



175-177 Cleveland Street and 1-5
Woodburn Street, Redfern

FINAL RESPONSE
TO SUBMISSIONS

State Significant Development 15_7064

FINAL RESPONSE TO SUBMISSIONS

175-177 CLEVELAND STREET AND 1-5 WOODBURN STREET, REDFERN

Part 5 and Part 6 storey mixed use development with two
retail tenancies, hotel accommodation with 76 rooms and
a residential apartment building containing 19 apartments
(SSD 15_7064)

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Prepared under instructions from
[Krikor Simonian](#)

by

[Aaron Sutherland](#)
B Town Planning UNSW

aaron@sutherlandplanning.com.au
Tel: (02) 9894 2474
PO BOX 6332 BAULKHAM HILLS BC NSW 2153

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1.0 INTRODUCTION

This report provides a final response to the issues raised by the Department of Planning and Environment, and other government agencies in response to a State Significant Development Application for the erection of part 5 and part 6 storey mixed use development above a common basement level contain retails tenancies, hotel accommodation and apartments at 175-177 Cleveland Street and 1-5 Woodburn Street, Redfern.

An initial response with amended plans was submitted to the Department of Planning and Environment in April 2016, however, the Department considered that the amendments had not sufficiently resolved all of the concerns in relation to the proposal. A workshop process was subsequently held with the Department of Planning and Environment and the City of Sydney Council and this final response addresses the issues discussed during that process.

This final response is accompanied by amended architectural plans and the further amended configuration of the proposed development has been specifically designed to achieve the following in addition to the first set of amendments:

- removal of the loft level facing Woodburn Street and further setback of the sixth floor from Woodburn Street and Eveleigh Street so that no portion of the top floor is visible from the public domain and the development presents as a 5 storey development;
- further improvement to the architectural resolution of the Woodburn Street facade with the introduction of two storey townhouse style apartments at the bottom of the building;
- reconfiguration of apartments to further reduce the number of apartments from 25 to 19 and the introduction of 3 bedroom apartments;
- modification to the studio apartments to reduce apartment depth and increase balcony size; and
- introduction of plenums for cross ventilation for 4 apartments to achieve natural cross ventilation for 100% of apartments.

The amended proposal results in a further reduction of 142.66 square metres of gross floor area resulting in a total reduction of 179.99 square metres of gross floor area when compared to the originally submitted proposal.

The amended application is accompanied by the following documentation:

- Amended architectural package - JPR Architects
- Amended urban design report - JPR Architects
- Acoustic Response (which will follow under separate cover) - Acoustic Logic
- A Letter of Interim Advice - Douglas Partners

The final amended application has resolved the issues raised by the Department of Planning and Environment, City of Sydney Council, as well as other government agencies.

The final amended application represents a further refinement of a development which does not result in any unreasonable adverse impacts upon adjoining properties and the public domain in terms of overshadowing, privacy, views or visual bulk and scale or heritage impacts. The final amended application represents the type and scale of development that is intended for the site as it will appear as a 5 storey development and should therefore be approved.

2.0 AMENDED PROPOSAL

2.1. Initial Amendments

The following initial amendments were made to the proposed development and submitted to the Department of Planning and Environment in April 2016:

- Direct access provided to ground floor apartments (DA 2002)
- Footpath regraded to existing RLs of kerb along Woodburn Street (DA2010)
- Ground level open space converted to non-trafficable landscaped space and glass enclosure provided to lift to increase visual connection (DA 2002)
- Conversion of two hotel suites for retail space adjacent to Eveleigh Street (DA 2002)
- Garbage room replanned so that entrance to residential waste room is located within approximately 10 metres of the entrance to the site (DA 2002)
- Bicycle spaces have been relocated to the basement levels and increased from 34 spaces to 86 spaces (DA 2000 and DA2001)
- The overhang of the blade wall across the property boundary has been removed (DA 2002 - DA3000)
- Additional louvre screens provided to edge of gallery walkway for residential apartments to improve privacy on levels 2-6 (DA2003-DA2007)
- Reconfiguration of two studio apartments and a one bedroom apartment to a one bed and two bed apartment on levels 2-5 (DA4000, DA4001 and DA4004).
- Reconfiguration of roof top to provide an increase to the residential open space as well as the introduction of a BBQ facility (DA2008 and DA4003)
- Increase in floor to floor height from 3050mm to 3100mm (DA3100 and DA3101)
- The Woodburn Street elevation has been significantly amended to accommodate the unit mix change as well as achieved improved architectural resolution (DA3002, DA4302 and DA7001)
- The common open space on the ground floor has been converted to a non-trafficable landscaped space (DA2002)
- The mailbox has been relocated behind the front entry door (DA2002)
- The Cleveland Street elevation has been amended to illustrate a spandrel which provides privacy for the hotel suites facing Cleveland Street (DA 3000, DA3102)
- The roof top apartments facing Woodburn Street have been amended to reduce their prominence by removing or reducing blade walls and the introduction of a pitched roof.

2.1. Final amendments

In addition to the initial amendments which were made to the proposal as detailed above, the application has been further amended as follows:

- The ground and first floor apartments have been replaced with 4 x 2 storey apartments;
- The height facing Woodburn Street has been substantially reduced with the removal of the loft levels as well as the replacement of 5 apartments to 3 apartments with an increased street setback;
- Additional roof top common open space has been provided for the residential apartments;
- An increased setback has been provided for the top floor hotel level facing Eveleigh Street;
- The stack of three studio apartments on Levels 3 to 5 have been amended to provide ADG compliant depth and balcony size;
- The second lift to the rooftop level from the hotel has been removed to reduce the bulk of structure on the roof; and

2.0 AMENDED PROPOSAL

- The window spandrel panel for Hotel suite 109 has been adjusted to provide improved privacy.

2.2. Numerical Overview and Comparison

The numerical amendments to the scheme are illustrated below:

Element	Originally Proposed	First amendment	Final amendment
Site Area	1,060 square metres	1,060 square metres	1,060 square metres
Gross Floor Area	4,102.49 square metres	4,065.16 square metres	3,922.5 square metres
Floor Space Ratio	3.87:1 (2.37:1/60% hotel/comm and 1.50:1/40% resi)	3.84:1 (2.36:1/62% hotel/comm and 1.48:1/38% resi)	3.7:1 (2.35:1/63.5% hotel/comm and 1.35:1/36.5% resi)
Storeys	5/6	5/6	5/6
Apartments	29 (18 x studios, 11 x 1 bed)	25 (11 x studios, 10 x 1 bed, 4 x 2 bed)	19 (7 x studios, 3 x 1 bed, 7 x 2 bed, 2 x 3 bed)
Retail	1 tenancy (71.35 square metres)	2 tenancies (124.55 square metres)	2 tenancies (101.02 square metres)
Hotel Rooms	78	76	76
Car Parking	13 residential 13 commercial	13 residential 13 commercial	13 residential 13 commercial
Bicycle spaces	34	86	86
Common open space	347 square metres or 33%	370.67 square metres or 35%	136 square metres (13%) for hotel and 318 square metres (30%) for residential
Deep soil	226.5 square metres (equivalent 21% of site) above structure (67.5 sqm ground and 159 sqm roof)	226.5 square metres (equivalent 21% of site) above structure (67.5 sqm ground and 159 sqm roof)	226.5 square metres (equivalent 21% of site) above structure (67.5 sqm ground and 159 sqm roof)
Cross Ventilated	100%	72% conventional, 28% louvre window above front door - 100% total	79% conventional, 21% plenum - 100% total
Solar Access	72.4%	84%	79%

3.0 DEPARTMENT OF PLANNING AND ENVIRONMENT

The Department of Planning and Environment raised issues in relation to the subject application on 8 December 2015. A response to each of the issues having regard to the final amended proposal is provided below:

Issue	Response
Built Form and Urban Design	
<p>The proposed bulk and scale of the development is substantially greater than would be expected in the locality, particularly in the context of the surrounding development and the five storey maximum height control in State Environmental Planning Policy (Major Development) 2005 (Major Development SEPP). Further justification and detailed analysis is required to demonstrate the impacts of the proposal including:</p> <ul style="list-style-type: none"> • a comparative analysis of the overshadowing impacts of a complying development and the proposal (in both plan and elevation format), on neighbouring properties, particularly 165-173 Cleveland Street; and • a comparative visual analysis (including photomontages) of a complying development and the proposal to pedestrians at street level along Cleveland, Woodburn and Eveleigh Street. <p>Should the additional analysis provided indicate additional impacts over and above that of a complying scheme, these proposed exceedances should be reviewed and reconsidered.</p>	<p>The proposal has been substantially amended with the loft level facing Woodburn Street removed and the sixth floors facing Woodburn and Eveleigh Streets substantially setback so that the proposal now appears as a 5 storey development from the surrounding public domain.</p> <p>A comparative analysis of the overshadowing impacts of a complying development and the amended proposal accompanies this response in relation to the southern adjacent property in 6-8 Eveleigh Street as well as 165-173 Cleveland Street to the west across Eveleigh Street.</p> <p>6-8 Eveleigh Street</p> <p>The analysis illustrates that there is no difference in overshadowing to the principle usable area of the Level 3 common courtyard on the southern adjacent site between a complying scheme and the amended proposal. Whilst there is some additional overshadowing, this is predominantly to a walkway which leads to the principle usable area of the common open space. In addition, the principle usable area of common open space begins to enjoy sunlight from 1pm on 21 June and by 3pm approximately 50% of the area is in sunlight (this sunlight does not change between a complying height and the proposed height). Therefore, the proposed increase in shadow is not considered be significant and does not warrant any reduction to the height of the building.</p> <p>165-173 Cleveland</p> <p>The analysis illustrates that there is minimal difference in shadow between a complying height (i.e. the previously approved scheme) and the proposed height to the eastern facade of 165-173 Cleveland Street. In both circumstances, there is no shadow to this facade shortly after 10am.</p>

3.0 DEPARTMENT OF PLANNING AND ENVIRONMENT

Issue	Response
	<p>The development at 165-173 Cleveland Street enjoys a high level of solar access from late morning and through into the late afternoon due to its eastern, northern and western aspect (the Urbanest development does not overshadow the western facade in the afternoon) and so it is likely that well over 70% of the apartments in 165-173 Cleveland Street will continue to enjoy more than 2 hours solar access at the winter solstice.</p> <p>The top of the proposed Woodburn Street apartment building has been substantially reconfigured with the removal of the loft level. The amended architectural package includes a comparison between the originally proposed Woodburn Street elevation, the first amendment and the final amended elevation which illustrates that the additional structure above 5 storeys is no longer visible from the public domain such that the proposal now visually appears as a compliant number of storeys. The minor additional level therefore does not result in any discernible impact which would require it to be removed. The amended proposal is considered to be generally consistent with the scale of development anticipated by the planning controls which apply to the site.</p> <p>The amended architectural package also includes a photomontage comparison between the approved/compliant development and the proposal which demonstrates that the final amended proposal actually presents a reduced scale.</p>
<p>Further details should be submitted demonstrating how the proposal achieves design excellence in accordance with the Major Development SEPP. Consideration should be given to:</p> <ul style="list-style-type: none"> • how the proposal improves the quality and amenity of the public domain, particularly the relationship of the proposal with the fall of the land and maximising opportunities for ground level activation of all street frontages; 	<p>An amended Urban Design report prepared by JPR Architects accompanies this Final Response to Submissions which details the contextual analysis and design rationale behind the proposal and demonstrates how the proposal has been designed to achieve design excellence.</p>

3.0 DEPARTMENT OF PLANNING AND ENVIRONMENT

Issue	Response
<ul style="list-style-type: none"> options to provide further articulation, activation and varied materials/finishes to achieve a more contemporary design for the residential portion of the building fronting Woodburn Street; options to provide further ground level activation along Cleveland Street, including consideration of additional commercial floor space and/or building entries fronting the street. The design of internal privacy features to first floor hotel suites should also be considered to ensure they do not compromise the external finish of the building; the treatment of the ground level fronting Eveleigh Street, with options to provide for activation and/or treatment to the proposed ground level hotel suites in this location to ensure privacy; the proposed materials and finishes, particularly along the Cleveland Street frontage, to demonstrate that the proposed facade design and treatment will not wear and date with time; and incorporation of best practice sustainability measures in terms of solar access, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency. 	<p>The amended proposal is considered to demonstrate design excellence for the following reasons:</p> <ul style="list-style-type: none"> the site is constrained by a significant fall along each street frontage and the proposal responds appropriately to this fall by providing an active frontage where ever possible. Direct street access is provided for the majority of ground floor apartments facing Woodburn Street, a retail tenancy is provided on the prominent north-eastern corner of the development facing Cleveland Street for an appropriate distance along this frontage before the floor level above the Cleveland Street footpath becomes excessive, the entrance to the hotel lobby commences at the lower level as soon as practical further down Cleveland Street to the west, and a new retail tenancy has been provided to activate Eveleigh Street. the Woodburn Street elevation has been substantially amended to introduce two storey apartments at the bottom, each with direct street access. In addition, a more contemporary architectural expression has been provided. The amended facade also introduces the use of the Aboriginal pattern used elsewhere within the development which assists in achieving a more cohesive architectural language for the development. it is considered that the Cleveland Street ground floor plane has been activated as much as possible having regard to the steep fall of the site, however, other opportunities for activation have been introduced via direct street access for all ground floor apartments facing Woodburn Street as well as the introduction of a new retail tenancy facing Eveleigh Street. An updated spandrel treatment for the lowest level of hotel accommodation facing Cleveland Street ensures that sufficient privacy is provided for these rooms as depicted in the sections in the architectural package.

3.0 DEPARTMENT OF PLANNING AND ENVIRONMENT

Issue	Response
	<ul style="list-style-type: none"> the ground floor facing Eveleigh Street has been significantly improved with the replacement of two hotel rooms with a retail tenancy and glass facade facing the street. the Cleveland Street facade comprises a rendered wall with painted Aboriginal pattern, aluminium framed glazing and pre-finished metal cladding above. The materials are robust and high quality and provide an appropriate architectural response to Cleveland Street which is also hard wearing. the proposal is considered to incorporate best practice sustainability measures in that it performs above both the solar access and natural cross ventilation requirements of the Apartment Design Guide, has appropriately provided for visual and acoustic privacy, safety and security and incorporates resource, energy and water efficiency measures as detailed in the documentation submitted with the application.
<p>The southern boundary setback should be reviewed to ensure that the proposal has an appropriate relationship with, and maintains an appropriate level of amenity to, the adjacent development at 6-8 Eveleigh Street (which has window openings on the boundary wall).</p>	<p>The southern adjacent building at 6-8 Eveleigh Street has windows in the boundary wall which face the subject site. However, these windows do not benefit from any legal entitlement or easement which would require the development of the subject site and any amenity gained via these windows is completely borrowed from the subject site. The protection of these windows would result in a profound adverse impact to the reasonable development of the subject site. Furthermore, a review of the floorplans for 6-8 Eveleigh Street reveals that these windows are secondary windows to the living rooms of the affected apartments which also have a primary window and balcony over the street. Finally, the proposed relationship with these windows is identical to that which has recently been approved by the Department on the subject site. Given the circumstances of the site and internal configuration of the affected apartments, the proposal is considered to represent an entirely appropriate and reasonable response to the southern adjacent site.</p>

3.0 DEPARTMENT OF PLANNING AND ENVIRONMENT

Issue	Response
Consideration should be given to regarding the Woodburn Street pathway levels to allow equitable access to residential entries and the fire stair cases to exit at street level. It is noted the proposed fire stair cases exit onto the footpath stairs at Woodburn Street below street level. Should this not be achievable, it may be necessary to relocate both the fire stairs and the residential entry to provide safe and equitable access into the building.	The architectural package illustrates a proposed regrading of the Woodburn Street footpath to allow equitable access to the residential entries and fire stairs. Whilst the grade along Woodburn Street is not 1:14 this is a function of the steepness of the street and cannot be avoided, and is the same situation which applies to many steep streets in Sydney. It is considered appropriate for a condition of consent to be imposed which will require upgrade to the public domain surrounding the site as part of the proposed development.
Consideration should be given to the elements of the proposal which encroach outside of the site boundaries, including the proposed blade wall feature and components of the northern facade. Owners consent will be required from the relevant landowner for any works outside of the site boundaries	The blade wall which encroached beyond the site boundary has been cut back so that there is no longer an encroachment.
Residential Amenity	
Further details are required on the proposed method of natural cross ventilation including further details of the location, function, size, opening capacity, type and security of the proposed fanlight windows.	Firstly, it is noted that 15 of the 19 apartments (79%) are naturally cross ventilated with windows on either side of the apartment. The remaining 4 apartments (21%) are provided with cross ventilation via a plenum above the front door to the external side of the gallery walkway which is illustrated in the amended architectural package. The proposed approach towards cross ventilation ensures that all apartments benefit from the capacity to be cross ventilated and a compliant number of apartments achieve cross ventilation strictly compliant with the ADG (i.e. 2.5% opening on either side of the apartment).
Further justification is required for the mix of apartments within the building. Given that the residential component involves more than 20 apartments, it is recommended that the apartment mix be reconsidered to provide a more diverse apartment mix in alignment with Council's Development Control Plan (DCP).	The proposal has been amended from 29 studio/1 bedroom apartments to 19 apartments comprised of 36.8% studios, 15.8% 1 bedroom, 36.8% 2 bedroom apartments and 10.5% 3 bedroom apartments. The amended proposal is now only a modest development of 19 apartments which is below the 20 apartment threshold and therefore there is no mix requirement under the Sydney DCP 2012.

3.0 DEPARTMENT OF PLANNING AND ENVIRONMENT

Issue	Response
	Notwithstanding this, the final amended proposal has introduced a balanced mix of apartments which is generally consistent with the suggested mix within the DCP.
Further consideration and justification for the private open space for each apartment, in particular apartments which do not have open space.	The proposal has been amended and provides the necessary private open space for each apartment in accordance with the suggested sizes in the Apartment Design Guide. Whilst 3 of the 4 ground floor apartments do not have 15 square metres, the urban context of the site does not provide the garden ground floor context where a larger area of private open space is appropriate and the private open space for the ground floor apartments is considered appropriate in this circumstance.
Additional privacy measures should be considered between the proposal and the neighbouring development at 6-8 Eveleigh Street, particularly from the common corridor.	The amended architectural package has included the additional privacy measure of a vertical louvre along the gallery walkway to prevent overlooking of the southern adjacent 6-8 Woodburn Street. The design of the roof top open space with a large planter along the southern side of the hotel roof also prevents direct overlooking to the south.
Communal Open Spaces	
Further consideration should be given to the design and function of the ground floor communal open space. The Department raises concern about the location of the lift core which interrupts the space and creates blind spots and unusable spaces. Consideration should also be given to the soil depth provided above the basement structure and the ability to plant trees in this space.	The ground floor communal open space is considered an area which provides amenity primarily as a result of an outlook from the development to a garden within the site, rather than necessarily being a place for passive recreation (the roof top provides a much better amenity for use). Accordingly, the proposal has been amended to convert this area into a landscaped garden without direct access by residents. In addition, the lift core has been changed to a glass lift which allows permeability. These two measures resolve the concern regarding safety and security of this area.
Further consideration should be given to providing communal facilities within the residential rooftop communal open space including BBQ facilities, seating, and weather protection.	The design of the rooftop common open space has been amended to provide a significantly larger area for residents and now includes BBQ facilities and shelter.

3.0 DEPARTMENT OF PLANNING AND ENVIRONMENT

Issue	Response
Further consideration should be given to the need for and intended purpose of the hotel rooftop communal open space, including any scope to reduce this area in lieu of increased residential communal open space. Further details are required on facilities to be provided in this space, acoustic impacts and safety.	<p>The roof top space for the hotel has been reduced in size and the roof top space for the residential apartments has been increased in size. The roof top facilities for the hotel also include a BBQ facility and shelter. The Plan of Management submitted with the application provides the following measures to ensure the use of the roof top by hotel guests does not result in an adverse impact to adjacent properties:</p> <ul style="list-style-type: none"> • The use of the outdoor communal area shall be restricted to between the hours of 8:00am and 12:00am, Friday, Saturday or a day immediately before a public holiday, and between the hours of 8:00am and 10:00pm every other day. • Live music will not be permissible on the premises at any time • No amplified music is permitted at any time within the outdoor communal areas. • Recorded and/or amplified music is permissible indoors during daylight hours between 8:00am and 8:00pm Monday to Thursday and between 8:00am and 10:00pm Friday to Sunday. • Staff will monitor the use of the roof top area to ensure that all patrons behave in an orderly manner. To reinforce this, signage will be displayed requesting this. • A 'no visitor' policy will be put in place.
Bicycle Parking	
<p>The proposed location, type and amount of bicycle parking should be reviewed to:</p> <ul style="list-style-type: none"> • eliminate the need for stair access; • provide additional parking for residents, visitors and hotel staff in accordance with Council's DCP. 	<p>The bicycle parking has been relocated to the basement levels which can be accessed via the lift.</p> <p>The Council's DCP requires 1 space per apartment (19), 1 per 10 apartments for visitors (2), 1 space per 20 rooms (4), and 1 space per 4 staff (approximately 3) for a total of approximately 28 spaces. The amended proposal now provides for 86 bicycle spaces which satisfies this requirement.</p>
Other	
A Remediation Action Plan as recommended by the contamination report is required to be submitted	A Remediation Action Plan prepared by El Australia has been previously submitted to Council. An Interim Letter of Advice prepared by Douglas Partners also accompanies this submission.

3.0 DEPARTMENT OF PLANNING AND ENVIRONMENT

Issue	Response
A revised acoustic vibration report addressing concerns raised in Council's submission is required	A revised acoustic report is currently being prepared by Acoustic Logic to address the concerns raised by Council and will be submitted to the Department under separate cover.
Additional information regarding residential waste management is required, demonstrating that waste and recycling can be managed in accordance with Council's requirements	<p>Clause 3.11.13 of the Sydney DCP 2012 provides the following in relation to waste collection:</p> <p><i>Waste collection and loading is to be accommodated within new development in one of the following ways, in order of preference:</i></p> <p><i>(a) in the building's basement; or</i></p> <p><i>(b) at grade within the building in a dedicated collection or loading bay; or</i></p> <p><i>(c) at grade and off street within a safe vehicular circulation system where in all cases vehicles will enter and exit the premises in a forward direction. Consideration will only be given to less preferable options if the consent authority is satisfied the preferred options are unreasonable.</i></p> <p>Due to the modest size and proportions of the site it is not physically possible to provide for waste collection within the site with a Council garbage truck entering and exiting the site in a forwards direction. Accordingly, an on site dedicated collection area for the residential garbage has been provided which is approximately 10m from the property boundary in accordance with the requirement of Clause A16 of the Council's Policy for Waste Minimisation in New Developments.</p>
Additional plans/details are required demonstrating that the proposal is able to achieve the minimum 2.7 metre floor to ceiling heights for habitable rooms based on the proposed 3.05 metre floor to floor height.	The floor to floor heights have been increased from 3.05 metres to 3.1 metres to ensure that a floor to ceiling height of 2.7 metres is capable of being achieved.
Confirmation is required surrounding the need for kitchen facilities as part of hotel services and where the facilities may be provided, if necessary.	There are no proposed kitchen facilities for the hotel. The hotel is not intended as a 5 five star hotel and does not require kitchen facilities.
Mail boxes should be relocated to internally secured lobby areas.	The mail boxes have been relocated internally within the secure lobby area for the apartments as illustrated in the amended plans.

4.0 CITY OF SYDNEY COUNCIL

4.1. City of Sydney Council

The City of Sydney Council raised issues in relation to the subject application in correspondence dated 25 November 2015. Following submission of an initial Response to Submissions, the City of Sydney Council provided a further response dated 26 May 2016. Below is a consolidated response to Council's issues based on the final set of amended plans which accompany this Final Submission:

Issue	Response
Contamination	
<p>The site requires remediation, however a Remedial Action Plan (RAP) has not been submitted. It is recommended that a RAP should be submitted that has been prepared by a suitably qualified and competent environmental consultant in accordance with the NSW Government Office of Environment and Heritage, Guidelines for Consultants Reporting on Contaminated Sites and Planning NSW Guidelines "Managing Land Contamination Planning Guidelines" and Councils Development Control Plan "Contaminated Land"</p> <p>Note: The RAP must be reviewed by a NSW EPA Accredited Site Auditor and include a Section B Site Audit Statement or letter of interim advice issued by the Auditor certifying that the RAP is practical and the site will be suitable after remediation for the proposed use before any consent is granted. The RAP should be referred to the City for further comment prior to determination</p>	<p>A Remedial Action Plan (RAP) prepared by EI Australia accompanies this correspondence. The RAP provides that the results of remediation work will be presented in a Validation Report, prepared by a qualified environmental consultant in accordance with the OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites. This report shall be submitted to Council at the completion of the remediation works program and shall confirm that the site has been remediated to a suitable standard for the proposed development and occupation and that no related adverse environmental effects have occurred as a result of the temporary works.</p> <p>A Letter of Interim advice prepared by Douglas Partners accompanies this submission and concludes that:</p> <p><i>"Accordingly, based on my review of the RAP, 2016 and prior investigation reports by EI and GEE, and subject to appropriate further testing as outlined above (giving the opportunity to amend the RAP accordingly), followed by waste classification, remediation and validation, the auditor considers that the site can be made suitable for the proposed land-use (mixed residential apartments and commercial land use with two levels of basement)".</i></p>

4.0 CITY OF SYDNEY COUNCIL

Issue	Response
Non-compliance with key development standards	
<p>This proposal seeks significant departures from both the FSR and height development standards, however the SEPP 1 objection does not provide adequate justification for the variations.</p>	<p>Amended SEPP No. 1 objections in relation to FSR and height accompany this Final Submission which reflect the revised proposal. The proposal has subsequently been amended with the removal of the loft level and increased setbacks for the top floors and the amended architectural package demonstrates that the proposed variations do not result in any significant additional impacts to the adjacent properties or any visual difference to the perceived scale of the development as the additional level is now unable to be seen from the public domain. The fundamental basis for the proposed variations to the FSR and height controls is that they do not result in an excessive building height, visual bulk or scale. It is noted that the City have suggested that justification is required as to why it is reasonable or necessary to exceed the maximum residential FSR, however, the test under SEPP No. 1 is not “why it is reasonable or necessary to exceed the standard” but rather “why strict compliance is unnecessary and unreasonable”. The following grounds support the position that strict compliance is unnecessary and unreasonable in this instance:</p> <ul style="list-style-type: none"> • The existing building on the site represents an under utilisation of a site which is well served by public transport and is well located in relation to tertiary institutions, a range of large scale hospitals and health services, public recreation spaces, employment and retail facilities; • The proposal will include a public benefit offer associated with the additional floor space; • The proposed development has been designed by award winning architectural practice JPRA and represents a high quality development for the site which exhibits design excellence; • The proposed street wall heights and parapet levels to Cleveland Street and Eveleigh Street are lower than the parapet levels of the recently approved development on the site and therefore the perceived scale of the proposal is essentially the same as that which has been previously approved notwithstanding the variation to FSR and height.

4.0 CITY OF SYDNEY COUNCIL

Issue	Response
	<ul style="list-style-type: none"> • The additional storey above the parapets to both Woodburn Street and Eveleigh Street are set back from the street facades such that they cannot be seen from the public domain; • The density and height proposed does not give rise to any significant impacts on the adjoining properties in terms of overshadowing, loss of privacy or visual impact; • The proposal does not unreasonably overshadow 165-173 Cleveland Street which enjoys a high level of solar access from late morning and through into the late afternoon due to the eastern, northern and western aspect and so it is likely that well over 70% of the apartments in 165-173 Cleveland Street will continue to enjoy more than 2 hours solar access at the winter solstice; • The proposal does not unreasonably overshadow 6-8 Woodburn Street because those apartments gain their solar access from the windows which face Eveleigh Street and Woodburn Street and the proposed development does not generate any additional overshadowing of the Eveleigh or Woodburn Street facades beyond that which currently exists; • The scale of the proposal presents as 5 storeys in accordance with the control and is compatible with the built form within the visual catchment of the site; • The proposed apartments are afforded with a high level of amenity consistent with the design criteria in the Apartment Design Guide in that they all benefit from natural cross ventilation, there is a complying amount of solar access and the internal sizes all exceed that which is required;

4.0 CITY OF SYDNEY COUNCIL

Issue	Response
	<ul style="list-style-type: none"> The availability and capacity of local infrastructure, public transport and recreational opportunities supports the additional floor space and height proposed in this location; The proposed density assists in meeting the demand for housing in the local government area in an appropriate location; The proposed density assists in meeting the demand for hotel accommodation as recently identified by the City of Sydney; and Within the context of the scale of development approved to the south along Eveleigh Street and also around Redfern train station, the proposed density and height is appropriate.
Building Height and Urban Design	
There are two hotel rooms proposed on Ground Level/Level 1 on Eveleigh Street that directly abut the street boundary. The rooms suffer from poor visual privacy as the windows have sill heights that could allow a passer-by to look in. They also provide poor acoustic privacy as they are located in between the carpark entry and hotel lobby. To address these issues the City recommends that the applicant should consider providing retail uses on the ground floor instead of hotel rooms.	The amended architectural package has deleted these two hotel rooms and replaced them with a retail tenancy.
Hotel rooms fronting Cleveland Street on Level 2 also suffer from poor visual privacy. The elevations show a curtain wall to these rooms, but because of the topography of Cleveland Street these rooms are highly visible at street level from both cars and pedestrians	The architectural package has been amended to illustrate a solid spandrel along the bottom of the glass wall for the lowest level of hotel rooms. This solution is considered sufficient having regard to the height of these hotel rooms above the adjacent street level. It is also expected that the hotel rooms will have blinds which will provide complete privacy in the evening.
A blade wall is proposed on the Eveleigh Street frontage that extends approximately 600mm over the boundary, leaving only 600mm for the footpath.	The amended architectural package has deleted the encroachment.

4.0 CITY OF SYDNEY COUNCIL

Issue	Response
<p>The proposal has windows from the hotel facing the gallery access of the apartments, which are separated by a 7m wide 'light court'. According to the Apartment Design Guide (ADG), an 18m wide light well is required for a building of this height. Council suggest an alternative approach without a double loaded corridor for the hotel component which provides a 14m wide separation.</p>	<p>Objective 3F-1 of the Apartment Design Guide relates to visual privacy and recommends that adequate building separation between windows and balconies is provided to achieve reasonable levels of external and internal visual privacy. The Guide suggests that a distance of 12 metres should be provided between habitable windows and balconies up to 4 storeys and 18 metres between windows and balconies for 5 to 8 storeys. The Guide also suggests the separation need only be 6 metres between non-habitable windows to non-habitable windows up to 4 storeys and 9 metres for 5 to 8 storeys.</p> <p>There is a separation distance of 7.19 metres between the hotel component of the development and the residential apartment building, however, the proposed development has been specifically designed with primary external outlook with no living rooms facing internally and only bedrooms with sufficient distance or screening facing internally. Due to the screening, these bedroom windows effectively function as a non-habitable window.</p> <p>A louvred screen is applied to both the gallery walkway and internally facing bedroom windows for the apartments and louvred screens are also applied to the windows of the hotel rooms which face internally. These measures provide sufficient privacy for the hotel rooms from residents using the gallery walkways to access their apartments and this solution does not compromise an adequate level of amenity for the apartments which all have a primary outlook over Woodburn Street, or the hotel rooms which do not have a minimum amenity standard.</p> <p>It is noted that Council's suggested solution also does not comply with the 18 metre wide separation and would also require a louvred solution at least for the top two floors in any event. Also, Council's suggested for separation of commercial and residential uses horizontally rather than vertically would result in greater conflict between uses and also the need for multiple separate lift lobbies around the street frontage of the site.</p>

4.0 CITY OF SYDNEY COUNCIL

Issue	Response
	<p>Having regard to the narrow proportions of the site, the need to define each street edge, the design of the development with primary apartment outlook over the street and the proposed privacy treatments, the building separation is considered acceptable in this situation as the objective of the separation distance to achieve sufficient privacy has been achieved.</p>
<p>There is also a 4.5m rear setback to the southern part of the site from the existing apartments at 6-8 Eveleigh Street. The ADG recommends a 9m setback to rear and side boundaries for habitable rooms and 4.5m to nonhabitable rooms. At ground level, the bedroom window faces the rear boundary and above this the bedroom has an angled window to try and overcome the insufficient setback from the rear boundary. This strategy of an angled window is inconsistent with the ADG, which requires that: 'A window should be visible from any point in a habitable room.'</p>	<p>The strategy of an angled window properly resolves any privacy concern between the subject site and the adjacent 6-8 Eveleigh Street. The bedroom in question has a window which can effectively be seen from every usable part of the bedroom.</p>
<p>The proposal claims 100% natural cross ventilation, which is incorrect for the following reasons:</p> <ul style="list-style-type: none"> • The proposal includes predominantly single sided apartments and therefore, at best, any cross ventilation will be in one direction. • Apartment type 1B apartment is 'cross ventilating' to effectively a 4.5m wide light well when the adjacent built form is taken into consideration. Due to this condition, none of the apartments satisfy the definitions in the ADG for cross ventilated apartments. • The proposal relies on ventilation grills above the doors for natural ventilation, however no dimensions have been provided demonstrating • the effectiveness of this approach. • It is unclear from the drawings the type of windows that are proposed and what the effective openable area is. <p>More information is required to accurately demonstrate the level of compliance with the natural cross ventilation requirements of the ADG</p>	<p>The issue of cross ventilation has been discussed above in response to the Departments.</p> <p>The Council are incorrect in stating that the apartments are predominantly single sided apartments. 15 of the 19 apartments (79%) are now naturally cross ventilated with windows on either side of the apartment. The remaining 4 apartments (21%) are provided with cross ventilation via a plenum above the front door to the external face of the gallery which is illustrated in the amended architectural package. The proposed approach towards cross ventilation ensures that all apartments benefit from the capacity to be cross ventilated and a compliant number of apartments achieve cross ventilation strictly compliant with the ADG (i.e. 2.5% opening on either side of the apartment).</p> <p>The proposed approach towards cross ventilation represents a compliant outcome which satisfies Objective 4C1 of the ADG for the number of apartments with natural cross ventilation to be maximised to create a comfortable indoor environment for residents.</p>

4.0 CITY OF SYDNEY COUNCIL

Issue	Response
<p>The ADG states that one of the ways of ensuring that environmental performance of an apartment is maximised is to ensure that: "habitable room depths are limited to a maximum of 2.5 x the ceiling height." Assuming that a floor to ceiling height of 2.7m is achieved within the proposed floor to floor height of 3.05m, this results in a maximum apartment depth of 6.75m to the back of the studio (not including the bathroom). This proposal has a maximum habitable room depth of almost 10m for studio apartments.</p>	<p>Whilst the studio apartments are by definition one habitable room, they are nonetheless divided by use with the living area component at the front of the apartment adjacent to the windows and balcony with the bedroom area at the rear of the apartment. The back of the living area component is generally only approximately 6 metres from a window and whilst the bedroom is located behind the living area, the bedroom is predominantly used for sleeping where there is less demand for ambient light. It is considered that there is no need for an increased ceiling height for the bedroom component of the studio apartment and the proposed ceiling height of 2.7 metres is sufficient to provide an acceptable level of amenity for the studio apartments.</p>
<p>The City is of the view that floor to floor heights should be 3.1m in order to future proof the 2.7m floor to ceiling heights for habitable rooms.</p>	<p>The proposal has been amended to provide 3.1 metre floor to floor heights.</p>
<p>The City requires developments with more than 20 dwellings to provide a mix of dwelling types. This proposal only provides for studios and 1 bedroom apartments, and of this 62% of the dwellings are studios. In order to assist in achieving the objective of catering for the needs of the existing and future resident population, encouraging a diverse population, and achieving social diversity, it is recommended that the application be amended to provide a mix of dwellings consistent with the following percentage mix:</p> <ul style="list-style-type: none"> (a) Studio: 5 - 10%; (b) 1 bedroom: 10 – 30% (c) 2 bedroom: 40 – 75%; and (d) 3+ bedroom: 10 - 100% 	<p>The proposed development is now less than 20 apartments and therefore there is no requirement to provide a mix of apartments under the Sydney DCP 2012. Notwithstanding this, the amended mix is now generally consistent with the DCP.</p>

4.0 CITY OF SYDNEY COUNCIL

Issue	Response
<p>The ADG requires all apartments to have primary balconies, yet on Levels 2-5 there is one apartment per floor without a primary balcony. The ADG also specifically addresses ground level apartments with regards to private open space as follows: "For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m". Compliance with this requirement is strongly encouraged on this site, as applying this to the ground level apartments would help provide privacy and security to the ground level apartments on Woodburn Street.</p>	<p>The proposal has been amended to provide a balcony for every apartment. The inner city location and nil street setback is such that a larger ground courtyard as would be expected in a more suburban or garden setting, is considered unnecessary in this instance. Due to the overhang of the building above, a 3m deep terrace for the ground floor apartments would only serve to diminish amenity within the apartment as it would create difficulty in achieving sun penetration to the living room glass line.</p>
<p>No deep soil is provided, yet the ADG requires 7% of the site area for deep soil. In this instance 74m² is required and should be provided.</p>	<p>The ADG clearly contemplates that there are circumstances where deep soil will be unable to be practically provided such as sites including where the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres). The subject site is modest in size, is constrained by the three street frontages and in a highly urbanised context. These characteristics are such as that is not possible or reasonable to provide deep soil. Notwithstanding this, a combined 226.5 square metres (equivalent 21% of site) of above structure deep soil (67.5 sqm ground and 159 sqm roof) which is capable of supporting grasses, shrubs and substantial trees is proposed. The location of soil areas on the roof of the building is appropriate in this circumstance to provide generous solar access and appropriate conditions for supporting vegetation on the site, and in an area which will provide a meaningful contribution to the amenity for the hotel guests and residents. Having regard to the constraints and urban context of the site the proposed soil provision is considered acceptable.</p>

4.0 CITY OF SYDNEY COUNCIL

Issue	Response
The residential lobby is located on Woodburn Street, however, access on the Woodburn Street footpath is impeded by five stairs within the footpath adjacent to the site as it leads to the lobby from Cleveland Street.	The Woodburn Street site is currently on a separate title and it is entirely possible that it may have been redeveloped independently and the proposition that this could not occur because of existing stairs in the footway is unreasonable. It is appropriate to locate the residential lobby on Woodburn Street as this is a much quieter and less hostile street when compared to Cleveland Street. The amended architectural package includes details in relation to the proposed regrading of the footway along Woodburn Street to improve accessibility and subject to these works access via Woodburn Street is considered acceptable.
There are no individual direct entries to the ground level apartments, which is inconsistent with the ADG. The presentation of the ground level apartments respond defensively to the existing context, which seems to arise from the strategy of building to the street boundary, combined with most of the ground level apartments being small studio apartments.	The proposal has been amended to provide direct street access to all ground floor apartments, which are now two storey "terrace" style apartments with more generous front courtyards including a planter. The ground apartment floor levels have been adjusted so that they are generally level with the adjacent public domain and a conventional swing 'front door' has been provided. The Woodburn Street facade has also been amended and provides a more sensitive and less defensive presentation to the street.
The City requires common corridors to be at least 2m wide in front of lifts. In this proposal, approximately 1.5m is proposed for the common corridors, including in front of the lifts. This is particularly inappropriate at ground level where access to the residential bike parking is located. As an example, 1.5m wide corridors could be too narrow for a person carrying a bike and a person carrying bags of groceries to pass. It is also noted that the landing space between the top of the stairs from the bike parking to the front door of Apartment G.1 is inadequate. City staff recommend providing 2m wide corridors connected to the bike parking to ensure that two people (one with a bike) can pass each other in the corridor. Alternatively, the applicant could provide recessed doorways (500mm) to apartments that allow localised areas of corridors that are wider.	The bike parking area has been relocated from the ground floor area to the basement. The actual incidence of a person carrying a bike passing a person carrying grocery bags is considered to be unlikely and extremely rare. Given the modest scale of the proposal with only 19 apartments and the unlikely incidence of two people passing each other as described, the proposed width adjacent to the lift is considered sufficient such that no further change is necessary.

4.0 CITY OF SYDNEY COUNCIL

Issue	Response
Access to the bike parking is via a flight of stairs, which in our view will compromise the useability of the bike parking as access is not direct nor easy.	The bike parking has been relocated to the basement with direct lift access.
The nominated letterbox area is located on the outside of the building on Woodburn Street, in a location with no passive surveillance.	The letter box has been relocated and is not within the security of the building.
Landscaping and open space	
The ground level courtyard is a small, heavily planted space in full shade. It is overlooked by both the residential units and the hotel, and despite the inclusion of some bench seats it has limited usability. The position of the lift core and the ramp to the bin store encroach significantly into the space, compromising its function. In addition, the space is so heavily shaded that UV lights are proposed to enable planting. Subsequently, whilst this courtyard may be included in the calculation of common open space, its primary function is visual amenity only. It is recommended that the applicant consider relocating the lift core away from the ground level courtyard to create a useable seating area. The consent authority should also consider the acoustic impacts of this courtyard, and ensure the design minimises noise and echoing. This may be through material selection, or noise baffles such as moving water.	The ground level courtyard has been amended and will now provide a garden space. This issue has been addressed above in response to the Department's issues. The rooftop common open space for the residential component has been significantly increased in size and is now 318 square metres in area which is the equivalent of 30% of the entire site (notwithstanding that the residential component of the development only occupies a small proportion of the site) which exceeds the 25% requirement of the Apartment Design Guide. Contrary to the suggestion by the City, the use of part of the roof of the hotel component for residential roof top common area is able to be adequately dealt with via strata subdivision and is a common scenario.
It is recommended that the applicant should: <ul style="list-style-type: none"> • Introduce some fixed furniture to ensure the roof terraces are useable, inviting spaces. At a minimum this should include seating walls or other fixed seats, a shade structure and tables. • Plant all trees in large, wide planters, to meet or exceed minimum soil requirements (5-15m³ for small trees) and to provide structural stability/wind resistance. • Clarify the intended use of the hotel terrace, given its lack of direct connection to the hotel facilities. 	The roof top area has been redesigned. The roof top area is intended to provide a break out area for passive recreation by hotel guests.
Noise and vibration	

4.0 CITY OF SYDNEY COUNCIL

Issue	Response
<p>The submission raises a range of queries in relation to the acoustic report.</p>	<p>An updated acoustic report in response to Council's concerns is currently being prepared by Acoustic Logic and will be submitted under separate cover.</p>
Waste	
<p>The building exceeds three storeys, yet a waste and recycling chute has not been provided. It is recommended that the design is amended to incorporate waste and recycling chutes.</p> <p>It is also noted that the ramps leading down from the garbage rooms to the street are very steep, and appear to land on the footpath. The strategy for garbage collection is unclear, and given the narrow footpaths on either side of this site it is considered unlikely that on-street collection will be successful. It is recommended that the applicant should ensure all ramps and landings are well within the site and clarify the collection strategy.</p> <p>In addition, City waste staff advise of the following waste design requirements:</p> <ul style="list-style-type: none"> • Waste and recycling is to be serviced on site if possible. • A loading area to accommodate a 9.24m truck is required, that will enable a truck to enter and exit the site in a forward direction. • Waste and recycling receptacles are to be stored on the property at all times with Council provided with an access key for servicing. • Residential and commercial waste rooms are to be separated (commercial tenants must not have access to residential waste and recycling bins or waste chutes). • A common storage area for discarded bulky items must be provided for residential units. • Clearance height for access by collection vehicle must be no less than 3.6m at any point if a refuse vehicle is required to enter the site to service bins. • The maximum travel distance between the storage point and collection point for all waste and recycling receptacles shall be no more than 10 meters. 	<p>The site is heavily constrained and the residential apartment development is modest with only 19 apartments. All apartments have a travel distance of less than 40 metres from their front door to the bin holding room, via the lift and so waste chutes are not considered to be necessary in this circumstance (it is noted that waste chutes were not required for the recently approved apartments on the site).</p> <p>The waste arrangements and their response to the City's requirements has been addressed above in response to the Department's issues.</p>

5.0 OTHER GOVERNMENT AGENCIES

5.1. Heritage Council of NSW

The Heritage Council of NSW provided correspondence on 9 November 2015 which raised no objection in relation to the proposal and recommends conditions of consent.

5.2. Sydney Water

Sydney Water provided correspondence on 27 October 2015 which raised no objection in relation to the proposal and recommends conditions of consent.

5.3. Transport for NSW

Transport for NSW provided a submission in relation to the subject application in correspondence dated 19 November 2015. TfNSW requested additional bicycle parking, which has been provided in the amended proposal. TfNSW also requested a Construction Traffic Management Plan which can be adequately dealt with via a condition of consent.

TfNSW subsequently provided a response dated 21 June 2016 which suggested that end-of-journey facilities should be provided within the commercial tenancies. However, these tenancies are particularly small such that any such facilities would consume an unreasonable proportion of the floor space. In this instance, the provision of end-of-journey facilities for the commercial component of the development is considered onerous.

5.4. RMS

RMS provided a submission in relation to the subject application in correspondence dated 24 November 2015. The comments provided by RMS do not require any amendment to the proposal or additional information prior to determination of the application and can be addressed via conditions of consent.

5.5. Urban Growth NSW

Urban Growth NSW provided a submission in relation to the subject application in correspondence dated 1 December 2015. Urban Growth NSW raise no issue with the proposal and requested that the development pay developer contributions in accordance with obligations under the applicable Contribution Plan(s). No objection is raised in relation to this request and the imposition of appropriate conditions.

5.6. Office of Environment and Heritage

OEH provided a submission in relation to the subject application in correspondence dated 20 November 2015. OEH has reviewed the report 175-177 Cleveland Street and 1-5 Woodburn Street, Redfern: Aboriginal Cultural Heritage Assessment, Final, for Construct Corp, AHMS, September 2015 (Aboriginal Cultural Heritage Assessment) and raised concerns that the Assessment states that no further Aboriginal cultural heritage assessment or investigation is required prior to the development, based on the densely developed nature of the Cleveland Street area on the basis that Aboriginal objects and intact deposits have been located in between footings in other urban areas. OEH considers that further assessment relating to this should occur, including an extensive site history and disturbance mapping.

However, the excavation of the site will be required to be carried out under a strict monitoring regime as detailed in the condition proposed by the Heritage Council of NSW including an artefact repository for the ongoing retention for any relics of local heritage significance which are recovered during excavations and so any Aboriginal Artefacts that exist on site will be recovered during this process. Accordingly, it is considered that there is no need for any further assessment to occur prior to determination of the application.

6.0 PUBLIC SUBMISSIONS

Three public submissions raised the following issues:

Issue	Response
<p>13 Woodburn Street</p> <p>It would be a missed opportunity if high rise high density with commercial was not capitalised upon the whole site allowing people to enjoy the proximity of city living but also the suburb amenity that redfern offers with its parks etc as well as the proximity to 2 major train stations as well as major arterial bus routes that redfern offers.</p>	<p>The proposed development seeks to provide the most efficient use of the land having regard to the environmental capacity for the site and the site context.</p>
<p>165 Cleveland Street</p> <p>I have noticed that there is a roof garden in this proposed development. My questions are:</p> <ul style="list-style-type: none"> • are there any plans to use, or let, this roof area for larger scale functions such as weddings, birthday parties, night time events etc. which could, if noisy, greatly affect my amenity and the amenity of other people who live facing Eveleigh St opposite or next to this proposed development? • if there are at present no plans for rooftop events are there provisions which would allow events to take place there in future? • if events could take place on the roof area what safeguards exist for neighbouring residents to protect them from undue noise etc • are there any restrictions on residents making complaints about such matters as noise arising from this hotel should the situation arise? 	<p>The proposed roof top area for the hotel is intended to provide a quiet area for passive recreation for hotel guests. The roof top will be managed in such a way that it will not cause disturbance to nearby neighbours and is not intended to be used for any events. There are no restrictions for making complaints and Management will maintain a complaint register which will note any complaints made by the Police, Council, surrounding business owners and residents and will endeavour to address any reasonable concerns brought forward.</p> <p>The Register will include the following information:</p> <ul style="list-style-type: none"> • Complaint date and time; • Name, contact and address details of person(s) making the complaint; • Nature of complaint; • Name of staff on duty; • Action taken by premises to resolve the complaint • Follow-up; and • Outcome
<p>6-8 Eveleigh Street</p> <ul style="list-style-type: none"> • Concern regarding the impact to the kitchen, living room and dining room windows in unit 9 facing the northern side boundary on level 2 which will be blocked by a solid bland wall running the whole length of the unit. • There will be considerable overshadowing over the common area on level 3, due to the proposed 5 levels building facing Eveleigh Street. 	<p>These issues have been addressed in response to concerns raised by the Department above.</p> <ul style="list-style-type: none"> • The southern adjacent building at 6-8 Eveleigh Street has windows in the boundary wall which face the subject site for Apartment 2J (Refer to Figure 1 below). However, these windows do not benefit from any legal entitlement or easement which would require the development of the subject site and any amenity gained via these windows is completely borrowed from the subject site.

6.0 PUBLIC SUBMISSIONS

Issue	Response
	<p>The protection of these windows would result in a profound adverse impact to the reasonable development of the subject site. Furthermore, a review of the floorplans for 6-8 Eveleigh Street reveals that these windows are secondary windows to the living rooms of the affected apartments which also have a primary window and balcony over the street. Finally, the proposed relationship with these windows is identical to that which has recently been approved by the Department on the subject site. Given the circumstances of the site and internal configuration of the affected apartments, the proposal is considered to represent an entirely appropriate and reasonable response to the southern adjacent site.</p> <ul style="list-style-type: none"> • A comparative analysis of the overshadowing impacts of a complying development development and the proposal accompanies this response. The analysis illustrates that there is no difference in overshadowing to the principle usable area of the Level 3 common courtyard on the southern adjacent site between a complying scheme and the proposal. Whilst there is some additional overshadowing, this is predominantly to a walkway which leads to the principle usable area of the common open space. In addition, the principle usable area of common open space begins to enjoy sunlight form 1pm on 21 June and by 3pm approximately 50% of the area is in sunlight (this sunlight does not change between a complying height and the proposed height)

6.0 PUBLIC SUBMISSIONS

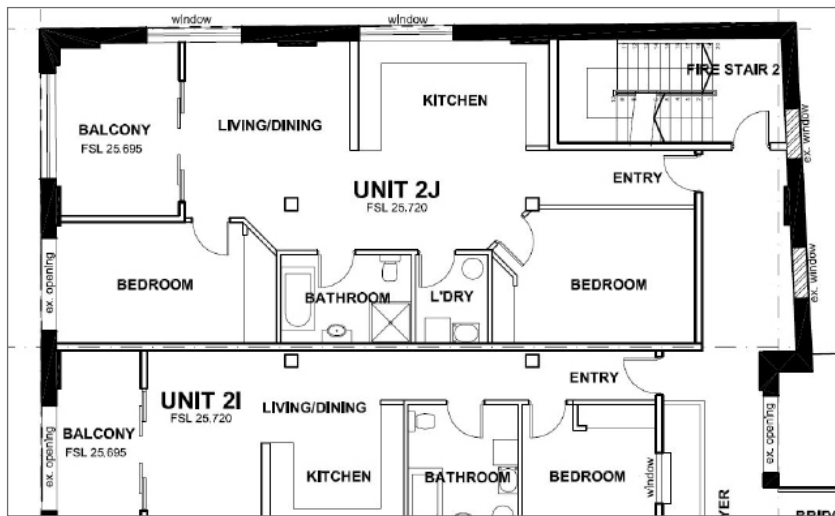


Figure 1:

Apartment 2J with windows on the northern boundary with the subject site with no legal entitlement. The living room also benefits from a primary living room window and balcony to Eveleigh Street

7.0 CONCLUSION

This report and the accompanying documentation provides a detailed final response to the issues raised by all parties in relation to the proposed development application.

As a result of consideration of the issues and concerns which were raised in the submissions and a workshop process with the Department of Planning & Environment and the City of Sydney, the proposed development has been further amended to achieve the following additional improvements subsequent to the initially proposed amendments:

- removal of top floor facing Woodburn Street and further setback of sixth floor from Woodburn Street and Eveleigh Street so that no portion of the top floor is visible from the public domain and the development presents as a 5 storey development;
- further improvement to architectural resolution of Woodburn Street facade with the introduction of two storey townhouse style apartments at the bottom of the building; ;
- reconfiguration of apartments to further reduce the number of apartments from 25 to 19 and the introduction of 3 bedroom apartments;
- modification to studio apartments to reduce apartment depth and increase balcony size;
- introduction of plenums for cross ventilation to achieve natural cross ventilation for 100% of apartments

This Final Response to Submissions and the accompanying documentation has demonstrated that the amended development application has resolved the issues of concern provided by the Department of Planning and Environment and has responded to the issues raised by the City of Sydney Council as well as other government agencies and the public.

The final amended proposal represents a refined response to the context of the site and has achieved improvements for the future occupants. This Final Response to Submissions and the accompanying documentation has demonstrated that the final amended proposal is capable of support and appropriate for approval.

APPENDIX A

AMENDED ARCHITECTURAL PACKAGE

A

JPR Architects

APPENDIX B

AMENDED URBAN DESIGN REPORT

B

JPR Architects

APPENDIX C

LETTER OF INTERIM ADVICE

C

Douglas Partners

APPENDIX D

SEPP 1 OBJECTION - FSR

D

Sutherland & Associates Planning

STATE ENVIRONMENTAL PLANNING POLICY NO.1 DEVELOPMENT STANDARD - OBJECTION TO THE RESIDENTIAL FLOOR SPACE DEVELOPMENT STANDARD

1.0 Introduction

This State Environmental Planning Policy No 1 - Development Standards (SEPP 1) Objection has been prepared in relation to a development application for the demolition of all existing buildings and erection of part 5 and part 6 storey mixed use development above two common basement levels with two retail tenancies, hotel accommodation with 76 rooms, and a residential flat building containing 19 apartments at 175-177 Cleveland Street and 1-5 Woodburn Street, Redfern.

The SEPP 1 objection is required as the floor space ratio proposed exceeds the maximum floor space ratio permitted for both the residential component of the development as well as the overall permitted floor space ratio in accordance with the provisions of State Environmental Planning Policy (Major Development) 2005.

2.0 The Provisions of SEPP 1

State Environmental Planning Policy No. 1 - Development Standards is a State Policy mechanism which allows for the variation of development standards contained within in environmental planning instruments.

3.0 Necessary Form and Detail Required in a SEPP No 1 Objection

In accordance with the provisions of SEPP 1 and decisions in *Hewitt v Hurstville Council* (2001) NSWLEC 294 (21 December 2001), *Winten Property Group Limited v North Sydney Council* (2001) NSWLEC 46 and *Hooker Corporation Pty Limited v Hornsby Shire Council* NSW LEC, 2 June 1986, unreported, an objection under SEPP No. 1 should respond to the following questions:

- Is the 'control' is a development standard rather than a prohibition on development?
- What is the underlying object or purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?
- Is compliance with the standard unreasonable or unnecessary in the circumstances of the case? and
- Is the objection well founded?

The remainder of this SEPP 1 objection responds to these questions in respect of the proposed variation.

4.0 Development Standard to which the Objection relates

This objection relates to the floor space ratio development standard at clause 21(2), Part 5 of Schedule 3 of State Environmental Planning Policy (Major Development) 2005.

The clause provides that the floor space ratio of a building on any land that is the subject of the Floor Space Ratio Map is not to exceed the floor space ratio shown for the land on that map. A total floor space of 3:1 applies to the site. A total maximum floor space ratio of 1:1 also applies to the residential component of the building.

APPENDIX D

5.0 Extent of Non Compliance with Development Standard

The proposed development has a floor space ratio of 3.7:1 and exceeds the overall 3:1 control which applies to the site. In addition, the residential component has a floor space ratio of 1.35:1 and exceeds the 1:1 control which applies for residential use on the site. A comparison of the proposal against the control and recently approved development of the site is provided below:

Control	Permissible	Approved	Proposed
Commercial FSR	2:1 (66%)	1.71:1 (57%)	2.35:1 (64%)
Residential FSR	1:1 (33%)	1.27:1 (43%)	1.35:1 (36%)
TOTAL	3:1	2.98:1	3.7:1

6.0 Specific Objectives of the Standard

There are no stated objectives for the floor space ratio control in the Major Development SEPP. The objectives of the Business Zone—Mixed Use are as follows:

- (a) to support the development of sustainable communities with a mix of employment, educational, cultural and residential opportunities,
- (b) to encourage employment generating activities by providing a range of office, business, educational, cultural and community activities in the Zone,
- (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.

7.0 Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?

Clause 3 of SEPP 1 describes the aims and objectives of the Policy as follows:

This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards

would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.

The objects specified in Section 5(a)(i) and (ii) of the EP&A Act are:

'to encourage:

- i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- ii) the promotion and co-ordination of the orderly and economic use and development of land..'

Whebe V Pittwater Council (2007) NSW LEC 827 (21 December 2007) sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states that:

An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding noncompliance with the standard.'

Accordingly, the following assessment considers the proposal against the objectives of the Business Zone-Mixed Use zone contained within Clause 10 of Division 1, Part 5, Schedule 3 of the Major Development SEPP:

- (a) to support the development of sustainable communities with a mix of employment, educational, cultural and residential opportunities,

The proposed development will support the mix of uses in the locality by providing visitor and tourist accommodation which is ideally located given the close proximity of the site to the Sydney CBD. The development will also support the vitality of the surrounding commercial uses by increasing the residential population in the locality.

- (b) to encourage employment generating activities by providing a range of office, business, educational, cultural and community activities in the Zone,

The proposal will provide employment associated with the hotel accommodation component of the development as well as the proposed retail shop. The increased residential population will also contribute to the economic success and employment opportunities of nearby businesses.

Residents will provide a range of community and economic benefits through financial contributions to local businesses.

APPENDIX D

- (c) to permit residential development that is compatible with non-residential development,

The proposed hotel use is considered to be compatible with the proposed residential accommodation in this it is similar in nature with a shorter stay than traditional residential occupation. The hotel use is unlikely to generate any significant source of amenity impact to the proposed residential apartments.

The development will assist in relieving pressure on existing market rental housing.

- (d) to maximise public transport patronage and encourage walking and cycling,

The proposal seeks to accommodate an appropriate quantum of residential and visitor accommodation in a location which is a short distance from the Sydney CBD as well as Redfern train station and nearby universities. The proposal also provides a generous and convenient provision of bicycle parking. Accordingly, the proposal will maximise walking, cycling and public transport patronage.

- (e) to ensure the vitality and safety of the community and public domain,

A legible pedestrian entry to the hotel accommodation and residential apartments from both Cleveland Street and Woodburn Street will be provided and surveillance of the surrounding streets will be improved as a consequence of the proposed works.

- (f) to ensure buildings achieve design excellence,

The building is a high quality design with a contemporary aesthetic achieved through a considered design which incorporates quality materials and finishes. An active frontage along the ground floor has been provided, to provide visual interest and encourage interaction. The variation to the FSR control does not result in an excessive building height, visual bulk or scale as the proposal will appear as a 5 storey development from the surrounding public domain.

The development will provide a high level of amenity for residents with the residential apartments exceeding the minimum size, solar access and cross-flow ventilation requirements under the Apartment Design Guide. Notwithstanding the proposed variation to the floor space ratio control, the development performs satisfactorily with respect to solar access and privacy.

- (g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.

The proposed variation does not create any adverse impacts on the adjoining properties, the streetscape or the character of the locality generally. The proposal is compatible with the existing mix of surrounding residential, commercial and light industrial uses.

8.0 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case in that:

- The existing building on the site represents an under utilisation of a site which is well served by public transport and is well located in relation to tertiary institutions, a range of large scale hospitals and health services, public recreation spaces, employment and retail facilities. The proposed development represents a more efficient and economic use of the site;
- The proposal will include a public benefit offer associated with the additional floor space;
- The proposed development has been designed by award winning architectural practice JPRA and represents a high quality development for the site which exhibits design excellence;
- The proposed street wall heights and parapet levels to Cleveland Street and Eveleigh Street are lower than the parapet levels of the recently approved development on the site and therefore the perceived scale of the proposal is essentially the same as that which has been previously approved notwithstanding the variation to FSR. The additional storey above the parapets to both Woodburn Street and Eveleigh Street have been further set back from the street facades such that they will not be visible from the public domain and therefore the proposal will appear as a 5 storey development which is consistent with the anticipated height for the site under the planning controls;
- The density proposed does not give rise to any significant impacts on the adjoining properties in terms of overshadowing, loss of privacy or visual impact beyond those which result from a complying scheme and therefore strict compliance with the control is unnecessary because it would not achieve a better outcome;
- The proposed apartments are afforded with a high level of amenity consistent with the design criteria in the Apartment Design Guide in that they all benefit from natural cross ventilation, there is a complying amount of solar access and the internal sizes all exceed that which is required;
- The availability and capacity of local infrastructure, public transport and recreational opportunities supports the additional floor space proposed in this location;
- The proposed density assists in meeting the demand for housing in the local government area in a highly appropriate location;
- The ratio of residential to non-residential floor space is generally consistent with that which is anticipated by the FSR controls (and is weighted more towards non-residential when compared to the recent approval of the same site) and therefore the proposed variation to the residential FSR of 1:1 does not compromise the capacity of the proposal to deliver a quantum of non-residential floor space as anticipated by the controls. Finally, the proposed variation to the residential FSR of 1.35:1 is similar to the recently approved residential FSR of 1.27:1 on the site and in the absence of any detrimental impacts or difference in perceptible scale when compared to a complying FSR and strict compliance would only serve to unnecessarily restrict housing supply in an ideal location.
- The proposed density assists in meeting the demand for hotel accommodation as recently identified by the City of Sydney; and
- Within the context of the scale of development approved to the south along Eveleigh Street and also around Redfern train station, the proposed density is appropriate.

9.0 Conclusion

The proposed variation to the floor space ratio development standard has been shown to be:

- Consistent with the underlying objectives of the development standard; and
- Consistent with the aims of SEPP 1 and the objects of s5(a)(i) and (ii) of the EP&A Act;

Strict adherence to the standard is unreasonable and unnecessary in the circumstances of the case because the perceptible scale of the development is consistent with that which is anticipated by the height control, the variation does not result in any significant impacts beyond a complying scheme, and accordingly strict compliance would only serve to reduce the provision of housing and hotel accommodation on a site in an ideal location with no benefit. In this regard it is reasonable and appropriate to vary the floor space ratio development standard to the extent proposed.

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SEPP 1 OBJECTION - HEIGHT

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Sutherland & Associates Planning Pty Ltd

STATE ENVIRONMENTAL PLANNING POLICY NO.1 DEVELOPMENT STANDARD - OBJECTION TO THE HEIGHT DEVELOPMENT STANDARD

1.0 Introduction

This State Environmental Planning Policy No 1 - Development Standards (SEPP 1) Objection has been prepared in relation to a development application for the demolition of all existing buildings and erection of part 5 and part 6 storey mixed use development above two common basement levels with two retail tenancies, hotel accommodation with 76 rooms, and a residential flat building containing 19 apartments at 175-177 Cleveland Street and 1-5 Woodburn Street, Redfern

The SEPP 1 objection is required as the proposed 6 storey height exceeds the maximum height of 5 storeys permitted for the site in accordance with the provisions of State Environmental Planning Policy (Major Development) 2005.

2.0 The Provisions of SEPP 1

State Environmental Planning Policy No. 1 - Development Standards is a State Policy mechanism which allows for the variation of development standards contained within in environmental planning instruments.

3.0 Necessary Form and Detail Required in a SEPP No 1 Objection

In accordance with the provisions of SEPP 1 and decisions in *Hewitt v Hurstville Council* (2001) NSWLEC 294 (21 December 2001), *Winten Property Group Limited v North Sydney Council* (2001) NSWLEC 46 and *Hooker Corporation Pty Limited v Hornsby Shire Council* NSW LEC, 2 June 1986, unreported, an objection under SEPP No. 1 should respond to the following questions:

- Is the 'control' is a development standard rather than a prohibition on development?
- What is the underlying object or purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?
- Is compliance with the standard unreasonable or unnecessary in the circumstances of the case? and
- Is the objection well founded?

The remainder of this SEPP 1 objection responds to these questions in respect of the proposed variation.

4.0 Development Standard to which the Objection relates

This objection relates to the height development standard at clause 21(1), Part 5 of Schedule 3 of State Environmental Planning Policy (Major Development) 2005.

The clause provides that the height of a building on any land that is the subject of the Height Map is not to exceed the height shown for the land on that map. A 5 storey height applies to the site.

5.0 Extent of Non Compliance with Development Standard

The proposed development has an overall height of 6 storeys which exceeds the 5 storey height control

by 1 storey.

6.0 Specific Objectives of the Standard

There are no stated objectives for the floor space ratio control in the Major Development SEPP. The objectives of the Business Zone—Mixed Use are as follows:

- (a) to support the development of sustainable communities with a mix of employment, educational, cultural and residential opportunities,
- (b) to encourage employment generating activities by providing a range of office, business, educational, cultural and community activities in the Zone,
- (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.

7.0 Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?

Clause 3 of SEPP 1 describes the aims and objectives of the Policy as follows:

This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.

The objects specified in Section 5(a)(i) and (ii) of the EP&A Act are:

'to encourage:

- i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

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- ii) the promotion and co-ordination of the orderly and economic use and development of land...'

Whebe V Pittwater Council (2007) NSW LEC 827 (21 December 2007) sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states that:

An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding noncompliance with the standard.'

Accordingly, the following assessment considers the proposal against the objectives of the Business Zone-Mixed Use zone contained within Clause 10 of Division 1, Part 5, Schedule 3 of the Major Development SEPP:

- (a) to support the development of sustainable communities with a mix of employment, educational, cultural and residential opportunities,

The proposed development will support the mix of uses in the locality by providing visitor and tourist accommodation which is ideally located given the close proximity of the site to the Sydney CBD. The development will also support the vitality of the surrounding commercial uses by increasing the residential population in the locality.

- (b) to encourage employment generating activities by providing a range of office, business, educational, cultural and community activities in the Zone,

The proposal will provide employment associated with the hotel accommodation component of the development as well as the proposed retail shop. The increased residential population will also contribute to the economic success and employment opportunities of nearby businesses.

Residents will provide a range of community and economic benefits through financial contributions to local businesses.

- (c) to permit residential development that is compatible with non-residential development,

The proposed hotel use is considered to be compatible with the proposed residential accommodation in this it is similar in nature with a shorter stay than traditional residential occupation. The hotel use is unlikely to generate any significant source of amenity impact to the proposed residential apartments.

The development will assist in relieving pressure on existing market rental housing.

- (d) to maximise public transport patronage and encourage walking and cycling,

The proposal seeks to accommodate an appropriate quantum of residential and visitor accommodation in a location which is a short distance from the Sydney CBD as well as Redfern train station and

nearby universities. The proposal also provides a generous and convenient provision of bicycle parking. Accordingly, the proposal will maximise walking, cycling and public transport patronage.

- (e) to ensure the vitality and safety of the community and public domain,

A legible pedestrian entry to the hotel accommodation and residential apartments from both Cleveland Street and Woodburn Street will be provided and surveillance of the surrounding streets will be improved as a consequence of the proposed works.

- (f) to ensure buildings achieve design excellence,

The building is a high quality design with a contemporary aesthetic and materials and finishes. An active frontage along the ground floor has been provided, to provide visual interest and encourage interaction. The variation to the height control is relatively minor and does not result in an excessive building height, visual bulk or scale as the proposed parapet height is lower than the recently approved development on the site and the additional storeys is setback behind the parapet and is not perceptible from the public domain.

The development will provide a high level of amenity for residents with the residential apartments exceeding the minimum size, solar access and cross-flow ventilation requirements under the Apartment Design Guide. Notwithstanding the proposed variation to the height control, the development performs satisfactorily with respect to solar access and privacy.

- (g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.

The proposed variation does not create any significant adverse impacts on the adjoining properties, the streetscape or the character of the locality generally. The proposal is compatible with the existing mix of surrounding residential, commercial and light industrial uses.

8.0 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case in that:

- the proposed street wall heights and parapet levels to Cleveland Street and Eveleigh Street are less than the parapet levels of the recently approved 5 storey development on the site. Accordingly, the perceived scale of the proposal is essentially the same or less than that which has been previously approved;
- the additional storey above the parapets to both Woodburn Street and Eveleigh Street have been further set back from the street facades such that they are no longer visible from the public domain and the proposal appears as a 5 storey development consistent with the height control;
- the proposal does not unreasonably overshadow 165-173 Cleveland Street which enjoys a high level of solar access from late morning and through into the late afternoon due to the eastern, northern and western aspect and so it is likely that well over 70% of the apartments in 165-173 Cleveland Street will continue to enjoy more than 2 hours solar access at the winter solstice;
- the proposal does not unreasonably overshadow 6-8 Woodburn Street because those apartments

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gain their solar access from the windows which face Eveleigh Street and Woodburn Street and the proposed development does not generate any additional overshadowing of the Eveleigh or Woodburn Street facades beyond that which currently exists;

- the scale of the proposal presents as 5 storeys in accordance with the control and is compatible with the built form within the visual catchment of the site; and
- within the context of the scale of development approved to the south along Eveleigh Street and also around Redfern train station, the proposed height density is appropriate.

9.0 Conclusion

The proposed variation to the 5 storey height development standard has been shown to be:

- Consistent with the underlying objectives of the development standard; and
- Consistent with the aims of SEPP 1 and the objects of s5(a)(i) and (ii) of the EP&A Act;

Strict adherence to the standard is unreasonable and unnecessary in the circumstances of the case because the proposal now presents as a 5 storey development and the additional part floors do not result in any significant additional impact when compared to a complying height scheme. In this regard it is reasonable and appropriate to vary the height development standard to the extent proposed.