

22 April 2016

The Secretary
NSW Department of Planning and Environment
23-33 Bridge Street
Sydney, NSW 2000

Dear Madam,

**Modification Application under Section 96(1a) to SSD_6848 Stage 3B
Redevelopment Of Lismore Base Hospital, Lismore**

In May 2015, Development Consent was granted for Stage 3B of the Lismore Hospital redevelopment and multi-level carpark. Since that time further detailed design has resulted in a minor modification to the carpark materials and façade screen. On that basis, Health Infrastructure (HI) are seeking a modification under Section 96(1A) of the *Environmental Planning and Assessment Act 1979* (the Act) to incorporate these changes.

1. The Approved Development

Consent No SSD_6848 was granted by the Minister on 1 May 2015 for:

"Stage 38 of Lismore Base Hospital Redevelopment and new multi-level car park, including:

- *demolition works, including demolition of part of Block A, temporary maternity building and residential buildings located on the car park site;*
- *bulk excavation and site preparatory works;*
- *construction of five additional storeys above Stage 3A (resulting in a 10 storey building) and a five storey addition to the north of Stage 3A, including partial closure of Little Uralba Street for the new loading dock and driveway;*
- *fit-out of one level and expansion of the uppermost level of Stage 3A;*
- *construction of a helipad on the roof of the ten storey Stage 3A and Stage 38 development;*
- *the staged construction of a part six part seven level car park; and*
- *subdivision of the Car Park Site."*

The approved carpark was to be constructed in two (2) stages, with the approved plans including a series of construction staging diagrams. The proposed modifications only relate to Stage 1.

2. Proposed Modification

This application seeks to modify the façade design of the carpark approved under SSD_6848. Key modifications proposed are summarised below:

- The material of the northern façade of Stage 1 of the multi-storey carpark is proposed to be amended from a chain wire material to a coloured perforated screen to match the materiality of the other facades;
- The façade screen is proposed to be lifted/raised by around 2100-2600mm from the base on the southern and western elevations. The overall height of the façade screen will remain unchanged;
- A vertical colourbond custom orb screen is proposed to the full extent of the western elevation between the lift shaft & the northern façade, from the underside of the lift lobby roof on Level 5 to the point where the lift shaft meets the driveway. It is proposed to delete the section of façade screen to the western elevation to the same area (only previously proposed to Levels 4 & 5);
- A custom orb screen is proposed from the Level 3 slab to the underside of the Level 4 covered walkway roof for waterproofing purposes on the northern elevation (immediately to the east of the lift shaft);
- A small section of façade screen has been deleted from the eastern elevation between Levels 3 & 4, from the lift shaft to the northern façade. There is a covered walkway in this area now, so this section of façade would no longer be seen;
- A small additional section of façade screen has been added immediately to the west of the driveway where it enters Level 3; and
- General changes are proposed to the design of the façades, with the main changes related to the extent of black "guttering" that separates the coloured perforated screen, particularly on the southern elevation.

A comparison between the approved and proposed modified façades of the carpark (Stage 1) is provided on the following pages via a series of images.

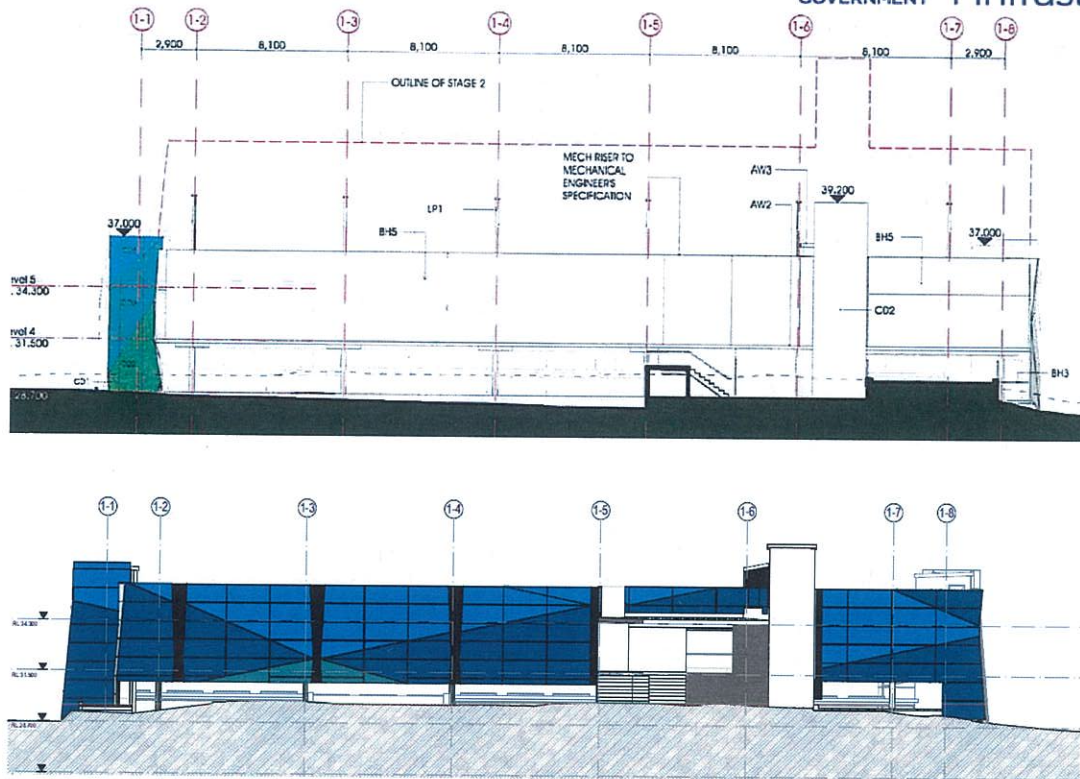
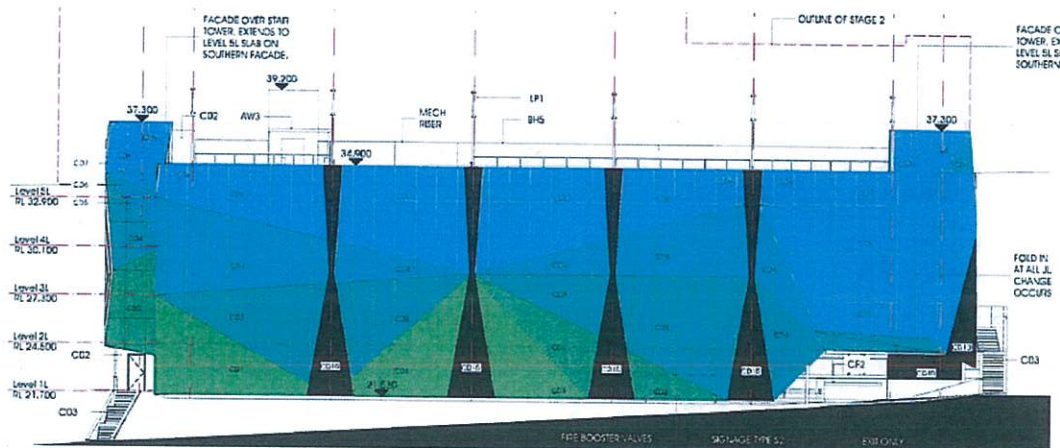


Figure 1 Approved vs Proposed Northern Façade (Source: Fitzpatrick + Partners & Fulton Trotter)



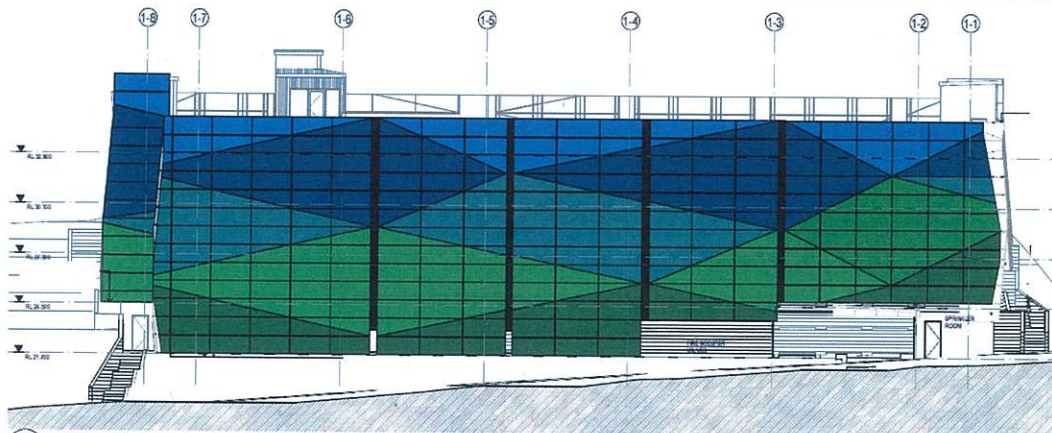


Figure 2 Approved vs Proposed Southern Façade (Source: Fitzpatrick + Partners & Fulton Trotter)

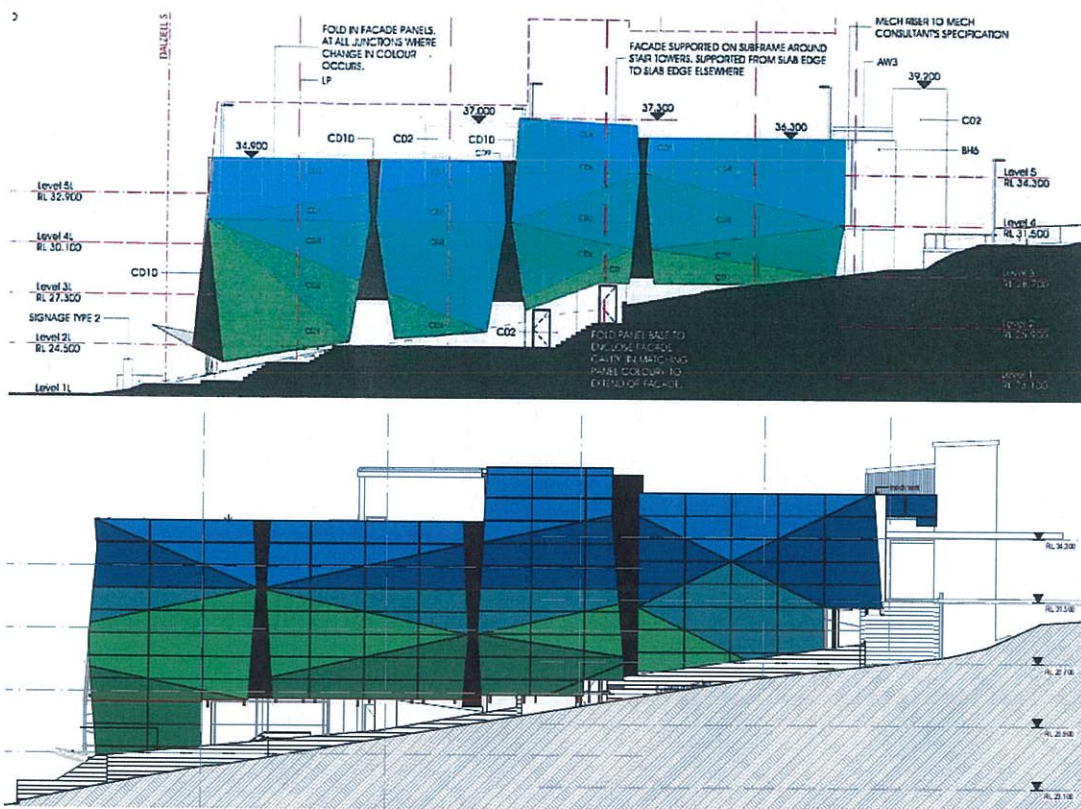


Figure 3 Approved vs Proposed Eastern Façade (Source: Fitzpatrick + Partners & Fulton Trotter)

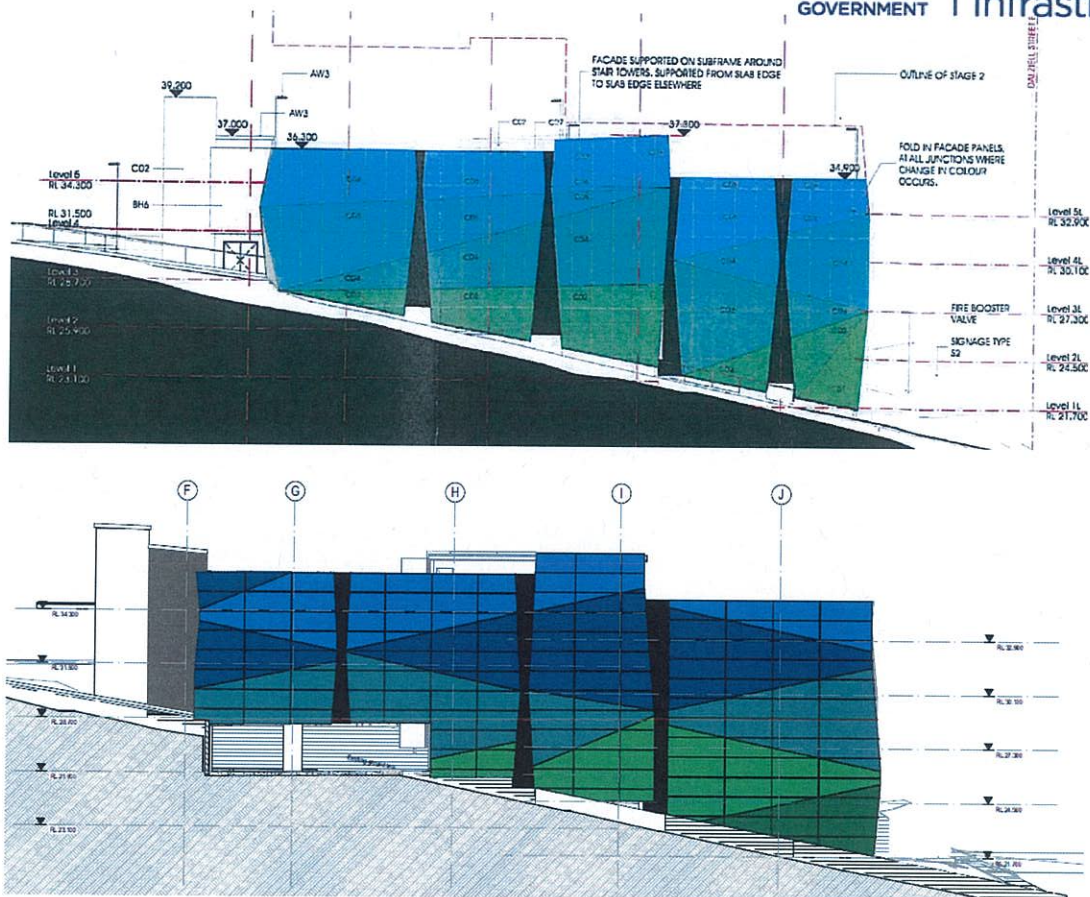


Figure 4 Approved vs Proposed Western Façade (Source: Fitzpatrick + Partners & Fulton Trotter)

3. Modification to Conditions of Consent

The only condition of the consent for SSD _6848 that is required to be modified is Condition A2 which prescribes the approved plans for the carpark, prepared by Fitzpatrick + Partners. The amended plans that have been prepared by Fulton Trotter only relate to the façade changes for Stage 1 of the approved carpark. To this end, drawing A-0200, which comprises the Stage 1 elevations, is to be replaced with the amended drawings accompanying this S96 application (ref: ACD3003 & ACD3004)

DA-014 and DA-015 are the approved Stage 2 elevation drawings. No replacement drawings have been prepared to supplement these plans as modifications are only proposed to Stage 1. While strictly speaking, the amended elevations of Stage 1 should be incorporated onto drawings DA-014 and DA-015, condition A3 states that "*if there is an inconsistency between the plans and documentation referred to [in the approved drawings list], the most recent document shall prevail to the extent of any inconsistency*". Our view is that this condition addresses this inconsistency as subject to the issue of consent for the proposed modifications, the submitted amended elevations will prevail over any earlier (and inconsistent) elevation plans.

Additional elevation plans without the façade screen and updated Level 3-5 Floor plans (for Stage 2) are also submitted (ref drawings ACD2003, ACD2004, ACD2005, ACD3001 and

ACD 3002). These plans show the location of the proposed new Colourbond custom orb screens as set out in Section 2 of this report.

4. Justification for the Modifications

The keys reasons for the modification are summarised below:

- The layout shown on approved drawing A0500, Façade section and details, shows panels spanning between the slab. The project engineers raised concerns from a structural perspective about the material spanning 2800mm. This has necessitated minor changes to the general design of the façade;
- The approved façade design included "odd shapes" and complicated "junctions" between each of the screens of the façade "that were not [practically] possible to fabricate";
- The nine (9) Powdercoat colours specified on the approved plans were all custom colours and not available unless a minimum of 300m² of each was ordered. Most of the area requirements for each are less than 300m². Therefore, use of these particular custom colours in the approved Powdercoat material was not a feasible option. The proposed amended colour scheme of five (5) Powdercoat colours in a similar blue/green palette addresses this issue;
- Due to the sloping nature of the site and proximity to the boundaries, installation of the screens cannot be undertaken from scaffolding. Rather, the screens can only be installed by being lowered from above. This has resulted in raising of the screen from the base in some locations and general changes to the design (folding) of the façade;
- The proposed vertical custom orb screen to the full extent of the western elevation between the lift shaft & the northern façade will assist in providing adequate weather protection to the area leading up to the lift shaft whereas the previous finish did not provide this; and
- Similarly, the custom orb screen from the Level 3 slab to the underside of the Level 4 covered walkway roof has been provided for waterproofing purposes on the northern elevation. The previously proposed façade screen between the Level 3 slab & the underside of the Level 4 walkway slab has been deleted as it doesn't provide the necessary weather protection to the lift.

The proposed modifications are justified on the basis of the above and retain the overall design intent of the approved façade. The proposed modified façade has been endorsed by the DA architect Fitzpatrick + Partners.

5. Matters for Consideration under Section 96

5.1 Overview

Section 96 of the the Act confers on a consent authority the power and discretion to modify a consent granted under the Act.

The relevant provisions of the Act state:

"Modification of consents

(1A) Modifications involving minimal environmental impact. A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- b) it is 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) under this section, 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 under section 72 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 any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections 96 (3) states as follows:

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

The matters prescribed under Section 96 are addressed below.

5.2 Minimal Environmental Impact (Section 96(1A)(a))

The proposed modifications do not involve any substantial change to the approved development that was assessed as having acceptable environmental impact pursuant to the approval of SSD_6848. As described in Section 5.4 below, the proposed modifications result in minimal to no additional adverse impacts on the site or the surrounding locality.

The proposed modifications are therefore appropriately characterised as having “minimal environmental impact”.

5.3 Substantially the Same Development (Section 96(1A)(b))

In our view, “substantially the same development” means “essentially or materially or having the same essence” as defined by Pearlman C.J. in *Schroders Australian Property Management Ltd v Shoalhaven City Council and Anor* (1999) NSWLEC 251. Accordingly, it is the substance of the proposal relative to the substance of the development as originally approved. The proposed development is essentially, and materially, the same as the approved development for the following reasons:

- The proposed modifications are contained to aesthetic changes to the façade that have resulted from design development;
- The general design intent of the façade remains consistent with that which has been approved;
- There will be no change to the height or scale of the approved carpark as a result of the modifications; and
- The generous approved landscaping scheme which plays a key role in mitigating the visual bulk and scale of the carpark remains unchanged.

Further, the proposed modifications will not result in any of the following:

- Any change to the nature or intensity of the approved use;
- Any change to the relationship to adjoining properties;
- Any adverse impact on neighbouring properties from the changes (overshadowing; visual and acoustic privacy; traffic generation, visual impact etc.); or
- Any change to the scale or character of the development.

HI therefore considers that the development (as modified) will remain substantially the same as the development that was originally approved, under SSD_6848.

5.4 Section 79C (1) Considerations (Section 96(3))

The environmental assessment matters relevant to the proposed modified development under Section 79C (1) (a), (b), (c), (d) and (e) of the Act are addressed below.

- Environmental planning controls

The principal planning controls applying to the development are contained in:

- State Environmental Planning Policy (Infrastructure) 2007;
- Lismore Local Environmental Plan 2012; and
- Lismore Development Control Plan 2012.

Given the proposed modifications relate to minor changes to the façade design, and there are no specific development standards or design guidelines that relate to the façade design of the carpark, the modified proposal remains consistent with the relevant provisions of those controls as detailed in the original SSDA and as subsequently assessed by the DPE in granting the consent.

- **Environmental impacts and site suitability**

There is nothing with respect to the modifications that would result in any environmental impact, or affect the suitability of the site for the development as approved or as proposed to be modified.

Visual Impact

Raising the façade from the base of the southern and western elevations will not result in any visual impact as the approved landscaping within the respective setback areas will screen this modification.

In relation to the change in materials for the northern façade, the inclusion of coloured perforated cladding as opposed to the approved chain wire mesh is considered to be a better visual outcome as it will provide a façade outcome which is consistent with all other facades. It will also provide some visual interest to the northern elevation of Stage 1 from Uralba Street until such time that Stage 2 is constructed.

In relation to the changes to the black "guttering" on the southern elevation, we note that the change is perceptible, but not adverse from a visual perspective for the following reasons:

- The façade design and colours maintain the general design intent including the blue/green colour scheme and folded design. The material also remains as a perforated metal;
- The design of the cladding will comprise multiple "facets" (whilst not identical to those shown on the DA approved elevation, convey a similar random pattern);
- Whilst the black "guttering" is reduced, it is still present and still achieves the objective of breaking up the façade into a series of smaller "vessels" by separating the coloured panels; and
- The approved development included generous mature tree planting within the southern boundary setback zone which will provide screening to the southern façade. The proposal does not seek to modify the approved landscaping scheme.

In relation to the general changes to the design of the façades, as noted above, HI considers that the amended façade maintains the general design intent of the approval which comprises of a perforated metal cladding in a folded, faceted design.

With regard to the discussion above, we consider that the proposed amendments do not result in any adverse visual impact.

Noise

In relation to noise, the modifications to the façades will not have any effect on the acoustic performance of the carpark. On that basis, the proposed amendments are considered acceptable from an operational acoustic perspective. The conditions of the SSDA relevant to operational noise will remain unchanged as a result of the modifications.

Overshadowing

The proposed modifications will not result in any change to the approved height, bulk or scale of the approved development. Therefore, there will be no additional overshadowing as a consequence of the proposed modifications.

The public interest

No public interest issues arise as a consequence of the proposed modifications. The DPE's intentions in imposing conditions to preserve the public interest are not affected, since the proposed modifications continue to give effect to those intentions.

6. Conclusion

The proposal relates to relatively minor modifications to the approved façade of the carpark at the site. The modifications have arisen as a result of detailed design review, availability of materials, feedback from the project engineers and practical construction issues.

The impacts of the modifications are minor and the development will remain substantially the same as approved under SSD_6848. The combined changes, being amendments which maintain the integrity of the approved development and the intent of the conditions, will have no adverse environmental impacts.

If you have any questions in respect to this application, please contact Leone McEntee on 9978 5420.

Yours sincerely



Sam Sangster
Chief Executive