



SM/MR
16457
18 April 2017

Ms Carolyn McNally
Secretary
Department of Planning and Environment
Level 22, 320 Pitt Street
SYDNEY NSW 2000

Attention: Amy Robertson

Dear Amy,

**MODIFICATION 6 TO MP08_0238
1 DENISON STREET, NORTH SYDNEY**

We write to you on behalf of Winten Property Group (Winten) in relation to the Section 75W application being MOD 6 to Project Approval MP08_0238 for the construction of a new commercial building at 1 Denison Street, North Sydney. This letter provides additional information as to discussions between Winten and North Sydney Council (Council) and the agreed resolution regarding the provision of public car parking within the development.

Winten met with Council on 4 April 2017 to discuss the outstanding issues raised by Council in their letter to the Department of Planning and Environment (the Department) dated 22 March 2017, namely:

- The number of public car spaces provided in the development;
- The ownership of and cost sharing of the revenue generated by the public car spaces; and
- The timing of the payment of Section 94 contributions as prescribed in the conditions of consent.

Following this meeting, Winten and Council have reached an agreement to provide a total of 42 public car spaces and zero car share spaces within the development. These spaces will be retained in ownership by Winten. Winten will enter into a 'deed of agreement' with Council to provide to Council 70% of the profit arising from the public car parking. The revised allocation of parking is provided on the basement plans submitted at **Attachment A**.

The timing of the payment of Section 94 contributions will remain consistent with the wording of Condition B4 as approved. The timing of payment is set out in item (3) of both Condition B4 and Condition E25. Further, it is not possible for this condition to be amended as per the wording proposed in Council's letter as the first construction certificate has already been issued in relation to MP08_0238.

In order to implement the above resolution, the following revised conditions of consent are proposed:

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.

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 shorting.

(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).

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.

Commercial/Retail Car Parking Spaces	120 166
Number of Commercial/Retail Car Spaces to be Disabled Spaces	4 5
Public Cars	42
Public Motorcycle	27 21
Motorcycle	14 17
Loading/Service	19

E11 Line Marking

~~226~~ 166 off-street car-parking spaces, **17 loading and services spaces** and ~~42~~ 17 motorcycle parking spaces, **including and** 42 public parking spaces **and 21 public motorcycle parking 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.

We trust that all outstanding matters in relation to MOD 6 have now been resolved. We await the final determination of the application accordingly.

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

CC:

- Geoff Mossemeneer – Executive Assessment Planner, North Sydney Council
- Shahid Rehman – Engineering Project Manager, North Sydney Council
- Long Huynh – Team Leader Building Compliance, North Sydney Council