

## Place, Design and Public Spaces

IRF19/7406

### Plan finalisation report

Local government area: Sydney

#### 1. NAME OF DRAFT LEP

Sydney Local Environmental Plan 2012 (Amendment No. 55)

#### 2. SITE DESCRIPTION

The planning proposal applies to land at:

- 12-22 Rothschild Avenue, Rosebery, identified as 'Site D' (**Figure 1**) and legally known as:
  - Lot 1 DP 314957;
  - Lot 5 DP 309149;
  - Lot A DP 322620;
  - Lot B DP 322620;
  - Lot B DP 308922; and
  - Lot 408 DP 315228.
- 24 Rothschild Avenue, Rosebery, identified as 'Site H' (**Figure 1**) and legally known as:
  - Lot 1 DP 456612;
  - Lot 2 DP 456612;
  - Lot 410 DP 7534; and
  - Lot 456 DP 7534.

The site consists of two separate lots, totalling 8,404 m<sup>2</sup>. The site has three road frontages, Rothschild Avenue to the east, Mentmore Avenue to the west and Cressy Street to the south (**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 New South Wales; and
- Site H which contains a two storey inter-war warehouse style building, which is a locally listed heritage item under the *Sydney Local Environmental Plan 2012* (Sydney LEP 2012) and has been adapted for office use.

The at grade car park on Site D includes 98 car spaces with access provided from Mentmore Avenue and Rothschild Avenue (**Figure 1**). In terms of topography, the site is relatively flat.





**Figure 1:** Existing site Layout (Source: Nearmap)

### 3. PURPOSE OF PLAN

The draft LEP seeks to amend the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) development controls as follows:

#### 12-22 Rothschild Avenue, Rosebery (Site D):

- increase the maximum building height from 22 metres (m) to 29m fronting Rothschild Avenue and 27m 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.

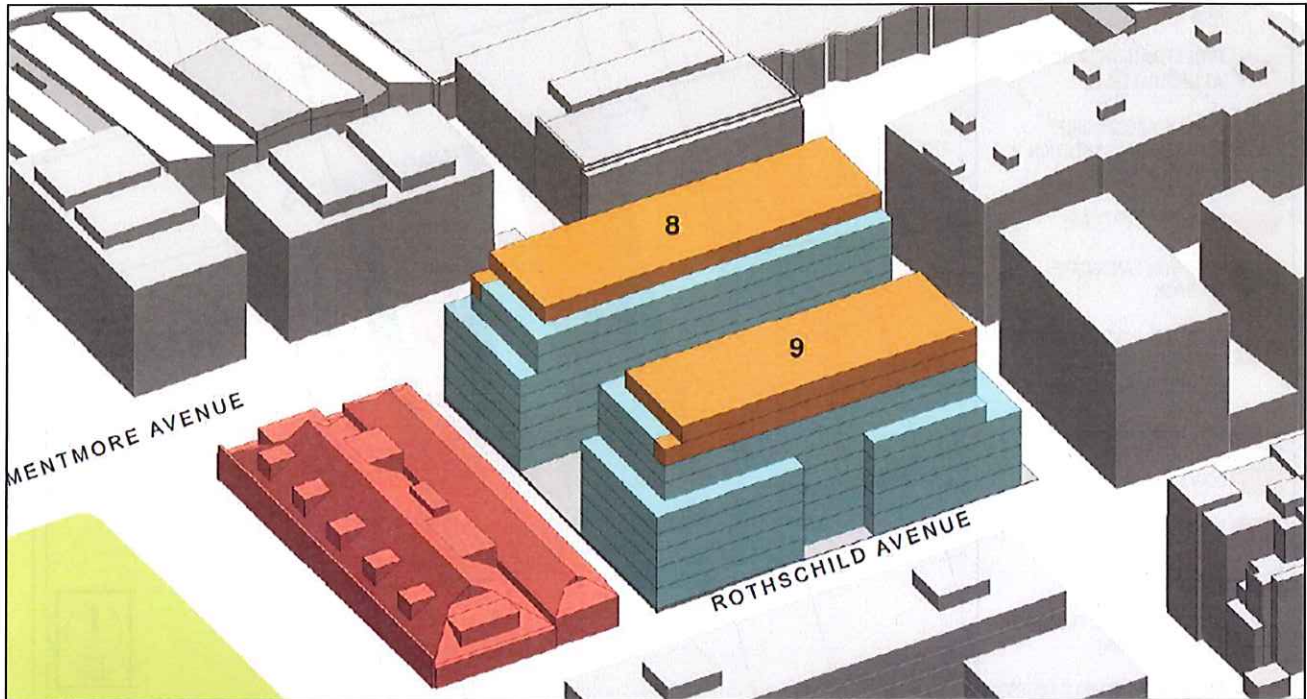
#### 24 Rothschild Avenue, Rosebery (Site H)

- 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 Sydney LEP 2012 'community infrastructure floor space' and Clause 6.21 of the Sydney LEP 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 m<sup>2</sup> of commercial office space.



**Figure 2:** Proposed building envelopes (Source: Council's Planning Proposal)

#### 4. SURROUNDING AREA

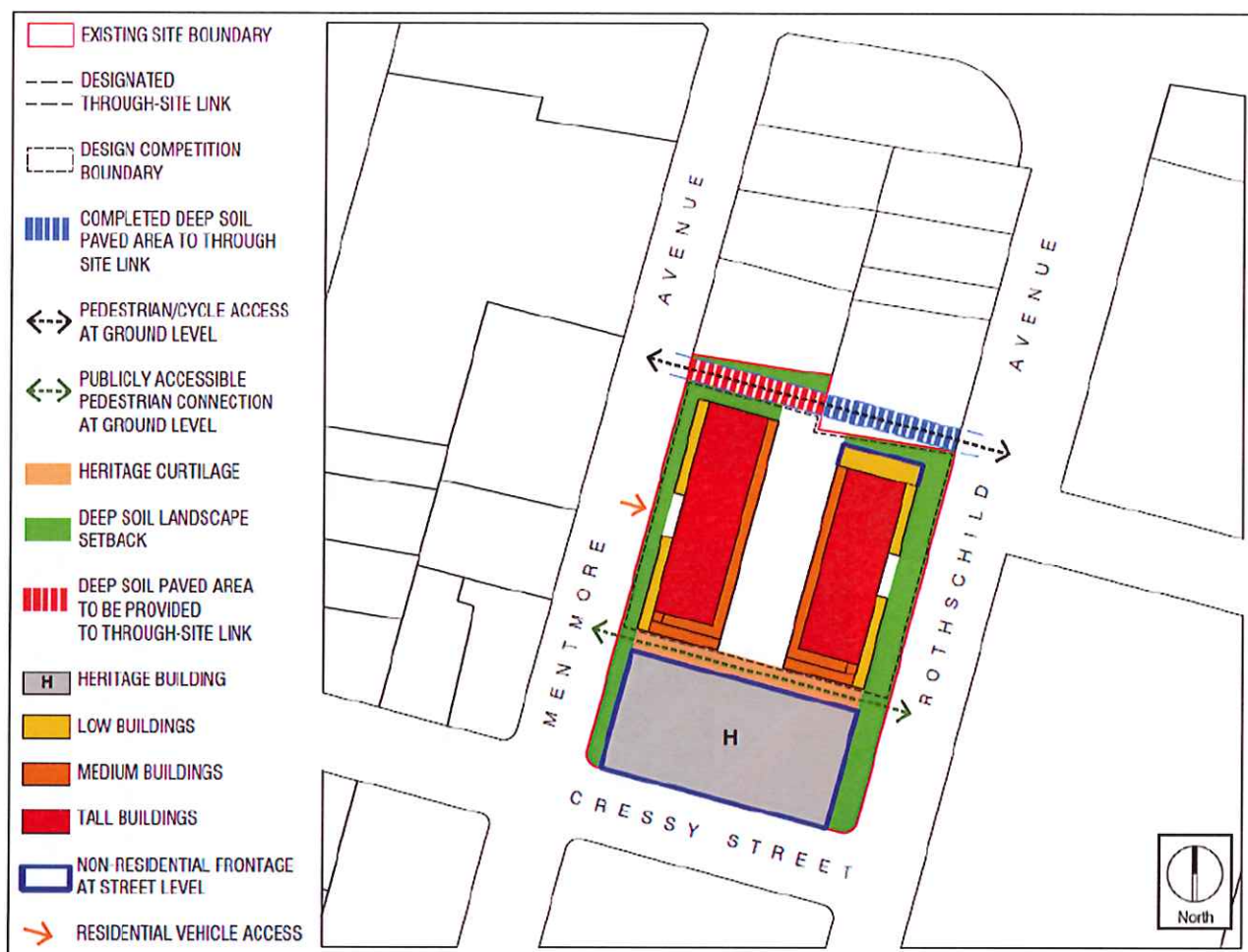
The site is located within the Green Square Urban Renewal Area. The adjacent sites are currently being redeveloped from light industrial to mixed use developments, which will generally comprise of retail and commercial uses at ground floor and residential apartments above.

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 (**Figure 3**). 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 Sydney LEP 2012.

South of the site is Sweet Acres Park, which is approximately 5,000m<sup>2</sup> in area and used as a public park that includes passive recreational spaces and a children's playground (**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.



**Figure 3:** Structure and land use plan (Source: Council's Planning Proposal)

## 5. 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 to modify the existing zoning.

The site has a maximum FSR development control of 1.5:1 and a maximum building height control of 22m.

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 Sydney LEP 2012. Community infrastructure is proposed to be delivered via a through site link to the north of Site D (**Figure 3**).

In addition, Clause 6.21 – Design Excellence of the Sydney LEP 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 (Site H) includes a locally listed heritage item identified under Schedule 5 of the Sydney LEP 2012, known as heritage item I1382 'former warehouse including interior'.

The site is located in category C under the Land Use and Transport Integration Map. Clause 7.5 of the Sydney LEP 2012 provides restrictions on the maximum number of car parking spaces for residential flat buildings for land in category C.



## 6. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Sydney state electorate. Alex Greenwich MP is the State Member.

The site falls within the Sydney federal division. Hon Tanya Plibersek MP is the Federal Member.

**NSW Government Lobbyist Code of Conduct:** There have been no meetings or communications with registered lobbyists with respect to this proposal.

**NSW Government reportable political donation:** A political donation disclosure statement has been provided.

## 7. GATEWAY DETERMINATION

The Gateway determination issued on 5 November 2018 (**Attachment B**) determined that the proposal should proceed subject to conditions which included consultation with Transport for NSW, Roads and Maritime Services (RMS) and the Office of Environment and Heritage (OEH).

## 8. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 6 March 2019 to 3 April 2019. A total of 30 submissions were received during the exhibition period which includes 27 public submissions and three submissions from public authorities.

The key issues raised in community submissions are discussed below.

### Overdevelopment/Density

Public submissions raised concerns that the proposed densities were more suited to Waterloo and Green Square, as there are too many apartments in the area, and Rosebery has reached saturation point with the number of high-density residential buildings in one area.

Council stated the planning proposal retains comparable density to what can be currently achieved on the site, and the amount of floor space resulting from future development on the sites is generally equal to what is permissible under current controls. Council maintains that the built form will be generally consistent with the form of development in the area, with the building envelope set by the DCP being designed to minimise the perceived bulk and scale of the future building.

The Department agrees with Council, as the FSR will not change across the entire site, rather the proposal transfers the FSR from Site H to Site D and the density of Site H will be reduced to ensure the heritage item is protected. In addition, the built form will be generally consistent with the character of the local area.

### Building Heights

Public submissions raised concerns regarding the increase in building height, particularly the nine storeys fronting Rothschild Avenue (**Figure 2**), and the maximum building height of five to six storeys should be retained as it consistent with the surrounding area. Submissions also raised concerns that nine storeys would detract from the soul of Rosebery.

Council stated the proposed building envelope is consistent with the height and character of adjacent development and will not result in significant adverse impacts to neighbouring residents.

The Department has considered overshadowing impacts from the proposed building heights and density, and considers the impacts to be acceptable. This is discussed further in Section 11.

#### Changing character in Rosebery

Public submissions identified Rosebery as a unique suburb, with a village environment. Submissions raised concerns that the proposal will destroy the character of the area, detract from the beauty of Rosebery and will be out of character with other adjacent buildings.

Council stated the proposal does not seek to change the zoning or planning controls within the low density residential or industrial parts of Rosebery, so these areas will not see a change in character.

The Department agrees with the response by Council.

#### Traffic Congestion

Public submissions raised concerns the proposal will add further congestion of private and commercial vehicles to Rothschild Avenue and the area, and additional traffic will further deteriorate the quality of life for local residents.

Council stated that the planning proposal does not significantly increase the floor space of the site, and will not increase traffic generation. The Traffic Impact Assessment (TIA), prepared by GTA Consultants dated 24 December 2018, identified there is adequate capacity to accommodate trips generated by future development on the site. Any future development is required to provide off-street vehicle parking and servicing in accordance with the Sydney LEP 2012 and Sydney DCP 2012. In addition, the site is located in proximity to the Rosebery Traffic and Transport Study area, where it was identified there is insufficient bus capacity towards Central Sydney. Since the study, TfNSW have provided more frequent bus services along Rothschild Avenue in the AM peak.

The Department has considered traffic impacts of the proposal, and considers the impacts to be acceptable. This is discussed further in Section 11.

#### Car Parking

Public submissions identified a lack of parking in the area, and more development would result in even less street parking available.

Council stated that the FSR is not significantly being increased and there is no increase to the amount of parking. Off street parking would be assessed at the development application (DA) stage of the development and Council's position is to discourage the use of vehicles in areas close to public transport. Council's 'Neighbourhood Parking Policy' excludes new developments from receiving on-street parking permits.

The Department has considered car parking impacts, which is discussed in Section 11 and considers the impacts to be acceptable.

#### Public Transport Congestion

Public submissions raised concerns regarding the lack of public transport in the area, and traffic congestion delaying services. Submissions also raised concerns regarding the capacity of the services.

Council acknowledged there are capacity issues for public transport in Green Square, and stated it will continue to work with TfNSW advocating for improved public and active transport in the Green Square Urban Renewal Area.

The Department agrees with the response by Council.



## 9. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult with TfNSW, RMS and the OEH in accordance with the Gateway determination.

RMS raised no objection to the planning proposal but advised Council that due to the proximity to Green Square station, car parking rates could be reduced. Council commented that a future DA would have to demonstrate compliance with provisions in the Sydney LEP 2012.

The OEH advised that the transfer of floor space to Site D would preserve and protect the heritage value of the warehouse while allowing future development of the site. The OEH considered that the DCP provisions were adequate to protect the heritage listed warehouse and provide a sufficient curtilage to the item.

TfNSW provided a response advising that they reviewed the planning proposal and documentation and had no comments.

## 10. POST-EXHIBITION CHANGES

The explanation of provisions within the exhibited planning proposal state that Clause 6.21 – Design Excellence of the Sydney LEP 2012 is not to apply to Site H for both height and FSR. This is inconsistent with the drafting instructions within the planning proposal, which states that Clause 6.21(7)(a) which permits up to 10% additional height if a building demonstrates design excellence is not to apply to Site D and Clause 6.21(7)(b) which permits up to 10% FSR if a building demonstrates design excellence is not to apply to Site H.

The Department raised the issue with Council who confirmed the drafting instructions are correct. Additional floor space is not to be awarded under clause 6.21(7)(b) of the Sydney LEP 2012 for Site H (the heritage listed warehouse). Additional height is not to be awarded under clause 6.21(7)(a) of the Sydney LEP 2012 for Site D.

The Department consulted with Council on the draft provisions (**Attachment G**) and Council confirmed they were satisfied with the proposed provisions.

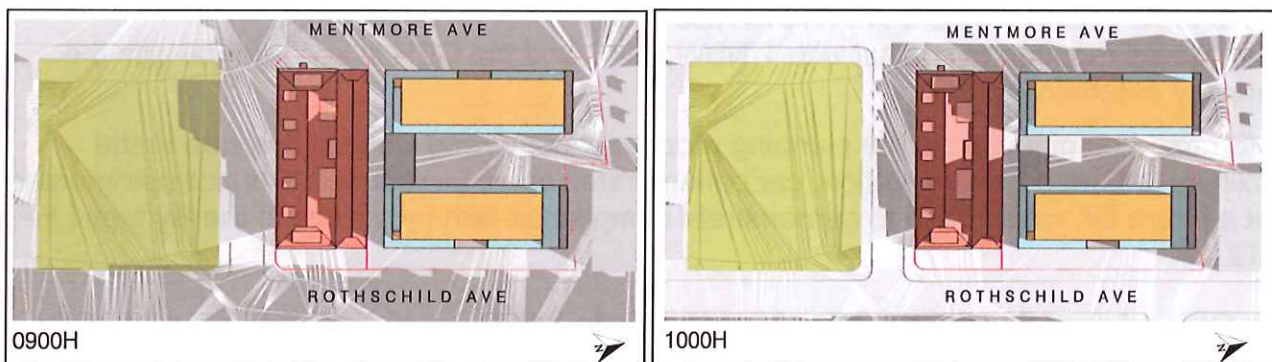
In addition, minor changes were made to the draft Development Control Plan (DCP) to correct minor errors in relation to the Design Excellence Strategy provisions. Changes were made to clarify the building setback controls to ensure sufficient landscapes setbacks are provided regardless of the ground floor use. In addition, car parking and servicing of Site H is to be provided at Site D.

## 11. ASSESSMENT

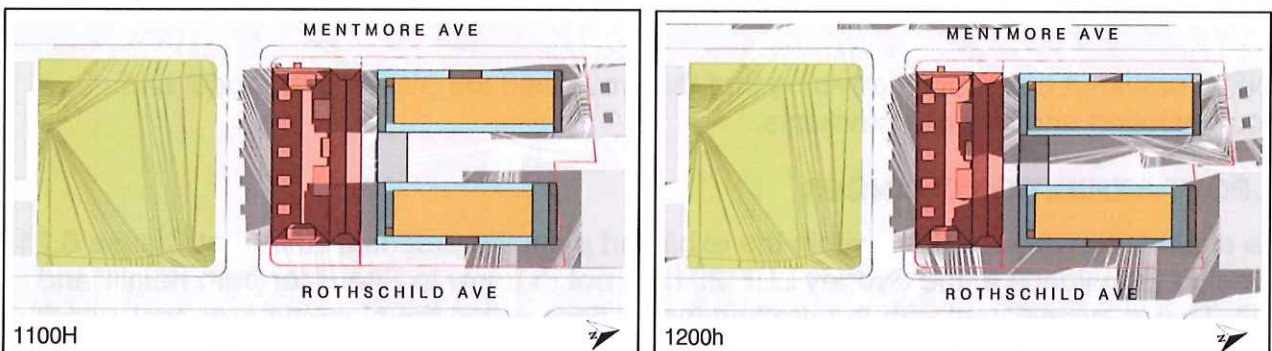
### Built Form

The planning proposal seeks to increase the maximum building height for Site D from 22 m to 29 m.

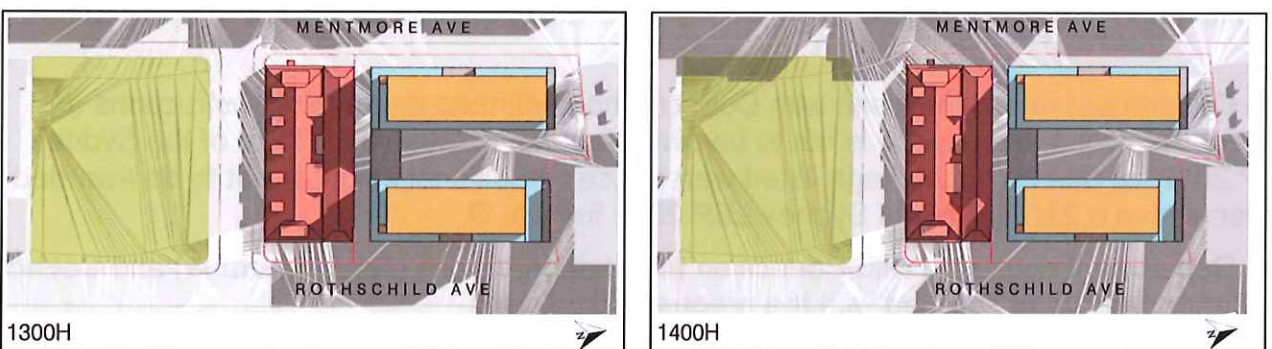
The Gateway Determination required the planning proposal to be updated to include overshadowing diagrams. Prior to exhibition, the Proponent provided modelling to illustrate the overshadowing impacts of the proposed building envelopes (**Figures 4 – 10**).



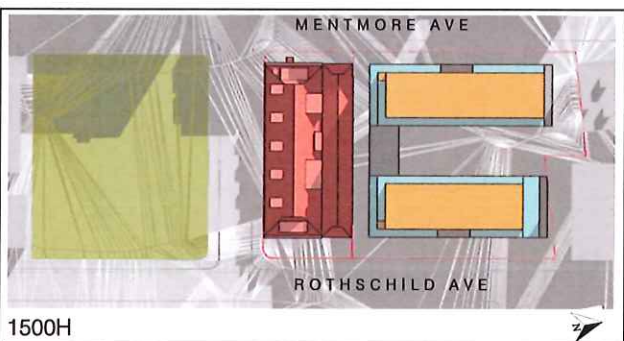
**Figures 4 and 5:** Overshadowing diagrams 21 June 9am and 10am (Source: Schematic Design Testing)



**Figures 6 and 7:** Overshadowing diagrams 21 June 11am and 12pm (Source: Schematic Design Testing)



**Figures 8 and 9:** Overshadowing diagrams 21 June 1pm and 2pm (Source: Schematic Design Testing)



**Figure 10:** Overshadowing diagram 21 June 3pm (Source: Schematic Design Testing)

**Figures 4 – 10** provides an analysis of solar access every hour between 9 am and 3 pm on 21 June. Based on the shadow analysis conducted, during mid-winter the building envelopes will not overshadow buildings on the eastern side of Rothschild Avenue, buildings on the western side of Mentmore Avenue or Sweetacres Park. The building envelope will allow adjoining buildings to achieve the minimum requirements for solar access as outlined in Section 4.1.3.1 of the Sydney DCP 2012, which is 2 hours of direct sunlight between 9 am and 3 pm on 21 June on at least 1m<sup>2</sup> of living room windows and 50% of the minimum amount of private open space.



The Department considers the overshadowing impacts to be acceptable for the proposed building envelope.

#### Apartment Design Guide Compliance

The Department required the planning proposal to be updated to demonstrate the development can achieve compliance with *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65).

The *Apartment Design Guide* (the ADG) Objective 4A-1 requires living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area. Schematic Design Testing conducted by the Proponent demonstrate that 72% of the apartments within the concept design would achieve the solar access requirements.

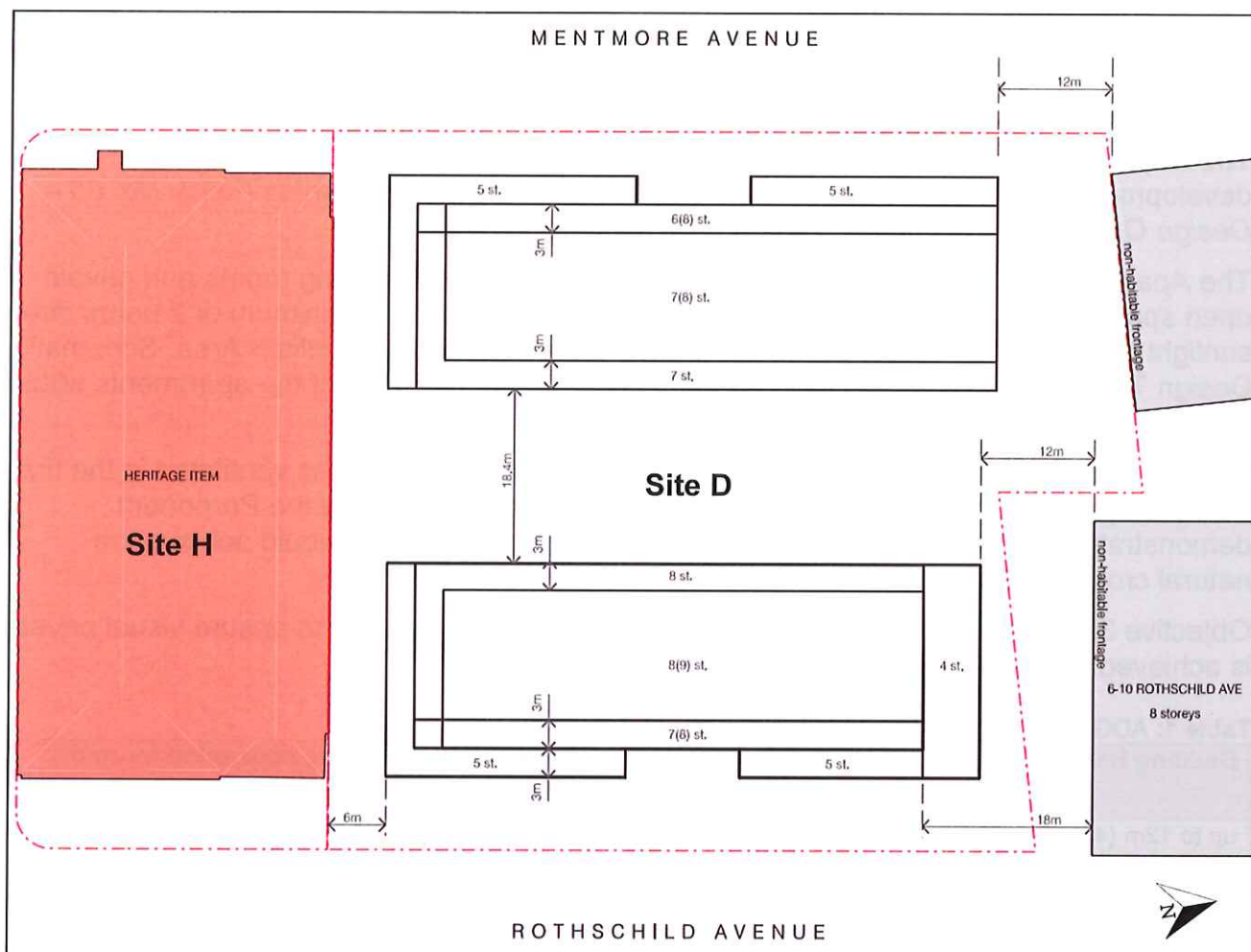
Objective 4B-3 requires at least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Schematic Design Testing conducted by the Proponent demonstrate that 60% of the apartments within the concept design would achieve the natural cross ventilation.

Objective 3F-1 requires separation between windows and balconies to ensure visual privacy is achieved. **Table 1** illustrates the requirements.

**Table 1:** ADG Compliance for building separation

Building Height	Building separation for habitable rooms and balconies	Building separation for non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

**Figure 11** shows the separation between the proposed building envelopes and the surrounding existing buildings. The building separation complies with the requirements of the ADG which requires a building separation of 6m for buildings up to 4 storeys and 9m between the 5th and 8th storey of a building.



**Figure 11:** Building Separation (Source: Schematic Design Testing)

The Department acknowledges the proposed building envelope meets the requirements of SEPP 65 and the ADG. The Department notes it is only a concept design, and any future DA will need to demonstrate compliance with SEPP 65 and the ADG.

### Heritage

The planning proposal seeks to transfer the available floor space from the heritage listed warehouse (Site H) to Site D. The FSR for 'Site H' will be reduced from 1.5:1 to 1:1, and the maximum building height will be reduced from 22 m to 9 m. The proposal also seeks to remove Clause 6.14 – Community infrastructure from applying to the building and preclude clause 6.21 – design excellence from applying to the site so that no additional FSR can be awarded to Site H. The proposal will also preclude residential uses from applying to Site H.

The OEH advised that the transfer of FSR from Site H to Site D would preserve and protect the heritage values of the heritage listed warehouse, while allowing for the site to be redeveloped.

The Department agrees with the OEH, and considers the planning proposal will further conserve the existing heritage item, as it will limit density and cannot be used for residential purposes.

### Active Street Frontages

The planning proposal seeks to amend the Sydney LEP 2012 to require an active street frontage at the north-east corner of 'Site D' (**Figure 3**). There were no objections for the active street frontage clause. However, the Department notes the planning proposal was prepared prior to Clause 7.27 of the Sydney LEP 2012. The active street frontage will be



mapped on the 'Active Street Frontage Map'. Therefore, the proposed provision is no longer required.

The Department supports the amendments to include an active street frontage, as it will promote uses that attract pedestrian traffic along Rothschild Avenue.

### Traffic and Parking

The Gateway determination recommended the planning proposal be referred to RMS and TfNSW for consultation regarding potential traffic impacts.

TfNSW advised they had reviewed the planning proposal and had no comments.

The TIA stated that the development would result in an increase in 36 vehicle trips per hour in the AM peak and 26 vehicle trips per hour in the PM peak. This increase is expected to have a negligible impact on the surrounding road network and intersections in the vicinity. The TIA found there is adequate capacity to accommodate trips generated by the future development on site without compromising safety and operation of nearby intersections.

The site is located in category C under the Land Use and Transport Integration Map. The Sydney LEP 2012 identifies a maximum number of car parking spaces for each development to minimise the amount of vehicular traffic generated because of proposed development. The maximum car parking spaces requirement varies depending on the unit mix of the development. As such, an assessment will be made at the DA.

The Department agrees with the findings of the TIA which concluded there is adequate capacity to accommodate trips generated by future development on the site, and therefore considers the traffic and parking impacts to be minimal.

### Conclusion

The planning proposal to vary the development controls on the site and insert a site-specific clause into the Sydney LEP 2012 is supported for the following reasons:

- transferring the available floor space from the heritage listed warehouse (Site H) to Site D will retain the heritage item while allowing development on the site with no net increase in floor space;
- the decrease in the development standards for Site H will facilitate the retention of the heritage warehouse as a commercial premise contributing to the character and employment in the area;
- retaining the heritage listed warehouse on Site H will minimise overshadowing impacts to Sweetacres Park along Cressy Street;
- assist in delivering housing in an area close to existing and planned public transport infrastructure;
- the proposal will not result in any significant traffic impacts and additional bus services have been provided that service the area with Council continuing to work with TfNSW to improve services; and
- Clause 6.14 of the SLEP 2012 'community infrastructure floor space' and Clause 6.21(7)(b) of the SLEP 2012 'design excellence' will be excluded from applying to Site H and will safeguard its local heritage value.

## 11.1 Section 9.1 Directions

**Table 2:** Consistency with Ministerial Directions

Section 9.1 Direction	Consistent	Comment
<b>1. Employment and Resources</b>		
1.1 Business and Industrial Zones	Yes	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>• encourage employment growth in suitable locations;</li> <li>• protect employment land in business and industrial zones; and</li> <li>• support the viability of identified centres.</li> </ul> <p>The planning proposal is consistent with this direction as it will not reduce the total potential floor space for employment uses. The development concept will retain the use of the heritage listed warehouse as an office and the provision of new retail spaces to activate the area and increase employment.</p>
<b>2. Environment and Heritage</b>		
2.3 Heritage Conservation	Yes	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>This direction applies to the planning proposal as it affects the heritage listed inter-war warehouse, located on Site H. Increasing the height controls on Site D and reducing the height controls on Site H will ensure the built form on Site H is sympathetic to the heritage listed warehouse and will support its retention.</p> <p>In addition, the proposed clause requires development consent must not be granted for development on 24 Rothschild Avenue for the purpose of residential accommodation or tourist and visitor accommodation.</p>
<b>3. Housing, Infrastructure and Urban Development</b>		
3.1 Residential Zones	Yes	<p>The objectives of this direction are:</p> <p>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services; and</p> <p>(c) to minimise the impact of residential development on the environment and resource lands.</p> <p>The proposal will increase that amount and variety of housing in the local area and deliver approximately 180 new dwellings. It will not reduce the permissible residential density of the land. The site is within 800m walking distance to Green Square Station and bus services have been increased to the CBD.</p>
3.4 Integrating Land Use and Transport	Yes	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>



Section 9.1 Direction	Consistent	Comment
		The number and length of private car journeys will be reduced by providing residential dwellings and commercial premises in close proximity to public transport and encourage active transport.
<b>4. Hazard and Risk</b>		
4.1 Acid Sulfate Soils	Yes	<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>The site is on Class 5 Acid Sulfate Soil. The planning proposal is consistent with the section 9.1 Direction as it does not seek to change land uses which are permissible on the site. Any future DA will need to assess any potential risk of acid sulfate soils.</p>
4.3 Flood Prone Land	Yes	<p>The objectives of this direction are:</p> <p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</p> <p>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p> <p>A condition was imposed requiring Council to address Direction 4.3 Flood Prone Land. The planning proposal does not change the zoning of the site.</p> <p>The planning proposal is consistent with the section 9.1 Direction as it does not seek to change land uses which are permissible on the site. Any future DA will need to assess any potential flood risk.</p>
<b>5. Regional Planning</b>		
5.1 Implementation of Regional Strategies	Yes	Refer to Section 11.3 of this report.
6.3 Site Specific Provisions	Require further information	<p>This Direction applies as the planning proposal will allow a particular development to be carried out through a site-specific planning control. The objective of the Direction is to discourage unnecessarily restrictive site-specific planning controls.</p> <p>The site-specific provision relates to the heritage item on Site H, active street frontages, the built form, through site links, parking, vehicular access and design for Site D and will not discourage a range of potential developments on the site.</p>
<b>7 Metropolitan Planning</b>		
7.1 Implementation of a Plan for Growing Sydney	Yes	Refer to Section 11.3 of this report.

## 11.2 State environmental planning policies

The consistency of the planning proposal with the relevant State Environmental Planning Policies (SEPPs) is outlined in **Table 3**.

**Table 3:** Assessment of proposal against relevant SEPPs and deemed SEPPs

SEPP	Requirement	Proposal	Complies
SEPP 1 – Development Standards	This Policy provides flexibility in the application of planning controls	This planning proposal is consistent with this SEPP as it will provide additional floor space under a site-specific LEP.	Yes

SEPP	Requirement	Proposal	Complies
SEPP 55 – Remediation of Land	Clause 6 of SEPP 55 requires that the planning authority to be satisfied that the land is suitable or can be rehabilitated for all permissible uses in the zone.	The planning proposal included a Site Investigation Report (SIR), prepared by EI Australia dated 28 February 2017 and a Remediation Action Plan prepared by EI Australia dated 28 February 2017. The SIR identified contamination on the site within the surface fill which is not considered as an immediate threat to human health, or the ecosystem. The site was deemed generally suitable for ongoing commercial and industrial land use. Future development of the site would most likely require excavation and an underground car park which would require off-site disposal of soils. It was concluded that the site can be remediated for the proposed residential use following the preparation and implementation of the RAP. The Department notes that the planning proposal does not seek to change the zoning of the site.	Yes
SEPP 65 – Design Quality of Residential Apartment Development	This Policy aims to improve the design quality of residential apartment development in New South Wales.	Council conducted schematic design testing to confirm that the design is consistent with this SEPP. An assessment of the planning proposal against SEPP 65 and the ADG is discussed in Section 11 of this report.	Yes
SEPP 70 – Affordable Housing (Revised Schemes)	This Policy allows specified Council's to prepare an affordable housing contribution scheme for certain precincts, areas or developments within their local government area.	The Green Square Affordable Housing Scheme applies, as the site is located within the Green Square precinct. The Scheme would require a contribution be paid for affordable housing as a condition of development consent.	Yes

### 11.3 State, regional and district plans

#### Eastern City District Plan

The Eastern City District Plan, released in March 2018, identifies 22 planning priorities and associated actions that are important to achieving a liveable, productive and sustainable future for the district, including the alignment of infrastructure with growth. This planning proposal is consistent with the key planning priorities in the District Plan as demonstrated in **Table 4**.

**Table 4:** Consistency with Eastern City District Plan

Consistency with Eastern City District Plan	
Priority	Comment
Planning Priority E3: providing services and social infrastructure to meet people's changing needs	The Department considers the planning proposal to be consistent with this priority, as land will be dedicated to Council to complete the through site link connecting Rothschild Avenue and Mentmore Avenue after the completion of the through site link to the north of the site. The proposal provides people with access to services and facilities close to where they live encouraging people to be physically active and socially connected.
Planning Priority E5: providing housing supply, choice and affordability, with access to jobs and services	The Department considers the planning proposal to be consistent with this direction as it will assist in contributing to the housing supply by providing approximately 180 dwellings in an area identified for urban renewal. The proposal states it will provide a range of dwelling sizes with good access to jobs, services, facilities and within close proximity to transport.



Consistency with Eastern City District Plan	
Priority	Comment
Planning Priority E6: creating and renewing great places and local centres and respecting the District's heritage	The Department considers the planning proposal to be consistent with this priority as it seeks to preserve high-quality office space and provide the statutory mechanisms required to protect the heritage building.
Planning Priority E10: delivering integrated land use and transport planning and a 30-minute city	The Department considers the proposal satisfies the objective of the 30-minute city as the site is close to existing public transport and TfNSW has increased bus services to the CBD. The proposal for the site will be for mixed-use purposes including access to local employment opportunities. Improved permeability will be with a through site link and provide a direct route connecting Rothchild Avenue and Mentmore Avenue.
Planning Priority E19: reducing carbon emissions and managing energy, water and waste efficiently	The Department considers the planning proposal to be consistent with these actions as it provides housing close to public transport and jobs in an area undergoing urban renewal. Sustainability actions are incorporated into the proposal including increasing the energy and water saving targets.

## 12. MAPPING

The planning proposal seeks to amend the Sydney LEP 2012 to:

*Introduce an Active Frontage Map Sheet 18 in the Sydney LEP 2012 to:*

- identify an active street frontage to the through site link to the north of 12-22 Rothschild Avenue (Site D); and
- identify an active frontage on the eastern part of 24 Rothschild Avenue, Rosebery (Site H).

*Amend the FSR Map Sheet 18 to:*

- increase the FSR from 1.5:1 to 1.75:1 at 12-22 Rothschild Avenue, Rosebery (Site D); and
- decrease the FSR from 1.5:1 to 1:1 at 24 Rothschild Avenue, Rosebery (Site H).

*Amend the Height of Building Map Sheet 18 to:*

- increase the maximum building height from 22m to 29m fronting Rothschild Avenue;
- increase the maximum building height from 22m to 27m fronting Mentmore Avenue, Rosebery; and
- decrease the maximum building height limit from 22m to 9m at 24 Rothchild Avenue, Rosebery (Site H).

## 13. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment G**). Council confirmed on 9 December 2019 that it was happy with the draft and that the plan should be made (**Attachment H**).

## 14. PARLIAMENTARY COUNSEL OPINION

On 13 December 2019, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 15. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- the proposal would have minimal environmental, social and economic impact;
- transferring the available floor space from the heritage listed warehouse (Site H) to Site D will retain the heritage item while allowing development on the site with no net increase in floor space;
- the decrease in the development standards for Site H will facilitate the retention of the heritage warehouse as a commercial premise contributing to the character and employment in the area;
- retaining the heritage listed warehouse on Site H will minimise overshadowing impacts to Sweetacres Park along Cressy Street;
- assist in delivering housing in an area close to existing and planned public transport infrastructure;
- the proposal will not result in any significant traffic impacts and additional bus services have been provided that service the area with Council continuing to work with TfNSW to improve services; and
- Clause 6.14 of the SLEP 2012 'community infrastructure floor space' and Clause 6.21(7)(b) of the SLEP 2012 'design excellence' will be excluded from applying to Site H and will safeguard its local heritage value.

*Kate Masters 4.01.2020*

**Kate Masters**  
**Specialist Planning Officer**  
**Eastern District (City of Sydney)**  
**Greater Sydney, Place and Infrastructure**

*Emma Hitchens 10.02.2020*

**Emma Hitchens**  
**Acting Director**  
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