

25 November 2015

Our Ref: R/2015/19/A

Ben Lusher, Acting Director, Key Site Assessments
NSW Department of Planning and Environment
22-33 Bridge Street
Sydney NSW 2000

Attention: Simon Truong
Simon.Truong@planning.nsw.gov.au

Dear Simon,

RE: SSD 7064, Mixed Use Hotel, Residential and Retail Development, 175-177 Cleveland Street and 1-5 Woodburn Street, Redfern

The City objects to this proposal. City staff have reviewed the application and have identified strong concerns with selected aspects of the proposal. On that basis, the following points are raised by the City for your consideration with detailed information contained within the following sections:

- Contamination;
- Non-compliance with key development standards (proposal not supported);
- Building and urban design (Non-compliance with key ADG controls, including natural cross ventilation);
- Landscaping and open space;
- Noise and Vibration; and
- Waste storage and collection.

Contamination

The site requires remediation, however a Remedial Action Plan (RAP) has not been submitted. It is recommended that a RAP should be submitted that has been prepared by a suitably qualified and competent environmental consultant in accordance with the NSW Government Office of Environment and Heritage, Guidelines for Consultants Reporting on Contaminated Sites and Planning NSW Guidelines "Managing Land Contamination Planning Guidelines" and Councils Development Control Plan "Contaminated Land"

Note: The RAP must be reviewed by a NSW EPA Accredited Site Auditor and include a Section B Site Audit Statement or letter of interim advice issued by the Auditor certifying that the RAP is practical and the site will be suitable after remediation for the proposed use before any consent is granted.

The RAP should be referred to the City for further comment prior to determination.

Non-compliance with key development standards

The development site is subject to the provisions of State Environmental Planning Policy (Major Development) 2005. The site is located within the Business Zone – Mixed Use. The maximum permissible FSR is 3:1 and the maximum permissible FSR for the residential component within that is 1:1 (i.e. for a mixed development such as this, up to 1:1 residential and 2:1 commercial is permissible). The aim of this type of control is to encourage commercial and mixed use developments and limit residential development in the mixed use zone. The SEPP also prescribes a maximum height control of five (5) storeys.

All sites zoned Business - Mixed Use are subject to FSR controls that limit the proportion of residential use within the site. Most sites are limited to no more than half of the FSR being residential, however this site and others in close proximity to Cleveland Street are limited to no more than one third.

The site area is 1,062.1m², and therefore a maximum GFA of 3,186.3m² is permissible. This proposal seeks development consent for a proposal with 4,102.49m² and an FSR of 3.87:1. In real terms this represents additional 916.19m² of floor space above the maximum permissible, and requires a variation of 28.75%.

The proposal also seeks development consent for a height of six (6) stories, plus an attic level. However, the attic is designed in a way that the building reads as seven (7) stories, thereby exceeding the height control by two storeys. This equates to a variation of 40%.

This proposal seeks significant departures from both the FSR and height development standards, however the SEPP 1 objection does not provide adequate justification for the variations. Most relevantly:

- 1) The FSR control is structured in such a way to encourage commercial development over residential development, and it is therefore reasonable to assume that this is an underlying purpose of the standard. As the residential proportion is further restricted on sites in close proximity to Cleveland Street, which is a very busy road in this location, this is likely to be due to residential amenity concerns.

As well as exceeding the maximum commercial FSR, this application also exceeds the maximum residential FSR, thereby failing to limit residential development within the Business – Mixed Use zone, and contravening the underlying purpose of the development standard.

- 2) The objection fails to demonstrate that compliance with the development standards would hinder the development from attaining the relevant objects specified in Clause 5 of the EP & A Act 1979, which are to encourage:
 - a. the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment, and
 - b. the promotion and co-ordination of the orderly and economic use and development of land.

The applicable controls are demonstrably sufficient to achieve these objectives as evidenced by State Significant Development Application 6371, which was approved by the Department on 16 May 2012. That approval granted development consent for student housing, and according to the submitted documentation complies with both the FSR and Height controls.

- 3) The objection fails to demonstrate that the compliance with the controls is unnecessary or unreasonable in the circumstances of the case. More specifically:
 - a. it has been demonstrated that a compliant scheme is achievable on the site (SSD 6371);
 - b. there is no planning purpose served by supporting the variation, as the development does not result in an improved outcome that would not otherwise be achieved by adhering to the control, in fact strong concerns are raised with the quality of the design and the amenity it provides (see below).
- 4) In light of all of the above, the SEPP 1 objections are not well founded and are not supported.

In light of the above, City staff recommend that the application is amended in order to comply with the Height and FSR development standards. At a minimum, the requirement to provide no more than a maximum residential FSR of 1:1 should be enforced.

Building and urban design

City Staff have identified a number of concerns with the design in its current format. While the proposed uses are supported, the decision to separate them vertically has resulted in amenity issues, particularly for the residential component. City staff are of the view that a better strategy may have been to separate the uses horizontally, and locate the apartments on top of the hotel. There are also many non-compliances with the ADG that are required to be resolved before this proposal is acceptable for approval. To assist the Department our concerns are separated in two parts, firstly the hotel and secondly the residential apartments.

Hotel

Visual Privacy

There are two hotel rooms proposed on Ground Level/Level 1 on Eveleigh Street that directly abut the street boundary. The rooms suffer from poor visual privacy as the windows have sill heights that could allow a passer-by to look in. They also provide poor acoustic privacy as they are located in between the carpark entry and hotel lobby.

To address these issues the City recommends that the applicant should consider providing retail uses on the ground floor instead of hotel rooms. Alternatively:

- a deep window recess could be considered to prevent looking in; or
- a landscape setback could be provided.

If the hotel rooms were to be approved, the consent authority should ensure the proposed windows have thick glass to ensure acoustic privacy.

Hotel rooms fronting Cleveland Street on Level 2 also suffer from poor visual privacy. The elevations show a curtain wall to these rooms, but because of the topography of Cleveland Street these rooms are highly visible at street level from both cars and pedestrians.

The City recommends that the applicant should consider internally adjustable louvre blinds for these rooms. If curtains or blinds are used their appearance from the public domain should be considered as part of the building expression.

Boundary encroachment

A blade wall is proposed on the Eveleigh Street frontage that extends approximately 600mm over the boundary, leaving only 600mm for the footpath. This is an unacceptable intrusion into an already narrow footpath and City staff recommend it should be deleted. We also note that owner's consent from the City, as owner of the footpath, has not been provided.

Residential apartments

Site planning

The proposal has windows from the hotel facing the gallery access of the apartments, which are separated by a 7m wide 'light court'. According to the Apartment Design Guide (ADG), an 18m wide light well is required for a building of this height. The proposal attempts to mitigate the insufficient separation between the hotel and the apartments by providing screening to the hotel rooms, however the ADG states that building separation is also required to ensure an appropriately scaled relationship between buildings.

There is also a 4.5m rear setback to the southern part of the site from the existing apartments at 6-8 Eveleigh Street. The ADG recommends a 9m setback to rear and side boundaries for habitable rooms and 4.5m to non-habitable rooms. At ground level, the bedroom window faces the rear boundary and above this the bedroom has an angled window to try and overcome the insufficient setback from the rear boundary. This strategy of an angled window is inconsistent with the ADG, which requires that: *'A window should be visible from any point in a habitable room.'*

To address these issues the City recommends that the applicant should consider making the double loaded corridor arrangement to Eveleigh Street a single loaded corridor and relocate the double loaded corridor to Cleveland Street. This would ensure sufficient separation is provided between the uses assuming that there will be corridors of each of the uses opposite each other. It is estimated that the above recommendation would result in the loss of one hotel room per floor on Levels 2-6. In addition, the setback from 2-6 Eveleigh Street should be increased to 9m and privacy improved by provided an area of deep soil suitable for tree planting. The above recommendations are illustrated in Figure 1 below.

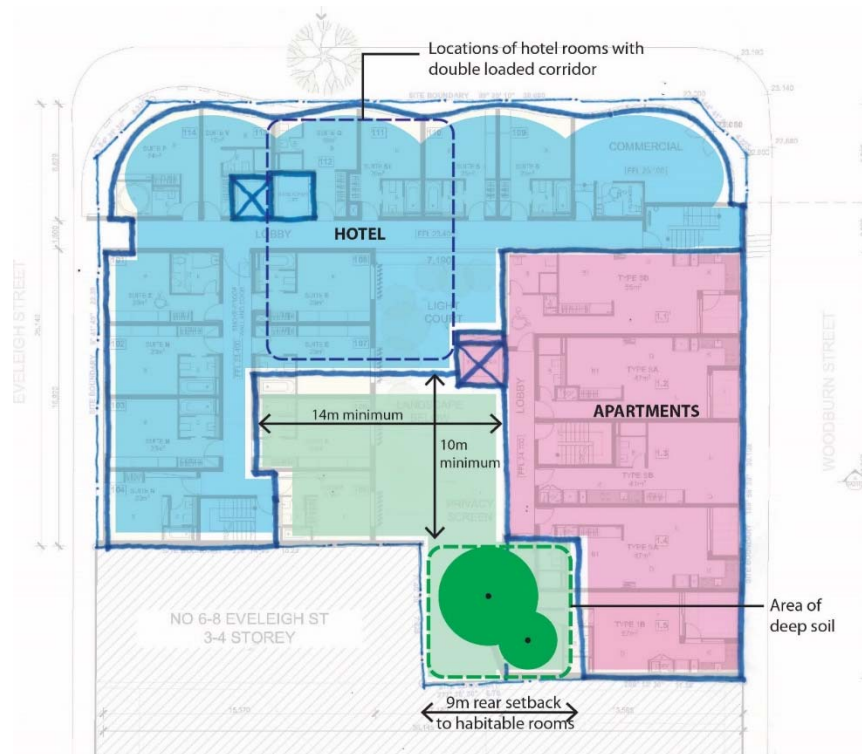


Figure 1: Building envelope recommendation

Natural Cross ventilation

The proposal claims 100% natural cross ventilation, which is incorrect for the following reasons:

- The proposal includes predominantly single sided apartments and therefore, at best, any cross ventilation will be in one direction.
- Apartment type 1B apartment is 'cross ventilating' to effectively a 4.5m wide light well when the adjacent built form is taken into consideration. Due to this condition, none of the apartments satisfy the definitions in the ADG for cross ventilated apartments.
- The proposal relies on ventilation grills above the doors for natural ventilation, however no dimensions have been provided demonstrating the effectiveness of this approach.
- It is unclear from the drawings the type of windows that are proposed and what the effective openable area is.

More information is required to accurately demonstrate the level of compliance with the natural cross ventilation requirements of the ADG.

Apartment size and layout

The ADG states that one of the ways of ensuring that environmental performance of an apartment is maximised is to ensure that: "*habitable room depths are limited to a maximum of 2.5 x the ceiling height.*" Assuming that a floor to ceiling height of 2.7m is achieved within the proposed floor to floor height of 3.05m, this results in a maximum apartment depth of 6.75m to the back of the studio (not including the bathroom). This proposal has a maximum habitable room depth of almost 10m for studio apartments.

In order to comply with the ADG it is recommended that the studio apartments should be shallower and potentially wider to maintain the proposed apartment sizes.

Floor to ceiling heights

The City is of the view that floor to floor heights should be 3.1m in order to future proof the 2.7m floor to ceiling heights for habitable rooms. This is implied in the ADG. Although it is possible to achieve 2.7m within a floor to floor height of 3.05m (and further concerns in this regard are raised below), it requires careful co-ordination of services, stacking of wet areas, and ensuring that there are no balconies above or below habitable rooms.

The consent authority should carefully consider the likelihood of 2.7m floor to ceiling heights being achieved to prevent future modifications to increase the floor to floor heights and therefore the overall height of the building in order to provide necessary services.

Unit mix

The City requires developments with more than 20 dwellings to provide a mix of dwelling types. This proposal only provides for studios and 1 bedroom apartments, and of this 62% of the dwellings are studios. In order to assist in achieving the objective of catering for the needs of the existing and future resident population, encouraging a diverse population, and achieving social diversity, it is recommended that the application be amended to provide a mix of dwellings consistent with the following percentage mix:

- (a) Studio: 5 - 10%;
- (b) 1 bedroom: 10 – 30%
- (c) 2 bedroom: 40 – 75%; and
- (d) 3+ bedroom: 10 - 100%

Private open space

The ADG requires all apartments to have primary balconies, yet on Levels 2-5 there is one apartment per floor without a primary balcony. The ADG also specifically addresses ground level apartments with regards to private open space as follows: *“For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m”*. Compliance with this requirement is strongly encouraged on this site, as applying this to the ground level apartments would help provide privacy and security to the ground level apartments on Woodburn Street. Concerns regarding the interface of the development with Woodburn Street are discussed in further detail below.

The City recommends that the design should be amended to ensure all apartments have a primary balcony in accordance with the ADG.

Deep soil

No deep soil is provided, yet the ADG requires 7% of the site area for deep soil. In this instance 74m² is required and should be provided. If provided in

the location shown in Figure 1 above, this could be used to plant a mature tree, which would provide screening and outlook for the benefit of future residents.

Equitable access

The residential lobby is located on Woodburn Street, however, access on the Woodburn Street footpath is impeded by five stairs within the footpath adjacent to the site as it leads to the lobby from Cleveland Street (refer to Figure 2). Concern is raised that approval of the Woodburn Street lobby will result in people who are physically unable to use the stairs, such as wheelchair users, having to resort to either using the road carriageway to gain graded access, or to cross to the footpath on the other side of Woodburn Street and cross back to gain entry to the lobby. In order to address this issue it is recommended that the building is redesigned to provide residential access from Cleveland Street.



Figure 2: Stair located in the Woodburn Street footway

In addition it is noted that the location of the stair in the footpath coincides with the location of the fire stair egress to the street. This results in a balustrade being required at the bottom of the stair to prevent people from falling onto the stair in the footway. The design would be significantly improved by re-locating the fire stair to avoid an interface with the stair in the footpath altogether.

Ground level apartments on Woodburn Street

There are no individual direct entries to the ground level apartments, which is inconsistent with the ADG. The presentation of the ground level apartments respond defensively to the existing context, which seems to arise from the strategy of building to the street boundary, combined with most of the ground level apartments being small studio apartments.

As there is no building setback there is a 2m high blank wall proposed at the southern end of the building along Woodburn Street. There are strong concerns that these ground level apartments will have security bars, especially Apartment G.1 as this apartment is located below the footpath level. The location of that apartment also results in the kitchen window being low in relation to the footpath which provides poor visual privacy.

Typically, the proposed ground floor apartments provide a small re-entrant balcony and a kitchen addressing the street. In order to ensure that the environmental performance of the apartment is maximised, the ADG recommends that: *'All living areas and bedrooms should be located on the external face of the building'*. Considering the nature of Woodburn Street, the strategy of locating the kitchen to the street at ground level does provide a buffer between the street and living areas, however, this is not as effective as a building setback.

The footpaths along Woodburn Street are narrow at 1.2m wide, and along the eastern side of the street the footpath 'runs out' forcing pedestrians to walk adjacent to the proposed building. Due to the narrow footpaths pedestrians will pass close to the fronts of the ground level apartments, reducing privacy to the ground level where all apartments have their primary living space at ground level.

To mitigate the privacy issues identified above, and to improve the safety and security of both Woodburn Street and the ground level apartments, City staff recommend the following:

- Providing a 3m ground and first floor setback to Woodburn Street to provide for landscape and private open space. This will provide not only a buffer but a means of reducing the length of high blank walls. A landscape setback will also help provide for stairs to individual entries for the ground level apartments.
- Providing two-storey ground level apartments. This will provide separation from the street to the bedrooms and improve privacy and security.

Common circulation

The City requires common corridors to be at least 2m wide in front of lifts. In this proposal, approximately 1.5m is proposed for the common corridors, including in front of the lifts. This is particularly inappropriate at ground level where access to the residential bike parking is located. As an example, 1.5m wide corridors could be too narrow for a person carrying a bike and a person carrying bags of groceries to pass. It is also noted that the landing space between the top of the stairs from the bike parking to the front door of Apartment G.1 is inadequate.

City staff recommend providing 2m wide corridors connected to the bike parking to ensure that two people (one with a bike) can pass each other in the corridor. Alternatively, the applicant could provide recessed doorways (500mm) to apartments that allow localised areas of corridors that are wider.

Access to bicycle parking

Access to the bike parking is via a flight of stairs, which in our view will compromise the useability of the bike parking as access is not direct nor easy.

It is recommended that any stair access to bicycle parking is deleted and alternative access provided that is more suitable.

Letterboxes

The nominated letterbox area is located on the outside of the building on Woodburn Street, in a location with no passive surveillance. NSW Police (Redfern Local Area Command) have advised that letter box theft is a significant problem in the area, resulting in increased identity theft and credit card fraud in particular. NSW Police have requested Council to ensure all letter boxes in newly proposed Residential Flat Buildings are provided within a secure lobby and Australia Post provided with access to make deliveries.

Landscaping and open space

Ground level residential common open space

The ground level courtyard is a small, heavily planted space in full shade. It is overlooked by both the residential units and the hotel, and despite the inclusion of some bench seats it has limited usability. The position of the lift core and the ramp to the bin store encroach significantly into the space, compromising its function. In addition, the space is so heavily shaded that UV lights are proposed to enable planting. Subsequently, whilst this courtyard may be included in the calculation of common open space, its primary function is visual amenity only.

It is recommended that the applicant consider relocating the lift core away from the ground level courtyard to create a useable seating area. The consent authority should also consider the acoustic impacts of this courtyard, and ensure the design minimises noise and echoing. This may be through material selection, or noise baffles such as moving water.

Roof terraces

The residential roof terrace is the primary common open space. It consists of raised planters to the edges, paving to the centre, and two *Dracaenas* intended to give some canopy cover. With the exception of the planting, there is no fixed amenity in this roof terrace, and its design is the same as the adjacent hotel terrace, which is a larger version of the residential terrace. As the hotel terrace does not directly relate to an internal space, such as hotel restaurant, the function of that space is questionable.

It is recommended that the applicant should:

- Introduce some fixed furniture to ensure the roof terraces are useable, inviting spaces. At a minimum this should include seating walls or other fixed seats, a shade structure and tables.
- Plant all trees in large, wide planters, to meet or exceed minimum soil requirements (5-15m³ for small trees) and to provide structural stability/wind resistance.
- Clarify the intended use of the hotel terrace, given its lack of direct connection to the hotel facilities.

It is noted that the section on drawing L4 appears to illustrate a low planter to the outside edge of the roof terrace. The applicant should clarify how the

requirements of the BCA are met, and ensure all planting is positioned within the balustrade to allow unrestricted access for maintenance.

Noise and Vibration

City staff have reviewed the submitted acoustic report and note that the consultant has undertaken unattended long-term noise monitoring to establish background noise levels. However, concern is raised because the siting of the monitor (on Cleveland Street) for the purposes establishing background noise levels is not ideal and may result in background noise levels appearing greater than they actually are.

It is also noted that the development is subject to SEPP (Infrastructure) 2007 (ISEPP) for development along busy roads, due to Cleveland Street being identified as a classified road. In this regard the consent authority should not grant consent to the development unless it is satisfied that the L_{Aeq} levels provided in Clause 102 (3) of the ISEPP will not be exceeded.

Additionally an above-ground passenger rail corridor runs within approximately 50 metres of the development. The upper residential units may be impacted by rail movements, particularly during the night time periods. It is noted from satellite photos that roof top mechanical plant is located on the neighbouring YHA premises (179 Cleveland Street) which may impact future residents overlooking the YHA.

City staff are concerned that the acoustic consultant has not considered noise impacts from train movements and any mechanical plant on the future upper level residential apartments. It is therefore recommended that the consent authority should request further acoustic analysis in the form of a written report including the following scope of work:

- 1) Additional long term rating background noise levels to be established at the southern end of the subject site in accordance with the NSW EPA *Industrial Noise Policy* for assessment of future impact against the City's Standard Conditions of consent. The consultant is to review the remainder of the surrounding land uses and ensure that there is unattended monitoring data to describe the existing low level noise environment against the above performance parameters.
 - (a) A minimum of seven days long-term unattended noise monitoring is to be conducted in complete accordance with the NSW EPA *Industrial Noise Policy (INP)*, being unaffected by extraneous noise and weather data to within the limits described by the Industrial Noise Policy. The following additional requirements are to be adhered to:
 - (i) The location of the noise monitor is to be photographed and documented for the record.
 - (ii) A suite of baseline environmental noise statistics are to be reported, inclusive RBL_{A90} (both broadband and equivalent 1/1 octave band spectra), Period L_{Aeq} and repeatable highest $L_{Aeq\ 1\ hr}$ levels.
 - (iii) The consultant is to undertake a series of attended measurements at varying elevations to account for the general elevated levels of road traffic, train and commercial noise in the area from medium distance sources. The consultant is to

consider the potential impacts from train movements on western facing residences, as well as account for noise generated from any roof top mechanical plant.

The consultant is to report on whether the unattended data is adequate to represent this impact with justification or undertake and report on further unattended monitoring as they see fit.

- (b) The data obtained from the seven days unattended noise monitoring is to be analysed and reported on and must comply with the requirements of (i), (iii), (iv) above in addition to the following:
 - (i) The following noise metrics will be reported on in accordance with the NSW Road Noise Policy and AS1055:
 - a. $L_{A\text{Max}}$ day 15 hour and $L_{A\text{max}}$ Night 9 hour,
 - b. $L_{A\text{eq}}$ day 15 hour and $L_{A\text{eq}}$ Night 9 hour,
 - c. A suite of noise statistics.
 - d. The consultant will provide distance corrections of the noise impact to the relevant levels of the building façade accounting for distance attenuation and façade exposure.

The written report should also include the following:

- (a) The worst case repeatable $L_{A\text{eq}}$ 1 hour noise levels and $L_{A\text{Max}} / L_{A1}$ sleep disturbance levels and any other environmental noise impact as associated with the use or the surrounding environment are to be reviewed to the satisfaction of the consultant. Following this, the consultant is to document relevant noise impacts to adequately describe the noise impact across the facades of the building for noise performance planning purposes and for review in the written report.
- (b) The relevant design criteria in accordance with the use of the internal spaces will be reviewed and documented with regard the building façade, level, and space. The criteria will be determined in accordance with Sydney Development Control Plan 2012.

Note: For satisfaction of CI101 in a commercial space, the design requirement will be that the worst repeatable $L_{A\text{eq}}$ (1hour) achieves compliance with the relevant satisfactory level in AS2107.

- (c) Noise performance reduction requirements of the composite façade construction are to be reviewed and determined from the levels outlined as per (a) and (b) above. This is to be documented in the written report.

***Note:** "Suitably qualified acoustic consultant" means a consultant who possesses the qualifications to render them eligible for membership of the

Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

Waste storage and collection

The building exceeds three storeys, yet a waste and recycling chute has not been provided. It is recommended that the design is amended to incorporate waste and recycling chutes.

It is also noted that the ramps leading down from the garbage rooms to the street are very steep, and appear to land on the footpath. The strategy for garbage collection is unclear, and given the narrow footpaths on either side of this site it is considered unlikely that on-street collection will be successful. It is recommended that the applicant should ensure all ramps and landings are well within the site and clarify the collection strategy.

In addition, City waste staff advise of the following waste design requirements:

- Waste and recycling is to be serviced on site if possible.
- A loading area to accommodate a 9.24m truck is required, that will enable a truck to enter and exit the site in a forward direction.
- Waste and recycling receptacles are to be stored on the property at all times with Council provided with an access key for servicing.
- Residential and commercial waste rooms are to be separated (commercial tenants must not have access to residential waste and recycling bins or waste chutes).
- A common storage area for discarded bulky items must be provided for residential units.
- Clearance height for access by collection vehicle must be no less than 3.6m at any point if a refuse vehicle is required to enter the site to service bins.
- The maximum travel distance between the storage point and collection point for all waste and recycling receptacles shall be no more than 10 meters.

Conclusion

Based on the supporting documentation provided, the application is not supported and the City is unable to recommend conditions of consent in relation to the proposal at this time. Further comments, for example from the City's Health and Building Units, can only be made once additional detail has been provided.

Should you wish to speak with a Council officer about the above, please contact Christopher Ashworth, Specialist Planner, on 9246 7757 or at cashworth@cityofsydney.nsw.gov.au.

Yours sincerely,



Graham Jahn AM
Director

City Planning | Development | Transport