

Planning Services

Gateway Determination Report

LGA	Sydney
PPA	City of Sydney Council
NAME	12-22 Rothschild Ave, Rosebery
NUMBER	PP 2018 SYDNE 005 00
LEP TO BE AMENDED	Sydney Local Environmental Plan 2012
ADDRESS	12-22 and 24 Rothschild Avenue, Rosebery
DESCRIPTION	The site comprises the following: <ul style="list-style-type: none"> • Lot 1 DP 314957, Lot 5 DP 309149, Lot A DP 322620, Lot B DP 308922, Lot 408 DP 315228, known as 12-22 Rothschild Avenue, Rosebery, identified as 'Site D'. • Lot 1 DP 456612, Lot 2 DP 456612, Lot 410 DP 7534, Lot 456 DP 7534, known as 24 Rothschild Avenue, Rosebery, identified as 'Site H'
RECEIVED	24 September 2018
FILE NO.	IRF18/5708
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal relates to two adjacent lots located within the Green Square Urban Renewal Area at Rosebery known as Site D and Site H. The planning proposal seeks to amend the Sydney Local Environmental Plan 2012 (SLEP 2012) development controls as follows:

12-22 Rothschild Avenue Rosebery (Site D)

- increase the maximum building height from 22 metres (m) to 29 m fronting Rothchild Avenue and 27 m fronting Mentmore Avenue;
- increase the maximum floor space ratio (FSR) from 1.5:1 to 1.75:1 by transferring the available floor space from the heritage site (Site H) to Site D; and
- require active street frontage on the north-eastern corner of the site.

The planning proposal would facilitate a mixed-use development comprising of approximately 180 dwellings and a retail frontage to a through site link located at the northern edge of the site.

24 Rothschild Avenue, Rosebery (Site H)

- require all floor space on Site H to remain as non-residential floor space;
- decrease the maximum building height limit from 22 m to 9 m;
- decrease the maximum FSR from 1.5:1 to 1:1;
- require an active street frontage on the eastern part of the site; and
- exclude Clause 6.14 of the SLEP 2012 'community infrastructure floor space' and Clause 6.21 of the SLEP 2012 'design excellence' from applying to Site H.

The planning proposal would allow the existing heritage building to be retained. This building currently accommodates approximately 2,000 m² of commercial office space.

Site description

The site consists of two separate lots, totalling 8,404 m². The site has three road frontages, Rothschild Avenue to the east, Mentmore Avenue to the west and Cressy Street to the south (see **Figure 1**).

The following existing development is accommodated on each of the sites:

- Site D which contains an at grade private car parking area and a three-storey building connected to a single storey component, which contains office uses and is used by the University of NSW; and
- Site H which contains a two storey inter-war warehouse style building, which is a locally listed heritage item under the SLEP 2012 and has been adapted for office use (see **Figures 1 and 2**).

The at grade car park on Site D includes 98 car spaces with access provided from Mentmore Avenue and Rothschild Avenue (see **Figure 3**).



Figure 1: Existing site Layout



Figure 2: Site H - Existing Heritage Listed Building



Figure 3: Site D - Existing Car Park

Existing Planning controls

The existing site is zoned B4 Mixed Use. The objectives of the zone are to provide a mixture of compatible land uses and to integrate business, office, residential retail, provide development in accessible locations and encourage walking and cycling. The planning proposal does not seek modify the existing zoning.

The site has a maximum FSR development control of 1.5:1 and a maximum building height control of 22 m (see **Figures 4 and 5**).

Both sites are currently eligible for an additional FSR of 0.5:1 if community infrastructure is provided in accordance with Clause 6.14 of the SLEP 2012. Community infrastructure is proposed to be delivered via a through site link to the north of Site D.

In addition, Clause 6.12 of the SLEP 2012 permits an additional 10 percent of height or FSR (not both) on sites where design excellence has been demonstrated via a competitive design process.

The southern portion of the site includes a locally listed heritage item identified under Schedule 5 of the SLEP 2012, known as heritage item I1382 'former warehouse including interior'.

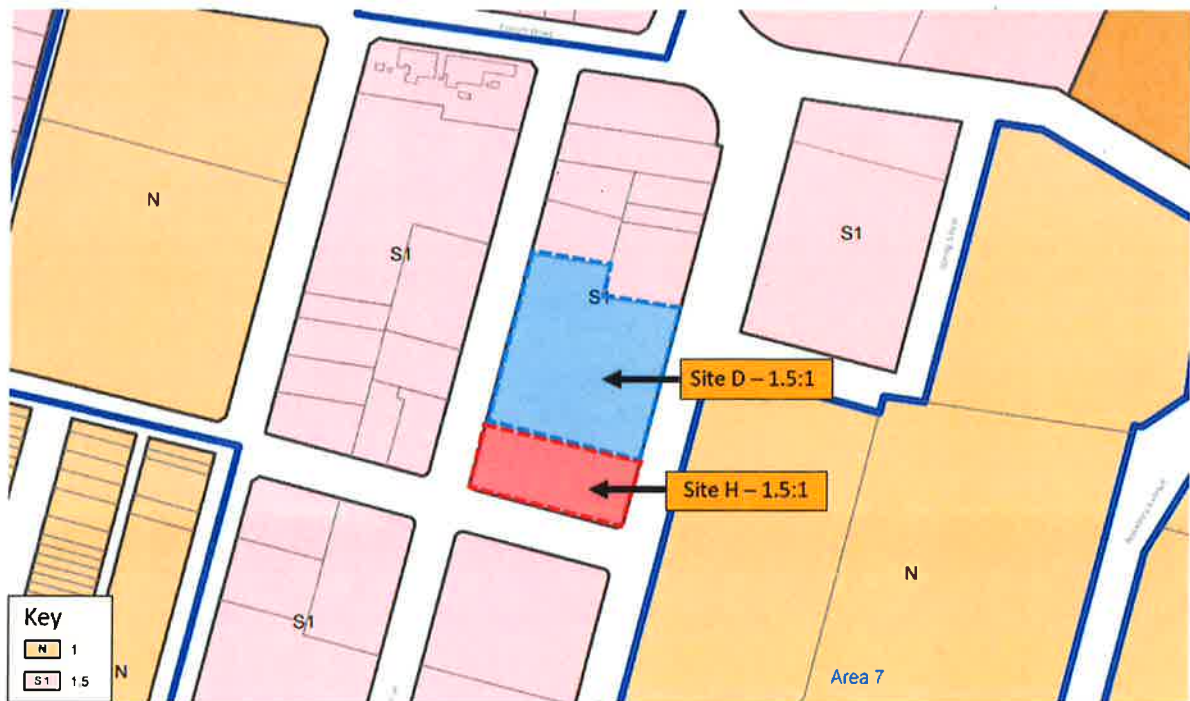


Figure 4: Existing FSR Controls



Figure 5: Existing Building Height Controls

Surrounding area

The site is located within the Green Square Urban Renewal Area. The adjacent sites are currently being redeveloped from light industrial to mixed use developments, which will generally comprise of retail and commercial uses at ground floor and residential apartments above.

Immediately north and north east of the site are seven and eight storey mixed use buildings that include ground floor retail uses, residential apartments and open space, which will facilitate the proposed through site link. These mixed-use developments have a building height control of 29m and an FSR of 1.5:1.

To the east and west of the site are six to seven storey mixed use developments, which have maximum building height controls ranging from 18m to 29m and FSR controls of 1.5:1 to 1:1 under SLEP 2012.

South of the site is Sweet Acres Park, which is approximately 5,000 m² in area and used as a public park that includes passive recreational spaces and a children's playground (see **Figure 1**).

Green Square Station is located approximately 800m from the site. The site also has good connections to bus services, Central Sydney and Sydney Airport.

Summary of recommendation

It is recommended that the planning proposal proceed, subject to conditions because:

- it is consistent with the objectives and directions of applicable strategic and statutory planning frameworks;
- it would have minimal environmental, social and economic impact;
- it would enable the revitalisation and adaptive reuse of the site to support a range of land uses whilst protecting local heritage; and
- it would assist in delivering housing in a location that has good access to public transport and services.

PROPOSAL

Objectives or intended outcomes

The planning proposal will enable redevelopment of the site and intends to:

- retain the ability to undertake a mix of residential, retail and commercial uses and meet the objectives of the B4 Mixed Use zone;
- retain the heritage listed warehouse at Site D and safeguard its local heritage value;
- establish a maximum FSR and building height for Site D that is suitable to the site, and is compatible with neighbouring development and with desired character for the local area;
- to continue to facilitate the delivery of housing in an area with good access to public to public transport and social infrastructure; and
- ensure an active frontage to Rothchild Avenue.

The planning proposal will transfer the development potential from Site H to Site D, which has the mutual benefits of retaining the heritage listed warehouse on Site D while maintaining the fuller site's capacity for new mixed-use development

The Council has also prepared a draft Development Control Plan which would:

- assist in providing community infrastructure on the site as permitted Clause 6.14 of SLEP 2012 by providing a section of pedestrian across the site that would connect Rothschild Avenue to Mentmore Avenue;

- establish a six metre publicly accessible heritage curtilage to the north of the heritage listed warehouse in Site H; and
- establish an appropriate separation between the existing heritage listed building on Site H and that of any new development on Site D.

Explanation of LEP provisions

To achieve the intended outcomes, this planning proposal seeks to amend the SLEP 2012 as follows:

1. Amend the Height of Building Map Sheet 18 as shown at Part 6 of the planning proposal to:
 - (a) increase the maximum building height from 22m to 29m fronting Rothchild Avenue and 27m fronting Mentmore Avenue at 12-22 Rothchild Avenue (Site D); and
 - (b) decrease the maximum building height limit from 22m to 9m at 24 Rothschild Avenue, Rosebery (Site H).
2. Amend the FSR Map Sheet 18 in the SLEP 2012, as shown at Part 6 of the planning proposal to:
 - (a) increase the FSR from 1.5:1 to 1.75:1 at 12-22 Rothschild Avenue Rosebery (Site D); and
 - (b) decrease the FSR from 1.5:1 to 1:1 at 24 Rothschild Avenue, Rosebery (Site H).
3. Include a new Active Frontages Map Sheet 18 in the SLEP 2012 to identify an active frontage to the through site link to the north of Site D and active the street frontage on the eastern part of Site H as shown at Part 6 of the planning proposal.
4. Insert a site-specific provision to:
 - (a) require that only non-residential floor space can be provided on Site H;
 - (b) ensure Clause 6.14 – 'Community infrastructure floor space' no longer applies to 'Site H'; and
 - (c) ensure Clause 6.21 of the SLEP 2012 – 'Design excellence' no longer applies to 'Site H'

Council's planning proposal states that a portion of the FSR on Site H (0.5:1) is to be transferred to Site D to enable Site D to achieve a FSR of 1.75:1. Specially, the 0.5:1 of the existing floor space from Site H (being 2,474 m² [Site H site area] * 0.5:1 = 1,237m² GFA) is to be transferred to Site D. However, the total floor space for Site D under the current FSR 1.5:1, would mean that the proposed FSR of 1.75:1 would result in an additional 245m² of floor space being afforded to Site D beyond that transferred from Site H. This further increase in floor space is equivalent to 2.7% of the total floor space currently permitted for Site D. Given this is amount of additional floor space is nominal and not likely to generate significant impacts this outcome is considered acceptable.

Mapping

The planning proposal seeks to amend the Height of Building and FSR map to change the building heights and FSRs as outlined above. The Department considers this mapping to be adequate for public exhibition.

However, should Council wish to proceed with exclusion of Clause 6.14 of the SLEP 2012 from applying to Site H, this should be reflected in the FSR Map Sheet 18. Consequently, it is recommended that the planning proposal be updated to provide a map to show that the community infrastructure provision no longer applies to this site.

Maps that comply with the Standard Technical Requirements for Standard Instrument LEP maps will need to be prepared before the LEP is made.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is not a result of a strategic study or report. A planning proposal is the best means of modifying the building heights and FSR to ensure the protection and continued adaptive reuse of the heritage listed warehouse is achieved. The planning proposal would also facilitate the construction of new mixed-use buildings on a site that has been identified suitable for this type of development under its existing B4 Mixed Use zone.

STRATEGIC ASSESSMENT

State

The planning proposal refers to the Greater Sydney Region Plan. The planning proposal is consistent with the Greater Sydney Region Plan and its objectives. In particular, Objective 7 Communities are healthy, resilient and socially connected, Objective 10 Greater housing supply, Objective 12 Great places that bring people together, Objective 13 Environmental heritage is identified, conserved and enhanced and Objective 14 A Metropolis of Three Cities – integrated land use and transport creates walkable 30-minute cities.

The planning proposal will provide homes and employment close to public transport, conserve and enhance local heritage and promote a walkable city by delivering community infrastructure via a through site link.

District

The planning proposal refers to the Eastern City District Plan. The site is located within the Green Square Urban Renewal Area. The planning proposal is consistent with the following objectives of the District Plan for the following reasons:

- *Planning priority E3 providing services and social infrastructure to meet peoples changing needs*

The proposed through site link towards the north of the Site D will be dedicated to Council. The through site link increases accessibility and permeability through Green Square and encourages social connection.

- *Planning priority E5 providing housing supply, choice and affordability with access to jobs, services and public transport*

The proposal will enable the any development of the site to contribute towards the Eastern City Districts housing supply target by providing approximately 180 residential apartments.

- *Planning priority E10 delivering integrated land use and transport planning for a 30-minute city*

The planning proposal would retain existing commercial uses at Site H and the redevelopment of the site for mixed use purposes would provide access to local

employment opportunities which is in line with the strategic objective of a 30-minute city.

Local

The planning proposal is consistent with Council's *Sustainable Sydney 2030* (SS2030), which is a vision for the sustainable development of the City to 2030 and beyond. The strategy includes 10 directions to guide the future of the City, as well as 10 targets against which to measure progress. This planning proposal is aligned with the following SS2030 strategic directions and objectives:

- *Direction 2: A leading environment performer* – the proposal would provide new development that would deliver better environmental performance than the current development over the site. Council believe the planning proposal will assist it to meet its target of a reduction in emissions by 30% by 2030.
- *Direction 3: Integrated transport for a connected City* - the site has good connections to public transport and is in walking distance to Green Square Station, which is well connected to key strategic centres throughout Sydney.
- *Direction 6: Vibrant local communities and economies* - the proposal will provide new residential development whilst retaining the commercial use of the site and preserving the heritage listed warehouse. Commercial uses within any new development and in the existing heritage listed building will serve to provide local services and employment opportunities for the community.
- *Direction 8: Housing for a diverse population* - the proposal will assist in delivering new residential apartment that will cater for the needs of a growing population in the Green Square Urban Renewal Area.
- *Direction 9: Sustainable development, renewal and design* - the proposal will provide building controls that respond to the surrounding context, local character and heritage items.

Section 9.1 Ministerial Directions

The planning proposal is consistent with the following relevant section 9.1 Directions:

- 1.1 Business and Industrial Zones;
- 2.3 Heritage Conservation;
- 3.1 Residential Zones;
- 3.4 Integrating Land Use and Transport;
- 4.1 Acid Sulfate Soils;
- 5.10 Implementation of Regional Plans;
- 6.1 Approval and Referral Requirements;
- 6.2 Reserving Land for Public Purposes; and
- 6.3 Site Specific Provisions.

The planning proposal has not addressed Direction 4.3 Flood Prone Land. The objectives of this Direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the provisions of a LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts. The planning proposal states that there

is a risk of flooding along the Rothschild Avenue frontage during significant weather events. It is considered that as there are no changes to the zoning there is suitable justification to allow the planning proposal to proceed. A Gateway condition is included to require Council to address Direction 4.3 Flood Prone Land.

State environmental planning policies

The planning proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs):

- SEPP No. 1 – Development Standards;
- SEPP No. 55 – Remediation of Land;
- SEPP No. 65 – Design Quality of Residential Apartment Development;
- SEPP No. 70 – Affordable Housing (Revised Schemes); and
- SEPP (Infrastructure) 2007.

SEPP 55 – Remediation of Land

Clause 6 of SEPP 55 requires the consent authority to be satisfied that the land is suitable, or can be made suitable, for all the uses permissible in the zone. The planning proposal includes a remediation action plan, which concludes that the site can be made suitable for the proposed land use subject to the remediation action plan being implemented. Notwithstanding, the planning proposal does not seek to amend the zoning, as such, the site has already been deemed suitable for its intended use.

SEPP 65 – Design Quality of Residential Apartment Development

The planning proposal states that the building envelope allows the proposed residential development to comply with the requirements in the SEPP 65 – Design Quality of Residential Apartment Development including appropriate apartment sizes layouts, building depth, natural ventilation and solar and daylight access. However, the Urban Design report prepared by Dickson Rothchild does not demonstrate how the requirements in SEPP 65 – Design Quality of Residential Apartment Development would be met. It is recommended that the planning proposal be updated to demonstrate that the development can achieve the development standards in State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development.

SEPP No. 70 – Affordable Housing (Revised Schemes)

SEPP 70 Affordable Housing (Revised Schemes) allows specified Council's to prepare an affordable housing contribution scheme for certain precincts, areas or developments within their local government area. City of Sydney Council is identified under SEPP 70 and has an affordable housing scheme for Green Square. As the subject site is located within the Green Square precinct, the Green Square Affordable Housing Scheme applies, the scheme would require a contribution be paid for affordable housing as a condition of development consent.

SITE-SPECIFIC ASSESSMENT

Social

The proposal enables positive social effects by supporting a mix of land uses such as commercial, retail and residential premises. The proposed through site link and street activation will promote social connectivity and liveability. As the FSR is being transferred from Site H to Site D, the planning proposal will not result in a significant increase in density above what is currently permissible under the SLEP 2012 and therefore is not expected to result in any consequential detrimental or economic impacts.

Environmental

The site is located in an urbanised area and does not contain any known critical habitat or threatened species, populations, ecological communities or habitats.

Heritage

The planning proposal seeks to increase the height controls at Site D and reduce the height controls for Site H. This approach would ensure that the built form on Site H is sympathetic to the heritage listed warehouse and supports the retention of this item.

The planning proposal includes a heritage assessment undertaken by Urbis dated October 2017, which concludes that the planning proposal should be supported as it would still afford the opportunity for adaptive reuse of the heritage item and provide a more integrated association with the heritage item.

The Department has recommended consultation with the Office of Environment and Heritage as a condition of Gateway.

Urban Design

The planning proposal seeks to increase the building height and FSR at Site D to allow heights of eight to nine storeys, and decrease the building height and FSR at Site H, limiting it to three storeys.

The surrounding area has recently undergone a transition from an industrial and commercial precinct to a high density mixed use precinct. The proposed height and FSR controls for Site D are not inconsistent with the surrounding area, which include six to seven storey mixed use developments.

The planning proposal was accompanied by an Urban Design Report prepared by Dickson Rothschild that concludes that the proposal is compatible with the local character in terms of land use, bulk and scale, streetscape, open space, landscape, pedestrian access and solar access.

The Department notes that the building envelopes in the planning proposal and Urban Design Report are inconsistent. The urban design report does not include overshadowing diagrams or demonstrate that the development can meet the development standards in State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development.

As such, the Department has recommended that the planning proposal be updated to:

- reflect consistent building envelopes in the planning proposal and appendices;

- demonstrate that the development can achieve key development parameters in State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development; and
- include overshadowing diagrams for Site D.

Site Specific Clause for Community Infrastructure

Under Clause 6.14 of the SLEP 2012 additional FSR can be awarded via a development consent where community infrastructure is provided. An additional 10% of FSR or height can also be awarded in accordance with Clause 6.21 of the SLEP 2012 via a development consent if the development demonstrates design excellence through a competitive design process.

The planning proposal seeks to preclude Clauses 6.14 'Community Infrastructure at Green Square' and Clause 6.21 'Design Excellence' of the SLEP 2012 from applying to Site H, which results in a decrease in total floor space capacity of 1,484 m² (that is equivalent to a FSR of 0.6:1). The planning proposal states that this approach is appropriate given that community infrastructure will be provided on Site D and that this site will be able to take up the additional and unrealised development capacity currently permitted for Site H.

Council anticipates that any community infrastructure to be delivered under Clause 6.14 of SLEP 2012 will be a through site link over the northern edge of Site D. Exclusion of this clause from applying to Site H is in principle acceptable as the development potential suited to the site is reflected in the proposed building height and FSR controls that support the heritage item.

Additionally, the proposal indicates that by precluding the use of Clauses 6.14 and 6.21 of the SLEP 2012 from applying to the site this will also encourage the heritage listed site to be retained and any additional development on the site to be of modest scale that is compatible with the heritage listed building.

The Department considers that extinguishing Clauses 6.14 and 6.21 of the SLEP 2012 for Site H is acceptable. The Department has however requested that a clear explanation be provided in the planning proposal for extinguishing these clauses and the FSR Map Sheet 18 be updated to reflect the intent of these proposed amendments.

Flooding

The south western corner of the site includes risk of flooding along Rothschild Avenue during significant weather events. The planning proposal includes a Flood Impact Study prepared by Cardno.

The planning proposal states that development of the site in accordance with the planning proposal and can achieve compliance with the relevant sections of the Sydney Development Control Plan 2012.

Whilst no changes to the zoning is proposed the planning proposal has not addressed Direction 4.3 Flood Prone Land. The Direction seeks to ensure that consideration is given to the NSW Government's flood prone land policy and to ensure the potential impacts both on and off the subject land are considered.

It is considered that as there are no changes to the zoning, there is suitable justification to allow the planning proposal to proceed, however, it is recommended that consistency with Direction 4.3 Flood Prone Land be demonstrated as a condition of Gateway determination.

Economic

The planning proposal is likely to have a positive economic effect by encouraging the revitalisation of Site D. It is considered that the increase in residential population has the potential to improve demand for local shops and businesses, and the proposal will result in additional dwellings and retain commercial space that will contribute to achieving the area's housing and employment targets.

Infrastructure

The site is well serviced by public transport and public utilities including electricity, telecommunications, water, sewer and stormwater. It is expected that these services would be upgraded by the developer if needed.

Traffic

The site has frontages to Rothschild Avenue, Mentmore Avenue and Cressy Street and has good access to Epsom Street and Botany Road.

The planning proposal includes an assessment of traffic and parking implications prepared by GTA consultants. This assessment indicates that the proposed development would result in an additional 36 vehicle trips per hour in the AM peak period and 26 vehicle trips per hour in the PM peak period.

It is recommended that the traffic assessment include an analysis of the potential loss of service of the nearby intersections and the proposal be referred to Roads and Maritime Services and Transport for NSW for consultation regarding potential traffic impacts.

CONSULTATION

Community

Council has proposed a public exhibition period of 28 days. This period is considered to be appropriate as reflected in the Gateway conditions.

It is also recommended that any affected landowners be given notice of the planning proposal and public exhibition.

Agencies

It is recommended that the following agencies be consulted with on the planning proposal and given 21 days to comment on the proposal:

- Transport for NSW;
- Roads and Maritime Services; and
- Office of Environment and Heritage.

TIME FRAME

The planning proposal provides a completion date for June 2019. The Department considers a 12-month completion timeframe to be appropriate. It is recommended that the planning proposal be amended to update the project timeline, noting this doesn't preclude the ability to finalise the LEP amendment prior to this timeline.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan making authority. Given the implications of the site-specific conditions, it is recommended that Council not be granted plan-making authority.

CONCLUSION

The planning proposal is supported at this stage as it would:

- have minimal environmental, social and economic impact;
- enable the revitalisation and adaptive reuse of the site to support a range of land uses whilst protecting local heritage;
- assist in delivering housing in a location that has good access to public transport and services;
- retain the commercial use on Site H; and
- provide community infrastructure and assist in delivering Council's broader through site link objectives.

The planning proposal is consistent with the Greater Sydney Region Plan, Eastern City District Plan, all relevant SEPPS and Section 9.1 Directions.

RECOMMENDATION

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. The planning proposal project timeline should be updated to reflect the anticipated timeframes for the plan-making process.
3. Consultation is required with the following government agencies:
 - (a) Transport for NSW;
 - (b) Roads and Maritime Services; and
 - (c) Office of Environment and Heritage.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
6. The planning proposal is to be updated to:
 - (a) reference the appendices;
 - (b) reflect a consistent building envelope in the planning proposal and appendices;
 - (c) demonstrate that the development can achieve the development standards in State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;
 - (d) include overshadowing diagrams;

- (e) provide further explanation for the extinguishment of Clauses 6.14 and 6.21 of Sydney LEP 2012 for 24 Rothschild Avenue, Rosebery (Site H), including how this may affect future development potential of this allotment;
- (f) address Direction 4.3 Flood Prone Land;
- (g) include an analysis of the potential loss of service of the nearby road intersections as a consequence of development in accordance with the proposal; and
- (h) provide an updated FSR Map Sheet 18 to remove the community infrastructure Clause 6.14 from applying to 24 Rothschild Avenue, Rosebery (Site H).

 5/11/18

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