



Student Accommodation 104-116 Regent Street, Redfern

State Significant Development Assessment
SSD 12618001

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
Applicant	The Trust Company (Australia) Limited ATF WH Redfern Trust
BCA	Building Code of Australia
CIV	Capital Investment Value
Council	City of Sydney Council
Department	Department of Planning and Environment
EHG	Environment and Heritage Group
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
Heritage	Heritage NSW
LEP	Local Environmental Plan
Minister	Minister for Planning
SEARs	Planning Secretary's Environmental Assessment Requirements
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SEPP PS	State Environmental Planning Policy (Planning Systems) 2021
SEPP PEHC	State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021
SSD	State Significant Development
TfNSW	Transport for NSW

Executive Summary

This report provides an assessment of a State Significant Development (SSD) application seeking consent for the construction and operation of an 18-storey student accommodation building with ground floor retail at 104-116 Regent Street, Redfern.

The development would provide 409 student accommodation beds (307 studio rooms, 21 ensuite rooms, 37 two-bedroom rooms, and 7 accessible rooms), communal spaces, on-site bicycle parking, ancillary facilities, and two ground floor retail tenancies.

The development has a capital investment value (CIV) of \$52,800,000 and is predicted to generate up to five operational jobs and 220 construction jobs.

The Applicant is The Trust Company (Australia) Limited ATF WH Redfern Trust. The proposal is SSD as it has a CIV over \$10 million and is within the Redfern Waterloo Precinct. The Minister for Planning is the consent authority for this application.

Engagement

The Department publicly exhibited the application for 28 days from 25 January 2022 to 21 February 2022.

The Department received 16 submissions, comprising three public submissions (all objecting), an objection from Council, and advice from 12 Government agencies.

Council objected on the basis of built form, activation, design excellence, amenity impacts, signage, tree removal and landscaping, and transport and access.

Key issues raised in the public submissions related to the student accommodation land use, construction impacts, amenity impacts from operations, and a range of design and technical matters.

The Applicant submitted a Response to Submissions (RtS) and additional information to address the issues raised in submissions. Key amendments made to the proposal included:

- reducing the height of the building parapet and rooftop plant
- removing a section of rooms above the podium to increase the northern tower setback and building separation
- incorporating external privacy louvres into the northern façade
- reconfiguring the ground floor to improve activation and increase retail floor space
- stepping the height of the podium (while maintaining a three-storey scale) to follow the topography of the site
- provide a public art zone on the southern elevation of the tallest, northern tower.

Council withdrew its objection following its consideration of the RtS and additional information.

Assessment

The Department has considered the merits of the proposal in accordance with section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the issues raised in the submissions, and the Applicant's response.

The Department considers the proposal is acceptable for the following reasons:

- it is permissible with consent and consistent with the Business Zone-Commercial Core objectives under State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021
- it is consistent with the Greater Sydney Region Plan and Eastern City District Plan which aim to increase housing and jobs closer to public transport, services, and amenities
- it would facilitate the renewal of one of the last remaining sites within the Redfern Town Centre of the Redfern-Waterloo State significant precinct
- it achieves design excellence by providing a built form that has been subject to the State Design Review Panel process, Government Architect NSW review, and the DA assessment process
- the design of the proposal has been amended to reduce the impact on the neighbouring heritage listed St Luke's Presbyterian Church and lower scale development towards the south by proposing two tower elements which decrease in height and provide increased setbacks towards the south
- it complies with the floor space ratio control (7:1) for the site and predominately complies with the 18-storey height control (with the exception of a section of the rooftop)
- while the proposal varies the two-storey podium height control for Regent Street (proposed three storey podium) and the 8 m tower setback control for Regent Street (proposed setback of 4-8 m), it maintains the character of new development along Regent Street and would be compatible with the streetscape, noting the setbacks of the existing towers to Regent Street are also varied
- the impacts of the proposal in relation to privacy, overshadowing and wind, are acceptable and consistent with the outcomes envisaged by the adopted planning controls for the site
- it would provide positive public domain outcomes through footpath upgrades to Regent Street and Margaret Street, awnings, and increased tree planting
- it would achieve good levels of amenity for future residents in the form of communal outdoor terraces with BBQ facilities, outdoor cinema, seating and tables and tree planting
- operational impacts would be appropriately mitigated and managed through the implementation of an Operational Management Plan and recommended conditions
- there would be no traffic impacts as the proposed development does not provide any car parking
- it would provide public benefits, including 409 student accommodation beds (372 rooms) and up to 220 construction jobs and five operational jobs.

Conclusion

The Department's assessment concludes the proposal is consistent with the strategic planning framework, is of an appropriate height, density and scale, and would not result in adverse amenity impacts subject to the recommended conditions.

The Department considers that the proposal is in the public interest and recommends it be approved, subject to the recommended conditions.

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1 Introduction

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 300 m to the south-east of the Redfern Train Station (**Figure 1**). The site is located within the City of Sydney local government area (LGA).

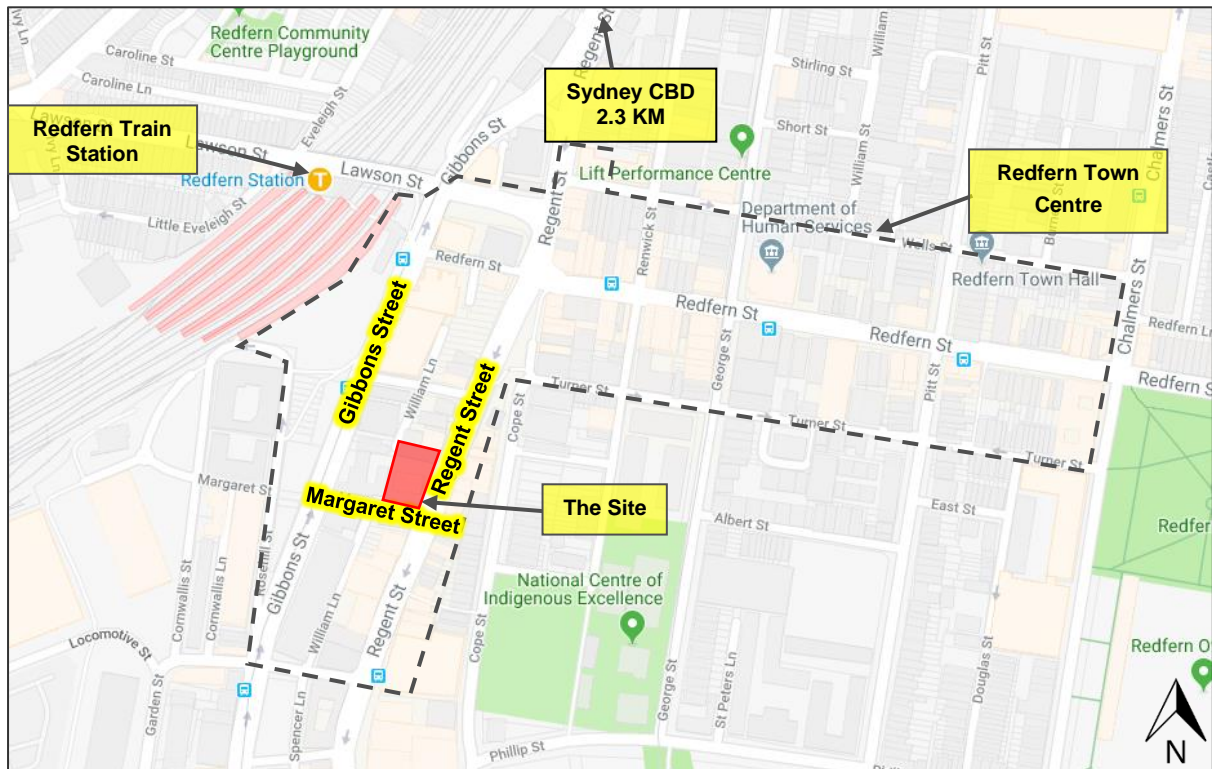


Figure 1 | Site location (as shown in red) (Base source: Nearmap)

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

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

1.2 The site

The site is located at 104-116 Regent Street, Redfern (Lot 10 DP 1026349). The site is bounded by Regent Street to the east, Margaret Street to the south, and student accommodation developments at 90-102 Regent Street to the north and 13-23 Gibbons Street to the west.

The site has an area of 1,366 m² and a slope of approximately 2.5 m from north to south.

The site was previously occupied by a service station and retail shop and is currently vacant and being used as a construction compound.

In October 2020, development consent (D/2020/1095) was granted for the demolition of the existing service station and retention of the two-storey shop building, including excavation and remediation works.

In November 2021, development consent (D/2021/870) was granted for the demolition of the existing shop buildings, including awning, switch room, and the kerb and footpaths on the site.

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



Figure 2 | The site (outlined in red) and adjacent development (Base source: Nearmap)

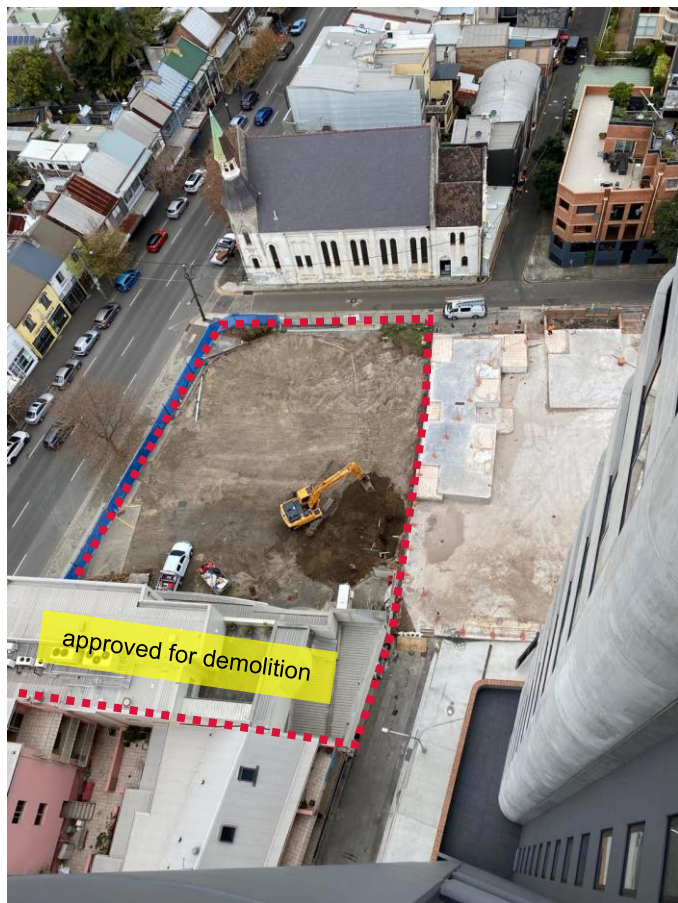


Figure 3 | Site photos (top left: view from Regent Street, top right: view from Margaret Street and bottom: view from 11 Gibbons Street – site dashed red)

1.3 Surrounding Site Context

The surrounding area is characterised by a range of residential, student accommodation and mixed-use developments of varying building heights. The immediate site context is shown in **Figure 4**.



Figure 4 | Surrounding site context (Base source: Nearmap)

The immediate and proposed development in vicinity of the site comprises the following:

- to the north of the site:
 - 90-102 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 (completed)
 - 13-23 Gibbons Street: 18-storey student housing development (under construction).
- to the south of the site:
 - 118 Regent Street: St Luke's Presbyterian Church (local significance heritage item)
 - 1 Margaret Street (residential development).

A range of public transport services are also in proximity of the site, including Redfern Train Station (approximately 300 m north-west of the site), the future Waterloo Metro Station currently under construction (approximately 350 m south of the site), and various bus services available along Gibbons Street and Regent Street.

Photographs of the site and surrounds are provided at **Figure 5** to **Figure 12** below.



Figure 5 | Redfern Town Centre viewed from Regent Street to the north of the site



Figure 6 | 11 Gibbons Street and 13-23 Gibbons Street to west of the site



Figure 7 | 1 Margaret Street as viewed from the corner of Margaret Street and William Lane

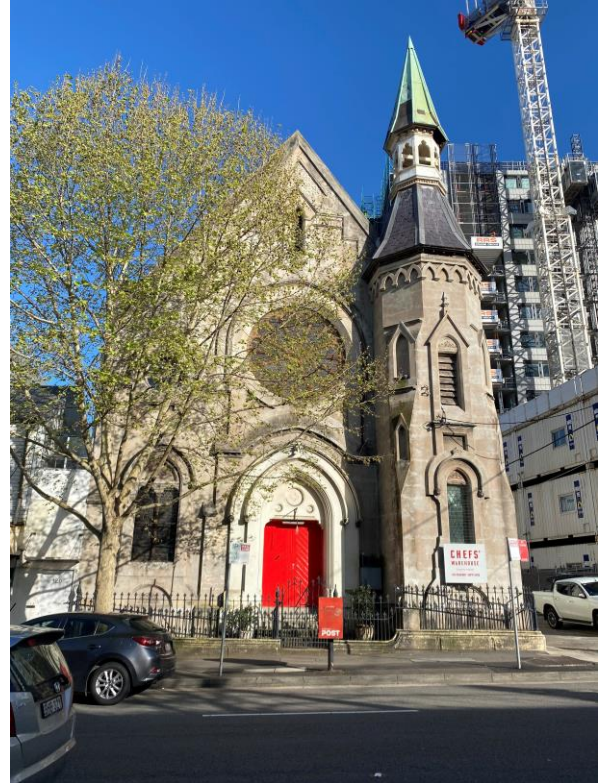


Figure 8 | St Luke's Presbyterian Church viewed from Regent Street looking west



Figure 9 | St Luke's Presbyterian Church viewed from Margaret Street looking east



Figure 10 | Development on the east side of Regent Street looking north



Figure 11 | Development on the east side of Regent Street looking south

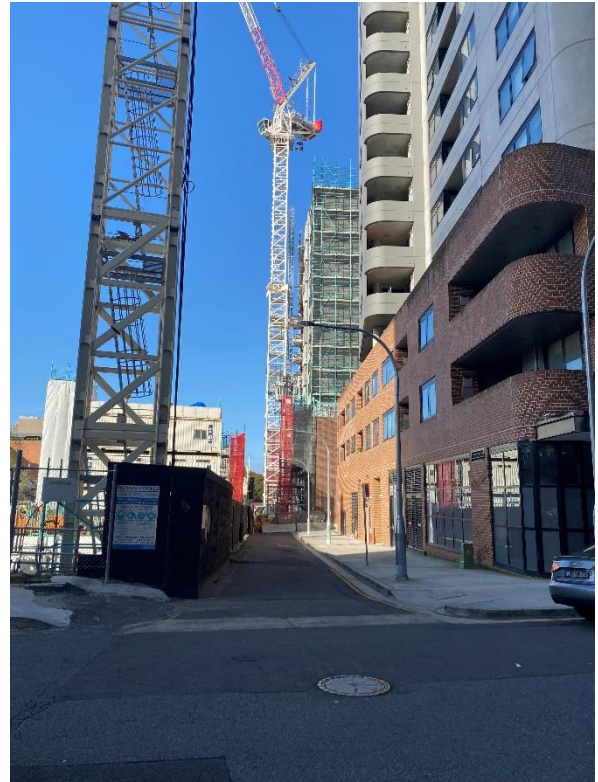


Figure 12 | William Lane looking south

2 Project

2.1 Project outline

The proposal seeks approval for the construction and operation of a predominantly 18-storey student accommodation building with ground floor retail.

The key components of the proposal as amended by the RtS, RRtS, and additional information are outlined in **Table 1** and shown in **Figure 13** to **Figure 15**.

Table 1 | Main Components of the Project

Aspect	Description
Built form	<ul style="list-style-type: none"> • Predominantly 18-storey building comprising: <ul style="list-style-type: none"> ○ stepped three storey podium to Regent Street, Margaret Street, and William Lane (and the through-site link on the adjoining site at 13-23 Gibbons Street) ○ two connected 13-15 storey towers above the podium with a setback of approximately 4.49m - 8.02m from Regent Street, 5.6 m from Margaret Street, 1.81 m – 5.72 m from the through-site link, and 5.72 m - 9.19 m from William Lane ○ one level of rooftop plant and an area of overrun above on the northern tower
GFA and land uses	<ul style="list-style-type: none"> • A total GFA of 9,557m² (floor space ratio of 6.996:1) comprising: <ul style="list-style-type: none"> ○ 9,383 m² student accommodation ○ 174 m² retail on ground floor
Student beds/mix	<ul style="list-style-type: none"> • 372 student accommodation rooms, including: <ul style="list-style-type: none"> ○ 409 beds, comprising: <ul style="list-style-type: none"> ▪ 307 studio rooms (one bed, bathroom, and kitchen facilities) suitable for a single occupant ▪ 21 ensuite rooms (one bed and bathroom), suitable for a single occupant ▪ 37 two-bedroom rooms (two beds, one bathroom, and kitchen facilities) suitable for two occupants ▪ 7 accessible rooms (one bed, bathroom, and kitchen facilities) suitable for a single occupant.
Communal open space	<ul style="list-style-type: none"> • Indoor and outdoor communal spaces, including: <ul style="list-style-type: none"> ○ open-plan gathering spaces (ground floor, levels 2 and 4) ○ gym and games area (ground floor) ○ study areas, a cinema and communal kitchen (level 2) ○ outdoor areas (levels 2, 4 and 16).

Hours of operation	<ul style="list-style-type: none"> • Hours of operation include: <ul style="list-style-type: none"> ○ student accommodation: 24-hours-per-day, 7-days-a-week ○ outdoor terrace areas: 8am to 10pm, 7-days-a-week ○ retail premises: 7am to 10pm, 7-days-a-week
Landscaping and public domain	<ul style="list-style-type: none"> • Decorative paving and street tree planting on Margaret Street • Associated footpath upgrades to Regent Street, Margaret Street and William Lane • The landscaped through-site link connecting William Lane to Margaret Street forms part of 13-23 Gibbons Street, and addressed via a separate application
Access and bicycle parking	<ul style="list-style-type: none"> • Access <ul style="list-style-type: none"> ○ pedestrian access from Regent Street via the primary building entrance, and Margaret Street via a secondary building entrance • Service and delivery vehicles <ul style="list-style-type: none"> ○ loading, deliveries, and waste collection undertaken in a loading dock shared with the neighbouring building (90-102 Regent Street), and accessed from William Lane • Bicycle parking <ul style="list-style-type: none"> ○ 112 bicycle spaces on ground floor.
Signage	<ul style="list-style-type: none"> • Building/business identification signage zones, consisting of: <ul style="list-style-type: none"> ○ an awning sign located on the awning above the building entry on Regent Street (0.97 m x 4.36 m) ○ a wall sign located on level 18 the Margaret Street elevation (5 m x 1.5 m) ○ a vertical wall sign on the podium facing William Lane (1.5 m x 5.99 m) ○ a wall sign located on the roof of the William Lane elevation (5 m x 1.5 m)
Artwork	<ul style="list-style-type: none"> • Zone for public artwork on the Margaret Street elevation
Employment	<ul style="list-style-type: none"> • 220 construction jobs and five operational jobs
CIV	<ul style="list-style-type: none"> • \$52,800,000

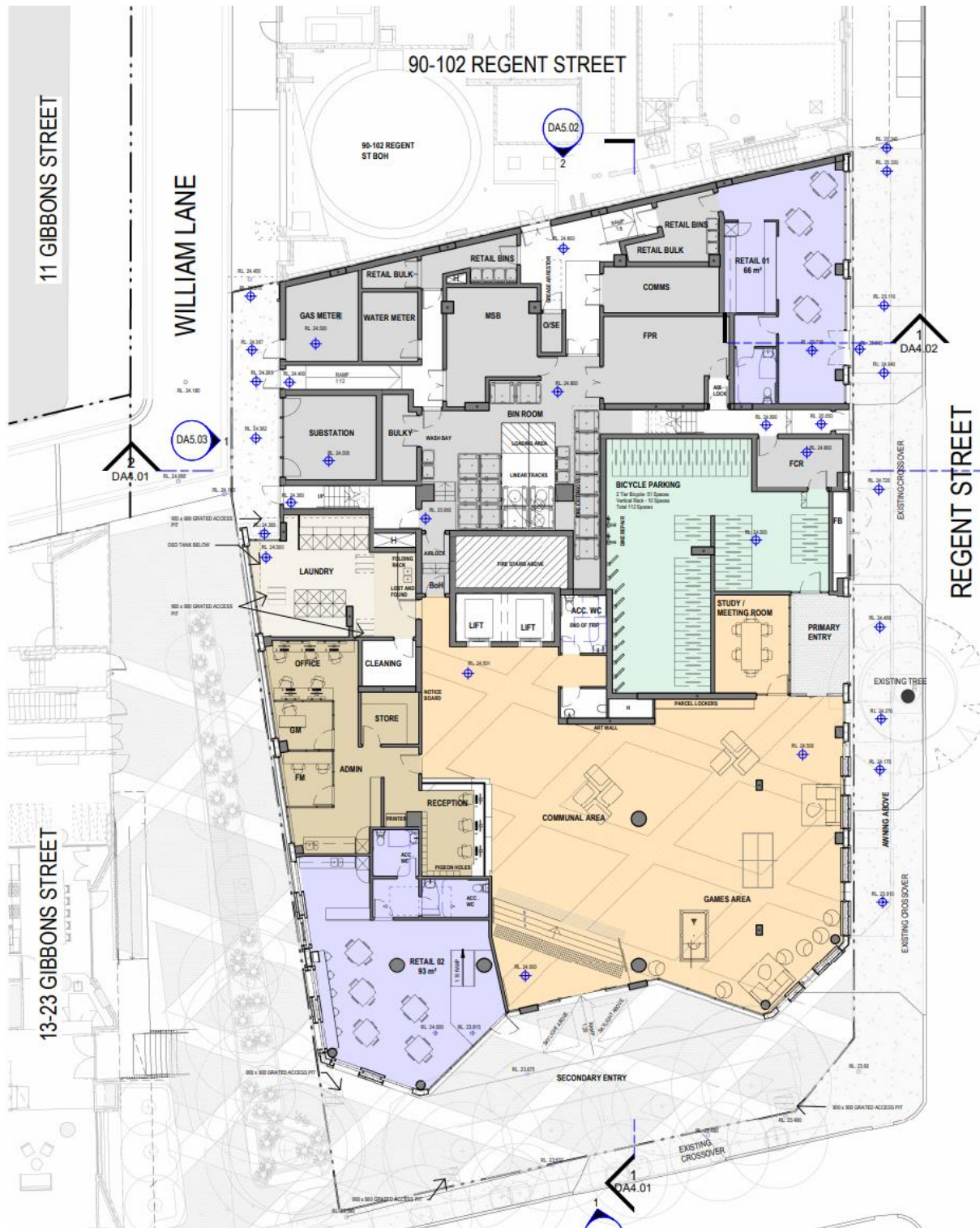


Figure 13 | Ground floor plan (Source: Applicant's RRTs)



Figure 14 | Perspective of the proposal viewed from the corner of Regent Street and Margaret Street
(Source: Applicant's RRtS)



Figure 15 | Regent Street elevation (Source: Applicant's RRtS)

3 Strategic context

3.1 Greater Sydney Region 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 located within the Eastern City District Plan. The proposal is consistent with the objectives of the Eastern City District Plan, as it would:

- provide new accommodation and retail tenancies close to public transport, and close to jobs and services within the Redfern Town Centre
- increase housing supply by providing 409 student accommodation beds that are close to tertiary institutions
- promote sustainable/active transport through providing 112 bicycle parking spaces and no vehicle parking spaces
- provide communal open space and increase the urban tree canopy.

3.2 Sustainable Sydney 2030-2050 Continuing the Vision

Sustainable Sydney 2030-2050 Continuing the Vision sets out City of Sydney’s vision to make Sydney a more global, green, and connected metropolis and outlines how the vision set under the former Sustainable Sydney 2030 will be continued to 2050. The proposed development would contribute to several strategic directions in the Strategy, as it would:

- provide jobs and homes in a highly accessible location close to Redfern Train Station, a future metro station, and bus routes, promoting sustainable growth
- provide bicycle parking for residents and workers, with no vehicle parking, to support a reduced reliance on private vehicles
- provide retail spaces at ground level to activate Regent Street and Margaret Street and promote a walkable neighbourhood
- provide high quality housing options for students in a range of room sizes and types
- achieve design excellence and provide opportunities for public art to enrich the local environment
- include a range of sustainable building features.

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, forecasting that this area would 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 State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021 (SEPP PEHC) that apply to the site. These include:

- maximum height control of 18 storeys
- a maximum podium height control of two storeys to Regent Street and three storeys to Margaret Street
- maximum floor space ratio (FSR) control of 7:1.

The proposed development complies with the maximum FSR and predominantly complies with the 18-storey maximum height control, with the exception of an area of rooftop plant justified in a variation request under clause 16A, Appendix 3 of SEPP PEHC.

The proposed development also complies with the maximum podium height control of three storeys to Margaret Street, but does not comply with the maximum podium height control of two storeys to Regent Street.

These matters are considered in detail in **Section 6.2** and **Appendix D** of this report.

3.4 Redfern Town Centre Urban Design Principles

The Redfern Town Centre Urban Design Principles (RCUDP) provide further detail to the controls of SEPP PEHC and were developed to guide the development of future State significant sites within the Redfern Town Centre.

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 also provides further detail to the development standards contained in the SEPP PEHC, including building and tower setbacks:

- 0.8 m to William Lane
- 8 m to Regent Street above the streetwall set by the maximum podium height control in the SEPP
- 4 m to Margaret Street above the streetwall set by the maximum podium height control in the SEPP.

The RCUDP controls are considered in **Section 6.2**.

4 Statutory Context

4.1 State significance

The proposal is SSD pursuant to section 4.36 EP&A Act as it is development on land identified in the Redfern-Waterloo precinct and with a capital investment value in excess of \$10 million (\$52,800,000) which meets the criteria in clause 2(g) Schedule 2 of State Environmental Planning Policy (Planning Systems) 2021.

4.2 Consent Authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. However, 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.

4.3 Permissibility

The site is zoned Business Zone – Commercial Core under SEPP PEHC. The proposed student accommodation and retail uses are permissible with consent in the zone.

4.4 Mandatory Matters for Consideration

The Department has considered all relevant matters in its assessment of the project in **Section 6** and **Appendix C** of this report. These relevant matters include:

- objects of the EP&A Act
- matters specified in Section 4.15(1) of the EP&A Act, including:
 - the provisions of any EPI, draft instruments, planning agreements, draft planning agreement and the EP&A Regulation
 - the likely environmental, social, and economic impacts of the development
 - the suitability of the site for the development
 - any submissions
 - the public interest
- principles of ecological sustainable development (ESD).

4.5 Biodiversity Development Assessment Report

Section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires that all applications for SSD 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 and waive this requirement.

On 12 March 2021, EESG determined that the proposed development was not likely to have any significant impact on biodiversity values and that a BDAR was not required.

The Department supported EESG's decision and on 22 June 2021, determined that the application was not required to be accompanied by a BDAR as the site had been highly disturbed and did 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 application and EIS was notified on the NSW Planning Portal between 25 January 2022 and 21 February 2022. The Department also notified adjoining landholders, Council, and relevant Government agencies.

5.2 Summary of submissions

In response to the exhibition of the application, the Department received 16 submissions, comprising:

- 12 Government agency submissions (comments)
- one submission from Council (object)
- three submissions from the public (all objecting).

A summary of all submissions received during the exhibition of the EIS is provided in the following sections, and a link to the full copy of the submissions is provided at **Appendix A**.

5.3 Key issues – Government Agencies

Table 2 | Summary of Agency submissions

Government Architect NSW	
EIS	Advised the following: <ul style="list-style-type: none">• further consideration of balancing noise with ventilation• the amenity of corridor spaces could be improved• provide visual connections between the bike store and ground floor communal space• consider the location of services and the accessible ramp for the long-term flexibility of the ground floor communal space• opportunities for shading at the rooftop terraces.
NSW EPA	
EIS	Advised the proposal does not require an environment protection licence under the <i>Protection of the Environmental Operations Act 1997</i> , and the development does not propose any activities for which EPA is the regulatory authority. No conditions or recommendations were identified.
Heritage NSW (Aboriginal Cultural Heritage)	
EIS	Agrees with the findings of the ACHAR and that no further assessment is required. The initiatives documented in the ACHAR are also recommended by HNSW, including: <ul style="list-style-type: none">• implementing an unexpected finds protocol• interpretative signage.
Heritage NSW	

EIS Advised that the development is unlikely to result in major impacts to State heritage items, noting that the site is not within the curtilage of any State Heritage Register (SHR) item and it will read as one of a growing cluster of towers within the wider setting of proximate SHR items. No conditions or recommendations were identified.

Environment and Heritage Group (formerly Energy, Environment and Heritage Group)

EIS Advised the following:

- no further comment in relation to biodiversity noting that a BDAR waiver had been issued (see **Section 4.5**)
- demonstrate compliance with the City of Sydney flood levels including entry points or floor levels, the associated flood levels (1% AEP and PMF, possibly climate change), and any required freeboard
- flood risk relies on the construction of a new flow path in the adjacent lot (13-23 Gibbons Street), which should be provided prior to the occupation of the proposed development.

Transport for NSW

EIS Provided recommended conditions for entering into a Works Authorisation Deed for works to Regent Street, drawings and reports to be submitted to TfNSW for endorsement relating to the protection of the CBD rail link corridor, and the preparation of a construction pedestrian and traffic management plan.

All street frontages should be designed to maximise activation, and the setback to Margaret Street and the through-site link should be designed as welcoming, accessible public spaces.

RtS Reconfirmed the recommended conditions. No further information was requested.

Sydney Trains

EIS No comment

Sydney Airport Corporation

EIS Identified that the proposed development would need to be assessed and a determination made by the Federal Department of Infrastructure, Transport, Regional Development and Communications prior to construction.

Sydney Metro

EIS Provided recommended conditions to manage and mitigate any impacts on the Sydney Metro City and Southwest rail corridor.

RtS Reconfirmed the recommended conditions. No further information was requested.

Sydney Water

EIS Advised on water and wastewater servicing requirements, and recommended conditions for compliance with the Sydney Water Act 1994 and works that could affect Sydney Water assets.

Infrastructure NSW

EIS 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.

EIS Provided recommended conditions for design development to reduce crime risks.

5.4 Key issues – Council

Council objected to the proposal and provided comments on the EIS. The subsequent submission to the RtS also objected to the proposal and reiterated recommendations for a number of aspects of the detailed design of the proposal. Council’s comments on the proposal are summarised in **Table 3** below.

Council’s submission to the RRtS withdrew their objection and made recommended conditions of consent.

Table 3 | Summary of key issues raised in Council submissions to EIS and RtS

Issue	Position
Building height	<ul style="list-style-type: none"> • maximum tower height be lowered to match neighbouring development • plant be integrated into the 18-storey tower, or substantially setback from the perimeter of the tower • podium height be stepped to relate to the topography of Regent Street and the through-site link, and to be consistent with neighbouring development
Setbacks and separation	<ul style="list-style-type: none"> • recommends fixed external privacy treatments to north facing corridor windows and operable external privacy treatment to west-facing rooms opposite 13-23 Gibbons Street • concerns with visual and acoustic privacy impacts, and loss of view sharing, resulting from the proposed setbacks.
Amenity	<ul style="list-style-type: none"> • wind modelling to demonstrate compliance with Council’s comfort and safety criterion, and any amelioration measures to address exceedance are to be incorporated into the plans • overshadowing to address the impact to 1 Margaret Street and the playing field at National Centre of Indigenous Excellence at 160-202 George Street • further information for how noise and ventilation requirements will be achieved concurrently
Active frontages	<ul style="list-style-type: none"> • a more generous provision of retail is encouraged to Regent Street and Margaret Street frontages • an entrance point is recommended to the through-site link frontage • concern that the Margaret Street entrance does not receive natural light and creates CPTED concerns • recommends increasing the ceiling height of the ground floor
Public art	<ul style="list-style-type: none"> • design, articulation, materiality, and public art be considered for all south and north-facing tower walls that are indicated as paint finish • development should deliver an artwork of depth in the façade, and be designed in consultation with an Indigenous artist
Signage	<ul style="list-style-type: none"> • does not support podium signage • requires a signage strategy be prepared for the entire development, and future applications for the design and installation of signage

Issue	Position
	<ul style="list-style-type: none"> two top of building signs contribute to visual clutter
Public domain and landscaping	<ul style="list-style-type: none"> ensure sufficient setbacks for awnings, street furniture and footpath upgrades are provided from existing street trees, noting Council does not support the removal of a street tree on Regent Street further detail to be provided for public domain improvements to meet Council standards and guidelines further detail to be provided for communal open space landscaping to ensure sufficient soil depth, drainage, irrigation, and the like to demonstrate viability of the scheme plants must be safely and easily accessible for maintenance, and not rely on cherry-pickers from the public domain
Transport and access	<ul style="list-style-type: none"> shared loading arrangement with a single SRV is insufficient for both developments amend the Loading and Servicing Management Plan to provide more information on how loading dock will be shared, procedures in the event of any failures, how vehicles will be managed and how collection of waste will be managed consider implementing a share zone between the site through-link and Regent Street and changing Margaret Street to one-way traffic providing an easement for public access in the building setback.
Waste	<ul style="list-style-type: none"> detailed waste management comments in relation to the storage, capacity and infrastructure for waste management on the site
Contamination	<ul style="list-style-type: none"> provide a minimum 1 m depth virgin excavation natural material for all tree planting and landscaping within the public domain
Sustainability	<ul style="list-style-type: none"> sustainability in the SEARs have not been adequately addressed demonstrate there is adequate roof area to accommodate required solar panels

5.5 Key issues – public

The Department received three public submissions all in objection in response to the EIS. **Table 4** provides a summary of the comments raised by the public.

Table 4 | Summary of key issues raised in public submissions

Issue raised	EIS No. of submissions
Oversupply of student accommodation	3
Need for affordable housing	1
Inadequate water pressure / servicing	1
Not enough parking	1

Construction impacts including traffic, noise, vibration, and cumulative impacts	2
Upgrades needed to surrounding bicycle paths	1
Amenity impacts from operations including noise, privacy, and antisocial behaviour	2
Wind impacts for Margaret Street and William Lane	1
Interface with St Luke's Presbyterian Church, including height and setbacks	1
Overshadowing and solar access	1
Lack of commercial and retail activation	1
Insufficient exhibition time and consultation	1
Alternative development options not adequately considered	1

5.6 Response to Submissions and amendments

Response to submissions

In June 2022, the Applicant lodged a Response to Submissions (RtS) report addressing the issues raised during the exhibition of the EIS and amended the building design as follows:

- reduced the height of the building parapet and rooftop plant from 3.55 m to 1.5 m, and reduced the height of the lift overrun above
- removed a section of rooms above the podium to increase the northern tower setback from 0.3 m to 2.65 m, and the building separation to 90-102 Regent Street from 8.3 m to 10.9 m
- incorporated external privacy louvres into the northern façade to improve visual privacy to 90-102 Regent Street
- amended the ground floor to provide a bicycle parking entry from William Lane and Regent Street, move the office and admin space to the Regent Street frontage, relocate the games area to the ground floor communal space, provide skylights in the Margaret Street awnings, and identifying the street tree on Regent Street for retention
- stepped the height of the podium to follow the topography of the site, while maintaining a three storey presentation to all street frontages and the through-site link.
- included a public art zone on the southern elevation of the taller, northern tower.

The RtS included the following documentation:

- amended Architectural Plans
- amended Urban Design Report
- amended Landscape Plans and Report
- supplementary Flooding Statement
- resubmitted Loading and Service Management Plan
- amended Waste Management Plan

- amended Ventilation Strategy Report
- supplementary Wind Statement
- amended Crime Prevention Through Environmental Design Statement
- Services Statement
- Traffic Impact Assessment prepared by Cardno that was referenced in the TIA exhibited with the DA
- amended BASIX Certificate and Report
- a Survey Plan.

The Department made the RtS publicly available on the NSW Planning Portal and referred the RtS to Council and relevant Government agencies for comment.

The Department received a further objection from Council (**Table 3**) reiterating its key issues and a submission making comments from TfNSW (**Table 2**). One public submission objecting to the proposal was also received from a previous objector, raising consistent issues as those raised in response to the EIS.

A link to the full copy of the submissions is provided at **Appendix A**.

Revised response to submissions

In September 2022, the Applicant lodged a revised RtS (RRtS) report addressing the further issues raised in response to the RtS and amending the design as follows:

- replanning the ground floor of the building to provide a second retail tenancy on Margaret Street, office and admin spaces fronting the through-site link, and bicycle parking accessed only from Regent Street
- a public art zone across the top five floors of the southern façade of the southern tower (15.3m x 5.8m)
- minor amendments to the architectural plans, landscape plans and waste management plan to address submissions.

The RRtS was accompanied by updated plans and specialist assessments, including flooding, arboricultural impacts, loading and servicing, waste management, and building operations.

The RRtS was referred to Council who withdrew their objection and provided recommended conditions of consent for the proposed development.

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
- public domain and landscaping

6.1 Design excellence

Clause 22 of Appendix 3 of the SEPP PEHC requires new development to exhibit design excellence. There are a number of matters the consent authority must consider when deciding if a development exhibits design excellence, including architectural design, public domain, and sustainability considerations.

The proposed design was reviewed by the State Design Review Panel (SDRP) on four occasions between March and September 2021. In determining whether the development achieves design excellence, the Department has considered the advice of the SDRP and Government Architect NSW (GANSW).

The SDRP made a number of recommendations relating to consultation with the Aboriginal community, amending the geometry of the building, increasing the setback to Margaret Street, decreasing GFA, providing street trees on Margaret Street, further detailed design refinements for the southern tower, and further consideration of cross ventilation and sustainability commitments. After the fourth meeting, the Government Architect NSW (GANSW) identified their support for the following design elements:

- shifting the bulk of the tower to the north
- increasing setbacks to the south-eastern boundary
- increasing setbacks to Margaret Street to allow for an improved relationship with the church and increasing the capacity for street planting
- reducing setbacks to William Lane to facilitate the space between the proposal and 13-23 Gibbons Street as a through-site link rather than a gathering space
- reducing the height of the southern tower
- providing a range of indoor and outdoor communal spaces
- consulting with the Aboriginal community.

The GANSW also provided further recommendations, comprising:

- that the design satisfies Council that an appropriate standard can be achieved for balancing noise and ventilation requirements
- the amenity of corridor spaces be improved through providing windows and relocating plant, risers, and service cupboards
- a visual connection is provided between bicycle parking and the ground floor communal open space

- the location of services and accessible ramps be reconsidered to improve the flexibility of the ground floor
- shading opportunities be considered for the podium and rooftop terraces.

The Applicant's RtS provided updated plans and further technical assessments addressing each of the GANSW recommendations, including confirming that mechanical ventilation would be provided, providing windows to corridors, amending the location of service risers and cupboards, amending the ground floor to improve activation and passive surveillance, and providing awnings to approximately one third of rooftop terraces.

The Department has considered the advice from the SDRP, GANSW, and the matters to be considered under clause 22 of Appendix 3 of the SEPP PEHC and is satisfied the development exhibits design excellence as:

- through the SDRP process, GANSW review and assessment process, the proposed design has been refined by:
 - improving its relationship to the St Luke's Presbyterian Church by proposing two tower elements which decrease in height and provide greater setbacks toward the church
 - reducing the GFA
 - increasing setbacks to Margaret Street
 - increasing communal open space areas
 - improving ground level access and activation of street frontages
 - improving various detailed design matters.
- the building facades are of a high architectural quality, and provide opportunity for future public art, providing suitable articulation and materials to mitigate the building's visual bulk and scale
- the proposal will improve the amenity of the existing public domain by providing:
 - increased ground floor activation
 - street tree planting, awnings, and footpath upgrades
 - public art on the visible southern façade of the northern tower to reflect the cultural Aboriginal significance of the site and contribute to the skyline
- the building has been designed to ensure an adequate degree of sunlight, natural ventilation, and privacy for student accommodation rooms, achieving an overall acceptable level of amenity within the constraints of the site and its use as student accommodation
- the building incorporates appropriate sustainable design principles that exceed the energy and water reduction targets required for BASIX certification.

The Department, therefore, concludes the proposal exhibits design excellence consistent with the requirements of SEPP PEHC. The Department recommends a condition of consent requiring that the Applicant engage Antoniades Architects through the design documentation phase to ensure the integrity of the design is maintained through the construction phase to the completion of the development.

6.2 Built form

The Department considers the key built form issues associated with the proposal are:

- building height (towers and podium)
- tower and podium setbacks
- building separation and privacy
- overshadowing
- view impacts.

6.2.1 Tower heights

The proposed development provides two connected towers that vary in height.

The lower, southern tower is 15 floors with a full-height parapet for a rooftop communal open space area. The connected, taller, northern tower is 18 floors plus rooftop plant (totalling partially 19 storeys) (**Figure 16**).

The southern tower complies with the maximum 18-storey height limit in the SEPP PEHC. The northern tower also predominantly complies with the height limit except for a section of the rooftop plant that does not fall under the exemptions listed in the definition of a 'storey' (**Figure 17**). This rooftop area is supported by a request to vary the development standard under clause 16A, Appendix 3 of SEPP PEHC.

“storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or*
- (b) a mezzanine, or*
- (c) an attic.”*

Council's submission objected to the proposed northern tower height and recommended that the tower be lowered to match the neighbouring development and be integrated into the roof structure or substantially setback from the perimeter of the tower. Public submissions also sought to reduce the height and bulk of the development to transition to lower density areas to the south.

In response, the Applicant reduced the building parapet and rooftop plant on the northern tower from 3.55 m to 1.5 m and reduced the height of the lift overrun/exhaust above. The footprint of rooftop plant was also marginally reduced and the overrun/exhaust area that is visible above the plant level was screened with metal louvres. The amended overrun/exhaust area is in the centre of the development site and is setback from Regent Street (**Figure 18**). No change was made to the height and setback of the southern tower, which complies with the SEPP.



Figure 16 | Long section (left) and Regent Street elevation (right), indicating the 18-storey height plane (red dotted line) (Base source: RRtS Architectural Plans)

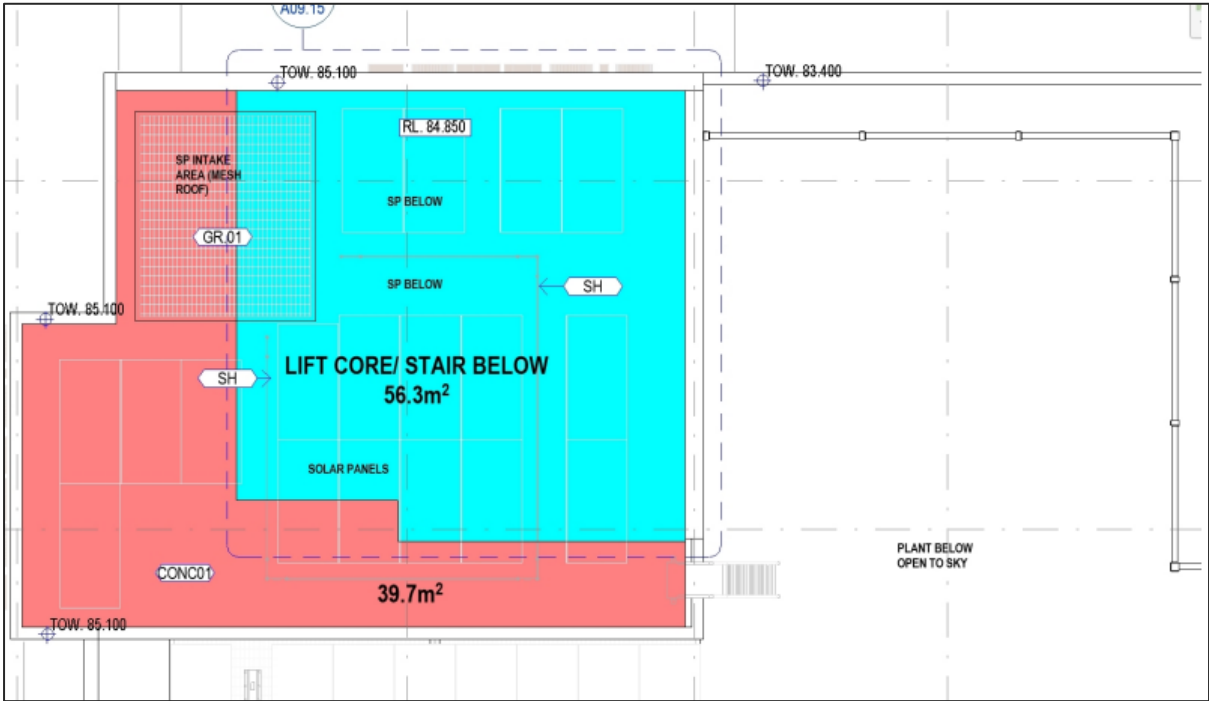


Figure 17 | The area of rooftop plant that meets the definition of a 'storey' and exceeds the height limit coloured red (Base source: RRtS Variation Request)

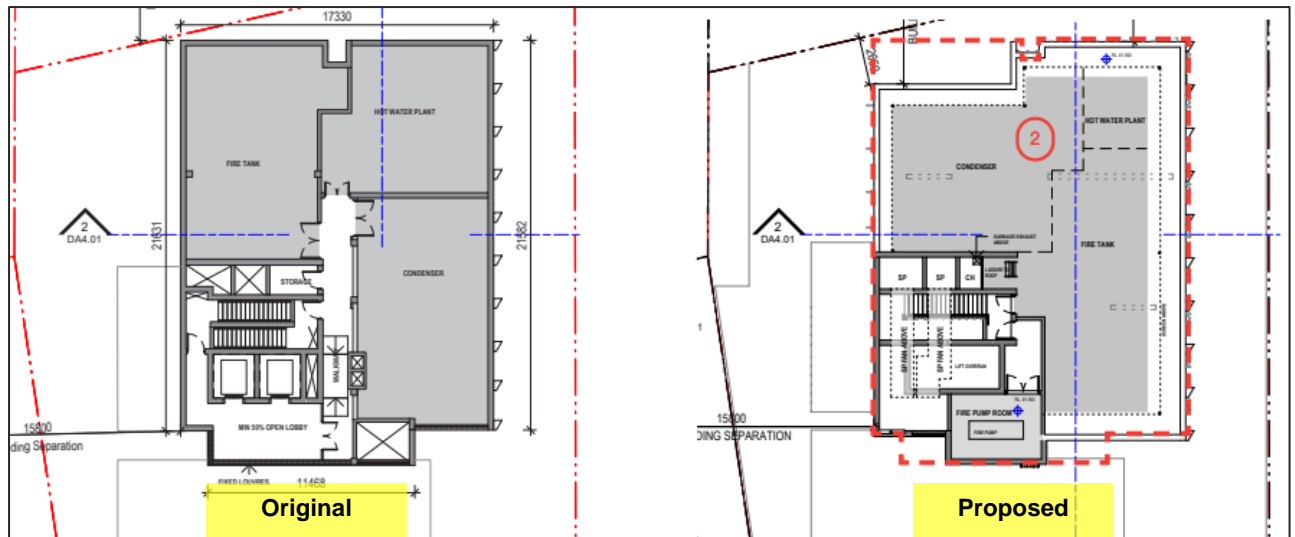


Figure 18 | Comparison of original and revised rooftop plant footprint (Base source: RtS Architectural Plans)

Council’s submission to the RtS and RRtS did not raise further concern with the rooftop plant or northern tower height.

The Department considers the tower building heights, including the proposed non-compliance, acceptable for the following reasons:

- the maximum height of the northern tower is less than, or consistent with, the adjoining development at 90-102 Regent Street ensuring that development within the Redfern Town Centre steps-down in height and responds to the prevailing topography of the area
- the dual tower form with a lower southern tower reduces the massing and scale of development and improves the interface with lower scale development outside of the Town Centre, including the church
- the southern tower rooftop will be used as communal space and, therefore, all plant equipment needs to be accommodated on the northern tower rooftop
- the rooftop plant and equipment has been setback from the rooftop perimeter to minimise any potential visual impacts
- the proposed variation does not restrict or block any significant views and is compatible with the existing visual character
- the proposed plant/services are located behind the building parapet or are screened with metal louvres and setback from the primary street frontages of Regent Street and Margaret Street, ensuring that they are largely integrated with the overall built form and are not visually intrusive or prominent in the streetscape
- the area that is above the height limit is used for plant/services, which is non-habitable and does not contribute to the overall capacity of the site in terms of GFA or FSR
- reallocating plant/services to the southern tower rooftop would reduce the extent of communal open space and the amenity of future residents

The Department’s detailed consideration of clause 16A of SEPP PEHC is provided at **Appendix D**. The Department concludes the proposed towers’ building heights are acceptable.

6.2.2 Podium Height and Setbacks

Street level

At the street level, the building provides a nil setback to Regent Street, a 4.6 m setback to Margaret Street and a 2.4 m setback to William Lane. These proposed setbacks either comply with, or exceed, the setbacks nominated in SEPP PEHC and the RCUDP.

Council's submission to the EIS raised concern with the 4.6 m setback to Margaret Street that is greater than the nil setback in the SEPP PEHC and the RCUDP, raising concern that the building would not positively reinforce the street edge.

Public submissions requested that a greater setback be provided to reduce potential impacts to St Luke's Church and other development south of Margaret Street.

The Department finds the proposed street setbacks acceptable as:

- they do not result in adverse amenity impacts as discussed further in **Sections 6.2.4** and **6.2.5**
- they reinforce a consistent building line with neighbouring development on Regent Street and William Lane
- while the setback to Margaret Street is greater than what is permitted in the planning controls, this setback provides for increased public domain on Margaret Street and improves the transition between the site and development outside of the Redfern Town Centre aligning with the advice of the SDRP and GANSW.

Podium level and above

Above the podium, the connected towers are setback part 4 m and part 8 m to Regent Street, and 5.6 m to Margaret Street. The proposed development adopts a consistent three-storey podium height to all street frontages, including to William Lane and the through-site link. Further consideration of building separation is provided in the **Section 6.2.3** below.

SEPP PEHC provides a maximum podium height control of two storeys to Regent Street and three storeys to Margaret Street (**Figure 19**). The RCUDP contains the same controls, and the following additional requirements:

- zero setback to Regent Street and Margaret Street to activate the streetscape
- 0.8 m setback to William Lane for the opportunity for footpath widening
- 8 m setback above the podium to Regent Street to follow the existing building line or the setback of adjacent buildings
- 4 m podium setback above the podium to Margaret Street to follow the existing building line or the setback of adjacent buildings.

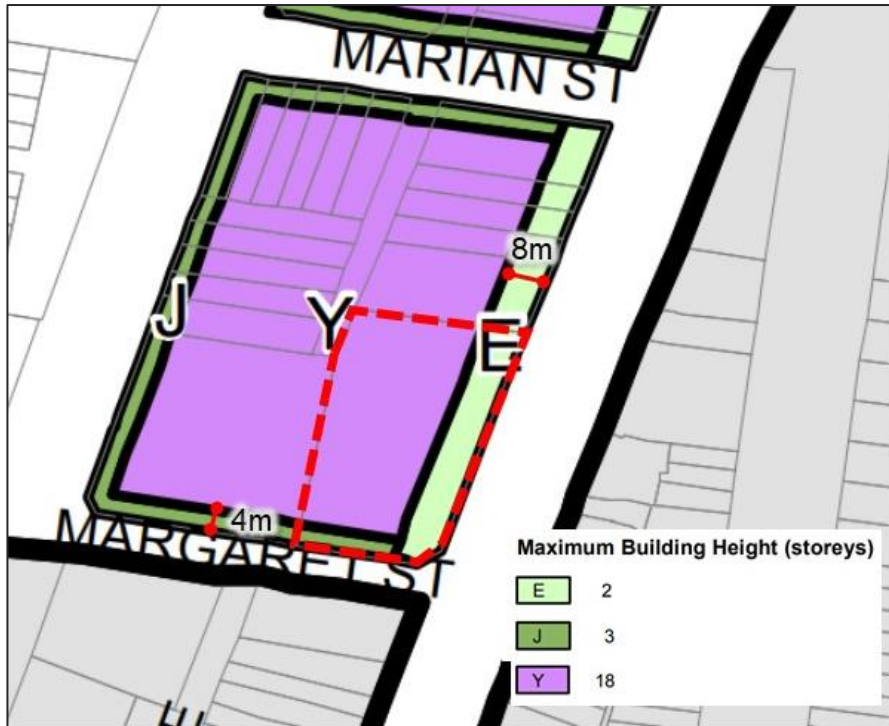


Figure 19 | Extract of the maximum building height plan, with the site outlined in red (Base source: SEPP PEHC)

The proposal therefore complies with the maximum podium height control of three storeys and a 4 m setback to Margaret Street, but does not comply with the maximum podium height control of two storeys to Regent Street and only partially complies with the 8 m setback to Regent Street. The request to vary the maximum building height development standard under clause 16A, Appendix 3 of the SEPP is provided at **Appendix D**.

Council objected to the consistent three storey podium height citing that it did not correlate to the topography and fine-grain character of the locality. It was recommended that the podium height step in elevation to relate to the site's topography consistent with neighbouring consents. No concern was raised with the variable tower setback to Regent Street.

The Applicant revised the podium design to modestly step in height with the topography of Regent Street, while maintaining its overall three storey height. The three storey podium is identified as a continuation of the predominant streetwall height shared with the neighbouring development at 90-102 Regent Street, and the broader Regent Street context (**Figure 21**).

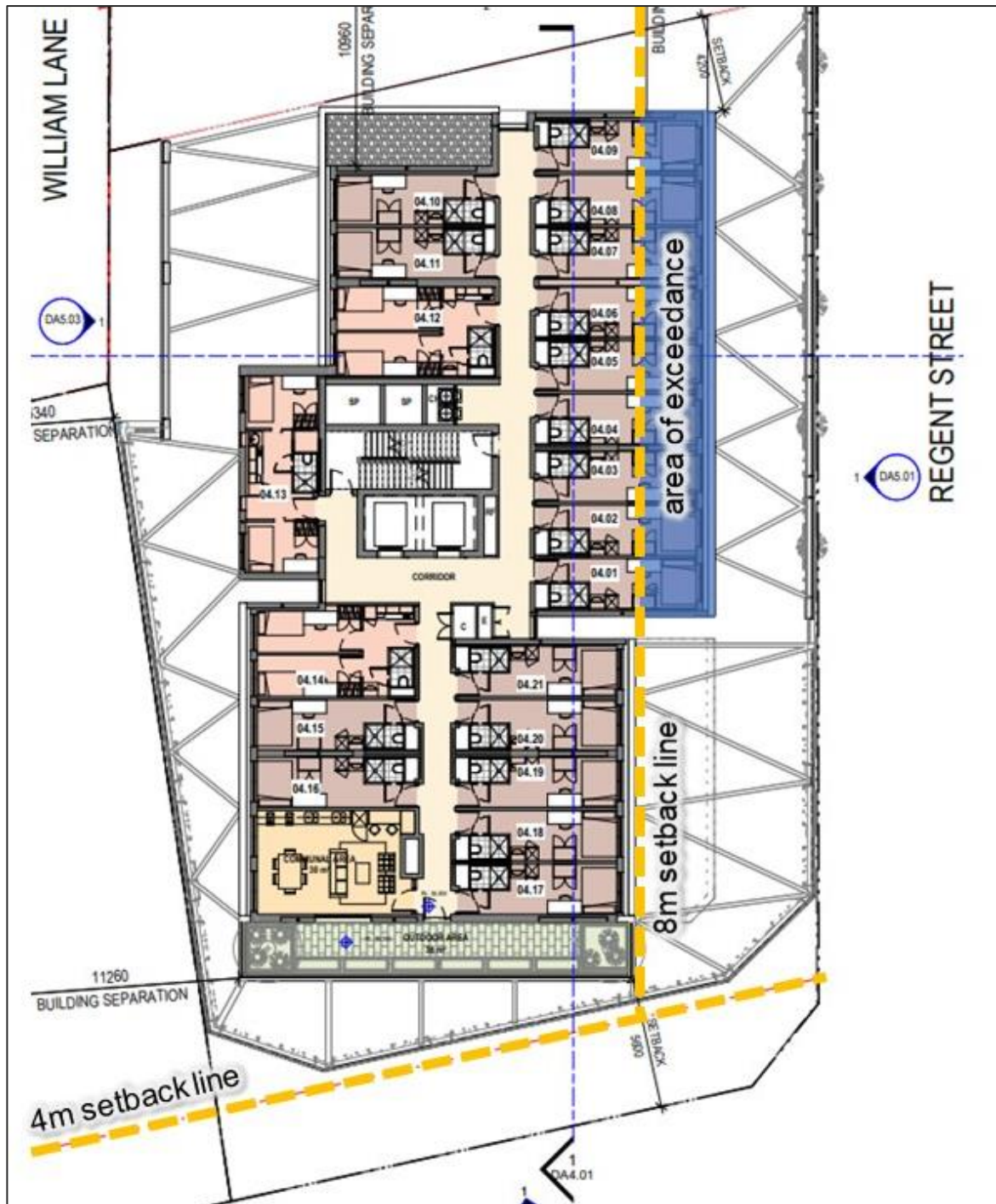


Figure 20 | Typical tower level showing the section that does not comply with the podium height setback (Base source: RtS Architectural Plans)

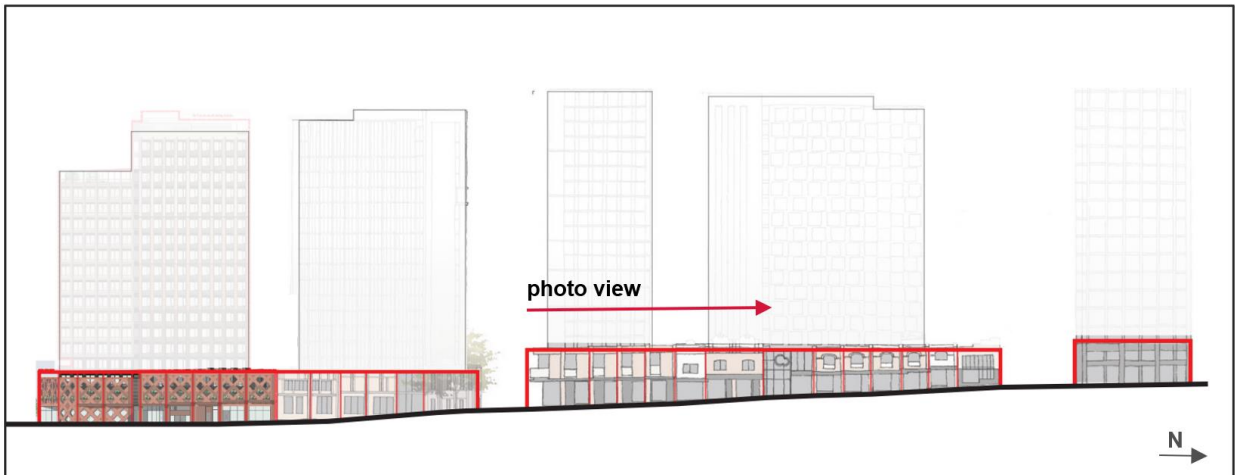


Figure 21 | Streetwall heights of new development in the Redfern Town Centre (i.e. between Margaret Street and Lawson Square) (Source: Top: site photo, Bottom: RtS Urban Design Report)

Council's submission to the RtS and RRtS did not raise further concern with the podium height or Regent Street setbacks.

The Department considers the proposed podium height and setbacks acceptable for the following reasons:

- the podium height to Regent Street aligns with the neighbouring development at 90-102 Regent Street and the wider streetscape within the Redfern Town Centre, creating a consistent human scale
- the stepped podium height responds to the topography of the site
- the design has been refined to respond to the feedback of the SDRP, including redistributing form and massing to increase the setback and stepdown the building height to Margaret Street, improving the transition between the Redfern Town Centre and surrounding areas
- the northern tower's 4 m setback to Regent Street aligns with the neighbouring development at 90-102 Regent Street, before transitioning to a compliant 8 m setback for the southern tower to improve the bulk and scale relationship with St Luke's Presbyterian Church
- the setback above the podium to Regent Street had been varied on several occasions, including for the neighbouring buildings at 90-102 Regent Street, 80-88 Regent Street, and 60-78 Regent Street
- the podium design breaks-up the façade into smaller elements as an interpretation of the fine-grain pattern created by shopfronts or a grouping of terraces that characterises the wider Redfern neighbourhood
- the podium's brick finish references similar qualities of existing and approved buildings in the Regent Street, Margaret Street and William Lane streetscapes
- amenity impacts including overshadowing and the pedestrian wind environment are acceptable as discussed further in **Sections 6.2.4** and **6.2.5** below
- the proposal ultimately provides a podium with tower setbacks and achieves an appropriate design outcome for the site consistent with the intent of the controls.

The Department's detailed consideration of clause 16A of SEPP PEHC is provided at **Appendix D**. The Department concludes the proposed podium heights and setbacks are acceptable.

6.2.3 Building separation and privacy

The NSW Apartment Design Guide recommends a minimum separation distance of 12 m and up to 24 m between towers in excess of nine storeys in height. Where separation distances are not achieved, it recommends mitigation measures such as privacy screens. The Department notes that while the ADG does not apply to student accommodation buildings, it provides a useful guide for the assessment of building separation and privacy.

The proposed development adjoins student accommodation buildings to the north (90-102 Regent Street) and west (13-23 Gibbons Street) and is adjacent to further residential and commercial development on the opposite sides of Regent Street and Margaret Street.

The development does not satisfy the recommended building separation distances to the northern and western boundaries, by a minimum 13 m and 12 m respectively, where habitable rooms are adjacent to these other student accommodation developments. The proposed building setbacks are shown in **Figure 22** and **Figure 23** below.

The Department has considered the proposed building separation and visual privacy for each elevation in the following sections.

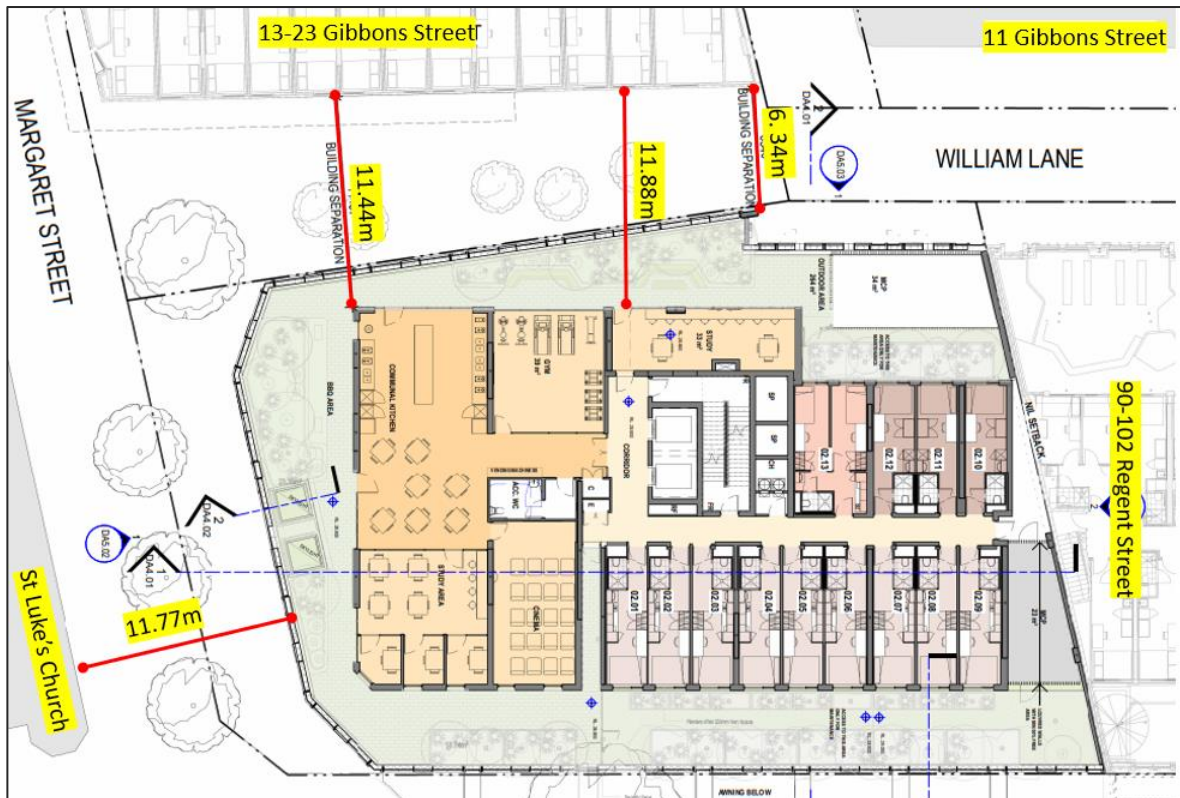


Figure 22 | Proposed development showing the separation distances (typical podium form – Level 1) (Base source: RRtS Architectural Plans)

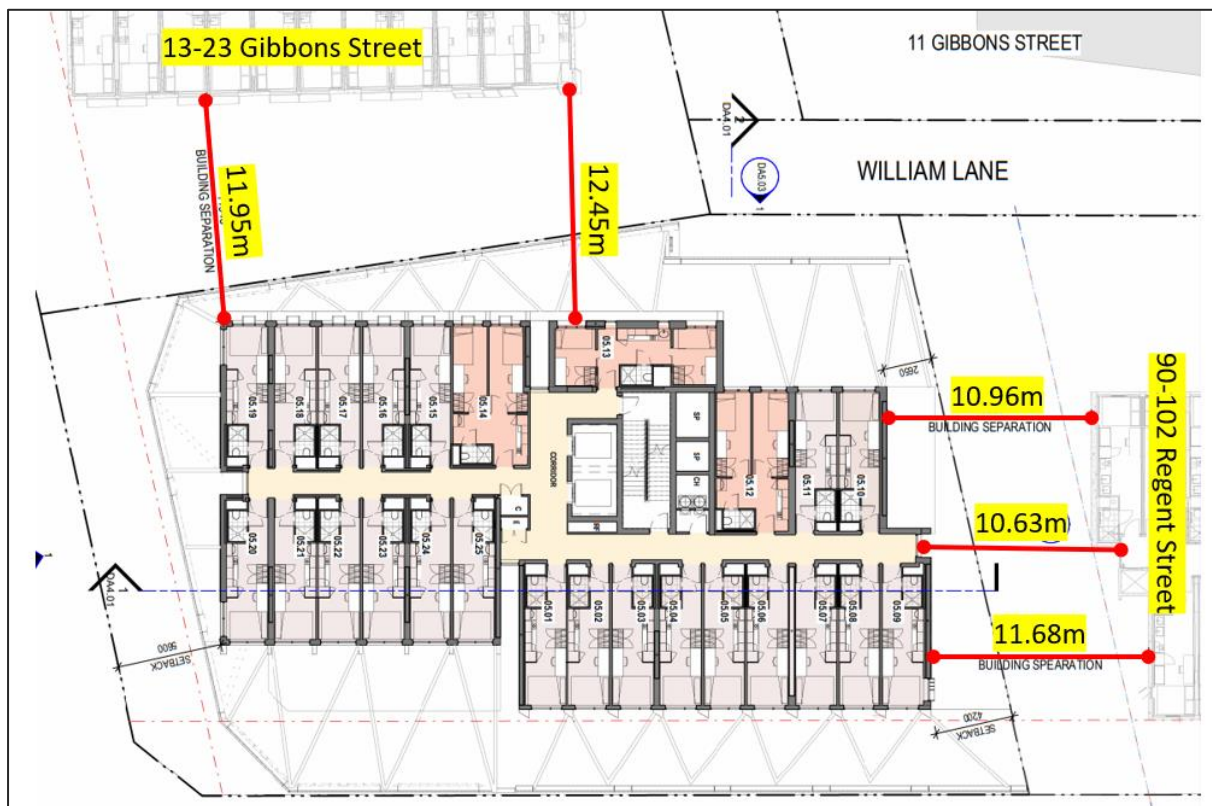


Figure 23 | Proposed development showing the separation distances (typical tower form – Levels 5-8) (Base source: RRtS Architectural Plans)

North elevation

The separation distances for the northern elevation are summarised as follows:

Elevation	Separation *
North (90-102 Regent Street)	<ul style="list-style-type: none">• nil between proposed podium and neighbouring podium• 10.96 m between habitable rooms in the north-western corner• 11.68 m between habitable rooms in the north-eastern corner• 10.63 m between corridors

*Note: distances measured off plans

Council objected to the northern setback in its submission to the EIS and specifically the party wall setback of 0.3 m-4.1 m from the shared boundary to student accommodation at 90-102 Regent Street. It was recommended that greater setbacks be imposed, as well as installing fixed external privacy louvres on north-facing corridors and windows.

In response, the Applicant removed the room in the north-western corner of the building from Levels 4-18 (above the podium) to increase the tower setback to the boundary from 0.3 m to 2.65 m, resulting in the overall building separation distance to the adjoining development increasing from 8.3 m to 10.96 m between habitable rooms at the narrowest corner of the site. Windows in the north-western façade were also removed, louvres were incorporated for north-facing residential corridors, and privacy fins were added to the north-eastern windows to direct views to Regent Street (**Figure 24**).

Council maintained an objection to the RtS building separation distance, but noted that the proposal was consistent with the approved separation distances for the adjacent sites at 13-23 Gibbons Street and its northern building separation to 11 Gibbons Street. Council subsequently withdrew its objection in response to the RRtS.



Figure 24 | External privacy fins proposed for north-eastern windows – left: 3D render, right: indicative view looking out (Source: RtS Urban Design Report)

The Department considers the proposal will not result in adverse privacy impacts as the design has been revised to increase building separation, reduce windows on the northern façade in the narrowest corner of the site, and to incorporate privacy screening measures for the remaining northern windows.

As a further safeguard, the Department recommends a condition of consent requiring the glass louvres (material type 'GL-01') indicated for the north-facing corridors be semi-opaque, and not clear, to prevent

overlooking and achieve the intent of Council’s recommendations for maintaining the privacy of neighbouring development at 90-102 Regent Street.

While removing all the windows along the northern facade would mitigate all potential privacy impacts, the Department considers such a solution would negatively impact amenity, façade articulation and be inconsistent with advice from the SDRP and GANSW (**Section 6.1**). The proposed and recommended privacy screening measures are therefore supported in this instance.

Western elevation

The separation distances for the western elevation are summarised as follows:

Elevation	Separation *
North (13-23 Gibbons Street)	<ul style="list-style-type: none"> • nil separation to ground floor communal spaces • min. 6.87 m to neighbouring windows and the edge of communal open space on Level 2 • min. 11.88 m between neighbouring windows and internal communal spaces on Level 2 • min. 11.26 m between habitable rooms on Level 3 • min. 11.95 m between habitable rooms Levels 4-15 • min. 11.95 m between neighbouring windows and communal open space on Level 16

**Note: distances measured off plans*

Council raised concern with the western separation distance in its submission to the EIS, requesting that the setbacks be increased and recommending that operable external privacy louvres be installed on rooms facing the student accommodation building at 13-23 Gibbons Street.

The Department notes western-facing rooms are treated with colourback glass (opaque glass) at the lower edge of the window, as well as external screening measures (fins and hoods) fitted to the windows to limit direct views into or out of windows (**Figure 26**). These privacy measures complement the fins and horizontal solar shades that are provided on the approved facades of 13-23 Gibbons Street, to limit overlooking between habitable rooms.

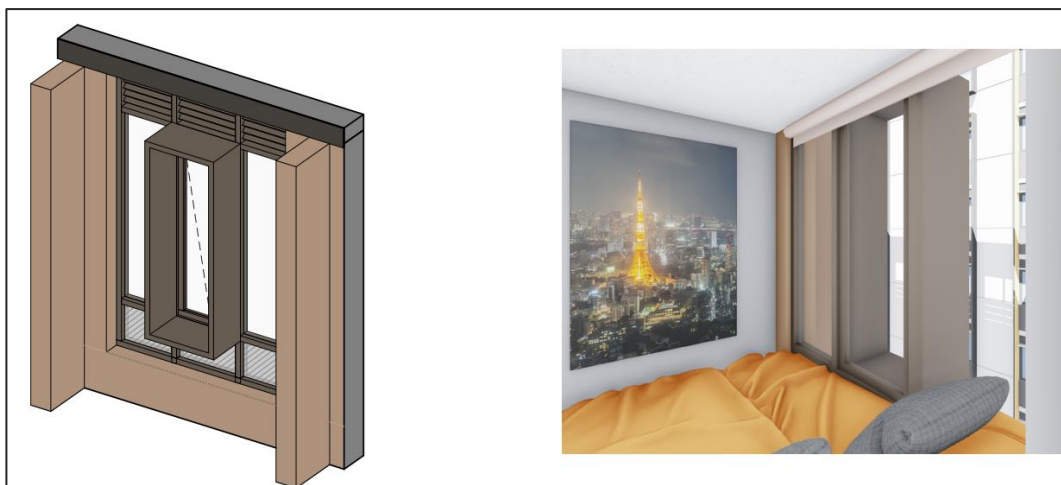


Figure 25 | External privacy treatment to west facing windows – left: 3D render, right: indicative view looking out (Source: RtS Urban Design Report)

The western edges of the communal open space areas on the roof of the podium and southern tower are screened by a parapet or façade elements and will be landscaped to limit potential overlooking between the open space areas and neighbouring habitable rooms. Use of the communal open space areas will also be restricted to between 8am and 10pm.

Council's submission to the RtS maintained that should the proposed setbacks be supported, a condition should be imposed requiring that operable privacy treatments be installed for west-facing rooms (room types 13, 14, 15, 16, 17, 18 and 19 from level 5 upwards) to provide user-controlled privacy whilst maintaining access to daylight.

While the proposed colourback glass and external screening measures for west-facing rooms are not operable, the Department considers these privacy treatments are acceptable when coupled with typical internal finishes such as curtains/blinds.

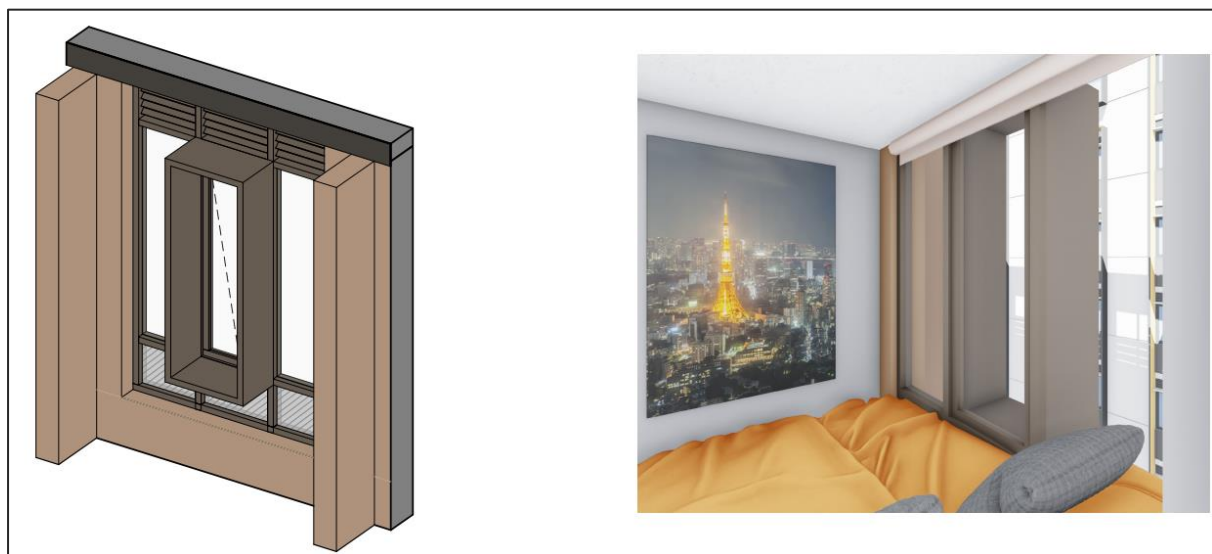


Figure 26 | External privacy treatment to west facing windows – left: 3D render, right: indicative view looking out (Source: RtS Urban Design Report)

South elevation

Elevation	Separation *
South (St Luke's Church and 1 Margaret Street)	<ul style="list-style-type: none"> • min. 11.77 m to St Luke's Church • min. 20 m to 1 Margaret Street

**Note: distances measured from plans*

Public submissions raised concern with the potential to overlook the apartments and balconies/terraces at 1 Margaret Street from the development's communal open space areas at the podium roof, the southern boundary of Level 4, and the southern tower roof. A public submission also requested increasing setbacks to 118 Regent Street (St Luke's Church).

The development has prioritised a greater setback (minimum 4.5 m) to the southern boundary to create a plaza at ground level, and a tower that is setback a further minimum 1.6 m from Margaret Street than the SEPP PEHC controls. Overall, the building is located 20 m+ north-east of the existing residences

at 1 Margaret Street, and is setback further from St Luke's Church than what could otherwise be achieved under SEPP PEHC and the RCUDP.

The communal open space area on the roof of the podium is screened by a woven, brick façade and podium parapet as well as landscaping within the communal open space and planters integrated into the façade. These design measures would appropriately minimise potential overlooking between the communal open space areas and neighbouring residences.

Other communal open space areas at Level 4 and on the roof of the southern tower incorporate balustrades and planting at the edges as screening. Use of the communal open space areas will also be restricted to between 8am and 10pm.

East elevation

Elevation	Separation *
East (Regent Street)	<ul style="list-style-type: none">min. 20 m for the edge of the podium from the eastern side of Regent Street24 m-28 m for the towers above

**Note: distances measured from plans and survey*

Development on the eastern side of Regent Street is generally separated from the building by at least 20 m at the podium level, and by approximately 24 m-28 m at the towers' levels above. The podium is appropriately screened by a woven, brick podium façade, and the Department considers that the setback of 24 m+ above the podium is acceptable as it complies with the recommended ADG minimum separation distance and would not result in any adverse visual privacy impacts.

Conclusion

The Department has considered the proposed building separation and visual privacy for each elevation, and considers the proposed building separation and privacy impacts acceptable as:

- the proposed building separation is consistent with the emerging built form character of the Redfern Town Centre, as similar separation distances have been approved for the neighbouring developments (11 Gibbons Street, 13-23 Gibbons Street and 90-102 Regent Street) as well as other developments in the block bounded by Gibbons, Redfern, Regent and Marian Streets to the north of the site
- the proposal is compatible with surrounding development in terms of bulk and scale and setbacks, and as such will visually integrate with the developing Town Centre
- the proposed building separation combined with internal and external privacy treatments will ensure adequate privacy for future residents of the building and neighbouring sites
- communal open space areas are largely screened by parapets or balustrades and vegetation to limit potential overlooking between open space and neighbouring habitable rooms, and will be restricted to only operate between 8am and 10pm
- the proposal provides adequate separation to development outside of the Redfern Town Centre on the eastern side of Regent Street and southern side of Margaret Street, ensuring the privacy of these surrounding areas is not adversely impacted
- the proposed development exhibits design excellence (see **Section 6.1**) and does not result in any adverse amenity impacts, including overshadowing or wind (see **Sections 6.2.4** and **6.2.5**)

The Department, therefore, concludes the proposed building separation and privacy impacts are acceptable.

6.2.4 Overshadowing

The application was accompanied by overshadowing plans demarcating the areas of additional overshadowing created by the development during mid-winter (21 June) between 9am and 3pm.

Council's submission to the EIS raised concern with the degree of shadow cast to the south-west, south, and south-east in mid-winter and requested that further information be provided on the specific impacts of overshadowing to 1 Margaret Street and the playing field at National Centre of Indigenous Excellence (160-202 George Street).

Public submissions also raised concern with cumulative overshadowing impacts to the south from recently approved and constructed development within the Redfern Town Centre.

An Urban Design Report and updated overshadowing plans submitted with the RtS further detailed the areas of overshadowing to 1 Margaret Street and National Centre of Indigenous Excellence. The overshadowing plans demonstrated that additional overshadowing would fall on the following areas:

- 1 Margaret Street – minor additional overshadowing in the south-east corner of the building from 9am-9:30am (**Figure 27**)
- 118 Regent Street (St Luke's Church) – varying additional overshadowing of the northern façade and roof between 9am and 12pm (**Figure 27**)
- Residences on eastern side of Regent Street and Cope Street – varying additional overshadowing from 12pm
- 160-202 George Street (playing field for National Centre of Indigenous Excellence) – additional overshadowing from 2pm-3pm in the north-eastern and north-western sections of the playing field (**Figure 28**).



Figure 27 | Extracts illustrating extent of overshadowing (shaded red) to 1 Margaret Street and 118 Regent Street (emphasised in blue outline) (Source: RtS Architectural Plans)

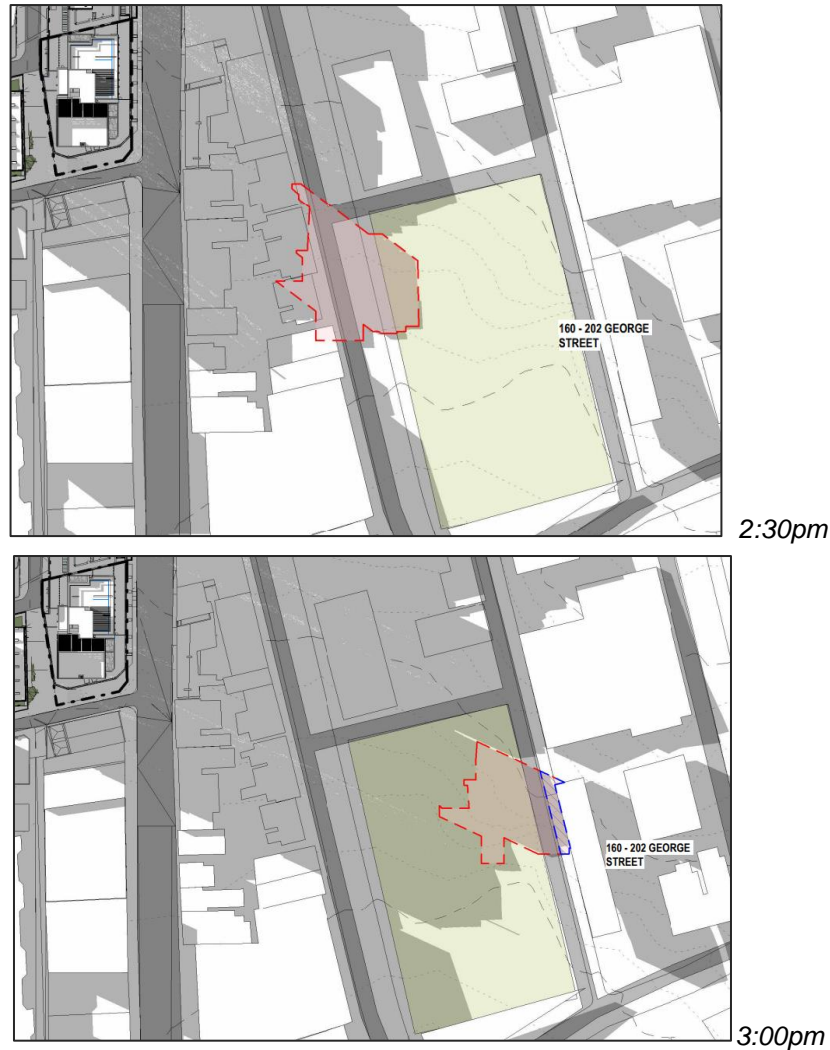


Figure 28 | Extracts illustrating extent of overshadowing (shaded red) to the playing field for National Centre of Indigenous Excellence (Source: RtS Architectural Plans)

The Department notes the overshadowing impacts would:

- occur for a short duration at 1 Margaret St and does not materially increase overshadowing to existing residences or primary open space areas (**Figure 27**)
- reduce solar access at St Luke’s Church, but considers the development has adopted a greater southern setback than specified in SEPP PECH and RCUDP and complies with the maximum building height at this interface (**Figure 27**)
- have varying additional overshadowing from 12pm for residences on the eastern side of Regent Street and Cope Street, noting that solar access is not affected between 9am and midday and, therefore, solar access will not be reduced to less than 3 hours
- result in additional overshadowing from 2pm-3pm in the north-eastern and north-western sections of the playing field for National Centre of Indigenous Excellence. However, the Department notes that the playing field will remain unaffected between 9am-1:30pm and, therefore, the development does not adversely impact use of the playing field in mid-winter (**Figure 28**).

The Department considers the potential overshadowing impacts acceptable because:

- the extent of overshadowing arising from the scale and form of the proposed development was anticipated by and a consequence of realising the adopted planning controls
- similar conclusions have been accepted in considering overshadowing impacts for surrounding development at 80-88 Regent Street, 13-23 Gibbons Street, and 90-102 Regent Street
- the development will not significantly reduce overshadowing for surrounding residences or open space areas, noting these areas will maintain at least 3 hours of sunlight in the morning or will not be materially affected by the proposed development
- the development would comply with the ADG that specifies that residential development in high density areas should achieve a minimum 2 hours of solar access during the winter solstice
- the overshadowing of neighbouring sites to the south and east is unavoidable given the proximity and orientation of these sites, and the permitted height and FSR controls of the subject site
- the development adopts a greater setback than prescribed in SEPP PEHC and the RCUDP and complies with the maximum height controls on the southern and eastern sections of the site.

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.

6.2.5 Wind impacts

The Applicant provided an amended Environmental Wind Assessment as part of the RtS assessing the wind environment in key outdoor areas within the development and in the surrounding public domain.

The assessment included wind tunnel testing to determine compliance with the wind safety criteria as well as measuring the comfort and amenity of footpaths, building entrances, and outdoor spaces.

The assessment concluded that all test locations would comply with the Sydney DCP 2012 safety criteria, that all surrounding footpaths at the building entry points would be comfortable for standing and walking, and that communal outdoor spaces would be comfortable for standing.

To further improve wind conditions, it was recommended that the development:

- provide a continuous awning to Regent Street
- retain existing street trees on Regent Street
- provide street trees along Margaret Street and the through-site link
- provide vertical façade screening along the perimeter of the podium
- provide evergreen tree planting at the outdoor communal open spaces on levels 2, 4 and 16
- provide localised horizontal protections (e.g. pergola, shade-cloth or umbrellas) to any seating areas on levels 2 and 16.

Following the review of the amended Environmental Wind Assessment, Council requested that the recommendations outlined in the assessment be reflected in the architectural and landscape plans. Council also recommended that further landscape measures be implemented in the through-site link to comply with the Sydney DCP 2012 sitting comfort criteria.

Public submissions also raised concern with the wind testing locations and requested wind monitoring post-construction in response to the EIS and RtS.

In response, the Applicant incorporated the recommendations of the Environmental Wind Assessment into the architectural and landscape plans in the RRtS, with the exception of works to the through-site

link which are not within the site boundary and will be pursued as part of a separate application. The Applicant also identified there is no requirement to assess wind conditions on neighbouring private balconies and confirmed there would be no additional wind impacts to the roof terrace area of 1 Margaret Street and, therefore, no post-construction monitoring is required.

The Department is satisfied that the development will achieve the wind safety criteria and, through implementing wind mitigation measures, it will achieve an acceptable level of amenity in outdoor spaces and the surrounding streets. The Department also notes Council raised no further concern with potential wind impacts associated with the revised scheme.

6.3 Public domain and landscaping

Public domain works

The Landscape Plans submitted with the EIS propose a range of public domain works, including:

- footpath upgrades to Regent Street and Margaret Street
- decorative weaving brick pattern paving and footprint art at the Margaret Street building entrance
- awnings over Regent Street and the building entry on Margaret Street
- removing an existing street tree on Regent Street
- providing three new street trees on Margaret Street.

Council's submissions to the EIS, RtS, and RRtS identified a number of matters requiring resolution. This included retaining the existing street tree on Regent Street, planting further street trees, demonstrating adequate spacing between trees, providing appropriate amenity in the building setback to Margaret Street, upgrading the Margaret Street crossing and lighting as part of the public domain works. Council also recommended that all public domain works be in accordance with Council standards, guidelines and policies. Council requested changing Margaret Street to one-way traffic and widening the footpath or providing an easement for public access in the building setback along Margaret Street.

In response, the Applicant provided amended Landscape Plans as part of the RtS and RRtS addressing Council's submissions. The amended plans sought to retain the existing street tree on Regent Street and increase street tree planting on Margaret Street, provide two skylights over the building entry on Margaret Street for improved amenity, and demonstrate adequate spacing between trees. The Applicant confirmed that the upgrades would be to Council's specifications.

The Applicant advised as part of the RtS that additional street tree planting on Regent Street would not be possible due to existing services as evident in a Services Location Survey. An addendum to the Arboricultural Impact Assessment submitted with the RRtS confirmed that the existing street tree on Regent Street was capable of being retained through the construction phase.

The Applicant also met with Council to address the design of the public domain including potential changes to the operation of Margaret Street. It was agreed that changes to vehicle movements on Margaret Street were outside of the scope of the application and would not be pursued as part of this application. For these reasons, the requested works to the Margaret Street crossing would also not form part of the proposed public domain works.

The final public domain works proposed are shown in **Figure 29** below.

- Level 2 – podium planters, new trees, concrete planter walls, seating and tables and BBQ area
- Level 4 – podium planters and seating
- Level 16 – podium planters, new trees, garden lounge area, arbour with climbers, seating and tables, BBQ area, outdoor cinema and awning

Council’s submissions to the EIS, RtS, and RRtS identified a number of matters for resolution, including adequately spacing trees, providing sufficient soil depth in planter boxes, designing wall mounted seats to not impact garden beds, and providing a range of furniture that can accommodate different users. It was also requested that all façade planting be maintained from within the site and not rely on the use of cherry pickers from the public domain which would require a permit from Council.

In response, the Applicant made a range of design changes to the Landscape Plans in the RtS and RRtS, including revising tree planting in communal areas, revising seating options, providing further details of soil depths, dimensions, and edge conditions for planting zones, removing planter boxes that are not accessible from within the site and retaining planters to the rear of the façade that can be accessed safely without a cherry picker.

The final landscaping works proposed are shown in **Figure 30** to **Figure 32** below.



Figure 30 | Level 2 (podium rooftop) landscaping works (Base source: Applicant’s RRtS Landscape Plans)

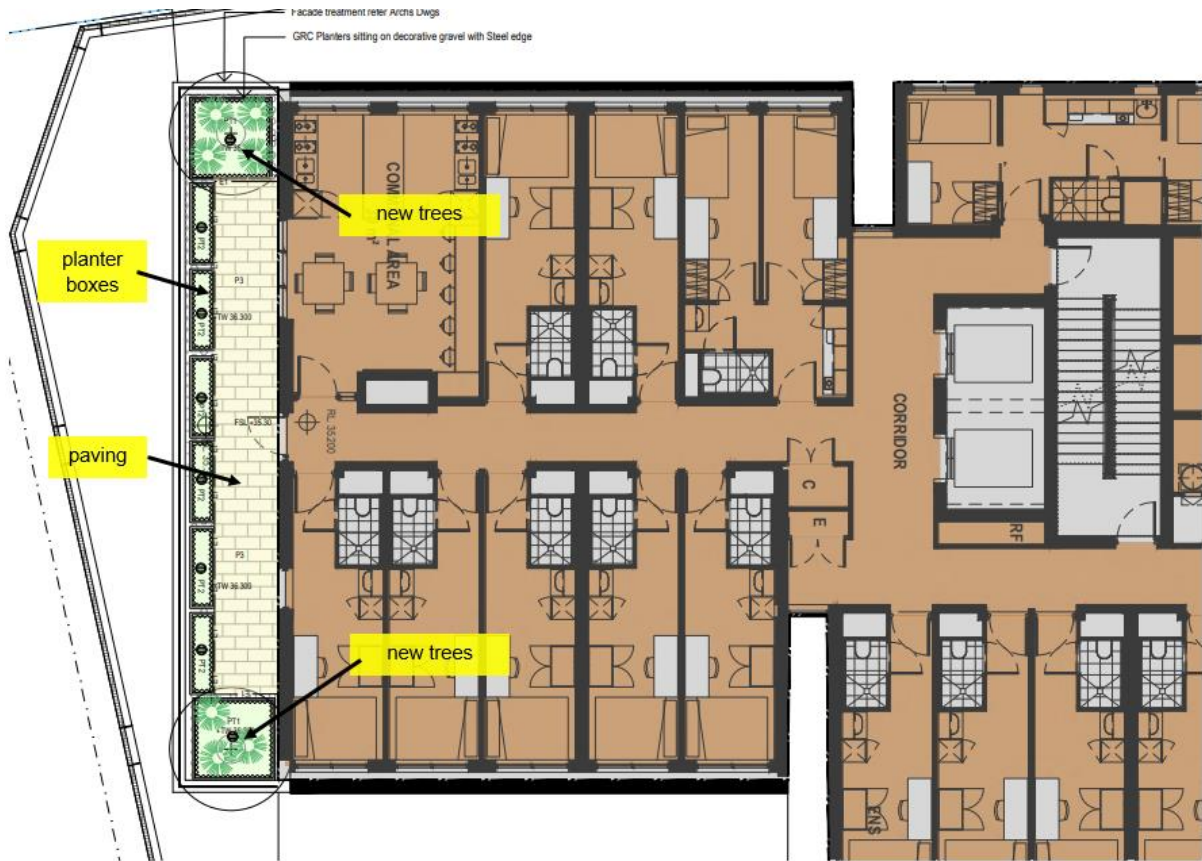


Figure 31 | Level 4 landscaping works (Base source: Applicant's RRtS Landscape Plans)

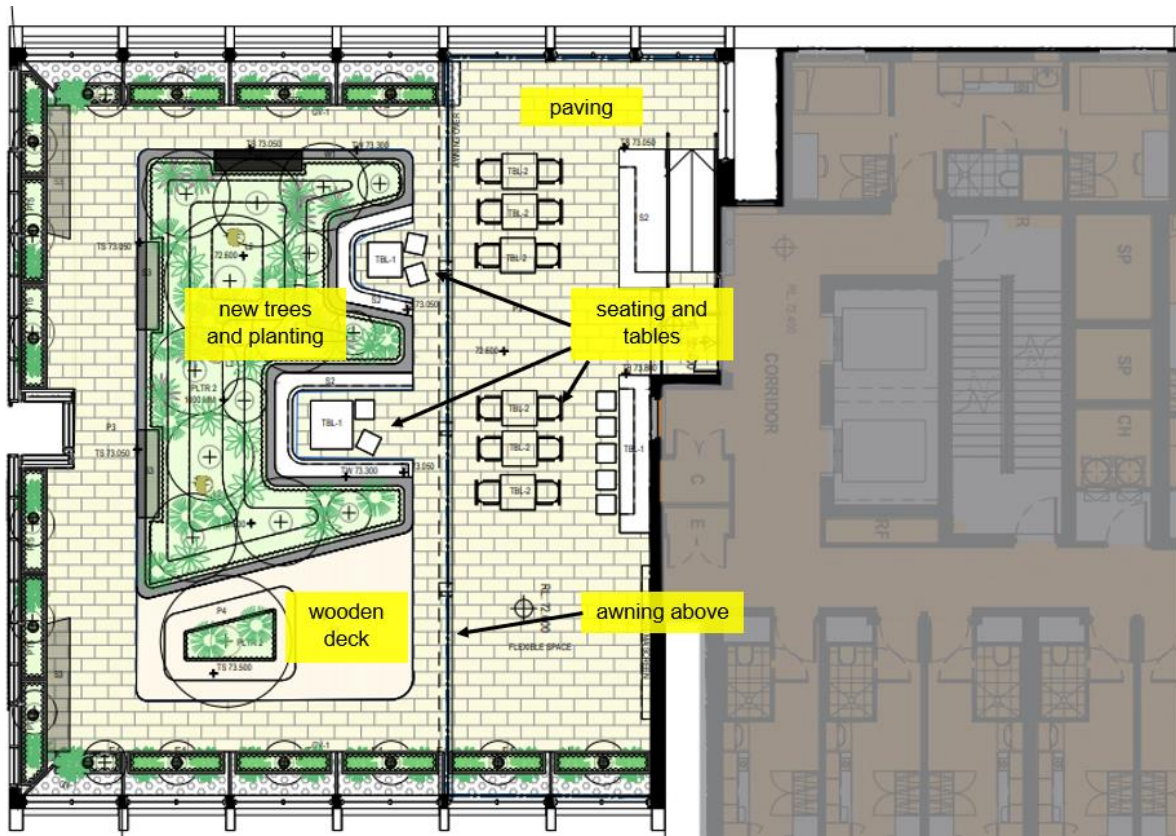


Figure 32 | Level 16 landscaping works (Base source: Applicant's RRtS Landscape Plans)

The Department considers the proposed landscaping acceptable as:

- Council did not raise further concerns with the proposed landscaping to be resolved prior to granting consent to the application
- the proposed landscaped areas, including façade planter boxes, will be maintained from within the site and do not require access from the public domain
- the range of communal open spaces provided on the site contribute to the amenity and appearance of the building
- the communal open space areas are appropriately embellished, including planting, seating and amenities such as a BBQ area and an outdoor cinema
- landscaping would be in accordance with a further detailed landscape plan to Council's specifications.

The Department recommends the preparation of a detailed landscape plan in consultation with Council and submitted to the Department prior to issue of the relevant Construction Certificate, confirming proposed species, soil depths, maintenance requirements and other matters to ensure the proposal achieves a good landscape outcome for the site.

The Department concludes the proposed on-site landscaping is acceptable.

6.4 Active frontages

Council's submission to the EIS and RtS raised concern with the degree of activation at the ground floor and recommended increasing the retail space, redesigning the façade to provide good passive surveillance, and providing a building entrance from the through-site link.

Council recommended that a food and drink premises (retail) be provided at the south-western corner of the building and requested that the floor to ceiling height for the ground floor be increased. TfNSW's submission to the EIS also requested that all street frontages be designed to maximise activation with clear glazing and active uses.

In response, the Applicant amended the detailed design of the ground floor of the building at the RtS and RRtS stages to provide an additional retail tenancy in the south-western corner of the building fronting Margaret Street and the through-site link, providing a games area at the ground floor and expanding the admin and office areas. The proposal provides 115 m of building and street frontage, of which the majority is activated through retail space (mixed land uses), glass, natural surveillance and building entries.

The Department considers the proposed ground floor acceptable as:

- the proposed retail tenancies and revised ground floor layout increases passive surveillance and the activation of the Regent Street, Margaret Street and the through-site link
- large areas of glazing have been used in the ground floor façade to promote passive surveillance
- proposed ground floor spaces provide for a range of different user groups (staff, students, visitors, retail patrons) that would use the site at different times of the day, ensuring continuous ground floor activation
- the floor-to-floor height of 3.8 m for the ground floor complies with the minimum requirements under the BCA/NCC and therefore no changes are recommended
- no further concern was raised by Council

6.5 Loading, servicing and waste management

All loading, deliveries, and waste collection will be undertaken from a loading dock on the neighbouring site at 90-102 Regent Street. The neighbouring loading dock approved as part of SSD 10382 accommodates one small rigid vehicle (SRV) and is accessed from William Lane. Waste from the proposed development will be stored on-site and relocated and collected from this neighbouring loading dock at 90-102 Regent Street via a private contractor.

Council's submission to the EIS and RtS raised concern with matters including:

- whether the neighbouring loading dock has the capacity to service both developments, and recommended that the Loading and Servicing Management Plan be updated to provide information on how the loading dock will be shared, procedures in the event of any failures, how vehicles will be managed, and how the collection of waste will be managed
- the Waste Management Plan be updated to clarify chute failure procedures and waste collection procedures
- the architectural plans clearly show separate waste storage areas for residential, commercial, and bulky waste, demonstrate sufficient space for large 1,100 L bins including manoeuvring these bins.

No concern was raised by TfNSW in relation to the operation of the shared loading dock.

In response, the Applicant provided an updated Loading and Service Management Plan for both developments and provided an updated Waste Management Plan, which included procedures in the event of chute failure. The Applicant also amended the architectural plans to provide separate waste storage areas for residential, commercial, and bulky waste, and storage and manoeuvring space for larger bins.

The Department considers the proposed arrangements appropriate as:

- the RCUDP promotes loading access primarily from rear laneways, such as William Lane, and identifies that vehicle access is not permitted from Regent Street and should be limited from Margaret Street. The approved loading dock as part of the neighbouring building meets this requirement
- the development has been designed to prioritise active street frontages which would be reduced if providing a loading dock in addition to the other required services and back of house areas at the ground floor
- TfNSW has not raised concern with the proposed loading arrangements, and has endorsed the Loading and Servicing Management Plan for the neighbouring loading dock that considers procedures in the event of any failures, how vehicles will be managed, and how the collection of waste will be managed
- appropriate preliminary strategies have been identified to manage the loading dock, demonstrating that the shared facilities are capable of servicing the proposed development. The use of the loading dock would be subject to a further combined Loading Servicing Management Plan for both developments to be endorsed by TfNSW
- the Waste Management Plan and amended architectural plans demonstrate that the development is capable of adequately storing and managing operational waste, which will be further confirmed through an Operational Waste Management Plan to be developed in consultation with Council.

The Department recommends preparing a combined Loading and Servicing Management Plan for the proposal and adjacent development at 90-102 Regent Street be endorsed by TfNSW. Evidence of appropriate access arrangements for the neighbouring loading dock will also be required prior to the occupation of the building, including registering an easement benefitting the proposed development for access to the loading dock and any required back of house areas. The Department also recommends a detailed Operational Waste Management Plan be prepared in consultation with Council.

The Department concludes the proposed loading, servicing and waste management is acceptable, subject to the recommended conditions.

6.6 Other issues

Other relevant issues for consideration are addressed in **Table 5**.

Table 5 | Department's consideration of other issues

Issue	Findings	Recommendations
Heritage	<ul style="list-style-type: none"> • The site is not of heritage significance and is not within a heritage conservation area. However, it is located immediately north of a local heritage item (St Luke's Presbyterian Church) and is proximate to a locally listed terrace house (181 Regent Street), the Redfern Estate Heritage Conservation Area, and the State listed Eveleigh Railway Workshops and Redfern Railway Station. • A public submission received from the owner of St Luke's Church raised concern with the bulk and scale of the building in relation to the church, and its impact to solar access. • The Department notes the proposal's relationship to the St Luke's church was a key consideration in the SDRP's review of the proposal and a series of design changes were made to the proposal to improve its relationship to the Church, including introducing a dual tower form which steps down the height towards the church and increasing the podium and tower setback to the southern boundary. • Overall, the Department considers the proposal is acceptable as: <ul style="list-style-type: none"> ○ the development provides an increased setback to Margaret Street and St Luke's Church than what could otherwise be achieved under SEPP PEHC and the RCUDP 	<ul style="list-style-type: none"> • No conditions required.

- the podium height complies with SEPP PEHC, and the reduced southern tower height provides an appropriate transition to the Church
- the site is located within a high-density centre and the planning controls allow for development up to 18 storeys in height
- the proposal does not obstruct any heritage significant views to or from the Church or surrounding heritage items, and is compatible with the desired future of character of development within the Redfern Town Centre.
- The Department also notes Heritage NSW and Council did not raise any heritage concerns.
- The Department is therefore satisfied the revised proposal is acceptable.

Aboriginal Cultural Heritage

- The Applicant submitted an Aboriginal Cultural Heritage Assessment Report (ACHAR) to support the proposal. In summary, the ACHAR found that:
 - there were no sites or potential archaeological deposits within the study area
 - the proposal is unlikely to impact on any archaeological material.
- Heritage NSW (Aboriginal Cultural Heritage) agrees with the findings of the ACHAR and advised that no further assessment is required.
- Heritage NSW (Aboriginal Cultural Heritage) also recommends implementing an unexpected finds protocol and providing interpretative signage as part of the development.
- Based on the findings of the ACHAR, the Department considers the proposal is unlikely to result in any significant impacts to Aboriginal heritage.
- The Department recommends the measures outlined in the ACHAR and by Heritage NSW (Aboriginal Cultural Heritage) be implemented to ensure any impacts are appropriately mitigated and managed.

The Department recommends a condition requiring:

- preparation of an unexpected finds protocol
- providing interpretative signage to indicate the traditional ownership and use of the land by Aboriginal people.

Traffic and access

- The Applicant submitted a Transport Impact Assessment (TIA) to assess the potential traffic impacts associated with the proposal.
- The TIA concluded that traffic generated by the development would be negligible given no on-site car parking would be provided and that the site is located

- The Department recommends a condition requiring approval from TfNSW under section 138 of the

within walking distance to public transport services, amenities, and recreational areas.

- Council and TfNSW did not raise any concern with traffic impacts. However, TfNSW recommended a condition of consent requiring approval from TfNSW for civil works on Regent Street under section 138 of the *Roads Act 1993* and requiring the Applicant to enter a Works Authorisation Dead.
- The Department is satisfied the proposal:
 - would not result in any adverse traffic as it does not include any car parking spaces and is located in close proximity of public transport and services
 - civil works would be subject to approval from TfNSW.

Road Act 1993 including a Works Authorisation Dead for civil works on Regent Street.

Parking

- 112 bicycle parking spaces are proposed at ground level in a dedicated storage area. No car parking will be provided on site.
- Council advised the number of bicycle parking spaces was acceptable given the proposal does not propose any car parking spaces and the site's proximity to public transport services.
- Council recommended implementing a monitoring system and providing additional spaces if demand for bicycle parking grows.
- In response, the Applicant advised monitoring the demand for bicycle parking would be incorporated into a Green Travel Plan.
- The Department considers the proposed parking acceptable as:
 - the site is within walking distance of Redfern Train Station and other public transport options and is close to shops and services, reducing the need for bicycle ownership/use
 - providing no on-site carparking aligns with the strategic location of the site and the desire to reduce car dependency
 - the provision of no on-site car parking is consistent with approved student accommodation developments.

The Department recommends:

- requiring a minimum of 112 bicycle parking spaces are provided
- a Green Travel Plan is prepared in consultation with TfNSW
- a Transport Access Guide is prepared and provided to occupants, visitors and staff confirming there is no on-site car parking and identifying the appropriate drop-off and pick-up zones for point-to-point transfers (i.e. rideshare and taxis).

Lot size	<ul style="list-style-type: none"> • The proposal does not comply with the minimum land size requirement of 1,400 m² for high rise development (13-18 storeys) under the RCUDP. • The Department considers the proposed variation to the land size control is acceptable in this instance and the site is suitable for an 18-storey development as: <ul style="list-style-type: none"> ○ there is no opportunity for further site amalgamation ○ the variation is a minor (2.4% or 34 m²) departure from the control ○ the proposed development complies with the maximum FSR ○ the proposed building height is compatible with other tall buildings within the Redfern Town Centre ○ the proposal does not result in unreasonable amenity impacts. 	<ul style="list-style-type: none"> • No conditions required.
Land use	<ul style="list-style-type: none"> • Public submissions raised concern with the oversupply of student accommodation in the area. • The Department considers student accommodation an appropriate use of the site as it is permissible with consent, is compatible with the objectives of the land use zone and is consistent with relevant strategic plans. • The proposal will provide student accommodation that is close to public transport, services, and a number of universities. The proposed ground floor retail will also contribute to an active street frontage as discussed further in Section 6.4. • The Department is also satisfied the proposal would not result in any unacceptable operational or amenity impacts. 	<ul style="list-style-type: none"> • No conditions required.
Building expression and public art	<ul style="list-style-type: none"> • Council recommended that all south and north-facing tower walls architecturally address the corner, provide greater articulation, and further consider materiality or incorporate public art on all south and north-facing tower walls that are indicated as paint finish. • In response, the Applicant revised the tower materiality to replace the painted finish with mineral-stained concrete and incorporated a linework pattern into the southern façade to break-up the most visible face of the tower. 	<ul style="list-style-type: none"> • The Department recommends that a public art strategy is prepared in consultation with a local Indigenous artist/s and Council.

- Council's submission to the RtS advised that the changes were acceptable if the southern façade could accommodate an artwork. Council also recommended that an Indigenous artist be engaged to produce any future artwork.
- In response, the Applicant confirmed that the southern tower façade would accommodate an artwork on the upper five floors of the building designed by a local indigenous artist and approved by Council.
- The Department consider the proposed materials and artwork acceptable and recommends that a public art strategy is prepared in consultation with a local Indigenous artist and Council.

Signage

- Signage zones for business or building identification signage are identified as part of the proposed building:
 - Regent Street under-awning signage - 4.36 m x 0.97 m
 - William Lane podium level signage above the bicycle entry - 1.5 m x 5.99 m
 - Margaret Street top of building signage - 5.0 m x 1.5 m
 - William Lane top of building signage - 5.0 m x 1.5 m
- Council advised that two top of building signs would create visual clutter, that the William Lane podium signage would be excessively wide, and that a signage strategy should be prepared in accordance with the RCUDP.
- The Departments finds the proposed signage acceptable as it is commensurate with the scale and type of signage approved on surrounding buildings, it is compatible with the context of the site as part of the Redfern Town Centre, and it meets the relevant provisions of State Environmental Planning Policy (Industry and Employment) 2021 (**Appendix C**).
- The Department notes that the detailed design and installation of signage is not approved and would be subject to a separate DA to Council. In this instance, the preparation of a separate signage strategy to be submitted to the Department is not warranted.
- The Department recommends including a condition that signage is not approved.
- Separate approval for signage (other than any exempt and complying signage) will be required from Council.

Sustainability

- Council advised that the sustainability requirements in the SEARs had not been adequately addressed and
- The Department recommends

requested that the Applicant confirm adequate roof area to accommodate the required solar panels.

- In response, the Applicant confirmed the proposal meets BASIX energy requirements and reduced the size of the solar PV system to 17.2 kW (38 panels).
- The Department considers the proposed sustainability initiatives acceptable as the building incorporates appropriate sustainable design principles which exceed those required to meet energy and water reduction targets as required for BASIX Certification and provides solar panels on the roof.

conditioning the BASIX certificates and that all commitments are shown on the construction plans submitted to the Certifier.

Contamination

- The site was previously used as a service station. The Applicant notes that previous investigations confirmed the presence of petroleum hydrocarbons in proximity to the site's underground petroleum storage system (UPSS).
- A Remediation Action Plan (RAP), Addendum RAP and a letter of interim advice from an accredited site auditor was submitted with the local DA for the demolition of the service station and remediation works.
- The Applicant provided a site audit statement confirming the remediation and validation works had been completed in accordance with the RAP for the site.
- Council recommended that the proposal provide a minimum 1 metre depth virgin excavated natural material (VENM) for all tree planting and landscaping at-grade and within the public domain.
- The Department considers the site is suitable for its proposed use and accepts Council's recommended condition of consent.

- The Department recommends a condition requiring the Applicant to provide a minimum 1 metre depth VENM for all tree planting and landscaping at grade and within the public domain.

Utilities and servicing

- The Applicant submitted an Infrastructure Report with the EIS, and a further Services Report and Service Location Survey with the RtS. The documents identified the location of utilities and services and recommended works to facilitate the development.
- Public submissions raised concern with the density of development impacting water pressure.
- Sydney Water advised on water and wastewater servicing requirements, and recommended conditions for compliance with the Sydney Water Act 1994 and works that could affect Sydney Water assets.

- The Department recommends standard conditions for consultation and agreement with utility and service providers.
- The Department also recommends that evidence is provided that the

- City of Sydney Council requested further details regarding the removal of Council's drainage easement along the western boundary of the site.
- In response, the Applicant confirmed that water and wastewater servicing requirements would be further determined and undertaken via a Section 73 application to Sydney Water. It was further noted that the
- The Applicant also confirmed that the existing drainage easement on the site would be replaced by new stormwater infrastructure and an easement benefitting Council in the through-site link as part of the neighbouring development at 13-23 Gibbons Street.
- The Department recommends standard conditions for consultation and agreement with utility and service providers. The Department also recommends that the replacement easement is registered prior to issuing a Construction Certificate for the proposed development.

easement on the neighbouring site has been registered prior to issuing a Construction Certificate.

Flooding

- The EIS included a Flood Impact Assessment which concluded the site is not subject to flooding during the 1% Annual Exceedance Probability (AEP) and Probably Maximum Flood (PMF) events. The assessment assumes that the overland flow path created by the through-site link at 13-23 Gibbons Street is complete.
- EHG's submission to the EIS requested that the assessment demonstrate the relevant floor levels comply with the Sydney DCP 2012 and that the overland flow path created by the redevelopment of the neighbouring site (13-23 Gibbons Street) be complete prior to the occupation of the proposed development.
- Council's submission to the RtS requested clarification on the proposed freeboard at specific entry doors.
- In response, the Applicant provided an addendum Flooding Impact Assessment which concluded the floor levels are located above the flood levels during the 1% AEP and PMF events with the exception of three doors (bicycle store, fire egress and Regent Street retail door) which comply with the 1% AEP but are each RL 0.1m less than the PMF event. The Applicant noted that the floor levels comply with the Sydney DCP 2012 requirements.
- The Department is satisfied the proposed development complies with the flood planning levels in the Sydney

The Department recommends:

- the new overland flow path approved as part of 13-23 Gibbons Street be complete prior to the occupation of the development
- the development is constructed in accordance with the flood planning levels in the addendum Flooding Impact Assessment.

DCP 2012 and would not result in adverse flood outcomes within the surrounding area.

- The Department recommends a condition requiring the new flow path proposed as part of 13-23 Gibbons Street be constructed prior to the occupation of the development and a condition requiring that the development is constructed in accordance with the flood planning levels in the addendum Flooding Impact Assessment.

Rail Corridors

- The proposed development involves more than 2 m of excavation within 25 m of the future Sydney Metro – City and Southwest Rail Corridor. The site is also located in the vicinity of the Central Business District Rail Link (CBDRL) corridor.
- Sydney Metro and TfNSW did not object to the proposal, and recommended conditions of consent relating to the protection of transport corridors. Sydney Trains did not comment on the application.
- The Department supports Sydney Metro and TfNSW’s recommended conditions of consent.

- The Department recommends Sydney Metro’s and TfNSW conditions of consent.

Internal noise and vibration

- The Noise and Vibration Impact Assessment (NVIA) submitted with the EIS concluded that noise intrusion to bedrooms and living areas from the surrounding roads and environment would be higher than the recommended day and night criteria without treatment.
- The report specifies glazing thickness and acoustic seals for windows and doors to enable the noise criteria to be achieved in internal areas when windows and doors are closed. A ventilation system is also recommended for when windows and doors are closed.
- The NVIA also found that vibration had a low probability of adversely impacting the development, and that no vibration isolation treatment was necessary.
- Council’s submission to the EIS requested confirmation that air conditioning is provided in line with the recommendations of the NVIA.
- In response, the Applicant provided an Amended Ventilation Strategy Report which confirmed that all rooms would be air conditioned.
- The Department considers the measures detailed in the NVIA and Amended Ventilation Strategy Report would create an acceptable internal environment.

- The Department recommends requiring:
- compliance with the NVIA recommended façade treatments
 - compliance with the Amended Ventilation Strategy

- The Department recommends that these measures are adopted in the detailed design and construction of the development.

Operational noise

- Public submissions raised concern with the potential operational noise impacts associated with the proposal.
- The NVIA identified that primary noise sources from the operation are from plant and services and the ground floor retail.
- The Applicant also submitted an Operational Management Plan outlining the key management measures to be implemented to mitigate potential noise impacts on surrounding residences.
- The NVIA found noise emissions from plant could be controlled at the plant selection and detailed design phase of the project to meet the relevant criteria and that the future fit-out and operation of retail spaces would be subject to separate and future approval, noting that no licensed venue or outdoor dining is proposed.
- The Department considers the operational aspects and management of noise of the proposal are acceptable, subject to the implementation of the measures outlined within the NVIA and recommended conditions.

The Department recommends

- details of noise mitigation measures for all mechanical plant
- use of the development does not give rise to ‘offensive noise’ as defined under the POEO Act 1997
- the development is to operate in accordance with an Operational Management Plan
- the fit-out and operation of retail space is subject to a separate and future process

Construction impacts

- Public submissions raised concerns with the potential construction impacts associated with the proposal and cumulative impacts of existing projects under construction.
- The Department has carefully assessed the potential construction impacts associated with the proposal and accepts that there will be some localised impacts on nearby uses that cannot be avoided when construction activity occurs.
- However, the Department is satisfied such impacts can be reasonably mitigated and managed to an acceptable level through restricting the hours of construction activity and implementing a suite of management plans.

The Department recommends conditions requiring:

- standard construction hours
- restricting high noise activities
- preparing a Construction Environmental Management Plan including Pedestrian and Traffic, Noise and Vibration, Air Quality and Odour and Waste

Management
Plans

- protecting retained trees.

Crime prevention through environmental design

- The EIS included an assessment of Crime Prevention Through Environmental Design (CPTED) that recommended the following measures:
 - provide lighting and install CCTV
 - maintain landscaping to ensure clear sightlines and reduced opportunities for concealment
 - select materials and fixtures to not create opportunities for vandalism
- Council raised concern with the composition of the ground floor creating opportunities for concealment, noting bicycle parking occupied the majority of the Regent Street frontage and the entry on Margaret Street was recessed and did not receive natural daylight.
- NSW Police identified recommendations including installing CCTV, providing adequate lighting, providing CCTV warning and information signage, maintaining vegetation, and operational matters for the building and future retail spaces.
- In response, the Applicant divided bicycle storage and access between the Regent Street and William Lane frontages, provided skylights in the awning the Margaret Street entrance, and provided an additional retail tenancy facing Margaret Street.
- The Department has considered the CPTED assessment and is satisfied the safety and security aspects of the proposal are acceptable, given:
 - the development has been amended to improve activation at the ground floor
 - the skylights ensure the recessed Margaret Street entrance is naturally lit and there are opportunities for passive surveillance from above
 - the building can integrate appropriate lighting and CCTV.
- The Department has also recommended a condition requiring the implementation of the measures outlined

- 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.

within the CPTED assessment to ensure safety and security is appropriately managed.

Impacts to Sydney Airport

- Sydney Airport advised that the proposed height of the development (87.15 m) would exceed Sydney Airport's Obstacle Limitation Surface (OLS) of 82 m and, therefore, a controlled activity approval under the Airports (Protection of Airspace) Regulations 1996 would be required from the Federal Department of Infrastructure, Transport, Regional Development and Communications prior to construction.
 - The EIS was accompanied by a controlled activity approval for the proposed building height subject to conditions including that the building not exceed a height of 87.15m, that separate approval be obtained for any cranes, that the proponent advise Airservices Australia prior to commencing works, and that the final building height be surveyed at completion and reported to the Sydney Airport Corporation.
 - The Department supports the inclusion of the recommended conditions of approval.
- The Department supports the inclusion of the recommended conditions.

Contributions

- Infrastructure NSW recommended a contribution of \$976,147 under the Redfern-Waterloo Authority Affordable Housing Contributions Plan and \$1,161,600 under the Redfern-Waterloo Authority Contribution Plan.
 - The Department has included the contributions in the recommended conditions of consent.
- The Department recommends Infrastructure NSW's contribution recommendations.
-

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 permissible with consent and consistent with the Business Zone – Commercial Core objectives under the State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021
- it is consistent with the Greater Sydney Region Plan and Eastern City District Plan which aim to increase housing and jobs closer to public transport, services and amenities
- it would facilitate the renewal of one of the last remaining sites within the Redfern Town Centre of the Redfern-Waterloo State significant precinct
- it achieves design excellence by providing a built form which has been revised through the State Design Review Panel process, Government Architect NSW review and DA assessment process
- it complies with the floor space ratio control (7:1) for the site and predominately complies with the 18-storey height control (with the exception of the rooftop plant). While the proposal varies the two-storey podium height control for Regent Street (proposed three storey podium) and the 8 m tower setback control for Regent Street (proposed setback of 4-8 m), it maintains the character of new development along Regent Street and would be compatible with the streetscape, noting the setbacks of the existing towers to Regent Street are also varied
- the impacts of the proposal in relation to privacy, overshadowing and wind, are acceptable and consistent with the outcomes envisaged by the adopted planning controls for the site
- it provides positive public domain outcomes through footpath upgrades to Regent Street and Margaret Street, awnings and increased tree planting
- it would achieve good levels of amenity for future residents in the form of communal outdoor terraces with BBQ facilities, outdoor cinema, seating and tables and tree planting
- operational impacts would be appropriately mitigated and managed through the implementation of an Operational Management Plan and a suite of recommended conditions
- 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.

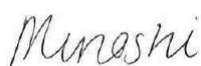
The Department's assessment therefore concludes the development is in the public interest and should be approved, subject to conditions (**Appendix E**).

8 Recommendation

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

- **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 12618001
- **signs** the attached development consent/project approval and recommended conditions of consent (see **Appendix E**).

Prepared by:



Minoshi Weerasinghe
Senior Planning Officer
Key Sites Assessments

Prepared by:



Anna Nowland
Principal Planning Officer
Key Sites Assessments

Recommended by:



Cameron Sargent
Team Leader
Key Sites Assessments

9 Determination

The recommendation is **Adopted** / ~~Not adopted~~ by:



17 November 2022

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:

1. Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/projects/104-116-regent-street-redfern-student-accommodation>

2. Submissions

<https://www.planningportal.nsw.gov.au/major-projects/projects/104-116-regent-street-redfern-student-accommodation>

3. Applicant's Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/projects/104-116-regent-street-redfern-student-accommodation>

4. Applicant's additional Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/projects/104-116-regent-street-redfern-student-accommodation>

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 | Summary of key issues raised in public submissions

Issue	Consideration
Oversupply of student accommodation	<p>Assessment</p> <ul style="list-style-type: none"> The Department considers student accommodation is an appropriate use for the site as it is permissible with consent 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>Recommended Conditions/Response:</p> <ul style="list-style-type: none"> None required.
Need for affordable housing	<p>Assessment</p> <ul style="list-style-type: none"> The Applicant will be subject to development contributions under the Redfern-Waterloo Affordable Housing Contributions Plan 2006 that contribute to the provision and refurbishment of affordable housing in the Redfern-Waterloo Area. <p>Recommended Conditions/Response:</p> <ul style="list-style-type: none"> The Department recommends development contributions are paid in accordance with the Redfern-Waterloo Affordable Housing Contributions Plan 2006,
Not enough parking	<p>Assessment</p> <ul style="list-style-type: none"> The site is located within close walking distance of public transport services, amenities, and recreation areas. The Department supports providing no on-site car parking as this minimises traffic impacts, reduces reliance on private vehicles, is consistent with the applicable strategic plans and policies, and the development provides 112 bicycle parking spaces to promote active transport. <p>Recommended Conditions/Response:</p> <ul style="list-style-type: none"> The Department recommends a condition requiring that a minimum 112 bicycle parking spaces are provided and installed in accordance with Australian Standards. A Green Travel Plan will be prepared in consultation with TfNSW, and outline processes for regular monitoring to measure the effectiveness of the plan. A Transport Access Guide will be prepared and provided to occupants, visitors and staff confirming there is no on-site car parking, and identifying the appropriate drop-off and pick-up zones for point-to-point transfers (i.e. rideshare and taxis).

Construction impacts including traffic, noise, vibration, and cumulative impacts

Assessment

- On balance, the Department considers given the dense urban nature of the immediate surrounding area, a degree of impacts during construction would be unavoidable.
- 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 construction works to standard construction hours
 - restricting high noise activities
 - preparing a Construction Environmental Management Plan including a Pedestrian and Traffic Management Plan, Noise and Vibration Management Plan, Air Quality and Odour Management Plan, and Waste Management Plan
 - protecting retained trees in the public domain in accordance with Council's recommended conditions of consent.

Upgrades needed to surrounding bicycle paths

Assessment

- The Department notes the Applicant will have to pay development contributions under the Redfern-Waterloo Development Contributions Plan 2006. Development contributions under this plan will go towards funding improvements to bicycle paths in the Redfern-Waterloo area and other infrastructure.

Recommended Conditions/Response:

- The Department recommends development contributions are paid in accordance with the Redfern-Waterloo Development Contributions Plan 2006.

Amenity impacts from operations including privacy and antisocial behaviour

Assessment

- The Department is satisfied that the proposed building separation, combined with landscaping and the restricted use of outdoor communal open space areas, will result in an acceptable outcome in this high-density urban context and will not result in any adverse privacy impacts
- 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 cameras, and internal uses that contribute to passive surveillance of the adjoining areas.
- The proposed development will be required to operate in accordance with an Operational Management Plan, which specifies operational hours for all outdoor spaces and includes mechanisms to prevent and manage antisocial behaviour.

Recommended Conditions/Response:

- Conditions include:

- incorporating CPTED measures into the detailed design and construction of the building
- requiring that development operate in accordance with a final Operational Plan of Management.

Wind impacts for Margaret Street and William Lane

Assessment

- The Department is satisfied that the development will achieve the wind safety criteria and, through implementing wind mitigation measures, will achieve an acceptable level of amenity in outdoor space and the surrounding streets.
- This matter is further discussed in **Section 6**.

Recommended Conditions/Response:

- The Department recommends the wind mitigation recommendations in the updated Environmental Wind Assessment are included in the detailed design plans and submitted to the Certifier for compliance.

Interface with St Luke's Presbyterian Church, including height and setbacks

Assessment

- The Department considers the building height is acceptable as it is compatible with surrounding development, is commensurate with the site's location and context and as part of the Redfern Town Centre, steps down in height towards St Luke's Presbyterian Church and responds to the prevailing topography of the area.
- The Department considers the proposed setbacks to St Luke's Church acceptable as it is larger than what could otherwise be achieved under SEPP PEHC and the RCUDP.
- This matter is further discussed in **Section 6**.

Recommended Conditions/Response:

- None required.

Overshadowing

Assessment

- The Department considers the potential overshadowing impact acceptable as the extent of overshadowing arising from the scale and form of the proposed development was anticipated by and a consequence of realising the adopted planning controls.
- The Department also notes the development will not significantly reduce overshadowing for surrounding residences or open space areas, noting these areas will maintain at least 3 hours of sunlight in the morning or will not be materially affected by the proposed development.
- This matter is further discussed in **Section 6**.

Recommended Conditions/Response:

- None required.

Water servicing

Assessment

- The Department notes that water and wastewater servicing requirements will be determined via a section 73 application to Sydney Water.

Recommended Conditions/Response:

- The Department recommends conditions requiring a section 73 compliance certificate is obtained from Sydney Water.

Consideration of alternatives

Assessment

- The Department notes a consideration of alternative options to the development has been provided in the EIS and RtS documents.
- The Department considers that 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.
- The proposed use of the site aligns with the relevant strategic plans and policies.

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 seeks to redevelop an existing inner-city site that is close to existing services and has excellent access to public transport. The proposal does not impact any natural or artificial resources, agricultural land, or natural areas. The social and economic impacts of the development are acceptable.
(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 facilitates the renewal of one of the last remaining sites within the Redfern Town Centre of the Redfern-Waterloo State significant precinct, and is of a scale that is compatible with surrounding development and the relevant planning controls. The proposal represents the orderly and economic use of land, the merits of which were considered in Section 6 .
(d) to promote the delivery and maintenance of affordable housing	Development contributions will be leveraged against the proposal under the Redfern-Waterloo Affordable Housing Contributions Plan 2006 to contribute to the provision and refurbishment of affordable housing in the Redfern-Waterloo Area.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The application has been granted a Biodiversity Development Assessment Report waiver as discussed in Section 4.5 . The proposal seeks to redevelop a previously developed site and will not adversely impact 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 proposal does not have an adverse impact on nearby heritage items or conservation areas as addressed in Section 6 .
(g) to promote good design and amenity of the built environment	The proposal achieves a high standard of design and amenity as addressed in Section 6 .
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The proposal was accompanied by a Building Code of Australia report and a National Construction Code Section J report, which concluded the development was capable of complying with the relevant sections of the Act.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The Department publicly exhibited the SSD application as outlined in Section 5 , which included consultation with Council and other government agencies and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal as outlined in Section 5 , which included notifying adjoining landowners and displaying the proposal on the Department's website. The Department has considered all issues raised in submissions as part of its assessment.

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 EPIs is provided below.
(a)(ii) any proposed instrument	Consideration of proposed instruments is provided below.
(a)(iii) any development control plan	Under clause 2.10 of SEPP Planning Systems, 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 preparing an 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 considers the likely impacts of the proposed development acceptable and/or these impacts have been demonstrated to be capable of being appropriately managed through the 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 its previous use as service station. The impacts of the development have been identified and assessed, and the Department considers 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. A waiver from the need to prepare a Biodiversity Development Assessment Report was provided as discussed in Section 4.5.

- 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 17.2kW, 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 and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6, Division 6) and Fees (Part 15, Division 1AA) have been complied with.

Environmental Planning Instruments

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

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021
- State Environmental Planning Policy (Precincts – Central River City) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Industry and Employments) 2021
- Draft State Environmental Planning Policy for the Remediation of Land
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- 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 (Planning Systems) 2021

The Planning Systems SEPP identifies SSD, State significant infrastructure (SSI), Critical State significant infrastructure (CSSI), and confers functions on regional planning panels to determine development applications.

In accordance with this SEPP, the proposal is defined as SSD under clause 2(g) of Schedule 2 as it is development with a CIV of more than \$10 million occurring on land within the Redfern-Waterloo Sites.

State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021

The State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021 (Precincts – Eastern Harbour City 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 Precincts – Eastern Harbour City SEPP is the key 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 3 of the Precincts – Eastern Harbour City SEPP. An assessment of the proposal against the relevant sections of Appendix 3 of the Precincts – Eastern Harbour City SEPP is addressed in **Table 3** below.

Table 3 | Consideration of the matters listed under Appendix 3 of the Precincts – Eastern Harbour City 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 proposal represents the renewal of one of the last remaining sites within the Redfern Town Centre of the Redfern-Waterloo state significant precinct, and therefore facilitates the development of the town centre • the proposed ground floor retail as well as the operation of student accommodation provides employment opportunities • the proposed student accommodation is compatible with the ground floor retail, providing opportunities for direct retail patronage, as well as being compatible with the mix of uses in the surrounding area • the provision of 112 bicycle spaces and no car parking spaces promotes the 	Yes

- to ensure buildings achieve design excellence,
 - to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- use of public transport, walking, and cycling
 - the development has demonstrated design excellence as addressed in **Section 6** of this report.

Clause 9 Business zone – commercial core
Permissibility

The proposed student accommodation and retail uses are permitted with consent in the zone.

Yes

Clause 16A Exceptions to development standards

A Clause 16A variation has been submitted, and discussed further in **Appendix D**

Yes

Clause 21 Height, floor space ratio and gross floor area restrictions

The site is subject to a maximum:

- building height of 2-storeys for the podium along Regent Street, 3-storeys for the podium along Margaret Street and 18-storeys for the tower
- floor space ratio of 7:1

The proposal complies with the floor space ratio control (7:1) for the site. However, the rooftop plant exceeds the 18-storey height control and the proposal also exceeds the 2 storey podium height control for Regent Street (proposed 3 storey podium) and the 8 m tower setback control for Regent Street (proposed setback of 4-8 m).

The Department considers this variation acceptable as discussed in **Section 6** and **Appendix D** of this report.

No

Clause 22 Design Excellence

(1) The consent authority must consider whether the proposed development exhibits design excellence.

(2) In considering whether proposed development exhibits design excellence, the consent authority must consider the following:

- 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

The proposal has demonstrated design excellence, consistent with this clause, as addressed in **Section 6** of this report.

Yes

security and resource, energy and water efficiency,

(3) The consent authority may require a design competition for any development over 12 storeys consistent with guidelines issued by the Redfern–Waterloo Authority and approved by the Minister.

(4) The Redfern–Waterloo Authority may draft a guideline to be approved by the Minister detailing what matters are to be addressed for design excellence and for the conduct of design competitions.

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

State Environmental Planning Policy (Precincts – Central River City) 2021

The State Environmental Planning Policy (Precincts – Central River City) 2021 (Precincts – Central River City 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 Precincts – Central River City SEPP has identified the site as being within the Redfern-Waterloo Potential Precinct. Clause 6.8(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 6.8(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 for the urban renewal of the precinct. In addition, being the last site for renewal in the block, the proposal does not restrict or prevent the development of the remainder of the precinct.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) 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 2.99 of the Transport and Infrastructure SEPP applies to development that involves excavation in, above, below, or adjacent to rail corridors. The proposal is located in close proximity of a rail corridor and therefore the application was referred to Sydney Trains. Sydney Trains raised no concerns with the proposal.

Clause 2.100 of the Transport and Infrastructure SEPP also requires the consent authority to consider the impact of rail noise or vibration on residential accommodation. The aspect has been considered in **Section 6**.

Clause 2.101 of the Transport and Infrastructure SEPP applies to development that is within or adjacent to an interim rail corridor. 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, the application was referred to the Sydney Metro. Sydney Metro did not raise any objection 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 2.119 and 2.120 of the Transport and Infrastructure SEPP. No vehicle access is proposed for this site and as such the proposal does not impact the safety, efficiency and ongoing operation of classified roads within the context of the site. The Department also considers the proposed development has appropriately managed the potential traffic noise and vehicle emissions on student accommodation.

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 Transport and Infrastructure SEPP.

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

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

BASIX certificates were 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 certificates.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of the Resilience and Hazards SEPP aims to ensure that potential contamination issues are considered in the determination of a development application.

The site was previously used as a service station. Previous investigations confirmed the presence of petroleum hydrocarbons in proximity of the site's underground petroleum storage system (UPSS). A Remediation Action Plan (RAP), Addendum RAP, and a letter of interim advice from an accredited site

auditor was submitted with a local DA for the demolition of the service station and remediation works prior to the lodgement of the SSD application.

The Applicant provided a site audit statement with the DA confirming the remediation and validation works had been completed in accordance with the RAP for the site.

The Department, therefore, considers the site is suitable for the proposed use.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 of the State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP) 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:

- Regent Street under-awning signage - 4.36 m x 0.97 m
- William Lane podium level signage above the bicycle entry - 1.5 m x 5.99 m
- Margaret Street top of building signage - 5.0 m x 1.5 m
- William Lane top of building signage - 5.0 m x 1.5 m.

The Department’s assessment of Schedule 5 of Industry and Employment SEPP (where relevant) is provided in **Table 4** below:

Table 4 | Department’s consideration of Schedule 5 of Industry and Employment SEPP

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
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
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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State Environmental Planning Policy (Housing) 2021

The State Environmental Planning Policy (Housing) 2021 (Housing SEPP) superseded the former State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP). Schedule 7A Clause 2(1)(a) of the Housing SEPP includes a general savings provision which outlines that the SEPP does not apply to applications that had been made but not determined prior to the commencement date of the Housing SEPP. The DA was lodged in January 2022 and the Housing SEPP commenced on 26 November 2021, meaning the Housing SEPP applies.

Part 3 of SEPP contains provisions for the permissibility and design of co-living housing (student housing) as assessed in **Table 5**.

Table 5 | Consideration of Housing SEPP

Criteria	Department's Consideration
Clause 67 co-living housing may be carried out on certain land	

Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument

State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021 (Precincts – Eastern Harbour City SEPP) permits with consent the development of residential flat buildings and shop top housing on the site.

Clause 68 Standards that cannot be used to refuse consent

(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than—the maximum permissible floor space ratio for residential accommodation on the land, and an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,

The proposal complies with the maximum floor space ratio of 7:1 that applies to the site under Precincts – Eastern Harbour City SEPP. No bonus has been applied.

(c) for co-living housing containing more than 6 private rooms—a total of at least 30m² of communal living area plus at least a further 2m² for each private room in excess of 6 private rooms, and minimum dimensions of 3m for each communal living area

A range of communal areas are provided for future residents including gathering spaces (ground floor, levels 2 and 4), a gym and games area (ground floor), study areas, a cinema and communal kitchen (level 2).

610 m² of communal open space is proposed which complies with the minimum 3 m dimensions. The proposed communal living areas are, however, 152 m² less than the 762 m² required under the SEPP.

The Department finds the development acceptable as:

- Multiple communal living areas are provided on the Ground Floor, Level 1 and Level 4 to meet the anticipated needs of the student population.
- A range of shared facilities are provided for different activities including large communal living spaces, study areas, gymnasium, indoor cinema and study areas.
- The proposal exceeds the required provision of outdoor communal open space under the SEPP.

(d) communal open spaces—with a total area of at least 20% of the site area, and each with minimum dimensions of 3m,

The site has an area of 1,366 m², requiring 273.2 m² of communal open space to be provided. Communal open space areas are provided on Levels 2, 4 and 16 of the building, equating to 477 m² of communal open space, each with a minimum dimension of 3m.

(e) unless a relevant planning instrument specifies a lower number—for development on land in an accessible area—0.2 parking spaces for each private

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

- the proposal is consistent State policies which seek to reduce reliance on private vehicles in favour of more

room, or otherwise—0.5 parking spaces for each private room,

sustainable transport options in highly accessible locations

- the site is in close proximity of Redfern Train Station and a number of key bus services
- the site is close to shops and services within the Redfern Town Centre
- 112 bicycle parking spaces are provided, reducing the need for car ownership/use
- the provision of no on-site car parking is consistent with the approved student accommodation development at 90-102 Regent Street (SSD 10382), 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).
- Council raised no concern regarding car parking.

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

Clause 69 Standards for co-living housing

(1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—

The following room sizes are proposed (excluding bathroom and kitchen):

(a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m² and not less than— for a private room intended to be used by a single occupant—12m², or otherwise—16m²

- 11.34 m² to 12.3 m² for a studio room – minimum 16 m² with the private bathroom and kitchen
- 10.9 m² for an en-suite room – 15 m² with the private bathroom
- 16 m² for a DDA room – 29 m² with the private bathroom and kitchen
- 22 m² for a 2 bedroom – 29 m² with the private bathroom and kitchen

(b) the minimum lot size for the co-living housing is not less than 800m²

The site has an area of 1,366 m².

(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space

A reception area and office space are provided which are appropriate for the scale of the proposed development.

(e) for co-living housing on land in a business zone—no part of the ground floor of the co-living housing that fronts a street will be used for residential purposes unless

The ground floor of the building has been designed to maximise the activation of the street frontages, and includes retail space, communal areas, staff facilities, bicycle parking and back-of-house areas only at the ground floor. No residential accommodation is provided at the ground floor.

another environmental planning instrument permits the use, and

(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and

All rooms have private bathroom facilities. The studio rooms, DDA rooms and twin rooms 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.

(g) each private room will be used by no more than 2 occupants, and

No room will be occupied by more than 2 adults.

(h) the co-living housing will include adequate bicycle and motorcycle parking spaces.

The development provides 112 bicycle parking spaces, but no motorcycle parking. The proposed bicycle parking is considered to be adequate by Council and will appropriately service the development. Akin to car parking, no motorcycle parking is considered appropriate for this site.

(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—

(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and

The Department has considered the proposed building separation and visual privacy for each elevation in **Section 6.2** and concludes the proposed development is consistent with the established and emerging character of the Redfern Town Centre and would not result in any unreasonable visual privacy or building separation impacts.

(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and

A maximum of two hours solar access is achieved between 9am and 3pm on 21 June. However, the Department considers this outcome acceptable as:

- The site has restricted solar access from the north and west due to the approved developments 90-102 Regent Street and 13-23 Gibbons Street.
- The siting and design of the proposed building optimises the site orientation and access to natural daylight through façade treatments.
- The proposed 2 hours solar access is consistent with the established benchmark for residential flat buildings which provide for permanent accommodation. This is considered entirely appropriate for student accommodation which is occupied on a temporary basis, particularly within an inner-city location.

(f) the design of the building will be compatible with — the desirable elements of the character of the local area, or for precincts undergoing transition—the desired future character of the precinct.

The Department considers the design of the development compatible with the character of the local area, as discussed in **Section 6** of this report.

Clause 70 No subdivision

Development consent must not be granted for the subdivision of co-living housing into separate lots.	No subdivision is proposed, or granted consent to, under this application.
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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 SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour Catchment area. The proposal is consistent with the relevant Planning Principles of this SEPP and would not have any significant adverse impact on the Sydney Harbour Catchment.

Sydney Development Control Plan 2012

In accordance with clause 2.10 of the Planning Systems 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 6** below:

Table 6 | Department's consideration of SDCP 2012

Criteria	Departments Consideration
Clause 4.4.1.1 Subdivision The subdivision of boarding houses or student accommodation is not permitted	The development does not propose subdivision.
Clause 4.4.1.2 Bedrooms (1) The gross floor area of a boarding room is to be at least: (a) 12 m ² overall room size; plus (b) additional 4 m ² (for additional adult); plus (c) 2.1 m ² for ensuite; plus (d) 0.8 m ² for any shower in ensuite; plus (e) 1.1 m ² for any laundry; plus (f) 2 m ² for any kitchenette; plus	Studio rooms are recommended to be 16.9 m ² (a + c + d + f) 307 studio rooms are proposed with an area of 16 m ² Twin studio rooms are recommended to be (a + b + c + d + f) 21.9 m ² . 37 twin studio rooms are proposed with an area of 27 - 29 m ² Ensuite rooms are recommended to be 14.9 m ² (a + c + d) 21 ensuite rooms are proposed with an area of 15 m ² The Department considers the proposed room sizes are acceptable in this instance as: <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.

(2) Each bedroom must have access to natural light

Windows are provided to each bedroom.

(3) Minimum ceiling height of 2.7 m

The floor to ceiling heights are:

- 4.3 m for the Ground Floor (Level 1)
- 3.3 m for Level 2
- 3.1 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

22 m² of communal kitchens are proposed which equates to 1.05 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 and two-bedroom rooms include a kitchenette with sink. Only the 21 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 and two-bedroom rooms include a kitchenette with stove top. The 21 ensuite room residents would have access to the four stove tops and four 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 511.25 m² of indoor communal living areas is required for the development. The proposal provides a total 642 m² of indoor communal open space, comprising of:

- Level 1 – 382 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.

- Level 2 – 230 m²
- Level 4 – 30 m²

To further supplement the indoor communal living areas, 461 m² of outdoor communal open space is provided on Level 2 and 16.

(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.

Indoor communal open space is located on Levels 1,2,4 and are adjacent to communal open space. A maximum of two hours solar access is achieved between 9am and 3pm on 21 June.

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

The proposal provides 642 m² of indoor communal open space and 461 m² of outdoor communal open space is provided on Level 2 and 16.

(4) Communal outdoor open space is to 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

Outdoor communal open space is proposed on Level 2, 4 and 16. A maximum of two hours solar access is achieved between 9 am and 3 pm on 21 June. The outdoor communal open space on Levels 2 and 16 are partially covered and the outdoor communal open space on Levels 2 and 4 are 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.

- be screened from adjoining properties and the public domain with plantings, such as a trellis with climbing vines.

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

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

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

(4) Boarding Houses classified as Class 3 by the BCA are to make private contracting arrangements for garbage disposal.

(5) An application for a boarding house incorporating 75 or more bedrooms is to be supported by a Traffic Report

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.

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

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 high level of amenity for residents

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

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

Table 7 | Relevant development contributions

Contributions Plan	Contributions Rate	Total
Redfern-Waterloo Authority Contributions Plan 2006	2% of the proposed cost of works	\$ 1,161,600.00
Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006	\$102.30/m ² of GFA	\$ 977,681.10

Appendix D – Clause 16A Variation: Building Height

The proposal seeks a variation to the maximum building height as prescribed in Appendix 3, Part 2, clause 21(1) of the Precincts – Eastern Harbour City SEPP. The maximum building height controls for the site are as follows (Figure 1):

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

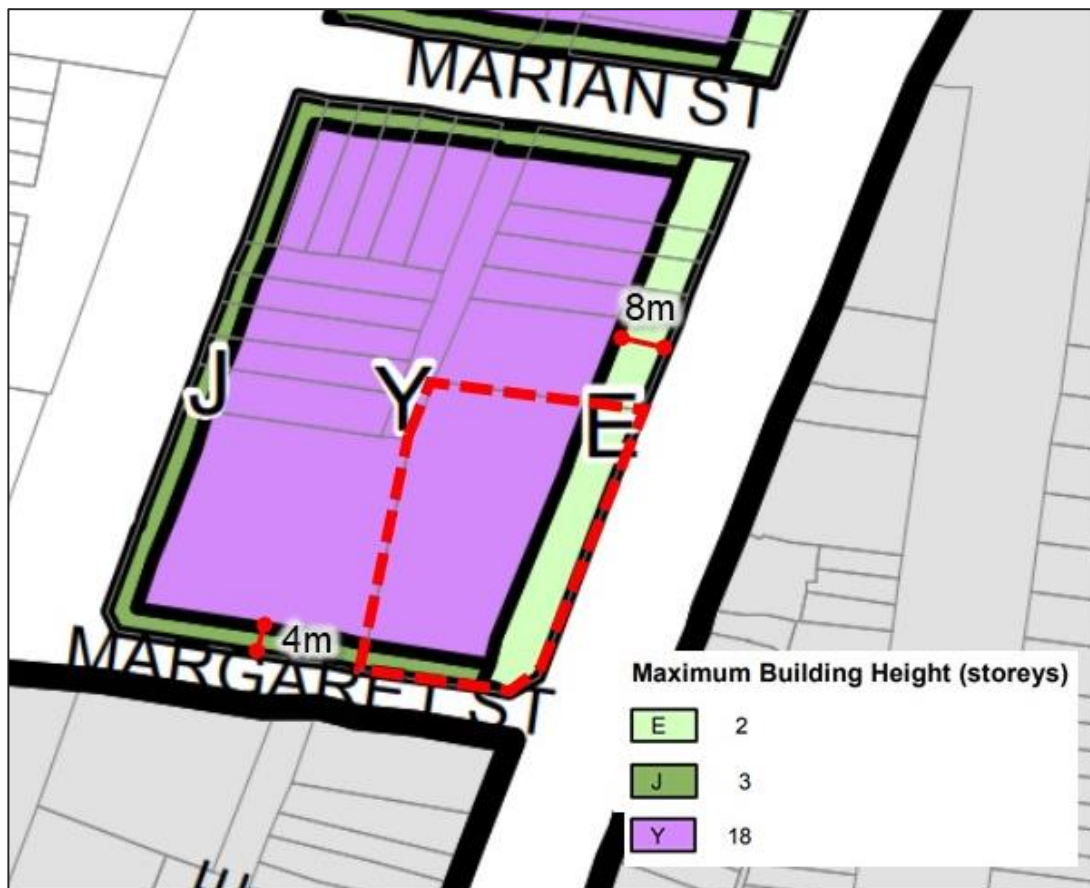


Figure 1 | Extract of the maximum building height plan, with the site outlined in red (Base source: SEPP)

The variation to the maximum building height is described in **Table 1** and illustrated in **Figure 2** to **Figure 4**.

Table 1 | Proposed variations to the maximum building height

Location	Development Standard	Variation
Regent Street frontage	Two storeys to a depth of 8m	Three storeys to a depth of between 4m and 8m
Marian Street frontage	Three storeys to a depth of 4m	No variation.

Remainder of the site

18 storeys

- Southern tower – no variation
- Northern tower – variation for a component of the rooftop

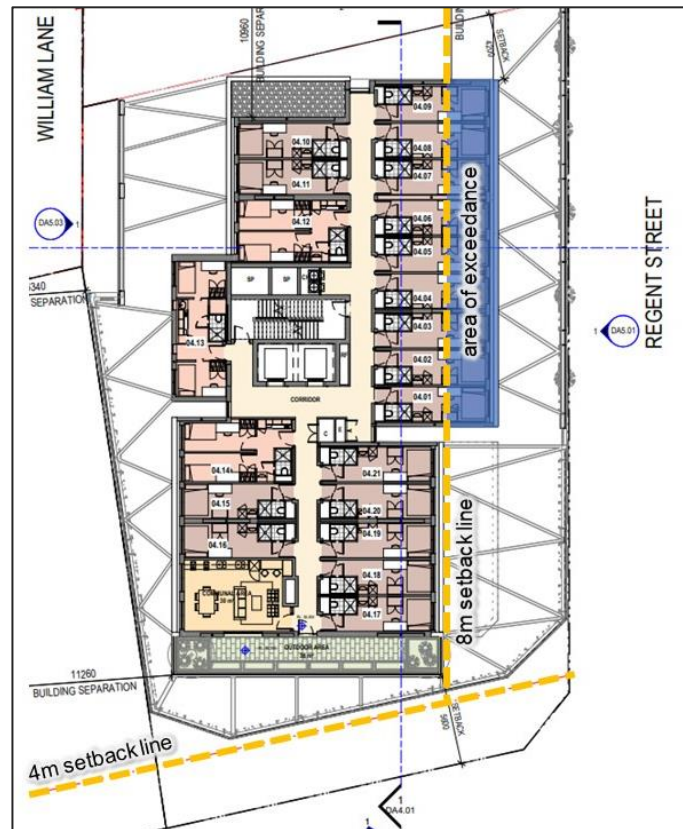


Figure 2 | Typical tower level showing the section that does not comply with the podium height setback (Base source: RtS Architectural Plans)



Figure 3 | Long section (left) and Regent Street elevation (right), indicating the 18-storey height plane (red dotted line) (Base source: RRtS Architectural Plans)



Figure 4 | The area of rooftop plant that meets the definition of a 'storey' and exceeds the height limit coloured red (Base source: RRtS Variation Request)

Clause 16A(2) of Appendix 3 of the 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 and accompanied the RRtS (see **Appendix A**).

Clause 16(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 subsection (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:

- the proposal represents the renewal of the last remaining site within the Redfern Town Centre of the Redfern-Waterloo state significant precinct, and therefore facilitates the development of the town centre
- the proposed ground floor retail as well as the operation of student accommodation provides employment opportunities
- the proposed student accommodation is compatible with the ground floor retail, providing opportunities for direct retail patronage, as well as being compatible with the mix of uses in the surrounding area
- the provision of 112 bicycle spaces and no car parking spaces promotes the use of public transport, walking, and cycling
- the design of the ground floor and mix of uses contributes to the vitality and safety of the public domain
- the development has demonstrated design excellence as addressed in **Section 6** of this report
- the landscaped podium and communal open space areas provide visual and aesthetic values and internal amenity to the future student residents.

2. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the standard

The 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 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:

- Tower:

- the tops of towers are to be designed to provide a dramatic silhouette when seen against the sky to give Redfern an identifiable skyline at a city scale
- roof mounted plant rooms, air conditioning units and other services and equipment shall be effectively screened from view using integrated roof structures and architectural elements
- a special lighting scheme may be prepared to highlight special features of the roof top design at night
- Podium:
 - 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:

- Tower:
 - the proposed rooftop plant has been designed to be visually recessive rather than an identifiable and eye-catching element of the building. However, the proposed design of the building rooftop is consistent with the silhouette of neighbouring development and will create a consistent built form typology in the skyline
 - the rooftop plant is located behind the building parapet, screened with metal louvres, and setback from the primary street frontages of Regent Street and Margaret Street ensuring that they are largely integrated with the overall built form and are not visually intrusive or prominent in the streetscape
- Podium:
 - the podium has a nil setback to Regent Street which aligns with the approved 90-102 Regent Street podium to the north and the urban design principles for the precinct. While a greater setback is provided to Margaret Street, this is supported as it provides greater separation to St Luke's Church and greater opportunities for public domain improvements
 - the proposed three storey podium scale along Regent Street aligns with the height of the neighbouring podium at 90-102 Regent Street and responds to the established streetwall scale of development further north on Regent Street. The proposal will, therefore, achieve a continuous streetwall height
 - the 4 m setback along Regent Street for the northern part of the tower component is consistent with the upper level setbacks approved at 90-102 Regent Street, which directly adjoins the site. The 8 m setback for the southern part of the tower component is consistent with the SEPP control and provides for appropriate sightlines to the heritage item to the south

- 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 design has been refined to respond to the feedback of the SDRP, including redistributing form and massing to increase the setback and step down the building height to Margaret Street, improving the transition between the Redfern Town Centre and surrounding areas
- the proposed setbacks are consistent with the variations to the relevant building height standards for other similar approved developments within the locality, including the provision of 18 storey tower elements within the 8 m along Regent Street. This was most recently approved for the development immediately to the north at 90-102 Regent Street but also extends further north along Regent Street to the north of Marion Street
- the three-storey podium component provides a fine-grain architectural outcome and a human-scale pedestrian environment. The proposed setbacks to the tower component will provide an attractive streetscape with an appropriate rhythm and a continuous built form along Regent Street and Margaret Street
- the plant and equipment on the roof of the building is minor (39.7m²) and lower than the approved adjacent building, and because it is non-habitable space it does not contribute to any additional operational impacts.

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 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 complies with the maximum floor space ratio for the site, and does not represent an over-development of the site
- the building rooftop is consistent in height with approved neighbouring development
- the proposed rooftop structures have been designed to minimise visual impacts by being located behind the building parapet, screened with metal louvres, and setback from the primary street frontages of Regent Street and Margaret Street
- the podium height to Regent Street aligns with the neighbouring development at 90-102 Regent Street and the wider streetscape within the Redfern Town Centre, creating a consistent human scale
- the stepped podium height responds to the topography of the site
- the northern tower's 4 m setback to Regent Street aligns with the neighbouring development at 90-102 Regent Street, before transitioning to a compliant 8 m setback for the southern tower to reduce bulk and scale in relation to St Luke's Presbyterian Church
- the setback above the podium to Regent Street had been varied on several occasions, including for the neighbouring buildings at 90-102 Regent Street, 80-88 Regent Street, and 60-78 Regent Street
- the podium design breaks up the façade into smaller elements as an interpretation of the fine-grain pattern created by shopfronts or a grouping of terraces that characterises the wider Redfern neighbourhood
- the podium's brick finish references similar qualities of existing and approved buildings in the Regent Street, Margaret Street and William Lane streetscapes
- amenity impacts including overshadowing and the pedestrian wind environment are acceptable as discussed further in **Section 6**
- the proposal ultimately provides a podium with tower setbacks and achieves an appropriate design outcome for the site consistent with the intent of the controls.

Consequently, the Department considers the Applicant's written request adequately addresses the matters required to be demonstrated under clause 16A in Appendix 4 of the 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 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/projects/104-116-regent-street-redfern-student-accommodation>