

21 December 2017

16457

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

Dear Ms McNally,

## **SECTION 75W MODIFICATION (MOD 9) – MP08\_0238 1 DENISON STREET, NORTH SYDNEY**

This application has been prepared by Ethos Urban on behalf of Winten Property Group, pursuant to Section 75W and Clause 12 of Schedule 6A of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) seeking amendment to Project Approval MP08\_0238 relating to the approved commercial building at 1 Denison Street, North Sydney (the site).

The modification relates to:

- Design changes to the southern end of the lower podium of the commercial building to create a more regular floorplate at ground, mezzanine, Level 1 and Level 2;
- Reconfiguration of the building entrance, commercial lobby and public domain to orientate the building to Denison Street at ground level;
- Minor reconfiguration of basement layout and plant/building services and additional minor adjustments to building services areas within the commercial building;
- Update to Landscape and Public Domain plans to clearly demarcate on-site and off-site works; and
- Minor rewording of conditions to facilitate construction staging.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in Section 75W of the EP&A Act. This application is accompanied by:

- Architectural Plans prepared by Bates Smart (**Attachment A**);
- Off-Site Works and Public Domain Plans prepared by Aspect (**Attachment B**); and
- Accessibility Report prepared by McKenzie Group (**Attachment C**).

## **1.0 Background**

MP08\_0238 was granted by the (then) Minister for Planning on 25 February 2010 for demolition of existing buildings and erection of a mixed-use development comprising a retail/commercial building at 77 – 81 Berry Street and a hotel building 88 Walker Street. The consent has since been modified eight times, as follows:

- MP08\_0238 MOD 1 – Modification to amend the approved building design, including a minor increase to the building envelope, amendments to façade treatments, a reinstatement of the underground service tunnel, internal reconfigurations, a reconfiguration of the public domain area, and amendments conditions of consent;

- MP08\_0238 MOD 2 – Technical amendments to the wording of consent conditions to allow for the staged construction of the two separate buildings;
- MP08\_0238 MOD 3 – Modification to enable extended hours of construction facilitating internal fitout works;
- MP08\_0238 MOD 4 – Technical amendments to the wording of consent conditions to clarify the staging of Construction Certificates, clarify the timing for satisfying relevant conditions, and to enable temporary access works;
- MP08\_0238 MOD 5 – Modification to amend the approved design, including deletion of the hotel component (at 88 Walker Street) and the associated service tunnel, reconfiguration of the commercial tower basement, retention of existing stormwater infrastructure; internal layout changes, and realignment of the approved pedestrian bridge at Denison Street;
- MP08\_0238 MOD 6 – Modification to extend and redesign the lower ground and basement levels, replace and augment stormwater infrastructure, and associated modifications to various conditions; and
- MP08\_0238 MOD 7 – Modification to make a number of architectural form improvements and changes to the internal floor plate requirements in order to accommodate the building's future anchor tenant, as well as responding to changes in the strategic context of the site.
- MP 08\_0238 MOD 8 – Modification to increase floor to floor heights within lower levels and upper plant room of the commercial building and other minor amendments to building services and approved commercial/retail tenancies.

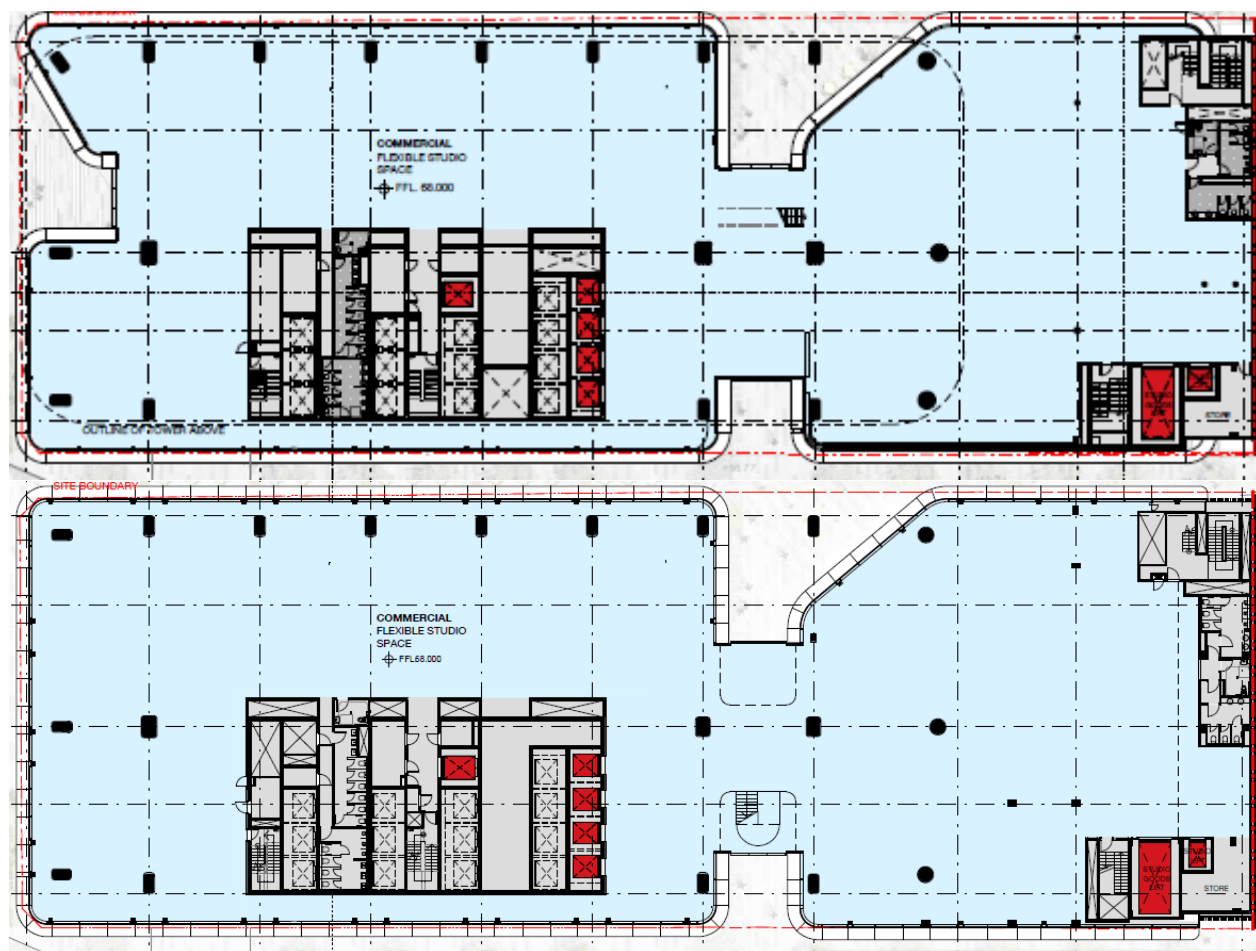
## 2.0 Proposed Modifications to the Project Approval

### 2.1 Modifications to the Approved Development

This modification to the Project Approval MP08\_0238 seeks consent for various minor changes to the approved building as a result of the ongoing design development. These modifications are detailed below and illustrated in the revised Architectural Plans prepared by Bates Smart at **Attachment A**:

- **Regularisation of podium levels:** This application seeks to amend the retail floorplates at ground and mezzanine levels, and commercial floorplates at Level 1 and Level 2 to provide a regular floorplate and continuous built form that reinforces the street wall on the Spring Street frontage. A comparison of the approved Level 1 floor plate and the proposed Level 1 floorplate is provided at **Figure 1** for reference.
- **Reorientation of building entrance and commercial lobby to Denison Street:** This application seeks to redesign the building entrance to provide access directly from Denison Street (rather than Spring Street as approved) to respond to the street address of the development as 1 Denison Street. The reconfigured site access will continue to maintain the double height colonnade feature to the intersection of Spring Street and Denison Street. A photomontage of the proposed building entrance is presented at **Figure 2**.
- **Reconfiguring of basement layout and building services:** This application seeks minor changes to building services requirements and locations within the approved basement. These changes result in an updated basement layout including relocation of car parking, motorcycle parking and end of trip facilities. It is noted that all public parking remains located at the uppermost levels of the basement. No changes to the number of car, motorcycle or bicycle spaces are proposed. The minor changes to basement building services have necessitated minor reconfiguration of building services locations within the commercial levels of the development.
- **Off-Site Works and Public Domain Plans:** This application provides an updated Off-Site Works Public Domain Plans (**Attachment B**) to clearly demarcate on-site and off-site landscaping works. This will ensure the project staging can continue to progress as intended in Condition A5 of the existing consent as modified.

The above modifications result in a minor increase (414m<sup>2</sup>) in the overall GFA of the development as proposed to a total of 65,108m<sup>2</sup>. GFA Plans are provided in the Architectural Plans at **Attachment A**.



**Figure 1 – Comparison of approved (top) and proposed (bottom) Level 1 floorplate**

Source: Bates Smart



**Figure 2 – Photomontage of the extension to the podium**

Source: Bates Smart

## 2.2 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in ***bold italics***.

### 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 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 part 4/5 levels of basement at 77-81 Berry Street*
- *Construction of a part 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 provision of 42 public car parking spaces and 27 motorcycle spaces; and*
- *Off-Site Works **~~including and~~** 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 link 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.*



- **Landscaping: Construction of a new through-site link between Denison Street and Little Spring Street; paving; landscaping and planting between the retail and the public domain; new stair and arrival forecourt at the corner of Denison / Spring Streets.**

## 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;
- (g) the S75W Modification Application (MP08\_0238 MOD 8) and accompanying Environmental Assessment dated 27 June 2017 prepared by JBA Urban Planning; **and**
- (h) the S75W Modification Application (MP08\_0238 MOD 9) and accompany Environmental Assessment dated XXXX December 2017 prepared by Ethos Urban; and**
- (h) (i) the following drawings**

Drawing No.	Rev.	Name of Plan	Date
DA01.000	<del>03</del> 04	General Arrangement Plan Site Plan	<del>05.05.17</del> 08.12.17
DA02.0B5	<del>03</del> 0404	Basement 05 – Parking	<del>05.05.17</del> 08.12.17
DA02.0B4	<del>03</del> 04	Basement 04 – Parking	<del>05.05.17</del> 08.12.17
DA02.0B3	<del>03</del> 04	Basement 03 – Parking	<del>05.05.17</del> 08.12.17
DA02.0B2	<del>03</del> 04	Basement 02 – Parking	<del>05.05.17</del> 08.12.17
DA02.0B1	<del>03</del> 04	Basement 01 – Parking	<del>05.05.17</del> 08.12.17
DA02.0LG	<del>03</del> 04	Lower Ground Level	<del>05.05.17</del> 08.12.17
DA03.000	<del>03</del> 04	General Arrangement Plan Ground Level	<del>05.05.17</del> 08.12.17
DA03.0MZ	<del>03</del> 04	General Arrangement Plan Mezzanine	<del>05.05.17</del> 08.12.17
DA 03.001	<del>03</del> 04	General Arrangement Plan Level 01 – Commercial	<del>05.05.17</del> 08.12.17
DA 03.002	<del>03</del> 04	General Arrangement Plan Level 02 – Commercial & Terrace	<del>05.05.17</del> 08.12.17
DA 03.003	<del>03</del> 04	General Arrangement Plan Level 03 – Commercial	<del>05.05.17</del> 08.12.17

Drawing No.	Rev.	Name of Plan	Date
DA03.004	<del>03</del> 04	General Arrangement Plan Level 04 – Typical Low Rise	<del>05.05.17</del> 08.12.17
DA03.009	<del>03</del> 04	General Arrangement Plan Level 09 – Transfer Floor	<del>05.05.17</del> 08.12.17
DA03.010	<del>03</del> 04	General Arrangement Plan Level 10 – Plant	<del>05.05.17</del> 08.12.17
DA03.011	<del>03</del> 04	General Arrangement Plan Level 11 – Typical Mid Rise	<del>05.05.17</del> 08.12.17
DA03.023	<del>03</del> 04	General Arrangement Plan Level 23 – Transfer	<del>05.05.17</del> 08.12.17
DA03.024	<del>03</del> 04	General Arrangement Plan Level 24 – Typical High Rise	<del>05.05.17</del> 08.12.17
DA03.035	<del>03</del> 04	General Arrangement Plan Level 35 – High Rise Upper	<del>05.05.17</del> 08.12.17
DA03.036	<del>03</del> 04	General Arrangement Plan Level 36 – Plant & Overrun	<del>05.05.17</del> 08.12.17
DA03.037	<del>03</del> 04	General Arrangement Plan Level 37 – Upper Plant	<del>05.05.17</del> 08.12.17
DA03.038	<del>03</del> 04	General Arrangement Plan Roof Level	<del>05.05.17</del> 08.12.17
DA07.101	<del>03</del> 04	Building Elevations North Elevation	<del>05.05.17</del> 08.12.17
DA07.102	<del>03</del> 04	Building Elevations East Elevation	<del>05.05.17</del> 08.12.17
DA07.103	<del>03</del> 04	Building Elevations South Elevation	<del>05.05.17</del> 08.12.17
DA07.104	<del>03</del> 04	Building Elevations West Elevation	<del>05.05.17</del> 08.12.17
DA07.202	<del>03</del> 04	Building Elevations Detailed Street Elevation – Little Spring Street	<del>05.05.17</del> 08.12.17
DA07.203	<del>03</del> 04	Building Elevations Detailed Street Elevation – Spring Street	<del>05.05.17</del> 08.12.17
DA07.204	<del>03</del> 04	Building Elevations Detailed Street Elevation – Denison Street	<del>05.05.17</del> 08.12.17
DA08.101	<del>03</del> 04	Building Sections A-A	<del>05.05.17</del> 08.12.17
DA08.102	<del>03</del> 04	Building Sections BB	<del>05.05.17</del> 08.12.17
DA10.001	<del>03</del> 04	Diagrams Photomontage 1/2	<del>05.05.17</del> 08.12.17
DA10.002	<del>03</del> 04	Diagrams Photomontage 2/2	<del>05.05.17</del> 08.12.17
<b>Landscape Plan &amp; Offsite Works and Public Domain Plan</b>			
<del>16041-L-C01</del> 16041-L-DA1	<del>A</del> B	<del>Public Domain Concept</del> Off-Site Works & Public Domain Plan	<del>October 2016</del> November 2017

## A5 Staging of the Development

For the purpose 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 / or shoring works to commence;
- 2) demolition, Excavation and Shoring Works;
- 3) construction; of basement and below ground structures of the Commercial Building; and
- 4) construction of ~~offsite works and public domain~~ **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	<del>\$ 5,305,585.23</del> to be recalculated based on proposed GFA
Traffic Improvements	<del>\$ 320,327.00</del> to be recalculated based on proposed GFA
Total	<del>\$ 5,625,912.23</del> to be recalculated based on proposed GFA

#### 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 ~~\$7,327,141.76 tbc~~ 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 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**
  - (a) 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 Offsite Works and Public Domain**.
- (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 issue of the **relevant** Construction Certificate for the **Commercial Tower excluding for any initial works Offsite Works and Public Domain**.

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

**B27 Proposed Street Trees**

The proposed street tree planting in Denison Street, Spring Street, and Little Spring Street shall be resolved through further discussion with Council and that an amended landscape plan including agreed species, shall be submitted and approved by Council prior to the undertaking of the road works and the issue of the **relevant** Construction Certificate for **such works the Offsite Works and Public Domain**.

**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 **for the Offsite Works and Public Domain**.

**B45 Footpath, Entries and Fire Exit Details**

The following details must be designed by an appropriately qualified and practicing Civil Engineer and submitted to the Certifying Authority for approval with the application for the **relevant** Construction Certificate **for the Offsite Works and Public Domain**.

**B50 Outdoor Lighting**

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the **relevant** Construction Certificate **for the Offsite Works and Public Domain**.

**E25 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**

<b>Contribution Category</b>	<b>Amount</b>
Administration	<b>\$129,761.28 tbc</b>
Child Care Facility	<b>\$549,388.48 tbc</b>
Community Centres	<b>\$316,353.82 tbc</b>
Library Acquisition	<b>\$64,512.75 tbc</b>
Library Premises and Equipment	<b>\$196,128.18 tbc</b>
Multi-Purpose Indoor Sports Facility	<b>\$74,224.98 tbc</b>
Olympic Pool	<b>\$241,834.53 tbc</b>
Open Space Acquisition	<b>\$236,507.52 tbc</b>



Open Space Increased Capacity	<b>\$468,835.23 tbc</b>
Total	<b>\$2,277,547.37 tbc</b>

(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 2.5 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).*

## 3.0 Assessment of Planning Issues

This section of the report assesses and responds to the environmental impacts of the proposed modifications. The planning assessment of the modified development remains generally unchanged to that of MP08\_0238 notwithstanding the following matters that warrant further assessment.

### 3.1 Compliance with Environmental Planning Instruments

The consistency of MP08\_0238 with the relevant legislation, environmental planning instruments, policies and guidelines was considered as part of the original EAR. The proposed modification does not greatly change the original assessment against the relevant plans, policies, and guidelines, however the following is noted:

- Notwithstanding the proposed modifications, the development will continue to increase the provision of commercial floor space in the North Sydney CBD responds to the strategic objectives and directions in *A Plan for Growing Sydney*, Revised North District Plan and North Sydney Centre Planning Proposal and associated amendment to *North Sydney Local Environment Plan 2013* (North Sydney LEP).
- The proposed modification remains generally consistent the Project Approval. It relates to the same activity as the approved development, being for a mix of commercial purposes that remain permissible with consent within the B3 Commercial Core zone under the North Sydney LEP. Notwithstanding the proposed modifications, the development directly respond to the objectives of this land use zone, being to encourage a wide range of suitable retail, business, office, entertainment, and community land uses in connection with public transport that encourages further employment opportunities.

### 3.2 Built Form and Urban Design

The reconfiguration of the southern end of the podium and orientation of lobby to Denison Street result in minor alterations to the built form. The reconfiguration of the built form with the main entrance to the lobby from Denison Street will reinforce the address of the site being 1 Denison Street as shown in **Figure 2**. The proposed modifications to the podium will reinforce the street wall on Spring Street. These lower level changes result in a minor increase in the GFA but the approved floor plates and the tapered form of the tower will remain unchanged.

### 3.3 Site Access

The proposed modifications are modifying the ground floor for the lobby being orientated to Denison Street to correspond with the building's identification as 1 Denison Street, and recognise Denison Street's position in the North Sydney centre's street hierarchy. The approved pedestrian egress Denison Street and within the building is

not being modified. The vehicular egress from Little Spring Street to the site is not being modified, therefore there are no impacts on the surrounding streets and laneway network. The modification application is only seeking consent for the staging of the construction work, all works within the public domain are still subject to consent from Council, Council's Traffic Committee and Roads and Maritime Services.

### 3.4 Accessibility

An Accessibility Report has been prepared by McKenzie Group has been submitted (refer to **Attachment C**), the report includes an assessment against the relevant Building Code of Australia (BCA) and Premises Standards of the Disability Discrimination Act (DDA) 1992. The compliance summary of the report concludes that proposed modifications are capable of complying with the spirit and intent of the Disability Discrimination Act (DDA), the principals of universal accessibility and the relevant technical requirements of the AS1428 series for access and mobility; the Access to Premise Standards (2010) affording equitable access for all future users of the development.

## 4.0 Conclusion

This Section 75W application seeks to modify the Project Approval MP08\_0238 for the construction of a commercial tower at 1 Denison Street, North Sydney. The proposed modifications relate to reconfiguration of the podium, ground floor, car parking, bicycle and motorcycle spaces, end of trip facilities and staging of the construction of the public domain works. These changes result in a minor increase in the GFA.

As has been demonstrated in the assessment, the proposed modifications will not result in any adverse impacts and will not materially alter the nature of the development (as modified). In light of the merits of the proposal and in the absence of any significant adverse environmental, social or economic impacts, we recommend that the application be approved.

Should you have any queries about this matter, please do not hesitate to contact me on (02) 9409 4971 or [smiller@ethosurban.com](mailto:smiller@ethosurban.com).

Yours sincerely,



**Samantha Miller**  
Senior Planner



**Michael Rowe**  
Director