



90-102 Regent Street Modification 1

Internal and external amendments and replacement of
condition of consent relating to land dedication
State Significant Development Modification Assessment
(SSD 10382 MOD 1)

July 2022



Published by the NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: 90-102 Regent Street Modification 1

Subtitle: Internal and external amendments

Cover image: View of the north-east corner of the proposal looking down Regent Street (Source: SSD 10382 EIS)

© State of New South Wales through Department of Planning and Environment 2022. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (July 2022) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Glossary

Abbreviation	Definition
AHD	Australian Height Datum
Applicant	The Trustee for WH Regent Trust
BCA	Building Code of Australia
CIV	Capital Investment Value
Council	City of Sydney Council
Department	Department of Planning and Environment
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPI	Environmental Planning Instrument
FSR	Floor Space Ratio
GFA	Gross Floor Area
LEP	Local Environmental Plan
Minister	Minister for Planning
RTS	Response to Submissions
SDCP 2012	Sydney Development Control Plan 2012
SDRP	State Design Review Panel
SEARs	Planning Secretary's Environmental Assessment Requirements
Secretary	Planning Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy

Contents

1	Introduction	1
1.1	Background	1
1.2	Approval history	2
2	Proposed modification	3
3	Statutory context	8
3.1	Scope of modifications	8
3.2	Consent authority	8
3.3	Mandatory matters for consideration	8
3.4	Objects of the Act	9
3.5	Reasons for granting consent	9
4	Engagement	10
4.1	Department's engagement	10
4.2	Summary of submissions	10
4.3	Response to submissions	10
5	Assessment	11
6	Evaluation	15
7	Recommendation	16
8	Determination	17
	Appendices	18
	Appendix A – List of referenced documents	18
	Appendix B – Notice of modification	18

1 Introduction

This report provides an assessment of modification application SSD 10382 MOD 1 seeking to modify the State Significant Development (SSD) approval for the student accommodation development at 90-102 Regent Street, Redfern (SSD 8925).

The application was lodged by The Trust Company (Australia) Limited ATF Wee Hur Regent Trust (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification application seeks approval for internal and external amendments to the approved project and change the timing of the preparation and lodgement of a land dedication plan from prior to the issue of the relevant Construction Certificate to prior to occupation.

1.1 Background

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).

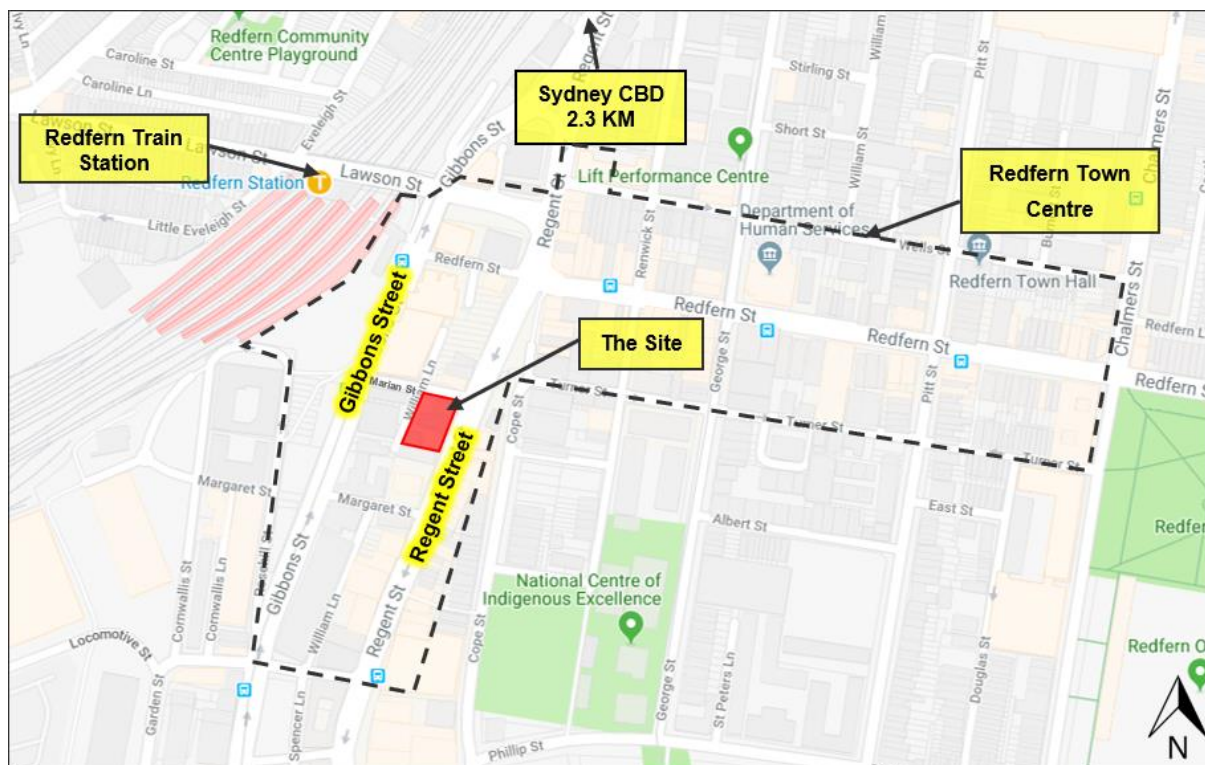


Figure 1 | Site location (as shown in red) (Base source: Nearmap)

The site is located at 90-102 Regent Street, Redfern and comprises five allotments. The site is bound by Regent Street to the east, Marian Street to the north, William Lane to the west and a service station to the south. The site has an area of 1,287 m² and a slope of approximately 1 m from Regent Street to William Lane.

The redevelopment of the site has commenced, including demolition of the row of commercial premises with shop top housing that formerly occupied the site.

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



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

1.2 Approval history

On 24 June 2021, development consent was granted by the Minister for Planning and Public Spaces for the development of an 18 storey student accommodation building (SSD 10382). The development consent / project approval permits the following works:

- 381 student accommodation rooms, providing 408 beds
- communal student facilities, including lounge areas, games room, gymnasium and external terraces on level 2
- one ground floor retail tenancy
- public domain and landscaping works.

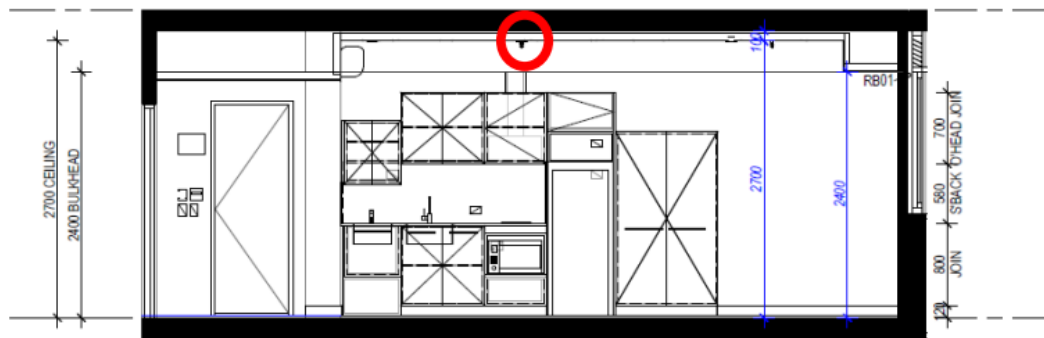
The development consent has not been modified previously.

2 Proposed modification

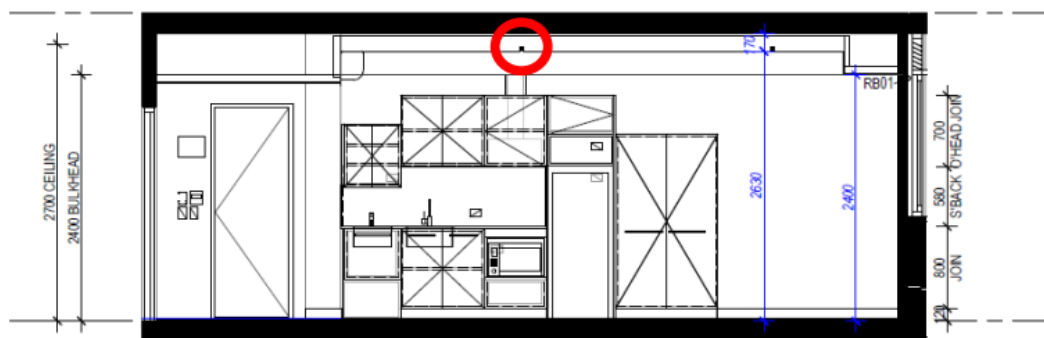
The Applicant lodged a modification application (SSD 10382 MOD 1) seeking approval, under section 4.55(1A) of the EP&A Act, for internal and external modifications, and to delete Condition B71 and replace it with a new Condition E41 relating to a land dedication plan. The proposed modifications are summarised in **Table 1** and **Figures 3** to **6**.

Table 1 | Proposed changes

Aspect	Proposed Change
Internal Changes	<ul style="list-style-type: none"> • Reconfiguration of ramp on Ground Level • Modification of access to bicycle parking on Ground Level • Addition of a cleaner's room on Level 1 • Reduction to ceiling heights on Levels 2-18 • Reconfiguration of the waste storage room on the Lower Ground Floor and the waste rooms on Levels 2-18 • Reconfiguration of the services cupboard and risers across Levels 2-18
External Changes	<ul style="list-style-type: none"> • Amendments to the eastern facade public artwork • Increase the signage zone on the ground floor entry awning • Reduce the length of the eastern top of building signage zone • Reconfiguration of windows on east and west elevations • Addition of mechanical louvres to all residential corridors • Amendments to the on-site detention and storage room plenum wall • Amendments to the loading dock garage door • Reconfiguration of the privacy louvres on the Level 2 western elevation • Reconfiguration of mechanical exhaust louvres across Levels 1 and 2 • Reduction of balustrade glazing for the Level 2 terrace
Floor Space	<ul style="list-style-type: none"> • Adjustment to the allocation of GFA across the site resulting in a net reduction of 2m²



1 TYPE 3A SECTION current Ceiling Height SOU 2700mm
1 : 50



2 TYPE 3A SECTION proposed Ceiling Height SOU 2630mm
1 : 50

Figure 3 | Comparison of floor to ceiling heights and sprinkler head servicing for parts of Levels 2-18
(Source: AJ&C)

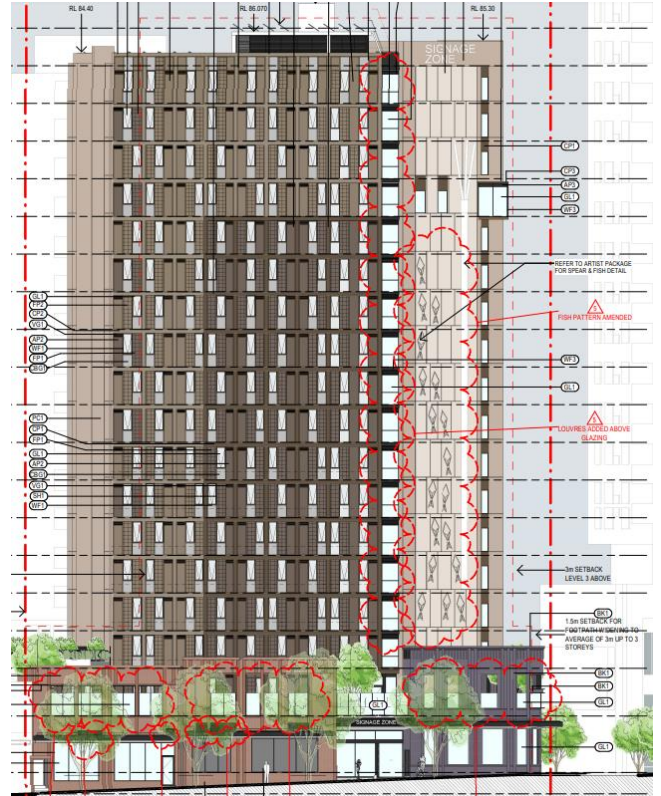
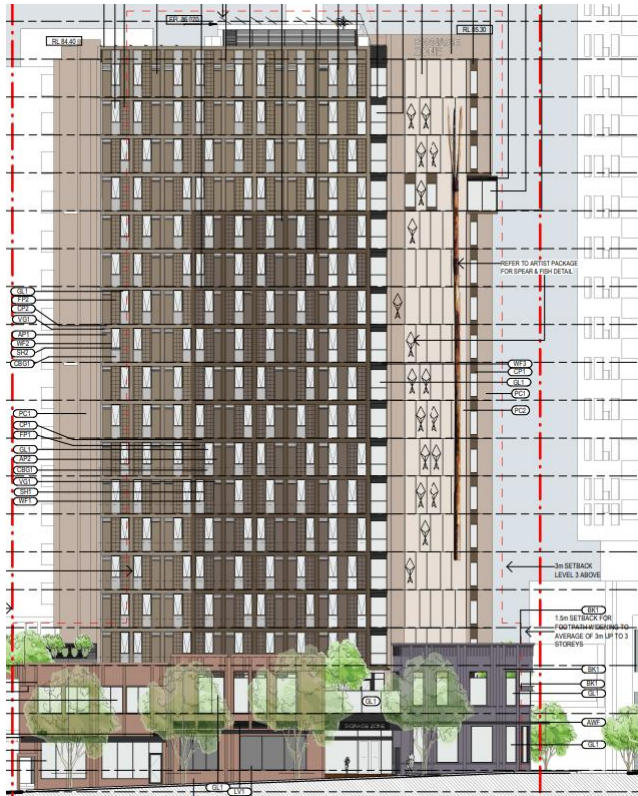


Figure 4 | Comparison of the eastern elevation including the public artwork, mechanical exhaust and louvres, and the terrace balustrade glazing (Source: AJ&C)

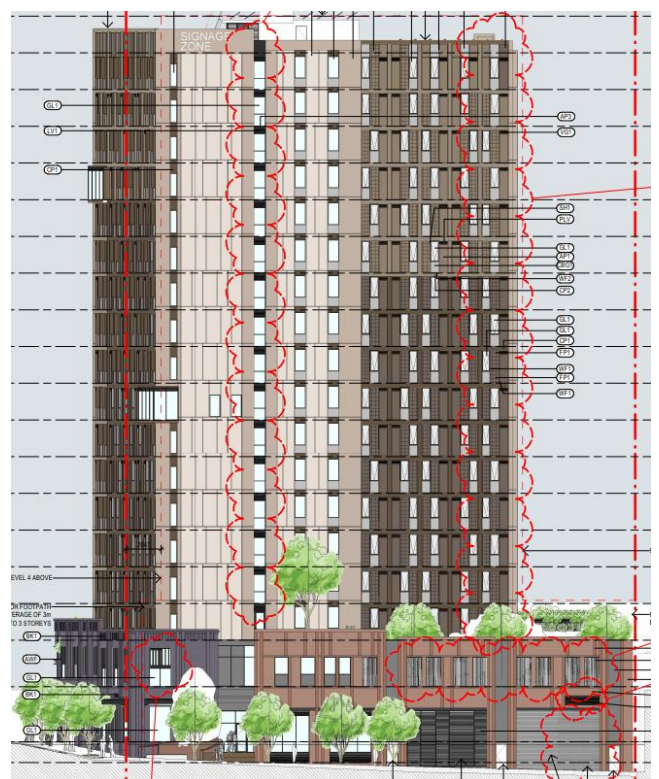


Figure 5 | Comparison of the western elevation, including mechanical exhaust and louvres, garage door, and the terrace balustrade glazing (Source: AJ&C)



Figure 6 | Comparison of the awning and eastern top of building signage zones (Source: AJ&C)

The modification application also seeks to delete Condition B71 and replace it with Condition E41 as follows (words proposed to be added are shown in underline and those to be deleted are shown in ~~strikethrough~~):

~~Land Dedication plan~~

~~B71. A detailed Land Dedication Plan detailing any land to be dedicated to Council as part of the footpath widening to William Lane and Marian Street, is required to be submitted to and approved by Council, prior to the issue of the relevant construction certificate.~~

~~Prior to the issue of any relevant Construction Certificate, details demonstrating compliance with this requirement shall be submitted to the Certifier.~~

E41 LAND DEDICATION PLAN

- a) A separate application must be made to Council to obtain the approval of the plan of subdivision and issue of a Subdivision Certificate under Section 6.15 of the Environmental Planning and Assessment Act 1979 for each stage of the subdivision.

- b) Prior to the issue of the relevant Occupation Certificate, the subdivision plan shall be completed and lodged with the Office of NSW Land Registry Services, showing the new components of the building and creating any easements as necessary. Evidence of lodgement must be provided to the Principal Certifier.
- c) The subdivision plan shall dedicate in stratum an approximately 2.4 metre wide strip of land across the full William Lane frontage as road widening. The road widening shall be shown as a separate lot on the plan.
- d) The subdivision plan shall also dedicate an approximately 0.9 metre wide strip of land across the full Marian Street frontage as road widening, also shown as a separate lot.
- e) Building columns should be excluded from the dedication lots
- f) Both road widening lots shall be dedicated in stratum, unlimited in depth, and limited in height to a plane 0.1 metres below any overhanging components of the building above, stepping around the face of the building to a point above the building, where the boundary will step back in to align with the new boundary at ground level. The structure of the building should be wholly within the development lot, other than non-structural awnings.
- g) The land must be dedicated unencumbered. All restrictions, covenants and leases must be released prior to dedication, including those benefiting Council. Easements may be released in conjunction with the dedication process.
- h) The subdivision may be carried out in two stages if so desired – the first stage to subdivide into three lots, the second for the purpose of dedicating the road widening lots. A separate application must be made to NSW Department of Planning, Industry and Environment through their Planning Portal to obtain the approval of the plan of subdivision and issue of a Subdivision Certificate under Section 6.15 of the Environmental Planning and Assessment Act 1979 for each stage of the subdivision.
- i) Evidence of lodgement of the dedication plan with NSW Land Registry Services shall be supplied to the Principal Certifier prior to the issue of a Staged or Final Occupation Certificate.
- j) A positive covenant must be registered on the title of the development lot, pursuant to Section 88B of the Conveyancing Act, 1919, and appurtenant to Council, requiring a plan of subdivision for boundary adjustment to be lodged with the office of NSW Land Registry Services within 9 months of the demolition of the building, and subsequently registered, to reinstate a vertical street alignment in stratum from the current ground level boundary location.
- k) The lots that are to be dedicated to the City must not be encumbered by any Environmental Management Plan or Long Term Environmental Management Plan.

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the project as approved
- is substantially the same development as originally approved; and
- would not involve any further disturbance outside the already approved disturbance areas for the project.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 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 Team Leader, Key Sites Assessments, may determine the application under delegation as:

- a political disclosure statement has not been made
- there are no public submissions in the nature of objections; and
- Council has not made a submission by way of objection.

3.3 Mandatory matters for consideration

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of SSD 10382. The Department considers that the modification application does not result in significant changes that would alter the mandatory matters for consideration under Section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

Table 2 identifies the matters for consideration that apply to the proposed modification.

The Department has also given consideration to the relevant matters in **Section 5** as required.

Table 2 | Section 4.15 Evaluation

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	The modified proposal is consistent with the relevant legislation, the State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021. The modifications are wholly contained within the approved

	building footprint and do not increase the approved maximum FSR or building height.
(a)(ii) any proposed instrument	No draft instruments are relevant to the proposed modifications.
(a)(iii) any development control plan	Development Control Plans do not apply to SSD.
a)(iv) any planning agreement	Not applicable.
(a)(iv) the regulations	The Application meets the relevant requirements of the EP&A Regulation.
(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 development are acceptable and have been appropriately addressed (refer to Section 5 of this report).
c) the suitability of the site for the development	The site remains suitable for the development as assessed in the original application.
(d) any submissions	The recommendations in the submission from Council have been accepted by the Applicant (refer to Section 4).
(e) the public interest	The Department considers the modified proposal continues to be in the public interest as the changes are minor.

3.4 Objects of the Act

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

3.5 Reasons for granting consent

The proposed modification does not detract from the reasons for which the original consent was granted.

4 Engagement

4.1 Department's engagement

Clause 105 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications.

However, it was made publicly available on the Department's website and was referred to City of Sydney (Council) for comment.

4.2 Summary of submissions

On the 17 June 2022, the Department received a submission from Council in relation to the application.

Council raised no objection to the proposed internal and external amendments and advised that they agree to the deletion of Condition B71 with new conditions of consent (Conditions E41-E53). Council's submission detailed their recommended drafting for the new conditions of consent, making the following key amendments to the condition proposed by the Applicant:

- that a Sydney Water section 73 certificate, referencing the subdivision, be lodged prior to issuing the subdivision certificate
- that public domain works within the dedicated land be completed to the satisfaction of Council's Public Domain team.

No public submissions were received.

4.3 Response to submissions

In response to the submission from Council, the Applicant confirmed their agreement to Council's drafting of the replacement conditions of consent.

5 Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification application and associated documents
- the Environmental Assessment and conditions of approval for the original application
- relevant environmental planning instruments, policies, and guidelines
- the requirements of the EP&A Act and Regulation
- Council's submission.

The Department has considered the key assessment issues associated with the proposed modification in **Table 3**.

Table 3 | Key assessment issues with proposed modification

Issue	Findings	Recommendations
Reduced Ceiling Heights	<ul style="list-style-type: none"> • The modification seeks to reduce floor to ceiling heights by constructing sprinkler heads flush (or concealed) within the ceilings. The modified floor to ceiling heights include: <ul style="list-style-type: none"> ○ Level 2: 7 x sole-occupancy units have a ceiling height of 3m (reduction of 400mm). The remaining SOUs have a height of 3.4m. ○ Levels 3 – 18: 2.63m (reduction of 70mm). • The Department considers that the above changes are necessary for servicing, and that the affected rooms remain capable of complying with the minimum floor to ceiling heights specified in the Building Code of Australia. 	<p>The Department recommends:</p> <ul style="list-style-type: none"> • Condition A2 be updated to reflect the amended plans.
Other Internal Changes	<ul style="list-style-type: none"> • The modification seeks to make internal floorplan amendments, including: <ul style="list-style-type: none"> ○ the ramp design from the loading dock on the Lower Ground Floor, while retaining the approved grade ○ the detailed design of the waste storage room on the Lower Ground Floor and the waste rooms on Levels 2-18 of the building to correspond with Council's comments on the Operational Waste Management Plan being prepared in accordance with Condition B70 of the consent ○ incorporate the lobby for the bike hoist into the bike storage room, providing more direct 	<p>The Department recommends:</p> <ul style="list-style-type: none"> • Condition A2 be updated to reflect the amended plans

access from the basement to the dedicated storage room

- providing a cleaner's room on Level 1 of the building
- rearranging the services cupboard and risers across Levels 2-18 to address detail design servicing requirements.
- The Department supports the changes as they reflect servicing and design development requirements, and the building would remain capable of complying with the BCA and AS Access to Premises.

Public Art

- The approved development incorporates public art mounted to the north-eastern corner of the building.
- This modification seeks to amend the public artwork to reflect an updated design by the Artist, as supported in a statement from the Artist.
- The Department accepts the above changes, noting that Condition B68 requires further resolution of public art through the preparation of a Public Art Strategy in consultation with Council.

The Department recommends:

- Condition A2 be updated to reflect the amended plans.

Signage

- The approved development incorporates a business/building identification signage zone on the ground floor awning at the building's entrance, as well as a top of building signage zone on both the eastern and western facades.
- Condition A6(b) of the consent specifies that no consent is granted to the installation of signage, which will be the subject of a separate and future application (except where exempt or complying development applies).
- The modification seeks to reduce the length of the eastern top of building signage zone by 45mm and to increase the ground floor awning signage zone to fit the awning.
- The Department accepts the amended signage zones, noting that the detailed design and installation of any sign within this zone will occur separately. The amended zones remain capable of providing signage that complies with Schedule 5 of State Environmental Planning Policy (Industry and Employment) 2021.

The Department recommends:

- Condition A2 be updated to reflect the amended plans.

Level 2 Terrace	<ul style="list-style-type: none"> • The approved development provides a communal terrace on Level 2 of the building for students. This terrace is enclosed by 2.5m glazing, in addition to a glass canopy above. • The modification seeks to reduce the height of the glazed balustrade for the Level 2 terrace from 2.5m to 1.8m. • The Department accepts the revised balustrade height as it does not materially affect wind or noise mitigation and compliance with Conditions B14 or B52 of the consent. • The Department also notes the terrace will be managed in accordance with an Operational Plan of Management to be prepared in accordance with Condition E4 of the consent. 	<p>The Department recommends:</p> <ul style="list-style-type: none"> • Condition A2 be updated to reflect the amended plans • Condition B14 be amended to reference the supplementary wind assessment provided with the application.
Other External Changes	<ul style="list-style-type: none"> • The modification seeks to make amendments to the external appearance of the development comprising: <ul style="list-style-type: none"> ○ amending the window configuration on the eastern and northern facades ○ reconfiguring the privacy louvres on the western façade of Level 2 ○ providing mechanical louvres on the eastern, western, and southern elevations to support the natural ventilation of residential corridors ○ moving the position of mechanical exhaust louvres for Levels 1 and 2 to respond to detailed design servicing requirements ○ changing the materiality of the loading dock garage door from a solid finish to 50% perforated metal to support the natural ventilation of the basement ○ realigning the existing basement wall as shown on the plans and adding plenum walls in the north-east corner of the basement to align with the demolition survey of the site. • The Department notes that works will need to comply with the separate Sydney Metro and TfNSW requirements detailed in the conditions of consent. • The Department concludes that the proposed modifications are acceptable as they will not materially impact the appearance or overall design 	<p>The Department recommends:</p> <ul style="list-style-type: none"> • Condition A2 be updated to reflect the amended plans

quality of the building, would support natural ventilation, maintain privacy, and are reflective of design development requirements.

Land Dedication	<ul style="list-style-type: none"> • The approved development will widen the footpath on William Lane and Marion Street and dedicate this land to Council. Condition B71 of the consent requires the preparation of a Land Dedication Plan to be submitted to and approved by Council prior to the issue of the relevant Construction Certificate. • The Applicant seeks to delete Condition B71 and insert a new condition of consent. The proposed replacement condition has been drafted in consultation with Council and incorporates the recommended wording from Council. • The Department accepts the replacement conditions of consent relating to land dedication. 	<p>The Department recommends:</p> <ul style="list-style-type: none"> • The deletion of Condition B71 and the insertion of the replacement Conditions E41-E53.
Floor Space/ GFA	<ul style="list-style-type: none"> • The consent approved a total Gross Floor Area (GFA) of 9,003m² and a Floor Space Ratio (FSR) of 7:1. • The modification seeks to reduce the GFA by 2m² to 9,001m². • The Department considers it necessary to amend Conditions B7 and E2 to reflect the revised GFA in accordance with the amended plans. • The Department supports the reduction in GFA and recommends that Conditions B7 and E2 are amended. 	<p>The Department recommends:</p> <ul style="list-style-type: none"> • Conditions B7 and E2 be updated to reflect the revised GFA.

6 Evaluation

The Department has assessed the modification request and supporting information in accordance with the relevant requirements of the EP&A Act.

The Department's assessment concludes that the proposed modifications are appropriate as:

- the proposal is substantially the same development as the originally approved development
- the proposed changes are minor in nature and will have no significant material change to the appearance or operation of the approved development
- the changes will not result in any new or significant additional environmental impacts
- it complies with the relevant statutory provisions and remains consistent with the relevant EPIs.

Consequently, the Department concludes that the proposal is in the public interest and should be approved, subject to the recommended changes to the existing conditions of consent as outlined in **Appendix B**.

7 Recommendation

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

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 10382 MOD 1 falls within the scope of section 4.55(1a) of the EP&A Act
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modifies** the consent SSD 10382
- **signs** the attached approval of the modification (**Appendix B**).

Recommended by:



Anna Nowland

Principal Planning Officer
Key Sites Assessments

8 Determination

The recommendation is **Adopted** by:



7/07/2022

Cameron Sargent

Team Leader

Key Sites Assessments

as delegate of the Minister for Planning

Appendices

Appendix A – List of referenced documents

Modification Request:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-1-internal-and-external-amendments-0>

Appendix B – Notice of modification

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-1-internal-and-external-amendments-0>