

Modification of Minister's Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation executed on 14 September 2011, I approve the modification of the project approval referred to in schedule 1, subject to the conditions in schedule 2.



Alan Bright
Acting Director
Metropolitan & Regional Projects South

Sydney 16 FEBRUARY 2012

SCHEDULE 1

- Project Approval:** MP08_0241 granted by the Minister for Planning on 25 May 2010.
- For the following:** Project Approval for a commercial and retail development including:
- Demolition of the existing buildings on both sites;
 - Excavation for 5 levels of basement;
 - Construction and use of a 38 storey commercial and retail building together with 5 levels of basement car parking with vehicular access via Spring Street; and
 - Construction of 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.
- Modification:** MP08_0241 MOD 1: Modifications includes:
- an additional 6,334m² of gross floor area to 45,067m²;
 - a vehicular access point off Walker Street;
 - amendments to the layout of the ground floor lobby level including a through-site pedestrian link between Mount Street and Spring Street;
 - redesign of the external architectural features and external materials of the building;
 - relocation of the retail areas to the eastern side of the lower ground and ground floors;
 - relocation of the tower lift core to the western side;
 - alteration of the eastern building setbacks to 4.2 metres from Walker Street;
 - extension of the floor layout to include the previously cut out portions of the southern side of the building;
 - removal of a street tree in Walker Street;
 - increase in the number of parking spaces to 113 spaces including an additional basement parking level;
 - decrease in the number of courier spaces to 6 spaces;
 - the provision of building plant within each level; and
 - relocation of amenities floor to above ground.

SCHEDULE 2

CONDITIONS

The above approval is modified as follows:

- a) Condition A1 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

A1 Development Description

- (1) Development approval is granted only to carrying out the development described in detail below:

- **Demolition** of the existing buildings on both sites.
- **Excavation** for ~~5~~ **6** levels of basement.
- **Construction and use** of a ~~38~~ **36** storey commercial and retail building together with ~~5~~ **6** levels of basement car parking with vehicular access via ~~Spring Street~~ **Walker Street**; and,
- **Construction** of ~~through-site pedestrian link~~ a ground floor podium level to allow for a pedestrian thorough-fare and on-site streetscape, footpath reconstruction and infrastructure works in Mount Street, Walker Street and Spring Street together with public art works.

- b) Condition A2 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

A2. Development in Accordance with Plans and Documentation

The development will be undertaken in accordance with MP No. 08_0241 and the Environmental Assessment dated July 2009 prepared by Urbis, except where amended by the Preferred Project Report dated December 2009 prepared by Urbis and additional information, plans and reports provided with the Preferred Project Report, and the drawings prepared by Rice Daubney; **as amended by MP08_0241 MOD 1, the Section 75W Modification prepared by Urbis dated September 2011 (as amended by correspondence dated 21 November 2011 and the drawings prepared by Architectus); and the following drawings:**

Architectural (or Design) Drawings prepared by Rice Daubney at Appendix A of the Environmental Assessment, except where superseded by the Preferred Project Report and the Section 75W Modification and as listed below			
Drawing No.	Rev	Name of Plan	Date
DA 00	B	Cover Page and Drawing Register	15.12.09
DA 01	B	Photomontage – corner of Mount and Walker Streets	15.12.09
DA 02	B	Photomontage – view up Walker Street	15.12.09
DA 03	B	Photomontage – view from Victoria Cross	15.12.09
DA 04	B	Photomontage – Distant views – Pyrmont and Neutral Bay	15.12.09
DA 05	B	Photomontage and Section	15.12.09
DA 06	B	Photomontage and Perspective	15.12.09
DA 07	B	View up Walker Street, Close Up	15.12.09

DA 08	B	View down Walker Street	15.12.09
DA 09	B	Location and Survey Plan	15.12.09
DA 10	B	Levels 1, 2 & 3 - Basements 3, 4 & 5 Floor Plans	15.12.09
DA 11	B	Levels 4 & 5 - Basements 1 & 2 Floor Plans	15.12.09
DA 12	B	Podium Introduction Page	15.12.09
DA 13	B	Level 6 - Ground Floor Plan	15.12.09
DA 14	B	Levels 7, 8 & 9 - Upper Retail, Roof and Void Floor Plans	15.12.09
DA 15	B	Levels 10 & 11 - Low Plant Floor Plans	15.12.09
DA 16	B	Tower Introduction Page	15.12.09
DA 17	B	Levels 14, 20 & 21 - Typical LR & Mid Plant Floor Plans	15.12.09
DA 18	B	Level 23, 31 & 36 - Typical MR, HR & Transfer Floor Plans	15.12.09
DA 19	B	Levels 43, 44 & 45 - High Plant & Roof Plans	15.12.09
DA 20	B	North Elevation	15.12.09
DA 21	B	South Elevation	15.12.09
DA 22	B	East Elevation	15.12.09
DA 23	B	West Elevation	15.12.09
DA 24	B	Podium Elevations	15.12.09
DA 25	B	North/South Section	15.12.09
DA 26	B	East/West Section	15.12.09
DA 27	C	Setbacks	15.12.09
DA 100	B	Cover Sheet	11.11.11
DA 104	A	Existing Site Survey	12.08.11
DA 107	B	Ground Plane	11.11.11
DA 107-1	A	Walker Street View	11.11.11
DA 107-2	A	Mount Street View	11.11.11
DA 108	A	Plaza Perspective	12.08.11
DA 109	B	Site Plan	11.11.11
DA 109-1	A	Site Diagram – Pedestrian Path under Canopy	11.11.11
DA 109-2	A	Site Diagram – Through Site Link	11.11.11
DA 110	B	Plaza Topography Diagram	11.11.11
DA 111	A	Plaza Topography Diagram	12.08.11
DA 112	B	Plaza Sections	11.11.11
DA 113	B	Plaza – Southeast Perspective	11.11.11
DA 114	B	Plaza – Northeast Perspective	11.11.11
DA 115	A	Typical Floor Design	12.08.11
DA 116	B	Ground Floor Plan	11.11.11
DA 117	B	Retail Level Plan	11.11.11
DA 118	A	Plan – B1 Level	12.08.11
DA 119	A	Plan – B2 Level	12.08.11
DA 120	A	Plan – B3 Level	12.08.11
DA 121	A	Plan – B4 Level	12.08.11
DA 122	A	Plan – B5 Level	12.08.11
DA 123	A	Plan – B6 Level	12.08.11
DA 124	A	Plan – Level 1 Amenity	12.08.11

DA 125	A	Plan – Typical Low Rise Level	12.08.11
DA 126	A	Plan – Typical Mid Rise Level	12.08.11
DA 127	A	Plan – Typical High Rise Level	12.08.11
DA 128	A	Plant Level Plan	12.08.11
DA 129	A	Roof Plan	12.08.11
DA 130	A	North + East Elevations	12.08.11
DA 130-1	A	Contextual Elevation – North	11.11.11
DA 130-2	A	Contextual Elevation – East	11.11.11
DA 130-3	A	Contextual Elevation – Walker Street Awning & Fire House Façade	11.11.11
DA 131	A	South + West Elevations	12.08.11
DA 131-1	A	Contextual Elevation – South	11.11.11
DA 132	A	Building Sections	12.08.11
DA 132-1	A	Contextual Elevation – Section 1 North / South	11.11.11
DA 132-2	A	Contextual Elevation – Section 2 West / East	11.11.11
DA 133	A	Roof Sections	12.08.11
DA 134	A	Roof Rendering	12.08.11
DA 135	A	Basement Sections	12.08.11
DA 136	B	Façade Design	11.11.11
DA 137	A	Façade – Closed Cavity Façade Southeast Perspective	12.08.11
DA 138	A	Core Wall Façade Southwest Perspective	12.08.11
DA 139	A	Area Schedule	12.08.11
DA 140	B	Material Board	16.12.11
DA 141	B	Comparison with Approved Scheme – Retail Level & Ground Floor	11.11.11
DA 142	B	Comparison with Approved Scheme – Void Above Ground Floor	11.11.11
DA 143	A	Comparison with Approved Scheme – Level 1 + Level 2-3	31.08.11
DA 144	A	Comparison with Approved Scheme – Level 4-11 + Level 12	31.08.11
DA 145	A	Comparison with Approved Scheme – Level 13 + Level 14-23	31.08.11
DA 146	A	Comparison with Approved Scheme – Level 24-25 + Level 26-33	31.08.11
DA 147	A	Comparison with Approved Scheme – Plant Levels	31.08.11
DA 148	A	Comparison with Approved Scheme – Roof	31.08.11
DA 149	A	Comparison with Approved Scheme – Sections	31.08.11

except for:

any modifications which are ‘Exempt and Complying Development’ as identified in [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and otherwise provided by the conditions of this approval.

- c) Condition B1 is deleted as indicated by the ~~struck out~~ words as follows:

B1 — Design Modifications

~~Prior to the issue of the relevant Construction Certificate, the design of the building shall be amended as follows:~~

~~The eastern façade of Levels 22 to 41 inclusive fronting Walker Street shall be setback a further 2.0 metres to an overall setback of 4.2 metres from the Walker Street boundary alignment to match the setback to the glass line of Levels 12 to 19 below.~~

~~The number of parking spaces on site shall be reduced to a maximum of 97 spaces and the relevant basement levels shall be redesigned as required.~~

- d) Condition B5 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

B5 Monetary Contributions

The Proponent shall pay the following monetary contributions in accordance with the North Sydney Section 94 Contributions Plan:

(1) Amount of Contribution

Contribution	Total (\$'s)	Total (\$'s)
Administration	52,770.33	68,903.20
Child Care Facilities	223,429.16	291,734.13
Community Centres	128,655.39	167,985.79
Library Acquisition	26,234.13	34,257.41
Library Premises & Equipment	79,758.21	104,141.97
Multi Purpose Indoor Sports Facility	30,186.33	39,413.88
Olympic Pool	98,350.49	128,415.87
Open Space Acquisition	96,188.07	125,593.16
Open Space Increased Capacity	190,662.59	248,949.65
Public Domain Improvements	2,157,678.20	2,817,308.59
Traffic Improvements	130,275.80	170,104.56
Total	3,214,186	4,196,808.21

(2) Adjustments

Should the total GFA be **modified** ~~reduced as a result of compliance with Condition B1~~, the amount payable may be eligible for adjustment.

(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.

(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 a 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 included on the works schedule of the North Sydney S94 Contributions Plan).

- e) Condition B6 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

B6 Railway Infrastructure

The Proponent shall lodge with Council a Railway Infrastructure Contribution totalling ~~\$3,038,304~~ **\$3,884,170.70** to be paid by bank cheque in favour of the Transport Administration Corporation. Evidence of the payment shall be provided to the Certifying Authority prior to the issue of the relevant Occupation Certificate.

Should the total GFA be **modified** ~~reduced as a result of compliance with Condition B1~~, the amount payable may be eligible for adjustment. In this case, a report by an appropriately qualified Surveyor shall be submitted to and approved by the Director-General 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).

- f) Condition B8 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

B8 Required Infrastructure Works – Submission and Approval of Plans under Roads Act 1993

Prior to the issue of any Construction Certificate referencing building works at or above ground floor level, the Proponent must have construction issue engineering design plans and specifications prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide technical engineering detail and specification for the following road reserve infrastructure works that must be completed as part of the project approval:

Mount Street

- a) Construction of a fully new standard upright concrete kerb and gutter over entire site frontage, gutter levels must match existing.
- b) Construction of a fully new footpath over entire site frontage, to be constructed in North Sydney Council's CBD Sandstone. Footpath must have 3% crossfall from site boundary falling to top of new kerb, site boundary/entrance levels to be raised from existing and accordingly above top of new kerb.
- c) Construction of new drainage lintels and kerb inlet facilities over existing pits.
- d) Construction of a new in-ground drainage line under the kerb and gutter at standard depth to replace the existing stormwater line over the full site frontage. The line must connect the existing Council pit in front of 84 Mount Street to the existing Council pit located at the intersection of Mount and Walker Street. The pipes within the road reserve are to be reinforced concrete class 2 with a minimum 525mm diameter and have bedding in accordance with Australian Standard AS 3725 – (Loads on buried concrete pipes). The developer shall be responsible for carrying out any service investigations to allow a gravity connection.
- e) Show details and location of required street tree plantings and Council standard tree surrounds.
- f) Re-instate parking arrangements and meters, at Applicant cost.

Walker Street

- a) Construction of a fully new standard upright concrete kerb and gutter over entire site frontage, gutter levels must match existing.
- b) Construction of a fully new footpath over entire site frontage, to be constructed in North Sydney Council's CBD Sandstone. Footpath must have 3% crossfall from site boundary falling to top of new kerb, site boundary/entrance levels to be raised from existing and accordingly above top of new kerb.
- c) Construction of new drainage lintels and kerb inlet facilities over existing pits.
- d) Show details and location of required street tree plantings and Council standard tree surrounds.
- e) Re-instate parking arrangements and meters, at Applicant cost.
- f) **Construct new commercial grade layback at vehicle/loading entry point(s) and car parking entry point(s).**

Spring Street

- a) Street lighting to entire site frontage to meet the North Sydney CBD Lighting Upgrade Specification as required by and to the satisfaction of the Director of Engineering & Property Services.
- b) Full road width reconstruction in Spring Street over entire site frontage, concrete base slab, paving surface to accommodate loading of turning, laden delivery vehicles to be designed to the satisfaction of the Director of Engineering & Property Services.
- c) Provide new concrete dish crossings at the street intersections, in accordance with Council standard drawing S103.
- d) ~~Construct new commercial grade layback at vehicle/loading entry point(s) and car parking entry point(s).~~
- e) Provision for surface drainage interception and gravity conveyance to the nearest downstream in-ground system.
- f) Construct fully new upright kerb and gutter over entire site frontage adjacent to development site.
- g) Construction of a fully new footpath over entire site frontage, to be constructed in North Sydney Council's CBD Sandstone. Footpath must have 3% crossfall from site boundary falling to top of new kerb, site boundary/entrance levels to be raised from existing and accordingly above top of new kerb.
- h) Construction of new drainage lintels and kerb inlet facilities over existing pits.
- i) Show details and location of required street tree plantings and Council standard tree surrounds, if required.

Cross sections at a scale of 1:50 along the centre-line of each ground level access point to the site the must be provided. All the entry points are to comply with the Building Code of Australia (BCA), particularly disability requirements. The Council approved footpath levels must be accommodated at the building entry points.

As levels set by Council may impact on ground floor levels within the site, the Certifying Authority must not issue any Construction Certificate referencing building works at or above ground floor level without the formal approved plans and written approval of Council (as Roads Authority) under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for RoadWorks, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected/proposed by the works, erosion control requirements and traffic management requirements during the course of works. Detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA

Traffic Control at Work Sites (1998). Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.

A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying Major Project number.

- g) Condition B10 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

B10 Security Bond Schedule

All fees and security bonds in accordance with the **schedule** below must be paid or in place prior to the issue of any Construction Certificate:

Security Bonds	Amount (\$)
Protection of Public Street Trees Bond (on Council Property); <ul style="list-style-type: none">• <i>London Plane Tree growing at the intersection of Walker and Mount Streets, adjacent to the traffic lights.</i>• London Plane Tree growing in Walker Street outside the property.• <i>London Plane Tree growing in Mount Street outside the south western corner of the property.</i>	15,000.00 10,000.00
Engineering Construction Bond	500,000.00
TOTAL BONDS	\$515,000.00 \$510,000.00

These bonds are applied pursuant to clause 80A of the EP&A Act to cover the cost of:

- Making good any damage that may be caused to any public infrastructure as a consequence of doing or not doing any thing to which this approval relates;
- Completing any public infrastructure works that are required in connection with this consent; and,
- Replacing any tree removed or damaged.

If any tree to be retained is removed or damaged Council shall deduct from this Bond the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the Security Bond for that tree will be forfeited to Council and used to provide replacement street plantings.

The bond shall be lodged in the form of a deposit or bank guarantee and will be refundable following completion of all works relating to the proposed development (recognised by issue of a final Occupation Certificate) and at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b) The applicant has not repaired nor commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.

- c) Works in the public road associated with the development are to an unacceptable quality.

The Certifying Authority must ensure that bond is lodged with North Sydney Council prior to issue of any Construction Certificate.

- h) Condition B13 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

B13 Details of Materials, Colours and Finishes

The colour and type of all external materials and finishes shall generally be in accordance with the samples, colours and materials board submitted with the EA in July 2009 and prepared by Rice Daubney Architects **Section 75W Modification Application and prepared by SOM, LLP and Architectus.**

- i) Condition B23 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

B23 Work Method Statement

A Work Method Statement is to be prepared by the Contractor for the works in close proximity of the Firehouse Hotel (86 Walker St) and is to be reviewed and approved by a suitably qualified and experienced heritage architect. Compliance with this condition is to be submitted to the certifying authority prior to the issue of any construction certificate.

(Reason: To ensure that construction workers are familiar with the protection requirements of the Firehouse Hotel (86 Walker St).)

- j) Condition B38 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

B38 Number of Parking Spaces

The maximum number of parking 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 including three (3) disabled spaces	97 <u>113</u>
Motorcycle	6

- k) Condition B42 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

B42 Number of Loading / Unloading Spaces

The total ~~six (6) seven (7)~~ **six (6)** courier spaces and two (2) truck parking spaces shall be provided for the development to be located within the basement. Details confirming the number and location of the required spaces shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

PART G - POST OCCUPATION

- l) Condition G1 is amended by the insertion of the **bold** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

G1 Treatment of Vehicular Entry

In order to improve the appearance of the building when viewed from the street, any part of the walls and ceilings of vehicular entry points that are visible from the street shall be finished in high quality materials and no service ducts or pipes are to be visible.

Garage Roller Security Shutter

Garage roller shutter on Walker St building line to be of mainly solid construction and not total open mesh. Door to appear complimentary in design detail to wall cladding when in a closed position.

(Reason: To ameliorate the visual impact of the garage driveway.)

- m) The addition of Condition G17 as follows:

G17 Public Rights of Way Over the Site

The setback areas within the site along the Mount, Walker and Spring Street frontages and the through-site link are to remain publically accessible in accordance with a site management plan to be submitted to and approved by Council in accordance with the requirements of Condition E24.

- n) The addition of Condition E24 as follows:

PART E – PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

E24 Public Rights of Way Over the Site

The setback areas within the site along the Mount, Walker and Spring Street frontages and the through-site link are to be made publically accessible during the hours of operation of the building. An associated site management plan demonstrating how this requirement is to be achieved is to be submitted to the satisfaction of North Sydney Council.

SCHEDULE 3

MP08_0241

MIXED USE COMMERCIAL AND RETAIL BUILDING

86-96 MOUNT STREET & 100 MOUNT STREET, NORTH SYDNEY

REVISED STATEMENT OF COMMITMENTS

(SOURCE: MODIFICATION SUBMISSION DATED SEPTEMBER 2011)