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Dear Andy

**Response to Submissions – Student Accommodation, 13-23 Gibbons Street, Redfern (SSD 9194)**

Thank you for your correspondence dated 26 November 2019, informing the City of Sydney (the City) that the applicant has prepared a Response to Submissions (RTS) to the State Significant Development for student accommodation at 13-23 Gibbons Street, Redfern.

The City has reviewed the RTS and supplementary information submitted. The RTS has not alleviated the significant issues raised regarding the original application. The matters outlined in the City's objection letter dated 12 March 2019 have not been addressed adequately and remain outstanding. Therefore, the City ***maintains our objection*** to the proposed development and following additional issues are raised:

**1. SEPP 1 Objection – Height and Floor Space**

In accordance with *State Environmental Planning Policy (State Significant Precincts) 2005* (SEPP SSP), the site is located in the Business Zone – Commercial Core zone and prescribes a maximum height of 18 storeys and a floor space ratio (FSR) of 7:1.

The amended scheme presented in the RTS proposes a height of 18 storeys with a new mezzanine level and a FSR of 7.85:1. The RTS suggests that the site is eligible for bonus floor space by virtue of its location within an 'equivalent' zone to those listed under Division 3 of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (SEPP ARH).

The City maintains the view that the provisions and floor space bonuses of SEPP ARH are not applicable for the development. As previously stated in our correspondence dated 12 March 2019, the site is located in the Business Zone - Commercial Core which is not a land use that is listed under Clause 26 of State Environmental Planning Policy (Affordable Rental Housing) 2009.

In light of the above, the proposal is an overdevelopment of the site and as detailed elsewhere in this letter, the proposal results in negative environmental impacts. The Department cannot be satisfied that the applicant's written request has adequately addressed the provisions of SEPP 1. The proposal is not in the public interest and accordingly, the submitted SEPP 1 Objection for the exceedance to the FSR control is not well founded.

Further, the amended scheme presents a further breach to the principal development standards. Whilst SEPP SSP does not define the term 'mezzanine', The Standard Instrument defines 'mezzanine' as "an intermediate floor within a room". The proposed mezzanine is not an intermediate floor within the games and common room on the ground floor but rather a storey that provides additional rooms concealed within the double height volume of the ground floor. As such, the proposal presents a 19 storey development and is inconsistent with the 18 storey height control. A SEPP 1 Objection has not been submitted to justify the contravention.

## **2. Urban Design**

### **2.1. Built Form and Height**

It is reiterated that significant consideration should be made on achieving an appropriate transition between the built form of the approved 18 storey development to the north (11 Gibbons Street) and the existing 5 storey development to the south at Margaret Street. This can be alleviated through improving the building expression of the development, as detailed below.

Having regard to the mezzanine level mentioned above, the proposal presents a technical street frontage height of 4 storeys and is inconsistent with the *Section 4.2 – Design Principles: High Rise Development Portions* of the Redfern Centre Urban Design Guidelines (RCUDG). The proposed height of 14.85m for the podium is approximately double that anticipated by the RCUDG, which prescribes a "strong base of 2-3 storey or 6.5-7.5m that responds to the human scale". The RCUDG assumes that the podiums are built to the boundaries and only setback to Gibbons and Marion Streets and William Lane to provide footpath widening. However, the proposed podium does not extend to the Margaret Street boundary. There is a minimum 870mm setback to contribute more space to the footpath, but not a footpath widening, with a varying setback to Margaret Street. This approach of not building parallel to Margaret Street fails to reinforce the street alignment and the tower, in part, almost comes to ground. This is in conflict with the desire create a human scale.

To improve the relationship of the proposed built form, the podium should be designed to be a maximum 3 storeys and match the height of the approved podium of 11 Gibbons Street. This is in keeping with the RCUDG, which requires development to respond to the parapet and raised floor levels of existing buildings to create symmetry and consistency across streets and laneways. Matching the parapet height to the approved height of the podium of 11 Gibbon Street would reinforce the street wall that is eroded by the 6m setback to the southern boundary of 11 Gibbons Street.

### **2.2. Setbacks**

The inability for the Proposal to deliver upper level setbacks in accordance with RCUDG is related to the insufficient site size. The minimum site area for high rise development within the RWA lands is 1400m<sup>2</sup>. At a site area of 385sqm, only 15sqm under the threshold, the site area is less than the prescribed site area and is more challenging.

The Proposal complies with the street upper level setbacks of 4m to Gibbons and Margaret Street but is unable to provide the building separation of 18m between non-habitable rooms for buildings in excess of 8 storeys in the RCUDG. The Guidelines also indicate that each development site is to provide a minimum of 50% of the required separation distance as measured from the boundary.

The required tower setback from the northern boundary is 9m. The proposed ranges from 4m to 6m and does not comply. Cumulatively, between 11 Gibbons Street and the subject site, the separation is approximately 12m. The majority of the proposed northern elevation is blank except for one of the middle rooms aligned with the core. There is little visual privacy created from the insufficient side setback.

The intention of RCUDG in its building separation controls is to ensure a spatial relationship between towers is provided, where there is appropriate distance between the buildings to allow for view sharing and to create a more slender tower above the podium. There is a minor non-compliance to the 9m upper level setback from the eastern boundary, however, this results in an insufficient upper level setback to the northern boundary. Generally, the upper level setback is greater or equal to 4m to the southern boundary, however, it is less than that from the podium. This will create greater wind impacts. A minor 2m setback from the street frontage height is provided along Margaret Street. In this manner, the tower almost comes to ground.

The non-compliances with the setback controls is unacceptable. It is recommended that the podium extends to the Margaret Street boundary, with a 4m upper level setback to the tower. This will reinforce the street wall and provide a transition to the adjoining areas to the south. Having regard to the exceedance in the FSR control, there is no reason why the proposal cannot comply with the tower footprint created by applying the upper level setbacks.

### 2.3. Building expression

It is acknowledged that the development has been amended to incorporate an increased suite of materials and finishes as previously recommended in our objection letter. However, the development lacks articulation and the amended scheme presents additional issues of perceived building bulk as a result of the proposed building expression.

Having regard to the other matters detailed above, further consideration should be made to improving the articulation of the building. This can be achieved through meaningful changes to certain façade elements to better integrate with neighbouring buildings and surrounding context.

The City provides an extract of the east elevation (Gibbons Street) superimposed with the approved elevation of 11 Gibbons Street in **Attachment A**. To summarise, the building expression of the tower can be improved through the simplification of the horizontal elements into 3 evenly distributed parts.

It is recommended that the shadow line between the tower and podium be maintained to break up the mass of the overall building. It is also recommended that the proposed podium be amended to match the podium height of 11 Gibbons Street and 'step up' to the corner of Gibbons Street and 'step down' along Margaret Street to correlate with the 2 to 3 storey scale to the south of the site. To this effect, the building expressions would be greatly improved and would positively respond to its context.

Further, the RTS includes reference to "patterned precast panels". However, there is no sample of this indicated in the materials board. To understand the proposed expression of the building, it is recommended that an example or physical sample of the precast pattern be provided. Clarification is also sought on whether there is another indicative plan that is missing from the RTS set of architectural drawings that illustrate the different façade treatments for each elevation.

## **2.4. Signage**

The proposed top of building signage creates bulk and visual clutter. It is out of character with the adjacent low scale area to the south, nor are there any projecting wall signs at the top of the building within the Redfern-Waterloo Authority land to the north. A smaller projecting wall sign is proposed above the awning on Gibbons Street. The sign is not supported and would be more in keeping with signage in this area as a wall sign.

## **3. Heritage**

The site is located within close proximity to 'St Luke's Presbyterian Church', which is identified as a heritage item of local significance. The RTS presents a minor and tokenistic increase to the setback of the proposed development from the church. The City reiterates that the building footprint, notably the south-eastern corner, should be consistent with the footprint of the existing building so as to increase building separation and visual connectivity to the church and therefore, maintain a meaningful separation between the church and proposed development. By incorporating the recommendations detailed in the Building Expression discussion above, the development would have an improved relationship with the heritage item.

## **4. Active frontage**

The RCUDG provides principles for ground level activation. These include incorporating active uses to the ground floor and minimising blank walls of all new developments onto public streets, public spaces and pedestrian links and laneways as well as including retail/commercial tenancies and building entries leading directly to the street.

The subject site has two street frontages to Gibbons and Margaret Street and a proposed frontage to the through-site link, and as such, presents an appropriate opportunity to activate the site on three frontages. However, the proposed retail tenancy being located on the north-western corner of the ground floor does very little in encouraging an active street frontage. The remainder of the ground floor is occupied by common room spaces of the boarding house, which do not have a relationship with the surrounding streets. Further, the ground floor southern façade is predominately blank resulting from the use of vertical aluminium fins that screen the common rooms. The awning over the entry on Gibbons Street does not offer weather protection due to its height. An awning over the entry is needed to protect pedestrians from downdrafts and rain. There is an awning proposed on the south eastern corner which partially hangs over the footpath and the planted area. This offers no continuous protection to pedestrians.

Consideration should be made for retail uses and the boarding house lobby to be located on the ground level. The common rooms should be relocated to the first storey to therefore eliminate the need for screens for privacy. Shopfronts should be located at street level with individual entries and a continuous awning be implemented to genuinely provide weather protection to pedestrians to both the through site link and Margaret Street.

## **5. Through Site Link (TSL)**

In principal, TSL is supported. However as proposed, the design and form is unresolved and underdeveloped. The geometry of the eastern part of the site could be reconfigured to physically and visually connect with William Lane across Margaret Street. The location of the stairs to the common rooms could result in pedestrian and vehicular conflict. All seating and pedestrian amenity has been removed in the RTS. Instead, the amended architectural plans prioritise vehicular access, back of house uses, flooding and drainage measures within the TSL.

The public domain in the TSL is designed as a heavy duty paved road for servicing the substations and for lifting and movement of equipment associated with the transformer and building. The lane is edged by a 800mm wide grated flood drain on the eastern boundary. There are no deep soil areas included for medium to large tree planting.

The TSL is an opportunity to introduce landscaping and an active frontage. As proposed, the TSL is not pedestrian orientated with a minimal design and does not address the issues previously raised.

## **6. Wind Impacts**

The RTS and Environmental Wind Tunnel Test Report, prepared by SLR, provides wind tunnel test results for the amended development building proposal only. The testing omitted all wind mitigation recommendations such as landscaping, street and podium trees, overhead pergolas and awnings and perimeter windbreaks.

The Report relies on the existing mature street trees on Gibbons Street to ameliorate significant wind speeds. However, to facilitate construction, all existing street trees on Gibbons Street are proposed for removal and replanted with new trees.

Further, the Report suggests that the wind conditions along Margaret Street are generally worse for a compliant scheme. This is unexpected as the compliant scheme has a 4m upper level setback from the street frontage height whilst the proposed development presents, in part, a 1.5m setback from the street frontage height to Margaret Street. There is a correlation with setbacks to towers and wind impacts at ground level. Typically, the greater the tower setback from the podium, the more effective the amelioration of the wind at ground level. It is expected that a podium disrupts the down draft and disperses the wind before it impacts the ground level.

Having regard to the above, the Report recommendations are not adequately justified and flawed. It is recommended that the Department commission a peer review of the Wind Report and the wind impacts. The revised wind analysis remains insufficient and the considerable wind impacts resulted from the proposal is unacceptable and the City's initial concerns remain outstanding.

## **7. Overshadowing**

The RTS and the submitted shadow diagrams reason that the additional overshadowing resulted from the proposed development is acceptable given the extent of impact is relative to the shadows cast by a compliant envelope.

Notwithstanding the above and discussed elsewhere in this report, the proposal results in other negative environmental impacts. Therefore, the justification for the additional overshadowing is inadequate and to permit the development and other associated environmental impacts is unacceptable.

## **8. Public art**

Whilst the RTS acknowledges that a condition of consent is accepted for a detailed public art plan to be submitted prior to issue of a Construction Certificate, The City encourages that the future public art plan provide substantial detail of the artwork's relationship with its context and address how wind impacts in the TSL would impact the long term viability of the proposed suspended artwork in this location as well as the safety of pedestrians who traverse underneath. The final detailed public art plan must be in accordance with the City of Sydney Guidelines for Public Art in Private Developments.

## 9. Trees and Landscaping

The RTS demonstrates little change to the landscape design of the development and remains unsatisfactory. The amended landscape design deletes design elements, rather than resolve key issues. It does not demonstrate landscape design excellence, provide acceptable amenity at ground and podium levels and does not adequately mitigate significant wind impacts, which overall, would affect the success of any proposed landscaping of the development.

### 9.1. Tree Removal and Tree Planting

The Arboricultural Impact Assessment Report, prepared by Urban Arbor, has been reviewed and specifies that a total of 19 trees are to be removed. This includes the removal of all 16 trees within the site and 3 street trees on Gibbons Street. The Report has recommended the removal of the 3 street trees due to their poor form from pruning practices by the overhead power lines company. The street tree canopies are biased towards the building and will conflict with the future awning on Gibbons Street.

However, the street trees are Council owned and managed assets. Whilst the trees have been poorly pruned in the past, the trees are young, healthy and semi mature vigorous trees. As such, tree removal of the street trees is not supported. It is noted that 3 replacement trees on Gibbons Street as well as 2 replacement trees on Margaret Street are proposed to be planted. Notwithstanding this, the existing street trees on Gibbons Street must be retained.

The TSL will be considerably shaded throughout the day with likely wind tunnelling effects. The 4 *hymenosporum falvum* (native frangipani) that are proposed to be planted along the TSL are inappropriate tree species for this location and environmental conditions. Tree plantings within the TSL should be large canopy trees that provide amenity and contribute to the local area.

Landscaping of the site is minimal and does not achieve the City's 15% canopy coverage requirement under Sydney DCP 2012. Any design elements including awnings, street furniture and footpath upgrades within the public domain must ensure appropriate setbacks are provided from existing trees to allow maturity of the trees to be achieved.

Tree removal must be carried out by a qualified arborist (AQF Level 3 Arboriculture) and must be in accordance with AS 4373-2007 – Pruning of Amenity Trees. Tree planting must be in accordance with the City of Sydney Street Tree Master Plan 2012.

### 9.2. Landscaping on Level 4 Common Open Space

There are 1.8m high brick and glass walls and barriers to the terrace to ameliorate high wind speeds, however, these screens are not shown on the amended architectural plans.

The landscape plans describe the intended level of amenity for the communal open space with BBQ area, communal dinning, seating, viewing and dwelling spaces. However, the wind report test results (senor locations 26-30) show that no sensor location meets the required 10 m/s criterion dining and sitting criterion.

The only areas that achieve the standing /window shopping level of 13m/s criterion are in the south western edge of the terrace nominated for a BBQ structure. Several sensor locations exceed the 13 m/s criterion.

The Level 4 proposal is reliant on raised planters with 16 small trees to the north and southern edges of the terrace that sit outside 1.8m high brick/glass walls that will be inaccessible for maintenance. There is no strategy for alternate wind mitigation should the trees fail.

Overall, the Level 4 landscaping is unresolved and unviable. The terrace would be predominately covered, enclosed and would not be comfortable in high winds for dwelling, sitting or short periods.

The north-western edge of the open terrace exceeds walking criteria and therefore unlikely to be used. The tower creates significant wind impacts for the only common open space within the development proposal. The design should not rely on the use of trees or landscaping for wind mitigation.

## **10. Health and Contamination**

The City recommended that the submitted Contamination Assessment Detailed Site Investigation (DESI), prepared by Douglas Partners, be peer reviewed by a NSW EPA Accredited Site Auditor and a Section A Site Audit Statement be submitted to certify that the site is suitable for the proposed use.

Whilst the RTS outlines that there is no reasonable basis to require the DESI to be peer reviewed, the proposed use is for a form of residential accommodation that is identified as a sensitive land use under Clause 7 of *State Environmental Planning Policy No. 55 – Remediation of Land*. The Clause mandates that the consent authority must not consent to the carrying out of any development unless it is satisfied that the land is suitable for the proposed development. Accordingly, it is appropriate to require an accredited Site Auditor to peer review the DESI to ascertain that the land is suitable for development so as to satisfy the provisions of the SEPP.

## **11. Public Domain**

The proposed widening of the footpath on Margaret Street from 1.7m to 2.6m is supported. The difference of 0.9m should remain in private ownership, which could be delineated by a control joint in the concrete paving. Further, the footpath widening could allow for one additional street tree to be provided. As such, it is recommended that additional planting be explored on Margaret Street.

Additionally, the RTS does not alter the previously recommended conditions associated with storm water and flood planning.

## **12. Environmentally Sustainable Development (ESD)**

The amended ESD Report, prepared by SLR, submitted as part of the RTS does not improve or demonstrate the sustainability requirements outlined in the SEARs. The Report conflicts with the BASIX commitments in terms of natural ventilation, shower ratings, solar energy. The architectural plans also lack any reference to the BASIX commitments as required by SEPP (Building Sustainability Index: BASIX) 2004. The Report refers to the Green Star and Well Building Standard rating schemes, but neither are proposed for the development.

Overall, the RTS fails to demonstrate any genuine attempt to deliver a reasonable environmental performance building. A significant commitment or at a minimum, evidence of some environmental performance and sustainability is required.

### 13. Amenity and Bedroom Size

The RTS states that smaller room sizes are offset by larger communal living spaces. It also states that students have different needs to typical residents in a boarding house, they usually reside for shorter periods of time and typically spend less time alone in their rooms and more time socialising and using common areas. While the communal space is important for socialisation, the bedroom size should facilitate space and room to pursue study, which should be provided within their room, rather than at a local café, as suggested in the RTS. The insufficient amenity provided by the wind affected common areas and confined configuration of bedrooms do not adequately justify a dispensation for the substandard amenity within the bedrooms.

### 14. CPTED and Boarding House Operation

The CPTED Report, prepared by Elton Consulting, has been reviewed. The Report states that there will be an onsite duty manager and a night manager. The City recommends that procedures for dealing with emergencies and anti-social behaviour be developed for the boarding house. A Plan of Management (POM) is referenced in the Report, however is not submitted with the RTS. The submission of this document is imperative to understand the management and operation of the proposed boarding house use, particularly with respect to security, access control and site management.

Collectively, the RTS and supporting documentation does not alleviate the City's concerns. The overdevelopment of the site results in unacceptable and unjustified environmental impacts. The proposal must undergo further design refinement to improve the building expression of the development in terms of the tower and podium as well as improve the address and activation on the ground floor, public domain and through site link. The proposal does not satisfy the objectives the Business Zone – Commercial Core zone in that the building does not achieve design excellence or encourage the vitality and safety of the community and the public domain. The SEPP 1 Objection for the FSR exceedance is therefore, not well founded. The RTS presents an unjustified breach to the 18 storeys height control and accordingly, consent cannot be granted for the development.

Should you wish to speak with a Council officer about the above, please contact Reinah Urqueza, Specialist Planner, on 9265 9333 or at [rurqueza@cityofsydney.nsw.gov.au](mailto:rurqueza@cityofsydney.nsw.gov.au).

Yours sincerely,



**Andrew Thomas**  
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 City Planning | Development | Transport

**Attachment A – City of Sydney suggested improvements to building expression**



