



DEVELOPMENT ASSESSMENT PANEL REPORT

Application No.	DA/2026/0341
Address	269 Marrickville Road, Marrickville
Proposal	Alterations and additions to an existing mixed-use building and adaptive reuse to provide a retail tenancy and parking on the ground floor and co-living housing with 25 rooms above. Works include partial demolition of existing structures and construction of a 5-storey mixed-use development with associated signage, landscaping, civil works and public domain works.
Date of Lodgement	20 April 2026
Applicant	Asher Richardson
Owner	MT Property Management Pty Ltd
Number of Submissions	Initial: Nil (0) Renotification: Nil (0)
Cost of works	\$4,355,278.00
Reason for determination at Planning Panel	Clause 4.6 variations exceed 10%
Key Considerations	Variation to minimum car parking and lot size for co-living
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards – Car parking
Attachment D	Clause 4.6 Exception to Development Standards – Lot size
Attachment E	Clause 4.6 Exception to Development Standards – Floor Space Ratio



LOCALITY MAP			
Subject Site		Notified Area	
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1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing mixed-use building and adaptive reuse to provide a retail tenancy and parking on the ground floor and co-living housing with 25 rooms above. Works include partial demolition of existing structures and construction of a 5-storey mixed-use development with associated signage, landscaping, civil works and public domain works at 269 Marrickville Road, Marrickville.

The application was notified to surrounding properties and no submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Variation to minimum lot size for Co-living;
- Variation to minimum car parking for Co-living;
- Amenity for occupants; and
- Streetscape compatibility.

The non-compliances are acceptable given the proposal was revised to have a more rational internal floorplan to improve internal connection and amenity and Clause 4.6 variation requests were provided which demonstrate the proposed variations are acceptable in the circumstances, and therefore the application is recommended for approval.

2. Proposal

The proposal can be described as follows:

- Partial demolition of the existing building including removal of the drive-through access and vehicular crossing from Despointes Street, some internal and external walls and existing fit-outs;
- Adaptive re-use of the existing building to a mixed-use building comprising of the following:
 - Ground floor – new retail commercial space accessed off Marrickville Road, pedestrian lobby and entrance for the Co-living use with accessible toilet and managers reception, retail and waste storage areas, 19 Bicycle parking spaces, 1 motorcycle parking space and 1 accessible car parking space accessed off the rear laneway;
 - Level 01 – 10 co-living residences (7 double and 3 single rooms), communal living room, communal laundry, bin room and chute;
 - Level 02 – 5 co-living rooms (2 double and 3 single rooms), communal living room opening onto the communal open space, cleaners store, bin room and chute;

- Retention and upgrading of the existing swimming pool on level 02, with the addition of new fencing and retractable awning. Associated landscaping works to the communal open space;
- Level 03 – alterations and additions to allow for 6 co-living rooms (2 double and 4 single rooms) with 3 private balconies, bin room and chute, and cleaners store;
- Level 04 – alterations and additions to allow for 4 co-living rooms (1 double and 3 single rooms), communal terrace and pergola, bin room and chute, and cleaners store;
- Retention of the existing communications tower on level 05, construction of new external stair access from level 04, balustrading and services;
- New business identification signage for the co-living;
- Associated landscaping works; and
- Associated civil and public domain works.

3. Site Description

The subject site is located on the north-eastern side of Marrickville Road, between Malakoff Street and Despointes Street. The site consists of one (1) allotment and is generally rectangular shaped with a total area of 398.1 sqm and is legally described as Lot 12 in DP 593725.

The site has a frontage to Marrickville Road of 12.38 metres, a side frontage to Despointes Street of 31.6m, and a rear frontage to Broadleys Lane of 12.235m. The site is required to dedicate splay corners to the public for road purposes on the corner of Marrickville Road and Despointes Street, and Despointes Street and Broadleys Lane.

The site supports an existing five storey mixed use building with a ground level retail use (drive-through bottle shop), a sex-services premises on level 01, a residential dwelling on level 02 and access to the communications tower of level 03 and 04. The adjoining properties support 2 to 5 storey mixed use buildings fronting Marrickville Road and low-density residential dwellings.

The following trees are located within the vicinity.

- *Liriodendron tulipifera* (Tulip tree) – street tree fronting Marrickville Road



Figure 1: Photo of subject site as viewed from Marrickville Road

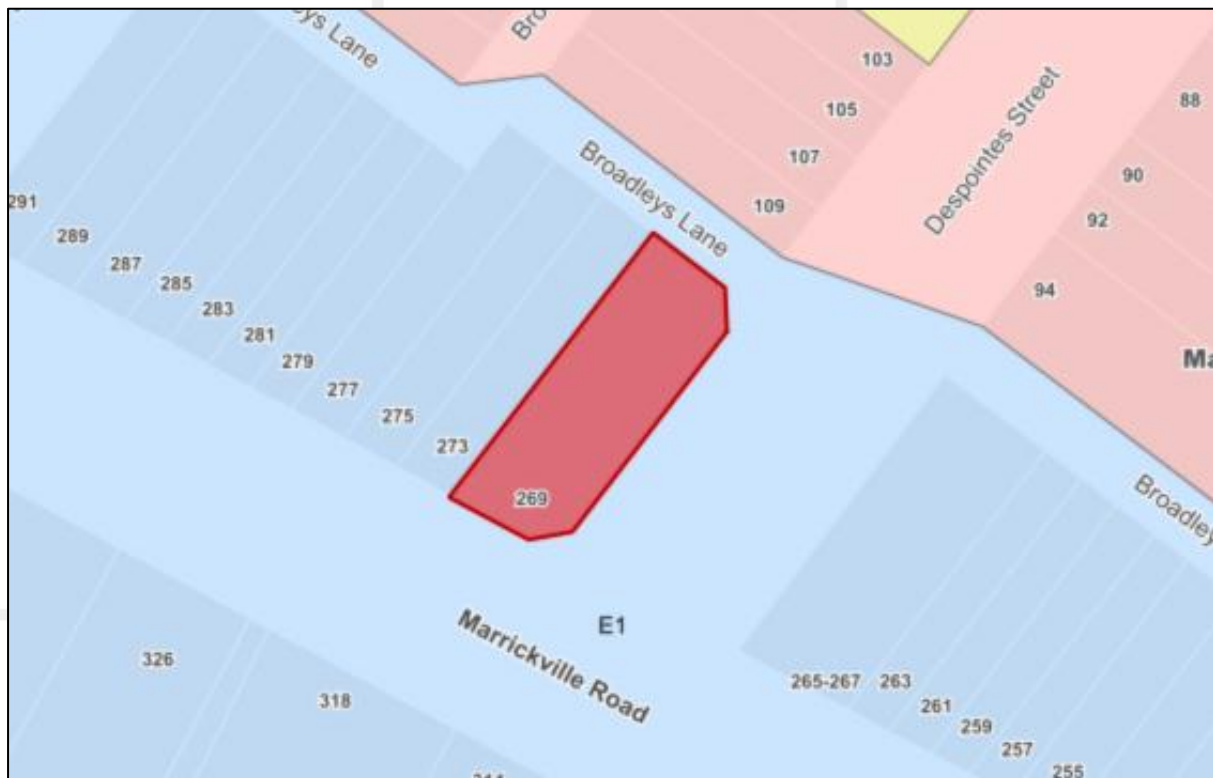


Figure 2: Zoning Map (subject site in red)

4. Background

Site History

The following summary outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Date & Decision
PDA/2025/0084	Partial demolition alterations to the existing building including partial retention of the ground floor tenancy and construction of 4 levels of co-living housing containing 26 rooms and associated works	04/07/2025, Issued
PDA/2024/0087	Partial demolition, alterations and additions to the existing building for co-living housing on levels 1-4 containing 17 rooms with roof terrace and retention of commercial use on the ground floor	02/08/2024, Issued

Surrounding Properties

326-330 Marrickville Road

Application	Proposal	Date & Decision
DA/2021/0478	To provide external signage to front façade of the ground floor tenancy	20/08/2021, Approved
DA201500499.02	Section 4.55 to modify Modified Determination No. 201500499.01 dated 31 May 2017 to carry out changes so as to divide a 2 bedroom unit into 2 x 1 bedroom units and increasing their extent, increasing the total number of units to 40 and to carry out other changes to the stairwell along the eastern boundary	27/03/2019 Approved
DA201500499.01	Section 96 to modify Determination No. 201500499 dated 14 April 2016 to create a temporary on-site waste storage area, provide an electrical substation, split the commercial tenancy fronting Marrickville Road into 2 tenancies, modify the service/parking area, internal reconfiguration of units and changes to window openings, realignment of central blade elements to the building facade and to modify a number of conditions of approval	31/05/2017 Approved
DA201500499	to retain the existing front portion of the building and demolish the remainder of the premises and construct a 6 storey mixed use development with 2 commercial tenancies and associated car	14/04/2016 Deferred Commencement – Council

	parking/loading areas on the ground floor level, 39 dwellings on the upper floors and 2 basement car parking levels	
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Application History

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
20 April 2026	Application lodged
14 May 2026	Public notification finished
27 May 2026	Site visit undertaken
24 June 2026	A request for further information was sent to the applicant raising the following: • Amended plans to address design excellence matters, including setbacks, room layouts, streetscape and design, laundry facilities, and amenity; • Configuration of the ground floor; • Visual privacy; • Delivery and Service Management Plan; and • Clarification of some aspects of the building on the plans.
22 July 2026	Amended plans and supporting documentation were received. In addition to supporting documentation to address the issues raised in the request for future information, key changes to the application include: • Rationalisation of the setbacks and building alignment on level 3 and 4. • Simplification and rationalisation of the floor plan and room configurations. • Changes to the levels of the Communal living area resulting in a ramp being located in the Communal Open Space to provide equitable access • Changes to the facades in line with AEDP recommendations for the window configuration, materials and finishes and building entrances. • Provision of a Delivery and Service Management Plan. Renotification was required in accordance with Council's Community Engagement Strategy 2025-2029 from the 30 July to the 20 August 2026.
06 August 2026	An email was sent to the applicant requesting further information regarding the addition of the ramp to the communal open space and whether it could be reconfigured to a more functional layout.
19 August 2026	An email was sent to the applicant requesting further information including the provision of a North-western side elevation, and changes

	to the Clause 4.6 request for car parking to reflect the variation sought with the proposal.
20 August 2026	Amended plans were received reconfiguring the communal open space to reduce the size of the pool deck and increase functional area, inclusion of a north-western elevation and amended Clause 4.6 for car parking. Renotification was not required in accordance with Council's Community Engagement Strategy 2025-2029. The amended plans and supporting documentation are the subject of this report.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Industry and Employment) 2021

Chapter 3 Advertising and Signage

The following is an assessment of the development under the relevant controls contained in the *Industry and Employment* SEPP.

The application seeks consent for the following signage:

Location	Sign Type	Lettering	Dimension
Southern elevation	Illuminated wall sign	"GOOLAY YARI"	3000mm x 1530mm
South-western elevation	Under-awning sign	TBC	1800mm x 400mm
South-eastern elevation	Under-awning sign	TBC	1800mm x 400mm

The proposed development is consistent with objectives set out in Section 3(1)(a) and the assessment criteria specified in Schedule 5 as follows:

Criteria	Assessment
Character of the area	The signage is compatible with the desired future character of the area.
Special areas	The signage does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways or residential areas

Views and vistas	The signage does not obscure or compromise important views and does not dominate the skyline.
Streetscape, setting or landscape	The proposed signage satisfies this part as follows: • The scale proportion and form of the signage is appropriate to the streetscape and locality; • The signage is of a simple design and will not contribute to visual clutter; and • The signage will not impact vegetation.
Site and building	The scale, proportion and form of the signage is appropriate to the building on which the signage is to be located and respects important features of the building.
Associated devices and logos with advertisements and advertising structures	All elements of the signage have been well integrated into the structure which displays the signage.
Illumination	The proposed illumination is acceptable and will not result in adverse amenity impacts or effect safety.
Safety	The signage will not reduce safe of any public road, pedestrians, bicyclists and will not obscure sightlines from public areas.

As the sign is for business identification purposes Part 3.3 does not apply. The proposal is considered acceptable noting the aims and objectives of this chapter of the SEPP.

SEPP (Housing) 2021

Chapter 3 Part 3 Co-living housing

Section	Standard	Proposed	Complies
67 Co-living housing may be carried out on certain land with consent	Development for the purposes of co-living housing may be carried out with consent on land in a zone in which— (a) development for the purposes of co-living housing is permitted under another environmental planning instrument, or (b) development for the purposes of residential flat buildings or shop top housing is permitted under Chapter 5, Chapter 6 or another environmental planning instrument.	The site is zoned E1. Shop top housing is permitted in E1, therefore co-living is permissible.	Yes
68 non-discretionary development standards—the Act, s 4.15		Proposed	Complies
(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of co-living housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.			

(2) The following are non-discretionary development standards in relation to development for the purposes of co-living housing—			
FSR	(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than— (i) the maximum permissible floor space ratio for residential accommodation on the land, and (ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,	NA - RFB not permitted in E1	NA
Communal living area	(c) for co-living housing containing more than 6 private rooms— (i) a total of at least 30m ² of communal living area plus at least a further 2m ² for each private room in excess of 6 private rooms, and (ii) minimum dimensions of 3m for each communal living area,	Based on 25 co-living rooms, 68sqm of communal living area is required. Across the two communal living spaces, a total of 76sqm of communal living is provided in compliance with this section.	Yes
Communal open spaces	(d) communal open spaces— (i) with a total area of at least 20% of the site area, and (ii) each with minimum dimensions of 3m,	Based on the site area of 398sqm, 79.6sqm of communal open space is required. A total of 111.2sqm of communal open space is provided on level 02 which complies with this section.	Yes
Parking requirements	(e) unless a relevant planning instrument specifies a lower number— (i) for development on land in an accessible area—0.2 parking spaces for each private room, or (ii) otherwise—0.5 parking spaces for each private room	The subject site is located within an accessible area and hence, 5 car parking spaces is required. One (1) car parking space is proposed which presents a variation of 4 car parking spaces or 80% from the development standard. See discussion under Clause 4.6 below.	No – See Clause 4.6 discussion
	(f) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument, (g) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for	The subject site is zoned E1 Local Centre, therefore (f) and (g) do not apply.	NA

	residential flat buildings under a relevant planning instrument.		
69	Standards for co-living housing	Proposed	Complies
(1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—			
Room size	(a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m ² and not less than— (i) for a private room intended to be used by a single occupant—12m ² , or (ii) otherwise—16m ² , and	The proposal includes 13 single occupant rooms which are greater than 12sqm and less than 16sqm, and 12 double occupant rooms which are greater than 16sqm and less than 25sqm in compliance with this section.	Yes
Lot size	(b) the minimum lot size for the co-living housing is not less than— (i) for development on land in Zone R2 Low Density Residential—600m ² , or (ii) for development on other land—800m ² , and (iii) (Repealed)	As the site area is 398sqm, the proposal presents a variation to the minimum lot size of 402sqm or 50%. See discussion under Clause 4.6 below.	No – See Clause 4.6 discussion
R2 requirements	(c) for development on land in Zone R2 Low Density Residential or an equivalent land use zone, the co-living housing— (i) will not contain more than 12 private rooms, and (ii) will be in an accessible area, and	NA – E1 zone	NA
Manager workspace	(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space, and	A workspace for the manager is provided in the reception at ground level within the lobby, in compliance with this section.	Yes
Active ground floor uses	(e) for co-living housing on land in a business zone—no part of the ground floor of the co-living housing that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and	The ground level contains the proposed commercial tenancy and lobby entrance to the co-living. No part of the ground level fronting a street is used for residential purposes in compliance with this part.	Yes
Site facilities	(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and	Every room has a private bathroom and kitchenette, and access to a communal laundry, kitchens and living rooms in compliance with this section.	Yes

Room occupancy limit	(g) each private room will be used by no more than 2 occupants, and	Recommended as a condition of consent.	Yes – subject to condition
Motorbike and bicycle	(h) the co-living housing will include adequate bicycle and motorcycle parking spaces	16 bicycle parking spaces and 1 Motorcycle parking space is required for co-living under the MDCP 2011. 19 Bicycle parking spaces and one (1) motorcycle parking spaces are proposed in compliance with this section.	Yes
(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—			
Setbacks	(a) the front, side and rear setbacks for the co-living housing are not less than— (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, or (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument, and	NA – E1 Zone	Not applicable
Building separation	(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and	The proposal has a nil side setback on the north-western side, however, as this is a blank wall, it complies with this section. The proposal includes nil side setbacks on the south-east side with windows, however, this side adjoins Despointes Street which provides approximately 20m of separation between the subject and adjacent existing building in compliance with this section. However, the proposal has nil rear setback on level 1 and to the communal open space on level 2. While this elevation adjoins Broadleys Lane, the separation between the existing buildings is only 7.7m which does not comply with the 12m required. Nonetheless, the non-compliance is considered acceptable in this instance due to the following:	Acceptable

		- The proposal is for the adaptive reuse of the building with the nil rear setback and existing windows on level 1 and the terrace on level 2 being existing; - The windows on the rear elevation which face windows on the adjacent building are considered to be of a modest size and raised sill height of 1.5m which will offset direct views to the adjacent property. The larger windows do not align with windows on the adjacent property and hence are acceptable; and - The terrace on level 2 is existing, and the proposal includes the addition of planter boxes at a depth of 1.1m around the curtilage of the terrace which will aid in offsetting views from the adjoining properties.	
Solar access	(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and	The principal communal living area has glazing facing north-east ensuring it receives excess of the required solar access on the 21 June, in compliance with this part.	Yes
	(d), (e) (Repealed)		Noted
Local character	(f) the design of the building will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct.	The building is considered to be compatible with the desirable elements of the character of the local area as the proposal is for the adaptive reuse of the existing building, retaining the existing form and materiality, and new elements are sympathetic to the existing building and development within the streetscape.	Yes
70 No subdivision Development consent must not be granted for the subdivision of co-living housing into separate lots.			No subdivision proposed

SEPP (Sustainable Buildings) 2022*Chapter 3 Standards for non-residential development*

The application is accompanied by a Section J Report, which demonstrates that the proposed development can achieve compliance with the Energy Efficiency requirements of the Building Code of Australia. Council is satisfied the embodied emissions attributable to the development have been quantified.

SEPP (Transport and Infrastructure) 2021*Chapter 2 Infrastructure*Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of the *Transport and Infrastructure SEPP* and has been referred for comment for 21 days.

Ausgrid provided comments in regard to underground cables and substation in the vicinity of the development which have been included as advisory notes in the recommendation.

Overall, subject to compliance with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice the proposal satisfies the relevant controls and objectives contained within

Impact of road noise or vibration on non-road development

The impacts of traffic noise or vehicle emissions have been considered and suitable measures to ameliorate potential traffic noise or vehicle emissions have been included within the development. the development complies with the requirements of Section 2.120 of the *Transport and Infrastructure SEPP*.

Inner West Local Environmental Plan 2022

The application was assessed against the following relevant clauses of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Clause	Proposed	Complies
Clause 1.2 Aims of Plan	The proposal satisfies the clause as follows: The proposal encourages development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles;	Yes

Clause	Proposed	Complies
	- The proposal encourages walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes; - The proposal facilitates economic growth and employment opportunities within Inner West; - The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents; - The proposal creates a high quality urban place through the application of design excellence in all elements of the built environment and public domain; and - The proposal prevents adverse social, economic and environmental impacts on the local character of Inner West.	

Part 2 – Permitted or Prohibited Development

Clause	Proposed	Complies
Clause 2.3 Zone objectives and Land Use Table E1 – Local Centre	The application proposes a retail commercial premises and co-living housing. Commercial premises are permitted with consent in the E1 Zone. While residential accommodation is prohibited within the E1 Zone, Shop top housing is permissible with consent, and under Section 67 of the <i>SEPP Housing 2021</i>, co-living housing is permissible where shop-top housing is permitted. The proposal is consistent with the relevant objectives of the zone as follows: - It enables residential development that contributes to a vibrant and active local centre; - It encourages retail uses on the ground floor of buildings which contributes to an active street frontage; - It provides employment opportunities and services in accessible locations; and - It enhances a sense of place by ensuring the building displays architectural and urban design quality which contributes to the desired character of the locality.	Yes
Clause 2.7 Demolition requires development consent	The proposal satisfies the clause as follows: - Demolition works are proposed, which are permissible with consent; and - Standard conditions are recommended to manage impacts which may arise during demolition.	Yes, subject to conditions

Part 4 – Principal Development Standards

Clause	Proposed		Complies
Clause 4.3 Height of buildings	Maximum	20m	Yes
	Proposed	19.88m (proposed works) 21.7m (existing communications tower)	
Clause 4.4 Floor space ratio	Maximum	2.5:1 or 995sqm	No – see Clause 4.6 below
	Proposed	2.73:1 or 1,090.5sqm	
	Variation	95.5sqm or 9.59%	
Clause 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the clause.		Yes
Clause 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Clause 4.6 to vary Section 68(2)(e) and Section 69(1)(b) of the <i>SEPP Housing 2021</i> , and Clause 4.4 of the <i>IWLEP 2022</i> .		See discussion below

Clause 4.6 – Exceptions to Development Standards

Section 68(2)(e) Minimum car parking for co-living development standard in the *SEPP Housing 2021*

The applicant seeks a variation to the abovementioned development standard under Clause 4.6 of the *IWLEP 2022* by five (5) car parking spaces or 100%. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the *IWLEP 2022* below.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the standard are achieved notwithstanding the numeric non-compliance. Given there are no objectives for the development standard under this section of the *SEPP Housing 2021*, the merits of the proposed variation have been assessed against the relevant 'Principles of Policy' in Section 3, as follows:

The **first principle of the *SEPP Housing 2021*** is "(a) enabling the development of diverse housing types, including purpose-built rental housing". The written request states that the

proposal provides co-living housing in an area traditionally containing single dwellings, shop-top housing and residential flat buildings, ultimately providing a diversity of housing types notwithstanding the variation proposed. Accordingly, the breach is consistent with the first Principle.

The **third principle of the SEPP Housing 2021** is “(c) ensuring new housing development provides residents with a reasonable level of amenity”. The written request states that the proposal is consistent with all amenity controls prescribed under the *SEPP Housing 2021* for co-living housing so despite a nil-car parking provision, a high level of amenity is provided for future residents including the provision of adequate bicycle and motorcycle parking, and proximity to public transport. Accordingly, the breach is consistent with the third principle.

The **sixth principle of the SEPP Housing 2021** is “(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality”. The written request states that the proposal retains a significant part of the existing built form on the site and adaptively reuses the existing building for additional housing with minimal structural demolition. The resulting building is designed to remain consistent with the prevailing character of the area which likely wouldn't be achievable if compliant parking was sought. Accordingly, the breach is consistent with the sixth principle.

As the proposal achieves the relevant principles of the *SEPP Housing 2021* in consideration of the car parking variation, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Clause 4.6(3)(b), the Applicant provides the following environmental planning grounds to justify contravening the development standard:

Environmental Planning Ground 1 – *The proposed development is located within a highly accessible area reducing the need for individual car ownership. With no parking proposed, this would have no impact on the surrounding road network.* This environmental planning ground is accepted because the subject site is located within walking distance of the soon to be completed Marrickville Metro Station, various bus routes and local shops/services, reducing the need for individual car ownership as it is a highly accessible area. This was supported by a Traffic Impact Assessment report which demonstrated that the proposal is unlikely to increase traffic demand in the locality.

Environmental Planning Ground 2 – *The bicycle and motorcycle parking provides sufficient transport options for residents, despite no car parking provision.* This environmental planning ground is accepted because the proposal provides an excess of bicycle and motorcycle parking than what is required for the proposal under MDCP 2011. The design of the bicycle parking is integrated well into the development to provide a safe and accessible storage for residents. The provision of bicycle parking in lieu of car parking is supported given the subject site is located in an accessible area which is suitable for active transport and close to services/public transport which is supported by the assessment within the Transport Impact Assessment provided.

Cumulatively, the grounds are considered sufficient to justify contravening the development standard.

For the reasons outlined above, it is recommended that the Clause 4.6 exception be granted.

Section 69(1)(b) minimum lot size for co-living development standard of the *SEPP Housing 2021*

The applicant seeks a variation to the abovementioned development standard under Clause 4.6 of the *IWLEP 2022* by 402sqm or 50%. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the *IWLEP 2022* below.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the standard are achieved notwithstanding the numeric non-compliance. Given there are no objectives for the development standard under this section of the *SEPP Housing 2021*, the merits of the proposed variation have been assessed against the relevant 'Principles of Policy' in Section 3, as follows:

The **first principle of the *SEPP Housing 2021*** is "(a) enabling the development of diverse housing types, including purpose-built rental housing". The written request states that the proposal provides for co-living housing in an area traditionally containing detached dwellings and residential flat buildings to provide diversity in accommodation types. Accordingly, the breach is consistent with the first principle as it allows for a diverse housing type within the local centre where housing density is anticipated to be concentrated.

The **third principle of the *SEPP Housing 2021*** is "(c) ensuring new housing development provides residents with a reasonable level of amenity". The written request states that a high level of amenity is provided for future occupants given the individual rooms, communal living areas and communal open spaces satisfy the requirements under the *SEPP Housing 2021*, including the minimum and maximum area requirements, providing residents with access to sufficient light and ventilation, and access to adequate amenities including individual bathrooms, kitchenettes, shared laundry facilities, and a variety of communal spaces to foster incidental interactions between residents. Accordingly, the breach is consistent with the third principle despite the non-compliance in site area as the development can comply with the

relevant development standards for co-living housing to provide a high level of amenity notwithstanding the non-compliance with site area.

The **fourth principle of the SEPP Housing 2021** is “(d) *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services*”. The written request states the proposal is located within an accessible location, providing additional accommodation in an area well serviced by public transport, shops, educational establishments, and employment opportunities. Accordingly, the breach is consistent with the fourth principle providing densification of housing within a well serviced location despite the non-compliance with site area.

The **fifth principle of the SEPP Housing 2021** is “(e) *minimising adverse climate and environmental impacts of new housing development*”. The written request states that the proposal retains a significant part of the existing building on the site and adaptively reuses the existing building for additional housing with minimal structural demolition. Therefore, the propose has a lower impact on the environment and is consistent with the principles of ecologically sustainable development. Accordingly, the breach is consistent with the fifth principle given the adaptive reuse of the existing building aids in minimising adverse environmental impacts while allowing for the provision of new housing.

The **sixth principle of the SEPP Housing 2021** is “(f) *reinforcing the importance of designing housing in a way that reflects and enhances its locality*”. The written request states that the proposal retains a significant proportion of the existing building on the site and adaptively reuses it for additional housing. While the existing building is not consistent with the design of buildings within the locality, the retention of the existing form, removal of detracting elements, and introduction of new elements is considered to reinforce the desirable elements in the locality including the addition of an active shopfront to improve the pedestrian experience. Accordingly, the breach is consistent with the fifth principle.

As the proposal achieves the principles of the *SEPP Housing 2021* despite the site area variation, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Clause 4.6(3)(b), the Applicant provides the following environmental planning grounds to justify contravening the site area development standard:

Environmental Planning Ground 1 – *The proposal achieves a high level of amenity to future residents as evident by the sufficient sized and self-contained rooms that have a high standard of internal and external amenity, compliant landscaping and communal living area, communal open space area, sufficient bicycle parking, waste management areas and other facilities despite the allotment size.* This environmental planning ground is accepted because the smaller lot size has not affected the proposal’s ability in achieving compliance with the development standards and controls related to residential amenity. Given the proposal involves the adaptive reuse of an existing building, the proposal is still designed to ensure compliance with the relevant standards and provide adequate amenity for residents without

adversely impacting adjoining properties through the adaptive reuse of the existing building within an accessible area.

Environmental Planning Ground 2 – *The proposed provides for an intensity of development that is capable of being serviced by the existing infrastructure.* This environmental planning ground is accepted because, while the proposed co-living housing is on a smaller site than that required by the development standard, the site is well located within an existing established local centre which has access to various forms of public transport, supermarkets and services within walking distance, providing a well-serviced housing development despite the smaller lot size.

Environmental Planning Ground 3 – *The proposed variation to minimum lot size is not readily perceived when compared with the existing subdivision pattern within the locality.* This environmental planning ground is accepted because the subject site is located within a local centre which is characterised by narrow allotments fronting the main road. The proposal utilises the existing building proposing the co-living housing as shop top housing, maintaining the existing subdivision pattern with the adaptive reuse of the existing building. As a result, the development will not impact the existing subdivision pattern of the local centre and is consistent with the changing character of the area.

Cumulatively, the grounds are considered sufficient to justify contravening the development standard.

For the reasons outlined above, it is recommended that the Clause 4.6 exception be granted.

Clause 4.4 Floor Space Ratio development standard

The applicant seeks a variation to the abovementioned development standard under Clause 4.6 of the *IWLEP 2022* by 95.5sqm or 9.59%. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the *IWLEP 2022* below.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Clause 4.4** is "(a) to establish a maximum floor space ratio to enable appropriate development density.". The written request states that the proposal provides an

appropriate density for the site, given the proposal seeks to retain and adaptively reuse the existing building which has resulted in the retention of structural elements. While compliance could have been achieved by reducing floor area on the upper levels, this would not result in an improved amenity or urban design outcome for the site. Accordingly, the breach is consistent with the first objective given the adaptive reuse of the existing building has resulted in more floor area on the lower levels.

The **second objective of Clause 4.4** is “(b) to ensure development density reflects its locality.” The written request states that the proposal provides a development density that reflects its locality as the minor 95.5sqm variation is negligible in the scheme of the overall development and achieves much needed housing in the locality. Accordingly, the breach is consistent with the second objective as the density is considered to reflect the existing and desired future character of the area for increasing density within the local centre.

The **third objective of Clause 4.4** is “(c) to provide an appropriate transition between development of different densities.” The written request states that the proposal achieves an appropriate transition between the E1 and R2 low density zoned land to the north by incorporating a stepped form to the front and the front and rear. Accordingly, the breach is consistent with the third objective as the stepped form is considered sufficient in providing a transition to the low-density residential dwellings to the north

The **fourth objective of Clause 4.4** is “(d) minimise adverse impacts on local amenity.” The written request states that the proposal will not result in any significant adverse impacts on local amenity including traffic and pedestrian experiences by removal of the existing vehicle access off Despointes Street and creating greater streetscape activation for the ground level shopfront. As discussed throughout this report, the proposal maintains good neighbouring amenity and good internal amenity to future residents. Accordingly, the breach is consistent with the fourth objective.

The **fifth objective of Clause 4.4** is “(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.” The written request states that the proposal provides 42.82sqm (10.75%) landscaped area to the subject site which will improve the landscaped character from there being no existing landscaping. Accordingly, the breach is consistent with the fifth objective notwithstanding the lack of deep-soil provision on the site.

As the proposal achieves the objectives of the standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Clause 4.6(3)(b), the Applicant provides the following environmental planning grounds to justify contravening the development standard:

Environmental Planning Ground 1 - *The Proposal is consistent with the amenity standards prescribed for co-living housing by the Housing SEPP, including the communal living area, communal open space, rooms sizes etc. which demonstrates that the amenity of the*

development is high, despite the FSR variation. This environmental planning ground is not accepted because the planning ground is not adequately made. It has not been explained why additional FSR is required to achieve amenity standards consistent with the Housing SEPP.

Environmental Planning Ground 2 - *The Proposal provides for an intensity of development that is capable of being serviced by the existing infrastructure.* This environmental planning ground is accepted because the subject site is located within the local centre within walking distance of public transport, shops, services, public open spaces and community facilities. This proximity to existing infrastructure ensures that the existing locality can appropriately accommodate the increase in density of residents and staff on the site.

Environmental Planning Ground 3 – *The proposal does not result in an adverse amenity impact as a result of the non-compliance on future residents or those of neighbouring properties. In this regard, the Proposal provides generous sized rooms with private and communal facilities, provides communal open space and achieves a suitable level of privacy, outlook, solar access and ventilation.* This environmental planning ground is accepted because the proposal has demonstrated that it has been designed to achieve an appropriate level of amenity for residents with regard to privacy, solar access and ventilation which will not adversely affect existing neighbouring properties, or the future development potential of adjoining sites.

Cumulatively, while not all the grounds are adequately made out, Grounds 2 and 3 are considered sufficient to justify contravening the development standard.

For the reasons outlined above, it is recommended that the Clause 4.6 exception be granted.

Part 6 – Additional Local Provisions

Clause	Proposed	Complies
Clause 6.1 Acid sulfate soils	The site is identified as containing Class 5 acid sulfate soils. The proposal is considered to adequately satisfy this clause as the application does not propose any works that would result in any significant adverse impacts to the watertable.	Yes
Clause 6.2 Earthworks	The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.	Yes
Clause 6.3 Stormwater Management	The development, subject to standard conditions, would not result in any significant runoff to adjoining properties or the environment.	Yes, subject to conditions
Clause 6.8 Development in areas subject to aircraft noise	The site is located within the ANEF 20 contour, and as such an Acoustic Report was submitted with the application. The proposal is capable of satisfying this clause as conditions have been included in the development consent to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal's compliance with the relevant provisions of Clause 6.8 of the <i>IWLEP 2022</i> .	Yes, subject to conditions
Clause 6.9	The proposed development is for the adaptive reuse of an existing building including external changes, that exceeds 14 metres in	Yes

Clause	Proposed	Complies
Design excellence	height. The development is therefore required to demonstrate design excellence. In considering if the proposal exhibits design excellence, the application was referred to the Architectural Excellence & Design Review Panel (AEDRP) for comment. The recommendations from the AEDRP have been largely resolved with the submission of amended plans. The proposal satisfies this clause as follows: • A high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved; • The form and external appearance of the development will improve the quality and amenity of the public domain. • No view corridors and landmarks will be detrimentally impacted by the development; • The proposal is compliant with the solar access provisions of the MDCP 2011 (see discussion in Part B below); and • The development is considered suitable with regard to the site, the existing and proposed uses, streetscape constraints, relationship to existing and future development potential of neighbouring site, bulk, massing and modulation of the building, street frontage heights, environmental impacts, ESD principles, pedestrian, bicycle, vehicle and service access, improvement to the public domain and relationship to the streetscape. See discussions below.	
Clause 6.13 Residential accommodation in Zones E1, E2 and MU1	The proposal satisfies this section as follows: • The building is a mixed-use development as commercial and co-living uses are proposed; • The building will have an active street frontage to both Marrickville Road the retail tenancy and Despointes Street with the pedestrian lobby to the co-living use; and • The building is compatible with the desired character of the area in relation to its bulk, form, scale and uses.	Yes

Clause 6.9 Design Excellence

In considering if the proposal exhibits design excellence, the application was referred to the Architectural Excellence & Design Review Panel (AEDRP) for comment. The recommendations from the AEDRP have been largely resolved with the submission of amended plans.

AEDRP Comments (19 May 2026) and Council's response is provided below:

1. Site Planning and Urban Design:

- a. *The panel generally supports the adaptive reuse approach including:*
 - *the value in retaining the existing structure and its embodied carbon and reducing waste*
 - *the retention of the existing building fabric and integration of new additions responding to the existing built form*
 - *the incorporation of landscaping elements to assist in visually integrating the old and new components of the development.*
- b. *The Panel notes that the multiple setbacks along Marrickville Road result in a visually fragmented and overly complex façade composition, particularly at the third-floor level.*
 - *The Panel queries whether the retention of side setbacks including from the adjoining building number 273, unnecessarily compromises planning efficiency and architectural clarity.*
 - *A more consistent setback strategy with a simpler, more cohesive built form expression and increased façade depth would be desirable.*
- c. *The applicant should ensure that the proposal responds coherently to the Marrickville Road boundary condition.*

Response:

Further information was provided with regard to reducing the existing western side setback and it not being feasible given the lower wall has no load bearing structural capacity, hence, building on top of it would require significant structural alterations to the building, rendering the adaptive reuse unviable.

The setback strategy was resolved to a simpler more cohesive built form expression on the upper levels with one consistent setback, not staggering. This is considered to ensure the building is compatible with future adjoining development along Marrickville Road as it is consistent with the desired future character and design guidelines of the Precinct Guidelines.

2. Ground Plane Configuration and Landscape Design:

- a) *The Panel requests clarification about which doors open to the street level and notes that the fire door swing should not impinge on the footpath. Footpath RLs should be shown on the plan adjacent to any door openings to confirm that the floor levels can work.*
- b) *Further clarification (in plan and elevation) is requested regarding the external location and integration of building services as part of the overall rationalisation of the scheme.*

Response:

The proposal was amended to clearly show the ground floor doors, detailing them as sliding doors so as to not impinge on the footpath. RLs are provided including a section through the entrance doors to ensure the floor levels work.

Detailed plans are provided of the integration of building services within the entryway to the co-living lobby including the booster and mailboxes.

3. Architectural Resolution:

- a) *The Panel raises concerns regarding the internal planning. On level 1, the main circulation passage is convoluted and fragmented by services, a wardrobe and stepped doglegs around the lift. There does not appear to be any consistent organising framework that would enable a more rational and modulated series of rooms and services. Most of the rooms present with idiosyncratic plans, with dog-leg circulation and irregular location of services. Reducing the number of rooms on level 1 might enable a more rational modular layout.*

Therefore, the Panel recommends the following amendments to maximise residential amenity:

- Rationalise the unit layouts by integrating the bed as a secondary furniture element within a more modular and flexible living environment that can accommodate seating and dining spaces. A simpler less stepped built form to Marrickville Road on levels 2, 3 and 4 might help this regard. (See Point 1 b)*
 - Simplify the bathroom design into a smaller number of standardised layouts, ensuring greater consistency to improve usability, spatial clarity, and buildability.*
- b) *The Panel recommends relocation of the FOGO bins to the ground floor to minimise odour, vermin and amenity impacts on the residential floors.*
- c) *The Panel raises concern regarding the location and configuration of communal laundry facilities, noting that they do not effectively integrate with the communal open space areas. The circulation in the proposed space is constrained by the centrally located structural column. The Panel recommends redesigning the laundry as a more cohesive and functional communal facility that is better connected to adjacent communal areas and capable of supporting incidental social interaction and communal use.*
- d) *Further clarification is required regarding the following aspects of the design:*
- Wall build-up, fire rating compliance and structural integration of the proposed 280mm timber-framed wall construction with the existing building*
 - Slab set-downs*
 - Balcony falls and drainage*
 - Location and integration of services*
- e) *Lift shaft treatment for structural integrity, acoustic privacy to adjacent rooms and for fire safety.*
- f) *The Panel recommends further refinement of the upper-level façade treatment, including:*
- Better alignment of levels 3 and 4 to achieve a more coherent relationship between the two levels.*
 - Modulation of window openings, which are currently depicted as overly planar elements and disconnected from the wall and façade composition.*
 - Redesign of the level 3 detailing and balustrade treatment which interrupts the façade composition, weakening the clarity of the retained masonry form.*
- g) *Recessing the wall alignment from the projecting concrete ledge on the south-east elevation ie in the same alignment as the brick wall below to show a clearer transition between the retained masonry base and new lightweight form above.*
- h) *The Panel notes that it was difficult to understand if the set downs to the balcony slabs fronting Marrickville Road were existing or new and if they were adequate. This requires further clarification.*
- i) *The Panel raises concerns that the proposed corrugated cladding is not an appropriate material within the streetscape and suggest an alternative profiled panel-like metal sheet with concealed fixing be explored.*
- j) *It is noted that the proposed bagged render finish to the existing brickwork is likely to be difficult to adhere, lacks a civic character, will be subject to weathering and dirt*

accumulation. Hence, the Panel suggests retaining the exposed face brick where possible, with render treatments applied only to altered or infilled areas.

- k) The Panel notes that the drawing documentation including section, elevation and 3D resolution requires further refinement to clearly communicate design resolutions and the relationship between the retained structure and proposed additions. The Panel found it difficult to understand what was being retained in section. The applicant should ensure:*
- Consistency in colour coding between existing and proposed works across all drawings (plans and sections)*
 - Clarity in addressing the following elements on the section drawings:*
 - existing slabs and slab modifications*
 - existing and new structure and proposed structural changes*
 - level changes*
 - proposed lightweight structure, represented both vertically and horizontally.*
 - Amendments to the documentation is required to resolve the identified inconsistencies and inaccuracies, including:*
 - the Level 1 plan, which currently indicates construction works that conflict with the existing lift shaft and may require supplementary structural intervention;*
 - existing concrete slab thicknesses and set downs;*
 - the Level 3 plans, where portions of the proposal appear to penetrate the existing slab and require further clarification.*
 - The Panel requests clarification as to whether the proposed floor-to-floor heights provide adequate spatial quality and room for services.*

Response:

- a) The floor plan on level one was rationalised to reduce the “dogleg” room designs around the lift core with more modulated room designs. The rooms designs were also rationalised by integrating the bed as secondary elements with other living furniture and bathrooms standardised to a number of designs.
- b) Fogo bins were removed from each level to only be at ground level.
- c) While the communal laundry has been rationalised in its design, it isn’t integrated with a communal living area. This is considered acceptable given there is a communal area at the same level to foster interactions and foot traffic on the floor, and the outdoor clothesline requires foot traffic through the main communal living area which will help in fostering incidental social interactions and movement across the floors.
- d) These details have been adequately shown on the amended plans provided.
- e) This is subject to BCA compliance.
- f) Levels 03 and 04 are more rational and the stepping of the built form on the upper levels. The window openings are more modular and rational and offer more depth with insets. The balustrade on level 3 has been simplified to reduce clutter and setback to allow the existing masonry elements of the façade to remain the key façade feature.
- g) The walls above and below the existing concrete ledge are now aligned.
- h) The plans were revised to clearly distinguish existing built elements from proposed.
- i) The cladding was revised to James Hardie Axon Cladding which is considered to be a compatible material for the streetscape.
- j) The bagged render was deleted, and existing brickwork remains exposed as recommended.
- k) The plans were amended to be clearer in showing the existing and proposed elements, particularly on the sections. The inconsistencies were resolved. The floor-to-floor heights are more than sufficient to accommodate services with dimensions shown on sections.

B. Development Control Plans

Summary

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011).

MDCP 2011	Complies
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Acceptable – see discussion
Part 2.12 – Signs and Advertising	Yes
Part 2.18 – Landscaping and Open Space	Yes
Part 2.20 – Tree Management	Yes, subject to conditions
Part 2.21 – Site Facilities and Waste Management	Yes, subject to conditions
Part 2.25 – Stormwater Management	Yes, subject to conditions
Part 4.3 – Boarding Houses	Yes
Part 5 – Commercial and Mixed Use Development	Yes
Part 9 – Strategic Context	Yes

The following provides discussion of the relevant issues:

Marrickville Development Control Plan 2011

The application was assessed against the following relevant parts of the Marrickville Development Control Plan 2011 (MDCP 2011).

Part 2 – Generic Provisions

Control	Assessment	Complies
Part 2.1 Urban Design	The proposed development satisfies the relevant provisions of this Part as follows: - The proposal does not impact the definition between the public and private domain and is appropriate for the character of the locality given its form, massing, siting and detailing; and - The proposal preserves the existing character of the streetscape, as the proposed addition will not be visible from the public domain and protects the street elevation of the existing dwelling.	Yes
Part 2.5 Equity of Access and Mobility	The proposed development satisfies the relevant provisions of this Part as follows: - Appropriate access is provided for all persons through the principal entrance to the commercial and co-living uses; - Two co-living units are designed to be adaptable. - A Continuous Accessible Path of Travel (CAPT) to and within the subject premises is provide which allows a person with a disability to gain access to all areas within the commercial tenancy and the co-living use; and - Suitable accessible sanitary facilities are provided.	Yes
Part 2.6 Acoustic and Visual Privacy	The proposal will have a satisfactory impact on visual and acoustic levels of the surrounds as follows: - The subject site is located within the ANEF 20 contour and as such an acoustic report was provided which ensures the development can comply with the relevant Australian Standards and guidelines in relation to aircraft noise. The report provided also accounts for noise generated by local traffic and commercial tenancies ensuring residential amenity can be maintained. - The principal living area and area of communal open space (COS) is designed and located to offer reasonable amenity to occupants; - The plan of management (POM) outlines that the COS “Usage is restricted to 8:00 AM to 8:00 PM daily <i>unless otherwise agreed</i>” (emphasis added). It is a recommended condition of consent that the POM be amended to delete the works “unless otherwise agreed” to provide greater certainty on the ongoing hours of the COS; - The COS incorporates a perimeter planter box obstructing sight lines to adjoining properties; - The windows proposed are adequately offset from adjoining windows or incorporate suitable privacy measures, thereby protecting existing privacy levels for surrounding occupiers;	Yes

Control	Assessment	Complies
	- The pool is existing and located towards the rear away from bedroom areas of the adjoining dwellings; - Planter boxes are located around private and communal balconies which aids in offsetting views to neighbouring dwellings; - Conditions have been included to ensure that the noise levels associated with pool pumping unit will not result in adverse noise impacts for surrounding properties; - Conditions are imposed to ensure compliance with the relevant acoustic noise criteria; and - The proposal includes appropriate management techniques to limit acoustic impacts to nearby/adjoining residents.	
Part 2.7 Solar Access and Overshadowing	The proposal will have a satisfactory impact in terms of solar access and overshadowing on the surrounds as follows: <i>Overshadowing</i> - A minimum of 2 hours direct solar access to windows of principal living areas and principal areas of open space of nearby residential properties between 9:00am and 3:00pm on 21 June is retained; and - The development will not result in adverse amenity impacts as a result of overshadowing. <i>Solar Access</i> - Under this section, at least 65% of dwellings within the residential component of mixed-use buildings must provide living area windows positioned within 30 degrees east and 20 degrees west of true north and allow for direct solar access for at least 2 hours over a minimum of 50% of the glazed surface between 9:00am and 3:00pm on 21 June. Given the orientation of the building and existing context within a commercial centre with nil side setbacks, only 28% of the proposed co-living dwellings have windows facing between 30 degrees east and 20 degrees west of true north. Nonetheless, the proposed communal living areas comply with this provision and are considered to account for the units which do not achieve the minimum solar access requirements specified above; and - The communal open space receives at least two hours of direct sunlight over 50% of its finished surface between 9:00am and 3:00pm on the 21 June.	Yes
Part 2.9 Community Safety	The proposed development satisfies the relevant provisions of this Part as follows: The proposal includes increased glazing to Marrickville Road and Despointes Street frontages which improves surveillance over the footpath as well as improving the pedestrian experience in the commercial precinct;	Yes

Control	Assessment	Complies
	- The building entrances area clearly visible for both the retail and co-living components; - Street numbering and wayfinding signage will aid in clearly identifying the building and tenants; and - The corner splays on ground level are retained which reduces blind corners for pedestrians.	
Part 2.10 Parking	The proposed development satisfies the relevant provisions of this Part as follows: <u>Car parking</u> - Under the <i>SEPP Housing 2021</i>, 5 car parking spaces are required for the co-living component; - The DCP requires one (1) car parking space for the commercial use; - One (1) accessible car parking space is proposed in total. The variation to the car parking requirement for co-living is discussed under Clause 4.6 of the <i>IWLEP 2022</i> which is considered acceptable in the circumstances. The 1 car parking space proposed is dedicated to the commercial tenancy. A Traffic Impact Assessment report was provided with the proposal which is considered to sufficiently justify the parking non-compliance given the site is located within an accessible area and bicycle parking in excess of what is required is provided in lieu of car parking. <u>Bicycle parking</u> 16 Bicycle parking spaces are required for co-living development under this part; 1 is required for the commercial space; and 19 bicycle parking spaces are proposed which is compliant with this part. <u>Parking design</u> - The configuration and design of the car, bicycle and motorcycle parking is in accordance with this part of the Plan and can comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking.	Acceptable, subject to conditions
Part 2.12 Signage and Advertising Structures	The proposed development satisfies the relevant provisions of this Part as follows: - The 6.03sqm of signage complies with the maximum sqm of signage permitted based on the frontage of the site; - The proposed flush wall sign above the shop front complies with the design controls within this section; and - The proposed under-awning signs are a typical size and consistent with the design of under-awning signage in the vicinity.	Yes

Control	Assessment	Complies
Part 2.18 Landscaping and Open Spaces	The proposed development satisfies the relevant provisions of this Part as follows: - The area of Communal Open Space is compliant with this part whereby is at least 10% of the subject site, connected to the communal living area, and designed to accommodate outdoor furniture, drying areas, smoking areas and has adequate space to have separation between different activities; and - The Landscape Plan has been provided demonstrating appropriate plantings and landscaped design in accordance with this part.	Yes
Part 2.20 Tree Management	The proposed development satisfies the relevant provisions of this Part as follows: - No prescribed trees were found on the property; and - As the subject site as existing has 100% site coverage and the proposal is for the adaptive re-use of the existing building, no canopy plantings are required at the subject site; - The development is within proximity of a street tree on the Marrickville Road frontage. The tree is a prominent specimen in the streetscape and marks the entryway to a pedestrian crossing. As an established tree, it contributes to the local area, providing shade and cooling properties to the road and surrounding areas. This tree also adds to the aesthetic value of the Marrickville Road planting. Damage or removal would diminish the continuity of the avenue and replacement planting would take a significant period of time for the tree to reach maturity and restore the lost canopy and value etc; - At the time of inspection, the tree was in very good health, has good structure, provides environmental benefits in the form of flora and habitat/shelter, has social benefit as it creates a 'sense of place', is an attractive specimen during the seasons and is seen and known locally by many passers-by; and - A valuation of the tree was established using the Thyer Tree Valuation Method, determining an estimated replacement value of \$332,563.00. This valuation supports the requirement for a \$10,000.00 bond and the associated tree protection measures which are recommended conditions of consent.	Yes, subject to conditions
Part 2.21 Site Facilities and Waste Management	The proposed development satisfies the relevant provisions of this Part as follows: The application was accompanied by a waste management plan in accordance with the Part for demolition and construction, and ongoing use;	Yes, subject to conditions

Control	Assessment	Complies
	- The proposed waste storage areas are designed in accordance with this part; and - Standard conditions are recommended to ensure the appropriate management of waste during the construction of the proposal.	
Part 2.25 Stormwater Management	Standard conditions are recommended to ensure the appropriate management of stormwater.	Yes, subject to conditions

Part 4.3 – Boarding houses

The proposal is a mixed use development with a co-living housing component. Given there is no section within the Marrickville DCP 2011 for Co-living housing, an assessment is made under the most relevant use for the housing design being Boarding houses. Reference to the relevant controls is made below.

Control	Assessment	Complies
Part 4.3.3.1 Character and amenity of the local area	The design of the co-living housing is compatible with the character of the area and is within proximity of appropriate public transport and services so as to no impact the amenity of the local area.	Yes
4.3.3.2 Boarding house capacity	The resident numbers are based off the room sizes with rooms that are 12-16sqm only permitted to have one lodger, and those 16sqm+ permitted to have two lodgers. A condition is recommended to specify the maximum lodger numbers for each room.	Yes, subject to condition
4.3.3.4 Management	Adequate managers workspace is provided in accordance with the provisions of the <i>SEPP Housing 2021</i> for co-living housing.	Yes
4.3.3.5 Boarding Rooms	The proposal satisfies this Part as follows: - The co-living rooms are adequate in size, configuration and facilities to accommodate residents need and provide a reasonable level of privacy and comfort; - The size of the rooms complies with the provisions of the <i>SEPP Housing 2021</i> for co-living housing and have been calculated in accordance with this section; and - All the rooms have access to natural ventilation and natural light through an external window.	Yes
4.3.3.6 Communal rooms and facilities	The residents have access to two different communal living rooms to the minimum area (68sqm) and dimensions required under the <i>SEPP Housing 2021</i> for co-living housing. The principle communal living area on level 2 is 50sqm and has a high level of amenity. It connects directly to the communal outdoor area, has a good outlook and receives at least at least 3 hours of sunlight between the hours of 9.00am and 3.00pm in mid-winter. It is considered that the size and high level of amenity achieved in the principle communal living area offsets the suboptimal amenity of the 26sqm secondary communal living area on level 1 which is serviced only by a skylight and no access to natural ventilation. It is also noted	Yes

Control	Assessment	Complies
	that the quality of the secondary living area is partly a reflection of contextual challenges of the relatively deep block, nil setback to the eastern (side) setback and that the proposal is an adaptive reuse of an existing building.	
4.3.3.7 Communal laundry	The path of travel from the communal laundry to the communal drying area is relatively direct and will allow incidental interactions between residents within the communal spaces.	Yes
4.3.3.8 Landscaped area and common open space	The main area of communal open space receives a minimum of 3 hours direct sunlight between the hours of 9:00am and 3:00pm midwinter.	Yes

Part 5 – Commercial and Mixed Use Development

Control	Assessment	Complies
Part 5.1.3 Building Form	The proposed development satisfies the relevant provisions of this Part as follows: - While a variation to FSR is proposed, it is considered acceptable in the circumstances – see discussion under Clause 4.6 of the <i>IWLEP 2022</i> above. - The proposed density and height are considered compatible with the future desired character of the commercial centre and is appropriate to the contextual constraints of the subject site. - The upper-level additions above the street front portion of the building being retained has an average setback of 6m from the street front. Given the angled frontage, the average is considered acceptable given it allows adjoining future development to follow the 6m setback and does not result in any adverse amenity impacts to neighbouring properties. - The proposal generally complies with the rear massing controls except for the portion of the first floor being retained. The variation is hence considered acceptable given this is an existing structure and does not result in any significant bulk or amenity impact to neighbouring properties. - The top 3m of the building does not contain a dwelling within the structure.	Yes
Part 5.1.4 Building Detail	The proposed development satisfies the relevant provisions of this Part as follows: - The street front portion of the building mass is the existing retained building, with the proposed upper levels being visually subservient in form, scale and detail. - The proposal reinstates an active commercial shop front at ground level which will face and complement the streetscape character. Residential uses have the primary entrance off the secondary street frontage ensuring adequate residential amenity without impacting the viability of the retail frontage.	Yes

Control	Assessment	Complies
	The shop front is designed in accordance with this section, maintaining the existing height and width of the frontage, having internal floor levels which relate to the street level, providing glazing along the frontage, and having an adaptable floor plan with access to back-of-house facilities.	
Part 5.1.5 Building Use	The proposed development satisfies the relevant provisions of this Part as follows: - The ground floor contributes to an active street frontage being primarily commercial and majority glazed facing Marrickville Road. - The proposal retains the ceiling heights of the existing building which are generous in respect to this section and will provide adequate natural light to the co-living rooms.	Yes
Part 5.1.6 Vehicle Access, Parking and Loading Services	The proposed development satisfies the relevant provisions of this Part as follows: - Vehicular access is located off the rear laneway and loading facilities are minimised to maximise commercial floor area at ground level. - A Delivery and Service Management Plan was submitted to demonstrate the appropriate management of the loading area to minimise impacts on amenity.	Yes
Part 5.3.1.1 Plan of Management	The proposed development satisfies the relevant provisions of this Part as follows: A Plan of Management (POM) was submitted with the application. Subject to conditions, the POM submitted is considered to be comprehensive and provide suitable management procedures to minimise potential amenity impacts to the surrounding locality. A condition is included in the recommendation requiring the operation of the premises to adhere to the POM submitted, as amended by any conditions of consent.	Yes
Part 5.3.1.2 Noise and vibration generation	The proposed development satisfies the relevant provisions of this Part as follows: This matter is discussed above under Part 2.6 of MDCP 2011, and the development is acceptable in this regard subject to the imposition of appropriate conditions.	Yes
Part 5.3.1.3 Environmental protection	The proposal is considered to satisfy this part as no commercial use is proposed which will generate significant odours/pollutants which need to be managed. One parking space is proposed which limits the number of vehicle movements which will contribute to emissions.	Yes
Part 5.3.1.4 Hours of Operation	The proposal does not include any proposed hours of operation for the commercial premises. The hours of operation and use of the commercial tenancy will be subject to future approval.	Subject to future approval

Part 9 – Strategic Context

Control	Assessment	Complies
Part 9.40 Marrickville Town Centre Commercial (Precinct 40)	The proposed development satisfies the relevant provisions of this Part as follows: • The proposal is compliant with the applicable building envelope controls for the building typology under this part as visualised in Figure 3 below as it provides compliant front building setbacks and articulation zones on the upper levels with the provision of balconies. While the rear at level 01 does not comply with the envelope shown in the figure, the nil rear setback is part of the existing building which is being adaptively reused and hence, is considered acceptable. While the existing communications tower at the top of the building exceeds the maximum building height of 20m the extent of the proposed works are below the 20m maximum height of building in compliance with this section and Clause 4.3 of the <i>IWLEP 2022</i>; and • The proposal is consistent with the desired future character of the precinct as the proposal reinstates an active commercial shopfront, promotes good urban design, protects the amenity of surrounding properties, and facilitates efficient parking/loading, improves the streetscape appearance, and improves pedestrian safety and amenity with the removal of the existing Despointes Street driveway.	Yes

9.40.4.3 Scenario 1

- | | |
|------------------------------|--|
| i. Height | 20 metres |
| ii. Floor space ratio | 2.5:1 |
| iii. Street frontage of land | Greater than 12 metres |
| iv. Site area of land | Greater than 325m ² |
| v. Street fronting retention | Not required by Council to be retained |

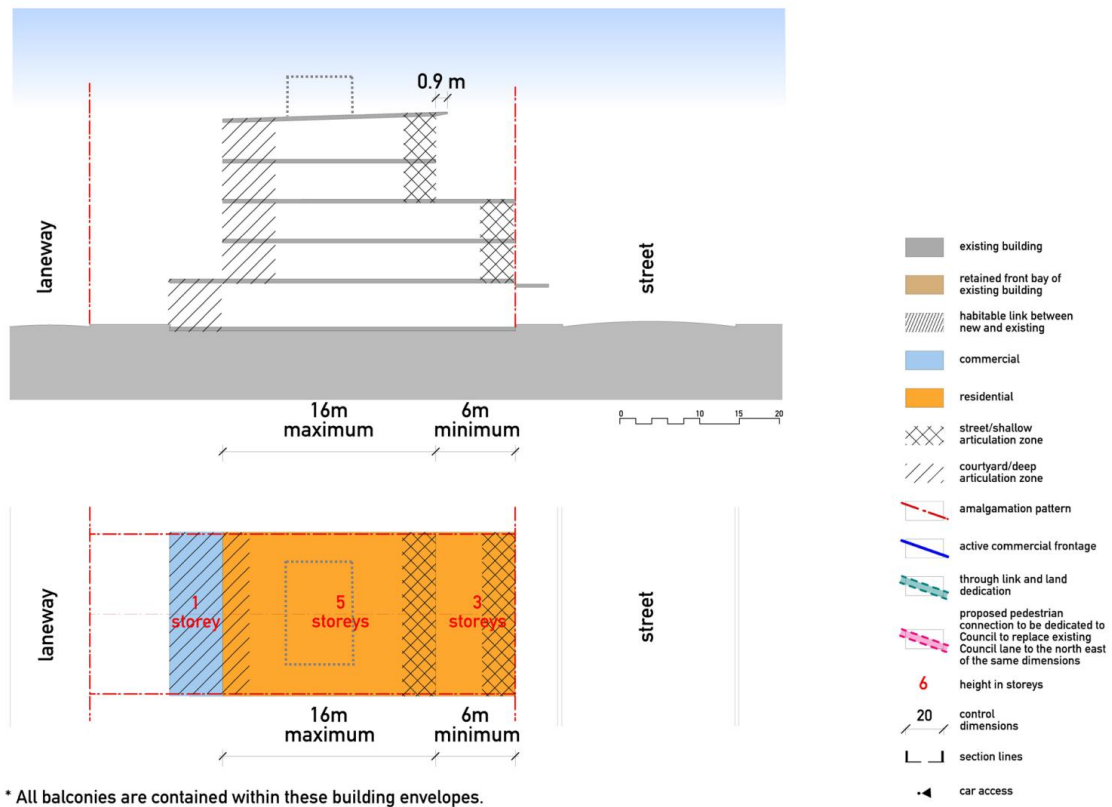


Figure 3: Control diagram for 5 storey development within Precinct 40.

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. Notwithstanding, the proposal is adjacent to a footpath mosaic inlay and given their social and historical significance, the mosaic inlay is to be protected, with a schedule/plan to be submitted which demonstrates its protection to the satisfaction of Council.

It is considered that the proposed development will not have significant adverse environmental, social or economic impacts upon the locality.

E. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential and commercial surrounding and amongst similar uses to that proposed.

F. Submissions

The application was required to be notified in accordance with Council's Community Engagement Strategy 2025-2029 between 23 April 2026 to 14 May 2026. No submissions were received.

The application was required to be renotified due to amended plans being submitted in accordance with Council's Community Engagement Strategy 2025-2029 between 30 July 2026 to 20 August 2026. No submissions were received.

G. The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

This has been achieved in this instance.

6. Section 7.11 / 7.12 Contributions

Section 7.11 contributions are payable for the proposal.

A 'credit' for the existing uses has been applied:

- 118sqm of retail;
- 352sqm of restricted premises; and
- 1 x 4 bedroom dwelling.

Based on the proposal for:

- 141sqm of retail;
- 13 single co-living rooms; and
- 12 double co-living rooms.

A contribution of **\$392,137** would be required under the Inner West Local Infrastructure Contributions Plan 2023.

A condition requiring that contribution to be paid is included in the recommendation.

7. Housing and Productivity Contributions

The carrying out of the development would result in an increased demand for essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and

regional open space. A contribution of **\$8,602.55** would be required for the development under Part 7, Subdivision 4 Housing and Productivity Contributions of the *EP&A Act 1979*.

A housing and productivity contribution is required in addition to any Section 7.11 or 7.12 Contribution. A condition requiring that the housing and productivity contribution is to be paid is included in the recommendation.

8. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Development Engineer;
- Urban Forest;
- Resource Recovery;
- Environmental Health;
- Building Certification; and
- Architectural Excellence and Design Review Panel.

The following external referrals were made, and their comments have been considered as part of the above assessment:

- Ausgrid.

9. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Marrickville Development Control Plan 2011.

The development will not result in any significant impacts on the amenity of the adjoining premises, properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

10. Recommendation

- A. In relation to the proposal in Development Application No. DA/2026/0341 to contravene the minimum car parking for co-living housing development standard in Section 68(2)(e) of *State Environmental Planning Policy (Housing) 2021*, the Inner West Local Planning Panel is satisfied that the Applicant has demonstrated that:
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

- B. In relation to the proposal in Development Application No. DA/2026/0341 to contravene the minimum lot size for co-living housing standard in Section 69(1)(b) of *State Environmental Planning Policy (Housing) 2021* the Inner West Local Planning Panel is satisfied that the Applicant has demonstrated that:
- (c) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (d) there are sufficient environmental planning grounds to justify the contravention of the development standard.
- C. In relation to the proposal in Development Application No. DA/2026/0341 to contravene the Floor Space Ratio development standard in Clause 4.4 of *Inner West Local Environmental Plan 2022* the Inner West Local Planning Panel is satisfied that the Applicant has demonstrated that:
- (e) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (f) there are sufficient environmental planning grounds to justify the contravention of the development standard.
- D. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2026/0341 for alterations and additions to an existing mixed-use building and adaptive reuse to provide a retail tenancy and parking on the ground floor and co-living housing with 25 rooms above. Works include partial demolition of existing structures and construction of a 5-storey mixed-use development with associated signage, landscaping, civil works and public domain works at 269 Marrickville Road, Marrickville subject to the conditions listed in Attachment A.