

Attachment A

Independent Assessment Report

Section 4.55 Application: 12A and 14-26 Wattle Street, Pyrmont

File Number: D/2023/97/A

Summary**Date of Submission:** 8 November 2024**Amended Plans and Additional Information** 20 March 2025, 30 April 2025, 6 May 2025 and 23 May 2025**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**DAPSR:** 1 April 2025**Cost of Works:** \$331,337,277.00

Zoning: Most of the site (12,361m²) 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 (20m²). The proposed modifications are not located on land in Zone RE1.

Proposal Summary: The section 4.55(2) application seeks consent to modify the detailed design consent for D/2023/97 (the Original Consent). It proposes to change the use of the Fig Street Building from approved commercial/retail premises to

proposed hotel accommodation (142 rooms), residential apartments (50) and retail premises. Changes are also proposed to part of the basement and the Fig Street Building levels above, as well as amended stratum subdivision.

The detailed design modification application is referred to the Central Sydney Planning Committee (**CSPC**) as the cost of works exceeds \$50 million.

A separate and concurrent section 4.56 modification application (D/2019/649/C) has been submitted to Council to align the Court approved concept consent with this detailed design modification application. The section 4.56 modification application has been concurrently reported to the CSPC and is recommended for approval.

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 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.

With a proposed floor space ratio (FSR) of 3.81:1 (47,126m²), the modification application complies with the 4:1 FSR development standard and has an FSR generally consistent with the Original Consent which has an FSR of 3.88:1 (47,954m²).

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 section 4.55 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 assessment 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 4.55 modification application is recommended for approval.

Summary Recommendations The section 4.55 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) Water Management Act 2000 and Water Management (General) Regulation 2018
- (iv) State Environmental Planning Policy (**SEPP**) (Biodiversity and Conservation) 2021
- (v) SEPP (Housing) 2021
- (vi) SEPP (Planning Systems) 2021
- (vii) SEPP (Precincts – Eastern Harbour City) 2021
- (viii) SEPP (Precincts – Regional) 2021

- (ix) SEPP (Building Sustainability Index: BASIX) 2004
- (x) SEPP (Resilience and Hazards) 2021
- (xi) SEPP (Sustainable Buildings) 2022
- (xii) SEPP (Transport and Infrastructure) 2021
- (xiii) Sydney LEP 2012
- (xiv) Sydney DCP 2012
- (xv) City of Sydney Development Contributions Plan 2015
- (xvi) City of Sydney Interim Floodplain Management Policy 2023
- (xvii) City of Sydney Public Art Policy 2011 and City of Sydney Public Art Strategy 2011
- (xviii) City of Sydney Community Engagement Strategy and Participation Plan 2024 Update

Attachments:

- A. Recommended modifications to the conditions of consent
- B. Selected drawings
- C. Drawings approved by D/2023/97
- D. Submissions

Recommendation

It is resolved that consent be granted to section 4.55 application number D/2023/97/A subject to the amendment of the following conditions, with modifications shown in bold italics (additions) and ~~bold strikethrough (deletions)~~ as follows:

Approved Development Description:

Demolition of existing structures, remediation, removal of trees, excavation and construction of a mixed use development comprising residential, commercial, retail, ***hotel***, childcare and indoor recreation centre across five (5) buildings, basement car parking, landscaping, public domain and civil works, and subdivision.

(1) APPROVED DEVELOPMENT

Development must be in accordance with Development Application No. D/2023/97 dated 16 February 2023 and:

...

- (a1) *As amended by the following architectural plans 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-A 01A-XX-00-COM</i>	<i>COVER SHEET</i>	<i>03</i>	<i>22/05/2025</i>
<i>AR-DA-A 01A-XX-05-COM</i>	<i>BASIX COMMITMENTS</i>	<i>01</i>	<i>22/05/2025</i>
<i>AR-DA-A 10B-00-00-COM</i>	<i>GENERAL ARRANGEMENT PLAN - LEVEL 00</i>	<i>02</i>	<i>22/05/2025</i>
<i>AR-DA-A 10B-01-00-COM</i>	<i>GENERAL ARRANGEMENT PLAN - LEVEL 01</i>	<i>02</i>	<i>22/05/2025</i>
<i>AR-DA-A 10B-02-00-COM</i>	<i>GENERAL ARRANGEMENT PLAN - LEVEL 02</i>	<i>02</i>	<i>22/05/2025</i>
<i>AR-DA-A 10B-03-00-COM</i>	<i>GENERAL ARRANGEMENT PLAN - LEVEL 03</i>	<i>02</i>	<i>22/05/2025</i>

AR-DA-A 10B-04-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 03 & LEVEL 04	02	22/05/2025
AR-DA-A 10B-05-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 04 & LEVEL 05	02	22/05/2025
AR-DA-A 10B-06-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 05 & LEVEL 06	02	22/05/2025
AR-DA-A 10B-07-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 06 & LEVEL 07	02	22/05/2025
AR-DA-A 10B-08-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 07 & LEVEL 08	02	22/05/2025
AR-DA-A 10B-09-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 08 & LEVEL 09	02	22/05/2025
AR-DA-A 10B-10-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 09 & LEVEL 10	02	22/05/2025
AR-DA-A 10B-11-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 10 & LEVEL 11	02	22/05/2025
AR-DA-A 10B-12-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 11 & LEVEL 12	02	22/05/2025
AR-DA-A 10B-13-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 13	02	22/05/2025

AR-DA-A 10B-14-00-COM	GENERAL ARRANGEMENT PLAN - LEVEL 14	02	22/05/2025
AR-DA-A 10C-XX-00-COM	ELEVATIONS	02	22/05/2025
AR-DA-A 10C-XX-01-COM	ELEVATIONS	02	22/05/2025
AR-DA-A 10C-XX-02-COM	ELEVATIONS	02	22/05/2025
AR-DA-A 10C-XX-03-COM	ELEVATIONS	02	22/05/2025
AR-DA-A 10C-XX-04-COM	ELEVATIONS	02	22/05/2025
AR-DA-A 10C-XX-10-COM	ELEVATIONS W/O WINTERGARDENS	01	22/05/2025
AR-DA-A 10D-XX-00-COM	SECTIONS	02	22/05/2025
AR-DA-A 10D-XX-01-COM	SECTIONS	02	22/05/2025
AR-DA-A 10D-XX-02-COM	SECTIONS	02	22/05/2025
AR-DA-A 10D-XX-03-COM	SECTIONS	02	22/05/2025
WST-AR-DA-A 10D-XX-10-COM	SECTIONS - CLIFF FACE - SHEET 1	01	22/05/2025
WST-AR-DA-A 10D-XX-11-COM	SECTIONS - CLIFF FACE - SHEET 2	01	22/05/2025
AR-DA-A 46B-06-00-COM	WINDOW TYPE PLAN - LEVEL 05 & LEVEL 06	01	22/05/25

AR-DA-A 46B-07-00-COM	WINDOW TYPE PLAN - LEVEL 06 & LEVEL 07	01	22/05/25
AR-DA-A 46B-08-00-COM	WINDOW TYPE PLAN - LEVEL 07 & LEVEL 08	01	22/05/25
AR-DA-A 46B-09-00-COM	WINDOW TYPE PLAN - LEVEL 08 & LEVEL 09	01	22/05/25
AR-DA-A 46B-10-00-COM	WINDOW TYPE PLAN - LEVEL 09 & LEVEL 10	01	22/05/25

(b) The following stratum subdivision plans

Drawing Number	Drawing Name	Revision	Date
Sheet 1 of 11	Location Plan	B	7/11/2023
Sheet 2 of 11	Level 00 & Below	B	7/11/2023
Sheet 3 of 11	Level 01	B	7/11/2023
Sheet 4 of 11	Level 02	B	7/11/2023
Sheet 5 of 11	Level 03	B	7/11/2023
Sheet 6 of 11	Level 04	B	7/11/2023
Sheet 7 of 11	Level 05	B	7/11/2023
Sheet 8 of 11	Levels 06 & 07	B	7/11/2023
Sheet 9 of 11	Level 08 & Above	B	7/11/2023

Sheet 10 of 11	Section A-A	B	7/11/2023
Sheet 11 of 11	Section B-B	B	7/11/2023
Sheet 1 of 11	Location Plan	H	24/05/2025
Sheet 2 of 11	Level 00 & Below	H	24/05/2025
Sheet 3 of 11	Level 01	H	24/05/2025
Sheet 4 of 11	Level 02	H	24/05/2025
Sheet 5 of 11	Level 03	H	24/05/2025
Sheet 6 of 11	Level 04	H	24/05/2025
Sheet 7 of 11	Level 05	H	24/05/2025
Sheet 8 of 11	Levels 06	H	24/05/2025
Sheet 9 of 11	Level 07 & Above	H	24/05/2025
Sheet 10 of 11	Section A-A	H	24/05/2025
Sheet 11 of 11	Section B-B	H	24/05/2025

(c) The following reports and certificates:

- (i) Acoustic Impact Assessment, prepared by Stantec, dated 1 November 2023 and addendum letters relating to courtyard bedrooms (dated 13 October 2023), podium terraces (dated 28 August 2023) and garbage chute design (dated 1 November 2023);
- (ii) Detailed Natural Ventilation of Apartments in Noisy Environments, prepared by RWDI, dated 17 November 2023 and Detailed Natural Cross Ventilation Analysis, prepared by RWDI, dated 20 February 2024

(iia) Fig Street Building noise, ventilation and wind reports:

- **Noise, Vibration and Natural Ventilation Impact Assessment, prepared by E-LAB Consulting (dated 9 October 2024 as updated 22 May 2025 – Revision 5)**
- **Fig Street Building – 14–26 Wattle Street Pyrmont - Pedestrian Wind Study, prepared by RWDI (dated 18 October 2024) and Fig Street Building - 14-26 Wattle Street, Pyrmont - Review of Updated Drawing**

– Level 9, prepared by RWDI (dated 30 April 2025 as updated 22 May 2025)

(iii) BASIX certificates:

- Jones St Building Certificate No 1349432M_03
- Courtyard Building Certificate No 1349433M_03
- Wattle St Building Certificate No 1349085M_03
- ***Fig Street Building Certificate No. 1769368M_02***
- ***Fig Street Building NatHERs Certificate No. 9824380***

and as amended by the conditions of this consent.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

(Condition amended – 19 June 2025)

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- ~~(a) Building C – Courtyard: The Plant Room Equipment and Parapet Zone height (and any other structures at Level 13 of Building C – Courtyard) is to be reduced by at least 2m (to a maximum of RL 43.55 (AHD))~~
- (b) Child care centre (simulated outdoor space): Vegetable gardens or gardening tubs are to be included within the simulated outdoor spaces.
- (c) ***Communal open space: The communal open space on Level 09 of the Fig Street Building (which is located within the building footprint) is not to be enclosed by glazing. All furniture on communal roof terraces must be fixed.***
- (d) ***Privacy protection measures and wind screens – Fig Street Building: Detailed drawings are required at 1:20, demonstrating the design of all privacy measures (including for all privacy screens/grilles, wind screens, planters and other privacy protection measures). The drawings are to demonstrate that all privacy measures are effective at mitigating overlooking. The drawings must also demonstrate the materials, colours and finishes.***
- (e) ***Privacy protection measures and wind screens – Jones Street Building and Wattle Street Building: Privacy protection measures as illustrated in the Report titled “Fig St S. 4.55 Visual and Acoustic Privacy, 14-26 Wattle Street, Pyrmont” prepared by BVN, dated 20 March 2025, are to be***

provided to the Jones Street Building and Wattle Street Building. Detailed drawings are required as set out at (d) above.

- (f) Fire hydrant boosters, cupboards etc: Detailed drawings at 1:20 of all hydrant boosters are to be prepared, including doors that screen them from the public domain. Details of the materials, colours and finishes are to be provided.*
- (g) Hotel rooms: An access door is to be provided to facilitate maintenance of the inaccessible planted area at Level 03 of the Fig Street Building, located between hotel rooms and the Jones Street pedestrian through site link stair.*
- (h) Residential storage: Residential storage spaces for all apartments are to be provided in accordance with the design criteria at Objective 4G-1 of the ADG. At least 50% of the required storage is to be located within the apartment.*
- (i) Hotel All Day Dining: The Hotel All Day Dining area is to be provided with adequate toilets to meet BCA requirements, based on the assumption that patrons may not be residential guests of the hotel.*
- (j) The retail tenancy illustrated on AR-DA-A 10B-02-00-COM GENERAL ARRANGEMENT PLAN - LEVEL 02 (Rev 02 dated 22/05/2025) is not approved. Instead, the approved building manager's room at Level 2, beneath the pedestrian through site link stairs at Jones Street, is to be retained (as illustrated on AR-DA-A 10B-02-00 GENERAL ARRANGEMENT PLAN - LEVEL 02 (Revision 18 dated 21/02/24)).*

The modifications are to be submitted to and approved by Council's Executive Director City Planning, Development and Transport prior to the issue of a Construction Certificate.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(Condition amended – 19 June 2025)

(3) BUILDING HEIGHT

The height of each building must not exceed the following RLs (AHD):

...

- (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~~ **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~~

Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

Reason

To ensure the constructed development complies with the approved height.

(Condition amended – 19 June 2025)

(4) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio (FSR):

- (a) The FSR of the development must not exceed ~~3.88~~ **3.81**:1. For the purposes of calculating the FSR, the site area is 12,361m² (being the site area of land in Zone MU1 – Mixed Use) and the total Gross Floor Area (GFA) is ~~47,954~~ **47,126**m² comprising the following components:
- (i) Residential: ~~27,208~~ **33,993**m²
 - (ii) Commercial: ~~15,827~~ **201**m²
 - (iii) Retail: ~~426~~ **570**m²
 - (iv) ***(iiia) Hotel*** ~~7,894~~ **7,894**m²
 - (v) Child care centre: 1,810m²
 - (vi) Recreation centre: ~~2,683~~ **2,667**m²
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under Sydney Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

Reason

To ensure the constructed development complies with the approved floor space ratio.

(Condition amended – 19 June 2025)

(8) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD

~~The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample boards, and specifications prepared by BVN dated 03/11/23.~~

A detailed materials and samples board is to be submitted to the Executive Director City Planning, Development and Transport prior to issue of any Construction Certificate for above ground works.

Reason

To ensure all parties are aware of the approved materials and finishes that apply to the development.

(Condition amended – 19 June 2025)

(10) AFFORDABLE HOUSING CONTRIBUTION - ULTIMO PYRMONT - PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION

The Affordable Housing Contribution is as follows:

- (a) Prior to a Construction Certificate being issued and pursuant to Sydney LEP 2012 and the adopted City West Affordable Housing Program, the applicant must pay a monetary contribution towards the provision of affordable housing. The contribution is ~~\$2,500,245.91~~ **\$2,349,847.05**. If the contribution is paid after 30 June of the year in which this consent is granted, the amount of the contribution must be indexed in accordance with the adopted City West Affordable Housing Program.
- (b) To make payment contact Councils Planning Assessment Unit email: planningsystemsadmin@cityofsydney.nsw.gov.au who will index the amount, then provide you with written confirmation of the amount payable and details of how to make the payment at the NSW Department of Planning, Industry and Environment.
- (c) Payment can be made either by bank cheque to the value of the required contribution (made in favour of City West Housing Pty Ltd) or alternatively a satisfactory bank guarantee is to be provided to the value of the required contribution. Evidence of payment or lodgement of a bank guarantee must be provided to the Registered Certifier prior to issue of a construction certificate.
- (d) Prior to issue of any Occupation Certificate being issued or the use commencing, whichever is earlier, the applicant must provide evidence to the Principal Certifier that the bank guarantee referred to in (c) above has been redeemed as payment of the contribution.

Note: All affordable housing contribution payments (and lodgement of bank guarantees) for Ultimo-Pyrmont are paid at the NSW Department of Planning, Industry and Environment.

Reason

To ensure development contributions are paid to contribute to the provision of essential affordable rental housing infrastructure.

(Condition amended – 19 June 2025)

(11) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – WEST PRECINCT

Council has identified the development will increase demand for public amenities and facilities. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act,

1979 (as amended), and the City of Sydney Development Contributions Plan 2015 the following monetary contributions are required towards the cost of public amenities.

Contribution Category Amount

Open Space	\$4,715,612.78	\$4,274,014.91
Community Facilities	\$1,442,913.18	\$1,381,000.01
Traffic and Transport	\$26,062.73	\$12,571.53
Stormwater Drainage	nil	
Total	\$6,184,588.69	\$5,667,586.45

The City of Sydney will index the above contribution for inflation at the time of payment using the following formula.

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

C_{payment} = Is the contribution at time of payment;

C_{consent} = Is the contribution at the time of consent, as shown above;

CPI_{payment} = Is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment; and

CPI_{consent} = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 136.4 for the December 2023.

The contribution must be paid prior to the issue of any Construction Certificate in relation to this development.

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.nsw.gov.au to request a letter confirming the indexed contribution amount payable.

Once the letter confirming the indexed contribution is obtained, payment may be made at any of the City's Neighbourhood Service Centres or the One Stop Shop at Town Hall House. Acceptable payment methods are EFTPOS (debit card only), cash (up to 10K only), Credit Card (up to 50K only) or a bank cheque made payable to the City of Sydney. Personal or company cheques will not be accepted.

Reason

To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

(Condition amended – 19 June 2025)

(48) ALLOCATION OF PARKING

The number of car parking spaces to be provided for the development must comply with the table below. Details confirming the parking numbers must be submitted to the satisfaction of the Registered Certifier prior to the issue of a Construction Certificate.

Car Parking Type	Number
Residential spaces	147 150
Accessible residential spaces	36 43
Residential visitor spaces	5
Office and business parking	19 0
<i>Hotel parking</i>	2
Accessible office and business parking	1
Child care (staff and drop-off) visitor parking	10
Child care (staff and drop-off) / visitor accessible parking	2
Car share parking (residential)	2
Car share parking (commercial non-residential)	1
Subtotal	223 215
Motorcycle parking	20 18
Small Rigid Vehicle loading dock(s)	3
Medium Rigid Vehicle loading dock(s)	2
Total	248 238

Reason

To ensure the allocation of parking is in accordance with the Council's DCP.

(Condition amended – 19 June 2025)

(49) BICYCLE PARKING AND END OF TRIP FACILITIES

- (a) The minimum number of bicycle parking spaces and end of trip facilities to be provided within the site boundary for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Residential	256 287	Spaces must be a class 1 bicycle locker [1] or class 2 bicycle rails
Residential visitor	26 32	Spaces must be Class 2/3 bicycle rails
Non-residential	110 17	Spaces must be Class 2 bicycle facilities
Non-residential visitor	52 6	Spaces must be Class 2/3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	16	
Personal lockers	164	

All bicycle parking spaces and end of trip facility must be provided on private land. The public domain cannot be used to satisfy this condition.

Notes:

- (i) If a basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.
- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Registered Certifier confirming prior to and form part of the Construction Certificate being issued.

Reason

To ensure the allocation of bicycle parking onsite that is in accordance with Australian Standards and the Council's DCP.

(Condition amended – 19 June 2025)

(56) ACOUSTIC AND VENTILATION REPORT

The recommendations outlined in the following reports are to be implemented, with a detailed confirmation of compliance prepared by a qualified wind engineering consultant and acoustic consultant submitted for the approval of Council's Area Planning Manager prior to the issue of the Construction Certificate for construction works:

- (a) "Detailed Natural Ventilation Of Apartments In Noisy Environments" (Ref: RWDI #22065570), prepared by RWDI, dated 17 November 2023 as amended by the report titled "Detailed Natural Cross Ventilation Analysis" (Ref: RWDI # 2206557), prepared by RWDI, dated 20 February 2024; and
- (b) "14-26 Wattle Street, Pyrmont - Acoustic Impact Assessment", prepared by Stantec, dated 1 November 2023.
- (c) ***"Fig Street Building - Noise, Vibration and Natural Ventilation Impact Assessment", prepared by E-LAB Consulting (dated 9 October 2024 as updated 22 May 2025), with the exception of the Communal Open Space on Level 09 of the Fig Street Building, which is not to be enclosed by glazing.***

Reason

To provide a reasonable standard of natural ventilation and acoustic amenity.

(Condition amended – 19 June 2025)

(57) PEDESTRIAN WIND STUDY

The recommendations outlined in the ***following*** reports ~~are to be implemented, with a detailed confirmation of compliance prepared by a qualified wind engineering consultant submitted for the approval of Council's Area Planning Manager prior to the issue of the Construction Certificate for construction works:~~

- (a) "14-26 Wattle Street Pedestrian Wind Study" (Ref: RWDI # 2206557), prepared by RWDI Australia Pty Ltd dated 31 January 2023 and "14-26 Wattle Street, Pyrmont, Sydney Review of Updated Drawings" (RWDI Reference #2206557)
- (b) ***"Fig Street Building – 14–26 Wattle Street Pyrmont - Pedestrian Wind Study", prepared by RWDI (dated 18 October 2024) and "Fig Street Building - 14-26 Wattle Street, Pyrmont - Review of Updated Drawing – Level 9", prepared by RWDI (dated 22 May 2025)***

~~prepared by RWDI Australia Pty Ltd dated 31 October, 2023 are to be implemented, with a detailed confirmation of compliance prepared by a qualified wind engineering consultant submitted for the approval of Council's Area Planning Manager prior to the issue of the Construction Certificate for construction works.~~

(Condition amended – 19 June 2025)

(59) LANDSCAPING OF THE SITE

This condition applies to landscape at grade, deep soil, podium landscape and the through site link.

- (a) A detailed landscape design including plans and details drawn to scale, and technical specification by a registered landscape architect must be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of a Construction Certificate. The design must be generally in accordance with the **following** ~~Stage 2 DA Landscape Design Report, Rev F by Oculus dated 20/02/24 and the Stage 2 Development Application drawing package, Rev 2 by Oculus, dated 20/02/24. The drawings must include:~~

- (i) **Stage 2 DA Landscape Design Report, Rev F, prepared by Oculus dated 20/02/24**
- (ii) **Stage 2 Development Application drawing package, Rev 2, prepared by Oculus, dated 20/02/24**
- (iii) **As amended by the following Fig Street Building package prepared by Oculus:**

Drawing Number	Drawing Name	Revision	Date
WST-LA-DD 001-XX-0000	LEGEND SHEET	04	22/05/25
WST-LA-DD 002-XX-0000	MATERIALS SCHEDULE	07	22/05/25
WST-LA-DD 003-XX-0000	PLANTING SCHEDULE	06	22/05/25
WST-LA-DD 201- 00-0100	GENERAL ARRANGEMENTS - LEVEL 0	04	22/05/25
WST-LA-DD 201- 02-0100	GENERAL ARRANGEMENTS - LEVEL 2	08	22/05/25
WST-LA-DD 201- 03-0100	GENERAL ARRANGEMENTS - LEVEL 3	05	22/05/25
WST-LA-DD 201- 05-0100	GENERAL ARRANGEMENTS - LEVEL 5	05	22/05/25

WST-LA-DD 201-09-0100	GENERAL ARRANGEMENTS - LEVEL 9	05	22/05/25
WST-LA-DD 201-10-0100	GENERAL ARRANGEMENTS - LEVEL 10	05	22/05/25
WST-LA-DD 501-00-0100	PLANTING PLAN - LEVEL 0	01	22/05/25
WST-LA-DD 501-02-0104	PLANTING PLAN - LEVEL 2	01	22/05/25
WST-LA-DD 501-03-0100	PLANTING PLAN - LEVEL 3	01	22/05/25
WST-LA-DD 501-05-0100	PLANTING PLAN - LEVEL 5	01	22/05/25
WST-LA-DD 501-09-0100	PLANTING PLAN - LEVEL 9	01	22/05/25
WST-LA-DD 501-10-0100	PLANTING PLAN - LEVEL 10	01	22/05/25
WST-LA-DD 800-XX-0000	TYPICAL DETAILS – PAVING	06	22/05/25
WST-LA-DD 810-00-0000	TYPICAL DETAILS – WALLS & EDGES	06	22/05/25
WST-LA-DD 840-00-0000	TYPICAL DETAILS – SOFTSCAPE 1	06	22/05/25
WST-LA-DD 841-00-0000	TYPICAL DETAILS – SOFTSCAPE 2	06	22/05/25
WST-LA-DD 856-00-0000	DETAILS – FIG STREET TERRACES	01	22/05/25

The drawings must include:

- (i) Location of existing and proposed planting on the site including existing and proposed trees, planting in natural ground, and planting on structure;
 - (ii) Location and details of existing and proposed structures on the site including, but not limited to, paving walls, services, furniture, shade structures, lighting and other features;
 - (iii) Minimum 1 BBQ to be incorporated into the communal space adjacent to the swimming pool;
 - (iv) Full details of steel heritage interpretation structure, including its construction, use (as appropriate) and maintenance requirements Details of earthworks and soil depths including detailed existing (where appropriate) and proposed levels and any mounding. The minimum soil depths for planting on structure must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding mulch and drainage layers;
 - (v) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity;
 - (vi) Details of drainage, waterproofing and watering systems;
 - (vii) Landscape maintenance plan ***prepared generally in accordance with the advice titled Pyrmont Place 14-26 Wattle Street Pyrmont | Methodology for Accessing Façade Perimeter Planter and Vegetation Areas Using IRATA Rope Access Methods, prepared by Karabiner, dated 17 March 2025. This Landscape maintenance plan is to be complied with during occupation of the property.***
 - (viii) ***Details illustrating the design, structure and planning of the planter box at the Jones Street boundary, adjoining the void to the Fig Street Building. The Landscape Maintenance Plan (see above) must consider this planter.***
- (b) Prior to the issue of an Occupation Certificate, the deep soil area must be constructed as approved on drawing ARDAA 10B0100, Issue 20 by BVN. Where relatively natural soil does not exist, photographic evidence of installation of clean fill, in accordance with approved details, must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager.
- (c) All landscaping in the approved plan is to be complete prior to any Occupation Certificate being issued.

Reason

To ensure that the development is supported by a good quality, buildable landscape scheme that meets the City's controls.

(Condition amended – 19 June 2025)

(60) ACCESSIBLE GREEN ROOFS RECOMMENDED

This condition relates to accessible roof terraces on Fig Street building levels 9 and 10, and located on the Wattle Street, Jones Street and Courtyard buildings.

- (a) A detailed green roof plan including plans and details drawn to scale, and technical specification, by a registered landscape architect must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager prior to the issue of a Construction Certificate. The design must be generally in accordance with the Stage 2 DA Landscape Design Report, Rev F by Oculus dated 20/02/24 and the Stage 2 Development Application drawing package, Rev 2 by Oculus, dated 20/02/24, **and as amended by Stage 2 Development Application drawing package for the Fig Street Building listed in Condition (59) of this consent.** The drawings must include:
- (i) A statement that includes details of proposed use of the green roof, accessibility, and any noise and privacy treatments.
 - (ii) A detailed design review of all planters to the edges of roofs that are positioned beyond the balustrade. Where safe and easy access is not practicable, these are to be removed.
 - (iii) Location and details of existing and proposed services, walls, balustrades, hard surfaces, furniture, screens and shade structures, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.
 - (iv) Engineers report confirming structural capacity of building for proposed roof terrace loads.
 - (v) Details of soil types and depth including any mounding. The minimum soil depths for planting on structure must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding mulch and drainage layers.
 - (vi) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.
 - (vii) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer.
 - (viii) Green roof maintenance plan. This plan is to be complied with during occupation of the property and must include any relevant maintenance methodology for safe working at height such as access requirements, location of any anchor points, gates, and transport of materials and green waste.
- (b) Prior to the issue of an Occupation Certificate, structural and waterproofing certifications for the green roof are to be submitted to and approved by the Principal Certifying Authority.
- (c) All landscaping in the approved plan must be complete prior to the issue of an Occupation Certificate.

Reason

To ensure that the accessible green roof is designed to accommodate suitable landscaping and to ensure that adequate maintenance procedures are put in place.

(Condition amended – 19 June 2025)

(60A) INACCESSIBLE GREEN ROOFS

This condition applies to inaccessible green roofs located on level 5 and beyond balustrade on levels 9 and 10 of the Fig Street building, and on the Wattle Street, Jones Street buildings.

- (a) Plans and details drawn to scale, and technical specification, prepared by a registered landscape architect must be submitted to and approved by Council's Area Planning Manager/Area Coordinator Planning Assessments prior to the issue of any Construction Certificate for any basement construction. These documents must be generally in accordance with the Stage 2 DA Landscape Design Report, Rev F by Oculus dated 20/02/24 and the Stage 2 Development Application drawing package, Rev 2 by Oculus, dated 20/02/24, and as amended by Stage 2 Development Application drawing package for the Fig Street Building listed in Condition (59) of this consent.*
- (b) The drawing set must demonstrate full coordination with plans prepared by the architect, engineers, and specialist safety experts. These documents must include:*
 - (i) Location and details of existing and proposed services, walls, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.*
 - (ii) Engineers report confirming structural capacity of building for proposed green roof loads.*
 - (iii) Details of soil types and depth including any mounding.*
 - (iv) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer.*
 - (v) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.*
 - (vi) Green roof maintenance plan. This plan is to be complied with during occupation of the property and must include any relevant maintenance methodology for safe working at height such as access requirements, location of any anchor points, fall arrest system, lockable maintenance gates, and transport of materials and green waste.*

- (vii) A plan outlining the intended strategy for decommissioning if planting works fail. This is to ensure green roof maintained is throughout its life.*
- (b) Prior to the issue of an Occupation Certificate, structural and waterproofing certifications for the green roof are to be submitted to and approved by the Principal Certifying Authority.*
- (c) All landscaping in the approved plan must be complete prior to the issue of an Occupation Certificate.*
- (d) Inaccessible green roofs must remain inaccessible for the lifetime of the property.*

Reason

To ensure that the inaccessible green roof is designed to accommodate suitable landscaping and to ensure that adequate maintenance procedures are put in place.

(Condition amended – 19 June 2025)

(62) REFLECTIVITY AND GLAZING

- (a) Prior to issue of the Construction Certificate the Registered Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20%.*
- (b) All glazing is to have a Visible Light Transmission (VLT) no less than 50%.*

Reason

To ensure the development does not result in adverse reflectivity impacts and to protect the amenity of the public domain ***and to avoid darkened glass.***

(Condition amended – 19 June 2025)

(63) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the ~~DA Acoustic Impact Assessment prepared by Stantec, dated 1 November 2023, ref 301350642 rev. 005, titled 'Acoustic Impact Assessment', Council Ref 2023/633671~~ **following reports** must be implemented in the development prior to the commencement of its use.:*
 - (i) DA Acoustic Impact Assessment prepared by Stantec, dated 1 November 2023, ref 301350642 rev. 005, titled 'Acoustic Impact Assessment', Council Ref 2023/633671*
 - (ii) Noise, Vibration and Natural Ventilation Impact Assessment, prepared by E-LAB Consulting (dated 9 October 2024 as updated 22 May 2025)*

- (b) Prior to the issue of any relevant Construction Certificate, the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant* (see definition below). This work will be to the satisfaction of the Registered Certifier.
- (c) Prior to the issue of any Occupation Certificate, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above.

Note: Suitably Qualified Acoustic Consultant means a consultant who possesses the qualifications to join the Australian Acoustical Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustical Consultants (grade of member firm).

- (c) (d) All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times.

Reason

To ensure all parties are aware of the supporting documentation that applies to the development.

(Condition amended – 19 June 2025)

(157) RESTRICTION ON RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

- (a) The **residential** accommodation portion of the building (Building B – Jones Street (Level 04 to Level 10), Building C – Courtyard Building (all levels), Wattle Street Building (Level 02 to Level 10) **and Fig Street Building (Level 06 to Level 10)** must be used as permanent residential accommodation only and not for the purpose of a boarding house or hostel, hotel or motel accommodation, serviced apartments, tourist and visitor accommodation or the like, other than in accordance with the Sydney Local Environmental Plan 2012.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from “residential accommodation” pursuant to Sydney Local Environmental Plan 2012. The covenant is to be registered on title prior to any Occupation Certificate being issued or the use commencing, whichever is earlier. The covenant must contain terms reasonably required by Council and will be drafted by Council's solicitor, at the cost of the applicant, in accordance with the City's Fees and Charges.
- (c) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (d) No person can advertise or organise the use of residential apartments approved under this consent for short term accommodation or share accommodation.

Reason

To ensure the residential accommodation portion of the site is used for permanent residential purposes.

(Condition amended – 19 June 2025)

(176A) OPERATION OF WINTERGARDENS

Prior to the issue of any Occupation Certificate for residential accommodation in the Fig Street Building, a plaque is to be installed in all dwellings that rely on wintergardens for acoustic amenity and natural cross ventilation explaining how the wintergardens mechanism can be operated.

(Condition amended – 19 June 2025)

(176B) HOTEL PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the 'Plan of Management, Proposed Hotel, 14-26 Wattle Street, Pyrmont, Sydney', prepared by Gyde Consulting dated 2 October 2024 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

A full and current copy of all current development consents for the operation of the licensed premises, and [where applicable] the Plan of Management must be kept on-site and made available to Police or Council Officers, or Special Investigator upon request.

Reason

To ensure all parties are aware of the approved supporting documentation that applies to the development.

(Condition amended – 19 June 2025)

TRANSPORT FOR NSW – CONCURRENCE

TfNSW has reviewed the submitted application and would provide concurrence to the proposed civil works on the Wattle St and Fig St frontages under Section 138 of the Roads Act 1993, subject to Central Sydney Planning Committees approval and the following requirements being included in the development consent

1. All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site shall be wholly within the freehold property (unlimited in height or depth), along the Wattle Street and Fig Street boundary. ~~Shade fins must be located within the property boundary.~~
2. The construction of the median island on the Wattle Street frontage, stormwater drainage, vehicular crossings and associated works on the Wattle Street and Fig Street shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email at DeveloperWorks.Sydney@transport.nsw.gov.au.

Detailed design plans of the proposed works are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any

road works. Please send all documentation to
development.sydney@transport.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- ~~3. A Construction Traffic Management Plan (CTMP) shall be submitted in consultation with the TfNSW Sydney Coordination Office (SCO), TfNSW and Sydney City Council, prior to the issue of a Construction Certificate. The CTMP needs to include, but not be limited to, the following: construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control, taking into consideration the cumulative traffic impacts of other developments in the area.~~

Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier, the applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with TfNSW. Please send information to development.ctmp@cjp@transport.nsw.gov.au

4. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Please send all documentation to
development.sydney@transport.nsw.gov.au.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

5. All vehicles shall enter and exit the site in a forward direction.
6. If not already in place, "No Stopping" restrictions shall be implemented along the full Wattle Street and Fig Street frontage of the development site at no cost to TfNSW.
7. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018.
8. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
9. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the surrounding state road network during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.
10. The proposed development should be designed such that road traffic noise from Wattle Street is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy

(Infrastructure) 2007. As such, prior to the issuing of the Construction Certificate, the developer must demonstrate to Council that road traffic noise from Wattle Street has been mitigated to comply with the above and has regard for the applicable requirements in the NSW Government's Development Near Rail Corridors and Busy Roads – Interim Guideline, 2008 with applicable requirements being details on the Construction Certificate plans.

(Condition amended - 19 June 2025)

Transport for NSW (TfNSW) Infrastructure and Light Rail Operations

General

1. ***The applicant must comply with all Altrac Light Rail Partnership (Altrac) or any subsequent operator of Sydney Light Rail (Sydney Light Rail Operator) policies, rules and procedures when working in and about the Sydney Light Rail corridor,***
2. ***The applicant must comply with the requirements of T HR CI 12090 ST Air Space and External Developments version 1.0 and Development Near Rail Corridors .and Busy Roads- Interim Guidelines;***
3. ***Activities of the applicant must not affect and/or restrict Sydney Light Rail operations without prior written agreement between the applicant, Transport for NSW (TfNSW), Altrac, and the Sydney Light Rail Operator; and it is a condition precedent that such written agreement must be obtained no later than two (2) months prior to the activity. Any requests for agreement are to include as a minimum the proposed duration, location, scope of works, and other information as required by the Sydney Light Rail Operator;***
4. ***The applicant must apply to Altrac and the Sydney Light Rail Operator for any required network shutdowns four (4) months prior to each individual required network shutdown event. Each request for network shutdown must include as a minimum the proposed shutdown dates, duration, location, scope of works, and other information as required by the Sydney Light Rail Operator. The Sydney Light Rail Operator may grant or refuse a request for network shutdown at its discretion;***
5. ***The applicant shall provide safe and unimpeded access for Sydney Light Rail patrons traversing to and from the Sydney Light Rail stops at all times;***
6. ***TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought;***
7. ***All boundary fencing is to be replaced to the satisfaction of TfNSW and the Sydney Light Rail Operator at the cost of the applicant and at no cost to the Transport Asset Holding Entity (TAHE) or TfNSW;***
8. ***During all stages of the development extreme care shall be taken to prevent any form of pollution entering the light rail corridor. Any form of pollution that arises***

as a consequence of the development activities shall remain the full responsibility of the applicant; and

9. *All TfNSW, Altrac and Sydney Light Rail Operator's costs associated with review of plans, designs and legal must be borne by the applicant.*

Prior to the issue of the Construction Certificate

Review and endorsement of documents

Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever occurs first, the applicant should consult with TfNSW, Altrac and the Sydney Light Rail Operator to confirm the timing of each construction certificate and associated documentation and activities prior to the preparation of requested documentation. The applicant should provide the information to TfNSW for review and endorsement. The Principal Certifying Authority (PCA) is not to issue the relevant Construction Certificate until they have received written confirmation from TfNSW that the following conditions have been complied with.

- *Prior to the issue of any Construction Certificates, the applicant is to confirm in writing with TfNSW what each Construction Certificate stage will involve;*
- *Prior to the issue of the relevant Construction Certificate, the applicant shall liaise with TfNSW to ascertain its requirements in relation to the protection of TfNSW's infrastructure. The applicant is to submit to TfNSW all relevant documentation as requested by TfNSW and obtain TfNSW's written endorsement; and*
- *Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever occurs first, the following documentation shall be provided for the TfNSW endorsement:*
- *Final geo-technical and structural report / drawings. Geotechnical reports should include any potential impact on the light rail corridor located adjacent to the subject development site, easement and substratum;*
- *Final construction methodology with construction details pertaining to structural support during excavation or ground penetration. Any temporary components, for example, shoring systems, formwork and falsework, that are located such that their failure has the potential to affect rail infrastructure facilities or operations shall have a minimum service life of 10 years;*
- *Details of the vibration and movement monitoring system that will be in place before excavation commences;*
- *Final cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor located adjacent to the subject development site. Cross sectional drawings should also include the accurate RL depths and horizontal distances from assets (tracks, overhead lines, structures and cables) to the nearest point of excavation or*

ground penetration works. All measurements are to be verified by a Registered Surveyor; and

- *Detailed survey plan.*

Pedestrian Connection to the Wentworth Park Light Rail stops

Prior to the issue of a Construction Certificate the person acting upon this consent is to enter into an Access Licence with TAHE, to permit access at \$1 over the newly created access points.

Pre-construction Work Dilapidation Report

A pre-construction work Dilapidation Report of the Sydney Light Rail and its assets shall be prepared by a qualified structural engineer. The dilapidation survey shall be undertaken via a joint site inspection by the representatives of the Sydney Light Rail Operator, TfNSW and the applicant. These dilapidation surveys will establish the extent of existing damage and enable any deterioration during construction to be observed.

Acoustic Assessment

Prior to the issue of the relevant Construction Certificate, the final acoustic assessment is to be submitted to the PCA demonstrating how the proposed development will comply with the Department of Planning's document titled, "Development Near Rail Corridors and Busy Roads - Interim Guidelines". All recommendations of the acoustic assessment are to be incorporated in the construction documentation.

Electrolysis Analysis

Prior to the issue of the relevant Construction Certificate, the applicant is to engage an Electrolysis Consultant to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the PCA with the application for the relevant Construction Certificate.

Reflectivity Report

Prior to the issue of the relevant Construction Certificate, the applicant shall design lighting, signs and surfaces with reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor limiting glare and reflectivity to the satisfaction of Altrac, TfNSW and the Sydney Light Rail Operator.

Balconies and Windows

Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20 metres of, and face, the rail corridor, the development must have measures installed, to the satisfaction of TfNSW (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. The Principal Certifying

Authority is not to issue the Construction Certificate until written confirmation has been received from TfNSW confirming that this condition has been satisfied.

Consultation Regime

Prior to the issue of the relevant Construction Certificate, a detailed regime is to be prepared for consultation with and approved by TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW.

Insurance Requirements

Prior to the issue of the relevant Construction Certificate, the applicant must hold current public liability insurance cover for a sum acceptable to TfNSW. TfNSW's standard liability insurance requirement for this type of development adjacent to a rail corridor is minimum of \$250M. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The applicant is to contact TfNSW to obtain the level of insurance required for this particular proposal. Prior to issuing the relevant Construction Certificate the PCA must witness written proof of this insurance in conjunction with TfNSW's written advice to the applicant on the level of insurance required.

Works Deed / Agreements

Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever occurs first, if required by TfNSW, Works Deed (s) between the applicant, TfNSW and/or Altrac and the Sydney Light Rail Operator must be agreed and executed by the parties. These agreements may deal with matters including, but not limited to, the following:

- ***Sydney Light Rail Operational requirements;***
- ***Sydney Light Rail access requirements;***
- ***Altrac and Sydney Light Rail Operator policies, rules and procedures compliance requirements;***
- ***Indemnities and releases;***
- ***Security of costs;***
- ***Insurance requirements and conditions;***
- ***TfNSW, Altrac and the Sydney Light Rail Operator's recovery of costs from the applicant for costs incurred by these parties in relation to the development (e.g. review of designs and reports, legal, shutdown /power outages costs including alternative transport, customer communications, loss of revenue etc) risk assessments and configuration change processes;***
- ***Interface coordination between the Sydney Light Rail Operator and the subject development construction works, including safety interface;***

- *Interface Assess Deed Poll and Safety Interface Agreement between the applicant and the Sydney Light Rail Operator must be agreed and executed by the parties. This agreement may deal with matters including, but not limited to, the following:*
 - *Pre and post construction dilapidation reports;*
 - *Any removal or changes to structures or landscape beds within TAHE owned areas;*
 - *The need for track possessions;*
 - *Review of the machinery to be used during excavation/ground penetration / construction works;*
 - *The need for track monitoring;*
 - *Design and installation of lights, signs and reflective material;*
 - *Endorsement of Risk Assessment/Management Plan and Safe Work Method Statements (SWMS);*
 - *Endorsement of plans regarding proposed craneage and other aerial operations;*
 - *Erection of scaffolding/hoarding;*
 - *Light Rail Operator's rules and procedures; and*
 - *Alteration of rail assets such as the OHW along of track and associated hoarding demarcation system, if undertaken by the applicant.*
- *Altrac and the Sydney Light Rail Operator's reviews and impact assessment of the applicant's proposal, engineering design and construction works methodology on Sydney Light Rail Operations and assets;*
- *Attendance and participation in the construction works risk assessment of construction activities to be performed in, above, about, and/or below the Sydney Light Rail Corridor;*
- *Arrangements for shutdowns and Sydney Light Rail restricted operations related costs attributed to the applicant; and*
- *Sydney Light Rail site works access approval and access permit to work.*

During Construction

- *Construction vehicles shall not be stopped or parked on Wattle Street adjacent to the proposed development at any time without prior approval of TfNSW;*
- *Safe Work Method Statement describes the specific hazards identified for the high risk construction work to be undertaken and the control measures*

shall be in place so the work is carried out safely including machinery to be used/operated especially tower cranes/mobile cranes with associated safety measures to be taken;

- All piling and excavation works are to be supervised by a geotechnical engineer experienced with such excavation projects;*
- No rock anchors/bolts (temporary or permanent) are to be installed into the light rail corridor;*
- No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment unless a physical barrier such as a hoarding or structure provides separation;*
- During all stages of the development extreme care shall be taken to prevent any form of pollution entering the light rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant;*
- The applicant must mitigate noise and vibration to the extent possible and provide vibration monitoring equipment and provide the results to the Sydney Light Rail Operator at intervals required by TfNSW and the Sydney Light Rail Operator, and immediately implement corrective actions in the event that the noise or vibration exceeds acceptable limits;*
- Rainwater from the roof must not be projected and/or falling into the rail corridor/assets and must be piped down the face of the building which faces the rail corridor. Given the site's location next to the rail property, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from TfNSW and the Sydney Light Rail Operator (or the delegated authority); and*
- No scaffolding is to be use within 6 horizontal metres of the rail corridor unless prior written approval has been obtained from the Sydney Light Rail Operator and TfNSW and a physical barrier such as a hoarding or structure provides separation. To obtain approval the applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor.*

Prior to the Issue of the Occupation Certificate

Post-construction Dilapidation Report

Prior to the Issue of the Occupation Certificate, a post-construction dilapidation survey shall be undertaken via a joint inspection with representatives from TfNSW, Altrac, the Sydney Light Rail Operator and the applicant. The dilapidation survey will be undertaken on the rail infrastructure and property in the vicinity of the project. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report to TfNSW and the Sydney Light Rail Operator will be required unless otherwise notified by TfNSW.

The applicant needs to undertake rectification of any damage to the satisfaction of TfNSW and the Sydney Light Rail Operator and if applicable the local council.

Reflectivity Report

Prior to the Issue of the Occupation Certificate, the applicant shall demonstrate that lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor were installed limiting glare and reflectivity to the satisfaction of TfNSW, Altrac and the Sydney Light Rail Operator.

Pedestrian Connection to the Wentworth Park Light Rail Stops

Prior to the Issue of the Occupation Certificate, the licence agreement that was entered between TAHE and the applicant prior to obtaining the Construction Certificate must be novated to the Strata Corporation once the Strata Plan is created. Evidence of this agreement being incorporated into the Strata Management Plan must be provided to TAHE's satisfaction. Please contact TAHE's property representatives at Property@transport.nsw.gov.au;

Prior to the Issue of the Occupation Certificate., any removal or changes to structures or landscape beds within TAHE owned areas are to be made good to the satisfaction of TfNSW and the Sydney Light Rail Operator at the cost of the applicant and at no cost to TAHE or TfNSW.

(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 4.55(2)(a) of the EP&A Act.
- (B) The proposed modifications ensure that the detailed design development consent will be consistent with the concept consent (D/2019/649 as modified) to satisfy section 4.24 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 which is capable of 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

10. 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.
11. 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.
12. 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.
13. 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.
14. The site is identified as being subject to flooding.
15. 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.
16. 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.
17. 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.
18. 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

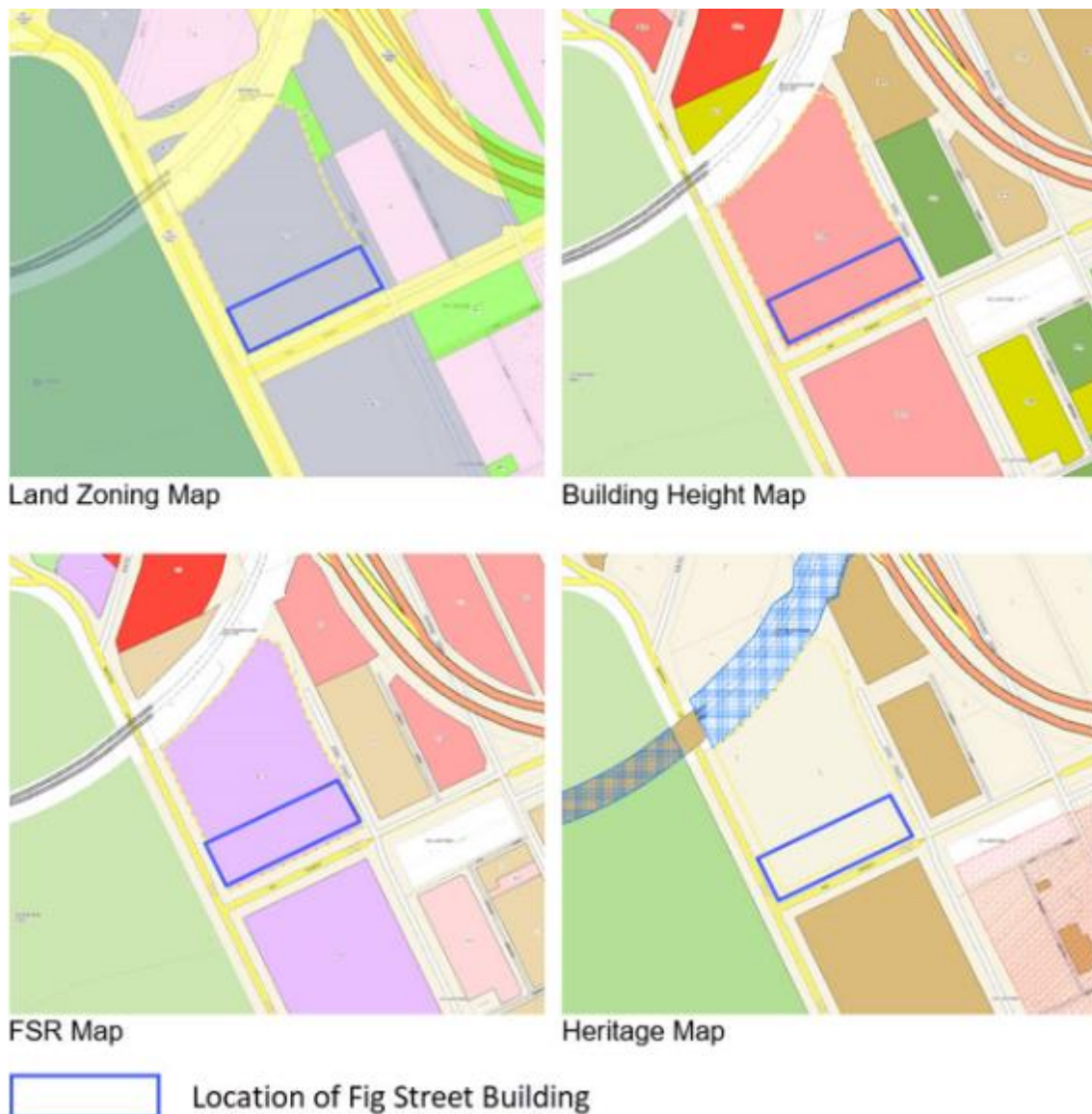


Figure 6: Sydney LEP 2012 Land Zoning Map, Building Height Map, Floor Space Ratio Map and Heritage Map

History relevant to the section 4.55 modification application

Concept development application - D/2019/649

19. 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.
20. 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. 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.

21. 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.
22. The following section 4.56 modification applications have been submitted to Council to modify the 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 assessment report) was approved as a commercial/retail 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 being the application considered in this assessment report. The section 4.56 modification application has been concurrently reported to the CSPC and is recommended for approval subject to modified conditions. Refer to the separate assessment report for details.

Competitive design process

23. 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.
24. 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.
25. 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.
26. 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)

27. 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)

28. 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(2) modification application is considered in this assessment report.
- (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. The modification application was lodged on 2 January 2025 and is being assessed.

History relevant to the section 4.55 modification application (D/2023/97/A)

29. A chronology of key events relevant to the section 4.55 modification application (and the accompanying s. 4.56 modification application D/2019/649/C) follows:
- (a) **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.
 - (b) **8 November 2024:** The two modification applications (D/2019/649/C and D/2023/97/A) were lodged.
 - (c) **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.
 - (d) **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.

- (e) **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).
- (f) **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 DAPSR for a detailed review.
- (g) **1 April 2025:** The Design Advisory Panel Subcommittee Residential (**DAPSR**) 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.

- (h) **14 April 2025:** Council sent RFI #2 to the applicant noting the comments of the DAP and DAPSR.
- (i) **30 April, 6 May and 23 May 2025:** The applicant responded to RFI #2. The combined changes proposed by the applicant in response to RFI#1 and RFI#2 are listed below:
 - (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 consisting of:
 - (i) A covered area with barbeque facilities and a wrap-around, dual-aspect terrace with city, district and local park views; and
 - (ii) Two additional terraces adjacent to the central and western lift lobbies, suitable for working from home activities.
 - (iii) Deletion of 1 x 2-bedroom apartment (giving a total of 50 apartments).
 - (iii) Additional information on privacy protection measures where departure from the numerical separation provisions of the ADG occurs.
 - (iv) Deletion of wintergardens in the northern elevation (where apartments are not noise affected). Reducing the GFA when compared with the submitted modification.
 - (v) Provision of additional information in relation to solar access, natural cross ventilation, window treatments and acoustic/wind amenity within the new Level 09 communal open space areas.
 - (vi) Reconfiguration of the subterranean hotel rooms at Levels 03 and 04 and provision of operable awning windows to hotel rooms on the northern elevation.
 - (vii) Provision for retractable awnings at the upper level residential terraces.
 - (viii) Provision of an additional canopy tree within the through-site link.
 - (ix) Provision of additional information in relation to access to and maintenance of the perimeter planters.
 - (x) Amendment of the adaptable apartment layout.
 - (xi) Provision of a storage location for the bin mover within the loading dock.
 - (xii) Response to the comments from TfNSW including:
 - (i) Deletion of the shading fins on the southern elevation of the building (which were not contained within the site)
 - (ii) Deletion of the coach drop-off / pick-up zone on Wattle Street.
 - (xiii) Coordination of reports and specialist reports.

Proposed modification

30. The section 4.55 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. The modified building will contain the following:
 - Level 01: Bar/lounge, reception and car parking and drop-off bay for the hotel on,
 - Level 02: All-day dining and meeting/function rooms and a gymnasium and three residential entry lobbies accessed from the through site link
 - Levels 02 to 05: 142 hotel rooms and a retail tenancy (at Level 05)
 - Levels 06 to 10: 50 residential apartments comprising:
 - (i) 1-bedroom: 4
 - (ii) 2-bedroom: 11
 - (iii) 3-bedroom: 32
 - (iv) 4-bedroom: 3and residential communal open spaces (Level 09).
 - (ii) Level 11: Rooftop plant, services and photovoltaic panels.
 - (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 which widens the approved pedestrian through site link.
 - (c) Modifications to the façades of the building, including adjustments to the fenestration and detailing to reflect the modified uses. Changes to materiality, such as screens to plant room areas.
 - (d) Modifications to the landscape design at the podium and upper levels.
 - (e) Reduction in car parking, motorcycle parking and bicycle parking (as a result of the modified mix of uses), relocation of bicycle storage and reconfiguration of plant rooms.
 - (f) Modification of the cliff face excavation line.
 - (g) Installation of privacy protection measures including screens and planters (privacy protection measures to the Wattle Street Building, Jones Street Building and Courtyard Building are proposed in modification application D/2023/97/D).
 - (h) Use of the area under the staircase of the through-site link as storage associated with the communal facilities within the Jones Street Building (this area was approved to be part of the Fig Street Building).

31. Modification of consent conditions (1), (2), (3), (4), (8), (10), (11), (48), (49), (56), (57), (59), (60), (61), (62), (63), (64), (157) and new conditions (177) and (178).
32. **Table 1** compares the Original Consent (D/2023/97) with the section 4.55 modification application (D/2023/97/A). Plans, elevations and photomontages comparing the Original Consent and section 4.55 modification application follow at **Figures 9 to 25**.

Table 1: Comparison of the original consent and modification application

	Original Consent (D/2023/97)	Modification application (D/2023/97/A)	Change
Number of buildings	Five	Five	-
Building height (m)			
• Jones Street Building	30.78 – 33.78	No change	-
• Courtyard Building	42.37 – 42.46	No change	-
• Wattle Street Building	33.36 – 33.95	No change	-
• Fig Street Building	35.14 / 9 storeys RL37.95 to PV cells	35.64 / 10 storeys RL38.45 to top of plant	+0.5
FSR	3.88:1	3.81:1	
GFA/uses (m²)			
• Residential	27,208	33,993	
• Commercial	15,827	201	
• Retail	426	570	
• Childcare	1,810	1,801	
• Indoor recreation	2,683	2,667	
• Hotel	-	7,894	
• Total	47,954	47,126	-828
Non-residential GFA (m²)	20,746 (43%)	13,133 (28%)	-7,613

	Original Consent (D/2023/97)	Modification application (D/2023/97/A)	Change
Hotel rooms	-	142	+142
Apartments	237	287	+50
Residential amenity			
Naturally ventilated apartments (first 9 floors)	61%	Fig Street Building 64% All Buildings 61%	
Apartments receiving at least 2 hours of midwinter sunlight			
Living rooms		Fig Street Building 28% All Buildings 38%	
Private open space		Fig Street Building 76% All Buildings 78%	
Apartments receiving no sun	Nil	Fig Street Building 14% All Buildings 2.4%	
Communal open space (% site area/ m²)	22.5% (2,783)	24.4% (3,022)	+239
Deep soil landscape area (% site area)	7%	7%	-
Parking			
Cars	223	215	-8
Motorcycle	20	18	-2
Bicycle	444	342	-102
Loading	5	5	

Approved



Proposed - Fig Street Building modifications

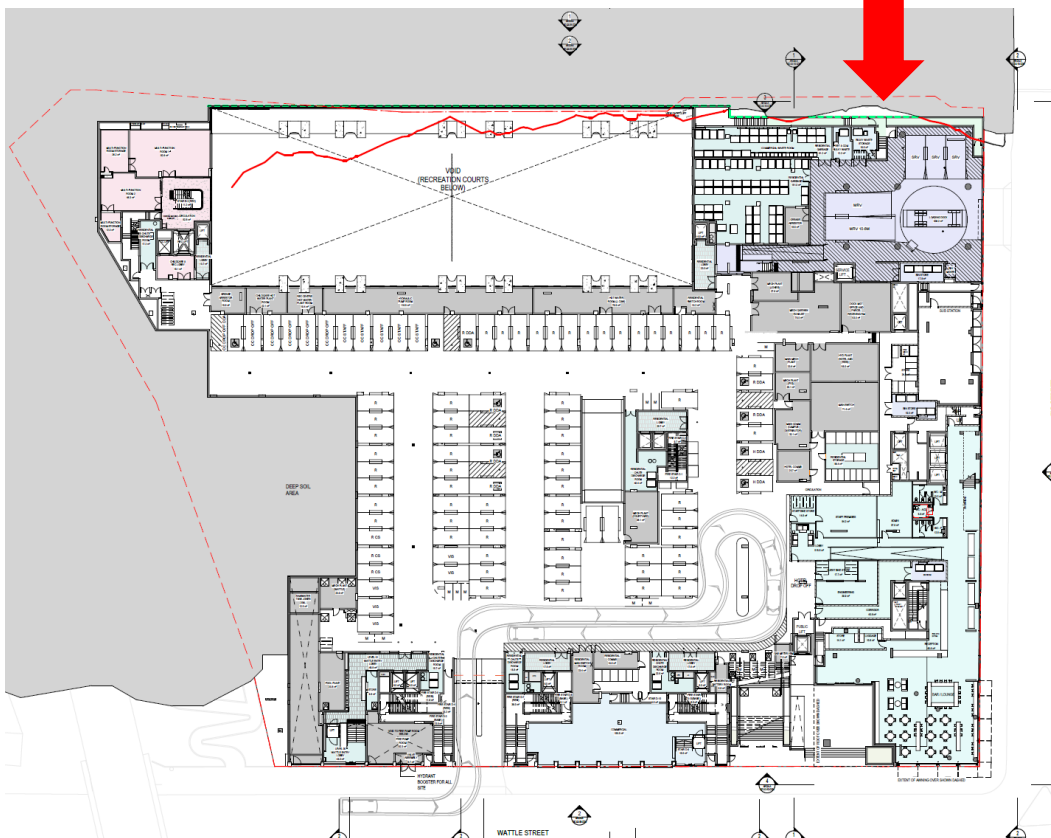


Figure 9: Level 01

Approved

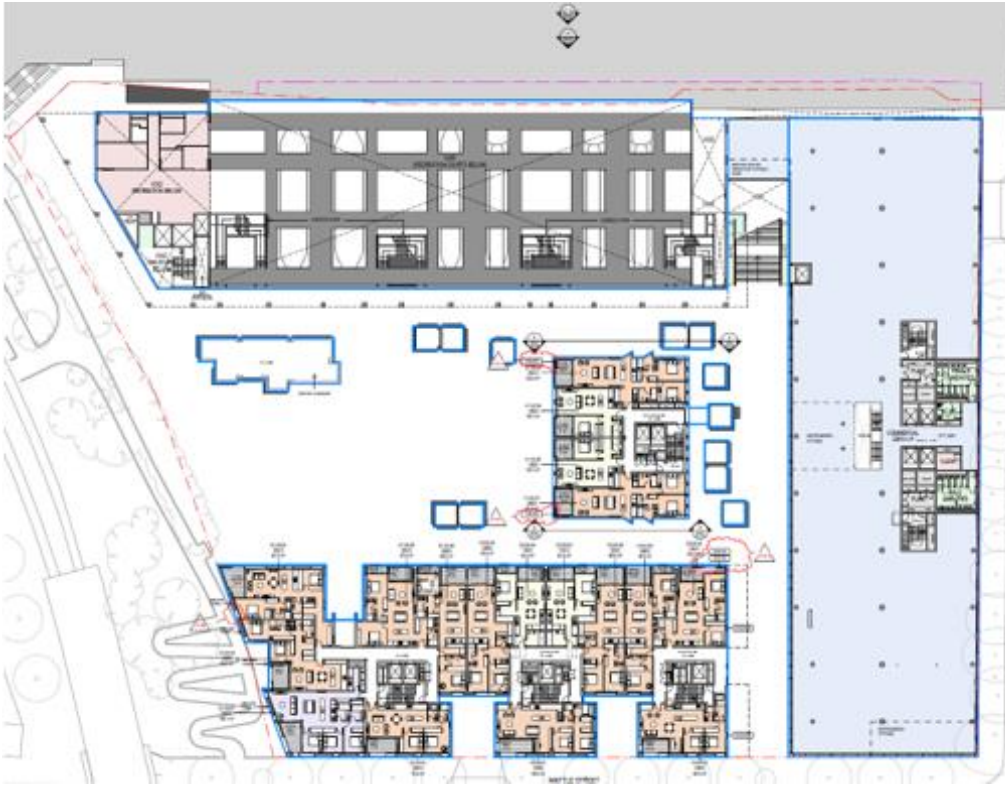


Proposed - Fig Street Building modifications



Figure 10: Level 02

Approved



Proposed - Fig Street Building modifications



Figure 11: Level 03

Approved



Proposed - Fig Street Building modifications

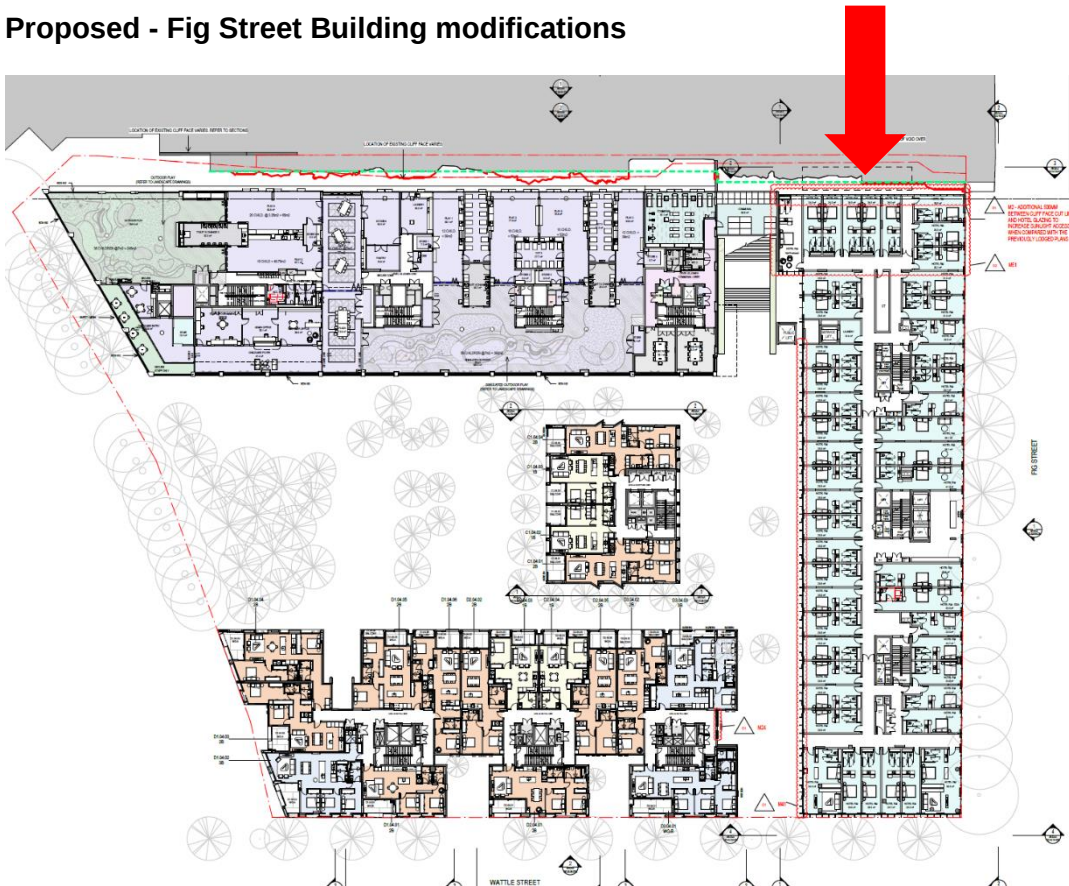
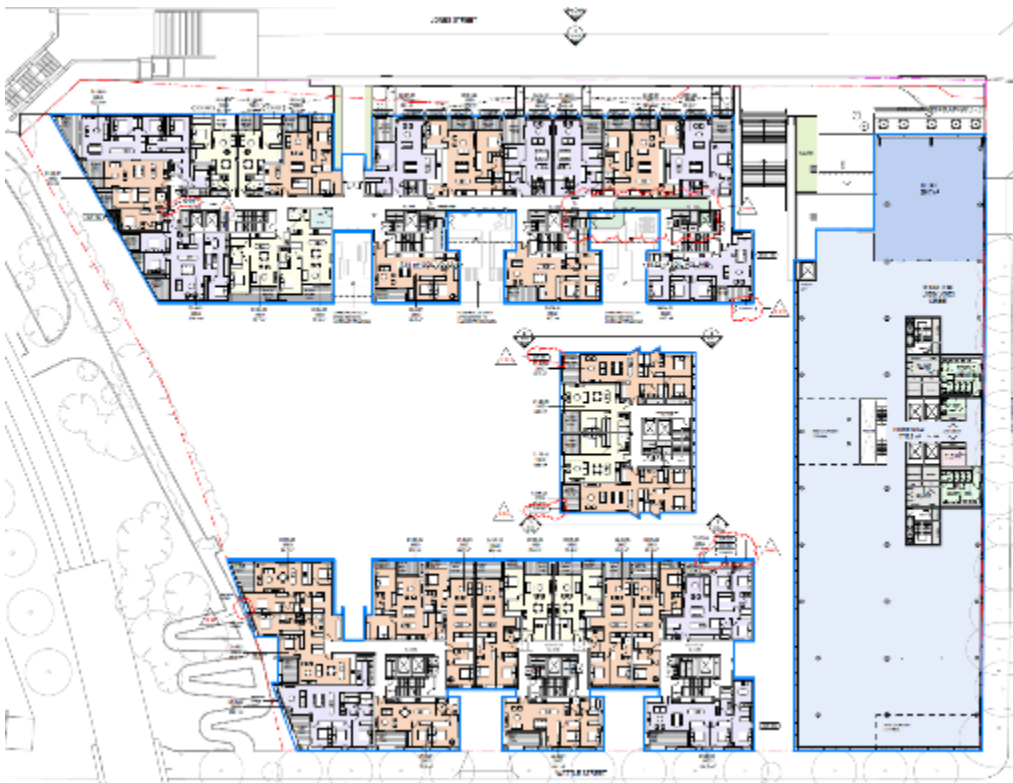


Figure 12: Level 04

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Proposed - Fig Street Building modifications

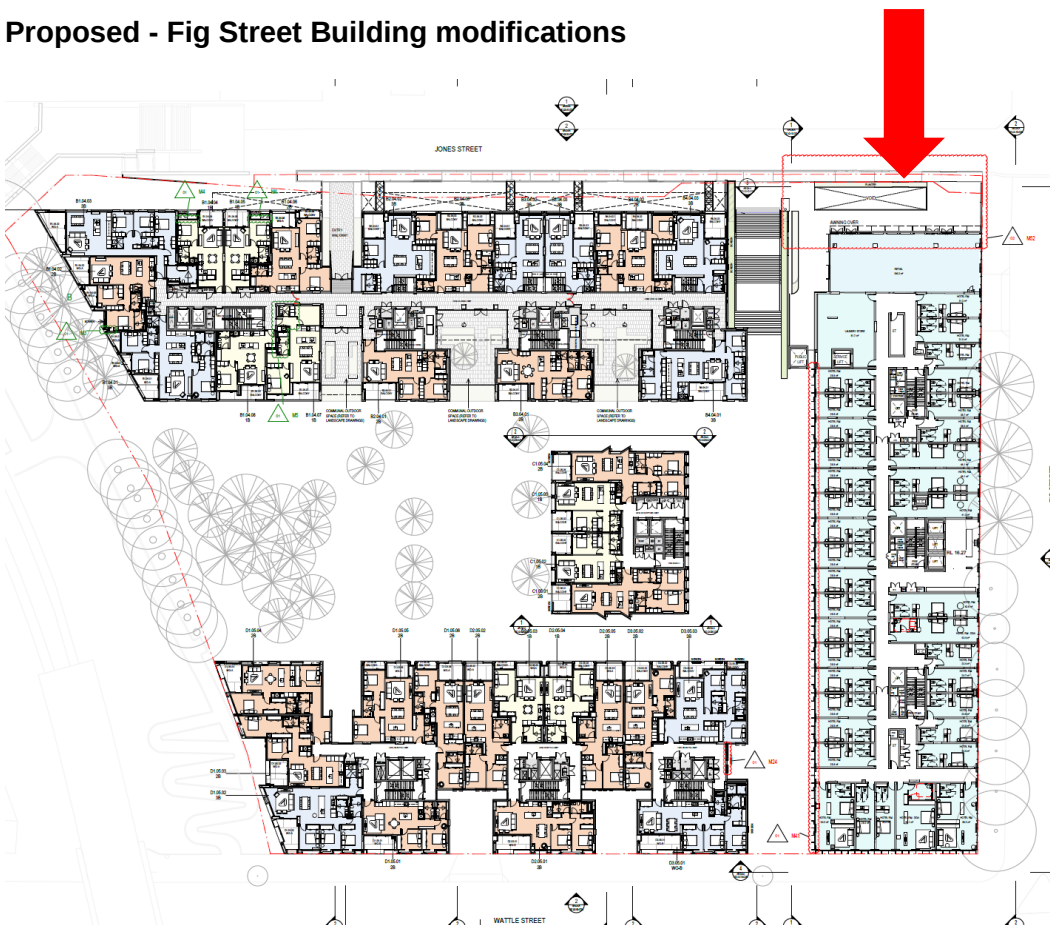


Figure 13: Level 05

Approved



Proposed - Fig Street Building modifications



Figure 14: Level 06

Approved



Proposed - Fig Street Building modifications

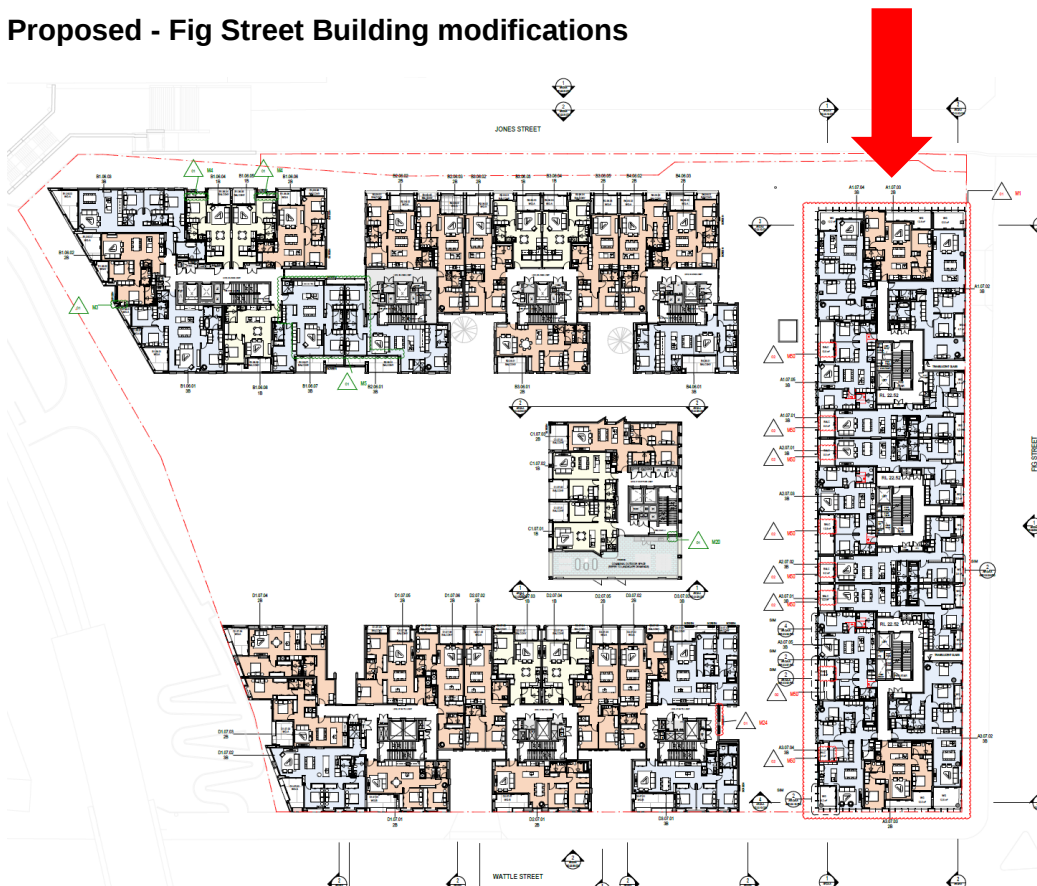


Figure 15: Level 07

Approved



Proposed - Fig Street Building modifications



Figure 16: Level 08

Approved



Proposed - Fig Street Building modifications



Figure 17: Level 09

Approved



Proposed - Fig Street Building modifications

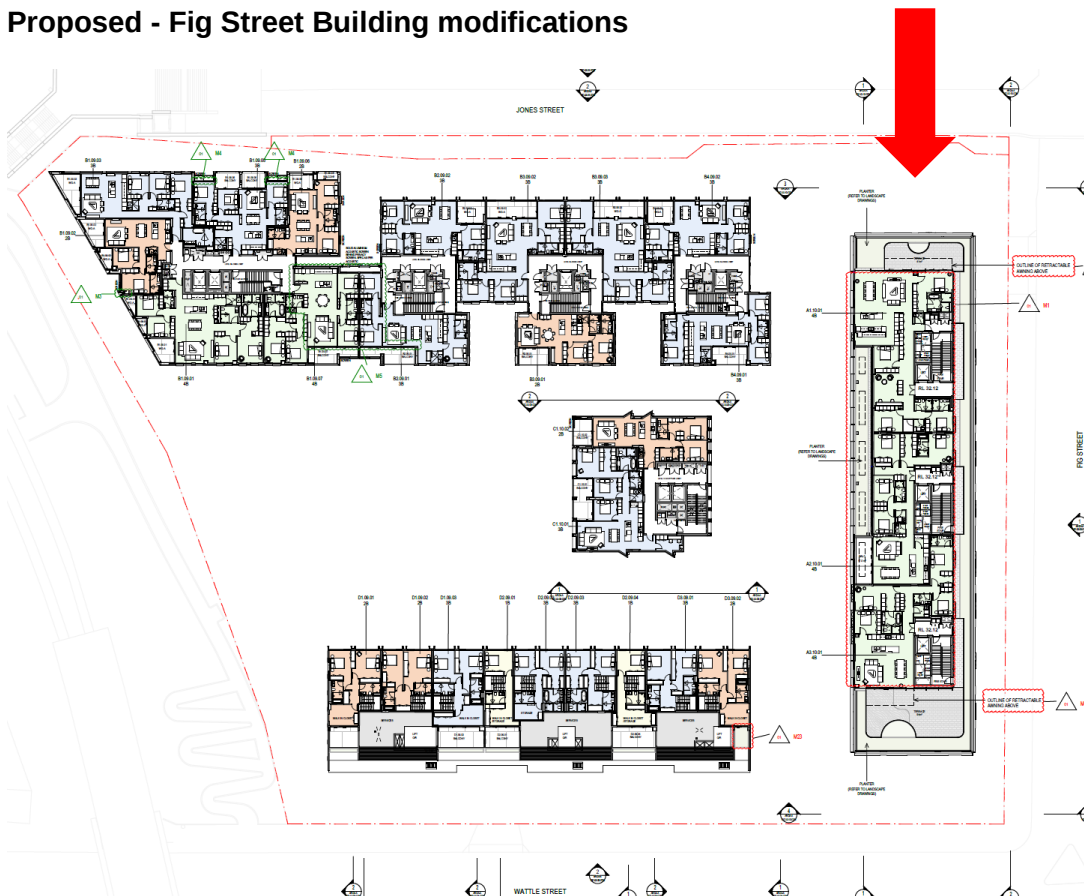


Figure 18: Level 10

Approved



Proposed - Fig Street Building modifications

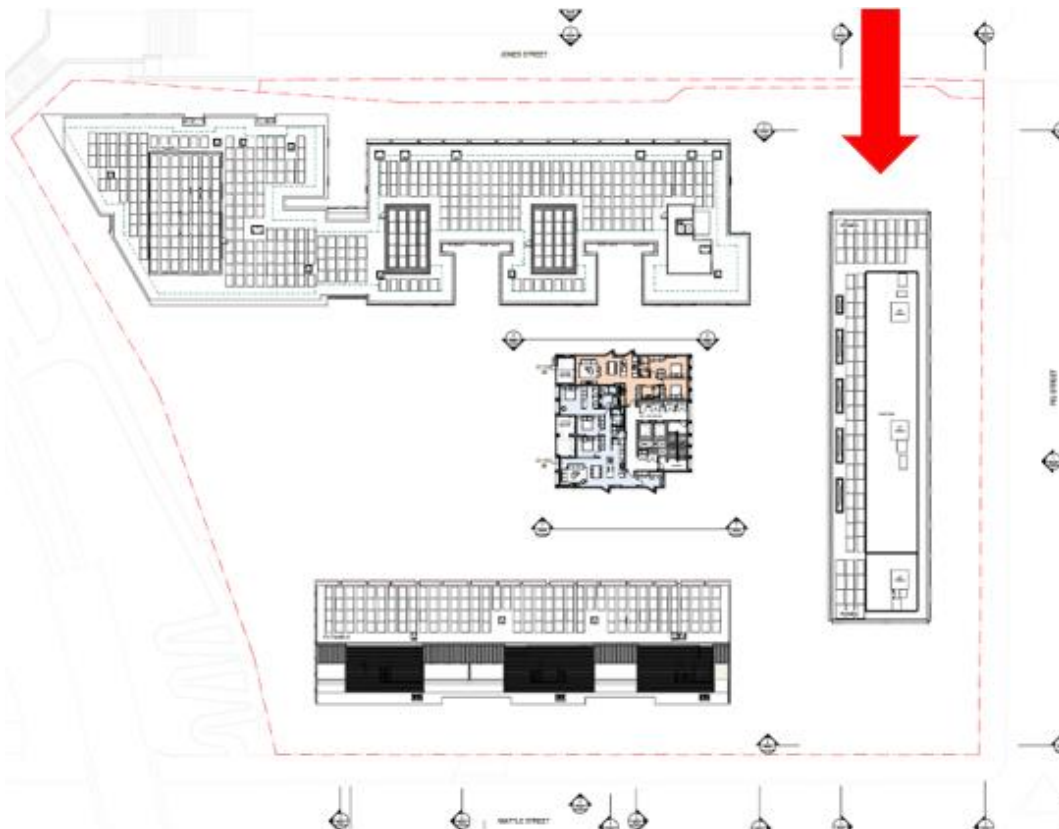
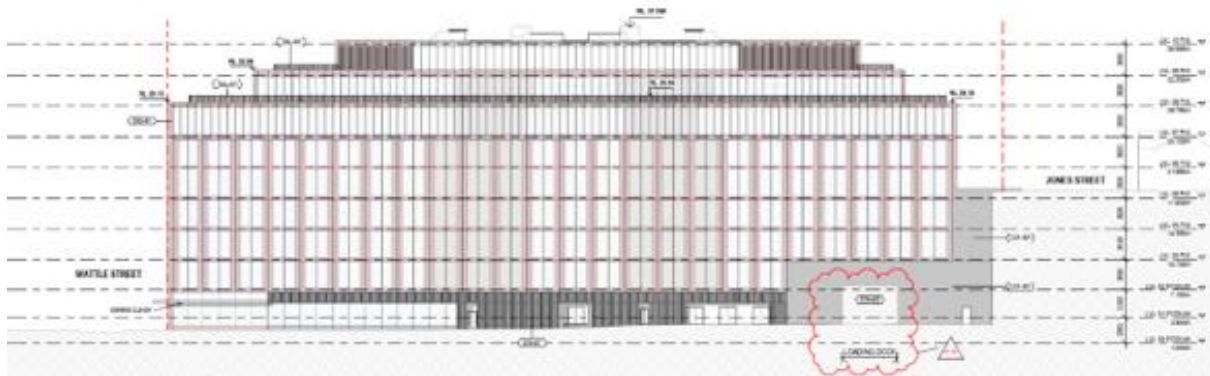


Figure 19: Level 11

Approved



Proposed - Fig Street Building modifications

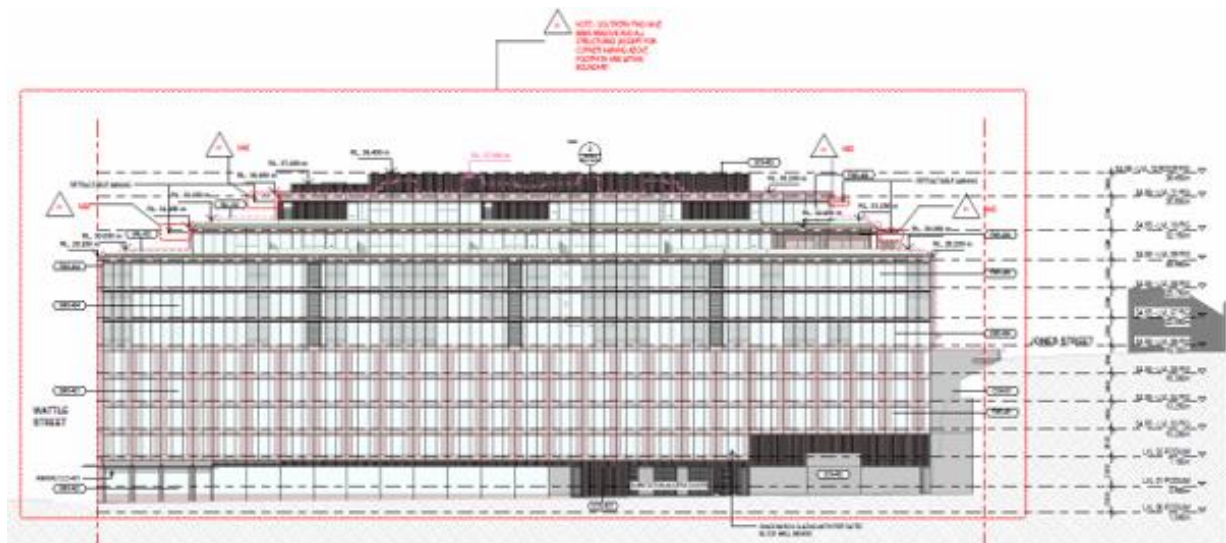


Figure 20: Fig Street elevation

Approved



Proposed - Fig Street Building modifications



Figure 21: Jones Street elevation

Approved



Proposed - Fig Street Building modifications

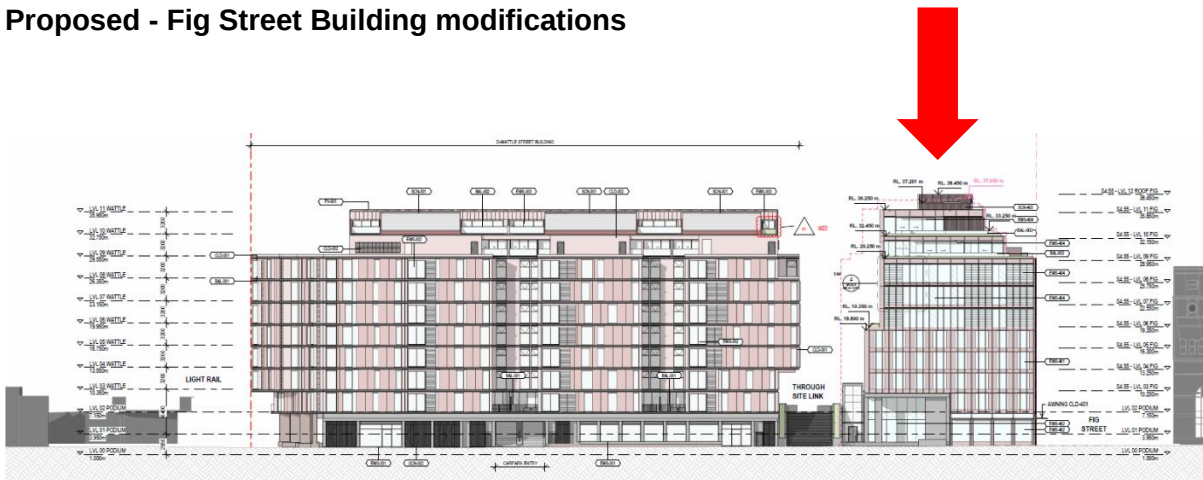


Figure 22: Wattle Street elevation

Approved



Proposed - Fig Street Building modifications

**Figure 23:** Internal/north elevation to through site link

Approved



Proposed - Fig Street Building modifications



Figure 24: Photomontage - Jones Street (looking north west from Fig Lane Park)

Approved**Proposed - Fig Street Building modifications (as lodged, not updated)**

Figure 25: Photomontage - Wattle Street (looking east from Wentworth Park)

Assessment

33. The section 4.55 modification application has been assessed under Section 4.15 of the EP&A Act.

Environmental Planning and Assessment Act, 1979

Threshold test

34. Consistent with the substantially the same development test at section 4.55(2)(a) of the EP&A Act:
- (a) The modified development involves an “alteration without radical transformation” (Sydney City Council v Ilence 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 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 design and external appearance of the modified development is substantially the same as the development approved by the Original Consent (D/2023/97) (see comparison photomontage at **Figures 24** and **25** above).
 - (d) The modification application would not significantly impact on the originally approved traffic conditions.
 - (e) The proposed modifications to the building envelopes are supported (subject to conditions) as they do not result in unacceptable amenity impacts and deliver a development that is capable of achieving an acceptable level of amenity for future occupants of the Fig Street Building and adjoining buildings.

35. In accordance with section 4.55(2)(b) of the EP&A Act, TfNSW, Ausgrid and Sydney Water were consulted in respect of conditions imposed as a requirement of a concurrence to the Original Consent and that Minister, authority or body has not objected to the modification application.
36. In accordance with section 4.55(2)(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.
37. In accordance with section 4.55(3) 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) Approval of the modification application is consistent with the reasons given by CSPC for the grant of the Original Consent (D/2023/97).

Consistency with the concept consent

38. This assessment report demonstrates that the modification application is consistent with the concept consent as modified by the section 4.56 modification application concurrently lodged and separately reported to the CSPC (D/2019/623/C), satisfying section 4.24(2) of the EP&A Act.

Affordable housing contribution

39. Section 7.32 of the EP&A Act states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
40. The site is located within the Ultimo/Pymont affordable housing contribution area pursuant to clause 7.13 of the Sydney LEP 2012 and the Original Consent for D/2023/97 includes consent condition (10) Affordable Housing Contribution - Ultimo Pymont - Payment in lieu of floor space contribution. Modification of condition (10) is recommended to adjust the affordable housing contribution in accordance with the modified development.
41. This matter is discussed in further detail under the heading Financial Contributions below.

State Environmental Planning Policies

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

42. 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.

43. Section 4.8 of the SEPP details the planning principles of regional significance. Before granting consent to a development application on land within City West, the consent authority must take into consideration the aim of the chapter that development within the area should be consistent with the planning principles. Even though this report considers a modification application (and not a development application), **Table 2** details the principles noting the consistency of the development as proposed to be modified.

Table 2: SEPP (Precincts – Eastern Harbour City) 2021 – City West planning principles

Principle	Comment
Regional Role	Consistent The proposed modification contributes to urban consolidation (+50 dwellings). The development reflects the central location of the site adjacent to the Wentworth Park Light Rail Station, with reduced car parking provision and shared open spaces.
Land Use Activities	Consistent The proposed modification comprises residential and visitor accommodation, contributing to the mixed-use development pattern and the range of housing and employment opportunities in City West.
Mixed Living and Working Environment	Consistent The proposed hotel (142 rooms) would provide employment opportunities. A range of dwelling sizes are proposed (see ADG assessment below) and the modified development includes the following mix of GFA: • Residential: 72% (33,634m² + 359m² of wintergardens) • Hotel: 17% (7,894m²) • Retail/commercial: 2% (570m² + 201m²) • Child care centre: 4% (1,801m²) • Recreation centre: 6% (2,667m²)
Education	Consistent A child care centre has been approved in the Jones Street Building.

Principle	Comment
Leisure and Recreation	Consistent The site is located to the east of Wentworth Park, a large recreation area. Additionally, the Original Consent includes an indoor recreation centre and through site links connecting Wentworth Park to the south, Jones Street/Fig Lane Park to the east and Wentworth Park Light Rail Station to the north.
Port Functions	N/A
Social Issues	Consistent The Original Consent would improve pedestrian connectivity across the site and to/from the wider locality. In particular, linkages to the Wentworth Light Rail Station which is a focal point for the community of the area.
Environmental Issues	Complies The Original Consent includes waste management measures, stormwater management and incorporates ESD measures. The modification application generally satisfies the ADG objectives for natural cross ventilation, solar access and daylight. The site does not have any biodiversity values.
Urban Design and the Public Domain	Complies The design of the building is the winner of a competitive design process, and it is considered that the building exhibits design excellence. The through site links, upgrades to the footpaths on Jones, Wattle and Fig Streets and improved connections to the Wentworth Park Light Rail Station would improve the public domain on and around the site.
Heritage	Complies The site is not a heritage item, but it has historic value (cliff face and historic items on-site which are to be salvaged as part of the demolition works and integrated with the development for heritage interpretation) and is located in the vicinity of heritage items. The approved and modified development addresses this significance appropriately.
Movement and Parking	Complies The site adjoins the Wentworth Park Light Rail Station and the approved pedestrian through site links improve connections to the

Principle	Comment
	station for the wider community. The modified number of car parking spaces is below the maximum standards in Sydney LEP 2012.
Implementation and Phasing	The site has very good access to existing infrastructure (Wentworth Park Light Rail Station, Wentworth Park and Fig Lane Park). The Original Consent includes new infrastructure (childcare centre and indoor recreation centre).

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

32. 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.
33. The section 4.55 modification application does not change the contamination reporting or remediation conditions in the Original Consent.

State Environmental Planning Policy (Housing) 2021

Chapter 4 - Design of Residential Apartment Development

34. The aim of Chapter 4 of the SEPP is to improve the design quality of residential apartment development in New South Wales.
35. 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.
36. 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 section 29 of the EP&A Reg.
37. An assessment of the modified development 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.

The built form and scale is compatible with that envisaged in the concept consent (as modified by D/2019/649/C).

(c) Principle 3: Density

The modified development complies with the 4:1 FSR and maximum car parking development standards set by 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

Consistent with the concept consent and the design competition imposed requirements, the modified development has achieved BASIX +10 targets. Condition (1)(c)(iii) in the Original Consent is to be modified to require implementation of the measures detailed in the Fig Street Building BASIX certificate.

The proposal largely satisfies with solar access and cross ventilation objectives of the ADG (see **Table 3** below).

(e) Principle 5: Landscape

Landscaping is proposed within the through site link, consistent with the Original Consent. On slab planting is also proposed, including landscaping of the new communal and private roof terraces. The modified development does not change the approved landscaping in the central courtyard area or deep soil zones.

(f) Principle 6: Amenity

The modified development incorporates apartment planning that can deliver a reasonable level of amenity for future occupants. Floor plans have been configured to maximise solar access, outlook, ventilation and reasonable apartment, room and balcony sizes. Building separation and privacy protection measures are proposed to achieve a reasonable standard of visual and acoustic privacy. Through the incorporation of wintergardens to noise affected elevations, apartments are capable of achieving natural ventilation while also meeting an acceptable level of acoustic amenity (see assessment of compliance with amenity objectives of the ADG at **Table 3** below).

(g) Principle 7: Safety

The modified development provides opportunities for passive surveillance of existing streets and will increase activity along all site frontages (noting that the site has been inactive and vacant for many years). The modified development has been designed in accordance with Crime Prevention Through Environmental Design (**CPTED**) principles.

(h) Principle 8: Housing Diversity and Social Interaction

The modified development provides 50 additional dwellings, giving a total of 287 dwellings on the site (237 apartments approved + 50 proposed). The following dwelling mix is proposed in the Fig Street Building which is consistent with the Sydney DCP 2012 dwelling mix control:

- 8% 1-bedroom apartments proposed (maximum 40% required)
- 22% 2-bedroom apartments proposed (40 – 75% required)
- 70% 3+ bedroom apartments proposed (10 - 100% required)

Across the entire development, the modified dwelling mix is which is also consistent with the Sydney DCP 2012 dwelling mix control:

- 20% 1-bedroom apartments proposed (maximum 40% required)
- 45% 2-bedroom apartments proposed (40 – 75% required)
- 35% 3+ bedroom apartments proposed (10 - 100% required)

The proposed unit mix across the site is consistent with that envisaged under the DCP.

(i) Principle 9: Aesthetics

The modified built-form presents good-quality design, using a variety of architectural elements and materials to provide visual interest. The proposed materials are generally supported (subject to conditions) and the overall design will positively contribute to the aesthetic qualities of the different streetscapes around the site.

The modified design is generally consistent with the competition winning scheme, which was considered by the jury for the competitive design process to be capable of exhibiting design excellence with regard to materiality and architectural expression.

38. 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 3** below.

Table 3: 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. 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.
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).

2F Building Separation	Compliance	Comment
		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 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).

3D Communal and Public Open Space	Compliance	Comment
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 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): 9m between habitable rooms / balconies 4.5m between non-habitable rooms	Partial compliance	See 2F above
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.	No	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. See Discussion section below.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	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	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. A condition of consent in recommended in relation to operation of

4B Natural Ventilation	Compliance	Comment
		the wintergardens (new Condition (177)).
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	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, measured glass line to glass line.	No	See 2E above.

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.

4D Apartment Size and Layout	Compliance	Comment
Minimum unit sizes: • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm The minimum internal areas include only one bathroom. Additional bathrooms increase	Yes	All apartments in the Fig Street Building comply with the minimum unit size requirements.

4D Apartment Size and Layout	Compliance	Comment
the minimum internal area by 5sqm each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.		
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	The design complies with this requirement, with each habitable room benefiting from extensive glazing.
Habitable room depths are to be no more than 2.5 x the ceiling height.	No	Numerous apartments on Levels 06, 07 and 08 have open plan depths that are in the range of 8.8 - 9.6m, with ceiling heights of 2.7m. This exceeds the depth the height ratio, but given the north facing orientation of these rooms, the proposed habitable room depth is considered acceptable on balance.
8m maximum depth for open plan layouts.	No	Numerous apartments on Levels 06, 07 and 08 have open plan depths that are in the range of 8.8 - 9.6m. Wintergardens that further increased these depths were removed in response to Council's RFI#2. The non-compliant apartments generally have a northern orientation and the non-compliance is considered acceptable on balance.
Minimum area for bedrooms (excluding wardrobes): - Master bedroom: 10sqm - Other bedrooms: 9sqm Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	All apartments have bedrooms in accordance with minimum recommended internal areas and widths
Living and living/dining rooms minimum widths:	Yes	All apartments have living areas in accordance with minimum recommended widths

4D Apartment Size and Layout	Compliance	Comment
- Studio and one-bedroom: 3.6m - Two-bedroom or more: 4m		
4m minimum width for cross over and cross through apartments.	Yes	Cross-through apartments have a minimum width of 4 metres as recommended.

4E Private Open Space and Balconies	Compliance	Comment
One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m. Two bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m. Three bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m.	Partial compliance	All apartments are provided with balconies or wintergardens generally accordance with the minimum recommended dimensions and areas. Consistent with other approved apartments on the site, private open space to some apartments are split into more than one balcony to meet the ADG private open space area requirement.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	A maximum of five apartments are accessed off a circulation core.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	Three lifts are provided for 50 apartments.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and	Yes	Living room and bedroom windows do not open onto walkways.

4F Common Circulation and Spaces	Compliance	Comment
acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.		
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Natural daylight and ventilation is provided to common circulation spaces.

4G Storage	Compliance	Comment
Minimum storage provision facilities: • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ (Minimum 50% storage area located within unit)	Yes	All apartments are provided with internal storage, in addition to basement storage spaces. Some internal spaces are slightly undersized for the size of apartment but would be able to comply with the ADG taking into account storage at the basement levels. A condition of consent is recommended requiring storage space to be provided in accordance with the minimum ADG requirements.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	The modification application minimises the impacts of external noise and pollution through introduction of acoustic measures as detailed in the submitted acoustic report. The proposal mitigates noise transmission through the careful design of apartment walls, balcony placement and treatments to the facade to mitigate noise pollution. Through the use of wintergardens, apartments are capable of achieving natural ventilation while also meeting an acceptable level of acoustic privacy. See Discussion section.

State Environmental Planning Policy (Sustainable Buildings) 2022

39. SEPP (Sustainable Buildings) came into force on 1 October 2023. It repeals SEPP BASIX except where development is "saved".

40. Section 4 'Savings and transitional provisions' of SEPP (Sustainable Buildings) provides that":

(1) This policy does not apply to the following –

...

(f) an application for modification of a development consent under the Act, section 4.55 or 4.56 submitted on the NSW planning portal on or after 1 October 2023, if the development application for the development consent was submitted on the NSW planning portal before 1 October 2023.

41. Detailed Design D/2023/97 was submitted on the NSW planning portal in February 2023, prior to the coming into force of SEPP (Sustainable Buildings). As such, BASIX SEPP (Building Sustainability Index: BASIX) applies to the modification application.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

42. The aim of the SEPP (Building Sustainability Index: BASIX) is to encourage sustainable residential development. A BASIX Certificate for the modified Fig Street Building has been submitted with the modification application (Certificate Number: 1769368M_02) showing the following Project scores for the modified Fig Street Building:

Project score		
Water	✓ 46	Target 40
Thermal Performance	✓ Pass	Target Pass
Energy	✓ 70	Target 60
Materials	✓ -100	Target n/a

43. The project score for Energy shown above satisfies consent condition (9)(c) of the Concept Consent for D/2019/649 which requires the detailed design of buildings on the site to exceed the relevant BASIX Energy Target by 10 BASIX points.
44. Modification of consent condition (1)(c)(iii) in D/2023/97 is recommended to ensure that the measures detailed in the Fig Street Building BASIX Certificate are implemented.
45. An ESD Report has also been prepared to describe the sustainability measures incorporated in the modification application. The ESD Report states that a NABERS rating of 4.5 stars is being targeted for the hotel component of the modified development.

State Environmental Planning Policy (Transport and infrastructure) 2021**Chapter 3 Educational Establishments and Child Care Facilities**

46. The modification application does not change the approved child care facility, consent conditions in relation to the child care centre or its compliance with Chapter 3 of SEPP (Transport and Infrastructure).

Chapter 2 Infrastructure

47. The following relevant provisions of SEPP (Transport and Infrastructure) Chapter 2 - Infrastructure have been considered in the assessment of the modification application.

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network**Section 2.48 Determination of development applications – other development**

48. The modification application is subject to section 2.48 as the it involves works on land that is within 10 metres (measured radially) of the centre line of overhead power lines and underground electricity network assets on Wattle Street. The site is also within or near an electricity easement. As such, the modification application was referred to Ausgrid for a period of 21 days and no objection was raised. Schedule 3 of the Original Consent for D/2023/97 includes Ausgrid concurrence conditions which would not be modified.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors- notification and other requirements**Section 2.98 Development adjacent to rail corridors**

49. The modified development will not have an adverse effect on rail safety, does not involve placing of a metal finish on, does not involve the use of a crane in air space above any rail corridor and is not located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities. Given this, section 2.98 of the SEPP is not relevant.

Section 2.99 – Excavation in, above, below or adjacent to rail corridors

50. The modified development does not change the approved relationship with the light rail corridor nor the conditions of consent imposed by TfNSW.

Section 2.100 - Impact of rail noise or vibration on non-rail development

51. The modified development does not change the approved relationship with the light rail corridor nor the conditions of consent imposed by TfNSW.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations**Section 2.119 – Development with frontage to classified road and Section 2.122 Traffic-generating development**

52. The modification application is subject to section 2.119 of the SEPP as the site has frontage to and vehicular access to/from Wattle Street and Fig Street which are classified roads. The development is also of a size and capacity specified in Schedule 3 of the SEPP, therefore section 2.122 of the SEPP applies.
53. Schedule 3 of the Original Consent for D/2023/97 includes TfNSW concurrence conditions which would not be modified (noting that the TfNSW conditions already provide for awnings over the Fig Street footpath).

Section 2.120 – Impact of road noise or vibration on non-road development

54. The modification application is subject to section 2.120 of the SEPP as the site is adjacent to Wattle Street and Fig Street which have an annual average daily traffic volume of more than 20,000 vehicles and the development is likely to be adversely affected by road noise or vibration. Schedule 3 of the Original Consent for D/2023/97 includes TfNSW concurrence conditions which would not be modified.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021**Chapter 2 (Vegetation in Non Rural Areas) 2017**

55. The modification application does not change the approved number of trees to be removed or conditions of consent in relation to tree removal.

Chapter 6 Water catchments

56. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.
57. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the modification application.

Chapter 10 Sydney Harbour Catchment

58. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
59. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the modification application.

Local Environmental Plans

Sydney Local Environmental Plan 2012

60. An assessment of the modification application against the relevant provisions of the Sydney LEP 2012 is provided in **Table 4**.

Table 4: 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 housing and tourist and visitor accommodation. The modified uses are permitted with development consent in the zone. 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 Original Consent contravened the height standard. The modification application proposes a 500mm increase in the height of the Fig Street Building as shown below: Original Consent: 35.14m (contravention of 8.14m or 30%)

Provision	Compliance	Comment
		Modification application: 35.64m (contravention of 8.64m or 32%) See Discussion section below.
4.4 Floor space ratio	Yes	A maximum FSR development standard of 4:1 applies to the site. Both the Original Consent and modification application comply with the FSR standard (based on a site area of 12,361m² being the site area of land in Zone MU1) as shown below: Original Consent: FSR of 3.88:1 based on a GFA of 47,954m² Modification application: FSR of 3.81:1 based on a GFA of 47,126m².

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.

Provision	Compliance	Comment
		- 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 Consent for D/2023/97 is proposed (and not the granting of development consent). Therefore clause 6.18 is not applicable to the modification application. Notwithstanding, the building envelope modifications will not increase overshadowing of Wentworth Park (see Discussion section below).

Provision	Compliance	Comment
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 (see Discussion section below) • The modified development will not change the approved views over site to Wentworth Park from Fig Lane Park or dwellings on Jones Street • The site is suitable for the modified mix of uses • 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

Provision	Compliance	Comment
		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 • A modified landscape plan has been prepared proposing a high standard and integration of landscape design.
6.21D Competitive design process	Yes	The modified buildings demonstrate 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). The Original Consent was granted additional height (up to 10%) provided by clause 6.21D(3).

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	A maximum of 236 residential and 18 visitor car parking spaces are permitted (for the total development as modified). The modified development includes 193 resident and 5 visitor car parking spaces which complies with the maximum residential parking standard. An additional 12 visitor car parking spaces will be available outside of the child care centre operating hours.
7.6 Office premises and business premises	Yes	A maximum of 3 office/business premises parking spaces are permitted. The modified development provides nil office/business premises parking spaces which complies with the maximum parking standard.
7.7 Retail premises	Yes	A maximum of 9 retail car parking spaces are permitted. No retail parking is proposed which complies with the maximum retail parking standard.
7.9 Other land uses	Yes	A maximum of 33 hotel parking spaces are permitted. The modified development provides 2 hotel spaces which complies with the maximum standard.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	The site is located within the Ultimo/Pymont affordable housing contribution area as per clause 7.13 of Sydney LEP 2012. Modification of the affordable housing contribution (condition (10)) is discussed in the Financial Contributions section below.
Division 4 Miscellaneous		

Provision	Compliance	Comment
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
7.18 Car parks	N/A	This clause does not apply to a modification application.
7.19 Demolition must not result in long term adverse visual impact	N/A	This clause does not apply to a modification application.
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. Subject to approval of the concurrently lodged and reported section 4.56 modification application (D/2019/629/C) to align the concept consent and this modification application, the development is consistent with the concept consent and therefore satisfies clause 7.20. See Discussion section below.

Development Control Plans

Sydney Development Control Plan 2012

61. An assessment of the modification application against the relevant provisions within the Sydney DCP 2012 is provided in the **Table 5**.

Table 5: Assessment of compliance with Sydney DCP 2012

Section 2 – Locality Statements

Ultimo/Pymont - Pymont locality
The site is located in the Pymont locality. The mixed-use development (as modified) is in keeping with the unique character of the area and the relevant design principles in that: It provides an appropriate frontage to Jones, Fig and Wattle Streets and Wentworth Park

Ultimo/Pyrmont - Pyrmont locality

- It is compatible with the nearby heritage items (being the former “Winchcombe Carson” woolstore at 28-48 Wattle Street, terrace houses at 286-318 Jones Street, former Edwin Davies Flour Mill at 280 Jones Street)
- It retains the approved public domain improvements on and adjoining the site and widens the approved through site link
- It retains the approved number and location of driveway crossovers
- View lines along the east-west through site link would be widened
- The modified material selection is considered to be generally appropriate (although the recommended conditions include a change to Condition (8) to require the submission of a detailed materials and samples board to the Director City Planning, Development and Transport prior to issue of any Construction Certificate for above ground works). Visibility to the sandstone cliff/quarry face has been increased through increased setbacks at the subterranean hotel levels and provision of a void adjoining the Jones Street retail tenancy (see Discussion section below).

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	The modification application does not change the approved public art or public domain arrangements or conditions.
3.2. Defining the Public Domain	Yes	Like the Original Consent, the modification application includes public domain improvements on and adjoining the site and an active street frontage to Wattle Street and Jones Street. RWDI has undertaken further pedestrian wind environment assessments. Modification of consent condition (57) is recommended to require compliance with the further pedestrian wind environment assessment.
3.3 Design Excellence and Competitive Design Processes	Yes	A competitive design process for the site was conducted to select the project architect. The selection panel selected the entry of BVN as the design most capable of achieving design excellence. The Original Consent was awarded additional height for the achievement of design excellence.

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The modification application does not change the approved tree removal plan or tree conditions of consent.
3.6 Ecologically Sustainable Development	Yes	The modification application has achieved the design competition imposed Energy target of BASIX +10. Architectural Plans have been modified to note the relevant matters listed on the BASIX certificate and NatHERS ratings. An ESD Report has also been prepared to describe the sustainability measures incorporated in the modification application. The ESD Report states that a NABERS rating of 4.5 stars is being targeted for the hotel component of the modified development. Modification of consent condition (1)(c)(iii) is recommended to ensure that the measures detailed in the Fig Street Building BASIX Certificate are implemented.
3.7 Water and Flood Management	Yes	No change to Original Consent.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Modification of the proposed plan of subdivision is proposed. The modification application was referred to Council's Specialist Surveyor, who supported the proposal, subject to amendments that have been made by the applicant.
3.9 Heritage	Yes	The site is not a heritage item and is not located within a heritage conservation area. The heritage impacts of the modification application are minor and acceptable.
3.11 Transport and Parking	Yes	Carshare: No change to approved provision of 3 car share spaces. Bicycle parking: Consistent with the Sydney DCP 2012 bicycle parking controls, the modified development

Provision	Compliance	Comment
		provides 342 bicycle spaces (minimum 339 spaces required). Car parking: The modified car parking provision complies with the Sydney LEP 2012 maximum parking standards. Loading: No change to the approved servicing arrangements. Council's Transport Planner advised that this is generally acceptable given that the demand for the commercial use will be replaced by the hotel use. This can be further assessed as part of the Freight and Servicing Management Plan (required by Schedule 3 - TfNSW conditions). Motorcycle parking: Consistent with the Sydney DCP 2012 motorcycle parking controls, the proposed development provides 18 motorcycle spaces (minimum 18 spaces required). The recommended condition modifications address the proposed transport and parking modifications.
3.12 Accessible Design	Yes	The modified development includes 10 adaptable apartments (20% of 50 apartments) in the Fig Street Building giving a total of 46 adaptable apartments in the development (16% of the 287 apartments).
3.13 Social and Environmental Responsibilities	Yes	The modified development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	Council's cleansing and waste unit has reviewed the modification application and confirmed that additional waste bins and waste storage area have been satisfactorily provided.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	No	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). 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. See Discussion section below.
4.2.1.2 Floor to ceiling heights and floor to floor heights	N/A	This control does not apply to residential apartment buildings in accordance with section 148(2)(c) of SEPP Housing. The modification application complies with the recommended minimum ceiling heights specified in Part 4C of the ADG (see ADG assessment above).
4.2.2 Building setbacks	No	Sydney DCP 2012 specifies a street frontage height control of 6 storeys along Fig Street (see clause 4.2.1.1 above) and requires setbacks above the street frontage height where new development is adjacent to a heritage item (to reduce visual impact and to respect the heritage item). The modification application exceeds the street frontage height control along Fig Street (see clause 4.2.1.1 above). With a setback of around 4m at Level 09, the application complies with the setbacks above the street frontage height control at clause 4.2.2.2 and has an appropriate

Provision	Compliance	Comment
		relationship with the heritage listed former Woolstore to the south. The street frontage height and setback above street frontage height of Building E - Fig Street is also consistent with the concept consent (as modified by D/2019/649/C).
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	In accordance with section 149(1)(b) of SEPP (Housing), solar access to the proposed apartments is addressed above in accordance with the ADG. The modified development will not create any additional overshadowing onto the habitable rooms or private open space of any neighbouring dwelling. See Discussion section below.
4.2.3.3 Internal common areas	Yes	In accordance with section 149(1)(e) of SEPP (Housing), common circulation areas are addressed above in accordance with the ADG.
4.2.3.4 Design features to manage solar access	Yes	Appropriate fixed shading devices and canopy trees are proposed/approved.
4.2.3.5 Landscaping	Yes	The modified landscape plans are generally supported, subject to modification of conditions.
4.2.3.6 Deep Soil	N/A	The modification application does not change the approved deep soil area.
4.2.3.7 Private open space and balconies	Yes	In accordance with section 149(1)(f) of SEPP (Housing), private open space and balconies are addressed above in accordance with the ADG.
4.2.3.8 Common open space	Partial compliance	The Original Consent provides communal open space with an area of 2,783m ² (22.5% of the site area) including a communal roof terraces on

Provision	Compliance	Comment
		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). At least 50% of the required common open space area for the entire development would receive 2 hours of direct sunlight between 9am and 3pm on 21 June (consistent with the 30% control).
4.2.3.9 Ventilation	Yes	In accordance with section 149(1)(g) of SEPP (Housing), natural ventilation is addressed above in accordance with the ADG.
4.2.3.10 Outlook	Yes	The modified development would provide a pleasant outlook from all new apartments in the Fig Street Building.
4.2.3.11 Acoustic privacy	Yes	Noise (and ventilation) is addressed above in accordance with the ADG.
4.2.3.12 Flexible housing and dwelling mix	Yes	Fig Street Building 8% 1-bedroom apartments proposed (maximum 40% required) 22% 2-bedroom apartments proposed (40 – 75% required) 70% 3+ bedroom apartments proposed (10 - 100% required) All buildings 20% 1-bedroom apartments proposed (maximum 40% required) 45% 2-bedroom apartments proposed (40 – 75% required)

Provision	Compliance	Comment
		35% 3+ bedroom apartments proposed (10 - 100% required)
4.2.3.14 Apartments with setback bedrooms	N/A	No setback bedrooms are proposed.
4.2.4 Fine grain, architectural diversity and articulation	Yes	Like the Original Consent, the modified Fig Street Building has a mostly nil setback to Fig Street and Wattle Street with windows and detailing for articulation. It incorporates setbacks at all four elevations to reduce bulk and scale as viewed from the surrounding public domain.
4.2.5 Types of development 4.2.5.2 Courtyard buildings and perimeter street block buildings	Yes	Like the Original Consent, the modified development incorporates a north-south and an east-west through site link, providing visual and physical connectivity through the site. The north-south link is to be widened.
4.2.6 Waste and recycling Management	Yes	See Section 3.14 Waste above.
4.2.7 Heating and cooling infrastructure	Yes	Heating and cooling infrastructure for the modified Fig Street Building is consolidated in a centralised location on the roof.
4.2.8 Letterboxes	Partial compliance	The Original Consent includes consent condition (79) which requires details of the location and design of all letterboxes to be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of a Construction Certificate.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Subject to conditions, the proposed non-residential uses will not adversely impact the amenity of residential properties on and near the site.

4.4.8 Visitor accommodation

Provision	Compliance	Comment
4.4.8.1 General	Yes	The proposed hotel is self-contained with no common accessways with adjoining properties. A site manager would be onsite when guests have access to the premises. There are no triple tier bunks or cooking facilities within rooms. There are no communal bathrooms. A Hotel Plan of Management (PoM) has been prepared. Recommended consent condition (178) requires compliance with the PoM.
4.4.8.3 Additional provisions for hotels, private hotels and motels	Yes	The hotel rooms and storage areas comply with the per person area requirements. There are no internal kitchenettes in the hotel rooms. The Hotel Plan of Management confirms that the maximum permitted length of stay would be 3 months.

Discussion

62. This section of the assessment report considers issues of non-compliance identified above. It generally does not repeat the assessment issues relevant to the building envelopes approved by the concept consent and proposed to be modified by the section 4.56 modification application (D/2019/649/C) which is concurrently reported to the CSPC (although an assessment of building height and overshadowing is included in both assessment reports).

Building height

63. The modification application proposes a (maximum) 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).

64. **Table 6** assesses the compliance of the modification application (and the concurrently lodged section 4.56 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 6: 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 and D/2023/97/A)	35.14m	8.14m (30%)	5.44 (+18%)
Proposed modifications (D/2019/649/C and D/2023/97/A)	35.64m	8.64m (32%)	5.94m (20%)
Difference	500mm		

65. **Figure 26** illustrates the proposed increase to the height of the Fig Street Building. **Figure 27** illustrates the proposed reduction in the width of the Fig Street Building. **Figure 28** overlays the envelope of the approved development (D/2019/649/B and D/2023/97/A) and the proposed modification applications (D/2019/649/C and D/2023/97/A).

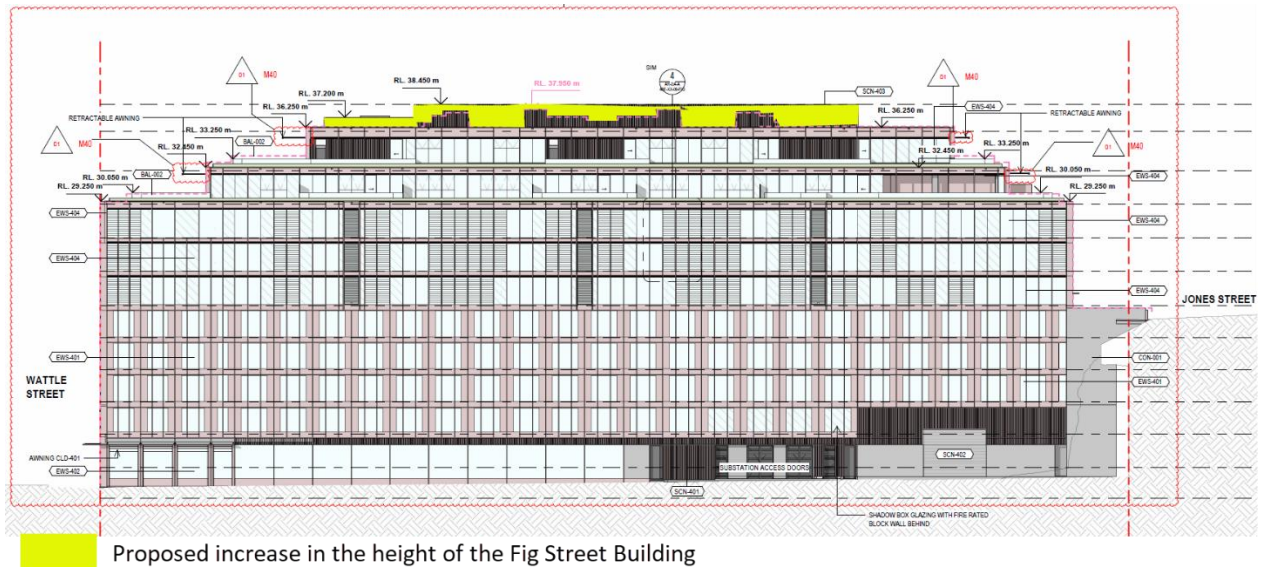


Figure 26: Fig Street Building: Fig Street elevation showing proposed increase in building height

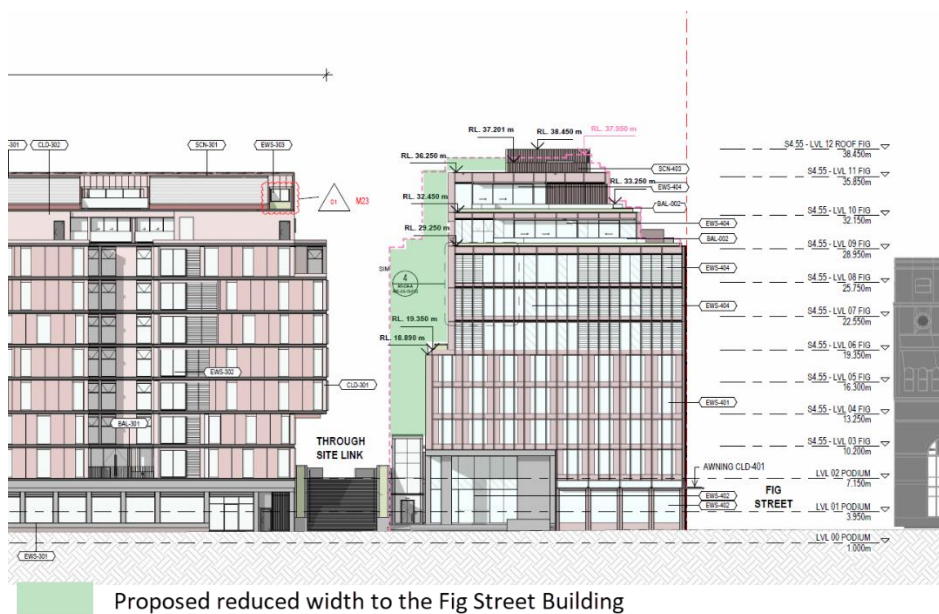
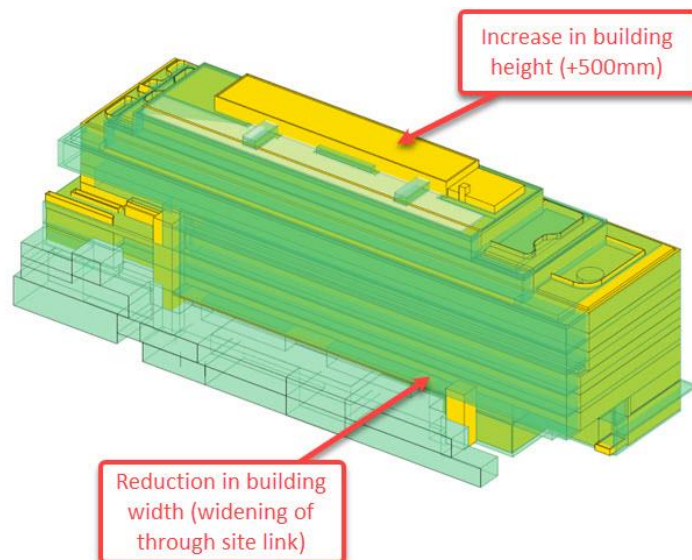


Figure 27: Fig Street Building: Wattle Street elevation showing reduction in building width



STAGE 2 DA APPROVED OVERLAID WITH STAGE 2 DA SEC 4.55

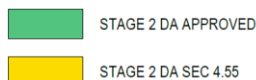
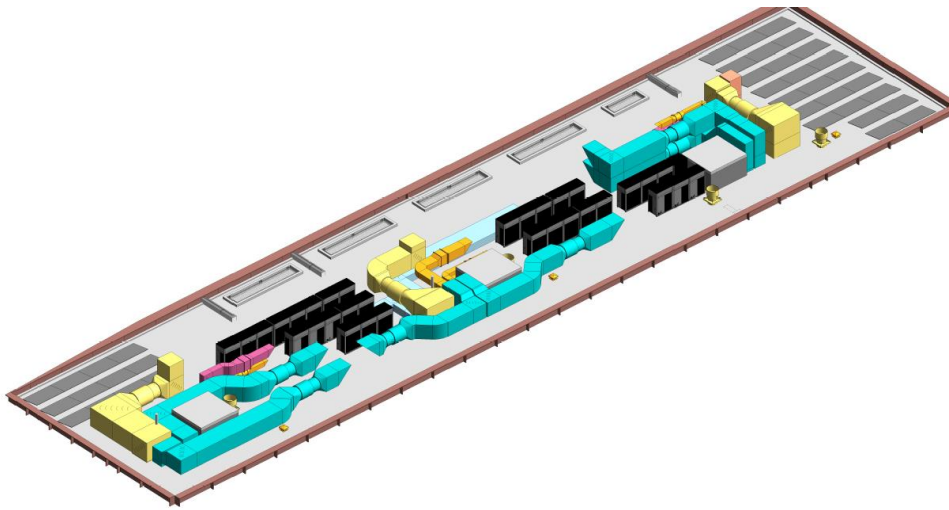


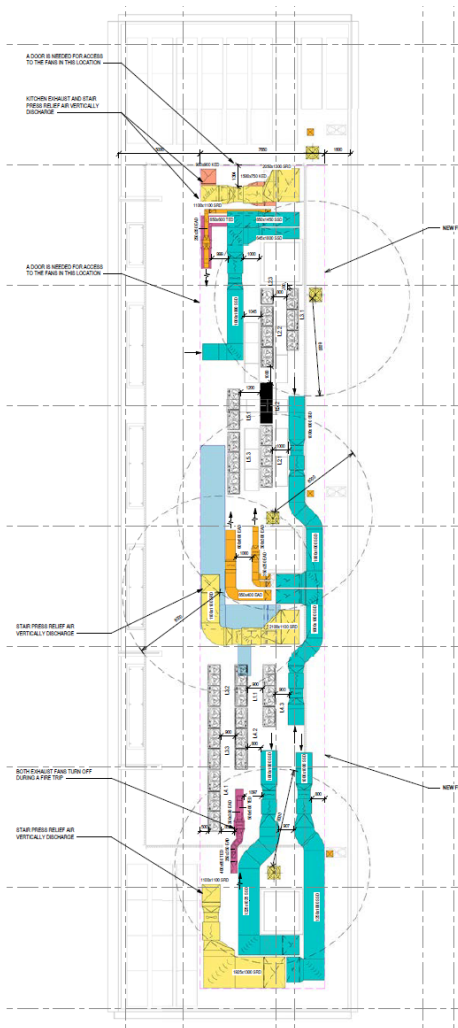
Figure 28: Fig Street Building: Overlay of the approved and proposed building envelope

66. For the following reasons, the proposed increase in height is considered to be reasonable:
- (a) The proposed reduction in building width reduces the bulk and scale of the Fig Street Building (see **Figures 27 and 28**) and widens the through site link, improving pedestrian amenity.
 - (b) 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).
 - (c) 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. Plans have been provided that demonstrate that the modified plant room is fully utilised (see **Figure 29**).
 - (d) There would be no increase overshadowing to Wentworth Park (see Discussion below).
 - (e) 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.
 - (f) There would be no change to views to Wentworth Park from the east (Jones Street terraces, Harbour Mills apartments or Fig Lane Park).



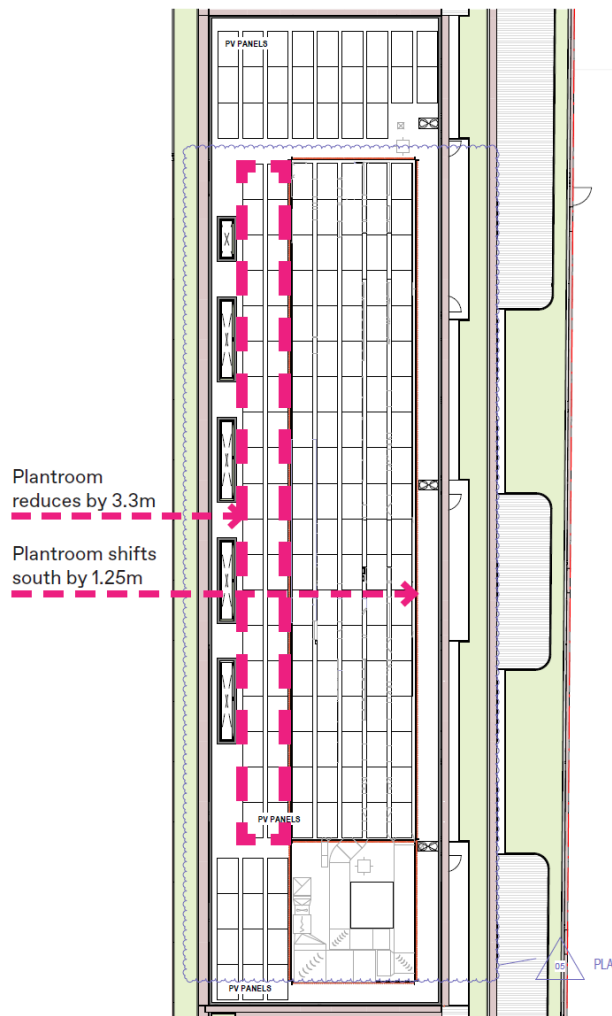
Axonometric View Services Layout

Revised plant room extent



Plant Room Services Layout

Revised plant room extent - detailed services layout



S4.55 Fig Street Building New Roof Plan

Revised plant room extent

Figure 29: Fig Street Building: Layout of modified plant room

Consistency with concept consent (D/2017/238/C)

67. Pursuant to section 4.24(2) of the EP&A Act, where a concept development application for a site remains in force, the determination of any further development application in respect to that site cannot be inconsistent with the concept consent.
68. The concept consent relating to this proposal is D/2019/649. A section 4.56 modification application has been submitted to modify the concept consent to achieve consistency with the subject modification application. These modifications largely relate to land use, height and building envelope and have been assessed as acceptable, as outlined in the concurrent assessment report for D/2019/649/C.
69. The modification application is assessed on the basis that the section 4.56 modification application has been approved in the terms recommended in the concurrent assessment report.
70. As outlined below, the modification application is consistent with the key conditions imposed on the concept consent (to be modified):
 - (a) **Condition (2) Approved development:** The modified development is consistent with the drawings listed at Condition (2) of the concept consent (as modified by D/2019/649/C).
 - (b) **Condition (3) Matters not approved in consent development consent:** The modification application appropriately seeks consent for the following matters that were not approved by the concept consent:
 - (i) Residential use of the Fig Street Building and demonstration that acoustic amenity and natural ventilation are achieved simultaneously in accordance with Objectives 4B-1 and 4J of the ADG
 - (ii) The total quantum and mix of floor space
 - (iii) The floor layout of buildings
 - (iv) The number and configuration of residential apartments and non-residential uses.
 - (c) **Condition (4) - Competitive design process:**
 - (i) The applicant undertook a competitive design alternatives process and BVN was named the winning scheme.
 - (ii) The condition requires that the proposal exhibit design excellence. The design competition jury were of the opinion that the winning scheme was capable of achieving design excellence, however it made a series of recommendations. As outlined further below, these recommendations have been incorporated into the detailed design proposal.
 - (iii) Overall, the proposal achieves design excellence, as discussed elsewhere in this assessment report.
 - (d) **Condition (6) Building envelope:** The drawings submitted with the modification application are within the concept consent building envelopes as modified by D/2019/649/C.

- (e) **Condition (7) Building height:** The drawings submitted with the modification application comply with the building heights specified by the concept consent as modified by D/2019/649/C.
- (f) **Condition (8) Floor space ratio:** With a proposed FSR of 3.81:1, the modification application complies with the FSR standard prescribed by Sydney LEP 2012 clause 4.4.
- (g) **Condition (9) Ecologically sustainable development:** Reference to the NABERS Office Energy Base Building Rating is to be deleted from the concept consent. The modification application demonstrates that buildings have adopted the following relevant ESD targets set out at condition (9) of the concept consent:
 - (i) Star Green Star Design and As-Built or GreenStar Buildings Rating
 - (ii) Exceed the BASIX Energy Target by 10 BASIX points
 - (iii) Roof top photovoltaic systems
- (h) **Condition (13) Through site link:** The modified development retains the approved pedestrian through site link from Wattle Street to Jones Street and provides a clear pedestrian path with a width of at least 6 metres, open to the sky and including include lifts to provide equitable access.
- (i) **Condition (14) Landscaping of the site:** The modification application includes a Landscape Concept Plan and Landscape Design Statement prepared by Oculus (a qualified landscape architect) that generally satisfy the requirements of condition (14).
- (j) **Condition (17) Noise impact and acoustic assessment:** The modification application includes a detailed noise impact assessment addressing the impact of traffic noise on residential apartments. Modification of the conditions of consent is recommended to require implementation of the modified noise impact assessment.
- (k) **Condition (22) Parking design:** The drawings submitted with the modification application comply with condition (22) as modified by D/2019/649/C. Modified conditions of consent are recommended in relation to vehicle and bicycle parking and appropriate allocation.
- (l) **Condition (28): Traffic impact study:** The modification application includes a detailed traffic impact study that addresses the requirements of condition (28).
- (m) **Condition (29) Car share:** The modification application retains the approved three car share spaces.
- (n) **Condition (33) Flood planning levels:** The modification application retains lobby and administration uses on Level 01 with no accommodation on this level. Therefore, there is not requirement to modify condition (33).
- (o) **Condition (34) Ausgrid conditions:** Ausgrid has raised no objection to the modification application.

- (p) **Schedule 3 - General terms of approval (Water NSW):** The Department of Planning and Environment - Water, has raised no objection to the modification application.
- (q) **Schedule 3 - Concurrence Conditions (TfNSW):** The proposed development complies with the concurrence conditions noting that TfNSW has issued comments under section 2.119 of the SEPP (Transport and Infrastructure) 2021 and concurrence under section 138 of the Roads Act 1993.

Competitive design process - Jury recommendations

71. As detailed in the **Table 7** below, the modification application responds to the key/relevant Jury recommendations and retains the design integrity and key aspects of the BVN winning scheme.

Table 7: Assessment of compliance with the recommendations of the jury for the competitive design process

Key principles of the design to be maintained and developed	
Recommendation	Comment
Positive passive design regarding solar access, sun shading and natural ventilation	Retained
External plenum design and recessive elements contribute to good articulation and an elegant solution to maximise the unique benefit of the significant view over Wentworth Park for occupants along the Wattle Street boundary.	Retained
Façade depths and widened entries to commercial buildings (including double height) on both Wattle and Jones Street. Resolution of flooding should maintain wide recessed building entry	Retained
The sense of place created by an alternating 'family' of facades and a variety of bulk, scale and heights of buildings	Retained
Deep building indentations along the Wattle Street façade	Retained
Breaking of the 'L'-shaped envelope to increase solar access, ventilation to improve privacy between buildings	Retained

Key principles of the design to be maintained and developed	
The overall bulk and scale of the development	Retained (the 500mm increase in the height of the Fig Street Building is acceptable on merit (see above)).
Narrowing of the through site link at Wattle Street (link is shortened by breaking of the 'L' envelope and augmented by the wide commercial building entry)	The modification application increases the width of the through site link at Wattle and Jones Street, increasing pedestrian amenity.
Wide light slot to the Recreation Centre created by cutting back of the quarry face beyond the current boundary	Not relevant to the modification application.
Retain main entry aligned with the return of Jones Lane	Not relevant to the modification application.
Remove some or all of the secondary apartment/terrace links off Jones St to maximise light penetration to levels below	Not relevant to the modification application.
Location of the child care and recreation centre entries close the light rail station (entries could be more civic in scale and quality)	Not relevant to the modification application.
Deep soil in line with the concept approval	Not relevant to the modification application.
Length of commercial activation on Wattle and Fig Streets.	Retained. Approved commercial activation changed to hotel uses.
Photovoltaics on the rooftops	Retained
High standards of environmental performance beyond relevant controls.	Retained BASIX Energy target is exceeded by 10 points as required by the concept consent.
Number of lift cores that allow for the increased number of 'through' apartments	The modified Fig Street Building has three lift cores (serving 50 dwellings) to maximise the number of through apartments.

Key principles of the design to be maintained and developed	
Areas for further resolution and refinement through design development	
Recommendation	Comment
Ground plane	
Bookable pods are a great idea to activate the internal streets (number and variety of pod types and sizes should be revisited)	Not relevant to the modification application.
Extensive tree canopy needs to be supported with appropriate soil areas	Not relevant to the modification application.
Residential amenity	
Developing the 'Garaban' as a demonstration of exceptional environmental performance is commendable and excellent passive solar design should be pursued	Not relevant to the modification application.
Mixing of residential floor space within the commercial building is seen to be problematic	Resolved The Fig Street Building is to accommodate residential and hotel uses with separate lobby and circulation spaces.
Blank end walls on terraces could be further developed to provide additional visual interest on Jones Street. The rooms would also benefit with additional opportunities for light and ventilation.	Not relevant to the modification application.
To achieve design excellence the key requirements of the ADG need to be met	Resolved The modified development generally achieves the relevant objectives and design criteria of the ADG.
Building envelopes are exceeded producing deeper building footprints that rely on high articulation and indented courtyards, which need to be maintained in size and amenity	Not relevant to the modification application.
Internalised studies or other habitable rooms should be designed out	Not relevant to the modification application.

Key principles of the design to be maintained and developed	
Child care centre	
Layout is schematic (appears to be capable of development and generally satisfies the locational and spatial requirements)	Not relevant to the modification application.
Childcare play area above the retail building may be problematic	Not relevant to the modification application.
Access to the child care from the basement drop off area should be made more generous	Not relevant to the modification application.
Commerciality and buildability	
Materials and colour palette are supported and design needs to ensure the quality, detailing and design intent of the proposal	Resolved A new conditions of consent is recommended in relation to materials and colours.
Resolve of flood planning levels on Wattle and Fig Street.	Not relevant to the modification application.

Overshadowing of Wentworth Park

72. 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 and D/2023/97) (see **Figure 30**)
 - (b) **Jones Street terraces:** No change.

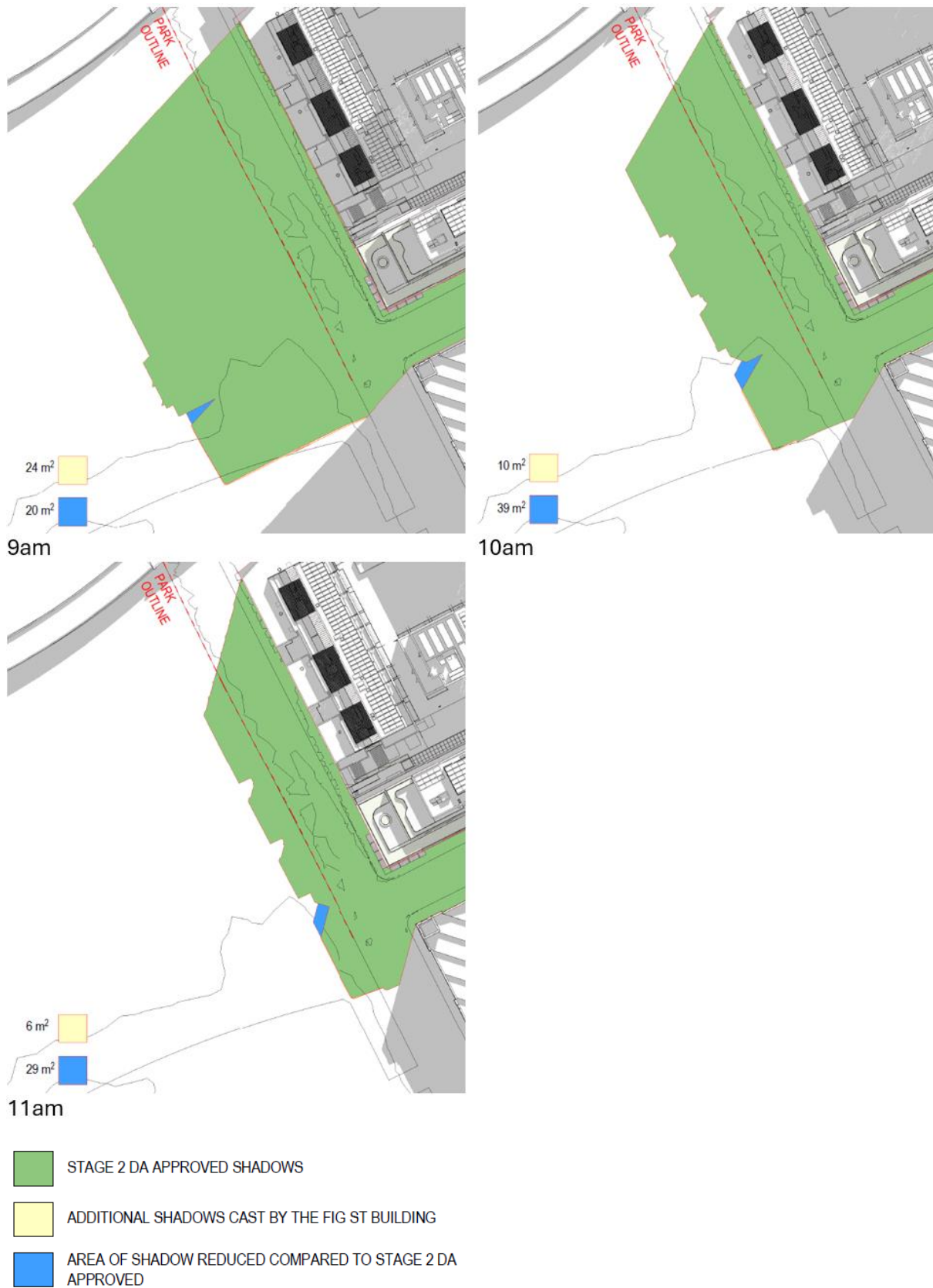


Figure 30: Fig Street Building: Shadow reduction from modification application

Building separation (acoustic and visual privacy)

73. **Table 8** shows the separation distances between windows and balconies set out in Objective 3F-1 of the ADG.

Table 8: ADG Objective 3F-1 separation distances between windows and balconies

Building height	Habitable rooms and 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

74. The concept consent building envelopes (as modified by D/2019/649/C) do not fully comply with the ADG building separation distances. In non-compliant locations, the concept consent envelope plans for the Fig Street Building include notations requiring privacy protection measures in the façade.
75. Consistent with these notations, the architectural plans submitted with the modification application (D/2023/97/A) provide appropriate visual and acoustic privacy protection measures in the locations where Fig Street Building separations do not meet the ADG design criteria. **Figures 31 to 37** illustrate some of the proposed privacy protection measures including fixed glazing, solid facades, louvred screens and non-trafficable planters. 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).
76. E-Lab has assessed the expected acoustic performance of the proposed privacy protection measures and confirms that satisfactory aural privacy outcomes would be achieved. Daylight and natural ventilation are not compromised as discussed in the above ADG assessment of compliance.
77. Modification of condition (2) is recommended to require the submission and approval of detailed plans illustrating the design of all screens, grilles and other privacy protection measures prior to the issue of a construction certificate for above ground works

A WATTLE BUILDING
LEVEL 04-08

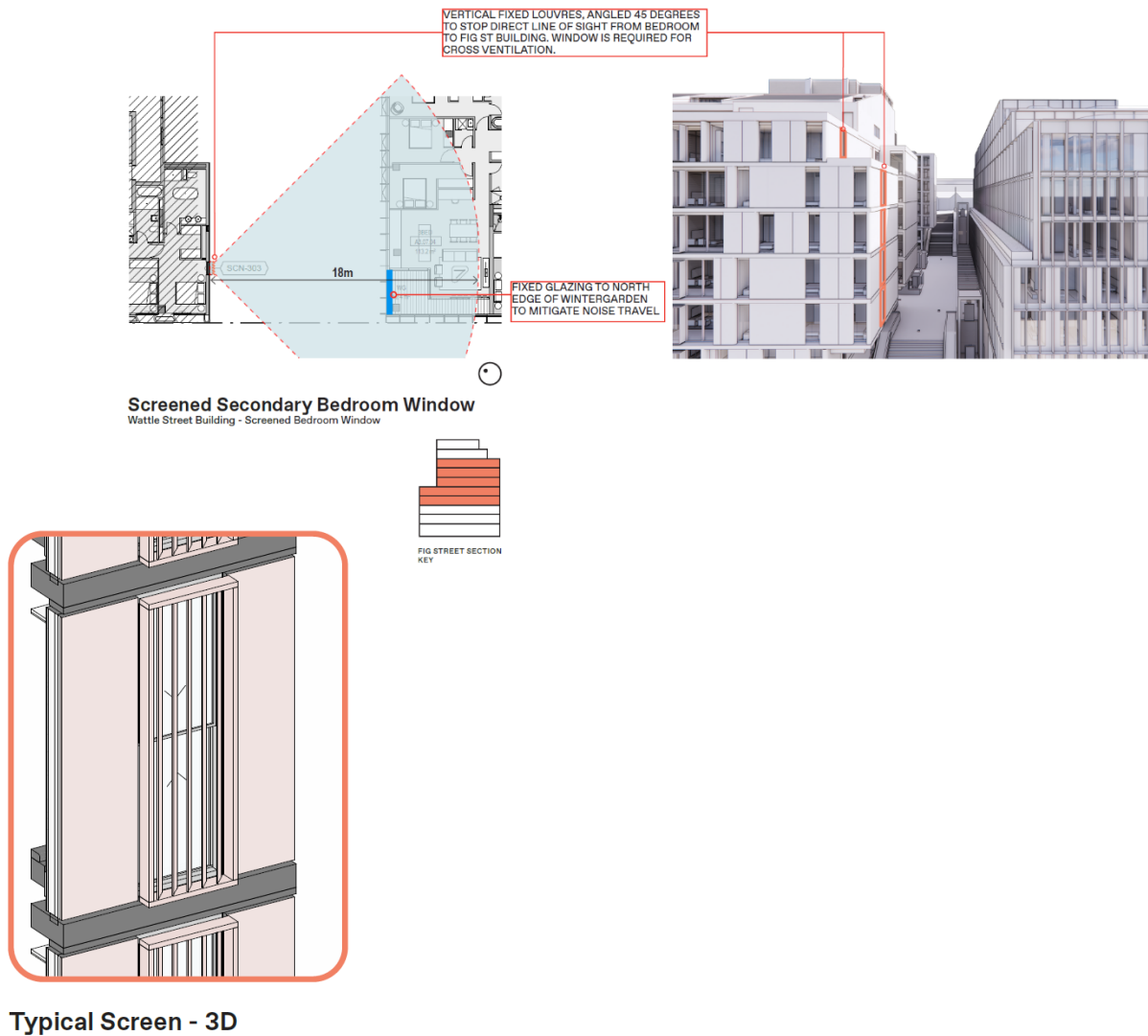


Figure 31: Privacy protection measures - screens: Fig Street Building to Wattle Street Building

B WATTLE BUILDING
LEVEL 09

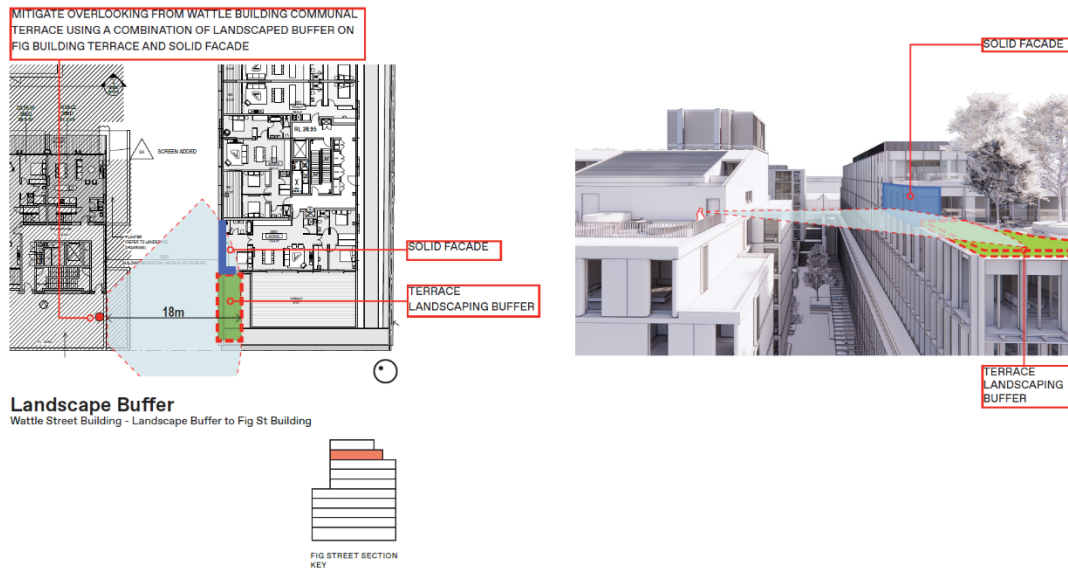


Figure 32: Privacy protection measures - Balcony converted to planter: Fig Street Building to Wattle Street Building

D WATTLE BUILDING
LEVEL 05

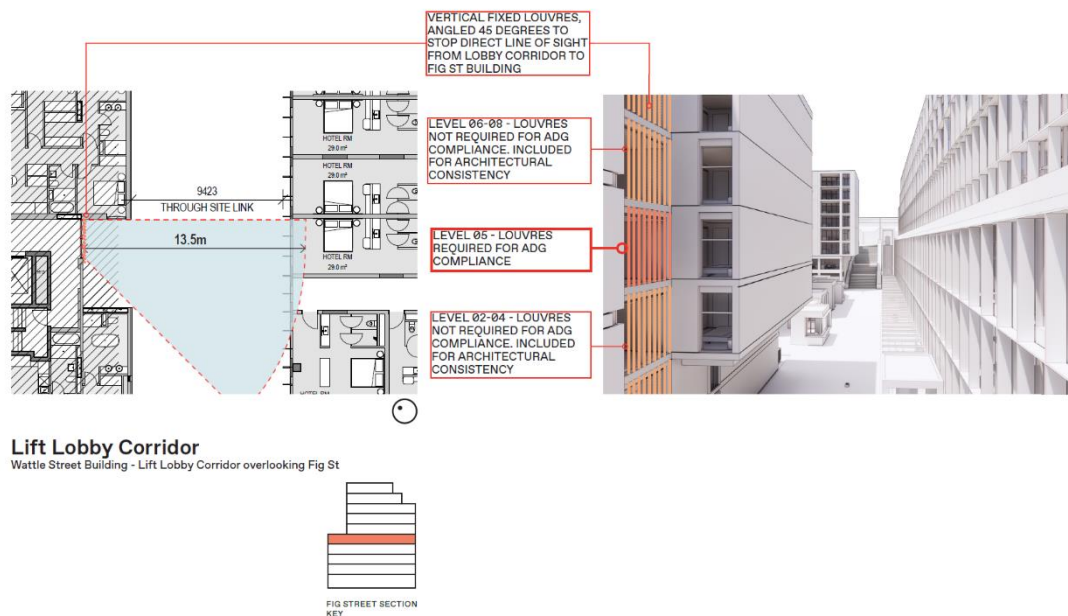


Figure 33: Privacy protection measures - Louvres: Fig Street Building to Wattle Street Building

D WATTLE BUILDING LEVEL 09

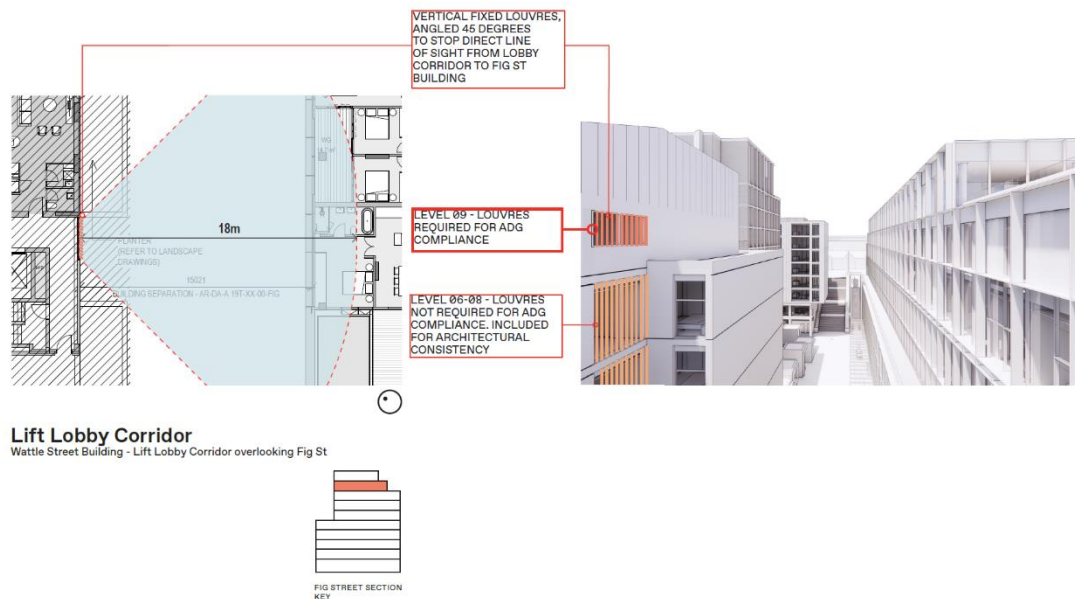


Figure 34: Privacy protection measures - Louvres: Fig Street Building to Wattle Street Building

F COURTYARD BUILDING LEVEL 10

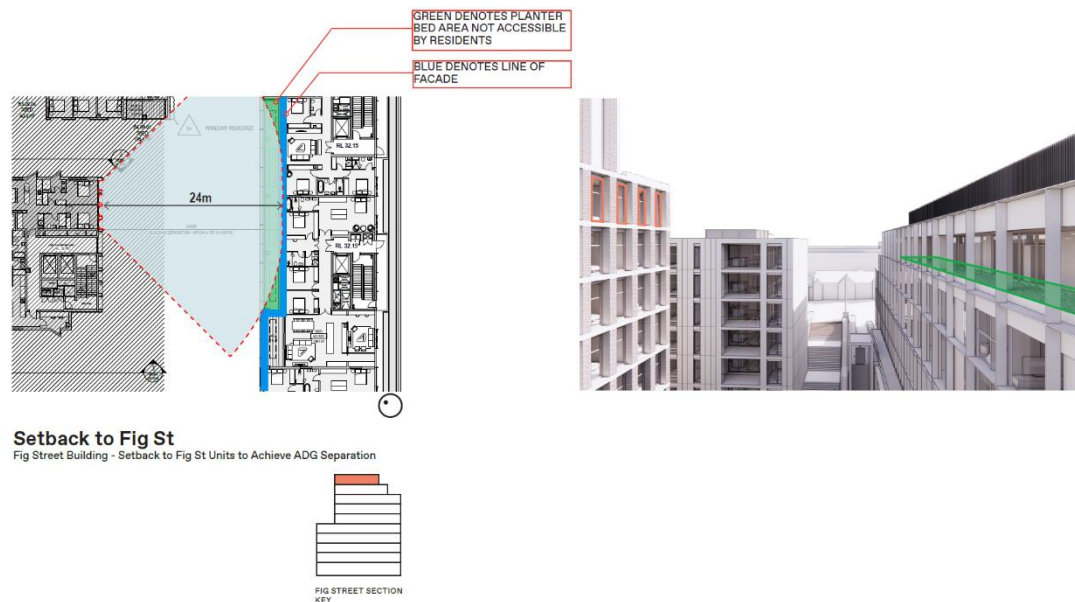


Figure 35: Privacy protection measures - Non-accessible planter: Fig Street Building to Courtyard Building

H JONES BUILDING LEVEL 09

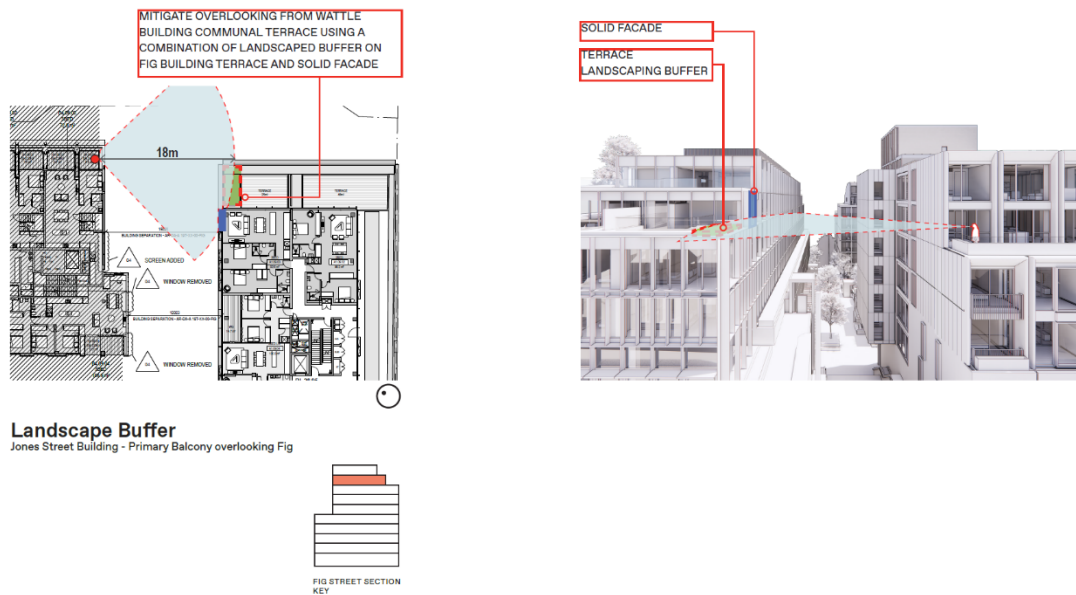


Figure 36: Privacy protection measures - Non-accessible planter and solid facade: Fig Street Building to Jones Street Building

I JONES BUILDING LEVEL 07

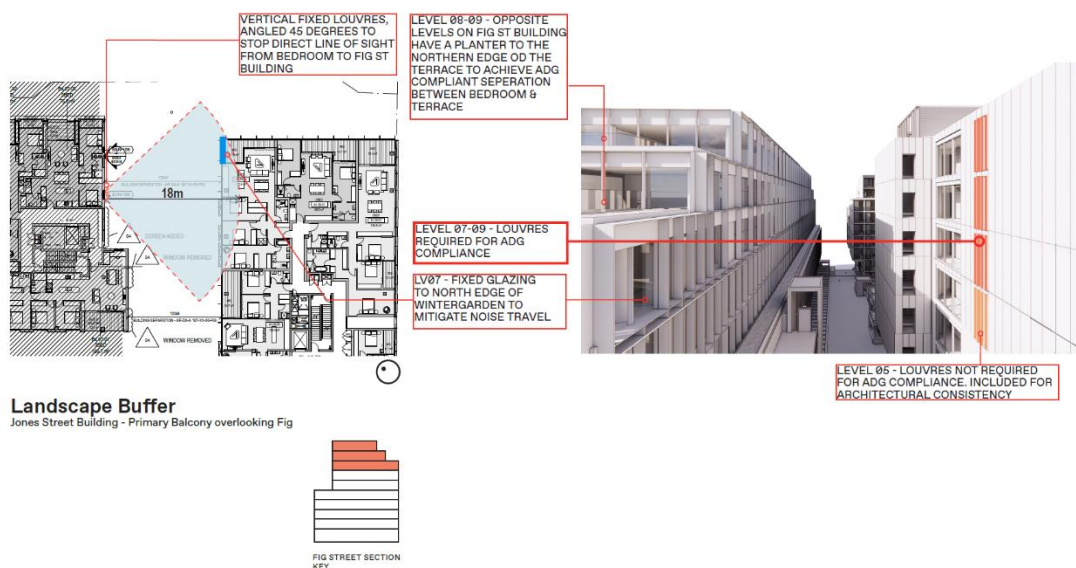


Figure 37: Privacy protection measures - Fixed glazing: Fig Street Building to Jones Street Building

Noise and natural cross ventilation

78. The following noise requirements apply to the development:

- (a) SEPP Transport and Infrastructure section 2.100 and section 2.120 which respectively require that the NSW Department of Planning Development near Rail Corridors and Busy Roads – Interim Guideline be applied to any residential developments or centre based child care facility located on land adjacent to a rail corridor (land to the north of the site in in a light rail corridor) or a road with an annual average daily traffic volume greater than 20,000 (Wattle Street and Fig Street have an annual average daily traffic volume of more than 20,000 vehicles).
- (b) Sydney DCP 2012 section 4.2.5.3 Development on busy roads and active frontages which outlines criteria for internal noise levels in residential developments and child care centres to ensure that occupants have an acceptable level of amenity in noisy environments. Compliance guidance is also provided within the City of Sydney's Draft Alternative Natural Ventilation of Apartments in Noise Environments – Performance Pathway Guideline.

79. Objective 4B-3 of the ADG states that at least 60% of apartments are to be naturally cross ventilated in the first nine storeys of a building (30 out of 50 proposed Fig Street apartments and 140 of 234 apartments in all buildings required).

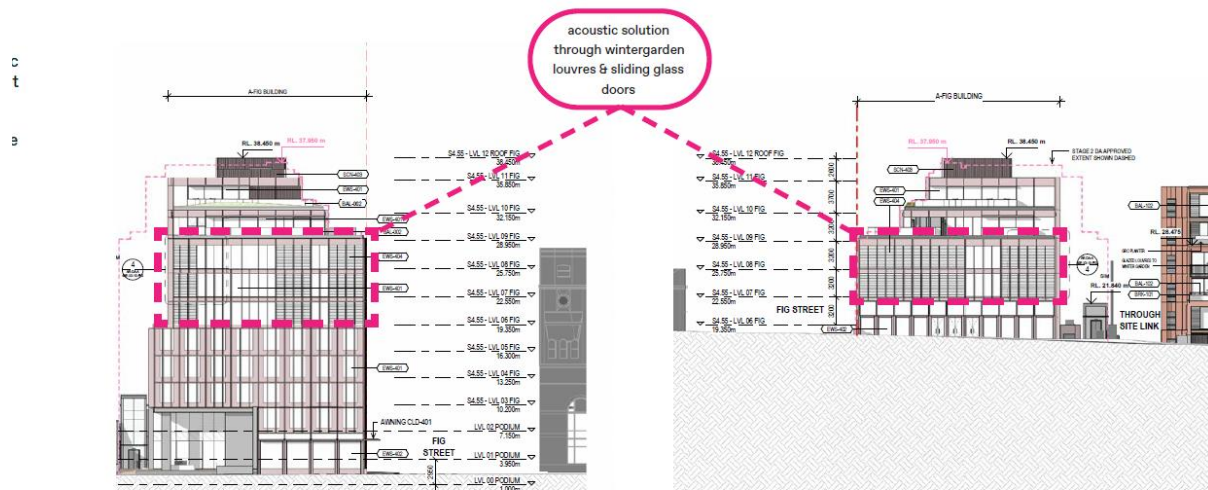
80. Given the location of the Fig Street Building on Wattle and Fig Streets, the modified development is not able to meet the SEPP and DCP noise requirements with windows open. In turn, the development is not able to achieve natural cross ventilation in accordance with the ADG criteria as windows to noise affected apartments cannot be relied upon for natural cross ventilation. To resolve this, noise affected apartments have been provided with wintergardens with glass louvres and acoustic treatments that deliver a performance based natural cross ventilation in order to meet the objectives.

81. Proposed wintergarden treatments are illustrated at **Figures 38, 39 and 40**. Both the modified acoustic report and natural ventilation report will be approved as part of the modified consent to ensure that wintergardens are constructed and installed in accordance with the specific details in the specialist reports. Recommended new Condition (176A) requires the installation of a plaque explaining how the wintergardens mechanism can be operated in all dwellings that rely on wintergardens for acoustic amenity and natural cross ventilation.

82. The number of naturally cross ventilated apartments in the first nine storeys of the Fig Street Building and the development as a whole is:

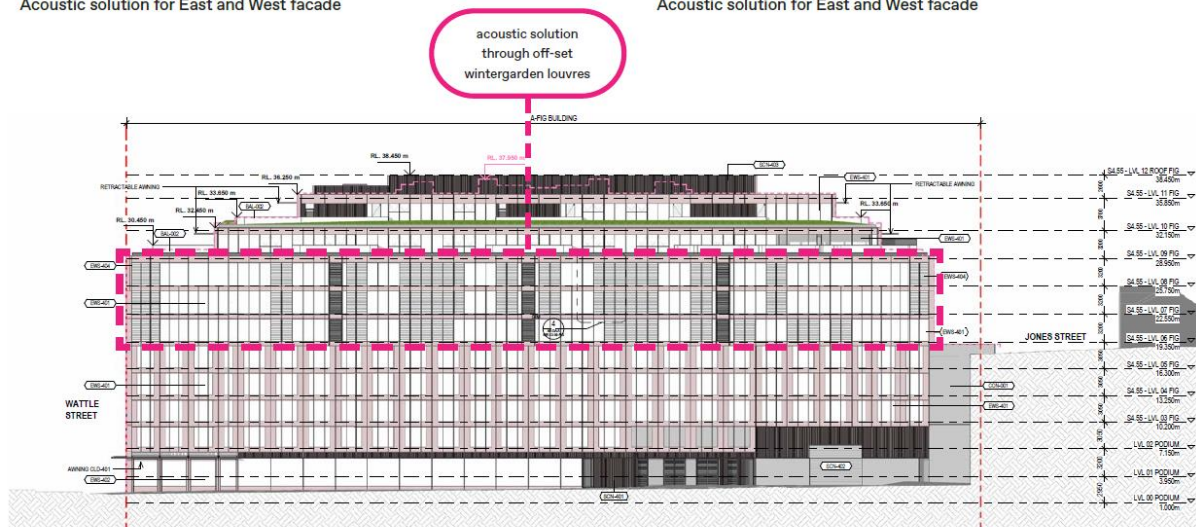
- (a) **Fig Street Building:** 64% (32 of 50 apartments)
- (b) **All Buildings:** 60.9% (173 of 284 apartments)

83. Council's Urban Designer considered that the proposed acoustic and natural cross ventilation solution, subject to conditions, are satisfactory.



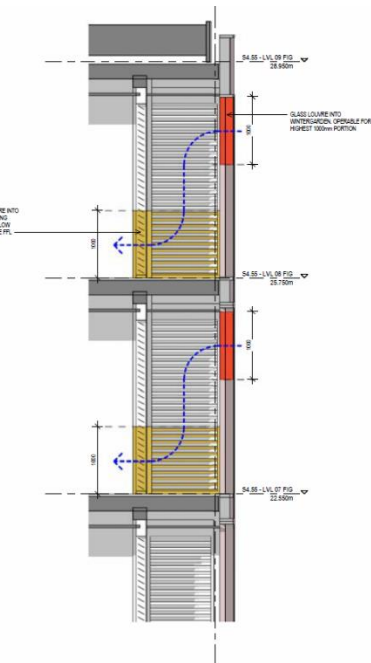
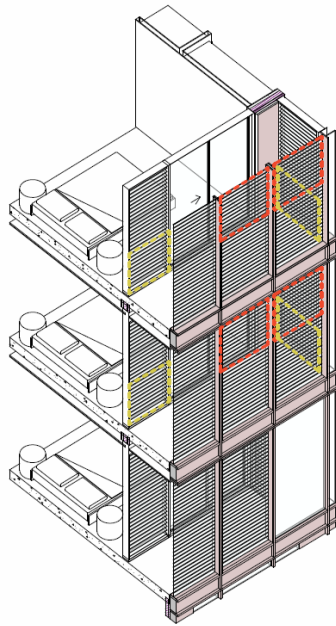
Proposed Fig West Elevation
Acoustic solution for East and West facade

Proposed Fig East Elevation
Acoustic solution for East and West facade

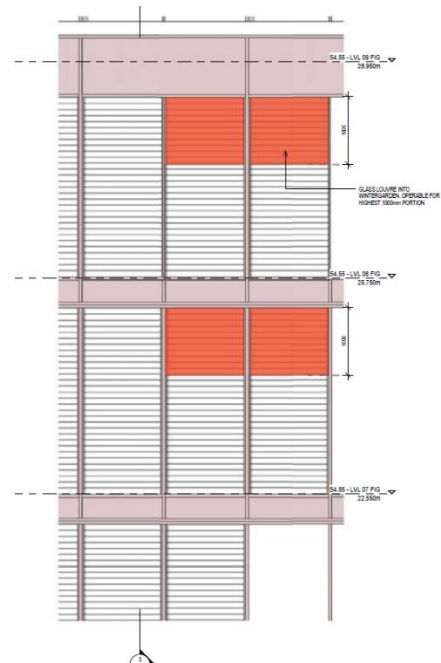


Proposed Fig South Elevation
Acoustic solution for South facade

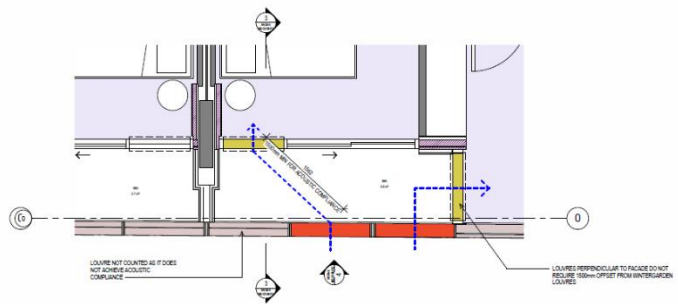
Figure 38: Natural ventilation - acoustic solutions: West, East and South Elevations



3 SECTION - NATURAL VENTILATION METHOD B9
SCALE: 1:20



4 ELEVATION - NATURAL VENTILATION METHOD B9
SCALE: 1:20



2 PLAN - NATURAL VENTILATION METHOD B9
SCALE: 1:20

Figure 39: Natural ventilation - acoustic solution: Wintergardens - South Elevation

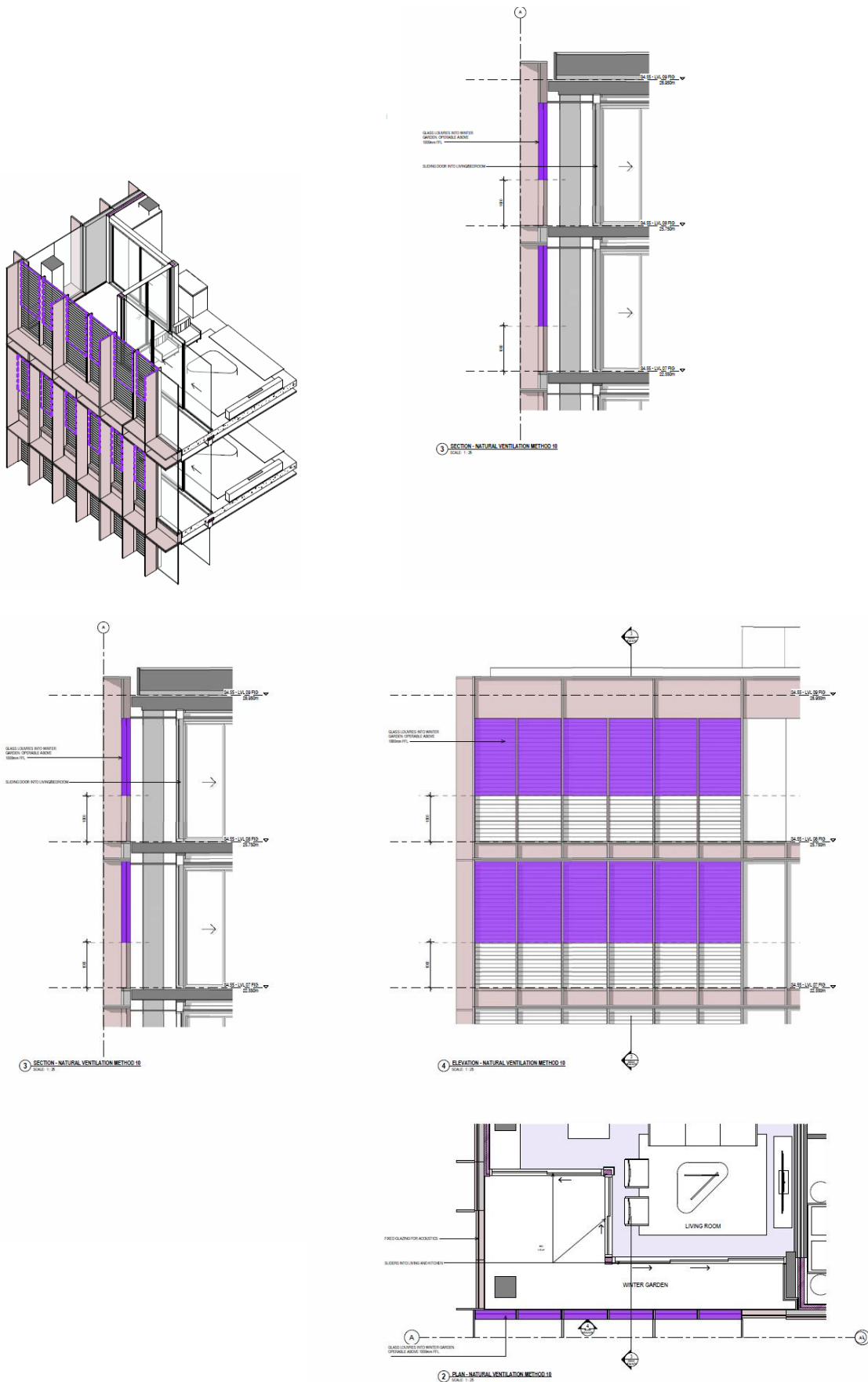


Figure 40: Natural ventilation - acoustic solution example: Wintergardens East/West Elevations

Solar and daylight access

84. The ADG at 4A-1 sets out the following Objective and Design criteria (as relevant to the site):

Objective 4A-1

To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space

Design criteria

1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours' direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas

...

3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter

85. **Table 9** assesses how the modification application meets this objective and design criteria (for the Fig Street Building and all buildings in the development). The shortfall of living rooms receiving at least 2 hours of sunlight is considered to be reasonable given that:
- (a) Solar access to private open space meets the ADG solar access design criteria (76% of apartments in the Fig Street Building and 78% of apartments in all buildings)
 - (b) A small number of apartments in the development will receive no sun (7% of apartments in the Fig Street Building and 2.4% of apartments in all buildings).

Table 9: Solar access and daylight: Assessment of compliance with ADG Objective 4A-1

9 am and 3 pm mid winter	ADG	Fig Street Building	All buildings
2 hours' direct sunlight to:			
• Living rooms	At least 70%	× 28% (14 of 50 apartments)	× 38% (108 of 287 apartments)
• Private open space	At least 70%	✓ 76% (38 of 50 apartments)	✓ 78% (224 of 287 apartments)
No direct sunlight	Maximum 15%	✓ 14% (7 of 50 apartments)	✓ 2.4% (7 of 287 apartments)

Sun shading

86. In accordance with Council's RFI#1, the applicant has proposed sun shading to the east and west facing Level 09 and 10 private open spaces (in the form of retractable awnings fitted with a wind sensor and weather station) (see **Figure 41**). The location/size of the proposed awnings ensures that there would be no changes to the shadow analysis (see overshadowing discussion above).

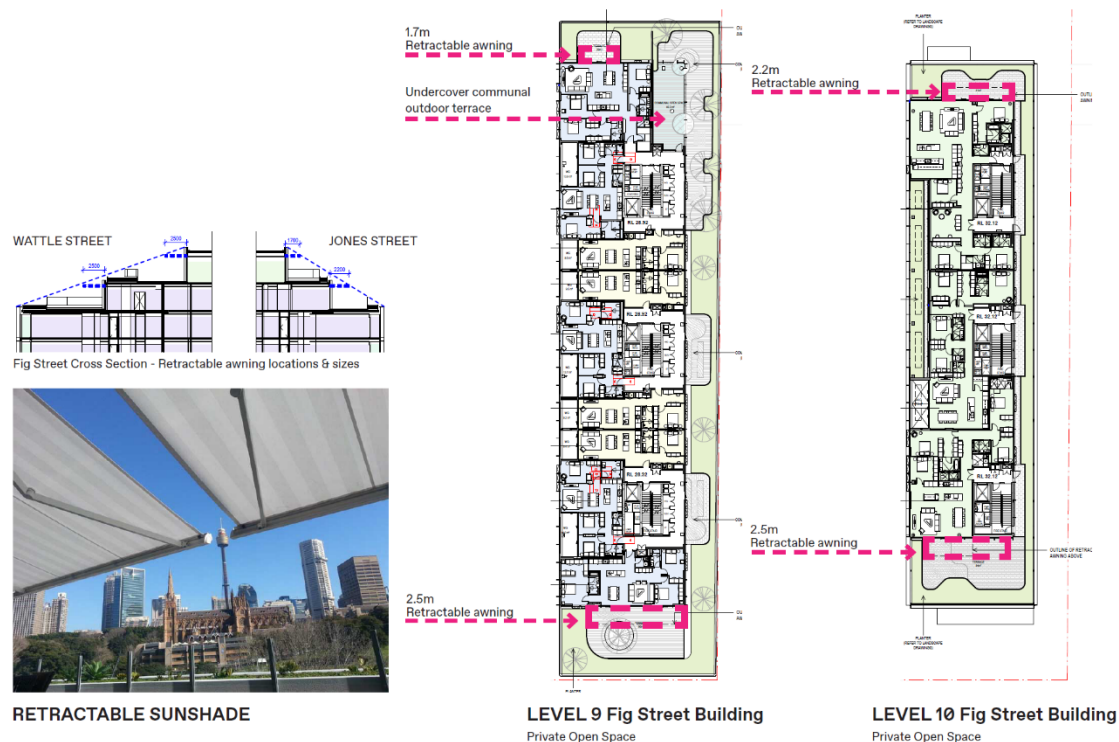


Figure 41: Sun shading: Proposed Level 09 and 10 retractable awnings to private open space

Hotel rooms

87. In response to Council's RFI#2, the applicant amended the hotel room design as follows, with no reduction to the number of proposed hotel rooms (142 rooms):
- Openable windows:** The northern elevation (Levels 03, 04 and 05) has been amended to introduce operable/awning windows to hotel rooms where noise from Fig and Wattle Streets is not a concern. This would enhance guest comfort by enabling natural ventilation and access to fresh air. In addition to improving amenity, operable windows offer sustainability benefits by reducing reliance on mechanical ventilation and air conditioning, contributing to lower energy consumption.
 - Subterranean hotel rooms:** Subterranean hotel rooms are proposed on Levels 03 and 04 along the eastern side of the Fig Street Building facing the exposed cut rockface below Jones Street. In response to Council's RFI#2, the architectural plans have been amended to:
 - Reduce the number of hotel rooms that have an aspect to the cliff face only
 - Increase the building setback to the cliff face (minimum 1.9m)

- (iii) Increase natural light to the cliff setback area and public views to the cliff by replacing the originally proposed grate at the Jones Street with an open void (3.6m x 17m).

(see **Figure 42**)

88. Council's Urban Designer considered the proposed hotel room changes, subject to conditions, to be satisfactory.

FIG ST BUILDING - LEVEL 03

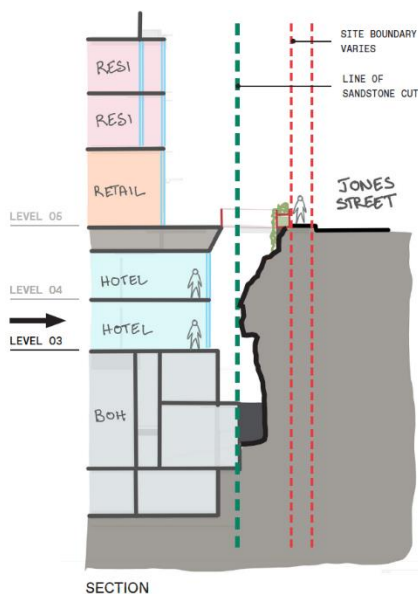
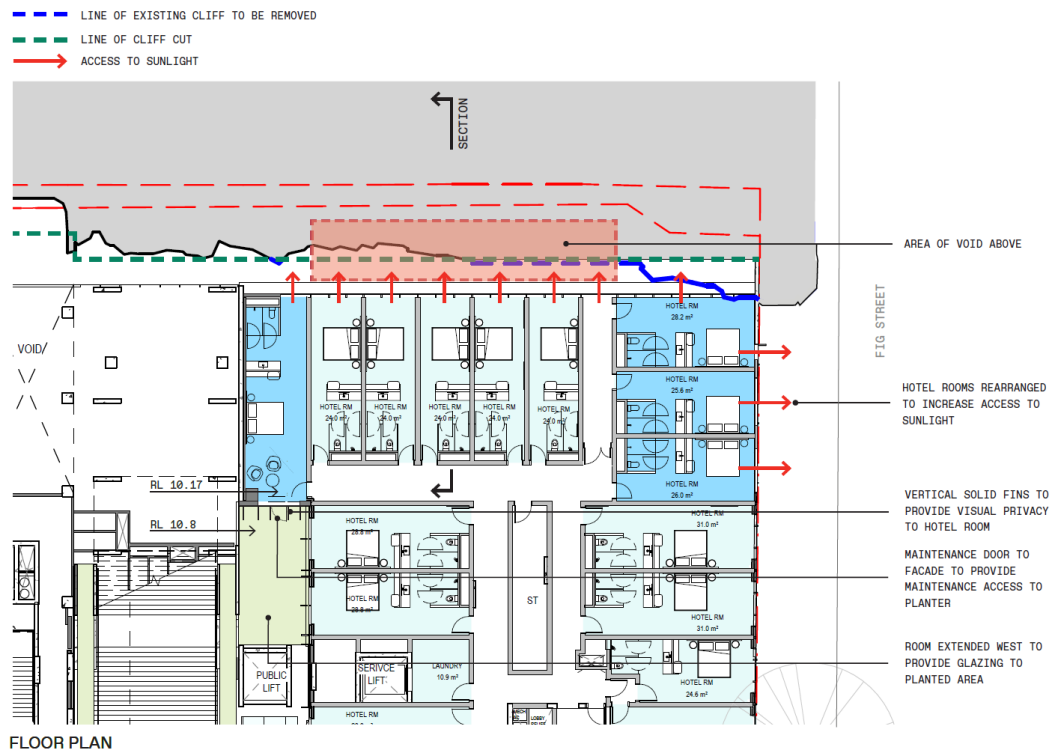


Figure 42: Fig Street Building: Subterranean hotel rooms

Design Advisory Panel (DAP)

89. 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 10** below.

Table 10: Response to advice of DAP

Design advisory panel advice	
Advice	Comment
Sub-terranean hotel rooms are unacceptable.	✓ The modification application has been amended to address this concern (see above).
Solar and daylight access requirements must meet ADG objectives, design criteria and guidance.	✓ The modification application has been amended to address this concern (see above).
Any proposed acoustic treatments must be proven to work, while not impacting on other amenity provisions.	✓ The modification application has been amended to address this concern (see above).
While the proposed louvre screens do not screen primary windows, it is essential to maintain some outlook from the screened windows.	✓ Recommend modification of condition of consent (2) requires the submission of further details privacy protections measures.
Primary balconies must meet ADG objectives, design criteria and guidance. It is not acceptable to include the wintergardens in the primary open space calculation.	✓ Meeting the Objective and Design guidance at 4J-2 of the ADG, wintergardens are provided to noise affected apartments only (in response to RFI#2, the modification application was amended to convert north facing wintergardens to balconies where apartments are not noise affected).

Design advisory panel advice	
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 modification application has been amended to address this concern (see above).
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)

90. 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 11** below.

Table 11: 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	✓ Meeting the objective and design guidance at 4J-2 of the ADG, wintergardens are provided to noise affected apartments only (in response to RF1#2, the modification application was amended to convert north facing wintergardens to balconies where apartments are not noise affected). This reduces apartment depth, improves solar access and natural ventilation and increases the range of activities the private open space areas can accommodate.
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.	✓ Additional information has been provided illustrating the operation and configuration of the wintergardens (see Discussion above). Recommended new consent condition (177) requires the installation of a explanatory plaque within all apartments that have a wintergarden (explaining how to achieve natural ventilation and minimise noise intrusion),
Incremental changes to the Jones building have been proposed such as additional	✓

Design advisory panel subcommittee residential advice	
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.	Additional information has been provided in relation to façade treatments and recommended modification of consent condition (2) requires the submission and approval of detailed plans illustrating the design of all screens and grilles prior to the issue of a construction certificate for above ground works. 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.	✓ Recommended modification of consent condition (2) requires the submission of further details on the detail of all privacy protections measures.
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.	✓ At least 50% of the required communal open space area would receive 2 hours of direct sunlight between 9am and 3pm on 21 June (meeting the 30% requirement of the ADG). The modification application has been amended to provide privacy screens to apartments that adjoin the proposed Level 09 communal open space areas.
Reliance on planting in private open space to address building separation and privacy issues may raise management issues.	✓ The modification application includes a Landscape Maintenance Plan and the recommended modification of consent condition (59) requires compliance with the plan.
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 modification application generally retains the design of the approved development at Jones and Wattle Streets.

Design advisory panel subcommittee residential advice	
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 hotel rooms at Levels 03 and 04 have been replanned to achieve reasonable access to natural light and outlook. Recommended modification of Condition (2) requires further amendments to maximise the amenity of hotel rooms. See Discussion section above.

Council units

91. 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.
92. The above teams advised that the proposal is acceptable subject to modification of the conditions of consent.

External referrals

93. 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.

Ausgrid

94. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the applications were referred to Ausgrid for comment. A response was received raising no objections to the modification applications.

Transport for NSW

95. The modification applications were referred to TfNSW for comment pursuant to Section 2.122 of SEPP Transport and Infrastructure and concurrence under Section 138 of the Roads Act 1993 and Section 2.99 of SEPP Transport and Infrastructure. By letter dated 9 December 2024, TfNSW advised that it did not support the application and requested the following information to enable its assessment:
- **Bus/coach drop off/pick up:** The proposed bus/coach drop off/pick up on Wattle Street in its current location is not supported by TfNSW. The applicant must identify an alternative location for bus pick up and drop off associated with the proposed hotel. (e.g. further to the north within the existing parking area subject to agreement with Council).
 - **Bus swept path:** The swept paths provided in the Transport Statement prepared by JMT Consulting (dated 11 October 2024) do not provide sufficient information to enable TfNSW to undertake an assessment (refer to Figure 8). Updated swept paths showing a bus/coach undertaking left turn movement from Wattle Street to Fig Street with details of the existing road configuration/infrastructure along the paths are to be provided for further assessment. The updated swept path plans provided need to be at an appropriate scale, prepared in accordance with AS2890.2-2018 with required clearance at appropriate design speed and demonstrate that bus/coach can turn left onto Fig Street from Wattle Street without impacting upon adjoining lanes and the existing infrastructure within the road reserve (i.e. kerb, raised island, signage, etc).
 - **Shade fins:** The proposed shade fins/sun shades extending beyond the property boundary on Fig Street (refer to Tab B) is not supported. TfNSW requests that all buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property unlimited in height or depth along the classified state road reserve (i.e. Wattle Street and Fig Street). As such, the architectural plans must be updated showing that the proposed shade fins/sun shades are wholly located within the property boundary along Fig Street boundary.
96. The applicant amended the modification application to address each of these matters and the modification application was again referred to TfNSW. By letter dated 2 June 2025, TfNSW advised that it did not object to the application subject to modification of conditions of consent, as set out in **Attachment A**.

Water NSW

97. Pursuant to section 78(1)(a) of the Sydney Water Act 1994, the modification application may increase the demand for water supplied by the Sydney Water Corporation. As such, it was referred to Sydney Water for comment. Sydney Water provided conditions of consent on the 3 December 2024, which have been included in the modified conditions at **Attachment A**.

Advertising and notification

98. 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.

99. 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 requires the payment of a contribution towards the provision of affordable housing, pursuant to section 7.13 of Sydney LEP 2012.

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

Response: The modified Fig Street Building includes the hotel entry, reception and bar/lounge at Level 01; 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 Original Consent, the modified development includes plant and photovoltaic panels at the roof level of the Fig Street Building. The modification application does, however, include 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

100. 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

Contribution under Section 7.11 of the EP&A Act

101. The modified development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.

153. The following monetary contribution is required towards the cost of public amenities:

(a) Open Space	\$4,274,014.91
(b) Community Facilities	\$1,381,000.01
(c) Traffic and Transport	\$12,571.53
(d) Stormwater Drainage	nil
(e) Total	\$5,667,586.45

102. Modification of Condition (11) relating to the Section 7.11 development contribution is included in the recommended conditions of consent.

Contribution under Section 7.13 of the Sydney LEP 2012

103. The site is located within the Ultimo/Pymont affordable housing contribution area as per clause 7.13 of the Sydney LEP 2012 and the City West affordable housing program applies. The following affordable housing levy contribution is applicable to the modified development:

- (a) \$38.84 per square metre of total floor area of the development that is intended to be used for residential purposes; and
- (b) \$55.81 per square metre of total floor area of the development that is not intended to be used for residential purposes.

104. Based on a modified residential total floor area of 44,400m² and a modified non-residential total floor area of 11,205m², the equivalent monetary contribution amount is **\$2,349,847.05** for the modified development.

105. Modification of Condition (10) relating to the Affordable Housing contribution is included in the recommended conditions of consent.

Housing and Productivity Contribution

106. The Department of Planning, Housing and Infrastructure has advised that the Housing and Productivity Contribution (**HPC**) does not apply to the section 4.55 modification application as the original application was submitted on 16 February 2023 which is prior to the HPC coming into effect on 1 October 2023.

Conclusion

107. The section 4.55 modification application proposes the change of use of the approved Fig Street Building from commercial/retail premises to hotel accommodation (142 rooms), residential apartments (50) and retail premises, changes to layout of the basement, levels above, as well as amended stratum subdivision.

108. The modification application is consistent with the concept consent as modified by D/2019/649/C.
109. The modification application satisfies the relevant tests at section 4.55 of the EP&A Act. The development as proposed to be modified is substantially the same as that which was originally approved. Like the Original 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).
110. 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.
111. The increased height of the building envelopes generally reflects the winning scheme and will not adversely impact the amenity of the surrounding area. The modified development exhibits design excellence in accordance with clause 6.21C of Sydney LEP 2012, with a high standard of architectural and landscape design and a built form that is consistent with the existing and future desired character of the area.
112. The development is in the public interest and is recommended for approval, subject to the modification of the conditions as set out in **Attachment A**.

SANDRA ROBINSON BTP (HONS) REGISTERED PLANNER PLUS (EIA)

Director, Robinson Urban Planning Pty Ltd