

Item 8.**Section 4.56 Application: 163-173 McEvoy Street, Alexandria – D/2017/238/A**

File No.: D/2017/238/A

Summary

Date of Submission:	20 November 2019. Amended plans received on 31 August 2020
Applicant:	Ceeroose/Priansa Pty Ltd
Architect/Designer:	Andrew Burns Architecture and PBD Architecture
Developer:	Ceeroose/Priansa Pty Ltd
Owner:	Priansa Pty Ltd
Planning Consultant	Daniel McNamara Planning Solutions
Cost of Works:	\$0
Zoning:	The site is zoned B4 - Mixed Use under the Sydney Local Environmental Plan (SLEP) 2012. The development is permissible with consent.
Proposal Summary:	<p>This Section 4.56(2) application seeks to modify the concept approval for two mixed use building envelopes. The envelopes are labelled as 'Building A' fronting McEvoy Street and 'Building B' fronting Lawrence Street.</p> <p>The current concept consent was approved by the Land and Environment Court on 24 August 2018.</p> <p>The application was reported to the CSPC on 23 July 2020 for determination, along with the accompanying detailed design application D/2019/1350. Both applications were recommended for approval. At this meeting, the CSPC resolved to defer the consideration of the application for further consideration of design and traffic issues. These issues were specific to the detailed design application and include the following:</p> <ul style="list-style-type: none">• vehicle access via Lawrence Street and associated traffic impacts;

- amenity of proposed Lawrence Street below ground apartments within Building B;
- solar access to the adjoining residential flat building at 118-136 Lawrence Street;
- privacy impacts to the adjoining terraces at 74-84 Lawrence Street; and
- acoustic treatment to apartments fronting McEvoy Street within Building A.

The detailed design application has been subsequently amended to address the above concerns.

Amended plans were submitted on 31 August 2020 for the subject modification application that reflect the amendments to the detailed design application. A summary of amendments to the subject modification application are as follows:

- increase in the height of Building B by 1.4m;
- introduce a 4m setback to the south western property boundary on the upper level of Building B; and
- remove the return on the north eastern projecting bay of Building A.

The amended plans were notified for a period of 14 days between 3 September and 18 September 2020. 106 submissions were received. Issues raised include height, bulk and scale, density, traffic and parking, tree removal and landscaping, overshadowing, heritage, privacy, noise, construction impacts, design excellence and procedural issues.

This report deals specifically with the amendments made to address issues raised by the CSPC at the 23 July 2020 meeting and public submissions received in relation to the most recently re-notified plans. All other issues and assessment items are contained within the 23 July 2020 CSPC meeting report, which is included at Attachment C to this report.

The proposed modifications will deliver consistency between staged development applications, as required under Section 4.24 of the Environmental Planning and Assessment Act, 1979.

As amended, the proposed building envelopes are considered to be substantially the same as previously approved and contextually appropriate. The detailed design development application (D/2019/1350), which is presented to the CSPC concurrently and recommended for approval, demonstrates that a generally compliant scheme can be provided within the amended envelope. Consequently the amendment is recommended for approval.

Summary Recommendation: The development application is recommended for approval, subject to conditions.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
- (iii) NSW Apartment Design Guideline 2015
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012

Attachments:

- A. Amended Conditions of Consent
- B. Amended Building Envelope Drawings
- C. Original Report to CSPC - 23 July 2020

Recommendation

It is resolved that consent be granted to Section 4.55 Application No. D/2017/238/A subject to the amendment of the following conditions (with additions shown in ***bold italics*** and deletions shown in ~~strikethrough~~), as follows:

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2017/238 dated 15 November 2019 and the following drawings prepared by ~~BKA~~ Andrew Burns Architecture:

Drawing Number	Drawing Name	Date
DAO70 Revision G	Floor Plan Envelope Ground Floor (Scheme 05 – Compliant)	19 June 2018
DAO71 Revision G	Floor Plan Envelope Level 01-02 (Scheme 05 – Compliant)	18 June 2018
DAO72 Revision G	Floor Plan Envelope Level 03 (Scheme 05 – Compliant)	19 June 2018
DAO73 Revision G	Floor Plan Envelope Level 04 (Scheme 05 – Compliant)	18 June 2018
DAO74 Revision E	Floor Plan Envelope Level 05 (Scheme 05 – Compliant)	29 June 2018
DAO75 Revision H	Elevation Envelope (Scheme 05 – Compliant)	18 June 2018
DAO76 Revision F	Section Envelope (Scheme 05 – Compliant)	18 June 2018
<i>100-E</i> <i>Revision E</i>	<i>Floor Plan Envelope Ground Floor</i>	<i>28.08.20</i>
<i>101-E</i> <i>Revision E</i>	<i>Floor Plan Envelope Level 1 – Level 2</i>	<i>28.08.20</i>
<i>102-E</i> <i>Revision E</i>	<i>Floor Plan Envelope Level 3</i>	<i>28.08.20</i>

103-E Revision E	Floor Plan Envelope Level 4	28.08.20
104-D Revision D	Floor Plan Envelope Level 5	28.08.20
105-D Revision D	Floor Plan Envelope Level 6	28.08.20
106-D Revision D	Floor Plan Envelope Level 7	28.08.20
107-D Revision D	Elevation Envelope	28.08.20
108-D Revision D	Section Envelope	28.08.20

and as amended by the conditions of this consent.

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

(5) DETAILED DESIGN OF BUILDINGS

The drawings lodged for the competitive design process brief and detailed design development application must incorporate the following requirements:

- (a) Buildings to McEvoy Street should be designed with at least two distinct building components, each with its own architectural character, having regard to 4.2.4 of the Sydney Development Control Plan 2012.
- (b) A five storey street wall is to be provided to buildings fronting to McEvoy Street, with any levels above provided with a setback from street.
- (c) Any exposed blank walls is to be provided with a visually interesting treatment of high quality design.
- (d) Floor level entries, including any opening to basement, lift wells and lobbies, must comply with the City's Interim Floodplain Management Policy for setting floor levels.
- (e) Any basement levels are to be designed to accommodate onsite residential waste collection by Council's waste collection vehicles.
- (f) The buildings fronting to McEvoy Street are to be provided with active commercial uses at the ground floor level.

- (g) Any required substation is to be integrated into the development within the site boundaries.
- (h) The future detailed design of the building and residential apartments fronting to Lawrence Street are to reflect the fine grain and subdivision pattern and respect the context and scale of the adjoining Cooper Estate heritage conservation area.
- (i) No more than 15% of apartments are to receive no direct sunlight between 9am to 3pm at the mid-winter solstice. North-facing apartments are to be maximised and single-oriented south-facing apartments are to be minimised.
- (j) At least 60% of apartments in the development are to be naturally cross ventilated.
- (k) No below ground habitable rooms are to be provided to any residential apartments.
- (l) Any void areas at ground level below the Lawrence Street building are to be provided as non-habitable basement storage.
- (m) All buildings are to have a clear street address, with all entry lobbies having a direct spatial and visual connection from the street to communal open space areas.
- (n) Communal open space areas are to be provided with direct and legible pedestrian connectivity through the site.
- ~~(o) All articulation zones in any future detailed design of Building A are to be for balconies and architectural features only, with no gross floor area.~~

(6) BUILDING HEIGHT

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

- (a) Building A: RL ~~30.9~~ **34.1** AHD, as identified in the approved plans.
- (b) Building B: RL ~~23.42~~ **24.4** AHD ~~for parapet roof~~ as identified in the approved plans.
- ~~(c) Notwithstanding (a) above, the development may be eligible for up to 10% design excellence uplift in building height to Building A, subject to compliance with the provisions of Clause 6.21 (7) of Sydney Local Environmental Plan 2012.~~
- (d) No further exceedance of the Height of Buildings standard is to be included in any subsequent detailed design development applications.

(6A) ARCHITECTURAL ROOF FEATURES, ROOFTOP LIFT OVERRUNS, SKYLIGHT AND PLANT

- (a) Notwithstanding condition 6(b) of this development consent, **architectural roof features, roof parapet**, lift over runs, skylights, solar panels and plant may be permitted to the rooftop of Building B to a maximum height of RL ~~24.420~~ **25.8** AHD, provided these elements are:

- ~~(i) setback behind any sight lines as viewed from Lawrence Street; and~~
- ~~(ii) located to ensure no overshadowing to any adjoining properties; and~~
- (iii) screened on all sides, architecturally detailed and integrated into the building design; and
- (iv) not to include any gross floor area.

The requirements of this clause are to be incorporated into the competitive design process brief and detailed design development application.

- (b) No items other than those listed in clause 6A (a) are permitted on the rooftop of Building B.

(12) LANDSCAPING OF THE SITE

- (a) The detailed design development application must include a Landscape Concept Plan and Landscape Design Statement prepared by a qualified landscape architect or landscape designer.
- (b) The Plan and Statement should:
 - (i) Clarify the vision and design principles for all landscaping to achieve design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012 and the integration of landscape design.
 - (ii) Identify any site, landscape, streetscape, heritage view and/or planning constraints, including (but not limited to), microclimate, ground contamination, existing levels, services and easements, existing trees, landscape features, landscape setbacks and screening/buffer requirements.
 - (iii) Integrate the design and treatment of the driveway with the landscape design strategy for the site.
 - (iv) Integrate the substation and services within the building, outside of deep soil areas and the public domain.
 - (v) Identify the location of deep soil areas, tree planting, communal open spaces, green roofs and walls, sustainable design measures including water sensitive urban design treatments, sustainability targets and direct sunlight to communal and private open spaces.
 - (vi) Quantify and illustrate landscape design compliance with the relevant codes including Parts 3 and 4 of the Apartment Design Guide, Section 4.2.3 of the Sydney Development Control Plan 2012 and Sydney Landscape Code Volume 2.
 - (vii) Provide deep soil zones, in accordance with Part 3E of the Apartment Design Guide, with a minimum of 10.5% of the total site area ~~and minimum dimension of 6 metres~~. In addition, a minimum 3-metre wide deep soil zone to the full Lawrence Street frontage must be provided, noting deep soil zones must be unencumbered by structures either above or below ground.

- (c) The Plan and Statement should consider the quality of the landscape street setbacks, the interface spaces between buildings facing and the public domain achieving balance between privacy and passive surveillance to apartments adjacent to communal open spaces, the public domain and include the provision of large tree species.
- (d) The Plan and Statement should establish a clear commitment to designing landscape sustainably and in an integrated manner, and demonstrate that the function and aesthetic of both the landscape and the building have been considered concurrently in relation to each other.
- (e) The requirements noted above in (a) through (d) inclusive must be included in the competition brief for the competitive design process.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development as modified is substantially the same as was originally approved and is consistent with the requirements of Section 4.56(2) of the Environmental Planning and Assessment Act 1979.
- (B) The proposed modifications ensure that the detailed design development application is consistent with the concept approval to satisfy Section 4.24 of the Environmental Planning and Assessment Act 1979.
- (C) The increased height and bulk of the building envelopes are in keeping with the desired future character of the area and will not adversely impact the amenity of the surrounding area. These variations are reasonable and justified with regard to the detailed design development application.
- (D) The proposed building envelopes are capable of accommodating a future building design which is capable of exhibiting design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.

Background

The Site and Surrounding Development

1. A detailed description of the site and its surrounds is contained in the original assessment report included in Appendix C.

History Relevant to the Development Application

Subject Application – Assessment History

2. The application was referred to the CSPC on 23 July 2020 for determination.
3. At this meeting, the CSPC resolved to defer the consideration of the application for further interrogation of design and traffic issues. These concerns related primarily to the detailed design application (D/2019/1350) and included the following:
 - (a) vehicle access via Lawrence Street and associated traffic impacts;
 - (b) amenity of proposed Lawrence Street below ground apartments within Building B;
 - (c) solar access to the adjoining residential flat building at 118-136 Lawrence Street;
 - (d) privacy impacts to the adjoining terraces at 74-84 Lawrence Street; and
 - (e) acoustic treatment to apartments fronting McEvoy Street within Building A.

Subject Application - Amendments

4. As a result of amendments made to the detailed design application submitted to address CSPC concerns raised at the July meeting, the subject modification application has been amended to ensure consistency with the subject detailed design application.
5. Amended plans were received on 31 August 2020. A summary of amendments is as follows:
 - (a) increase in the height of Building B by 1.4m;
 - (b) introduce a 4m setback to the south western property boundary on the upper level of Building B; and
 - (c) remove the return on the north eastern projecting bay of Building A.

D/2019/1350 – Detailed Design Application

6. An assessment of the detailed design application (D/2019/1350) has been undertaken and the application is recommended for approval. This application is presented to the CSPC concurrently for determination.

Proposed Development

7. The Section 4.56(2) modification seeks to modify the concept approval to bring it in line with the subsequent detailed design application.
8. The application, as amended, modifies the existing concept envelope to:
 - (a) increase the height of Building A and B;
 - (b) increase the width of the existing bays of Building A, amendments to bay setbacks/building separation and include an additional bay to the north;
 - (c) enlarge the footprint of Building B to meet the south-western property boundary; and
 - (d) reduce the depth of the floorplate of Building A.
 - (e) Conditions 2, 5, 6, 6A and 12 of the consent are to be modified to reflect the amended plans and the detailed development application as proposed in D/2019/1350.
2. Plans and elevations illustrating the primary amendments are provided below. A full set of architectural drawings is at Attachment B.

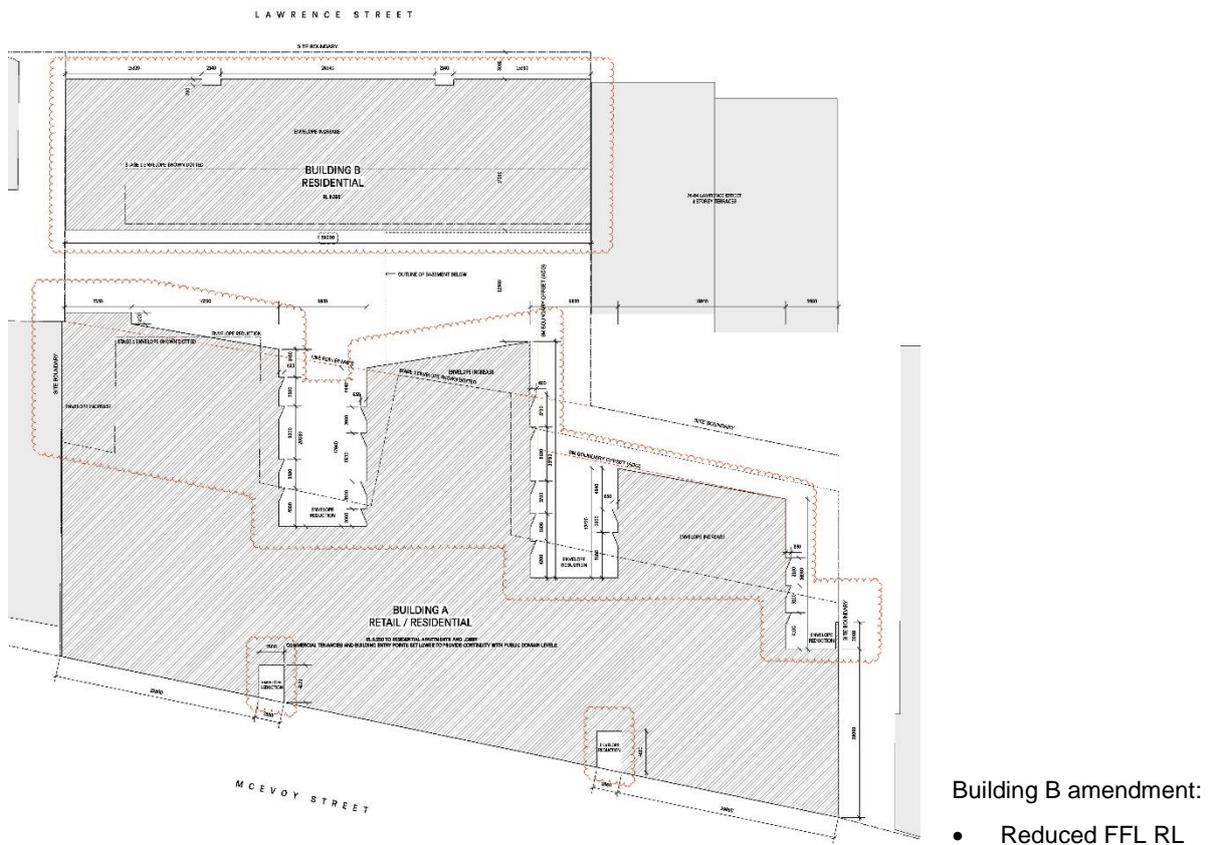
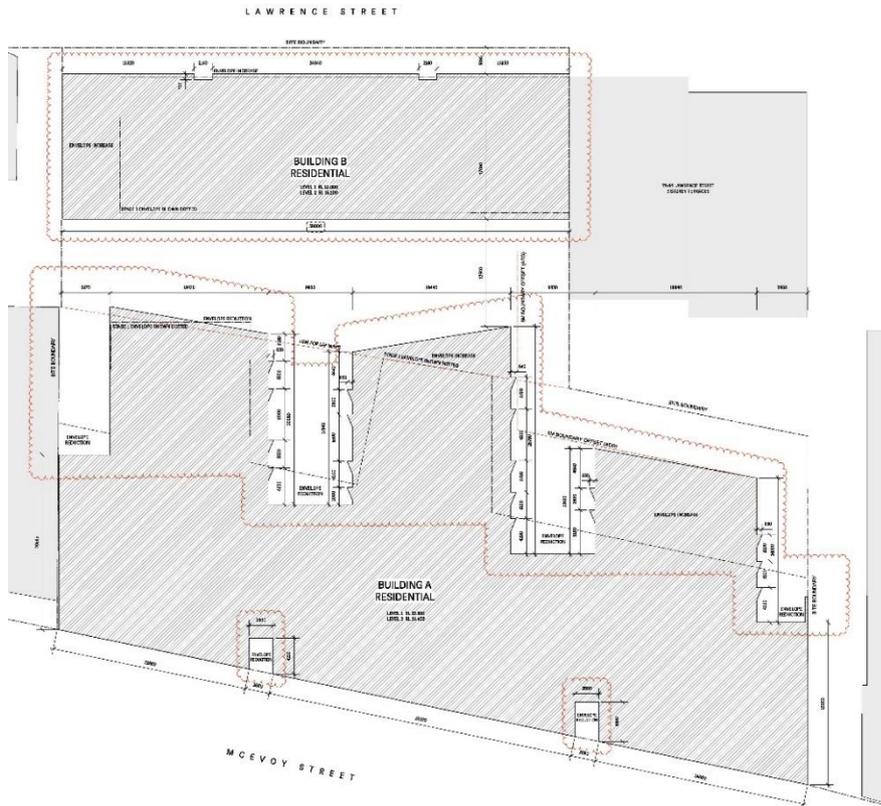


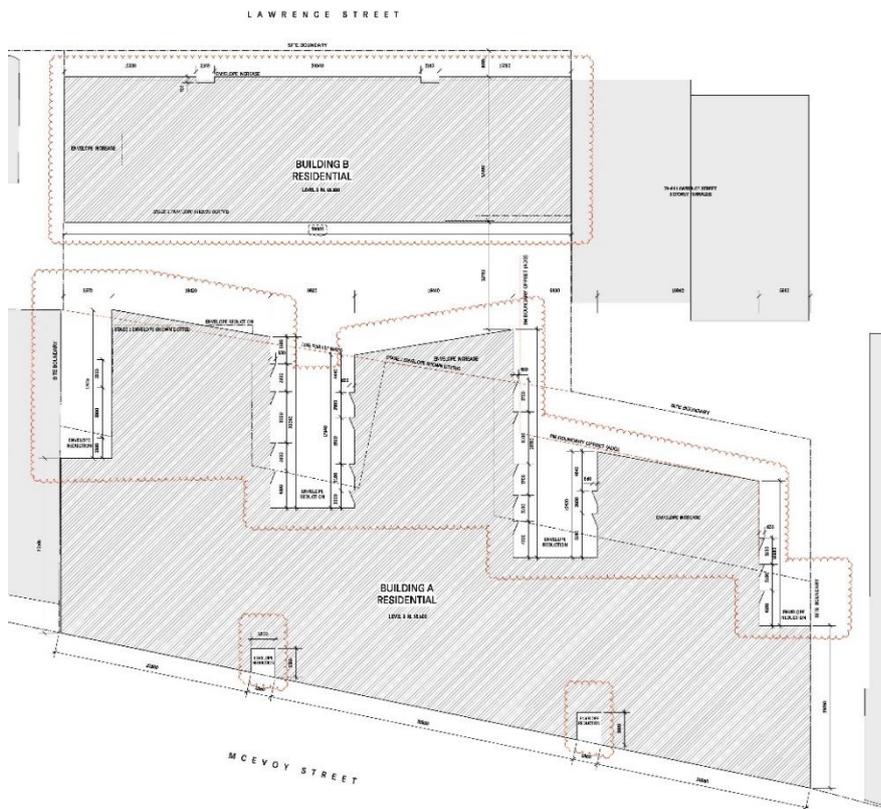
Figure 1: Proposed ground floor envelope



Building B:

- Reduced FFL RLs for both levels

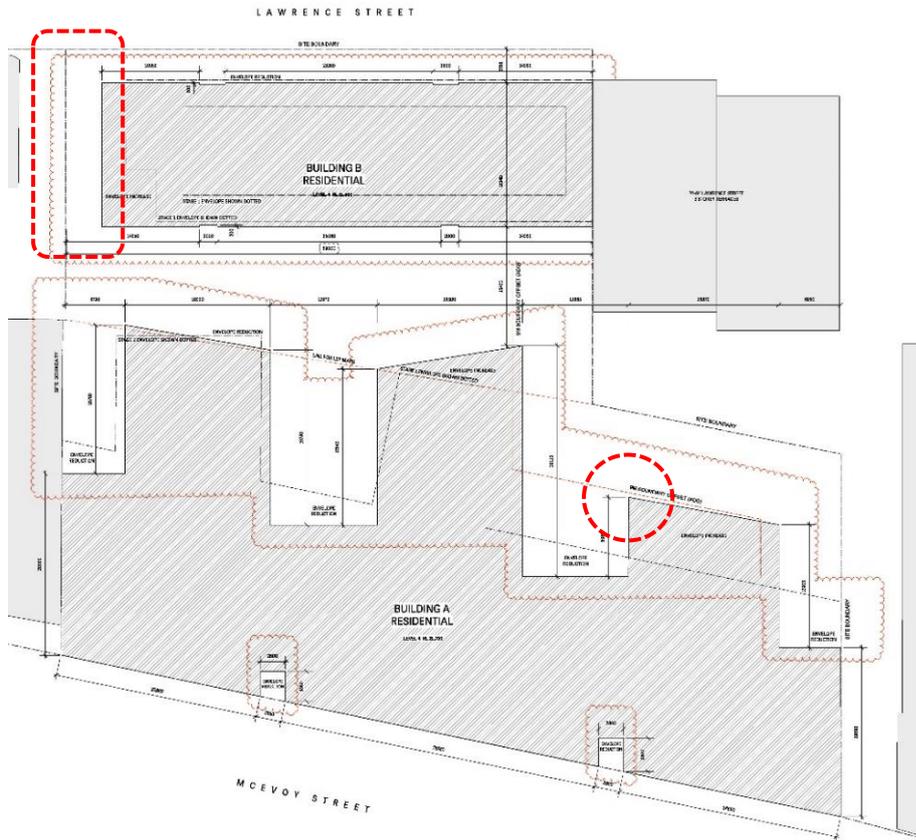
Figure 2: Proposed Level 1 and 2 envelopes



Building B:

- Reduced FFL RL

Figure 3: Proposed Level 3 envelope



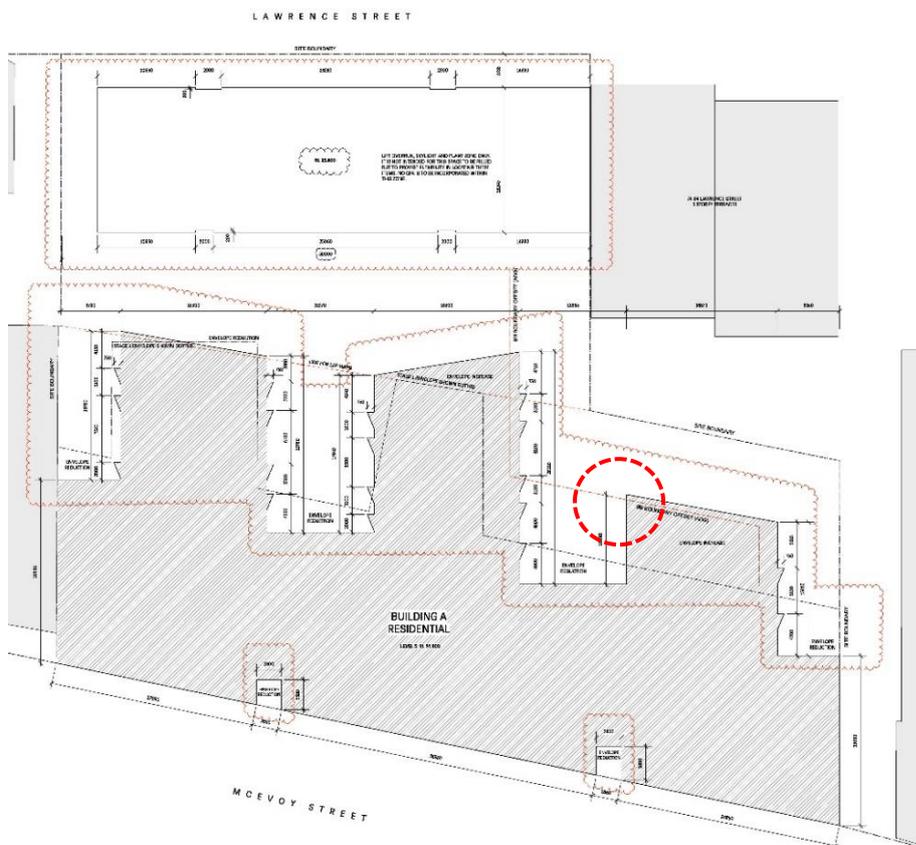
Building A:

- Deletion of return on north eastern bay

Building B:

- Additional level
- 4m setback to south western boundary

Figure 4: Proposed Level 4 envelope



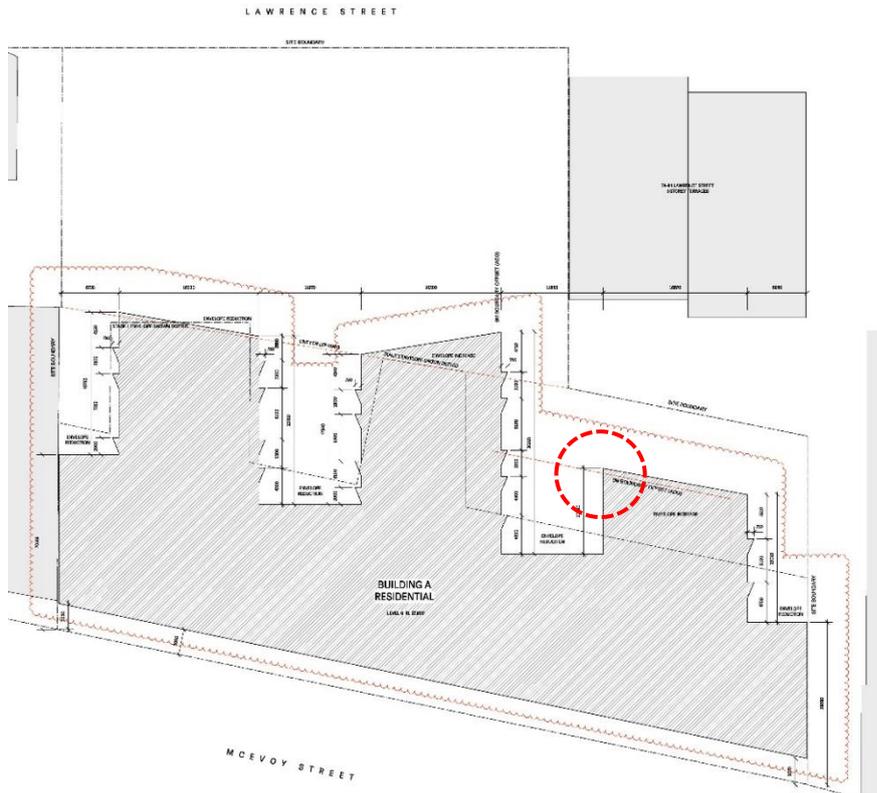
Building A:

- Deletion of return on north eastern bay

Building B:

- Increased roof RL

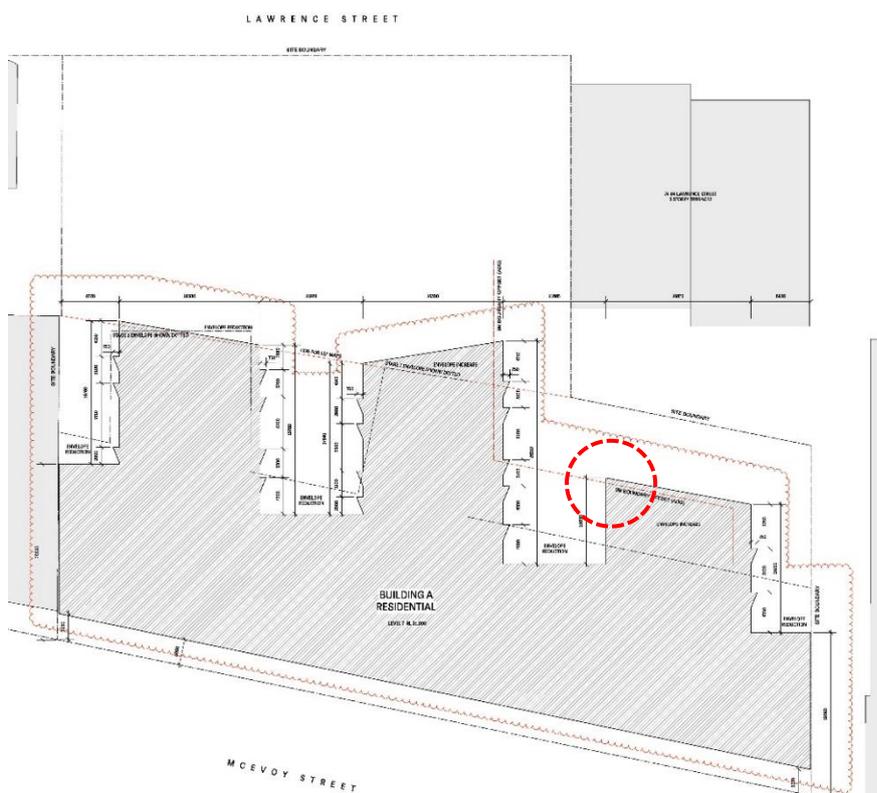
Figure 5: Proposed Level 5 envelope



Building A:

- Deletion of return on north eastern bay

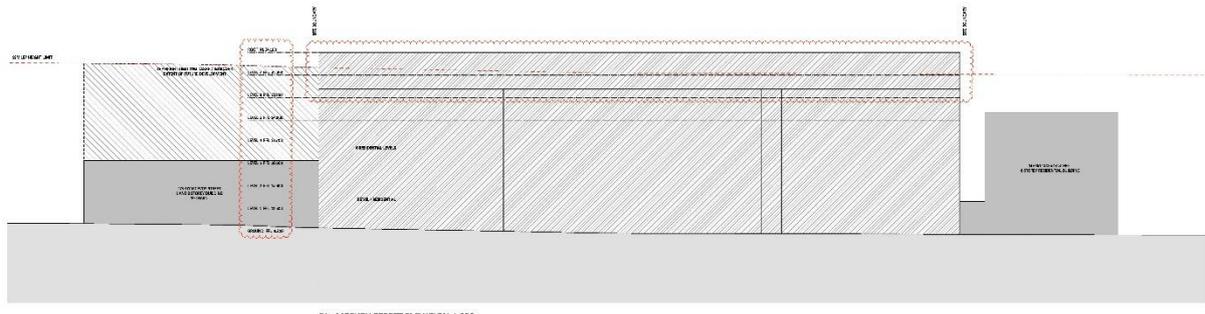
Figure 6: Proposed Level 6 envelope



Building A:

- Deletion of return on north eastern bay

Figure 7: Proposed Level 7 envelope



Building B:

- Additional level
- 4m setback to south western boundary
- Amended RLs

Figure 8: Proposed Elevation envelopes

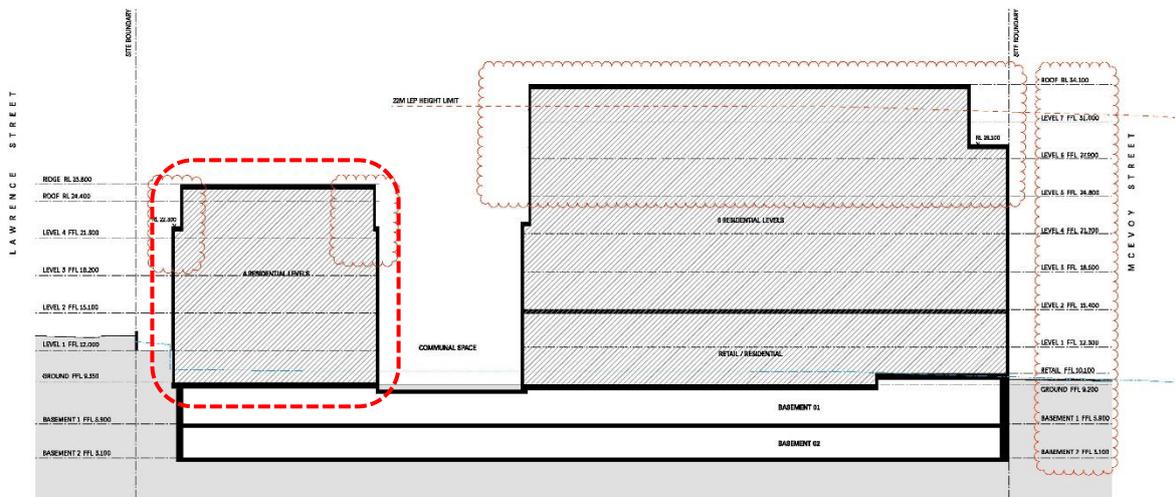


Figure 9: Proposed Section envelopes

Threshold Test

9. The development as proposed to be modified is substantially the same as that originally approved. The location and overall form of the building envelopes are not inconsistent with the intent of the approved concept. As per the originally approved concept application, the proposed modifications will deliver two mixed-use commercial and residential building envelopes, with Building A fronting McEvoy Street and Building B fronting Lawrence Street. Proposed modifications discussed within this report primarily relate to building height and building separation.

10. The height modification allows for design excellence provisions that are permissible under the LEP, namely the additional 10% height awarded to the application following the completion of the competitive design process.
11. Footprint and building separation changes to Building A and Building B are supported as they do not result in unacceptable overshadowing or privacy impacts and deliver envelopes that are capable of achieving an acceptable level of amenity for future occupants and adjoining properties.
12. In accordance with Section 4.56(1A), an assessment against the relevant provisions of Section 4.15(1) of the Act are provided under the headings in the Issues section below.

Economic/Social/Environmental Impacts

Environmental Planning and Assessment Act 1979

13. Besides the other matters discussed in this report, the previous assessment against the provisions of Section 4.15 of the Environmental Planning & Assessment Act are still relevant.

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development

14. SEPP 65 provides that in determining an application for a residential apartment development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality.
15. A full assessment of the proposal against the 9 design quality principles and the Apartment Design Guide (ADG) is detailed in the original assessment report contained at Attachment C.
16. An assessment of the amended modification application against the relevant design quality principles as they relate to the most recent amendments is provided as follows:

(a) Principle 2: Built Form and Scale

The amended Building B envelope is capable of providing a built form that has appropriate massing and scale. The Building B envelope presents as a 3.5 storey built form to Lawrence Street and proposes a maximum eight to the roof parapet that is contextually appropriate to the existing building to the north east. The addition of a 4m setback to the south western property boundary provides an appropriate transition to the adjacent existing 3 storey building.

(b) Principle 3: Density

The amended building envelopes allow for a development that can deliver a complying maximum Floor Space Ratio in line with Clause 4.4 of SLEP 2012.

17. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. An assessment of the amended application against the relevant ADG controls, as they relate to the amendments, is provided below.

3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): <ul style="list-style-type: none"> • 6m between habitable rooms / balconies • 3m between non-habitable rooms 	Accessed as acceptable	The proposal generally complies with the recommended building separation distances and is capable of delivering a development that can provide for an acceptable level of privacy for future occupants and adjoining properties. See discussion under the heading Issues.
Five to eight storeys (25 metres): <ul style="list-style-type: none"> • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms 		

Local Environmental Plans

Sydney Local Environmental Plan 2012

18. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.
19. The site is located within the B4 - Mixed Use zone. The mixed use development associated with the building envelopes is permissible in the zone.
20. Compliance with Clause 4.3 Height of Buildings development standard is discussed in the Issues section below.
21. The detailed design development application demonstrates that the revised building envelope can accommodate compliant Floor Space Ratio as outlined in Clause 4.4 and satisfy the objectives of Clause 6.21 Design Excellence.
22. The development is not inconsistent with other relevant provisions.

Figure 10: Building A - Level 4 original modification envelope with ADG building separation in blue and site boundary in red

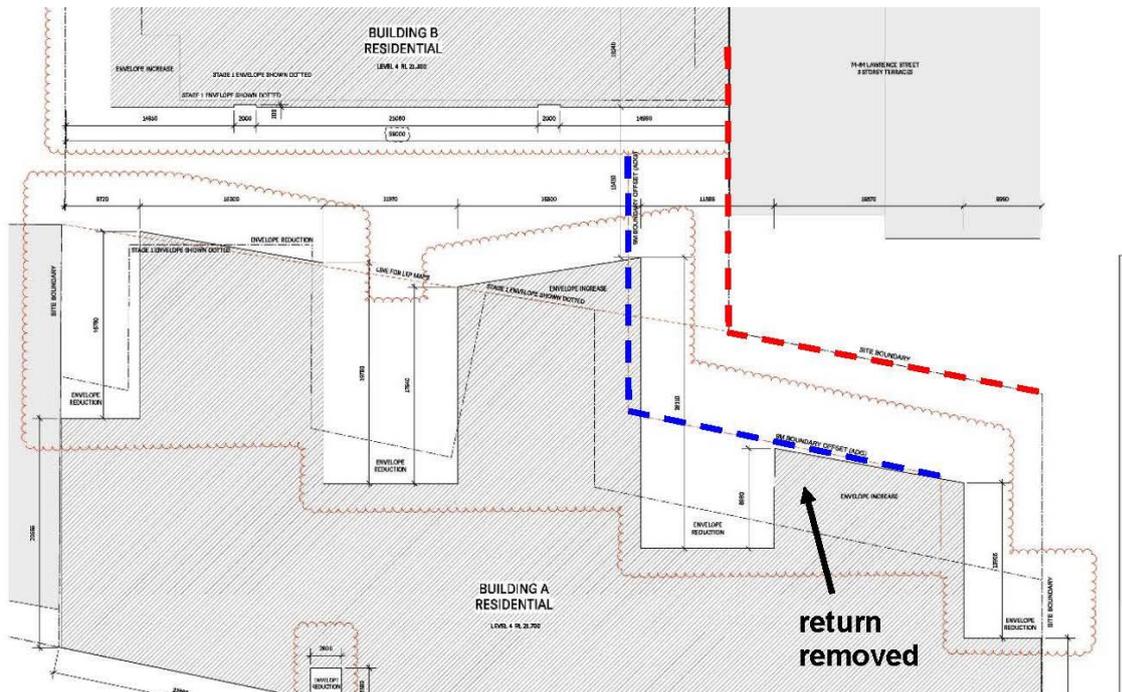


Figure 11: Building A - Level 4 amended modification envelope with ADG building separation in blue and site boundary in red

26. The most recent changes to the envelope of Building B comprise of an increase in the overall height of the building by 1.4m and introduction of a 4m setback to the south western property boundary on the upper level. The acceptability of these proposed changes to the Building B envelope is discussed below.

Streetscape

- (a) The application proposes exceeding the maximum 12m LEP height of building development standard by 3.32m. The extent of the non-compliance is illustrated in Figure 12.

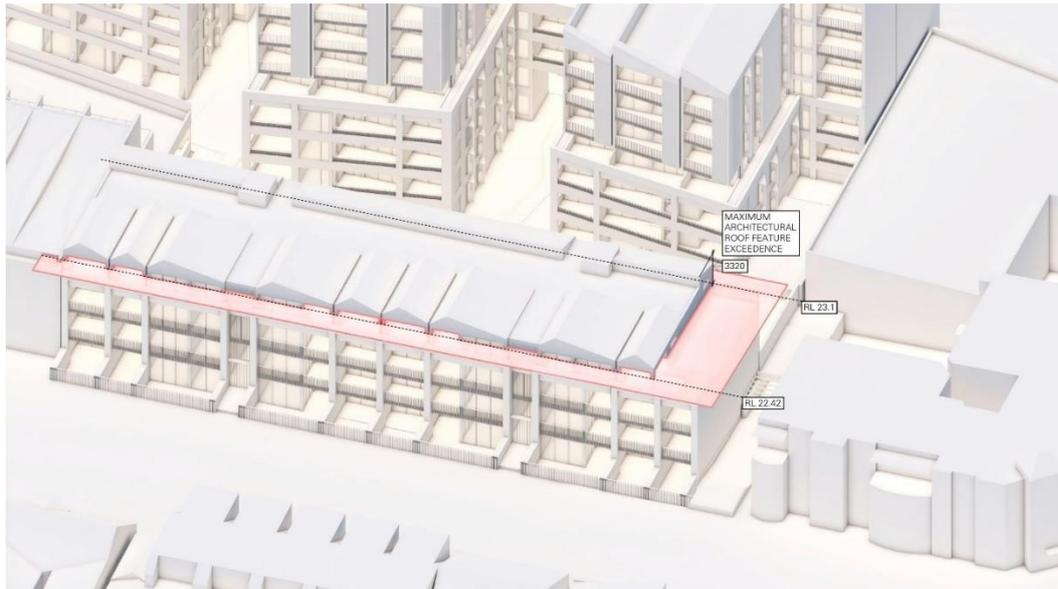


Figure 12: Proposed variation to LEP building height control – Building B

- (b) The original modification presented to CSPC in July set maximum building heights in RLs that corresponded to a building that presented as 3 storeys to Lawrence Street and 4 storeys to the internal courtyard (Figures 13 and 15).
- (c) The modified envelope presents a 3.5 storey form to Lawrence Street and 5 storey form to the internal courtyard (Figures 14 and 16).
- (d) The amended modification shows the floor level of Level 1 (being the first level of apartments) approximately 1.2m below street level, whereas previously apartments were proposed approximately 3.4m below street level on the Ground Floor. As shown in the detailed design application, the Ground Floor of Building B is to accommodate storage, a pool and cabanas. No part of residential units are contained on the Ground Floor of Building B, as per Condition 5(k) of the original concept approval.

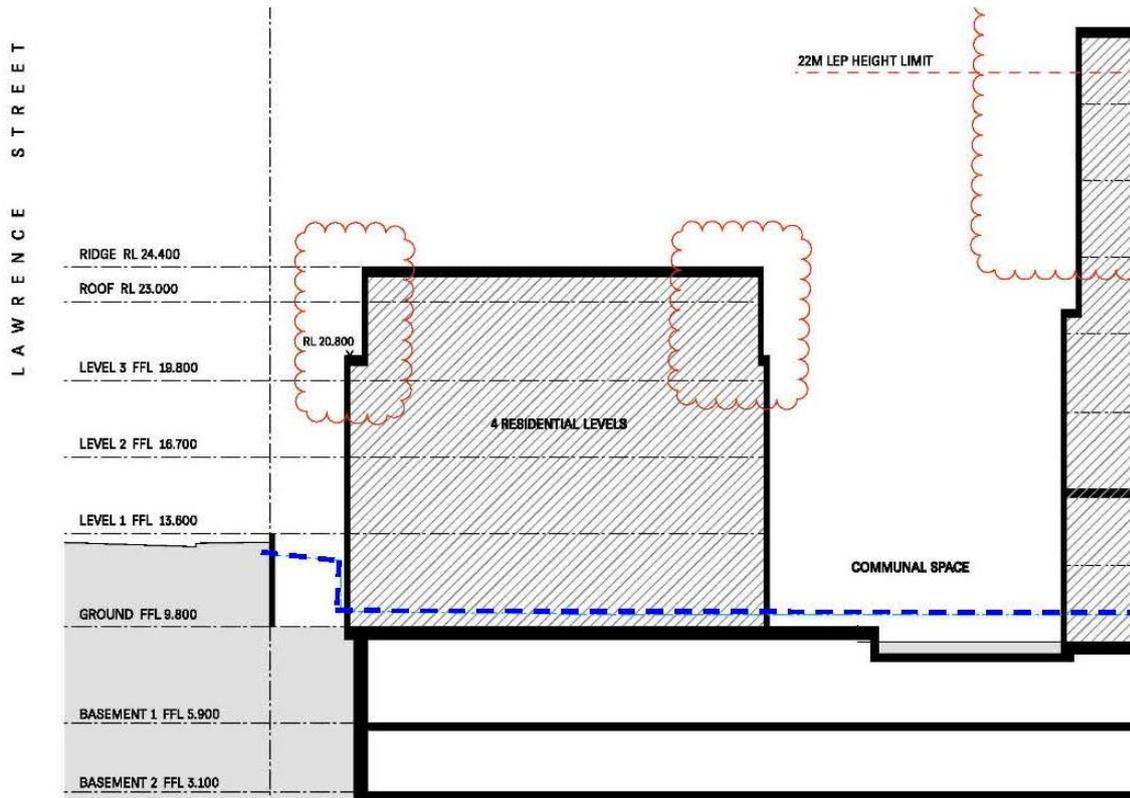


Figure 13: Building B: Section of original modification presented to CSPC in July (existing ground level in blue)

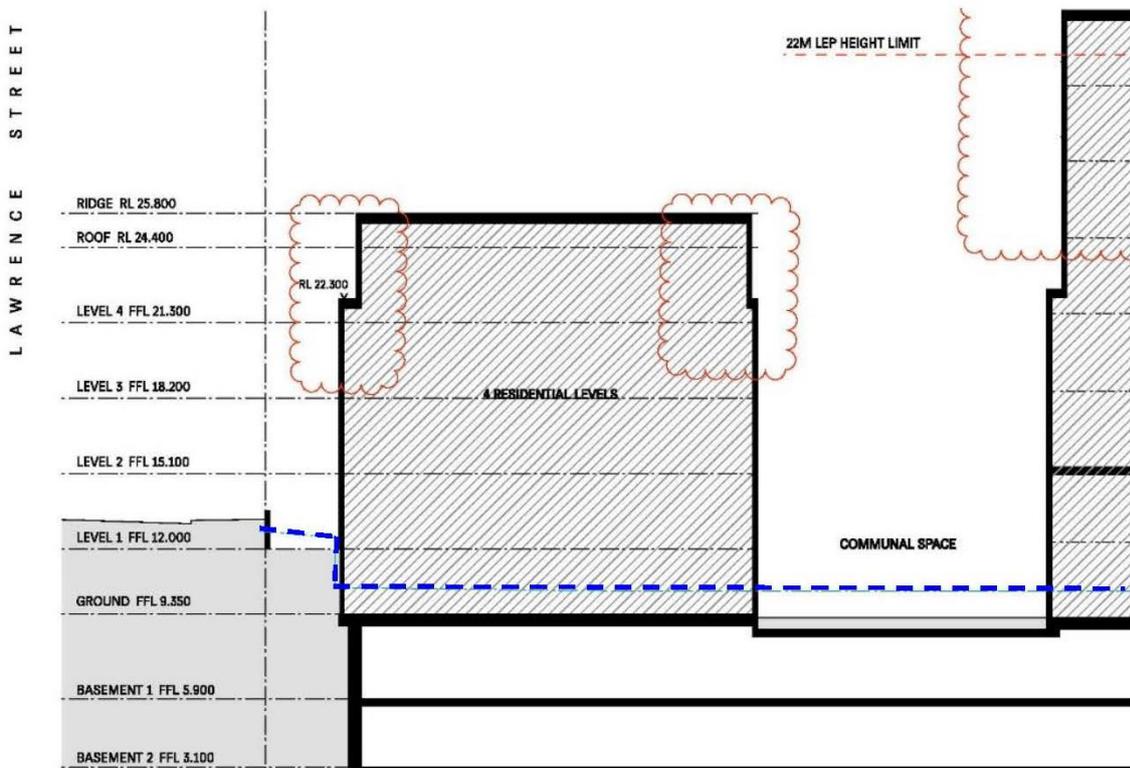


Figure 14: Building B: Section of amended modification (existing ground level in blue)

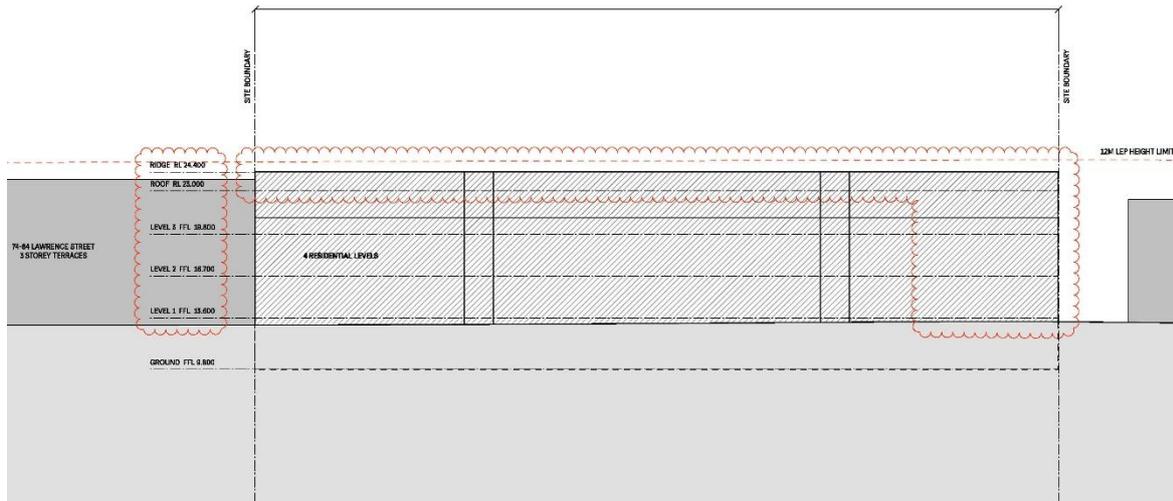


Figure 15: Building B: Lawrence Street elevation of original modification presented to CSPC in July

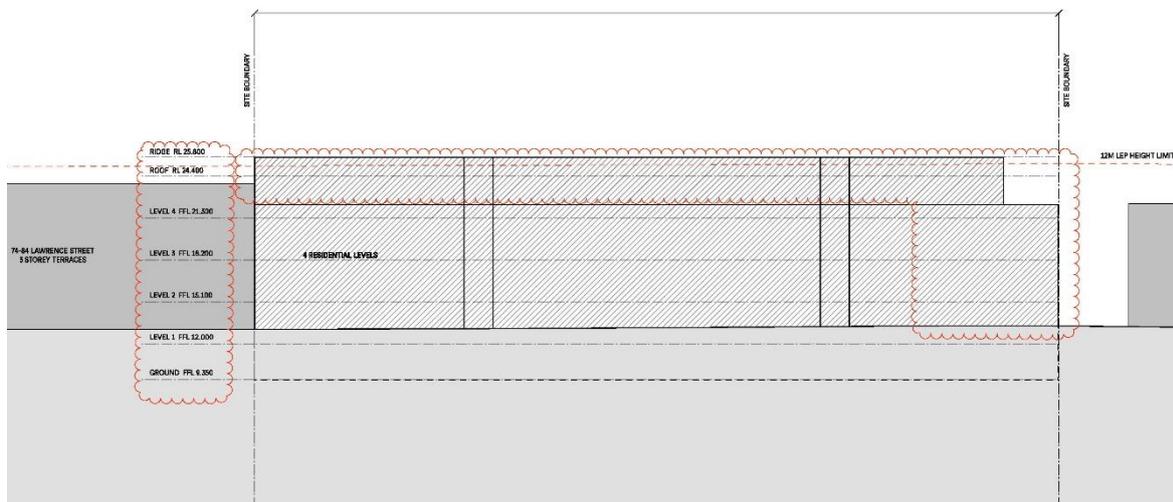


Figure 16: Building B: Lawrence Street elevation of amended modification

- (e) The modified envelope sits approximately half a storey above the existing 3 storey terraces located to the north east at 74-84 Lawrence Street. As demonstrated by the detailed design application and shown in Figure 12, the majority of Building B that sits above the 12m height control is comprised of architectural roof feature, which does not unreasonably add to the bulk and scale of the building when viewed from the public domain and surrounding buildings.
- (f) As shown in Figure 16, the modified envelope aligns with the height of the existing 3 storey residential flat building located to the south west at 118-136 Lawrence Street. This is due to the newly introduced 4m setback to the south western property boundary. This setback improves amenity for adjoining residents (as discussed further below) and delivers a built form that is consistent with the existing and future desired character of the area.

- (g) Exceedances to the building height control for architectural roof features are permissible under Clause 5.6 of SLEP 2012. Further, the height modification allows for design excellence provisions that are permissible under the LEP, namely the additional 10% height awarded to the application following the completion of the competitive design process. It is noted that a request to vary a development standard under Clause 4.6 of SLEP 2012 is not applicable to modification applications, however a Clause 4.6 request has been submitted with the detailed design application (D/2019/1350) and is supported. The detailed design application being considered concurrently by CSPC under D/2019/1350 also demonstrates that a generally compliant scheme can be provided within the amended envelope that delivers design excellence in accordance with Clause 6.21 of Sydney LEP 2012.

Overshadowing and solar access

- (a) Detailed solar analysis was provided for the original modification application presented to the CSPC in July. This analysis, which is reproduced in part in Figure 17 and 18 demonstrates that the increase in height to Building B would not result in unacceptable overshadowing to the common open space or private terraces/balconies of the adjoining residential flat building at 118-136 Lawrence Street. The top building RL proposed in the original modification was RL 24.400.

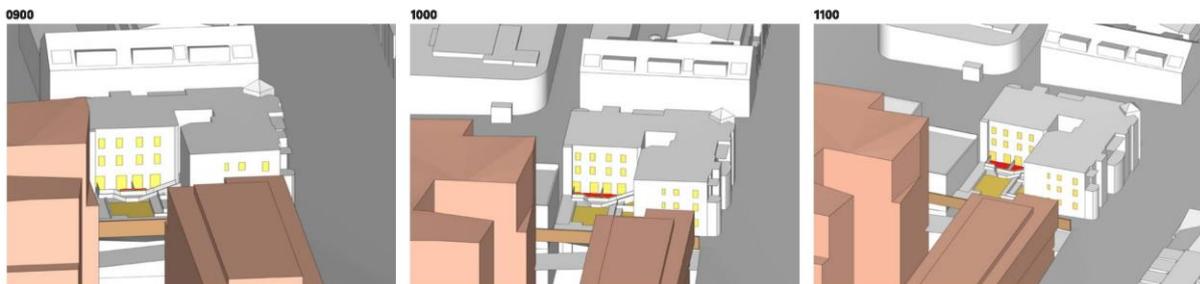


Figure 17: Views from the sun to adjoining property at 118-136 Lawrence Street at 9am, 10am and 11am for originally approved Concept plan envelopes



Figure 18: Views from the sun to adjoining property at 118-136 Lawrence Street at 9am, 10am and 11am for modified Concept plan envelopes presented to CSPC in July

- (b) As shown in Figure 19, the amended modification incorporates a 4m setback to the south western property for the top floor. This setback has been provided to ensure the increased height to Building B does not result in additional overshadowing impacts to adjoining properties or reduced amenity for future occupants.

- (c) Further, as detailed in the detailed design application, the 4m setback offers an improved level of solar access to the neighbouring area of common open space, increasing the area of space that receives 2 hours of solar access from 61% to 63.6% under the amended proposed. This offers improved compliance with the ADG and SDCP 2012 minimum requirement of 50%.

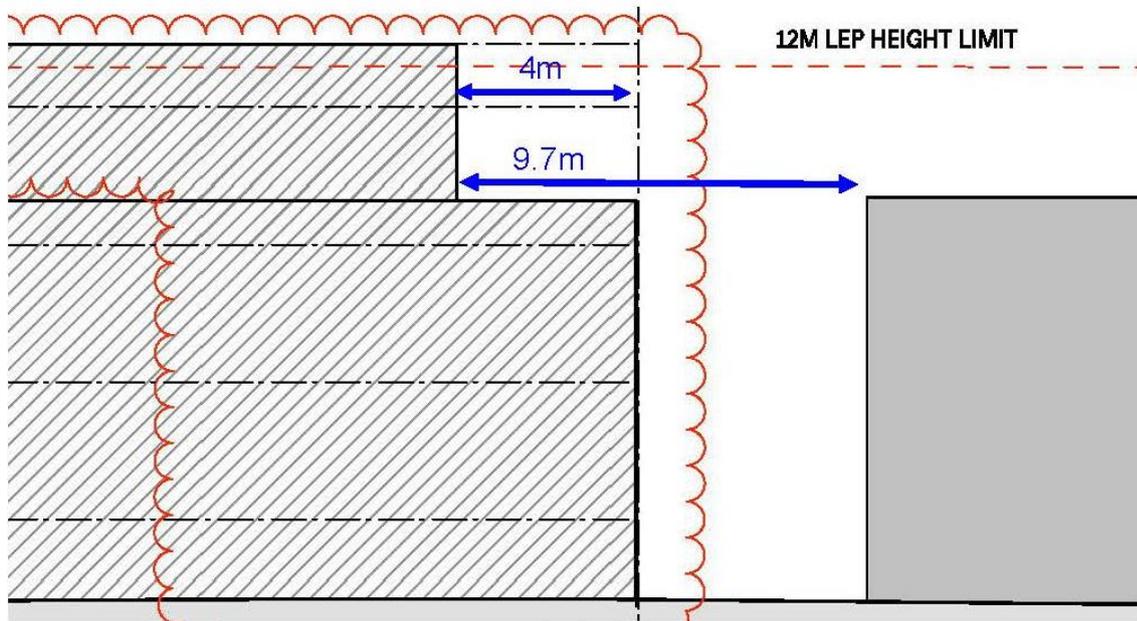


Figure 19: Proposed upper level 4m setback to south western property boundary

Building separation and privacy

- (a) The proposed 4m setback does not comply with the 6m building separation to property boundaries, as required by the ADG.
- (b) The building at 118-136 Lawrence sits approximately 1 storey below Building B, this height difference, combined with a total 9.7m separation between buildings allows a reduction in sight lines to the adjoining property.
- (c) In addition to the above, the detailed design application demonstrates that design features can be incorporated that ameliorate visual privacy concerns for future occupants and adjoining properties.

Condition modifications

27. The proposed changes to conditions, as they relate to the recent amendments, and an assessment of their acceptability are discussed below.

Condition 6 Building Height

- (a) This condition sets the maximum building height in RLs for both Building A and Building B.
- (b) The condition is proposed to be modified to include the 10% design excellence bonus for Building A and a minor increase in the height of Building B to the roof RL. Proposed maximum heights are as follows:

- (i) Building A: RL 34.1 AHD
 - (ii) Building B: RL 24.4 AHD for the roof.
- (c) Building A seeks to exceed the modified RL by approximately 1.7m and Building B by approximately 1.4m. Exceedances for both buildings are confined to architectural roof features, parapets and integrated plant.
- (d) As outlined in the detailed design report and below, any further exceedance of the maximum building height in RLs are allowable for Building A and Building B under Clause 5.6 of SLEP 2012 and Condition 6A respectively, as they relate to architectural roof features and associated integrated plant.
- (e) Further, as detailed within this report and by the detailed design application, proposed exceedances to the maximum LEP building height do not create unacceptable overshadowing to adjoining properties or unreasonably add to the bulk and scale of the building when viewed from the public domain and surrounding buildings.

Condition 6A Architectural Roof Features, Rooftop Lift Overruns, Skylight and Plant

- (a) This condition allows the detailed design development application to exceed the approved RLs for elements including lift overruns, skylights and plant for Building B.
- (b) The condition is to be modified to include architectural roof features and roof parapets within the permitted items that may breach the approved RLs.
- (c) As demonstrated in Figures 12, the detailed design application seeks an exceedance to the LEP building height control for Building B. This exceedance is confined to architectural roof features, parapets and integrated plant that does not create unacceptable overshadowing to adjoining properties or unreasonably add to the bulk and scale of the building when viewed from the public domain and surrounding buildings.

Other Impacts of the Development

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

Suitability of the Site for the Development

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

Advertising and Notification

30. In accordance with the City of Sydney Community Participation Plan 2019, the amended development was re-notified for a period of 14 days between 3 September and 18 September 2020. The amended proposal was re-notified together with the amended detailed design application (D/2019/1350). A total of 106 submissions were received in response to the re-notification of the amended concept and detailed design proposals.

31. The submissions in relation to the re-notification of the amended proposal raised the following issues. Details of the submissions received regarding the originally proposed modification are contained in the original assessment report at Attachment C.

(a) Support for relocation of driveway from Lawrence Street to McEvoy Street.

Response – Noted, however the concept application does not provide approval for any vehicle access. This is a matter for the detailed development application.

(b) Traffic generation, parking and associated impacts

- Impact of the development on the existing transport infrastructure and public transport network.
- Proposal will exacerbate existing parking congestion.
- Traffic impacts and risks to pedestrian safety as a result of the Lawrence Street driveway.

Response - The Parking and Traffic Impact Assessment submitted with the application demonstrates the proposed development will not give rise to an adverse increase in traffic and congestion in the locality. The proposal is expected to generate comparable traffic volumes to what is currently generated by the existing use. Bicycle spaces will encourage sustainable modes of transport to reduce congestion on local roads.

(c) Height, bulk and scale

- Proposed height and scale is inappropriate, does not respect the surrounding area, context or adjoining buildings.
- Objection to the additional height increase of Building B.
- Nil side setbacks for Building B is out of character in the area and contributes to the bulk and scale of the development.
- Development does not promote view sharing.
- Breaches to building height will set a precedent for further non-compliances in the area.

Response - As demonstrated in the Issues section of this report and in Attachment C, the proposal is in keeping with the character of the area for a new development and will not adversely impact the conservation area. Building B presents as 3.5 storeys to Lawrence Street and has been detailed sufficiently to provide a fine grain aesthetic sympathetic to the conservation area.

The provision of nil side setbacks is the underlying built form presented along Lawrence Street and within the Cooper Estate conservation area. The provision of nil side setbacks to Building B is consistent with the character of Lawrence Street. The proposal is of a similar scale to existing 2-3 storey contemporary and traditional terrace buildings within the conservation area.

The proposal will not result in the loss of views from surrounding properties.

Any future development application that may be submitted in the locality would be assessed against the relevant planning controls for the site and on the individual merits of the proposal.

(d) Density

- High density development is not in keeping with the low density of Lawrence Street.
- Removal of the restriction on below ground apartments allows for more apartments than would otherwise be the case.
- Support for increased density.

Response - The detailed design application demonstrates that the proposal complies with the floor space ratio requirement outlined in Sydney LEP 2012.

The site is located in a B4 Mixed Use zone, which permits residential flat buildings. The adjoining R2 General Residential zone along Lawrence Street also permits residential flat buildings, as evident by a number of developments that currently exist along Lawrence Street.

The site is located within walking distance of a number of existing and planned bus services and train/metro stations.

Below ground apartments have been removed from the amended detailed design application.

(e) Tree removal and landscaping

- The proposal reduces deep soil zones and has limited opportunity for replacement planting. Specific concern that the width of deep soil zone (4m) for tree planting proposed to address privacy from Building A to adjoining terraces is inadequate to accommodate mature trees.
- Protection of Lawrence Street street trees.
- Excessive tree removal and pruning, with replacement trees being located inside the development which is not accessible or visible to the community.

Response - The removal of trees is not approved under this concept application. The removal and retention of trees within the site and in the public domain has been assessed under the detailed design report and is acceptable subject to conditions.

(f) Overshadowing and solar access

- Overshadowing to adjoining properties, in particular 118-136 Lawrence Street.
- Additional height will result in loss of solar access to adjoining properties.

Response - The proposed exceedance in height will not result in any unacceptable overshadowing impacts on adjoining properties. Detailed analysis has been undertaken under the detailed design application that demonstrates acceptable levels of solar access for adjoining properties.

(g) Heritage impacts and character of the Cooper Estate area

- Inclusion of below ground habitable rooms on Lawrence Street will create a visual impact and the building will appear more dominate and is contradiction with the conditions relating to below ground apartments.
- Design and materials of Building B affects the integrity of the heritage conservation area.
- Lawrence Street and the conservation area will be visually impacted by the 8 storeys of Building A.
- The Heritage Impact Statement fails to properly consider the adjacent conservation area.

Response - The concept application is for building envelopes only and does not approved detailed design elements. An assessment of the proposed materials, architectural expression and form of the proposal is undertaken under the detailed design application. The detailed design application is not expected to have adverse impacts on the conservation area and is supported.

(h) Privacy impacts

- Privacy impacts to adjoining properties.
- Window boxes direct views straight into adjoining properties.
- Overlooking from balconies of Building A to the rear yards of the Spectrum development.
- The proposal includes a new wing to Building A that doesn't comply with building separation requirements to the Spectrum development.

Response - The proposal generally meets the building separation design criteria outlined in the ADG and is contained within the concept approval envelope (as amended). Where separation distances are not achieved, the detailed design application incorporates design features to ameliorate visual privacy concerns for future occupants and adjoining properties.

(i) Noise impacts

- Objection over the inclusion of a pool in close proximity to Lawrence Street due to noise concerns.
- The noise impact assessment has not adequately addressed noise impacts from increased traffic and the commercial premises.

Response – Noise impacts have been assessed under the detailed design application and are acceptable.

(j) Construction impacts

- Construction impacts, including dust, noise pollution, safety and security.
- Request for appropriate protection of adjoining property during demolition, excavation and construction stage and liaison with neighbours.

Response - Appropriate construction management conditions are recommended as part of the detailed design application to manage construction impacts.

(k) Design excellence

- The proposal does not exhibit design excellence.

Response - A competitive design process was undertaken in accordance with the provisions of Clause 6.21 of SLEP 2012 and the City of Sydney Competitive Design Policy. The detailed design proposal is consistent with the design intent of the winning scheme of a competitive design process and the development, as amended satisfies design excellence provisions pursuant to Clause 6.21 of Sydney LEP 2012.

(l) Boundary fence

- Existing warehouse buildings currently provide high boundary walls to the adjoining properties at 74-84 Lawrence Street terraces and apartments located at 147 McEvoy Street. This boundary wall provides privacy, security and noise insulation. The application does not provide details of the boundary wall treatment.

Response – Appropriate conditions have been recommended on the detailed design application to address safety and security during construction. Adjoining properties will be secured during construction by temporary fencing in the form of hoarding or the like.

Permanent fencing along a property requires owners consent for all adjoining properties, and the proposed material and height of boundary fences is a decision to be agreed on by all property owners. The applicant has advised that affected adjoining properties will be consulted regarding the construction of boundary fences.

(m) Submitted documentation

- Inconsistencies within the documentation, as well as inadequate and inaccurate representation of the proposal.

Response - The submitted drawings and supporting documentation is considered accurate and adequate in order to make an assessment against the relevant controls.

(n) DA process and re-notification period

- Inadequate time provided to review the modified documents placed on renotification.

- Complexity of proposal and amount of supporting documentation makes it difficult for community to assess.
- Criticism over the number of times the application has been amended.
- Request Council refuse to accept modifications to applications unless they are fully resolved and supportable.
- Criticisms over re-notification of amended driveway prior to concurrence from TfNSW being received.

Response - Amended plans and documentation was re-notified for a period of 14 days, which is line with Council's approach for the notification of amended documentation. A one week extension was granted to submitters when requested.

The concept application does not provide approval for any vehicle access. The proposal, in particular the detailed design application, is complex in nature and has required an iterative process to address concerns raised by Council Officers, the CSCP, TfNSW and the community. Amending one aspect of a complex proposal often results in changes that create a different set of impacts, and therefore, an iterative process with ongoing amendments is often required.

(o) Advertisement/marketing of the proposal

- Concern that the developer is already marketing the development and has plans to construct a display suite nearby, but the development is yet to be approved.

Response – The marketing of a development prior to approval being granted is not a planning matter.

Public Interest

32. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

Contribution under Section 7.11 of the EP&A Act 1979

33. The development is not subject to a S7.11 development contribution as it is for a concept approval. Appropriate contributions have been levied as part of the detailed design application (D/2019/1350).

Relevant Legislation

34. Environmental Planning and Assessment Act 1979.

Conclusion

35. This Section 4.56(2) application proposes altering the approved building envelopes to align with the detailed design development application (D/2019/1350). The detailed design development application is presented to the CSPC concurrently for approval.
36. The proposed modifications to the approved building envelope will deliver consistency between staged development applications for the site, as required under Section 4.24 of the Environmental Planning and Assessment Act, 1979.
37. The development as proposed to be modified is substantially the same as that originally approved. The location and overall form of the building envelopes are not inconsistent with the intent of the approved concept. As per the originally approved concept application, the proposed modifications will deliver two mixed use commercial and residential building envelopes, with Building A fronting McEvoy Street and Building B fronting Lawrence Street.
38. The height modification allows for design excellence provisions that are permissible under the LEP, namely the additional 10% height awarded to the application following the completion of the competitive design process. Exceedances to the building height control are also permitted for architectural roof features under Clause 5.6 of SLEP 2012.
39. The proposed envelope changes are supported as they do not result in unacceptable overshadowing or privacy impacts and deliver envelopes that are capable of achieving an acceptable level of amenity for future occupants and adjoining properties.
40. The proposed building envelopes are capable of accommodating a future building which exhibits design excellence in accordance with Clause 6.21 of the Sydney LEP 2012. The detailed design application being considered concurrently by CSPC under D/2019/1350 demonstrates that a generally compliant scheme can be provided within the amended envelope that delivers design excellence in accordance with Clause 6.21 of Sydney LEP 2012.
41. The proposed modifications are recommended for approval.

ANDREW THOMAS

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