



**Planning &
Environment**

**STATE SIGNIFICANT DEVELOPMENT
ASSESSMENT REPORT**

***Mixed Use Development at 80-88 Redfern
Street, Redfern***

SSD 7080



Environmental Assessment Report
Section 89H of the
Environmental Planning and Assessment Act 1979

October 2017

ABBREVIATIONS

ADG	Apartment Design Guide
Applicant	Sunny Thirdi Regent Street Pty Ltd, or any other person or persons who rely on this consent to carry out the development that is subject to this consent
BEP	Redfern Waterloo Authority Built Environment Plan 1
CIV	Capital Investment Value
CPTED	Crime Prevention Through Environmental Design
Commission	Planning Assessment Commission
Council	City of Sydney Council
Department	Department of Planning & Environment
Draft UDG	Draft Redfern Town Centre Urban Design Guidelines
EIS	Environmental Impact Statement prepared by SJB Planning dated January 2016
EP& A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP& A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPA	Environment Protection Authority
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FSR	Floor Space Ratio
GFA	Gross Floor Area
GSC	Greater Sydney Commission
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
OEH	Office of Environment and Heritage
NCC	National Construction Code
RMS	Roads and Maritime Services
RtS	Response to Submissions Statement prepared by SJB Planning
RRtS	Revised Response to Submissions prepared by SJB Planning
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment, or delegate
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
SSP SEPP	State Environmental Planning Policy (State Significant Precincts) 2005
TfNSW	Transport for New South Wales
UGNSW	Urban Growth NSW

Cover Photograph: Artist Impression of proposed development from Regent Street (source Revised Response to Submissions)

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EXECUTIVE SUMMARY

This report provides an assessment of a State significant development application (SSD 7080) lodged by Sunny Thirdi Regent Street Pty Ltd for an 18-storey part residential/part commercial building with basement car parking at 80-88 Regent Street, Redfern. The project has a capital investment value (CIV) of \$34 million and will create 35 construction jobs and 5 operational jobs.

The development is SSD under Schedule 2 of the State Environmental Planning Policy (State & Regional Development) 2011, as it is development within the Redfern Waterloo Precinct having a CIV over \$10 million. Therefore, the Minister for Planning is the consent authority.

The Environmental Impact Statement (EIS) for the proposed development was exhibited from 11 February until 11 March 2016 (30 days). The Department of Planning and Environment received 29 submissions, including seven from public authorities and 22 public submissions, of which 19 objected. The Applicant submitted a Response to Submissions (RtS) which modified the design of the building and provided additional information. The RtS was notified from 29 November to 13 December 2016. City of Sydney Council (Council) maintained its objection to the proposal and a further four public submissions by way of objection were received.

The Applicant subsequently submitted a Revised Response to Submissions (RRtS) to address issues raised by the Department, key agencies and nearby residents on the RtS. The RRtS reduced the number of residential apartments from five to four on each floor plate (from 79 to 56 across 14 levels), introduced two commercial floor plates on Level 1 and Level 2, and reconfigured the proposed child care centre. The RRtS also redesigned the façade expression of the tower and podium elements, and made variations to the podium setbacks and increased the tower setback to the north.

As the RRtS made significant changes to the proposed building, it was publicly exhibited for 30 days from 27 April until 26 May 2017 during which a further eight objections were received from the public. Council maintained its objection to the modified design of the building, notwithstanding that the design changes proposed in the RRtS directly responded to issues raised by Council, including conversion of two lower levels to commercial use due to poor solar access and amenity, reduction in the number of overall residential apartments and an increased northern façade setback to improve building separation and residential amenity. Additional information was also provided in respect to view loss, solar access, traffic, the child care centre and construction hours.

The Department's assessment has found the key issues associated with the proposal are the consistency with the tower setback controls, design quality and amenity impacts. The Department's assessment concludes the proposed building is well designed and while it seeks to vary the two-storey and three-storey podium controls for Regent and Marion Streets respectively, complying with these requirements would significantly limit the development potential of the site and would not meet the overarching strategic objectives for the renewal of the Redfern Town Centre and thus not provide additional residential apartments, commercial floor space and jobs.

It is accepted the proposal will have some amenity impacts on views and solar access to some adjoining residential properties, however the building complies with the maximum height and density controls in State Environmental Planning Policy (State Significant Precincts) 2005. On this basis, the preservation of views to east and south facing apartments is unsustainable in the context of the relevant planning controls. Further, the proposed building separation distances are consistent with the predominant tower separation and built form and will not result in unacceptable amenity impacts with regards to privacy.

As Council has maintained its objection (primarily due to solar access and building separation) to the application despite its design changes, it is being referred to the Planning Assessment Commission for determination. The Department concludes the development is in the public interest and is capable of being approved, subject to the recommended conditions.

1. BACKGROUND

1.1 Introduction

This report assesses a State significant development application (SSD 7080) submitted by Sunny Thirdi Regent Street Pty Ltd (the Applicant) which seeks approval for a mixed-use building at 80-88 Regent Street, Redfern. The proposal comprises a single 18-storey tower and podium structure, with active retail uses at ground floor level, two levels of commercial office space, 56 residential apartments and four levels of basement car parking.

1.2 The Subject Site

The subject site is located at 80-88 Regent Street, Redfern. The site is located within the City of Sydney Local Government Area; approximately 2.3 km to the south-west of the Sydney Central Business District, within the Redfern Town Centre and 150 m to the east of the Redfern Railway Station. The site is shown in **Figure 1**.

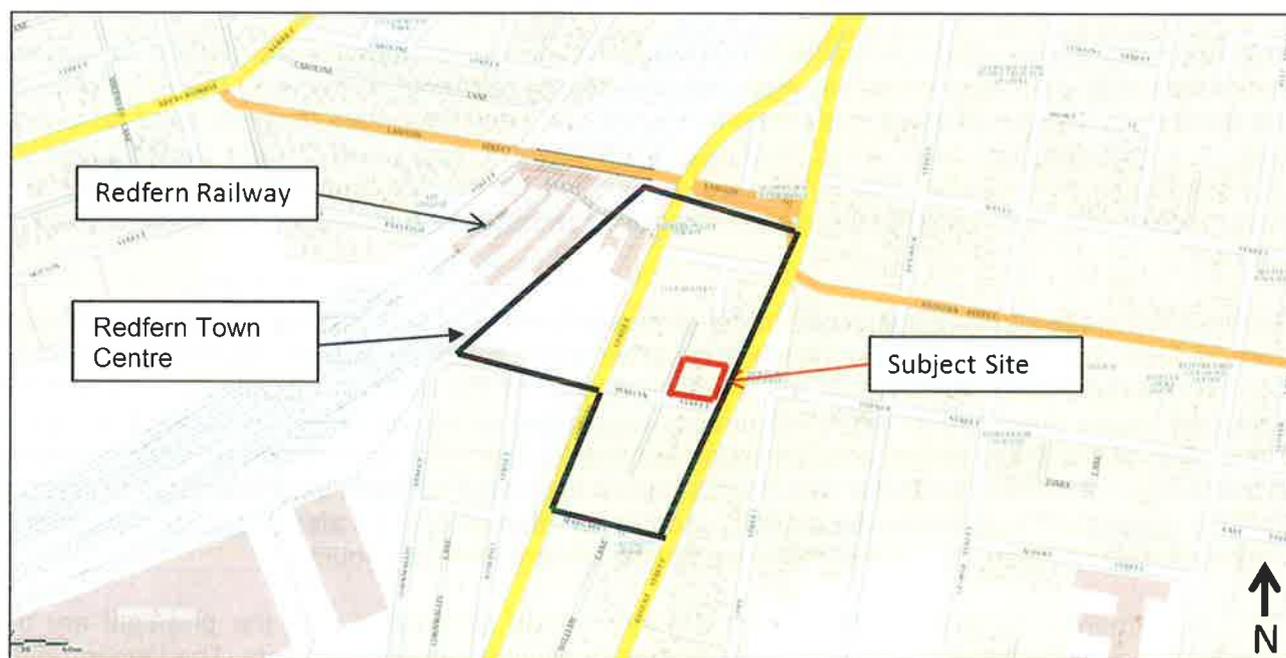


Figure 1: Subject site, Redfern Town Centre and surrounding context (Source: EIS/Sixmaps)

The site comprises five individual holdings legally identified as Lot A, B, C, D and E in DP 105824, with a combined rectangular area of 822 m² and frontages to Regent Street (8 m), Marian Street (11 m) and William Lane (8 m). The topography of the site falls slightly from the north to the south west. The site currently accommodates five 19th century two-storey commercial terraces with shopfronts to Regent Street and shop-top housing. The existing site layout and structures are illustrated in **Figure 2**.

1.3. Site Context

The site and surrounding area forms part of the Redfern Town Centre and is characterised by a mix of uses including commercial, residential, and public use buildings ranging from two to 18 storeys in height. Regent Street is a four-lane one-way State classified road which runs through the town centre (**Figure 3**). Redfern Street is located perpendicular to Regent Street to the north of the site and provides a pedestrian thoroughfare to Redfern Railway Station. Marian Street runs along the southern boundary of the site.

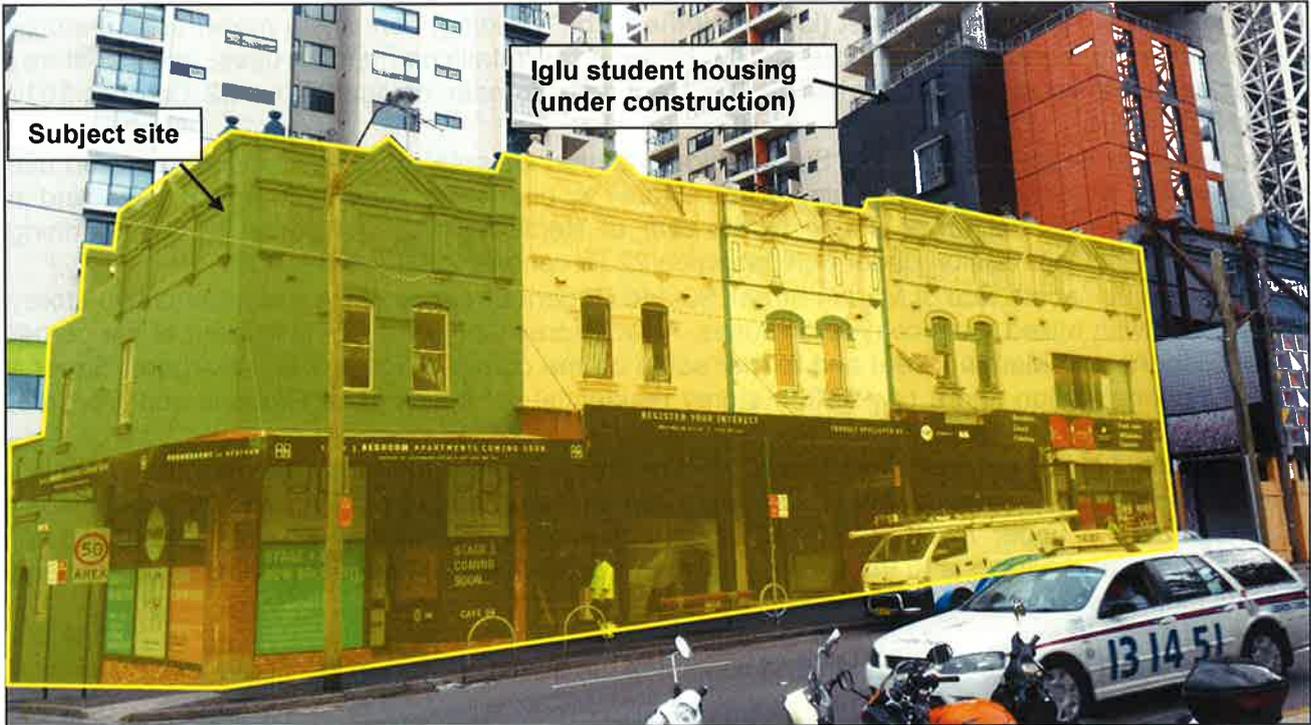


Figure 2: Existing site viewed from Regent Street (Source: Department's photograph)



Figure 3: Aerial view showing subject site and surrounding context (Source: Google Maps).

The Redfern Town Centre is undergoing significant urban renewal and therefore has a mixed character transitioning from the traditional lower density mixed use retail and residential developments of two to four storeys in height to buildings up to 18 storeys as provided for by the planning controls for the area.

Developments immediately surrounding the site include:

- to the north - 60-78 Regent Street, previously contained a row of two-storey attached terraces with retail shop top residences and offices. The site is now under construction for an 18-storey student housing development (known as the "Iglu") approved under SSD 6724 on 25 August 2015

- to the west - 7-9 Gibbons Street (known as the “Urba” building) contains a mixed use 18-storey development comprising a three-storey podium for retail/commercial uses and 15-storey residential tower above. Approved by the Department under delegation on 22 October 2010 (MP08_0112)
- to the north west - 157 Redfern Street (known as the “Deicota” building) contains a mixed use 18-storey development comprising a four-storey podium with retail/commercial uses and a 14-storey residential tower above to the rear of Redfern RSL. Approved by the Planning Assessment Commission under delegation on 22 December 2009 (MP09_0039).
- to the south – south side of Marion Street, 90-116 Regent Street contains a number of two-storey terraces with mixed retail/commercial uses. A two-storey Council depot is located at the corner of Gibbons and Marian Street and further south on the corner of Regent and Margaret Street a BP Service station and a row of four storey residential flat buildings at Gibbons and Margaret Street
- 1 Lawson Square (formerly known as TNT Towers) is located further to the north and consists of two identical 12-storey commercial towers connected at the ground floor and via a pedestrian bridge at the upper levels. Consent was granted by the Department under delegation for alterations and additions to the existing towers for a 19-storey mixed use commercial/retail and residential development (SSD 5249).

Figures 4 and 5 illustrate the location and context of the site in relation to the above developments.



Figure 4: Development adjoining the site (Source: Nearmaps)

Further west of the site is the Redfern Railway Station which provides rail transport connections to all of Sydney’s suburban lines except for the Airport and Cumberland Lines. The station is listed on the State Heritage Register. On the opposite side of Regent Street to the east is the Redfern Town Square containing a mix of residential and commercial/retail developments ranging from two to six storeys in height.

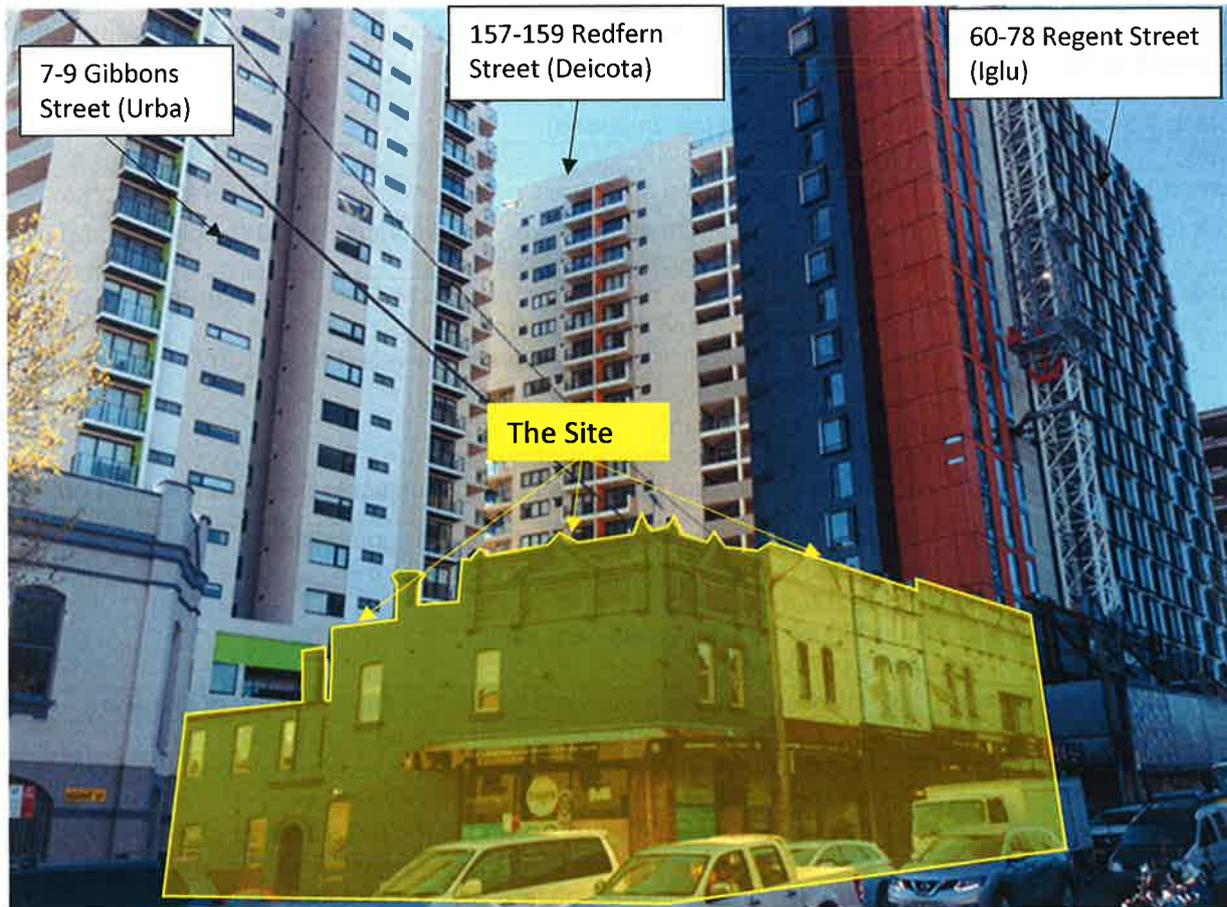


Figure 5: Development adjoining the site (Source: Department's photograph)

2. PROPOSED DEVELOPMENT

2.1. Development Description

The application originally proposed an 18-storey residential building with four levels of basement parking, retail elements at the ground level, child care facility at first floor level and 16 levels of residential apartments above (Figure 6 and 7). In response to public submissions, agency and Council comments and discussions with the Department (see Section 4.4), the application has been subsequently amended twice during the assessment process through the Response to Submissions (RtS) and Revised Response to Submissions (RRtS) reports.

Key changes, from the proposal as exhibited in the EIS, to the current amended proposal include:

- significant redesign of the tower and podium elements, including variations to tower and podium setbacks, including increased setbacks to the adjoining development site (Iglu) to the north
- a reduction in the tower floor plate from 535 m² to 464 m² (13% reduction)
- reduction in the mix and total number of apartments from 79 to 56 (reducing from 16 levels to 14 levels)
- reconfiguration of the core and residential layouts
- increase in the retail/commercial floor space, with retail at ground level and commercial floor space now provided at Level 1 and Level 2, from 90 m² to 1,250 m²
- redesign of the retail /public domain interface with Regent Street to provide multiple shopfronts and provision of an awning to continue around the corner of Regent and Marian Street
- amended elevations and façade treatments
- reconfiguration of the future child care centre onto a single level (level three) and changes to the internal and external layout.

A summary of the final amended scheme now proposed is shown in **Table 1** and illustrated in **Figures 8 to 10**.

Table 1: Key components of the development (as amended).

Aspect	Description
Demolition	Demolition of existing structures, earthworks and site preparation works.
Built form	Construction of an 18-storey tower, maximum RL 93.10 (height to plant) with part two/three storey podium element.
Uses	<ul style="list-style-type: none"> • Residential – 56 apartments across 14 levels between levels 4-17 (14 one-bedroom and 42 two-bedroom) • Commercial office space across two levels (Levels 1-2) • Retail on the ground level • Basement parking • Landscaped communal rooftop garden • Future child care centre on Level 3 (subject to separate DA with council)
Gross Floor Area (GFA)	5,754 m ² total GFA (Floor Space Ratio 7:1) comprising: <ul style="list-style-type: none"> • 4,012 m² residential (with floor plate 464 m²) • 1,250 m² commercial • 250 m² for future child care centre • 211 m² retail.
Communal Open Space	392 m ² of communal garden are located on the roof (48% of site area).
Access	Vehicular access to the basement car parking from William Lane
Parking	<ul style="list-style-type: none"> • 60 parking spaces across four basement levels, including 2 drop-off bays and 1 loading bay accessed off William Lane • 50 bicycle parking spaces located in the basement, at ground level and near the future child care centre/commercial lobby.
Jobs and Capital Investment Value (CIV)	<ul style="list-style-type: none"> • Creation of 35 construction jobs and 5 operational jobs • CIV of \$34 million.



Figures 6 and 7: The originally lodged and exhibited proposal (left) and RtS proposal (right) viewed from the corner of Marian Street and Regent Street (Source: RRtS)



Figure 8: The proposed development as amended by the RRTS, viewed from the corner of Marian Street and Regent Street (Source: RRTS).



Figure 9: Eastern elevation facing Regent Street (left) and southern elevation facing Marion Street (right). (Source: RRtS).

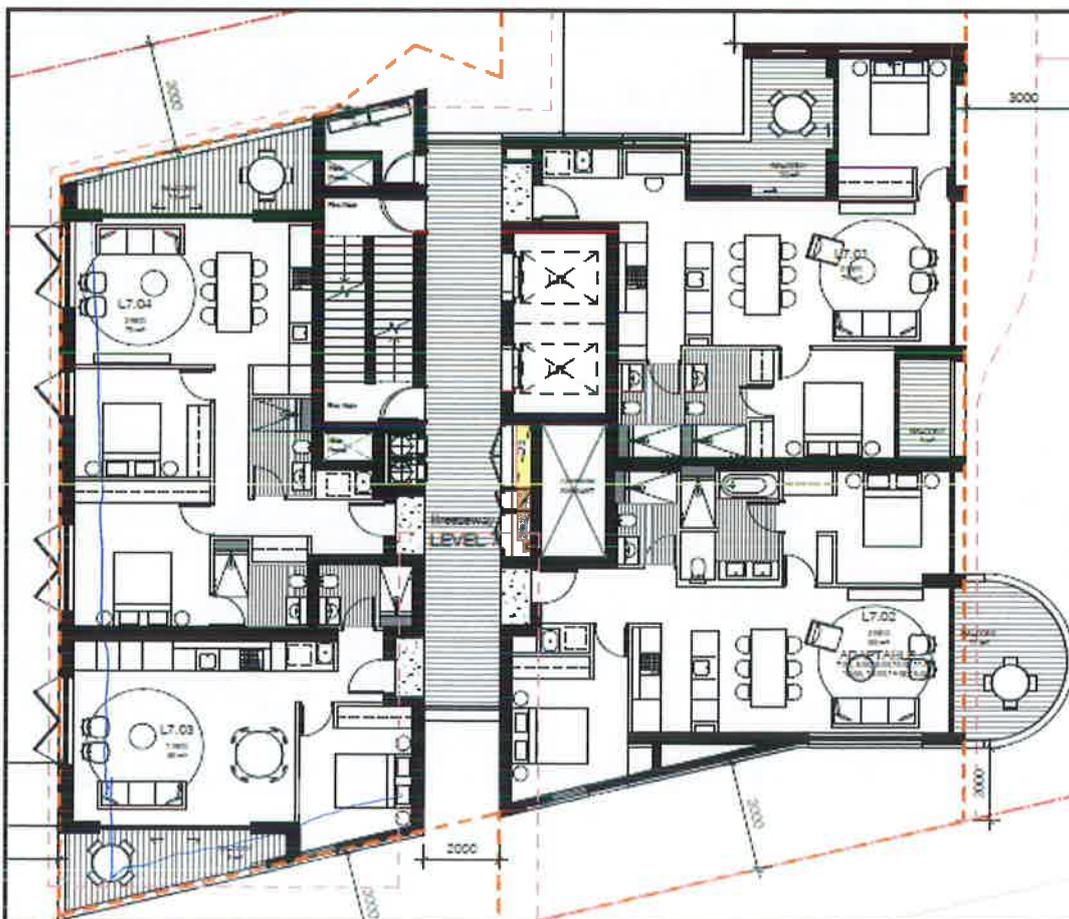


Figure 10: Typical residential floorplate, Levels 4-17 (Source: RRtS).

3. STATUTORY CONTEXT

3.1. State Significant Development

The proposal is State Significant Development (SSD) under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is development with a CIV more than \$10 million in Redfern-Waterloo pursuant to clause 2 of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP). Therefore, the Minister for Planning is the consent authority for the development.

3.2. Permissibility

The site is zoned Business Zone – Commercial Core by the State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP). The proposed residential, retail and commercial uses are permissible within the zone.

3.3. Delegated Authority

On 14 September 2011, the Minister delegated functions to determine SSD applications to the Planning Assessment Commission (Commission) in cases where an objection has been received from the relevant local council, where the Applicant has provided a political donation disclosure statement, or where there are more than 25 public submissions objecting to the proposal received during the statutory exhibition of the application.

As City of Sydney Council (Council) objects to the proposal, it is being referred to the Commission for determination. The Department notes more than 25 objections were received, however this figure reflects the cumulative number of submissions received during exhibition of the EIS, notification of the RtS and exhibition of the RRtS.

3.4. Environmental Planning Instruments

The environmental planning instruments (EPIs) that apply to the site include:

- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy No. 1 – Development Standards (SEPP 1)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education and Child Care SEPP).

The Department's detailed consideration of relevant SEPPs and EPIs is provided in **Appendix C**, (SEPP 1 objection) and **Appendix D**. The proposal is generally consistent with the relevant provisions of the abovementioned EPIs. Any inconsistencies are discussed in **Section 5** and **Appendices C** and **D**.

3.5. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects set out in Section 5 of the Act. The Department has considered the objects of the EP&A Act (**Table 2**) and is satisfied the proposal complies with all relevant objects.

Table 2: Compliance with EP&A Act objects

Objects of the EP&A Act	Consideration
(a) <i>to encourage:</i>	
(i) <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</i>	The proposal does not significantly impact on natural and artificial resources, as it seeks the construction of a building within an area already identified for urban redevelopment. The proposal will enhance social and economic benefits by providing additional housing, retail and a childcare centre close to jobs, services and transport.
(ii) <i>the promotion and co-ordination of the orderly and economic use and development of land</i>	The proposed land use is permitted and the merits of the proposal are considered in Section 5 .
(iii) <i>the protection, provision and co-ordination of communication and utility services</i>	The proposal is unlikely to significantly impact on communication and utility services.
(iv) <i>the provision of land for public purposes</i>	The proposal does not propose the provision of land for public purposes. However, the proposal is required to provide contributions in accordance with both the Redfern Contributions Plan and Affordable Housing Contributions Plan that will contribute to the provision of infrastructure and affordable housing in the area.
(v) <i>the provision and co-ordination of community services and facilities</i>	The proposal includes the proposed use of a future child care centre along with the contributions required for infrastructure and affordable housing in the area.
(vi) <i>the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats</i>	The proposal does not impact on native animals and plants, noting the site is a commercial site that does not contain threatened species and/or habitat.
(vii) <i>ecologically sustainable development (ESD)</i>	Section 3.6 of this report considers the proposal against the principles of ESD.
(viii) <i>the provision and maintenance of affordable housing</i>	The proposal includes a contribution to affordable housing provision.
(b) <i>to promote the sharing of the responsibility for environmental planning between the different levels of government in the State</i>	The Department consulted with Council and other relevant agencies on the proposal.
(c) <i>to provide increased opportunity for public involvement and participation in environmental planning and assessment.</i>	Section 4 sets out details of public exhibition on the proposal.

The proposal complies with objects (a)(ii) and (a)(vii) as it promotes the orderly and economic use and development of the site as a mixed use residential and commercial building. Further, the proposal has been designed to comply with the ESD principles as discussed below.

3.6. Ecologically Sustainable Development

The Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle*
- (b) *inter-generational equity*
- (c) *conservation of biological diversity and ecological integrity*

(d) *improved valuation, pricing and incentive mechanisms*

The Department has assessed the proposed development in relation to the ESD principles and has made the following conclusions:

- **Precautionary Principle** - the site has been appropriately planned for development and will not result in any serious or irreversible environmental damage.
- **Inter-Generational Equity** - the proposal will not have adverse impacts on the environment for future generations.
- **Biodiversity Principle** - the site is within a highly urbanised area and contains no significant flora or fauna.
- **Valuation Principle** – the proposal includes a number of energy, water and waste reducing measures to reduce the ongoing cost, resource and energy requirements of the development.

3.7. Secretary's Environmental Assessment Requirements

In accordance with section 78A (8A) of the EP&A Act, the Secretary notified the Applicant of the Secretary's Environmental Assessment Requirements (SEARs) for the SSD application. The Department considers the Applicant's EIS, RtS and RRtS adequately addresses compliance with the SEARs to enable the assessment of the application for determination purposes.

3.8. Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) have been complied with.

3.9. Strategic Context

The Department considers the proposal is consistent with the following State strategies:

NSW 2021

NSW 2021 (the State Plan) is the NSW Government's strategic business plan for setting priorities for action and guiding resource allocation. The State Plan is a ten-year plan to rebuild the economy, provide quality services, renovate infrastructure, restore government accountability and strengthen the local environment and communities.

The project will provide a new mixed-use development, including 56 residential apartments, within an identified urban renewal precinct with excellent access to transport, services, facilities and tertiary educational establishments. This will contribute to the State's wider goal of placing downward pressure on the cost of living by providing more housing choice within close proximity to existing infrastructure, centres and services.

A Plan for Growing Sydney and Towards our Greater Sydney 2056

A Plan for Growing Sydney and Towards our Greater Sydney 2056 are strategic documents that guides the development of the Sydney Metropolitan area for the next 20 and 30 years respectively. The documents identify the Central to Eveleigh corridor, which the site sits within, as having the potential to accommodate medium and high density office, education, retail, hospitality and residential development. A goal of the plans includes facilitating the urban renewal of Redfern, suitably managing the impacts of development on the environment, and promoting new development to accommodate additional new jobs within the Sydney Central subregion.

The proposal would provide a contemporary mixed-use development within the Redfern Town Centre comprising retail, commercial and residential uses. The proposal is therefore considered consistent with the objectives of *A Plan for Growing Sydney* and *Towards our Greater Sydney 2056*.

Draft Central District Plan

The Greater Sydney Commission has prepared draft District Plans to inform local council planning and influence the decisions of State agencies. The aim of the District Plans are to connect local planning with the longer-term metropolitan planning for Greater Sydney.

Redfern is located within the Central District. The *Draft Central District Plan* contains key productivity and livability priorities that are relevant to the proposed developments including:

- driving the economic growth and contributing to job targets of the Eastern City
- improving 30 minute access to jobs and services
- improving housing choice
- improving housing diversity
- suitably managing the potential impacts of the development on the environment
- creating great places.

The proposal is consistent with the above priorities as it would create a new high quality mixed-use development in close proximity to jobs and services within the Sydney CBD and will form part of the broader Redfern Waterloo redevelopment and revitalisation.

The Redfern Waterloo Precinct is also subject to the following specific strategies:

Redfern Waterloo Authority – Built Environment Plan 1

The *Redfern-Waterloo Built Environment Plan 1* (BEP) was developed as a key driver for the former Redfern Waterloo Authority (RWA), now known as Urban Growth NSW (UGNSW), to assist in the social and economic revitalisation of the Redfern-Waterloo area. The BEP forecasts the Redfern Waterloo area will provide 2,000 dwellings and 18,000 jobs.

The site is zoned Business Zone – Commercial Core by the SSP SEPP. The commercial core is located directly east of Redfern Railway Station. The SSP SEPP objectives for the commercial core include facilitating the development of a town centre with a range of employment uses and compatible residential development that will maximise public transport patronage. The BEP provides detailed objectives to achieve revitalisation of the commercial core area to provide a vibrant and cohesive Redfern Town Centre comprising quality medium and high density development.

Further, the BEP was designed to provide a planning framework for the redevelopment of the RWA's strategic sites including the subject site. Schedule 3 of the SSP SEPP accordingly identifies these strategic sites and the key built form controls to guide their future development including:

- maximum height control of 18 storeys
- FSR control of 7:1.

The Department considers the proposal would contribute positively towards the Redfern Town Centre through provision of a contemporary mixed-use development comprising retail, commercial, residential and future child care uses. The proposal is consistent with the overall height and FSR controls, except for the podium setback requirements to Regent and Marian Streets (see **Section 5.3**).

Draft Redfern Town Centre Urban Design Guidelines

The *Draft Redfern Town Centre Urban Design Guidelines* (Draft UDG) were developed to provide urban design principles for future development of State significant sites within the Redfern Town Centre under the controls of the SSP SEPP.

As discussed in **Section 5.3**, the proposal generally complies with the urban design principles and responds appropriately to the surrounding built form. The proposal would provide a new tower development that will assist in revitalising the Redfern Town Centre.

4. CONSULTATION AND SUBMISSIONS

4.1. Exhibition

In accordance with section 89(F) of the EP&A Act, the Department publicly exhibited the application for 30 days from 11 February until 11 March 2016. The application was made publicly available on the Department's website and exhibited at the Department's Information Centre, Council's One Stop Shop and the Redfern Neighborhood Service Centre.

The Department also placed a public notice in the *Sydney Morning Herald* and the *Daily Telegraph* on Wednesday 10 February 2016 and notified adjoining landholders and relevant State and local government authorities.

The Department received 22 public submissions during the exhibition of the EIS, including 19 objecting to the development, one in support and two providing comments. Seven submissions were also received from public authorities. A summary of the issues raised in submissions is provided below. Copies of submissions may be viewed at **Appendix B**.

4.2. Public Authority Submissions

The issues raised by public authorities to the originally submitted proposal and EIS are summarised in the **Table 3** below.

Table 3: Summary of public authority submissions to the EIS

City of Sydney (Council)
<p>Council objected to the proposal and the key issues raised were:</p> <ul style="list-style-type: none"> • the proposed height does not comply with the SSP SEPP, as the proposal is for 18 storeys plus two mezzanine levels • the proposed child care centre is located over two levels (rather than one) • the GFA should be recalculated to ensure compliance with the FSR control • a more accurate solar access schedule is required • increased setbacks are required to William Lane • unclear impacts from the reduced tower setback to Regent Street • building separation non-compliance and lack of privacy • overshadowing and view loss impacts • podium treatment requires review to ensure the scale, form and height respect local character.
Urban Growth NSW (UGNSW)
<p>UGNSW advised that appropriate rates for affordable housing contribution are based on the total GFA proposed.</p>
NSW Heritage Council (Heritage Council)
<p>Heritage Council advised that the Heritage Impact Assessment is inadequate and must be revised to provide:</p> <ul style="list-style-type: none"> • a thorough archaeological assessment and updated statement of heritage significance to effectively assess potential archaeological significance • appropriate management of unexpected finds, stop works procedures • an executive director must be nominated if archaeological fieldwork is required • results of any archaeological works presented within 1 year to the Heritage Council • a suitable artefact repository for retention of any relics recovered of local heritage significance.

Environment Protection Authority (EPA)
EPA advised that it has no comments on the proposal.
Transport for NSW (TfNSW)
TfNSW did not object to the proposal but requested: <ul style="list-style-type: none"> • further investigation on potential impacts on the CBD Rail Link • a detailed Construction Pedestrian and Traffic Management Plan which includes other construction projects (including Sydney Light Rail)
Roads and Maritime Services (RMS)
RMS has provided the following comments: <ul style="list-style-type: none"> • a Construction Traffic Management Plan is to be prepared • all construction vehicles must be contained within the site, a construction zone will not be permitted on Regent Street • a Road Occupancy Licence will be required • detailed hydraulic calculations may be required for RMS approval to accommodate additional stormwater • details of road support structures during excavation • the developer is responsible for all public utility relocation works where required.
Sydney Airport
Sydney Airport requested the following information: <ul style="list-style-type: none"> • co-ordinates for the four corners of the building and the lift overrun • details on the maximum height of the rooftop garden foliage and how the maximum height will be maintained.

4.3. Public Submissions

The Department received 22 public submissions during the exhibition of the EIS, with 19 objecting to the development. The key issues raised in public submissions are listed in **Table 4**.

Table 4: Summary of issues raised in public submissions

Issue	Percentage
Overshadowing and loss of solar access	68%
Insufficient building separation/setbacks	59%
Loss of views and privacy	55%
Lack of car parking and traffic impacts (specifically loading dock access via William Lane)	50%
Construction hours / noise	32%
Unsuitable area(s) available for child care drop off/pick up	23%

Other issues raised in public submissions include:

- excessive building height
- garbage collection
- amenity impacts from use of communal rooftop
- negative impact on streetscape and heritage look and feel of Regent Street
- insufficient infrastructure and commercial services to accommodate increase in residents
- insufficient contributions to affordable housing, public infrastructure within the area and public domain and streetscape improvements.

4.4. Applicant's Response to Submissions

The Applicant lodged an RtS that refined the design of the tower and provided additional information to clarify concerns raised during the exhibition period. The Department notified public authorities and

nearby residents of the RtS and made the amended design and associated documents publicly available. The Department received further comments from four public authorities and four public submissions by way of objection. The comments provided in response are summarised below in **Table 5**.

Table 5: Summary of agency comments to the RtS.

<p>Council</p> <p>Council maintained its objection, noting the following comments:</p> <ul style="list-style-type: none"> • the impacts to solar access are unacceptable • increased setbacks at upper levels are required to comply with building separations provided in SEPP 65 and the Apartment Design Guide • the lack of solar access and building separations indicate the site may not be suitable for residential development • the GFA is inaccurate noting the calculations exclude the outdoor courtyard, breezeways, some wardrobes and unlabelled voids • the public domain interface, including door locations, footpath level alignment needs further resolution; • the sharing of the lift between residents and child care users need to be resolved • servicing needs to be refined, such as garbage collection, recycling and how these services will work for the retail and child care uses • the balconies are less integrated into the tower form in this design and the quality of materials could be improved.
<p>UGNSW</p> <p>UGNSW requested a condition be placed on any consent relating to the payment of affordable housing contributions.</p>
<p>Heritage Council</p> <p>Heritage Council considered the archaeological assessment to be appropriate however an updated unexpected finds and stop works procedure is required to address possible discovery of archeologically relics during excavation.</p>
<p>Transport for NSW</p> <p>TfNSW reiterated request for conditions of consent in relation to the CBD rail link project, development near rail corridors and a Construction Pedestrian and Traffic Management Plan.</p>

Four public objections were also received in response to the RtS. The submissions reiterated concerns about the bulk and scale of the tower, its suitability to the local area, insufficient building separations and the capacity of existing local infrastructure to support the development.

The Department maintained its concerns in relation to the amended proposal, noting it did not allow for a reasonable level of solar access and the building was insufficiently separated from nearby buildings to provide appropriate levels of amenity.

4.5. Applicant's Revised Response to Submissions

The Applicant lodged a Revised RtS (RRtS) report which sought to address issues raised by the Department, key agencies and nearby residents.

The Applicant amended the proposal to include:

- a significant redesign of the expression of the tower and podium elements, including variations to tower and podium setbacks and increased setback to northern boundary
- removal of the two mezzanine levels and a subsequent decrease in height from original scheme by 4.9 m to 93.1 m (note: the building maintains the 18 storey tower)
- reduction in the mix and total number of apartments from five to four on each floor plate and an overall reduction from 79 to 56 across 14 levels
- conversion of lower levels from residential to commercial use
- reconfiguration of the core and residential layouts
- reconfiguration of the child care centre onto a single level and changes to the internal and external layout

- redesign of the retail /public domain interface with Regent Street to provide multiple shopfronts and provision of an awning to continue around the corner of Regent and Marion Street
- amended elevations and façade treatments.

Noting the extent of changes to the proposal, the Department subsequently re-exhibited the RRTs for 30 days from 27 April 2017 until 26 May 2017. The RRTs was made publicly available on the Department's website and exhibited at the Department's Information Centre, the City of Sydney Council's One Stop Shop and the Redfern Neighborhood Service Centre.

The Department also placed a public notice in the *Sydney Morning Herald* and the *Daily Telegraph* on Wednesday 26 April 2017 and notified adjoining landholders and relevant State and local government authorities. The Department received four further agency submissions, including an updated submission from Council maintaining its objection to the proposal.

The Department received a further nine public submissions with eight objecting to the proposal. The issues raised in the additional submissions largely maintain concerns on the impact of the proposal on surrounding properties, including insufficient building separation, loss of views, privacy and solar access.

Council noted the proposal now provides a land use mix which is more consistent with the zone objectives for the area. However, Council raised concerns on the building expression, with ground and street level setbacks, residential amenity concerns (solar, noise, cross ventilation), safety concerns, child care and lift and servicing requirements. Further, the upper level setbacks and separation between the site and 90 Regent Street (to the south across Marion Street) were still inadequate.

The Department's assessment has considered all relevant issues and has identified the key issues as built form and setbacks, amenity impacts, residential amenity, traffic and car parking.

5. ASSESSMENT

5.1. Section 79C Evaluation

Table 6 identifies the matters for consideration under section 79C of the EP&A Act that apply to State significant development. The table represents a summary for which additional information and consideration is provided for in further sections of the report and the relevant appendices or the EIS.

Table 6: Section 79C(1) Matters for Consideration

Section 79C(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Exceedances of relevant height standards (setbacks) are discussed in detail in Section 5 and Appendix C .
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	DCPs do not apply to SSD developments. However, the Department has undertaken an assessment against Sydney Development Control Plan 2012 (SDCP 2012) which demonstrates the proposal satisfactorily complies - see Appendix D
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&A Regulation</i>	The development application satisfactorily meets the relevant requirements of the Regulation, including the procedures relating to Development Applications (Part 6 of the Regulations), public participation procedures for State SSDs and Schedule 2 of the Regulation relating to environmental impact statements.
(a)(v) any coastal zone management plan	Not applicable.

(b) the likely impacts of that development	Appropriately mitigated or conditioned - refer to Section 5 of this report.
(c) the suitability of the site for the development	Suitable as discussed in Sections 3 and 5 of this report.
(d) any submissions	Refer to Sections 4 and 5 of this report.
(e) the public interest	Refer to Section 5 of this report.
Biodiversity values exempt if: (a) On biodiversity certified land (b) Biobanking Statement exists	Not applicable.

5.2. Key Assessment Issues

The Department has considered the EIS, the issues raised in submissions, the Applicant's RTS and RRTS in its assessment of the proposal. The Department considers the key issues for the proposal are:

- built form
- amenity impacts to adjoining properties
- residential amenity for future occupants
- traffic, car parking and access.

Each of these issues is discussed in the following sections of this report. **Section 5.7** of the report discusses other issues that were taken into consideration during the assessment of the application.

5.3. Built Form

5.3.1. Introduction

As set out in **Section 1**, the subject site is situated in the south-eastern corner of the block (bound by Lawson, Regent, Marian and Gibbons Street) that forms part of the Redfern Town Centre, as identified by the BEP (**Figure 1**). The Department notes the Redfern Town Centre has been undergoing significant change over recent years and the majority of the areas surrounding the site have been re-developed with taller buildings, consistent with the intent of the SSP SEPP and the BEP. The site is therefore in close proximity to taller buildings to the north and west (**Figure 5**) and the Department acknowledges that this surrounding development presents a constraint for any development of the site.

Additionally, the subject site area (822 m²) is less than the 1,400m² site area sought by the Draft UDG to provide for high-rise development to the 18 storeys intended by the SSP SEPP. However the Department notes it provides variations for sites with existing constraints or unusual conditions, and where design excellence is achieved. The aim of the minimum site area requirement is to avoid disproportionately tall development on small sites by encouraging amalgamation of the pre-existing small lots. The Department accepts that the subject site is an amalgamation of the remaining available smaller sites and there is no potential to further consolidate or provide a larger development site.

The Department also recognises the development of the site will contribute to the revitalization of the Redfern Town Centre which is consistent with the objectives of the SSP SEPP to facilitate the development of a town centre with a range of employment uses and compatible residential development that will maximise public transport patronage.

The Department's assessment is cognisant of the strategic intent of the SSP SEPP and BEP to facilitate the development of the Redfern Town Centre, whilst at the same time it has carefully considered the proposed built form and how its design responds to the noted constraints of the site.

The Department's assessment of the initial iterations of this proposal did not accept that the design had appropriately responded to the constraints presented by the adjoining development and limited site area. The built form presented in the amended development now proposed has sought to address these constraints by adopting setbacks to the street and separation to adjoining buildings that have been established by the development of the adjacent sites (**Figure 8**).

The Department has considered the proposed built form and the issues raised in submissions and considers the key issues to be consistency with the SSP SEPP development controls and Draft UDG. The Department's consideration of the design response to the SSP SEPP development controls and the Draft UDG, as well as overall design quality is provided below. Further consideration of building separation and amenity impacts, including view loss and overshadowing is discussed in detail in **Sections 5.4** and **5.5**.

5.3.2. Development Controls

The SSP SEPP contains principle development standards applying to the site that govern the height, bulk and scale of the development being:

- floor space ratio (FSR) control of 7:1
- overall height control of 18 storeys
- height/setback controls for Regent Street (2-storey height to an 8 m setback and 18 storeys thereafter) and Marian Street (3-storey height to a 4 m setback then 18 storeys thereafter) (**Figure 11**).

The Draft UDG contains the same controls, except they include additional setback requirements at ground level, including:

- zero setback to Regent Street to activate the streetscape
- 1.5 m setback from Marian Street to the boundary
- 0.8 m setback to eastern side of William Lane to provide for footpath widening (all storeys).

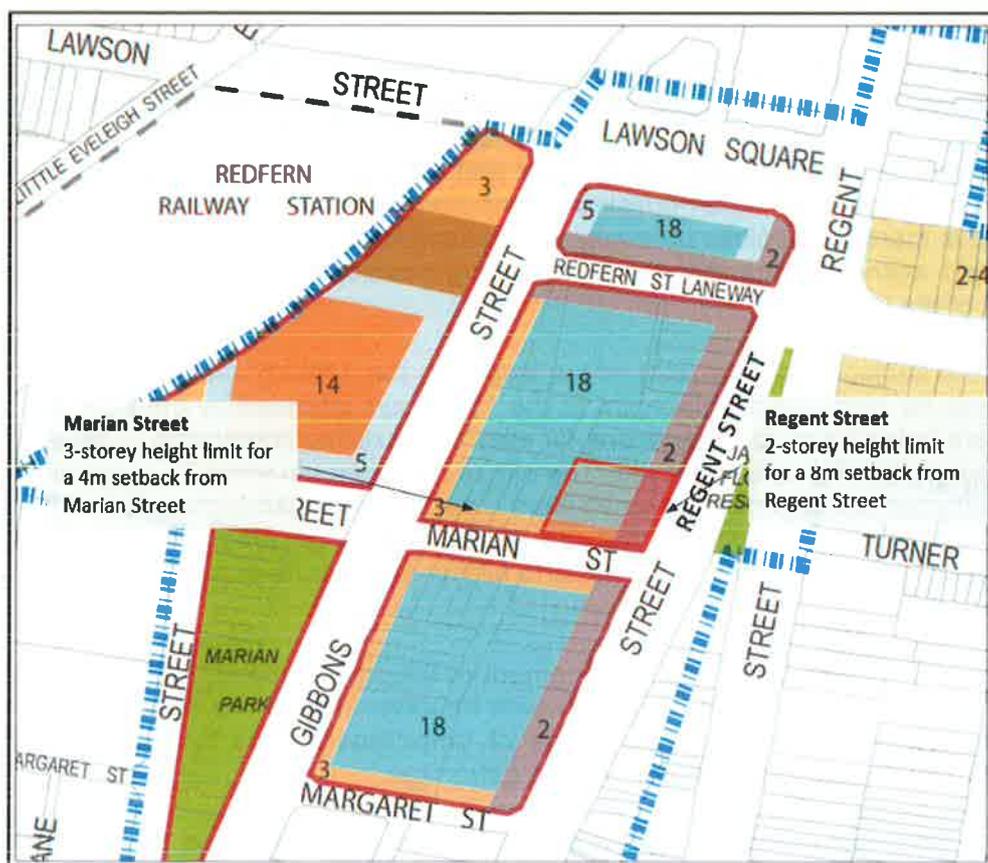


Figure 11: Height and setback controls for the site with Regent Street's setback coloured purple and Marian Street coloured orange (Source: Draft UDG)

The proposal provides an 18-storey building consisting of a podium ranging between two and four storeys and a residential tower above with an FSR of 7:1. The proposal therefore complies with the FSR and maximum height control for the site and form of development envisaged by the provisions of the SSP SEPP.

However, the proposal seeks to vary the setback standards to Regent and Marian Streets being:

- three metre setback from Regent Street for the 18-storey tower (rather than 8 m) above the two-storey street podium
- three metre setback from Marion Street for the upper part of the podium and the 18-storey tower (rather than 4 m) above the three storey podium
- providing a zero setback at the ground level (rather than the 1.5 m setback) on Marian Street.

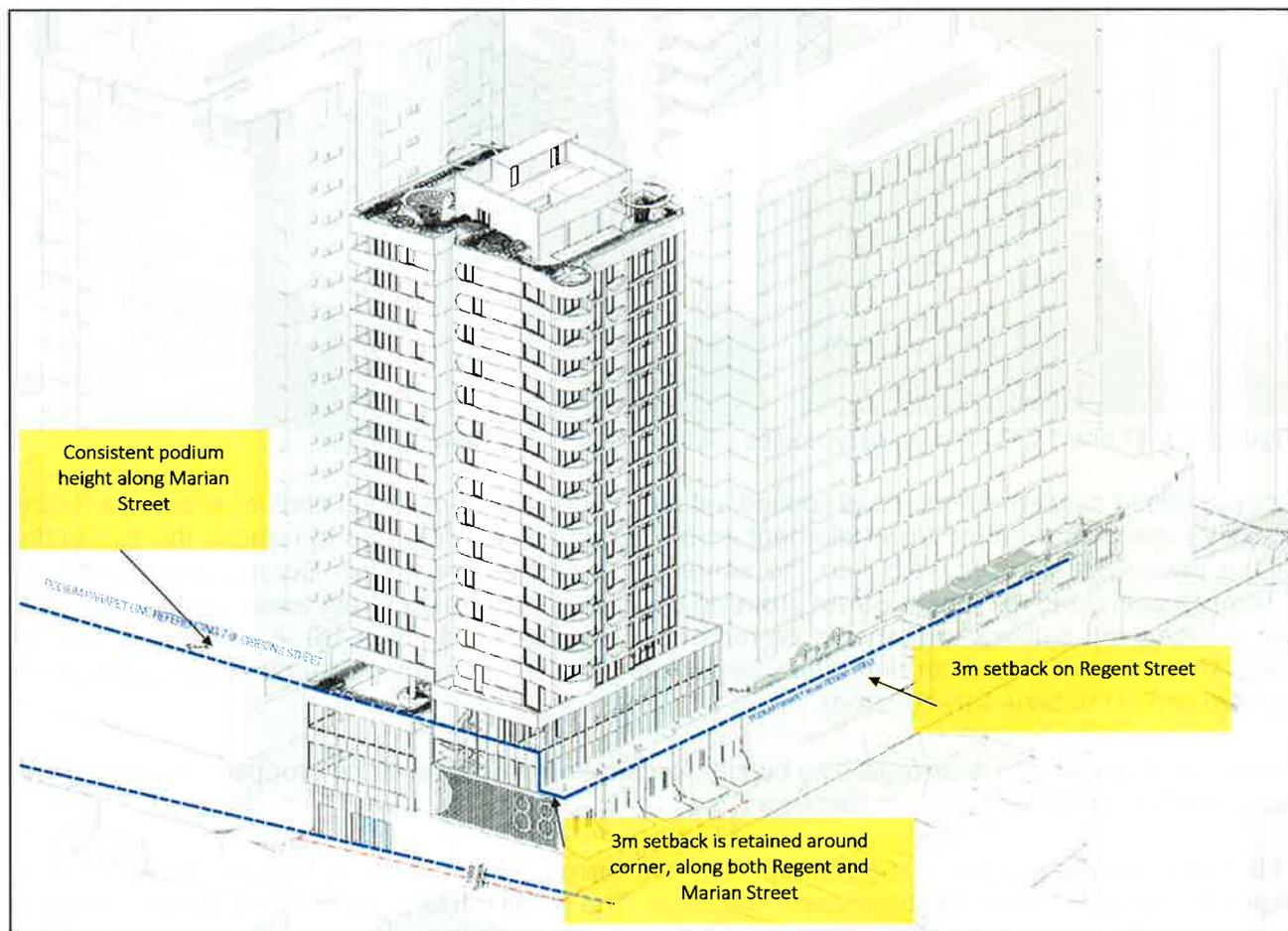


Figure 12: Relationship of podium to adjacent development (Source: RRTS).

Additionally, the proposal presents balcony structures for the residential apartments on the south-eastern corner of the building that protrude beyond the more substantive tower envelope. These balconies further intrude on the 3 m setback to Regent Street otherwise provided by the tower.

The Applicant has submitted a SEPP 1 objection which is considered in **Appendix C**. In support of the proposed variations, the Applicant has considered several design and massing options for the site and contends the variations to the height/tower setbacks are acceptable given:

- the proposal achieves the two-storey shop front scale along Regent Street and the 3 m tower setback is consistent with the predominant tower setback provided by the adjacent Iglu development to the north
- the part four-storey podium facing Marian Street and 3 m setback retains the architectural treatment around the corner from Regent Street. The podium steps down to a three-storey form

to transition to the adjacent three-storey podium at 7-9 Gibbons Street (Urba building) (**Figure 12**).



Figures 13, 14 and 15: Protrusion of balconies (Source: Council's RtS submission)

Council raised concern about the proposed setback noting the upper level podium should be further visually separated from the tower element on the Regent Street frontage to remove the perception of the tower extending forward into the same plane as the street wall. Council also stated the balconies orientated to Regent Street protrude beyond the alignment of the tower, inconsistent with the predominant setback and should be removed (**Figures 13, 14 and 15**). Furthermore, Council noted that due to the podium on Marian Street being built to the street boundary, the tower will sit forward of 7-9 Gibbons Street (Urba).

Council also raised concerns regarding building separation in relation to the proposed setbacks. This issue is considered separately in **Section 5.5.1**.

The Department notes the design presents a two-storey podium form to Regent Street which is characteristic of the existing streetscape character. The provision of a 3 m setback for the 18-storey tower also provides a visual street presence consistent with the adjacent Iglu development. Given Iglu is a recent development directly adjacent to the subject site and was developed under the same planning controls, the Department considers the provision of consistent setbacks for the proposed development to be entirely compatible with achieving an appropriate design outcome for the site as it presents to Regent Street.

Furthermore, the Department considers the intent of the control will be achieved as the proposed setbacks to Regent Street will continue to retain the human scale, two-storey form at street level with the 3 m setback and architectural design of the tower above providing a sufficient visual separation from the two-storey shopfronts.

The Department similarly accepts the 3 m tower setback to Marian Street provides a reasonable design approach in this regard. This setback on Marian Street also assists in presenting the tower as a stronger visual element to the street corner as seen from Marian Street and Regent Street.

Additionally, the Department considers the projecting balcony elements, whilst not characteristic to the area or in-keeping with the setback requirements, to be a positive aspect of the building's design as they read as a series of light-weight projecting elements off the more substantive tower. At the same time, the balconies help to reinforce the presence of the building as a strong corner element.

The Department further considers the design of the podium modulates its mass and is an appropriate architectural response to delineate between the various commercial and residential uses at the corner of the building.

Noting the identified constraints of the site, the Department considers alternative setbacks represent a reasonable design response for the corner location of the building consistent with the emergent character of the Redfern Town Centre.

The Department therefore concludes the built form and proposed setbacks of the proposal are acceptable for the following reasons:

- the proposal maintains the emerging character of new development along Regent Street as it is consistent with the adjacent Iglu development and a consistent 3 m setback to the tower element above
- the proposed 18-storey building complies with the height and FSR controls and is of a scale consistent with that envisaged for the Redfern Town Centre and will reinforce the role of the site as a commercial, retail and residential hub
- the podium scale at Marian Street provides an appropriate architectural response to delineate between the various commercial and residential uses at the corner of the building and an appropriate transition to the part three-storey podium form provided at 7-9 Gibbons Street
- the variations to the setback controls achieve the development outcomes as envisaged by the SSP SEPP and the Draft UDG.

5.3.3. Design Quality

The SSP SEPP requires new developments achieve design excellence by:

- demonstrating a high standard of architectural design, materials and detailing appropriate to the building type and location
- improving the quality and amenity of the public domain
- incorporating sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency.

Council made the following comments regarding the design of the building:

- the massing at the corner appears to be unsupported by the street wall. The street wall should reinforce the corner and connect to the ground by a 'leg' or other support
- the middle of the building should have the same expression as the tower
- the protruding balconies should be removed
- the arched vertical subdivision pattern, which interprets the original scale of the shop fronts is lost at the corner. With the introduction of a solid form at the corner, the remainder of the arches should be redesigned to be evenly distributed
- lack of appropriate public domain activation along Marian Street due to location of services and blank walls fronting the street and narrow recessed lobby entry.

The Department has considered the design excellence criteria in the SSP SEPP and considers the proposed building exhibits design excellence because:

- the facades are of high architectural quality providing vertical and horizontal articulation to reduce the building's visual bulk and scale. The vertical recess provided on the southern façade presents the appearance of two slender tower elements presenting to Marion Street. In addition, the proposed use of materials is consistent with the brick materials historically used in the area
- the protruding curved balconies read as architectural elements rather than additional visual massing to Regent Street.

- the proposal will improve the amenity of the existing public domain by providing high quality, contemporary shopfronts to Regent Street which replicate the scale and proportion of the existing shopfronts at street level
- the design maximises the amount of sunlight, natural ventilation and privacy for all unit types and an acceptable level of amenity has been achieved given the constraints of the site.
- the building incorporates appropriate sustainable design principles which exceed those required to meet energy and water reduction targets as required for BASIX/ NABERS Certification.

The external materials are to be a mixture of concrete finishes and glazing with some metal screening and timber cladding. In light of concerns evident in the broader community regarding building cladding, the Department has recommended a standard condition requiring the Certifying Authority to be satisfied that the proposed external materials comply with the NCC prior to the issue of a Construction Certificate or Occupation Certificate.

The Department notes Council's design comments and considers the proposed design satisfactorily responds to the concerns raised. Specifically, the Department considers the articulated commercial elements of the building suitably re-emphasise its multiple functions and additional architectural detailing further reduces the visual massing of the tower from Regent Street and provides a strong vertical element at its corner. In addition, the part four/ part three-storey podium on Marian Street and William Lane continues the horizontal architectural treatment around the corner, further delineating the commercial and future child care components and reducing the massing of the building to Marian street.

In terms of Council's concerns regarding the arched vertical subdivision pattern, the Department notes the two-storey built form has been retained along Regent Street to reflect the two-story shop front character and the vertical elements and glazed archways provide a contemporary interpretation of the scale and proportions of the existing five shopfronts. The Department also notes the application has been amended to provide evenly distributed adjacent archways, as they present to Regent Street, which provide a more genuine reflection of the existing shopfronts consistent with Council's recommendation. Separate metal awnings are also provided to emphasise the proportions of the existing shopfronts.

With regard to the public domain activation of Marian Street, the Department notes the proposal provides a glazing treatment on the southern ground floor elevation to Marian Street to ensure there is strong visual activation at the corner of Marian and Regent Street. Further activation is provided through the location of the commercial entry and residential lobbies (and future child care) and the increased setback of 1.5 m at ground level providing a consistent footway along the southern side of Marian Street. Further activation of Marian Street is difficult to achieve given the narrow width and constraints of the site, and the Department notes the current Urba Building at 7-9 Gibbons Street already presents blank walls and loading dock access to Marian Street.

The Department considers the revised scheme provides suitable public domain activation to Marian Street, however a condition is recommended requiring compliance with CPTED principles regarding the need for visual surveillance of the residential and commercial lobbies.

The Department therefore concludes the proposal demonstrates design excellence that satisfies the provisions of the SSP SEPP and will provide a distinct new building within the Redfern Town Centre. Furthermore, the building design suitably comprises high quality architectural detailing that appropriately responds to the site constraints and its surrounding evolving context.

5.4. Amenity Impacts

Consideration is provided below to potential amenity impacts raised in public submissions to the proposal, including view loss, solar and overshadowing impacts. Given visual privacy requires consideration in the ADG, this is considered separately in **Section 5.5**.

5.4.1. View Impacts

The development is directly adjacent to three residential buildings, 7-9 Gibbon Street (west), 157 Regent Street (north-west) and 60-78 Regent Street (north), all of which have views that will be impacted by the proposal. A large proportion of the public submissions (54%) raised concerns in relation to view loss from the proposed development, particularly from the adjacent residents at 7-9 Gibbons Street (Urba) and 157 Redfern Street (Deicota). Views to the south from 60-78 Regent Street (Iglu) which is currently under construction, were also raised.

The Applicant has undertaken an assessment of potential view impacts on apartments within the Deicota Building, Urba Building (**Figures 16-19**) and the Iglu Building in the RRtS. The Department has reviewed the Applicant's view impact assessment and is satisfied it accurately considers the views affected, location of where views are obtained and the extent of impacts.

As part of its assessment, the Department wrote to all submitters who had raised view loss concerns and offered to inspect their properties to assess the potential impacts of the proposed development on their views. The Department was granted access to one apartment on Level 11 within the Deicota Building.

To ascertain whether the proposed view sharing impacts are reasonable, the Department has followed a four-step assessment in accordance with the principles established by *Tenacity Consulting Vs Warringah [2004] NSWLEC 140*. The steps/principles adopted in the decision are:

1. assess what views are affected and the qualitative value of those views
2. consider from what part of the property the views are obtained
3. assess the extent of the impact (from 'negligible' to 'devastating')
4. assess the reasonableness of the proposal that is causing the impact.

The findings of the assessment against the first three steps are summarised in **Table 7** below:

Table 7: Summary of view loss impacts.

Principle	Building	Consideration
Views affected	Deicota	Views to the east or south across to the eastern suburbs. Apartments orientated south-east have views to the south towards Redfern and Waterloo and distant views to Botany Bay.
	Urba	Views to the east and south to Redfern and Waterloo and distant views to the eastern suburbs and Botany Bay.
	Iglu	Views to the south towards Redfern and Waterloo and distant views to Botany Bay.
From what part of the property are the views obtained	Deicota	Apartment A views to the south from a bedroom will be affected. Apartment B views from the living area and balcony to the south-east.
	Urba	Apartment C has views to the east and south from the living area window and balcony. A highlight window provides eastern views to Redfern and Waterloo. Apartment D has views to the east and south from the living area, balcony 1 and balcony 2. A bedroom window also provides views of Redfern and Waterloo to the east.
	Iglu	The communal dining and living areas located at the southern end of the building from levels 2-17.

Extent of impacts	Deicota	Impacts would range from minor for Apartment A (as the impact is limited to views from the bedroom), to severe for Apartment B. Partial view corridors would be retained to the south across William Lane with the impact more severe at lower levels. Level 18 would retain partial views over the proposal.
	Urba	Impacts are considered to range from minor to moderate. Apartment C would retain some views to the west between the Iglu tower and the proposal from their living room windows and balcony. Partial views along William Lane would also be retained. Apartment D views to the south will not be impacted.
	Iglu	The impact on the views to the south is severe as it will be substantially obstructed.

The fourth step of the Tenacity planning principles is to assess the reasonableness of the proposal that is causing the impact. The Department notes the proposal complies with the overall height and FSR controls applicable to the site (see **Section 5.3**). Further, the height of the proposal is consistent with the height of the surrounding Deicota, Iglu and Urba buildings, which were developed under the same planning controls.



Figure 16: View impacts from adjacent residence, Apartment D Urba, 7-9 Gibbons Street. Left image is existing, right image is proposed (both from view line no.1 shown on plan below) (Source: Applicant's RtS)

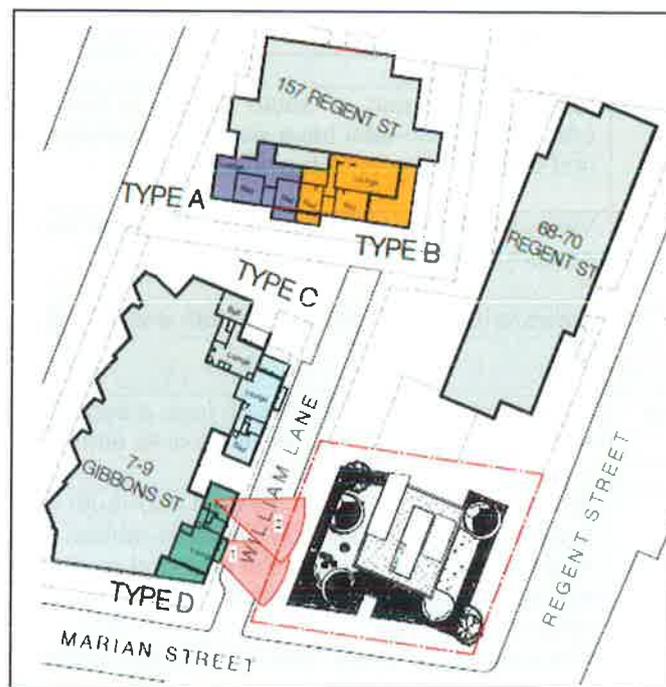


Figure 17: View impacts from adjacent residence, Apartment D Urba, 7-9 Gibbons Street from view line no.1 (Source: Applicant's RtS)



Figure 18: View impacts from adjacent residence, Apartment D Urba, 7-9 Gibbons Street. Left image is existing, right image is proposed (both from view line no.1 shown on plan below) (Source: Applicant's RtS)

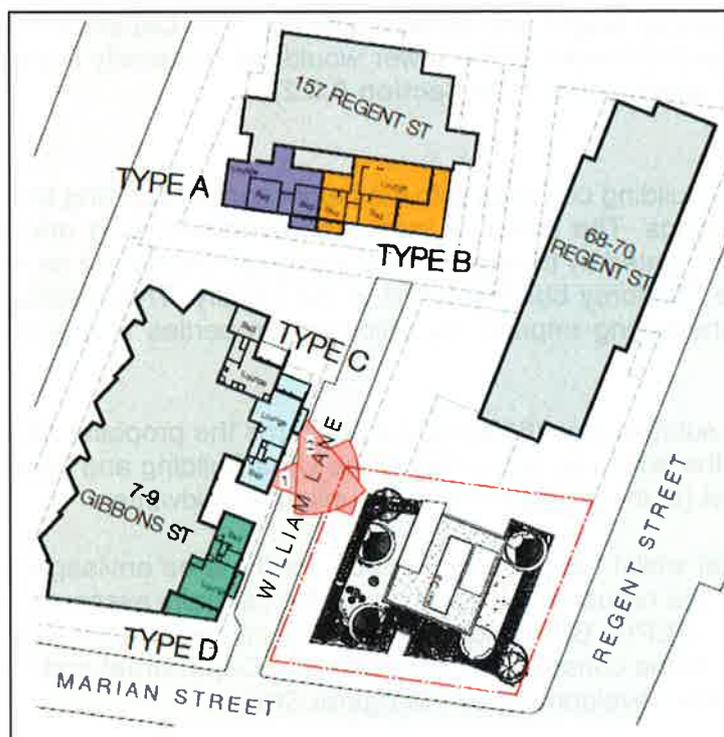


Figure 19: View impacts from residence, Apartment C Urba, 7-9 Gibbon Street from view line no.1 (Source: Applicant's RtS)

The Applicant contends the proposal provides a slender tower form within the 18-storey height limit and density controls envisaged for the site, and as such some impact on views is inevitable.

The Applicant further considers adherence to ADG building separation recommendations would not alter view impacts to neighbouring buildings and full compliance with setback controls would result in only a marginal change to the easterly view impact of some apartments within Urba.

The Department notes the views currently enjoyed by the Deicota, Urba and Iglu buildings across the development site are the result of the amenity afforded by the current undeveloped subject site containing low-rise two-storey buildings.

The Deicota, Urba and Iglu buildings were approved by virtue of uplifted planning controls and design guidelines adopted to achieve the SSP SEPP strategic objectives for the Redfern-Waterloo Precinct

by facilitating the development of the Redfern Town Centre, encouraging employment generating activities and permitting residential development that is compatible with non-residential development. The subject site benefits from similar uplifted controls which premeditate a large-scale redevelopment of a scale proportionate to that of existing neighbouring developed sites to achieve the same zone objectives.

While the Department acknowledges the adverse impact on some views from neighbouring buildings, given the proposed development is consistent with the height and density controls applying to the site, the preservation of these views would unreasonably limit the development potential of the site and would in effect sterilise the site from future redevelopment.

The Department also considers this outcome to be unsustainable and inequitable in terms of the broader strategic objectives for this area and its ability to contribute to a range of strategic objectives in the BEP and Draft UDG, including economic growth, job creation and housing supply in areas well serviced by public transport, the CBD and a range of other amenities.

The Department concludes the overall view impacts are acceptable as the proposal is consistent with the maximum 18-storey height and density controls. The Department further concludes that increases to the proposed setbacks of the tower would not materially increase the view corridors available from adjacent development (see **Section 5.3.2**).

5.4.2. Overshadowing

The proposed 18-storey building complies with the height control applying to the site and will replace existing two-storey buildings. The extent of increased overshadowing arising from the scale and form of development anticipated by the established planning controls are an inevitable consequence of the realisation of the 18-storey building forms in the locality. This premise was accepted in the consideration of overshadowing impacts by adjoining properties at the Urba, Iglu and Diecota Buildings.

A number of the public submissions (63%) raised concerns the proposal will result in unacceptable loss of solar access to the adjoining properties at the Urba Building and have impacts on the ability of 90–102 Regent Street (to the south) to receive sunlight in midwinter.

Council also queried that whilst the planning controls for the area envisaged an 18-storey building, additional impacts from the reduced setbacks should be carefully assessed and limited to controls established in the SSP SEPP, BEP and Draft UDG controls. Council also raised concerns on overshadowing impacts to the conservation area between Cope Street and George Street, Gibbons Street Park and residential development at 1 Margaret Street.

The Applicant has provided an overshadowing/ solar access analysis of the proposed development compared to the impacts from a complying scheme (**Figure 20**). The Applicant submits the overshadowing impacts from the proposed development are generally consistent with those envisaged by the planning controls for the site and are appropriate for a densely developed area to achieve the envisaged planning outcomes for the area.

The Department considers the extent of overshadowing is consistent with a fully compliant scheme (in terms of height and setbacks) with the exception of slivers of increased overshadowing on the eastern, southern and western sides of the proposed tower shadow envelope arising from the proposed minor variations to setbacks and roof top plant. (see **Section 5.3.2**).

Although the proposal includes some variations to setback controls contained in the SSP SEPP, BEP and Draft UDG, the Department notes these controls are intended to achieve the objectives of the zone which are primarily to facilitate development of a town centre and provide compatible residential and non-residential development. The proposed development complies with the height

and FSR controls and would therefore create a level of overshadowing consistent with the envisaged commercial core/ desired town centre.

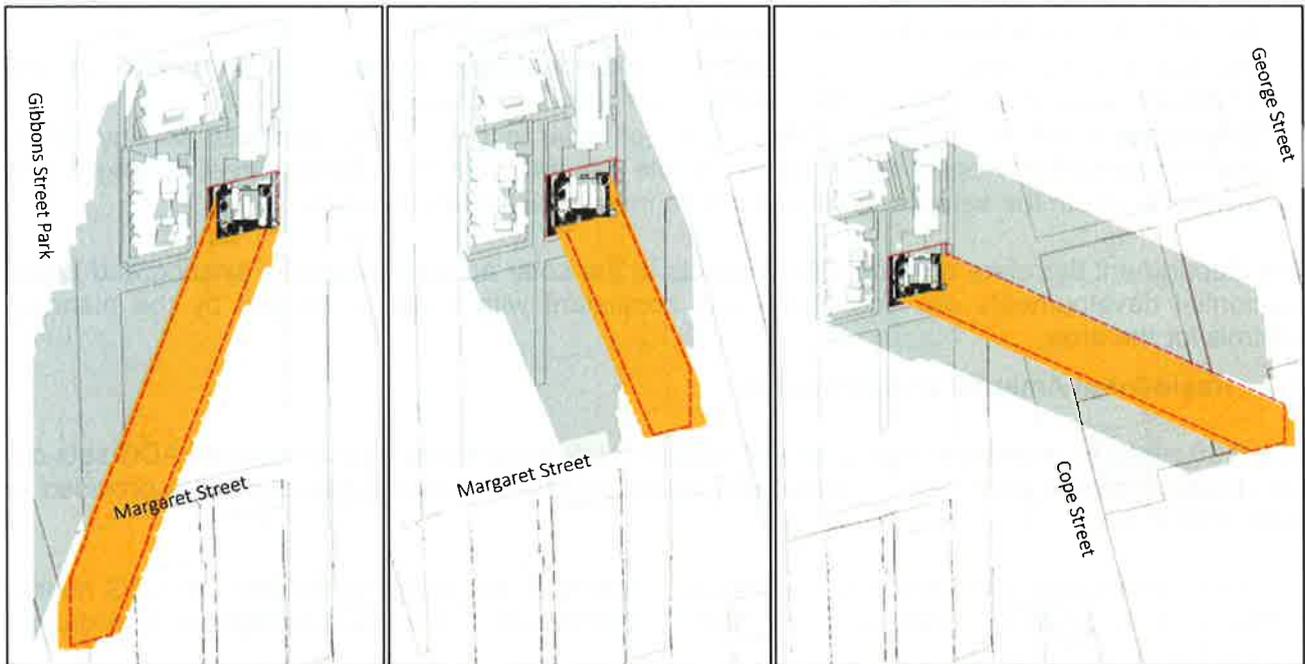


Figure 20: Yellow area illustrates overshadowing at 9am, 12pm and 3pm at midwinter (left to right). Red dashed line illustrates impacts of a complying scheme (Source: Applicant's RRTS)

In addition, although the proposal seeks reduced building separation distances compared to those recommended in the Draft UDG (which are consistent with the distances provided in the ADG), these recommended distances are primarily intended to provide a desirable urban form (i.e. consistent with the desired future character of an area) and provide amenity to future occupants through visual privacy (see **Section 5.5.1**). As such, they are not recommended as a measure to reduce potential overshadowing impacts.

The Department has nevertheless assessed the overshadowing impacts and notes the proposal would not cause any overshadowing impacts between 9 am and 3 pm to the Urba, Iglu or Deicota buildings as they are situated to the north and west of the development. Instead, shadows from the proposed development are cast predominantly to the south, south-east and east of the site.

Increased overshadowing to 1 Margaret Street and any future development to the south of the site will be generally consistent with a fully compliant scheme. The Department considers the variations, as indicated in **Figure 20**, to be minor and fleeting with shadowing only occurring to non-sensitive locations after 11 am. The Department further notes the block to the south, between Marian Street and Margaret Street, is also subject to an 18-storey height control.

In addition, the Department notes solar access to civic spaces and the public domain is essentially unaffected by the proposal with only a minor impact occurring to the southern tip of Gibbons Street Park before 10 am.

Although Council raise concerns that the development encroaches into setback areas and therefore borrows amenity space from the public domain and 90 Regent Street to the south of the site, from the above analysis the Department considers the extent of overshadowing impact arising from the proposed development beyond that anticipated by the controls to be minor. The Department therefore concludes the overall overshadowing impact on adjoining properties is acceptable because:

- the proposal is consistent with the 18-storey height control and FSR control and is consistent with that envisaged by the planning controls
- the extent of overshadowing is consistent with the impacts anticipated by the planning controls for the high density/town centre and desired character of the area
- the proposal will result in limited additional overshadowing, however, any impact from the proposed setback variations is considered minor and limited to prior to 11 am
- the proposal will not preclude a high level of solar access being achieved to any future development of 90 Regent Street given the site has east and north facing street frontages and any impact from the setback variations will be minor and limited to prior to 11 am.

The Department therefore considers the impacts to the solar access on nearby existing and future residential developments are acceptable and consistent with those envisaged by the planning controls for the area.

5.5. Residential Amenity of Apartments

SEPP 65 seeks to improve design quality of residential developments. The associated ADG sets out best practice design principles for residential developments. A detailed assessment is provided at **Appendix D**.

The Department has considered the residential amenity of the proposal against the ADG design criteria, and considers the proposal demonstrates good design in that the development provides an acceptable level of amenity.

However, there are departures from the recommendations of the ADG in relation to:

- building separation
- solar and daylight access
- storage
- apartment mix
- acoustics.

These matters are discussed below.

5.5.1 Building separation

To achieve visual privacy the ADG recommends minimum building separation distances between habitable rooms and balconies of adjacent buildings. Building separations between the proposal and the neighbouring development are less than recommended by the ADG as set out in **Table 8** below.

Table 8: Proposed building separations and ADG recommendations

ADG Height & Separation	Direction	Proposed SSD 7080	Achieved
4 Storeys 12 m	N/A	N/A Non Residential	N/A
Up to 4 -8 Storeys 18 m	East West North South	(Regent St) 3 m* (Urba) 10.9 m (Iglu) 12 m (Marian St) 9 m	Yes No No Yes
Above 9 Storeys 24 m	East West North South	(Regent St) 3 m* (Urba) 10.9 m (Iglu) 12 m (Marian St) 9 m	Yes No No No

*Note: Due to the width of Regent Street, there is sufficient building separation.

The Department notes the broader Redfern Town Centre has an emerging character of higher densities and building separations less than prescribed by the ADG. Building separation between the surrounding towers (**Figure 21**) are approximately:

- a minimum of 14.4 m between the Deicota building and 1 Lawson Square
- a minimum of 11.8 m to 12 m between the Deicota building and Urba building
- a minimum of 13.1 m between Deicota and the Iglu tower.

The above minimum distances as measured at the closest point (usually protruding balconies) and the separation distances increase between the towers from these points. A predominant minimum setback distance of 12 m is observed between the tower forms (**Figure 21**).

The Department's analysis indicates the setbacks proposed, including 11 m to the west (Urba) and 12 m to the north (Iglu), reflect the existing tower separation pattern in this tightly configured city block, but which do not satisfy the ADG standard setbacks except where fronting roads with sufficient width, Gibbons Street (west), Regent Street (east) and Marian Street (South).

Fifty-four per cent of the public submissions raised concerns about the insufficient building separation between the proposal and the existing Urba and Diecota Buildings. Concerns were also originally raised by Council, representatives of the Iglu building to the north and from the 90-96 Regent Street site, located on the southern side of Marian Street.

During the exhibition, representatives of the Iglu Building requested increased setbacks to the northern boundary to ensure appropriate visual privacy. The potential developments at 90 Regent Street (south of Marian Street) also requested a minimum 4 m setback to Marian Street in order to achieve a 9 m setback from the centreline and 18 m separation potential between buildings.

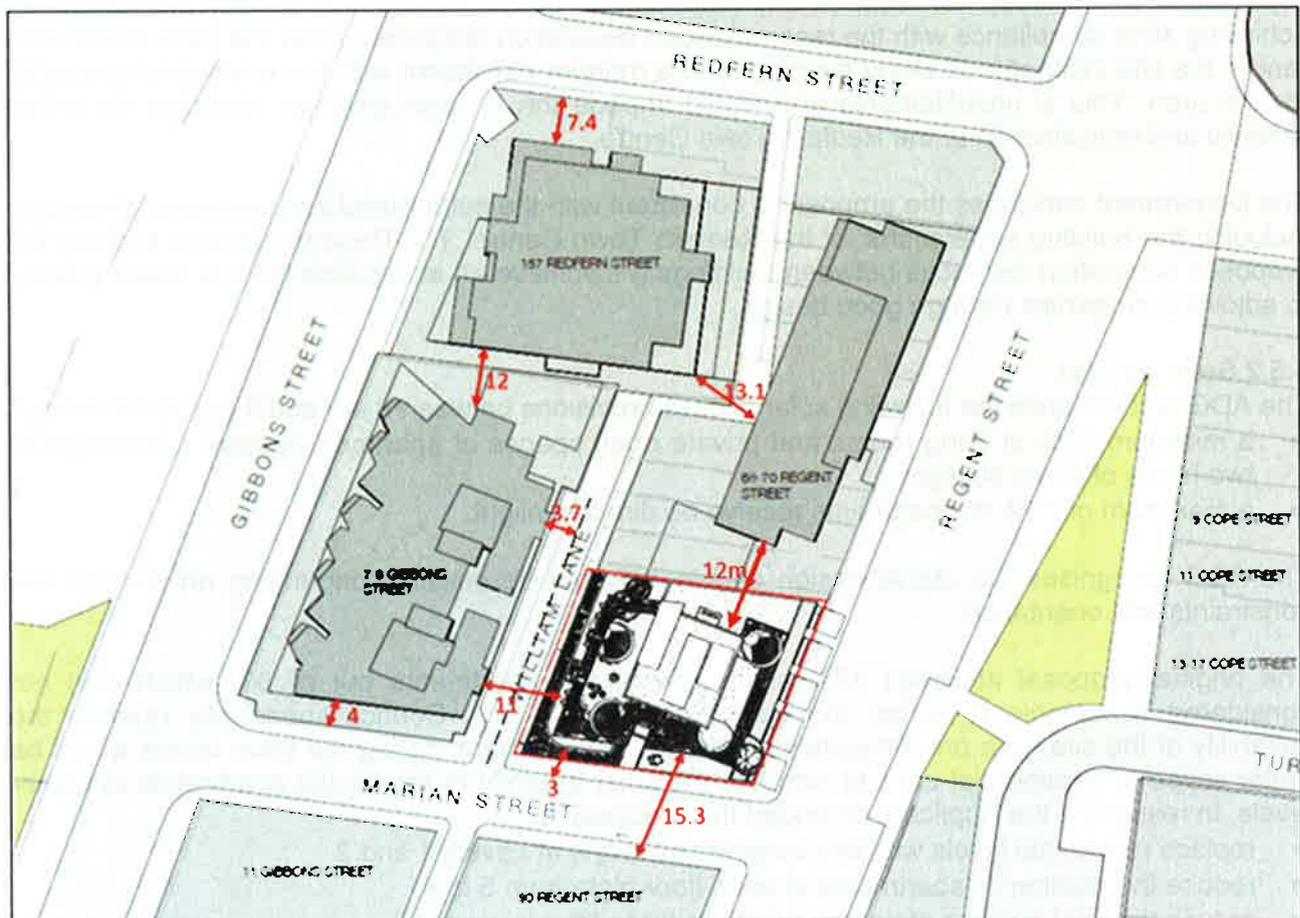


Figure 21: Building separations of the proposal and of the directly adjoining developments. (Source: RtS)

The Applicant contends that although the recommended ADG building separations are not proposed to be achieved, visual privacy will nevertheless be retained through the inclusion of the following treatments:

- an overall building separation of 12 m is provided to the north (Iglu building)
- balconies are oriented to the east and west and highlight windows are provided in the northern elevation to protect privacy to the north
- reduced separation distances to the west are the result of the minimal setback provided by the existing Urba Building (a 2.2 m balcony setback from the boundary), and the proposed tower is set back 3.9 m from the boundary to achieve separation distances at 10.9 m
- screened hooded windows have been provided on the western elevation to maintain privacy to the Urba Building
- the balconies at the corner of Regent and Marian Street are orientated toward Regent Street so as not to be directly overlooking residential properties
- a 3 m setback has been provided to Marian Street providing a 9 m setback to the centreline and a 15.3 m setback to the southern boundary at 90 Regent Street. If the same setback is provided to any future tower at 90 Regent Street, an overall setback of 18 m can be achieved.

The Department considers the proposed setbacks are consistent with the emerging built form character of the town centre and, combined with the proposed design treatments, provides an acceptable balance between providing a reasonable level of visual privacy to residents and allowing development to proceed in this high density area. This is considered by the Department to satisfy the intent of the ADG.

Although Council recommend greater upper level setbacks to increase building separation, the Department considers increasing the setbacks of the proposed tower to increase overall building separations would firstly not result in any material improvements to visual privacy and secondly, achieving strict compliance with the recommended separation distances under the ADG would also render the site incapable of being developed in a manner consistent with the envisaged character for the area. This is unsustainable and would impede the broader strategic objective for urban renewal and revitalisation of the Redfern Town Centre.

The Department concludes the proposal is consistent with the established and emerging character, including the building separations, of the Redfern Town Centre. The Department also accepts the proposed separation distances between buildings will achieve an acceptable level of visual privacy to adjoining properties through good design.

5.5.2 Solar access

The ADG recommends the following solar access provisions between 9 am and 3 pm at mid-winter:

- a minimum 70% of living rooms and private open spaces of apartment receive a minimum of two hours of direct sunlight
- a maximum of 15% of apartments receive no direct sunlight.

The ADG recognises the above design criteria may not be possible depending on specific site constraints and orientation.

The original proposal achieved 17% solar access (14 apartments out of 80) which was not considered acceptable by either the Department or Council. Council specifically queried the suitability of the site for a predominately residential development, noting the lower levels would be better suited to commercial uses to increase the solar amenity to residential apartments at higher levels. In response, the Applicant amended the proposal to:

- replace residential levels with two commercial levels at Levels 1 and 2
- reduce the number of apartments at each floor plate from 5 to 4
- reduce the total number of apartments from 80 to 56
- provided four dual aspect apartments on each level
- ensure there are no single aspect south facing apartments.

These changes have resulted in 52% solar access (29 out of the 56 apartments now receive a minimum two hours solar access in midwinter). The Applicant states although the solar access is still below the recommended ADG minimum of 70%, it is acceptable given:

- the site is constrained due to its orientation and the existing large scale development surrounding the site
- there are no single aspect south facing apartments with all apartments receiving some solar access, which exceeds the ADG requirement that a maximum of 15% of apartments can receive no solar access
- if the analysis is taken out by an additional hour in the morning and afternoon (i.e. between 8 am and 4 pm), 68% of the apartments would receive the required two hours of solar access.

Council submits that less than 53% of apartments receive two hours of sun to their living rooms and balconies at mid-winter and this is unacceptable. Council has also suggested the amount of commercial floorspace could be further increased to achieve appropriate solar access outcomes for the residential component.

The Department accepts the constraints of the site significantly limit the extent to which the recommended solar access can be achieved. The Department also considers the proposal provides the recommended solar access to 52% of apartments. The Department further notes that between 9 am and 3 pm, 70% of apartments would achieve one hour and 45 minutes of solar access, only slightly under the two hour recommendation. Given the significant constraints of the site, the Department considers the proposed design maximises the level of solar access to the proposed apartments that can be achieved.

The Department's analysis also confirms that of the 27 apartments receiving less than two hours solar access, all are dual aspect corner apartments which benefit from cross-ventilation, satisfy minimum unit and balcony size recommendations, and have access to high quality rooftop communal open space. Twenty of the 27 apartments would also benefit from an attractive outlook to the south or east. As such, the Department considers the intent of the ADG to ensure overall high quality residential apartment development and acceptable residential amenity has been achieved despite solar access recommendations not being met (see **Section 5.5.5**).

Furthermore and with reference to the judgement in the matter of *Botany Development Pty Ltd v Botany Council [2013]*, the Department notes that if the hours of solar access consideration were extended to 8 am to 4 pm, 68% of the apartments (38 of 56) would receive the required two hours solar access.

In response to Council's suggestion regarding an increase in commercial floorspace, the Department has found the proposal provides a consistent residential/commercial mix at approximately 30% commercial to 70% residential (by GFA) comparable to that provided by both the existing Urba Building (22% commercial to 78% residential) and Diecota Building (33% to 67% commercial/residential).

Furthermore, the Department considers introducing additional commercial elements may result in increased impacts on surrounding development, as commercial floor plates are generally larger than residential floor plates, and the ADG recommendations in relation to privacy and building separation to protect adjacent amenity would not apply to any non-residential uses.

The Department concludes the proposal has provided an appropriate design response and land use mix to both maximise solar access and provide for increased residential density in this appropriate but constrained city edge location. Proposed commercial land use is consistent with the ratios of land uses provided in the adjacent developments within Redfern Town Centre.

5.5.3 Acoustic privacy

The ADG recommends the impacts of external noise and pollution in noisy or hostile environments are minimised through the careful siting and layout of buildings. Council has raised a concern that a

number of apartments are relying on frontage to Regent Street for natural cross ventilation. TfNSW has also noted the proposal is in close proximity to busy roads (Regent and Gibbons Street) and the ISEPP must be considered to prevent and reduce the potential traffic impact of traffic noise and vehicle emissions on development adjacent to roads. The Department has undertaken a detailed consideration of the ISEPP requirements in **Appendix D**, which is also summarised below.

The Applicant has advised that 50% of the residential apartments are orientated towards Regent Street due to the existing adjoining development to the north and west. Accordingly, the Applicant has provided an acoustic report which concluded that with an appropriate selection of building elements and glazing, compliance with the relevant guidelines and the provisions of the ISEPP can be achieved. The Department concurs with TfNSW recommendation to require the Applicant to design and construct the development in accordance with 'Development Near Rail Corridors and Busy Roads – Interim Guidelines (2008)'. The Department therefore recommends a condition be imposed requiring building elements and glazing comply with the relevant guidelines and provisions.

The Department notes Council's concern and the conflict between natural ventilation and acoustic privacy from Regent Street. However, the ADG specifically acknowledges it may not be possible to satisfy this recommendation in noisy environments and therefore allows for flexibility in the application of specific design guidelines for solar access, private open space and natural cross ventilation. The Department further notes the proposed design responds to this issue by locating the lowest proposed residential apartments on level four, over 17 m above street level.

The Department considers the ability to provide natural cross ventilation and acoustic privacy is not mutually exclusive, as both are not required at all times. In noisy periods, windows and doors can be closed to obtain acoustic privacy and appropriate airflow can be supplemented through mechanical ventilation. This approach enables the resident more flexibility to manage their amenity levels, to achieve both acoustic privacy and/or cross ventilation. A condition requiring the Applicant to provide appropriate mechanical ventilation to all apartments, to achieve appropriate airflow is therefore recommended.

5.5.4 Apartment mix

The ADG recommends a range of apartment types and sizes be provided to cater for different household types now and into the future. The proposal provides 25% (14) one-bedroom and 75% (42) two-bedroom apartments.

The Applicant advises the constraints of the site and the resultant small floor plate results in three-bedroom units not being achievable in conjunction with one-bedroom and two-bedroom apartments.

The Department considers the proposed mix is considered appropriate noting the provision of one and two bedroom apartments in this location will provide housing choice and will deliver a larger number of apartments in a well serviced area on the city fringe to a range of household types. This is consistent with ADG design guidance which notes the apartment mix should consider current market demands and projected demographic trends and should be distributed to suitable locations within the building.

5.5.5 Unit type amenity

The intent of the ADG is to help achieve better design and planning for residential apartment buildings including improving liveability through enhanced internal and external residential amenity.

Although the Department considers the proposed overall design is acceptable regarding each of the key ADG residential amenity design criteria, the Department also considers it appropriate to analyse how each unit type responds to a combination of the key design criteria to ensure all proposed unit types achieve an overall acceptable level of amenity.

The proposed building contains four apartments per level over 14 levels. Each apartment design is the same as the level above. As such, four different apartment types (x1 one-bedroom and x3 two-bedroom) are proposed. The Department notes the following common features of each apartment type:

- all are dual aspect corner apartments
- all benefit from cross-ventilation
- at 50 m² for the one bedroom apartment and 76 m² and 80 m² for the two bedroom apartments, all meet or exceed the minimum unit size recommendations (including the recommendation for an additional 5 m² per additional bathroom)
- all internal dimension recommendations are satisfied i.e. depth of living area less than 8 m from a window, minimum width etc.
- all are provided with an area of private open space that satisfies the minimum area requirements with one apartment type also provided with a secondary balcony
- all habitable rooms are provided with windows
- all satisfy minimum 2.7 m ceiling height recommendations
- all are provided with sufficient internal and basement storage areas
- all units have access to communal roof top open space.

Of the 56 apartments, 27 would receive less than two hours solar access in midwinter. Council has raised concerns with regard to solar access (see **Section 5.5.2**). The apartments not receiving two hours solar access in midwinter comprise three apartments on Levels 4 to 11, and two apartments on Levels 12 and 13. Of these apartments, nine would receive at least two hours solar access between 8 am and 4 pm in midwinter. Given the design outcomes listed above for all unit types, the Department considers those not achieving two hours solar access would still achieve a good level of amenity to future residents noting the constraints of the site and the need to deliver housing in a central location.

On 29 June 2017, the Planning Circular '*Using the Apartment Design Guide*' was issued by the Department. The Circular emphasised the ADG is not intended to be applied as a set of strict development standards and where it is not possible to satisfy the design criteria, the consent authority is to consider how, through good design, the objective can be achieved.

The Circular supports the Department's approach to assessing the residential amenity of the proposed development in that not all proposed units are reasonably expected to achieve every amenity design criteria in the ADG and that the ADG notably does not require this. Further consideration of the Circular is provided at **Appendix D**.

The Department concludes all unit types within the proposed building will achieve an acceptable level of amenity. As such, the Department concludes the proposed building satisfies the intent of the ADG and is acceptable in relation to residential amenity.

5.6. Traffic, Car Parking, Bicycle Parking and Access

The Applicant has submitted a Transport Assessment (TA) which assesses potential traffic impacts and the provision of car parking and bicycle parking on the site.

5.6.1 Traffic Impacts

The TA estimates the proposal will generate 35 vehicle trips in the morning peak and 136 daily vehicle trips. These additional forecast trips are not anticipated to compromise the safety or function of Regent or Gibbons Street, given the amount of traffic these roads carry and noting nearby traffic signals provide appropriate gaps for local traffic access.

TfNSW and RMS have not raised any concerns with the TA, and as such, the Department considers the proposed development will not cause excessive traffic impacts on the surrounding streets.

5.6.2 Car Parking

The proposal provides a total of 60 car parking spaces located across four basement levels. This complies with the minimum stipulated in RMS' *Guidelines to Traffic Generating Developments*, however it is two commercial spaces higher than the maximum stipulated in the Sydney Local Environmental Plan 2012 (SLEP 2012) (**Table 9**).

Table 9: Car parking provision compliance with SLEP 2012

Type	Maximum allowed under SLEP 2012	Parking proposed	Compliance
Resident	39.2	39	Yes
Resident visitor	7.61	8	No
Retail	3.5	4	No
Future child care centre	3.5	4 (2 spaces & 2 drop off)	No
Commercial	3.57	4	No
Residential Service	-	1	NA
Total	58	60	

The City of Sydney Council did not raise concerns about the proposed parking provision. However, requested 1 car share space be provided as per SDCP 2012 rates. Council also raised concern about the safe access to the spaces noting multiple uses (child care drop-off, residents) and poor visibility due to the small basement footprint.

The SDCP 2012 provision recommends one share space be provided per 50 car spaces for residential uses and one share space per 30 car spaces for commercial premises. The Department supports the 60 car parking spaces proposed subject to two of them being designated car share spaces. This would result in a parking provision that complies with the recommendations of SLEP 2012 while also responding to Council's request that share car spaces be provided on site. These spaces provide car share requirements for other sites within the local areas to reduce car ownership and are a practical option at a site in close proximity to public transport.

The Department therefore recommends a condition requiring the allocation of a maximum of 58 parking spaces as well as two car share spaces is therefore recommended, although the four spaces proposed for the future child care centre will be allocated initially to commercial (see **Section 5.7**).

The Department also recommends conditions to ensure parking and access are provided in accordance with the relevant standards, including appropriate signage to clearly indicate drop-off spots.

5.6.3 Bicycle Parking

Fifty bicycle parking spaces are proposed for the development, with six visitor parking spaces located next to the commercial/retail lobby and on the lower ground level.

Council and TfNSW advised bicycle parking is to be in a visible and accessible location. In response, the Applicant has relocated the visitor bicycle parking from the corner of William Lane and Marian Street to the eastern frontage of Marian Street near the commercial/child care lobby. No issues were raised in regards to the amount of bicycle parking proposed.

The Department supports the proposed level of bicycle parking, although the proposed child care spaces will be reallocated to commercial (see **Section 5.7**).

5.6.4 Access

Concerns were raised in 34% of the public submissions about the use of William Lane for waste collection and the potential impact on traffic and access to the Diecota Building.

In its submission to the original proposal, TfNSW recommended a turning analysis be undertaken for heavy vehicles given the proposed access to the loading area is via William Lane, which is a narrow lane. The Applicant has provided a swept path analysis with its RRTS, demonstrating that a 9.5 m garbage truck will be able to access the lane if the kerb line on William Lane (near Marian Street) is adjusted. The subject site is constrained by existing developments adjacent to the site and in consideration of this the Department considers William Lane is the best location for the servicing and loading bay. William Lane receives low traffic and the Applicant has demonstrated that the manoeuvrability within the lane is workable as access to the loading zone, including a 6 m wide roller door access.

In its most recent submission, Council did not raise further concerns with the proposed waste management and loading facilities. However, Council requested a Loading Dock Management Plan be provided and requested clarification on the access to waste facilities for the different occupants of the building (i.e. residential, commercial and retail).

The Department therefore supports the proposed servicing arrangement. To ensure the safe and efficient handling of waste for all future occupants, the Department recommends conditions requiring the Applicant to seek approval from Council for any adjustments to the kerb line of William Lane and prepare a detailed Waste Management Plan and Loading Dock and Vehicle Management Plan for approval prior to the occupation or use of the building.

5.7. Other Issues

Table 10: Other issues for consideration

Issue	Department's Consideration	Recommendation
Contributions	<ul style="list-style-type: none"> The development is subject to the Redfern-Waterloo Contributions Plan 2006. Clause 8 of the plan facilitates the imposition of a condition requiring the applicant to pay a Section 94A development levy of 2% of the proposed cost of carrying out the development. The development is also subject to the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006. Urban Growth NSW (UGNSW) has advised the current contribution rate is \$84.60 per every m² of GFA, at July 2017 levels, indexed to inflation. The resulting affordable housing contribution is approximately \$486,788.40 subject to confirmation of the final floor space. 	<ul style="list-style-type: none"> A condition is recommended to ensure the correct contribution amounts are received.
GFA calculation	<ul style="list-style-type: none"> The Council raised concerns that certain areas had been excluded from the GFA calculation, in particular the breezeways currently proposed as being open could be enclosed in future applications. In response, the Applicant sought legal advice which confirms the exclusion of the breezeways is acceptable (proposed to be enclosed by a 1.1 m high balustrade at each end) and the service and loading bay areas on the ground level. The Department considers the purpose of a GFA control is to manage the bulk and scale of proposed development. The additional floor area within the breezeway does not unduly add to the bulk of the podium or tower. The breezeway is also recessed to provide a vertical separation in the southern and northern facades creating an impression of two more slender towers and 	<p>The Department accepts the Applicant's GFA calculations are reasonable and notes the legal advice provided in support of their application.</p> <p>Importantly the proposal results in a bulk and scale which is consistent with the surrounding context envisaged by the planning controls.</p>

	<p>reducing the visible mass of the building form the south.</p> <ul style="list-style-type: none"> The loading area is included within the podium footprint and has no visual impact on the bulk of the building at the ground floor level. 	
Wind Impacts	<ul style="list-style-type: none"> The Applicant has submitted a Pedestrian Wind Environment Study (PWES) and Wind Impact Comments. The PWES concluded the wind conditions for the majority of ground level areas on Gibbon Street and Regent Street comply with the standards set out in the Sydney DCP, however wind speeds on Marian Street exceeded the standards. The PWES states wind conditions on pedestrian footpaths are comparable or better than the existing conditions for all locations except for two. Several mitigation measures are recommended, including an awning along the southern and western elevations and a 1.8 m porous screen along the southern and eastern elevations of the proposed outdoor terrace. The study also assessed the impact of the proposed development on wind conditions at the adjoining apartments in the Diecota, Urba and Iglu Buildings. The results indicate the measured wind conditions for all the potentially impacted trafficable outdoor areas within the adjacent developments (balconies etc.) satisfy the applicable wind comfort criterion, and in all instances, do not require mitigation treatments. Iglu Pty Ltd raised a concern, particularly in relation to the potential for negative wind impacts on their southern Level 1 communal outdoor area, which was not addressed in the PWES. No public submission raised concerns about the wind impacts of the proposal. The Department considers that subject to the recommended treatments for the ground level and the outdoor terrace, the proposal will not result in unacceptable wind impacts for pedestrians, users at the subject building or at adjoining properties. 	<p>The Department has recommended that updated architectural drawings showing wind mitigation measures consistent with the recommendations of the Pedestrian Wind Environment Study prepared by Windtech are submitted to the Department for approval prior to issue of a Construction Certificate.</p>
Contamination	<ul style="list-style-type: none"> The application is supported by a Preliminary Site Investigation which concluded that further site investigation in the form of a Stage 2 Detailed Site Investigation (DSI) was required. A Stage 2 investigation has been undertaken which concluded that widespread contamination was not found on site, and therefore the conditions of the soils and groundwater on site are deemed suitable for the proposed retail, commercial, residential and future child care uses. The Department notes the existing uses on the site are retail and residential and is satisfied that the continued use of the site is suitable for the intended uses, satisfying the requirements of SEPP 55. 	<p>The Department has recommended standard conditions of consent relating to the ongoing management and disposal of excavated soil and waste.</p>
Construction Impacts	<ul style="list-style-type: none"> A Preliminary Construction Management Plan (PCMP) has been submitted with the application. The following construction hours are proposed: <ul style="list-style-type: none"> - 7 am to 7 pm Monday to Friday 	<ul style="list-style-type: none"> The Department recommends a condition requiring approval of a CPTMP prior to the

	<ul style="list-style-type: none"> - 7 am to 3 pm on Saturdays. • Construction access to the site is proposed via Marian Street and William Lane. The PCMP states work zones will be required on the full width of the Regent Street and Marion Street frontages. Separate applications will be required to RMS and Council for the required work zones (note: RMS have advised a works zone will not be approved on Regent Street). • The PCMP recommends a Construction Pedestrian and Traffic Management Plan (CPTMP) be prepared prior to commencement of works. The PCMP includes a number of traffic management measures to be included in the CPTMP to appropriately manage construction vehicle movements. • RMS and TfNSW have raised no concerns regarding construction traffic but both recommend a condition be imposed requiring preparation of a CPTMP. • The Department is satisfied construction traffic can be suitably managed to ensure negligible impact on the local traffic network, subject to a condition being recommended requiring approval of a CPTMP prior to the commencement of any demolition work. • A Noise and Vibration Impact Assessment submitted with the application confirms construction noise emissions and vibration impacts can be appropriately managed to satisfy EPA and Council criteria and provides recommendations for managing/ mitigating these impacts. • The Department notes the proposed construction hours are consistent with Council's standard construction hours. However, public submissions were received raising concerns with the extent of the proposed hours. • The Department considers the application acceptable in relation to construction noise and vibration, subject to standard conditions being imposed. • However, given the close proximity of the site to a number of high density residential buildings, the Department considers it appropriate and necessary to restrict construction hours to preserve amenity whilst not unreasonably restricting hours when works can occur. This is consistent with the approach adopted for the Iglu Building which is currently under construction. It is therefore recommended the Iglu Building's construction hours be imposed. 	<p>commencement of any demolition work.</p> <ul style="list-style-type: none"> • Compliance with the recommendations of the Noise and Vibration Impact Assessment and preparation of a detailed noise assessment, based on the proposed plant, prior to the issue of the relevant Construction Certificate which is outlined in an updated CPTMP is also recommended. • Construction hours are recommended to be restricted to: <ul style="list-style-type: none"> - 7.30 am to 5.30 pm Monday to Friday - 7.30 am to 3.30 pm Saturdays - No work on Sundays or public holidays.
<p>Archaeology</p>	<ul style="list-style-type: none"> • The Applicant has provided an Archaeological Assessment prepared by Urbis, which concludes there is low to moderate potential for the site to contain archaeological remains, and that based on historical research the site is unlikely to contain relics given it has not been associated with any significant cultural groups. Further, test 	<ul style="list-style-type: none"> • The Department has recommended a condition requiring an updated unexpected finds and stop works procedure.

	<p>excavations did not uncover any archaeological remains.</p>	
<p>Child Care</p>	<ul style="list-style-type: none"> • The proposal as outlined in the RRtS sought approval for the use of the third floor level (4th floor) for a child care centre (which includes: <ul style="list-style-type: none"> ○ accommodation up to 46 children and 14 employees ○ 150 m² of indoor nursery floorspace off the Regent Street frontage, 100 m² of centre core services area (reception, children toilets, staff room) ○ 322 m² of outdoor play area off the William Street frontage ○ accessible via 4 lifts and two separate fire stairs ○ first floor basement car parking for two staff and two visitor/drop-off/pick-up spaces ○ operating hours from 7 am to 6.30 pm Monday to Friday. • Council originally raised issues about noise, solar access, car parking and drop-off and pick-up, electromagnetic fields and cooling tower impacts. • Council's submission on the RRtS maintained its concerns about the potential for parking conflicts between the child care centre with other car park users and lift and servicing arrangements. • One public submission on the RRtS raised concerns about the proposed child care centre parking and drop-off and pick-up arrangements. • Post lodgement of the RRtS, the Applicant provided a further statement from Bronwyn Sterry (Childcare Specialist) which states the proposal would comply with the Education and Child Care SEPP and <i>Child Care Planning Guideline (Planning and Designing Quality Childcare Facilities in in NSW)</i> requirements in respect of providing a minimum of: <ul style="list-style-type: none"> ○ 7 m² of unencumbered outdoor space per child (equating to 322 m² requirement) ○ 3.25 m² of unencumbered indoor space per child (equating to 149.5 m² requirement). • While the Department notes this is consistent with the requirement of the Education and Child Care SEPP and <i>Child Care Planning Guideline (Planning and Designing Quality Childcare Facilities in in NSW)</i>, the Applicant has advised the child care centre use and fitout will now be the subject of a separate DA with Council. • The Department supports the use of a child care centre on the site and recognises the need for such facilities in the Redfern Waterloo Precinct. • The Department also notes the Education and Child Care SEPP and <i>Child Care Planning Guideline (Planning and Designing Quality Childcare Facilities in in NSW)</i> recently came into effect to ensure consistency in the consideration 	<ul style="list-style-type: none"> • The Department recommends the future child care centre use and fitout DA be the subject of a future application. In the interim, the four child care centre parking spaces will be allocated to commercial.

	of issues associated with child care uses across NSW by consent authorities. Council's consideration of the future child care centre DA must therefore be made against this EPI and Guideline.	
Sydney Airport	<ul style="list-style-type: none"> • Sydney Airport requested specific details on the maximum height of the building and details on how the foliage on the landscaped roof area will be maintained. • The Applicant has provided MGA co-ordinates for the finished building height and Sydney Airport has confirmed that the height will intersect the height plane for this locality and will require approval from the Federal Authority. This can be dealt with conditionally as it is unlikely to result in any prohibitive conditions, considering existing height of surrounding dwellings. 	<ul style="list-style-type: none"> • A condition requiring approval from the Civil Aviation Safety Authority (CASA) for the overall building height is recommended and for any cranes erected on site. • A condition requiring a landscaping maintenance plan is also recommended to ensure the maximum height of rooftop vegetation is maintained below RL 93.1.

5.8. Consideration of key issues raised in submissions from Council and the public

Table 11 presents the key issues raised in the public and Council submissions (as summarised in Section 4), and how the Department has considered each issue.

Table 11: Consideration of key issues raised in submissions from Council and the public

Concerns raised	Department's comments
<ul style="list-style-type: none"> • Conflict between achieving cross ventilation and acoustic amenity (Council submission) 	<p>The development achieves 100% cross ventilation with all apartments being dual aspect. The Department concludes the proposal can achieve the objectives of the ISEPP and the ADG, because:</p> <ul style="list-style-type: none"> • the achievement of cross ventilation and acoustic amenity are not mutually exclusive and do not need to be achieved at all times • the Applicant has since lodged a revised acoustic report which concludes the proposal can achieve internal noise levels in compliance with the ISEPP and the relevant guidelines <i>Development Near Rail Corridors and Busy Roads – Interim Guidelines (2008)</i> • appropriate mechanical ventilation is provided in each apartment to ensure appropriate airflow can be achieved where doors and windows are closed to minimise noise and pollution.
<ul style="list-style-type: none"> • The solar access for future occupants is unacceptable. (Council submission) 	<p>The Department concludes the proposed design achieves the greatest level of solar access possible for the site and is acceptable because:</p> <ul style="list-style-type: none"> • the site is constrained by existing development and its orientation towards the south-east of the development block • if the solar analysis is taken from 8 am to 4 pm the proposal can achieve 68% of apartments with solar access • all apartments receive at least 15 minutes of solar access which exceeds the recommendations of the ADG (which allows no solar access to 15% of apartments) • the proposal achieves high levels of amenity through the provision of private open space, size and layout and benefit

Concerns raised	Department's comments
	<p>from close proximity to employment opportunities, services and facilities</p> <ul style="list-style-type: none"> strict application of the ADG solar access recommendations is not required and would restrict the development outcomes as envisaged by the planning controls and the delivery of high quality housing options in a well serviced location.
<ul style="list-style-type: none"> The proposal does not activate Marian Street. <p>(Council submission)</p>	<p>The Department considers the proposal provides acceptable amounts of active frontages, noting:</p> <ul style="list-style-type: none"> activate frontages are retained to Marian Street by providing a retail frontage at the corner of Marian Street and Regent Street the proposal further activates Marian Street by locating access to the residential, future child care and commercial lobby from Marian Street the adjacent Urba building at 7-9 Gibbons Street provides blank walls and a loading bay access to Marian Street and as such limits the achievement of activation of the northern side of the Marian Street, irrespective of the treatments provided by the proposal.
<ul style="list-style-type: none"> Access, use of the lift and servicing is unclear for all users within the building. <p>(Council submission)</p>	<p>The Department has recommended:</p> <ul style="list-style-type: none"> an Access Management Plan be provided to outline safe and secure access for residents, staff, visitors and users a Waste Management Plan and Loading Dock Management plan is provided to detail effective servicing.
<ul style="list-style-type: none"> Parking and Bicycle Parking dimensions are queried. The number of car parking spaces should comply with rates within SLEP 2012, provide car share and accessible spaces should be provided. <p>(Council submission)</p>	<ul style="list-style-type: none"> The Department has recommended all parking, bicycle facilities and access is provided in accordance with the relevant standards to ensure they operate in a safe manner The Department concludes the total number spaces at 60 is consistent with the SLEP 2012 provided two spaces are allocated as car share.
<ul style="list-style-type: none"> Loss of views Overshadowing Lack of building separation <p>(Public submissions)</p>	<ul style="list-style-type: none"> The Department notes the density and height of the proposed building is consistent with the overarching planning controls provided to facilitate the renewal of the Redfern Town Centre. Although view impacts will occur, to protect existing views would be to limit the site's contribution to the renewal of the Redfern Town Centre. Overshadowing is consistent with that envisaged by the building height control for an 18-storey building. Variations to the tower setback controls result in minor shadow impacts to the south before 11 am with impacts occurring only to non-sensitive locations after 11 am. The proposal does not cause additional overshadowing of adjacent residential towers to the north and west between 9 am and 3 pm Requiring strict compliance with ADG building separation provisions would render the site incapable of being developed. Strict compliance is not required as the proposed building separation is consistent with the predominant tower separation provided in the Redfern Town Centre and city block and through the application of privacy treatments, will not cause unacceptable privacy impacts.
<ul style="list-style-type: none"> Concerns about the child care centre, access, parking, design. <p>(Public submissions)</p>	<ul style="list-style-type: none"> The child care centre use, including its design will be assessed as part of a future development application lodged with Council.

6. CONCLUSION

The Department has assessed the merits of the proposal taking into consideration the issues raised in all submissions and considers that the impacts have been satisfactorily addressed within the Applicant's EIS, RTS and RRtS and the Department's recommended conditions. The Department's assessment concludes the proposal is generally consistent with the future direction of the Redfern-Waterloo area and is an appropriate development to facilitate the growth of the Redfern Town Centre.

The proposed 18-storey height and FSR is consistent with the SSP SEPP and is also consistent with that strategically envisaged for the Redfern Town Centre and will reinforce the strategic role of the town centre as a commercial, retail and residential hub. The building would provide a distinctive and visually interesting high rise building form contributing to the Redfern Town Centre skyline.

The contemporary reinterpretation of the two-storey shop fronts through an arch form at Regent Street will also assist in reinforcing the historical character of the streetscape, whilst renewing the retail options to Regent Street. The proposal demonstrates design excellence and would positively contribute to the renewal of the Redfern Town Centre.

Although the proposal would have amenity impacts on views/outlook to adjoining residential properties at the Deicota, Urba and Iglu Buildings, the proposal is consistent with key development standards, including height and density as outlined in the SSP SEPP. The preservation of views over private property to east and south-facing apartments is unsustainable in the dense urban environment envisaged by the planning controls. The proposed building separation is consistent with the predominant tower separation and emerging built form and will not result in unacceptable amenity impacts with regards to privacy.

The Department considers the proposed residential apartments would achieve a satisfactory level of amenity. Although the levels of solar access recommended by the ADG cannot be achieved, the Department considers the proposal provides an appropriate level of solar access noting the inherent site constraints and the high levels of residential amenity are provided in terms of private open space, communal open space, size and layout.

The Department also notes the proposal benefits from high level of access to employment opportunities, services and facilities which further contributes to residential amenity. Subject to appropriate management and imposition of recommended conditions, the proposal would achieve appropriate acoustic levels, airflow and ventilation and provision for storage.

Consistent with the 'Using the Apartment Design Guide' Planning Circular, the Department has not applied the ADG as a set of strict development standards but has reviewed the proposal against the objectives of the design criteria. The Department concludes from this review that future residents would be provided with an acceptable level of amenity through good design, consistent with the intent of the ADG.

All key issues associated with the proposals have been assessed, and appropriate conditions recommended, where necessary. Key recommended conditions of consent would require the Applicant to:

- prepare amended architectural plans, where relevant to ensure appropriate mechanical ventilation is provided to all apartments
- prepare amended architectural plans to reduce the potential for ground level wind impacts
- make financial contributions, including affordable housing contributions to meet the demand for additional public facilities and infrastructure and need for affordable housing in the Redfern/Waterloo area
- lodge a separate application to Council for the fitout and use of the child care centre

- prepare a Construction and Pedestrian Traffic Management Plan and Loading Dock Management Plan
- consultation with TfNSW prior to the issue of a Construction Certificate in respect of the Sydney Metro and CBD Rail Link.

The Department concludes the proposal is consistent with the strategic objectives for the area, as outlined in *NSW 2012, A Plan for Growing Sydney*, the *Draft Towards our Greater Sydney 2056* and the *Draft Central District Plan*. The proposal would result in a wide range of positive social and economic impacts, including increased housing availability and choice near public transport, and increased employment opportunities and services.

In respect of the SEPP 1 objection provided by the Applicant, it is considered well founded on the basis that strict application would hinder the attainment of the objectives of the EP&A Act and the proposed development achieves the underlying objectives of the standards, notwithstanding the non-compliance.

The Department concludes the development is in the public interest and is capable of being approved, subject to conditions.

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