

Supplementary Assessment Report and Recommendation

SUMMARY

Applicant	Zhinar Architects
Owner	Marque Eight Pty Ltd.
Application No.	DA-503/2017
Description of Land	Lots 7-12 Section 2 DP 846, 2 Mark Street & 1A, 1 and 3 Marsden Street, LIDCOMBE
Proposed Development	Demolition of existing structures, tree removal and construction of a ten storey mixed use development comprising a ground floor commercial tenancy and 149 residential units over four levels of basement car parking
Site Area	2,441m ²
Zoning	Zone B4 - Mixed Use
Disclosure of political donations and gifts	Nil disclosure
Issues	- Height of the building. - Overshadowing to existing and recently approved buildings to the south on Marsden Street -

1. Recommendation

That Development Application No. DA-503/2017 for Demolition of existing structures, tree removal and construction of a ten storey mixed use development comprising three ground floor commercial tenancies and 149 residential units over four levels of basement car parking at 2 Mark Street & 1A, 1 and 3 Marsden Street, Lidcombe, be approved.

PL-29/2017

A pre- application meeting was held on the 15 June 2017 between the applicant and Council Officers to discuss the development proposal which at that time related to 132 apartments over ten storeys. In summary, the development proposal raised a number of issues and matters that required significant amendments and alternate design options explored.

Issues included:

- Site isolation for the one remaining lot in the block to the east of the subject site.
- Excessive building height.
- SEPP 65 non compliances in the presented scheme.
- Entry façade treatment,
- Communal open space, deep soil and landscape plan requirements.
- Building separation.
- Lack of waste facilities at each level.

In addition, the applicant was also advised of various documents required for lodgement.

The development application was lodged on November 29, 2017 for determination.

13 April 2018

Following discussions with Council regarding basement issues the applicant submitted issue B amended plans that dealt with the following:

- Basement extension and deep soil deletion.
- Waste and service truck loading area & driveway ramps (traffic issues were discussed and addressed together with Council's engineers.
- Commercial areas combined into one and removal of a commercial corridor.
- Addition of glazing/windows to the corner units at southern side.

However, these plans were later superseded.

7 May 2018

Council issued a request for additional information letter to the applicant raising the following issues with the proposal:

- **Site isolation:** Council requested that plans demonstrating how the adjoining residual lot could be incorporated into the subject development.
- **Solar Access / Ventilation diagrams** to be provided.
- **Amended plans:** Plan amendments requested to redesign apartments to the eastern boundary as they were long and narrow and offered unacceptable amenity.
- **Engineering matters:** Council detailed a number of requirements relating to the discharge of stormwater within the development , traffic /parking / loading and waste management within the subject site.

28 / 29 May 2018

The applicant submitted amended plans and additional information to Council, including:

- Amended Architectural Plans and Shadow Diagrams.
- Stormwater plans.
- Planning Response to Additional Information Request by letter.
- Response to Council's Acoustic issues raised.

Site isolation – The applicant justifies the site isolation issue with the following satisfactory response.

It has been agreed that site isolation is not an issue for No. 5 Marsden Street as a result of the proposed development. No.5 Marsden Street is currently used as a car park in association with the existing business located at 14 Railway Street. The proposed development does not result in the isolation of No. 5 Marsden Street for the following reasons:-

- *No. 5 Marsden Street is used in conjunction with No.14 Railway Street and would require both sites be purchased which, from a financial and design perspective, is unreasonable.*
- *If No.5 Marsden Street and No.14 Railway Street were included as a part of the application, it would further isolate No.16 Railway Street (as 18-24 Railway Street is approved as a residential flat building under DA-423/2016);*
- *If No.5 Marsden Street and No.14 Railway Street were included as part of this application, the shape and orientation of the resulting lot will not be suitable for development in conjunction with the current design for 2 Mark Street & 1-3 Marsden Street.*

Furthermore, contact has been made to the owners of No. 5 Marsden Street and 14 Railway Street and they have expressed that they have no intention to sell the property. For the above reasons a concept plan for No. 5 Marsden Street has not been provided as it is not deemed necessary in this instance.

14 June 2018

A report recommending deferred commencement approval was put for to the Sydney City Central Planning panel, however, the matter was deferred by for the following reasons:

1. Sepp 55 – Remediation of Land had not been properly addressed, further site testing / investigation was required.
2. The presented proposal was not satisfactory for overshadowing of the development and 10 – 14 Marsden Street or the recently approved development at 4 – 14 Mark Street. The building should be redesigned to comply with Auburn DCP 2010 requirements for solar access and maximum height allowed under the Auburn LEP 2010.
3. Lack of deep soil planting as required by the Apartment Design Guide.
4. Further detail required regarding the roof top communal terrace to show seating and BBQ areas.
5. Tree number 2 and 7 are required to be shown in the landscape plan as being retained / protected in accordance with arborist recommendation.

The applicant submitted amended architectural plans and landscape plans 28 June 2018 along with a planning letter. This information and plans was deficient in that it did not provide any response to the impacts on the development at 4 – 14 Mark Street. There were also questions in relation to the percentage of apartments able to achieve sufficient solar access for a future development scenario and further information was requested.

Further amended plans were received 23 July 2018 (**now referred to as Option 1**) and the report on further contamination tests was submitted 24 July 2018.

2. The amended plans did not reduce the height of the building from the original proposal. Instead the applicant presented a planning letter and updated plans -inclusive of solar studies that considered the following:

- I. The proposals impact on the existing development at 10- 14 Marsden Street.
- II. The proposals impact on development concept for 10- 14 Marsden Street where it is developed to its full potential.
- III. The proposals impact on recently approved but unbuilt development at 4 – 14 Mark Street
- IV. A conceptualized built form and FSR yield for the proposed site where 70% solar access would be maintained to 4-14 Mark Street.

A summary of findings relating to each item presented follow:

- I. At present, whilst the six north facing units at No's 10-14 Marsden Street receive 6 hours of solar access (9am-3pm mid-winter), the total development does not meet the 70% requirement as specified by the ADG. In total, this existing development has 57.15% of units that meet the required 2 hours between 9am-3pm mid-winter (refer to Sheet D:25C for a breakdown of this analysis). The proposed development impacts the north facing units at No's 10-14 Marsden Street and reduces solar access to 3 of those units (identified as Units 7, 14 & 21 on Sheet D:25C) to less than 2 hours. This results in a reduction of solar access of 14.3% to this development. Sufficient solar access will be reduced to 42.8 %. It is noted that the reduction of solar access is less than 20% which is the maximum tolerated by Objective 3 B-2 where an adjoining property does not already receive the required solar access.
- II. Under a redevelopment off No's 10-14 Marsden Street, the submitted documentation for the proposal demonstrates that the redevelopment of No's 10-14 Marsden Street is capable of meeting the 70% requirement for units getting at least 2 hours solar access between 9am-3pm mid-winter (based on an envisaged 84 units, a total of 62 receive the required 2 hours as

shown on Drawing No: 25E). Of those that don't receive the full 2 hours, no more than 15% receive no solar access.

- III. The impact of the proposed development on No's 4-14 Mark Street during 9am-3pm mid-winter identifies a reduction in solar access to the approved development by 10.3% (which is 17 units in total). Therefore, the solar access to that development has been reduced to 60.6%.
- IV. The applicant provided the following information in relation to the counter impact on their proposal if 70% solar access was maintained to 4 – 14 Mark Street.
 - The total proposed floor area would need to be reduced to 8,553m² from 11,670.77m² (this would see the removal of 3,117m²) and this results in the loss of 42 units and a reduction in FSR from 4.78:1 to 3.5:1.
 - This does not allow the development to meet the objectives of Clause 4.3 Height of buildings and Clause 4.4 Floor Space Ratio under the Auburn LEP 2010.
 - The reduction of solar access by 10.3% to No's 4-14 Mark street is worst case scenario as detailed on the shadow diagram prepared during summer solstice (refer to Drawing No.25P) which details that the proposed development will not impact No's. 4-14 Mark Street during summer solstice.

3. The amended plans have reduced the basement extent and reintroduced a deep soil area to the north-eastern corner of the site. Deep soil area is now 200 m² / 8.2%.

4. An amended Landscape Plan has been prepared detailing planting, paving, seating and pergola areas to the roof top terrace. No BBQ facilities are depicted on the plans.

5. Tree 2 and 7 (both off site) are now shown on the landscape plan as being retained / protected as suggested by the arborist.

30 August 2018 Sydney Central City Planning Panel Meeting

A report was prepared for the panel recommending deferred commencement approval, however, the panel chose to further defer the matter subject to:

1. Verification by an independent architect that:
 - the newly submitted shadow studies are accurate;
 - the suggestion by the applicant that an ADG compliant scheme for 4 -14 Marsden Street would require the reduction of 42 apartments on the subject site is correct;
 - or is there a practical alternative design possible with less reduction of floor space; or will the over height component and the general form of the building not cause notable further solar impacts as the applicant claims.

19 September 2018 Shadow Study Peer Review

Architects JonJohansen and Associates (AJA) were engaged to review the submitted shadow studies. They confirmed that:

1. The shadows cast (9am, 12pm, 3 pm) from the archicad files provided are within the required degree of accuracy needed to confirm the validity of the tables and diagrams submitted.
2. The submitted concept scheme for the redevelopment of 10 – 14 Marsden Street is generally ADG compliant.
3. 42 units would not need to be removed to achieve nil solar impact – more like 32.
4. The over height component of the proposal does not add further solar impacts to a height compliant scheme.

However, AJA offered three alternative options. Reduce scheme by 32 units, reduce scheme by 10 units, reduce scheme by 5 an option for further improvement by the deletion of ten apartments to the western end of the building effectively stepping the building down to the south.

17 October 2018 Sydney Central City Planning Panel Meeting

The panel considered the peer review and resolved to defer the application for the following reasons:

The Panel defers the application to enable a modified design to be provided as the Panel is concerned that this development would adversely affect the amenity of recently approved development in a new town centre. The modification is to follow the mid-point option in the attached Johannsen & Associates Plan (as marked "remove 10 units"). The modification is to achieve compliance with the ADG solar access requirements in at least 65% of the units in the approved building at 4-14 Mark Street.

The modifications are also to comply with the ADG's communal open space provisions noting that some reduction to the currently proposed roof-top communal open space may be necessary and this may require a new cl 4.6 variation request. The Panel notes that a large part of the roof-top remains available for use as communal open space.

15 November 2018 – Applicants Response.

The applicant further submitted the following information:

A. Option 1 plans – original proposal

B. Option 2 plans – concept with reduction of 10 apartments as specified in panels request.

C. Expert solar access opinion from Steve King verifying that:

- The original proposal impacts 8 units of the approved 4 – 14 Mark Street which equates to a reduction of solar compliance to 66%. Noting earlier considerations by the applicants architect incorrectly nominated 17 impacted apartments (60% compliance).
- The option 2 proposal with reduction of 10 units will impact 5 units and result in only a marginal improvement of compliance to 67%.
- Neither Option 1 or Option 2 will reduce the solar compliance of 4 – 14 Mark Street below 65%.

D. Response to Planning panel letter from The Planning Hub requesting that the panel reconsider the determination of the current proposed application without modification. Should the panel still consider the reduction in ten units an updated SEE, compliance report and 4.6 variation will be submitted.

Consultant Planners Assessment of Additional Information

The additional information submitted by the applicant has been reviewed. It is noted that objective 4A-1 of the ADG is to optimize the number of apartments receiving sunlight to habitable rooms with the following criteria for Sydney Metropolitan Area:

- At least 70% of apartments in a building receive a minimum of 2 hours sunlight between 9 am and 3 pm mid winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm mid winter.

The opinion of Steven King is accepted and it is agreed that the following solar compliance for the approved development of 165 apartments at 4 – 14 Mark Street is achieved by the two options:

- Option 1 - 149 units – 66%
- Option 2 - 139 units – 67%

It is further noted that the approved scheme at 4 – 14 Mark Street delivers 27 units with no direct sunlight equating to 15 %. This criteria is met by the two options in the following way:

- Option 1 will increase this number of nil solar access to 35 or 21%
- Option 2 will increase this number of nil solar access to 32 or 19%

The floorplate design of Option 2 has been reviewed and the changes summarized below:

- Level 7 has reduced from 17 apartments to **13** with the southern setback of the building facade increased from a 4 metre minimum to 7.8 metres. Four proposed apartments on this level are southern / single aspect only, where the larger floorplates in Option 1 allowed for nil single aspect apartments on this level.
- Level 8 has deleted, 5 townhouse style – 2 storey apartments and reduced unit numbers from 14 to **10**. The southern setback of the building facade has increased from 4 metres to 9.1 metres.
- Level 9 in option 1 had 9 apartments with dual or north facing aspects as well as the five second storey elements of the two storey townhouse style apartments. All 5 were single aspect apartments. Option 2 now proposes **7** apartments (note there is no unit 9.04 – incorrect numbering). Two of which are south facing single aspect only. The southern setback of the face at level 9 has increased from 4 metres to 12.8 metres.
- Ground level in both schemes provides **4** apartments in the same floorplate arrangement.
- Level 1 – 3 in both schemes provide **18** apartments in the same floorplate arrangement.
- Level 4 – 6 in both schemes provide **17** in the same floorplate arrangement.

The applicant did not submit a ventilation / solar access compliance plan / table with the Option 2. While it appears the larger floorplates in option 1 gave opportunities for dual aspect apartments, the solar performance of these apartments would not improve as dual aspect windows closely opposed solid walls of the neighbouring apartments in all cases.

It is observed that the amended layouts for option 2 level 7 through to 9 in option 2 provide 25 of 30 apartments that are solar compliant – 83%

It is observed that Option 1 for level 7 through to 9 that 32 of 40 apartments are solar compliant – 80%.

Overall it is acknowledged that there is a marginal improvement for solar access both on site and to the approved development to the south at 4 – 14 Mark Street by 3% and 1 % respectively. There is a marginal increase of apartments receiving nil solar access to 4 – 14 Mark Street by 2%.

It is recommended that the original proposal (Option 1) be approved as it results in solar compliance of 66% (over the 65% required by the panel) and also delivers a further 10 apartments to meet housing needs of the area. The marginal improvements to the achievement of further solar access both on and off site is not considered enough to warrant the deletion of 10 apartments.