li>• One building identification sign above awning</li> <li>• Building number signage</li> </ul> <p>The proposed signage locations and typology are generally acceptable with the exception of the above awning building identification sign which are generally not permitted within the Parramatta Road and Broadway signage precinct. Subject to this amendment the strategy is endorsed for future signage applications.</p>

## Section 4 – Development Types

### 4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.2 Floor to ceiling heights and floor to floor heights	Acceptable	<p>Ground and basement require 4.5m.</p> <p>The proposal provides a ground level floor to floor height of 3.69m rather than 4.5m.</p> <p>The commercial tenancies are provided with good opportunities for activation, servicing and outlooks, and are acceptable.</p> <p>The co-living spaces and rooms are provided with good amenity.</p>
4.2.2 Building setbacks	Yes	Zero setback in accordance with controls under section 6.3.15 of the DCP.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	<p>The proposal does not result in overshadowing of other residential development.</p> <p>The proposal complies with SEPP Housing 2021 solar controls.</p>
4.2.3.2 Lightwells	Yes	Lightwells are provided that improve amenity to common areas and co-living rooms.
4.2.3.3 Internal common areas	Yes	Internal common areas have access to daylight and an outlook.
4.2.3.4 Design features to manage solar access	Yes	Shading devices to windows proposed. Large expanses of glazing avoided.
4.2.3.5 Landscaping	Yes	Landscaping plan submitted and reviewed by the City's Landscape Unit.
4.2.3.6 Deep Soil	Acceptable	Deep soil area sized 16.6sqm (1.4%) provided, rather than 10% of site area.



Provision	Compliance	Comment
		Combined with plantings on slab at the ground and roof levels, an acceptable level of area is provided for landscaping and canopy cover.
4.2.3.8 Common open space	N/A	SEPP Housing 2021 communal open space provisions prevail.
4.2.3.11 Acoustic privacy	Yes	An acoustic report (including amendments) has been submitted with the proposal. The City's Health Unit have reviewed this report and advised that subject to conditions, the proposal will not have an unacceptable impact to adjoining developments and will provide suitable acoustic amenity for the co-living rooms.
4.2.4 Fine grain, architectural diversity and articulation	Yes	Building has frontage of 52m which has smaller articulated elements and tenancies along the building façade.
4.2.6 Waste and recycling Management	Yes	Refer to section 3.14 above. Proposed waste arrangements satisfactory.
4.2.7 Heating and cooling infrastructure	Yes	Consolidated building plant is proposed.
4.2.8 Letterboxes	Yes	Letterboxes are provided within the lobby of the building.

#### 4.4 Other Development Types and Uses

##### 4.4.1 Boarding houses and student accommodation

Provision	Compliance	Comment
4.4.1.1 Subdivision	Yes	No subdivision of the co-living housing is proposed as required by SEPP Housing 2021.
4.4.1.2 Bedrooms	Acceptable	Minimum required room size 20.9sqm (including bathroom and kitchenette areas) 4 rooms are sized 20sqm, all of the other 116 rooms are sized above

Provision	Compliance	Comment
		21sqm. Adequate amenity is provided for rooms.
4.4.1.3 Communal kitchen areas	N/A	Kitchenettes provided to all rooms.
4.4.1.4 Communal living areas and open space	N/A	SEPP Housing 2021 provisions prevail.
4.4.1.5 Bathroom, laundry and drying facilities	Yes	Bathrooms provided in each room. Space provided for 10 washing machines and 10 dryers.
4.4.1.6 Amenity, safety and privacy	Yes	Communal areas are in safe and accessible locations. Bedrooms are located in suitable locations away from noise sources. Screen planting is proposed to the rooftop communal area.
4.4.1.7 Plan of Management	Yes	A plan of management is submitted with the application. The plan is generally satisfactory and will be updated prior to commencement of the use to accommodate any required changes.

### Section 5 – Specific Areas

Provision	Compliance	Comment
6.3.15 Built Form (1) Street wall to be designed to height datum of RL 38 AHD	Yes	Street wall to a height of RL 38 AHD proposed.
(2) Development is to be built to the street property boundary with no setback to Broadway and Grose Street to a height of RL 38	Yes	Street wall built to both street boundaries to a height of RL 38 AHD.
(3) All built elements above RL 38 AHD are to be setback from the street frontage to not be visible from points A, B and C as shown in Figure 6.157	Yes	Views from model and montage images provided. Refer to discussion below under heading 'Discussion.'
(4) Development is not to obstruct views from Victoria Park to Central Sydney above RL 42 AHD	Yes	Confirmed by model view. Refer to discussion below under heading 'Discussion'.

Provision	Compliance	Comment
(5) Noise from Broadway and Glebe Point Road to be addressed in design and materials	Yes	The noise from Broadway and Glebe Point Road is addressed as part of the design and is discussed within the submitted acoustic report.
6.3.15.2 Heritage and Character New buildings to respond to local character, setting within heritage conservation area and nearby heritage items	Yes	Refer to heritage assessment above. Proposal will not have an adverse impact on the heritage significance of the locality and nearby items.
6.3.15.3 Overshadowing (1) Built elements above RL 38 AHD are not to create additional overshadowing of Victoria Park on 21st June	Acceptable	The proposal results in some minor additional overshadowing of Victoria Park on June 21 at 4pm beyond the RL 38 AHD. The minor additional overshadowing is acceptable. The 4pm shadow diagram is included below under the heading 'Discussion'.
6.3.15.4 Active Frontages (1) Separate entries are to be provided from Broadway to each use	Yes	Separate tenancy entrances provided to Broadway for each use.
(2) Vehicle access is to not to be provided from Broadway	Yes	Vehicle access from Grose Street only.
(3) Lots with a frontage to Broadway of 40m or longer are encouraged to provide a public through-site link to Grose Street.	Yes	Proposal has a radial frontage of less than 40m to Broadway and a combined frontage of 52m to both Broadway and Glebe Point Road. As recommended by competition jury panel, a through-site link has been provided.
6.3.15.5 Archaeological Assessments (1) Prior to demolition or excavation an archaeological assessment is to be prepared.	Yes	A historical archaeological assessment has been prepared. An unexpected finds protocol is recommended to be adopted during excavation.

## Discussion

### Design

60. A competitive design process was undertaken for the development in January 2023 in accordance with a design excellence strategy. The application has been prepared as a development of the competition winning scheme. The following key strengths of the winning design were noted by the competition panel:

- (a) Rational planning and overall layout of the design, with the lift core located on the eastern side.
  - (b) Continued rigorous approach to the detailed design of all accommodation.
  - (c) Elegant and restrained character of the Grose Street façade.
  - (d) The extensive opportunities to interact within a range of communal areas.
  - (e) Generosity of central courtyard and rooftop garden.
  - (f) The interface between rooms and courtyard.
  - (g) Room layouts.
  - (h) The distribution of communal facilities, landscaping and greenery across multiple levels of the building as well as the rooftop.
61. The panel noted that the scheme demonstrates potential for design excellence.
62. The following items are noted as areas for further resolution and refinement of the scheme, by the jury:
- (a) Design development of the Broadway and Glebe Point Road façade to improve depth, shadow and texture.
  - (b) Landscaping on ground level to be further developed to address privacy and security between commercial tenancies and co-living rooms and spaces.
  - (c) Grose Street floor levels to address flood planning levels.
  - (d) Access and circulation improved on the ground and basement levels:
    - (i) Use of service lift by co-living not ideal.
    - (ii) Access to commercial gym is currently via co-living.
    - (iii) Further consideration of linkages between Broadway to Grose Street.
63. A montage image of the competition winning scheme is included below.





**Figure 25:** Montage image of the competition winning scheme

64. The proposal as further developed as part of this development application was considered by the Design Advisory Panel Subcommittee Residential (DAPRS), on 7 May 2024. Key changes between the competition scheme and the DA scheme as lodged are:
- (a) The inclusion of a communal living room the rooftop.
  - (b) The through-site link being further developed, more direct and public in nature.
  - (c) Ground floor level planning rationalised and separation between uses provided.
  - (d) The reconfiguration of services and removal of car parking from basement.
65. Images of the DA scheme as lodged and considered by DAPRS are included below.



**Figure 26:** Montage of DA scheme as lodged



**Figure 27:** Montage of DA scheme as lodged

66. Comments provided by the panel in response to the DA scheme as lodged, and the applicant's response and key amendments to the proposal are summarised in the table below as follows:

DAPRS Comments	Applicant Response
The project is generally supported.	Noted
The configuration and width of the through-site link and provision of restaurant on Grose Street for improved activation are supported.	Noted
The room typology of 'Superior' rooms would be better suited to single occupancy rather than double occupancy given the configuration and sizing.	The room size of 'Superior' rooms achieve the minimum SEPP Housing 2021 controls and provide good amenity as demonstrated in examples of other completed projects.

DAPRS Comments	Applicant Response
The quality of deep soil and landscaping is fundamental to the provision of real amenity.	Deep soil clarified and updated landscaping plans provided.
The deep plan common spaces to the west of the central void have dead end corridors, limited natural light and ventilation and will impact adjacent co-living rooms.	An additional internal void has been included to the western side of the building to improve light and ventilation to co-living rooms and common areas. The reduced common room areas still exceed the required size.
The competition façade design provided a full brick to building base and gives a clearer progression from ground to roof. The substitution of brick elements with infill spandrels appears to 'flatten' the elevation.	The competition brick pilasters and spandrels to the lower Broadway façade are reinstated in amended plans.
Natural ventilation should be optimised.	Co-living room windows to internal courtyard clarified as operable to allow for natural ventilation in addition to mechanical ventilation.
Overshadowing of the park should be tested beyond 3pm.	Additional 4pm overshadowing plan provided (and discussed below).
The access to bicycle parking be made clearer and more direct.	Access to bicycle parking clarified and additional bicycle spaces at entries provided.

67. An image of the amended facade design is shown below.





**Figure 28:** Montage image of amended DA scheme

68. The amended DA scheme has been reviewed by internal staff including the City's Urban Designer. The amendments address the items raised by both DAPRS and the competition jury. Further consideration of site specific design controls continues in the section below.

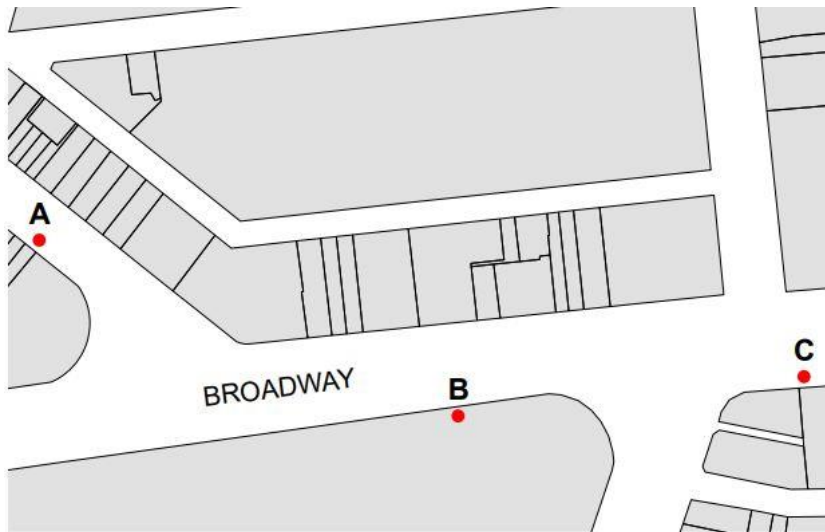
### **Site Specific Design Controls**

69. The application seeks to utilise provisions in Clause 6.48 of SLEP 2012 and Section 6.3.15 of SDCP 2012 that apply to 225-279 Broadway, Glebe. As noted in the assessment above, the controls include specific design matters that are discussed as follows.

#### **Building visibility from various points on Broadway**

70. Section 6.3.15.1(3) of SDCP 2012 requires that built elements above RL 38 AHD are to be setback from the Broadway street frontage so as to not be visible from points A,

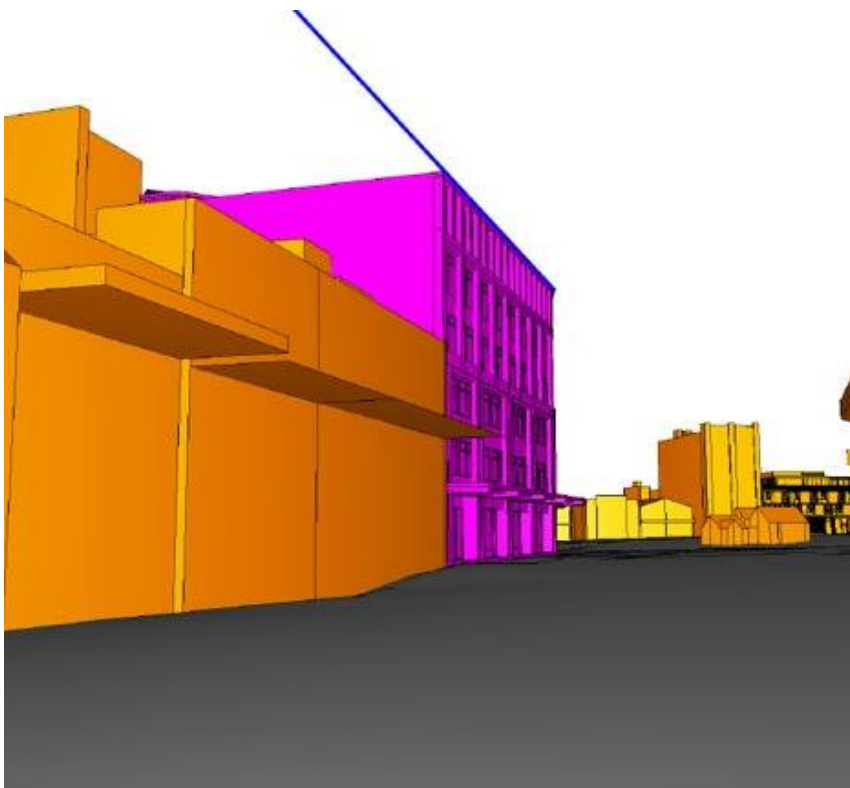
B and C as shown in Figure 6.157 (at an approximate eye level height of 1.5m) reproduced in the image below.



**Figure 29:** Figure 6.157 from SDCP 2012

71. Views from the submitted electronic model and montage images are provided below to illustrate the views from each point.

#### Point A



**Figure 30:** Model view from Point A



Figure 31: Montage image of proposal from Point A

**Point B**



Figure 32: Model view from Point B





Figure 33: Montage image of proposal from Point B

Point C

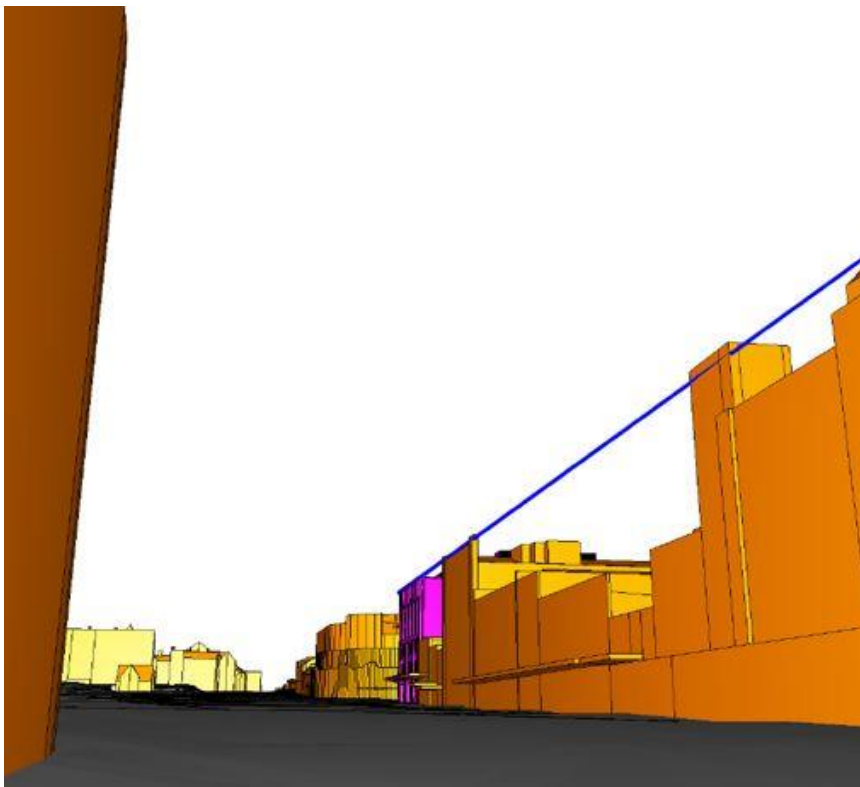


Figure 34: Model view from Point C



**Figure 35:** Montage image of proposal from Point C

72. The images above demonstrate that:
- (a) At Point A, there is a minor portion of building to the rear visible above RL 38 AHD that is not readily discernible from the building form in front.
  - (b) At Point B there is building form to the rear above RL 38 AHD that would not be visible with the redevelopment of sites at 257-261 Broadway to the RL 38 AHD street frontage height under the control.
  - (c) At Point C the building form above RL 38 AHD is not discernible.
73. The proposal addresses the objectives of the control.

#### City Skyline Views from Victoria Park

74. Section 6.3.15.1(4) of SDCP 2012 requires that the development not obstruct views from Victoria Park to Central Sydney above RL 42 AHD.
75. A model view from within Victoria Park was selected in consultation with the City's Model Unit and is shown in the image below, with a comparison photograph.





**Figure 36:** Model view of proposal from within Victoria Park, with line at RL 42 AHD above the street property boundary shown



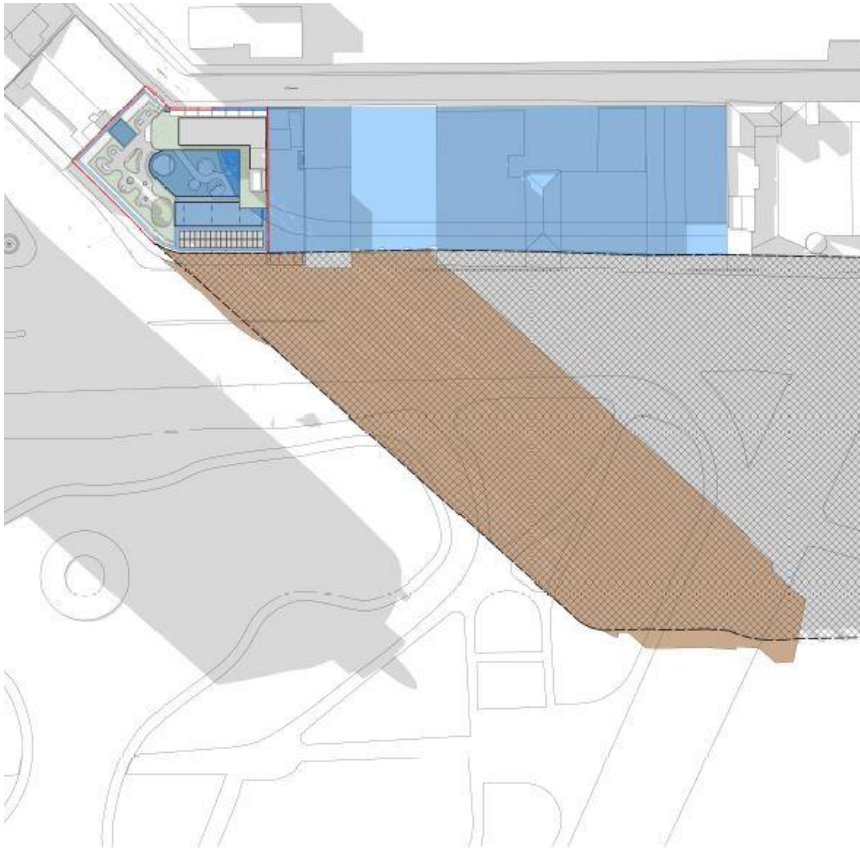
**Figure 37:** Photograph of the site from within Victoria Park

76. The images above illustrate that the proposal would not obstruct views to Central Sydney from Victoria Park.

#### Shadow Impacts to Victoria Park

77. Section 6.3.15.3(1) of SDCP 2012 requires that all built elements above RL 38 AHD are not to create any additional overshadowing of Victoria Park on the 21st of June.

The applicant has submitted shadowing diagrams demonstrating that the proposal would not create additional overshadowing above RL 38 AHD between 9am to 3pm. At 4pm there would be minor additional overshadowing as illustrated in the shadow diagram below.



**Figure 38:** 4pm 21 June shadow diagram

78. The additional overshadowing falls largely on the park footpath adjacent to City Road and is outside of the park's boundary. The additional overshadowing is minor and the objective of retaining sunlight to the park is largely achieved. On balance the minor non-compliance is supported in the circumstances.

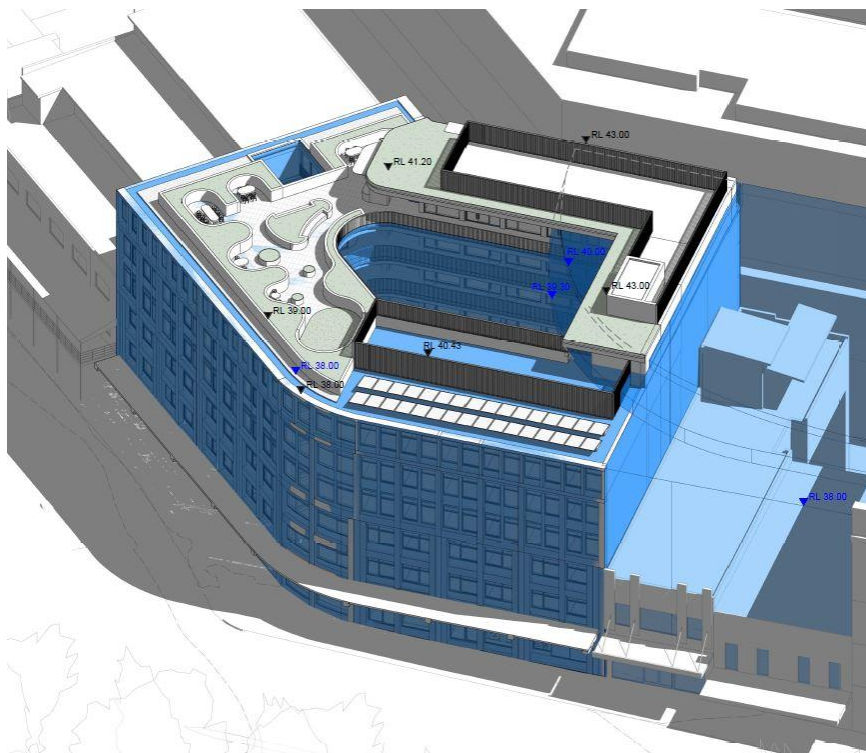
#### **Clause 4.6 Request - Height**

79. As noted above, the application seeks consent for development that contravenes the height of buildings development standard in the SLEP 2012. The proposal has site specific height controls of RL 38, RL 39.3 and RL 40 that apply across the site. An extract from the SLEP 2012 height mapping plans is provided in the image below to show the different height controls across the site.



**Figure 39:** Extract from SLEP 2012 height map

80. The proposed development has a maximum height of RL 43 that sits within the RL 38, RL 39.3 and RL 40 areas as illustrated in the drawing below. The proposed contravention is up to 13% to the standard.



**Figure 40:** Perspective view of proposal and height standards

81. Pursuant to the requirements of Clause 4.6(3)(a) and (b) of the Sydney LEP, the application has been accompanied by a document setting out the grounds on which the applicant seeks to demonstrate:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard;

Applicant's Clause 4.6(3)(a) and (b) Document

82. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances:
    - (i) That the objectives of the standard are achieved notwithstanding the non-compliance.
    - (ii) That the proposal is of an appropriate height and scale within the context of the site and locality.
    - (iii) The building responds to the height of surrounding development.
    - (iv) The building has been designed to minimise any potential overshadowing, visual privacy or view impacts.
    - (v) The design was selected through the design excellence process, including its response to the site context.
    - (vi) The scale of the development is contextually appropriate, taking cues from nearby heritage items and other buildings.
    - (vii) The street wall height of RL 38 is compatible with the parapet height of University Hall which is RL 38.14.
    - (viii) The scale is suited to the gateway location of the site and complements the scale of other prominent buildings including University Hall and the former Grace Brothers building.
    - (ix) The proposal retains important views from key vantage points along Broadway, Glebe Point Road and Victoria Park. A view analysis is submitted addressing the relevant DCP controls for views.
    - (x) The non-compliant roof elements are integrated with the building design and will appear as recessive elements.
  - (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
    - (i) The exceedance of the height standard does not result in adverse impacts.

- (ii) The additional height does not result in additional overshadowing of Broadway or Victoria Park. Overshadowing (largely) falls within shadows cast by the compliant street wall and building heights.
- (iii) The proposal has been designed to minimise view impacts from the public domain as demonstrated in the view impact analysis.
- (iv) The proposal will not have adverse heritage impacts.
- (v) The communal living space to be provided to the rooftop will maximise amenity for the student occupants. The east west orientation of the communal living space maximises solar access and views. The space could be reorientated north south to reduce the non-compliance, however this would reduce solar access and diminish amenity to the space.
- (vi) Locating mechanical plant to the rooftop above the communal living space, allows for the provision of generous communal open space and landscaping. Relocating the plant elsewhere, would reduce this communal space.
- (vii) The PV cells which marginally exceed the height standard by 0.45m are not visible.

#### Consideration of Applicant's Clause 4.6 (3) Document

83. Development consent must not be granted unless the consent authority is satisfied that that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify contravening the standard.

Has the Applicant satisfactorily demonstrated the matters required by Clause 4.6(3)(a)?

84. The applicant has satisfactorily demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the proposal. The applicant has demonstrated that the objectives of the standard are achieved despite the non-compliance.

85. The relevant objectives of the height of buildings standards are:

- (a) To ensure the height of development is appropriate to the condition for the site and its context
- (b) To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas
- (c) To promote the sharing of views outside Central Sydney
- (d) To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas

86. The Applicant demonstrates that the height of the development is appropriate to the site and its context, having regard to the site specific SLEP 2012 and SDCP 2012 built form controls. The building elements that exceed the control do not have adverse impacts with regard to the relevant controls.



87. The proposed built form is an appropriate response to nearby heritage items and buildings in the heritage conservation area. The site specific height controls take their cues from heritage items within the street block and are designed to create a uniform street frontage height in this location. The proposed built form is an appropriate response to the heritage context.
88. The proposal promotes the sharing of views in the site context. The proposal does not adversely impact on views to nearby development or the public domain. Key vantage points as identified within the site specific controls were considered in the assessment above.
89. The proposed built form provides an appropriate transition from Central Sydney to adjoining areas.

Has the Applicant satisfactorily demonstrated the matters required by clause 4.6(3)(b)?

90. The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.
91. The proposal does not result in unacceptable adverse impacts. Minor additional overshadowing to Victoria Park at 4pm is discussed above and have acceptable impacts. The additional building height is largely not visible behind the street frontage height from the key vantage points in the locality.
92. The proposed rooftop communal living area and landscaped open space provides an area that will provide a high level amenity to the occupants of the co-living housing and provides space for canopy planting that contributes to greening in the area.
93. Locating rooftop plant above the communal living area behind screening creates a separation from the communal outdoor space.

#### Conclusion

94. For the reasons provided above, the proposed contravention of the height of buildings standard is supported as the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of cl 4.6 of the Sydney Local Environmental Plan 2012..

#### Clause 4.6 Request - Maximum Room Size

95. A maximum room size development standard applies to the site under s69(1)(a) of the SEPP Housing 2021, which states that each private room is to have a floor area, (excluding any area used for the purpose of private kitchen or bathroom facilities) that is not more than 25sqm.
96. Five of the accessible room types (from the total of 120 rooms) exceed the standard with a floor area of 27.3sqm which represents a contravention of 9.2% to the standard.
97. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
  - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

- (b) That there are sufficient environmental planning grounds to justify contravening the standard;

Applicant's Written Request - Clause 4.6(3)(a) and (b)

98. The applicant seeks to justify the contravention of the maximum room size development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) That the objectives of the standard are achieved notwithstanding the non-compliance. Whilst objectives for the control are not stated within SEPP Housing 2021, the overall intent for the SEPP controls are stated within the Department of Planning policy document 'Boarding houses and co-living housing overview' as follows: "There are maximum room sizes for private rooms to make a clear distinction between apartments in a residential flat building and these housing types."
  - (ii) The five non-compliant rooms are accessible rooms which are larger to satisfy accessibility standards. The additional floor area is primarily attributable to additional accessible circulation space.
  - (iii) The non-compliance equates to an area of 2.3sqm. The exceedance does not alter the characterisation of the room as co-living accommodation. The rooms contain a comparable level of amenity and facilities as provided to the other rooms within the development.
  - (iv) The intent of the development to be distinct from apartments is still achieved.
- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
  - (i) The maximum room size standard does not make provision for increased room sizes for accessible rooms.
  - (ii) The additional room size provided allows for the same level of amenity to be provided for the accessible room, as other rooms within the proposal, maintaining a double bed size.
  - (iii) The corner location of the room would make it difficult to reduce the room size, whilst still maintaining the required travel widths.
  - (iv) There are no adverse impacts associated with the exceedance of the control.
  - (v) Strict compliance with the control, would not improve the proposal, or preserve amenity for adjoining development.

Consideration of Applicant's Written Request - Clause 4.6 (3)

99. Development consent must not be granted unless the consent authority is satisfied that that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

Does the written request adequately address those issues at Clause 4.6(3) (a)?

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

100. The applicant's request has adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the objectives of the control and SEPP Housing 2021 are achieved despite the not compliance.
101. Whilst there is no stated objective for the control within the SEPP, it is generally agreed that the objective is to mark a distinction between co-living rooms, and residential apartments. More broadly, a stated principle of the SEPP Housing 2021 is to enable the development of diverse housing types, including purpose-built rental housing.
102. The proposed accessible rooms contribute to the delivery of this principle, whilst remaining distinct from a residential apartment dwelling.

Does the written request adequately address those issues at clause 4.6(3)(b)?

103. The applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.
104. The additional room area of 2.3sqm does not change the characterisation of the proposed rooms.
105. The proportion of the rooms that exceed the maximum room size standard is low overall with only 5 of the 120 rooms exceeding the standard.
106. The proposal provides for a range of co-living room sizes, including accessible rooms which promote diversity in terms of the choice of accommodation.
107. The non-compliance does not result in adverse impacts.

Conclusion

108. For the reasons provided above the requested contravention to the maximum room size standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

## Consultation

### Internal Referrals

109. The application was discussed with Council's;
- (a) Building Services Unit
- (b) Cleansing and Waste Unit
- (c) Construction and Building Unit
- (d) Environmental Health Unit

- (e) Environmental Projects
- (f) Heritage and Urban Design Unit
- (g) Landscaping Unit
- (h) Public Domain Unit
- (i) Public Art
- (j) Surveyors
- (k) Transport and Access Unit
- (l) Tree Management Unit.

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

## External Referrals

### Ausgrid

111. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.

112. No response was received.

## Advertising and Notification

113. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 28 February 2024 and 21 March 2024. 213 properties were notified, and 16 submissions were received, 15 in support, and 1 objecting to the proposal. Submissions are included in Attachment E.

114. The issues raised in submissions are addressed as follows:

- (a) **Issue:** Height and heritage

A concern has been raised that the height of the proposal is not in keeping with the character and heritage of the surrounding area.

**Response:** The height of the proposal is addressed within the report above. A request pursuant to clause 4.6 has been submitted for building elements above the street frontage height that exceed the height standard. As noted above, the minor additional impacts of the height exceedances are acceptable in the circumstances of the proposal. The application has been reviewed by the City's Heritage Specialist who has advised that the proposal is supported.

(b) **Issue:** Support

Fifteen submissions were received in support of the proposal. Reasons for support include: the provision of additional student accommodation in a suitable location, support for the design, and the inclusion of rooftop garden.

## **Financial Contributions**

### **Contribution under Section 7.11 of the EP&A Act 1979**

115. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan. Credits have been applied for the most recent uses of the site. A contribution amount of \$1,306,272.93 applies.
116. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent. 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**

117. The City of Sydney Affordable Housing Program applies to land to which the SLEP 2012 applies. The program applies in accordance with the Environmental Planning and Assessment Act 1979 and State Environmental Planning Policy (Housing) 2021, that recognises that all local government areas within NSW are areas where there is a need for affordable housing.
118. The site is located within the residual lands affordable housing contribution area and results in the creation of non-residential and residential floor space that triggers a contribution under Section 7.13 of SLEP 2012.
119. A contribution is required at a rate of \$11,176.22 per 3% per square metre of residential total floor area (4574sqm), and 1% per square metre of non-residential total floor area (1890sqm) totalling \$1,744,831.81.
120. A condition of consent is recommended requiring payment prior to the issue of a construction certificate in accordance with the terms of the program.

### **Housing and Productivity Contribution**

121. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
122. The site is located with the Greater Sydney region, the development is a type of commercial development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution. A contribution of \$15,173.05 applies.
123. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.



## Relevant Legislation

124. Environmental Planning and Assessment Act 1979.

## Conclusion

125. The application for the demolition of existing buildings and construction of a 7 to 8 storey mixed use development with two basement levels, commercial and recreational facility (indoor) uses at the basement and ground levels, co-living housing throughout has been assessed against the relevant controls including site specific planning controls prepared as part of a planning proposal applying to the site under Sydney LEP 2012 and Sydney DCP 2012. Requests have been submitted pursuant to clause 4.6 seeking to vary the height of buildings standard under SLEP 2012 and the maximum room size standard for co-living rooms under SEPP Housing 2021.
126. The development application follows a competitive design process for the development held in January 2023. The application was reviewed by the Design Advisory Panel Subcommittee Residential on 7 May 2024. Comments and suggestions provided by the subcommittee have been incorporated in amended plans which are the subject of this report.
127. The application is referred to the Local Planning Panel for consideration as the proposal includes a request to vary the height of buildings development standard by more than 10%. Roof form that sits outside the site specific height RLs exceeds the standard by 13%. The application also includes a request to vary the maximum room size standard for co-living housing rooms. The submitted requests have adequately demonstrated that there is sufficient justification for varying the standards in the circumstances.
128. The proposal was notified for 21 days between 28 February 2024 and 21 March 2024. 213 properties were notified, and 16 submissions were received, 15 in support, and 1 objecting to the proposal. The issues raised in submissions have been considered as part of assessment and have been addressed satisfactorily.
129. The application is recommended for approval subject to conditions as included in Attachment A.

## ANDREW THOMAS

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