



MODIFICATION REQUEST:

***Lots 2, 3 & 4 DP 1078998 & Lot 1 DP 832416
77-81 Berry Street & 88 Walker Street,
North Sydney***

***MP08_0238 MOD 3 – Modification to the Hours
of Construction***



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

April 2012

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1. BACKGROUND

1.1 The Site

The subject site comprises two separate sites identified as the southern portion of 77-81 Berry Street (stratum lots 2, 3 & 4 in DP 1078998) and 88 Walker Street, North Sydney (Lot 1 in DP 832416), and located in the heart of the North Sydney CBD on the lower north shore of Sydney (refer to **Figures 1 and 2**).

The two sites are located between Berry Street to the north, Spring Street to the south, Denison Street to the west and Walker Street to the east. The site adjoins the Beau Monde residential development to the north.



Figure 1: Regional Context (Source: Google Maps, 2012)

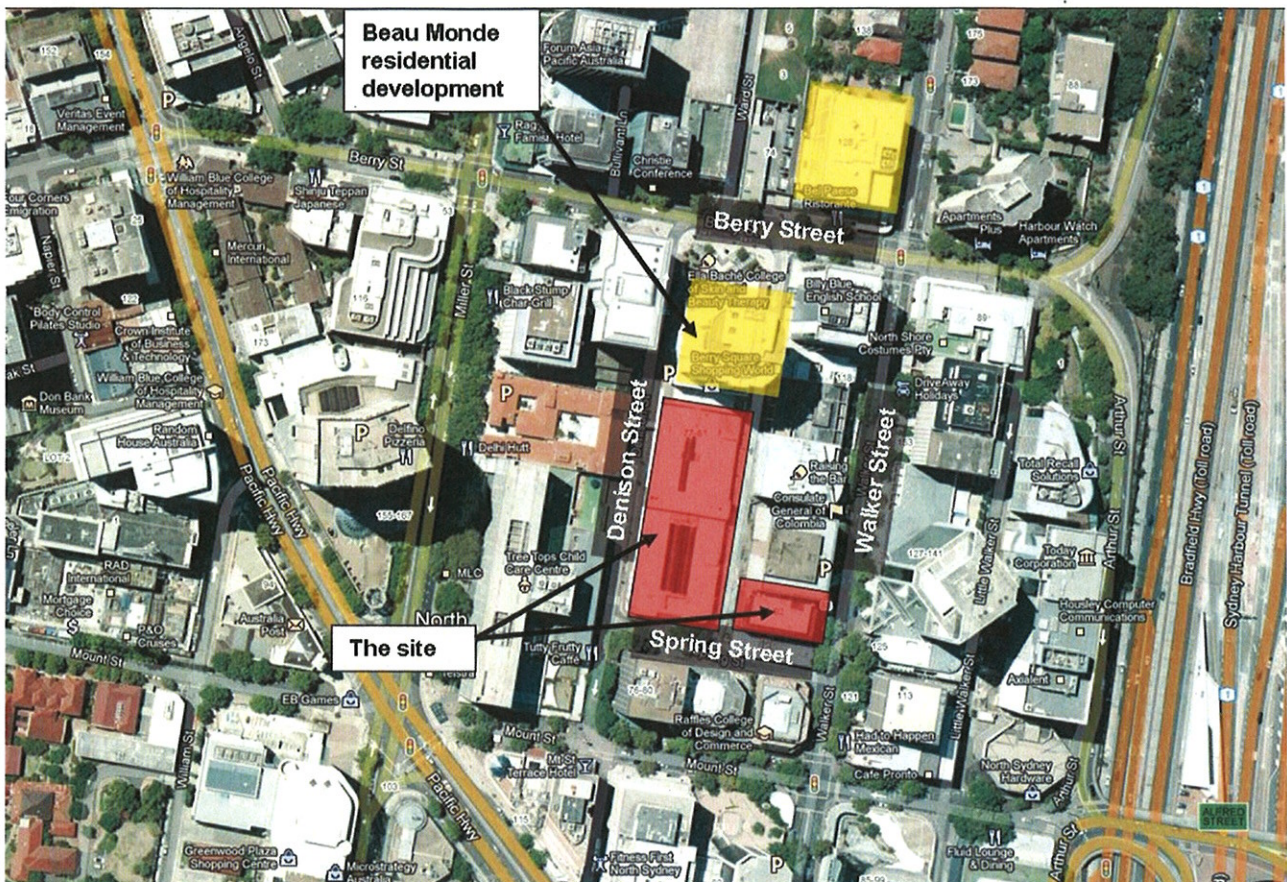


Figure 2: Aerial view demonstrating the subject site in red and neighbouring residential buildings highlighted in yellow (Base Image Source: Google Maps, 2012)

1.2 Previous Approvals

On 25 February 2010, the Minister for Planning approved the Major Project (MP08_0238) for:

- demolition of the existing buildings on both sites including the pedestrian bridge linking 77-81 Berry Street with Tower Square;
- 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 / partial public road closures, tree planting, paving, street furniture and lighting, and public art.

The approval includes Condition D1 which provides the following hours of construction:

Monday to Friday 7.00am to 5.00pm;
Saturday 8.00am to 1.00pm; and
Sunday and Public Holidays: No works.
Demolition and excavation Monday to Friday 8.00am to 5.00pm only.

1.3 Previous Modifications

On 11 March 2011, MP08_0238 MOD 1 was approved by the Director, Metropolitan and Regional Projects South to amend the building design including:

- a minor increase to the building envelope;
- an 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
- amendments of the relevant conditions of consent.

On 18 January 2012, MP08_0238 MOD 2 was approved by the A/Director, Metropolitan and Regional Projects South to allow staged development, amend conditions relating to Section Contributions and delete off-site car parking works at Mount Street.

The approved project is at pre-construction stage.

2. PROPOSED MODIFICATION

The application originally sought to extend the hours of construction to allow demolition, excavation and construction works for the purpose of undertaking concrete pours and associated concrete finishing works. It was requested that the construction hours on Saturday be increased from 8:00am to 1:00pm to 7:00am to 5:00pm.

In response to concerns raised by Council and the Department, the proponent amended the modification. The amended modification seeks extended construction hours for internal fitout works limited to specific activities including:

- installation of plasterboard ceilings and walls;
- painting;
- joinery;
- tiling;
- floor sanding;
- laying of carpet; and
- installation of internal services and fittings.

The proposed extended hours of construction for internal fitout works are:

- Monday to Friday 6.00pm to 10.00pm; and
- Saturday 1.00pm to 10.00pm.

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification of the project under section 75W of the Act.

3.2 Modification of the Minister's Approval

The modification application has been lodged with the Director-General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including *"revoking or varying a condition of the approval or imposing an additional condition of the approval"*.

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to modify conditions imposed on the Project Application approval and therefore, approval to modify the application is required.

3.3 Environmental Assessment Requirements

Section 75W (3) of the EP&A Act provides that the Director-General may notify the proponent of environmental assessment requirements (DGRs) with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.

In this instance, following an assessment of the modification request, it was not considered necessary to notify the proponent of environmental assessment requirements pursuant to Section 75W (3) with respect to the proposed modification, as sufficient information was provided to the department to consider the application.

3.4 Delegated Authority

The Minister has delegated his functions to determine Part 3A applications to the Directors in the Major Projects Assessment Branch where:

- the Council has not made an objection, and
- a political disclosure statement has not been made, and
- there are less than 10 public submissions objecting to the proposal.

No submissions have been received from the public and Council has not made an objection to the proposal. There has also been no political disclosure statement made for this application or for any previous related application.

Accordingly, the application is able to be determined by the A/Director, Metropolitan and Regional Projects South under delegation.

4. CONSULTATION AND SUBMISSIONS

In accordance with Section 75X (2) (f) of the EP&A Act, the Director-General is required to make the modification request publicly available. The modification request was made available on the department's website and referred to North Sydney Council for comment.

North Sydney Council objected to the proposed extension of hours of construction for concrete pours and finishing works as requested in the original modification request. Council's objection was on the grounds of the potential adverse impact on the acoustic amenity of the neighbouring residents.

In response, the proponent amended the application and requests the extension of hours of construction for internal fitout works only.

Council did not raise any objections to the amended proposal, subject to the consideration of further conditions to protect the amenity of the neighbouring residents in the Beau Monde development. It was suggested that the issues of light spill and noise needed to be addressed on the northern façade which directly faces the Beau Monde building.

In response to Council's submission, the proponent advised that:

- it is the intention that the works will be undertaken within the fully enclosed building.
- It is not anticipated that windows will be operable;
- A condition could be imposed requiring all operable windows to be closed outside of standard construction hours;
- a noise control program can be implemented via a condition of approval, which requires regular monitoring and recording of noise impacts arising from the after hours work, to ensure that any noise generated is within the acceptable noise limits and mitigation measures are in place; and
- once operational, it is likely that the commercial building will be internally illuminated until 10:00pm on a usual business day. In this regard, the light spill impacts likely during construction are expected to be similar to the operational development.

No submissions were received from the public.

5. ASSESSMENT

The department considers that the proposed modifications to the hours of construction have the potential to impact upon amenity with respect to:

- residents of the Beau Monde development; and
- the general public and neighbouring properties.

These issues are discussed separately below.

5.1 Impacts on Beau Monde residents

The subject site is directly adjacent to a 30 storey commercial and residential development to the north, known as Beau Monde, at 77 Berry Street, North Sydney (**Figure 2** above). The separation between the Beau Monde development and the approved commercial tower is 24 metres.

Concern was raised by Council that residential apartments on the southern façade of the Beau Monde building may be adversely affected by additional noise and light spill due to internal fitout works proposed to be taken outside of normal construction hours.

In response, the proponent has advised that:

- it is not anticipated that windows on the northern façade will be operable, however it is willing to accept a condition that any operable windows must be closed outside of standard construction hours;
- a Noise Control Program may be implemented which requires regular monitoring and recording of noise impacts to ensure that noise generation is within acceptable limits;
- light spill from the after hours construction is likely to be consistent with light spill which will be generated during usual business hours when the commercial building is occupied; and
- screening or blinds can be installed on the northern elevation to minimise light spill impacts on Beau Monde residents.

The Department considers that Beau Monde residents are unlikely to be affected by noise given the limited type of works being undertaken within the fully enclosed building. The measures to be implemented including a noise limit of 5dB(A) above background, Noise Control Program and a Complaint Resolution Plan are considered acceptable.

In addition, the proponent has also indicated that it is satisfied with a condition being imposed that where justified complaints are received by Council and Council establishes that 'offensive' noise over the 5dB(A) background limit has occurred, then Council will require that the construction hours must revert to the hours nominated in the original approval.

In terms of light spill, the proponent has advised that they are willing to install screening or blinds to the windows on the northern façade of the building to minimise disturbance to Beau Monde residents between the hours of 6.00pm and 10.00pm. An appropriate condition has been recommended.

On this basis, the Department supports the proposed measures to ensure that the proposed extended hours for internal fitout works have minimal adverse impacts on the amenity of Beau Monde residents.

5.2 Impacts on the General Public and Neighbouring Properties

The department considers that potential adverse impacts on the general public and other neighbouring properties will be minimal given that all after hours construction work will be

contained wholly within the building and that the works must comply with a maximum noise level of 5dB(A) above the existing background noise level.

The works proposed to be undertaken outside of the standard construction hours are limited to specific works which would not be expected to generate a level of noise that would be highly audible or offensive to the general public or neighbouring properties.

The proponent has also advised that they will implement of a Noise Control Program, Complaint Resolution Plan and Parking Management Plan, provide a 24 hour contact phone number and letter box drop potentially affected residents. It is considered that these measures will minimise potential impacts on the general public and surrounding properties.

6. CONCLUSION

The proposal seeks to extend the hours of construction to undertake internal fitout works within the enclosed building.

The department has assessed the application on its merits and the proposed modification is considered reasonable subject to appropriate conditions to minimise noise and light spill impacts. On this basis, the proposed extended hours are not likely to adversely affect the amenity of neighbouring residents, the general public or neighbouring non-residential properties

The proposed modification does not change the original assessment as to the site's suitability for this development.

7. RECOMMENDATION

It is recommended that the A/Director, Metropolitan and Regional Projects South:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification request under delegated authority, under Section 75W of the Environmental Planning and Assessment Act 1979; and
- (c) **sign** the attached Instrument of Modification for MP08_0238 MOD 3.

Amy Watson 5/4/12

Amy Watson
A/Team Leader
Metropolitan & Regional Projects South

[Signature]
Alan Bright
A/Director
Metropolitan & Regional Projects South
10/4/12

APPENDIX A MODIFICATION REQUEST

See the department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5008

APPENDIX B SUBMISSIONS

See the department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5008

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
