



SM/MR
16457

24 February 2017

Carolyn McNally
Secretary
Department of Planning and Environment
320 Pitt Street
SYDNEY NSW 2000

Attention: Amy Robertson

Dear Amy,

**RESPONSE TO SUBMISSIONS - MOD 6 TO MP08_0238
1 DENISON STREET, NORTH SYDNEY**

We write on behalf of Winten Property Group (Winten) in regards to the Section 75W modification application being MOD 6 to Project Approval MP08_0238 relating to the construction of a new commercial building at 1 Denison Street, North Sydney.

Winten and its specialist consultant team have reviewed and considered all the submissions made in relation to both MOD 6 and a response to each of the issues is provided at **Attachment A**. This letter is also accompanied by:

- Amended architectural plans prepared by Bates Smart (**Attachment B**); and
- Traffic and parking statement prepared by Arup (**Attachment C**).

1.0 DESIGN AMENDMENTS BASED ON SUBMISSIONS

In response to the public submissions received and further design development, Winten has progressed the following design amendments specific to Modification 6:

- Additional 32 public car spaces provided within the basement car park;
- Additional 350 bicycle parking spaces provided in accordance with the 5-star Green Star requirements; and
- Internal changes to core and building services locations.

The proposed design amendments are detailed on the amended plans, prepared by Bates Smart and submitted at **Attachment B**. Key amendments are discussed in detail below. It is noted that further modifications have been made in relation to the tower which form part of Modification 7.

1.1 Public Car Parking Spaces

The amended plans (**Attachment B**) reinstate 32 public car parking spaces in response to the submission on behalf of North Sydney Council (Council). These public car spaces, in addition to the 10 car share places proposed as part of MOD 6, will provide a total of 42 car spaces for public use, consistent with the original approval of MP08_0238. The proposed public car spaces will be retained in ownership by the developer and managed as a public car park.

Winten met with Council officers to discuss the proposed design response on 3 February 2017. Noting that Winten intend on owning and managing the car park, Council requested that a restriction be placed on title protecting the on-going use of the car spaces for public purposes only. Council also requested that a management plan be prepared for the use of the public car park, for which Council the approval authority. Accordingly, the following additional condition is nominated below. It is noted that conditions of consent relating to car parking numbers should also be updated to reflect the revised parking numbers on the site.

E26 Deed of Agreement – Public Car Park

Prior to completion and issue of any interim Occupation Certificate, the applicant shall enter into a Deed of Agreement with Council with regard to the 32 public car parking spaces within the basement which achieves the objectives of:

- a) enabling the public to use the paid public car parking spaces, with minimum hours being between the hours of 7am and 7pm Monday to Friday; and*
- b) ensure the rights are not subject to change or variation except with the prior consent of Council.*

The Deed of Agreement shall be for the life of the building and not in perpetuity.

The applicant shall be responsible for the management and operation of the car park, but is entitled to the revenue associated with its operation.

The Deed of Agreement shall allow for public access and use of the car spaces at all times the car park is open, with minimum hours being between 7am and 7pm Monday to Friday and shall include details on the management and operation of the car park.

The Deed must also make provision for a Covenant on title to be registered with Land and Property Information prior to the issue of any Occupation Certificate for the building. The Covenant must note the matters contained in the Deed to ensure that the car spaces are maintained as public spaces for the life of the building.

The Deed and any associated documentation shall be prepared, executed and registered at the sole cost of the applicant, including the reasonable costs of Council in obtaining advice, the cost and expense of negotiating the terms and conditions of the agreement, producing documents or otherwise facilitating the preparation, execution and registration of the required documents, shall bind all successors in title and shall only be subject to variation at the discretion of the Council.

A revised Traffic and Parking Assessment, prepared by Arup and submitted at **Attachment C**, confirms that the changes to the basement car park and provision of additional public car parking will not generate any measurable impact on the surrounding road network as these public car spaces will provide replacement of existing on street parking lost through the redevelopment of the site. Therefore the revised basement and car parking is considered appropriate for the site. A summary of the revised total car parking provision within the development is provided in **Table 1**.

Table 1 – Car parking summary

	MP08_0238 as approved	MOD 6 as lodged	MOD 6 as amended by RTS
Commercial/retail	120 car 14 motorbike	166 car 18 motorbike	166 car 17 motorbike
Public car park	42 car 27 motorbike	0	32 car 21 motorbike
Car share	0	10 car	10 car
Total	162 car 41 motorbike	176 car 18 motorbike	208 car 38 motorbike

1.2 Bicycle Parking

The amended plans (**Attachment B**) include an increase in the provision of bicycle parking in response to the submission of Council. The provision of bicycle parking has been increased to meet the requirements of 5-star Green Star building rating, providing a total of 570 bicycle spaces, including end of trip facilities, as detailed in the amended plans. Although the proposed bicycle parking remains non-compliant North Sydney Development Control Plan provision; 5-star Green Star is considered the industry best practice standard and therefore considered the most appropriate standard for the development. Further, the increased provisions represents an additional 409 spaces to that of the approved development (refer to **Table 2**). It is noted that should demand for the bicycle spaces increase above provision in the future then car spaces within the tenant car park could be converted to additional bicycle spaces.

Table 2 – Approved and proposed bicycle parking

	MP 08_0238 As Approved	MOD6 as lodged	MOD6 as amended by RTS
Tenant spaces	161	220	570
Visitor spaces	Not specified	24	64

1.3 Retail Tenancies on Spring Street

The amended plans submitted at **Attachment B** provide a reduction in the retail floor area on the Spring Street frontage as a result of the need to provide additional public car parking and bicycle spaces. A smaller retail tenancy will still be provided at lower ground level on the corner of Little Spring and Spring Streets to provide activation to this frontage of the site. Given the level change between Denison Street and Little Spring Street, the reduction in retail on this frontage will not give rise to any external changes to the development. Ground level activation to Spring Street will continue to be provided through retail tenancies at ground floor.

1.4 Building Services

The amended plans submitted at **Attachment B** include revised locations of various building services including lift core locations. These changes are internal only and will not result in any change to the excavation area or external appearance of the building. It is noted that amended plans lodged as part of the Response to Submissions in relation to MOD 7 will also update building services and core locations in the above ground parts of the development.

We trust the above information is sufficient to allow a prompt assessment of the modification. Should you have any queries about this matter, please do not hesitate to contact me on 9409 4971 or smiller@jbaurban.com.au.

Yours faithfully,



Samantha Miller
Senior Planner



Michael Rowe
Director

1 Denison Street, North Sydney (MOD 6)

Response to Submissions

Issue	Comment
North Sydney Council	
Council Resolution	
Council acknowledges that Modifications 6 and 7 seek to deliver an improved design that better responds to the changed context of the site, specifically the new Victoria Cross Metro Station and Council's recent strategic planning, whilst at the same time providing an improved outcome for the residents of the Beau Monde building.	Noted.
<p>Council note that detailed plans for the significant streetscape and traffic modifications are not presented in their final form, and that the application includes proposed conditions requiring:</p> <ol style="list-style-type: none"> Streetscape improvements to Denison Street, Spring Street, Little Spring Street, and the new laneway (between Little Spring Street and Denison Street), in accordance with the approved plans, to be designed to the satisfaction of Council's Director of Engineering and Property Services; and Traffic modifications to Denison Street, Spring Street, Little Spring Street and the new laneway, in accordance with the approved plans, to be designed to the satisfaction of Council's Director of Engineering and Property Services. The proposed modifications shall be submitted to, and approved in writing by the North Sydney Traffic Committee. 	The public domain details and modification to traffic flows will be submitted to Council's Director of Engineering and Property Services and approved by the North Sydney Traffic Committee prior to the issue of the relevant Construction Certificate.
<p>The Department of Planning and Environment may be advised that Council:</p> <ol style="list-style-type: none"> Does not support the previously approved 22 space public car park on site being replaced by car share parking and tenant parking. Does not agree to the loss of 40 on street car spaces without an appropriate offset being provided for onsite, Seeks reinstatement of the public parking to offset the loss of on street parking for a minimum of 40 spaces. 	Following further discussions with Council in light of its submission, the proposed development has been amended to include 10 car share spaces and 32 public car spaces – totalling the 42 spaces originally approved. The ownership and management of these public car park spaces will be retained by the proponent.
The Department of Planning and Environment be advised that the under-provision of bicycle parking, particularly for a significant commercial development in the heart of the North Sydney CBD, will undermine the intent of Council's DCP and transport policies.	The provision of bicycle parking has been increased from 220 to 570 and will be provided at the rate consistent with the requirements of 5-star Green Star rating. Whilst the proposed provision remains under Council's requirement of 710 spaces, 5-star Green Star is classified as Australian best practice sustainability, and therefore it is considered unreasonable to request a provision of bicycle spaces in excess of this standard. We also note that this is a substantial increase from the approved bicycle parking of 161 spaces.

Issue	Comment
Comment on the Proposed Modified Conditions of Consent	
<p><i>Condition A5 – Staging of the Development</i> Comment: No objection</p>	Noted.
<p><i>Condition B4 – Monetary Contributions for the Commercial Building</i> Comment: New amounts inserted in condition based on 2016-2017 rates and 66,706 proposed GFA minus 6261 existing GFA contribution calculated on 60,445m² increase. It is important to indicate in the condition what the contribution is based on so that the amount can be adjusted at the time of payment in accordance with the quarterly consumer price index (All Groups Index of Sydney).</p>	Noted. GFA and contributions will be updated accordingly to reflect the approved development as modified.
<p><i>Condition B5 – Public Car Parking</i> Comment: The new owner now proposes to delete the public parking on site and provide 10 spaces car share (such as Go Get). The provision of car share spaces does not compensate the loss of the public metered parking. The public on street parking that will be lost through this development needs to be replaced so that parking is still available for short term visitors and Council does not suffer lost revenue. The proposal to delete the public car park is not supported. The proposed modification with its changes to Denison Street and the public domain <u>will result in the loss of 40 existing on street public parking spaces with 27 of those spaces being metered.</u></p> <p>Council does not accept deletion of public parking and seeks minimum of 10 spaces together with motorcycle parking that is to be removed at street level. The public parking would of course be available to visitors to the new commercial building as well as the general public. It may also be possible for the next parking level to be available after hours and on the weekends for additional public parking and part of the area to be managed by Council.</p>	Following further discussions with Council in light of its submission, the proposed development has been amended to include 10 car share spaces and 32 public car spaces – totalling the 42 spaces originally approved. The ownership and management of these public car park spaces will be retained by the proponent.
<p><i>Condition B6 – Railway Infrastructure</i> Comment: New amounts inserted in condition based on September quarter 2016 rate @ 8123.92 per m2 and 66,706 proposed GFA minus 6261 existing GFA contribution calculated on 60445m' increase. It is important to indicate in the condition what the contribution is based on so that the amount can be adjusted at the time of payment in accordance with the quarterly consumer price index (All Groups Index of Sydney).</p>	Noted.
<p><i>Condition B7 – Off-Site Works</i> Comment: Modifications appear reasonable. Council notes that detailed plans for the significant streetscape and traffic modifications are not presented in their final form, and that the application includes proposed conditions requiring Streetscape improvements to Denison Street, Spring Street, Little Spring Street, and the new laneway (between Little Spring Street and Denison Street), in accordance with the approved plans, to be designed to the satisfaction of Council's Director of Engineering and Property Services; AND Traffic modifications to Denison</p>	The public domain details and modification to traffic flows will be submitted to Council's Director of Engineering and Property Services and approved by the North Sydney Traffic Committee prior to the issue of the relevant Construction Certificate.

Issue	Comment
Street, Spring Street, Little Spring Street and the new laneway, in accordance with the approved plans, to be designed to the satisfaction of Council's Director of Engineering and Property Services. The proposed modifications shall be submitted to, and approved in writing by the North Sydney Traffic Committee.	
<i>Condition B13 – Details of Materials Colours and Finishes; Condition B29A – Stormwater Infrastructure; and Condition B38 – Wind Impact</i> Comment: No objections as matter for Department to ensure materials and finishes and wind impact acceptable. The stormwater Infrastructure is Sydney Water so condition B29A is appropriate.	Noted.
<i>Condition B41 – Number of Car/Motorcycle Spaces</i> Comment: Public cars changed to 40 and delete car share and loading/service spaces together with motorcycle parking that is to be removed at street level.	As above.
<i>Condition B41A – Accessible Parking</i> Comment: Agreed as accessible parking is now shown on plans.	Noted.
<i>Condition B43 – Bicycle Storage and Parking</i> Comment: The proposed quantity of bicycle parking is less than half the minimum required under Council's DCP. The rates set in the DCP were a deliberate policy decision by Council to encourage the use of bicycles as an environmentally beneficial form of transport and an alternative to the use of private motor vehicles. The under-provision of bicycle parking by 60%, particularly for a significant commercial development in the heart of the North Sydney CBD, will undermine the intent of the DCP and Council's transport policies. The Department is requested to insist on additional bicycle parking.	The proposed provision of bicycle parking has been increased from 220 to 570 and will be provided at the rate consistent with the requirements of 5-star Green Star rating. Whilst the proposed provision remains under Council's requirement of 710 spaces, 5-star Green Star is classified as Australian best practice sustainability, and therefore it is considered unreasonable to request a provision of bicycle spaces in excess of this standard. We also note that this is a substantial increase from the approved bicycle parking of 161 spaces.
<i>Condition B55 – Green Star/NABHERS</i> Comment: No objection	Noted.
<i>Condition B56 – Public Domain and Landscaping</i> Comment: This is required as we need to establish the finished levels from the public domain, footpaths etc. at the site boundaries where there are entry points to the building including fire exits, retail and foyer and vehicle access. At least prior to the CC for the ground floor slab, driveway and stair entries.	Noted. Public domain and landscaping details will be submitted to Council prior to the issue of the relevant CC.
<i>Condition E6 – Public Carparking Signage</i> Comment: This condition should be retained and perhaps expanded for the sign to indicate number of vacant spaces.	Noted.
<i>Condition E11 – Line Marking</i> Comment: Condition modified to include 40 public spaces in lieu of car share and service spaces together with	As above.

Issue	Comment
motorcycle parking that is to be removed at street level.	
<p><i>Condition E25 – Section 94 Contributions for the Commercial Building</i></p> <p>Comment: New amounts inserted in condition based on 2016-2017 rates and 66,706 proposed GFA minus 6261 existing GFA contribution calculated on 60445m2 increase. It is important to indicate in the condition what the contribution is based on so that the amount can be adjusted at the time of payment in accordance with the quarterly consumer price index (All Groups Index of Sydney).</p>	Noted.
<p><i>Condition E26 – Easement for Stormwater Infrastructure</i></p> <p>Comment: No objection</p>	Noted.
<p><i>Condition G12 – Allocation of Spaces</i></p> <p>Comment: Changes made to be consistent with requiring 40 public spaces together with motorcycle parking that is to be removed at street level.</p>	As above.
<p><i>Condition AN1 – Replacement Pipes</i></p> <p>Comment: Sydney Water has to sign off on the stormwater as it is their infrastructure.</p>	Noted.
Sydney Water	
Sydney Water previously agreed to the proposed development based on the commitment by the proponent that Sydney Water's stormwater pipe/channel would be deviated along Denison Street and Spring Street. Subsequent investigation has since however determined that this deviation is not practicably possible due a number of services existing beneath the streets. Sydney Water's objection to the proposal remains until an agreeable design solution is negotiated.	<p>The proponent has had further discussions with Sydney Water (meeting 24 January 2017). An in-principle agreement has been reached on the design and location of the stormwater infrastructure, subject to sending detailed engineering diagrams to the structural engineer at Sydney Water. Further detailed diagrams are to be provided by Winten in order to satisfy Sydney Water requirements. The general location and area identified in the amended plans (Attachment B) is consistent with that presented to Sydney Water for consideration.</p> <p>The proponent has put forward conditions of consent (See Section 75W EAR) to ensure that the design and construction of the stormwater infrastructure will be approved by Sydney Water prior to the issue of the relevant construction certificate.</p>
Transport for New South Wales	
Proposed Road Network Changes	
<p>It is requested that the applicant be conditioned to:</p> <ul style="list-style-type: none"> Consult with TfNSW and Roads and Maritime Services prior to the finalisation of the plans for the proposed road network changes; and Obtain approval from Roads and Maritime Services for the proposed shared zone arrangement along Denison 	Noted.

Issue	Comment
Street.	
Sydney Metro City and Southwest	
<p>TfNSW requests the following:</p> <ul style="list-style-type: none"> ■ If the proposed development is to be constructed prior to Victoria Cross Station construction, the applicant needs to demonstrate the following after completion of building construction: <ul style="list-style-type: none"> ○ There are no adverse impacts on the Victoria Cross Station service building including construction and permanent structures; and ○ The integrity of the constructed building will not be adversely be impacted by the construction of Victoria Cross Station, including bulk excavation induced deformation and in-situ stress relief. ■ If the Victoria Cross Station is to be constructed prior to the proposed development, the applicant to demonstrate the basement bulk excavation induced deformation and in-situ stress relief will not have adverse impacts on the station (shaft) structures. 	<p>Noted. The proponent has no objection to such a condition.</p>
<p>It is requested that the applicant be conditioned to the following:</p> <ul style="list-style-type: none"> (a) The design, construction and maintenance of the development so as to satisfy the requirements in (b) to (j) below; (b) Allowances for the future construction of railway tunnels and Victoria Cross station in the vicinity of the approved development; (c) Allowances in the design, construction and maintenance of the development for the future operation of railway tunnels and Victoria Cross station in the vicinity of the approved development, especially in relation to noise, vibration, stray electrical currents, electromagnetic fields and fire safety; (d) Consultation with TfNSW; (e) Provision to TfNSW of drawings, reports and other information related to the design, construction and maintenance of the approved development; (f) Such other matters which TfNSW considers are appropriate to give effect to (a) to (e) above; (g) Such other matters as the owners and TfNSW may agree; (h) The design and construction of the basement levels, foundations and ground anchors for the approved development are to be completed to the satisfaction of TfNSW. For the Sydney Metro City and Southwest the developer shall develop their foundation design to ensure that all loads be transferred and have no adverse impacts on the Sydney Metro City and Southwest tunnel structures; (i) The developer must undertake detailed numerical analysis considering geotechnical conditions (rock strength, potential defects and field stresses etc.; foundation layout and loads transferred from the buildings) and are 	<p>Noted. The proponent has no objection to such a condition.</p>

Issue	Comment
<p>required to demonstrate:</p> <ul style="list-style-type: none"> (i) The proposed development, after completion of building construction, will not have adverse impacts on the Sydney Metro City and Southwest tunnels including construction and tunnel structures; and (ii) That the integrity of the constructed building will not be adversely impacted by the construction of Victoria Cross Station, Sydney Metro City and Southwest tunnels including bulk excavation deformation and in-situ stress relief due to excavation. (j) Demonstrate that the deformation induced by the bulk excavation of basements will not have adverse impacts on Sydney Metro City and Southwest tunnels and station structures. 	
Public Domain and Interface with Sydney Metro	
<p>TfNSW advises that the design addresses the context of the delivery of Sydney Metro and plans should facilitate strategies in Council's Sydney Metro Planning Study (May 2016). TfNSW requests that the following principles be considered in the design:</p> <ul style="list-style-type: none"> ▪ Minimisation of road width and maximise pedestrian footpath space; ▪ Remove parking from the proposed lane; ▪ Prioritise pedestrian movements; ▪ Consideration of single paving treatment; and ▪ Support for retail along the proposed laneway frontage. 	<p>Noted. These matters will be considered as part of the final public domain design and road network changes.</p>
Ausgrid	
Impact on Existing Electrical Plant and Equipment	
<p>Ausgrid has an existing substation (S6042) located on the premises of the proposed development at 77-81 Berry Street, North Sydney. This substation is supplying electricity to the premises and is inter-connected with S3352 located at 100 Walker Street, North Sydney. Ausgrid have been advised that the Department of Planning and Environment can only make a plan after a formal connection application to Ausgrid has been submitted.</p> <p>Ausgrid also understand that the proposal incorporates 88 Walker Street, North Sydney. Ausgrid has an existing substation (S5865) at this location. On 3 February 2015, Ausgrid submitted comments relating to S5865 in response to DA-430/14. Ausgrid noted in this submission that during the course of building demolition and new building construction, the developer must not relocate or interfere with the operation of S5865. The existing space clearances around S5865 additionally must be maintained, including the space above the substation. Ausgrid further noted that they own a significant number of major underground cables in Walker Street, Spring Street and</p>	<p>Noted.</p> <p>It should be noted that 88 Walker Street was excluded from the project as part of Modification 5 and is no longer relevant.</p>

Issue	Comment
Little Spring Street. The surface levels over existing underground cables in these streets were not be altered without permission from. If existing levels (footway or roadway) were proposed to be lowered, Ausgrid must be contacted to determine whether or not relocation or lowering of existing underground cables would be required.	
The new development will alter the maximum demand of electricity and the connection to the new building. The developer should submit a formal Connection Application detailing the new electricity connection requirements. The submission should be made as early as possible to avoid supply issues to the building. The supply arrangements to the development will be confirmed upon receipt of the Connection Application.	Noted.
Public Submissions	
Planning Process	
There is concern that Local and State Governments are not respecting previous development approvals, and that developers may more frequently seek to override established building controls.	The application seeks to modify the existing project approval and is consistent with the planning framework for such applications.
There is sentiment that the proposal reflects a “triple dipping” by the developer, and that the historic consent already breached the good faith undertaking with residents of the Beau Monde building.	The proposed modification responds to the change in the strategic context of the site from the original approval in 2008. This includes the provision of the Victoria Cross metro station as well as increased heights proposed for the North Sydney CBD in the North Sydney Centre Capacity and Land Use Study. It is further noted that the Owners Corporation of the Beau Monde building have not made a submission on the application.
Traffic Generation	
Whilst the benefits of car share are acknowledged, the provision of car share spaces is not considered to eliminate the demand for public parking in North Sydney.	The amended plans seek to include 32 public car spaces within the development in addition to the 10 car share spaces.
More detailed consideration of the ability of the laneways and surrounding streets to accommodate the traffic generation of the proposed development, as well as all existing development, is considered to be necessary. This particularly owing to proposed changes to the operation of laneways which are anticipated to significantly impact upon traffic flows.	The proposed traffic measures will be submitted to both RMS and Council for approval.
It is noted that difficulty already exists in the ability for Beau Monde residents to access their own building due to current congestion levels throughout the local road network.	Noted.
Establishing Precedent	
There is concern that the proposed contravention of planning controls (and the excessive height, bulk and scale) will set a dangerous precedent for the redevelopment of other sites, which may similarly disregard relevant environmental planning instruments and policies and cause similarly adverse development outcomes.	Noted.