



Planning & Environment

MODIFICATION REQUEST:

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

***Modification to extend approval lapse date
(MP 08_0241 MOD 3)***



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

January 2015

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TABLE OF CONTENTS

1.	BACKGROUND	2
1.1	Site and Locality	2
1.2	Previous Approvals	3
2.	PROPOSED MODIFICATION	4
3.	STATUTORY CONTEXT	4
3.1	Continuing Operation of Part 3A to Modify Approvals	4
3.2	Modification of the Minister's Approval	4
3.3	Secretary's Environmental Assessment Requirements	4
3.4	Delegated Authority	4
4.	CONSULTATION AND SUBMISSIONS	5
4.1	Notification	5
4.2	North Sydney Council	5
5.	ASSESSMENT	5
6.	CONCLUSION	6
7.	RECOMMENDATIONS	6
APPENDIX A	MODIFICATION REQUEST	7
APPENDIX B	SUBMISSIONS	8
APPENDIX C	RECOMMENDED MODIFYING INSTRUMENT	9

1. BACKGROUND

The purpose of this report is to assess an application to modify the Concept Approval (MP 08_0241) for a commercial and retail development at 86-96 and 100 Mount Street, North Sydney, under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 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**).

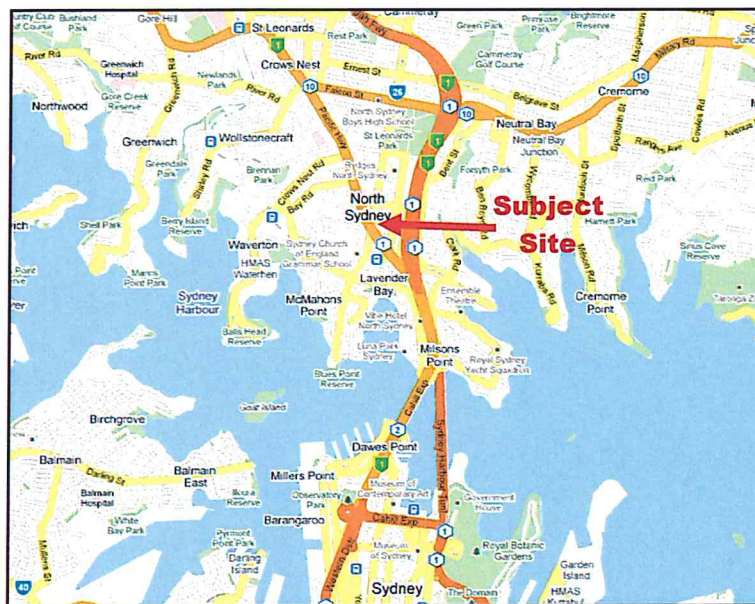


Figure 1: Regional Context

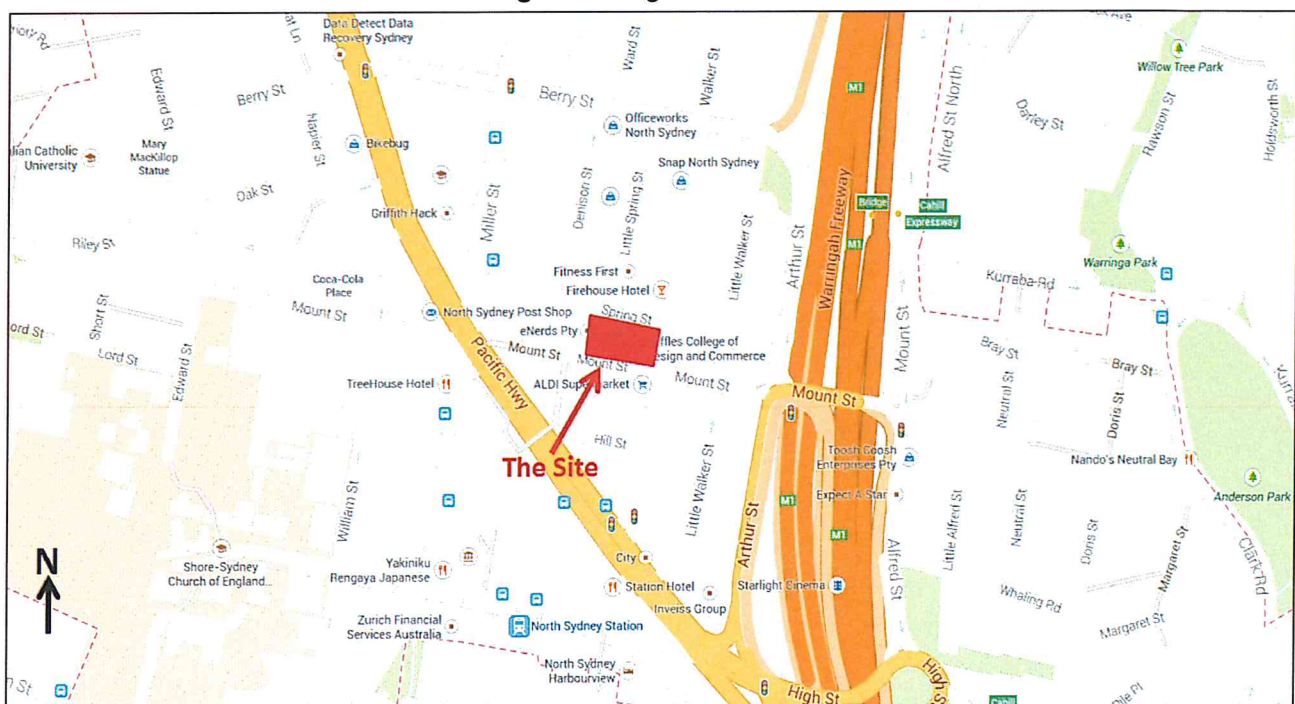


Figure 2: Site Plan

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 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.

The site is currently occupied by a part nine / part ten storey mixed commercial and retail building at 86-96 Mount Street and a seven storey mixed commercial and retail building at 100 Mount Street.

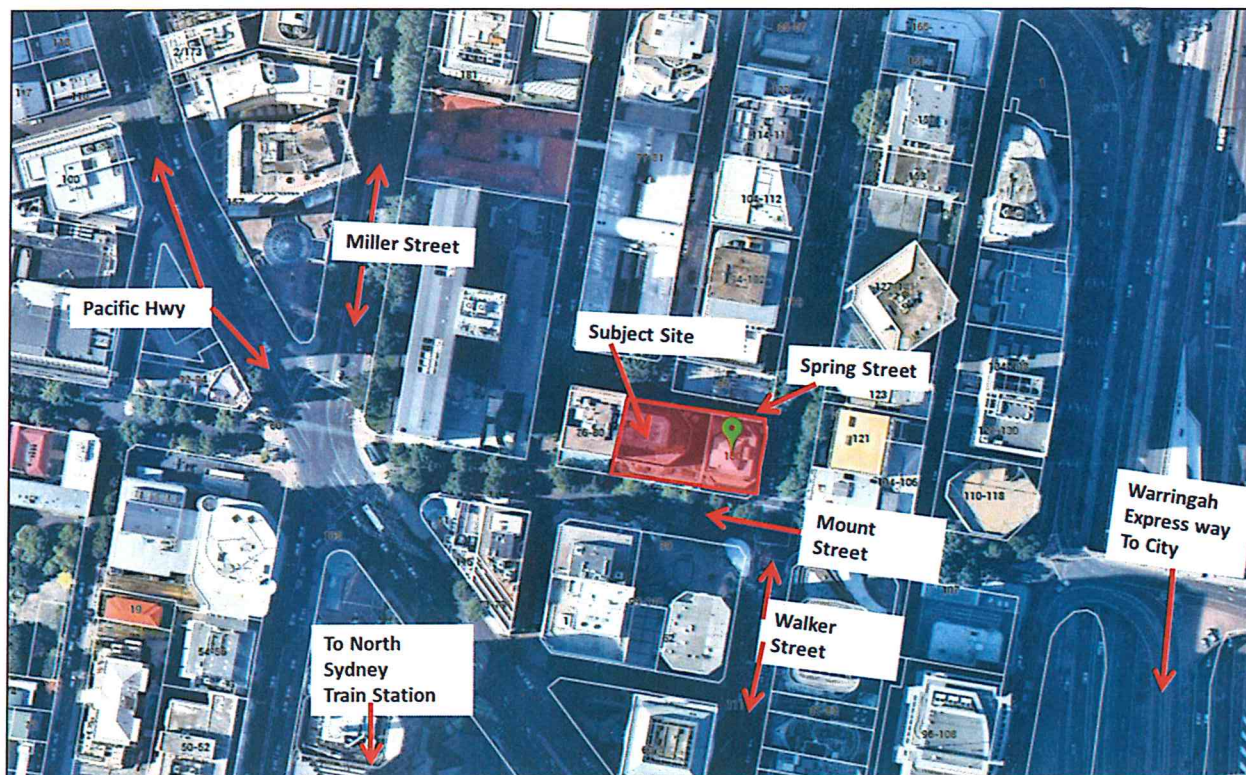


Figure 3: Site and Locality Plan

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 38,733m²;
- a building of 39 stories with a height of 145.7 metres;
- excavation for 5 levels of basement providing 97 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.

No future environmental assessment requirements were imposed on the Concept Approval pursuant to Section 75P(1)(c) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

On 25 May 2010, the Minister also granted Project Approval to the development as outlined in the Concept Plan, subject to conditions.

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

- increase the gross floor area to a total of 45,067m²;
- increase the number of car parking spaces to 113 spaces and provision of an additional basement parking level;

- revise the vehicular access; and
- make internal and external amendments to the building including revised through site links, retail areas, setbacks, plant, façade treatments and materials.

On 10 October 2014, the Secretary of the Department approved a second modification to the Project Approval (MP 08_0241 MOD 2) to:

- make various internal and external amendments to the building form and elements of the public domain design;
- increase the commercial office space at the plant level and gross floor area (from 45,067m² to 45,539m²); and
- make amendments to the layout of the ground and lower ground floor plans and basement levels.

2. PROPOSED MODIFICATION

The application seeks a five year extension to the lapse date of the Concept and Project Approvals (10 May 2015) from the date of determination of this modification request (unless works have physically commenced).

Further details of the proposed modification are provided in **Appendix A**.

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 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

Section 75W (2) of the EP&A Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project as modified would be consistent with the original approval. As the proposal involves modification to the terms of approval, the application will require the Minister's approval.

3.3 Secretary's Environmental Assessment Requirements

In this instance, it was not considered necessary to notify the proponent of the Secretary's Environmental Assessment Requirements pursuant to Section 75W (3) of the EP&A Act, as sufficient information was provided to assess the modification application.

3.4 Delegated Authority

In accordance with the Minister's delegation of 10 November 2014, the Manager, Key Sites who reports to the Executive Director, Infrastructure and Industry Assessments may determine the application as:

- the relevant local Council has not made an objection;
- a political donation disclosure statement has not been made in relation to this or any previous application; and
- no public submissions in the nature of objections have been received.

4. CONSULTATION AND SUBMISSIONS

4.1 Notification

In accordance with Section 75X (2) (f) of the EP&A Act, the Department is required to make the modification request publicly available. The modification request was made available on the Department's website and was referred to North Sydney Council. Due to the minor nature of the proposal, the modification request was not exhibited by any other means. No public submissions were received on the modification request.

4.2 North Sydney Council

Council supports the proposed modification to extend the lapsing date of the approval.

5. ASSESSMENT

As currently approved, the Concept and Project Approval lapses five years from the date of determination (10 May 2015), unless development has physically commenced on the site.

The proposal seeks approval for an extended lapse date, being five years from the date of any approval of this application.

In support of its application, the proponent has advised that it intends to proceed with the development in accordance with the Project Approval (as currently modified). It has undertaken structural design work which has been amended on two occasions following two modifications to the approval. Further, preliminary geotechnical testing has been undertaken on site in accordance with the requirements of the Approval. This work is a precursor to entering into an agreement with RailCorp, also required as part of the Approval before any construction can commence.

Whilst the proponent is of the view that this constitutes physical commencement of work, an extended lapse date is sought for the avoidance of any uncertainty over the lapsing of the Approval in the short term.

Section 75Y of the EP&A Act outlines that the Minister may modify the five year lapsing period, subject to a review of the approval before extending the lapsing period.

The Department considers it appropriate to extend the approval lapse date as the site remains suitable for the mixed-use development envisaged by the Concept Approval, and is consistent with the desired future land use to provide office accommodation in the North Sydney CBD. The extension also allows the existing commercial and retail uses to continue operating while the Proponent pursues leasing negotiations prior to commencing demolition and construction, which is considered a positive outcome for this site in the centre of the North Sydney CBD.

The proposed modification will not alter the overall nature of the Approval as it will continue to achieve the same objectives assessed in the original Approval for commercial and retail development. The Department considers that no other modifications are required.

Having reviewed the requirements under Section 75Y and given the above, the Department finds the modification request is acceptable.

In order to facilitate the proposed modification, the Department recommends that the Concept and Project Approval be amended to provide a revised lapse date of five years, from the date of determination of this modification request, as outlined in **Appendix C**.

6. CONCLUSION

The Department has assessed the application on its merits and is satisfied that it is appropriate to extend the approval lapse date by five years. The Department concludes it is reasonable to nominate an approval lapse date, five years from the date of the determination of this modification request.

The proposed modification is considered reasonable and will result in no environmental impacts beyond those assessed in the Concept and Project Approval for the mixed use development in the North Sydney CBD. The extension to the lapsing date will allow the Proponent additional time to ensure conditions of the Approval are satisfied, pursue lease negotiations and achieve construction finance to deliver a major commercial development providing high quality office accommodation in the North Sydney CBD. On this basis the modification is supported.

7. RECOMMENDATIONS

It is recommended that the Manager, Key Sites:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification request under delegated authority, subject to terms of approval; and
- (c) **sign** the attached Modifying Instruments for Concept Approval and Project Approval (**Appendix C**).

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Endorsed by



Amy Watson
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Approved by



Ben Lusher
Manager
Key Sites

APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6822

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6822



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Attention: Fiona Gibson
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SYDNEY NSW 2001

8 December 2014

Dear Fiona

RE: Section 75W Modification Application (MP 08_0241 MOD 3)
86-96 and 100 Mount Street North Sydney

I refer to the Department's letter dated 26 November 2014 concerning the modification seeking to extend the approval lapse by 5 years.

You are advised that the proposed development is consistent with the current planning controls under North Sydney Local Environment Plan 2013. Council is supportive of the development and accordingly Council has no objection to the modifications sought.

Please contact Council's Executive Planner, Geoff Mossemeneer on 9936 8100 if you have any queries.

Yours faithfully


Joseph Hill
Director City Strategy

APPENDIX C RECOMMENDED MODIFYING INSTRUMENTS
