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14022  
6 February 2017

Ms Carolyn McNally  
The Secretary  
Department of Planning and Environment  
PO Box 375  
SYDNEY NSW 2001

Attention: Matthew Rosel (Senior Planner)

**S96(1A) - MODIFICATION APPLICATION - SSD 6673  
BLOCK 11, CENTRAL PARK**

On behalf of Central Park JV No 2, we hereby submit an application pursuant to section 96(1A) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify State Significant Development Application SSD 6376 relating to Block 11, Central Park.

The modification application relates to minor internal and external amendments as part of the design development progression of the project. The modification includes:

- change in number of apartments (now a total of 293, specifically as a result of the Jacuzzi deletion and amalgamating two apartments);
- deletion of jacuzzi on level 9 for improved communal open space;
- revised booster set location (no structure proposed, will be simple open booster sets located in the planted area);
- addition of the 1.8m high glass wind screen to the childcare to comply with Sydney DCP 2012 and MOD 1 of the Block 11 SSD (wind conditions); and
- modification of the childcare façade line to match the fit out DA.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 96(1A) and 79C(1) of the EP&A Act. It should be read in conjunction with the Environmental Impact Statement (EIS) prepared by JBA dated December 2014 (submitted with the original SSD) and is accompanied revised Architectural Plans prepared by FJMT (**Attachment A**) and Childcare Sketch (**Attachment B**).

## **1.0 BACKGROUND**

### **1.1 Central Park Concept Plan**

MP 06\_0171, as modified in February 2009, is a Concept Plan approval applying to the Frasers Broadway (now Central Park) site which permits the construction of a mixed use precinct comprising:

- 11 development blocks;
- A maximum Gross Floor Area (GFA) of 255,500m<sup>2</sup> with minimum non-residential and maximum residential floor space mix.
- Combined basement car parks, providing car parking for Blocks 1, 4 and 8 and
- Blocks 2, 5, 9 and the Kensington Precinct;

- A new public park;
- Tri-generation and re-cycle water treatment plants;
- Retention of heritage items;
- Public domain works; and
- Contributions.

To date, a total of 12 modifications to the Concept Plan have been approved between 2007 and 2015. The modifications have primarily related to amendments of building envelopes and reallocation of floor space in response to the delivery of each block.

## **1.2 Block 11 SSD – Approval proposed to be modified**

State Significant Development (6376) was granted by the Department of Planning and Environment (DPE) on 2 March 2016 for the following:

Development of the Block 11 mixed use development including:

- construction of a 10 to 13 storey building (maximum height RL 64.17) over two basement levels;
- Total GFA of 25,220m<sup>2</sup> comprising:
  - 292 residential apartments;
  - 758m<sup>2</sup> GFA retail; and
  - 655m<sup>2</sup> childcare facility (90 child capacity).
- retention, refurbishment and alteration of the Castle Connell Hotel (external only);
- 174 on-site car parking spaces (including 10 car share spaces) and two service vehicle spaces
- six regular and three short term on-street car parking spaces;
- 448 bicycle parking spaces;
- 3,300m<sup>2</sup> of open space;
- public domain works and landscaping;
- subdivision and strata subdivision; and
- signage zones.

A modification (MOD 1) was submitted to the Department to amend wind conditions (Condition B7, B8, and B9). This modification was approved in November 2016.

## 2.0 PROPOSED MODIFICATIONS

### 2.1 Overview of Proposed Modifications

The modifications included in this application are proposed in response to the design development of the project and to enhance the architectural expression of the building's design. The amendments relate to internal and external parts of the building, primarily relating to residential components of the building. The modifications do not result in any increase in GFA, and as a result of the relocation of glass line to the childcare centre, there is a reduction of approximately 20sqm of non-residential GFA

A description of each amendments is provided below.

### 2.2 Apartment Reconfiguration

A modification is proposed to amalgamate approved units W305 and W306 located on level 3. These units are located on the northern elevation of the building on the western side, with views towards Chippendale Green. The modification will create one single four bedroom unit in place of 2 x two bedroom units as shown below in **Figure 1**.

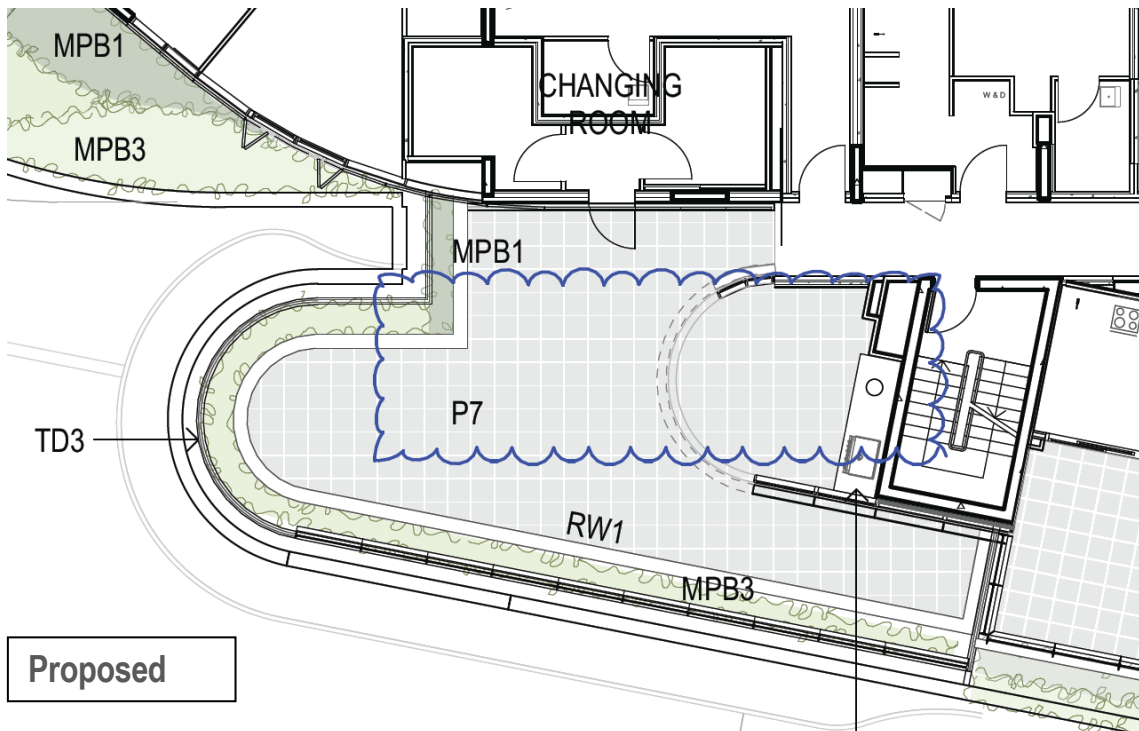
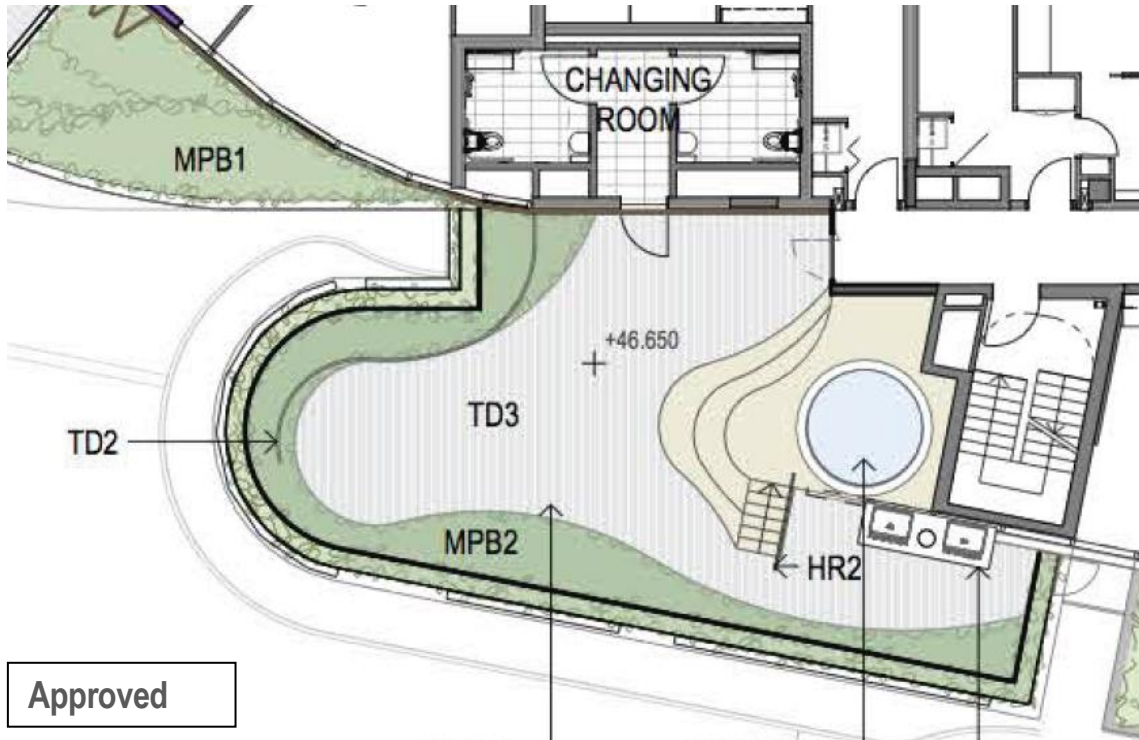
The modification results in the total number of apartments within the development from 294 to 293.



**Figure 1** – Amalgamations of units W305 and W306 on Level 3 West  
Source: FJMT

### 2.3 Deletion of Jacuzzi

As part of the design development of the communal areas and landscaping, it is proposed to remove the jacuzzi that was approved on Level 9. This area will be retained as communal space for use by the residents. The BBQ and sink have also been relocated to a more appropriate location. The approved and revised design are shown below in **Figure 2**.



**Figure 2** – Modification to Level 9 terrace – removal of jacuzzi  
Source: FJMT

## 2.4 Amendment to Hydrant Booster

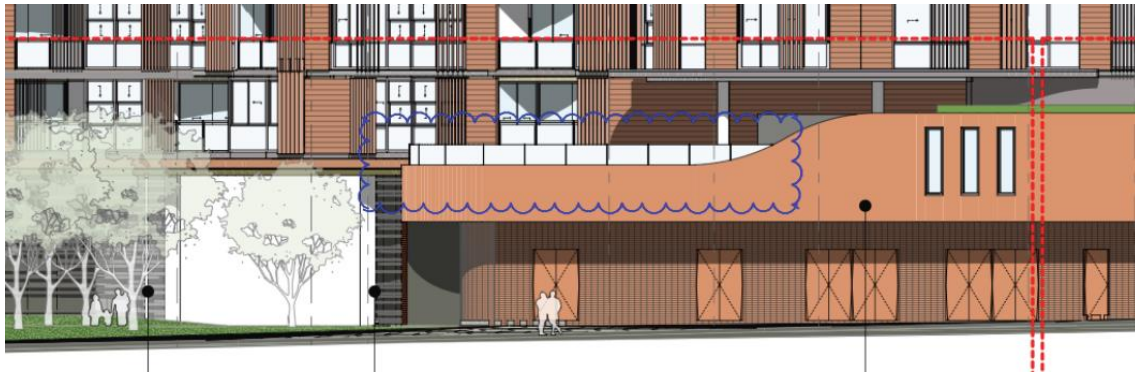
As part of design development and further discussion with the NSW Fire Brigade, a revised design of the booster set location is proposed in this application, as shown on the Architectural Plans at Attachment A. Whilst the location is not proposed to be varied significantly, retaining its position in the north-east corner of the site (Corner of O’Conner and Kensington Street), the design is proposed to be amended. The design amendments seek to remove the structure to enclose the set, given its location in a planted area. This space will also be used to display archaeological items recovered from the Central Park precinct.

## 2.5 Childcare Modifications

### Wind Screen

In response to wind conditions imposed on the approval as part of MOD 1, detailed wind investigations have been undertaken on the site. These included the outdoor areas of the Childcare centre located on Level 1, as shown in **Figure 3**.

In order to provide suitable wind environment in this location, and to comply with the Sydney DCP 2014 it is proposed to provide a 1.8m high glazed balustrade along the southern elevation of the childcare centre outdoor play space. The balustrade will remain as clear glazing and the Childcare DA will detail all landscaping and screen planting.



**Figure 3** – Southern elevation showing location of childcare centre balustrade glazing  
Source: FJMT

### Modification of façade line

A modification to the approved façade line of the childcare centre is sought, in order to correspond with the Childcare Centre fitout design that is currently with Council for assessment (Development Application). The modification seeks to increase the area of external space, as shown on the Architectural Plans (**Attachment A**) and sketch at **Attachment B**, which results in a minor increase in non-residential GFA of 3sqm.

## 3.0 CONDITIONS PROPOSED TO BE AMENDED

The following conditions are proposed to be modified as part of this application (**Table 1**). The proposed modifications described above necessitate amendments to the consent conditions which are identified below. The proposed amendments to the conditions are also set out below.

**Table 1** – Conditions proposed to be amended

Condition	Description of Modification
<b>Schedule 1</b> - Description of Development	Revision of the development description to reflect the revised design in relation to GFA and car parking (as per proposed amendments to Condition B19)
<b>Condition A2</b> – Terms of Consent	Revision of plan references to reflect the revised plans provided at <b>Attachment A</b> .
<b>Condition B19</b> – Car Parking	Include reference to the potential to provide in accordance with the determination of MP00_0078 (MOD 8) to allow use of space by Block 11

#### 4.0 SECTION 96 OF THE EP&A ACT, 1979

The power to amend a development consent is found in section 96 of the EP&A Act. Section 96 is an independent facilitative power that is separate to the grant of a development consent.

The statutory requirements to be satisfied for the grant of consent to modify a development consent are set out in Section 96 of the EP&A Act. This modification application to development consent SSD 6373 is accordingly made under Section 96(1A) of the EP&A Act.

Pursuant to Section 96(1A) of the EP&A Act, the Minister or his delegate may modify development consent if:

- (a) *it is satisfied that the development to which the consent as modified relates is **substantially the same development** as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with:*
  - (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

***(emphasis added)***

Section 96(3) of the Act requires the consent authority to take into consideration such of the matters referred to in Section 79C (1) as are of relevance to the development the subject of the application.

The proposed modification will not alter the nature of the approved development. It does not seek to change the approved uses, substantial built form, or any other key aspects of the approved SSD development including parking. As a result, the proposed development remains substantially the same as the approved development and is of minimal environmental impact

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

- the proposed development retains the approved mixed use (commercial, retail, childcare, hotel and residential), consistent with the Central Park Concept Plan and approved SSD.
- it fundamentally retains the same relationship to the public domain and surrounding development;
- the approved number of car parking spaces, loading and bicycle parking space is not proposed to change;
- the proposed changes are minor in nature and will not be readily noticeable, with regard to the architectural expression of the buildings design.
- the proposed modification retains key heritage relationships, views and setting;
- The height of building and building envelope are not proposed to be amended as part of the proposed modifications.
- the environmental impacts of the modified development are substantially the same as the approved development; and

- changes to the external appearance of the approved development are negligible, and have been made with the intention of maintaining and enhancing the architectural expression of the building design, continuing to deliver a building of a design quality commensurate with the approved development and design excellence.

As shown above, the DPE may be satisfied that the modified proposal represents substantially the same development for which consent was originally granted and it is apparent from the nature and scale of modifications that there will be minimal environmental impact. The modification of development consent SSD 16376 can therefore lawfully be approved under Section 96(1A) of the EP&A Act.

## 5.0 ENVIRONMENTAL ASSESSMENT

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if "it is satisfied that the proposed modification is of "minimal environmental impact".

### 5.1 Section 79(C) Assessment

Section 96(3) of the EP&A Act states:

*"In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application."*

Section 79C(1) of the Act states:

*"In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

- (a) *the provisions of:*
  - (i) *any environmental planning instrument, and*
  - (ii) *any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
  - (iii) *any development control plan, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (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,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest."*

### 5.2 S.79C(1)(a) Planning Instruments

The Environmental Impact Statement (EIS) submitted with the original SSDA addressed the proposed development's level of compliance against relevant environmental planning instruments, including:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy No 64 (Advertising and Signage);
- State Environmental Planning Policy No 65 (Design Quality of Residential Flat Development);
- Sydney Local Environmental Plan 2005; and
- Sydney Development Control Plan 2012.

As is evident from **Table 1**, the proposed modifications involve internal and external changes that respond to the design development stage. The proposed modifications will therefore not alter the level of compliance of the development with the above relevant planning instruments. For completeness, **Table 2** provides a summary overview of the proposed modified development's continued level of compliance with relevant planning instruments.

**Table 2 – Compliance with relevant Environmental Planning Instruments**

Instrument	Comments
<b>SEPP (State &amp; Regional Development)</b>	The modified development continues to meet the threshold for State Significant Development.
<b>SEPP (Infrastructure)</b>	The provisions of the Infrastructure SEPP apply more during the consideration and assessment of the original SSDA in terms of requirements and referrals for development applications (i.e. not modification applications). Further referral of this modification application to relevant agencies and approval bodies is not required, given no change is proposed to the number of car parking spaces, apartments or expected traffic generation.
<b>SEPP (BASIX)</b>	No changes proposed
<b>SEPP 55 (Remediation of Land)</b>	The site remains suitable for the proposed development subject to the implementation of Remedial Works as originally approved. The proposed modifications do not alter the site's suitability.
<b>SEPP 64 (Advertising and Signage)</b>	No change proposed
<b>SEPP 65 (Design Quality of Residential Flat Development)</b>	The modification does not affect the proposals consistency with the principles of SEPP 65 and the proposals compliance with the Residential Flat Design Code/Apartment Design Guide (as it applies to relevant uses only) – particularly given no changes are proposed to the number of apartment and internal configuration of these levels.
<b>Sydney LEP 2005</b>	The modifications do not seek to amend the approved land uses within building, remaining consistent with the LEP 2005 City Edge zoning objectives and uses.
<b>City of Sydney Development Control Plan 2012</b>	The modification proposed to do not affect compliance with the guidelines within DCP 2012.

### 5.3 Section 79C(1)(b) Impact on the Environment

The EIS submitted with the original DA addressed the likely impacts of the development, including:

- Design Excellence
- Land Use
- Built Form and Urban Design
- Consistency with Concept Plan
- Built Form and Urban Design
- Environmental and Residential amenity
- Overshadowing and Solar Access
- Wind
- Reflectivity
- Heritage
- Childcare
- Building Code
- Accessibility
- Structural Certifications
- Crime and Public Safety
- Transport and Accessibility
- Ecologically Sustainable Development
- Acoustic Impacts
- Drainage and Flooding
- Waste Management

- Construction Management
- Contamination
- Staging
- Contributions

The proposed modification does not give rise to any material alteration to the assessment of the potential impacts considered as part of the original SSDA. The following matters however warrant further assessment and consideration.

#### ***Consistency with the Concept Plan***

The modifications proposed in this application remain consistent with the provision of the Central Park Concept Plan as well as the relevant commitments. Specifically, the proposal does not alter consistency with the following:

- Land Uses;
- GFA;
- Building Envelope (height and massing); and
- Statement of Commitments - including design excellence, and Sustainability.

The minor non-residential GFA increase (3sqm) remains generally consistent with the Central Park Concept Plan approval.

#### **Built Form and Urban Design**

The proposal does not seek to amend the overall building form, height or setbacks. Minor modification are proposed to the childcare centre balustrade and fire hydrant booster within the O'Connor Street Park. These modification are negligible in the scope of the broader building.

#### **Residential Amenity**

The proposed modification do not affect the residential amenity of apartments from that approved as part of the SSD. The amalgamation of two units does not affect the amenity of the units.

The modification to the level 9 terrace (removal of jacuzzi) allows for a more functional and useable communal space within the development

#### **BASIX**

the amalgamated apartment performs better than the individual apartments, and as such still complies with BASIX thermal comfort requirements and will not affect the ability to meet BASIX minimum requirements.

#### **BCA/Fire Safety/Access**

The proposed modification do not require the amendments of existing conditions of approval in relation to compliance with BCA and relevant Australian Standards.

#### **5.4 Section 79C(1)(c) Suitability of the site for the proposed development**

The site remains suitable for the proposed development for the reasons outlined in the EIS lodged with the original SSD. The proposal is considered suitable for the site as it:

- Is located within Central Park which is within the Sydney City sub-region which is nominated as a 'Global Centre';
- Will take place in a highly modified and disturbed urban environment and will not impact on biodiversity values;
- Will contribute to the enhancement of a key CBD location that is presently underutilised;
- Will accord with the principles of Ecologically Sustainable Development by contributing to the proper management, development and conservation of the artificial resources of the site;
- Is within walking distance of other services and amenities, including public transport, retail and employment opportunities offered by the CBD;

- Is in close proximity to the pedestrian and cycle facilities within Central Park; and
- Will support the provision of a high quality public domain, in particular Chippendale Green located to the east.

#### **5.5 Section 79C(1)(d) Submissions made**

Any submissions made on this subject modification application will be duly considered and addressed by Frasers Property and its experienced project team.

#### **5.6 Section 79C(1)(e) The public interest**

The proposed modifications to the approved development are considered to be in the public interest, especially given the changes will:

- Will promote the social and economic welfare of the community by providing an improved urban environment;
- Will provide a substantial quantum of residential accommodation within an existing urban area which has easy access to good public transport;
- Will provide residential accommodation in support of Sydney's growing economy and population;
- Will encourage patronage on public transport by being in close proximity to rail, light rail, bus and ferry services;
- Will encourage alternative modes of travel by providing bicycle parking for residents, visitors and retail patrons;
- Will provide community connections within the overall Central Park development;
- Will achieve a 5 star Green Star rating; - Pathways Approach
- Has adopted a Green Star 'Principles Led' approach has been followed, which demonstrates that the ESD initiatives implemented in this building's design are equivalent to a 5 Star Green Star development.
- Will contribute to the achievement of specific targets relating to new jobs and new dwellings;
- Will address the provision and maintenance of affordable housing by adhering to the agreement established between the Redfern Waterloo Authority and the landowner; and
- Has responded to extensive consultation undertaken with various levels of government, authorities and the community.

#### **6.0 CONCLUSION**

In accordance with section 96(1A) of the Act, the proposed modifications will have no additional environmental impact and will result in a development that will be substantially the same as the originally approved development. The proposed modifications do not raise any additional environmental planning issues.

This Section 96 application seeks to facilitate amendments in order to respond to design development and with the intent of maintain and enhancing the architectural expression of the building's design.

In accordance with section 96(1A) of the EP&A Act, the Minister or their delegate may modify the consent as:

- the consent, as proposed to be modified, is substantially the same development as that originally approved;
- the modifications result in an overall improvement to the building's urban design response; and;
- the building's compliance with the Concept Plan and key statutory plans and controls remains consistent with the original approved SSD.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request. Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or [sgouge@jbaurban.com.au](mailto:sgouge@jbaurban.com.au)

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Stephen Gouge'.

Stephen Gouge  
*Principal Planner*