

3 August 2010

Mr Sam Haddad
Director-General
Department of Planning
22 – 33 Bridge Street
Sydney NSW 2000

Attention: Andrew Smith

Dear Andrew

**SECTION 75W MODIFICATION – MP08_0238
88 WALKER STREET, NORTH SYDNEY**

We write to you on behalf of the proponent Eastmark Holdings Pty Limited, seeking an amendment to Project Approval MP08_0238 pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Specifically the following amendments are sought:

- Installation of a service tunnel under Little Spring Street connecting the basement of the hotel building with the basement of the commercial building;
- Increase of Level B5 basement area to accommodate additional plant requirements;
- Reinstatement of the basement and lobby areas of the hotel building as originally proposed, to reflect the introduction of the service tunnel;
- Enlargement of public domain / undercroft space to the south of the commercial building;
- Reconfiguration of public domain area in Dennison Street;
- Reconfiguration of ground floor lobby / mezzanine areas;
- Relocation of the car park and commercial tower lift cores;
- Reduced upper level setbacks to Little Spring, Spring and Dennison Streets;
- Revised façade articulation following a reduction in the height of the building;
- Reconfiguration / relocation of accessible car parking spaces in anticipation of the requirements of Building Code of Australia 2011 (BCA 2011) – note no change to overall number of parking spaces provided;
- Deletion of condition B1;
- Amend conditions B4 & B6 as a result of the revised GFA of the development; and
- Amend condition B38 to reflect the revised wind assessment.

Plans showing the above amendments are included at **Attachment A**.

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. The application is accompanied by:

- Section 75W application form and fee – including Landowners Consent from North Sydney Council;
- Revised Architectural Plans prepared by Rice Daubney (**Attachment A**);
- A copy of the Notice of Determination for MP08_0238 (**Attachment B**);
- Information regarding plant requirements of the building (**Attachment C**);
- Design Statement prepared by Rice Daubney (**Attachment D**);
- Revised Wind Impact Assessment prepared by Windtech Consultants (**Attachment E**);
- Revised View Analysis (**Attachment F**);
- Revised GFA Plans prepared by Frank M. Mason & Co. Pty Ltd (**Attachment G**); and
- Revised Public Domain Plan prepared Oculus (**Attachment H**).

1.0 CONSENT PROPOSED TO BE MODIFIED

Project Approval MP08_0238 was granted by the Department of Planning (DoP) on 25 February 2010 for demolition of existing buildings and erection of a mixed use development comprising a retail/commercial building and a hotel building at 77 – 81 Berry Street and 88 Walker Street. A copy of the Notice of Determination is included at **Attachment B**.

In accordance with Condition B1 of the consent, revised plans were submitted to the DoP on 22 June 2010. The plans included the following design amendments:

- Deletion of the service tunnel under Little Spring Street;
- Deletion of 5 office levels from the southern component of the office tower;
- Deletion of 2 office levels from the northern component of the office tower;
- The height of the loading dock was reduced from 4.5m down to 3.6m (-0.9m) thereby reducing the ground level of the lobby level of the building from RL 59.5m down to RL58.6m so that it is now level with Spring Street and Dennison Street and level access is provided into the Lobby from the street;
- Reduced height of the lobby from 8.225m down to 7.75m (-0.5m); and
- Nomination of the roof of the northern portion of the commercial tower as being non-trafficable.

The plans satisfy all of the requirements of condition B1 with the exception of condition B1(4) which required the roof plant to be reduced in size. Information was submitted which detailed exactly what plant equipment is to be located in the roof and why it is not possible to reduce the roof plant area. This information is included at **Attachment C**.

2.0 PROPOSED MODIFICATIONS TO CONSENT

The following modifications to the consent are proposed. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

PART A – Table

Insert:

...	
On land comprising:	Stratum Lot 2, 3 & 4 in DP 1078998 (77 – 81 Berry Street, North Sydney), and Lot 1 in DP 832416 (88 Walker Street, North Sydney) <i>and Little Spring Street</i>

Condition A1 Development Description

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

- Demolition ...
- Excavation: Excavation for ~~4- 5~~ levels of basement at 77 – 81 Berry Street ***and a service tunnel under Little Spring Street and 2 levels of basement under 88 Walker Street.***
- Construction: of a part ~~28- 37~~ ***26/30*** storey commercial and retail building on the southern portion of 77 – 81 Berry Street together with 4 levels of basement car parking ***and 1 level of basement plant (5 levels in total)*** 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 10 motorcycle spaces.
- Construction ...

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 prepared by JBA Urban Planning and additional information, plans and reports provided with the Preferred Project Report, ***or as amended by the Environmental Assessment dated August 2010 prepared by JBA Urban Planning*** and the following drawings prepared by Rice Daubney:

Drawing No.	Rev	Name of Plan	Date
DA 01	C E	Cover Page and Drawing Register	09.10.09 09.07.10
DA 02	C	Photomontage looking up Walker Street	09.10.09 09.07.10
DA 03	C E	Photomontage corner of little Spring St and Spring St	09.10.09 09.07.10
DA 04	C	Photomontage looking up Denison St	09.10.09 09.07.10
DA 05	C	Photomontage of the New Cross Road	09.10.09 09.07.10
DA 06	C E	Photomontage views from Neutral Bay and Warringah Freeway	09.10.09 09.07.10
DA 07	A E	Photomontage new through Street viewed from Denison Street	09.10.09 09.07.10
DA 08	A E	Existing Building Survey	09.10.09 09.07.10
DA 09	C E	Location Plan and Survey Plan	09.10.09 09.07.10
DA 10	C E	Basement 5- Plant	09.10.09 09.07.10
DA 11	C E	Basement 4- Commercial Plan	09.10.09 09.07.10
DA 12	C E	Basement 3- Commercial Plan	09.10.09 09.07.10
DA 13	C E	Basement 2- Commercial and Hotel Plan	09.10.09 09.07.10

Drawing No.	Rev	Name of Plan	Date
DA 14	CE	Basement Plan 1- Commercial and Hotel Plan	09.10.09 09.07.10
DA 15	CE	Lobby and Ground Floor Introduction Page	09.10.09 09.07.10
DA 16	CE	Commercial Lower Ground and Hotel Lobby	09.10.09 09.07.10
DA 17	CE	Commercial Lobby & Hotel Bridge Link	09.10.09 09.07.10
DA 18	CE	Commercial Food Court Retail and Hotel Conference	09.10.09 09.07.10
DA 19	CE	Commercial Conference/ Meeting & Hotel Restaurant	09.10.09 09.07.10
DA 20	CE	Commercial Plant & Hotel Bar	09.10.09 09.07.10
DA 21	CE	Commercial and Hotel Towers Introduction	09.10.09 09.07.10
DA 22	CE	Commercial Low rise & Hotel Plant	09.10.09 09.07.10
DA 23	CE	Commercial Low Rise Typical & Hotel Administration	09.10.09 09.07.10
DA 24	CE	Commercial Mid Rise Typical & Hotel Typical	09.10.09 09.07.10
DA 25	CE	Commercial High Rise Typical & Hotel Typical	09.10.09 09.07.10
DA 26	CE	Commercial High Rise Typical (small) & Hotel Plant	09.10.09 09.07.10
DA 27	CE	Commercial Plant & Hotel Roof	09.10.09 09.07.10
DA 28	CE	Commercial Roof & Hotel Roof	09.10.09 09.07.10
DA 29	CE	Commercial North/South section looking West	09.10.09 09.07.10
DA 30	CE	Section through Commercial and Hotel looking North	09.10.09 09.07.10
DA 31	CE	Section through Hotel looking West	09.10.09 09.07.10
DA 32	CE	Commercial East Elevation	09.10.09 09.07.10
DA 33	CE	Commercial & Hotel North Elevation/ Section	09.10.09 09.07.10
DA 34	CE	Commercial West Elevation	09.10.09 09.07.10
DA 35	CE	Commercial & Hotel South Elevation	09.10.09 09.07.10
DA 36	CE	Hotel East Elevation	09.10.09 09.07.10
DA 37	CE	Hotel West Elevation	09.10.09 09.07.10
DA 38	CE	Detailed Street Elevation- Little Spring Street	09.10.09 09.07.10
DA 39	CE	Detailed Street Elevation- Spring Street	09.10.09 09.07.10
DA 40	CE	Detailed Street Elevation- Denison Street	09.10.09 09.07.10
DA 41	CE	Detailed Street Elevation- New Cross Street	09.10.09 09.07.10
DA 42	CE	Detailed Street Elevation- Little Spring Street East/ Walker Street	09.10.09 09.07.10
DA 43	CE	Commercial Tower Setback Diagram	09.10.09 09.07.10
DA 44	CE	Hotel Setback Diagram	09.10.09 09.07.10
Landscape Plan & Public Domain Plan prepared by OCULUS at Appendix I of the Preferred Project Report			
	D	Indicative Public Domain Plan	23.09.09
	D	Landscape Roof Garden Plan	23.09.09
	D	Landscape Sections	23.09.09
	D	Public Domain Plans	23.09.09

Condition B1 — Design Modifications

~~Prior to the issue of the relevant Construction Certificate, the design of the building shall be amended as follows:~~

- ~~(1) — The maximum RL of the proposed commercial tower on the southern portion of No. 77 — 81 Berry Street shall be RL 170 metres AHD except for plant room levels, which are permitted to extend to RL 178.675 metres AHD, subject to Condition B1(4).~~
- ~~(2) — The maximum RL for the proposed commercial tower on the northern portion of No. 77 — 81 Berry Street shall be RL 155 metres AHD.~~
- ~~(3) — The connecting service tunnel below Little Spring Street shall be deleted, and alternative arrangements shall be made to provide for servicing access between the hotel building and the commercial building basement level, and shall include building modifications and amendments to the Transport and Pedestrian Management Plans as required;~~
- ~~(4) — The plant room levels between RL170 metres AHD and RL178.675 metres AHD shall be redesigned to minimise the footprint area and minimise the width of the east-west section and shall comprise a high quality design which contributes to the skyline of the North Sydney CBD.~~
- ~~(5) — The roof terrace shall be deleted and the area above the northern portion of the commercial tower shall be made non-trafficable to ensure that there are no adverse acoustic or privacy impacts on the Beau Monde Building.~~

~~Details demonstrating compliance with Condition B1 shall be submitted to and approved by the Director General of the Department of Planning prior to the issue of a Construction Certificate for any building.~~

Condition B4 – Monetary Contributions

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

(1) Amount of contribution

Contribution Plan	Contribution rate / 100m ²	Amount Payable
Administration	192.54	94,309.94
Childcare Facility	815.21	399,306.16
Community Centres	469.41	229,926.41
Library Acquisition	95.72	46,885.57
Library Premises and Equipment	291	142,537.62
Multi Purpose Indoor Sports facility	110.13	53,943.88
Olympic Pool	358.84	175,767.01
Open Space Acquisition	350.95	171,902.33
Open Space Increased Capacity	695.65	340,743.28
Public Domain Improvements	7872.51	3,856,112.85
Traffic improvements	475.33	232,826.14
Total	\$11,727.29	\$5,744,261.19

...

Condition 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 ~~\$6,303,162.00~~ **\$5,252,830** to be paid to the Transport Administration Corporation...

Condition B38 – Wind Impact

The proposed development shall incorporate the recommendations contained in the “Pedestrian Wind Environment Study” prepared by Windtech Consultants Pty Ltd, dated ~~7-October-2009~~ **July 2010**. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the certifying authority prior to the issue of a Construction Certificate.

3.0 ENVIRONMENTAL ASSESSMENT

The following provides an environmental assessment of the proposed modifications.

3.1 Design Amendments / Condition B1

Design documentation was submitted to the Department of Planning on 22 June 2010 which included amended plans that reduced the height of the building, nominated the roof of the northern part of the tower as being non-trafficable and deleted the tunnel from the approved scheme.

The proposal also provided justification as to why it was not possible to reduce the size of the rooftop plant as the space was designed to be just large enough for all of the plant equipment to be installed in the building (the relevant information to support this argument is included at **Appendix C**). To further support this argument it is noted that the plans the subject of this application seek to increase the amount of plant area available in the building as alternative forms of energy such as a tri-generation plant are likely to be installed in the building.

The condition is considered to be redundant for the following reasons:

- The plans have been amended to the required height and will be referenced in condition A1 and will be enforceable through that condition;
- The plans show the rooftop of the northern part of the commercial tower as being non-trafficable and will be referenced in Condition A1 and will be enforceable through that condition;
- Landowners consent has been issued for the construction of the tunnel under Little Spring Street and it is now included in the modified proposal; and
- Information has been submitted to demonstrate that it is not possible to reduce the roof plant area.

It is therefore requested that the DoP delete Condition B1 (see **Appendix A**).

3.2 Building Setbacks and Revised Façade Design

The application seeks to amend the building setbacks as shown on drawing DA43. In summary the floor plate has been slightly increased by 1,500mm to the east, south and west at the southern half of the building. The design philosophy of the façade has also changed following the significant reduction in height of the building. The screens will now have a more rippled effect to provide additional articulation to the building.

Rice Daubney has provided the following design statement (**Appendix D**) in relation to the changes to the façade design and setbacks:

“Following the reduction in height that resulted from the DoP’s approval and the subsequent changes in proportion to the commercial tower we have reviewed the façade design with the intent of improving the overall look of the amended building and redefining the aesthetic.

To this end we have amended the long western elevation to be read more distinctly as two elements. To achieve this we have pushed the southern section of the building out to give a defined line that corresponds with the core on the opposite side and elongates the perceived proportions of the long elevations. This is also the point at which the sunscreens twist from horizontal (to the north) to vertical on the southern end of the façade to best optimise solar protection and views from all aspects of the building.

The form of the sunscreens is conceived as fluid reacting to the changes in the façade plane similar to water in a stream reacting to rocks with a ripple effect. This logic is followed over the projections in the façade giving the building a dynamic fenestration, which differs from floor to floor due to the differing obstacles each screen has to overcome.

A similar approach is achieved on the eastern elevation with the core acting as a starting point for the twist from horizontal to vertical causing a ripple that continues to the south with all individual shades finishing at the southern end of the façade as vertical and parallel to the facade.

By treating the sunshades as a series of independent elements rather than one large screen the east and west façades takes on a more dynamic quality changing from north to south and from floor to floor. This dynamism entices interest and invites curiosity as to the whole, which is particularly important given it is generally viewed only behind or beyond other buildings and lacks an address point on a prominent street."

The potential impacts associated with the design change are related to wind and views. These are discussed in the following sections.

3.3 Wind Assessment

Windtech Consultants Pty Ltd was commissioned to revise their wind impact assessment so as to account for the revised building envelope (**Appendix E**). The proposed building envelope was subjected to wind tunnel testing which allowed Windtech to determine if the wind mitigation measures outlined in the original proposal remained appropriate or if alternative mitigation measures would be required.

As can be seen in **Figures 1** and **2** generally the same mitigation measures are recommended with the exception of the trees to be planted in Denison Street. Windtech now recommend that 9 densely foliating trees, capable of growing to 3m tall with a 3m wide canopy be planted along the northern section of the street.

With the wind mitigation measures implemented, Windtech are of the opinion that all trafficable outdoor areas within and around the development site will satisfy the appropriate wind comfort criteria. Wind conditions for all areas will also be similar to, or better than, the existing wind conditions for the ground level areas.

3.4 View Analysis

Revised view images were prepared and are included at **Appendix F**. The revised images include the approved 100 Mount Street development and incorporate the revised side setbacks of the building.

As can be seen in the images, the changes to the built form do not result in any additional loss of an iconic view or water view. As the changes to the building setbacks are only made at the southern portion of the building, they do not affect the view cone that the Beau Monde Apartments would retain if the building was constructed as currently approved. This is demonstrated in **Figures 3** and **4** which provide a comparison of the view corridor of the approved building and the revised building envelopes.

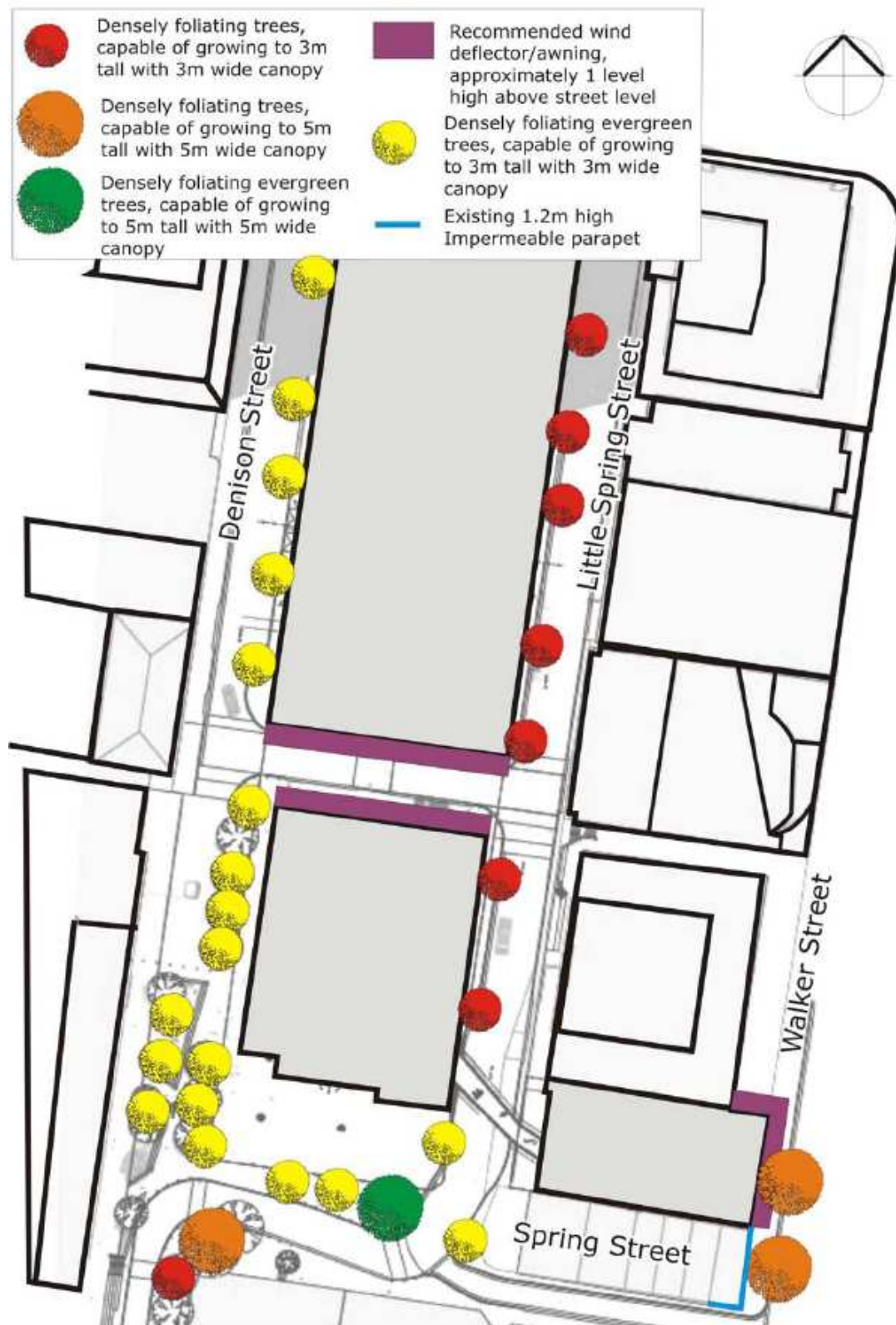


Figure 1 – Wind mitigation measures for the approved development

Source: Windtech Pty Ltd

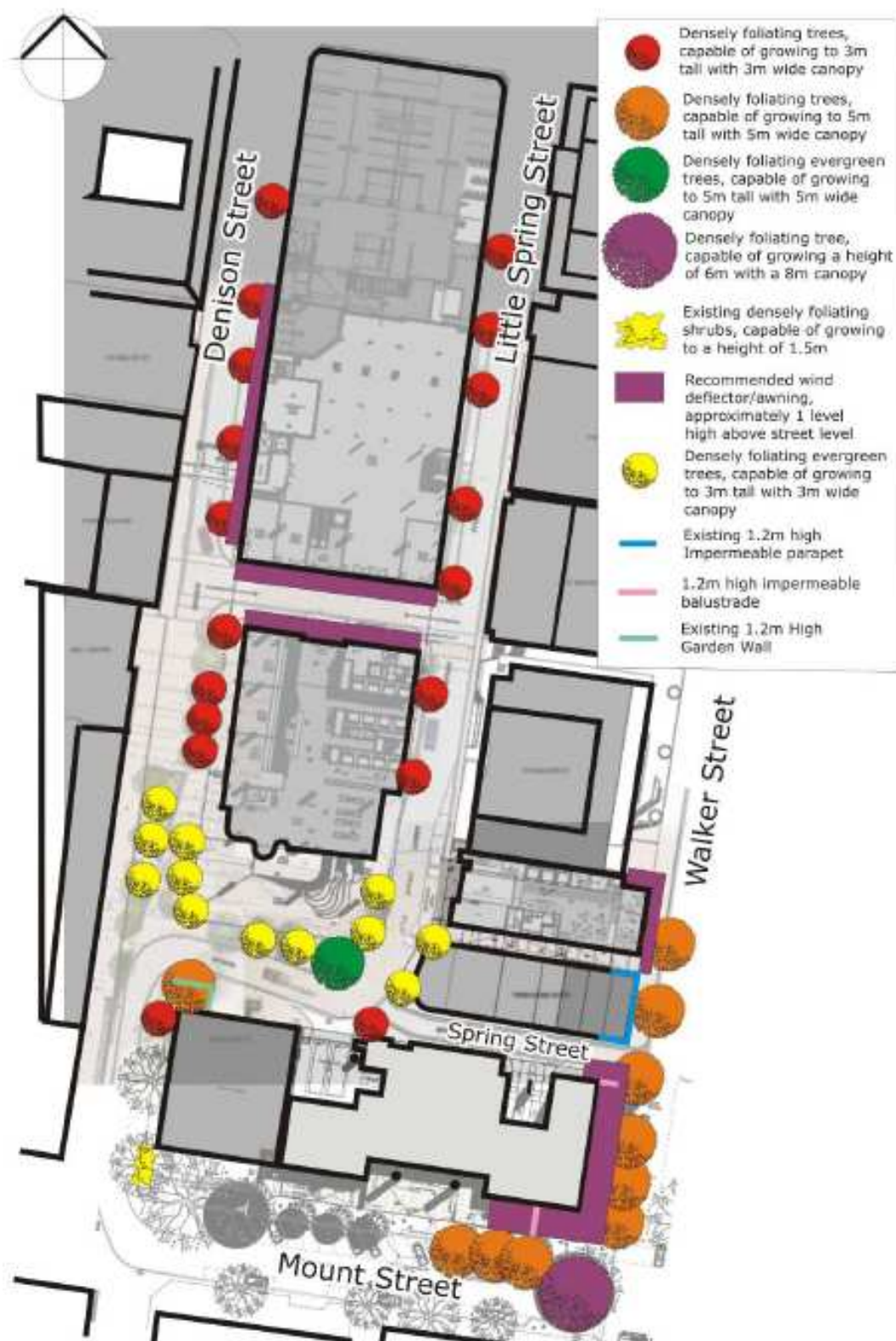


Figure 2 – Wind mitigation measures for proposed development

Source: Windtech Pty Ltd



Figure 3 – View cones under the approved development

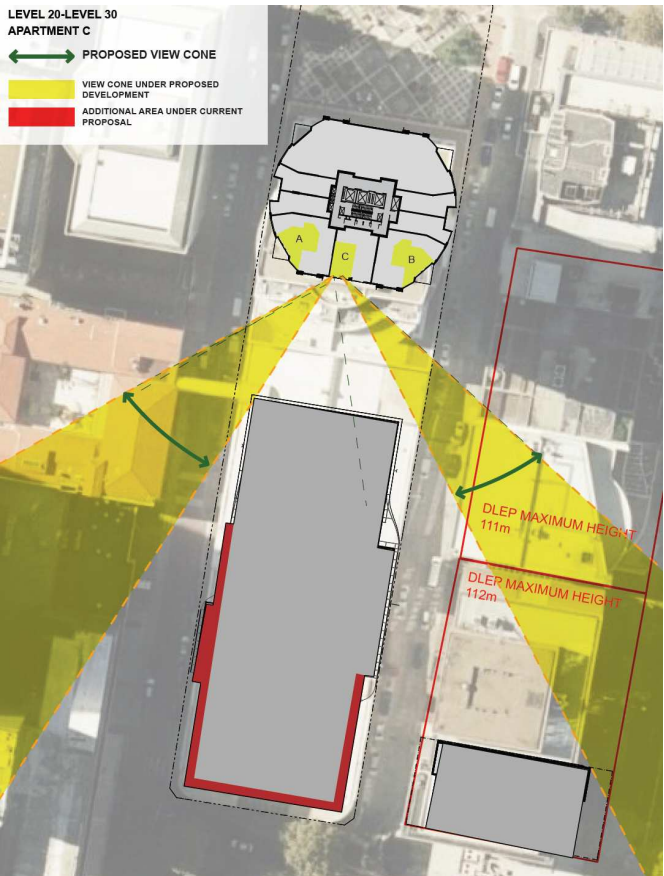


Figure 4 – View cones under the proposed development

3.5 Gross Floor Area

The changes to the building which have been made for compliance and design development reasons results in a reduction in the overall Gross Floor Area (GFA) of the development. The revised GFA measurements have been undertaken in accordance with the definition provided in the draft North Sydney LEP 2009 and were prepared by Frank M. Mason & Co. Pty Ltd (**Appendix G**). The revised GFA of the proposal is:

- Hotel: 10,556m²
- Commercial: 53,226m²

The revised GFA affects the Section 94 contributions that are payable as outlined in the table below. The revised GFA also affects the amount of the railway contribution payable. The current contribution rate is \$107.24 which results in a total contribution of \$5,252,830.

Table 1 – Contributions Payable

Contribution Plan	Contribution rate / 100m ²	Amount Payable
Administration	192.54	94,309.94
Childcare Facility	815.21	399,306.16
Community Centres	469.41	229,926.41
Library Acquisition	95.72	46,885.57
Library Premises and Equipment	291	142,537.62
Multi Purpose Indoor Sports facility	110.13	53,943.88
Olympic Pool	358.84	175,767.01
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Public Domain Improvements	7872.51	3,856,112.85
Traffic improvements	475.33	232,826.14
Total	\$11,727.29	\$5,744,261.19

3.6 Public Domain

A revised Public Domain Plan is included at **Appendix H**. The plan has been amended to:

- Provide equitable access in anticipation of BCA 2011;
- Align with the revised design of the commercial lobby; and
- Incorporate additional stormwater treatment infrastructure.

The lower section of Denison Street will now comprise a sunken lawn with stone steps. A new timber deck is proposed which will provide level access from the MLC development across Denison Street to the commercial lobby. The area will continue to provide a new public open space within the North Sydney centre which is of a high level of amenity and accessible to all.

3.7 Car Parking and Service Tunnel Under Little Spring Street

The overall number of car parking spaces remains the same as that originally approved, however the location of accessible parking spaces has been reconfigured due to the new spatial and locational requirements expected to be implemented as part of BCA 2011.

The overall layout of the car park, vehicular entrances and servicing arrangements remains the same as that originally proposed or as amended as part of the B1 submission.

The reinstatement of the service tunnel under Little Spring Street will have the following positive benefits:

- Reduction of vehicle entry points off little Spring Street;
- Ability to create an active façade to the rear of 88 Walker Street;
- Ability to create a drop off zone in Little Spring Street; and
- Ability to provide a pedestrian through site link from Walker Street to Little Spring Street on the hotel site.

4.0 CONCLUSION

The application proposes the reintroduction of the service tunnel under Little Spring Street and a revised design philosophy for the facades of the building following the imposed height reduction and massing.

This environmental assessment has demonstrated that the proposed changes do not generate any adverse impacts when compared to the original approved proposal and that the proposal will continue to be of a high architectural standard. The application is recommended for approval.

Should you have any queries about this matter, please do not hesitate to contact me on jbuchanan@jbaplanning.com.au or on 9956 6962.

Yours faithfully



Jennie Buchanan
Principal Planner