

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

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02 August 2021

Ms Monica Barone
Chief Executive Office
City of Sydney
Town Hall House

Dear Ms Barone,

SECTION 4.55(1A) APPLICATION TO AMEND SSD 10376 | 125 BATHURST STREET SYDNEY

This letter has been prepared by Urbis on behalf of Pitt Street Developer South Pty Limited (the applicant) in support of a Section 4.55(1A) application to modify SSD 10376 which applies to the Pitt Street South Over Station Development (OSD) at 125 Bathurst Street, Sydney.

The application seeks to revise the maximum RL building height of the development, relocate louvres from the southern façade to the western facade, revise the adaptable apartment floor plans, and add a window on Level 7 of the approved State Significant Development (SSD). 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).

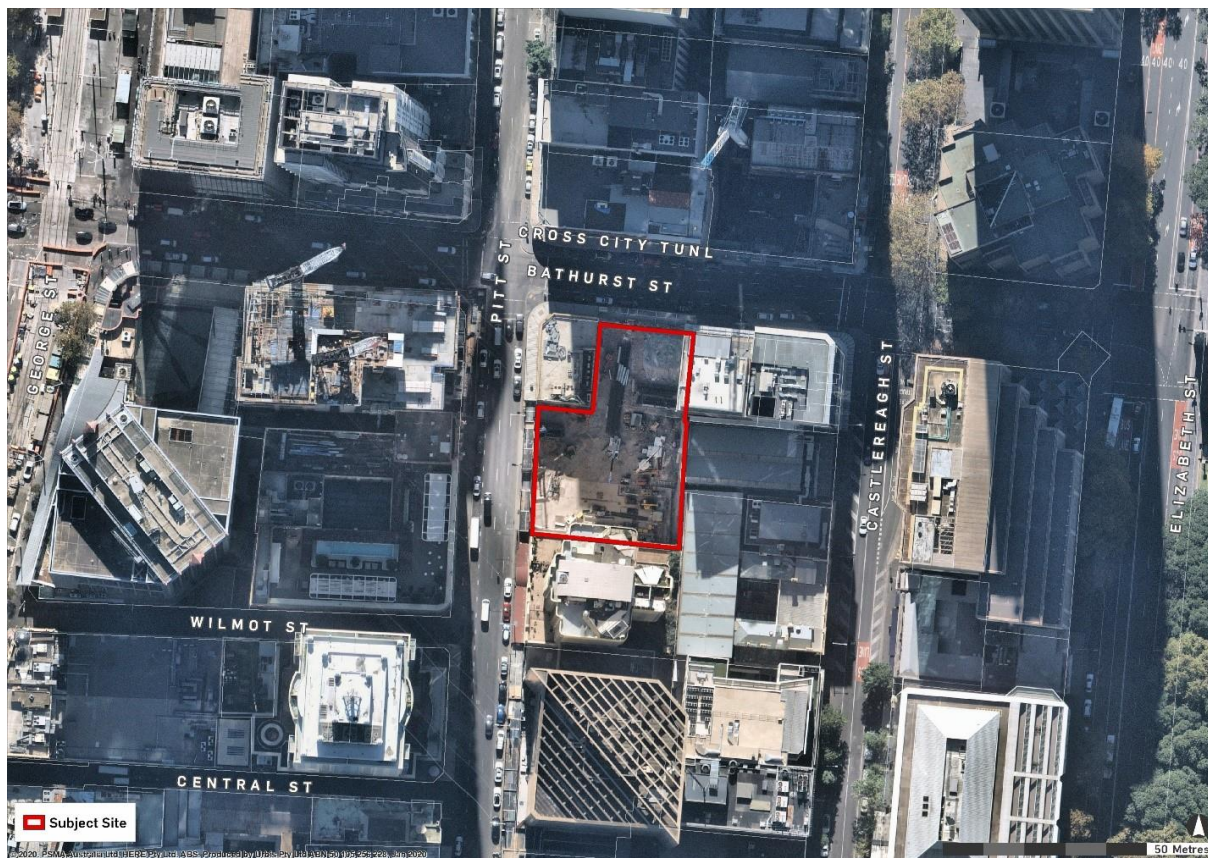
This letter is accompanied by the following documentation:

- Landowners' consent of the allotments to which the application applies
- Revised Architectural Plans (**Attachment A**)
- Design Statement (**Attachment B**)
- Revised Solar Assessment (**Attachment C**)
- Adaptable Housing Design Capability Statement (**Attachment D**)
- Aeronautical Impact Assessment (**Attachment E**)

1. SITE BACKGROUND

The site is generally described as 125 Bathurst Street, Sydney (the site) and is situated on the south-east corner of Bathurst Street and Pitt Street (see **Figure 1**). The site occupies a single allotment and is legally described as Lot 10 in Deposited Plan 1255507. The site is an irregular L shaped allotment with street frontages of approximately 32.03m to Pitt Street (west) and 24.05m to Bathurst Street (north). It has a north-western internal boundary measuring 21.835m, northern internal boundary measuring 13.485m, southern boundary measuring 37.21m and eastern boundary measuring 54.235m resulting in an overall site area of approximately 1,710sqm.

Figure 1 Subject Site



Source: Urbis / Near Map

The site is centrally located within the Sydney CBD which forms part of the Sydney City Local Government Area (LGA). The Sydney CBD is situated approximately 3 kilometres south of North Sydney CBD and 8 kilometres north-east of Sydney International Airport.

1.1. DEVELOPMENT CONSENT HISTORY

The site is subject to several development applications as listed below:

Table 1 Approvals History

Application number	Development	Date determined
SSD-8876 – Concept SSD DA	Pitt Street (South) Over Station Development – Concept Application.	25/06/2019
SSD-8879 – MOD 1	Modification to SSD-8879 – Minor amendments to conditions to rectify administration error.	28/10/2019
SSD-8879 – MOD 2	Modification to SSD 10376 – Amendment to allow minor protrusions to the approved concept envelope	14/4/2021

Application number	Development	Date determined
	and clarification over the inclusions of retail premises as an approved land use in the Concept Application.	
SSD 10376 – Detailed SSD DA	<p>Pitt Street South Over Station Development – Stage 2 Detailed Design and Construction. Consent was granted for:</p> <p>Construction of the Pitt Street South Over Station Development, including</p> <ul style="list-style-type: none"> – A residential tower with a maximum building height of RL 165.35 (noted as 165.15 on the description of development on the consent) – 234 dwellings to be used for Build-to-Rent Housing – A maximum gross floor area of 21,995sqm (excluding gross floor area approved under CSSI 7400) – Staged stratum subdivision – Use of podium (approved under CSSI 7400) for: <ul style="list-style-type: none"> • Residential entry and residential communal spaces • Retail entry and a food and drink premises on level two • Bicycle storage and end of trip facilities • Loading dock and associated facilities • Plant and circulation • Landscaping. 	14/4/2021

2. PROPOSED MODIFICATION

This Section 4.55(1A) modification application proposes to amend various conditions and the approved Architectural Plans in SSD 10376. The proposed modifications are summarised below:

- Revise condition B11 which notes the approved maximum building height (RL) and permits certain building services that protrude beyond the maximum height.

The maximum building height permitted by condition B11 requires minor uplift from RL165.35 to reach an overall height of **RL166.35** to allow for the building envelope to include:

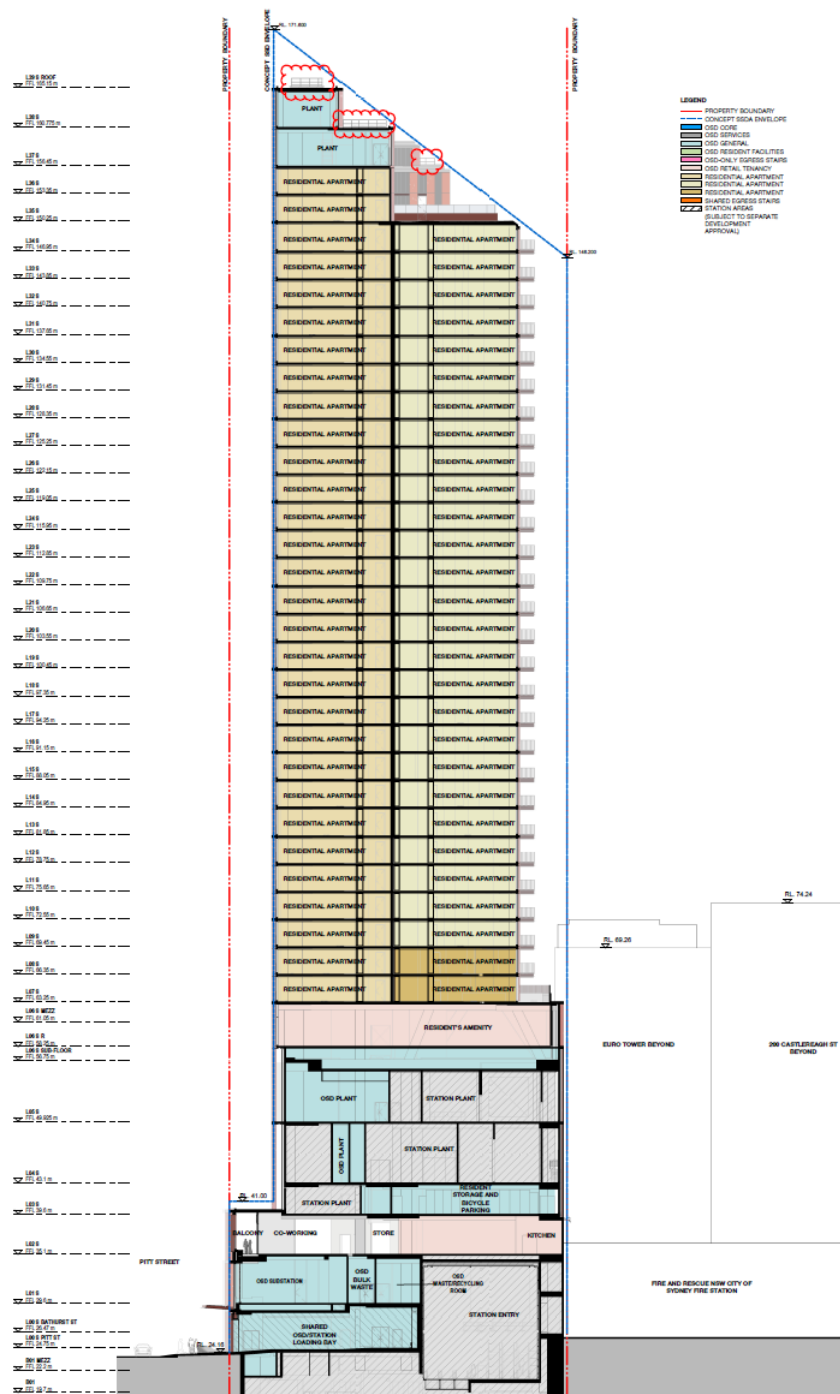
- Two hot water generator flues protruding 600mm above RL165.35
- Six air terminals protruding 800mm above RL165.35
- Top of handrail protruding 1m above RL165.35

To amend this provision, proposed new wording is provided for condition B11 in **Section 2.1**.

The Architectural Plan illustrating the proposed components of the building that will exceed RL 165.35 within this amendment is illustrated in

Figure 2 and found at **Attachment A** where red clouding highlights the protrusion of roof fixtures and other changes to the proposed plans outlined below.

Figure 2 Pitt Street South OSD proposed building envelope



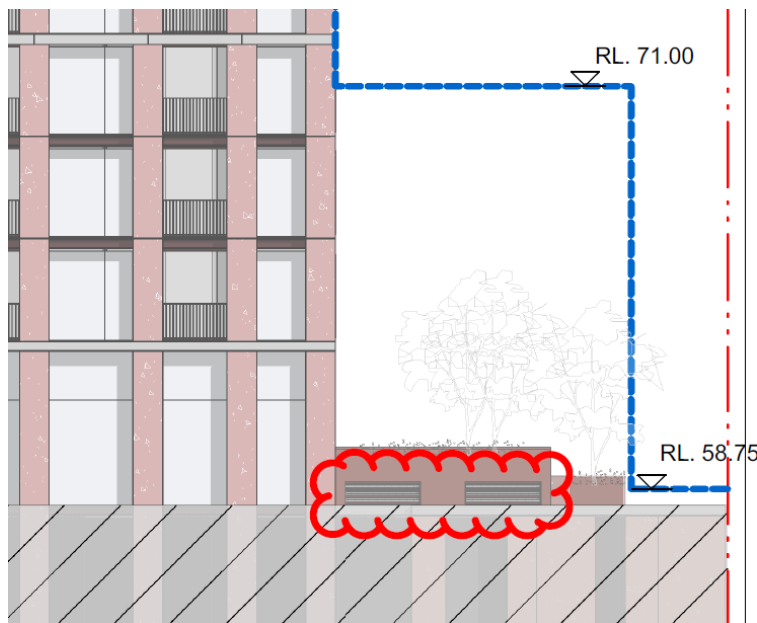
Picture 1 Building Section A-A

Source: BatesSmart

- Revise the approved plans to delete louvres on the southern façade at level 06 and relocate louvres to the western façade of the plant at level 06.

Updates provided in the Architectural Plan reflect the revised louvre location illustrated in **Figure 3**. This is a minor change to the window façade and is necessary due to the stair pressurisation intake being relocated.

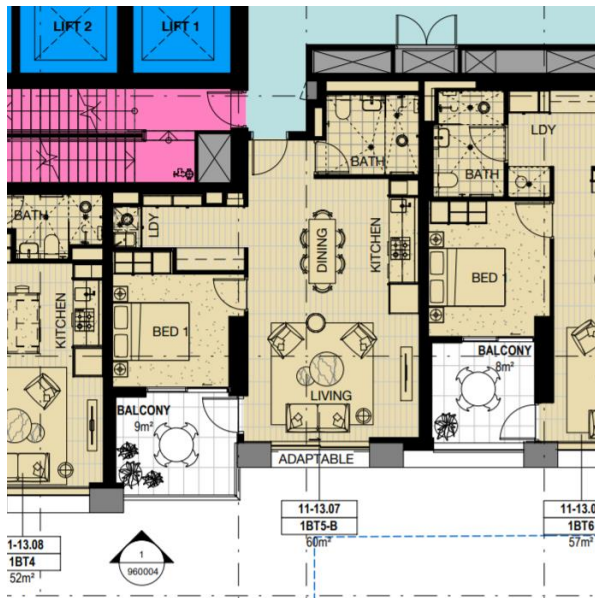
Figure 3 Louvre location on western elevation (blue line indicates approved building envelope)



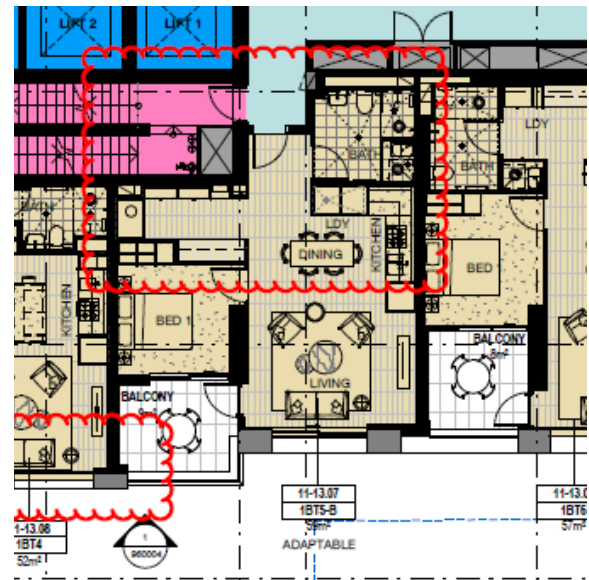
Source: BatesSmart

- Minor update to the nominated Adaptable Apartments to reconfigure floorplan design to incorporate Australian Standard AS2499 stated in condition B30. The changes required include:
 - Minor changes to five adaptable apartments (3 x typical one bedroom, 2 x typical two bedroom) on Level 11-13.06 (DWG-931141) and Level 33-34.06 (DWG-933341).
 - Levels 11-13 have altered the bathroom configuration to allow greater space for accessibility and moveability through the doorway and bathroom and more clearly labelled 'adaptable one bed apartment'. This is shown through red clouding in **Figure 4**, extracted from the updated Architectural Plans.
 - Level 33-34 plans have re-located the laundry location to allow for greater space within the bathroom and doorway, enhancing accessibility and moveability. Also, providing clearer labelling of 'adaptable two bed apartment'. This is clouded red in **Figure 4** extracted from the updated Architectural Plans.

Figure 4 Adaptable Apartment updates Levels 11-13



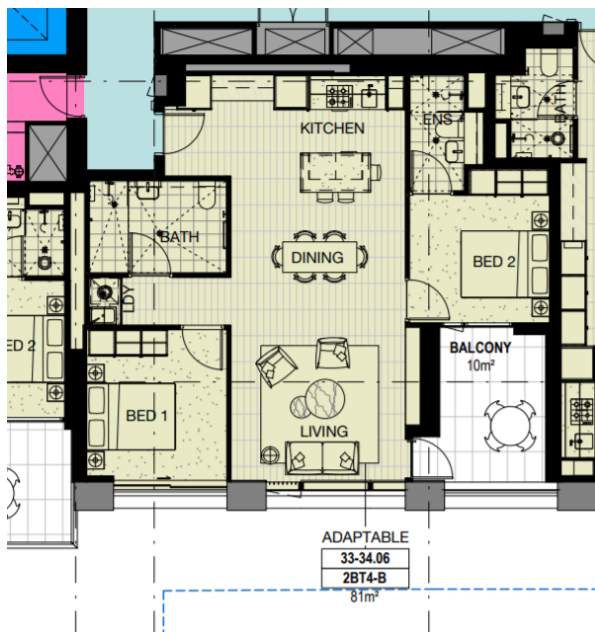
Picture 2 Approved Plans



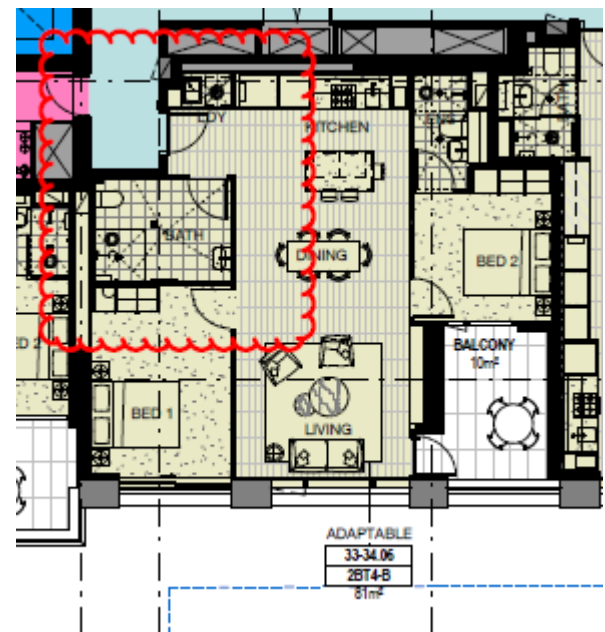
Picture 3 Proposed Revised Plans

Source: BatesSmart

Figure 5 Adaptable Apartment updates Levels 33-34



Picture 4 Approved Plans



Picture 5 Proposed Revised Plans

Source: BatesSmart

- Minor update to level 7 of the architectural plans to include a window on the northern edge of level 7, at apartment 7.05 – bedroom 3. The conversion of this panel to a window is required to comply with the NCC and updates to architectural plans are illustrated in **Figure 6** below.

Figure 6 Level 07 window update



Picture 6 Approved Level 07 Plans

Picture 7 Proposed Level 07 Plan

Source: BatesSmart

2.1. 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 below and provided at **Attachment A**.

Table 2 Architectural drawings prepared by Bates Smart

Drawing number	Rev	Name of Plan	Date
SMCSWSPS-BAT-OSS-AT-DWG-910041	H I	SITE PLAN	08.12.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-930041	F	L00 GROUND LEVEL – GENERAL ARRANGEMENT PLAN	12.11.20
SMCSWSPS-BAT-OSS-AT-DWG-930141	F	L01 - GENERAL ARRANGEMENT PLAN	12.11.20
SMCSWSPS-BAT-OSS-AT-DWG-930241	G	L02 - GENERAL ARRANGEMENT PLAN	12.11.20

Drawing number	Rev	Name of Plan	Date
SMCSWSPS-BAT-OSS-AT-DWG-930341	G	L03 - GENERAL ARRANGEMENT PLAN	08.12.20
SMCSWSPS-BAT-OSS-AT-DWG-930441	G	L04 - GENERAL ARRANGEMENT PLAN	08.12.20
SMCSWSPS-BAT-OSS-AT-DWG-930541	G	L05 - GENERAL ARRANGEMENT PLAN	08.12.20
SMCSWSPS-BAT-OSS-AT-DWG-930641	H I	L06 - GENERAL ARRANGEMENT PLAN	08.12.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-930642	F G	L06 MEZZANINE - GENERAL ARRANGEMENT PLAN	12.11.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-930741	I J	L07 - GENERAL ARRANGEMENT PLAN	08.12.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-930841	I J	L08 - GENERAL ARRANGEMENT PLAN	08.12.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-931041	E F	L09-10 - TYPICAL LOWRISE GENERAL ARRANGEMENT PLAN	08.12.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-931141	E F	L11-13 - TYPICAL LOWRISE GENERAL ARRANGEMENT PLAN	08.12.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-931441	H I	L14-32 - HIGHRISE GENERAL ARRANGEMENT PLAN	08.12.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-933341	D E	L33-34 - HIGHRISE GENERAL ARRANGEMENT PLAN	08.12.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-933541	H I	L35 - GENERAL ARRANGEMENT PLAN	08.12.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-933641	H	L36 - GENERAL ARRANGEMENT PLAN	08.12.20

Drawing number	Rev	Name of Plan	Date
	I		18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-933741	F G	L37 PLANT - GENERAL ARRANGEMENT PLAN	12.11.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-933841	F G	L38 PLANT - GENERAL ARRANEGMENT PLAN	12.11.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-933941	F G	L39 ROOF - GENERAL ARRANGEMENT PLAN	12.11.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-939542 Rev F	F	B01 MEZZANINE - GENERAL ARRANGEMENT PLAN	12.11.20
SMCSWSPS-BAT-OSS-AT-DWG-950141 Rev G DWG-950141 Rev H	G	SECTION A-A	12.11.20
SMCSWSPS-BAT-OSS-AT-DWG-950241	F G	SECTION B-B	12.11.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-960001	I J	NORTH ELEVATION - BATHURST STREET	26.11.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-960002	H I	WEST ELEVATION - PITT STREET	26.11.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-960003	H I	SOUTH ELEVATION	26.11.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-960004	J K	EAST ELEVATION	08.11.20 18.06.21
SMCSWSPS-BAT-OSS-AT-DWG-970041 Rev H	H	GFA AND LAND USE PLANS - PODIUM LEVELS	12.11.20
SMCSWSPS-BAT-OSS-AT-DWG-970141 - Rev G	G	GFA AND LAND USE PLANS - TOWER LEVELS	12.11.20

Drawing number	Rev	Name of Plan	Date
DWG-960005 Rev I	I	BATHURST STREET – STREETSCAPE ELEVATION	18.06.21
DWG-960006 Rev H	H	PITT STREET - STREETSCAPE ELEVATION	18.06.21

It is proposed to amend condition B11 to permit minor protrusion of building facilities beyond the approved building envelope. The modification application proposes the below changes.

*B11. The maximum height of the approved building must not exceed RL 165.35 m AHD, including plant and lift overruns. **Communication devices, antennas, satellite dishes, masts, flagpoles, chimneys, flues, balustrades** and the like **may extend to a maximum height of RL 166.35**. Details confirming compliance with this condition must be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.*

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 correspondence

3.1. MINIMAL ENVIRONMENTAL IMPACT

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

- The maximum height of the prevailing roof form, including the roof slab and any major lift core or services, is not proposed to be amended.
- Minimal protrusions (maximum increase of 1m) are proposed to the current maximum building height which is both numerically and objectively minor compared to the scale and height of the approved development.
- As the proposed protrusions are for small roof top elements, they do not significantly impact view corridors. Notably the Design Statement at **Attachment B** demonstrates that the view corridor from the Century Apartments is maintained to St Mary's Cathedral compared to that approved.
- Further, an assessment prepared by Walsh Analysis included at **Attachment D** confirms that there is no loss of solar compliance to any neighbouring buildings and no measurable increase of overshadowing to Hyde Park as a result of the minor protrusions of the envelope.
- A revised Aeronautical Impact Assessment is provided at **Appendix F** to assess the increase of the maximum RL building height. As confirmed within the Aeronautical Impact Assessment the proposed building height up to RL166.35 and temporary crane activity reaching a maximum height of RL 240m would not be problematic as it will be clear of all aircraft operational surface and activities. Specifically, the height of the building and the required temporary crane activity is below the PANS-OPS.
- The addition of one window instead of a glass panel on Level 07 improves the amenity to the affected apartment with no detriment to surrounding properties.

- The updated adaptable apartments floorplan enhance all five adaptable apartments in accordance with AS4299 (1995) as stated in condition B30 of the conditions of consent and detailed in **Attachment E**.

Based on the above, the proposed modifications can be assessed in accordance with section 4.55(1A) of the EP&A Act.

3.2. SUBSTANTIALLY THE SAME DEVELOPMENT

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

- The modifications do not change the approved land uses of the OSD.
- The proposed changes to the maximum building height is intended to facilitate the minor protrusion of the approved roof profile for minor building elements, there are no alterations to the predominant architectural design of the building.
- The proposed modification does not include any changes to the maximum gross floor area, Floor Space Ratio or Car Parking approved within the development.
- The proposed modifications to the plans for adaptable apartments are to align with the AS4299 (1995) and make minor improvements for adaptable apartments. No change is proposed to the total number of adaptable apartments within the development.
- The minor addition of one window to a level 7 apartment is to achieve required NCC compliance.

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 DPIE 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 DPIE.

4. SECTION 4.15 ASSESSMENT

The application has been assessed in accordance with the relevant matters for consideration listed in 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. State Environmental Planning Policy No. 65 – Design Quality Residential Apartment and Apartment Design Guide (SEPP 65)

The proposed modifications do not significantly impact the southern building elevation or interface between the development and the adjacent Princeton Apartments. Minor relocation of louvres on Level 06 to the western façade will have a minimal benefit on the outlook from north facing apartments south of the approved development.

4.1.2. Sydney Local Environmental Plan 2012 (SLEP 2012)

SLEP 2012 is the principal 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:

- Notwithstanding the proposed modification to the maximum building height (clause 4.3) the proposed development will continue to comply with the maximum height of building controls as mapped in SLEP 2012 being a maximum of 235m.
- It is noted that the maximum height of the building is also restricted by Sun Access Planes for Hyde Park pursuant to clause 6.17 (in addition to clause 6.19 Overshadowing of certain public places). As demonstrated at the Overshadowing Assessment at **Attachment D**, the proposed additional height of balustrade and minor rooftop elements will not result in any measurable increase of overshadowing to Hyde Park.
- The proposed development does not seek to rely upon clause 5.6, which permits additional architectural roof features above the height of building development standard.
- The proposed modifications will not have any impact of car parking spaces (clause 7.3), as no car parking spaces are proposed on the site under SSD 10376.
- Modification to building height triggers requirements of the *Airports Act 1996* (clause 7.16), details relevant to the commonwealth body as outlined in **Attachment F** confirms that there will be no adverse impact to airspace as the proposed building and required temporary crane access remains below the PANS-OPS.
- The approved SSD 10376 has provided a concept DA in lieu of a site specific DCP and minor modifications proposed in this application will not amend beyond the controls set out in application SSD 8876 as detailed in **Section 4.3** below.

4.2. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

The draft Central Sydney Planning Proposal 2020 proposes to amend the SLEP 2012 as it applies to the area of Central Sydney. The site is located within Central Sydney, however the draft Central Sydney Planning Proposal proposes no additional amendments related to this proposed modification, beyond that considered in the assessment of SSD 10376.

4.3. PITT STREET SOUTH 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 SSD DA. However, as required by Condition B1 of the Concept DA (SSD 8876) the detailed DA must address compliance with the Pitt Street South OSD Design Quality Guidelines.

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

- The proposed modifications do not impact the approved podium form and articulation of the podium from the public domain. The location of additional louvres on level 06 are setback from Pitt Street and will have negligible visibility from the public domain and surrounding buildings.
- The proposed modifications have negligible impact on the approved built form above the podium. Specifically, the changes to the adaptable apartments are internal, and do not impact privacy or interface considerations between the site and adjacent properties. The proposed rooftop elements

and balustrades are minor in the context of the building and are positioned away from adjacent properties.

- Design and articulation of roof forms has considered the retention of view to St Mary's Cathedral from Century Tower (343 - 357 Pitt Street, Sydney). As outlined in **Attachment B** these elements result in negligible impact on any view corridors from Century Apartments.
- As outlined in **Attachment D** overshadowing to adjacent properties and to Hyde Park will not have any measurable impact from the minor modification of building services protruding above the building height.
- The proposed minor protrusion of building elements from the maximum height of building approved will not impact upon any public views as illustrated at **Attachment B**.
- The proposed modifications do not impact the public domain at the Pitt Street metro station, including to the pedestrian movement and interchange function of Bathurst Street.

The proposed modifications do not amend the consistency of the approved development with the Pitt Street South OSD Design Quality Guidelines as outlined in SSD 10376.

4.4. PLANNING AGREEMENT

There is no relevant planning agreement to 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 10376.
- 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 10376, notably there is no reduction in the total number of adaptable apartments proposed.
- The proposed modifications result in the efficient development of the site in general accordance with the approved development under SSD 10376.

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 acknowledged that submissions arising from the public notification of this application will need to be assessed by Council.

4.9. 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 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 10376.

5. CONCLUSION

The proposed modifications to the approved maximum building height, louvre location, adaptable apartment floor plans, and addition of one window 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,



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