



# **80-88 Regent Street, Redfern**

*State Significant  
Development Assessment  
(SSD 9275)*



July 2019

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### **Cover photo**

Visualisation of proposed development at 80-88 Regent Street (Source Applicant's RTS).

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# Glossary

Abbreviation	Definition
ACHAR	Aboriginal Cultural Heritage Assessment Report
AHD	Australian Height Datum
Applicant	Iglu Pty Ltd
ARH SEPP	State Environmental Planning Policy (Affordable Rental Housing) 2009
BASIX SEPP	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
BCA	Building Code of Australia
BDAR	Biodiversity Development Assessment Report
BEP	Redfern-Waterloo Built Environment Plan (Stage one) August 2006
CBD	Central Business District
CBDRL	Central Business District Rail Link
CIV	Capital Investment Value
Consent	Development Consent
Council	City of Sydney
Commission	Independent Planning Commission
CPTED	Crime Prevention Through Environmental Design
CPTMP	Construction Pedestrian Traffic Management Plan
CNVMP	Construction Noise and Vibration Management Plan
Department	Department of Planning, Industry and Environment (Planning and Assessment Group)
DESI	Detailed Environmental Site Investigation
DCP	Development Control Plan
EESG	Environment, Energy and Science Group of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage)
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FSR	Floor Space Ratio
GANSW	Government Architect NSW
GFA	Gross Floor Area
HAA	Historical Archaeological Assessment
Heritage Division	Heritage Division of the Department of Premier and Cabinet (former Heritage

<b>HIS</b>	Heritage Impact Statement
<b>Iglu 1</b>	Existing Iglu student accommodation building at 60-78 Regent St, Redfern
<b>ISEPP</b>	State Environmental Planning Policy (Infrastructure) 2007
<b>LEP</b>	Local Environmental Plan
<b>Minister</b>	Minister for Planning and Public Spaces
<b>NARCLiM</b>	NSW and ACT Government Regional Climate Modelling
<b>NPI</b>	Noise Policy for Industry
<b>PWES</b>	Pedestrian Wind Environment Study
<b>RAP</b>	Remediation Action Plan
<b>RCUDP</b>	Redfern Centre Urban Design Principles
<b>REHCA</b>	Redfern Estate Heritage Conservation Area
<b>RMS</b>	Transport for NSW (RMS)
<b>ROL</b>	Road Occupancy License
<b>RRTS</b>	Response to Submissions Addendum
<b>RtS</b>	Response to Submissions
<b>RWAHCP 2006</b>	Redfern-Waterloo Affordable Housing Contributions Plan 2006.
<b>RWCP 2006</b>	Redfern-Waterloo Contributions Plan 2006
<b>SCO</b>	Sydney Coordination Office
<b>SDCP 2012</b>	Sydney Development Control Plan 2012
<b>SDRP</b>	State Design Review Panel
<b>SEARs</b>	Secretary's Environmental Assessment Requirements
<b>Secretary</b>	Secretary of the Department of Planning, Industry and Environment
<b>SEPP</b>	State Environmental Planning Policy
<b>SEPP 1</b>	State Environmental Planning Policy No. 1 – Development Standards
<b>SEPP 55</b>	State Environmental Planning Policy No 55 – Remediation of Land
<b>SEPP 64</b>	State Environmental Planning Policy No. 64 – Advertising and Signage
<b>SLEP 2012</b>	Sydney Local Environmental Plan 2012
<b>SRD SEPP</b>	State Environmental Planning Policy (State and Regional Development) 2011
<b>SSP SEPP</b>	State Environmental Planning Policy (State Significant Precincts) 2005
<b>SSD</b>	State Significant Development
<b>SSI</b>	State Significant Infrastructure
<b>TA</b>	Transport Assessment
<b>TfNSW</b>	Transport for New South Wales
<b>INSW</b>	Infrastructure NSW (former UrbanGrowth NSW Development Corporation)
<b>Urban Renewal SEPP</b>	State Environmental Planning Policy (Urban Renewal) 2010
<b>WSUD</b>	Water Sensitive Urban Design



# Executive Summary

This report provides an assessment of a State Significant Development (SSD) application seeking approval for the construction of an 18-storey student accommodation development at 80-88 Regent Street, Redfern. The Applicant is Iglu Pty Ltd. The site is located within the City of Sydney local government area.

The development is State Significant Development (SSD) under Schedule 2 of the State Environmental Planning Policy (State and Regional Development) 2011, as it is development within the Redfern Waterloo Precinct having a Capital Investment Value (CIV) over \$10 million.

On 22 November 2017, the former Planning Assessment Commission, now the Independent Planning Commission (the Commission), granted development consent for an 18-storey mixed-use residential/commercial development on the site (SSD 7080). Apart from the demolition of the five shop-top terraces previously on the site, construction of this mixed-use development on the site is no longer planned. This report provides an assessment of an alternate student accommodation proposal.

## Engagement

The Department publicly exhibited the application for 28 days from 18 October until 14 November 2018. The Department received a total of 31 submissions, comprising 12 Government agency submissions, one Council submission and 18 public submissions, of which 17 objected. Council objected to the proposal on the basis of building height and floor space ratio non-compliances, design excellence, wind impacts, overshadowing and development contributions.

Key issues raised in public submissions relate to view loss, building height, overshadowing, privacy, wind and noise impacts.

## Assessment

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

The key assessment issues associated with the proposed development are built form/design excellence, and amenity impacts, including view loss, visual privacy and overshadowing.

The proposed development complies with the 18-storey maximum height control but seeks to exceed the floor space ratio of 7:1 (8.97:1) and vary the 4 m tower setback control for Marian Street (proposed new setback varies from 2.65 m–3 m) and 8 m tower setback control for Regent Street (varies from 2.65 m–3 m). The proposed footpath widening of William Lane (800 mm setback) and Marian Street (average 3 m) complies with the controls and would improve the quality and character of the streetscape and pedestrian accessibility. The approved development varied the 4 m tower setback control for Marian street (tower setback 3 m) and 8 m setback control for Regent Street (tower setback 3 m).

The Department considers the proposed built form achieves design excellence, as the design has been refined through the State Design Review Process and is supported by the Government Architect NSW. The Department notes the built form is very similar in its proportions to the approved mixed-use development (SSD 7080), 2.9 m lower in height, and where variances exist (podium and tower form), they are considered minor and moderated by the building's highly articulated façade, materiality and ground level treatments. The building will also

integrate seamlessly at podium level into the existing Iglu student accommodation development to the north (60-78 Regent St) and bookend the street block.

The proposed building separation distances to the west (between 11 m and 20 m) would not result in amenity impacts to the most affected residential property at 7-9 Gibbons Street. While a minor portion of the western façade is 1 m closer to 7-9 Gibbons Street than the approved development (12 m separation), the majority of the façade is setback significantly further up to 20 m. To ensure privacy is maintained, the Department recommends windows along portion of the closest west elevation setback (11 m) to have translucent glazing.

The Department acknowledges the proposed development would have some amenity impacts, including view loss and a reduction in solar access to some neighbouring properties. However, the proposed building complies with the maximum height control, and while the development exceeds the applicable density control, the tower has less volume than the approved tower envelope (SSD 7080), which has resulted in improvements to views and outlook from some affected dwellings.

The design of the building has incorporated wind mitigation measures, including awnings and tree planting, and acoustic ventilation box treatments (glazed louvres and casement windows) which will provide residents with acceptable internal noise levels and natural ventilation. The Department recommends a detailed landscape plan is prepared for level 1 and the rooftop in consultation with Council.

Given the site's location close to public transport, the Department supports no car parking being provided. The Department also supports 84 bicycle spaces for students and retail/commercial tenancies on the ground floor and accepts the use of the loading facilities at the adjoining Iglu student development is sufficient to service the development.

Construction impacts of the proposal have been addressed and can be adequately managed through the recommended conditions of consent, including preparation of a Construction Environmental Management Plan and Construction Pedestrian Traffic Management Plan.

## **Conclusion**

The proposed development would provide 265 student accommodation beds, three ground floor retail tenancies and one commercial tenancy. The Department considers the proposed development will contribute to improved housing supply and choice in a central location that is in high demand with good public transport connections.

The Department is satisfied the proposal is consistent with the strategic objectives for the area, as outlined in the Greater Sydney Region Plan and the Eastern City District Plan.

As Council has maintained its objection to the proposed development and its objection was received outside the public exhibition period, it is being referred to the Commission for determination as delegate of the Minister.

The Department considers the proposal is in the public interest and is approvable, subject to the conditions of consent. This assessment report is hereby presented to the Commission for determination.



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# 1. Introduction

## 1.1 Introduction

This report provides an assessment of a State Significant Development (SSD) application (SSD 9275) lodged by Iglu Pty Ltd (the Applicant) for a mixed-use student accommodation development at 80-88 Regent Street, Redfern. The development comprises a single 18-storey tower and three-storey podium that includes 265 beds (163 student accommodation rooms), bicycle parking and ground floor retail and commercial.

## 1.2 The site

The site is located at 80-88 Regent Street, Redfern. The site is square in shape and comprises five lots with a total area of 821.7 m<sup>2</sup> and is legally described as lots A, B, C, D and E of DP 105824. The proposal seeks to consolidate the site area/lots with the existing 18-storey Iglu student accommodation development (Iglu 1) immediately to the north at 60-78 Regent Street, Redfern, Sydney (Lot 1 in DP 1243996). After consolidation, the total site area would be 2,250 m<sup>2</sup>.

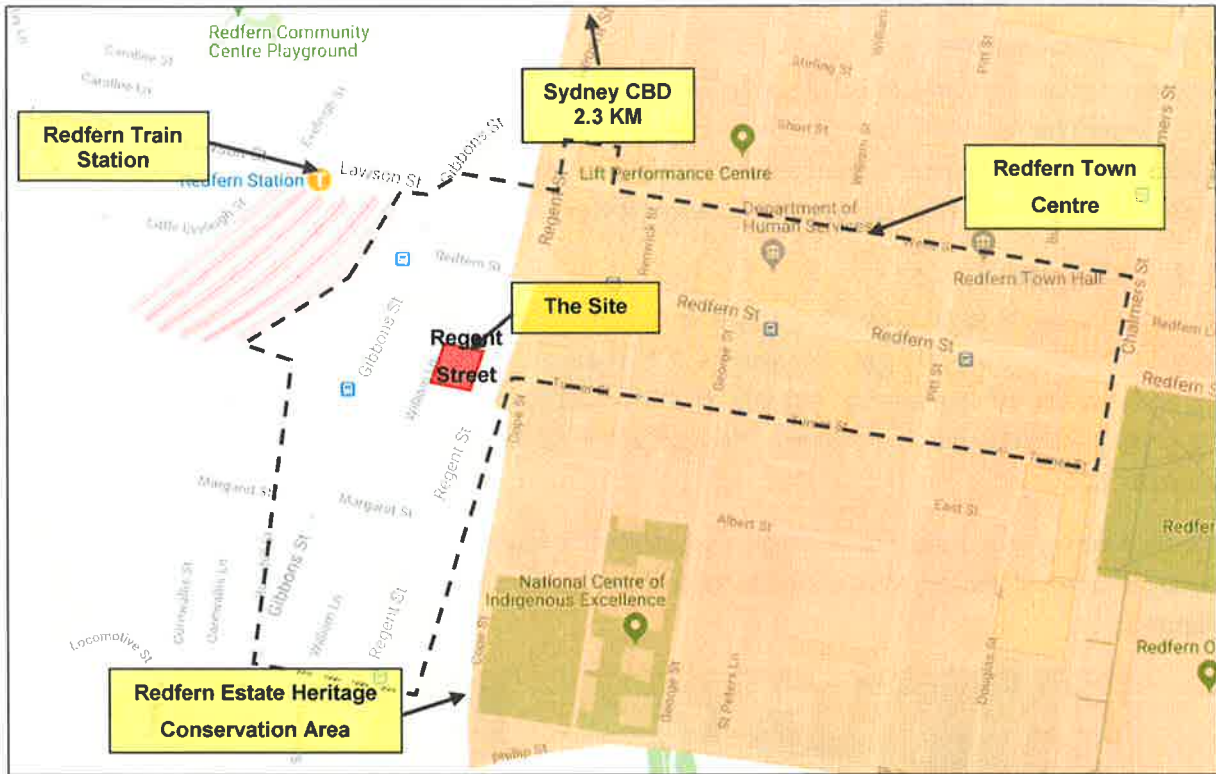
The site is currently vacant with no buildings or vegetation and hoardings surround its perimeter. The site is bound by Regent Street to the east, Marian Street to the south and William Lane to the west. The existing site is shown in **Figure 1**.



**Figure 1** | Existing site at 80-88 Regent St and Iglu 1 at 60-78 Regent St (Source: Department's photograph).

### 1.3 Site context

The site is located within the Redfern Town Centre, within the City of Sydney local government area and is approximately 2.3 km to the south-west of the Sydney Central Business District and 150 m to the east of Redfern Train Station (**Figure 2**).



**Figure 2** | Site location (as shown in red) showing the Redfern Town Centre (black outline) and Redfern Estate Heritage Conservation Area (shaded in brown) (Source: Adapted from Nearmap).

The Redfern Town Centre is characterised by a mix of uses, including commercial, residential and public use buildings ranging from two to 18 storeys in height. Regent Street is a four-lane, one-way State classified road, which runs through the town centre. The town centre also partly comprises the Redfern Estate Heritage Conservation Area, shown in **Figure 2**.

The Redfern Town Centre is undergoing significant urban renewal resulting in a mixed character, transitioning from the traditional low density mixed use, retail and residential development of two to four storeys to buildings up to 18 storeys, as permitted by the current planning controls for the area.

Developments immediately surrounding the site are shown in **Figure 3** and include:

- **1 Lawson Square:** Consent was granted by the Department under delegation for alterations and additions to the existing towers for a 19-storey mixed use commercial/retail and residential development. Approved on 18 December 2014 (SSD 5249).
- **157-159 Redfern Street:** 18-storey mixed use development comprising a four-storey podium with retail/commercial uses and a 14-storey residential tower above to the rear of Redfern RSL. Approved on 22 December 2009 (MP09\_0039).
- **56-58 Regent Street:** 21-storey hotel development. SEARs issued 29 August 2018 (SSD 9516).
- **60-78 Regent Street:** 18-storey student housing development. Approved on 25 August 2015 (SSD 6724).
- **7-9 Gibbons Street:** 18-storey mixed-use development comprising a three-storey podium for retail/commercial uses and 15-storey residential tower above. Approved 22 October 2010 (MP08\_0112).



- **11 Gibbons Street:** 18-storey mixed-use development comprising social and affordable housing with ground floor retail/commercial uses. This application was assessed by the Department and has been referred to the Commission for determination (SSD 7749).
- **90-102 Regent Street:** SEARs issued for a 18-storey mixed-use development comprising a residential flat building with ground floor retail (SSD 9516).
- **13-23 Gibbons Street:** 18-storey student accommodation development comprising 488 rooms (SSD 9194).



**Figure 3** | Site location and context in relation to the above developments (red = the site, blue = constructed, yellow = SSD lodged/approved (11 Gibbons Street), green = SEARs lodged) (Source: Adapted from Nearmap).



## 2. Project

### 2.1 Description of proposal

The proposal seeks approval for the construction of an 18-storey mixed-use student accommodation development. The key components of the proposal as amended by the Response to Submissions (RtS) are summarised at **Table 1** and shown in **Figure 4**.

**Table 1** | Key components of the proposal

Aspect	Description
Built form	<ul style="list-style-type: none"> <li>• Construction of an 18-storey tower and three-storey podium</li> </ul>
Uses	<ul style="list-style-type: none"> <li>• Student accommodation comprising 265 beds as follows:               <ul style="list-style-type: none"> <li>○ 163 studio units</li> <li>○ 6 loft units</li> <li>○ 16 6-bed cluster units (dormitory style rooms)</li> </ul> </li> <li>• 3 ground floor retail tenancies</li> <li>• 1 commercial tenancy</li> </ul>
Gross Floor Area (GFA)	<p>Total GFA of 7,377 m<sup>2</sup> (Floor Space Ratio 8.97:1) comprising:</p> <ul style="list-style-type: none"> <li>• 6,298 m<sup>2</sup> student accommodation</li> <li>• 383 m<sup>2</sup> retail</li> <li>• 255 m<sup>2</sup> commercial</li> <li>• 441 m<sup>2</sup> plant/services</li> </ul>
Lot Consolidation	<ul style="list-style-type: none"> <li>• The lot/DP of the site is to be consolidated/amalgamated with 60-78 Regent Street</li> </ul>
Communal Open Space	<p>Total communal open space of 1,203 m<sup>2</sup> comprising:</p> <ul style="list-style-type: none"> <li>• Level 1 indoor (319.5 m<sup>2</sup>) and outdoor space (410.5 m<sup>2</sup>)</li> <li>• Level 2 to Level 17 communal room as part of cluster units (17 m<sup>2</sup> each)</li> <li>• Rooftop outdoor space (201 m<sup>2</sup>)</li> </ul>
Access	<ul style="list-style-type: none"> <li>• Pedestrian access from Marian Street (also 60-78 Regent St)</li> <li>• Bike access</li> <li>• Use of shared loading facilities located within existing development at 60-78 Regent Street</li> </ul>
Parking	<ul style="list-style-type: none"> <li>• 84 bicycle parking spaces located on the ground floor</li> <li>• End-of-trip facilities for ground floor retail and commercial space</li> </ul>
Signage	<ul style="list-style-type: none"> <li>• Commercial signage zone: 2 under awning signs (0.6 m x 1.6 m)</li> <li>• Retail signage zone: 4 under awning signs (0.6 m x 1.6 m)</li> </ul>

- 1 business identification sign (1.8 m x 2.1 m)
- 1 business identification sign (2.2 m x 2.7 m)

**Employment and Capital Investment Value (CIV)**

- CIV of \$38,900,000
- 170 construction jobs
- 4 operational jobs



**Figure 4** | Photomontage of proposal and adjoining Iglu 1 development at 60-78 Regent St (Source: Applicant's EIS)

## 2.2 Related development

### 2.2.1 Previously approved application at 80-88 Regent Street

The site contains an existing approval for an 18-storey mixed-use development comprising 56 residential apartments, commercial and retail floor space, a child care centre and associated basement car parking spaces (SSD 7080). The application was approved by the Commission on the 22 November 2017 (**Figure 5**).

The existing approval also granted development consent for demolition of the existing five shop-stop terraces on the site. The demolition works have been completed.





**Figure 5** | Photomontage of approved development at 80-88 Regent Street (SSD 7080) (Source: Previous Applicant's EIS).

### 2.2.2 60-78 Regent Street (SSD 6724)

The adjoining site at 60-78 Regent Street (Iglu 1) comprises a mixed-use student accommodation and retail development approved by the Commission on 25 August 2015 (SSD 6724). The building comprises an 18-storey tower, student accommodation for 370 students, a two-storey podium component containing retail and commercial uses. The development is owned and operated by Iglu Pty Ltd, who is the same Applicant for the current proposal.

The proposed development will amalgamate 60-78 Regent into a single consolidated site/lot. The proposal will also integrate with the existing development at 60-78 Regent Street through the podium levels. The proposed communal open space on level 1 will connect with the existing level 1 communal open space for Iglu 1. The existing loading docks servicing Iglu 1 are to be shared between the two developments.



## 3. Strategic context

### 3.1 Greater Sydney Region Plan and Eastern City District Plan

*Greater Sydney Region Plan – A Metropolis of Three Cities* (the Region Plan) sets out the NSW Government's 40-year vision and establishes a 20-year plan to manage growth and change for Greater Sydney. The Plan seeks to update directions and actions in *A Plan for Growing Sydney* and *Towards our Greater Sydney 2056*.

The proposal is consistent with the Region Plan, as it provides for housing and employment opportunities within the Harbour City. In doing so, it supports integrating land use and transport contributing to a walkable '30-minute city' and through an increase in student accommodation within a highly accessible part of the Harbour City.

The proposed development is located within the Eastern City District Plan. The proposal is consistent with the objectives of the Eastern City District Plan, as it will:

- provide student housing to increase housing supply, choice and affordability
- contribute to a stronger and more competitive Harbour Central Business District (CBD)
- deliver integrated land use and transport planning and a '30-minute city'
- provide public and private open spaces and increase the urban tree canopy.

### 3.2 Future Transport Strategy 2056

The Future Transport Strategy 2056 is an update to the NSW Long Term Transport Master Plan 2012 and outlines a planned and coordinated set of actions to address challenges faced by the NSW transport system to support the State's economic and social performance over the next 40 years.

The proposed development is consistent with the key outcomes of the Plan as:

- the site is located within walking distance to public transport services
- it provides active transport travel options by including 84 bicycle parking spaces and end-of-trip facilities
- it does not include on-site car parking spaces, which would encourage the use of public transport.

### 3.3 Sustainable Sydney 2030

Sustainable Sydney 2030 sets out the City of Sydney's vision to make Sydney a more global, green and connected metropolis by 2030.

The proposal will contribute to several strategic directions in Sustainable Sydney 2030, as it will provide student accommodation, an affordable housing option for students in an area with excellent access to public transport (Strategic Direction 8).

### 3.4 Redfern-Waterloo Built Environment Plan (Stage One) August 2006

The Redfern-Waterloo Built Environment Plan (Stage One) August 2006 (BEP) was developed as a key driver for the former Redfern Waterloo Authority, now known as Infrastructure NSW. It was prepared to assist in the social and economic revitalisation of the Redfern-Waterloo area. The BEP forecasts the Redfern Waterloo area to provide 2,000 new dwellings and 18,000 jobs.

The BEP provided a planning framework for the redevelopment of several strategic sites in the Redfern Waterloo area, including the site. The BEP was used to inform the planning controls within the SSP SEPP, which applies to the site and are addressed in **Section 6** of this report.

The site is located within the Redfern Railway Station, Gibbons and Regent Streets strategic site. The proposed land use concept for this area is to become a vibrant, active local hub for business, retail and residential activity around Redfern Railway Station. The area is to achieve critical mass of density and become a vibrant, culturally diverse, multi-use town centre with quality medium and high-density development.

The proposed development comprising retail, commercial and 265 student accommodation beds will provide high density housing and ground floor activity to contribute to the Town Centre. The student accommodation is expected to have an 85% uptake by international students, contributing to the desired cultural diversity.

The proposal is also considered to respond appropriately to the surrounding built form and site context, as addressed in **Section 6** of this report.

### **3.5 Redfern Centre Urban Design Principles**

The Redfern Centre Urban Design Principles were developed to provide urban design principles for future development of State significant sites within the Redfern Town Centre under the controls of the SSP SEPP.

The key objectives of the Redfern Centre Urban Design Principles are to reinforce and enhance the role of the area as a mixed-use precinct, achieve the highest standard of architecture and urban design, and ensure that highly visible buildings reinforce and respond to their visual setting. The Redfern Centre Urban Design Principles controls are considered in **Section 6.2** and **6.6**.



## 4. Statutory Context

### 4.1 State Significant Development

The proposal is deemed State Significant Development (SSD) under section 4.36 (development declared SSD) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as it comprises development on land identified as being within Redfern-Waterloo and has a CIV in excess of \$10 million (\$38,900,000) under clause 2(g) of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011.

In accordance with clause 8A of the SRD SEPP and section 4.5 of the EP&A Act, the Commission is the declared consent authority if Council objects to the development within the mandatory community participation period specified in Schedule 1 of the EP&A Act. Council objected to the proposed development outside of the mandatory community participation period.

On 14 September 2011, the Minister for Planning delegated the functions to determine SSD applications to the Commission, where:

- Council has made an objection
- a political disclosure statement has been made
- there are more than 25 public submissions.

Under the Ministerial Delegation, the Commission must determine the application as Council has objected to the development.

### 4.2 Permissibility

The site is zoned Business Zone – Commercial Core under State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP). The proposed student accommodation, retail and commercial uses are permissible within the zone.

### 4.3 Secretary's Environmental Assessment Requirements

On 10 May 2018, the Department notified the Applicant of the Secretary's Environmental Assessment Requirements (SEARs) for the SSD 9275. The Department is satisfied the EIS had adequately addressed compliance with the SEARs to enable the assessment and determination of the application.

### 4.4 Mandatory matters for consideration

Section 4.15 of the EP&A Act outlines the matters that a consent authority must take into consideration when determining development applications. These are summarised as:

- the provisions of environmental planning instruments (including draft instruments), development control plans, planning agreements, and the *Environmental Planning and Assessment Regulation 2000*
- the environmental, social and economic impacts of the development
- the suitability of the site
- any submissions, and
- the public interest, including the objects in the EP&A Act and the encouragement of ecologically sustainable development (ESD).

The Department has considered all of these matters in its assessment of the project, as well as the Applicant's consideration of environmental planning instruments in its EIS, as summarised in **Section 6** of this report. The Department has also given consideration to the relevant provisions of the EP&A Act, including environmental planning instruments in **Appendix C**.



# 5. Engagement

## 5.1 Department's engagement

In accordance with Schedule 1 of the EP&A Act, the Department publicly exhibited the application from 18 October 2018 until 14 November 2018 (28 days). The application was exhibited on the Department's website, at Service Centre NSW and the City of Sydney Council offices at Town Hall and Green Square.

The Department placed a public exhibition notice in the Central Courier on 17 October 2018, and provided written notification to adjacent landholders and relevant government agencies.

The Department considered the comments raised in the Council, government agency and public submissions during the assessment of the application (**Section 6** and **Appendix D** of this report).

## 5.2 Summary of submissions

The Department received a total of 31 submissions, comprising 12 submissions from government agencies, one submission from Council and 18 submissions from the public. Copies of the submissions may be viewed at **Appendix B**.

## 5.3 Key issues – Government agencies

A total of 12 submissions were received from government agencies, none of which objected to the proposal. The key issues raised by the agencies have been addressed through the provision of additional information, or through the recommended conditions of consent.

The key issues raised in submissions are summarised in **Table 2**.

**Table 2** | Government agency submissions to the exhibition of the EIS

### Government Architect New South Wales (GANSW)

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**GANSW** provided general support for the application, subject to the following recommendations:

- Further consideration of the height of the stepped awning height at the corner of Regent Street and Marian Street with regards to weather protection along the footpath for pedestrians.
- Provide a greater outlook, passive surveillance and visual connection between the southern end of the Level 1 student common area and Marian Street.
- Light-coloured materials and finishes to clad the outdoor courtyard to maximise reflected natural light in this area.
- Additional articulation to the blank sections of the north and west façade to improve the appearance of the building.
- Revise unit layouts to ensure the maximum number of units achieve appropriate solar access where possible.
- Integrate the ability to control visual privacy and minimise solar heat gain into the full-height glazing.
- Quantify the number of bicycle parking spaces for the proposal.
- Further consideration of strategies to raise future building occupants' awareness of local aboriginal culture and heritage. This may include the incorporation of landscape design, species selection and interpretation strategies.

## Transport for NSW (TfNSW)

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**TfNSW** requested the following information:

- A foundation load assessment, impact assessment / analysis on the rail corridor below, foundation plans and depth of piles.
- A rail noise and vibration assessment to manage the potential impact of the CBD rail link corridor.
- A Construction Pedestrian and Traffic Management Plan (CPTMP) shall be submitted in consultation with the Sydney Coordination Office within TfNSW and RMS.
- The development is required to provide off street loading and servicing facilities, the proposal cannot rely on the kerbside. Further justification is required for the shared use of the adjacent building's loading dock, including its ability to accommodate the servicing demand.

## Transport for NSW (RMS)

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**Transport for NSW (RMS)** provided the following comments for consideration:

- The swept path of the longest vehicle (to service the site) entering and exiting the subject site, shall be in accordance with AUSTROADS and approved by Council.
- Detailed design plans, including stormwater plans are to be submitted to RMS for approval, prior to the commencement of any works.
- Design drawings are to be submitted to RMS in accordance with Technical Direction GTD2012/001, relating to the excavation of the site and support structures for assessment at least six weeks prior to commencement of construction.
- A Road Occupancy License is to be obtained from Transport Management Centre for any works that may impact on traffic flows on Regent Street during construction activities.
- All demolition and construction vehicles are to be contained wholly within the site, a construction zone will not be permitted on Regent Street.
- All vehicles must enter and exit the site in a forward direction.
- All buildings and structures are to be wholly within the freehold property.
- Landscaping and fencing must not hinder driver sightlines to/from the driveway to road users on Gibbons Street.
- A Construction Pedestrian Traffic Management Plan (CPTMP) shall be submitted in consultation with the Sydney Coordination Office (SCO), prior to the issue of a Construction Certificate.

## Heritage Division of the Department of Premier and Cabinet (Heritage Division)

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**Heritage Division** noted there is low to moderate potential for archeological materials of local or State heritage significance. However, conditions of consent are recommended requiring the proposed stop works procedure to be amended to involve additional parameters, including clarification on what is likely to be present on the site.

## Environment, Energy and Science Group of the Department of Planning, Industry and Environment (EESG)

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**EESG** advised that the Aboriginal Cultural Heritage Assessment Report will be reviewed once it has been submitted and provided the following recommendations:

- Water Sensitive Urban Design (WSUD) measures should be applied through conditions of consent, including a rainwater tank, on-site detention, Stormwater 360's StormFilter treatment system, erosion and

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sediment control plan and a maintenance plan.

- Green walls and additional plantings on the roof and/or a cool roof should be incorporated.
- The NSW and ACT Government Regional Climate Modelling (NARCLiM) should be used to inform the building design and asset life of the project.

### Sydney Metro

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**Sydney Metro** noted that the proposed works will not trigger clause 86 of State Environmental Planning Policy (Infrastructure) 2007 as the proposal is State significant development. However, given the site's location, Sydney Metro requested additional information regarding the foundation design prepared by a structural engineer.

### NSW Police

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**NSW Police** advised the site is a moderate crime risk and the following Crime Prevention Through Environmental Design (CPTED) treatments are recommended:

- Surveillance cameras to the external laneway, common areas, ground level, roof top area, front entry, rear loading and bicycle storage area.
- Locate mailboxes within a locked foyer area.
- Strong quality locks for bicycle storage.
- Clear glazing around the podium courtyard for unobstructed views from internal spaces.
- Retail tenancies are to have counters visible from the street, secure place for staff belongings, signage that maintains natural surveillance and transparent facades.
- Lighting is to have a maintenance program, be vandal resistant, placed around the perimeter of the property, at all entry/exit points and at William Lane.
- Management strategies include a contactable manager, rules for alcohol consumption, use of roof top area during daylight hours only and procedures for management of after-hours security.
- Signage, including wayfinding, emergency numbers, warning signs and signs for alcohol and drug use.
- Access control, locks, automatic closing and fire access doors to be self-closing and alarmed.
- Safes to store personal items.
- The area has a high demand for parking therefore more vehicle parking should be provided.

### Environment Protection Authority (EPA)

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**EPA** noted that the proposal does not constitute a Schedule Activity under the *Protection of the Environmental Operations Act 1997* and the EPA is not the regulatory authority for the proposed development.

### Sydney Water

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**Sydney Water** noted that the existing infrastructure has capacity to service the development. Detailed requirements will be provided once the development is referred to Sydney Water for a Section 73 application prior to construction.

### Sydney Airport

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**Sydney Airport** noted the overall height of the development is less than what was assessed previously at this site. However additional the height of the building and the lift overrun is to be nominated on the plans to

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Australian Height Datum.

## Infrastructure NSW (INSW)

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**INSW** provided the following regarding the required development contributions:

### Redfern-Waterloo Authority Affordable Housing Contributions Plan

- The application provides for 6,199 m<sup>2</sup> of additional floor space (total GFA of 7,188 less the existing floorspace on the development site of 970 m<sup>2</sup>) resulting in a required contribution amount of \$538,569.
- The request to waive the affordable housing contribution requires evidence to demonstrate that the development is for affordable housing dwelling and the developer is a registered community housing organisation.

### Redfern-Waterloo Authority Contributions Plan

- The contribution amount is calculated as a rate of 2% of the proposed cost of the development, resulting in an amount of \$855,800.

INSW requested the Department imposes a condition of consent requiring the payment of the relevant contributions.

## Ausgrid

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**Ausgrid** recommended the Applicant submit a connection application to Ausgrid as soon as practicable.

## 5.4 Key Issues – Council/Community/Special interest groups

### 5.4.1 Council key issues

Council objected to the proposal and raised the following issues:

- SEPP 1 objections for height and floor space ratio are not well founded and not in the public interest. The proposed development will result in adverse environmental impacts such as wind and overshadowing to surrounding properties. The non-compliance with the height and building setback controls also prejudice the future residential development at 90 Regent Street and results in sub-standard amenity for both sites.
- The proposal does not achieve the objectives of the SSP SEPP, particularly with regards to ensure the vitality and safety of the community and public domain and buildings achieve design excellence.
- The proposed use for student housing purposes should not be exempt from payment of affordable housing contributions as it is not consistent with the principles of SEPP 70 for the provision of affordable housing.
- The proposal has not demonstrated design excellence or that the building improves the quality and amenity of the public domain or that it mitigates environmental concerns such as wind and overshadowing.
- The proposed wind impacts as detailed in the submitted wind report are not acceptable as it creates additional negative wind impacts in an area currently significantly wind affected. Further, the architectural and landscape plans are not consistent with the recommendations contained within the report and the wind analysis is insufficient and requires amendments and further wind tunnel testing. The wind mitigation measures suggest the tower and/or the facade design needs revision to greatly reduce the expected wind impacts and to ensure a safe and comfortable space for the residents outdoor recreation needs.
- Insufficient and incorrect information has been provided with regards to overshadowing. Additional information is required, including hourly views from the sun for both existing and proposed conditions and any impact to adjoining properties is to be quantified in terms of hours of solar access.

- The setbacks to Regent Street, Marian Street and William Lane are to be amended to achieve compliance with the setbacks contained within the Redfern Centre Urban Design Principles.
- Insufficient building separation is provided between the southern elevation of the proposal and future development on the opposite side of Marian Street. The Apartment Design Guide provides a guide and good amenity would be achieved with a setback of 12 m from the centreline of the street. This equates to a setback of 6.5 m from the southern boundary. Further, the 4 m setback as required by the Redfern Centre Urban Design Principles should not be encroached.
- The proposed floor to floor heights should be increased to 3.1 m to provide for flexibility for future adaptation for a higher amenity use.
- The proposed office and retail mezzanine spaces are also not supported as the upper level is not accessible.
- Additional façade treatments are required to the William Lane elevation and the Marian Street elevation.
- A Detailed Environmental Site Investigation (DESI) is required and where the DESI states that the site requires remediation, a Remediation Action Plan (RAP) is also to be prepared.
- It is recommended the common open space be amended to include a minimum 50% soft landscaped areas, additional wind mitigation measures, solar access and clarification around the planting capacity and irrigation.
- A separate end-of-trip facility should be provided to for the retail and office tenancies.
- Additional space should be provided for bulky waste storage, storage of food waste for recycling, and space for storage of reusable commercial items (e.g. crates, strip out waste etc).
- Additional laundry facilities are required in accordance with clause 4.4.1.5 of the SDCP 2012.
- The Department should ensure that the proposal fully complies with the SDCP 2012.
- The application has not addressed the requirement for a BASIX certificate, refer a recent Land and Environment Court judgement (*SHMH Properties Australia Pty Ltd v City of Sydney*) in relation to boarding houses and BASIX.

#### 5.4.2 Community issues

A total of 18 public submissions were received, 17 in objection and one in support. The key issues raised in the objections include:

- View loss
- Overshadowing
- Building separation
- Privacy concerns of direct sightlines into surrounding apartments
- Adverse wind impacts
- Noise impacts of the open terrace areas
- Maximum building height
- Impacts on access to William Lane
- Larger amount of student accommodation in the area
- Poor quality design
- The demolition of the existing shop façade, the development could integrate with the remaining shop front to provide for a consistent streetscape and the heritage value of the whole block.

One submission supported the additional student housing in the area and the building's design. While the submission also raised concerns about the demolition of the 5 shop-top terraces, the Department notes these have already been demolished and do not form part of the application.



## 5.5 Response to Submissions

Following exhibition of the application, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in the submissions.

The Applicant provided a Response to Submissions (RtS) (**Appendix B**), which contained revised architectural plans, amended visual impact assessment and an acoustic impact statement. Key design amendments include:

- lowering of the awning on the corner of Marian Street and William Lane
- additional articulation to the William Lane façade
- provision for an 800 mm podium setback to William Lane
- provision for an average footpath width of 3 m to Marian Street
- modifications to the ground floor layout to facilitate end-of trip facilities for the retail and commercial tenants.

The RtS was made publicly available on the Department's website. The Department received seven additional submissions, including six from government agencies and one from Council. The key issues raised in these submissions are summarised in **Table 3**.

**Table 3** | Submissions to the RtS

### City of Sydney (Council)

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**Council** maintain its objection and provided the following comments:

- The SEPP 1 objection is not well founded and should not be supported.
- Further wind mitigation measures and testing is required to address adverse wind impacts and there are inconsistencies with the Wind Report and plans. Any non-compliance with regards to street setbacks is to be tested to confirm acceptable comfort levels.
- The impacts of the overshadowing to the residential properties within the Heritage Conservation Area to be quantified and justified.
- The Redfern Centre Urban Design Principles 'calls in' the Residential Flat Design Code (which has been superseded by the Apartment Design Code). Therefore an 18 m separation for buildings in excess of 8 storeys is required. Any approval that reduces the setback will prejudice future residential development at 90 Regent Street.
- The DESI and RAP should be peer reviewed by a NSW EPA Accredited Site Auditor and include a section B Site Audit Statement or a letter of Interim advice from the Site Auditor certifying that the RAP is practical and the site will be suitable after remediation for the proposed use.
- The proposed level 1 communal open space will be overshadowed on 21 June and does not achieve a minimum 2 hours access to sunlight.
- Further consideration is required to the planter depths and landscaping proposal.
- The proposed waste storage is not sufficient.

Council stated that should the development be approved, its public domain conditions should be imposed.

### Government Architect New South Wales (GANSW)

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**GANSW** are satisfied the application has been subject to a Design Excellence process and the design modifications broadly respond to the items raised through the design review.

GANSW also noted that it would be preferable to consolidate student bicycle storage and the end-of-trip facilities so that access to the street is direct and does not require level changes.

## Transport for NSW (TfNSW)

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**TfNSW** recommended conditions of consent requiring the following:

- Foundation plans showing depth of piles, a foundation load assessment and impact assessment on the CBD Rail Link (CBDRL) corridor below.
- A rail noise and vibration assessment to manage the potential impact of the CBDRL.
- The preparation of a Loading and Servicing Management Plan and Construction Pedestrian and Traffic Management Plan in consultation with the Sydney Coordination Office with TfNSW.

## Environment, Energy and Science Group of the Department of Planning, Industry and Environment (EESG)

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**EESG** noted the Applicant has agreed to the implementation of water sensitive urban design measures. OEH requests the following to be conditioned:

- Installation of a rainwater tank for irrigation reuse and on-site detention.
- Stormwater 360's StormFilter treatment system incorporated within the OSD tank system to provide tertiary stormwater treatment. This water quality control measure uses media-filled cartridges to remove pollutants from stormwater runoff, including total suspended solids, hydrocarbon, nutrients and other common pollutants.
- An Erosion and Sediment Control Plan.

OEH also noted the ACHAR is still outstanding.

## Sydney Metro

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**Sydney Metro** provided recommended conditions of consent requiring further information regarding the proposed boreholes and construction of the foundations prior to construction.

## Sydney Airport

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**Sydney Airport** reviewed the amended plans and had no further comment to add.

## Infrastructure NSW (INSW)

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**INSW** provided the following amended development contributions:

### Redfern-Waterloo Authority Affordable Housing Contributions Plan

- The application provides for 6,218 m<sup>2</sup> of additional floor space, resulting in a required contribution amount of \$540,220.

### Redfern-Waterloo Authority Contributions Plan

- The contribution amount is calculated as a rate of 2% of the proposed cost of the development, resulting in an amount of \$798,600.

INSW requested the Department imposes a condition of consent requiring the payment of the relevant contributions.

## 5.6 Further information

On 17 April 2019, the Applicant submitted further information and amended architectural plans in the form of a Response to Submissions Addendum (RRTS).

The key amendments involved changes to the ground floor plan. The additional information and revised plans were made publicly available on the Department's website.

On 20 May 2019, the Applicant submitted an amended architectural plan for the ground floor and a revised GFA table. The Department notes the revised GFA is 7,377 m<sup>2</sup> which provides for 6,407 m<sup>2</sup> of additional floor space. The Department's recommended affordable housing contribution condition reflects the additional GFA.



## 6. Assessment

### 6.1 Key assessment issues

The Department has considered the proposal, the issues raised in submissions and the Applicant's RtS and additional information in its assessment of the application. The Department considers the key issues associated with the proposal are:

- built form and design excellence
- amenity impacts to adjoining properties
- residential amenity for future occupants
- traffic, parking and access/servicing.

Each of these issues are discussed in the following sections of this report. Other issues relating to the application considered during the assessment of the application addressed in **Section 6.6** of this report.

### 6.2 Design excellence and built form

As set out in **Section 1**, the site forms part of the Redfern Town Centre, as identified by the BEP (**Figure 2**). The Redfern Town Centre has been undergoing significant change of recent years and the areas immediately to the north, north-west and west of the site have been redeveloped with 18-storey buildings, consistent with the intent of the SSP SEPP and the BEP.

The proposed development would be the last of the high-density development within the immediate block, although a 21-storey development at 56-58 Regent Street is proposed further north of Iglu 1 (**Figure 3**). The Department notes the proposal will be integrated and consolidated with Iglu 1, which the Department sees as a positive outcome rather than an isolated mixed-use development which the site currently has approval for. The proposal would also be consistent with the scale of current and future developments to the north, north-west, west, south and south-west (**Figure 3**).

The Department has considered the proposed built form and the issues raised in submissions and considers the key issues to be consistency with the SSP SEPP development controls and the Redfern Centre Urban Design Principles. The Department's consideration of the design response to the SSP SEPP development controls and the Redfern Centre Urban Design Principles, as well as overall design excellence is provided below. Further consideration of building separation and amenity impacts, including overshadowing and view loss, is discussed in **Section 6.3** and **6.4**. The Department has also considered the proposed development in comparison to the existing approved development under SSD 7080.

#### 6.2.1 Design excellence

The SSP SEPP requires development to exhibit design excellence and the consent authority to consider:

- whether the proposed development demonstrates a high standard of architectural design, materials and detailing appropriate to the building type and location
- whether the form and external appearance of the building will improve the quality and amenity of the public domain
- whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency.

The State Design Review Panel (SDRP) reviewed the proposal on 30 May 2018, and provided feedback on the proposed design. The SDRP were generally supportive of the proposal and provided recommendations in relation to the façade, building permeability, wind, solar access, internal acoustics, bicycle parking, retail strategy and aboriginal cultural heritage. The design has subsequently been refined through the EIS and RtS following the Department's consultation with the SDRP/GANSW.

Upon review of the EIS, the SDRP/GANSW provided their general support for the development but recommended further consideration be given to the height of the stepped awning to provide consistent weather protection, visual connection between Level 1 and Marian Street and materials and blank sections to the north and west façades.

One public submission raised concerns the building was poorly designed and Council considered that the proposal has not demonstrated design excellence as the building does not improve the quality and amenity of the public domain or mitigate environmental concerns such as wind and overshadowing. Council also raised concerns with the blank façade to William Lane and the blank section of brickwork on the Level 1 section of the Marian Street facade.

In response to these issues, the Applicant provided amended plans showing a reduction in the awning height at the street corner, further façade articulation and additional information regarding materials. The reduced height of the awning at the street corner is shown in **Figure 6**. The amended design will provide for consistent weather protection to the footpath.

With regards to the comments from Council and GANSW, the Applicant has provided that the design of the podium façade seeks to combine passive surveillance with a desire to define a solid masonry façade component, sympathetic to the adjoining brick terraces. The southern and eastern elevations in connection with the communal area have a glazed frontage of approximately 50%, which will provide street surveillance. The glazing to the podium corner and commercial tenancy will ensure the building facilitates a natural outlook, passive surveillance and visual connection to the street.



**Figure 6** | Photomontage of originally proposed (left) and currently proposed awning design (right), also showing the Marian Street Level 1 section of the facade (Source: Applicant's RtS).

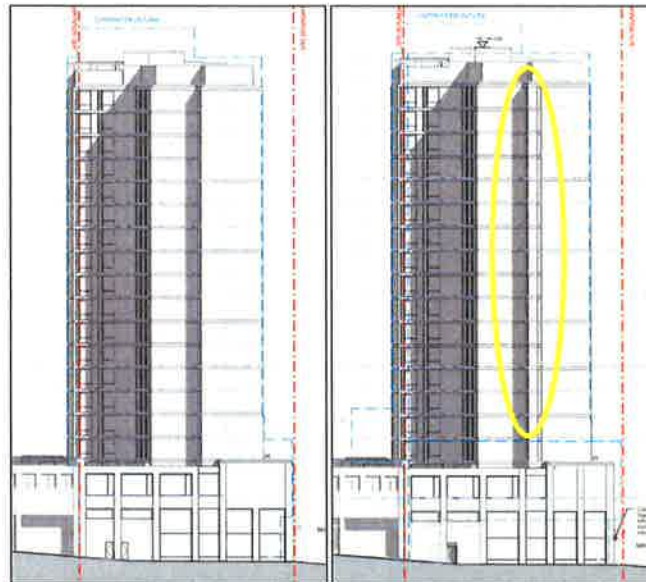
The Department considers the blank section of the Level 1 Marian Street façade contributes to defining the podium as brick masonry, consistent with the surrounding development, and further glazing in this area would result in a predominantly glazed façade with masonry frames. The additional brick in this area reinforces the masonry materiality to better relate to the surrounding development.

GANSW and Council also raised concerns with the blank sections of the western façade, recommending further modulation to improve the visual appearance of the building as perceived from neighbouring residential



buildings and the public domain. GANSW suggested further integration of surface relief such as additional glazing and/or infill panels of different materials or colours. Should the proposal demonstrate a satisfactory response to these recommendations, the encroachment of the building mass over the current DA alignment to William Lane can be supported.

The Applicant amended the design to include additional glazing to the western façade (**Figure 7**). This design change will also improve the internal amenity to the communal space of the cluster rooms by providing additional solar access in the afternoon.



**Figure 7** | Photomontage of originally proposed and currently proposed west elevation (Source: Applicant's RtS).

GANSW reviewed the amendments made to the proposal through the RtS process and considered the project has been subject to a Design Excellence process through which design modifications broadly respond to the items raised through the design review. GANSW however noted that it would be preferable to consolidate student bicycle storage and end-of-trip facilities so that access to the street is direct and doesn't require level changes.

The Applicant further amended the plans in the RRTS to provide direct street access to the bike storage and end-of-trip facilities for the retail/commercial bike storage area. The Applicant provided that the end-of-trip facilities were not consolidated as the facilities are allocated to two separate uses.

Having regards to the design excellence criteria in the SSP SEPP, the Department considers the proposed development exhibits design excellence as:

- the proposed design has been thoroughly reviewed through the SDRP process and the Applicant has responded to the advice received
- GANSW support the proposed design, including refinements at the RTS stage
- the facades are of high architectural quality and are highly articulated, minimising the building's visual bulk and scale
- the proposal will improve the amenity of the existing public domain by providing increased setbacks / widened footpaths to Marian Street and William Lane and providing ground floor activation through high quality, contemporary shopfronts to Regent Street, which replicate the scale and proportion of the existing shopfronts at street level

- the design maximises the amount of sunlight and privacy received to the units and an acceptable level of amenity has been achieved given existing development to the north and west of the site
- the building incorporates appropriate sustainable design principles, which exceed those required to meet energy and water reduction targets as required for BASIX/ NABERS certification.

The Department concludes the proposal demonstrates design excellence, satisfying the provisions of the SSP SEPP. The proposed development has been designed and articulated to appropriately fit within its urban context, without having an adverse impact on the character of the locality, making a positive contribution to the Redfern Town Centre.

### 6.2.2 Built form

The SSP SEPP contains principle development standards that apply to the site that govern height, bulk and scale, being:

- maximum height control of 18 storeys
- maximum podium height control of two storeys for Regent Street and 3 storeys for Marian Street
- maximum floor space ratio of 7:1.

The Redfern Centre Urban Design Principles contains the same controls, and the following additional requirements:

- a minimum land size of 1,400 m<sup>2</sup> for high-rise development (13-18 storeys) and a minimum land size of 900 m<sup>2</sup> for medium scale development (7-12 storeys)
- zero setback to Regent Street to activate the streetscape
- 1.5 m podium setback from Marian Street to provide for footpath widening to an average width of 3 m
- 0.8 m podium setback to the eastern side of William Lane to provide for footpath widening.

The Department notes the proposal involves the amalgamation of the site with 60-78 Regent Street to form a site area of 2,250 m<sup>2</sup> and therefore would technically comply with the land size and height requirements in the Redfern Centre Urban Design Principles.

The height and FSR controls are considered below. Proposed footpath widths are considered in **Section 6.6**.

#### Height

Thirteen public submissions raised concerns about the maximum building height and non-compliance with the Redfern Centre Plan Urban Design Principles and recommended the building be no higher than 12 storeys. However, the SSP SEPP controls for the site provide for a maximum building height of 18 storeys, including a three storey podium height on Marian Street and two storey podium height on Regent Street (**Figure 8**).

The proposed development complies with the SSP SEPP 18 storey maximum height control and is consistent with the general form of development envisaged by the provisions of the SSP SEPP. The approved development also complied with the 18-storey maximum height control.

The proposal seeks to vary the setback controls for Regent Street and Marian Streets as the tower projects into the area designated for a podium (**Figure 9**). The extent of the projection of the tower into the Regent and Marian Street podium setbacks provides the proposed development with a two storey podium to a depth of 2.65 – 3 m on Regent Street (instead of the required 8 m) and a 2/3 storey podium to a depth of 3 m on Marian Street (instead of the required 4 m). The extent of the tower's encroachment into the area designated for the podium is illustrated in **Figure 10**. The Department notes the approved mixed-use development's tower also encroached into the Regent Street (3 m instead of 8 m) and Marian Street (3 m instead of 4 m) setbacks.

The extent of the non-compliance with the setback controls of both the approved and proposed development are compared in **Table 4**. **Figure 11** illustrates the differences in tower and podium heights of the approved (shown in blue) and proposed development.

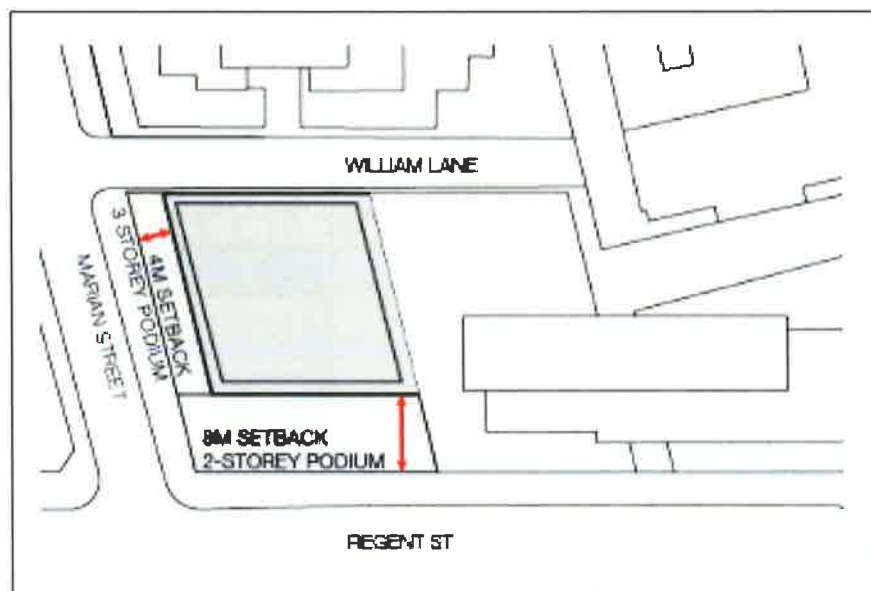
**Table 4** | Development controls under the SSP SEPP (non-compliances shown in bold)

Development control	Location	Requirement	Approved	Proposed
Building height	Regent Street frontage	2 storeys to a depth of 8 m	<b>2 storeys to a depth of 3 m</b>	2 storeys to a depth of 3 m to 2.65 m
	Marian Street frontage	3 storeys to a depth of 4 m	<b>3/4 storeys to a depth of 3 m</b>	2/3 storeys to a depth of 3 m/2.65 m to 1.33 m*
	Remainder of the site	18 storeys	18 storeys	18 storeys

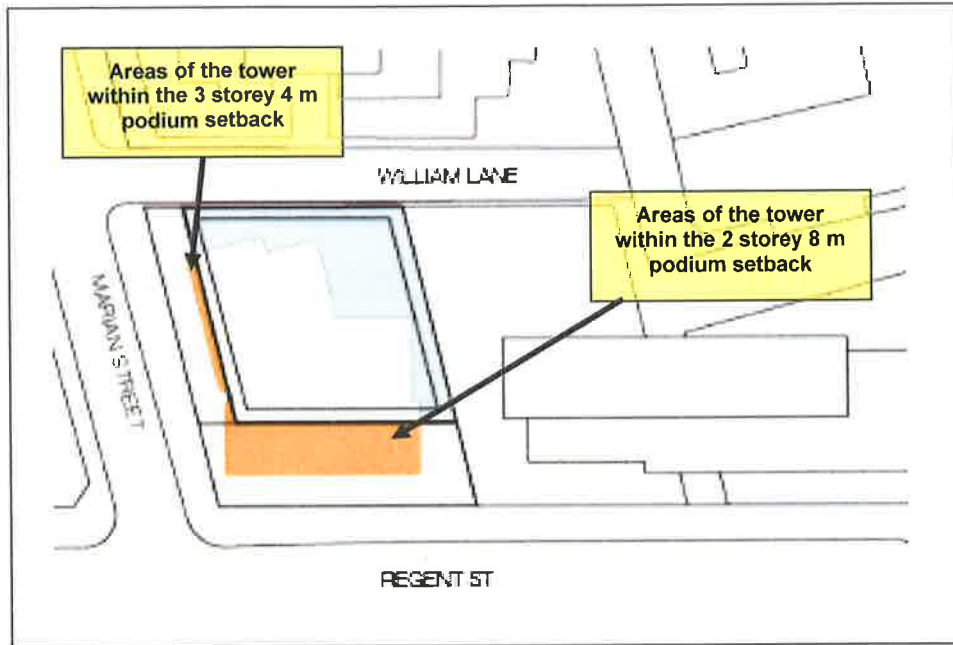
\*Note: At this point the Regent Street setback applies not the Marian Street setback. Refer to **Figure 12**.



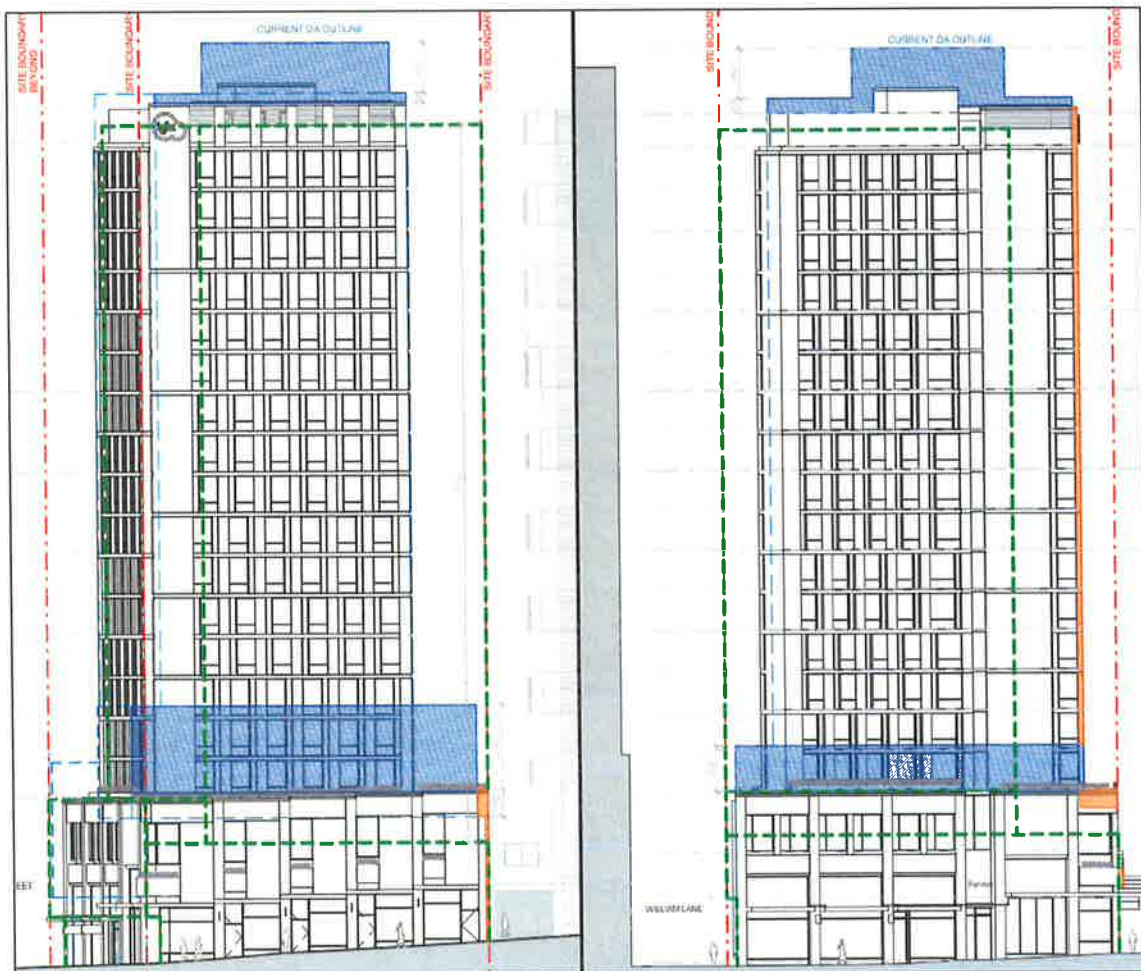
**Figure 8** | Maximum building height map. Site outlined in red (Base source: SSP SEPP).



**Figure 9** | Maximum podium height and setbacks derived from the SSP SEPP (Base source: RTS).



**Figure 10** | Extent of tower that encroaches into podium controls on Regent and Marian Street (Base source: RTS).



**Figure 11** | Proposed elevations from Regent Street, Marian Street and William Lane demonstrating the proposed development, a compliant envelope (green), areas reduced from the previously approved application (shaded blue) areas increased from the previously approved application (shaded red) (Source: Applicant's RRTS).

The Applicant therefore has submitted a SEPP 1 objection to justify the proposed tower's encroachment into the podium setback controls and exceedance of FSR. Full consideration of the SEPP 1 objection is at **Appendix D**. In support of the proposed variations, the Applicant provided the following justification:

- the proposed building is generally consistent with the approved building envelope that was assessed and determined to be acceptable with regards to setbacks, building massing, streetscape, visual privacy, solar access, outlook and design excellence as part of SSD 7080.
- the variations to FSR and height/tower setbacks do not give rise to any adverse environmental impacts beyond those which would be considered acceptable for a residential apartment of lesser GFA but greater building volume.
- the proposed development represents a positive architectural and urban design outcome for the site. Requiring strict compliance with the building height development standard would require building massing away from the street and closer to the adjoining Urba (7-9 Gibbons Street) and Deicota (157 Redfern Street) buildings which would have an adverse impact on visual privacy, outlook and wind impacts. This will also result in a greater setback from the street than surrounding buildings to the north, resulting in an inconsistent urban design outcome for the streetscape.
- the site is to be amalgamated with Iglu 1, providing an opportunity for shared facilities, entrances, back-of-house and loading dock. These combined facilities reduce the intensity of use and impacts of new development in comparison to a new stand-alone development of the subject site.
- the proposed development will provide public benefit in the form of contributing to the growth of Sydney's major education providers and activating the retail frontages along Regent Street.

Council objected to the SEPP 1 variations, contending they would result in adverse environmental impacts such as wind and overshadowing. However, the Department does not agree the proposed development would result in adverse wind and overshadowing impacts and these issues are considered in detail in **Section 6.3**.

The Department notes the SDRP has determined the proposal has demonstrated design excellence and the proposed tower setbacks were considered as part of this assessment during the design development process (**Section 6.2.1**).

While Council advise the proposed non-compliances would result in sub-standard amenity for the current site and 90 Regent Street to the south, the Department notes that the proposed building envelope is generally consistent with the building envelope that was previously assessed and determined to be acceptable with regards to setbacks, building massing, streetscape, visual privacy, solar access, outlook and design excellence as part of SSD 7080. The proposed building volume is also less than the approved development and 2.9 m lower in height (**Figure 11**).

The previously approved development included variations to the building height/setbacks, including 3/4 storey podium with a 3 m setback from Marian Street (instead of 3 storey podium and setback 4 m) and 2 storey podium setback 3 m from Regent Street (instead of 8 m), however it complied with the FSR requirements. The proposed development for a student accommodation development provides for floorplate changes that result in a similar building envelope, however contains a higher FSR.

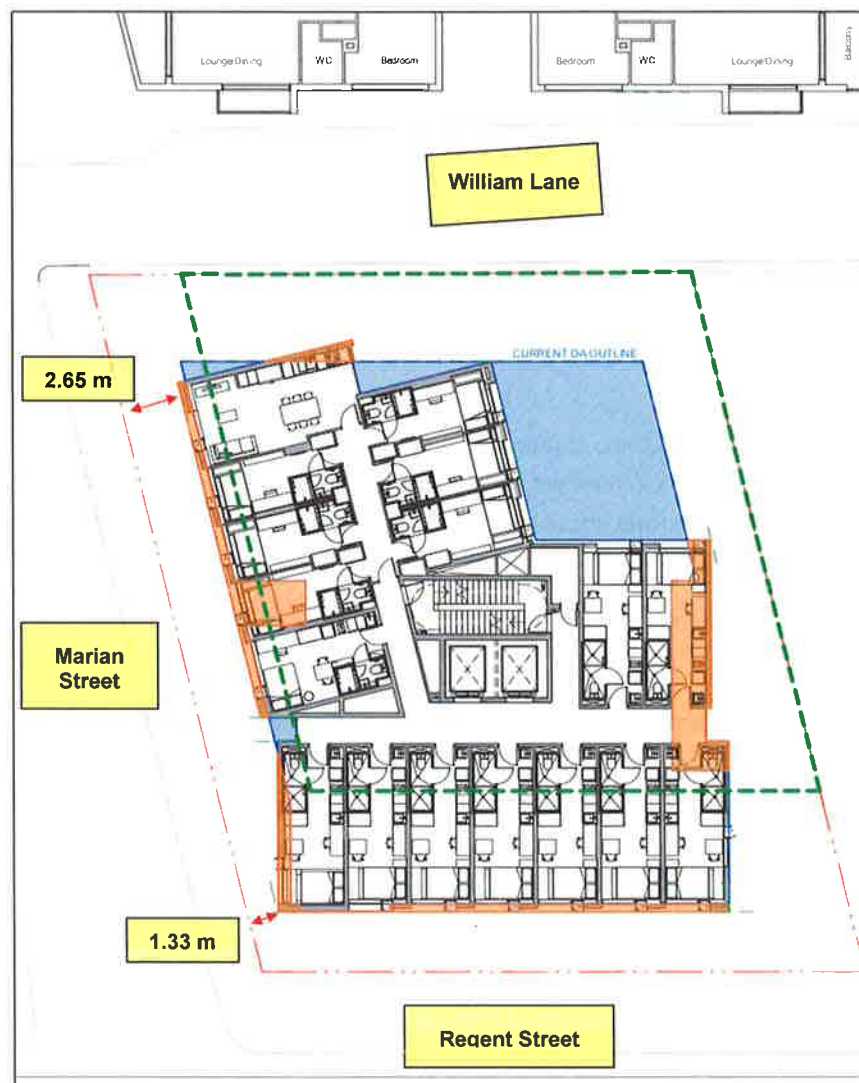
The Department notes the SSP SEPP does not contain any objectives for the building height and FSR controls. However, it is considered the proposed development satisfies the overall objectives of the Business Zone – Commercial Core zone as set out in clause 9 of Part 5 of Schedule 3 of the SSP SEPP as the building exhibits design excellence and would facilitate the development of a town centre and create additional employment opportunities.



In addition, the Department considers the purpose of these building height and FSR controls is to achieve an appropriate scale of development when viewed from the street, to achieve a consistent street character, and to minimise potential wind impacts from large tower forms close to the street edge. These specific matters are considered below.

#### Scale and Street Character

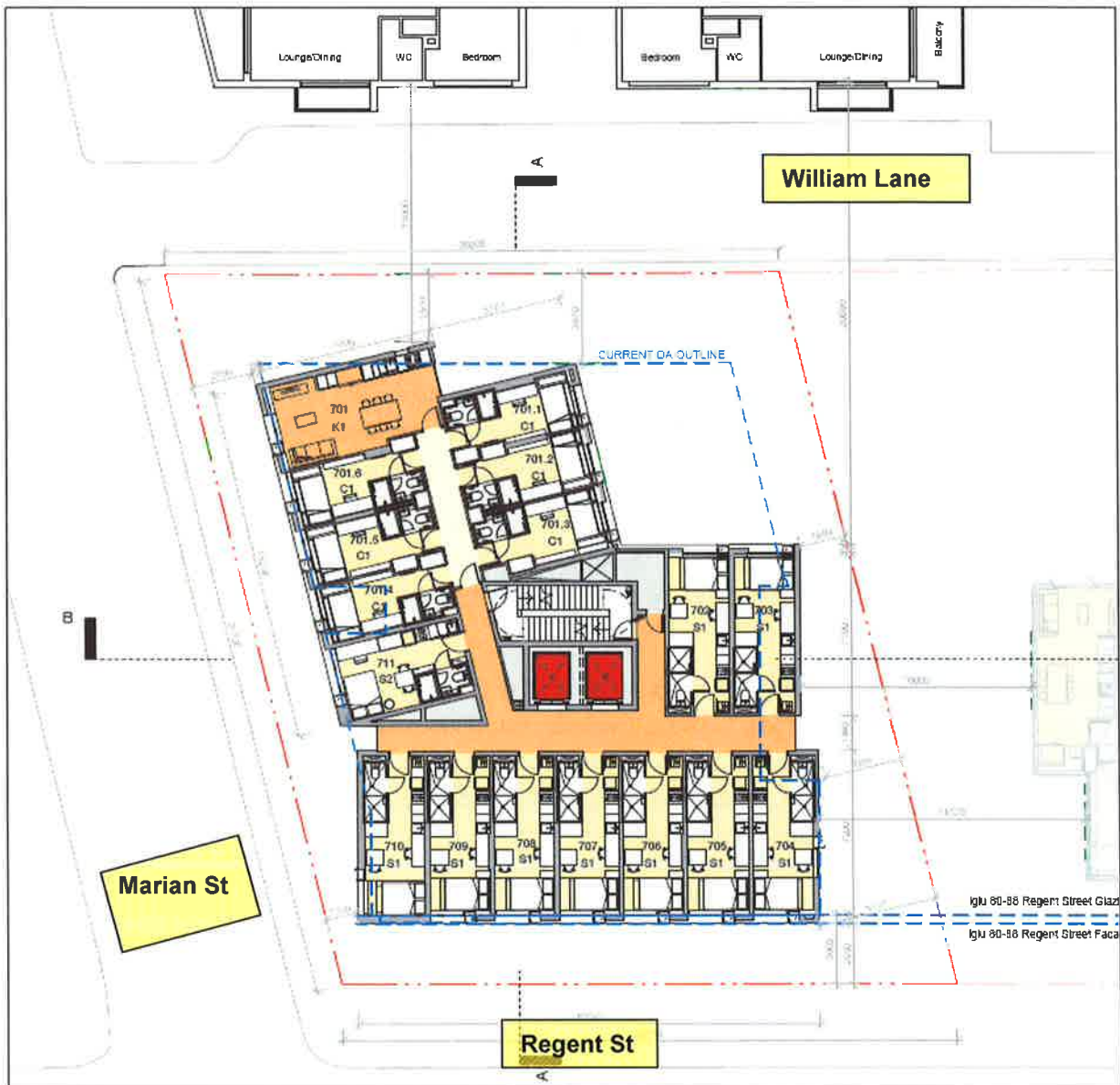
The proposed development predominately matches the building envelope and setbacks established by the previous approval of SSD 7080 (**Figures 11 and 12**). The proposal seeks to vary the setbacks to the east (2.65-3 m instead of 8 m) and south (3 m instead of 4 m). However, this allows for greater setbacks (and therefore building separation) to the north (partial) and west (mostly). This resulted in the tower being shifted further to the south-east of the site, achieving a more desirable amenity outcome for the future residents, existing students in the Iglu development to the north, and residences to the west.



**Figure 12** | Tower floor plan demonstrating the proposed height non-compliances in comparison to a compliant envelope (green), areas reduced from the previously approved application (shaded blue), areas increased from the previously approved application (shaded orange) (Source: Applicant's RRTS).

The Department notes the 8 m Regent Street tower setback control was varied by the Commission on previous occasions. Firstly, for Iglu 1 directly north of the site which is built with a setback of 3 m, and secondly, for the approved mixed-use development on the site (SSD 7080). While the proposed development is setback 3 m from the glazing line, due to the façade expressions (window boxes, ventilation boxes and columns) a 2.65 m setback presents itself in these areas. However, this is consistent with the setback established for Iglu 1 and SSD 7080 (**Figures 12 and 13**).

Similarly, the 4 m tower setback control to Marian Street was varied by the Commission for SSD 7080 with an approved setback of 3 m. The current proposal has a setback of 3 m at the glazing line but 2.65 m at the columns (**Figure 13**). The Department notes that while both proposals appear to encroach into the Marian Street setback (the subject proposal appears to be 1.33 m from the Marian Street boundary), at this point the Regent Street SSP SEPP setback applies, not the Marian Street setback, as shown in green on **Figure 12**.



**Figure 13** | Proposed development showing the tower setback (levels 3, 7, 12, 13). The approved tower building envelope is shown by the dashed blue line. (Source: Applicant’s RRTS).



**Figure 14** | Proposed development showing defined podium level as view from Regent Street (Source: Applicant's RRTS).

The podium level contains face brick for the podium and concrete for the tower to visually separate each component of the development (**Figure 14**) and achieve a human scale when viewed from Regent and Marion Streets. The proposed tower form has also been articulated to provide visual interest to the development.

The Department considers the proposed articulation and use of materials reduces the visual mass of the building and achieves a development consistent with the scale of development within the Redfern Town Centre. The proposal has therefore appropriately balanced the relationship between the mass of the development and the streetscape.

The Department acknowledges the height/tower setback controls have been varied by previous approvals for the subject site (SSD 7080) and Iglu 1, where a variation was determined to be reasonable and achieves the objectives of the control. In this context, the Department concludes the proposed tower setbacks do not result in an overbearing building, are of an appropriate scale, and would provide a strong visual street presence consistent with neighbouring tower developments.

#### *Wind impacts*

The RtS included a supplemental Wind Report that confirmed the proposed tower setbacks would not increase wind impacts at ground level compared to a compliant development. This was due to the design of the building incorporating 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 1 communal open space. Additional information received from Windtech post lodgement of the RtS is further discussed in **Section 6.3.3**.

Council's objection remained and noted that wind mitigation measures need to be tested to confirm acceptable comfort levels. However, the Department considers the wind mitigation measures proposed are very common features of tower developments and would provide suitable mitigation as noted by the applicants Wind Report and additional information.

## **Floor Space Ratio**

The SSP SEPP provides the site with a maximum FSR of 7:1. The proposed development comprises 7,377 m<sup>2</sup> of GFA which equates to an FSR of 8.97:1. It represents an additional 1,625 m<sup>2</sup> or +28% variation to the FSR development standard. An updated SEPP 1 objection was received post lodgement of the RtS.

The Department notes additional floorspace is not attributed to the maximum height of the building, which complies with the 18-storey maximum control and which is 2.9 m below the approved development (SSD 7080). The additional floorspace is attributed to design differences between student accommodation and apartment buildings. This includes no balconies being proposed or required, common corridors, modular room typologies, efficient floorplate design, mezzanines, and back-of-house areas. However, whilst the FSR is higher, the proposal provides a reduced overall building volume compared to the previously approved development. Detailed consideration of FSR is provided in **Appendix D**.

### Conclusion

The Department recognises the development of the site would contribute to the revitalisation of the Redfern Town Centre, consistent with the objectives of the SSP SEPP to facilitate a town centre with a range of employment uses and compatible residential development that will maximise public transport patronage.

The Department's assessment has considered the strategic intent of the SSP SEPP and BEP in conjunction with the proposed built form and how the design responds to the context and constraints of the site. The proposed built form, as refined through the assessment, has sought to provide a design outcome consistent with the established street block and the emerging character of the Redfern Town Centre.

The Department concludes the built form is acceptable and satisfies the intent of the SSP SEPP controls for the following reasons:

- development is less in volume and height than the building envelope that was assessed and approved under SSD 7080
- 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 (3 m instead of 8 m for Regent Street and 3 m instead of 4 m for Marian Street) achieve the intent of the development controls, providing for a scale and street character consistent with the street block and the outcomes as envisaged by the SSP SEPP and the Redfern Centre Urban Design Principles and consistent with the approved development
- the proposed development is considered to have demonstrated design excellence through the SDRP process and the GANSW support the design (**Section 6.2.1**)
- the design incorporates suitable wind mitigation measures to negate any increased downdraft from the reduced tower setbacks (**Section 6.3.3**)
- overshadowing, view and amenity impacts from the proposed setback variations have been assessed and considered to be acceptable (**Section 6.3**).
- it will improve street activation and contribute to the revitalisation of the Redfern Town Centre, consistent with the strategic intent of the SSP SEPP and BEP.

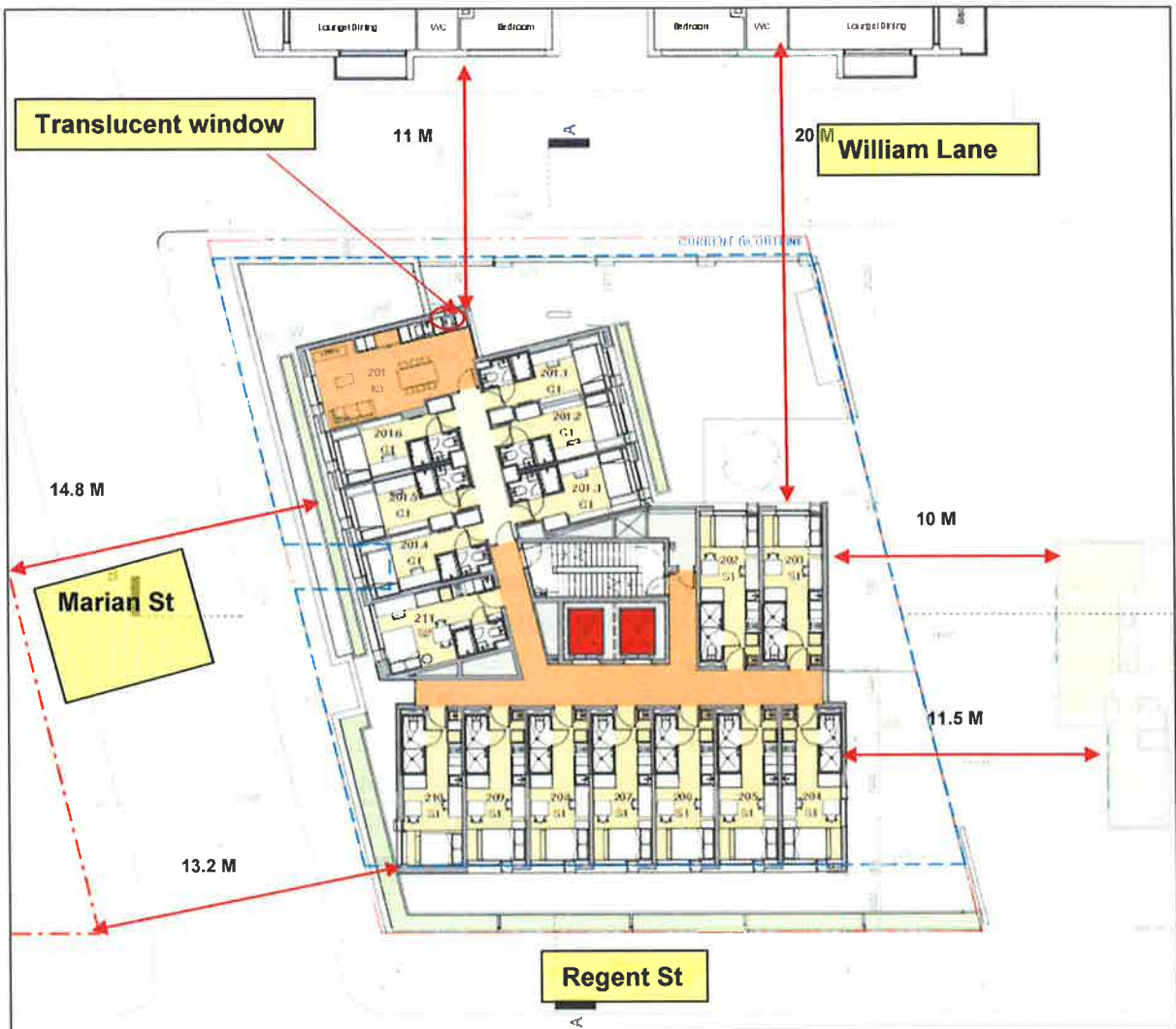


### 6.3 Amenity impacts

Potential amenity impacts raised in public submissions and Council’s submission include visual privacy, view loss, overshadowing and wind impacts. These are considered separately below.

#### 6.3.1 Building separation/visual privacy

The SSP SEPP does not contain any specific requirements regarding building separation, however the Redfern Centre Plan Urban Design Principles ‘call in’ the Residential Flat Design Code, which has been superseded by the Apartment Design Guide (ADG). The ADG requires a setback of 12 m between the tower elements of each building and subsequently, 6 m to the centreline of Regent Street and Marian Street. The proposed setbacks are shown in **Figure 15**.



**Figure 15** | Proposed development showing the tower setback (level 2) to the adjoining properties to the north. Blank walls shown in purple. The previous approved building footprint is shown by the dashed blue line which had podium at this level. (Source: Applicant’s RRTS).

GANSW raised no concerns with the proposed setbacks, however requested the full-height glazing to units are accompanied by integrated privacy features to provide occupants with the ability to control the visual privacy of their units from exposure to the street and minimise solar heat gain.



Council considered the proposal does not achieve sufficient building separation between the southern elevation of the proposal and future development on the opposite side of Marian Street. Council maintained the Apartment Design Guide provides a guide and good amenity would be achieved with a setback of 12 m from the centreline of the street. The Department notes 13.2 m to 14.8 m is proposed to the boundary on the opposite side of Marian Street.

Council maintained that any approval which reduces the setback prejudices future residential development of 90-102 Regent Street and results in sub-standard amenity for both sites. A greater setback is required to achieve good amenity for both sites. Twelve public submissions (75%) raised concerns with privacy, specifically direct sightlines into surrounding apartments.

The Applicant contended that, despite that the ADG separation controls referenced within the Redfern Centre Urban Design Principles may apply to the site, the ADG does not apply to student accommodation developments. The proposed development has been carefully designed to minimise visual privacy impacts on surrounding residents.

The proposal is also generally consistent with the approved building envelope (blue dashed line in **Figures 13 and 14**) under SSD 7080 which comprised a more sensitive residential use.

The Department has considered the proposed building separation and its relationship to visual privacy for each elevation in **Table 5**. The Department considers that while the ADG provides for a guide, each elevation is to be considered on its potential impact and that strict numerical criteria will not be representative of the impact received by the future residents or existing residents in the surrounding developments.

**Table 5** | Proposed tower setbacks and consideration for building separation and visual privacy impacts

Elevation	Setback	Consideration
<b>North</b>	10.5 m to 11.15 m to Iglu 1 tower.	The proposed development includes amalgamation with 60-78 Regent St, and this setback will be between the two towers on the same site. The north elevation of the proposed tower has been sensitively designed and comprises mostly blank walls, with one window facing the adjoining development. However, this will be offset from the windows at the adjoining tower. There are also three rooms further south of the site that will face out northward, but these windows are significantly setback from any adjoining development and therefore will not result in any visual privacy concerns.
<b>East</b>	6 m to Regent Street.	The Department considers the northern façade has adequately managed any potential visual privacy impacts and will not result in any overlooking to the adjoining properties. The eastern façade of the proposed tower will be a minimum of 6 m to Regent Street and a setback of more than 18 m to the closest adjacent site. The Department considers the setback of more than 18 m is significant and will not result in any overlooking or visual privacy concerns to this direction.

Elevation	Setback	Consideration
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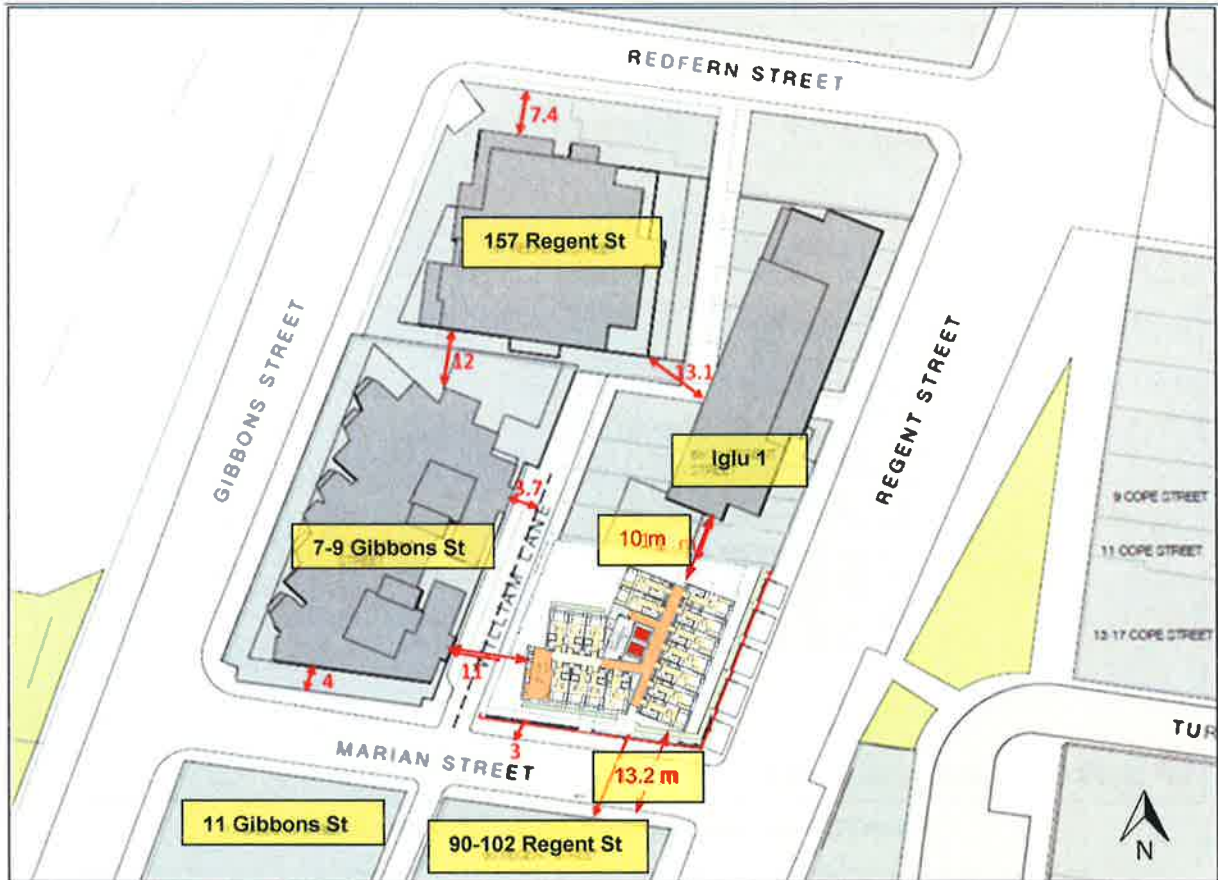
		Council considered the proposal should provide for a minimum setback of 6.5 m to the southern boundary to achieve the 12 m setback to the centreline of the street, in accordance with the criteria in the ADG. The proposal to encroach on this will prejudice future development on the opposite side of Marian Street at 90-102 Regent Street.
<b>South</b>	13.2 m to 14.8 m to the property boundary of the adjacent site.	The Department considers the proposal for a minimum of 13.2 m and an average of 14.8 m provides for ample building separation and visual privacy. Despite this, any future development at 90-102 Regent Street will be required to follow the tower/podium building form in accordance with the controls for the site. Therefore, it can be reasonably expected the setback between the tower elements would be in excess of 14.8 m.

		The Department considers the southern façade would achieve an appropriate setback to the existing and any future development at 90-102 Regent Street.
		The portion of the west elevation of the proposed tower than has a minimum 11 m setback originally comprised a blank wall to prevent any privacy impacts to 7-9 Gibbons Street. GANSW and Council requested further articulation to this elevation, and as a result the Applicant has proposed a west-facing window.
<b>West</b>	11 m to 20 m to adjoining residential tower 7-9 Gibbons Street.	To manage visual privacy impacts, the Department recommends a condition of consent requiring this window to have translucent glazing. The other portion of the west elevation set further east into the site contains full height windows facing west. These windows have a 20 m setback to the adjoining development and therefore will provide for sufficient separation and will not result in any visual privacy concerns.
		The Department considers the western façade has adequately managed any potential visual privacy impacts and will not result in any overlooking to 7-9 Gibbons Street.

The Department notes the street block for which the development is situated in and the broader Redfern Town Centre has an emerging character of higher densities and building separations. The building separation between the other towers on the block are shown in **Figure 16** and are approximately:

- minimum of 13.2 m between the proposed development and 90-102 Regent St
- a minimum of 11.8 m to 12 m between 157-159 Redfern Street and 7-9 Gibbons Street
- a minimum of 13.1 m between 157-159 Redfern Street and 60-78 Regent Street
- a minimum of 10 m between the proposed development and 60-78 Regent Street
- a minimum of 11 m between the proposed development and 7-9 Gibbons Street.

The Department considers the proposed setbacks/building separation distances are consistent with the street block and the emerging built form character of the Redfern Town Centre. Combined with the proposed design treatments, this provides an acceptable balance between providing a reasonable level of visual privacy to residents and allowing development to proceed in this high-density area. The Department considers further increasing the setbacks of the proposed building to increase overall building separations would not result in any material improvements to visual privacy.



**Figure 16** | Building separations of high-density developments within the street block. (Source: Adapted from SSD 7080 (80-88 Regent Street) Assessment Report)

The Department concludes the proposal is consistent with the established and emerging character, including the building separations, of the Redfern Town Centre and the proposal will not result in any unreasonable visual privacy, overlooking or building separation impacts.

### 6.3.2 View loss

The development is located directly adjacent to three residential buildings, 7-9 Gibbon Street (west), 157 Regent Street (north-west) and 60-78 Regent Street (north), all of which have views that will be impacted by the proposal.

The Applicant has considered potential view impacts on neighbouring buildings as part of the EIS, RTS and RRTS. An extract is shown in **Figures 17** and **18**. The Department has reviewed the Applicant's view impact assessment and visual impact analysis and is satisfied the view loss and extent of the impacts is accurately defined.

Twelve of the public submissions (75%) raised concerns in relation to view loss from the proposed development. These submissions were received from the adjacent residents at 7-9 Gibbons Street (Urba) and 157 Redfern Street (Deicota). Council did not raise any concerns regarding view loss.

As part of its assessment, the Department wrote to all submitters who had raised view loss concerns and offered to inspect their properties to assess the potential impacts of the proposed development on their views. The Department was granted access to two apartments, one on Level 6 within the Urba building and one on Level 11 of the Deicota Building.



Figure 17 | View impact assessment (Source: Applicant's RRTS).

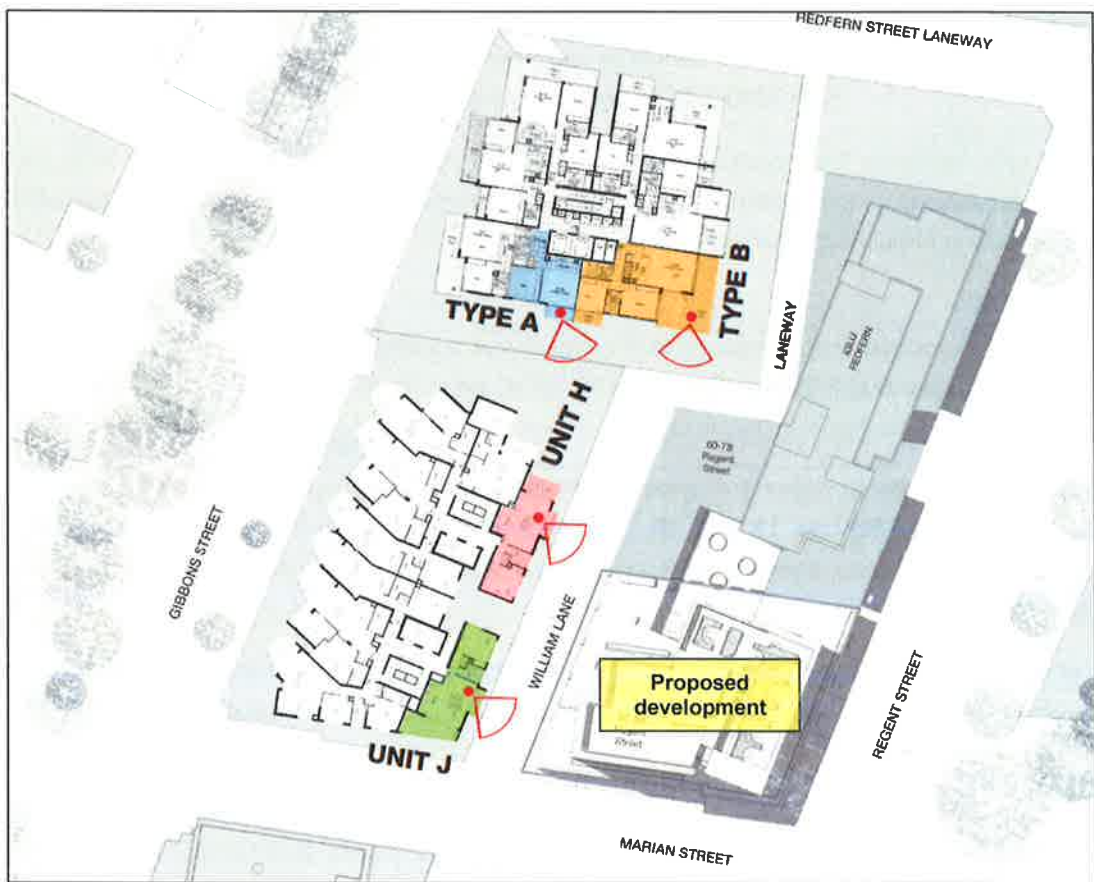


Figure 18 | View impact assessment (Source: Applicant's RRTS).

To determine whether the proposed view loss impacts are reasonable, the Department has followed a four-step assessment in accordance with the principles established by *Tenacity Consulting Vs Warringah [2004]* NSWLEC 140. The steps/principles adopted in the decision are:

1. assess what views are affected and the qualitative value of those views
2. consider from what part of the property the views are obtained
3. assess the extent of the impact (from 'negligible' to 'devastating')
4. assess the reasonableness of the proposal that is causing the impact.

The Department's consideration of first three principles are summarised in **Table 6**:

**Table 6** | Summary of view loss impacts

<b>Principle</b>	<b>Location</b>	<b>Consideration</b>
<b>Affected views</b>	<b>Urba (J)</b>	Views to the east to Redfern and Waterloo and distant views to the eastern suburbs.
	<b>Urba (H)</b>	Views to the east and south to Redfern and Waterloo and distant views to the eastern suburbs and Botany Bay.
	<b>Deicota (A)</b>	Views to the south towards Redfern and Waterloo and distant views to Botany Bay and south-east across to the eastern suburbs.
	<b>Deicota (B)</b>	Views to the south towards Redfern and Waterloo and distant views to Botany Bay and south-east across to the eastern suburbs.
<b>From what part of the property are the views obtained</b>	<b>Urba (J)</b>	The living area window, balcony and bedroom window. There is also a highlight window to the bathroom.
	<b>Urba (H)</b>	The bedroom window, living area window and balconies. There is also a highlight window to the bathroom.
	<b>Deicota (A)</b>	The living area and balcony.
	<b>Deicota (B)</b>	The living area window, two balconies and a bedroom window. There is also a bathroom window.
<b>Extent of impact</b>	<b>Urba (H)</b>	Impacts are considered to range from minor to moderate. The views to the east will be mostly maintained for the living room and balcony, however the views from the bedroom will be obscured.
	<b>Deicota (A)</b>	Impacts are considered minor as majority of the view corridor would be retained to the south across William Lane.
	<b>Deicota (B)</b>	Impacts are considered severe as views to the south experienced from the balcony will be obscured by the proposal. Partial view corridors would be retained to the south across William Lane with the impact more severe at lower levels.

The fourth principles is to assess the reasonableness of the proposal that is causing the impact.



The Applicant provided the following justification in relation to view impacts:

- the proposal is generally consistent with the approved building envelope established under SSD 7080 (**Figures 12 and 13**) and represents a suitable design outcome for the site
- the proposal would have a negligible impact, and in some instances improve the views and outlook, in comparison to the views that would be obtained under SSD 7080
- the proposed development complies with the maximum 18-storey building height development standard that applies to the site under the SSP SEPP. There is a minor non-compliance with the lower street frontage height that does result in negative impacts on views
- the proposed building design achieves a slender building footprint that minimises overall bulk, as well as impacts on southerly views, which are prioritised under the Redfern Centre Urban Design Principles

In relation to view loss, the Department acknowledges the proposal is generally consistent with the approved building envelope under SSD 7080 and the proposed development does not create any significant additional impacts.

The Department notes the proposal complies with the overall height applicable to the site (**Section 6.2.2**). The height of the proposal is also consistent with the height of the surrounding Deicota and Urba buildings, which were developed under the same planning controls, and is 2.9 m below the approved mixed-use development (SSD 7080).

The Department acknowledges the adverse impact on some views from neighbouring buildings. However, the Department also notes that the views currently enjoyed by neighbouring buildings are the result of amenity afforded by the current underdeveloped site.

Although the proposed built form extends partly beyond an envelope that satisfies the SSP SEPP tower setback controls (**Section 6.2**), the resultant changes to view corridor impacts to neighbouring properties would be minor and consistent with a high-density town centre location.

The Department concludes the overall view impacts are consistent with tower development within a high-density town centre location and is reasonable as the proposal is consistent with the maximum 18-storey height. The Department also concludes that the proposal will result in an improved outcome with regards to views, compared to the existing approved development under SSD 7080.

### 6.3.3 Wind

The Department has considered the wind impacts of the proposed development with regards to the public domain, level 1 courtyard and rooftop courtyard. The EIS was accompanied with a Pedestrian Wind Environment Study (PWES).

The PWES concluded that that wind conditions for the majority of the trafficable outdoor locations within and around the development will be suitable for their intended use. However, the south-east, ground floor frontage and the north side of the level 1 courtyard would exceed comfort criteria. The report recommended the inclusion of a full spanning awning along the southern aspect and planting of densely foliating trees capable of growing up to 4 m in height along the centre line of the courtyard on the Regent Street boundary.

Council raised concerns regarding wind impacts, noting the immediate area is significantly affected by wind. Council advised the wind impacts as detailed in the submitted wind report are not acceptable as it creates additional negative wind impacts in an area currently significantly wind affected.

Council further advised the architectural and landscape plans were not consistent with the recommendations contained within the PWES, specifically regarding the level 1 courtyard and footpath along Regent Street and Marian Street.

Council also deemed the wind analysis to be insufficient and requested amendments and further testing of alternative envelopes to determine whether wind conditions for pedestrians can be reduced to compliant levels.

Twelve public submissions (75%) were also received raising concerns with wind impact, including the impact on the adjacent Deicota building.

The RtS provided amended plans to demonstrate a continuous full-width awning along Marian Street. Council maintained its original objection and recommended the mitigation treatments should be tested via wind model testing to confirm their effectiveness.

A subsequent submission of additional information from the Applicant's wind consultant provided support that the proposed awnings and appropriate tree planting will achieve the requirements of their recommendations.

The Department considers, that subject to the recommended treatments for the south-east ground floor frontage and level 1 courtyard, the proposal will not result in any unacceptable wind impacts for pedestrians or users of the subject building or residents of adjoining properties.

#### 6.3.4 Overshadowing

As noted previously the proposed 18-storey building complies with the maximum height control. Furthermore, the extent of overshadowing arising from the scale and form of the proposed development is anticipated by, and a consequence of, realising the adopted planning controls. Similar conclusions were also accepted in the consideration of overshadowing impacts in assessment of adjoining developments at the Urba, Iglu and Deicota buildings.

Twelve public submissions (75%) raised concerns the proposal will result in unacceptable loss of solar access to the adjoining properties. These submissions were received from the adjacent residents at 7-9 Gibbons Street (Urba) to the west and 157 Redfern Street (Deicota) to the north-west.

Council requested additional overshadowing information, including hourly views from the sun for both existing and proposed conditions and any impact to the adjoining properties is to be quantified. Council also raised concerns that the proposed non-compliances to building height and floor space ratio would result in additional adverse overshadowing impact.

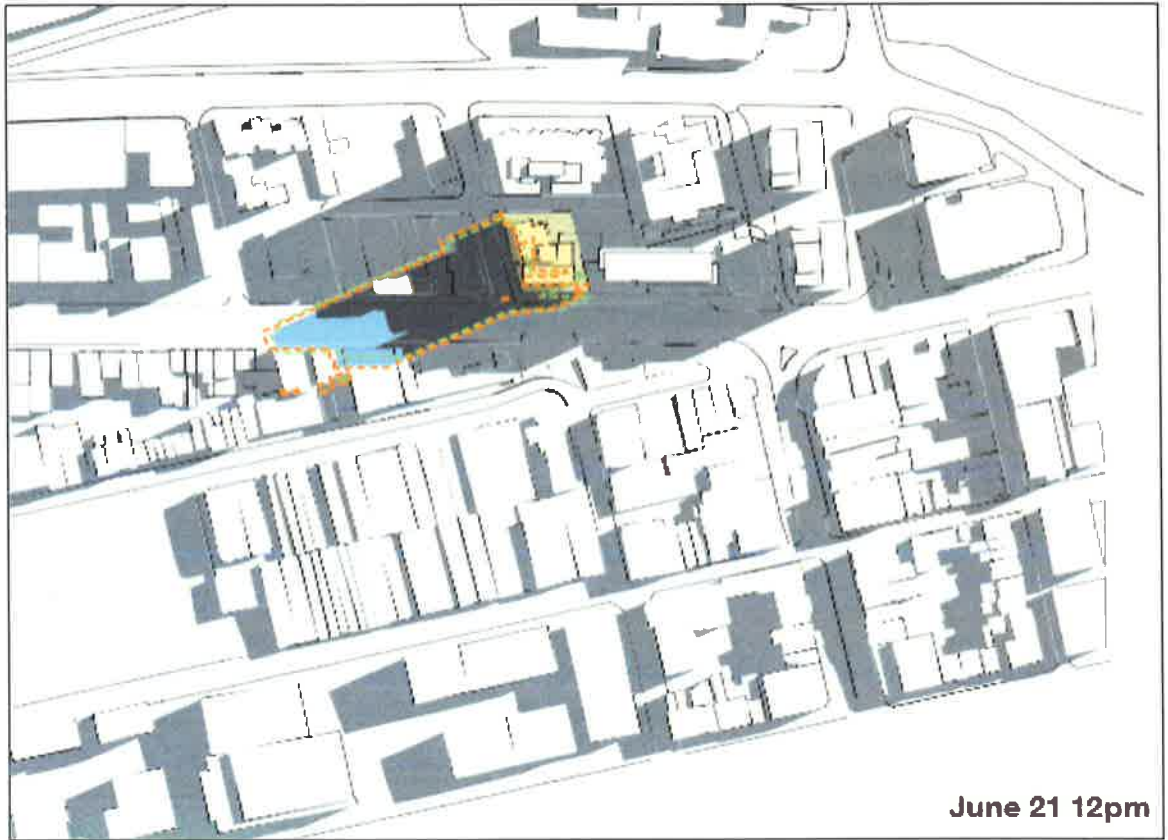
The Applicant provided additional overshadowing/solar access analysis comparing the proposed development to the impacts from a complying scheme (**Figures 19-21**). The Applicant contended the overshadowing impacts from the proposed development are mostly consistent with those envisaged by the planning controls for the site and are appropriate for a densely developed area.

The Department considers the extent of overshadowing is generally consistent with a compliant scheme (in terms of height and setbacks). The exception is a minor area of additional overshadowing on the eastern side of the proposed tower shadow envelope which occurs in the morning at midwinter. The additional shadowing arises from the proposed minor variation to setbacks.

The Department has also considered the overshadowing impacts on the adjoining properties. The proposal will not result in any overshadowing impacts between 9 am and 3 pm during mid-winter to the Urban or Deicota buildings as they are situated to the north-west and west of the development.



**Figures 19 and 20** | Overshadowing at 9am at midwinter (top) and 12 pm (bottom). Orange dashed: Approved envelope; Green dashed: Compliant envelope; Blue: Proposed overshadowing compared to existing site; Grey: Existing (Source: Applicant's RRTS).





**Figure 21** | Overshadowing at 3pm at midwinter. Orange dashed: Approved envelope; Green dashed: Compliant envelope; Blue: Proposed overshadowing; Grey: Existing (Source: Applicant's RRTS).

With regards to the overshadowing to the south-east on the residential properties within the conservation area, Council raised concerns that the overshadowing impacts are to be quantified and justified.

The Department considers the extent of overshadowing impact arising from the proposed development beyond that anticipated by the controls to be minor. The Department therefore concludes the overall overshadowing impact on adjoining properties is acceptable because:

- the proposal is consistent with the 18-storey height control and is consistent with the form of development envisaged by the planning controls
- the extent of the overshadowing is generally consistent with a compliant development except for minor additional overshadowing on the eastern side of the proposed tower shadow envelope in the morning as shown in **Figure 19**
- the proposal will not result in any additional material overshadowing impacts on the public domain
- the strategic objectives and development controls for the area envisaged an 18-storey building on the site
- the sites to the immediate south and south-west (11 Gibbons Street, 13-23 Gibbons Street and 90-102 Regent Street) are also subject to an 18-storey height control. As such, a significant portion of the overshadowing generated by the proposed development would be subsumed within shadows generated by likely future tower developments on these sites
- the proposal would not preclude solar access being achieved to any future development at 90-102 Regent Street and 11 Gibbons Street given these sites have street frontages facing east or west respectively.

The Department concludes the impacts to the solar access on nearby existing and future residential developments are acceptable and consistent with those envisaged by the planning controls for the area.

#### 6.4 Residential amenity for future occupants

The Department has considered the proposed use for student accommodation purposes and the internal amenity for future occupants. The proposal includes:

- 265 student beds provided within:
  - 163 studio rooms, measuring 17 m<sup>2</sup>
  - 6 loft units, measuring 26 m<sup>2</sup>
  - 16 six bedroom cluster units (dorms), with shared living/kitchen, measuring 13-14 m<sup>2</sup> for the bedroom and 25 m<sup>2</sup> for the shared space
  - 23 accessible studio rooms, measuring 27 m<sup>2</sup>.
- Communal open space of comprising:
  - Level 1 indoor (319.5 m<sup>2</sup>) and outdoor space (410.5 m<sup>2</sup>)
  - Level 2 to Level 17 communal room as part of cluster units (17 m<sup>2</sup> each)
  - Rooftop outdoor space (201 m<sup>2</sup>).
- Student amenities, including laundry facilities.

Council raised concerns regarding the landscaping and solar access to the private open space, laundry facilities and waste storage.

The Department acknowledges the ARH SEPP and SDCP 2012 do not apply to the site. However, in the absence of planning guidelines for the internal design/layout of student accommodation, the Department considers the ARH SEPP and SDCP 2012 are useful guides to inform the consideration of the amenity of student accommodation. The Department has assessed the proposal against the requirements of the ARH SEPP and SDCP 2012 at **Appendix C**. In summary, the proposal is considered to adequately meet the internal space, amenity, open space and layout requirements of the ARH SEPP and the SDCP 2012.

The Department has also considered the concerns raised in Council and public submissions separately below.

##### 6.4.1 Communal open space

The proposal includes the provision of communal open space, comprising the following:

- level 1 indoor (319.5 m<sup>2</sup>) and outdoor space (410.5 m<sup>2</sup>)
- level 2 to Level 17 communal rooms as part of cluster units (17 m<sup>2</sup>)
- rooftop outdoor space (201 m<sup>2</sup>).

The level 1 indoor/outdoor space will connect to the existing level 1 communal rooms as part of a larger consolidated space. The area will include a BBQ area, seating, dining, study areas with desks and loose furniture and outdoor landscaping.

Council recommended the proposed communal open space achieve the requirements of the SDCP 2012 and requested that further information is required to determine the tree locations, soil depth and soil volumes consistent with the Sydney Landscape Code Volume 2. Council also advised the space on Level 1 requires specific wind mitigation measures, provide for additional facilities and needs to achieve the minimum 50% soft landscaped area and solar access requirements.

The SDCP 2012 requires a minimum of 1.25 m<sup>2</sup> of indoor communal open space per resident, resulting in a total requirement of 331.25 m<sup>2</sup>. The proposal provides for a total of 1,203 m<sup>2</sup>, significantly more than the minimum requirement. The SDCP 2012 also requires a minimum communal kitchen area of 6.5 m<sup>2</sup> or 1.2 m<sup>2</sup> per resident,



whichever is greater. The proposal provides for a minimum of 17 m<sup>2</sup> per 6-bed cluster unit (dorms), achieving this requirement.

The SDCP 2012 also requires a minimum of 50% of the outdoor communal open space and 50% of the windows to the indoor communal open space to achieve a minimum of 2 hours solar access between 9 am and 3 pm at midwinter.

The proposed roof top terrace on level 18 comprises more than 50% of the outdoor communal open space and exceeds 2 hours solar access between 9 am and 3 pm during midwinter, and therefore achieves this requirement.

In respect of the level 1 communal open space, Council requested further information to quantify the amount of solar access received. The Applicant subsequently provided additional information to demonstrate that the level 1 communal open space receives 9% solar access at 10.30 am, 39% at 11 am and 6% at 11.30 am during midwinter.

The Applicant contended that this was acceptable as the location of the space was to be part of the extension to the existing courtyard to Iglu 1 and therefore there is increased amenity through co-location and the space is complemented with the proposed roof terrace that will receive direct sunlight in winter.

The Department considers that the overall proposal achieves the minimum solar access requirements for outdoor space. However, despite the level 1 courtyard not achieving the required solar access during winter, it will have additional amenity benefits, contributing to one large indoor/outdoor consolidated space.

In regard to the indoor communal open space, the proposal provides for more than 2 hours solar access to the east-facing window to the level 1 indoor communal open space from 8.30 am and to the north facing windows to the communal open space associated with the cluster rooms in the upper floors. The Department considers this is acceptable as the design has maximised opportunities for indoor solar access within a constrained site, directly south of already developed sites.

The Department's full consideration of the SDCP 2012 is contained within **Appendix C**.

The Department considers the development provides an appropriate level and quality of communal open space to future students as:

- the proposal provides for a total of 1,203 m<sup>2</sup> communal living space / shared student amenities, significantly more than the minimum requirement under the SDCP 2012 (331.25 m<sup>2</sup>)
- the level 1 communal open space will integrate with the level 1 communal open space of the adjoining property to provide for a large consolidated space
- the communal open space has demonstrated an appropriate level of solar access, with the outdoor roof top receiving more than 2 hours during mid-winter and the eastern side of the indoor space to the level 1 podium
- all student rooms meet or exceed the minimum ARH SEPP and SDCP 2012 room sizes and would achieve a good standard of amenity.

The Department recommends a condition of consent requiring the Applicant to prepare a detailed landscape plan prior to construction. The plan is to include a detailed plant schedule that include planting locations, soil depths and soil volumes consistent with the *Sydney Landscape Code Volume 2*.

#### 6.4.2 Solar access

The proposed development is not subject to any specific development controls regarding solar access for the individual unit of future occupants. However, despite not being a formal assessment requirement, the ARH 2009 and SDCP 2012 provide controls regarding solar access that have been considered in **Appendix C**.

GANSW recommended unit layouts are revised to ensure the maximum number of units are provided with appropriate solar access, and units with full-height glazing are accompanied by integrated features to provide occupants with the ability to control visual privacy and sun exposure.

The Applicant provided that the proposal was designed to develop the optimal layout in terms of floor plate efficiency, internal amenity and privacy to surrounding residents. Within the proposed building, a typical floor plate contains seven studio rooms orientated to the east to maximise morning sun and views to the east. Units are largely oriented away from the north, as this aspect is defined by the existing Iglu 1 building and other residential towers to the north-east, and as a consequence the northern façade is provided with limited glazing to maintain appropriate levels of privacy between the two Iglu buildings.

The Applicant has also provided that each room will contain an operable full height blind to assist in managing visual privacy and solar heat gain.

In review of the RtS submission, GANSW provided their general support for the proposal and no further comment regarding solar access.

The Department concludes the rooms and communal spaces have been designed to maximise solar access within a confined site and high-density area and therefore the proposal is acceptable with regards to solar access.

#### 6.4.3 Acoustic privacy/ventilation

The site is located adjacent Regent Street, a main road and therefore likely to experience adverse road noise impacts. Impacts from road noise are unavoidable given the site's predominant outlook is to the east over Regent Street, with this frontage also providing the greatest access to natural light and views.

GANSW support the operable glazing solution to enable noise control and natural ventilation to units provided it meets Council's guidelines.

The Applicant has submitted an Acoustic Report, demonstrating compliance with relevant guidelines, including the provisions of the ISEPP and the *Development Near Rail Corridors and Busy Roads – Interim Guidelines (2008)* subject to mitigation measures. These measures comprise glazing treatments, including increased glazing thickness and acoustic seals to operable windows and doors, casement windows and ventilation boxes.

The Report also notes that internal noise levels compliant with the SDCP 2012 can only be achieved for the "windows closed" criteria. The proposal cannot achieve the windows open criteria given the high external noise levels at the site.

In its assessment of the approved mixed-use development on site (SSD 7080), the Department stated that the ability to provide acoustic privacy and natural ventilation is not mutually exclusive, as both are not required at all times. In noisy periods, windows and doors can be closed to obtain acoustic privacy and appropriate airflow can be supplemented through mechanical ventilation. This approach enables the resident more flexibility to manage their amenity levels, to achieve both acoustic privacy and/or cross ventilation.

The Department considers the impacts of external noise and pollution have been minimised through the careful siting and layout of the development and that appropriate noise attenuation techniques can be used to mitigate noise transmission. The Department concludes the proposed development would achieve satisfactory acoustic privacy subject to a condition requiring building elements and glazing comply with the Acoustic Report and the relevant guidelines and provisions.

#### 6.4.4 Laundry facilities

The proposal includes the provision for 5 washing machines (ratio of 1 per 53 students) and 6 dryers (ratio of 1 per 44 students), less than the required under the SDCP 2012.

Council recommended the proposal provide for 22 washing machines and 22 dryers in accordance with the SDCP 2012, which equates to one washer / dryer per 12 students (1:12).

The Applicant contends that the proposed number of washers and dryers is representative of other student accommodation developments within the vicinity of the site. The Department notes other nearby student accommodation developments at Central Park, Regent Street, Ultimo provide for washing / drying machines at a ratio of 1:29, 1:37 and 1:45 respectively.

The Department notes the Applicant's role as an experienced student accommodation provider and requested further justification for the proposed number of washing machines and dryers based on existing facilities. The Applicant demonstrated there is an average washing machine usage of 0.63 washes per resident a week and a maximum of 0.8 washes per resident per week. Adopting the highest usage rate, of 0.8 washes per resident a week, the usage for the proposed development is as follows:

- Demand = 265 residents x 0.8 washes per week = 212 washes - A wash takes approximately 1 hour
- Capacity = 5 x machines – hours of operation – 7 am to 9 pm x 7 days per week = 490 washes per week

The Applicant therefore contends that the proposed development's 5 machines can cater to student needs as the demand for washing (212 washes per week) is only 43% of the total capacity (490 washes per week).

The Applicant also proposes a laundry monitoring system, consistent with the other developments, to ensure efficient operation. This system includes a mobile phone application that allows residents to check if washing machines and dryers are available before going to the laundry and sends reminders at the end of each wash and dry cycle.

Despite being less than the SDCP 2012, the Department is satisfied the proposed number of washing and drying machines will provide for adequate laundry facilities for future residents as:

- the provision is based on the operator's experience with laundry demands from students within its existing student accommodation developments
- the use of laundry facilities can be suitably managed through the provision of a mobile phone application.

### 6.5 Traffic, parking and access

#### 6.5.1 Traffic impacts

The TA provides that as the proposed development does not include any car parking, the proposal is not expected to result in any significant additional traffic generation. Most vehicular movements associated with the development are likely to arise from the servicing of the development, which are expected to be infrequent and unlikely to coincide with peak periods.

The TA also provides that the approved development (SSD 7080) was expected to generate an estimated 35 vehicle trips per hour during both the AM and PM peak hour, well in excess of the potential traffic generation potential of the proposed development.

Council, Transport for NSW (RMS) and TfNSW did not raise any concerns with regards to potential traffic impacts.

The Department is satisfied that given the proposed development does not contain any off-street car parking and is located in close proximity to Redfern Station, the proposal is would not result in any adverse impact on the existing road network conditions.

The Department concludes the proposed development will not result any significant traffic generation and will not have any unacceptable traffic implications in terms of road capacity.

### 6.5.2 Car parking

The *RMS Guide to Traffic Generating Development* and the SLEP 2012 do not provide any specific car parking requirements for student accommodation or boarding house uses. With regards to the commercial floor area, the RMS guide provides that it is the responsibility of local government to determine parking policy in commercial centres.

The SLEP 2012 provides for a maximum car parking rates to minimise the amount of vehicular traffic generated because of proposed development.

The proposed development does not provide for any off-street scar parking spaces and is therefore consistent with the objectives of the SLEP 2012.

Concerns have been raised by the NSW Police regarding the absence of car parking within the development and the development's likely impact on demand for existing off-street car parking spaces. Council did not raise any concerns in relation to car parking.

The Department notes the proposal does not contain any on-site car parking, consistent with the approved and constructed student accommodation development at Iglu 1, comprising 134 student accommodation units with no on-site parking facilities.

The Department considers providing no on-site vehicle parking spaces for the proposed development is appropriate as:

- the site is in close proximity to Redfern Train Station and a number of key bus services
- the site is close to shops and services within the Redfern Town Centre
- the future occupants of the development are students and are unlikely to have or require cars
- the development includes 84 bicycle parking spaces parking (**Section 6.5.3**)
- the surrounding streets include car parking restrictions, which are controlled and monitored by the Council and prevent long-term car parking
- the Regional and District Plans and SLEP 2012 encourage a reduction in car dependency and the use of alternative modes of transport.

### 6.5.3 Bicycle parking

The proposed development provides for 84 bicycle spaces comprising 37 spaces at ground level and 47 at the mezzanine level.

There are no specific bicycle parking requirements for student accommodation development contained within the SSP SEPP or the SDCP 2012. However, the ARH SEPP requires one bicycle space be provided for every 5 boarding rooms, which equates to 53 bicycle spaces for the 265 student rooms proposed.

GANSW noted that access to street level bicycle parking had been improved through the SDRP process.

Council requested a separate end-of-trip facility, including shower and change facilities, should be provided for the retail and office tenancies.

In the RtS, the Applicant amended the proposal to include end-of-trip facilities for the retail and office tenancies to the ground floor.

The Department is satisfied the proposal provides sufficient bicycle parking for future students and the commercial tenancies as the proposal provides:

- a total of 84 bicycle spaces, being one space for every 3.2 student beds and therefore exceeds the ARH SEPP bicycle parking rate,
- end-of-trip facilities to service the future commercial and retail tenancies.

#### 6.5.4 Access

The proposed development does not contain any loading facilities as would be serviced from the loading dock located in Iglu 1 at 68-78 Regent Street.

Concerns were raised in the public submissions regarding the use of William Lane for student access and waste collection and the potential impact on vehicular and pedestrian access to the development at 157-159 Redfern Street.

Transport for NSW (RMS) recommended all vehicles must enter and exit the site in a forward direction and landscaping and fencing are not to hinder driver sightlines to/from the driveway to road users on Gibbons Street. RMS also required additional swept paths for the longest vehicle (to service the site) entering and exiting the subject site, as well as manoeuvrability through the site, in accordance with AUSTRROADS and Council.

TfNSW provided that the proposal cannot rely on the kerbside restrictions to conduct their business activities and the development is required to provide off street loading and servicing facilities, and further justification is required for the shared use of the adjacent building's loading dock, including its ability to accommodate the proposed freight and servicing demand.

The Applicant provided that the existing loading dock contained within the adjoining Iglu development is sufficient to support the additional servicing requirements generated from the new development.

The Department has considered the proposal to share facilities and the capacity of the existing Iglu to service the new development and is satisfied for the following reasons:

- the existing development has been recently constructed and provides for modern loading facilities
- the ground floor retail and commercial uses are described as 'fine-grain' and it is not expected their servicing needs would be of significant proportion
- the proposed development and the existing development are to be integrated into one development, owned and managed by Iglu.

## 6.6 Other issues

The Department's consideration of other issues is provided in **Table 7**.

**Table 7** | Department's consideration of other issues

Issue	Findings	Recommended condition
Operational management and noise	<ul style="list-style-type: none"> <li>• Twelve public submissions (75%) raised concerns regarding potential noise impacts. These submissions were received from the adjacent residents at 7-9 Gibbons Street (Urba) and 157 Redfern Street (Deicota).</li> </ul>	<ul style="list-style-type: none"> <li>• The Department recommends additional conditions of consent to further strengthen the OMP:               <ul style="list-style-type: none"> <li>o maximum noise</li> </ul> </li> </ul>



- The NSW Police recommended the management of the site provide a contactable manager, rules for alcohol consumption, use of roof top area during daylight hours only and procedures for after-hours security.
- The Applicant submitted an Operational Management Plan (OMP), confirming the student accommodation would be operated by Iglu Pty Ltd, an experienced student accommodation provider. The OMP outlines the following key management measures to mitigate any potential noise impacts on surrounding residents:
  - loud noise, including music is prohibited in the external common areas
  - management are to lock off all external areas between 10 pm and 9 am, 7 days a week
  - no alcohol is to be consumed within all common areas of the building, including outdoor spaces, unless it is a specified Iglu run event
  - complaints handling and resolution procedures.
- The Department considers, subject to appropriate management through the OMP, the use of the site for student accommodation purposes would not have a detrimental impact on residential amenity.
  - emissions arising from the general use, operation and plant are to be limited to background +5dBA
  - the use of the roof and podium terrace is limited to 7 am to 10 pm Monday to Saturday and 8 am to 9 pm Sunday and public holidays
  - the use of the rooftop and podium terrace is limited to residents within the student accommodation building and their guests
  - amplified noise/music is prohibited on the rooftop and podium terrace
  - signs are to be installed requiring occupants to leave the premises quietly.
- To ensure the student accommodation is only used for its intended purpose, the Department also recommends the following conditions:
  - the occupation of the building is to be restricted to students and staff of a tertiary education facility
  - the building is not to be strata subdivided.

#### Footpath widening

- The proposed development includes the following setbacks to allow for footpath widening:
  - 800 mm wide setback to William Lane
  - Average of 1.6 m wide setback to Marian Street to allow for an average of 3 m wide footpath.
- Council raised that the proposal does not achieve compliance with the setbacks contained within the Redfern Centre Urban Design Principles. The setbacks

Public domain works, including footpath, kerb and guttering to be approved by Council.

to Marian Street and William Lane are to be amended consistent with these requirements.

- The Applicant amended the proposal to achieve compliance with a minimum 800 mm to William Lane, average of 3 m to Marian Street and complies with Regent Street.
- The Department is satisfied the proposal is compliant with these controls.
- In respect of footpath capacity, the Department notes that Gehl's method for determining pedestrian comfort levels is the preferred industry method and was used in the recently approved Pemulway student accommodation development (SSD 8135).
- Using Gehl's method for determining pedestrian comfort levels (13 pedestrians per minute per metre of footpath), comfort levels on Marian Street would be exceeded if they resulted in over 2,340 pedestrian movements per hour on each side of Marian Street.
- The Department notes that Marian Street is not a main pedestrian thoroughfare and despite an increase in population (students and future residents) in the immediate vicinity, an average of 3 m of footpath width on each side of Marian Street would provide sufficient operational capacity to accommodate additional pedestrian movements.
- The Department also notes that the Redfern Centre Urban Design Principles which require an average width of 3 m, contemplated increases in the population of the Redfern Town Centre as a result of development uplift when imposing the 3 m average width requirement.
- The Department concludes the proposed footpath widening complies with the controls, would improve the streetscape, and would not result in detrimental impacts on pedestrian movements or the operational efficiency of the footpath.

**Heritage**

- The site does not contain nor is within the vicinity of any heritage items, however is located adjacent to the Redfern Estate Heritage Conservation Area (REHCA).
- A public submission was received raising concerns with the proposed demolition of the existing shop façade.
- The EIS was accompanied by a Heritage Impact Statement (HIS). The HIS demonstrates there is no

The Department considers no further conditions or requirements are necessary.

adverse impact to the REHCA heritage conservation area for the following reasons:

- o the planning controls for the site accommodate high density development, noting the adjoining site has been developed for such purposes
- o the redevelopment of the subject site is consistent with the established street block, and therefore will not result in any additional impact with regards to the scale and character of the area
- o the proposed podium is consistent with the approved development on the adjoining site at 60-78 Regent Street Redfern and will provide visual separation between the tower development and streetscape.
- The Department notes the proposed building is sufficiently separated from REHCA and would not have an adverse impact on their setting or heritage significance, noting existing tall buildings are consistent with the setting of Redfern Station and nearby conservation areas.

**Aboriginal Cultural Heritage**

- The Applicant submitted a Aboriginal Cultural Heritage Assessment Report (ACHAR). The Report found that there is low archeological potential and recommended the following:
  - o a Heritage Interpretation Strategy in consultation with Aboriginal stakeholders
  - o an unexpected finds procedure
  - o stop works procedure.
- GANSW recommended further strategies are required to raise future building occupants' awareness of local aboriginal culture and heritage. The design can incorporate landscape design, species selection and interpretation strategies offer potential ways to respond to Aboriginal culture and heritage.
- The Department considers that a Heritage Interpretation Strategy is to be prepared to develop meaningful ways to promote awareness of local Aboriginal culture and heritage within the development.

- A Heritage Interpretation Strategy is to be prepared in consultation with local Aboriginal stakeholders.
- An unexpected finds procedure is required and is to include notification to Heritage Division.
- A stop works procedure is required for suspected human remains.

**Future CBD Rail Link Corridor**

- TfNSW and Sydney Metro requested a foundation load assessment, impact assessment analysis on the rail corridor below, foundation plans, depth of piles, and confirmation from a structural engineer for the

- Certification of civil and structural engineering details of all subsurface structures.

foundation design.

- TfNSW recommended a condition of consent requiring a rail noise and vibration assessment to manage the potential impact of the CBD rail link corridor.
- The Applicant provided Sydney Metro and Southwest tunnel assessment report in the RtS. The report outlines the tunnels are approximately 40 m below the site and construction of the building is unlikely to have a negative impact on the future transport infrastructure.
- Sydney Metro recommended conditions of consent requiring detailed construction information prior to the issue of a Construction Certificate.
- The Department agrees with TfNSW and Sydney Metro's requirements and considers these can be suitably managed through recommended conditions of consent.
- Preparation of Geotechnical Monitoring Plan.
- Undertake foundational load assessment on CBD Rail Link Corridor to the satisfaction of TfNSW.
- Design and construction of foundations and ground anchors are to be completed to the satisfaction of TfNSW, with allowances for the future construction of Sydney Metro and Southwest railway tunnels.
- Preparation of Construction Noise and Vibration Management Plan to the satisfaction of TfNSW, Council and EPA.

## Signage

- The proposal includes the following signage:
  - commercial signage zone - 2 under awning signs (0.6 m x 1.6 m)
  - retail signage zone - 4 under awning signs (0.6 m x 1.6 m)
  - 1 business identification sign (1.8 m x 2.1 m)
  - 1 business identification sign (2.2 m x 2.7 m).
- The NSW Police recommended additional signage, including wayfinding, emergency numbers, warning signs and signs for alcohol and drug use.
- The Department's consideration of the proposal against SEPP 64 is provided in **Appendix C**. The Department is satisfied the signage has adequately addressed the relevant provisions and is consistent with the Redfern Town Centre.
- Future signage is to be consistent with the approved signage zones.
- Signage illumination is not to exceed the relevant Australian Standards.
- Signs are to be installed at the rooftop and podium level terrace requiring occupants to leave the premises quietly and prohibiting alcohol.

## Archaeology

- The EIS was accompanied by Historical Archaeological Assessment (HAA) that concludes that the potential archeological impacts of the proposed development are negligible.
- The HAA recommends works cease upon discovery of unexpected finds and the engagement of relevant authorities to manage the discovery of any historical archaeological remains.
- Stop works procedure to include what is likely to be present on the site and what would constitute an unexpected find.
- If any archaeological relics are identified

- The Heritage Division note there is minimal potential for archaeological relics of local or State significance. However, conditions of consent are recommended to provide further clarification on what is likely to be present on the site and additional parameters around the stop work procedure.
- The Department considers that as there is no proposed basement and minimal excavation it is unlikely the proposed development will reveal any significant archeological remains.

during construction, all work shall cease immediately and a suitably qualified historical archaeologist should assess the find to determine its significance.

**Construction traffic**

- Transport for NSW (RMS) recommended the following:
  - all demolition and construction vehicles are to be contained wholly within the site as a construction zone will not be permitted on Regent Street
  - Road Occupancy License (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Regent Street during construction activities
  - a Construction Pedestrian Traffic Management Plan (CPTMP) shall be submitted in consultation with the Sydney Coordination Office, prior to the issue of a Construction Certificate. TfNSW also recommended this requirement.
- The Applicant provided that, as the future building will be built-to-boundary it will not be possible to provide onsite unloading area for materials. As such, construction material deliveries, including concrete pumping, is proposed to be unloaded from the kerbside lane along the Marian Street site frontage as detailed within the Construction Traffic Management Plan.
- Transport for NSW (RMS) provided no further comment and therefore the Department considers that this can be managed through conditions of consent prior to construction works.

- ROL should be obtained from Transport Management Centre for any works that may impact on traffic flows on Regent Street during construction activities.
- A CPTMP shall be submitted in consultation with the Sydney Coordination Office TfNSW.

**Construction noise**

- The RtS was accompanied by a Preliminary Construction Noise and Vibration Impact Assessment.
- The Assessment notes the detailed construction program and methodology is not available at this stage and therefore a detailed noise and vibration impact assessment cannot be provided and should be imposed as a condition of consent.
- The Assessment provides noise criteria, background

- A Construction and Noise Vibration Management Plan (CNVMP) is to be prepared in consultation with and address the relevant requirements of TfNSW, Council and the EPA.
- Construction hours limited



noise monitoring and potential noise and vibration impacts.

- The Department considers construction noise can be managed through recommended conditions of consent.

to 7 am and 5.30 pm Monday to Friday, 8 am and 3.30 pm Saturday, and no work on Sundays or public holidays.

**Crime Prevention Through Environmental Design**

- The NSW Police noted that the site is a moderate crime risk and recommended Crime Prevention Through Environmental Design treatments (CPTED), including:
  - clear glazing around the podium courtyard for unobstructed views from internal spaces
  - retail tenancies are to have counters visible from the street, secure place for staff belongings, signage that maintains natural surveillance and transparent facades
  - locate mailboxes within a locked foyer area
  - surveillance cameras to the external laneway area, common areas, ground level, roof top area, front entry, rear loading and bicycle storage area.
  - strong quality locks for bicycle storage
  - lighting is to have a maintenance program, be vandal resistant, placed around the perimeter of the property, at all entry/exit points and at William Lane.
  - access control, locks, automatic closing and fire access doors to be self-closing and alarmed.
  - safes on the premises for storing personal items.
- The Department is satisfied the proposed development suitably incorporates necessary CPTED measures, subject to conditions including the preparation of an OPM.

- CPTED principles are to be integrated in the detailed design of the building.

**Waste management**

- The EIS included a Waste Management Plan which outlines the provisions and procedures for operational waste.
- The proposal provides for separate waste facilities for the retail and student accommodation. Each room will accommodate six 660 litre mobile garbage bins and two 660 litre mobile recyclable garbage bins.
- Waste is to be collected by a private waste contractor from William Lane via loading facilities from the adjoining property (**Section 6.5.4**).
- Council recommended additional space should be provided for bulky waste storage, storage of food waste for recycling, and space for storage of reusable commercial items (e.g. crates, strip out waste etc).

- The development is to be operated in accordance with the Waste Management Plan for the site.

	<ul style="list-style-type: none"> <li>• The Department considers the site has sufficient space to accommodate the proposed development.</li> <li>• The Department is satisfied the Waste Management Plan would appropriately manage the handling of waste on the site.</li> </ul>	
<b>Landscaping</b>	<ul style="list-style-type: none"> <li>• The proposed development includes landscaping to outdoor communal open spaces on level 1 and the roof top.</li> <li>• Council recommended further consideration to the planting schedule, prioritising native species with low water needs. The species should also be selected and located to manage sun and wind impacts and have appropriate soil depths consistent with the <i>Sydney Landscape Code Volume 2</i>.</li> <li>• Council also required additional information to demonstrate how the plants will be accessed for maintenance, drainage, waterproofing and irrigation. OEH recommended the planting schedule increase native species.</li> <li>• Transport for NSW (RMS) requested landscaping and fencing must not hinder driver sightlines to/from the driveway to road users on Gibbons Street. The Department notes this comment is not applicable to the proposal given its location on Regent St.</li> <li>• The Department considers that a detailed landscape plan demonstrating the relevant requirements can be provided prior to construction.</li> </ul>	<ul style="list-style-type: none"> <li>• A detailed landscape plan is required prior to a Construction Certificate. The plan is to be prepared in consultation with Council and is to demonstrate the following: <ul style="list-style-type: none"> <li>◦ a plant schedule, prioritising native species with low water needs, including their location, soil depths, maximum height at maturity consistent with the <i>Sydney Landscape Code Volume 2</i>,</li> <li>◦ maintenance, drainage, waterproofing and irrigation system.</li> </ul> </li> </ul>
<b>Water Sensitive Urban Design</b>	<ul style="list-style-type: none"> <li>• EESG recommended Water Sensitive Urban Design (WSUD) measures through conditions of consent requiring a rainwater tank, on-site detention, Stormwater 360's StormFilter treatment system, Erosion and Sediment Control Plan and a maintenance plan.</li> <li>• The Applicant supports these measures through a condition of consent.</li> <li>• EESG also recommend the development incorporate green walls and additional plantings on the roof and/or a cool roof and the NSW and ACT Government Regional Climate Modelling (NARCLiM) is used to inform the building design and asset life of the project.</li> <li>• The Applicant provided that these will be considered in the detailed building design.</li> <li>• The Department is satisfied the proposal can achieve WSUD measures subject to conditions. The Department is also satisfied the proposal can achieve additional plantings and NARCLiM at the detailed building design stage.</li> </ul>	<ul style="list-style-type: none"> <li>• WSUD measures, including a rainwater tank/irrigation system, on-site detention, OSD, Stormwater 360's StormFilter treatment system, Erosion and Sediment Control Plan and a maintenance plan are to be submitted prior to the issue of a Construction Certificate.</li> </ul>
<b>Floor to floor heights</b>	<ul style="list-style-type: none"> <li>• Council recommended the floor to floor heights to be increased to 3.1 m to provide for flexibility for future adaption for higher amenity uses and the proposed mezzanine retail and office space are not supported as the upper levels are not accessible.</li> <li>• The Department considers the floor to floor heights of are capable of accommodating a 2.7 m floor to ceiling height</li> </ul>	<p>The Department considers no additional conditions or requirements are necessary.</p>

and any future commercial/retail uses and it is not necessary to further increase these heights.

- The Applicant provided amended plans to provide lift access to the mezzanine levels, accessed through the central lift core.

## 7. Evaluation

The Department has reviewed the EIS, RtS, RRTS and assessed the merits of the proposal, in consideration with the submissions received from the Government agencies, Council and the public.

The proposed development has demonstrated it is consistent with the objects of the EP&A Act and the State's strategic planning objectives for the site as set out in the Greater Sydney Region Plan and Eastern City District Plan, as it will provide housing choice and affordability close to public transport.

The Department considers the proposed development is consistent with the Redfern-Waterloo area and will facilitate the growth of the Redfern Town Centre envisaged by the SSP SEPP. The proposed development has demonstrated design excellence through the SDRP process. The Department is satisfied the proposed development will have an appropriate built form and would positively contribute to the renewal of the Redfern Town Centre.

The Department considers the proposal is in the public interest as it would provide the following public benefits:

- ground floor retail and commercial space to facilitate an active streetscape within the Redfern Town Centre.
- delivery of 265 student beds within close proximity to public transport, employment opportunities and services.
- delivery of up to 170 construction jobs and 4 operational jobs.
- a development that exhibits design excellence and achieves adequate residential amenity in the form of solar access, communal open space and noise.

The Department has considered the impacts of the proposal, including building separation, view loss, overshadowing and is satisfied the impacts are acceptable. The Department is satisfied the recommended conditions and implementation of measures detailed in the Applicant's EIS, RTS and RRTS and as recommended by Government agencies and Council, would adequately mitigate the residual environmental impacts of the proposed development.

In respect of the SEPP 1 objections provided by the Applicant, the Department considers these are well founded on the basis that strict application would hinder the attainment of the objectives of the EP&A Act and the proposed development achieves the underlying objectives of the standards.

The Department's assessment concludes the development is in the public interest and is approvable, subject to conditions (**Appendix F**). This assessment report is hereby presented to the Commission for determination.



**David McNamara**

Director

Key Sites Assessments



**Anthea Sargeant**

Executive Director

Key Sites and Industry Assessments

4/7/19



# Appendices

Appendix A – List of Documents

Appendix B – Relevant Supporting Information

Appendix C – Consideration of Environmental Planning Instruments

Appendix D – State Environmental Planning Policy No 1 – Development Standards

Appendix E – Community Views for Draft Notice of Decision

Appendix F – Recommended Conditions of Consent



## **Appendix A – List of documents**

List of key documents relied on by the Department in its assessment:

- Environmental Impact Statement, prepared by Ethos Urban, dated 13 September 2018
- Response to Submissions and attachments, prepared by Ethos Urban, dated 24 January 2018

## Appendix B – Relevant supporting information

The following supporting documents and supporting information to this assessment report can be found on the Department's website as follows.

1. Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/10766>

2. Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/10766>

3. Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/10766>

4. Response to Request for Additional Information

<https://www.planningportal.nsw.gov.au/major-projects/project/10766>

## Appendix C – Statutory Considerations

In line with the requirements of section 4.15 of the EP&A Act, the Department’s assessment of the project has given detailed consideration to a number of statutory requirements. These include:

- the objects found in section 1.3 of the EP&A Act
- the matters listed under section 4.15(1) of the EP&A Act, including applicable environmental planning instruments and regulations.

The Department has considered these matters in its assessment of the project in **Tables 1** and **2** below.

**Table 1** | Objects of the EP&A Act

Objects of the EP&A Act	Department’s consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources	The proposal redevelops an existing inner-city site that is close to existing services and has excellent public transport access. The proposal would not impact on any natural or artificial resources, agricultural land or natural areas. The provision of student housing contributes to the social and economic welfare of the community.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	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. In particular, the proposed development has been accompanied by a BASIX certificate and includes the following ESD initiatives and sustainability measures: <ul style="list-style-type: none"> <li>• energy efficient LED lighting</li> <li>• occupancy sensing and switching of lighting</li> <li>• facility to power-off unoccupied spaces</li> <li>• extensive electrical and water metering and monitoring</li> <li>• high efficiency variable refrigerant flow air-conditioning system</li> <li>• centralised air-conditioning controls to time-limit air-conditioning systems and limit temperatures</li> <li>• low-flow hydraulic fixtures</li> <li>• high efficiency instantaneous gas hot water system.</li> </ul>
(c) to promote the orderly and economic use and development of land	The proposal will deliver student housing and associated ancillary uses, the merits of which were considered in <b>Section 6</b> .
(d) to promote the delivery and	The proposal includes the provision of affordable housing

maintenance of affordable housing options for students.

(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	<p>The proposal involves redevelopment of a previously developed site and will not adversely impact on any native animals and plants, including threatened species, populations and ecological communities, and their habitats.</p> <p>The application has also been granted a Biodiversity Development Assessment waiver.</p>
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	<p>The proposal would not have an adverse impact on nearby heritage items or conservation areas as addressed in <b>Section 6.6</b>.</p>
(g) to promote good design and amenity of the built environment	<p>The proposal achieves a high standard of design and amenity as addressed in <b>Section 6</b>.</p>
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	<p>The proposal was accompanied by a Building Code of Australia report and a National Construction Code Section J report, which conclude the development is capable of complying with the requirements of the relevant sections of the Act.</p>
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	<p>The Department publicly exhibited the SSD application as outlined in <b>Section 5</b>, which included consultation with Council and other government agencies and consideration of their responses.</p>
(j) to provide increased opportunity for community participation in environmental planning and assessment.	<p>The Department publicly exhibited the SSD application as outlined in <b>Section 5</b>, which included notifying adjoining landowners, placing a notice in the newspaper and displaying the application on the Department's website and at Council's office.</p>

**Table 2** | Section 4.15(1) Matters for consideration

Section 4.15(1) Evaluation	Department's consideration
(a)(i) any environmental planning instrument	<p>The proposal is consistent with the relevant Environmental Planning Instruments (EPIs) as addressed in <b>Section 4.2</b> and below.</p>
(a)(ii) any proposed instrument	<p>The proposal is consistent with the proposed EPIs (refer to <b>Section 4.2</b> and below).</p>
(a)(iii) any development control plan	<p>Under clause 11 of the SRD SEPP, development control plans (DCPs) do not apply to SSD. Notwithstanding, consideration has been given to the Sydney Development Control Plan 2012 (SDCP 2012), where relevant, below.</p>

(a)(iii) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&amp;A Regulation</i>	The SSD application satisfactorily meets the relevant requirements of the <i>Environmental Planning and Assessment Regulation 2000</i> (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.
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	The Department has considered that the likely impacts of the proposed development are acceptable and/or have been appropriately managed by recommended conditions of consent ( <b>Section 6</b> and <b>Appendix F</b> ).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in <b>Section 6</b> .
(d) any submissions	The Department has considered the submissions received during the exhibition period ( <b>Sections 4</b> and <b>6</b> and <b>Appendix E</b> ).
(e) the public interest	The Department considers the proposal to be in the public interest (refer to <b>Section 6</b> of this report).

### State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The aims of the SRD SEPP are to identify SSD, State significant infrastructure (SSI), critical SSI and to confer functions on regional planning panels to determine development applications. The proposal is SSD as summarised in **Table 3**.

**Table 3** | Department's consideration of the relevant sections of the SRD SEPP

Relevant Sections	Department's consideration	Compliance
<b>3 Aims of Policy</b>		
The aims of this Policy are as follows:	The proposed development is identified as SSD.	Yes
(a) to identify development that is State significant development		
<b>8 Declaration of State significant development: section 4.36</b>		
(1) Development is declared to be State significant development for the purposes of the Act if:	The proposed development is permissible with development consent. The site is specified in Schedule 2.	Yes
(a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and		
(b) the development is specified in Schedule 1 or 2.		



## Schedule 2 State significant development — identified sites

(Clause 8 (1))

### 2 Development on specified sites

Development that has a capital investment value of more than \$10 million on land identified as being within any of the following sites on the State Significant Development Sites Map:

- Redfern-Waterloo Authority Sites.

The proposed development is within the identified Redfern-Waterloo Authority Sites and has a CIV in excess of \$10 million (\$38,900,000).

Yes

## State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)

The SSP SEPP seeks to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State for the benefit of the State. The SSP SEPP is the relevant EPI for the site and contains applicable development standards.

The site is located within The Redfern-Waterloo Authority Sites area, listed as a State Significant Precinct in accordance with Schedule 3, clause 7 of SSP SEPP. An assessment of the proposal against the relevant sections of the SSP SEPP is shown in **Table 4**.

**Table 4** | Department's consideration of the relevant sections of the SSP SEPP

Relevant sections	Department's consideration	Compliance
<b>7 State significant precincts</b>		
(1) Schedule 3 describes State significant precincts	The proposed development is located within the Redfern-Waterloo Authority Sites.	Yes
(2) The provision in Schedule 3 relating to the carrying out of development on a State significant precinct have effect.		
<b>Schedule 3 - Part 5 The Redfern-Waterloo Authority Sites</b>		
<b>6 Development to which Division applies</b>	The proposed development is located within the Redfern-Waterloo Authority Sites.	Yes
<b>7 Land use zones</b>		
(1) Land within the Redfern-Waterloo Authority Sites is within a zone shown on the Land Zoning Map	The site is zoned Business Zone – Commercial Core.	Yes
(2) The objectives for development in a zone are to be considered where determining development applications		

## 9 Business Zone – Commercial Core

Yes

- (1) The objectives of the Business Zone—Commercial Core are as follows:
- a) to facilitate the development of a town centre,
  - b) to encourage employment generating activities by providing a wide range of retail, business, office, community and entertainment facilities,
  - c) to permit residential development that is compatible with non-residential development,
  - d) to maximise public transport patronage and encourage walking and cycling,
  - e) to ensure the vitality and safety of the community and public domain,
  - f) to ensure buildings achieve design excellence,
  - g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- The proposed 18-storey mixed use development comprising student accommodation with ground floor retail and commercial uses will facilitate employment opportunities and the development of the Redfern Town Centre in close proximity to Redfern Train Station.
- The proposed student accommodation will be compatible with the ground floor retail premises, providing opportunities for direct retail patronage.
- The development has provided for 84 bicycle spaces and no car parking spaces to maximise public transport, walking and cycling.
- The development has demonstrated design excellence as addressed in **Section 6** of this report.
- (2) Development for any of the following purposes is prohibited on land within the Business Zone—Commercial Core: bulky goods premises; depots; dual occupancies; dwelling houses; hazardous industries; hazardous storage establishments; heavy industries; home occupations (sex services); industries; light industries; offensive industries; offensive storage establishments; restricted premises; sex services premises; transport depots; truck depots; vehicle body repair workshops; warehouses or distribution centres.
- The proposed student accommodation use, is most closely defined as a Boarding house, and is not prohibited and is therefore permitted within the zone.
- The proposed retail and commercial uses are also not prohibited and are therefore permitted within the zone.
- (3) Except as otherwise provided by this Policy, development is permitted with consent on land within the Business Zone—Commercial Core unless it is prohibited by subclause (2).

## 20 Subdivision

Land within the Redfern-Waterloo Authority Sites may be subdivided, but only with consent.

The proposed development seeks to amalgamate 80-88 Regent Street and 60-78 Regent Street. No subdivision is

N/A

proposed and therefore in accordance with the EP&A Act, development consent is not required.

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

<p>(1) The height of a building is not to exceed the maximum height shown on the Height of Buildings Map.</p>	<p>The proposed building height exceeds the maximum height shown on the Height of Buildings Maps.</p>	<p>No (<b>Section 6 and Appendix D</b>)</p>
<p>(2) The floor space ratio is not to exceed the floor space ratio shown on the Floor Space Ratio Map.</p>	<p>The proposed floor space ratio exceeds the maximum floor space ratio shown on the Floor Space Ratio Map.</p>	

**22 Design excellence**

<p>(1) The consent authority must consider whether the proposed development exhibits design excellence.</p>	<p>The development has demonstrated design excellence, consistent with this clause, as addressed in <b>Section 6</b> of this report.</p>	<p>Yes</p>
<p>(2) In considering whether proposed development exhibits design excellence, the consent authority must consider the following:</p> <ul style="list-style-type: none"> <li>a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</li> <li>b) whether the form and external appearance of the building will improve the quality and amenity of the public domain,</li> <li>c) whether the building 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,</li> </ul>		
<p>(3) The consent authority may require a design competition for any development over 12 storeys consistent with guidelines issued by the Redfern–Waterloo Authority and approved by the Minister.</p>		
<p>(4) The Redfern–Waterloo Authority may draft a guideline to be approved by the Minister detailing what matters are to be addressed for design excellence and for the conduct of design competitions.</p>		

## 25 Development to which Division applies

The provisions of the Division do not apply with respect to development that is a transitional Part 3A project.	The proposed development is not a transitional Part 3A project and therefore this Division applies.	Yes
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## 26 Notification of advertised development

Notice of a development application is to be given in accordance with the provisions of any applicable development control plan	The Department publicly exhibited the SSD application as outlined in <b>Section 5</b> , which included notifying adjoining landowners, placing a notice in the newspaper and displaying the application on the Department's website and at Council's office.	Yes
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## 27 Heritage conservation

A person must not impact a building, work, relic, tree or place that is a heritage item except with the consent of the consent authority	The proposed development does not impact a building, work, relic, tree or place that is a heritage item.	Yes
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## 28 Preservation of trees or vegetation

A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:  (a) development consent, or  (b) a permit granted by the consent authority.	The proposed development does not involve the removal of any trees or significant vegetation.	Yes
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## State Environmental Planning Policy (Urban Renewal) 2010 (Urban Renewal SEPP)

The Urban Renewal SEPP establishes the process for assessing and identifying sites as urban renewal precincts. In addition, it seeks to facilitate the orderly and economic development and redevelopment of sites in and around identified precincts.

The Urban Renewal SEPP has identified the site as being within the Redfern-Waterloo Potential Precinct. Clause 10(2) requires that development consent must not be granted unless the consent authority is satisfied the proposed development is consistent with the objective of developing the precinct for the purposes of urban renewal. Clause 10(3) requires the consent authority to take into account whether the proposal would restrict or prevent:

- the development of the precinct for higher density housing, commercial or mixed-use development,
- future amalgamation of sites,
- access to, or development of, infrastructure, other facilities and public domain areas associated with existing and future public transport in the precinct.

The Department is satisfied the proposal for a high-density student accommodation development is consistent with the objectives of the urban renewal of the precinct. In addition, the proposal would not restrict or prevent the development of the remainder of the precinct and would facilitate the amalgamation of the site with 60-78 Regent St.

### **State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)**

The ISEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with Government agencies about certain development during the assessment process.

Clause 86 of the ISEPP applies to development that involves excavation in, above, below or adjacent to rail corridors. The proposal is located adjacent the rail corridor and therefore the application was referred to the Sydney Trains. Sydney Trains did not provide a response to the application and therefore, there are not concerns for the application.

Clause 87 of the ISEPP requires the consent authority to consider the impact of rail noise or vibration on residential accommodation. The consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that noise levels in any bedroom do not exceed 35 dB(A) at any time between 10 pm and 7 am, and anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 dB(A) at any time.

Clause 88 of the ISEPP applies to development that is within or adjacent to an interim rail corridors. The proposal is located adjacent the Sydney Metro rail corridor, however as the application is a SSD, formal concurrence is not required. Despite this, application was referred to the Sydney Metro. Sydney Metro did not raise any objections to the proposal, however recommended conditions of consent requiring detailed construction information prior to the issue of a construction certificate.

The proposed development has a frontage to a classified road and therefore is also subject to assessment under Clause 101 and 102 of the ISEPP. The proposed vehicle access and the safety, efficiency and ongoing operation of the classified road is considered appropriate within the context of the site. The Department also considers the proposed development has appropriately managed the potential traffic noise and vehicle emissions on the residential component.

The proposal was referred to Transport for NSW (RMS) and TfNSW and their comments are summarised in **Section 5** of this report. Given the consultation and consideration of the issues raised by TfNSW and Transport for NSW (RMS), the Department considers the proposal to be consistent with the ISEPP.

Recommended conditions of consent include those proposed by Sydney Trains, Transport for NSW (RMS) and TfNSW.

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

The BASIX SEPP applies to all residential development and accordingly applies to the subject application. BASIX aims to deliver equitable, effective water and greenhouse gas reductions across the State.

Council requested the proposed provide a BASIX certificate, referencing a recent Land and Environment Court judgement (*SHMH Properties Australia Pty Ltd v City of Sydney*) in relation to boarding houses and BASIX.

A BASIX certificate was submitted with the RRTS, demonstrating the proposal achieves compliance with the BASIX water, energy and thermal comfort requirements. The Department recommends a condition of consent requiring compliance with the BASIX certificate.

### **State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)**

State Environmental Planning Policy No 64 - Advertising and Signage (SEPP 64) applies to all signage that under an EPI can be displayed with or without development consent and is visible from any public place or public reserve.



The Development proposes the following signage:

- Commercial signage zone - 2 under awning signs (0.6 m x 1.6 m)
- Retail signage zone – 4 under awning signs (0.6 m x 1.6 m)
- 2 business identification signs, comprising the Iglu logo on an orange background
  - 1.8 m x 2.1 m
  - 2.2 m x 2.7 m.

Under clause 8 of SEPP 64, consent must not be granted for any signage unless the proposal is consistent with the objectives of the SEPP and with the assessment criteria contained in Schedule 1. The Department considers the proposal to be compatible with the desired amenity and visual character of the area, provide effective communication and is of high quality design and is therefore consistent with the objectives of SEPP 64. The Department’s assessment of Schedule 1 of SEPP 64 is provided in **Table 5** below.

**Table 5** | Department’s consideration of Schedule 1 of SEPP 64

Assessment criteria	Department’s consideration	Compliance
<b>1 Character of the area</b>		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage is consistent with the emerging high-density residential character of the Redfern area.	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal provides for building and business identification, consistent with the building identification signage for the surrounding buildings and the established theme.	Yes
<b>2 Special areas</b>		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage is not located within, nor detracts from any other environmentally sensitive, heritage, natural, conservation, open space, waterways or residential area.	Yes
<b>3 Views and vistas</b>		
Does the proposal: <ul style="list-style-type: none"> <li>• obscure or compromise important views?</li> <li>• dominate the skyline and reduce the quality of vistas?</li> <li>• respect the viewing rights of other advertisers?</li> </ul>	The proposed signage is integrated into the proposed building and is to be contained within the building envelope. The proposed signage will not compromise any important views, the skyline or interfere with other advertisers.	Yes
<b>4 Streetscape, setting or landscape</b>		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is appropriate for the streetscape and setting of the proposed development.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage will contribute to the visual interest of the building by providing identification and recognition of the site.	Yes

Does the proposal reduce clutter by simplifying existing advertising?	The site does not contain any existing advertising.	N/A
Does the proposal screen unsightliness?	The proposed signage is integrated into a new development that exhibits design excellence, therefore there is no unsightliness.	Yes
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage will not protrude beyond the building envelope.	Yes
Does the proposal require ongoing vegetation management?	The proposed signage does not contain, or impact upon any vegetation.	N/A

### 5 Site and building

Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage has been designed to be integrated within the building façade, compatible with the design and architecture of the building.	Yes
Does the proposal respect important features of the site or building, or both?	The proposed signage will not detract from the important features of the site and building.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is innovatively located and appropriately relates to the building.	Yes

### 6 Associated devices and logos with advertisements and advertising structures

Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The Iglu logo is an integral part of the signage for business identification purposes.	Yes
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### 7 Illumination

<p>Would illumination:</p> <ul style="list-style-type: none"> <li>• result in unacceptable glare?</li> <li>• affect safety for pedestrians, vehicles or aircraft?</li> <li>• detract from the amenity of any residence or other form of accommodation.</li> </ul> <p>Can the intensity of the illumination be adjusted?</p> <p>Is the illumination subject to a curfew?</p>	The proposed illumination will not result in unacceptable glare or affect the safety of pedestrian or motorist. The Department also recommends a condition of consent to ensure the signage illumination does not exceed the relevant Australian Standards.	Yes
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### 8 Safety

<p>Would the proposal reduce safety for:</p> <ul style="list-style-type: none"> <li>• pedestrians, particularly children, by obscuring sightlines from public areas?</li> <li>• for any public road?</li> </ul>	The signage is wall mounted to the development and will not adversely impact on road safety for pedestrians or vehicles or obscure sightlines.	Yes
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### State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)

SEPP 55 aims to ensure potential contamination issues are considered in the determination of a development application. SEPP 55 requires the consent authority to consider whether the land is contaminated, and if so, whether the land is suitable for the purpose of the proposed development.

A Preliminary Site Investigation was submitted with the SSD application to determine the potential for onsite contamination. The PSI indicated the site will be suitable for development subject to the completion of a Detailed Site Investigation (DSI) (and after remediation and validation, if required) for the proposed multistorey commercial and student accommodation.

A DSI and follow up cover letter was submitted with the RtS. The DSI prepared in June 2016 concluded the site is suitable for residential and commercial development. The follow up cover letter, dated December 2018 confirmed the site remains suitable for the proposed student accommodation development.

Council recommended the Detailed Environmental Site Investigation (DESI) and Remediation Action Plan (RAP) to be peer reviewed by a NSW EPA Accredited Site Auditor and include a section B Site Audit Statement or a letter of Interim advice from the Site Auditor certifying that the RAP is practical and the site will be suitable after remediation for the proposed use.

The Applicant provided a response prepared by EI Australia concluding that this requirement is not warranted. The response noted that widespread contamination was not identified at the site and the site is suitable for the proposed use.

The Department is satisfied the proposed development is consistent with the provisions of SEPP 55. The Department recommends conditions which requires remediation is undertaken in accordance with the RAP, site validation and notice of completion of remediation work, as well as appropriate measures to be in place should any unanticipated contamination be found during construction works.

The Department concludes the site will be suitable after remediation for the development, and the land will be remediated before the site is used for student accommodation and retail/commercial purposes.

#### **Draft Remediation of Land State Environmental Planning Policy (Draft Remediation of Land SEPP)**

The Explanation of Intended Effect for a Draft Remediation of Land SEPP was exhibited until 13 April 2018. The Draft Remediation of Land SEPP proposes to better manage remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works. As the proposal has demonstrated it can be suitable for the site, subject to conditions, the Department considers it would be consistent with the intended effect of the Remediation of Land SEPP.

#### **State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)**

The ARH SEPP aims to provide a consistent planning regime for the provision of affordable rental housing and boarding houses.

The ARH SEPP does not apply to the application as the student accommodation is not located within an equivalent zone, as per clause 26 of the ARH SEPP.

Notwithstanding the above, and in the absence of planning controls guiding the internal design/layout of student accommodation on the site, the Department considers the ARH SEPP boarding house development standards (together with the SDCP 2012 student accommodation standards) is a useful guide to inform the assessments of the merits of the proposal.

The Department has considered the proposal against the ARH SEPP boarding hours development standards within **Table 6**.

**Table 6** | Department's consideration of the ARH SEPP

Section	Control	Department's consideration
<p><b>Clause 29</b></p> <p><b>Standards that cannot be used to refuse consent</b></p>	<p>(1) (c) The existing max. FSR plus 20% of the existing max. FSR (if the existing max FSR is greater than 2.5:1</p>	<p>No, refer to SEPP 1 discussion in <b>Section 6</b> and <b>Appendix D</b> of this report.</p>
	<p>(2) (a) <b>Building Height</b> if building is not more than max permitted height</p>	<p>No, refer to SEPP 1 discussion in <b>Section 6</b> and <b>Appendix D</b> of this report.</p>
	<p>(b) <b>Landscaped area</b> If the landscape treatment of the front setback area is compatible with the streetscape</p>	<p>The proposal includes minimal setbacks to the street, showing a consistent building form with the existing streetscape along Regent Street, Marian Street and William Lane.</p>
	<p>(c) <b>Solar access</b> At least one communal living room to receive a minimum of 3 hours direct sunlight between 9am and 3pm mid-winter</p>	<p>Min. 2 hours solar access to the east facing window to the level 1 indoor communal open space from 8.30 am and to the north facing windows to the communal open space associated with the cluster rooms in the upper floors. The Department considers this is acceptable as the design has maximised opportunities for indoor solar access within a constrained site, directly south of already developed sites.</p>
	<p>(d) <b>Private open space</b> One area of at least 20 sqm with a minimum dimension of 3 m.</p>	<p>The proposed development does not contain any private open space or balconies. As the site is adjoins a main road, it is unlikely these areas would be used. Further, due to the nature of student accommodation, housing individuals, the shared use of common areas is more likely to encourage students to interact with each other, a more socially desirable outcome. The Department considers private open space in the form of balconies is not necessary or desirable.</p>
	<p>(e) <b>Parking</b> 0.5 parking spaces for each boarding room</p>	<p>No, however this is consistent with SDCP 2012, as addressed in <b>Section 6.5.2</b> of this report.</p>
<p>(f) <b>Accommodation size</b> Each boarding room to have a gross floor area of at least</p> <ul style="list-style-type: none"> <li>(i) 12 sqm for a single lodger or</li> <li>(ii) 16 sqm in any other case</li> </ul>	<p>The proposal provides for a minimum 16 sqm for a single lodge room. All other rooms are larger than these minimum requirements.</p>	
<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not require to have those facilities in any</p>	<p>There is a mixture of individual and shared facilities.</p>	

boarding room.

<b>Clause 30 Standards for boarding houses</b>	a) For 5+ boarding rooms at least one area of communal living space	Communal open space is provided on level 1, rooftop and on each level for exclusive use of the residents in the cluster rooms.
	b) Boarding rooms to be no greater than 25 m <sup>2</sup> (excluding bathroom & kitchen)	No rooms are greater than 25 m <sup>2</sup> .
	c) Rooms not to be occupied by more than 2 adults	No room to be occupied by more than 2 adults.
	d) Adequate bathroom and kitchen facilities	Each student room is provided with en-suite. Each studio room and 6-bed cluster unit includes a kitchenette.
	e) To have boarding manager (if more than 20 lodgers)	The Plan of Management indicates there will be a boarding manager available at all times.
	f) Repealed	N/A
	g) If site zoned for commercial purposes-ground floor not to be used for residential	The ground floor comprises retail and commercial uses only.
	h) At least 1 bicycle and 1 motorcycle parking space per 5 rooms	The proposal include 84 bicycle parking spaces and exceeds the minimum requirement. No motorcycle parking is proposed.
	<b>Clause 30A Character of local area</b>	Consideration whether the design of the development is compatible with the character of the local area.

In light of the assessment detailed in **Section 6** of this report and **Table 6**, it is considered the proposal displays an acceptable level of consistency with the development standards within the ARH SEPP.

### Sydney Development Control Plan 2012

The Department has considered the proposal against the relevant student accommodation controls within the SDCP 2012 at **Table 7**.

**Table 7** | Department's consideration of part 4.4.1 – Boarding house and student accommodation of the SDCP 2012

Section	Control	Department's consideration
<b>4.4.1.1 Subdivision</b>	The subdivision of boarding houses or student accommodation is not permitted	The development does not propose subdivision.
<b>4.4.1.2 Bedrooms</b>	(1) Minimum room sizes: a) 12 m <sup>2</sup> overall room size b) additional 4 m <sup>2</sup> (for additional adult) c) 2.1 m <sup>2</sup> for ensuite d) 0.8 m <sup>2</sup> for any shower in ensuite e) 1.1 m <sup>2</sup> for any laundry f) 2 m <sup>2</sup> for any kitchenette. (2) Each bedroom must have access to natural	a) Bedroom sizes between 12-19 m <sup>2</sup> b) N/A. Only single rooms proposed c) Ensuite areas between 2 - 5 m <sup>2</sup> d) Minimum shower size of 0.9 m <sup>2</sup> e) N/A. No laundries in rooms f) Minimum studio room kitchenettes of 4.2 m <sup>2</sup> .

	light	Achieved.
	Minimum ceiling height of 2.7 m	Min. 2.7 m. The proposal was accompanied with the BCA report, demonstrating compliance with the relevant safety standards.
	(3) Fire safety for Class 3 buildings	Minimum 25 m <sup>2</sup> 6-bed cluster unit communal kitchens. Min. one sink per 6-bed cluster. Min. one stove top per 6-bed cluster.
<b>4.4.1.3</b>	(1) Minimum communal kitchen area of 6.5 m <sup>2</sup> or 1.2 m <sup>2</sup> per resident, whichever is the greater	
<b>Communal kitchen areas</b>	(2) (a) One sink per 6 people	
	(2) (b) One stove top cooker per 6 people and exhaust ventilation	
	(3) Minimum kitchenette furniture sizes.	Capable of achieving.
<b>4.4.1.4</b>	(1) Min. 1.25 m <sup>2</sup> of indoor communal open space per resident in apartments	The proposal provides for a total of 591.5 m <sup>2</sup> of indoor communal open space, which exceeds the minimum requirement.
<b>Communal living areas and open space</b>	(2) Indoor communal living areas to receive 2 hrs of solar access to 50% of area between 9 am-3 pm at midwinter	Min. 2 hours solar access to the east facing window to the level 1 indoor communal open space from 8.30 am and to the north facing windows to the communal open space associated with the cluster rooms in the upper floors. The Department considers this is acceptable as the design has maximised opportunities for indoor solar access within a constrained site, directly south of already developed sites. The proposal provides for a total of 1,203 m <sup>2</sup> of communal open space.
	(3) Min.20 sqm of communal open space	
	(4) Communal outdoor open space is to be:	The proposed outdoor communal open space includes a level 1 podium and roof top space. The roof top space achieves the minimum solar access requirements, is partially protected, includes grassed areas and had communal facilities. The level 1 space is partially protected, includes grassed areas, connects to the indoor spaces, has communal facilities and is suitably screened.
	a) north-facing to receive a minimum 2 hours solar access to at least 50% of the area during 9 am and 3 pm on 21 June	
	b) at ground level	
	c) partial cover from weather	
	d) incorporate soft or porous surfaces for 50% of the area	
	e) connect to communal indoor spaces	
	f) contain communal facilities such as barbecues, seating and pergolas	
	g) screened from adjoining properties and the public	
	(5) 30% of bedrooms (179 rooms) have private open space with minimum 4 m of balcony or terrace area.	The proposed development does not contain any private open space or balconies. As the site is adjoining a main road, it is unlikely these areas would be used. Further, due to the nature of student accommodation, housing individuals, the



<p><b>4.4.1.5</b> <b>Bathroom, laundry and drying facilities</b></p>	<p>(1) Min. one wash basin, toilet and shower for every 10 residents that do not have individual facilities</p> <p>(2) Min. one washing machine and dryer for every 12 residents</p> <p>(3) Drying facilities to be located in communal open space with solar access</p>	<p>shared use of common areas is more likely to encourage students to interact with each other, a more socially desirable outcome. The Department considers private open space in the form of balconies is not necessary or desirable.</p> <p>Each room has an ensuite.</p> <p>11 washers and dryers are provided. Refer to <b>Section 6.4.4.</b></p>
<p><b>4.4.1.6</b> <b>Amenity, safety and privacy</b></p>	<p>(1) Boarding houses are to maintain a high level of resident amenity, safety and privacy</p> <p>(2) Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring</p> <p>(3) The consent authority may request an acoustic report, if there is the potential for significant impacts from noise emissions.</p> <p>(4) Boarding Houses classified as Class 3 by the BCA are to make private contracting arrangements for garbage disposal.</p> <p>(5) An application for a boarding house incorporating 75 or more bedrooms is to be supported by a Traffic Report</p>	<p>The proposed development has demonstrated a high level of residential amenity, safety and privacy as discussed in <b>Section 6.3.</b></p> <p>The application has been accompanied by an acoustic report and traffic report that have been addressed in <b>Section 6.5</b> and <b>6.6.</b></p> <p>The development will be serviced by a private waste contractor.</p> <p>All other impacts have been addressed in <b>Section 6.</b></p>
<p><b>4.4.1.7</b> <b>Plan of Management</b></p>	<p>An 'Plan of Management' is to be submitted to ensure that it operates with minimal impact on adjoining owners and maintains a high level of amenity for residents.</p>	<p>A Plan of Management has been provided, as discussed at <b>Section 6.6.</b></p>

In light of the assessment detailed in **Section 6** of this report and **Table 7**, it is considered that the proposal is consistent with the objectives of the SDCP 2012.

#### **State Environmental Planning Policy (Sydney Harbour Catchment) 2005**

SREP 2005 provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour Catchment area. The proposal is consistent with the relevant Planning Principals of SREP 2005 and would not have any significant adverse impact on the Sydney Harbour Catchment.

#### **Draft Environment State Environmental Planning Policy**

The Explanation of Intended Effect for the Environment SEPP was exhibited until 15 January 2018. The Environment SEPP proposes to simplify the planning controls for the protection and management of the natural environment by consolidating seven existing SEPPs, including the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The relevant matters for consideration and the general provisions relating to Sydney Harbour are proposed to remain in accordance with those in the current SEPP and therefore the proposal would be consistent with the intended effect of the Environment SEPP.

## Redfern-Waterloo Authority Contributions Plan 2006 and Affordable Housing Contributions Plan 2006

The Redfern-Waterloo Authority Contributions Plan 2006 (RWACP) and the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 (RWAHCP), which allows the Minister to impose a condition of consent requiring the payment of development contributions. The site is located within the Redfern-Waterloo precinct and is therefore subject to these Plans.

The required contributions are shown in **Table 8**.

**Table 8** | Relevant development contributions

Contributions plan	Contributions rate	Total
RWACP	2% of the proposed cost of works	$0.02 \times 39,930,000 = \$798,600$
RWAHCP	\$86.88 / m <sup>2</sup>	$\$86.88 \times 6,407 = \$556,640$

The Applicant has submitted an exemption request to the payment under the RWAHCP on the basis that the proposed student accommodation development is a form of affordable housing.

Council considered the proposed use for student housing purposes should not be exempt from payment of affordable housing contributions as it is not consistent with the principles of SEPP 70 for the provision of affordable housing.

INSW requested the Department imposes a condition of consent requiring the payment of the relevant contributions. The request to waive the affordable housing contribution requires evidence to demonstrate that the development is for affordable housing dwelling and the developer is a registered community housing organisation.

The Department considers that student accommodation is not a form of affordable housing as the development will not be managed by an affordable housing provider or the NSW Department of Family and Community Services. Further the development comprises other uses, including retail and commercial and cannot be considered as a development for the 'sole purpose of affordable housing'.

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

## Appendix D – State Environmental Planning Policy No 1 – Development Standards

### Objection: Height – Assessment

The following assessment of the State Environmental Planning Policy No.1 – Development Standards (SEPP 1) Objection applies the principles arising from *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986, unreported) by using the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46 (6 April 2001) and as reiterated in *Wehbe v Pittwater Council* (2007) NSW LEC 827. In applying the principles set out in the Winten case, the SEPP 1 Objection has been considered by reference to the following tests:

#### 1. Is the planning control in question a development standard?

The planning control in question is the height of building restriction in clause 21(1) of Part 5 of Schedule 3 of the State Significant Precincts SEPP (SSP SEPP). The EP&A Act defines a development standard as being a provision by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including requirements or standards in respect of (c) the height of a building. As the height of building restriction is a development standard, any variation of this standard requires a SEPP 1 Objection, as has been prepared in this case.

#### 2. What is the underlying purpose of the standard?

The SSP SEPP does not include specific objectives for the building height development standard. The Department has therefore considered the overall objectives of the Business Zone – Commercial Core zone, as set out in clause 9 of Part 5 of Schedule 3 of the SSP SEPP. The objectives of the zone are as follows:

- a) to facilitate the development of a town centre,
- b) to encourage employment generating activities by providing a wide range of retail, business, office, community and entertainment facilities,
- c) to permit residential development that is compatible with non-residential development,
- d) to maximise public transport patronage and encourage walking and cycling,
- e) to ensure the vitality and safety of the community and public domain,
- f) to ensure buildings achieve design excellence,
- g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.

#### 3. Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in section 1.3 of the Act?

The aim of the Policy in question is set out at clause 3 of SEPP 1, and seeks to provide flexibility in the planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act.

*Wehbe V Pittwater Council* (2007) NSW LEC 827 (21 December 2007) sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states:

*'An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.'*

Accordingly, the following assessment considers the objection made by the Applicant against objectives of the Business Zone – Commercial Centre zone contained under clause 10 of Part 5 of Schedule 3 of the SSP SEPP. The Department considers the proposal satisfies the zone objectives as it:

- will facilitate the development of a town centre with an 18-storey high student accommodation development comprising commercial and retail ground floor uses promoting an active streetscape,
- directly generate employment opportunities through the provision of student accommodation, retail and commercial floor space and indirectly through increasing demand for local retail and services,
- comprises a development that provides residential uses (student accommodation) while still being compatible with non-residential uses given the street-level interface provided by the retail tenancies located on the ground floor,
- is well located in relation to rail and bus transport and is within walking and cycling distance to key education and employment areas (see **Section 6**),
- contributes to the vitality and safety of the public domain through ground floor retail tenancies, ground level glazing, and passive surveillance opportunities from windows (see **Section 6**),
- is considered to achieve design excellence in accordance with the design excellence provisions in the SSP SEPP (see **Section 6**),
- comprises landscaped communal open space areas providing visual and aesthetic values and internal amenity to the future student residents.

Notwithstanding the proposed variation, the Department considers the building height exceedance is acceptable (see **Section 6**) given:

- the building would not have a dominant visual presence from street level, and provides good human scale through the use of a podium with a stepped back tower element above
- the proposal is consistent with the existing streetscape as it provides for a consistent two-storey podium form along the Regent Street and three-storey podium along Marian Street
- the proposed tower element setback would contribute to a consistent streetscape and would create a strong architectural statement
- the overall 18-storey height of the development complies with the development standard.

Furthermore, the Department considers requiring compliance with the height/tower setback development standard would hinder several objectives of the zone, and in particular the objective to encourage complementary employment and residential land uses.

The Department also considers the proposed development would not result in unreasonable overshadowing, view or other amenity impacts to neighbouring residential properties beyond that of a compliant scheme (see **Section 6**).

As a result of this assessment the Department concludes, notwithstanding the non-compliance with the development standard, the proposed development meets the objectives of the zone, without additional adverse impacts beyond that of a compliant proposal.

The Department therefore considers it is both unreasonable and unnecessary for the proposal to comply with the maximum height standards for the zone, given the overall objectives of the zone and underlying objectives of the control continue to be met (see detailed consideration below).

The Land and Environment Court has established it is insufficient merely to rely on absence of environmental harm to sustain an objection under SEPP 1. This position was confirmed in *Wehbe V Pittwater Council*. The

following assessment considers whether the objection demonstrates strict application of the development standard and would hinder the attainment of the objectives of the EP&A Act. Under section 1.3 of the EP&A Act, the following is required of development:

- (i) 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*
- (c) to promote the orderly and economic use and development of land*
- (d) to promote the delivery and maintenance of affordable housing*
- (g) to promote good design and amenity of the built environment.*

The Department considers the proposal would provide for the proper management and development of land within the City of Sydney for the purpose of promoting the social and economic welfare of the community and a better environment. The proposal is consistent with the strategic framework for the site, as set out in the Greater Sydney Region Plan, Eastern City District Plan and within the SSP SEPP. The Department considers the proposal facilitates the orderly and economic redevelopment of the site, providing student housing and employment opportunities, in an existing urban area in close proximity to public transport and the Sydney CBD. The Department further considers the proposed design achieves design excellence thus promoting good design and amenity of the built environment.

The Department concludes, in the circumstances, strict application of the development standard would hinder the attainment of the objectives of the EP&A Act.

#### **4. Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?**

The SEPP 1 Objection states the compliance would be unreasonable and unnecessary in the circumstances of the case for the following reasons:

- the proposal is built to the street edge at the ground plane
- the proposed podium height is entirely consistent with the block edge along Regent Street
- the proposed tower setback is consistent with the setback of the existing Iglu building immediately to the north. By aligning with the existing Iglu building's tower setback, the proposal ensures that a consistent block edge is provided to this street frontage
- the podium height is slightly lower than that of the adjoining 7-9 Gibbons Street, providing for an appropriate transition in height towards the desired two-storey street frontage at Regent Street
- the proposal provides a two-storey street presentation at Regent Street and the rhythm of the shopfronts is continued through vertical articulation, brick materiality and stepping down of the podium height to match the falls in levels on Regent Street from north to south
- street presentation to Marian Street slightly lower than a full three storeys, with a 2-3 storey presentation that provides for an improved transition in scale between Gibbons Street and Regent Street
- the delineation of a separate podium and tower form is clearly articulated through the massing, form and materiality
- surrounding developments have been granted similar variations
- a compliant scheme would not better achieve the objectives of the development standard or result in any better urban design or planning outcome.

The Department's analysis has found notwithstanding the non-compliance with the height development standard, the proposed development achieves the underlying objectives of the standard. Consequently, the Department considers the SEPP 1 Objection has established that compliance with the development standard is

unreasonable and unnecessary in the circumstances and would result in a built form that would be largely consistent with the existing and desired future character of the area, as set out in the SPP SEPP.

## **5. Is the objection well founded?**

The Department considers the SEPP 1 objection provided by the Applicant is well founded on the basis that strict application would hinder the attainment of the objectives of the Act and the proposed development achieves the underlying objectives of the standards, notwithstanding the non-compliance.

Objection: Gross Floor Area – Assessment

The following assessment of the State Environmental Planning Policy No.1 – Development Standards (SEPP 1) Objection applies the principles arising from *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986, unreported) by using the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46 (6 April 2001) and as reiterated in *Wehbe v Pittwater Council* (2007) NSW LEC 827. In applying the principles set out in the Winten case, the SEPP 1 Objection has been considered by reference to the following tests:

### **1. Is the planning control in question a development standard?**

The planning control in question is the gross floor area restriction in clause 21(2) of Part 5 of Schedule 3 of the State Significant Precincts SEPP (SSP SEPP). The EP&A Act defines a development standard as being a provision by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including requirements or standards in respect of (d) the floor space of a building. As the floor space ratio restriction is a development standard, any variation of this standard requires a SEPP 1 Objection, as has been prepared in this case.

### **2. What is the underlying purpose of the standard?**

The SSP SEPP does not include specific objectives for the building height development standard. The Department has therefore considered the overall objectives of the Business Zone – Commercial Core zone, as set out in clause 9 of Part 5 of Schedule 3 of the SSP SEPP. The objectives of the zone are as follows:

- a) *to facilitate the development of a town centre,*
- b) *to encourage employment generating activities by providing a wide range of retail, business, office, community and entertainment facilities,*
- c) *to permit residential development that is compatible with non-residential development,*
- d) *to maximise public transport patronage and encourage walking and cycling,*
- e) *to ensure the vitality and safety of the community and public domain,*
- f) *to ensure buildings achieve design excellence,*
- g) *to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.*

### **3. Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in section 1.3 of the Act?**

The aim of the Policy in question is set out at clause 3 of SEPP 1, and seeks to provide flexibility in the planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act.

*Wehbe V Pittwater Council* (2007) NSW LEC 827 (21 December 2007) sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states:



*'An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.'*

Accordingly, the following assessment considers the objection made by the Applicant against objectives of the Business Zone – Commercial Centre zone contained under clause 10 of Part 5 of Schedule 3 of the SSP SEPP. The Department considers the proposal satisfies the zone objectives as it:

- will facilitate the development of a town centre with an 18-storey high development comprising commercial and retail ground floor promoting an active streetscape,
- directly generate employment opportunities through the provision of retail and commercial floor space and indirectly through increasing demand for local retail and services,
- comprises a development that provides residential uses (student accommodation) while still being compatible with non-residential uses given the street-level interface provided by the retail tenancies located on the ground floor,
- is well located in relation to rail and bus transport and is within walking and cycling distance to key education and employment areas (see **Section 6**),
- contributes to the vitality and safety of the public domain through ground floor retail tenancies, ground level glazing, and passive surveillance opportunities from windows (see **Section 6**),
- is considered to achieve design excellence in accordance with the design excellence provisions in the SSP SEPP (see **Section 6**),
- comprises landscaped communal open space areas providing visual and aesthetic values and internal amenity to the future residents.

Notwithstanding the proposed variation, the Department considers the floor space ratio exceedance (8.97:1 versus 7:1) is acceptable (see **Section 6**) given:

- the building would not have a dominant visual presence and would have an overall volume less than the approved development (SSD 7080) and a more slender tower form
- the proposal is consistent with the streetscape as it provides for a consistent two-storey podium along Regent Street and three-storey podium along Marian Street
- The building exhibits design excellence.

The Department also considers the proposed development would not result in unreasonable overshadowing, view or other amenity impacts to neighbouring residential properties beyond that of a compliant scheme (see **Section 6**).

As a result of this assessment the Department concludes, notwithstanding the non-compliance with the development standard, the proposed development meets the objectives of the zone, without additional adverse impacts beyond that of a compliant proposal.

The Department therefore considers it is both unreasonable and unnecessary for the proposal to comply with the floor space ratio standard for the zone, given the overall objectives of the zone and underlying objectives of the control continue to be met (see detailed consideration below).

The Land and Environment Court has established it is insufficient merely to rely on absence of environmental harm to sustain an objection under SEPP 1. This position was confirmed in *Wehbe V Pittwater Council*. The following assessment considers whether the objection demonstrates strict application of the development

standard and would hinder the attainment of the objectives of the EP&A Act. Under section 1.3 of the EP&A Act, the following is required of development:

- (ii) 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*
- (e) to promote the orderly and economic use and development of land*
- (f) to promote the delivery and maintenance of affordable housing*
- (h) to promote good design and amenity of the built environment.*

The Department considers the proposal would provide for the proper management and development of land within the City of Sydney for the purpose of promoting the social and economic welfare of the community and a better environment. The proposal is consistent with the strategic framework for the site, as set out in the Greater Sydney Region Plan, Eastern City District Plan and within the SSP SEPP. The Department considers the proposal facilitates the orderly and economic redevelopment of the site, providing housing and employment opportunities, in an existing urban area in close proximity to public transport and the Sydney CBD. The Department further considers the proposed design achieves design excellence thus promoting good design and amenity of the built environment.

The Department concludes, in the circumstances, strict application of the development standard would hinder the attainment of the objectives of the EP&A Act.

#### **4. Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?**

The SEPP 1 Objection states the compliance would be unreasonable and unnecessary in the circumstances of the case for the following reasons:

- there is significant demand for student accommodation beyond that anticipated during the establishment of the original planning controls
- the proposed building envelope is generally consistent with the building envelope that was assessed and determined to be acceptable (SSD 7080) with regards to building massing, streetscape, visual privacy, solar access, outlook and design excellence
- the proposal would not give rise to any adverse environmental impacts beyond those which would be considered acceptable for a residential apartment building of lesser GFA but greater building volume
- the proposed development will result in an appropriate built form
- the proposal will result in a significantly reduced intensity of use and impacts (due to shared services, entrances, back-of-house areas and loading dock) than a new stand-alone development
- the proposal is not likely to result in any significant increases in demand for existing or planned social infrastructure due to on-site facilities services and off-site University services
- no car parking is proposed so the development would result in a less intense traffic outcome compared to the approved residential development (SSD 7080).

The Department's analysis has found notwithstanding the non-compliance with the floor space ratio standard, the proposed development achieves the underlying objectives of the standard. Consequently, the Department considers the SEPP 1 Objection has established that compliance with the development standard is unreasonable and unnecessary in the circumstances and would result in a built form that would be largely consistent with the existing and desired future character of the area, as set out in the SPP SEPP.

## **5. Is the objection well founded?**

The Department considers the SEPP 1 objection provided by the Applicant is well founded on the basis that strict application would hinder the attainment of the objectives of the Act and the proposed development achieves the underlying objectives of the standards, notwithstanding the non-compliance.

## Appendix E – Community Views for Draft Notice of Decision

Issue	Consideration
View loss	<ul style="list-style-type: none"><li>• The Department acknowledges the adverse impact on some views from neighbouring buildings as outlined in public submissions, however the proposed development is consistent with the 18-storey maximum height control applying to the site.</li><li>• The preservation of existing views, that were created by similar uplifted controls on these sites, would not allow the proposed development to proceed, despite it being of a scale proportional to existing neighbouring developed sites.</li><li>• The Department also considers protecting existing views would not meet the terms of the broader strategic objectives for this area, including economic growth, job creation and housing supply in areas well serviced by public transport, the CBD and a range of other amenities.</li><li>• The Department concludes the overall view impacts are consistent with tower development within a high-density town centre location and is reasonable as the proposal is consistent with the maximum 18-storey height.</li></ul>
	Recommended Conditions
	<ul style="list-style-type: none"><li>• None required</li></ul>
Overshadowing	<ul style="list-style-type: none"><li>• Council and public submissions raised concerns about overshadowing. The proposal is consistent with the 18-storey height control and is consistent with the form of development envisaged by the planning controls</li><li>• The extent of the overshadowing is generally consistent with a compliant development with the exception of minor additional overshadowing on the eastern side of the proposed tower shadow envelope in the morning</li><li>• The proposal will not result in any additional material overshadowing impacts on the public domain, with overshadowing at 12 noon centred on Regent Street and the footpath</li><li>• Existing solar access currently received by neighbouring sites to the south, south-east and south-west is unsustainable and preserving the existing level of solar access would, in effect, prevent the site from future development and impede the renewal of the Redfern Town Centre as envisaged by the SSP SEPP</li><li>• The proposed tower setback variations would result in negligible additional overshadowing, limited to a narrow area to the side of the complying envelope.</li><li>• A significant portion of the overshadowing generated by the proposed development would be subsumed within shadows generated by current and future surrounding tower developments.</li><li>• The proposal would not preclude solar access being achieved to any future development at 90-102 Regent Street and 11 Gibbons Street given these</li></ul>

sites have street frontages facing east or west respectively.

- The Department concludes the impacts to the solar access on nearby existing and future residential developments are acceptable and consistent with those envisaged by the planning controls for the area.

#### Recommended Conditions

- None required.

#### Building separation/visual privacy

- Council and public submissions raised concerns about the lack of building separation from adjoining developments and visual privacy impacts.
- The Department considers the proposed setbacks/building separation distances are consistent with the street block and the emerging built form character of the Redfern Town Centre and combined with the proposed design treatments, provides an acceptable balance between providing a reasonable level of visual privacy to residents and allowing development to proceed in this high-density area.
- The Department considers further increasing the setbacks of the proposed building to increase overall building separations would not result in any material improvements to visual privacy.
- The Department concludes the proposal is consistent with the established and emerging character, including the building separations, of the Redfern Town Centre and the proposal will not result in any unreasonable visual privacy, overlooking or building separation impacts.

#### Recommended Conditions

- None required.

#### Wind impacts

- Council and public submissions raised concerns about wind impacts at street level, on surrounding buildings and on the outdoor terrace areas.
- The proposed design which includes awnings and tree planting would ensure the proposal would not result in detrimental wind impacts for pedestrians, users of the building or adjoining properties.

#### Recommended Conditions

- Reference design plans in the schedule of drawings.
- Applicant to prepare detailed Landscape Plan in consultation with Council.

#### Noise impacts

- Concerns were raised about potential noise impacts from students in the outdoor terrace areas.
- The Applicant has provided an Operational Management Plan which outlines measures to mitigate noise impacts.
- The Department is satisfied the proposed development would not result in detrimental noise impacts, subject to appropriate management measures and conditions.

#### Recommended Conditions

- Use must be in accordance with Operational Management Plan.
- Use of podium and rooftop terrace areas limited to 7 am and 10 pm Monday to Saturday and 8 am and 9 pm on Sunday.
- Amplified noise prohibited.  
Use of the podium and rooftop terrace areas is limited to residents of the student accommodation building and their guests.

#### Building height

- While concerns were raised about height, the Department notes the height of the proposal is 2.9 m below the approved building and complies with the maximum height control for the site.

#### Recommended Conditions

- Plans referencing the height of the building will be included in the drawing schedule.

#### Floor space ratio

- The Department accepts the proposal exceeds the FSR controls. The SSP SEPP provides the site with a maximum FSR of 7:1. The proposed development comprises 7,377 m<sup>2</sup> of GFA which equates to an FSR of 8.97:1. It represents an additional 1,625 m<sup>2</sup> or +28% variation to the FSR development standard. An updated SEPP 1 objection was received post lodgement of the RTS.
- The Department notes additional floorspace is not attributed to the maximum height of the building, which complies with the 18-storey maximum control and which is 2.9 m below the approved development (SSD 7080). The additional floorspace is attributed to no balconies, common corridors, floorplate design, mezzanines, and back-of-house areas. However, the proposal provides a reduction in overall building volume compared to the approved development.

#### Recommended Conditions

- Restrict the GFA of the building to 7,377 m<sup>2</sup> and require certification

#### Design excellence

- While concerns were raised about design excellence, the design has been reviewed through the SDRP process and the GANSW support the proposed design.
- The Department notes the facades are of a high architectural quality, the development would improve the public domain through footpath widening, its design minimises sunlight and privacy impacts and incorporates sustainable design principles.

#### Recommended Conditions

- Reference detailed plans in the drawing schedule.

#### Impacts on access to William Lane

- Concerns were raised about the impacts of the development on access to William Lane.



- The Department notes the development would utilise the existing loading dock at Iglu 1 and is sufficient to service the proposal subject to the preparation of a Loading and Access Management Plan.

Recommended Conditions

- Prepare a Loading and Access Management Plan endorsed by the Coordinator General, Transport Coordination at Transport for NSW.

Amount of student accommodation in the area

- Concerns were raised about the extent of student accommodation in the area.
- The Department considers the proposal meets the strategic objectives for the area, including more housing and creation of jobs.

Recommended Conditions

- None required.

Affordable housing contributions

- The Applicant submitted an exemption request to the payment under the Redfern Waterloo Affordable Housing Contributions Plan on the basis that the proposed student accommodation development is a form of affordable housing.
- UrbanGrowth NSW Development Corporation (UGDC) requested the Department imposes a condition of consent requiring the payment of the relevant contributions. The request to waive the affordable housing contribution requires evidence to demonstrate that the development is for affordable housing dwelling and the developer is a registered community housing organisation.
- The Department considers that student accommodation is not a form of affordable housing as the development will not be managed by an affordable housing provider or the NSW Department of Family and Community Services. Further the development comprises other uses, including retail and commercial and cannot be considered as a development for the 'sole purpose of affordable housing'.

Recommended Conditions

- The Department recommends affordable housing contributions are imposed as a condition of consent.

Floor to floor heights and accessibility *Assessment*

- Council recommended the floor to floor heights to be increased to 3.1 m to provide for flexibility for future adaption for higher amenity uses and the proposed mezzanine retail and office space are not supported as the upper levels are not accessible.
- The Department considers the floor to floor heights of are capable of accommodating a 2.7 m floor to ceiling height and any future commercial/retail uses and it is not necessary to further increase these

heights.

- The Applicant provided amended plans to provide lift access to the mezzanine levels, accessed through the central lift core.

#### Recommended Conditions

- The development is to be operated in accordance with the Waste Management Plan for the site.

#### End-of-trip facilities

- The RRTS provided plans demonstrating end-of-trip facilities for the retail/commercial bike storage area.
- The Department is satisfied the proposed end-of-trip facilities will adequately cater for the commercial, retail and student accommodation uses at the site.

#### Recommended Conditions

- Reference plans illustrating end-of-trip facilities in drawing schedule. No conditions required.

#### Waste storage

- The proposal provides for separate waste facilities in separate rooms for the retail and student accommodation. Each room will accommodate six 660 litre mobile garbage bins and two 660 litre mobile recyclable garbage bins.
- Waste is to be collected by a private waste contractor from William Lane via loading facilities from the adjoining property.
- The Department considers the site has sufficient space to accommodate the future student accommodation development and is satisfied the Waste Management Plan would appropriately manage the handling of waste on the site.

#### Recommended Conditions

- The development is to be operated in accordance with the Waste Management Plan for the site.

#### Laundry facilities

- The proposal includes the provision for 5 washing machines (ratio of 1 per 53 students) and 6 dryers (ratio of 1 per 44 students), less than the required under the SDCP 2012.
- The Department considers the proposed number of washing and drying machines will provide for adequate laundry facilities for future residents as the proposal is consistent with the washing/drying machine provision ratio of other nearby student accommodation developments, and the provision is based on the operator's experience of day-to-day laundry demands from students within its existing student accommodation developments. The use of laundry facilities can also be suitably scheduled through the provision of a mobile phone application.

#### Recommended Conditions

- None required.

## BASIX

- A BASIX certificate was submitted with the RRTS, demonstrating the proposal achieves compliance with the BASIX water, energy and thermal comfort requirements.

### Recommended Conditions:

- The proposal is to demonstrate compliance with the BASIX certificate.

## **Appendix F – Recommended instrument of consent**

The recommended conditions of consent can be found on the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9275](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9275)

