

15 November 2018

File No: SSD 9275  
Our Ref: R/2018/27

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Dear Brendon,

**State Significant Development SSD 9275 – Student Accommodation – 80-88  
Regent Street, Sydney**

Thank you for your correspondence dated 15 October 2018 which invites the City of Sydney ('the City') to provide comments on the SSD application for student accommodation.

The proposal will operate as an integrated facility with the adjoining Iglu building at 60-78 Regent Street further intensifying the site and its success is heavily reliant on 'joining' communal features to achieve compliant areas. The City has reviewed the information submitted with the proposal and **objects** to the proposal in its current form. More detailed comments on the City's concerns may be found within **Attachment A** to this letter.

Should you wish to speak with a Council officer about the above, please contact Vanessa Aziz, Senior Planner, on 9246 7758 or at [vaziz@cityofsydney.nsw.gov.au](mailto:vaziz@cityofsydney.nsw.gov.au).

Yours sincerely,



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

## ATTACHMENT A

### SEPP 1 Objection – height and floor space ratio

It is considered that the applicant's written request to justify the contravention of the height and floor space ratio development standard is not well founded and not in the public interest as the proposed development will result in adverse environmental impacts such as wind impacts and overshadowing impacts to surrounding properties. The non-compliance with the height and building setback controls prejudices future residential development to 90 Regent Street and results in sub-standard amenity for both sites.

In addition to the above, the applicant's submission that the standards have been abandoned as the Minister has previously approved development in the Redfern Centre that varies the standards is not accepted. The impact of the development on the environment must be considered on a case by case basis. The information submitted with the application confirms that there will be unacceptable overshadowing impacts.

The Department cannot be satisfied that the applicant's written request has adequately addressed the matters required to be addressed by SEPP 1 and the proposed development to vary the height and floor space ratio standard should in this case be supported and would be in the public interest.

### Affordable Housing Contribution

It is the City's strong view student housing does not align with the Principles of SEPP 70 for the provision of affordable housing and as such should not be exempt from payment of affordable housing contributions.

While full time students are unlikely to earn more than the Sydney median income during their studies, it is not possible to determine what income support is otherwise available to them. To this extent it cannot be determined if the housing is being used for target income groups, being very low to moderate income households.

Moreover, the rents charged for the student accommodation are not capped, and student accommodation is typically relied on to be cheaper simply by virtue of its size. So while the proponent is seeking a financial benefit by seeking an exemption, by no means is there any certainty that the benefit will be passed to the end user.

### Zone Objectives

Under the State Significant Precincts SEPP, the site is zoned 'Business Zone – Commercial Core'.

The objectives of the Business Zone—Commercial Core are as follows:

- (a) to facilitate the development of a town centre,*
- (b) to encourage employment generating activities by providing a wide range of retail, business, office, community and entertainment facilities,*
- (c) to permit residential development that is compatible with non-residential development,*
- (d) to maximise public transport patronage and encourage walking and cycling,*
- (e) to ensure the vitality and safety of the community and public domain,***
- (f) to ensure buildings achieve design excellence,***
- (g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.*

It is considered that the proposal does not achieve the objectives of the SEPP, particularly paragraphs (e) and (f).

The wind impacts discussed below result in avoidable negative impacts to the public domain.

The proposal is likely to cause overshadowing impacts (it is noted that insufficient information has been provided to properly assess shadow impacts). As discussed below, corrections to the methodology are required to quantify the degree of impact.

### **Design Excellence**

Clause 22 of Part 5 of Schedule 3 of the SEPP states that consent must not be granted to a new building or to external alterations to an existing building unless the consent authority has considered whether the proposed development exhibits design excellence.

In considering whether proposed development exhibits design excellence, the consent authority must have regard to the following matters:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) whether the form and external appearance of the building will improve the quality and amenity of the public domain,***
- (c) whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency,***
- (d) if a competition is held as referred to in subclause (3) in relation to the development, the results of the competition.*

It is considered that the proposal does not achieve the design excellence provisions of the SEPP for the following reasons:

- the design of the proposed building does not improve the quality and amenity of the public domain; and
- the design of the proposed building does not satisfactorily mitigate environmental concerns such as wind and overshadowing.

### **Wind Impacts**

The immediate area is currently significantly affected by negative wind impacts – this is readily apparent from visiting the site. The wind report notes that there are issues with the recently approved Iglu development at 60-78 Regent St (level 1 courtyard) which is proposed to be connected to a similar space in the subject development.

The Wind Tunnel results shown at Table 5 indicate that several locations fail the wind criteria test. These are locations on the footpath along Regent Street, Marian Street and within the internal courtyard at Level 1.

Modifications are suggested for three of the locations (Locations 4, 5, and 13), however the modifications are not included in the proposed design.

For the other three locations which fail the wind criteria exceedance test (Locations 1, 2, and 3), the wind rose diagrams illustrate that the major exceedances created by the proposal are from NE and NNE winds. This demonstrates that the impacts are caused by downwash from the proposed building, rather than from interactions with adjacent existing buildings. It is not acceptable that the proposed design creates additional negative wind impacts in an area which is currently significantly wind affected. Alternative envelopes must be tested to determine whether wind conditions for pedestrians can be reduced to compliant levels.

The wind analysis is insufficient and requires amendments and further wind tunnel testing. The following significant issues have been identified:

- Incorrect comfort criteria is used in the testing:
  - Point 6 is the main residential entry to the building and should use 6m/s (standing) rather than 8m/s (walking).
  - Points 11, 12 and 13 are within the internal courtyard and should use 'sitting' (4m/s) criteria rather than standing (6m/s).
- The testing does not include a point within the covered section of the Level 1 courtyard, where wind impacts may differ / increase due to the overhang immediately below the sheer wall of the tower.
- The 'fail' result at location 13 is justified through the recommended treatment of densely foliating evergreen trees planted in a particular format. This treatment is not demonstrated in the proposed design.
- Amelioration treatments are suggested in the report which are not included in the current design. As the treatments are not included in the wind tunnel test model, the efficacy of the proposed treatments is not certain and do not guarantee an acceptable result. The wind tunnel test model must be amended and results recalculated to determine whether the outcome is acceptable.
- The report justifies 'fail' results at Points 1, 2 and 3 on the basis that the proposed condition is better than existing. This is not an acceptable justification. While noting that DCPs do not apply to State Significant Developments, the DCP provisions nevertheless provide useful guidance on the expected standards. In this regard, Sydney DCP 2012 clause 3.2.6 (3) requires new developments to incorporate design features that will ameliorate existing adverse wind conditions so that the criteria above are achieved. Further testing of alternate envelopes is required to determine whether improvements to wind conditions can be made at Locations 1, 2, and 3 along Regent Street.
- At Point 4 (at the corner of Marian and Regent Streets) the existing exceedance of comfort criterion is 20%. The proposed exceedance is 32%. The exceedance is justified through the recommended treatment of a full width awning to Marian Street. However, it is likely that the minimal setbacks at the south east corner of the proposed tower are contributing to the large exceedance. Further testing is required of tower envelopes which have greater setbacks at this location, both from Regent Street and from Marian Street. It is likely that the sharp angles at the SE corner accelerate wind impacts at ground level. Further testing should include alternative built forms with rounded corners.

In an area which is currently significantly wind impacted due to the presence of large towers with insignificant amelioration in the form of adequate setbacks and awnings, it is not acceptable to approve an application which further exacerbates wind conditions on the basis that similar non-compliances (setbacks) have previously been approved.

### **Overshadowing**

Insufficient and incorrect information has been provided. The plan view shadow diagrams provide only 9am, midday and 3pm. This is not sufficiently detailed to analyse and quantify the impact to residential dwellings to the east, south and west.

The plan view diagrams show the sun rising at midwinter from the north-west and setting in the south-west. The 'views from the sun' are similarly incorrect. The position of the sun differs from the correct azimuth position by approximately 90 degrees.

Incorrect information has been submitted with the proposal which has the potential to mislead the public about the actual impacts of the proposal. The position of north varies between the site plan and the floor plans. The plan view shadow diagrams and the views from the sun have been created using an incorrect position of the sun at midwinter. The errors must be corrected and fully re-notified prior to the assessment being finalised.

A complete overshadowing package which includes hourly views from the sun for both existing and proposed conditions is required. This must be supplemented by similar hourly views for both existing and proposed conditions in plan view. Residential properties which are impacted by the proposal must be clearly identified in both views from the sun and plan shadow diagrams. The impact to each individual residential property (including individual apartments) must be quantified in terms of hours of solar access for both existing and proposed.

It is noted that following receipt of the wind and overshadowing information and further analysis, a reduction in height and increased tower setbacks may be necessary.

### **Non-compliant street setbacks**

The Urban Design Principles – Redfern Centre dated May 2011 (UDP 2011) sets out the urban design principles for the site. These include street setbacks as follows:

- **Regent Street** - Above 2 storeys to Regent Street and northern side of Redfern Street Laneway – buildings are required to be setback 8m and follow the existing building line or the setback of adjacent buildings. The proposed setback at Regent Street follows the lesser setback established by the adjacent Iglu development. The non-compliance results in wind and overshadowing impacts.
- **Marian Street** - A minimum 1.5m setback is required for footpath widening to an average width of 3m and development; above 3 storeys to Marian Street, buildings are to be setback 4m and follow the existing building line or the setback of adjacent buildings. The proposal is setback 2.65m at the south-west corner and 1.3m at the south-east corner. The non-compliance results in wind and overshadowing impacts.
- **William Lane** - An 800mm setback to William Lane (eastern side) is required to provide the opportunity for footpath widening. Approximately 600mm to the line of the columns is provided. The non-compliance results in reduced safety for pedestrians within the laneway. An 800mm setback to William Lane should be

provided as a minimum. This setback should be clear of any structure and building elements.

### **Visual Privacy**

Insufficient building separation is achieved between the south elevation of the proposal and future development on the opposite side of Marian Street. Although ADG separation distances do not apply as this is student housing, good design should follow the suggested overall distances for buildings over 8 storeys. The ADG dimension is 24m, to be achieved equitably between sites. Marian Street is approximately 11m wide. Good amenity would be achieved with a setback of 12m from the centreline of the street. This equates to a setback of 6.5m from the southern boundary.

The proposed setback of between 1.3m and 2.65m will result in poor amenity and overlooking between sites.

As a minimum, **no reductions of the 4m setback specified in the UDP 2011 document should be permitted.** Any approval which reduces the setback prejudices future residential development of 90 Regent Street and results in sub-standard amenity for both sites. A greater setback is required to achieve good amenity for both sites.

### **Floor to floor heights**

The development proposes 2.9m floor to floor heights for residential accommodation. Although this matches what was approved on the adjacent Iglu development at 60-78 Regent Street, it is considered that this floor to floor height does not allow flexibility for future adaptation for a higher amenity use (potential future conversion of the building to a residential flat building). A low floor to floor height means that service areas (bathrooms, hallways) which have services running above the ceiling level, are not able to be changed to habitable spaces in the future. A minimum floor-to-floor height of 3.1m should be provided for the tower levels to facilitate the provision of 2.7m ceiling height.

The proposed office and retail mezzanine spaces are not supported as the upper level is not accessible.

### **Door Openings - William Lane**

The development proposes doors opening onto William Lane out and over the footpath. The footpath dimension is inadequate due to the non-compliance with the UDP 2011 control.

The development should provide a minimum 800mm street setback to William Lane (eastern side) to provide opportunity for street widening.

The design must be amended so that doors do not impact on pedestrian use of the footpath. The amendments should not create concealed / recessed spaces in the ground level facade.

A compliant setback to William Lane at ground level will improve pedestrian safety.

## **Blank William Lane Elevation**

The west elevation to William Lane is substantially composed of blank facades. As this elevation addresses habitable rooms in the development to the west (bedrooms and living rooms / balconies), consideration should be given to providing visually interesting and finely detailed elevations (which may perhaps include surface modulation or other articulation to relieve the flatness of the surface). The elevation drawings do not notate the intended material or finish for part of the facade.

## **Building Expression – Marian Street**

The design of the podium fenestration requires further consideration / justification. The large blank section of brickwork at Level 1 to Marian Street is uncharacteristic in the local context where the upper level presents an opening to the street, particularly at corners. The plan indicates seating immediately behind the blank wall – there is no reason why this cannot also be glazed.

## **Land Contamination**

The Preliminary Site Assessment recommends that a detailed site assessment is carried out and that the land may be contaminated with imported fill materials and asbestos from previous uses on the land.

Under clause 7 of State Environmental Planning Policy No 55—Remediation of Land, a consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The applicant has not determined the extent or nature of the contamination within the site and therefore there is insufficient information for the consent authority to determine if the site can be made suitable for the proposed use.

As recommended in the applicant's Preliminary Site Assessment report, a Detailed Environmental Site Investigation (DESI) is to be carried out by a suitably qualified and competent environmental consultant in accordance with the Office of Environment and Heritage, Guidelines for Consultants Reporting on Contaminated Sites, Contaminated land Management Act 1997 and SEPP 55 confirming 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 Office of Environment and Heritage, Guidelines for Consultants Reporting on Contaminated Sites and the Contaminated land Management Act 1997.

## **Common open space**

As noted earlier, Sydney DCP 2012 provides useful guidance on the expected standards for boarding houses. The DCP requires a minimum area of 20m<sup>2</sup> to be

provided as communal open space with a minimum dimension of 3m, with the space to be located at ground level in a north facing courtyard or terrace area, where possible, and designed to achieve good amenity in terms of solar access, natural air flow and ventilation, and outlook. Common open space may be located on elevated gardens or roof tops provided that the area and overall design is a high standard of quality and finish. The design of the common open space is to provide partial cover from weather, be connected to communal indoor spaces, include facilities like barbecues, seating and allow for a range of activities that can be used for the amenity needs of all residents.

This proposal includes two areas of communal open (COS) on Levels 1 and 17 as described below:

#### Level 1 common open space

The principal area is located on Level 1 is partly covered by the floor above, and provides 88m<sup>2</sup> area, of which only 66 m<sup>2</sup> is considered useable open space.

The entire area is located on slab over bike store and a “comms rooms” below, and the design is intends to integrate or join with an existing common terrace located to the north.

The proposed common open space (within this site) is enclosed by glazing to 3 sides, open to the sky, and connected to indoor lounge rooms, a nearby community dining table and community space. Noting the later appears to be designed for the exclusive use of the students rather than the local community. The design of common open space provides timber decking, a large communal table, loose furniture and planters. There is no BBQ or fixed furniture proposed.

Ideally the design and location communal open space responds to site conditions and the location of facilities responds to microclimate, with access to sun in winter, shade in summer, shelter from strong winds and down drafts. However, the design results in significant wind issues requiring specific wind mitigation measures that are not shown on the architectural or landscape plans – refer to other comments below.

The communal outdoor open space is to receive minimum 2 hours solar access to 50% of the area mid-winter. However, there is insufficient information to confirm if solar access is achieved.

While the quantity of common open space complies with the DCP, a review of the provision highlights that the majority of space is timber decking on slab with no porous surfaces and the amount of planters is minimal at 23%. The DCP requires that unpaved soft or porous areas must comprise a minimum of 50% of the total area of common open space.

#### Level 17 rooftop terrace

The proposal includes timber decking, a BBQ area with raised bar and seating, loose furniture under an awning, a grid of seating areas separated by raised planters with trees, a feature timber arbour with climbers and a glass balustrade and parapet to the terrace edge.





The terrace design is generally supported however planter depth and volume is problematic.

The raised planters with trees are only 800mm high with medium to large street tree species (*Cupaniopsis anacardioides*) which grows up to 15 metres tall and canopy spread of 15 metres in ideal conditions. The trees will be subjected to wind and exposure on the rooftop terrace. The plans submitted do not clearly show the location of trees, making it difficult to assess the soil depth and soil volume. The soil depth of planters is considered too shallow to support the tree on the roof top which to comply with the Sydney Landscape Code, a medium large tree requires a minimum soil depth of 1000mm and soil volume of 35m<sup>3</sup>.

Confirmation of the tree locations, soil volume and justification of why the planters cannot be increased in height to provide the minimum soil depths is required.

There is insufficient information provided for the arbour structure (design, height and maintenance), planting design, furniture fixings, lighting, and location of drainage outlets, irrigation and how the landscaping will be maintained.

It is recommended that:

- the design of the Level 1 communal open space be reviewed to achieve a minimum 50% soft landscaped areas, additional facilities and include wind mitigation measures for comfort;
- solar access be provided to communal open spaces to achieve compliance with DCP;
- clarification be provided on whether the furniture in the communal open spaces is fixed and if the space is lit at night;
- clarification be provided on the location of all trees on slab, and the soil depth and soil volume for all raised planters on all levels; and
- the planter heights be increased to provide adequate soil depths and soil volumes for the new development and compliance with the Sydney Landscape Code Volume 2.

## Quality of communal open space and wind issues

This area of Redfern is significantly affected by negative wind impacts. The Wind report prepared by Windtech Consultants Pty Ltd (dated 23 August 2018) highlights several areas of the development at ground and level 1 that will be subjected to strong winds that will exceed the relevant criteria for comfort and safety.

The wind report notes that there are issues with the recently approved Iglu development at 60-78 Regent St (level 1 courtyard) which is proposed to be connected to a similar space in the subject development.

Areas subject to strong winds and wind funnelling include ground level at the corner of Regent and Marian Streets where the public domain experiences uncomfortable conditions due to westerly winds side streaming along the street. In addition, the north side Level 1 courtyard located on neighbouring property (60-78 Regent Street) is subjected to exposed west and south-west winds that funnel between the neighbouring developments to the west and down washing into the courtyard.

The wind mitigation proposed rely on the combination of measures that include:

- a continuous full span awning to both street frontages with no gaps at ground level; and
- Level 1 strategic tree planting on the boundary line (centre line of the shared courtyard) with densely foliating evergreen trees capable of growing 2-4m high with a 4m interlocking canopy (refer extracts below from the wind report and the landscape plan).



The architectural and landscape plans are not coordinated with the wind report recommendations and the location of the door to the courtyard and communal table may need revision.

The level of wind mitigation measures required suggests the tower and/or the facade design needs revision to greatly reduce the expected wind impacts and to ensure a safe and comfortable space for the resident's outdoor recreation needs.

## Level 1 and 2 planters integrated with the facade

Level 1 planters are located at the corner of Marian Street and on Regent Street on top of the awning, intended to soften the facade (see below photomontage).

Level 2 planters are located at the corner of Marian Street and on Regent Street on top of the awning, intended to soften the facade (see below).



However, all proposed windows are fixed glazing rather than operable. It is unclear how these planters will be safely accessed and maintained. Further details are required in this regard.

### **Soil depth for planting on podium or slab**

All planting is located on slab. The plans are illustrative in nature and provide an indication of the landscape concept. However, the plans do not show any levels (SSL, RL, TW) and no detail has been provided to confirm the planter designs are sufficient size and soil volume to support trees and compliant with the Landscape Code.

Additional information is required to clarify the planter design including soil depth, soil volume and compliance with the Sydney Landscape Code Volume 2.

### **Planting design / schedule**

The planting palette is supported in part. However the majority of plant species proposed are exotics rather than natives which is not supported.

The applicant should review the plant species to ensure they are appropriate for the proposed environment and microclimate and give preference to species with low water needs, including native plant species. The species should also be selected and located to manage sun and wind impacts.

### **Irrigation and drainage**

The entire landscape proposal is located on podium and will be reliant on adequate irrigation, and drainage systems. No information has been provided to confirm the drainage and watering systems proposed. Will rainwater be collected and stored in tanks for irrigation reuse? Additional information is required to confirm drainage, waterproofing and watering systems.

### **Access and maintenance**

Most raised planters are located at the edges of the facade. It is not clear how these landscape areas will be installed and safely accessed for ongoing maintenance. Clarification should be provided on:

- the installation methodology and safety considerations for working at height for landscape located on the upper levels of the building and/or in inaccessible planters. Are maintenance hooks proposed?
- all edges, wall heights and balustrades;
- the ongoing maintenance arrangement, including removal of green waste.

### **End of trip facilities**

A separate end of trip facility, including shower and change facilities, should be provided to for the retail and office tenancies.

### **Waste Storage**

Additional space should be provided for bulky waste storage, storage of food waste for recycling, and space for storage of reusable commercial items (eg. crates, strip out waste etc).

### **Laundry facilities**

Clause 4.4.1.5 of the DCP requires one washing machine and dryer per 12 residents and drying facilities.

Based on the proposed number of student accommodation beds (being 265), a total of 22 washing machines and dryers are required.

The proposed development contains a communal laundry providing 5 x 8kg (or larger) washing machines and 6 x 9kg dryers.

The proposal provides a ratio of 1 washing machine per 53 students and 1 dryer per 45 students. The proposal is not acceptable for a new development of this size and scale. The City recommends compliance with the DCP laundry facility requirements, including number of washing machine, washing tubs and clothes lines.

### **Other boarding house and student accommodation requirements**

A number of rooms do not comply with the minimum DCP standards. The Department should ensure that the proposal fully complies with the DCP.

**SEPP (Building Sustainability Index: BASIX) 2004**

It is noted that the application has not address this SEPP. The Department's attention is drawn to a recent Land and Environment Court judgement (SHMH Properties Australia Pty Ltd v City of Sydney) in relation to boarding houses and BASIX.