

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	<b>PPSSNH-16</b>
<b>DA Number</b>	<b>368/18/5</b>
<b>LGA</b>	<b>North Sydney</b>
<b>Proposed Development</b>	<b>Construction of a 48 storey hotel and office building</b>
<b>Street Address</b>	<b>86-88 Walker Street North Sydney</b>
<b>Applicant/Owner</b>	<b>Saul Moran/North Walker Property Pty Ltd; MRAKA Pty Ltd</b>
<b>Date of DA lodgement</b>	<b>30 July 2019</b>
<b>Number of Submissions</b>	<b>Nil to notification</b>
<b>Recommendation</b>	<b>Approval</b>
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	<b>Capital Investment Value (CIV) of greater than \$30 million</b>
<b>List of all relevant s4.15(1)(a) matters</b>	<b>North Sydney LEP 2013</b> <ul style="list-style-type: none"> <li><b>Zoning – B3 Commercial Core</b></li> </ul> <b>North Sydney DCP 2013</b>
<b>List all documents submitted with this report for the Panel's consideration</b>	<b>Plans</b>
<b>Report prepared by</b>	<b>Geoff Mossemenear, Executive Planner North Sydney Council</b>
<b>Report date</b>	<b>27 August 2019</b>

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment? **Yes**  
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## EXECUTIVE SUMMARY

This Section 4.55(2) application seeks approval to modify the consent granted by the Sydney North Planning Panel to:

Construct a 48 storey development at 88 Walker Street and cantilevering over 86 Walker Street from level 5 and above, including:

- 16 levels of hotel accommodation, with an additional 7 levels of associated facilities including back of house facilities, executive lounge, gym, back of house facilities, a sky lobby and restaurant;
- 21 levels of commercial office space and one level of commercial lobby;
- Provision of a new through site link;
- Ground floor café;
- Rooftop Bar; and
- Construction of a two level basement including associated plant and realignment of the Sydney Water stormwater system;

Alterations and additions to 86 Walker Street (Firehouse Hotel), including:

- Demolition of the rear of the pub to expand the public domain on Little Spring Street;
- Reconfiguration of the ground level gaming rooms, back of house and loading dock;
- External paintwork; and
- Provision of a new pedestrian entry from Little Spring Street;

The proposed modifications to the development consent comprise the provision of an additional commercial level (level 47) within the approved building envelope resulting in internal reconfigurations to the rooftop bar being now at level 48 rather than level 47.

No submissions were received in response to Council's notification of the application, however one submission was received from Planning Alerts. The concerns raised have been assessed and do not warrant refusal or modification of the proposal.

The proposed development has been assessed with respect to the objects and relevant Sections of the EP&A Act, as well as the objectives, merit based outcomes, development standards and prescriptive controls of various State Environmental Planning Policies, the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013. Other plans and policies were also considered such as the North Sydney Section 7.11 Contributions Plan.

Following assessment of the plans, the Section 4.55(2) application is recommended for the Panel's approval.

## 1. DESCRIPTION OF APPROVED PROPOSAL

The approved proposal consists of:

Construction of a 48 storey development at 88 Walker Street and cantilevering over 86 Walker Street from level 5 and above, including:

- 16 levels of hotel accommodation, with an additional 7 levels of associated facilities including back of house facilities, executive lounge, gym, back of house facilities, a sky lobby and restaurant;
- 21 levels of commercial office space and one level of commercial lobby;
- Provision of a new through site link;
- Ground floor café;
- Rooftop Bar; and
- Construction of a two level basement including associated plant and realignment of the Sydney Water stormwater system;

Alterations and additions to 86 Walker Street (Firehouse Hotel), including:

- Demolition of the rear of the pub to expand the public domain on Little Spring Street;
- Reconfiguration of the ground level gaming rooms, back of house and loading dock;
- External paintwork; and
- Provision of a new pedestrian entry from Little Spring Street;



*Source: Fitzpatrick + Partners*





*Front Façade - Source: Fitzpatrick + Partners*



*Rear Façade - Source: Fitzpatrick + Partners*

## 1.1 Components

Component	Proposal
Site area	1,077m <sup>2</sup>
GFA	24,042m <sup>2</sup>
• Office space	• 13,106m <sup>2</sup>
• Hotel space	• 10,381m <sup>2</sup>
• Pub space	• 908m <sup>2</sup>
Maximum height	RL 227 (RL 232.6 with architectural roof feature)
Number of storeys	48
Floor Space Ratio (FSR)	23.93:1
Tower setbacks	
• North	• Nil
• South	• 3.0m
• East	• 5.0m (weighted)
• West	• 3.7m (weighted)
Hotel rooms	252
Car spaces	0
Bike parking spaces	105

Source: SEE

### 1.1.1 Office

Commercial office spaces are proposed to occupy Levels 25-33 and 35-46. A typical commercial office floor will have a GFA of 598m<sup>2</sup>, resulting in a total of 13,106m<sup>2</sup> of GFA across the 21 levels (in addition to commercial lobby space and end of trip facilities).

### 1.1.2 Hotel

The hotel space will occupy Levels 5 to 23. The rooms themselves will occupy levels 8-23, with each floor replicating a typical layout consisting of 16 rooms of sizes ranging from 19m<sup>2</sup> to 32m<sup>2</sup>. The hotel is supported by associated facilities including a restaurant, gym, meeting rooms, executive lounge, administration space, staff facilities, waste facilities, baggage storage, bar, laundry and linen storage.

### 1.1.3 Rooftop Bar

A rooftop bar will occupy Level 47. The bar has a GFA of 505m<sup>2</sup>. The fitout and use of the bar will be the subject of a future development consent.

### 1.1.4 Pub

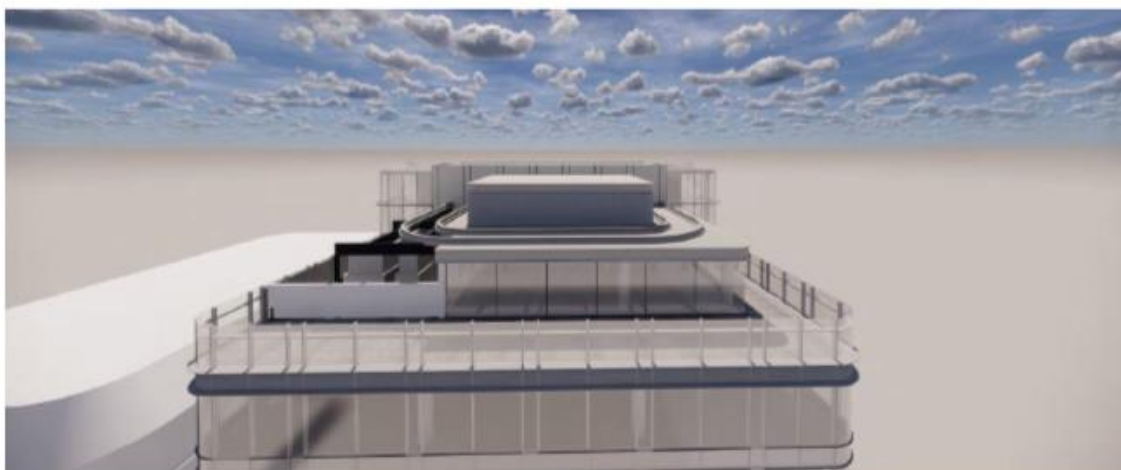
The Firehouse Hotel will continue to operate as a pub in accordance with its existing DA consent.

### 1.1.5 Café

A café is proposed to be located on the ground floor adjacent to the entry to the through site link from Little Spring Street. The café is intended to activate this part of the site in order to positively respond to Council's improvements to the laneways at the rear of the proposed development.

## 2. MODIFICATION

The proposed modifications to the development consent comprise the provision of an **additional commercial level (level 47) within the approved building envelope resulting in internal reconfigurations to the rooftop bar being now at level 48 rather than level 47**. A render of the additional level is provided below.



Source: Fitzpatrick + Partners

It is noted that this application does not seek consent for the use and/or operation of the bar, which will be the subject of a separate Development Application.

The modifications are detailed as follows:

Table 1: Level by level description of the proposed modifications

Level	Description of Proposed Modifications
Level 46	<ul style="list-style-type: none"> <li>Reduced floor to floor height from 3.95m to 3.75m.</li> </ul>
Level 47	<ul style="list-style-type: none"> <li>Reduced floor to floor height from 4.5m to 3.75m.</li> <li>Reconfiguration to contain an additional commercial level comprising: <ul style="list-style-type: none"> <li>Unisex bathroom;</li> <li>Accessible bathroom;</li> <li>Lobby for the rooftop bar above; and</li> <li>Scissor lift to the rooftop bar level.</li> </ul> </li> <li>The eastern stair core now has a dual function as a fire stair and patron access point from the level 47 lobby to the rooftop bar.</li> </ul>
Level 48	<ul style="list-style-type: none"> <li>Reconfiguration to contain a bar tenancy comprising: <ul style="list-style-type: none"> <li>Consolidated bathrooms;</li> <li>Reduced back of house area;</li> <li>Provision of operable glazing to contain the indoor area; and</li> <li>Provision of additional dining area.</li> </ul> </li> </ul>
Level 49/Plant	<ul style="list-style-type: none"> <li>Reconfiguration of the rooftop plant.</li> <li>Provision of glass roof over the eastern and western stair cores</li> </ul>

Source: SEE

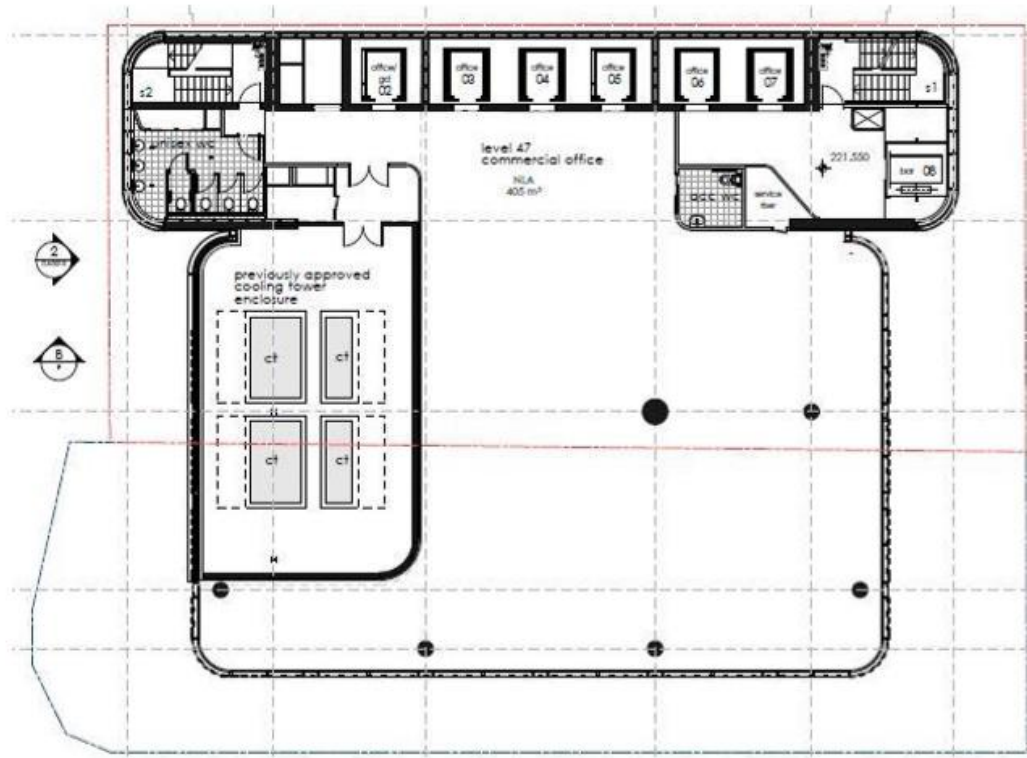
The proposal includes the provision of an additional commercial level whilst retaining the approved maximum building height. This has been achieved by relocating the bar to the rooftop and amending the floor to floor heights as detailed above.

The new level 47 comprises a slightly reduced commercial floor plate containing 496m<sup>2</sup> of GFA as opposed to a 598m<sup>2</sup> typical commercial floor plate located at the lower levels. The new level is partially occupied by the approved cooling tower enclosure to the west of the floorplate. In addition, the floor plate contains a unisex bathroom at the north west corner and an accessible bathroom to the north east.

The floor is serviced by the existing service core, containing six lifts and two fire stairs. The eastern fire stair serves a dual purpose as patron access point to the



rooftop bar above. In this regard, the floor plate also accommodates a bar lobby with an interface with the two eastern lifts. A new bar lift is proposed to provide equitable access between Levels 47 and 48 (annotated as lift core 8).



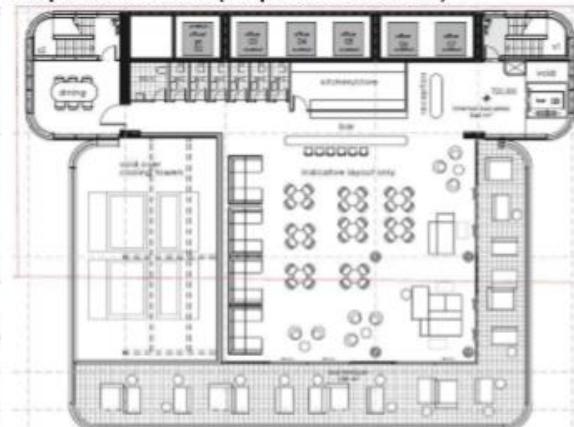
*New Level 47 - Source: Fitzpatrick + Partners*

The bar has been relocated to level 48, as such this has provided an opportunity for a redesign of the tenancy as illustrated in the approved and proposed design comparison below.

**Approved Bar Level (Previously Level 47)**



**Proposed Bar Level (Proposed as Level 48)**



*Source: Fitzpatrick + Partners*

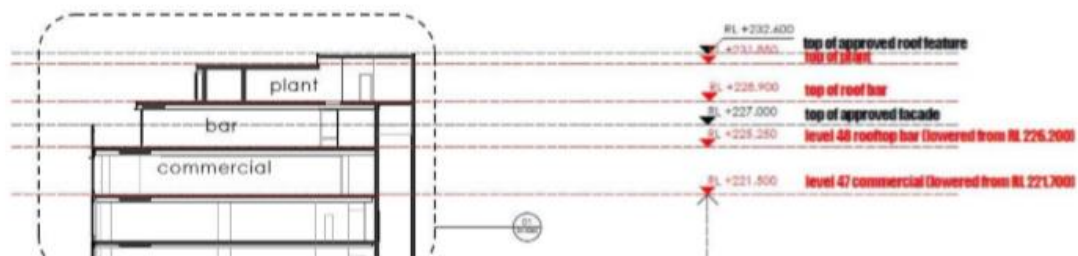
Specifically, the proposal has reduced and relocated the back of house area and consolidated it with the bathrooms to the north of the floor plate. This opens the internal area to enhance amenity and circulation. The proposed design has a clear delineation between

the indoor and outdoor trafficable areas with operable floor to ceiling height glazing which allows access to the rooftop terrace as well as weather protection to the indoor area.

By consolidating the bathrooms, this has provided additional area in the north eastern and north western wings. The north eastern wing now accommodates additional lobby area and the north western wing can now accommodate additional dining area. A 1.75m high balustrade is proposed to surround the terrace on all sides.

The proposal comprises amendments to the upper level floor to floor heights in order to accommodate the additional commercial level as illustrated below. Specifically, the level 46 floor to floor height has been reduced from 3.95m to 3.75m and the level 47 floor to floor height has been reduced from 4.5m to 3.75m. This presents the rooftop bar level with a floor to floor height of 3.65m.

Whilst these floor to floor heights have been amended, the top of the approved façade level represented by the rooftop terrace balustrade does not exceed RL 227. Furthermore, the height of the proposed building to the top of the architectural roof feature is maintained at RL 232.6 as shown below.



Source: Fitzpatrick + Partners

There appears to be no other changes to the relevant plans and supporting information other than that outlined with the application.

### 3. STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – B3 Commercial Core
- Item of Heritage – Yes
- In Vicinity of Item of Heritage – No
- Conservation Area – No

Environmental Planning & Assessment Act 1979

SEPP 55 - Contaminated Lands

SREP (Sydney Harbour Catchment) 2005

#### 3.1 POLICY CONTROLS

North Sydney DCP 2013

### 4. CONSENT AUTHORITY

As this proposal has a Capital Investment Value (CIV) of greater than \$30 million the consent authority for the development application is the Sydney North Planning Panel. Section 4.55(2) applications are to be determined by the SNPP.



## 5. DESCRIPTION OF LOCALITY

The land area of 86 Walker Street is 470m<sup>2</sup> and 88 Walker Street is 607m<sup>2</sup>, totalling 1,077m<sup>2</sup>. Both lots are generally rectangular. The site is legally described as Lot 1 in DP 832416 (88 Walker St) and Lot 1 in DP 857756 (86 Walker St). The registered owner of 88 Walker Street is North Walker Property Pty Ltd and the registered owner for 86 Walker Street is MRAKA Pty Limited.

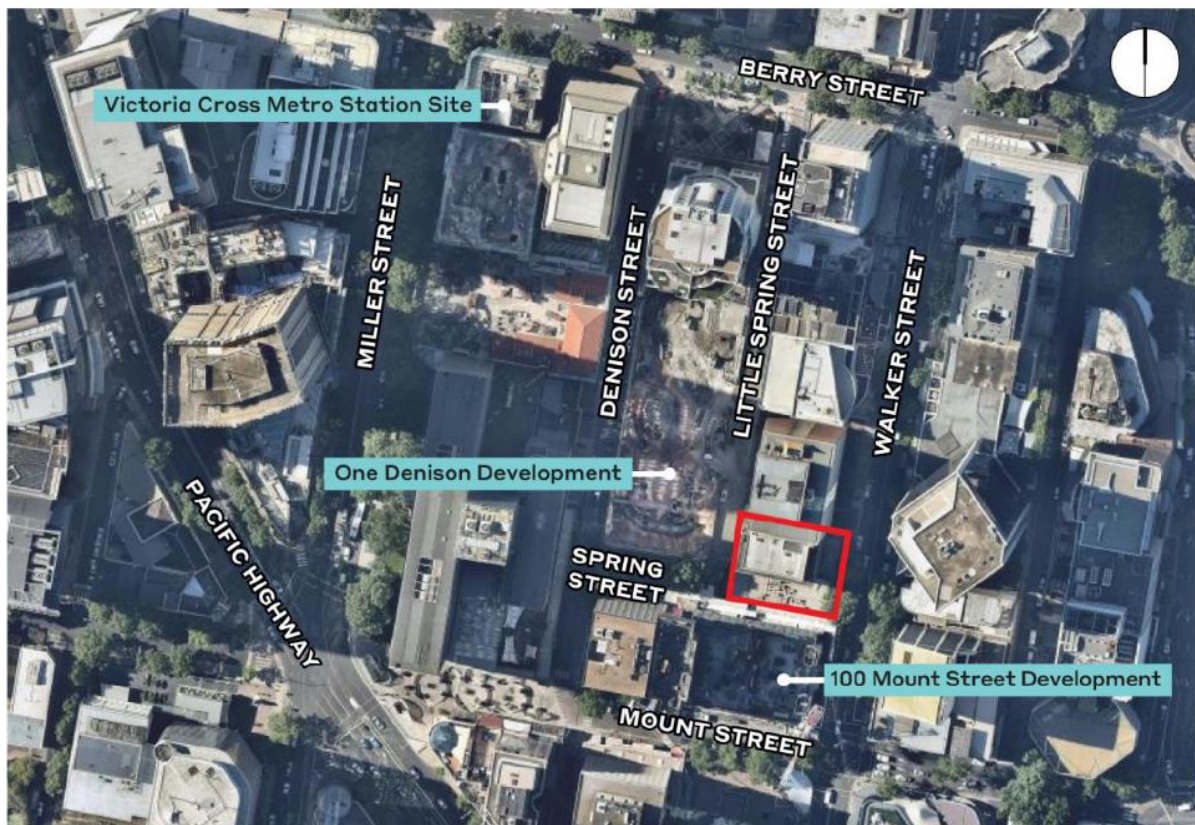
The site has primary access onto Walker Street and also has rear access to Little Spring Street. The Fire Station (86 Walker Street) is listed as an item (item number I0983) of local heritage significance under the *North Sydney Local Environmental Plan 2013* (NSLEP 2013).

To the immediate north of the site is commercial and mixed-use development along Walker Street. 170m to the northwest is the site of the proposed Victoria Cross Metro Station.

Further to the south is the 100 Mount Street development comprising a commercial tower of 38 floors and a total tower height of 149m.

To the immediate west of the site is Little Spring Street. On the other side of Little Spring Street is the One Denison Street development. The development is a commercial tower of 39 floors and a total tower height of 158.7m. Further to the west are the MLC Centre and other commercial developments in the North Sydney CBD.

To the east of the site are two blocks of commercial development prior to reaching the Warringah Freeway, which separates the North Sydney CBD from low to medium density residential developments of Neutral Bay and Kirribilli further to the east.



 The Site

## 6. BACKGROUND

### 6.1 Part 3A Major Project - Berry Square redevelopment (MP08\_0238)

On 25/2/10 Part 3A major development approval was granted by the Department of Planning for demolition of existing buildings and erection of a mixed use development comprising a retail/commercial building at No's.77-81 Berry Street, North Sydney and a **33-storey hotel containing 200 guest rooms on the subject site at No.88 Walker Street.**

A section 75W modification application (**MP08\_0238 MOD 5**) was lodged with NSW Planning & Environment on 12/6/14 seeking to delete that part of the development relating to the subject site at No.88 Walker Street, being a hotel building and associated service tunnel beneath Little Spring Street linking to the approved commercial building at No's.71-81 Berry Street.

The Modification Application ("MOD 5") was **approved on 16/3/15** with the effect of deleting any reference to the subject site (or part thereof) in relation to the description of land the subject of the approval, demolition, excavation, and construction of a hotel building and associated service tunnel. In light of the above, the subject site at No.88 Walker Street is taken to be severed from the redevelopment of the Berry Street site.

**6.2 DA430/14** for change of use and alterations and additions to existing commercial office building for the purposes of providing new tourist hotel accommodation, was approved by North Sydney Independent Planning Panel at its meeting on 1/4/15.

**6.3 DA 90/18** was recently approved for the demolition of the existing nine storey office building at 88 Walker Street.

### 6.4 DA165/18

In 2014 North Sydney Council commenced a review of the planning controls for the North Sydney Centre. As part of the review Council prepared a North Sydney CBD Capacity and Land Use Strategy which was subsequently followed by a Planning Proposal to amend *North Sydney Local Environmental Plan 2013* (NSLEP 2013). The Planning Proposal included increasing the maximum height of buildings control on the subject site from RL 170 to RL 227.

Due to the protracted timeframe associated with the finalisation of the Planning Proposal, Billbergia lodged a DA165/18 to North Sydney Council on 4 June 2018 for the construction of a 35 storey building compliant with the existing controls under NSLEP 2013. Provision was made within that application to allow it to be converted to a building commensurate with heights envisaged under the North Sydney Centre Planning Proposal at a future time once the Planning Proposal was further progressed.

On the 26 October 2018 NSLEP (Amendment No 23) was gazetted in accordance with the Planning Proposal. Accordingly, the applicant, Billbergia withdrew DA165/18 and submitted DA368/18 under the amended LEP height control.

The primary difference between the two applications to achieve the increased height control involved the addition of 14 levels of commercial office space.

### 6.5 DA368/18

Development consent DA368/18 was granted by the Sydney North Planning Panel at its meeting of 13 February 2019 for the construction of a 48 storey hotel and office building.

Modification Application DA368/18/2 was approved by Council on 28 March 2019 for amendments to the wording of conditions associated with construction certificates.

The Applicant has submitted two additional amendments to the development consent. Modification Application DA368/18/3 seeks amendments to the rear of the Firehouse Hotel in order to meet the operational needs of the Hotel whilst simultaneously delivering Council's requirements for the interface with the public domain. Modification Application DA368/18/4 seeks to facilitate the staging of Construction Certificates (CC's) for specific works and to rationalise the individual CC's to better reflect the intended construction program.

The subject Modification Application represents the fourth amendment to development consent DA368/18.

## **7. REFERRALS**

### **7.1 Building**

The application has not been assessed specifically in terms of compliance with the National Construction Code (NCC). Council's standard condition relating to compliance with the NCC was imposed and should amendments be necessary to any approved plans to ensure compliance with the NCC, then a Section 4.55 application to modify the consent may be required.

The proposal did not require referrals with regard to traffic, landscaping, engineering or heritage as the modifications are at the top of the building. And the relevant conditions are not affected by the modification.

### **7.2 External Referrals**

The previous referrals to Transport (RMS); Sydney Water; Ausgrid; Airport and Sydney Observatory were not required and the conditions relevant to the authorities are not affected by the modification.

## **8. SUBMISSIONS**

The application was notified to the Central Business District precinct and surrounding owners in accordance with Council policy from 9 August 2019 until 23 August 2019. No submissions were received in response to the notification, however one submission was received from Planning Alerts on behalf of Philip Newnham (8/16 MacKenzie Street North Sydney) making the following comment:

*"47 floors not enough and no bar on the roof, it's noisy enough around North Sydney thank you".*

Comment:

The height of the approved building does not change and roof top bar was already approved, the additional office level will not add to the noise levels in the CBD. The additional floor area will not impact on traffic due to the proximity to the station and Metro.

## **9. CONSIDERATION**

### **9.1 Section 4.55 (2)**

- (2) *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
  - (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
  - (c) *it has notified the application in accordance with:*
    - (i) *the regulations, if the regulations so require, or*
    - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
  - (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*
- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

Therefore, Council's assessment of the application to modify the subject development consent must consider the following issues:

## **9.2 Is the proposed development as modified substantially the same development approved originally?**

The development, as proposed to be modified, is substantially the same development as that originally approved for the following reasons:

- it retains the same mix of land uses as such there is no material change in the essence of the development;
- it contains the additional commercial floor space without increasing the maximum building height;
- it does not increase the approved maximum parapet height as such there are no additional bulk, scale and overshadowing impacts;
- the fundamental elements and public benefits delivered by the development will be maintained including street front activation, heritage restoration, visual interest and internal amenity; and
- the environmental impacts of the modified development are substantially the same as the approved development.

## **9.3 Whether the application required the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies.**

The application does not require the concurrence of the Minister, public authority or approval body.

## **9.4 Whether any submissions were made concerning the proposed modification.**



No submissions were received in response to the notification, however one submission was received from Planning Alerts making the following comment:

*“47 floors not enough and no bar on the roof, it’s noisy enough around North Sydney thank you”.*

The height of the approved building does not change and roof top bar was already approved, the additional office level will not add to the noise levels in the CBD. The environmental impacts are substantially the same as approved.

**9.5 Any relevant considerations under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. Is it consistent with the reasons given by the consent authority for the grant of the consent that is sought to be modified.**

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

The application has been assessed against the relevant numeric controls in NSLEP 2013 and DCP 2013 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

**9.5.1 Compliance Tables**

North Sydney Centre	Proposed	Control	Complies
<b>Height (Cl. 4.3)</b>	The existing maximum height of building control for the site is RL 227. The height of the proposed building to the top of the facade is RL 227 to the west, east and south elevations and has not changed with the modification. The building contains an architectural roof feature that reaches a height of RL232.6. The proposed roof bar is partially over RL 227 at RL 228.9 (top of roof bar) but well under the approved height of the building.	RL 227 AHD	NO  Clause 4.6 Request accepted with original plans No Clause 4.6 required for Section 4.55 modification Impacts are similar to those accepted by the original determination.
<b>Architectural Roof Feature (Cl.5.6)</b>	The proposed development includes an architectural roof feature.	Cl.5.6(2) provides for development that includes an architectural roof feature to exceed the height limits set by clause 4.3 if the roof feature meets the applicable criteria in subclause (3)	YES

North Sydney Centre	Proposed	Control	Complies
<b>Overshadowing of dwellings (Cl.6.3 (1) (c))</b>	Additional overshadowing is limited to the adjacent commercial properties and surrounding roads. Between the hours of 2:30pm and 3:00pm, the shadow cast by the approved building falls on residential properties outside the centre. The modification does not cause any additional overshadowing.	Variation permitted	YES
<b>Overshadowing of land (Cl.6.3 (2) (a) and (b))</b>	The proposal does not result in additional overshadowing of the RE1 zoned land or mapped Special Areas between 12am and 2pm. The proposal will not overshadow Don Bank Museum.	Variation permitted	YES
<b>Minimum lot size (Cl.6.3 (2) (c))</b>	1,076m <sup>2</sup>	1000m <sup>2</sup> min.	YES

### 9.5.2 DCP 2013 Compliance Table

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 2 and 9		
	<i>complies</i>	Comments
<b>2.2 Function</b>		
<b>Diversity of Activities</b>	Yes	The proposal provides a mix of office and hotel uses, with retail at ground level. The proposed tourist accommodation will contribute to tourism and cultural life of North Sydney
<b>Maximise Use of Public Transport</b>	Yes	The development is within 400m of North Sydney railway station and bus interchange, as well as the proposed Victoria Cross Metro Station. End of Trip facilities are provided. No car parking provided.
<b>Hotel Design and Management</b>	Yes	Common facilities include bar and a restaurant in accordance with this clause. As per the Statement of Hotel Management, hotel rooms will not be converted to a residential use at a future time.
<b>2.3 Environmental Criteria</b>		
<b>Noise</b>	Yes	The development is capable of complying with this clause. This has been conditioned.
<b>Wind Speed</b>	Yes	The modification application is supported by an assessment of the expected wind conditions

		<p>on the proposed outdoor area of the rooftop bar. This assessment has studied the existing wind conditions in the locality and examined the likely effect of wind on the trafficable rooftop bar terrace. The assessment is based on a visual inspection and analysis of the proposed design as well as wind tunnel testing. The WIA determined that the proposed outdoor bar terrace is generally expected to be subject to windy conditions due to its location on Level 48, though as the terrace is split across the south and east aspects a part of the terrace would be expected to have relatively calm wind conditions for most incident wind directions. The 1.75m high balustrade surrounding the terrace would generally be expected to provide protection from strong winds for seated patrons next to the balustrade. However, the area protected by the balustrade is limited, and due to the elongated shape of the terrace, strong wind conditions would be expected on parts of the terrace for most wind directions. Given the potential for windy conditions, the following recommendations have been put forward by the consultants to mitigate any wind impacts:</p> <ul style="list-style-type: none"> <li>• a high balustrade;</li> <li>• not include any awnings or canopies over the terrace space;</li> <li>• the use of vertical screening or booth style furniture with protection above head height of seated patrons to create locally calmer wind conditions;</li> <li>• suitably fixing furniture such as tables and chairs to the terrace surface or walls.</li> </ul> <p><b>It is noted that no consent is sought for furniture under this application, which will be the subject of a separate development consent.</b></p>
<b>Reflectivity</b>	Yes	<p>Solar Reflectivity Assessment was prepared by Cermak Peterka Petersen (CPP) with the approved development to assess the proposed development to analyse its potential to produce solar reflectivity impacts on surrounding public roadway locations. The modification is unlikely to change or impact on the reflectivity of the approved building.</p>
<b>Artificial Illumination</b>	Yes	Internal light spill from the roof top will not adversely impact on any residential uses
<b>Solar Access</b>	Yes	There is no additional shadow as a result of the proposed modification.
<b>Views</b>	Acceptable	No change from approved building
<b>2.4 Quality built form</b>		
<b>Setbacks</b>	Acceptable	No change from approved building
<b>Building Design</b>	Acceptable	Table B-2.9 requires all floors in the Commercial Core zone to be a minimum of 3.3m in floor to ceiling height. The modified

		ceiling heights for levels 47 and 48 exceed the 3.3m minimum.
<b>Skyline</b>	Yes	The North Sydney Centre Planning Proposal increased the height control to RL 227. The approved development has a height of RL 232.6. The building has been designed to positively contribute to the skyline of the North Sydney CBD and the modification will not impact on that contribution.
<b>Streetscape</b>	Yes	The approved building includes a through site link to enhance pedestrian connectivity through and around the site. This is further enhanced by provision for a café to activate the rear entrance to the through site link.
<b>Entrances and Exits</b>	Yes	The primary entrance point to the approved building is accessible from Walker Street and highly visible from the street frontage. The entrance provides a continuous path of travel, including a through site link to Little Spring Street.
<b>Public Spaces and facilities</b>	Yes	Significant consideration has been made with regards to ensuring that the front of the proposed development positively interacts with the heritage nature of the Firehouse Hotel. The lobby areas in particular have been designed to reduce clutter and provide visual interest.
<b>2.5 Quality Urban Environment</b>		
<b>Accessibility</b>	Yes	Equitable access will be provided, including entry foyer, passenger lifts, sanitary facilities and hotel rooms.
<b>Safety and Security</b>	Yes	There is good surveillance from the lobby and through site link.
<b>Vehicular Access</b>	Yes	All vehicular access, including loading/service vehicles and set downs will occur in the laneway of Little Spring Street. No vehicular access is provided to Walker Street which is consistent with Council's clear way zone of 7-10am and 3-7pm.
<b>Car Parking</b>	Nil	Approved building does not provide for car parking. The additional floor area with the modification does not warrant parking.
<b>Garbage Storage</b>	Yes	The primary waste storage area for the approved building is located on Level 4. From this level, direct access is available to the loading dock area via the goods lift for removal via Little Spring Street. This storage and movement of waste does not conflict with any main pedestrian paths throughout the development.
<b>2.6 Efficient Use of Resources</b>		
<b>Energy Efficiency</b>	Yes	The approved building is targeting a NABERS 4.5 Star Energy Commitment Agreement and a Green Star Energy Greenhouse Gas Emissions and Peak Demand Reduction performance.
<b>2.7 Public Domain</b>		
<b>Street Furniture, Landscaping Works, public art</b>	Yes	The approved development provides a range of measures to respond to Council's plans and



		<p>enhance the public domain around the site. Specifically, the project will:</p> <ul style="list-style-type: none"> <li>- Demolish part of the existing Firehouse Hotel fronting Little Spring Street to create a widened pedestrian footpath to improve safety and enhance movement through the Laneways precinct;</li> <li>- Enhance the relationship of the rear of the Firehouse Hotel with Little Spring Street by replacing the two storey blank wall with public art and a new entry which provides increased passive surveillance and activation;</li> <li>- Relocate the Firehouse's on-street loading into the new shared loading dock, removing these activities from happening on street;</li> <li>- Provide additional street activation fronting Little Spring Street through the provision of a café;</li> <li>- Provide a through site link to enhance connectivity between Walker Street and the Laneway Precinct / Victoria Cross Metro Station.</li> </ul>
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### 9.5.3 Parking

The *NSDCP 2013* allows a maximum rate of parking for available land uses. For hotel rooms, this rate is 1 space per 5 rooms. 252 bedrooms are proposed, resulting in a maximum parking requirement of 50 spaces for the hotel component. For commercial/office space, this rate is 1 space per 400m<sup>2</sup> of GFA. 13,442m<sup>2</sup> (including additional GFA of modification) of Commercial GFA is proposed, resulting in a maximum parking requirement of 33 spaces for the commercial/office component. Therefore, a maximum of 83 spaces could be provided in accordance with the *NSDCP 2013* rates.

The approved does not propose any off-street parking spaces, which is in accordance with the *NSDCP 2013* as there is no minimum parking requirement. The proposal is located within 400m of both an existing heavy rail station and a proposed Metro station as well as extensive bus services. This accessibility will encourage users to travel to the site via public transport and minimise the reliance on private car usage in accordance with Objectives O2 and O3 of Section B10.2.1.

Further it is noted that because of the Heritage listed Firehouse Hotel, frontage to Walker Street and the Sydney Walter stormwater pipe that runs under the site, it is not practical or perhaps even possible to provide a basement car park.

The additional floor space with the modification is less than 400m<sup>2</sup> and does not warrant the need for car parking for the reasons stated above.

With regards to bicycle parking requirements, the *NSDCP 2013* provides a minimum rate of bicycle parking split by staff and visitors. For hotel rooms, this is 1 space per 4 staff and 1 space per 20 rooms for visitors. 45 staff and 252 rooms are proposed, resulting in a minimum bicycle parking requirement of 25 spaces for the hotel component. For commercial/office space, this rate is 1 space per 150m<sup>2</sup> for staff and 1 space per 400m<sup>2</sup> for visitors. With the modification increase of 336m<sup>2</sup>, 13,442m<sup>2</sup> of commercial/office GFA is now proposed, resulting in a minimum bicycle parking requirement of 123 spaces for the commercial/office component. This results in a total of 148 spaces. 105 bike parking spaces are proposed.

Whilst it is noted that this is less than the required 148 spaces, this is considered appropriate given the site's location close to regular public transport services.

#### **9.5.4 Public Views**

Clause 6.3(5)(b) of NSLEP 2013 requires the consent authority to consider whether a proposed development preserves important view lines and vistas. The NSDCP 2013 Character Statement for the North Sydney CBD identifies a series of important views and vistas. These are:

- From the plaza at No. 5 Blue Street and located over North Sydney Rail Station to the Sydney Harbour Bridge;
- From Doris Fitton Park (160-166 Arthur Street) to Sydney Harbour and Neutral Bay district;
- Views along the Pacific Highway to the Post Office on Mount Street from the south-east; and
- Views along the Pacific Highway to Sydney Harbour from the intersection with Mount Street.

The proposed development is not positioned within any of the above view corridors and will not have any impact on public views.

#### **9.5.5 Private Views**

The only residential development with views across the site is the recently renamed Alexander Apartments (previously Beau Monde) at 77 Berry Street. This development is located approximately 110m to the northwest of the site. There are 241 residential units in the building; of these 83 units (34% of the total number of apartments) have a south, south-east or south-west aspect.

Views from the Alexander Apartment building to the Sydney CBD or harbour are currently obstructed by the following existing or proposed buildings:

- One Denison Street, North Sydney (159m in height – RL 213);
- 99 Walker Street, North Sydney (85m in height);
- 141 Walker Street, North Sydney (99m in height); and
- 100 Mount Street, North Sydney (149m in height – RL 203).

The view analysis undertaken for the One Denison project illustrates that the One Denison development sits between the site and the Alexander Apartments, and the proposed development is not anticipated to further obstruct the views of these residents. At the upper levels of the building the tower may become visible but its view impact will be limited to an area of land on the horizon above 99 Walker Street. The view corridor to the south west between Darling Point and Garden Island will be retained for units with an existing south-east aspect. Further intrusion on views and amenity currently enjoyed by this building are predictable given current planning controls and the recent approval of the Victoria Cross Over Station Development to the immediate west. The modifications will cause no additional impacts. The height of the current approval for this site remains unchanged at RL 232.6.

## 9.5.6 NORTH SYDNEY LEP 2013

### *Permissibility within the zone*

The proposal is permissible with consent under the B3 Commercial Core zoning.

### *Zone B3 Commercial Core - Objectives of zone*

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To prohibit further residential development in the core of the North Sydney Centre.
- To minimise the adverse effects of development on residents and occupiers of existing and new development.

The site is surrounded by a variety of uses which predominantly comprise of commercial and retail uses.

The proposal is a form of development that is reasonably anticipated on the site. The proposal is consistent with the objectives of the B3 zone.

### *Height of buildings*

The Height of Building Map sets a height of building standard of RL 227 for the site.

The height of the approved development is RL 232.6 to the top of the plant.

A clause 4.6 Variation Request was submitted with DA.368/18 to justify contravention of the height standard, which at RL 232.6 represented a variation of 5.6m. The clause 4.6 Variation Request demonstrated that notwithstanding the non-compliance with the maximum height development standard, that the development:

- satisfies the tests in clauses 5.6 and 6.3(3) of the North Sydney Local Environmental Plan 2013 which provides for buildings to exceed the maximum height limit;
- will have an appropriate impact, in terms of scale, form and massing;
- will not impact on any significant view lines and vistas from the public domain; and
- will enhance the streetscape in relation to scale, materials and external treatments.

Whilst the proposal includes additional GFA, it maintains a height of RL 277 to the top of the façade and RL 232.6 to the top of the architectural roof feature. The building's height, bulk and scale has been subject to previous assessment through the original DA. The proposed bulk and scale impacts have been assessed and determined to be acceptable and would remain acceptable under the proposal.

### *Objectives of Division (North Sydney Centre) – Clause 6.1*

Objective	Comment
(a) to maintain the status of the North Sydney Centre as a major commercial centre	Proposal consistent
(b) to maximise commercial floor space capacity and employment growth within the constraints of the environmental context of the North Sydney Centre,	The proposal provides for a maximum floor space of commercial and a hotel
(e) to encourage the provision of high-grade commercial space with a floor plate, where	The site cannot be consolidated with adjacent sites and cannot provide for larger commercial

appropriate, of at least 1,000 square metres	floor plates.
(g) to prevent any net increase in overshadowing of any land in Zone RE1 Public Recreation (other than Mount Street Plaza) or any land identified as “Special Area” on the <u>North Sydney Centre Map</u>	The development will result in no additional overshadowing.
(h) to prevent any increase in overshadowing that would adversely impact on any land within a residential zone	Additional overshadowing is limited to the adjacent commercial properties and surrounding roads with minimal overshadowing after 2.30pm
(i) to maintain areas of open space on private land and promote the preservation of existing setbacks and landscaped areas, and to protect the amenity of those areas	Not applicable to site

### *Airports Act 1996 and Airports (Protection of Airspace) Regulations 1996*

As required by Clause 6.15 of NSLEP 2013, the original application was referred to Sydney Airport pursuant to s.186 of the Airports Act 1996 and Airports (Protection of Airspace) Regulations 1996 as the proposal would penetrate the Limitation or Operations Surface of Sydney Airport.

The Department approved the proposal and recommended conditions that were included in the consent conditions. The modification retains the approved height and the conditions are not to be modified. It is concluded that no further referral is required in regard to this modification.

### *Building heights and massing – Clause 6.3*

(1) *The objectives of this clause are as follows:*

(a) *Repealed*

(b) *to promote a height and massing that has no adverse impact on land in Zone RE1 Public Recreation or land identified as “Special Area” on the North Sydney Centre Map or on the land known as the Don Bank Museum at 6 Napier Street, North Sydney,*

The development will not overshadow any RE1 zoned land, any of the Special Areas as mapped by the LEP or the Don Bank Museum.

(c) *to minimise overshadowing of, and loss of solar access to, land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone RE1 Public Recreation or land identified as “Special Area” on the North Sydney Centre Map,*

Additional overshadowing is limited to the adjacent commercial properties and surrounding roads. Shadow diagrams demonstrate that between the hours of 2:30pm and 3:00pm, the shadow cast falls on residential properties. The impact is considered minimal. The modification does not cause additional shadow.

(d) *to promote scale and massing that provides for pedestrian comfort in relation to protection from the weather, solar access, human scale and visual dominance,*

The proposal has an architecturally defined base which creates human scale and is a clearly legible pedestrian entry point to the building.

(e) *to encourage the consolidation of sites for the provision of high grade commercial space.*



The site has an area in excess of 1000m<sup>2</sup> so consolidation of further sites is unnecessary.

*(2) Development consent must not be granted for the erection of a building on land to which this Division applies if:*

*(a) the development would result in a net increase in overshadowing between 12 pm and 2 pm on land to which this Division applies that is within Zone RE1 Public Recreation or that is identified as "Special Area" on the North Sydney Centre Map, or*

As indicated on the submitted shadow diagrams, the proposal does not result in any additional overshadowing of the RE1 zoned land or mapped Special Areas between 9am and 3pm.

*(b) the development would result in a net increase in overshadowing between 10 am and 2 pm of the Don Bank Museum, or*

The proposal does not overshadow Don Bank.

*(c) the site area of the development is less than 1,000 square metres.*

Site has an area of 1076m<sup>2</sup>.

*(3) Development consent for development on land to which this Division applies may be granted for development that would exceed the maximum height of buildings shown for the land on the Height of Buildings Map if the consent authority is satisfied that any increase in overshadowing between 9 am and 3 pm is not likely to reduce the amenity of any dwelling located on land to which this Division does not apply.....*

Shadow diagrams demonstrate that between the hours of 2:30pm and 3:00pm, the shadow cast falls on residential properties. The impact is considered minimal. The modification does not result in additional shadow.

*(5) In determining whether to grant development consent for development on land to which this Division applies, the consent authority must consider the following:*

*(a) the likely impact of the proposed development on the scale, form and massing of the locality, the natural environment and neighbouring development and, in particular, the lower scale development adjoining North Sydney Centre,*

The application is acceptable with regard to its scale within the context of the locality.

*(b) whether the proposed development preserves significant view lines and vistas,*

There are no view lines or vistas affected by the proposal.

*(c) whether the proposed development enhances the streetscape in relation to scale, materials and external treatments.*

The proposed development will enhance the streetscape with its materials and external treatments and provides variety and interest.

### **9.5.7 NORTH SYDNEY CENTRE PLANNING AREA / CENTRAL BUSINESS DISTRICT**

The subject site is within the Central Business District which falls within the North Sydney Centre Planning Area. The proposal is generally consistent with the character statement

other than minor non compliances with podium setbacks at the Spring Street and Little Spring Street elevations.

### **9.5.8 Reasons given for granting consent**

In the consent granted for DA.368/18, the Sydney North Planning Panel stated the following reasons for approval:

*“The proposal is consistent with the zoning and the desired future character of the area. It preserves the Fire House, which is an important item of local heritage.*

*The proposal complies with the height controls of North Sydney LEP 2013, as the part that exceeds the statutory height is an architectural feature. While the applicant has submitted a justification under clause 4.6 of the LEP, this was for ‘abundant caution’. However, if the submission were required, in the Panel’s opinion, it would be justified as the proposal complies with the objectives of the zone and the controls and the height exceedance has no material environmental impact. A better planning outcome is achieved.”*

The proposed modifications are consistent with the above reasons for granting consent as:

- the development’s consistency with the zoning and desired future character of the area is not altered;
- the preservation of the Fire House is not impacted by these amendments; and
- there is no change to the approved height of building.

## **10 SECTION 7.11 CONTRIBUTIONS**

Section 7.11 Contributions in accordance with Council’s S7.11 plan are warranted and based on the increase in non-residential gross floor area 336m<sup>2</sup>. The contribution for the original consent has been paid prior to the release of early stage Construction Certificate:

The additional contribution is calculated at \$47,500.16. The contributions are detailed in the conditions.

### **11.0 ALL LIKELY IMPACTS OF THE DEVELOPMENT**

All likely impacts of the proposed development have been considered within the context of this report.

<b>ENVIRONMENTAL APPRAISAL</b>		<b>CONSIDERED</b>
1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing Facilities	Yes

- |    |  |     |
|----|--|-----|
| 7. | Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.) | Yes |
| 8. | Site Management Issues   | Yes |
| 9. | All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979      | Yes |

## 12.0 Conclusion

The proposed development has been assessed with respect to the objects and relevant Sections of the EP&A Act, as well as the objectives, merit based outcomes, development standards and prescriptive controls of various State Environmental Planning Policies, the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013. Other plans and policies were also considered such as the North Sydney Section 7.11 Contributions Plan.

No submissions were received in response to Council's notification of the application, however one submission was received from Planning Alerts. The concerns raised have been assessed and do not warrant refusal or modification of the proposal.

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EP & A Act 1979. Furthermore, the modification would not result in any material amenity impact to adjoining properties or the surrounding area.

The proposed modifications are consistent with the reasons for the granted of development consent to the originally approved development.

## RECOMMENDATION

**THAT** the Sydney North Planning Panel, as the consent authority, modify consent dated 15 February 2019 in respect of a proposal for construction of a 48 storey hotel and office building at 86-88 Walker Street North Sydney, under the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act with regard to PPSSNH-16 / Development Application No.368/18/5 only insofar as will provide for the following:

### To amend the description of the proposal to:

Construction of a 49 storey hotel and office building

### To delete condition A6 and C27 and add the following new conditions namely:

#### Development in Accordance with Plans (S4.55 Amendments)

- A6. The development being carried out in accordance with plans identified in Condition A1 of the consent and endorsed with Council's approval stamp, except as modified by the modifications shown by clouding on:

Plan No.	Issue	Title	Drawn by	Dated
s.4.55 2.01	A	Proposed Ground Floor Plan	Design studio group	17/04/19
s.4.55 2.02	A	Proposed First Floor Plan	Design studio group	17/04/19
s.4.55 2.03	A	Proposed Roof Plan	Design studio group	17/04/19
s.4.55 3.01	A	East Elevation	Design studio group	17/04/19

s.4.55 3.02	A	West Elevation	Design studio group	17/04/19
s.4.55 3.03	D	South Elevation	Design studio group	16/08/19
s.4.55 4.01	A	Section 1	Design studio group	17/04/19
s.4.55 4.02	A	Section 2	Design studio group	17/04/19
SK 1.01	A	Section 1	Design studio group	16/08/19

AND modified by:

Plan No.	Issue	Title	Drawn by	Received
DA-0050	A	Site Plan	Fitzpatrick + Partners	30 July 2019
DA-0101	A	Level 47 commercial	Fitzpatrick + Partners	30 July 2019
DA-0102	A	Level 48 rooftop bar	Fitzpatrick + Partners	30 July 2019
DA-0103	A	Level 49 LMR plan	Fitzpatrick + Partners	30 July 2019
DA-0104	A	Level roof plan	Fitzpatrick + Partners	30 July 2019
DA-0200	A	Elevation Sheet 01	Fitzpatrick + Partners	30 July 2019
DA-0201	A	Elevation Sheet 02	Fitzpatrick + Partners	30 July 2019
DA-0250	A	Section Sheet 01	Fitzpatrick + Partners	30 July 2019
DA-0251	A	Section Sheet 02	Fitzpatrick + Partners	30 July 2019
DA-0260	A	Detail Sheet 01	Fitzpatrick + Partners	30 July 2019
DA-0261	A	Detail Sheet 02	Fitzpatrick + Partners	30 July 2019
DA-0262	A	Detail Sheet 03	Fitzpatrick + Partners	30 July 2019
DA-0263	A	Detail Sheet 04	Fitzpatrick + Partners	30 July 2019
DA-0264	A	Detail Sheet 05	Fitzpatrick + Partners	30 July 2019
DA-0265	A	Detail Sheet 06	Fitzpatrick + Partners	30 July 2019
DA-0266	A	Detail Sheet 07	Fitzpatrick + Partners	30 July 2019

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

### Security Deposit/ Guarantee Schedule

C27. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of the Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$20,000.00
Infrastructure Damage Bond	\$250,000.00
<b>TOTAL BONDS</b>	<b>\$270,000.00</b>

\*This amount may be reduced by any damage deposit held by Council with regard to demolition

Note: The following fees applicable

Fees	
Section 7.11 Contribution	2,838,349.77
Section 7.11 Contribution – Sec.4.55	47,500.16
<b>TOTAL FEES</b>	<b>2,885,849.93</b>

(Reason: Compliance with the development consent)

## Section 7.11 Contributions - Sec.4.55 modification

- C34. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Section 7.11 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

<b>A</b>	<b>B (\$)</b>
<b>Administration</b>	\$ 779.86
<b>Community Centres</b>	\$ 1,901.42
<b>Childcare Facilities</b>	\$ 3,302.04
<b>Library and Local Studies Acquisitions</b>	\$ 387.74
<b>Library Premises and Equipment</b>	\$ 1,178.69
<b>Multi Purpose Indoor Sports Facility</b>	\$ 446.21
<b>Olympic Pool</b>	\$ 1,453.37
<b>Open Space Acquisitions</b>	\$ 1,421.28
<b>Open Space Increased Capacity</b>	\$ 2,817.36
<b>North Sydney Public Domain</b>	\$ 31,886.74
<b>Traffic Improvements</b>	\$ 1,925.45
<b>Total</b>	<b>\$ 47,500.16</b>

The contribution MUST BE paid prior issue of **Construction Certificate – CC2.2 – Structure from Ground Level to Roof.**

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 7.11 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)

This condition is in addition to condition C23 and does not supersede the requirements of that condition.

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

**Geoff Mossemeneer**  
**EXECUTIVE PLANNER**

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