

Modification of Project Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthony Witherdin
Director
Modification Assessments

Sydney 8 SEPTEMBER 2017

SCHEDULE 1

Development Approval: MP 08_0238 granted by the Planning Assessment Commission on 8 February 2010

For the following:

Commercial development including:

- **Demolition:** Demolition of the existing buildings at 77-81 Berry Street, excluding portions within the Beau Monde podium, including the pedestrian bridge linking 77-81 Berry Street with Tower Square.
- **Excavation:** Excavation for 4 levels of basement;
- **Construction** of a tapered 41 storey commercial and retail building on the southern portion of 77-81 Berry Street including 2 levels of rooftop plant together with 4 levels of basement car parking with vehicular access via Little Spring Street and loading/unloading facilities including drop-off/pick-up for hotel (buses) and provision of 42 public car parking spaces and 27 motorcycle spaces; and
- **Off-site Works including Public Domain and Landscaping:** Construction of a new pedestrian plaza in Denison Street and public forecourt to Spring Street; construction of a new through-site road between Denison Street and Little Spring Street; together with various public domain improvements in Denison, Spring and Little Spring Streets, including road re-alignments/partial public road closures, tree planting, paving, street furniture and lighting, and, public art.

Approval Authority: Minister for Planning

The Land: Stratum Lot 2, 3 & 4 in DP 10078998 (77-81 Berry Street, North Sydney)

Modification: MP 08_0238 MOD 8: the modification includes:

- increase of 2.2 m building height (from RL 210.65 to RL 212.85)
- reduction of 675 square metres (m²) GFA (from 65,387 m² to 64,712 m²)
- amendments to the internal layout, including changes to the basement.
- increase of substation size.

SCHEDULE 2

The above approval (MP 08_0238) is modified as follows:

- (a) Schedule 2 Part A – Administrative Conditions - Condition A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

- (1) Development Approval is granted only to carrying out the development described in detail below:

- Demolition: Demolition of the existing buildings at 77-81 Berry Street, excluding portions within the Beau Monde podium, including the pedestrian bridge linking 77-81 Berry Street with Tower Square;
- Excavation: Excavation for ~~4~~ **5** levels of basement at 77-81 Berry Street;
- Construction of a tapered 41 storey commercial and retail building on the southern portion of 77-81 Berry Street including 2 levels of rooftop plant together with ~~4~~ **5** levels of basement car parking with vehicular access via Little Spring Street and loading/unloading facilities including drop-off/pick-up for hotel (buses) and provision of 42 public car parking spaces and 27 motorcycle spaces; and
- Off-site Works including Public Domain and Landscaping: Construction of a new pedestrian plaza in Denison Street and public forecourt to Spring Street; construction of a new through-site road between Denison Street and Little Spring Street; together with various public domain improvements in Denison, Spring and Little Spring Streets, including road re-alignments/partial public road closures, tree planting, paving, street furniture and lighting, and, public art.

- (b) Schedule 2 Part A – Administrative Conditions - Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

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 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 28 June 2017 prepared by JBA Urban Planning; and**

- (g h)** the following drawings:

Architectural Drawings Prepared by Bates Smart			
Drawing No.	Rev.	Name of Plan	Date
DA01.000	<u>03</u> <u>02</u>	General Arrangement Plan Site Plan	<u>05/05/2017</u> <u>01.03.17</u>
DA02.0B5	<u>03</u>	General Arrangement Plan Basement 05 – Parking	<u>05/05/2017</u>
DA02.0B4	<u>03</u> <u>02</u>	<u>General Arrangement Plan</u> Basement 04 – Parking	<u>05/05/2017</u> <u>22.02.17</u>
DA02.0B3	<u>03</u> <u>02</u>	<u>General Arrangement Plan</u> Basement 03 – Parking	<u>05/05/2017</u> <u>22.02.17</u>
DA02.0B2	<u>03</u> <u>02</u>	<u>General Arrangement Plan</u> Basement 02 – Parking	<u>05/05/2017</u> <u>22.02.17</u>
DA02.0B1	<u>03</u> <u>02</u>	<u>General Arrangement Plan</u> Basement 01 – Parking	<u>05/05/2017</u> <u>22.02.17</u>
DA02.0LG	<u>03</u>	<u>General Arrangement Plan</u> Lower Ground Level– Loading	<u>05/05/2017</u> <u>18.04.17</u>
DA03.000	<u>03</u> <u>02</u>	General Arrangement Plan Ground Level	<u>05/05/2017</u> <u>01.03.17</u>
DA03.0MZ	<u>03</u> <u>02</u>	General Arrangement Plan Mezzanine	<u>05/05/2017</u> <u>01.03.17</u>
DA 03.001	<u>03</u> <u>02</u>	General Arrangement Plan Level 01 – Commercial	<u>05/05/2017</u> <u>01.03.17</u>
DA 03.002	<u>03</u> <u>02</u>	General Arrangement Plan Level 02 – Commercial & Terrace	<u>05/05/2017</u> <u>01.03.17</u>
DA 03.003	<u>03</u> <u>02</u>	General Arrangement Plan Level 03 – Commercial	<u>05/05/2017</u> <u>01.03.17</u>
DA03.004	<u>03</u> <u>01</u>	General Arrangement Plan Level 04 – Typical Low Rise	<u>05/05/2017</u> <u>01.03.17</u>
DA03.009	<u>03</u> <u>02</u>	General Arrangement Plan Level 09 – Transfer Floor	<u>05/05/2017</u> <u>01.03.17</u>
DA03.010	<u>03</u> <u>02</u>	General Arrangement Plan Level 10 – Plant	<u>05/05/2017</u> <u>01.03.17</u>
DA03.011	<u>03</u> <u>02</u>	General Arrangement Plan Level 11 – Typical Mid Rise Midrise	<u>05/05/2017</u> <u>01.03.17</u>
DA03.023	<u>03</u> <u>02</u>	General Arrangement Plan Level 23 – Transfer	<u>05/05/2017</u> <u>01.03.17</u>
DA03.024	<u>03</u> <u>02</u>	General Arrangement Plan Level 24 – Typical High Rise	<u>05/05/2017</u> <u>01.03.17</u>
DA03.035	<u>03</u> <u>02</u>	General Arrangement Plan Level 35 – High Rise Upper	<u>05/05/2017</u> <u>01.03.17</u>
DA03.036	<u>03</u> <u>02</u>	General Arrangement Plan Level 36 – Plant & Overrun	<u>05/05/2017</u> <u>01.03.17</u>
DA03.037	<u>03</u> <u>02</u>	General Arrangement Plan Level 37 – Upper Plant	<u>05/05/2017</u> <u>01.03.17</u>
DA03.038	<u>03</u> <u>02</u>	General Arrangement Plan Roof Level	<u>05/05/2017</u> <u>01.03.17</u>
DA07.101	<u>03</u> <u>02</u>	Building Elevations North Elevation	<u>05/05/2017</u> <u>01.03.17</u>
DA07.102	<u>03</u> <u>02</u>	Building Elevations East Elevation	<u>12/05/2017</u> <u>01.03.17</u>
DA07.103	<u>03</u> <u>02</u>	Building Elevations South Elevation	<u>05/05/2017</u> <u>01.03.17</u>
DA07.104	<u>3</u> <u>02</u>	Building Elevations West Elevation	<u>12/05/2017</u> <u>01.03.17</u>
DA07.202	<u>03</u> <u>02</u>	Building Elevations Detailed Street Elevation – Little Spring Street	<u>05/05/2017</u> <u>01.03.17</u>
DA07.203	<u>03</u> <u>02</u>	Building Elevations Detailed Street Elevation – Spring Street	<u>05/05/2017</u> <u>01.03.17</u>
DA07.204	<u>03</u> <u>02</u>	Building Elevations Detailed Street Elevation – Denison Street	<u>05/05/2017</u> <u>01.03.17</u>
DA08.101	<u>03</u> <u>02</u>	Building Sections A-A	<u>08/05/2017</u> <u>01.03.17</u>

DA08.102	03 02	Building Sections B-B	05/05/2017 01.03.17
DA10.001	03 02	Diagrams Photomontage 1/2	05/05/2017 01.03.17
DA10.002	03 02	Diagrams Photomontage 2/2	05/05/2017 01.03.17
Landscape Plan & Public Domain Plan			
Drawing No.	Rev.	Name of Plan	Date
16041_L_C01	A	Public Domain Concept	October 2016

- (c) Schedule 2 Part B – Prior to Issue of Construction Certificate - Condition B4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B4 Monetary Contributions for the Commercial Building

The Proponent shall pay the following monetary contributions **prior to the issue of the first Construction Certificate** in accordance with the North Sydney Section 94 Contributions Plan:

- (1) Amount of Contribution

Contribution Category	Amount
Public Domain Improvements	<u>\$5,305,585.23</u> <u>\$5,339,559.15</u>
Traffic Improvements	<u>\$320,327.00</u> <u>\$322,414.17</u>
Total	<u>\$5,625,912.23</u> <u>\$5,661,973.32</u>

- (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 a Construction Certificate for the construction of the building excluding initial works and demolition, excavation and shorting.

- (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).

- (d) Schedule 2 Part B – Prior to Issue of Construction Certificate - Condition B6 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B6 Railway Contributions

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** **\$7,295,486.06** 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).

The Railway Contribution (as updated by modification application MP 08 0238 MOD 8) is based on June quarter 2017 rate @ \$125.38 per m² and 64,712 m² proposed GFA minus 6,261 m² existing GFA minus 264 m² (level 2 77 Berry Street demolition) contribution calculated on 58187 m² increase

- (e) Schedule 2 Part E – Prior to Occupation or Commencement of Use - Condition E25 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

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 <u>\$130,600.72</u>
Child Care Facility	\$549,388.48 <u>\$552,951.06</u>
Community Centres	\$316,353.82 <u>\$318,399.26</u>
Library Acquisition	\$64,512.75 <u>\$64,936.69</u>
Library Premises and Equipment	\$196,128.18 <u>\$197,370.30</u>
Multi-Purpose Indoor Sports Facility	\$74,224.98 <u>\$74,712.11</u>
Olympic Pool	\$241,834.53 <u>\$243,367.13</u>
Open Space Acquisition	\$236,507.52 <u>\$238,013.92</u>
Open Space Increased Capacity	\$468,835.23 <u>\$471,780.20</u>
Total	\$2,277,547.37 <u>\$2,292,131.39</u>

- (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).

**End of Modification
(MP 08_0238 MOD 8)**