

20 June 2016

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

Attention: David Gibson

Dear David

**Section 96(1A) Application to Modify Application SSD 15\_6913 for the Redevelopment of Gosford Hospital and Stage 1 of the Health and Wellbeing Precinct**

In December 2015, the Minister for Planning approved the above development. Since that time detailed design reviews have been undertaken and modifications are proposed as a result. This application under Section 96(1A) of the *Environmental Planning and Assessment Act 1979* (the Act) meets the criteria of Act and a description, justification and merits of the proposal are outlined below. Attachment s1a-1d and Attachment 2 provide architectural plans, comparison diagrams and shadow diagrams and an Architectural design statement prepared by MSJ.

**The Approved Development**

Consent No SSD15\_6913 was granted by the Minister for Planning on 15 December 2015 for the following development:

*"Gosford Hospital campus, including:*

- *Construction and use of an 11 storey acute services tower building of approximately 37,000 sqm gross floor area linked to the existing main hospital building;*
- *refurbishment works to the main existing hospital building;*
- *mid-block truncation of Hospital Road;*
- *relocation of the existing helipad to the top of the new building;*
- *upgrade works at the intersection of Racecourse Road/Hospital Street;*
- *removal of existing trees;*
- *landscaping;*
- *site preparation and bulk earthworks;*
- *infrastructure works;*
- *hospital signage; and*
- *lot consolidation.*

*Stage 1 Health and Wellbeing Precinct, including;*

- *Construction of a multi-storey car park with 803 car spaces;*
- *construction and use of two buildings of five and six storeys (plus rooftop plant) of approximately 14,685 sqm gross floor area above the multistorey car park for hospital related health, administration and government services;*
- *construction of an entry node public plaza and associated retail buildings, and an accessible and covered pedestrian connection between the Health and Wellbeing Precinct and the main entrance to Gosford Hospital;*
- *construction of a new entry hub at Showground Road;*
- *closure of Beane Street West between Holden Street and Showground Road;*
- *closure of Holden Street between Racecourse Road and Ward Street and new public domain and road works;*
- *public domain and road works in Showground Road;*
- *site preparation and bulk earthworks;*
- *infrastructure works;*
- *hospital signage; and*
- *lot consolidation and subdivision."*

The proposed modifications only relate to the main building works within the existing Gosford Hospital campus and not the Health and Wellbeing Precinct.

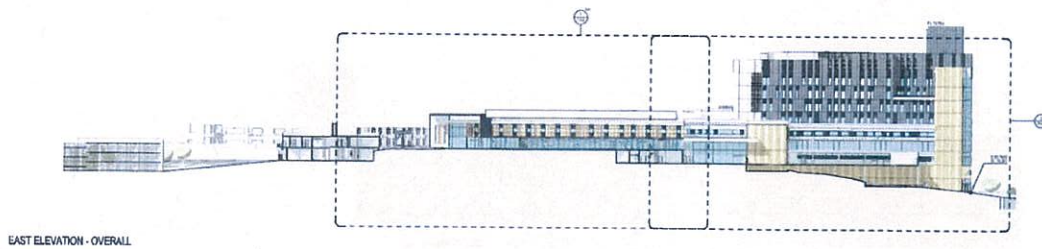
### **Proposed Modification**

The subject application seeks to modify the approved hospital wing extension under SSD15\_6913. Key modifications proposed are summarised below:

- Modifications to the design and materials of the approved façade treatment, which has been simplified to respond to the internal functions of the building;
- Modifications to the internal layout of the building as a result of design development of the approved layouts and fitout of previously approved "shell" areas at Levels 4 and 9;
- Some minor changes to the massing of the approved building envelope including some reductions in height from RL 72.703 to RL 69.034 on the north east elevation and plant areas adjacent to the rationalised lowered helicopter pad; and
- The proposed façade for the new Gosford Hospital Development has been altered from the approved DA.

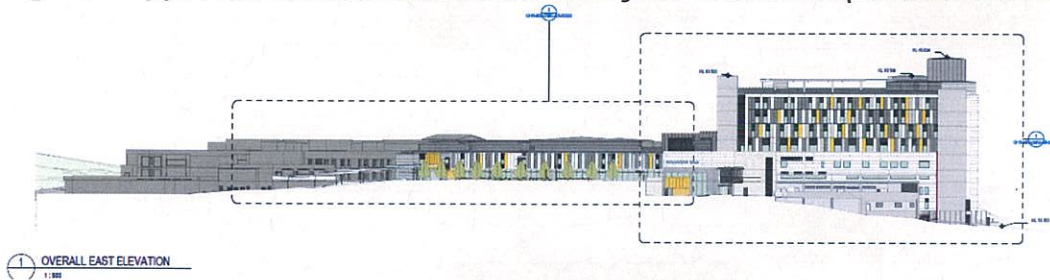
A comparison between the approved and proposed modified façades of the hospital wing extension is demonstrated in the images below.





EAST ELEVATION - OVERALL

**Figure 1 Approved Eastern Elevation and Façade Treatment (Source: Jacobs)**



1 OVERALL EAST ELEVATION  
1:100

**Figure 2 Proposed Amended Eastern Elevation and Façade Treatment (Source: MSJ)**



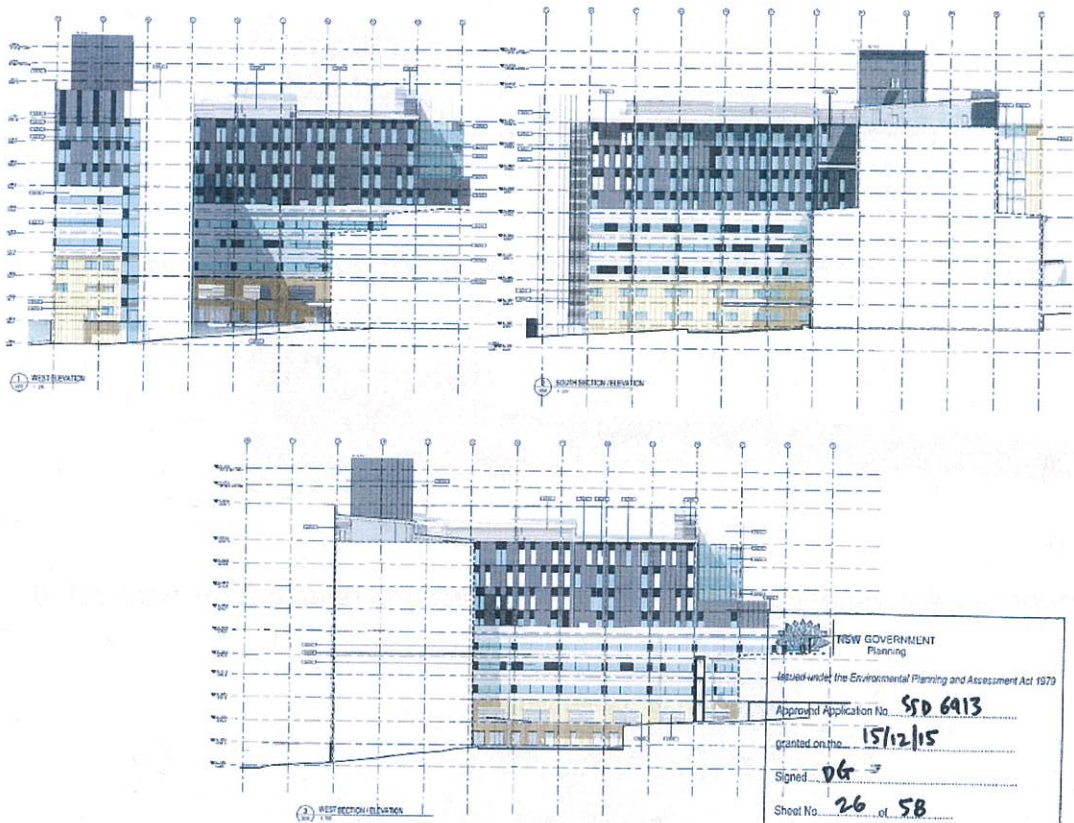
NORTH ELEVATION OVERALL

**Figure 3 Approved Northern Elevation and Façade Treatment (Source: Jacobs)**



2 OVERALL NORTH ELEVATION  
1:100

**Figure 4 Proposed Amended Northern Elevation and Façade Treatment (Source: MSJ)**



**Figure 5 Approved South and West Elevations and Façade Treatments (Source: Jacobs)**



**Figure 6 Proposed Amended South and West Elevations and Façade Treatments (Source: MSJ)**



## Modification to Conditions of Consent

The only condition of the consent for SSD \_6913 that is required to be modified is Condition A2 which prescribes the approved plans for the development prepared by Jacobs.

Amended plans have been prepared by MSJ which accompany this letter at **Attachment 1a**. Conditions A2 will need to be amended to reflect these amended plans.

## Justification for the Modifications

The modifications have arisen primarily as a result of design development, with some comments below, taking reference to the design statement prepared by MSJ:

- The simplification to the façade has been in response to the internal functions of the building. As confirmed by MSG, *"the façade now expresses and differentiates between the main circulation corridors located along the perimeter, inpatient units and plantroom space while the overall campus identity has been examined to result in a colour scheme that responds to the existing built context."*;
- The introduction of gable and hipped roofs rather than the previous skillion roofs has enabled the reduction in height in some locations, particularly on the north-eastern elevation and plant areas; and
- The fitout of the previously approved "shell" space at Levels 4 and 9 is shown on the amended plans as there is now the budget to account for the fitout. Whilst these areas were previously shown as "shell" space in the original SSDA plans, the environmental assessment accounted for the future fitout of these areas including the additional beds.

Refer to the **Attachment 2** prepared by MSJ for further detail.

## Matters for Consideration Under Section 96

### Overview

Section 96 of the Environmental Planning and Assessment Act, 1979 (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.

***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 SSD15\_6913. As described in Sections 5.3 and 5.4 below, the proposed modifications result in minimal to no additional or adverse impacts on the site or the surrounding locality.

The proposed modifications are therefore appropriate to characterise as having "minimal environmental impact".

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

As defined by Pearlman C.J. in *Schroders Australian Property Management Ltd v Shoalhaven City Council and Anor* (1999) NSWLEC 251 "substantially the same development" means "essentially or materially or having the same essence". On that basis, 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 largely contained to aesthetic changes to the façade that have resulted from design development and to better respond to the internal functions of the approved building. Other changes relate to internal layouts and improvements to massing in terms of a reduction in height;
- The general design intent of the façade, which involves incorporating a range of materials, colours and finishes to break up the massing of the building into smaller "vessels", remains consistent with the approved façade design;
- There will be no material change to the height or scale of the hospital wing extension as a result of the modifications. A minor reduction in height is proposed in areas, but not to the extent that would change the essence of the approved building;
- The generous approved landscaping scheme which plays a key role in mitigating the visual bulk and scale of the development remains unchanged; and
- Despite the proposed fitout of previously approved "shell" areas within the development, there will be no change to the use or intensity of the development noting that the assessment undertaken for the original SSDA (including the traffic assessment) accounted for the fitout of these shell areas and a total number of 153



overnight beds. The number of overnight beds approved will remain unchanged as a result of the proposed modifications.

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

- 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.).

HI therefore consider that the development (as modified) will remain substantially the same as the development that was originally approved, under SSD15\_6913.

### ***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 (SEPP);
- Gosford Local Environmental Plan 2014 (GLEP); and
- Gosford Development Control Plan 2013 (GDCP).

There are no development standards or key quantitative guidelines in any of the above that apply specifically to the proposed modifications, which relate primarily to façade design and internal layouts of the building. Whilst the height standard under the GLEP does not strictly apply to the development (pursuant to Clause 5.12 of the GLEP), the reduction in height results in a better response to the objectives of the height standard. Further, we consider that the façade amendments result in a better aesthetic for the development and a better response to the design excellence provisions in Clause 8.5 of the GLEP.

Given the above, the modified proposal remains consistent, or results in a better planning outcome 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**

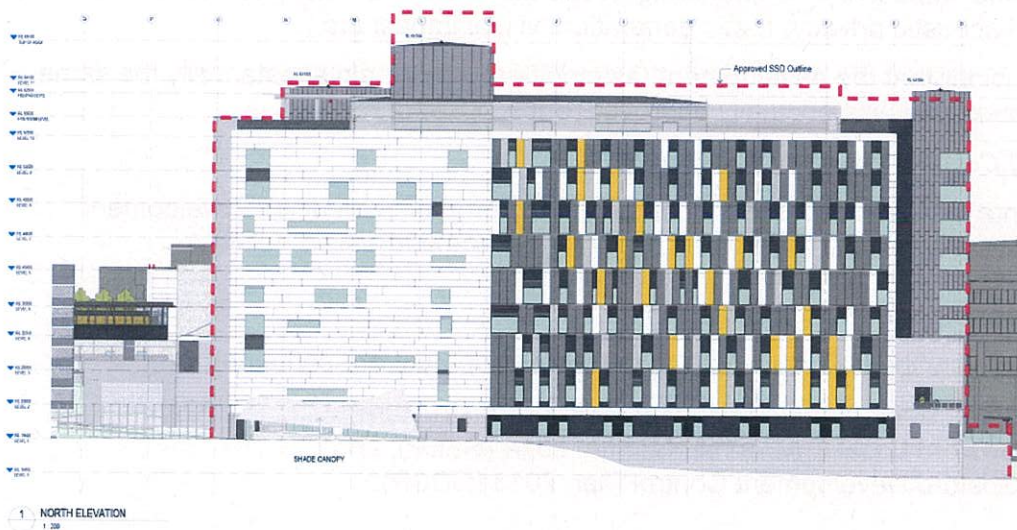
There is nothing with respect to the modifications that would result in any environmental impact, or affect the suitability of the site for the development as approved or as proposed to be modified. Key considerations relate to visual impact and overshadowing, which are addressed below.

### **Visual Impact**

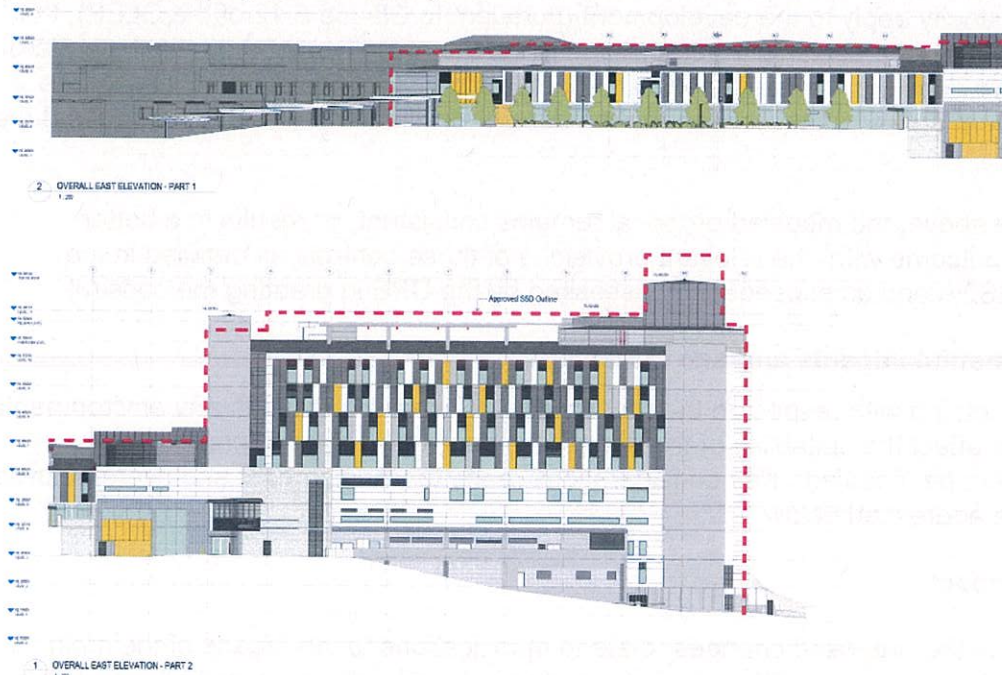
The bulk of the proposed changes relate to modifications to the façade of the main hospital wing extension. The modifications to the façade will result in a change to the visual aesthetic of the development in a positive way and by still meeting the intent of the original façade design to break up the massing of the façade into smaller "vessels". The façade design will also better respond to the internal functionality of the building. (Refer to the design statement prepared by MSJ accompanying this letter for further discussion).



Further to the above, and as seen in the images below, the changes to the envelope of the approved development primarily relate to a reduction in height in places by up to 3.669 metres (RL 72.703 to RL 69.034), thereby marginally reducing the visual scale of the building.

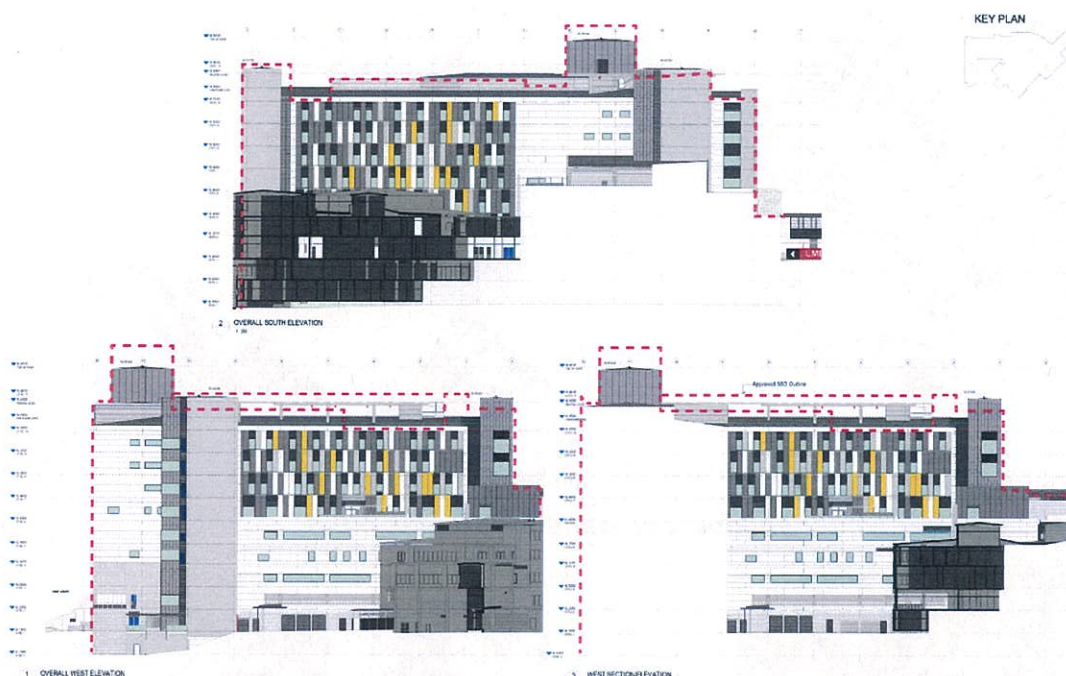


**Figure 7 Northern Elevation Massing Comparison, red dashed outline showing approved envelope (Source: MSJ)**



**Figure 8 Eastern Elevations Massing Comparison, red showing approved envelope (Source: MSJ)**





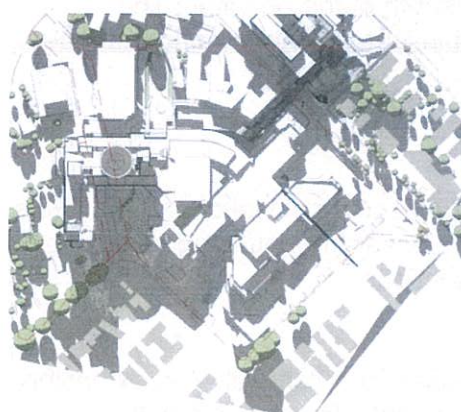
**Figure 9 Southern and Western Elevations Massing Comparison, red dashed outline showing approved envelope (Source: MSJ)**

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

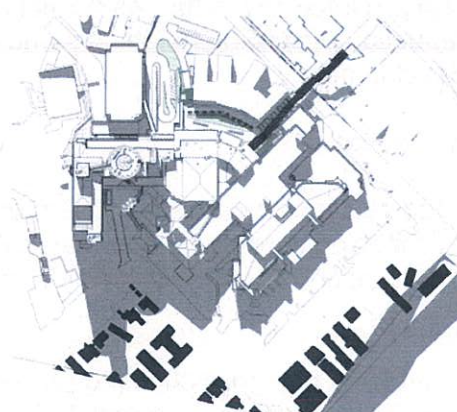
### Overshadowing

The proposed very minor modifications to the overall height and design of the approved development that would not result in any additional adverse overshadowing beyond that assessed under SSD15\_6913.

Mid-winter shadow diagrams have been prepared by MSJ, with extracts provided below.



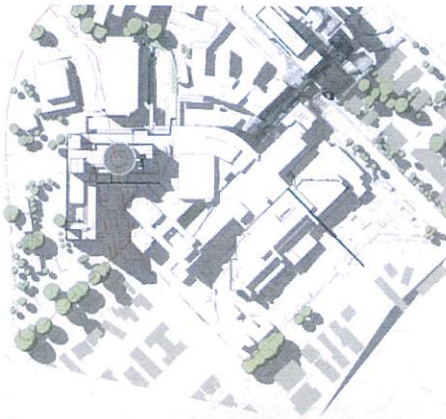
DA  
Sun Shadown 21 June 9 AM



S96  
Sun Shadown 21 June 9 AM

**Figure 10 9am Mid-winter shadow comparison (Source: MSJ)**



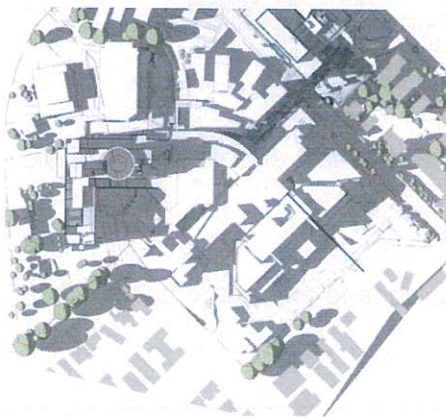


DA  
Sun Shadown 21 June 12 PM



S96  
Sun Shadown 21 June 12 PM

**Figure 11 12 noon Mid-winter shadow comparison (Source: MSJ)**



DA  
Sun Shadown 21 June 3 PM



S96  
Sun Shadown 21 June 3 PM

**Figure 12 3pm Mid-winter shadow comparison (Source: MSJ)**

As can be seen above, the proposed modifications do not result in any increase in overshadowing, particularly to the residential areas to the south of the hospital. The proposed reduction in building height in some areas result in less overshadowing than the approved development.

### 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.

### Conclusion

The proposal relates to modifications to the approved façade of the hospital wing extension under SSD15\_6913, primarily as a result of design development. The impacts of the modifications are minor and the development will remain substantially the same as approved under SSD15\_6913. 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. Accordingly, the modifications are within the ambit of Section 96(1A) of the Act.

Further, the assessment of the modified proposal pursuant to the relevant Section 79C(1) evaluation criteria does not alter the assessment undertaken in the EIS and the DPE's assessment of the original SSDA.

Should you require any further information about this application, please contact Leone McEntee on 02 9978 5420 or 0410432505.

Yours sincerely

Sam Sangster  
Chief Executive

**Attachments:**

- 1a *Amended Architectural Plans*
- 1b *"Overlay" Plans*
- 1c *Massing Comparison,*
- 1d *Mid-Winter Shadow Analysis*
- 2 *Architectural Design Statement*