



New South Wales Government
Independent Planning Commission

Doncaster Avenue Student Accommodation SSD-9649

Statement of Reasons for Decision

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Ms Dianne Leeson

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State of New South Wales through the Independent Planning Commission 2019

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TABLE OF CONTENTS

DEFINED TERMS.....	1
1 INTRODUCTION.....	3
2 THE APPLICATION.....	3
2.1 Site and Locality	3
2.2 Background to the Application.....	4
2.3 Proposed Development	4
3 THE DEPARTMENT’S CONSIDERATION OF THE APPLICATION	6
3.1 Key Steps in the Department’s Consideration	6
3.2 The Department’s Assessment Report	7
4 THE COMMISSION’S PROCESS	7
4.1 Stakeholder Meetings	7
4.2 Site Inspection	8
4.3 Public Meeting	9
4.4 Material considered by the Commission	9
5 MANDATORY CONSIDERATIONS	10
5.1 Relevant Environmental Planning Instruments and Draft Instruments	10
5.2 Relevant Development Control Plans	11
5.3 Relevant Planning Agreements.....	11
5.4 Applicable Regulations	11
5.5 Likely Impacts of the Development	11
5.6 Suitability of the Site	29
5.7 Objects of the EP&A Act & Public Interest.....	30
6 CONCLUSION: THE COMMISSION’S FINDINGS AND DETERMINATION.....	31

DEFINED TERMS

ABBREVIATION	DEFINITION
AHIP	Aboriginal Heritage Impact Permit
Applicant	Blue Sky Commercial Asset Management
Application	The SSD Application referred to the Commission on 4 May 2020
ARHSEPP	<i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i>
ARP	Department's Assessment Report Paragraph
Commission	Independent Planning Commission of NSW
Council	Randwick City Council
Council DA	DA/931/2015 – development consent granted by Council on 11 October 2016
CIV	Capital Investment Value
DCP	Development Control Plan
Department	Department of Planning, Industry and Environment
Department's AR	Department's Assessment Report
DPI	NSW Department of Primary Industries
Draft Development Consent	Department's draft conditions in the Draft Development Consent
EESG	NSW Environment, Energy and Science Group of the Department of Planning, Industry and Environment
EIS	Environmental Impact Statement prepared by Urbis, dated 21 January 2019
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FSR	Floor Space Ratio
GANSW	Government Architect of NSW
GFA	Gross Floor Area
HIA	Heritage Impact Assessment
LEP	Local Environmental Plan
LGA	Local Government Area
Mandatory Considerations	Relevant mandatory considerations, as provided by clause 4.15(1) of the EP&A Act
Material	The material set out in section 4.3
Minister	Minister for Planning and Public Spaces
Proposed Development	Construction of a 259-bed student accommodation development comprising a new three storey building, the adaptive reuse of two heritage listed terrace houses, basement car parking and associated landscaping and public domain works

RDCP	<i>Randwick Development Control Plan 2013</i>
Regulations	<i>Environmental Planning and Assessment Regulations 2000</i>
RLEP	<i>Randwick Local Environmental Plan 2012</i>
RMS	Transport for NSW (Roads and Maritime Services)
RRFI	Applicant's Response to Request for Further Information prepared by Urbis, dated 4 October 2019
RRRS	Royal Randwick Racecourse Site
RtS	Applicant's Response to Submissions prepared by Urbis, dated 11 June 2019
SEARs	Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
Site	4-18 Doncaster Avenue, Kensington
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SRRFI	Applicant's Supplementary Response to Request for Further Information prepared by Urbis, dated 3 March 2020
SSD	State Significant Development
SW Channel	Sydney Water concrete Stormwater Channel
TfNSW	Transport for NSW
TPA	Traffic and Parking Assessment Report prepared by Traffix, dated January 2019)

1 INTRODUCTION

1. On 4 May 2020, the NSW Independent Planning Commission (**Commission**) received from the NSW Department of Planning, Industry and Environment (**Department**) a State Significant Development (**SSD**) application (**Application**) from Blue Sky Commercial Asset Management (**Applicant**) for the construction of a 259-bed student accommodation development comprising a new three-storey building, the adaptive reuse of two heritage-listed terrace houses, basement car parking and associated landscaping and public domain works (**Proposed Development**).
2. The Commission is the consent authority in respect of the Application under section 4.5(a) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) and clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SRD SEPP**). This is because:
 - the Application is declared to be SSD under section 4.36 of the EP&A Act and clause 4 Schedule 2 of SRD SEPP as the Application is on land identified as being within the Royal Randwick Racecourse Site (**RRRS**) and has a Capital Investment Value (**CIV**) of more than \$10 million; and
 - the Department received an objection from Randwick City Council (**Council**).
3. Mr Peter Duncan AM, acting Chair of the Commission, appointed Ilona Millar (Panel Chair) and Dianne Leeson to constitute the Commission determining the Application.

2 THE APPLICATION

2.1 Site and Locality

4. The Proposed Development is located at 4-18 Doncaster Avenue, Kensington (the **Site**).
5. The Department's Assessment Report (**Department's AR**) describes the Site at the Department's Assessment Report Paragraph (**ARP**) 1.2.1, 1.2.2, 1.2.3 and 1.2.4 and in Figure 1 (included below) to show the Site and surrounds.
6. As described in ARP 1.2.2 and 1.2.3, the Site comprises an area of 4,276m², contains two semi-detached terraces (10-12 Doncaster Avenue) which are locally listed items under the *Randwick Local Environmental Plan 2012* (**RLEP**) and contains one significant tree in the north-west portion. With the exception of the heritage dwellings and the significant tree, the site has been cleared of all other buildings and trees under a separate development consent (further described in paragraph 10).
7. The surrounding area is described by the Department in ARP 1.2.4, 1.3.1, 1.3.2 and 1.3.3. The Site is located within the Racecourse heritage conservation area (C13) under RLEP. The Site is within an area characterised by low to medium scale residential properties, with several three to four storey residential apartment buildings, predominantly of older stock.

8. The Site is located in close proximity to a number of public transport options (including bus and light rail services along Alison Road and Anzac Parade), retail services and the Randwick and Kensington campuses of the University of NSW (**UNSW**).



Figure 1: Aerial view of site and surrounds (source: Department's AR)

2.2 Background to the Application

9. As described in ARP 1.4.1, development consent DA/931/2015 (**Council DA**) was granted by Council on 11 October 2016 for a residential apartment building comprising:
- demolition of existing buildings and removal of trees,
 - retention of the heritage terraces at 10-12 Doncaster Avenue,
 - construction of a three-storey building providing 50 dwellings, and
 - basement parking for 71 vehicles.
10. The Commission notes the demolition works and tree removal approved under the Council DA has been undertaken. The Commission also notes the Department's Draft Development Consent includes a recommended condition requiring the surrender of the Council DA. The reason provided for this at ARP 6.9.1 Table 11 is to avoid ambiguity around what is approved on the Site.

2.3 Proposed Development

11. The Department's AR summarises the Proposed Development at ARP 2.1.1. The key components are listed in Table 1 below (extracted from Department's AR):

Table 1 – Key Components of the Proposed Development

(Source: The Department's AR)

Component	Proposed
Built form	<ul style="list-style-type: none"> • Excavation of a basement level and construction of three-storey building to a maximum height of 12m (RL 40.55) as depicted in the amended plans described in paragraph 25; • Alterations and adaptive reuse of the existing heritage dwellings at 10 - 12 Doncaster Avenue; • Substation at southern end of site fronting Doncaster Avenue.
Gross Floor Area (GFA) and Floor Space Ratio (FSR)	<ul style="list-style-type: none"> • A total GFA of 5,860 m² • FSR of 1.37:1 • The proposed FSR exceeds the maximum permitted in RLEP, and therefore the Applicant sought a development departure under clause 4.6 of RLEP (see section 5.6.2).
Uses	<ul style="list-style-type: none"> • Student accommodation, comprising 259 student beds within 201 units, including: <ul style="list-style-type: none"> 176 studio rooms 18 twin rooms Seven cluster units (6 and 7 bedroom), with shared living/kitchen and bathrooms. • The Proposed Development includes five units that exceed the maximum room size permitted by ARHSEPP, and therefore the Applicant sought a development departure under clause 4.6 of RLEP (see section 5.6.3).
Amenities	<ul style="list-style-type: none"> • Communal, meeting, study and lounge rooms, gym and communal laundry.
Communal open space and landscaping	<ul style="list-style-type: none"> • 443m² Communal Open Space • 1,162m² landscaped areas.
Parking	<ul style="list-style-type: none"> • Parking provision for: <ul style="list-style-type: none"> 56 car spaces 55 motorcycle spaces 178 bicycle spaces • The basement parking area contains the car and motorcycle spaces and 150 of the bicycle spaces. A further 28 bicycle spaces are provided at the ground floor level.
Water Infrastructure	<ul style="list-style-type: none"> • Realignment of the existing Sydney Water concrete stormwater channel to the northern boundary of the site.
Capital Investment Value (CIV)	<ul style="list-style-type: none"> • \$24,076,420
Jobs	<ul style="list-style-type: none"> • 78 construction jobs • 8 operational jobs.

3 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

3.1 Key Steps in the Department's Consideration

12. The Department received the Environmental Impact Statement (**EIS**) for this Application on 21 January 2019. The Application was revised three times by the following listed documents. It is noted the Proposed Development described in Table 1 reflects the final set of documents provided to the Department.
 - Response to Submissions (**RtS**), dated 11 June 2019
 - Response to Request for Further Information (**RRFI**), dated 4 October 2019, and
 - Supplementary RRFI (**SRRFI**), dated 3 March 2020.
13. The Department's AR describes the key steps in the Department's assessment process at ARP 5.1.1 and 5.1.2 and Section 6, including a detailed site inspection, the public exhibition period, engagement with relevant government agencies and the assessment of key issues relating to the Proposed Development.
14. The Department publicly exhibited the EIS and notified the RtS and RRFI to relevant government agencies. During the public exhibition period the Department received a total of 19 submissions, comprising 10 public objections, eight Government agency submissions and an objection from Council. The Department also engaged with the Government Architect of NSW (**GANSW**) during the public exhibition period.
15. ARP 5.3.1 provides a summary of the key issues raised in the Government agency submissions received from Sydney Water, Transport for NSW (**TfNSW**), Transport for NSW (Roads and Maritime Services) (**RMS**), Environment, Energy and Science Group (**EESG**), Department of Primary Industry (**DPI**), Environment Protection Authority (**EPA**), Heritage Division of the Department of Premier and Cabinet (**Heritage NSW**) and Ausgrid.
16. ARP 5.4.1 provides a summary of the key issues raised in the Council and community objections.
17. The main concerns raised to the Department during the exhibition and notification periods include:
 - Density/overdevelopment
 - Inconsistent with established character
 - Design issues pertaining to height, setbacks, modulation and materials
 - Amenity impacts (for existing residents)
 - Traffic and carparking
 - Impact on heritage item
 - Overshadowing
 - Construction impacts

- Tree removal
 - Drainage works
 - Room sizes.
18. The key assessment issues are identified by the Department at ARP 6.1.1 and include density/FSR, built form and heritage, amenity impacts, future student amenity, construction impacts, traffic and parking and the stormwater channel.

3.2 The Department’s Assessment Report

19. Section 3 of the Department’s AR considers the Strategic Context of the Application with respect to the *Greater Sydney Region Plan*, the *Eastern District Plan* and the *Future Transport Strategy 2056*.
20. Section 4 of the Department’s AR describes the Statutory Context of the Proposed Development, and the manner in which it addresses relevant EPIs, including the Mandatory Considerations under clause 4.15 of the EP&A Act (**Mandatory Considerations**), SRD SEPP, RLEP, the Secretary’s Environmental Assessment Requirements (**SEARs**) and the *Biodiversity Conservation Act 2016* (**BC Act**).
21. At ARP 4.6.2, the Department states it has “*considered the relevant provisions of the EPIs in Appendix C*”.
22. At ARP 7.1.13, the Department concludes “*the development is in the public interest and is approvable subject to conditions*”.

4 THE COMMISSION’S PROCESS

4.1 Stakeholder Meetings

23. As part of its determination process, the Commission inspected the site and met with relevant stakeholders as set out below. All meeting and Site inspection notes were made available on the Commission’s website.

Table 2 – Commission’s Meetings

Meeting	Date of Meeting	Transcript/Notes Available
Department	13 May 2020	18 May 2020
Applicant	13 May 2020	18 May 2020
Council	13 May 2020	18 May 2020
Site Inspection	8 May 2020	14 May 2020

4.1.1 Meeting with the Department

24. At the meeting with the Department identified in Table 2, the key discussion points included an overview of the Department's assessment process and recommendation, proposed development standard departures, engagement with GANSW, solar access, flood impacts, geotechnical impacts, privacy and landscaping. The Department took a number of questions on notice from that meeting and provided a written response on 18 May 2020. The written response from the Department was made available on the Commission's website on 19 May 2020 and is summarised in paragraph 25.
25. In its response dated 18 May 2020, the Department provided further information to the Commission with respect to the overall height of the Proposed Development, commentary from GANSW, landscaped area calculations, fence heights surrounding the heritage items and information with respect to Draft Condition C7. This correspondence also included an amended elevation plan from the Applicant noting all components of the building are within the 12m RLEP height limit. However, the amended plans provided by the Applicant still indicated portions of the building that appeared to exceed an overall height of 12m. Therefore, on 19 May 2020 the Applicant provided to the Commission amended plans reducing the overall height of all components of the building to less than 12m. This is further discussed in section 5.5.1.

4.1.2 Meeting with the Applicant

26. At the meeting with the Applicant identified in Table 2, the key discussion points included a response to the Department's AR and Draft Development Consent, design changes resulting from GANSW advice, proposed development standard departures, solar access, flood impacts, geotechnical impacts and communal open space.
27. The Applicant provided further information to the Commission on 13 May 2020 with respect to an existing tree to the rear of the adjoining property to the south, 20 Doncaster Avenue, and its potential impact on solar access. This correspondence was made available on the Commission's website on 14 May 2020.

4.1.3 Meeting with Randwick Council

28. At the meeting with the Council identified in Table 2, the key discussion points included concerns with the Department's AR and Draft Development Consent, a potential departure from the maximum height development standard in RLEP, landscape calculations, floor levels and flood impacts, the Council DA, servicing and access. The Commission did not require further information or comments from the Council following the meeting.

4.2 Site Inspection

29. On 8 May 2020, the Commission conducted an inspection of the site and surrounds.

30. Notes taken during the site inspection, along with a map and photographs were made available on the Commissions website on 14 May 2020.

4.3 Public Meeting

31. In line with the Commission's *Public Meeting Guidelines*, the Commission considered whether it was necessary to hold a public meeting as part of its decision-making process. The Commission decided not to hold a public meeting because the Application came to the Commission for determination as a result of the objection from Council (paragraph 2). Further, the Commission notes that the Department only received 10 public submissions during the exhibition period (paragraph 14), which is significantly less than the 50 'unique' objections that would otherwise be needed to trigger a referral to the Commission. The Commission instead accepted public comments via its website during its determination process. One public comment was received by the Commission during this period, which raised concerns in relation to privacy, the substation, overshadowing, carpark entrance, instability issues with respect to basement, parking, noise, fences, tree removal, aboriginal archaeology, property devaluation and COVID-19.

4.4 Material considered by the Commission

32. In making its determination, the Commission has carefully considered the following material (**Material**):
 - the SEARs issued by the Secretary dated 26 October 2018;
 - the Applicant's EIS prepared by Urbis, dated 21 January 2019, and accompanying Appendices;
 - all submissions made to the Department in respect of the Proposed Development during the public exhibition period of 7 February 2019 to 6 March 2019;
 - all Council and Government agency submissions made to the Department in respect of the Proposed Development during the notification of the RtS, RRFI and SRRFI;
 - the Applicant's RtS prepared by Urbis, dated 11 June 2019, and accompanying Attachments;
 - the Applicant's RRFI prepared by Urbis, dated 18 October 2019, and accompanying Appendices;
 - the Applicant's SRRFI prepared by Urbis, dated 3 March 2020, and accompanying Attachment A;
 - the Department's AR dated April 2020;
 - the Department's Draft Development Consent,
 - transcripts for the meetings identified in Table 2;

- correspondence from the Department dated 18 May 2020, described in paragraph 25;
- observations made during the site inspection carried out on 8 May 2020, described in paragraphs 29 and 30;
- amended plans provided by the Applicant on 19 May 2020, described in paragraph 25.

5 MANDATORY CONSIDERATIONS

33. In determining this application, the Commission has taken into consideration the following relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act. The Mandatory Considerations are summarised below:

- the provisions of all Environmental Planning Instruments (**EPIs**) (including draft instruments), development control plans, planning agreements and the Environmental Planning and Assessment Regulation 2000 (**Regulations**);
- the likely impacts of the development, including environmental, social and economic impacts;
- the suitability of the site for development;
- submissions made in accordance with the EP&A Act and Regulations; and
- the public interest.

5.1 Relevant Environmental Planning Instruments and Draft Instruments

34. The Commission has taken into consideration the following EPIs which apply to the Site:

- *State Environmental Planning Policy (State & Regional Development) 2011* (**SRD SEPP**);
- *State Environmental Planning Policy (Affordable Rental Housing) 2009* (**ARHSEPP**);
- *State Environmental Planning Policy (Infrastructure) 2007* (**ISEPP**);
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* (**BASIX SEPP**);
- *State Environmental Planning Policy No. 55 (Remediation of Land)* (**SEPP 55**);
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (**Vegetation SEPP**);
- *Draft State Environmental Planning Policy (Remediation of Land)* (**Draft Remediation SEPP**);

- *Draft State Environmental Planning Policy (Environment) (draft Environment SEPP)*;
 - *Randwick Local Environmental Plan 2012 (RLEP)*.
35. The Applicant's EIS sets out the Applicant's position regarding the Statutory Planning Context at Chapter 7.
36. The Department's AR summarises the justification and strategic context for the Proposed Development at Section 4 and Appendix C.

5.2 Relevant Development Control Plans

37. Pursuant to clause 11 of SRD SEPP, development control plans do not apply to SSD. Notwithstanding, the Commission notes the Department's conclusion at ARP 6.5.3 that the Proposed Development generally complies with the controls in the *Randwick Development Control Plan 2013 (RDGP)* in terms of parking and access, communal open space and setbacks.

5.3 Relevant Planning Agreements

38. The Commission is satisfied there are no executed or draft Voluntary Planning Agreements relevant to this Site or the Proposed Development.

5.4 Applicable Regulations

39. The Commission is satisfied the Application meets the relevant requirements of the Regulations, including procedures relating to applications (Part 6), public participation procedures for SSD and Schedule 2 relating to EIS.

5.5 Likely Impacts of the Development

40. In determining this application, the Commission has considered the following to be key issues to address:
- Height
 - FSR/density
 - Room size
 - Heritage
 - Built form and design
 - Privacy and overshadowing
 - Flooding/stormwater
 - Traffic, parking and servicing
 - Construction impacts

5.5.1 Height

Applicant's Consideration

41. The Applicant's EIS at section 7.10.2 identifies a maximum building height of 12m for the Proposed Development, therefore complying with RLEP.
42. However, the Commission notes in the RtS, the design changes to accommodate the flood and stormwater works resulted in an increased finished floor level, thereby increasing the overall height. The Applicant provided amended plans to the Commission on 19 May 2020 clarifying all components of the development are less than 12m in height. The Commission made these plans available on the Commission's website on 19 May 2020.
43. The amended plans provided by the Applicant are taken to be a request to amend the application under clause 55 of the Regulations. The Commission, as the consent authority, agrees to accept the amended plans and is satisfied the plans clearly indicate the nature of the amendment.

Public Comments

44. Height was not raised as a significant issue in the public submissions received by the Department.

Council Comments

45. At its meeting with the Commission described in Table 2, Council identified the proposed building height exceeds the 12m maximum permitted by RLEP when measured to the plant. Council raised concerns that the Application was not accompanied by a clause 4.6 request for a variation to this potential height departure.

Department's Assessment

46. At ARP 6.3.4 the Department states the building is consistent with the maximum RLEP height of 12m.
47. The Commission sought clarification from the Department at the meeting described in Table 2 and at paragraph 24. The Department took a question on notice with respect to height and provided the response described in paragraph 25. In the correspondence dated 18 May 2020 (paragraph 25) the Department advised it is "*satisfied the proposal complies with the 12m height development standard*".
48. The Department's advice, dated 18 May 2020, further states that it would support a condition ensuring no part of the building shall exceed 12m.

Commission's Findings

49. The Commission notes the Council's concerns with respect of a potential departure to the maximum height development standard in the RLEP and sought clarification from the Department and the Applicant.
50. The Commission accepts the amended plans provided by the Applicant on 19 May 2020 and is satisfied the overall building height is less than 12m and complies with the RLEP development standard. The Commission also considers it appropriate to impose condition B1(g) as follows:

B1 Prior to issue of a Construction Certificate, the proposal shall be amended and plans / elevations / landscaping drawings and documents shall be submitted to the Planning Secretary for approval showing:
 - (a) ...
 - (g) *no portion of the building shall exceed 12m in height as measured from the existing ground level to the highest point of the building.*
51. Therefore, the Commission is satisfied the Proposed Development complies with the RLEP height and is compatible with existing development in the locality.

5.5.2 FSR/Density

Applicant's Consideration

52. The Applicant has sought to vary the maximum 0.9:1 FSR development standard permitted under clause 4.4 of RLEP by 52%, proposing an FSR of 1.37:1.
53. With respect to the proposed FSR departure, the Applicant submitted a written request prepared in accordance with clause 4.6 of RLEP to justify contravening the development standard.
54. The Applicant's Clause 4.6 Variation Request (FSR) justifies the proposed FSR for the following reasons:
 - the Proposed Development achieves the objectives of the FSR development standard and land use zone, despite the non-compliance,
 - the heritage values of the retained heritage items have been maintained through increased setbacks to the new built form and provision of gardens around the heritage items to soften the visual impact,
 - the visual bulk of the building is reduced through the design, including distinct pavilions along the frontage to reflect the subdivision pattern, stepping down the building materiality using less-dominant materials close to the heritage items,

- maintaining the standard would not deliver affordable and varied purpose-built student accommodation.

Public Comments

55. At ARP 6.2.3, the Department notes concern was raised in the public submissions that the density of the development represents an overdevelopment of the Site.

Council Comments

56. At its meeting with the Commission described in Table 2 and in its submissions dated 13 March 2019 and 28 June 2019, Council expressed its objection to the proposed FSR, which “*significantly exceeds the 0.9:1 maximum FSR permitted on the site*”.
57. Council notes the proposal does not satisfy the FSR or R3 Medium Density Residential zone objectives in RLEP.
58. Council noted at its meeting with the Commission that the bonus 0.5:1 FSR provided by the ARHSEPP under Clause 29(1)(c) purposely excludes sites containing a heritage item to explicitly exclude developments of the bulk and scale proposed to avoid buildings that dominate heritage items.
59. Council further states the clause 4.6 justification provided by the Applicant does not provide sufficient justification for the development departure and is not in the public interest. The Council submissions indicate the Applicant’s clause 4.6 request does not have regard to the matters referred to in clause 4.6(3) of RLEP and does not demonstrate that compliance with the development standard is unreasonable or unnecessary and does not provide sufficient environmental planning grounds to justify contravening the development standard.

Department’s Assessment

60. As described at ARP 6.2.4, the Department has considered the concerns raised by the community and has assessed the proposed FSR on the basis of appropriateness of built form having regard to the potential impacts of an increased floor space, including traffic generation, amenity impact and demand on existing/future infrastructure.
61. The Department considers the provision of student accommodation in this location has strategic merit (ARP 6.2.5) and will increase affordable housing on a site with “*excellent access to public transport (and) is conveniently located to educational institutions and shopping facilities*”.
62. The Department considers the site to be appropriate for greater density on the basis that the Proposed Development presents:
 - an appropriate building height and scale in the Site’s context,

- an appropriate response to the two heritage terraces on the site that retains their historic significance,
- minimised and acceptable amenity impacts,
- acceptable traffic generation that will have limited impact on the road network, and
- sufficient deep soil planting and landscaped areas.

63. The Department concludes:

“The Applicant’s clause 4.6 request to vary the FSR development standard is justified and compliance with the RLEP FSR control is unreasonable and unnecessary in this instance as the proposal achieves the objectives of the FSR development standard, no purpose is served by requiring strict compliance and there are sufficient environmental planning grounds to justify the variation”.

Commission’s Findings

64. The Commission has considered the views of the community (paragraphs 17 and 31), the Applicant (paragraph 54), Council (paragraphs 56 to 59) and the Department (paragraphs 61 to 63).
65. The Commission agrees that the pavilion-style built form and provision of communal open space at the front of the site lessens the visual bulk of the building when viewed from the street and reduces the visual impact on the remaining heritage items.
66. The Commission is of the view that the proposed number of storeys is consistent with existing development in the locality, and the main bulk of the building is located along the rear of the site adjacent to the tram stabling yard, resulting in minimal off-site impacts.
67. The Commission finds the Site is suitable for the proposed density on the basis of its location and serviceability and because the Proposed Development will not unreasonably impact on the remaining heritage items or on the surrounding area in terms of visual, traffic or amenity impacts.

5.5.3 Room size

Applicant’s Consideration

68. Clause 30(1)(b) of the ARHSEPP describes standards for boarding house developments, including a maximum room size of 25m² (excluding private kitchen or bathroom facilities). The Proposed Development includes five rooms that exceed 25m² – three within the new building (2 x 26m² rooms and 1 x 35m² room) and two rooms within the converted heritage item (29m² each).

69. The Applicant has sought a variation to the maximum room size development standard via a written request prepared under clause 4.6 of RLEP. The Applicant's justification for contravening the room size development standard includes:

- the development promotes orderly and economic use of the land and is consistent with the objects of the EP&A Act,
- if compliant rooms were provided in the heritage items additional walls and doors would be required, which will adversely impact on the spatial layout of the original bedrooms and compromise the heritage fabric of the items,
- potential impacts on the amenity of the surrounding area will be minor, and
- maintaining the standard would not deliver affordable student accommodation.

Council Comments

70. The Council submissions note the proposed departure to the maximum 25m² room size under clause 30(1)(b) of ARHSEPP and advise the clause 4.6 variation statement should not be supported. The reasons provided by Council for this advice were provided at the meeting with the Commission described in Table 2, that *"it is not appropriate to make a finding that the consent authority is not satisfied and then to address that dissatisfaction by imposing a condition of consent"*. Council further notes the Department's draft condition requiring the three oversized rooms in the new portion of the build to be amended to less than 25m² indicates a *'failure to satisfy the clause 4.6 as a precondition'* meaning the development must be refused.

71. At its meeting with the Commission (Table 2) Council also indicated the character test required under clause 30A of ARHSEPP is missing from the Department's AR and the built form proposed is not the *"built form anticipated or encouraged by the current planning control"*.

Department's Assessment

72. The Department has considered the Applicant's clause 4.6 variation request at ARP 6.5.7, 6.5.8, 6.5.9 and Appendix D.

73. The Department considers the 2 x 29m² rooms within the heritage items to be acceptable as *"physical alterations to the heritage buildings to provide smaller student rooms is likely to have adverse heritage impacts"*.

74. At ARP 6.5.8 the Department notes, however, that the Applicant has not provided sufficient justification for the three oversized rooms within the new-build component of the Proposed Development and recommends a condition B1(a) to ensure no individual student room within the new portions of development exceeds 25m².

Commission's Findings

75. The Commission has reviewed the Applicant's clause 4.6 variation request with respect to the maximum room size departure under the ARHSEPP and notes the Council's concerns with respect of the variation request.
76. The Commission agrees with the Department's findings outlined in paragraph 73, that an amendment to the room sizes within the heritage buildings would jeopardise the heritage integrity of the dwellings. These rooms provide shared rooms that achieve the objectives of the ARHSEPP and will not affect the provision of affordable student accommodation.
77. Therefore, with respect to the two rooms in the heritage items, the Commission is satisfied the Applicant's written request has addressed the matters required to be demonstrated under clause 4.6 and is consistent with the objectives of the standard and for development within the R3 zone.
78. The Commission also agrees with the Department that the Applicant's variation request for the oversized rooms in the new portion of the build does not adequately justify contravening the maximum room size development standard. Compliant room sizes can be provided in the new building and the Commission is not satisfied that compliance with the ARHSEPP development standard is unreasonable or unnecessary in this case.
79. Accordingly, the Commission has not accepted the Applicant's variation request insofar as it relates to the three rooms in the new-build portion. The Commission imposes the Department's recommended condition B1(a) to ensure that these rooms in the development will be less than 25m², thereby complying with the maximum room size development standard of the ARHSEPP.

5.5.4 Heritage Impacts

Applicant's Consideration

80. The Proposed Development includes the retention, refurbishment and adaptive re-use of two locally listed heritage terraces at 10 and 12 Doncaster Avenue. The conservation and adaption of these terrace houses will accommodate two 3 bed student cluster units and the construction of 2 storey additions to the rear of each terrace house to accommodate bathrooms.
81. The Applicant's EIS included a Heritage Impact Assessment (**HIA**), which recommended mitigation measures and concludes:

"the significance of the heritage item located at 10-12 Doncaster Avenue, and its ability to contribute to the Racecourse Precinct Heritage Conservation Area will be retained",

“the integrity of the rooms and significant features evident in the front portion of the heritage listed terraces are retained”, and

“the design of the proposed new building, in terms of the scale, siting, bulk and form is respectful of the surrounding heritage items and the character of the Racecourse Precinct Heritage Conservation Area”.

Public Comments

82. At ARP 6.3.9, the Department notes concerns were raised in the public submissions that the proposal would have an adverse impact on the heritage terraces.

Council Comments

83. In the submissions and at its meeting with the Commission described in Table 2, Council raised concerns with respect to heritage impacts. Council notes the Proposed Development will dominate and detract from the heritage terraces and conservation area and does not provide an appropriate transition from the new building to the heritage dwellings.
84. In the event the Application is approved, Council provided recommended conditions to the Department requiring the preparation of a Schedule of Conservation Works and the implementation of the HIA mitigation measures.

Department’s Assessment

85. At ARP 6.3.10, the Department notes GANSW supports the relationship of the proposed built form to the heritage terraces, the provision of open space around the heritage buildings, the location of the access driveway away from the heritage items and the inclusion of active/social spaces to activate the building edges facing the terraces.
86. The Department, at ARP 6.3.12 and 6.3.13, is satisfied the new building will not have an overbearing impact on the heritage terraces due to the increased setback of the new building to the heritage items, the use of materials that change to light-weight cladding to the uppermost floor that reflects the established eave line of the heritage items and the generous soft landscaping around the periphery of both heritage terraces.
87. The Department supports the Council’s recommended conditions and concludes the Proposed Development would not have an adverse impact on the heritage significance of 10-12 Doncaster Avenue and the conservation area (at ARP 6.3.15).

Commission’s Findings

88. The Commission has considered the Applicant’s HIA, the issues raised in public submissions and by Council and the Department’s AR with respect to heritage matters.

89. The Commission agrees with the advice from GANSW and the Department (paragraphs 85 and 86) and is satisfied the Proposed Development is an appropriate response to the heritage character of the Site. The increased setback of the new building to the heritage items, the pavilion style built form along the frontage, the provision of garden area around the heritage dwellings and the material used in the new building to provide a lighter materials above the heritage item parapet height help to reduce the visual dominance of the new building.
90. The Commission therefore finds the Proposed Development is sympathetic to the heritage context of the Site and will not adversely impact the heritage significance of the terraces at 10-12 Doncaster Avenue.

5.5.5 Built Form and Design

Applicant's Consideration

91. The Applicant's EIS states the design positively responds to the Site conditions and the existing streetscape character of the locality by introducing architectural features and breaks within the built form that reflect the subdivision pattern of the locality and provides significant setbacks and landscaping to the existing heritage item on the site.

Council Comments

92. Council objects to the design, built form and materiality of the Proposed Development and considers it does not respond to the established or desired character of the locality and would dominate the streetscape.

Department's Assessment

93. As described at ARP 6.3.3, the Department referred the Application to GANSW for comment. GANSW provided support for the Proposed Development, in terms of bulk and scale, the verticality of the elevations, building articulation and façade materials. GANSW also considers the development successfully references the existing varied contextual design precedents within the locality and supports the relationship of the built form with the heritage terraces (paragraph 85).
94. The Department accepts the GANSW advice and, as described at ARP 6.3.4, 6.3.5 and 6.3.6, the Department considers the built form, design and materiality to be appropriate, to achieve a high standard and will make a positive contribution to the evolving character of the surrounding area. The Department cites the following reasons for this conclusion:
 - the three-storey height is comparable to surrounding buildings and is consistent with the maximum RLEP building height,
 - the visual appearance of the building is compatible with the existing developments on the opposite side of Doncaster Avenue,

- the 'E' shaped footprint of the building provides for a series of pavilions projecting towards Doncaster Avenue and breaks up the built form,
- the materials are appropriate for the Site.

Commission's Findings

95. The Commission has considered the Applicant's EIS, the Council's concerns, GANSW advice and the Department's AR.
96. The Commission agrees with the advice from GANSW and the Department, in that the design and built form is compatible with the emerging character in the locality. The three-storey height is comparable to existing development in the surrounding area and complies with the RLEP height controls (paragraph 51). The 'E' shaped building allows the frontage to be separated into distinct pavilions, providing a high level of articulation, reducing the apparent scale of the building and reflecting the existing development pattern.
97. The Commission therefore finds the built form and design of the Proposed Development to be appropriate and approvable.

5.5.6 Privacy and Overshadowing

Applicant's Consideration

98. The Site has one direct residential neighbour, a single storey dwelling at No. 20 Doncaster Avenue, which is to the south of the Site.
99. The Applicant's EIS states the proposal will not have adverse or unreasonable privacy impacts on the adjoining dwelling because the proposal complies with the RLEP maximum building height, includes increased setbacks to the shared boundary, provides screen planting along the southern boundary and includes angled south facing windows away from the adjoining dwelling.
100. With respect to overshadowing, the Applicant's EIS includes a solar access analysis for the adjoining dwelling to the south, confirming the habitable room windows will continue to receive three hours of solar access during the winter solstice.

Public Comments

101. As noted by the Department in ARP 6.4.10, the public submissions raised concerns that the Proposed Development would cause privacy and overshadowing impacts on neighbouring residential properties.

Council Comments

102. At its meeting with the Commission (Table 2), Council commented that the Proposed Development results in greater overshadowing of the southern neighbours north facing windows than the approved building in the Council DA.
103. Council also raised concerns about the angled windows on the southern elevation of the Proposed Development and the potential for these windows to result in privacy impacts on the property to the south.

Department's Assessment

104. As noted in ARP 6.4.18, the Department is satisfied the Proposed Development will not have an unreasonable privacy impact for the following reasons:
 - the southern elevation is setback 6m from the boundary, thereby meeting the requirements of State Environmental Planning Policy No. 65 (**SEPP 65**) and the Apartment Design Guide (**ADG**),
 - the windows along the southern façade service single rooms within the Proposed Development, not communal areas, and have been angled away from the adjoining property to the south, and
 - screen planting is provided along the south side boundary to provide visual separation to the property to the south.
105. The Department has recommended conditions to further protect the privacy of the adjoining dwelling, including conditions that prohibit access to the flat roof area and require window treatments and screen planting to be installed prior to the first occupation.
106. Having regard to the Applicant's solar access analysis, the Department considers the overshadowing impact on 20 Doncaster Avenue to be acceptable because a total period of three hours of direct sunlight is maintained (ARP 6.4.23).

Commission's Findings

107. Although the ADG and RDCP don't apply to Boarding House or SSD developments respectively, the Commission agrees with the Department that the 6m side setback to the south is reasonable in this circumstance and, along with the angled windows and screen landscaping, will assist in mitigating any privacy impacts. The Commission further notes the southern windows are to individual rooms, not to communal areas, which also helps to reduce the potential overlooking. To further protect privacy, the Commission agrees with the Department's recommended conditions at paragraph 105.
108. The Commission has considered the Applicant's solar access analysis, the concerns raised in the public and Council submissions and the Department's AR. With respect to

overshadowing, the Commission finds the three hours of direct sunlight maintained for 20 Doncaster Avenue to be reasonable, and the increased southern setback of the Proposed Development is an appropriate response.

5.5.7 Flooding/Stormwater

Applicant's Consideration

109. The Site is also affected by flooding and the Applicant's EIS included a Flood Risk Assessment and Stormwater Management Plan. The Proposed Development includes voids beneath the ground floor level to provide a floodway channel.
110. The Proposed Development seeks to realign the existing east-west Sydney Water concrete Stormwater Channel (**SW Channel**) closer to the northern boundary of the Site, which would be located in proximity to the existing Sydney Blue Gum Tree. As such, the Applicant proposed mitigation measures to protect the health and stability of the tree during construction.

Public Comments

111. One submission raised concerns about inadequate capacity in existing water and sewerage infrastructure and whether it will be able to cope with the additional population.

Council Comments

112. In its submission dated 13 March 2019, Council noted the Proposed Development requires alterations to the existing drainage infrastructure and provided recommended conditions to the Department with respect to stormwater and flooding mitigation measures and tree protection, which have been adopted into the Department's Draft Development Consent.
113. At its meeting with the Commission (Table 2), Council indicated it is satisfied with the voids provided in the Proposed Development to accommodate the overland flow paths, and Council is satisfied the proposed conditions address Council's previously raised flood and stormwater matters.

Department's Assessment

114. With respect to flood matters, as described at ARP 6.9.1 at Table 11, the Department is satisfied the building complies with the flood levels and the basement has been designed to address flood impacts. The Department supports conditions recommended by the Council and the Department of Primary Industries (**DPI**) with respect to flooding and has included those conditions, along with a condition requiring the preparation of a flood evacuation plan to the satisfaction of Council prior to the occupation of the development, in the Draft Development Consent.

115. The Department consulted with Sydney Water and Council regarding the proposed realignment of the SW Channel and mitigation measures to protect the existing tree that may be affected (ARP 6.7.2). Sydney Water support the realigned SW Channel and provided recommended conditions to the Department, which have been included in the Draft Development Consent.
116. At ARP 6.7.7, 6.7.8 and 6.7.9, the Department is satisfied the Applicant has demonstrated the Sydney Blue Gum tree is capable of being successfully retained and the SW Channel is being relocated to the most appropriate position.

Commission's Findings

117. The Commission notes the Council and Department are satisfied with the Proposed Development with respect to flooding and stormwater matters, subject to recommended conditions. The Commission finds the provision of floodway channels through the development will ensure the on- and off-site flood risk will not be exacerbated and finds the conditions in the Draft Development Consent to be structured to ensure the development does not change the overland flow paths or flood levels and will mitigate flood impacts on the heritage buildings. The Commission therefore finds the Proposed Development to be appropriate from a flood and stormwater perspective, subject to conditions.

5.5.8 Traffic, Parking and Servicing

Applicant's Consideration

118. The Applicant's EIS included a Traffic and Parking Assessment Report (**TPA**) to consider the potential traffic and carparking impacts on the surrounding area.
119. The Proposed Development provides 56 carparking spaces, 55 motorcycle spaces and 150 bicycle spaces within the basement level and a further 28 bicycle spaces at the ground level, comprising a total of 178 bicycle spaces for the development.
120. The Applicant's EIS states the proposed parking provision is appropriate for this type of development and the resulting traffic generation will not have adverse impacts on the surrounding road network.
121. In its RtS, the Applicant responded to concerns raised by Council (paragraph 124) that the proposed parking rate does not comply with the ARHSEPP. The Applicant's RtS notes the ARHSEPP provides a lower parking rate (minimum 44 spaces) for social housing providers, and contends this rate is appropriate for this Site given the proximity to public transport, services, shops and educational establishments. The Applicant also notes the development will include five car share spaces within the basement and will implement a green travel plan to encourage students to use sustainable modes of transport and reduce reliance on private vehicles.

122. With respect to servicing, the Applicant's EIS details how all servicing for the Proposed Development will occur on site, at the basement level.

Public Comments

123. At ARP 6.6.5, the Department notes insufficient car parking was raised as a concern in the public submissions and that the Proposed Development would place additional demand on existing on-street car parking spaces.

Council Comments

124. In its submission dated 28 June 2019, Council noted the provision of car parking spaces complies with Council's DCP (0.2 spaces per room), but not with the rates in the ARHSEPP (0.5 spaces per room). Council advised it does not support the parking shortfall (of 46 spaces) because of questions around the traffic survey undertaken to justify the parking provision, insufficient information with respect to car share agreements and a lack of certainty that this development will remain student accommodation in perpetuity.
125. Council also raised concerns in its submissions and at its meeting with the Commission (Table 2) that the shortfall in parking will create a greater demand for on-street parking. Council have also confirmed it won't be issuing future occupants with on-street residential permits, and recommended conditions with respect to the use and management of parking spaces.
126. Regarding traffic safety and internal circulation, Council noted the proposed single lane driveway access should be widened to accommodate two-way traffic, or at a minimum *"a suitable passing area needs to be incorporated within the development site, near the Doncaster Avenue property boundary"*.
127. Council did not raise any concerns with the number of bicycle parking spaces provided. However, it did recommend at-grade visitor bicycle spaces be provided.
128. With respect to the storage and handling of waste, Council confirmed at its meeting with the Commission (Table 2) that it is satisfied kerbside collection of waste will not be required for this development and sufficient space and manoeuvrability is provided in the basement to allow for private waste collection. Council raised no further objections.

Department's Assessment

129. At ARP 6.6.9 the Department notes the site is within convenient walking distance of public transport, services, shops and educational establishments and is satisfied the site is well located to take advantage of public transport modes to support lower on-site parking rates.

130. The Department also notes the Council will not issue future residents with on-street parking permits, which will effectively prevent any overflow parking issues and agrees with the Applicant's EIS that car ownership and use amongst students is likely to be lower than the general population.
131. With respect to traffic generation, at ARP 6.6.15 the Department considers the Proposed Development would have minimal impact on the surrounding road network because the increase in vehicle movements during peak periods is minor and unlikely to result in a perceivable difference in comparison to the existing situation and the proposal will not impact the existing service of nearby intersections. The Department is satisfied the availability of public transport options will reduce the reliance on private vehicles and supports the preparation of a Green Travel Plan through a recommended condition.
132. In response to the Council's concerns regarding traffic safety and internal circulation (paragraph 126), at ARP 6.6.20 and 6.6.21 the Department details its satisfaction with the proposed traffic management system (including a signalised ramp operation), but also recommends condition B1(c) to require a waiting bay at the carpark entrance to allow vehicles to wait to enter the basement from the street.
133. The Department supports the Applicant's proposed servicing arrangements but considers a dedicated servicing/refuse collection bay should be provided to reduce vehicle conflicts and interference with basement circulation. The Department has therefore recommended a condition regarding this in the Draft Development Consent.

Commission's Findings

134. The Commission notes the concerns raised in the public and Council submissions with respect to traffic and parking impacts.
135. Regarding parking, the Commission agrees with the Applicant and Department's conclusions that the car parking provision is appropriate for this type of development and is justified by the location in proximity to several public transport options, services, shops and educational establishments. The Commission is of the view that the car ownership will be dictated by the number of spaces available in the basement, noting the Council's confirmation future residents will not be issued with on-street parking permits. Future occupants will have the option of accessing a car share vehicle or several bicycle or public transport options, in the event of reduced car ownership. The Commission therefore finds the proposed car parking to be appropriate.
136. With respect to traffic generation, the Commission considers traffic generation to be linked to the number of parking spaces provided on the site. The reduced parking availability at the site will reduce reliance on private vehicle use, which will also reduce the traffic generated by the development. The Commission agrees with the Applicant's TIA and the Department's conclusion at paragraph 131, that the traffic generated by the

Proposed Development will be minimal and is unlikely to have any adverse impacts on the surrounding road network or nearby intersections.

137. The Commission supports the Department's recommended condition in the Draft Development Consent to require a waiting bay at the carpark entrance (paragraph 132) and is satisfied that the waiting bay and signalised ramp operation will provide an acceptable level of traffic safety and internal circulation.
138. The Commission also supports the Department's recommended conditions in the Draft Development Consent regarding the Green Travel Plan, on-site servicing and the provision of a dedicated servicing/refuse collection bay. The Commission notes at its meeting with the Applicant (Table 2) the Applicant confirmed such a condition can be achieved and raised no objection.

5.5.9 Construction Impacts

Applicant's Consideration

139. The Applicant's EIS included measures to be undertaken to mitigate potential construction impacts on surrounding development, including the completion of dilapidation reports on surrounding buildings and structures, monitoring vibration during construction, compliance with a Construction Management Plan and sediment and erosion control measures.

Public Comments

140. At ARP 6.8.4 the Department describes amenity concerns raised in the public submissions with respect to impacts from excavation and construction works, including noise, dust, dilapidation and impact on neighbouring foundations.

Council Comments

141. In its submission dated 13 March 2019, Council provided recommended conditions with respect to excavation and site stability, vibration, dust and dilapidation, the preparation of a Construction Management Plan, Construction Noise and Vibration Management Plan and standard construction noise conditions.
142. At its meeting with the Commission, Council did not raise any further concerns regarding construction noise impacts and did not provide commentary for the Commission's consideration with respect to the Department's Draft Development Consent.

Department's Assessment

143. In addition to the conditions recommended by Council with respect to construction impacts (paragraph 141), in Table 11 at ARP 6.9.1, the Department also notes conditions have been recommended by DPI in relation to water monitoring and management, by TfNSW and the RMS with respect to the preparation of a Construction

Traffic Management Plan and a suite of conditions to protect the light rail operation and infrastructure.

144. The Department included the conditions recommended by Council (paragraph 141), DPI, RMS and TfNSW (paragraph 143) and the Applicant (paragraph 139) in the Draft Development Consent and is satisfied these conditions will address and mitigate the potential construction impacts to minimise damage to the surrounding areas and disruption to residential amenity.

Commission's Findings

145. The Commission notes the Department's engagement with the Applicant, Council, DPI, TfNSW and RMS in drafting the recommended conditions in the Draft Development Consent. The Commission agrees with the Department's conclusion at paragraph 144 and agrees the conditions in the Draft Development Consent provide appropriate mitigation and management mechanisms to reduce potential construction impacts on surrounding properties and in the public domain.

5.5.10 Future Student Amenity

Applicant's Consideration

146. The Applicant's EIS details the internal communal facilities in the Proposed Development, including communal flexi-spaces, meeting and study areas, communal lounges, games areas and gymnasiums and a shared laundry. The Applicant states these communal facilities cater for different ways people live and will ensure the spaces are well utilised.
147. The Applicant's EIS also describes the 498m² of outdoor communal open space, which has been positioned away from neighbouring residents to mitigate noise or amenity impacts and is provided with weather cover and several shared facilities to encourage social interaction.
148. For individual students, the Applicant considers the proposed rooms to offer a high level of student amenity while promoting affordability.

Council Comments

149. Council objects to the room sizes being inconsistent with the ARHSEPP requirements (see paragraph 70). Council also raised concerns about the adequacy of student amenities and communal facilities.
150. With respect to the communal facilities, Council considers the single communal toilet facility at ground level to be "*inadequate to service the needs of a significant number of future lodgers of the boarding house facility*" (13 March 2019 submission).

151. Council supports the location of the communal courtyard, but at its meeting with the Commission (Table 2) questioned the landscaped area calculations. Council is of the view the landscaped area calculations provided in the Application include circulation paths and are inadequate to accommodate the additional needs generated by the additional floor area proposed.
152. At its meeting with the Commission (Table 2), Council reiterated its concerns about the lack of amenity for future occupants of the building as exhibited by small sized rooms and a lack of parking.

Department's Assessment

153. With respect to the landscaped area and in response to the Council's concerns raised in paragraph 151, the Commission sought further clarification from the Department about how the landscaped areas were calculated (paragraph 25). The Department confirmed the landscaped area of 1,162m² excludes circulation paths, and maintains its conclusion at ARP 6.9.1 Table 11 and ARP 7.1.4, that the proposal makes adequate provision for permeable areas and provides for a high standard of external open space and landscaping.
154. The Department agrees with the Council's concerns about the communal toilet facility at ground level and has included condition B1(e) in the Draft Development Consent requiring the provision of additional communal toilet facilities at the ground floor level without reducing the provision or quality of communal open space.
155. The Department's AR details the 336m² of indoor and 443m² of outdoor communal open space at ARP 6.5.10 and 6.5.12, noting the provision of communal open space exceeds the RDCP requirements.
156. As described at ARP 6.5.12, the Department considers the location and layout of the proposed student amenities to be acceptable.

Commission's Findings

157. The Commission agrees with the Applicant's and the Department's findings that the communal facilities are of an appropriate quantity and quality to service this development and will cater for a variety of uses that encourage interaction and study.
158. The Commission finds the provision of communal open space and landscaping to be sufficient for this development and to be of a high quality.
159. The Commission further agrees with the Department's recommended condition B1(e) for additional ground floor communal toilet facilities.

5.6 Suitability of the Site

Applicant's Consideration

160. The Applicant's EIS maintains the Site is suitable for the Proposed Development because it is a permitted use within the R3 Medium Density Residential zone, it is conveniently located to public transport, services and educational establishments and responds well to the Site constraints of heritage, aboriginal archaeology and flooding.

Council Comments

161. In its submission dated 13 March 2019, Council objected to the Proposed Development on the basis the Site layout and building location do not respond to the Site characteristics or the surrounding context and will result in significant bulk and scale that will dominate the heritage items and streetscape.

Department's Assessment

162. At ARP 7.1.3, the Department concludes the Site is suitable for the Proposed Development and student accommodation given its location and as it would not unreasonably impact on the surrounding area in terms of visual, traffic or amenity impacts.

163. The Department notes the Site potentially contains aboriginal heritage items. The Department engaged with the Environmental, Energy and Science Group (**EESG**) during the assessment of the Application, and EESG issued an Aboriginal Heritage Impact Permit (**AHIP**) including conditions to conserve, manage and mitigate impacts on aboriginal archaeology during construction. At ARP 6.9.1 Table 11, the Department is satisfied that the potential aboriginal archaeological impacts have been appropriately assessed and recommends the AHIP conditions be imposed on the development consent.

164. As described in paragraph 87, the Department is satisfied the Proposed Development will not have an unreasonable impact on the heritage terraces remaining on the Site.

165. As described in paragraph 114, the Department is satisfied the Proposed Development will not result in any adverse impact with respect to stormwater or flooding.

Commission's Findings

166. The Commission is of the view the Site is appropriately zoned to accommodate student housing and is well located with respect to several transport options, universities and services.

167. The Commission also notes the Proposed Development and Draft Development Consent appropriately addresses Site constraints including flooding, heritage impacts and aboriginal heritage.
168. Therefore, the Commission finds the Site is suitable to accommodate the Proposed Development.

5.7 Objects of the EP&A Act & Public Interest

Applicant's Consideration

169. The Applicant's EIS states the proposal is in the public interest because it will not have unreasonable impacts on adjoining properties or the public domain, it is provided in an appropriate location and provides a high-quality residential environment for students. The Applicant further notes the Proposed Development has been designed to contribute positively to the streetscape, is sympathetic to the heritage significance of the site and incorporates energy efficiency and environmental sustainability.

Council Comments

170. The Council is of the view the Proposed Development is not in the public interest due to the development standard departures and because it is inconsistent with the applicable planning objectives and future desired character of the area.

Department's Assessment

171. The Department's AR has undertaken an assessment of the Application against the objects of the EP&A Act. These are set out in the Department's AR at Appendix C, Table 11. At ARP 7.1.2 the Department concludes the Proposed Development "*is consistent with the objects of the EP&A Act*".
172. The Department's AR notes the Proposed Development is consistent with the zone objectives and will result in benefits to the local community. At ARP 7.1.13 the Department concludes "*the development is in the public interest and is approvable subject to conditions*".

Commission's Findings

173. The Commission agrees with the Department's AR at Appendix C, Table 11 and is of the view that the Proposed Development is in accordance with the objects of the EP&A Act. Furthermore, the provision of additional affordable accommodation on this well-sited site will benefit the community and is in the public interest.
174. The Commission acknowledges the positive outcomes of locating affordable student accommodation in an area well serviced by accommodation and education options and

finds the conditions proposed in the Draft Development Consent will mitigate potential impacts on the surrounding residents and community.

6 CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

175. The views of the community were expressed through public submissions and comments received (as part of the Department's exhibition and notification periods and the Commission's determination process), as outlined in paragraphs 17 and 31. The Commission carefully considered all of these views as part of making its decision. The way in which these concerns were taken into account by the Commission is set out in section 5 above.

176. The Commission has carefully considered the Material (paragraph 32) before it.

177. For the reasons set out in this Statement of Reasons, the Commission has determined that the Application should be granted consent subject to conditions, which have been designed to:

- prevent, minimise and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance
- require regular monitoring and reporting; and
- provide for the on-going environmental management of the development.

178. The reasons for this Decision are given in this Statement of Reasons for Decision dated 21 May 2020.



Ms Ilona Millar (Chair)
Member of the Commission



Ms Dianne Leeson
Member of the Commission