

MODIFICATION REQUEST:

***Lot 1 DP 702144 & Lot 100 DP 624581
86-96 and 100 Mount Street, North Sydney***

***MP08_0241 MOD 1 – Modification to an
Approved Commercial and Retail
Development***



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

February 2012

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1. BACKGROUND

1.1 The Site and Locality

The site comprises two allotments of land known as 86-96 and 100 Mount Street, North Sydney (Lot 1 in DP 702144 and Lot 100 in DP 624581 respectively). The site is located in the centre of the North Sydney CBD on the Lower North Shore of Sydney and bounded by Spring Street to the north, Walker Street to the east and Mount Street to the south and an existing development to the west (**Figures 1 and 2**).

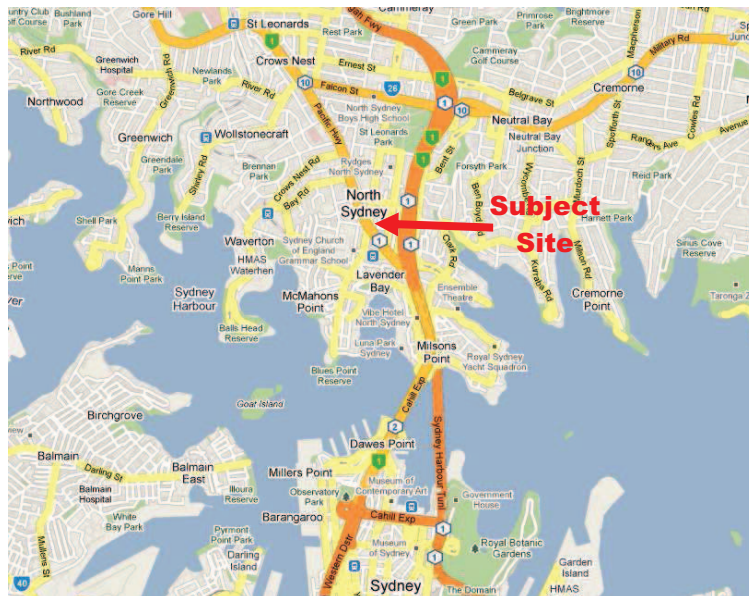


Figure 1 – Regional Context (Source: Google Maps)



The Site

Figure 2 – Site Plan (Source: Google Maps)

The North Sydney CBD is serviced by extensive commuter rail and bus services. North Sydney Railway Station is located 350 metres south of the site (near Blue Street) and major bus routes access the North Sydney CBD via the Pacific Highway and the Warringah Freeway located 200 metres east and west of the site respectively.

Existing Site Features

The site is rectangular in shape with dimensions of approximately 31.0 metres x 54.7 metres and features a fall of approximately 5.0 metres, generally from west to east (to Walker Street). The total area of the site is 1,756m². The two existing allotments currently have separate commercial / retail buildings occupying each lot with a total existing gross floor area of approximately 10,390m² (refer to **Figure 3**.)

86-96 Mount Street: (1,087m²) features a 1980's-era part 9 / part 10 storey mixed commercial and retail building with a split level though-site link between Mount Street and Spring Street bounded by retail tenancies on the lower level and commercial foyer / lobby on the upper level.

100 Mount Street: (669m²) features a 1980's-era 7 storey mixed commercial and retail building.

The site has road and footpath frontages to Walker Street and Mount Street and a laneway frontage to Spring Street. All vehicular access to the site is currently from Spring Street, which features 6 driveways providing access to loading docks and basement car parking levels as well as at-grade access to plant rooms and fire stairs.

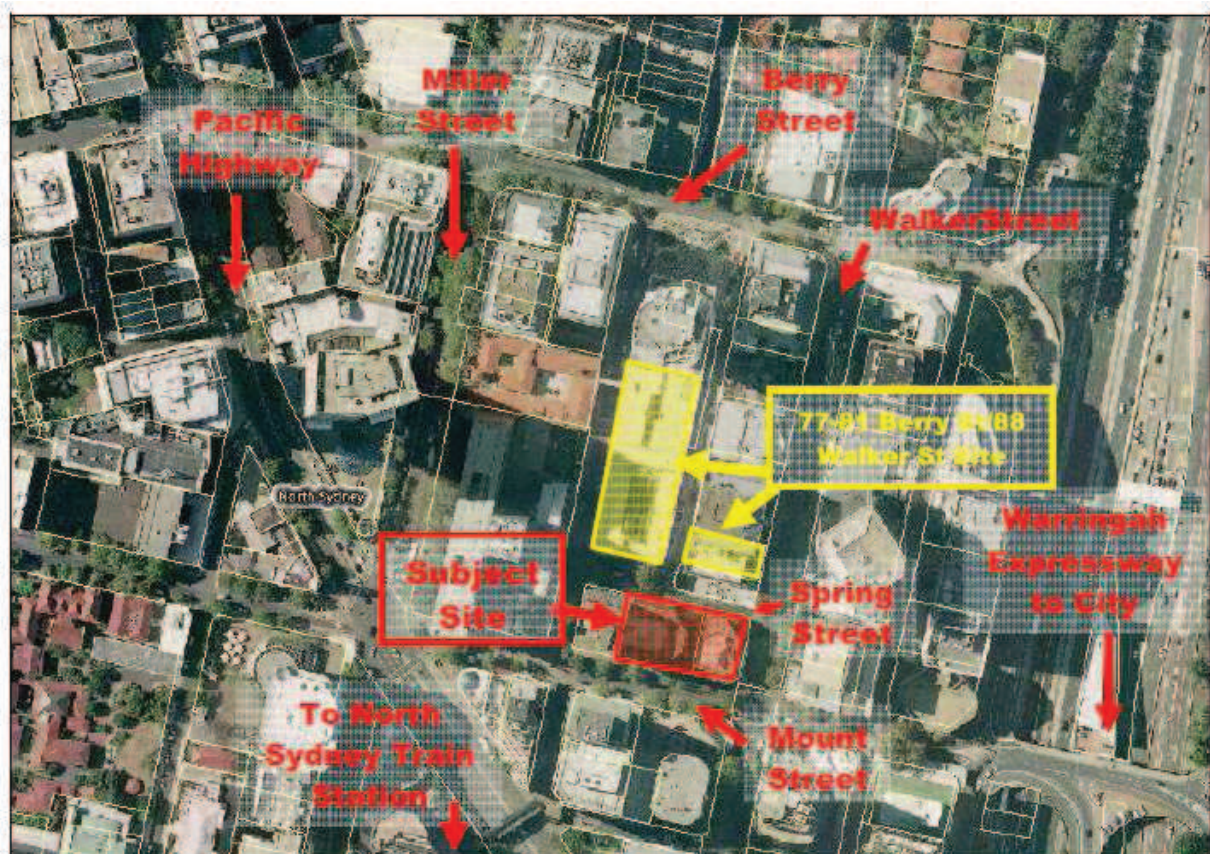


Figure 3 – Site and Locality Plan (Source: Google Maps)

1.2 Previous Approvals

On 25 May 2010, the Minister for Planning gave Concept Plan and Project Approval (MP08_0241) for the following:

- the use of the development for commercial and retail purposes;

- a gross floor area of 38,733m²;
- a building of 39 stories with a height of 145.7 metres;
- 130 car parking spaces over 5 basement levels;
- vehicular access and loading docks off Spring Street;
- the construction of a through-site pedestrian link and on-site streetscape, footpath reconstruction and infrastructure works in Mount Street, Walker Street and Spring Street together with public art works.

The development is at pre-construction stage.

2. PROPOSED MODIFICATION

2.1 Description of Proposed Modification

The proposal seeks to modify numerous aspects of the approved development including:

- an additional 6,334m² of gross floor area to provide a total of 45,067m²;
- the reduction and relocation of vehicular access points, from two off Spring Street to one access point off Walker Street;
- amendments to the layout of the ground floor lobby level including the reconfiguration of the through-site pedestrian link between Mount Street and Spring Street to be located within the lobby area of the building;
- redesign of the external architectural features of the building;
- the relocation of the retail areas from the ground and first floor, to the eastern side of the lower ground and ground floors;
- relocation of the tower lift core from a central north position to the western side;
- alteration of the eastern building setbacks to 4.2 metres;
- the extension of the floor layout to include the previously cut out corner portions of the southern side of the building;
- the removal of a street tree in Walker Street;
- increase in the number of parking spaces by 16 spaces to 113 spaces;
- decrease in the number of courier spaces by 1 space to 6 spaces;
- relocation of the building plant from dedicated levels to within each level;
- relocation of amenities floor from basement to above ground; and
- amended external schedule of materials.

The application seeks to amend conditions A2, B1, B5, B6, B13 and B38. In addition, North Sydney Council and the department also identified that conditions A1, B8, B10, B23, B42, E24, G1 and G17 need to be amended in response to the proposed modifications. A review of the proposed amendments to the conditions is provided in Section 2.2 below.

It is noted that the modification application originally requested extended hours of construction. This proposed modification was not supported by North Sydney Council and the proponent has agreed to adhere to the approved hours of construction.

Table 1 demonstrates the proposed modifications.

Table 1: Key figures for the proposed modifications

	Approved Development	Proposed Modifications
GFA	38,733m ²	45,067m ²
Building Height	145.7 metres - maximum height 145.7 metres to roof	145.7 metres - maximum height 144.25 metres to roof (top of the screen wall)
Parking	97 spaces over 5 levels	113 spaces over 6 levels
Vehicular Access Point	2 vehicular access points for parking access and loading bay access off Spring Street	1 vehicular access point off Walker Street
Retail Tenancies	5 retail tenancies on the ground floor lobby level and the first floor	2 retail tenancies on the lower ground level and the ground floor lobby level
Storeys	38 (including rooftop plant levels)	36



Figure 4 – Photomontage of the approved development as viewed from the intersection of Walker and Mount Streets.



Figure 5 – Photomontage of the proposed modified development as viewed from the intersection of Walker and Mount Streets.



Figure 6 – Approved Ground Floor Plan. This plan shows 3 retail shops accessible off Mount Street, the dedicated through-site link between Mount and Spring Street and vehicular access off Spring Street.

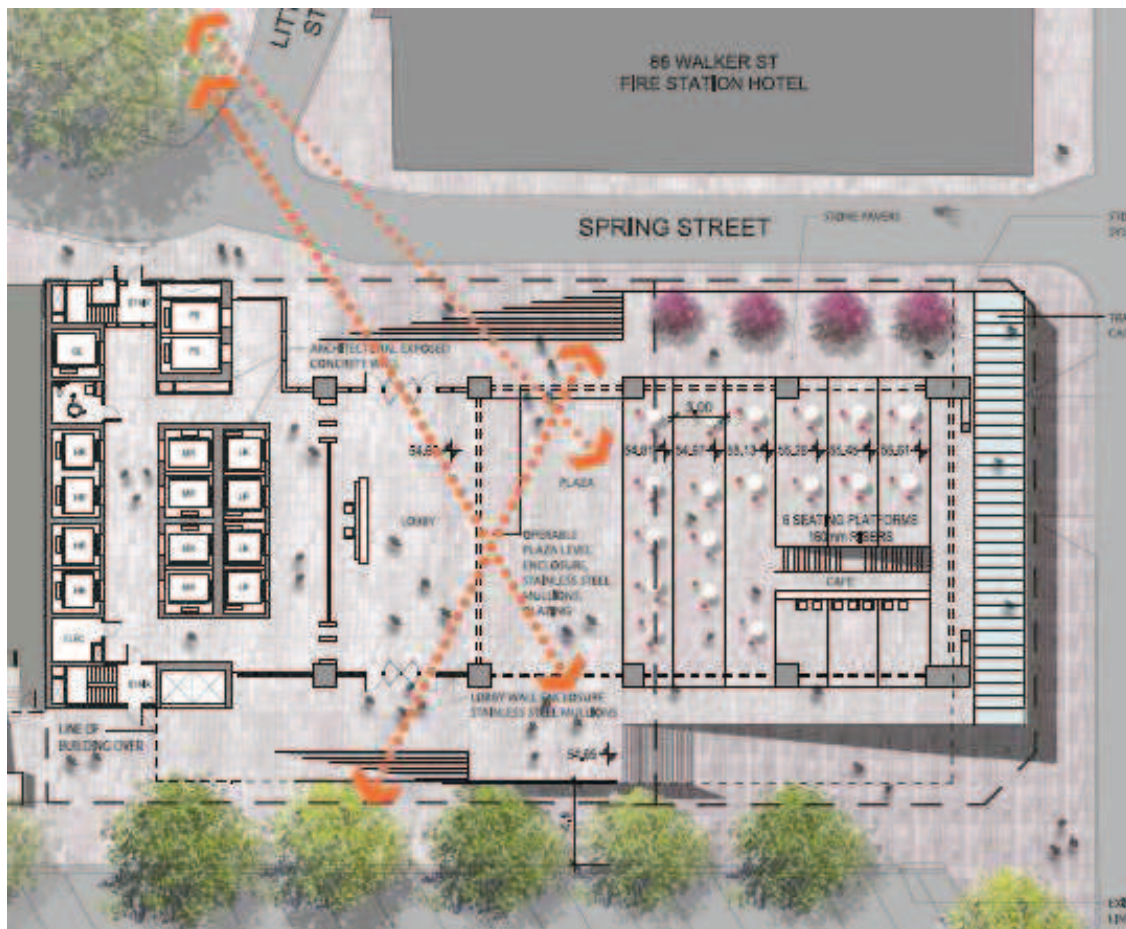


Figure 7 – Site Diagram of the proposed development at the Ground Floor Lobby Level demonstrating paths of travel for through-site link. The café / restaurant retail area is located on the eastern side of the building.

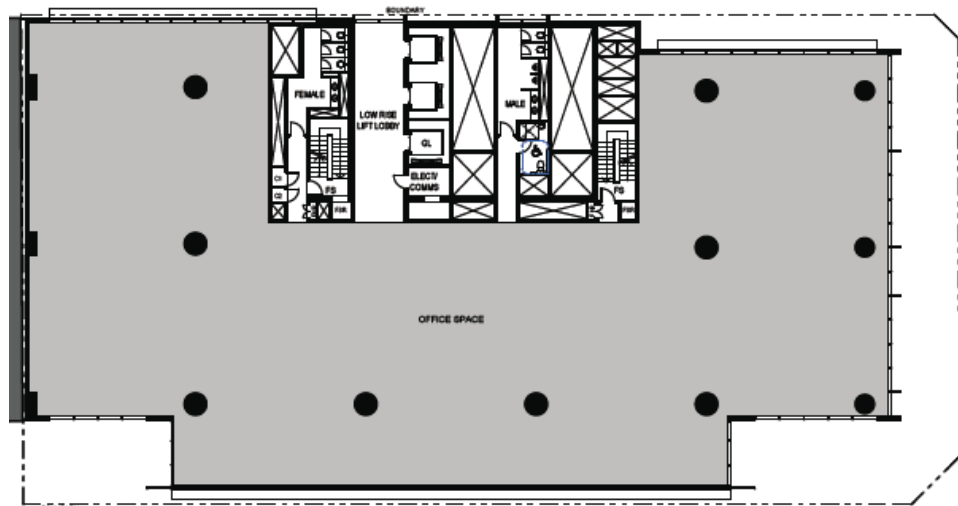


Figure 8 – Example of the approved floor plan. This floor plan shows a typical low rise level with the tower lift core located in the centre of the northern wall.

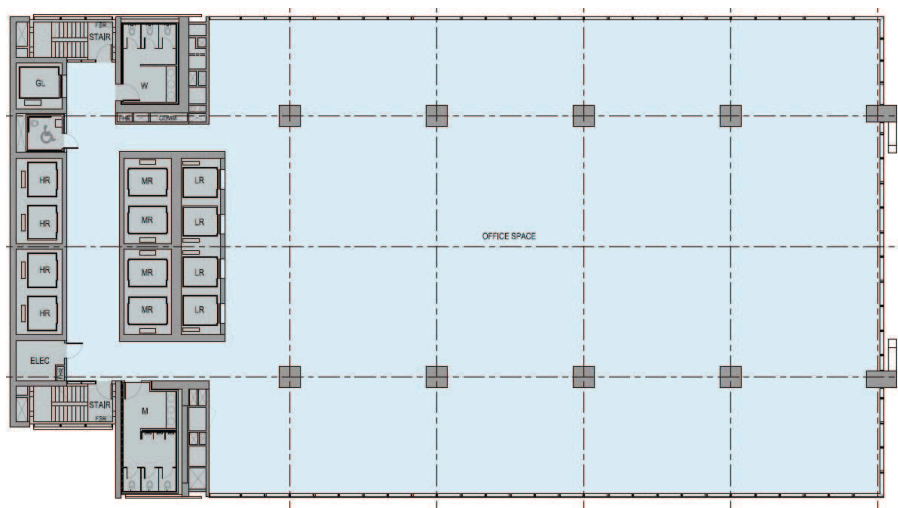


Figure 9 – Example of the proposed floor plan. This floor plan shows a typical low rise level with the tower lift core located along the western side of the building. The floor plan has also been extended to the corners of the southern side of the building which has contributed to the proposed increase to the GFA.

2.2 Modification to Conditions of Project Approval

The proposed modification as outlined above requires the amendment of fourteen approval conditions. The proposed changes are summarised and explained in the table below. The full wording of the modified conditions are provided in Appendix C.

Table 2: Proposed modifications to conditions

CONDITION	PROPOSED CHANGE	REASON	AGREED
Condition (A1) Development Description	Alter wording of the Condition (1) to include reference to six levels of basement car parking with a total of 113 car parking spaces, a 36 storey commercial and retail development, vehicular access off Walker Street.	Adjustments due to changes made in the design of the development in response to submissions received.	✓

Condition (A2) Development in Accordance with Plans and Documents	Deletion of list of approved plans and inserting a new set of plans prepared by Architectus.	Adjustments in response to proposed modifications detailed above.	✓
Condition (B1) Design Modifications			
(1) Façade Setback	Deletion of this condition as the amended plans have increased the Walker Street setback for all levels of the development to 4.2 metres.	The setbacks to Walker Street have been adjusted to reflect the minimum permitted setback to the boundary of 4.2 metres.	✓
(2) Car Parking	Deletion of this condition as the proposal is for an increase the maximum permitted parking from 97 spaces over 5 basement levels, to 113 spaces over 6 basement levels.	Reconfiguration of the basement levels due to the relocation of the vehicular access to Walker Street, and a proposed increase to the number of parking spaces.	✓
Condition (B5) Monetary Contributions	Alter condition to reflect the revised Section 94 Contributions for the development.	Increase to the gross floor area.	✓
Condition (B6) Railway Infrastructure	Alter condition to reflect the revised Railway Infrastructure Contribution for the development.	Increase to the gross floor area.	✓
Condition (B8) Required Infrastructure Works – Submission and Approval of Plans under Roads Act 1993	Alter condition to reflect the relocation of the vehicular access point.	The vehicular access has been relocated from Spring Street to Walker Street.	✓
Condition (B10) Security Bond Schedule	Alter condition to remove the street tree located in the Walker Street footpath from security bond schedule.	The street tree in the Walker Street footpath is permitted to be removed due to the vehicular access point being relocated to this area.	✓
Condition (B13) Details of Materials, Colours and Finishes	Alter condition to reflect the amended proposed materials as per plans prepared by Architectus.	Amendment to external materials.	✓
Condition (B23) Work Method Statement	Alter condition to reflect recommended condition of consent provided by North Sydney Council's conservation planner.	Protection of the adjoining heritage item.	✓
Condition (B38) Number of Parking Spaces	Alter condition to reflect proposed increase to car parking spaces to a total of 113 spaces in accordance with the additional GFA proposed.	Increase to car parking spaces.	✓
Condition (B42) Number of Loading / Unloading Spaces	Alter condition to reflect reduction in the number of courier spaces from seven (7) to	Reduction in number of courier spaces.	✓

	six (6).		
Condition (E24) Public Rights of Way Over the Site	The addition of this condition to ensure the street setbacks and through-site link are publicly accessible to pedestrians during the hours of operation of the building.	To ensure that the street setbacks and the relocated through site link are accessible to pedestrians.	✓
Condition (G1) Treatment of Vehicular Entry	Alter condition to reflect recommended condition of consent provided by North Sydney Council's conservation planner.	Recommended by North Sydney Council's conservation planner.	✓
Condition (G17) Public Rights of Way Over the Site	The addition of this condition to ensure the street setbacks and through-site link are publicly accessible to pedestrians during the hours of operation of the building.	To ensure that the street setbacks and the relocated through site link are accessible to pedestrians.	✓

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification of the project under section 75W of the Act.

3.2 Modification of the Minister's Approval

The modification of the Minister's Approval by way of section 75W of the Act is appropriate because the proposal is consistent with the original Approval.

3.3 Consistency with the Concept Plan Approval

The proposed modification of the Project Approval is generally consistent with the Concept Plan Approval (MP08_0241) and will not result in significant changes to the development including the land use, building envelope and through-site pedestrian link.

3.3 Environmental Assessment Requirements

Section 75W (3) of the EP&A Act provides that the Director-General may notify the proponent of environmental assessment requirements (DGRs) with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.

In this instance, following an assessment of the modification request, it was not considered necessary to notify the proponent of environmental assessment requirements pursuant to Section 75W (3) with respect to the proposed modification, as sufficient information was provided to the department to consider the application.

3.4 Delegated Authority

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division in cases where the relevant local council has not made an objection, a political disclosure statement has not been made and there are less than 10 public submissions (not including submissions from public authorities) in the nature of objections in response of the modification request.

As North Sydney Council has not made an objection, no donations have been disclosed, and no public submissions were received, the A/Director, Metropolitan & Regional Projects South may determine the modification request under delegated authority.

4. CONSULTATION AND SUBMISSIONS

In accordance with Section 75X (2) (f) of the EP&A Act, the Director-General is required to make the modification request publicly available. The modification request was made available on the department's website and referred to North Sydney Council, Transport for NSW, Railcorp and the Roads and Maritime Services for comment. No public submissions were received on the modification request.

In response to submissions received from the above agencies, the proponent provided additional information and amended plans to satisfy the concerns raised, which was referred back to the relevant agencies.

The following comments were received from the North Sydney Council, Transport for NSW, Railcorp and the Roads and Maritime Services.

North Sydney Council provided comments regarding the original modification and amended plans and information and provided conditions of consent to resolve any outstanding issues. The original points raised are as follows:

- matters raised by Council's Design Excellence be resolved in relation to the Mount Street awning, the air take plenum on Mount Street, the through-site link and street trees;
- matters raised by Council's Conservation Planner with respect to the relationship of the development with the neighbouring Firehouse Hotel heritage item be resolved;
- a condition requiring public rights of way over the adjoining street setbacks to confirm public access rights over the through site link during the hours of operation of the building;
- an increase to the Mount Street setback from 4.2 metres to 4.8 metres;
- certification of the existing gross floor area to determine the contributions;
- changes to hours of construction are not supported; and
- amendment to Condition B8 (Required Infrastructure Works) to reflect the relocation of the vehicular access to Walker Street.

On 21 November 2011 the proponent provide a response as follows:

- set out that the calculation for the revised contributions be the same method of calculation originally used for the concept plan;
- agreed a condition of consent to ensure public access is made available over the setback areas and through-site link and will provide an associated site management plan;
- agreed the construction will adhere to the approved standard construction hours;
- maintained the design of the Mount Street awning;
- relocated the air intake plenum;
- maintained the 4.2 metre building setback to Mount Street;
- increased the wall of the stairs to Mount Street to 4.8 metres;

- confirmed an additional street tree located on the Walker Street footpath is proposed to be removed to accommodate the new vehicular access point;
- confirmed no additional street trees are proposed to be removed from the Mount Street footpath;
- provided further detail with regard to heritage items raised; and
- confirmed the building satisfies the required 4.2 metre setback to Walker Street with the exception of the frame and exposed columns which provide an architectural feature.

On 20 December 2011, Council advised that following further referral to the Council's Design Excellence Panel, its concerns about the proposed design have been satisfied and conditions of consent provided. The department notes that Council's Design Excellence Panel raised concern with the removal of street trees on the Mount Street footpath. Considering these trees were approved for removal in the original Project Approval, it is outside the scope of the subject application to require the trees to be retained, as discussed in Section 5.3.

Transport for NSW raised no objections to the increase in GFA and has provided the following further comments:

- Condition B6 relating to the Railway Infrastructure Contribution should be amended to require a deed of agreement or Voluntary Planning Agreement to secure the contribution;
- 272 bicycle parking spaces are supported, however are recommended to be near entrances and at-grade for workers and visitors; and
- number of car parking spaces should be reduced.

The proponent's response is as follows:

- accepted an amendment to Condition B6 to require a deed of agreement however no Voluntary Planning Agreement to secure the contribution;
- advised the location of bicycle parking near entrances and at-grade will be investigated during design development;
- the car parking spaces will be retained at the approved rate; and
- confirmed that a travel plan incentive will be implemented.

See Sections 5.2 and 5.4 for discussion and resolution of these matters.

Railcorp raised no objections to the proposed development.

Roads and Maritime Services raised no objection to the relocation and reduction of the vehicle access points from two on Spring Street to one access point off Walker Street.

5. ASSESSMENT

The department considers the key issues for the proposed modification are:

- built form and appearance;
- additional gross floor area;
- ground floor level layout / urban design; and
- parking and vehicular access.

5.1 Built Form and Appearance

The proposal seeks to modify aspects of the built form of the approved development including:

- retention of the general building envelope however with an extension of the floor layout to include the previously cut out portions of the southern side of the building (**Figures 9, 10 and 11**);
- amendment to the building setback fronting Walker Street to be 4.2 metres for all levels of the building (as per Condition B1 'Design Modifications'); and
- redesign of the architectural elements on the Walker Street façade (**Figure 5**) and an amended external schedule of materials.

The increase to the eastern (Walker Street) setback to 4.2 metres for all levels reflects condition B1 'Design Modifications' of the Project Approval (MP08_0241) which required all levels of the development to have a uniform setback of 4.2 metres to this boundary. This condition is therefore recommended to be deleted from the Instrument of Approval as provided in Appendix C.

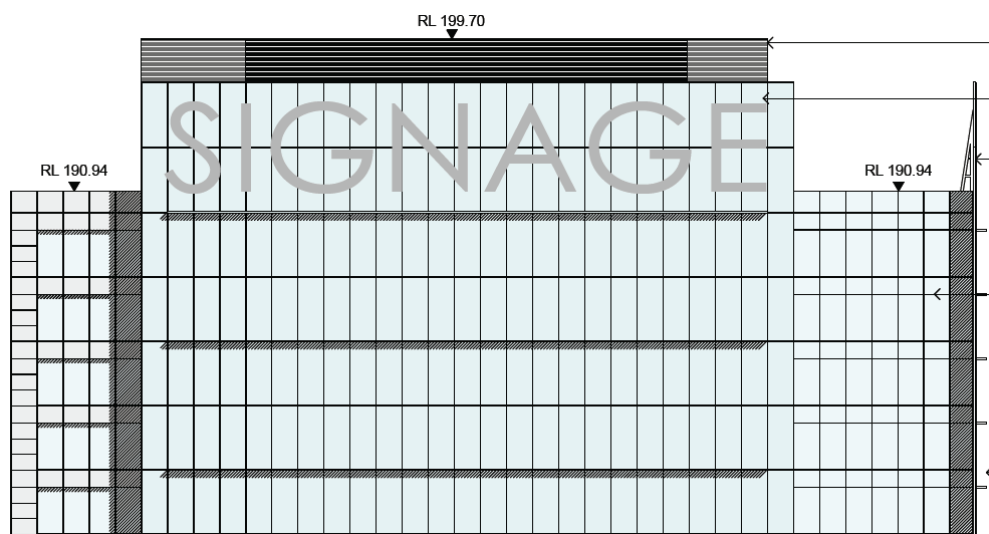


Figure 10 – Approved southern elevation of the building demonstrating the building envelope of the top of the building.



Figure 11 – Proposed southern elevation of the building demonstrating the building envelope of the top of the building which maintains the approved maximum RL of 199.70 (145.7 metres).

The modifications to the built form retain the maximum building height of 145.7 metres and generally retain the approved building envelope. As demonstrated in **Figures 4 and 5**, the proposed building has external architectural features which are considered to provide a more streamlined appearance and generally improve the appearance of the building. The proposed design is supported by North Sydney Council's Excellence Design Panel.

The proposed amendments to the built form result in a marginal increase to the overshadowing generated by the approved building. As demonstrated in **Figure 12** below, the proposed amendments create additional overshadowing which will affect a small portion of residential land for the 5 minutes before 3.00pm during the winter equinox, and the Mount Street Plaza between 9.00am and 11.00am, as advised in the Solar Impact Report submitted by the proponent. North Sydney Council supports the amended built form considering the additional overshadowing is minor and the amenity of nearby residential and open space areas is not adversely affected. This increase is considered to be acceptable as it represents a relatively minor increase over that already approved and will have little impact on the amenity of the surrounding land.

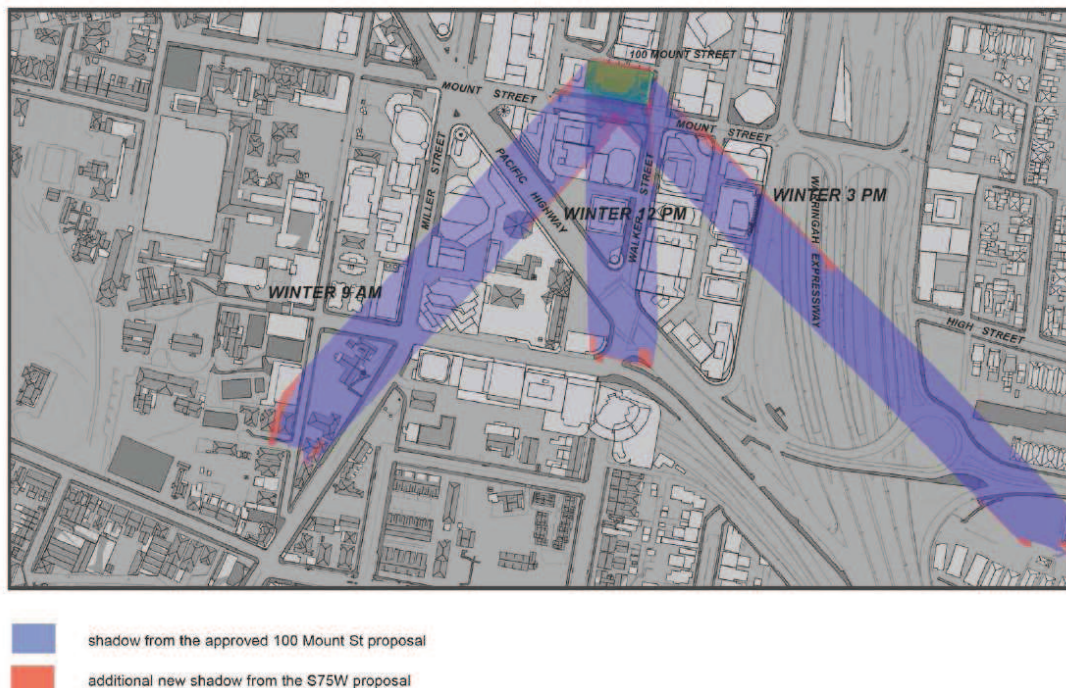


Figure 12 – Comparative Analysis of the overshadowing of the approved development (blue) and the proposed development (red).

The views from nearby residences and the public domain are not considered to be adversely affected given the proposed amendments generally retain the approved building envelope and improve the appearance of the building (**Figures 3, 4, 10 and 11**).

The department notes that North Sydney Council's Conservation Planner supports the proposed modification subject to additional conditions being provided in relation to the provision of a work method statement and the appearance of the garage roller shutter. These conditions are provided as part of the recommended Instrument of Approval in Appendix C.

5.2 Additional Gross Floor Area

The proposal seeks an additional 6,334m² GFA (38,733m² to 45,067m²) which is achieved within the same general building envelope as a result of the following modifications:

- amendments to the eastern (Walker Street) setback to be 4.2 metres to comply with Condition B1;
- extension of the floor layout to include the previously cut out portions of the southern side of the building;
- relocation of the core lift services;
- removal of dedicated levels for building plant and the provision of building plant on each level;
- a reduction in the retail space; and
- an increase to the cyclist/change room facilities.

The department supports the increase to the GFA considering the additional GFA is achieved within the same general building envelope and the building provides beneficial commercial and retail uses in the centre of the North Sydney CBD. The proposed GFA is supported by North Sydney Council and is satisfactory with regard to the North Sydney Local Environmental Plan 2001 as it will contribute toward the growth of the North Sydney Centre as a major commercial centre in Australia.

Conditions B5 'Monetary Contributions' and B6 'Railway Infrastructure' are required to be amended to reflect the increased value of the Section 94 Contributions and the Railway Infrastructure Contribution due to the increase in the GFA.

North Sydney Council do not object to the proposed increase in GFA however have requested that certification of the existing GFA is provided. The Department notes that the certification of the existing GFA does not form part of the proposed modification and considers that the original figure provided is adequate.

Transport for NSW propose a change to Condition B6 'Railway Infrastructure' to change the mechanism for securing the contribution by implementing a deed of agreement or Voluntary Planning Agreement. The modification of this condition does not form part of this modification application. Further, the department considers that the current condition secures the payment to the same extent as a deed requirement.

5.3 Ground Floor Level Layout / Urban Design

The proposal seeks modification to the street level layout to provide the following:

- an open plan lobby area which serves as a through-site pedestrian link during the hours of operation of the building;
- a café / restaurant retail shop on the lower ground level on the eastern side of the building with an outdoor seating area;
- a café / restaurant on the ground (lobby) floor on the eastern side of the building with openable walls;
- the removal of a street tree in Walker Street;
- relocation of the core lift services to the western side of the building;
- the relocation of the vehicular access points from Spring Street to Walker Street; and
- an awning in the Mount Street elevation to provide covered pedestrian access.

North Sydney Council requested that a condition of approval be provided requiring the street setbacks and through-site link is publicly accessible to pedestrians during the hours of operation of the building. The proponent has agreed to this condition which is provided in the recommended Instrument of Approval in Appendix C.

The proposed built form provides an open and useable lobby area which is accessible to the public and compliments the existing and future streetscape of the locality.

North Sydney Council's Design Excellence Panel raised concern with regard to existing street trees to be removed on Mount Street. The department notes that the Project Approval (MP08_0241) approved the removal of four of the trees located on the Mount Street footpath as demonstrated in **Figure 13** below. Condition E23 'Required Tree Planting' requires the replacement of these trees as shown in **Figure 14**. The removal of the street trees on Mount Street were assessed within the original application and the subject modification application does not seek to alter the outcome of the original assessment.

The current proposal seeks the removal of a street tree on the Walker Street footpath to accommodate the proposed vehicular access point as demonstrated in the site plan below (**Figure**

14). The Department notes that Condition B10 'Security Bond Schedule' is required to be amended to permit the removal of this tree. Council does not object to the removal of this tree and three replacement trees are also required nearby along the Walker Street frontage. Noting these points and the fact that the site is within an established CBD environment, the department considers the removal of this tree and subsequent amendment to Condition B10 to be appropriate as detailed in the recommended Instrument of Approval in Appendix C.

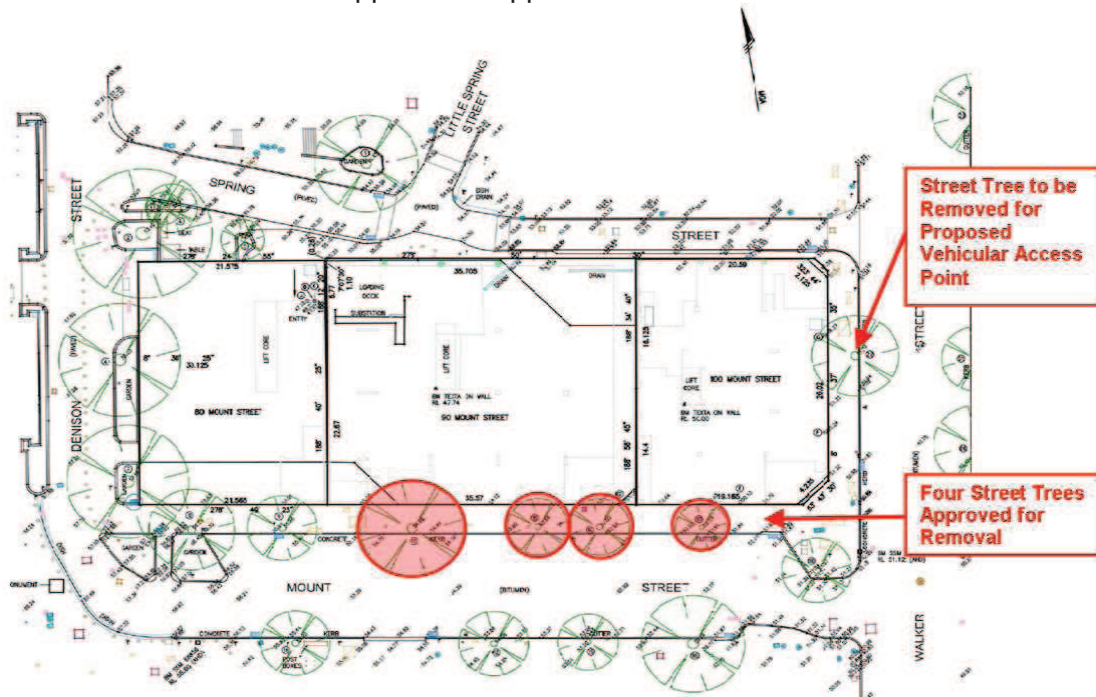


Figure 13 – Site Survey Plan indicating the 4 trees approved to be removed in Concept Plan MP08_0241 and the street tree in Walker Street which is proposed to be removed to accommodate the proposed vehicular access point.

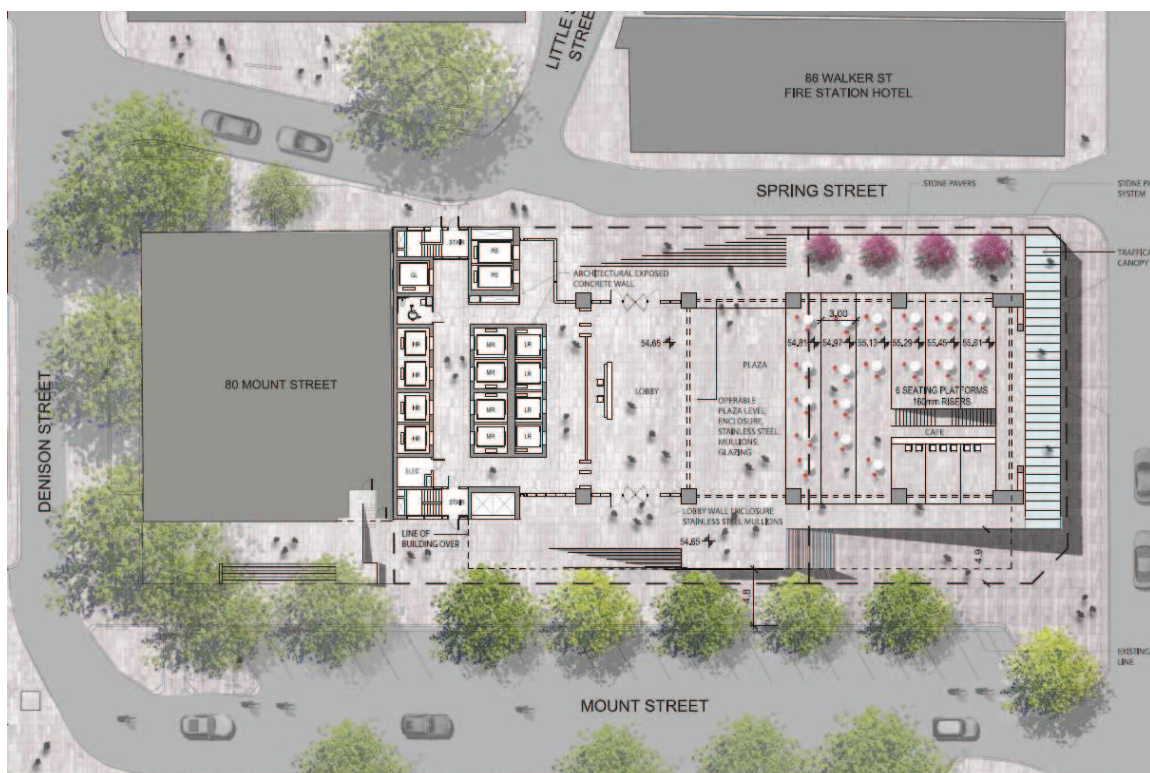


Figure 14 – Site Plan of the proposed development demonstrating the future landscaping. It is noted that three replacement trees are also required to be planted along the Walker Street footpath which are not shown on this plan.

5.4 Parking and Vehicular Access

Parking

The proposal includes an additional 16 car parking spaces to provide a total of 113 spaces, and the parking levels are increased from 5 to 6. The increased parking spaces reflect the additional GFA with the same parking rate being applied, being a maximum of one car space per 400m² of GFA for non-residential zones in accordance with North Sydney Council's Development Control Plan.

Transport for NSW advised that given the close proximity of the site to public transport routes, a reduction in the total number of car parking spaces is supported to encourage public transport use by workers and visitors to the site. The department supports the proposed provision of car parking spaces as it remains consistent with the approved car parking rate.

The accessibility of public transport and the provision of bicycle parking spaces, which are required by TfNSW to be located near entrances and at-grade for workers and visitors, will assist in supporting the use of non-car travel modes to the site.

Traffic and Vehicular Access

The relocation of the vehicular access points, being two points off Spring Street to a single access point off Walker Street is supported by the Roads and Maritime Services and North Sydney Council's Design Excellence Panel. Noting this, the department considers that the proposed vehicular access point provides suitable access for all vehicles and is integrated with the local road network.

6. CONCLUSION AND RECOMMENDATIONS

The department has assessed the application on its merits and the proposed modification is considered reasonable and will not result in any significant changes to the development as approved.

The proposal seeks modifications to the approved commercial and retail development including but not limited to an increase to the gross floor area, reorganisation of the floor layouts, the parking provision, vehicular access, the location of the through-site link, external presentation and materials, the setbacks and the location of the plant and services. The proposed modifications result in a commercial and retail development which is substantially the same as previously approved and maintains the site's suitability for this development.

It is recommended that the A/Director, Metropolitan and Regional Projects South:


- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification request under delegated authority, subject to conditions; and
- (c) **sign** the attached Instrument of Modification for MP08_0241 MOD 1.

Endorsed by



9-02-12

Holly Palmer
Planning Officer
Metropolitan & Regional Projects South



Ben Lusher
A/Team Leader
Metropolitan & Regional Projects South

APPENDIX A MODIFICATION REQUEST

See the department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4939

APPENDIX B SUBMISSIONS

See the department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4939

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
