

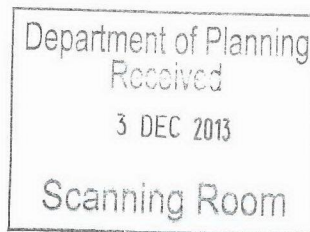
OUR REF: 4580
YOUR REF: MP 08_0195 MOD 4

28 November 2013



PCU049822

Mr Mark Brown
A/Team Leader
Industry, Social Projects and Key Sites
NSW Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001



Dear Mr Brown,

**SECTION 75W MODIFICATION TO THE CONCEPT PLAN APPROVAL FOR
MP 08_0195 AT 78-90 OLD CANTERBURY ROAD, LEWISHAM,
SEEKING APPROVAL TO AMEND CONDITION B3.**

I refer to your letter received by Council on 6 November 2013 seeking Council's comments on the above S75W application to amend Condition B3 relating to solar access to the central open space.

Council notes that the proponent is seeking to amend the condition as it has a *serious effect on the commercial viability of the project* and that the reduction in GFA to comply with Condition A3 as imposed by the Planning Assessment Commission (PAC) is *unlikely to have been in the range of expectations by the PAC*.

Council does not believe that the consequences of Condition B3 were unintended, as the process that the PAC engaged in to determine the original application was both extensive and robust and supported by a comprehensive assessment report. Furthermore, the commercial viability of the project is not a matter that should be given any weight, noting that Meriton purchased the site from the original proponent of the Part 3A application in full knowledge of the terms and conditions of the of the Concept Approval. **On this basis Council does not support the S75W modification application.**

In relation to the specific arguments put forward to justify the reduction in the area of open space that should receive 2 hours of direct sunlight in midwinter from 50% to 30% the following comments are provided:

- *30% is justifiable based on the central open space being predominately used as a thoroughfare.*

ENGLISH

IMPORTANT

This letter contains important information. If you do not understand it, please ask a relative or friend to translate it or come to Council and discuss the letter with Council's staff using the Telephone Interpreter Service.

GREEK

ΣΗΜΑΝΤΙΚΟ

Αυτή η επιστολή περιέχει σημαντικές πληροφορίες. Αν δεν τις καταλαβαίνετε, παρακαλείστε να ζητήσετε από ένα συγγενή ή φίλο να σας τις μεταφράσει ή να έλθετε στα γραφεία της Δημαρχίας και να συζητήσετε την επιστολή με προσωπικό της Δημαρχίας χρησιμοποιώντας την Τηλεφωνική Υπηρεσία Διερμηνέων.

PORTUGUESE

IMPORTANTE

Este carta contém informação importante. Se não o compreender peça a uma pessoa de família ou a um/a amigo/a para o traduzir ou venha até à Câmara Municipal (Council) para discutir o assunto através do Serviço de Interpretes pelo Telefone (Telephone Interpreter Service).

ARABIC

هَامَّ
تحتوي هذه الرسالة معلومات هامة. فإذا لم تستوعبها يرجى أن
تطلبوا من أحد أقربائكم أو أصدقائكم شرحها لكم، أو تفضلوا إلى البلدية
واجلبوا الرسالة معكم لكي تناقشوها مع أحد موظفي البلدية من خلال
الإستعانة بخدمة الترجمة الهاتفية.

VIETNAMESE

THÔNG TIN QUAN TRỌNG

Nội dung thư này gồm có các thông tin quan trọng.
Nếu đọc không hiểu, xin quý vị nhờ thân nhân hay
bạn bè dịch giúp hoặc đem đến Hội đồng Thành
phố để thảo luận với nhân viên qua trung gian Dịch
vụ Thông dịch qua Điện thoại.

MANDARIN

重要资料

本信写有重要资料。如果不明白，请亲友为您翻译，
或到市政府来，通过电话传译服务，与市政府工作人员
讨论此信。

Comment: Council notes that the PAC's report stated that the private open space in the applicant's concept plan appeared to operate as a through site link rather than useable open space. The PAC was highly critical of this approach to the central open space, which it noted needed to be of good quality and required additional modification to ensure that it functioned as a useable space. Therefore, the claim that this is justifiable is considered highly subjective, and not in accordance with the objective to provide an area of central open space that is high quality usable and practical, offering the opportunity for a range of concurrent complementary uses. The assertion that the area *"will be used predominantly for the existing community to access the light rail station"* is incorrect.

- *... It is also not inconsistent with the views of the Department of Planning and Infrastructures views (sic) as outlined on pages 35-37 of their Assessment Report which states significant reductions in building height in accordance with the Masterplan would be required to achieve adequate solar access to 50% of the open space area in mid-winter. The department does not consider that such reductions are justified, given the ability of the site to accommodate a high density transit oriented development.*

Comment: The PAC's report took into consideration the Director-General's Environmental Assessment Report but concluded that the reductions required to achieve adequate solar access were justified to "ensure a good quality and useable open space to the local community".

- *... The function and primary use of the central open space has been governed by Council's DCP for pedestrian connection to the Lewisham Light Railway station that is to commence operation in February 2014. Accordingly, the central open space only has a limited function for use by residents for visual relief and minimal passive interaction.*

Comment: Council refutes the assertion that the MDCP 2011 establishes a primary function for the open space as a pedestrian link.

This is demonstrated in Chapter 9.45 (McGill Street Precinct) within Part 9: Strategic Context of the Marrickville Development Control Plan 2011 which established a desired future character for the McGill Street precinct (which includes the subject site).

The DCP clearly establishes the aim *to provide public open space which serves as an important gathering place and focal point for informal leisure and recreation* and the Masterplan aims *to create a new, centrally located local park to open up the site and provide a useful and meaningful landscape space that encourages access to the GreenWay.*

This is further reiterated in the PAC's report which notes that the central open space is the key to the Masterplan as it provides a much needed public open space in the area where there is a shortage of good quality public open space. Further, in its report the PAC agreed with Council's assertion that most of the public and private open spaces proposed in the concept plan are not clearly defined and their key function appear to be through site links or drainage reserve rather than useable open space.

It is highly misleading for the applicant to infer that Council did not intend the public open space to function as anything other than an access way. Council has consistently submitted that the essential function of this public open space is as a recreational space for all residents to utilise and enjoy.

- *... The DCP does not provide any solar access requirements for the central open space and a comparative shadow analysis with the McGill Street Precinct Masterplan in the Director General's Report to the PAC concludes that the shadow impacts are acceptable and that the proposed public open space will receive good solar access during most of the year (other than midwinter).*

Comment: The Masterplan sets clear aims and objectives for the McGill Street Precinct, including the provision of useful and useable public open space. It is noted that the Director-General's Environmental Assessment Report concluded that the shadow impacts were acceptable; however this assertion was not accepted by the PAC in its final report. Rather, the PAC concluded that *its quality is considered very poor because it will be overshadowed in mid winter for most of the day*. Further, that *solar access to the central open space must improve to ensure a good quality and useable open space to the local community*. To this end, PAC recommends that *at least 50% of the "central open space should receive a minimum of 2 hours of sun during mid winter*.

- *... the significant reduction in GFA...is unlikely to have been in the range of expectation by the PAC.*

Comment: This is a highly subjective statement. The PAC report does not indicate what it considers to be a likely outcome of the required amendments. Rather, the PAC acknowledges that *to meet the central open space requirement, the proposed development requires additional modifications with a likely further reduction in the development intensity either through bulk or height reduction*. It is evident that the PAC considered the need to improve the quality of the proposed public open space as paramount, regardless of any impacts on the economic viability of the development.

Further, the PAC commended Council on the development of a Masterplan to guide future development on the site and stated that *future development on the site should be as closely aligned to the Masterplan and the Marrickville LEP 2010 (sic) as possible*. It is noted that the Masterplan set a maximum FSR for the greater McGill Street area, which includes the subject site, of 1.7:1.

- *...the central open space is not large enough to be a full multi-purpose facility.*

Comment: The applicant has provided no evidence to support this claim. Notwithstanding, this argument would logically lend support to improving the quality of the existing space, rather than downgrading its usability.

Thank you for the opportunity to comment. For further enquiries please contact Council's Manager Development Assessment, Judy Clark, on 9335 2251.

Yours sincerely,



Tim Moore
Director Planning and Environmental Services

TRIM NO: 88590.13