

**Item 4.****Section 4.56 Application: 12A and 14-26 Wattle Street, Pyrmont - D/2019/649/B**

File No.: D/2019/649/B

**Summary**

<b>Date of Submission:</b>	16 February 2023
<b>Applicant:</b>	The Trustees for Landream Pyrmont Unit Trust
<b>Architect/Designer:</b>	BVN
<b>Developer:</b>	The Trustees for Landream Pyrmont Unit Trust
<b>Owner:</b>	Council of the City of Sydney Transport Asset Holding Entity
<b>Cost of Works:</b>	\$221,892,000
<b>Zoning:</b>	<p>Majority of the site (12,381sqm) is located within Zone MU1 - Mixed Use under the Sydney LEP 2012. The development comprises residential, commercial, retail, child care and indoor recreation centre uses and is permitted with consent within Zone MU1.</p> <p>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 (20m<sup>2</sup>). The modified building envelopes are not located on land in Zone RE1.</p>
<b>Proposal Summary:</b>	<p>This section 4.56 modification application seeks to modify the concept approval D/2019/649 (as amended) for building envelopes with a maximum height of 33.08m and indicative land uses (residential, commercial, retail, child care and recreational facilities).</p> <p>Specifically, the modifications include revisions to height and bulk to all building envelopes (A-E), a reduction in height to Building A - Retail pavilion, increased height and deeper floor plates to Buildings fronting Jones Street (Building B), Wattle Street (Building D) and Fig Street (Building E), reconfiguration of the approved L-shaped building to create a separate (taller) Building C - Courtyard Building and a separate Building D - Wattle Street, conversion of the approved residential floors (levels 7 and</p>

8) of Building E - Fig Street to allow for an entirely commercial building, increased modulation to all buildings and modification of conditions to reflect the proposed amendments.

A separate and concurrent detailed design development application (D/2023/97) is being presented to the Central Sydney Planning Committee (CSPC) recommending approval. The section 4.56 application to modify the concept consent will allow both applications to 'align' as required under Section 4.24 of the Environmental Planning and Assessment Act, 1979 (EPA Act).

The application has been assessed by an independent external planning consultant as the City of Sydney is the land owner.

The independent assessment report is provided at Attachment A.

The section 4.56 modification application is referred to the CSPC for determination as it relates to "major development" for the purposes of the City of Sydney Act 1988.

The assessment of the application by the independent planner concludes that as amended and subject to conditions, the proposed modifications are considered to result in a development that is substantially the same as the concept consent and is recommended for approval.

**Summary Recommendation:** It is recommended that the assessment report prepared by the independent external planning consultant, shown at Attachment A, and recommended conditions shown at Attachment B to the subject report, be considered for approval by the Central Sydney Planning Committee

**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) SEPP (Resilience and Hazards) 2021
- (iv) SEPP (Transport and Infrastructure) 2021
- (v) Sydney Local Environmental Plan 2012
- (vi) Sydney Development Control Plan 2012

**Attachments:**

- A. Independent Assessment Report
- B. Amended Conditions of Consent
- C. Amended Building Envelope Drawings
- D. Land and Environment Court Judgment for D/2019/649
- E. Submissions

## Recommendation

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

### (2) APPROVED DEVELOPMENT

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

Drawing Number	Drawing Name	Revision	Date
DA2-0001	<del>CONCEPT ENVELOPE -- 3D -- WEST</del>	7	<del>23.03.21</del>
DA2-0002	<del>CONCEPT ENVELOPE -- 3D -- EAST</del>	7	<del>23.03.21</del>
DA2-1001	<del>CONCEPT ENVELOPE -- BASEMENT 2 PLAN</del>	8	<del>23.03.21</del>
DA2-1002	<del>CONCEPT ENVELOPE -- BASEMENT 1 PLAN</del>	8	<del>23.03.21</del>
DA2-1003	<del>CONCEPT ENVELOPE -- LEVEL 1 PODIUM PLAN</del>	10	<del>23.03.21</del>
DA2-1004	<del>CONCEPT ENVELOPE -- WATTLE LEVEL 2 FIG LEVEL 2 PLAN</del>	9	<del>23.03.21</del>
DA2-1005	<del>CONCEPT ENVELOPE -- WATTLE LEVEL 3 FIG LEVEL 3 JONES LEVEL 2 PLAN</del>	9	<del>23.03.21</del>
DA2-1006	<del>CONCEPT ENVELOPE -- WATTLE LEVEL 4 FIG LEVEL 3 JONES LEVEL 3 PLAN</del>	9	<del>23.03.21</del>
DA2-1007	<del>CONCEPT ENVELOPE -- WATTLE LEVEL 5 FIG LEVEL 4 JONES LEVEL 4 PLAN</del>	8	<del>23.03.21</del>
DA2-1008	<del>CONCEPT ENVELOPE -- WATTLE LEVEL 6 FIG LEVEL 5 JONES LEVEL 5 PLAN</del>	8	<del>23.03.21</del>

DA2-1009	CONCEPT ENVELOPE - WATTLE LEVEL 7 FIG LEVEL 6 JONES LEVEL 6 PLAN	8	23.03.21
DA2-1010	CONCEPT ENVELOPE - WATTLE LEVEL 8 FIG LEVEL 7 JONES LEVEL 7 PLAN	9	30.03.21
DA2-1011	CONCEPT ENVELOPE - WATTLE LEVEL 9 FIG LEVEL 8 JONES LEVEL 8 PLAN	10	31.03.21
DA2-1012	CONCEPT ENVELOPE - ROOF PLAN	10	31.03.21
DA2-2001	CONCEPT ENVELOPE - ELEVATION - JONES STREET	9	31.03.21
DA2-2002	CONCEPT ENVELOPE - ELEVATION - FIG STREET	9	31.03.21
DA2-2003	CONCEPT ENVELOPE - ELEVATION - WATTLE STREET	9	31.03.21
DA2-2004	CONCEPT ENVELOPE - ELEVATION - LIGHT RAIL	9	31.03.21
DA2-2005	CONCEPT ENVELOPE - ELEVATION - STREETSCAPE	6	31.03.21
DA2-3001	CONCEPT ENVELOPE - SECTION A	9	31.03.21
DA2-3002	CONCEPT ENVELOPE - SECTION B	9	31.03.21
DA2-3003	CONCEPT ENVELOPE - SECTION C	10	31.03.21
DA2-3004	CONCEPT ENVELOPE - SECTION D	9	31.03.21
DA2-3005	CONCEPT ENVELOPE - SECTION E	9	31.03.21
DA2-3006	CONCEPT ENVELOPE - SECTION F	10	31.03.21
DA2-5000	CONCEPT ENVELOPE - JONES STREET	8	31.03.21

<b>DA2-6000</b>	<b>CONCEPT ENVELOPE -- THROUGH SITE LINKS</b>	<b>6</b>	<b>23.03.21</b>
<b>DA2-7000</b>	<b>CONCEPT ENVELOPE -- ROOF FEATURES</b>	<b>6</b>	<b>23.03.21</b>
<b>DA2-8000</b>	<b>CONCEPT ENVELOPE -- CLIFF</b>	<b>8</b>	<b>31.03.21</b>
<b>DA2-9500</b>	<b>CONCEPT ENVELOPE -- ACOUSTIC</b>	<b>4</b>	<b>17.03.21</b>
<b>DA2-9600</b>	<b>COMMERCIAL BUILDING ARTICULATION</b>	<b>5</b>	<b>31.03.21</b>
<b>AR-DA-MOD-0001</b>	<b>CONCEPT ENVELOPE 3D WEST</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-0002</b>	<b>CONCEPT ENVELOPE 3D EAST</b>	<b>03</b>	<b>03/11/23</b>
<b>R-DA-MOD-1001</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 00</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1002</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 01</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1003</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 02</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1004</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 03</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1005</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 03 &amp; LEVEL 04</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1006</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 04 &amp; LEVEL 05</b>	<b>03</b>	<b>03/11/23</b>

<b>AR-DA-MOD-1007</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 05 &amp; LEVEL 06</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1008</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 06 &amp; LEVEL 07</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1009</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 07 &amp; LEVEL 08</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1010</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 08 &amp; LEVEL 09</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1011</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 09 &amp; LEVEL 10</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1012</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 10 &amp; LEVEL 11</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1013</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 11 &amp; LEVEL 12</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1014</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 13</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-1015</b>	<b>GENERAL ARRANGEMENT PLAN - LEVEL 14</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-2001</b>	<b>JONES ST ELEVATION</b>	<b>04</b>	<b>03/11/23</b>
<b>AR-DA-MOD-2002</b>	<b>JONES ST ELEVATION</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-2003</b>	<b>WATTLE ST ELEVATION</b>	<b>03</b>	<b>03/11/23</b>

<b>AR-DA-MOD-2004</b>	<b>LIGHT RAIL ELEVATION</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-2005</b>	<b>LIGHT RAIL ELEVATION</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-3001</b>	<b>SECTION A</b>	<b>04</b>	<b>03/11/23</b>
<b>AR-DA-MOD-3002</b>	<b>SECTION B</b>	<b>03</b>	<b>03/11/23</b>
<b>AR-DA-MOD-3003</b>	<b>SECTION C</b>	<b>04</b>	<b>03/11/23</b>
<b>AR-DA-MOD-3004</b>	<b>SECTION D</b>	<b>04</b>	<b>03/11/23</b>
<b>AR-DA-MOD-3005</b>	<b>SECTION E</b>	<b>04</b>	<b>03/11/23</b>
<b>AR-DA-MOD-3006</b>	<b>SECTION F</b>	<b>04</b>	<b>03/11/23</b>
<b>AR-DA-MOD-4001</b>	<b>CONCEPT ENVELOPE - JONES STREET</b>	<b>01</b>	<b>03/11/23</b>
<b>AR-DA-MOD-4002</b>	<b>CONCEPT ENVELOPE - THROUGH SITE LINKS</b>	<b>01</b>	<b>03/11/23</b>
<b>AR-DA-MOD-4003</b>	<b>CONCEPT ENVELOPE - ROOF FEATURES</b>	<b>01</b>	<b>03/11/23</b>
<b>AR-DA-MOD-4004</b>	<b>CONCEPT ENVELOPE - CLIFF</b>	<b>01</b>	<b>03/11/23</b>



<b>AR-DA-MOD-4005</b>	<b>CONCEPT ENVELOPE - ACOUSTIC</b>	<b>01</b>	<b>03/11/23</b>
<b>AR-DA-MOD-4006</b>	<b>COMMERCIAL BUILDING ARTICULATION</b>	<b>01</b>	<b>03/11/23</b>

- (b) and as amended by the conditions of this consent.

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

### (3) MATTERS NOT APPROVED IN CONCEPT DEVELOPMENT CONSENT

The following matters are not approved and do not form part of this concept development consent:

- (a) The use for any part of the building envelopes for residential accommodation. The buildings may only be used for residential accommodation and identified as such in a detailed design development application on demonstration that acoustic amenity and natural ventilation are achieved simultaneously in accordance with Objectives 4B-1 and 4J of the Apartment Design Guide (ADG). Should suitable design resolution not be achieved, the use of some of all of the buildings are to revert to non-residential use or non-permanent use in a future detailed design development application.
- (b) The pedestrian connection to the Wentworth Park Light Rail Station (and any associated tree removal). In principle approval is required from Sydney Trains for any future pedestrian connection to the Wentworth Park Light Rail Station (and any associated tree removal) prior to the commencement of the competitive design process.
- ~~(c) The location and design of the pedestrian access zone as illustrated on the concept plan drawings DA2-1006 Rev 9, DA2-1007 Rev 8, DA2-1012 Rev 10 and DA2-8000 Rev 8 on the Jones Street frontage of the site.~~
- (d) Any works, including demolition, excavation and/or construction.
- (e) The removal or pruning of any tree on the site.
- (f) The siting and location of a substation.
- (g) The number of basement levels, car parking spaces, bicycle spaces, car share spaces and loading spaces/zones.
- (h) The precise total quantum, ratio and distribution of commercial, recreation, child care centre and residential floor space.
- (i) The indicative floor layouts of buildings.
- ~~(j) The floor or ceiling levels of each storey.~~

- (k) The number and configuration of residential apartments and commercial tenancies.
- ~~(l) Up to 10% design excellence uplift in building height or floor space ratio.~~

## (5) DETAILED DESIGN OF BUILDINGS

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

### ~~(a) Amended Fig Block building envelope showing the following:~~

- ~~(i) Commercial Levels 4, 5 and 6: The setback to the Jones Street site frontage (as shown on DA2-1007\_8, DA2-1008\_8 and DA2-1009\_8) is to be increased by at least 3.2m. The Jones Street footpath is to be extended to the face of the realigned commercial levels, with opportunities provided for public views down to the rockface below;~~
- ~~(ii) Residential Level 7 (and up to 10% additional height subject to design excellence): Provide a minimum setback of 4m from the Commercial Level 6 street wall height on the Jones Street site frontage;~~
- ~~(iii) Residential Level 7 balustrade/planter zone: Provide a minimum setback of 1.3m to the balustrade/planter zone from the realigned Jones Street street wall (generally in accordance with that shown on DA2-1010\_9, DA2-1011\_10, DA2-20002\_9 and DA2-3003\_10); and~~
- ~~(iv) Level 7 Residential communal open space: Retain the residential communal open space shown on DA2-1010\_9 and relocate it to the western end of the Fig Block (Level 7).~~

### **(a) Amended Building C – Courtyard building envelope showing the following:**

- (i) The Plant Room Equipment and Parapet Zone height (and any other structures at Level 13 of Building C – Courtyard) is to be reduced by at least 2m (to a maximum of RL 43.55 (AHD)).**
- (b) A new footpath and street tree planting along the site's frontage to Jones Street, as required by condition 12 below.
- (c) Areas nominated as deep soil zones must be designed as actual deep soil throughout the competitive design process and detailed design development application. Deep soil zones must be unencumbered by built elements above and below. This includes basements, through site links and other paved areas.
- (d) Tree planting must be able to provide a minimum of 15% canopy cover across the site within 10 years of completion.

**(7) BUILDING HEIGHT**

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

**(a) ~~Jones Block:~~**

~~(i) RL 35.700 (AHD) to the Communal roof terrace zone for lift overrun and pergola structures~~

~~(ii) RL 32.400 (AHD) to the Level 8 Communal roof terrace balustrade/planter zone~~

~~(iii) RL 31.400 (AHD) to the Level 7 Residential Roof~~

~~(iv) RL 29.000 (AHD) to the Level 7 balustrade/planter zone~~

~~(v) RL 28.00 (AHD) to the Level 6 Residential Roof~~

**(b) ~~Fig Block:~~**

~~(vi) RL 32.550 (AHD) to the Level 7 Residential Roof~~

~~(vii) RL 30.150 (AHD) to the Level 7 balustrade/planter zone and Communal roof terrace balustrade/planter zone facing Jones Street, Fig Street and Wattle Street~~

~~(viii) RL 29.150 (AHD) to the roof of Level 6 Commercial Roof~~

**(c) ~~Wattle Block:~~**

~~(i) RL 35.950 (AHD) to the Level 9 Residential Roof~~

~~(ii) RL 33.550 (AHD) to the Level 9 balustrade/planter zone facing Wattle Street~~

~~(iii) RL 32.550 (AHD) to the Level 8 Residential Roof~~

~~(iv) RL 30.150 (AHD) to the Level 8 balustrade/planter zone facing Wattle Street~~

~~(v) RL 29.150 (AHD) to the roof of Level 7 Residential Roof~~

**(d) ~~Café/retail building: RL 11.150 (AHD) to the roof.~~****(a) *Building A – Retail Pavilion:***

*(i) RL 10.75 (AHD) to the roof*

*(ii) RL 11.05 (AHD) to the parapet wall*

**(b) *Building B - Jones Street:***

*(i) RL 37.100 (AHD) to the PV array on top of plant and lift overrun*

- (ii) *RL 36.600 (AHD) and RL 36.800 (AHD) to the top of plant and lift overrun*
  - (iii) *RL 35.10 (AHD) to the Level 10 roof*
- (c) **Building C - Courtyard:**
  - (i) *RL 43.55 (AHD) to the Plant Room Equipment and Parapet Zone*
  - (ii) *RL 42.35 (AHD) to the Level 12 roof*
  - (iii) *RL 39.45 (AHD) to the Level 09 parapet*
- (d) **Building D - Wattle Street:**
  - (i) *RL 36.450 (AHD) to the PV array*
  - (ii) *RL 36.250 (AHD) to the Level 11 roof*
  - (iii) *RL 32.750 (AHD) to the Level 10 roof*
  - (iv) *RL 30.850 (AHD) to the Level 09 balustrade/planter zone*
  - (v) *RL 29.550 (AHD) to the Level 09 roof*
- (e) **Building E - Fig Street:**
  - (i) *RL 37.950 (AHD) to the top of plant and lift overrun*
  - (ii) *RL 36.350 (AHD) to the Level 10 roof*
  - (iii) *RL 32.350 (AHD) to the Level 09 roof and RL (AHD) 33.550 to the Level 09 parapet*
  - (iv) *RL 29.150 (AHD) to the Level 08 roof and RL (AHD) 29.950 to the Level 08 parapet*

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

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

## **(12) PUBLIC DOMAIN CONDITION**

- (a) Prior to any competitive design process, a Public Domain Concept Plan must be prepared by a suitably qualified architect, urban designer, landscape architect and engineer. The plan must show all existing and proposed public domain.

- (b) The Public Domain Plan and Levels and Gradients are to include detailed sections sufficient to show how the footway, ~~tree and verge planting~~ will be delivered along the length of Jones Street. A footway of not less than 1.2m in width is to be provided from the kerb along the width of Jones Street. The Sections need to be from the centre line of Jones Street to the internal floor of the buildings and clearly show access, retaining structures and any engineering information to demonstrate the proposal is feasible and deliverable.
- (c) The final Public Domain Concept Plan shall be submitted as part of the documentation submitted as part of the detailed design development application.

#### (14) LANDSCAPING OF THE SITE

- (a) The detailed design development application must include a Landscape Concept Plan and Landscape Design Statement prepared by a qualified landscape architect or landscape designer.
- (b) The ~~Landscape Concept Plan and Landscape Design Statement~~ **detailed design development application** must:
  - (i) Clarify the vision and design principles for all landscaping to achieve design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012 and the integration of landscape design.
  - (ii) Identify any site, landscape, streetscape, heritage view and/or planning constraints, including (but not limited to), microclimate, ground contamination, existing levels, services and easements, existing trees, landscape features, landscape setbacks and screening/buffer requirements.
  - (iii) Identify the location of deep soil areas, tree planting, communal open spaces, green roofs and walls, sustainable design measures including water sensitive urban design treatments, sustainability targets and direct sunlight to communal and private open spaces.
  - (iv) Quantify and illustrate landscape design compliance with the relevant codes including Parts 3 and 4 of the Apartment Design Guide, Section 4.2.3 of the Sydney Development Control Plan 2012 and Sydney Landscape Code Volume 2.
  - (v) Tree planting that will provide a minimum of 15% canopy cover across the site within 10 years of completion.
  - (vi) Provide deep soil zones to a minimum area of 7% of the total site area, with a minimum dimension of 6 metres.
- (c) The Landscape Concept Plan and Landscape Design Statement must establish a clear commitment to designing landscape sustainably and in an integrated manner and demonstrate that the function and aesthetic of both the landscape and the building have been considered concurrently in relation to each other.
- (d) The requirements noted above in (a) through (c) inclusive must be included in the competition brief for the competitive design process.

**(22) PARKING DESIGN**

The design, layout, signage, line marking, lighting and physical controls of all off-street car parking facilities is to **generally** satisfy the Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Australian Standard AS/NZS 2890.2 - 2002 Parking facilities Part 2: Off-street commercial vehicle facilities and Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities. The design must be provided as part of the detailed design development application.

**(30) TREE PROTECTION PLANS AND DETAILED DESIGN APPLICATION**

All detailed architectural, building, engineering (structural, stormwater and drainage services) and landscape documentation submitted as part of the detailed design development application shall clearly show on all drawings the retention of all existing trees recommended for retention in the Arboricultural Impact Assessment Report prepared by 'Earthscape Horticultural Services' (**Report No. 22-069, Version 11, dated 6th February 2023**) and **Addendum [1] (dated 11 October 2023) and Addendum 2 dated 14 February 2024** ~~dated 3 September 2019 (Version 6) dated 3 September 2019 (Version 6)~~, including the position of their trunks, full diameter of their canopies, Structural Root Zones (SRZs) and Tree Protection Zones (TPZs)

**(31) STREET TREES AND DETAILED DESIGN APPLICATION**

- (a) All existing street trees surrounding the site which are recommended for retention in the Arboricultural Impact Assessment Report prepared by 'Earthscape Horticultural Services' (**Report No. 22-069, Version 11, dated 6th February 2023**), **Addendum [1] (dated 11 October 2023) and Addendum 2 dated 14 February 2024** ~~dated 3 September 2019 (Version 6)~~ must be included for retention with any subsequent detailed design development application subject to the following amendment:
  - (i) **Retain Tree 46 (London Plane tree)**
- (b) Any design elements (awnings, street furniture, footpath upgrades etc) within the public domain must ensure appropriate setbacks are provided from the street tree to ensure ongoing retention and allow the maturity of new tree to be achieved.
- (c) The location of any new driveways shall ensure it does not require the removal of any existing street trees which are recommended for retention in the Arboricultural Impact Assessment Report prepared by 'Earthscape Horticultural Services' (**Report No. 22-069, Version 11, dated 6th February 2023**) **Addendum [1] (dated 11 October 2023) and Addendum 2 dated 14 February 2024** ~~dated 3 September 2019 (Version 6)~~ as amended by (a) above. The driveway shall be appropriately setback so as it does not have any adverse below or above ground impacts for any existing street trees which are to be retained.
- (d) A pruning specification prepared by a qualified Arborist (minimum AQF 5) ~~must~~ must be submitted with detailed design development application. Pruning of any street tree must not exceed more than 15% overall canopy with a maximum branch diameter of 100mm will be permitted by Council.

**Reasons for Recommendation**

The modification application is recommended for approval by the independent external planning consultant for the following reasons:

- (A) The development as modified is substantially the same as the development originally approved and is consistent with the requirements of section 4.56(1)(a) of the EPA Act.
- (B) The development has been considered against the reasons given by the Land and Environment Court for the grant of the consent that is to be modified, and the proposal is consistent and acceptable, as per section 4.56(1A) of the EPA Act.
- (C) The proposed modifications ensure that the detailed design development application will be consistent with the concept consent to satisfy section 4.24 of the EPA Act.
- (D) Subject to conditions, the increased height and bulk of the building envelopes generally reflects the architectural design competition winning scheme and will not adversely impact the amenity of the surrounding area. These modifications are reasonable and justified with regard to the detailed design development application.
- (E) The proposed building envelopes are capable of accommodating a future building design which is capable of exhibiting design excellence in accordance with clause 6.21D of the Sydney LEP 2012.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport