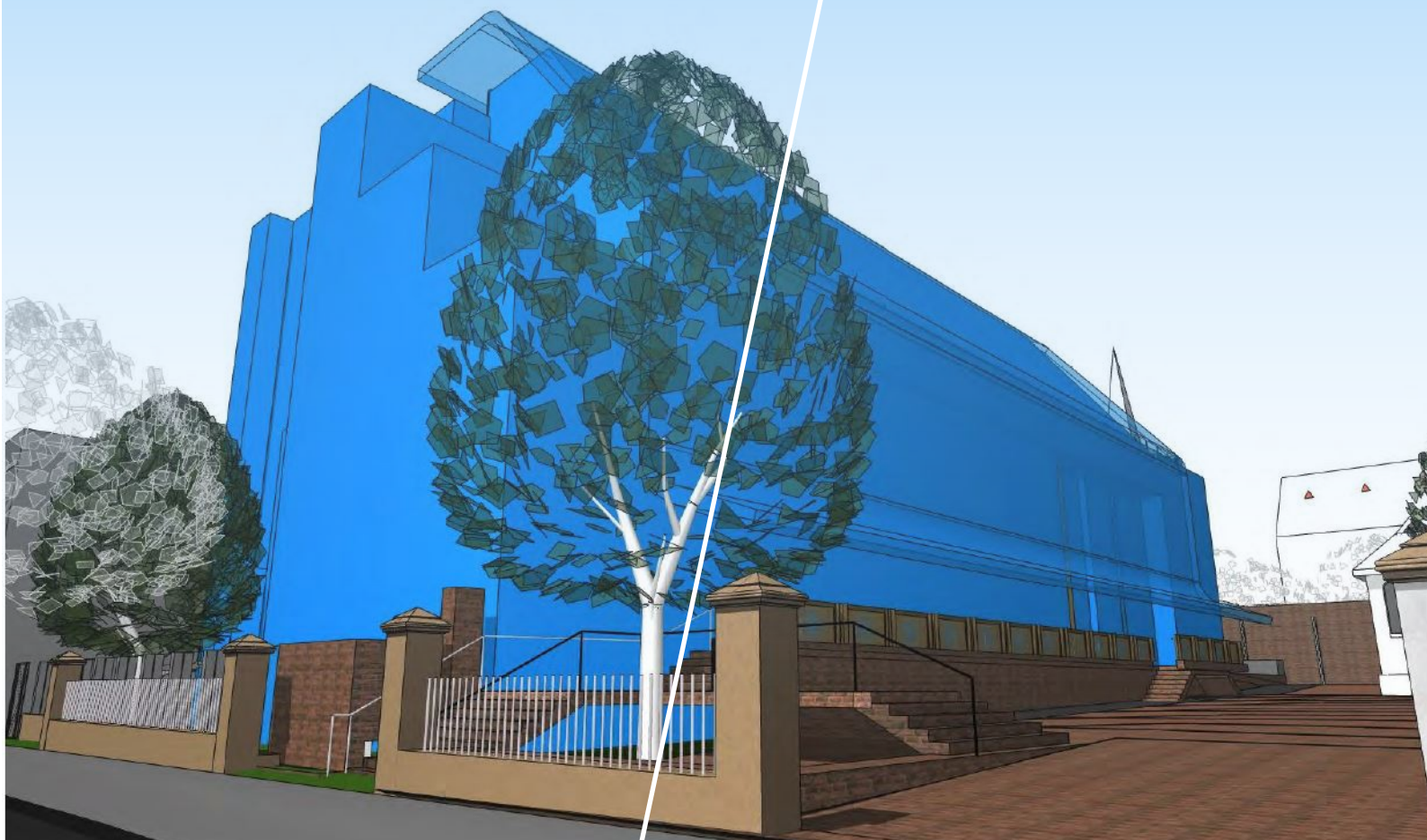




UTS Blackfriars Precinct Research Building

State Significant
Development
Modification Assessment
(SSD 6746 MOD 1)



July 2019

© Crown Copyright, State of NSW through its Department of Planning, Industry and Environment 2019

Cover photo

Photomontage of building envelope, from Blackfriars Place (Source: Applicants additional information)

Disclaimer

While every reasonable effort has been made to ensure this document is correct at time of printing, the State of NSW, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance or upon the whole or any part of this document.

Copyright notice

In keeping with the NSW Government's commitment to encourage the availability of information, you are welcome to reproduce the material that appears in Modification Assessment Report SSD 6746 MOD 1. This material is licensed under the Creative Commons Attribution 4.0 International (CC BY 4.0). You are required to comply with the terms of CC BY 4.0 and the requirements of the Department of Planning, Industry and Environment. More information can be found at: <http://www.planning.nsw.gov.au/Copyright-and-Disclaimer>.



Glossary

Abbreviation	Definition
ADG	Apartment Design Guide
AHD	Australian Height Datum
BCA	Building Code of Australia
CIV	Capital Investment Value
Consent	Development Consent
Council	City of Sydney Council
Department	Department of Planning, Industry and Environment
DPC	Department of Premier and Cabinet
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FFL	Finished Floor Level
Jury	Design Competition Jury
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
Heritage Division	Heritage, Community Engagement, Department of Premier and Cabinet (former Heritage Division of the Office of Environment and Heritage)
RL	Relative Level
Transport for NSW (RMS)	Transport for NSW (Roads and Maritime Services)
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development
TZG	Tonkin Zulaikha Greer
UTS	University of Technology Sydney



Executive Summary

This report is an assessment of an application to modify the State significant development (SSD) concept approval for the University of Technology (UTS) Blackfriars Precinct Research Building, within the UTS Blackfriars Precinct at 2-14 Buckland Street, Chippendale.

The modification application seeks to amend the building envelope to accommodate a design competition winning scheme, modify the setback to Buckland Street, change solar access performance criteria and additional tree removal.

The Applicant is the University of Technology Sydney and the proposal is located within the City of Sydney local government area (LGA).

Engagement

The modification application was publicly exhibited from 20 September to 4 October 2018. The Department received seven submissions in response to the exhibition, comprising five from government agencies (comments), the City of Sydney Council (Council) (comments) and one public submission (objection). Council provided comments raising concerns about heritage and urban design, overshadowing, landscaping, tree removal and location of flood barrier. The government agencies did not object to the proposal, providing general comments. The public submission received objected to the removal of mature street trees in Buckland Street.

The Applicant submitted a Response to Submissions (RtS), providing further justification and detailed plans for the proposal, however no design amendments were made. The RtS did not require re-exhibition as no changes were made to the proposal. In the RtS, the Applicant clarified no works are proposed to street trees in response to the public submission received.

Council reviewed the RtS and advised they support in principle, the tree removal and replacement with advanced trees, and suggested the flood barrier be relocated into the building envelope.

The Applicant provided further additional information in response to the Department's request for additional justification for the tree removal, the changes to the western setback to Buckland Street and Council's comments. The Applicant provided detail of six advanced trees to be planted within the site and provided indicative plans of the relocated flood barrier. The further information did not require re-exhibition as no significant changes were made to the proposal.

Assessment

The Department has considered the merits of the proposal in accordance with the relevant matters under section 4.55(2) of the EP&A Act, the issues raised in the submissions and the Applicant's response to these.

The Department considers the key issues include the changes to the Buckland Street setback, tree removal, solar access to adjoining properties, location of flood barrier, conservation of the heritage palisade fence, the southern setback and the eastern elevation building envelope height.

The Department notes the changes to the building envelope arise from a design competition held by the Applicant. The Design Competition Jury (Jury) supported key amendments to the western frontage of the building envelope, tree removal and lightwells for the basements, to resolve the heritage and urban design

response of the architectural form. The Jury considered the winning scheme had the potential to demonstrate design excellence. The Department also notes the Jury included members representing Council and the Government Architect. The Department considers the building envelope has a positive relationship to the site and adjacent heritage buildings and will facilitate a built form capable of exhibiting design excellence.

The Applicant has demonstrated that, despite the removal of three trees, six advanced trees can be provided, and these replacement trees will support a whole of site landscaping approach (in Stage 2) to enhance the sites existing amenity. The proposal does also not affect any street trees. The Department recommends a new condition requiring the replacement tree details be provided in the Stage 2 application.

The Department considers the proposal will not adversely affect solar access to residential properties in Buckland Street (to the west of the site). In accordance with the Apartment Design Guide (ADG), the majority of living rooms and private open spaces are able to maintain 2 hours of solar access in mid-winter.

The proposed development has relocated a flood barrier from behind the heritage palisade fence to within the proposed building envelope, removing impacts to this heritage significant fence. The Applicant has also clarified the Stage 2 detail application will address the conservation of the heritage palisade fence and the Department recommends this be required in a new condition and minimise relocation of original heritage fabric.

Regarding the southern setback of the proposed building envelope, the Department is satisfied adequate open space is provided between the building envelope and heritage buildings, protecting the curtilage of the heritage items, amenity of the site and key views into the site.

The eastern elevation height increase is required to comply with flood planning levels and to allow flexibility for the Stage 2 detailed design. The Department is satisfied the building envelope height will not compete with St Benedict's Church and does not increase overshadowing to the church courtyard at 3 pm in mid-winter.

Summary

The Department considers the proposal provides a building envelope that responds to the site, the adjacent heritage buildings and will facilitate a built form capable of exhibiting design excellence. The replacement tree planting will allow landscaping to enhance the sites heritage character.

The proposed building envelope will not unduly impact amenity for adjoining sites, including residential properties to the west and St Benedict's Church courtyard to the east.

The Department is satisfied the proposal is consistent with the strategic objectives for the area, as outlined in the Greater Sydney Region Plan and the Eastern City District Plan.

The Department concludes the site is suitable for the proposal and that it is in the public interest and recommends the application be approved, subject to conditions.



Contents

Glossary	iii
Executive Summary	iv
Contents	vi
1. Introduction	1
1.1 Background	1
1.2 Approval History	2
1.2.1 Concept Approval	2
1.2.2 Design Competition for Stage 2 detailed design.....	4
1.2.3 Development consent D/2012/1398	5
1.2.4 SEARs SSD 9571	5
2. Proposed Modification	6
3. Strategic Context	9
3.1 Greater Sydney Region Plan.....	9
3.2 Eastern City District Plan	9
4. Statutory Context	10
4.1 Scope of Modifications	10
4.2 Consent Authority	11
4.3 Environmental Planning Instruments.....	11
4.4 Objects of the EP&A Act.....	11
5. Engagement	12
5.1 Department's Engagement.....	12
5.2 Summary of Submissions.....	12
5.3 Key Issues – Government Agencies.....	12
5.4 Key Issues – Council.....	13
5.5 Key Issues – Public.....	13
5.6 Response to Submissions	13
5.7 Further additional information	14
6. Assessment	16
6.1 Western setback	16
6.1.1 Buckland Street frontage	17
6.1.2 Tree removal	17

6.1.3	Solar access to adjoining residential properties	20
6.1.4	Flood barrier	23
6.2	Heritage palisade fence	24
6.3	Southern elevation setback.....	25
6.4	Eastern elevation building envelope height.....	27
6.5	Other Issues	29
7.	Evaluation	31
8.	Recommendation	32
9.	Determination.....	33
10.	Appendices	34
	Appendix A – List of Documents.....	34
	Appendix B – Community views for Draft Notice of Decision	34
	Appendix C – Notice of Modification	34
	Appendix D – Consolidated Consent.....	34



1. Introduction

This report is an assessment of an application to modify the State significant development (SSD) concept approval for the University of Technology (UTS) Blackfriars Precinct Research Building, within the UTS Blackfriars Precinct, 2-14 Buckland Street, Chippendale.

The modification to the concept approval seeks to amend the building envelope to accommodate the design competition winning scheme, modify the setback to Buckland Street, modify solar access performance criteria and additional tree removal.

The modification application has been lodged by the University of Technology Sydney (the Applicant) pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

1.1 Background

The UTS City Campus is comprised of three precincts – Haymarket, Broadway and Blackfriars, which are all located on the southern edge of the Sydney CBD within the City of Sydney LGA. The Blackfriars Precinct has an area of approximately 6,043 sqm and is the site for the application (**Figure 1**).

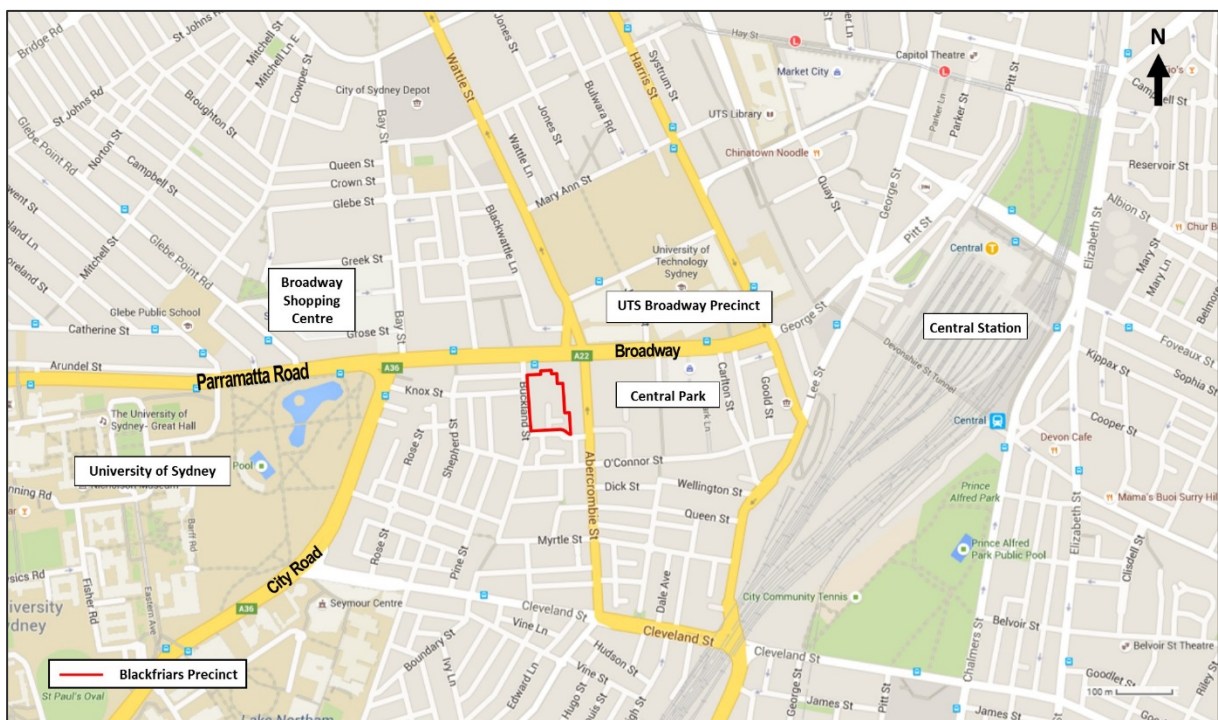


Figure 1 | Site Location (in red) and surrounding context

The site is bound by the University of Notre Dame Australia (UNDA) to the north and east, a residential flat building to the south-east (13-21 Abercrombie Street), Blackfriars Street to the south and Buckland Street to the west. The proposal is located on the northern portion of the site (**Figure 2**).

The Blackfriars Precinct is a locally listed heritage item under the Sydney LEP and forms part of the locally listed Chippendale Heritage Conservation Area.



Figure 2 | Site context, Blackfriars Precinct (red), subject site (blue) and child care centre (yellow)

The Blackfriars Precinct currently contains five buildings. Located within the footprint of the subject site is a single storey weatherboard building, previously used for a childcare centre, and a single storey demountable building. The site also contains three heritage significant two storey brick buildings (located centrally and on the south-eastern portion of the site) which constituted the former Blackfriars School (the former Girl's School building (CB22), former Boy's School building (CB25) and the former Headmaster's residence (CB27). These buildings are used by the Applicant for teaching space, research space and accommodation for academics. The south-western portion of the precinct contains the new UTS Blackfriars Childcare Centre, completed in 2017 (refer to **Section 1.2**).

1.2 Approval History

1.2.1 Concept Approval

On 11 April 2017, the Executive Director, Priority Projects Assessments (as delegate of the Minister), granted development consent for the concept plan (SSD 6746) for the staged development of the UTS Blackfriars Precinct Research Building. This comprises a five-storey building envelope (excluding basement and plant levels) for education, commercial and ancillary retail floorspace, maximum RL 30.77 to plant, basement level/s and a maximum gross floor area of 6,000 sqm.

The development consent includes the following conditions relevant to the modification application:

Building Envelope Modifications

- A7. The Applicant must submit revised building envelope plans to the Secretary for approval prior to the lodgement of any subsequent development application, to address the following:
 - a) retention of the palisade fence adjacent to Buckland Street in its entirety and Trees T33 and T34;
 - b) the setback of the building envelope from the western boundary to Buckland Street shall be the greater of 9.29 m or the distance required to retain Trees T33 and T34 with no more than 15 per cent pruning of each of the existing tree canopies. A tree canopy survey must be prepared by a

- qualified arborist to verify the extent of pruning permitted and submitted to support the revised building envelope;
- c) the four storey components of the envelope must be reduced to a maximum three storeys and RL 20.27; and
 - d) the southern component of the envelope must be deleted to ensure a single southern alignment is provided and a continuous open space area from Buckland Street to the eastern wall (boundary of the site) can be provided whilst maintaining a minimum 8.6 metre separation from the existing buildings on the site.
- A8. The design of any future basement level/s must address the outcomes of archaeological testing required by condition B9 of this consent and avoid impacts (as much as possible) on the State significant archaeology of the site and must not impact on the root zones of significant trees retained within the western setback to Buckland Street.

Built Form and Urban Design

- B2. Any future building must be designed to ensure that there is no greater than 20 per cent additional overshadowing of the St Benedict's Church courtyard and the childcare centre playground at any time between 9 am and 3 pm on June 21 to ensure that adequate solar access is provided.
- B3. Subsequent development application/s must demonstrate that consideration has been given to the protection and minimisation of potential amenity impacts on adjoining sensitive land uses, including overshadowing and acoustic impacts. The future building must be designed to ensure that there will be no additional overshadowing of living areas and private open spaces of residential units to the west between 9 am and 3 pm on June 21.
- B4. Subsequent development application/s must demonstrate:
- a) the proposal achieves design excellence in accordance with the design excellence provisions of Sydney Local Environmental Plan 2012, including how the proposal meets the competitive design process requirements; and
 - b) the proposal is consistent with the revised building envelope in condition A7 of Schedule 1 and that the building design, including services and the like, provide an appropriate relationship with neighbouring buildings.
- B6. A study of the open spaces that exist and the relationships those spaces have to the adjacent buildings and streets be submitted with any subsequent development application. Open space areas (including the open space area required by condition A7(d)) and landscaping for the future development must demonstrate that the open space characteristics of the site have been retained and incorporated in the design of Stage 2.

Lot Consolidation

- B18. The first subsequent development application is to make provision for all land titles within the site to be consolidated into one lot.

The changes in Condition A7 were added to mitigate the heritage impacts and improve the built form and amenity outcomes of the building envelope. The Applicant's final concept plan submission and the approved concept plan (as amended by condition A7) is provided in **Figure 3**.

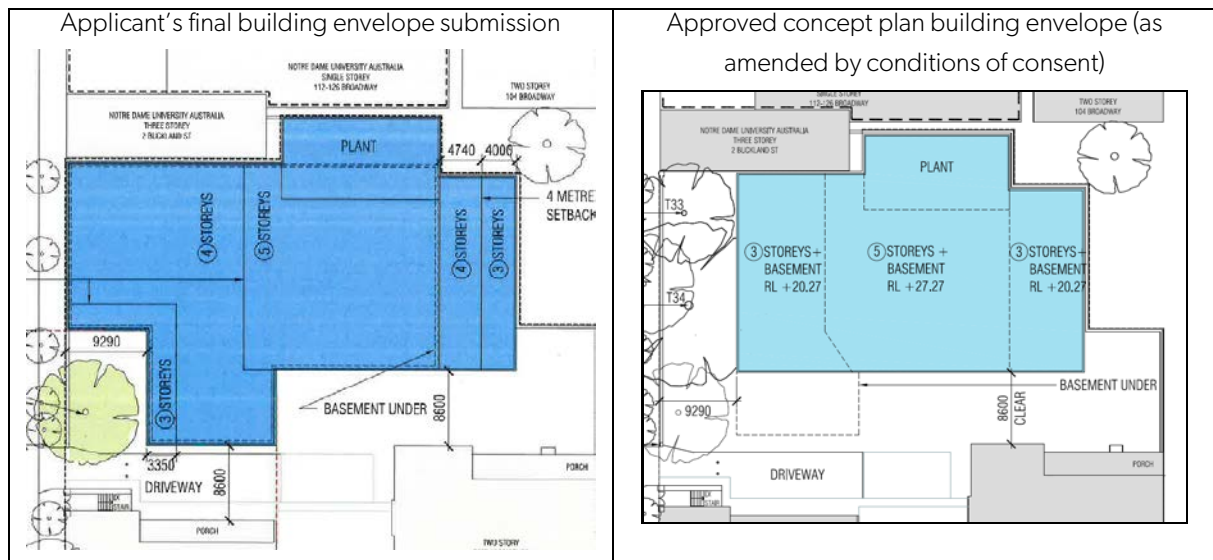


Figure 3 | Applicant's building envelope (left) and approved concept plan building envelope (right)

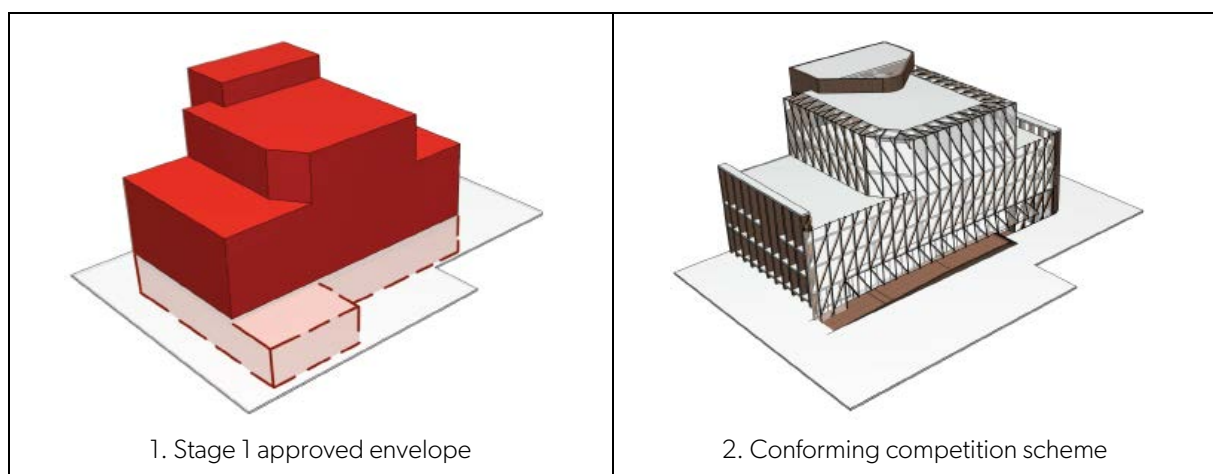
1.2.2 Design Competition for Stage 2 detailed design

In accordance with concept approval consent condition B4(b), a design competition was held by UTS in July 2017 for the Stage 2 detailed design. The competition was carried out in accordance with the City of Sydney Competitive Design Policy.

The Design Excellence Competition Jury selected the Tonkin Zulaikha Greer (TZG) non-complying submission, which the Jury considered had potential to demonstrate design excellence. The Jury recommended further design refinements and TZG presented to the Jury a further developed proposal on two more occasions. The Jury noted the high quality of the design proposal and provided the following comments relevant to the modification application lodged:

- supportive of amendments to the scale of brickwork elements on the western façade, particularly the resulting positive relationship to adjacent heritage buildings
- consider the condition seeking to avoid overshadowing to adjoining residential properties can be challenged to align with ADG and Council requirement for 2 hours solar access between 9am and 3pm on 21 June. The final façade alignment was supported by the Jury as overshadowing would be consistent with ADG and Council's controls.

The evolution of the building envelope from the Stage 1 approved envelope to the proposal submitted for MOD 1 is provided in **Figure 4**.



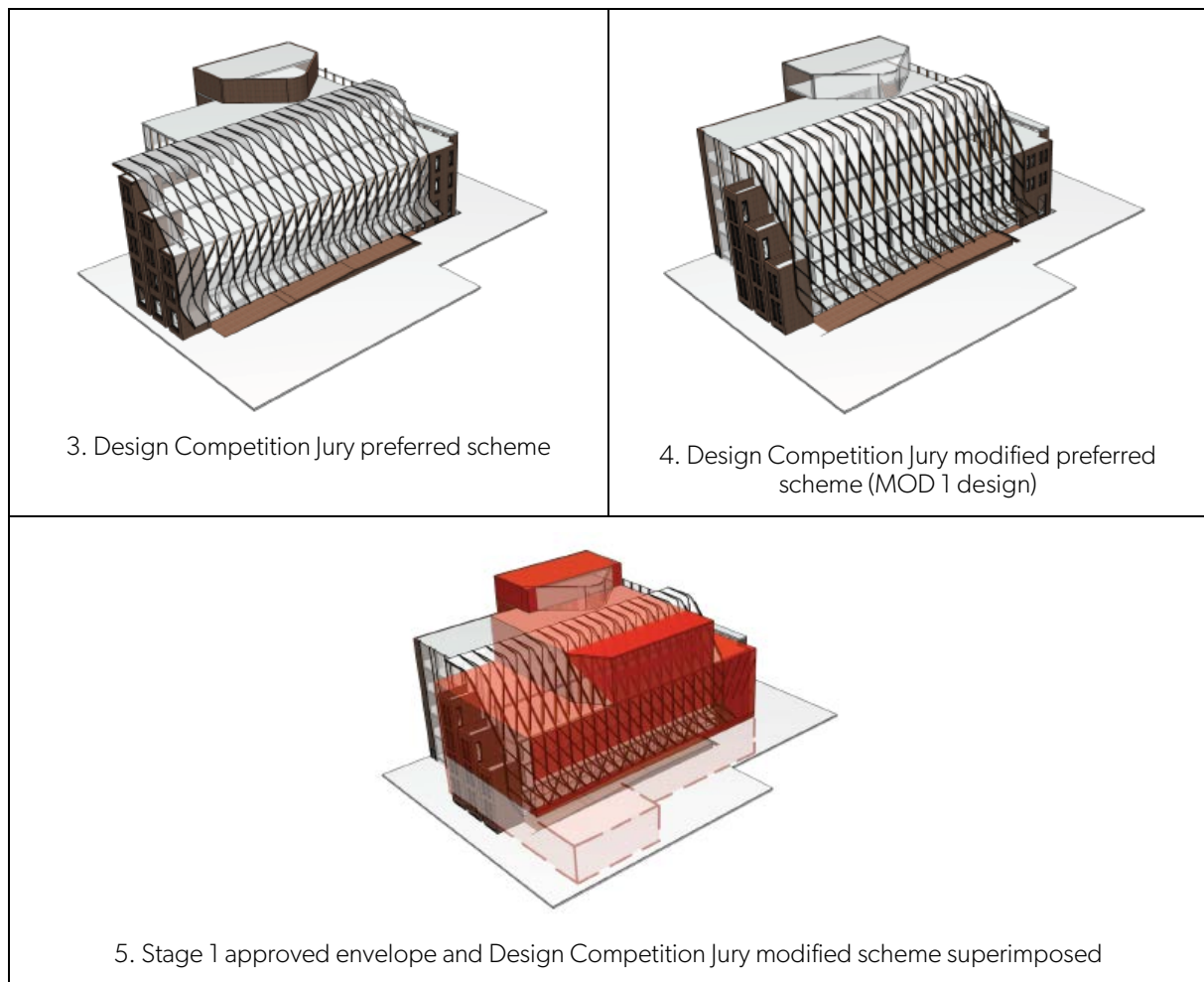


Figure 4 | Building envelope evolution

1.2.3 Development consent D/2012/1398

On 24 April 2013, the City of Sydney approved a development application (D/2012/1398) for a new childcare centre, within a single storey building accommodating 84 children, an ancillary single storey office building and a new quadrangle. The approval also included changes to the southern façade, removal of part of the boundary fencing along Blackfriars Street and a new opening on Buckland Street.

On 20 May 2016, the City of Sydney approved a modification to the development application (D/2012/1398/A) including removing sections of existing ironwork fencing and sandstone base, changes to the approved colour scheme and materials and additional removal of trees.

On 14 February 2017, the City of Sydney approved a modification to the development application (D/2012/1398/B) to relocate the infants play area to the east boundary adjoining Blackfriars Place, demolition and construction of a toilet block and other alterations.

The childcare centre has been constructed and opened in 2017.

1.2.4 SEARs SSD 9571

On 13 September 2018, SEARs were issued for SSD 9751 - Stage 2 (detailed design and construction) of the UTS Blackfriars Precinct Research Building.



2. Proposed Modification

On 4 September 2018, the Applicant lodged a modification to the concept approval (SSD 6746 MOD 1) seeking to amend the building envelope, reduce the setback to Buckland Street, change solar access performance criteria and additional tree removal for the UTS Blackfriars Precinct Research Building. A link to the modification application documents is provided in **Appendix A**.

The proposal specifically seeks approval to (**Figures 5 to 7**):

- modify the approved building envelope to align with the design competition winning scheme, comprising:
 - a part three, four and five storey envelope on the western portion of the building (from 3 storeys)
 - a western setback to Buckland Street of 3.7 m to 7.3 m (from 9.29 m), and a setback of 1.4 m to a retaining wall for a void to a lightwell
 - a 1 m setback to the eastern boundary (from nil)
 - a 3 m setback to the northern boundary, for the eastern part of the site (from nil)
 - a southern setback of 7.9 m to 8.6 m (from 8.6 m)
 - an additional basement level (total of two basement levels) and additional excavation approximately 6 m deep for a light well to the basement levels
 - raise ground level to FFL 10.08, alter floor levels above, with roof building height at RL 27.825 (from RL 27.27), but retain overall approved building height of RL 30.77
 - increase height of eastern portion of building envelope to RL 22.43 (from RL 20.27).
- salvage, temporarily remove and reuse/ restore existing heritage palisade fence adjacent to Buckland Street
- provide a flood barrier integrated into the proposed building (detail at Stage 2)
- removal of three additional trees, including:
 - removal of tree T33 (Jacaranda) and T34 (Camphor Laurel), located on the Buckland Street frontage
 - removal of tree T35 (River She-Oak) in the south-west corner of the site
 - replacement planting of two advanced trees in the Buckland Street frontage and four advanced trees within the site.
- amend the timing of lot consolidation from the first development application to prior to the occupation of the building (condition B18).

The Applicant has lodged the modification application as a result of further design development of the winning design competition scheme. The Applicant considers the proposed modified building envelope demonstrates design excellence, is appropriate to the heritage context of the site and surrounding development.

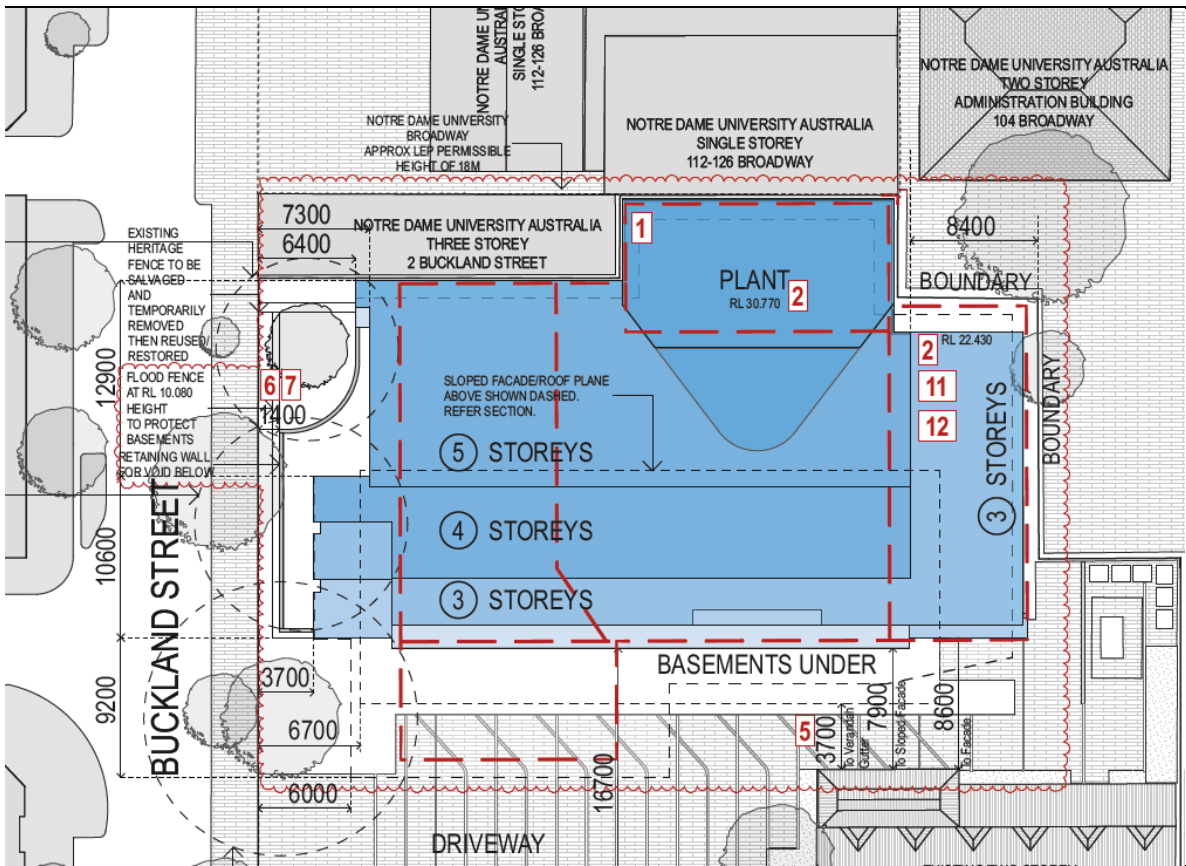


Figure 5 | Proposed building envelope plan (with approved envelope in red)



Figure 6 | Proposed building envelope sections (with approved envelope sections in red)



Figure 7 | Photomontage of design competition winning design



3. Strategic Context

3.1 Greater Sydney Region Plan

The Greater Sydney Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. The GSC has prepared the Greater Sydney Region Plan to provide a 40-year vision for a metropolis of three cities, the Eastern Harbour City, the Western Parkland City and the Central River City, that will rebalance growth and deliver its benefits more equally and equitably to residents across Greater Sydney.

The Plan aims to integrate land use, transport links and infrastructure across the three cities, with more people having access within 30 minutes to jobs, schools, hospitals and services.

The approved concept plan was considered to be consistent with the Region Plan as it is located in the Camperdown-Ultimo Health and Education Precinct, will facilitate job creation, a strong and competitive Harbour CBD and foster innovation activity. The modification application is consistent with the approval and continues to achieve the relevant objectives of the Region Plan.

3.2 Eastern City District Plan

The GSC has also prepared District Plans to implement the Regional Plan through local planning and influence state agency decisions. District plans connect local planning with the longer-term metropolitan planning for Greater Sydney.

The site is located within the Eastern City District area. The approved concept plan was considered to be consistent with the relevant objectives in the Eastern City District Plan as it will:

- support the provision of services and social infrastructure to meet people's changing needs, including educational and employment opportunities (Planning Priority E6)
- foster healthy, creative, culturally rich and socially connected communities by providing for education infrastructure that will contribute to the community (Planning Priority E4)
- support growth and investment in health and education precincts and the Innovation Corridor, by providing education infrastructure within the Camperdown-Ultimo Health and Education Precinct (Planning Priority E8)
- contribute to the growth of a stronger and more competitive Harbour CBD (Planning Priority E11)
- supports the goal for a 30-minute city by providing an education facility close to existing public transport, jobs and housing (Planning Priority E10).

The modification application is consistent with the approval and continues to achieve the relevant objectives of the Eastern City District Plan.



4. Statutory Context

4.1 Scope of Modifications

Section 4.55(2) of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an SSD application. The matters for consideration under section 4.55(2) of the EP&A Act have been considered in **Table 1**.

Table 1 | Section 4.55(2) modification

Section 4.55(2) Evaluation	Consideration
a) satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)	Section 6 of this report provides an assessment of the impacts associated with the modification to the concept approval. The Department is satisfied that the proposed modification is substantially the same development as, the key components of the development remain, being a concept plan for a new education facility building. The proposal does not exceed the maximum approved height (RL 30.77) or the maximum permitted GFA (6,000 m²). The modifications to the building envelope are a result of the design competition process undertaken by the Applicant and as required by the conditions of consent of SSD 6746.
b) that it has consulted with the relevant Minister, public authority or approval body in respect of a condition imposed by the Minister, public authority or approval body, and	Not applicable.
c) the application has been notified in accordance with the regulations, and	The modification application has been notified in accordance with the EP&A Regulations. Details of the notification are provided in Section 5.1 of this report.
d) any submission made concerning the proposed modification has been considered.	The Department received a submission from Council and submissions from five government agencies. One public submission was received. The issues raised in submissions have been considered in Section 5 and 6 of this report.

4.2 Consent Authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 11 October 2017, the Executive Director, Key Sites Assessment, may determine the application as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are less than 25 public submissions by way of objection.

4.3 Environmental Planning Instruments

The following environmental planning instruments (EPIs) are relevant to the application:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- Draft Remediation of Land State Environmental Planning Policy
- Sydney Local Environmental Plan (SLEP) 2012.

The Department undertook a comprehensive assessment of the redevelopment against the above EPIs in its original assessment. The Department has considered the above EPIs and is satisfied the modification does not result in any inconsistency with these EPIs.

4.4 Objects of the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.



5. Engagement

5.1 Department's Engagement

In accordance with clause 10 of Schedule 1 to the EP&A Act and clause 118 of the *Environmental Planning and Assessment Regulation* 2000 (EP&A Regulation), the Department exhibited the application from 20 September to 4 October 2018 (15 days):

- on the Department's website
- at the offices of the Department and Service NSW Centres
- at City of Sydney Council's offices.

The modification application was advertised in the Central Courier and letters sent to adjoining landowners. The modification application was also referred to City of Sydney Council (Council), Environment Protection Authority (EPA), Government Architect (GA) NSW, Environment, Energy and Science Group (EESG) of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage), Heritage, Community Engagement, Department of Premier and Cabinet (former Heritage Division of the Office of Environment and Heritage), Transport for NSW (Roads and Maritime Services) (former RMS) and Transport for NSW (TfNSW).

5.2 Summary of Submissions

During the exhibition period, the Department received seven submissions on the modification application. Five were received from government agencies, one from the local council and one from the public.

A link to the submissions is provided in **Appendix A**.

5.3 Key Issues – Government Agencies

Table 2 | Summary of Government Agency Submissions

Heritage, Community Engagement, Department of Premier and Cabinet (Heritage Division)

The Heritage Division did not object to the application and recommended the following conditions:

- prior to on site ground disturbance works, all workers are to undergo heritage induction
- requirement to follow the Unexpected Finds Procedure in the event of an unexpected discovery of archaeological relics
- the recommendations of the arborist report to be implemented.

Environment, Energy and Science Group (EESG), DPIE

The Department's EESG (former OEH) noted the modification involves a second basement level and provided the following recommended conditions:

- prior to on site ground disturbance works, all workers are to undergo heritage induction
- requirement to follow the Unexpected Finds Procedure in the event of an unexpected discovery of archaeological relics

EPA

The EPA did not object to the application and provided comments that the modifications are unlikely to affect the

overall environmental impact of the proposed development. The EPA requested the Department consider the application in relation to the letters from the EPA dated 3 November 2014 and 1 February 2016 in respect to the draft SEARs and exhibited EIS, and letter dated 10 September 2018 in respect of draft SEARs for Stage 2 of the project (SSD 9571).

TfNSW

TfNSW did not object to the modification and provided comments that the Applicant should assess the impacts on the CBD metro corridor and prepare a draft Construction Pedestrian and Traffic Management Plan (CPTMP) as part of the Stage 2 development application.

Transport for NSW (RMS)

Transport for NSW (RMS) did not object to the modification application.

5.4 Key Issues – Council

Council provided the following comments about the proposal:

- provides no detail of how the heritage significant fence will be reused and where
- encourage an increased setback to the south and view analysis of the Blackfriars Precinct along Buckland Street
- the modification reduces the minimum setback to Buckland Street and removes T33 and T34, however the reduced setback also includes a sunken garden below street level for light wells to the basement levels, despite condition A7(b) requiring a setback of 9.29 m or the distance required to retain both trees
- the overshadowing information is inadequate to confirm all residential properties at 2 Grafton street retain a minimum of 2 hours solar access, and elevation shadow diagrams or views from the sun are required
- the height of the development along the eastern edge is considered too high and will have a detrimental impact on the adjacent St Benedict's Church and courtyard of the Notre Dame campus
- the additional basement level and proposed habitable use requires construction of a two storey void adjacent to Buckland Street, which is uncharacteristic of the area
- the flooding hazard to the habitable basement space should be considered
- it is Council's preference to retain trees along the western boundary as trees T33, T34 and T35 contribute to the existing streetscape and although they may have no listed heritage value, this is not sufficient reason for their removal
- recommend any internal spaces such as end of trip facilities and terraces as shown on the plans submitted are not approved, as these should be determined under the detailed Stage 2 application.

5.5 Key Issues – Public

One public submission was received during the exhibition period objecting to:

- the removal of any street trees for the proposed development, as the trees on Buckland Street are significant, mature and extend the length of the street
- no mature canopy tree could replace these established trees
- the trees are not on the development site so are only being removed for the convenience of the build process.

5.6 Response to Submissions

Following exhibition of the modification application, the Department placed copies of the submissions received on its website and requested the Applicant provide a response to the issues raised in the submissions.

On 5 February 2019, the Applicant submitted its Response to Submissions (RtS), providing a response to the comments made by Council, agencies and the public. The Department advised the Applicant the RtS did not sufficiently address issues raised in submissions and requested clarification of key issues relating to overshadowing, building envelope, height, setbacks and tree removal.

On 18 March 2019, the Applicant submitted its revised RtS (**Appendix A**) which contained additional information including building heights and RLs, setbacks, identified the approved building envelope, gross building and floor area, 3D views, clarified works to the heritage palisade fence, updated shadow diagrams, additional tree information, the Design Competition Jury report and additional flooding details. The Applicant provided additional detail on architectural plans and documents, but no design amendments were made.

The Department made the RtS publicly available on the its website and referred it to Council. The amended application did not require exhibition as there were no changes to the design.

The Department received a response from Council on 29 March 2019, and a further response dated 24 May 2019. The final Council response is summarised in **Table 3**.

Table 3 | Summary of Council response to RtS

City of Sydney Council

Council reviewed the additional information provided by the Applicant, held a meeting with the architects and advise their primary concerns are confined to tree removal as a result of the reduced western setback to Buckland Street, the installation of a new flood barrier behind the heritage palisade fence and flood impacts to the adjacent void. Council provided the following comments:

- removal of three existing trees and replacement with advanced species is supported in principle as there is existing extensive tree cover along Buckland Street and removal will not overly diminish the existing streetscape character. Recommend the detail design carefully consider where those replacement trees are sited to ensure views of significant buildings are not obscured
- prefers a flooding solution integrated into the building (such as reinforced glazing), instead of a free-standing flood barrier behind the heritage palisade fence
- understand the relocation of gate pillars will be subject to detailed analysis at the DA stage and all efforts will be made to minimise relocation of original heritage fabric
- no further comments about overshadowing to neighbouring private properties and internal open spaces of the site.

5.7 Further additional information

On 8 April 2019 the Department requested further additional information regarding the proposed changes to the western portion of the building envelope fronting Buckland Street and proposed tree removal, including:

- justification that adequate tree planting can be accommodated on site to compensate for the loss of three significant trees
- justification for the proposed light well and flood barrier
- clarify the decrease in shadow cast over the St Benedict's Church courtyard on 21 June at 3pm
- the Design Competition Jury brief.

On 27 May 2019, the Department forwarded Council's further response to the Applicant and requested Council's response be addressed as part of the additional information request.

On 13 June 2019, the Applicant submitted further additional information including:

- the competition design brief
- a document providing detail of the heritage fence, setbacks, trees, flood barrier and solar access
- supplementary landscape report with further detail of the six replacement trees

- relocation of flood barrier from behind the heritage palisade fence into the building design and indicative drawings
- justification for the light well, to provide natural lighting to the basement interiors
- clarification of additional building envelope setbacks to the east and north and how this improves the shadow to the church courtyard.

The Department made the additional information publicly available on the its website. The amended application did not require re-notification as there were no design changes, other than the relocation of the flood barrier into the building envelope, resulting in a reduced impact.



6. Assessment

The Department has reviewed the modification application, together with the submissions and the Applicant's Rts in its assessment of the application. The Department considers the key issues associated with the application are:

- the western setback, comprising:
 - the Buckland Street frontage
 - tree removal
 - solar access to adjoining properties
 - location of the flood barrier.
- the heritage palisade fence
- the southern setback
- eastern elevation building envelope height.

Each of these issues is discussed in the following sections of this report. The Department's consideration regarding other issues relating to this application are addressed in **Section 6.5** of this report.

6.1 Western setback

The application seeks to amend the western setback of the building envelope to Buckland Street from 9.29 m to:

- 3.7 m to 7.3 m to the building envelope and the two basement levels
- 1.4 m to 6.4 m to the retaining wall and lightwell to the basement

As part of these changes the Applicant proposes to delete condition A7, remove reference to the trees in condition A8 and delete condition B3.

The western setback of the building envelope was modified by the Department (through conditions) to retain two trees, limit overshadowing to adjoining properties and provide a building height transition to lower scale heritage items, as follows:

- Condition A7a requires retention of trees T33 and T34
- Condition A7b requires a 9.29 m setback of the building envelope from the western boundary to Buckland Street, or the distance required to retain trees T33 and T34
- Condition A7c requires the four storey components of the envelope to be reduced to a maximum of three storeys and RL 20.27m
- Condition A8 requires the design of any future basement levels to not impact on the root zones of significant trees retained within the western setback to Buckland Street
- Condition B3 requires the future building to be designed to ensure there will be no additional overshadowing of living areas and private open spaces of residential units to the west between 9 am and 3 pm on June 21.

A discussion of the proposed Buckland Street frontage, tree removal, solar access for adjoining properties and flood barrier follows.

6.1.1 Buckland Street frontage

A design competition was held by UTS and the non-complying submission from TZG was selected (refer **Section 1.2**). Due to the changes to the building envelope supported by the Jury, the modification application has been lodged.

In addition to the final Jury Report, the chair of the Jury has provided to the Department an additional response clarifying the reasons for the Jury's support of the TZG non-complying proposal. The response advises the Jury recommended the following regarding the Buckland Street frontage:

- the stepped brick frontage of the building envelope be closer to the street to match the setback of the western veranda of the adjacent heritage building (CB22), subject to limiting overshadowing
- acknowledge the changes to the setback result in the loss of up to three trees, however replanting of advanced trees would offset any loss and allow a whole of site landscaping approach
- recommended basement spaces be redesigned to have natural light via light wells or skylights
- the amendments were recommended to resolve the heritage and urban design response of the architectural form.

The Department acknowledges the Design Competition process considered complying and non-complying proposals based on a variety of assessment criteria including the architectural vision and interaction with heritage buildings on the site. The Jury considered the TZG non-complying proposal carefully balanced the urban design, heritage and landscape constraints and opportunities for the site and had the potential to demonstrate design excellence. The Department also notes the Jury included members representing the City of Sydney Council and the Government Architect.

The Department has considered the changes to the building envelope on the Buckland Street frontage having regard to the relationship and response to the adjacent heritage buildings and notes the:

- proposed curved southern façade mirrors the roof form of the heritage buildings (**Figure 8**)
- scale and mass of the proposed building envelope is compatible with and reinforces the heritage buildings
- stepped Buckland Street frontage responds to the brick bay window structure of the heritage buildings (**Figure 8**)
- proposed building envelope will facilitate a built form capable of exhibiting design excellence.

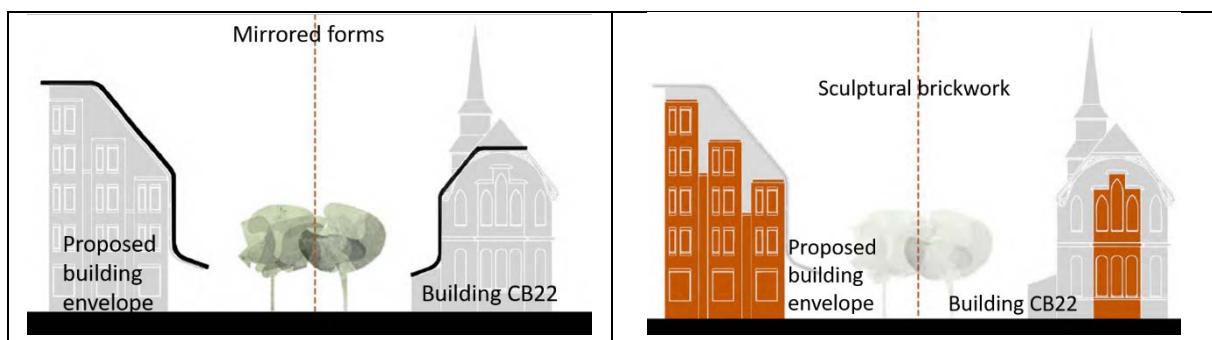


Figure 8 | Urban design elements of the proposed building envelope

As such the Department is satisfied the proposed building envelope positively responds to the site and heritage buildings.

The changes to the Buckland Street frontage results in additional tree removal and shadow impacts to residential properties, which is considered in the following sections.

6.1.2 Tree removal

The approved concept plan retained tree T35 River Oak and conditions A7a, A7b and A8 required the retention of T33 Jacaranda and T34 Camphor Laurel (on the Buckland Street (west) side of the site) (**Figure 9**).

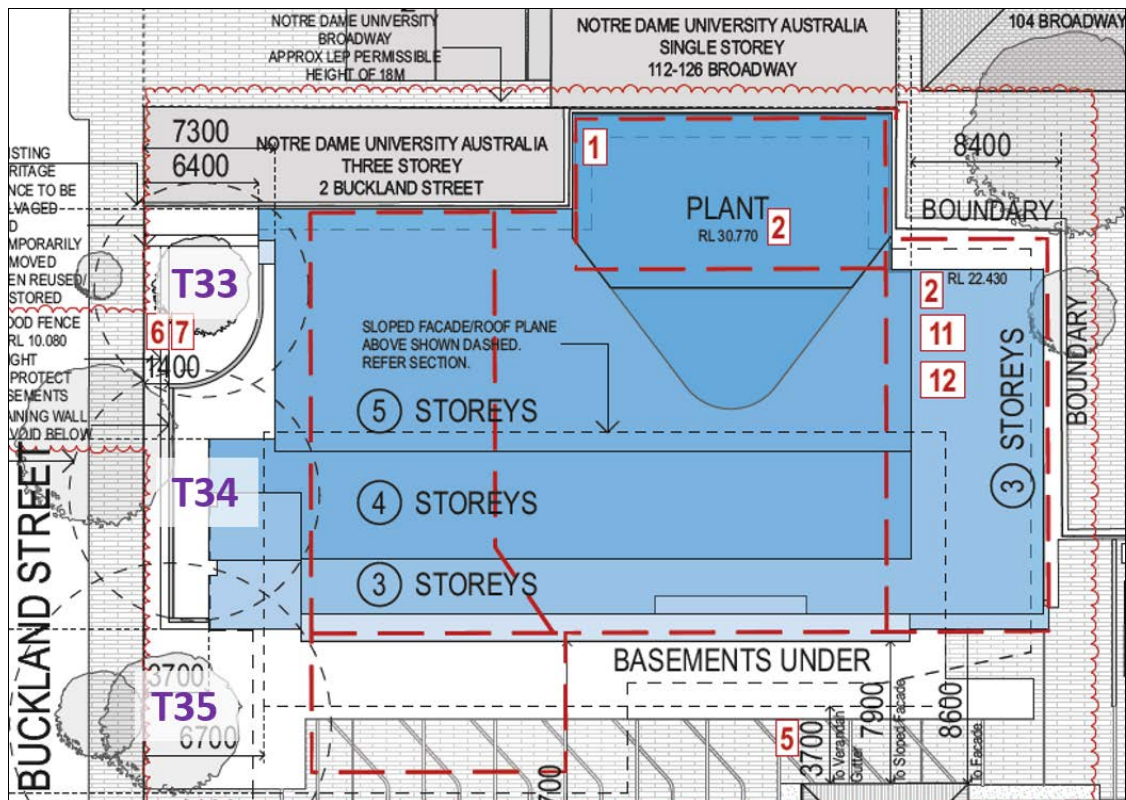


Figure 9 | Location of T33, T34 and T35 and proposed building envelope

The Applicant proposes to remove the three trees (T33, T34 and T35) due to encroachments to the tree protection zones (TPZ) and to facilitate construction of the design competition winning scheme. The Applicant proposes six new advanced trees, comprising two on the Buckland Street frontage and four within the site (**Figure 10**). The Applicant notes while the concept plan does not include landscape design, as this is a matter for the detailed design, UTS's vision for the site is to provide an improved landscape setting with replacement trees to complement the site's significant heritage buildings.

The Applicant also provided a heritage statement which considers the heritage value of trees on the site. The statement notes the soft landscaping is recent and of little heritage significance. The Applicant contends that due to the low heritage significance of the existing landscaping on the Blackfriars site, tree removal can occur for new development on the site.

Council (after reviewing the Applicant's additional information) advised they support in principle the tree removal and replacement with advanced species as there is existing extensive tree cover along Buckland Street, the removal will not diminish the existing streetscape character and recommended the detail design consider the location of the replacement trees to maintain views of significant buildings.

A public submission raised concerns about removal of street trees for the proposed development.

The Department raised concerns the site could not accommodate advanced replacement tree plantings given the proposed building envelope and basements. However, the Applicant has provided a supplementary landscape design report which advises the:

- two trees on the Buckland Street frontage will have soil volumes of 40-50 m³, and the four trees within the site are not affected by structures below ground level
- trees will be super advanced (400L pot size) and have a height of 4 - 5 m tall when planted
- the proposed tree species is *Liriodendron* (Tulip tree), with a mature height of 12-14 m, annual growth of 1-1.5 m and will be 10 m tall in five years and full height in 10 years.

This demonstrates the site can accommodate mature tree plantings to replace the removed trees. The Department also notes the following:

- Council's Street Tree Masterplan 2011 recommends 39 m³ soil volume for a large tree growing in adverse conditions. The 40-50 m³ available for the two trees on the Buckland Street frontage exceeds this
- the proposed planting can achieve a site canopy cover of 21% in 10 year's time, which exceeds the 15% target for CBD areas in Council's Urban Forest Strategy 2013
- the three trees proposed to be removed are not listed on Council's significant tree register and Council supports the tree removal in principle.

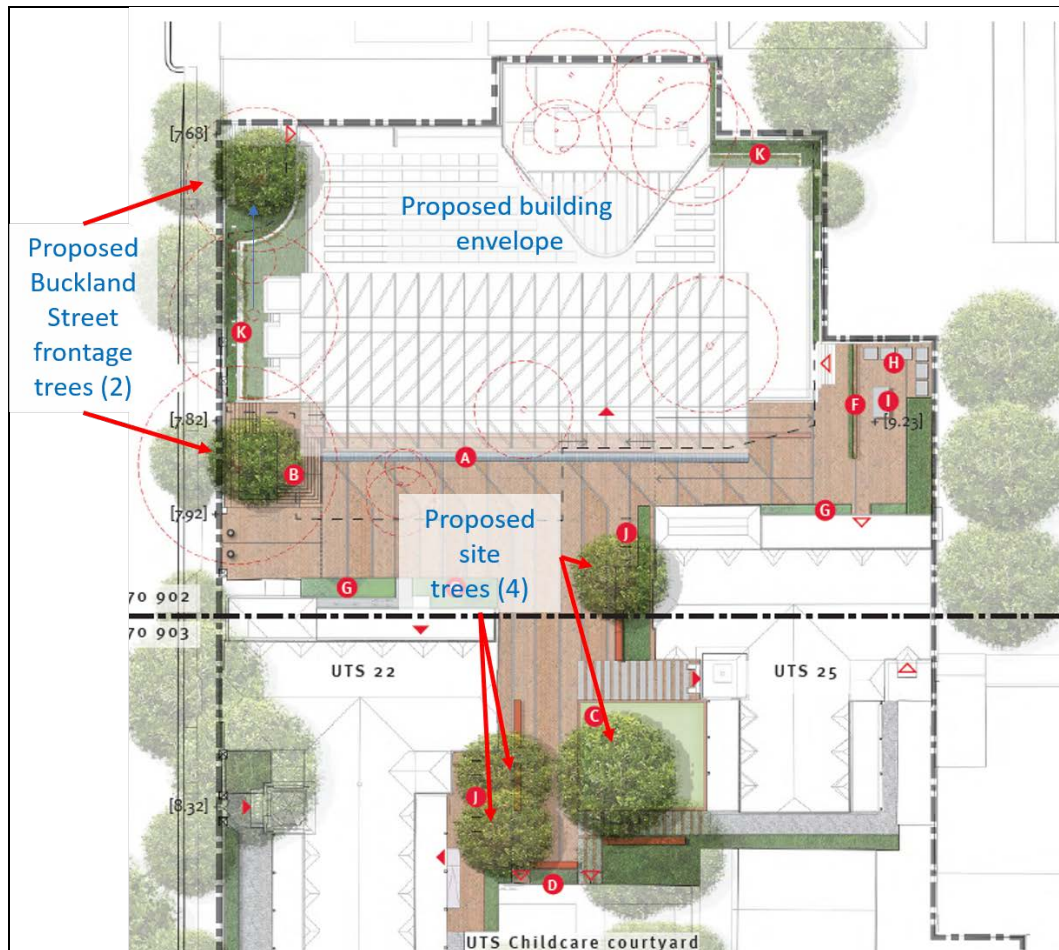


Figure 10 | Proposed location of replacement tree planting on the Buckland Street frontage and within the site

The Department initially had concerns about the tree removal as the current trees contribute positively to site amenity. However, the Department acknowledges the site amenity is also due to the low-density site coverage, heritage buildings, courtyards and open spaces around the heritage buildings.

The proposal continues to provide these positive benefits, with an appropriate density as it does not exceed the maximum GFA limit under the concept approval, retains the southern setback and open space to the site's heritage significant buildings and the proposed building envelope complements the form of the heritage buildings.

The Department considers the replacement planting can positively contribute to the site's amenity as the Applicant's landscape intent is to create a garden where light, shade and diffused sun compliment the texture and grain of the existing buildings. The proposed species (Tulip tree) is a deciduous tree with a yellow green leaf colour and interesting leaf shape, to respond to the heritage character and urban setting.

The Department acknowledges there will be some temporary initial loss of tree cover while the replacement trees reach mature height, however the street trees outside the site in Buckland Street are retained. There is also extensive existing tree cover in Buckland Street which will continue to provide streetscape character.

The Department is satisfied the site can accommodate mature replacement trees that will be able to contribute to the amenity of the site. The Department notes conditions B6 and B7 of the concept approval require a study of open spaces and a detailed landscape plan to accompany the Stage 2 development application. However, as the approved documentation does not include a concept landscape plan, additional conditions for any Stage 2 development application are recommended requiring:

- replacement planting of six advanced trees, with two to be located on the Buckland Street frontage and four within the site's internal courtyard
- tree species selection is to ensure the trees are capable of a mature height of 12-14 m
- the replacement trees are to be of 400L pot size and 4-5m high when planted
- the location of trees within the site are to be sited to maintain views of significant heritage buildings.

Subject to these conditions the Department is satisfied with the removal of trees T33, T34 and T35 to facilitate the proposed building envelope. Therefore, the Department recommends deletion of Conditions A7a and A7b and amendment to Condition A8.

6.1.3 Solar access to adjoining residential properties

The building envelope was modified in the concept approval to avoid overshadowing to adjoining residential properties at 2 Grafton Street and 23 Buckland Street. This was to be achieved by reducing the western part of the building envelope from four to three storeys (Condition A7c) and requiring no additional overshadowing of living areas and private open spaces of residential units to the west (between 9 am and 3 pm on June 21) (Condition B3).

The Applicant contends Condition B3 is onerous and seeks to use the solar access guidelines in the Apartment Design Guidelines (ADG), which provide guidance regarding acceptable levels of solar access to residential apartments. The Design Competition Jury, while originally recommending the design comply with condition B3, subsequently considered the condition could be challenged to align with the ADG requirements and supported a reduced western setback.

The Applicant's RtS provided additional solar access diagrams to demonstrate that the proposal complies with the ADG guideline for two hours direct sunlight, as there is solar access between 9:30 am and 11:30 am in midwinter to the majority of apartments at 2 Grafton Street and 23 Buckland Street. The Applicant contends the only unit affected after 9:30 am by shadow from the proposed development is the ground floor unit 29/23 Buckland Street (**Figure 11**). The Applicant notes unit 29 does not currently achieve two hours solar access, receiving solar access only between 9 am and 9:45 am to living and private open spaces, and that the amount of solar access is minimal. The Applicant states that as the proposed changes to the building envelope results in a minor amount of additional shadow to unit 29, the proposed changes to the building envelope are acceptable.

Council reviewed the additional information submitted with the RtS and provided no further comments.

The ADG states for solar access 'that living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in Sydney'. SEPP (Educational Establishments and Child Care Facilities) 2017 (Education) has since replaced the educational establishment controls in the ISEPP but contains a similar control for complying university and TAFE development, requiring solar access to a habitable room not be reduced if solar access to the property is already less than 3 hours.

The Department considers the ADG to provide a useful guide regarding a reasonable level of solar access for adjoining residential apartments, as the ADG relates specifically to apartment buildings in the Sydney metropolitan area, while the Education SEPP controls are for complying development.

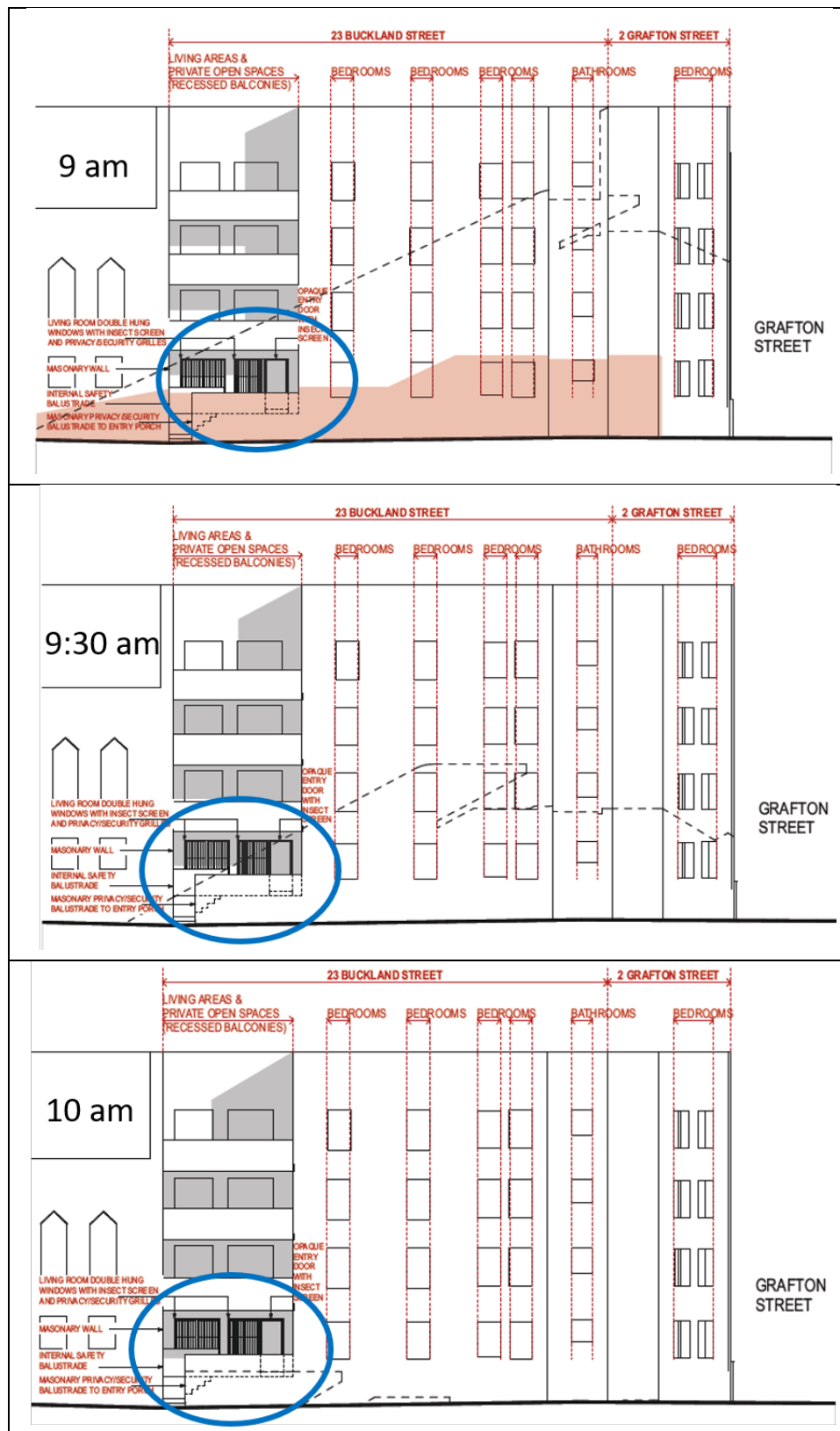


Figure 11 | Elevational shadow analysis of western elevation of 2 Grafton Street and 23 Buckland Street, from 9am to 10am, with comparison between existing (grey), approved (pink) and proposed shadow (dotted outline). Unit 29 is circled blue.

The Department notes the elevational shadow diagrams of 2 Grafton Street and 23 Buckland Street provided by the Applicant show the following (**Figure 11**):

- the living areas and balconies on the west elevation of 23 Buckland Street are recessed and this results in existing shadow over these windows and spaces from 9 am
- the approved building envelope shadow only touches the ground floor bedroom/ bathroom windows of the western elevation at 9 am
- the proposed building envelope:
 - at 9 am, shades the bedroom windows (up to level three) and the living area and balcony of unit 29 (ground floor)
 - at 9:30 am, shades the bedroom/ bathroom windows (up to level two) and part of the living area and balcony of unit 29 (ground floor)
 - from 10 am, does not cast shadow on any windows of the western elevation of 2 Grafton Street and 23 Buckland Street.

This demonstrates to the satisfaction of the Department that, other than ground floor unit 29, the proposed building envelope does not shade living areas and private open spaces between 9 am and 10 am, and after 10 am the proposed building envelope does not shade 2 Grafton Street and 23 Buckland Street. These living areas and private open spaces are therefore capable of receiving two hours solar access up to 11:30 am, which the ADG considers is a reasonable amount of solar access for an apartment in the Sydney metropolitan area.

Unit 29 is located on the ground floor of 23 Buckland Street (**Figure 12**). The Applicant has provided an internal view of unit 29 (**Figure 13**) modelled between 9 am and 9:30 am. This demonstrates unit 29 currently receives a very small amount of solar access, due to its ground floor location, recessed living room windows off a covered balcony, security grills over the windows and orientation west. While the Department acknowledges the amount of solar access is reduced slightly by the proposed building envelope, the ADG considers direct sunlight to be of maximum benefit to residents when it is a minimum of 1m² measured 1m above floor level. The Department considers the current amount of direct sunlight to unit 29 does not achieve this.



Figure 12 | Unit 29/ 23 Buckland Street, street view, entry porch and windows

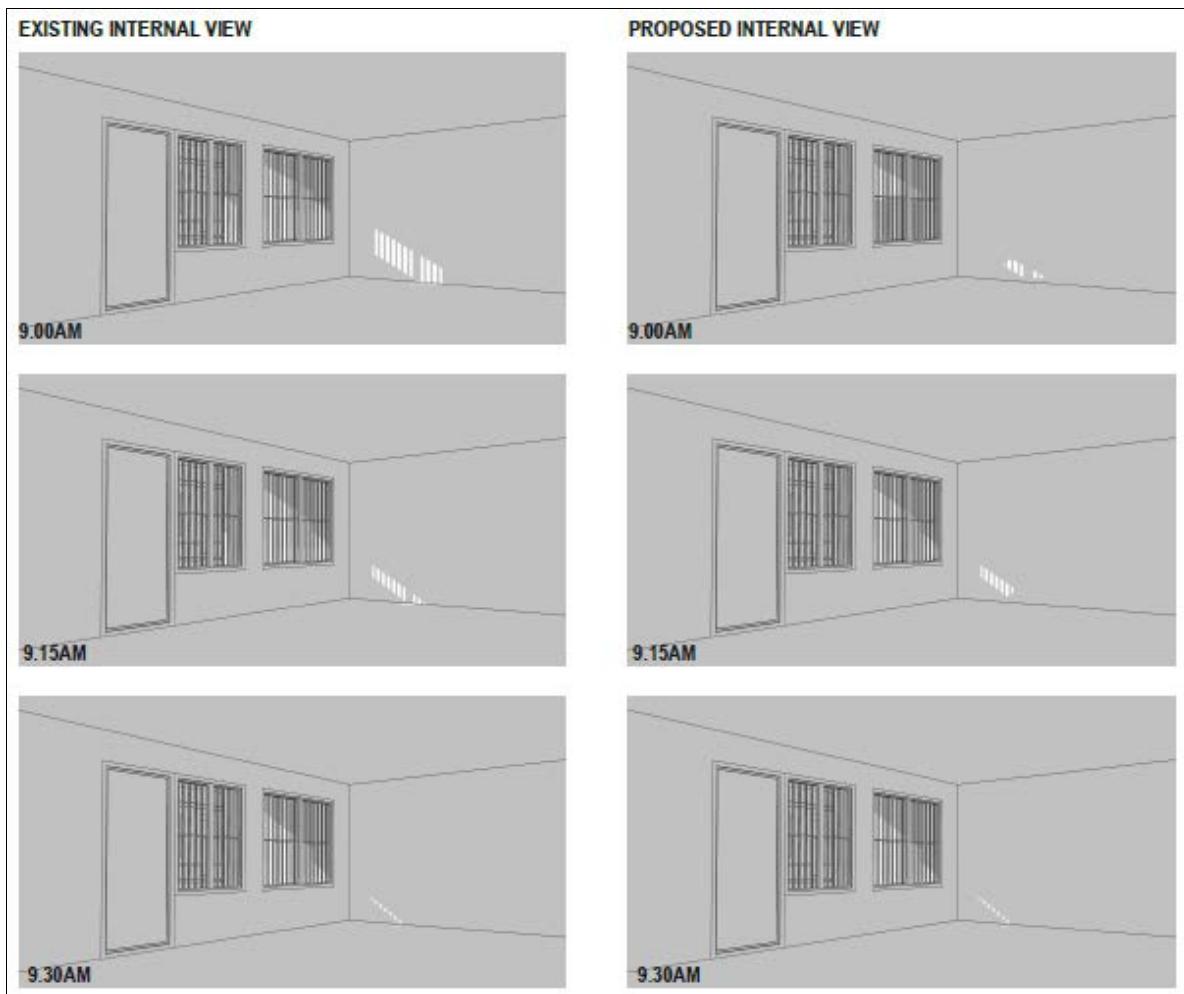


Figure 13 | Internal view of unit 29/ 23 Buckland Street, comparing solar access between existing (left) and proposed (right)

The ADG acknowledges that achieving the design criteria of two hours direct sunlight may not be possible for some sites and permits a maximum of 15 % of apartments in a building to receive no direct sunlight between 9 am and 3pm in mid-winter. The Department notes that unit 29 is located in a dense urban environment, is orientated west and with the building design, this makes it very difficult for the unit to receive any direct sunlight. This is evident as the unit currently does not receive two hours direct sunlight.

As such the Department is satisfied the proposed building envelope does not significantly adversely impact the amenity of unit 29. Therefore, the Department recommends Conditions A7c be deleted and Condition B3 amended.

6.1.4 Flood barrier

The proposed building envelope includes two habitable basement levels with a lightwell facing Buckland Street to provide natural light to the basement levels. The basement levels require flood protection as the site is flood affected.

The Applicant originally proposed to locate a flood barrier (glazed) behind the heritage palisade fence along the Buckland Street frontage. In response to concerns raised by the Department and Council, the Applicant provided (in its further additional information), a proposal to integrate the flood barrier into the building. The Applicant has provided indicative drawings of a re-enforced glazing solution at basement level 2 facing the lightwell (**Figure 14**).

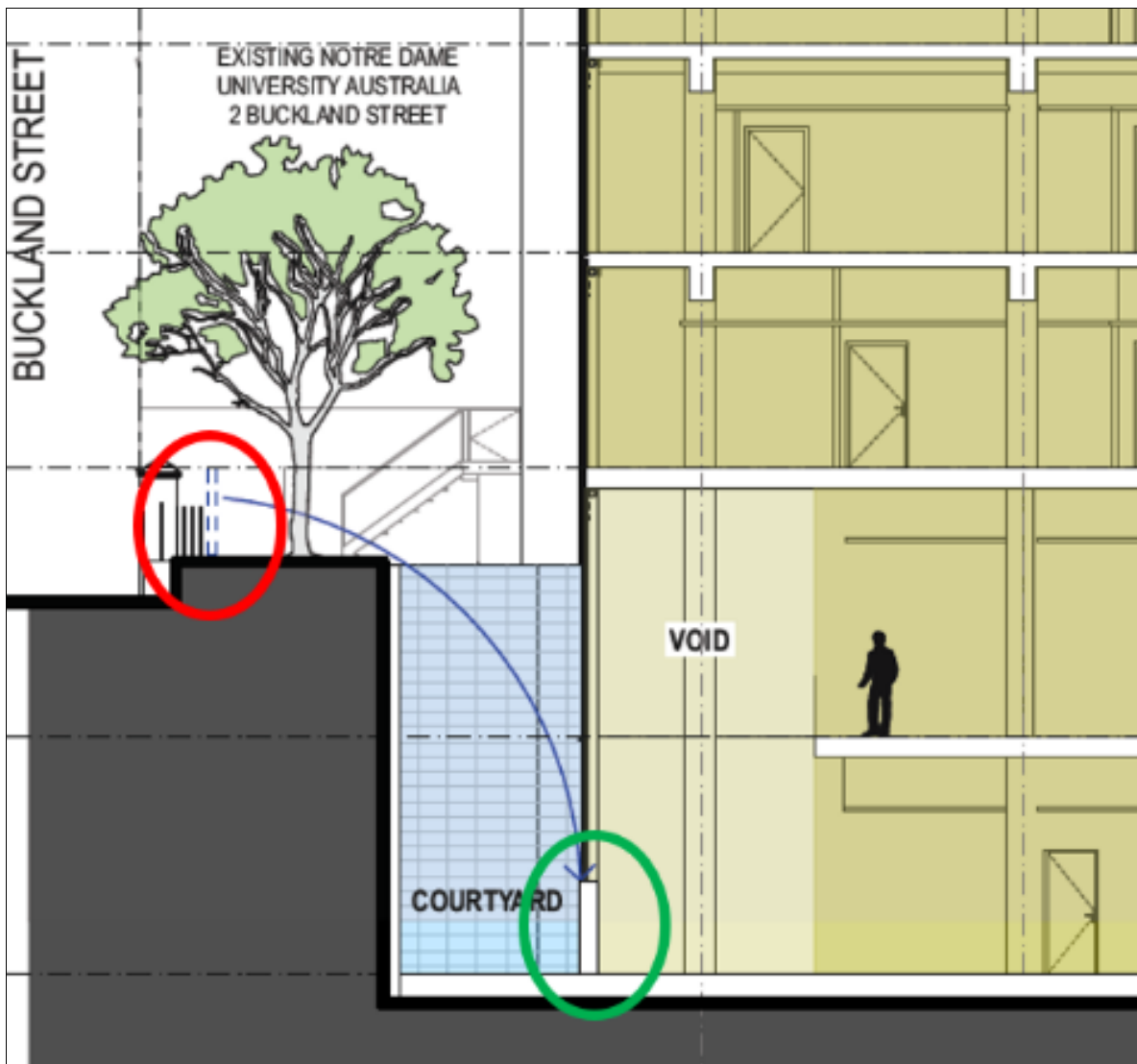


Figure 14 | Proposed relocation of the flood barrier from behind the heritage palisade fence (red) into the building design (green)

Council recommended this approach in its further response to the Department dated 27 May 2019.

The Department is satisfied with the proposed relocation of the flood barrier as the negative impacts to the heritage palisade fence are removed. The Department therefore recommends a new condition requiring flood protection for the habitable basement levels to be integrated into the building design, with detail at Stage 2, and require the flood protection to not impact the heritage significance of the palisade fence.

6.2 Heritage palisade fence

Condition A7a requires retention of the palisade heritage fence adjacent to Buckland Street in its entirety.

The Applicant's RtS has clarified the modification does not propose any changes to the fence compared to the approved concept plan. The Applicant has advised the Stage 2 detail application will address appropriate conservation of the fence, including:

- repairs and replacement due to failed stonework, damaged palisades and structural instability
- the relocation of gate pillars which may result in redistribution of some panels of fencing along the line of the fence.

Council reviewed the RtS and raised concerns about the relocation of the gate pillars, however they note this will be subject to more detailed analysis as part of the Stage 2 detail application.

The Heritage Division reviewed the proposal and raised no concerns.

The Department is supportive of the salvage and restoration of the fence to facilitate conservation, however has concerns about the relocation of the gate pillars as this may affect the historical relationship with surrounding streets. Currently, the Department has insufficient information to consider this at the concept plan stage. While the approved condition of consent (Condition B8) requires a statement of significance and assessment of impact to heritage items on the site, the Department wants to ensure specific attention is given to the heritage palisade fence. As such the Department recommends a new condition for the retention and conservation of the heritage palisade fence and will require all efforts be made to minimise relocation of original heritage fabric.

6.3 Southern elevation setback

Condition A7d requires the southern alignment of the building envelope be setback 8.6 m from existing buildings, to retain the relationship of open spaces and a continuous open space area from Buckland Street to the east boundary of the site.

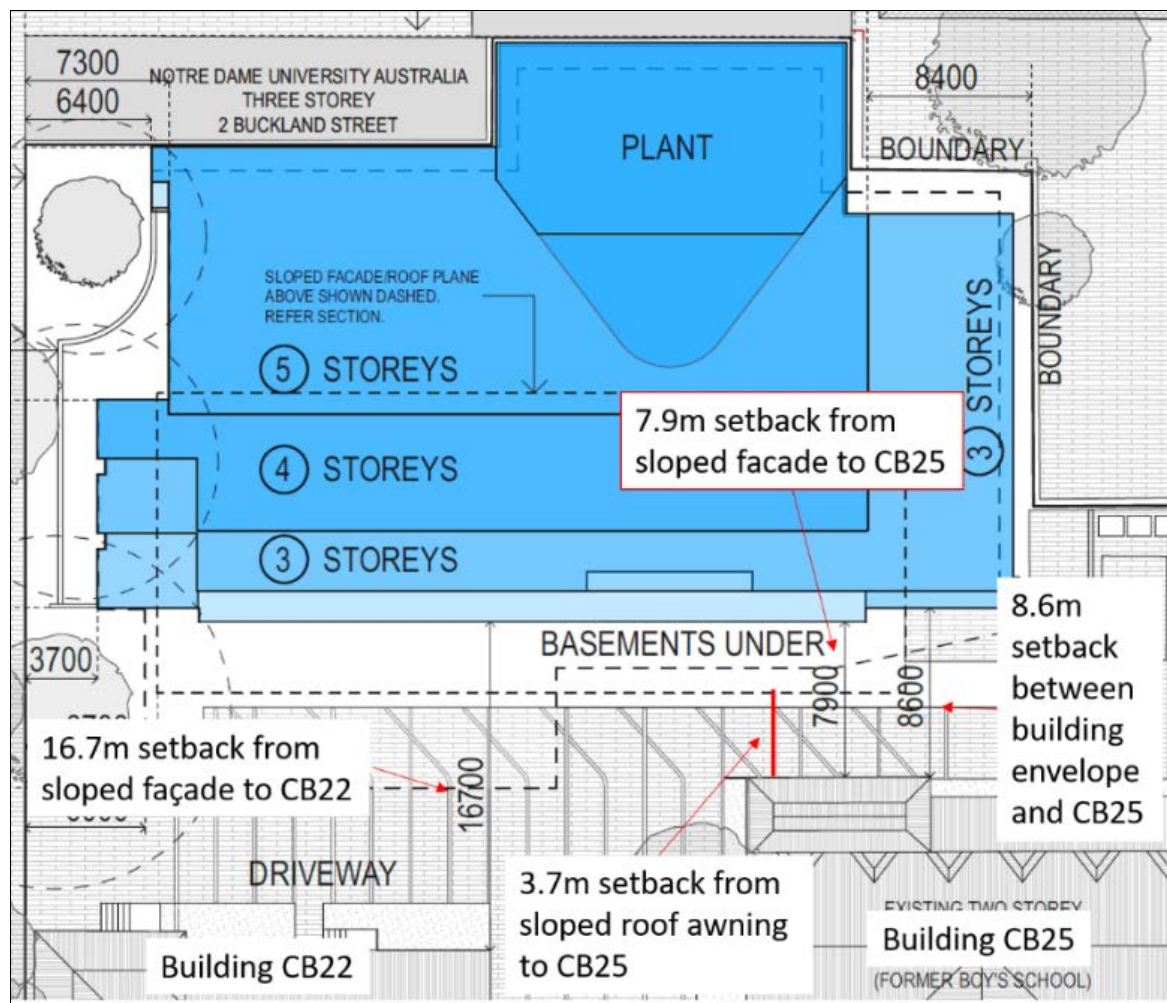


Figure 15 | Southern setback from building envelope to existing buildings

The Applicant proposes to retain the 8.6 m southern setback for the building envelope. However, a sloped façade/ roof element on the southern elevation is setback 7.9 m from building CB25 and the associated awning protrusion is setback 3.7 m (**Figure 15**).

During the exhibition, Council raised concerns the setback to Buckland Street was inadequate and fails to preserve the setting or interpret the Grafton Street alignment into the site, including views of the northern façade of building CB22.

In the Applicant's RtS, a 3D view has been provided along Buckland Street to the proposed building envelope and includes the northern view of Building CB22 (**Figure 16**). The Applicant contends the proposal complies with the requirements for the southern setback in condition A7d and the Design Competition Jury supported the southern alignment.

Council reviewed the RtS and provided no further comments regarding the southern setback.

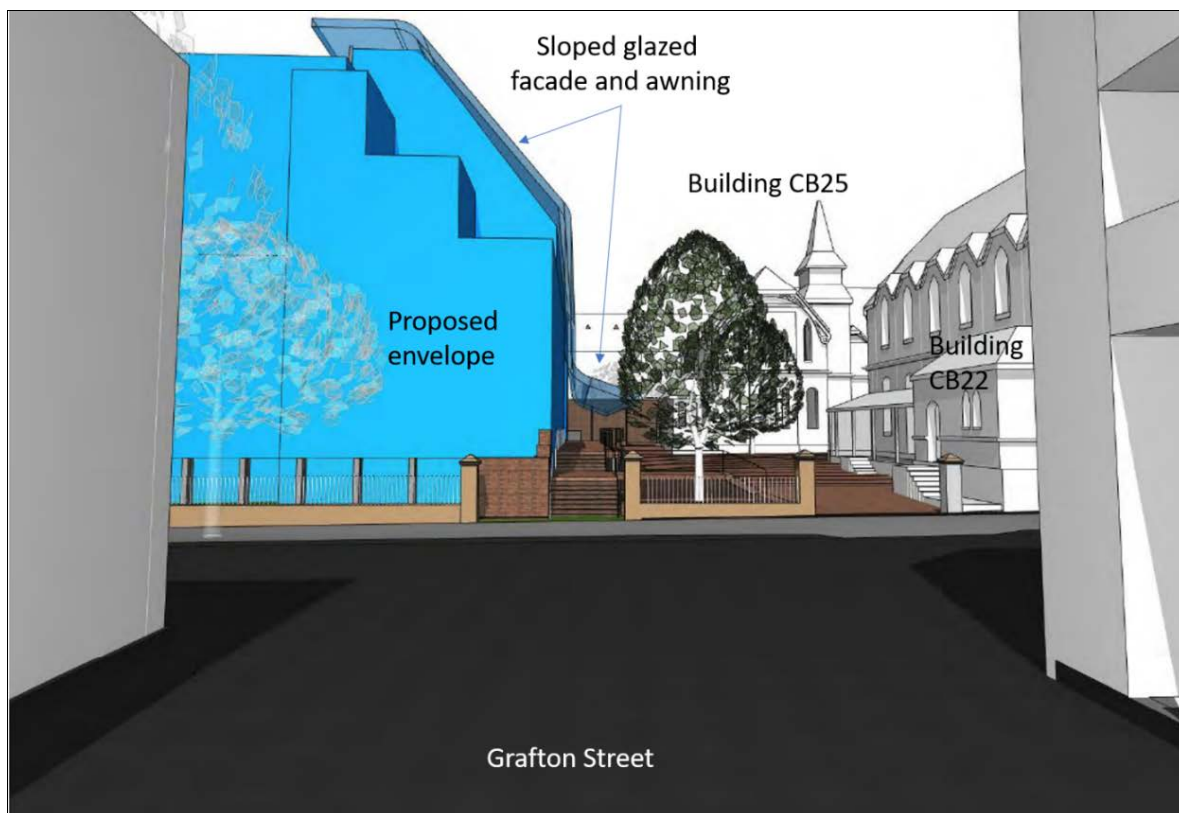


Figure 16 | 3D view along Grafton Street to the proposal and the northern façade of CB22

The Department notes the setback from the proposed building envelope to building CB25 is 8.6m, although this is reduced to 7.9m for a portion of the southern setback relating to the sloped roof form facade. This is considered to maintain the intent of the condition, which is to provide for open space and an appropriate setback to heritage items. Also, the setback from the proposal to building CB22 is 16.7 m.

The awning associated with the sloped roof/ façade protrudes a further 4.2m into the setback. This has a minimum setback of 3.7m to building CB25 and 12.5m setback to building CB22. The Department has considered the southern setback and considers it satisfactory as:

- the awning element is a minor protrusion into the setback at first floor level height only and provides articulation on the southern facade without adding to the bulk or scale of the building envelope
- the building envelope setback of 7.9 m to 8.6 m remains for the full southern elevation of the building envelope
- the building envelope provides adequate setback to heritage items on the site, protects the curtilage of the heritage items, maintains open space and courtyard space within the site
- the Grafton Street alignment is retained.

As such the Department recommends the deletion of condition A7d requiring a minimum 8.6 m separation.

6.4 Eastern elevation building envelope height

Condition A7c required the four storey parts of the building envelope to be reduced to a maximum of three storeys and RL 20.27m. On the eastern side of the site where the building envelope is adjacent to the St Benedict's church and church courtyard, this height limit was considered appropriate to maintain the church as the most prominent form on the skyline when viewed from Abercrombie Street and Broadway.

An additional condition (B2), requires any future building to be designed to ensure there is no greater than 20 percent additional overshadowing of St Benedict's Church courtyard and childcare centre playground at any time between 9 am and 3pm on June 21.

The Applicant proposes to maintain 3 storeys on the eastern side of the building envelope, however the height has increased by 2.16m to RL 22.43, as a result of:

- the ground level raised from RL 9.67 m to RL 10.08m AHD to comply with the minimum flood planning level
- a roof structure/ balustrade if the Stage 2 approval permits the use of the roof as a terrace.

The impacts of the increase in height and overshadowing to the church courtyard are discussed below.

Eastern elevation wall height

The Applicant contends the building envelope height changes to the eastern side elevation are minor as this elevation is viewed in the context of the rest of the approved building envelope, which is five storeys plus plant. The Applicant has provided 3D images of the proposed building envelope from the church courtyard and Abercrombie Street (**Figures 17 and 18**).

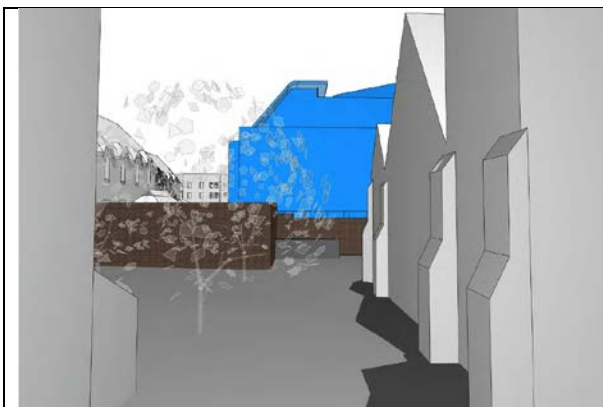


Figure 17 | View of eastern elevation of proposed building envelope, from Notre Dame Courtyard

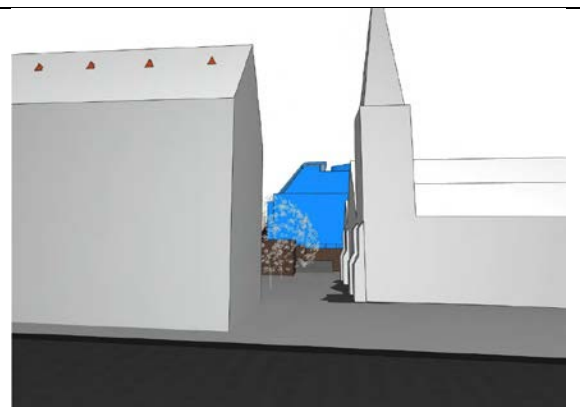


Figure 18 | View of eastern elevation of proposed building envelope, from Abercrombie Street

The Applicant has also provided advice from Northrop Consulting Engineers which states the site falls within the Council Blackwattle Bay Floodplain Risk Management Study and to comply with Council requirements, a ground floor flood planning level of 10.08m AHD is required.

The Department considers the height increase to ensure the ground floor is above the flood level is minor (410 mm) and will have a negligible impact on the height of the eastern elevation when viewed in the context of the approved building envelope. The increase for a balustrade/ roof structure (1.75m) also provides for a reasonable level of flexibility for the Stage 2 detailed design, without adversely impacting the prominence of St Benedict's Church. Further there are no changes to the overall approved building envelope height and the eastern elevation remains at 3 storeys.

To ensure appropriate consideration during the Stage 2 detailed design, a condition is recommended requiring the design of any future balustrade on the eastern elevation of the building envelope and use of the area as a terrace must address privacy, visual impact and overshadowing, to the satisfaction of the consent authority.

Shadow to church courtyard and child care centre playground

The Applicant provided a diagram (**Figure 19**) showing the existing overshadowing of the courtyard (grey), overshadowing from the approved building envelope (red) and proposed envelope (blue) at 3pm on 21 June. This indicates that:

- currently 69% (844 m²) of the courtyard is in shadow at 3pm on 21 June
- the approved building envelope increases overshadowing of the courtyard to 83% (1,010 m²)
- the proposed building envelope decreases overshadowing by 10 m² to 82.2% (1,000 m²).

The Department notes the shadow diagrams indicate there is minimal change to shadow to the courtyard at 3pm on 21 June between the approved building envelope and the proposed building envelope, with the amount of additional shadow slightly decreasing. The 10 m² decrease to shadow is a result of building envelope setbacks to the northern boundary (3 m) and eastern boundary (1 m).

Condition B2 considered 20% additional overshadowing acceptable, given the urban location of the site. The proposed building envelope will continue to allow for a building to be designed that will not result in more than 20% additional overshadowing to the church courtyard. As such the Department is satisfied the proposed building envelope and eastern elevation remains consistent with condition B2.

The Department also notes the proposed building envelope does not shade the child care centre playground at any point between 9am to 3pm on 21 June.

The Department therefore recommends deletion of Condition A7c, but recommends Condition B2 be retained, to ensure solar access is maintained to the church courtyard and childcare centre playground.

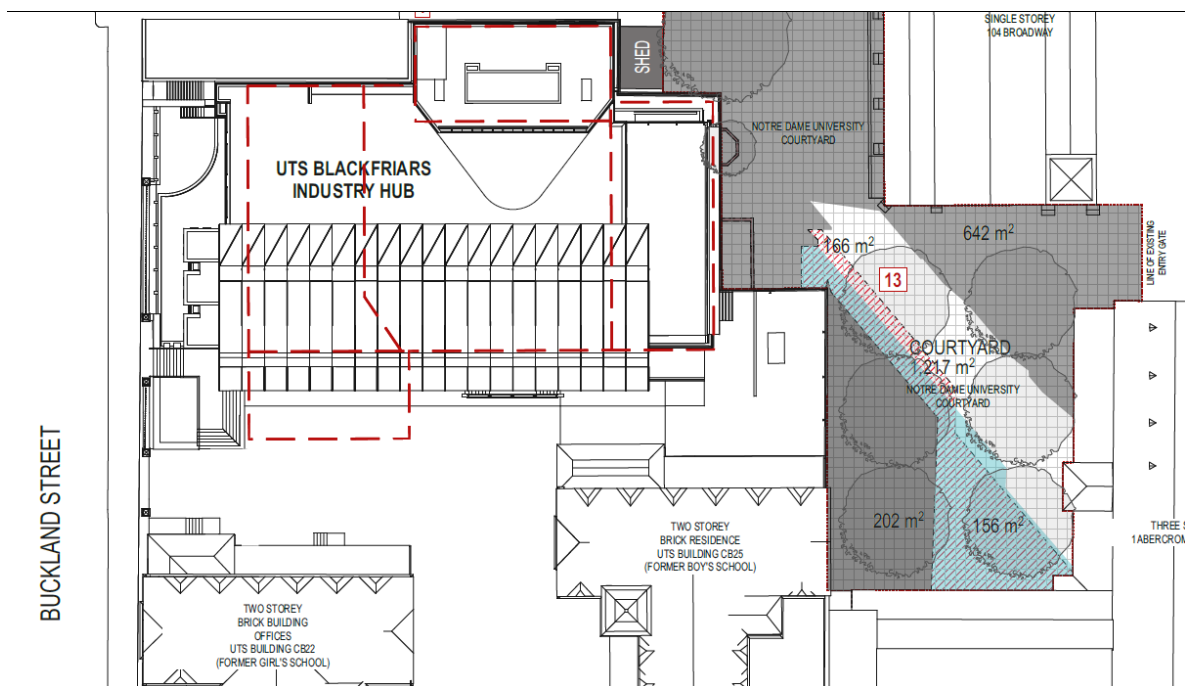


Figure 19 | Shadow diagram of church courtyard at 3pm, 21 June.

6.5 Other Issues

Table 4 | Summary of other issues raised

Issue	Findings	Recommended Condition
Lot consolidation	- Condition B18 requires the first development application to consolidate all land titles within the site into one lot. - The Applicant advises the lot consolidation is complicated by a caveat in favour of Ausgrid to create an easement for a substation on the site. As the easement relies on works that are part of the Stage 2 application, the Applicant is seeking to move the timing for lot consolidation to prior to the occupation of the building. - The Department considers the change in timing continues to result in the requirement for the lots to be consolidated as part of the first development application. As such the Department recommends the condition be amended to require the consolidation of lots prior to the issue of the first occupation certificate.	It is recommended to amend Condition B18 to change the timing to prior to the issue of the first occupation certificate.
Gross floor area (GFA) and gross building area (GBA)	- The proposed building envelope changes result in increases to the: - GFA, from 5,450 m² to 5,960 m² - GBA, from 6,830 m² to 8,037 m² - services/ voids, from 1,380 m² to 2,077 m². - The Concept Approval permitted a maximum of 6,000 m² GFA which the proposed building envelope complies with. - The changes to the building envelope have been discussed within this report and the Department is satisfied the proposed building envelope satisfactorily responds to the site, the adjacent heritage buildings and retains reasonable amenity for adjoining properties. - Although the internal use of space is beyond the scope of the Concept Approval and is a matter for consideration in the Stage 2 detailed design, the Department is satisfied the proposed building envelope can comply with the maximum gross floor area permitted under the concept approval.	No additional conditions or amendments to existing conditions necessary.
EPA comments	- The EPA requested the Department consider the application in relation to comments from the EPA on the draft SEARS, EIS and draft SEARS for Stage 2 of the project. - The Department notes the application is to modify a concept proposal and physical works are subject to Stage 2 detailed design. The concept approval includes requirements for a remediation action plan, detailed environmental site assessment and acid sulphate soils management plan, as well as an acoustic assessment and waste management plan, to be provided with subsequent	No additional conditions or amendments to existing conditions necessary.

development application/s.

- The Department is satisfied the concept approval conditions of consent adequately address environmental impacts and mitigation measures, with additional detail to be provided as part of the Stage 2 detailed design.

Archaeology

- The Department's EESG (former OEH) and the Heritage Division of the DPC (former Heritage Division of the OEH) noted the modification involves a second basement level and recommended conditions regarding a heritage induction to address archaeological awareness and use of the Unexpected Finds procedure in the event of an unexpected discovery.
- The Department notes the Concept Approval does not approve any physical works on site and a Stage 2 development application would include conditions as recommended by EESG and Heritage Division of the DPC.
- It is noted the Concept Approval includes conditions requiring archaeological testing (B9, B10 and B11) and Condition A8 requires basement levels to address the outcomes of archaeological testing.

No additional conditions or amendments to existing conditions necessary.

TfNSW

- TfNSW advised the Applicant needs to consider the impacts on the CBD metro corridor and prepare a draft Construction Pedestrian and Traffic Management Plan (CPTMP) as part of the Stage 2 development application.
- The Department notes the Stage 2 detailed design application will be referred to TfNSW for comment and further consideration of the Applicant's proposal with regard to the metro corridor and traffic impacts will be assessed at that stage.
- The concept approval includes a condition (B14) requiring the Applicant to liaise with TfNSW.

No additional conditions or amendments to existing conditions necessary.



7. Evaluation

The Department has reviewed the Modification Report, RtS and all additional information, and assessed the merits of the proposal, in consideration with the submissions received from Council, Government agencies and the public.

The Department has considered all relevant matters under section 4.55(2) of the EP&A Act and the objects of the EP&A Act.

The Department's assessment concludes the proposed building envelope has a scale and mass that positively responds to the heritage buildings in the Blackfriars Precinct. The proposed building envelope is the outcome of a design competition process undertaken by the Applicant and will facilitate a built form exhibiting design excellence.

The proposed replacement tree planting will positively contribute to the site's existing amenity, with six new advanced trees capable of a mature height of 12-14 m. While there will be temporary initial loss of tree cover until the replacement trees reach mature height, street trees outside the site and along Buckland Street will continue to provide streetscape character during this time.

The Department is satisfied the building envelope does not adversely overshadow the St Benedict's Church courtyard and residential properties, and recommended conditions and future assessment requirements will mitigate any impacts.

The Department recommends a future assessment requirement to provide detail of conservation of the heritage palisade fence and minimise relocation of significant heritage fabric, to ensure the gates historical relationship with the site is protected.

The Department concludes the proposed development is consistent with the strategic objectives for the area, the Greater Sydney Region Plan and Eastern City District Plan. The Department considers the proposal is in the public interest as it provides educational facilities within the Camperdown-Ultimo Health and Education Precinct.

Consequently, the Department considers the proposed development should be approved, subject to the recommended conditions of consent (**Appendix C**).



8. Recommendation

It is recommended that the Executive Director, Key Sites Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 6746 MOD 1 falls within the scope of section 4.55(2) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the application
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modifies** the consent SSD 6746
- **signs** the attached approval of the modification (**Attachment C**).

Recommended by:

Emily Dickson

Senior Planning Officer
Key Sites Assessments

Recommended by:

David McNamara

Director
Key Sites Assessments



9. *Determination*

The recommendation is: **Adopted by:**

Anthea Sargeant

Executive Director

Key Sites Assessments



10. Appendices

Appendix A – List of Documents

- SSD 6746, being the concept approval for the staged development of the UTS Blackfriars Precinct Research Building, granted by the Executive Director, Priority Projects Assessments, on 11 April 2017, together with submissions, the Applicant's response to submissions and the Department's assessment report.
- Environmental Assessment Report, prepared by Urbanac Pty Ltd, dated August 2018
<https://www.planningportal.nsw.gov.au/major-projects/project/11701>
- Submissions
<https://www.planningportal.nsw.gov.au/major-projects/project/11701>
- Response to Submissions, prepared by Urbanac Pty Ltd, dated 5 February 2019 and 18 March 2019
<https://www.planningportal.nsw.gov.au/major-projects/project/11701>
- Additional information, prepared by Urbanac Pty Ltd, dated 13 June 2019
<https://www.planningportal.nsw.gov.au/major-projects/project/11701>

Appendix B – Community views for Draft Notice of Decision

Issue	Consideration
Tree removal	Assessment
• object to the removal of street trees for the proposed development • any proposed mature plantings insufficient to replace the existing street tree canopy	• The proposal does not include the removal of any street trees • This issue is considered in Section 6.1.2 Recommended Conditions/Response • No conditions are required as no street tree removal is proposed.

Appendix C – Notice of Modification

The recommended conditions of consent can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/11701>

Appendix D – Consolidated Consent

The consolidated consent can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/11701>