

Attachment A

Independent Assessment Report

Development Application: 12A and 14-26 Wattle Street, Pyrmont - D/2023/97

File No.: D/2023/97

Summary

Date of Submission 16 February 2023

Amended Plans & Additional Information 7 November 2023 and 21 February 2024

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
Transport Asset Holding Entity

Planning Consultant: Gyde Consulting

Heritage Consultant: Paul Davies Pty Ltd

DAP: 15 June 2023

Cost of Works: \$221,892,000.00

Zoning: Most of the site (12,381m²) is in Zone MU1 - Mixed Use pursuant to Sydney Local Environmental Plan 2012 (**Sydney LEP 2012**). The development comprises residential, commercial, retail, child care and indoor recreation centre 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 buildings are not located on land in Zone RE1.

Proposal Summary:

Consent is sought for a detailed design proposal comprising 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 stratum subdivision.

The development also includes a through-site link, connecting Wattle and Jones Streets, and a pedestrian connection to the Wentworth Park Light Rail station.

The development 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/B) has been submitted to Council to align the Court approved concept consent with this detailed design development application. The section 4.56 modification application is 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 detailed design is substantially the same as the winning scheme and adequately addresses the recommendations of the competition jury.

With a maximum height of 42.46m (to Building C - Courtyard), the proposed development exceeds the maximum 29.7m building height standard (including the 10% design excellence bonus) by 12.76m (+43%). A written request to contravene the clause 4.3 height of buildings development standard has been submitted in accordance with clause 4.6 of Sydney LEP 2012. Subject to a condition requiring a 2m reduction in height for Building C - Courtyard, the written request demonstrates that compliance with the standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and height of buildings development standards and the proposed contravention from the building height standard is supported in this instance.

With a proposed FSR of 3.88:1, the development proposal complies with the 4:1 FSR development standard.

The proposed development would cast an additional shadow onto Wentworth Park (consistent with the concept consent as modified). The impact is not supported but it complies with the relevant controls in Sydney Development Control Plan 2012 (**Sydney DCP 2012**).

Several requests for information (**RFIs**) were sent to the applicant raising concerns in relation to height, bulk and scale, overshadowing of Wentworth Park, inconsistency with the concept consent and design competition jury recommendations, building separation and visual privacy, building articulation, residential amenity, flooding and other detailed design matters.

In response to the RFIs, the development application has been amended to largely address Council's concerns through the submission of amended plans and additional information or through recommended conditions of consent contained in **Attachment B**.

The section 4.56 modification application and detailed design development application were notified concurrently for 28 days from 28 February - 29 March 2023. The amended plans were not re-notified as the proposed changes resulted in less impact compared to the original application. Five submissions were received, including two submissions which provided comments/support and three objections raising concerns in relation to height, design excellence, public interest, certainty, precedent, contravention of the planning controls, heritage, overshadowing of Fig Street Park and Wentworth Park, amenity impacts for nearby residents, wind, density, vehicle and pedestrian traffic, impact on public transport, illegal dumping of rubbish and capacity of public services. The matters raised in the submissions are addressed within this report.

As amended and subject to the recommended conditions, the proposal is generally consistent with the applicable planning provisions including Sydney LEP 2012 and Sydney DCP 2012. Proposed non-compliances have been assessed and found to be acceptable, as addressed in this report. The proposal 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 development application 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 and Environmental Planning and Assessment Regulation 2021
 - (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**) (Precincts – Eastern Harbour City) 2021
 - (v) SEPP (Resilience and Hazards) 2021
 - (vi) SEPP No. 65 - Design Quality of Residential Apartment Development and the NSW Apartment Design Guide
 - (vii) SEPP (Housing) 2021
 - (viii) SEPP (Transport and Infrastructure) 2021
 - (ix) SEPP (Biodiversity and Conservation) 2021
 - (x) SEPP (Building Sustainability: BASIX) 2004
 - (xi) Sydney LEP 2012
 - (xii) Sydney DCP 2012
 - (xiii) City of Sydney Development Contributions Plan 2015
 - (xiv) City of Sydney Interim Floodplain Management Policy 2023
 - (xv) City of Sydney Public Art Policy 2011 and City of Sydney Public Art Strategy 2011
 - (xvi) City of Sydney Community Engagement Strategy and Participation Plan 2022.

Recommendation

It is resolved that:

- (A) the variation requested to the clause 4.3 height of buildings development standard in accordance with clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application Number D/2023/97 subject to the conditions set out in **Attachment B** to the subject report.

Reasons for Recommendation

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

- (A) The applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, being that compliance with the height of buildings development standard is unreasonable or unnecessary, there are sufficient planning grounds to justify contravening clause 4.3 of Sydney LEP 2012 and it is in the public interest because it is consistent with the objectives of Zone MU1 - Mixed Use and the height of buildings development standard;
- (B) It has been assessed against the aims and objectives of the relevant planning controls including SEPP 65, 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;
- (C) It is consistent with the modified concept consent for the site, being D/2019/649/B, satisfying section 4.24 of the Environmental Planning and Assessment Act, 1979 (**EPA Act**);
- (D) It is generally consistent with the design intent of the winning scheme of a competitive design process. The scale, form, articulation, materiality and architectural contribution of the proposed development is consistent with Sydney DCP 2012 and the proposed development is consistent with the desired future character of the locality. The development satisfies design excellence provisions pursuant to clause 6.21D of Sydney LEP 2012; and
- (E) It 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.

Background

The site and surrounding development

1. The site has a total area of 12,381m² comprising:
 - (a) 14-26 Wattle Street, Ultimo (Lot 200 DP 1224234) which has an irregular shape and an area of 12,125m²; and
 - (b) 12A Wattle Street, Ultimo which is part of the Jones Street road reserve. It has a site area of 256m², an irregular shape and directly adjoins the main site.
2. The proposed development also includes works at Lot 1 DP 868833 which is owned by Transport Asset Holding Entity (**TAHE**) (**TAHE owned land**). By letter dated 5 December 2023, TAHE provided land owner's consent for the lodgement of the development application.
3. The site has street frontages to Wattle Street (104.82m), Fig Street (97.84m) and Jones Street (149.70m).
4. 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.
5. 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.
6. The site is identified as being subject to flooding.
7. 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.
8. 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).

- (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.
- (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). 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.
- (d) **West:** Directly west of the site is Wattle Street. Wentworth Park and the Wentworth Park Greyhounds racetrack are located further to the west.
9. 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.
10. Photos of the site and surrounds are provided at **Figures 1 to 8**. Extracts from the Land Zoning, Building Height, Floor Space Ratio and Heritage Maps to Sydney LEP 2012 are provided at **Figure 9**.
11. A site visit was carried out by the consultant planner on 8 June 2023.



Figure 1: Aerial view of the site and surrounds



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



Figure 3: The site viewed from Jones Street looking south (brick wall shows approximate location of the site boundary to Jones Street)



Figure 4: The site (Wattle Street) as viewed from Wentworth Park looking north-east



Figure 5: The site and Ultimo Trade Centre (former woolstore) viewed from corner of Fig and Wattle Streets looking east



Figure 6: Pedestrian path from Wattle Street to Wentworth Park Light Rail Station to the north of the site looking east



Figure 7: Harbour Mill Apartments, 280 Jones Street (heritage) to the north-east of the site



Figure 8: Jones Street terrace houses (286-318 Jones Street) (heritage) to the east of the site



Figure 9: Sydney LEP 2012 Land Zoning Map, Building Height Map, Floor Space Ratio Map and Heritage Map

History relevant to the development application

Concept development application - D/2019/649

12. 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.

13. 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).
14. The VPA relates to a new footway (1200mm to 1500mm) and public access easement along the Jones Street frontage of the site (illustrated on **Figure 10**).

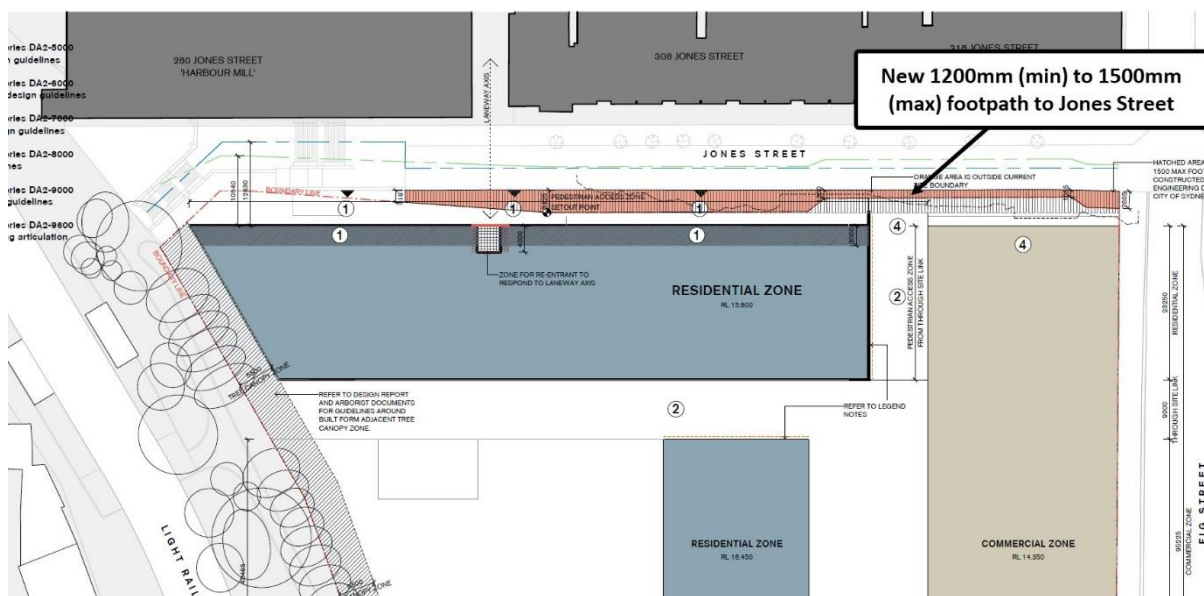


Figure 10: VPA extract showing a plan of the new footway to Jones Street

15. The VPA has been executed and registered on title. The deferred commencement conditions have been satisfied and 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.
16. 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) (D/2019/649/A).

Competitive design process

17. 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.
18. As a result of this competitive design process, the applicant is seeking 10% additional height pursuant to clause 6.21D of the Sydney LEP 2012.

19. 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 11** and **12** below.
20. An assessment of compliance with the jury recommendations is included in the Discussion section.



Figure 11: Photomontages of the BVN winning scheme (part of the Jones Street elevation)



Figure 12: Photomontage of the BVN winning scheme (part of the Wattle Street elevation)

Section 4.56 modification application (2019/649/B)

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

Subdivision development application (D/2023/1073)

22. A development application proposing road closure and subdivision of part of Jones Street was submitted to Council on 23 November 2023. Assessment of the development application is underway and the application is yet to be determined.

History relevant to the development application

23. A chronology of key events relevant to the development application (and section 4.56 modification application) follows:
- (a) **5 October 2022:** The applicant's representatives, Council officers and Council's consultant planner attended a pre-lodgement meeting (video conference).
 - (b) **14 October 2022:** A pre-lodgement letter of advice was sent to the applicant setting out the information requirements for the applications and potential issues of concern including design excellence and additional height.
 - (c) **16 February 2023:** The section 4.56 modification application and development application were lodged.
 - (d) **28 February - 29 March 2023:** The section 4.56 modification application and development application were notified/exhibited.
 - (e) **15 June 2023** The City's Design Advisory Panel (**DAP**) reviewed the section 4.56 modification application and development application and advised that:
 - (i) The building envelope controls are sufficient for the site and should not be exceeded beyond the concept consent. Non-compliances with building separation controls are not supported.
 - (ii) There are several non-compliances with height controls which increase overshadowing to Wentworth Park. The Panel does not support additional height or any further overshadowing to the park.
 - (iii) The scheme is at the upper limit of FSR allowances. Additional FSR has been applied to the site through the acquisition and upgrade of the adjacent public footpath. The general density of the site has resulted in deep building footprints and several bedrooms with poor access to natural light, which should be reconsidered.
 - (iv) The Childcare facilities should be further considered in order to provide adequate circulation space for pram movement and storage in the lobby and corridors, adequate lift provision, and greater solar access and a more generous ceiling height to the outdoor play area.
 - (v) A wind analysis is required as part of the assessment.

- (vi) Further consideration of the courtyard amenity is required and should address natural ventilation and noise.
- (vii) Environmental performance of north-west façade should have further analysis and consideration.
- (viii) Engagement with the First Nations history of the site requires further consideration.
- (ix) The opportunity to expose views to and interpret the quarry face has not been fully realised.
- (x) Public art should be further considered to provide an interpretation of the place, rather than be applied as a wayfinding element.

Recommendation

The Panel advises that the proposal has not yet achieved design excellence. Should the proposal address all recommendations of the design competition jury, comply with building envelopes and building separation controls, and respond to this DAP assessment, then it has the potential to achieve design excellence.

- (f) **28 July 2023:** A RFI from Council was sent to the applicant noting issues of concern relevant to the development application in relation to:
 - (i) Height, bulk and scale and inadequacies in the clause 4.6 written request;
 - (ii) Consistency with the concept consent;
 - (iii) Design competition jury recommendations;
 - (iv) FSR;
 - (v) Building separation and visual privacy;
 - (vi) Building articulation;
 - (vii) Apartment amenity;
 - (viii) Materials and finishes;
 - (ix) Interpretation of sandstone cliff face;
 - (x) Pyrmont Peninsula Place Strategy (sustainability measures);
 - (xi) Wind;
 - (xii) Awnings;
 - (xiii) Heritage interpretation;
 - (xiv) Landscape;
 - (xv) Childcare centre;
 - (xvi) Sustainability;

- (xvii) Public domain;
 - (xviii) Tree management;
 - (xix) Transport and access;
 - (xx) Waste Management;
 - (xxi) Public art.
- (g) **7 August, 30 August and 18 September:** The applicant's representatives, Council officers and Council's consultant planner attended meetings to discuss solutions to Council's RFI.
- (h) **7 September 2023:** A supplementary RFI was sent to the applicant providing further direction in relation to height and inboard bedrooms.
- (i) **13 October 2023:** The applicant's representatives and Council officers attended a meeting to discuss solutions to Council's RFI.
- (j) **7 November 2023:** The applicant responded to Council's RFI. The proposed changes included a 616m² reduction in gross floor area (**GFA**) and the following changes to the development application:
- (i) Reducing the maximum height of Building E - Fig Street by approximately 1.6m (from RL39.56 to RL37.95) by lowering of the floor to floor height from 3.8m to 3.6m.
 - (ii) Cropping of the western and southern sides of the floor plates at Level 08 and 09 of Building E - Fig Street to minimise additional overshadowing of Wentworth Park beyond the concept consent.
 - (iii) Reinstating the articulations to the ground floor façade of Building E - Fig Street that faces the east-west through-site link.
 - (iv) Re-designing and improving the access arrangement for the retail unit on level 5 of Building E - Fig Street (from the proposed Jones Street plaza) and providing outdoor seating.
 - (v) Reducing the maximum height of Building D - Wattle Street by approximately 1.7m (from RL38.18 to RL36.45) by relocating the rooftop plant room to Building C - Courtyard and enclosing the remaining plant units within the roof form.
 - (vi) Re-instating the pitch of the roof to Building D - Wattle Street consistent with the winning scheme to minimise overshadowing of Wentworth Park.
 - (vii) Re-instating the setback at the south-western corner of the Building D - Wattle Street to minimise additional overshadowing of Wentworth Park beyond the concept consent.
 - (viii) Reducing the extent of rooftop plant on Building B - Jones Street.
 - (ix) Removing the protruding bedroom windows from the east-facing units at the façade articulation break of Building B - Jones Street to widen the break.

- (x) Concentrating the rooftop plant and equipment to Building C - Courtyard, with an 800mm increase in height (from RL44.75 to RL45.55).
 - (xi) Designing out all internalised studies and habitable rooms.
 - (xii) Widening of courtyards in Building B - Jones Street and Building D - Wattle Street.
 - (xiii) Rectifying the plenum locations in the indented courtyards.
 - (xiv) Increasing the landscape planting areas within the podium terraces of Building D - Wattle Street to improve amenity and reduce potential for large congregations and associated noise generation.
 - (xv) Reinstating the rooftop terrace on the north side of Building D - Wattle Street.
 - (xvi) Artistic treatment to the side walls of Building C - Courtyard).
- (k) **23 January 2024:** A further RFI was sent to the applicant detailing issues arising from Council's internal and external referrals (solar access, natural cross ventilation, visual privacy, communal open space, landscape details, tree management, sustainability, driveway details, waste management and stormwater/flooding).
- (l) **21 February 2024:** The applicant responded to Council's further RFI.

Proposal

24. The development application seeks consent for the detailed design and construction of a mixed-use development across five buildings comprising:
- (a) Demolition of the existing site structures, remediation and removal of 54 trees
 - (b) 237 residential apartments (27,208m²) comprising:
 - (i) 2 studio apartments
 - (ii) 52 x 1 bedroom apartments
 - (iii) 118 x 2 bedroom apartments
 - (iv) 63 x 3 bedroom apartments
 - (v) 2 x 4 bedroom apartments
 - (c) 15,827m² of commercial floor space
 - (d) 426m² of retail floor space
 - (e) 91 place centre based child care centre (1,810m²)
 - (f) indoor recreation centre containing two courts (2,683m²)

- (g) car parking (223 spaces), bicycle parking (44 spaces), motorcycle parking (12 spaces) and loading dock
- (h) landscape, public domain, civil, excavation, service provision and drainage works
- (i) stratum subdivision comprising the following seven stratum lots:
 - (i) Lot 10 Council (Child care centre)
 - (ii) Lot 11 Commercial
 - (iii) Lot 12 Retail 1
 - (iv) Lot 13 Residential 1
 - (v) Lot 14 Residential 2
 - (vi) Lot 15 Retail 2
 - (vii) Lot 16 Council (Basketball Courts)

25. Illustrations and a level by level description of the proposed five buildings follow. Selected drawings are provided at **Attachment C**.

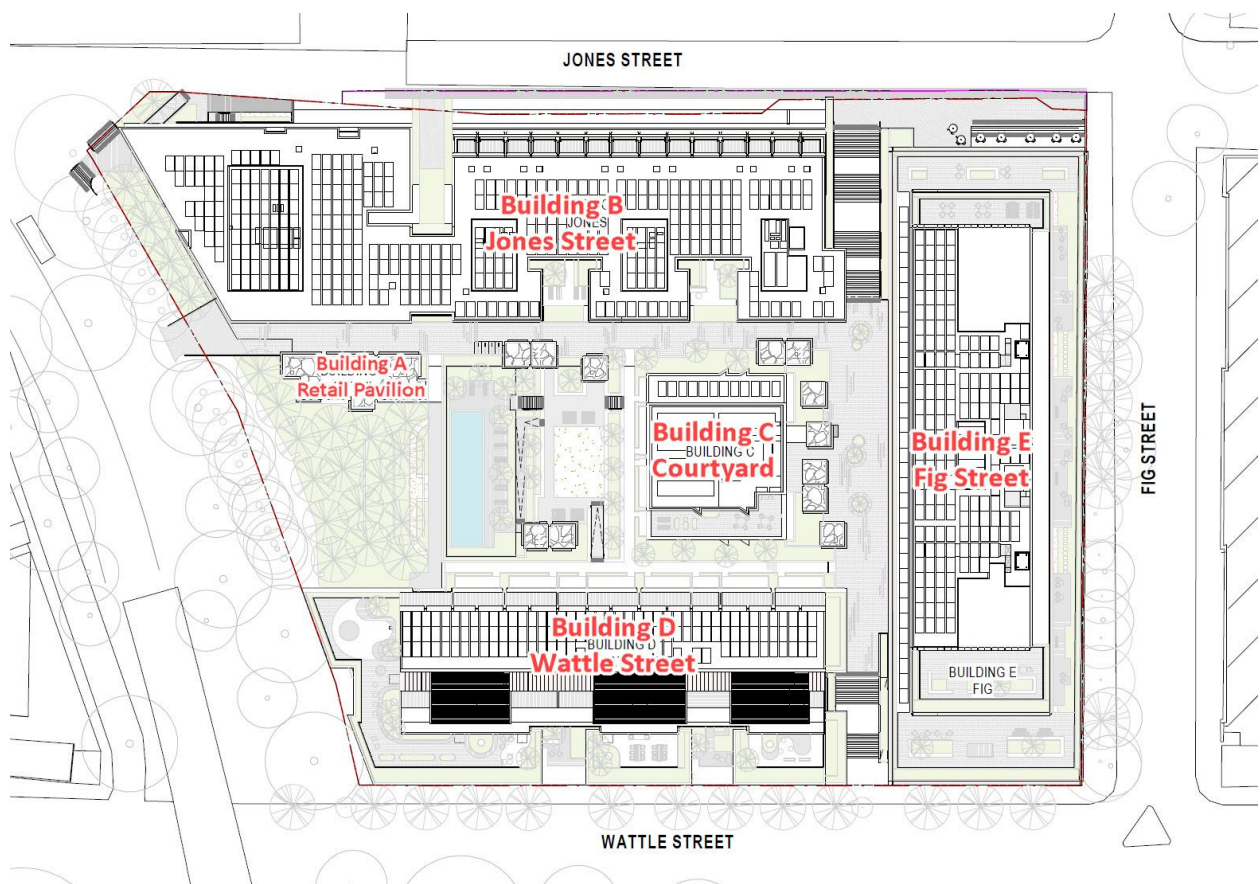


Figure 13: Site plan showing proposed building names

(a) Building A - Retail Pavilion

- (i) One storey retail pavilion with a landscaped rooftop.

(b) Building B - Jones Street

- (i) Level 00:

- (i) A recreation centre containing two courts, associated storage, bench seating, office store, cleaners' room and store.
 - (ii) End of trip facilities and laundry
 - (iii) Residential bicycle storage
 - (iv) Residential lobby and storage units
 - (v) Plant and services
 - (vi) Car parking

- (ii) Level 01:

- (i) Two multi-function rooms and connected storage rooms
 - (ii) Void for the recreation courts on Level 00
 - (iii) Circulation zone
 - (iv) Multiple residential and commercial garbage rooms, residential lobby, childcare centre and recreation lobby
 - (v) Bicycle parking spaces for the child care centre
 - (vi) Plant and services
 - (vii) Car parking

- (iii) Level 02:

- (i) Recreation centre lobby including a kiosk, staff room, communications rooms, first aid room, manager's office, office and plant room
 - (ii) Child care centre lobby and pram store area
 - (iii) Residential lobby
 - (iv) Void for the recreation courts on Level 00
 - (v) Building Manager's office

- (iv) Level 03:

- (i) 91 place child care centre including a simulated outdoor play area, outdoor play area, six playrooms, offices, terrace, storage, and amenities
 - (ii) Two communal rooms, a music room, a meeting room, amenities, plant, services and corridor

- (v) Level 04-09:

- (i) Residential apartments
 - (ii) Three communal outdoor spaces on Level 04
 - (iii) Associated common vertical circulation, lifts, fire-egress stairs, plant and services, and bin discharge rooms

- (vi) Level 10:
 - (i) Rooftop plant and services
 - (ii) Photovoltaic panels

(c) Building C - Courtyard

- (i) Level 00:
 - (i) Car parking
 - (ii) Residential lobby
 - (iii) Common vertical circulation
 - (iv) Fire egress stairs
 - (v) Services
- (ii) Level 01:
 - (i) Car parking
 - (ii) Residential lobby
 - (iii) Residential waste room
 - (iv) Common vertical circulation
 - (v) Fire egress stairs
 - (vi) Services
- (iii) Level 02:
 - (i) Residential apartments
 - (ii) Common vertical circulation
 - (iii) Fire egress stair
 - (iv) Plant and services
 - (v) WFH (work from home) pods/pergolas fronting the public through site link
- (iv) Levels 03-06:
 - (i) Residential apartments
 - (ii) Common vertical circulation
 - (iii) Fire egress stairs
 - (iv) Plant and services
- (v) Level 07:
 - (i) Residential apartments
 - (ii) Communal room
 - (iii) Common vertical circulation
 - (iv) Fire egress stairs
 - (v) Plant and services
- (vi) Level 08-11:
 - (i) Residential apartments
 - (ii) Common vertical circulation
 - (iii) Fire egress stairs
 - (iv) Plant and services

(vii) Level 12:

- (i) Residential apartments
- (ii) Common vertical circulation
- (iii) Fire egress stairs
- (iv) Plant and services
- (v) Storage
- (vi) Rooftop photovoltaic panels

(viii) Level 13:

- (i) Plant (mechanical plant):
 - i. Heat pump for all three residential buildings on the site
 - ii. Stairs pressurisation system of Building C - Courtyard
 - iii. Lobby relief of Building C - Courtyard (this system works in conjunction with the stairs pressurisation to relieve the air coming from the stairs in the fire affected floor. It is a smoke management system).

(d) Building D - Wattle Street

(i) Level 00:

- (i) Carparking
- (ii) Three residential lobbies
- (iii) Residential storage
- (iv) Plant and services
- (v) Rainwater tanks
- (vi) Water treatment plant

(ii) Level 01:

- (i) Three residential lobbies
- (ii) Left in/left out vehicular access from Wattle Street
- (iii) Car parking
- (iv) Mail room
- (v) Three residential waste rooms
- (vi) Plant and services
- (vii) 210m² commercial tenancy

(iii) Level 02:

- (i) Residential apartments
- (ii) Two communal outdoor spaces
- (iii) Common vertical circulation
- (iv) Fire egress stairs
- (v) Plant and services

(iv) Level 03-08:

- (i) Residential apartments
- (ii) Common vertical circulation
- (iii) Fire egress stairs
- (iv) Plant and services

- (v) Level 09:
 - (i) Residential apartments
 - (ii) Two communal outdoor spaces
 - (iii) Common vertical circulation
 - (iv) Fire egress stairs
 - (v) Plant and services

- (vi) Level 10:
 - (i) Residential apartments
 - (ii) Common vertical circulation
 - (iii) Fire egress stairs
 - (iv) Plant and services
 - (v) Three lift overruns

- (vii) Level 11:
 - (i) Photovoltaic panels

(e) Building E - Fig Street

- (i) Level 00:
 - (i) Residential storage
 - (ii) Plant and services
 - (iii) Car parking
- (ii) Level 01:
 - (i) Commercial floor space
 - (ii) End of trip facilities
 - (iii) Plant and services
 - (iv) Bicycle parking (separate commercial and residential bicycle parking)
 - (v) Loading dock accessed from Fig Street
- (iii) Level 02:
 - (i) Commercial tenancy
 - (ii) Commercial lobby podium
 - (iii) Amenities, storage, plant, services, lifts, and fire egress
 - (iv) Void over locking dock
 - (v) Maintenance zone
- (iv) Level 03:
 - (i) Commercial tenancy
 - (ii) Atrium
 - (iii) Optional wintergardens
 - (iv) Amenities, storage, plant, services, lifts and fire egress.
- (v) Level 04:
 - (i) Commercial tenancy
 - (ii) Atrium in

- (iii) Optional wintergardens
 - (iv) Amenities, storage, plant, services, lifts and fire egress
- (vi) Level 05:
 - (i) Retail tenancy
 - (ii) Commercial Jones Street lobby
 - (iii) Commercial tenancy
 - (iv) Atrium and optional wintergardens
 - (v) Amenities, storage, plant, services, lifts and fire egress
- (vii) Level 06:
 - (i) Commercial tenancy
 - (ii) Atrium and optional wintergardens
 - (iii) Amenities, storage, plant, services, lifts and fire egress
- (viii) Level 07:
 - (i) Commercial tenancy
 - (ii) Atrium and optional wintergardens
 - (iii) Amenities, storage, plant, services, lifts and fire egress.
- (ix) Level 08:
 - (i) Commercial tenancy
 - (ii) Atrium and optional wintergardens
 - (iii) Outdoor terrace
 - (iv) Amenities, storage, plant, services, lifts and fire egress
 - (v) Photovoltaic panels
- (x) Level 09:
 - (i) Commercial tenancy
 - (ii) Atrium and optional wintergardens
 - (iii) Outdoor terraces
 - (iv) Amenities, storage, plant, services, lifts, and fire egress
- (xi) Level 10:
 - (i) Rooftop plant and structures
 - (ii) Lift overruns
 - (iii) Skylight atrium
 - (iv) Photovoltaic panels



Figure 14: Jones Street photomontage



Figure 15: Wattle Street photomontage



Figure 16: Jones Street/Fig Street photomontage



Figure 17: Building C - Courtyard photomontage



Figure 18: Jones Street (east) elevation

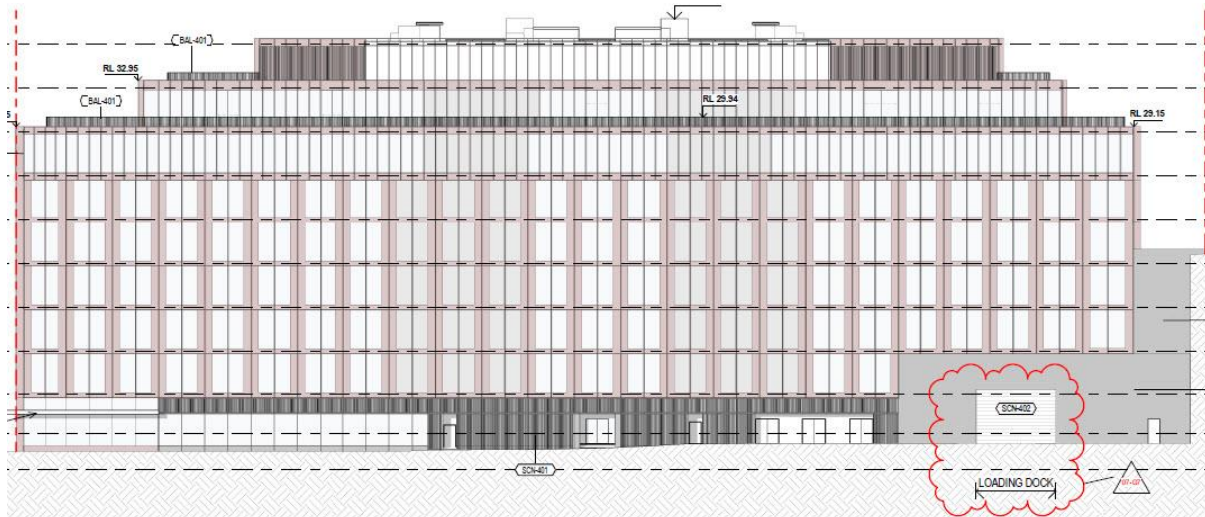


Figure 19: Fig Street (south) elevation

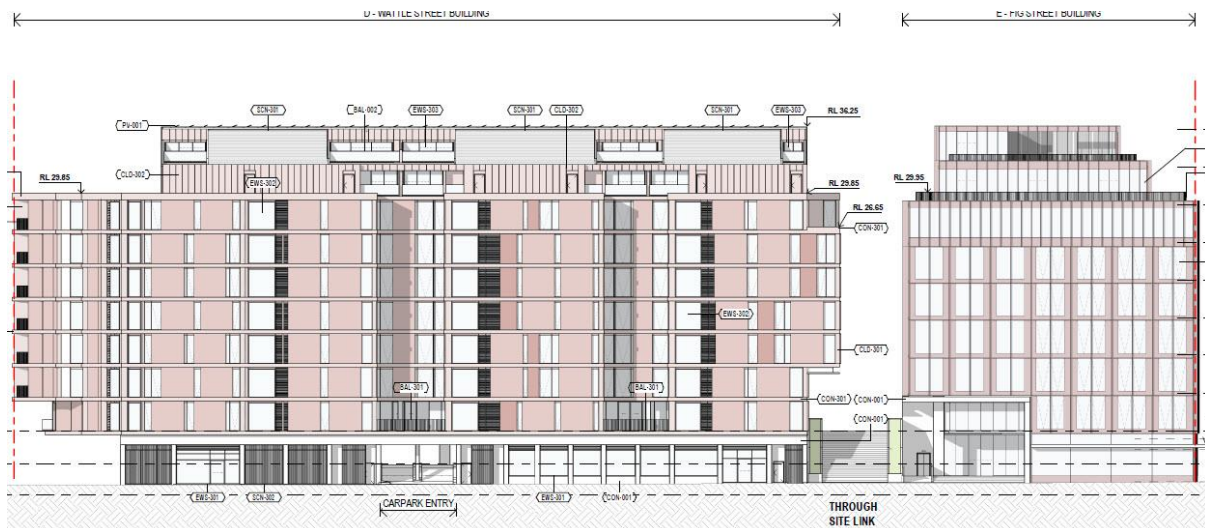


Figure 20: Wattle Street (west) elevation

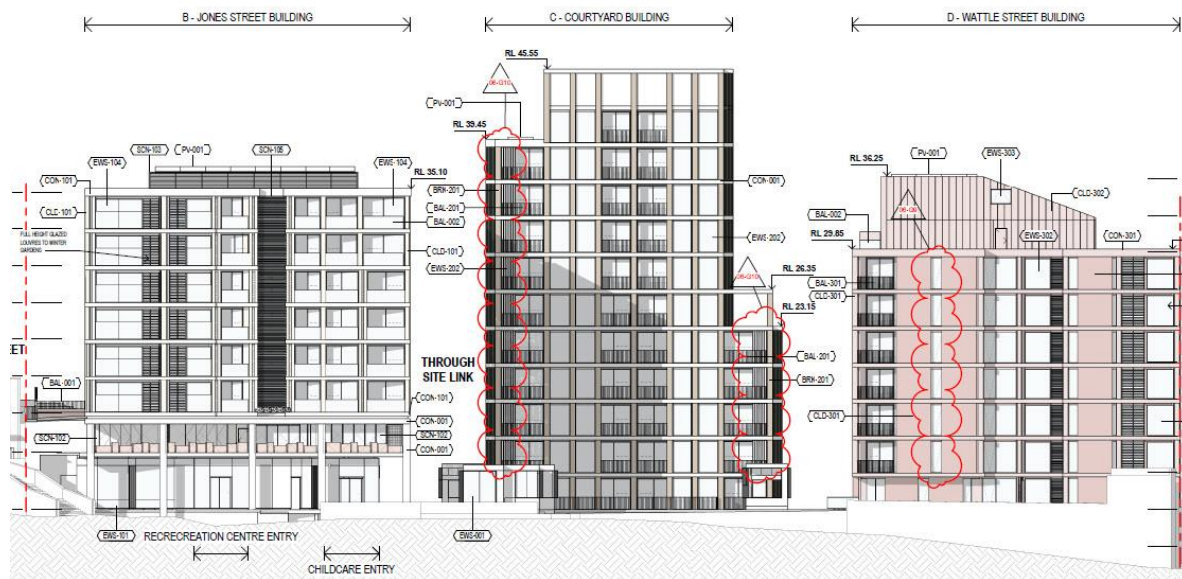


Figure 21: Wentworth Park Light Rail Station (north) elevation

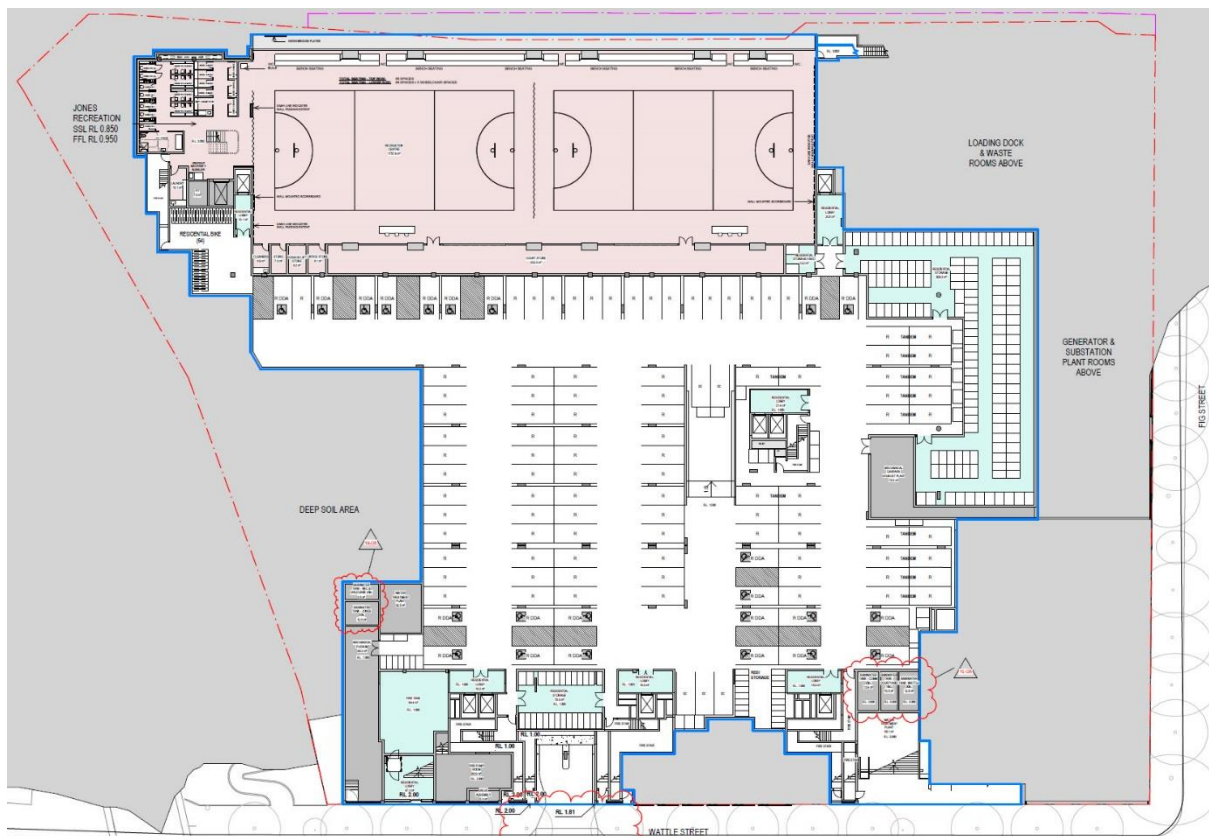


Figure 22: General arrangement: Level 00

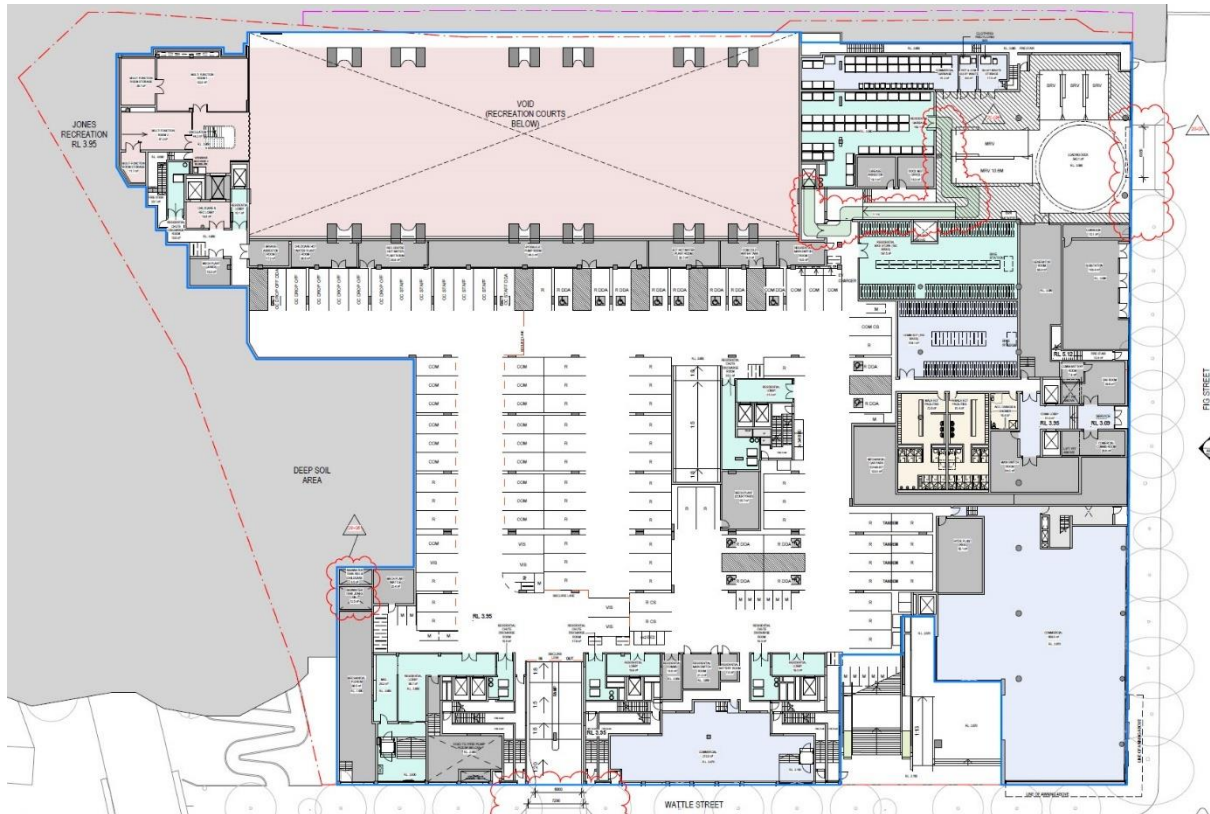


Figure 23: General arrangement: Level 01

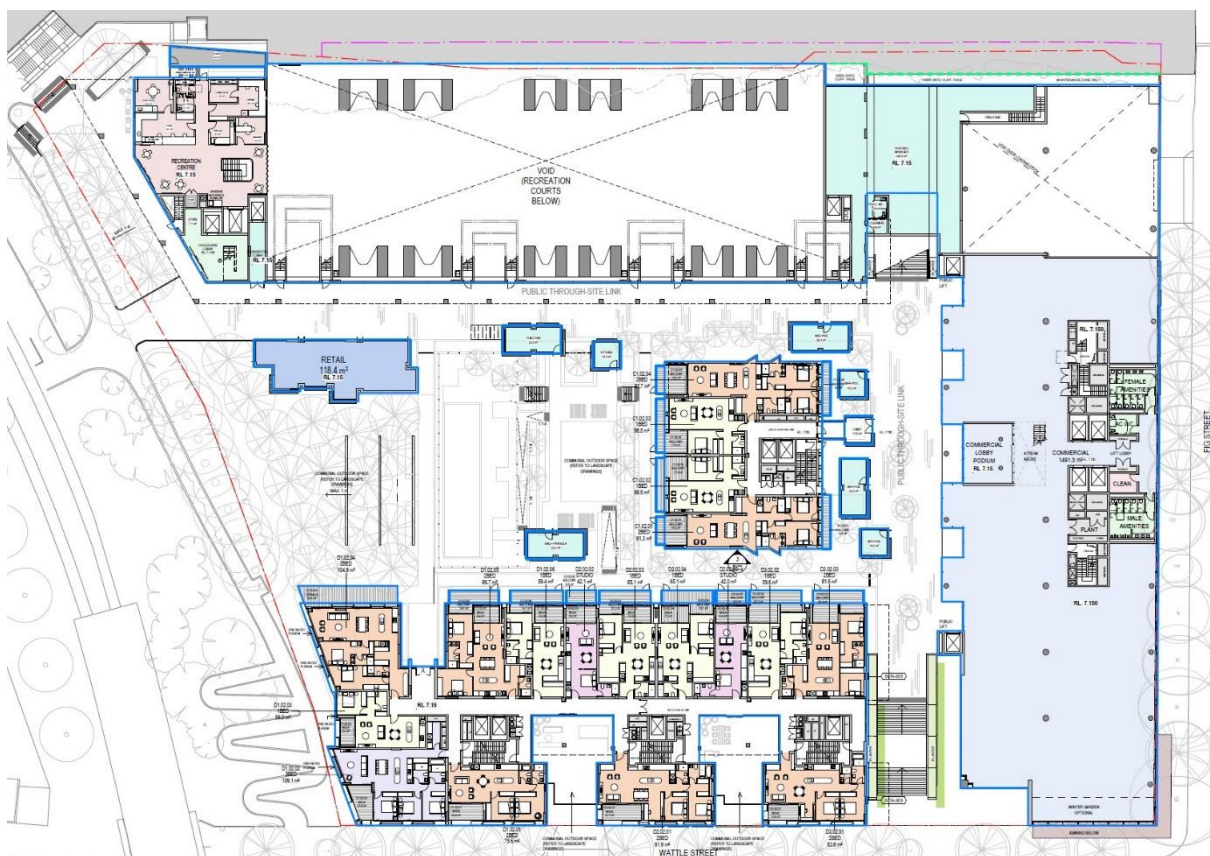


Figure 24: General arrangement: Level 02



Figure 25: General arrangement: Level 03



Figure 26: General arrangement: Level 03 and Level 04



Figure 27: General arrangement: Level 04 and Level 05



Figure 28: General arrangement: Level 05 and Level 06



Figure 29: General arrangement: Level 06 and Level 07



Figure 30: General arrangement: Level 07 and Level 08

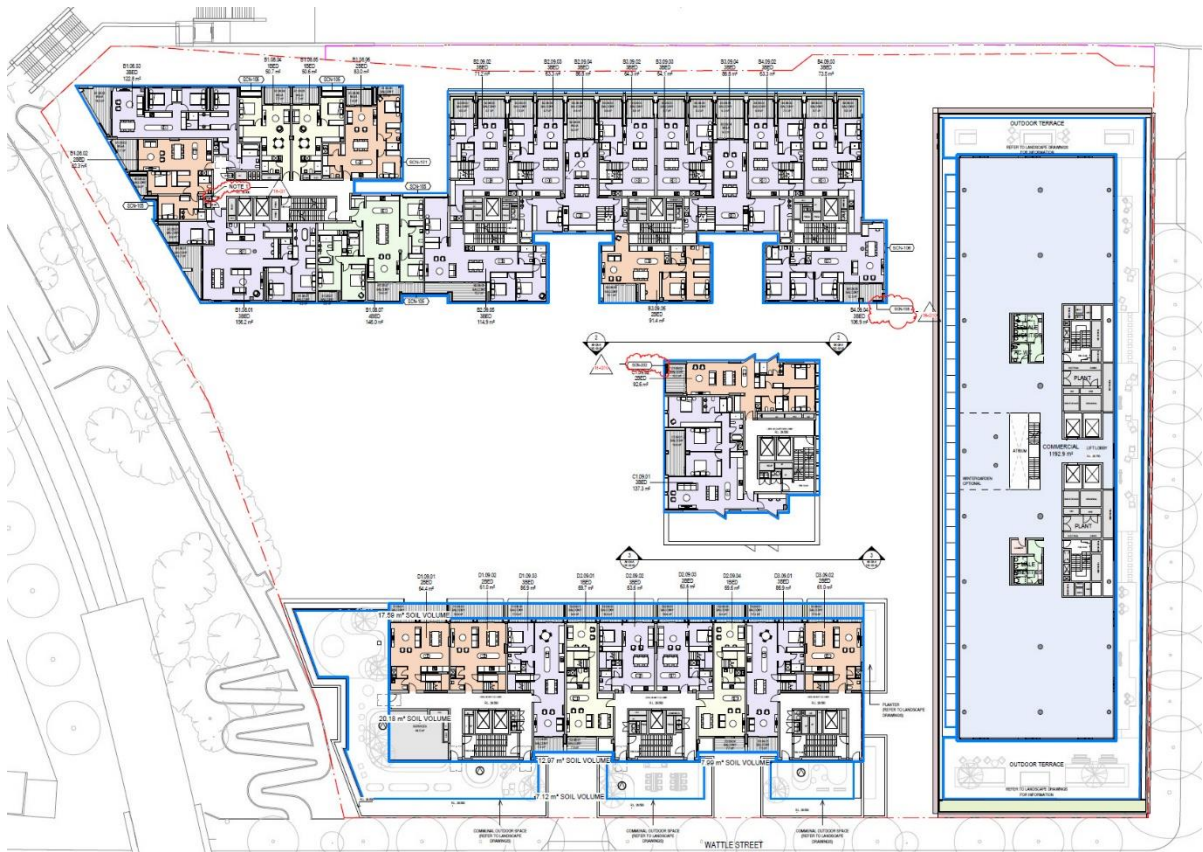


Figure 31: General arrangement: Level 08 and Level 09



Figure 32: General arrangement: Level 09 and Level 10



Figure 33: General arrangement: Level 10 and Level 11

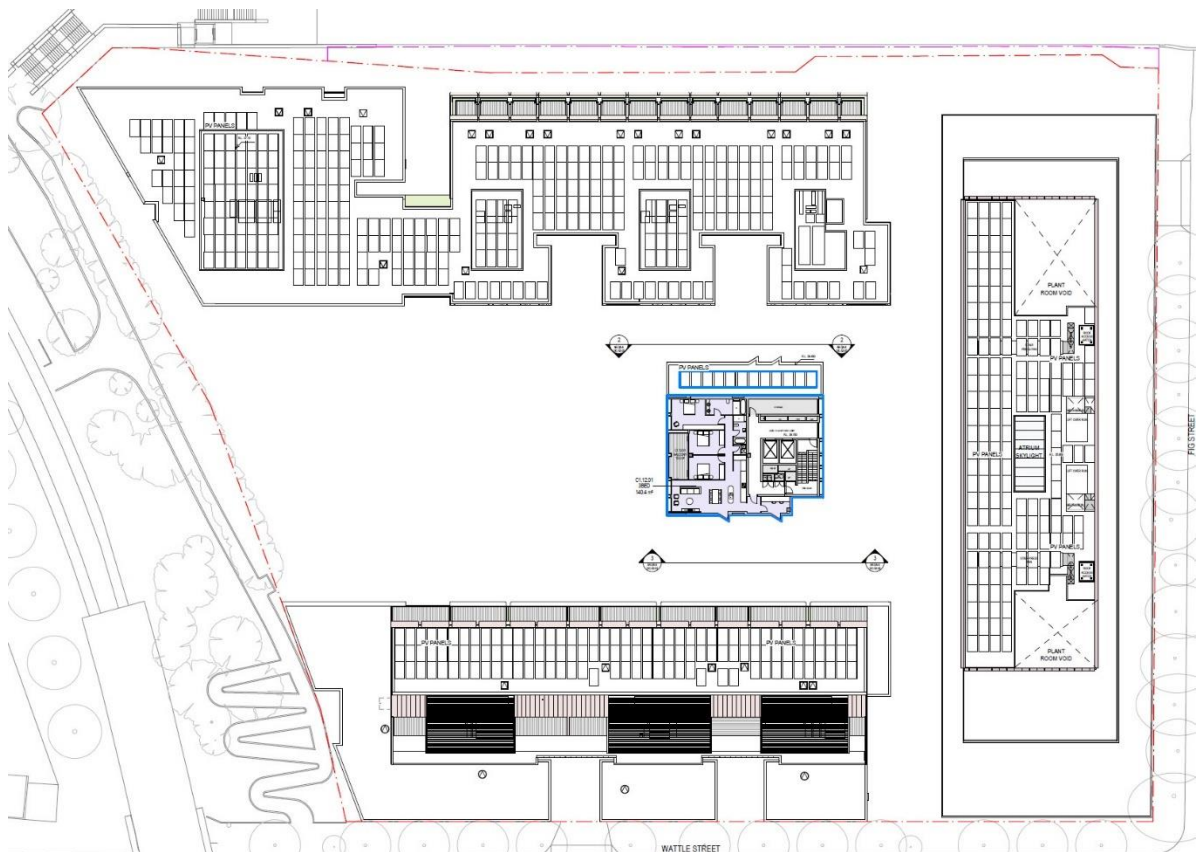
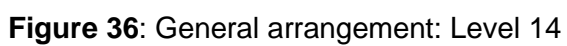
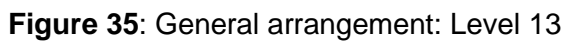


Figure 34: General arrangement: Level 11 and Level 12



Economic, Social and Environmental Assessment

Environmental Planning and Assessment Act, 1979

26. The proposed development has been assessed under section 4.15 of the EPA Act (see below).
27. It is considered that the development 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/B), satisfying section 4.24(2) of the EPA Act.

Water Management Act 2000

28. The development application was referred to the Department of Planning and Environment—Water. By letter dated 10 May 2023, the Department advised that, for the purposes of the Water Management Act 2000, a controlled activity approval is not required.

Sydney Water Act 1994

29. Pursuant to section 78(1)(a) of the Sydney Water Act 1994, the development may increase the demand for water supplied by the Sydney Water Corporation. As such, the development application was referred to Sydney Water for comment. Sydney Water provided conditions of consent on the 23 March 2023, which have been included at **Attachment B** if this report, as relevant.

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

30. Pursuant to Section 4.1 of the SEPP, the site is located within the City West area. The site is not affected by any other mapping relevant to the City West Area.
31. 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. **Table 1** details the principles noting the consistency of the proposed development.

Table 1: SEPP (Precincts – Eastern Harbour City) 2021 – City West planning principles

Principle	Comment
Regional Role	<p>Consistent</p> <p>The proposed development contributes to urban consolidation (237 dwellings proposed).</p> <p>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.</p>

Principle	Comment
Land Use Activities	<p>Consistent</p> <p>The development comprises residential accommodation, commercial and retail tenancies, a child care centre and an indoor recreation centre.</p>
Mixed Living and Working Environment	<p>Consistent</p> <p>Building E - Fig Street, which accommodates commercial premises, provides employment opportunities.</p> <p>A range of dwelling sizes are proposed (see ADG assessment below) and the development includes the following mix of GFA:</p> <ul style="list-style-type: none"> • Residential: 56.7% • Commercial: 33.0% • Retail: 0.9% • Child care centre: 3.8% • Recreation centre: 5.6%
Education	<p>Consistent</p> <p>A child care centre is proposed in Building B - Jones Street.</p>
Leisure and Recreation	<p>Consistent</p> <p>The site is located to the north of Wentworth Park, a large recreation area. Additionally, the proposed development 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.</p>
Port Functions	N/A
Social Issues	<p>Consistent</p> <p>The proposed development 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.</p>

Principle	Comment
Environmental Issues	<p>Complies</p> <p>The proposed development includes waste management measures, stormwater management and incorporates ESD measures. It generally satisfies the ADG objectives for natural cross ventilation, solar access and daylight and delivers enhanced pedestrian connectivity. The site does not have any biodiversity values.</p>
Urban Design and the Public Domain	<p>Complies</p> <p>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.</p>
Heritage	<p>Complies</p> <p>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. It is considered that the development addresses this significance appropriately (see Discussion section).</p>
Movement and Parking	<p>Complies</p> <p>The site adjoins the Wentworth Park Light Rail Station and the proposed pedestrian through site links improve connections to the station for the wider community. The number of proposed car parking spaces is below the maximum standards in Sydney LEP 2012.</p>
Implementation and Phasing	<p>The proposed development has very good access to existing infrastructure (Wentworth Park Light Rail Station, Wentworth Park and Fig Lane Park). It also includes new infrastructure (childcare centre and indoor recreation centre).</p>

SEPP (Sustainable Buildings) 2022

32. The aim of the SEPP is to encourage the design and delivery of sustainable buildings. The SEPP commenced on 1 October 2023 and section 4.2 is a savings provision which states that the SEPP does not apply to development applications lodged before this date. As the development application was submitted on 16 February 2023, the SEPP does not apply.

SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

33. The aim of SEPP (Resilience and Hazards) 2021 – 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.
34. The development application is accompanied by the following contamination reporting:
- (a) Data Gap Investigation prepared by JBS&G dated 9 October 2019
 - (b) Human Health Risk Assessment prepared by JBS&G dated 9 October 2019
 - (c) Remediation Action Plan (**RAP**) prepared by JBS&C dated 9 October 2019
 - (d) Interim Advice prepared by Zoic Environmental dated 16 October 2019.
35. The site investigations have identified heavy petroleum hydrocarbonbased contaminants as present in soils and groundwater. Isolated areas have been impacted by heavy metals and asbestos. Soil vapour has further been found to be affected by volatile petroleum hydrocarbon constituents.
36. The RAP proposes excavation and offsite removal of the impacted material and onsite in situ management of soil by physical separation and ongoing management. A long-term Environmental Management Plans could be on covenant. The Interim Advice confirms the above approach is appropriate.
37. Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the recommended remediation measures and for Council to be notified should there be any changes to the strategy for remediation.
38. Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

SEPP No 65 - Design Quality of Residential Flat Development

39. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, the consent authority must take into consideration a number of matters relating to design quality, including nine design quality principles and the Apartment Design Guide (**ADG**).
40. The proposal has been designed by BVN and a design verification statement prepared by a registered architect has been submitted. This statement and the accompanying Design Reports by BVN verify that the development addresses the nine design principles and the objectives in Parts 3 and 4 of the ADG. An assessment of compliance with the nine principles follows:

(a) Principle 1: Context and Neighbourhood Character

The site has four different contexts:

- Wentworth Park Light Rail Station (with vegetated boundary to the site), high-density residential development and the Fish Markets to the north
- 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 a steep change in level along the northern boundary of the site adjoining Jones Street with heritage listed terrace houses (one and two storeys) and the heritage listed Harbour Mill Apartments (10 and 4 storeys) to the east and north-east
- Wentworth Park and the Wentworth Park Greyhounds racetrack to the west beyond Wattle Street (which carries high volumes of traffic).

The proposed development responds to this context by retaining trees along the northern boundary and providing a new deep soil zone adjoining the light rail station. The recreation centre and childcare centre are located at the base of Building B - Jones Street adjoining the quarry/cliff edge where exposure to rail and traffic noise is minimised. Residential uses at the higher levels of Building B face the quiet context of Jones Street.

Buildings B and E step down in building height where they have an interface with heritage items on Jones and Fig Streets. Building E, at the southern end of the site, is fully commercial responding to the harsh environment along Fig Street. The commercial building also acts as an acoustic buffer for residential uses and communal open space on the site.

Active uses are proposed along footpath edge of Wattle Street with dwellings above that enjoy an outlook to Wentworth Park.

A central communal courtyard is provided, giving residents access to a protected and sunny open space. Pedestrian through-site links are proposed between Wentworth Park, Jones Street and the Wentworth Park Light Rail Station.

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

(b) Principle 2: Built Form and Scale

Appropriate street frontage heights with setback upper levels reduce the bulk and scale of the proposed development at the street edges (and adjoining heritage items). Deep recesses in Building B - Jones Street and Building D - Wattle Street and a varied palette of materials achieve an appropriate streetscape.

Building B - Jones Street is setback from the boundary to allow light down into the lower levels and to provide sightlines to the cliff/quarry face. The new footpath design along Jones Street will provide opportunities for the quarry/cliff face to be viewed from the public domain.

The height of Building C - Courtyard is inconsistent with the original concept consent, the design competition winning scheme and the recommendations of the jury for the competitive design process. Given this, a condition of consent is recommended to reduce its height by at least 2m

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

(c) Principle 3: Density

The proposed development complies with the 4:1 FSR and the 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 original concept consent and the design competition imposed requirements, the proposed development has achieved BASIX +10 targets. A condition is recommended requiring implementation of the measures detailed in the BASIX certificates.

The proposal largely complies with solar access and cross ventilation objectives of the ADG (see **Table 2** below).

(e) Principle 5: Landscape

A mix of hard and soft landscaping is proposed within the central communal courtyard, smaller recessed building courtyards, through-site links and communal roof terraces. The proposed centralised deep soil zone plus deep soil setbacks along the northern boundary allow for canopy tree planting (existing and proposed). A range of activities are provided for in the landscaped areas including covered spaces, a swimming pool, barbecue facilities (proposed and subject to condition), seating, tables and chairs, pedestrian paths and extensive planting.

(f) Principle 6: Amenity

The proposed development incorporates apartment planning that can deliver a high level of amenity for future occupants. Floor plans have been configured to maximise solar access, outlook, ventilation and compliant apartment, room and balcony sizes. Through the incorporation of plenums, apartments are capable of achieving natural ventilation while also meeting an acceptable level of acoustic privacy.

Compliance with amenity objectives of the ADG is detailed below in **Table 2**.

(g) Principle 7: Safety

The development provides new 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 proposed development has been designed in accordance with Crime Prevention Through Environmental Design (**CPTED**) principles.

(h) Principle 8: Housing Diversity and Social Interaction

The proposed development accommodates 237 apartments comprising the following dwelling mix which is consistent with the Sydney DCP 2012 dwelling mix control:

- 22.7% studio and 1-bedroom apartments proposed (maximum 40% required)
- 49.8% 2-bedroom apartments proposed (40 – 75% required)
- 27.4% 3+ bedroom apartments proposed (10 - 100% required) The proposed unit mix is broadly consistent with that envisaged under the DCP.

(i) Principle 9: Aesthetics

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

Subject to a condition requiring a reduction in the height of Building C - Courtyard, the amended 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.

41. The development (subject to conditions) is acceptable when assessed against the SEPP including the above 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. An assessment against the relevant objectives of the ADG is provided below in **Table 2**.

Table 2: Assessment of compliance with the objectives of the ADG

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	No	Acceptable on merit. Building B - Jones Street (28m), Building C - Courtyard (20m) and Building D - Wattle Street (28m) exceed the ADG building depths. Deep recesses in the buildings (which were support by the jury for the competitive design process) and the internal arrangement ensure that apartments receive adequate daylight, natural ventilation and natural cross ventilation.

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> 12m between habitable rooms / balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms 	Partial compliance	<p>Acceptable on merit.</p> <p>Building separations between the following buildings do not achieve the ADG building separation controls:</p> <ul style="list-style-type: none"> Building D - Wattle Street and Courtyard Building (6.95m - 11.2m) Building B - Jones Street and Building C - Courtyard (7.4m) Building D - Wattle Street and Building E - Fig Street (6.95m) Building B - Jones Street and Building E - Fig Street (6.07m) <p>Privacy protection measures are proposed to ensure that the development can provide for an acceptable level of privacy for future occupants and adjoining properties.</p> <p>See Discussion section.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> 18m between habitable rooms / balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms 	No	See above
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> 24m between habitable rooms / balconies 18m between habitable and non-habitable rooms 12m between non-habitable rooms 	No	See above

3B Orientation	Compliance	Comment
Overshadowing of neighbouring properties is minimised during midwinter	Yes	A detailed assessment of overshadowing impacts is included in the assessment report on the section 4.56 modification application and in the Discussion section below.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site (3,090m ²).	Partial compliance	<p>Applicant's calculation: 4,249m² (34.37%) including private communal and public communal open space.</p> <p>Council's Landscape Assessment Officer calculation: 2,843m² (23%) including a communal roof terrace on Building B - Jones Street, Building C - Courtyard and Building D - Wattle Street.</p> <p>See Discussion section.</p>
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 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	Deep soil zones with a total area of 876m ² (7% of the total site area) are provided across the site. Most deep soil is provided in a centralised area at the northern end of the site adjoining the Wentworth Park Light Rail Station and trees to be retained along the common boundary.

3E Deep Soil Zones	Compliance	Comment
		Supplementary deep soil zones are provided in the north-east corner of the site, adjoining the Wentworth Park Light Rail Station and near the stairs up to Jones Street.

3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): <ul style="list-style-type: none"> 12m between habitable rooms / balconies 6m between non-habitable rooms 	No	See 2F above
Five to eight storeys (25 metres): <ul style="list-style-type: none"> 18m between habitable rooms / balconies 9m between non-habitable rooms 	No	See 2F above
Nine storeys and above (over 25m): <ul style="list-style-type: none"> 24m between habitable rooms / balconies 12m between non-habitable rooms 	No	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 (166 units required).	Partial compliance	A total of 164 of 237 of apartments (69.1%) achieve a minimum two hours' solar access to private open space in mid-winter. The minor shortfall (two apartments) is considered to be reasonable noting that all apartments receive some direct sunlight.

4A Solar and Daylight Access	Compliance	Comment
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	All apartments would receive some direct sunlight.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	No	Acceptable on merit Due to heavy traffic surrounding the site, natural ventilation cannot be achieved for many the apartments without exceeding acoustic requirements. Where there is an exceedance of the internal noise level criteria with windows open, an alternative means of ventilation is required in accordance with the NCC (acoustic plenum). Ventilated skylights and ventilation ducts have also been utilised to further enhance natural ventilation performance. See Discussion section.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated (there are 234 units in the first 9 storeys therefore 140 units required).	Partial compliance	Council's urban designer considers that a total of 58.5% apartments (137 of 234) in the first nine storeys of the development are naturally cross ventilated (naturally cross ventilated (121) and cross ventilated using a skylight (16)). See Discussion section.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	No	See 2E above.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Yes	All apartments comply with the minimum unit size requirements.
Every habitable room is to have a window in an external wall with minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms have access to an external window.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	Apartment depths comply
8m maximum depth for open plan layouts.		
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>		All apartments have bedrooms and living areas in accordance with minimum recommended internal areas and widths.
Living and living/dining rooms minimum widths:		

4D Apartment Size and Layout	Compliance	Comment
<ul style="list-style-type: none"> • 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
<p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>	Yes	All apartments are provided with balconies in accordance with minimum recommended dimensions and areas.
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m ² and a minimum depth of 3m.	Partial compliance	<p>Ground floor apartments generally have courtyards with an area of >15m² and >3m depth.</p> <p>Two x two bedroom ground level apartments to Building C - Courtyard Building have 14.2m² courtyards. This minor shortfall (0.8m²) is acceptable as the apartments have a generous size and additional balconies accessed from bedrooms.</p> <p>Two studio apartments in Building D - Wattle Street have a combined winter garden (included in GFA) and balcony area of 14.9m². This minor shortfall (0.1m²) is acceptable given that the dwellings are studio apartments.</p>

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Partial compliance	<p>A maximum 8 apartments are generally accessed of each circulation core. There are technical non-compliances at the following entry/lobby levels where all apartment cores are connected:</p> <ul style="list-style-type: none"> • Building C - Jones Street Level 04 • Building D - Wattle Street Level 02 <p>This is reasonable noting that all other levels comply.</p>
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	Living room and bedroom windows do not open onto walkways. Ground floor bedrooms do not directly face towards communal open spaces.
Daylight and natural ventilation are provided to all common circulation spaces.		Natural daylight and ventilation is introduced to the common circulation spaces.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ <p>(Minimum 50% storage area located within unit)</p>		<p>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.</p> <p>A condition of consent is recommended requiring storage space to be provided in accordance with the minimum ADG requirements.</p>

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?		<p>The proposal 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. Conditions of consent are recommended in relation to the design of garbage chutes to minimise noise impacts for residents.</p> <p>Through the incorporation of plenums, apartments are capable of achieving natural ventilation while also meeting an acceptable level of acoustic privacy.</p> <p>See Discussion section.</p>

SEPP (Housing) 2021

42. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.
43. Section 7.32 of the EPA Act and 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.
44. The site is located within the Ultimo/Pymont affordable housing contribution area as per clause 7.13 of the Sydney LEP 2012. The development application was lodged on 16 February 2023, and as such, the City West affordable housing program applies.
45. This matter is discussed in further detail under the heading Financial Contributions below.

SEPP (Transport and infrastructure) 2021 – Chapter 3 Educational Establishments and Child Care Facilities

46. The proposed child care facility is subject to the provisions of SEPP (Transport and infrastructure).

Section 3.22 Centre-based child care facility – concurrence of Regulatory Authority required for certain development.

47. In accordance with section 3.22(1)(a) and (b) of SEPP (Transport and infrastructure), the proposal complies with regulation 107 (relating to indoor unencumbered space requirements) and regulation 108 (relating to outdoor unencumbered space requirements). As the proposal includes the provision of a simulated outdoor play area to satisfy the outdoor space requirements, the development application was referred to the Secretary of the NSW Department of Education as the Regulatory Authority pursuant to clause 3.22(2) of the SEPP. By letter dated 17 January 2024, the NSW Department of Education provided concurrence noting that:

"The Landscape Design Report ... indicates that there will be sufficient natural features, qualities and experiences that mimic an outdoor space in both simulated areas. Features outlined in the report includes water play rock pools, sand pits, wooden decking and artificial turf. While there will be front edge planter boxes along the exterior wall that are accessible, further consideration could be given to the inclusion of vegetable gardens or gardening tubs within the simulated spaces. This would further promote the same learning outcomes that are developed during outdoor play.

Both simulated spaces have sufficient access to natural light and ventilation via the floor to ceiling operable windows along the external walls. The windows will also enable views of trees, the sky, clouds and movement outside the service."

48. As suggested by the NSW Department of Education, the recommended conditions of consent include a requirement to include vegetable gardens or gardening tubs within the simulated spaces.

Section 3.23 Centre-based child care facility – matters for consideration by consent authorities

49. Section 3.23 of SEPP (Transport and infrastructure) requires all applications for development to take into consideration any applicable provisions of the Child Care Planning Guideline.
50. The relevant matters to be considered under Section 3 of the Child Care Planning Guideline for the proposed development are discussed below in **Table 3**.

Table 3: Assessment of compliance with the Child Care Planning Guideline: Section 3 - Matters for Consideration

Provision	Compliance	Comment
3.1 Site selection and location	Yes	<p>The site is in a mixed use zone and has concept consent (D/2019/649) for a mixed use development.</p> <p>The proposed internal and external play spaces are located at Level 03 of Building B - Jones Street. Acoustic treatments have been recommended in the submitted acoustic report to minimise noise impacts from and to the child care centre.</p> <p>Dedicated off street parking and drop off areas for the child care centre are allocated in the basement to minimise any impact on residential streets.</p> <p>The site is also surrounded by residential and commercial development and parks. Pedestrian pathways and through site links to the Wentworth Park Light Rail Station are proposed.</p> <p>There are no industrial or hazardous services or infrastructure near the site.</p>
3.2 Local character, streetscape and the public domain interface	Yes	<p>The proposed child care centre is part of an overall mixed use development and is well sited at the quiet end of the site near Jones Street.</p> <p>The proposed child care centre will have its own entry from the Podium Level of Building B - Jones Street with dedicated drop off areas within the basement. A clearly defined accessible pathway and lift is provided from the parking area to the centre entry foyer.</p> <p>The secure entry foyer provides lift and stair access to the upper floor administration and staff spaces, where a secondary foyer provides extra security and surveillance. The play spaces are private and secure zones.</p>

Provision	Compliance	Comment
		<p>Façade treatment, colour and landscaping are proposed to distinguish the child care centre from residential levels.</p> <p>Stainless steel mesh screening and climbing plants will function as perimeter fencing and balustrade to the upper floor child care centre. The screen appropriately balances a sense of privacy and connection with the outdoors.</p>
3.3 Building orientation, envelope and design	Yes	<p>Child care centre windows in the eastern façade along Jones Street face onto the sandstone cliff/quarry face. Adequate access to natural light and ventilation to the play and cot rooms is provided. The offset from Jones Street and position below the cliff/quarry face provides the centre with privacy from Jones Street residents and the building above.</p> <p>Solar access is optimised by orientating play spaces to the north and west. Building overhangs provide shading and solar protection during the hot summer months.</p> <p>The child care centre is co-located with the proposed (Council) recreation centre. Both would be visible from the public access points (including the proposed through site link and Wentworth Park Light Rail Station).</p> <p>Maintenance access to the building is possible from all three sides.</p>
3.4 Landscaping	Yes	<p>A landscape plan has been submitted with the development application including a design for the outdoor and simulated outdoor play areas.</p>
3.5 Visual and acoustic privacy	Yes	<p>The position of the child care centre and the provision of a screen with planting protect the privacy of children as discussed above.</p>

Provision	Compliance	Comment
		The internal and external play spaces are located underneath the residential building along Jones Street and the central courtyard. Acoustic treatments have been recommended in the submitted acoustic report to minimise noise impacts from and to the child care centre.
3.6 Noise and air pollution	Yes	Noise is discussed above. The location and orientation of the proposed child care centre maximises distance and physical separation to Wattle Street and Fig Street (both major roads).
3.7 Hours of operation	Yes	The child care centre will operate Monday and Friday. The application does not specify hours or operation.
3.8 Traffic, parking and pedestrian circulation	Yes	The following car parking has been provided in accordance with the Child Care Planning Guidelines and the Functional Design Brief provided by the City of Sydney. Parking summary: <ul style="list-style-type: none"> • 6 drop off car parking spaces including 1 accessible • 6 staff car parking spaces including 1 accessible • 4 bicycle parking spaces. A traffic study and report has been provided.

51. In addition to the matters of consideration under Section 3 of the Guidelines, Section 4 of the Guidelines requires developments to be considered against the provisions of the Education and Care Services National Regulation. These considerations are outlined below in **Table 4**.

Table 4: Assessment of compliance with the Child Care Planning Guideline: Section 4 - Applying the National Regulations

Provision	Compliance	Comment
104 Fencing or barrier that encloses outdoor space	Yes	Outdoor spaces that will be used by children will be enclosed by an appropriately designed barrier.
106 Laundry and hygiene facilities	Yes	<p>The proposed development includes laundry facilities that are located where they do not pose a risk to children.</p> <p>Adequate age appropriate toilet, washing and drying facilities are provided for each play room collocated and shared between the rooms and outdoor play spaces to ensure ease of use and supervision.</p>
107 Unencumbered indoor space	Yes	<p>The proposed development includes at least 3.25m² of unencumbered indoor space for each child.</p> <p>Area provided: 441m² (296m² required).</p>
108 Unencumbered outdoor space	Yes	<p>The proposed development includes at least 7m² of unencumbered outdoor space for each child.</p> <p>Area provided: 708m² outdoor and outdoor simulated (637m² required).</p>
109 Toilet and hygiene facilities	Yes	<p>The proposed development includes adequate, developmentally and age-appropriate toilet, washing and drying facilities.</p> <p>The location and design of the toilet, washing and drying facilities enables safe and convenient use by the children.</p>
110 Ventilation and natural light	Yes	All play rooms have full height glazed, operable walls that open onto a full covered external or simulated outdoor play space. Openable windows provide ample daylight and ventilation. Large sliding glass doors are provided to the simulated outdoor play space to create connection and sense of an outdoor

Provision	Compliance	Comment
		environment with the option to enclose the space as required.
111 Administrative space	Yes	<p>The administration area is co-located with the main child care centre entry foyer with direct access to the surrounding play rooms and outdoor play areas. Windows are proposed for visibility and supervision.</p> <p>Pram parking is proposed as part of the secure foyer space adjacent to the reception / sign in office.</p> <p>Additional staff facilities are provided to the north with access to an external terrace, which is secure and separated for privacy.</p>
112 Nappy change facilities	Yes	Nappy change facilities to play rooms 1-4 will be provided within the bathrooms in accordance with the Regulation.
113 Outdoor space – natural environment	Yes	The outdoor play space design has considered the Regulation principles to create a natural environment, where the children can explore and experience a variety of outdoor play.
114 Outdoor space – shade	Yes	<p>The outdoor play space design has considered the Regulation principles to ensure adequate shade is provided to protect the children.</p> <p>Both the outdoor and simulated outdoor play spaces are fully covered, providing sun and all weather protection.</p>
115 Premises designed to facilitate supervision	Yes	The proposed child care centre (including toilets and nappy change facilities) facilitates supervision of children at all times, having regard to the need to maintain their rights and dignity.

52. The development is generally acceptable when assessed against the above stated provisions and the SEPP.

SEPP (Transport and Infrastructure) 2021 - Chapter 2 Infrastructure

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

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

54. The development 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 development is also within or near an electricity easement.
55. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised subject to conditions which are included in the recommended conditions of consent.

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**

The proposed 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

56. The site is within 25m of the light rail corridor and includes excavation deeper than 2m and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW has provided conditions which are included in the recommended conditions of consent.

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

57. The proposed development includes residential accommodation and a centre base child care facility on land adjacent to the light rail corridor and was subsequently referred to TfNSW for comment. TfNSW has provided conditions which are included in the recommended conditions of consent.

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**

58. The development application is subject to section 2.119 of the SEPP as the site has frontage to and vehicular access is proposed to/from Wattle Street and Fig Street which are classified roads. The proposed development is of a size and capacity specified in Schedule 3 of the SEPP, therefore section 2.122 of the SEPP applies.
59. The development application was subsequently referred to TfNSW for comment. TfNSW has provided conditions which are included in the recommended conditions of consent.

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

60. The development 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. The development application was subsequently referred to TfNSW for comment. TfNSW has provided conditions which are included in the recommended conditions of consent.

SEPP (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017

61. The proposed development includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP. The SEPP provides that consent is required for the clearing of certain vegetation in non-rural areas.
62. The SEPP provides that a person must seek a permit from Council to clear vegetation. A person must also not clear native vegetation in any non-rural area of the State that exceeds the biodiversity offsets scheme threshold without the necessary authority. An authority, however, is not required for the removal of vegetation that the Council or Native Vegetation Panel is satisfied is dying or dead and is not required as the habitat of native animals, or that the council is satisfied is a risk to human life or property.
63. Pursuant to Section 2.6 of the SEPP, the development application seeks consent for removal of 54 trees, as considered in the Discussion section.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment

64. 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.
65. 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 proposed development.

SEPP (Building Sustainability: BASIX) 2004

66. BASIX certificates have been submitted with the development application. The BASIX certificates list measures to satisfy BASIX requirements which have been incorporated in the proposal. The development has achieved the design competition imposed targets of BASIX +10. A condition is recommended ensuring that the measures detailed in the BASIX certificate are implemented.

Sydney Local Environmental Plan 2012

67. An assessment of the proposed development against the relevant provisions of the Sydney LEP 2012 is provided in **Table 5**.

Table 5: Assessment of compliance with Sydney LEP 2012

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	<p>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 and shop top housing. The proposed uses are permitted with development consent</p> <p>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 proposed buildings are not located on land in Zone RE1.</p> <p>The proposal generally meets the objectives of the zones.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height development standard of 27m applies to the site. The development application seeks consent for up to 10% additional building height pursuant to clause 6.21D of Sydney LEP 2012 (giving a maximum permitted height of 29.7m).</p> <p>A maximum height of 42.46m is proposed (to Building C - Courtyard). The proposed development does not comply with the maximum height of buildings development standard.</p> <p>A written request to contravene the height of buildings development standard in accordance with clause 4.6 has been submitted.</p> <p>See Discussion section.</p>

Provision	Compliance	Comment
4.4 Floor space ratio	Yes	<p>A maximum FSR development standard of 4:1 applies to the site.</p> <p>A FSR of 3.88:1 is proposed based on a gross floor area of 47,954m² and a site area of 12,361m² (being the site area of land in Zone MU1).</p> <p>The proposed development complies with the maximum FSR development standard.</p>
4.5 Calculation of floor space ratio and site area		<p>The FSR calculated above is based on the area of the site located in Zone MU1 (12,361m²) and excludes the portion of the site in Zone RE1 (20m²).</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development contravenes the building height development standard prescribed under clause 4.3. A clause 4.6 written request has been submitted with the application.</p> <p>See Discussion section.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is within the vicinity of the following heritage items:</p> <ul style="list-style-type: none"> • 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). <p>The proposed development will not have detrimental impact on the heritage significance of any heritage item.</p>

Provision	Compliance	Comment
		See Discussion section.
5.21 Flood planning	Yes	The site is identified as being subject to flooding. The proposed development has been designed to the FPL and is acceptable in terms of flood planning.

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	<p>Acceptable</p> <p>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.</p> <p>The sun access plane is not applicable to the development application as clause 1.8A(7) of Sydney LEP 2012 specifies a savings provision which provides that a development application made, but not finally determined, before the commencement of SEPP Amendment (Blackwattle Bay Precinct) 2022 (made on 9 June 2023) must be determined as if that Policy had not commenced. The development application was made on 16 February 2023, before the SEPP Amendment (Blackwattle Bay Precinct) 2022 was made.</p>
Division 4 Design excellence		
6.21C Design excellence	Yes	<p>It is considered that the proposed development exhibits design excellence in accordance with the matters listed at clause 6.21C as noted below:</p> <ul style="list-style-type: none"> A good standard of architectural design, materials and detailing is

Provision	Compliance	Comment
		<p>proposed appropriate to the building type and location</p> <ul style="list-style-type: none"> • The form and external appearance of the proposed development will improve the quality and amenity of the public domain. Additional overshadowing of Wentworth Park is considered in the Discussion section below • The proposed development will not unreasonably impact view corridors acknowledging that views over site to Wentworth Park from Fig Lane Park and dwellings on Jones Street would be lost by a development wholly compliant with the height standard • The site is suitable for the proposed mixed use development • The proposed development has acceptable heritage impacts and would positively contribute to the streetscape of Jones, Fig and Wattle Streets • The proposed building footprints and internal layout achieves acceptable separation, setbacks, amenity and urban form • The bulk, massing and modulation of buildings is acceptable • Appropriate street frontage heights are proposed, generally compliant with the 27m height standard • The proposed development would have acceptable environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity • The proposed development promotes the principles of

Provision	Compliance	Comment
		<p>ecologically sustainable development</p> <ul style="list-style-type: none"> • Appropriate pedestrian, cycle, vehicular and service access and circulation arrangements are proposed • The proposed development would have a positive impact on the public domain (on and around the site) • The site is not in a special character area • Appropriate interfaces are proposed at the ground level • A detailed landscape plan has been prepared proposing a high standard and integration of landscape design.
6.21D Competitive design process	Yes	<p>The buildings demonstrate design excellence (noting that the design of the buildings is the winner of a competitive design process and the buildings exhibit design excellence).</p> <p>The development application seeks consent to utilise the additional height (up to 10%) provided by clause 6.21D(3).</p>

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	<p>A maximum of 187 residential and 17 visitor car parking spaces are permitted.</p> <p>The proposed development includes 183 resident and 5 visitor car parking spaces and complies with the maximum residential parking standard. An additional 12 visitor car parking spaces</p>

Provision	Compliance	Comment
		will be available outside of the child care centre operating hours.
7.6 Office premises and business premises	Yes	<p>A maximum of 81 office/business premises parking spaces are permitted.</p> <p>The proposed development includes 20 office/business car parking spaces and complies with the maximum office parking standard.</p>
7.7 Retail premises	Yes	<p>A maximum of 9 retail car parking spaces are permitted.</p> <p>No retail parking is proposed and the development complies with the maximum retail parking standard.</p>
7.9 Other land uses	Yes	<p>A maximum of 19 centre base child care facilities parking spaces are permitted.</p> <p>The proposed development includes 12 child car parking spaces and complies with the maximum other land use parking standard.</p>
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	<p>The site is located within the Ultimo/Pymont affordable housing contribution area as per clause 7.13 of the Sydney LEP 2012. The development application was lodged on 16 February 2023, and as such, the City West affordable housing program applies</p> <p>The affordable housing contribution is discussed in the Contributions section below.</p>
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land within class 5 Acid Sulfate Soils. The Data Gap Investigation (Contamination) prepared by JBS&G found that sediments typical of potential or actual acid sulfate soils were not observed.</p>

Provision	Compliance	Comment
7.18 Car parks	Yes	<p>A Green Travel Plan has been prepared encouraging active modes of transport to minimise private vehicle use.</p> <p>The proposed development provides less car parking than the maximum car parking development standards (see above).</p> <p>The design of vehicle access to the site and servicing has considered the impact on the road network.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	<p>Demolition of the existing site structures is proposed along with comprehensive redevelopment of the site.</p> <p>Conditions of consent are recommended requiring the preparation of construction management plans.</p>
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>The site is located outside of Central Sydney and the development exceeds 25 metres in height. A site specific DCP is therefore required.</p> <p>This is a detailed design application submitted in accordance with concept consent D/2019/629. Pursuant to section 4.23 of the EPA Act, the concept application was submitted in lieu of a site specific development control plan to satisfy clause 7.20.</p> <p>Subject to approval of the concurrently lodged and reported section 4.56 modification application (D/2019/629/B) to align the concept consent and detailed design development application, the development is consistent with the concept consent and therefore satisfies clause 7.20.</p> <p>See Discussion section.</p>

Development Control Plans

Sydney Development Control Plan 2012

68. An assessment of the proposed development against the relevant provisions within the Sydney DCP 2012 is provided in the **Table 6**.

Table 6: Assessment of compliance with Sydney DCP 2012**Section 2 – Locality Statements**

Ultimo/Pymont - Pymont locality
<p>The site is located in the Pymont locality. The proposed mixed-use development is in keeping with the unique character of the area and the relevant design principles in that:</p> <ul style="list-style-type: none"> • It would define Jones, Fig and Wattle Streets and Wentworth Park with buildings • 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 and the railway viaduct) • It includes a heritage interpretation strategy (addressing visibility to the historic quarry cliff face and salvage of historic artefacts on the site) • It proposes public domain improvements on and adjoining the site with clearly defined entrances to the proposed through site links (on Jones Street, Wattle Street and to the north from the Wentworth Park Light Rail Station) • Only two driveways are proposed, one on Wattle Street (cars) and one on Fig Street (loading), to limit conflict with pedestrians noting that Fig Street is not a pedestrian thoroughfare • It would not unreasonably impact view corridors acknowledging that views over site to Wentworth Park from Fig Lane Park would be lost by a development wholly compliant with the height standard • Breaks are proposed between buildings (including a north-south and east-west through site link) to provide view lines into the site and façade recessing on the façade of each building is proposed break up the building mass • The proposed material selection is considered to be appropriate. Visibility to the sandstone cliff/quarry face has been optimised through windows at the recreation centre and the setback along Jones Street.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	The submitted public art strategy has been reviewed by the City's Public Art Unit and referred to the Public Art Advisory Panel. The strategy was amended to address the Panel's advice. A condition is recommended requiring the final strategy to be submitted to Council for approval prior to the issue of a construction certificate for above ground works.

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	<p>The proposed development includes public domain improvements on and adjoining the site and an active street frontage to Wattle Street.</p> <p>A wrap around awning is proposed at the Fig Street / Wattle Street corner. An awning cannot be provided along the full length of the Wattle Street and Fig Street frontages due to the locations of retained and new street trees.</p> <p>RWDI has undertaken a pedestrian wind environment assessment which found that wind conditions along the street frontages will improve or be acceptable subject to compliance with the report recommendations. Recommendations (screening and landscaping) are also stated in relation to wind conditions at grade and podium rooftop levels and on the proposed rooftop terraces. Balconies were assessed as being well sheltered against prevailing wind directions and expected to be suitable for the intended passive use. A condition is recommended requiring compliance with the pedestrian wind environment assessment.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>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.</p> <p>The proposal seeks additional height for the achievement of design excellence, which is supported.</p>
3.5 Urban Ecology	Yes, subject to conditions	<p>As amended, the proposed development involves the removal of 54 trees comprising 5 high retention value, 16 medium retention value and 33 low retention value. 11 of the proposed trees to be removed are street trees.</p> <p>Trees to be removed on the site are within or close to the footprint of the approved concept envelopes and their removal is generally supported (other</p>

Provision	Compliance	Comment
		<p>than Trees 40 and 46 which are street trees on Fig Street).</p> <p>New tree planting is proposed within communal open space on the site and within the adjacent road reserves. This includes approximately:</p> <ul style="list-style-type: none"> • 20 new canopy trees within deep soil zones; and • 26 new trees (four medium sized and 22 small trees) <p>The applicant's landscape architect (Oculus) forecast that the site will achieve a total canopy cover equivalent to 16% of the site (2,001m²) within 10 years of completion, consistent with the Sydney DCP 2012 provision.</p> <p>Conditions are recommended in relation to retention and protection of street trees located within the public domain on Wattle Street, Fig Street and adjoining Wentworth Park Rail Station. Conditions are also recommended to ensure landscaped and deep soil areas are able to accommodate mature tree planting.</p> <p>See Discussion section.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The development has achieved the design competition imposed targets of BASIX +10. Architectural Plans have been amended to note the relevant matters listed on the BASIX certificates and NatHERS ratings. An Ecologically Sustainable Development Report accompanies the development application.</p>
3.7 Water and Flood Management	Yes	<p>The proposed development has been designed to the FPL and is acceptable in terms of flood planning.</p> <p>Sydney Water has confirmed that on-site detention is not required for the site.</p>

Provision	Compliance	Comment
		Conditions are recommended requiring the detailed design of stormwater prior to the issue of a construction certificate.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The proposed development includes stratum subdivision to create separate lots for the land uses within the development: Council facilities (child care centre and recreation centre), commercial, retail and residential uses.</p> <p>The draft stratum subdivision plans cover the entire site, including the portion of the land within the Jones Street road reserve to be acquired by the applicant. The plans identify the relevant car parking and services associated with the various land uses, and establish the basis for future strata subdivision of the residential component.</p> <p>The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to conditions of consent.</p>
3.9 Heritage	Yes	<p>The site is not a heritage item and is not located within a heritage conservation area. The site is in the vicinity of heritage items (as noted above). The cliff face and selected artefacts on the site have historic value.</p> <p>See Discussion section.</p>
3.11 Transport and Parking	Yes	<p>Carshare: Consistent with the Sydney DCP 2012 carshare controls, the proposed development provides one car share space for the commercial component and two car share spaces for the residential component.</p> <p>Bicycle parking: Consistent with the Sydney DCP 2012 bicycle parking controls, the proposed development provides 444 bicycle spaces (minimum 417 spaces required). The bicycle</p>

Provision	Compliance	Comment
		<p>parking rooms are located close to the service/lift cores to provide a high degree of convenience for occupants and visitors.</p> <p>Car parking: Car parking provision complies with the Sydney LEP 2012 maximum standards. Car parking is located on Levels 00 and 01. Vehicular access is provided via a left in/left out from Wattle Street. The car parking is sleeved by active uses at the street frontages.</p> <p>Loading: Five loading spaces are proposed accessed from Fig Street. A turntable is proposed to enable vehicles to enter and exit the site in a forward direction.</p> <p>Motorcycle parking: Consistent with the Sydney DCP 2012 motorcycle parking controls, the proposed development provides 20 motorcycle spaces (minimum 18 spaces required).</p> <p>Council's Transport Planner has recommended conditions of consent in relation to bicycle parking design, driveways, loading dock design and car park layout. Conditions are also recommended to ensure that the residential, visitor, commercial, child care and accessible car parking spaces are allocated appropriately.</p>
3.12 Accessible Design	Yes	<p>The proposal includes 36 adaptable apartments which equates to 15% of the total dwellings.</p> <p>A condition is recommended to provide appropriate access and facilities for persons with disabilities in accordance with Sydney DCP 2012 and the BCA.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>

Provision	Compliance	Comment
3.14 Waste	Yes	<p>Council's cleansing and waste unit has reviewed the development application and confirmed that there are sufficiently sized waste storage areas to store residential and commercial waste bins separately to await collection.</p> <p>Council's cleansing and waste unit has recommended conditions in relation to access to the bulky waste storage room, design of the discharge rooms for the garbage chutes, redesign of garbage chutes where they adjoin bedrooms and twice weekly collection of residential waste.</p> <p>A condition is also recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>

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	<p>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).</p> <p>The proposed development has the following number of storeys:</p> <ul style="list-style-type: none"> • Building B - Jones Street: 8 storeys, 5/6 storey street frontage to Jones Street • Building C - Courtyard: 11 storeys • Building D - Wattle Street: 9 storeys, 8 storey street frontage height to Wattle Street • Building E - Fig Street: 9 storeys, 7 storey street frontage height to Fig and Wattle Streets and 3 storey street frontage height to Jones Street <p>A detailed assessment of height is included in the assessment report on the section 4.56 modification application and in the Discussion section below.</p>
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 clause 6A of SEPP 65 (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).

Provision	Compliance	Comment
		<p>The proposed development exceeds the street frontage height control along Fig Street (see clause 4.2.1.1 above). With a setback of around 4m at Level 08, the development complies with the setbacks above the street frontage height control at clause 4.2.2.2 and has an appropriate relationship with the heritage listed former woolstore to the south.</p> <p>The street frontage height and setback above street frontage height of Building E - Fig Street is also consistent with the concept consent and the section 4.56 modification application.</p>
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	<p>In accordance with clause 6A of SEPP 65, solar access to the proposed apartments is addressed above in accordance with the ADG.</p> <p>The proposed development will not create any additional overshadowing onto the habitable rooms or private open space of any neighbouring dwelling.</p> <p>A detailed assessment of overshadowing is included in the assessment report on the section 4.56 modification application.</p>
4.2.3.3 Internal common areas	Yes	In accordance with clause 6A of SEPP 65, 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.
4.2.3.5 Landscaping	Yes	The proposed landscape approach is generally supported, subject to recommended conditions.

Provision	Compliance	Comment
4.2.3.6 Deep Soil	Partial compliance	<p>DCP 2012 requires a minimum deep soil area equivalent to 10% of the site area. For lots greater than 1,000m², the deep soil area is to be consolidated with a minimum dimension of 10m. All remaining deep soil areas are to have a minimum dimension of 3m.</p> <p>Consistent with the ADG, the proposed development has a deep soil area equivalent to 7% of the site area. Most of this space is provided in a centralised area at the northern end of the site adjoining the Wentworth Park Light Rail Station and trees to be retained along the common boundary. Supplementary deep soil zones are provided in the north-east corner of the site, adjoining the Wentworth Park Light Rail Station and near the stairs up to Jones Street.</p>
4.2.3.7 Private open space and balconies	Yes	In accordance with clause 6A of SEPP 65, private open space and balconies are addressed above in accordance with the ADG.
4.2.3.8 Common open space	Partial compliance	<p>Applicant's calculation: 4,249m² (34.37%) including private communal and public communal open space.</p> <p>Council's Landscape Assessment Officer calculation: 2,843m² (23%) of uncovered common open space is proposed including a communal roof terraces on Building B - Jones Street, Building C - Courtyard and Building D - Wattle Street.</p> <p>See Discussion section.</p> <p>At least 50% of the required common open space area would receive 2 hours of direct sunlight between 9am and 3pm on 21 June (consistent with the 30% control).</p>
4.2.3.9 Ventilation	Yes	In accordance with clause 6A of SEPP 65, ventilation is addressed above in accordance with the ADG.

Provision	Compliance	Comment
4.2.3.10 Outlook	Yes	The proposed development would provide a pleasant outlook from all apartments.
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	<p>The development is consistent with dwelling mix control as shown below:</p> <ul style="list-style-type: none"> • 22.7% studio and 1-bedroom apartments proposed (maximum 40% required) • 49.8% 2-bedroom apartments proposed (40 – 75% required) • 27.4% 3+ bedroom apartments proposed (10 - 100% required)
4.2.3.14 Apartments with setback bedrooms	Yes	The proposed development includes bedrooms with windows opening to recessed courtyards. The intent of this is to provide enhanced visual and acoustic privacy from Wattle Street and the communal courtyard and to create deep articulations along the long facades. In response to Council's RFI, the size and amenity of the recessed courtyards has been enhanced.
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposed three residential buildings are modulated with recessed façades and indents breaking up the visual massing as viewed from the public domain.</p> <p>The commercial building includes mostly a nil setback to Fig Street and Wattle Street with windows and detailing for articulation. The building steps in on the eastern (Jones Street) elevation at Levels 5- 6. It incorporates setbacks at all four elevations from Levels 09 and 10 to reduce bulk and scale as viewed from the surrounding public domain.</p>

Provision	Compliance	Comment
4.2.5 Types of development 4.2.5.2 Courtyard buildings and perimeter street block buildings	Yes	The proposed development incorporates a north-south and an east-west through site link, providing visual and physical connectivity through the site. The proposed communal courtyard would act as a focal space that is visually connected to the public domain.
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 residential buildings is consolidated in centralised locations on the building roofs.
4.2.8 Letterboxes	Partial compliance	A mail room is proposed at Level 01 of Building D - Wattle Street. A condition of consent is recommended in relation to the location and design of letterboxes.
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.

Discussion

69. 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/B) which is concurrently reported to the CSPC (although an assessment of overshadowing impacts is included in both assessment reports).

Clause 4.6 written request to contravene a development standard

70. Sydney LEP 2012 prescribes the following height of buildings provisions for the site:
- (a) Clause 4.3: 27m
 - (b) Clause 6.21D: 29.7m (being 27m plus up to 10% design excellence height).

71. **Table 7** assesses the compliance of the concept consent and the development application (and the concurrently lodged section 4.56 modification application) with these height provisions, aligning the relevant buildings and elements (as much as possible). It shows the following maximum heights and height non-compliances (which occur at the centre of the site):
- (a) **Concept consent:** Maximum height of 33.08m which exceeds the 27m clause 4.3 height standard by 6.08m (+22%) and exceeds the 29.7m height permitted by clause 6.21D height by 3.38m (+11%)
 - (b) **Development application:** Maximum height of 42.46m which exceeds the 27m clause 4.3 height standard by up to 15.46m (+57%) and exceeds the 29.7m height permitted by clause 6.21D height by up to 12.76m (+43%).
72. **Figures 37** and **38** illustrate the height non-compliances of the development application (noting the name of each building). The design competition winning scheme also exceeded the 29.7m height permitted by clause 6.21D height (see **Figure 39**).

Table 7: Height assessment - Concept consent and Section 4.56 modification application and development application proposed

Building name	Concept Consent - Height approved				Section 4.56 modification application/ development application - Height proposed		
	Height approved	Exceedance of 27m (cl. 4.3 of SLEP 2012)	Exceedance of 29.7m (cl. 6.21D of SLEP 2012)	Allowance for up to 10% additional height shown on plans	Height proposed	Exceedance of 27m (cl. 4.3 of SLEP 2012)	Exceedance of 29.7m (cl. 6.21D of SLEP 2012)
Building B - Jones Street	27.5m to residential roof	0.5m (+2%)	-	YES	30.9m to residential roof	3.09m (+14%)	1.2m (+4%)
	28.5m to balustrades	1.5m (+6%)	-	YES	33.78m to PV cells centre	6.78m (+25%)	4.08m (+14%)
	31.8m to lift overrun roof and pergola north	4.8m (+18%)	2.1m (+7%)	NO	30.78m to PV cells north	3.78m (+14%)	1.08m (+4%)
Building C - Courtyard	33.08m to plant at centre of site	6.08m (+22%)	3.38m (+11%)	NO	42.46m to plant	15.46m (+57%)	12.76m (+43%)
Building D - Wattle Street	29.65m (approx) to setback level	2.65m (+10%)	-	NO	33.95m to PV cells	6.95m (+26%)	4.25m (+14%)
Building E - Fig Street	30.55m to setback residential level	3.55m (+13%)	0.85m (+3%)	YES	35.14m to plant	8.14m (30%)	5.44m (+18%)

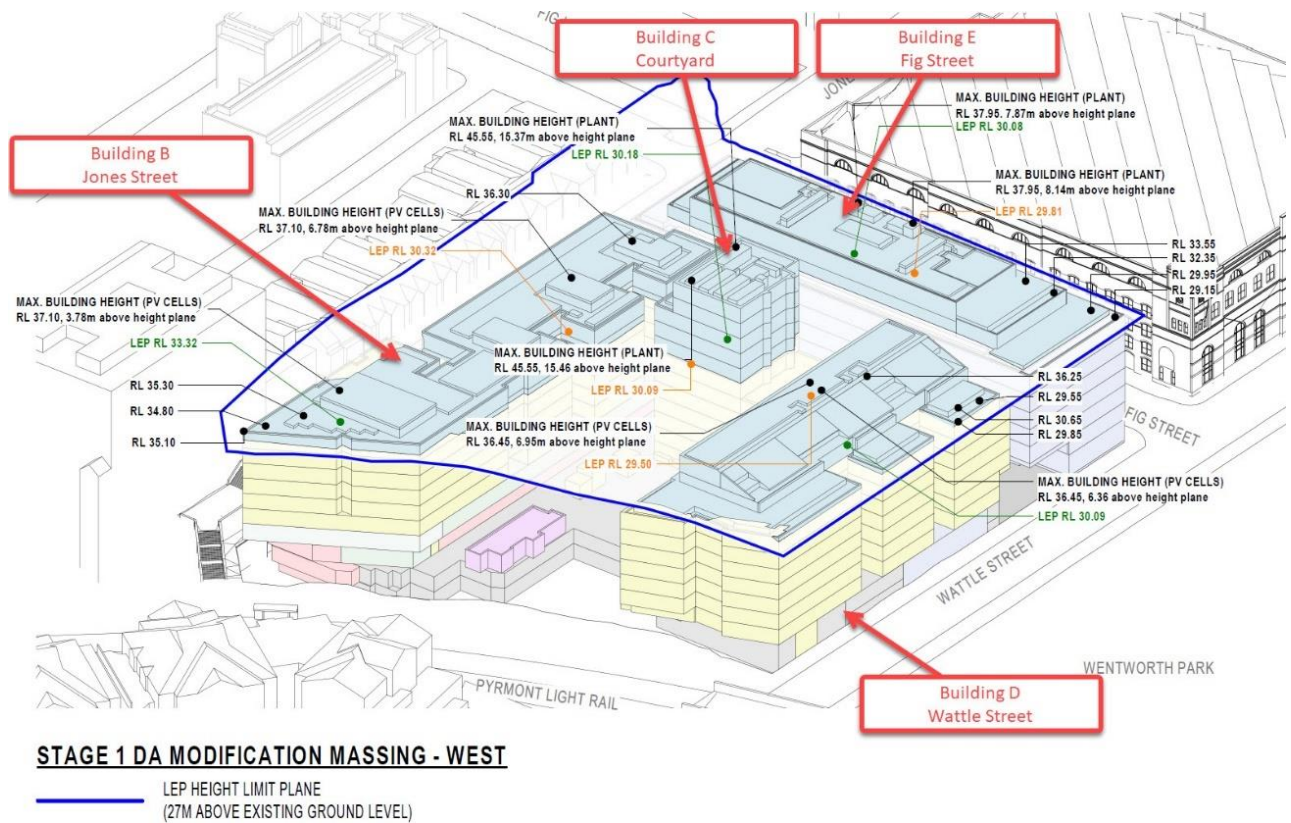


Figure 37: Section 4.56 modification application: Isometric drawing showing non-compliance with the 27m height standard permitted by clause 4.3 of Sydney LEP 2012 (western view)

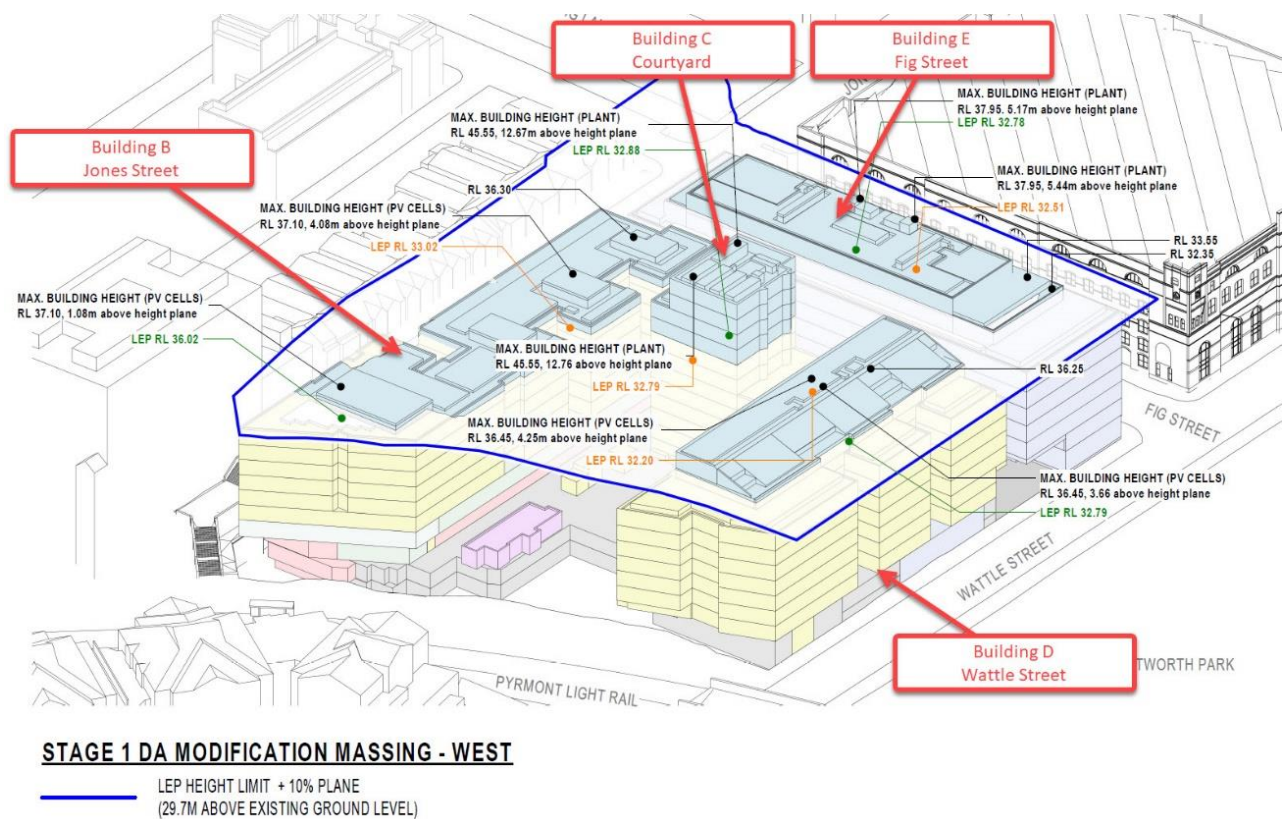


Figure 38: Section 4.56 modification application: Isometric drawing showing non-compliance with the **29.7m** height permitted by clause 6.21D of Sydney LEP 2012 (western view)

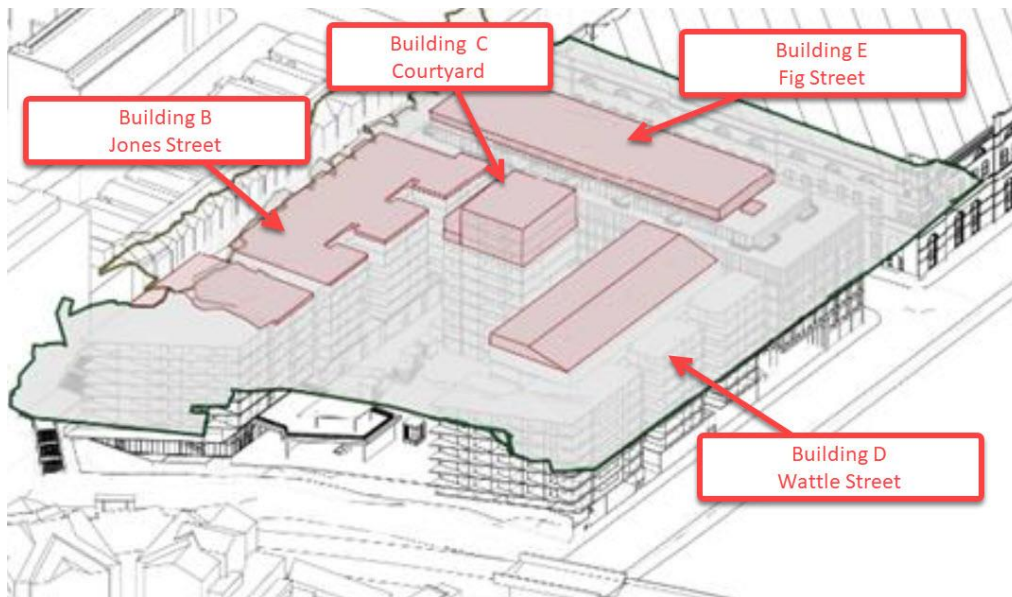


Figure 39: Winning scheme: Isometric drawing showing non-compliance of the BVN winning scheme with the **29.7m** height permitted by clause 6.21D of Sydney LEP 2012 (western view)

73. A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify contravention of the height of buildings development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
74. A copy of the applicant's written request is provided at **Attachment D**.

Applicant's written request - Clause 4.6(3)(a) and (b)

75. A summary of the justification for contravention of the height of buildings development set out in the applicant's written request follows:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:**

The written request refers to the first of the five tests established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary (that the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard). A summary of the applicant's justification follows:

Objective (a) to ensure the height of development is appropriate to the condition of the site and its context

The height of the proposed development is appropriate to the condition of the site and the following contexts:

- **Light Rail:** The development presents an inviting interface to the light rail with a through site link, building break, communal open space and 5.5m landscaped setback including and retained trees.
- **Wattle Street:** The height along Wattle Street is compatible with the street wall established by the former wool store to the south. Additional height is setback to minimise additional overshadowing to Wentworth Park.
- **Fig Street:** The height along Fig Street is compatible with the street wall height established by the former wool store to the south. The topmost levels of Building E - Fig Street are setback from Fig and Wattle Streets to minimise additional overshadowing of Wentworth Park and reduce bulk.
- **Jones Street:** A minimum setbacks of 2.16m is provided to Jones Street respecting of the heritage-listed terraces and providing sightlines to the sandstone rock face (consistent with the concept consent). A four-storey street wall is proposed, with additional height setback.
- **Centre of the site (Building C - Courtyard):** This is the tallest building. It has a slender floor plate which achieves a high level of solar access, cross ventilation, sustainability and residential amenity. Compared with the 'L-shaped' building in the original concept consent, proposed Building C opens the ground plane, providing additional public space and pedestrian permeability. The slender nature of Building C does not cause unreasonable additional overshadowing onto Wentworth Park.

Objective (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas

Building B - Jones Street (RL 37.10) is lower in overall height than the "Edwin Davey & Sons Flour Mill" (Harbour Mill Apartments) (RL 45.95). Setbacks from the street and upper level setbacks provide a transition to the heritage listed terraces on Jones Street. Strictly applying the 27 metre height standard to the unique topography of the site would permit a built form along Jones Street that imposes a greater impact than what is proposed. Building E - Fig Street with southern and eastern setbacks at Level 8 and above is consistent with the heritage listed former wool store. The proposal complies with the maximum FSR of 4:1 and has minimal environmental impacts.

Objective (c) to promote the sharing of views outside Central Sydney

The site is vacant and development in accordance with the relevant planning controls will affect views (Jones Street terraces, Harbour Mill Apartments and Fig Lane Park would be affected). Views to Wentworth Park currently enjoyed from the east would be lost by a development compliant with the height standard. The northern view of the Anzac Bridge from Fig Lane Park is retained.

(b) That there are sufficient environmental planning grounds to justify contravening the standard

By reference to the objects of the EPA Act, the applicant's written request relies on the following environmental planning grounds to justify contravening the standard:

- (a) The height exceedances free up the ground plane to deliver communal open space, through site links and Jones Street setback/footpath.
- (b) The proposal complies with the FSR development standard.
- (c) The additional shadows on Wentworth Park beyond the approved concept consent are a result of the design competition amended massing, increased floor to floor heights for improved construction standard and the provision of roof-mounted plant and equipment that cannot be accommodated within basements. The impact is limited to the morning period. By 10am on 21 June, the majority of the shadows will fall on existing trees at the eastern edge of the park as well as the Wattle Street road reserve. The retained solar access exceeds the SDCP 2012 control for protection of sunlight to public parks (50% of the total park area to receive sunlight for 4 hours from 9am to 3pm at mid winter).
- (d) There is an abrupt change in level on the site (formed by the sandstone rock face). A compliant proposal would result in a worse environmental planning outcome. Floor space is instead redistributed centrally within the site.
- (e) Compared with the 'L-shaped' building in the original concept consent, proposed Building C opens the ground plane, providing additional public space and pedestrian permeability. The slender nature of Building C does not cause unreasonable additional overshadowing onto Wentworth Park. Building C achieves a high level of solar access, cross ventilation, sustainability and residential amenity. The slender nature of the tower ensures shadow impacts are fast moving and so do not cause undue additional impacts on surrounding public open spaces.
- (f) Floor levels in Building D - Wattle Street and Building E - Fig Street are elevated by approximately 700mm (RL 2.87) for flood planning which contributes to the height exceedance.
- (g) The additional height above the approved concept consent could be remedied by reducing floor-to-floor heights, reinstating the L-shaped Wattle Street Building and reinstating the two top floors of Building E - Fig Street to residential.

Consideration of applicant's written request - Clause 4.6(4) (a) (i) and (ii)

76. Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and

- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

77. It is considered that the applicant's written request has demonstrated that compliance with the height standard is unreasonable or unnecessary in the circumstances for Building B - Jones Street, Building D - Wattle Street and Building E - Fig Street. However, it is considered that the extent of contravention proposed for Building C - Courtyard is not reasonable in the circumstances (as demonstrated below).

Does the written request adequately address those issues at clause 4.6(3)(b)?

78. It is considered that the applicant's written request provides sufficient environmental planning grounds specific to the circumstances to justify contravention of the height standard at Building B - Jones Street, Building D - Wattle Street and Building E - Fig Street. However, it is considered that sufficient environmental planning grounds specific to the circumstances have not been provided to justify the extent of contravention for Building C - Courtyard (as demonstrated below).

Is the development in the public interest?

79. With regard to varying development standards, the public interest is deemed as being protected where a development meets the objectives of the zone and the development standard sought to be varied. The relevant objectives of the height of buildings development standard are:
- (a) To ensure the height of development is appropriate to the condition of the site and its context,
 - (b) To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,
 - (c) To promote the sharing of views.
80. Consistent with height objective (a), an assessment of the height of each building is given the conditions of the site and its context is detailed below:
- (a) **Building B - Jones Street:** At the site frontage to Jones Street, Building B complies with the 27m height standard. It also provides a transition between the nearby Jones Street terrace house group (1 storey) and the Harbour Mill Apartments (former Edwin Davies Flour Mill) (4-10 storeys).

- (b) **Building C - Courtyard:** Building C reaches the maximum proposed height of 42.46m (see **Table 6**) which is 12.76m (43%) above the 29.7m maximum height standard (27m + 10%).

The extent of contravention proposed for Building C does not arise from rearrangement of the building envelope as an outcome of the design competition. When compared with the design competition winning scheme, the development application proposes a 4m increase in the height of Building C (RL 41.55 in the winning scheme and RL 45.55 proposed). Only some of this increase is caused by the proposed increase in residential floor to floor heights discussed above (1.1m). Most of the height increase arises from the provision of rooftop plant enclosed by a parapet on the top of Building C. This is considered to be inconsistent with the design competition winning scheme and the recommendations of the jury for the competitive design process.

The statements in the written request in relation to Building C's high standard of solar access, natural ventilation and environmental amenity are not persuasive as the development relies on apartments in Building C to nearly achieve the ADG solar access objectives and to achieve the ADG natural cross ventilation objectives. It is also noted that Building C is located on a flat section of ground level (existing), therefore the unique topography of the site does not contribute to the height contravention.

A condition of consent is therefore recommended requiring the Building C Plant Room Equipment and Parapet Zone height (and any other structures at Level 13 of Building C) to be reduced by at least 2m (to a maximum of RL 43.55 (AHD)).

Subject to this condition being imposed on the consent, the height of Building C is considered to be appropriate to the conditions of the site and its context as the increase in height on the Building C accommodates floor space lost by breaking the approved "L" shaped Wattle Street Building. Breaking of the "L" shaped building was supported by the jury for the competitive design process as it provides for an additional through site link and improves residential amenity. Reducing the height of Building C by 2m would also somewhat reduce the amount of additional overshadowing to Wentworth Park (see Discussion section under the heading Overshadowing).

Figure 40 below illustrates a section of proposed Building C showing the 27m height standard (shown in light blue), the 29.7m height standard including 10% additional height (shown in red), the original concept consent envelope (shown in green dash), the design competition envelope (shown in blue dash) and the recommended 2m reduction in height.

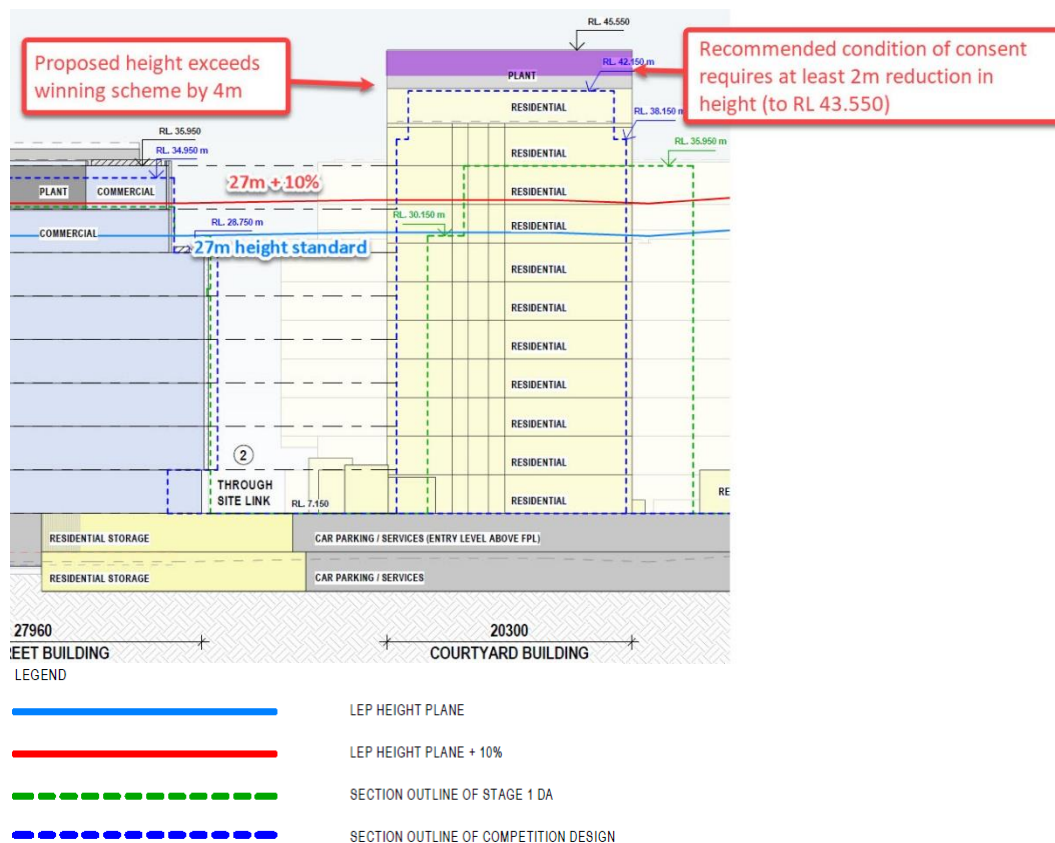


Figure 40: Building C - Courtyard Section: Proposed/modified building envelope

- (c) **Building D - Wattle Street:** At the site frontage to Wattle Street, Building D - Wattle Street generally complies with the 27m height standard.
- (d) **Building E - Fig Street:** At the site frontages to Jones Street, Fig Street and Wattle Street and adjoining the future through site link on the site; proposed Building E - Fig Street complies with the 27m height standard. It has setback upper levels (Level 8 and 9) and is compatible with the street wall established by the former Winchcombe Carson woolstore (a heritage item) on the southern side of Fig Street.
81. Consistent with height objective (b), it is considered that Building B - Jones Street, Building D - Wattle Street and Building E - Fig Street provide appropriate height transitions between new development and heritage items in the vicinity of the site (see above comments in relation to the Jones Street terrace house group, the Harbour Mill Apartments (Edwin Davies Flour Mill) and the former Winchcombe Carson woolstore.
82. Consistent with height objective (c), it is considered that the development promotes the sharing of views, acknowledging the following reason given by the Commissioner when he approved the original concept consent:
- "... the western views over Wentworth Park currently enjoyed by the Jones Street terrace group... would be lost by a development wholly compliant with the height control... the proposed height... adopts a lower profile that achieves the sharing of views."

83. The objectives of Zone MU1 - Mixed Use zone are:

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To ensure land uses support the viability of nearby centres.
- To integrate suitable business, office, residential, retail and other land uses in accessible locations that maximise public transport patronage and encourage walking and cycling.
- To ensure uses support the viability of centres.

It is considered that the development is consistent with these zone objectives as it:

- Contains a diversity of office, retail, recreational and child care land uses that generate employment opportunities in a highly accessible area
- Provides active frontages where appropriate, responding to the unique characteristics of the streets and the Wentworth Park Light Rail Station
- Does not result in any land use conflicts
- Non-residential uses are provided on the ground floor of each building (except Building C - Courtyard Building)
- The proposed land uses contribute to the city fringe suburb of Pyrmont and do not compete with the role or viability of any nearby centres
- The development is the result of a competitive design process and enhances the visual qualities of the site and surrounding area. The proposed through site links will improve pedestrian accessibility.

Conclusion

84. Subject to a condition requiring a 2m reduction in height for Building C - Courtyard, the proposal to contravene the height of buildings development is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Sydney LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height standard and Zone MU1 Mixed Use (former Zone B4 Mixed Use).

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

85. Pursuant to section 4.24(2) of the EPA 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.
86. 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 development application. These modifications largely relate to height and building envelope and have been assessed as acceptable, as outlined in the assessment report for D/2019/649/B.
87. The development 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.
88. As outlined below, the development application is consistent with the key conditions imposed on the concept consent (to be modified:
 - (a) **Condition (2) Approved development:** The proposed development is consistent with the drawings listed at Condition (2) of the concept consent (as modified by D/2019/649/B).
 - (b) **Condition (3) Matters not approved in consent development consent:** The development application appropriately seeks consent for the following matters that were not approved by the concept consent:
 - (i) Residential use of Building B - Jones Street, Building C - Courtyard and Building D - Wattle and demonstration that acoustic amenity and natural ventilation are achieved simultaneously in accordance with Objectives 4B-1 and 4J of the ADG (By letter dated 5 December 2023, TAHE provided land owners consent for the lodgement of the development application).
 - (ii) Pedestrian connection to the Wentworth Park Light Rail Station (and associated tree removal).
 - (iii) Works (including demolition, excavation and construction).
 - (iv) The removal and pruning.
 - (v) A substation (on Fig Street).
 - (vi) Two basement levels, car parking spaces, bicycle spaces, car share spaces and loading spaces.
 - (vii) The total quantum and mix of floor space.
 - (viii) The floor layout of buildings.
 - (ix) The number and configuration of residential apartments and commercial tenancies.
 - (x) Up to 10% design excellence uplift in building height.

(c) **Condition (3) - 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 report.

(d) **Condition (5) Detailed design of buildings:**

- (i) The assessment report on the section 4.56 modification application recommends a new condition of consent (new condition (5)(a)) which relates to Building C - Courtyard and requires the Plant Room Equipment and Parapet Zone height (and any other structures at Level 13 of Building C - Courtyard) to be reduced by at least 2m (to a maximum of RL 43.55 (AHD)). To achieve consistency with the modified concept consent, this condition is also included in the recommended conditions for the development application.
- (ii) Areas nominated as deep soil zones have been designed as actual deep soil (unencumbered by built elements above and below).
- (iii) Tree planting is able to provide a minimum of 15% canopy cover across the site within 10 years of completion.

(e) **Condition (6) Building envelope:** The drawings submitted with the development application are within the concept consent building envelopes as modified by D/2019/649/B (noting the comment above in relation to a reduction in height of Building C - Courtyard).

(f) **Condition (7) Building height:** The drawings submitted with the development application comply with the building heights specified by the concept consent as modified by D/2019/649/B (noting the comment above in relation to a reduction in height of Building C - Courtyard).

(g) **Condition (8) Floor space ratio:** With a proposed FSR of 3.88:1, the development application complies with the FSR standard prescribed by Sydney LEP 2012 clause 4.4.

(h) **Condition (9) Ecologically sustainable development:** The development application demonstrates that buildings have adopted the following ESD targets set out at condition (9) of the concept consent:

- (i) Star Green Star Design & As-Built or GreenStar Buildings Rating.
- (ii) 5.5 Star NABERS Office Energy Base Building Rating
- (iii) Exceed the BASIX Energy Target by 10 BASIX points

- (iv) Roof top photovoltaic systems.
- (i) **Condition (10) Public art:** A Public Art Strategy has been submitted with the development application and public art conditions of consent are recommended.
- (j) **Condition (12) Public domain condition:** A public domain concept plan has been submitted with the development application and public domain conditions are recommended.
- (k) **Condition (13) Through site link:** The proposed development includes a pedestrian through site link from Wattle Street to Jones Street with a clear pedestrian path with a width of at least 6 metres, open to the sky and including include lifts to provide equitable access. Conditions of consent are recommended requiring an easement for public access and associated positive covenant.
- (l) **Condition (14) Landscaping of the site:** The development 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). Conditions of consent are recommended requiring additional information in relation to landscaping of the site.
- (m) **Condition (15) Heritage interpretation strategy:** The development application includes a heritage interpretation strategy that satisfies the requirements of condition (15). A condition of consent is recommended requiring additional information in relation to heritage interpretation.
- (n) **Condition (16) Signage strategy:** The development application includes a signage strategy. A condition of consent is recommended requiring a further development application for signage.
- (o) **Condition (17) Noise impact and acoustic assessment:** The development application includes a detailed noise impact assessment addressing the impact of traffic noise on residential apartments. A condition of consent is recommended requiring implementation of the acoustic consultant recommendations.
- (p) **Condition (18) Land contamination:** Consistent with condition (18) the development application includes appropriate documentation addressing site contamination. Conditions of consent are recommended in relation to site contamination and remediation.
- (q) **Condition (20) Acid sulfate soils:** The development application includes information to demonstrate that an acid sulphate soils management plan is not required.
- (r) **Condition (21) Waste collection:** The development application includes a waste management plan that generally satisfies the requirements of condition (21). Conditions of consent are recommended requiring additional information in relation to the design of waste facilities and the management and collection of waste.

- (s) **Condition (22) Parking design:** The drawings submitted with the development application comply with condition (22) as modified by D/2019/649/B. Conditions of consent are recommended in relation to bicycle parking, driveways, loading dock design and car park layout. Appropriate conditions are recommended to ensure that the residential, visitor, commercial, child care and accessible spaces are allocated appropriately.
- (t) **Condition (23) Bicycle parking and end of trip facilities:** The drawings submitted with the development application comply with the bicycle parking and end of trip requirements in condition (23) (see above in relation to conditions).
- (u) **Condition (24) Security gate:** The secure line to the Wattle Street car park entry is located within the site more than 6 metres from the street front property boundary.
- (v) **Condition (25) Vehicle access:** The Wattle Street driveway is 6 metres wide and allows for combined vehicle access (left in and left out exit). All vehicles are able to be driven onto and off the site in a forward direction.
- (w) **Condition (26) Service vehicle size limit and Condition (27) Servicing:** The drawings submitted with the development application generally comply with the service requirements in condition (26) subject to conditions.
- (x) **Condition (28): Traffic impact study:** The development application includes a detailed traffic impact study that addresses the requirements of condition (28).
- (y) **Condition (29) Car share:** The development application proposes one commercial and two residential car share spaces. Conditions of consent are recommended in relation to the communal ownership and public access to car share parking spaces.
- (z) **Condition (30) Tree protection and detailed design development application and condition (31) Street trees and detailed design application:** The development application is consistent with the approved Arboricultural Impact Assessment Report as amended by as modified by D/2019/649/B . Conditions of consent are recommended in relation to the retention and protection of trees.
- (aa) **Condition (32) Levels and gradients:** The applicant has submitted an application for public domain gradients and levels.
- (bb) **Condition (33) Flood planning levels:** Conditions of consent are recommended in relation to flooding.
- (cc) **Condition (34) On-site detention:** Sydney Water has confirmed that on-site detention is not required for the site.
- (dd) **Condition (35) Stormwater quality assessment:** A MUSIC-link model was submitted with the development application.
- (ee) **Condition (34) Ausgrid conditions:** Ausgrid has raised no objection subject to the imposition of conditions.

- (ff) **Schedule 3 - General terms of approval (Water NSW):** The Department of Planning and Environment - Water, has advised that a controlled activity approval is not required for the proposed development and that no further assessment is necessary.
- (gg) **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 subject to conditions of consent.
- (hh) **TAB A — Items to be considered as part of the Stage 2 Development Application for the Inner West Light Rail (IWLR) Corridor:** Concurrence from TfNSW has been provided pursuant to section 2.99 of the SEPP (Transport and Infrastructure) 2021. The development application has provided the information mentioned in TAB A or conditions of consent are recommended.
- (ii) **TAB B— Items to be considered for Non-Concurrence Matters as part of the Stage 2 Development Application:** Conditions of consent are recommended in relation to freight and servicing management plan, active transport facilities and construction pedestrian and traffic management.

Competitive design process - Jury recommendations

- 89. The jury for the competitive design process selected the BVN scheme as the winning scheme. In the opinion of the jury, the BVN scheme was most capable of achieving design excellence, subject to a number of recommendations.
- 90. As detailed in the **Table 8** below, the development application responds to the key recommendations made by the Jury and retains the design integrity and key aspects of the winning scheme. The proposal satisfies the provisions of clause 6.21D of Sydney LEP 2012 and accordingly is eligible for 10% additional height.

Table 8: 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

Key principles of the design to be maintained and developed	
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	<p>Generally retained subject to conditions</p> <p>The development application proposes a 4m increase in the height of Building C - Courtyard (RL 41.55 in the winning scheme and RL 45.55 proposed). Only some of this increase is caused by the increase in residential floor to floor heights discussed above (1.1m). Most of the increase arises from the provision of plant enclosed by a parapet on the top on Building C. This is considered to be inconsistent with the winning scheme and the recommendations of the jury for the competitive design process. A condition of consent is therefore recommended requiring the Building C - Courtyard Plant Room Equipment and Parapet Zone height (and any other structures at Level 13 of Building C - Courtyard) to be reduced by at least 2m (to a maximum of RL 43.55 (AHD)).</p>
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
The overall bulk and scale of the development	Retained (noting the comment above in relation to a reduction in the height of Building C - Courtyard).
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)	Retained
Wide light slot to the Recreation Centre created by cutting back of the quarry face beyond the current boundary	Retained

Key principles of the design to be maintained and developed	
Retain main entry aligned with the return of Jones Lane	Retained
Remove some or all of the secondary apartment/terrace links off Jones St to maximise light penetration to levels below	The number of secondary entries has been reduced from 7 in the winning scheme to 4 proposed.
Location of the child care and recreation centre entries close the light rail station (entries could be more civic in scale and quality)	Retained and enhanced.
Deep soil in line with the concept approval	7% in the concept consent and 7% proposed.
Length of commercial activation on Wattle and Fig Streets.	Retained
Photovoltaics on the rooftops	Retained
High standards of environmental performance beyond relevant controls.	Retained BASIX targets are exceeded by 10 points as required by the concept consent.
Number of lift cores that allow for the increased number of 'through' apartments	Retained

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)	Resolved The number, configuration and siting of pod buildings has been rationalised and consolidated.
Extensive tree canopy needs to be supported with appropriate soil areas	Resolved

Areas for further resolution and refinement through design development	
	A deep soil area of 7% is proposed consistent with the ADG.
Residential amenity	
Developing the 'Garaban' as a demonstration of exceptional environmental performance is commendable and excellent passive solar design should be pursued	<p>Resolved</p> <p>The 'Garaban' has been renamed Building C - Courtyard. It achieves a high standard of amenity, although the development as a whole nearly meets but does not exceed the requirements of the ADG.</p>
Mixing of residential floor space within the commercial building is seen to be problematic	<p>Resolved</p> <p>Residential floor space originally approved at the upper levels of Building E - Fig Street has been relocated and replaced with office floor space.</p>
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.	<p>Resolved</p> <p>Windows are proposed to the southern end walls (at the residential lobby and articulation break) of Building B - Jones Street.</p>
To achieve design excellence the key requirements of the ADG need to be met	<p>Resolved</p> <p>The proposed development achieves the relevant objectives and design criteria of the ADG.</p>
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	<p>Resolved</p> <p>The dimensions of the indented courtyards to Building B - Jones Street and Building D - Wattle Street have been widened to delete wall obstructions directly in front of the bedroom windows facing the courtyard.</p>
Internalised studies or other habitable rooms should be designed out	<p>Resolved</p> <p>There are no internalised studies or habitable rooms.</p>

Areas for further resolution and refinement through design development	
Child care centre	
Layout is schematic (appears to be capable of development and generally satisfies the locational and spatial requirements)	<p>Resolved</p> <p>The layout of the child care centre has been detailed and complies with relevant regulations. The NSW Department of Education has provided concurrence.</p>
Childcare play area above the retail building may be problematic	<p>Resolved</p> <p>There is no outdoor play on the roof of Building A - Retail. A consolidated outdoor play area is now provided in the northern section of the child care centre, plus a simulated outdoor play area on the western side of the child care centre.</p>
Access to the child care from the basement drop off area should be made more generous	<p>Resolved</p> <p>An appropriate child care drop off area is proposed.</p>
Commerciality and buildability	
Materials and colour palette are supported and design needs to ensure the quality, detailing and design intent of the proposal	<p>Resolved</p> <p>Further work has been carried out on detailing, materiality and colour palette.</p>
Resolve of flood planning levels on Wattle and Fig Street.	<p>Conditions of consent are recommended in relation flooding.</p>

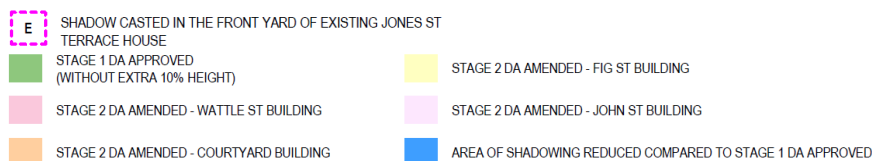
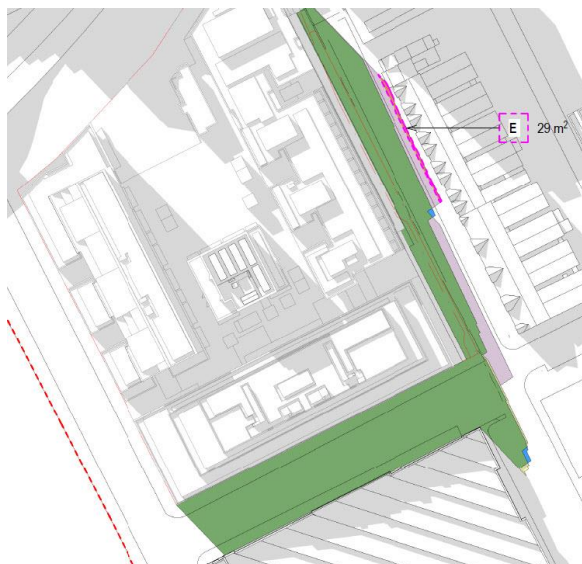
Overshadowing

91. The applicant has submitted a solar impact analysis (included at **Attachment C**) assessing the overshadowing impact of the proposed development and highlighting the additional shadow cast by the development application beyond the building envelopes approved by the original concept consent. An assessment of impact for each building follows.

(a) Building B - Jones Street

Building B - Jones Street will overshadow the roadway of Jones Street and for a short time and the front yard of several Jones Street terraces (29m² at 3pm in midwinter, Labelled with an "E" on **Figure 41**). An assessment of compliance with the relevant solar access controls in Sydney DCP 2012 follows:

- (i) Sydney DCP 2012 s. 4.1.3.1 Solar access states that neighbouring dwellings are to achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1m² of living room windows and at least 50% of the minimum amount of private open space. As the increase in height to Building B - Jones Street would not cast any additional shadow onto any living room windows, the east facing private open space at the rear of the Jones Street terraces or the Harbour Mill Apartments, the modified development complies with this solar access control.
- (ii) Sydney DCP 2012 s. 3.1.4 Public open space states that 50% of the total area of a park is to receive sunlight for 4 hours from 9am to 3pm on 21 June. As the increase in height to Building B - Jones Street would not overshadow Fig Street Park or Wentworth Park, the modified development complies with this solar access control.



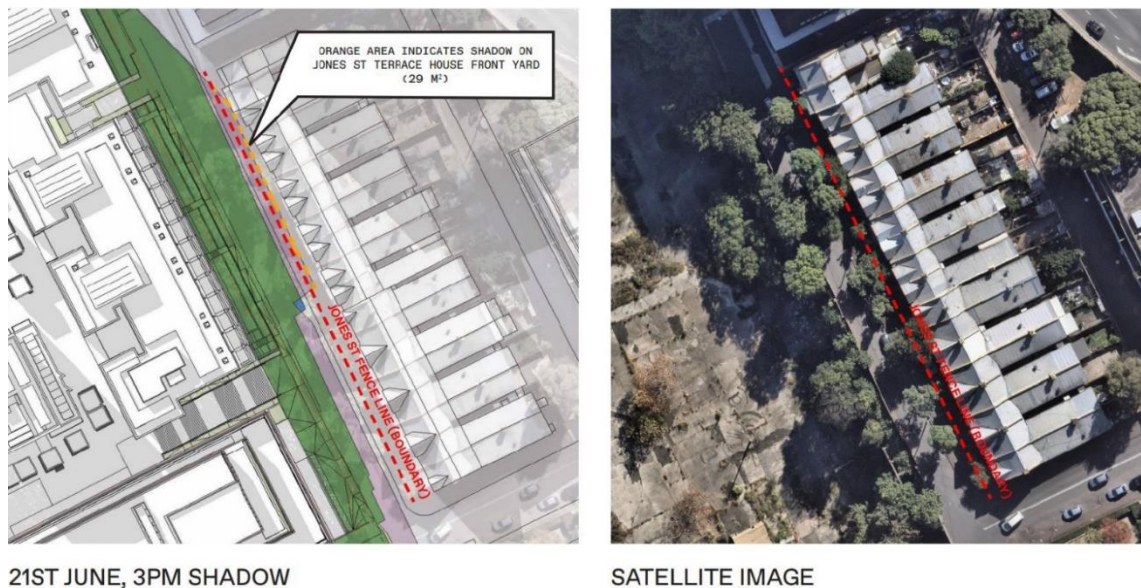


Figure 41: Building B - Jones Street: Shadow diagram at 3pm in midwinter

(b) Building C - Courtyard

The plantroom equipment and parapet to Building C - Courtyard will cast an additional shadow onto Wentworth Park at 9am in midwinter (58m² labelled with a "D" on **Figure 42**). The recommended condition to reduce the height of Building C by 2m would eliminate this increase in shadow. Building C itself would also cast an additional shadow, but this shadow overlaps with the additional shadow cast by modified Building D (Labelled with a "B" on **Figure 42**). An assessment of compliance with the relevant solar access controls in Sydney DCP 2012 follows:

- (i) Sydney DCP 2012 s. 4.1.3.1 Solar access states that neighbouring dwellings are to achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1m² of living room windows and at least 50% of the minimum amount of private open space. The increase in height to Building C - Courtyard would not overshadow any neighbouring dwellings.

- (ii) Sydney DCP 2012 s. 3.1.4 Public open states that 50% of the total area of a park is to receive sunlight for 4 hours from 9am to 3pm on 21 June. The proposed increase in overshadowing of Wentworth Park described above is not supported, but it is acknowledged that it complies with the Sydney DCP 2012 control and is unlikely to have a significant impact on the amenity of Wentworth Park given the large size of the park and the shape and position of the additional shadow which is enveloped by shadow cast by the approved concept consent envelope. In any event, recommended Condition (5)(a) would reduce the shadow cast by Building C - Courtyard so that it falls within the shadow cast by modified Building D - Wattle Street.



Figure 42: Building D - Wattle Street, Building C - Courtyard and Building E - Fig Street: Shadow diagram at 9am in midwinter

(c) Building D - Wattle Street

Increasing in floor to floor height of Building D - Wattle Street and re-arrangement of the envelopes in accordance with the design competition will cast additional shadow onto Wentworth Park from 9am to 11am in midwinter (396m² at 9am, 205m² at 10am, 128m² at 11am in midwinter as Labelled with an "A" and "B" on **Figure 42**). In March, the additional shadow occurs from 9am to 10am. In other places, there would be a small reduction in shadow when compared with the envelope approved by the concept consent (11-24m² between 10am and 11am in midwinter coloured blue on **Figure 42**). An assessment of compliance with the relevant solar access controls in Sydney DCP 2012 follows:

- (i) Sydney DCP 2012 s. 4.1.3.1 Solar access states that neighbouring dwellings are to achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1m² of living room windows and at least 50% of the minimum amount of private open space. The increase in height to Building D - Wattle Street would not overshadow any neighbouring dwellings.
- (ii) Sydney DCP 2012 s. 3.1.4 Public open space states that 50% of the total area of a park is to receive sunlight for 4 hours from 9am to 3pm on 21 June. The proposed increase in overshadowing of Wentworth Park described above is not supported, but it is acknowledged that it complies with this Sydney DCP 2012 control and is unlikely to have a significant impact on the amenity of Wentworth Park given the large size of the park and the shape and position of the additional shadow which is enveloped by shadow cast by the approved concept consent envelope.

(d) Building E - Fig Street

External shading fins on Building E - Fig Street will cast a small additional shadow onto Wentworth Park (11m² at 9am, 31m² at 10am and 1m² at 11am in midwinter) (Labelled with a "C" on the 10am shadow diagram at **Figure 43**). An assessment of compliance with the relevant solar access controls in Sydney DCP 2012 follows:

- (i) Sydney DCP 2012 s. 4.1.3.1 Solar access states that neighbouring dwellings are to achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1m² of living room windows and at least 50% of the minimum amount of private open space. The increase in height to Building E - Fig Street would not overshadow any neighbouring dwellings.
- (ii) Sydney DCP 2012 s. 3.1.4 Public open space states that 50% of the total area of a park is to receive sunlight for 4 hours from 9am to 3pm on 21 June. The small additional shadow cast onto Wentworth Park from fins to Building E - Fig Street does not compromise compliance with this control.

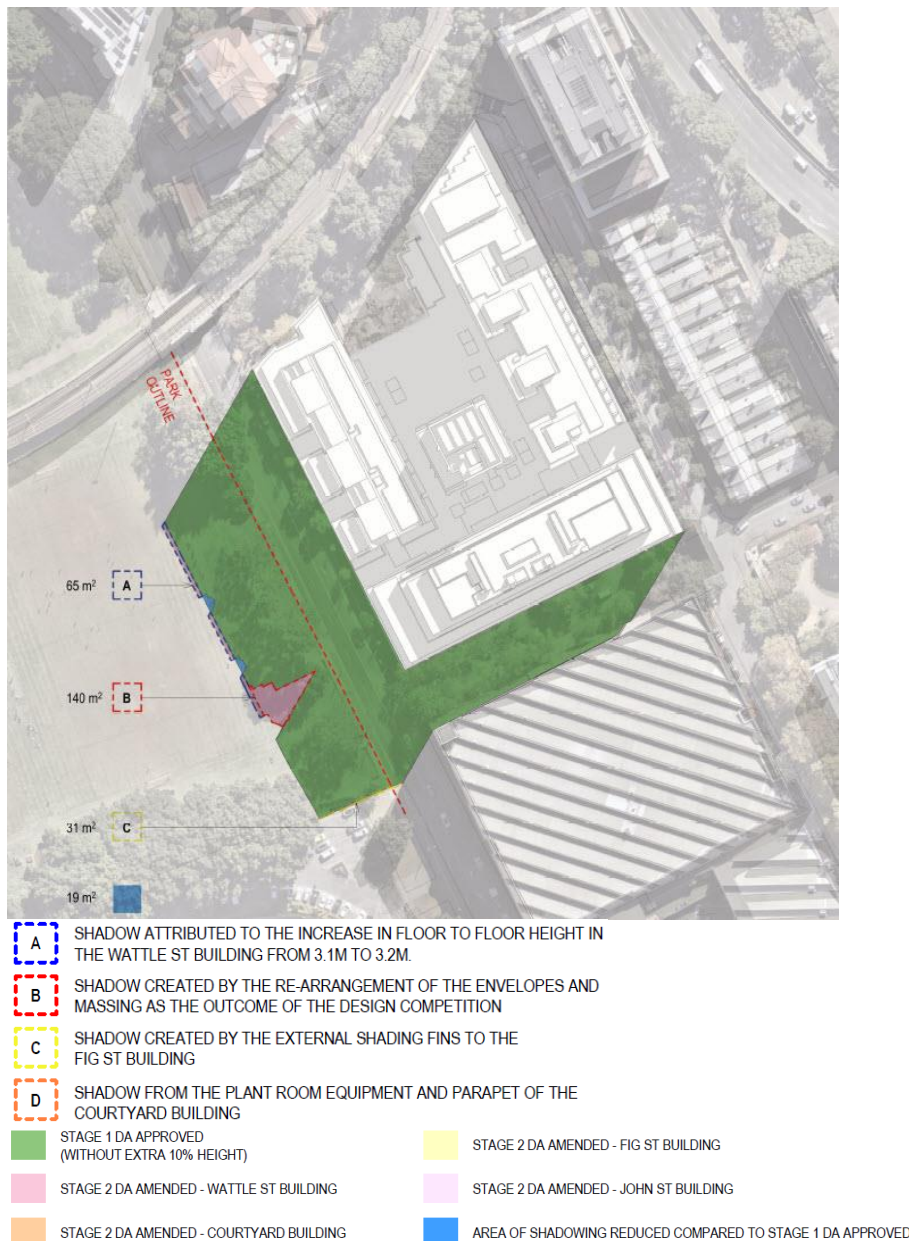


Figure 43: Building D - Wattle Street, Building C - Courtyard and Building E - Fig Street: Shadow diagram at 10am in midwinter

Building separation and visual privacy

92. **Table 9** shows the separation distances between windows and balconies set out in Objective 3F-1 of the ADG.

Table 9: ADG Objective 3F-1 separation distances between windows and balconies

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

93. As detailed above and in the assessment report on the section 4.56 modification, the concept consent building envelopes (as modified by D/2019/649/B) do not fully comply with the ADG building separation distances. In the non-compliant locations, the concept consent envelope plans include a notation providing that openings in the façade:
- Belong to a non-habitable room
 - Have a privacy screen / landscape buffer
 - Do not have direct sight line into adjacent buildings
 - Have narrow slot windows with deep reveals
 - Have windows offset from opposite façade.
94. Consistent with this notation, the architectural plans submitted with the development application provide appropriate privacy protection measures in the locations where building separations do not meet the ADG design criteria. **Figure 44** illustrates some of the proposed privacy protection measures including splayed windows, screens, solid balcony walls to Building C - Courtyard and other privacy treatments such as louvred screens on the northern side of Building E - Fig Street (commercial). Additional privacy protection measures where non-compliant separations are proposed include operable louvred screens to Building B - Jones Street and Wattle Building D - Wattle Street.
95. Daylight and natural ventilation are not compromised as discussed in the above ADG assessment of compliance.

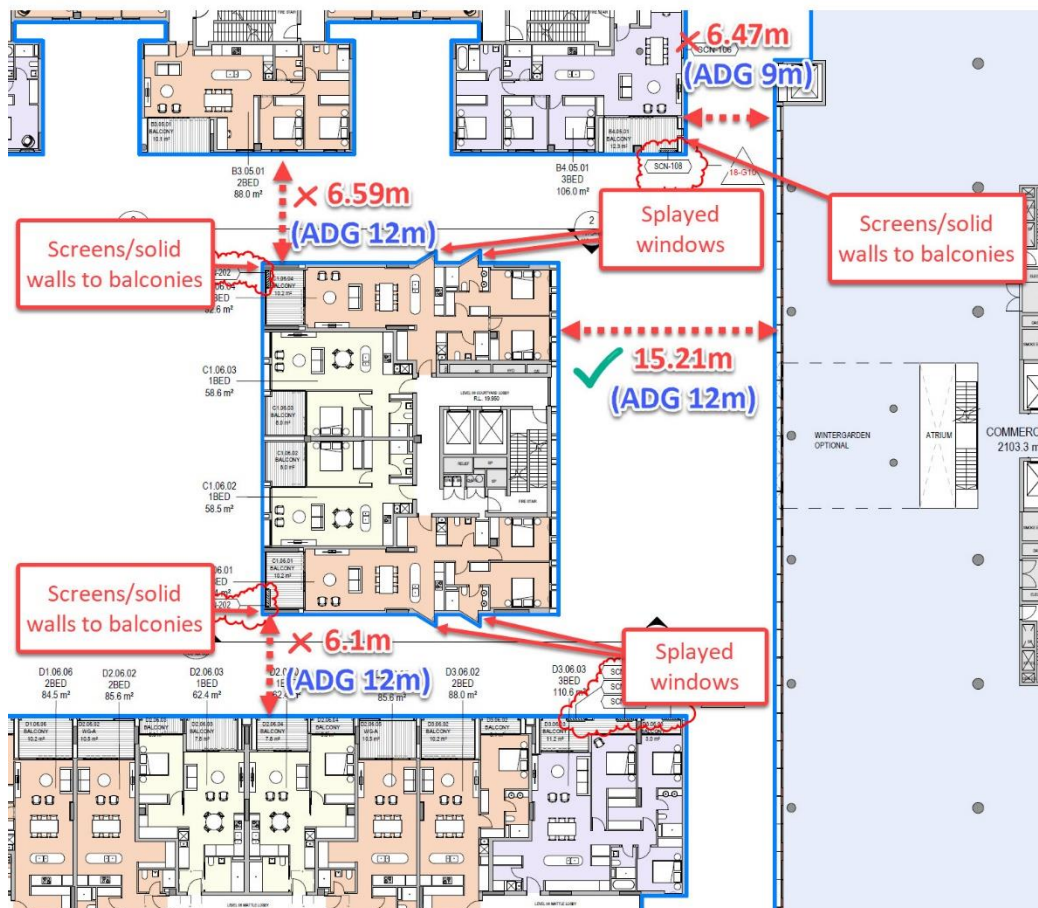


Figure 44: Assessment of compliance with ADG Objective 3F-1 separation distances showing proposed privacy protection measures

Noise and ventilation

96. The following noise requirements apply to the proposed development:

- (a) Transport and Infrastructure SEPP 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.

97. 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 the building (140 out of 234 required).

98. Given the location of the site on Wattle Street, Fig Street and adjoining the light rail corridor, the 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. These apartments have been provided with acoustic plenums that deliver a performance based natural cross ventilation.
99. Example plenums are illustrated at **Figure 45**. The architectural plans include plenum details. Both the acoustic report and natural ventilation report will be approved as part of the consent to ensure that plenums are constructed and installed in accordance with the specific details in approved reports.
100. The total number of naturally cross ventilated apartments in the first nine storeys of the development (including apartments that are naturally cross ventilated and have plenums) is 137 out of 234 or 58.5%. An additional seven apartments have the potential to be naturally cross ventilated, however this requires further testing by a certified wind consultant. If these were found to be naturally cross ventilated, it could lead to a total count of 144 out of 234 or 61.5% naturally cross ventilated apartments. Council's Urban Designer considered this level of compliance to be satisfactory given the site constraints.

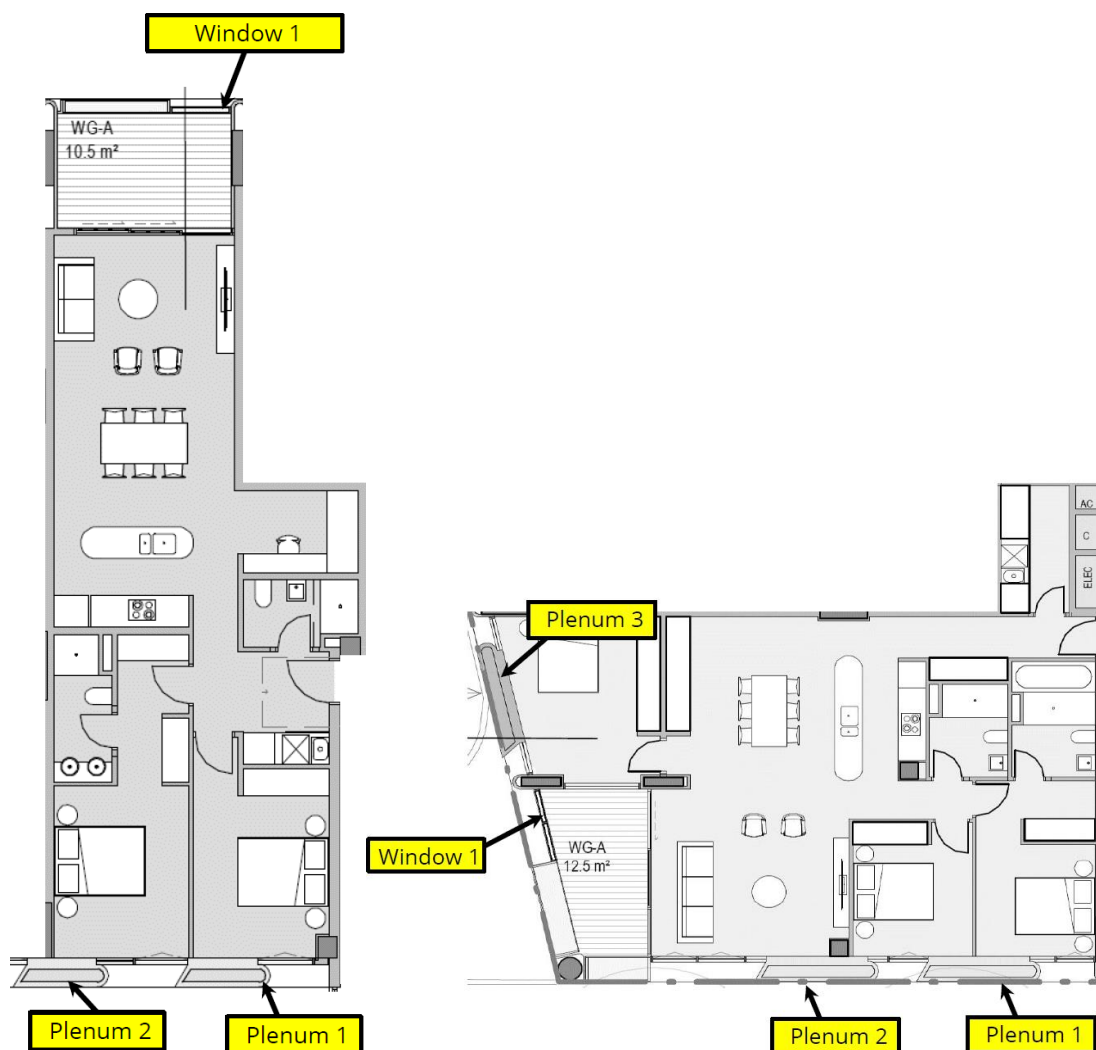


Figure 45: Examples of integrated plenums

Communal open space

101. The design criteria at Objective 3D-1 of the ADG requires communal open space that has a minimum area equal to 25% of the site area. The ADG defines communal open space as:

"outdoor space located within the site at ground level or on a structure that is within common ownership and for the recreational use of residents of the development. Communal open space may be accessible to residents only, or to the public."

102. The applicant and Council's Landscape Officer have calculated the following communal open space areas:

- **Applicant's calculation:** 4,249m² (34.37%) including private communal and public communal open space
- **Council's Landscape Assessment Officer calculation:** 2,843m² (23%) of uncovered common open space is proposed including a communal roof terraces on Building B - Jones Street, Building C - Courtyard and Building D - Wattle Street.

103. As well as disagreeing with the applicant's calculation of communal open space, Council's Landscape Officer is also concerned about the distribution of communal open space as Building B - Jones Street has:

- (a) Three narrow, recessed midlevel communal terraces that are not open to the sky; and
- (b) Circuitous access to the ground level swimming pool and BBQ area.

104. Council's Landscape Officer recommends the provision of a roof terrace on Building B - Jones Street, located centrally and to the western side of the building to limit overshadowing impacts.

105. Notwithstanding the Landscape Officer's comments, the proposed communal open space area and arrangement is considered to be satisfactory as:

- (a) The ADG definition of communal open space includes areas accessible to the public (the applicant has relied on this definition).
- (b) A variety of facilities are provided within the central communal open spaces including seating, a swimming pool, lawn areas and areas covered by pergolas. Building C - Courtyard and Building D - Wattle Street have barbeque facilities and a condition of consent is recommended requiring the provision of barbeque facilities within the central communal courtyard.
- (c) If the footprint of Building E - Fig Street (approximately 2,650m²) was excluded from the site area for the purpose of calculating communal open space (giving a site area of 9,711m²), the proposed residential communal space accepted by Council's Landscape Officer would equate to 29% of the site area (2,843m² ÷ 9,711m²) complying with the 25% required by the ADG.

- (d) Areas of common open space are provided for the commercial uses in the development (Building E - Fig Street). These spaces are not considered to be usable communal open space for the purpose of the ADG communal open space requirement and have not been included in the communal areas shown above. They do however contribute to the amenity of workers on the site.

Tree removal and protection

- 106. The development application, as set out in the (Arboricultural Impact Assessment and addendums) proposes the removal of 54 trees (including 11 street trees and 3 trees within the adjoining light rail corridor).
- 107. **Table 10** lists the trees that are proposed for removal, their retention value and an assessment from Council's tree management unit. Based on a review of the Arboricultural Impact Assessment, Council's tree management unit has recommended retention of the following two trees proposed for removal (see **Figures 46** and **47** and trees noted with an * in **Table 10**):
 - (a) Tree 40 (Platanus x acerifolia London Plane Street tree Fig St): The Addendum to AIA report by Earthscape Horticultural Services dated 14.2.2024 states that this tree will sustain significant canopy pruning due to the proposed development. The arborist has recommended that Council's Tree Management Officer inspect the tree prior to commencement of any pruning taking place and to reach a joint agreement with the Project Arborist in regards to specific branch removals. Tree Management agrees with this proposal. A similar proposal is requested in regards to any proposed pruning to street trees 41, 42, 43, 44, 45 and 47 adjacent to Fig Street for the minimising pruning amounts.
 - (b) Tree 46 (Platanus x acerifolia London Plane Street tree Fig St): This tree has a high retention value, is a prominent tree in this area and has a life expectancy >40yrs. This tree should be retained and protected. The design should be modified to accommodate this tree. Also note the proposed design should be set back from street trees 41, 42, 43, 44, 45 and 47 adjacent to Fig Street. Pruning should not exceed 10% canopy removal regarding the proposed development including any hoarding/scaffolding clearances.
- 108. Appropriate replacement trees are also proposed comprising:
 - (a) 20 new canopy trees within deep soil zones
 - (b) 26 new street trees.
- 109. Council's tree management units has calculated that the proposed canopy cover will achieve equivalent to 15% of the site area within 10 years of completion, consistent with the Sydney DCP 2012.
- 110. Conditions of consent are recommended requiring compliance with the recommendations in the Arboricultural Impact Assessment (and addendums) and protection of certain street trees (including street Trees 40 and 46).

Table 10: Proposed tree removal

Retention value	Tree numbers	Tree management unit comment
Low retention value	<p>Trees 33, 34, 35 and 98 (<i>Casaurina cunninghamii</i> River Oak), 37 (<i>Casaurina glauca</i> Swamp Oak), 7, 12, 13, 14, 16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29 and 30 (<i>Celtis sinensis</i> Chinese Hackberry), 31 (<i>Ficus rubiginosa</i> Port Jackson Fig), 6 (<i>Lagerstomia indica</i> Crepe myrtle), 23 (<i>Olea europaea</i> African Olive), 22 (<i>Pittosperum undulatum</i> Sweet Pittosperum), 1, 2, 3, 4, 5 and 11 (<i>Platanus orientalis</i> Oriental Plane)</p> <p>Tree 53 (<i>Tristania laurina</i> Water Gum) Street Tree Removal is supported. Tree to be replaced with advanced species (<i>Weeping Lilly Pilly</i> <i>Waterhousea floribunda</i> Green Avenue) in accordance with the City of Sydney Street Tree master Plan 2023</p> <p>33 trees (including 1 street tree)</p>	The tree removals are supported.
Medium retention value	<p>Tree 8 (<i>Platanus orientalis</i> Oriental Plane)</p> <p>Tree 15 (<i>Ficus rubiginosa</i> Port Jackson Fig)</p> <p>Tree 32 (<i>Casaurina cunninghamii</i> River Oak)</p> <p>Tree 38, 39 and 40 (<i>Platanus orientalis</i> Oriental Plane)</p> <p>Tree 97 and 99 (<i>Syzygium paniculatum</i> Magenta Cherry)</p> <p>Tree 56 (<i>Koelreutaria paniculata</i> Golden Rain Tree) within the rail corridor</p> <p>Tree 48, 49, 50, 51, 52, 54 and 55 Street trees adjacent to Wattle St.</p> <p>16 trees (including 7 street trees and 3 trees within the rail corridor)</p>	The tree removals are supported.
High retention value	<p>Tree 36 (<i>Casaurina cunninghamii</i> River Oak), Tree 9, 10 and 40* (<i>Platanus orientalis</i> Oriental Plane)</p> <p>Tree 46* (<i>Platanus x acerifolia</i> London Plane)</p> <p>5 trees (including 3 street trees)</p>	Removal of high retention value Trees 40 and 46 (both street trees) is not supported (noted with an *). A condition is recommended requiring retention of these trees.

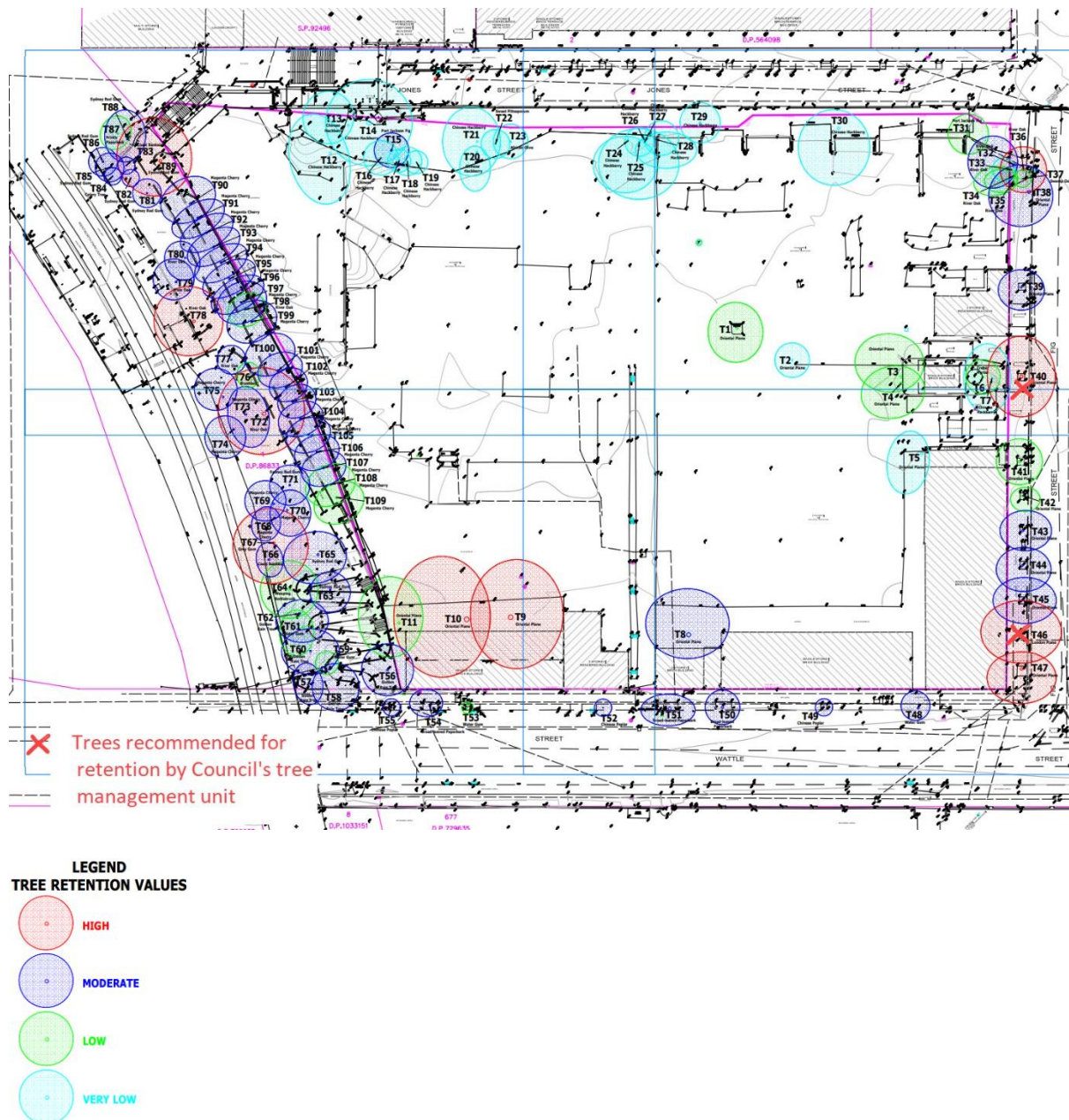


Figure 46: Tree retention value plan showing trees recommended for retention by Council's tree management unit



Figure 47: Tree retention and removal plan showing trees recommended for retention by Council's tree management unit.

Heritage

111. The site is not a heritage item and is not located within a heritage conservation area. The site is within the vicinity of the following heritage items:

- (a) former woolstore at 28-48 Wattle Street, Ultimo "Winchcombe Carson" (I2059)
- (b) terrace houses at 286-318 Jones Street (I1238)
- (c) former Edwin Davies Flour Mill at 280 Jones Street (I1205)
- (d) railway viaduct listed on the State Heritage Register (I800).

112. The cliff face and selected artefacts on the site have historic value.

113. Council's heritage unit has reviewed the Heritage Impact Statement and Heritage Interpretation Strategy prepared by Paul Davies and concludes that the proposed development would have a satisfactory heritage impact.

114. Relevantly visibility to the sandstone cliff face has been optimised through windows at the recreation centre and the setback along Jones Street. Significant historic artifacts (such as scale, weight bridge plates and steel roof trusses) would be salvaged and integrated with the development for heritage interpretation. Brickwork from existing structures would be recycled and integrated into the landscape design.
115. A condition of consent is recommended requiring compliance with the Heritage Interpretation Strategy.

Other Impacts of the Development

116. The proposed development is capable of complying with the BCA
117. The proposed development will have no significantly 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

118. The proposed development is of a nature in keeping with the overall function of the site and its context.

Consultation

Internal referrals

Design advisory panel

119. The original development application and section 4.56 modification application were presented to the DAP on 15 June 2023. The DAP raised a number of concerns (see History section above) that were included the first RFI to the applicant dated 28 July 2023. Additional and amended information has been provided to address the issues raised by the DAP including additional information on building separation and privacy protection, reduced height (although the height of Building C - Courtyard was increased), reduced overshadowing of Wentworth Park, a small reduction in floor space, residential amenity improvements including widening of the indented courtyards, additional information on the child care centre and concurrence from NSW Education, wind analysis and public art (including endorsement by City's Public Art Unit and Public Art Advisory Panel). The information submitted is deemed to satisfy the questions and request for further information from the DAP as outlined below in **Table 11**.

Table 11: DAP advice

Design Advisory Panel (DAP) advice	
Advice	Comment
The building envelope controls are sufficient for the site and should not be exceeded beyond the concept consent. Non-compliances with building separation controls are not supported.	The building envelopes proposed by the section 4.56 application and development application have been amended to address concerns in relation to building separation and height. Privacy protection measures are proposed where building separations do not comply with the ADG (see Discussion section above).
There are several non-compliances with height controls which increase overshadowing to Wentworth Park. The Panel does not support additional height or any further overshadowing to the park.	The building envelopes proposed by the section 4.56 application and development application have been amended to address concerns in relation to overshadowing (see Discussion section above).
The scheme is at the upper limit of FSR allowances. Additional FSR has been applied to the site through the acquisition and upgrade of the adjacent public footpath. The general density of the site has resulted in deep building footprints and several bedrooms with poor access to natural light, which should be reconsidered	The proposed development remains at the upper limit of the FSR standard (3.88:1 proposed and 4:1 development standard). The GFA has been somewhat reduced since the DAP meeting (-616m ²), the internal courtyards have been widened to improve residential amenity and there are no internalised bedrooms or studies.
The Childcare facilities should be further considered in order to provide adequate circulation space for pram movement and storage in the lobby and corridors, adequate lift provision, and greater solar access and a more generous ceiling height to the outdoor play area.	The childcare centre arrangement has been refined and considered to be acceptable by the Secretary of the NSW Department of Education and Council's Child and Family Services unit.
A wind analysis is required as part of the assessment	A wind impact assessment has been prepared and conditions of consent are recommended requiring compliance with its recommendations.
Further consideration of the courtyard amenity is required and should address natural ventilation and noise	The internal courtyards have been widening and courtyard design refined to improve residential amenity.

Design Advisory Panel (DAP) advice	
Environmental performance of north-west façade should have further analysis and consideration	The amended development application was reviewed by the Environmental Projects Unit which considered that high level sustainable outcomes were proposed.
Engagement with the First Nations history of the site requires further consideration	An amended Public Art Strategy was submitted which proposes an inclusive approach with Aboriginal and Torres Strait Islander communities.
The opportunity to expose views to and interpret the quarry face has not been fully realised	Visibility to the sandstone cliff/quarry face has been optimised through windows at the recreation centre and the setback along Jones Street.
Public art should be further considered to provide an interpretation of the place, rather than be applied as a wayfinding element	The amended Public Art Strategy adopted the recommendations of the Public Art Unit and Public Art Advisory Panel. Public art conditions of consent are recommended.

Council units

120. The section 4.56 modification application and development application were referred to the following Council units:

- (a) Building Services
- (b) Child and Family Services
- (c) Environmental Health
- (d) Environmental Projects
- (e) Heritage
- (f) Landscape
- (g) Planning Agreement
- (h) Public Art and Public Art Advisory Panel
- (i) Public Domain
- (j) Safe City
- (k) Survey
- (l) Transport and Access
- (m) Tree Management

- (n) Urban Design
- (o) Waste Management.

121. The above units advised that the proposal is acceptable subject to conditions (noting the assessment of the tree assessment above).

External referrals

122. The section 4.56 modification application and development application were concurrently referred to Department of Planning and Environment, Transport for New South Wales, Water NSW, Sydney Water, Ausgrid and TAHE. The agencies raised no objections to the proposed modifications subject to conditions which are addressed or included in the recommended conditions of consent in **Attachment B** where relevant.

Advertising and notification

123. The section 4.56 modification application and detailed design development application were notified concurrently for 28 days from **28 February - 29 March 2023**. The amended plans were not re-notified as the proposed changes resulted in less impact compared to the original application.

124. Five submissions were received, including two submissions which provided comments/support and three objections raising concerns in relation to height, design excellence, public interest, certainty, precedent, contravention of the planning controls, heritage, overshadowing of Fig Street Park and Wentworth Park, amenity impacts for nearby residents, wind, density, vehicle and pedestrian traffic, impact on public transport, illegal dumping of rubbish and capacity of public services.

125. Relevant to the development application, submissions raised the following issues:

(a) **Issue:** Building height:

- The height approved by the Land and Environment Court should be not increased
- Height contravention sets an undesirable precedent
- Increase in height is not in the public interest
- Additional height impacts views from Fig Street Park
- Additional height overshadows Fig Street Park
- Additional height overshadows Wentworth Park
- Additional height adversely impacts the historic and cultural significance of the area
- Adverse impact on the amenity of apartments and communal open space of 280 Jones Street (Harbour Mill Apartments)
- Wind tunnel

- Increased height of Building C - Courtyard

Response: An assessment of the proposed increase in height is set out in the Discussion section of this report and in the assessment report on the section 4.56 modification application. It explains that a condition is recommended to reduce the height of Building C - Courtyard Plant Room Equipment and Parapet Zone by at least 2m. Also in response to the issues of concern noted above, the increase in height will not cast a shadow onto Fig Street Park, the additional shadow cast onto Wentworth Park is not supported but complies with the relevant Sydney DCP 2012 controls and would have little impact on the amenity of the park. The increase in height would have a negligible impact on the amenity of apartments and communal open space of 280 Jones Street (Harbour Mill Apartments) when compared with a compliant envelope as well as the envelope approved by the concept consent. Conditions of consent are recommended requiring compliance with the wind impact assessment.

- (b) **Issue:** Density, traffic, pedestrian safety and amenity and impact on public services/assets

Response: With a proposed FSR of 3.88:1, the detailed design development application demonstrates that the proposed/modified building envelopes can accommodate a development with a FSR of less than 4:1 (being the FSR standard at clause 4.4 of Sydney LEP 2012). Given this, the density of development is consistent with the planning controls relevant to the site. Council's Access and Transport Unit raised no objection to the section 4.56 modification application.

- (c) **Issue:** Landscaping, tree removal and public domain

- Trees removed should be replaced with native trees
- Hard surfaces should be minimised
- Clarify who owns area on top of cliff between Harbour Mill Apartments and the existing stair from the Wentworth Park Light Rail Station and responsibility for the removal of weeds from the cliff top.

Response: Tree removal/replacement is addressed in the Discussion section, a compliant area of deep soil is proposed and maintenance of the public domain outside of the site is not a matter for consideration in the assessment of the development application.

- (d) **Issue:** Adverse privacy impact on the amenity of the Harbour Mill Apartments

Response: Adequate building separations are proposed between Building B - Jones Street and the Harbour Mill Apartments (consistent with the concept consent).

- (e) **Issue:** An affordable housing levy should be imposed.

Response: The recommended conditions include a requirement to pay a contribution towards the provision of affordable housing.

Public Interest

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

Financial Contributions

Contribution under Section 7.11 of the EPA Act

127. The 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	\$4,799,539.18
(b)	Community Facilities	\$1,464,509.68
(c)	Traffic and Transport	\$27,14142.56
(d)	Stormwater Drainage	nil
(e)	Total	\$6,291,191.42

128. A condition relating to this development contribution has been included in the recommended conditions of consent. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney LEP 2012

129. The site is located within the Ultimo/Pymont affordable housing contribution area as per clause 7.13 of the Sydney LEP 2012. The development application was lodged on 16 February 2023, and as such, the City West affordable housing program applies. The following affordable housing levy contribution is applicable:

- (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.

130. Based on a residential total floor area of 36,843m² (including 620m² of shared plant) and a non-residential total floor area of 19,159m² (including 322m² of shared plant), the equivalent monetary contribution amount is **\$2,500,245.91** for the proposed development.

131. A condition of consent is recommended requiring payment of the affordable housing contribution prior to the issue of a construction certificate.

Conclusion

132. The development application seeks consent for the detailed design and construction of a mixed-use development across five buildings comprising, demolition, remediation, tree removal, 237 residential apartments, 15,827m² of commercial floor space, 426m² of retail floor space, 91 place centre based child care centre, indoor recreation centre, two basement parking levels, loading dock, landscaping, public domain and civil works and stratum subdivision.
133. The development application is consistent with the concept consent as modified by D/2019/649/B.
134. The proposed development exceeds the maximum 29.7m building height standard (including the 10% design excellence bonus) by up to 4.08m (14%) on Building B - Jones Street, 12.76m (43%) on Building C - Courtyard, 4.25m (14%) on Building D - Wattle Street and 5.44m (18%) on Building E - Wattle Street. A written request to contravene the clause 4.3 height of buildings development standard has been received in accordance with clause 4.6 of Sydney LEP 2012. The written request demonstrates that compliance with the standard is unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and height of buildings development standard and the proposed departure to building height is supported in this instance (subject to a condition of consent required a 2m reduction in height for Building C - Courtyard).
135. Subject to conditions, the proposal is generally consistent with the applicable planning provisions including SEPP 65, Sydney LEP 2012 and Sydney DCP 2012. Proposed non-compliances have been assessed as having merit in this case and are addressed in this report. Conditions are recommended to address non-compliances where appropriate.
136. The proposed development exhibits design excellence in accordance with clause 6.21C of Sydney LEP 2012, with a high standard of architectural and landscape design, materials and detailing and a built form that is consistent with the existing and future desired character of the area.
137. The development is in the public interest and is recommended for approval, subject to the conditions in Attachment B.

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

Director, Robinson Urban Planning Pty Ltd