

Modification of Development Consent

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

As delegate of the Minister for Planning, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthony Witherdin
Director
Regional Assessments

Sydney *16 APRIL* 2019

SCHEDULE 1

- Development consent:** 08_0238 granted by the Minister for Planning on 25 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
 - **Off-site Works and Public Domain:** Construction of a new pedestrian plaza in Denison Street and public forecourt to 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.
 - **Landscaping;** Construction of a new through-site link between Denison Street and Little Spring Street; paving; landscaping and planting between the retail and the public domain; new stair and arrival forecourt and the corner of Denison / Spring Streets
- Consent Authority:** Minister for Planning
- The Land:** Stratum Lot 2, 3 & 4 in DP 10078998 (77-81) Berry Street, North Sydney) and Lot 1 in DP 832416 (88 Walker Street, North Sydney)
- Modification:** 08_0238 MOD 12: the modification seeks approval for minor building reconfigurations and amendment of Condition G12 to allow for the flexible use of four car spaces at Level B5 for either storage or vehicle parking.

SCHEDULE 2

The above approval is modified as follows:

- (a) Condition A2 is amended by the insertion of the **bold and underlined** words/ numbers and deletion of the ~~strike-through~~ 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 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;
- (g) the S75W Modification Application (MP08_0238 MOD 8) and accompanying Environmental Assessment dated 27 June 2017 prepared by JBA Urban Planning;
- (h) the S75W Modification Application (MP08_0238 MOD 9) and accompanying Environmental Assessment dated 21 December 2017 by Ethos Urban, and Response to Submissions dated 9 March 2018 prepared by Ethos Urban;
- (i) The Section 4.55(1A) modification application (MP08_0238 MOD 10) and accompanying Environmental Assessment prepared by Ethos Urban dated 29 May 2018 and Response to Submissions dated 17 August 2018; and
- (j) The Section 4.55(1A) modification application (MP08_0238 MOD 11) and accompanying Environmental Assessment prepared by Ethos Urban dated 13 July 2018 and Response to Submissions dated 2 October 2018;
- (k) **The Section 4.55(1A) modification application (MP 08 0238 MOD 12) and accompanying Environmental Assessment prepared by Ethos Urban dated 13 March 2019; and**

(k) The following drawings:

Architectural Drawings Prepared by Bates Smart			
Drawing No.	Rev.	Name of Plan	Date
DA01.000	05 06	General Arrangement Plan Site Plan	09.05.18 13.02.19
DA02.0B5	05 06	Basement 05 – Parking	09.05.18 13.02.19
DA02.0B4	05 06	Basement 04 – Parking	09.05.18 13.02.19
DA02.0B3	05 06	Basement 03 – Parking	09.05.18 13.02.19
DA02.0B2	05 06	Basement 02 – Parking	09.05.18 13.02.19
DA02.0B1	05 06	Basement 01 – Parking	09.05.18 13.02.19
DA02.0LG	05 06	Lower Ground Level	09.05.18 13.02.19
DA03.000	05 06	General Arrangement Plan Ground Level	24.05.18 13.02.19
DA03.0MZ	05 06	General Arrangement Plan Mezzanine	09.05.18 13.02.19
DA 03.001	05 06	General Arrangement Plan Level 01 – Commercial	09.05.18 13.02.19
DA 03.002	05 06	General Arrangement Plan Level 02 – Commercial & Terrace	25.05.18 13.02.19
DA 03.003	05	General Arrangement Plan Level 03 – Commercial	09.05.18
DA 03.004	05	General Arrangement Plan Level 04 – Typical Low Rise	09.05.18
DA 03.009	05	General Arrangement Plan Level 09 – Transfer Floor	09.05.18
DA 03.010	05	General Arrangement Plan Level 10 – Plant	09.05.18
DA 03.011	05	General Arrangement Plan Level 11 – Typical Mid Rise	09.05.18
DA 03.022	05	General Arrangement Plan Level 22 – Transfer	09.05.18
DA 03.024	05	General Arrangement Plan Level 24 – Typical High	09.05.18
DA 03.035	05	General Arrangement Plan Level 35 – High Rise	09.05.18
DA 03.036	05	General Arrangement Plan Level 36 – Plant & Overrun	09.05.18
DA 03.037	05	General Arrangement Plan Level 37 – Upper Plant	09.05.18
DA 03.038	05	General Arrangement Plan Roof Level	09.05.18
DA 07.101	05 06	Building Elevations North Elevation	09.05.18 13.02.19
DA 07.102	05 06	Building Elevations East Elevation	09.05.18 13.02.19
DA 07.103	05 06	Building Elevations South Elevation	09.05.18 13.02.19
DA 07.104	05 06	Building Elevations West Elevation	24.05.18 13.02.19

DA 07.202	05 <u>06</u>	Building Elevations Detailed Street Elevation – Little Spring Street	24.05.18 <u>13.02.19</u>
DA 07.203	05 <u>06</u>	Building Elevations Detailed Street Elevation – Spring Street	09.05.18 <u>13.02.19</u>
DA 07.204	05	Building Elevations Detailed Street Elevation – Denison Street	25.05.18 <u>13/02/19</u>
DA 07.205	1	Building Elevations External Lighting	09.05.18
DA 08.101	05 <u>06</u>	Building Sections A-A	09.05.18 <u>13.02.19</u>
DA 08.102	05 <u>06</u>	Building Sections BB	09.05.18 <u>13.02.19</u>
Landscape Plan & Off-site works and Public Domain Plan			
Drawing No.	Rev.	Name of Plan	Date
16041_L_DA1	H	Off-site Works & Public Domain Plan	02.08.2018
16041_L_DA2	H	Landscape Plan – Ground Level	02.08.2018
16041_L_DA3	H <u>I</u>	Landscape Plan – L02 Terrace	02.08.2018 <u>26.02.19</u>

- (b) Condition B4 is amended by the insertion of the bold and underlined words / numbers and deletion of the strike through words / numbers, as follows

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	\$5,412,420.96 <u>\$5,527,979.99</u>
Traffic Improvements	\$326,813.72 <u>\$333,805.81</u>
Total	\$5,739,234.68 <u>\$5,861,785.80</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 (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).

- (c) Condition B6 is amended by the insertion of the bold and underlined words / numbers and deletion of the ~~strike-through~~ words / numbers, as follows

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 ~~\$7,520,667.31~~ **\$7,624,543.42 m²** 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

Note: the Railway Infrastructure Contribution has been calculated based on the December quarter 2018 at \$129.19 per m² and a 59,018m² increase in GFA (65,543 m² proposed GFA minus 6,261 m² existing, minus 264 m² (level 2 77 Berry Street demolition)).

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).

- (d) Condition E25 is amended by the insertion of the bold and underlined words / numbers and deletion of the ~~strike-through~~ words / numbers, as follows

E25 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

<i>Contribution Category</i>	<i>Amount</i>	
Administration	\$132,382.85	<u>\$135,210.24</u>
Child Care Facility	\$560,496.44	<u>\$572,474.60</u>
Community Centres	\$332,744.02	<u>\$329,645.04</u>
Library Acquisition	\$65,822.80	<u>\$67,221.50</u>
Library Premises and Equipment	\$200,063.55	<u>\$204,349.83</u>
Multi-Purpose Indoor Sports Facility	\$75,731.60	<u>\$77,372.60</u>
Olympic Pool	\$246,688.03	<u>\$251,977.35</u>
Open Space Acquisition	\$241,261.78	<u>\$246,400.15</u>
Open Space Increased Capacity	\$478,217.95	<u>\$488,432.97</u>
Total	\$2,323,409.03	<u>\$2,373,084.28</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).
- (e) Condition G12 is amended by the insertion of the bold and underlined words / numbers and deletion of the ~~strike through~~ words / numbers, as follows

G12 Allocation of Spaces

Two hundred and eight (208) carparking spaces, 17 loading bays and thirty eight (38) motorcycle spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:

166 <u>162</u>	car	Commercial/retail tenant
<u>4</u>	<u>car/storage</u>	<u>Commercial/retail tenant</u>
18	motorcycle	Commercial/retail tenant
17	loading	Commercial/retail tenant
42	car	Public
21	motorcycle	Public

Such spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Carparking provided shall only be used in conjunction with the uses contained within the development.

End of modification

(08_0238 MOD 12)