

Attachment A

Independent Assessment Report

Section 4.56 Application: 12A and 14-26 Wattle Street, Pyrmont - D/2019/649/C**File Number:** D/2019/649/C**Summary**

Date of Submission:	8 November 2024
Amended Plans & Additional Information	20 March 2025, 30 April 2025, 6 May 2025 and 23 May
Applicant:	The Trustees for Landream Pyrmont Unit Trust
Architect/Designer:	BVN
Developer:	The Trustees for Landream Pyrmont Unit Trust
Owner:	Council of the City of Sydney
Planning Consultant:	Gyde Consulting
Heritage Consultant:	Paul Davies Pty Ltd
DAP	27 March 2025
DAPRS:	1 April 2025
Cost of Works:	\$331,337,277.00
Zoning:	Most of the site (12,361m ²) is in Zone MU1 - Mixed Use pursuant to Sydney Local Environmental Plan 2012 (Sydney LEP 2012). The proposed development to be modified comprises residential accommodation, hotel accommodation and retail uses and is permitted with consent within Zone MU1. A small portion of the Jones Street road reserve (to be acquired by the applicant and included in the site area) is in Zone RE1 - Public Recreation (20m ²). The proposed modifications are not located on land in Zone RE1.
Proposal Summary:	The concept consent for D/2019/649 was originally approved by the Land and Environment Court (by agreement). This section 4.56 modification application seeks to modify the concept consent to align it with the

separate and concurrently lodged application to modify the detailed design consent (D/2023/97/A) which has been concurrently reported to the Central Sydney Planning Committee (**CSPC**) and is recommended for approval.

The section 4.56 modification application proposes the change of use of the Fig Street Building from commercial/retail premises to hotel accommodation, residential apartments and retail premises. Changes are also proposed Fig Street Building envelope.

The modification application is referred to the CSPC as the cost of works exceeds \$50 million.

An Architectural Design Competition was held between April and June 2022 in accordance with the City's requirements. BVN was selected as the winning architect. The modified design is substantially the same as the winning scheme and adequately addresses the recommendations of the competition jury.

With a maximum height of 35.64m, the modified Fig Street Building envelope exceeds the maximum 29.7m building height standard (including the 10% design excellence bonus) by 8.64m (+32%). The modified height is 500mm above the approved Fig Street Building height (35.14m). The increase in height is proposed to accommodate an integrated plant room. It has been designed and sited to minimise its visual impact and so that there would be no additional overshadowing of Wentworth Park.

The two modification applications (D/2023/97/A and D/2019/649/C) were notified concurrently for 28 days from 14 November 2024 - 13 December 2024. Two submissions were received supporting the change of use from office to hotel and raising concerns in relation to dwelling and worker targets in the Pyrmont Ultimo Place Strategy, the need to include affordable housing in the development, activation of Wattle Street at the base of the Fig Street Building and a request to provide a green roof. The matters raised in the submissions are addressed within this assessment report.

Two requests for information (**RFIs**) were sent to the applicant raising concerns in relation to building height, plant room size, communal open space, building separation, residential amenity for the proposed apartments (in particular noise, natural ventilation, solar access and sun shading), adaptable apartments, landscaping, waste management, subterranean hotel rooms, design, coordination of documentation, plan of subdivision and Transport for NSW (**TfNSW**) comments.

In response to the RFIs, the modification application has been amended to address Council's concerns through the

submission of amended plans and additional information or through recommended conditions of consent contained in Attachment A.

As amended and subject to the recommended conditions of consent, the modified development is generally consistent with the applicable planning provisions including Sydney LEP 2012 and Sydney DCP 2012. Proposed non-compliances have been assessed and found to be acceptable, as addressed in this report. The modified development exhibits design excellence, with a good standard of architectural and landscape design, materials and detailing and a built form that is consistent with the desired future character of the area.

The section 4.56 modification application is recommended for approval.

Summary Recommendations

The section 4.56 modification application is recommended for approval, subject to modification of the conditions of consent

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 (**EP&A Act**) and Environmental Planning and Assessment Regulation 2021 (**EP&A Reg**)
- (ii) City of Sydney Act 1988 and City of Sydney Regulation 2016
- (iii) State Environmental Planning Policy (**SEPP**) (Biodiversity and Conservation) 2021
- (iv) SEPP (Housing) 2021
- (v) SEPP (Resilience and Hazards) 2021
- (vi) SEPP (Transport and Infrastructure) 2021
- (vii) SEPP (Precincts – Eastern Harbour City) 2021
- (viii) Sydney Local Environmental Plan 2012
- (ix) Sydney Development Control Plan 2012
- (x) City of Sydney Development Contributions Plan 2015
- (xi) City of Sydney Interim Floodplain Management Policy 2023
- (xii) City of Sydney Public Art Policy 2011 and City of Sydney Public Art Strategy 2011

(xiii) City of Sydney Community Engagement
Strategy and Participation Plan 2024 Update

Attachments:

- B. Amended Conditions of Consent
- C. Amended Building Envelope Drawings
- D. Land and Environment Court Judgement
- E. Submissions

Recommendation

It is resolved that consent be granted to section 4.56 application number D/2019/649/C subject to the amendment of the following conditions (with modifications shown in ***bold italics*** (additions) and ~~strikethrough~~ (deletions) as follows:

Approved Development Description

Concept development application for a building envelope with maximum height of ~~33.08m~~ ***42.6m***. Indicative land uses include residential, commercial, retail, ***hotel***, childcare and recreational facilities.

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2019/649 dated 21 June 2019 and the following drawings prepared by BVN:

- (a1) As amended by the following drawings prepared by BVN that relate to the Fig Street Building only (including the southern side of the through site link and area beneath Jones Street through site link stairs):***

<i>Drawing Number</i>	<i>Drawing Name</i>	<i>Revision</i>	<i>Date</i>
<i>AR-DA-MOD-0001-COM</i>	<i>CONCEPT ENVELOPE 3D WEST</i>	<i>01</i>	<i>22/05/2025</i>
<i>AR-DA-MOD-0002-COM</i>	<i>CONCEPT ENVELOPE 3D EAST</i>	<i>01</i>	<i>22/05/2025</i>
<i>AR-DA-MOD-1001-COM</i>	<i>GENERAL ARRANGEMENT PLAN - LEVEL 00</i>	<i>01</i>	<i>22/05/2025</i>
<i>AR-DA-MOD-1002-COM</i>	<i>GENERAL ARRANGEMENT PLAN - LEVEL 01</i>	<i>01</i>	<i>22/05/2025</i>
<i>AR-DA-MOD-1003-COM</i>	<i>GENERAL ARRANGEMENT PLAN - LEVEL 02</i>	<i>01</i>	<i>22/05/2025</i>
<i>AR-DA-MOD-1004-COM</i>	<i>GENERAL ARRANGEMENT</i>	<i>01</i>	<i>22/05/2025</i>

	PLAN - LEVEL 03		
AR-DA-MOD- 1005-COM	GENERAL ARRANGEMENT PLAN - LEVEL 03 & LEVEL 04	01	22/05/2025
AR-DA-MOD- 1006-COM	GENERAL ARRANGEMENT PLAN - LEVEL 04 & LEVEL 05	01	22/05/2025
AR-DA-MOD- 1007-COM	GENERAL ARRANGEMENT PLAN - LEVEL 05 & LEVEL 06	01	22/05/2025
AR-DA-MOD- 1008-COM	GENERAL ARRANGEMENT PLAN - LEVEL 06 & LEVEL 07	01	22/05/2025
AR-DA-MOD- 1009-COM	GENERAL ARRANGEMENT PLAN - LEVEL 07 & LEVEL 08	01	22/05/2025
AR-DA-MOD- 1010-COM	GENERAL ARRANGEMENT PLAN - LEVEL 08 & LEVEL 09	01	22/05/2025
AR-DA-MOD- 1011-COM	GENERAL ARRANGEMENT PLAN - LEVEL 09 & LEVEL 10	01	22/05/2025
AR-DA-MOD- 1012-COM	GENERAL ARRANGEMENT PLAN - LEVEL 10 & LEVEL 11	01	22/05/2025
AR-DA-MOD- 1013-COM	GENERAL ARRANGEMENT PLAN - LEVEL 11 & LEVEL 12	01	22/05/2025

AR-DA-MOD-1014-COM	GENERAL ARRANGEMENT PLAN - LEVEL 13	01	22/05/2025
AR-DA-MOD-1015-COM	GENERAL ARRANGEMENT PLAN - LEVEL ROOF	01	22/05/2025
AR-DA-MOD-2001-COM	JONES ST ELEVATION	01	22/05/2025
AR-DA-MOD-2002-COM	FIG ST ELEVATION	01	22/05/2025
AR-DA-MOD-2003-COM	WATTLE ST ELEVATION	01	22/05/2025
AR-DA-MOD-2004-COM	LIGHT RAIL ELEVATION	01	22/05/2025
AR-DA-MOD-2005-COM	STREETSCAPE ELEVATION	01	22/05/2025
AR-DA-MOD-3001-COM	SECTION A	01	22/05/2025
AR-DA-MOD-3002-COM	SECTION B	01	22/05/2025
AR-DA-MOD-3003-COM	SECTION C	01	22/05/2025
AR-DA-MOD-3004-COM	SECTION D	01	22/05/2025
AR-DA-MOD-3005-COM	SECTION E	01	22/05/2025
AR-DA-MOD-3006-COM	SECTION F	01	22/05/2025

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved concept development plans and other supplementary documentation, the approved concept development plans will prevail.

(Condition amended – 28 March 2024)

(Condition amended – 19 June 2025)

(7) BUILDING HEIGHT

The maximum heights of the building envelopes, as defined in Sydney Local Environmental Plan 2012, are:

- (e) Building E - Fig Street **Building**:

- (i) RL ~~37.950~~ **38.450** (AHD) to the top of plant and lift overrun **room**
- (ii) RL ~~36.350~~ **35.850** (AHD) to the Level ~~10~~ **11** roof **and RL 36.255 to the Level 11 parapet**
- (iii) RL ~~32.350~~ **32.150** (AHD) to the Level ~~09~~ **10** roof and RL **33.640** (AHD) ~~33.550 to the Level 09 parapet~~ **10 top of balustrade**
- (iv) RL ~~29.150~~ **28.950** (AHD) to the Level ~~08~~ **09** roof and RL (AHD) ~~29.950 to the Level 08 parapet~~

The maximum heights shown above are inclusive of additional height approved pursuant to the provisions of Clause 6.21D(3) of Sydney Local Environmental Plan 2012. The development is not eligible for any additional height under any circumstances.

Notwithstanding clause (a) and (b) above, the Jones Block and Fig Block may be eligible for up to 10% additional height pursuant to the provisions of Clause 6.21(7) of Sydney Local Environmental Plan 2012 if the consent authority is satisfied that the resulting detailed design development application exhibits design excellence and is the result of a competitive design process.

(Condition amended – 28 March 2024)

(Condition amended – 19 June 2025)

(9) ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Details are to be provided with the subsequent development application for the detailed design of the building to confirm that the building has adopted the following proposed ESD targets reflected in the Design Excellence Strategy referred to in Condition 4:

- (a) 4 Star Green Star Design & As-Built or GreenStar Buildings Rating using the most contemporary version of the Green Star rating tool that applies at the time of DA lodgement.
- ~~(b) 5.5 Star NABERS Office Energy Base Building Rating if the development contains 1,000sqm or more of commercial office net lettable area~~

- (c) Exceed the relevant BASIX Energy Target (defined by number of storeys of residential development) by 10 BASIX points
- (d) Inclusion of on-site renewable energy generation via roof top photovoltaic system(s) and/or solar or heat pump service for domestic water heating
- ~~(e) Property Council of Australia (PCA) Office Quality Grade B~~

The ESD targets are to be carried through the competition phase, design development, construction, and through to completion of the project.

(Condition amended – 19 June 2025)

Reasons for Recommendation

The modification application is recommended for approval for the following reasons:

- (A) The modified development is substantially the same as the development originally approved and is therefore consistent with the requirements of section 4.56(1)(a) of the EP&A Act.
- (B) Modification of the consent is not inconsistent with the reasons given by the consent authority (the Land and Environmental Court) for the grant of the Original Consent and is consistent with the requirements of section 4.56(1A) of the EP&A Act.
- (C) Subject to conditions, the modified development reflects the architectural design competition winning scheme and will not adversely impact the amenity of the surrounding area.
- (D) The modified development proposes a building envelope which is capable of accommodating a building exhibiting design excellence in accordance with clause 6.21C of the Sydney LEP 2012.
- (E) The modified development is generally consistent with the aims and objectives of the relevant planning controls including the SEPP Housing, Sydney LEP 2012 and Sydney DCP 2012. Where non-compliances exist, they have been demonstrated to be acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.
- (F) The modified development is appropriate within its setting and is a mixed-use development comprising compatible uses that will support the vitality of the area, consistent with the desired future character for the locality.

The Site and Surrounding Development

1. The site has a total area of 12,381m² comprising:
 - (a) 14-26 Wattle Street, Ultimo (Lot 200 DP 1224234) which has an irregular shape and an area of 12,361m²; and
 - (b) 12A Wattle Street, Ultimo which is part of the Jones Street road reserve. It has a site area of 20m², an irregular shape and directly adjoins the main site.
2. The site has street frontages to Wattle Street (104.82m), Fig Street (97.84m) and Jones Street (149.70m). The Fig Street building is at the southern end of the site and has frontages to Fig Street, Jones Street and Wattle Street.
3. From 1870 - 1888, the site was used as a quarry with the extracted sandstone used for development of Sydney's General Post Office. In 1906, the site was purchased by the City of Sydney and used as its depot. The remaining structures on the site (which are currently vacant) were constructed by Council.
4. The site lies on the western side of a ridge that forms the Pyrmont peninsula. The eastern edge of the site remains as an exposed sandstone rock face left from the former quarry use. The height difference from the main site ground level (RL 3.56-3.93) to Jones Street ranges from 11.5m to 14m. The actual exposed rock face is 6.5m to 8m high.
5. The site is identified as being subject to flooding.
6. In late 2018, the Council announced the proposed sale of the site through an expression of interest process. The sale was subject to the purchaser demonstrating the ability deliver a 91 place childcare centre and an indoor recreation centre accommodating two multi-purpose courts. Landream Pyrmont Pty Ltd (the applicant) was awarded the purchase of the site.
7. Development and uses around the site comprise a mixture of attached heritage listed terrace houses, residential flat buildings, large former woolstores and warehouses and public open space as noted in the following description of nearby uses:
 - (a) **North:** Directly north of the site is Wentworth Park Light Rail Station with a row of trees and a metal fence along the common boundary. Adjoining the light rail station, a pedestrian link (comprising a lift and stair) connects the northern end of Jones Street to the Wentworth Park Light Rail Station and Wattle Street. High-density residential development and the Fish Markets are further north. A railway viaduct to the north-west of the site, crossing Wattle Street, is listed on the State Heritage Register (I800). The Fig Street Building does not address to the northern boundary.
 - (b) **South:** Directly south of the site is Fig Street and a former woolstore at 28-48 Wattle Street, Ultimo ("Winchcombe Carson") which is a local heritage item (I2059). The former woolstore is occupied by the Ultimo Trade Centre which accommodates a range of storage and light industrial activities. Fig Lane Park, which sits within the Ultimo Heritage Conservation Area (C69), is to the south-east of the site. The Fig Street Building is located along the southern boundary of the site.

- (c) **East:** To the east of the site is a group of one and two storey terrace houses at 286-318 Jones Street which is a local heritage item (I1238) and Fig Lane Park. Harbour Mill Apartments at 280 Jones Street, which includes remnants of the former Edwin Davies Flour Mill, is to the north-east of the site. It is a local heritage item (I1205). The Harbour Mill Apartments are 10 storeys to the north with a step down to 4 storeys to the south adjoining the terrace houses. The existing residential flat building was approved on 5 August 2013 (D/2011/1798) pursuant to former Sydney LEP 2005. The development included the construction of a stair and lift link to the Wentworth Park Light Rail Station. The Fig Street Building is opposite to Fig Lane Park.
- (d) **West:** Directly west of the site is Wattle Street. Wentworth Park and the Wentworth Park Greyhounds racetrack are located further to the west. The Fig Street Building is opposite Wentworth Park.
8. The site is not a heritage item and is not located within a heritage conservation area but is in the vicinity of the heritage items described above.
9. Photos of the site and surrounds (as relevant to this assessment report) are provided at **Figures 1 to 5**. Extracts from the Land Zoning, Building Height, Floor Space Ratio and Heritage Maps to Sydney LEP 2012 are provided at **Figure 6**.



Figure 1: Aerial view of the site and surrounds showing the location of the Fig Street Building



Figure 2: Cliff face along the site's eastern boundary adjoining Jones Street



Figure 3: The site viewed from Jones Street near the Fig Lane Park showing the location of the Fig Street Building (brick wall shows approximate location of the site boundary to Jones Street)



Figure 4: Jones Street terrace houses (286-318 Jones Street) (heritage) to the east of the site



Figure 5: The site and Ultimo Trade Centre (heritage listed former woolstore) viewed from corner of Fig and Wattle Streets showing the location of the Fig Street Building



Land Zoning Map



Building Height Map



FSR Map



Heritage Map



Location of Fig Street Building

Figure 6: Sydney LEP 2012 Land Zoning Map, Building Height Map, Floor Space Ratio Map and Heritage Map

History relevant to the section 4.56 modification application

Concept development application - D/2019/649

10. The CSPC on 25 June 2020 refused the concept development application (D/2019/649) which proposed demolition of the existing buildings, removal of trees, and building envelopes for a mixed use development comprising residential, commercial, retail, child care and recreation uses. The applicant appealed the refusal.

11. Following discussions between the experts, an amended scheme was filed with changes including a deletion of one storey on some blocks, increased compliance with the height controls, increased setbacks to improve heritage outcomes and provision of compliant deep soil areas. As a result of the amendments being made, the City's experts advised the court that all contentions in the matter had been resolved. The matter proceeded by way of a consent orders hearing and judgment was handed down on 28 May 2021 granting deferred commencement consent to the concept development application (a copy of the Land and Environment Court Judgment is provided at **Attachment E**). The deferred matter required a voluntary planning agreement (**VPA**) for a new footway (1200mm to 1500mm) and public access easement along the Jones Street frontage of the site. The Fig Street Building (the subject of this assessment report) was approved as a mixed commercial (Levels 1 to 6) and residential (Levels 7 and 8) building.
12. The VPA has been executed and registered on title satisfying the deferred commencement conditions. The concept consent became operational on 10 February 2022. On 11 February 2022, Council issued a condition satisfied letter and stamped plans in relation to concept consent Condition 5 - Detailed Design of Buildings.
13. The following section 4.56 modification applications have been submitted to Council to modify concept consent:
 - (a) **D/2019/649/A**: On 2 March 2023, modification of the concept consent was approved under delegated authority to delete Condition 19 (Land Dedication - No long Term Environmental Management Plan).
 - (b) **D/2019/649/B**: On 28 March 2024, the CSPC approved modification of the concept consent to amend the building envelopes to be consistent with the detailed design development application D/2023/97. As modified, the Fig Street Building (the subject of this report) was approved as a fully commercial building.
 - (c) **D/2019/649/C**: On 11 November 2024, a modification application was submitted to amend the building envelope of the Fig Street Building to be consistent with the D/2023/97/A (concurrently reported to the CSPC). This section 4.56 modification application is the subject of this assessment report.

Competitive design process

14. Between 28 April and 2 June 2022, a competitive design process was undertaken for the site in accordance with the provisions of clause 6.21D of Sydney LEP 2012 and the City of Sydney Competitive Design Policy.
15. As a result of the competitive design process, the applicant was awarded 10% additional height pursuant to clause 6.21D of the Sydney LEP 2012.
16. The architectural firms who participated in the 'invited' architectural design competition were Bates Smart, BVN, Carter Williamson, SJB and Tzannes. The jury for competitive design process selected the BVN scheme as the winning scheme. Photomontages of the winning scheme are provided in **Figures 7** and **8** below.
17. An assessment of compliance with the jury recommendations is included in the Discussion section.



Figure 7: Photomontages of the BVN winning scheme (part of the Jones Street elevation)



Figure 8: Photomontage of the BVN winning scheme (part of the Wattle Street elevation)

Subdivision development application (D/2023/1073)

18. A development application proposing road closure and subdivision of part of Jones Street was approved under delegated authority on 12 August 2024.

Detailed design development application (D/2023/97)

19. The CSPC on 28 March 2024 approved the detailed design development application (D/2023/649) which proposed demolition of existing structures, remediation, removal of trees, excavation and construction of a mixed use development comprising residential, commercial, retail, childcare and indoor recreation centre across five (5) buildings, basement car parking, landscaping, public domain and civil works and subdivision. The Fig Street Building (the subject of this assessment report) was approved as a commercial/retail building. The following modification applications have been submitted to Council (and are yet to be determined):
- (a) **D/2023/97/A:** This section 4.55 modification application is concurrently reported to the CSPC and is recommended for approval.
 - (b) **D/2023/97/C:** This section 4.55(1A) modification application proposes changes to conditions of consent to enable remediation to occur in stages and to be completed prior to the issue of an Occupation Certificate. The modification application was lodged on 4 December 2024 and is being assessed.
 - (c) **D/2023/97/D:** This section 4.55(2) modification application proposes internal and external changes to all buildings (except the Fig Street Building), including changes to the basement footprint, the child care centre and privacy protection measures. This modification application has been concurrently reported to the CSPC and is recommended for approval subject to conditions. Refer to the separate report for details.

History relevant to the section 4.56 modification application (D/2019/649/C)

- (d) **15 May 2024 and 17 July 2024:** The applicant's representatives, Council officers and Council's consultant planner (17 July 2024 only) attended pre-lodgement meetings to discuss a potential change of use of the Fig Street Building.
- (e) **1 and 7 November 2024:** The two modification applications (D/2023/97/A and D/2019/649/C respectively) **were lodged.**
- (f) **14 November 2024 - 13 December 2024:** The two modification applications (D/2019/649/C and D/2023/97/A) were notified concurrently for 28 days from 14 November 2024 to 13 December 2024.
- (g) **18 March 2025:** Council sent RFI #1 to the applicant noting the following issues of concern relevant the section 4.55 modification application (D/2023/97/A):
 - (i) **Height increase**
 - (ii) **Plant room size**
 - (iii) Communal open space should be provided for new residents in Fig Street Building
 - (iv) Building separation inadequate
 - (v) Solar access
 - (vi) Sun shading
 - (vii) GFA

- (viii) Landscaping (through site link trees and maintenance of inaccessible planters and private terraces)
 - (ix) Acoustics and natural ventilation
 - (x) Cleaning and waste
 - (xi) Transport for NSW comments.
- (h) **21 March 2025: The applicant partially responded to RFI #1 (see 30 April and 6 May and 23 May 2025 entry below for a combined list of the applicant's proposed amendments).**
- (i) **27 March 2025:** The Design Advisory Panel (**DAP**) reviewed the two modification applications (D/2019/649/C and D/2023/97/A) and **advised that:**
- (i) Sub-terranean hotel rooms are unacceptable.
 - (ii) Solar and daylight access requirements must meet Apartment Design Guide (**ADG**) objectives, design criteria and guidance.
 - (iii) Any proposed acoustic treatments must be proven to work, while not impacting on other amenity provisions.
 - (iv) The communal open space provision is suitable.
 - (v) While the proposed louvre screens do not screen primary windows, it is essential to maintain some outlook from the screened windows.
 - (vi) Primary balconies must meet ADG objectives, design criteria and guidance. It is not acceptable to include the wintergarden in the primary open space calculation.
 - (vii) The roof form needs to be looked at holistically and integrated into the building architecture.
 - (viii) Any retractable awning proposals should be pre-approved in the event owners decide to add them on their developments.
 - (ix) The Panel did not object to the increase in height (+500mm) given no additional impacts were being generated by the change.
 - (x) The Panel recommended referring the application to the DAPRS for a detailed review.
- (j) **1 April 2025:** The Design Advisory Panel Residential Subcommittee (**DAPRS**) reviewed the two modification applications (D/2019/649/C and D/2023/97/A) and **advised that:**
- (i) The change of use has necessitated an increase in the width of the through-site link, which is positive, however some of the proposed apartments in the Fig Street building look onto the blank walls on the south of the Jones building. The apartment layouts should be reconsidered.

- (ii) The provision of northern wintergardens creates an excessive glass-to-glass building depth. The operation and configuration of the wintergardens is not clearly resolved or documented, nor is the glazing configuration behind them shown in the 1:200 elevations. The Panel questions if they are necessary, noting that the ADG only considers wintergardens for noise affected locations.
- (iii) During the meeting the Architects noted that the wintergardens on the northern façade were primarily provided to leverage a somewhat grey area in the ADG relating to sunlight access to living room windows. However, these wintergardens appear to inhibit amenity rather than optimise it:
 - (i) It is true that during winter the wintergardens would provide a sunny spot to sit, however at all times of the year the floor to ceiling glass louvres would restrict activities on the balconies, such as the use of BBQs, and create significant cleaning issues.
 - (ii) Additionally, the wintergardens significantly increase the glass-to-glass depth of the building, which when measured using the scale bar provided on the drawings appears to be approximately 22.2m. Note that the deepest apartments in the previously approved portion of the site are 16.8m glass to glass, and do not have the same challenges with cross ventilation onto a busy road.
 - (iii) The depth of the apartment to the back of the kitchen is approximately 11.8m from the wintergarden / northern facade. And 9.3m from the living room doors, which limits natural light.
 - (iv) The increased depth of these apartments, combined with the challenges of habitable rooms facing significant traffic noise sources could restrict the airflow through the apartment and challenge cross ventilation performance.
- (iv) Council should satisfy itself that the drawings and figures in the DA set numbered 16U-06-00-FIG to 16U-08-00-FIG correctly state the size of the master bedrooms and therefore the size of the operable window, noting that the area of the wardrobe/dressing area is excluded from the floor space calculation of those master bedrooms.
- (v) Incremental changes to the Jones building have been proposed such as additional screens, planters and grilles, however it seems that a more holistic approach to both buildings should be undertaken to achieve appropriate separation for visual and acoustic privacy, improve the façade design, and to comply with private open space requirements.
- (vi) The proposal for grilles over windows is not supported by the Panel and may not comply with the requirement for 10% of the rooms floor area as window to provide daylight (refer to Objective 4D-1 – 2 of the ADG. The ADG recommends habitable rooms are provided with a minimum of 6m distance for light and outlook.
- (vii) Solar access to communal outdoor spaces is not optimal for the two south-facing areas proposed. Privacy fences would be needed to ameliorate impacts on the adjacent apartments. Additionally, these will be impacted by noise from the adjacent street. Consolidating and expanding the communal area to the western setback should be considered.

- (viii) Reliance on planting in private open space to address building separation and privacy issues may raise management issues.
- (ix) Further consideration of the architectural expression of the hotel and residential elements in relation to context at Wattle Street and Jones Street levels is recommended.
- (x) The hotel rooms on Levels 3 and 4 are up to 8m below Jones Street level and face the rock cliff. They will not achieve reasonable access to natural light and outlook. External maintenance walkways are also proposed for access to the cliff space. These rooms are not supported by the Panel.
- (k) **14 April 2025:** Council sent RFI #2 to the applicant noting the comments of the DAP and DAPSR.
- (l) **30 April, 6 May and 23 May 2025:** The applicant responded to RFI #2. The following combined changes were proposed by the applicant in response to RFI#1 and RFI#2 relevant to the section 4.56 modification application (D/2019/649/C) is discussed in this assessment report:
 - (i) Reduction to the footprint of the rooftop plant room (-85m²) and provision of additional information showing the layout of plant and equipment.
 - (ii) Provision of 239m² of communal open space on Level 09 of the Fig Street Building.
 - (iii) Additional information on privacy protection measures where departure from the numerical separation provisions of the ADG occurs.

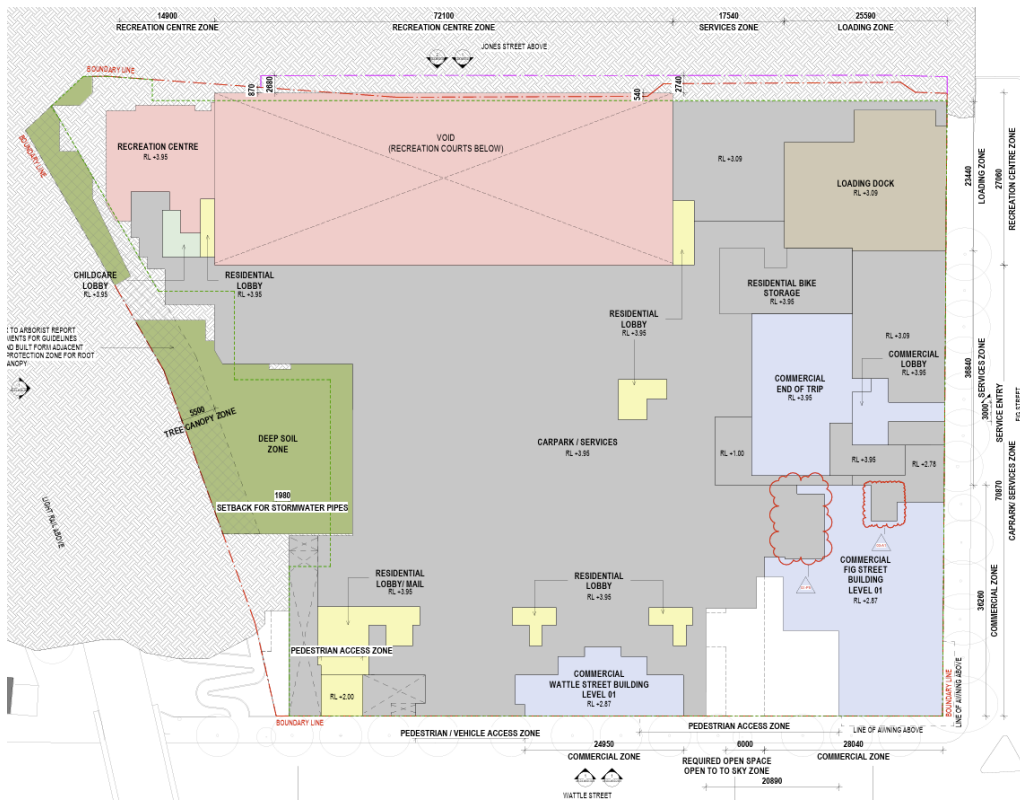
Proposed modification

20. The section 4.56 modification application seeks consent for the following modifications to the Fig Street Building:
- (a) Change of use from office/retail premises to hotel accommodation, retail premises and residential apartments.
 - (b) Reconfiguration of the floor layout and introduction of an additional storey, with resultant changes to the building envelope. The maximum height of the building will be increased from RL36.35 (top of wall) /RL37.95 (top of plant) to RL38.45 (top of plant enclosure). The overall massing would be reduced due to the increased northern setbacks, widening the approved through site link.
 - (c) Conditions (2), (5) and (7) of the concept consent are to be modified to reflect the modified/proposed plans and information.
21. **Table 1** compares the Original Consent (D/2019/649), the current Concept Consent (D/2019/649/B) with the modification application (D/2019/649/C). Comparison envelope plans and elevations are provided below at **Figures 9 to 21**.

Table 1: Comparison of the original consent and modification application

	Original Concept Consent (D/2019/649)	Current Concept Consent (D/2019/649/B)	Modification application (D/2019/649/C)
Number of buildings	Five	Five	No change
Building height (m)			
• Jones Street Building	27.5 - 31.8	30.78 – 33.78	No change
• Courtyard Building	33.08	42.37 – 42.46	No change
• Wattle Street Building	29.65	33.36 – 33.95	No change
• Fig Street Building	30.55	35.14 / 9 storeys RL37.95 to PV cells	35.64 / 10 storeys RL38.45 to top of plant (+500mm)
Fig Street building uses (m²)	Commercial Retail Residential (Levels 7-8)	Commercial Retail -	Hotel Retail Residential (Levels 5-10)

Approved



Proposed - Fig Street Building modifications

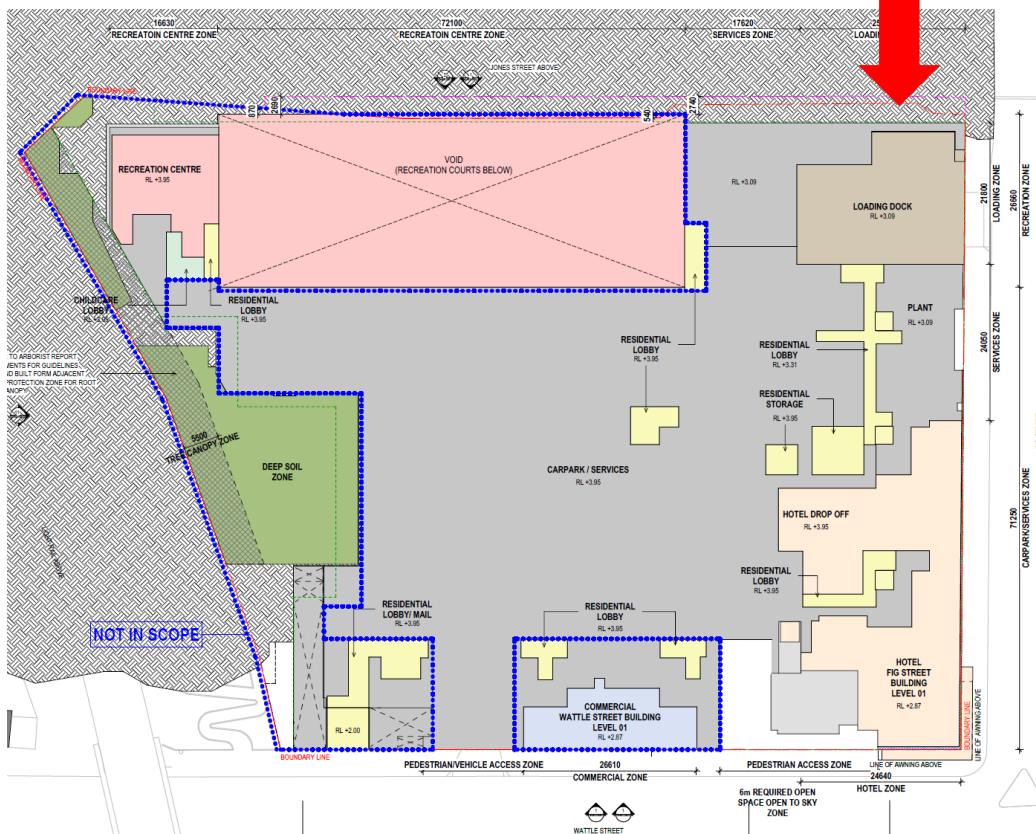
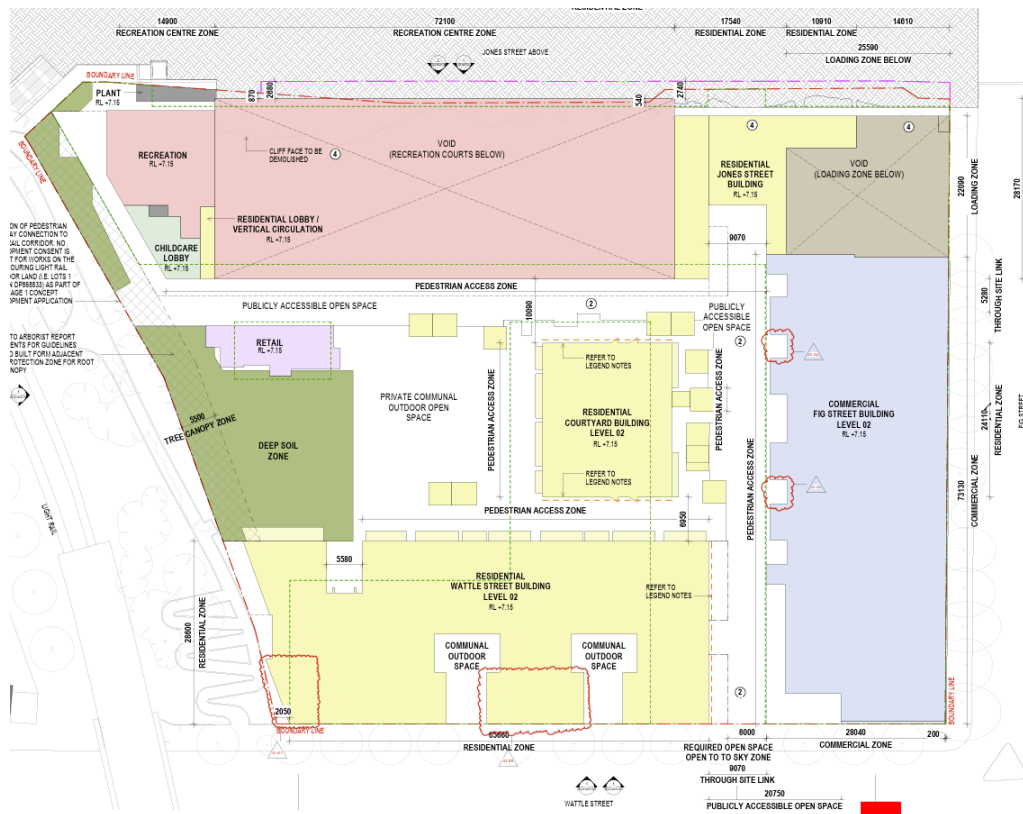


Figure 9: Level 01

Approved



Proposed - Fig Street Building modifications

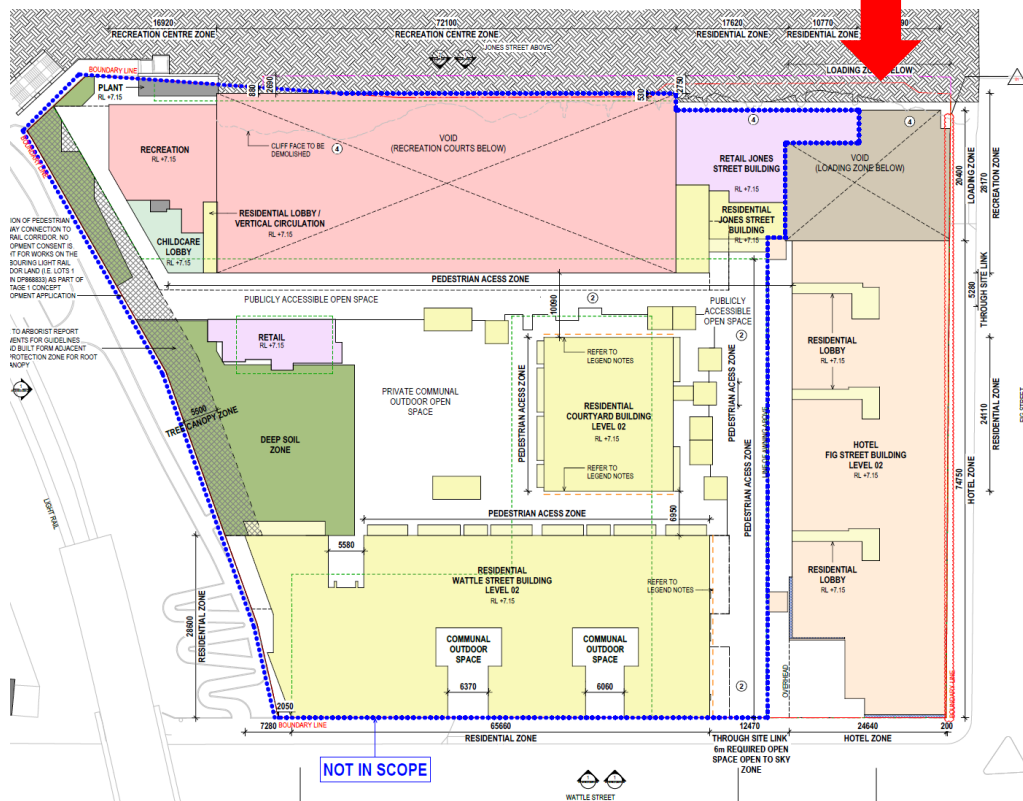
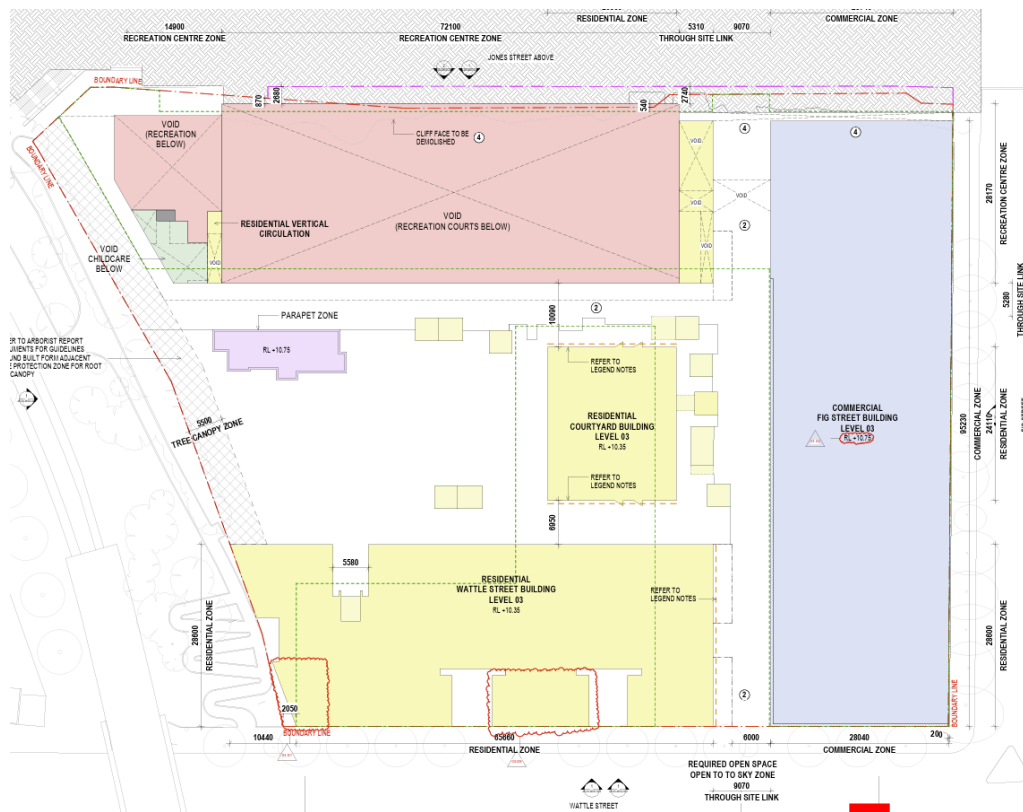


Figure 10: Level 02

Approved



Proposed - Fig Street Building modifications

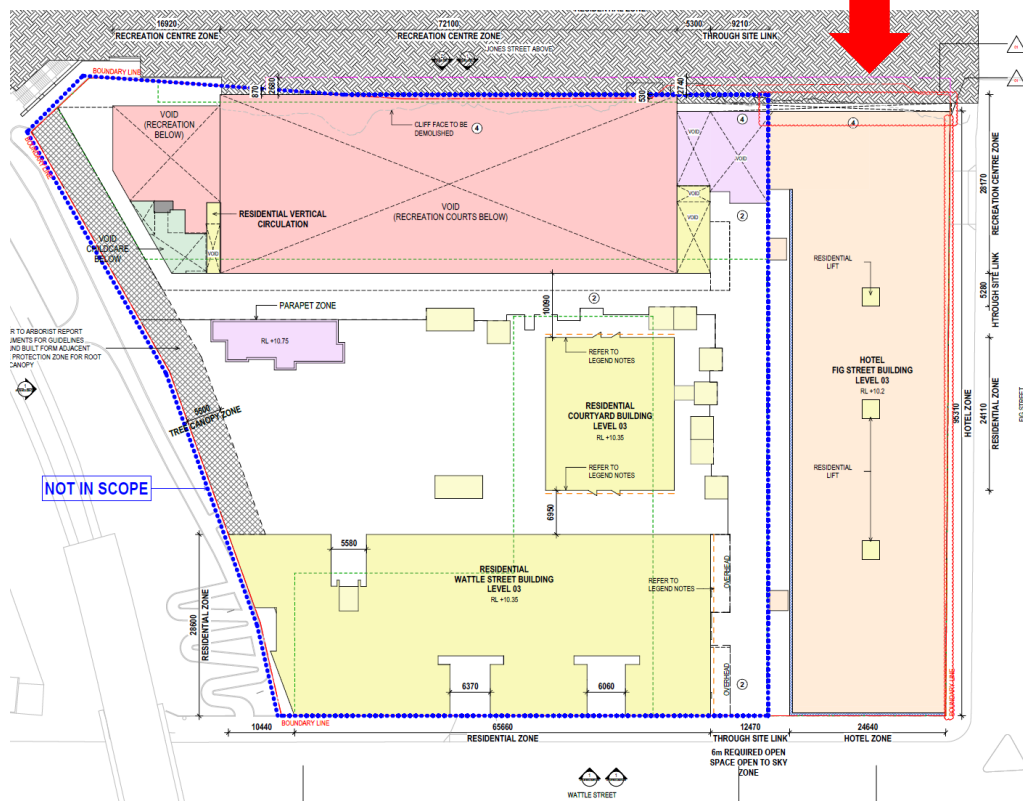


Figure 11: Level 03

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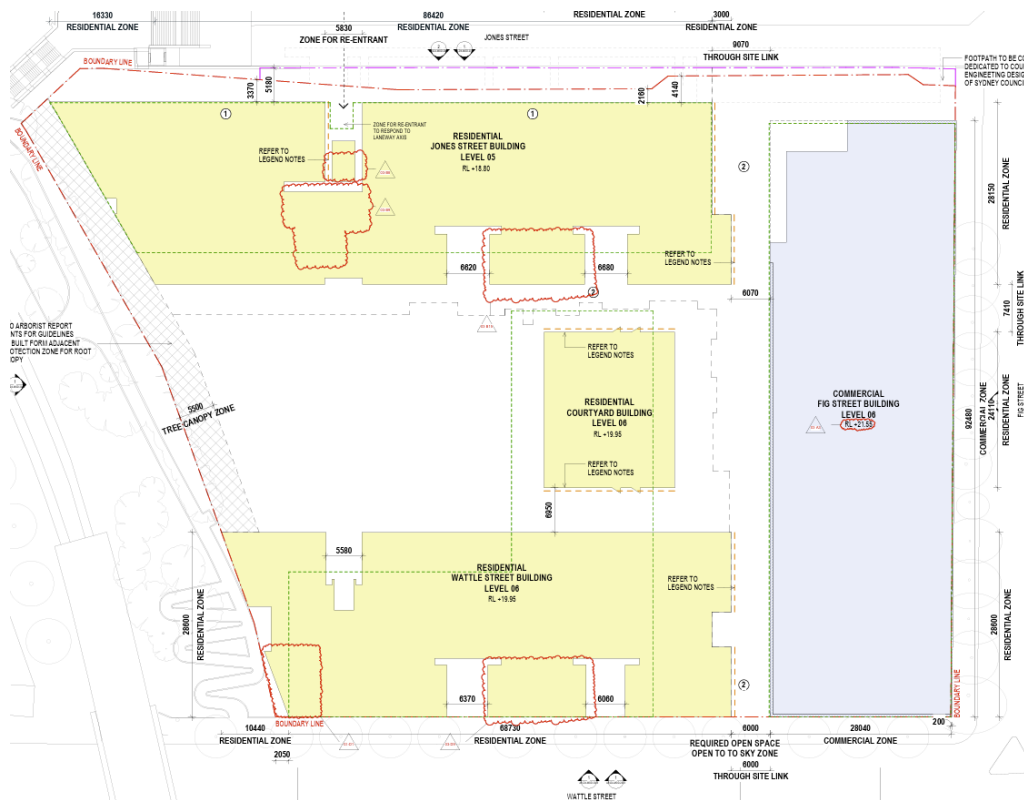
Figure 12: Level 04

The site plan illustrates the layout of the 1000-1100 Wattle Street area. It features several residential buildings: the Residential Jones Street Building (Level 04, RL +15.85), the Residential Courtyard Building (Level 05, RL +16.75), and the Residential Wattle Street Building (Level 05, RL +15.75). A commercial building, the Commercial Figs Street Building (Level 05, RL +17.95), is also shown. The plan includes various zoning boundaries such as Residential Zone, Commercial Zone, and Retail Zone. Key streets include Jones Street, Wattle Street, and Figs Street. The plan also shows a tree canopy zone, a zone for re-entrant, and a zone for re-entrant to the laneway. A legend notes that the plan is for a proposed development and that the plan is subject to the final engineering design and approval of the Council.

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Approved



Proposed - Fig Street Building modifications

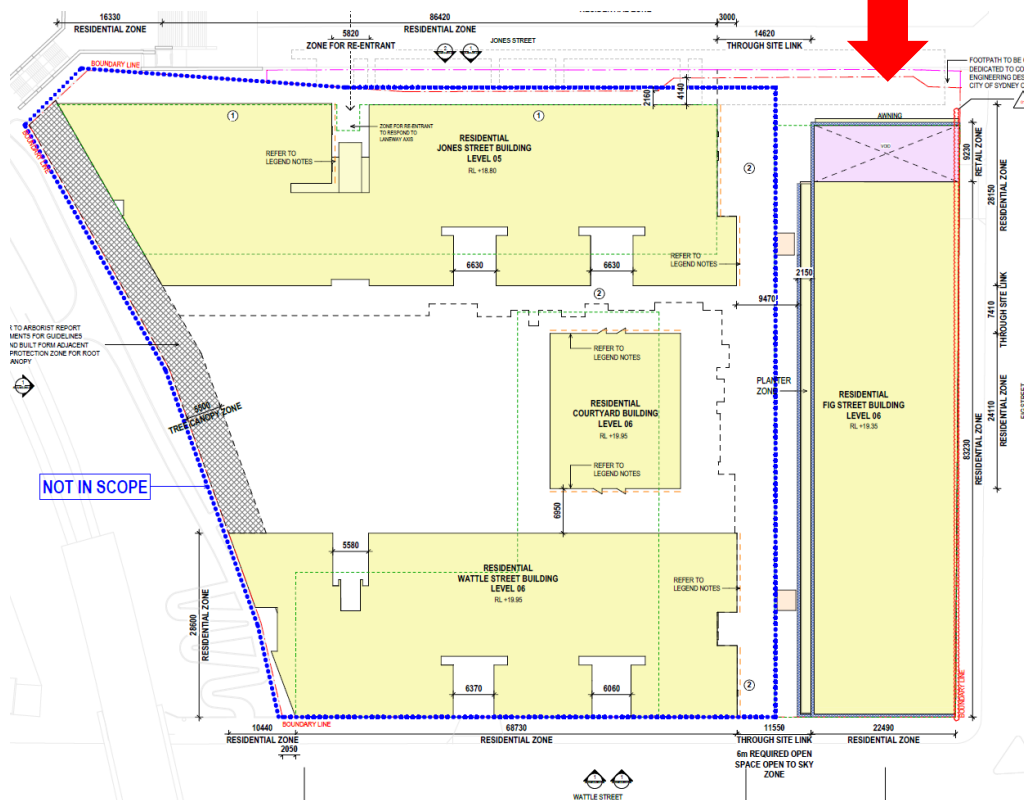
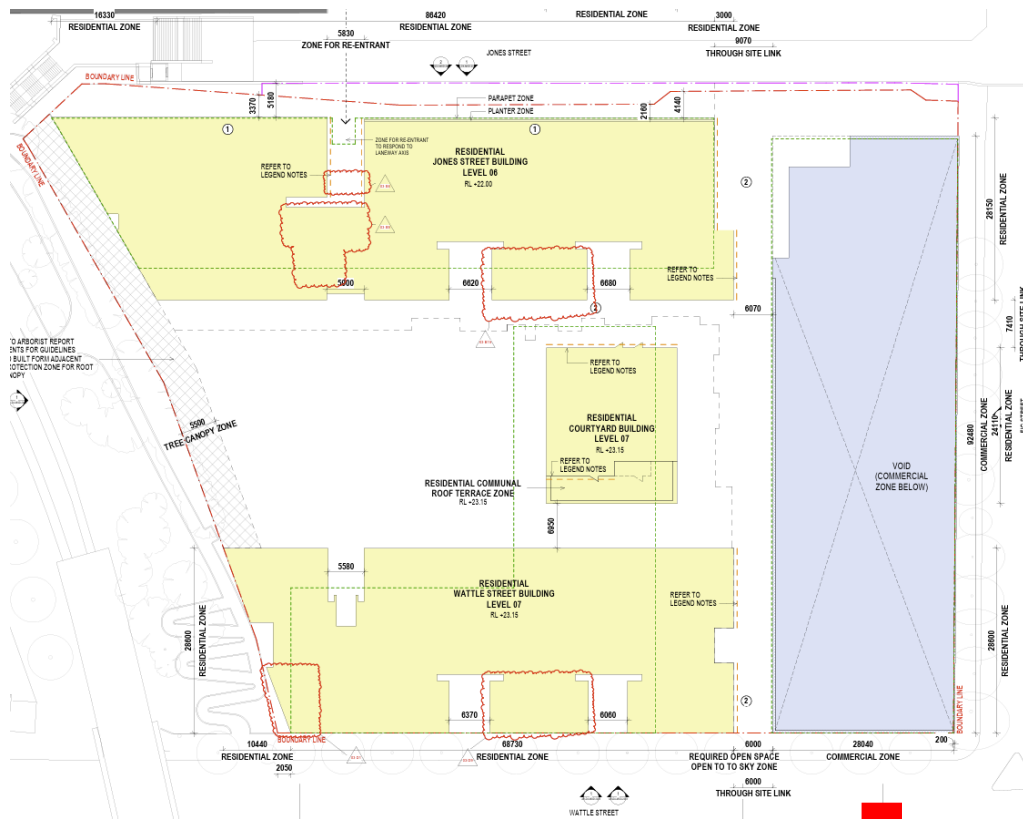


Figure 14: Level 06

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Proposed - Fig Street Building modifications

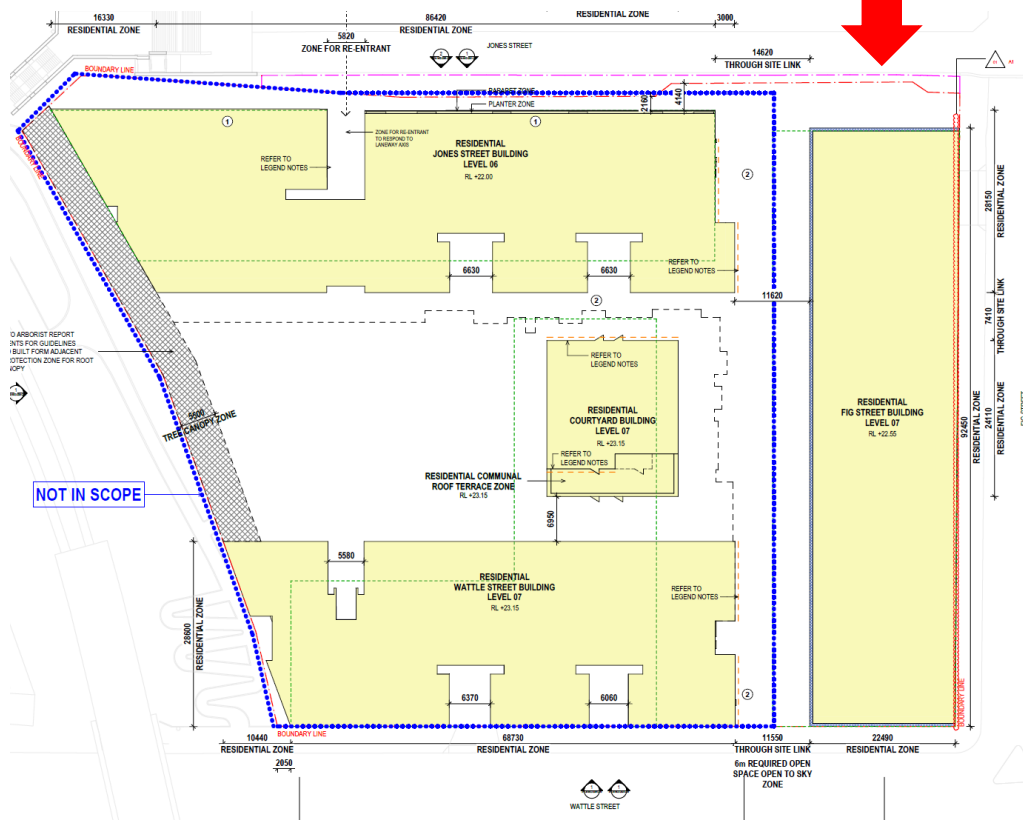
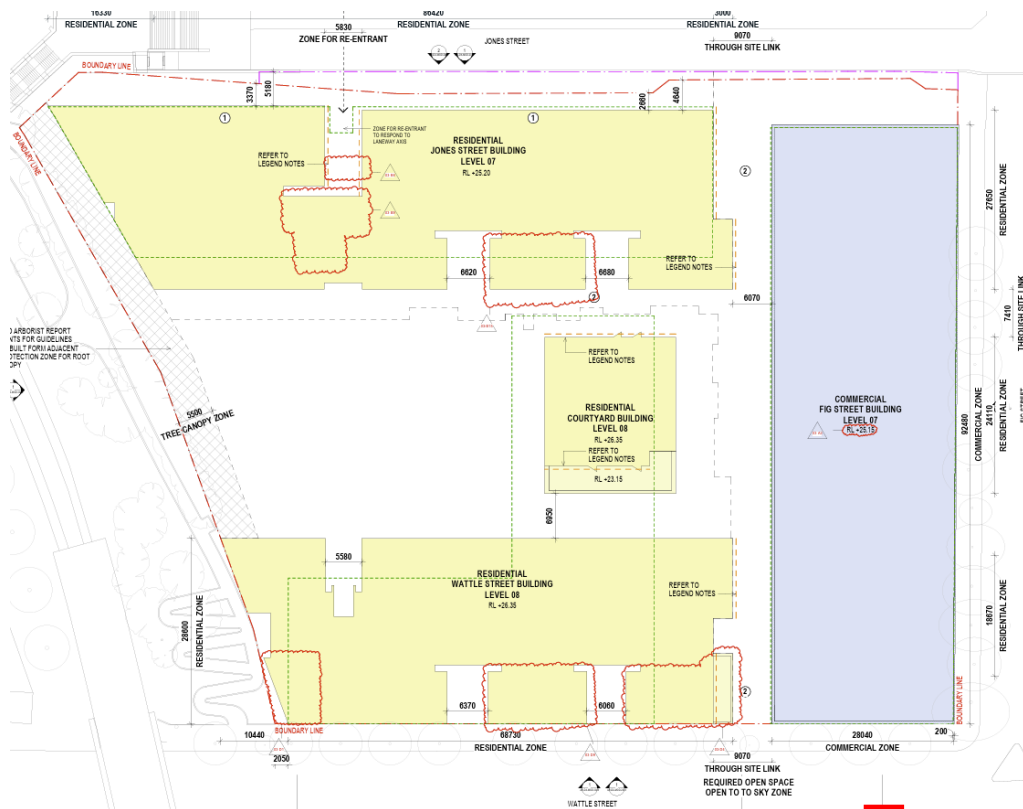


Figure 15: Level 07

Approved



Proposed - Fig Street Building modifications

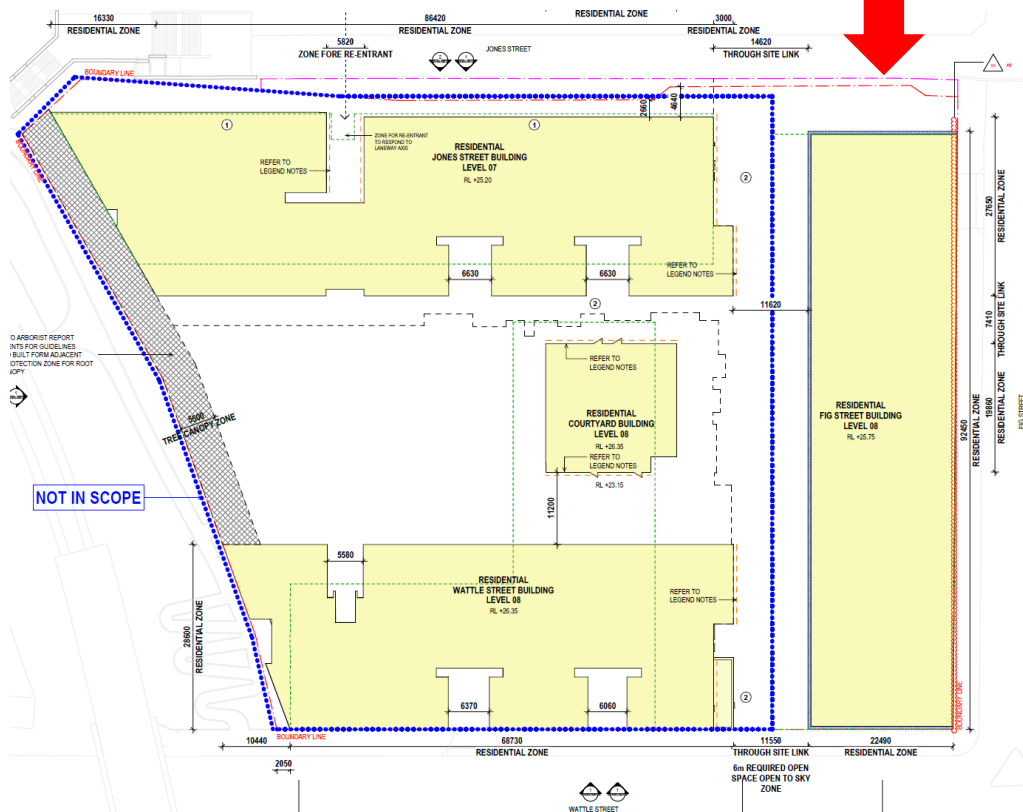
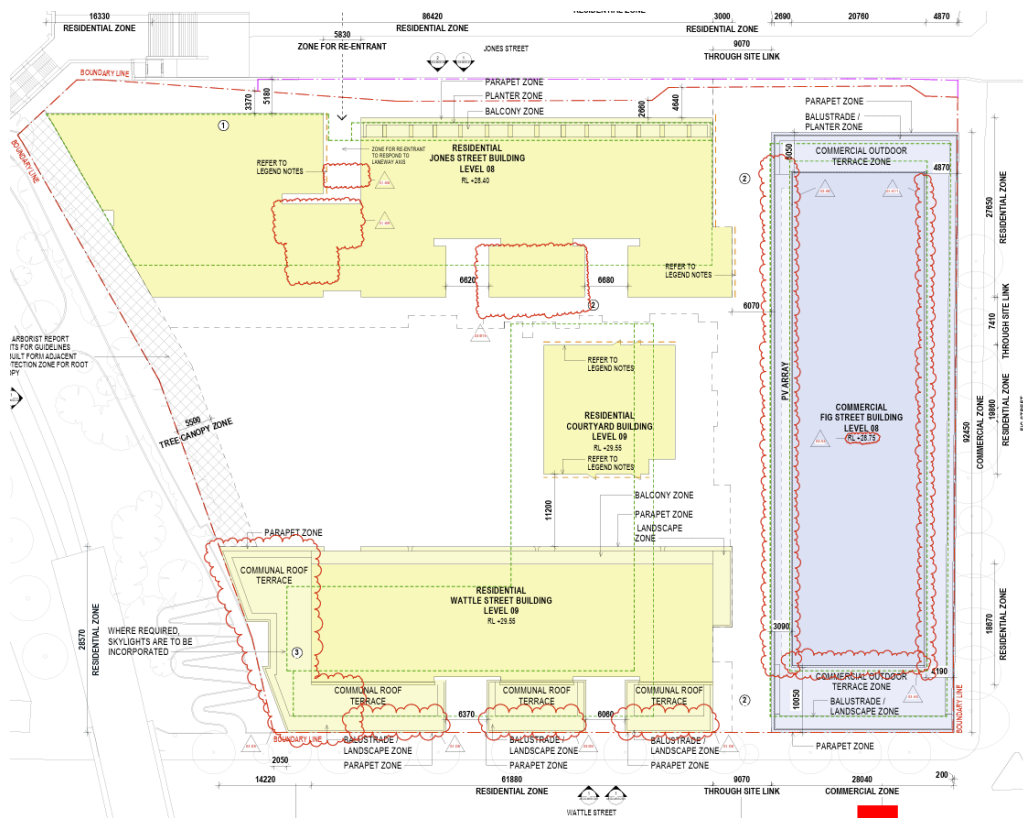


Figure 16: Level 08

Approved



Proposed - Fig Street Building modifications

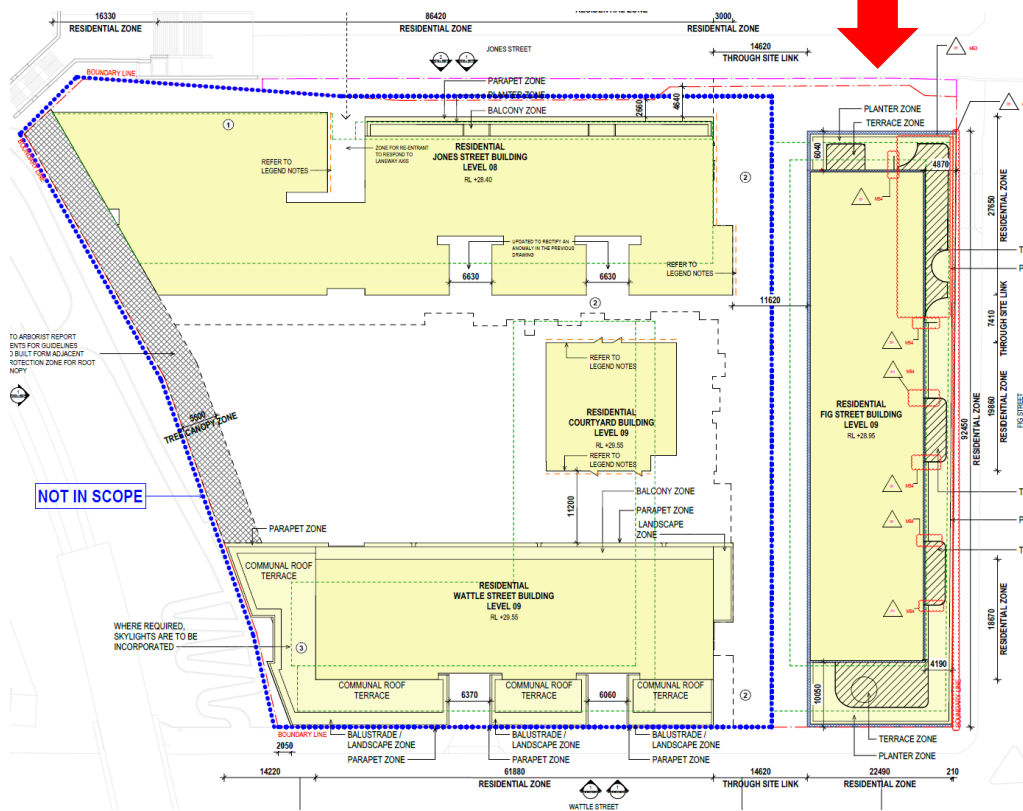


Figure 17: Level 09

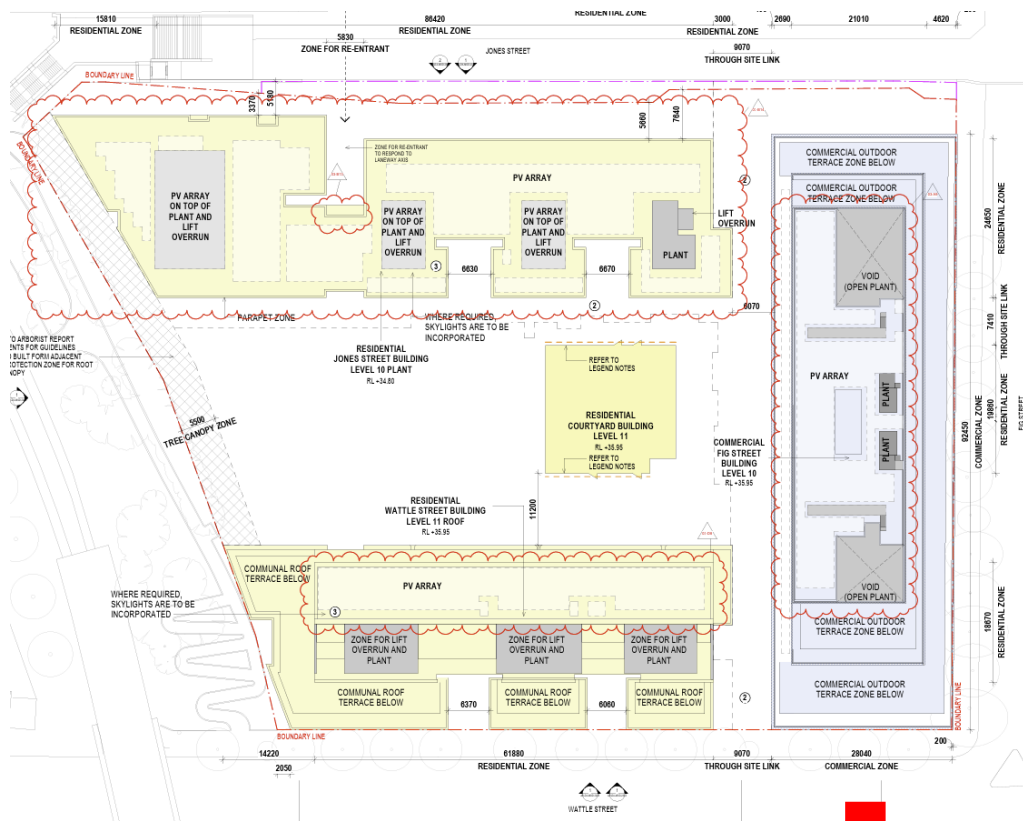
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The site plan illustrates the layout of the Jones Street development, including the following elements:

- Buildings and Levels:**
 - Jones Street Building Level 09:** Features PV arrays, plant areas, and a lift overrun.
 - Residential Jones Street Building Level 10 Plant:** A dedicated plant area for the Level 10 residents.
 - Residential Courtyard Building Level 10:** A central courtyard building with plant areas.
 - Residential Wattle Street Building Level 10:** A building along Wattle Street with plant areas.
 - Residential Fig Street Building Level 10:** A long building along Fig Street with terrace and planter zones.
- Vegetation and Landscaping:**
 - Tree Canopy Zone:** A designated area for tree canopy, labeled "NOT IN SCOPE".
 - Plant and PV Arrays:** Various plant and PV array locations are marked throughout the site.
 - Boundary Line:** A red dashed line indicating the site boundary.
- Zones and Access:**
 - Residential Zone:** The primary zone for the development.
 - Through Site Link:** A link providing access through the site.
 - Zone for Re-entrant:** A specific area designated for re-entrant access.
- Other Features:**
 - Parapet Zone:** A zone along the edge of the buildings.
 - Fig Street:** The street running along the right side of the site.
 - Wattle Street:** The street running along the bottom of the site.
 - Jones Street:** The street running along the top of the site.

Figure 18: Level 10

Approved



Proposed - Fig Street Building modifications

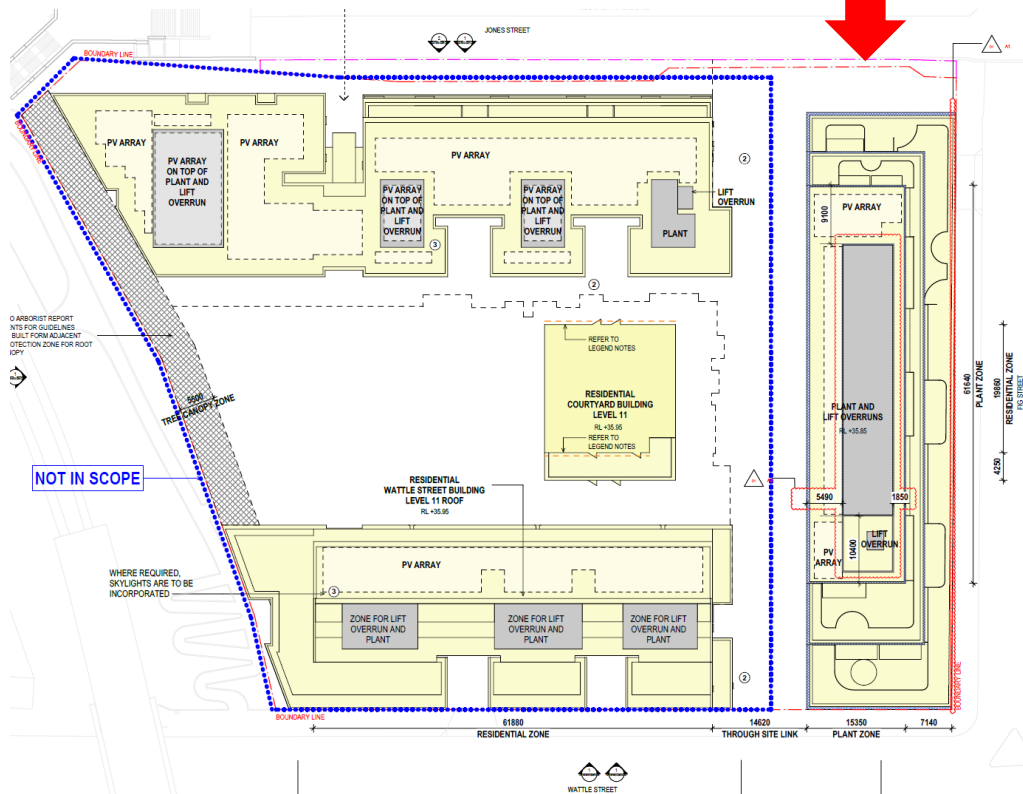
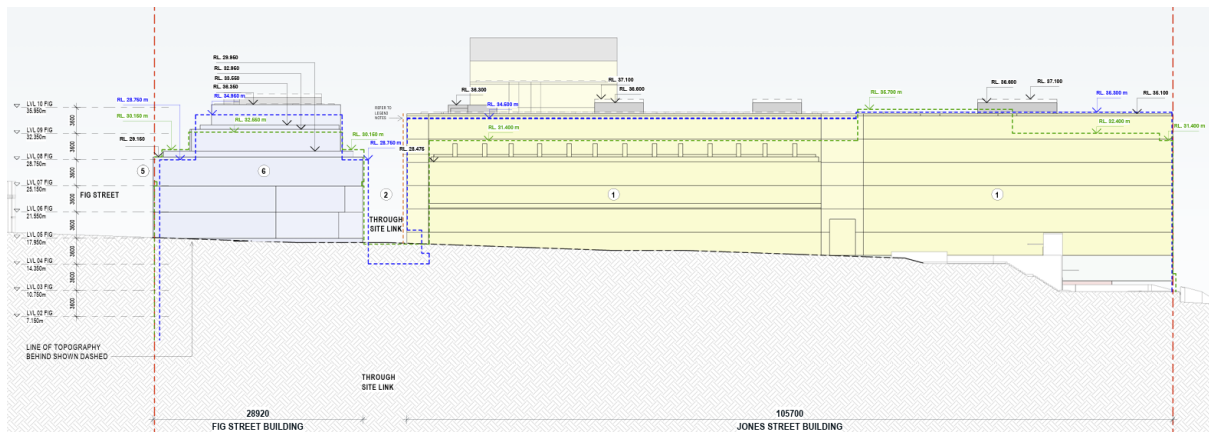
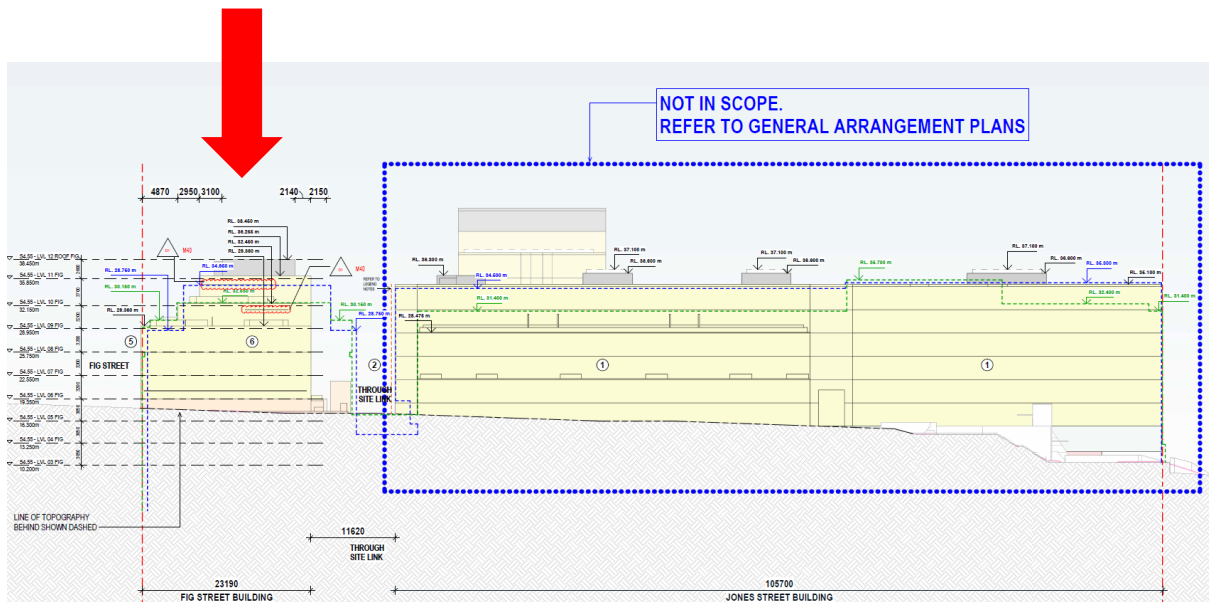
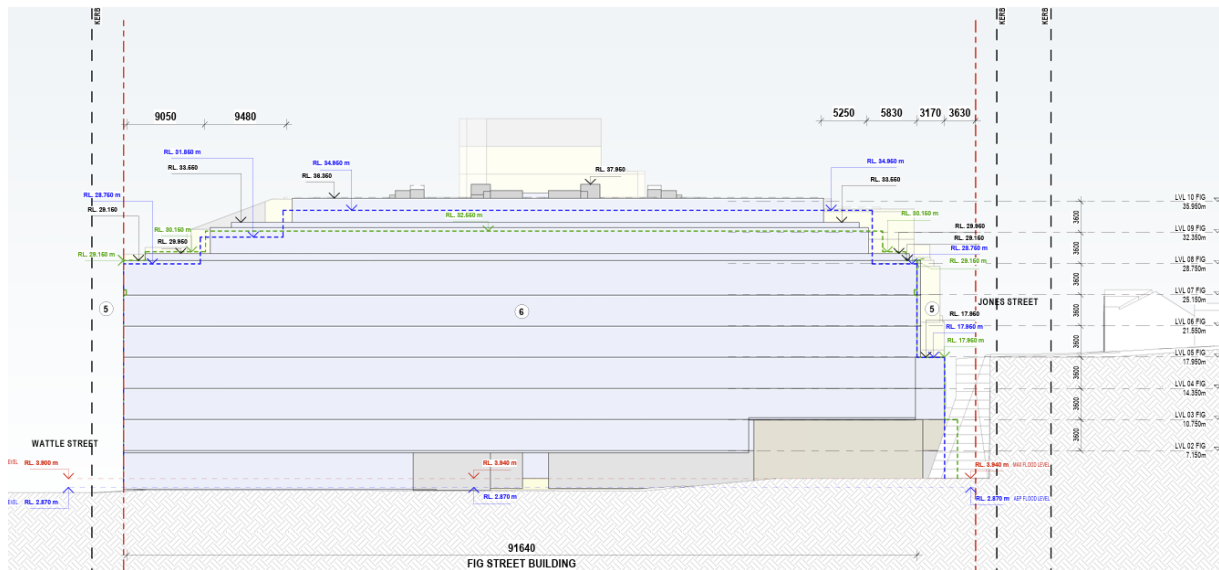


Figure 19: Level 11 (Plant and lift overrun)

Approved**Proposed - Fig Street Building modifications****Figure 20:** Elevation - Jones Street

Approved



Proposed - Fig Street Building modifications

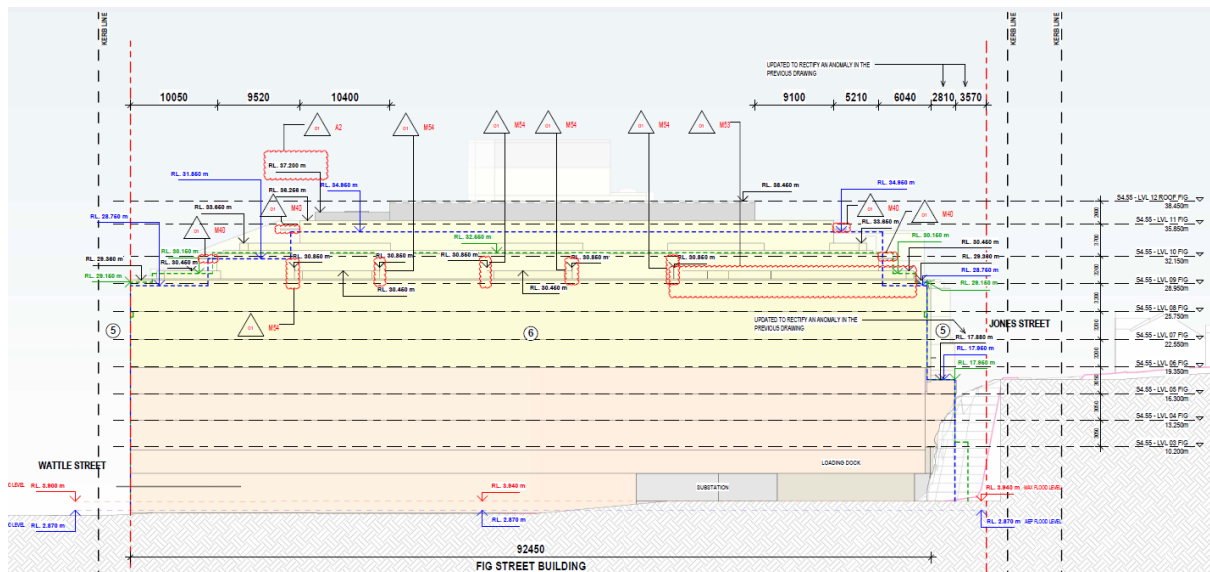
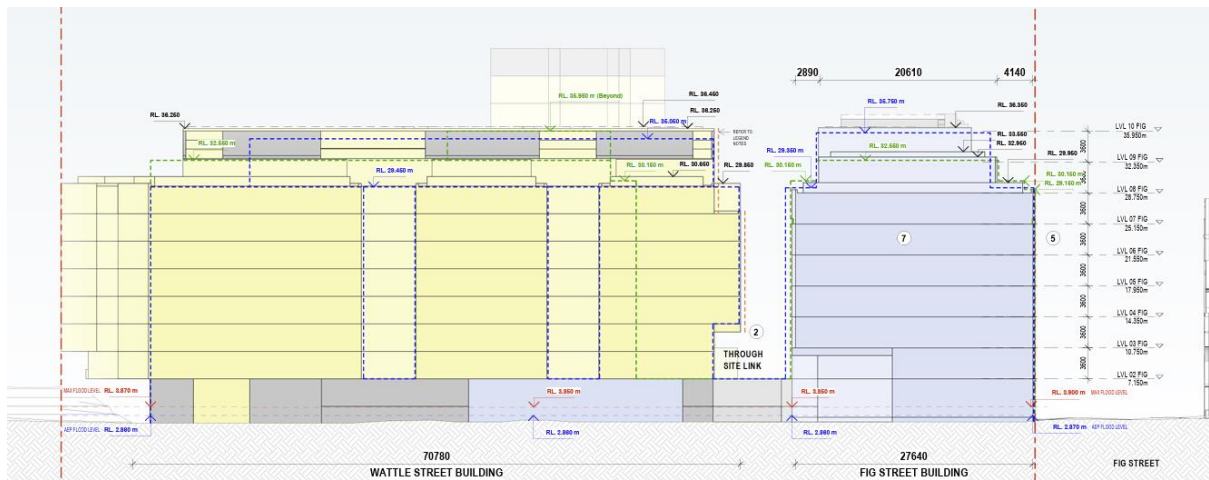


Figure 21: Elevation - Fig Street

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Proposed - Fig Street Building modifications

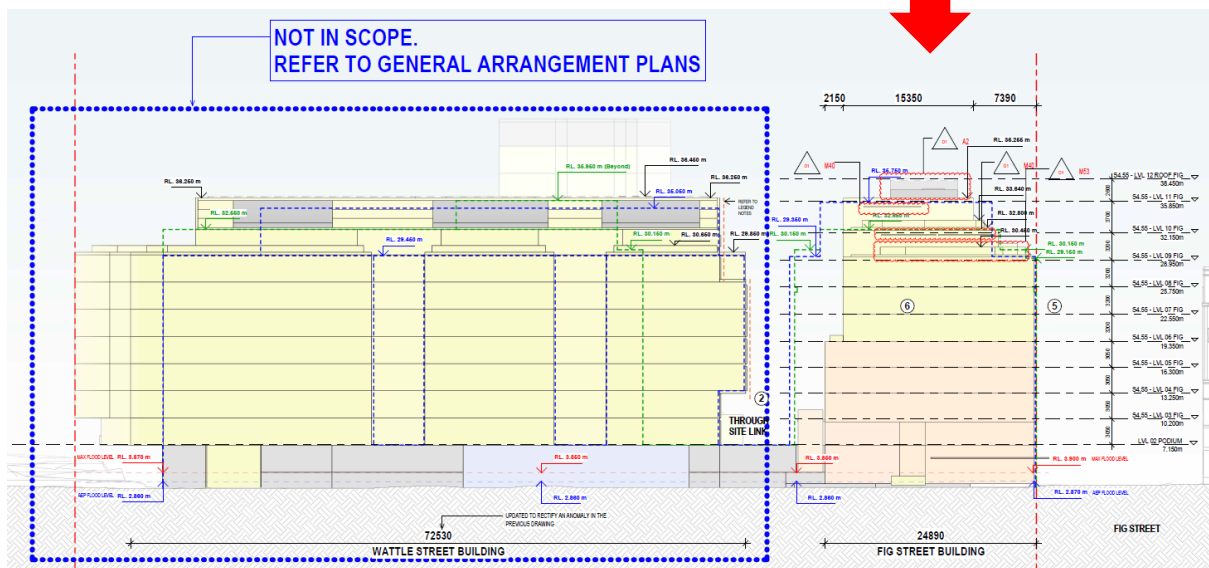


Figure 22: Elevation - Wattle Street

Assessment

22. The section 4.56 modification application has been assessed under Section 4.15 of the EP&A Act.

Environmental Planning and Assessment Act, 1979

Threshold test

23. Consistent with the substantially the same development test at section 4.56(1)(a) of the EP&A Act:
- (a) The modified development involves an “alteration without radical transformation” (Sydney City Council v Ilenc Pty Ltd [1984]) and is considered to be substantially the same as the development for which the consent was originally granted as the modification application, like the Original Concept Consent, would realise:
 - (i) A mixed-use development accommodating residential uses, non-residential uses, a recreation centre and a child care centre
 - (ii) Five buildings surrounding a central courtyard and addressing Wattle Street, Fig Street, Jones Street and the light rail station and located above two levels of car parking
 - (iii) Vehicular access from Wattle Street (for cars) and Fig Street (for loading)
 - (iv) A north-south pedestrian through site link between Wattle Street and Jones Street (with an additional east-west pedestrian connections proposed).
 - (b) Proposed modifications primarily relate to:
 - (i) A change of use of the Fig Street Building:
 - (i) From approved commercial/retail in the Original Consent
 - (ii) To proposed hotel/retail/residential in the modification application
 - (ii) Fig Street building envelopes/separation and building height.
 - (c) As viewed from the public domain, the bulk and scale of the modified building envelope is substantially the same as the development approved by the Original Concept Consent (D/2019/649).
 - (d) The proposed modifications to the building envelopes are supported (subject to conditions) as they do not result in unacceptable amenity impacts and deliver a building envelope that is capable of achieving an acceptable level of amenity for future occupants and adjoining properties.
24. In accordance with section 4.56(1)(b), (c) and (d) of the EP&A Act, the modification application was notified in accordance with the City of Sydney Community Engagement Strategy and Participation Plan 2024 Update and the submissions made are considered in this assessment report.

25. In accordance with section 4.56(1A) of the EP&A Act:
- (a) This assessment report includes an assessment of the modification application against the relevant provisions of section 4.15(1) of the EP&A Act
 - (b) This assessment report considers the reasons given by the Land and Environment Court for the grant of the Original Concept Consent (D/2019/649).

State Environmental Planning Policies

SEPP (Precincts – Eastern Harbour City) 2021 – Chapter 4 City West

26. Pursuant to section 4.1 of the SEPP, the site is located within City West. The site is not affected by any other mapping relevant to City West. A detailed assessment of compliance with the planning principles for City West is set out in the assessment report for the concurrently lodged application to modify the detailed design consent (D/2023/97/A).

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

27. The aim of SEPP (Resilience and Hazards)– Chapter 4 Remediation of Land) is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
28. The modification application does not change the contamination reporting or remediation conditions in the Original Concept Consent.

State Environmental Planning Policy (Housing) 2021

Chapter 4 - Design of Residential Apartment Development

29. The aim of Chapter 4 of the SEPP is to improve the design quality of residential apartment development in New South Wales.
30. Section 147(1) of the SEPP states that a development consent for residential apartment development must not be modified unless the consent authority has considered the following:
- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
 - (b) the ADG,
 - (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.
31. The applicant has submitted a design verification statement and design report prepared by Phillip Rossington of BVN (Reg No. 7151) with the modification application, addressing the design quality principles and the objectives of Parts 3 and 4 of the ADG. The statement is deemed to satisfy Clause 29 of the EP&A Reg.
32. An assessment of the modified building envelopes against the design quality principles follows:

(a) Principle 1: Context and Neighbourhood Character

The Fig Street Building faces a heritage listed former woolstore (“Winchcombe Carson”) beyond Fig Street to the south (which carries high volumes of traffic), the face of the former quarry and Jones Street with heritage listed terrace houses (one and two storeys) to the east, Wentworth Park beyond Wattle Street (which carries high volumes of traffic) to the west and the approved development on the site (including a through site link) to the north.

The modified development (Fig Street Building) responds to the harsh environment along Fig and Wattle Streets by providing hotel uses at the lower levels and noise attenuation measures to noise affected apartments above.

Active uses are proposed along the footpath edge of Wattle and Jones Streets.

The modified plant level has been sited to prevent additional overshadowing of Wentworth Park.

The pedestrian through-site link between Wentworth Park and Jones Street is to be widened to provide adequate building separation between apartments on the site.

The site is in Zone MU1 Mixed Use and the modified development is consistent with the Sydney LEP 2012 aims and objectives of the zone.

(b) Principle 2: Built Form and Scale

The modified development increases the maximum height of the Fig Street Building by 500mm (to the top of plant enclosure). The modified plant level has been sited to prevent additional overshadowing of Wentworth Park.

The overall massing of the Fig Street Building would be reduced due to the increased northern setbacks which also widens the approved through site link.

(c) Principle 3: Density

The modified building envelopes allow for a development that can deliver a maximum floor space ratio (**FSR**) that complies with the standard at clause 4.4 of Sydney LEP 2012.

The proposed density is appropriate in the Pyrmont locality, particularly given the proximity of the site to established and proposed infrastructure, public transport, community and recreational facilities.

(d) Principle 4: Sustainability

No change is proposed to the requirements of Condition (9) of the Original Concept Consent which specifies ecological sustainable development targets for the development. The detailed design modification application (D/2023/97/A) complies with Condition (9), demonstrating that sustainability targets can be met by the modified building envelopes.

(e) Principle 5: Landscape

The modified building envelopes do not change the approved landscaping in the central courtyard area or the deep soil zones approved by the Original Concept Consent.

(f) Principle 6: Amenity

The modified building envelopes can accommodate a development with a reasonable level of amenity for the future occupants of the development, as well as adjoining properties.

(g) Principle 7: Safety

The modified building envelopes allow for a development that can achieve the principles of Crime Prevention Through Environmental Design.

(h) Principle 8: Housing Diversity and Social Interaction

The modified building envelopes allow for a development that can provide a suitable mix of dwelling types.

(i) Principle 9: Aesthetics

The modified building envelopes are generally consistent with the design competition winning scheme, which was considered by the design competition jury as the entrant most capable of demonstrating design excellence.

33. The development is acceptable when assessed against the SEPP including the above stated principles and the associated ADG. These controls are generally replicated within the apartment design controls under Sydney DCP 2012. Consequently compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the modified development against the ADG is provided in **Table 2** below.

Table 2: Assessment of compliance with the ADG

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Partial compliance	Acceptable on merit As originally lodged, all Level 06, 07 and 08 cross through apartments had a maximum building depth of more than 22m (measured from the wintergarden glass lines). In response to Council's RFI#2, the modification application was amended to delete north facing wintergardens where apartments are not noise affected. As amended, the maximum building depth is 22m to noise affected apartments and 19.6m to other apartments.

2E Building Depth	Compliance	Comment
		Cross through apartments on Levels 09 and 10 are 15m (with no north facing wintergardens on these levels). The internal arrangement of apartments, including the predominant orientation of living rooms to the long north façade, ensures that they receive adequate daylight, natural ventilation and natural cross ventilation.

2F Building Separation	Compliance	Comment
Up to four storeys (approximately 12 metres): 12m between habitable rooms / balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms	Partial compliance	Acceptable on merit Building separations between the proposed Fig Street Building and the approved Courtyard Building comply. Building separations between the Fig Street Building and the following approved buildings do not fully achieve the ADG building separation controls: - Wattle Street Building (9.4m to 12.9m between hotel rooms and Wattle Street Building apartments) - Jones Street Building (10m to 13m between hotel rooms and Jones Street Building apartments and 12m to 15m between apartments in the Fig Street Building and apartments in the Jones Street Building). - Privacy protection measures are proposed to ensure that the development can provide for an acceptable level of privacy for future occupants. Condition (2) requires privacy protection measures to be installed on the Jones Street Building and Wattle Street Building. See Discussion section.

2F Building Separation	Compliance	Comment
Five to eight storeys (approximately 25 metres): 18m between habitable rooms / balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms	Partial compliance	Acceptable on merit Building separations between the proposed Fig Street Building and the approved Courtyard Building comply. Building separations between the Fig Street Building and the following approved buildings do not fully achieve the ADG building separation controls: - Wattle Street Building (9.4m to 15m between apartments) - Jones Street Building (12m to 15m between apartments). - Privacy protection measures are proposed to ensure that the development can provide for an acceptable level of privacy for future occupants. Condition (2) requires privacy protection measures to be installed on the Jones Street Building and Wattle Street Building.
Nine storeys and above (over 25m): 24m between habitable rooms / balconies 18m between habitable and non-habitable rooms 12m between non-habitable rooms	Yes	Complies Building separations between the proposed Fig Street Building and the approved Courtyard Building comply.

3B Orientation	Compliance	Comment
Overshadowing of neighbouring properties is minimised during midwinter	Yes	The modification application does not result in any additional overshadowing of neighbouring properties.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Partial compliance	Acceptable on merit The Original Concept Consent provides communal open space with an area of 2,783m² (22.5% of the site area) including communal roof terraces on the Jones Street, Courtyard and Wattle Street Buildings. The modification application proposes 239m² of additional communal open space at Level 09 of the Fig Street Building giving a total communal open space area of 3,022m² (24.4% of the site area).
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	A good standard of solar access to the total required communal open space is provided as >50% of the principal usable part of the communal open space will receive a minimum of 2 hours between 9am and 3pm on 21 June.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Yes	Like the Original Concept Consent, a deep soil area of 876m ² (7% of the total site area) is provided across the site.

3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): 6m between habitable rooms / balconies 3m between non-habitable rooms	Partial compliance	See 2F above
Five to eight storeys (25 metres):	Partial compliance	See 2F above

3F Visual Privacy	Compliance	Comment
9m between habitable rooms / balconies 4.5m between non-habitable rooms		
Nine storeys and above (over 25m): 12m between habitable rooms / balconies 6m between non-habitable rooms	Yes	See 2F above

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Partial compliance	The modified envelope is capable of accommodating a development that achieves a reasonable solar access. The detailed design modification application (D/2023/97/A) shows that: Fig Street Building 14 of 50 of apartments (28%) in the Fig Street Building achieve a minimum of 2 hours of direct sunlight to living rooms in mid-winter. 38 of 50 of apartments (76%) in the Fig Street Building achieve a minimum of 2 hours of direct sunlight to private open space in mid-winter. All buildings 108 of 287 of apartments (38%) in the development achieve a minimum of 2 hours of direct sunlight to living rooms in mid-winter. 224 of 287 of apartments (78%) in the development achieve a minimum of 2 hours of direct sunlight private open space in mid-winter. Solar access is addressed in detail in the assessment report on the detailed

4A Solar and Daylight Access	Compliance	Comment
		design modification application (D/2023/97/A).
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	The detailed design modification application (D/2023/97/A) shows that: Fig Street Building 7 of 50 apartments (14%) in the Fig Street Building would receive no direct sun. All buildings No apartments in the approved Wattle Street, Courtyard or Jones Street Buildings will receive no sun. Given this, just 7 of 287 apartments (2.4%) in all buildings would receive no direct sun.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	The detailed design modification application (D/2023/97/A) shows that all habitable rooms are naturally ventilated. Due to heavy traffic on Fig and Wattle Streets, natural ventilation to noise affected apartments is via a wintergarden.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	The detailed design modification application (D/2023/97/A) shows that: Fig Street Building 32 of 50 apartment (64%) in the Fig Street Building are naturally cross ventilated. All buildings 173 of 284 apartments (60.9%) in the first nine levels of the development are naturally cross ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18m,	No	See 2E above.

4B Natural Ventilation	Compliance	Comment
measured glass line to glass line.		

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	Habitable rooms have a minimum floor to ceiling height of 2.7m.
Non-habitable rooms: 2.4m	Yes	Non-habitable rooms have a minimum floor to ceiling height of 2.7m.

State Environmental Planning Policy (Transport and infrastructure) 2021

Chapter 2 Infrastructure

34. The modification applications were referred to AUSGRID, Sydney Water and TfNSW. The proposed modifications do not change the agency conditions on the Original Concept Consent.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 (Vegetation in Non Rural Areas) 2017

35. The modification application does not change the compliance of the Concept Consent with this SEPP.

Local Environmental Plans

Sydney Local Environmental Plan 2012

36. An assessment of the modification application against the relevant provisions of the Sydney LEP 2012 is provided in **Table 3**.

Table 3: Assessment of compliance with Sydney LEP 2012

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	Almost all of the site is located in Zone MU1 - Mixed Use Zone. Uses permitted with consent in Zone MU1 include centre-based child care facilities, commercial premises, community facilities, recreation facilities (indoor), residential flat buildings, shop top

Provision	Compliance	Comment
		housing and tourist and visitor accommodation. The modified uses are permitted with development consent A small part of the Jones Street road reserve (to be acquired by the applicant and included in the site area) is in Zone RE1 - Public Recreation (20m²). The Fig Street Building is not located on land in Zone RE1. The modified development meets the objectives of Zone MU1.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	A maximum building height development standard of 27m applies to the site. Up to 10% additional building height pursuant to clause 6.21D of Sydney LEP 2012 is available (giving a maximum permitted height of 29.7m on the site). The Current Concept Consent contravenes the height standard. The modification application proposes a 500mm increase in the height of the Fig Street Building as shown below: Current Consent: 35.14m (contravention of 8.14m or 30%) Modification application: 35.64m (contravention of 8.64m or 32%) See Discussion section below.
4.4 Floor space ratio	Yes	With a proposed FSR of 3.811, the detailed design modification application (D/2023/97/A) demonstrates that the modified building envelope can accommodate a development with a FSR of less than 4:1 (being the FSR standard at clause 4.4 of Sydney LEP 2012).

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is within the vicinity of the following heritage items: • Former woolstore at 28-48 Wattle Street, Ultimo “Winchcombe Carson” (I2059) • Terrace houses at 286-318 Jones Street (I1238) • Former Edwin Davies Flour Mill at 280 Jones Street (I1205) • Railway viaduct listed on the State Heritage Register (I800). Council's Senior Heritage Specialist advised that modification application would not have an adverse heritage impact. Noting that: • There will be slight changes to the approved envelope, which does not raise any heritage related issues to massing or form. • The widening of the through site link will be a positive outcome. • Other heritage considerations (including conditions of consent) in the Original Consent relating to heritage interpretation, retention and reuse of site elements, and the stone quarry face, are not affected by the modification.
5.21 Flood planning	Yes	The site is identified as being subject to flooding. Council's Senior Public Domain Coordinator and Senior Engineer advised that the modification application retains lobby and administration uses on Level 01 with no accommodation on this level. Therefore, the same Flood Planning Level is applicable and there is no modification to the approved floor levels.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 3 Height of buildings and overshadowing		
6.18 Overshadowing of certain public spaces	N/A	Clause 6.18 specifies a sun access plane which provides that “development consent” must not be granted to buildings causing additional overshadowing of Wentworth Park between 10am - 2pm at any time of the year. Modification of the Original Concept Consent for D/2019/649 is proposed (and not the granting of development consent). Therefore clause 6.18 is not applicable to the modification application. Notwithstanding, the building envelope changes will not increase overshadowing of Wentworth Park. See Discussion section below.
Division 4 Design excellence		
6.21C Design excellence	Yes	It is considered that the modified development exhibits design excellence in accordance with the matters listed at clause 6.21C as noted below: • A good standard of architectural design, materials and detailing is proposed appropriate to the building type and location • The form and external appearance of the modified development will improve the quality and amenity of the public domain. There would be no additional overshadowing of Wentworth Park • The modified development will not change the approved view impacts over site to Wentworth Park from Fig Lane Park or dwellings on Jones Street

Provision	Compliance	Comment
		• The site is suitable for the modified mixed use development • The modified development has minimal and acceptable heritage impacts • The modified building footprints and internal layout achieves acceptable separation, setbacks, amenity and urban form • The modified bulk, massing and modulation of buildings is acceptable • Appropriate street frontage heights are proposed, generally compliant with the 27m height standard • The modified development would have acceptable environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity • The modified development is consistent with the principles of ecologically sustainable development • The modified development includes appropriate pedestrian, cycle, vehicular and service access and circulation arrangements • The modified development would have a positive impact on the public domain (noting that the approved through site link would be widened) • The site is not in a special character area • The modified development provides appropriate interfaces at the ground level

Provision	Compliance	Comment
		Opportunities for additional on-slab landscaping are proposed.
6.21D Competitive design process	Yes	The modified building envelope is capable of accommodating a building that demonstrates design excellence (noting that the design of the buildings is the winner of a competitive design process and the modified Fig Street Building exhibits design excellence).

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land within class 5 Acid Sulfate Soils. Information submitted with previous applications confirmed that sediments typical of potential or actual acid sulfate soils were not observed.
7.20 Development requiring or authorising preparation of a development control plan	N/A	Pursuant to section 4.23 of the EP&A Act, concept application D/2019/649 was submitted in lieu of a site specific development control plan to satisfy clause 7.20.

Development Control Plans

Sydney Development Control Plan 2012

37. The section 4.56 modification application generally does not alter the compliance of the development with Sydney DCP 2012. The exception is the number of storeys control at section 4.2.1.1 of the DCP which provides that a maximum building height of 7 storeys is permitted on the site with a maximum street frontage height of 6 storeys along Fig Street (there is no street frontage height specified for Wattle Street or Jones Street).
38. The modified development has:
- 8 storey street frontage height to Fig and Wattle Streets
 - 3 storey street frontage height to Jones Street
 - 10 storeys overall.

39. See Discussion section below.

Discussion

40. This section of the assessment report considers issues of non-compliance identified above. It generally does not repeat the assessment issues relevant to the detailed design modification application (D/2023/79/A) which is concurrently reported to the CSPC (although an assessment of building height and overshadowing is included in both assessment reports).

Building height

41. The modification application proposes a 500mm increase to the height of the Fig Street Building. With a maximum height of 35.64m, the modified Fig Street Building contravenes the following Sydney LEP 2012 height of buildings standard for the site:
- (a) Clause 4.3: 27m
 - (b) Clause 6.21D: 29.7m (being 27m plus up to 10% design excellence height).
42. **Table 4** assesses the compliance of the modification application (and the concurrently lodged section 4.55 modification application) with these height provisions. It shows the following proposed maximum heights and height non-compliances for the modified Fig Street Building:
- (a) **27m standard:** Maximum height of 35.64m which exceeds the 27m clause 4.3 height standard by 8.64m (+32%)
 - (b) **29.7m standard:** Maximum height of 35.64m which exceeds the 29.7m height permitted by clause 6.21D height by up to 5.94m (+20%).

Table 4: Height assessment: Fig Street Building approved development and proposed modification

	Height (plant/lift overrun)	Exceedance of 27m height standard (cl. 4.3 Sydney LEP 2012)	Exceedance of 29.7m height standard (cl. 6.21D SLEP 2012)
Approved development (D/2019/649/B & D/2023/97/A)	35.14m	8.14m (30%)	5.44 (+18%)
Proposed modifications (D/2019/649/C & D/2023/97/A)	35.64m	8.64m (32%)	5.94m (20%)
Difference	500mm		

43. Figure 23 illustrates the proposed increase to the height of the Fig Street Building. Figure 24 illustrates the proposed reduction in the width of the Fig Street Building.

Figure 25 overlays the envelope of the approved development (D/2019/649/B & D/2023/97/A) and the proposed modification applications (D/2019/649/C & D/2023/97/A).

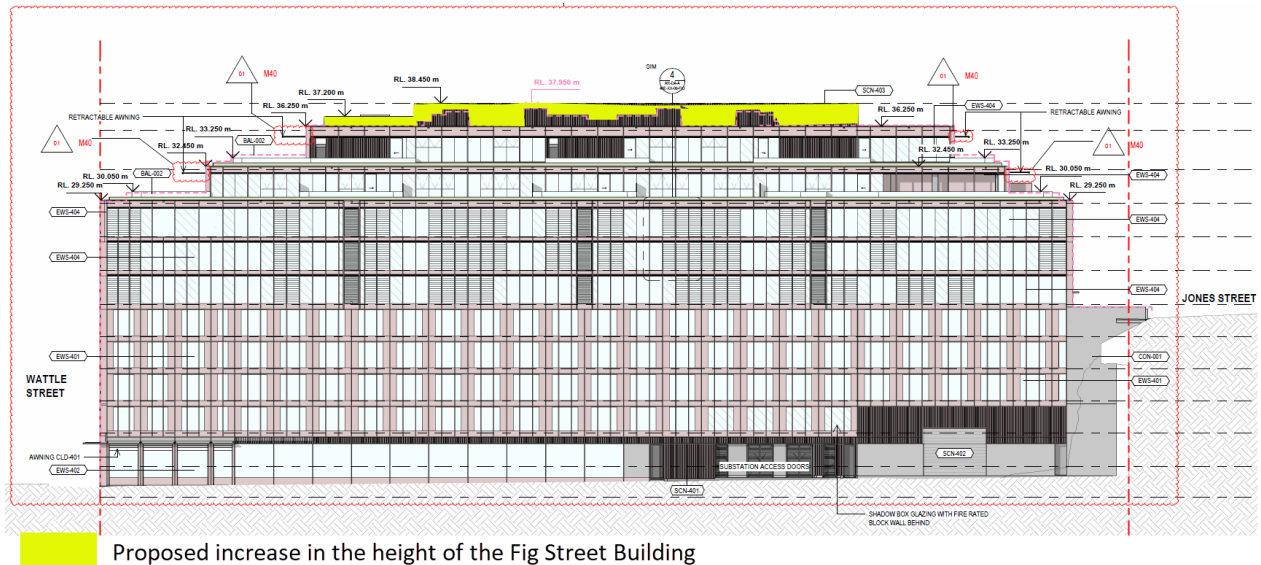


Figure 23: Fig Street Building: Fig Street elevation showing proposed increase in building height (detailed design section 4.55 architectural plans)

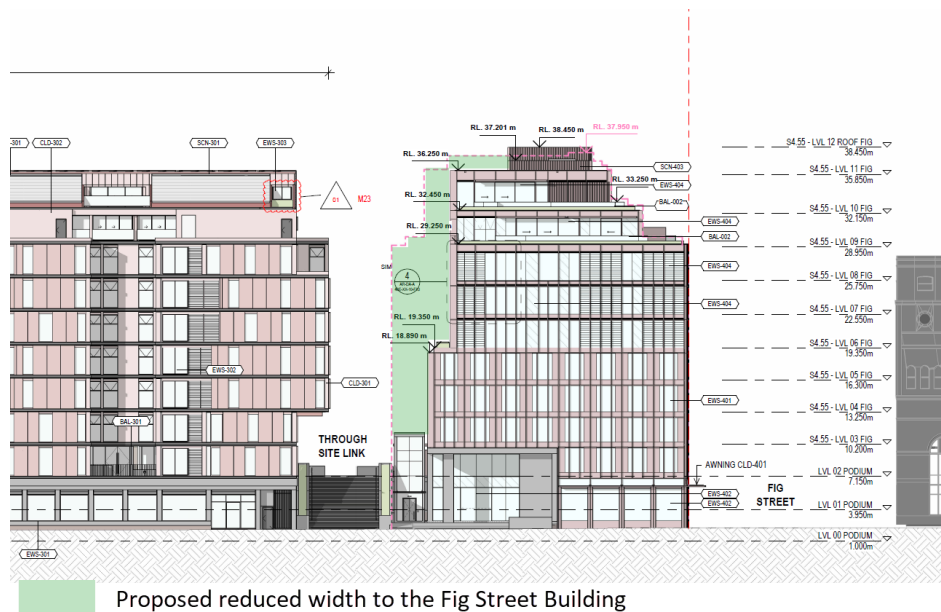
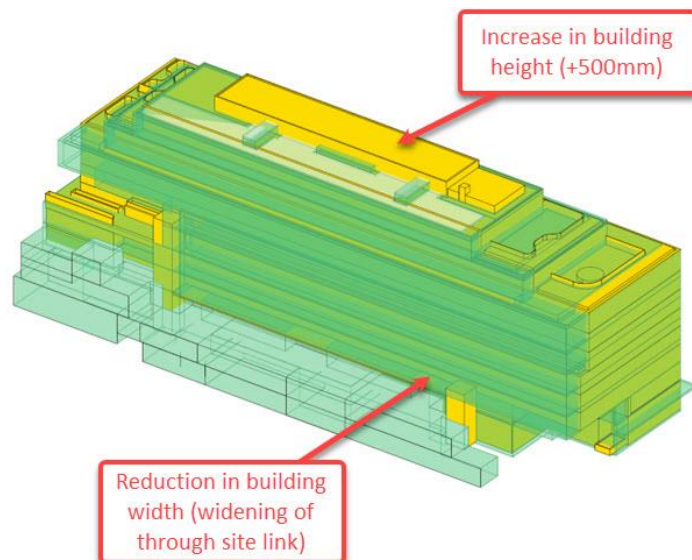


Figure 24: Fig Street Building: Wattle Street elevation showing reduction in building width (detailed design section 4.55 architectural plans)



STAGE 2 DA APPROVED OVERLAID WITH STAGE 2 DA SEC 4.55

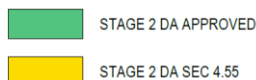


Figure 25: Fig Street Building: Overlay of the approved and proposed building envelope

44. For the following reasons, the proposed increase in height is considered to be reasonable:
- The proposed reduction in building width reduces the bulk and scale of the Fig Street Building (see Figures 24 and 25) and widens the through site link, improving pedestrian amenity.
 - The additional storey proposed by the modification application is generally accommodated within the approved building envelope, noting that the approved envelope accommodates nine commercial levels (generally 3.6m floor to floor) whereas the modified development proposes five hotel levels (generally 3.05m floor to floor) and five residential levels (3.2m floor to floor).
 - An integrated and screened plant room is proposed and the size of the plant room size was reduced (-85m²) in response to Council's RFI#1. Information submitted with the detailed design modification application (D/2023/97/A) demonstrates that the modified plant room is fully utilised.
 - There would be no increase overshadowing to Wentworth Park (see Discussion below).
 - The proposed height along Fig Street, Wattle Street and Jones Street is generally consistent with the approved development (which complies with the 27m height standard) and is compatible with the street wall established by the former Winchcombe Carson woolstore (a heritage item) on the southern side of Fig Street.
 - There would be no change to views to Wentworth Park from the east (Jones Street terraces, Harbour Mills apartments or Fig Lane Park).

Overshadowing of Wentworth Park

45. The applicant has submitted a solar impact analysis assessing the overshadowing impact of the modified development and demonstrating the following shadow impacts:
- (a) **Wentworth Park:** Between 9am and 11am in midwinter, there would be a small reduction in the shadow cast onto Wentworth Park when compared with the approved development (D/2109/649/B & D/2023/97) (see **Figure 26**)
 - (b) **Jones Street terraces:** No change.



Figure 26: Fig Street Building: Shadow reduction from modification application

Building separation (acoustic and visual privacy)

46. **Table 5** shows the separation distances between windows and balconies set out in Objective 3F-1 of the ADG.

Table 5: ADG Objective 3F-1 separation distances between windows and balconies

Building height	Habitable rooms & balconies	Non-habitable rooms
Up to 12m (4 storeys)	12m	6m
Up to 25m (5-8 storeys)	18m	9m
Over 25m (9+ storeys)	24m	12m

47. The building envelopes proposed by the section 4.56 modification application do not fully achieve these building separation distances. In non-compliant locations, the modified envelope plans include notations requiring privacy protection measures in the façade.
48. The non-compliances, subject to the notation on the building envelope plans, are considered to be satisfactory and capable of achieving reasonable levels of acoustic and visual privacy (the mitigation measure notation is also generally consistent with the approved building envelope plans which include a similar notation where ADG separation distances are not achieved).
49. The detailed design modification application (D/2023/97/A) demonstrates that daylight and natural ventilation are not compromised by the building separation non-compliances. Additional privacy protection measures (where non-compliant separations are proposed) are to be provided to the Wattle Street Building and Jones Street Building (as set out in modification application D/2023/97/D which is under assessment).

Reasons given by the consent authority for the grant of the consent

50. Section 4.56(1A) of the EP&A Act states that in determining a section 4.56 modification application, the consent authority must take into consideration the reasons given by the consent authority (in this instance the Court) for the grant of the consent that is sought to be modified. A copy of the Land and Environment Judgment for the concept consent is provided at Attachment E. The Commissioner provided the following key reasons for granting consent to the concept consent:
- The height exceedance is owed, in part, to the unique site topography which includes a level difference of approximately 11.5 to 14 metres from the Jones Street property boundary.
 - The proposal appropriately responded to the conditions of each frontage, notably:
 - "In response to the Light Rail interface to the north of the site, the built form is both minimised and setback, preserving existing trees and resulting in an inviting prospect for through-site links adjacent to communal open space on the site, subject to owners consent that Sydney Trains has indicated may be granted subject to conditions..."

- The proposed height of the Wattle Street frontage is designed to be compatible with the street wall established by the former Winchcombe Carson woolstore to the south of the site. Additional height is setback to avoid additional overshadowing to Wentworth Park, and so that it is not visible in the context of the dominant street wall along Wattle Street.
 - Likewise, the Fig Street interface is compatible with the street wall height established by the former wool store to the south of the site, but differs from the other frontages in that no pedestrian links are proposed given the function of Fig Street as a major traffic route into the CBD, and on to Sydney Harbour Bridge. Setbacks are provided, firstly, to Jones Street of 10m in deference to the heritage-listed terrace group, and secondly, the topmost levels setback from Fig Street so that it is not visually a part of the Fig Street presentation.
 - The Concept DA proposes a four-storey street wall height setback 4m from the Jones Street boundary, with additional height setback further to avoid adverse impacts beyond that of a compliant envelope. The additional height which is, in effect, built form relocated from the 4m setback to Jones Street. Such a reallocation of built form is preferable as it provides benefits to the public domain, appropriately scales proposed development when considered in context with existing terraces, allows the sandstone rock face to be visible to public areas and aligns to heritage buildings to the south of the site."
- (c) "... the western views over Wentworth Park currently enjoyed by the Jones Street terrace group... would be lost by a development wholly compliant with the height control... the proposed height... adopts a lower profile that achieves the sharing of views."
- (d) "... strictly applying the 27 metre height plane to the unique topography of site permits a built form along Jones Street that would impose a far greater impact than that which is now proposed as a result of the decision to redistribute the floor space in favour of a lower envelope, and provides a setback accommodating a footpath on an important pedestrian link to the Light Rail station where none exists today."

- (e) In approving the consent concept, the Commissioner provided the following key reasons for supporting the clause 4.6 written request to contravene the height standard:
- "Strict compliance with the height standard is unreasonable or unnecessary... in 3-dimensional terms the topographical condition of the site, and the context of the existing built form adjacent to the site... transition between the proposed new development and heritage items and buildings in the vicinity.
 - ... sufficient environmental grounds to justify the contravention of the height standard... I accept that the exceedance is owed, in part, to the unique topography of the site in the location of the sandstone rock face, and in response to which Building B - Jones Street is setback, and modulated in 3-dimensions so as to transition between the scale of existing development on Jones Street and the height of buildings generally permitted on the site. Furthermore, the exceedance occurs in areas set well back from the boundary lines where adverse impacts can be managed, and where the uppermost levels are least visible from the street frontages.
 - ... the objectives of the B4 zone are achieved. The development... proposes a mix of public and community uses... on a site that imposes constraints, in response to which the exceedance is reasonable. The site is bounded on 3 sides by transport corridors, and on Jones Street by the sandstone rock face that precludes solar access to lower levels that would permit residential uses, and by considerations of heritage places above that. I accept that the location and scale of communal open space, including through site links, will encourage access to, and use of, the Light Rail corridor and encourage walking.
 - I accept that the height of development is appropriate to the condition of the site and its context. In particular... I accept that strictly applying the 27m height plane ... would impose a far greater impact than that which is now proposed as a result of the decision to redistribute the floor space in favour of a lower envelope, and provides a setback accommodating a footpath on an important pedestrian link to the Light Rail station where none exists today."

51. The applicant has considered the Court's reasons for the grant of consent and notes that:

" It is considered that changing the uses of the Fig Street Building and increasing the maximum height of the building would not result in an inconsistency with the reasons given by the NSW Land and Environment Court in granting consent to the Stage 1 Concept Approval. The proposed modifications maintain an appropriate response to the site context and characteristics and the desired future character of the Pyrmont Peninsula. The changes to the building envelope would not result in adverse environmental impacts or detract from the character of the locality."

Condition modifications

52. The proposed modifications to concept consent conditions, an assessment of their acceptability and the recommended conditions of consent are discussed below:

Approved Development

- (a) The section 4.56 modification application seeks consent to modify the description of the approved development to reflect the modified mix of uses (add hotel) and maximum height. This modification is recommended for approval.

Condition (2) Approved development

- (b) The section 4.56 modification application seeks consent to modify condition (2) to reference the modified building envelope plans. This modification is recommended for approval.

Condition (5) Detailed design of buildings

- (c) The section 4.56 modification application seeks consent to delete the words shown in red below from condition (5)(b) which is recommended for approval (a housekeeping change to align conditions (5) and (12)):

(b) A new footpath ~~and street tree planting~~ along the site's frontage to Jones Street, as required by condition 12 below.

Condition (7) Building height

- (d) Condition (7) of the concept consent specifies the maximum height for various elements of each building (eg. roofs, balustrades, lift overruns). The section 4.56 application seeks consent to modify the maximum heights for the Fig Street Building. This modification is recommended for approval.

Concurrence Conditions

- (e) The section 4.56 modification application sought consent to insert the following words shown in red into the TfNSW condition 2:

All buildings and structures together with any improvements integral to the future use of the site, ~~except for footpath awnings and shade fins on the southern and western side of the Fig Street Building,~~ shall be wholly within the freehold property (unlimited in height or depth), along the Wattle Street and Fig Street boundary.

TfNSW advised as part of D/2023/97/A that the proposed shade fins/sun shades extending beyond the property boundary on Fig Street are acceptable, but have not commented on the subject concept modification. This condition is to remain as currently worded, and the proposed amendment to wording is not approved under D/2019/649/C.

Other Impacts of the development

53. The modified development will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the development

54. The proposal is of a nature in keeping with the overall function of the site.

Design advisory panel (DAP)

55. The two modification applications were presented to the DAP on 27 March 2025. The DAP raised a number of concerns (see History section above) that were included RFI#2 (dated 14 April 2025). Additional and amended information has been provided to address the issues raised by the DAP including additional information on privacy and noise protection measures, residential amenity improvements including deletion of north facing wintergardens and the provision of sun shading, wind analysis and noise analysis and amendments to improve the amenity of hotel rooms. The information submitted is deemed to satisfy the questions and request for further information from the DAP as outlined in **Table 6** below.

Table 6: Response to advice of DAP

Design advisory panel advice	
Advice	Comment
Sub-terranean hotel rooms are unacceptable.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
Solar and daylight access requirements must meet ADG objectives, design criteria and guidance.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
Any proposed acoustic treatments must be proven to work, while not impacting on other amenity provisions.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
While the proposed louvre screens do not screen primary windows, it is essential to maintain some outlook from the screened windows.	✓ Addressed by recommended conditions for detailed design modification application (D/2023/97/A).

Design advisory panel advice	
Primary balconies must meet ADG objectives, design criteria and guidance. It is not acceptable to include the wintergardens in the primary open space calculation.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
The roof form needs to be looked at wholistically and integrated into the building architecture.	✓ The approved commercial building incorporated all mechanical plant within the final commercial floor plate with several services—including the lift overrun required to access this level—penetrating the roof, creating a stepped roof form. The modification application introduces an independent plant level, aligning more closely with the approach taken on the Jones Street and Courtyard Buildings. The plant level is screened and paired with a solar PV array, either mounted directly atop the plant or installed on the flat concrete roof surface. The proposed level does not contain any habitable space, and the lift overrun is fully contained within the plant enclosure.
Any retractable awning proposals should be pre-approved in the event owners decide to add them on their developments.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
The Panel did not object to the increase in height (+500mm) given no additional impacts were being generated by the change.	✓ See above.
The Panel recommended referring the application to the Design Advisory Panel Residential Subcommittee for a detailed review.	✓ See below.

Design advisory panel subcommittee residential (DAPSR)

56. The two modification applications were presented to the DAPSR on 1 April 2025. The DAPSR raised a number of concerns (see History section above) that were included in RFI#2 (dated 14 April 2025). Additional and amended information has been provided to address the issues raised by the DAPSR (see DAP comments above). The

information submitted is deemed to satisfy the questions and request for further information from the DAPSR as outlined in **Table 7** below.

Table 7: Response to advice of DAPSR

Design advisory panel subcommittee residential advice	
Advice	Comment
The northern wintergardens are not supported as: • The floor to ceiling glass louvres would restrict activities on the 2 balconies, such as the use of BBQs, and create significant cleaning issues. • They increase the glass-to-glass depth of the building, which when measured using the scale bar provided on the drawings appears to be approximately 22.2m (deepest approved apartments on the site are 16.8m glass to glass). • The depth of the apartment to the back of the kitchen is approximately 11.8m from the wintergarden / northern façade and 9.3m from the living room doors, which limits natural light. • The increased depth combined with the challenges of habitable rooms facing significant traffic noise sources could restrict the airflow through the apartment and challenge cross ventilation performance	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
Operation and configuration of the wintergardens is not clearly resolved or documented, nor is the glazing configuration behind them shown in the 1:200 elevations. The Panel questions if they are necessary, noting that the ADG only considers wintergardens for noise affected locations.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
Incremental changes to the Jones building have been proposed such as additional screens, planters and grilles, however it seems that a more holistic approach to both	✓ The detailed design modification application (D/2023/97/A) has been amended to

Design advisory panel subcommittee residential advice	
buildings should be undertaken to achieve appropriate separation for visual and acoustic privacy, improve the façade design, and to comply with private open space requirements.	address this concern. Comments in relation to the Jones Street building relate to modification application D/2023/649/D which is under assessment.
The proposal for grilles over windows is not supported by the Panel and may not comply with the requirement for 10% of the rooms floor area as window to provide daylight (refer to Objective 4D-1 – 2 of the ADG). The ADG recommends habitable rooms are provided with a minimum of 6m distance for light and outlook.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
Solar access to communal outdoor spaces is not optimal for the two south-facing areas proposed. Privacy fences would be needed to ameliorate impacts on the adjacent apartments. Additionally, these will be impacted by noise from the adjacent street. Consolidating and expanding the communal area to the western setback should be considered.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
Reliance on planting in private open space to address building separation and privacy issues may raise management issues.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
Further consideration of the architectural expression of the hotel and residential elements in relation to context at Wattle Street and Jones Street levels is recommended.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.
The hotel rooms on Levels 03 and 04 are up to 8m below Jones Street level and face the rock cliff. They will not achieve reasonable access to natural light and outlook. External maintenance walkways are also proposed for access to the cliff space. These rooms are not supported by the Panel.	✓ The detailed design modification application (D/2023/97/A) has been amended to address this concern.

Council units

57. The modification applications (D/2023/97/A and D/2019/649/C) were concurrently referred to the following Council teams:
- (a) Building Services
 - (b) Environmental Health
 - (c) Heritage
 - (d) Landscaping
 - (e) Public Domain
 - (f) Survey
 - (g) Transport and Access
 - (h) Urban Design
 - (i) Waste Management
58. The above units advised that the proposal is acceptable subject to modification of the conditions of consent.

External referrals

59. The modification applications (D/2023/97/A and D/2019/649/C) were concurrently referred to TfNSW, Sydney Water and Ausgrid as detailed below. The agencies raised no objections to the proposed modifications subject to conditions which are addressed or included in the recommended conditions of consent in **Attachment A** where relevant.

Advertising and notification

60. The modification applications (D/2023/97/A and D/2019/649/C) were notified concurrently for 28 days from 14 November 2024 - 13 December 2024. Two submissions were received (see **Attachment D**). The amended plans and information were not re-notified as the proposed changes resulted in less impact compared to the original application.
61. The submissions raised the following issues:
- (a) **Issue:** Supporting the change of use from office to hotel.
Response: Noted. This assessment report supports the proposed change of use.
 - (b) **Issue:** Concerns in relation to the accuracy of the NSW Government's dwelling and worker targets in the Pyrmont Ultimo Place Strategy.
Response: This comment is not relevant to the modification applications.

- (c) **Issue:** The development should include affordable housing.

Response: Condition (10) of the Original Consent for D/2023/97 requires the payment of a contribution towards the provision of affordable housing, pursuant to section 7.13 of Sydney LEP 2012. Modification of consent condition (10) in D/2023/97 is recommended to change the contribution amount to reflect the modified mix of uses (increasing the contribution from \$2,500,245.91 to \$____) (see concurrent assessment report).

- (d) **Issue:** Wattle Street at the base of the Fig Street Building should be activated.

Response: The detailed design modification application (D/2023/97/A) includes the hotel entry, reception and bar/lounge at Level 01 of the Fig Street Building; facing Wattle Street. Like the Original Consent, compliance with the flood planning level requires Level 01 to be raised above the footpath level. Notwithstanding, the hotel activities will be clearly visible from Wattle Street.

- (e) **Issue:** A green roof should be provided to improve the design, add to Sydney City and the site's environmental goals, improve biodiversity and increase foliage cover.

Response: Like the Current Concept Consent, the modified building envelope includes plant and photovoltaic panels at the roof level of the Fig Street Building. The detailed design modification application (D/2023/97/A) includes additional on-slab planting at various levels (including the new private and communal roof terraces) to increase the landscape character of the site.

Public Interest

62. It is considered that the modification application will have no detrimental effect on the public interest, subject to modification of the conditions of consent.

Financial Contributions

63. The concept consent is not subject to development or affordable housing contributions. Appropriate contributions have been recommended as part of the detailed design modification application (D/2023/97/A).

Conclusion

64. This section 4.56 modification application proposes changes to the Fig Street Building use and building envelopes. The proposed modifications would align the Concept Consent (D/2019/649) with the detailed design modification application (D/2023/97/A) which has been concurrently lodged and reported to the CSPC.
65. The proposed modifications to the approved building envelope will deliver consistency between staged development application for the site, as required under section 4.24 of the EP&A Act.

66. The modification application satisfies the relevant tests at section 4.56 of the EP&A Act. The development as proposed to be modified is substantially the same as that which was originally approved. Like the concept consent, the proposed modifications would realise a mixed-use development accommodating residential uses and a mix of non-residential uses within a number of separate buildings surrounding a central courtyard located above two levels of car parking, vehicular access from Wattle Street (for cars) and Fig Street (for loading) and a north-south pedestrian through site link between Wattle Street and Jones Street (with additional east-west pedestrian connections proposed).
67. Consistent with section 4.56(1A) of the EP&A Act, approval of the section 4.56 modification application would be consistent with the reasons given by the consent authority (in this instance the Court) for the grant of the consent that is sought to be modified.
68. Subject to conditions, the modification application is generally consistent with the applicable planning provisions including SEPP (Housing), Sydney LEP 2012 and Sydney DCP 2012. Proposed non-compliances have been assessed as having merit in this case and are addressed in this assessment report. New and modified conditions are recommended to address non-compliances where appropriate.
69. The increased height of the building envelopes generally reflects the winning scheme and will not adversely impact the amenity of the surrounding area.
70. The proposed building envelope is capable of accommodating a future building which exhibits design excellence in accordance with s 6.21C of Sydney LEP 2012.
71. The proposed modifications are recommended for approval, subject to the modification of the conditions as set out in Attachment A.

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