

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 25 January 2010, I approve the modification of the project application referred to in schedule 1, subject to the conditions in schedule 2.



Director
Metropolitan & Regional Projects South

Sydney **11 MARCH**

2011

SCHEDULE 1

- Project Approval:** MP08_0238 granted by the Minister for Planning on 25 January 2010
- For the following:**
- Approval at 77-81 Berry Street and 88 Walker Street, North Sydney for:
- **Demolition:** Demolition of the existing buildings on **both sites** including the pedestrian bridge linking 77-81 Berry Street with Tower Square.
 - **Excavation:** Excavation for 4 levels of basement at 77-81 Berry Street and 2 levels of basement at 88 Walker Street.
 - **Construction** of a part 28/part 37 storey commercial and retail building on the southern portion of 77-81 Berry Street 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 10 motorcycle spaces;
 - **Construction** of a 33 storey x 200 room hotel at 88 Walker Street, including a connecting service tunnel below Little Spring Street to provide access to the Basement Level 2 of the commercial building, together with back-of-house facilities, ground floor hotel lobby with through site link between Walker Street and Little Spring Street (open business hours), Level 2 conference, Level 3 reception and bar and Level 4 restaurant;
 - **Reconstruction** of the Tower Square pedestrian bridge; and
 - **Off - Site Works including Public Domain and Landscaping:** Construction of a new pedestrian plaza in Denison Street and public forecourt to Spring Street; construction of a new through-site road between Denison Street and Little Spring Street; together with various public domain improvements in Denison, Spring and Little Spring Streets, including road re-alignments
- Modification:** MP08_0238 MOD 1: Modification to amend the building design including:
- A minor increase to the building envelope;
 - Amendment to the external façade treatment;
 - Reinstatement of the underground service tunnel;
 - Internal reconfiguration of the two tower building layouts;
 - Reconfiguration of the public domain area; and
 - Amendment of relevant conditions of consent.

SCHEDULE 2

- a) *Condition A1 is amended by deletion of the struck out words and insertion of the **bold and underlined words** as follows:*

A1 Development Description

- (1) Development approval is granted only to carrying out the development described in detail below:
- **Demolition:** Demolition of the existing buildings on **both sites** including the pedestrian bridge linking 77-81 Berry Street with Tower Square.
 - **Excavation:** Excavation for 4 **part 4/5** levels of basement at 77-81 Berry Street **and, a service tunnel under Little Spring Street, and** 2 levels of basement at 88 Walker Street.
 - **Construction** of a part 28-~~26~~/part 37-~~32~~ 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 **and 1 part level of basement plant** 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** of a 33 storey x 200 room hotel at 88 Walker Street, including a connecting service tunnel below Little Spring Street to provide access to the Basement Level 2 of the commercial building, together with back-of-house facilities, ground floor hotel lobby with through site link between Walker Street and Little Spring Street (open business hours), Level 2 conference, Level 3 reception and bar and Level 4 restaurant;
 - **Reconstruction** of the Tower Square pedestrian bridge; and
 - **Off - Site Works including Public Domain and Landscaping:** Construction of a new pedestrian plaza in Denison Street and public forecourt to Spring Street; construction of a new through-site road between Denison Street and Little 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.

- b) Condition A2 is amended by deletion of the struck out words and insertion of the **bold and underlined words** 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 the S75W Environmental Assessment dated August 2010 and October 2010** prepared by JBA Urban Planning and additional information, plans and reports provided with the Preferred Project Report and **S75W**, and the following drawings prepared by Rice Daubney:

Architectural (or Design) Drawings prepared by Rice Daubney at Appendix A of the Environmental Assessment except where superseded by the Preferred Project Report			
Drawing No.	Rev	Name of Plan	Date
DA 01	G <u>E</u>	Cover Page and Drawing Register	09.10.09 <u>09.07.10</u>
DA 02	C	Photomontage looking up Walker Street	09.10.09
DA 03	G <u>E</u>	Photomontage corner of Little Spring St and Spring St	09.10.09 <u>09.07.10</u>
DA 04	C	Photomontage looking up Denison Street	09.10.09
DA 05	C	Photomontage of the New Cross Road	09.10.09
DA 06	C	Photomontage views from Neutral Bay and Warringah X-Way	09.10.09
DA 07	A	Photomontage new through Street viewed from Denison Street	09.10.09
DA 08	A <u>B</u>	Existing Building Survey	09.10.09 <u>10.06.10</u>
DA 09	G <u>E</u>	Location Plan and Survey Plan	09.10.09 <u>10.06.10</u>
DA 10	G <u>E</u>	Basement 5 – Plant	09.10.09 <u>09.07.10</u>
DA 11	G <u>E</u>	Basement 4 – Commercial Plan	09.10.09 <u>09.07.10</u>
DA 12	G <u>E</u>	Basement 3 – Commercial Plan	09.10.09 <u>09.07.10</u>
DA 13	G <u>E</u>	Basement 2 – Commercial and Hotel Plan	09.10.09 <u>09.07.10</u>
DA 14	G <u>E</u>	Basement Plan 1 – Commercial and Hotel Plan	09.10.09 <u>09.07.10</u>
DA 15	G <u>E</u>	Lobby and Ground Floor Introduction Page	09.10.09 <u>09.07.10</u>
DA 16	G <u>E</u>	Commercial Lower Ground and Hotel Lobby	09.10.09 <u>09.07.10</u>
DA 17	G <u>E</u>	Commercial lobby & Hotel bridge Link	09.10.09 <u>09.07.10</u>
DA 18	G <u>E</u>	Commercial Food Court Retail and Hotel Conference	09.10.09 <u>09.07.10</u>
DA 19	G <u>E</u>	Commercial Conference/Meeting & Hotel Restaurant	09.10.09 <u>09.07.10</u>
DA 20	G <u>E</u>	Commercial Plant & Hotel Bar	09.10.09 <u>09.07.10</u>
DA 21	G <u>E</u>	Commercial and Hotel Towers Introduction	09.10.09 <u>09.07.10</u>

DA 22	Ⓒ Ⓔ	Commercial Low rise & Hotel Plant	09.10.09 09.07.10
DA 23	Ⓒ Ⓔ	Commercial Low Rise Typical & Hotel Administration	09.10.09 09.07.10
DA 24	Ⓒ Ⓔ	Commercial Mid Rise Typical & Hotel Typical	09.10.09 09.07.10
DA 25	Ⓒ Ⓔ	Commercial High Rise Typical & Hotel Typical	09.10.09 09.07.10
DA 26	Ⓒ Ⓔ	Commercial High Rise Typical (small) & Hotel Plant	09.10.09 09.07.10
DA 27	Ⓒ Ⓔ	Commercial Plant & Hotel Roof	09.10.09 09.07.10
DA 28	Ⓒ Ⓔ	Commercial Roof & Hotel Roof	09.10.09 09.07.10
DA 29	Ⓒ Ⓔ	Commercial North/South section looking West	09.10.09 09.07.10
DA 30	Ⓒ Ⓔ	Section through Commercial and Hotel looking North	09.10.09 09.07.10
DA 31	Ⓒ Ⓔ	Section through Hotel looking West	09.10.09 09.07.10
DA 32	Ⓒ Ⓔ	Commercial East Elevation	09.10.09 09.07.10
DA 33	Ⓒ Ⓔ	Commercial & Hotel North Elevation/Section	09.10.09 09.07.10
DA 34	Ⓒ Ⓔ	Commercial West Elevation	09.10.09 09.07.10
DA 35	Ⓒ Ⓔ	Commercial & Hotel South Elevation	09.10.09 09.07.10
DA 36	Ⓒ Ⓔ	Hotel East Elevation	09.10.09 09.07.10
DA 37	Ⓒ Ⓔ	Hotel West Elevation	09.10.09 09.07.10
DA 38	Ⓒ Ⓔ	Detailed Street Elevation – Little Spring Street West	09.10.09 09.07.10
DA 39	Ⓒ Ⓔ	Detailed Street Elevation – Spring Street	09.10.09 09.07.10
DA 40	Ⓒ Ⓔ	Detailed Street Elevation – Denison Street	09.10.09 09.07.10
DA 41	Ⓒ Ⓔ	Detailed Street Elevation – New Cross Street	09.10.09 09.07.10
DA 42	Ⓒ Ⓔ	Detailed Street Elevation – Little Spring Street East/Walker Street	09.10.09 09.07.10
DA 43	Ⓒ Ⓔ	Commercial Tower Setback Diagram	09.10.09 09.07.10
DA 44	Ⓒ Ⓔ	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 Plan	23.09.09

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in [*State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008*](#) or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
- (2) otherwise provided by the conditions of this approval.

c) *Condition B1 is amended by deletion of the struck out words as follows:*

~~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 rooms 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 RL 170 metres AHD and RL 178.675 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.~~

- d) Condition B4 is amended by deletion of the struck out words and insertion of the **bold and underlined words** as follows:

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 Category	Amount
Administration	\$111,772.92 <u>\$94,309.94</u>
Child Care Facility	\$473,245.59 <u>\$399,306.16</u>
Community Centres	\$272,505.18 <u>\$229,926.41</u>
Library Acquisition	\$55,566.57 <u>\$46,885.57</u>
Library Premises and Equipment	\$168,935.98 <u>\$142,537.62</u>
Multi Purpose Indoor Sports Facility	\$63,937.73 <u>\$53,943.88</u>
Olympic Pool	\$208,316.31 <u>\$175,767.01</u>
Open Space Acquisition	\$203,736.09 <u>\$171,902.33</u>
Open Space Increased Capacity	\$403,842.69 <u>\$340,743.28</u>
Public Domain Improvements	\$4,570,180.90 <u>\$3,856,112.85</u>
Traffic Improvements	\$275,937.35 <u>\$232,823.14</u>
Total	<u>\$6,807,977.3</u> <u>\$5,744,261.19</u>

(2) Adjustments

- ~~Should the total GFA be reduced as a result of compliance with Condition B1,~~
~~the amount payable may be eligible for adjustment~~ **The final contribution payable may be required to be adjusted to reflect the GFA approved as part of this 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.

(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 2.4 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 a 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 included on the works schedule of the North Sydney S94 Contributions Plan).

- e) *Condition B6 is amended by deletion of the struck out words and insertion of the **bold and underlined words** 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 \$6,303,162.00 **\$5,252,830.00** 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 either of the Hotel Tower, or the Commercial Tower, whichever building is to be issued an Occupation Certificate first.

~~Should the total GFA be reduced as a result of compliance with Condition B1, the amount payable may be eligible for adjustment.~~ **The final contribution payable may be required to be adjusted 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 Director-General 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).

- f) *Condition B38 is amended by deletion of the struck out words and insertion of the **bold and underlined words** as follows:*

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 **and updated report dated 23 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.

- g) Condition B41 is amended by deletion of the struck out words and insertion of the **bold and underlined words** as follows:

B41 Number of Car/Motorcycle Spaces

The maximum number of car/motorcycle spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

Car parking allocation	Number
Commercial/Retail car parking spaces	452 <u>153</u>
Number of commercial/retail car spaces to be disabled spaces	6 <u>5</u>
Hotel	32
Bus	1x25 seater
Public - cars	42
Public - motorcycle	10
Motorcycle	32 <u>33</u>

- h) Condition G12 is amended by deletion of the struck out words and insertion of the **bold and underlined words** as follows:

G12 Allocation of Spaces

~~Two hundred and twenty-six (226)~~ **Two hundred and twenty-seven (227)** carparking spaces and ~~forty-two~~ **forty-three (43)** motorcycle spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:

452 <u>153</u>	car	Commercial/retail tenant
32	car	Hotel spaces
32 <u>33</u>	motorcycle	Commercial/retail tenant
42	car	Public
10	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 and in the case of Strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building.