



**STATE SIGNIFICANT DEVELOPMENT:
Section 4.55(1A) Modification Application**

86-96 & 100 MOUNT STREET, NORTH SYDNEY

MP08_0241 MOD 7



Environmental Assessment Report
Section 4.55(1A) of the *Environmental Planning
and Assessment Act 1979*

June 2018

Cover: Photomontage of the approved building (Source: Applicant's Public Art Plan)

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NSW Government

Department of Planning & Environment

1. BACKGROUND

1.1 Introduction

This report provides an assessment of an application to modify the project approval for a commercial and retail development at 86-96 and 100 Mount Street, North Sydney (MP08_0241).

This modification application seeks approval to convert 8.83 square meters (m²) of unused plant storage for food and beverage uses (takeaway coffee shop), with associated alterations to the northern and eastern elevations, and to change the timing for the delivery of public art.

The application has been lodged by Laing O'Rourke Mount Street Australia Pty Ltd (the Applicant) pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 Subject site

The subject site is located at 86-96 and 100 Mount Street in the centre of North Sydney CBD (**Figure 1**), approximately 500 metres (m) north of North Sydney Station. It is bound by Spring Street to the north, Walker Street to the east and Mount Street to the south. An existing office building adjoins the western boundary of the site.

Consistent with the central CBD location, the area surrounding the site is characterised by tall commercial buildings, with a mixture of retail and food and beverage uses on the ground floor.

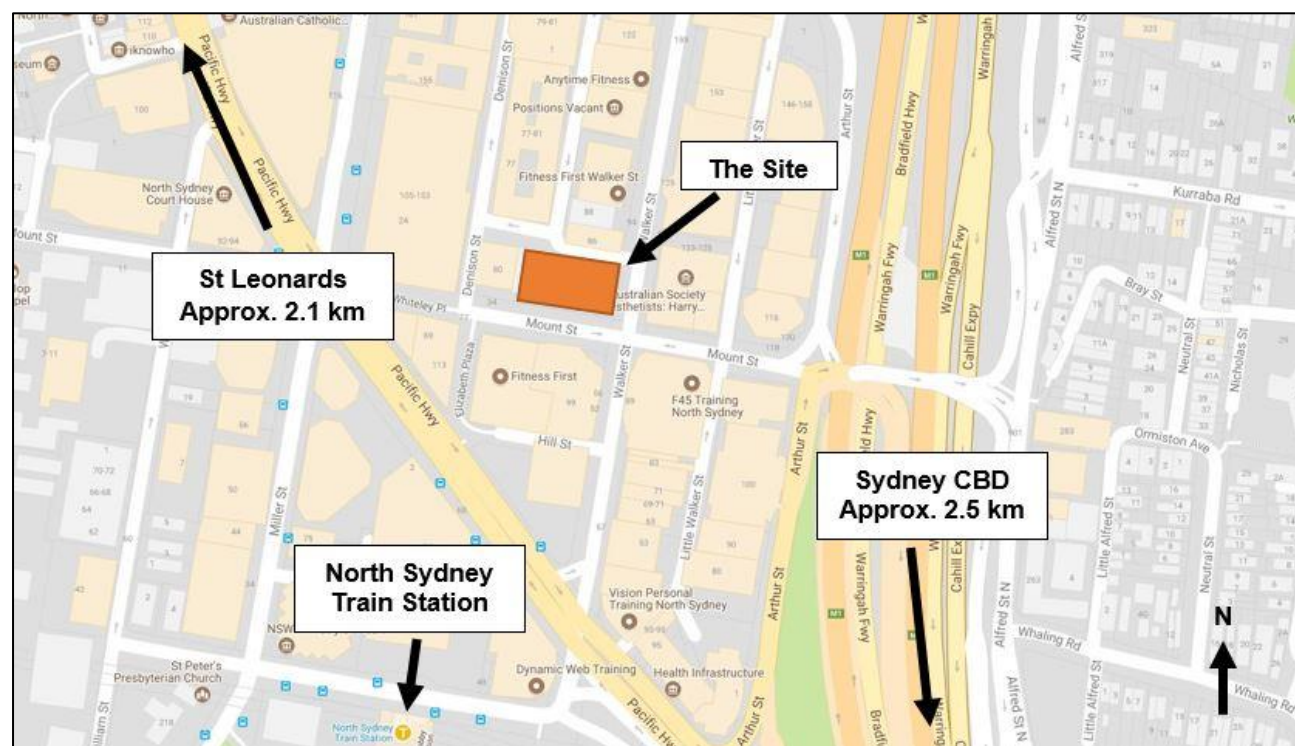


Figure 1: Site location (Source: Google Maps)

Construction of the commercial building on the site is well progressed (**Figure 2**).

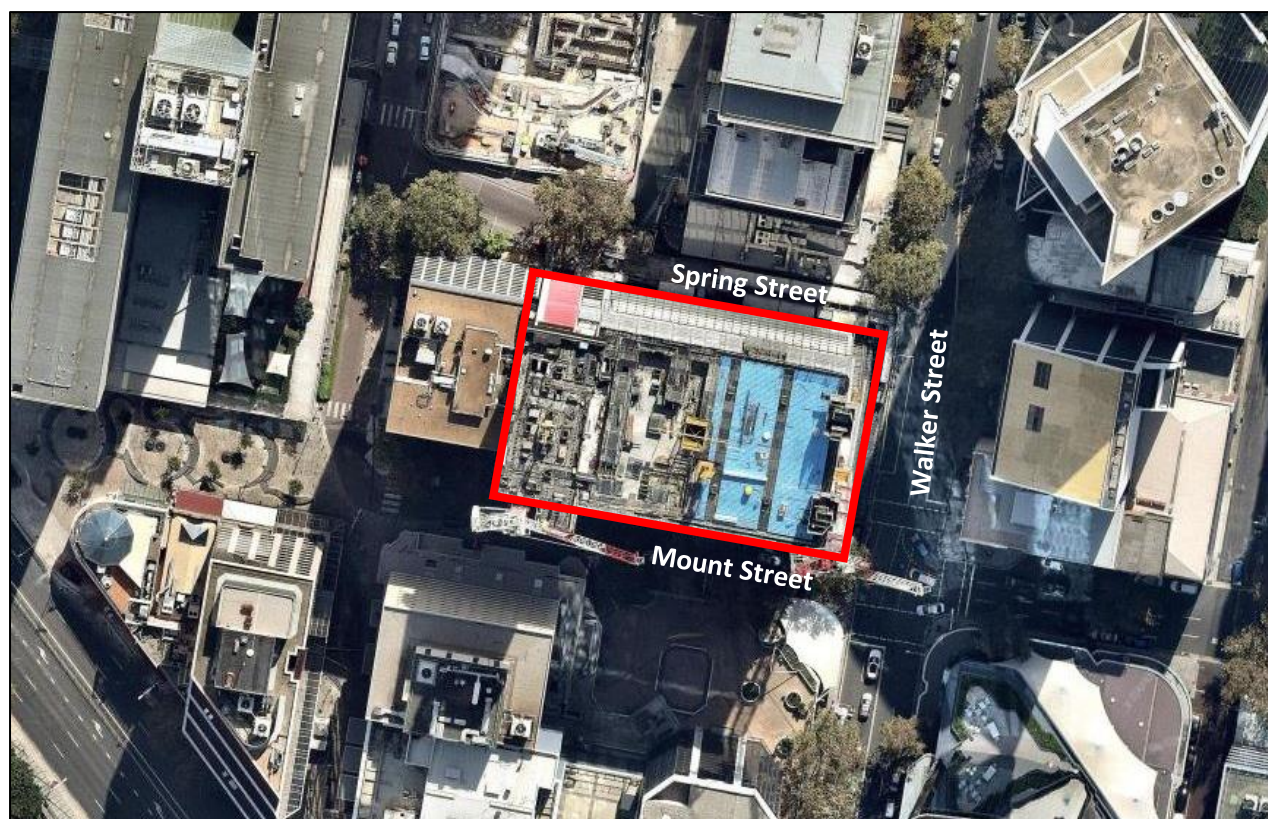


Figure 2: Aerial photo showing construction on the site (Source: Nearmap)

1.3 Approval history

On 25 May 2010, the then Minister for Planning granted concept approval (MP08_0241) for:

- demolition of existing buildings on the site
- construction and use of a 38 storey commercial and retail building
- excavation for five levels of basement, providing a maximum of 97 car parking spaces
- vehicular access and loading docks via Spring Street
- construction of a through-site pedestrian link with associated public domain works.

At the same time as the concept approval, the then Minister for Planning also approved the project subject to conditions (MP08_0241). Pursuant to section 75P(1)(c) of the EP&A Act, no further environmental assessment was required.

The project approval has been previously modified on six occasions, as summarised in **Table 1**.

Table 1: Summary of modifications to the project approval (MP08_0241)

Number	Details	Date
MOD 1	Increase of 6,334m ² gross floor area (GFA) (from 38,733m ² to 45,067m ²), additional 16 car parking spaces (to 113), new basement level and revised vehicular access.	Approved on 16 February 2012
MOD 2	Internal and external amendments to the building and public domain, increase of 472m ² GFA (to 45,539m ²), reduction of 1.7m in overall maximum building height (to RL 198), increase roof level by 2m (to RL 196.7) and provision of a roof terrace at level 34.	Approved on 10 October 2014
MOD 3	Extension of the lapsing date of the approval to 21 January 2020.	Approved on 21 January 2015
MOD 4	Increase of 1.7m in maximum building height (to RL 199.7), increase GFA by 820m ² (to 46,359m ²), increase the number of car, motorcycle and bicycle spaces and other internal and external amendments to the building. This modification also amended Condition E8 (Public Art) to	Approved on 23 March 2016

	remove reference to two approved buildings in relation to the timing for the delivery of public art.	
MOD 5	Increase in GFA (to 47,186m ²), reconfiguration of basement level layouts, extension of construction and demolition hours, increase height of the roof plant (to RL 203.1) and other internal and external amendments.	Approved on 13 January 2017
MOD 6	Increase in GFA (to 47,450m ²), minor changes to the north and south entry stairs, layout on levels 34 to 37 and reorganisation of visitor bicycle parking.	Approved on 4 May 2017

2. PROPOSED MODIFICATION

This modification application (MP08_0241 MOD 7) seeks approval to:

- increase the GFA to 47,458.83m² by converting 8.83m² of unused plant storage space to food and beverage uses (for use as a takeaway coffee shop) (**Figure 3**)
- reconfigure openings at the north-eastern corner of the building, and alterations to the northern and eastern elevations to create the coffee shop serving area.

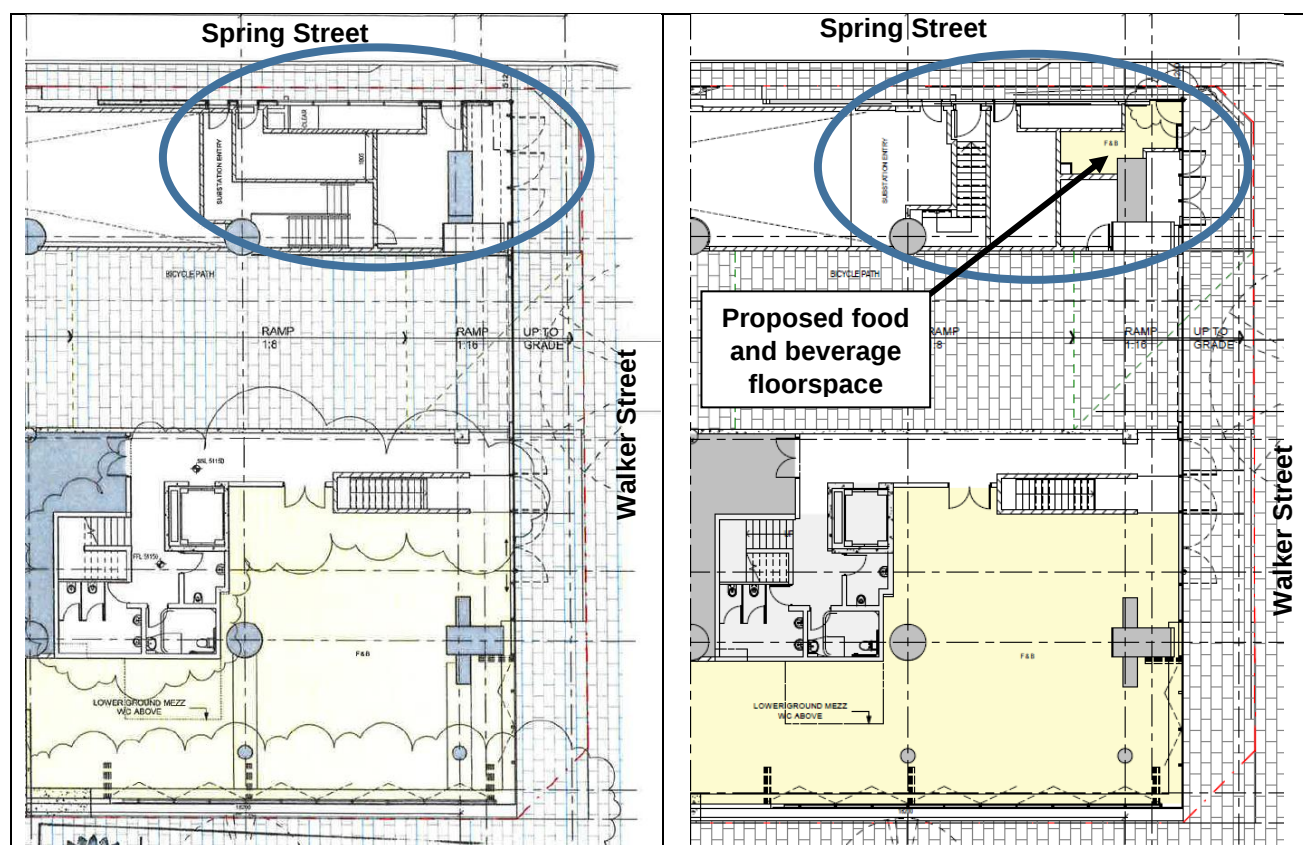


Figure 3: Location of the proposed new food and beverage floorspace (right), compared to the approved floor plan (Source: approved plan / proposed plan)

Following notification, the Applicant requested a further amendment to the project approval to change the timing for the delivery of public art (in Condition E8), as follows:

E8 Public Art

The applicant shall submit an Arts Plan for the proposed development to Council's Arts and Culture Officer for approval.

*The applicant shall consult with Council's Arts and Culture Officer in the design and execution stages of the Art Plan. The Artwork shall be installed in accordance with the approved Art Plan prior to completion and issue of any interim Occupation Certificate **at ground floor.***

3. STATUTORY CONTEXT

3.1 Modification of approval

The project was originally approved under Part 3A of the EP&A Act. Part 3A was repealed in 2011, however there was previously a power to modify Part 3A approvals under section 75W of the EP&A Act. Following amendments to the EP&A Act and associated *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (EP&A (ST&OP) Regulations), that commenced on 1 March 2018, there is no longer a power to modify Part 3A project approvals under section 75W. For project approvals to be modified after 1 March 2018, such as with this proposal, the Part 3A project must be declared to be State significant development (SSD). The project approval can then be modified under Part 4 of the EP&A Act.

On 7 June 2018, the Director, Key Sites Assessments (as delegate of the Minister for Planning) declared the Part 3A project approval at 86-96 & 100 Mount Street (MP08_0241) to be SSD by order under clause 6 of the EP&A (ST&OP) Regulations. This order was published in the NSW Government Gazette on 15 June 2018. The effect of this order is that the modification request is taken to be a request to modify under section 4.55(1A) of the EP&A Act.

Section 4.55(1A) requires the consent authority to be satisfied that the following matters are addressed in respect of the subject application (**Table 2**):

Table 2: S4.55 (1A) considerations

Section 4.55(1A) matters for consideration	Comment
S4.55(1A)(a) that the proposed modification is of minimal environmental impact.	The proposal is of minimal environment impact, as it involves the conversion of 8.83m ² internal floorspace within the existing approved building for use as a takeaway, with only minor changes to façades. In addition, changing the timing for the delivery of the public art is also minimal environment impact.
S4.55(1A)(b) that the development to which the consent as modified is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).	The Department is satisfied the proposal results in development that is substantially the same as the originally approved development. In this regard, the proposed GFA results in an increase of approximately 0.02% of the originally approved GFA.
S4.55(1A)(c) The application has been notified in accordance with the regulations.	The modification application has been notified in accordance with the Regulation. Details of the notification are provided in Section 4 of this report.
S4.55(1A)(d) Any submission made concerning the proposed modification has been considered.	The Department received submissions on the proposal from two public authorities. The comments provided in the submissions are considered in Section 4 and Section 5 of this report.

3.2 Environmental Planning Instruments

The original proposal was assessed against the following environmental planning instruments (EPIs):

- State Environmental Planning Policy 55 – Contaminated Land
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Major Development) 2005 (now State Environmental Planning Policy (State and Regional Development) 2011)
- North Sydney Local Environmental Plan 2001, Draft North Sydney Local Environmental Plan 2009 (now replaced by the North Sydney Local Environmental Plan 2013).

The Department has considered the proposed modifications against these EPIs, and is satisfied that the proposal continues to be consistent with the requirements of the EPIs.

3.3 Consent authority

In accordance with the Minister for Planning's delegation of 11 October 2017, the Director, Key Sites Assessments, may determine the modifications applications as:

- Council does not object to the proposal
- there are no public submissions objecting to the proposal
- a political disclosure statement has not been made.

4. CONSULTATION AND SUBMISSIONS

4.1 Notification & submissions

The Department notified relevant State and local government authorities of the proposal in writing. The Department also made the proposal publicly available on its website. Given the minor environmental impact associated with the proposal, it was not exhibited in any other way.

The Department received submissions from two public authorities. North Sydney Council (Council) and Transport for NSW (TfNSW) advised that it had no objection to the proposal. Council provided advice on the financial contributions resulting from the increase in GFA.

No submissions from the public were received.

5. CONSIDERATION OF PROPOSED MODIFICATION

The Department considers the key assessment issues are:

- increase in GFA
- changes to the timing for the installation of public art.

Each of these issues is discussed in the following sections of this report.

5.1 Increase in GFA

The application seeks to convert 8.83m² of plant storage space, located on the north-east corner of the building fronting Spring and Walker Streets, to food and beverage floorspace (takeaway coffee shop). This results in an increase in the overall GFA and requires internal and external alterations to the building, such as openings and alterations to the two façades to create the coffee shop serving area and employee entrance (**Figure 3**).

The applicant contends that the increase in GFA will not increase the building footprint and will not change the bulk and scale of the building, as it repurposes unused plant area not previously included as GFA. The applicant notes that the hours of operation will be the same as the lobby café. It has also provided a statement from Philip Chun Building Compliance stating that the new coffee shop space is able to comply with the relevant Building Code of Australia (BCA) and accessibility provisions.

While Council and TfNSW do not object to the proposed changes, Council advises that the additional 8.83m² GFA will incur a section 94 contribution of \$1,207.05 and railway infrastructure contribution of \$127.51. Council also provides advice on how to calculate the railway infrastructure contribution, as in accordance with Condition B6 (Railway Infrastructure) the final amount payable may need to be adjusted to reflect the quarterly consumer price index.

The Department supports the proposed increase in GFA, as this is considered minor (being 8.83m² or approximately 0.02% of the originally approved GFA), will not result in adverse environmental impacts and will not change the building footprint, bulk and scale. The Department agrees with

Council's advice in relation to the contributions, and recommends amendments to the relevant conditions.

The Department also supports the proposed use of this space for a takeaway coffee shop, as this:

- will increase street level activation of the building corner fronting Spring and Walker Streets, when compared the blank facades created by the plant space
- will not result in an increase in traffic or parking generation
- is unlikely to disrupt pedestrian movement on Spring and Walker Streets, given the adequate pavement widths and the Applicant amending the plans to remove an entrance door opening into the public domain on this corner
- is consistent and compatible with surrounding land uses, being within the North Sydney CBD
- is capable of complying with the relevant BCA and accessibility provisions, such as fire services, light and fresh air.

5.2 Changes to the timing for the installation of public art

The application also seeks to defer the installation of public art from 'prior to completion and issue of any interim Occupation Certificate' to 'prior to completion and issue of any interim Occupation Certificate **at ground floor**'. The Applicant has requested this to align the timing of occupation certificates with the three handover milestones of the project.

The Applicant contends that this change will not alter the approved building form and will have no environmental impact beyond which have already been assessed.

The Department supports the proposed change in principle, as while not altering the approved Public Art Plan, this will provide some flexibility so that the lower ground and basement levels may be occupied prior to installation of the public art. However, the Department considers it important that the public art be installed before the floorspace at and above ground level be occupied. The Department supports the proposed change, subject to a minor change in the condition to reflect this.

6. CONCLUSION

The modification application has been assessed in accordance with the matters for consideration under section 4.55(1A) of the EP&A Act, and the Department is satisfied that the proposal complies with all statutory and strategic provisions subject to the recommended amendments to the conditions.

The Department's assessment concludes the proposed modification is acceptable on the basis that it would:

- not result in any additional impacts to the surrounding area
- maintain consistency with the objectives of the original approval.

Consequently, it is recommended the modification is approved, subject to the recommended conditions.

7. RECOMMENDATION

It is recommended that the Director, Key Sites Assessments, as delegate for the Minister for Planning:

- **consider** the findings and recommendations of this report
- **determine** that the application falls within the scope of Section 4.55(1A) of the EP&A Act
- **approve** the modification application (MP08_0241 MOD 7), subject to conditions
- **sign** the attached notice of modification (**Appendix B**).

Prepared by: Luke Thorburn
Key Sites Assessments

Endorsed by:



Brendon Roberts
Team Leader
Key Sites Assessments

DECISION

Approved by:



Ben Lusher
Director
Key Sites Assessments

as delegate of the Minister for Planning.

APPENDIX A RELEVANT SUPPORTING INFORMATION

The notice of modification and supporting documents and information to this assessment report can be found on the Department of Planning and Environment's website at:

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9287

APPENDIX B RECOMMENDED CONDITIONS OF CONSENT

The recommended conditions of consent can be found on the Department of Planning and Environment's website as follows.

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9287