



AN/SM/JBu
16457
28 June 2017

Carolyn McNally
Secretary
Department of Planning and Environment
Lvl 22, 320 Pitt Street
SYDNEY NSW 2000

Dear Ms McNally,

**SECTION 75W MODIFICATION (MOD 8) - MP08_0238
1 DENISON STREET, NORTH SYDNEY**

We write to you on behalf of the proponent, Winten Property Group, seeking an amendment to Project Approval MP08_0238 pursuant to Section 75W and Clause 12 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), relating to the approved commercial building at 1 Denison Street, North Sydney (the Site).

This modification to the Project Approval seeks to:

- increase the floor to floor height for the Ground, Mezzanine, Level 1 and Level 35 of the building, to achieve the clearance and servicing standards of the future anchor tenant occupying the commercial building and ongoing design development of building services requirements;
- reorientate the building core to correspond to changes in the building resulting a 2,160m² reduction in GFA;
- minor reconfiguration of the basement layout to reflect core and servicing changes; and
- various minor changes to the approved tenancies, commercial levels, and plant as a result of ongoing design development.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in Section 75W of the EP&A Act. It should be read in conjunction with the Environmental Assessment Report (EAR) dated May 2009 and the Preferred Project Report (PPR) dated October 2009, as well as subsequent Section 75W modifications discussed further at **Section 1**. The application is accompanied by:

- Architectural Plans prepared by Bates Smart (**Attachment A**);
- Overshadowing analysis prepared by Bates Smart (**Attachment B**); and
- View Analysis prepared by Virtual Ideas (**Attachment C**).

1.0 BACKGROUND

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. The consent has since been modified five times, and is in the process of being modified a further two 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; and
- 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.

2.0 PROPOSED MODIFICATIONS TO THE PROJECT APPROVAL

2.1 Modifications to the Approved Development

This modification to the Project Approval seeks consent for various minor changes to the approved building as a result of ongoing design development and the need to meet specific requirements for the future anchor tenant. These modifications are detailed below and illustrated in the revised Architectural Plans prepared by Bates Smart at **Attachment A**. An updated photomontage of the development inclusive of the proposed modifications is provided at **Figure 1**.

Floor to Floor Heights

This modification application seeks to increase the floor to floor height at the ground floor of the building, to achieve the required clearance and servicing standards for the major tenant occupying this future commercial building. Namely, it will accommodate the Nine Entertainment Network (also known as Nine Entertainment Co (NEC)) set to relocate from their historic headquarters in Willoughby to anchor the tower at 1 Denison. In response to the servicing requirements of NEC, this application seeks to increase the floor to floor heights of:

- Ground level: Increase from 3.5m to 4.6m floor to floor;
- Mezzanine: Increase from 3.5m to 4.6m floor to floor;
- Level 1: Increase from 4.4m to 4.68m floor to floor;
- Level 35: Increase from 3.75m to 3.78m floor to floor; and
- Roof level plant: Increase from 10.0m to 10.3m floor to floor.

These floor to floor height changes will result in the maximum building height increasing by 2.2m, from 210.65m to 212.85m as detailed on the Architectural Plans at **Attachment A**.

The approved tapered form of the building is not proposed to be altered, however the taper will begin at RL108.68 (approved taper begins at RL106.2). The approved rounded floorplates of the building are not proposed to be altered as part of this application.



Figure 1 – Photomontage
Source: Bates Smart

Building Services and Basement Layout

This application seeks to relocate lift cores and associated building services. These minor modifications necessitate a revised car parking and basement layout. There is no change to the number of car, motorbike or bicycle parking numbers provided within the basement.

The proposed basement changes introduce a lower ground void and servicing level on plan. Whilst this results in a renumbering of the basement plans, it does not change the extent of the approved basement, the provision of parking, the finished ground level, or the extent of excavation. The proposed renumbering is as follows:

- Approved Ground Level = Proposed Ground Level
- New plan = Proposed Below Ground Level (plant and servicing only)
- Approved Lower Ground Level = Proposed Basement 01
- Approved Basement 01 = Proposed Basement 02
- Approved Basement 02 = Proposed Basement 03
- Approved Basement 03 = Proposed Basement 04
- Approved Basement 04 = Proposed Basement 05

A comparison of the basement depths, demonstrating no change, is provided at **Figure 2** (Basement as approved in MOD 6) and **Figure 3** (basement as proposed in MOD 8), noting that the RL of the deepest basement level is maintained at RL41.8.

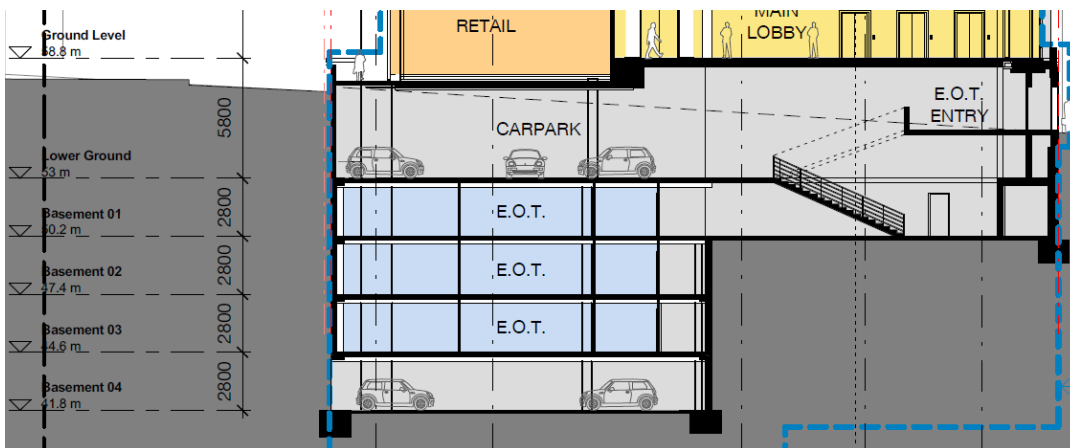


Figure 2 – Approved basement section (MOD 6)
Source: Bates Smart

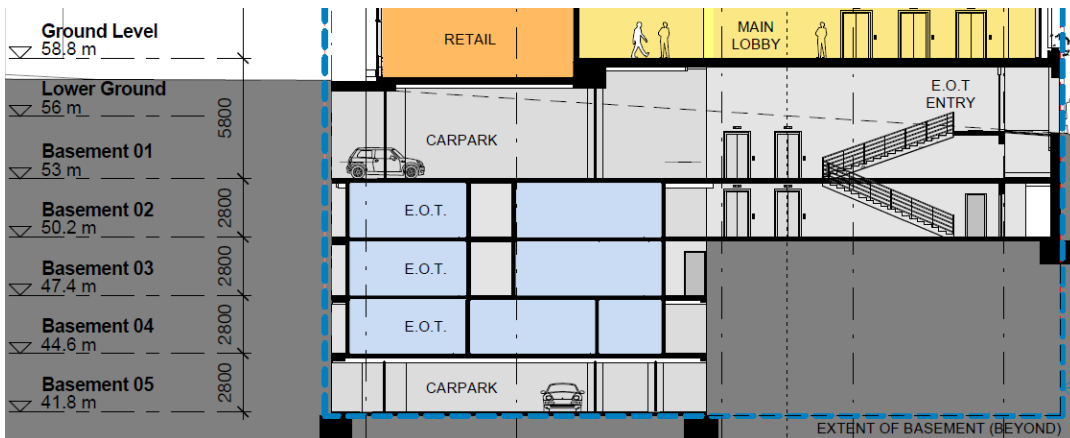


Figure 3 – Proposed basement levels
Source: Bates Smart

Gross Floor Area

The revised core location and building plant layout results in a minor change to the GFA of each level. Overall, these changes result in a net decrease of 675m² in GFA, to a total of 64,712m² being 1,484m² of retail GFA and 63,227m² of commercial GFA. Updated GFA calculation plans are provided in the Architectural Plans at **Attachment A**.

2.2 Modification to Conditions

The proposed modifications described above necessitate amendment to Condition A2 of MP08_0238 as modified. The proposed decrease in GFA will require the amendment of Conditions B4, B6 and E25 in accordance with Council’s calculation for the relevant contributions.

No other modifications to conditions are proposed.

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:

- (a) the S75W Modification Application (MP08_0238 MOD 1) and accompanying Environmental Assessment dated August 2010 and October 2010 and June 2014 and June 2014 prepared by JBA Urban Planning and additional information, plans and reports provided with the Preferred Project Report and S75W;*
- (b) the S75W Modification Application (MP08_0238 MOD 2) and accompanying Environmental Assessment dated 31 May 2011 prepared by JBA Urban Planning;*
- (c) the S75W Modification Application (MP08_0238 MOD 3) and accompanying Environmental Assessment dated 9 November 2011 prepared by JBA Urban Planning and Response to Submissions dated 12 January 2012 and 23 February 2012;*
- (d) the S75W Modification Application (MP08_0238 MOD 4) and accompanying Environmental Assessment dated 12 June 2014 prepared by JBA Urban Planning;*
- (e) the S75W Modification Application (MP08_0238 MOD 5) and accompanying Environmental Assessment dated 12 June 2014 prepared by JBA Urban Planning and Response to Submissions dated 20 November 2014;*
- (f) the S75W Modification Application (MP08_0238 MOD 7) and accompanying Environmental Assessment dated 11 November 2016 prepared by JBA Urban Planning and Response to Submissions dated 2 March 2017, 18 April 2017 and 26 April 2017; and*
- (g) the S75W Modification Application (MP08_0238 MOD 8) and accompanying Environmental Assessment dated 27 June 2017 prepared by JBA Urban Planning; and*
- (h) the following drawings*

Drawing No.	Rev.	Name of Plan	Date
DA01.000	02 03	General Arrangement Plan Site Plan	01.03.17 05.05.17
DA02.0B4	02	Basement 04 – Parking	22.02.17
DA02.0B5	03	Basement 05 – Parking	05.05.17
DA02.0B3	02	Basement 03 – Parking	22.02.17
DA02.0B4	03	Basement 04 – Parking	05.05.17
DA02.0B2	02	Basement 02 – Parking	22.02.17
DA02.0B3	03	Basement 03 – Parking	05.05.17
DA02.0B1	02	Basement 01 – Parking	22.02.17
DA02.0B2	03	Basement 02 – Parking	05.05.17
DA02.0LG	02	Lower Ground Level – Loading	18.04.17
DA02.0B1	03	Basement 01 – Parking	05.05.17
DA02.0LG	03	Lower Ground Level	05.05.17
DA03.000	02 03	General Arrangement Plan Ground Level	01.03.17 05.05.17
DA03.0MZ	02 03	General Arrangement Plan Mezzanine	01.03.17 05.05.17

DA 03.001	02 03	General Arrangement Plan Level 01 – Commercial	01.03.17 05.05.17
DA 03.002	02 03	General Arrangement Plan Level 02 – Commercial & Terrace	01.03.17 05.05.17
DA 03.003	02 03	General Arrangement Plan Level 03 – Commercial	01.03.17 05.05.17
DA03.004	04 03	General Arrangement Plan Level 04 – Typical Low Rise	01.03.17 05.05.17
DA03.009	02 03	General Arrangement Plan Level 09 – Transfer Floor	01.03.17 05.05.17
DA03.010	02 03	General Arrangement Plan Level 10 – Plant	01.03.17 05.05.17
DA03.011	02 03	General Arrangement Plan Level 11 – Typical Mid Rise	01.03.17 05.05.17
DA03.023	02 03	General Arrangement Plan Level 23 – Transfer	01.03.17 05.05.17
DA03.024	02 03	General Arrangement Plan Level 24 – Typical High Rise	01.03.17 05.05.17
DA03.035	02 03	General Arrangement Plan Level 35 – High Rise Upper	01.03.17 05.05.17
DA03.036	02 03	General Arrangement Plan Level 36 – Plant & Overrun	01.03.17 05.05.17
DA03.037	02 03	General Arrangement Plan Level 37 – Upper Plant	01.03.17 05.05.17
DA03.038	02 03	General Arrangement Plan Roof Level	01.03.17 05.05.17
DA07.101	02 03	Building Elevations North Elevation	01.03.17 05.05.17
DA07.102	02 03	Building Elevations East Elevation	01.03.17 05.05.17
DA07.103	02 03	Building Elevations South Elevation	01.03.17 05.05.17
DA07.104	02 03	Building Elevations West Elevation	01.03.17 05.05.17
DA07.202	02 03	Building Elevations Detailed Street Elevation – Little Spring Street	01.03.17 05.05.17
DA07.203	02 03	Building Elevations Detailed Street Elevation – Spring Street	01.03.17 05.05.17
DA07.204	02 03	Building Elevations Detailed Street Elevation – Denison Street	01.03.17 05.05.17
DA08.101	02 03	Building Sections A-A	01.03.17 05.05.17
DA08.102	02 03	Building Sections BB	01.03.17 05.05.17
DA10.001	02 03	Diagrams Photomontage 1/2	01.03.17 05.05.17
DA10.002	02 03	Diagrams Photomontage 2/2	01.03.17 05.05.17
Landscape Plan & Public Domain Plan			
16041_L_C01	A	Public Domain Concept	October 2016

B4 Monetary Contributions for the Commercial Building

The Proponent shall pay the following monetary contributions in accordance with the North Sydney Section 94 Contributions Plan:

(1) Amount of Contribution

Contribution Category	Amount
Public Domain Improvements	\$ 5,305,585.23 to be recalculated based on proposed GFA
Traffic Improvements	\$ 320,327.00 to be recalculated based on proposed GFA
Total	\$ 5,625,912.23 to be recalculated based on proposed GFA

B6 Railway Infrastructure

The Proponent shall enter into a Voluntary Planning Agreement (VPA) in accordance with the offer made on 21 December 2009 with the Minister for Planning to provide a Railway Infrastructure Contribution totalling **\$7,327,141.76 tbc** to be paid to the Transport Administration Corporation. Evidence of the Agreement shall be provided to the Certifying Authority prior to the issue of the relevant Occupation Certificate for the Commercial Tower, except in respect of the initial works

The final contribution payable may be required to reflect the GFA approved as part of this approval. In this case, a report by an appropriately qualified Surveyor shall be submitted to and approved by the Secretary demonstrating the total amount of constructed GFA.

Contributions will be adjusted at the time of payment in accordance with the quarterly consumer price index (All Groups Index of Sydney).

E25 Section 94 Contributions for the Commercial Building

The Proponent shall pay the following monetary contributions in accordance with the North Sydney Section 94 Contributions Plan:

(1) Amount of Contribution

Contribution Category	Amount
Administration	\$129,761.28 tbc
Child Care Facility	\$549,388.48 tbc
Community Centres	\$316,353.82 tbc
Library Acquisition	\$64,512.75 tbc
Library Premises and Equipment	\$196,128.18 tbc
Multi-Purpose Indoor Sports Facility	\$74,224.98 tbc
Olympic Pool	\$241,834.53 tbc
Open Space Acquisition	\$236,507.52 tbc
Open Space Increased Capacity	\$468,835.23 tbc
Total	\$2,277,547.37 tbc

(2) Adjustments

The final contribution payable may be required to be adjusted to reflect the GFA approved as part of the approval.

(3) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to North Sydney Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council. Evidence of the payment to Council shall be submitted to the Certifying Authority prior to the issue of an Occupation Certificate (but

excluding initial works).

(4) Indexing

Contributions will be adjusted at the time of payment in accordance with the quarterly consumer price index (All Groups Index of Sydney).

(5) Works-in-kind

In accordance with Section 2.5 of the North Sydney Contributions Plan, the Proponent may apply to Council, in writing, with an offer that a monetary Section 94 contribution be met by way of material public benefit (for an item not included on the works schedule of the North Sydney S94 Contributions Plan) and may include the dedication of land to Council, or as works-in-kind (for an item not included on the works schedule of the North Sydney S94 Contributions Plan).

3.0 ASSESSMENT OF PLANNING ISSUES

This section of the report assesses and responds to the environmental impacts of the proposed modifications. The planning assessment of the modified development remains generally unchanged, notwithstanding the following matters that warrant further assessment.

3.1 Compliance with Environmental Planning Instruments

The consistency of MP08_0238 with the relevant legislation, environmental planning instruments, policies and guidelines was considered as part of the original EAR. The proposed modification does not greatly change the original assessment against the relevant plans, policies, and guidelines, however the following is noted:

- Notwithstanding the proposed modification, the development will continue to increase the provision of commercial floor space in the North Sydney CBD responds to the strategic objectives and directions in *A Plan for Growing Sydney*, draft Northern District Plan and North Sydney Council's Capacity and Land Use Study, which was endorsed by Council to proceed to Gateway (1 May 2017).
- The development, inclusive of the proposed modifications, will assist in meeting the NSW Premier's Priorities, specifically, the intention to support the growth of commercial floor space to assist in creating jobs in close proximity of new infrastructure, such as the metro being delivered adjacent to the site.
- The specific modifications proposed will ensure that the commercial building can meet the servicing requirements and operational needs of the future anchor tenant and result in a significant employment base within the North Sydney CBD.
- The proposed modification remains generally consistent the Project Approval. It relates to the same activity as the approved development, being for a mix of commercial purposes that remain permissible with consent within the B3 Commercial Core zone under the *North Sydney Local Environment Plan 2013* (North Sydney LEP). Notwithstanding the proposed modifications, the development directly respond to the objectives of this land use zone, being to encourage a wide range of suitable retail, business, office, entertainment, and community land uses in connection with public transport that encourages further employment opportunities.
- Whilst the modified building will continue to exceed the maximum permitted height of buildings under the North Sydney LEP, which permits development of between RL155-170 on the subject site, the proposal remains below the height of RL238 identified for the site as part of the Council's Capacity and Land Use Study as endorsed by Council.

Accordingly, the proposal is consistent with the strategic direction of Sydney, and the North Sydney CBD, and remains generally consistent with the Project Approval.

3.2 Built Form and Urban Design

The proposed modifications will result in a minor alteration to the built form of MP08_0238 (as modified). The proposed modifications to the floor to floor height of lower levels will result in a minor increase in building height but the approved floorplates and tapered form of the tower will remain unchanged.

The proposed modification will enable the activation of Denison Street through the occupation of the lower levels by NEC. This land use will present to the through-site-link and be highly visible from Denison Street and Spring Street as shown in **Figure 4**. It is also noted that the through-site-link will benefit from the 2.2m height increase and be provided as a more open area.



Figure 4 – Proposed increase in floor to floor height at Spring Street/Denison Street
Source: Bates Smart

3.3 Building Separation and Privacy

The proposed modification will result in a minor decrease in building separation between the existing mixed use development at 77 Berry Street, Beau Monde, and the 1 Denison Street building. As the ground floor of the building is proposed to be elevated by 2.2m in order to accommodate the requirements of the anchor tenant’s production spaces, the resultant building taper will commence at a greater elevation, which will result in minor changes to the level-by-level setbacks.

As illustrated in **Figure 5** below, the minor changes to building setbacks are negligible. The modification will continue to provide a slender tower form, with greater setbacks from the adjacent residential tower as the building increases in height, and will retain the approved privacy screening measures in the façade design to prevent direct views between buildings. The modification remains generally consistent with the approved building lines to safeguard the privacy of adjoining residential development.

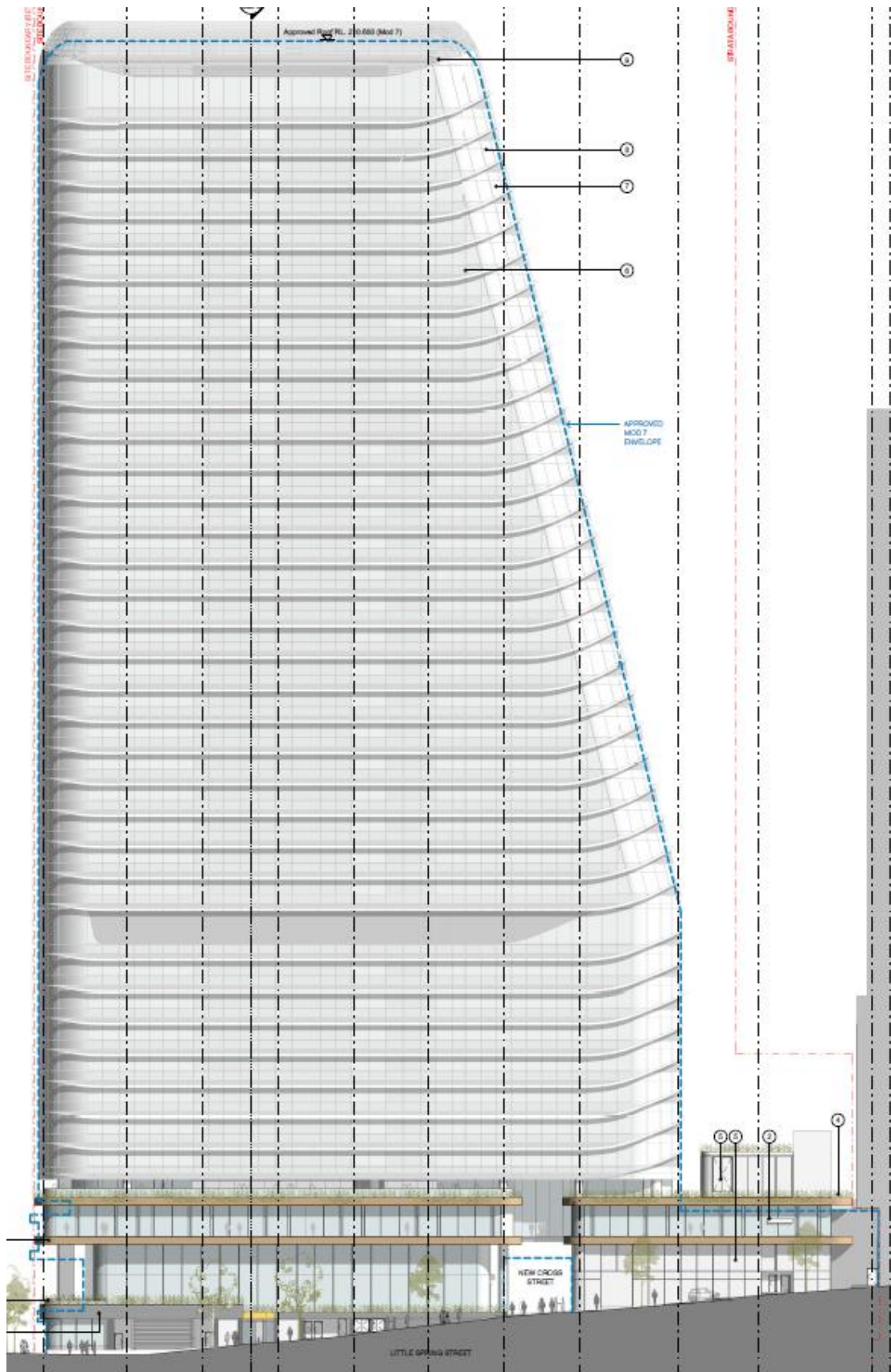


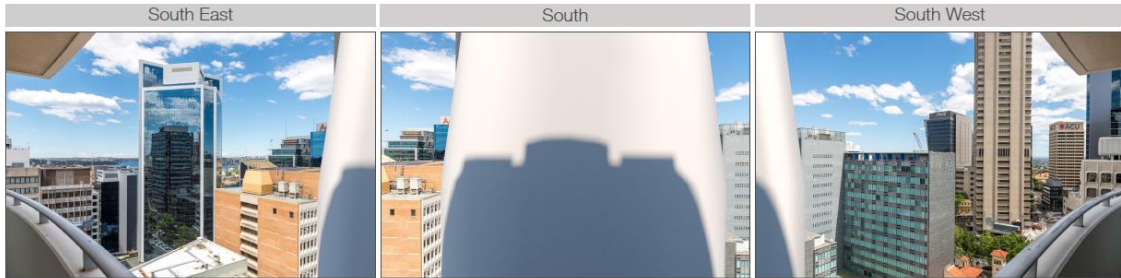
Figure 5 – East elevation, with approved building envelope outlined in blue
Source: Bates Smart

3.4 View Analysis

The proposed changes to the floor to floor heights at lower levels, and the resultant minor change to the overall building height, will marginally alter the view lines from residential apartments adjoining the Site to the north. A revised Visual Impact Study has been prepared by Virtual Ideas and is submitted at **Attachment C** and replicated at **Figure 6-9** below.

It is evident that these changes are minor in nature, and that the proposed modification will not alter the view impacts of the development on adjoining residential properties.

Approved - 24mm



Proposed - 24mm

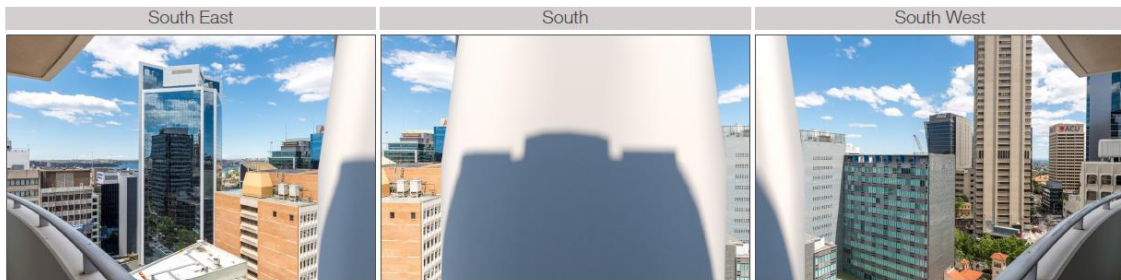
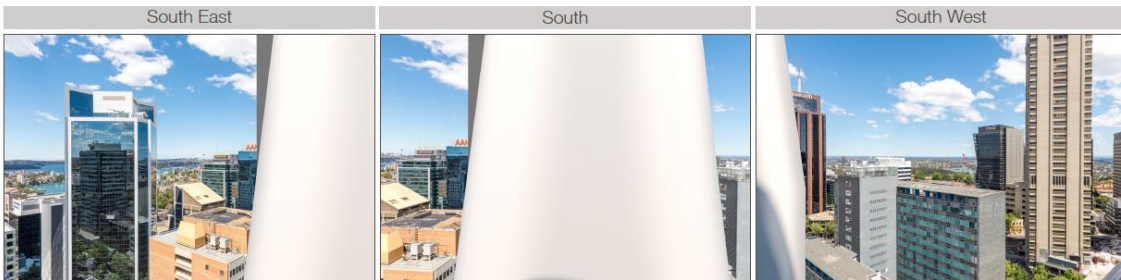


Figure 6 – View sharing from Level 15 of the Beau Monde Tower
Source: Virtual Ideas

Approved - 24mm



Proposed - 24mm

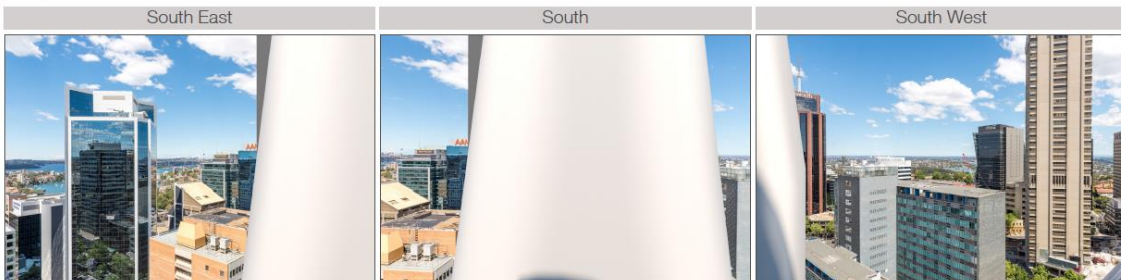
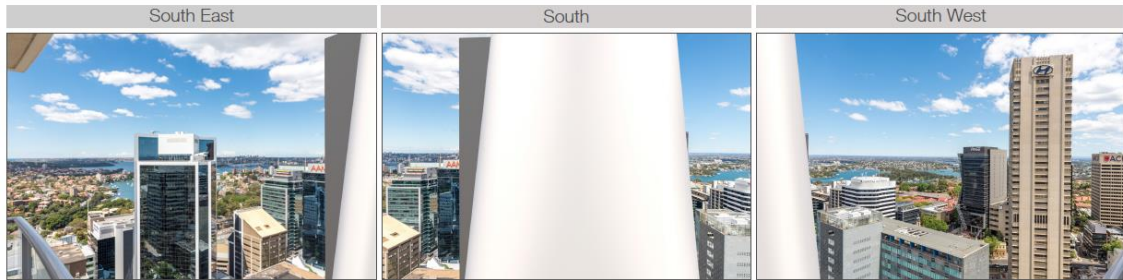


Figure 7 – View sharing from Level 20 of the Beau Monde Tower
Source: Virtual Ideas

Approved - 24mm



Proposed - 24mm

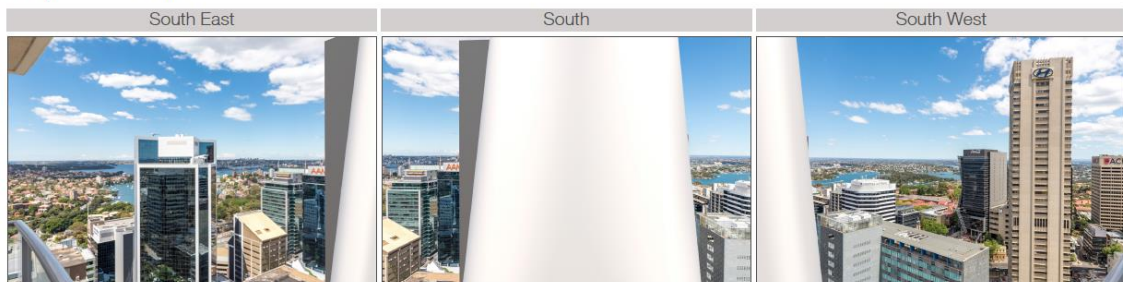
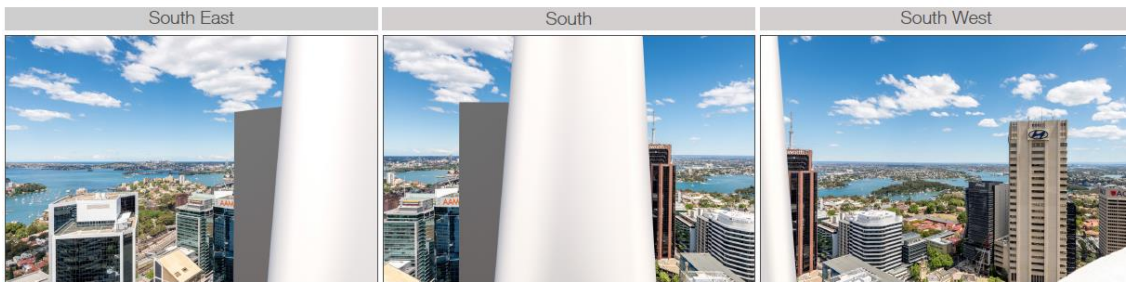


Figure 8 – View sharing from Level 27 of the Beau Monde Tower
 Source: *Virtual Ideas*

Approved - 24mm



Proposed - 24mm

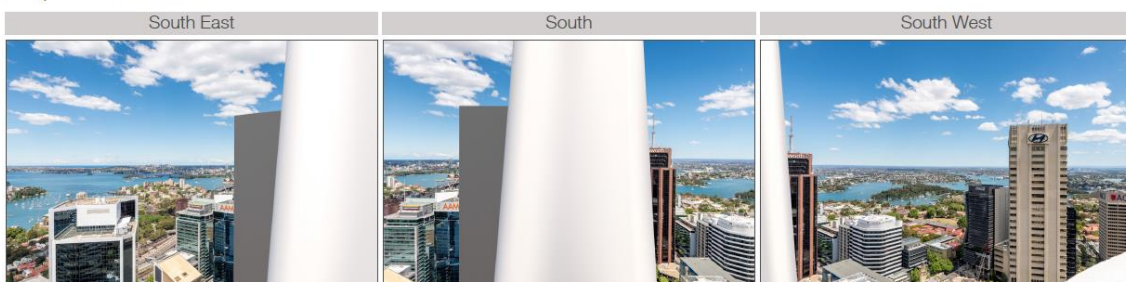


Figure 9 – View sharing from Level 37 of the Beau Monde Tower
 Source: *Virtual Ideas*

3.5 Overshadowing

Bates Smart have prepared solar studies of the modified building to illustrate the potential overshadowing impacts of the proposal (refer to **Attachment B**). These solar studies confirm that the proposed building will continue to comply with the relevant plans and policies used to determine the merit of the proposal, as:

- the building will not overshadow the Greenwood Plaza Special Area between 12pm and 2pm in accordance with Clause 6.3(2) of the North Sydney LEP;

- the building will not create additional overshadowing on residential land outside of the North Sydney CBD between 10am and 2pm, in accordance with the North Sydney Centre Capacity and Land Use Study; and
- there is no additional overshadowing to the Elizabeth Plaza and Blue Street Plaza Special Areas between 12pm and 2pm, despite the North Sydney Centre Capacity and Land Use Study recommending their removal, in accordance with the North Sydney LEP.

Accordingly, the proposal remains consistent with the approved scheme.

4.0 CONCLUSION

This Section 75W application seeks to modify the Project Approval MP08_0238 for the construction of a commercial tower at 1 Denison Street, North Sydney. The proposed modifications relate to an increase in floor to floor heights to accommodate the servicing needs of the major tenant Nine Entertainment Network. These changes result in a minor increase to the building height of 2.2m. The proposed modifications also include a minor reconfiguration of lift cores and building services that will result in an amended basement layout.

As has been demonstrated in the assessment, the proposed modifications will not result in any adverse impacts and will not materially alter the nature of the development (as modified).

In light of the merits of the proposal and in the absence of any significant adverse environmental, social or economic impacts, we recommend that the application be approved.

Should you have any queries about this matter, please do not hesitate to contact me on (02) 9409 4971 or smiller@jbaurban.com.au.

Yours faithfully,



Samantha Miller
Senior Planner



Jennie Buchanan
Associate