

Modification of Project Approval

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

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

Anthea Sargeant
Executive Director
Key Sites and Industry Assessments

Sydney

2017

SCHEDULE 1

Development Approval: **MP 08_0238** granted by the Planning Assessment Commission on 8 February 2010

For the following:

Commercial development including:

- **Demolition:** Demolition of the existing buildings including the pedestrian bridge linking 77-81 Berry Street with Tower Square;
- **Excavation:** Excavation for 4 levels of basement;
- **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 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 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.

Approval Authority: Minister for Planning

The Land: Stratum Lot 2, 3 & 4 in DP 10078998 (77-81 Berry Street, North Sydney)

Modification: **MP 08_0238 MOD 7:** the modification includes:

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

SCHEDULE 2

The above approval (MP 08_0238) is modified as follows:

- (a) Schedule 2 Part A – Administrative Conditions - Condition A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers 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 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 motorcycle spaces; **and**
 - ~~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.
- (b) Schedule 2 Part A – Administrative Conditions - Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

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:

- (a) the S75W Modification Application (MP08 0238 MOD 1) and accompanying 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;**
- (b) the S75W Modification Application (MP08 0238 MOD 2) and accompanying Environmental Assessment dated 31 May 2011 prepared by JBA Urban Planning;**
- (c) the S75W Modification Application (MP08 0238 MOD 3) and accompanying Environmental Assessment dated 9 November 2011 prepared by JBA Urban Planning and Response to Submissions dated 12 January 2012 and 23 February 2012;**
- (d) the S75W Modification Application (MP08 0238 MOD 4) and accompanying Environmental Assessment dated 12 June 2014 prepared by JBA Urban Planning;**
- (e) the S75W Modification Application (MP08 0238 MOD 5) and accompanying Environmental Assessment dated 12 June 2014 prepared by JBA Urban Planning and Response to Submissions dated 20 November 2014;**
- (f) the S75W Modification Application (MP08 0238 MOD 7) and accompanying Environmental Assessment dated 11 November 2016 prepared by JBA Urban Planning and Response to Submissions dated 2 March 2017, 18 April 2017 and 26 April 2017; and**
- (g) the following drawings prepared by Rice Daubney:**

Architectural Drawings Prepared by Bates Smart			
Drawing No.	Rev.	Name of Plan	Date
DA-01	G	Cover Page and Drawing Register	11.06.14
DA-03	I	Photomontage corner of Little Spring Street	11.06.14
DA-08	I	Existing Building Survey	11.06.14
DA-09	I	Location Plan and Survey Plan	11.06.14
DA01.000	02	General Arrangement Plan Site Plan	01.03.17
DA 011	I	Basement 4 – Commercial Plan	11.06.14
DA 12	I	Basement 3 – Commercial Plan	11.06.14
DA 13	I	Basement 2 – Commercial and Hotel Plan	11.06.14
DA 14	I	Basement Plan 1 – Commercial and Hotel Plan	11.06.14
DA 15	I	Lobby and Ground Floor Introduction Page	11.06.14
DA 16	J	Commercial Lower Ground	13.08.14
DA-17	J	Commercial Lobby	13.08.14
DA03.000	02	General Arrangement Plan Ground Level	01.03.17
DA18	I	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	I	Commercial Conference/Meeting	11.06.14
DA-20	I	Commercial Plant	11.06.14
DA-21	I	Commercial	11.06.14
DA 03.001	02	General Arrangement Plan Level 01 – Commercial	01.03.17
DA-22	I	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	I	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	I	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	I	Commercial High Rise Typical	11.06.14
DA03.024	02	General Arrangement Plan Level 24 – Typical High Rise	01.03.17
DA-26	I	Commercial High Rise Typical (Small)	11.06.14
DA03.035	02	General Arrangement Plan Level 35 – High Rise Upper	01.03.17
DA-27	I	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	I	Commercial Roof	11.06.14
DA03.038	02	General Arrangement Plan Roof Level	01.03.17
DA-29	J	Commercial North/South Section looking West	13.08.14
DA-30	I	Section through Commercial	11.06.14
DA-32	I	Commercial Ease Elevation	11.06.14
DA-33	I	Commercial North Elevation/Section	11.06.14
DA-34	I	Commercial West Elevation	11.06.14
DA-35	I	Commercial South Elevation	11.06.14
DA-38	I	Detailed Street Elevation – Little Spring Street West	11.06.14
DA-39	I	Detailed Street Elevation – Spring Street	11.06.14
DA-40	I	Detailed Street Elevation – Denison Street	11.06.14

DA-41	I	Detailed Street Elevation – New Cross Street	11.06.14
DA-43	I	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			
Drawing No.	Rev.	Name of Plan	Date
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

- (c) Schedule 2 Part B – Prior to Issue of Construction Certificate - Condition B4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

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

- (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 2.45 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).

- (d) Schedule 2 Part B – Prior to Issue of Construction Certificate - Condition B6 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

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 ~~\$5,037,599.00~~ **\$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).

- (e) Schedule 2 Part B – Prior to Issue of Construction Certificate - Condition B6 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

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.~~

~~(2.1)~~ 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.

~~(e b)~~ 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 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).

(f) Schedule 2 Part B – Prior to Issue of Construction Certificate is amended the deleting Condition B13 as follows:

~~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.~~

(g) Schedule 2 Part B – Prior to Issue of Construction Certificate is amended by deleting Condition B38 as follows:

~~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.~~

(h) Schedule 2 Part B – Prior to Issue of Construction Certificate – is amended by the insertion of the following new Condition B38

B38 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.

(i) Schedule 2 Part B – Prior to Issue of Construction Certificate - Condition B55 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

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~~ **for the construction of above ground works**.

- (j) Schedule 2 Part E – Prior to Occupation or Commencement of Use - Condition E25 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

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

- (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 2.45 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).

**End of Modification
(MP 08_0238 MOD 7)**