

MOD 7 – PROPOSED MODIFICATION TO CONDITIONS OF CONSENT

A1 Development Description

Development approval is granted only to carrying out the development described in detail below:

- *Demolition: Demolition of the existing buildings 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 levels of basement at 77-81 Berry Street;*
- *Construction of a ~~part 26/part 32 storey~~ tapered 41 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 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 ~~27~~ 21 motorcycle spaces;*
- ~~*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 **and November 2016** 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 Bates Smart:~~

Drawing No.	Rev.	Name of Plan	Date
DA-04 DA00.001	G 02	Cover Page and Drawing Register Title Page MOD 7	11.06.14 01.03.17
DA-03	↓	Photomontage corner of Little Spring Street	11.06.14
DA-08	↓	Existing Building Survey	11.06.14
DA-09 DA01.000	↓ 02	Location Plan and Survey Plan General Arrangement Plan Site Plan	11.06.14 01.03.17
DA-014 DA02.0B4	↓ 02	Basement 4 – Commercial Plan Basement 04 – Parking	11.06.14 22.02.17
DA-12 DA02.0B3	↓ 02	Basement 3 – Commercial Plan Basement 03 – Parking	11.06.14 22.02.17
DA-13 DA02.0B2	↓ 02	Basement 2 – Commercial and Hotel Plan Basement 02 – Parking	11.06.14 22.02.17
DA-14 DA02.0B1	↓ 02	Basement Plan 1 – Commercial and Hotel Plan Basement 01 – Parking	11.06.14 22.02.17
DA-15	↓	Lobby and Ground Floor Introduction Page	11.06.14
DA-16 DA02.0LG	↓ 03	Commercial Lower Ground Lower Ground Level – Loading	13.08.14 18.04.17

DA 17	↓	Commercial Lobby	13.08.14
DA03.000	02	General Arrangement Plan Ground Level	01.03.17
DA18	↓	Commercial Food Court Retail	11.06.14
DA03.0MZ	02	General Arrangement Plan Mezzanine	01.03.17
DA 18NT	A	Interim Works	24.07.14
DA 19	↓	Commercial Conference/Meeting	11.06.14
DA 20	↓	Commercial Plant	11.06.14
DA 21	↓	Commercial	11.06.14
DA 03.001	02	General Arrangement Plan Level 01 – Commercial	01.03.17
DA 22	↓	Commercial Low Rise	11.06.14
DA 03.002	02	General Arrangement Plan Level 02 – Commercial & Terrace	01.03.17
DA 03.003	02	General Arrangement Plan Level 03 – Commercial	01.03.17
DA 23	↓	Commercial Low Rise Typical	11.06.14
DA03.004	01	General Arrangement Plan Level 04 – Typical Low Rise	01.03.17
DA03.009	02	General Arrangement Plan Level 09 – Transfer Floor	01.03.17
DA03.010	02	General Arrangement Plan Level 10 – Plant	01.03.17
DA 24	↓	Commercial Mid Rise Typical	11.06.14
DA03.011	02	General Arrangement Plan Level 11 – Typical Mid Rise	01.03.17
DA03.023	02	General Arrangement Plan Level 23 – Transfer	01.03.17
DA 25	↓	Commercial High Rise Typical	11.06.14
DA03.024	02	General Arrangement Plan Level 24 – Typical High Rise	01.03.17
DA 26	↓	Commercial High Rise Typical (Small)	11.06.14
DA03.035	02	General Arrangement Plan Level 35 – High Rise Upper	01.03.17
DA 27	↓	Commercial Plant	11.06.14
DA03.036	02	General Arrangement Plan Level 36 – Plant & Overrun	01.03.17
DA03.037	02	General Arrangement Plan Level 37 – Upper Plant	01.03.17
DA 28	↓	Commercial Roof	11.06.14
DA03.038	02	General Arrangement Plan Roof Level	01.03.17
DA 29	↓	Commercial North/South Section looking West	13.08.14
DA 30	↓	Section through Commercial	11.06.14
DA 32	↓	Commercial Ease Elevation	11.06.14
DA 33	↓	Commercial North Elevation/Section	11.06.14
DA 34	↓	Commercial West Elevation	11.06.14
DA 35	↓	Commercial South Elevation	11.06.14
DA 38	↓	Detailed Street Elevation – Little Spring Street West	11.06.14
DA 39	↓	Detailed Street Elevation – Spring Street	11.06.14
DA 40	↓	Detailed Street Elevation – Denison Street	11.06.14
DA 41	↓	Detailed Street Elevation – New Cross Street	11.06.14
DA 43	↓	Commercial Tower Setback Diagram	11.06.14
DA07.101	02	Building Elevations North Elevation	01.03.17
DA07.102	02	Building Elevations East Elevation	01.03.17
DA07.103	02	Building Elevations South Elevation	01.03.17
DA07.104	02	Building Elevations West Elevation	01.03.17
DA07.202	02	Building Elevations Detailed Street Elevation – Little Spring Street	01.03.17
DA07.203	02	Building Elevations Detailed Street Elevation – Spring Street	01.03.17
DA07.204	02	Building Elevations Detailed Street Elevation – Denison Street	01.03.17
DA08.101	02	Building Sections A-A	01.03.17
DA08.102	02	Building Sections BB	01.03.17
DA10.001	02	Diagrams Photomontage 1/2	01.03.17
DA10.002	02	Diagrams Photomontage 2/2	01.03.17
Landscape Plan & Public Domain Plan prepared by OCULUS at Appendix I of the Preferred Project Report			
16041_L_C01	D	Indicative Public Domain Plan	10.06.14
	A	Public Domain Concept	October 2016

	D	Landscape Roof Garden Plan	10.06.14
	D	Landscape Sections	10.06.14
	D	VPA Public Domain Plan	10.06.14

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~~
- (3) construction of basement and below ground structures of commercial tower;**
- (4) construction of above ground structures of commercial tower;**
- (5) construction of offsite works and public domain.**

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	\$4,085,735.18 \$5,305,585.23
Traffic Improvements	\$246,689.21 \$320,327.00
Total	\$4,332,424.39 \$5,625,912.23

- (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 the 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 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 not 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 ~~twenty-seven (27)~~ **twenty-one (21)** motorcycle spaces at Basement 1-2 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 Infrastructure

*The Proponent shall enter into a Voluntary Planning Agreement (VPA) in accordance with the offer made on 21 December 2009 with the Minister for Planning to provide a Railway Infrastructure Contribution totalling ~~\$5,037,599.00~~ **\$7,327,141.76** 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 the Commercial Tower, except in respect of the initial works*

*The final contribution payable may be required 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~~ **Secretary** 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)

(ii) **Proposed Streetscape Improvements**
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 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.

(a) Future Shared Zones must satisfy RTA requirements. All future Shared Zones shall be endorsed by Council and submitted to the RTA for approval.

~~(b) A taxi pick-up/drop-off facility shall be provided to the satisfaction of Council.~~

(c) 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, 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).

B13 — Details of Materials, Colours and Finishes

~~The colour and type of all external materials shall be generally be in accordance with the commercial materials board dated April 2009 and the hotel materials board dated September 2009 and prepared by Rice Daubney Architects.~~

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 update 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 excluding for any initial works.~~

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	420 166
Number of Commercial/Retail Car Spaces to be Disabled Spaces	4 5
Public Cars	42
Public Motorcycle	18 21
Motorcycle	14 18
Car Share	10
Loading/Service	17

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.~~

B43 Bicycle Storage and Parking

The bicycle storage area shall accommodate a minimum of ~~one hundred and sixty-one (161)~~ **five hundred and seventy (570)** bicycles. In addition, ~~sixty four (64)~~ visitor parking bicycle rail(s) shall be provided within the public domain adjacent to the approved commercial building. Such bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate for such storage and parking, fully satisfy the requirements of this condition.

B55 Green Star/NABHERS

The Proponent shall ensure the office building achieve the relevant star rating as indicated in the ~~Environmentally Sustainable Development (ESD) Report prepared by Cundall dated March 2009~~ **Architectural Design Statement prepared by Bates Smart dated November 2016**. 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

~~B56~~ Final Basement Plans

~~Prior to the issue of the Construction Certificate enabling building works for the Commercial Tower, the detailed Basement Plans must be submitted to and approved by the Secretary.~~

B57 Public Domain and Landscaping

The final landscape and public domain plans must be prepared in consultation with, submitted to and approved by North Sydney Council prior to the relevant Construction Certificate.

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 the release of the relevant Occupation Certificate for the Commercial Tower (but excluding initial works).

E11 Line Marking

~~226~~ **208** off-street car-parking spaces, **17 loading and services spaces** and ~~42~~ **38** motorcycle parking spaces, including 42 public parking spaces and **21 public motorcycle spaces**, together with access driveways, shall be constructed, paved, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate. The plans shall also nominate the allocation of parking spaces for specific purposes as required by conditions of this consent. A certificate prepared and certified by an appropriately qualified and practicing Civil Engineer for the construction of these areas in accordance with this requirement shall be submitted to the Certifying Authority prior to issue of the final Occupation Certificate.

E25 Section 94 Contributions for the Commercial Building

*The Proponent shall pay the following monetary contributions **prior to the issue of any interim or final Occupation Certificate** in accordance with the North Sydney Section 94 Contributions Plan:*

(1) Amount of Contribution

Contribution Category	Amount
Administration	\$99,925.22 \$129,761.28
Child Care Facility	\$423,080.34 \$549,388.48
Community Centres	\$243,617.05 \$316,353.82
Library Acquisition	\$49,680.76 \$64,512.75
Library Premises and Equipment	\$151,029.32 \$196,128.18
Multi-Purpose Indoor Sports Facility	\$57,159.18 \$74,224.98
Olympic Pool	\$186,232.39 \$241,834.53
Open Space Acquisition	\$182,136.17 \$236,507.52
Open Space Increased Capacity	\$361,031.06 \$468,835.23
Total	\$1,753,891.48 \$2,277,547.37

(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 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 not included on the works schedule of the North Sydney S94 Contributions Plan).

E27 Deed of Agreement – Public Car Park

Prior to completion and issue of any interim or final Occupation Certificate, the applicant shall enter into a Deed of Agreement with Council with regard to the 42 public car parking spaces and 21 public motorcycle 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.*
- c) 70% of the profit from the operation of the car park being shared with Council.*

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

The proponent shall be responsible for the management and operation of the car park, but is entitled to 30% of the profit 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 must also make provision for an annual payment to be made to Council for 70% of the profit. The annual payment is to be accompanied by an independent audit.

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.

G12 Allocation of Spaces

~~One hundred and sixty-two (162)~~ **two hundred and eight (208)** carparking spaces, **17 loading bays** and ~~forty-one (41)~~ **thirty eight (38)** motorcycle spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:

120 166	car	Commercial/retail tenant
44 18	motorcycle	Commercial/retail tenant
17	loading	Commercial/retail tenant
42	car	Public
27 21	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.

AN1 — Replacement Pipeline

~~Sydney Water believes that it may be feasible to abandon the existing pipeline and construct a replacement pipeline along Spring Street. The Proponent will need to undertake a detailed investigation of the stormwater and overland flow system upstream, downstream and in the immediate vicinity of the proposed development. These investigations need to be done before preliminary concept agreement to the proposed deviation could be given. The Proponent will be required to fund all costs associated with the deviation. Subject to the outcomes of this investigation, Sydney Water may require the development to have an On-site Stormwater Detention system.~~