Objection to mixed-use development with in-fill affordable housing at 164-172 and 174-194 William St, Woolloomooloo ("the site")

Development Application no.: SSD-80211463 ("the project")
Developer Applicant: William Street Residential Pty Limited ("the developer")
Council area: City of Sydney
Consent authority: Minister for Planning and Public Spaces
Department's disclaimer and declaration: Accepted
Non-publication request: The name of this submission's author is **not** to be published
Objection by: Name Withheld, 184 Forbes St, Darlinghurst 2010

12 November 2025

To: Department of Planning, Housing and Infrastructure
Attention: Minister for Planning and Public Spaces

Dear Minister,

This is an objection to the State Significant Development Application number SSD-80211463 by William Street Residential Pty Limited, being a subsidiary of a consortium which publicly available information suggests is being led by Mr Allen Linz and Mr Rafi Assouline, both well-known developers of luxury apartments for sale to high net worth buyers, particularly in the Eastern Suburbs.

This objection is made on a preliminary and summary basis only at this stage, noting the unfortunately inadequate administrative process (see details below) and time afforded for the preparation and lodging of considered objections. I anticipate that additional and more detailed objections and concerns regarding this proposed development will be lodged and voiced by local residents and the broader Sydney community, if an adequate opportunity is provided after 13 November 2025 for written and oral community input, including but not limited to a public hearing ordered by you. All rights are reserved to challenge before the Land and Environment Court or other appropriate forum the unsatisfactory process and time for community comment afforded by the Department to date regarding this proposed development.

Executive summary

- Application no SSD-80211463 departs egregiously from the 'concept approval' of development application D/2022/139 by the City of Sydney by its Notice of Determination dated 8 April 2024;
- By this Determination, notwithstanding the 35 metre maximum height limit (southern side) under the Sydney Local Environmental Plan 2012, the City of Sydney's Central Sydney Planning Committee and its staff determined, after careful consideration, that a maximum height of **33.4 metres** only was

acceptable, thereby allowing a building of 10 storeys on the south-east boundary of the site;

- This height limit of 33.4 metres was a generous pro-development decision, having regard to the local context – there were strong arguments that development application D/2022/139 should have been restricted to no more than 8 storeys in height, having regard to overshadowing and massing concerns, as well as the historical context over the past 50 years of protecting the social housing environment in Woolloomooloo from 'skyscraper domination';
- The City of Sydney's determination reflected significant overshadowing and massing concerns and the local context, including that the southern boundary of the site extends **2.6 metres** further out onto William Street than the adjoining block of buildings on William Street, from Bourke Street to Forbes Street (134 to 150 William Street);
- The project proposes a radical and entire rejection of the current 'concept approved' height limit of 33.4 metres in favour of a **70.8 metres** high building, as well as increased heights above the concept approval limits on the full length of the southern side of the site and in the north-east corner. This would amount to a breach of the 35 metre height limit, on the southern part of the site facing William Street, by **102.3%** - as well as a breach of any notional "30% height uplift" from that 35 metre limit (up to a theoretical 45.5 metres), by **55.6%**;
- The extent of the breaches by the proposed project of the height limits on the site that would apply, even if a 30% uplift was added to the current 35 metre and 22 metre limits (to 45.5 metres and 28.6 metres respectively), appear to be materially understated by Urbis in its "Clause 4.6 Variation Report (Height)" report, as detailed below in this submission;
- Arguments put forward by Urbis in support of substantial variations being made under clause 4.6 of the Sydney Local Environmental Plan 2012 (***SLEP***) to the current height limits on the site - variations that would be substantially above a full 30% height uplift under the State Environmental Planning Policy (Housing) 2021 "affordable housing" regime (***SEPP***) – lack merit and are unpersuasive, for the reasons set out in the body of this submission below;
- A merit assessment of this project requires the consent authority, regardless of potential in-fill affordable housing bonuses, to have proper regard to the impact of the development on the amenity of the site and adjoining land, taking into account the building's height, scale and bulk (see the Department's *In-fill affordable housing practice note December 2023* at page 12);
- An objective assessment of this project will inevitably conclude that after appropriately taking into account Sydney's current pressing affordable housing needs and government policy intent, nonetheless no reasonable case and certainly no persuasive case has been made out by this developer in this case to

depart from the current concept approval's 33.4 metre height limit, let alone a project that would very materially breach a theoretical 30% uplift height limit of 45.5 metres on the site;

- The "have your say" exhibition and submission period afforded by the Department to the local community, being the minimum period under the recently amended Community Participation plan, was manifestly inadequate. A new notification process with an extended exhibition and submission period ought be mandated;
- Approval of the current application, including its proposed 18 storey Southeast Building facing William Street and its 9 storey Dowling Street Building, would unjustifiably end a 50 year policy approach and practice – since the Federal, State and local government Tripartite Agreement for Woolloomooloo was entered into in 1975 - of no permissions being granted for 'skyscraper' style development on the southern border of Woolloomooloo;
- This has prevented such buildings dominating Woolloomooloo's low-lying 2-3 storey social housing from William Street northwards to Woolloomooloo Bay and has preventing a gradual, collective, physical 'walling off' of the Woolloomooloo precinct from the Darlinghurst area;
- The project in its proposed form would materially offend against the height transition that currently exists along William Street, particularly from the Palmer Street corner and bordering Woolloomooloo to the eastern end of William Street at Kings Cross, and would not comply with the objective in clause 4.3(1)(d) of the Sydney Local Environmental Plan 2012 "*to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas*";
- If the present gradual reduced height transition for 600 metres along William Street - noting there are currently no buildings on the northern side of William Street east of Palmer Street of higher than 10 storeys, and no higher than 3 to 7 storeys east of Forbes Street, up to and including its end at the Kings Cross Hotel (244-248 William Street) - is curtailed by the proposed 18 storey Southeast Building, it is likely inevitable that future planning determinations would result in William Street having a 'wall' of 'skyscraper' buildings of about 18 storeys or higher along its 700 metres between Riley Street and Kings Cross;
- The project in its current proposed form would also have a high, unacceptable detrimental Woolloomooloo Bay and Sydney Harbour view loss and view reduction impact, on an estimated 100 or more existing residences to the south, south-east, east and south-west of the site. Further view impact studies (e.g. from multiple floors on the 184 Forbes Street building, from buildings on Liverpool Street and from St Vincent's Hospital) are plainly required;
- Removal of the project's proposed 1,356 sqm "*publicly accessible central park*" - that park first being proposed by the developer <u>after</u> the concept development

had been approved in April 2024 - would facilitate an up to 30% uplift in gross floor area with 15% affordable housing being achieved on the site, *without* the proposed additional 8 storeys of luxury apartments with 'dress circle' harbour views being added to the approved 10 storey development on the Southeast Building;

- Compliance with development standard 4.3 (Height of Buildings), under the SLEP, of 35 metres and 22 metres on the site are neither unreasonable or unnecessary in the circumstances of the site, understood in its local context, within the meaning of clause 4.6 of the SLEP, as detailed below; and
- There are insufficient environmental planning grounds to justify the developer contravening the height development standards in clause 4.3 of the SLEP, within the meaning of clause 4.6 of the SLEP, as detailed below.

The points summarised in the above executive summary are expanded upon in the remainder of this submission.

'Have your say' – appearance of avoiding provision to the community of a reasonable opportunity to prepare and lodge objections

As outlined below, the process and period allowed by the Department for the lodging of submissions in response to the Application are plainly inadequate, which hopefully has only occurred through oversight and the political pressure that the NSW government's Housing Delivery Authority and the Department are under to approve State Significant Development "at least 10% affordable housing" projects and increase the affordable housing stock in the shortest possible time.

This truncated process however of allowing (in fact) less than the minimum 14 days to the public to 'have your say' – rightly or wrongly - gives rise to an appearance of a lack of a balanced approach. There is a balance to be struck between the acknowledged important need to increase the affordable housing stock across Sydney and at the same time reasonably consider, preserve and protect the local amenity, as referred to below, for both present and future residents as well as visitors, including pedestrians and cyclists, from across Sydney and beyond, which currently makes the areas of Woolloomooloo / Darlinghurst / Kings Cross a great, if highly dense, place to live and visit.

On 30 October 2025 my email inbox received a "no reply" email bearing a 'sent' time of 12.08am (i.e. eight minutes after midnight), from the NSW Government's "Department of Planning and Environment". I note this is not the current name of the NSW government department that has responsibility for planning matters. This email informed me that that the exhibition period for the above development had commenced. The email did not state when the exhibition period for the development closed or the date by which any submissions objecting to the development were required to be lodged.

A check of the Department of Planning, Housing and Infrastructure's Major Projects website, revealed it contained a notice of exhibition, apparently added to the website on 30 October 2025, which stated that the exhibition of the development application materials would close on Wednesday 12 November 2025. This for a development with the developer's estimated construction cost of $416 million (see the Development Application dated 8 October 2025 under 'Development Details'), an Environmental Impact Statement (***EIS***) document comprising 127 pages and accompanying documents comprising approximately a further 1,900 pages, made up of 58 reports and other materials, including a Visual Impact Assessment, a Transport Impact Assessment and numerous other significant appendices, several of which contain outlandish and non-evidence based claims by professional agents ostensibly paid for by the developer.

By that notice of exhibition, the time to "have your say" by way of objecting submissions was required by the Department to be submitted before close of the exhibition, i.e. by 12 November 2025. This period was less than 14 days from the time of sending of the email and only 10 business days after publication of approximately 2,000 pages of reading material by the Department.

By an "*Updated Exhibition Notice*" later added to the Department's website on an unknown date (of which no email notice or other notice was given to me, nor presumably to other members of the public), the exhibition close date was changed to Thursday 13 November 2025. Whether all stakeholders, who might have considered making a submission if time permitted, will have become aware of even that meagre 1 day extension of time before 13 November 2025 is an open question.

I note further that William Street Residential Pty Limited's development application dated 8 October 2025, was submitted to the Department shortly after the Department changed its *Community Participation Plan* in September 2025. which reduced the required public exhibition period from 28 days to a minimum 14-day exhibition period for relevant residential State Significant Development applications. Has the Department sought an explanation from the developer as to why its $416 million (developer's estimated cost) application was only submitted shortly after the minimum exhibition period was reduced to 14 days, when that application has been in preparation since at least 21 February 2025, when industry-specific SEARS were issued to the developer by the Department?

I note that under the revised Community Participation Plan this new 14 day exhibition period is a "minimum period". The Department's website states in relation to this minimum period that "*There is flexibility to extend exhibition period timeframes for* *more complex applications to allow more time for consultation with the community and stakeholders when required*"

I would welcome the Minister's explanation regarding why the Department elected to mandate the 14 day minimum period only for submissions in this case, in relation to a highly complex and extensive development application, estimated by the developer as having a construction cost of $416 million, with an entirely different proposed build envelope to the concept approval approved by the City of Sydney on 8 April 2024, that grossly exceeds the height and other limits imposed by the Sydney Local Environmental Plan 2012 - and extraordinarily very significantly also exceeds any "up to 30% height uplift" that may be granted under the "affordable housing" scheme - and which any objective observer would fairly regard as being highly contentious.

It is of note also that, for whatever reason, the Department waited 3 weeks after the date (8 October 2025) of this company's development application, before notifying the public that the current application had been lodged and the extremely tight exhibition and submission of objections period was now running.

This chain of events falls to be considered against the history of Mr Linz's and Mr Assouline's William Street Nominees' original development application (application no D/2022/139) in 2022 to the City of Sydney for the construction of an up to 10 storey mixed use development on the site. That application received a response from the public of **146 submissions** (see City of Sydney Notice of Determination dated 8 April 2024 at page 3). Your Department was and is on notice of this information.

In contrast to that 2022 application, the developer's current application greatly exceeds in size and scope its original application to the City of Sydney, now proposing an 18 storey building, 4 buildings in total, 227 apartments, 332 car spaces, 24 motorcycles spaces, a gross floor area of 33,036sqm and a 1,356 sqm "*publicly accessible central park*" (raising significant safety concerns, noting Woolloomooloo's well-known longstanding role in empathetically supporting unfortunate homeless 'rough sleepers'). It is evident that if given sufficient notification and time for the preparation and lodgement of submissions, the current application is likely to give rise to even greater community input (and likely even greater community concerns) than the 2022 application.

The above circumstances give little confidence to NSW citizens living in the Woolloomooloo, East Sydney, Darlinghurst or Kings Cross areas or across Sydney more generally, who care about increasing affordable housing, but also care about proper planning processes and maintaining community amenity, that the Department wishes to afford a fair and reasonable opportunity for taxpayers and other citizens to voice and be heard on their concerns about proposed State Significant Developments. Rather, the above circumstances may suggest to some – rightly or wrongly - an endeavour by persons unknown to reduce as far as possible the number of objections that the Department receives to this development application and consequently avoid a direction being made by the Minister that a public hearing on the application is to be held. I would welcome your comments, including regarding why such a suggestion would be misplaced and how the Department proposes to remedy the position.

Clause 4.6 of the Sydney Local Environmental Plan 2012: reasonableness of the height limits of 35 metres and 22 metres imposed on development on the site under SLEP clause 4.3 (*Height of Buildings*): - the site understood in its local context

The British American Tobacco building (at 164-172 William Street) and the Bayswater Car Rental complex (at 174-194 William Street) that currently comprise the built form on the site and face onto the northern side of William Street, are 4-5 storeys and 2-3 storeys in height respectively, on that side of the site boundary. On 8 April 2024 the City of Sydney approved William Street Nominees' revised and re-worked application - to take account of Council's concerns regarding overshadowing on William Street and other concerns - for a mixed use development on the site with a maximum height of up to 33.4 metres (up to 9-10 storeys). The full 35 metres requested height was not acceded to, apparently principally due to overshadowing concerns.

From the British American Tobacco building (starting on the corner of Forbes Street and William Street) to the Eastern end of William Street – to where it ends (at the Kings Cross Hotel at 244-248 William Street) at Kings Cross, the current buildings along that part of William Street range between 2 and 7 storeys in height. They include the 3 storey 'Wood Floors' retail building at the corner of McElhone Street (at 216-220 William Street) and the 3 storey and historic O'Malley's Hotel -an attractive local landmark, built in 1907, on the corner of Brougham Street (at 228 William Street). Several of these buildings have attractive architectural features, such as the 'turret' on the roofs of O'Malley's Hotel and the sympathetic turret on the roof of the 7 storey modern 'no birds' apartment building (at 200 William Street), as well as the art deco street frontage of the 6 storey apartment / ground floor retail building at 224-226 William Street.

About 200 metres to the West of the site, the tall building which currently occupies 100 William Street on the corner of Palmer Street (the former Westfield office and now the Henning Harders head office) was completed in 1973, at a time when development controls for the Woolloomooloo / Kings Cross / Potts Point area could fairly be described as having been of the 'wild west' variety, leading to inappropriate -and often allegedly corrupt - development in the area and likely led to the murder of urban conservationist Juanita Nielsen in 1975.

For a period of over 50 years since 1973 and to date, no building of greater than 10 storeys has been permitted to be built on William Street between the corner of Palmer Street and the Eastern end of William Street at Kings Cross, being a distance of approximately 500 metres. This has meant that the social housing built in Woolloomooloo under the Woolloomooloo Tripartite Agreement entered into in 1975 between the Australian and New South Wales governments and Sydney City Council, has avoided being overlooked and "boxed in" by skyscraper office or residential buildings in its southern boundary facing onto William Street and Darlinghurst. The Sydney Local Environmental Plan 2012, made under the Environmental Planning and Assessment Act 1979 (NSW), mandates a building height for the site of no more than 35 metres on its southern boundary facing onto William Street, reflecting this policy and the local context.

This over-50 year policy of appropriately restricting building heights, from the corner of Palmer Street to the Eastern end of William Street at Kings Cross, has also had the laudable result of halting any further 'CBD skyscraper creep' from Sydney's central business district eastwards up William Street, thereby preserving the separate identity and character of Kings Cross and its approaches along the southern side of Woolloomooloo.

During that time, particularly following completion of the construction of the Cross City Tunnel under William Street in 2005, which somewhat reduced the - still very frequently congested - car and truck traffic along it, William Street's amenity has been improved. This has included considerable widening of the pedestrian pavement on both the northern and southern sides of the street and commensurate reduction of vehicular traffic lanes, the construction of a cycleway on the southern side, extensive and successful tree-planting, allowing outdoor café seating and removal of advertising bills from street lighting poles.

The current development application proposal by William Street Residential, including building an 18 storey luxury apartment building on the Southern, William Street-facing part of the site with 'dress circle' views of Sydney harbour from the Harbour Bridge to Sydney Heads, would not only of itself end the policy approach described above, but would also inevitably lead to further development applications on sites along William Street for 'skyscraper' luxury apartment buildings with Sydney Harbour views.

As the Sydney Morning Herald has reported ("*What to do about William Street? The plans to fix Sydney's 'boulevard of broken dreams'* " – 16 March 2022 by Michael Koziol),

> "*Mr Linz isn't the only developer with his eye on William Street. Sources with knowledge of the plans, but who don't want to discuss them publicly yet, said a group of property owners and developers was working on ambitious proposals to*

> *aggregate properties in the area, including along William Street, for future mixed-use development.*"

A result of approving the construction of an 18 storey building at 164-194 William Street would - noting the consequent risk of further approvals on other William Street sites (from Palmer St to Kings Cross) that exceed the current Sydney Local Environmental Plan 2012 height limits – in the medium term likely result in William Street becoming a windswept 'skyscraper corridor' akin to the stretches of Castlereagh Street and Pitt Street between Bathurst Street and Liverpool Street in the CBD. In effect it would result, in the medium term, in a 60-70 metre high concrete separation 'wall' being constructed along William Street between Woolloomooloo and Darlinghurst and a 'tunnel' effect (including a wind tunnel) along William Street from Crown Street up to Kings Cross . The present visual separation of the Sydney CBD from Kings Cross would be lost. The gradual improvement of the amenity of William Street that has occurred since 2005 – albeit that much remains to be done – would in turn be largely lost.

The resulting adverse effect on the amenity enjoyed by residents of and visitors to the border areas of Woolloomooloo / Darlinghurst / Kings Cross, including both environmental and visual amenity, would be very considerable. Those effects may, at least in part, be ameliorated – while still delivering affordable housing on the site - by the Department imposing a requirement that the ground floor building envelope of the proposed project be <u>increased</u> - including by abandoning entirely or significantly diminishing the proposed "*publicly accessible central park*" on the northern side of the site, thereby eliminating the proposed 8 storey height increase of the development which the developer seeks to justify as achieving the development's 30% gross floor area uplift. The only material adverse effect of the Department imposing such a requirement would likely be to the developer's profit margin, from being prevented from building and selling 'dress circle' harbour view luxury apartments from the proposed levels 11 to 18, - none of which proposed apartments appear to have been ear-marked by the developer in its proposal to be managed as "affordable housing".

Visual Impact assessment

The report on the site prepared by Urbis Limited titled *'Clause 4.6 Variation Report Height'* dated 25 September 2025 (being Appendix F to the developer's EIS submission) (the ***Urbis Height Report***) is in the nature of an advocacy document, rather than an independent objective report on the environmental and visual impact of the height of the proposed project.

Indeed, Urbis expressly acknowledge in the disclaimer at the end of its 20 page report that "*Urbis prepared this report on the instructions, and for the benefit only, of William Street Nominee Pty Ltd*"; it further acknowledged that "*In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events,* *the likelihood and effects of which are not capable of precise assessment*" (see Appendix F to the EIS at page 20). These caveats are borne out by the content of the substantive parts of the report, including those referred to below.

As outlined by the examples given later below, the Urbis Height Report is indeed replete with judgments Urbis has made, which do not appear to be soundly evidence-based and which on their face are highly subjective.

It also includes information regarding the extent to which the height of two of the proposed project buildings breach the Sydney Local Environmental Plan 2012 height limits for the site, which on their face appear to be materially incorrect and under-state the extent of the breaches - to the developer's ostensible benefit - subject of course to any explanation Urbis is able to provide in response, as follows.

Materially incorrect statements in the Urbis Height Report regarding breaches of current height limits

At page 9 of the Urbis Height Report, Urbis states in respect of the site that "*Under the SLEP* [i.e. the Sydney Local Environmental Plan 2012] *, the maximum height of buildings is 22m and 35m respectively. With the Housing SEPP incentive provisions, the maximum height of buildings is 28.6m and 45.5m. The proposal seeks to exceed the maximum building height of 28.6m and 45.5m.*" This statement is of itself somewhat disingenuous, because it appears to incorrectly assume that the current maximum height of 35 metres for the site under the Sydney Local Environmental Plan 2012, plus a 30% uplift potentially available under the State Environmental Planning Policy (Housing) 2021 "affordable housing" regime, will automatically be granted to the developer and, if granted, would be granted in full rather than in part. I have referred to this theoretical height uplift in the discussion below as the "SLEP plus 30% uplift" height limit.

Urbis then goes on to assert on page 9, under the heading

> "*6. What Is the Difference Between the Existing and Proposed Numeric Values? What Is the Percentage Variation (Between the Proposal and The Environmental Planning Instrument)?*"

that the height of three of the frontages of the developer's proposed 18 storey building (situated on the William St-facing southern side of the site) exceeds these assumed 30% uplift maximum heights of 28.6m and 45.5m, as follows, in a table Urbis has prepared and the relevant part of which I have reproduced below:

Building	Element	RL	Height in metres	Breach
Southeast Building (William Street)	William Street frontage (top of roof ridge)	RL85.82	66.3m	15.2m
"	Internal Park frontage	RL86.47	70.8m	20m
"	Northeastern corner	RL85.82	60.2	14.2m

In each case in the Urbis table reproduced above, the asserted extent of the breach of the theoretical "SLEP plus 30% uplift" height limit for the site, appears to be materially understated. For example, the developer's proposed height of 70.8 metres for the 'Internal Park Frontage' of the 18 storey building is asserted to exceed the theoretical "SLEP plus 30% uplift" height limit of 45.5 metres for that part of the site by 20 metres. **That calculation by Urbis, on the figures it provides, appears to be materially incorrect.** The correct position, based on the above figures, is that the 'Internal Park Frontage' of the 18 storey building would exceed the theoretical "SLEP plus 30% uplift" height limit **by 25.3 metres** (70.8m less 45.5 metres = 25.3m), amounting to an erroneous understatement of the breach by a further 5.3 metres. This proposed height of 70.8 metres also exceeds the current Sydney Local Environmental Plan 2012 height limit of 35 metres for that part of the site **by an extraordinary 35.6 metres,**

Despite the heading (as set out in italics above) in section 6 of the Urbis Height Report on page 9 referring to a percentage measurement of the extent of the height breaches, in fact Urbis does not provide any percentage figures in section 6 for the variation between the proposal and the "SLEP plus 30% uplift" assumption for the site, let alone for its variation from the Sydney Local Environmental Plan 2012 height limits that currently apply to the site.

I have undertaken those percentage breach calculations for the purposes of this submission, as follows.

For the 'Internal Park Frontage' of the proposed 18 storey building, those percentage variations are an **egregious 55.6% breach** of the theoretical "SLEP plus 30% uplift" 45.5m height limit (25.3m/45.5m x 100 = 55.6%) and an **extraordinary 102.3% breach** of the 2012 Sydney Local Environmental Plan 35m height limit (35.6m/35m x 100 = 102.28%).

The 'William Street frontage' of the proposed 18 storey building of 66.3 metres breaches Urbis' theoretical "SLEP plus 30% uplift" height limit **by 20.8 metres** (66.3m less 45.5m = 20.8m), not 15.2 metres as incorrectly stated by the Urbis Height Report on page 9. In percentage terms this amounts to an **egregious 45.7% breach** of the theoretical "SLEP plus 30% uplift" 45.5m height limit (20.8m/45.5m x 100 = 45.71%) and an **extraordinary 89.4% breach** of the 2012 Sydney Local Environmental Plan 35m height limit (31.3m/35m x 100 = 89.42%).

The Northeastern corner of the proposed 18 storey building of 60.2 metres breaches Urbis' theoretical "SLEP plus 30% uplift" height limit **by 14.7 metres** (60.2 less 45.5 = 14.7m), not 14.2 metres, as again incorrectly stated by the Urbis Height Report on page 9. In percentage terms this amounts to a very significant **32.3% breach** of the theoretical "SLEP plus 30% uplift" 45.5m height limit (14.7m/45.5m x 100 = 32.307%) and an **extraordinary 72% breach** of the 2012 Sydney Local Environmental Plan 35m height limit (25.2m/35m x 100 = 72%).

I note in addition that Urbis' asserted extent of the height breach above the 28.6 metre theoretical "SLEP plus 30% uplift" height limit for the 'Northeast Building (Dowling Street) for the 'Top of Plant' element (again see page 9 of the Urbis Height Report) also appears to be incorrectly calculated – the height limit breach of the theoretical 28.6m limit would be **by 7.2 metres** (35.8m less 28.6m = 7.2m), not 5.3 metres, in percentage terms amounting to a **25.2% breach** of the theoretical "SLEP plus 30% uplift" height limit (7.2m/28.6m x 100 = 25.17%) and an **extraordinary 62.7% breach** of the 2012 Sydney Local Environmental Plan 22m height limit (13.8m/22m x 100 = 62.72%).

The differences in height between what appear to be incorrect information calculated by - or provided to - Urbis on page 9 of the Urbis Height Report and what appear to be the correct figures as outlined above, are material. If the figures stated in the Urbis Height Report referred to above are incorrect, for the above reasons the Urbis report accordingly materially understates the extent to which the developer's proposal breaches Clause 16(3) of the Housing SEPP and Clause 4.3 of the Sydney Local Environmental Plan 2012 and has the effect of being misleading.

Importantly, these errors or misstatements are then repeated and incorporated in the assertions later made by Urbis on pages 16 and 17 of its report (referred to later below), where it discusses the objective of Clause 4.3 of the SLEP "to promote the sharing of views outside Central Sydney".

Self-serving material judgments in the Urbis Height Report regarding the project's context that appear on their face not to be evidence-based

At section 4 of the Urbis Height Report at page 13 (headed *"How is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Particular Case?"*), Urbis makes the remarkable assertion that "[t]*he proposed building height of 70.8 metres is appropriate in the context of the site and its surrounds"*. This highly subjective assertion is quite simply unsupported by the facts. An 18 storey building of 70.8 metres would dwarf the height of the buildings on either side of it on William Street, from the Universal Music building at 150 William Street immediately to the west of the site to the Kings Cross Hotel (244-248 William Street) at the eastern end of William Street at Kings Cross, **none of which exceed 8 storeys in height and the majority of which range from 3 to 6 storeys.**

In support of its contentions, Urbis asserts (at page 14) that

> *Along the William Street corridor, the built form transitions from taller towers in Potts Point (up to 110m) through to mid-rise development in the vicinity of the CBD (around 40m). The proposed building height sits comfortably within this spectrum, acting as a transitional scale between the higher density-built form of Potts Point and the lower height buildings closer to the CBD.*

The assertion that "*The proposed building height sits comfortably within this spectrum*" above is risible. The proposed building height does nothing of the sort. Urbis' assertion ignores the reality, namely that the tall towers in Potts Point (and Kings Cross) form a quite separate urban area (both geographically and historically) built on the brow of a hill, in contrast to the lower elevation and flatter southern border of Woolloomooloo that faces onto William Street. Moreover, as noted above, from the eastern end of William St as it moves west and way from Kings Cross / Potts Point, the built environment on the northern side of William Street immediately reduces to buildings of 2 to 7 storeys in height, including the 2-3 and 4-5 storey (on the William Street side) Bayswater Car rental and British American Tobacco buildings on the site itself. As noted above, there is no building on William Street east of the 1973-built Harders building at 100 William Street that exceeds 10 storeys in height, the only 10 storey building being the Olivetti building closer to the CBD to the west of the site, at 140 William Street.

Urbis goes on to provide (on page 14) a sketch (of questionable scale) labelled "*Figure 11: Local Context*" which purports to show how the height of the proposed buildings on the site would relate to the built environment along William Street. Below this sketch, Urbis asserts:

> "*As demonstrated in the above image, the proposed built form with an increased building height reinforces the established urban character of William Street as a high-density mixed-use corridor. The scale complements the surrounding built environment without overwhelming the public domain.*"

The claims by Urbis that the proposed built form (including the proposed 18 storey high-rise) 'reinforces the urban character of William Street' and that '[t]he scale complements the surrounding built environment', can fairly be described as an exercise in "gas-lighting". Even the sketch at Figure 11 itself - inadequate though it is in illustrating the detrimental effect that the proposal would have on the visual character of William Street and the surrounding built environment - makes plain on a cursory examination that Urbis' claims are mere puffery. The project, and in particular the proposed 70.8 metre 18 storey Southeast Building facing onto William Street would be approximately **twice** the height of the Universal Music Building (150 William Street) next door and up to **5 times** the height of the 3 storey 'Wood Floors' building (216-220 William Street) and the 3 storey O'Malley's Hotel (at 228 William Street). The proposed

18 storey Southeast Building would not only excessively dominate William Street from its mid-point until its eastern end – it and the proposed 9 storey Northeast Building (on Dowling Street) would also loom over the social housing immediately to its north and extending downhill to Cowper Wharf and Woolloomooloo Bay, that has been preserved as a low-lying human-scale oasis against over-development since the Tripartite Agreement of 1975.

Regarding the claim in the above quote from page 14 of the Urbis Height Report that the scale complements the built environment '*without overwhelming the public domain'*, the opposite conclusion can fairly be reached – an 18 storey building on the section of William Street from Palmer Street to the Kings Cross Hotel would absolutely dominate this section of William Street and put an end to the distinct reduced height transition and separation of the Sydney CBD area from the residential and commercial towers on the apex of the hill on Kings Cross itself.

In summary, while the above claims by Urbis made under the heading "*Objectives of Clause 4.3 of the SLEP (a) to ensure the height of development is appropriate to the condition of the site and its context*" (see pages 13-14 of its Height Report), are confidently voiced in support of the developer's objective of gaining approval for its 70.8 metre high project, for the reasons discussed above, it is obvious upon analysis that they are objectively unpersuasive, misleading by omission and lack merit.

Loss of views and view sharing

On pages 15 to 17 of its Height Report, Urbis addresses objective (c) of Clause 4.3(1) of the Sydney Local Environmental Plan 2012, namely "*to promote the sharing of views outside Central Sydney*".

Urbis correctly acknowledges that "[t]*he site is located outside of Central Sydney and within a sensitive visual catchment*" (Urbis Height Report at page 15). Urbis then goes on to state and assert on page 15:

> "*The proposed development will inevitably increase the built form relative to the current concept approval.*
> …
> *Overall, the proposed additional building height and massing has been sensitively and skilfully located on the site to enable view sharing across the site. This has been a key driver which has led to the relocation of mass from the western parts of the site to the eastern parts of the site, triggering the built form in those locations to exceed the height limit, in favour of promoting views across the site*."

These subjective assertions omit key information and would be highly contested by local residents.

Key omitted information includes

(1) the fact that the concept approval (D/2022/139) which the City of Sydney approved by Notice of Determination dated 8 April 2024 already allowed for very significant view sharing and view provision from the site northwards to Sydney Harbour (including the Harbour Bridge, Opera House, expansive and water views generally across Sydney Harbour generally as far as the Sydney Heads) by permitting a building envelope height of 33.4 metres (up to 10 storeys) to be built on the southern boundary of the site, with some “stepping-in” at roof height from that boundary to reduce overshadowing by the concept approval development onto William Street; and

(2) the developer’s latest current proposal for the site (SSD-80211463) proposes including a 1,356sqm “*publicly accessible central park*” which would be excluded from the building envelope. The proposed square metre per floor area building envelope of the 18 storey Southeast Building **would fit entirely within the area** now being proposed to be set aside for the “central park”.

    There would be no basis upon which to seek to “*inevitably increase the built form*” (as noted by Urbis) of the Southeast Building by 8 storeys above, or indeed at all above, the current 10 storey concept approval for the William Street-facing part of the site and still achieve up to 15% “affordable housing” on the site, if the land area now being proposed to be set aside for an entirely unnecessary new park - noting the existing available local green areas and parkland discussed later below - instead mainly formed part of the proposed built envelope.

    Put bluntly, the question arises as to whether the additional 8 storeys on the Southeast Building were “*sensitively and skilfully located*” (to quote Urbis) in order to provide the developer with 8 floors of high end luxury apartment space with “dress circle” Sydney harbour views, under the guise of providing “affordable housing”, in a suburb that is already (since and from 1975) made up of a majority of social housing, to the detriment of William Street, to the social housing in Woolloomooloo and to the water views currently enjoyed by very significant numbers of existing residences (likely 100+ in number) to the south, south east, east and south-west of the proposed Southeast Building.

Urbis claims at page 16 that “*the building exceeds the LEP height control by up to 20 metres, with the extent of this exceedance generally located toward the internal interface of the site. To William Street, the noncompliant portion presents a maximum breach of 15.2 metres*”. These claims appear to be a materially incorrect understatement of the actual extent of the height breaches (by 25.3 metres and 20.8 metres respectively) of the theoretical “SLEP plus 30% uplift” height limit of 45.5 metres (and of course an even greater breach of the current SLEP 2012 height limit of 35 metres), for the reasons set out in this submission under the heading 'Materially incorrect statements in the Urbis Height Report regarding breaches of current height limits' above.

Urbis asserts at page 16 that "*The VIA* [Visual Impact Assessment by Urbaine Design Group, at Appendix S] *confirms that the additional height beyond the permitted height to the William Street East building will not result in the loss of any iconic views. The impacts are limited to small areas of distant foreshore and sky view, as well as minor portions of Potts Point and sky views rather than significant view loss to iconic views such as the Opera House or Harbour Bridge.*" This statement is plainly wrong. Urbis appears to have decided unilaterally that a view of the water (and passing ferries and sail boats etc) on Sydney Harbour is not an "iconic view". Residents whose views of Woolloomooloo Bay, or to parts of the Sydney Harbour body of water more generally, will be blocked or reduced by the proposed Southeast Building would beg to differ. The same applies to views across Sydney Harbour to the national park areas on the north shore and Sydney Heads.

Urbis' conclusion at page 17 that "*Having regard to the broader character of William Street and its surrounding environment, the non-compliant elements will not appear inconsistent with the existing or future built form context. The proposed design outcome appropriately manages view sharing and demonstrates a sensitive urban response, ensuring that no unacceptable visual or amenity impacts will arise as a result of the increased building height*." is again mere puffery. Rather, the project in its current form, including for the reasons set out in this submission above, is inconsistent with the existing built form context, does not appropriately manage view sharing, substantially increases the risk of the future built form context creating a 'skyscraper wall' along William Street between Woolloomooloo and Darlinghurst and is an entirely insensitive "urban response" to 50 years of existing policy and the needs and wishes of the local community.

In relation to the objective in Clause 4.3(1)(d) of the Sydney Local Environmental Plan 2012 "*to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas*", Urbis' remarkable response to this requirement (at page 17 of its Height Report) is

> "*Not Applicable, the site is not located in Central Sydney or Green Square under the Locality and Site Identification Map*".

This response suggests a complete misunderstanding by Urbis (and presumably by the developer) of this objective and an apparent disregard for the detrimental impact the proposed 18 storey building would have on the height transition from the Sydney central business district along William Street up to Kings Cross / Potts Point. Objective 4,3(1)(d) of the SLEP is relevantly concerned with height transitions **from** (not within) Central

Sydney. The relevant existing height transition here, along William Street eastwards from Central Sydney is currently a marked reduction in the height of buildings from the corner of Palmer Street for over 600 metres to the eastern end of William Street, with very tall 100 metre plus buildings only being situated after the end of William Street on the Kings Cross / Potts Point hill (being an "adjoining area"). The developer's proposal to build an 18 storey building on the site materially negatively disrupts that existing height transition, as is even illustrated (albeit inadequately) by Figure 11 on page 14 of Urbis' report.

As to the Visual Impact Assessment by Urbaine Design Group (at Appendix S to the EIS) and extensively relied on by Urbis in its Clause 4.6 Variation Height Report, the viewpoints selected by Urbaine for illustrating the view impacts from residences in the area are selective and incomplete and the report significantly downplays the extent of the increased detrimental impacts on existing views and amenity that would result from the current proposal.

For example, it is noteworthy that the Urbaine report omits to include any view impact assessments from the directly north-facing apartments on the eastern end of the Horizon Building at 184 Forbes Street, Darlinghurst (being those apartment numbers in that building ending with '04' and those on odd- numbered levels (i.e. levels 9, 11, 13 etc) ending with the numbers '03') that are higher up in that building than the single example chosen at Level 8, whose view is already significantly impacted by the 8 April 2024 concept approval. View impact assessments ought to have been conducted for those apartments from Level 9 to at least Level 24 (including for loss of views of the tree canopy and low-lying terraces in the Woolloomooloo precinct). No effort appears to have been made by Urbaine to estimate the number of apartments in this building alone which would be adversely impacted by the current proposal in addition to those impacted by the 2022 proposal. With 4 north / north-west facing apartments on each floor of 184 Forbes Street and about 15 additional floors potentially additionally impacted, this alone would amount to roughly 60 residences. The detrimental view impact from other buildings (such as those on Liverpool Street in Darlinghurst and from St Vincents Hospital, as well as from buildings to the north and north-east of the site) do not appear to have been considered at all.

For those view impact assessments that were conducted by Urbaine, it is remarkable how many of the assessments are classed as sustaining a 'moderate' adverse impact under the current proposal in circumstances where the residents concerned would be entirely or very significantly losing their views of Woolloomooloo Bay by reason of the 18 storey Southeast Building and by the increased height (it appears by about 1-2 storeys) of the building on the south-western side of the southern boundary of the site. .

In summary, compliance with development standard 4.3 under the SLEP 2012 (Height of Buildings) of 35 metres and 22 metres on the site **are neither unreasonable or**

unnecessary in the circumstances of the site, understood in its local context. The current proposal appears to have the effect of seeking to take advantage of the State Significant Development "affordable housing" scheme in order to seek to re-work the existing concept approval, including by introducing a "*publicly accessible central park*" of 1,356 square metres, thereby decreasing the (per floor) gross floor area, resulting in a proposed unnecessary height increase to 70.8 metres - far in excess of even atheoretical 30% height uplift to 45.5 metres and 28.6 metres under the "affordable housing" scheme. Under the proposal, the result would be an unreasonable – and entirely unnecessary, proposed 8 additional floors of luxury apartments (in the Southeast Building) and an 3 additional floors (in the Dowling Street Building), as well as an increase in 1-2 storeys build height on the western end of the William Street frontage, all or almost all of which would enjoy expansive Sydney Harbour views. The end result would include unnecessarily and adversely affecting, in many cases to a very significant extent, the visual amenity enjoyed from well over 100 existing residences to the south. South-east, east and south-west of the site as well as adversely affecting the height transition along William Street and the current protection of Woolloomooloo's social housing from being "walled off" from the Darlinghurst area to the south.

Are there sufficient environmental planning grounds to justify the developer contravening the height development standard, within the meaning of clause 4.6 of the Sydney Local Environmental Plan 2012?

Contrary to the assertions made in section 8 of Urbis' Height Report at pages 17-18, the short answer to the above question is no, there are not.

Urbis asserts at page 17 of its report that "*The non-compliant building height is a direct result of transferring building height and floor space from parts of the site to another in order to protect solar access and retain key views for surrounding apartments.*" This self-serving assertion entirely ignores the inclusion of the "*publicly accessible central park*" of 1,356 square metres in the revised proposal and does not even consider or provide any information regarding the potential profit uplift to the developer of adding 8 storeys, 3 storeys and 1-2 storeys of additional apartments with expansive Sydney Harbour views to three of the buildings on the site. The argument that these changes were made to "protect solar access and retain key views for surrounding apartments" should be viewed by the Department with considerable scepticism in the circumstances.

Urbis also asserts that "*From a view sharing perspective, the VIA consultant has determined that the variation will not result in adverse or unacceptable view loss impacts*". This conclusion is one that would not be shared by the many local residents whose views of Woolloomooloo Bay and Sydney Harbour and which the photomontage evidence in Urbaine's 'Visual Impact Assessment' report itself, upon analysis, contradicts. Further, the statement at page 18 of the report that "*Moreover, the design demonstrates a skilful and considered approach to balancing the increased 30% uplift whilst retaining key views and amenity to surrounding residents*", overlooks or ignores the position that the height of the proposed Southeast Building and the Dowling Street Building both grossly exceed the 30% uplift height limit! The view taken by Urbis that the design displays a "skilful and considered approach" is in the eye of the beholder only. An objective consideration of the manifestly significant contraventions proposed of the height development standards for the site imposed under clause 4.3 of the Sydney Local Environmental Plan 2012 leads to a different view – namely that in its present form this is an opportunistic proposed departure from the developer's 2022 concept proposal under the guise of "affordable housing", which has the happy result (for the developer) of providing 8-12 additional floors of apartments with "dress circle" harbour views to the detriment of the local environment and local amenity, for the reasons discussed earlier above.

Reasonably preserving that local amenity, while promoting an increase in affordable housing, includes protecting William Street and Woolloomooloo from 'skyscraper creep' from the Sydney CBD to Kings Cross/Potts Point, infrastructure overload, wind tunnel and streetscape deterioration, worsening the vehicular traffic overload in the vicinity of William Street and increased overshadowing.

It also includes avoiding adding to and worsening the safety and security problem in Woolloomooloo - for both the homeless community and local residents - which would result from increasing the 'sleeping rough' areas in Woolloomooloo, which this latest iteration of the developer's plan for the site in effect proposes, by its "*publicly accessible central park*" (see the developer's EIS at page 17).

This on a site which is already well-served by nearby green spaces in Woolloomooloo including on the adjacent pedestrianised Forbes Street (from Cathedral Street to Nicholson Street), Daffodil Park (at Dowling Street North) and the City of Sydney Community Garden on Bourke Street. The site is also a 7 to10 minute walk from the site to the expansive parklands of Cook and Phillip Park and the Domain.

An objective observer would conclude that the park proposal may have as much, if not more, to do with reducing the ground floor built envelope of the project and reach the 30% gross floor area increase (plus a significant additional non-compliant height increase) by adding additional - and lucrative - unnecessary height to the project.
