

10 May 2023

The General Manager
City of Sydney Council
Attention: Ms Reinah Urqueza, Specialist Planner, Planning Assessments

Planning Submission For: (Strata Plan 67851) 'Marquis Apartments' at 200 William Street, Woolloomooloo.

Submission #2 - Revised Plans and Documents

Concept DA Proposal: D/2022/139 - 164-172, 174-194 William Street WOOLLOOMOOLOO NSW 2011 - 'Stage 1 concept proposal for a mixed-use development including a concept envelope up to a height of approximately 35m (RL59.99), indicative future residential and retail land uses, vehicular and loading access from Forbes Street, 4 indicative basement levels for parking, services and storage as well as provision of a publicly accessible through-site link off Dowling Street that connects to Judge Lane and Forbes Street.' (revised)

Strata Plan 67851 and the Site:

This submission is prepared on behalf of the residents of Strata Plan ('SP') 67851.

The SP includes 38 residential apartment lots known as the 'Marquis Apartments'. These homes are located directly opposite the subject site on the other side of Dowling Street. On the opposite corner of William Street. This adjoining SP is **directly impacted by the scale, and will experience adverse impacts on amenity, including: light, breezes, views and outlook.**

The Marquis Apartments comprise a number of **high-quality apartments which have wrap around glazed balconies and curved windows.**

Marquis homes and their open spaces currently enjoy privacy, and are **designed to take in the beautiful views of iconic Woolloomooloo, Sydney Harbour foreshores/water elements and Sydney city built icons. Panoramic views are available given the lower scale forms toward the water.** These high-quality apartments were designed to focus living and outdoor spaces toward the iconic city, harbour and Woolloomooloo district sweeping views.

Some of the iconic, magnificent and panoramic views which are available for this building are **the type of views to be considered and protected when assessing one development asking to take them for their benefit.**

Many of the views accessed from a range of apartments constitute **whole/panoramic, iconic and district framed views – particularly from indoor living areas and balconies. These views are accessible when sitting and standing.** They are enjoyed, world class/renowned Sydney views. **Residents draw key amenity, health and happiness from these views.**

The applicant was required to address the view impacts of this adjoining building however has again excluded this building from the impact assessment and this building is directly impacted by the proposed scale.

Residents remain concerned over a range of bulk, visual and physical scale, impact on the area character, privacy loss, view, light/sun and amenity impacts.

This amended proposed still seeks 'maximum' density and yield and an adverse and inappropriate form for this area. This is out of context with lower heritage forms and will unreasonably impact upon others.

Thank you for considering this Submission # 2, prepared to address the updated material.

Summary Concerns:

- The proposed envelope seeks considerable variations to storey height, height and form guidelines and intends on increased FSR density. **The FSR appears to have increased with the re-submission, including additional residential space. The height has been minimally changed.**
- The view impacts are 'justified' by statements that the proposal is compliant with controls, which the proposal is not.
- **Skilful design for view sharing has not been demonstrated with constant reference to maximum numerics.**
- Upper level Marquis apartments currently obtain highly valued, iconic Harbour and Sydney city and open space views over the site. View impacts have not been addressed and have been ignored for the Marquis Apartments at 196 – 200 William Street - despite Council's request that this property be included. This is a failure to address the RFI.
- The View Impact Assessment is not robust or comprehensive and should not be relied upon when Council is assessing an alternative urban design outcome.
- The **scale** applied for remains presumptive and the calculation provided **assumes reliance on a potential FSR 'bonus' through a (future) design competition process and is excessive in terms of what is currently mandated under the LEP standards. The current reference scheme appears to fall short of the characteristics expected to be achieved for apartment and area design excellence. There is no certainty of the end form outcome which conflicts with resident expectations for the area.**
- The subject site is **surrounded by many lower scale buildings, flanked by heritage buildings and heritage conservation areas.** This part of Sydney is iconic given the evolution, streetscape character, heritage building fabric/fine grain street details and history. **The established Council controls reflect this importance** and the fact that this area could be treated as a Boulevarde.
- The existing controls seek to reinforce sensitive scales in the context of surrounding nominated Heritage Conservation Areas ('HCAs').
- DCP Clause 3.9.9 indicates that '***Detracting buildings are buildings that are intrusive to a heritage conservation area because of inappropriate scale, bulk, setbacks, setting, design or materials. They do not represent a key period of significance and detract from the character of a heritage conservation area.***' This envelope is so much larger than buildings in the context and would be completely incongruous with predominant scales.
- **A revised Heritage Impact Assessment has not been provided in relation to the proposed variation of the adopted scale controls.**

- **Support** for such a scale envelope (with reliance on ‘bonuses’) **would permanently and detrimentally impact the area character, the streetscape, the HCAs and scenic quality and appearance of this iconic Sydney location.** This revised concept **would not set a desirable scale precedent.**
- **The proposal is inconsistent with a range of specific and stated planning objectives/desired outcomes.**
- A **large ‘envelope’ which varies from Council’s studied and adopted local controls is not considered reasonable or equitable in this setting where a range of adverse view, scale and residential amenity impacts would be created.** Due to the scale of this form above all the apartments, they all stand to devastatingly **lose sunlight, natural light, feeling of space and spatial separation, access to sky and space and natural ventilation.**
- The application remains strongly **preoccupied with justifying the highest density for the subject site without reasonably addressing some residential impacts** and the heritage/lower scale **context.**
- In the **absence of a certain and detailed/truly site responsive design and outcome,** where iconic and **highly valued views are removed, a DA which relies on a simple principle of reaching for the ‘maximum’ LEP standard should not be supported.**
- It is noted that **FSR and Height objectives refer to protection of amenities and views.**
- **Privacy loss would result** given the scale and proximity of the development and apartments which may directly look into ‘Marquis’ apartments, particularly given the number of units facing in.
- The **documentation lacks balance and independence in relation to planning aspects, the range of development objectives and controls, views, area traffic assessment and heritage.**
- The **strategic/local impact on traffic in the area with such a dense development should be considered** in terms of the **scale of the development of a street block and what that could do for the area.** Given the degree of basement parking proposed, the location of the site on an already busy and congested road (William Street) and use of smaller lanes for access in this busy inner city location.
- The proposal is made pursuant to **Clause 7.20 (4) of the Sydney Local Environmental Plan 2012 (‘SLEP’)** with **inconsistent assessment or justification as to matters** such as the **form and external appearance of proposed development so as to improve the quality and amenity of the public domain, minimising the detrimental impact of proposed development on view corridors,** *how proposed development addresses the suitability of the land for development, the existing and proposed uses and use mix, **heritage issues and streetscape constraints,** the location of any tower proposed, having regard to the need to achieve an **acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, the bulk, massing and modulation of buildings, street frontage heights, environmental impacts** (sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity), the achievement of the principles of ecologically sustainable development, **pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,** the impact on, and any proposed improvements to, the public domain, the **impact on any special character area, achieving appropriate interface at ground level between the building and the public domain,** the excellence and integration of landscape design, the incorporation of high quality public art into the fabric of buildings in the public domain or in other areas to which the public has access.*

- The documents suggest that the DCP concept plan should be varied in relation to consistency with the Apartment Design Guide ('ADG'). However **minimal ADG assessment is provided. A substantial ratio of single aspect south facing units are evident. It appears the reference scheme may only just meet the absolute 'minimums' expected for a quality residential development in terms of solar access, ventilation, landscaping which would not be the residential or form outcome desirable for such a high-quality location** (whilst also imposing detrimental impacts on others).
- **It may be that the development would need to be significantly amended in order to comply with the ADG - potentially further changing the form and potentially exacerbating adverse scale impacts for others and the HCA/precinct.**
- The documents are inconsistent, including items such as how many levels of basement parking are proposed. These documents should not be relied upon for a change to planning frameworks.
- Groundwater, flooding and contamination should be assessed given the scale, previous use of the site, change to water management with surfaces and the basement excavation.
- **An area wide traffic assessment should be provided when making changes of the proposed nature** rather than a site specific assessment to support a development proposal. Residents have raised issues in relation to the potential and likely worsening of traffic issues in the already busy area.
- **In the case of re-designing planning controls for such a key site, it remains open and appropriate for Council to take a wider view on what appropriate development on this site and in this context with the very significant issues of view sharing and area fit means for redevelopment.**
- **A Council initiated process would allow correct consultation and document gathering/planning refinement process to occur to meet the broader public interest.**

Relationship of SP 67851, The Site and Context:



*Relationship of the subject site (left) to Marquis apartments (right and opposite) showing glazed areas and light.
Source: Google Maps/Streetview*

Due to the high position of these apartments and tapering down of the lower, more historic buildings (refer to the below photographs), the apartments on the upper floors are oriented out to take in panoramic, beautiful iconic Harbour and panoramic City Views.

A photographic assessment of these apartment perspectives and views has been prepared and attached to this submission (lodged with Submission #1).

In the absence of inclusion in this property in the ‘Visual Impact Assessment’ provided with the updated documents, we request that our view studies be considered by Council to show the views to be impacted.

One sweeping/panoramic whole view picture from apartment 601, which is greatly enjoyed and stands to be blocked is as follows (panoramic shot). This **photo shows the high value quality of view gained from these neighbouring apartments and the high quality residential amenity experienced as a result.**



Panoramic photograph, by owner apartment 601 -balcony, Marquis Apartments, 200 William Street

Below are some view shots provided by the owner apartment 601 on level 6. They show the current view scope in the direction of the site and the amenity and experience received. These are facing north-west.



Balcony (apartment 601/ owner – iconic city scape, Plus, the night city scape, harbour bridge lit up and harbour fireworks at night time



View arc showing Sydney Harbour Bridge icon available from internal and external living areas of apartment 601, NRP – April 2022



Living rooms, available sitting and standing

Higher buildings are located a fair distance away and in the direct vicinity, **prevailing scales are considered to be far lower than the scale proposed which then enables this view access.** **The current controls seek to taper scales so that height in storeys might promote some view sharing with neighbouring developments.** The storey height is **not respected in the amended design.**



Site, sloping topography, direct and distant higher more slender scales



Smaller forms on the opposite side of Judge Lane and directly around the site



Smaller forms over existing Bayswater car rental building towards, lower scale Woolloomooloo and the harbour views (NRP)

The Woolloomooloo neighbourhood is strongly characterised by historical housing and shop/commercial forms, encapsulated in the surrounding HCA areas.

The DCP objectives for this character area within the DCP indicate desirable scales and that ***'development is to respond to and complement heritage items and contributory buildings within heritage conservation areas, including streetscapes and lanes'***.

Residents consider that the proposed envelope and much larger suggested building with extensive heights, width/floorplate building does not adequately consider the unique prevailing, valued, heritage fabric or broader scenic and character qualities and would be inconsistent with the DCP intentions for this area.

Impact on Views, exacerbated by an 'envelope' which seeks maximum scale:

As noted in the summary, views of 196-200 William Street have not been addressed as requested despite seeking to change precinct scale controls. Therefore, we do not

know the outcome. It is most likely all the available upper level iconic, high value and panoramic Harbour/city views would be entirely and devastatingly blocked, given the scale and orientation.

Our view discussion from Submission # 1 therefore remains, as follows:

Extensive panoramic views, comprising: a large expanse of the city scape (including St Mary's Cathedral and Sydney Tower), land water interfaces, expanses of water in Sydney Harbour, landscaped foreshore areas merging to water elements, landscaped elements over the northern side of the Harbour, the full sails of the Sydney Opera House, large visible elements of the Botanic Gardens (extensive and pretty green space), the full reach of the Harbour Bridge and other interesting urban elements (such as tunnels, railway corridor, Woolloomooloo wharf and naval areas) are visible from many of the units.

The upper-level units are designed so that these are accessed via walking into the apartment, into the living areas and looking out through full glazed walls and doors. Many kitchens are designed to bring in these key, whole iconic/waterway and district views (refer to the attached photographs).

These are from **seating and standing positions from key indoor and outdoor living areas** within numerous homes as well as very **generous balconies which are outdoor living areas/designed for viewing** (compared to the 'minimums' set by current apartment standards). Further, these balconies have **glazed balustrades which allow view access from seated positions within the units as well as outside.** These apartments (above 3 storey level) display a creative and quality design which sought to take in and access these views.

These panoramic views provide key amenity to apartments and are the type of views designed to be considered and protected by the Tenacity View sharing guidelines.

Consequently, SP 67851 wishes to strongly object to the proposed concept envelope which seeks to depart from the adopted controls and offers no certainty of outcome.

Tenacity Consulting V Warringah Council (2004) NSWLEC 140 outlines a 4-step merit assessment process to assess whether it is reasonable for a development proposal to take part of a shared view for its own enjoyment.

'25 The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.

*26 The first step is the assessment of views to be affected. **Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.***

*27 The second step is to consider from **what part of the property the views are obtained.** For example **the protection of views across side boundaries is more difficult than the protection***

of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

28 The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

29 The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.'

Neither of the views assessments submitted with the DA by Richard Lamb and Associates and now Urbaine have assessed views or view impacts on 196-200 William Street.

The original and revised versions of the proposal contain inaccurate and insufficient information with regard to views in the area and does not include key views. The 2 x assessments provided are not considered to be robust or acceptable in terms of addressing the full impact of the envelope, in a balanced and reasonable way, for others in line with the Tenacity view sharing and view equity principles.

In this key location, and to ensure equity for other landowners, a specific tested design should be provided and not a 'block' envelope which seeks to vary storey height guides. The view sharing principles seek the exploration of creative and sensitive designs to allow equity and sharing of views between people wanting to develop a property as well existing residents who stand to have severe and devastating impacts on their available views.

The view studies indicate that the development is 'compliant' which is untrue, when the 'envelope' seeks to depart from a range of adopted form controls and seeks additional future density by way of additional FSR via a Design Competition.

In relation to compliance, the height in part exceeds the 22m limit and the proposed FSR is now 3.97:1. We submit that this is not consistent with the LEP FSR allowances for the parts of the site. The originally submitted SEE indicated in relation to FSR allowance:

'A combined maximum FSR of 3.75:1 is permitted on the site or gross floor area of 23,116.5m².' Page 29 of the originally lodged SEE. By stealth, this FSR increases to above

what would be allowed as a 'combined' maximum, even though the site has FSR apportioned in different places across these 2 sites - to reflect desired scale.

To again summarise the provided view examples, our submission in relation to *Tenacity* is as follows:

1. As detailed in the photographs, the views are considered **whole, iconic views from internal and external living areas.**

At upper levels, these views are available from sitting and standing positions and take in wide, **sweeping iconic Sydney Harbour elements (Bridge, Opera House, land/water/landscaped interface elements, the waterway, Fort Denison, Botanical gardens, book ended by cityscapes, tunnels, heritage roof tops, the Woolloomooloo wharf and naval ships, railway line, treetops).** City icons, spans of water/Harbour view and land water interface.

The natural slope of the topography towards the Harbour through Woolloomooloo allows for these views to be relatively uninterrupted from balconies and living areas, as do the prevailing lower built forms which allow view over. The subject site is over the road to 'Marquis' and seeks a wide and large block, with extreme FSR density and at a much higher height than expected. **Minimal change has been made with the revision to the imposition of uncharacteristic and undesirable scale.** The envelope and reference scheme look to completely block a large portion of these described views.

These are **highly valuable and iconic views** in *Tenacity* assessment terms, commanding recognition, value in development and proper acknowledgement and consideration in densities, scales, envelopes and design details. With an architectural design which seeks development whilst allowing equitable sharing of important views.

These views are magnificent and breath taking. They create a feeling of space, valued open perspective to expansive sky, and create enjoyment, a high quality of life and residential well-being for residents at all times of day and night in this context. They **provide such significant amenity value and amenity to the property owners that blockage would be devastating to a considerable number of homes.**

Whilst our **client's building/strata has not been assessed at all, view impacts on others in the area have been consistently 'minimised'** in the documentation.

We understand that view impact is also relevant from other buildings in the area which also gain panoramic views. With hotels in the area commercial access to Sydney views from those typologies should warrant consideration within an area designed to promote economic viability.

2. As detailed, these **views are taken in from across the glazed balconies and doors/glazing, designed as the focus of apartments. From key indoor and outdoor living areas.** Balconies and the living areas they open to being the **key private open spaces of these homes. Open spaces** to apartments, and **balconies** being recognised in all planning controls as **key amenity aspects within a high density residential setting.**

Upper-level existing views are available in **sitting and standing positions**, from inside from some apartment entry points and certainly the living areas and a number of the open plan kitchen and dining areas.

It is considered that **all upper-level homes within 'Marquis' which have a balcony orientation to the north-west and west would be directly, severely or devastatingly impacted** by this proposal because of the relative heights/form. Adverse view impact would also be experienced from the western common open space area on **Level 7 roof top** of the 'Marquis' building at 200 William Street which is also an available **communal open space area**. **This roof top space is an important residential amenity area for the adjoining apartments.**

In the face of devastating impacts to views, the residents of the impacted building have put together some accurate and representative view assessments of their homes to indicate to Council assessors the quality, importance and availability of these iconic views to a significant range of homes (attached). As can be seen from these, the proposed extent of effect/blockage on land, water, iconic Harbour and City views would be devastating in relation to the current view access and amenity gained from them. This is re-attached for Council's information.

3. The **extent of the impact has not been clearly detailed or addressed** for all homes however given the scale and form presented, is considered to be devastating and unreasonable for 196-200 William Street. Within the DA documents and the assessment seems 'dismissive' in connection with the proposed wide and extensive envelope, with planned **variations to FSR limit and DCP storey heights, limited modulation and an expanse across the whole development site. Such extensive and uncharacteristic density and envelope is not considered reasonable with substantial view and amenity impacts and a lack of outcome certainty.**
4. The proposal **does not comply with the mandated, area specific scaling and storey limits** which it should be acknowledged are already much higher and more generous than the surrounding lower density heritage character areas. The revised planning statement submitted confirms that the height does not in fact comply along the Judge Street frontage. The revised planning statement indicates the proposed height to Judge lane would be 22.6m when the maximum limit is 22m.

The proposal also does not comply with the maximum averaged FSR limit which was indicated to be 3.57:1 for the site in the initial SEE. **The proposal is for 3.97:1 FSR which does not comply with the LEP maximum FSR clause and relies on an award of 10% for a design competition which has not occurred.** The reference scheme also includes **marginal/minimum compliance with ADG and design performance and is also not considered to uphold the excellence objectives contained in the LEP (landscaping, public domain, response etc).**

The original SEE suggests that view loss associated with a 'compliant building' envelope is 'envisaged' in the controls and therefore acceptable. Refer to the above discussion. This is an unreasonable statement.

The Urbaine Visual/View Assessment is also preoccupied with the following statement: *the development has adopted a skilful design approach by lowering the*

building heights to sit well below the maximum LEP permissible height and to site below the DCP RL height'.

The DA and view assessment should address 'whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.'

There is no discussion of skilful design or modelled options to protect some views through or access for the homes at 196-200 William Street.

Skilful design does not rely on mere LEP standard maximums or just reducing the height to comply with the 'maximum', it involves more. The applicant has been advised within correspondence to comply with storey heights to improve view sharing for neighbours.

The currently available maximum envelopes already allowed by the SLEP mapping for this site are already much more generous than the prevailing area. As the subject site already has larger scale allowances and provisions than the surrounding area, these should not be further exacerbated and expanded without more detailed consideration and consultation as to the potential ranging impacts. Particularly when the information provided is not balanced.

Our submission is that views are a critical component of amenity and are a legislated assessment consideration (via the SLEP objectives) when reviewing all planning guidelines and local objectives. Views should not be 'dismissed' where mere maximum numeric compliance might be achieved (with selected available controls). This is concerning as it represents a site biased 'planning by numbers' exercise rather than contextual, merit-based area and amenity planning approach as is desired by the nuanced SLEP and SDCP desired outcome objectives.

The proposed maximised envelope seeks to block views with an entirely excessive and incongruous 'block' which is not considered to be reasonable in the context of the heritage character and lower scales which prevail.

Given the type of impacts, it is considered only a detailed design or modelling exercise should be considered and not an envelope (with potential future expansion). With an informed view assessment, view sharing could be achieved in line with planning principles and controls. A considered and tapered design could provide/facilitate equity and sharing.

[Amenity and View Impacts - Council's Planning Objectives:](#)

The proposal is unreasonable and does not consider amenity, the area character and view objectives of all planning documents.

To support an untested and site-specific maximum density 'envelope' without detailed design or outcome, in this key and unique heritage location, when views and impacts would result, we submit would not accord with public interest objectives of the *Environmental Planning and Assessment Act, 1979* (E P & A Act), or the objectives of SLEP.

The SLEP contains a number of relevant planning objectives in relation to protection of amenities, views and development of the area. The following are relevant to our submission and to the proposal.

Clause 1.2 – General SLEP 2012 - Aims of development:

- (g) to ensure that the pattern of land use and density in the City of Sydney reflects the existing and future capacity of the transport network and facilitates walking, cycling and the use of public transport.
- (h) to enhance the amenity and quality of life of local communities.
- (j) to achieve a high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities.
- (k) to conserve the environmental heritage of the City of Sydney.
- (l) to protect, and to enhance the enjoyment of, the natural environment of the City of Sydney, its harbour setting and its recreation areas.

As detailed in the following sections, the amount of parking, constrained access points, ratio of residential and overall density is not considered to ensure that the traffic, pedestrian, cycling and public transport network is facilitated or managed.

The **proposal is over scaled in relation to the heritage surrounds** and is not considered to promote heritage conservation or the protection of the scale of Woolloomooloo. This is **not considered to provide a high-quality outcome for existing developments to suit either the existing or desired character.**

As detailed in the attached view display, **the proposal is not considered to protect or enhance the enjoyment of the natural environment, or Harbour setting** – certainly from the perspective of existing long standing residents who enjoy the environment.

Zone MU1 Mixed Use - Zone Objectives:

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To ensure land uses support the viability of nearby centres.
- To integrate suitable business, office, residential, retail and other land uses in accessible locations that maximise public transport patronage and encourage walking and cycling.

Despite seeking maximum density for the site (and asking for design competition benefits), of the 25,412m² of proposed GFA, only 4,981m² is proposed for commercial and retail purposes (less than 20%) and a relatively minimal area of 1,267m² is proposed for commercial/business/employment related uses. The proposal is allocated **largely for residential purposes.** We submit that this **conflicts with the objectives of the zone which are to encourage a diversity of employment related uses to support the viability of centres.**

A development of this scale could promote ratios and quality of public spaces and streetscape amenity which would then support of the 'viability of centres'.

Minimal planting and deep soil are considered to be provided to **balance the scale** of the building envelope despite the opportunity to plan an attractive, landscaped and linked street block.

Given the extensive planned parking in support of the scheme and the lack of the desired streetscape interest and character, it is not considered that the proposal would maximise public transport patronage (in an already problematic traffic area) or to encourage walking or cycling as required by Council objectives (local traffic concerns are detailed further below).

SLEP 2012 Clause 4.3 Height of Buildings – Development Standard – Relevant Objectives:

(1) *The objectives of this clause are as follows—*

- (a) *to **ensure the height of development is appropriate to the condition of the site and its context,***
- (b) *to **ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,***
- (c) *to **promote the sharing of views outside Central Sydney,***
- (d) *to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,*

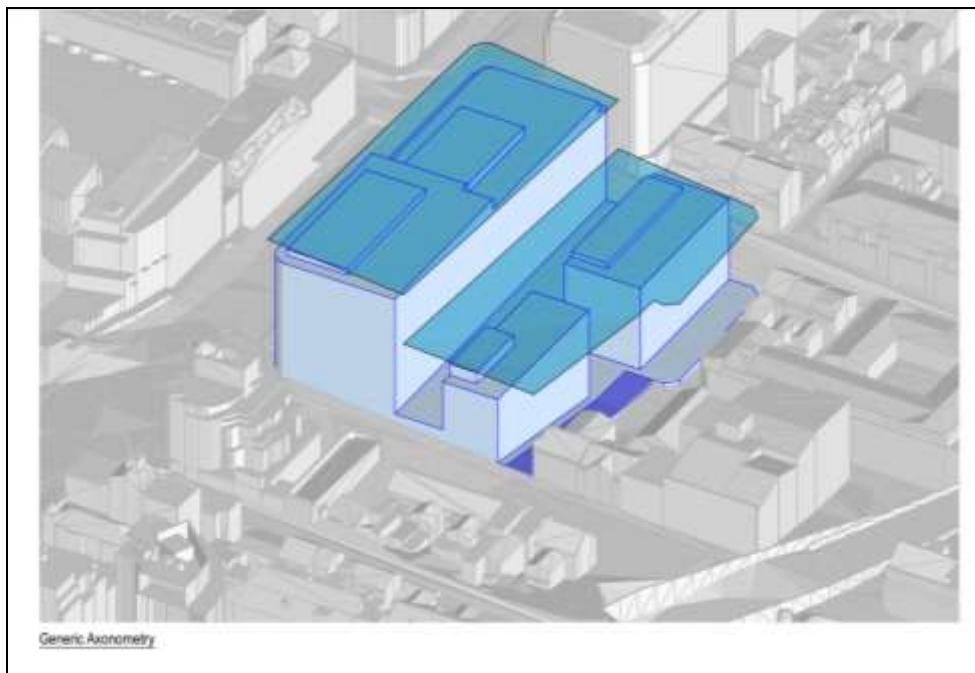
As detailed, the height is not considered appropriate to the condition of the site AND its context and does not provide transitions to the adjoining development or context. The scale would be incongruous.

A height of 22.6m in Judge Lane next to 12m height does not provide a transition.

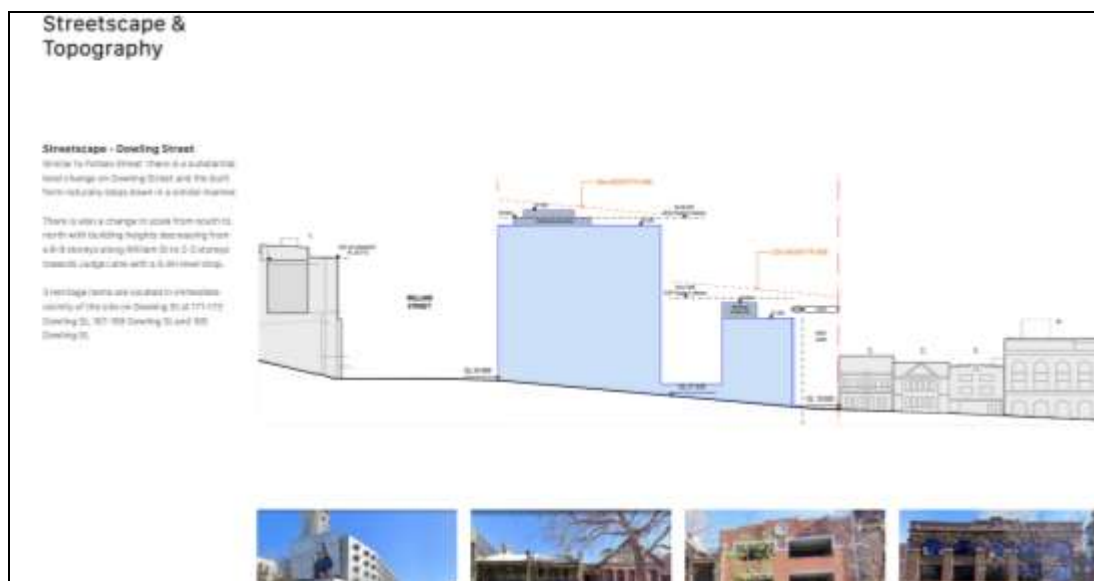
This can be seen in the montages provided of the reference scheme ‘filling in’ the proposed envelope. This photo montage which looks down from a sky view to the proposed enormous building indicates the stark and incongruous height differences with lower prevailing forms. This graphic also shows the Marquis/Avis building dwarfed – to the top left. It is clear that the balconies and open spaces of the Marquis Apartments are directly impacted by the scale and block effect opposite.



By fjmt Studio Design Report – Proposed Montage showing the height of building relative to lower surrounding housing and forms &196-200 William Street directly to the top left and over scaled.



Extracts from the DA package/Design Report showing the height and scale of the form in the context of the much lower forms. The Avis residential building, shown bottom left corner is dwarfed. No detail is provided in the documentation as to what if anything this version does to any views from balconies.



Relative scales/Dowling Street, including heritage character forms.
Source: Submitted fjmt Studio Design Report - for DA -page 15.

SLEP 2012 Clause 4.4 Floor Space Ratio – Development Standards – Objectives:

- (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,
- (b) to **regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,**
- (c) to provide for an **intensity of development that is commensurate with the capacity of existing and planned infrastructure,**

(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

The available density for the subject site is already disproportionate and generous in the area when considering the FSR allowances around the site in the general area, with the exception of existing higher buildings (extract below).

The proposal seeks an FSR uplift from an already higher FSR and does not address the much lower surrounding FSRs in the direct vicinity of the site (which tie in with heritage). The proposal seeks to rely on/assume the 10% additional floor area which might be available in a future design competition however would need to be awarded.



Source: eplanning spatial viewer (consolidated development site indicated in white)

We submit to Council that Clause 7.20 of the SLEP is not the mechanism to vary scale standards on a development-led, site-specific level, without a broader urban design consideration for this unique area and a more strategic determination of views, form, impact on heritage and area character, street setbacks, mixed/commercial uses, solar and traffic aspects.

Existing residents, the protection of the Woolloomooloo character, City planning objectives/desired outcomes and the public interest objectives would be served with a Council led, strategic review.

As noted, the density proposed does not lead to management or appropriate 'control' of vehicle and pedestrian traffic.

SLEP 2012 - Clause 6.21 Objectives of Design Excellence:

The objective of this LEP provision is to deliver the highest standard of architectural, urban and landscape design.

6.21C Design excellence – Requirements:

(1) *Development consent must not be granted to development to which this Division applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.*

- (2) In considering whether development to which this Division applies exhibits design excellence, the consent authority must have regard to the following matters—
- (a) whether a **high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved.**
 - (b) **whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain.**
 - (c) **whether the proposed development detrimentally impacts on view corridors.**
 - (d) how the proposed development addresses the following matters—
 - (i) the suitability of the land for development,
 - (ii) **the existing and proposed uses and use mix.**
 - (iii) **any heritage issues and streetscape constraints.**
 - (iv) **the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers, existing or proposed, on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form.**
 - (v) **the bulk, massing and modulation of buildings.**
 - (vi) street frontage heights,
 - (vii) **environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity.**
 - (viii) the achievement of the principles of ecologically sustainable development,
 - (ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,
 - (x) the impact on, and any proposed improvements to, the public domain,
 - (xi) **the impact on any special character area.**
 - (xii) **achieving appropriate interfaces at ground level between the building and the public domain,**
 - (xiii) **excellence and integration of landscape design.**

The **proposed envelope and reference scheme are considered inconsistent with the highlighted objectives of ‘design excellence’** and the following design excellence provisions within the guiding DCP. The scale has the potential to **impact on surrounding residential amenity, view corridors and privacy** to the apartments opposite, at ‘Marquis’. The reference is not considered to provide high quality design in terms of the ADG expectations and the **bulk and massing of the building/envelope is not responsive**. Our view is that this would have an **adverse impact on the area character**. The proposal is **not considered to integrate or balance with landscaped elements** with consideration of the scale of the built form.

In Part 3 the DCP, design excellence seeks to: ‘*guide design excellence and fine grain urban form in significant development. All buildings contribute to the urban and public domain character of a city. It is important that design excellence is a fundamental consideration in the assessment of development applications.*’

‘The City of Sydney contains a number of urban renewal areas and large development sites. Within these areas it is important that development achieves high design quality standards and design variety. The following objectives and provisions aim to achieve design excellence through the application of competitive design processes.’

The above point is likely to be the reason that site specific controls apply to this site.

The objectives of excellence:

‘Objectives

(a) Ensure high quality and varied design through the use of competitive design processes for large and prominent developments.

(b) Ensure development individually and collectively contributes to the architectural and overall urban design quality of the local government area.

(c) Encourage variety in architectural design and character across large developments to provide a fine grain which enriches and enlivens the City's public realm.

3.3.5

(3) The competitive design process is to be undertaken in accordance with a Design Excellence Strategy approved by Council as part of an associated site-specific DCP or concept development application (Concept Development Application). (4) The competitive design process is to be undertaken before the detailed Development Application is submitted.

3.3.6

Distribution of additional floor space (1) In distributing any additional floor space within the site area covered by the competitive design process, the following considerations must be appropriately addressed: (a) Site and context analysis; (b) Public domain layout, including levels, uses, access and circulation, dedications and hierarchy of spaces; (c) Built form massing and dimensioned envelopes; (d) Overshadowing analysis; (e) Stormwater management strategy; (f) Traffic management and servicing strategy, parking numbers and location; (g) Ecologically sustainable development strategies and benchmark commitments (including connection to green infrastructure); and (h) Heritage impact statement.

Given the concerns we have raised in this submission, we consider that the above items have not been fairly addressed apart from a site specific/site motivated approach.

SLEP 2012 - Clause 7.20 Objectives of Planning Controls/Concepts/DCPs:

A concept DA followed by a design competition at a subsequent detailed DA stage is being used in request to vary or supersede the DCP controls via this LEP Clause. The DA architectural analysis and SEE confirm this is their intention.

The justification for this approach is based on claims that the proposed concept complies with Section 7.20 (4) of SLEP (emphasis added in relation to our objections).

(4) The development control plan must provide for all of the following—

(a) requirements as to the form and external appearance of proposed development so as to improve the quality and amenity of the public domain,

(b) requirements to minimise the detrimental impact of proposed development on view corridors,

(c) how proposed development addresses the following matters—

(i) the suitability of the land for development,

(ii) the existing and proposed uses and use mix,

(iii) any heritage issues and streetscape constraints,

(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

(v) the bulk, massing and modulation of buildings,

(vi) street frontage heights,

(vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,

(viii) the achievement of the principles of ecologically sustainable development,

(ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,

(x) the impact on, and any proposed improvements to, the public domain,

- (xi) *the impact on any special character area,*
- (xii) *achieving appropriate interface at ground level between the building and the public domain,*
- (xiii) **the excellence and integration of landscape design.**
- (xiv) *the incorporation of high quality public art into the fabric of buildings in the public domain or in other areas to which the public has access.*

The inconsistency of the proposal in relation to the above elements has been detailed through the body of this submission.

Sydney DCP – Area and Urban Design Merit Guideline Specific Precinct Controls:

A specific DCP Urban Design Plan applies to the site with the following site and area specific objectives:

- (a) Activate the William Street streetscape.*
- (b) Improve the existing vehicular access into and surrounding the site.*
- (c) Set building heights and frontage alignments to respect the local context.**

As noted, the design is not considered to ideally activate William Street. Access points and the proposed density of floor space and related large vehicle numbers could potentially cause further issues around the site and the heights and frontage alignments are not considered to respect the context as detailed.

The relevant Locality Statements applicable for the area include directions that built scale and heights should be managed to respond to existing scales and the of the heritage value of the inter-war character.

Section 3 of the DCP also contain controls relating to design excellence and providing development which relates well to the urban domain experience of a development.

Commercial elements at ground floor are to be accessible and visible, to maximise entries to the street, with high quality finishes and elements to address the public domain.

The controls also discuss the importance of solar access and view protection to public spaces which is not considered to be well addressed in this scale variation proposal.

Awnings are encouraged and viable open space and landscaping. Minimal open space and pedestrian amenity is considered to be provided, particularly in balance to the proposed scale and density.

Page 33 of the SEE says *‘The William Street and Forbes Street frontage is mapped within the Footpath awning and colonnades map. Details are to be considered in a detailed DA.’* Given the density uplift request, the requested departure from Council’s ‘fine-tuned’ area controls and the general likely impacts on other landowners and the area as a whole, it may be appropriate for the applicant to be addressing these important public interest matters for the mixed use/William Street zone.

Additionally, the DCP contains positive urban design guidelines suggesting that: *‘Sites greater than 5,000sqm Streets define the size, flexibility and permeability of new urban blocks. For large sites 5000sqm and above an appropriate street pattern will ensure a fine grain, highly connected urban place. The emphasis on fine grain urban form is consistent*

with Sustainable Sydney 2030 and will lead to liveable, **attractive and diverse urban renewal areas**. The following provisions do not apply to development in Central Sydney as defined in Section 2 Locality Statements. Objectives (a) Provide a 'fine grain' to the urban structure. (b) Improve pedestrian, bike and vehicular access, permeability and connectivity through large sites. (c) Establish a clear hierarchy of public streets that are well connected to the existing street network. (d) Improve access and visibility to public open spaces. (e) Provide a clear public address for all buildings within a development. (f) Introduce a range of complimentary uses and housing types. (g) Ensure high quality public art is included in all publicly accessible open spaces.

In relation to heritage, relevant objective 3.9 states that development should: **b) 'Enhance the character and heritage significance of heritage items and heritage conservation areas and ensure that infill development is designed to respond positively to the heritage character of adjoining and nearby buildings and features of the public domain'**.

DCP provisions relating to Residential Apartment Buildings and Mixed-Use Development. (Part 4.21) specify in relation to height: **'Ensure the height in storeys and street frontage height in storeys reinforces the existing or future neighbourhood character.'**

Further, **'The maximum may only be achieved where it can be demonstrated that the proposed development: (a) reinforces the neighbourhood character; (b) is consistent with the scale and form of surrounding buildings in heritage conservation areas; and (c) does not detract from the character and significance of the existing building'**.

The controls state that development should not exceed the storeys in height map (which the proposal does – and to a significant degree). Consideration is required as to this aspect on adverse impact on the area character, sky view, view corridors, view sharing and visual bulk and scale aspects.

Given the potential for the view blockage to the Marquis Apartments, across a range of floors, such a variation from the form controls should be addressing the view sharing impacts.

DCP controls in part 4.2.5.1 indicate that buildings should not be greater than the mapped height and meet the storey height guides. They should be **separated to allow for view sharing**, with **proportioned building forms** and limits on floor plates to limit building bulk/extents to protect views.

The applicant seeks to argue the scale and bulky design, citing the ADG elements (which should also consider broader context), the Council DCP indicates that in assessment of these matters, the DCP considerations would prevail. **Controls in the DCP are detailed urban design guides and are well considered for such a key area**, having the purpose of guiding the **right type of outcomes for this iconic area**, to **protect visual amenity and share benefits of outcomes for locals**. The **concept DA documents (nor the proposed end design) are not considered to provide a balanced review of all these relevant form or merit controls**.

Apartment Design:

The general aims of SEPP 65 seek to ensure buildings are 'long term assets' to neighbourhoods and objective 3 (b) 'to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define'.

Principle 1 of SEPP 65: Context and neighbourhood character states that 'Good design responds and contributes to its context'. **Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood**'. Based on our submission points, the **proposal does not respond to the context due to the incongruous scale. The departure from the DCP controls would create a departure from the 'desirable elements' of the 'future character'**.

SEPP 65 and the ADG controls require a development to meet minimum design quality guidelines for internal residential amenity, to respect the context and provide an area asset.

Although this is an area set for commercial/mixed use and renewal, the applicant refers to compliance with the ADG as a driver to vary the site specific controls. However, despite this suggestion, **the original and amended architectural reference schemes appear to only just achieve minimal consistency with this policy for best practice residential design**. This would appear to be **density at the cost of amenity potentially for the subject development proposal as well as the range of impacted others**.

It is noted that during the initial assessment, failures were found in relation to a number of ADG controls.

This aspect has been reviewed and there is **minimal detailed ADG discussion** or justification within the revised documents.

The revision appears to **reduce common open space and deep soil zones**. According to the planning overview submitted, the revision has **reduced in performance as far as solar access to apartments and natural cross ventilation**.

There appear to be a considerable amount of **single aspect south facing units** which are undesirable, especially in this location and at the cost of the existing amenity of others.

The commentary on natural ventilation suggests that out of 137 residential apartments, 75 achieve **natural cross ventilation which the application indicates is 60.5% apartments**. The reference scheme provides 75 apartments which meet the requirements for natural cross ventilation. This represents 60.5% of all apartments not subject to an alternative solution for natural ventilation – the Natural Ventilation report indicates that this would be 124 of the apartments (non-noise affected). Noting the ADG controls are 'At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building'. This is an **absolute minimum amenity requirement**, to which the reference scheme only just appears to meet.

It is **not considered reasonable to argue the current planning framework in the name of ADG when this quality urban residential design policy appears to be barely observed** as well.

Traffic Concerns:

As expressed by local residents, and as experienced generally by visitors to the area, William Street is very congested and traffic delays are frequently experienced.

Some of the following comments have been offered by residents in relation to the current situation and in response to the Traffic Assessment:

The northerly streets, overall will be so busy with extra traffic from this new apartment building.

Please note - Judge Street and Judge Lane – both are lanes. Judge street is not a ‘road’. It’s a one-way tiny lane as is Judge Lane.

Corfu Street is not a ‘street’. It’s a one-way tiny lane between Forbes and Bourke Street.

2.3 states that Kings Cross station is 250 metres from the site. That is incorrect. If exiting from the Forbes Street entrance of the new property, it would be at least a kilometre away.

It is at least a 30 minute walk from the site to Town Hall station, not 15 minutes.

2.4 There is NOT adequate biking lanes along William Street. It is heavily populated with traffic at all times. It is not safe to bike on William Street. People do ride bikes on the footpaths, which is illegal and they are being ticketed for doing so. Very dangerous.

There are currently pressures and conflicts in the local road network. This issue should be strategically and more broadly be reviewed rather than a traffic assessment to support a high density development of one block/development site.

The proposal seeks **maximum density and much higher FSR than envisaged**. The original SEE noted that the proposal would be traffic generating development.

The proposal is seen as **excessive in scale and density and will of course add traffic and parking pressure to the area**. The **scale** is considered to be **out of character with the pedestrian nature of the area and the planning intentions**.

Public Interest and Information Concerns:

The application appears aimed at creating new **site-specific development controls** for the site when they already exist (to protect the above critical items) within Sydney DCP 2012, **without area wide, strategic, balanced or accurate merit assessment representations**.

We are concerned that both the **view impact assessments** have contained factual errors in describing the area, compliance/the planning controls, the context, the age of some buildings, selective/predictive assessments and have **omitted key information** (such as leaving out the requested assessment of our client’s apartments).

The architectural scheme was previously marketed, as indicated in Submission #1.

The original SEE suggested that no approval is sought for the reference scheme as part of the Concept DA. However at the same time, the reference scheme is relied upon as a means of exceeding the height and density controls however.

Concerns in relation to the process and information are outlined as follows:

- The site is subject to **site specific provisions under Sydney DCP 2012 which refers to the area/locality.**
- The applicant seeks to abandon the area and site specific DCP controls as they claim **they do not deliver a development that can comply with the ADG controls and satisfactory yields.** However, the proposal is **not considered to represent the contextual response considerations required by the ADG and SEPP 65 controls.**
- A **balanced assessment** of all relevant area and development controls is **warranted**, including the area specific Council guidelines.
- **In any change to urban design and scale planning, residents would prefer to see a balanced and Council led assessment** as to heritage protection, scales and potential re-use of buildings. **At least – modulation to improve the fine grain/character/views.**
- **The proposed concept DA should be refused as it ignores the current DCP provisions and endeavours to create its own site-specific controls without consideration of wider strategic intent** or the reasonably expected amenity of other residential development.
- This area is **zoned for mixed uses** rather than **majority residential use**, less than 20% of commercial floor space is provided which **undermines the intent of the MU1 zone.**
- The developer/planning/consultant team are dissatisfied with the current controls, dismissing working within the given envelopes. The development appears to be driven by the desire for apartments. **Residents request that an application be more area responsive, redefined concept would be better provided through a strategic planning analysis by the City of Sydney (as we understand is intended). A strategic approach would better allow a fair and rigorous regard to the amenity impacts on surrounding and adjacent properties.**
- The suggested concept **site lacks consistency with the heads of consideration of Section 7.20 of the SLEP** and Clause 4.23 of the *Environmental Planning and Assessment Act 1979* (cl 4.23) (the Act). It would create demonstrable impacts for the area is **not considered consistent with planning or public interest objectives. Particularly when a responsive DCP exists for the site.**
- We acknowledge that **page 10 of the submitted SEE prepared by Urbis indicates that a strategic review would be upcoming at some time:**
‘A letter of advice was issued to the Proponent by the City on 12 August 2021, advising, among other things, that before consideration of any strategic changes for the subject site (or on an ‘ad hoc’ basis), that the City needed to undertake their own broader strategic investigations across the broader area. The City advised that as the LSPS has a series of strategic precincts that are prioritised in advance of other areas, that any future studies of the surrounding precinct would not be undertaken in any immediate or imminent timeframes.

Based on the anticipated timing for the City to complete this study, the Proponent decided to proceed with a scheme which was compliant with the current planning controls. However, it is acknowledged that the site should remain as a key priority for potential strategic planning work, given the potential for alternative built form controls to better align with the objectives of the LSPS’.

- The proponent has provided a reference scheme that includes 10% bonus FSR on the presumption that design excellence will be awarded following a design competition at a detailed DA stage. We submit that this may be further reason to refuse the application as it presents a presumptive/aspirational building envelope and not one sufficiently grounded in the current controls that apply to the site.
- A design competition is to be informed by the site-specific controls that apply to a site. Those controls are embodied in the SLEP and SDCP. If either of those two documents are sought to be changed by a proponent, we submit that this is a strategic planning exercise typically and preferably through a planning proposal and not a DA to ensure the appropriate level of testing and consultation.
- The SEE notes impacts on views from several existing residential buildings but barely mentions the residential building known as ‘Marquis’ at 200 William Street immediately adjacent to the east. The SEE refers to this as the Avis car rental building. This provides an underestimation of the residential apartments in this opposite building.
- The original architectural analysis failed to evaluate view sharing but notes in respect of the proposed intent of the subject building on page 20: *‘The (proposed) building will have spectacular views overlooking the Sydney CBD, The Opera House, Harbour Bridge and The Royal Botanic Gardens’.*
- The architectural plans provide RLs for the reference scheme but do not provide any RLs alongside any indication of habitable rooms, balconies and outdoor common areas on adjacent residential properties or those properties impacted by view loss.
- The departure from DCP 2012 sees higher portions of the building confined to the top third of the site where it fronts William Street. This has the potential to create view loss, additional shadowing in the afternoon and imposition of building bulk over the streetscape has the potential to exacerbate impacts for the building at 200 William Street.
- The building does not align with the DCP planning provisions nor reasonably reflect the site reference scheme in the DCP. This **undermines the integrity of planning objectives** and represents individual, site focussed development.
- In relation to heritage and detailing, no updated Heritage Impact Statement has been provided. It is submitted that adaptive re-use of buildings could be considered, and could the proposal better reflect the fine grain vertical arrangement of buildings in the HCA (rather than horizontal extents).
- Given existing congestion and lane access points, three levels of basement are considered excessive and unnecessarily disruptive of the existing landform, given the close proximity of public transport to this site. Controls seek to maximise non-car transport. With the scale and density proposed, a strategic parking/traffic review would be appropriate.
- We submit that site contamination, water management and traffic aspects should be considered in detail and broader terms given the scale of this redevelopment.

- **Clause 4.15 of the Act requires the consideration of all planning controls, likely impacts and the public interest when considering and determining a DA.**

Summary:

The proposed **impacts are considered inconsistent with planning objectives and controls** and **should not be supported** for the following reasons:

- The proposal has the **potential to completely block existing high value and important iconic/land/water views** enjoyed by residents of the 'Marquis Apartments' – No. 200.
- This potential impact would **block/be devastating** to these **key, valuable and iconic views** and these are the **type of views intended to be protected** or allowed to be **equitably shared** under planning principles.
- The **views are available across living, kitchen, and large key open space areas for a large proportion of homes. The views are sufficiently expansive to be critical for residents and contribute enormously to the enjoyment and value of their homes.**
- The proposal seeks additional **height and form and is inconsistent with adopted urban design guidelines and view sharing considerations.** The **outcome put forward is not considered responsive or reasonable** when considering all layers of relevant planning controls and objectives.
- The reference concept would be **detrimental to scale, existing visual privacy, views, character, traffic flow and light.**
- The DA **submission documents** are **not independent or balanced** when looking to increased density on a 'site' basis. Further, the discussion has not accurately or robustly assessed or detailed a number of important views impacted.
- It is submitted that a **compliant/improved proposal with Council controls could be made to allow equitable access to important views in line with policies.** This could allow view sharing equity and also allow a development for the property owner.
- **Numerous properties are impacted.** We understand there may be **resounding and well-founded local objections raised in relation to scale and unreasonable view and general amenity impacts.**
- The current application **should not be supported and a suitable and sensitive contextual response would serve the public interest and ensure consistency with all relevant state and local planning objectives for apartments and suited to context.**

On behalf of the concerned and represented owners of SP 67851 – 'Marquis Apartments', **thank you for considering these points.**

The owners welcome conversation, questions and site inspections.

Yours sincerely,



Natalie Richter, Consultant Planner for adjoining residents(B. Town Planning, UNSW)

Attachments:

View and Current Apartment Light/Aspect/Amenity Studies per floor, assisted by Victoria Giannakis Photographer, April 2022.

Example floor plan – apartments/level 6

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