

**SUBMISSION BY MARRICKVILLE COUNCIL
ON THE PROPOSED SECTION 75W MODIFICATION TO
CONCEPT APPROVAL FOR A MIXED USE DEVELOPMENT
AT 78-90 OLD CANTERBURY ROAD, LEWISHAM**

MARCH 2013

Introduction

Council appreciates the opportunity to comment on these proposed Concept Plan modifications. By way of background, Council has always supported the redevelopment of this site for an appropriately-scaled medium/high-density development, particularly as the site has good access to public transport and services, including the new light rail extension.

However, as planning of the site has progressed, the Council and the community have expressed opposition to the excessive scale of the proposal compared to that permitted by Council's planning instruments and masterplan for the McGill Street precinct. Council recognises that this opposition has contributed to a small reduction in the scale of the development as approved. Notwithstanding, Council maintains the view that the scale of the development is excessive. This is not only an important issue in its own right, but has contributed to some of the design issues within the s.75W modification.

As is apparent from the list of modifications below that are not supported (in whole or in part), Council is concerned that the overall impact of these modification will be negative. Some of these issues stem from the excessive scale of the development and can only be addressed by reducing the scale, some by redesign and others by a commitment by the proponent to providing a well-designed development that incorporates best-practice sustainability measures.

Summary of modifications not supported by Council

Whilst several of the s.75W modifications are supported, or at least raise no issues, several raise concerns for Council and are not supported. Modifications that are not supported are:

- *changes to the quantity and location of public and private open space* – due mainly to severance of public pedestrian and cyclist access through the site;
- *deletion of the William Street car park access point and amendment to the car park access ramp on the western part of the site* – due mainly to the impact of the ramp on the free movement of pedestrians and cyclists to and from the future GreenWay corridor;
- *reduction of footpath width along William Street* – due to the impact on pedestrian movements along the footpath, particularly wheelchair users;
- *alteration of the footprint at the southern end of Building A* – due to the impact on sight lines from the central open space corridor to the light rail stop and Allied Mills site;
- *ability to convert retail/commercial space to residential in Buildings A, E & G* – due to the need to maintain active frontages to the public area near the light rail stop and along Old Canterbury Road;
- *deletion of beyond-BASIX energy efficiency requirements* – due to the impact on Council's desire for the development to represent best practice sustainable design;
- *deletion of affordable rental housing requirement* - due to the impact on Council's desire for the development to represent best practice sustainable design;

- *deletion of requirement to provide public art* – due to the impact on Council's desire for the development to represent best practice sustainable design;
- *deletion of requirement to comply with Director General's Design Excellence Guidelines* - due to impact on Council's desire for the development to represent best practice sustainable design; and
- *reduce solar access requirement from 3 to 2 hours* – due to on Council's desire for the development to represent best practice sustainable design.

Comments on each of the modifications

Note the modifications have been numbered by Council, not by the proponent in the s.75W application.

Modification 1 – changes to the quantity and location of public and private open space

With regard to the quantity of public and private open space, Council notes the modifications result in a slight decrease in public open space, but provision will remain above the 3,000 sqm minimum set by the Concept Approval. Notwithstanding the fact that this reduction in public open space is minor and within approved limits, Council does not support any reduction in the quantity of open space provided. The substantial increase in private open space is also not supported, as this has negative impacts on public access.

While not discussed in the proponent's s.75W report, one of the most significant modifications proposed is the alteration of *Drawing 22.1 Green Space Calculation Analysis (800 Revision E)*, which is linked to Condition A2 of the Concept Approval. This amended drawing will result in significantly reduced public access through the development as a result of the conversion of previously public open space to private open space.

Of particular importance are the north-south pedestrian connections between the light rail stop and William Street. Council notes in the amended drawing that a narrow 1m wide north-south public access path will be provided through the site from Brown to Hudson Street. This width is inadequate. All these pedestrian connections, previously advocated by Council, not only facilitate pedestrian permeability through the site but also assist pedestrian movements away from Old Canterbury Road at Hudson Street where no signalised crossing will exist.

Council notes that Figure 12.3 of the proponent's modification report includes a proposed signalised intersection at Old Canterbury Road and Hudson/Henry Streets, but these signals have been rejected on multiple occasions as a possibility by Roads & Maritime Services (RMS). Furthermore, s.75W report Figure 12.2 includes a statement that the boulevard along Hudson Street *"creates a linkage from Henry Street to the greenway and provides single intersection access..."*, which in fact will not be the case. This means pedestrians and cyclists will need to use the existing crossing at Old Canterbury Road/Longport Street and will access this crossing using the north-south links.

Condition 15 should also be amended to ensure the public access link outlined in the proposed modification between the light rail stop and Longport Street has legal status, as follows: *"private road adjacent to the light rail corridor and pedestrian link, between the light rail stop and Longport Street"*.

Council therefore strongly objects the proposed reallocation of private and public open space as it will result in the severance of most key publicly accessible pedestrian links through the

site and reduce pedestrian permeability across the precinct in general. Council requests that the approved public/private space arrangement be maintained. The approved drawing in combination with Condition 15 will ensure adequate public rights-of-way are maintained through the development in perpetuity.

It is also noted that the drawing 12.5 Building Height shows the south end of buildings E and C penetrating into the pathway on the northern end of the main open space, which appears to reduce the required 20m minimum width of the open space (excluding on-street parking and adjacent footpath) under condition B3 of Part B: *Modifications of the Concept Approval*. This is unacceptable and should be rejected to maintain a clear width of path and view, with Building A being as a minimum behind that view line, but preferably set back as per the original approved plans.

Finally, Annexure 2 (Access) describes a “*new public footbridge extending from the northern end of Brown Street*” – it is not clear where this footbridge will lead to, nor is there any indication of any such footbridge on the provided maps/diagrams.

Modification 2 - deletion of the William Street car park access point and amendment to the car park access ramp on the western part of the site

From a purely vehicular traffic management perspective, the deletion of the William Street vehicular access point (with all traffic using Hudson Street) has merit, and it is noted the potential impact of additional traffic on Hudson Street would be negated by a reduction in traffic from a reduction in GFA. Council also notes the ramp complies with the relevant Australian Standard AS2890.2:2002

If this modification were to be adopted, development traffic would be eliminated from William/Brown Streets, and there would be no need to ban the right turns at William and Brown Streets. Therefore condition 19 (Schedule 3) could be amended as follows: “*Future Development Applications shall provide for left in left out access to the development via Hudson and McGill Streets at all times. The proponent shall comply with the Local Traffic Committee requirements in relation to banning right turns at these intersections.*”

However, from a wider transport and urban design perspective, the deletion of the William Street access ramp and creation of the ramped driveway along the western boundary of the site adjacent to Buildings A and B is not supported. The proponent’s main rationale for this ramp - a more efficient basement layout - is difficult to assess without a basement layout plan being included in the s.75W application.

The ramp is not supported as it would create a considerable visual and physical barrier to pedestrian movements between the development and future GreenWay on the eastern side of the light rail line. It will also remove any potential to create a shared-zone along this section of roadway. The ramp also represents a significant reduction in what would otherwise be useable public open space, and should not come at the expense of diminished functionality and visual appeal of a key publicly accessible corridor between Building A and B and the Greenway Corridor.

Council had always envisaged through its *McGill Street Masterplan* that the road along the western boundary of the site would be an attractive and seamless link to the Greenway corridor. Whilst the redesigned ramp arrangement increases open space in the area between buildings B and D, it reduces the functionality and visual appeal of the road along the western boundary of the site. The ramp arrangement also results in the creation of a narrow footway constrained by walls or fences. This is further erosion of site permeability, including the attractiveness of access to/from the Light Rail Stop and the GreenWay.

The function served by this ramp could instead be met by accommodating the ramp predominantly within the building form in a suitable location. Alternatively, it could be met by extending the ramp further into the area between building B and C, although this option is less preferred.

Modification 3 - reduced footpath width along William Street

Council notes the application proposes to amend Condition 18 (Schedule 3) which sets out the minimum road and footpath widths adjacent to the site. The applicant wishes to amend the condition to reflect the changes proposed to the private access road and to reduce the width of the footpath proposed on the development side of William Street.

Council does not support the proposed reduction of the footpath width along the development side of William Street from 1.8m to 1.45m, particularly as no justification has been provided for the reduction. A width of 1.8m (excluding the kerb) is the desired minimum footpath width recommended by Austroads to allow for wheel chair access (Guide to Road Design Part 6A – Pedestrian & Cycle Paths). A footpath width of 1.8m also allows for the inclusion in the footpath of light poles, street signs, street trees and other public infrastructure, while still maintaining adequate pedestrian access.

It is therefore proposed that Condition 18 (Schedule 3) be amended as follows:

“Future Development Applications shall provide for minimum road widths as follows:

- (a) The footpath on the south side of William Street shall be a minimum of 1.8 metres. The existing carriageway and footpath on the northern side shall be maintained at their current widths;*
- (b) Brown Street shall be a minimum of 9.6 metres (6 metre carriageway and 1.8 metre footpaths on each side);*
- (c) Hudson Street shall be a minimum of 6 to 8.5 metres (6 metre carriageway and 2.5 metre indented parking bays); and*
- (d) the north-south private accessway shall be a minimum of 9.5 metres (incorporating 6.0 metre carriageway and 2.1 metre footpath on the eastern side.”*

As is discussed under Modification 1 above, the absence of a signalised crossing or any other form of crossing at the Old Canterbury Road / Hudson Street / Henry Street intersection has repercussions for the movement of pedestrians and cyclists to, from and through the site. Pedestrian links from the light rail stop to the signalised crossing at the Longport Street / Old Canterbury Road intersection are particularly important. Included in these links is the William Street footpath. This adds weight to the argument that the William Street footway not be narrowed.

Modification 4 - alter the footprint of buildings A and B

Council notes from that proponent's s.75W report that through building footprint alterations, the proposed development will have a total GFA of 30,483 sqm, which remains below the 39,896 sqm approved. Whilst Council accepts the GFA is below the permitted maximum, the GFA approved is in Council's view excessive.

No concerns are raised with the redesign of the gap between Buildings A and B to alter the angle of the open space area and provide greater separation/amenity between buildings A and B. However, it appears this has resulted in the ground floor of Building A being moved further south into the main open space area adjacent to Hudson Street. It now protrudes

into the line of sight of the footpath running adjacent to buildings E and C. This is not supported as it may obstruct the sight line connecting across to the future potential GreenWay and through to the open space of the former Allied Mills redevelopment.

Modification 5 - minor changes to building heights

Council notes that the modified heights are within approved height limits, and accepts the rationale for this modification as being compliance with solar access requirements and improved building modulation. Council also notes the proposed remodelling of the buildings will result in a slight reduction in building height adjacent to the open space. It will also result in the setting back of some of the higher building elements and lower elements which wrap around the building to create a more attractive podium form for Buildings B, C, F and G. This is however not the case for Buildings A, D E.

Concern is still raised about the excessive scale, especially in relation to the interface of buildings A and E with the main open space corridor. Concern is also raised about the excessive stepping of the built form, which may be aesthetically unappealing. In this regard, it is critical that the architectural design creates a unified design, not simply a design based on achieving the maximum GFA within allowable building envelopes to comply with solar access requirements.

Modification 6 - allow retail to residential conversion (and vice-versa) if warranted by demand, and permanently convert retail to residential along the north-south ramp

Council notes the first part of this modification - the proposal to redefine the requirements for ground floor retail and commercial in Buildings A, C and G to allow for dual-use spaces on those parts of those buildings. This is to ensure these spaces can be readily adapted for either residential use or non-residential use according to demand. The stated reason for allowing for such conversion is to avoid such spaces sitting vacant.

Council notes the rationale for allowing flexibility in converting retail to residential use and raises no objection to such conversion in any building except for:

- Building A in the area fronting Hudson Street on the ground floor, which should be required to have retail/commercial uses to serving the light rail station and main open space; and
- Buildings E & G fronting Old Canterbury Road on the ground floor, where initially retail and/or commercial use should be required activate Old Canterbury Road.

Any changes to land use in the future should be required through changes to Marrickville Local Environmental Plan (MLEP) 2011. Council also notes there are currently inconsistencies regarding the proposed land uses under the approved drawings 12.2 *Concept Plan* and 12.4 *Subject Site Concept Plan – Land use Diagrams*, referred to in A2 of the Concept Approval. These inconsistencies should be clarified in the amended approval.

The second amendment involves deleting the requirements for non-residential landuse frontage towards the proposed north-south vehicular access ramp. Council raises no objection to this amendment as it is agreed that retail/commercial use would not likely be viable in this location due to aspect and low pedestrian traffic.

Modification 7 - delete energy efficiency requirements beyond BASIX

Council does not support the deletion of the commitment to the beyond-BASIX sustainability measures provided in the Ecologically Sustainable Development (ESD) report within the

Environmental Assessment (EA) report. In developing the *McGill Street Masterplan* and MLEP 2011 and MDCP 2011, Council had always envisaged that a development of this size and location should showcase best practice sustainability. A commitment to energy efficiency measures beyond the minimum mandatory standard of BASIX is considered to be an important part of this initiative.

Modification 8 - delete affordable rental housing requirement

The arguments provided in support of removing provisions requiring the proponent to provide affordable rental housing via the VPA process are not supported. The absence of a planning framework at the State or local level is not a justification for this development to exclude some provision. Despite the absence of such a framework, affordable housing contributions have recently taken place as part of other large scale rezonings, such as those at Barangaroo and Harold Park.

As part of its submission on the Concept Plan, Council had sought to have affordable housing provisions included in MLEP 2011, but this was not supported by the DP&I at that time. Moreover, Council argued that as part of any rezoning process (which the site would have been subject to in the absence of the now repealed Part 3A) affordable housing provisions would have formed part of any VPA associated with any rezoning, as has occurred at Harold Park for example.

It is also noted that the proponent's statement of commitments included a commitment to provide affordable housing on the site, and this issue is currently being addressed as part of the VPA negotiations. To remove these provisions would represent a failure on the part of NSW Government to assist in the provision of affordable housing. This is particularly the case for this site, given the significant upzoning that has occurred, and the benefits that the site enjoys as a transit-orientated development.

Modification 9 - delete aviation authority height approval within the Statement of Commitments

Council raises no objection to this modification, noting that aviation authority height approvals are already covered in Concept Approval conditions.

Modification 10 - ability to gain airport authority approvals after lodging development application – as there is not sufficient time to gain these approvals beforehand

Council raises no objection to this modification, noting that the proponent is already preparing to apply for aviation authority approvals.

Modification 11 - delete requirement to provide public art

Along with affordable housing and beyond-BASIX energy efficiency provisions, Council had always envisaged that provision of public art was integral to creating a best practice sustainability development on this site. Council therefore does not support the deletion of the Concept Approval's requirement for public art.

Modification 12 - delete requirement to comply with Director-General's Design Excellence Guidelines

Council does not support the deletion of this requirement, as it is reasonable to expect for a development of this size that a design competition would be convened. Such a competition would help ensure the design was at an appropriate scale for the site and did not result in

several of the negative issues discussed in this report, such as those discussed under Modifications 1, 2, 4, 6, 7, 8, 11 and 13. It would ultimately assist in producing a development that could be showcased as a good practice example of visually appealing and sustainable design.

Modification 13 - reduce solar access requirement from 3 to 2 hours

Although the modification sought would comply with the Council's DCP and SEPP 65 requirement of 2 hours of solar access to the specified percentage of dwellings, Council would like to see a higher standard apply to this development, which could be achieved if the scale of the development was appropriate. The fact that development surrounding the site is of lower density adds further argument for achieving a higher solar access standard.

Modification 14 - miscellaneous procedural amendments

Council raises no objection to miscellaneous procedural amendments to the Concept Approval necessary to implement the above modifications which are supported by Council.