

6 July 2020

16457

Jim Betts
Secretary
Department of Planning, Environment and Industry
4 Parramatta Square, 12 Darcy Street
Parramatta
NSW 2150

Attention: Lauren Saunders – Senior Planner – Regional Assessments

Dear Mr Betts,

**RESPONSE TO SUBMISSIONS – MOD 15 – MP 08_0238
1 DENISON STREET, NORTH SYDNEY**

We write on behalf of Winten Property Group (Winten) in regard to the Section 4.55(1A) modification application being MOD 15 to Project Approval MP08_0238 relating to construction of a new commercial building at 1 Denison Street, North Sydney (the site).

MOD 15 to Project Approval MP08_0238 relates to amendments to Condition B6 of the Project Approval to redirect the 1 Denison Street 'public benefit' railway infrastructure monetary contribution to the provision of additional off-site public domain works on behalf of Council and significant upgrades to Berry Square. This alternative public benefit will deliver a significantly greater and more tangible benefit for the North Sydney Centre.

The Department received further comments from Transport for NSW in relation to the Response to Submissions, which maintained its objection to the proposal. Transport for NSW's specific further contentions and Winten's response is provided below:

Condition B6 of MP 08_0238 is consistent with the original intent, which was part of the statement of commitments offered by the applicant for the original project, for paying monetary contribution towards the railway infrastructure.

This is not in dispute, Winten acknowledges that the original developer offered to pay a monetary contribution towards railway infrastructure as a public benefit as part of the project which was ultimately reflected in Condition B6. That does not prevent the Department from amending the condition or form in which the public benefit is provided if it is of the opinion this is in the public interest to do so.

It is noted that the site on which the development is situated was deferred from the application of the North Sydney Local Environmental Plan 2001, nevertheless the subject site is inarguably benefited from the allowed increase of commercial floor space within the North Sydney Centre.

As acknowledged by Transport for NSW, the non-residential floor space restriction under LEP 2001 did not apply to the site. Therefore, it is not true to say that it benefited from the allowed increase under LEP 2001, because that instrument did not apply to the development. Further, development proposed in the North Sydney Centre today equally benefits from the Station Upgrade that occurred back in 2007, but the current LEP does not require that development to make a contribution towards it. The best example of this was 88 Walker Street, which formed part of the original MP 08_0238 proposal but was later removed from the site under a Section 75W Modification. The new owners of that site subsequently lodged a DA for a 50 storey office / hotel tower which is currently under construction. Even though it was approved as part of the original 1 Denison development, and will result in a building that is 17 storeys taller, it did not have to pay any railway contribution (or deliver an alternative public benefit) because the LEP that applied at the time did not require it.

As referred in Section 9 of the Director-General's Environmental Assessment Report for the original project, it is evident that the commitment of Contribution to the payment of the upgraded North Sydney Railway Station and the achievement of the North Sydney Centre 250,000m² floor space target has a direct nexus in the recommendation for the approval of the original project. Consideration as to whether the subject modification would disregard the commitment to the railway contribution that formed an essential part of the assessment leading to the approval of the original project.

An extract of the Director-General's Environmental Assessment Report's consideration of public benefits is provided below. The assessment recognises the contribution that was being offered at the time as part of a large list of items that formed part of the significant benefits being delivered to the wider community as part of the project:

Public Benefits

It is expected that the proposal will have some impact on the locality and will affect the existing views and amenity of some apartments in the Beau Monde building. However, on balance the proposal will provide significant benefits to the wider community, including:

- Realisation of additional premium grade commercial floor space in the North Sydney Centre and jobs growth;
- Achievement of 5-star Greenstar energy rating for the commercial tower and 4-star NABERS rating for the hotel building;
- Contribution to the payment of the upgraded North Sydney Railway Station and the achievement of the North Sydney Centre 250,000m² floor space target;
- Public domain areas of 1,100m² including the creation of a public plaza in Denison Street;
- Construction of a new through-site link (road) through the commercial site, enabling the reconfiguration of traffic in the surrounding laneways and improved pedestrian connectivity;
- Increased setbacks at ground level to enhance the public domain, especially to the south on Spring Street;
- Provision of a 4.5-star hotel;
- Provision of a new public car park to accommodate 42 cars and 10 motorcycles;
- Increased separation distance between the commercial building and the Beau Monde building to improve amenity; and
- Employment opportunities through the construction and operational phase of the development.

It was the holistic delivery of public benefits that formed part of the nexus in the recommendation for the approval and not the railway contribution specifically. Replacing one of the above public benefits for another public benefit, which has already occurred as part of other subsequent modifications made by the Department, does not change the essential element of the original assessment which was that in considering the impacts, on balance "the proposal will provide significant benefits to the wider community".

To this point, we strongly believe that making a monetary contribution to a funded piece of infrastructure that was completed 13 years ago is far less of a public benefit than a direct physical and monetary contribution to delivering Council's exciting public domain vision for the North Sydney Centre.

It is clear that Winten and Transport for NSW will not agree in relation to this matter. As set out in the original Modification, Response to Submissions and this letter, there is a clear public interest in modifying the approval as proposed. Winten now anticipates it will be issuing its Occupation Certificate for the upper levels of the tower in September 2020, therefore it is critical the Department complete its assessment and determine this Modification as soon as possible.

Should you have any queries about this matter, please do not hesitate to contact me.

Yours sincerely,

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

Michael Rowe
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