

## ASSESSMENT REPORT

### Commercial and Retail Development – Mount Street, North Sydney MP 08\_0241 MOD 5

#### 1. INTRODUCTION

This report is an assessment of a request to modify the Concept Approval MP08\_0241 for a commercial and retail development at 86-96 and 100 Mount Street, North Sydney.

The request has been lodged by Urbis on behalf of Laing O'Rourke Mount Street Australia Pty Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to increase the gross floor area (GFA) of the building, increase car parking spaces, reduce bicycle and motorcycle parking, reconfigure basement level layouts, extend hours of construction and various other internal and external amendments.

#### 2. SUBJECT SITE

The subject site is located at 86-96 and 100 Mount Street in the centre of North Sydney CBD. It is bound by Spring Street to the North, Walker Street to the east and Mount Street to the south. An existing office tower adjoins the western boundary of the site. The closest residential property to the site (Beau Monde Apartments 77 Berry Street) is located approximately 130 metres north of the site. The site is located 500 metres north of North Sydney Station (refer to **Figures 1 and 2**).



**Figure 1: Site Location**



**Figure 2:** Aerial view of the site and its immediate surrounding context

The site was previously occupied by two mixed use commercial and retail buildings. Site preparation works have commenced, including the demolition of the original buildings.

### 3. APPROVAL HISTORY

On 25 May 2010, the then Minister for Planning granted Concept Approval (MP 08\_0241), for:

- demolition of the existing buildings on both sites;
- construction and use of a 38 storey commercial and retail building;
- excavation for 5 levels of basement providing a maximum of 97 car parking spaces;
- vehicular access and loading docks via Spring Street; and
- the construction of a through-site pedestrian link with associated public domain works.

The Concept Approval was approved in project detail, subject to conditions. As such, no further environmental assessment is required, pursuant to section 75P(1)(c) of the EP&A Act.

The proposal has been modified on four occasions as outlined in **Table 1** below:

**Table 1: Previous modifications (MP 08\_0241)**

Number	Details	Date
MOD 1	Increase of 6,334 m <sup>2</sup> GFA (to a total of 45,067 m <sup>2</sup> ), additional 16 car parking spaces (to a total of 113) and new basement parking level, revised vehicular access and internal and external amendments to the building.	16 February 2012
MOD 2	Internal and external amendments to the building and the public domain design, increase of 472 m <sup>2</sup> GFA (to a total of 45,539m <sup>2</sup> ), amendments to the ground, lower ground and basement level layouts, reduction of 1.7 metres in overall maximum building height (to max RL 198), increase roof level by 2 metres (to max RL 196.7), and provision of a roof terrace at Level 34.	10 October 2014
MOD 3	Extension to the lapsing date of the approval to 21 January 2020.	21 January 2015
MOD 4	Increase of 1.7 metres in building height (to max RL 199.7), increase GFA by 820 m <sup>2</sup> (to a total of 46,359 m <sup>2</sup> ), increase the number of car, motorcycle and bicycle spaces and other internal and external amendments to the building.	23 March 2016

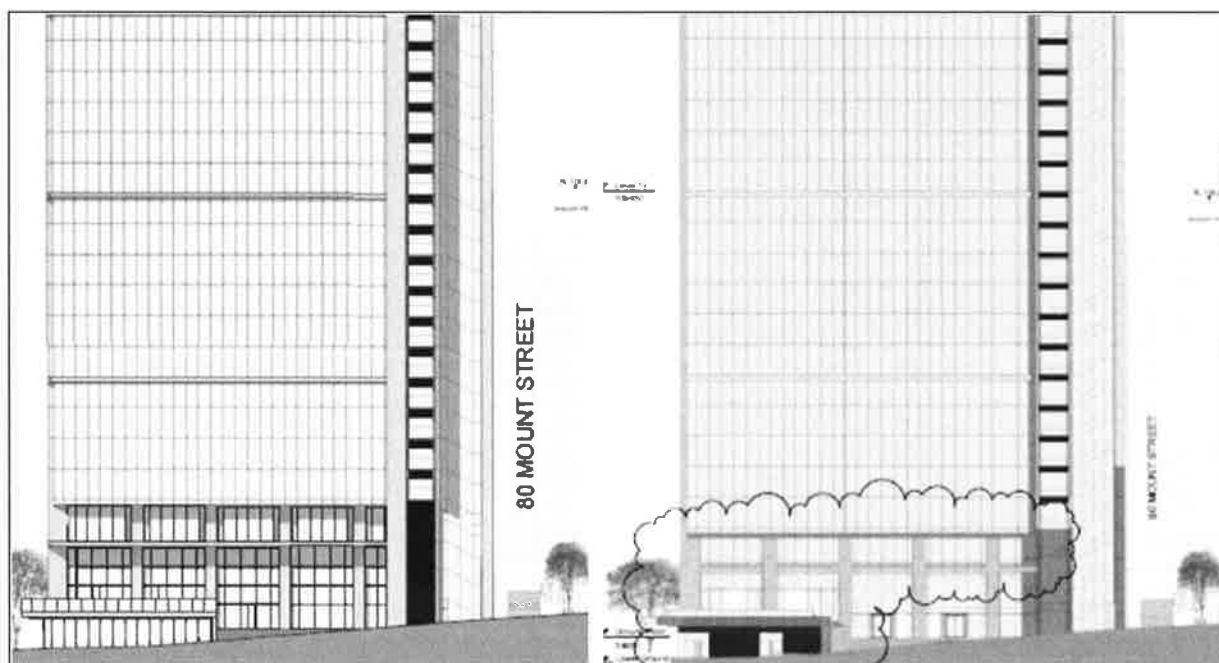
#### 4. PROPOSED MODIFICATION

On 10 June 2016, the Proponent lodged a section 75W modification request (MP 08\_0241 MOD 5) seeking approval to:

- extend the lower ground floor retail area and ground floor restaurant and outdoor seating area to the Mount Street boundary;
- increase of 827 m<sup>2</sup> total GFA (from 46,359 m<sup>2</sup> to 47,186 m<sup>2</sup>);
- reconfigure the basement level layouts, including:
  - increase of three car parking spaces (from 116 to 119 spaces);
  - reduction of 96 bicycle parking spaces (from 330 to 234 spaces);
  - reduction of four motorcycle spaces (from 19 to 15 spaces);
- reconfigure and relocate the plant and Level 1 mezzanine space;
- extend hours of demolition and construction as follows:
  - building construction:  
Monday – Friday: from approved hours of 7:00 am – 5:00 pm to 7:00 am – 10:00 pm  
Saturday: from approved hours of 8:00 am – 1:00 pm to 7:00 am – 5:00 pm;
  - demolition / excavation:  
Monday – Friday: from approved hours of 8:00 am – 5:00 pm to 7:00 am – 6:00 pm;  
Saturday: from no work currently permitted to 7:00 am – 5:00 pm
- increase the roof level by 400 mm and the roof plant by 3.4 metres;
- make changes to the façade of the building between ground and second floor level; and
- amend various conditions to take account of proposed modifications, allow for greater flexibility and other administrative changes.

The modification is requested on the basis it will improve the internal efficiency and amenity of the development and provide an improved layout for tenant and investor markets.

Some of the key external changes proposed by the modification are shown at **Figures 3** and **4** below.



**Figure 3:** Approved (left) and proposed (right) external alterations to the northern, Spring Street, elevation (source: Proponent (MOD 4 and MOD 5))



**Figure 4:** Approved (top) and proposed (bottom) section through roof levels, indicating the proposed increase of 400mm in roof height (source: Proponent (MOD 4 and MOD 5))

## 5. STATUTORY CONSIDERATION

### 5.1 Section 75W

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the Act.

The Department of Planning and Environment (the Department) is satisfied the proposed changes are within the scope of section 75W of the EP&A Act, and do not constitute a new application.

### 5.2 Approval authority

The Minister for Planning is the approval authority for the application. However, in accordance with the Minister's delegations dated 16 February 2015, the Planning Assessment Commission (the Commission) may determine the application under delegation as North Sydney Council (Council) has objected to the proposal.

## 6. CONSULTATION

The modification request was made publicly available on the Department's website, referred to Council, Transport for NSW (TfNSW) and Sydney Airport for comment and letters were sent to adjoining owners/occupiers. Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means.

**Council** objected to the proposed extension of the demolition and construction hours stating:

- **Condition D1:** the extended hours of construction may have adverse amenity impacts and demolition and construction works should be restricted to the following hours:
  - 7.00 am to 8.00 pm Monday to Friday;
  - 8.00 am to 5.00 pm inclusive on Saturdays;
  - no work on Sundays and Public Holidays; and
  - works limited to internal fit-out works (wholly contained within the sealed building

façade) between the hours of 6.00 pm to 8.00 pm, Monday to Friday and 1.00 pm to 5.00 pm on Saturdays.

Council also provided the following comments on the proposed amendments to conditions:

- **Condition B8:** the Proponent should consult with Council about the design of the Mount Street frontage prior to (not after) the issuing of a Construction Certificate for above ground works;
- **Condition B8A:** the design of the public domain should be submitted prior to the issuing of a Construction Certificate for above ground works; and
- **Condition B40:** bicycle parking spaces should not be reduced and should remain at 330 spaces; and
- **Condition B6:** the Railway Infrastructure Contribution should be updated from \$4,396,490 to \$4,489,479.

**TNSW** raised no objection to the proposed modification and provided the following comments:

- bicycle parking should be provided in accordance with North Sydney Development Control Plan 2013 (DCP) requirements;
- a Construction Traffic Management Plan should be prepared; and
- the Railway Infrastructure Contribution should be updated from \$4,396,490 to \$4,489,479.

**Sydney Airport** raised no objection to the proposed modification and provided advice that protrusion into the airspace to a maximum height of RL 203.1 metres had been approved.

A total of six submissions were received from the **public**, all of which raised objection to the proposed extension of the construction hours.

On 22 August, 27 October and 16 November 2016, the Proponent provided a Responses to Submissions and further information in response to the issues raised above (**Appendix B**).

## 7. ASSESSMENT

The Department considers the key issues associated with the proposed modification are:

- the extension of the construction hours; and
- the proposed increase in floor space.

These key issues are discussed in the following sections of the report. All other issues are considered in **Table 3** below.

### 7.1 Extension of construction hours

The modification seeks to amend the construction and demolition hours as shown in **Table 2**.

Council objected to the proposed extended of hours of construction and demolition during weekdays, recommending instead that no work occur beyond 8:00 pm (rather than 10 pm) and only internal fit-out works occur during all proposed extended hours. Council also recommended additional requirements be imposed, including:

- restricting noise to 5dB(A) above background noise levels;
- requiring the proponent to revert to the originally approved hours if there are substantiated complaints of offensive noise during the extend hours,
- restricting and managing car parking during the extended hours; and
- provision of a 24 hour complaints phone number.

The Proponent submitted an acoustic impact assessment of the proposed additional hours of construction (noise report) to assess the potential noise impacts associated with the proposal on nearby sensitive receivers.

**Table 2: Approved and proposed construction hours**

	Approved	Proposed	Restrictions
<b>Construction</b>	<b>Monday - Friday</b>		
	7.00am-5.00pm	7.00am-6.00pm	No Restrictions
		6.00pm-10.00pm	Permitted: <ul style="list-style-type: none"> <li>• deliveries;</li> <li>• crane, hoist, and external elevator operations;</li> <li>• internal fit-out works, contained within the sealed building façade:                             <ul style="list-style-type: none"> <li>○ installation of plasterboard ceilings;</li> <li>○ painting;</li> <li>○ joinery;</li> <li>○ floor sanding;</li> <li>○ laying of carpet; and</li> </ul> </li> <li>• installation of internal services</li> </ul>
	<b>Saturday</b>		
8.00am -1.00pm	7.00am – 1.00pm	No Restrictions	
	1.00pm – 5.00pm	No noise generating machinery such as jackhammers Permitted: <ul style="list-style-type: none"> <li>• deliveries;</li> <li>• crane, hoist, and external elevator operations;</li> <li>• internal fit-out works, contained within the sealed building façade:                             <ul style="list-style-type: none"> <li>○ installation of plasterboard ceilings;</li> <li>○ painting;</li> <li>○ joinery;</li> <li>○ floor sanding;</li> <li>○ laying of carpet; and</li> <li>○ installation of internal services.</li> </ul> </li> <li>• services installation;</li> <li>• jumpform works;</li> <li>• formwork &amp; reinforcement installation;</li> <li>• concrete finishing work;</li> <li>• survey;</li> <li>• basement blockwork installation;</li> <li>• substation works in basement;</li> <li>• podium and lobby works</li> <li>• facade installation;</li> <li>• plant room and lift work; and</li> <li>• finishing trades in tower.</li> </ul>	
<b>Demolition / Excavation</b>	<b>Monday - Friday</b>		
	8.00am-5.00pm	7.00am-6.00pm	No Restrictions
	<b>Saturday</b>		
Not permitted	7:00am – 5:00pm	No Restrictions	

The noise report identified the nearest sensitive receivers are the residential apartments within the Beau Monde tower building, located approximately 130 metres north and the commercial properties adjoining the site. The Department is satisfied the noise report has appropriately identified the key sensitive receivers potentially impacted by the proposal.

The relevant guideline governing construction noise from the site (as confirmed in Council's Development Control Plan 2013) is the EPA's *Interim Construction Noise Guideline (ICNG)*. The applicable noise criteria for works outside standard construction hours of the ICNG is background + 5 dB(A)  $L_{eq}$ .

Noise monitoring was undertaken to determine the background noise levels which were established to be between 59 and 60 dB(A) for the Beau Monde apartments. The applicable noise criteria is therefore between 64 and 65 dB(A) (Background + 5 dB(A)  $L_{avmax}$ ). The ICNG

sets a maximum external noise criteria of 70 dB(A) for commercial properties.

The noise report predicted noise levels at nearby sensitive receivers using a worst case noise level to determine whether the proposal would comply with the applicable noise criteria of 64/65 dB(A) for residential and 70 dB(A) for commercial. The results are presented in **Table 3**.

**Table 3: Predicted noise levels at nearby sensitive receivers. Exceedances highlighted red**

Activity	Predicted Level (dB(A)Leq (15min)) of residential receivers (applicable level 64/65)	Predicted Level (dB(A)Leq (15min)) of commercial receivers (applicable level 70)
<b>Demolition/Excavation (7 am-8 am weekdays, 1 pm-5 pm Saturday)</b>		
Concrete muncher	61	72-81 (external) 45-56 (internal)
Pneumatic hammer	66	77-86 (external) 52-61 (internal)
Bobcat	54	65-74 (external) 40-48 (internal)
Excavator (pneumatic hammer)	61	72-81 (external) 45-56 (internal)
Rippers	51	62-71 (external) 37-46 (internal)
Rock saw	61	72-81 (external) 45-56 (internal)
<b>6 pm-10 pm works (internal works and use of crane hoist, truck delivery/unloading)</b>		
Crane (diesel)	56	Up to 73 (external) Up to 48 (internal)
Crane (electric)	46	Up to 63 (external) Up to 38 (internal)
Power hand tools	<50	Up to 66 (external) Up to 41 (internal)
Truck delivery	<55	Less than 40

As indicated above, the noise report predicts noise from the internal fitout and other works would generally comply with the ICNG noise emission criteria at nearby sensitive residential receivers (with the exception of a 1dB(A) exceedance for use of a pneumatic hammer), provided the works are carried out in accordance with the proposed restrictions noted within the modified condition. However, the proposed extended hours would result in noise levels exceeding ICNG noise criteria (70 dB(A)) for commercial properties.

The Department considers the proposed extended hours are acceptable as:

- the noise report has demonstrated the proposed works would not have an adverse impact on nearby sensitive residential receivers. The exceedance by 1 dB(A) noted in **Table 2** is limited to use of the pneumatic hammer, which would be used during the excavation phase only (as demolition has now been completed). Excavation is expected to last 19 weeks if the extended hours are approved. The exceedance of 1dB(A) during the 4.5 month excavation period is considered negligible and therefore acceptable;
- the exceedances relating to commercial uses outside the standard hours (i.e between 7-8 am weekdays, 6 pm to 10 pm weekdays, and 1-5 pm Saturdays) are not hours during which commercial properties are usually in peak use and therefore the exceedances are unlikely to cause significant disturbance;
- the extended hours will result in a reduction in the overall length of time sensitive receivers would be exposed to construction noise, with excavation and construction works expected to reduce by 27 weeks, from 123 to 96 weeks, to the benefit of the receivers;
- all works must be carried out in accordance with Condition B52, which includes the requirement for a Construction Noise and Vibration Management Plan to ensure appropriate monitoring and minimising noise impacts during construction; and
- the noise report includes additional mitigation measures including erection of hoardings to baffle noise outbreaks and other noise reduction measures (Condition D1(5)).

The Department also considers that Council's recommended additional requirements restricting noise levels to 5dB(A) above background, complaints management, construction worker car parking management, and reverting to existing hours where the extended hours result in offensive noise, are reasonable. These conditions would further ensure the extended hours do not result in adverse amenity impacts to nearby premises.

In addition, the Department recommends the modified conditions be updated to ensure the development complies with the requirements of Condition B52 and the recommendations of the noise report. The restrictions suggested by the Proponent are also included within the modified conditions, in particular:

- limiting the type of works that can be carried out to those outlined in the application;
- requiring all internal works be carried out within a fully enclosed building with all windows and doors to be shut during the extended construction hours; and
- requiring all works to be carried out in accordance with the recommendations of the noise report.

The Department's assessment concludes that, subject to the recommended conditions discussed above, the excavation and construction noise impacts during the extended constructions hours would not materially exceed the ICNG noise criteria guidelines for residential properties. The exceedances relating to commercial properties would be reasonable, and offset by the substantial reduction in the overall construction timeframes. On this basis, the Department is satisfied the proposal is acceptable.

## **7.2 Increase in GFA and Building Massing**

The modification proposes to increase the overall GFA of the building by 827 m<sup>2</sup> (approximately 1.7%). The increase in GFA facilitates the following alterations:

- enlargement of the ground floor level restaurant (and outdoor seating area) and lower ground level retail tenancy by extending the footprint to the Mount Street Boundary;
- provision of new plant room at level 1 and corresponding reduction of office accommodation at this level; and
- enlargement of level 1 mezzanine floorplate, rename as 'level 2', convert use of level from plant to office space.

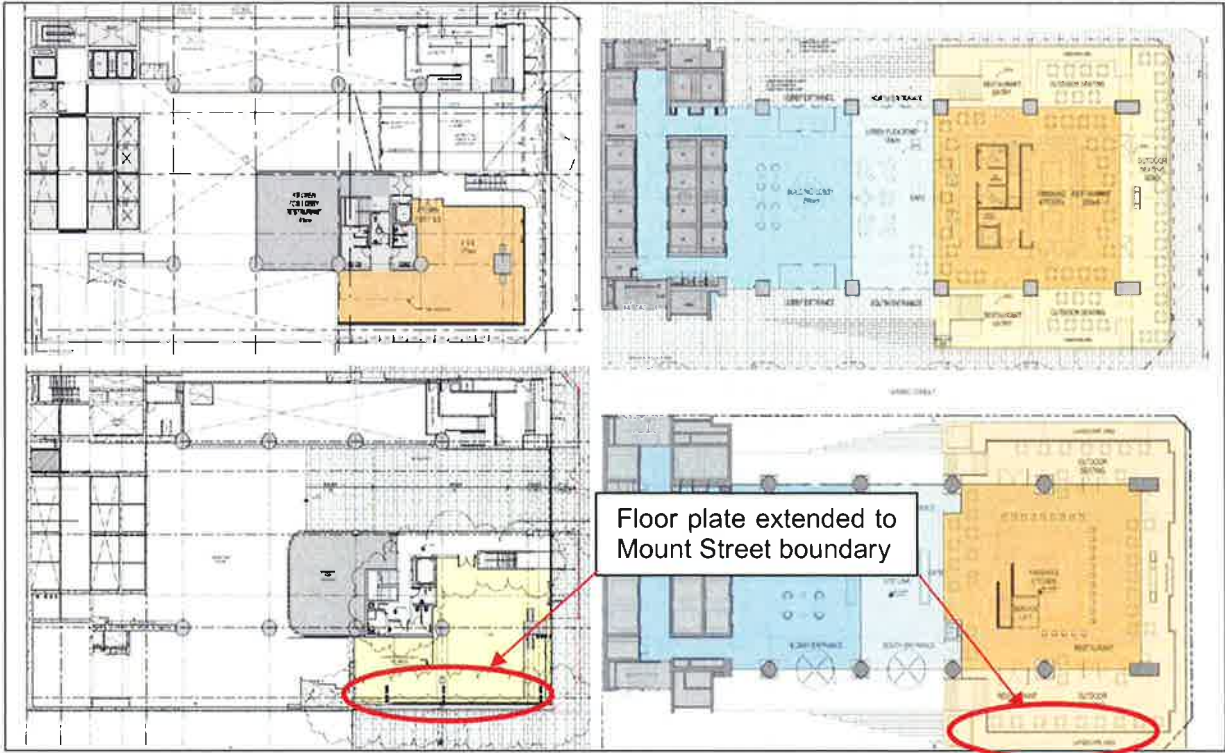
These changes can be seen in **Figures 5 – 8**. The above changes also result in alterations to the façade treatment of the building at ground, first and second floor levels, as shown at **Figure 3**.

No objections were received from Council or the public relating to the increase in GFA or associated amendments to the building's massing and facades.

The Department has considered the proposed increase in GFA and is satisfied the proposal is acceptable on the basis that:

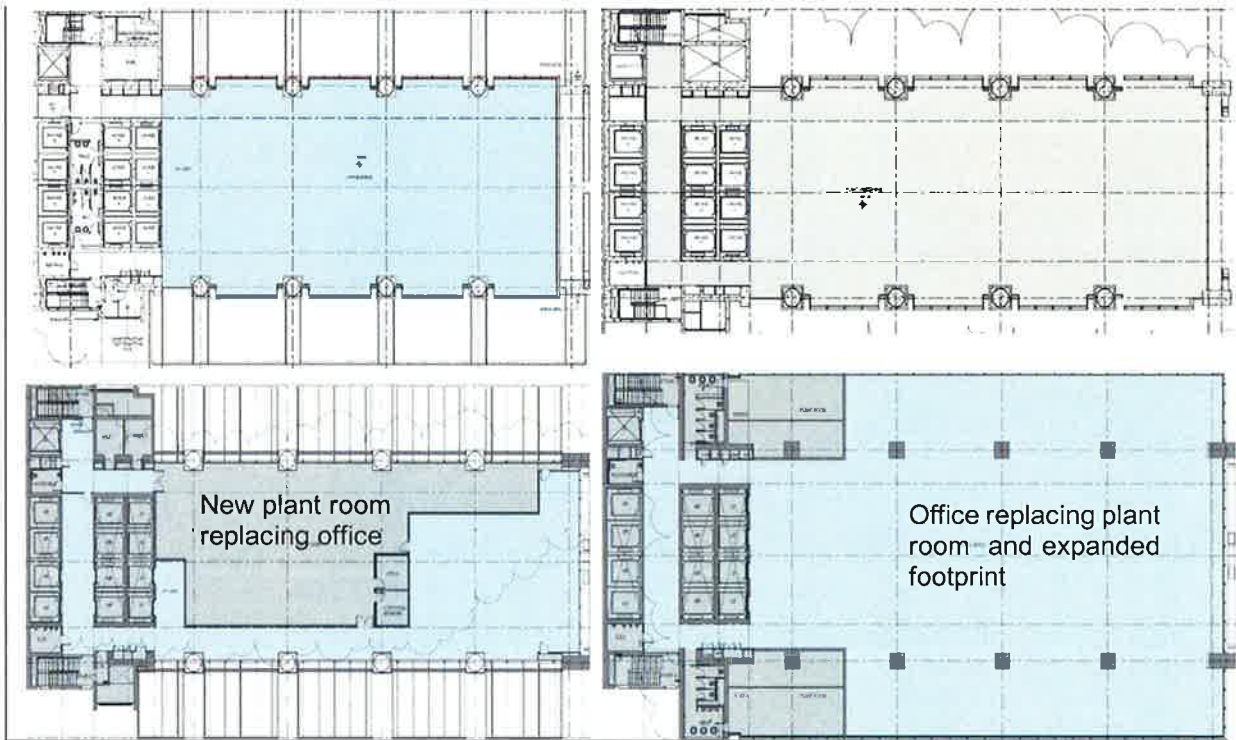
- the additional GFA is minor, localised at ground and second floor levels, and does not significantly change the overall bulk and scale of the approved development;
- the extension of the ground levels to the Mount Street boundary is consistent with Council's DCP, which recommends a nil setback for building podiums;
- the revisions to the elevations maintain a high standard of design and appearance;
- there would be no significant amenity impacts on surrounding properties; and
- the additional office and retail floor space positively contributes to the growth of North Sydney's CBD as a commercial centre.





**Figure 5:** Approved (top) and proposed (bottom) lower ground floorplan

**Figure 6:** Approved (top) and proposed (bottom) ground floorplan



**Figure 7:** approved (top) and proposed (bottom) Level 1 floorplan

**Figure 8:** approved (top) and proposed (bottom) Level 2 floorplan

## 7.3 Other Issues

**Table 3: Assessment of other issues**

<b>Issue</b>	<b>Consideration</b>	<b>Recommendation</b>
<i>Increase in height</i>	<ul style="list-style-type: none"> <li>The modification includes an increase in the height of the roof level to match the height of the external parapets (refer to <b>Figure 4</b>). This also results in a corresponding increase in the height of the building maintenance unit (BMU) above the overall building height (from RL 199.70 to RL203.1).</li> <li>Although the proposal exceeds the maximum height control of RL 195 applicable to the site under <i>North Sydney Local Environmental Plan 2013</i>, the Department considers the proposed increase is minor and acceptable as: <ul style="list-style-type: none"> <li>the increased roof height would be entirely screened behind the approved parapet line;</li> <li>the BMU is centrally located within the roof and would not be visible from the surrounding streets or public domain;</li> <li>the modification would not result in adverse overshadowing or view loss impacts; and</li> <li>Sydney Airport has not raised any objection to the minor increase in height and has approved the penetration into the prescribed airspace.</li> </ul> </li> </ul>	No additional comments or amendments necessary.
<i>Bicycle parking</i>	<ul style="list-style-type: none"> <li>The modification proposes a reduction of 96 bicycle parking spaces (from 330 to 234 spaces), which equates to a reduction of 29%.</li> <li>Council and TfNSW raised concern about the reduction of bicycle parking spaces and recommended bicycle parking be maintained at 330 spaces.</li> <li>The Proponent has stated the reduced number of bicycle spaces is consistent with the Green Star rating system, which requires cyclist facilities be provided for 7.5% of workers. In addition, the Proponent estimates only 40% of bicycle parking is occupied in its other commercial buildings within Sydney.</li> <li>The Department has carefully considered the proposed reduction in bicycle parking spaces and is not satisfied that a departure from the established minimum bicycle parking requirements is justified.</li> <li>The established bicycle parking rates have been designed to align with the government's goal of encouraging growth in sustainable transport options, including growth in bicycle use in the long term. The established rates will ensure the building is designed to meet increased demand for cycle parking in the future, while a reduction in bicycle parking may jeopardise growth in cycle use in the long term.</li> <li>Further, there is adequate space to provide bicycle parking in line with the original approval.</li> <li>The Department considers there is no compelling reason to reduce bicycle parking and agrees with Council and TfNSW that the bicycle parking should be provided as approved.</li> <li>The Department recommends the plans be amended to show the provision of 330 bicycle parking spaces as originally approved.</li> </ul>	The Department recommends that Condition B40 be retained to require the provision of 330 bicycle spaces and amended plans be provided showing the provision of 330 bicycle parking spaces.
<i>Visitor Bicycle Parking</i>	<ul style="list-style-type: none"> <li>The modification seeks to amend Condition B8A to remove reference to public domain bicycle parking design requirements on the basis that bicycle parking is not approved or proposed at the ground floor level, and visitor bicycle parking would be provided at the basement level.</li> <li>However, Condition B40 requires the provision of 38 bicycle parking spaces for visitors at the ground floor level (as part of the overall required 330 spaces). The condition was amended as part of MOD 4, and specifically incorporated a previously approved plan which included spaces for bicycles at the ground level.</li> <li>The Department considers visitor bicycle parking should be provided at the ground floor level, as short term visitors, customers and the general public are likely to use highly visible spaces at the main entrances, rather than seek out basement spaces. Council's DCP provides that visitor parking should be provided at grade near a major public entrance to the development.</li> <li>The Department therefore considers the requirements of Condition 8A in relation to the design of bicycle parking at the street / ground levels remain relevant and should not be deleted.</li> </ul>	No changes are recommended to existing requirements relating to bicycle parking design.

Issue	Consideration	Recommendation
Public Domain Design and Tree Planting	<ul style="list-style-type: none"> <li>• A further amendment to condition B8A is sought to delay the requirement for approval of the public domain design from prior to the issuing of any construction certificate for above ground works which interface with the public domain. The Department is supportive of the change, as the design of the public domain works is not relevant to below ground works or central structural works which have no relationship with the public domain.</li> <li>• Amendments to conditions B8, B24 and E23 are sought to provide flexibility with the consultation and design of the Mount Street public domain, including the species of street trees. The amendments also seek to postpone the provision of public domain works to prior to the issuing of a final Occupation Certificate.</li> <li>• Council raised concern that the proponent sought to delay consultation on the design until after a Construction Certificate is issued for above ground works, noting the public domain levels must be finalised and set the levels at the boundary of the site. Council has raised no objection to the additional wording allowing flexibility of the planting of trees subject to consultation with Council.</li> <li>• The Department considers that finalisation of the tree species can be delayed until the issuing of a final Occupation Certificate. However, to ensure the best outcome for the design of the public domain and its relationship with the development, the design of the public domain, (other than tree species) should be finalised prior to the issue of a construction certificate for above ground works.</li> <li>• However, the Department does not support the proposed delay for completion of the public domain works (other than tree planting) until the issuing of a final Occupation Certificate. The Department considers the works are necessary to support the occupation of the building and the Department therefore recommends the works be completed prior to the issuing of any Occupation Certificate, as approved.</li> </ul>	<p>The Department recommends:</p> <ul style="list-style-type: none"> <li>- Condition B8A be modified to enable change in the timing for approval of the public domain design;</li> <li>- Condition B8 be modified to allow for flexibility in consultation with Council. However, the design should be finalised prior to the issue of a construction certificate works which interface with the public domain</li> <li>- Conditions B24 and E23 be modified to allow for flexibility in consultation with Council and tree species. However, the trigger for public domain works (other than planting) should remain as prior to the issuing of any Occupation Certificate.</li> </ul>
Wind Impacts	<ul style="list-style-type: none"> <li>• Condition B35 requires the development to incorporate the recommendations in the Wind Impact Study submitted with the PPR. This includes installing balustrades, an awning, shrubs and densely foliating street trees, which were determined to be necessary in order to ensure the outdoor areas of the site and the surrounding public domain would be suitable for their intended uses.</li> <li>• The proposal seeks to modify the condition to replace the Wind Impact Study with a new study, which is based on the current proposed configuration of the building. The Department notes the massing and configuration of the ground levels of the building have been significantly altered since the wind assessment was carried out.</li> <li>• The new study finds that the street level wind environment would be similar to typical street level wind conditions in the surrounding area and classified as suitable for pedestrian standing or walking from a comfort perspective. The study also finds the pedestrian comfort level on Walker Street could be improved from a walking to a standing classification with the provision of street trees, but does not specifically recommend the inclusion of street trees, where the previous study did.</li> <li>• The new study also notes the footpath to the west of the site on Mount and Denison Streets would achieve a pedestrian walking classification. However, unlike the previous study which recommended balustrading and plantings to improve comfort levels, the current study has not considered these as an option to improve pedestrian comfort.</li> <li>• The new study also indicates the elevated ground level outdoor terrace area would not achieve comfort levels suitable for pedestrian sitting or outdoor dining. While the study notes <i>'it is expected that local amelioration measures can be developed to improve the wind conditions in the area to satisfy the criteria for pedestrian sitting'</i>, it does not specify what these may be, nor does it recommend the inclusion of</li> </ul>	<p>The Department recommends Condition B35 be amended to require the provision of an updated wind impact assessment which includes amelioration measures to ensure the outdoor terrace achieves a pedestrian comfort level suitable for its intended use, and footpaths surrounding the site achieve a comfort level suitable for pedestrian standing, or where this is not achievable, amelioration measures are incorporated to maximise pedestrian comfort</p>

<i>Issue</i>	<i>Consideration</i>	<i>Recommendation</i>
	<p>any amelioration measures.</p> <ul style="list-style-type: none"> <li>• The Department therefore considers the current study does not achieve the same outcomes as the original study which it is seeking to replace.</li> <li>• The Proponent has argued the previous amelioration measures are not considered necessary for the development to fulfil the wind requirements for public safety.</li> <li>• However, the Department notes the previously recommend amelioration measures were incorporated to improve pedestrian comfort and that pedestrian safety is not at issue.</li> <li>• The Department therefore considers further investigation is required to examine what amelioration measures could be incorporated to improve pedestrian comfort levels on the footpath and outdoor terrace areas. The Department considers there may be opportunities to improve the awning design to reduce wind impacts on the terrace, and to incorporate the street tree planting, similar to that recommended by the previous report to ensure pedestrian comfort levels are maximised.</li> <li>• The Department therefore recommends the condition be amended to require an updated wind impact assessment which includes amelioration measures to maximise pedestrian comfort levels.</li> <li>• Subject to the imposition of this condition, the Department is satisfied the wind impacts arising from the changes to the design of the building, would be appropriately mitigated.</li> </ul>	<p>as far as possible. A modification to condition E23 is also recommended to ensure street tree species are chosen in accordance with any recommended amelioration measures.</p>
<i>Car and motorcycle parking</i>	<ul style="list-style-type: none"> <li>• The proposal seeks approval to reconfigure the layout of the basement levels, which includes the following changes to parking spaces: <ul style="list-style-type: none"> <li>• an increase of 3 car spaces (from 116 to 119); and</li> <li>• a reduction of 4 motorcycle spaces (from 19 to 15).</li> </ul> </li> <li>• The additional car spaces are proposed to accommodate the increase in GFA of 827 m<sup>2</sup>.</li> <li>• The Department notes that Council's car parking rate for non-residential uses is a maximum requirement and previous approvals have consistently restricted parking on the site in accordance with Council's maximum car parking rate.</li> <li>• In accordance with Council's DCP, the modification would allow a maximum increase of two car parking spaces.</li> <li>• The Department considers an increase of two car parking spaces would be adequate to accommodate the proposed increase in GFA and therefore has recommended that plans be amended to reflect a total of 118 spaces.</li> <li>• Council advised that given the increasing popularity of motorcycle parking it would be preferable for the extra car space to be converted to motorcycle parking instead.</li> <li>• Under Council's DCP controls the proposal requires a minimum of 12 motorcycles spaces. Given the proposal would provide 15 motorcycle parking spaces, the Department is satisfied sufficient motorcycle parking would be provided in accordance with Council's controls.</li> <li>• The Department therefore recommends that Condition B38 be updated to take account of the above changes to parking.</li> </ul>	<p>The Department has modified Condition B38 to reflect two additional parking spaces and a reduction of 4 motorcycle spaces.</p>
<i>Accessible parking spaces</i>	<ul style="list-style-type: none"> <li>• The modification proposes a reduction of one accessible commercial parking space within the basement (from three to two spaces). However, it provides no justification for this reduction.</li> <li>• Council's DCP provides that 1-2% of all non-residential space should be provided for persons with a disability. Therefore, as a minimum, three spaces should be provided.</li> </ul>	<p>The Department recommends that accessible parking spaces be retained as approved.</p>
<i>Courier Parking</i>	<ul style="list-style-type: none"> <li>• The Proponent seeks to amend Condition B42 to reduce courier spaces from six to five based on the revised scheme;</li> <li>• The Proponent's traffic engineer has advised that in conjunction with the two truck loading spaces, and three proposed motorbike courier spaces, the number of courier and delivery spaces is sufficient to service the development.</li> <li>• The Department notes the proposed motorbike courier spaces are not currently required by the condition, and therefore recommends the condition be updated to include the motorbike spaces. Subject to the provision of the three motorbike spaces in place of the deleted car courier space, the Department is satisfied there would be sufficient provision for on-site deliveries.</li> </ul>	<p>The Department recommends the condition be modified to reflect a reduced car courier space and provision of three motorbike courier spaces.</p>

<b>Issue</b>	<b>Consideration</b>	<b>Recommendation</b>
<i>Management of construction traffic</i>	<ul style="list-style-type: none"> <li>TfNSW requested a Construction Traffic Management Plan (CTMP) be prepared to manage the potential impacts associated with construction vehicles.</li> <li>The Department notes that existing Condition B14 requires a Construction Management Program to be approved by Council's traffic committee.</li> <li>The Department is satisfied that Condition B14 would ensure construction traffic impacts are appropriately managed and mitigated and therefore does not recommend the addition of a new condition requiring a CTMP.</li> </ul>	No additional comments or amendments necessary.
<i>Contributions</i>	<ul style="list-style-type: none"> <li>The proposed increase in GFA generates a requirement for additional section 94 Contributions and Railway Infrastructure contributions.</li> <li>Council has provided updated section 94 contributions and TfNSW has provided an updated railway infrastructure contribution.</li> <li>The applicant has agreed to the additional section 94 and Railway Infrastructure contributions.</li> <li>The Department has amended the conditions of the approval to update the relevant monetary contributions accordingly.</li> </ul>	The Department has recommended modified conditions relating to monetary contributions (conditions B5 and B6).
<i>Other administrative changes to conditions</i>	<ul style="list-style-type: none"> <li>The Department notes the following administrative changes to conditions: <ul style="list-style-type: none"> <li>Condition B39 is amended as it conflicts with Condition G9, with regard to the location of the garage security shutter;</li> <li>Condition B45 is amended to take account of servicing of the site by private waste collection contractor;</li> <li>Condition B54 is amended to include reference to the appropriate Green Star assessment tool;</li> <li>Condition C9 is amended to delay the confirmation of street address until prior to the issue of an Occupation Certificate; and</li> <li>Condition E2 is amended to refer to the correct street reference.</li> </ul> </li> <li>The Department notes Council has not objected to any of the above administrative changes to conditions.</li> <li>The Department considers the changes are minor and administrative in nature and therefore acceptable.</li> </ul>	The Department recommends the conditions be amended as proposed.

## 8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act.

Minor aspects of the modification which have not been supported or adopted in the recommendation include changes to bicycle parking, changes to accessible parking, replacement of the wind impact assessment and delays to public domain provision. These changes have been found to be inconsistent with relevant planning controls and have the potential to result in adverse impacts for the functioning of the site and amenity of the surrounding area.

However, the Department's assessment concludes that the remainder of the proposed modifications are appropriate on the basis that:

- the internal and external amendments result in acceptable design outcomes for the development; and
- subject to the recommended conditions, the proposed amendments to construction hours would not result in any significant amenity impacts and would benefit neighbours by reducing the overall construction timeframe.

Consequently, it is recommended the modification is able to be approved subject to conditions.

## 9. RECOMMENDATION

It is RECOMMENDED that the Planning Assessment Commission, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report, noting that the Department considers that the modification is approvable, subject to conditions;
- **determines** that the proponent's request is a modification under section 75W of the EP&A Act; and
- if the Commission determines to modify the approval, **signs** the attached notice of modification.

Prepared by:  
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Anthony Witherdin  
**Director**  
**Modification Assessments**



Anthea Sargeant 19/12/16  
**Executive Director**  
**Key Sites and Industry Assessments**