



Student Accommodation, 13-23 Gibbons Street, Redfern

State Significant Development Assessment

SSD 9194



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Glossary

Abbreviation	Definition
Applicant	Wee Hur Capital Pty Ltd
AHD	Australian Height Datum
ARH SEPP	State Environmental Planning Policy (Affordable Rental Housing) 2009
BASIX SEPP	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
BCA	Building Code of Australia
CBD	Central Business District
CIV	Capital Investment Value
Council	City of Sydney Council
Commission	Independent Planning Commission
CPTED	Crime Prevention Through Environmental Design
CPTMP	Construction Pedestrian and Traffic Management Plan
Department	Department of Planning, Industry and Environment
EESG	Environment, Energy and Science Group
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FSR	Floor Space Ratio
GANSW	Government Architect NSW
GFA	Gross Floor Area
Heritage Division	Heritage Division of the Department of Premier and Cabinet

INSW	Infrastructure NSW
ISEPP	State Environmental Planning Policy (Infrastructure) 2007
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
RTS	Response to Submissions
RRTS	Revised Response to Submissions
SDRP	State Design Review Panel
SEARs	Planning Secretary's Environmental Assessment Requirements
Secretary	Planning Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SEPP 1	State Environmental Planning Policy No 1 – Development Standards
SEPP 55	State Environmental Planning Policy No 55 – Remediation of Land
SEPP 64	State Environmental Planning Policy No 64 – Advertising and Signage
SDCP 2012	Sydney Development Control Plan 2012
SLEP 2012	Sydney Local Environmental Plan 2012
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
SSP SEPP	State Environmental Planning Policy (State Significant Precincts) 2005
TfNSW	Transport for NSW
TfNSW (RMS)	Transport for NSW (RMS)
UGDC	Urban Growth NSW Development Corporation

Executive Summary

This report provides an assessment of a proposal seeking approval for the construction and operation of a new student accommodation building at 13-23 Gibbons Street, Redfern.

The proposal would consist of an 18-storey tower with a three-storey podium, 419 student accommodation rooms, and a new through-site link creating an extension of William Lane to Margaret Street.

The Applicant is Wee Hur Capital Pty Ltd. The proposed development is located within the City of Sydney local government area. The Minister for Planning and Public Spaces is the consent authority for the application.

Engagement

The application was publicly exhibited for 30 days and the Department received a total of 28 submissions, comprising nine submissions from government agencies, an objection from the City of Sydney Council (Council) and 18 public submissions, all objecting to the proposal. Key issues raised in public submissions included the oversupply of student accommodation in the area, height, overshadowing, privacy, heritage and construction impacts.

The Applicant submitted a Response to Submissions (RTS) and a Revised Response to Submissions (RRTS) to address the issues raised. Key amendments made to the proposal included reducing the proposed floor space ratio (FSR) of the proposal from 8.4:1 to 7.7:1, reducing the maximum building height by 2 m, reducing the podium height, redesigning the through-site link, and revising privacy mitigation measures.

Council subsequently withdrew its objection and the Government Architect NSW (GANSW) noted the improvements made to the bulk and scale of the building and confirmed the revised scheme has addressed its original concerns.

Assessment

The Department has carefully considered the merits of the proposal and the issues raised in submissions and is satisfied the revised proposal is acceptable for the following reasons:

- it is consistent with the Greater Sydney Region Plan and Eastern City District Plan, as it will provide additional student housing within close walking distance to universities, public transport, job opportunities and services. It would also facilitate the renewal of the Redfern Town Centre
- the Department is satisfied the revised proposal achieves design excellence and the issues raised by Council and the GA NSW have been adequately resolved
- the proposal would result in an acceptable built form outcome for the site as:

- it would sit comfortably within the Redfern Town Centre which is transitioning from low/medium to high density development, consistent with the strategic planning objectives for the area
- the proposed building height complies with the 18 storey maximum height control
- although the proposal would exceed the floor space ratio control by 10%, the impacts of the variation are negligible and the built form of the proposal is compatible with other tower developments within Redfern Town Centre.
- the impacts of the proposal in relation to privacy, view loss, overshadowing, wind and heritage, are acceptable and consistent with the outcomes envisaged by adopted planning controls for the site
- operational impacts would be appropriately mitigated and managed through the implementation of an Operational Management Plan and a suite of recommended conditions
- it would achieve good levels of amenity for future residents in the form of communal open space, solar access and noise mitigation
- it provides positive public domain outcomes through the provision of a through-site link, a wider footpath on the northern side of Margaret Street, and increased landscaping
- there would be no additional traffic impacts as the proposed development does not include any car parking
- it will deliver up to 240 construction jobs and five operational jobs.

Conclusion

The Department is satisfied the revised proposal achieves design excellence, would be compatible with the character of the area and would not result in any significant amenity impacts on neighbouring residents. The Department has also recommended a suite of conditions to ensure the potential impacts of the development are appropriately mitigated and/or managed.

The Department's assessment therefore concludes the proposed development is in the public interest and recommends the application be approved, subject to the recommended conditions.

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1 Introduction

This report provides an assessment of a State Significant Development (SSD) application for the construction of a student accommodation building, at 13-23 Gibbons Street, Redfern (SSD 9194). The Applicant is Wee Hur Capital Pty Ltd. The proposed development comprises a single 18-storey tower and podium, 419 student accommodation rooms, bicycle parking and ground floor communal and retail space.

1.1 Site context

The site is located within the Redfern Town Centre and is approximately 2.3 km to the south-west of the Sydney Central Business District and 200 m to the east of Redfern Train Station (**Figure 1**).

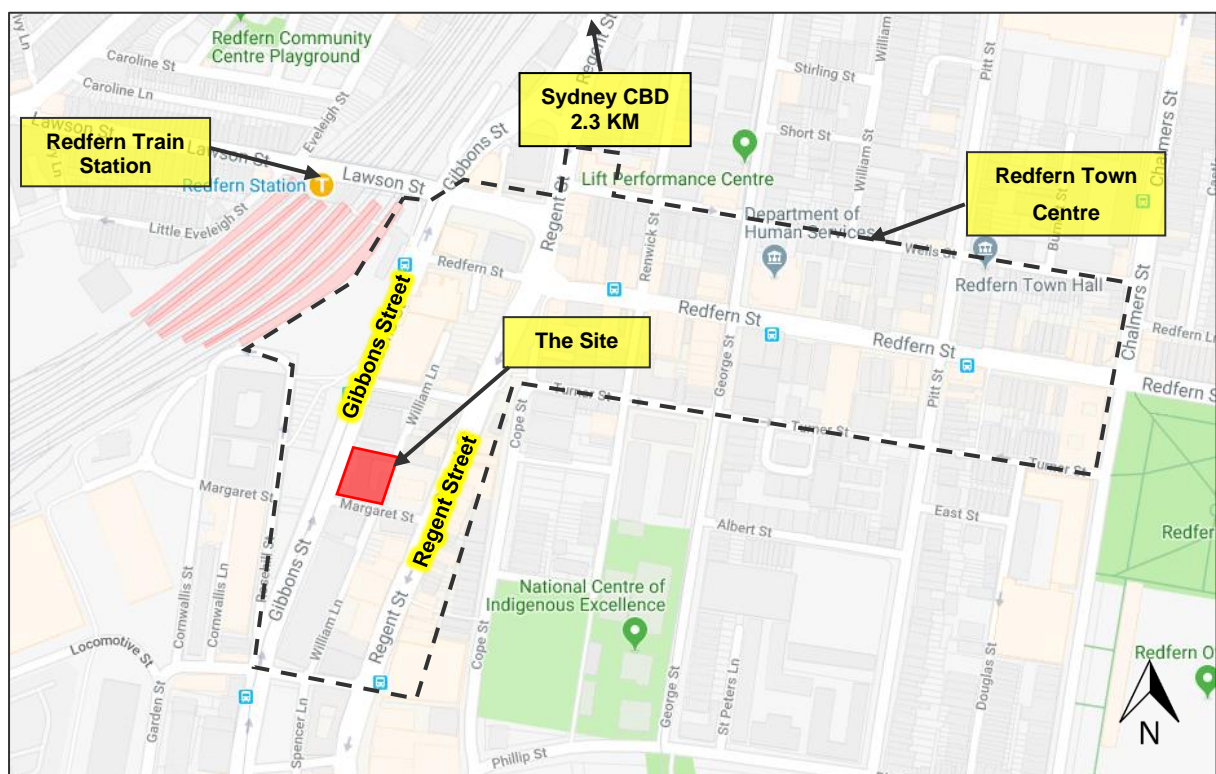


Figure 1 | Site location (as shown in red) (Base source: Nearmap)

The Redfern Town Centre is characterised by a mix of uses, including commercial, residential and public use buildings ranging from two to 18 storeys in height. Gibbons Street and Regent Street are four-lane, one-way State classified roads which run northbound and southbound respectively through the Town Centre.

The Redfern Town Centre is undergoing significant urban renewal and therefore has a mixed character transitioning from the traditional lower density mixed use, retail and residential developments of two to four storeys in height to buildings up to 18 storeys in accordance with the current planning controls for the area.

1.2 Site description

The site is located at 13-23 Gibbons Street, Redfern, Sydney, within the City of Sydney local government area, has an area of 1,365 m² and is legally described as SP 60485. The site currently comprises a four to five storey residential flat building with 32 units and basement car parking.

The site is bounded by Gibbons Street to the west, Margaret Street to the south, a service station to the east and 11 Gibbons Street to the north. The site also adjoins William Lane to the north-east corner of the site, where the lane terminates. Gibbons Street Reserve is located opposite the site on the western side of Gibbons Street with residential apartment buildings located in Rosehill Street beyond.

The only heritage item in close proximity to the site is the locally significant St Luke's Presbyterian Church at 118 Regent Street.

The site and adjacent development are shown in **Figures 2** and **3**.



Figure 2 | Aerial image of the site (outlined in red) and adjacent development (Base source: Nearmap)



Figure 3 | Existing site at 13-23 Gibbons Street (Source: Department's photograph)

Developments immediately surrounding the site are shown in **Figure 4** and include:

- **11 Gibbons Street:** 18-storey social and affordable housing development with ground floor retail/commercial uses (SSD 7749). Approved in 10 September 2019. Under construction.
- **90-102 Regent Street:** SEARs issued in November 2019 for an 18-storey student housing development (SSD 10382).
- **80-88 Regent Street:** 18-storey student housing development (to be combined with the adjacent Iglu development at 60-78 Regent Street). Approved on 4 October 2019. Under construction.
- **7-9 Gibbons Street** (known as the "Urba" building): 18-storey mixed-use development comprising a three-storey podium for retail/commercial uses and 15-storey residential tower above. Approved 22 October 2010 (MP08_0112). Constructed.



Figure 4 | Site location and context in relation to the above developments (red = the site, blue = constructed, yellow = SSD approved/under construction, green = SEARs lodged) (Base source: Nearmap)

2 Project

2.1 Description of proposal

The Applicant seeks approval for the construction of an 18-storey student accommodation development. The key components of the proposal, as amended by the RTS and RRTS, are summarised in **Table 1** and shown in **Figures 5** and **6**.

Table 1 | Key components of the proposal

Component	Description
Built form	<ul style="list-style-type: none">• Construction of an 18-storey tower, including three storey podium.
Uses	<ul style="list-style-type: none">• Student accommodation, comprising 419 rooms:<ul style="list-style-type: none">○ 55 x ensuite rooms (bathroom, no kitchen)○ 352 x studio rooms (bathroom and kitchen)○ 12 x accessible rooms• Change of use of existing basement for gymnasium, bicycle parking, storage and plant equipment• Retail tenancy, bicycle repair/parking, games room, common room, kitchen, reception, office, waste room and plant at ground level• Communal areas on levels 2, 3 and 4, including external terraces.
Gross Floor Area (GFA)	<ul style="list-style-type: none">• Total GFA of 10,513 m² (floor space ratio 7.7:1) comprising:<ul style="list-style-type: none">○ 10,441 m² student accommodation○ 72 m² retail.
Communal Open Space	<ul style="list-style-type: none">• Total of 196 m², comprising 38 m² each on levels 2 and 3 and 120 m² on level 4.
Public Domain	<ul style="list-style-type: none">• Provision of new through-site link between the proposed building and the eastern boundary (extension of William Lane to Margaret Street).• Use of the link would be shared by pedestrians and by vehicles servicing the proposed building.
Access	<ul style="list-style-type: none">• Primary pedestrian and retail access from Gibbons Street.• Student, service and bicycle repair/parking access from the through-site link.
Parking	<ul style="list-style-type: none">• 130 bicycle parking spaces.
Landscaping	<ul style="list-style-type: none">• Removal of 19 trees.

- Planting of 25 new trees, including seven new street trees and a further six new trees at ground level within the site.

Signage

- Four business identification sign zones:
 - one flush wall sign located on northern podium wall (0.7 m x 5.3 m)
 - two wall signs located on the western and southern elevations (3 m x 5.7 m)
 - one awning façade sign above the main entrance (0.4 m x 3.6 m).

Capital Investment Value (CIV) and employment

- CIV of \$64,350,000
 - 240 construction jobs
 - 5 operational jobs.
-



Figure 5 | Perspective of proposed development viewed from Gibbons Street looking north-east
(Source: Applicant's RRTS)



Figure 6 | Perspective of proposed development viewed from Gibbons Street looking north-east
(Source: Applicant's RRTS)

3 Strategic context

3.1 Greater Sydney Region Plan and Eastern City District Plan

The Greater Sydney Region Plan – A Metropolis of Three Cities (the Region Plan) sets out the NSW Government's 40-year vision and establishes a 20-year plan to manage growth and change for Greater Sydney. The Region Plan seeks to update directions and actions in A Plan for Growing Sydney and Towards our Greater Sydney 2056.

The proposed development is consistent with the Region Plan, as it supports productivity through the growth in jobs and student accommodation within the Harbour City. In doing so, it supports integrating land use and transport contributing to a walkable '30-minute city' and through an increase in student accommodation within a highly accessible part of the Harbour City.

The Region Plan also sets the planning framework for the five districts and District Plans which make up the region. The District Plans inform local council and planning and influence the decisions of State agencies. The aim of the District Plans is to connect local planning with the longer-term metropolitan planning for Greater Sydney.

The proposed development is located within the Eastern City District Plan. The proposal is consistent with the objectives of the Eastern City District Plan, as it will:

- provide services and social infrastructure by providing a new student accommodation building with a ground floor retail tenancy within Redfern Town Centre, close to public transport
- provide increased housing supply, choice and affordability by providing 419 student accommodation rooms
- provide public and private open spaces and increase the urban tree canopy by creating a new landscaped, through-site link (TSL), widening the Margaret Street footpath and planting 25 new trees.

3.2 Sustainable Sydney 2030

Sustainable Sydney 2030 sets out the City of Sydney's vision to make Sydney a more global, green and connected metropolis by 2030. The proposed development would contribute to several strategic directions in Sustainable Sydney 2030, as it would:

- be located in a highly accessible location, close to Redfern Train Station and bus routes, and provides bicycle parking for residents and workers (Strategic Direction 4)
- provide retail use at ground level activating Gibbons Street (Strategic Direction 5)
- enhance the local community through increasing housing options ((Strategic Direction 6)
- increase the housing options available in the area through the provision of student housing, including a variety of room sizes and types (Strategic Direction 8)
- include a range of sustainable building features and have a low reliance on private vehicles (Strategic Direction 9).

3.3 Redfern-Waterloo Built-Environment Plan (Stage One) August 2006

The Redfern-Waterloo Built Environment Plan (Stage One) August 2006 (BEP) was developed as a key driver for the former Redfern Waterloo Authority, now known as Infrastructure NSW (previously UrbanGrowth NSW Development Corporation until July 2019).

The BEP was prepared to assist in the social and economic revitalisation of the Redfern-Waterloo area and it forecasts the Redfern-Waterloo area will provide 2,000 new dwellings and 18,000 jobs.

The BEP provided a planning framework for the redevelopment of several strategic sites in the Redfern-Waterloo area, including the subject site. The BEP was used to inform the planning controls within the SSP SEPP, which applies to the site and are addressed at **Section 6.2** and **Appendix D**. These include:

- maximum height control of 18 storeys and podium height/setback controls for Gibbons Street and Margaret Street (3-storey podium height, then a 4 m setback with 15 storeys thereafter)
- maximum floor space ratio (FSR) control of 7:1.

The proposed development comprising retail, commercial and 419 student accommodation rooms would provide high density housing and ground floor activity to contribute to the Town Centre. The student accommodation is expected to have an 85% uptake by international students, contributing to the desired cultural diversity.

The proposed development complies with the 18 storey height control for the site but it seeks a 10% variation to the 7:1 FSR control which is considered in detail in **Section 6.3** of this report.

3.4 Redfern Centre Urban Design Principles

The Redfern Centre Urban Design Principles (RCUDP) were developed to provide urban design principles for future development of State significant sites within the Redfern Town Centre under the controls of the SSP SEPP.

The key objectives of the RCUDP are to reinforce and enhance the role of the area as a mixed-use precinct, achieve the highest standard of architecture and urban design, and ensure that highly visible buildings reinforce and respond to their visual setting. The RCUDP controls are considered in **Section 6.2**.

4 Statutory context

4.1 State significance

The proposal is SSD under section 4.36 (development declared SSD) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as it comprises development on land identified as being within Redfern-Waterloo and has a CIV in excess of \$10 million (\$64,350,000) under clause 2(g) of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011.

In March 2020, the Minister for Planning and Public Spaces delegated the functions to determine SSD applications to the Commission, where:

- the relevant Council has made an objection
- a political disclosure statement has been made
- there are more than 50 unique public submissions in the nature of objections.

However, under an Instrument of Delegation signed by the Chairperson of the Commission dated 12 March 2020, determination of an SSD application is delegated to the Department where Council has advised in writing that its objection has been resolved.

As Council have advised in writing that its previous objection is withdrawn, the application can be determined by the Executive Director, Regions, Industry and Key Sites.

4.2 Permissibility

The site is zoned Business Zone – Commercial Core under State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP). The proposed student accommodation and retail uses are permissible within the zone.

4.3 Secretary's Environmental Assessment Requirements

On 9 August 2018, the Department notified the Applicant of the amended Secretary's Environmental Assessment Requirements (SEARs) for project. The Department is satisfied the EIS has adequately addressed compliance with the SEARs to enable the assessment and determination of the application.

4.4 Mandatory matters for consideration

Section 4.15 of the EP&A Act outlines the matters that a consent authority must take into consideration when determining development applications. These matters include:

- the provisions of environmental planning instruments (including draft instruments), development controls plans, planning agreements, and the *Environmental Planning and Assessment Regulation 2000*
- the environmental, social and economic impacts of the development
- the suitability of the site
- any submissions, and

- the public interest, including the objects in the EP&A Act and the encouragement of ecologically sustainable development (ESD).

The Department has considered all these matters in its assessment of the project, as well as the relevant environmental planning instruments (EPIs) that apply to the proposal in **Section 6** and **Appendix D** of this report.

4.5 Biodiversity Development Assessment Report

Section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all applications for SSD to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.

The Environment, Energy and Science Group (EESG) and the Department issued a waiver for the preparation of a BDAR on 2 August and 6 August 2018 respectively as the site is highly disturbed and does not contain any significant vegetation or fauna habitat and the proposed development would therefore not cause any significant biodiversity impacts.

5 Engagement

5.1 Department's engagement

In accordance with Schedule 1 of the EP&A Act, the Department publicly exhibited the application from 24 January 2019 until 22 February 2019 (30 days). The application was exhibited on the Department's website, at the NSW Service Centre and Council offices at Town Hall and Green Square.

The Department placed a public exhibition notice in the Central Courier on 23 January 2019 and provided written notification to adjacent landholders and relevant State and local government agencies.

The Department considered the comments raised in the Council, government agencies' and public submissions during the assessment of the application (**Section 6**) and by recommended conditions in the consent at **Appendix F**.

5.2 Summary of submissions

The Department received a total of 28 submissions in response to the application. The submissions comprised of:

- nine submissions from government agencies
- one submission from Council (objecting)
- 18 submissions from the public, all objecting.

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

5.3 Key issues - Government agencies

The key issues raised by government agencies are summarised in **Table 2**.

Table 2 | Summary of government agency submissions

Government Agency	Comments
Government Architect NSW (GANSW)	<p>Reiterated recommendations made throughout the State Design Review Panel sessions and maintained the proposal required further design development with regards to the following:</p> <ul style="list-style-type: none">• demonstration of design excellence• William Lane laneway accessibility and use• entry locations and articulation• noise mitigation through façade treatment and articulation• plant/services location and retail provision at-grade• room dimensions and cross ventilation

	<ul style="list-style-type: none"> the incorporation or inclusion of Aboriginal culture and heritage into the design.
Transport for NSW (TfNSW)	<ul style="list-style-type: none"> Gibbons Street is not suitable for a work zone bicycle facilities should be provided in secure, convenient, accessible areas close to the main entries an updated Construction Pedestrian Traffic Management Plan to be prepared in consultation with the Sydney Coordination Office within TfNSW.
TfNSW (RMS)	Provided recommended conditions, including provision of excavation and stormwater drainage design details, and all vehicles to enter and exit the site in a forward direction.
EESG	<p>Noted the proposal involves minimal excavation and therefore is unlikely to impact any Aboriginal objects. Recommended conditions be imposed regarding:</p> <ul style="list-style-type: none"> the Applicant is to further investigate methods to incorporate Aboriginal cultural heritage values into the proposed design and develop and implement a heritage interpretation strategy an unexpected finds procedure be prepared.
Heritage Division	Raised no issues in relation to State heritage matters.
Environment Protection Authority (EPA)	Noted that the proposal does not constitute a Schedule Activity under the <i>Protection of the Environmental Operations Act 1997</i> and the EPA is not the regulatory authority for the proposed development.
Sydney Metro	Raised no concerns with the proposed development.
Sydney Airport	Commonwealth Airspace Protection have issued approval for the building to extend to a maximum height of 87.93 m AHD with separate approval to be obtained for any cranes.
Infrastructure NSW (INSW)	<ul style="list-style-type: none"> The application provides for 8,665 m² of additional floor space, resulting in an affordable housing contribution amount of \$752,815. <p>Note: Based on the revised design and additional floorspace being reduced to 7,708 m², the contribution amount would now be \$669,671.</p> <ul style="list-style-type: none"> The contribution amount is calculated as a rate of 2% of the proposed cost of the development, resulting in an amount of \$1,370,600.

Note: Based on the subsequent revised design and CIV, the contribution amount would now be \$1,287,000.

5.4 Key issues raised in Council/Community submissions

5.4.1 Council Key Issues

Council objected to the proposed development as summarised in **Table 3** below.

Table 3 | Summary of Council's submission

City of Sydney Council
Council objected to the proposed development for the following key reasons:
<ul style="list-style-type: none">the proposal does not achieve the objectives of the 'Business Zone – Commercial Core' under the SSP SEPPthe Applicant's written request to justify the contravention of the floor space development standard is not well founded and not in the public interestthe proposal has not demonstrated design excellence or that the building improves the quality and amenity of the public domain or that it mitigates environmental concerns such as wind and overshadowingthe proposed setbacks result in adverse residential amenity impacts for future residents and neighbouring propertiesthe landscape design is poorly resolved and lacks sufficient detail and the TSL is likely to be windy, heavily shaded, conflicted by services access.

5.4.2 Community Key Issues

The Department received 18 public submissions, all objections. All community members who made a submission live within 5 km of the proposed development with 77% living in Redfern. Key issues raised in the public submissions are summarised in **Table 4**.

Table 4 | Summary of key issues raised in public submissions

Issues/concerns Raised	% of Submissions
Oversupply of student accommodation in the area	78 (14 submissions)
Increased overshadowing	39 (7)
Excessive height	39 (7)
Construction impacts	33 (6)
Reduced privacy	22 (4)
Increased noise	22 (4)

Insufficient parking	22 (4)
Lack of pedestrian facilities in the area	22 (4)
Density/size of the building	22 (4)

5.5 Response to submissions

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

On 21 November 2019, the Applicant provided a Response to Submissions (RTS) (**Appendix B**), which contained additional information on the issues raised during the exhibition of the proposal. This included revised architectural plans and supplementary/revised design, wind, landscape, acoustic and mechanical ventilation reports.

The key amendments included:

- reducing the FSR from 8.4:1 to 7.85:1
- reducing the number of student rooms from 488 to 419 and increasing the size of ensuite rooms from 13 m² to 17 m² and studio rooms from 15 m to 15.5 m² - 21.4 m²
- increasing building setbacks
- increasing the podium height and adding a mezzanine level
- redesigning the through-site link
- redesigning the level 2 and 3 communal spaces and level 4 terrace
- incorporating additional ESD measures into the building, including solar panels.

The RTS was made publicly available on the Department's website, referred to Council and relevant agencies, and previous submitters notified.

An additional submission was received from Council who maintained its objection and two submissions were received from government agencies. Two additional public submissions were also received (both objections).

A summary of issues raised in these submissions is provided in **Table 5** below and a link to all submissions is provided at **Appendix B**.

Table 5 | Key issues raised in RTS Submissions

GANSW

GANSW reiterated previous recommendations and maintained the proposal required further design development with regards to the following:

- demonstration of design excellence
- William Lane laneway accessibility and use
- entry locations and articulation
- noise mitigation through façade treatment and articulation

- plant/services location and retail provision at-grade
- room dimensions and cross ventilation
- the incorporation or inclusion of Aboriginal culture and heritage into the design proposal.

Sydney Trains

Sydney Trains raised no concerns and provided recommended conditions of consent.

Council

Council reiterated its objection to the proposed development with the key issues being:

- the proposed FSR non-compliance is not supported
- the podium height is excessive and the podium should extend to the Margaret Street boundary
- inadequate building separation/setbacks
- further consideration/clarification required of the proposed building expression
- inadequate activation of street frontages
- the design of the TSL is unresolved
- the recommendations of the wind report are not adequately justified.

Public submission No.1

This submission objected to the proposed development for the following key reasons:

- adverse visual and overshadowing impacts of St Luke's Church due to the large scale, bulk and size of the proposed building
- reduced amenity of the area due to increased congestion and adverse heritage impacts
- potential construction and vibration impact to St Luke's Church.

Public submission No.2

This submission objected to the proposed development for the following key reasons:

- questioned the need for additional student accommodation in the area
- the building still extends to 18 storeys in height
- adverse impacts from increased population impacts in the area.

5.6 Revised Response to Submissions

Following consultation on the RTS, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in submissions.

On 22 July 2020, the Applicant submitted a RRTS, including amended architectural plans. The RRTS made key changes on the proposal, including:

- reducing the FSR from 7.85:1 to 7.7:1
- reducing the maximum building height by 2 m from 61.6 m to 59.5 m
- reducing the podium height by 2 m at its southern end from RL 39.9 to RL 37.9 and 2.1 m at its northern end from RL 39.1 to RL 37, deleting the mezzanine level and redesigning the basement and ground levels
- revising the Margaret Street setback to provide a more consistent street setback and to provide greater wind mitigation through an increased top of podium area
- increasing the size of queen studio rooms from 15.5 m² to 16.1 m² and the introduction of ensuite units (14 m²) on Level 4
- redesigning the through-site link and revisions to landscaping.

The RRTS was made publicly available on the Department's website and referred to relevant government agencies and Council.

Three additional submissions were received, one from Council, one from the GANSW and one public submission.

Council advised it withdrew its objection as the matters raised in its previous response had been addressed, however it provided additional comments regarding the extent of screening on the Margaret Street frontage, removal of street trees and conditions for the TSL and widened Margaret Street footpath.

The GANSW advised the revised design had addressed its concerns and provided recommended conditions regarding the implementation of the recommendations contained in the integration of Aboriginal cultural heritage values report, and that any significant modification proposal return to the State Design Review Panel (SDRP) for consideration.

The public submission reiterated previous concerns regarding the height and scale of the building, FSR non-compliance, overshadowing and inadequate setbacks to St Luke's Church.

5.7 Additional information

In response to comments from Council and the Department, the Applicant submitted additional information and minor amended plans incorporating a reduction in screening on the Margaret Street frontage and an updated BASIX Certificate.

6 Assessment

6.1 Key assessment issues

The Department has considered the proposal, the issues raised in submissions and the Applicant's response in its assessment of the application. The Department considers the key issues associated with the proposal are:

- design excellence
- built form
- building separation and privacy
- view loss, overshadowing and wind impacts
- heritage
- residential amenity
- public domain
- traffic and car parking.

Each of these issues are discussed in the following sections of this report. Other issues considered in the assessment of the application are addressed in **Section 6.10** of this report.

6.2 Design excellence

Clause 22 of Appendix 4 of the SSP SEPP contains a number of matters that the consent authority must consider when deciding if a development exhibits design excellence. In summary, these matters comprise architectural design, public domain and sustainability considerations.

Prior to submitting the EIS, the Applicant submitted the proposed design to the SDRP for review who raised a number of concerns with the proposal, including the building form and mass, its relationship to the public domain and internal amenity.

In response, the Applicant made amendments to the design of the podium, revisions to the tower form and façades, improvements to ground floor activation, and improvements to the design of the TSL, including the provision of Aboriginal artwork.

Following exhibition of the proposed development, four public submissions raised concerns about the density, size and design of the proposed building. Council considered the proposed building lacked articulation and raised concern about the building bulk, podium height, setbacks and materials. The GANSW also raised concerns that the revised design did not respond to all of the advice provided by the SDRP, including articulation of the façade and activation and amenity of the TSL.

In response to these issues, the Applicant provided further amended plans that reduced the scale of the building, revised the podium and façade design, revised the internal room design and incorporated improvements to the TSL and landscaping.

The GANSW reviewed the changes and noted the revised scheme reduced the bulk and scale of the proposal and previous concerns regarding design and visual appearance have been addressed.

Council considers the changes have addressed its previous concerns regarding building expression, built form and ground floor activation. The Margaret Street frontage has also since been further refined to reduce the ground floor screening, as requested by Council.

The Department has considered the advice from the GANSW and the matters to be considered under Clause 22 of Appendix 4 of the SSP SEPP and is satisfied the development has sufficiently addressed design excellence considerations as:

- the proposed design has been refined by reducing the FSR, improving the design of the TSL including the provision of Aboriginal art, improving the façade treatment and articulation, improving ground level access and activation to all street frontages and revising internal room layouts
- the building facades are of a high architectural quality providing suitable articulation to mitigate the building's visual bulk and scale
- the proposal would improve the amenity of the existing public domain by providing:
 - a TSL between the existing southern end of William Lane and Margaret Street
 - increased setbacks and widened footpaths to Margaret Street and William Lane
 - increased ground floor activation.
- the design maximises the amount of sunlight, natural ventilation and privacy for all room types and an acceptable level of amenity has been achieved given the constraints of the site (**Section 6.7**)
- the building incorporates appropriate sustainable design principles which exceed those required to meet energy and water reduction targets as required for BASIX Certification (**Appendix D**)
- it will incorporate public art in the TSL designed to reflect the cultural Aboriginal significance of the site.

The Department's assessment therefore concludes the proposed development demonstrates design excellence that satisfies the provisions of the SSP SEPP.

6.3 Built form

6.3.1 Height

Public submissions raised concerns about the maximum height of the proposal as it would extend to 18 storeys, significantly higher than the existing five storey building on the site.

The SSP SEPP sets a maximum height control of 18 storeys as well as a maximum podium height control of three storeys for Gibbons Street and Margaret Street. The RCUDP contains the same controls, including a maximum height control of 65 m (18 storeys) as well as a minimum land size requirement of 1,400 m² for high-rise development (13-18 storeys).

The proposal seeks approval for an 18 storey tower (59.55 m) with a three storey podium. The proposal therefore fully complies with the height controls applying to the site. However, the proposal does not comply with the minimum land size requirement of 1,400 m² for high-rise development (13-18 storeys) under the RCUDP. The site has a land size of 1,365 m² which represents a 2.5% variation to the RCUDP 1,400 m² control for high-rise development.

The Department considers the proposed variation to the land size control is acceptable in this instance and the site is suitable for 18 storey development as:

- the variation is a minor (2.5%) departure from the control
- there is little opportunity to acquire additional land from neighbouring sites to meet the requirement given neighbouring sites have either been or are likely to be redeveloped into 18 storey high rise towers
- the height of the proposal is consistent with other tall buildings within the Redfern Town Centre, including the adjacent site at 11 Gibbons Street (as shown in **Figure 7**)
- the proposal would not result in any unreasonable privacy, view loss or overshadowing impacts, which are considered in detail later in Sections 6.4 and 6.5 of this report.

The Department also notes that Council and the GA NSW, did not raise any concerns regarding the proposed height of the development.

The Department's assessment therefore concludes the proposed building height is consistent with the controls and is acceptable.

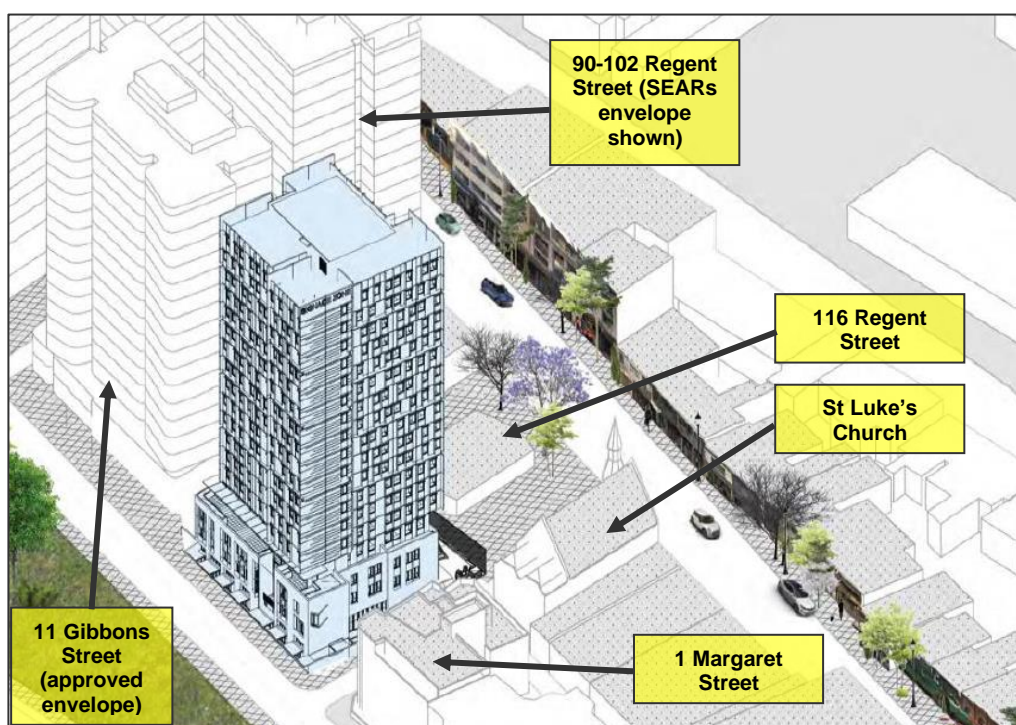


Figure 7 | Relationship of proposed building (shown blue) to neighbouring development (Base source: Applicant's EIS)

6.3.2 Setbacks

The SSP SEPP sets a maximum height control of 18 storeys provided the tower is setback 4 m from the podium. In addition, the RCUDP specifies a zero podium setback on both the Gibbons Street and Margaret Street frontages.

Council originally raised concerns that the proposed development did not include a compliant 4 m tower setback to Margaret Street and that a zero podium setback should also be provided. In response, the

Applicant's RTS increased the tower setback to 4 m and refined the Margaret Street podium setback to 1 m to allow for footpath widening.

The proposed development therefore now includes a fully compliant 4 m tower setback to both street frontages.

However, the proposed podium incorporates a predominant 1 m setback to Margaret Street rather than a RCUDP compliant zero setback (**Figure 8**).

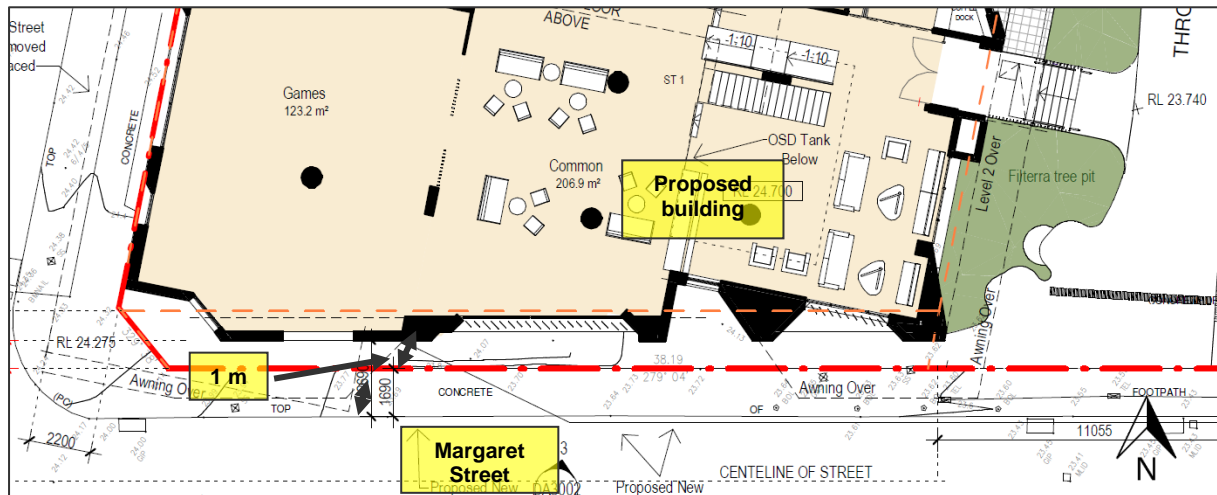


Figure 8 | Proposed podium setback to Margaret Street (Base source: Architectural Plans)

The Department supports the increased setback along Margaret Street as it would provide an improved visual relationship between the proposed development and the adjacent five-storey residential development on the southern side of Margaret Street (1 Margaret Street). It would also enable a wider footpath to be constructed on the northern side of Margaret Street, improving the amenity of the street.

Council support the 1 m podium setback to Margaret Street to enable widening of the footpath and have raised no further setback concerns. The Department is therefore satisfied the variation to the Margaret Street setback is minor and acceptable.

6.3.3 Floor space ratio

Council and the GA NSW initially raised concern about the proposed FSR of the development as it did not comply with the SSP SEPP which sets a maximum FSR of 7:1 for the site. Concern was also raised about whether the bulk and scale of the proposed building would achieve design excellence.

In response, the Applicant reduced the total GFA of the proposal from 11,470 m² to 10,513 m² which reduced the FSR of the proposal from 8.4:1 to 7.7:1. However, this still represents a 10% variation to the FSR control. The Department notes the additional floorspace has been accommodated within a larger tower floorplate, resulting in a wider tower. An updated SEPP 1 objection was received with the RRTS to support the proposed variation.

Council and the GA NSW reviewed the revised proposal and noted the changes contained in the revised scheme improve the bulk and scale of the proposed building and previous concerns regarding design, building expression and visual appearance have been addressed (**Section 6.2**).

The Department considers the proposed FSR variation is acceptable in this instance as the proposed bulk and scale of the development is consistent with the neighbouring developments within Redfern

Town Centre. Notably, the adjacent development at 11 Gibbons Street has an FSR of 8.4:1 as it was eligible for a 1.4:1 affordable housing bonus. Although the proposed student accommodation development does not benefit from this bonus, the proposed development nevertheless incorporates an FSR that is more consistent with the SSP SEPP control.

The Department also considers the proposed articulation and modulation of the façade appropriately mitigates the visual bulk of the building. The development contains two different red-brown toned face brick for the podium and yellow and grey shaded concrete for the tower to visually separate each component of the development (**Figure 6**) providing an appropriate scale when viewed from Gibbons Street and Margaret Street. The design also incorporates vertical aluminium fins and horizontal solar shadings to further soften the visual appearance of the building.

The Department has also considered the potential amenity impacts associated with the proposal in **Sections 6.4** and **6.5** and is satisfied the development would not result in additional adverse impacts compared to a complying development with regard to overshadowing, building separation/privacy, view loss or wind impacts.

The Department is therefore satisfied the proposed 10% variation to the FSR control is acceptable in this instance as the scale of the development is compatible with other developments within the Redfern Town Centre, the articulation and use of materials mitigates the visual bulk of the building and the proposal would not result in any unreasonable amenity impacts. Further detailed consideration of the proposed FSR variation and the Applicant SEPP 1 objection is provided in **Appendix C**.

6.4 Building separation and privacy

The Department has assessed the proposed building separation against the requirements of the ADG. While the ADG does not apply to student accommodation buildings, the Department considers it provides a useful guide for the assessment of building separation and privacy. Further, the RCUDP calls in the former Residential Flat Design Code (now the ADG) as a reference for the assessment of the separation of residential buildings.

The ADG recommends a minimum setback of 12 m to the boundary for tower buildings (or 6 m to the centreline of an adjacent street) and consequently, a total 24 m separation between towers. The proposal does not satisfy the recommended minimum 12 m setback along the northern and eastern boundaries. The proposed tower setbacks to each boundary, including the location of variations on the northern and eastern sides, are shown in **Figure 9**.

Council originally raised concerns regarding building separation and potential privacy impacts. Four public submissions (22%), all from residents of 1 Margaret Street, also raised concerns regarding loss of privacy.

The Applicant contends that the ADG does not apply to student accommodation developments and the proposal has been carefully designed to minimise visual privacy impacts on surrounding residents.

Following a review of the Applicant's RRTS, Council raised no further concerns regarding building separation and privacy.

The Department considers that while the ADG provides a useful guide, each elevation has been assessed on its merits having regard to the built form and potential privacy impacts (excluding the western elevation which faces Gibbons Street Reserve) on adjoining properties below.



Figure 9 | Tower floorplan (levels 7 to 18) illustrating proposed boundary setbacks. Locations where the setback is less than recommended by the ADG are shown circled red (Base source: Architectural Plans)

Privacy

Northern Setback

The proposal includes a varied setback along the northern elevation of the site ranging between 3.9 m to 6.3 m, providing a minimum building separation distance of 10.8 m to the approved social housing development at 11 Gibbons Street (**Figure 10**).

While the minimum building separation distance along the northern boundary (10.8 m) is less than the 24 m recommended under the ADG, the Department considers the proposal would not result in any adverse privacy impacts as:

- all windows in the southern elevation of the neighbouring 11 Gibbons Street building are obscure glazed and privacy screens are fitted to the southern side of east facing balconies preventing overlooking

- with the exception of two end of corridor windows which would be obscurely glazed, the proposed building only contains one student room window on each level facing north towards a blank wall and obscure glazed windows in 11 Gibbons Street.

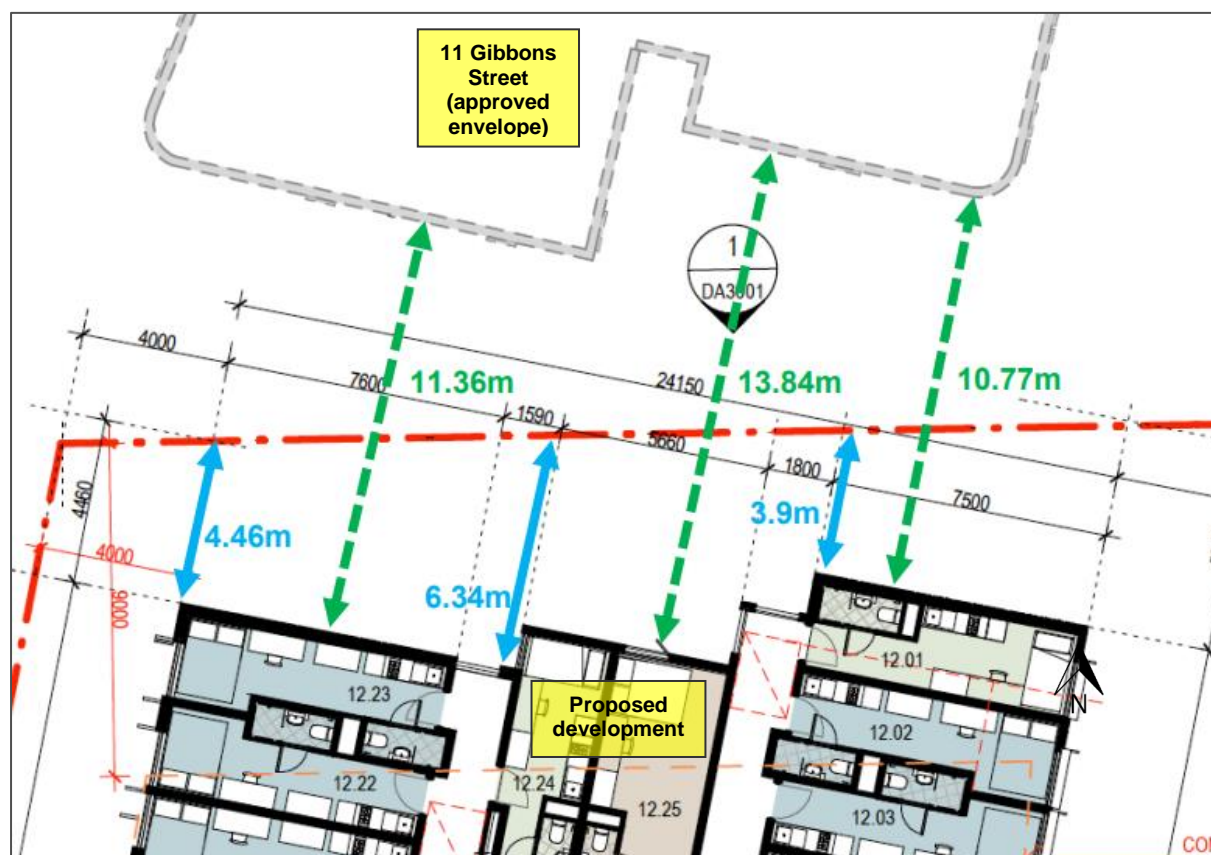


Figure 10 | Proposed setbacks/building separation to 11 Gibbons Street. Proposed setbacks to boundary shown blue. Combined setback shown red (Base source: Applicant's RTS)

Eastern Setback

The eastern elevation of the proposed tower would be setback a minimum of 7.8 m from the eastern boundary at the north-eastern corner, increasing to 11.5 m at the south-eastern corner.

A service station is located at 116 Regent Street to the west of the site. Should the service station site be redeveloped in the future, a 24 m building separation would be recommended under the ADG with a 12 m setback applying to the respective towers.

While the proposed minimum setback distance along the eastern boundary would be less than the 12 m recommended under the ADG, the Department considers the proposal would not result in any future adverse privacy impacts as angled screens are proposed for windows located less than 9 m from the eastern boundary at the northern end of the building (**Figure 11**).

This is consistent with the approved development at 11 Gibbons Street where privacy mitigation measures were required where the eastern setback was less than 9 m.

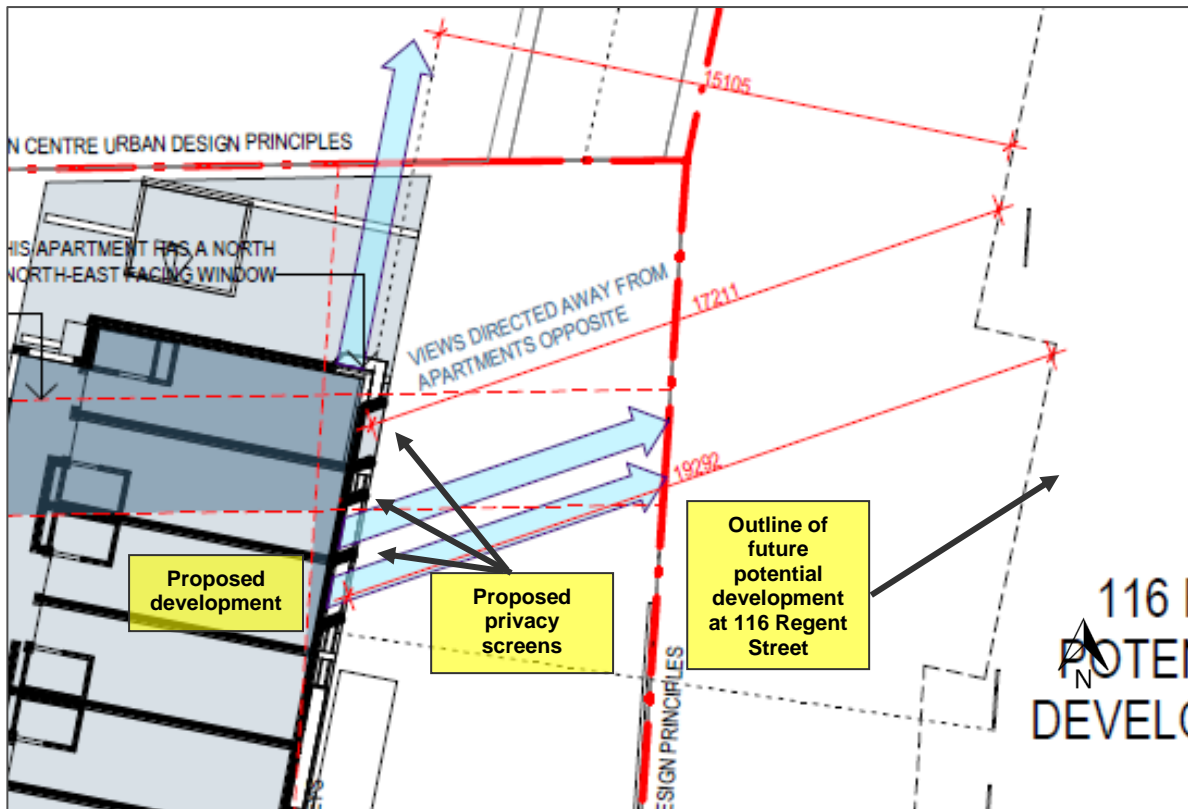


Figure 11 | Proposed privacy mitigation measures and setbacks to 116 Regent Street (Base source: Applicant's RRTS)

Southern Setback

The proposal includes a varied tower setback to the centreline of Margaret Street of 7.4 m to 10.2 m with a predominant three storey podium setback of 5 m.

A five-storey residential apartment building, 1 Margaret Street, is located on the southern side of Margaret Street. Under the ADG, the recommended setback distances to the centreline of Margaret Street are therefore 6 m up to four storeys and 9 m for five to eight storeys.

While the proposed minimum setback distances are slightly less than recommended under the ADG, the Department considers the proposal would not result in any adverse privacy impacts as:

- south-facing communal and student room windows located within the podium include louvres to direct views away from 1 Margaret Street or utilise obscure glazing for secondary and end-of-corridor windows (**Figure 12**)
- the podium has been setback from the southern boundary to allow for greater building separation
- only two south-facing windows are proposed in the southern elevation above the podium and only one is marginally less than the recommended setback of 9 m
- the proposed tower achieves a minimum setback of 4 m from the boundary consistent with the RCUDP controls.

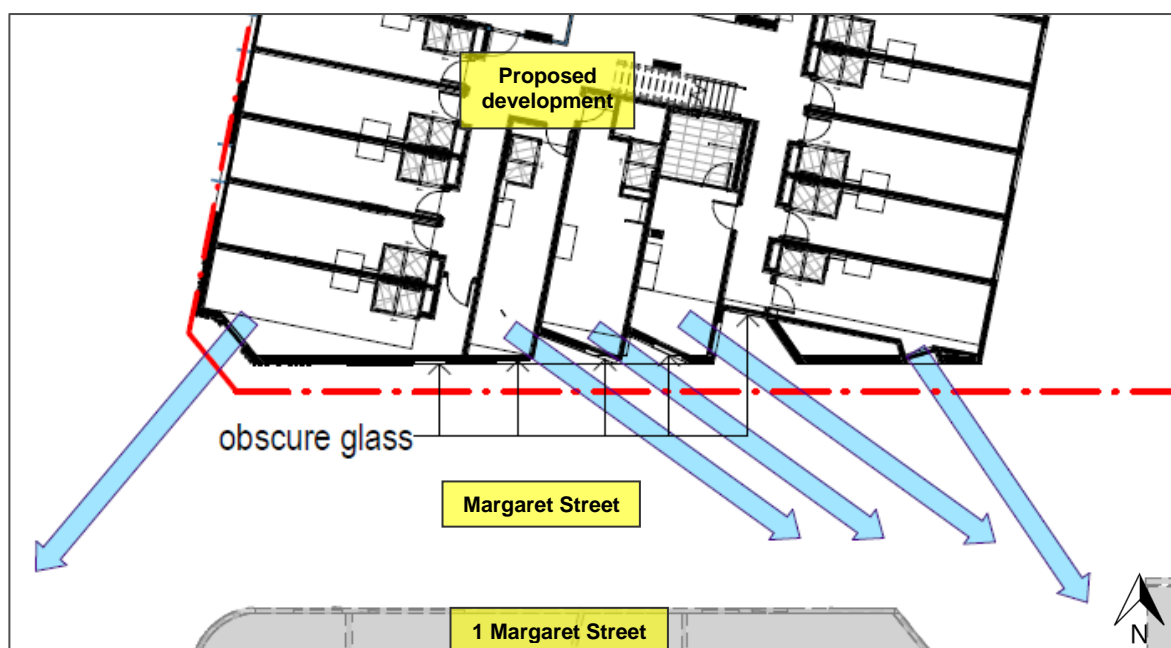


Figure 12 | Proposed podium privacy mitigation measures. Blue arrows indicate restricted view lines from windows (Base source: Applicant's RRTS)

6.4.1 Building Separation

The Department notes the broader Redfern Town Centre has an emerging character of higher densities with some building separations less than recommended by the ADG. Notably, the proposed building separation is consistent with the adjacent approved development at 11 Gibbons Street which has minimum setbacks of 5.3 m to 9 m to the centreline of William Lane.

The Department considers the proposed setbacks/building separation distances are consistent with the emerging built form character of the Redfern Town Centre. Combined with proposed design treatments, this provides an acceptable balance between providing a reasonable level of visual privacy to residents and allowing development to proceed in this high-density area. The Department considers further increasing the setbacks of the proposed building to increase overall building separation would not result in any material improvement to the overall appearance of the development within the Redfern Town Centre.

The Department's assessment therefore concludes the proposed development is consistent with the established and emerging character, including the building separations, of the Redfern Town Centre and the proposal would not result in any unreasonable visual privacy or building separation impacts.

6.5 View loss, overshadowing and wind impacts

6.5.1 View loss

The Applicant has considered potential view impacts of the proposal on neighbouring buildings as part of the EIS and RTS. The Applicant's Visual Impact Assessment Report concluded the proposed development would be unlikely to significantly impact private views.

The Department has reviewed the Applicant's visual impact assessment and visual impact analysis and is satisfied they accurately consider the views affected, location of where views are obtained and the extent of impacts.

One public submission raised issues of view loss from 1 Margaret Street. Council did not raise any view loss concerns.

To ascertain whether the proposed view sharing impacts are reasonable, the Department has followed the four-step assessment process in accordance with the principles established by *Tenacity Vs Warringah [2004] NSWLEC 140*. The steps/principles adopted in the decision are:

1. assess the views affected and the qualitative value of those views
2. consider from what part of the property the views are obtained
3. assess the extent of the impact (from 'negligible' to 'devastating')
4. assess the reasonableness of the proposal that is causing the impact.

The Department's findings of the assessment against the first three steps to relevant neighbouring sites is provided below.

1 Margaret Street

The proposed building is located to the north of an existing five-storey residential apartment building at 1 Margaret Street. North-facing apartments within 1 Margaret Street have views towards the existing five storey building at 13-23 Gibbons Street, together with oblique views towards Gibbons Street Reserve to the north-west and a building adjacent to Regent Street to the north-east. None of these views are iconic views.

The Department considers view loss impacts to 1 Margaret Street, from the proposed tower would be negligible. While there would be some loss of outlook towards the sky as a result of the proposed 18 storey tower, all other views including oblique views towards Gibbons Street reserve would be retained and residents would still enjoy a similar outlook to what is currently achieved.

11 Gibbons Street

The approved social housing development at 11 Gibbons Street to the north of the site was designed with a small number of secondary obscurely glazed and screened openings in the southern elevation to mitigate potential privacy impacts to adjoining development. The Department therefore considers it would not be impacted by view loss.

32-42 Rosehill Street

The existing three storey residential apartment building at 32-42 Rosehill Street is located over 50 m to the west of the site on the opposite side of Gibbons Street Reserve. The Department considers there would be no material view loss impacts from the proposed development, given the distance involved and the eastern views towards the site are filtered by trees within the Gibbons Street Reserve.

116 Regent Street

The Department notes the existing service station site at 116 Regent Street may potentially be redeveloped up to 18 storeys in the future. Given the proximity of the two sites to their respective rear elevations, each would impact views from the other. However, the Department considers any potential view impacts from the proposed development are reasonable given the proposed setbacks are

consistent with other tower approvals in the Redfern Town Centre and the proposal complies with the height controls.

The fourth step of the Tenacity planning principles is to assess the reasonableness of the proposal that is causing the impact. The Department considers the proposed development is reasonable and acceptable because:

- the proposal complies with the 18-storey height limit for the site, and as such, any impacts on views is inevitable
- the view impacts to neighbouring properties are negligible and consistent with the impacts reasonably expected within a high-density town centre location.

The Department's assessment therefore concludes the overall view impacts are negligible and are reasonable for a high-density town centre location.

6.5.2 Overshadowing

Public submissions raised concerns the proposal would result in unacceptable loss of solar access to neighbouring properties, particularly to 1 Margaret Street, located directly to the south of the site. Council also raised concerns regarding overshadowing and requested additional analysis be provided quantifying overshadowing impacts.

The Applicant provided an overshadowing/solar access analysis comparing the proposed development to the impacts from a complying scheme (**Figure 13**). The Applicant contends the overshadowing impacts from the proposed development are mostly consistent with those envisaged by the planning controls for the site and are inevitable under any redevelopment of the site.

The Department considers the extent of overshadowing is generally consistent with a compliant scheme with slightly less overshadowing occurring due to the increased setback to the eastern boundary and lower building height compared to the modelled complying development.

The Department's assessment of the overshadowing impacts on 1 Margaret Street found that of the 12 apartments impacted by the development, nine apartments would still receive acceptable levels of solar access as:

- six apartments would maintain at least two hours of solar access in midwinter to their living area and/or balcony, which complies with the recommended solar access requirements in the ADG
- two apartments would receive slightly more solar access than existing (due to the increased setback of the proposed building to the eastern boundary compared to the existing building), and
- one apartment would experience no change in solar access.

Of the remaining three apartments the Department notes:

- Apartment 9 would lose 30 minutes of solar access to a balcony (reduced to 1.5 hours) but the existing one hour of solar access to the living area would not be impacted
- Apartment 6 would also lose 30 minutes of solar access to a balcony (reduced from one hour) and the existing 15 minutes of solar access to the living room would be removed
- Apartment 10 would be more significantly impacted with solar access to the living area reduced from 3.25 hours to 30 minutes and solar access to the balcony reduced from 1.75 hours to zero.

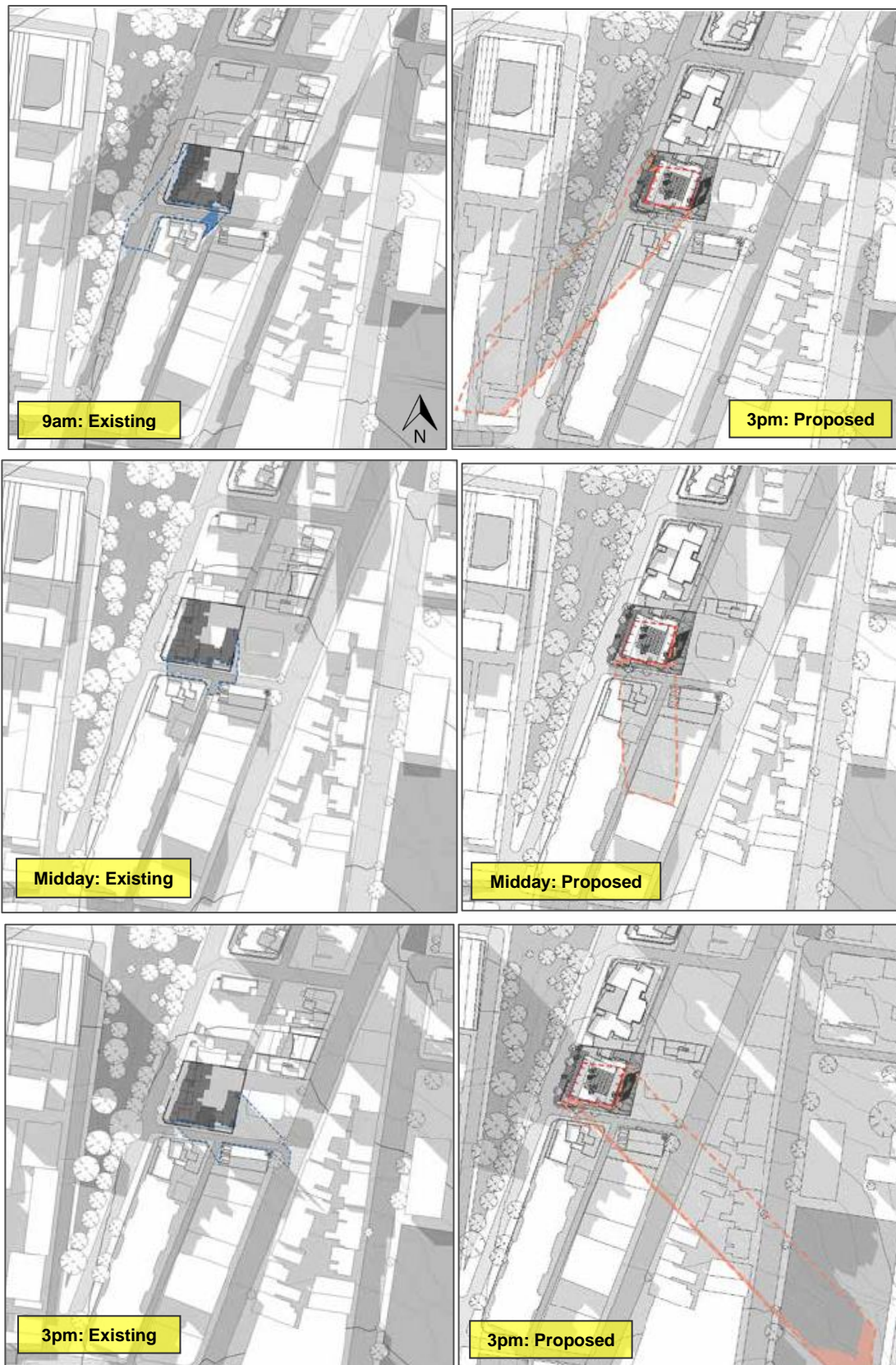


Figure 13 | Overshadowing at 9 am, 12 pm and 3 pm in midwinter. Proposed envelope shown dashed red. Additional overshadowing compared to a complying development shown orange. Reduced overshadowing compared to a complying development shown blue (Base source: Applicant's RRTS)

However, despite the increased overshadowing of these apartments, the Department considers the over shadowing impacts are reasonable in this instance given the site's inner-city location and the scale of development permitted by the controls. Further, the Department notes the above impacts relate to a 9 am to 3 pm timeframe in midwinter and most apartments would still receive sunlight either before 9 am or after 3 pm.

The Department considers overshadowing of St Luke's Church is unavoidable given the proximity of the church to the site and the associated 18-storey height controls. Furthermore, additional overshadowing from the proposed building compared to a complying development would fall largely on the roof of the church.

With regard to open space, the proposed development would only overshadow the southern tip of Gibbons Street Reserve before 9.40 am in midwinter with the Reserve still receiving over seven hours of solar access from 10 am. The National Centre of Indigenous Excellence playing field at 160-202 George Street (**Figure 1**) would also only be impacted by increased overshadowing from 2.30 pm in midwinter. However, the entire field would still receive at least six hours solar access in midwinter with 83% of the field receiving more than seven hours.

Following a review of the Applicant's RRTS, Council raised no further concerns regarding overshadowing.

The Department therefore concludes the overall overshadowing impact on adjoining properties is acceptable because:

- the proposed development complies with the 18-storey height control and is consistent with the form of development envisaged by the planning controls
- the extent of overshadowing is generally consistent with a compliant development. Notably, the provision of the TSL on the eastern side of the building and the proposed height of 59.6 m which is 5.4 m below the maximum of 65 m permitted under the RCUDP, also results in some reduction in overshadowing compared to a development extending to the maximum permitted height
- some impact to existing solar access currently received by neighbouring sites to the south, particularly 1 Margaret Street, is unavoidable given the orientation of the sites and the permitted height controls
- the proposed development would not result in any material overshadowing impacts on the public domain
- a portion of the overshadowing generated by the proposed development would be subsumed within shadows generated by any future tower developments at 90-102 and 116 Regent Street which are also subject to an 18-storey height control
- the proposed development would not preclude solar access being achieved to any future development at 116 Regent Street given this site has an east facing street frontage.

The Department's assessment therefore concludes the overshadowing impacts of the proposal are acceptable and consistent with those envisaged by the planning controls for the area.

6.5.3 Wind impacts

Concern was raised in a public submission about the potential wind impacts associated with the proposal.

The Applicant provided a revised Wind Report with the RRTS which confirmed the proposed building form would result in good levels of wind amenity within the TSL and the amenity of the footpath on Gibbons Street would be suitable for the intended pedestrian use. In addition, the proposed podium setback to Margaret Street would slightly improve wind impacts at ground level compared to a complying development (with a zero-podium setback) and would also be suitable for pedestrian use. The Department also notes the Wind Report includes recommendations to appropriately mitigate wind speeds on the roof terrace of the development.

Overall, the Department is satisfied the proposed development would not result in any significant wind impacts noting it achieves acceptable levels of wind amenity within the surrounding streets and TSL, suitable for their intended use. The Department also notes the wind testing did not include the proposed landscaping or the public artwork canopy, therefore the actual impacts are likely to be better than predicted. Further, the Department notes Council raised no concerns regarding the potential wind impacts associated with the revised scheme. The Department is therefore satisfied that subject to the recommendations outlined in the Wind Report, the proposed development would not result in any significant wind impacts.

6.6 Heritage

The site does not contain any heritage items but is located in close proximity to the locally significant St Luke's Presbyterian Church heritage item (**Figure 14**). The site is also located within 150 m of the State Significant Redfern Railway Station Group and Eveleigh Railway Workshops and the locally significant Redfern Estate Heritage Conservation Area.

Submissions from an organisation operating from St Luke's Church raised concerns regarding the bulk and scale of the proposed building and associated impacts on the setting of the church.



Figure 14 | St Luke's Church viewed from Regent Street looking west towards the site (Source: Applicant's RTS)

The EIS was accompanied by a Heritage Impact Statement (HIS). The HIS concludes:

- while the proposed building would introduce a prominent element into the skyline that would potentially diminish the prominence of the St Luke's church, the impacts would be offset by the proposed setbacks from the eastern boundary and the use of brick within the facade of the podium
- there would be negligible to minor visual impact to the nearby State listed Redfern Railway Station Group (130 m to the north-west) and Eveleigh Railway Workshops (110 m to the west) and the locally listed Redfern Estate Heritage Conservation Area (75 m to the east) and 'Terrace House' on Regent Street (63 m to the north-east) due to the distances involved.

The Applicant contends the revised proposal represents a significant improvement to the planning controls that apply to the site which envisage a zero-podium setback to the eastern and southern boundaries resulting in a 7 m setback to the church. The proposed podium would be setback 10.7 m from the church, which is a significant increase compared to the existing building (**Figure 15**).

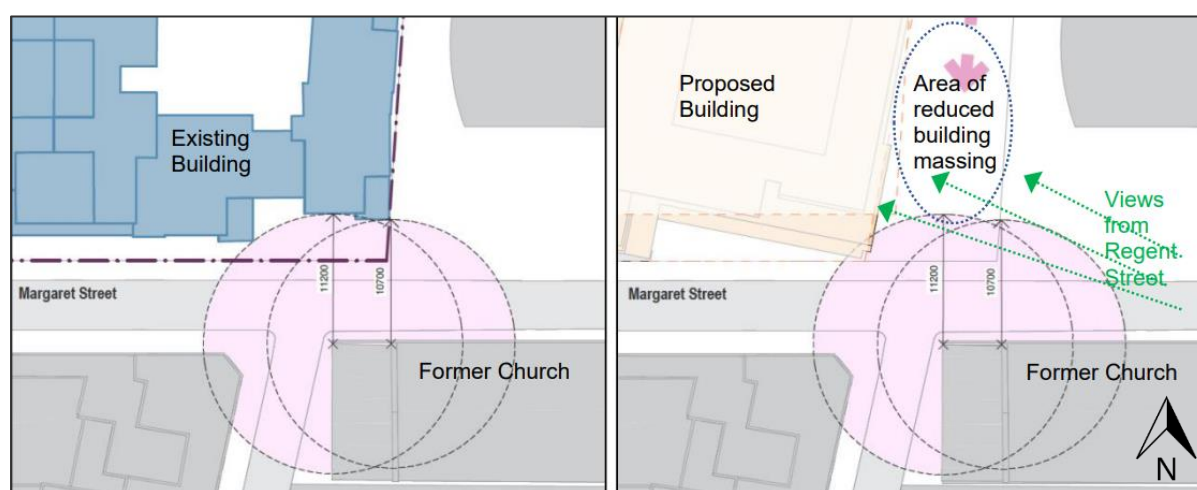


Figure 15 | Relationship of St Luke's Church compared to the existing (left) and proposed (right) buildings (Base source: Applicant's RTS)

The Department considers the potential heritage impacts of the proposal are acceptable as the planning controls for the site permit high-density development extending to 18 storeys within the Redfern Town Centre. The Department also notes the existing service station at 116 Regent Street, directly adjacent to St Luke's Church, forms part of the Redfern Town Centre and is also zoned for 18-storey development.

The Department also accepts the proposed building would be setback further from the St Luke's church than the existing development on the site due to the proposed TSL and the additional 1 m podium setback from Margaret Street. This would reduce the visual massing of the proposal at the street level and improve the setting of and views towards the St Luke's Church compared to the existing development.

The Department is therefore satisfied the proposal would not result in any unacceptable heritage impacts as the proposal is consistent with the type and scale of development permitted under the planning controls and the proposed setbacks would appropriately offset the additional height of the proposal compared to the existing development.

6.7 Residential amenity for future occupants

The Department has considered the proposed use for student accommodation purposes and the internal amenity for future occupants. While the ARH SEPP and Sydney Development Control Plan 2012 (SDCP 2012) do not strictly apply to the development, the Department has assessed the proposal against these requirements in **Appendix D** to guide its assessment.

In summary, the Department is satisfied the proposal adequately meets the amenity requirements outlined in the ARH SEPP and the SDCP 2012. However, the Department notes the proposal does not fully comply with solar access, room sizes and laundry facility requirements. The Department's assessment of these issues and acoustic privacy/ventilation, is outlined below.

6.7.1 Solar access

The ARH SEPP and SDCP 2012 provide controls regarding solar access to indoor communal areas as follows:

- ARH SEPP: At least one communal living room to receive a minimum of 3 hours direct sunlight between 9 am and 3 pm mid-winter
- SDCP 2012: Indoor communal living areas to receive two hours of solar access to 50% of area between 9 am-3 pm at midwinter.

While the proposal would not meet the ARH SEPP requirement of one communal living room receiving a minimum of 3 hours direct sunlight between 9 am and 3 pm mid-winter, it would provide a minimum of two hours solar access to the west-facing windows of the indoor communal space on levels 2, 3 and 4 and the games room on ground level, consistent with the SDCP 2012 requirement.

The Department considers compliance with the ARH SEPP requirement for sunlight to communal areas is difficult to achieve given the site sits directly to the south of the approved 18-storey development at 11 Gibbons Street. However, the Department is satisfied that the proposal has been designed to maximise sunlight access to communal spaces and it meets the SDCP 2012 minimum requirements which is considered to be acceptable within a confined site in a high-density area.

6.7.2 Room sizes

Council's DCP 2012 recommends ensuite rooms are a minimum of 14.9 m² and studio rooms are a minimum of 16.9 m².

All rooms comply with the minimum size requirements outlined in the Council's DCP 2012 with the exception of 11 ensuite rooms which measure 14 m² which is 0.9m² less than the control.

The Applicant contends the proposed room sizes are acceptable given the rooms are well designed and the smaller room size is offset by large areas of communal living spaces.

The Department considers the proposed room sizes are acceptable in this instance as:

- the proposed numerical variations are minor and offset by the provision of large areas of communal open space, significantly in excess of the SDCP 2012 requirements

- the rooms will offer good amenity noting they include custom-made furniture and include large windows. Further, the 11 ensuite rooms that are 14 m² (all located on Level 4) would have increased minimum ceiling heights of 3.3 m.

6.7.3 Laundry facilities

The proposal includes the provision for 10 washing machines (ratio of 1 per 42 students) and 10 dryers (ratio of 1 per 42 students), which is less than the required rate under the SDCP 2012 of one washer / dryer per 12 students.

The Applicant advises that the ratio of 1 washer/dryer per 42 students is acceptable based on the Applicant's extensive experience in developing student accommodation buildings in Australia and internationally. The RTS also included a report from a supplier of laundry equipment to student accommodation sites in Australasia which, based on case studies, confirms a ratio of one washer/dryer per 50 students would be proposed ratio would be sufficient to meet student needs within the proposed development. The Applicant also proposes a laundry monitoring system, consistent with the other developments, to ensure efficient operation.

Despite being less than the SDCP 2012, the Department is satisfied the proposed number of washing and drying machines will provide for adequate laundry facilities for future residents as:

- the provision is based on the Applicant's experience with laundry demands from students within previous student accommodation developments
- the provision exceeds the ratio of laundry facilities approved in other student accommodation developments in the locality such as the recently approved student accommodation at 80-88 Regent Street (SSD 9275) which has a washing/drying machine ratio of 1:53/1:44
- the laundry facilities would be appropriately managed by a laundry monitoring system.

6.7.4 Acoustic privacy/ventilation

The site is located adjacent to Gibbons Street, a main road and therefore likely to experience road noise impacts. Impacts from road noise are unavoidable given the site's predominant outlook to the west over Gibbons Street, with this frontage also providing the greatest access to natural light and outlook.

The Applicant has submitted an Acoustic Report, demonstrating compliance with relevant guidelines, including the provisions of the ISEPP and the Development Near Rail Corridors and Busy Roads – Interim Guidelines (2008) subject to mitigation measures for the 'windows closed' criteria. However, the proposal cannot achieve the "windows open" criteria given the high external noise levels at the site.

While the proposal does not comply with the windows open noise criteria, the Department notes each student room would be provided with mechanical ventilation from fans mounted on the roof which will connect to ductwork risers which will reticulate down the building providing fresher, cleaner air from the roof level to all rooms. This would allow windows to be closed to minimise road noise while providing sufficiently ventilated rooms.

The Department concludes the proposed development would achieve satisfactory acoustic privacy subject to a condition requiring building elements and glazing to comply with the Acoustic Report and the relevant guidelines and provisions.

6.8 Public domain

The proposal includes a range of public domain works, including a new through-site link (TSL), footpath widening and landscaping (**Figure 16**). An assessment of each element is provided below.

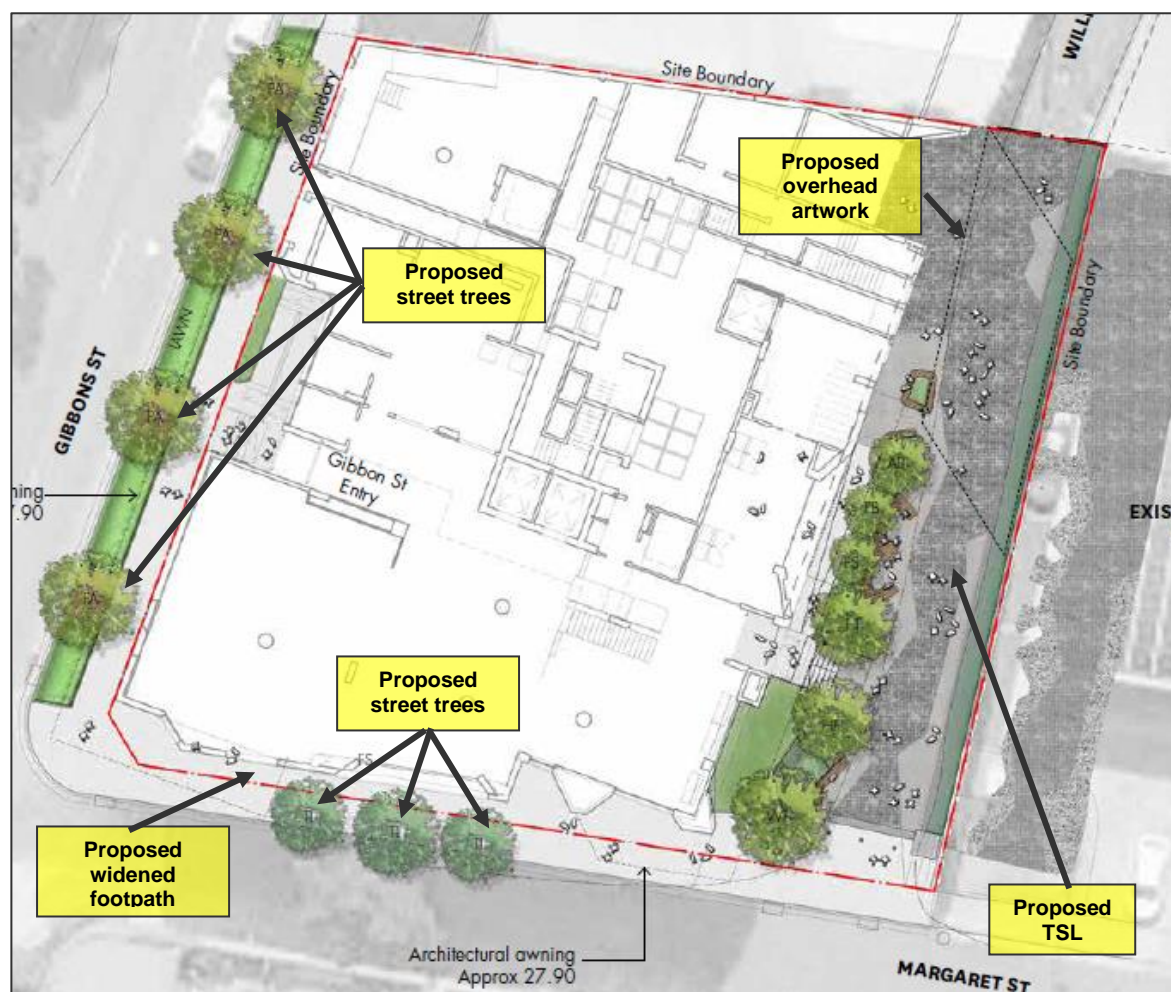


Figure 16 | Location of proposed public domain works (Source: Applicant's RRTS)

6.8.1 TSL

Council and the GANSW initially raised concern about the TSL's design and landscaping, including its relationship to the eastern elevation/ground floor of the proposed building.

In response, the Applicant amended the TSL to include significantly increased landscaping, revised surface and boundary treatments, and increased connectivity and activation between the proposed building and the TSL.

Following further refinement of the design and landscaping via the RRTS, Council and the GANSW raised no concerns with the proposed TSL.

The Department considers the revised design of the TSL (**Figure 17**) is acceptable as it would result in a number of public benefits, including the provision of additional landscaping, seating, paving, public art, activation and stormwater improvements. The lane would also improve connectivity through this part of the site connecting the southern end of William Lane to Margaret Street.



Figure 17 | Proposed TSL looking north from Margaret Street (Source: Applicant's RRTS)

6.8.2 Footpath widening

Four public submissions raised concerns regarding pedestrian facilities. In response, the Applicant amended the proposal to provide a 1 m setback along Margaret Street to allow for a 2.7 m wide footpath (**Figure 16**).

Council supports the proposed Margaret Street footpath widening subject to the area of the footpath located on the site remaining in private ownership.

Although the RCUDP requires a zero setback to Margaret Street, given the narrow width of the existing footpath on the northern side, the Department is satisfied the proposed increased setback and wider footpath is appropriate and would not result in an adverse impact on the streetscape.

6.8.3 Tree removal/Landscaping

The proposed development includes the removal of 16 trees within the site. A further three street trees, located on Gibbons Street, are to be removed due to adverse impacts from required pruning of the trees to allow for the proposed building and awning.

Council advised the street trees on Gibbons Street should only be removed if the overhead power cables are to be relocated underground.

In response, the Applicant confirmed the three street trees on Gibbons Street are to be removed in order to underground the overhead powerlines. These trees would be replaced with four advanced new street trees.

The Department considers the proposed removal of trees is acceptable in this instance as:

- the Arborist Report submitted with the RTS identifies all the trees to be removed as being of low retention value

- the removal of the three street trees on Gibbons Street would allow the powerlines to be placed underground which, combined with the proposed four new street trees, will improve the streetscape
- a total of 25 replacement trees will be planted, comprising 13 at ground level (including four street trees on Gibbons Street, three street trees on Margaret Street and six trees within the TSL) and 12 trees on the level 4 communal terrace (**Figure 18**).

The Department has also recommended a detailed landscape plan be submitted to the Department prior to construction, outlining the proposed species, soil depths and maintenance requirements to ensure the proposal achieves a good landscape outcome for the site. Subject to the recommended condition, the Department is satisfied the proposed tree removal and replacement landscaping is acceptable.

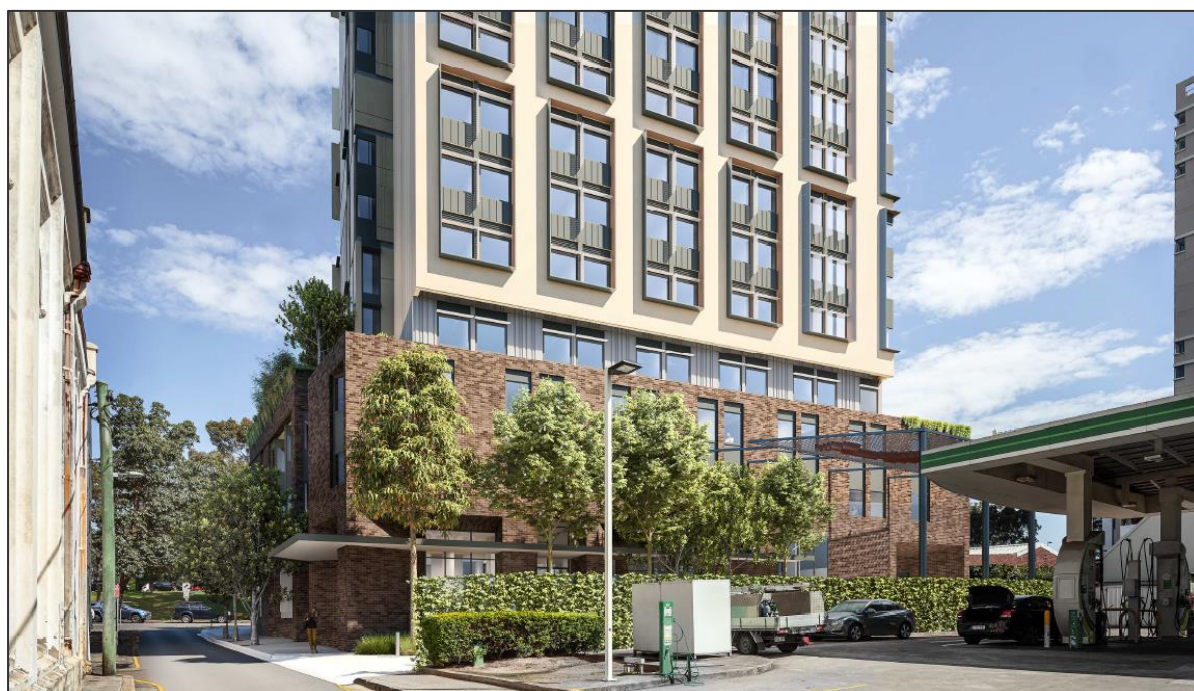


Figure 18 | Proposed landscaping looking west along Margaret Street (Source: Applicant's RRTS)

6.9 Traffic and car parking

6.9.1 Traffic impacts

The Applicant submitted a Transport Impact Assessment (TIA), to assess the potential traffic impacts associated with the proposal.

The TIA concludes overall traffic numbers generated by the development would be negligible given no car parking spaces are proposed. Further, the proposal would generate less traffic compared to the existing residential apartment building.

Council, TfNSW(RMS) and TfNSW did not raise any concerns about traffic impacts.

The Department is satisfied the proposal would not result in any adverse traffic impacts given the proposed development does not include any off-street car parking spaces and is located within close proximity to Redfern Train Station.

6.9.2 Car parking

Concerns were raised in public submissions about the absence of car parking within the development and potential increased demand for existing on-street car parking spaces.

In response, the Applicant confirmed there are no minimum on-site car parking requirements under any applicable planning instrument and the absence of on-site car parking would encourage the use of public transport, walking and cycling.

The Department considers providing no on-site parking is acceptable in this instance, as:

- the proposal is consistent with SLEP 2012 and State policies which seek to reduce reliance on private vehicles in favour of more sustainable transport options in highly accessible locations
- the site is in close proximity to Redfern Train Station and a number of key bus services
- the site is close to shops and services within the Redfern Town Centre
- 130 bicycle spaces and end-of-trip facilities would be provided complying with the ARH SEPP and SDGP 2012, reducing the need for car ownership/use
- the provision of no on-site car parking is consistent with the approved student accommodation development at 60-78 Regent Street (SSD 6724) and 80-88 Regent Street (SSD 9275), and the approved social housing development at 11 Gibbons Street (SSD 7749).

Further the Department notes Council raised no concerns regarding car parking.

The Department's assessment therefore concludes the provision of no on site car parking spaces is acceptable in this instance, given the site's inner-city location and access to public transport, shops and services.

6.10 Other issues

Other relevant issues for consideration are addressed in **Table 6**.

Table 6 | Department's consideration of other issues

Issue	Department's assessment	Recommendations
Overprovision of student accommodation in the area	<ul style="list-style-type: none">• Public submissions raised concerns about the oversupply of student accommodation in the area.• The Department considers student accommodation is an appropriate use for the site as it is permissible within the Redfern Town Centre and is ideally located close to public transport, services and a number of universities.• Further, the Department is satisfied the proposal would not result in any significant operational or traffic impacts as the use will be subject to an Operational Management Plan (see below) and no on-site car parking is proposed.	<ul style="list-style-type: none">• No conditions required.

Issue	Department's assessment	Recommendations
	<ul style="list-style-type: none"> The Department is therefore satisfied student accommodation is an appropriate land use for the site and the impacts of the proposal are acceptable. 	
Operational management and noise	<ul style="list-style-type: none"> Four public submissions raised concern about the potential operational noise impacts associated with the proposal. The Applicant submitted an Acoustic Report which identified the main noise source would be from occupants and visitors using the outdoor terraces, but these noise impacts could be appropriately mitigated and managed by the building's operational rules. The Applicant also submitted an Operational Management Plan (OMP), outlining the key management measures to be implemented to mitigate potential noise impacts on surrounding residents, including: <ul style="list-style-type: none"> no speakers in external areas and only low-level background music permitted in associated internal common areas students to close windows when playing loud music management to prevent use of external terraces between 10 pm and 8 am, Sunday to Thursday and between midnight and 8 am Fridays, Saturdays and days immediately before a public holiday. no alcohol to be consumed within the building, except within apartments and the ground floor common areas. The Department has assessed the potential noise impacts associated with the proposal and considers the proposed OMP would appropriately mitigate and manage noise impacts to an acceptable level. The Department has also recommended a suite of conditions to strengthen and improve the measures within the OMP. This includes setting maximum noise limits, restrictions on the use of outdoor terraces and a prohibition on amplified noise and music from the outdoor terrace. Subject to the recommended conditions and the implementation of an updated OMP the Department is satisfied the proposal would not result in any significant operational noise impacts. 	<ul style="list-style-type: none"> The Department recommends an updated, OPM be prepared in consultation with Council and NSW Police and it must include: <ul style="list-style-type: none"> a maximum noise limit of background +5dBA the use of the external terraces limited to 7 am to 10 pm Monday to Saturday and 8 am to 9 pm Sunday and public holidays. the use of the external terraces limited to residents within the student accommodation building and their guests. amplified noise/music is prohibited on external terraces signs are to be installed requiring occupants to leave the premises quietly.
Active frontage	<ul style="list-style-type: none"> Council and GANSW initially raised concerns about the level of street activation along the Margaret Street and TSL frontages. 	<ul style="list-style-type: none"> No conditions required.

Issue	Department's assessment	Recommendations
	<ul style="list-style-type: none"> • In response, the Applicant amended the proposal to include communal space fronting Margaret Street, and a communal kitchen, coffee shop and bicycle repair/storage area fronting the TSL. • The Department considers the proposed development would provide a reasonable level of street activation to its frontages. Noting the site is located at the southern tip of the town centre, the provision of low intensity ground floor use is considered appropriate at this location as it would provide an appropriate transition in activity between the town centre and the neighbouring residential apartment building at 1 Margaret Street. • The Department also notes Council raised concern about the extent of screening on the ground floor fronting Margaret Street. In response, the Applicant reduced the amount of screening along the Margaret Street elevation in accordance with Council's comments. • The Department considers the revised mix of glazing and screening along Margaret Street is acceptable as it would provide an appropriate level of surveillance/activation of the street while at the same time, minimise overlooking towards 1 Margaret Street. 	
Aboriginal Cultural Heritage	<ul style="list-style-type: none"> • The Applicant submitted an Aboriginal Cultural Heritage Assessment Report to support the proposal. The Report found that there is low archaeological potential at the site and recommended the following: <ul style="list-style-type: none"> ○ no further archaeological investigation is required ○ a Heritage Interpretation Strategy in consultation with Aboriginal stakeholders ○ an unexpected finds procedure ○ stop works procedure for human remains. • The Applicant also submitted a Heritage Interpretation Strategy and an Integration of Aboriginal Cultural Heritage Values into Development Design report. • EESG noted the proposal involves minimal excavation and therefore is unlikely to impact any Aboriginal objects. • The Department is satisfied it is unlikely that the proposed development would reveal any significant archaeological remains given the existing basement would be retained and there would be minimal excavation for piling. • The Department's assessment therefore concludes the proposal would not result in any significant Aboriginal 	<ul style="list-style-type: none"> • The Department recommends an unexpected finds procedure and a stop works procedure. • The Department recommends the implementation of the recommendations of the Heritage Interpretation Strategy and Integration of Aboriginal Cultural Heritage Values into Development Design report.

Issue	Department's assessment	Recommendations
	cultural heritage impacts subject to the implementing the findings of the ACHR.	
Signage	<ul style="list-style-type: none"> The proposal includes the following signage zones: <ul style="list-style-type: none"> one flush wall sign located on northern podium wall (0.7 m x 5.3 m) two wall signs located on the western and southern elevations (3 m x 5.7 m) one awning façade sign above the main entrance (0.4 m x 3.6 m). The Department's consideration of the proposal against SEPP 64 is provided in Appendix D. In summary, the Department considers the proposed signage zones are acceptable as: <ul style="list-style-type: none"> they are integrated with the design of the building their scale, proportion and form are appropriate for the streetscape and setting of the proposed development they are well separated and would not result in visual clutter they would allow a form of signage consistent with the character of the Redfern Town Centre Council raised no concerns. 	<ul style="list-style-type: none"> The Department recommends signage is not to be illuminated.
Construction traffic	<ul style="list-style-type: none"> The Department has considered the potential construction traffic impacts associated with the proposal in consultation with RMS and Council. RMS recommended the following: <ul style="list-style-type: none"> a Road Occupancy License (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Gibbons Street during construction activities a CPTMP shall be submitted in consultation with the Sydney Coordination Office, prior to the issue of a Construction Certificate. Council raised no concerns about the proposal. Subject to the recommended conditions, the Department is satisfied the potential traffic impacts associated with the proposal are acceptable. 	<ul style="list-style-type: none"> The Department recommends a ROL should be obtained and a CPTMP shall be submitted.
Construction noise and vibration	<ul style="list-style-type: none"> Public submissions raised concerns about the potential construction impacts from the proposed development. The EIS included a Construction and Noise Vibration Management Plan (CNVMP) which provides a detailed 	<ul style="list-style-type: none"> The Department recommends implementation of the recommendations of

Issue	Department's assessment	Recommendations
	<p>assessment and recommendations for managing/mitigating noise and vibration impacts during construction.</p> <ul style="list-style-type: none"> The predicted noise levels for neighbouring residential properties would also comply with the DECCW Guidelines, subject to appropriate noise mitigation measures, including use of 2.4 m high temporary sound barriers and silences on machinery. The Applicant's EIS sought the following construction hours: <ul style="list-style-type: none"> 7.00 am to 6.00 pm Monday to Friday 8.00 am to 1.00 pm Saturdays No work on Sundays or Public Holidays. Council's standard construction hours are: <ul style="list-style-type: none"> 7.30 am to 5.30 pm Monday to Friday 7.30 am to 3.30 pm Saturdays No work on Sundays or Public Holidays. The Department considers the proposed construction hours are acceptable as Council have extended construction hours to 6.00 am to 8.00 pm on weekdays for developments within the LGA during the COVID-19 pandemic. The proposed hours are also consistent with the approved construction hours for the adjacent site at 11 Gibbons Street and at 80-88 Regent Street. The CNVMP includes vibration criteria to be adopted to ensure the structural integrity and amenity of 1 Margaret Street and St Luke's Church are not compromised by construction vibration. The Department considers construction noise and vibration can be appropriately managed subject to the recommended conditions. 	<p>the CNVMP and hours of construction to be:</p> <ul style="list-style-type: none"> 7.00 am to 6.00 pm Monday to Friday 7.30 am to 3.30 pm Saturdays No work on Sundays or Public Holidays. <ul style="list-style-type: none"> The Department recommends implementation of the conditions recommended by Sydney Trains.
Rail noise and vibration	<ul style="list-style-type: none"> The site is located adjacent to the underground Eastern Suburbs and Illawarra Line rail tunnel. The Acoustic Report concludes the level of noise and vibration occurring from trains would be within acceptable limits as prescribed within the DECC guideline, subject to the building being structurally designed with anti-vibration bearers (if required following completion of the basement slab floor and vibration measurements undertaken). The Department is satisfied the proposed development can be constructed to achieve compliance with necessary vibration insulation requirements and has recommended compliance with the relevant criteria specified in the 	<ul style="list-style-type: none"> The Department recommends compliance with the relevant criteria specified in the Development Near Rail Corridors and Busy Roads – Interim Guideline (Department of Planning, 2008).

Issue	Department's assessment	Recommendations
	<p>Development Near Rail Corridors and Busy Roads – Interim Guideline (Department of Planning, 2008) and the recommendations of the Acoustic Report.</p>	<ul style="list-style-type: none"> Implement recommendations of the Acoustic Report.
Flooding/ stormwater	<ul style="list-style-type: none"> The EIS included a Flood Assessment and Stormwater Management Report (FASMR). The FASMR notes the site is classified as flood fringe but is not subject to flooding during a 1:100 year storm event. However, William Lane is currently subject to flooding at its southern end. The FASMR concludes the development would not be impacted by flooding. In addition, the development would reduce the existing flood depth at the southern end of William Lane by 400 mm due to the removal of a wall and the creation of the TSL. Based on the findings of the FASMR, the Department is satisfied the proposed development would not be impacted by flooding and would not result in adverse flood outcomes within the surrounding area. 	<ul style="list-style-type: none"> The Department recommends flooding/stormwater conditions.
Public art	<ul style="list-style-type: none"> The proposed development includes artwork by indigenous artists within the TSL space. Council supports the proposed public art initiatives and recommends a detailed Public Art Strategy be prepared in accordance with Council's guidelines. The Department is satisfied the proposed development would incorporate appropriate public art within the TSL and agrees with Council's recommendation that a detailed strategy be prepared in accordance with Council's guidelines. 	<ul style="list-style-type: none"> The Department recommends the preparation and implementation of a detailed Public Art Strategy.
Crime Prevention Through Environmental Design (CPTED)	<ul style="list-style-type: none"> The RTS included a CPTED assessment to support the proposal. The CPTED recommended the following measures be implemented to provide a safe environment: <ul style="list-style-type: none"> use of lighting, CCTV, signage and high-quality finishes in the TSL provision of surveillance cameras to all external areas and entry/exit points ongoing maintenance and management lighting to be provided around the entirety of the development, including entry/exit points, service areas and potential areas of concealment access control and location of concierge landscaping not to restrict sightlines. 	<ul style="list-style-type: none"> The Department recommends CPTED principles are to be integrated in the detailed design of the building in accordance with the recommendations of the CPTED report.

Issue	Department's assessment	Recommendations
	<ul style="list-style-type: none"> • The Department notes Council raised no concerns regarding crime prevention or safety. • The Department is satisfied the proposed development incorporates appropriate CPTED measures. 	
Waste management	<ul style="list-style-type: none"> • The EIS included a Waste Management Plan (WMP) which outlines the provisions and procedures for managing operational waste. • The proposal provides for separate waste facilities for the retail and student accommodation. • Waste is to be collected from the TSL by a private waste contractor. This would occur in the early morning when there would be minimal pedestrian activity within the TSL. • The Department considers it is reasonable to use the TSL for waste collection given Gibbons Street is an arterial road and the narrow width of Margaret Street precludes waste collection from this location. • However, the Department recommends the WMP be updated to account for the final changes made to the proposal, including the number of rooms and location of the waste rooms to ensure operational waste is appropriately managed. 	<ul style="list-style-type: none"> • The Department recommends an updated WMP is prepared and the development is to be operated in accordance with updated WMP.

6 Evaluation

The Department has assessed the merits of the proposal and has carefully considered all issues raised in government agency and public submissions. The Department has also considered all relevant matters under Section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ESD.

The Department's assessment concludes the proposal is acceptable for the following reasons:

- it is consistent with the strategic planning objectives for the site, as outlined in the Greater Sydney Region Plan and Eastern City District Plan, as it will provide housing choice and affordability close to public transport, employment opportunities and services
- it is consistent with the Redfern-Waterloo area and will facilitate the growth of the Redfern Town Centre envisaged by the SSP SEPP
- the proposed built form achieves design excellence, noting the design has evolved through initial participation in the SDRP process and subsequently refined through discussions with the GANSW and recommendations from Council
- the proposed design and built form would sit comfortably within the setting of Redfern Town Centre which is transitioning to high density development, consistent with the strategic objectives for the area
- it would achieve good amenity for future residents in the form of communal open space, solar access
- the impacts of the proposal, with regards to privacy, view loss, overshadowing, wind are acceptable
- it provides positive public domain outcomes through the provision of a landscaped and activated TSL and a wider footpath on the northern side of Margaret Street
- there would be no additional traffic impacts
- it will deliver up to 240 construction jobs and 5 operational jobs.

In respect of the Applicant's SEPP 1 objection for the 10% FSR non-compliance, the Department considers it to be well founded on the basis that strict application would hinder the attainment of the objectives of the EP&A Act and the proposed development achieves the underlying objectives of the FSR standard.

The Department's assessment concludes the development is in the public interest and should be approved, subject to conditions (**Appendix F**).

7 Recommendation

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

- **considers** the findings and recommendations of this report;
- **grants** concurrence to the proposed variation to the floor space ratio development standard;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application;
- **agrees** with the key reasons for approval listed in the notice of decision; and
- **grants** consent for the application in respect of SSD 9194 subject to the conditions in the attached development consent.

Recommended by:



Andy Nixey
Principal Planning Officer
Key Sites Assessments

Recommended by:



Cameron Sargent
Team Leader
Key Sites Assessments

Recommended by:



Anthony Witherdin
Director
Key Sites Assessments

8 Determination

The recommendation is: **Adopted** by:



06/10/2020

Anthea Sargeant

Executive Director

Regions, Industry and Key Sites

Appendices

Appendix A – List of Documents

Appendix B – Relevant Supporting Information

Appendix C – State Environmental Planning Policy No.1 – Development Standards

Appendix D – Statutory Considerations

Appendix E – Community Views for Draft Notice of Decision

Appendix F – Recommended Instrument of Consent

Appendix A – List of Documents

List of key documents relied on by the Department in its assessment:

- Environmental Impact Statement, prepared by CW Strategic Planning Services, dated January 2019
- Response to Submissions, prepared by CW Strategic Planning Services, dated November 2019
- Revised Response to Submissions, prepared by CW Strategic Planning Services, dated 21 July 2020.

Appendix B – Relevant Supporting Information

The following supporting documents and supporting information to this assessment report can be found on the Department's website as follows.

1. Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/9996>

2. Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/9996>

3. Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/9996>

4. Revised Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/9996>

5. Additional Information

<https://www.planningportal.nsw.gov.au/major-projects/project/9996>

Appendix C – State Environmental Planning Policy No 1 – Development Standards

Objection: Floor Space Ratio (FSR) – Assessment

The following assessment of the State Environmental Planning Policy No.1 – Development Standards (SEPP 1) Objection applies the principles arising from *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986, unreported) by using the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46 (6 April 2001) and as reiterated in *Wehbe v Pittwater Council* (2007) NSW LEC 827. In applying the principles set out in the Winten case, the SEPP 1 objection has been considered by reference to the following tests:

1. Is the planning control in question a development standard?

The planning control in question is the gross floor area restriction in clause 21(2) of Part 5 of Schedule 3 of the State Significant Precincts SEPP (SSP SEPP). The EP&A Act defines a development standard as being a provision by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including requirements or standards in respect of (d) the floor space of a building. As the floor space ratio restriction is a development standard, any variation of this standard requires a SEPP 1 Objection, as has been prepared in this case.

2. What is the underlying purpose of the standard?

The SSP SEPP does not include specific objectives for the building height development standard. The Department has therefore considered the overall objectives of the Business Zone – Commercial Core zone, as set out in clause 9 of Part 5 of Schedule 3 of the SSP SEPP. The objectives of the zone are as follows:

- a) to facilitate the development of a town centre,
- b) to encourage employment generating activities by providing a wide range of retail, business, office, community and entertainment facilities,
- c) to permit residential development that is compatible with non-residential development,
- d) to maximise public transport patronage and encourage walking and cycling,
- e) to ensure the vitality and safety of the community and public domain,
- f) to ensure buildings achieve design excellence,
- g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in section 1.3 of the Act?

The aim of the Policy in question is set out at clause 3 of SEPP 1, and seeks to provide flexibility in the planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act.

Wehbe V Pittwater Council (2007) NSW LEC 827 (21 December 2007) sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states:

‘An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.’

Accordingly, the following assessment considers the objection made by the Applicant against objectives of the Business Zone – Commercial Centre zone contained under clause 10 of Part 5 of Schedule 3 of the SSP SEPP. The Department considers the proposal satisfies the zone objectives as it:

- will facilitate the development of a town centre with an 18-storey high development, including retail and student communal space on the ground floor promoting an active streetscape
- directly generate employment opportunities through the provision of retail floor space and indirectly through increasing demand for local retail and services
- comprises a development that provides residential uses (student accommodation) while still being compatible with non-residential uses
- is well located in relation to rail and bus transport and is within walking and cycling distance to key education and employment areas (**Section 6**)
- contributes to the vitality and safety of the public domain through a ground floor retail tenancy, ground level glazing, and passive surveillance opportunities from windows (**Section 6**)
- is considered to achieve design excellence in accordance with the design excellence provisions in the SSP SEPP (**Section 6**)
- will provide a landscaped and activated through-site link between William Lane and Margaret Street
- comprises landscaped communal open space areas providing visual and aesthetic values and internal amenity to the future residents.

Notwithstanding the proposed variation, the Department considers the FSR exceedance (7.7:1 versus 7:1) is acceptable (**Section 6**) given:

- the building would not have a dominant visual presence and would result in an appropriate and characteristic built form within Redfern Town Centre
- the proposal is consistent with the streetscape as it provides for a consistent three-storey podium along Gibbons Street
- the building exhibits design excellence.

The Department also considers the proposed development would not result in unreasonable overshadowing, view or other amenity impacts to neighbouring residential properties beyond that of a compliant scheme (**Section 6**).

The Department’s assessment concludes the proposed development meets the objectives of the zone, without additional adverse impacts beyond that of a compliant proposal.

The Department therefore considers it is both unreasonable and unnecessary for the proposal to comply with the floor space ratio standard for the zone, given the overall objectives of the zone and underlying objectives of the control continue to be met (see detailed consideration below).

The Land and Environment Court has established it is insufficient merely to rely on absence of environmental harm to sustain an objection under SEPP 1. This position was confirmed in *Wehbe V Pittwater Council*. The following assessment considers whether the objection demonstrates strict application of the development standard and would hinder the attainment of the objectives of the EP&A Act. Under section 1.3 of the EP&A Act, the following is required of development:

- (i) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources*
- (c) to promote the orderly and economic use and development of land*
- (d) to promote the delivery and maintenance of affordable housing*
- (g) to promote good design and amenity of the built environment.*

The Department considers the proposal would provide for the proper management and development of land within the City of Sydney for the purpose of promoting the social and economic welfare of the community and a better environment. The proposal is consistent with the strategic framework for the site, as set out in the Greater Sydney Region Plan, Eastern City District Plan and within the SSP SEPP. The Department considers the proposal facilitates the orderly and economic redevelopment of the site, providing housing and employment opportunities, in an existing urban area in close proximity to public transport and the Sydney CBD. The Department further considers the proposed design achieves design excellence thus promoting good design and amenity of the built environment.

The Department concludes, in the circumstances, strict application of the development standard would hinder the attainment of the objectives of the EP&A Act.

4. Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

The SEPP 1 Objection states the compliance would be unreasonable and unnecessary in the circumstances of the case for the following reasons:

- the proposal would result in an appropriate built form, consistent with the height and scale of all other buildings emerging within the Redfern Town Centre, including 11 Gibbons Street and 80-88 Regent Street with approved FSRs of 8.4:1 and 8.97:1 respectively
- the proposed building demonstrates design excellence and would contribute to the visual amenity of Redfern Town Centre
- the proposal would not give rise to any adverse environmental impacts beyond those of a complying 7:1 building form in regard to solar access, wind, building separation, heritage impacts and privacy
- the site is ideally situated to support increased density, particularly for student accommodation given its proximity to the public transport hub at Redfern Station and being in walking distance to

a number of universities. The proposal would also maximise and encourage walking and cycling, noting the provision of 130 bicycle parking spaces and no on-site car parking is proposed

- the proposal would deliver an active ground floor plane and a new through-site link
- the development responds to significant demand for student accommodation in the area and would add to the vitality of the area

The Department's analysis has found notwithstanding the non-compliance with the floor space ratio standard, the proposed development achieves the underlying objectives of the standard. Consequently, the Department considers the SEPP 1 Objection has established that compliance with the development standard is unreasonable and unnecessary in the circumstances and would result in a built form that would be largely consistent with the existing and desired future character of the area, as set out in the SPP SEPP.

5. Is the objection well founded?

The Department considers the SEPP 1 objection provided by the Applicant is well founded on the basis that strict application would hinder the attainment of the objectives of the Act and the proposed development achieves the underlying objectives of the standards, notwithstanding the non-compliance.

Appendix D – Statutory Considerations

In line with the requirements of section 4.15 of the *Environmental Planning and Assessment Act 1979*, the Department's assessment of the project has given detailed consideration to a number of statutory requirements. These include:

- the objects found in section 1.3 of the EP&A Act
- the matters listed under section 4.15(1) of the EP&A Act, including applicable environmental planning instruments and regulations.

The Department has considered these matters in its assessment of the project and has summarised in **Tables 1** and **2** below.

Table 1 | Objects of the EP&A Act

Objects of the EP&A Act	Department's consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposal redevelops an existing inner-city site that is close to existing services and has excellent public transport access. The proposal would not impact on any natural or artificial resources, agricultural land or natural areas. The provision of student housing contributes to the social and economic welfare of the community.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	<p>The Department has considered the project in relation to the ESD principles. The Precautionary and Inter-generational Equity Principles have been applied in the decision-making process by a thorough assessment of the environmental impacts of the project. Overall, the proposal is generally consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act. In particular, the proposed development has been accompanied by a BASIX certificate and includes the following ESD initiatives and sustainability measures:</p> <ul style="list-style-type: none">• a minimum 30 kW PV solar system on the roof• energy efficient air conditioning system with heat recovery system• gas boilers for the central hot water system. The boilers would also be connected to the water-cooling system to provide free domestic hot water during colder periods

	<ul style="list-style-type: none"> • energy efficient LED lighting • electrical sub-metering and monitoring • low-flow hydraulic fixtures • high levels of natural light and solar access.
(c) to promote the orderly and economic use and development of land	The proposal would deliver student housing and associated ancillary uses, the merits of which were considered in Section 6 .
(d) to promote the delivery and maintenance of affordable housing	The proposal includes the provision of affordable housing options for students.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	<p>The proposal involves redevelopment of a previously developed site and would not adversely impact on any native animals and plants, including threatened species, populations and ecological communities, and their habitats.</p> <p>The application has also been granted a Biodiversity Development Assessment waiver.</p>
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The proposal would not have an adverse impact on nearby heritage items or conservation areas as addressed in Section 6 of this report.
(g) to promote good design and amenity of the built environment	The proposal achieves a high standard of design and amenity as addressed in Section 6 of this report.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The proposal was accompanied by a Building Code of Australia report and a National Construction Code Section J report, which conclude the development is capable of complying with the requirements of the relevant sections of the Act.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The Department publicly exhibited the SSD application as outlined in Section 5 , which included consultation with Council and other government agencies and consideration of their responses.
(j) to provide increased opportunity for community participation in	The Department publicly exhibited the SSD application as outlined in Section 5 , which included notifying adjoining

environmental planning and landowners, placing a notice in the newspaper and assessment. displaying the application on the Department's website and at Council's office.

Table 2 | Section 4.15(1) Matters for consideration

Section 4.15(1) Evaluation	Department's consideration
(a)(i) any environmental planning instrument	The proposal is consistent with the relevant Environmental Planning Instruments (EPIs) as addressed in Section 4.2 and below.
(a)(ii) any proposed instrument	The proposal is consistent with the proposed EPIs (Section 4.2 and below).
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, development control plans (DCPs) do not apply to SSD. Notwithstanding, consideration has been given to the Sydney Development Control Plan 2012 (SDCP 2012), where relevant, below.
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&A Regulation</i>	The SSD application satisfactorily meets the relevant requirements of the <i>Environmental Planning and Assessment Regulation 2000</i> (EP&A Regulation), including the procedures relating to applications (Part 6), public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EIS.
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	The Department has considered that the likely impacts of the proposed development are acceptable and/or have been appropriately managed by recommended conditions of consent (Section 6 and Appendix F).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Section 6 of this report.
(d) any submissions	The Department has considered the submissions received during the exhibition period (Sections 4 and 6 and Appendix E).

(e) the public interest

The Department considers the proposal to be in the public interest (**Section 6**).

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment.

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The proposed development is within the identified Redfern-Waterloo Authority Sites in clause 8 of Schedule 2 of the SRD SEPP and has a CIV in excess of \$10 million.

State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)

The SSP SEPP seeks to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State for the benefit of the State. The SSP SEPP is the relevant EPI for the site and contains applicable development standards.

The site is located within The Redfern-Waterloo Authority Sites area, listed as a State Significant Precinct in accordance with clause 1 of Appendix 4 of the SSP SEPP. An assessment of the proposal against the relevant sections of the SSP SEPP is shown in **Table 3**.

Table 3 | Department's consideration of the relevant sections of the SSP SEPP

Relevant sections	Department's consideration	Compliance
7 State significant precincts		
(1) Schedule 3 describes State significant precincts	The proposed development is located within the Redfern-Waterloo Authority Sites.	Yes
(2) The provision in Schedule 3 relating to the carrying out of development on a State significant precinct have effect.		
Schedule 3 - Part 5 The Redfern-Waterloo Authority Sites		
6 Development to which Division applies	The proposed development is located within the Redfern-Waterloo Authority Sites.	Yes
7 Land Use zones		
(1) Land within the Redfern-Waterloo Authority Sites is	The site is zoned Business Zone – Commercial Core.	Yes

within a zone shown on the
Land Zoning Map

- (2) The objectives for development
in a zone are to be considered
where determining
development applications

9 Business Zone – Commercial Core

- | | | |
|--|--|-----|
| (1) The objectives of the Business Zone—Commercial Core. | <p>The proposed 18-storey mixed use development comprising student accommodation with ground floor retail would facilitate employment opportunities and the development of the Redfern Town Centre in close proximity to Redfern Train Station.</p> <p>The proposed student accommodation would be compatible with the ground floor retail premises, providing opportunities for direct retail patronage.</p> <p>The development has provided for 130 bicycle spaces and no car parking spaces to maximise public transport, walking and cycling.</p> <p>The development has demonstrated design excellence as addressed in Section 6 of this report.</p> <p>The proposed student accommodation use is most closely defined as a Boarding house and is not prohibited and is therefore permitted within the zone.</p> <p>The proposed retail use is also not prohibited and is therefore permitted within the zone.</p> | Yes |
|--|--|-----|

21 Height, floor space ratio and gross floor area restrictions

(1) The height of a building is not to exceed the maximum height shown on the Height of Buildings Map.	The proposed building height complies with the maximum height shown on the Height of Buildings Maps.	Yes
The floor space ratio is not to exceed the floor space ratio shown on the Floor Space Ratio Map.	The proposed floor space ratio exceeds the maximum floor space ratio shown on the Floor Space Ratio Map.	No (Section 6 and Appendix C)

22 Design excellence

(1) The consent authority must consider whether the proposed development exhibits design excellence.	The development has demonstrated design excellence, consistent with this clause, as addressed in Section 6 of this report.	Yes
(2) In considering whether proposed development exhibits design excellence, the consent authority must consider the following: <ul style="list-style-type: none"> a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, b) whether the form and external appearance of the building will improve the quality and amenity of the public domain, c) whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, 		

- energy and water efficiency,
- (3) The consent authority may require a design competition for any development over 12 storeys consistent with guidelines issued by the Redfern–Waterloo Authority and approved by the Minister.
- (4) The Redfern–Waterloo Authority may draft a guideline to be approved by the Minister detailing what matters are to be addressed for design excellence and for the conduct of design competitions.

25 Development to which Division applies

The provisions of the Division do not apply with respect to development that is a transitional Part 3A Project.	The proposed development is not a transitional Part 3A project and therefore this Division applies.	Yes
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26 Notification of advertised development

Notice of a development application is to be given in accordance with the provisions of any applicable development control plan.	The Department publicly exhibited the SSD application as outlined in Section 5 , which included notifying adjoining landowners, placing a notice in the newspaper and displaying the application on the Department's website and at Council's office.	Yes
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27 Heritage Conservation

A person must not impact a building, work, relic, tree or place that is a heritage item except with the consent of the consent authority.	The proposed development does not impact a building, work, relic, tree or place that is a heritage item	Yes
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28 Preservation of trees or vegetation

A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:	The proposed development includes the removal of 16 trees within the site plus three street trees on Gibbons Street. The Arborist Report submitted with the RTS identifies all the trees to be removed as being of low retention value.	Yes
(a) development consent, or		
(b) a permit granted by the consent authority.	It is proposed to plant 25 replacement trees, 13 at ground level (seven street trees and six within the TSL) and 12 on the Level 4 podium).	

State Environmental Planning Policy (Urban Renewal) 2010 (Urban Renewal SEPP)

The Urban Renewal SEPP establishes the process for assessing and identifying sites as urban renewal precincts. In addition, it seeks to facilitate the orderly and economic development and redevelopment of sites in and around identified precincts.

The Urban Renewal SEPP has identified the site as being within the Redfern-Waterloo Potential Precinct. Clause 10(2) requires that development consent must not be granted unless the consent authority is satisfied the proposed development is consistent with the objective of developing the precinct for the purposes of urban renewal. Clause 10(3) requires the consent authority to take into account whether the proposal would restrict or prevent:

- the development of the precinct for higher density housing, commercial or mixed-use development,
- future amalgamation of sites,
- access to, or development of, infrastructure, other facilities and public domain areas associated with existing and future public transport in the precinct.

The Department is satisfied the proposal for a high-density student accommodation development is consistent with the objectives of the urban renewal of the precinct. In addition, the proposal would not restrict or prevent the development of the remainder of the precinct.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with Government agencies about certain development during the assessment process.

Clause 86 of the ISEPP applies to development that involves excavation in, above, below or adjacent to rail corridors. The proposal is located adjacent to the rail corridor and therefore the application was referred to the Sydney Trains. Sydney Trains have raised no concerns with the proposal and provided recommended conditions.

Clause 87 of the ISEPP requires the consent authority to consider the impact of rail noise or vibration on residential accommodation (see consideration in **Section 6**).

Clause 88 of the ISEPP applies to development that is within or adjacent to an interim rail corridors. The proposal is located adjacent the Sydney Metro rail corridor, however as the application is SSD, formal concurrence is not required. Despite this, application was referred to the Sydney Metro. Sydney Metro did not raise any objections to the proposal or provide any recommended conditions of consent.

The proposed development has a frontage to a classified road and therefore is also subject to assessment under Clause 101 and 102 of the ISEPP. The proposed vehicle access and the safety, efficiency and ongoing operation of the classified road is considered appropriate within the context of the site. The Department also considers the proposed development has appropriately managed the potential traffic noise and vehicle emissions on the residential component.

The proposal was referred to Transport for NSW (TfNSW) and TfNSW (RMS) and their comments are summarised in **Section 5** of this report. Given the consultation and consideration of the issues raised by TfNSW and TfNSW (RMS), the Department considers the proposal to be consistent with the ISEPP.

Recommended conditions of consent include those proposed by Sydney Trains, TfNSW and TfNSW (RMS).

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)

A BASIX certificate was submitted with the RTS, demonstrating the proposal achieves compliance with the BASIX water, energy and thermal comfort requirements. The Department recommends a condition of consent requiring compliance with the BASIX certificate.

State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)

State Environmental Planning Policy No 64 - Advertising and Signage (SEPP 64) applies to all signage that under an EPI can be displayed with or without development consent and is visible from any public place or public reserve.

The proposed development includes the following signage zones:

- one wall sign located on northern elevation, 5.7 m above ground level (0.7 m x 5.3 m)
- two wall signs located on the western and southern elevations, 55.8 m above ground level (3 m x 5.7 m)
- one awning façade sign above the main entrance, 4 m above ground level (0.4 m x 3.6 m).

The Department's assessment of Schedule 1 of SEPP 64 (where relevant) is provided in **Table 4** below.

Table 4 | Department's consideration of Schedule 1 of SEPP 64

Assessment criteria	Department's consideration	Compliance
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage zones are consistent with the emerging high-density mixed-use character of the Redfern Town Centre.	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal provides for building and business identification, consistent with the building identification signage for the surrounding buildings and the established theme.	Yes
2 Special areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage zones are not located within, nor detracts from any other environmentally sensitive, heritage, natural, conservation, open space, waterways or residential area.	Yes
3 Views and vistas		
Does the proposal: <ul style="list-style-type: none"> • obscure or compromise important views? • dominate the skyline and reduce the quality of vistas? • respect the viewing rights of other advertisers? 	The proposed signage zones are integrated into the proposed building design and would not compromise any important views, the skyline or interfere with other advertisers.	Yes
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage zones are appropriate for the streetscape and setting of the proposed development.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage zones contribute to the visual interest of the	Yes

building by providing identification and recognition of the site.

Does the proposal reduce clutter by simplifying existing advertising?	The site does not contain any existing advertising.	N/A
Does the proposal screen unsightliness?	The proposed signage zones are appropriately integrated and therefore would not result in any unsightliness.	Yes
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage zones do not protrude above the building envelope.	Yes
Does the proposal require ongoing vegetation management?	The proposed signage zones do not contain, or impact upon any vegetation.	N/A
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage zones have been designed to be integrated within the building façade, compatible with the design and architecture of the building.	Yes
Does the proposal respect important features of the site or building, or both?	The proposed signage zones will not detract from the important features of the site and building.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage zones are appropriately related to the building. Given the nature of the proposed development and intended future signage, the Department considers opportunities for innovation or imagination are limited.	Yes

8 Safety

Would the proposal reduce safety for:

- | | | |
|---|---|-----|
| <ul style="list-style-type: none">• pedestrians, particularly children, by obscuring sightlines from public areas?• for any public road? | The proposed signage zones are wall mount and entry signs and would not adversely impact road safety for pedestrians or vehicles or obscure sightlines. | Yes |
|---|---|-----|

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)

SEPP 55 aims to ensure potential contamination issues are considered in the determination of a development application. SEPP 55 requires the consent authority to consider whether the land is contaminated, and if so, whether the land is suitable for the purpose of the proposed development.

A Detailed Site Investigation (DSI) was submitted with the SSD application to determine the potential for on-site contamination. The DSI concluded the site is suitable for continued use for residential development.

Council recommended the DSI be peer reviewed by a NSW EPA Accredited Site Auditor and include a Section A Site Audit Statement from the Site Auditor certifying that the site will be suitable for the proposed use.

The Applicant provided a response concluding that this requirement is not warranted as the DSI has been prepared by a reputable and experienced consultant, contamination was not identified at the site and the site is suitable for the proposed use.

The Department agrees a peer review of the DSI is unjustified as the site would continue to be used for residential development and the proposal involves minimal excavation. The Department is satisfied the proposed development is consistent with the provisions of SEPP 55 and is suitable for the proposed use. The Department recommends conditions requiring appropriate measures to be in place should any unanticipated contamination be found during construction works.

Draft Remediation of Land State Environmental Planning Policy (Draft Remediation of Land SEPP)

The Explanation of Intended Effect for a Draft Remediation of Land SEPP was exhibited until 13 April 2018. The Draft Remediation of Land SEPP proposes to better manage remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works. As the proposal has demonstrated it can be suitable for the site, subject to conditions, the Department considers it would be consistent with the intended effect of the Remediation of Land SEPP.

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)

The ARH SEPP aims to provide a consistent planning regime for the provision of affordable rental housing and boarding houses.

The ARH SEPP does not apply to the application as the student accommodation is not located within an equivalent zone, as per clause 26 of the ARH SEPP.

Notwithstanding the above, and in the absence of planning controls guiding the internal design/layout of student accommodation on the site, the Department considers the ARH SEPP boarding house development standards (together with the SDCP 2012 student accommodation standards) is a useful guide to inform the assessment of the merits of the proposal.

The Department has considered the proposal against the ARH SEPP boarding house development standards within **Table 5**.

Table 5 | Department's consideration of the ARH SEPP

Section	Control	Department's consideration
Clause 29 Standards that cannot be used to refuse consent	(1) (c) The existing max. FSR plus 20% of the existing max. FSR (if the existing max FSR is greater than 2.5:1	No, refer to SEPP 1 discussion in Section 6 and Appendix C .
	(2) (a) Building Height if building is not more than max permitted height	The proposed building complies with the maximum building height controls.
	(b) Landscaped area If the landscape treatment of the front setback area is compatible with the streetscape	The proposal includes a zero setback to Gibbons Street, consistent with the RCUDP controls and the approved development at 11 Gibbons Street. A predominant 1 m wide setback is proposed to Margaret Street to improve the relationship of the building to the streetscape and to allow for footpath widening.
	(c) Solar access At least one communal living room to receive a minimum of 3 hours direct sunlight between 9am and 3pm mid-winter	Minimum of two hours solar access to the west facing windows of the indoor communal space on levels 2, 3 and 4 and the games room on ground level. The Department considers this is acceptable as the design has maximised opportunities for indoor solar access within a constrained site, directly south of the approved 18-storey development at 11 Gibbons Street.

(d) **Private open space**

One area of at least 20 sqm with a minimum dimension of 3 m.

The proposed development does not contain any private open space or balconies. As the site is adjoins a main road, it is unlikely these areas would be used. Further, due to the nature of student accommodation, housing individuals, the shared use of common areas is more likely to encourage students to interact with each other, a more socially desirable outcome. The Department considers private open space in the form of balconies is not necessary or desirable.

(e) **Parking**

0.5 parking spaces for each boarding room

No, however this is acceptable, as addressed in **Section 6**.

(f) **Accommodation size**

Each boarding room to have a gross floor area of at least

- (i) 12 sqm for a single lodger or
- (ii) 16 sqm in any other case

All rooms are for single lodgers. The proposal provides for a minimum 14 m² for a single ensuite room.

- (3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not require to have those facilities in any boarding room.

There is a mixture of individual and shared facilities.

**Clause 30
Standards
for
boarding
houses**

- a) For 5+ boarding rooms at least one area of communal living space

Communal open space is provided on at ground and levels 2, 3 and 4 for exclusive use of residents. A gymnasium is also proposed in the basement.

- b) Boarding rooms to be no greater than 25 m² (excluding bathroom & kitchen)

With the exception of six adaptable units, no rooms are greater than 25 m².

- c) Rooms not to be occupied by more than 2 adults

All rooms are for single lodgers.

d) Adequate bathroom and kitchen facilities	Each student room is provided with an ensuite. Each studio room includes a kitchenette. The 55 ensuite rooms are located on levels 2, 3 and 4 in close proximity to communal kitchens on those levels.
e) To have boarding manager (if more than 20 lodgers)	A room for a boarding house manager is not provided. However, the Operational Management Plan confirms there will be sufficient staff available to appropriately manager the building and students.
f) Repealed	N/A
g) If site zoned for commercial purposes- ground floor not to be used for residential	The ground floor does not include any residential use.
h) At least 1 bicycle and 1 motorcycle parking space per 5 rooms	The proposal includes 130 bicycle parking spaces (1 space per 3.2 rooms) and exceeds the minimum requirement. No motorcycle parking is proposed.

Clause

30A

Character of local area

Consideration whether the design of the development is compatible with the character of the local area.

Refer to **Sections 6.2, 6.3 and 6.4.**

In light of the assessment detailed in **Section 6** of this report and **Table 5**, it is considered the proposal displays an acceptable level of consistency with the development standards within the ARH SEPP.

Sydney Development Control Plan 2012

The Department has considered the proposal against the relevant student accommodation controls within the SDCP 2012 at **Table 6**.

Table 6 | Department's consideration of part 4.4.1 – Boarding house and student accommodation of the SDCP 2012

Section	Control	Department's consideration
4.4.1.1 Subdivision	The subdivision of boarding houses or student accommodation is not permitted	The development does not propose subdivision.
4.4.1.2 Bedrooms	<p>(1) Minimum room sizes:</p> <ul style="list-style-type: none"> a) 12 m² overall room size b) additional 4 m² (for additional adult) c) 2.1 m² for ensuite d) 0.8 m² for any shower in ensuite e) 1.1 m² for any laundry f) 2 m² for any kitchenette. 	<p>Ensuite rooms are recommended to be a minimum of 14.9 m² (a+c+d).</p> <p>55 ensuite rooms are proposed measuring 14 m² (11 rooms) to 17.6 m² (44 rooms).</p> <p>Studio rooms are recommended to be a minimum of 16.9 m² (a+c+d+f).</p> <p>352 studio rooms are proposed measuring 15.2 m² to 15.7 m² for King Studios (43 rooms), 16.1 m² for Queen Studio 1 (280 rooms) and 20.6 m² to 21.4 m² for Queen Studio 2 and 3 (29 rooms).</p> <p>Only single rooms proposed, there are no laundries in rooms and a minimum kitchenette size of 2 m² is proposed.</p> <p>Room sizes are considered in Section 6.4.</p>
	(2) Each bedroom must have access to natural light	Achieved.
	Minimum ceiling height of 2.7 m	Minimum of 2.7 m.
	(3) Fire safety for Class 3 buildings	The proposal was accompanied with a BCA report, demonstrating compliance with the relevant safety standards.

4.4.1.3 Communal kitchen areas	(1) Minimum communal kitchen area of 6.5 m ² or 1.2 m ² per resident, whichever is the greater	110 m ² of communal kitchens are proposed which equates to 2 m ² per resident without a kitchenette.
	(2) (a) One sink per 6 people	Note: all studio rooms include a kitchenette with sink. Only the 55 ensuite rooms would not have a kitchenette and would be adequately served by the communal kitchens located on the same levels (2, 3 and 4) plus a kitchen on the ground floor. All studio resident rooms include a kitchenette with stove top. The 55 ensuite room residents would have access to the nine stove tops in the communal kitchens.
	(2) (b) One stove top cooker per 6 people and exhaust ventilation	
	(3) Minimum kitchenette furniture sizes.	Capable of achieving.
4.4.1.4 Communal living areas and open space	(1) Min. 1.25 m ² of indoor communal open space per resident in apartments	The proposal provides for a total of 720 m ² of indoor communal open space, which equates to 1.72 m ² per resident.
	(2) Indoor communal living areas to receive two hours of solar access to 50% of area between 9 am-3 pm at midwinter	Minimum of two hours solar access to the west facing windows of the indoor communal open spaces on levels 2, 3 and 4 and to the ground level games room in midwinter. The Department considers this is acceptable as the design has maximised opportunities for indoor solar access within a constrained site, directly south of the approved 18-storey development at 11 Gibbons Street.
	Min.20 sqm of communal open space	The proposal provides for a total of 158 m ² of communal open space.

- (3) Communal outdoor open space is to be:
- a) north-facing to receive a minimum 2 hours solar access to at least 50% of the area during 9 am and 3 pm on 21 June
 - b) at ground level
 - c) partial cover from weather
 - d) incorporate soft or porous surfaces for 50% of the area
 - e) connect to communal indoor spaces
 - f) contain communal facilities such as barbecues, seating and pergolas
 - g) screened from adjoining properties and the public
- Outdoor communal open space is proposed on levels 2, 3 and 4. These areas are west-facing and would satisfy the minimum solar access requirements, are partially covered and are connected to indoor community facilities. The larger Level 4 terrace, due to its location on top of the podium, would receive more than three hours of solar access to a large proportion of the area in midwinter. All areas would enjoy an attractive outlook and would be screened from adjoining properties and the public. The Level 4 terrace also includes landscaping and contains communal facilities.

- | | |
|---|--|
| <p>(4) 30% of bedrooms (179 rooms) have private open space with minimum 4 m of balcony or terrace area.</p> | <p>The proposed development does not contain any private open space or balconies. As the site is adjoins a main road, it is unlikely these areas would be used. Further, due to the nature of student accommodation, housing individuals, the shared use of common areas is more likely to encourage students to interact with each other, a more socially desirable outcome. The Department considers private open space in the form of balconies is not necessary or desirable</p> |
|---|--|

4.4.1.5 Bathroom, laundry and drying facilities	(1)	Min. one wash basin, toilet and shower for every 10 residents that do not have individual facilities	Each room has an ensuite.
	(2)	Min. one washing machine and dryer for every 12 residents Drying facilities to be located in communal open space with solar access	10 washers and 10 dryers are provided (Section 6).

4.4.1.6 Amenity, safety and privacy	(1)	Boarding houses are to maintain a high level of resident amenity, safety and privacy	<p>The proposed development has demonstrated a high level of residential amenity, safety and privacy as discussed in Section 6.</p> <p>The application has been accompanied by an acoustic report and traffic report that have been addressed in Section 6.</p> <p>The development will be serviced by a private waste contractor.</p> <p>All other impacts have been addressed in Section 6.</p>
	(2)	Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring	
	(3)	The consent authority may request an acoustic report, if there is the potential for significant impacts from noise emissions.	
	(4)	Boarding Houses classified as Class 3 by the BCA are to make private contracting arrangements for garbage disposal.	
	(5)	An application for a boarding house incorporating 75 or more bedrooms is to be supported by a Traffic Report	

4.4.1.7 Plan of Management	An 'Plan of Management' is to be submitted to ensure that it operates with minimal impact on adjoining owners and maintains a high level of amenity for residents.	An Operations Management Plan has been provided. A condition requires an updated plan be prepared as discussed at Section 6 .
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In light of the assessment detailed in **Section 6** and **Table 7** above, the Department considers the proposal is consistent with the objectives of the SDCP 2012.

Draft Environment State Environmental Planning Policy

The Explanation of Intended Effect for the Environment SEPP was exhibited until 15 January 2018. The Environment SEPP proposes to simplify the planning controls for the protection and management of the natural environment by consolidating seven existing SEPPs, including the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The relevant matters for consideration and the general provisions relating to Sydney Harbour are proposed to remain in accordance with those in the current SEPP and therefore the proposal would be consistent with the intended effect of the Environment SEPP.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)

SREP 2005 provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour Catchment area. The proposal is consistent with the relevant Planning Principles of SREP 2005 and would not have any significant adverse impact on the Sydney Harbour Catchment.

Redfern-Waterloo Authority Contributions Plan 2006 and Affordable Housing Contributions Plan 2006

The Redfern-Waterloo Authority Contributions Plan 2006 (RWACP) and the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 (RWAAHCP), which allows the Minister for Planning and Public Spaces to impose a condition of consent requiring the payment of development contributions. The site is located within the Redfern-Waterloo precinct and is therefore subject to these Plans.

The required contributions are shown in **Table 7**. INSW requested the Department imposes a condition of consent requiring the payment of the relevant contributions.

The Department recommends both contributions are imposed as a condition of consent.

Table 7 | Relevant development contributions

Contributions plan	Contributions rate	Total
RWACP	2% of the proposed cost of works	$0.02 \times 64,350,000 = \$1,287,000$
RWAAHCP	\$86.88 / m ²	$\$86.88 \times 7,708 = \$669,671$

Appendix E – Community Views for Draft Notice of Decision

Issue	Consideration
Excessive height/overshadowing	<ul style="list-style-type: none"> The proposed development is consistent with the 18-storey height control and the form of development envisaged by the planning controls. In addition, the proposed maximum height of 59.6 m is also 5.4 m below the 65 m maximum referred to in the RCUDP as the approximate height for an 18-storey building. The extent of the overshadowing is generally consistent with a compliant development. Notably, the provision of the TSL on the eastern side of the building and a height that does not extend to the maximum of 65 m, also results in some reduction in overshadowing compared to a complying development. The proposal will not result in any additional material overshadowing impacts on the public domain, with minor additional overshadowing occurring to Gibbons Street Reserve before 9.40 am in midwinter. The Department notes the reserve would still receive over seven hours solar access in midwinter. Existing solar access currently received by neighbouring sites to the south, south-east and south-west is unsustainable and preserving the existing level of solar access would, in effect, prevent the site from future development and impede the renewal of the Redfern Town Centre as envisaged by the SSP SEPP A large portion of the overshadowing generated by the proposed development would be subsumed within shadows generated by current and future surrounding tower developments. The proposal would not preclude solar access being achieved to any future development at 116 Regent Street given this site has an east facing street frontage. The Department concludes the impacts to the solar access on nearby existing and future residential developments are acceptable and consistent with those envisaged by the planning controls for the area. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Plans referencing the height of the building will be included in the drawing schedule.
Setbacks/visual privacy	<ul style="list-style-type: none"> The Department considers the proposed setbacks/building separation distances are consistent with the street block and the emerging built

	<p>form character of the Redfern Town Centre and combined with the proposed design treatments, provides an acceptable balance between providing a reasonable level of visual privacy to residents and allowing development to proceed in this high-density area.</p> <ul style="list-style-type: none"> • The Department considers further increasing the setbacks of the proposed building to increase overall building separations would not result in any material improvements to visual privacy. • The Department concludes the proposal will not result in any unreasonable visual privacy, overlooking or building separation impacts. <p>Recommended Conditions</p> <ul style="list-style-type: none"> • None required.
Noise/operation impacts	<ul style="list-style-type: none"> • The Applicant has provided an Operational Management Plan which outlines measures to mitigate noise impacts, including from students in the outdoor terrace areas. • The Department considers, subject to the preparation of an updated, detailed OPM, the future use of the site for student accommodation would not have a detrimental impact on residential amenity. <p>Recommended Conditions</p> <ul style="list-style-type: none"> • Prepare an updated, detailed Operational Management Plan. • Use of external terrace areas limited to 7 am and 10 pm Monday to Saturday and 8 am and 9 pm on Sunday. • Amplified noise prohibited. • Use of the external terrace areas is limited to residents of the student accommodation building and their guests.
Footpaths	<ul style="list-style-type: none"> • Although the RCUDP controls require a zero-podium setback to Margaret Street, noting the existing narrow footpath on the northern side, the Department supports the revised design which incorporates setbacks to allow for footpath widening in this location. <p>Recommended Conditions</p> <ul style="list-style-type: none"> • As recommended by Council.
Amount of student accommodation in the area	<ul style="list-style-type: none"> • The proposed use is permissible and the Department considers the proposal meets the strategic objectives for the area, including more housing and creation of jobs. <p>Recommended Conditions</p>

	<ul style="list-style-type: none"> None required.
Heritage	<ul style="list-style-type: none"> The Department notes the planning controls for the site accommodate high-density development extending to 18-storeys and that tall buildings are consistent with the setting of Redfern Town Centre. The existing service station at 116 Regent Street, directly adjacent to St Luke's Church, forms part of the Redfern Town Centre and is also zoned for 18-storey development. The Department considers the visual and overshadowing impacts on St Luke's Church would be unlikely to be reduced were the development to incorporate a slimmer tower form given the proximity of the site to the church. The Department also considers the proposed setback of the podium to the south-eastern corner of the site is reasonable noting requiring additional setbacks would result in minimal visual benefit to the setting of the church and is inconsistent with the controls which allow for zero setbacks. <p>Recommended Conditions</p> <p>None required.</p>
Active frontage/through-site link	<ul style="list-style-type: none"> The proposed development incorporates a retail tenancy and student communal space fronting Gibbons Street, student communal space fronting Margaret Street, and a student communal kitchen and bicycle repair/storage area fronting the TSL. The Department considers the proposed development would provide reasonable and acceptable activation to its frontages. In particular, the proposal provides a balance between activation and amenity/privacy through the use of ground floor student communal space at the southern end of the building providing passive surveillance to Gibbons Street, Margaret Street and the TSL. The Department further considers the proposed TSL would provide an attractive and useable public space, including landscaping with six trees reaching mature heights of 10 to 15 m, seating, paving, public art, activation and stormwater improvements. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Prepare a detailed landscaping plan.
Insufficient car parking	<ul style="list-style-type: none"> The proposed development does not provide for any off-street car parking spaces.

- The Department notes the proposed provision of no on-site car parking is consistent with the approved and constructed student accommodation development at 60-78 Regent Street (SSD 6724), with the approved student accommodation development at 80-88 Regent Street (SSD 9275), and with the approved social housing development at 11 Gibbons Street (SSD 7749).
- The Department considers providing no on-site vehicle parking spaces is appropriate noting the close proximity of the site to Redfern Train Station and bus services and the location of the site close to shops and services within the Redfern Town Centre.
- In addition, the future occupants of the development are students who are unlikely to have or require cars and the development includes 130 bicycle parking spaces.

Recommended Conditions

- Future residents will not be able to apply for Council car parking permits.

Construction impacts

- The EIS included a Construction and Noise Vibration Management Plan (CNVMP) which provides a detailed assessment and recommendations for managing/mitigating noise and vibration impacts during construction.
- The predicted noise levels for neighbouring residential properties would also comply with the DECCW Guidelines, subject to appropriate noise mitigation measures, including use of 2.4 m high temporary sound barriers and silences on machinery.
- The CNVMP includes vibration criteria to be adopted to ensure the structural integrity and amenity of 1 Margaret Street is not compromised by construction vibration.
- The hours of construction are the same as for other developments in Redfern Town Centre and are consistent with Council's current recommended construction hours.

Recommended Conditions

- Implement the recommendations of the CNVMP.
- Prepare a Construction Environmental Management Plan, Construction Pedestrian and Traffic Management Plan and an Air Quality and Odour Management Plan.
- Hours of construction to be:
 - 7.00 am to 6.00 pm Monday to Friday

- 7.30 am to 3.30 pm Saturdays
- No works on Sundays or Public Holidays.
- Complaints and enquiries procedure.

Appendix F – Recommended Instrument of Consent

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

<https://www.planningportal.nsw.gov.au/major-projects/project/9996>