

17 June 2019

16457
CPo/SM

Jim Betts
Secretary
Department of Planning and Primary Industry
Level 22, 320 Pitt Street
SYDNEY NSW 2000

Dear Mr Betts,

**SECTION 4.55(1A) MODIFICATION APPLICATION TO MP08_0238 (MOD 13)
1 DENISON STREET, NORTH SYDNEY**

This application has been prepared by Ethos Urban on behalf of Winten Property Group, pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Clause 3BA, Schedule 2 of the *Environmental Planning and Assessment Regulation (Savings, Transitional and Other Provisions) 2017* (EP&A Regulation) to modify Development Consent MP08_0238 relating to 1 Denison Street, North Sydney (the site).

The modification relates to minor design changes resulting from detailed design development including:

- Minor modifications to Berry Square.
- Minor modification to the eastern and western façade material for Ground Level and Level 01.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by Architectural Plans prepared by Bates Smart (**Attachment A**) and Landscape Plans prepared by ASPECT (**Attachment B**).

1.0 Consent Proposed to be Modified

MP08_0238 was granted by the (then) Minister for Planning on 25 February 2010 for demolition of existing buildings and erection of a mixed-use development comprising a retail/commercial building at 77-81 Berry Street and a hotel building 88 Walker Street, pursuant to Part 3A of the EP&A Act. The consent has since been modified twelve times, as follows:

- MP08_0238 MOD 1 – Modification to amend the approved building design, including a minor increase to the building envelope, amendments to façade treatments, a reinstatement of the underground service tunnel, internal reconfigurations, a reconfiguration of the public domain area, and amendments conditions of consent;
- MP08_0238 MOD 2 – Technical amendments to the wording of consent conditions to allow for the staged construction of the two separate buildings;
- MP08_0238 MOD 3 – Modification to enable extended hours of construction facilitating internal fitout works;
- MP08_0238 MOD 4 – Technical amendments to the wording of consent conditions to clarify the staging of Construction Certificates, clarify the timing for satisfying relevant conditions, and to enable temporary access works;
- MP08_0238 MOD 5 – Modification to amend the approved design, including deletion of the hotel component (at 88 Walker Street) and the associated service tunnel, reconfiguration of the commercial tower basement, retention of existing stormwater infrastructure; internal layout changes, and realignment of the approved pedestrian bridge at Denison Street;

- MP08_0238 MOD 6 – Modification to extend and redesign the lower ground and basement levels, replace and augment stormwater infrastructure, and associated modifications to various conditions; and
- MP08_0238 MOD 7 – Modification to make a number of architectural form improvements and changes to the internal floor plate requirements in order to accommodate the building's future anchor tenant, as well as responding to changes in the strategic context of the site.
- MP08_0238 MOD 8 – Modification to increase floor to floor heights within lower levels and upper plant room of the commercial building and other minor amendments to building services and approved commercial/retail tenancies.
- MP08_0238 MOD 9 – Design changes to the southern end of the lower podium of the commercial building to create a more regular floorplate and reconfiguration of the building entrance, commercial lobby and public domain to orientate the building to Denison Street at ground level. Update to Landscape Plans to clearly demarcate off-site works.
- MP08_0238 MOD 10 – Design development of the façade expression including fins and frits, louvers and roof profile lighting element. Updates to the detailed landscape design of Berry Square.
- MP08_0238 MOD 11 – Extension of the approved construction hours.
- MP08_0238 MOD 12 – Minor design changes resulting from detailed design development.

It is noted MOD 1-9 were approved pursuant to (former) Section 75W of the EP&A Act. MOD 10-12 have been approved in accordance with s4.55(1A) of the EP&A Act and Clause 3BA, Schedule 2 of the EP&A Regulation (Savings, Transitional and Other Provisions).

2.0 Proposed Modifications to the Consent

2.1 Modifications to the Development

This application seeks minor modifications relating to design development of the commercial tower. All modifications are detailed on the Architectural Plans submitted at **Attachment A** and include:

- Minor modifications to Berry Square.
- Minor modification to the eastern and western façade material for Ground Level and Level 01.

The modifications to the landscape design on the Ground Floor are detailed on the Landscape Plans submitted at **Attachment B**. No changes to the approved materiality of the commercial building.

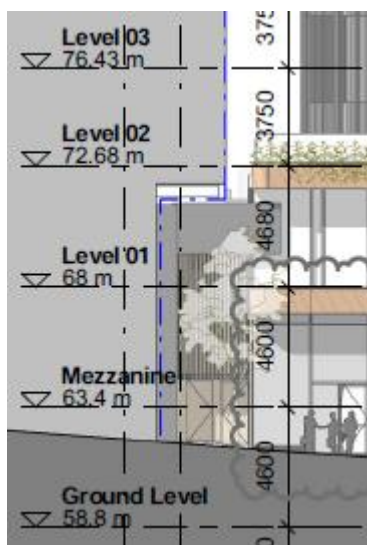


Figure 1 Approved Extract of Western Elevation

Source: Bates Smart

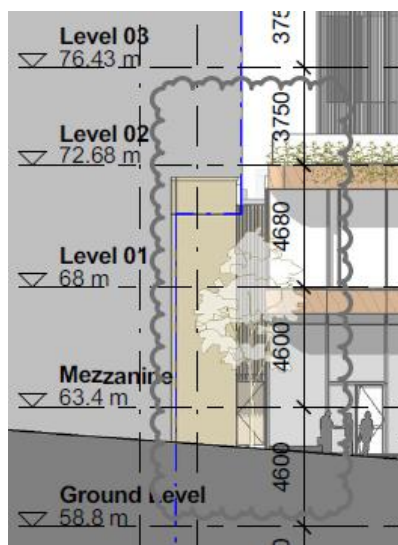


Figure 2 Proposed Extract of Western Elevation

Source: Bates Smart

Minor Façade Refinements

The proposed modification includes minor façade changes to extend the approved façade material to extend the precast panel on the western elevation for the Ground Level and Level 01. The façade changes are detailed on the proposed elevations provided in the Architectural Plans at **Attachment A**.

Berry Square Landscape Design

Through ongoing design development, the proposed design for Berry Square has been refined. The proposed modifications comprise of amendments to the planting and reconfiguration of the public domain to accommodate a new canopy and water feature within Berry Square (as shown in **Figure 2**). This component of the development is subject to the existing conditions B38 that requires the final design of all landscaping and public domain works to be approved by North Sydney Council. The proposed modification seeks to update the approved Landscape Plan (as shown in **Figure 1**) to more closely align with the development landscape concept for Berry Square (as shown in **Figure 2**).



Figure 3 Approved landscape works within Berry Square

Source: ASPECT



Figure 4 Proposed landscape works within Berry Square

Source: ASPECT

2.2 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

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 accompany Environmental Assessment dated 21 December 2017 prepared 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; and

(k) The Section 4.55(1A) modification application (MP08_0238 MOD 12) and accompanying Environmental Assessment prepared by Ethos Urban dated 28 February 2019; and

(l) The Section 4.55(1A) modification application (MP08_0238 MOD 13) and accompanying Environmental Assessment prepared by Ethos Urban dated 17 June 2019; and

the following drawings

Drawing No.	Rev.	Name of Plan	Date
DA01.000	06	General Arrangement Plan Site Plan	13.02.19
DA02.0B5	06	Basement 05 – Parking	13.02.19
DA02.0B4	06	Basement 04 – Parking	13.02.19
DA02.0B3	06	Basement 03 – Parking	13.02.19
DA02.0B2	06	Basement 02 – Parking	13.02.19
DA02.0B1	06	Basement 01 – Parking	13.02.19
DA02.0LG	06	Lower Ground Level	13.02.19
DA03.000	06	General Arrangement Plan Ground Level	13.02.19
DA03.0MZ	06 07	General Arrangement Plan Mezzanine	13.02.19 28.05.19
DA 03.001	06	General Arrangement Plan Level 01 – Commercial	13.02.19
DA 03.002	06	General Arrangement Plan Level 02 – Commercial & Terrace	13.02.19
DA 03.003	05	General Arrangement Plan Level 03 – Commercial	09.05.18
DA03.004	05	General Arrangement Plan Level 04 – Typical Low Rise	09.05.18
DA03.009	05	General Arrangement Plan Level 09 – Transfer Floor	09.05.18
DA03.010	05	General Arrangement Plan Level 10 – Plant	09.05.18
DA03.011	05	General Arrangement Plan Level 11 – Typical Mid Rise	09.05.18
DA03.022	05	General Arrangement Plan Level 22 – Transfer	09.05.18
DA03.024	05	General Arrangement Plan Level 24 – Typical High Rise	09.05.18
DA03.035	05	General Arrangement Plan Level 35 – High Rise Upper	09.05.18
DA03.036	05	General Arrangement Plan Level 36 – Plant & Overrun	09.05.18
DA03.037	05	General Arrangement Plan Level 37 – Upper Plant	09.05.18
DA03.038	05	General Arrangement Plan Roof Level	09.05.18
DA07.101	06	Building Elevations North Elevation	13.02.19
DA07.102	06 07	Building Elevations East Elevation	13.02.19 28.05.19
DA07.103	06	Building Elevations South Elevation	13.02.19
DA07.104	06 07	Building Elevations West Elevation	13.02.19 28.05.19

Drawing No.	Rev.	Name of Plan	Date
DA07.202	06	Building Elevations Detailed Street Elevation – Little Spring Street	13.02.19
DA07.203	06	Building Elevations Detailed Street Elevation – Spring Street	13.02.19
DA07.204	06	Building Elevations Detailed Street Elevation – Denison Street	13.02.19
DA07.205	05	Building Elevations External Lighting	09.05.18
DA08.101	06	Building Sections A-A	13.02.19
DA08.102	06	Building Sections BB	13.02.19
DA10.001	05	Diagrams Photomontage 1/2	09.05.18
DA10.002	05	Diagrams Photomontage 2/2	09.05.18
Landscape Plans & Offsite Works and Public Domain Plan			
16041-L-DA1	G	Off-Site Works & Public Domain Plan	02.08.18
16041_L_DA2	G I	Landscape Plan- Ground Level	02.08.18 09.05.2019
16041_L_DA3	I	Landscape Plan- L02 Terrace	26.02.19

3.0 Substantially the Same Development

Clause 3BA, Schedule 2 of the EP&A Regulation (Savings, Transitional and Other Provisions) states that in the application of section 4.55 (1A) of the Act to the following development, the consent authority need only be satisfied that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent as last modified under section 75W. In respect of MP08_0238 the last modification under Section 75W was MOD 9.

The development, as proposed to be modified, is substantially the same development as that approved in MOD 12 of MP08_0238, in that it:

- The development, as proposed to be modified continues to relate to a commercial building now known as 1 Denison Street;
- The proposed modifications do not alter the built form of the approved development; and
- The proposed modifications are considered a minor design development and do not alter the impacts of the development.

4.0 Environmental Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the proposed modification is of minimal environmental impact*”. The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Compliance with Environmental Planning Instruments

The consistency of MP08_0238 with the relevant legislation, environmental planning instruments, policies and guidelines was considered as part of the original EAR. The proposed modification does not greatly change the original assessment against the relevant plans, policies, and guidelines, however the following is noted:

- Notwithstanding the proposed modifications, the development will continue to increase the provision of commercial floor space in the North Sydney CBD responds to the strategic objectives and directions in A

Metropolis of Three Cities, Eastern District Plan and the *North Sydney Local Environment Plan 2013* (North Sydney LEP).

- The proposed modification remains generally consistent the Project Approval. It relates to the same activity as the approved development, being for a mix of commercial purposes that remain permissible with consent within the B3 Commercial Core zone under the North Sydney LEP. Notwithstanding the proposed modifications, the development directly responds to the objectives of this land use zone, being to encourage a wide range of suitable retail, business, office, entertainment, and community land uses in connection with public transport that encourages further employment opportunities.

The proposal is limited to modifications to improve the amenity of Berry Square and a minor change to extend the approved façade precast panel on the eastern and western facades on the ground floor and level 01. The proposed continuation of the façade will be integrated into the approved design by matching with the approved façade. The proposed external modifications to the façade are within the approved building envelope and will not result in any significant visual impacts. The modifications to the public domain comprise of addition seating, a water feature and reconfiguration of the planting and paving areas. The proposed public domain amendments will not give rise to any adverse amenity impacts and improve the visual appearance and usability for future patrons.

5.0 Conclusion

The proposed modifications relate to minor design amendments resulting from the detailed design of the commercial building and relevant updates to conditions of consent. In accordance with section 4.55(1A) of the EP&A Act, the consent authority may modify the consent as:

- The proposed modification is of minimal environmental impact; and
- The development, as proposed to be modified, is substantially the same development as development for which the consent (MP08_0238, MOD 12) was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,



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