



UTS Broadway Concept Plan

*Modification of
Concept Approval
(MP 08_0116 MOD 6)*



January 2020

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

Cover photo

Bon Marche building viewed from Broadway and Regent Street (Source: Proponent's Environmental Report)

Disclaimer

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

Copyright notice

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



Glossary

Abbreviation	Definition
CIV	Capital Investment Value
Approval	Concept Approval
Council	City of Sydney
Department	Department of Planning, Industry and Environment
DES	Design Excellence Strategy
EA	Environmental Assessment
EESG	Environment, Energy and Science Group
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FEAR	Future Environmental Assessment Requirement
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
Proponent	University of Technology Sydney
RL	Reduced Level
RtS	Response to Submissions
SEARs	Secretary's environmental assessment requirements
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for NSW
TfNSW (RMS)	Transport for NSW (Roads and Maritime Services)
UTS	University of Technology Sydney



Executive Summary

This report provides an assessment of a modification request seeking to amend the concept approval (MP 08_0116) for the Broadway Precinct of the University of Technology Sydney (UTS) City Campus under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification request seeks approval for a new building envelope for the Bon Marche and Science Precinct with a maximum building height of RL 90.55 and an additional 36,500 square metres (m²) of gross floor area (GFA). The modification request also seeks to amend the approved Statement of Commitments, Urban Design Principles and Design Quality Controls, and includes a new Design Excellence Strategy (DES) to guide the future development of the precinct.

The Proponent is the UTS and the site is located on the southern edge of the Sydney Central Business District (CBD), within the City of Sydney (Council) local government area.

Engagement

The EA was publicly exhibited between 8 November and 10 December 2018 (33 days). The Department received seven submissions, comprising five from Government agencies, an initial objection from Council and one public submission providing comments.

Council initially objected on the grounds of design excellence, ecologically sustainable development (ESD), developer contributions, heritage, built form, overshadowing and car parking. The joint submission from Transport for NSW (TfNSW) and TfNSW (Roads and Maritimes Services (RMS)) did not support the conceptual changes to Harris Street as it would reduce its performance and increase queuing and delays.

Response to submissions

In response to the issues raised in submissions and by the Department, the Proponent provided a Response to Submissions (RtS). The RtS was revised a further three times following comments received from Council. The key changes to the proposal included:

- additional tower setbacks to Broadway and Harris Street
- removal of conceptual changes to the traffic conditions and footpath along Harris Street
- amendments to the design excellence strategy (DES) to clarify the number of competitive design processes and ESD targets
- reduction in car parking from 150 spaces to 65 spaces.

The RtS and subsequent additional information also included amendments to the statement of commitments, urban design principles and design quality controls.

The Department further engaged with Council, TfNSW and RMS on the Proponent's RtS. Following the amendments to the proposal, these agencies no longer object or raise concerns about the proposal.

Assessment

The Department has undertaken a detailed assessment of the proposal and has carefully considered the issues raised in submissions. The Department considers the proposal is acceptable for the following reasons:

- the proposed increase in floor space will accommodate additional teaching, academic and research space and contribute to the growth of the City's global competitive tertiary education sector, consistent with the Greater Sydney Region Plan, the Eastern City District Plan and Sustainable Sydney 2030
- the proposed height and scale of the building envelope is compatible with existing tall buildings within the UTS campus and Central Park located immediately to the south
- the proposal responds to and respects the heritage items on site and includes appropriate setbacks to retain the significance and prominence of the Bon Marche building
- view loss impacts are considered to be reasonable and acceptable given the location and context of the site on the edge of the CBD. Affected properties will maintain reasonable outlook, and impacts can be further mitigated during the detail design stage
- appropriate strategies have been proposed to ensure that the future development will achieve design excellence, including the requirement for a competitive design process for the building fronting Harris Street
- the proposal will improve the public domain by providing a 3.5 m ground floor setback along Harris Street, improving capacity along this busy street for pedestrians
- all other issues associated with the proposal have been assessed and appropriate conditions recommended, where necessary, to ensure any residual impacts are appropriately mitigated and managed.

Conclusion

The Department considers that the proposal will provide significant public benefit by facilitating the expansion of tertiary education facilities and delivery of priorities in Greater Sydney Region Plan and Eastern City District Plan.

The proposal would have limited environmental impacts beyond those already considered in the concept approval and is within the scope of a modification under Section 75W of the EP&A Act.

The Department's assessment concludes the modification request is in the public interest and has recommended approval, subject to new/ amended Terms of Approval and FEARs to ensure the future development achieves design excellence, mitigates impacts and improves public amenity.



Contents

Glossary.....	iii
Executive Summary.....	iv
1. Introduction.....	1
1.1 Introduction.....	1
1.2 The Site.....	1
1.3 Surrounding development.....	2
1.4 Approval History.....	4
2. Proposed Modification.....	6
3. Strategic Context.....	9
3.1 Greater Sydney Region Plan.....	9
3.2 Eastern City District Plan.....	9
3.3 City of Sydney – Sustainable Sydney 2030.....	10
4. Statutory Context.....	11
4.1 Modification of the Minister’s approval.....	11
4.2 Consent authority.....	11
4.3 Secretary’s environmental assessment requirements.....	11
4.4 Mandatory/ relevant matters for consideration.....	12
5. Engagement.....	15
5.1 Department’s Engagement.....	15
5.2 Key Issues – Government Agencies.....	16
5.3 Key Issues – Council.....	17
5.4 Key Issues – Community.....	18
5.5 Proponent’s Response to Submissions.....	18
6. Assessment.....	20
6.1 Density.....	20
6.2 Bulk, scale and heritage.....	21
6.2.1 Building form.....	21
6.2.2 Heritage.....	24
6.3 Views.....	26
6.4 Design excellence.....	32
6.5 Other Issues.....	36
7. Evaluation.....	39
8. Recommendation.....	40
9. Determination.....	41
Appendices.....	42

Appendix A – List of Documents 42

Appendix B – Community views for Draft Notice of Decision..... 42

Appendix C – Modification of Minister’s Approval 43

Appendix D – Consolidated Consent..... 43



1. Introduction

1.1 Introduction

This report provides an assessment of a modification request (MP 08_0116 MOD 6) to the concept approval for the Broadway Precinct of the University of Technology Sydney (UTS) City Campus.

The modification request seeks approval for new and modified building envelopes accommodating an additional 36,500 square metres (m²) of gross floor area (GFA), in addition to an indicative landscape and public domain concept. The request also seeks to amend the Statement of Commitments, urban design principles and design quality controls, and includes a new Design Excellence Strategy (DES) to guide the future development of the Bon Marche and Science Precinct.

The modification request has been lodged by UTS (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 The Site

The UTS City Campus is comprised of three precincts (Haymarket, Broadway and Blackfriars), all of which are located on the southern edge of the Sydney CBD within the City of Sydney (Council) local government area.

The Broadway Precinct (**Figure 1**) has an area of 42,007m² and is bound by Broadway to the south, Thomas Street to the north, Wattle Street to the west and Harris Street to east, with the exception of one building (CB06) that is located on the eastern side of Harris Street.



Figure 1 | Context map (Base source: Proponent's EA)

The modification request relates to the Bon Marche and Science Precinct, located within the eastern portion of the Broadway Precinct, adjoining Harris Street (**Figure 2**).

The Bon Marche and Science Precinct currently contains:

- **Building 3:** four storey former Sydney department store built in two stages in 1909 and 1927 on the corner of Broadway and Harris Street (known as the Bon Marche building)
- **Building 4:** four to six storey university building constructed in the 1950s fronting Harris and Thomas Street
- **Building 9:** two storey building to the rear of Building 8, constructed in 1887 (known as the Apothecary building)
- **Building 18:** three single storey commercial terraces fronting Broadway, constructed in 1887 (known as the terraces).

Buildings 3, 9 and 18 are heritage listed under the Sydney Local Environmental Plan (SLEP) 2012.

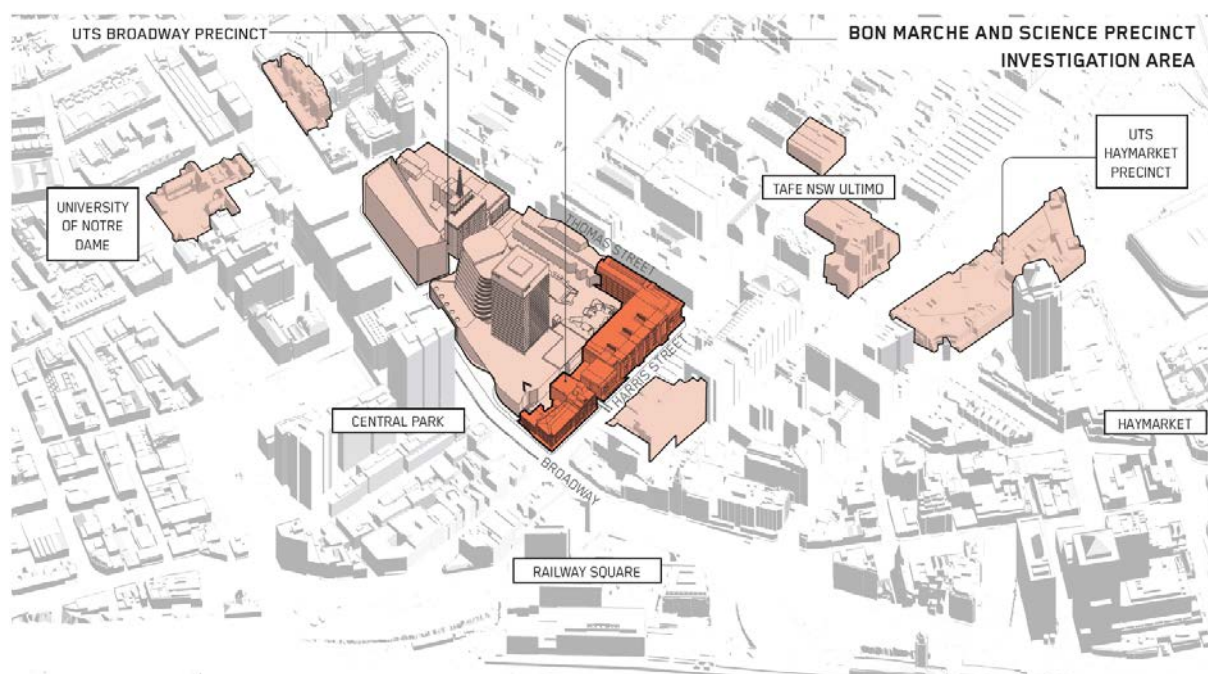


Figure 2 | Site location (Source: Proponent's EA)

1.3 Surrounding development

The surrounding area is characterised by mixed-use development of various heights (**Figures 3 and 4**). The immediate site context is summarised as:

- to the north of the site is TAFE NSW (Ultimo College) (approximately eight storeys) and the broader mixed-use area of Ultimo-Pyrmont.
- to the east, opposite Harris Street, is the ABC's Sydney studios (ranging in height between RL 50 and RL 70), UTS Building 6 and student accommodation tower (RL 81), and Taragon Central (approximately 16 storeys). Further to the east are the Novotel, Urbanest and Liv Apartments towers.
- to the south is the former Carlton United Brewery site, known as Central Park, which contains residential apartments, commercial spaces, student accommodation and open space. One Central

Park East has a maximum height of RL 133, with several other buildings adjoining Broadway having a height of RL 80 (One Central Park West and Duo). To the southeast is the Mercure Hotel, which has a height of RL 65.

- to the west, along Broadway, consists of generally of low to medium rise (three to nine storey) mixed use development.

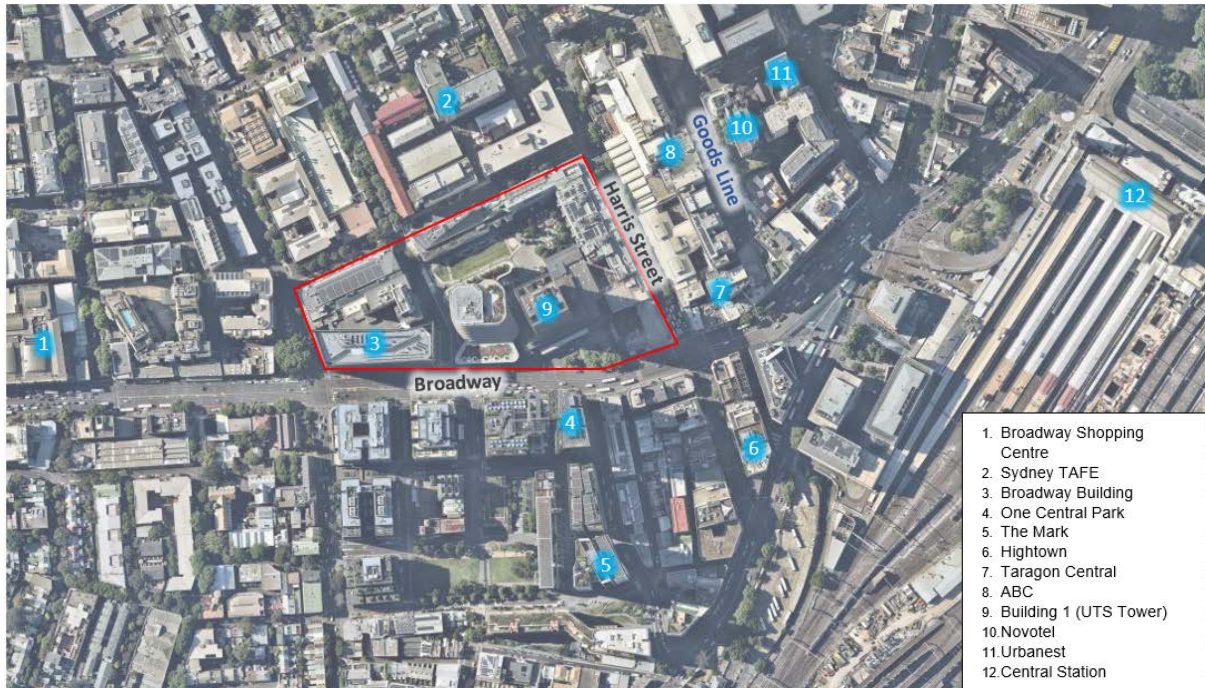


Figure 3 | Surrounding area (Base source: Nearmap, 2019)

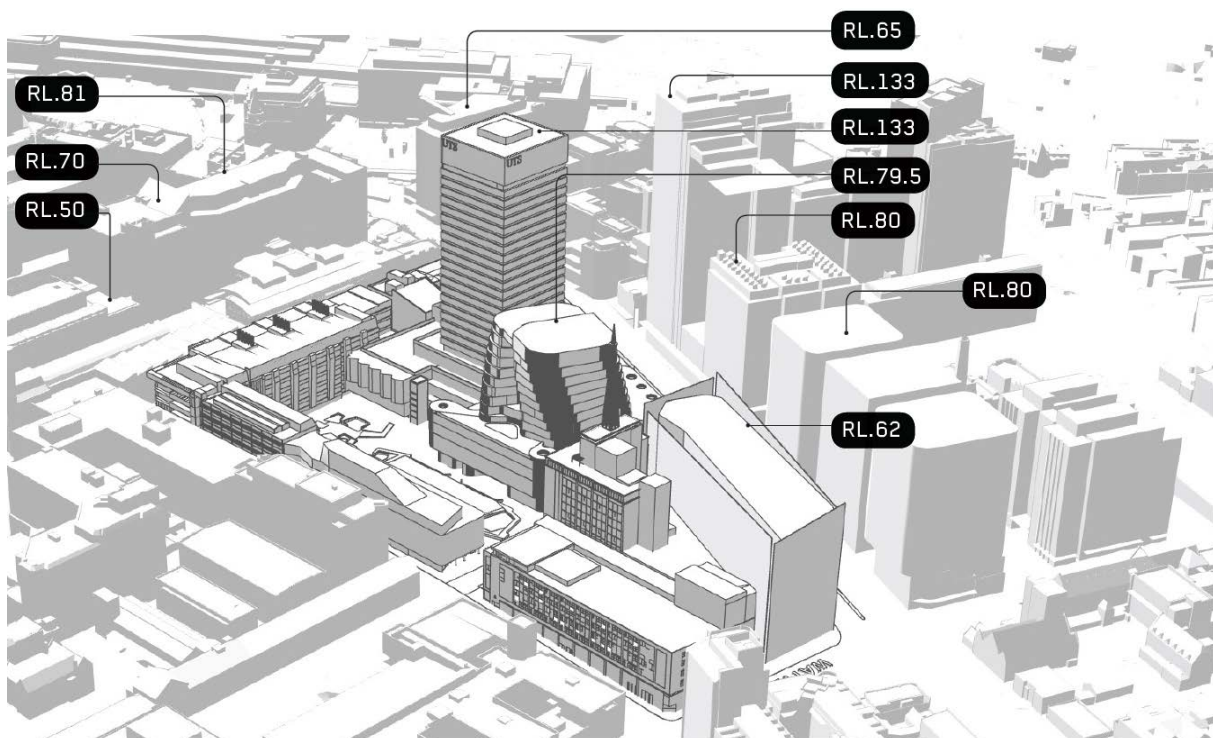


Figure 4 | Surrounding building heights (Source: Proponent's EA)

1.4 Approval History

Concept approval

On 23 December 2009, the former Minister for Planning approved a concept plan (MP 08_0116) for the redevelopment of the UTS Broadway Precinct, involving new building envelopes and refurbishment of existing buildings to accommodate an additional 83,750m² of GFA, associated landscaping and public domain works. Approval was also granted for the detail design and construction of the new multipurpose sports hall (under the Alumni Green) and demolition of existing buildings to accommodate the future Broadway building (Figure 5).

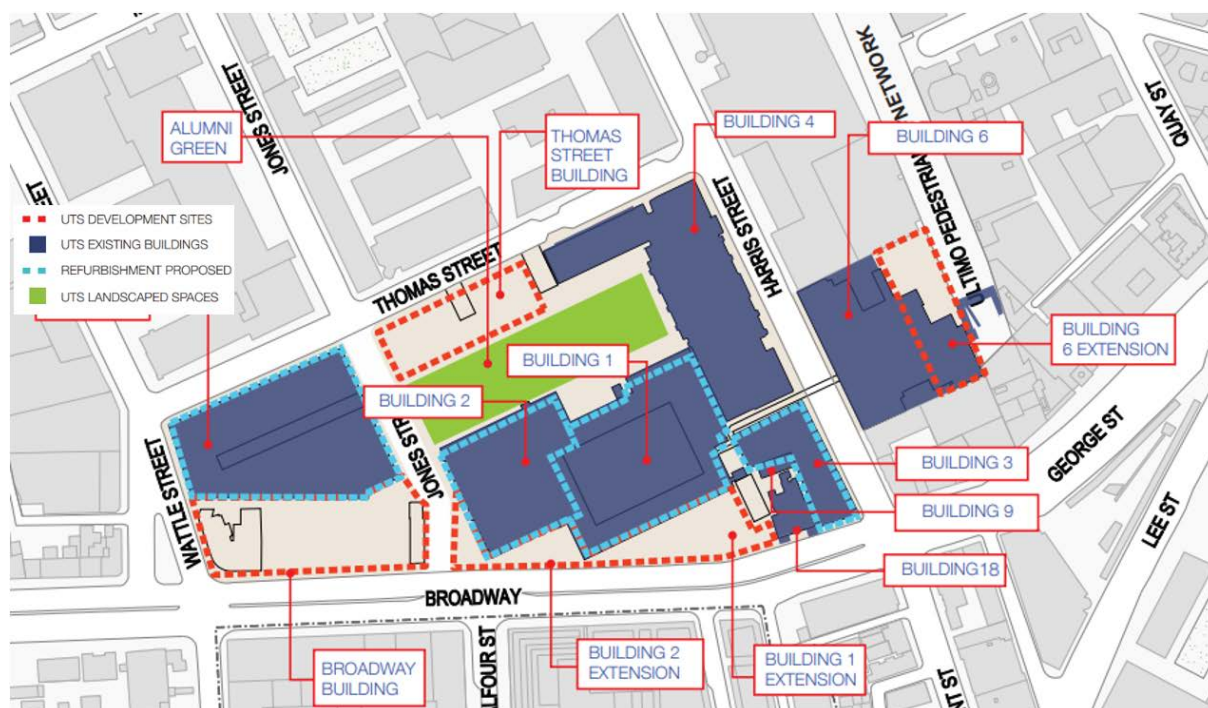


Figure 5 | Concept approval (Source: Proponent's EA for MP 08_0116)

The concept approval has been modified on five previous occasions, as summarised below (Table 1):

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Date
MOD 1	Allow early bulk excavation works	15 March 2011
MOD 2	Amend the timing for submission of pedestrian connectivity improvement strategy	23 March 2011
MOD 3	Allow excavation, construction and operation of the library retrieval system and storage building, and bulk excavation works for the basement levels of the Thomas Street building	29 July 2011
MOD 4	Altered truck route in the Construction Traffic Management Plan	21 March 2012
MOD 5	Allow demolition and construction of a new built form for Building 2, increase maximum height by 34.41 m and increase maximum GFA by 31,511m ²	17 March 2017

The redevelopment of the Broadway Precinct, as envisaged under the concept approval has generally been completed except for the shared podium along Broadway as part of the expansion of Buildings 1 and 2.

Project approvals

On 24 December 2009, the then Minister for Planning approved the project application for the redevelopment of the Peter Johnson Building (Building 6) for additional teaching space and student housing, including construction of a 13-storey tower with 720 student beds above the seven-level podium.

On 16 December 2011, the then Deputy Director-General, under delegation from the Minister for Planning, approved the project application for the 12 storey Broadway Building with 32,500m² of floorspace for education uses and three basement levels for car parking.

On 10 July 2012, the then Director-General, under delegation from the Minister for Planning, approved the project application for the six storey UTS Faculty of Science Building (formerly Thomas Street Building) with 11,295m² of floor space for education uses.



2. Proposed Modification

The proposal, as revised in the Proponent's Response to Submissions (**Section 5.6**) seeks the following modifications to the concept approval:

- conceptual demolition of Building 4 and partial demolition of the Bon Marche building (1927 northern extension)
- conceptual modifications to the Bon Marche, terraces and Apothecary buildings
- a new building envelope as described in **Table 2 / Figure 6**
- increase in GFA of up to 36,500m² (from 118,663m² to 155,163m²)
- provision for 65 car parking spaces
- amendments to the urban design principles, design quality controls and statement of commitments
- new Design Excellence Strategy (DES)
- indicative landscape and public domain concept for the precinct.

A link to the modification request documents is provided in **Appendix A**.

Table 2 | Proposed Building Envelope

Component	Description
Podium	
Height	Maximum height of RL 35.55 fronting Harris Street Maximum height of RL 43.10 fronting Thomas Street
Setbacks	
- Harris St	3.5 m from ground level up to RL 18.35 0 m above RL 18.35
- Thomas St	0 m
- Building 7	0 m
Tower	
Height	Maximum height of RL 90.55 (approximately 77-80 m above ground level)
Setbacks	
- Broadway	39.5 m
- Harris St	3 m
- Thomas St	24 m
- Building 1	35 m



Figure 6 | Proposal (Base source: Proponent's EA)

The proposal would be delivered in three stages (**Figure 7**), indicatively described as follows:

- **Stage 1:** Tower (northern half) and podium elements integrated with and above the Bon Marche building;
- **Stage 2:** Remainder of the tower (southern half) and podium element along Harris Street
- **Stage 3:** New Thomas Street building incorporating the corner of Thomas and Harris Streets.

Project modification need and justification

The Proponent contends that changes in the tertiary sector over the last four years have seen student demand exceed all projections.

The Proponent notes the UTS Science facility is experiencing significantly increased demand across the teaching, academics and research space. The concept approval was based on providing facilities for an Equivalent Full Time Student Load (EFTSL) of 15,000 students on the Broadway Precinct by 2015. This projection was updated in 2015, when the most recent modification (Mod 5) was being considered to an EFTSL of 19,500 students on the Broadway Precinct by 2020.

The Proponent submitted a revised EFTSL forecast (**Table 3**), which indicates the previous forecasts for 2020 were exceeded in 2017. For 2020, the EFTSL is now forecast to be approximately 30,505 on the Broadway Precinct – over 10,000 more students than previously forecast under Mod 5.

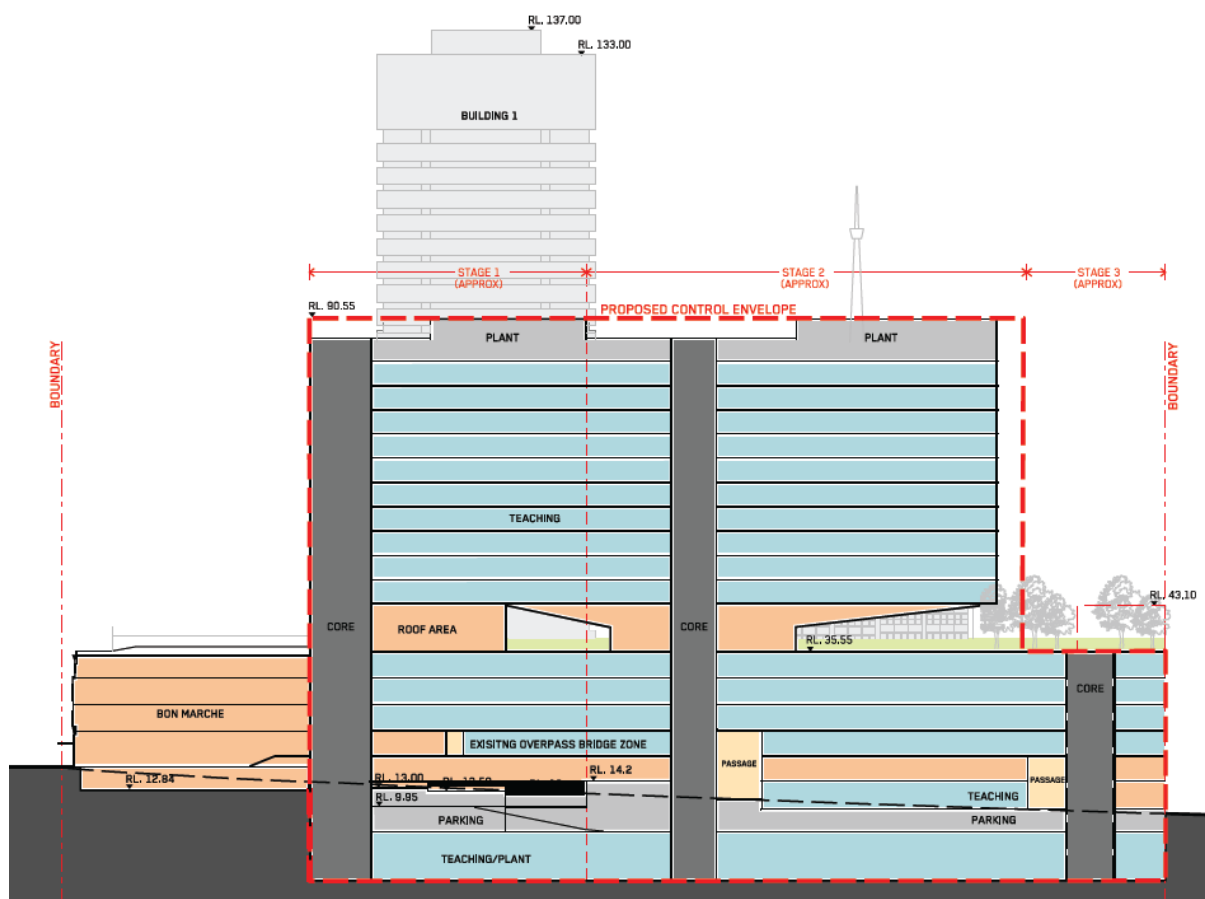


Figure 7 | Indicative staging plan (Source: Proponent's EA)

Table 3 | Current EFTSL Forecast (Source: Proponent's EA)

	Broadway	Haymarket	Total
2017	25,467	10,955	36,422
2020	30,505	9,648	40,153
2028	32,358	10,033	42,391

The Proponent notes the following factors have contributed to student numbers increasing beyond previous projections:

- the implementation of a new Research Strategy that promotes collaboration with industry partners and overseas institutions
- increased demand from overseas students
- establishment of the new Graduate School of Health
- the closure of the UTS Ku-ring-gai campus in December 2015.

Accordingly, the Proponent contends UTS is now experiencing a space crisis and additional space within the Broadway Campus is urgently needed.



3. Strategic Context

3.1 Greater Sydney Region Plan

The Greater Sydney Commission (GSC) released A Metropolis of Three Cities - Greater Sydney Region Plan (Region Plan) and associated District Plans in March 2018.

The Region Plan sets the vision and strategy for Greater Sydney, to be implemented at a local level through District Plans. The Region Plan outlines how Greater Sydney will be transformed into a metropolis of three cities, being the Eastern Harbour City, the Western Parkland City and the Central River City. The site is located within the Eastern Harbour City.

The Region Plan sets ten directions, including a city supported by infrastructure, a collaborative city, a city for people, housing the city, a city of great places, a well-connected city, job and skills for the city, a city in its landscape, an efficient city and a resilient city.

The proposal is consistent with the Region Plan, as it:

- delivers additional teaching and employment opportunities in proximity to existing centres, public transport, local services and amenities, which supports the realisation of the '30-minute city'
- delivers a healthy, safe and inclusive space for people in a well-designed built environment that encourages opportunities to walk, cycle and use public transport
- contributes to growth of an internationally competitive economy
- provides additional jobs and teaching facilities within the Harbour CBD to be stronger and more competitive
- supports the growth of the Innovation Corridor by providing teaching and research facilities that are well connected to public transport.

3.2 Eastern City District Plan

To support the delivery of the Region Plan, the GSC has prepared District Plans to inform local council planning and influence the decisions of State agencies. The aim of the District Plans is to connect local planning with the longer-term metropolitan planning for Greater Sydney.

The site is located within the Eastern City District Plan area, within the Harbour CBD's innovation corridor and Camperdown-Ultimo health and education precinct (**Figure 8**). The proposal is consistent with the relevant planning priorities and actions identified in that plan, as it will contribute towards:

- a stronger and more competitive Harbour CBD
- the growth of the Camperdown-Ultimo health and education precinct.



Figure 8 | Innovation corridor, Harbour CBD (Source: Eastern City District Plan)

3.3 City of Sydney – Sustainable Sydney 2030

Sustainable Sydney 2030, prepared by the City of Sydney (Council), sets a target of 97,000 new jobs (between 2006 and 2030) with an increase in finance, advanced business services, education, creative industries and tourism sectors.

The proposal will contribute to supporting the City's global competitive tertiary education sector (direction 1). It also has a strong alignment to directions 2 and 9, through its high sustainability performance (directions 2 & 9) and directions 3 and 4, through encouragement of public and active transport.

Further, the Proponent has signed a memorandum of understanding with Council setting out how both organisations can work together to deliver these directions as well as the University's own aims.



4. Statutory Context

4.1 Modification of the Minister's approval

The concept plan was originally approved under Part 3A of the EP&A Act. This means the project satisfied the definition of a 'transitional Part 3A project' under clause 2(1) Schedule 2 to the Environmental Planning & Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (ST&OP Regulation), which came into effect on 1 March 2018.

Under the ST&OP Regulation, projects subject to existing Part 3A approvals remain transitional Part 3A projects until they are transitioned to State Significant Development (SSD) (clause 3(1)-(2), Schedule 2). A Part 3A approval may be modified under section 75W of the EP&A Act in certain circumstances if the request was made before the 'cut-off date' of 1 March 2018.

As the request to modify the concept approval was submitted and Secretary's environmental planning assessment requirements (SEARs) were issued before 1 March 2018, the provisions of clause 3 of Schedule 2 to the ST&OP Regulation apply in respect of the request. Consequently, the assessment of this request has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the carrying out of the project under section 75W of the EP&A Act.

The Department is satisfied the modification request remains an educational masterplan, consistent with the concept approval. The modification is therefore within the scope of section 75W of the EP&A Act and can be determined as a modification under section 75W.

4.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the proposed modification as the request was lodged by a public authority. However, in accordance with the Minister's delegation, the Director Key Sites Assessments may approve the section 75W modification request as:

- City of Sydney Council has withdrawn its objection
- a political disclosure statement has not been made
- no public submissions in the nature of objection were received.

4.3 Secretary's environmental assessment requirements

Section 75W(3) of the EP&A Act provides that the Secretary may notify the Proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister. On 1 February 2018, the Department issued SEARs with respect to the proposed modification to the concept approval. The Department is satisfied that the modification application has addressed the SEARs issued for the proposal.

4.4 Mandatory/ relevant matters for consideration

The following are the mandatory/ relevant matters for consideration:

- relevant environmental planning instruments
- objects of the EP&A Act
- Ecologically Sustainable Development (ESD)
- Environmental Planning and Assessment Regulation 2000.

Environmental planning instruments (EPIs)

The Department has reviewed the relevant environmental planning instruments (EPIs) that apply to the proposal, including:

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

The Department has had regard to the above EPIs in its assessment of the modification request and is satisfied the proposed modification is acceptable.

Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent/ approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment the objects should be considered to the extent they are relevant.

A consideration of the objects of the EP&A Act, as they relate to the proposal is provided at **Table 4**.

Table 4 | Response to the objects of section 1.3 of the EP&A Act

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposal will promote social and economic welfare by increasing employment and educational opportunities. The proposal would not impact on any natural or artificial resources, agricultural land or natural areas.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The Proponent has updated its Design Excellence Strategy and Statement of Commitments to include measures to deliver ecologically sustainable development (ESD).

Objects of the EP&A Act	Consideration
(c) to promote the orderly and economic use and development of land	The proposal involves the orderly and economic use of land through the efficient development of an existing inner-city site that is in close proximity to existing services and has excellent public transport access, the merits of which are considered in Section 6 .
(d) to promote the delivery and maintenance of affordable housing	The proposal, being an educational establishment, does not include any affordable housing and is not required to do so.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The project involves development of an existing inner-city site and will not adversely impact on any native animals and plants, including threatened species, populations and ecological communities, and their habitats.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The proposal would not have an adverse impact on nearby heritage items or conservation areas.
(g) to promote good design and amenity of the built environment	The proposed building envelope, subject to conditions, has acceptable impacts as discussed at Section 56 The envelope controls and Design Excellence Strategy, which includes a design competition, ensure a high standard of design for any future development.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	Future development applications will include detailed report(s) confirming the development is capable of meeting relevant construction standards.
(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 proposal, which included consultation with Council and other government agencies, as outlined in Section 5 , and consideration of their responses as outlined in Section 6 .
(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, placing a notice in the newspaper and displaying the applications on the Department's website and at Council's office.

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 undertook a comprehensive assessment of the proposal against these ESD principles in its original assessment and is satisfied the proposal remains consistent with these. The Department notes existing future environmental assessment requirements (FEARs) will facilitate further consideration of ESD opportunities in future applications. In addition, the Proponent's updated Statement of Commitments and the DES confirms that all new buildings on the campus will target a minimum 5-star Green Star rating using the Green Building Council of Australia's Design + As-Built Tool.

The Department is satisfied the provisions of ESD have been adequately addressed.

Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the relevant requirements have been complied with.



5. Engagement

5.1 Department's Engagement

On 1 November 2018, the Proponent lodged the Environmental Assessment (EA). The proposal has subsequently been revised four times, by:

- Response to Submissions (RtS), dated 18 April 2019
- Supplementary Response to Submissions (SRtS), dated 10 July 2019
- Further and Supplementary Response to Submissions (FSRtS), dated 26 September 2019
- Further and Final Supplementary Response to Submissions (Final RtS), dated 12 November 2019.

The Department publicly exhibited the EA between 8 November and 10 December 2018 (33 days) and notified the Proponent's responses to submissions (above) on its website and NSW Service Centres. A summary of the exhibition and notification is provided below in **Table 5**:

Table 5 | Summary of public exhibition and notification of the modification request

Stage	Public Notice	Consultation Method	Submissions
EA	Daily Telegraph and Sydney Morning Herald	Displayed: <ul style="list-style-type: none">• Department's website• Council's office• NSW Service Centre Notified: <ul style="list-style-type: none">• Adjoining landholders• Council• Government agencies	Six submissions: <ul style="list-style-type: none">• 4 Government agencies• Council• 1 Public
RTS	No publication	Displayed: <ul style="list-style-type: none">• Department's website• NSW Service Centre Notified: <ul style="list-style-type: none">• Council• Government agencies	Three submissions: <ul style="list-style-type: none">• 2 Government agencies• Council
SRtS	No publication	Displayed: <ul style="list-style-type: none">• Department's website• NSW Service Centre Notified: <ul style="list-style-type: none">• Council	One submission: <ul style="list-style-type: none">• Council
FSRtS	No publication	Displayed: <ul style="list-style-type: none">• Department's website• NSW Service Centre Notified: <ul style="list-style-type: none">• Council	One submission: <ul style="list-style-type: none">• Council

Stage	Public Notice	Consultation Method	Submissions
Final RtS	No publication	Displayed: <ul style="list-style-type: none"> Department's website NSW Service Centre 	

5.2 Key Issues – Government Agencies

A summary of the Government agencies submissions is provided in **Table 7**:

Table 7 | Summary of Government agency submissions

EES Group	
EA	The Department's EES Group did not object to the proposal and provided the following comments: <ul style="list-style-type: none"> all previous conditions should still apply to the proposal EES Group to be consulted should any conditions be amended.
RtS	EES Group noted the RtS and provided no further comments.
Sydney Water	
EA	Sydney Water did not object to the proposal and provided the following comments: <ul style="list-style-type: none"> existing drinking water and wastewater services have limited capacity to service the proposed development the Proponent should engage a Water Servicing Coordinator and lodge a feasibility application to Sydney Water prior to a section 73 application.
RtS	Sydney Water noted the RtS and provided no further comments.
EPA	
EA	EPA did not object to the proposal acknowledging the Proponent proposes to achieve a 5 star green rating and 4 star green rating for operational new and refurbished structures respectively. The EPA recommended the Proponent be required to: <ul style="list-style-type: none"> complete a detailed survey of hazardous material prior to any demolition complete a detailed assessment of potential site contamination following demolition undertake demolition, site preparation works, bulk excavation and construction during standard construction hours implement measures to minimise noise, dust and vibration impacts on sensitive receivers implement all such feasible and reasonable measures as may be necessary to prevent water pollution while developing the site provide a comprehensive quantitative assessment of operational noise impacts on surrounding noise sensitive receivers, especially nearby residences.
TfNSW & TfNSW (RMS)	
EA	TfNSW and TfNSW (RMS) provided the following comments: <ul style="list-style-type: none"> the reduction in the number of traffic lanes and installation of a mid-block crossing on Harris Street is not supported further microscopic multi-modal traffic flow simulation is required

	<ul style="list-style-type: none"> ensure future development does not impact on the structural integrity or the safe, effective operation and maintenance of the proposed CBD Metro rail corridor future development to include a draft Construction Pedestrian and Traffic Management Plan prepared in consultation with the Sydney Coordination Office within TfNSW and TfNSW (RMS).
RtS	<p>TfNSW and TfNSW (RMS) noted the changes to traffic lanes on Harris Street is no longer proposed and provided the following additional comments:</p> <ul style="list-style-type: none"> the proposed development must not encroach or impact on the CBD metro corridor a detailed assessment of pedestrian facilities in the immediate area will need to be provided as part of an updated traffic and transport assessment for Stage 2 of the development.

5.3 Key Issues – Council

A summary of Council's submissions is provided in **Table 8**:

Table 8 | Summary of Council's submissions

Exhibition/ notification	Comments
EA	<p>Council initially objected to the proposal on the following grounds:</p> <ul style="list-style-type: none"> the ability to consider the modification request under Section 75W the DES is inconsistent with Council's Competitive Design Policy the proposed ESD targets are outdated the request for an exemption from developer contributions the extent of alteration to heritage items the additional overshadowing of adjoining residential dwellings the nil setback along Harris Street above the Bon Marche parapet datum the provision of 150 car parking spaces. <p>Council also provided the following comments:</p> <ul style="list-style-type: none"> the height and bulk must respond appropriately to its context a visual analysis should be carried out to test the impact of the cantilever wind tunnel testing is required to determine any mitigation measures / design strategies required a more detailed landscape package should be provided to demonstrate the provision of landscaping is achievable the proposal would constrict the footway along Harris Street with the addition of planters, pushing pedestrians into private land, raising issues of maintenance and amenity the proposal should seek to improve the level of service for the adjoining footpaths bicycle parking and associated facilities should be designed to comply with Council's minimum requirements <p>In addition, Council requested future detailed applications include:</p> <ul style="list-style-type: none"> a Loading Dock Management Plan an equitable universal path of travel be provided within the site public artwork and landscape elements that celebrate Indigenous identity and culture a Hazardous Building Material Survey.
RtS	<p>Council reviewed the Proponent's RtS, and while acknowledging the amendments addressed its heritage, ESD, and overshadowing concerns, maintained its objection on the following grounds:</p> <ul style="list-style-type: none"> the DES remains inconsistent with several requirements in the City's Competitive Design Policy and does not address Council's previous issues

Exhibition/ notification	Comments
	<ul style="list-style-type: none"> the proposed 3 m exploratory zone along Harris Street is not supported the Harris Street ground floor setback should include a minimum clearance of two storeys additional wind testing is required in certain locations to ensure the surrounding area is not adversely affected by the development the landscaping information provided does not address the issues previously raised.
SRtS	<p>Council reviewed the Proponent's SRtS, noting the amendments regarding the DES, built form, heritage impacts, overshadowing, wind impacts, ESD, car parking and public domain, and stated it would withdraw its objection subject to the imposition of the following conditions:</p> <ul style="list-style-type: none"> the DES be amended to nominate at least one, preferably two, competitive design processes a competitive design processes having regard to all new buildings and alterations and additions to existing buildings a minimum two storey ground floor clearance along Harris Street setting appropriate wind comfort criteria for specific locations in and around the site detailed landscape plans and strategies being developed and integrated in the overall design during the competitive design processes any additional car parking spaces only appropriate where further analysis demonstrates no adverse impacts on the existing road network.
FSRtS	<p>Council acknowledged the Proponent's further amendments to resolve its outstanding concerns and provided the following:</p> <ul style="list-style-type: none"> remove the exemption paragraph for the refurbishment works to the Bon Marche building from a competitive design process in the DES require an appropriate portion of the Sky Garden meets the 'sitting' criteria whilst the remaining area (excluding circulation spaces) achieve either a 'sitting' or 'walking' criteria efforts should be made to relocate and reinstate the Honour Roll board within the Bon Marche building.

5.4 Key Issues – Community

The Department received one public submission commenting on pedestrian congestion along Broadway and the need for the proposal to provide an improved thoroughfare between the site and Central Station.

5.5 Proponent's Response to Submissions

Following the exhibition and notification of the proposal, the Department placed copies of all submissions received on its website and requested the Proponent to provide a response to the issues raised.

On 1 May 2019, the Department accepted the Proponent's Response to Submissions (RtS), which was revised a further three times by the SRtS, FSRtS and Final RtS.

The various response to submissions included additional information, justification and amendments to the proposal in response to the issues raised during the public exhibition and notification periods. A link to all response to submissions can be found at **Appendix A**.

A comparison between EA and the Final RtS is provided at **Table 9**:

Table 9 | Comparison of the changes to the proposal

Component	EA	Final RtS	Difference between EIS/Final RtS
Building Height	RL 86.55	RL 90.55	+4 m
Tower Setbacks			
- Broadway	32 m	39.5 m	+7.5 m
- Harris St	0 m	3 m	+3 m
- Thomas St	32 m	24 m	-8 m
Car Parking	150 spaces	65 spaces	-85 spaces

In addition, the Proponent's subsequent responses to submissions included:

- a 3.5 m ground level setback for the length of Building 4 along Harris Street, with a height clearance of up to two storeys (RL 18.35)
- the removal of the conceptual changes to the traffic conditions and planter boxes along Harris Street
- the removal of the cantilever over the Apothecary building and exploratory zone within the 3 m tower setback to Harris Street
- additional overshadowing analysis
- a Wind Assessment report
- a revised Statement of Commitments:
 - confirming at least one competitive design competition will be undertaken
 - confirming UTS will engage Liverpool Council to relocate and house the Honour Roll within the Bon Marche building
 - clarifying the additional parking is contingent upon demonstrating acceptable impacts on the surrounding road network
 - defining wind comfort criteria for the Alumni Green, The Loft and Sky Garden
 - ensuring future detailed landscape designs are in accordance with Australian Standards and the Sydney Landscape Code
 - updating the ESD targets.
- revised Urban Design Principles:
 - updating the sustainability targets
 - clarifying the provision of an additional 65 car parking spaces
- revised Design Quality Controls to include specific controls for the proposed new envelopes.



6. 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 (as modified)
- all submission received on the proposal and the Applicant's RTS and SRTS
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key assessment issues associated with the proposal are:

- density
- bulk, scale and heritage
- view impacts
- design excellence.

All other issues associated with the proposal have been considered in **Section 6.5 (Table 12)**.

6.1 Density

The proposal seeks a 13% increase in GFA from 275,102m² to 311,602m² (36,500m²). The Sydney LEP 2012 provides a maximum FSR of 5:1 for the site, with the exception of the Terraces which is 2.5:1. The Department notes the existing approval exceeds the FSR control and the proposed modification would increase this non-compliance as outlined in **Table 10** below.

Table 10 | GFA and FSR comparison

	Approved	Proposed	Difference
GFA	275,102m ²	311,602m ²	+36,500m ²
FSR	6.25:1	7.31:1	+1.06:1

Council does not object to the additional GFA, however it commented that any additional height and bulk should respond appropriately to the built form of adjoining heritage items and have no adverse environmental impacts on surrounding sites or public domain.

To assess whether the proposed development is appropriate, the Department has considered the strategic merits of the proposal as well as the potential impacts of the proposal.

From a strategic perspective, the Department supports the proposed increase in floor space to accommodate additional teaching, academic and research space for the UTS Science faculty. The site is strategically well located within an existing education precinct with excellent access to public transport,

retail facilities and other services. The new building will also complement and utilise the existing facilities within the UTS campus and will strengthen the City's global competitive tertiary education sector. The proposal will enable new well-designed facilities for teachers and students and will encourage opportunities to walk, cycle and use public transport. The proposal supports the vision, strategies and goals of the Greater Sydney Region Plan, the Eastern City District Plan and Sustainable Sydney 2030.

The Department is therefore satisfied the site is strategically well located to accommodate additional floor space to meet the growing demand for tertiary education.

The Department has also considered the built form, traffic generation and demand on existing/ future infrastructure. The Department considers the increased density is acceptable, as:

- the building height and scale is appropriate in its context. The proposal will sit approximately 43 m below the height of Building 1 (the original UTS tower) and is compatible with existing tall buildings within Central Park located immediately to the south (**Section 6.2.1**)
- the bulk and scale responds to and respects the heritage items on site and includes appropriate setbacks to retain the significance and prominence of the Bon Marche building (**Section 6.2.2**)
- the proposal has acceptable environmental impacts in terms of views and overshadowing having regard to the dense CBD edge location of the site (**Sections 6.3 and 6.5**)
- the DES, along with the amended urban design principles and design quality controls ensure future development achieves design excellence (**Section 6.4**)
- the site is within walking distance of Central Station (500 m) and has excellent access to bus, train and light rail as well as convenient access to retail and other services at Central Park located directly to the south of the site
- traffic impacts on the surrounding road network will be assessed in detail in future application/s. In addition, the maximum proposed 65 additional car parking spaces will only be provided if the Proponent can demonstrate in future application/s that the impacts are acceptable (**Section 6.5**)
- the site is within a city edge urban environment and can utilise existing utilities and services (subject to augmentation/expansion).

The Department therefore concludes the site is suitable for increased floorspace of 36,500m² to accommodate further education infrastructure given its location within a recognised education and health precinct.

6.2 Bulk, scale and heritage

6.2.1 Building form

The proposed height of RL 90.55 (approximately 74.5 m) is approximately 25 m above that which would be permitted under the SLEP (49.5 m including a 10% bonus for design excellence).

The Proponent notes the original plans to develop the UTS Broadway Precinct in the 1960s included three towers of varying heights set above a podium along Broadway (**Figure 9**). These buildings were intended to act as the gateway to the university, however this concept never materialised in full, with only one of the original towers being built. The Proponent contends the proposed modification request

provides the opportunity for the original concept to evolve and be re-imagined. With the completion of Building 2, a modern interpretation of the three towers concept can be enabled (**Figure 10**).

Council initially raised concerns about the height and bulk of the building responding appropriately to its context. In particular, Council objected to some of the building setbacks and cantilever over heritage items.

In response the Proponent removed the proposed cantilever and increased setbacks.

Following the revised proposal, Council advised that it supports the proposed building form on the basis of the following key changes made by the Proponent:

- a 3.5 m setback from ground floor to the underside of the podium along Harris Street, subject to a condition requiring a minimum two storey clearance
- a 3 m setback along the Harris Street boundary above RL 35.55
- removal of the cantilever above the Apothecary building.

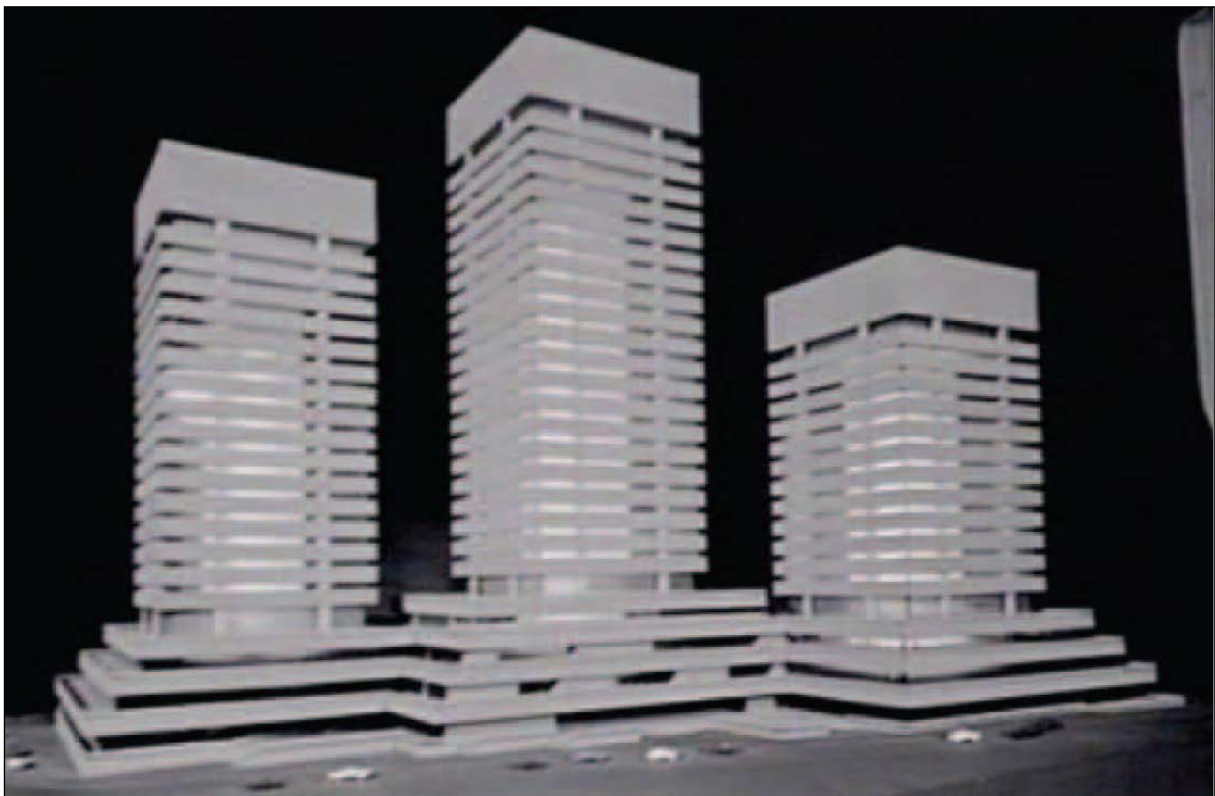


Figure 9 | Michael Dysart original 1966 design (Source: Proponent's EA)

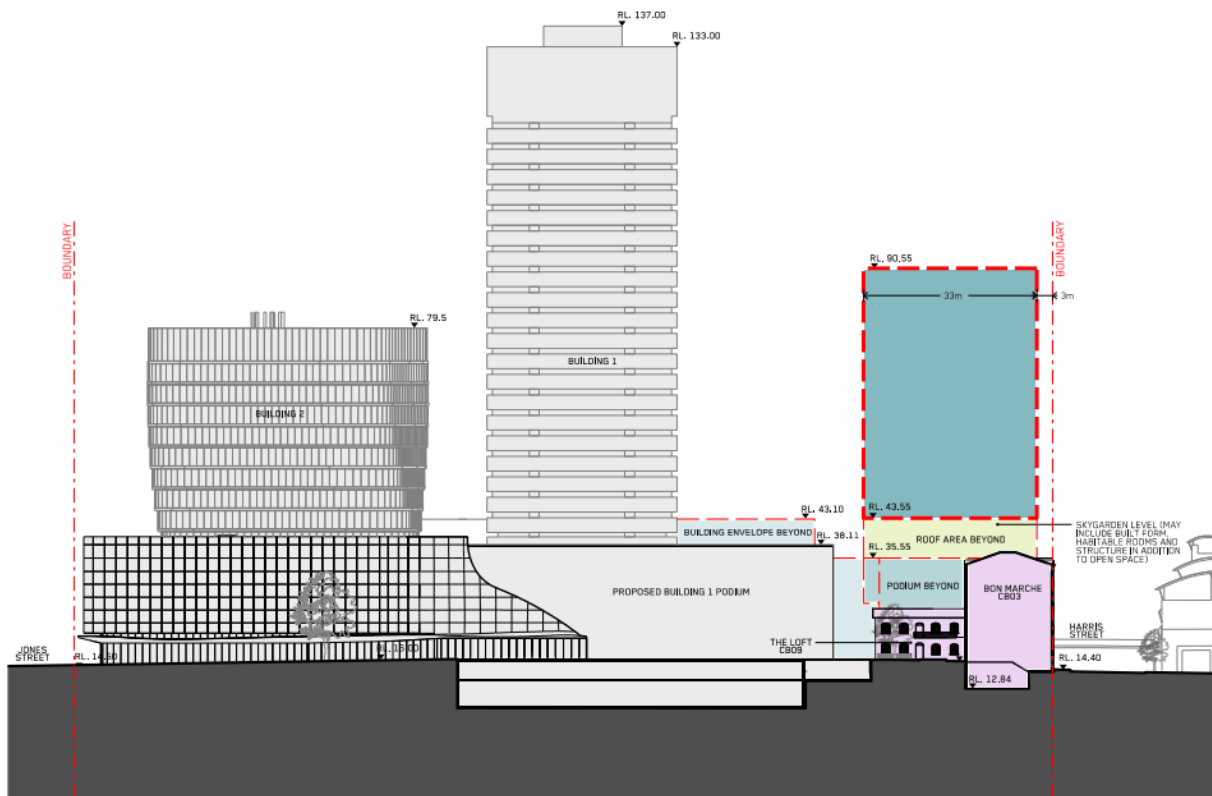


Figure 10 | Proposed building envelope in the context of approved towers (Buildings 1 and 2) as viewed from Broadway (Source: Proponent's EA)

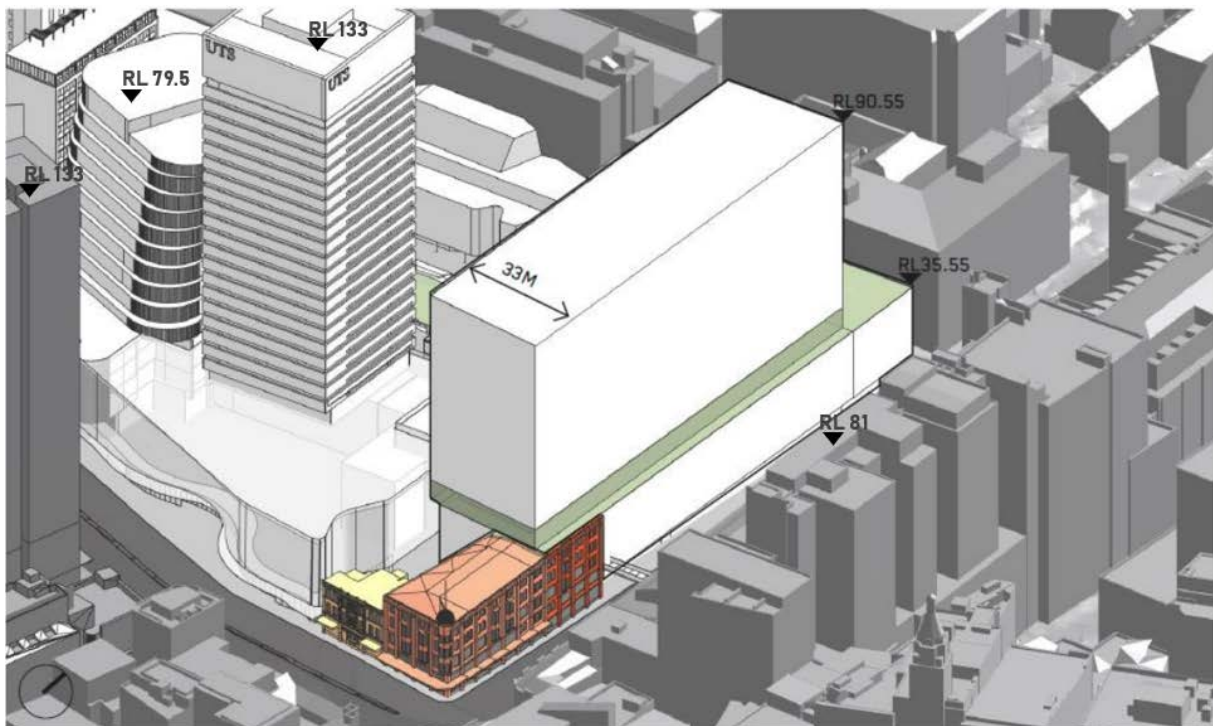


Figure 11 | Amended building envelope (Base source: Proponent's Supplementary RtS 28.09.19)

The Department supports the changes made to the building envelope to address Council's concerns. The increased tower setbacks ensure the prominence of the Bon Marche building is retained and establish a clear podium in line with the Bon Marche parapet datum. The ground level setback also provides a significant improvement to the public domain along Harris Street.

The Proponent has agreed to provide a minimum two storey height clearance between the ground floor and the underside of the podium, however the submitted plans show only a one storey (approximately 5 m) clearance adjacent to the Bon Marche building. The Department therefore recommends a condition requiring future applications to provide a minimum two storey clearance from the ground floor to the underside of the podium for the full length of the new building envelope along Harris Street.

The Department considers the bulk and scale of the modified building envelope (**Figure 11**) is compatible with the surrounding area. In particular:

- it adds to the diversity of building heights and forms within the UTS Broadway site and is compatible with the existing tall buildings on the site, including Building 1 (RL 133) and Building 2 (RL 79.5)
- it is compatible with existing tall buildings within Central Park immediately to the south, including One Central Park East (RL 133) and One Central Park West and Duo (RL 80)
- the podium height aligns with the height of the Bon Marche building along Harris Street and Building 7 along Thomas Street to provide a cohesive streetscape and human scale
- the tower is setback 39.5 m from Broadway and 3 m from Harris Street, respecting the prominence and heritage significance of the Bon Marche building (**Section 6.2.1**)
- the 3.5 m ground level setback enhances the relationship with the public domain and human scale of the development, subject to a condition for a minimum two storey clearance
- it will have acceptable view impacts (**Section 6.3**), mitigate against wind impacts (**Section 6.5**) and not cause adverse overshadowing impacts (**Section 6.5**).

The Department concludes that the bulk and scale of the building envelope has been carefully considered to respond to the characteristics of the site and adjoining development and minimise impacts.

6.2.2 Heritage

The site is occupied by three heritage items listed in the SLEP 2012 known as the Bon Marche building, the Apothecary building and the terraces (**Section 1.2**).

The proposal seeks to retain all three heritage items but it would result in the following changes:

- the Bon Marche Building involves very little early internal fabric however the key opportunities are retaining the timber frame, original floors, reinstating shopfronts, a potential connection to the rear courtyard, introduction of light wells, recovery of original facades and opening forms
- there may be scope for removal of the northern 1927 addition to the Bon Marche Building behind the façade and construction of a new building
- the Apothecary building may be modified to include new openings to facilitate its integrated use

- the terrace buildings will generally be retained with little change, however some new openings and partial removal of the rear wings may be proposed.

The Proponent provided a Heritage Design and Impact Statement which provides an assessment on the heritage impact of the proposal and includes a Conservation Management Plan for the heritage items on the site.

Council initially raised concern about the extent of alteration to heritage items. However, following review of the Proponent's RtS, it has advised that the detail provided in the Heritage Statement address its initial concerns.

The Department supports the approach to the adaptive reuse of the Bon Marche, terraces and Apothecary buildings and is satisfied that the CMP within the Heritage Statement provides guidance for future detailed applications for these works. In particular, the CMP outlines the most significance features of the buildings, opportunities to retain and reinstate to improve heritage value of the items and opportunities to remove non-heritage significant fabric to facilitate reuse of the buildings.

On this basis, the Department supports the Proponent's Statement of Commitment for future development to address the recommendations of the Heritage Statement.

Impact of the proposed building envelope

The Proponent has made a number of amendments to the proposal to address heritage concerns including:

- increasing the setback from Broadway by 7.5 m (from 32 m to 39.5 m) by deleting the cantilever over the Apothecary building
- providing a 3 m setback above the Bon Marche parapet to Harris Street.

Council is satisfied with the response and design changes made by the Proponent to address the relationship with heritage items on the site.

The Department also considers that the proposal has a positive relationship with the heritage items and in particular the changes made to the building envelope to increase setbacks from Broadway and Harris Street will ensure the prominence of the Bon Marche building. The Department also supports the 3 m tower setback aligning with the Bon Marche parapet to Harris Street.

The Department concludes that the proposal has acceptable heritage impacts as:

- the proposal has a 39.5 m setback to Broadway and sits behind the Bon Mache building to ensure its prominence is retained
- the 3 m tower setback to Harris Street (above RL 35.55) respects the façade and form and the parapet datum of the Bon Marche building
- the proposal provides the opportunity for increased public access to the heritage items and integration with the university precinct, while preserving and reinstating important heritage fabric
- the guiding principles for alterations to the heritage items have been considered by the Proponent and CMPs have been prepared to inform future development.

6.3 Views

The Proponent submitted a View Impact Assessment (VIA), prepared by Architectus, that provided a comprehensive analysis of the view impacts caused by the proposal on the public domain and surrounding residential properties. The full VIA can be viewed at **Appendix A**. The Department has considered the VIA in its assessment of view impacts to the public domain and from private residential properties.

6.3.1 Public Domain Views

The Department has undertaken an assessment of the public view impacts in accordance with the principles established by *Rose Bay Marina Pty Ltd v Woollahra Municipal Council and Anr* [2013] NSWLEC 1046. The steps/ principles adopted in the decision are:

- 1. identify the scope of the existing views from the public domain*
- 2. identify the locations in the public domain from which the potentially interrupted view is enjoyed*
- 3. identify the extent of the obstruction at each relevant location*
- 4. identify the intensity of public use of those locations and where the enjoyment of the view will be obscured*
- 5. review any document that identifies the importance of the view to be assessed.*

The Proponent has undertaken a visual analysis from a range of public domain viewpoints in accordance with the five-step process established in the Land and Environment Court (**Figure 12**).

The VIA identified the most significant views (shown by the blue dashed circles in **Figure 12**) impacted by the proposal would be from:

- the Railway Square bus stands on George Street (**Figure 13**),
- the corner of George Street and Regent Street (**Figure 14**)
- the Alumni Green (**Figure 15**).

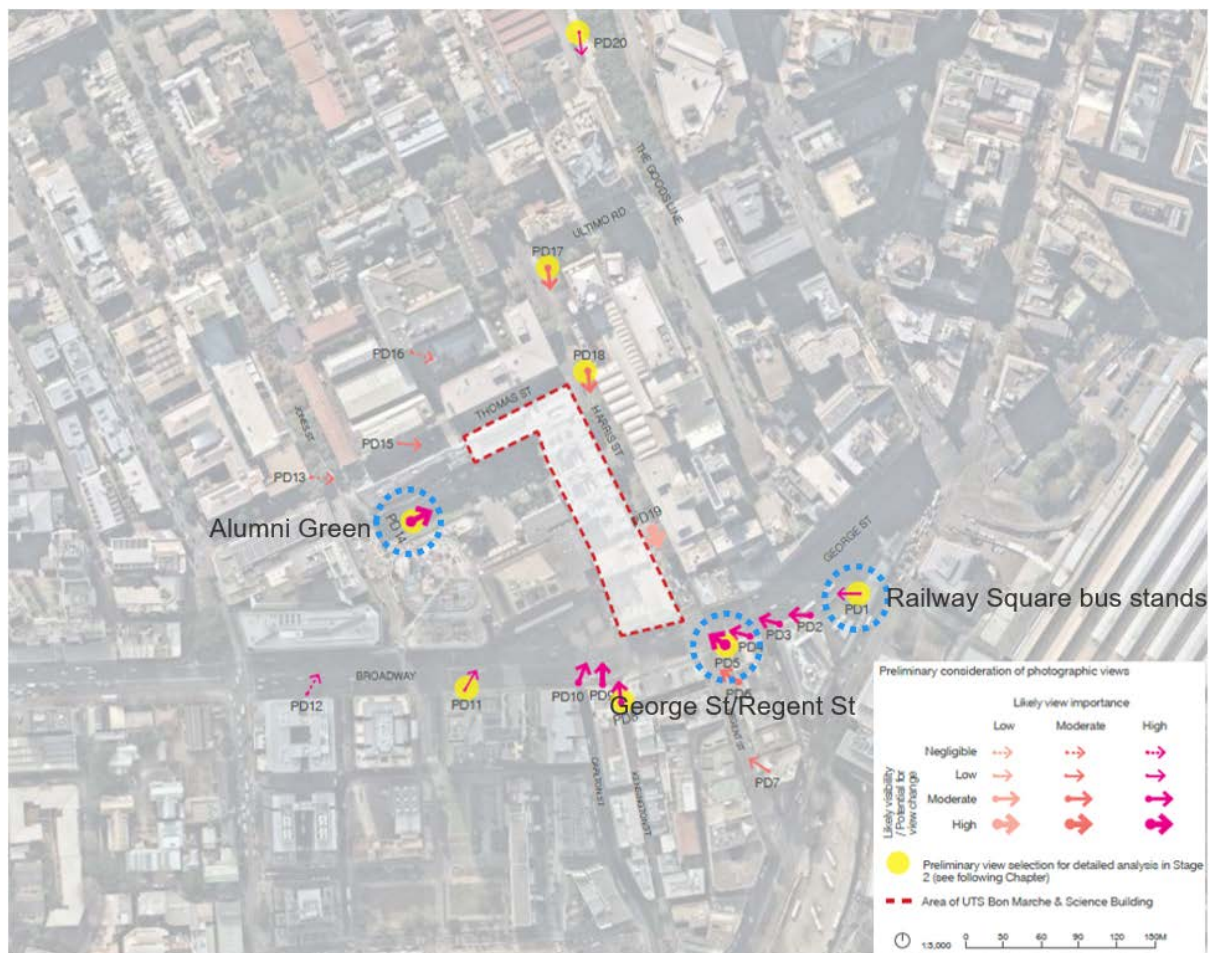


Figure 12 | Public domain view analysis viewpoints (Base source: Proponent's VIA)

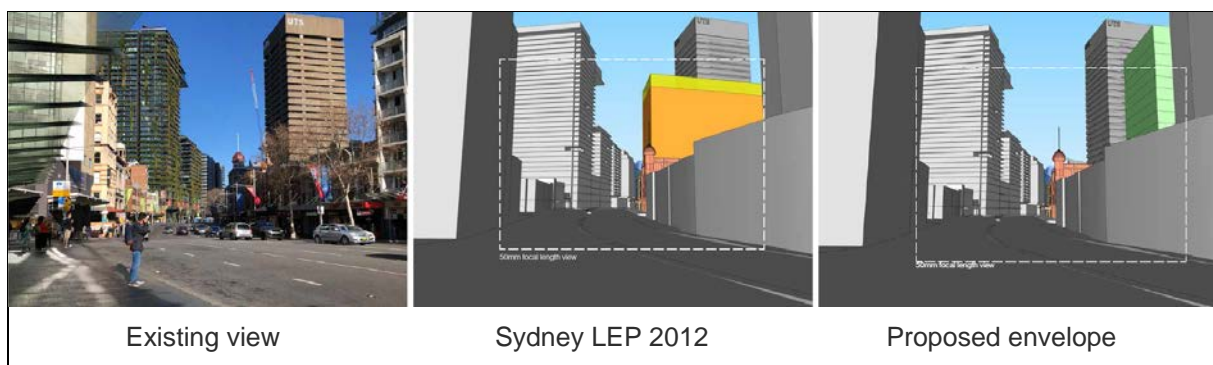


Figure 13 | George Street – Railway Square bus stands (PD1) (Base source: Proponent's VIA)

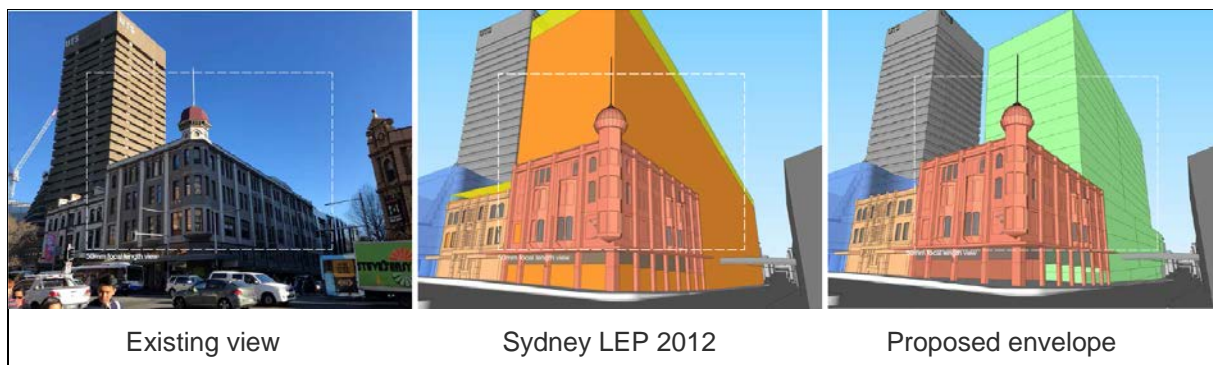


Figure 14 | Corner of George Street and Regent Street (PD5) (Base source: Proponent's VIA)

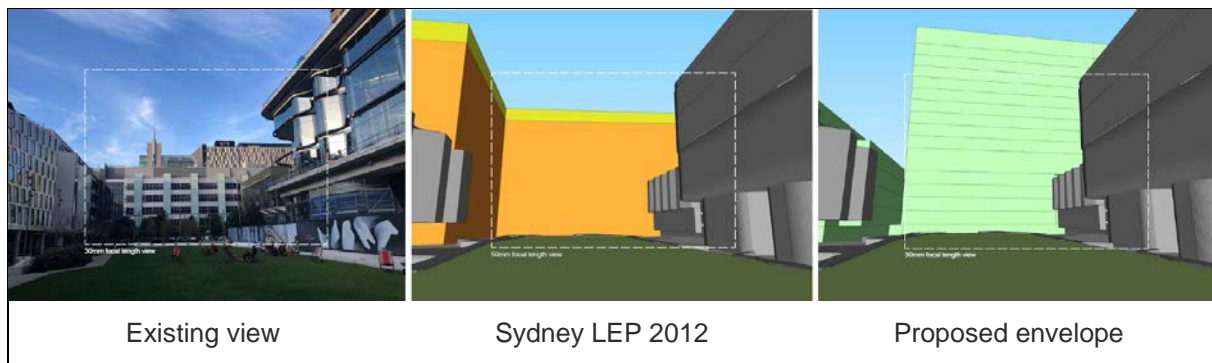


Figure 15 | UTS Alumni Green (PD14) (Base source: Proponent's VIA)

Views from these locations are short-term passing views, with the exception of the view from Alumni Green which is also a static view from users of this space. Each of these views is of moderate to high significance due to the high traffic locations, attractiveness of the space and quality of elements within view.

The Department is satisfied that the Proponent has provided a comprehensive visual analysis. The Department considers the proposal would have acceptable impacts on views enjoyed from the public domain for the following reasons:

- the proposal will not impact on any “iconic” views from the public domain, noting that views are primarily sky views or views to existing buildings
- views of the Bon Marche building from Broadway, George and Regent Street are retained
- the building envelope is read in the context and the similar scale development on and surrounding the site, particularly Building 1 and One Central Park East
- the tower is setback 39.5 m from Broadway which reduces the visual bulk of the envelope when viewed from Broadway, George Street and Regent Street
- the proposal does not cause significantly greater visual impacts from the public domain than an LEP compliant scheme as shown in **Figures 13 to 15** above.

The Department therefore concludes that the visual impacts of the proposal on the public domain are acceptable.

6.3.2 Private Views

The Department has undertaken a four-step assessment of private view impacts as a result of the proposal in accordance with the principles established by *Tenacity Consulting v Warringah* [2004] NSWLEC 140. The steps/principles adopted in the decision are:

1. *assess what views are affected and the qualitative value of those views.*
2. *consider from what part of the property the views are obtained.*
3. *assess the extent of the impact (Tenacity principles establish an impact spectrum including ‘negligible’, ‘minor’, ‘moderate’, ‘severe’ and ‘devastating’).*
4. *assess the reasonableness of the proposal that is causing the impact.*

The Department notes there are several existing residential apartment buildings surrounding the site that enjoy a range of district views and outlooks over the site. The VIA concluded the apartments in One Central Park East, Taragon Central and Hightown would be the most affected by the proposal (shown by the blue dashed circles in **Figure 16**).

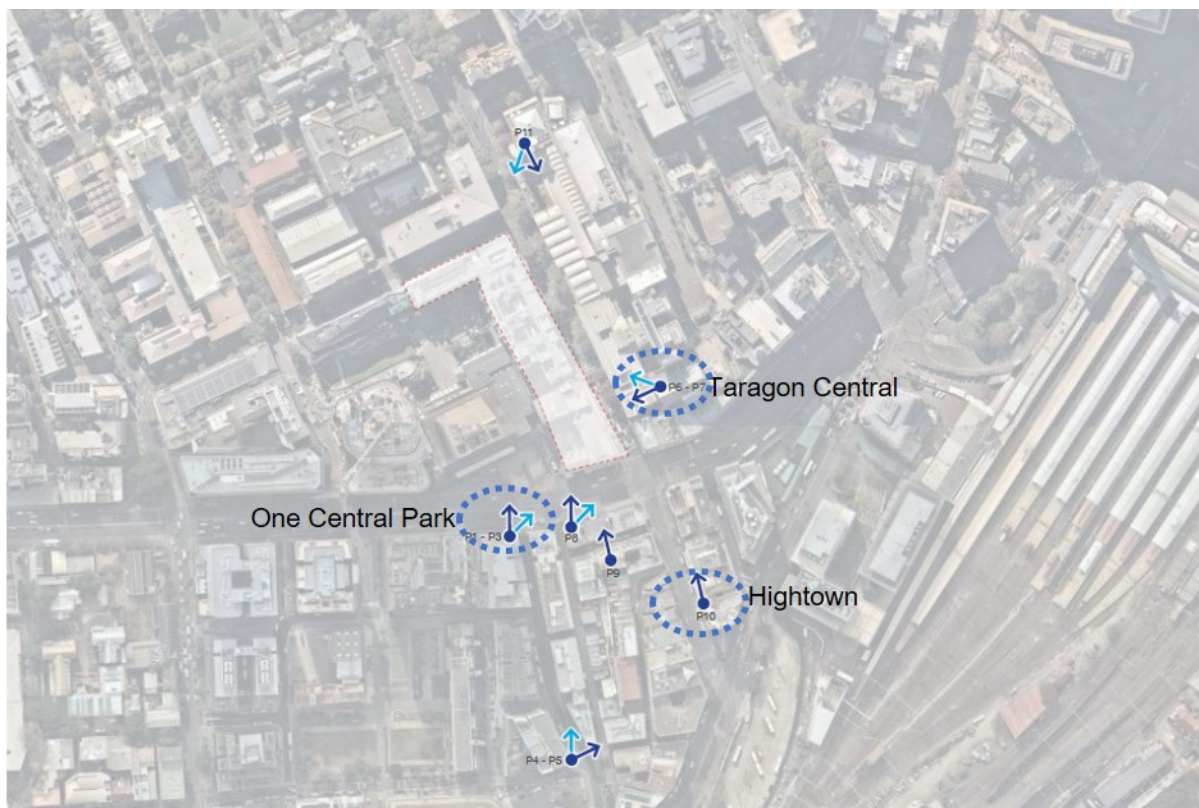
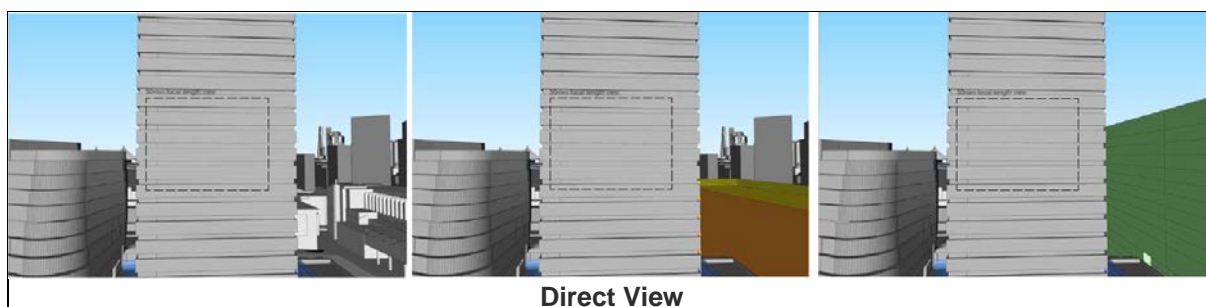


Figure 16 | Private view analysis viewpoints (Base source: Proponent's VIA)

Steps 1 to 3

One Central Park East

Apartments on the northeast corner of One Central Park East have partially obstructed oblique views of the city skyline and Barangaroo. The views are available from living areas and private open spaces and are rated in the VIA as moderate to high. The VIA shows the impact on views from an apartment on Level 16 which is representative of views from apartments across Levels 14 to 21 in One Central Park East (**Figure 17**). The proposal obstructs views of the city skyline and Barangaroo, however many of these apartments will continue to enjoy views east towards Central Station from living areas and private open spaces. (**Figure 18**).



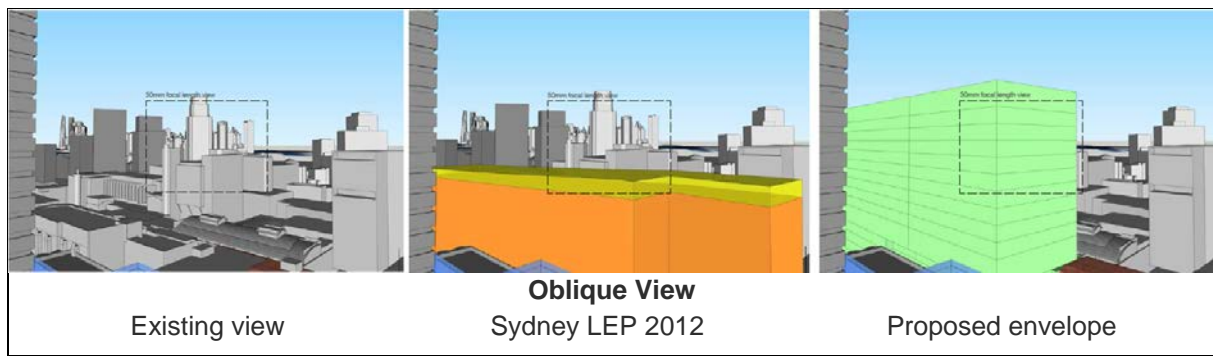


Figure 17 | One Central Park East – Level 16 view analysis (Source: Proponent's VIA)

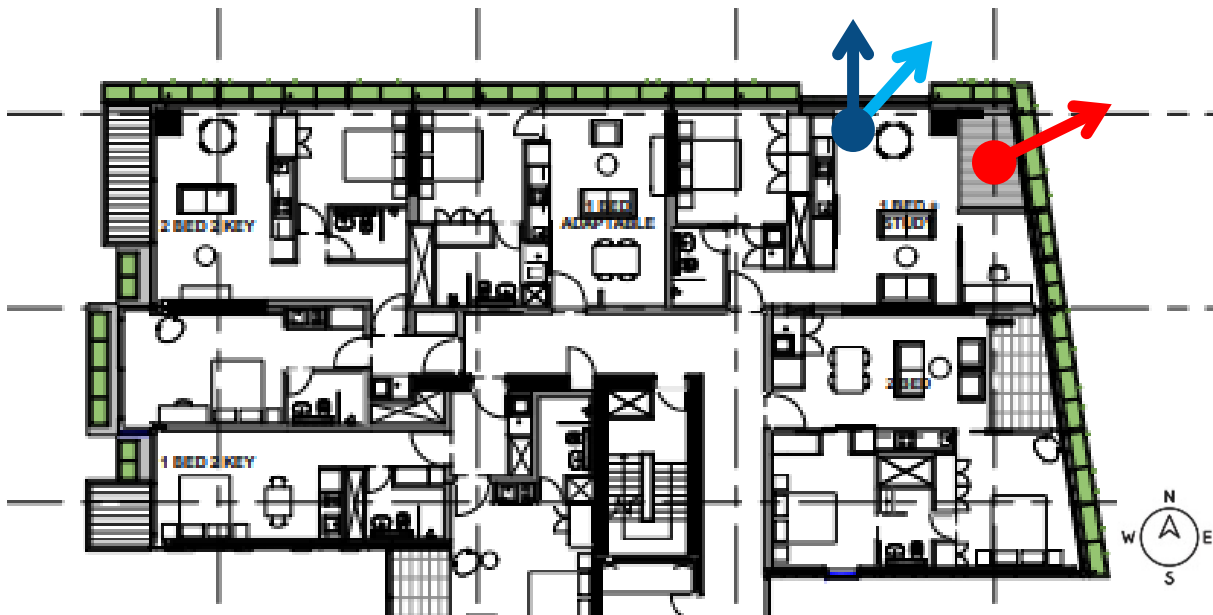


Figure 18 | Level 16, One Central Park East – direct view (dark blue arrow), oblique view (light blue arrow), Central Station view (red arrow) (Base source: MP09_0078 MOD 3 approved plan)

Taragon Central

Apartments on the south-west elevation of Taragon Central have direct views of Building 1 on the UTS site as well as One Central Park and Duo within Central Park. Apartments also have oblique views of the Anzac Bridge and glimpses of water. The views are rated in the VIA as moderate to high. The VIA shows the impact on views from an apartment on Level 16 which is representative of views from apartments across other levels in Taragon Central (**Figure 19**).

The proposal obstructs views of the sky, though the proposal is particularly dominant in the oblique view. The proposal maintains a view corridor along Broadway. Oblique views of the Anzac Bridge and water would be partially obstructed by the proposal. However some views towards Pyrmont would be retained.

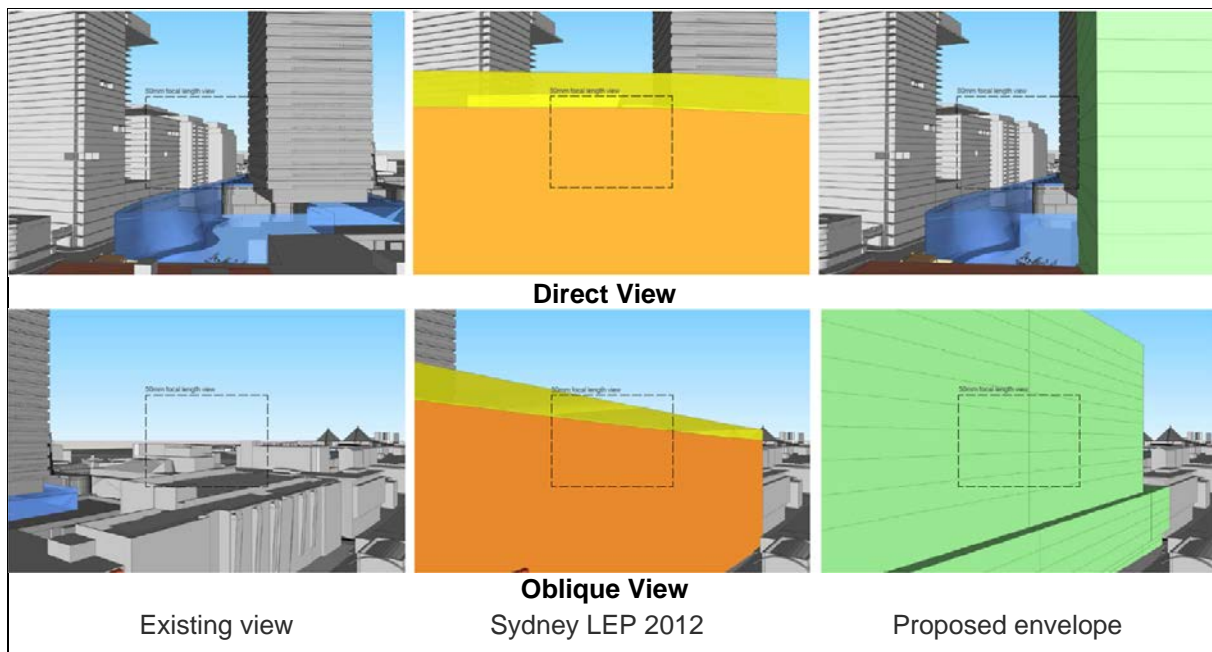


Figure 19 | Taragon Central – Level 16 view analysis (Source: Proponent's VIA)

Hightown

Apartments on the north-west elevation of Hightown have direct views of the Bon Marche building, Harris Street corridor and obstructed views of the Anzac Bridge and distant water views beyond Pyrmont. These apartments also have oblique views of the Anzac Bridge and glimpses of water. The views are rated in the VIA as moderate to high. The VIA shows the impact on views from an apartment on Level 9 which is representative of views from apartments across other levels in Hightown (**Figure 20**).

The proposal partially obstructs views of the sky, Anzac Bridge and potential water views. However framed views down Harris Street towards Pyrmont will be retained.

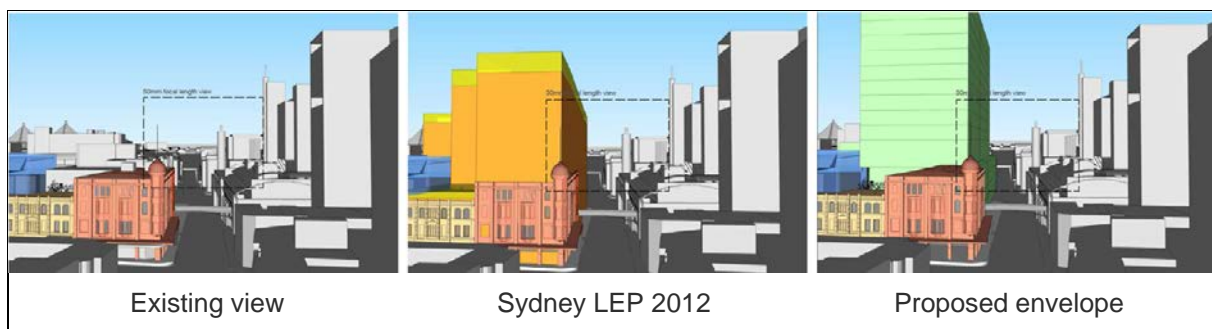


Figure 20 | Hightown - Level 9 view analysis (Source: Proponent's VIA)

Step 4 – The reasonableness of the proposal

The final step in the planning principle is to assess the reasonableness of the proposal that is causing the impact. The Department has considered the impacts of the proposal compared with an LEP complaint envelope and considers the impact on views from apartments in Taragon Central and Highpoint is generally consistent with that of an LEP complaint building envelope (**Figures 19** and **20**). The impact to views from apartments in One Central Park West is greater than an LEP complaint building envelope (**Figure 17**), however this is considered acceptable given that:

- the city skyline is partially obstructed by towers in the foreground in Darling Square and Chinatown
- the view is an oblique view with primary views directly toward Building 1 on the UTS site (already affected) and over Central Station to the east (unaffected by the proposal)
- the impact is limited to eight apartments on levels 14 to 21, with apartments below Level 14 affected by both the proposal and an LEP compliant scheme and apartments above level 21 able to retain views over the proposal
- given the sites CBD edge location, the interruption of private views by this proposal, and future development beyond the subject site, is inevitable and reasonable in this context.

Even when a proposal complies with all relevant planning controls, the Tenacity planning principles require that the question should be asked whether a more skilful design could provide the Proponent with the same development potential and amenity and reduce the impact on the views from neighbours.

The Department notes that the proposed tower is setback 39.5 m from the Broadway frontage which not only minimises heritage impacts but also significantly improve visual impacts from both the public and private domain. Further the proposed building envelope represents the maximum potential building mass and actual view impacts of the final built form are likely to be reduced. The Department is therefore satisfied that the proposal has been designed to minimise view impacts.

The Department also notes the Sydney DCP 2012 recognises that providing a pleasant outlook, as opposed to private views, is the appropriate measure of residential amenity in the CBD context. The Department considers that the distance between affected residential buildings and the proposed development will ensure that a suitable level of outlook is maintained. Further, the future building will be subject to a competitive design process to ensure that the development will achieve design excellence thereby ensuring a pleasant outlook to affected apartments.

On this basis and given the site's city fringe location and contribution to university floor space within an identified education precinct, the Department concludes the interruption of existing views is reasonable.

6.4 Design excellence

The achievement of design excellence for new development across the Broadway Precinct has been a central focus for the redevelopment of the UTS City Campus since the 2000s and is clearly linked to the long term strategic vision for UTS "to be one of the world's leading Universities of Technology".

The Proponent is committed to achieving design excellence for the Bon Marche Science Precinct. It has prepared a DES and seeks to amend the approved design quality controls and urban design principles to ensure future development exhibits design excellence:

- the DES establishes a methodology for implementing a competitive design process and ensuring design integrity is continued in subsequent detailed development applications
- the amended design quality controls and urban design principles set objectives to ensure the future development includes appropriate consideration of pedestrian links, view sharing, overshadowing and the relationship with the existing UTS Tower and the Bon Marche building.

The DES has been revised throughout the assessment process to respond to Council's initial objections as outlined in **Table 11**.

Table 11 | Responses to Council's concerns

Council concern	Proponent's response
The number, extent and location of competitive design processes	<p>The DES outlines that at least one competitive design will be undertaken.</p> <p>A second competitive design process will be undertaken in relation to the Thomas Street wing, but only if either of the following circumstances do not occur:</p> <ul style="list-style-type: none"> • this part of the precinct is included within first competitive design process • the same architect that designed Building 7 (Figure 21) is appointed to extend the existing design further east to Harris Street.
The selection of competitors and composition of the Jury	<p>In relation to competitors, the DES outlines that:</p> <ul style="list-style-type: none"> • a minimum of five competitors will be invited to participate in each design competition • competitors may be a range of emerging, emerged and established local, interstate or international architects or firms • where a competitor includes an international firm, this must be in partnership with a local firm. No more than 50% can include international firms as the principal/lead. <p>The DES outlines that the competition jury will comprise of four to six members comprising:</p> <ul style="list-style-type: none"> • 50% nominated by the Consent Authority (with Council to nominate up to 2 members) • 50% nominated by the proponent • Jury members are to: <ul style="list-style-type: none"> - include only persons who have expertise and experience in the, design and construction professions and industry - include a majority of registered architects with urban design expertise - represent the public interest - be appropriate to the type of development proposed.
ESD targets	<p>The DES provides that the Competition brief will require the following ecologically sustainable development targets to be considered in any design:</p> <ul style="list-style-type: none"> • a minimum 5 star Green Star Design + As-Built rating is targeted for new buildings • a minimum 4 star Green Star Design + As-Built equivalent rating is targeted for major refurbished buildings. <p>The DES outlines that ESD targets and sustainability initiatives will be carried through the competitive process phase, design development, construction, and through to completion of the project.</p>

The Department notes the proposal was also reviewed by the State Design Review Panel (SDRP) and the Government Architect NSW (GA NSW). The GA NSW supports the proposal in principle, noting that the Proponent has successfully responded to its SDRP comments regarding GFA and setbacks. In addition, issues about heritage, Aboriginal heritage, overshadowing, wind, connection to the Alumni Green, entry points and landscape have been addressed.

The SLEP would also have required that the proposal demonstrates design excellence and that a design competition be held for the proposal given its height and scale. The design excellence provisions of the SLEP do not strictly apply to the proposal as the concept plan prevails in the event of any inconsistency with the SLEP pursuant to the savings and transitional provision in Schedule 6A of the EP&A Act.

Notwithstanding, the Department supports the Proponent's commitment to design excellence and to undertake at least one competitive process. The DES also provides that a second competition process (which would be consistent with SLEP) will be undertaken unless it is included in the main competition or DBJ/BVN are engaged to design the building.

The Department considers that DBJ/BVN are a high calibre design team and have demonstrated the ability to achieve Design Excellence for Building 7 on the UTS Broadway site (**Figure 21**). The Department therefore supports the potential engagement of DBJ/BVN in lieu of a competitive process for the building envelope fronting Thomas Street.



Figure 21 | Building 7 designed by DBJ/BVN as viewed from the corner of Jones and Thomas Street (Source: UTS website)

However, the Department considers that the DES should not prescribe the extension of the existing design of Building 7 further east. The Department is concerned that the continuation of this unique façade would be overly dominant if it occupied the entire street block between Jones and Harris Street. It therefore recommends that the DES be amended to require the new building to respond to and respect the character of Building 7, while avoiding replication or mimicry of the earlier design.

In addition, if DBJ/BVN are engaged and a second competitive design process is not undertaken, the Department recommends the Proponent prepares a separate DES, to the satisfaction of the consent authority, that clearly demonstrates how Design Excellence will be achieved for this building.

The Department also supports the design quality controls and urban design principles which ensure that future applications:

- respect the heritage significance of the Bon Marche Building, the Terraces and former Apothecary
- provide prominent and clear pedestrian entries and permeability of the ground plane with new direct access points to Alumni Green
- minimise overshadowing impacts, maximise opportunities for view sharing and design solutions to address wind impacts
- explore opportunities for green spaces on upper level terraces and roof spaces.

In conclusion, the Department is satisfied the DES, in conjunction with the design quality controls and urban design principles will ensure future development exhibits design excellence noting, in particular:

- a robust competitive design process will be undertaken for the building envelope fronting Harris Street with a minimum of five competitors and a qualified and experienced jury of four to six members, with 50% nominated by the Department/Council
- the competition brief will be endorsed by the Department, in consultation with the GA NSW and Council
- the building envelope fronting Thomas Street will either form part of the above competition or be subject to its own competitive process, unless it is designed by DBJ/BVN and accompanied by a separate DES, to the satisfaction of the consent authority, demonstrating how Design Excellence will be achieved for this building, while avoiding replication or mimicry of the existing façade of Building 7
- the bulk and scale of the building envelope is appropriate in its context as outlined in **Section 6.2**
- the building envelope responds appropriately to the heritage items on the site
- no additional floor space or height (beyond that approved under the Concept Plan) will be available as a result of undertaking a competitive design process.

6.5 Other Issues

Table 12 | Summary of other issues raised

Issue	Findings	Recommended Condition
Public domain	<ul style="list-style-type: none"> TfNSW, RMS and Council raised concerned over the indicative changes to the existing public domain and traffic arrangements along Harris Street. The Department notes that the Proponent has amended the proposal in response to these concerns and no longer seeks conceptual changes to the traffic conditions along Harris Street. 	<ul style="list-style-type: none"> No additional conditions or amendments to the existing conditions necessary.
CBD Metro corridor	<ul style="list-style-type: none"> TfNSW raised concerns over potential impacts on the proposed future CBD Metro rail corridor. The Proponent noted that appropriate conditions would be imposed on future applications. The proposal is concept only and the Department considers appropriate conditions can be imposed on future detail design applications to address TfNSW concerns. TfNSW confirmed it was satisfied with this approach. 	<ul style="list-style-type: none"> No additional conditions or amendments to the existing conditions necessary.
Car parking	<ul style="list-style-type: none"> Council raised concerns about additional parking and the potential impacts on intersection queuing around the site. In response, the Proponent reduced the proposed parking from 150 spaces to a maximum of 65 spaces. Notwithstanding this reduction, Council considers that the additional 65 parking spaces should only be approved where further analysis finds that there would be no adverse impacts on the existing road network. The Proponent has amended the Statement of Commitments confirming that any additional parking spaces will be contingent upon demonstrating no adverse impacts on the existing road network. The Department agrees the proposed car parking spaces should be subject to further assessment, to demonstrate they would not result in any unreasonable impacts, particularly given the site's excellent access to public transport. The Department notes that future development application/s will include a detailed traffic assessment which must demonstrate that any additional parking has acceptable impacts. If the Proponent cannot demonstrate the proposed car parking would result in acceptable impacts, any future development consent can further limit and/or not allow additional parking. 	<ul style="list-style-type: none"> The Department supports the amended Statement of Commitments and no additional conditions are necessary.
Bicycle parking	<ul style="list-style-type: none"> Council raised concerns over the Proponent's approach of monitoring bicycle parking and gradually increasing supply. Instead the proposal should provide attractive and appropriate parking that would encourage students and employees to ride. 	<ul style="list-style-type: none"> The Department recommends changes to FEAR C4 (Bicycle Parking).

	<ul style="list-style-type: none"> • In response, the Proponent amended its Statement of Commitments to include the provision of attractive bicycle parking and end of trip facilities that are secure and visible in accessible locations. • The Department recommends amendments to existing FEAR C4 (Bicycle Parking) that requires the Proponent to demonstrate that adequate bicycle parking facilities are provided to support the increased student population as a result of the proposal. 	
Wind	<ul style="list-style-type: none"> • Council raised concerns over the potential wind impacts on the public domain and specific areas within the site, particularly the new Sky Garden. • The Proponent amended the Statement of Commitments to ensure future development application/s maintain wind comfort conditions within the Alumni Green and Loft courtyard, in addition to ensuring the Sky Garden achieves appropriate criterion. • Overall, the Department considers the proposal is likely to have acceptable wind impacts for pedestrians within and around the development. However, the Department notes that ultimately the final detailed design of the building will determine the wind impacts and the required design response. • As such, the Department recommends an additional FEAR that requires future development applications involving the Sky Garden to demonstrate appropriate design and mitigation measures have been incorporated to achieve acceptable amenity levels for sitting, standing and walking. 	<ul style="list-style-type: none"> • The Department recommends FEAR C5 (Wind) that requires any future development application for Building 4 to demonstrate acceptable wind amenity levels are achieved for the Sky Garden.
Pedestrian traffic	<ul style="list-style-type: none"> • A public submission raised concerns over pedestrian traffic along Broadway and Harris Street. • The Department considers that the site has a good level of pedestrian connectivity including: <ul style="list-style-type: none"> - a pedestrian tunnel through to Central Station from the eastern side of Building 6 (the 'Devonshire Street Tunnel') - a pedestrian overpass between Building 4 and Building 6. • The Department also supports the proposed 3.5 m setback at the ground level along Harris Street to further improve capacity for pedestrian traffic. • In addition, future detail design application(s) will need to demonstrate the proposal does not adversely impact on pedestrian movement or safety. • On this basis, the Department considers that there is acceptable capacity for pedestrian traffic around the site. 	<ul style="list-style-type: none"> • No additional conditions or amendments to the existing conditions necessary.
Overshadowing	<ul style="list-style-type: none"> • Council initially raised concerns over overshadowing impacts on 16-18 Broadway. • The Proponent increased the southern setback of the tower envelope to reduce the overshadowing impact on 	<ul style="list-style-type: none"> • The Department supports the amended Statement of Commitments and

	<p>16-18 Broadway, ensuring those dwellings maintain their existing solar access.</p> <ul style="list-style-type: none"> • The Proponent also notes the subject building has received development consent (D/2018/1184) to convert the residential component to hotel accommodation. • The Department considers the amended building envelope adequately resolves the overshadowing impacts. Further, the amended Statement of Commitments requires future detail design application to include further shadow impact studies. 	<p>no additional conditions are necessary.</p>
Landscaping	<ul style="list-style-type: none"> • Council raised concerns over the information provided regarding landscaping. Council recommended a condition be included requiring detailed landscape plans and strategies be submitted consistent with Australian Standards and the Sydney Landscape Code and integrated in the overall design during the competitive design processes. • The Proponent amended the Statement of Commitments to require future detailed design application(s) to be accompanied by landscaping and public domain plans that are generally consistent with Australian Standards and the Sydney Landscape Code. • The Department is satisfied the revised Statement of Commitments would ensure appropriate landscaping is provided as a part of future applications. 	<ul style="list-style-type: none"> • The Department supports the amended Statement of Commitments and no additional conditions are necessary.
Developer contributions	<ul style="list-style-type: none"> • The Proponent initially sought to waive the requirement for future application to pay developer contributions. • Council's maintains its position that the redevelopment of the Bon Marche and Science Precinct is not exempt from developer contributions. • The Department agrees that the Concept Plan should not waive the requirement for contributions. The requirement for contributions will be assessed in future development applications, and if appropriate conditions imposed accordingly. 	<ul style="list-style-type: none"> • No additional conditions or amendments to the existing conditions necessary.



7. *Evaluation*

The Department has assessed the proposed modification and supporting documentation in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification to the Concept Plan is appropriate as:

- the proposal is consistent with the strategic objectives for the area, the Greater Sydney Region Plan and Eastern City District Plan and will support the growth of UTS as an internationally competitive university
- the proposed building envelope has a scale and mass that responds appropriately to the context of the Broadway Precinct
- the modifications to heritage items will be guided by the CMPs for the items and the proposal will allow for the adaptive reuse of buildings while preserving and reinstating important heritage aspects of the buildings
- the proposal does not adversely impact any adjoining residential properties or the surrounding public domain
- a DES has been prepared to ensure the future development will achieve design excellence
- the potential for additional car parking will be assessed at the future application stage and will only be considered if the Proponent can demonstrate acceptable impacts
- the proposal is in the public interest as it provides educational facilities and increases employment within the Camperdown-Ultimo Health and Education Precinct.

Consequently, the Department concludes the modification request is in the public interest and should be approved, subject to the recommended changes to the existing conditions of approval as outlined in **Appendix C**.



8. *Recommendation*

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

- **considers** the findings and recommendations of this report
- **determines** that the application to modify the concept approval (MP 08_0116 MOD 6) falls within the scope of Section 75W of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approval to the modification request
- **modify** the concept approval (MP 08_0116)
- **signs** the attached Modification of Minister's Approval (**Appendix C**).

Recommended by:

James Groundwater
Senior Planner
Key Sites Assessments

Recommended by:

Amy Watson
Team Leader
Key Sites Assessments



9. *Determination*

The recommendation is: **Adopted by:**

31/01/2020

Anthony Witherdin

Director

Key Sites Assessments



Appendices

Appendix A – List of Documents

- MP 08_0116, being the concept approval for the redevelopment of the UTS Broadway Precinct, granted by the Minister of Planning on 23 December 2009, together with submissions, the Proponent's response to submissions and the Departments assessment report
- Associated modifications to the concept approval (MP 08_0116)
- Environmental Assessment, prepared by Ethos Urban, dated 1 November 2018
- Submissions
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9003
- Response to Submissions, prepared by Ethos Urban, dated 18 April 2019
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9003
- Supplementary Response to Submissions, prepared by Ethos Urban, dated 10 July 2019
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9003
- Further Supplementary Response to Submissions, prepared by Ethos Urban, dated 26 September 2019
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9003
- Further and Final Supplementary Response to Submissions, prepared by Ethos Urban, dated 12 November 2019
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9003

Appendix B – Community views for Draft Notice of Decision

Issue	Consideration
Pedestrian traffic along Broadway	Assessment
<ul style="list-style-type: none">• Too much pedestrian traffic along Broadway• UTS to fund a tunnel to Central Station	<ul style="list-style-type: none">• To improve pedestrian movement along Harris Street, the proposal incorporates an expanded 3.5 m setback at ground level along the length of Building 4 on Harris Street.• The Department notes a pedestrian tunnel currently connects through to Central Station from the northern side of George Street between Harris Street and Quay Street (the 'Devonshire Street Tunnel'). Further, an existing Harris Street pedestrian overpass connects Building 4 and Building 6.• This issue is considered in Section 6.5.
	Recommended Conditions/Response
	<ul style="list-style-type: none">• No additional conditions or amendments to the existing conditions necessary.

Appendix C – Modification of Minister’s Approval

The recommended Modification of Minister’s Approval can be found on the Department’s website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9003

Appendix D – Consolidated Consent

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

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9003