

Dexus Wholesale Management Limited
ABN: 42 000 001 007

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Sydney NSW 2000

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**Owners Consent: Proposed S4.55(1A) Modification to Major Project ('Application')
90-100 Mount Street, North Sydney ('Premises')**

6 March 2019

Perpetual Trustee Company Limited (PTCL) as registered proprietor of the Premises consents to Urbis submitting the attached Application in respect

On behalf of Laing O'Rourke Mount Street Pty Ltd, we seek to modify Major Project 08_0241 pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (the Act). Specifically, this modification application seeks to make:

- changes to a ground level retail/café tenancy; and
- changes to conditions of consent associated with pre-occupation requirements.

This consent is given on the basis that PTCL will not be responsible for:

- Any work to be carried out to the Premises as a result of or in connection with the Application;
- Any Statutory approvals, all laws and requirements of Authority required by the tenant;
- Any work required to be carried out to the Premises which is properly the responsibility of the applicant because of the applicant's particular use of the property; and
- Any costs associated with the Application (which shall be payable by the applicant).


SIGNED for and on behalf of Perpetual Trustee Company Limited (ABN: 42 000 001 007) in its capacity as Custodian for the Dexus Wholesale Office Trust by its duly authorised attorneys under power of attorney dated 01 September 2015 in the presence of:



Signature of Attorney

JAMES MATTHEW HOUGH

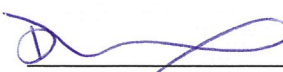
Name of Attorney



Signature of Witness

Sigourney Elizabeth Lemke-Berry

Name of Witness



Signature of Attorney

Della Paola Saccaro

Name of Attorney



**TOWER 2, LEVEL 23
DARLING PARK, 201 SUSSEX ST
SYDNEY NSW 2000**

URBIS.COM.AU
Urbis Pty Ltd
ABN 50 105 256 228

29 February 2019

The Secretary
NSW Department of Planning and Environment
23-33 Bridge Street,
Sydney NSW 2000

Dear Secretary,

100 MOUNT STREET, NORTH SYDNEY - PROPOSED S4.55(1A) MODIFICATION TO MAJOR PROJECT 08_0241 MOD 9

1. INTRODUCTION

On behalf of Laing O'Rourke Mount Street Pty Ltd, we seek to modify Major Project 08_0241 pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (the Act). Specifically, this modification application seeks to make:

- changes to a ground level retail/café tenancy; and
- changes to conditions of consent associated with pre-occupation requirements.

The objectives of the proposed modification are to:

- improve the façade on Spring and Walker Street relating to the Café by relocating the door from Walker Street to Spring Street elevation and installing bi-fold windows on Spring Street and Walker Street.
- allow for the café to be more aesthetically pleasing whilst maintaining the overall building envelope and building materials along Walker Street and Spring Street.
- allow Laing O'Rourke Mount Street Pty Ltd to complete public domain masterplan works through several interim occupation certificates and to allow tenants to commence fitout. A modification of the Planning Approval would allow the Principal Certifying Authority to issue an Interim Occupation Certificate
- allow several conditions of consent relating to road reserve works, preparation of a workplace green travel plan and provision for access and facilities for persons with a disability to be required to be completed prior to the issue of the final Occupation Certificate.

This correspondence provides a description of the site, its context and of the approved project and subsequent modifications, together with a description of the proposed modifications and an Environmental assessment of the proposed modification. This application is supported by the following:

- An amended set of Architectural Drawings (**Attachment A**).

2. BACKGROUND

On the 25 May 2010 the Minister for Planning approved Major Project, MP08_0241, for a Concept Plan pertaining to 86-96 Mount Street and 100 Mount Street North Sydney.

The development approved under MP 08_0241 is summarised as follows:

- *“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.”*

Since this time, eight subsequent modification applications have been sought with the Department of Planning and Environment (the Department) for various changes to the consent. **Table 1** below provides a summary of the past modifications sought to MP08_0241:

Table 1 – Modification Applications

Modification	Consent Date	Summary of Modification
MP 08-0241 MOD 1	16 February 2012	<ul style="list-style-type: none"> • Internal amendments to commercial floor space configuration and ESD performance of the building.
MP 08-0241 MOD 2	10 October 2014	<ul style="list-style-type: none"> • Façade amendments; • Relocation of plant levels; • Reconfiguration of ground and lower ground levels; • Increase to retail space fronting Walker Street • Addition of 472m² of GFA; and • Amend Conditions A2, B5, B6, B8, B43, E1, E6 and E23.
MP 08-0241 MOD 3	21 January 2015	<ul style="list-style-type: none"> • Extension of lapsing date by a period of 5 years from the date of determination.
MP 08-0241 MOD 4	23 March 2016	<ul style="list-style-type: none"> • Increase building height;

Modification	Consent Date	Summary of Modification
MP 08-0241 MOD 5	10 June 2016	<ul style="list-style-type: none"> • Relocation of end-of-trip facilities to basement; • Raise floor level of ground floor restaurant to accommodate lower ground floor mezzanine; • Enclosure of rooftop terrace on L34 and increase office tenancy. • Increase signage zone at top of building (N & S elevations); and • Amend Conditions A2, B5, B6 and E8 reflecting changes. • Extend ground floor restaurant and outdoor seating area to southern boundary; • Replace southern lobby entry door • Reconfigure basement levels to consolidate bicycle parking; • Relocation and reconfiguration and relocation of plant room; • Extend construction hours; and • Amend conditions to be flexible with Councils public domain strategy and rectify conflicts and minor errors.
MP 08-0241 MOD 6	4 May 2017	<ul style="list-style-type: none"> • Increase building height to relocate services level; • Provide outdoor terrace on level 35 with amenities; • Reorganise visitor bicycle parking; and • Amend Conditions A2, B5, B6 and B40 reflecting changes.
MP 08-0241 MOD 7	27 June 2018	<ul style="list-style-type: none"> • an increase in gross floor area (GFA) of 8.83m² (from 47,450m² to 47,458.83m²) for food and

Modification	Consent Date	Summary of Modification
MP08-0241 MOD 8	27 Nov. 2018	<p>beverage uses (takeaway coffee shop) and associated internal and external design alterations</p> <ul style="list-style-type: none"> • changes to the timing for the installation of public art (Condition E8). • Extension of the hours of construction to permit the installation of internal lifts outside of standard hours.

3. PROPOSED MODIFICATION

3.1. SUMMARY

Details of the proposed modification are shown in the plans prepared by Architectus attached at **Appendix A**. The plans are coloured and annotated to identify the proposed development as modified. **Figure 1** to Error! Reference source not found. identifies the proposed changes.

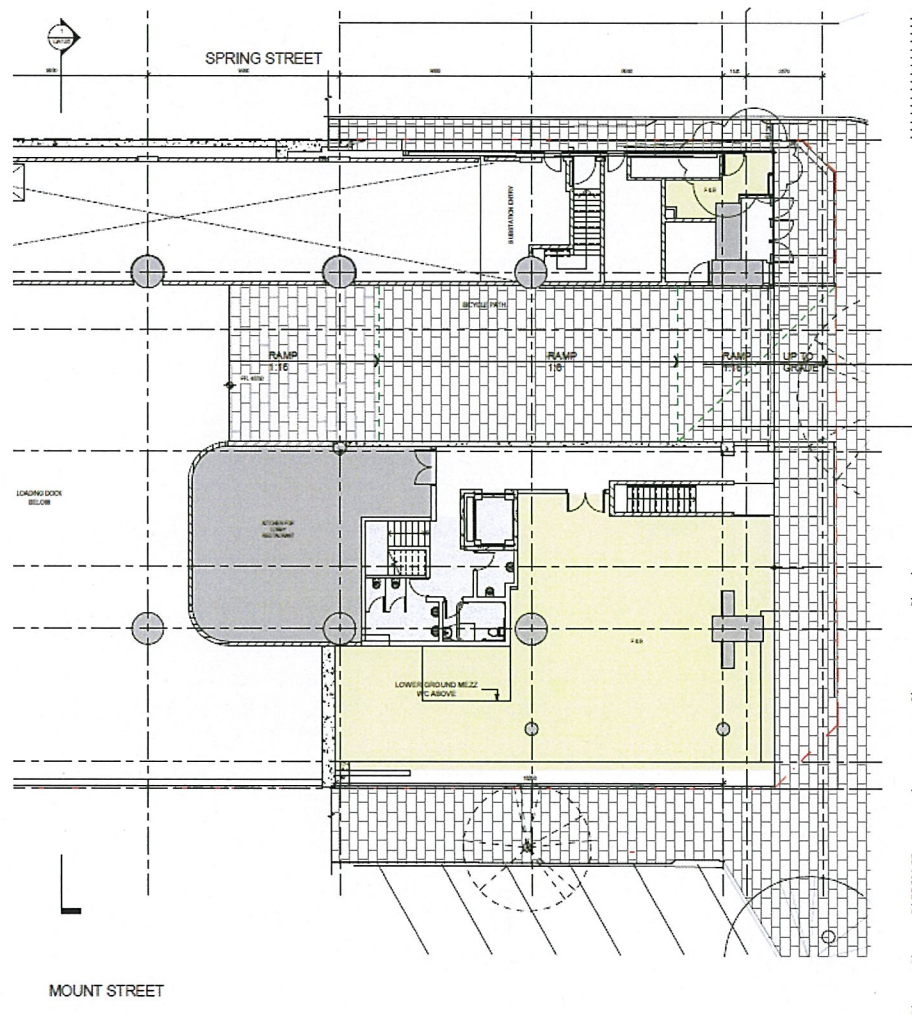
Whilst the intent for building use and functionality is still the same, the modification works sought are to the façade on Spring and Walker Street relating to the Café and summarised as follows:

- Relocation of the door from Walker Street to Spring Street elevation;
- Installation of bi-fold windows on Spring Street and Walker Street;

Essentially, the building envelope would remain in the same position (when all windows are closed) and the building material used would still be still glass along Walker and Spring Street.

Conditions relating to road reserve works, preparation of a workplace green travel plan and provision for access and facilities for persons with a disability would be required to be completed prior to the issue of the final Occupation Certificate.

Figure 1 – Retail Level Plan



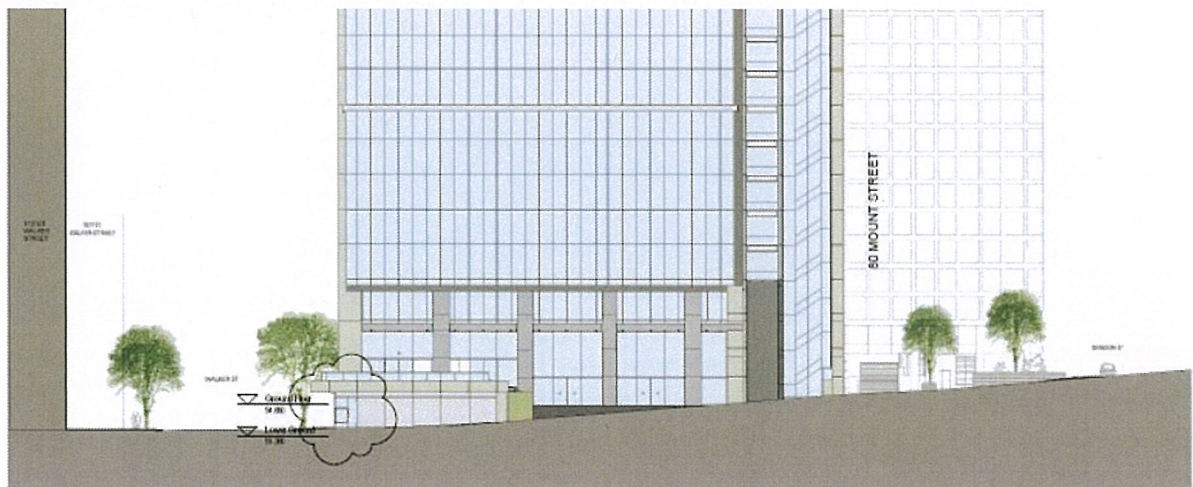
Source: Architectus

Figure 2 – North and East Elevation Plan



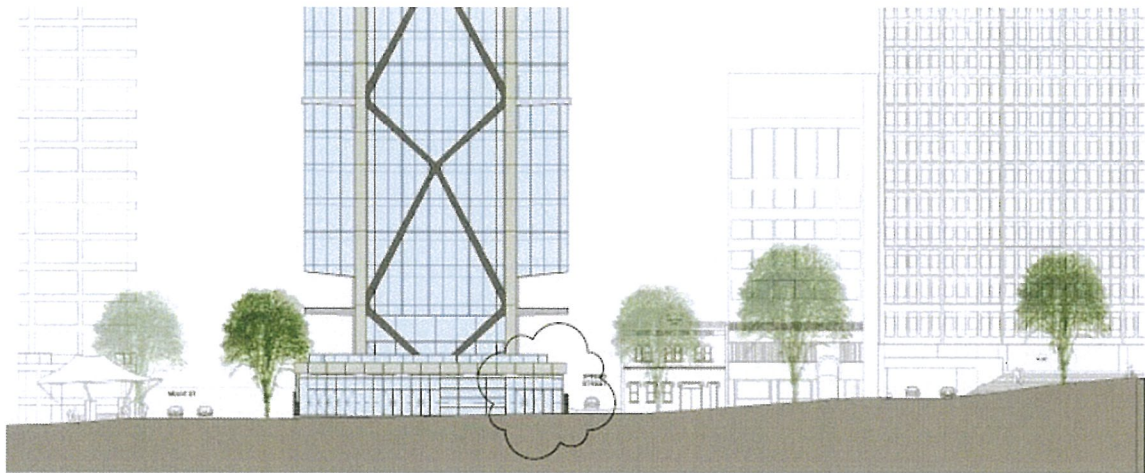
Source: Architectus

Figure 3 – Contextual Elevation North



Source: Architectus

Figure 4 – Contextual Elevation East



Source: Architectus

3.2. LAND USE AND FLOOR AREA

The approved land use mix will not be changed from the approved concept, including a mix of retail and commercial uses. The building envelope will remain consistent with the approved development with no increase in GFA.

3.3. HOURS OF OPERATION

Operation hours will remain unchanged.

3.4. MODIFICATION TO CONSENT 08_0241 MOD 8

3.4.1. Condition A2

It is proposed to modify the development consent conditions to replace the architectural drawings called up in Schedule 2 Condition A2. The modified plans are incorporated in the modified version of Condition A2 below, with new text in **red** and deleted text in ~~strikethrough~~.

A2 Development in Accordance with Plans and Documentation

The development will be undertaken in accordance with MP 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 as amended by:



- (a) 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);
- (b) MP08_0241 MOD 2, the Section 75W Modification prepared by Urbis dated December 2013;
- (c) MP08_0241 MOD 4, the Section 75W Modification prepared by Urbis dated December 2015, and Response to Submissions dated 25 February 2016;
- (d) MP08_0241 MOD 5, the Section 75W Modification prepared by Urbis dated June 2016, and Response to Submissions dated 22 August 2016;
- (e) MP08_0241 MOD 6 the Section 75W Modification prepared by Urbis dated December 2016 and Response to Submissions dated 20 March 2017;
- (f) MP08_0241 MOD 7 the Section 4.55(1A) Modification prepared by Urbis dated March 2018;
- (g) MP08_0241 MOD 8 the Section 4.55(1A) Modification prepared by Urbis dated September 2018;
- (h) **MP08_0241 MOD 9 the Section 4.55(1A) Modification prepared by Urbis dated February 2019 and the following drawings:**

Architectural (or Design) Drawings prepared Skidmore, Owings & Merrill LLP and Architectus Sydney Pty Ltd			
Drawing No.	Rev	Name of Plan	Date
DA 100	G -H	Cover Sheet	09.03.18 25.02.19
DA 104	A	Existing Site Survey	12.08.11
DA 107	E	Ground Plane	18.05.16
DA 109	D	Site Plan	18.05.16
DA 116	F	Ground Floor Plan	08.12.16
DA 116-1	B	Plan - Retail Mezzanine	18.05.16
DA 117	F -H	Retail Level Plan	09.03.18 25.02.19
DA 118	D	Plan - B1 Level	18.05.16
DA 119	D	Plan - B2 Level	18.05.16
DA 120	D	Plan - B3 Level	18.05.16
DA 121	D	Plan - B4 Level	18.05.16



DA 122	E	Plan - B5 Level	18.05.16
DA 123	E	Plan - B6 Level	18.05.16
DA 124	D	General Arrangement Plan - Ground Mezzanine (Management Office)	18.05.16
DA 124-1	D	General Arrangement Plan - Level 1 (Amenities)	18.05.16
DA 124-2	B	Level 1 Mezzanine - Plant	18.05.16
DA125	C	Plan - Typical Low Rise Level	16.12.15
DA 126	C	Plan - Typical Mid Rise Level	16.12.15
DA 127	C	Plan - Typical High Rise Level	16.12.15
DA 127-1	D	Plan - Level 34	08.12.16
DA 128	F	Plan Level 35	08.12.16
DA 128-1	F	Plan - Level 36	08.12.16
DA 128-2	B	Plan Level 37	08.12.16
DA 129	E	Roof Plan	08.12.16
DA 130	G-H	North + East Elevations	09.03.18 25.02.19
DA 130-1	F-G	Contextual Elevation - North	08.12.16 25.02.19
DA 130-2	G-H	Contextual Elevation - East	09.03.18 25.02.19
DA 131	F	South + West Elevations	08.12.16
DA 131-1	F	Contextual Elevation - South	08.12.16
DA 132	G	Building Sections	08.12.16
DA 133	F	Roof Sections	08.12.16
DA 134	D	Roof Rendering	08.12.16
DA 135	D	Basement Sections	18.05.16

DA 139	J	Area Schedule	09.03.18
DA 140	B	Material Board	16.12.11

3.4.2. Condition E5

E5 Public infrastructure Repair and Completion of Works

*Prior to issue ~~of any~~ **the final** Occupation Certificate all required works in the road reserve must be completed in full and any damaged public infrastructure caused as a result of construction works on the subject site must be fully repaired to the satisfaction of Council's engineers at no cost to Council*

3.4.3. Condition E7

E7 Green Travel Plan

*A workplace green travel plan is to be developed to highlight to staff the available public and alternative transport options for travelling to the site. The plan is to include wayfinding strategies and travel access guides. This is to be submitted to Council for approval by the Director of Engineering and Property Services prior to the issue of the **final** Occupation Certificate*

3.4.4. Condition E9

E9 Infrastructure Repair and Completion of Works

*Prior to the issue ~~of any~~ **the final** Occupation Certificate all required works in the road reserve must be completed in full and any damaged public infrastructure caused as a result of construction works on the subject site must be fully repaired to the satisfaction of Council's engineers at no cost to Council*

3.4.5. Condition E11

E11 Access for People with Disabilities

*Prior to issue ~~of any~~ **the final** Occupation Certificate, provision shall be made for access and facilities for persons with a disability in accordance with the Building Code of Australia*

4. SECTION 4.55(1A) ASSESSMENT

4.1. POTENTIAL ENVIRONMENTAL IMPACT

The proposed modification is for minor changes to MP 08_0241, which do not alter the context, scale, or built form of the approved development. The works relate to a very small area of the lower ground façade that do not have any built form impacts.

The proposed modification will have minimal additional environmental impacts over and above that which has already been assessed as acceptable in the original development application and subsequent modifications.

Potential impacts in terms of streetscape and public domain, of the takeaway café use are addressed in detail in Section 5.2 of this submission.

4.2. SUBSTANTIALLY THE SAME DEVELOPMENT

The proposed development, as modified, will be substantially the same development as that originally approved in MP08_0241 as there are no changes to:

- Approved use or operational parameters of the building;
- Staff numbers, opening hours or other management processes proposed;
- Approved site layout or building envelope
- Parking numbers remain unchanged; or
- The level of environmental impact is minimal and substantially the same as the impacts of the approved development.

4.3. PUBLIC NOTIFICATION AND SUBMISSIONS

The Section 4.55 (1A) modification may be publicly notified in accordance with the provisions of *DCP 2013 – Notification* and any third-party submissions will need to be assessed by Council.

5. SECTION 4.15 ASSESSMENT

The matters referred to in Section 4.15 of the Environmental Planning and Assessment Act 1979 also need to be considered in the assessment of the proposed modification. Each of the matters relevant to the proposal is assessed overleaf:

Table 2 – Section 4.15 Compliance

Section 4.15 relevant extract	Summary of Compliance
(a)(i) any environmental planning instrument	<p>The proposed modification has been assessed in accordance with the relevant planning controls. The application has been submitted in accordance with the requirements of Section 4.55 (1A) of the Environmental Planning and Assessment Act 1979.</p> <p>The proposed amendment does not impact on compliance of the development with any other provisions of the state, regional and local planning controls.</p> <p>Refer to the Section 5.1 below.</p>

Section 4.15 relevant extract	Summary of Compliance
<i>(a)(ii) any proposed instrument that is or has been the subject of public consultation</i>	None relevant to the proposal.
<i>(a)(iii) any development control plan</i>	The North Sydney Development Control Plan 2002 (NSDCP 2002) applied to the scheme approval. It is noted that North Sydney Development Control Plan 2013 (NSDCP 2013) has subsequently come into effect. The proposed modifications remain compliant with the NSDCP 2013 from the approved scheme, MP08_0241 MOD 8.
<i>(a)(iia) any planning agreement or any draft planning agreement</i>	None relevant to the proposal.
<i>(a)(iv) the regulations</i>	None relevant to proposal.
<i>(a)(v) any coastal zone management plan</i>	None relevant to the proposal.
<i>(b) the likely environmental, social and economic impacts</i>	<p>The proposed minor amendment to the project staging will not result in any significant environmental, social or economic impacts. A summary is provided below in Section 5.2.</p> <p>There would be economic benefits as the façade changes would make the café more aesthetically pleasing and increase revenue generated.</p>
<i>(c) the suitability of the site</i>	The proposed modification will not result in any changes that would affect the suitability of the site to accommodate the proposed development.
<i>(d) any submissions</i>	It is acknowledged that any submissions arising from the public notification of the Section 4.55 (1A) application will need to be assessed by Council.
<i>(e) the public interest</i>	It is considered that the proposed modification does not contravene the public interest.

5.1. STATUTORY PLANNING ASSESSMENT

5.1.1. State Environmental Planning Policy (State and Regional Development) 2011

The original Part 3A approval had regard to the Director General's Environmental Assessment Requirements (DGRs) issued 30 April 2009, with the subsequent eight modification applications also having regard. In this respect, there are no material or substantial changes sought which would warrant DGRs being re-issued for this Modification Application as the works are relatively minor in nature.

5.1.2. North Sydney Local Environmental Plans 2001 and 2013

The *North Sydney Local Environmental Plan 2001* (NLEP 2001) was the principal Local Environmental Planning Instrument under which the original project approval was determined, governing development of the site. It is noted that the *North Sydney Local Environmental Plan 2013* (NLEP 2013) has since come into effect which amends provisions of LEP 2001 with respect to development within the City Centre.

The proposed modifications do not alter the level of compliance with the NLEP 2001 objectives from the approved original scheme because there are no changes to the built form, height or level of external impact.

The *North Sydney Local Environmental Plan 2001* has been superseded by the *North Sydney Local Environmental Plan 2013* (NLEP 2013). The proposal remains consistent with the objectives of the NLEP 2013.

5.2. ENVIRONMENTAL IMPACT CONSIDERATIONS

The proposed modifications have the following environmental impacts:

5.2.1. Building modification works

The proposed building works are relatively minor and would have minimal impact to the overall design and intent of the approved building and surrounding streetscape. The building use and functionality would remain unchanged with the only works to the façade of the Café along Spring and Walker Street frontage. In this regard, it is considered that a redesign of the café entrance would allow for a greater appreciation for the café to patrons and pedestrians alike by "opening it to the street".

To allow for the café to be more aesthetically pleasing the entrance door is proposed to be relocated from Walker Street to the Spring Street elevation. This façade space created would allow for bi-fold windows to be installed on Spring Street and Walker Street.

The overall building envelope would remain the same when all windows are closed and building materials would still be glass on Walker Street and Spring Street.

The proposed modification is seeking to improve the streetscape under the current approval.

5.2.2. Conditions to be modified

The changes to the specific conditions outlined in Section 3.5 of this SEE would allow Laing O'Rourke Mount Street Pty Ltd to complete public domain masterplan works through several interim occupation certificates to allow tenants to commence fitout.

A modification of the Planning Approval would allow the Principal Certifying Authority to issue Interim Occupation Certificate for the public domain works to be undertaken. In this regard, the following would be required to be completed prior to the issue of the final Occupation Certificate:

- road reserve works must be fully completed, and any damaged public infrastructure must be fully repaired;
- a workplace green travel plan is to be developed and submitted to Council for approval;
- works in the road reserve must be completed and fully repaired to Council's satisfaction; and
- provision shall be made for access and facilities for persons with a disability in accordance with the Building Code of Australia.

6. CONCLUSION

The proposed modification sought includes minor changes to the ground level retail/café tenancy and changes to conditions of consent associated with pre-occupation requirements.

The modified proposal has been assessed against the relevant planning provisions under Section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979*. There are no changes to the existing built form, height, or scale compared to the approved development.

The modifications will result in a development that is generally consistent with the approved development, and the proposal is recommended for approval.



ATTACHMENT A



Property Document Execution Form

(for use only when executing Property related documents)

Register Number:		Date Logged:															
Landlord/Custodian:	DEXUS Wholesale Management Limited as Trustee for DEXUS Mount Street Trust <u>AND</u> Perpetual Trustee Company Limited as Custodian for DEXUS Wholesale Office Trust																
Responsible Entity / Trustee	DEXUS Wholesale Management Limited as Trustee for DEXUS Mount Street Trust <u>AND</u> DEXUS Wholesale Property Limited as Responsible Entity for for DEXUS Wholesale Office Trust																
External Parties:	URBS																
Property Address:	90-100 Mount Street, North Sydney	Property No: 20216															
Description of Documents:	<p>54-55(1) A modification to major project</p> <p>Owners consent to, proposed development</p> <ol style="list-style-type: none"> Modify the location of the entry to the café from Walker Street to Spring Lane; and Modify conditions E5 - Public Infrastructure Repair and Completion of Works, E7 - Green Travel Plan, E9 - Infrastructure Repair and Completion of Works and E11 - Access for People with Disabilities, to allow the satisfaction of these conditions prior to the issue of a Final Occupation Certificate. 		<p>No. of Documents:</p> <p>• 1</p>														
<p>1. Are any of the documents being signed:</p> <table border="0"> <tr> <td>a. Contracts for purchase/sale of real property</td> <td>f. Investment management agreements</td> </tr> <tr> <td>b. Contracts for purchase/sale of shares or units or derivatives thereof</td> <td>g. Property management agreements</td> </tr> <tr> <td>c. Put and call options pursuant to item (a) or (b) above Co-owner Agreements</td> <td>h. Deeds of retirement and appointment</td> </tr> <tr> <td>d. Co-owner Agreements</td> <td>i. Trust deeds and company constitutions</td> </tr> <tr> <td>e. Contracts relating to debt financing and hedging facilities</td> <td>j. Documents commencing litigation</td> </tr> <tr> <td></td> <td>k. Settlement deeds</td> </tr> <tr> <td></td> <td>l. Contracts between related entities of Dexus or Dexus and another fund we manage</td> </tr> </table>			a. Contracts for purchase/sale of real property	f. Investment management agreements	b. Contracts for purchase/sale of shares or units or derivatives thereof	g. Property management agreements	c. Put and call options pursuant to item (a) or (b) above Co-owner Agreements	h. Deeds of retirement and appointment	d. Co-owner Agreements	i. Trust deeds and company constitutions	e. Contracts relating to debt financing and hedging facilities	j. Documents commencing litigation		k. Settlement deeds		l. Contracts between related entities of Dexus or Dexus and another fund we manage	No
a. Contracts for purchase/sale of real property	f. Investment management agreements																
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	k. Settlement deeds																
	l. Contracts between related entities of Dexus or Dexus and another fund we manage																
<p>2. Do any of the documents being signed:</p> <ol style="list-style-type: none"> Grant the counterparty an exclusive right to provide a service or product to DEXUS or to DEXUS managed asset(s)? Provide a first or last right of refusal or pre-emptive right of any description? Restrict DEXUS' ability to engage other parties to provide a product or service? Restrict the uses or leasing of other tenancies? 			No														
<p>If the answer is "Yes" to either question 1 or 2, then: 1. At least one "A" attorney <u>must</u> sign the document; <u>AND</u> 2. Your Executive (Executive Bands 1-3) <u>must</u> counter-sign the DEF.</p>																	
<p>3. Do any of the documents being signed:</p> <ol style="list-style-type: none"> Engage a contractor or consultant for development or capital works projects? If Yes, you must attach the completed and signed Tender Opening and Approval Form. 			No														
Executive Sign-Off	Name	Signature	Date														
Legal Sign-Off	[Legal Name or N/A]																
	Name	Signature	Date														
Office Development NSW	Mark Barrett		4/3/19														
	Name	Signature	Date														
Office Development NSW	Mark Barrett																
	Name	Signature	Date														
Document Execution by	JAMES MATTHEW HOUGH																
Sigourney Elizabeth Lemke	Name	Signature	Date														
Delia Paola Saccaro			6/3/19														
Document Tracking No.:	Please Return Documents to :	Records Team															