

**ANGEL PLACE  
LEVEL 8, 123 PITT STREET  
SYDNEY NSW 2000**

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ABN 50 105 256 228

1 December 2021

Mr Anthony Witherdin  
Director - Key Sites  
NSW Department of Planning, Industry and Environment

Dear Anthony,

## **SECTION 4.55(1A) MODIFICATION APPLICATION - SSD-10375 PITT STREET NORTH OVER STATION DEVELOPMENT**

This section 4.55(1A) Modification Application has been prepared on behalf of Pitt Street Developer North Pty Ltd (**the Applicant**) to amend SSD-10375 which applies to the Pitt Street North Over Station Development Stage 2 (**PSN OSD**) at 252 Pitt Street, Sydney.

The application seeks

- a number of minor modifications and materiality clarifications to the approved PSN OSD SSDA (SSD-10375). These include clarification of and minor amendments to the podium and tower façades, deletion of the plant rooms previously located on level 37, widening of the podium door openings, provision for air terminals on the roof, and miscellaneous drawing amendments.
- modification to the wording of Condition B11 relating to Heritage Floor Space, so to extend the timeframes for confirmation of HFS liability quantum and HFS purchase. It also seeks to introduce wording to enable fulfilment of HFS obligations by compliance with the consent authority's Alternative Heritage Floor Space Allocation Scheme.

The application has been prepared in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act) and Environmental Planning and Assessment Regulations 2000 (the Regulations).

This modification letter is accompanied by the following documentation:

- Landowners consent;
- Revised Architectural Plans (**Attachment A**);
- Architectural Design Statement (**Attachment B**);
- Design Intent Statement (**Attachment C**); and
- Satisfaction of Condition B5 (**Attachment D**).

## 1. SITE BACKGROUND

The site is centrally located within the Sydney Central Business District (CBD) within the Sydney Local Government Area. The site comprises the southern extent of the street block bounded by Pitt Street, Park Street and Castlereagh Street (**Figure 1**). It is identified as 252 Pitt Street, Sydney and legally identified as Lot 20 DP1255509.

The site is an L shaped allotment with street frontages of approximately 27.8m to Pitt Street, 81m to Park Street and 48.3m to Castlereagh Street. Internal facing boundaries consist of a split northern boundary with the north eastern boundary measuring approximately 41.3m, north western boundary 41.6m and the secondary recessed western facing boundary of 15.7m resulting a site area of 3150.1m<sup>2</sup>.

Figure 1 Subject Site



Source: Nearmap/ Urbis

The site is located adjacent to two locally listed heritage items under the *Sydney Local Environmental Plan 2012* (SLEP) as illustrated at **Figure 2**, being:

- Item I1931 – ‘National Building including interior’ (known as Ashington Place), fronting Pitt Street; and
- Item I1699 – ‘Community building “Masonic Club” including interior’ fronting Castlereagh Street.

Ashington Place abutting the site's north western boundary is an early twentieth century 12-storey brick and concrete commercial building.

The Masonic Club abutting the site's north eastern boundary incorporates the NSW Masonic Club and Castlereagh Boutique Hotel within a 12-storey rendered brick building.

### Figure 2 Heritage Items



Source: SLEP 2012

### 1.1. PROJECT CONSENT HISTORY

The following table provides the history of development for the relevant project at the site.

Table 1 Project history

Application History	Development	Date Determined
SSI 15_7400	<p><b>CSSI approval Sydney Metro City &amp; Southwest</b></p> <p>On 9 January 2017, the minister for planning approved the Sydney Metro City &amp; Southwest – Chatswood to</p>	9 January 2017

Application History	Development	Date Determined
	<p>Sydenham project as Critical State Significant Infrastructure (CSSI).</p> <p>The CSSI approval granted consent for construction and operation of the metro rail line including works required to construct the metro stations including earthworks, public domain works, station works and OSD structural / service provisions. Excluded from the CSSI approval were the OSD buildings and any OSD uses within the station boxes.</p>	
SSD - 8875	<p><b>Concept Proposal</b></p> <p>Consent was granted for the Pitt Street North OSD Concept SSD DA (SSD-8875) in June 2019. The Concept DA approved either a mixed use or commercial OSD (not both) above the northern entrance to the Sydney Metro Pitt Street station. In addition to the indicative use, the Concept DA approved a building envelope, including street wall heights and setbacks with a maximum building height of RL 188.74 metres, a maximum gross floor area (GFA) of 50,310m<sup>2</sup> (including station floor space) and podium level car parking (maximum 50 car spaces).</p>	25 June 2019
SSD – 8875 Modification 1	<p><b>Modification to Concept SSD DA</b></p> <p>A modification application to the Concept SSD DA (SSD-8875) was lodged concurrently with the Detailed SSD DA (SSD-10375). The section 4.55(2) modification application modified:</p> <ul style="list-style-type: none"> <li>▪ The approved building envelope,</li> <li>▪ The interrelationship of proposed OSD floor space with station floor space;</li> <li>▪ Condition A15 and A17 to permit protrusion beyond the building envelope for sun shading elements, planted elements and balustrades;</li> <li>▪ Increase total GFA to 55,743m<sup>2</sup> (including station floor space); and</li> </ul>	26 February 2021

Application History	Development	Date Determined
	<ul style="list-style-type: none"> <li>Minor amendments to the design guidelines in respect of podium heights and tower setbacks.</li> </ul>	
SSD 10375	<p><b>Pitt Street North Over Station Development Stage 2</b></p> <p>A detailed SSD DA was approved on the 26 February 2021 for the detailed design, construction and operation of a 39-level commercial building above the northern entrance to the Pitt Street Metro Station.</p> <p>The SSD DA consent approved:</p> <ul style="list-style-type: none"> <li>A maximum building height of RL 176.80m;</li> <li>A maximum GFA of 55,743m<sup>2</sup>; (including station GFA approved under SSI 15_7400)</li> <li>Landscaped terraces on level 10 and level 11;</li> <li>Integration with the approved CSSI proposal including use of spaces with the CSSI 'metro box';               <ul style="list-style-type: none"> <li>Commercial lobbies;</li> <li>Retail tenancies;</li> <li>200 bicycle storage and end of trip facilities;</li> <li>40 car parking spaces;</li> <li>Loading dock and associated facilities; and</li> <li>Plant and circulation.</li> </ul> </li> <li>Fit-out of spaces within the podium for OSD purposes, with the exception of the future tenant spaces;</li> <li>Provision of augmentation of utilities and services (including basement level 1);</li> <li>Provision of signage zones; and</li> <li>Stratum subdivision between metro and OSD uses.</li> </ul> <p>It is proposed to make minor modifications to this SSD DA as outlined within this letter.</p>	26 February 2021

A pre-modification Scoping Letter was provided to the Department of Planning, Industry and Environment (the Department) on 5 October 2021 outlining the scope of the proposed modification. The Department confirmed that a Scoping Meeting was not required and that the proposed modification could progress to lodgement.

On 25 October 2021 the Department confirmed that the proposed design changes do not require review by the Pitt Street North Over Station Development Design Review Panel (DRP) as they would not have an impact on the Design Excellence of the approved development.

Accordingly, the provisions of Condition B5 under SSD - 10375 have been met and the proposed changes can proceed without prior review by the DRP under the provisions of Condition B6. A copy of this correspondence is attached as **Attachment D**.

## **2. PROPOSED MODIFICATION**

This Section 4.55(1A) modification seeks:

- a number of minor modifications and materiality clarifications to the approved PSN OSD SSDA (SSD-10375). These include clarification of and minor amendments to the podium and tower façades, deletion of the plant rooms previously located on level 37, widening of the podium door openings, provision for air terminals on the roof, and miscellaneous drawing amendments.
- modification to the wording of Condition B11 relating to Heritage Floor Space, so to extend the timeframes for confirmation of HFS liability quantum and HFS purchase. It also seeks to introduce wording to enable fulfilment of HFS obligations by compliance with the consent authority's Alternative Heritage Floor Space Allocation Scheme.

Each of these are detailed in turn below.

### **2.1. FAÇADE MATERIALITY**

A number of minor amendments and clarifications are proposed to the materiality of the façades. The proposed amendments include clarification of the materials proposed due to inconsistency in the approved plans as well as minor material changes to improve constructability. The materials proposed ensure integration with the materials approved for the same façades within the 'Metro Station Box' (approved via CSSI 15\_7400).

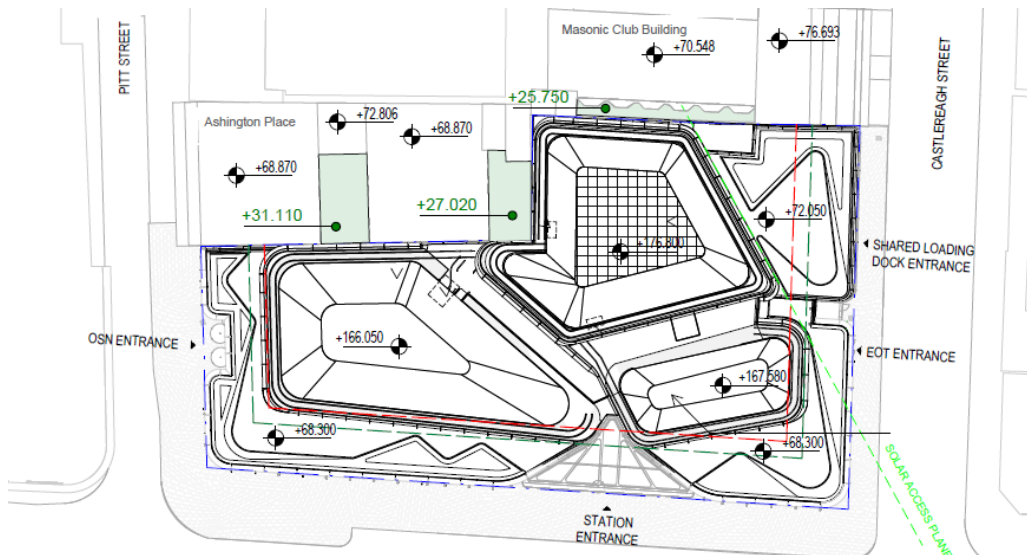
As per Condition B21 of the SSD -10375 consent, prior to the issue of the relevant Construction Certificate, details of the final materials and finishes will be lodged to the satisfaction of the Planning Secretary, including sample boards and computer-generated imagery of their application.

The proposed modifications are outlined in further detail in the following sections.

#### **2.1.1. Northern Podium Façade**

The northern façade of the podium abuts the Masonic Club Building and Ashington Place which both have lightwells adjacent to the shared boundary as illustrated in **Figure 3** below in green.

Figure 3 Location of lightwells



Source: CPB

A clarification of the materials on the northern podium façade adjacent to the lightwells of the Masonic Building and Ashington Place is proposed. The white spandrel glazing on the columns has been clarified to be metal cladding and a correction has been made to the colouring on the SSD DA drawings differentiating between translucent curtain wall and white spandrel glazing.

The proposed modifications are illustrated in **Figure 4** and the computer generated image (CGI) at **Figure 5** and will result in the same visual appearance and reflective performance as those outlined in the SSD DA approval.

Additional minor modifications to this podium façade include:

- an update to the level 11 terrace balustrade to a continuation of the translucent glazing below;
- a minor increase in the extent of the mechanical intake/ exhaust louvres; and
- clarification that the glazing adjacent to the amenities is fluted glazing as opposed to a glass curtain wall as noted on the SSD DA approval plans.



Figure 4 Proposed Modification to Northern Podium Façade



Picture 1 Approved Northern Façade [SMCSW SPS-FOS-OSN-AT-DWG-960004 Rev D]

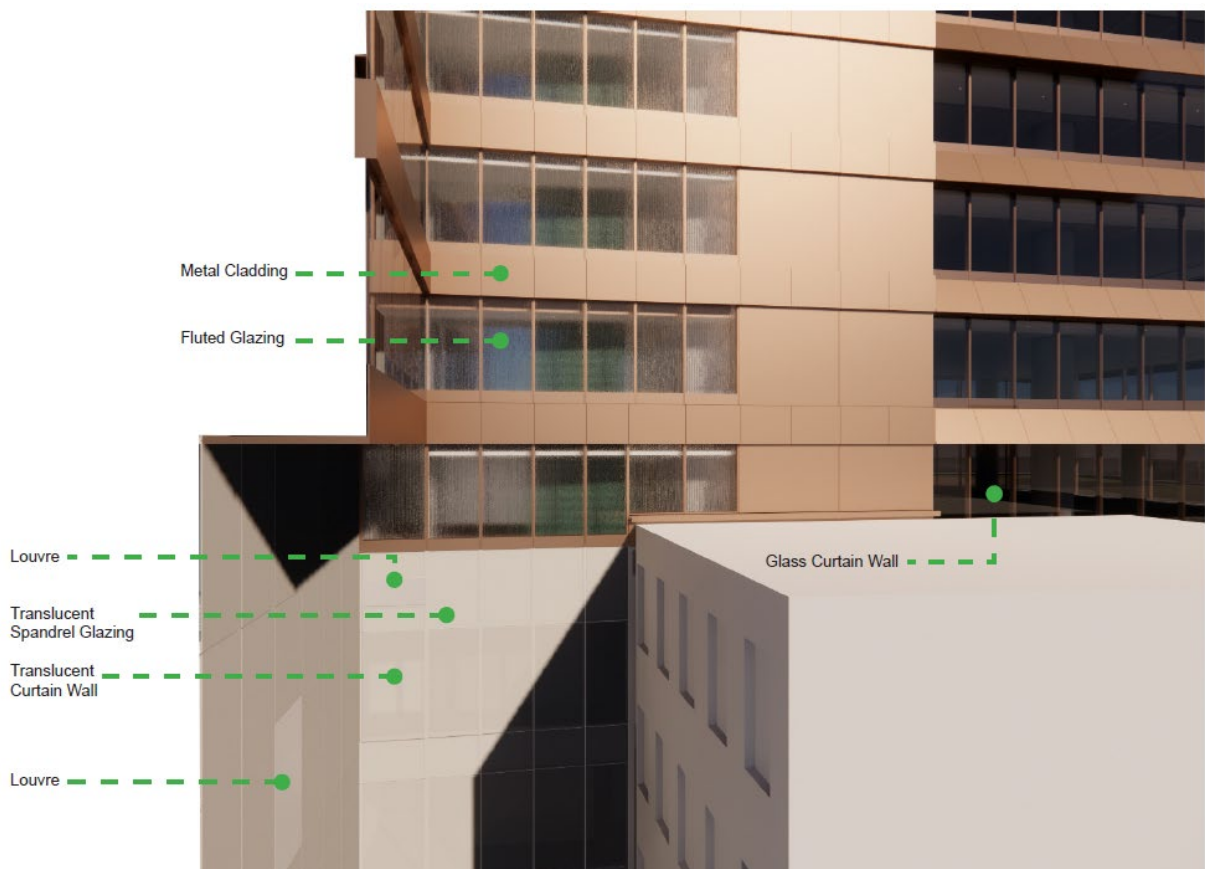
Source: Foster + Partners



Picture 2 Proposed Northern Façade [SMCSW SPS-COX-OSN-AT-DWG-960004 Rev E]

Source: Foster + Partners (modified by Cox Architects)

Figure 5 CGI of proposed Northern Podium Façade



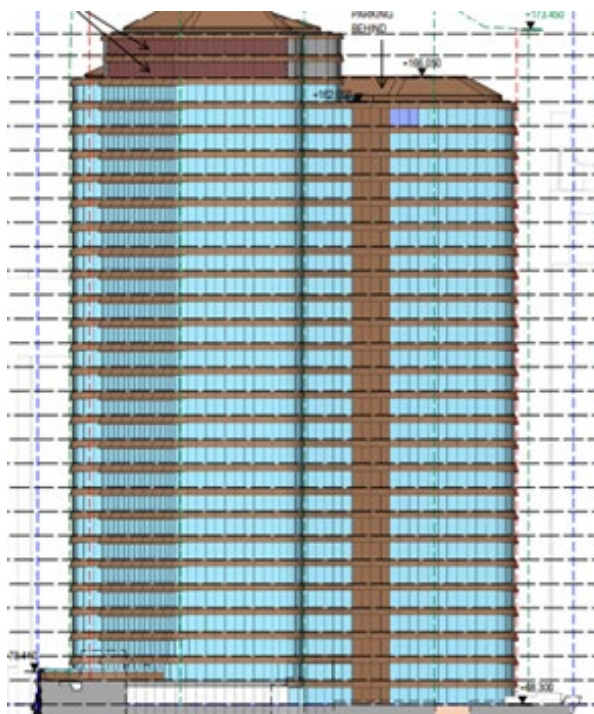
Source: Cox Architects



## 2.1.2. Northern Tower Façade

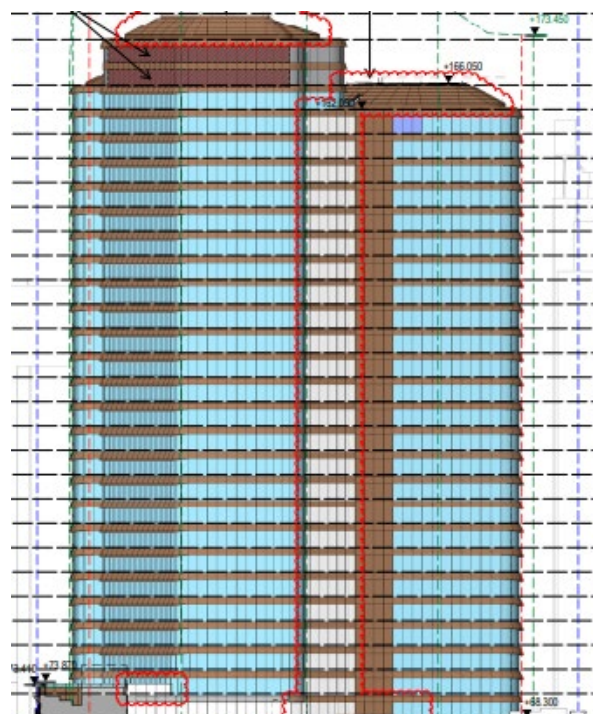
A correction has been made to the Northern Tower façade as illustrated in **Figure 9**. The approved plans show a glass curtain wall adjacent to the amenities and this has been corrected to fluted glass to provide required privacy. The materiality of this portion of the façade will have the same neutral colour and appearance as originally intended.

Figure 6 Proposed Modification to Northern Tower Façade



Picture 3 Approved Northern Façade [SMCSW SPS-FOS-OSN-AT-DWG-960004 Rev D]

Source: Foster + Partners



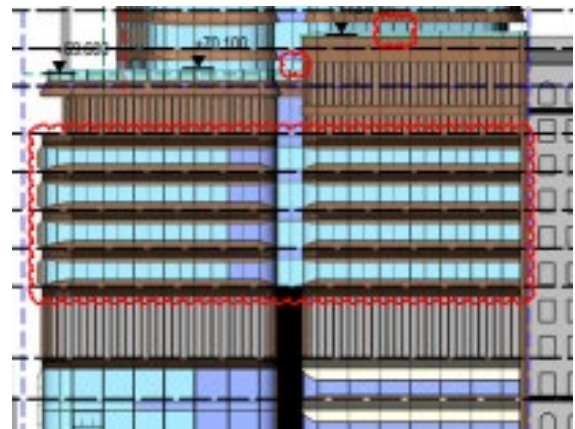
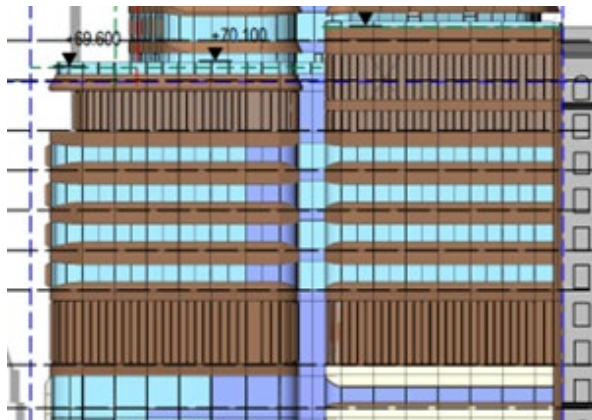
Picture 4 Proposed Northern Façade [SMCSW SPS-COX-OSN-AT-DWG-960004 Rev E]

Source: Foster + Partners (modified by Cox Architects)

### 2.1.3. Western and Eastern Podium Façades

A correction has been made to the podium façade (level 5 through to level 9) on the eastern and western elevations to accurately show the corrugation detailing. This change is a graphical fix as illustrated in **Figure 7** and **Figure 8**.

Figure 7 Correction to Eastern Podium Façades



Picture 5 Approved West Elevation [SMCSW SPS-FOS-OSN-AT-DWG-960001 Rev D]

Source: Foster + Partners

Picture 6 Proposed West Elevation [SMCSW SPS-COX-OSN-AT-DWG-960001 Rev E]

Source: Foster + Partners (modified by Cox Architects)

Figure 8 Correction to Western Podium Façade



Picture 7 Approved West Elevation [SMCSW SPS-FOS-OSN-AT-DWG-960001 Rev D]

Source: Foster + Partners

Picture 8 Proposed West Elevation [SMCSW SPS-COX-OSN-AT-DWG-960001 Rev E]

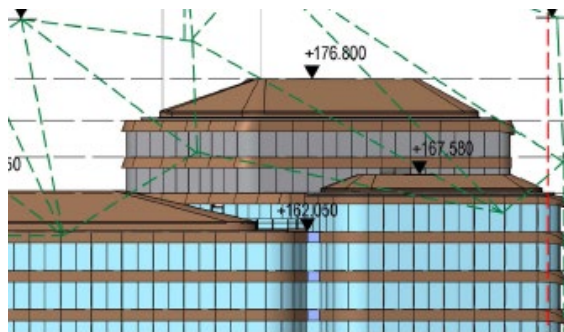
Source: Foster + Partners (modified by Cox Architects)

The elevations of these facades have also been revised to reflect the change in terrace door opening widths as discussed further in **Section 2.3**.

### 2.1.4. Southern tower façade

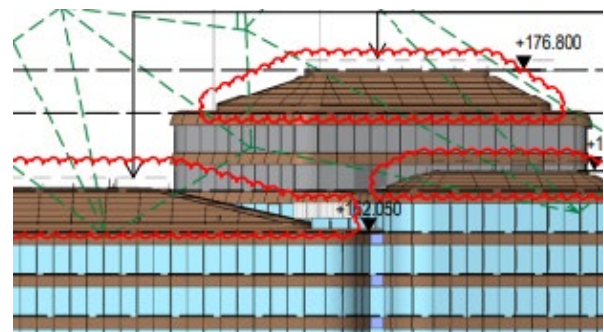
A correction has been made to the south western tower façade (level 35) to show fluted glazing adjacent to the amenities. A correction has also been made to the south western roof detailing, this change is a graphical fix as illustrated in **Figure 9**.

Figure 9 Correction to Southern Tower Façade



Picture 9 Approved South Elevation [SMCSW SPS-FOS-OSN-AT-DWG-960002 Rev D]

Source: Foster + Partners



Picture 10 Proposed South Elevation [SMCSW SPS-COX-OSN-AT-DWG-960002 Rev E]

Source: Foster + Partners (modified by Cox Architects)

## 2.2. NORTH WESTERN FAÇADE (NORTH – SOUTH SECTION) CLARIFICATION

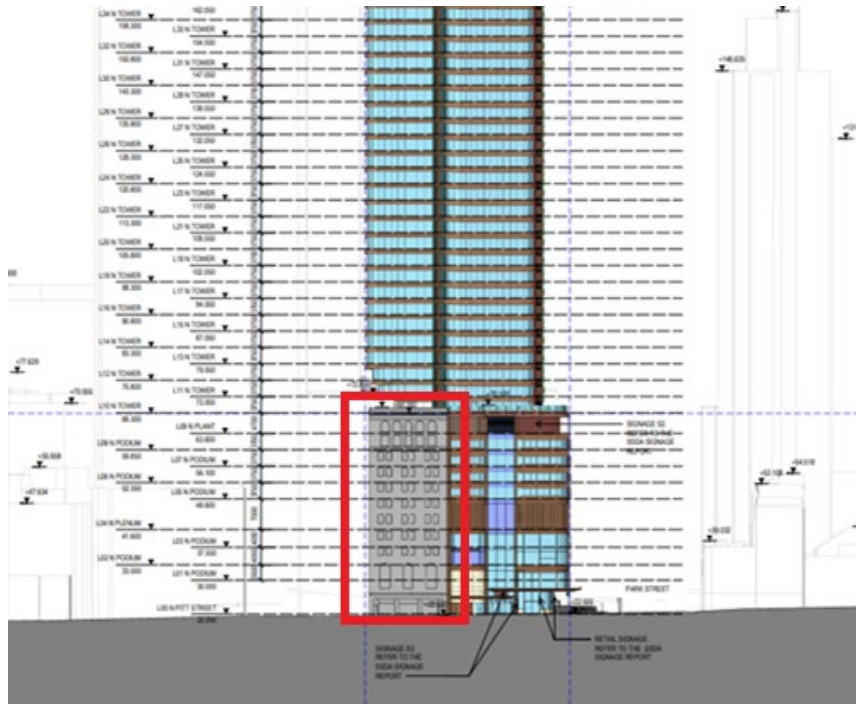
The north western façade of the OSD podium was obscured in the approved General Arrangement Elevation West Elevation - Pitt Street Plan (drawing SMCSWSPS-FOS-OSN-AT-DWG-960001) as illustrated in **Figure 10**.

As part of this modification application it is proposed to include an additional plan General Arrangement Elevation North Western Façade (North – South Section) (SMCSWSPS-COX-OSN-AT-DWG-960005) with details of the secondary western façade as illustrated in **Figure 11**.

The façade materiality consisting of a translucent curtain wall and white spandrel glazing is consistent with the design intent as per the Pitt Street North Design Guidelines and as outlined in the Architectural Design Report prepared by Foster + Partners accompanying the SSD DA submission.

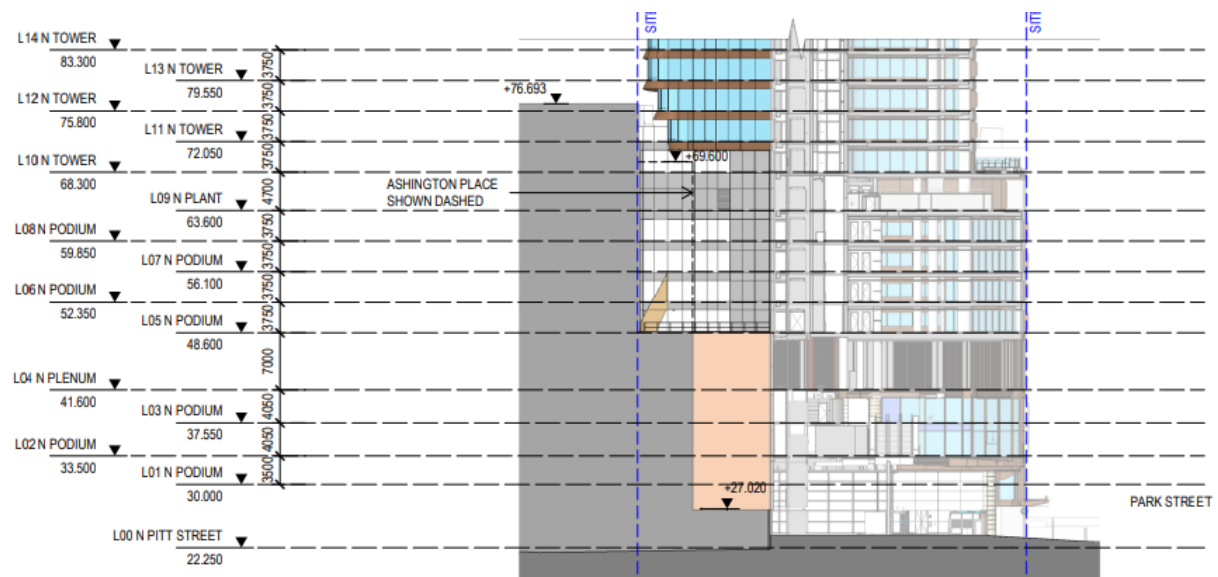


Figure 10 Approved General Arrangement Elevation West Elevation – Pitt Street (with missing north-south façade identified in red)



Source: Drawing No. SMCSWSPS-FOS-OSN-AT-DWG-960001 by Foster + Partners

Figure 11 Proposed General Arrangement Elevation North Western Façade (North – South Section)



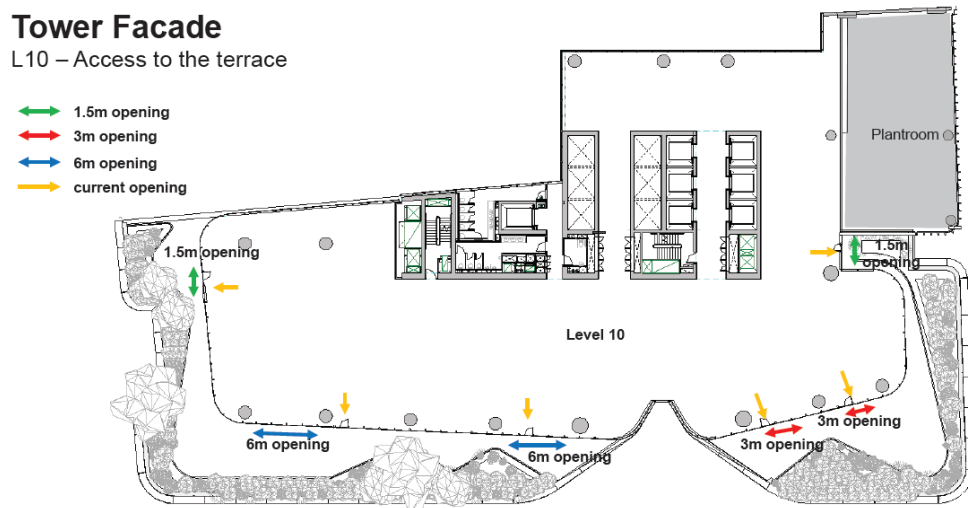
Source: Proposed Drawing No. SMCSWSPS-COX-OSN-AT-DWG-960005 drawn by Cox Architects

## 2.3. MODIFICATION TO TERRACE OPENINGS

It is proposed to modify the Level 10 and Level 11 terrace door openings from single width swing doors to sliding doors of various widths as illustrated in **Figure 12** and **Figure 13**.

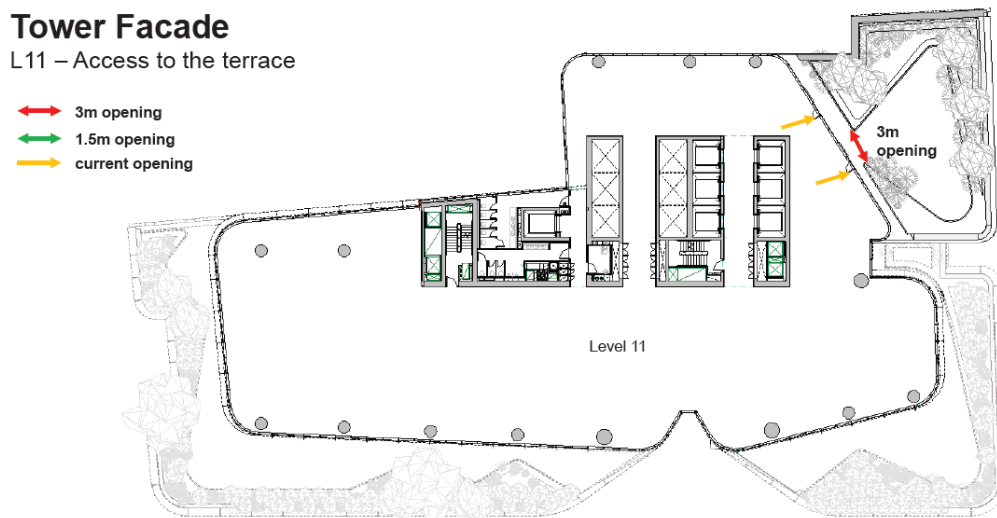
The modified door openings will improve the amenity of the tower including the usability of and access to the terrace areas. Both terraces have a 1.8m high glass balustrade around their perimeter to improve the usability of these spaces and the modified door openings will not be visible from the surrounding public domain.

Figure 12 Modification to Level 10 Terrace Openings



Source: CPB

Figure 13 Modification to Level 11 Terrace Openings



Source: CPB

## 2.4. MODIFICATION TO LEVEL 10 TRANSOM

It is proposed to raise the Level 10 horizontal transom adjacent to Ashington Place to allow for adequate waterproofing structures between the two buildings. Currently the approved SSD DA plans show a full height curtain wall window in this location adjacent to the unfinished boundary wall of Ashington Place as illustrated in Picture 1 of **Figure 14**.

Figure 14 Proposed Modification to Northern Podium Façade



Picture 11 Approved Northern Façade [SMCSW SPS-FOS-OSN-AT-DWG-960004 Rev D]

Source: Foster + Partners

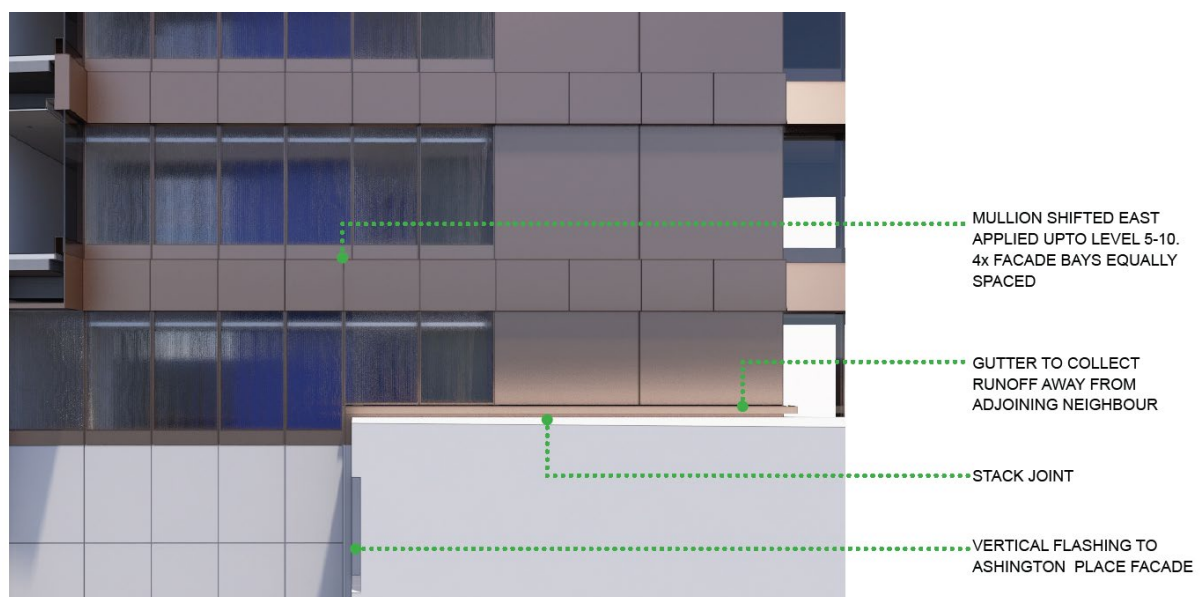


Picture 12 Proposed Northern Façade [SMCSW SPS-COX-OSN-AT-DWG-960004 Rev E]

Source: Foster + Partners (modified by Cox Architects)

As illustrated Picture 2 of **Figure 14** and in Error! Reference source not found. the modification proposes a box gutter at the height of the adjacent building structure with curtain wall window above and block wall infill under the transom.

Figure 15 Modification to Level 10 window transom



Source: Cox Architects



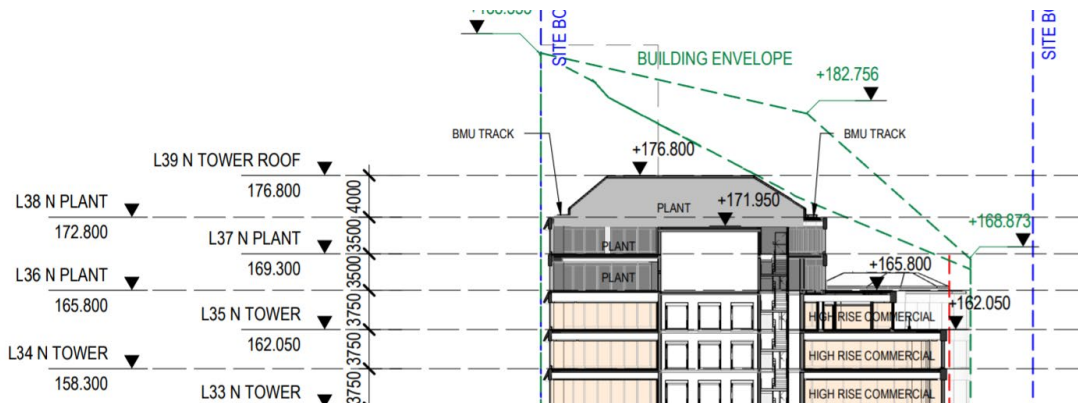
The proposed modification will not result in any fixture being secured to Ashington Place which protrudes into the PSN site. Sealant will be applied to prevent water seeping in between the PSN OSD and Ashington Place Structures.

In addition to aiding in constructability, the modification will result in an improved outlook from Level 10 of the OSD, prevent difficulties with maintaining windows in this location (cleaning etc) and will not be perceptible from the surrounding public domain.

## 2.5. DELETION OF LEVEL 37 PLANT ROOM

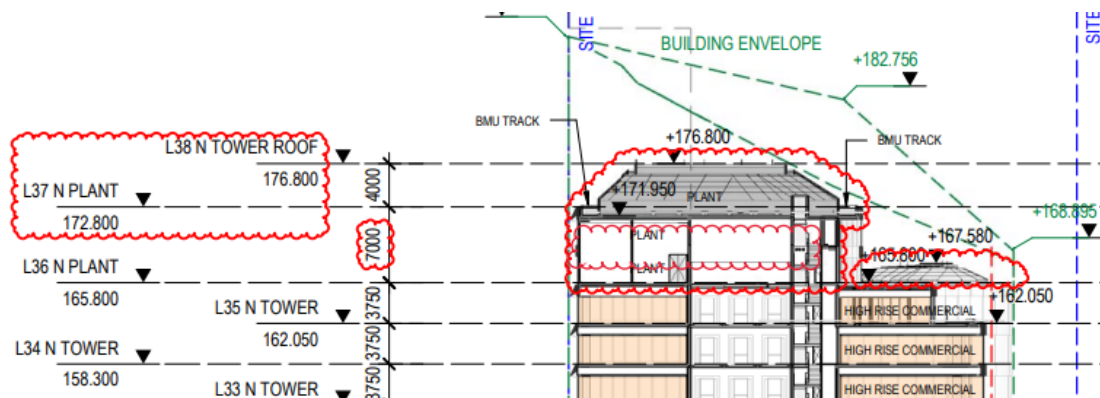
The Level 37 slab and plant rooms (detailed in SMCSWSPS-FOS-OSN-AT-DWG-933713) are proposed to be removed rendering this drawing sheet redundant. As illustrated in Section B-B in **Figure 16** this change results in a double level void but no external changes to the façade or height of the building.

Figure 16 Proposed Modification upper to tower levels



Picture 13 Approved Section B-B [SMCSWSPS-FOS-OSN-AT-DWG-950010]

Source: Foster + Partners



Picture 14 Proposed Section B-B [SMCSWSPS-COX-OSN-AT-DWG-950010]

Source: Foster + Partners (modified by Cox Architects)

As a consequence of removing the previous level 37, the upper levels of the tower and roof are renamed.

## 2.6. AIR TERMINALS (LIGHTNING PROTECTION)

To facilitate the installation of air terminals (also known as lightning rods) on the roof of the OSD Tower it is proposed to amend the wording of condition B9 Maximum Building height as follows (additional text shown in red).

### MAXIMUM BUILDING HEIGHT

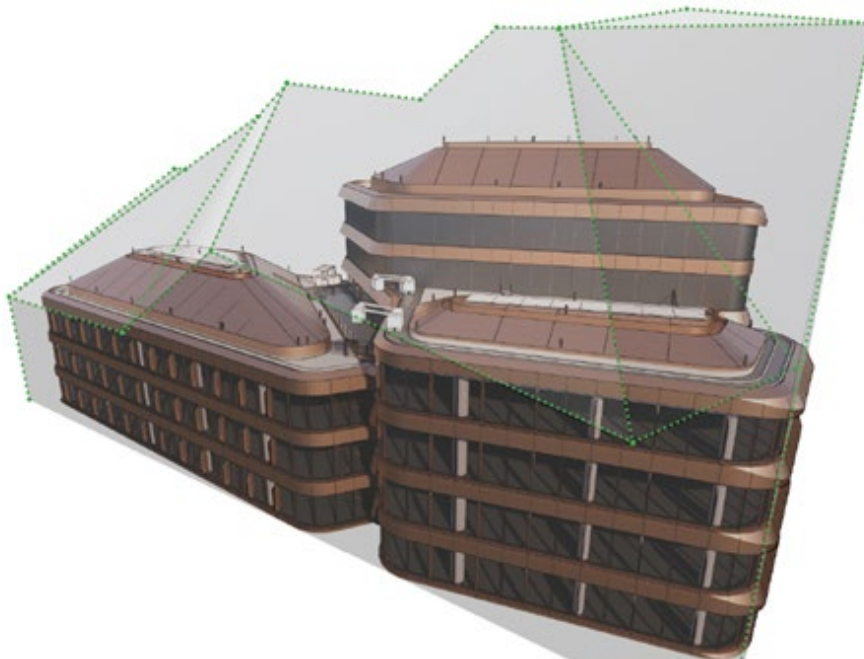
*B9. The maximum height of the approved building must not exceed RL 176.80 m AHD, including plant and lift overruns, communication devices, antennas, satellite dishes, masts, flagpoles, chimneys, flues and the like. **Air terminals may exceed the maximum building height but must not exceed RL 177.80 m AHD.** Details confirming compliance with this condition must be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.*

An air terminal is a metal rod mounted on a structure and intended to protect the structure from a lightning strike. If lightning hits the structure, it will preferentially strike the rod and protect the remainder of the structure from damage.

The alternative to installing air terminals is to make the tower roof 'sacrificial'. A 'sacrificial' roof is designed to be replaced if the building is hit by lightning. This option is undesirable as it requires the building to be continuously monitored for damage and for a replacement roof to be kept on hand at all times. If lightning was to hit the building without adequate lightning protection measures (such as the air terminals proposed) there is a high risk of damage to plant and equipment which would require tenants to vacate the building during repairs.

The air terminals will remain within the concept envelope approved under (SSD 8875) as illustrated in **Figure 17**, will be under the maximum height of controlled activities within the prescribed airspace for Sydney Airport (RL 189m AHD) and will have a very minor (if any) visual impact.

Figure 17 Axometric view of rooftop air terminals within concept envelope approved under SSD 8875



Source: CPB

## 2.7. SUMMARY OF DRAWING AMENDMENTS

In addition to the corrections and modifications previously described, a number of minor miscellaneous changes have been identified during the preparation of construction documentation and have been included in the revised plans. All amendments have been clouded on the Architectural Plans accompanying this Modification Application and in summary include:

- **Site Plan** [SMCSWSPS-FOS-OSN-AT-DWG-910013]
  - Graphical corrections
  - Indicative air terminal locations
  - Air terminal note and legend update
- **Level 05** [SMCSWSPS-FOS-OSN-AT-DWG-930513], **Level 06** [SMCSWSPS-FOS-OSN-AT-DWG-930613], **Level 07 and Level 08** [SMCSWSPS-FOS-OSN-AT-DWG-930713]
  - North / South blockwork wall along gridline NG, north of elevator core removed. Now translucent glazing.
  - Riser cupboard added along GL NE along northern boundary
  - Riser cupboard added near GL intersection NL and N7
  - Legend updated
- **Level 09** [SMCSWSPS-FOS-OSN-AT-DWG-930913]
  - Graphical corrections
  - Plant rooms added
  - Legend updated
- **Level 10** [SMCSWSPS-FOS-OSN-AT-DWG-931013]
  - North / South blockwork wall along gridline NG, north of elevator core removed. Now translucent glazing.
  - Door size changed (as outlined in **Section 2.3**)
- **Level 11** [SMCSWSPS-FOS-OSN-AT-DWG-931113]
  - Door size changed (as outlined in **Section 2.3**)
  - Balustrade updated to translucent glazed balustrade between gridlines NN and NP along gridline N2
- **Level 36** [SMCSWSPS-FOS-OSN-AT-DWG-933613], **Level 37** [SMCSWSPS-FOS-OSN-AT-DWG-933713] and **Level 38** [SMCSWSPS-FOS-OSN-AT-DWG-933813]
  - Graphical corrections
  - SMCSWSPS-FOS-OSN-AT-DWG-933713 has been made redundant as level 37 on the approved plans has been deleted
  - Sheet name change as level 38 becomes level 37

- Indicative air terminal rod locations
- Legend update
- **Roof Level** [SMCSWSPS-FOS-OSN-AT-DWG-934013]
  - Sheet name change as roof becomes level 38
  - Graphical corrections
  - Indicative air terminal locations and legend update
- **Section AA** [SMCSWSPS-FOS-OSN-AT-DWG-950001] and **Section BB** [SMCSWSPS-FOS-OSN-AT-DWG-950010]
  - Graphical corrections
  - Level 37 removed with flow on renaming of levels
  - Indicative air terminal locations and legend update
- **West Elevation** [SMCSWSPS-FOS-OSN-AT-DWG-960001]
  - Graphical corrections
  - Level 37 removed with flow on renaming of levels
  - Updated door types shown on elevation (as outlined in **Section 2.3**)
  - Indicative air terminal locations and legend update
- **South Elevation** [SMCSWSPS-FOS-OSN-AT-DWG-960002]
  - Graphical corrections
  - Level 37 removed with flow on renaming of levels
  - Bathroom glazing corrected to Fluted glazing
  - Updated door types shown on elevation (as outlined in **Section 2.3**)
  - Indicative air terminal locations and legend update
- **East Elevation** [SMCSWSPS-FOS-OSN-AT-DWG-960003]
  - Graphical corrections
  - Level 37 removed with flow on renaming of levels
  - Updated door types shown on elevation (as outlined in **Section 3.3**)
  - Indicative air terminal locations and legend update
- **North Elevation** [SMCSWSPS-FOS-OSN-AT-DWG-960004]
  - Graphical corrections
  - Level 37 removed with flow on renaming of levels
  - Updated door types shown on elevation (as outlined in **Section 2.3**)

- Bathroom glazing changed to translucent curtain wall (as outlined in **Section 2.1**)
- Support column cladding changed to metal cladding
- L11 balustrade updated to translucent glazing
- Louvre extent updated to match mechanical intake/ exhaust layout
- Indicative air terminal locations and legend update
- **West Elevation - Ashington Place Lightwell [SMCSWSPS-FOS-OSN-AT-DWG-960005]**
  - Complete new elevation sheet to show façade that would otherwise not be visible due to Ashington Place building height (as outlined in **Section 2.2**)

## 2.8. HERITAGE FLOOR SPACE

Delivery of the OSD component of the scheme is subject to the Heritage Floor Space (HFS) provisions of the Sydney LEP 2012. The HFS requirement for the site is set out in condition B11 which states:

*Prior to the issue of the first Construction Certificate for the development, the Applicant must obtain approval from the Planning Secretary confirming the required amount of Heritage Floor Space in accordance with the requirements of Clause 6.10 and 6.11 of the City of Sydney Local Environmental Plan 2012.*

*Prior to the issue of the Construction Certificate that would permit the overall floor space on the site to exceed 25,200m<sup>2</sup>, the Applicant must purchase the required amount of Heritage Floor Space. The Applicant must submit to the satisfaction of the Certifying Authority certification from Council that the requirements for Heritage Floor Space transfer have been met.*

An extension in the timeframe for

- confirmation of the HFS quantum by the Secretary, and
- fulfilment of the HFS obligation

is requested as part of this modification by amendments to the wording of Condition B11 as follows:

*Prior to the issue of the ~~first~~ Construction Certificate ~~for the development~~ **that would permit the overall floor space on the site to exceed 25,200m<sup>2</sup>**, the Applicant must obtain approval from the Planning Secretary confirming the required amount of Heritage Floor Space in accordance with the requirements of ~~Clause 6.10 and 6.11~~ of the City of Sydney Local Environmental Plan 2012.*

*Prior to the issue of the ~~Construction~~ **an Occupation** Certificate ~~that would permit the overall floor space on the site to exceed 25,200m<sup>2</sup>~~, the Applicant must **either***

- (i) *purchase the required amount of Heritage Floor Space, **or***
- (ii) ***fulfil the requirements of the terms of the Consent Authority's Alternative Heritage Floor Space Scheme .***

*The Applicant must submit to the satisfaction of the Certifying Authority certification from **the Consent Authority** ~~Council~~ that the requirements*

- (iii) for Heritage Floor Space transfer *under (i) or*
  - (iv) *of the Alternative Heritage Floor Space Scheme under (ii)*
- have been met.

The reason for the proposed condition modification is set out below.

### 2.8.1. Timing for Confirmation of HFS Quantum

Pitt Street Developer North has been in negotiations with DPIE regarding the HFS quantum and purchase pathway since prior to issuance of consent to SSD-10375. Pitt Street Developer North and DPIE have differing views about how the HFS liability for the development is to be calculated under Sydney LEP 2012. Whilst negotiations are ongoing, it is possible that confirmation of the HFS quantum may protract past the scheduled date for first Construction Certificate issue, being December 2021.

Linking confirmation of the HFS quantum to the Construction Certificate for floor space above 25,200m<sup>2</sup> will enable issuance of the first Construction Certificate on the site in December 2021 and therefore will not put at jeopardy the timely transition in construction of the Pitt Street north metro station into the OSD as is required by the construction contract. If the first Construction Certificate is delayed as a result of the current condition wording, this will place the concurrent activation of the OSD with the Pitt Street metro station at risk.

The Construction Certificate for floorspace above 25,200m<sup>2</sup> is scheduled to occur in or around May 2022. This then allows an additional 4 months for confirmation of the HFS quantum, should this be needed. Of course, confirmation may occur prior to May 2022 without impeding the construction timeframe.

### 2.8.2. Timing and Pathway to Fulfil HFS Requirements

The second part of the condition currently requires that the HFS liability must be discharged before the issue of a Construction Certificate that would permit the overall floor space on the site to exceed 25,200m<sup>2</sup>. As stated above, the development program provides for this floor space threshold to be reached in or around May 2022.

If the timeframe for HFS quantum confirmation is extended as proposed and for the reasons set out in 2.8.1 above, then it follows that the timeframe for purchase of HFS must also be extended. It is proposed that this be tied to the first Occupation Certificate for the OSD building. This will ensure that all HFS obligations are met prior to the building becoming operational.

The clause amendment also seeks to provide for reliance on the consent authority's Alternative Heritage Floor Space Scheme, should the required quantum of HFS not be available for purchase on the HFS market. Building in this flexibility now allows for fulfilment of the HFS obligation by either pathway without the need to further modify the development consent condition. Currently, having regard to *Buyozo Pty Ltd v Ku-Ring-Gai Council*, such a modification to a consent condition pertaining to just a development contribution condition could not be progressed on its own, therefore presenting a risk to the project should the quantum of HFS not be available for purchase on the market.

## 2.9. PROPOSED MODIFICATIONS TO CONSENT

The conditions of SSD 10376 outlined below are required to be amended as part of this modification application. Text with a ~~strike through~~ is to be replaced with **red text**.



Amendments to condition A2. Architectural Drawings are outlined in the following table.

Table 2 Architectural Drawings by Foster + Partners and Cox Architects

Drawing number	Rev	Name of Plan	Date
<del>SMCSWSPS-FOS-OSN-AT-DWG-910013</del>	<del>D</del>	SITE ROOF PLAN	<del>29.10.20</del>
SMCSWSPS-COX-OSN-AT-DWG-910013	E		30.09.21
SMCSWSPS-FOS-OSN-AT-DWG-910014	D	PUBLIC DOMAIN	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-930013	D	GROUND LEVEL	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-930014	D	GROUND FLOOR MEZZANINE LEVEL	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-930113	D	LEVEL 01	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-930213	D	LEVEL 02	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-930313	D	LEVEL 03	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-930413	D	LEVEL 04	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-930513	<del>D</del> E	LEVEL 05	<del>29.10.20</del> 30.09.21
SMCSWSPS-FOS-OSN-AT-DWG-930613	<del>D</del> E	LEVEL 06	<del>29.10.20</del> 30.09.21
SMCSWSPS-FOS-OSN-AT-DWG-930713	<del>D</del> E	LEVEL 07 – 08	<del>29.10.20</del> 30.09.21
SMCSWSPS-FOS-OSN-AT-DWG-930913	<del>D</del> E	LEVEL 09	<del>29.10.20</del> 30.09.21
SMCSWSPS-FOS-OSN-AT-DWG-931013	<del>D</del> E	LEVEL 10	<del>29.10.20</del> 30.09.21
SMCSWSPS-FOS-OSN-AT-DWG-931113	<del>D</del> E	LEVEL 11	<del>29.10.20</del> 30.09.21
SMCSWSPS-FOS-OSN-AT-DWG-931213	D	LEVEL 12	29.10.20

Drawing number	Rev	Name of Plan	Date
SMCSWSPS-FOS-OSN-AT-DWG-931313	D	LEVEL 13-20	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-932113	D	LEVEL 21	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-932213	D	LEVEL 22	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-932313	D	LEVEL 23-33	29.10.20
SMCSWSPS-FOS-OSN-AT-DWG-933413	D	LEVEL 34	29.10.20
<del>SMCSWSPS-FOS-OSN-AT-DWG-933513</del> SMCSWSPS-COX-OSN-AT-DWG-933513	<del>D</del> E	LEVEL 35	<del>29.10.20</del> 30.09.21
<del>SMCSWSPS-FOS-OSN-AT-DWG-933613</del> SMCSWSPS-COX-OSN-AT-DWG-933613	<del>D</del> E	LEVEL 36	<del>29.10.20</del> 30.09.21
<del>SMCSWSPS-FOS-OSN-AT-DWG-933713</del> DRAWING DELETED	<del>D</del>	<del>LEVEL 37</del>	<del>29.10.20</del>
<del>SMCSWSPS-FOS-OSN-AT-DWG-933813</del> SMCSWSPS-COX-OSN-AT-DWG-933813	<del>D</del> E	<del>LEVEL 38</del> Level 37	<del>29.10.20</del> 30.09.21
<del>SMCSWSPS-FOS-OSN-AT-DWG-934013</del> SMCSWSPS-COX-OSN-AT-DWG-934013	<del>D</del> E	ROOF LEVEL – Level 38	<del>29.10.20</del> 30.09.21
SMCSWSPS-FOS-OSN-AT-DWG-939513	D	BASEMENT 01 LEVEL	29.10.20
<del>SMCSWSPS-FOS-OSN-AT-DWG-950001</del> SMCSWSPS-COX-OSN-AT-DWG-950001	<del>D</del> E	SECTION A-A	<del>29.10.20</del> 30.09.21
<del>SMCSWSPS-FOS-OSN-AT-DWG-950010</del> SMCSWSPS-COX-OSN-AT-DWG-950010	<del>D</del> E	SECTION B-B	<del>29.10.20</del> 30.09.21
<del>SMCSWSPS-FOS-OSN-AT-DWG-960001</del> SMCSWSPS-COX-OSN-AT-DWG-960001	<del>D</del> E	WEST ELEVATION – PITT STREET	<del>29.10.20</del> 30.09.21

Drawing number	Rev	Name of Plan	Date
<del>SMCSWSPS-FOS-OSN-AT-DWG-960002</del>	<del>D</del>	SOUTH ELEVATION – PARK STREET	<del>29.10.20</del>
SMCSWSPS-COX-OSN-AT-DWG-960002	E		30.09.21
<del>SMCSWSPS-FOS-OSN-AT-DWG-960003</del>	<del>D</del>	EAST ELEVATION – CASTLEREAGH STREET	<del>29.10.20</del>
SMCSWSPS-COX-OSN-AT-DWG-960003	E		30.09.21
<del>SMCSWSPS-FOS-OSN-AT-DWG-960004</del>	<del>D</del>	NORTH ELEVATION	<del>29.10.20</del>
SMCSWSPS-COX-OSN-AT-DWG-960004	E		30.09.21
SMCSWSPS-COX-OSN-AT-DWG-960005	A	WEST ELEVATION - ASHINGTON PLACE LIGHTWELL	30.09.21

### Maximum Building Height

B9. The maximum height of the approved building must not exceed RL 176.80 m AHD, including plant and lift overruns, communication devices, antennas, satellite dishes, masts, flagpoles, chimneys, flues and the like. **Air terminals may exceed the maximum building height but must not exceed RL 177.80 m AHD.** Details confirming compliance with this condition must be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

### Heritage Floor Space

B11. Prior to the issue of the first Construction Certificate for the development **that would permit the overall floor space on the site to exceed 25,200m<sup>2</sup>**, the Applicant must obtain approval from the Planning Secretary confirming the required amount of Heritage Floor Space in accordance with the requirements of ~~Clause 6.10 and 6.11~~ of the City of Sydney Local Environmental Plan 2012.

Prior to the issue of the Construction **an Occupation** Certificate ~~that would permit the overall floor space on the site to exceed 25,200m<sup>2</sup>~~, the Applicant must **either**

- (i) purchase the required amount of Heritage Floor Space, **or**
- (ii) **fulfil the requirements of the terms of the Consent Authority's Alternative Heritage Floor Space Scheme**

The Applicant must submit to the satisfaction of the Certifying Authority certification from **the Consent Authority** Council that the requirements

- (iii) for Heritage Floor Space transfer **under (i) or**
- (iv) **of the Alternative Heritage Floor Space Scheme under (ii)**

have been met.

### 3. SECTION 4.55(1A) ASSESSMENT

The proposed modifications have been assessed in accordance with section 4.55(1A) of the EP&A Act in the following sections of this letter.

#### 3.1. MINIMAL ENVIRONMENTAL IMPACT

In accordance with Section 4.55(1A)(a), the proposed modifications are of minimal environmental impact as follows:

- The northern podium façade materiality modifications proposed (adjacent to the adjoining light wells) will have the same visual appearance and reflective performance as those approved within the SSD DA.
- The adoption of fluted glass on the northern and southern tower façades adjacent to the amenities is consistent with the intent of the development as approved and will ensure appropriate privacy for occupants.
- Increasing the width of the terrace door openings improves the amenity and usability of the terraces with no detriment to surrounding properties.
- The modifications to the transom on the northern elevation will improve constructability and provide required waterproofing between the building and the adjoining structure.
- The allowance for minor protrusions up to 1m above the maximum building height by air terminals will not result in any perceptible visual impact and improve the safety of the building.
- Deletion of the level 37 slab and plant rooms will not result in any external changes to the building.
- The proposed amendment to Condition B11 relating to Heritage Floor Space will not impact the built form of the development. It will however ensure that the construction program for the OSD is not jeopardised so to result in significant impacts to the operation and delivery of the metro station as required under the construction contract.

In summary, the proposed minor modifications will not alter the environmental impacts that were assessed and approved via SSD-10375.

#### 3.2. SUBSTANTIALLY THE SAME DEVELOPMENT

The development as modified will remain substantially the same as the approved development as outlined below:

- The proposed modifications do not change the approved land use, maximum building height, gross floor area or number of vehicular parking spaces.
- The façade materiality clarifications are simply a result of administrative/ drawing documentation error. This includes documentation of the north western façade obscured by Ashington Place in the approved SSD DA plans. The materiality changes proposed will result in the same visual appearance and architectural intent as that approved (see **Attachment C Statement of Design Intent**) by Foster + Partners.
- The proposed amendment to the maximum building height condition will facilitate the minor protrusion of the approved roof profile by air terminals which will improve the safety of the building and not be perceptible from the public domain.

- The modification proposed to the HFS Condition B11 will not change the form or substance of the originally approved development.

Accordingly, the proposed modifications can be assessed as a modification to the original development in accordance with section 4.55 of the EP&A Act.

### **3.3. PUBLIC NOTIFICATION AND SUBMISSIONS**

In accordance with Section 4.55(1A) of the EP&A Act the Department can undertake any relevant notification of the proposed modification in accordance with the Regulation.

It is acknowledged that any submissions arising from the public notification of this application will need to be assessed by the Department.

## **4. SECTION 4.15 ASSESSMENT**

The application has been assessed in accordance with the relevant matters for consideration of Section 4.15 of the EP&A Act.

### **4.1. ENVIRONMENTAL PLANNING INSTRUMENTS**

The proposed modifications have been assessed in accordance with the relevant State and local environmental planning instruments and are detailed in this section.

#### **4.1.1. Sydney Local Environmental Plan 2012 (SLEP 2012)**

SLEP 2012 is the primary environmental planning instrument that applies to the site. The development as modified will continue to comply with the relevant provisions of SLEP 2012 as summarised below:

- No change is proposed to the maximum height of the building (clause 4.3)
- No change is proposed to the approved gross floor area or resulting floor space ratio (clause 4.4)
- The proposed air terminals will not encroach into any sun access planes (clause 6.17)
- The proposed modifications will not have any impact on the number of car parking spaces (clause 7.3)
- The site is subject to a Concept DA in lieu of a site specific DCP. The minor modifications proposed in this application will not amend the proposal beyond the controls set out in SSD 8875. Condition B1 of the Concept DA (SSD 8875) requires that the detailed DA (SSD 10375) address compliance with the Pitt Street North OSD Design Guidelines. Compliance with these Guidelines is detailed in **Section 4.3** below.

### **4.2. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS**

The Central Sydney Planning Strategy Planning Proposal amended the SLEP 2012 as it applies to the area of Central Sydney on 26 November 2021. The site is located within Central Sydney, however the amendments included no additional considerations related to this proposed modification, beyond that considered in the assessment of SSD 10375.

#### **4.3. PITT STREET NORTH OSD DESIGN GUIDELINES**

In accordance with clause 11 of *State Environmental Planning Policy (State and Regional Development) 2011*, the Sydney Development Control Plan 2012 (SDCP 2012) does not apply to the SSDA. However, as required by Condition B1 of the Concept DA (SSD 8875) the detailed DA must address compliance with the Pitt Street North OSD Design Guidelines.

The development as modified will continue to comply with the relevant Design Guidelines as summarised below:

- The proposed modifications do not impact the approved podium form or articulation of the podium as viewed from the public domain. The location of the widened terrace doors on level 10 and level 11 are setback from the street and will have negligible visibility from the public domain and surrounding buildings.
- The proposed internal modifications have negligible impact on the approved built form. Specifically, the internal changes do not impact privacy or interface considerations between the site and adjacent properties.
- The proposed minor protrusion of air terminals above the maximum building height will not impact upon any public views or sun access planes.
- The proposed modifications do not impact the public domain at the Pitt Street metro station (northern entrance) including pedestrian movement and interchange function at Park Street.

The proposed modifications do not amend the consistency of the approved development with the Pitt Street North OSD Design Guidelines as outlined in SSD 10375.

#### **4.4. PLANNING AGREEMENT**

There is no relevant planning agreement for this proposal.

#### **4.5. EP&A REGULATION 2000**

The application has been prepared in accordance with the relevant provisions of the Regulations.

#### **4.6. LIKELY IMPACTS OF THE PROPOSAL**

The proposed modifications have been assessed considering the potential environmental, economic and social impacts as outlined below:

- The proposed modifications will not impact the natural environment of the site compared to the assessment completed for SSD 10375.
- The proposed modifications will result in minimal impact to the built environment as outlined in **Section 3.1** of this report.
- The proposed modifications will not result in any social impacts compared to that assessment completed for SSD 10375, notably there is no change in building height, FSR or use proposed.
- The proposed modifications result in the efficient development of the site in general accordance with the approved development under SSD 10375.



#### **4.7. SUITABILITY OF THE SITE**

The proposed modifications do not change the suitability of the approved development for the site. The site remains suitable for the approved use, inclusive of the modifications sought by this application.

#### **4.8. SUBMISSIONS**

It is understood that any submissions received from the public notification period of this application will need to be assessed by the Department.

#### **4.9. PUBLIC INTEREST**

The proposed modifications are considered in the public interest for the following reasons:

- The proposed modifications are consistent with relevant State and local strategic plans and complies with the relevant State and local planning controls.
- No adverse environmental, social or economic impacts will result from the proposal.
- The proposed modifications will enhance the functionality and buildability of the approved development under SSD 10375.

### **5. CONCLUSION**

The proposed modifications have been assessed in accordance with section 4.55(1A) and section 4.15 of the EP&A Act and are considered appropriate as summarised below:

- The proposal is of minimal environmental impact;
- The proposal is substantially the same development as that approved;
- The proposal satisfies the applicable planning controls and policies;
- There are negligible social and economic impacts resulting from the modifications;
- The proposal remains suitable for the site; and
- The proposal is in the public interest.

Having considered all relevant matters, we conclude that the proposed modifications are appropriate for the site and approval is recommended, subject to appropriate conditions of consent.

Please do not hesitate to contact the undersigned should you require any additional information regarding this modification application.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Genevieve Bead". The signature is written in a cursive, flowing style.



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