

ASSESSMENT REPORT

Berry and Walker Streets, North Sydney
MP 08_0238 MOD 6

1. INTRODUCTION

This report is an assessment of a request to modify the Project Approval (MP 08_0238) for the construction of a commercial tower at 77-81 Berry Street, North Sydney in the North Sydney local government area.

The request has been lodged by Winten Property Group (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval for the expansion and redesign of the lower ground and basement levels of the development, increase in car, motorcycle and bicycle parking spaces and amendments to stormwater infrastructure.

2. SUBJECT SITE

The subject site is located at the centre of North Sydney Central Business District (CBD) and is divided into two parcels of land (**Figures 1 and 2**).

The main part of the site comprises 77-81 Berry Street (also known as 1 Denison Street), which is bound by Spring Street to the south, Little Spring Street to the east, Denison Street to the west. A residential building at 77 Berry Street, known as Beau Monde building, adjoins the northern boundary of the site. The main part of the site currently contains the Berry Street Shopping Centre, which is an existing two storey mall with 100 metre (m) frontages to Denison and Little Spring Streets.

The other part of the site comprises Berry Square and the public domain which is located to the north of the Beau Monde building and south of Berry Street.

Surrounding buildings comprise a mixture of commercial, retail and office uses and range in height from one to approximately 40 storeys. The closest residential property is the Beau Monde building, which contains apartments for the full height of the tower above the podium level.

The site is located 500 m north of North Sydney Railway Station, approximately 2.5 kilometres (km) north of the Sydney CBD and 2.1 km south east of St Leonards. The proposed future Victoria Cross Sydney Metro station site is located directly to the west of the site (refer to **Figures 1 and 2**).

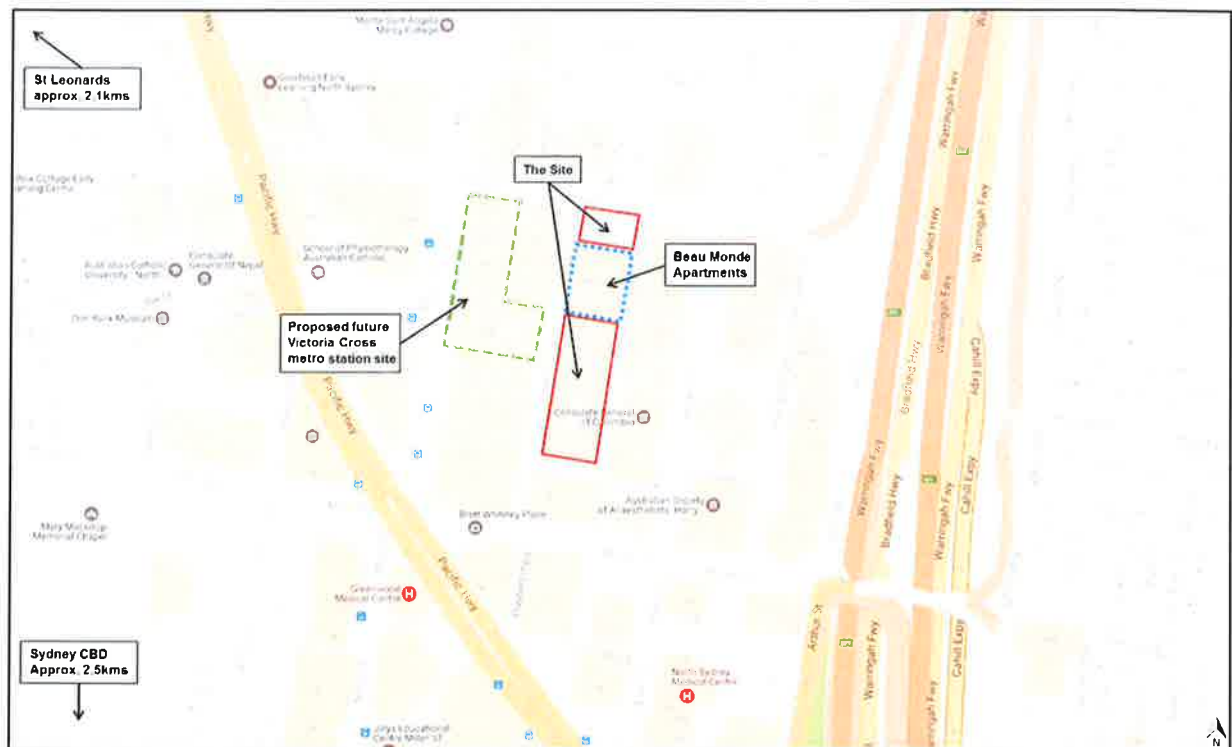


Figure 1: Site Location (Base source: Nearmap)



Figure 2: Aerial view of the site and its immediate surrounding context (Base source: Nearmap)

3. APPROVAL HISTORY

On 25 February 2010, the then Minister for Planning approved the Major Project (MP 08_0238) for mixed-use commercial / hotel development (Project Approval) comprising:

- demolition of the existing buildings on both sites, including the pedestrian bridge;
- excavation for four basement levels at 77-81 Berry Street and two basement levels 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 with vehicular access via Little Spring Street;

- construction of a 33 storey x 200 room hotel at 88 Walker Street, including a connecting service tunnel below Little Spring Street;
- provision of 42 public car parking spaces and 10 motorcycle spaces;
- reconstruction of the Tower Square pedestrian bridge; and
- off-site works, including public domain and landscaping, a new pedestrian plaza in Denison Street, public forecourt to Spring Street, through-site road between Denison and Little Spring Streets, road re-alignments/partial public road closures, tree planting, paving, street furniture and lighting, and public art.

The Project Approval has been modified on five previous occasions as outlined in **Table 1**.

Table 1 – Modifications to the Project Approval (MP 08_0238)

Mod No.	Description of Modification	Approved
MOD 1	Amendments to the building envelope and reduction in building heights, alterations to building design, facades, internal layout, public domain and reinstatement of underground service tunnel.	11 March 2011
MOD 2	Staging of construction, changes to development contributions and deletion of off-site car parking works.	18 January 2012
MOD 3	Extension of construction hours for internal fitouts.	10 April 2012
MOD 4	Amendments to staging of construction and initial works.	29 October 2012
MOD 5	Deletion of hotel component (88 Walker Street), retention of existing storm water infrastructure, reconfiguration of basement levels, internal alterations including reduction of 2,537 m ² GFA and realignment of Denison Street pedestrian bridge.	16 March 2015

The Department is concurrently assessing a separate modification application for this site (MP 08_0238 MOD 7), which proposes to:

- increase the height of the building by seven storeys (from 30 to 37-storeys) with a maximum height of RL 210.65 m;
- increase of 11,824 m² GFA (from 53,563 m² to 65,387 m²);
- amend and reconfigure the tower form, layout and associated internal and external alterations;
- provide additional retail activation fronting Denison Street and the through site-link;
- reconfigure the site access arrangements and vehicle movements, including pedestrianisation of through-site link and laneway; and
- amend the public domain landscaping and improvements to Berry Square.

4. PROPOSED MODIFICATION

On 11 November 2016, the Proponent lodged a section 75W modification application (MP 08_0238 MOD 6) seeking approval for the following amendments:

- expansion and redesign of the lower ground and basement levels 1-4;
- changes to public car parking;
- increase of car, motorcycle and bicycle parking spaces;
- replacement and augmentation of the existing stormwater infrastructure; and
- associated amendments to conditions.

The Department notes the detailed design of the lower ground and basement car park levels (including layout, core and plant locations, and car parking allocation) was originally included as part of the concurrent modification application (MP 08_0238 MOD 7). The modification also included deletion of the public car park in favour of additional tenant and car share spaces. However, the Proponent has advised it now seeks approval for components related to the basement parking levels as part of this modification application.

The modification is requested in order to provide a more efficient basement layout and to facilitate an enlarged and amended development as envisaged under the concurrent modification request MP 08_0238 MOD 7. The modifications are shown at **Figures 3 and 4**.

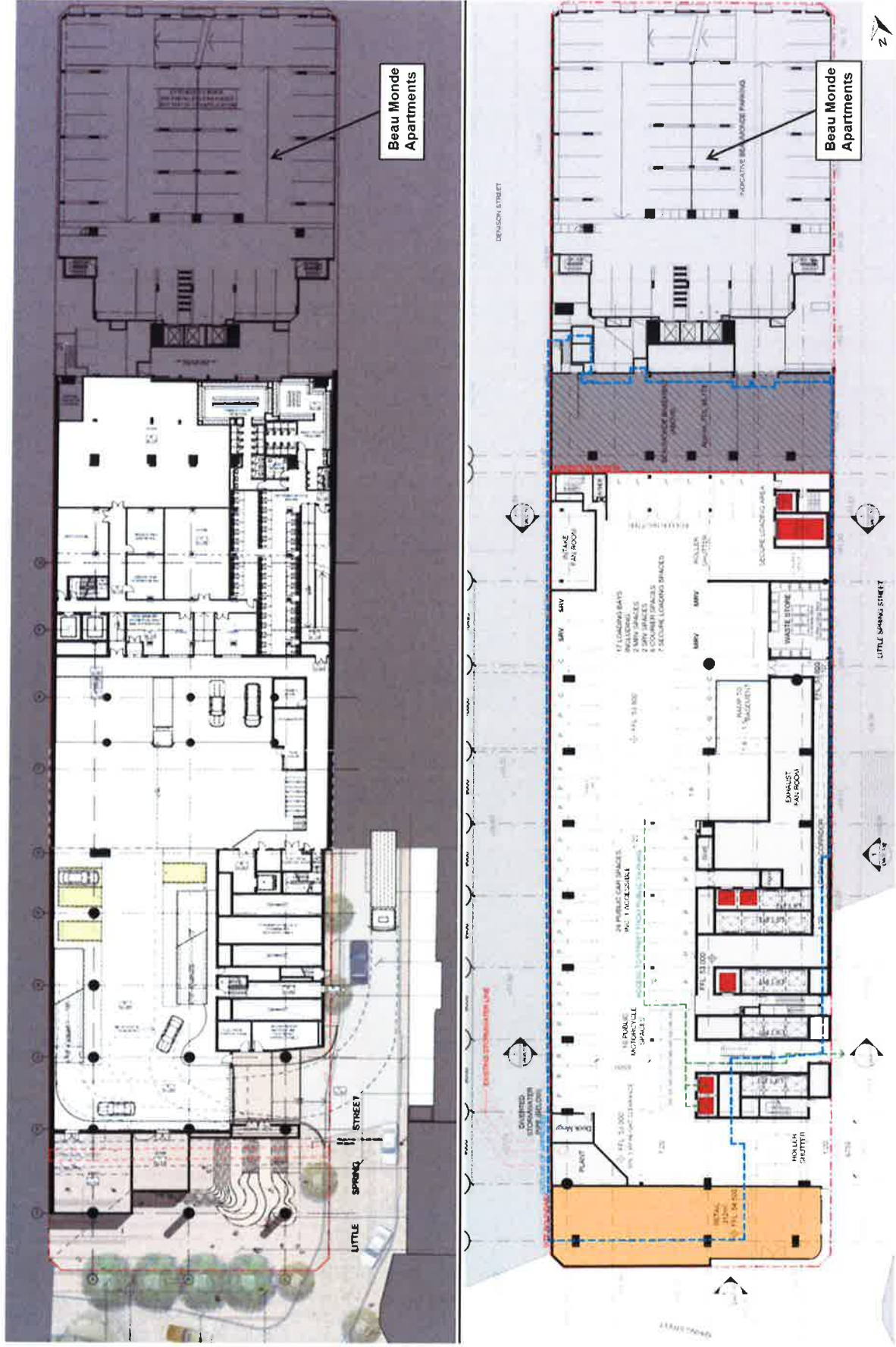


Figure 3: Approved (top) and proposed (bottom) lower ground level layout (Sources: MP 08_0238 MOD 5 and Proponent's application)

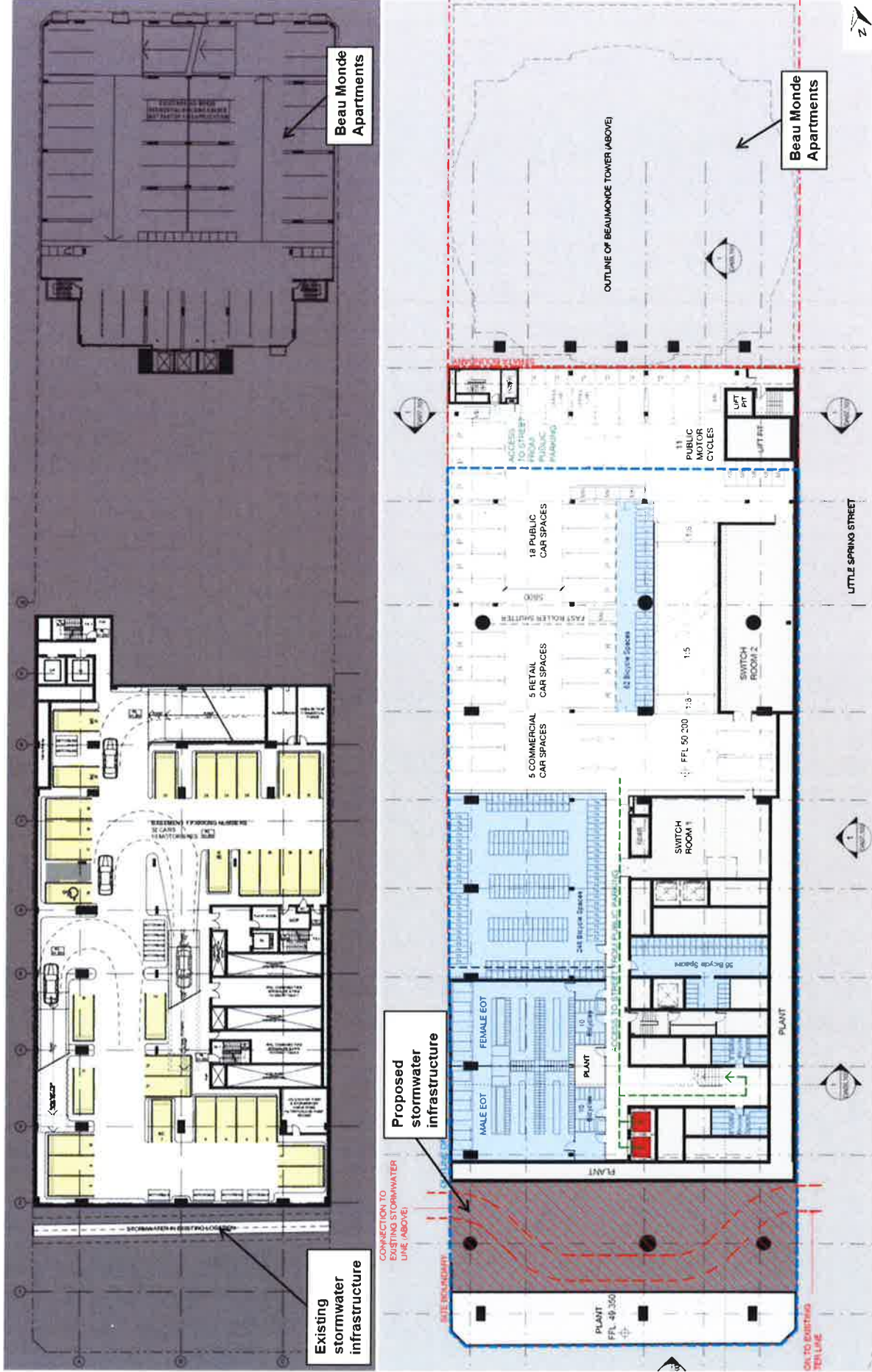


Figure 4: Approved (top) and proposed (bottom) basement level 1 layout (Sources: MP 08_0238 MOD 5 and Proponent's application)

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the Act.

The Department is satisfied the proposed changes are within the scope of section 75W of the EP&A Act, and the proposal does not constitute a new application.

5.2 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Executive Director, Key Sites and Industry Assessments, may determine the application under delegation, as:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are less than 25 public submissions in the nature of objections.

6. CONSULTATION

6.1 Consultation

The Department made the modification application publicly available on its website, consulted with North Sydney Council (Council), Sydney Water, Transport for NSW (TfNSW), Roads and Maritime Services (RMS) and Ausgrid, and notification letters were sent to adjoining owners/occupiers. Due to the minor nature of the proposed modification, it was not exhibited by any other means.

Sydney Water initially objected to the proposal on the grounds it, does not comply with its building over and adjacent to stormwater pipe/channel requirements.

TfNSW did not object to the proposal and recommended conditions to protect the Sydney Metro City and Southwest rail corridors.

Council initially objected to the proposed deletion of the public car park and suggested the number of bicycle parking spaces should be increased.

Ausgrid did not object to the proposal and recommended the Proponent submit a connection application to Ausgrid.

RMS provided no comment on the proposal.

There were seven **public** submissions objecting to the proposal. Key issues raised in public submissions include:

- increased adverse traffic impacts due to the increase in GFA; and
- the basement level public car park should not be deleted from the scheme.

The public submissions also raised concerns about proposed changes and issues relating to the concurrent modification application (MP 08_0238 MOD 7) and these issues have been considered as part of the assessment of that separate application.

6.2 Response to Submissions (RtS)

Following notification of the modification application, the Department placed copies of all submissions received on its website and requested the Proponent provide a response to the issues raised in the submissions.

On 24 February 2017, the Proponent provided a RtS, which was subsequently updated on 13 March, 18 April and 26 April 2017 (**Appendix A**). The RtS (as amended) provides a response to Sydney Water's objection and contains further information and clarification of the key issues raised in the submissions by government authorities, Council and in public submissions. The RtS clarified the proposal relates to below ground works only, and includes the following amendments:

- inclusion of details relating to the basement layout, access and car parking numbers / allocation from the concurrent modification application (MP 08_0238 MOD 7) to this application;
- reinstatement of the 42 (approved) public car parking spaces and provision of 21 motorcycle spaces within the basement car park, with a proposed profit sharing arrangement with Council;
- revised basement layout plans, including changes to core and building services locations;
- amendment to the number of line-marked spaces for cars, motorcycles and service vehicles;
- increased provision of bicycle parking (570 employee and 64 visitor spaces); and
- minor amendment to the indicative layout of the stormwater pipe/channel and proposed conditions to ensure Sydney Water's approval of the design and construction.

Sydney Water confirmed it withdraws its objection to the proposal, as:

- the drawings now show a clear void space through the development for Sydney Water assets; and
- the Proponent shall continuously liaise with Sydney Water regarding the stormwater works.

Council has confirmed it no longer raises any concerns about the proposal.

TfNSW reiterated its original request for a condition to be imposed to protect the Sydney Metro City and Southwest rail corridors.

7. ASSESSMENT

7.1 Assessment Issues

The Department has considered the modification request, the issues raised in submissions, and the Proponents RtS, and considers the key assessment issues relate to public and private parking, stormwater infrastructure and staging. These issues are considered in **Table 2** below.

Table 2: Assessment Issues

Issue	Consideration	Recommendation
Public Car Park	<ul style="list-style-type: none">• The approved development incorporated a public car park to offset on street car parking lost as a result of the approved development.• The Proponent originally sought to delete the public car park, but now seeks to retain it subject to a Deed of Agreement with the Council to establish a profit sharing arrangement and to ensure the car park is publicly accessible between 7 am and 7 pm Monday to Friday. The Proponent has suggested a new Condition (E27) to secure the Deed of Agreement.• The proposal also seeks approval for a reduction of six motorcycle spaces within the public car park as a result of the reconfiguration of basement levels.• Council supports the retention of public car parking spaces as approved and does not object to the reduction of motorcycle parking spaces. Following revised wording of Condition E27, Council now	<p>The Department has recommended Condition B5 be updated to account for the reduced number of motorcycle parking spaces and remove reference to the allocation of the public car park to Council.</p> <p>The Department has recommended a new Condition E27 as</p>

<i>Issue</i>	<i>Consideration</i>	<i>Recommendation</i>
	<p>supports the Deed of Agreement.</p> <ul style="list-style-type: none"> The Department notes the Council and Proponent have reached an agreement about the ownership/operation of the public car parking facility and both parties agree to a profit sharing rather than allocation arrangement. The Department does not object to the proposed change given the total number of publicly accessible car parking spaces would remain the same and it is likely to simplify future management of the basement. The Department considers the reduction of six motorcycle parking spaces is minor in nature and therefore acceptable. 	agreed between Council and the Proponent.
<i>Car and motorcycle parking for the development</i>	<ul style="list-style-type: none"> The proposal seeks approval to increase on-site vehicle parking for the development, by: <ul style="list-style-type: none"> 46 car parking spaces (from 120 to 166 spaces, including 5 disabled spaces); and three motorcycle spaces (from 18 to 21 spaces). The proposal also seeks approval to delete Condition B41A, which requires disabled parking to be relocated adjacent to lifts as the amended plans have included this change. Concern was raised in a public submission that the additional car parking spaces would have adverse traffic impacts. Council does not object to the additional car parking and confirmed it supports the deletion of Condition B41A. The Department is satisfied the increase in on-site parking for the development is appropriate, noting the increase in tenant parking (from 120 to 166 spaces) complies with the maximum requirements of the North Sydney Development Control Plan (NSDCP) 2013. The Department is also satisfied the proposal would not result in any adverse traffic impacts noting the Proponent's Traffic and Parking Assessment submitted with the application concludes the proposal would have negligible impacts on the road network. 	The Department has recommended Conditions B41 and G12 be updated to take account of the changes to on-site car and motorcycle parking for the development. The Department has also recommended Condition B41A be deleted as requested and Condition E11 be updated to remove references to car parking numbers.
<i>Bicycle parking spaces</i>	<ul style="list-style-type: none"> Following concerns raised by Council that bicycle parking was inadequate, the proposal seeks approval to amend Condition B43 to increase the number of on-site bicycle parking spaces by 409 spaces (from 161 to 570 spaces) with associated end of trip facilities and 64 visitor spaces. Council has confirmed it supports the increase in bicycle parking provision. The Department notes the provision of 570 on-site bicycle parking spaces is in accordance with the NSDCP 2013 and is consistent with planning objectives to reduce reliance on motor vehicles in North Sydney CBD. The Department notes, as existing, Condition B43 does not specify a total number of visitor bicycle spaces. The amendment to require the provision of 64 visitor spaces provides certainty and clarity in relation to visitor bicycle parking provision. 	The Department has recommended Condition B43 be amended to take account of the revised on-site bicycle parking provision.
<i>Stormwater Infrastructure</i>	<ul style="list-style-type: none"> The Project Approval includes the deviation of Sydney Water's stormwater pipe/channel. The pipe, which currently runs across the site, was to be diverted along Denison and Spring Streets. The proposal now seeks to realign the stormwater pipe/channel to run across the southern portion of the site (refer to Figure 4). Sydney Water initially objected to the proposal as it would result in the development being constructed over its stormwater assets. In response, the Proponent provided amended drawings and additional information about the proposal and confirmed its engineers are continuing to work with Sydney Water on the detailed engineering solution for the stormwater infrastructure requirements. The Proponent also suggests two new conditions (B29A and E26) requiring the detailed design of stormwater infrastructure to be agreed with Sydney Water prior to the decommissioning of the existing infrastructure and establishment of a revised easement across the site prior to occupation. Following its consideration of the revised drawings and the proposed two new conditions, Sydney Water now supports the proposal, and noted requirements for final construction of the stormwater pipe. The Department notes Sydney Water and the Proponent have reached agreement about the in-principle location of the stormwater pipe/channel. In addition, the detailed design and final construction of 	<p>The Department has recommended new Conditions B29A and E26 in relation to Sydney Water infrastructure.</p> <p>Advisory Note AN1 is now redundant and the Department has recommended it be deleted.</p>

Issue	Consideration	Recommendation
	<p>the stormwater infrastructure will need to be approved by Sydney Water.</p> <ul style="list-style-type: none"> The Department is satisfied the amendment to the alignment of the stormwater infrastructure is acceptable, subject to conditions requiring the design, construction, and easement for the stormwater infrastructure to be approved by Sydney Water. 	
Staging	<ul style="list-style-type: none"> The proposal seeks to amend Condition A5 by dividing the staging of the commercial building from a single stage into three stages. Council does not object to changing the staging of the development. The Department notes the revised staging separates the construction of the development into below ground, above ground and public domain works. The Department considers the proposed amendment does not result in a material change to the staging of the development given the proposed staging is sequential. The Department therefore supports the proposed staging. 	The Department has recommended Condition A5 be updated to take account of the revised staging of the development.

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modification is appropriate on the basis that:


- the proposal retains the on-site public car park and Council and the Proponent have agreed to enter into a Deed of Agreement for its operation;
- Sydney Water and the Proponent have reached agreement about the location of stormwater infrastructure and conditions have been recommended requiring the detailed design be agreed with Sydney Water and the establishment of an easement;
- the increase in on-site vehicle parking for the development would not result in adverse traffic impacts and is in accordance with the NSDCP 2013; and
- the substantial increase in bicycle parking and end of trip facilities is in accordance with the NSDCP 2013 and consistent with planning objectives of reducing reliance on motor vehicles in North Sydney CBD.

Consequently, it is recommended the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is RECOMMENDED that the Executive Director, Key Sites and Industry Assessments, as delegate of the Minister for Planning:

- considers** the findings and recommendations of this report;
- approves** the application under section 75W of the EP&A Act, subject to conditions; and
- signs** the notice of modification (**Appendix A**).


 Anthony Witherdin
 Director
 Modification Assessments

 25/5/17
 Anthea Sargeant
 Executive Director
 Key Sites and Industry Assessments

APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8066

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department's website at:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8066

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8066

3. Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8066