



# **PITT STREET NORTH SSD - 10375 MOD 2 – CHANGE TO BALUSTRADE AND CONDITION B11 WORDING**

Prepared for  
**PITT STREET DEVELOPER NORTH PTY LTD**



**URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:**

Director	Jacqueline Parker
Senior Consultant	Finn Smith
Project Code	P0035505
Report Number	V2

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# 1. INTRODUCTION

This Modification Report has been prepared by Urbis Pty Ltd on behalf of Pitt Street Developer North Pty Ltd (**the Applicant**) pursuant to section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (**EP&A Act**). The application seeks to modify Development Consent SSD-10375 for the Pitt Street North (**PSN**) Metro Over Station Development (**OSD**) at 252 Pitt Street, Sydney which is legally described as Lot 20 in Deposited Plan 1255509.

## 1.1. APPLICANT DETAILS

The applicant details for the proposed modification are listed in the following table.

Table 1 Applicant Details

Descriptor	Proponent Details
Full Name(s)	Pitt Street Developer North Pty Ltd
Postal Address	Level 19, 126 Phillip Street, Sydney NSW 2000
ABN	40 635 396 815
Nominated Contact	Nellie O'Keeffe

## 1.2. PROJECT BACKGROUND

### 1.2.1. Project History

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

Table 2 Project History

Application History	Development	Date Determined
SSI 15_7400	<p><u>CSSI approval Sydney Metro City &amp; Southwest</u></p> <p>On 9 January 2017, the Minister for Planning approved the Sydney Metro City &amp; Southwest – Chatswood to Sydenham project as Critical State Significant Infrastructure (CSSI).</p> <p>The CSSI approval granted consent for the 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>	9 January 2017

Application History	Development	Date Determined
SSD - 8875	<p><u>Concept Proposal</u></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><u>Modification to Concept SSD DA</u></p> <p>A modification application to the Concept SSD DA (SSD-8875) was lodged concurrently with the Detailed SSD DA (SSD-10375). This 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> <li>▪ Minor amendments to the design guidelines in respect of podium heights and tower setbacks.</li> </ul>	26 February 2021
SSD 10375	<p><u>Pitt Street North Over Station Development Stage 2</u></p> <p>A detailed SSD DA was approved on 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 the use of spaces with the CSSI 'metro box';</li> <li>▪ Commercial lobbies;</li> <li>▪ Retail tenancies;</li> </ul>	26 February 2021

Application History	Development	Date Determined
	<ul style="list-style-type: none"> <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> <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>	
SSD 10375 – MOD 1	<p><u>Modification to Stage 2 SSD 10375</u></p> <p>A number of minor modifications included:</p> <ul style="list-style-type: none"> <li>change the opacity of glass panels along amenity areas, affecting the northern podium and tower façades</li> <li>clarify the extent of corrugation details on bronze material on the eastern and western elevations to correctly depict</li> <li>changes to the terrace doors on level 10 and level 11 from single width swing doors to sliding doors</li> <li>addition of lightning rods</li> <li>internal changes to approved plant rooms.</li> </ul>	1 July 2022

This application seeks approval to make minor modifications to SSD 10375 as outlined in this report.

### 1.3. SITE DESCRIPTION

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). The site is located at 252 Pitt Street, Sydney, and is 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 northeastern boundary measuring approximately 41.3m, a northwestern boundary of approximately 41.6m, and a secondary recessed western facing boundary of 15.7m resulting in a site area of approximately 3,150m<sup>2</sup>.

Figure 1 Aerial Photograph of the 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 in **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 northwestern boundary is an early twentieth-century 12-storey brick and concrete commercial building.

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



Figure 2 Heritage Items



Source: SLEP 2012

## 1.4. PROJECT OVERVIEW

This Section 4.55(1A) modification seeks to

- Modify the wording of Condition B11 relating to Heritage Floor Space, to allow the Applicant to utilise the Minister's "Alternative Heritage Arrangements Scheme" and enter into a planning agreement in satisfaction of its Heritage Floor Space obligations.
- Modify the height of the glazed balustrade between the L10 roof terraces and the National Building (Ashington Place) roof by 500mm from 1300mm to 1800mm above finished floor level (FFL). This modification intends to remove the scalable element of the balustrade to improve safety and ensure consistency in the height of the balustrade. The height of the horizontal handrail is also proposed to be increased to 1500 FFL.

These modifications are outlined in further detail in Section 3 of this report.

The proposed modification to Condition B11 was originally included in the SSD-10375 MOD 1 application for which a pre-modification Scoping Letter was provided to the Department of Planning and Environment (the Department) on 5 October 2021. Due to extended delays in finalising the HFS arrangements, this item was removed from the scope of SSD 10375 – MOD 1 to ensure it did not prevent it from progressing.

On 2 August 2022, the applicant issued a letter to the Planning Secretary as formal notice of the proposed modifications in accordance with B5 of the development consent. Accordingly, the provisions of Condition B5 under SSD - 10375 have been met.

Furthermore, following the receipt of the abovementioned correspondence, we anticipate the Planning Secretary will confirm that the design changes proposed within this application 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.

As such, we consider the proposed changes can proceed without prior review by the **DRP** under the provisions of Condition B6.

## 2. STRATEGIC CONTEXT

The following section provides an assessment of the development as proposed to be modified against the relevant strategic planning policies applicable to the site.

The following strategic planning policies have been considered in the assessment of the development as proposed to be modified:

- *NSW State Priorities*
- *Greater Sydney Region Plan: A Metropolis of Three Cities*
- *Eastern City District Plan*
- *Sustainable Sydney 2030*
- *The Central Sydney Planning Strategy*

Consistency with the relevant objectives contained within the abovementioned strategic policies is discussed in further detail below.

### 2.1.1. Sydney Region Plan: A Metropolis of Three Cities

The *Greater Sydney Region Plan (Region Plan)* provides the overarching strategic plan for growth and change in Sydney. It is a 20-year plan with a 40-year vision that seeks to transform Greater Sydney into a metropolis of three cities - Western Parkland City, Central River City, and Eastern Harbour City. It identifies key challenges facing Sydney including increasing the population to eight million by 2056, 817,000 new jobs, and a requirement of 725,000 new homes by 2036.

The Region Plan includes objectives and strategies for infrastructure and collaboration, liveability, productivity, and sustainability. The proposed Pitt Street Station North OSD responds to the Harbour CBD's focus on innovation and global competitiveness to underpin its continued growth, backed up by the significant Sydney Metro City & Southwest project. In accordance with Objective 18, the proposal (as amended) continues to align explicitly with the regional plan by:

- Providing a significant amount of premium office and retail floor space (52,663m<sup>2</sup>) which strengthens the Harbour CBD's economy globally and nationally;
- Comprising a commercial tower and activated podium which supports a diversity of uses; and
- Maximises opportunities presented by the Sydney Metro Pitt Street Station to improve business-to-business connections and support the 30-minute city.

### 2.1.2. Our Greater Sydney 2056: Eastern City District Plan

The *Eastern City District Plan (District Plan)* is a 20-year plan to manage growth in the context of economic, social, and environmental matters to implement the objectives of the Greater Sydney Region Plan. The intent of the District Plan is to inform local strategic planning statements and local environmental plans, guiding the planning and support for growth and change across the district.

The District Plan contains strategic directions, planning priorities, and actions that seek to implement the objectives and strategies within the Region Plan at the district level. The District Plan identifies the key centres, economic and employment locations, land release and urban renewal areas, and existing and future transport infrastructure to deliver growth aspirations.

The proposal (as amended) continues to align with the Regional Plan in the following ways:

- **Planning Priority E1:** The proposal aligns land use and infrastructure planning ensuring that infrastructure use is maximised by locating 54,651m<sup>2</sup> of commercial and retail floor space above the Sydney Metro Pitt Street Station. The development facilitated by the Detailed SSD DA aligns with the provision of place-based infrastructure which encourages active transit methods such as walking and cycling and use of the Sydney Metro Pitt Street North Station
- **Planning Priority E6** –The Pitt Street North OSD facilitates the creation of a vibrant and active integrated station development that delivers retail and office space in a highly accessible location. The site is located in close proximity to significant public areas of the CBD including Hyde Park, Pitt Street

Mall, and Town Hall / Sydney Square. The proposal respects the surrounding built form and has been carefully designed to respect the heritage values of adjacent heritage buildings

- **Planning Priority E7** - The proposed development will deliver additional premium office space within the financial and banking heart of Australia. This proposed increase in commercial floor space also recognises the potential to increase economic activity, driven by the catalytic effect of the enhanced rapid transit network, at this economically strategic location. This is consistent with the Planning Priority that seeks to safeguard the competitiveness of Sydney in both a domestic and international context.
- **Planning Priority E10** – By providing commercial and retail floor space over the Pitt Street North metro station and thereby improving access to jobs, the proposal contributes to the vision for a 30-minute city. The proposal will facilitate employment growth that is coordinated with and will be delivered at the same time as the new metro station to improve access to jobs and public transport.
- **Planning Priority E11** - The proposal will deliver a new commercial tower in the Central Sydney commercial district that has the potential to accommodate up to 2,500 full-time equivalent employees once operational and will generate approximately 1,000-1,200 jobs when under construction. The site is in a highly accessible location within close proximity to a large number of other commercial buildings, thereby strengthening the opportunities for business growth in the CBD.
- Notwithstanding, the District Plan also highlights the tension between residential and commercial uses within the Sydney CBD and highlights the importance of retaining a strong commercial core in order to accommodate the future 45,000-80,000 future jobs forecast for the district. Policy settings are designed to support innovative and creative industries, align growth with infrastructure, and increase the supply of A-grade commercial office space.
- The proposal as amended will contribute to the delivery of commercial and retail floor space comprising premium office space that will act to strengthen the Sydney CBD commercial core.

### 2.1.3. Future Transport Strategy 2056

The NSW Government's Future Transport Strategy 2056 sets the 40-year vision, directions, and outcomes framework for the transport system and customer mobility in NSW. It will guide transport investment over the longer term delivered through a series of services and infrastructure plans and other supporting plans.

The site benefits from being located directly above the future Pitt Street metro station which forms an important cog in the Sydney Metro City & Southwest project. The strategic location of premium grade commercial floorspace delivers economic benefits for Sydney by enhancing connectivity between businesses and people. The proposal (as amended) continues to align with the Future Transport Strategy in the following ways:

- It encourages the use of active transport options by providing bicycle parking spaces and end-of-trip facilities in lieu of car parking
- It provides commercial and retail floorspace above the future Pitt Street metro station delivering economic benefits for Sydney by enhancing connectivity between businesses, dwellings, and people
- provides an opportunity to boost the city's productivity by allowing residents to access jobs faster and more reliably.

### 2.1.4. Sustainable Sydney 2030

Sustainable Sydney 2030 is a long-term plan prepared by the City of Sydney to achieve a green, global and connected city. It contains ten strategic directions, of which the following are relevant and will be delivered by the proposal:

- A globally competitive and innovative city;
- Integrated transport for a connected city;
- A city for walking and cycling;
- A lively and engaging city centre.

The proposal will facilitate the delivery of the Sydney Metro infrastructure and additional jobs in a highly accessible city centre, encouraging walking and cycling. Specifically, the proposal will address the three key pillars of Sustainable Sydney 2030 as follows

### 2.1.5. Draft - Sustainable Sydney 2030—2050 Continuing the Vision

- The City of Sydney has released its new Strategic Vision 'Sustainable Sydney - 2030-2050 Continuing the Vision' (Strategic Vision), which was advertised from 12 April 2022 to 23 May 2022. It is also accompanied by a draft Community Strategy. The Strategic Vision guides the City's decision-making on strategic policies, their LSPS, planning proposals, and influences their submissions to State Government policies and SSDAs, and their assessments of DAs.
- The proposal (as amended) aligns with the Draft Strategic Vision in the following ways:
- **Direction 5:** the proposal encourages the use of the many public transport options surrounding the subject site and enables people to walk, ride a bike or get public transport within the immediate and surrounding context.

### 2.1.6. The Central Sydney Planning Strategy

- The Central Sydney Planning Strategy (2016 – 2036) is the City of Sydney's 20-year strategy to manage the growth of Central Sydney. The strategy seeks to prioritise employment capacity, implement genuine mixed-use development controls, support additional density in some locations, and introduce additional requirements for ESD initiatives and affordable housing contributions.
- The 10 key moves and their associated 'actions' were categorised in order of stages: short-term (1-2 years), medium-term (2017 to 2036), and ongoing. The proposal (as amended) satisfies the following key moves:
- The proposal prioritises employment growth and increases employment capacity by locating additional commercial development above a transport infrastructure within the Sydney CBD.
- Move towards a more sustainable city by encouraging walking and cycling and facilitating the use of public transport.

## 3. DESCRIPTION OF MODIFICATIONS

This section of the report describes the proposed modifications to the approved design and relevant conditions of consent. It includes a comparative analysis of the original development and the proposed modifications, justifying the lodgement of the application in accordance with section 4.55(1A) of the EP&A Act.

### 3.1. OVERVIEW

MOD 2 to the approved SSD-10375 in relation to the Pitt Street North Metro Over Station Development seeks approval to undertake the following changes:

- Modify the wording of Condition B11 relating to Heritage Floor Space, to allow the Applicant to utilise the Minister's "Alternative Heritage Arrangements Scheme" and enter into a planning agreement in satisfaction of its Heritage Floor Space obligations.
- Modify the height of the glazed balustrade between the L10 roof terraces and the National Building (Ashington Place) roof by 500mm from 1300mm to 1800mm above the finished flood level (FFL). This modification intends to remove the scalable element of the balustrade to improve safety and ensure consistency in the height of the balustrade. The height of the horizontal handrail is also proposed to be increased to 1500 FFL.

Each of these modifications is detailed in further detail below.

#### 3.1.1. 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.*

The applicant is seeking to fulfill the required HFS obligation by utilising the Minister for Planning and Public Spaces' "Alternative Heritage Arrangements Scheme" (December 2021) (Alternative Scheme), established under clause 6.11 of the *Sydney Local Environmental Plan 2012* and published on 11 February 2022.

As such, the proposed amendment to the wording of Condition B11 is intended to allow the applicant to utilise the Minister's Alternative Scheme.

The specific wording of the proposed modification to Condition B11 is shown in Table 3 below by a **red strike** through the deleted text and **blue** text for new text.

Table 3 Proposed Modification to Condition B11 of Consent

#	Original Condition Wording	Proposed Condition Modifications
B11	Prior to the issue of to 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 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

#	Original Condition Wording	Proposed Condition Modifications
	<p>Prior to the issue of the Construction Certificate that would permit overall floor space on the site to exceed 25,200 m<sup>2</sup>, the Applicant must purchase 23,125 m<sup>2</sup> 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. 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.</p>	<p>City of Sydney Local Environmental Plan 2012.</p> <p>Prior to the issue of the <a href="#">first Occupation Certificate</a> <del>Construction Certificate</del> for the development or 1 July 2023, whichever is the earlier, <del>that would permit overall floor space on the site to exceed 25,200 m<sup>2</sup></del>, the Applicant must:</p> <p>(a) purchase 23,125m<sup>2</sup> 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. 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; <del>or</del></p> <p>(b) <a href="#">submit to the Certifying Authority written evidence of a planning agreement executed between the Applicant and the Minister for Planning under Part 7 of the Environmental Planning and Assessment Act 1979 which is in accordance with Clause 6.11A of the City of Sydney Local Environmental Plan 2012 and the Minister for Planning and Public Spaces' Alternative Heritage Arrangements Scheme (dated December 2021).</a></p>

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

Condition B11 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>. Pitt Street Developer North has been in negotiations with DPIE regarding the HFS quantum and purchase pathway since prior to the issuance of consent to SSD-10375, however, the agreed HFS quantum and Alternative Heritage Arrangements Scheme purchase pathway are likely to protract past the scheduled date for the floor space threshold to be reached.

To ensure construction can progress whilst the HFS matters are formalised, the timeframe for purchase of HFS must 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.

Further, the clause amendment seeks to provide for reliance on the consent authority's Alternative Heritage Arrangements Scheme, should the required quantum of HFS not be available for purchase on the HFS market. Building in this flexibility will allow for the fulfillment 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.

This modification also seeks to modify the height of the glazed balustrade between the L10 roof terraces and the National Building (Ashington Place) roof by 500mm from 1300mm to 1800mm above the finished floor level (FFL). This modification will ensure the balustrade aligns in terms of height with the adjacent balustrade and will remove the scalable element. The height of the horizontal handrail is also proposed to be increased to 1500 FFL. Refer to **Appendix A** for the Architectural Plans detailing the proposed modifications.

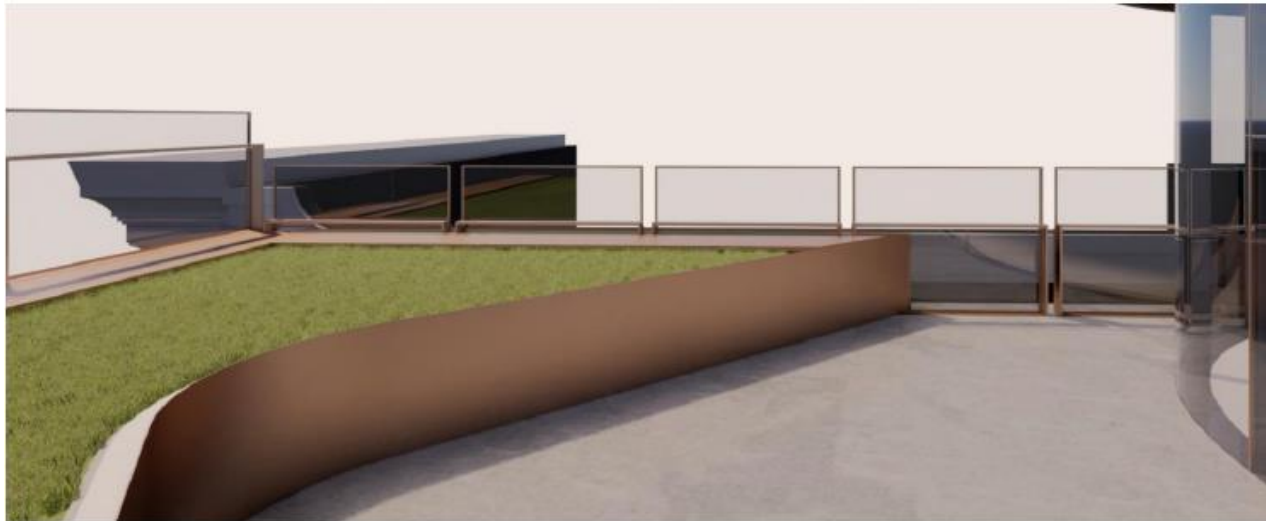
Figure 3 Proposed balustrade to be modified



URBIS  
SSD 10375 MOD2 CONDITIONB11 BALUSTRADE UPDATED



Figure 4 Visual Comparison



Current Condition



Proposed Design

Source: Cox Architects

The proposed modifications have been assessed by Fosters + Partners who have confirmed that the modifications will have a minimal impact on the overall design intent for the original SSD. Refer to **Appendix B** for a copy of the Architectural Design Statement.

### 3.1.3. Administrative Conditions

As a result of the updated architectural plan detailing the proposed modification to the height of the glazed balustrade and handrail, minor updates to the wording of Condition A2 within Schedule 2, Part A of the consolidated consent are required.

The specific wording of the proposed modification to Condition A2 is shown in Table 4 below by a **red strike through** the deleted text and **blue** text for new text.



Table 4 Amendment to Conditions of Consent

Condition	Amendment Proposed																
A2	<p>The development may only be carried out:</p> <p>(a) in compliance with the conditions of this consent;</p> <p>(b) in accordance with all written directions of the Planning Secretary;</p> <p>(c) in accordance with the EIS, Response to Submissions and additional information;</p> <p>(d) in accordance with Section 4.55(1A) Modification Application SSD-10375 MOD-1 Pitt Street North Over Station Development report, prepared by Urbis, dated 2 June 2022;</p> <p>(e) in accordance with Section 4.55(1A) Modification Application SSD-10375 MOD-2 Pitt Street North Over Station Development report, prepared by Urbis, dated 4 August 2022;</p> <p><del>(d)(e)</del>(f) in accordance with the approved plans in the table below (except where modified by the conditions of this consent):</p> <p><b>Architectural drawings prepared by Foster + Partners</b></p> <table><tr><th>Drawing Number</th><th>Rev</th><th>Name on Plan</th><th>Date</th></tr><tr><td><del>SMCSWSPS-FOS-OSN-AT-DWG-960004</del></td><td><del>D</del></td><td><del>NORTH ELEVATION</del></td><td><del>29.10.20</del></td></tr><tr><td><del>SMCSWSPS-COX-OSN-AT-DWG-960004</del></td><td><del>F</del></td><td><del>NORTH ELEVATION</del></td><td><del>13.05.22</del></td></tr><tr><td>SMCSWSPS-COX-OSN-AT-DWG-960004</td><td>G</td><td>NORTH ELEVATION</td><td>02/08/22</td></tr></table>	Drawing Number	Rev	Name on Plan	Date	<del>SMCSWSPS-FOS-OSN-AT-DWG-960004</del>	<del>D</del>	<del>NORTH ELEVATION</del>	<del>29.10.20</del>	<del>SMCSWSPS-COX-OSN-AT-DWG-960004</del>	<del>F</del>	<del>NORTH ELEVATION</del>	<del>13.05.22</del>	SMCSWSPS-COX-OSN-AT-DWG-960004	G	NORTH ELEVATION	02/08/22
Drawing Number	Rev	Name on Plan	Date														
<del>SMCSWSPS-FOS-OSN-AT-DWG-960004</del>	<del>D</del>	<del>NORTH ELEVATION</del>	<del>29.10.20</del>														
<del>SMCSWSPS-COX-OSN-AT-DWG-960004</del>	<del>F</del>	<del>NORTH ELEVATION</del>	<del>13.05.22</del>														
SMCSWSPS-COX-OSN-AT-DWG-960004	G	NORTH ELEVATION	02/08/22														

### 3.2. SUBSTANTIALLY THE SAME DEVELOPMENT

Based on the description of the proposed modifications in Section 3, it is considered the proposal is substantially the same development as that to which consent was originally granted. Section 4.55(1A)(b) of the EPA Act requires the consent authority to be:

*“satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”.*

The NSW Land and Environment Court has established several precedents as to what may be considered as being ‘substantially the same development’, and what should be factored into the consideration of this threshold test.

Principles drawn from the judgments include that:

- The term ‘substantially’ means ‘essentially or materially having the same essence’.
- When a consent authority makes a determination as to whether a development is substantially the same it is a question of fact and degree and is not a question of law.
- The term to ‘modify’ means to ‘alter without radical transformation’.
- In comparing the approved development and the development as proposed to be modified it is necessary to undertake a qualitative and quantitative assessment of the developments in their proper context, and

- To undertake a numeric or quantitative assessment of the modification only in the absence of a qualitative assessment would be flawed.

These considerations apply to the modification of development through amendments to conditions that impact the nature of the proposal as well as design modifications. The consideration of the substantially the same development test should not only include the physical characteristics of the approved and modified schemes, but also the nature and magnitude of the impacts of the developments. In these respects, the modified scheme should be ‘essentially or materially’ the same as that originally approved.

- The proposed change in the height of the balustrade and handrail will result in essentially the same visual appearance and architectural intent when viewed from the public realm as that approved (see Appendix B Statement of Design Intent by Foster + Partners), however will constitute a physical change to the appearance of the northern elevation from that originally approved.
- Furthermore, the modification proposed to the HFS Condition B11 will not change the form or substance of the originally approved development, as it will still require the purchase or payment of a VPA for the purpose of satisfying Heritage Floor Space provisions of Sydney LEP 2012.

An assessment of the qualitative and quantitative elements of the development approved and as proposed to be modified are provided below.

### **3.2.1. Quantitative Comparison**

The proposal (as amended) is substantially the same development, in a quantitative sense, as that originally approved because it:

- Does not propose to change the building height or building envelope.
- Does not alter the GFA calculation in any way nor does it alter the appearance of the development.
- Does not alter the parking count/provision. The same number of spaces (cars, motorbikes, bicycles) are provided in accordance with the relevant conditions of consent.
- Does not modify compliance with the applicable planning controls.

### **3.2.2. Qualitative Comparison**

The proposal (as amended) is substantially the same development, in a qualitative sense, as that originally approved because it:

- Does not propose any change of land use, arrangement of land uses, or propose any changes which would have an unacceptable level of detrimental impact on surrounding land uses.
- Does not result in any perceivable visual impact(s) from the public domain, noting the building maintains the same architectural language as approved.
- Maintains the same access arrangement for the site.

In conclusion, the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted.

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## 4. STATUTORY CONTEXT

This section of the report provides an overview of the key statutory requirements relevant to the site and the project as proposed to be modified. It identifies the key statutory matters which are addressed in detail within **Section 4**, including the power to grant consent, permissibility, other approvals, and mandatory considerations.

### 4.1. STATUTORY REQUIREMENTS

Table 5 categorises and summarises the relevant requirements in accordance with the DPE *State Significant Development Guidelines*.

Table 5 Identification of Statutory Requirements

Statutory Relevance	Action	Consistency with Approved Development
Power to grant approval	<p>In accordance with Schedule 1 of the <i>State Environmental Planning Policy (Planning Systems) 2021</i> (previously called State Environmental Planning Policy (State and Regional Development) 2011), a development that has a CIV of more than \$30 million and is for the purpose of commercial development associated with railway infrastructure is classified as SSD.</p> <p>The modification includes a physical change to the appearance of the building and as such can be considered to generate an environmental impact (albeit minor).</p>	<p>The proposed modification to the approval of SSD-10375 will remain consistent with this SEPP and is appropriately characterised as SSD.</p> <p>Approval of the proposed change via a modification pathway can occur as the proposal generates an environmental impact (albeit minor) through the change in scale of the balustrade, that can be assessed for its impact and will remain substantially the same as the development originally approved.</p>
Permissibility	<p>The site is zoned B8 Metropolitan Centre in accordance with the <i>Sydney Local Environmental Plan 2012 (SLEP 2012)</i>. Residential accommodation and retail premises are permissible with consent in the B8 Zone.</p>	<p>The proposed modification remains permissible within the B8 zone.</p>
Other Approvals	<p>Under sections 4.41 and 4.42 of the EP&amp;A Act, a number of other approvals are either integrated into the SSD approval process and consequently are not required to be separately obtained for the proposal or are required, but must be substantially consistent with any development consent for the proposal.</p>	<p>Given the minor nature of the proposed modifications, consultation with the relevant public authorities responsible for integrated and other approvals is not considered necessary in this particular circumstance.</p> <p>The proposal does not alter the assessment of the major project in light of any other approvals required.</p>

As outlined in Table 5 above, the proposed modifications satisfy the relevant requirements in accordance with the DPE *State Significant Development Guidelines*.

## 4.2. MANDATORY CONSIDERATIONS

A detailed assessment of the mandatory matters for consideration was conducted by the proponent and Department as part of the original assessment of SSD 10375. The modification application does not result in any significant changes that would alter the mandatory matters for consideration under the EP&A Act and conclusions made as part of the original assessment.

Notwithstanding, Section 4.55(1A) of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an SSD application. The matters for consideration under section 4.55(1A) of the EP&A Act that applies have been considered in Table 6 below.

Table 6 Assessment Against Section 4.55 of the EP&A Act

Section 4.55 (1A) Evaluation	Consideration
a) that the proposed modification is of minimal environmental impact, and	<p>The proposed changes to the height of the balustrade and handrail on the L10 roof terrace will not result in any adverse overshadowing, view loss, privacy or bulk, and scale impacts.</p> <p>Furthermore, the proposed will not impact the amenity of the adjoining properties.</p> <p>The proposed modifications to Condition B11 relating to Heritage Floor Space, to allow the Applicant to utilise the Minister's "Alternative Heritage Arrangements Scheme" will not change the form or substance of the originally approved development.</p> <p>As such the proposed modifications are considered to have a minimal environmental impact.</p> <p>Section 6 of this report provides an assessment of the impacts associated with the modification application.</p>
b) that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>As demonstrated in Section 3.2 of this report, the modification application is substantially the same development as the development for which the consent was originally granted.</p> <p>An assessment of the qualitative and quantitative elements of the proposed modifications concludes that the physical characteristics of the approved and modified schemes, as well as the nature and magnitude of the impacts of the development, are 'essentially or materially' the same as that originally approved.</p>
c) the application has been notified in accordance with the regulations, and	<p>In accordance with Section 105(4) of the EP&amp;A Regulations, the notification of an SSD modification application involving minimal environmental impact is <u>not required</u>.</p> <p>Furthermore, due to the demonstrated minimal environmental impact of the proposed modifications, we do not consider formal notification of the application necessary. Notwithstanding, public notification is subject to the exercise of discretion by the Department, and if the modification is to be notified we consider this could be adequately achieved through the application being made publicly available on the Department's website in accordance with Section 106(2) of the EP&amp;A Regulations.</p>

Section 4.55 (1A) Evaluation	Consideration
d) any submission made concerning the proposed modification has been considered.	If notification of the proposed modification is undertaken the submissions will be appropriately considered and addressed.

As demonstrated in Table 6 above, the proposed modification application does not result in any significant changes that would alter the mandatory matters for consideration under the EP&A Act under Section 4.55.

Further to the above, Section 4.55(3) requires the consent authority to “*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*”.

As such, Table 7 outlines the relevant mandatory considerations for consideration in the original SSD under section 4.15(1).

Table 7 Section 4.15 Evaluation

Section 4.15 (1) Evaluation	Consideration
(a)(i) Relevant environmental planning instruments	The modified proposal is consistent with the relevant legislation and the Sydney Local Environmental Plan 2012 as demonstrated in <b>Section 7</b> of this report.
(a)(ii) Relevant draft environmental planning instruments	No draft EPIs apply to this site that are of relevance to the application.
(a)(iii) Development control plans	Development Control Plans do not apply to SSD applications.
(a)(iv) any planning agreement	It is anticipated that the proposed modification to Condition B11 will result in a voluntary planning agreement to satisfy the Heritage Floor Space obligations.
(a)(iv) the regulations	The proposal addresses the relevant requirements of the EP&A Regulations.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	The likely impacts of the modifications are acceptable and have been appropriately addressed as demonstrated in <b>Section 6</b> of this report.
c) the suitability of the site for the development	The site remains suitable for development as assessed in the original application.
(d) any submissions	If public notification is undertaken for the proposed modifications any submission received will be addressed and responded to.
(e) the public interest	The modified proposal continues to be in the public interest as the changes are minor and will enable the faster delivery of the Pitt Street Over Station Development.

As demonstrated in Table 7 above, the proposed modification application does not result in any significant changes that would alter the mandatory matters for consideration under the EP&A Act under Section 4.15.

## 5. ENGAGEMENT

Due to the demonstrated minimal environmental impact of the proposed modifications, community and stakeholder engagement has not been undertaken during the preparation of the Modification Report. Notwithstanding, representatives from the project team and the Department of Planning and Environment (**DPE**), attended a meeting on Tuesday, 26 July 2022, to discuss the scope of the proposed modifications.

The Department confirmed that a Scoping Meeting was not required and that the proposed modification could progress to lodgement.

On 2 August 2022 the Planning Secretary received a letter requesting confirmation 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 we anticipate that the proposed changes can proceed without prior review by the DRP under the provisions of Condition B6.

## 6. ASSESSMENT OF IMPACTS

This section provides a comprehensive summary of the updated technical studies undertaken to assess the potential impacts of the proposed modifications and the updated mitigation, minimisation, and management measures recommended to avoid unacceptable impacts.

### 6.1. STANDARD ASSESSMENT IMPACTS

This section of the report addresses the matters which require a standard assessment. It outlines the findings of the assessment to ensure compliance with the relevant standards or performance measures.

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 on the operation and delivery of the metro station as required under the construction contract. Given there is no material change as a result of the modification there is no associated environmental impact.

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

1. The proposed changes are minor in nature and will have no discernible change from the approved design when viewed from the public domain.
2. The modification provides an improved level of safety to the design of Pitt Street South Over Station Development as well as ensuring the balustrade aligns in terms of height with the adjacent balustrade as it returns to the south.
3. The changes will not result in any additional environmental impacts in terms of overshadowing, view loss, privacy or bulk, and scale impacts.
4. The Architectural Design Statement prepared by Foster + Partners contained in Appendix B confirms that the proposed modifications to the balustrades are consistent with the design intent developed by Foster+Partners for the original SSD-10375 and therefore have a negligible environmental impact.

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

Conditions B1 – B7 were placed on the development consent to SSD-10375 to ensure Design Excellence and Integrity are achieved throughout the delivery of the project. These condition requirements and assessments against these are outlined below.

Table 8 Assessment Against Relevant Conditions of Consent.

Condition of Consent	Compliance
Condition B1 – B4	Pursuant to Condition B1 – B4, the architectural design team comprising Foster + Partners has had direct involvement in the proposed design changes and has verified the submitted design documentation.
Condition B5	In accordance with Condition B5, on 2 August 2022, a letter was issued to the Planning Secretary to provide formal notification of the proposal to modify the approved architectural drawings.
Condition B6	In accordance with Condition B6, a letter has been issued to the Planning Secretary seeking confirmation that the design changes proposed within this application do not require review by the Sydney Metro Design Review Panel ( <b>DRP</b> ) as they would not have an impact on the Design Excellence of the approved development.

Condition of Consent	Compliance
Condition B7	We anticipate the Planning Secretary will confirm that further consideration by the DRP is not required.

As demonstrated in Table 8 above, the proposed development satisfies the relevant conditions of consent.

## 6.2. MINIMAL ENVIRONMENTAL IMPACT

Section 4.55(1A) of the EP&A Act requires that an application to modify a consent under this part, demonstrate that it results in minimal environmental impact. As detailed in **Sections 3 and 6** of this report, the proposal will result in only minor environmental impacts insofar as it will not increase shadowing or bulk and scale of the approved building. The proposal will have the benefit of improving safety for occupants of the subject building.

It is concluded that if the proposed modification is considered to give rise to only a minimal environmental impact in accordance with 4.55(1A) of the EP&A Act.



## 7. JUSTIFICATION OF MODIFIED PROJECT

This section of the report provides a comprehensive evaluation of the modified proposal having regard to its economic, environmental, and social impacts, including the principles of ecologically sustainable development.

It assesses the potential benefits and impacts of the proposed modifications, considering the interaction between the findings in the detailed assessments and the compliance of the proposal with the relevant controls and policies.

### 7.1. STATUTORY CONTEXT

The relevant State and local environmental planning instruments are outlined in **Section 4** and assessed in the following section of the report.

#### 1.5.1. 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 balustrades, made of transparent glazing, 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.

#### 1.5.2. Pitt Street North OSD Design Guidelines

In accordance with Chapter 2, clause 2.10 of *State Environmental Planning Policy (Planning Systems) 2021*, 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 to the height of the glazed balustrade between the L10 roof terraces and the National Building (Ashington Place) roof by 500mm to a total height of 1800mm above the finished floor level (FFL) and the modification to the height of the horizontal handrail is also proposed to be increased to 1500 FFL, will not compromise the design intent and are unlikely to be noticeable from the public realm.
- 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 affect the consistency of the approved development with the Pitt Street North OSD Design Guidelines as outlined in SSD 10375.

## **7.2. COMMUNITY VIEWS**

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

## **7.3. LIKELY IMPACTS OF THE MODIFIED 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 on the built environment as outlined in Sections 6 and 7 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.

## **7.4. 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.

## **7.5. PUBLIC INTEREST**

The modified proposal is considered in the public interest for the following reasons:

- The proposed modifications are consistent with relevant State and local strategic plans and comply 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 appearance, functionality, and buildability of the approved development under SSD 10375.

## 2. 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 originally 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 warranted, subject to appropriate conditions of consent.

### 3. **DISCLAIMER**

This report is dated 1 August 2022 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Pitt Street Developer North Pty Ltd (**Instructing Party**) for the purpose of Modification Report (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

In preparing this report, Urbis may rely on or refer to documents in a language other than English, which Urbis may arrange to be translated. Urbis is not responsible for the accuracy or completeness of such translations and disclaims any liability for any statement or opinion made in this report being inaccurate or incomplete arising from such translations.

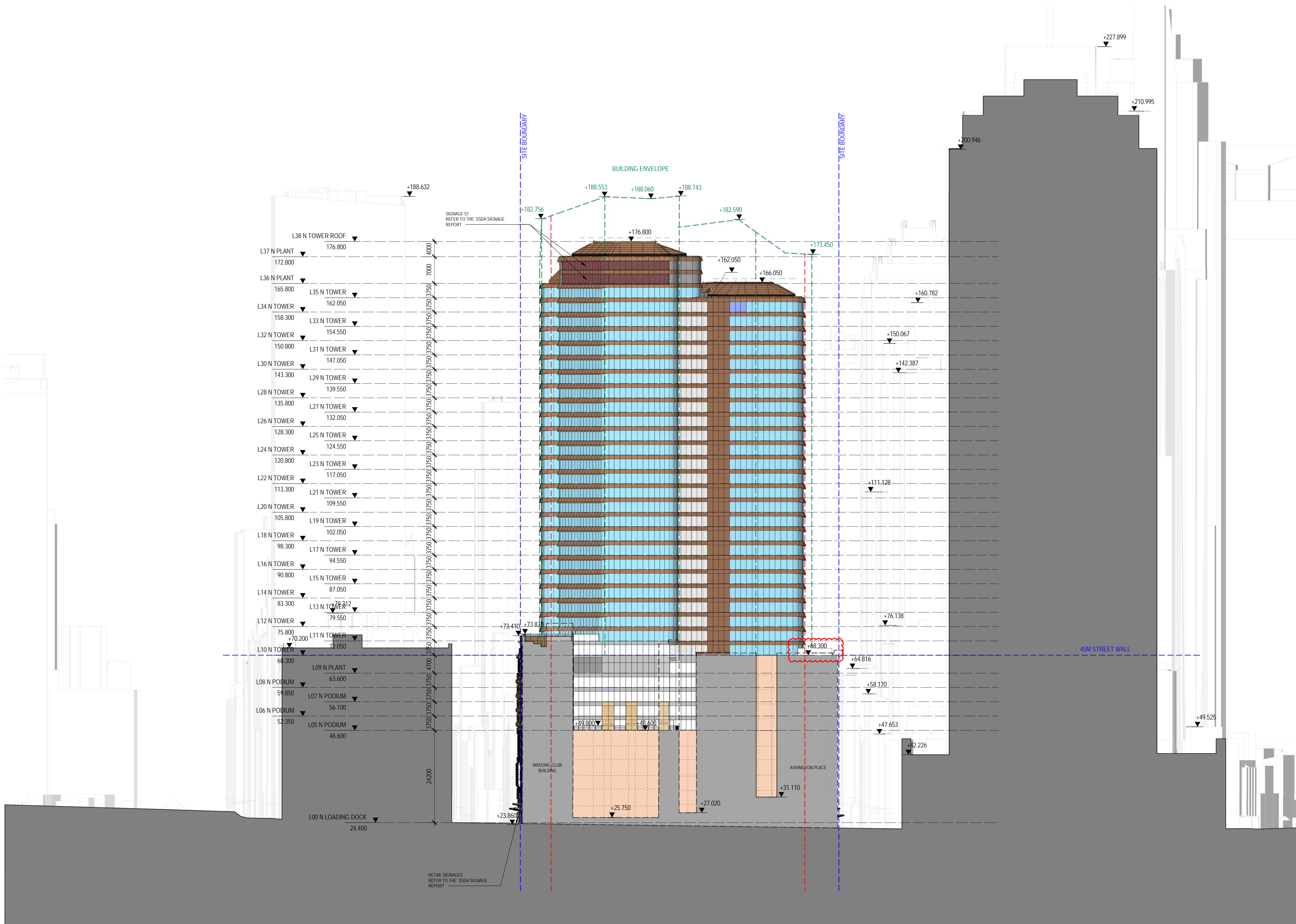
Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

**APPENDIX A                      ARCHITECTURAL PLANS**



100mm AT FULL SIZE Plot Date & Time: 20/08/2022 6:12:33 PM



**LEGEND**

- SITE BOUNDARY
- WEIGHTED AVERAGE SETBACK
- ENVELOPE LINE
- INDICATIVE AIR TERMINAL LOCATION

**NOTE:**

01. SITE SURVEY FILE NWRLSRT-RPS-OPN-SR-DWG-000003.A.01.INF.DWG, RECEIVED ON 15/11/2019.

02. PUBLIC DOMAIN DOES NOT FORM PART OF THE SSDA FOR OVERSTATION DEVELOPMENT AND IS SHOWN FOR INFORMATION PURPOSES ONLY. IT WILL BE PART OF CSSI APPROVAL 15\_7400

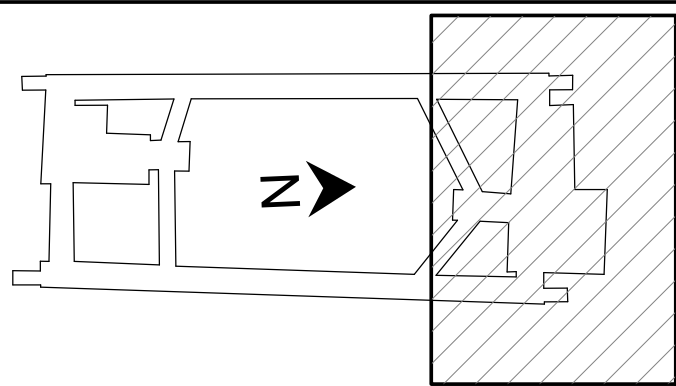
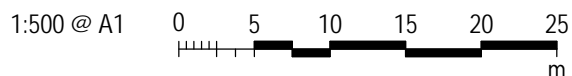
**KEY**

- GLASS CURTAIN WALL
- BACKPAINTED CLADDING
- METAL CLADDING
- STONE CLADDING
- CONCRETE
- LOUVRE
- LIGHTWELL LOUVRE
- TRANSLUCENT CURTAIN WALL
- WHITE SPANDREL GLAZING
- FLUTED GLAZING
- PAINTED RENDER
- SIGNAGE

**NOTE:**

REFER TO SSDA SIGNAGE REPORT FOR SIGNAGE DETAILS

G	COX	02/08/22	SSDA MOD SUBMISSION	NT
F	COX	13/05/22	SSDA MOD SUBMISSION	NT
E	COX	30/09/21	SSDA MOD SUBMISSION	NT
D	F+P	29/10/20	SSDA RTS SUBMISSION TO DPIE	
C	F+P	08/10/20	SSDA RTS SUBMISSION TO (INTERNAL REVIEW)	
B	F+P	25/05/20	SSDA SUBMISSION TO DPIE	
A	F+P	20/03/20	SSDA SUBMISSION	
REV.	BY	DATE	DESCRIPTION	APPD.
A1 Original			Co-ordinate System: MGA Zone 56	
			Height Datum: A.H.D.	
			This sheet may be prepared using colour and may be incomplete if copied	



NOTE: Do not scale from this drawing.

CLIENT

NSW GOVERNMENT | sydney METRO

ISDP

o|x|f|o|r|d | CPB CONTRACTORS

The information shown on this drawing is for the purposes of the Sydney Metro Project only. No warranty is given or implied as to its suitability for any other purpose. The Service Providers accept no liability arising from the use of this drawing and the information shown thereon for any purpose other than the Sydney Metro Project.

SERVICE PROVIDERS

Foster + Partners  
COX | CJ ARMS  
BATESSMART. | LCI  
aurecon | TW

DRAWN... COX  
DESIGNED... F+P  
DRG CHECK... SW / ML  
DESIGN CHECK... ML  
APPROVED... NT

DRG No. SMCSWSPS-COX-OSN-AT-DWG-960004

**PITT STREET INTEGRATED STATION DEVELOPMENT - OSN**

SSDA  
GENERAL ARRANGEMENT ELEVATION  
NORTH ELEVATION

STATUS: TENDER DOCUMENTATION

SHEET 1 OF 1

METRO DRG No.

REV. G

## **APPENDIX B**

## **ARCHITECTURAL DESIGN STATEMENT**



1<sup>st</sup> of August 2022

**PITT STREET INTEGRATED STATION DEVELOPMENT  
OVERSTATION DEVELOPMENT NORTH – SSD-10375 - Modification 02**

**ARCHITECTURAL DESIGN STATEMENT**

To whom it may concern,

The attached drawing (SMCSWSPS-COX-OSN-AT-DWG-960004-G) and visual comparison identifies the balustrade between the L10 roof terraces and the National Building (Ashington Place) roof, which is proposed to be raised to 1,800mm above finished floor level (FFL) in order to align itself with the adjacent balustrade and to prevent climb-ability between the two sites.

We confirm that the proposed modifications described in the attached documents are consistent with the design intent developed by Foster+Partners for the State Significant Development Application. (SSD-10375).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Muir Livingstone', enclosed within a light yellow rectangular box.

**Muir Livingstone**  
Partner  
Foster + Partners  
mlivings@fosterandpartners.com

*Nominated Architect Muir Livingstone NSWARB 11440*

Foster + Partners  
Deutsche Bank Place  
Suite 29.02  
126 Phillip Street  
Sydney NSW 2000  
Australia  
Tel: +61 (02) 8084 3522  
www.fosterandpartners.com



