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Your Ref: SSD 7080

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Attention: Simon Truong, Senior Planner  
Email: [simon.truong@planning.nsw.gov.au](mailto:simon.truong@planning.nsw.gov.au)

Dear Simon,

**RE: Exhibition of proposed mixed use residential and retail development at 80-88 Regent Street, Redfern (SSD 7080) - OBJECTION**

I refer to your correspondence received on the 8 February 2016 advising of the application for a mixed use development at 80-88 Regent Street, Redfern. The City thanks you for the opportunity to comment on the proposal.

**Site and Proposal**

The site comprises of five individual allotments with a combined site area of approximately 822sqm. The site has frontages to Regent Street, Marian Street and William Lane and currently accommodates five commercial terraces.

The proposed development provides for the demolition of the existing buildings on site and construction of an 18 storey mixed use building comprising:

- retail uses at ground level fronting Regent and Marian Street and a child care centre at ground and first floor;
- 80 residential apartments, comprising a mix of one, two and three bedroom;
- four levels of basement accommodating 65 parking spaces, storage, plant and associated services;
- bicycle parking at ground level and on each residential level;
- communal roof-top open space; and
- waste, loading and services at ground level, to the rear of the retail and child care uses.

**Response**

The City has reviewed the information provided as part of the public exhibition and objects to the proposal in its current form. There are a number of planning and design issues that need to be addressed, as detailed below. The City requests these issues be addressed prior to the application being determined.

## Height in storeys and mezzanines

### *Comment*

1. State Environmental Planning Policy (Major Development) 2005 (MD SEPP) specifies an 18 storey overall height control and a two storey street wall to Regent Street.
2. The EIS states that the proposal is 18 storeys due to the use of a mezzanine above Ground Level and a mezzanine above Level 17.
3. The Building Code of Australia (BCA) requires a mezzanine to be part of a room. If an intermediate floor is enclosed by a wall it is no longer within another room. The 'mezzanines' above Ground Level and above Level 17 cannot be defined as mezzanines under the BCA.
4. The 2 storey street wall contains double volume voids for the Ground Level uses and provides an area for servicing within the mezzanine. While some areas of the Ground Floor require additional floor to ceiling heights to achieve head clearance for trucks or a curtilage for the substation, there are areas that could have an additional level above ground such as the retail and the child care centre.
5. This is particularly relevant for the child care centre, which has a Ground Level double storey void and an internal stair that do not appear to have sufficient stairs or landings to connect Ground Level with Level 1 (located 9.04m above ground). The functionality of having the two levels of the childcare separated by a double storey void will also need to be interrogated from an operational perspective.
6. As outlined above, the building has the height, bulk and mass of a 20 storey building and by definition is a 20 storey building. As such, the proposal does not comply with the 20 storey height control.

### *Recommendation*

- The height in storeys non-compliance should be addressed. A number of strategies are recommended:
  - provide genuine mezzanines, intermediate floors that are part of the room below;
  - create a genuine floor above Ground Level where the extra ceiling height is not required and remove the 'mezzanine' above Level 17. This would reduce the overall height by 2 storeys, reducing the overshadowing impacts of the proposal and complying with the MP SEPP control;
  - reduce the bulk of the floor above Level 17 by shaping the top of the building and locate the mezzanine levels in a contiguous floor plate around the core to provide an area of consolidated open space on the roof. The shaping of the top of the building may reduce the extent of overshadowing, however a redesign of the common open space may be required.
- A review of the functionality of the child care centre is required, particularly with regard to:
  - the centre being split over two levels, with a large void in between. While the arrangement may work from a development perspective, it may not be suitable for the child care workers and their clients as there is only one lift

servicing the connection between ground and Level 1 or a vertical height of 9.04m of stairs to climb;

- the residential lifts are shown opening to the Level 1 of the centre, creating potential safety and security concerns.

### Floor space ratio

#### *Comment*

7. The MD SEPP specifies a floor space ratio (FSR) of 7:1 and relies on the definition of gross floor area (GFA) as defined in Sydney LEP 2012.
8. The below areas have not been included in the calculation of GFA. An initial review indicates that these areas are in excess of 430sqm:
  - Storage, garbage and horizontal circulation areas on the mezzanines above Ground Floor and above Level 17;
  - at Ground Level, the mail room, back of house area, the bulky goods store, waste holding room and bin room;
  - corridors in the lobbies of each residential floor that are enclosed by an external wall;
  - areas of fire stair landings that are being used for horizontal circulation;
  - a winter gardens for apartments L5.02 and L14.02

#### *Recommendation*

- The GFA for the proposal should be recalculated to be consistent with the standard definition of GFA. This will likely require a reduction in the height and/or bulk of the development in order to comply with the FSR control.

### Solar access

#### *Comment*

9. The proposal claims that it achieves 70% solar access. However, when the Solar Access 9am-3pm drawing (DA3201) is read in conjunction with the View from the Sun drawing (DA 3011) it appears that it does not meet the requirements of the Apartment Design Guide (ADG). Examples of non-compliances are as follows:
  - the Solar Access Schedule claims that Apartment L2.06 achieves 2 hours of sun. When this is verified against the View from the Sun, it is only seen at 10am, 10.30am, 11 am and 11.30am - a period of 1.5 hours. The balcony receives sun for approximately 1 hour and the last 30-45 minutes the sun is in the living room. At around 11am both the living and balcony receives sun;
  - Apartment L2.01 can only be seen in the View from the Sun between 9-10am. This is a period of 1 hour and should not be include in the Solar Access Schedule;
  - the above applies to all apartments in this location until Level 12.

#### *Recommendation*

- A more accurate Solar Access Schedule is required to determine the number of apartments that achieve solar access for 2 hours in mid-winter, in accordance with the ADG requirements.

- The shortfall of apartments that do not achieve the required solar access may need to be addressed by increasing the amount of non-residential uses at the lower levels and/or reducing the number of apartments.

### Setbacks

#### *Comment*

10. William Lane setback - an 800mm setback is provided to William Lane for 52% of the building frontage. This setback is reduced to zero for 48% of the frontage adjacent to approved student housing proposal. Both the student housing proposal and existing building at 7-9 Gibbons Street provide an 800mm to Ground Level and Level 1. This could be to provide a footpath for accessibility or clearance for service vehicles.
11. Regent Street street wall setback - similar to the student housing proposal to the north, the proposal provides a predominant 3m upper level setback above the 2 storey street wall height along Regent Street. It is noted however that this 3m setback is measured to the inside face of the main wall of the building, not the glass line.
12. Regent Street upper level setbacks - upper level setbacks vary as follows:
  - Levels 2 to 5: a 3m upper level setback for 42% of the street frontage and at the corner of Regent Street and Marian Street it is built to the boundary for 32% of the street frontage;
  - Levels 6 to 14: a 3m upper level setback is provided;
  - Levels 15 to upper mezzanine and roof top garden: a 1.5m upper level for 33% of the northern part of the street frontage and 3m upper level setback for 52% for the southern part of the frontage.
13. Marian Street setback - the controls for the site suggest an upper level setback to Marian Street above the street frontage height, however the proposal is built to the boundary at the corner of Marian Street and Regent Street for 53% of the building frontage of Marian Street. The remainder of the building frontage has an upper level setback that varies due to the trapezoidal shape of the site and ranges from 1.2m to 4m.

#### *Recommendation*

- Investigate the rationale for the 800mm setback on adjoining properties. An 800mm setback to William Lane that matches that of the student housing proposed should be provided for Ground Level and Level 1 at a minimum. This setback should be clear of any structure and building elements.
- The reduced upper level Regent Street setbacks for Levels 15 to upper mezzanine are acceptable, subject to the proposal demonstrating that there are no additional overshadowing and view loss impacts as a result of this non-compliance with the upper level setback control.
- A setback from the podium to upper levels should be provided, as envisaged in the controls.

### Building separation

#### *Comment*

14. The approved student housing proposal immediately to the north of the site has one window per floor addressing its southern boundary. Levels 14 to the upper

mezzanine of the proposal address the northern facade to optimise solar access to living spaces for the apartments. An 8m separation between windows of the proposal and adjoining student housing development is proposed for these levels.

15. The proposal shows a habitable room directly opposite the window to the dining room of the student housing development. The ADG requires buildings over 9 storeys to be setback a minimum of 12m from the boundary for habitable rooms to achieve reasonable levels of external and internal privacy.

#### *Recommendation*

- The building separation non-compliance should be addressed. A number of strategies are recommended:
  - provide a 12m setback to the northern boundary for Levels 14 to upper mezzanine. This approach could be an effective way of managing any excess GFA outlined above;
  - provide high level windows to the habitable rooms that are offset from the dining room window of the student housing development.

#### Overshadowing and view loss

##### *Comment*

16. The four towers that comprise the street block, including the proposal results in extensive overshadowing of adjoining properties.
17. While the controls envisaged an 18 storey building, the proposal presents as a 20 storey building, increasing overshadowing impacts, particularly to the conservation areas between Cope and George Streets in the afternoon mid-winter. There may also be additional view loss to residents in the adjoining residential building immediately to the east and northeast.
18. It is difficult to determine the extent of overshadowing and view loss that may be caused by the additional two storeys and lack of upper level setback. While the controls assume that there will be some impacts, the impacts should be limited to those anticipated by the controls.

#### *Recommendation*

- A careful review of the proposal is required to determine additional overshadowing and view loss impacts of the proposal as follows:
  - ensure that there are no additional impacts created by the additional 2 storeys by comparing the proposal against a complying 18 storey scheme;
  - ensure that there are no additional impacts created by the reduced upper level setback for Levels 15 to upper mezzanine by comparing the proposal against a complying setback scheme.

#### Podium design

##### *Comment*

19. The new podium proposes a series of five, large, high arches, which appear to be an interpretation of the existing 5 terrace buildings.
20. The podium will result in a contemporary but contrasting appearance. The large arches and glazing are not in keeping with local character, in particular the fine

grained shopfronts on Regent Street and Botany Road. The form of large arches has no provenance in the local area and the scale and height of the podium does not complement the retained facades and remaining commercial buildings that surround the site. The podium also appears to be under scaled to the proposed new building, the zero setback from Marian Street contributes to the discord.

#### *Recommendation*

- The scale, form and height of the podium are to be revised to respect the local character, topography and streetscape. The new building should set back from the podium at the corner of Marian and Regent Streets, in accordance with the controls. The podium design should make reference to the prominent features of traditional shopfronts, such as solidness of the first level and presence of top parapets.

#### European heritage

##### *Comment*

21. An assessment of European archaeology has not been included within the Heritage Impact Statement or the Archaeological Assessment. Archaeological potential was identified at adjoining sites at 60-78 Regent Street and 157-161 Gibbons Street during the DA assessment stage. The site contained early residences and shops before the current commercial terraces and as such, archaeological potential is likely.

##### *Recommendation*

- An assessment of European archaeological potential by a suitably qualified archaeologist must be prepared and submitted to the consent authority prior to any consent being granted. Subject to the conclusion and recommendations by the archaeological report, a S140 excavation permit pursuant to the *NSW Heritage Act 1977* may be needed prior to commence of the project.

#### Bicycle parking

##### *Comment*

22. Bicycle parking for visitors and customers is located on the corner of William Lane and Marian Street. Priority has been given to the fire hydrant & sprinkler booster room and waste room access above the bicycle parking. Bicycle parking should be given better positioning in terms of street access than these other services, which are less frequently used.
23. It is unclear how the proposed screen to the bicycle parking area functions. In Section 1 (Drawing number DA-0601) the screen appears fixed. Bicycle parking should be clearly visible and easily accessible.

##### *Recommendation*

- Bicycle parking for visitors and customers should be located in a highly visible and accessible location. It is recommended bicycle parking is swapped with the fire hydrant & sprinkler booster room located adjacent to the foyer on Marian Street. Details of any proposed screening should be provided.

## Building Code of Australia

### *Comment*

24. A review of the proposal has raised the below concerns with regard to BCA compliance:

- concern regarding the strategy of using the fire stair landings for access and circulation to apartments and the garbage rooms. Clarification required as to whether this will interfere with the fire isolation requirements of the scissor stairs;
- clarification required regarding the discharge of the fire stairs to the external lobby that is secured by a security gate;
- clarification required regarding the location of windows less than 3m from the northern boundary for Apartment 1 on Levels 2 to the upper mezzanine. If fixed glass is required this will prohibit natural ventilation and reduce the proposals ability to achieve 60% natural cross ventilation in accordance with the ADG.

### *Recommendation*

- Specialist advice should be sought on the above issues to ensure the proposal is capable of complying with the BCA.

## Stormwater and on-site detention

### *Comment*

25. On-site detention (OSD) has not been included on the submitted Drainage Concept plans. An OSD system is required for the development's stormwater drainage system as per the Sydney Water On-site Stormwater Detention Guide.
26. The Drainage Concept plans shows downpipes on the outside of the northern boundary wall, which has a zero setback and an adjoining building built to the boundary.
27. Existing City of Sydney stormwater infrastructure (pit and pipe) is located at the Regent Street frontage of the development site. It is recommended that the drainage outfall from the site be connected to this infrastructure where possible.

### *Recommendation*

- The applicant is to consult with Sydney Water for OSD requirements and specifications.
- Amended Drainage Concept plans are to be submitted that address the issues raised above.

## Flooding

### *Comment*

28. The City's Alexandra Canal Catchment Flood Study (2014) shows the extent of flooding around the subject site is below the mapping thresholds (less than 0.15m). To comply with the City's Interim Floodplain Management Policy, the proposal is to have a minimum flood planning level of 300mm above the adjacent road gutter invert for ground level floors as well as entry to basement including any opening to basement, stair well and lift shaft.

### *Recommendation*

- Amended plans are to be submitted that address the above.

### Land contamination

#### *Comment*

29. The submitted a Preliminary Site Investigation (PSI) indicates potential contaminants of concern including uncontrolled fill, pesticides, leaks and discharges from vehicles, metal degradation and asbestos. The PSI recommends a Detailed Site Investigation be undertaken.

### *Recommendation*

- A Detailed Environmental Site Investigation (DESI) is to be carried out 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, *Contaminated Land Management Act 1997* and SEPP 55 Remediation of Land. The DESI must confirm that the site is suitable (or will be suitable, after remediation) for the proposed use.
- Where the DESI states that the site requires remediation, a Remediation Action Plan (RAP) is to be 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 the *Contaminated Land Management Act 1997*.

### Child care centre

#### *Comment – use and operation*

30. The EIS states that a separate development application for the fitout of the child care centre will be submitted, however the application requests approval for the use of the child care centre. Beyond a nominal figure of 65 children, no operational details have been submitted in order to assess the suitability of the space for use of the child care centre.

#### *Recommendation – use and operation*

- Operational details of the centre are to be provided in order to assess the suitability of the proposed use. Information should include proposed number of children by age groups (0-2 year olds or 3-5 year olds), corresponding staff numbers and proposed hours of operation.

#### *Comment – outdoor play area*

31. Sydney DCP 2012 requires 7sqm of useable outdoor space is provided per child. The proposal includes an area of outdoor play space of approximately 338sqm, which is insufficient for the proposed 65 children. The design of the playground and planting is generally acceptable, however only for a maximum of 48 children. Removing the planting to the edges of this space to increase the area is not an appropriate response to this issue as the planting forms a visual and acoustic buffer, and a filter of sorts.

#### *Recommendation – outdoor play area*

- The abovementioned issue should be addressed prior to determination of the application.



*Comment – noise and vibration*

32. Sydney DCP 2012 requires the following:

- an operational Plan of Management to allow consideration of potential noise impacts;
- the repeatable maximum LAeq1hr) must not exceed 40 dBA (Leq1hr) within the internal spaces of child care centres;

*Recommendation – noise and vibration*

- An Acoustic Assessment, including recommended noise attenuation measures and prepared by a suitably qualified acoustic consultant must be submitted with the development application to demonstrate that these provisions can be achieved.

*Comment – electromagnetic frequency*

33. Sydney DCP 2012 states if a child care centre is proposed within 300m of a mobile phone tower or base station, a transmission line easement, or other source of significant electromagnetic radiation, a report prepared by a suitably qualified person assessing the potential exposure impact on the centre and its occupants must accompany the development application. The report must detail how the proposal complies with relevant Australian Standards.
34. The application has not provided any information in relation to proximity to phone towers, base stations etc. It is noted that a substation is planned for the ground level of the development, and must be accounted for.

*Recommendation – electromagnetic frequency*

- Further information is requested on the locality of mobile phone towers and base stations, transmission line easements or other sources of significant electromagnetic radiation. If an electromagnetic source is identified within 300m of the proposed centre, a report by a suitably qualified person is to be prepared to assess the potential exposure impacts on the proposed child care centre.

*Comment – cooling towers*

35. Sydney DCP 2012 states that a child care centre should not be located within close proximity to cooling towers, although there is no guidance as to exact distances. The application does not provided sufficient information in relation to the proximity of any cooling towers to the site.

*Recommendation – cooling towers*

- Additional information is required on the location of the closest cooling tower to the site.

Noise and vibration - general

*Comment*

36. The site is surrounded by mixed development including residential receivers. Potential noise sources from the proposal include use of the communal rooftop courtyard and the proposed child care centre.
37. Existing and approved development also has potential to create noise disturbances for future residents of the proposal. There is significant roof top plant on the adjacent buildings to the west of the site as well as the approved

student housing to the north. Potential impacts from surrounding plant have not been sufficiently accounted for.

38. The acoustic consultant has undertaken unattended long-term noise monitoring to establish background noise levels. The siting of the monitor for the purposes of establishing background noise levels across the site may not suitably represent the quieter areas of the proposal.

#### *Recommendation*

- A suitably qualified acoustic consultant is to be engaged to undertake and provide an acoustic assessment which follows the below scope of work:
  - 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:
    - the location of the noise monitor is to be photographed and documented for the record;
    - the monitoring location is to be representative of the quieter areas of the proposal, and encapsulate the shielding at ground levels from road traffic noise naturally afforded by the built environment of the area. Monitoring data is not to be affected by any construction noise;
    - a suite of baseline environmental noise statistics are to be reported, inclusive RBL<sub>A90</sub> (both broadband and equivalent 1/1 octave band spectra), and Period LAeq levels;
    - the consultant is to undertake a series of attended measurements at varying elevations to account for the general elevated levels of road traffic noise and commercial noise in the area from medium distance sources. 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.
  - The acoustic assessment should provide further consideration and assessment of the noise impacts from road traffic, the proposed child care centre and roof top plant from neighbouring sites, to the relevant levels of the building façades, accounting for distance attenuation and façade exposure.

#### Lot consolidation

#### *Comment*

39. The subject Deposited Plan is very old and it is expected that the boundaries will vary in terms of their distances and angular relationship when they are redefined when the site is consolidated. A consolidation plan will be necessary to provide certainty in relation to the position of the boundaries, the area of the site, and will be required to be lodged at LPI NSW before a strata plan for the site can be lodged. A modern consolidation plan located on the opposite side of William Lane from the subject site shows survey information through to Regent Street, and disagrees with the angular relationships within the subject site shown on the survey submitted with the application.

### *Recommendation*

- A consolidation plan should be prepared and lodged with LPI NSW. It is recommended this action be undertaken prior to construction commencing in order to avoid the risk of encroachments occurring as a consequence of changes to the boundaries and potential boundary disputes.

### General design

#### *Comment*

40. Air conditioning condensers are shown located at each residential level. This arrangement is supportable however, it is unclear from the drawings if the enclosing material (where it forms part of the balustrade) will provide sufficient circulation and ventilation to the condensers.
41. There are three condensers shown per floor but five apartments per floor. It is unclear if there will be any noise impacts to adjoining apartments.
42. A planter is shown above the entry to the residential lobby, it is unclear how this will be accessed and maintained.
43. The planter above the entry to the residential lobby combined with the recessed gates may create anti-social behaviour and the gates may need to come forward to deter sleep outs.
44. More detail is required co-ordinating the materials and finishes board with the elevations.

### *Recommendation*

- Additional information is required to clarify and/or address the above comments.

The City has reviewed the information provided as part of the public exhibition and objects to the proposal in its current form. As outlined above, there are a number of planning and design issues that need to be addressed. Prior to the application being determined, the City would appreciate the opportunity to meet with the consent authority to discuss the proposal. Conditions have not been recommended due to the outstanding issues raised above.

Should you wish to speak with a Council Officer about the above, please contact Natasha Ridler, Senior Planner, on 9246 7720 or at [nridler@cityofsydney.nsw.gov.au](mailto:nridler@cityofsydney.nsw.gov.au).

Yours sincerely,



**Graham Jahn AM**  
**Director**  
 City Planning | Development | Transport