

Item 3.**Development Application: 184-200 Broadway, Chippendale - D/2024/1165****File Number: D/2024/1165****Summary****Date of Submission:** 17 December 2024**Applicant:** AVM PROJECT MANAGEMENT PTY LTD**Architect/Designer:** Durbach Block Jaggers Architects**Owner:** IDC PROPERTY NO 20 - BROADWAY PTY LTD**Planning Consultant:** The Planning Studio**Heritage Consultant:** Hericon Consulting**DAPRS:** 3 June 2025**Cost of Works:** \$13,053,015

Zoning: The site is located within the MU1 Mixed Use zone. The proposed development is defined as backpackers' accommodation, which is a type of tourist and visitor accommodation, and is permissible with consent in the zone.

Proposal Summary: Development approval is sought for the construction of a new six-storey backpackers accommodation consisting of 1,047 beds in 4, 5, 6, and 8 bed dormitory rooms.

The development includes partial demolition of the existing building, end of trip facilities and bicycle parking, and the removal of existing on-site parking spaces from Broadway. Approval is also sought for a rooftop communal area and publicly accessible general bar with a maximum capacity of 250 patrons, and an internal publicly accessible unlicensed café with a capacity of 78 patrons.

The primary entrance of the site is via Broadway, with a new pedestrian connection provided to Grafton Lane. No public or guest entrance to Knox Street is proposed.

Vehicle access for deliveries and waste pickups is via a loading dock to Knox Street.

The application is referred to the Local Planning Panel for determination due to the departure from development standards, development involving a general bar license, and as contentious development.

In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 13 January 2025 and 4 February 2025. A total of 740 properties were notified and 366 submissions were received, including 314 objections and 52 submissions of support.

A written request has been submitted to vary the height of buildings development standard pursuant to Clause 4.6 of the Sydney Local Environmental Plan 2012. The proposal seeks to vary the 25m height control by 20.8% or 5.205 metres.

The applicant's written request to vary the height of buildings development standard demonstrates that compliance with the standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravening the standard. The height non-compliance is therefore supported in this instance.

A second written request has been submitted to vary the floor space ratio (FSR) development standard pursuant to Clause 4.6 of the Sydney Local Environmental Plan 2012. The proposal seeks to vary the 3.1:1 FSR control by 26.187% or 1,400sqm.

The applicant's written request to vary the floor space ratio development standard demonstrates that compliance with the standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravening the standard. The FSR non-compliance is therefore supported in this instance.

Subject to the recommended conditions, the proposed development will not result in significant impacts to nearby heritage items or to the amenity of surrounding sites, and is considered acceptable.

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

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012

- (iii) SEPP (Biodiversity and Conservation) 2021
- (iv) SEPP (Resilience and Hazards) 2021
- (v) SEPP (Sustainable Buildings) 2022
- (vi) SEPP (Transport and Infrastructure) 2021

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Buildings
- D. Clause 4.6 Variation Request - Floor Space Ratio
- E. Plan of Management
- F. Submissions

Recommendation

It is resolved that:

- (A) the request to vary the 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 vary the floor space ratio development standard 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/2024/1165 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 recommended conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that the applicant's written requests have adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings and the floor space ratio development standards is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening the development standards.
- (C) The development is permissible with consent in the MU1 - Mixed-Use zone and is consistent with the objectives of the zone.
- (D) The proposal has been assessed against the aims and objectives of the relevant planning controls including the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012, and the applicable Environmental Planning Instruments. Where non-compliances are proposed, they have been assessed in this report as being acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.
- (E) The development will not detrimentally impact the heritage significance of nearby heritage items or the Chippendale Heritage Conservation Area. The development is consistent with the character of the Chippendale locality.
- (F) The proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in clause 6.21C of the Sydney Local Environmental Plan 2012.
- (G) The development, subject to conditions, will not unreasonably compromise the amenity of the surrounding area.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 in DP432354, and Lots A-D in DP376105, known as 184-200 Broadway, Chippendale NSW 2008. It is rectangular in shape with area of approximately 1,780sqm. It has a primary street frontage of 49m to Broadway and secondary street frontages of 3m to Grafton Lane and 49m to Knox Street. The site is located close to the intersection of Broadway and City Road. Levels on the site fall by 5.5m to the north-east.
2. The site contains a 5-storey plus basement telecommunications exchange building.
3. The surrounding area is characterised by a mixture of land uses, primarily being commercial. The site is adjoined by a 6-storey mixed use development to the east, and a 5-storey mixed use local heritage item known as I2018 Former "Grace Bros Homewares" including interiors to the north. To the west is a three-storey commercial building which is a local heritage item known as I169 Former English, Scottish and Australian Bank, including interior, and a 4-storey locally listed pub known as I172 Lansdowne Hotel including interior. To the south are various residential developments ranging from one to 4 storeys.
4. The site is located within the Chippendale Heritage Conservation Area C9. The site is identified as a detracting building.
5. The site is located within the Chippendale locality and is not identified as being subject to flooding.
6. A site visit was carried out on 21 January 2025. Photos of the site and surrounds are provided below:
7. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Broadway facing south



Figure 3: Site viewed from Knox Street facing north-west



Figure 4: Site viewed down Grafton Lane from City Road facing east

History Relevant to the Development Application

Development Applications

8. The original building was constructed in 1974 as the International Communications terminal. Several Development Applications for minor physical works have been determined between 1991 and 2006, however these are not relevant to the assessment of subject application.

Amendments

9. Following a preliminary assessment of the proposed development by Council Officers, various requests for additional information and amendments were sent to the applicant throughout the assessment process.
10. The applicant responded to the requests and submitted information including amended architectural and landscape plans, flooding and land contamination information, and stormwater information. The provided information largely addressed the issues raised by Council staff. Any remaining issues are discussed below.

Proposed Development

11. The application seeks consent for the following:
 - Partial demolition of the existing building;

- Construction of a new six-storey backpackers accommodation including 1,047 beds;
- A rooftop communal area and publicly accessible general bar with a maximum capacity of 250 patrons;
- An internal publicly accessible unlicensed café with a capacity of 78 patrons;
- End of trip facilities including bike parking; and
- The removal of existing on-site parking from Broadway.

The primary entrance of the site is via Broadway, with a new pedestrian connection provided to Grafton Lane. No public or guest entrance to Knox Street is proposed.

12. Plans and elevations of the proposed development are provided below.

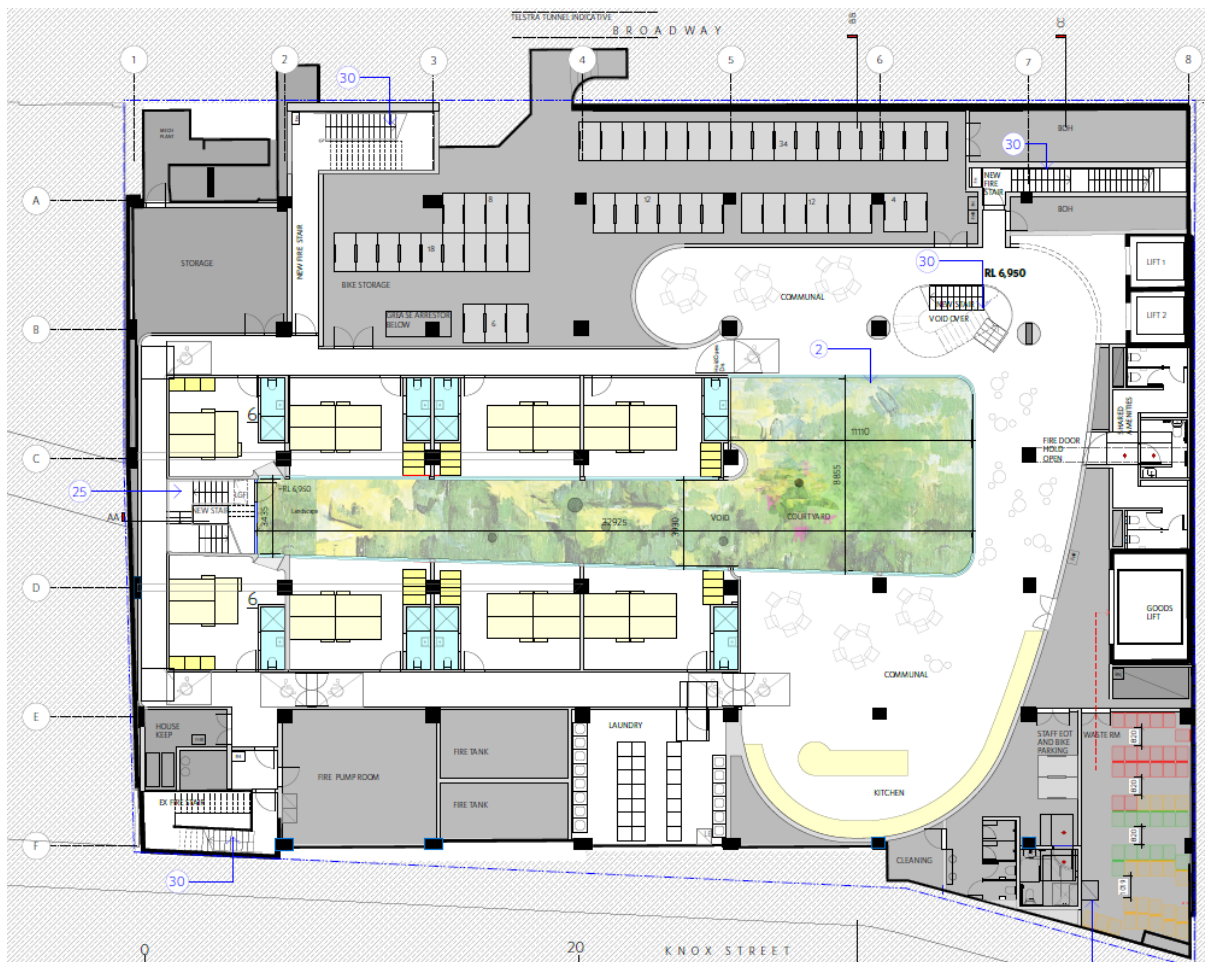


Figure 5: Proposed lower ground floor plan

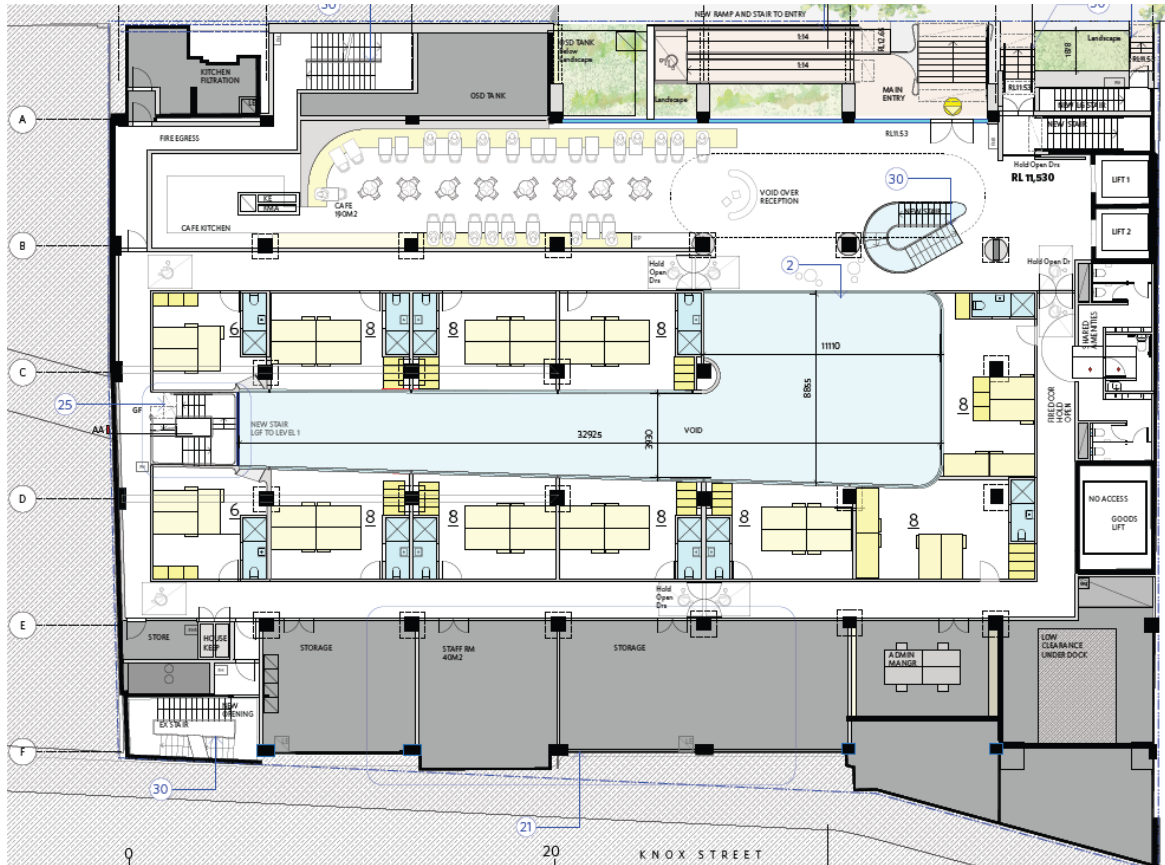


Figure 6: Proposed ground floor plan

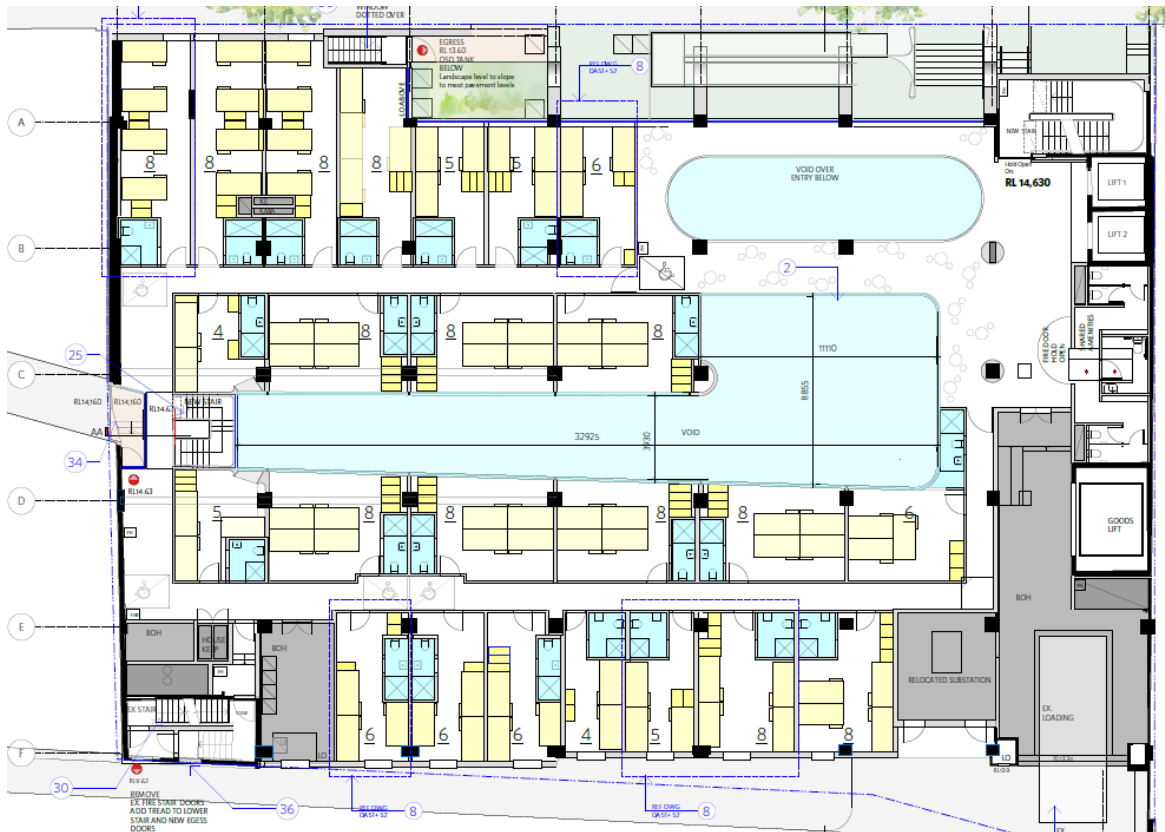


Figure 7: Proposed level 1 plan

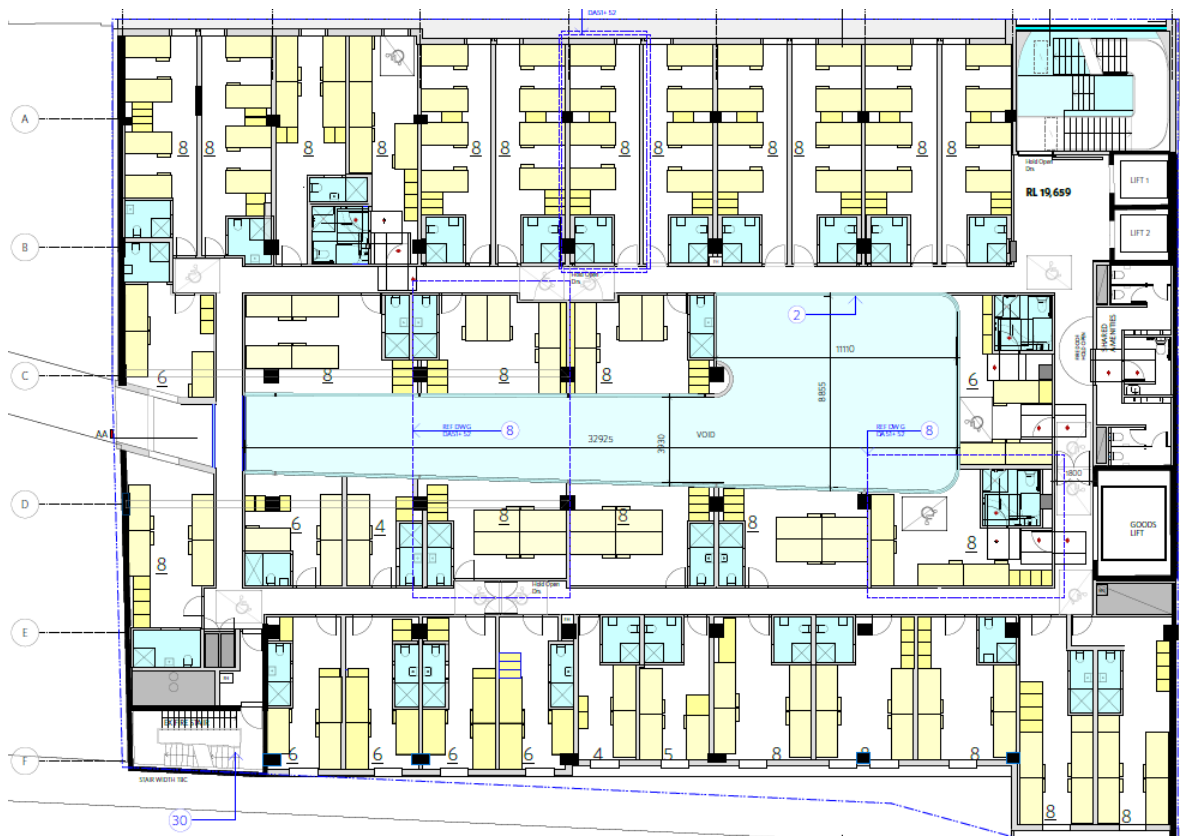


Figure 8: Proposed level 2 plan



Figure 9: Proposed level 3 plan

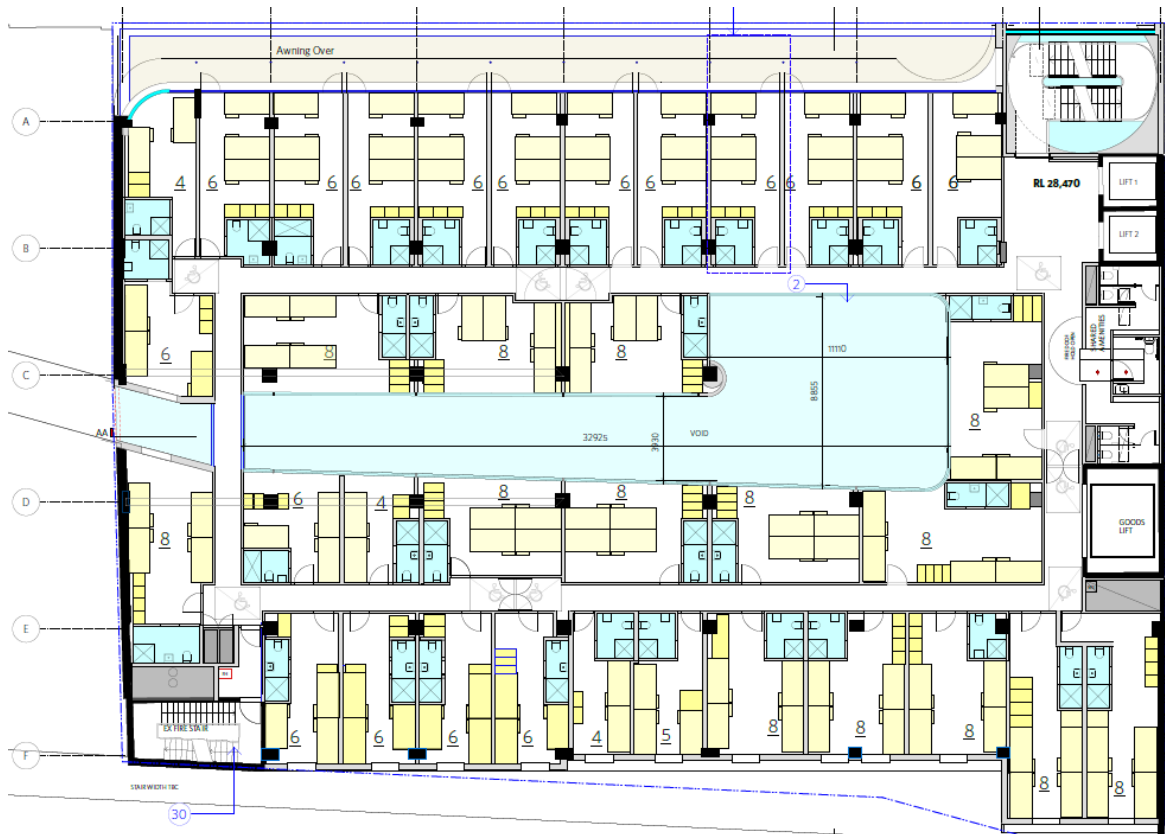


Figure 10: Proposed level 4 plan

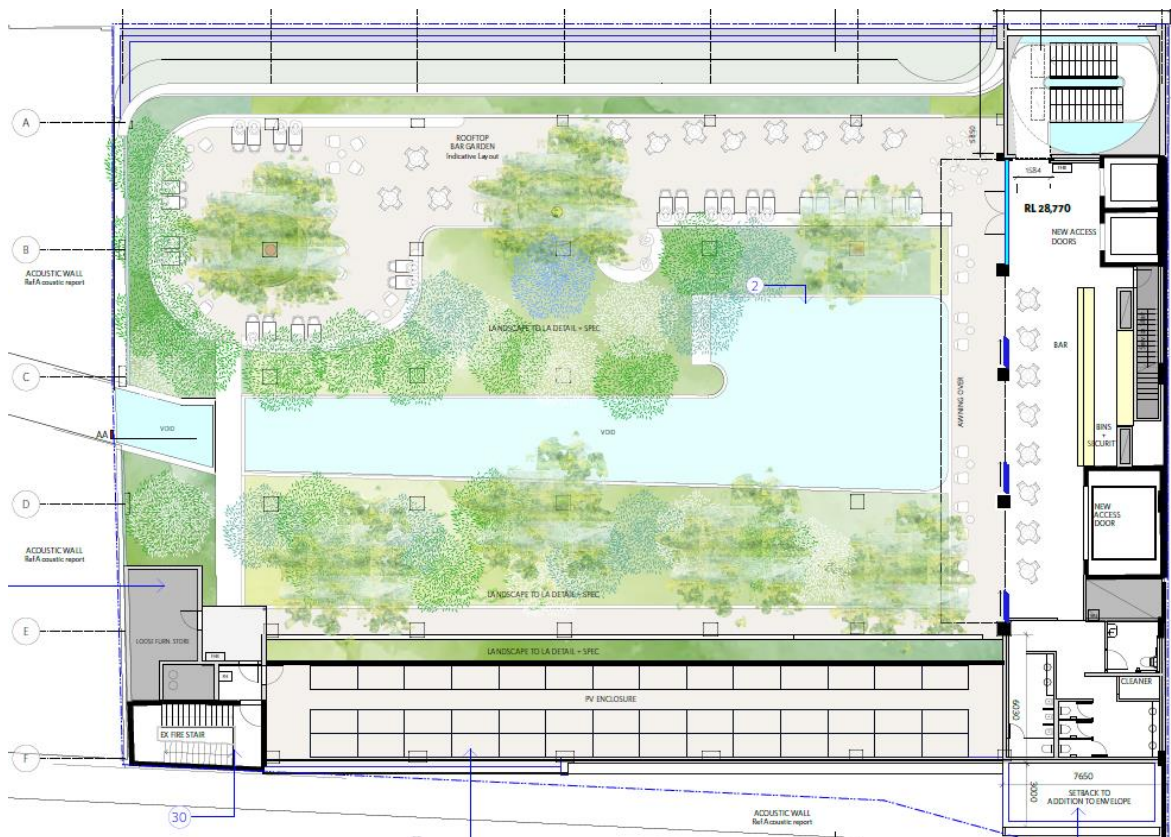


Figure 11: Proposed level 5 plan

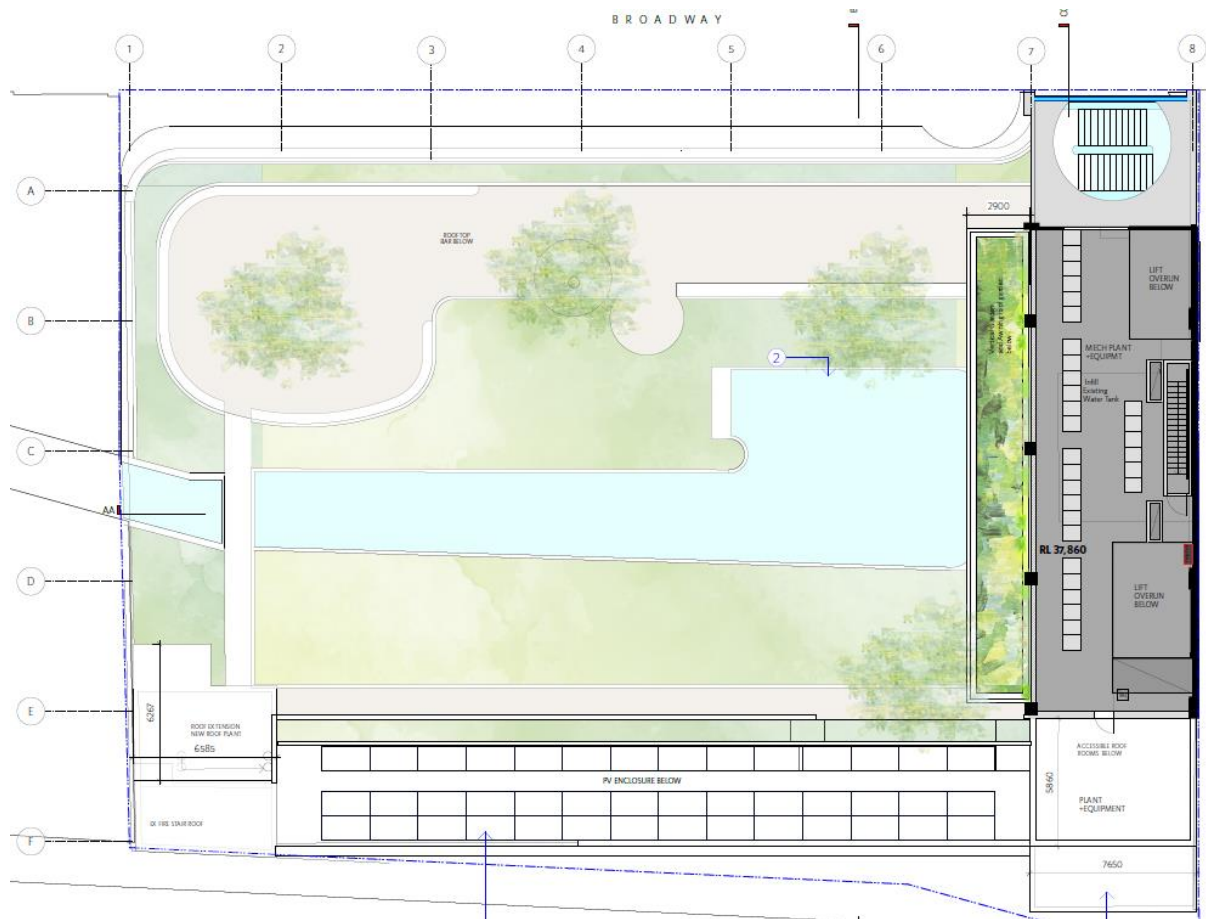


Figure 12: Proposed roof plan

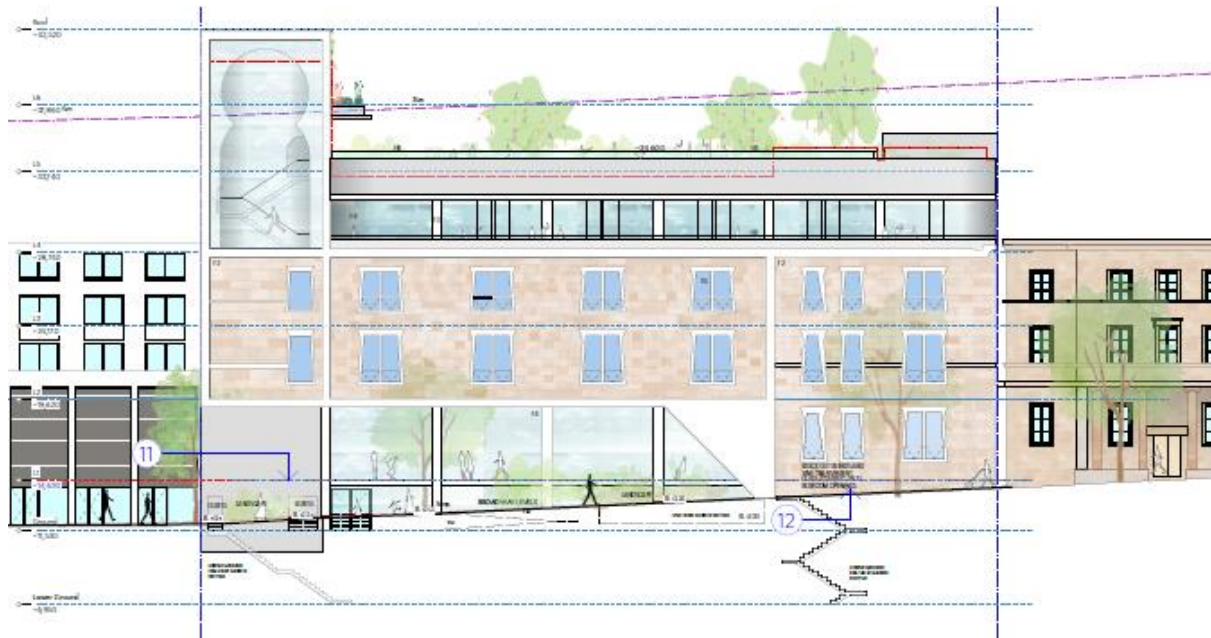


Figure 13: Proposed north (Broadway) elevation

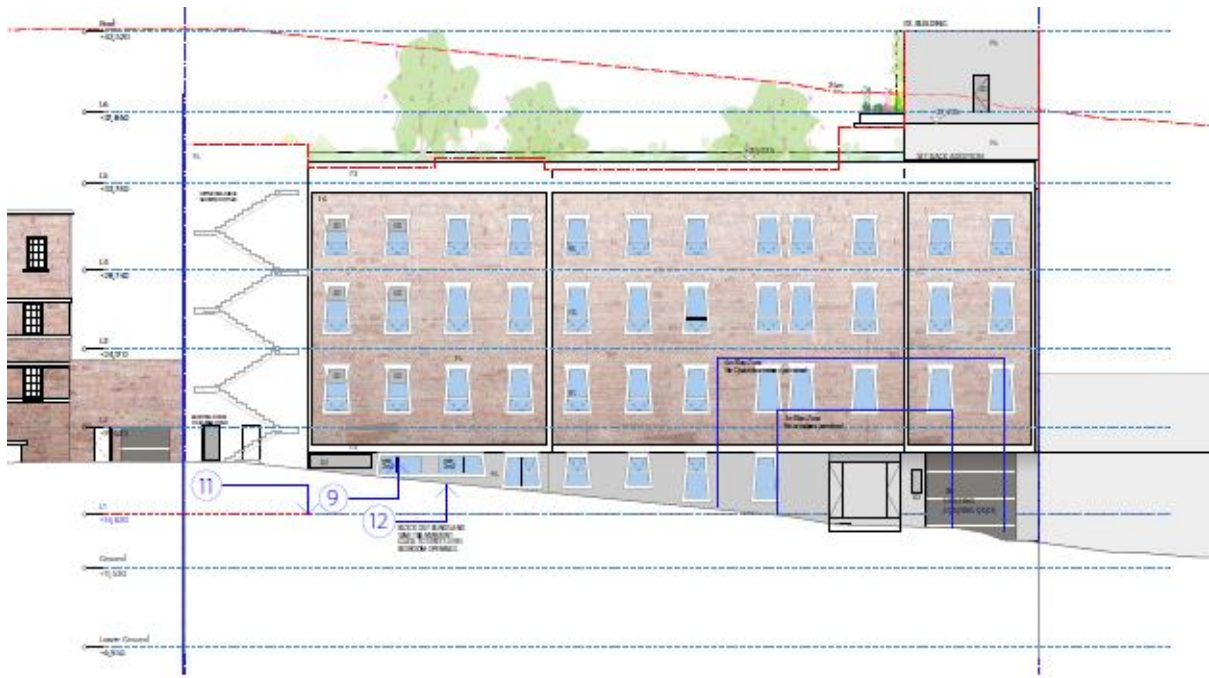


Figure 14: Proposed south (Knox Street) elevation

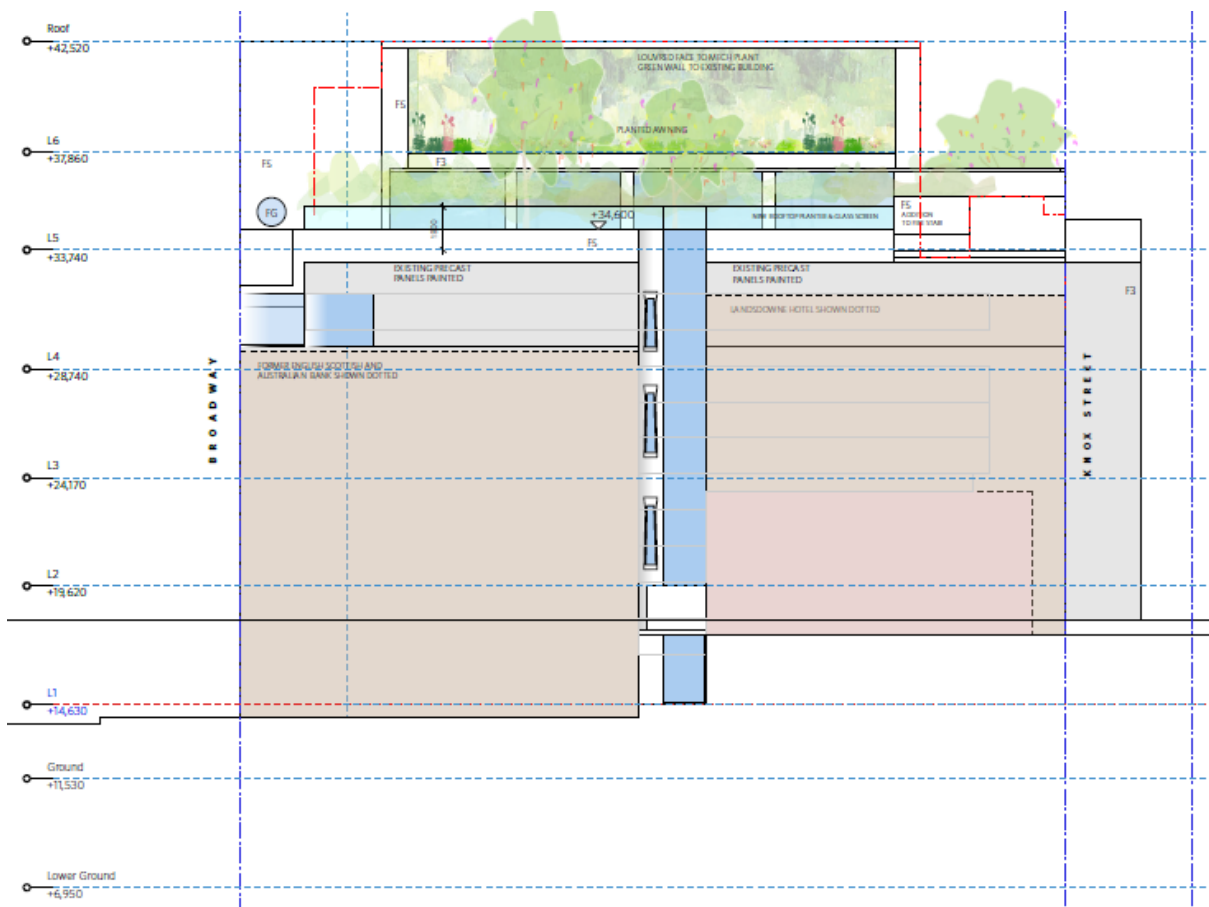


Figure 15: Proposed west elevation

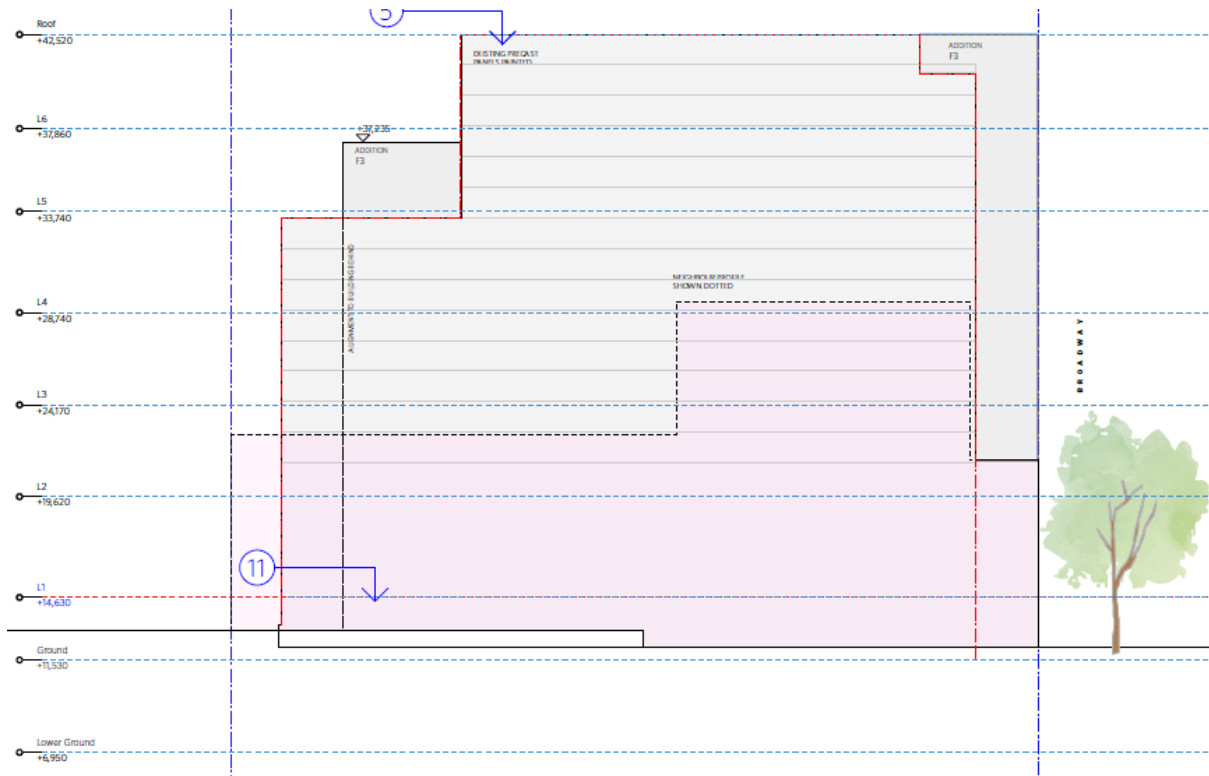


Figure 16: Proposed east elevation



Figure 17: Proposed long section

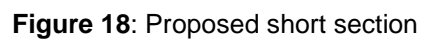




Figure 20: Proposed photomontage

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 (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments

14. 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.
15. 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.

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

16. 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.
17. A detailed site investigation was carried out and was submitted with the application. All contaminants that were identified during the soil sampling and vapour sampling process within the property were below the NEPC criteria guidelines.
18. Recommendations within the detailed site investigation stipulate that a hazardous material survey should be conducted. The detailed site investigation indicates that the land is able to be made suitable for the proposed development.
19. The levels of contamination present do not require a remedial action plan.
20. The Council's Health Unit has reviewed the information provided, and has recommended conditions, and for Council to be notified should there be any changes to the strategy for remediation.
21. 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 (Sustainable Buildings) 2022

22. 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

23. 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

24. 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.

25. 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 photovoltaic systems, heat pump systems, and building management control systems.

26. 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

27. The provisions of SEPP (Transport and Infrastructure) 2021 have been 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**

28. The application is subject to Clause 2.119 of the SEPP as the site has frontage to Broadway which is a classified road.

29. The proposed development satisfies the provisions of Clause 2.119 subject to conditions of consent, as access to the site from the classified road is proposed to be

removed, 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. Concurrence from Transport for NSW has been provided for the subject works.

Local Environmental Plans

Sydney Local Environmental Plan 2012

30. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 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	<p>The site is located in the MU1 Mixed Use zone. The proposed development is defined as backpackers' accommodation and is permissible with consent in the zone.</p> <p>The development provides diverse business and employment opportunities, including on the ground floor of the site. The development will provide a high-quality façade and active frontage to Broadway which will improve the quality of the public domain and presentation to the street. The development successfully minimises conflicts to nearby residential uses by maintaining all access for guests and customers to Broadway and City Road. The proposal supports the local economy and the viability of the Broadway area, and encourages use of public transport, bicycles, and walking.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height of 25m is permitted.</p> <p>A height of 30.205m is proposed.</p> <p>The proposed development does not comply with the maximum height of buildings development standard.</p> <p>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.</p>
4.4 Floor space ratio	No	<p>A maximum floor space ratio of 3.1:1 or 5,524sqm is permitted.</p> <p>A floor space ratio of 3.78:1 or 6,746sqm is proposed.</p>

Provision	Compliance	Comment
		<p>The proposed development does not comply with the maximum floor space ratio development standard.</p> <p>A request to vary the floor space ratio development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clauses 4.3 and 4.4. 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 Chippendale heritage conservation area C9 and is identified as a detracting building.</p> <p>The site is adjacent to multiple local heritage items, including I169 Former English, Scottish and Australian Bank including interior, and I172 Lansdowne Hotel including interior.</p> <p>The proposal has been designed to respect the adjacent heritage items, including the addition of a shadow line to further separate and differentiate the development from the existing bank building to the west.</p> <p>The reduced setback and introduction of a shadow line respects the setback and design of the former bank building, with a consistent presentation to the street.</p> <p>The proposed development will not have detrimental impact on the heritage significance of the heritage items or heritage conservation area.</p>
5.21 Flood planning	Yes	<p>The site is not formally flood affected, however flooding on Broadway and Grafton Lane has been identified as having potential impacts.</p> <p>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 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street. The development will contribute positively to the character of the area.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.</p>

Development Control Plans**Sydney Development Control Plan 2012**

31. 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

32. The site is located within the Chippendale locality. The proposed development is in keeping with the unique character and the design principles of the Chippendale locality. The development respects nearby heritage items and maintains a commercial use to Broadway. The development maintains the scale and massing of the existing area.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Partial compliance	<p>The development maintains sunlight to publicly accessible open spaces and public views.</p> <p>The development positively addresses the street and provides an appropriate active frontage to Broadway.</p> <p>The development provides an active frontage with significant glazing into the ground floor and first floor common areas, cafe, and lobby spaces. The frontage is of high design quality and offers significant visibility between the development and the public domain. The active frontage provided results in positive activation and passive surveillance, and is a significant improvement of the existing site.</p> <p>A continuous awning is not proposed as part of the development, as the adjoining sites do not provide any</p>

Provision	Compliance	Comment
		awnings and there are significant gaps along Broadway where awnings are not provided. As such, it is considered acceptable for an awning now to be provided in this instance.
3.5 Urban Ecology	Yes	The proposed development involves the replacement of existing street trees and additional tree planting on the rooftop of the site. The development provides the required 20% canopy cover, and will not have an adverse impact on the local urban ecology.
3.6 Ecologically Sustainable Development	Yes	<p>The development satisfies the requirements of the sustainability requirements for commercial development.</p> <p>Refer to SEPP (Sustainable Buildings) and discussion section.</p>
3.7 Water and Flood Management	Yes	See discussion under section 7.15 above.
3.9 Heritage	Yes	<p>The site is located within the Chippendale heritage conservation area C9 and is identified as a detracting building.</p> <p>The site is adjacent to multiple local heritage items, including I169 Former English, Scottish and Australian Bank including interior, and I172 Lansdowne Hotel including interior.</p> <p>The proposal has been designed to respect the adjacent heritage items, including the addition of a shadow line to further separate and differentiate the development from the existing bank building to the west.</p> <p>The reduced setback and introduction of a shadow line respects the setback and design of the former bank building, with a consistent presentation to the street.</p> <p>The proposed development will not have detrimental impact on the heritage significance of the heritage items or heritage conservation area.</p>
3.11 Transport and Parking	Yes	<p>A Transport Impact Study has been submitted with the application and is supported by the City's Access and Transport Unit.</p> <p>The development includes end of trip facilities including parking for up to 98 bicycles. Vehicle access</p>

Provision	Compliance	Comment
		<p>is provided for deliveries and waste pickups via a loading dock onto Knox Street.</p> <p>The development involves the removal of ground level parking spaces which load from Broadway before City Road. The development including the removal of the parking spaces and closing of the footpath crossing has received concurrence from Transport for NSW.</p> <p>The development benefits from significant existing nearby public transport infrastructure including Central Station, Light Rail, and bus infrastructure. The development appropriately manages transport demand.</p>
3.12 Accessible Design	Yes	<p>The development is designed in accordance with the principles of accessible design and is required to comply with the relevant Australian Standards and the National Construction Code.</p> <p>The development includes appropriate lifts and ramps to Broadway. Accessible dormitory rooms are provided.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Yes	<p>The submitted Waste Management Plan has been reviewed and is supported by the City's Waste and Recycling Unit. Relevant conditions of consent have been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.15 Late Night Trading Management	Yes	<p>The development includes a general bar located on the level 5 rooftop which a maximum capacity of 250 patrons, and an unlicensed café located on the ground floor with a maximum capacity of 78 patrons.</p> <p>The proposed hours of operation are as follows:</p> <p>Rooftop bar (outdoor), daily:</p> <ul style="list-style-type: none"> 10.00am to 8.00pm base hours. 8.00pm to 12.00am midnight extended hours. <p>Unlicensed Café (indoor) daily:</p> <ul style="list-style-type: none"> 7.00am to 10.00pm base hours. 10.00pm to 1.00am extended hours.

Provision	Compliance	Comment																																																								
		<p>The site is located within a City Living Area, and the rooftop bar is classified as a Category A High Impact Premises and the Café is classified as a Category B Low Impact Premises.</p> <p>It is noted that Part 3.15 of the Sydney Development Control Plan 2012 has been amended since the lodgement of the application, and the amended applicable hours of operation per the DCP are identified in Figure 21 below.</p> <p>Table 3.8: Late night trading hours</p> <table><tr><th colspan="2"></th><th colspan="2">Category A</th><th colspan="2">Category B</th></tr><tr><th colspan="2"></th><th>Indoor</th><th>Outdoor</th><th>Indoor</th><th>Outdoor</th></tr><tr><td rowspan="2">Late Night Management Area</td><td>Base</td><td>6am to midnight</td><td>9am to 10pm</td><td>6am to 2am</td><td>7am to 10pm</td></tr><tr><td>Extended</td><td>24 hours</td><td>9am to 1am</td><td>24 hours</td><td>7am to 1am</td></tr><tr><td rowspan="2">City Living Area</td><td>Base</td><td>7am to 11pm</td><td>9am to 10pm</td><td>7am to 1am</td><td>7am to 10pm</td></tr><tr><td>Extended</td><td>7am to 5am</td><td>9am to midnight</td><td>7am to 5am</td><td>7am to midnight</td></tr><tr><td rowspan="2">Local Centre Area</td><td>Base</td><td>9am to 10pm</td><td>9am to 10pm</td><td>7am to 11pm</td><td>7am to 10pm</td></tr><tr><td>Extended</td><td>9am to midnight</td><td>9am to 10pm</td><td>7am to midnight*</td><td>7am to 10pm</td></tr><tr><td rowspan="2">All other areas</td><td>Base</td><td>10am to 10pm</td><td>10am to 8pm</td><td>7am to 10pm</td><td>7am to 8pm</td></tr><tr><td>Extended</td><td>10am to midnight</td><td>10am to 10pm</td><td>7am to midnight</td><td>7am to 10pm</td></tr></table> <p>Figure 21: Table 3.8 Late night trading hours from the Sydney Development Control Plan 2012</p> <p>The proposed hours of operation are consistent with the provisions and objectives of Part 3.15 of the DCP.</p> <p>A Plan of Management and Acoustic Assessment have been submitted with the application, and are supported by Council's Environmental Health, Late Night and Licensed Premises, and Safe City Units.</p> <p>Relevant conditions of consent are recommended regarding the appropriate management of licensed venues and the mitigation of acoustic impacts to the amenity of the area, including conditions requiring compliance with the recommendations of the Acoustic Report and compliance with the Plan of Management.</p> <p>The specifics of the recommended base and extended hours of operation, and the length of the trial period for extended hours of operation, have been adjusted for consistency with the amended DCP.</p>			Category A		Category B				Indoor	Outdoor	Indoor	Outdoor	Late Night Management Area	Base	6am to midnight	9am to 10pm	6am to 2am	7am to 10pm	Extended	24 hours	9am to 1am	24 hours	7am to 1am	City Living Area	Base	7am to 11pm	9am to 10pm	7am to 1am	7am to 10pm	Extended	7am to 5am	9am to midnight	7am to 5am	7am to midnight	Local Centre Area	Base	9am to 10pm	9am to 10pm	7am to 11pm	7am to 10pm	Extended	9am to midnight	9am to 10pm	7am to midnight*	7am to 10pm	All other areas	Base	10am to 10pm	10am to 8pm	7am to 10pm	7am to 8pm	Extended	10am to midnight	10am to 10pm	7am to midnight	7am to 10pm
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Provision	Compliance	Comment
3.18 Acoustic Amenity	Yes	<p>The development includes a publicly accessible bar on the rooftop of the site with capacity for 250 persons, and is classified as a new source of entertainment sound.</p> <p>A Noise Impact Assessment has been submitted with the application and reviewed by the City's Environmental Health Unit. The assessment adequately assessed the noise generated by the development and the impact on nearby sensitive receivers. The assessment provides appropriate recommendations for the management of acoustic impacts, and relevant conditions of consent are recommended to mitigate and manage acoustic emissions.</p>

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	<p>The site is permitted a maximum building height of six-storeys with no defined maximum street frontage height.</p> <p>The proposed development is six-storeys in height and complies.</p>
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	<p>The development largely utilises the existing floor to floor heights of the existing structure, which are generous and vary between 4.45m and 5m.</p> <p>The development involves reuse of the existing carpark level, which has very low floor to ceiling heights, as the new ground floor level. As such, the development involves the replacement of the ground floor ceiling and level 1 slab, to create an improved floor to floor height of 3.1m.</p> <p>The development is constrained by the existing structure and largely benefits from existing generous floor to floor heights. The only level which does not strictly comply with the provisions of the DCP is the ground floor, which is appropriate given its context and proposed use.</p>

Provision	Compliance	Comment
4.2.2 Building setbacks	Yes	The site is not subject to any specific building setback alignment controls. The proposed development aligns with the predominant setbacks including bring forward the Broadway façade to align with the adjacent sites which is considered to be a positive urban design and heritage outcome.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	<p>The site, as existing, overshadows residential windows fronting Knox Street at 5-5A Knox Street. The proposed development involves minimal additional bulk and does not result in additional shadows to existing non-compliant residential windows or private open space.</p> <p>Other nearby residential development maintains the required solar access to windows and private open space from the development.</p> <p>The proposal maintains appropriate solar access to the surrounding area and is consistent with the control.</p>
4.2.3.3 Internal common areas	Yes	The provided internal common areas have access to daylight and outlook, and have suitable width.
4.2.3.5 Landscaping	Yes	Landscape plans have been submitted with the application, which are generally supported by the City's Landscaping and Tree Management Units, subject to minor amendments as outlined in the recommended conditions of consent. These include replacement of proposed tree species to comply with the City's Tree Species List, and the provision of a Landscaping maintenance plan.
4.2.3.6 Deep Soil	Yes	The development involves the excavation of the lower ground floor slab and the creation of a void open to the sky above. In doing so, the development creates 179sqm (10% site area) new deep soil area, and complies with the control.
4.2.3.11 Acoustic privacy	Yes	<p>A Noise Impact Assessment has been submitted with the application which addresses noise levels within the premise, and mitigating acoustic impacts to the surrounding area.</p> <p>The assessment is supported by Council's Environmental Health Unit, and relevant conditions of</p>

Provision	Compliance	Comment
		<p>consent are recommended including compliance with the recommendations of the assessment, and various acoustic emission limits to manage impacts to the amenity of the surrounding area.</p> <p>The rooftop of the site includes acoustic barriers to further mitigate noise impacts to nearby sensitive receivers.</p>
4.2.6 Waste and recycling Management	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
4.2.8 Letterboxes	Yes	The City's standard condition regarding the design of letterboxes is recommended.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Subject to conditions, the development will not adversely impact the amenity of neighbouring residential properties.

4.4 Other Development Types and Uses

4.4.8 Visitor accommodation

Provision	Compliance	Comment
4.4.8.1 General	Yes	<p>The development is self-contained and complies with the general design provisions of the control.</p> <p>A Plan of Management is provided which adequately addresses the relevant provisions of the control.</p>
4.4.8.4 Additional provisions for backpacker accommodation	Partial compliance	<p>The development is located nearby various local bus stops. The site is also in proximity to Central Station and Light Rail infrastructure.</p> <p>The proposed dormitory rooms comply with the required room size per occupant and maximum occupant numbers. The submitted Plan of Management includes a maximum stay of 28 days and suitable lockable storage is provided.</p> <p>The site includes 628sqm of internal common area, and two external common areas including the lower ground floor accessible courtyard and the rooftop bar which is a shared common area and publicly accessible bar.</p>

Provision	Compliance	Comment
		<p>Additional internal common area is recommended to be created through the removal of proposed dormitory rooms via a condition of consent, as outlined in the "Discussion" section below.</p> <p>The development exceeds the control in that the proposed external common space exceeds 20% of the total common space. The sharing of the rooftop space with the proposed bar use is considered to be appropriate in this instance as suitable internal common space is provided, and the proposed area provides additional amenity.</p> <p>A communal kitchen is provided on the ground floor, which also includes seating areas which may be used for dining purposes, however it does not provide sufficient dining space for 15% of the occupants. As outlined in the "Discussion" section below, it is recommended to replace seven dormitory rooms on level 1 with a communal area which can be used for dining, which will adequately address the control.</p> <p>The proposed bathrooms, laundry facilities, and staff room complies with the provisions of the control.</p>

Discussion

Clause 4.6 Request to Vary a Development Standard - Height

33. The site is subject to a maximum Height of buildings control of 25m. The proposed development has a maximum building height of 30.205m, being at 5.205m or 20.8% variation.
34. 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)

35. 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 of the case:
 - (i) The existing building already exceeds the Height of Buildings control, with no further building height proposed beyond the existing maximum RL of RL45.520 AHD. At the Broadway interface, the building is proposed to be

infilled at certain elements. This brings the built form to align with the adjacent heritage item, being the former English, Scottish & Australian Bank and the podium of the mixed-use development to the east, which is considered a positive heritage and urban design outcome.

- (ii) The new building elements above the height control solely relate to the common connector stair and associated architectural feature. The remainder of building elements above the 25m height control is the existing plant enclosure, which contains AC condensers, lift overrun, and mechanical plant and equipment only. Apart from the new stair connector and architectural feature on Broadway, and the existing roof top plant equipment in the existing variation, the remainder of the building sits within the 25m height limit as prescribed by the height of development standard.
 - (iii) Further, the changes to façade and materials of the element of the building protruding above the height control (being the north-eastern connector stair) that is visible from the public domain will represent an improvement to the current circumstances. It will include an open upper level with a shaped space influenced by the tower and domes of the Grace Bros. building to the north. The space will be an inverse of the tower and domes and will be expressed in the façade.
 - (iv) The proposed alterations to the building are of a high architectural standard, contributing to the character of the conservation area.
- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
- (i) The variation sought is no different to the existing non-compliance as the application seeks adaptive reuse of the existing building. The majority of the development, including all development floor space sits beneath the 25m height control, with only a small new section of the building seeking to 'match' the existing maximum RL of 45.520. This additional element of building seeking to breach the height control, is driven by site-specific heritage and urban design outcomes for the built form facing Broadway.
 - (ii) The non-compliance with the development standard does not result in any adverse environmental planning impacts. Specifically, relative to a complying scheme that reached no higher than 25m, there will be no loss of significant or iconic views; no additional privacy impacts; unacceptable traffic impacts; adverse visual impacts or additional overshadowing to residential properties.

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

36. 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)?

37. The applicant's written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary as:

- (g) The existing building already exceeds the development standard, and the new works involve only a minor increase in bulk above the height of buildings development standard, no higher than the existing variation.
- (h) The proposed additional bulk above the development standard relates to a connector stair and related architectural element only, and is a forward protrusion of an existing building element.
- (i) The façade design and materiality are of high quality and represent an improved presentation to Broadway and the surrounding public domain.
- (j) The proposed alterations to the building are of a high architectural standard, contributing to the character of the conservation area.

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

38. The applicant's written request adequately demonstrates that there are sufficient planning grounds to justify the variation as:

- (a) The variation sought is no different to the existing non-compliance as the application seeks adaptive reuse of the existing building. The majority of the development, including all development floor space sits beneath the 25m height control, with only a small new section of the building seeking to 'match' the existing maximum RL of 45.520. This additional element of building seeking to breach the height control, is driven by site-specific heritage and urban design outcomes for the built form facing Broadway.
- (b) The non-compliance with the development standard does not result in any adverse environmental planning impacts. Specifically, relative to a complying scheme that reached no higher than 25m, there will be no loss of significant or iconic views; no additional privacy impacts; unacceptable traffic impacts; adverse visual impacts or additional overshadowing to residential properties.

Conclusion

39. For the reasons provided above the requested variation to the Height of buildings development 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.

Clause 4.6 Request to Vary a Development Standard - Floor Space

40. The site is subject to a maximum Floor space ratio control of 3.1:1 or 5,346sqm. The proposed development has a Floor space ratio of 3.786:1 or 6,746, being a 1,400sqm or 26.187% variation.

41. 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)

42. The applicant seeks to justify the contravention of the Floor space ratio development standard on the following basis:

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

- (i) The application seeks to adaptively re-use an existing building, which was approved as a services exchange building for Telstra in the 1970s.
- (ii) The existing building has a larger envelope and footprint compared to the subject application, as the subject application proposes to carve a large void in the centre of the building from the existing lower-ground up to level 5, which reduces the building envelope and footprint compared to the existing configuration.
- (iii) The existing building on site exceeds the maximum FSR control, with an existing GFA of 5,810.6sqm, or 3.26:1, which represents a variation of 464sqm or 8.7% variation to the FSR control.
- (iv) Under the current definition of 'gross floor area' in the LEP, a number of areas in the existing building footprint are excluded on the lower ground, ground and level 1, including:

Lower-ground: substation, mechanical plant room, fan cooling room and diesel generation room;

Ground floor: Car park and associated vehicular access; and

Level 1: loading dock, LPS Room, plant and services rooms.

- (v) Whilst some of the above uses would be excluded from floor space in any site's redevelopment, the building's former approved use as a services exchange building has meant that these excluded areas take up a much greater proportion of the building envelope than in an ordinary mixed-use development.

(b) That there are sufficient environmental planning grounds to justify contravention of the standard:

- (i) The non-compliance with the development standard does not result in any adverse environmental planning impacts. Specifically, relative to a complying scheme that reached an FSR of 3:1, there will be no loss of significant or iconic views; no additional privacy impacts; unacceptable traffic impacts; adverse visual impacts or additional overshadowing to residential properties.
- (ii) It is noted that there is an existing breach of the FSR, which is currently 3.26:1, and represents a variation of 464sqm or 8.7% variation to the FSR control. There are also large parts of the existing building envelope that are excluded from the calculation of GFA under the LEP due to the prior use of the building as a services exchange building.
- (iii) Given the site's zoning for mixed uses under MU1 and location on the City fringe and in close proximity to universities and active uses, the proposed

use for backpackers' accommodation is more appropriate than an inactive services building that makes minimal contribution to the social, economic or cultural priorities of the Council.

- (iv) Due to GFA exclusions to the building footprint as a consequence of the existing services exchange use, any redevelopment for a more traditional mixed-use development will cause a further FSR breach similar to the subject application, unless the existing car park is retained, which is a poor planning and environmental outcome for the site.

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

43. 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)?

44. The applicant's written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary as:
- (c) The application seeks to adaptively re-use an existing building, which was approved as a services exchange building for Telstra in the 1970s.
 - (d) The existing building has a larger envelope and footprint compared to the proposed development, as the subject application proposes to create a large void in the centre of the building from the existing lower-ground up to level 5, which reduces the building envelope and footprint compared to the existing configuration.
 - (e) The existing building on site exceeds the maximum FSR control, with an existing GFA of 5,810.6sqm, or 3.26:1, which represents a variation of 464sqm or 8.7% variation to the FSR control.
 - (f) Under the current definition of 'gross floor area' in the LEP, a number of areas in the existing building footprint are excluded on the lower ground, ground and level 1.
 - (g) The building's former approved use as a services exchange building has meant that some existing excluded areas take up a much greater proportion of the building envelope than in an ordinary mixed-use development.
 - (h) In addition, the existing ground-floor car parking area constitutes an entire storey of the current building that does not contribute towards FSR, even though it forms part of the building footprint that is being used for more appropriate and active uses consistent with the intent of the site's MU1 mixed use zone. The removal of this level of car parking creates an improved development outcome when considered against the FSR objective (b) to "control the generation of vehicle and pedestrian traffic".

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

45. The applicant's written request adequately demonstrates that there are sufficient planning grounds to justify the variation as:

- (a) The non-compliance with the development standard does not result in any adverse environmental planning impacts. There will be no loss of significant or iconic views; no additional privacy impacts; unacceptable traffic impacts; adverse visual impacts or additional overshadowing to residential properties.
- (b) It is noted that there is an existing breach of the FSR, which is currently 3.26:1, and represents a variation of 464sqm or 8.7% variation to the FSR control. There are also large parts of the existing building envelope that are excluded from the calculation of GFA under the LEP due to the prior use of the building as a services exchange building.
- (c) Given the site's zoning for mixed uses under MU1 and location on the City fringe and in close proximity to universities and active uses, the proposed use for backpackers' accommodation is more appropriate than an inactive services building that makes minimal contribution to the social, economic or cultural priorities of the area.
- (d) Due to GFA exclusions to the building footprint as a consequence of the existing services exchange use, any redevelopment for a more traditional mixed-use development will cause a further FSR breach similar to the subject application, unless the existing car park is retained, which is a poor planning and environmental outcome for the site.
- (e) The additional building envelope added by the proposal represent a positive urban design and heritage outcome, by aligning the face of the site on Broadway to the neighbouring sites including the heritage listed former bank.
- (f) The proposed design and materiality are of high quality and exhibit design excellence.

Conclusion

46. For the reasons provided above the requested variation to the Floor space ratio development 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.

Rooftop bar

47. The development includes a combined outdoor common area and publicly accessible rooftop bar with a maximum capacity of 250 patrons / guests, with proposed hours of operation between 10.00am and 12.00am midnight daily (subject to a trial period).
48. A Noise Impact Assessment has been submitted with the application which addresses noise levels within the premise and mitigating acoustic impacts to the surrounding area.
49. The assessment is supported by Council's Environmental Health Unit, and relevant conditions of consent are recommended including compliance with the recommendations of the assessment, and various acoustic emission limits to manage impacts to the amenity of the surrounding area.
50. The rooftop includes acoustic barriers as recommended by the Noise Impact Assessment to further mitigate noise impacts to nearby sensitive receivers.

51. Additionally, a Plan of Management has been submitted with the application, and is supported by Council's Environmental Health, Late Night and Licensed Premises, and Safe City Units.
52. Relevant conditions of consent are recommended regarding the appropriate management of licensed venues and the mitigation of acoustic impacts to the amenity of the area, including conditions requiring compliance with the Plan of Management.
53. Noting this, the use of the rooftop of the site as a shared common area and bar is supported, subject to conditions.

Level 1 dormitory rooms

54. The proposed level 1 plan includes 7 dormitory rooms with a combined 43 beds fronting onto Knox Street. These rooms interface with the sloping street level of Knox Street and have windows directly onto the street as shown in Figures 22 and 23 below. Due to the direct interface between the street and the dormitory rooms, an appropriate balance between the amenity of the rooms, including natural light and outlook, and the privacy of the guest cannot be achieved.

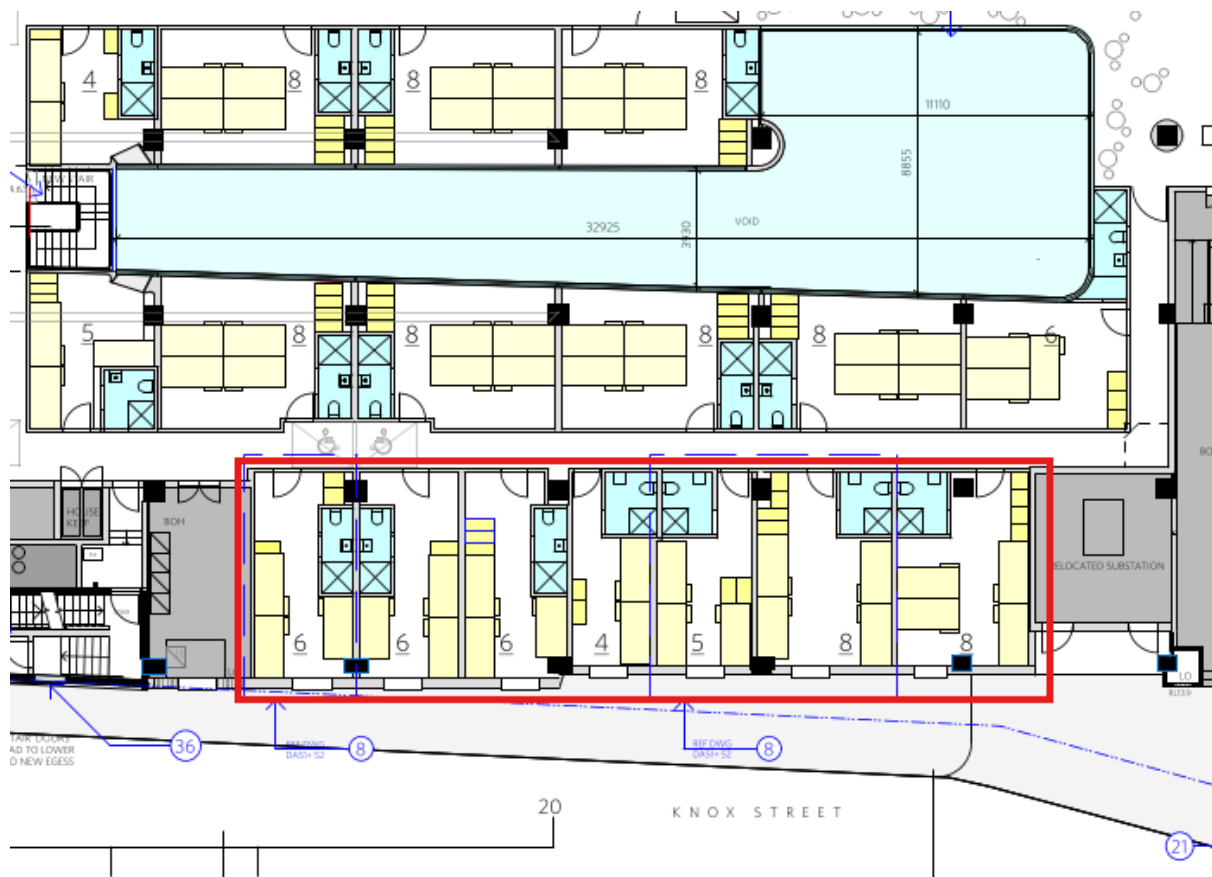


Figure 22: Architectural plans highlighting subject dormitory rooms on level 1



Figure 23: Architectural elevation highlighting subject dormitory rooms on level 1

55. As such, it is considered that these rooms are not appropriate to be used as dormitory rooms. As discussed in the DCP assessment above, there is insufficient internal common space, particularly for dining use, has been provided. Therefore, a condition of consent is recommended to delete the use of these rooms as dormitory accommodation, and to replace them with an internal common area (approximately 180sqm) which can be used for dining purposes.

Use and public interest

56. The proposed development for use as backpackers accommodation is permitted with consent in the zone and is generally consistent with the relevant planning controls.
57. Subject to conditions of consent, the development provides suitable amenity and common space for guests. The design and materiality of the development is of high quality and represents a significant improvement to the Broadway area.
58. The development will contribute to the local economy and support the Sydney visitor and tourist industry. The development will provide development contributed to be used for local infrastructure and affordable housing.
59. The development, subject to conditions, is unlikely to result in detrimental impacts to the amenity of the surrounding area.

Consultation

Internal Referrals

60. The application was discussed with Council's:
- (a) Building Services Unit;
 - (b) Environmental Health Unit;
 - (c) Licenced Premises Unit;
 - (d) Heritage and Urban Design Unit;
 - (e) Public Domain Unit;
 - (f) Safe City Unit;
 - (g) Surveyors;
 - (h) Transport and Access Unit;
 - (i) Tree Management Unit; and
 - (j) Waste Management Unit.
61. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are recommended for the Notice of Determination.

External Referrals

Ausgrid

62. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
63. A response was received raising no objections to the proposed development.

NSW Police

64. The application was referred to NSW Police for comment.
65. A response was received providing recommendations for conditions of consent, should the application be approved. These recommendations have been considered in the assessment of the proposal. Where relevant and appropriate, conditions of consent are recommended.

Transport for NSW

66. Pursuant to Clause 2.119 of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for concurrence.
67. Concurrence was received on 8 January 2025. Conditions of consent were recommended which are included in the recommended conditions.

Notification

68. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 13 January 2025 and 4 February 2025. A total of 740 properties were notified and 366 submissions were received, including 314 objections and 52 submissions of support.

69. The submissions raised the following issues:

- (a) **Issue:** The development will result in negative impacts on the character of the surrounding area.

Response: The proposed use is permitted with consent in the zone and is consistent with the zone objectives. The development is consistent with the Chippendale locality and is complementary to the Chippendale Heritage Conservation Area (C9).

- (b) **Issue:** The development is of excessive bulk and scale. The development does not comply with the Floor Space Ratio Control.

Response: Refer to the assessment of the Clause 4.6 variation requests for Height of buildings and Floor space ratio above.

- (c) **Issue:** The development will result in a significant volume of transient visitors to the area.

Response: Tourist and visitor accommodation is permitted with consent in the zone and the relevant planning controls do not restrict the maximum number of occupants. The Broadway, George Street, and Central Station area is an established hub for tourist and visitor accommodation due to the abundant access to public transport and its proximity to tourist and visitor infrastructure and attractions.

- (d) **Issue:** The development will result in local residents being pushed out of the area.

Response: The development is permitted with consent in the zone and does not result in the removal of any existing dwellings. The development will result in the payment of development contributions to be used to upgrade local infrastructure. Local residents will benefit from this in accordance with Council plans. The site's main access is onto Broadway which is suitably serviced to support the proposed capacity.

- (e) **Issue:** The development will place an unacceptable strain on local infrastructure.

Response: The development benefits from significant nearby public transport infrastructure. The development has been reviewed by various units within Council, and the development is not considered to result in an unacceptable impact on local infrastructure. In addition, a significant monetary contribution towards local infrastructure is payable from the development. As outlined above, Transport for NSW has provided concurrence to the development, and the City's Access and Transport Unit is satisfied that the local transport infrastructure can support the development.

- (f) **Issue:** The development does not reflect sustainable principles or practices. The development does not comply with the SEPP (Sustainable Buildings) 2022.

Response: The development, as amended, complies with all sustainability requirements under the relevant Environmental Planning Instruments. Refer to the above assessment against the SEPP (Sustainable Buildings) 2022.

- (g) **Issue:** The development does not provide an active frontage to Broadway.

Response: The development provides a suitable active frontage to Broadway. See discussion against Part 3.2 of the DCP above.

- (h) **Issue:** The development does not positively contribute to the public domain.

Response: The design and materiality of the development is of high quality and exhibits design excellence. The development positively addresses the street and is complementary to nearby heritage items and the adjacent sites and represents a significant improvement to Broadway. The development positively contributes to the public domain.

- (i) **Issue:** The development will result in overcrowding within the site and to the surrounding area.

Response: The development complies with the relevant requirements for occupant capacity in accordance with the National Construction Code and the relevant Environmental Planning Instruments. The site's main access is onto Broadway which is suitably serviced to support the proposed capacity.

- (j) **Issue:** The development will result in unacceptable acoustic impacts to the surrounding area.

Response: An Acoustic Assessment from a suitably qualified Acoustic consultant has been submitted with the application and reviewed by Council's Environmental Health unit. The assessment is considered appropriate and confirms that the development is unlikely to result in unacceptable acoustic impacts to the surrounding area, should appropriate measures be implemented. Conditions of consent are recommended to ensure compliance with the recommendations of the report and to mitigate and manage the acoustic emissions from the development. The development includes sound mitigation measures such as acoustic barriers on the rooftop of the site.

- (k) **Issue:** The development will result in an increase in anti-social behaviour.

Response: The proposal has been reviewed by NSW Police and the City's Environmental Health, Safe City, and Late Night and Licensed Premises Units. Relevant conditions of consent are recommended to ensure responsible management of the premise, including compliance with the approved Plan of Management.

- (l) **Issue:** The development will contribute to ongoing waste issues in the area.

Response: A Waste Management Plan has been submitted with the application and reviewed by the City's Waste Management Unit. The Plan is supported, and the City's waste management conditions are recommended were relevant. The

development is unlikely to result in detrimental impacts to waste management in the area.

- (m) **Issue:** The development will detract from the availability of parking in the area. The development does not provide an appropriate pick-up and drop-off location.

Response: A transport Impact Study has been submitted with the application and is supported by Council's Transport and Access unit. The development benefits from significant public transport infrastructure in the area, including proximity to Central Station, the Light Rail, and existing significant bus infrastructure. The development also includes significant bicycle parking facilities and end-of-trip facilities. Noting the nature of the development, it is unlikely to result in a significant impact on the requirements for parking in the area. As the main entrance to the site is located on Broadway, it is anticipated that vehicle pick-up and drop-offs, when required, will occur on or near Shepherd Street.

- (n) **Issue:** The development fails to contribute to the housing supply in Sydney.

Response: The development will positively contribute to Housing within the Sydney area through payment of an Affordable Housing Contribution to Council. In addition, the use of a site for purposes other than residential development is permitted in the zone.

- (o) **Issue:** The proposed rooftop communal space is inappropriate.

Response: Refer to the Rooftop bar discussion above.

- (p) **Issue:** The development fails to provide landscaping to Knox Street.

Response: The site does not contain sufficient space on Knox Street within the property boundary to provide significant landscaping. The Knox Street façade is of high quality and positively addresses the street. The relevant planning controls do not require landscaping to Knox Street. Sufficient Deep Soil area and Canopy Cover is provided by the development.

- (q) **Issue:** The development provides minimal community benefit.

Response: The development provides accommodation and support for the tourist and visitor industry in Sydney. The development will contribute to the local economy and will require the payment of development contributions for community infrastructure.

- (r) **Issue:** The development provides insufficient emergency services access.

Response: Transport for NSW has provided concurrence for the development, and the proposal is supported by the City's Access and Transport unit. No substantiated concerns have been raised over the access of emergency services to the site.

- (s) **Issue:** The development does not appropriately manage fire safety.

Response: An assessment report against the relevant sections of the National Construction Code (NCC) has been submitted with the application. The report has been reviewed by Council staff and indicates that the development will comply with the relevant fire safety requirements of the NCC. Where appropriate,

conditions of consent are recommended in relation to fire safety, including the requirement to submit annual Fire Safety Statements to Council and Rescue NSW.

- (t) **Issue:** The development failed to conduct sufficient community consultation.

Response: The application was notified in accordance with Council's Community Engagement Strategy and Community Participation Plan. The applicant is under no Environmental Planning Instrument requirement to conduct community consultation for the proposal.

- (u) **Issue:** The development will contribute to ongoing issues around bicycle safety and management.

Response: The development is not considered to result in a significant or detrimental impact on bicycle safety in the area. Where relevant, Council's Transport conditions of consent are recommended. A condition of consent is recommended regarding the preparation and approval of a bicycle and e-bike Plan of Management prior to the commencement of operation of the development.

- (v) **Issue:** The development has failed to consider Aboriginal Heritage Impacts.

Response: A Heritage Impact Statement has been submitted with the application and reviewed by Council's Heritage Specialist. There is no information indicating the development will result in detrimental impacts to any items or places of Aboriginal heritage significance, or that the development is inconsistent with any relevant heritage controls.

- (w) **Issue:** The applicant and development have an unacceptable relationship with the adjoining Lansdowne Hotel.

Response: The relationship between the developer and the Lansdowne Hotel is not a matter for consideration of the assessment in accordance with the Environmental Planning and Assessment Act 1979. The proposed new pedestrian connection to City Road via Grafton Lane is a beneficial new pedestrian connection that is unlikely to result in unreasonable impacts to the amenity of the surrounding area. Appropriate lighting upgrades and security measures including CCTV are required by condition of consent.

- (x) **Issue:** The developer should be required to provide works in-kind throughout the Chippendale area.

Response: Various development contributions are payable for the development as outlined below. The City of Sydney Development Contributions Plan 2015 allows the applicant to voluntarily complete approved works as payment of the contributions, however the applicant may choose to make a monetary payment instead in accordance with the Plan.

- (y) **Issue:** The development will block existing views towards the Broadway Centre Domes.

- **Response:** The development involves minimal increase in building height or bulk, and will not have a significant impact on existing views from the

surrounding area. In addition, views towards the Broadway Centre Dones are not protected by existing planning controls.

- (z) **Issue:** A site specific DCP has not been prepared for the land as required under Clause 7.20 of the Sydney Local Environmental Plan 2012.
- **Response:** While Clause 7.20 of the LEP applies to any development for the purposes of a new building, or that increases the gross floor area of an existing building, the requirement to prepare a site specific DCP for the land is not triggered by this development in accordance with Clause 7.20(2) of the LEP.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

- 70. 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.
- 71. Credits have been applied for the most recent past use of the site as Light Industry.
- 72. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contributions to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

- 73. The site is located within the residual land affordable housing contribution area. As the proposed development includes additional floor space, a contribution is required at a rate of \$116.468 per square metre of total non-residential floor area (8,391sqm) totalling \$977,282.99 A condition of consent is recommended requiring payment prior to the issue of a construction certificate.
- 74. 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.
- 75. 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 and:
 - (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or
 - (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or
 - (c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or
 - (d) the regulations provide for this section to apply to the application.

76. Clause 222B of the Environmental Planning Assessment Regulation 2021 provides that section 7.32 of the Act applies to a development application to carry out development in the City of Sydney local government area.
77. 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, having regard to the following -
 - (i) the extent of the need in the area for affordable housing,
 - (ii) the scale of the proposed development,
 - (iii) any other dedication or contribution required to be made by the applicant under this section or section 7.11.
78. Having regard to the provisions of Section 7.32 of the Act, a condition of consent is recommended requiring the payment of an affordable housing contribution prior to the issue of a construction certificate.

Housing and Productivity Contribution

79. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024.
80. 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.
81. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant Legislation

82. Environmental Planning and Assessment Act 1979.

Conclusion

83. Approval is sought for the construction of a 6-storey backpackers accommodation including unlicensed café and licensed rooftop bar.

84. The application has been assessed in accordance with section 4.15(1) of the Act and is considered satisfactory subject to the recommended conditions of consent at Attachment A.
85. The proposal has been assessed against the aims and objectives of the relevant planning controls including the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012, and the applicable Environmental Planning Instruments. Where non-compliances are proposed, they have been assessed in this report as being acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.
86. The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future users of the site.
87. The proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in clause 6.21C of the Sydney Local Environmental Plan 2012.
88. Matters raised by internal and external referrals have been adequately addressed as discussed within this report.
89. The application was notified in accordance the requirements of the EP&A Regulations 2021 and the City's Community Participation Plan 2024. Issues raised in submissions have been addressed as discussed in this report.
90. The proposed development demonstrates a design that responds to the constraints of the site and will positively contribute to the desired future character of the Chippendale locality.
91. Subject to the recommended conditions of consent, the proposed development is considered to be in the public interest and is recommended for approval.

ANDREW THOMAS

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