

6 October 2020

16457
KB/CPo/MR

Jim Betts
Secretary
Department of Planning, Industry and Environment
12 Darcy Street
PARRAMATTA NSW 2150

Dear Mr Betts

SECTION 4.55(1A) MODIFICATION APPLICATION TO MP08_0238 (MOD 17) 1 DENISON STREET, NORTH SYDNEY

This application has been prepared by Ethos Urban on behalf of Winten Property Group, pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent MP08_0238 relating to 1 Denison Street, North Sydney (the site).

The modification relates to minor alterations to the basement levels including reconfiguration of car and motorcycle parking and the Spring Street elevation.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by:

- Revised Architectural Drawings prepared by Bates Smart (**Attachment A**);
- A Stormwater Statement prepared by enstruct group pty ltd (**Attachment B**); and
- Access Statement prepared by Morris Goulding Access Consulting (**Attachment C**).

1.0 Consent proposed to be modified

MP08_0238 was granted by the (then) Minister for Planning on 25 February 2010 for demolition of existing buildings and erection of a mixed-use development comprising a retail/commercial building at 77-81 Berry Street and a hotel building 88 Walker Street, pursuant to Part 3A of the EP&A Act. The consent has since been modified sixteen times, as follows:

- MP08_0238 MOD 1 – Modification to amend the approved building design, including a minor increase to the building envelope, amendments to façade treatments, a reinstatement of the underground service tunnel, internal reconfigurations, a reconfiguration of the public domain area, and amendments conditions of consent;
- MP08_0238 MOD 2 – Technical amendments to the wording of consent conditions to allow for the staged construction of the two separate buildings;
- MP08_0238 MOD 3 – Modification to enable extended hours of construction facilitating internal fitout works;
- MP08_0238 MOD 4 – Technical amendments to the wording of consent conditions to clarify the staging of Construction Certificates, clarify the timing for satisfying relevant conditions, and to enable temporary access works;
- MP08_0238 MOD 5 – Modification to amend the approved design, including deletion of the hotel component (at 88 Walker Street) and the associated service tunnel, reconfiguration of the commercial tower basement, retention of existing stormwater infrastructure; internal layout changes, and realignment of the approved pedestrian bridge at Denison Street;

- MP08_0238 MOD 6 – Modification to extend and redesign the lower ground and basement levels, replace and augment stormwater infrastructure, and associated modifications to various conditions;
- MP08_0238 MOD 7 – Modification to make a number of architectural form improvements and changes to the internal floor plate requirements in order to accommodate the building's future anchor tenant, as well as responding to changes in the strategic context of the site;
- MP08_0238 MOD 8 – Modification to increase floor to floor heights within lower levels and upper plant room of the commercial building and other minor amendments to building services and approved commercial/retail tenancies;
- MP08_0238 MOD 9 – Design changes to the southern end of the lower podium of the commercial building to create a more regular floorplate and reconfiguration of the building entrance, commercial lobby and public domain to orientate the building to Denison Street at ground level. Update to Landscape Plans to clearly demarcate off-site works;
- MP08_0238 MOD 10 – Design development of the façade expression including fins and frits, louvers and roof profile lighting element. Updates to the detailed landscape design of Berry Square;
- MP08_0238 MOD 11 – Extension of the approved construction hours;
- MP08_0238 MOD 12 – Minor design changes resulting from detailed design development;
- MP08_0238 MOD 13 – Minor design changes to Berry Square and the façade material for the ground level and level 01 resulting from detailed design development;
- MP08_0238 MOD 14 – Extension of time to allow for the public art to be delivered prior the issue of the Final Occupation Certificate;
- MP08_0238 MOD 15 – Amendment to Condition B6 of to defer the timing of the VPA for the railway infrastructure contribution; and
- MP08_0238 MOD 16 – Minor alterations to the basement and ground floor configuration. An extension of time for the delivery of the Voluntary Planning Agreement associated with the railway contributions and public infrastructure conditions prior to issue of a final occupation certificate.

It is noted MOD 1-9 were approved pursuant to (former) Section 75W of the EP&A Act. MOD 10-15 have been assessed and approved in accordance with s4.55(1A) of the EP&A Act and Clause 3BA, Schedule 2 of the EP&A Regulation (Savings, Transitional and Other Provisions).

2.0 Proposed modifications to the consent

2.1 Modifications to the development

The proposed modification to the development consent seeks the following:

- Basement 5: removal of one (1) commercial car parking spaces and construction of a storage room.
- Basement 4: addition of one (1) commercial car parking space and addition of three (3) motorcycle spaces.
- Basement 3: addition of one (1) commercial car parking space, addition of two (2) motorcycle spaces and addition storage room. The introduction of an additional commercial car parking space will result in the removal of the two (2) disabled car parking spaces, resulting in an increase of the commercial car parking spaces from 37 commercial spaces to 38 commercial spaces.
- Basement 2: redistribution of existing car parking spaces (including accessible spaces and associated share zone), introduction of staff amenities, clarification of basement room usages, change of use of the carpark security room into a staff room and new kitchenette adjoining the tenant security room.
- Basement 1: Addition of storeroom located at 77 Berry Street, addition of seven (7) basement storage cages, addition of car park security room and reconfiguration of some car parking spaces to accommodate these

changes as well as enable two (2) disabled access spaces near the lift lobby. The new security room is proposed to north of the southern ramp and the new internal walls and doors for the storage cages will be located to the west of the northern ramp. The new 77 Berry Street store room will be accessed from the 77 Berry Street car park due to the topography of land from the north to the south in this location. The store room is located an entire storey lower than the car parking spaces for 1 Denison Street.

2.2 Summary of Proposed Changes to Parking

A summary of the parking spaces is provided below in **Table 1**.

Table 1 Modification to Parking Spaces

Type of Parking Space	Approved Number of Parking Spaces	Proposed Number of Parking Spaces
Basement 5		
Public Car Spaces	-	-
Retail Car Spaces	-	-
Commercial Car Spaces	62	61
Motorcycle spaces	6	6
Basement 4		
Public Car Spaces	-	-
Retail Car Spaces	-	-
Commercial Car Spaces	61 (including 1 accessible)	62
Motorcycle spaces	6	9
Basement 3		
Public Car Spaces	-	-
Retail Car Spaces	-	-
Commercial Car Spaces	37 (including 2 accessible)	38
Motorcycle spaces	6	8
Basement 2		
Public Car Spaces	23	23
Retail Car Spaces	5 (including 1 accessible)	5 (including 1 accessible)
Commercial Car Spaces	1 accessible space	1
Motorcycle spaces	9	9
Basement 1		
Public Car Spaces	19 (including 1 accessible)	19 (including 2 accessible)
Retail Car Spaces	-	-
Commercial Car Spaces	-	-
Motorcycle spaces	12	7
Total Number of Spaces		
Public Car Spaces	42	42
Retail Car Spaces	5	5
Commercial Car Spaces	161	162
Motorcycle spaces	39	39

2.3 Spring Street Elevation

The proposal is seeking to modify the materials and finishes of the Little Spring Street elevation to reduce the amount of louvres in this location and increase the stone cladding slightly in this location, refer to **Figure 1** and **2**.



Figure 1 Extract of the Detailed Street Elevation for Little Spring Street – MOD 12

Source: Bates Smart



Figure 2 Extract of the Proposed Detailed Street Elevation for Little Spring Street

Source: Bates Smart

2.4 Modifications to conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in ***bold italics***.

A2 Development in Accordance with Plans and Documentation

The development will be undertaken in accordance with MP No. 08_0238 and the Environmental Assessment dated May 2009 prepared by JBA Urban Planning, except where amended by the Preferred Project Report dated October 2009 and as amended by:

...

(n) The Section 4.55(1A) modification application (MP08_0238 MOD 14) and accompanying Environmental Assessment prepared by Ethos Urban dated 10 February 2020;

(m) The Section 4.55(1A) modification application (MP08_0238 MOD 16) and accompanying Environmental Assessment prepared by Ethos Urban dated 3 March 2020 and the Response to Submissions prepared by Ethos Urban dated 26 March 2020; **and**

(m) The Section 4.55(1A) modification application (MP08_0238 MOD 17) and accompanying Environmental Assessment prepared by Ethos Urban dated 6 October 2020
the following drawings

Drawing No.	Rev.	Name of Plan	Date
DA01.000	06	General Arrangement Plan Site Plan	13.02.19
DA02.0B5	06 7	Basement 05 – Parking	13.02.19 28.08.20
DA02.0B4	06 9	Basement 04 – Parking	13.02.19 28.08.20
DA02.0B3	06 9	Basement 03 – Parking	13.02.19 28.08.20
DA02.0B2	06 10	Basement 02 – Parking	13.02.19 21.09.20
DA02.0B1	06 11	Basement 01 – Parking	13.02.19 28.08.20

Drawing No.	Rev.	Name of Plan	Date
DA02.0LG	06	Lower Ground Level	13.02.19
DA03.000	06	General Arrangement Plan Ground Level	13.02.19
DA03.0MZ	07	General Arrangement Plan Mezzanine	28.05.19
DA 03.001	06	General Arrangement Plan Level 01 – Commercial	13.02.19
DA 03.002	06	General Arrangement Plan Level 02 – Commercial & Terrace	13.02.19
DA 03.003	05	General Arrangement Plan Level 03 – Commercial	09.05.18
DA03.004	05	General Arrangement Plan Level 04 – Typical Low Rise	09.05.18
DA03.009	05	General Arrangement Plan Level 09 – Transfer Floor	09.05.18
DA03.010	05	General Arrangement Plan Level 10 – Plant	09.05.18
DA03.011	05	General Arrangement Plan Level 11 – Typical Mid Rise	09.05.18
DA03.022	05	General Arrangement Plan Level 22 – Transfer	09.05.18
DA03.024	05	General Arrangement Plan Level 24 – Typical High Rise	09.05.18
DA03.035	05	General Arrangement Plan Level 35 – High Rise Upper	09.05.18
DA03.036	05	General Arrangement Plan Level 36 – Plant & Overrun	09.05.18
DA03.037	05	General Arrangement Plan Level 37 – Upper Plant	09.05.18
DA03.038	05	General Arrangement Plan Roof Level	09.05.18
DA07.101	06	Building Elevations North Elevation	13.02.19
DA07.102	07 12	Building Elevations East Elevation	28.05.19 28.08.20
DA07.103	06	Building Elevations South Elevation	13.02.19
DA07.104	07	Building Elevations West Elevation	28.05.19
DA07.202	06 10	Building Elevations Detailed Street Elevation – Little Spring Street	13.02.19 28.08.20
DA07.203	06	Building Elevations Detailed Street Elevation – Spring Street	13.02.19
DA07.204	06	Building Elevations Detailed Street Elevation – Denison Street	13.02.19
DA07.205	05	Building Elevations External Lighting	09.05.18
DA08.101	06	Building Sections A-A	13.02.19
DA08.102	06	Building Sections BB	13.02.19
DA10.001	05	Diagrams Photomontage 1/2	09.05.18
DA10.002	05	Diagrams Photomontage 2/2	09.05.18
Landscape Plans & Offsite Works and Public Domain Plan			
16041-L-DA1	G	Off-Site Works & Public Domain Plan	02.08.18
16041_L_DA2	I	Landscape Plan- Ground Level	09.05.2019
16041_L_DA3	I	Landscape Plan- L02 Terrace	26.02.19

3.0 Substantially the same development

Clause 3BA, Schedule 2 of the EP&A Regulation (Savings, Transitional and Other Provisions) states that in the application of section 4.55 (1A) of the Act to the following development, the consent authority need only be satisfied that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent as last modified under section s4.55. In respect of MP08_0238 the last application under s4.55 was MOD 15.

The development, as proposed to be modified, is substantially the same development as that approved in MOD 15 of MP08_0238, in that:

- The development, as proposed to be modified, continues to relate to a commercial building now known as 1 Denison Street;
- The proposed modifications do not alter the built form of the approved development; and
- The proposed modifications are considered a minor design developments which do not alter the impacts of the development.

4.0 Environmental assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the proposed modification is of minimal environmental impact*”. The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

The consistency of MP08_0238 with the relevant legislation, environmental planning instruments, policies and guidelines was considered as part of the original Environmental Assessment Report. However, the following sections warrant additional assessment.

4.1 Car Parking

The proposed modification seeks alterations to the car parking within the approved basement levels. Consequently, the modification will result in an additional commercial car parking space, resulting in an increase from 161 to 162 commercial car parking spaces. The North Sydney Development Control Plan states a maximum car parking rate of 1 space per 400m² of non-residential GFA. The approved GFA (as modified by MOD 12) is 65,543m², allowing a total maximum car parking rate of 164 car parking spaces on site. Therefore, the modification to increase the amount of commercial car parking spaces by 1 (resulting in 162 commercial car parking spaces on site), remains permissible in accordance with Control P7 of Section 10 within Part B of the North Sydney DCP.

4.2 Access

An Access Statement has been provided by Morris Goding Access Consultants (**Appendix C**) and concludes that the proposed modifications to the MP08_0238 consent maintains compliance with the relevant DDA Premises Standards and Australian Standards.

5.0 Conclusion

The modification relates to minor alterations to the basement configuration and elevations. In accordance with section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- The development, as proposed to be modified, is substantially the same development as development for which the consent (MP08_0238), MOD 16 was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Rowe', with a horizontal line underneath.

Michael Rowe
Director
mrowe@ethosurban.com