



10 September 2019

**Social and Affordable Housing, 11 Gibbons Street, Redfern (SSD 7749)**

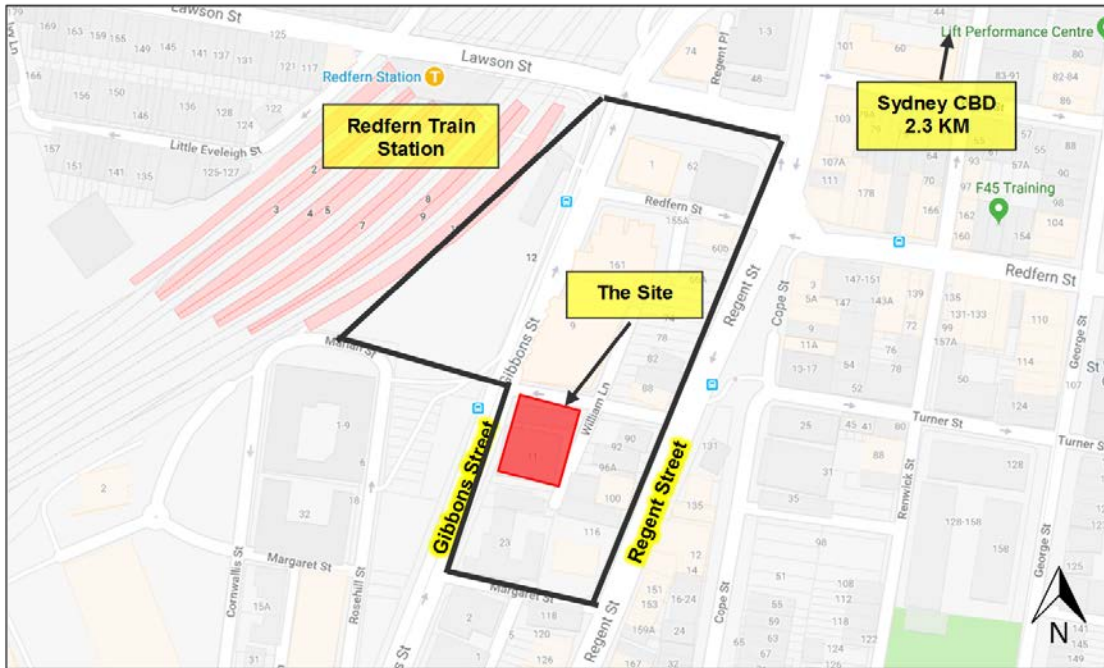
**1. INTRODUCTION**

1. On 9 May 2019, the NSW Independent Planning Commission (**Commission**) received from the NSW Department of Planning, Industry and Environment (**Department**) a State Significant Development (**SSD**) application from St George Community Housing Sustainability Ltd (**Applicant**) for a social and affordable housing development at 11 Gibbons Street, Redfern (**Application**).
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* (**SEPP SRD**). This is because:
  - the Application constitutes a SSD application under section 4.36 of the EP&A Act as the Application is development within the Redfern Waterloo Precinct having a Capital Investment Value (**CIV**) over \$10 million; and
  - the Department received a submission from the local council, the City of Sydney (**Council**), objecting to the Application.
3. Professor Mary O’Kane AC, Chair of the Commission, nominated Stephen O’Connor (Chair) and Wendy Lewin to constitute the Commission determining the Application.

**1.1. Site and locality**

4. The subject site (**Site**) is located at 11 Gibbons Street, Redfern. The Site covers an area of 1,578 m<sup>2</sup> (square metres) and is located within the Redfern Town Centre (see **Figure 1** and **Figure 2**). The Site is located approximately 2.3 km (kilometres) south-west of the Sydney Central Business District and 140 m (metres) south-east of Redfern Train Station (see **Figure 1**).
5. The site was previously used by the Council as a Council works depot and currently contains two-storey buildings and hardstand areas.

**Figure 1 - Site Location (red box) and Redfern Town Centre (black outline).**



Source: Department's Assessment Report 30 April 2019

**Figure 2 - Aerial Image of the Site (red outline) and adjacent development**



Source: Department's Assessment Report 30 April 2019

## 1.2. Background to Development Application

6. The Site was sold by the Council to the Applicant in 2018 specifically for the purpose of development for social and affordable housing. The Application was lodged with the Department on 28 September 2018. The Applicant made several amendments to the Application after exhibition of the Environmental Impact Statement (**EIS**).

## 1.3. Summary of Development Application

7. The Application before the Commission for determination proposes an 18-storey social and affordable housing development on the Site. The key elements of the Application are summarised below in **Table 1** below.

*Table 1 - Main Components of the Application*

Component	Description
Site preparation	<ul style="list-style-type: none"> <li>Demolition of existing buildings and hardstand areas, earthworks and site preparation.</li> </ul>
Built form	<ul style="list-style-type: none"> <li>Construction of an 18-storey tower (maximum RL 85.75 to top of plant), including three-storey podium fronting Gibbons Street and Marian Street.</li> </ul>
Uses	<ul style="list-style-type: none"> <li>160 social and affordable housing apartments comprising the following mix: <ul style="list-style-type: none"> <li>40 to 60 social housing apartments (25% to 38%) and 100 to 120 affordable housing apartments (63% to 75%)</li> <li>47 x 1 bedroom (29%)</li> <li>16 x 1 bedroom with study (16%)</li> <li>91 x 2 bedrooms (57%)</li> <li>4 x 3 bedrooms (3%)</li> <li>2 x dual key (2 bedrooms plus studio) (1%).</li> </ul> </li> <li>2 x ground floor retail/commercial tenancies</li> <li>SGCH ground floor office space (accommodating 20 employees)</li> <li>Ground floor community hub (to provide SGCH tenant participation and support services, including employment, training and wellness activities).</li> </ul>
Gross Floor Area ( <b>GFA</b> )	<ul style="list-style-type: none"> <li>Total GFA of 13,216 m<sup>2</sup> (Floor Space Ratio 8.4:1) comprising: <ul style="list-style-type: none"> <li>12,214 m<sup>2</sup> residential accommodation (and communal corridors)</li> <li>48 m<sup>2</sup> resident community room (level 3)</li> <li>260 m<sup>2</sup> retail/commercial</li> <li>205 m<sup>2</sup> SGCH office</li> <li>63 m<sup>2</sup> community hub</li> <li>426 m<sup>2</sup> ground level lobby, bicycle parking, bin storage and water tanks.</li> </ul> </li> </ul>
Communal open space	<ul style="list-style-type: none"> <li>289 m<sup>2</sup> level 3 terrace (on podium roof)</li> <li>56 m<sup>2</sup> level 4 terrace</li> <li>139 m<sup>2</sup> level 17 roof terrace.</li> </ul>
Landscaping and public domain	<ul style="list-style-type: none"> <li>Tree planting (16 trees, including one new street tree on Gibbons Street)</li> <li>Landscaping to communal open spaces</li> <li>3.2 m wide setback to William Lane</li> <li>800 mm setback to Marian Street.</li> </ul>



Access	<ul style="list-style-type: none"> <li>• Pedestrian access from corner of Gibbons Street and Marian Street</li> <li>• Access to bicycle parking spaces from William Lane</li> <li>• Service access from William Lane exiting onto Gibbons Street.</li> </ul>
Bicycle parking	<ul style="list-style-type: none"> <li>• 96 bicycle parking spaces located on the ground floor (80 resident and 16 commercial/retail workers) and 4 visitor bicycle spaces located adjacent to William Lane.</li> </ul>
Signage	<ul style="list-style-type: none"> <li>• Seven under awning business identification signage zones along the Gibbons Street frontage</li> <li>• The proposed signage zones range from 2.5 m to 5.6 m in length, have a depth of 0.8 m and would be located a minimum of 2.85 m above street level.</li> </ul>
Lot consolidation	<ul style="list-style-type: none"> <li>• Consolidation of Lots 1-11 into a single lot.</li> </ul>
Employment and CIV	<ul style="list-style-type: none"> <li>• CIV of \$49,850,000</li> <li>• 50 construction jobs</li> <li>• 20 operational jobs.</li> </ul>

Source: Department's Assessment Report 30 April 2019

8. Following the exhibition of the EIS, the Department's Assessment Report (**AR**) states the Applicant has included:
- "800 mm podium setback to Marian Street to provide a total 3 m setback to the kerb
  - podium setback to William Lane increased from 2 m to 3.2 m to provide a total 6 m setback to the centerline of the lane".

#### 1.4. Stated need for Proposal

9. The Department's AR states that there is a need for social and affordable housing in the area:

*"Social housing is secure, long-term housing for people on very low or no income. Affordable housing is subsidised housing for people working on low to moderate incomes. There is a significant need for both types of housing in Sydney with over 320 priority households and over 1,000 general applicants on the NSW Housing Register for social housing in the area. In NSW, over 55,000 people are currently waiting for public housing while homelessness has increased by 37% over the past five years.*

*Due to the median house price in Sydney being over \$1 million, many people/households are unable to afford housing and must therefore pay a high proportion of their income on rent. The proposed provision of affordable housing, where households would not pay more than 30% of their gross household income towards rent, would create an affordable housing option, between social and market (private) housing, in a key location for low to moderate income earners.*

*...The proposed development would incorporate 160 social and affordable housing apartments. It would therefore contribute to meeting Sustainable Sydney 2030 housing targets and align with the objectives of the Greater Sydney Region Plan and Eastern City District Plan in relation to providing affordable and social housing and increased housing diversity in a highly accessible location."*

## 2. THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

### 2.1. Key steps in Department's consideration of the Application

10. On 28 September 2018, the Applicant lodged an EIS for the construction and operation of a social and affordable housing development at 11 Gibbons Street, Redfern. The Department stated in its AR that the Application was "*publicly exhibited from 11 October 2018 to 7 November 2018*". The Department received:
  - Ten submissions from government agencies;
  - One submission from Council; and
  - Seven public submissions;
11. The Department stated in its AR that "*None of the government agencies objected to the proposal, and the key issues raised by agencies have been addressed through the provision of additional information, or through the recommended conditions of consent*".
12. The Department received one submission from Council which objected to the proposal. Council's objections included:
  - potential increased wind impacts;
  - the submitted SEPP 1 Objection for the tower setback above the podium to Gibbons Street and Marian Street is not supported due to potential increased wind impacts;
  - all building separation and setback distances should be consistently applied to protect future residential amenity;
  - methods to address privacy impacts from the proposed setbacks may minimise daylight to habitable rooms and increase future residents' reliance on artificial lighting and air conditioning;
  - the architectural plans do not reflect the recommendations of the Wind Report nor respond appropriately to the wind conditions of the Site;
  - the proposed solution to address noise impacts from Gibbons Street and Regent Street requires future residents to choose between natural ventilation with attendant noise impacts, or mechanical ventilation;
  - the provision of solar access to 70% of apartments is questioned due to inconsistencies in the solar access calculation plans;
  - potential acoustic issues between apartments with bedroom windows opening onto the same deep recess;
  - the two contributions plans applying to the Redfern Precinct should be applied to the development. In particular, the proposed public domain works do not constitute a community benefit over and above what would ordinarily be expected in associated with a development of this size;
  - inadequate information has been provided in relation to proposed landscaping and environmentally sustainable design; and
  - an insufficient number of bicycle parking spaces have been provided.
13. The seven public submissions received all objected to the proposal. Key issues raised are summarised in **Table 2**.

**Table 2 - Summary of key issues raised in public submissions objecting to the EIS exhibition.**

Issue	Number of objections
Increased overshadowing	3
Proposed height/non-compliance with height controls	2
Adverse wind impacts	2
Operational noise impacts	2
Cumulative impact of high-density development in the area	2

Source: Department's Assessment Report.

14. On 26 February 2019, the Applicant lodged a Response to Submissions (**RtS**) responding to key issues raised in the submissions. The RtS included amended architectural and landscape plans, additional contamination reports, a visual impact analysis and supplemental wind and acoustic reports.
15. On 12 March 2019, an additional submission was received from Council maintaining their objection to the Application. Additional submissions were also received from the Government Architect NSW (**GANSW**) and Urban Growth NSW (**UGNSW**).
16. On 22 March, the Applicant submitted further information including additional architectural plans. The key amendment involved increasing the eastern podium setback to the centreline of William Lane by 1.2 m from 4.8 m to 6 m.
17. The Department prepared an AR in respect of the Application, which was provided to the Commission for its consideration on 7 May 2019.

## 2.2. The Department's Assessment Report

18. The Department's AR, dated 30 April 2019, identified design excellence and built form, amenity impacts to adjoining properties, residential amenity for future occupants, traffic, parking and access/servicing as the key impacts associated with this proposal.
19. The Department's AR concluded: "... the Proposed development is consistent with the future direction of the Redfern-Waterloo area and is an appropriate development to facilitate the growth of the Redfern Town Centre. The proposed development also incorporates significant public benefit outcomes through the provision of 160 social and affordable housing apartments."

## 3. THE COMMISSION'S MEETINGS AND SITE VISIT

20. As part of its determination of the Application, the Commission met with various persons as set out below. All meeting and site inspection notes were made available on the Commission's website.

### 3.1. Meeting with the Department

21. On 13 May 2019, the Commission met with the Department to discuss the Application. The Department briefed the Commission on the background of the Application, the

context of the site, agency submissions and key assessment issues including design excellence, street and podium setbacks, noise, ventilation, wind impacts and contributions. A copy of the meeting notes were made available on the Commission's website.

### **3.2. Meeting with the Applicant**

22. On 13 May 2019, the Commission met with the Applicant. The Applicant briefed the Commission on their commitment to providing the social and affordable housing development at the site and the process they have been through to date, including amendments made to building design in response to feedback from GANSW. The Applicant also briefed the Commission on topics including the context of the site, setbacks, bicycle parking provision, wind impacts, access and the ventilation system. The Applicant also ran through their requested changes to the Department's recommend conditions of consent. A copy of the meeting notes were made available on the Commission's website.

### **3.3. Site inspection**

23. On 13 May 2019, the Commission conducted a site inspection and locality tour which included viewing the site from Gibbons Street, Marian Street and William Lane. The site visit assisted the Commission in their considerations of the Application, particularly in relation to street setbacks and pedestrian and vehicular access. A copy of the site inspection notes were made available on the Commission's website.

### **3.4. Meeting with City of Sydney Council**

24. On 27 May 2019, the Commission met with Council to discuss their views on the Application. The Commission noted Council's support for the provision of social and affordable housing on the site and their concerns, which included issues relating to compliance with the Apartment Design Guide 2015 (**ADG**), specifically acoustic amenity, wind impacts, natural ventilation, building setbacks and building separation. Council stated they consider the full payment of contributions should be required. Council also addressed the Applicant's proposed changes to the Department's recommended conditions of consent. A copy of the meeting notes were made available on the Commission's website.

## **4. ADDITIONAL INFORMATION**

25. On 10 May 2019 the Applicant submitted additional information to the Commission, including:
- response to draft conditions SSD 7749 – cover letter; and
  - response to draft conditions SSD 7749.
26. Following the Applicant's meeting with the Commission on 13 May 2019, the Applicant provided the Commission with additional information on 16 May 2019, including:
- a site plan showing the proposed development in the context of existing adjacent and proposed developments;
  - plans including a scale; and
  - details of the proposed external screens on level 3.
27. On 11 June 2019 the Commission wrote to the Department requesting additional information. The Department provided a response on 26 June 2019, including:
- the letter from the Department dated 25 June 2019;

- the letter from the Applicant dated 17 June 2019;
  - the response prepared by Northrop regarding the mechanical ventilation system and sub-station location; and
  - plans prepared by DKO architecture (DKO) incorporating an increased setback of 500mm to Marian Street.
28. Following its meetings with the Department, Applicant and Council the Commission commissioned a peer review of the proposed mechanical ventilation system (**ventilation system**). The Commission received the following:
- a review of the proposed noise mitigation measures and acoustic performance was provided by WSP on 19 July 2019 and an updated version of the report was provided on 22 July 2019;
  - a review of the proposed fire and smoke control mechanisms was provided to the Commission by Two MS Mechanical Services Consultants on 24 July 2019; and
  - a review of the effectiveness of the proposed ventilation system was provided to the Commission by Team Catalyst on 24 July 2019.
29. On 17 July 2019 the Commission wrote to Council requesting a response to key points made by the Department and Applicant regarding the setback to Marian Street, in their letter dated 26 June 2019. Council provided a response to the Commission on 29 July 2019.
30. On 5 August 2019, the Applicant provided additional information in response to the Peer Review of the ventilation system. The response provided the Commission with updated detail and documentation addressing key issues raised in the peer review.
31. On 5 September 2019, the Applicant provided a comment on the footpath dedication conditions. This included a footpath dedication plan.
32. All the above information is available on the Commission's website.

## 5. THE COMMISSION'S CONSIDERATION

### 5.1. Material considered by the Commission

33. In this determination, the Commission has carefully considered the following material (**Material**):
- the EIS prepared by Keylan Consulting Pty Ltd, dated 28 September 2018 and its accompanying appendices;
  - the Applicants RtS, dated 21 February 2019;
  - the Department's AR and recommended Development Consent, dated 30 April 2019;
  - all submissions made to the Department in respect of the proposed SSD application during the public exhibition and up to the publication of the Department's AR;
  - the visual observations made by the Commission at the site inspection and locality tour on 13 May 2019; and
  - all additional information provided to the Commission, as outlined in section 4.



## 5.2. Mandatory considerations

34. In determining this application, the Commission has taken into consideration the following relevant mandatory considerations, as provided in Section 4.15 of the EP&A Act (**mandatory considerations**):
- the provisions of all relevant:
    - environmental planning instruments; and
    - proposed instruments that are or have been the subject of public consultation under the EP&A Act and that have been notified to the Commission (unless the Secretary has notified the Commission that the making of the proposed instrument has been deferred indefinitely or has not been approved); and
    - development control plans; and
    - planning agreements that have been entered into under s 7.4 of the EP&A Act, and draft planning agreements that a developer has offered to enter into under s 7.4; and
    - the *Environmental Planning and Assessment Regulations 2000* (**Regulations**) to the extent that they prescribe matters for the purposes of Section 4.15(1) of the EP&A Act; that apply to the land to which the Application relates;
  - the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
  - the suitability of the site for development;
  - submissions made in accordance with the EP&A Act and Regulations;
  - the public interest; and
  - the objects of the EP&A Act.

## 5.3. Additional considerations

### 5.3.1. Redfern Centre Urban Design Principles

35. In determining this Application, the Commission has also considered the Redfern Centre Urban Design Principles (**RCUDP**). As noted in the Department's AR, the RCUDP were developed to provide urban design principles for future development of State significant sites within the Redfern Town Centre under the controls of the *State Environmental Planning Policy (State Significant Precincts) 2005* (**SSP SEPP**).
36. The RCUDP includes detailed planning controls applicable to the Redfern Centre which seek to reinforce and enhance the role of the area as a mixed-use precinct, achieve the highest standard of architecture and urban design, ensure that highly visible buildings reinforce and respond to their visual setting. See further discussion regarding the RCUDP and how it applies to the Application in paragraph 42 below.

### 5.3.2. Peer Review of the Ventilation System

37. In determining the Application, the Commission has considered the peer review of the ventilation system, including the peer review of the acoustic performance, fire safety and ability of the system to provide for a comfortable ambient environment (as referenced in

paragraph 29 above).

38. The purpose of the review was to answer a number of outstanding questions relating to the function of the ventilation system and to help the Commission determine whether the system would be reliable and effective in providing a comfortable and safe indoor environment for future residents. Specifically, the peer review sought an expert to undertake the following:
- (i) review the relevant ventilation system documentation and other relevant documentation;
  - (ii) advise on the compliance of the proposed system with the relevant Australian Standards and codes;
  - (iii) advise whether the proposed noise mitigation measures will be effective i.e. would the proposed acoustic baffles on the door and window vents provide effective noise attenuation;
  - (iv) advise whether the proposed fire mitigation measure (i.e. fire dampers) will effectively mitigate any potential fire risk associated with the ventilation system;
  - (v) advise whether the system would have the ability to provide future tenants with a comfortable and viable system of ventilation i.e. will the system be able to support the likely loads required particularly during extreme weather events;
39. The outcomes of the peer review are discussed further in section 5.10.2.

#### 5.4. Relevant Environmental Planning Instruments

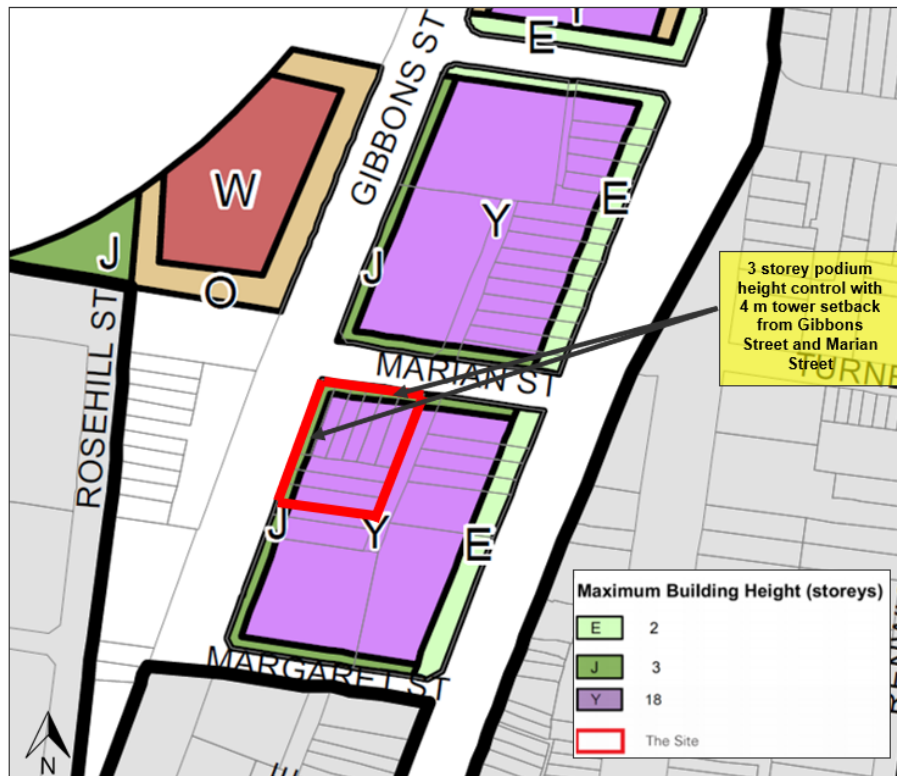
40. Under section 4.15 of the EP&A Act the Commission, as the consent authority, is required to consider any Environmental Planning Instruments (**EPIs**) relevant to the Application. The following EPIs are relevant to the Application:
- SRD SEPP;
  - State Environmental Planning Policy (State Significant Precincts) 2005 (**SSP SEPP**);
  - State Environmental Planning Policy No 1 – Development Standards (**SEPP 1**);
  - State Environmental Planning Policy (Urban Renewal) 2010;
  - State Environmental Planning Policy (Infrastructure) 2007 (**ISEPP**);
  - State Environmental Planning Policy No. 55 - Remediation of Land (**SEPP 55**);
  - State Environmental Planning Policy No. 64 – Advertising and Signage (**SEPP 64**);
  - State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (**SEPP 65**);
  - State Environmental Planning Policy (Affordable Rental Housing) 2009 (**ARH SEPP**); and
  - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

#### **Permissibility – SEPP 1 Objection**

41. As noted in the Department's AR the site is located within the 'Redfern-Waterloo Authority Sites' area, listed as a State Significant Precinct in accordance with Clause 7 and Schedule 3 of the SSP SEPP. The SSP SEPP contains the following development controls applicable to the site:
- maximum building height of 18 storeys;

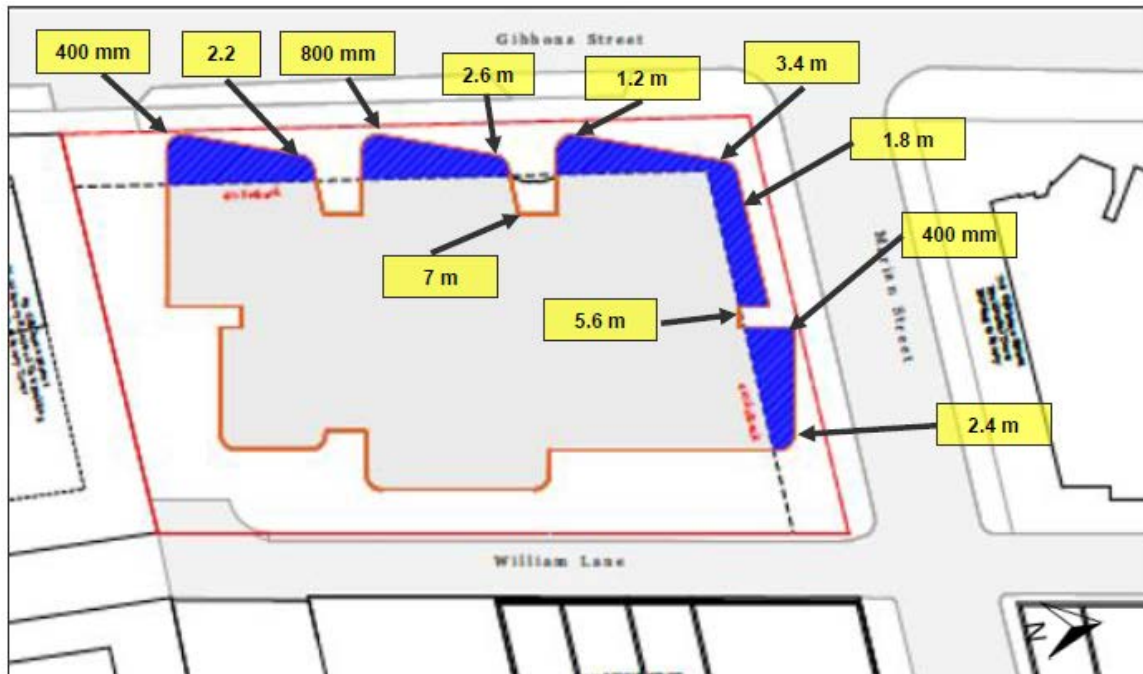
- maximum podium building height control of 3 storeys to Gibbons Street and Marian Street; and
  - maximum FSR control of 7:1.
42. The RCUDP Principle 3.1.6 Street setbacks, includes a provision for privately owned land to be incorporated into the adjoining public footpath to provide a wider footpath:  
*“Provide a nil setback at the street level to reinforce the activation of the street for commercial uses unless otherwise specified below:*
- *To Gibbons Street north of Marian Street - 1.2m footpath widening to provide approximately 5m setback*
  - *To Marian Streets - 1.5m for footpath widening to an average width of 3m*
  - *Side boundaries - To all development - Nil setback. Development should abut each other to reinforce the street wall*
  - *Rear boundaries - To William Lane eastern side - 0.8m to provide the opportunity for footpath widening*
  - *To William Lane western side - 0.8m for footpath widening to an average of 1.5m”*
43. The Application comprises an 18-storey building (tower) including a 3-storey podium consistent with the controls set out in the SSP SEPP, however the proposed height of the building does not strictly comply with the controls because the setback of the tower to Gibbons Street and Marian Street extends within the required 4m setback (see **Figure 3** and **Figure 4**). The Applicant has therefore submitted a SEPP 1 objection to justify the proposed height/tower setback variation. The Commission notes that the Department has considered the SEPP 1 objection in detail in Appendix C of its AR.

Figure 3 - Maximum building height map (site outlined in red).



Source: Department's Assessment Report.

Figure 4 - Areas of proposed tower setback variation to Gibbons St and Marian St (shown in blue).



Source: Department's Assessment Report.



44. The Commission notes that Council in their submission dated 15 November 2019, objected to the Applicant's SEPP 1 objection noting that the methods adopted by the Applicant to address privacy issues contravene other objectives of the ADG and increase potential wind impacts, which the 4 m upper level setback to Marian and Gibbons Street is intended to manage. Specifically, Council states in its submission: *"it is the City's view that the required 4m upper level setbacks to Marian Street and Gibbons Street would do much to ameliorate the wind impacts created by the development"*.
45. The Applicant's RtS included a supplementary Wind Report which stated that: *"The results of the study indicate that wind conditions for the majority of trafficable outdoor locations within and around the development will be suitable for their intended uses, or be better than or equivalent to the existing conditions."*
46. Additionally, the Applicant stated in its RtS that *"the proposal is compatible with achieving an appropriate design outcome and is consistent with the intent of the podium height/setback control and is consistent with the emerging character of the precinct"*.
47. In relation to wind impacts and tower setback controls the Department stated in its AR that:  
*"the proposed tower setbacks would not increase wind impacts at ground level compared to a compliant development due to podium and street level awnings on both street frontages, curved tower edges to reduce wind velocity, higher balustrades on level 3, and dense landscaping around the level 3 communal open space (see Section 6.6). A condition however is required to increase the number of trees on level 3, consistent with the recommendations of the supplemental Wind Report"*.
48. According to the Department's AR, the Department supported the variation to the height/tower setback standards stating that:  
*"The Department considers the proposed tower setbacks are visually acceptable and would provide a characteristic visual street presence consistent with neighbouring tower developments to the north. In this regard, the Department notes the setback of the existing towers to Gibbons Street is variable and does not exhibit a strong building line (see Figure 8) and considers the proposed highly modulated tower form would be compatible with the surrounding streetscape"*.
49. The Department's AR concluded that: *"...the built form is acceptable and satisfies the intent of the SSP SEPP controls for the following reasons:*
- *the proposed 18-storey building complies with the maximum storey height and is of a scale consistent with that envisaged for the Redfern Town Centre and would reinforce the role of the town centre as a commercial, retail and residential hub*
  - *the variations to the height/tower setback controls achieve the development outcomes as envisaged by the SSP SEPP and the RCUDP and would achieve a social and affordable housing development consistent with the provisions of the ARH SEPP*
  - *the ARH SEPP floorspace bonus cannot be achieved without varying the setback controls*
  - *providing a compliant tower setback to Gibbons Street and Marian Street would likely result in reduced setbacks and greater amenity impacts to the east and south*
  - *the proposed design achieves a human scale three-storey podium form*
  - *the GANSW support the design, noting the Applicant has responded to advice from the SDRP and GANSW*

- *the proposal maintains the emerging character of new development along Gibbons Street and Marian Street and would be compatible with the character of the streetscape, noting the setbacks of the existing towers to Gibbons Street are varied and do not exhibit a strong building line*
  - *the design incorporates suitable wind mitigation measures to negate any increased downdraft from the reduced tower setbacks (subject to additional tree planting on level 3) (see Section 6.6)*
  - *overshadowing, view and amenity impacts from the proposed setback variations are negligible (see Sections 6.3 and 6.4)”.*
50. The Commission accepts the Department’s findings outlined in paragraph 48 and 49 above and detailed further in Appendix C of its AR because the Commission is satisfied that inconsistency with the development standard is justified, given the Application is consistent with the existing streetscape and the overall building height is compliant with the control set out in the SSP SEPP. Additionally, the Commission is supportive of the Department’s recommended condition to increase the number of trees on level 3, in line with the recommendations of the Applicant’s supplementary Wind Report.

### **Design Excellence**

51. The Commission notes that as per Schedule 3 Division 3 of the SSP SEPP, consent must not be granted to a new building unless the consent authority has considered whether the proposed development exhibits design excellence.
52. The Applicant stated in the EIS that:
- “The proposal has been developed in close consultation with the State Design Review Panel (SDRP). The proposal is considered to exhibit design excellence as:*
- *it achieves a high standard of architectural design*
  - *the materials and details proposed are appropriate to the building type and location*
  - *the form and external appearance of the building will improve the quality and amenity of the public domain*
  - *the proposal meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency”.*
53. The Department’s AR stated that *“The Department considers the proposed built form achieves design excellence, noting the design has evolved through participation in the State Design Review Panel process and the refined design is supported by the Government Architect NSW”.*
54. The Department’s AR stated that *“Having had regard to the design excellence criteria in the SSP SEPP, the Department considers the proposed development exhibits design excellence because:*
- *the proposed design has been thoroughly reviewed through the SDRP process and the Applicant has responded to the advice received the GANSW support the proposed design, including refinements at the RTS stage*
  - *the facades are of high architectural quality providing vertical and horizontal articulation to reduce the building’s visual bulk and scale. The vertical recess provided on the western façade and use of materials presents the appearance of three more slender tower elements presenting to Gibbons Street*

- *the proposal would improve the amenity of the existing public domain by providing increased setbacks/widened footpaths to Marian Street and William Lane and providing increased ground level activation through retail/commercial and SGCH office uses (see Section 6.6)*
  - *the design maximises the amount of sunlight, natural ventilation and privacy for all apartment types and an acceptable level of amenity has been achieved given the constraints of the site (see Section 6.4.3)*
  - *the building incorporates appropriate sustainable design principles which exceed those required to meet energy and water reduction targets as required for BASIX Certification and aims to achieve an 8 Star NatHERS rating (see Appendix D)*
  - *the design incorporates public art designed to reflect the cultural Aboriginal significance of the site.”*
55. The Commission accepts the findings of the Department outlined in paragraph 54 because the Applicant has responded to the design excellence criteria as outlined in the SSP SEPP and the design of the proposed development incorporates appropriate elements to achieve design excellence.

#### **Compliance with other relevant EPIs**

56. The Commission notes that the Department included a detailed discussion of the Application’s consistency and compliance with all relevant EPIs at Appendix D of its AR. The Commission is satisfied with the assessment conducted by the Department and the reasons it has identified in relation to the Application’s compliance with the identified EPIs.

#### **5.5. Relevant Proposed Environmental Planning Instruments**

57. The Draft State Environmental Planning Policy (Remediation of Land) is relevant to the Application.
58. The Commission notes that the Department has provided an assessment of the Application against the relevant draft EPI at Appendix D of its AR. The Commission is satisfied with the assessment and conclusions in the Department’s AR for the reasons set out in Appendix D regarding the Application’s compliance with the identified draft EPI.

#### **5.6. Relevant Development Control Plans**

59. Under clause 11 of the SRD SEPP, development control plans (**DCPs**) do not apply to SSD. Notwithstanding, it is noted that the Department’s AR has considered the Sydney DCP 2012 where relevant.

#### **5.7. Applicable Regulations**

60. The Department’s AR stated that *“The application satisfactorily meets the relevant requirements of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), including the procedures relating to applications (Part 6), public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EIS”*. The Commission accepts this finding.

#### **5.8. Secretary’s Environmental Assessment Requirements (SEARs)**

61. On 2 August 2016, the Department notified the then Applicant (FutureLiving Community Housing) of the SEARs for the Application (SSD 7749). FutureLiving Community Housing did not proceed with the Application and the SEARs were reissued to the Applicant on 25 May 2018.

62. The Department's AR stated that: *"The Department is satisfied the EIS adequately addressed compliance with the SEARs to enable the assessment and determination of the application"*.
63. The Commission accepts the findings of the Department's AR and finds the information provided enables the Commission to assess and determine the Application.

## 5.9. Region and District Plans

### **Greater Sydney Region Plan**

64. The Greater Sydney Region Plan (**GSR Plan**) integrates land use, transport and infrastructure planning across Greater Sydney. It outlines how Greater Sydney will be transformed into a metropolis of three cities. The Site is located in the Eastern Harbour City as identified in the GSR Plan.
65. The GSR Plan sets ten directions, including a city supported by infrastructure, a collaborative city, a city of people, housing the city, a city of great places, a well-connected city, jobs and skills for the city, a city in its landscape, an efficient city and a resilient city.
66. The ten directions are supported by several objectives. The objectives most relevant to the Application include:
  - *Objective 11 - Housing is more diverse and affordable* - which seeks to address existing housing affordability challenges through encouraging the supply of more housing choice including affordable and social housing; and
  - *Objective 14 – A metropolis of Three Cities - Integrated land use and transport creates walkable and 30-minute cities* - which seeks to promote access to jobs and services within 30 minutes by public transport.
67. The Department's AR finds the Application to be consistent with the GSR Plan as it *"would increase the supply of social and affordable housing. It would also support productivity through the growth in jobs and housing within the Harbour City and support integrating land use and transport, contributing to a walkable '30-minute city."*
68. The Commission accepts the findings of the Department as outlined in paragraph 67 above. The Commission considers the Application to be generally consistent with key objectives outlined with the GSR Plan, specifically Objective 11 and Objective 14 because the Application will provide for social and affordable housing supply and promote the use of public transport and a 30-minute city.

### **Eastern City District Plan**

69. The Eastern City District Plan (**District Plan**) is a 20-year plan to manage growth in the context of economic, social and environmental matters. The District Plan guides the decisions of State agencies and informs the private sector and the wider community of approaches to manage growth and change.
70. The Department's AR finds the Application to be:

*"consistent with the relevant priorities of the Eastern City District Plan as it will:*

  - *provide services and social infrastructure (Planning Priority E3)*
  - *provide increased housing supply, choice and affordability (Planning Priority E5)*
  - *be located in a highly accessible location, consistent with a '30-minute city' (Planning Priority E10)*



- *increase the urban tree canopy (Planning Priority E17)*”.

71. The Commission accepts the findings of the Department’s AR as outlined in paragraph 70. The Commission considers the Application to be generally consistent with the planning priorities set out in the District Plan as it will provide for increased social and affordable housing in a strategic location close to jobs, services and transport.

#### **5.10. Likely impacts of the development on both natural and built environments**

72. The Commission considers the key environmental impacts relevant to the Application include:

- built form and setbacks; and
- residential amenity - effectiveness of the ventilation system.

##### **5.10.1. Built Form and Setbacks**

###### **Council Comments**

73. The Commission notes that Council raised concerns regarding the proposed podium setback and the potential impacts on future character and pedestrian amenity on the southern side of Marian Street. Specifically, in its letter dated 12 March 2019 Council stated that:

*“The Redfern Centre UDP requires a 1.5m setback for footpath widening to an average width of 3m on Marian Street. The Proposal provides for a 3m footpath from kerb to building line. However, this does not take into account light poles and street signs. Typically, these sit approximately 600mm from the kerb and an allowance (buffer zone) is required around it for pedestrians. It is recommended that a 1.5m setback from the boundary of Marian Street to the face of the building is required for footpath widening akin to what has occurred to the north side of Marian Street. This requires an additional 800mm from the development, but will provide greater pedestrian amenity...”*

74. Council also stated in its meeting with the Commission that *“It is recommended that... the building podium be set back a further 800 millimetres from the northern Marian Street boundary to ensure that the intent of the footpath widening controls in the Redfern Centre Urban Design Principle documents are met. This will avoid conflict with existing street poles, parking signs and alike to provide greater pedestrian amenity”*.

75. Council stated in the response to the Commission dated 27 August 2019 that Council’s preferred method of securing land dedication is through a Planning Agreement. Council also noted that the upper floors of the building *“encroach into these proposed dedicated area and are beyond what would normally be allowable to the City [of Sydney].”*

###### **Applicant’s Consideration**

76. The Applicant is providing a setback of 800 mm podium setback to Marian St and a 3.2 m podium setback to William Lane as set out in paragraph 8. The Applicant’s RtS stated that *“we argue that the proposal is compatible with achieving an appropriate design outcome and is consistent with the intent of the podium height/setback control and is consistent with the emerging character of the precinct”*.

77. In relation to consistency with the RCUDP, the Applicant stated in the June 2019 letter that:

*“We submit that the current proposal satisfies the RCUDP setback requirement to Marian Street. We argue that the interpretation to require a 1.3m setback is incorrect, and that the proposal achieves the intention of the control, being the provision of a high level of pedestrian amenity with a 3m wide footpath. An increased setback by 0.5m to*

*Marian Street in our view is unnecessary and will result in no material benefit. It will also significantly impact on the feasibility of the SCGH office space and community hub...*

*The capacity of the project to incorporate a further 0.5m setback is limited and not without significant feasibility consequences. The design of this building and its relationship to surrounding streets at a pedestrian level has been the result of significant design workshops in the SRDP process. To achieve the additional 0.5m setback, Levels 1 and 2 of the podium would be required to be cantilevered. There is a concern as to the impact this will have on what is a carefully considered streetscape and this late amendment would appear as an afterthought in the refined design. We argue the amendment will result in no material benefit given the average footpath width has been achieved."*

78. The Applicant's response to the Commission, dated 23 August 2019 stated that the Applicant would accept a condition that requires the land from the setback to be dedicated to the Council.

### **Department's Assessment**

79. The Department AR stated that *"the site is in close proximity to taller buildings to the north ... and would be consistent with the scale of future developments on adjacent sites to the east and south given the same 18-storey maximum height control applies."*

80. In relation to the proposed podium setbacks and consistency with the RCUDP the Department's AR stated that *"The proposed three-storey podium is consistent with the controls and the emerging town centre streetscape. The proposed setbacks would also allow for increased 3 m and 3.8 m footpath widths to Marian Street and William Lane respectively"*.

81. In relation to the proposed podium street setback to Marion Street, the Department's AR stated that:

*"the RCUDP requires a 1.5 m setback to Marian Street to provide an average footpath width of 3 m. Given the proposed 800 mm setback would provide a 3 m footpath width to Marian Street, the footpath width on the northern side of Marian Street at 7-9 Gibbons Street is 3.3 m, and the Applicant has confirmed existing powerlines would be relocated underground, the Department considers an additional 800 mm setback unnecessary."*

82. The Department's AR stated their assessment carefully considered the design of the proposed built form and its response to the noted constraints of the site. The Department's AR concluded that the *"built form is acceptable and satisfies the intent of the SSP SEPP controls"*.

83. The Department reaffirmed its view in the letter dated 25 June 2019, stating that:

*"The proposed footpath width of 3 m complies with the Redfern Centre Urban Design Principles (RCUDP) control which requires an average footpath width of 3 m to Marian Street. The Department considers the RCUDP contemplated the population increase generated by the maximum gross floor area set for these sites when stipulating an average 3 m footpath width in Marian Street..."*

*The Department is unaware of any data to suggest the proposed 3 m wide footpath would be insufficient to cater for future pedestrian flows, particularly noting Marian Street is a secondary/minor cross-street with the majority of pedestrian desire lines likely to extend north-south along the retail strips of Regent Street and Gibbons Street and between Australian Technology Park and Redfern Railway Station.*

*d) Analysis for a nearby project (Pemulwuy, SSD 8135) was undertaken as submissions explicitly raised the issue of footpath capacity. The analysis is summarised in the*

Department's assessment report and demonstrated footpaths with similar widths to Marian Street have capacity for 2,000 to 3,000 people per hour (per footpath). Furthermore, existing and predicted levels of pedestrians on secondary/minor streets around the Pemulwuy site were less than 1,000 people per hour.

e) The issue of the proposed footpath width being unable to satisfy future pedestrian flows was not specifically raised in any submissions to the Department...

f) The increased setback, beyond the requirements of the control, would have potential knock-on effects for other projects in the Redfern Town Centre, including 80-88 Regent Street (SSD 9275)."

84. In the Department's response to the Commission dated 28 August 2019, the Department confirmed that the Department had no concerns regarding the proposed condition to dedicate the footpath to the Council.

### **Commission's Findings**

85. The Commission agrees with the Department's conclusion in paragraphs 19 and 82, that the built form is acceptable and is "*consistent with the future direction of the Redfern-Waterloo area and is an appropriate development to facilitate the growth of the Redfern Town Centre*".
86. The Commission has considered the proposed setback in accordance with the RCUDP set out in section 5.3.1. The Commission accepts the Applicant's statement in paragraphs 76 and 77 that the current setback is aligned with the RCUDP because the total footpath width in Marian Street of 3 m under the RCUDP is achieved. The Commission accepts the Department's findings in paragraphs 80 and 81 in that the average footpath width of 3 m in Marian Street under the RCUDP is achieved.
87. The Commission has considered the dedication of the footpath to Council as set out in paragraph 42 and finds that dedicating the footpath to the Council is likely to simplify issues around footpath maintenance and legal liability.
88. The Commission notes the Applicant's acceptance of a condition to dedicate the footpath to Council as per paragraph 78. The Commission notes that Council's preferred approach being through a Planning Agreement as per paragraph 75 and the Department's confirmation that the Department has no concern over using a condition to dedicate the footpath as per paragraph 84.
89. The Commission finds that a condition is a suitable instrument for footpath dedication, noting that the power to impose such a condition is authorised under section 7.11 of the EP&A Act. In accordance with section 7.13(2) of the EP&A Act, the Commission has had regard to the content of the Redfern-Waterloo Authority Contributions Plan 2006 (**RWACP**) and notes that no part of the RWACP relates to the provision or dedication of land to Council. Accordingly, the Commission finds that the imposition of the condition is a legitimate method of securing the dedication of land for footpath widening.

### **5.10.2. Residential Amenity – Effectiveness of Mechanical Ventilation System**

#### **Council Comments**

90. During exhibition, Council objected to the ventilation system and raised several concerns regarding the ability of the system to effectively provide for natural ventilation and acoustic privacy. In response to the RtS, Council stated that:

*"A central (fan driven) outdoor air system in conjunction with trickle vents is proposed as a solution to providing natural ventilation to apartments while windows are closed to block out noise. This is not supported by virtue of it being a mechanical system that is*

contrary to objective of 4B-1 of the Apartment Design Guide (ADG). There is a risk with relying on mechanical ventilation in that if the system fails, there will be insufficient ventilation to the apartments.

The City consider that the proponent has not fully explored all options that employ careful siting and design that could limit the number of apartments (if any) requiring a technical solution for natural ventilation...

...if the Department are minded to give in principle support to the mechanically ventilated system, at a minimum it should be peer reviewed by the Department to ensure that it is capable of delivering air quality and quantity in conjunction with other measures such as acoustic privacy, fire proofing etc”.

91. In the meeting with the Commission on 27 May 2019, Council stated that:

*“The site sits between Gibbons Street and Regent Street, two classified roads carrying more than 40,000 vehicles each per day. The development must therefore address the infrastructure SEPP and also SEPP 65 and the Apartment Design Guide. This creates acoustic and ventilation challenges for a residential development. It is therefore essential that development meets the minimum amenity requirements recommended in the ADG, particularly the need for all habitable rooms to have acoustic amenity and natural ventilation. These include the acoustic treatment of any proposed ventilation system with the need to enable each apartment to individually control their ventilation needs. Given the unique solution proposed by the applicant, it is strongly recommended that the whole system proposed be peer-reviewed by a suitably qualified, experienced and independent mechanical engineer specialising in residential ventilation 5 systems.*

*It’s also important to determine the effectiveness and suitability of the proposed system for the subject development and whether the system can adequately be powered by the extent of solar panels proposed on the roof, the number which is unclear as they are shown as indicative only on the proposed plans..”*

### **Applicant’s Consideration**

92. In the RtS the Applicant provided additional information regarding the ventilation system stating that:

*“The development incorporates passive solar design as a key principle to help maintain comfortable temperatures and achieves a higher than required NatHERs rating. Northrop have modelled the performance of the building and the worst performing unit and confirmed the thermal comfort of the units will be adequate. However as new buildings becoming increasingly tighter as a result of the implementation of ESD design measures, mechanical ventilation is a requirement for controlling moisture within the spaces. Arrow have advised that uncontrolled, or no mechanical ventilation would result in mould eventually building up. This building is a high performance building (8 stars) and requires the central outside air system not only to prevent mould growth, but also to provide outside air to tenants with special needs, who sometimes don’t or won’t open their windows, thus living in a toxic environment. Providing air from the roof also addresses pollution concerns for lower level units which is cleaner than drawing air from the façade at points closer to the busy roads.”*

93. In response to the peer review of the ventilation system the Applicant provided updated documentation including further details regarding the operation of the ventilation system and addressed outstanding questions raised in the peer review. The Applicant stated in its letter dated 1 August 2019 that:

*“Critically, the expert consultants confirm that the ventilation system and its associated fire mitigation measures will comply with the relevant codes and standards and be fit for*



*purpose.*

*Our evidence based approach confirms that the proposal will provide future tenants with a comfortable and viable system of ventilation with effective noise mitigation and fire management mitigation measures.”*

94. In the Applicant's response to the peer review of the ventilation system the Applicant stated that:

*“The mechanical ventilation system comprises:*

- a central supply outside air (COAS) system fan on roof with full redundancy*
- gas fired heating hot water generator located at roof level to provide air tempering to the COAS*
- at each level there are duct branches to each apartment, via fire dampers, terminating in each apartment above the wardrobe*
- supply ducts to each bedroom via side blown grille*
- trickle vents on windows designed to act as make-up and relief air path depending on each apartments current mechanical ventilation activations*
- local (each apartment) exhaust systems for bathroom and laundry to façade*
- local exhaust system for kitchen rangehood to façade*
- ceiling fans to all bedrooms and living areas to assist with air movement and comfort*

*Importantly, the mechanical ventilation system has been designed in accordance with the following documents:*

- NCC 2019 Section F, Clauses F4.5 and F4.6 Mechanical and Natural Ventilation of Rooms*
- AS 1668.2:2012 The use of ventilation and air conditioning in buildings – Mechanical ventilation in buildings*
- AS/NZS 1668.1:2015 The use of ventilation and air conditioning in buildings – Fire and smoke control in buildings.”*

95. In response to questions raised regarding the thermal comfort offered by the mechanical ventilation, the Applicant stated that *“During winter months air from the COAS is tempered (when required) using a cascading condensing heating hot water generator. The COAS will be controlled via a timer with initial setup to have the fan shut down during periods when ambient air conditions may negatively impact occupant amenity”.*

96. In relation to the fire safety and mitigation measures to be installed, the Applicant stated that the *“Final design documentation will demonstrate compliance with relevant codes and standards to ensure potential fire risks associated with the ventilation system are effectively mitigated”.*

97. In relation to the acoustic performance of the ventilation system the Applicant stated that:

*“Impacts from road noise are unavoidable given the site's location between Gibbons Street and Regent Street and its proximity to Redfern train station. Consequently there is a conflict between natural ventilation and acoustic privacy. This issue is acknowledged in previous IPC SSD approvals in the locality as well as the ADG. The ADG states it may not be possible to achieve natural ventilation and acoustic privacy in noisy environments and allows for flexibility in the application of design guidelines...”*

We have carefully considered the WSP Peer Review and provide this advice from our expert consultants (Acoustic Logic and Northrop) that directly address the findings of the Peer Review (Attachments 4 and 5).

Both reports provide additional information that supports the proposed trickle ventilation system for the project as it:

- is consistent with the criteria specified in *Development Near Rail Corridors and Busy Roads – Interim Guidelines* (Department of Planning 2008)
- satisfies the Draft Condition B12 issued by the Department of Planning and Environment
- provides effective noise mitigation measures and adequate internal residential amenity.”

98. In addition, the Applicant committed to undertake noise modelling of the Gibbons Street façade to ensure it meets relevant requirements prior to the issue of the relevant construction certificate.

### **Department’s Assessment**

99. The Department’s AR stated that:

*“Whilst not technically achieving natural cross ventilation, the Department considers the proposed ventilation system provides a form of hybrid cross ventilation insofar as the proposed system would provide all apartments with a direct connection to fresh air shafts via fire isolated ducts. The Department considers the proposed system would provide suitable air flow within the apartments and would achieve the intent of the ADG”.*

100. The Department in its letter to the Commission dated 25 June 2019 has recommended a number of conditions to ensure the ventilation system will provide adequate, safe and effective ventilation to future tenants:

*“The recommended conditions are:*

- (a) Condition A23 relates to the maintenance of all plant and equipment in a proper and efficient condition;*
- (b) Condition B6 requires compliance with the BCA (including fire safety);*
- (c) Condition B34 pertains to the health aspects of the ventilation system; and*
- (d) Condition E29 requires that following completion, installation and testing of all mechanical systems, the Applicant shall provide evidence, prior to issue of any Occupation Certificate, that the systems comply with the BCA and Australian Standard AS1668.”*

101. The Department’s AR concluded that:

*“the proposed development would achieve satisfactory natural ventilation and acoustic privacy because:*

- *61% of apartments below level 10 would achieve natural cross ventilation*
- *a hybrid form of natural ventilation would be provided to all apartments and represents a satisfactory design outcome to improve the amenity of apartments given the noise restrictions of the site that may restrict desired opening of doors and windows*
- *air conditioning is not proposed and the proposed ventilation system would be solar powered*

- *methods of hybrid cross ventilation have previously been adopted in other high-density inner-city developments*
- *all apartments would achieve good to high level of amenity in terms of space standards and layout, solar access, private open space and access to communal open space.*

*The Department therefore recommends a condition be imposed requiring building elements, ventilation system and glazing comply with the recommendations of the Acoustic Report and ESD Strategy.”*

### **Commission’s Findings**

102. The Commission has considered the additional information provided by the Applicant in response to the peer review of the ventilation system and the questions raised regarding the effectiveness of the system in terms of acoustic performance, fire safety and thermal comfort.
103. The Commission agrees with the Department’s recommended conditions set out in paragraph 100 as they will assist in ensuring the ventilation system is properly maintained and will comply with all relevant Australian health, safety and amenity Standards.
104. To ensure the ventilation system achieves an acceptable acoustic performance the Commission has determined to impose the following conditions:
 

**B12.** *Prior to the issue of the relevant Construction Certificate detailed noise modelling of the Gibbons Street façade assembly must be undertaken by a qualified acoustic engineer to demonstrate that the road traffic noise levels and the rail noise and vibration levels inside the building comply with the criteria specified in Development Near Rail Corridors and Busy Roads – Interim Guideline (Department of Planning, 2008). The modelling must be submitted to the Department for approval by the Secretary.*

**B12A.** *The building must incorporate the recommendations within the Acoustic Assessment Report prepared by Renzo Tonin and Associates dated 14 February 2019 as well as any relevant recommendations within the Additional Information. Details demonstrating compliance with this requirement are to be submitted to the Certifying Authority prior to the issuing of the relevant Construction Certificate.*
105. To ensure the system is maintained in line with the relevant Australia Standard, the Commission has determined to impose the following conditions:
 

**F18.** *Within six months of issue of the final Occupation Certificate and annually from then on, the Applicant must provide the Department with evidence that an annual inspection of the mechanical ventilation system has been undertaken and the system is compliant with the relevant Australian Standards.*
106. To ensure that the battery storage proposed by the Applicant in the letter dated 25 June 2019, the Commission has determined to impose the following condition:
 

**B56.** *Prior to the issue of the relevant Construction Certificate, detailed design plans of the proposed onsite battery storage are to be submitted to the Certifying Authority.*
107. Following consideration of the response provided by the Applicant referenced in 94, the Commission is satisfied that the key issues raised have been addressed or can be managed through relevant conditions of consent and the system will provide for an effective and safe ventilation system for future residents.

### 5.10.3. Traffic, parking and access/servicing

#### **Council Comments**

108. Council, in their comments to the Department during exhibition stated that:

*“The proposal provides 92 bicycle parking spaces on the ground floor of the development with access off William Lane, which is half of the minimum requirements for bicycle parking under Sydney Development Control Plan (DCP) 2012. While the DCP does not strictly apply to SSDs, it is a useful guide to determine appropriate bicycle parking requirements for the development.”*

109. Council did not raise any concerns regarding traffic generation or access impacts associated with the Application.

#### **Applicant’s Consideration**

110. The Applicant provided a Traffic Impact Assessment and Construction Traffic Management Plan with the EIS. The Applicant concluded in the EIS:

*“As the proposal does not include car parking, it prevents it from having any impact of development trips taking place. Some residents may rely on taxis or car share as a mode of transport. However, these trips will not adversely affect the existing traffic conditions. As such the proposal will not have an adverse traffic impacts on the existing intersection configurations.*

*Service vehicles including waste collection will be accommodated on the one way private driveway entering off William Lane and exiting the site onto Gibbons Street.”*

111. The Applicant provided a Bicycle Parking Facilities and Management Plan (**BPFM Plan**) as part of the RtS.

112. The Applicant’s BPFM Plan stated that *“Based on our analysis – we expect up to 40 tenants would own and use a bicycle. We therefore consider the requirement to provide bicycle storage at the rate of one per apartment to be significantly excessive both in space and cost requirements”*.

113. The Applicant’s BPFM Plan concluded that:

*“We firmly believe that our permanent presence on site as building manager, tenancy manager and manager of the Community Hub places us in a unique position to actively engage with our tenants and understand their needs to develop better lifestyle outcomes through the PAPO and incorporating the Bike Hub into this.*

*We therefore recommend that the provision of up to 96 bicycle spaces in the ground floor of this proposed building will be both appropriate and well used through the active management approach of the building owner.”*

#### **Department’s Assessment**

114. In relation to traffic impacts, the Department’s AR concluded that:

*“The Department is satisfied that given the proposed development does not include any off-street car parking (see Section 6.5.2), it could not be expected to generate any appreciable increase in traffic. Most vehicular movements associated with the development are likely to comprise the servicing and delivery needs of the development. These would be relatively infrequent and generally do not coincide with typical commuter peak periods.*

*Accordingly, the Department concludes the proposed development would result in minimal traffic generation and would not have any unacceptable traffic implications in terms of road capacity.”*

115. In relation to vehicle parking the Department's AR concluded that:

*"The Department considers providing zero on-site vehicle parking spaces for the proposed development is appropriate as:*

- *the site is close to shops and services within the Redfern Town Centre*
- *the site is in close proximity to Redfern Train Station and a number of key bus services*
- *the development includes 100 bicycle parking spaces, including the potential provision of shared bicycles purchased by the Applicant (see below)*
- *the surrounding streets include car parking restrictions, which are controlled and monitored by the Council and prevent long-term car parking. The Department also recommends a condition confirming future occupants are ineligible to obtain an on-street parking permit, as requested by Council*
- *the Regional and District Plans and SLEP 2012 encourage a reduction in car dependency and the use of alternative modes of transport."*

116. In relation to bicycle parking the Department's AR concluded that:

*"The Department is satisfied the proposal provides sufficient bicycle parking for future residents, visitors and workers because:*

- *80 resident bicycle parking spaces are proposed which equates to one space per two apartments*
- *the Applicant has demonstrated that bicycle ownership by residents of social and affordable housing is typically low (10% to 20% of tenants) and the provision of additional bicycle parking spaces is likely to be of limited benefit*
- *to encourage bicycle ownership, the Applicant would extend an existing program to assist tenants in purchasing white goods and technology*
- *following a review of usage/available bicycle spaces, the Applicant would provide bicycles for use by residents through a bicycle share scheme which would encourage use of sustainable transport*
- *the proposed number of worker bicycle parking spaces exceeds the provisions of SDRP 2012 and would encourage more workers to cycle*
- *visitor bicycle parking spaces are provided in a convenient location, adjacent to the SGCH office entry on William Lane."*

117. In relation to access and servicing the Department's AR concluded that *"The Department considers the proposed servicing location and future building management would ensure a satisfactory level of serving for the proposed building. To ensure the safe and efficient handling of waste for all future occupants, the Department recommends conditions requiring a detailed Waste Management Plan and a Freight and Service Management Plan"*.

### **Commission's Findings**

118. The Commission accepts the Department's conclusion outlined in paragraph 114 and 115 above because, while there may be some traffic generation associated by the Application, it is unlikely to be substantial given no onsite car parking is to be provided and no parking permits are to be issued to residents. The Commission also notes that the Site is well serviced by public transport, in close proximity to Redfern Train Station and considers it acceptable that no car parking is to be provided.



119. The Commission accepts that 96 bicycle parking spaces are to be provided by the Applicant. The Commission notes that a bike share scheme will be initiated to allow for shared use of bicycles and accepts the Department's conclusion in paragraph 116 that there is sufficient bicycle parking for future residents, visitors and workers.

#### 5.10.4. Other impacts

120. Section 6.6, Table 7 of the Department's AR identifies a number of other relevant environmental impacts/issues associated with the Application, including:

- operational management and noise;
- landscaping and public domain;
- public art;
- wind;
- heritage;
- signage;
- contamination;
- flooding/stormwater;
- rail noise and vibration;
- construction traffic
- crime prevention through environmental design;
- contributions;
- cumulative impacts of neighbouring residents and businesses;
- construction noise, vibration and air quality; and
- waste management.

121. The Commission notes that Table 7 of the Department's AR provides a brief assessment of all other relevant impacts/issues raised, including a summary of the Department's findings and recommended conditions of consent. The Commission considers the Department's assessment of other issues to be appropriate and thorough.

122. The Commission accepts the Department's assessment of other issues as presented in Section 6.6, Table 7 of the Department's AR because all issues can be adequately managed and/or mitigated through the recommended conditions of consent.

#### 5.11. Social and economic impacts in the locality

##### ***Applicant's consideration***

123. The Applicant stated in the EIS that "*The development has both short and long term economic, environmental and social effects... these impacts are considered to be positive and represent a benefit to existing and future residents*".

124. The Applicant stated in the EIS that the Application will provide for approximately 50 construction jobs and 20 operational jobs, noting that "*A permanent SGCH office is proposed within the development which will accommodate approximately 20 full time employees to support residents*".

125. The Applicant concludes in the EIS that "*The project contributes to the diversification of the Redfern community, through the provision of social and affordable housing where residents will have good access to transport and employment, community facilities and open spaces which will therefore provide a better social housing experience*".

##### ***Department's Assessment***

126. The Department's AR stated that "*The proposal would result in a wide range of positive social and economic impacts, primarily the provision of increased social and affordable*

*housing availability near public transport, employment opportunities and services”.*

### **Commission’s Findings**

127. The Commission accepts the conclusions of the Applicant and the Department outlined in paragraphs 123-126 above because based on the Material, the Application will provide for a range of positive social and economic impacts. The Commission notes the significant social benefit associated with the provision of 160 social and affordable housing units in a strategic location with access to public transport, jobs and services. Additionally, the Commission notes that the Application will provide for 50 construction jobs and 20 operational jobs.

### **5.12. Contributions**

128. The RWACP and Redfern–Waterloo Authority Affordable Housing Contributions Plan 2006 (**RWAAHCP**) authorises the Minister to impose a condition of consent requiring the payment of development contributions. The site is located within the Redfern–Waterloo precinct and is therefore subject to these Plans.

129. Council in their submission to the Department during exhibition stated that both the RWACP and the RWAAHCP should be applied to both the commercial and retail components of the development. Council also stated that the proposed public domain works do not constitute a community benefit over and above what would ordinarily be expected in associated with a development of this size.

130. The Department’s AR stated that:

*“UGNSW have agreed the RWACP contribution may be offset by the proposed works-in-kind and recommends a condition be imposed requiring either the payment of \$47,467 or the undertaking of public domain works to a minimum value of \$47,467...”*

*UGNSW have agreed the RWAAHCP contribution can be waived in recognition of the development being for affordable housing and have recommended a condition be imposed requiring the submission of evidence that the Applicant is a registered community housing provider and that the provision of 160 affordable housing dwellings are maintained in perpetuity.*

131. The Department’s AR concluded that *“Noting the comments of UGNSW as the administrators of the contributions plans and the purpose of the proposed development to provide affordable and social housing, the Department concludes the payment of contributions under the RWACP and RWAAHCP be waived, subject to conditions.”*

132. The Commission accepts the Department’s statement in paragraph 130 that Urban Growth NSW has indicated in relation to the RWAAHCP that they are prepared to waive the contribution required (which again only applies to the non-residential components of the project) if the proponent agrees to have a notation registered on the title of the land that commits the 160 dwellings to be provided as affordable housing in perpetuity.

133. The Commission accepts the Department’s conclusion outlined in paragraph 131 above because the Minister is responsible for the expenditure of the funds collected and the authority responsible for administering RWACP (Urban Growth NSW) has confirmed that they are happy to see a condition attached to the consent which requires payment of this levy or the undertaking of works in kind.

134. The Commission considers that given Urban Growth NSW is the authority responsible for administering the Contributions Plans and has confirmed that they are happy to see a condition attached to the consent which requires payment of RWACP or the undertaking of works in kind and to waive RWAAHCP if the Applicant agrees to these

apartments being provided as affordable housing in perpetuity, this is an appropriate outcome and therefore agrees with the conclusion of the Department as outlined in paragraph 131 above.

### 5.13. Suitability of the site for the development

135. The Commission is generally satisfied that the Application is suitable for the Site as:
- the proposed uses are consistent with the GSR Plan and District Plan, as outlined in section 5.9;
  - it will provide affordable and social housing in a strategic location close to public transport, services and employment opportunities, as outlined in section 5.11; and
  - the likely environmental impacts from the development can be managed or mitigated through conditions of consent, as outlined in section 5.10.

### 5.14. The Public Interest

#### **Applicant's Consideration**

136. The Applicant's EIS stated that:

*"The proposed development is consistent with the aims and objectives of Precinct SEPP. The proposal provides additional housing for those with low incomes within a supported environment, close proximity to employment opportunities and public transport nodes. The proposal provides for a high level of amenity for future residents whilst maintaining the amenity of the surrounding properties.*

*The proposal incorporates ground level retail/commercial spaces which will activate the street. The proposal is considered to be in the public interest."*

#### **Department's Assessment**

137. The Department's AR stated that the Department "*considers the proposal is in the public interest and is approvable, subject to the conditions of consent outlined within this report*".
138. The Commission notes that Appendix D of the Department's AR provides a detailed assessment of the Application against the objects of the EP&A Act, including the principles of ecologically sustainable development (ESD).
139. In relation to ESD the Department's AR stated that:

*"The Department has considered the project in relation to the ESD principles. The Precautionary and Inter-generational Equity Principles have been applied in the decision-making process by a thorough assessment of the environmental impacts of the project. Overall, the proposal is generally consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act".*

#### **Commission's Findings**

140. The relevant objects of the EP&A Act include:
- (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,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*

- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

141. The Commission accepts the Department's assessment of the Application against the objects of the EP&A Act as set out in Appendix D of the Department's AR. The Commission finds that the Application is in accordance with the relevant objects of the EP& Act for the reasons set out below:

- the Application will not impact on any natural or artificial resources, agricultural land or natural areas;
- the Application will deliver social and affordable housing which contributes to the social and economic welfare of the community;
- the Application has been designed to achieve an 8-Star NatHERS rating across all apartments and has incorporated ESD initiatives and sustainability measures;
- the Application will not have an adverse impact on nearby heritage items or conservation area;
- recommended conditions will assist in ensuring the Application will be constructed in compliance with all relevant building codes and health and safety requirements; and
- the Application has been publicly exhibited as set out in Section 5 of the Department's AR.

142. The Commission finds that the Application is generally consistent with the ESD principles, the Objects of the Act, and is in the public interest because:

- it will allow for the provision of 160 social and affordable housing units;
- it will generate approximately 50 construction jobs and 20 operational jobs; and
- it will contribute to the economic and social welfare of the community through the redevelopment of a site in a strategic location.

## **6. HOW THE COMMISSION TOOK COMMUNITY VIEWS INTO ACCOUNT IN MAKING DECISION**

143. The views of the community were expressed through public submissions and comments received as part of the Department's exhibition of the Application (as part of exhibition and as part of the Commission's determination process).

144. In summary, views expressed by the community raised concerns about increased overshadowing, proposed non-compliance with height controls, adverse wind impacts, operational noise impacts and the cumulative impacts of increased height and density

of development in the area.

145. 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.

## 7. CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

146. The Commission has carefully considered the Material before it.

147. The Commission finds that:

- the Application will have a positive social impact associated with the provision of 160 social and affordable housing apartments (see paragraph 127);
- the proposed built form and setbacks are acceptable (see paragraph 85);
- the mechanical ventilation system will provide for an acceptable level of residential amenity (see paragraph 107);
- the Application will generate 50 construction jobs and 20 operational jobs (see paragraph 127);
- the Application is generally consistent with the planning priorities set out in the GSR Plan and District Plan (see paragraph 135);
- the Application is generally consistent with the ESD principles, the Objects of the Act, and is in the public interest (see paragraph 142).

148. For the reasons set out in paragraph 147 above, the Commission has determined that consent should be granted 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.

149. The reasons for the Decision are given in this Statement of Reasons for Decision dated 10 September 2019.



**Stephen O'Connor (Chair)**

Member of the Commission



**Wendy Lewin**

Member of the Commission