



4 October 2019

**Determination of
80-88 Regent Street, Redfern State Significant Development (SSD 9275)**

1 INTRODUCTION

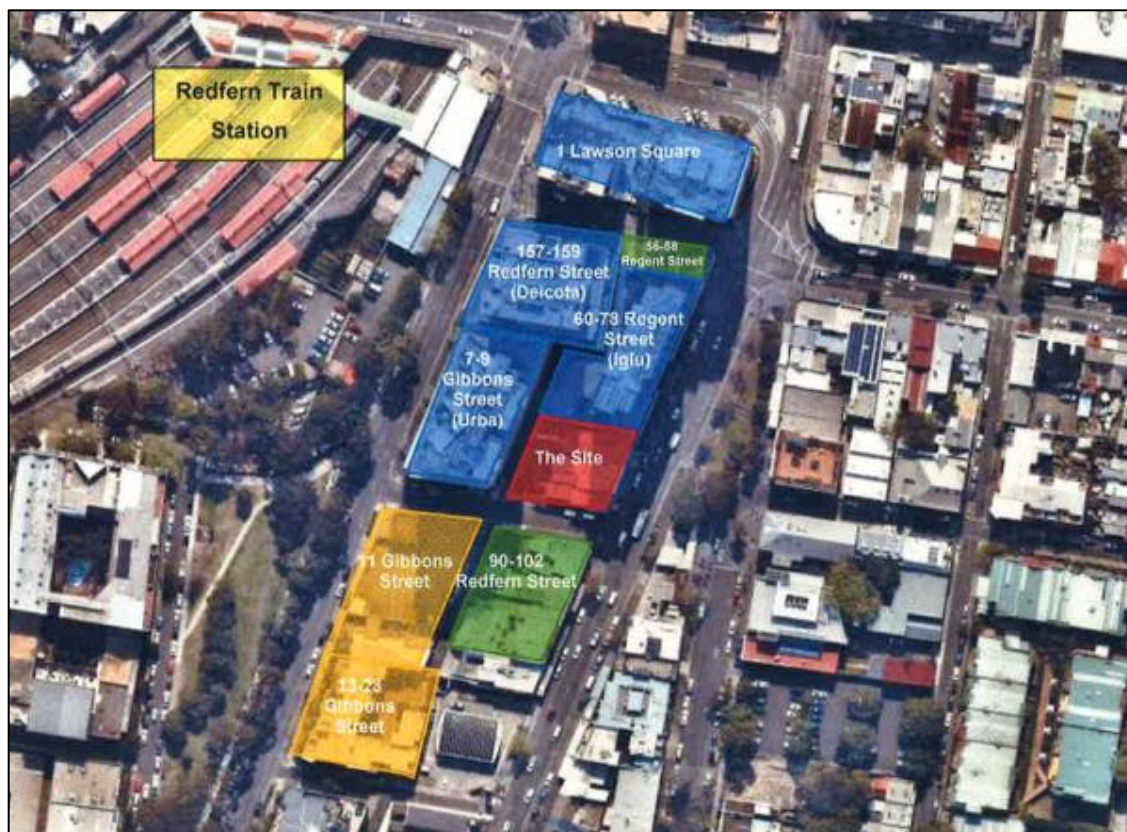
1. On 8 July 2019, the NSW Independent Planning Commission (**Commission**) received from the NSW Department of Planning, Industry and Environment (**Department**) a State significant development application (SSD 9275) (**Application**) from Iglu Pty Ltd (**Applicant**) seeking to construct an 18-storey student accommodation development at 80-88 Redfern Street, Redfern (**Project**) within the City of Sydney (**Council**) local government area (**LGA**).
2. The Project is deemed a State significant development (SSD) under section 4.36 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**), as it comprises development on land identified as being within Redfern-Waterloo and has a capital investment value in excess of \$10 million under clause 2(g) of Schedule 2 of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SEPP SRD**).
3. The Commission is the consent authority in respect of the Application as per the Ministerial delegation dated 14 September 2011. It is noted the Department advised that it received a submission from the Council objecting to the Application after the completion of the exhibition period and as a result, the Commission is not the consent authority in respect of the Application under section 4.5(a) of the EP&A Act and clause 8(a) of the SEPP SRD.
4. Professor Mary O’Kane AC, Chair of the Commission, nominated Stephen O’Connor (Chair), Carol Austin and Peter Williams to constitute the Commission determining the Application.

1.1 Site and locality

5. The Department’s Assessment Report (**Department’s AR**) stated that the site is a vacant lot within the Redfern Town Centre, located at 80-88 Regent Street, Redfern (**Project Site**). The Project Site is square in shape, bound by Regent Street to the east, Marian Street to the south and William Lane to the west. The Project Site is comprised of five lots, legally described as lots A, B, C, D and E of DP 105824 with a total area of 821.7 square metres (m²). The Project Site is located approximately 2.3 kilometres (km) to the south-west of the Sydney Central Business District and 150 metres (m) to the east of Redfern train Station. The location and context of the Project Site are shown in Figure 1.
6. According to the Department’s AR, the Project seeks to consolidate the site area/lots with the existing 18-storey Iglu student accommodation development (**Iglu 1**) located immediately to the north of the Project Site at 60-78 Regent Street, Redfern, Sydney (Lot 1 in DP 1243996). After consolidation, the total site area, including the Project Site, would be 2,250 m².
7. The Department’s AR stated that the Redfern Town Centre 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. The town centre also partly comprises the Redfern Estate Heritage Conservation Area.”

8. According to the Department's AR, the Redfern Town Centre is “*undergoing significant urban renewal resulting in a mixed character, transitioning from the traditional low-density mixed use, retail and residential development of two to four storeys to buildings up to 18 storeys, as permitted by the current planning controls for the area*”.

Figure 1 - Site Context



Source: The Department's Assessment Report

1.2 Background to the Application

9. According to the Department's AR, the Project Site has the benefit of an existing project approval (**Existing Approval**) for an 18-storey mixed-use development comprising 56 residential apartments, commercial and retail floor space, a child care centre and associated basement car parking spaces (**SSD 7080**), which was approved by the Planning Assessment Commission (**PAC**) on 22 November 2017.

1.3 Summary of the Development Application

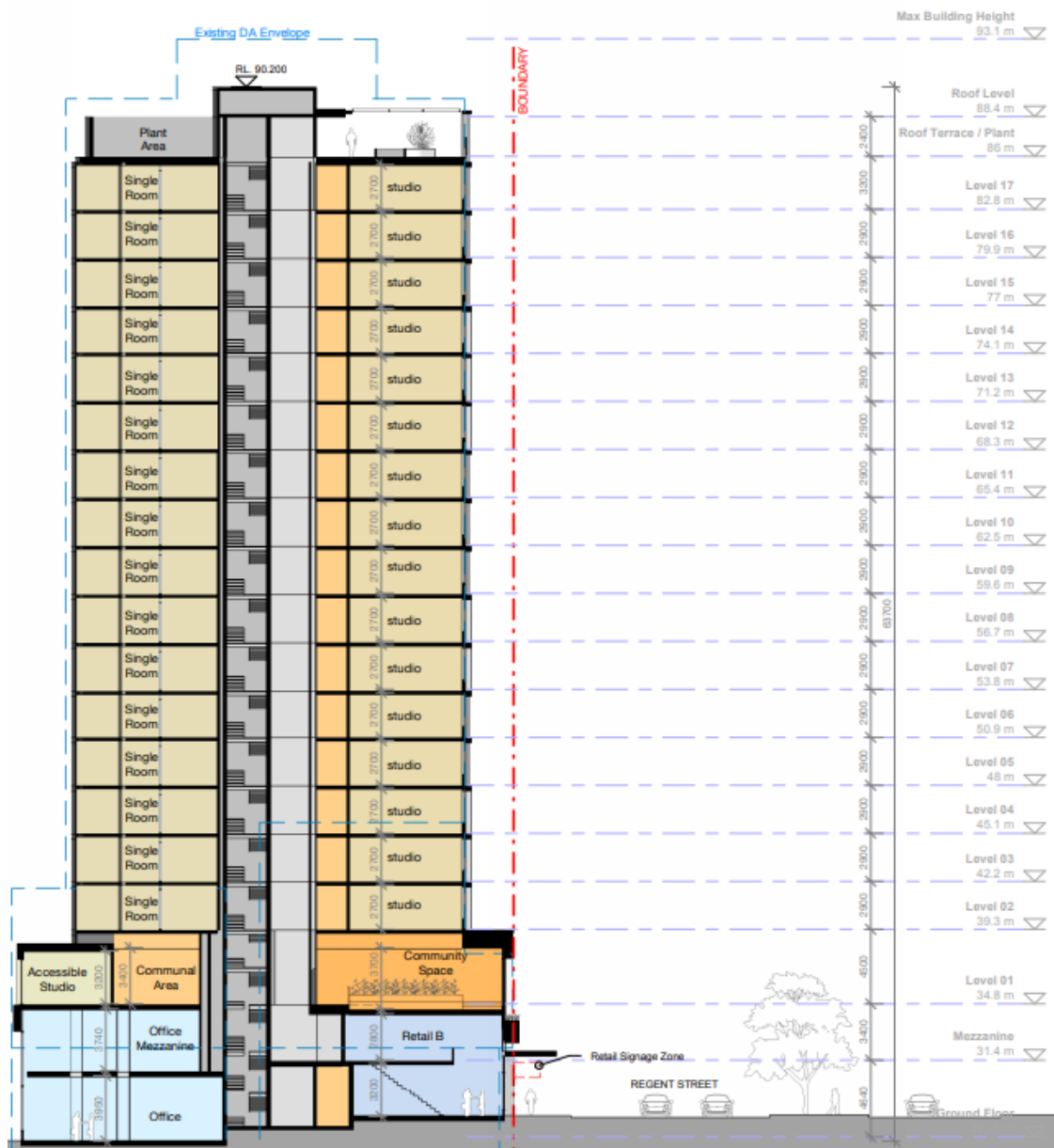
10. The Department's AR stated that the Project seeks approval for the construction of an 18-storey mixed-use student accommodation development (see Figure 2). The key components of the Project as amended by the Response to Submissions (**RtS**) dated 24 January 2019 are summarised in Table 1 below.

Table 1 – Key Components of the Project

Aspect	Description
Built Form	<ul style="list-style-type: none"> • Construction of an 18-storey tower and three-storey podium • The three level podium consists of: <ul style="list-style-type: none"> ○ Ground floor ○ Mezzanine ○ Level 01
Uses	<ul style="list-style-type: none"> • Student accommodation comprising 265 beds as follows: <ul style="list-style-type: none"> ○ 163 studio units ○ 6 loft units ○ 16 6-bed cluster units (dormitory style rooms) ○ 3 ground floor retail tenancies ○ 1 commercial tenancy
Gross Floor Area (GFA)	<ul style="list-style-type: none"> • Total GFA of 7,377 m² (Floor Space Ratio 8.7:1) • 6,298 m² student accommodation • 383 m² retail • 255 m² commercial • 441 m² plant/services
Lot Consolidation	<ul style="list-style-type: none"> • The lot/DP of the site is to be consolidated/amalgamated with Iglu 1
Communal Open Space	<ul style="list-style-type: none"> • Total communal open space of 1,203 m² comprising: <ul style="list-style-type: none"> • Level 1 indoor (319.5 m²) and outdoor space (410.5 m²) • Level 2 to Level 17 communal room as part of cluster units (17 m² each) • Rooftop outdoor space (201 m²)
Access	<ul style="list-style-type: none"> • Pedestrian access from Marian Street (also from 60-78 Regent Street) • Bike access • Use of shared loading facilities located within existing Iglu 1 development
Parking	<ul style="list-style-type: none"> • 84 bicycle parking spaces located on the ground floor • End-of-trip facilities for ground floor retail and commercial space
Signage	<ul style="list-style-type: none"> • Commercial signage zone: 2 under awnings signs (0.6 m x 1.6m) • 1 business identification sign (1.8 m x 2.1 m) • 1 business identification sign (2.2 m x 2.7 m)
Employment and Capital Investment Value (CIV)	<ul style="list-style-type: none"> • CIV of \$38,900,000 • 170 construction jobs • 4 operational jobs

Sourced from: The Department's Assessment Report

Figure 2 – Project Elevation Plan



Source: Applicant's Amended Architectural Drawings

1.4 Justification for the Application

11. The Applicant's Environment Impact Statement (EIS) dated 13 September 2018 stated:

"The development of student housing on the site will have significant benefits to Redfern by delivering a new integrated facility that injects additional activity throughout the centre, and particularly at the ground plane around Regent Street and Marian Street. Provision of well-designed and appropriate student accommodation will support the provision of education to students from Sydney, regional NSW, inter-state and overseas, resulting in improved social and economic outcomes for NSW."

12. The Department's AR stated that the Project will contribute to improved housing supply and choice in a central location that is in high demand with good public transport connections.

2 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

2.1 Key steps in Department's consideration of the Development Application

13. The Applicant submitted a request for Secretary's Environmental Assessment Requirements (**SEARs**) to the Department on 12 April 2018. The SEARs was issued to the Applicant on 10 May 2018.
14. The Department received the Application on 13 September 2018, and it was placed on exhibition from 18 October 2018 until 14 November 2018. The Department's AR stated that *"The Department received a total of 31 submissions, comprising 12 submissions from government agencies, one submission from Council and 18 submissions from the public"*. The Council submission was lodged after the completion of the exhibition period.
15. According to the Department's AR, the Department received comments from the Government Architect New South Wales (**GANSW**), Transport for NSW (**TfNSW**), Roads and Maritime Services (**RMS**), the Heritage Division of the Department of Premier and Cabinet (**Heritage Division**), the Environment, Energy and Science Group of the Department (**EESG**), Sydney Metro, NSW Police, the Environment Protection Authority (**EPA**), Sydney Water, Sydney Airport, Infrastructure NSW (**INSW**), and Ausgrid. The Council objected to the Application, after the exhibition period.
16. The Department's AR stated that the Applicant provided a RtS, dated 24 January 2019 which contained revised architectural plans, an amended visual impact assessment and an amended acoustic impact statement. The RtS was made publicly available on the Department's website. The Department received seven additional submissions, including six from government agencies and one from the Council.
17. The Department's AR stated that the Applicant submitted further information and amended architectural plans in the form of a RtS Addendum (**RtS Addendum**) dated 17 April 2019. The RtS Addendum was made publicly available on the Department's website.
18. The Department's AR stated that the Applicant submitted an amended architectural plan for the ground floor and revised GFA table (**Further Information**) dated 20 May 2019.

2.2 The Department's Assessment Report

19. The Department's AR stated that:

"The Department has considered the proposal, the issues raised in submissions and the Applicant's RtS and additional information in its assessment of the application. The Department considers the key issues associated with the proposal are:

- *built form and design excellence*
- *amenity impacts to adjoining properties*
- *residential amenity for future occupants*
- *traffic, parking and access/servicing."*

20. The Department's AR concluded that:

"The Department has considered the impacts of the proposal, including building separation, view loss, overshadowing and is satisfied the impacts are acceptable. The Department is satisfied the recommended conditions and implementation of measures detailed in the Applicant's EIS, RTS and RRTS and as recommended by Government agencies and Council, would adequately mitigate the residual environmental impacts of the proposed development."

3 THE COMMISSION'S MEETINGS AND SITE INSPECTION

21. As part of its determination, the Commission met with the Department, the Applicant, and Council. The Commission also conducted a site inspection accompanied by the Applicant.

3.1 Meeting with the Department

22. On 22 July 2019, the Department met with the Commission to discuss the Department's AR. A copy of the transcript was made available on the Commission's website on 23 July 2019.

3.2 Meeting with Council

23. On 22 July 2019, the Commission met with the Council to discuss the Council's views on the Project. A copy of the transcript was made available on the Commission's website on 23 July 2019.

3.3 Meeting with the Applicant

24. On 22 July 2019, the Commission met with the Applicant to discuss the Project. A copy of the transcript was made available on the Commission's website on 23 July 2019.

3.4 Site Inspection

25. On 30 July 2019, the Commission conducted an inspection (**Site Inspection**) of the Project Site and existing development at Iglu 1. A summary of questions asked by the Commission at the Site Inspection, and answers given by those present, was made available on the Commission's website.
26. The following stops were made as a part of the Site Inspection:
- 1) Ground floor retail and inner laneway linkage Iglu1;
 - 2) Level 1 reception and outdoor areas Iglu1;
 - 3) Level 1 outdoor courtyard Iglu1;
 - 4) Studio bedroom and cluster bedroom Iglu1;
 - 5) Loading dock pathways and bicycle storage Iglu1; and
 - 6) William Lane.

4 THE COMMISSION'S CONSIDERATION

4.1 Material considered by the Commission

27. In this determination, the Commission has carefully considered the following material (**material**):
- PAC Determination Report, dated 22 November 2017 and all associated documents;
 - the SEARs, dated 10 May 2018;
 - the Applicant's EIS dated 13 September 2018 and all associated documents;
 - all submissions made to the Department in respect of the Application during public exhibition, 18 October 2018 to 14 November 2018;
 - Council's submission dated 15 November 2018;
 - the Applicant's RtS and associated documentation, dated 24 January 2019;
 - the Applicant's RtS Addendum, dated 17 April 2019;
 - Further Information provided by the Applicant, dated 20 May 2019;
 - the Department's AR, dated 4 July 2019;
 - the Department's draft Recommended Development Consent, dated 4 July 2019;
 - the Department's response to the Commission, dated 29 July 2019;
 - Council's response to the 'questions on notice' dated 29 July 2019;

- Council's comments to the Commission, dated 30 July 2019;
- the Applicant's response to the Commission, dated 31 July 2019;
- the Applicant's comments to the Commission, dated 1 August 2019; and
- the Department's response to the Commission, dated 22 August 2019.

4.2 Mandatory considerations

28. In determining this Application, the Commission has taken into consideration the following relevant mandatory considerations, as provided in s 4.15 of the EP&A Act (**mandatory considerations**):

- the provisions of all:
 - o environmental planning instruments; and
 - o proposed instruments that are or have been the subject of public consultation under the EP&A Act and that have been notified to the Commission (unless the Secretary has notified the Commission that the making of the proposed instrument has been deferred indefinitely or has not been approved); and
 - o development control plans; and
 - o planning agreements that have been entered into under s 7.4 of the EP&A Act, and draft planning agreements that a developer has offered to enter into under s 7.4;
 - o the *Environmental Planning and Assessment Regulations 2000* (**Regulations**) to the extent that they prescribe matters for the purposes of s 4.15(1) of the EP&A Act;
- that apply to the land to which the Application relates;
- the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
- the suitability of the site for development;
- submissions made in accordance with the EP&A Act and Regulations;
- the public interest;

4.3 Additional Considerations

29. In determining this Application, the Commission has considered the Redfern Centre Urban Design Principles (**RCUDP**). As noted in the Department's AR, the RCUDP were developed to provide urban design principles for future development of State significant sites within the Redfern Town Centre under the controls of the *State Environmental Planning Policy (State Significant Precincts) 2005* (**SSP SEPP**).

4.4 Design Excellence

Council Comments

- The Council, in its submission to the Department dated 15 November 2018 which was submitted after the exhibition period, stated that the Project does not achieve the design excellence provisions of the SSP SEPP for the following reasons:
 - *"the design of the proposed building does not improve the quality and amenity of the public domain; and*
 - *the design of the proposed building does not satisfactorily mitigate environmental concerns such as wind and overshadowing."*
- In response to 'question on notice' in the meeting with the Commission on 22 July 2019, the Council provided comments to the Commission dated 29 July 2019, including further information in relation to the Council's involvement in the design excellence process for the Project. The Council advised that it has a nominee on the NSW State Design Review Panel and an observer who is not a member of that Panel.

Applicant's Consideration

32. An Architectural Design Report (**ADR**) prepared by Bates Smart Pty Ltd (**Bates Smart**) was submitted with the Application. In relation to design excellence, the ADR stated the Applicant, in collaboration with Bates Smart, aims to deliver design excellence on all its projects. The ADR stated that the Project *"builds on the knowledge and experience gained on these projects as well as the recently completed facility in the adjoining 66 Regent St. It aims to deliver an outstanding student accommodation facility with an active ground plane that engages the broader community"*. In relation to the Application before the Commission, the ADR stated that *"the submission has gone through a state design review panel process and has used this process to drive the project further in achieving design excellence"*.
33. The Applicant's EIS stated that:
- "Our aim is to create a vibrant student community located in the heart of Redfern with excellent access to public transport. A 2-storey podium maintains the scale and character of the existing terraces while new retail and commercial uses expand the active street frontage realised through the recently completed Iglu development. A slender 'L shaped' tower form improves separation to the adjoining residential tower while reinforcing the corner of Regent and Marian Street. The use of concrete and masonry differentiates the new tower from the adjoining Iglu facility ensuring architectural diversity"*.
34. The Applicant in the RtS made a number of design changes in response to the concerns raised in submissions. Specifically, the Regent St and Marian St awning was redesigned to improve weather protection. The Applicant also stated that the western façade was redesigned to improve the interface with the adjoining residential buildings to the west.

Department's Assessment

35. The Department's AR stated that built form and poor quality design were key issues raised in public objections received during exhibition. The Department also noted that the Council raised concerns relating to the design excellence of the Project.
36. The Department's AR stated that the State Design Review Panel (**SDRP**) reviewed the Application on 30 May 2018 and provided feedback on the proposed design. The SDRP was generally supportive of the Project and provided recommendations to help achieve a high quality design. The Department noted that the design of the Project had been subsequently refined through the EIS and RtS following the Department's consultation with the SDRP/GANSW.
37. The Department's AR stated that the consent authority is required to assess design excellence as set out in the SSP SEPP. The Department concluded that the Project exhibits design excellence for the following reasons:
- *"the proposed design has been thoroughly reviewed through the SDRP process and the Applicant has responded to the advice received;*
 - *GANSW support the proposed design, including refinements at the RtS stage;*
 - *The facades are of high architectural quality and are highly articulated, minimising the building's visual bulk and scale; and*
 - *The proposal will improve the visual amenity of the existing public domain by providing increased setbacks/widened footpaths to Marian Street and William Lane and providing ground floor activation through high quality, contemporary shopfronts to Regent Street, which replicate the scale and proportion of the existing shopfronts at street level"*

38. The Department's AR concluded that *"the building exhibits design excellence and would facilitate the development of a town centre and create additional employment opportunities"*.

Commission's Findings

39. The Commission acknowledges the concerns raised by the public and the Council in paragraphs 30 and 35. However, the Commission accepts the findings of the Department as set out in paragraph 37, that the design has been thoroughly reviewed through the SDRP process and that the Project exhibits design excellence. The Commission finds that the Project will improve the visual amenity of the existing public domain and will facilitate ground floor activation because of the high-quality shop fronts which replicate the existing scale of development at street level as outlined in paragraph 37.

4.5 Built Form

Council's Comments

40. The Council, in its submission to the Department after the exhibition raised concerns regarding the Project's non-compliance with the building height controls, which according to the Council result in substandard amenity for the Project Site. The Council also raised concerns regarding non-compliant height/street setbacks and stated that the non-compliance would result in wind and overshadowing impacts and reduced safety for pedestrians using William Lane. The Council was unsupportive of a State Environmental Planning Policy (**SEPP**) 1 objection to the maximum building height control (**Height Objection**) and stated that *"the applicant's written request to justify the contravention of the height and floor space ratio development standard is not well founded and not in the public interest"*.
41. Council, in their comments to the Department on the RtS dated 12 March 2019 stated that *"Council remains of the opinion that the SEPP 1 Objection is not well founded and should be rejected"*.

Applicant's Consideration

42. The Applicant's EIS stated that under the SSP SEPP, the Project Site is subject to an 18 storey maximum building height control with a two storey maximum street frontage height at Regent Street and a three storey maximum street frontage height at Marian Street. The Applicant's EIS also stated that the tower setbacks along Regent and Marian Streets are 8m and 4m respectively. The Project, as described in the EIS complies with the 18-storey tower height however and has a proposed 3m tower setback along both Regent and Marian Street. The tower, by encroaching into the podium setback exceeds the podium height limits along both Regent and Marian Street.
43. The Height Objection prepared by Ethos Urban Pty Ltd (**Ethos**) dated 4 September 2018 was submitted with the Application. The Height Objection stated that the Project achieved the following implied objectives of building height development standard:
- Ensure any new development is built to the street edge at the ground plane;
 - Achieve a consistent block edge to reinforce the character along main streets;
 - Provide a 2-storey street presentation that is consistent with the scale and architectural proportions of existing shopfronts in new development and a 3-storey street presentation to Marian Street; and
 - Define and delineate a separate podium and tower form for new development.

44. The Height Objection concluded that the SEPP 1 objection was well founded as:
- the objectives of the standard are more effectively met through non-compliance of the said standard rather than through strict compliance;
 - the strict application of the standard would hinder the objectives specified in section 1.4 of the EP&A Act;
 - the non-compliance with the development standard does not raise any matters of State and regional planning significance and will assist with the attainment of policies; and
 - there is no public benefit in maintaining the building height control adopted by the SSP SEPP for this site.
45. The Applicant's EIS stated that the non-compliance with the podium height limit is justifiable on multiple accounts. The EIS also stated that the proposed tower setback will be consistent with the existing Iglu 1 tower setback along Regent Street. In relation to the Marian Street setback, the EIS stated that the Project *"retains the architectural treatment around the corner of Regent Street"*. The exceedance in podium height is justified in the EIS as enabling the reduction of building mass in the north and west sides of the site to allow for much greater setbacks and separation between buildings and an overall lower building volume than what would be achievable through maximisation of the building envelope.
46. The Applicant's EIS stated that the Project Site is subject to a maximum floor space ratio (FSR) of 7:1 and that *"The proposed development has a GFA of 7,169 m² which, based on the site area of 821.7m², equates to an FSR of 8.7:1. Accordingly, a SEPP 1 Objection to the Development Standard is provided..."*.
47. A SEPP 1 objection to the floor space ratio (**FSR Objection**) prepared by Ethos dated 4 September 2018 was submitted with the Application. The FSR Objection stated that:
- "No objectives are given for the FSR development standard as detailed in the SSP SEPP.*
- Notwithstanding this, it is possible to understand the implicit objectives of the standard through an understanding of the history of the strategic planning that has informed the State Significant Site listing and built form controls for the Redfern Waterloo Sites. These include the Draft Urban Design Principles - Redfern Centre prepared by the Redfern Waterloo Authority and endorsed by the (then) Minister for Planning and Infrastructure."*
48. The FSR objection stated that the implied objectives of the FSR of the site are to:
- Provide sufficient floor space to meet anticipated development needs within the Redfern town centre;
 - Ensure that future buildings are compatible with the desired future character of the area in terms of massing, streetscape, visual privacy, solar access, outlook and design excellence; and
 - Limit the intensity of new development and land uses to be commensurate with the capacity of existing and planned infrastructure in the locality.
49. The FSR Objection concluded that the SEPP 1 objection was well founded for the reasons set out below:
- The implied objectives of the standard are more effectively met through non-compliance of the said standard rather than through strict compliance;
 - The strict application of the standard would hinder the objectives specified in section 1.4 of the EP&A Act;
 - The non-compliance with the development standard does not raise any matters of State and regional planning significance and will assist with the attainment of policies; and
 - There is no public benefit in maintaining the FSR control adopted by the SSP SEPP for this site.

Department's Assessment

50. The Department's AR stated that *"thirteen public submissions raised concern about the maximum building height and non-compliance with the Redfern Centre Plan Urban Design Principles and recommended the building be no higher than 12 storeys"*.
51. In relation to building height, the Department's AR stated that the *"proposed development complies with the SSP SEPP 18 storey maximum height control and is consistent with the general form of development envisaged by the provisions of the SSP SEPP"*, as set out in provisions of Part 5, Division 1 of the SSP SEPP.
52. The Department's AR stated that the Project seeks to vary the setback controls for Regent Street and Marian Street as the tower projects into the area designated for a podium. The Department stated that *"the Applicant has therefore submitted a SEPP 1 objection to justify the proposed tower's encroachment onto the podium setback controls and exceedance of FSR"*.
53. The Department's AR stated that the Applicant provided the following justification for the Height Objection and FSR Objection:
- *"the proposed building is generally consistent with the approved building envelope that was assessed and determined to be acceptable with regards to setbacks, building massing, streetscape, visual privacy, solar access, outlook and design excellence as part of SSD7080."*
 - *"the variations to FSR and height/tower setbacks do not give rise to any adverse environmental impacts beyond those which would be considered acceptable for a residential apartment of lesser GFA but greater building volume."*
 - *"the proposed development represents a positive architectural and urban design outcome for the site. Requiring strict compliance with the building height development standard would require building massing away from the street and closer to the adjoining Urba (7-9 Gibbons Street) and Deicota (157 Redfern Street) buildings which would have an adverse impact on visual privacy, outlook and wind impacts. This will also result in a greater setback from the street than the surrounding buildings to the north, resulting in an inconsistent urban design outcome for the streetscape."*
 - *"the site is to be amalgamated with Iglu 1, providing an opportunity for shared facilities, entrances back-of-house and loading dock. These combined facilities reduce the intensity of use and impacts of a new development in comparison to a new stand-alone development of the subject site."*
 - *"the proposed development will provide public benefit in the form of contributing to the growth of Sydney's major education providers and activating the retail frontages along Regent Street."*
54. The Department's AR noted that *"the SSP SEPP does not contain any objectives for the building height and FSR controls. However, it is considered the proposed development satisfies the overall objectives of the Business Zone – Commercial Core zone as set out in clause 9 of Part 5 of Schedule 3 of the SSP SEPP as the building exhibits design excellence"* as set out in paragraph 37 and 38.
55. The Department's AR noted that the Council objected to the SEPP 1 objections, contending they would result in adverse environmental impacts such as wind and overshadowing as referenced in paragraph 40. The Department concluded that *"the Department does not agree the proposed development would result in adverse wind and overshadowing impacts..."*.
56. In relation to the tower setbacks, the Department's AR concluded that *"the proposed tower setbacks do not result in an overbearing building, are of an appropriate scale, and would provide a strong visual presence consistent with neighbouring tower developments"*.

57. The Department's AR stated that *"the proposed building envelope is generally consistent with the building envelope that was previously assessed and determined to be acceptable with regards to setbacks, building massing, streetscape, visual privacy, solar access, outlook and design excellence. The proposed building volume is also less than the approved development and 2.9 m lower in height."*
58. In relation to the Project's FSR, the Department's AR stated that the Department accepted that while the FSR is higher, an overall reduced building volume is proposed compared to the Existing Approval. The Department recommended a condition to restrict the GFA of the building to 7,377 m². The condition also stated that details confirming compliance must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
59. The Department's AR concluded that *"the development of the site would contribute to the revitalisation of the Redfern Town Centre, consistent with the objectives of the SSP SEPP to facilitate a town centre with a range of employment uses and compatible residential development that will maximise public transport patronage"*. The Department considered that the proposed built form, as refined through the assessment, has sought to provide a design outcome consistent with the established street block and the emerging character of the Redfern Town Centre.

Commission's Findings

60. The Commission notes that the Council was unsupportive of the Height Objection and FSR Objection referred to in paragraphs 40 and 46. However, the Commission agrees with the Department's findings in paragraph 55 that the Project as a result of the podium height and setback is unlikely to result in adverse wind and overshadowing impacts.
61. The Commission accepts the Applicant's conclusion that the Height Objection and FSR Objection are well founded as set out in paragraphs 44 and 49. The Commission agrees with the Department's conclusion in paragraphs 56 and 57, that *"the proposed tower setbacks do not result in an overbearing building, are of an appropriate scale, and would provide a strong visual presence consistent with neighbouring tower developments"*.
62. The Commission accepts the Department's findings in paragraph 57 that the Project's *"building envelope is generally consistent with the building envelope that was previously assessed and determined to be acceptable with regards to setbacks, building massing, streetscape, visual privacy, solar access, outlook and design excellence"*. The Commission also accepts that the Project's building volume is also less than that of the Existing Approval. The Commission finds that the new condition imposed by the Department in paragraph 58 is suitable as it will restrict the GFA of the Project to 7,377 m².

4.6 Wind

Council's Comments

63. In its submission to the Department after the exhibition, the Council raised the following concerns regarding the negative effects of wind brought about by the Project:
- the immediate area is currently significantly affected by negative wind impacts;
 - the Wind Tunnel results show that several locations fail the wind criteria test. These locations are the footpaths along Regent Street and Marian Street and the internal courtyard on level 1; and
 - the wind analysis is insufficient and requires amendments and further wind tunnel testing.

64. The Council, in its comments to the Department on the RtS, maintained its objection to the Project and stated that most of the issues raised in its submission remain unaddressed. The Council stated that the amelioration treatments should further undergo wind model testing to confirm their efficacy.
65. The Council in its response to the 'questions on notice' dated 29 July 2019 summarised its concerns in relation to wind impacts into three points:
1. *"inappropriate Pedestrian Comfort Criteria has been used at some locations;*
 2. *amelioration through planting cannot be relied upon in the Level 1 courtyard;*
 3. *the efficacy of suggested amelioration treatments has not been verified through wind tunnel testing."*

Applicant's Consideration

66. A Pedestrian Wind Environment Study (**PWE Study**) prepared by Windtech Consultants Pty Ltd (**Windtech**) dated 23 August 2018 was submitted with the Application.
67. The PWE Study concluded that:

"wind conditions for the majority of trafficable outdoor locations within and around the development will be suitable for their intended uses. However, some areas will experience strong winds which will exceed the relevant criteria for comfort."

"The south-east area of the development on the Ground floor experiences uncomfortable conditions due to an exceedance in the comfort criteria. This is a result of the westerly winds side streaming along the southern aspect of the development and passing through the gap in the awning and on to the ground level."

"The north side of the adjoining Level 01 courtyard located on 60-78 Regent St is exposed to wind conditions which exceed the comfort criteria due to the west and south-west wind directions. The prevailing westerly winds are seen to funnel between the neighbouring developments to the west which are down washing into the courtyard area."

68. The PWE Study recommended the following mitigation measures in order to ensure that the pedestrian wind environment is acceptable:
- *"Inclusion of full spanning awning along southern aspect. The awning should not contain any gaps to prevent strong wind from passing down on to the ground level.*
 - *Strategic planting of densely foliating evergreen trees capable of growing up to 2.0m – 4.0m in height with 4.0m interlocking canopies along the centre line of the courtyard which adjoins 80-88 Regent Street with 60-78 Regent Street."*

69. Windtech reviewed the amended design which formed part of the RtS. Windtech in its *Letter for Pedestrian Wind Environment Mitigation*, dated 23 January 2019 concluded that:

"The awning along Marian Street has been amended to form a continuous, full-width awning which is impermeable to wind. Windtech is satisfied that the design presented meets the requirements of the treatment recommendation."

The landscaping on Level 1 has been amended to include planters with densely foliating trees. The tree variety should be selected so that during winter, the canopy remains densely foliating. Windtech is satisfied that the landscape design presented meets the requirements of the treatment recommendation, given its densely foliating state in winter for westerly wind mitigation."

Department's Assessment

70. The Department's AR stated that *"Council raised concerns regarding wind impacts, noting the immediate area is significantly affected by wind. Council advised the wind impacts as detailed in the submitted wind report are not acceptable as it creates additional negative wind impacts in an area currently significantly affected"*. The Department's AR also stated that *"twelve public submissions (75%) were also received raising concerns with wind impact, including the impact on the adjacent Deicota building"*.
71. The Department's AR states that the *"RtS provided amended plans to demonstrate a continuous full-width awning along Marian Street"*. The Department's AR noted that the Council maintained its original objection and recommended that further testing should be undertaken.
72. The Department's AR stated that *"a subsequent submission of additional information from the Applicant's wind consultant provided support that the proposed awnings and appropriate tree planting will achieve the requirements of their recommendations"*.
73. The Department's AR concluded that *"subject to the recommended treatments for the south-east ground floor frontage and level 1 courtyard, the proposal will not result in any unacceptable wind impacts for pedestrians or users of the subject building or residents of adjoining properties"*.

Commission's Findings

74. The Commission acknowledges the concerns raised by the public and the Council in relation to the potential impacts of wind associated with Project referenced in paragraph 63 and 64. However, the Commission accepts the Department's conclusion in paragraph 73 that subject to the recommended mitigation measures, the Project is unlikely to result in any unacceptable wind impact for pedestrians or residents of adjoining properties. The Commission finds that the inclusion of the awnings along the south-east frontage without breakages and the strategic planting of evergreen foliage in the level 01 courtyard will address all recommendations made by the PWE Study (see paragraph 68).

4.7 Overshadowing, Visual Privacy and Visual Impact

Council's Comments

75. In its submission to the Department during the exhibition, the Council raised concerns regarding the impacts of overshadowing. The Council stated that the overshadowing information supplied by the Applicant was incorrect and insufficient. The Council requested a complete overshadowing package to include measurements within hourly intervals and further detail provided about residential properties which are impacted.
76. The Council also provided comments on visual privacy within its submission. Council stated that *"insufficient building separation was achieved between the south elevation of the proposal and future development on the opposite side of Marian Street"* and recommended that although the Apartment Design Guide (**ADG**) doesn't apply to student housing, it should be followed closely to achieve a good outcome. The Council also stated that at a minimum, no reduction of the 4m setback should be permitted.
77. The Council, in its comments to the Department on the RtS, maintained its objection to the Project stating that *"The revised information confirms that residential properties within the conservation area to the south east of the site are impacted by the proposal"*. The Council also stated that the visual privacy issues had not been resolved and stated that a greater setback is required to achieve good amenity for both the Project Site and 90 Regent St.

Applicant's Consideration

78. The Applicant's ADR prepared by Bates Smart included a shadow analysis and stated that *"The proposal's reduction in both bulk and height will significantly reduce the overshadowing impact on the surrounding buildings, when compared to the approved DA"*.
79. The Applicant's EIS stated that the Project will be acceptable from an overshadowing perspective as:
- *"it does not contribute to any significant additional overshadowing due to the existing high-density development within the street block which includes buildings greater in height and massing than the proposal;*
 - *it results in less overshadowing than the approved development under SSD 7080 on site;*
 - *it will not preclude high level of solar access to any future development of 90 Regent Street given the site has east and north facing street frontages; and*
 - *the site's location at the southern end of the street block ensures it will not result in any additional overshadowing to the adjoining residential development at 7-9 Gibbons Street."*
80. In relation to privacy, the Applicant's EIS stated that *"The tower has been planned to largely eliminate overlooking to the neighbouring developments including the Iglu building to the north and the residential building at 7-9 Gibbons Street to the west"*. The Applicant's EIS also stated that *"the proposal protects the privacy and amenity of the adjoining development, and presents an improved privacy outcome compared to the approved development"*.
81. The Applicant noted that further changes were made to the Project to address privacy concerns. The Applicant's RtS stated that:
- "In response to GANSW's recommendation, the western façade has undergone minor design development to improve the interface with the adjoining residential buildings to the west."*
- "The volume facing Marian Street and the volume facing the Level 1 courtyard now read as distinct and different volumes, whilst the direction of windows and openings have been carefully positioned to maintain privacy to the adjoining 7-9 Gibbons Street residential apartments"*.
82. A Visual Impact Assessment (VIA) prepared by Ethos dated 4 September 2018 was submitted with the Application which considered the effect of view loss on neighbouring developments. The VIA concluded that:
- "... the proposal would have view impacts on adjoining dwellings in the Urba building, however, it is not reasonable nor the intent of the applicable planning controls for these views to be retained. The existing views obtained from the Urba building arise due to the under-developed nature of the subject site, and it is not reasonable nor appropriate to suppress or sterilise development based upon the retention of these views"*
- "The current proposal is for a building that is generally within the envelope of the approved building, including being lower in maximum height, and is therefore generally consistent with the view impacts that have previously been the subject of a thorough planning assessment by the NSW Department of Planning and Environment and the (then) Planning Assessment Commission. Having regard to these matters, the proposed Iglu development is considered to have acceptable view impacts which do not require any design amendments [or] other mitigation measures"*.

Department's Assessment

83. The Department's AR noted that *"twelve public submissions (75%) raised concerns the proposal will result in unacceptable loss of solar access to adjoining properties"*. The Department acknowledged that concerns were raised by the Council and the public regarding visual privacy and view loss. The Department also noted that the Council *"raised concerns that the proposed non-compliance to building height and floor space ratio would result in additional adverse overshadowing impact"*.
84. The Department's AR considered that the extent of overshadowing is consistent with a compliant scheme (in terms of height and setbacks). The exception is a minor area of additional overshadowing on the eastern side of the proposed tower shadow envelope which occurs at midwinter. The Department stated that *"the proposal will not result in any overshadowing impacts between 9 am and 3 pm during midwinter to the Urban or Deicota buildings as they are situated to the north-west and west of the development."*
85. The Department's AR considered the effect of overshadowing to be minor and concluded that the overall shadowing impacts on adjoining properties is acceptable because:
- the proposal is consistent with the 18-storey height control and is consistent with the form of development envisaged by the planning controls;
 - overshadowing is generally consistent with a compliant development except for minor overshadowing on the eastern side of the Project Site;
 - the proposal will not result in any additional material overshadowing impacts on the public domain;
 - the strategic objectives and development controls for the area envisaged an 18-storey building on the site;
 - the sites to the immediate south and south-west are also subject to an 18-storey height control. As such, a significant portion of the overshadowing generated by the proposed development would be subsumed within shadows generated by likely future tower developments; and
 - the proposal would not preclude solar access being achieved by any future development at 90-120 Regent Street and 11 Gibbons Street given these sites have street frontages facing east or west respectively.
86. The Department's AR concluded that *"the impacts on solar access on nearby existing and future residential developments are acceptable and consistent with those envisaged by the planning controls for the area"*.
87. In relation to visual privacy, the Department's AR stated that *"the Department considers the proposed setbacks/building separation distances are consistent with the street block and the emerging built form character of the Redfern Town Centre. Combined with the proposed design treatments, this provides an acceptable balance between providing a reasonable level of visual privacy to residents and allowing development to proceed in this high density area. The Department considers further increasing the setbacks of the proposed building to increase overall building separations would not result in any material improvements to visual privacy"*.
88. The Department's AR concluded that the Project is *"consistent with the established and emerging character including the building separations, of the Redfern Town Centre and the proposal will not result in any unreasonable visual privacy, overlooking or building separation impacts"*.
89. In relation to view loss, the Department's AR stated that *"the Department acknowledges the proposed development is generally consistent with the approved building envelop under SSD 7080 and the proposed development does not create any significant additional*

impacts". The Department concluded that the "overall view impacts are consistent with tower development within a high-density town centre location and (are) reasonable as the proposal is consistent with the maximum 18-storey height. The Department also concludes that the proposal will result in an improved outcome with regard to views, compared to the existing approved development."

Commission's Findings

90. The Commission acknowledges the concerns raised by the Council and the public relating to overshadowing and solar access referenced in paragraph 75 and 83. However, the Commission agrees with the view of the Department that the overshadowing impacts and impacts to solar access are acceptable because the Project is consistent with the form of development envisaged by the planning controls for the area (see paragraph 86).
91. The Commission notes that the Council raised concerns in paragraph 76 and 77 relating to the impacts of the Project on visual privacy. The Commission accepts the Department's conclusion in paragraph 88 and finds that the Project is unlikely to result in any unreasonable visual privacy, overlooking or building separation impacts.
92. The Commission accepts the Department's findings in paragraph 89 that the Project is generally consistent with the approved building envelope under the Existing Approval. The Commission accepts the Department's conclusion that the Project's impacts on views are consistent with tower development within a high-density town centre location and are therefore reasonable.

4.8 Footpath Widening and Dedication

Council's comments

93. In response to a 'question on notice' in the meeting with the Commission on 22 July 2019, the Council provided comments to the Commission dated 29 July 2019 confirming that an 800mm setback to William Lane (eastern side) has been provided for footpath widening. The Council recommended the following condition to ensure the footpath widening remains in place:

"A 800mm strip of land along the site's William Lane frontage is to be dedicated to Council to allow for the construction of a widened footpath. The details of the widened footpath are to be in accordance with Council's Technical Specifications and approval for the works under section 138 of the Roads Act, 1993 is to be obtained prior to issue of a Construction Certificate."

94. The Council in its comments to the Commission dated 30 July 2019, confirmed that the preferred option for the William Lane and Marion Street footpath dedication *"would be for the land to be dedicated to Council and that the footpath be widened as part of a roads act/public domain condition"*.

Applicant's Consideration

95. At the Project Site Inspection, the Commission requested clarity from the Applicant regarding footpath dedication. The Applicant confirmed in their response to the Commission dated 31 July 2019 that they *"are happy to dedicate the parts of the Marian Street and William Lane footpaths that fall on their site to Council following construction"*.

96. The Applicant in their comments to the Commission on 1 August 2019 provided the following draft condition wording relating to footpath dedication: *“Prior to the issue of an Occupation Certificate, the portion of Marian Street and William Lane footpath that falls within the site must be constructed and dedicated to Council”*.

Department's Assessment

97. The Department in its response to the Commission dated 22 August 2019, confirmed that the Department supported the wording and inclusion of two new conditions relating to footpath dedication (see paragraph 98).

Commission's Findings

98. The Commission considered the Council's recommended condition referenced in paragraph 93 and the Applicant's position referred to in paragraph 95 relating to footpath dedication. To ensure that the footpath is designed in accordance with Council's Technical Specifications and that the footpath is dedicated to the Council once construction is complete, the Commission has determined to impose the following conditions:

Public Domain Works - Marion Street and William Lane Footpath Dedication

B39 A 800mm strip of land along the site's William Lane frontage is to be dedicated to Council to allow for the construction of a widened footpath. Details of the widened William Lane and Marion Street footpaths along the site's frontage are to be in accordance with Council's Technical Specifications. Council's confirmation of this is to be obtained prior to issue of a Construction Certificate.

Footpath Dedication

E16 Prior to the issue of an Occupation Certificate, the portion of Marian Street and William Lane footpath that falls within the site must be constructed and dedicated to Council.

99. The Commission finds that a condition is a suitable instrument for footpath dedication, noting that the power to impose such a condition is authorised under section 7.11 of the EP&A Act. In accordance with section 7.13(2) of the EP&A Act, the Commission has had regard to the content of the Redfern-Waterloo Authority Contributions Plan 2006 (**RWACP**) and notes that no part of the RWACP relates to the provision or dedication of land to the Council. Accordingly, the Commission finds that the imposition of the condition is a legitimate method of securing the dedication of land for footpath widening.

4.9 Other

Compliance Reporting

100. The Department in its response to the Commission dated 27 July 2019, commented on the proposed amendments to conditions C4 and C10. The Department stated that:

“The proposed changes to the conditions which would allow the Secretary to reduce the timeframes for the submission of the Community Consultation Strategy and Compliance Monitoring and Reporting Program creates uncertainty as no specific timeframe is proposed.

It would also create an additional administrative process to consider and respond to a reduced timeframe.

It is therefore the Department's preference that if the IPC support reduced timeframes, they are clearly specified. The Department considers in this instance a period of two weeks could be acceptable, subject to the IPC being satisfied the Applicant could prepare and lodge the documentation by the required timeframe."

101. The Commission is satisfied that the Applicant can lodge the *Community Consultation Strategy and Compliance Monitoring and Reporting Program* referenced in paragraph 100 two weeks prior to the commencement of construction. The Commission has therefore determined to amend conditions C4 and C10 as follows:

Compliance Reporting

C4 *No later than 2 weeks before the date notified for the commencement of construction, a Compliance Monitoring and Reporting Program prepared in accordance with the Compliance Reporting Post Approval Requirements (Department 2018) must be submitted to the Department.*

Community Communication Strategy

C10 *A Community Communication Strategy must be prepared to provide mechanisms to facilitate communication between the Applicant, the Council and the community (including adjoining affected landowners and businesses, and others directly impacted by the development), during the design and construction of the development and for a minimum of 12 months following completion of construction:*

The Community Communication Strategy must:

- a) identify people to be consulted during the design and construction phases;*
- b) set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development;*
- c) provide for the formation of community-based forums, if required, that focus on key environmental management issues for the development;*
- d) set out procedures and mechanisms:*
 - (i) through which the community can discuss or provide feedback to the Applicant;*
 - (ii) through which the Applicant will respond to enquiries or feedback from the community; and*
 - (iii) to resolve any issues and mediate any disputes that may arise in relation to construction and operation of the development, including disputes regarding rectification or compensation.*

The Community Communication Strategy must be submitted to the Planning Secretary for approval no later than 2 weeks before the commencement of any work.

Work for the purposes of the development must not commence until the Community Communications Strategy has been approved by the Secretary, or within another timeframe agreed with the Planning Secretary.

The Community Communication Strategy, as approved by the Planning Secretary, must be implemented for a minimum of 12 months following the completion of construction.

Bicycle Parking

102. The Applicant's EIS stated that secure parking for 84 bicycles is provided and located at the ground floor storage room and at the mezzanine level storage room. The Applicant stated that these measures are consistent with the State's plans for walking and cycling. The Applicant's EIS also stated that end-of-trip facilities, including bicycle parking will be provided

for the commercial ground floor users at the rear of the site. The Applicant stated that based on their experience operating existing facilities, the 84 spaces is well in excess of the typical actual demand for bike parking amongst its students. The Applicant stated that *“due to the site’s close proximity to local tertiary education providers, Redfern Station and local retail facilities, it is considered that the vast majority of trips made by students will also include walking or public transport”*.

103. The Department’s AR noted that there are no specific bicycle parking requirements for student accommodation developments contained within the SSP SEPP however the Affordable Rental Housing SEPP (**AHSEPP**) requires one bicycle space for every five boarding rooms. The Department’s AR stated that the Department is satisfied that the Project provides sufficient bicycle parking, exceeding the AHSEPP, and provides end-of-trip facilities for the commercial users. The Department’s AR also noted that GANSW is satisfied with the street level bicycle parking which was improved through the SDRP process.
104. The Department’s response to the Commission dated 29 July 2019 concluded that *“the Department accepts the proposed bicycle parking can cater to student demand”*.
105. The Commission accepts the findings of the Applicant in paragraph 102 that the provision of 84 spaces is well in excess of the typical actual demand for bike parking amongst its students. The Commission also notes the Applicant is of the view that due to the Project Site’s close proximity to local tertiary education providers, Redfern Station and local retail facilities, the vast majority of trips made by students will also include walking or public transport. The Commission accepts the Department’s assessment and conclusion in paragraphs 103 and 104 that the Project provides sufficient bicycle parking.

Acoustic Privacy and Ventilation

106. The Applicant’s EIS stated that the Project will be provided with a central mechanical ventilation system for occupant comfort.
107. An Acoustic Assessment (**Acoustic Assessment**) prepared by Acoustic Logic Consultancy Pty Ltd dated 21 August 2018, was submitted with the Application. The Acoustic Assessment stated that the Project can only comply with internal noise criteria with the windows and doors closed and suggested that any alternate ventilation system should be designed so that adherence to the criteria is not jeopardised. At the Project Site Inspection, the Applicant demonstrated the ventilation mechanism of bedroom windows which met the noise proofing criteria when closed.
108. The Department’s AR noted that the Applicant’s Acoustic Assessment stated that the noise levels are only compliant with the Sydney Development Control Plan 2012 criteria when the windows are closed. The Department’s AR stated that acoustic privacy and ventilation are not mutually exclusive, and that windows and doors can be closed in noisy periods with ventilation supplemented through mechanical means. The Department’s AR concluded that *“the proposed development would achieve satisfactory acoustic privacy subject to a condition requiring building elements and glazing comply with the Acoustic Report and relevant guidelines and provisions.”*
109. The Commission accepts the Department’s conclusion in paragraph 108 that the Project can achieve satisfactory acoustic privacy subject to a condition requiring building elements and glazing comply with the Acoustic Assessment and relevant guidelines and provisions. The Commission is of the view that access to natural and mechanical ventilation provides for both an alternative for residents during periods of higher noise levels and enables the resident to adjust amenity levels to manage cross-stream ventilation when practical.

Registration of Easements

110. The Applicant's EIS stated that:

"The proposed building is to be constructed and operated as an integrated student accommodation facility with the adjacent existing building owned by Iglu at 60-78 Regent Street. Prior to the issue of a final Occupation Certificate for the proposed development, the properties which are the subject of this application are to be amalgamated to a single title with the property at 60-78 Regent Street."

111. To ensure that all required matters, including easements allowing access to the loading dock, lot consolidation, approvals, and other consents are appropriately registered on the lot title the Commission has determined to impose the following condition:

Registration of Easements

E7 *Prior to the issue of the relevant Occupation Certificate, the Applicant shall provide to the PCA evidence that all matters required to be registered on title including easements required by this consent, lot consolidation, approvals, and other consents have been lodged for registration or registered at the NSW Land Registry Services.*

4.10 Objects of the EP&A Act and Public Interest

Applicant's Considerations

112. The Applicant's EIS stated that the Project is consistent with the objects of the Act and is in the public interest. In relation to the objects of the Act, the Applicant stated:

"The proposed development is consistent with the objects of the EP&A Act for the following reasons:

- the provision of student accommodation in a location that has close proximity to tertiary education campuses and public transport supports the orderly and economic functioning of the city;*
- the proposal supports the orderly and economic use of land by ensuring that surrounding land parcels are able to be developed in the future;*
- is able to be satisfactorily serviced by existing utilities and communications services;*
- provides a new publicly accessible through-site link that will improve pedestrian flows and amenity in the area;*
- supports the principles of ecologically sustainable development by incorporating a range of measures to actively reduce energy and water consumption within the building; and*
- provides housing that is suitable for and attainable by students, thereby supporting the ability of regional, interstate and overseas students to access Sydney's major tertiary education institutions, whilst also reducing competition from students in the private rental market for more affordable housing products."*

113. In relation to public interest, the Applicant's EIS stated that:

"The proposed development is in the public interest as it will:

- Contribute to on-going redevelopment of the street block;*
- It will facilitate the economic and orderly development of land;*
- Demonstrate excellence in design and environmental sustainability;*
- Facilitate high levels of public transport usage for students;*
- Deliver a rejuvenated site that is not inconsistent with the character of the locality;*
- Create a more vibrant and activated precinct that provides a range of day to day*

- *services and offerings for students, employees, visitors and the local community; and*
- *Create new jobs during the construction and operational phases of the development.”*

114. In relation to ecologically sustainable development (**ESD**), the Applicant stated that it had considered the four principles of ecologically sustainable development. In relation to the precautionary principle the Applicant’s EIS stated that *“This EIS has not identified any serious threat of irreversible damage to the environment and therefore the precautionary principle is not relevant to the proposal”*.

115. In relation to the intergenerational equity principle, the Applicant stated:

“The proposal has integrated short and long-term social, financial and environmental considerations so that any foreseeable impacts are not left to be addressed by future generations. Issues with potential long-term implications such as waste disposal would be avoided and/or minimised through construction planning and the application of safeguards and management measures described in this EIS and the appended technical reports.”

116. In relation to the conservation of biological diversity and ecological integrity, the Applicant stated that *“The proposal would not have any significant effect on the biological diversity and ecological integrity of the study area”*.

117. In relation to the improved valuation, pricing and incentive mechanisms, the Applicant stated that:

“...Mitigation measures for avoiding, reusing, recycling and managing waste during construction and operation would be implemented to ensure resources are used responsibly in the first instance.

Additional measures will be implemented to ensure no environmental resources in the locality are adversely impacted during the construction or operational phases.”

Department’s Assessment

118. The Department’s AR considered the objects of the EP&A Act as set out in Table 2 below:

Table 2 – Department Consideration to the Objects of the EP&A Act

Objects of the EP&A Act		Department’s Consideration
(a)	To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources	The proposal redevelops an existing inner-city site that is close to existing services and has excellent public transport access. The proposal would not impact on any natural or artificial resources, agricultural land or natural areas. The provision of student housing contributes to the social and economic welfare of the community.
(b)	To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The Department has considered the project in relation to ESD principles. The Precautionary and Intergenerational Equity Principles have been applied in the decision-making process by a thorough assessment of the environmental impacts of the project. Overall, the project is generally consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act. In particular, the project has been accompanied by a BASIX certificate and includes the following ESD initiatives and sustainability measures.

		<ul style="list-style-type: none"> • Energy efficient LED lighting • Occupancy sensing and switching off lighting • Facility to power off unoccupied spaces • Extensive electrical and water metering and monitoring • High efficiency variable refrigerant flow air-conditioning system • Centralised air-conditioning controls to time-limit air conditioning systems and limit temperatures • Low-flow hydraulic fixtures • High efficiency instantaneous gas hot water system
(c)	To promote the orderly and economic use and development of land	The project will deliver student housing and associated ancillary uses, the merits of which were considered in Section 6.
(d)	To promote the delivery and maintenance of affordable housing	The project includes the provision of affordable housing and options for students.
(e)	To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	<p>The project involves redevelopment of a previously developed site and will not adversely impact on any native animals and plants, including threatened species, populations and ecological communities, and their habitats.</p> <p>The application has also been granted a Biodiversity Development Assessment waiver.</p>
(f)	To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The project would not have an adverse impact on nearby heritage items or conservation areas as addressed in Section 6.6
(g)	To promote the good design and amenity of the built environment.	The project achieves a high standard of design and amenity as addressed in Section 6.
(h)	To promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.	The project was accompanied by a Building Code of Australia report and a National Construction Code Section J report, which conclude the development is capable of complying with the requirements of the relevant sections of the Act.
(i)	To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The Department publicly exhibited the SSD application as outlined in Section 5, which included consultation with Council and other government agencies and consideration of their responses.
(j)	To provide increased opportunity for community participation in environmental planning and assessment	The Department publicly exhibited the SSD application as outlined in Section 5, which included notifying adjoining landowners, placing a notice in the newspaper and displaying the application on the Department's website and at Council's office.

Source: Department's Assessment Report

119. The Department's AR considered that the Project is in the public interest as it will provide for:

- *“Ground floor retail and commercial space to facilitate an active streetscape within the Redfern Town Centre;*
- *Delivery of 265 student beds within close proximity to public transport, employment opportunities and services;*
- *Delivery of up to 170 construction jobs and 4 operational jobs; and*
- *A development that exhibits design excellence and achieves adequate residential amenity in the form of solar access, communal open space and noise”*

Commission's Findings

120. In considering the merits of the Application, the Commission has had regard to the objects of the EP&A Act.
121. Under section 1.3 of the EP&A Act, the most relevant objects applicable to the Project are:
- b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
 - c) to promote the orderly and economic use and development of land,
 - d) to promote the delivery and maintenance of affordable housing, and
 - g) to promote good design and amenity of the built environment.
122. The Commission finds that the Project is consistent with the objects of the because the Project:
- facilitates ecologically sustainable development through incorporating energy efficient lighting and heating and cooling systems;
 - provides orderly and economic use and development of land and the delivery and maintenance of affordable housing through providing affordable student accommodation; and
 - provides a high standard of design and amenity.
123. As identified in paragraph 121, object b) which relates to ESD is one of the most relevant objects to this Project. The Commission notes that section 6(2) of the *Protection of the Environment Administration Act 1991* states that ESD requires the effective integration of social, economic and environmental considerations in its decision-making, 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; and*
 - d) *improved valuation, pricing and incentive mechanisms.*
124. The Commission has considered representations, advice and comments provided by government agencies and the community. The Commission finds that the Project is generally consistent with the ESD principles, the objects of the EP&A Act, and is in the public interest because it will:
- provide 265 student beds within proximity to public transport, employment opportunities and services, see paragraph 119;
 - deliver up to 170 construction jobs and 4 operational jobs, see paragraphs 113 and 119;
 - involve the redevelopment of a previously developed site and not adversely impact any native plant or animal populations or their habitats, see paragraph 118;
 - provide ground floor retail and commercial space to facilitate an active streetscape within the Redfern Town Centre, see paragraph 39; and
 - exhibit design excellence and achieve adequate residential amenity in the form of solar access, communal open space and noise, see paragraphs 39, 90 and 109.

5 HOW THE COMMISSION TOOK COMMUNITY VIEWS INTO ACCOUNT IN MAKING ITS DECISION

125. The views of the community were expressed through public submissions and written comments received as part of the Department's exhibition of the Application. The Commission carefully considered all views as part of making its decision. The way in which these concerns were considered by the Commission is set out in **section 4** above.

6 CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

126. The Commission has carefully considered the Material before it.

127. The Commission finds that:

- the Project will have a positive social impact associated with the provision of student accommodation (see Table 1);
- the Project exhibits design excellence and will improve the visual amenity of the public domain (see paragraph 39);
- the proposed built form, building height and setback are acceptable (see paragraphs 60-62);
- the Project is unlikely to result in any unacceptable wind impact (see paragraph 74);
- the Project is unlikely to result in any unacceptable overshadowing, visual privacy or visual impacts (see paragraphs 90-92); and
- the Project is generally consistent with the ESD principles, the objects of the Act, and is in the public interest (see paragraph 124).

128. For the reasons set out in paragraph 127 above, the Commission has determined that consent should be granted subject to conditions which have been designed to:

- prevent, minimise and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the on-going environmental management of the development.

129. The reasons for this Decision are given in this Statement of Reasons for Decision dated 4 October 2019.



Stephen O'Connor (Chair)
Member of the Commission



Carol Austin
Member of the Commission



Dr Peter Williams
Member of the Commission