



Student Accommodation 90-102 Regent Street, Redfern

State Significant Development Assessment SSD 10382

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Cover image: View of the north-east corner of the proposal looking down Regent Street (Source: EIS)

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
Applicant	The Trustee for WH Regent Trust
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
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
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPA	Environment Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FSR	Floor Space Ratio
GFA	Gross Floor Area
INSW	Infrastructure NSW
ISEPP	State Environmental Planning Policy (Infrastructure) 2007
LEP	Local Environmental Plan

Minister	Minister for Planning and Public Spaces
RRTS	Revised Response to Submissions
RTS	Response to Submissions
SDCP 2012	Sydney Development Control Plan 2012
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 55	State Environmental Planning Policy No 55 – Remediation of Land
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)

Executive Summary

This report provides an assessment of a State Significant Development (SSD) application seeking approval for the construction and operation of a new student accommodation building at 90-102 Regent Street, Redfern.

The proposal would consist of an 18-storey tower with a two-storey podium, providing 381 student accommodation rooms, and a ground floor retail premise.

The Applicant is The Trustee for WH Regent Trust. 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 Department publicly exhibited the application for 28 days and received a total of 19 submissions, comprising 12 submissions from government agencies, a submission providing comments from the City of Sydney Council (Council) and six public submissions, all objecting to the proposal. Key issues raised in public submissions included the oversupply of student accommodation in the area, overshadowing, privacy, heritage and construction impacts.

The Applicant submitted a Response to Submissions (RTS), a Revised Response to Submissions (RRTS) and an Addendum to the RRTS to address the issues raised. Key amendments made to the proposal included providing additional openings to Regent Street, Marian Street, and William Lane and revised internal ground floor layout providing greater activation to Regent Street and Marian Street. The Applicant also revised the street awning design and privacy mitigation measures to the outdoor terraces and provided additional street tree planting.

Assessment

The Department has undertaken a detailed assessment of the proposal in accordance with section 4.15 of the EP&A Act and has carefully considered the merits of the proposal and the issues raised in submissions. The Department's assessment concludes the proposal is acceptable for the following reasons:

- it is permissible with consent and consistent with the Business Zone – Commercial Core zone objectives under State Environmental Planning Policy (State Significant Precincts) 2005
- 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 facilitate the renewal of the Redfern Town Centre consistent with the Redfern-Waterloo Built Environment Plan and the Redfern Centre Urban Design Principles
- it achieves design excellence by providing a built form which has been revised through the State Design Review process
- it complies with the 18-storey height control and floor space ratio control (7:1) for the site. While the proposal varies the 8 m tower setback control for Regent Street (proposed setback varies from 2.5 m to 4 m) and the 4 m tower setback control for Marian Street (proposed setback of 3 m), it maintains

the emerging character of new development along Regent Street and Marian Street and would be compatible with the character of the streetscape, noting the setbacks of the existing towers to Regent Street and Marian Street are also varied

- the impacts of the proposal in relation to privacy, overshadowing, wind and heritage, are acceptable and consistent with the outcomes envisaged by the adopted planning controls for the site
- it would achieve good levels of amenity for future residents in the form of communal open space, solar access and noise mitigation
- operational impacts would be appropriately mitigated and managed through the implementation of an Operational Management Plan and a suite of recommended conditions
- it provides positive public domain outcomes through the provision of a wider footpath on the southern side of Marian Street and eastern side of William Lane and increased tree planting
- there would be no additional traffic impacts as the proposed development does not include any car parking
- it would deliver up to 220 construction jobs and five operational jobs.

Conclusion

Overall, 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

The Trustee for WH Regent Trust (the Applicant) seeks approval for the construction of a new student accommodation development (the proposal) at 90-102 Regent Street, Redfern.

The proposal includes:

- demolition of existing buildings and structures; and
- construction of an 18-storey student accommodation development including 408 beds (comprising of 338 studio rooms, 27 twin studio rooms and 16 single ensuite rooms), communal spaces, on-site bicycle parking, ancillary facilities and a ground floor retail premises.

1.1 Site context

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

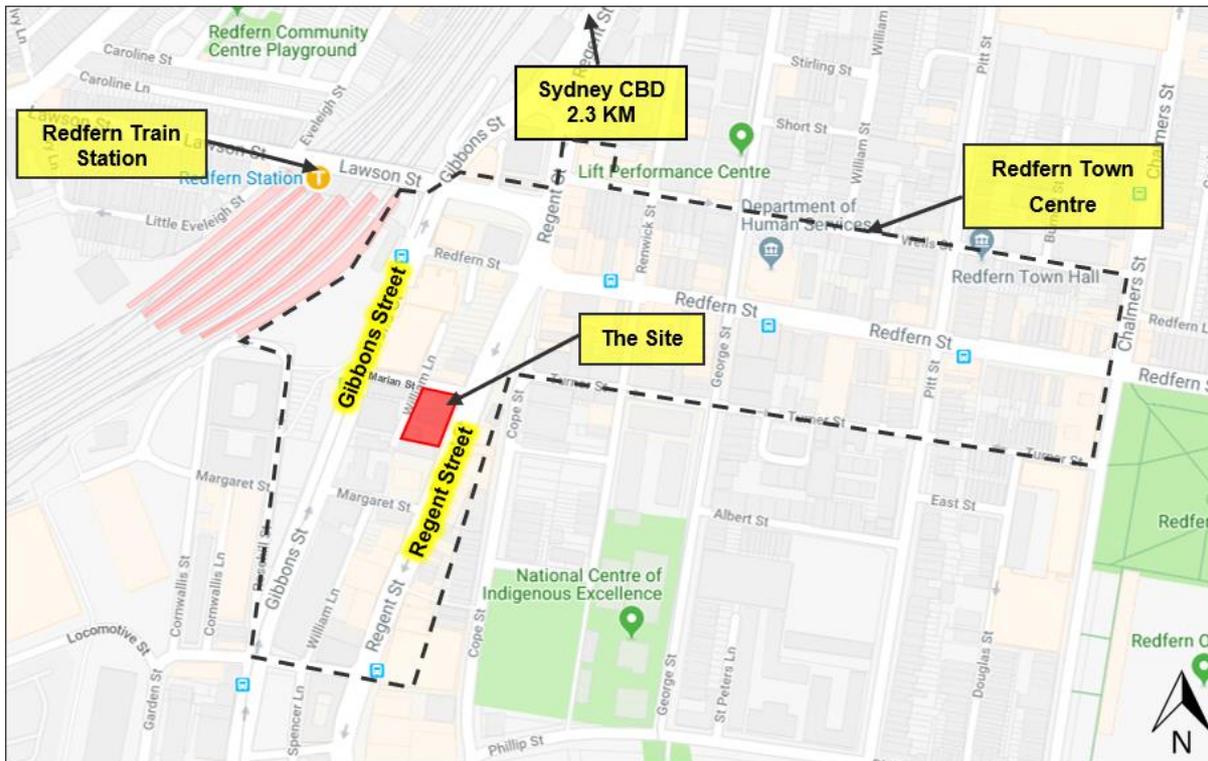


Figure 1 | Site location (as shown in red) (Base source: Nearmap)

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 The site

The site is located at 90-102 Regent Street, Redfern and comprises of five allotments (Lots 1-3 Section 2 in DP3954, Lot 1 in DP 184335 and SP57425).

The site is bounded by Regent Street to the east, Marian Street to the north, William Lane to the west and a service station to the south. The site has an area of 1,287 m² and a slope of approximately 1 m from Regent Street to William Lane.

Existing development on site consists of a row of commercial premises with shop-top housing, built to the primary street frontage of Regent Street and ranging in height from two to four storeys.

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)

1.3 Surrounding Site Context

The surrounding area is dominated by a range of residential, student accommodation and mixed use developments with varying building heights. The immediate site context is shown in **Figure 3**.

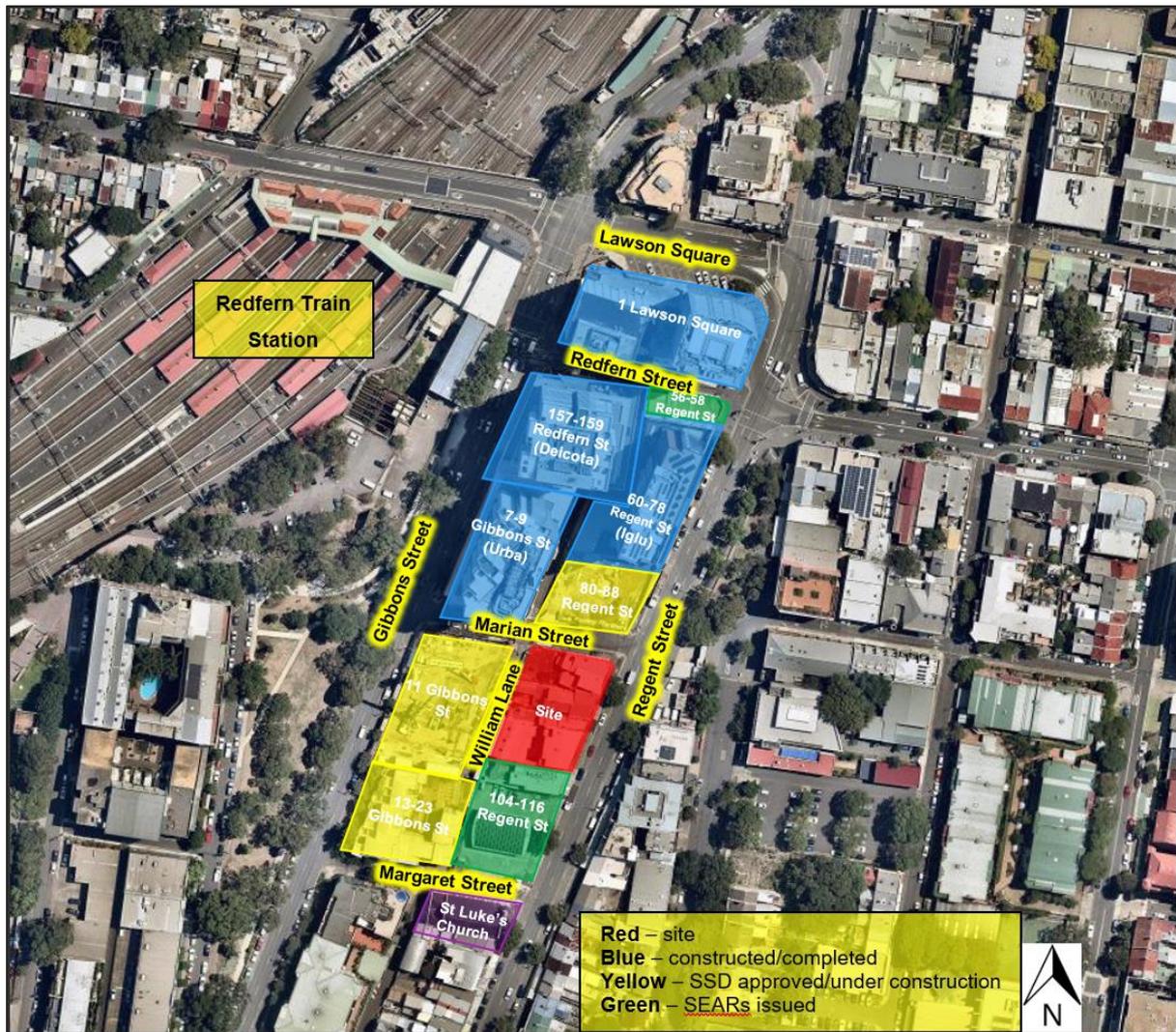


Figure 3 | Site location and context (Base source: Nearmap)

Immediate and proposed development within the vicinity of the site (**Figure 2**) includes:

- to the north of the site:
 - 1 Lawson Square: 18-storey mixed use development (completed)
 - 157-159 Redfern Street (known as the Deicota building): 18-storey mixed use development (completed)
 - 56-58 Regent Street: 21-storey hotel (SEARs issued)
 - 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 (completed)
 - 60-78 Regent Street: 18-storey student housing development (completed)
 - 80-88 Regent Street: 18-storey student housing development (under construction)
- to the west of the site:
 - 11 Gibbons Street: 18-storey social and affordable housing development with ground floor retail/commercial uses (under construction)
 - 13-23 Gibbons Street: 18-storey student housing development (under construction)

- to the south of the site:
 - 104-116 Regent Street: 18-storey student housing development (SEARs issued)

A range of public transport services are also within the immediate vicinity of the site, including the Redfern train station (approximately 300 m north-west of the site), future Waterloo metro station currently under construction (approximately 400 m south of the site) and various bus services along Gibbons Street and Regent Street.

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

Photographs of the site and surrounds is provided in **Figures 4 to 6**.

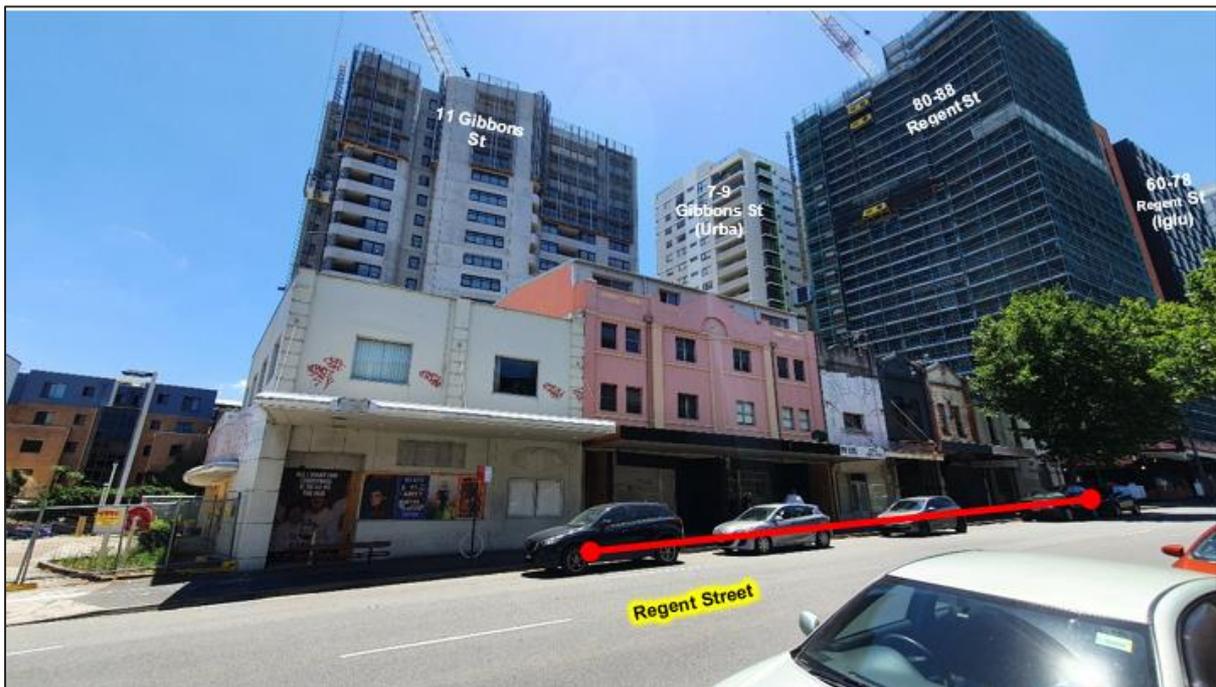


Figure 4 | Photograph of the site and existing development viewed from Regent Street looking north-west (source: Department's photograph)



Figure 5 | Photograph of the site viewed from the corner of Regent Street and Marian Street looking south-west (source: Department's photograph)



Figure 6 | Photograph of the site viewed from the corner of Marian Street and William Lane looking south-east (source: Department's photograph)

2 Project

The proposal seeks approval for the construction and operation of an 18-storey student accommodation building. The key components of the proposal are outlined in **Table 1** and shown in **Figures 7** to **13**.

Table 1 | Main Components of the Project

Aspect	Description
Built Form	<ul style="list-style-type: none"> 18-storey building, including two storey podium to Regent Street and Marian Street. Approximate setback of 4 m from Regent Street, 3 m from Marian Street to the tower element of the building.
Uses	<ul style="list-style-type: none"> 381 student accommodation rooms, including: <ul style="list-style-type: none"> 408 beds, comprising of: <ul style="list-style-type: none"> 338 studio rooms (one bed, bathroom and kitchen facilities), suitable for a single occupant only 27 twin studio rooms (two beds, bathroom and kitchen facilities), suitable for two occupants 16 ensuite rooms (one bed, bathroom and no kitchen facilities), suitable for a single occupant only indoor and outdoor communal spaces including a gymnasium on Level 2 and indoor communal rooms on Levels 1, 9 and 15 bicycle parking ancillary service areas a retail premises on the ground floor
Gross Floor Area (GFA)	<ul style="list-style-type: none"> A total GFA of 9,003 m² (floor space ratio of 7:1) comprising: <ul style="list-style-type: none"> 8,919 m² student accommodation 84 m² retail
Hours of operation	<ul style="list-style-type: none"> The hours of operation are: <ul style="list-style-type: none"> Student accommodation – 24-hours-per-day, 7-days-a-week, with access limited to the terrace areas Retail premises – 7.00 am to 10.00 pm, 7-days-a-week
Access and parking	<p><u>Access</u></p> <ul style="list-style-type: none"> Vehicular access to the basement from William Lane Pedestrian access from Regent Street and the corner of Marian Street and William Lane Loading dock access from William Lane <p><u>Service and Delivery Vehicles</u></p> <ul style="list-style-type: none"> Loading dock with a turn table to accommodate one small rigid vehicle (up to 6.4 m in length) Waste collection to occur on-site, via private contractor.

Parking:

- Provision of 134 bicycle spaces, comprising:
 - 88 bicycle spaces located in the basement
 - 46 bicycle spaces located on the ground floor and end-of-trip facilities for staff

Signage

- Building identification signage zones, consisting of:
 - a wall sign located on the upper most storey on the north-eastern corner of the Regent Street elevation (3.7 m x 1.33 m)
 - a wall sign located on the upper most storey on the north-western corner of the William Lane elevation (4.87 m x 1.76 m)
 - an awning sign located above the building entry on Regent Street (3.8 m x 0.7 m)

Demolition works

- removal of existing buildings and structures

Employment

- 220 construction jobs and 5 operational jobs

CIV

- \$51 million

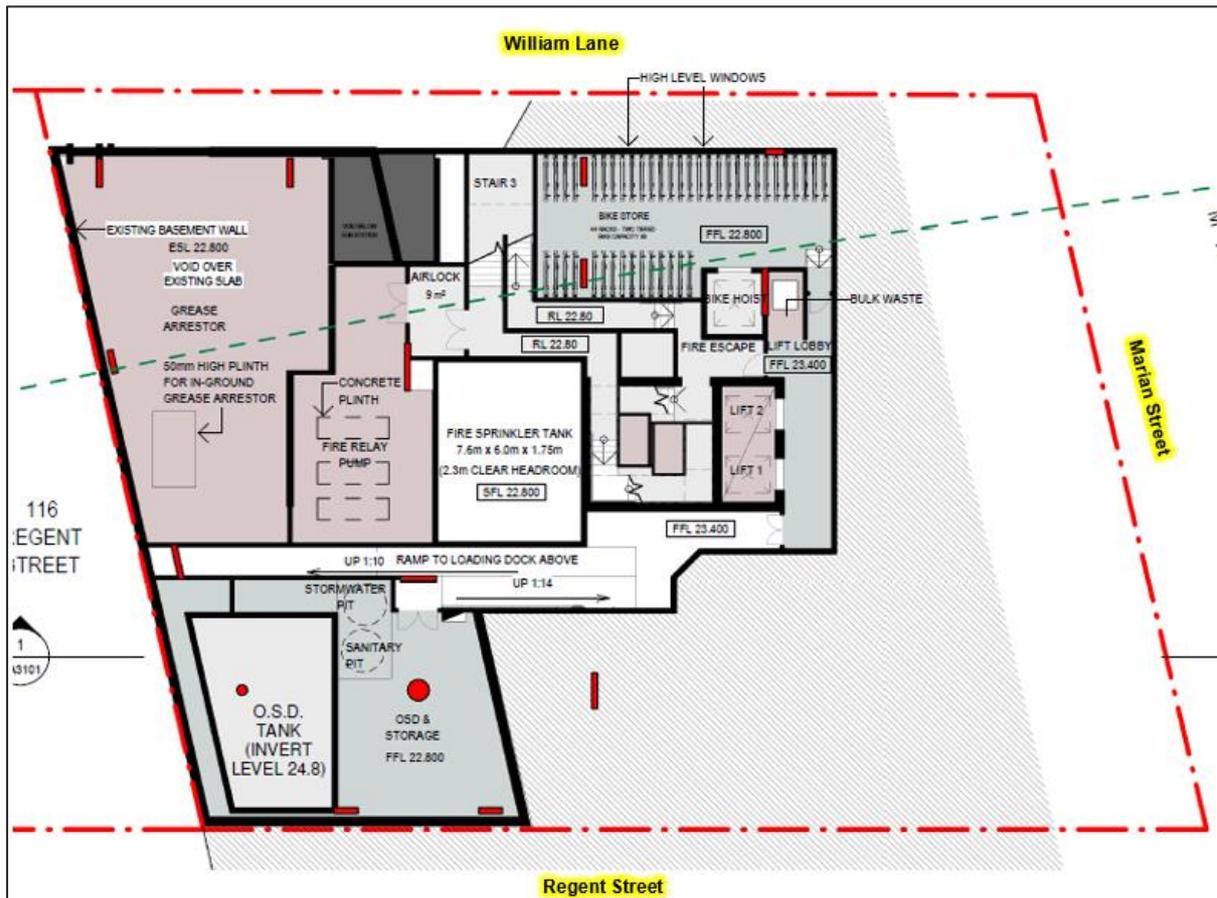


Figure 7 | Basement plan (source: Addendum RRTS)

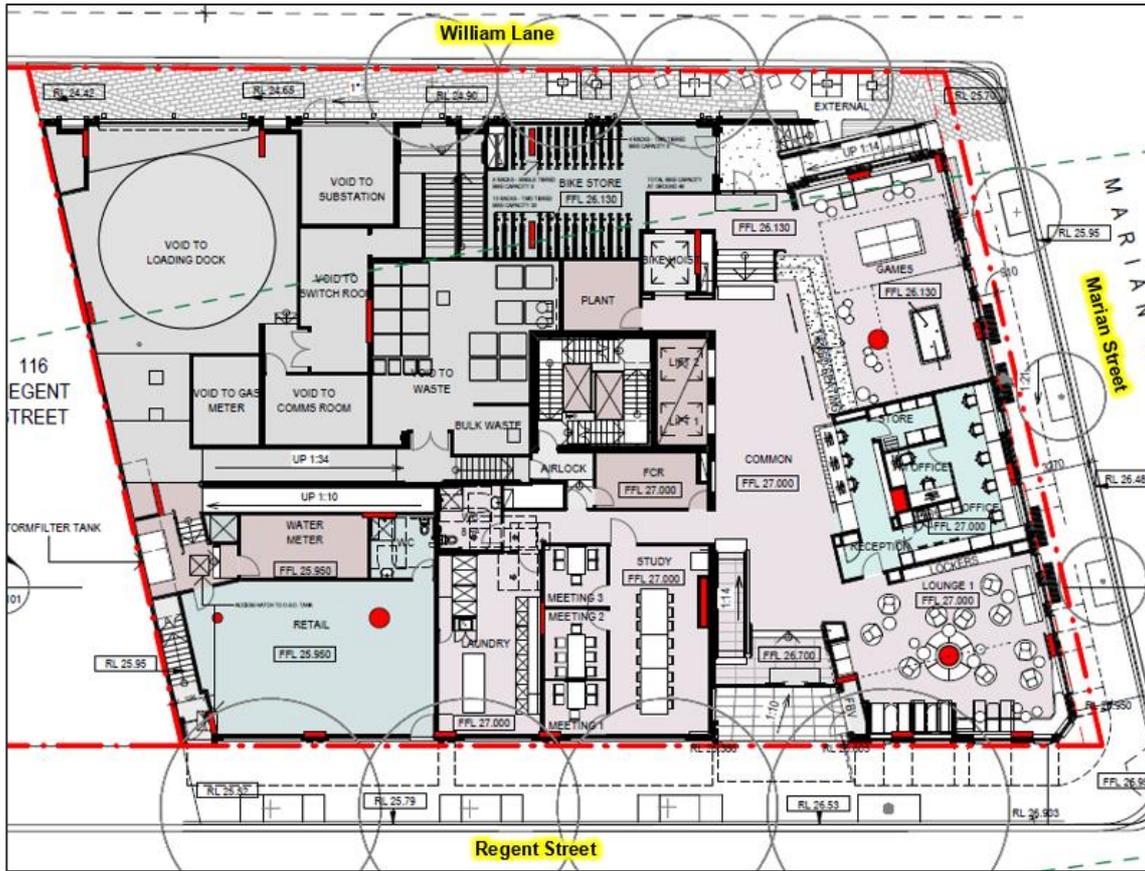


Figure 8 | Ground floor (Level 1) plan (source: Addendum RRTS)

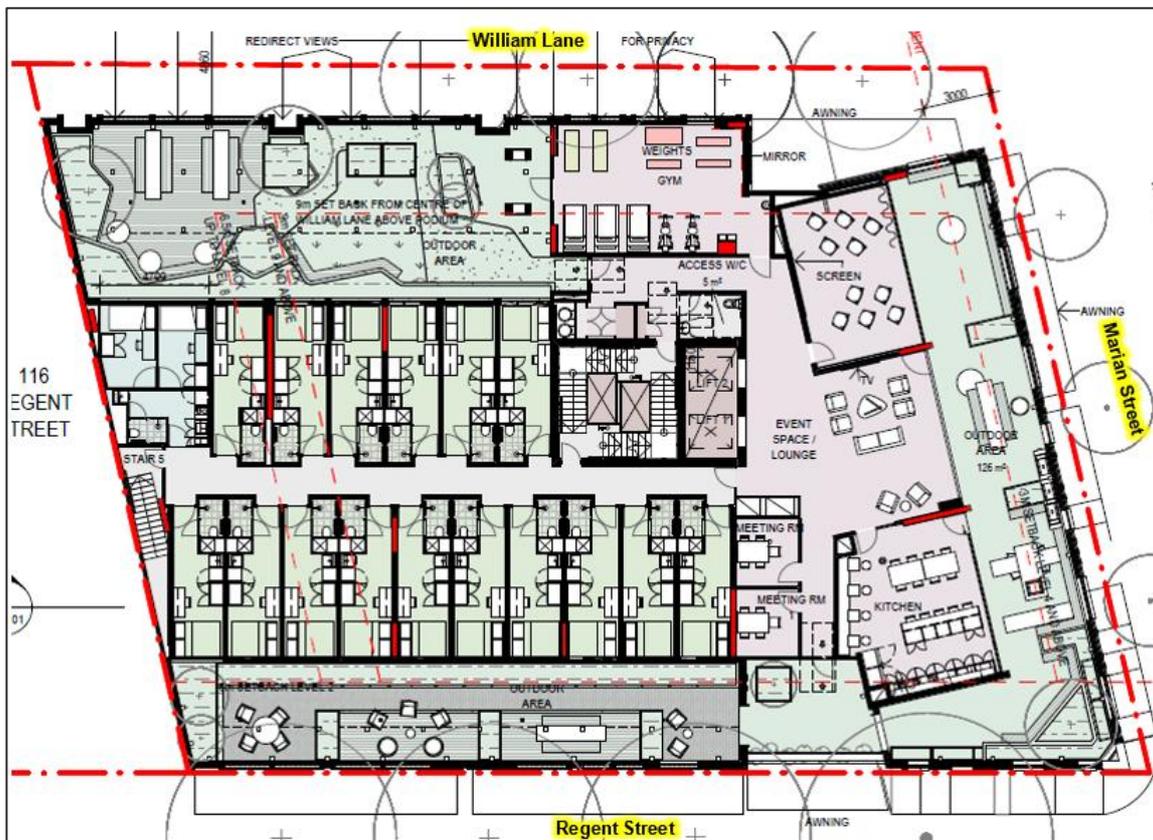


Figure 9 | Level 2 floor plan (source: Addendum RRTS)

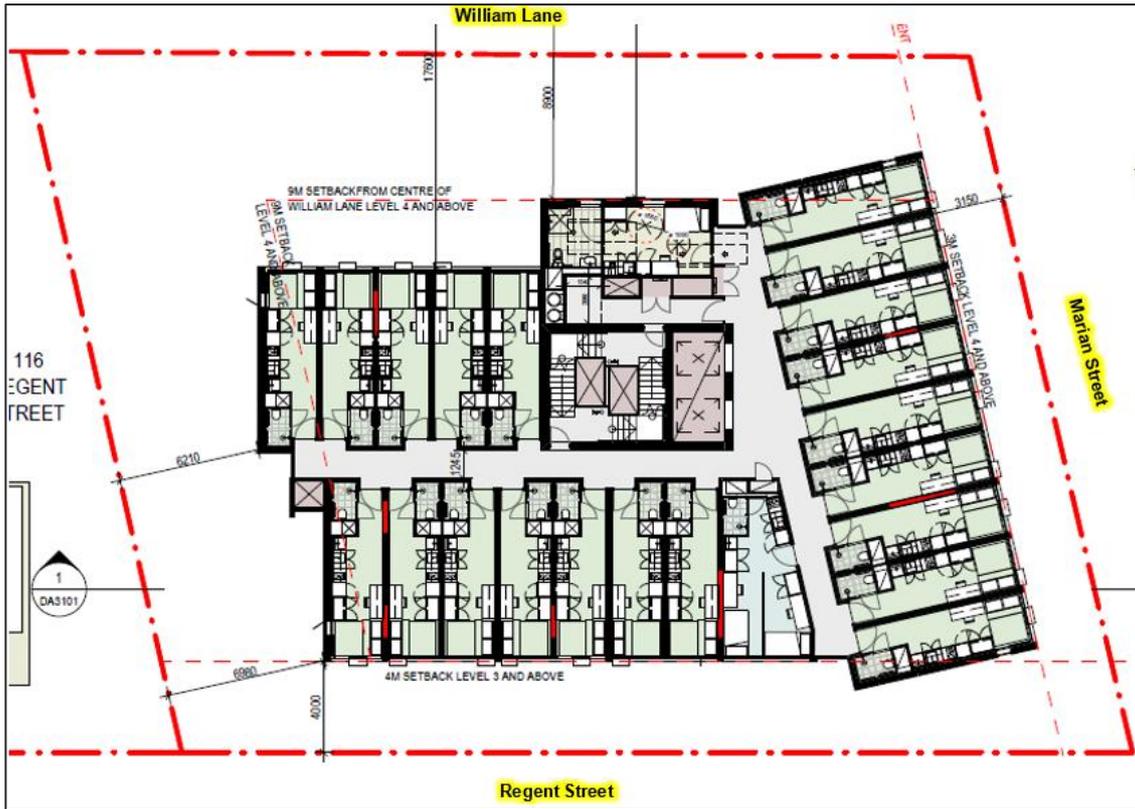


Figure 10 | Typical upper floor plan (source: Addendum RRTS)



Figure 11 | Perspective of the proposal viewed from the corner of Regent Street and Marian Street looking south-west (source: RTS)



Figure 12 | Perspective of the proposal viewed from the corner of Marian Street and William Lane looking south-east (source: RTS)



Figure 13 | Perspective of the proposal viewed from Regent Street looking north-west (source: RTS)

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 would:

- 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 student accommodation to accommodate 408 beds
- provide private open spaces and increase the urban tree canopy

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
- provide retail use at ground level activating Regent Street
- increase the housing options available in the area through the provision of student housing, including a variety of room sizes and types
- include a range of sustainable building features and have a low reliance on private vehicles

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 Regent Street and Marian Street (2-storey podium height to Regent Street then an 8m setback thereafter and a 3-storey podium height to Marian Street then 4 m setback thereafter, and a 0.8 m setback to William Lane)
- maximum floor space ratio (FSR) control of 7:1.

The proposed development comprising retail, and 381 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 some uptake by international students, contributing to the desired cultural diversity.

The proposed development complies with the 18-storey height, however it does not comply with the maximum height control of two storeys within 8 m of the Regent Street frontage and three storeys within 4 m of the Marian Street frontage control which is considered in detail in **Section 6.2** and **Appendix D** of the 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, 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 EP&A Act. This is because it triggers the criteria in clause 2(g) of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011 as it is development on land identified as being within Redfern-Waterloo with a CIV in excess of \$10 million (\$51,000,000).

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, the Director, Key Sites Assessments, may determine this application under delegation as:

- a political disclosure statement has not been made
- there are less than 15 public submissions in the nature of objections
- Council has not made an objection under the mandatory requirements for community participation in Schedule 1 of the EP&A Act.

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 Mandatory Relevant Matters for Consideration

Section 4.15 of the EP&A Act sets out the matters that a consent authority must take into consideration as relevant to the subject development, when determining a development application. In summary, these matters include:

- the provisions of environmental planning instruments (including draft instruments), development control plans, planning agreements, and the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation)
- the environmental, social and economic impacts of the development in the locality
- the suitability of the site
- any submissions, and
- the public interest, (as informed by the objects of the EP&A Act including to facilitate ecologically sustainable development (ESD)).

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

4.4 Planning Secretary's Environmental Assessment Requirements

The Department is satisfied that the EIS and RTS adequately address the Planning Secretary's Environmental Assessment Requirements (SEARs) to enable the assessment and determination of the proposal.

4.5 Biodiversity Conservation Act 2016

Under section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act), SSD applications are "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".

On 26 October 2020, the EESG determined that the proposed development is not likely to have any significant impact on biodiversity values and that a BDAR is not required. The Department supported EESG's decision and on 2 November 2020 determined that the application is not required to be accompanied by a BDAR as the site has been highly disturbed and does not contain any significant native vegetation or habitat for threatened species or communities.

5 Engagement

5.1 Department's engagement

In accordance with Schedule 1 of the EP&A Act, the Department publicly exhibited the application from Monday 16 November to Sunday 13 December 2020 (28 days). A public exhibition notice was placed on the Department's website. The Department also was made publicly available on the Department's website, and notified adjoining landholders, Council and relevant government agencies in writing.

The Department has considered the comments raised in Council, government agencies' and public submissions during the assessment of the application (**Section 6**).

5.2 Summary of submissions

In response to the exhibition of the application, the Department received 19 submissions, comprising:

- 12 submissions from government agencies
- one submission from Council
- two submissions from special interest groups
- four submissions from the public.

Out of the 19 submissions received, 12 submissions provided comment, one submission was in support and six submissions objected to the proposal.

5.3 Key issues – Government Agencies

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

Table 2 | Government agency submissions

Ausgrid	
EIS	Advised an application to connect the development to Ausgrid's electrical network is required.
Environmental Protection Authority (EPA)	
EIS	Advised an environment protection licence under the Protection of the Environmental Operational Act 1997 is not required.
Environment, Energy, and Science Group – Biodiversity and Conservation (EESG)	
EIS	EESG did not object to the proposal but requested further information in relation to flood modelling, flood impacts and flood risk.
RTS	Advised that the floor levels provided to all entry points to the basement and the services rooms (comms, gas and water metre room) are insufficient compared to relevant flood planning levels.
RRTS	Advised it had no further comment.
Heritage NSW - Aboriginal Cultural Heritage	

EIS	<p>Advised that the proposal has low potential to impact on Aboriginal cultural heritage and recommended the following conditions:</p> <ul style="list-style-type: none"> • preparation of any non-Aboriginal archaeological research design and methodology is to include consideration of Aboriginal cultural heritage values to address whether the project area does have potential for Aboriginal objects • preparation of an unexpected finds protocol for Aboriginal objects as part of any Construction Environmental Management Plan • ongoing consultation with the Aboriginal community as part of construction works and design
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Heritage Council of NSW

EIS	<p>Advised that the recommendations in the SHI are appropriate and recommended the following conditions regarding archaeological heritage:</p> <ul style="list-style-type: none"> • all works to be in accordance with the SHI • provision of an archaeological consultant during works • workers to be inducted and informed by the archaeological consultant prior to works commencing on site • submission of a copy of the final excavation report, after any archaeological works have been undertaken
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Infrastructure NSW

RTS	<p>Provided recommended conditions for contributions in relation to the Redfern-Waterloo Authority Contributions Plan 2006 and the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006.</p>
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NSW Police

EIS	<p>Provided recommended conditions for reducing crime risks.</p>
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Sydney Airport

EIS	<p>Advised it had no comment.</p>
RTS	<p>Advised that the Civil Aviation Safety Authority issued an approval for the building to extend to a maximum height of 88.35 m AHD.</p>

Sydney Metro

EIS	<p>Requested further information requiring an engineering impact assessment of the proposal on the Sydney Metro City and Southwest rail corridor.</p>
RTS	<p>Provided recommended conditions to manage and mitigate any impacts on the Sydney Metro City and Southwest rail corridor</p>

Sydney Trains

EIS	<p>Advised it had no comment.</p>
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Sydney Water

EIS	<p>Provided recommended conditions for water and wastewater servicing.</p>
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Transport for NSW

EIS	<p>Provided recommended conditions requiring a construction pedestrian and traffic management plan, a loading and servicing arrangement plan, an updated green travel plan, a transport access guide and final drawings and reports to be submitted to TfNSW for endorsement relating to the protection of the CBD rail link corridor</p>
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5.4 Key issues – Council and Community

5.4.1 Council Key Issues

Council did not object to the proposal and provided comments on the EIS, RTS and RRTS. Council's initial comments on the proposal related to the retention of the building at 90 Regent Street as well as the front façade and front rooms of the buildings at 92-96 Regent Street. Council also provided comments on the awning design, building materials, contamination, noise and vibration impacts from the future Sydney Metro rail corridor, public domain, waste management, wind impacts, residential amenity for future occupants and on-site landscaping.

Council's final comments on the proposal are summarised in **Table 3**.

Table 3 | Summary of Council's final comments

Council

Council provided the following final comments:

Heritage

- encouraged the retention of the building at 90 Regent Street as well as the front façade and front rooms of the buildings at 92-96 Regent Street

Signage

- the awning fascia sign located above the building entry on Regent Street shall be synonymous with the height of the awning
- reiterated that signage zone on the Regent Street ground floor elevation be removed as it does not contribute to an active street frontage

Public Domain

- the amended flood study report must be signed by the author
- a swept path analysis to be provided for truck entry and exit to the loading dock
- door openings of the development must remain on private land and not open onto the public domain on William Lane
- Where a footpath is being widened on William Lane and Marion Street as part of this development, confirmation must be sought prior to determination as to whether this land will be dedicated to Council. Therefore, a separate land dedication plan must be submitted to the Council to clarify this.
- A detailed consideration to the public domain does not form part of the application. As such, a separate public domain plan shall be submitted to the satisfaction Council prior to the issue of Construction Certificate.

Waste Management

- waste and recycling management facilities and storage and are not in line with Council's Guidelines for Waste Management in New Developments 2018.

Tree Management

- does not support the removal of the two street trees on Marian Street to facilitate construction. It is recommended that tree branches are tied back during construction works and any necessary pruning undertaken by a qualified Arborist.

Landscaping

- proposed landscaping continues to be limited noting that the requirement for a 15% canopy as prescribed under the SDCP 2012 would not be met. The canopy coverage from street trees within Council land does not count towards the canopy coverage
 - concerns remain that the landscaping mix would not provide sufficient visual privacy between student rooms and communal terraces
 - garden beds within the communal terraces do not provide adequate soil volumes
 - smaller raised planters shall be consolidated and made contiguous to allow for the soil volume and depth that can sustain mature trees
 - the three small trees within the level 3 terrace shall be replaced with one medium sized tree and the terrace amended to be a garden bed
 - further detail is required on gaps between the wall and the glass canopy over the communal open space
-

5.4.2 Community Key Issues

The Department received six public submissions on the EIS, all objecting to the proposal. A further two submissions, both objecting, were received on the RTS. No public submissions were received on the RRTS. **Table 4** provides a summary of the comments raised by the public.

Table 4 | Summary of key issues raised in public submissions

Issue/concern raised	EIS No. of submissions	RTS No. of submissions
Oversupply of student accommodation within the immediate area	4	1
Construction impacts (noise, traffic and vibration)	4	1
Overshadowing of Unit 4, 143-145 Regent Street	1	-
Lack of community engagement/consultation undertaken by the Applicant in regard to 1 Margaret Street	1	1
Acoustic and privacy impact associated with the use of the proposed level 2 outdoor area on neighbouring development at 80-88 Regent Street	1	-
Lack of commercial and retail activation on the ground floor	1	-
Impact on the heritage significance of St Luke's Church: <ul style="list-style-type: none">- overshadowing- visual impact- bulk and scale	1	1

- construction and vibration
-

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 1 March 2021, the Applicant lodged a Response to Submissions (RTS) to the issues raised during the exhibition of the EIS. In response to the issues raised, the building design was amended to include the following:

- additional openings to Regent Street, Marian Street, and William Lane and revised internal ground floor layout providing greater activation to Regent Street and Marian Street.
- podium design amended to establish a street frontage along William Lane, framing the through site link
- awning heights along Regent Street and Marian Street lowered to a range between 3.2 m and 4.2 m, providing better shelter for pedestrians.
- awning depth set back from 2.8 m to 2 m to accommodate future canopy growth of the proposed tree species.
- glazed awning provided to the eastern and western outdoor communal space and a louvered awning added to the northern outdoor communal space for wind mitigation
- signage zone added to the ground floor Regent Street elevation

The RTS included the following documentation:

- amended architectural plans, landscape plans and design report
- addendum to the Statement of Heritage Impact
- engineering impact assessment of the proposed development on Sydney Metro tunnels, including tunnel vibration management plan, electrolysis report, geotechnical investigation and structural details
- amended acoustic report
- amended flood study report
- addendum to the traffic impact assessment
- addendum to the wind impact assessment
- addendum to the arboricultural impact assessment
- addendum to the remediation action plan
- non-Aboriginal archaeological research design and methodology report

The Department made the RTS publicly available on its website and forwarded the RTS to Council and relevant government agencies for comment. The Department received five submissions, comprising a submission making comments from Council, two submissions making comments from government agencies and two public submissions objecting.

A summary of comments raised in submissions to the RTS is provided at **Tables 2 to 4**.

5.6 Revised Response to submissions

On 27 April 2021, the Applicant lodged a Revised Response to Submissions (RRTS), which provided additional information to address comments raised by Council, EESG and public submissions received on the RTS.

In response to the comments raised, the proposal was amended as follows:

- additional tree added to William Lane, proposed removal of two street trees within Marian Street, tree canopies adjusted to show their expected canopy coverage
- floor levels and egress path levels adjusted in response to flood planning level requirements
- proposed gaps within the street awnings have been removed to address concerns raised regarding weather protection
- proposed signage zone to the ground floor window of Regent Street, further developed to maintain passive surveillance and street activation
- further clarification provided on materials

The RRTS also included the following documentation:

- amended architectural plans, landscape plans and design report
- amended flood study report
- amended operational waste management plan
- ground clearance and headroom assessment for small rigid vehicles
- addendum to the wind impact assessment
- addendum to the arboricultural impact assessment

The Department made the RRTS publicly available on its website and forwarded the RRTS to Council and EESG for comment. The Department received two submissions, a submission from Council and EESG making comments.

No public submissions were received on the RRTS.

A summary of comments raised in submissions to the RRTS is provided at **Table 2** and **3**.

5.7 Addendum to the Revised Response to submissions

On 2 June 2021, the Applicant lodged an Addendum to the Revised Response to Submissions (Addendum RRTS), which provided additional information to address comments raised by Council, on the RRTS.

In response to the comments raised, the proposal was amended as follows:

- planter mix within the eastern and western communal terraces to include mid-level shrub planting to supplement the original planting mix and include climbing species along vertical wires glass
- the canopy over the eastern and western terraces modified to include a 300 mm air-flow gap to prevent heat from building up in these locations
- raised the height of planters, and provided cut-outs through walls between all back-to-back planters to take advantage of shared soil volumes

- amended the level 3 terrace by consolidating planter boxes to form one in-situ planter which covers the entire rooftop area with a soil depth of 1m, and replacing the three trees with one large tree, capable of reaching a mature height of between 8-10 m
- reducing the height of the awning fascia sign to be synonymous with the height of the awning fascia and removal of the signage zone to the Regent Street ground floor elevation
- recessed the door openings (with the exception of the substation access door and fire stair access door) along William Lane.

The RRTS also included the following documentation:

- amended architectural plans and landscape plans
- signed flood study report
- swept path analysis
- amended letter to the operational waste management plan
- amended letter to the landscape report
- addendum to the arboricultural impact assessment

The Department made the Addendum RRTS publicly available on its website

No public submissions were received on the Addendum RRTS.

6 Assessment

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
- overshadowing and wind impacts
- heritage
- residential amenity for future occupants
- public domain and landscaping

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 6.8** of this report.

6.1 Design excellence

Clause 22 of Appendix 4 of the SSP SEPP requires new development to exhibit design excellence. To ensure design excellence is achieved the design of the proposal was reviewed by the SDRP. The Applicant's design team met with the SDRP before lodging its EIS in February, April, June and August 2020. After its fourth meeting, SDRP was supportive of the building designed by Allen Jack and Cottier. In particular, the SDRP supported:

- the reduction in FSR to a compliant scheme of 7:1
- reduction in height from 19 storeys to 18 storeys
- increased setbacks to the southern boundary
- reduction in tower bulk and floorplate size
- relocation of common open space to the north

The SDRP also made a number of recommendations relating to managing potential amenity impacts from the outdoor communal terraces on student rooms, screening of the mechanical plant at level 3 terrace, street tree planting, further design refinement to the podium façade along William Lane, incorporation of indigenous art and wind impacts. The Department has considered these recommendations within the following sections of this report.

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. The Department has considered the advice from the SDRP and the matters to be considered under clause 22 of Appendix 4 of the SSP SEPP and is satisfied the development exhibits design excellence as:

- through the SDRP process, the proposed design has been refined by reducing the FSR, number of storeys, 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 and materials to mitigate the building's visual bulk and scale

- the proposal would improve the amenity of the existing public domain by providing:
 - widened footpaths to Marian Street and William Lane
 - increased ground floor activation
 - street tree plantings and awnings
 - public art to reflect the cultural Aboriginal significance of the site.
- 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
- the building incorporates appropriate sustainable design principles which exceed those required to meet energy and water reduction targets as required for BASIX Certification

The Department is therefore satisfied the proposal exhibits design excellence, consistent with the requirements of SSP SEPP. The Department has also recommended a condition requiring the Applicant to ensure Allen Jack and Cottier are engaged in the design documentation phase to ensure the integrity of the design is maintained through the construction phase to completion of the building works.

6.2 Built Form

The SSP SEPP contains principle development standards applying to the site that govern the height, bulk and scale of the development being:

- maximum building height control of 18 storeys
- maximum podium height control of 2 storeys to Regent Street and 3 storeys to Marian Street
- maximum FSR control of 7:1

The RCUDP contains the same controls, except they include the following additional podium and tower setback requirements and lot size requirement:

- 8 m tower setback to Regent Street
- 4 m tower setback to Marian Street
- 1.5 m podium setback from Marian Street to provide for footpath widening to an average width of 3 m
- 0.8 m podium setback to the eastern side of William Lane to provide for footpath widening to an average width of 1.5 m.
- minimum site area of 1,400 m²

The height, FSR and tower setbacks are considered below. The proposed footpath widths and minimum site area requirement are considered in **Section 6.7**.

6.2.1 Building Height and Density

The SSP SEPP sets a maximum height control of 18 storeys as well as a maximum podium height control of two storeys to Regent Street and three storeys to Marian Street (**Figure 14**). A maximum FSR of 7.1 also applies to the site.

The proposal comprises an 18-storey building, including a two storey podium to Regent Street and Marian Street. The proposal provides a FSR of 7:1.

The Department is therefore satisfied the proposal complies with maximum height control and FSR for the site and is consistent with the general form of development envisaged by the provisions of the SSP SEPP.

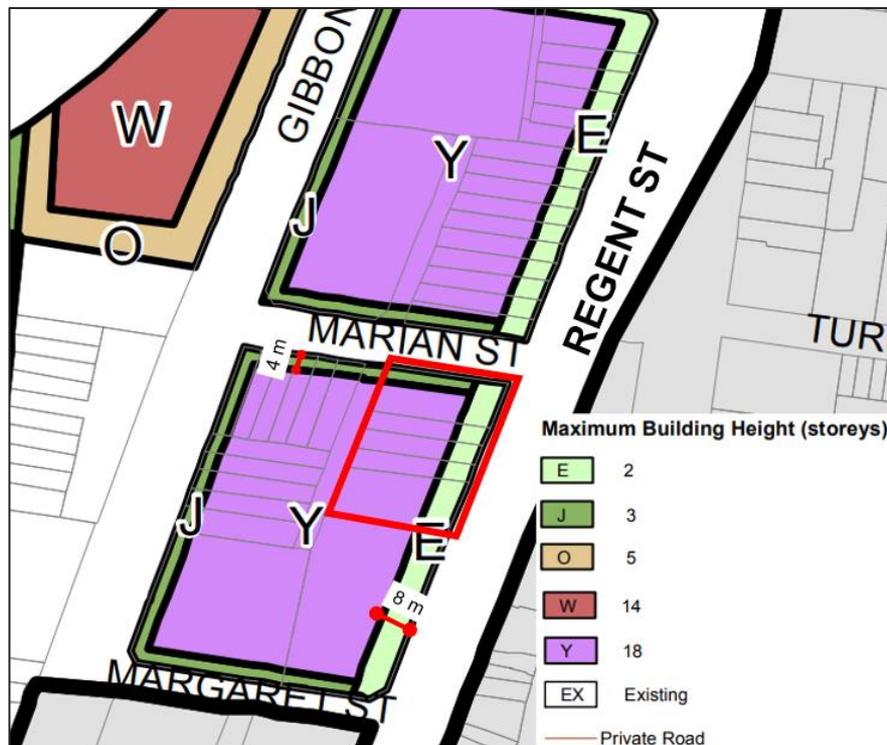


Figure 14 | Extract of the SSP SEPP height of building map. Site outlined in red (Base source: SSP SEPP)

6.2.2 Setbacks

The proposal seeks to vary the setback controls for Regent Street and Marian Street as the tower projects into the area designated for a podium. The extent of the projection of the tower into the Regent Street and Marian Street podium setbacks is provided in **Table 6**.

Table 6 | Proposed variations to Regent Street and Marian Street setback standards

Location	Requirement	Proposal
Regent Street frontage	2 storeys to a depth of 8 m	2 storeys to a depth ranging from 2.5 m to 4 m
Marian Street frontage	3 storeys to a depth of 4 m	2 storeys to a depth of 3 m

Figure 15 illustrates the extent of the tower’s encroachment into the area designated for the podium.



Figure 15 | Areas of proposed tower setback variations to Regent Street and Marian Street shown in blue with setback dimensions notated (Base source: RTS)

The Applicant has therefore submitted a written request to vary the building height/tower setback control, in accordance with clause 16A of Appendix 4 of SSP SEPP.

Council did not raise any concerns with the tower setbacks and noted that the history of approvals on surrounding sites have also varied the setback controls. The SDRP advised the tower setbacks are acceptable, subject to demonstrating that there would be no additional wind impacts when compared to a compliant envelope.

The Department considers the Applicant’s request to vary the building height/tower setback control is reasonable and acceptable, as discussed in **Appendix D**. In summary, the Department considers the tower setbacks acceptable as:

- the proposal maintains the emerging character of new development along Regent Street and Marian Street and would be compatible with the character of the streetscape, noting the setbacks of the existing towers to the north of the site along Regent Street and Marian Street are varied and do not exhibit a strong building line (**Figure 16**). In particular:
 - a varied tower setback ranging from 2.7 m to 4.5 m is provided along Regent Street
 - a varied tower setback ranging from 0.4 m to 5.6 m is provided along Marian Street for the development at 11 Gibbons Street
- while the tower setback is reduced, the proposal still provided a podium with tower setbacks which would achieve an appropriate design outcome for the site, consistent with the intent of the controls
- overshadowing impacts from the proposed setback variations are negligible (see **Section 6.4**)

- the proposal incorporates suitable wind mitigation measures to negate any increased downdraft from the reduced tower setbacks (see **Section 6.4**)

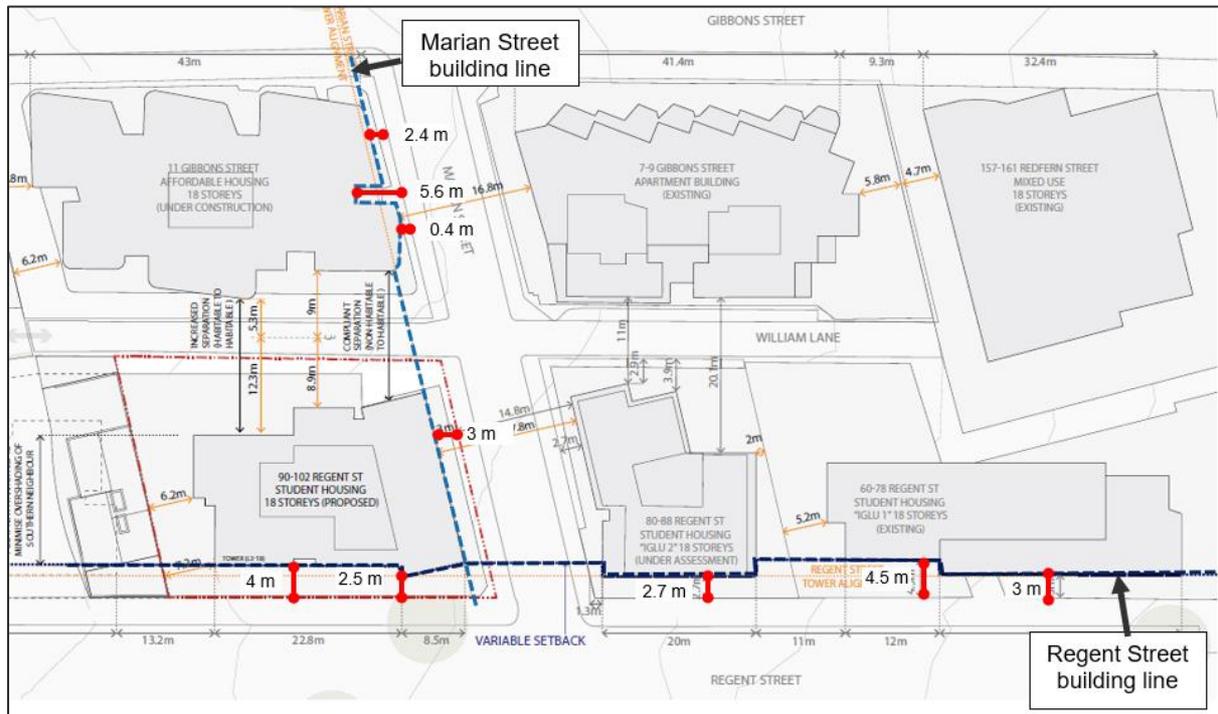


Figure 16 | Regent Street and Marian Street building line, with tower setbacks notated (Base source: EIS)

6.2.3 Podium Design and Streetscape

The proposal includes a two-storey podium to Regent Street, Marian Street and William Lane.

The SDRP noted the podium façade to Regent Street and Marian Street is well resolved and is supported, however, the podium façade to William Lane needed to be developed to the same level of resolution. Council recommended an amended podium design which retained the 90 Regent Street building and front façade and front rooms of 92-96 Regent Street to maintain the existing building fabric and streetscape.

In response, the Applicant advised:

- the SDRP comments have been incorporated into the final building design submitted with the EIS. The western elevation has been refined with the same level of resolution of the other building elevations. In particular, the podium is expressed as two elements, the existing shops along Regent Street and William Lane in terracotta brick, and the existing pub on the corner which uses a darker brick to reference the dark coloured tiles on the existing corner building.
- the HIS and Addendum HIS concluded that:
 - the buildings at 92-96 Regent Street, Redfern, contain some interior and exterior features that are uncommon in local context. However, an analysis of surviving former shopfronts from a similar period (1890–1914) suggests that sufficient local building stock survives within the Redfern Estate Conservation Area to justify the demolition of these buildings.

- the building at 90 Regent Street, Redfern, includes some elements likely to be of local significance, but overall this assessment has identified that the structure does not meet the local significance threshold.
- structural investigations indicate that the retention of the 90 Regent Street building and front façade and front rooms of 92-96 Regent Street would require a significant amount of modification, and replanning of the architectural and structural design in order to accommodate new foundation piles, floor slabs, columns, lift and stair cores.
- elements of the existing built fabric are incorporated into the podium design along Regent Street, including:
 - brickwork to mimic similar tonal qualities of the existing buildings
 - Brick columns, corbelling and offset window openings which reference the existing rhythm, density, and parapet heights of the existing shopfront buildings along Regent Street
 - breaking up the façade into smaller elements similar in size to the shopfronts.

The Department notes that the podium design is consistent with the developing streetscape of Regent Street. The existing student accommodation building at 60-78 Regent Street includes some retained shop facades and some contemporary insertions while the student accommodation building (currently under construction) at 80-88 Regent Street has an entirely contemporary podium design using brick and metal detailing with window openings in keeping with the character of the retained shopfronts of 60-78 Regent Street (**Figure 17**)

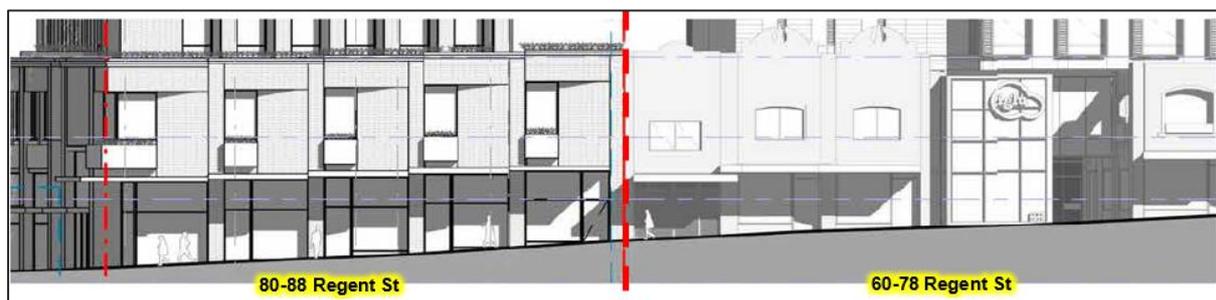


Figure 17 | 80-88 Regent Street and 60-78 Regent Street podium design (Base source: RRTS)

The Department considers the podium design is acceptable as:

- interpretation of the fine grain subdivision and existing buildings is represented through the articulation of the podium, with the façade broken up into smaller elements similar in size to the existing shopfronts
- the 90 Regent Street building and front façade and front rooms of 92-96 Regent Street are not of sufficient heritage significance to warrant retention
- the podium design along Regent Street and Marian Street is supported by the SDRP.

Notwithstanding, the Department considers there are opportunities for the reuse of building materials and incorporating interpretation measures at the site to mitigate the loss of the existing buildings along Regent Street. The Department therefore recommends a condition requiring:

- a Heritage Interpretation Strategy
- a salvage strategy to be prepared to recover building fabric for salvage and reuse

- photographic archival recording to document the interior and exterior of the building at 90 Regent Street and buildings at 92-96 Regent Street.

Subject to the recommended conditions, the Department's assessment concludes that the podium design is acceptable and it would provide a positive contribution to the streetscape.

6.3 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 separation distance of:

- up to four storeys:
 - between habitable rooms - 12 m
 - between non-habitable rooms – 6 m
- between five to eight storeys:
 - between habitable rooms - 18 m
 - between non-habitable rooms – 9 m
- nine storeys and above:
 - between habitable rooms - 24 m
 - between non-habitable rooms – 12 m

The proposed setbacks and separation distances are shown in **Figure 18** and **19**.

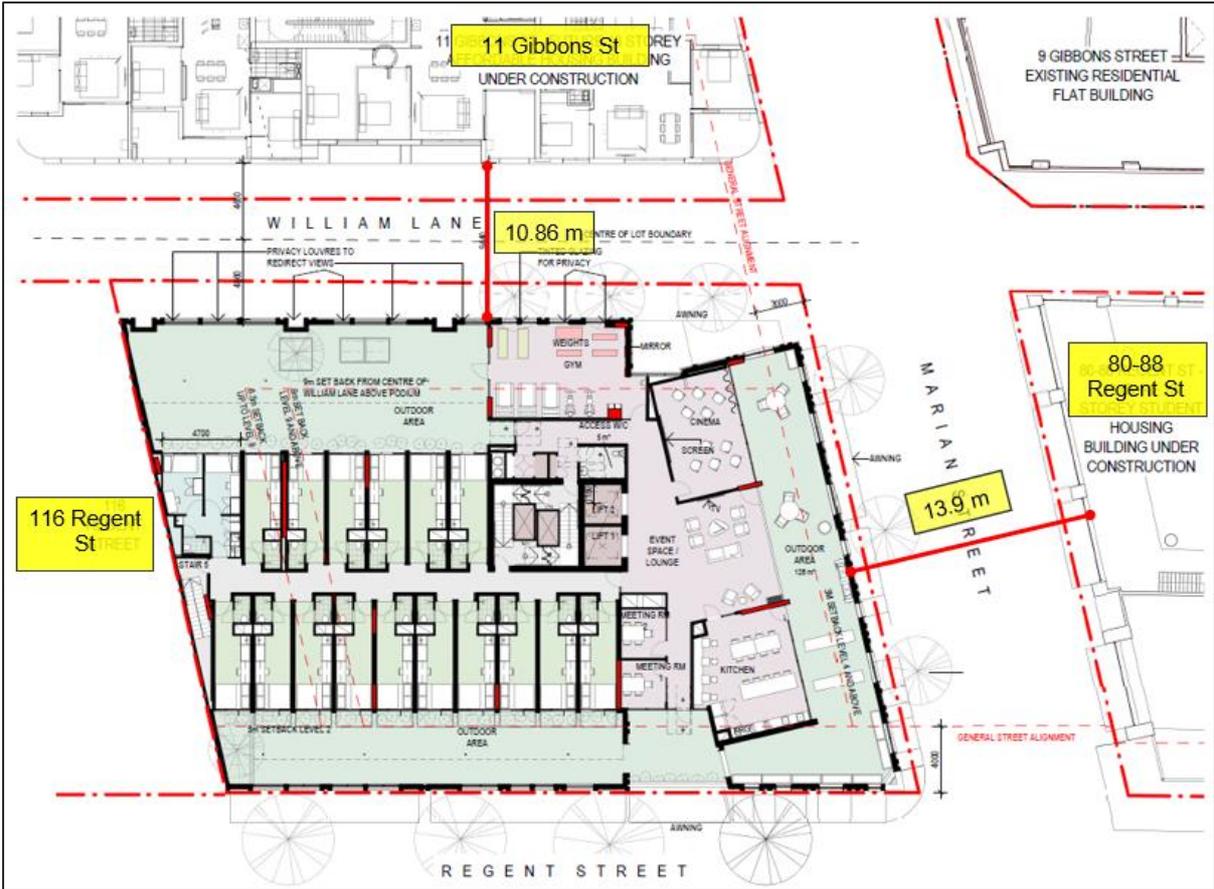


Figure 18 | Proposed development showing the separation distances (Podium element - Level 1 and Level 2) to adjoining properties (Base source: RRTS)



Figure 19 | Proposed development showing the separation distances (Tower element - Levels 3 and above) to adjoining properties (Base source: RRTS)

Council and the SDRP did not raise concerns with the proposed building separation. A public submission made on behalf of the owners of the student accommodation at 80-88 Regent Street, raised concerns about overlooking of residents' bedrooms from the proposed outdoor communal area on Level 2.

The Applicant contends that the proposal has been carefully designed to minimise visual privacy impacts on surrounding residents through the use of building separation distances, use of privacy screens and louvres.

The Department has considered the proposed building separation and its relationship to visual privacy for each elevation below.

Privacy

Eastern Elevation

A minimum separation distance of 24 m is provided between the tower and the property boundary of the closet adjoining site to the east on the opposite side of Regent Street. The Department considers the setback of more than 24 m is acceptable as it complies with the minimum 24 m separation distance between buildings recommended under the ADG, and it would not result in any adverse overlooking or visual privacy impacts.

Southern Elevation

The proposal includes a varied setback along the southern elevation of the site ranging between 6.2 m and 8 m.

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 the windows (located less than 12 m from the eastern boundary at the northern end of the building) would be fitted with angled privacy screens to prevent overlooking (**Figure 20**).

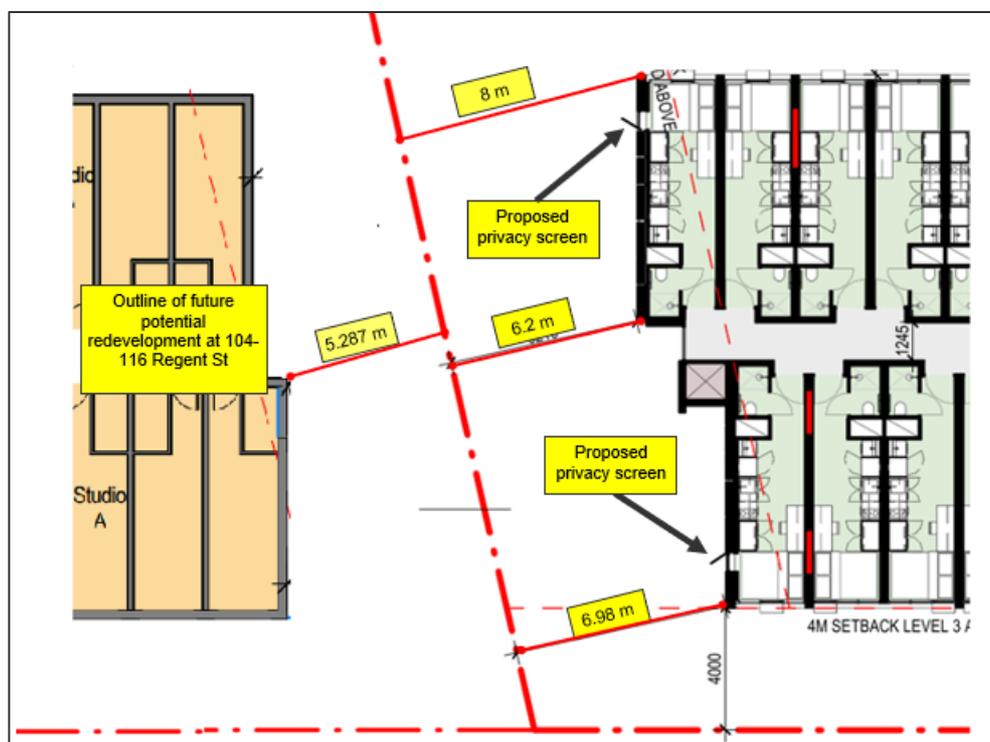


Figure 21 | Proposed privacy mitigation measures and setbacks to 104-116 Regent Street (Base source: RRTS)

Western Elevation

The proposed separation between the western elevation of the proposal to the affordable housing development at 11 Gibbons Street is 10.86 m for the podium and 17.6 m for the tower.

While the minimum building separation distance along the western elevation boundary for the podium (10.86 m) and the tower (17.6 m) is less than the distances recommended under the ADG, of 12 m and 24 m respectively, the Department considers the proposal would not result in any adverse privacy impacts as:

- privacy louvres are proposed to the openings within the outdoor communal area, and tinted/obscure glazing is proposed to the gymnasium which would mitigate any privacy impacts (**Figure 22**)

- under the assessment for 11 Gibbons Street, the Department considered at the time, that a minimum 15 m separation distance for the tower of 11 Gibbons Street, to the potential future tower at 90-102 Regent Street would be sufficient, as it exceeded the separation distance provided for other developments within the town centre. The separation distance proposed (17.6 m) exceeds the 15 m originally considered by the Department.

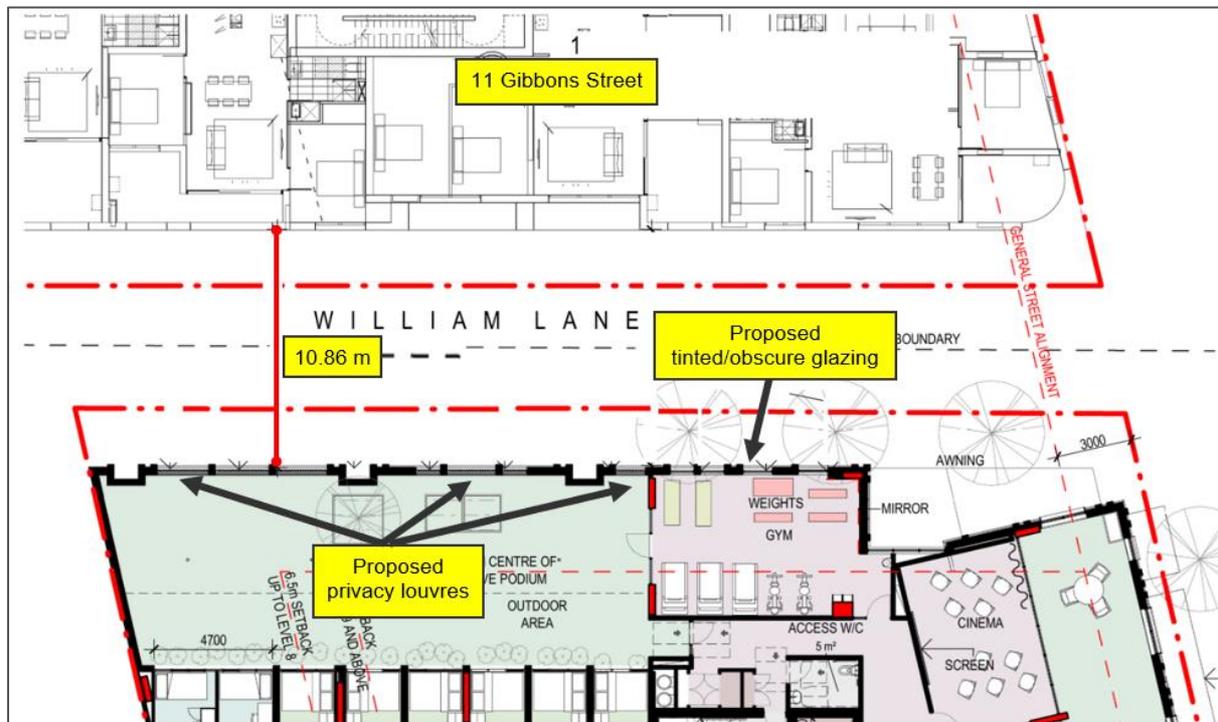


Figure 22 | Proposed privacy mitigation measures and setbacks to 11 Gibbons Street (Base source: RRTS)

Northern Elevation

The proposed separation between the northern elevation of the proposal to the student accommodation development at 80-88 Regent Street is 13.9 m for the podium and 17.8 m for the tower.

The Department notes that a public submission made on behalf of the owners of the student accommodation at 80-88 Regent Street, raising privacy concerns from the proposed outdoor communal area on Level 2.

The Department has considered the comments raised in the submission and the separation distances proposed, and considers the proposal would not result in any adverse privacy impacts as:

- the separation distance proposed (13.9 m) between the outdoor communal open space and the student accommodation development at 80-88 Regent Street, exceeds the guidelines under the ADG, which recommends 12 m. The distance is therefore considered acceptable to mitigate any potential privacy impacts.
- under the assessment for 80-88 Regent Street, the Department considered at the time, that a minimum 14.8 m separation distance for the tower of 80-88 Regent Street, to the potential future tower at 90-102 Regent Street would be sufficient, as it exceeded the separation distance provided for other developments within the town centre. The separation distance proposed (17.8 m) exceeds the 14.8 m originally considered by the Department.

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 towers on the block bounded by Gibbons, Redfern, Regent and Marian Streets to the north of the site, which provide:

- a minimum of 14.4 m between 157-159 Redfern Street and 7-9 Gibbons Street
- a minimum of 11.8 m to 12 m between 157-159 Redfern Street and 7-9 Gibbons Street
- a minimum of 13.1 m between 157-159 Redfern Street and 60-78 Regent Street
- a minimum of 12 m between the 80-88 Regent Street and 60-78 Regent Street
- a minimum of 11 m between 80-88 Regent Street and 7-9 Gibbons Street

Additionally, development at 13-23 Gibbons Street has minimum setbacks of 5.3 m to 9 m to the centreline of William Lane. Generally, a predominant minimum separation distance of 12 m is observed between the tower forms.

The Department considers the proposed setbacks/building separation distances are consistent with the emerging built form character of the Redfern Town Centre. As such, the Department is satisfied the proposed building separation, combined with the proposed design treatments would still result in an acceptable built form outcome, in this context. The Department also considers that 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, of the Redfern Town Centre and the proposal would not result in any unreasonable visual privacy or building separation impacts.

6.4 Overshadowing and Wind Impacts

6.4.1 Overshadowing

Public submissions raised concerns about overshadowing impacts to neighbouring properties, particularly to apartments at 143-145 Regent Street, located to the east of the site and to St Luke's Presbyterian Church, located to the south of the site.

The Applicant provided an overshadowing analysis comparing the proposed development to the impacts from a complying scheme, with increased tower setbacks (**Figure 23**). The overshadowing analysis shows the variation to the tower setback controls would result in some minor additional overshadowing compared to a fully complying scheme. However, the additional overshadowing would not result in any material amenity impacts to surrounding properties, given its minor nature.

In relation to the overshadowing impacts on 143-145 Regent Street, the analysis shows that it would be overshadowed during the afternoon period in mid-winter, however it would not be impacted by the development during the morning period. The analysis also shows that St Luke's Church would be overshadowed by one additional hour between 10 am and 11 am compared to the existing pre-development scenario (**Figure 24**). The Church would still receive up to four hours of solar access during mid-winter.

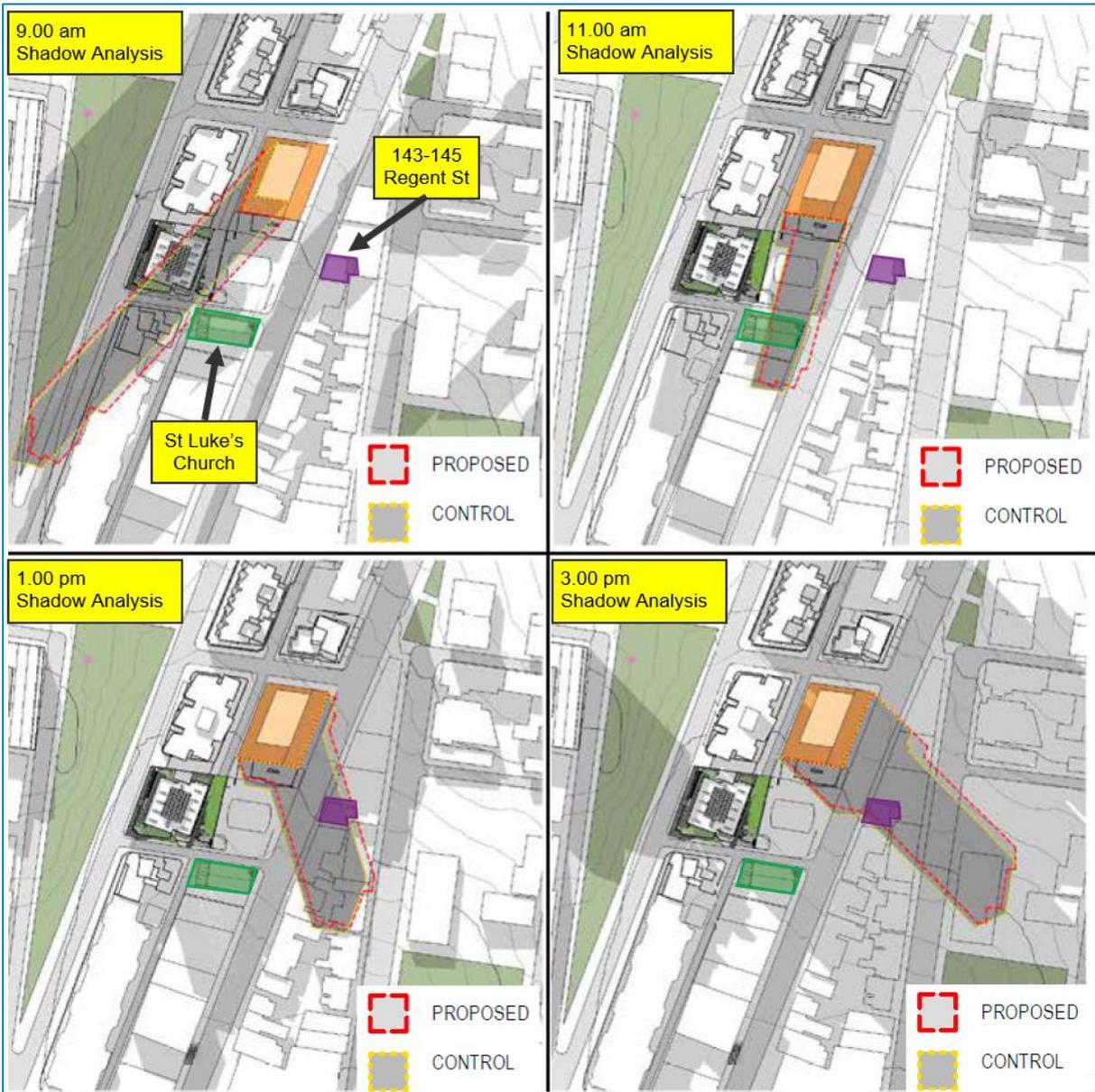


Figure 23 | Overshadowing at 9.00 am, 11.00 am, 1.00 pm and 3.00 pm in mid-winter. Proposed envelope shown in dashed red and a compliant envelope show in in dashed yellow. (Base source: EIS)

The Department considers overshadowing of St Luke's Church and 143-145 Regent Street is unavoidable given the proximity of the proposal to the sites and the associated 18-storey height controls. As demonstrated in **Figure 23**, a fully compliant building envelope with increased tower setbacks would still result in overshadowing to these properties.

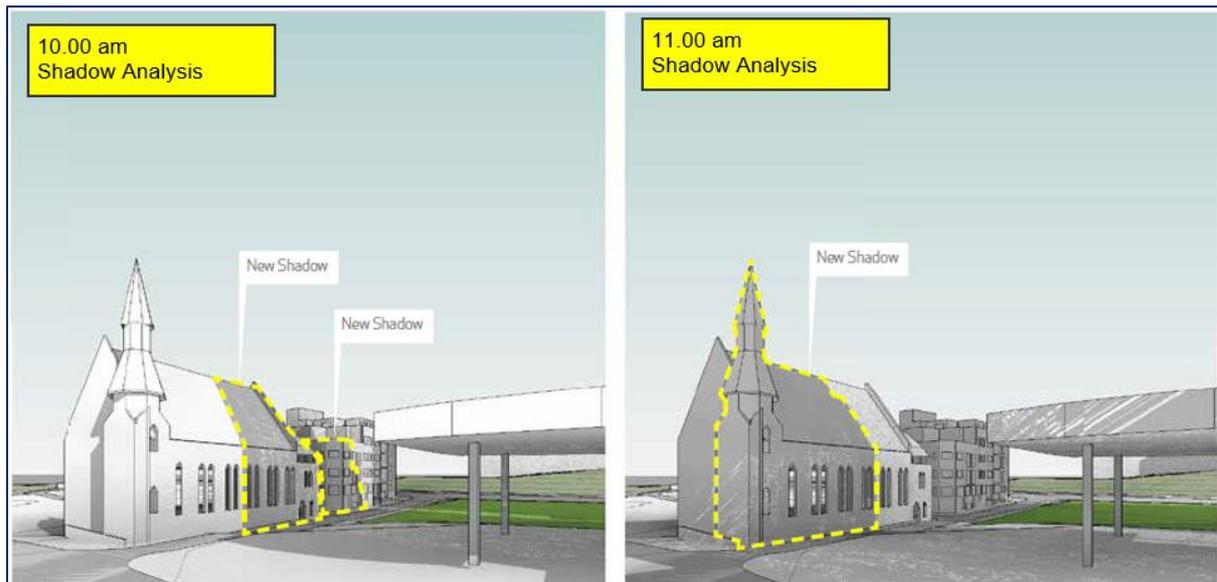


Figure 24 | Overshadowing at 10.00 am and 11.00 am in mid-winter to St Luke's Church (Base source: RTS)

Overall, the Department considers the overshadowing impacts on adjoining properties is acceptable because:

- the proposed development complies with the 18-storey height control and is generally consistent with the form of development envisaged by the planning controls
- the extent of overshadowing is generally consistent with a compliant development and the additional overshadowing caused by the variation to the tower setback/height control is minor and would not result in any material amenity impacts to surrounding properties
- a portion of the overshadowing generated by the proposed development would be subsumed within shadows generated by any future tower developments at 104-116 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 104-116 Regent Street given this site has an east facing street frontage
- the proposed development would result in only one hour of additional overshadowing to St Luke's Church, which is considered reasonable in the context of the development permitted by the planning controls
- overshadowing of neighbouring sites to the south and east is unavoidable given the orientation of the sites and the permitted height controls.

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.

6.4.2 Wind Impacts

The Applicant provided a Wind Report to assess the ground level wind environment around the proposal. The report includes wind tunnel testing to determine the potential wind impacts on the surrounding pedestrian level wind environment and assesses pedestrian safety, comfort and amenity in terms of footpaths, building entrances and private terraces.

The Wind Report concluded the proposal performs similarly in terms of wind impact compared to a compliant building envelope design. It was demonstrated that the reduced podium setbacks will not

result in any additional wind impacts, with wind measurement variations between the two being minor, typically plus or minus 1 m/s.

It is noted that both the proposal and the compliant building envelope design resulted in some local ground level locations experiencing modest increases and decreases in wind speed for key prevailing wind directions (northeast, southeast, south and west). These were subjected to additional testing using a range of wind mitigation options. In order to minimise wind impacts at the pedestrian and podium levels, the following measures are proposed:

- provision of awnings and existing and proposed street trees
- provision of awning along the northern, eastern and western terraces, with full height vertical screens.

Council raised concerns regarding the potential wind impacts and the reliance on landscaping to mitigate wind impacts on the podium level. Council suggested that the eastern and western façade design be amended to limit wind impacts and downwash to the common open space and the height of the awning be reduced to provide effective protection from wind, rain and sun.

In response, the Applicant provided an addendum to the Wind Report which argues that the façade is well articulated and incorporates several elements to reduce downwash, including:

- 150 mm wall and slab edge protrusions
- vertical and horizontal solar fins at the upper levels.

The addendum also confirmed that landscape elements on Level 2 are not relied upon to mitigate wind impacts. Additionally, the awning heights were lowered from 5 m to be between 3.2 m and 4.2 m to provide effective weather protection.

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 at the podium level, suitable for their intended use. The Department also notes the wind testing did not include the existing trees along Regent Street and the Gibbons Street Reserve and planned additional trees along Regent Street and Marian Street, therefore the actual impacts may be better than predicted. Further, the Department notes Council raised no further 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.

6.5 Heritage

The site does not contain any heritage items, but it is located in close proximity to the St Luke's Presbyterian Church which is a locally listed heritage item. The site is also located within 150 m of the State Significant Redfern Railway Station Group, the locally significant Redfern Estate Heritage Conservation Area, Terrace House, and Former Redfern Municipal Electric Light Station and Electricity Substation (**Figure 25**).

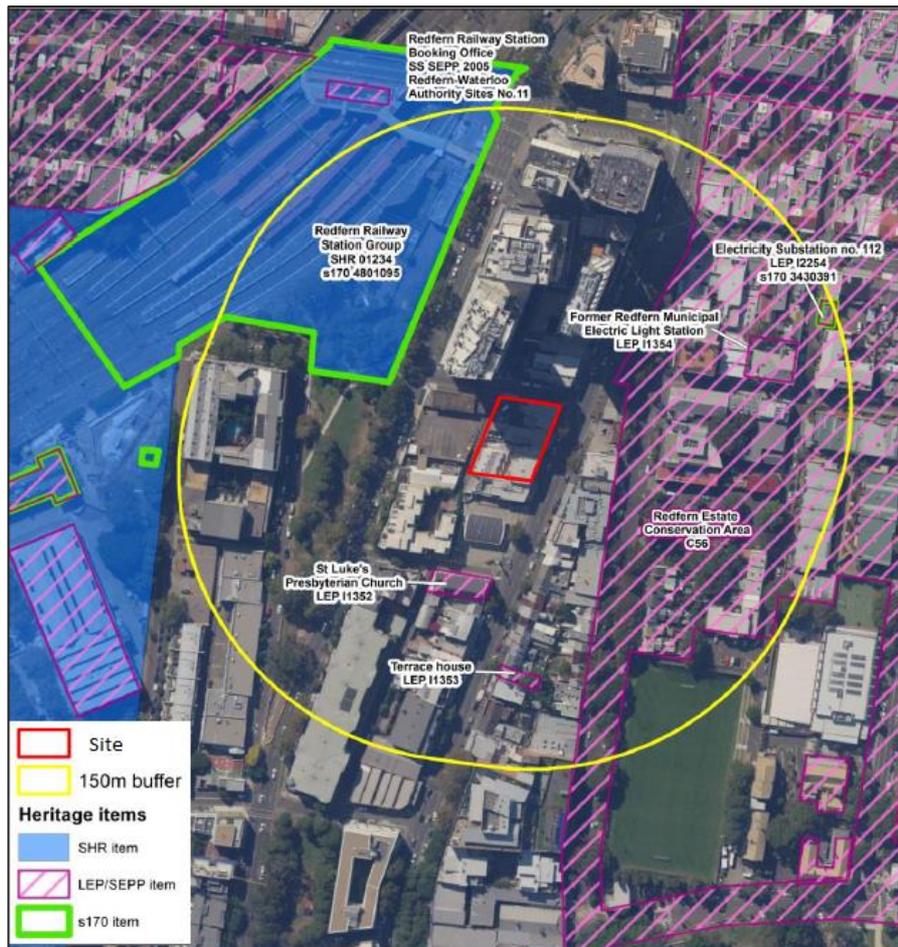


Figure 25 | Heritage items within proximity to the site (source: EIS)

Public submissions raised concerns about the bulk and scale of the proposed building and the associated impacts on the setting of St Luke's Church.

The EIS was accompanied by a Heritage Impact Statement (HIS) and an addendum which concludes that the proposal would not have any direct impacts to heritage items and would have only minor visual impact on the Redfern Railway Station Group, St Luke's Church and the Redfern Estate Conservation Area and negligible visual impact on the Terrace House, Former Redfern Municipal Electric Light Station and the Electricity Substation.

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.
- while there are a number of heritage items in the vicinity of the site, these items are reasonably well removed from the site visually and spatially due to Regent Street and existing development:
 - State listed Redfern Railway Station Group (53 m to the east of the heritage curtilage of the item),
 - Redfern Estate Heritage Conservation Area (70 m to the west of the curtilage of the heritage conservation area)

- 'Terrace House' on Regent Street (67 m to the north-west of the curtilage of the item)
 - Former Redfern Municipal Electric Light Station (112 m to the north-east of the curtilage of the item)
 - Electricity Substation (150 m to the south-west of the curtilage of the heritage item)
 - St Luke's Presbyterian Church (60 m to the north of the curtilage of the heritage item)
- while the proposed building would introduce a prominent element into the skyline within proximity of the St Luke's church, the impacts would be offset by the proposed setbacks from the eastern boundary. Additionally, it is noted that primary views looking out from the church are east to Regent Street and north across Margaret Street, and these primary views would not be affected by the proposal.

Overall, the Department is satisfied the proposal would not result in any significant impacts on surrounding State or locally listed heritage items.

6.6 Residential amenity for future occupants

6.6.1 Road and rail noise

The site is subject to road and rail noise from being located in proximity to Regent Street and Redfern Station.

The Applicant submitted an Acoustic Report to assess the impacts from road and rail noise. The Acoustic Report found that the proposal would comply with the 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 amenity subject to a condition requiring building elements and glazing to comply with the Acoustic Report and the relevant guidelines and provisions.

6.6.2 Outdoor communal terraces

The eastern outdoor communal terrace and the western outdoor communal terrace are located adjacent to student rooms. The use of these terraces has the potential to impact on the visual and acoustic privacy of the student rooms.

The SDRP noted that a combination of physical mitigation and management strategies are necessary to ensure acoustic and visual privacy to the student rooms. Council raised concerns regarding:

- the appropriateness of the planter mix to provide sufficient visual privacy between the student rooms and adjoining communal terraces.
- the provision of the glass canopy over the communal open space which could trap heat

In response, the Applicant:

- amended the planter mix to include mid-level shrub planting to supplement the original planting mix and include climbing species along vertical wires (**Figure 26** and **Figure 27**)
- amended the glass canopy design to include a 300 mm wide gap between the wall and the canopy (**Figure 27**)
- advised that the Operational Management Plan, restricts the use of the eastern and western terrace to between 8 am and 10 pm, 7-days a week only, and no use of speakers.



Figure 26 | View towards student rooms from the western communal terrace (source: Addendum RRTS)

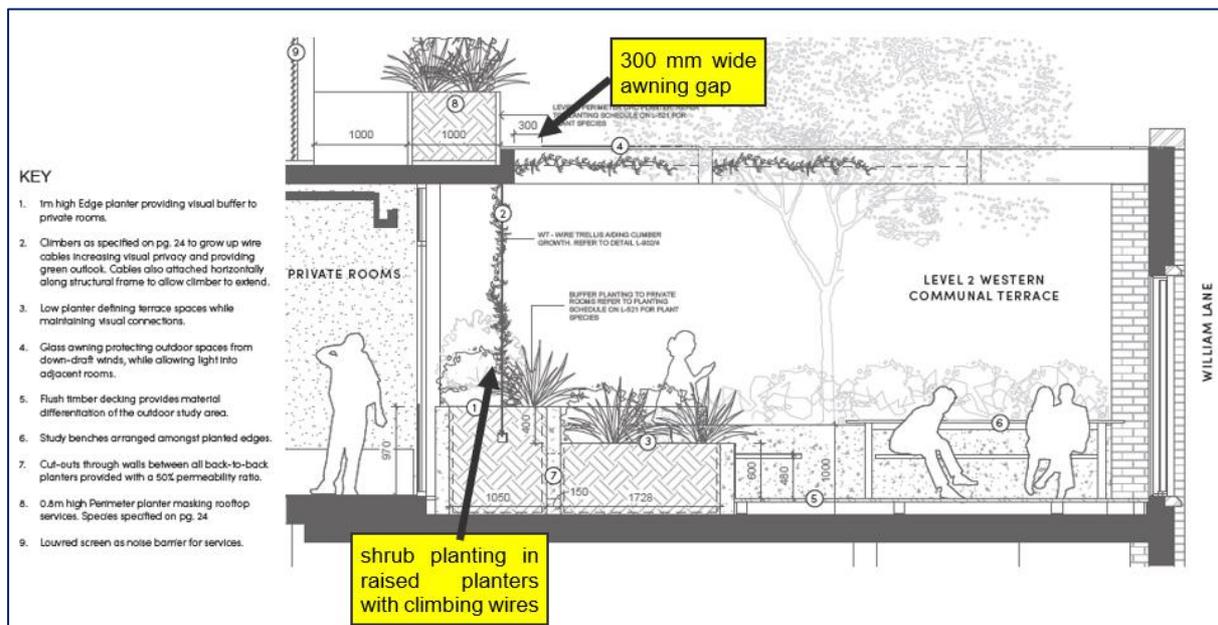


Figure 27 | Mitigation measures (source: Addendum RRTS)

The Department considers the landscaping design, planters and climbers together with the management measures contained within the Operational Management Plan would achieve satisfactory acoustic and visual privacy to the student rooms.

6.7 Public domain and Landscaping

The proposal includes a range of public domain works, including footpath widening, landscaping and awnings (**Figure 28**). An assessment of each element is provided below.

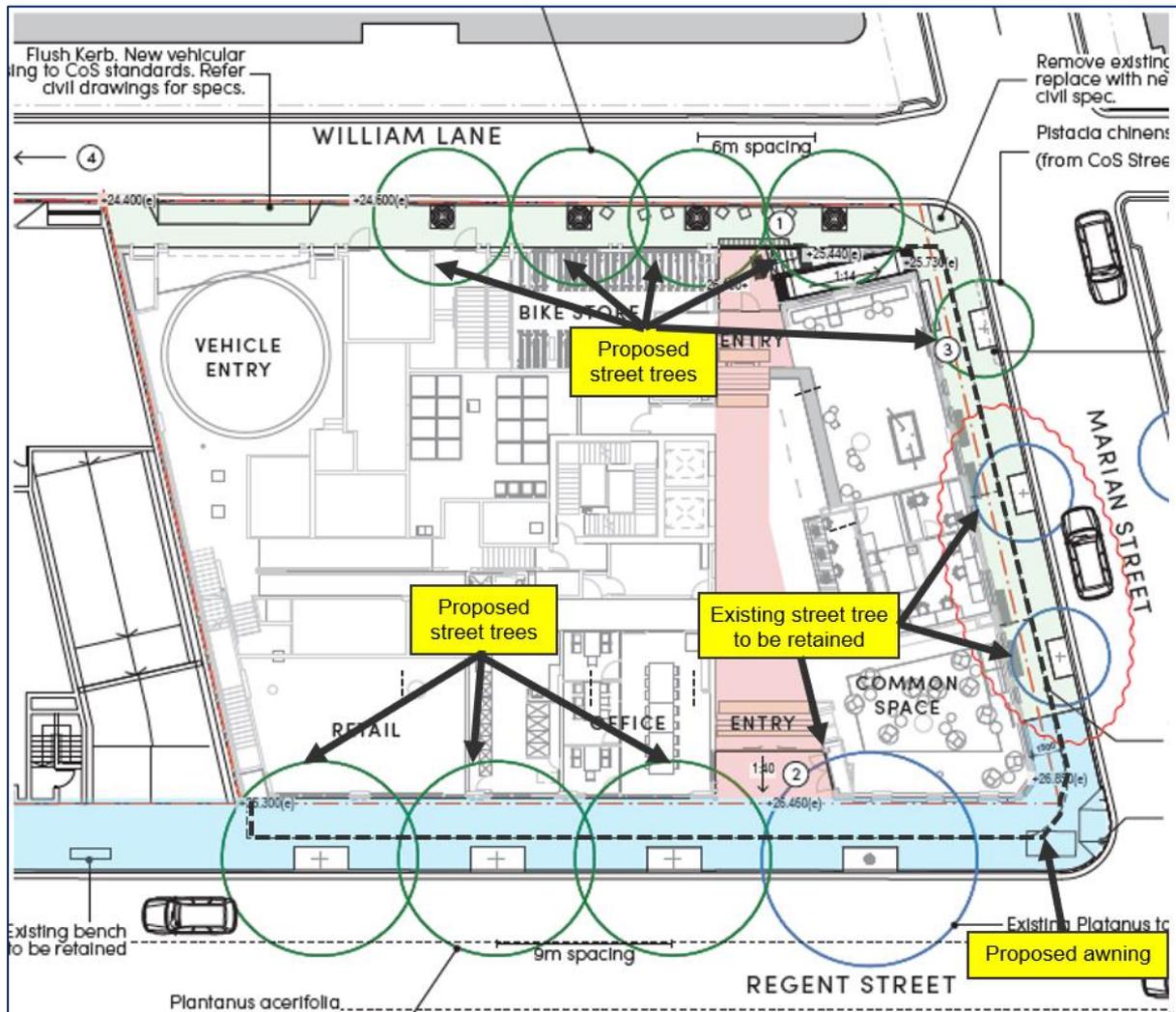


Figure 28 | Proposed public domain works (source: Addendum RRTS)

6.7.1 Footpath widening

The proposal includes the following setbacks to allow for footpath widening:

- a setback of 910 mm to Marian Street to allow for a maximum footpath width of 3.27 m
- a setback of 2 m setback to William Lane to allow for a maximum footpath width of 2 m

The Department notes that the RCUDP requires a 1.5 m setback to Marian Street to provide an average footpath width of 3 m. Despite the reduced setback to Marian Street, the Department considers the setback acceptable as:

- it would still provide a minimum footpath width of 3 m in accordance with the RCUDP
- the proposal is consistent with the development to the west at 11 Gibbons Street, which provides a setback of 800 mm to Marian Street
- no concerns were raised by Council in regard to the footpath widths.

In terms of William Lane, the Department is satisfied that the 2 m setback is acceptable as it would allow footpath widening to an average width of 1.5 m consistent with the RCUDP.

6.7.2 Public Domain and Landscaping

The proposal includes landscaping and awnings to the public domain (**Figure 29**), consisting of:

- retention of existing street trees
- street trees provided to Regent Street, Marian Street and William Lane
- 2 m deep awnings to Regent Street and 1.5 m deep awnings to Marian Street.



Figure 29 | Proposed landscaping and awning - corner of Regent Street and Marian Street (source: RTS)

The SDRP noted that careful consideration is to be given to the design of the awnings to ensure they do not conflict with the street trees. Council requested the awning design be amended to provide effective weather protection from rain, sun and wind, adequate space and clearance be provided for new street trees to grow without conflicting with the awning, existing street trees within Marian Street be maintained, provision of a land dedication plan, and ensuring door openings do not open onto public domain/William Lane and a land dedication plan.

In response, the Applicant:

- amended the design of the awning by:
 - reducing the depth along Regent from 2.8 m to 2 m, allowing 1.75 m clearance between the awning edge and kerb

- reducing the depth along Marian Street from 2.5 m to 1.5 m, allowing 1.7 m clearance between the awning edge and kerb
 - reducing the height of awning to between 3.2 m and 4.2 m to improve weather protection and align with the podium facade design.
- advised the two existing street trees within Marian Street will be retained and protected during construction works, in accordance with the Arborist Report.
 - provided a land dedication plan which seeks to dedicate the widened footpath area along Marian Street to Council. The footpath along William Lane is to be retained in private ownership, consistent with the through-site link further south on William Lane
 - advised that only the access door to the substation room and the access door to the fire stair are proposed to open onto William Lane.

The Department considers the proposed public domain and landscaping works acceptable as:

- no further concerns on the amended awning design and street tree landscaping were raised by Council, noting the clearance between the awning edge and kerb comply with Council's Awnings Policy 2000
- use of the fire access door and substation access door is expected to be very infrequent such that the implications to pedestrian movement along public domain of William Lane is negligible
- the proposed landscaping to the public domain and public domain works would result in an improved pedestrian environment along all three road frontages.

The Department has also recommended a condition requiring the submission of a public domain plan and land dedication plan to the satisfaction of Council.

6.7.3 On-site Landscaping

The proposal includes landscaping to the outdoor communal terraces on Level 2, and the inaccessible rooftop terraces on Level 3.

The SDRP recommended that the mechanical plant on the southern terrace of Level 3 be appropriately screened from the public domain with a combination of screens and climbing plants. Council raised concerns that on-site landscaping is limited and would not meet the SDCP 2012 requirement for 15% canopy coverage within 10 years of completion, and garden beds and raised planters do not provide sufficient soil volumes, and requested the three small trees within the level 3 terrace be replaced with one medium sized tree and the terrace amended to a garden bed.

In response, the Applicant:

- advised that the SDRP comments have been incorporated into the landscaping design. The landscaping design includes planters and screens to the perimeter of the southern terrace, effectively screening the mechanical plant from public view.
- raised the height of planters, and provided cut-outs through walls between all back-to-back planters to take advantage of shared soil volumes
- amended the level 3 terrace by consolidating planter boxes to form one in-situ planter which covers the entire rooftop area with a soil depth of 1m, and replacing the three trees with one large tree, capable of reaching a mature height of between 8-10 m
- noted that while the amended landscaping design provides a canopy coverage of less than 15% (providing 5.1% equating to 66 m²), extensive landscaping is provided to the communal terraces

and inaccessible rooftop terraces on Level 3. The landscape is designed with the end-user in mind, ensuring a balance of planting and open views, practical establishment and long term management strategies.

The Department considers the proposed landscaping design acceptable as it:

- provides extensive landscaping to the Level 2 communal terraces including canopy tree planting
- provides suitable screening of mechanical plant on the Level 3 southern terrace
- provides a prominent feature tree above a mix of native grasses and perimeter groundcovers on the Level 3 western terrace

The Department has also recommended a detailed landscape plan be prepared in consultation with Council and submitted to the Department for 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 landscaping is acceptable.

6.8 Other issues

Other relevant issues for consideration are addressed in **Table 7**

Table 7 | Department's consideration of other issues

Issue	Findings	Recommendations
Oversupply of student housing 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 proposal complies with the density control for the site; the use will be subject to an Operational Management Plan (see below); and no on-site car parking is proposed. 	No conditions required.
Lot size	<ul style="list-style-type: none"> • The proposal does comply with the minimum land size requirement of 1,400 m² for high rise development (13-18 storeys) under the RCUDP. • 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: <ul style="list-style-type: none"> ○ the variation is a minor (2.5% or 113 m²) departure from the control ○ the height of the proposal is consistent with other tall buildings within the Redfern Town Centre, including adjacent and opposite development ○ the proposal would not result in any unreasonable privacy, view loss or overshadowing impacts, which are considered in detail within Section 6. 	No conditions required.
Traffic Access and	<ul style="list-style-type: none"> • The Applicant submitted a Transport Impact Assessment (TIA), to assess the potential traffic impacts associated with the proposal. 	No conditions required.

- The TIA concludes overall traffic generated by the development would be negligible given no car parking spaces are proposed, and the site is located within walking distance to public transport services, amenities and recreational areas.
- Council and TfNSW did not raise any concerns about traffic impacts. However, Council requested a swept path analysis be provided for truck entry and exit to the loading dock.
- In response, the Applicant provided a swept path analysis confirming that the development can be serviced by a small rigid vehicle.
- The Department is satisfied the proposal:
 - would not result in any adverse traffic impacts given it does not include any off-street car parking spaces and is located within proximity to Redfern Train Station and bus services
 - can appropriately accommodate a small rigid vehicle, which would service the development.

Bicycle parking

- A total of 134 bicycle parking spaces are proposed for the development with 88 spaces proposed within the basement and 46 spaces proposed on Level 1.
- Council recommended that a total of 204 spaces be provided, based on 1 bicycle parking space per 2 beds, in accordance with the studio apartment and residential requirements for bicycle parking, as outlined in SDCP 2012.
- In response, the Applicant advised that the number of bicycle parking spaces is based on recent approvals and a demand survey of student accommodation within a comparable location. The demand survey found that 14% of students either owned, or planned to own a bicycle during their residency. The proposal accommodates for 32% of the students, well above the surveyed demand.
- The Department considers the proposed number of bicycle space acceptable as:
 - the number of bicycle parking spaces exceeds the Applicant's experience with bicycle parking demand from students within previous student accommodation developments
 - the site is within walking distance to Redfern Train station and a number of key bus services, close to shops and services within the Redfern Town Centre, reducing the need for bicycle ownership/use

The Department recommends a condition requiring a minimum of 134 bicycle parking spaces and end of trip facilities provided in accordance with Australian Standards.

Aboriginal Cultural Heritage

- The Applicant submitted an Aboriginal Cultural Heritage Assessment Report (ACHAR) to support the proposal. In summary, the ACHAR found:
 - survey and geotechnical investigations confirmed high disturbance across the area and there is little potential for archaeologically sensitive deposits to survive within the site
 - no Aboriginal objects were registered on AHIMS within the study area (which extends beyond the site) and no Aboriginal objects or areas of archaeological sensitivity were identified
 - the proposal will not impact on any known Aboriginal objects
- The ACHAR made recommendations relating to an unexpected finds procedure, stop works procedure for human remains and methods to incorporate Aboriginal cultural heritage values into the proposed design.
- Heritage NSW reviewed the EIS and ACHAR and raised no concerns about the proposal and recommended the following:

The Department recommends a condition requiring:

- the preparation of any non-Aboriginal archaeological research design and methodology to include consideration of Aboriginal cultural heritage values
- unexpected finds protocol
- preparation and implementation of a Heritage Interpretation Strategy

- The preparation of any non-Aboriginal archaeological research design and methodology is to include consideration of Aboriginal cultural heritage values to address whether the project area does have potential for Aboriginal objects
- Unexpected finds protocol
- Preparation of a Heritage Interpretation Strategy that incorporates Aboriginal history and cultural heritage
- Based on the findings of the ACHAR, the Department considers the proposal is unlikely to result in any significant archaeological impacts. The Department has also recommended the measures outlined in the ACHAR and the recommendations made by Heritage NSW be implemented to ensure any impacts are appropriately mitigated and managed.

Public art

- The proposal includes indigenous public art. The works include:
 - a stylised three dimensional spear, fixed to the north eastern corner of the tower
 - stylised fish embossed into the cladding of the north eastern corner of the tower
 - geographical overlays to the upper floor common room and ground floor glazing.
- The SDRP supports the approach to public art and recommended the Applicant continue working with the artist to further integrate and develop the design.
- The Department is satisfied the proposal would incorporate appropriate public art and recommends that a detailed strategy be prepared in accordance with Council's guidelines, incorporating the indigenous art.

The Department recommends the preparation and implementation of a detailed Public Art Strategy.

Flooding

- The EIS included a Flood Assessment Report which 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 during the probable maximum flood (PMF) storm event at its southern end. During a PMF storm event, the flood study indicates William Lane and Regent Street, would experience flooding with a peak depth of between 0.1-0.3 metres.
- EESG raised concerns about the flood modelling and requested further clarification on flood planning levels for the entry levels to the basement and services room (comms, gas and water metre room).
- In response, the Applicant provided an addendum to the Flood Assessment Report with revised flood planning levels for the development, with all entry levels to the basement and services room above the PMF storm event. EESG raised no further concerns with the flood planning levels.
- 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. Flood levels will be provided to ensure floodwater will not enter the building during the 1% AEP and PMF storm events.

The Department recommends flooding/stormwater conditions.

Operational management and noise

- A public submission raised concern about the potential operational noise impacts associated with the proposal, in particular the use of the outdoor communal areas on Level 2.
- 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 within the Operational Management Plan.

The Department recommends requiring:

- compliance with the OMP
- use of the development not give rise to 'offensive noise' as defined under the POEO Act 1997

- 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:
 - restricting the use of the external northern terrace to:
 - 8 am to 10 pm Sunday to Thursday
 - 8 am to midnight on Friday, Saturday and any day immediately before a public holiday
 - restricting the use of the eastern and western terrace to:
 - 8 am to 10 pm, 7 days a week
 - no speakers in external areas and only low-level background music permitted in internal common areas
 - no alcohol to be consumed within the building, except within apartments and the ground floor common areas.
 - students to close windows when playing loud music
- To further mitigate potential noise impacts on surrounding residents, the Applicant also amended the proposal by relocating the outdoor cinema room to inside the building and providing glazing to the openings of the western terrace.
- 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 condition requiring that noise associated with the use of development including the outdoor communal areas shall not give rise to 'offensive noise' as defined in the *Protection of the Environment Operations Act (POEO Act) 1997*.
- Subject to the implementation of the measures outlined within the OMP and the recommended condition, the Department considers the operational aspects and management of noise of the proposal are acceptable.

Active frontage

- A public submission raised concern about the lack of street level activation along Regent Street.
- In response, the Applicant amended the proposal by:
 - increasing retail floor space from 59 m² to 76 m²
 - relocating the fire booster and hydrant, to enable an increased retail frontage to Regent Street
 - relocation of games room to the north-eastern corner
 - including a revised mix of glazing
- The Department considers the proposal would provide a reasonable level of street activation to its frontages. The proposal enables 78% of the street frontages to benefit from active uses, including building entries, communal spaces and retail space. The proposed land use mix and building design will provide a varied and interesting streetscape and passive surveillance of the surrounding public domain.
- It is also noted the site is located at the southern end of the town centre and the provision of less intensive 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 development.

No conditions required.

Consultation

- Public submissions raised concern about the lack of consultation for 1 Margaret Street.
- In response, the Applicant's RTS highlighted that:
 - the strata management and residents of the 'Katia' complex at 1 Margaret Street were identified as a key stakeholder group. Direct contact was made via the

No conditions required.

nominated strata manager on three separate occasions. The strata manager confirmed the proposal information (including contact details for the project team) was distributed, including to the strata committee, without response. A further offer of a briefing on the proposal was made but declined by the strata manager given the lack of response.

- The Department also notes that its notification and public participation statutory obligations have been satisfied. The application was publicly exhibited for 28 days, surrounding properties (including 1 Margaret Street) were notified in writing and all application material was made publicly available on the Department's website. Based on the communications and public consultation outlined above, the Department is satisfied the community has had a number of opportunities to express its views about the proposal.

Construction impacts

- Public submissions raised concerns about the potential construction impacts associated with the proposal and cumulative impacts of existing projects under construction.
- The Department accepts that there will be localised impacts on nearby uses, which cannot be totally avoided when construction activity occurs.
- However, such impacts can be reasonably regulated through restricting hours of construction activity and implementation of management plans.
- The Department considers the key construction impacts associated with the proposal are noise, vibration and traffic. These issues are discussed below.

Noise

- The Department notes that the NIA found there would be impacts of up to 23 dBA above noise management level criteria (within the Interim Construction Noise Guideline) for adjoining and opposite residential uses and up to 10 dBA for adjoining commercial uses.
- To meet the required noise management level criteria (within the Interim Construction Noise Guideline) a range of mitigation measures were identified in the NIA, including:
 - use of quieter plant and equipment
 - maximising distance from noisy plant and equipment and its orientation
 - the erection of a 3 m high hoarding around the site for noise shielding
 - managerial measures including community liaison and complaint handling
- The Department recommends that the management procedures identified in the NIA be developed into a Construction Noise and Vibration Management Plan (CNVMP). The Department also recommends a Communication Strategy to provide mechanisms to facilitate communication between the Applicant and the adjoining affected landowners and businesses, and others directly impacted by the development, during construction works.
- The Department concludes construction noise impacts from the proposal would be temporary and are able to be appropriately managed and mitigated through recommended conditions.

Traffic

- The Department notes that impacts from construction traffic is an issue of concern raised in public submissions. However, impacts during construction associated with new development is inevitable yet needs to be managed appropriately.

The Department recommends conditions requiring:

- limiting hours of construction to between 7 am and 6 pm Mondays to Fridays and 7.30 am and 3.30 pm Saturdays. No work on Sundays and Public Holidays
- restriction on high-noise activities
- the establishment of a Community Communication Strategy
- the preparation of a Construction Environmental Management Plan, Pedestrian and Traffic Management Plan, Noise and Vibration Management Plan, Air Quality Management Plan, and a Soil and Water Management Plan
- the protection of trees

- The TIA outlines a range of measures to mitigate construction traffic impacts, including:
 - no on-site parking for workers
 - co-ordination with adjacent construction sites to be undertaken to avoid
 - simultaneous periods of peak construction vehicle generation (for example, simultaneous concrete pours)
 - materials and spoil would be delivered during standard hours
 - avoid idling of trucks outside sensitive receivers
 - all deliveries to be pre-booked.
- A Preliminary Construction, Pedestrian and Traffic Management Plan was submitted with the EIS, as part of the Traffic Impact Assessment. Construction traffic routes are intended to use major arterial routes, which should reduce impacts on residential streets.
- The Department considers such impacts can be reasonably minimised and mitigated practically through a detailed Construction, Pedestrian and Traffic Management Plan. This has been recommended by TfNSW and Council and is included in the recommended conditions.

Vibration

- Public submissions raised concerns about the potential vibration impact from construction works on St Luke's Church
- The NIA includes vibration criteria to be adopted to ensure the structural integrity and amenity of buildings are not compromised by construction vibration.
- The NIA outlines a range of measures to mitigate vibration impacts during works, including surface level and geophone monitoring, modification of construction methods such as using smaller units, establishment of safe buffer zones at the beginning of works and if necessary, time restrictions for the most excessive vibration activities.
- The Department recommends that the management procedures identified in the NIA be developed into a CNVMP.
- The Department considers such impacts can be reasonably minimised and mitigated practically through the CNVMP.

Other

- The Department has assessed all other potential construction impacts associated with the proposal and is satisfied that they can be appropriately mitigated and managed by conditions of consent.

Crime prevention through environmental design

- The EIS included a CPTED assessment to support the proposal. The CPTED recommended the following measures be implemented to provide a safe environment:
 - use of lighting, CCTV, signage and high-quality finishes
 - 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
- The Department notes Council and the NSW Police raised no concerns regarding crime prevention or safety.

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.

- The Department has considered the CPTED assessment and is satisfied the safety and security aspects of the proposal are acceptable, given:
 - the activation of the ground floor space
 - intended integration of lighting, CCTV and surveillance cameras
 - internal uses which add indirect light and surveillance of the adjoining areas.
- The Department has also recommended a condition requiring the implementation of the measures outlined within the CPTED assessment to ensure safety and security is appropriately managed. Subject to the recommended condition, the Department considers the safety and security aspects of the proposal are acceptable.

Future Sydney Metro - City and Southwest rail corridor

- The proposal would involve two metres of excavation within 25 metres of the future Sydney Metro – City and Southwest rail corridor.
- Sydney Metro requested an Engineering Assessment of the proposal on Sydney Metro tunnels.
- The Applicant provided Sydney Metro with an Engineering Assessment package in the RTS, which included a detailed survey, structural drawings, geotechnical investigations, vibration management plans and electrolysis investigations.
- The reports found that the proposal is unlikely to have a negative impact on the future metro tunnels, subject to mitigation measures.
- Sydney Metro recommended conditions requiring detail construction information prior to issue of a Construction Certificate and compliance with the measures outlined within the Engineering Assessment.
- The Department agrees with Sydney Metro’s requirements and considers these can be suitably managed through recommended conditions of consent.

The Department recommends incorporating Sydney Metro’s recommendations as conditions.

Waste management

- The Application was accompanied by a Waste Management Plan (WMP) which outlines the provisions and procedures for operational waste.
- The WMP identifies that:
 - 42.3 m² (including 8 m² for bulky storage) is required to facilitate the storage of waste and recycling bins for the residential component
 - 2.6 m² is required to facilitate the storage of waste and recycling bins for the retail component
- The proposal provides for a bin storage room of 52 m² and 8 m² storage space for bulky items.
- Waste is to be collected from a private waste contractor from the internal loading dock, accessed from William Lane.
- Council raised concerns that:
 - waste and recycling management facilities and storage and are not in line with Council’s Guidelines for Waste Management in New Developments 2018.
 - the WMP must provide details of ongoing management of the chute systems including bin transfers, rotation and arrangements for periodic servicing or chute failure.
- In response, the Applicant advised that:
 - the development precludes the use of Council’s collection service, as the size and layout of the development and narrowness of William Lane would not facilitate a standard Council heavy rigid collection

The Department recommends a condition requiring:

- an updated Operational WMP is prepared in consultation with Council and submitted to the Planning Secretary
- the development is to be operated in accordance with the updated Operational WMP.

vehicle. The development will be serviced by a private waste contractor using a small rigid collection vehicle.

- an updated Operational WMP will be submitted with details of ongoing management of the chute systems at occupation certificate stage
- The Department recommends the WMP is updated in consultation with Council to account for details regarding ongoing management of the chute systems at construction certificate stage. Subject to the recommended condition, the Department is satisfied that waste would appropriately be managed on site.

Signage

- The proposal initially included the following signage zones:
 - a wall sign located on the upper most storey on the north-eastern corner of the Regent Street elevation (3.7 m x 1.33 m)
 - a wall sign located on the upper most storey on the north-western corner of the William Lane elevation (4.87 m x 1.76 m)
 - an awning sign located above the building entry on Regent Street (3.8 m x 0.8 m)
 - a window sign located on the ground floor window to Regent Street (4.37 m x 1.35 m)
- Council recommended that:
 - the awning fascia sign located above the building entry on Regent Street be synonymous with the height of the awning fascia.
 - the signage zone on the Regent Street ground floor elevation be removed as it does not contribute to an active street frontage.
- In response the Applicant amended the proposal by:
 - reducing the height of the awning fascia sign to be synonymous with the height of the awning fascia
 - removing the signage zone to the Regent Street ground floor elevation
- The Department's consideration of the proposal against SEPP 64 is provided in **Appendix C**.
- The Department is satisfied the proposed signage zones are acceptable and would allow a form of signage consistent with the character of the Redfern Town Centre.

The Department recommends conditions requiring:

- future signage to be located within the approved signage zone
- signage illumination not to exceed the relevant Australian Standards

Rooftop Plant

- The proposal includes plant and services on the roof of the building.
- Council initially recommended the parapet of the building be raised to align with the height of the lift overrun, to improve the visual appearance of the tower element in obscuring the visual clutter from the roof top plant and services.
- In response, the Applicant advised that the parapet sits 1.95 m above the roof level. Any further increase in the height of the parapet would compromise the performance of the PV cells on the roof level.
- Council raised no further concerns regarding parapet heights.
- The Department considers the parapet height acceptable in obscuring the rooftop plant and services from the public domain.

No conditions required.

7 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 participation in the SDRP process
- the proposed design and built form would sit comfortably within the setting of Redfern Town Centre consistent with the Redfern-Waterloo Built Environment Plan and the Redfern Centre Urban Design Principles and with the emerging character of new development along Regent Street and Marian Street
- it would achieve good amenity for future residents in the form of communal open space and solar access, with indoor and outdoor communal spaces on Levels 1, 2, 9 and 15.
- the impacts of the proposal, with regards to privacy, overshadowing and wind are acceptable as impacts can be managed and mitigated through recommended conditions
- it provides positive public domain outcomes through widened footpaths along Marian Street and William Lane, street plantings and awnings for weather protection.
- there would be no additional traffic impacts as the proposed development does not include any car parking
- it will deliver up to 220 construction jobs and 5 operational jobs.

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

8 Recommendation

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

- **considers** the findings and recommendations of this report;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the application;
- **agrees** with the key reasons for approval listed in the notice of decision;
- **grants consent** for the application in respect of SSD 10382; and
- **signs** the attached development consent and recommended conditions of consent (see **Appendix E**).

Recommended by:

Recommended by:

Rodger Roppolo

Senior Planning Officer
Key Sites Assessments

Cameron Sargent

Team Leader
Key Sites Assessments

9 Determination

The recommendation is **adopted** / ~~not adopted~~ by:

Anthony Witherdin

Director

Key Sites Assessments

Appendices

Appendix A – List of referenced documents

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

Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/25711>

Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/25711>

Applicant's Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/25711>

Appendix B – Community Views for Draft Notice of Decision

A summary of the Department’s consideration of the issues raised in submissions is provided in **Table 1**.

Table 1 | Department’s consideration of key issues raised in submissions

Issue	Consideration
Oversupply of student accommodation	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • 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 proposal complies with the density control for the site, the use will be subject to an Operational Management Plan and no on-site car parking is proposed <p><i>Recommended Conditions/Response</i></p> <ul style="list-style-type: none"> • None required.
Heritage	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department considers the potential heritage impacts of the proposal acceptable as: <ul style="list-style-type: none"> ○ the planning controls for the site permit high-density development extending to 18 storeys within the Redfern Town Centre ○ the 90 Regent Street building and front façade and front rooms of 92-96 Regent Street are not of sufficient heritage significance to warrant retention ○ while there are a number of heritage items in the vicinity of the site, these items are reasonably well removed from the subject site visually and spatially due to Regent Street and existing development • This matter is further discussed in Section 6. <p><i>Recommended Conditions/Response</i></p> <ul style="list-style-type: none"> • Conditions include the: <ul style="list-style-type: none"> ○ preparation and implementation of a Heritage Interpretation Strategy ○ a salvage strategy to be prepared to recover heritage building fabric for salvage and reuse ○ photographic archival recording to document the interior and exterior of the building at 90 Regent Street and buildings at 92-96 Regent Street
Overshadowing	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department considers the impacts to the solar access on nearby existing and future residential developments are acceptable as: <ul style="list-style-type: none"> ○ the proposed development complies with the 18-storey height control and is generally consistent with the form of development envisaged by the planning controls ○ the extent of overshadowing is generally consistent with a compliant development and the additional overshadowing caused by the variation to the tower setback/height control is minor and would not result in any material amenity impacts to surrounding properties

- a portion of the overshadowing generated by the proposed development would be subsumed within shadows generated by any future tower developments at 104-116 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 104-116 Regent Street given this site has an east facing street frontage
- the proposed development would result in only one hour of additional overshadowing to St Luke's Church, which is considered reasonable in the context of the development permitted by the planning controls

- This matter is further discussed in **Section 6**.

Recommended Conditions/Response

- None required.

Construction impacts

Assessment

- The Department considers construction impacts can be reasonably mitigated and managed through restricting hours of construction activity and implementation of management plans.
- This matter is further discussed in **Section 6**.

Recommended Conditions/Response

- Conditions include:
 - limiting hours of construction to between 7 am and 6 pm Mondays to Fridays and 7.30 am and 3.30 pm Saturdays. No work on Sundays and Public Holidays
 - restriction on high-noise activities
 - the establishment of a Community Communication Strategy
 - the preparation of a Construction Environmental Management Plan, Pedestrian and Traffic Management Plan, Noise and Vibration Management Plan, Air Quality Management Plan, and a Soil and Water Management Plan
 - the protection of trees

Visual privacy

Assessment

- The Department considers the proposed setbacks/building separation distances are consistent with the street block and the emerging built 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.
- This matter is further discussed in **Section 6**.

Recommended Conditions/Response

- None required.

Noise/operational impacts

Assessment

- The Department has assessed the potential noise impacts associated with the proposal and considers the building design and the proposed Operational Management Plan (OMP) would appropriately mitigate and manage noise impacts to an acceptable level.
- This matter is further discussed in **Section 6**.

Recommended Conditions/Response

- Conditions include:
 - compliance with the OMP
 - restricting the use of the external northern terrace to:

- 8 am to 10 pm Sunday to Thursday
- 8 am to midnight on Friday, Saturday and any day immediately before a public holiday
- restricting the use of the eastern and western terrace to:
 - 8 am to 10 pm, 7 days a week
- no speakers in external areas and only low-level background music permitted in associated internal common areas
- no alcohol to be consumed within the building, except within apartments and the ground floor common areas.
- students to close windows when playing loud music
- the use of the development shall not give rise to 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.

Consultation

Assessment

- The Department considers its notification and public participation statutory obligations have been satisfied. The application was publicly exhibited for 28 days, surrounding properties were notified in writing and all application material was made publicly available on the Department's website. Based on the communications and public consultation, the Department is satisfied the community has had a number of opportunities to express its views about the proposal.
- This matter is further discussed in **Section 6**.

Recommended Conditions/Response

- None required.
-

Appendix C – Statutory Considerations

In line with the requirements of section 4.15 of the EP&A Act, the Department’s assessment of the project has provided a 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 all these matters in its assessment of the project and has provided a summary of this assessment in **Tables 1** and **2** below.

Table 1 | Consideration of the objects of the EP&A Act

Objects of the EP&A Act	Summary
(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	The principles of ESD are considered below.
(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	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.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The application has also been granted a Biodiversity Development Assessment waiver.
(g) to promote good design and amenity of the built environment	The proposal would not have an adverse impact on nearby heritage items or conservation areas as addressed in Section 6 .
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The proposal achieves a high standard of design and amenity as addressed in Section 6 .
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	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.

- (j) to provide increased opportunity for community participation in environmental planning and assessment. 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.

Table 2 | Consideration of the matters listed under section 4.15(1) of the EP&A Act

Section 4.15(1) Evaluation	Summary
(a)(i) any environmental planning instrument	The proposal complies with the relevant legislation, as addressed in Section 4 and the consideration of other relevant EPs is provided below.
(a)(ii) any proposed instrument	Consideration of proposed instruments is provided below.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, DCPs do not apply to SSD. Notwithstanding, consideration has been given to the Sydney Development Control Plan 2012, where relevant, below.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&A Regulation</i>	The application satisfactorily meets the relevant requirements of the 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 as addressed in Section 6 .
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Sections 4 and 6 .
(d) any submissions	The Department has considered the submissions received during the EIS exhibition period and following lodgement of the RTS as addressed in Sections 5 and 6 .
(e) the public interest	The Department considers the proposal to be in the public interest as addressed in Section 6 .

Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle
- inter-generational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.

The Department has assessed the proposal in relation to the ESD principles and has made the following conclusions:

- Precautionary Principle – the site is highly disturbed due to existing development. As such, the proposal would not result in any serious or irreversible environmental damage.
- Inter-Generational Equity - the proposal would not have adverse impacts on the environment for future generations.
- Biodiversity Principle – the Department is satisfied the proposal would not have any significant flora, fauna or biodiversity impacts, given the lack of vegetation on the site and the nature of existing and surrounding development.
- Valuation Principle – the proposal includes a number of measures to limit the ongoing cost, resource and energy requirements of the development. These include passive solar design, use of renewable energy to reduce energy consumption, robust materials reducing on-going maintenance costs and native planting to reduce water consumption in landscaped areas.

A range of sustainability measures and ESD initiatives are proposed, including:

- Energy – incorporation of solar panels on the rooftop with total power output of 40kW, reduction of energy consumption through the efficient design of lighting, air-conditioning, hot water and ventilation systems.
- Water Efficiency - use of water saving appliances and native plantings to reduce consumption in landscaped areas
- Passive Design Principles - reducing the development's overall requirement for building services
- Materiality - maximising the use of sustainable and healthy products, such as those with low embodied energy, locally sourced, and made from renewable or recycled resources
- Waste – reducing waste by avoidance, reuse and recycling, maximising diversion of waste from landfill during the construction and operational phase of the development

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.

Environmental Planning Instruments

Controls considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (State Significant Precincts) 2005
- State Environmental Planning Policy (Urban Renewal) 2010
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 64 – Advertising and Signage
- State Environmental Planning Policy 55 – Remediation of Land
- Draft State Environmental Planning Policy for the Remediation of Land
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Draft Environment State Environmental Planning Policy
- Other Plans and Policies:
 - Sydney Development Control Plan 2012

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

State Environmental Planning Policy (State and Regional Development) 2011

The State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) aims to identify development that is of State significance due to its size, economic value or potential impact.

The project is classified as State significant development (SSD) under section 4.36 of the EP&A Act, as it comprises development on land identified as being within the Redfern-Waterloo Authority Sites and has a capital investment value of more than \$10 million under clause 8 of Schedule 2 of the SRD SEPP.

State Environmental Planning Policy (State Significant Precincts) 2005

The State Environmental Planning Policy (State Significant Precincts) 2005 (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 Appendix 4 of the SSP SEPP is addressed in **Table 3** below.

Table 3 | Consideration of the matters listed under Appendix 4 of the SSP SEPP

Criteria	Department's Consideration	Compliance
Clause 7 Land use zones	The site is zoned Business Zone – Commercial Core	Yes
Clause 9 Business zone – commercial core Zone Objectives The objectives of the zone are: <ul style="list-style-type: none"> • to facilitate the development of a town centre, • to encourage employment generating activities by providing a wide range of retail, business, office, community and entertainment facilities, • to permit residential development that is compatible with non-residential development, • to maximise public transport patronage and encourage walking and cycling, • to ensure the vitality and safety of the community and public domain, 	The Department considers the proposal consistent with the zone objectives, as follows: <ul style="list-style-type: none"> • 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. • The proposed student accommodation would be compatible with the ground floor retail premises, providing opportunities for direct retail patronage. • The development has provided for 134 bicycle spaces and no car parking spaces to maximise public transport, walking and cycling. • The development has demonstrated design excellence as addressed in Section 6 of this report 	Yes

- to ensure buildings achieve design excellence,
- to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.

<p>Clause 9 Business zone – commercial core Permissibility</p>	<p>The proposed student accommodation use is permitted within the zone.</p> <p>The proposed retail use is also not prohibited and is therefore permitted within the zone.</p>	<p>Yes</p>
<p>Clause 16A Exceptions to development standards</p>	<p>A Clause 16A variation has been submitted, and discussed further in Appendix D</p>	<p>Yes</p>
<p>Clause 21 Height, floor space ratio and gross floor area restrictions The site is subject to a maximum:</p> <ul style="list-style-type: none"> • building height of 2-storeys for the podium along Regent Street, 3-storeys for the podium along Marian Street and 18-storeys for the tower • floor space ratio of 7:1 	<p>The proposal complies with the maximum building height of 18-storeys for the tower and complies with the FSR.</p> <p>However, the tower encroaches into the podium elements, which are restricted to 3-storeys along Marian Street and 2-storeys along Regent Street.</p> <p>The Department considers this variation acceptable as discussed in Section 6 and Appendix D of this report.</p>	<p>No</p>
<p>Clause 22 Design Excellence (1) The consent authority must consider whether the proposed development exhibits design excellence.</p> <p>(2) In considering whether proposed development exhibits design excellence, the consent authority must consider the following:</p> <ul style="list-style-type: none"> • whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, • whether the form and external appearance of the building will improve the quality and amenity of the public domain, • 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, <p>(3) The consent authority may require a design competition for any development</p>	<p>The proposal has demonstrated design excellence, consistent with this clause, as addressed in Section 6 of this report.</p>	<p>Yes</p>

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.

<p>Clause 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.</p>	<p>The Department publicly exhibited the SSD application as outlined in Section 5, which included notifying adjoining landowners and placing a notice in the newspaper and displaying the application on the Department’s website.</p>	<p>Yes</p>
<p>Clause 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.</p>	<p>The proposed development does not impact a building, work, relic, tree or place that is a heritage item.</p>	<p>Yes</p>

State Environmental Planning Policy (Urban Renewal) 2010

The State Environmental Planning Policy (Urban Renewal) 2010 (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

The State Environmental Planning Policy (Infrastructure) 2007 (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 relevant public authorities 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 within close proximity to the rail corridor and therefore the

application was referred to the Sydney Trains. Sydney Trains have raised no concerns with the proposal.

Clause 87 of the ISEPP requires the consent authority to consider the impact of rail noise or vibration on residential accommodation. The aspect has been considered within **Section 6**.

Clause 88 of the ISEPP applies to development that is within or adjacent to an interim rail corridors. The proposal is located above the Sydney Metro City and South West 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 and provided 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 TfNSW and their comments are summarised in **Section 5** of this report. Given the consultation and consideration of comments raised by TfNSW and Sydney Metro, the Department considers the proposal to be consistent with the ISEPP.

Recommended conditions of consent include those proposed by Sydney Metro and TfNSW.

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

A BASIX certificate was submitted with the EIS, 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. 55 – Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (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 purposes of the proposed development.

A Detailed Site Investigation (DSI) was submitted with the EIS to determine the potential for onsite contamination. The DSI identified site contamination issues associated with fill material, hazardous building materials and former site uses.

A Remedial Action Plan (RAP) to address remediation/management of the site was therefore also submitted with the EIS. The RAP concludes the site can be made suitable for development subject to the implementation of remediation and mitigation measures:

- management of contaminated soils by placement at depth so as to minimise future disturbance and exposure. This management strategy would comprise the construction of a barrier (such as the proposed building slab) between site users and the contaminant of concern.
- removal and off-site disposal of contaminated soils to landfill in areas where excavation is already required for the proposal

- the preparation of a long term management plan to prevent future inadvertent exposure of the contaminated fill/soil to site users

Council initially recommended the engagement of an NSW EPA Accredited Site Auditor, to peer review the DSI and RAP and for any Long Term Environmental Management Plan to be approved by a Site Auditor as part of a Part A Site Audit Statement (Part A2).

The Applicant provided a response concluding that this requirement is not warranted given the straightforward remediation approach noting that groundwater and/or soil vapour remediation/mitigation is not required. Additionally, all reports have been reviewed by a Certified Environmental Practitioner.

In response, Council raised no further concerns.

The Department considers the contamination of soils and the management of such contamination acceptable and recommends the following conditions:

- engagement of a Site Auditor to review the RAP and issue a Site Audit Statement
- management procedures to be implemented during works to manage contamination of soils
- lodgement of site audit summary report and site audit statement and validation report by an accredited EPA site auditor prior to the commencement of the use or occupation.
- Long Term Environmental Management Plan as required by the RAP to be approved by an EPA-site auditor as part of a Part A Site Audit Statement (Part A2)

The Department considers, subject to imposing recommended conditions, that the land will be suitable after remediation for the proposed mixed-use development, and that the land will be remediated before the land is used for such purpose.

State Environmental Planning Policy No. 64 – Advertising and Signage

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:

- a wall sign located on the upper most storey on the north-eastern corner of the Regent Street elevation (3.7 m x 1.33 m)
- a wall sign located on the upper most storey on the north-western corner of the William Lane elevation (4.87 m x 1.76 m)
- an awning sign located above the building entry on Regent Street (3.8 m x 0.7 m)

The Department’s assessment of Schedule 1 of SEPP 64 (where relevant) is provided in **Table 5** below:

Table 5 | Department’s consideration of Schedule 1 of SEPP 64

Assessment criteria	Department’s consideration	Compliance
1 Character of the area		
Is the development 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 development 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
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2 Special areas

Does the development 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
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3 Views and vistas

Does the development: <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
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4 Streetscape, setting or landscape

Is the scale, proportion and form of the development 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
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Does the development contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage zones contribute to the visual interest of the building by providing identification and recognition of the site.	Yes
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Does the development reduce clutter by simplifying existing advertising?	The site does not contain any existing advertising.	N/A
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Does the development screen unsightliness?	The proposed signage zones are appropriately integrated and therefore would not result in any unsightliness.	Yes
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Does the development protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage zones do not protrude above the building envelope.	Yes
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Does the development require ongoing vegetation management?	The proposed signage zones do not contain, or impact upon any vegetation.	N/A
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5 Site and building

Is the development 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
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Does the development 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
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Does the development 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
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6 Associated devices and logos with advertisements and advertising structures

Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Not applicable	Yes
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7 Illumination

<p>Would illumination:</p> <ul style="list-style-type: none"> • result in unacceptable glare? • affect safety for pedestrians, vehicles or aircraft? • detract from the amenity of any residence or other form of accommodation. • Can the intensity of the illumination be adjusted? • Is the illumination subject to a curfew? 	The Department recommends a condition of consent to ensure the signage illumination does not exceed the relevant Australian Standards.	Yes
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8 Safety

<p>Would the development reduce safety for:</p> <ul style="list-style-type: none"> • pedestrians, particularly children, by obscuring sightlines from public areas? • for any public road? • pedestrians or bicyclists? 	The proposed signage zones are wall mounted and would not adversely impact road safety for pedestrians or vehicles or obscure sightlines.	Yes
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Draft Remediation of Land State Environmental Planning Policy

The Department notes that the Explanation of Intended Effect for a Draft Remediation of Land SEPP was recently exhibited until 13 April 2018. The 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 proposed development 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

The State Environmental Planning Policy (Affordable Rental Housing) 2009 (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 6**

Table 6 | Consideration of ARH SEPP

Criteria	Department's Consideration
Clause 29 Standards that cannot be used to refuse consent	
1(c) The existing maximum FSR plus 20% of the existing maximum FSR (if the existing maximum FSR is greater than 2.5:1)	The proposal complies with the maximum FSR of 7:1, permitted under the SSP SEPP.
2(a) Building Height If the building is not more than the maximum permitted height	The proposal complies with the maximum building height of 18-storeys, permitted under the SSP SEPP However, the tower encroaches into the podium elements, which are restricted to 3-storeys along Marian Street and 2-storeys along Regent Street. The Department considers this variation acceptable as discussed in Section 6 and Appendix D of this report.
2(b) Landscaped Area If the landscape treatment of the front setback area is compatible with the streetscape	The proposal is generally built to the boundary of the three street frontages in accordance with the existing, approved and likely future streetscape. Landscaping is provided on the podium rooftop to enhance the appearance of the site and the amenity of the development.
2(c) Solar Access At least one communal living room to receive a minimum of 3 hours direct sunlight between 9 am and 3 pm mid-winter	The indoor communal living room on Level 15 located on the northern-eastern corner of the building would receive a minimum 3 hours of direct sunlight.
2(d) Private open space One area of at least 20 m ² with a minimum dimension of 3 m	The proposed development does not contain any private open space or balconies. 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 not necessary or desirable.
2(e) Parking (ii) 0.5 parking spaces for each boarding room	The Department considers providing no on-site parking is acceptable in this instance, as: <ul style="list-style-type: none"> 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
- 134 bicycle spaces and end-of-trip facilities would be provided complying with the ARH SEPP and SDCP 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.

2(f) Accommodation size Each boarding room to have a gross floor area of at least	Minimum rooms for a single occupant is 14 m ² and 16.9 m ² for two occupants.
(i) 12 m ² for a single lodger or	
(ii) 16 m ² in any other case	

(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	There is a mixture of individual and shared facilities.
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Clause 30 Standards for boarding houses

(a) For 5 or more boarding rooms at least one area of communal living space	A primary communal living space is provided on Level 1 and Level 2, with additional communal areas on Levels 9 and 15.
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(b) Boarding rooms to be no greater than 25 m ² (excluding bathroom & kitchen)	No boarding room is greater than 25 m ² (excluding bathroom and kitchen)
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(c) Rooms not to be occupied by more than 2 adults	No boarding room will be occupied by more than 2 adults.
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(d) Adequate bathroom and kitchen facilities	All boarding rooms have private bathroom facilities. The studio rooms and twin studio rooms will have kitchen facilities, while no kitchen facilities are provided for the ensuite rooms. However, all residents will have access to shared kitchen facilities on Level 2.
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(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 manage the building and students.
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(f) Repealed	Not applicable
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(g) If site zoned for commercial purposes-ground floor not to be used for residential purposes	The ground floor does not include any residential use.
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(h) At least 1 bicycle and 1 motorcycle parking space per 5 rooms	The proposal includes 134 bicycle parking spaces (1 space per 2.8 rooms) and exceeds the minimum requirement. No motorcycle parking is proposed.
Consideration whether the design of the development is compatible with the character of the local area.	The Department considers the design of the development compatible with the character of the local area, as discussed in Section 6 of this report.

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

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 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 Principals of SREP 2005 and would not have any significant adverse impact on the Sydney Harbour Catchment.

Sydney Development Control Plan 2012

In accordance with clause 11 of the SRD SEPP, DCPs do not apply to SSD. The proposal is therefore not subject to the requirements of Sydney Development Control Plan (SDCP) 2012. However, relevant chapters of the SDCP 2012 have been used as a guide in the design of the development and relevant controls are considered in **Table 7** below:

Table 7 | Department's consideration of SDCP 2012

Criteria	Departments Consideration
<p>Clause 4.4.1.1 Subdivision</p> <p>The subdivision of boarding houses or student accommodation is not permitted</p>	The development does not propose subdivision.
<p>Clause 4.4.1.2 Bedrooms</p> <p>(1) The gross floor area of a boarding room is to be at least:</p> <p>(a) 12 m² overall room size; plus</p> <p>(b) additional 4 m² (for additional adult); plus</p> <p>(c) 2.1 m² for ensuite; plus</p> <p>(d) 0.8 m² for any shower in ensuite; plus</p> <p>(e) 1.1 m² for any laundry; plus</p> <p>(f) 2 m² for any kitchenette; plus</p>	<p>Studio rooms are recommended to be 16.9 m² (a + c + d + f)</p> <p>338 studio rooms are proposed ranging in size from 14 m² to 20.8 m²</p> <p>Twin studio rooms are recommended to be (a + b + c + d + f) 21.9 m².</p> <p>27 twin studio rooms are proposed ranging in size from 20.5 m² to 25.9 m²</p> <p>Ensuite rooms are recommended to be 14.9 m² (a + c + d)</p> <p>16 ensuite rooms are proposed with an area of 14 m²</p> <p>The Department considers the proposed room sizes are acceptable in this instance as:</p> <ul style="list-style-type: none"> 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 16 ensuite rooms that are 14 m² (all located on Level 2) would have increased minimum ceiling heights of 3.4 m.

(2) Each bedroom must have access to natural light

Fenestration is provided to each bedroom.

(3) Minimum ceiling height of 2.7 m

The floor to ceiling heights are:

- 4 m for the Ground Floor (Level 1)
- 3.4 m for Level 2
- 2.7 m for Level 3 and above.

(4) provisions relating to fire safety for Class 3 buildings

The proposal was accompanied with a BCA report, demonstrating compliance with the relevant safety standards.

Clause 4.4.1.3 Communal kitchen areas

(1) Minimum communal kitchen area of 6.5 m² or 1.2 m² per resident, whichever is the greater

34 m² of communal kitchens are proposed which equates to 2.1 m² per resident without a kitchenette.

(2) Communal kitchen is to contain:

- One sink per 6 people
- One stove top cooker per 6 people and exhaust ventilation

Note: all studio rooms include a kitchenette with sink. Only the 16 ensuite rooms would not have a kitchenette and would be adequately serviced by the communal kitchen located on the same level (level 2) and outdoor BBQ.

All studio resident rooms include a kitchenette with stove top. The 16 ensuite room residents would have access to the three stove tops and two sinks within the communal kitchen, and the BBQ area within the outdoor area

(3) The communal kitchen is to contain, for each resident occupying a bedroom without a kitchenette:

Capable of complying

- 0.13 m³ of refrigerator storage space;
- 0.05 m³ of freezer storage space; and
- 0.30 m³ of lockable drawer or cupboard storage space.

Clause 4.4.1.4 Communal living areas and open space

(1) Provide indoor communal living areas with a minimum area of 12.5 m² or 1.25 m² per resident and a width of 3 m.

A total of 510 m² of indoor communal living areas is required for the development. The proposal provides a total 632 m² of indoor communal open space, comprising of:

- Level 1 – 332 m²
- Level 2 – 212 m²
- Level 9 – 44 m²
- Level 15 – 44 m²

The communal living area can include any dining area, but cannot include bedrooms, bathrooms, laundries, reception area, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors and the like.

To further supplement the indoor communal living areas, 403m² of outdoor communal open space is provided on Level 2.

(2) Indoor communal living areas are to be located:

- near commonly used spaces, such as kitchen, laundry, lobby entry area, or manager's office, with transparent internal doors, to enable natural surveillance from resident circulation;
- adjacent to the communal open space;
- to receive a minimum 2 hours solar access to at least 50% of the windows during 9am and 3pm on 21 June;
- on each level of a multi-storey boarding house, where appropriate; and
- where they will have minimal impact on bedrooms and adjoining properties.

A minimum of two hours of solar access is provided to the eastern facing windows of the indoor communal open space on level 15 and to the ground level lounge 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 an 18-storey development at 80-88 Regent Street.

(3) Communal open space is to be provided with a minimum area of 20 m² and a minimum dimension of 3m.

To further supplement the indoor communal living areas, 403m² of outdoor communal open space is provided on Level 2.

(4) Communal outdoor open space is to be located and designed to:

- generally be north-facing to receive a minimum 2 hours solar access to at least 50% of the area during 9am and 3pm on 21 June;
- be provided at ground level in a courtyard or terrace area, where possible;
- provide partial cover from weather;
- incorporate soft or porous surfaces for 50% of the area;
- be connected to communal indoor spaces, such as kitchens or living areas;
- contain communal facilities such as barbecues, seating and pergolas where appropriate; and
- be screened from adjoining properties and the public domain with plantings, such as a trellis with climbing vines.

Outdoor communal open space is proposed on Level 2, consisting of a western terrace, northern terrace and an eastern terrace. The eastern terrace, due to its location on the eastern side, would receive a minimum of 2 hours solar access. All terraces are partially covered and the northern terrace is directly connected to indoor communal space. All areas are landscaped and would enjoy an attractive outlook and would be screened from adjoining properties and the public.

(5) 30% of all bedrooms are to have access to private open space with a minimum area of 4 m² in the form of a balcony or terrace area.

The proposed development does not contain any private open space or balconies. As the site 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.

Clause 4.4.1.5 Bathroom, laundry and drying facilities

(1) Minimum of 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

The proposal includes the provision for 10 washing machines (ratio of 1 per 34 students) and 10 dryers (ratio of 1 per 43 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.

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.

Clause 4.4.1.6 Amenity, safety and privacy

(1) Boarding houses are to maintain a high level of resident amenity, safety and privacy

The proposed development has demonstrated a high level of residential amenity, safety and privacy as discussed in **Section 6**.

(2) Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy

The application has been accompanied by an acoustic report and traffic report that have been addressed in **Section 6**.

The development will be serviced by a private waste contractor.

(3) The consent authority may request an acoustic report, if there is the potential for significant impacts from noise emissions.

All other impacts have been addressed in **Section 6**.

(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

Clause 4.4.1.7 Plan of management

An operating 'Plan of Management' is to be submitted with a development application for demand for and new or existing boarding houses to ensure that it operates with minimal impact on adjoining owners and maintains a

An Operations Management Plan has been provided and considered acceptable as addressed in **Section 6**.

high level of amenity for residents

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

The Redfern-Waterloo Authority Contributions Plan 2006 and the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006, which allows the Minister 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 8**. The Department recommends both contributions are imposed as a condition of consent.

Table 8 | Relevant development contributions

Contributions Plan		Contributions Rate	Total
Redfern-Waterloo Contributions Plan 2006	Authority	2% of the proposed cost of works	\$ 1,020,000.00
Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006		\$92.44/m ² of net GFA	\$ 684,796.00

Appendix D – Clause 16A Variation: Building Height

The proposal seeks a variation to the maximum building height as prescribed by Clause 21 in Appendix 4 of the SSP SEPP. The maximum building height controls for the site are as follows (**Figure 1**):

- maximum of two storeys to a depth of 8 m from the Regent Street property boundary
- maximum of three storeys to a depth of 4 m from the Marian Street property boundary
- maximum of 18 storeys across the remainder of the site.

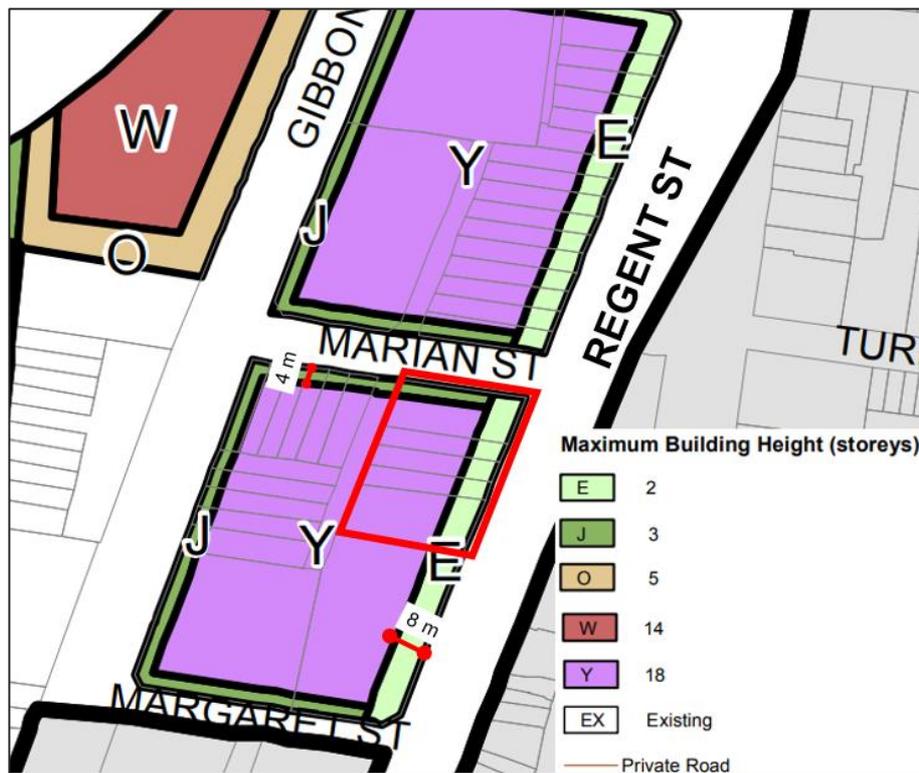


Figure 1 | Extract of the SSP SEPP height of building map (site outlined in red)

The tower element of the proposal encroaches within the podium setbacks along Regent Street and Marian Street, which are subject to a maximum height of two storeys and three storeys respectively. The variation to the maximum building height is described in **Table 1** and illustrated in **Figure 2**.

Table 1 | Proposed variations to the maximum building height

Location	Development Standard	Variation
Regent Street frontage	2 storeys to a depth of 8 m	2 storeys to a depth of 2.5 m to 4 m
Marian Street frontage	3 storeys to a depth of 4 m	2 storeys to a depth of 3 m



Figure 2 | Areas of non-compliance shown in blue (Base source: RTS)

Clause 16A(2) in Appendix 4 of the SSP SEPP permits the consent authority to consider a variation to a development standard imposed by an environmental planning instrument. The aim of clause 16A is to provide an appropriate degree of flexibility in applying development standards to achieve better development outcomes. In consideration of the proposed variation, clause 16A(3) requires the following:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with clause 16A(3), the Applicant has prepared a written request to vary the height of buildings (**Appendix A**).

Clause 16A(4)(a) requires the consent authority to be satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

The Department has considered the proposed exception to the height of buildings development standard under clause 16A, applying the tests arising from *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 (as summarised by *Gabriel Stefanidis v Randwick City Council* [2017] NSWLEC 1307) and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

1. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the zone

The objectives of the Business Zone - commercial core zone are as follows:

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

The Department is satisfied that the proposed development is consistent with the relevant objectives of the Business Zone - commercial core zone, as it:

- will facilitate the development of a town centre with an 18-storey student accommodation development comprising retail ground floor uses promoting an active streetscape.
- directly generate employment opportunities through the provision of student accommodation and 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 given the street-level interface provided by the retail tenancy located and other active uses provided on the ground floor
- is well located in relation to rail and bus transport and is within walking and cycling distance to key education and employment areas
- contributes to the vitality and safety of the public domain through the ground floor retail tenancy and active uses
- is considered to achieve design excellence in accordance with the design excellence provisions in the SSP SEPP
- comprises landscape communal open space areas providing visual and aesthetic values and internal amenity to the future student residents.

2. Is the consent authority satisfied the proposed development will be consistent with the objectives 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, which are considered in detail above.

The Department has also considered the Redfern-Waterloo Built Environment Plan (BEP) and the Redfern Centre Urban Design Principles (RCUDP), which provide background to the relevant controls,

including the objectives for the height controls. The objectives for the maximum building height can be summarised as follows:

- Create a consistent block edge and scale to existing streets by building to the street boundary.
- Provide podiums that create a perimeter block development form and a continuous street wall with tower development towards the centre of the blocks.
- Retain the existing height along Regent Street and create a scale and architectural proportions consistent with existing shopfronts.
- Respond to the existing built form to create symmetry/consistency across streets and laneways.

The Department considers the proposal to be consistent with these building height objectives, noting:

- the proposal provides block edge to Regent Street and Marian Street, consistent with the development at 80-88 Regent Street and 11 Gibbons Street.
- the proposal creates a two storey perimeter block form and a continuous street wall with active uses along the Regent Street and Marian Street. The proposed tower setbacks are consistent with existing towers to Regent Street and Marian Street which provide varied setbacks. In particular:
 - a varied tower setback ranging from 2.7 m to 4.5 m is provided along Regent Street
 - a varied tower setback ranging from 0.4 m to 5.6 m is provided along Marian Street for the development at 11 Gibbons Street
- the proposal provides a two-storey street presentation at Regent Street and the rhythm of the shopfronts is continued through vertical articulation, materiality and stepping down of the podium height to match the falls in levels on Regent Street from north to south.

3. Has the consent authority considered a written request that demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and they are satisfied that the matters required to be demonstrated have adequately been addressed

The Applicant demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, having regard to the five tests outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827. It establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances, as the proposed development achieves the objectives of the standard and accordingly justifies the variation to the height control, meeting the first test outlined in *Wehbe*.

The Department supports the Applicant's conclusions that the proposed development achieves the objectives of the standard. Compliance with the development standard is unnecessary in this case as the objectives of the height standard are still achieved and unreasonable as no purpose is served by requiring strict compliance.

Having considered the Applicant's written request, the Department is satisfied that the Applicant has adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

4. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard and with the Court the matters required to be demonstrated have adequately been addressed.

The Applicant's written request justifies contravention of the development standard on the following environmental planning grounds:

- the built form is consistent with development to the north along Regent Street and to the west along Marian Street. The two-storey podium component provides a fine grain architectural outcome and a human-scale pedestrian environment. The proposed setbacks to the tower element will provide an attractive streetscape with an appropriate rhythm and a continuous built form along Regent Street and Marian Street.
- the reduced setback along the Regent Street frontage allows for increased separation distances to be provided between the proposed development and the approved development to the west at 11 Gibbons Street. This will have a positive effect regarding the potential overshadowing and visual privacy impacts.
- the solar access/overshadowing and wind impact assessments have demonstrated there will be no significant impacts compared to a compliant proposal.
- surrounding developments have been granted similar variations.

Having considered the Applicant's written request and further to the Department's assessment of height in **Section 6**, the Department is satisfied the Applicant has adequately addressed there are sufficient environmental planning grounds to justify the contravention of the development standard and the matters required to be demonstrated have adequately been addressed. The Department considers the building height exceedance is acceptable given:

- the proposal is consistent with the maximum 18-storey height limit and the maximum floor space ratio control applying to the site
- the building would not have a dominant visual presence from street level, and provides good human scale through the use of a podium with a stepped back tower element above
- the proposal is consistent with the existing streetscape as it provides for a consistent two-storey podium form along Regent Street and along Marian Street
- the proposed tower element setback would contribute to a consistent streetscape.

Consequently, the Department considers the Applicants written request adequately addresses the matters required to be demonstrated under Clause 16A in Appendix 4 of the SSP SEPP and the proposal will be in the public interest because it is consistent with the objectives of the development standard, the objectives for development within the zone and would result in a built form that would be largely consistent with the existing and desired future character area, as set out in the SSP SEPP.

Appendix E – 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/25711>