



***MODIFICATION REQUEST:***

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

***MP 08\_0241 MOD 2 – Modification to the approved  
Commercial and Retail Development***



Secretary's Environmental Assessment Report  
Section 75W of the *Environmental Planning and  
Assessment Act 1979*

October 2014

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# 1. BACKGROUND

The purpose of this report is to assess a proposal to modify the Concept Approval for a commercial and retail development at 86-96 and 100 Mount Street, North Sydney (MP08\_0241). The application seeks approval for internal and external modifications, increase in roof level height by 2 metres, decrease in plant height by 1.7 metres, increase in gross floor area by 472m<sup>2</sup>, and amendments to the basement and public domain.

## 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 bound 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).

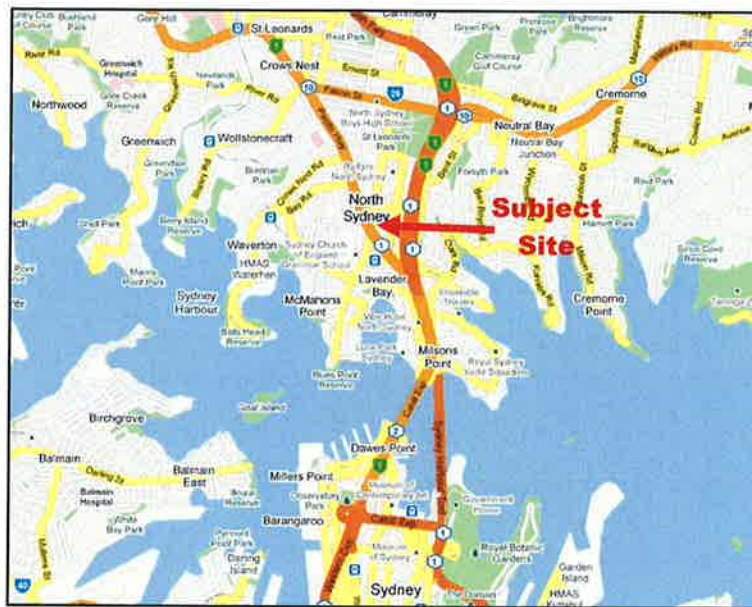


Figure 1: Regional Context

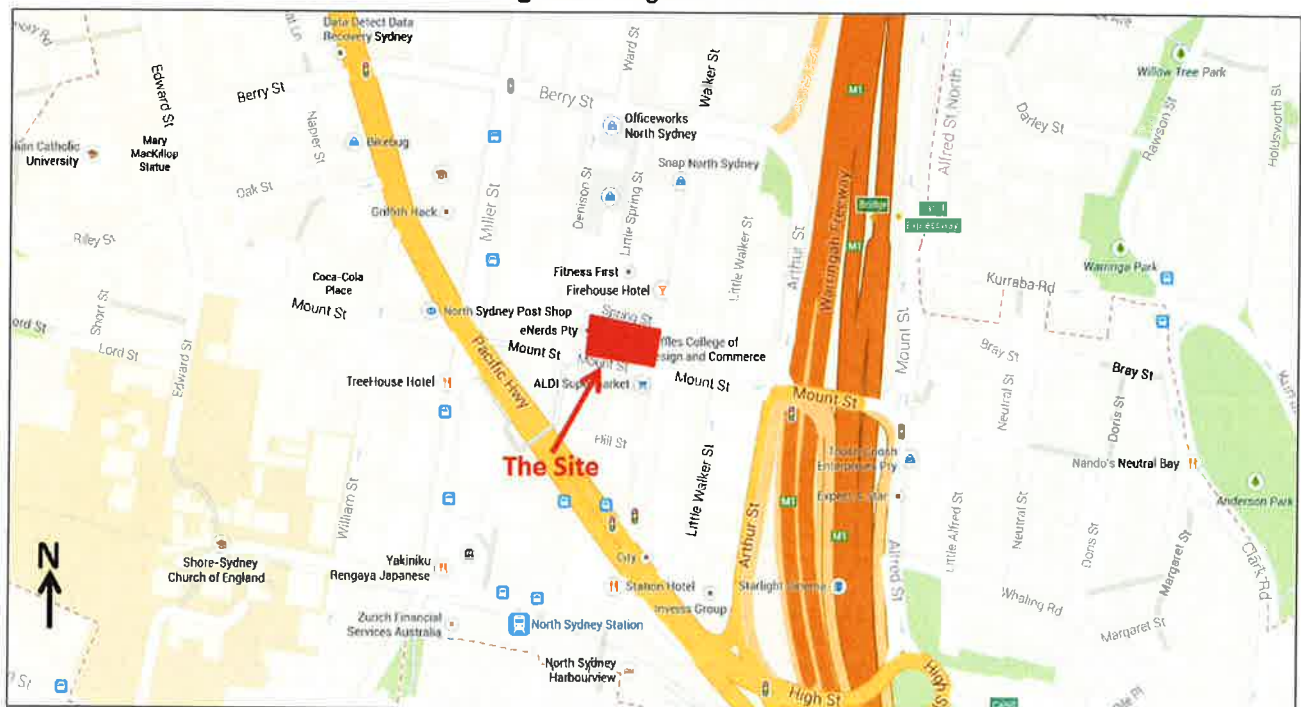


Figure 2: Site Plan



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 1,756m<sup>2</sup>. The two existing allotments currently have separate commercial / retail buildings occupying each lot with a total existing gross floor area of approximately 10,390m<sup>2</sup> (refer to Figure 3.)

**86-96 Mount Street:** (1,087m<sup>2</sup>) features a 1980's-era part 9 / part 10 storey mixed commercial and retail building with a split level through-site link between Mount Street and Spring Street featuring retail tenancies on the lower level and commercial foyer / lobby on the upper level.

**100 Mount Street:** (669m<sup>2</sup>) 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. Vehicular access to the site is currently from Spring Street, which provides access to loading docks and basement car parking levels as well as at-grade access to plant rooms and fire stairs.

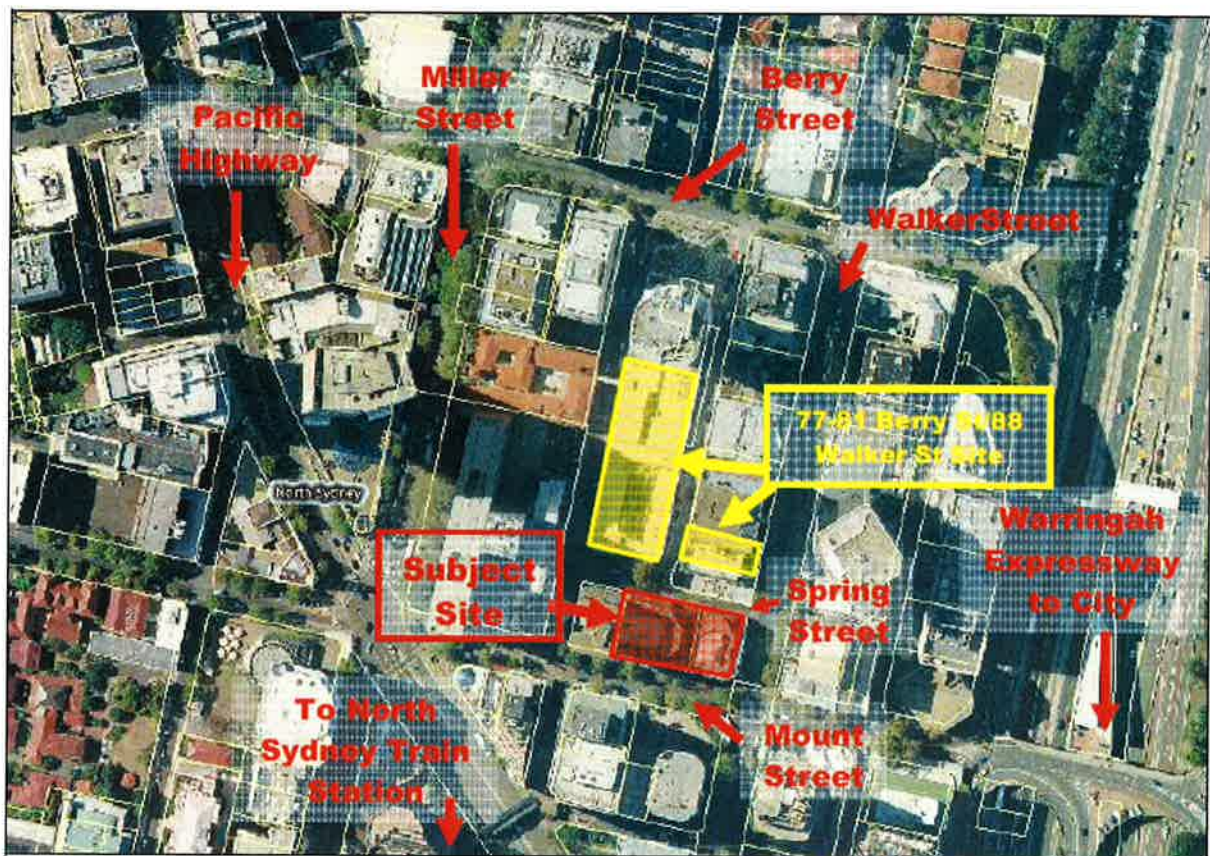


Figure 3: Site and Locality Plan

## 1.2 Previous Approvals

On 25 May 2010, the then Minister for Planning approved the Concept Plan (MP 08\_0241), for the following:

- demolition of the existing buildings on both sites for development use of commercial and retail purposes;
- a gross floor area of 38,733m<sup>2</sup>;
- a building of 39 stories with a height of 145.7 metres;
- excavation for 5 levels of basement providing 130 car parking space;
- vehicular access and loading docks off Spring Street; and
- 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 Concept Plan was approved at project detail, subject to conditions. No future environmental assessment requirements were imposed pursuant to Section 75P(1)(c) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

On 16 February 2012, the Department approved a modification to the Concept Approval (MP 08\_0241 MOD 1) for:

- an additional 6,334m<sup>2</sup> of gross floor area (total of 45,067m<sup>2</sup>);
- 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 parking spaces to 6 spaces;
- the provision of building plant within each level; and
- relocation of amenities floor to above ground.

## 2. PROPOSED MODIFICATION

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The proposal seeks to modify the Concept Approval as follows:

- external modifications to the building form including;
  - minor design changes to the northern, eastern and southern façades;
  - extension of the curtain wall screen to the uppermost point of the building;
  - removal of louvres; and
  - changes to the structural steel brace feature on the eastern elevation;
- additional commercial office space at the plant level with access to the adjoining roof terrace space;
- reduction in overall maximum building height from RL 199.7m AHD to RL 198m AHD (reduction of 1.7 metres) achieved through enclosure of the plant levels at the upper building parapet;
- raised roof level from RL 194.7m AHD to RL 196.7m AHD (an increase of 2 metres) to provide:
  - an additional mezzanine level above the plant level;
  - new accessible roof terrace area;

- an increase of GFA from 45,067m<sup>2</sup> to 45,539m<sup>2</sup> (additional 472m<sup>2</sup>);
- enclosure of the ground floor lobby space to provide weather protection;
- an additional mezzanine at the ground floor level to accommodate a building manager's office on the western side of the building;
- amendments to the layout of ground and lower ground levels;
- amend various elements of the public domain;
- provision of 28 outdoor bicycle spaces in the south western corner and 10 spaces in the north western corner of the site;
- reconfiguration of basement levels; and
- amend condition B46 relating to criteria for noise from plant.

**Table 1** provides a summary of the key changes to the development in comparison to the approved development.

**Table 1:** Key figures for the proposed modifications

	<b>Approved Development</b>	<b>Proposed Modifications</b>
<b>GFA</b>	45,067m <sup>2</sup>	45,539m <sup>2</sup> (additional 472m <sup>2</sup> )
<b>Net Lettable Area</b>	40,893m <sup>2</sup>	41,106m <sup>2</sup> (additional 213m <sup>2</sup> )
<b>Building Height</b>	<u>RL 199.7 AHD</u>	<u>RL 198 AHD</u> (reduction of 1.7 metres)
<b>Parking</b>	113 spaces over 6 levels	No change.
<b>Vehicular Access Point</b>	1 vehicular access point off Walker Street	No change
<b>Retail Tenancies</b>	1 large retail space at lower ground (retail) level and a cafe at the ground (lobby) level above.	1 large retail space at lower ground level and cafe at ground (lobby) level above.
<b>Storeys</b>	Total 36 including: 1 retail; 1 plaza/lobby level; 1 amenity level; 1 storey of plant at roof level; and 32 storeys of commercial.	Total of 38 comprising: 1 retail; 1 plaza/lobby level; 1 ground floor mezzanine level; 1 amenity level; 2 storeys of plant at roof top; and 32 storeys of commercial.





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

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



## 2.1 Modification to Conditions of Project Approval

The proposed modification as outlined above requires the amendment of six approval conditions. The proposed changes are summarised and explained in the **Table 2** below. The full wording of the modified conditions are provided in **Appendix C**.

**Table 2:** Proposed modifications to conditions

Condition	Proposed Change	Proponent Reasoning	Department Agree/Disagree
Condition (A2) Development in Accordance with Plans and Documents	Deletion of list of approved plans and inserting a new set of plans.	Adjustments in response to proposed modifications detailed above.	✓
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 change in public domain and building work materials/ amended proposed materials.	Council requirements have changed, allowing more options in pavement choice rather than North Sydney Council's CBD Sandstone paver.	✓
Condition (B43) Transport Management Plans	Alter condition to remove the truck hoist.	A hoist is no longer included in the proposal.	✓
Condition (B46) Noise from Plant	Alter condition to clarify the noise assessment criteria for plant.	Current condition is unclear on the assessment criteria for noise from plant and is proposed to be amended to provide greater certainty.	✓
Condition (E1) Occupation Certificate to be submitted	Remove point 5 and consolidate as part of point 4 to clarify an error in drafting of the condition.	Proponent has noted it as a typing error.	✓
Condition (E6) Covenant for Windows on the Western Elevation	Condition is proposed to be removed.	Condition is no longer necessary as no windows are proposed at the western elevation of the approved scheme.	✓
Condition (E23) Required Tree Planting	Alter condition to reflect the required number of street trees from 3 to 2.	To make allowance for car park driveway crossover to the site.	✓

## 3. STATUTORY CONTEXT

### 3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A to the EP&A Act, Section 75W of the EP&A 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 EP&A Act.

### 3.2 Modification of the Minister's Approval

The modification of the Minister's approval by way of Section 75W of the EP&A Act is appropriate because the proposal is consistent with the original approval. The application has been lodged with the Secretary pursuant to Section 75W of the EP&A Act. The Section provides for the modification of a Minister's approval including "revoking or varying a condition of the approval or imposing an additional condition of the approval".

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to modify aspects of the Concept Approval, which require further assessment and therefore modification approval is required.

### 3.3 Environmental Assessment Requirements

Section 75W (3) of the EP&A Act provides that the Secretary may notify the proponent of environmental assessment requirements 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), as sufficient information was provided to the Department to consider the application.

### 3.4 Delegated Authority

The Minister for Planning has delegated her functions to determine modification requests under Section 75W of the EP&A Act to the Secretary of the Department of Planning and Environment in cases where:

- the relevant local council has not made an objection;
- a political donations disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections to the proposal.

North Sydney Council has not made an objection, no donations have been disclosed in relation to this or any previous application, and no public submissions were received. Accordingly, the application is able to be determined by the Secretary, under delegation.

## 4. CONSULTATION AND SUBMISSIONS

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In accordance with Section 75X of the EP&A Act, and clause 8G of the EP&A Regulation, the Department is required to make the modification request publicly available. The modification request was made available on the Department's website. Due to the nature of the proposal, the modification request was not exhibited by any other means. The proposal was referred to North Sydney Council and Transport for NSW for comment. No public submissions were received on the modification request.

**North Sydney Council** raise no objection with the proposal. Conditions of approval were recommended in relation to bicycle parking, public domain, loading dock design, plant noise management, and Section 94 Contributions.

**Transport for NSW (TfNSW)** provided comments on the additional railway infrastructure contribution required as a result of the proposed increase in GFA. Following clarification from the Proponent, TfNSW provided formal comments advising that the applicable increase in railway infrastructure contributions as a result of the proposal is \$55,257.

A more detailed discussion of these matters is provided in **Section 5**.

## 5. ASSESSMENT

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The Department considers the key issues for the proposed modification to be:

- built form and appearance;
- additional gross floor area;
- lower ground and upper ground floor level urban design and public domain;
- parking and vehicular access; and
- plant noise.

### 5.1 Built Form and Appearance

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

- 1.7 metre reduction in maximum building height from RL 199.7m AHD to RL 198m AHD;
- raised roof level from RL 194.7m AHD to RL 196.7m AHD to provide:
  - additional plant mezzanine level above the plant level;
  - new accessible roof terrace area;
- extension of the curtain wall screen to the uppermost point of the building to enclose plant and other structural building elements;
- modification to the structural brace running from the ground floor to the roof on the eastern elevation;
- removal of portions of louvres from the spine section of the north and south elevation running from the top to bottom to provide windows for bathrooms;
- enclosure the ground floor lobby level with glazing to provide weather protection;
- an additional ground floor mezzanine to accommodate a building managers office on the western side of the building; and
- additional commercial office space at the plant level with access to the accompanying roof terrace space at the plant level.

A comparison of the approved building and proposed external changes to the façade is shown in **Figure 6**.

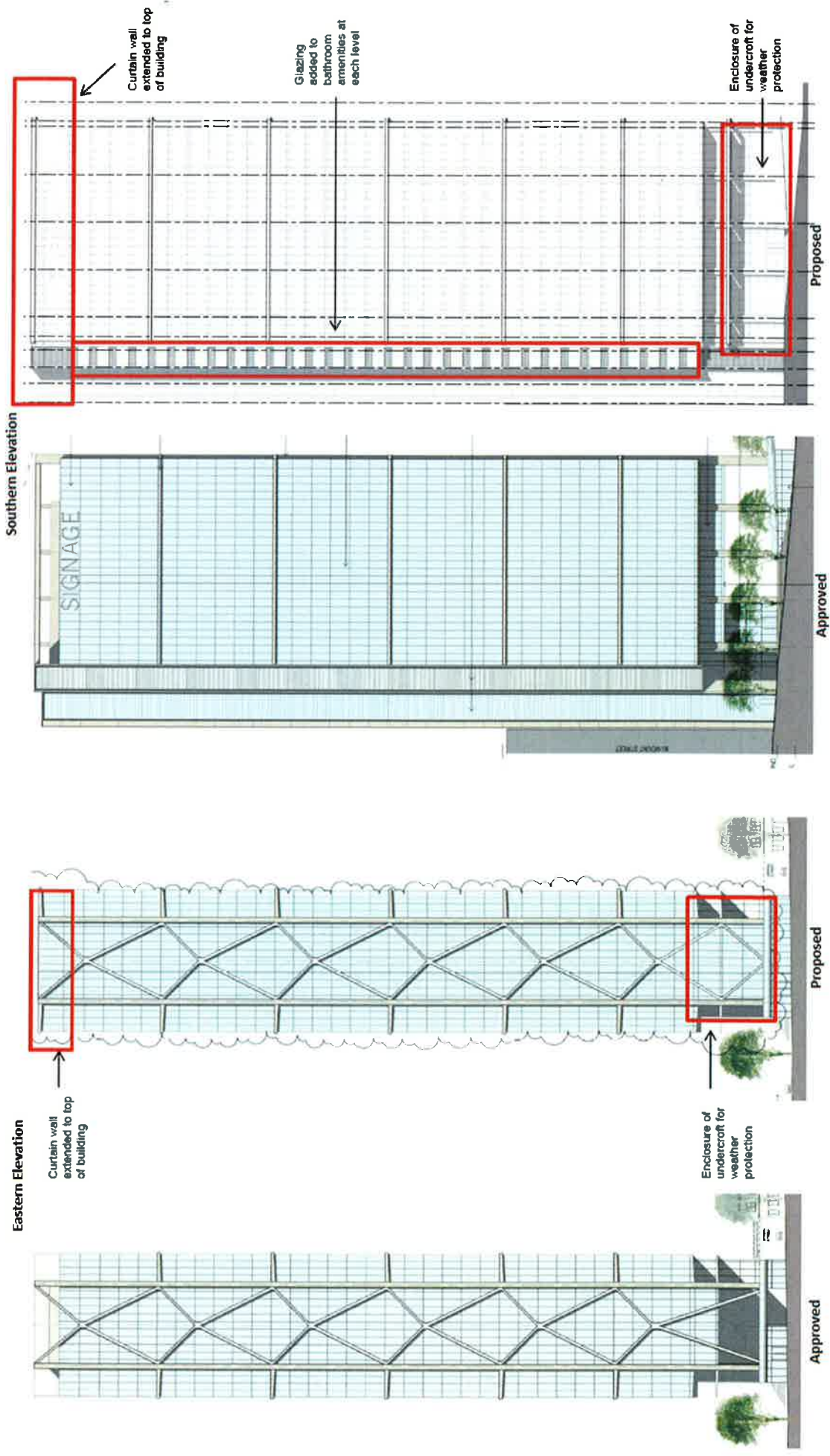
Council raise no objection with the proposed changes.

The Department notes the raised roof level from RL 194.7m AHD to 196.7m AHD enables the provision of an additional plant mezzanine level comprised of some plant and mainly void areas. Whilst the roof level is raised the Department notes the maximum building height of the building is reduced by 1.7 metres (from RL 199.7m AHD to RL 198m AHD). The Department is satisfied the minor increase in the height of the roof level and overall mass of the building would not be discernable from the street level. Further the overshadowing impact would be consistent with that approved given the approved development comprised parapet brace blades which provide a similar overshadowing impact as the proposal.

The Department concludes that the proposed external modifications are minor and will provide a refined appearance to the building particularly at the upper level, screening plant from view. The removal of louvres to provide windows for bathrooms, and enclosure of the ground floor lobby with glazing will enhance the amenity of future building occupants.

Overall, the modifications will not result in any discernible increase to the approved height or mass. The Department concludes the proposed external modifications to the façade treatment is generally consistent with the design character of the approved development and is therefore acceptable.





**Figure 6:** Comparison of the approved and proposed external facades

## 5.2 Additional Gross Floor Area

The proposal seeks to increase GFA by 472m<sup>2</sup> (from 45,067m<sup>2</sup> to 45,539m<sup>2</sup>). This would be by:

- enclosing the ground floor lobby area;
- provision of an additional roof top commercial tenancy; and
- enlarging the café/retail space on the retail level.

The Department supports the minor increase on the basis that the additional GFA is achieved within the same general building envelope.

Further, the proposed increase in GFA is consistent with the objective of the North Sydney Local Environmental Plan 2001 as it will contribute toward the growth of the North Sydney Centre as a commercial centre.

Conditions B5 'Monetary Contributions' and B6 'Railway Infrastructure' are 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.

## 5.3 Lower Ground Floor and Ground Floor Level Urban Design and Public Domain

The site features a fall of approximately 5 metres, generally from west to east (to Walker Street). The approved building features a lower ground floor and ground floor level comprising:

- ground floor level: an open plan lobby area which serves as a through-site pedestrian link during the hours of operation of the building, and a café / restaurant on the eastern side of the building; and
- lower ground floor level: a café / restaurant retail shop on the eastern side of the building with an outdoor seating area, and driveway access to the basement car park levels (**Figure 7**).

The proposal involves the modifications to the lower ground and ground floor level layout, and various elements of the public domain design and treatment including:

- increase in the size of the retail/café area and outdoor seating area;
- enclosure of the ground floor café and through site link with glazing for weather protection;
- granite pavers for the public domain (Walker, Spring and Mount Street pavements) to be discussed and agreed with Council;
- provision of 28 external bicycle spaces in the south western corner of the site, and 10 spaces in the north western corner of the site;
- reduction of street trees at Walker Street from three to two to make allowance for car park driveway cross over to the site; and
- other minor layout changes (**Figure 7**).

The Department concludes that the proposed changes are acceptable. The modifications to the lower ground floor and ground floor levels will improve the overall useability of the ground floor space and public domain. Further, the increase in the retail/café area will further activate the façade, public domain and through site access. The reduction in trees is appropriate given the original approval for three trees did not consider the requirements for a driveway crossover at Walker Street, approved as part of MOD 1.

Council did not raise any objections to the proposed changes but has requested that a condition of approval be provided requiring that the proposed bike parking and final public domain design comply with Council's Public Domain Style Manual (and other relevant standards) and be approved by Council. The Department has recommended an appropriate condition of approval.



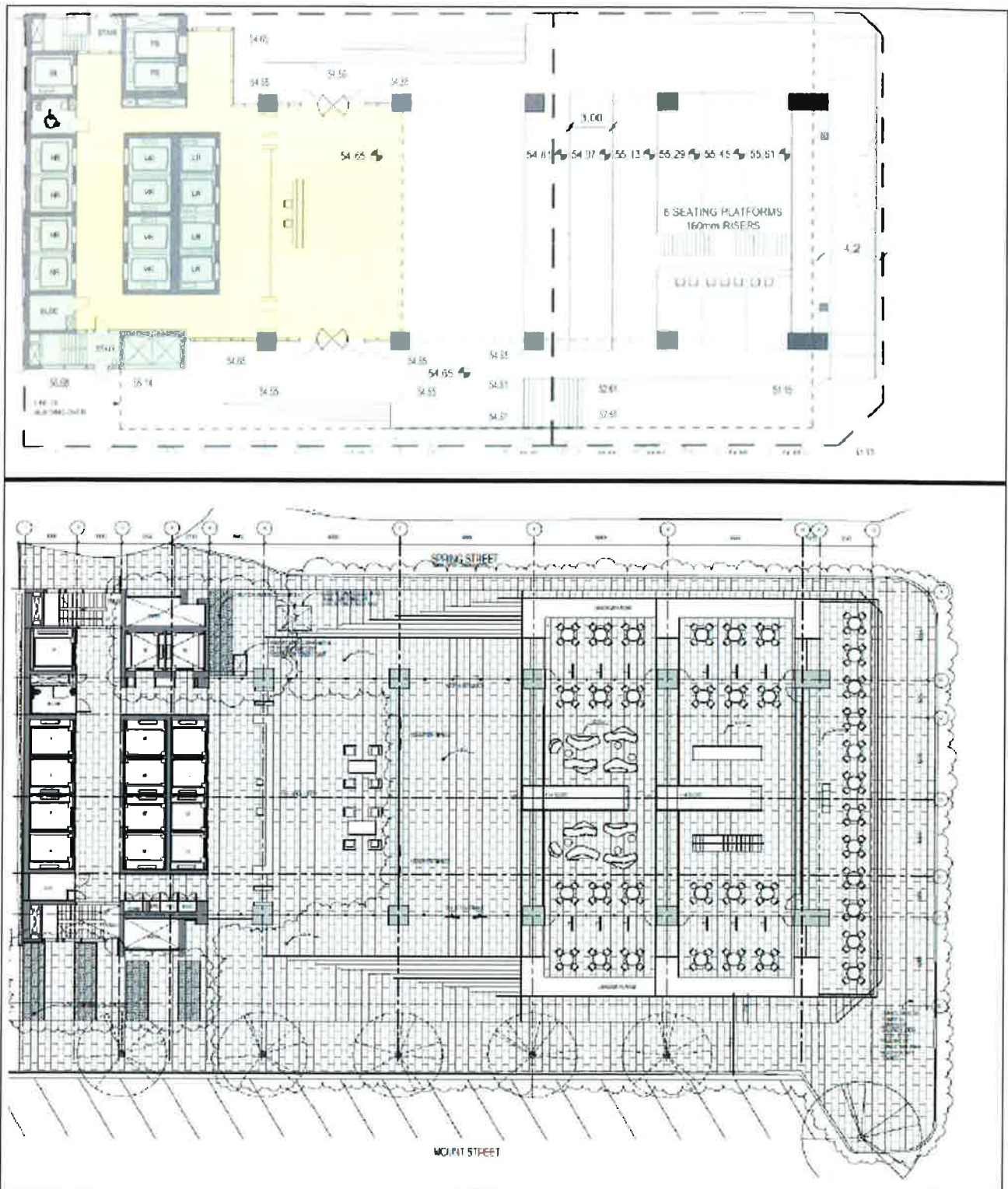


Figure 7: Comparison of approved ground floor (above) and proposed ground floor (below) layout.

## 5.4 Parking and Vehicular Access

The proposal seeks to reconfigure the basement layout with key changes including:

- enlarged basement level B6;
- reduced basement level B3 at the south eastern corner to respond to CBD rail link excavation requirements;
- rearrangement of car parking at various levels whilst providing the approved 113 car spaces over 6 levels;
- consolidation and relocation of all bicycle parking to basement level B2; and



- new security/ dock manager space and amenities.

The Department notes that the reconfigured basement layout will not result in any material changes to the overall approved intent and use of the basement levels. The consolidation of bicycle car parking at level B2 will improve its useability for future bicycle users.

Council has raised concern with the ability of Basement Level B1 to comply with AS 2890.2 (Parking Facilities) and has recommended that a condition be imposed for the loading dock to comply with the standard and further plans be submitted demonstrating that medium rigid trucks are able to manoeuvre satisfactorily.

The proponent's traffic engineer has reviewed the design of the loading dock area and considers that the design complies with the standard with the exception of the vehicle clearance height which requires 4.5 metres. The proponent notes that Condition B39(4) of the approval requires the loading dock to comply with AS2890.2 with the exception of the vehicle clearance height, allowing a 3.6m height clearance. In this regard, the proponent notes the proposal provides a clearance of 4.2 metres and is therefore compliant with the condition.

The Department concludes that the existing Condition B39(4) will ensure the loading dock is functional and accessible in accordance with AS2890.2.

## 5.5 Plant Noise

Condition B46 of the approval specifies the noise criteria for future plant and provides as follows:

### **"B46 Noise from Plant**

*A certificate from an Acoustic Engineer, who is a member or eligible to be a member of the Association of Australian Acoustic Consultants, must be submitted to the Certifying Authority that the noise from plant and mechanical equipment will not exceed more than 5bd(A) above background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00pm) when measured at the boundary of the property, and will comply with the Environmental Protection Authority Industrial Noise Policy.*

*The Certifying Authority must ensure that the building plans and specifications submitted by the Proponent referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition".*

The proponent seeks to amend the condition to clarify the location where noise levels are to be assessed for the plant. The proponent notes that the NSW Industrial Noise Policy requires that noise levels are assessed at the boundary of the receiver (e.g. a neighbouring residential building), not at the boundary of the source building (i.e. the subject site). Arup, the proponent's acoustic engineers, also advised that noise measurements are typically taken at the boundary of the noise receiver.

Council concurs with the proposed amendment and has recommended a revised condition which provides as follows:

### **"B46 Noise from Plant and Equipment**

*A certificate from an Acoustic Engineer, who is a member or eligible to be a member of the Association of Australian Acoustical Consultants, must be submitted to the Certifying Authority certifying that the use of all plant and equipment installed on the premises will not:*

- Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver . The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.*
- Cause "offensive noise" as defined in the Protection of the Environment Operations Act 1997.*

*"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.*

*"boundary" includes any window or elevated window of an affected receiver.*

*Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority."*

The proponent accepts Council's recommended condition but notes that the proposal does not include strata subdivision and therefore references to strata schemes is not applicable and should be removed. The Department concludes that this is appropriate and has recommended the condition be amended accordingly.

## **5.6 Deletion of Condition E6**

The proposal seeks to delete Condition E6 which requires a covenant be established removing rights to the windows on the western elevation, to allow for the development of the adjoining property at No. 84 Mount Street. The Proponent contends that the condition is no longer applicable as no windows are proposed at the western elevation.

The Department notes that all windows were removed from the western façade as part of MOD 1. The Department agrees that the condition is no longer necessary and supports removal of the condition.

## 6. CONCLUSION AND RECOMMENDATIONS

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The proposal seeks modifications to the approved commercial and retail development including an increase to the gross floor area, reorganisation of the basement level layouts, changes to the palette of materials in the public domain, external presentation and materials, additional plant mezzanine level, and the configuration of plant and services.

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

It is recommended that the Secretary:

- (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 Modifying Instrument (**Appendix C**).

Prepared by:  
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Chris Wilson  
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**Infrastructure and Industry Assessments**

**Approved by**

Carolyn McNally  
**Secretary**



## **APPENDIX A      MODIFICATION REQUEST**

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See the Planning & Infrastructure website at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6359](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6359)

## **APPENDIX B SUBMISSIONS**

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See the Planning & Infrastructure website at

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6359](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6359)

## **APPENDIX C    RECOMMENDED MODIFYING INSTRUMENT**

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