

Modification of Minister's Approval

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

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



Chris Wilson
Executive Director
Infrastructure and Industry Assessments

Sydney **16 MARCH** 2015

SCHEDULE 1

Project Approval:	MP08_0238
Proponent	East Mark Holdings
Approval Authority	Minister for Planning
Land	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)
Project:	<p>Approval at 77-81 Berry Street and 88 Walker Street, North Sydney for:</p> <ul style="list-style-type: none">• 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, a service tunnel under Little Spring Street, and 2 levels of basement at 88 Walker Street;• Construction of a part 26/part 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 40 27 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 5: Modification of the development including:

- deletion of the hotel component (88 Walker Street) and the associated service tunnel connecting the hotel and basement;
- reconfigured basement to accommodate deletion of the hotel;
- deletion of approved stormwater infrastructure and retention of existing stormwater infrastructure;
- internal layout changes to the commercial building resulting in a decrease in 2,537m² of gross floor area within the approved building envelope; and
- realignment of approved new pedestrian bridge at Denison Street.

SCHEDULE 2

The above approval is modified as follows:

1. Insertion of the following condition **bold and underlined** as follows:

B41A Accessible Parking

Prior to the issue of a Construction Certificate for basement works, revised plans shall be approved by the Certifying Authority showing all accessible car parking spaces relocated adjacent to the lift entries.

2. The following conditions have been 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~~ **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 ~~part 4/5~~ levels of basement at 77-81 Berry Street, ~~a service tunnel under Little Spring Street, and 2 levels of basement at 88 Walker Street.~~
 - Construction of a part 26/part 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 40~~ **27** 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.

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 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, 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	E <u>G</u>	Cover Page and Drawing Register	09.07.10 <u>11.06.14</u>
DA 02	G	Photomontage looking up Walker Street	09.10.09
DA 03	E <u>I</u>	Photomontage corner of Little Spring St and Spring St	09.07.10 <u>11.06.14</u>
DA 08	B <u>I</u>	Existing Building Survey	10.06.10 <u>11.06.14</u>
DA 09	E <u>I</u>	Location Plan and Survey Plan	10.06.10 <u>11.06.14</u>
DA 10	E	Basement 5 – Plant	09.07.10
DA 11	E <u>I</u>	Basement 4 – Commercial Plan	09.07.10 <u>11.06.14</u>
DA 12	E <u>I</u>	Basement 3 – Commercial Plan	09.07.10 <u>11.06.14</u>
DA 13	E <u>I</u>	Basement 2 – Commercial and Hotel Plan	09.07.10 <u>11.06.14</u>
DA 14	E <u>I</u>	Basement Plan 1 – Commercial and Hotel Plan	09.07.10 <u>11.06.14</u>
DA 15	E <u>I</u>	Lobby and Ground Floor Introduction Page	09.07.10 <u>11.06.14</u>
DA 16	E <u>J</u>	Commercial Lower Ground and Hotel Lobby	09.07.10 <u>13.08.14</u>
DA 17	E <u>J</u>	Commercial lobby & Hotel bridge Link	09.07.10 <u>13.08.14</u>
DA 18	E <u>I</u>	Commercial Food Court Retail and Hotel Conference	09.07.10 <u>11.06.14</u>
DA18NT	A	Interim Works	24.07.14
DA 19	E <u>I</u>	Commercial Conference/Meeting & Hotel Restaurant	09.07.10 <u>11.06.14</u>
DA 20	E <u>I</u>	Commercial Plant & Hotel Bar	09.07.10 <u>11.06.14</u>
DA 21	E <u>I</u>	Commercial and Hotel Towers Introduction	09.07.10 <u>11.06.14</u>
DA 22	E <u>I</u>	Commercial Low rise & Hotel Plant	09.07.10 <u>11.06.14</u>
DA 23	E <u>I</u>	Commercial Low Rise Typical & Hotel Administration	09.07.10 <u>11.06.14</u>
DA 24	E <u>I</u>	Commercial Mid Rise Typical & Hotel Typical	09.07.10 <u>11.06.14</u>
DA 25	E <u>I</u>	Commercial High Rise Typical & Hotel Typical	09.07.10 <u>11.06.14</u>
DA 26	E <u>I</u>	Commercial High Rise Typical (small) & Hotel Plant	09.07.10 <u>11.06.14</u>
DA 27	E <u>I</u>	Commercial Plant & Hotel Roof	09.07.10 <u>11.06.14</u>
DA 28	E <u>I</u>	Commercial Roof & Hotel Roof	09.07.10 <u>11.06.14</u>
DA 29	E <u>J</u>	Commercial North/South section looking West	09.07.10 <u>13.08.14</u>
DA 30	E <u>I</u>	Section through Commercial and Hotel looking North	09.07.10 <u>11.06.14</u>
DA 31	E	Section through Hotel looking West	09.07.10
DA 32	E <u>I</u>	Commercial East Elevation	09.07.10 <u>11.06.14</u>
DA 33	E <u>I</u>	Commercial & Hotel North Elevation/Section	09.07.10 <u>11.06.14</u>
DA 34	E <u>I</u>	Commercial West Elevation	09.07.10 <u>11.06.14</u>
DA 35	E <u>I</u>	Commercial & Hotel South Elevation	09.07.10 <u>11.06.14</u>
DA 36	E	Hotel East Elevation	09.07.10
DA 37	E	Hotel West Elevation	09.07.10
DA 38	E <u>I</u>	Detailed Street Elevation – Little Spring Street West	09.07.10 <u>11.06.14</u>
DA 39	E <u>I</u>	Detailed Street Elevation – Spring Street	09.07.10 <u>11.06.14</u>
DA 40	E <u>I</u>	Detailed Street Elevation – Denison Street	09.07.10 <u>11.06.14</u>
DA 41	E <u>I</u>	Detailed Street Elevation – New Cross Street	09.07.10 <u>11.06.14</u>
DA 42	E	Detailed Street Elevation – Little Spring Street East/Walker Street	09.07.10
DA 43	E <u>I</u>	Commercial Tower Setback Diagram	09.07.10 <u>11.06.14</u>
DA 44	E	Hotel Setback Diagram	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 <u>10.06.14</u>
	D	Landscape Roof Garden Plan	23.09.09 <u>10.06.14</u>
	D	Landscape Sections	23.09.09 <u>10.06.14</u>
	D	VPA Public Domain Plan	23.09.09 <u>10.06.14</u>

A5 Staging of the Development

For the purposes of interpreting this approval the following terms are used for the staging of the development:

- (1) initial works including reconfiguration of retail uses within the existing Beau Monde building, and/or relocation of services and/or other site preparation works which enable demolition, excavation and shoring works to commence;
- (2) demolition, excavation, and shoring works; and
- (3) construction of the commercial building; and
- (4) ~~construction of the hotel building.~~

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	\$3,632,139.94 \$4,085,735.18
Traffic Improvements	\$219,303.00 \$246,689.21
Total	\$3,851,442.94 \$4,332,424.39

- (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 for construction of the building excluding initial works and demolition, excavation and shoring.

- (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).

~~B4A Monetary Contributions for the Hotel Building~~

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

- ~~(1) Amount of Contribution~~

~~Public Domain improvements \$553,594.90
Traffic Improvements \$33,425.21
Total \$587,020.11~~

- ~~(2) Adjustments – Should the total GFA be reduced as a result of compliance with Condition B1, the amount payable may be eligible for adjustment~~

- ~~(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 for construction of the hotel building excluding initial works, demolition, excavation and shoring.~~

- ~~(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).~~

B5 Public Car Parking

The Proponent shall allocate to Council forty-two (42) car parking spaces and ~~ten (10)~~ **twenty seven (27)** motorcycle spaces at Basement 1 level of the Commercial Tower as public parking. Details of the allocation of the required spaces shall be provided to the Department and the Certifying Authority prior to the issue of the relevant Construction Certificate for the Commercial Tower excluding for any initial works.

B6 Railway Contributions

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 \$5,701,843.56 **\$5,037,599.00** 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~~, except in respect of the initial works.

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).

B7 Off - Site Works

The following Off - Site works are required to be provided by the Proponent by way of works in kind or a monetary contribution;

(i) Berry/Walker Street Intersection Upgrading

Pay a monetary contribution towards the upgrading of the Berry/Walker Street intersection in order to improve the level of queuing in Berry Street and Walker Street (to the value of \$10,000). The monetary contribution is to be paid prior to the issue of an occupation certificate for the Commercial Tower (except for the Initial Works) ~~or hotel building whichever comes first~~.

(ii) Proposed Streetscape Improvements

Streetscape improvements to Denison Street, Spring Street, Little Spring Street, ~~Walker Street~~ and the new laneway (between Little Spring Street and Denison Street) in accordance with the approved plans shall be designed to the satisfaction of Council's Director of Engineering & Property Services. Written confirmation of the proposed improvements must be obtained from Council's Director of Engineering & Property Services by the Certifying Authority prior to issue of the relevant Construction Certificate for the Commercial Tower excluding for any initial works.

(iii) Proposed Traffic/Streetscape Improvements

- a) The proposed traffic modifications to Denison Street, Spring Street, Little Spring Street and the new laneway in accordance with the approved plans shall be designed to the satisfaction of Council's Director of Engineering & Property Services. The proposed modifications shall be submitted to, and approved in writing by the North Sydney Traffic Committee, prior to the issue of the relevant Construction Certificate for the Commercial Tower excluding for any initial works.

Note:

- 1) The Shared Zone in the new laneway end on the western side of the intersection with Little Spring Street is not to include the intersection of the new laneway and Little Spring Street.
- 2) That the proposed Shared Zone in Little Spring Street is to commence on the southern side of the proposed new driveway to No.77-81 Berry Street.
- c) Future Shared Zones must satisfy RTA requirements. All future Shared Zones shall be endorsed by Council and submitted to the RTA for approval
- d) A taxi pick-up/drop-off facility shall be provided to the satisfaction of Council.
- e) All costs associated with relocating parking meters and parking signs including all sign changes, parking bay line markings must be paid in full to North Sydney Council prior to acceptance by Council of any changes

(iv) Street Lighting

Street lighting on Little Spring Street, Spring Street, and Denison Street, ~~and the Walker Street frontage of No.88 Walker Street~~ is to be upgraded to meet the North Sydney CBD Lighting Upgrade Specification and to the satisfaction of the Director of Engineering & Property Services. The lighting is to be upgraded prior to the issue of an occupation certificate for the Commercial Tower (except for the initial works) ~~or hotel building whichever comes first.~~

~~B12 Additional Details – Stone Plinth to Hotel (88 Walker Street)~~

~~The stone plinth at the entry level is to be sandstone. Compliance with this condition is to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate for 88 Walker Street.~~

B16 Car Park

The proposed car park shall satisfy the following requirements:

1. That all vehicles, including delivery vehicles and garbage collection vehicles must enter and exit the site in a forwards direction.
2. The design of the carpark shall comply generally with Australian Standard AS2890.1.
3. The loading dock and access to it shall have a clear height of 3.6m. All other aspects shall generally comply with the Australian Standard AS2890.2.
4. The driveways to the site must be modified such that there are minimum sight lines for pedestrian safety as per Figure 3.3 of AS 2890.1.
5. The location of any boom gate or other vehicular access control for driveway entry to the car park should be located a minimum of 12 metres within the boundary of the property to avoid queuing onto Little Spring Street.
6. That all aspects of the bicycle parking and storage facilities comply with the Australian Standard AS2890.3.
7. That "Stop" signage and "Give Way to Pedestrians" signage be installed at the exit from the car park

Details from an appropriately qualified person showing that these design requirements have been met shall be submitted with the relevant Construction Certificate and approved by the Certifying Authority prior to issuing of the relevant Construction Certificate for the Commercial Tower ~~or hotel building excluding for any initial works.~~

~~B22 Required Trunk Drainage Diversion Works – submission and approval of plans by Council under Roads Act 1993~~

~~Prior to issue of the relevant Construction Certificate referencing excavation and prior to any excavation for the development, the applicant must have construction issue engineering design plans and specifications prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide technical engineering detail and specification for the following drainage infrastructure works that must be completed as part of the development consent:~~

- ~~• Drainage line relocation works in accordance with 'option 5' in the Aurecon~~
- ~~• Australia Drainage and Flooding Assessment report, reference 29239, revision 3 dated 20 March 2009.~~

~~The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for RoadWorks, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected/proposed by the works, erosion control requirements and traffic management requirements during the course of works. Detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998). Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.~~

~~A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying MP number.~~

B-23 Completion of Drainage Line Relocation prior to any Excavation for Development

~~All drainage lines to be relocated shall be decommissioned and re-routed to enable the development, prior to commencement of any works affecting those drainage lines. Works shall proceed in accordance with the construction issue plans issued by Council under the Roads Act 1993, and as inspected and signed off by Council engineers.~~

B26 Work Method Statement

~~A Work Method Statement is to be prepared by the Contractor for the works in close proximity of the Firehouse Hotel (86 Walker Street) and is to be reviewed and approved by a suitably qualified and experienced heritage architect. Compliance with this condition is to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate as it relates to the hotel site.~~

B27 Proposed Street Trees

~~The proposed street tree planting in Denison Street, Spring Street, and Little Spring Street and Walker Street shall be resolved through further discussion with Council and that an amended landscape plan including agreed species, shall be submitted and approved by Council prior to the undertaking of the road works and the issue of the relevant Construction Certificate for such works.~~

B30 Dilapidation Report Damage to Public Infrastructure

~~The applicant must have (within the timeframe specified below) a dilapidation survey and report (including photographic record) prepared which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.~~

~~The applicant shall bear the cost of restoration of all infrastructure damaged as a result of the development, and no occupation of the development shall occur until damage is rectified. A copy of the dilapidation report must be lodged with North Sydney Council by the Certifying Authority with submission of any Construction Certificate documentation making reference to demolition works prior to the commencement of work on the Commercial Tower site and prior to the commencement of work on the Hotel Tower site as applicable to each site includes including demolition, excavation and shoring but excluding initial works.~~

B31 Dilapidation Report Private Property (Excavation)

Prior to the commencement of work (~~excluding initial works~~) on the Commercial Tower site and ~~prior to the commencement of work on the Hotel Tower site and as applicable to each site~~ includes including demolition, excavation and shoring, the applicant must submit, for verification by the Certifying Authority, a full dilapidation report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations. This zone is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

This report is to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property. The report shall have regard to protecting the Applicant from possible spurious claims for structural damage and must be verified by all stakeholders as far as practicable.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

B32 Dilapidation Survey Private Property (Neighbouring Buildings)

A photographic survey of adjoining properties No's. ~~86 Walker Street (The Firehouse Hotel), 100 Walker Street and the Beau Monde Building~~ located on the northern portion of No. 77-81 Berry Street detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, **SHALL BE** submitted to Council and the Certifying Authority (where Council does not issue the Construction Certificate) prior to the commencement of work (excluding initial works) on the Commercial Tower site ~~and prior to the commencement of work on the Hotel Tower site and as applicable to each site~~ includes including demolition, excavation and shoring. This survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

B34 Structural Adequacy of Adjoining Properties – Excavation Works

A certificate prepared by an appropriately qualified and practising structural engineer, at no cost to the Council, detailing the structural adequacy of adjoining properties No's. ~~86 Walker Street (The Firehouse Hotel), 100 Walker Street and the Beau Monde~~ located on the northern portion of No. 77-81 Berry Street and certifying their ability to withstand the proposed excavation and any measures required to be incorporated into the work to ensure that no damage will occur to

adjoining properties during the course of the works, shall be submitted to the Certifying Authority for approval prior to the commencement of work (excluding initial works) on the Commercial Tower site ~~and prior to the commencement of work on the Hotel Tower site as applicable to each site includes demolition, excavation and shoring.~~

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 for the Commercial Tower ~~or hotel site, whichever comes first~~ excluding for any initial works.

B40 Work Zone

If a Works Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority prior to the commencement of work (excluding initial works) on the Commercial Tower site ~~and prior to the commencement of work on the Hotel Tower site and as applicable to each site includes~~ **including** demolition, excavation and shoring.

Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.

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	453 120
Number of commercial/retail car spaces to be disabled spaces	5 4
Hotel	32
Bus	1x25 seater
Public - cars	42
Public - motorcycle	40 27
Motorcycle	33 14

B52 Traffic & Pedestrian Management Plan

Prior to the commencement of work on the Commercial Tower site ~~and prior to the commencement of work on the Hotel Tower site and as applicable to each site includes~~ **including** demolition, excavation and shoring, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to ~~and approved by~~ the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes,
- (4) pedestrian and traffic management methods, and

The Proponent shall submit a copy of the approved plan to the Department and Council.

A separate plan can be prepared for each Construction Certificate/stage of the development and deal with traffic and pedestrian management issues as relevant to the proposed works in each Construction Certificate/stage.

B53 Noise and Vibration Management Plan

Prior to the commencement of work on the Commercial Tower site and prior to the commencement of work on the Hotel Tower site and as applicable to each site includes including demolition, excavation and shoring, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) Identification of the specific activities that will be carried out and associated noise sources,
- (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
- (3) The construction noise objective specified in the conditions of this approval,
- (4) The construction vibration criteria specified in the conditions of this approval,
- (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (6) Noise and vibration monitoring, reporting and response procedures,
- (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- (9) Justification of any proposed activities outside the construction hours specified in the conditions of this approval.
- (10) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (11) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- (12) Contingency plans to be implemented in the event of non-compliances and/or noise complaints,

The Proponent shall submit a copy of the approved plan to the Department and Council.

A separate plan can be prepared for each Construction Certificate/stage of the development and deal with noise and vibration issues as relevant to the proposed works in each Construction Certificate/stage.

B55 Green Star/NABHERS

The Proponent shall ensure the office building and hotel building achieves the relevant star rating as indicated in the Environmentally Sustainable Development (ESD) Report prepared by Cundall dated March 2009. The Proponent shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition prior to the issue of a Construction Certificate works other than initial works.

D16 Northern Wall of the Firehouse Hotel (No.86 Walker Street)

~~Conservation of the exterior finish and colour of the northern wall of the Firehouse Hotel is to be undertaken in consultation with a suitably experienced and qualified heritage consultant after demolition has occurred. The consultant is to ensure that the Firehouse northern wall is sympathetically conserved and that the interface of the Firehouse Hotel and the proposed glazed podium respects the heritage significance of the Firehouse Hotel. Written compliance with this condition from the heritage consultant is to be provided to the certifying authority. All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent and is to be undertaken only with the consent of the owner/s of the Firehouse Hotel (No.86 Walker Street).~~

E2 Certification and Works as Executed - Drainage Works

Prior to 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~~ (but excluding initial works) the Applicant shall obtain a certification from a qualified and experienced engineer that the site drainage system is installed and operating as designed in the plans and specifications referenced by the Construction Certificate. In addition, a registered surveyor must provide a works-as executed drawing showing the as built levels at all pit inlet and outlet inverts, as well as the connection point to the inground pit in Willoughby Street.

E5 Public Infrastructure Repair and Completion of Works

Prior to 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~~ (but excluding initial works) all required works in the road reserve must be completed in full and any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council's engineers at no cost to Council.

E6 Public Carparking Signage

Appropriate signage, clearly legible from the street, shall be permanently displayed to indicate that public car parking is available on the site. Details of the proposed signage and location are to be submitted to and approved by Council and the signage erected prior to 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~~ (but excluding initial works).

~~E7 Covenant for Windows on Southern Elevation of No.88 Walker Street~~

~~A covenant pursuant to the provisions of Part 6, Division 4 of the Conveyancing Act shall be placed on title indicating that the windows on or near the southern boundary of No.88 Walker Street are not protected from any redevelopment of the adjoining property at No.86 Walker Street that may be allowed to build to the boundary and these windows could be blocked off. North Sydney Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Evidence of the lodgement of the instrument referred to in this condition is to be provided to Council with a copy of the Occupation Certificate for the hotel site.~~

E8 Green Travel Plan

A workplace green travel plan is to be developed to highlight to staff the available public and alternative transport options for travelling to the site. This is to be submitted to Council for approval by the Director of Engineering and Property Services prior to 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~~ (but excluding initial works).

E9 Public Art

The applicant shall submit an Arts Plan for the proposed development to Council's Arts and Culture Officer for approval. The applicant shall consult with Council's Arts and Culture Officer in the design and execution stages of the Art Plan. The Artwork shall be installed in accordance with the approved Art Plan prior to completion and issue of any interim Occupation Certificate for ~~either of the two approved buildings~~ (but excluding initial works).

E10 Infrastructure Repair and Completion of Works

Prior to 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~~ (but excluding initial works), all required works in the road reserve must be completed in full and any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.

E14 Certification for Mechanical Exhaust Ventilation

Certification, from an appropriately qualified and practising Mechanical Engineer, is to be submitted to the Principal Certifying Authority, detailing that the exhaust ventilation system has been installed in accordance with the applicable Australian Standard, prior to 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, (but excluding initial works).

E19 Notification of New Address Developments

Prior to issue of the relevant Occupation Certificate (but excluding initial works) for either of the Hotel Tower, or the Commercial Tower, whichever building is to be issued an Occupation Certificate first being issued for the building works, the person acting upon this consent must notify Australia Post of the address(es) as issued by Council and the location in plan form of any secondary, internal addresses, in relation to built public roads. To find your nearest Australia Post Delivery Facility contact 13 13 18.

E25 Section 94 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
Administration	\$88,832.18 \$99,925.22
Child Care Facility	\$376,113.44 \$423,080.34
Community Centres	\$216,571.69 \$243,617.05
Library Acquisition	\$44,162.34 \$49,680.76
Library Premises and Equipment	\$134,258.67 \$151,029.32
Multi Purpose Indoor Sports Facility	\$50,810.68 \$57,159.18
Olympic Pool	\$165,558.01 \$186,232.39
Open Space Acquisition	\$161,917.80 \$182,136.17
Open Space Increased Capacity	\$320,952.04 \$361,031.06
Total	\$1,559,176.85 \$1,753,891.48

(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 2.4 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).

E26 Section 94 Contributions for the Hotel Building⁶

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	\$13,539.41
Child Care Facility	\$57,325.57
Community Centres	\$33,008.91
Library Acquisition	\$6,731.03
Library Premises and Equipment	\$20,463.12
Multi Purpose Indoor Sports Facility	\$7,744.34
Olympic Pool	\$25,233.63
Open Space Acquisition	\$24,678.80
Open Space Increased Capacity	\$48,918.11
Total	\$237,642.92

(2) ~~Adjustments~~

~~Should the total GFA be reduced as a result of compliance with Condition B1, the amount payable may be eligible for adjustment.~~

(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 for the Hotel Building.~~

(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).~~

G2 Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to 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.~~ A copy of the Fire Safety certificate must be submitted to the approval authority and Council by the PCA.

G4 Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to 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~~ and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

G5 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Proponent/developer Prior to 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.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

G12 Allocation of Spaces

~~Two hundred and twenty seven (227)~~ **One hundred and sixty two (162)** car parking spaces and ~~forty-three~~ **one (43)** ~~(41)~~ motorcycle spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:

153 120	car	Commercial/retail tenant
32	car	Hotel spaces
33 14	motorcycle	Commercial/retail tenant
42	car	Public
10 27	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.

End of Modification