



2 February 2015

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The Secretary
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Mr Simon Truong

**RE: STATE SIGNIFICANT DEVELOPMENT APPLICATION 14_6724
60-78 REGENT STREET, REDFERN**

Dear Simon

This submission is written on behalf of Phil and Tyson Donnelly, the owners of Unit 506, 157 Redfern Street, Redfern (the **adjoining property owner**) and is in respect of the proposed mixed use and student accommodation redevelopment (SSD 14_6724) at 60-78 Regent Street, Redfern (the **site**).

Information reviewed as part of this submission includes:

- Final SEARS issued by the NSW Department of Planning and Environment;
- Environmental Impact Statement, CPTED Assessment, Community and Stakeholder Engagement Summary and Height SEPP 1 Objection, by JBA;
- Architectural Drawings and Architectural Design Report, Bates Smart;
- Landscape Plans by Aspect Studios;
- Preliminary Aboriginal Heritage Assessment, by Artefact;
- Access Report, by Access Consulting;
- Noise Assessment, by Acoustic Logic;
- Operations Plan, Waste Management Plan and Construction and Traffic Management Plan, by Iglu;
- ESD Report, by EMF Griffiths;
- Statement of Non-Indigenous (historic) Heritage Impact, by Artefact;
- Preliminary Geotechnical Investigation, by SMEC Testing Services;
- Infrastructure Report, by EMF Griffiths;
- Structural Report, Stormwater Concept Report and Stormwater Plans, by Taylor Thomson Whitting;
- Traffic and Parking Assessment, by Varga Traffic Planning; and
- Pedestrian Wind Environment Statement, by Windtech.

In addition to the aforementioned, a site visit and its adjacent context has been undertaken to determine the specific impacts of the proposal and to determine the locational context.

Having reviewed the above documentation submitted with the SSD, the adjoining property owner acknowledges the rights of the applicant to appropriately redevelop their land. Notwithstanding the aforementioned the adjoining property raises **objection to the proposal as it has unacceptable impacts on their asset and existing levels of amenity** in its current form.

A description of the adjoining property follows at Section 1 and a description of the proposal follows at Section 2. It is respectfully requested that DoPE thoroughly consider the specific issues raised by the

adjoining property owner at Section 2 of this submission during the assessment and determination of the application.

1. Unit 506 at 157 Redfern Street, Redfern

Unit 506 is a 2 bedroom apartment located at Level 5 of the residential apartment building at 157 Redfern Street (SP 86509). 157 Redfern Street (aka the Deicota building) is an 18 storey mixed use (predominantly residential apartments) building located immediately to the site's west, although it is noted that the existing built form at 157 Redfern Street is not included in the description of the surrounding development in the applicant's documentation.

Unit 506 has an easterly aspect and has panoramic north easterly, easterly and south easterly views. Given its location within the building, the apartment is not provided with any northern openings. Solar access is therefore a challenge post the AM period. The apartment is provided with an approximate 42m² wrap around 'L' shaped terrace which is directly accessible from the open plan living, dining and kitchen area.

2. The Proposal

As described at Section 3 in the detailed EIS by JBA, the proposal seeks development consent for:

- partial retention of Regent Street facades and demolition of existing buildings within the site;
- accommodation for 370 students within 134 units arranged as follows:
 - 85 x studio units;
 - 4 x 4-bed room units;
 - 1 x 5-bed room units;
 - 44 x 6-bed room units;
- communal student facilities, including study areas, games room, common areas and laundry facilities;
- student accommodation administrative facilities;
- total gross floor area (**GFA**) for student accommodation and ancillary facilities of 9,094m²;
- ground floor retail and commercial tenancies, including a dance rehearsal room, with a total GFA of 791m²;
- construction of a new through-site link between William Lane, Redfern Street and Regent Street; and
- loading dock with vehicular access to William Lane; and
- business identification signage;
- streetscape improvements and landscaping; and
- extension and augmentation of services and infrastructure as required.

The proposed development would have a maximum building height of 61 metres (18 storeys) and a GFA of 9,885m².

It is noted the proposal has a capital investment value (**CIV**) of \$38.9 Million.

3 Specific issues raised by the adjoining property owner

3.1. The proposal exhibits excessive height, bulk and scale

Despite the proposal exhibiting a quality architectural design by a recognised architectural practice, a satisfactory environmental outcome is still required. The following planning issues require detailed consideration:

- maximum planning controls are not a right, rather an applicant needs to be able to demonstrate that a proposal is not an overdevelopment of the site even if it complies with the key planning controls (i.e. an acceptable environmental performance). In this regard, the proposal departs from the height standard at Clause 21(1) of Division 3 in Schedule 3 of SEPP (Major Development) 2005;
- if approved the proposal will lead to an unsatisfactory precedent for redevelopment of other adjacent properties within the north eastern part of Redfern that result in similar adverse environmental impacts;

- the excessive height, bulk and scale result in adverse environmental impacts to the adjoining and adjacent properties;
- the proposal represents a significant intensification in use from that existing on the site and increases the bulk and scale of the urban fabric at the north eastern gateway to Redfern;
- the high visibility of the site increases the perception of the proposal's height, bulk and scale;
- consideration should be given to internalising the all required plant and equipment areas so that they are located within the predominant building envelope rather than being located on top of the predominant building envelope;
- the limited separation of the proposed built form and the adjoining property owner's unit accentuates the environmental impacts in relation to visual and acoustic privacy, loss of outlook, loss of views and loss of sunlight;
- consideration should be given to lowering the height of the building to technically comply with relevant planning controls. By lowering the height and reducing the bulk (footprint) to as required under the planning controls, the benefits would be:
 - a development that is consistent with community expectations for the locality;
 - maintain existing panoramic and significant views and vistas;
 - impacts of the building would be expected given the planning controls applying to the site; and
 - a reduction in the intensity of the use on the site which will therefore assist in maintaining existing levels of amenity of adjacent properties.

3.2. *The proposal has unacceptable view impacts*

As described in the applicant's documentation, the site and the locality in general enjoy panoramic and long distance northern (through the gap between the former TNT Towers buildings), north eastern, eastern and south eastern views and vistas towards the Sydney Central Business District (CBD) and the eastern and south eastern suburbs, including Botany and the Sydney Airport. The existing view (a panoramic picture) from the terrace of Unit 506 is shown below at **Figure 1**.



Figure 1 – Existing panoramic view from the terrace of Unit 506

Notwithstanding the above, it is also acknowledged that a development which fully complied with the relevant planning controls would reduce the aforementioned view corridors. However, the proposal departs from the key density standard of building height pursuant to the provisions of Clause 21(1) of Division 3 in Schedule 3 of SEPP (Major Development) 2005. Therefore and despite the detailed documentation submitted, it is considered that the proposed development will undoubtedly result in an adverse view loss from Unit 506 (see **Figures 2 to 5** at Section n the privacy section below).

The aforementioned lost views whilst not quite iconic are high quality localised (e.g. but not limited to the Redfern Clock tower) and substantial enough to warrant their retention as required by the relevant NSW Land and Environment Court Planning Principle (*Tenacity Consulting v Warringah 2004*) and therefore the proposed built form results in an unreasonable impact. It is noted that the Tenacity view sharing principle does not permit the destruction of views even if a proposal complies with the relevant controls and particularly if a more skilful or appropriate design given the locational context was possible. The proposal obviously conflicts with Tenacity in that existing views and vistas are lost from primary living rooms and the principal area of private open space at Unit 506.

This view loss will also be attributable to non-complying elements of the building. The view impacts are not considered to be moderate as they result in a loss of direct easterly and south easterly panoramic views (and visual privacy impact and loss of direct solar access during the AM period to Unit 506).

3.3 Visual privacy

The site and surrounding locality are located in an area undergoing significant redevelopment for medium to high density mixed use (predominantly residential) purposes. Varied building typologies are found in the area. The relative topographical consistency (top of the north eastern Redfern ridgeline) between the site and its immediately properties and the relatively dense built form environment generates a pattern of relatively closely spaced built form with limited buffers provided between properties. As a result there is mutual overlooking of private and communal open space areas of adjacent properties.

Notwithstanding the above, limited separation (12 metres in some cases) is provided between properties (to the terrace at Unit 506 from the window of Apartment 6 at proposed Level 6). However and despite privacy being a desirable element for residential amenity, the proposed 18 storey built form will undoubtedly result in a loss of residential amenity to the adjoining property owner. Not only does the built form reduce existing panoramic views and vistas (see Section 3.2 above), it will also result in material aural and privacy impacts. The proposed western elevation contains 14 windows at each level some of which are provided with a direct line of sight to the primary living room and principal area of private open space at Unit 506. This unquestionable loss of aural and visual privacy is directly attributable to the non-complying elements (height and setbacks) of the proposed built form.

Figures 2 to 5 provide a comparison of the existing outlook and visual privacy (from the terrace and open plan primary living room) from Unit 506 as compared to that with the future built form.



Figure 2 – Existing view outlook location #1 and superimposed future built form



Figure 3 – Existing view outlook location #2 and superimposed future built form



Figure 4 – Existing view outlook location #3 and superimposed future built form

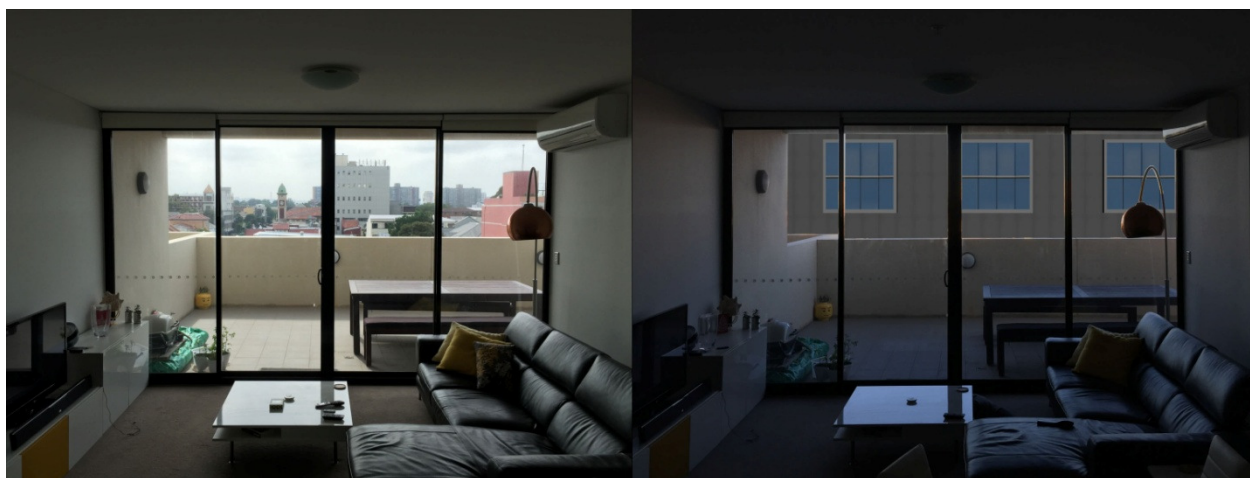


Figure 5 – Existing view outlook location #4 and superimposed future built form

3.4 Wind assessment

Redfern and particularly the site and its immediate locality is heavily affected by prevailing winds as it sits on the top of the central Redfern ridge. Notwithstanding that a Wind Report has been submitted with the application, no wind tunnel testing or modelling had been undertaken at either the ground level, proposed mid building levels or its top levels. As such the report only addresses the general wind and localised effects. Based on this limited research all recommendations have only been made, in principle only.

Given the proposed height and density of the proposal, coupled with the prevailing environmental constraints and topographical location of the site and locality it is considered of paramount importance to ensure that additional wind impacts generated by the proposal be specifically modelled and tested to ensure amenity levels internal and external to the site are at the very least maintained. It is also noted that the Wind Report provided numerous recommendations for additional design related measures to reduce future wind related impacts at all levels of the building. These recommendations (unless adding to the visible bulk and scale) should be imposed as conditions of development consent to maintain existing pedestrian and community amenity should the SSD be considered favourably.

3.5 Traffic and parking impacts

Redfern suffers from chronic traffic gridlock resulting from existing development density and land uses. Whilst on site car parking is neither required or proposed, the loading/unloading requirements and delivery vehicle requirements for the site's future full land use (all non-residential uses at the ground floor and laneway) should be carefully considered. Whilst it is acknowledged the proposal technically complies with the car parking requirements the submitted traffic report states that the provision of loading/unloading and the increased intensity of land use will not give rise to adverse traffic impacts.

The majority of adjacent properties use William Lane which is a very narrow one way carriageway for vehicular access and egress. During the AM and PM peak hours there is the potential for substantial vehicle numbers and pedestrians trying to enter/leave the locality, all via William Lane in an attempt to join the already saturated surrounding arterial roads. William Lane also has poor sight distances, blind corners and queuing of vehicles exists and will be further exacerbated by the proposal. In addition to normal motor vehicle use, William Lane is also used by service vehicles (loading and unloading) and Council garbage trucks and fire engines (as/when required). This mixed use of William Lane results in unacceptable queuing of vehicles and has the potential for severe pedestrian and motor vehicle conflict, given the desire to create the pedestrianised through site link between Redfern Street Laneway and William Lane.

Other issues to consider include:

- the requirement for future traffic calming methods along Regent Street;
- vehicular/pedestrian conflict along William Lane and the through site link;
- the queuing of vehicles in accessing/exiting the site during the AM and PM peak hours;
- queuing for the use of the single loading bay at typical loading bay times for the non-residential uses;
- acoustic impacts related to the use of the loading/unloading bay particularly at the lower levels of the adjacent buildings (specifically the eastern elevation of 157 Redfern Street);
- hours of operation for the proposed loading/unloading bay; and
- zero parking spaces for the retail uses.

3.6 Construction and traffic management

Given the scale of the development proposed and the site's/locality's environmental constraints (major arterial road signalised intersections, bus lanes, existing built form, sensitive and non-sensitive land uses, one way streets, traffic gridlock, service vehicles, noise etc), the submitted Construction and Traffic Management Plan should be imposed as a condition of development consent (assuming a favourable determination of the proposal and assuming its adequacy).

3.7 Dilapidation report, photographic survey and geotechnical investigation

As substantial construction works are required to accommodate the proposed built form, coupled with the site's topographical features, the location of adjoining and adjacent buildings and boundary walls and the density of the locality, it is considered appropriate that Council impose a condition of development consent (assuming a favourable determination) requiring the preparation and submission of a dilapidation report and photographic survey of the relevant adjoining/adjacent buildings (specifically 157 Redfern Street and all relative apartments within) and walls prior (prior to the release of a CC) and post construction (prior to issue of an OC). It is requested that the applicant be required to provide these reports to the adjoining property owner for their own records.

This will ensure that if the construction works have an adverse impact on the structural integrity of the adjoining buildings and walls, the adjoining property owner has an appropriate course of action (safety net) with the applicant/builder.

In addition to the above it is requested that the DoPE thoroughly review the submitted Geotechnical Report to ensure the site and its underground conditions are suitable to accommodate the 18 storey built form. Furthermore this report should also provide detailed construction methodology recommendations and to assist in the adequate maintenance of runoff and water flows on/to adjoining properties. These recommendations should also be imposed as appropriate conditions of development consent assuming a favourable determination of the current proposal.

3.8 Acoustic assessment

Whilst the acoustic assessment report submitted with the DA appears to demonstrate that the proposal will not result in any adverse acoustic impacts (internal and external to the site), its assessment is not entirely complete as a detailed review of all external mechanical plant has not been undertaken. Therefore the true acoustic impacts of the proposal are unknown.

It is requested that should the DoPE be of a mind to favourably determine the DA, the following issues be considered and adequately addressed:

- the proposed non-residential uses at the ground floor opening to the laneway have not been fully determined other than the dance studio which in itself may lead to an unsatisfactory acoustic outcome. Other uses could range from a shop, cafe, bar or small business office;
- the requirement for all mechanical plant and equipment (such as required for air conditioning) to be appropriately located and acoustically attenuated. This will significantly reduce the external acoustic impacts of such equipment. Furthermore there is no impediment for all required plant and equipment to be located within the basement level; and
- the imposition of a condition requiring all mechanical plant and equipment to comply with the highest acoustic criteria;
- confirming what the 12 special events per year for the outdoor terrace may relate to and whether they are an acceptable/appropriate event;
- the aural privacy impacts associated with the extensively permitted public access to and use of the proposed through site link (laneway);
- excessive hours of operation for the retail components (6am to 12 midnight) and the resultant acoustic impacts, not to mention the increased potential for anti social behaviour given the extended proposed trading hours;
- the imposition of appropriate conditions relating to:
 - restricting the number of students on the terrace to 100 at any one time;
 - prohibition of amplified music on the outdoor terrace; and
 - limiting access to the outdoor terrace between 7am and 10pm.

3.9 Shadow diagrams

Although the shadow diagrams submitted with the application detail a myriad of shadow types, they do not in any way demonstrate the impact of overshadowing on the eastern elevation of 157 Redfern Street and in particular Unit 506, an east facing apartment. It is therefore requested that the DoPE thoroughly consider the overshadowing impact to the eastern elevation of 157 Redfern Street. As Unit 506 has an easterly orientation and no other openings, solar access is only available during the AM period. Despite being located directly to the site's west, the applicant's documentation does not depict any overshadowing of this elevation during this period. This is considered be incorrect as due to the existing development density (built form) in the surrounding locality direct solar access to this crucial facade is already limited.

3.10 Asbestos

Substantial demolition of the existing aged built form is proposed. If asbestos is found to be present on the site, the following advising/condition is recommended:

'Specialised controlled demolition of the current buildings is to be carried out only by contractors licensed in asbestos removal to arrest and encapsulate airborne dust particles and dispose of such debris in a licensed hazardous waste pit in accordance with the relevant Australian Standard(s).'

The above works would be included within an Asbestos Management Plan in accordance with the Code of Practice: *How to Manage and Control Asbestos in the Workplace* [Safe Work Australia, 2011].

3.11 Works outside of the site boundary

The proposed Landscape Plan depicts works outside of the site's legal property description. No objection is raised in principle to these works as they will provide undoubted public domain benefits, however, it is unclear as to whether the correct or all required landowners consents has/have been provided.

4. Conclusion

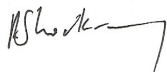
Following a detailed review of the available information provided with the SSD, the adjoining property owner acknowledges the rights of the applicant to redevelop their site, albeit appropriately and strictly in accordance with the applicable planning controls. However, to comply with the aforementioned, amendments to the design will be required. It is requested that the DoPE thoroughly consider the issues in the preceding sections of this submission prior to its determination.

The non-complying features of the proposed development will have a materially detrimental impact on the visual privacy, acoustic, solar amenity and view loss relative to Unit 506 at 157 Redfern Street. At the very least amendments should be made to the design having regard to the above issues raised

and/or the imposition of suggested conditions of development consent. Should amended plans be submitted addressing the abovementioned concerns, we request that the adjoining property owner be re-notified. Furthermore the adjoining property owner (and other affected owners) would have no hesitation in meeting with DoPE and the applicant (despite the previously alleged community consultation) to discuss the issues raised in this submission. Such a meeting may result in an acceptable outcome to all parties. The adjoining property owner is not adverse to progress and the appropriate redevelopment of the locality, albeit in accordance with the relevant planning controls, which is a realistic expectation of the community.

Should you have any further queries or require clarification of the matters contained herein, please do not hesitate to contact the undersigned.

Yours faithfully



Scott Lockrey
Director