

## Place, Design and Public Spaces

IRF19/6671

### Gateway determination report

<b>LGA</b>	Sydney
<b>PPA</b>	City of Sydney Council
<b>NAME</b>	The planning proposal seeks to amend Sydney Local Environmental Plan 2012 to increase the maximum building height and maximum floor space ratio via a site-specific provision for 1-11 Oxford Street, Paddington.
<b>NUMBER</b>	PP_2019_SYDNE_007_00
<b>LEP TO BE AMENDED</b>	Sydney Local Environmental Plan 2012
<b>ADDRESS</b>	1-11 Oxford Street, Paddington
<b>DESCRIPTION</b>	Lots 1 & 2 DP 130269, Lot A DP 377984
<b>RECEIVED</b>	24/09/2019
<b>FILE NO.</b>	IRF19/6671
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal seeks to amend the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) to introduce a site-specific provision for 1-11 Oxford Street, Paddington to permit the following:

- increase the maximum building height from 15 metres (m) to RL 68.655m AHD (approximately 22m); and
- increase the maximum floor space ratio (FSR) above ground from 2.5:1 to 2.95:1.

The additional building height and FSR is only to be awarded if:

- the site is developed predominantly for hotel or motel accommodation;
- a minimum of 400m<sup>2</sup> of floor space for health services facility and 300m<sup>2</sup> of floor space for entertainment facilities are provided at basement level;
- the development will not endanger the structural stability of the façade and adjoining parts of 1-11 Oxford Street, Paddington or the State heritage listed Busby's Bore which runs approximately 10.3m underneath the site; and
- that the development will not be used for the purpose of residential accommodation or serviced apartments.

The planning proposal also seeks to amend clause 4.6(8) of the Sydney LEP 2012 to ensure no additional height or floor space can be achieved by way of a variation under the proposed site-specific clause.

The proposal is the result of collaboration between CE Boston Hotels Pty Ltd (the Proponent) and St Vincent's Hospital. While the hotel will be available for anyone, the proposal will deliver visitor accommodation, in association with St Vincent's Hospital, and support health and medical research activities in the area.

The concept design includes a total Gross Floor Area (GFA) of approximately 5,672.13m<sup>2</sup> consisting of the following:

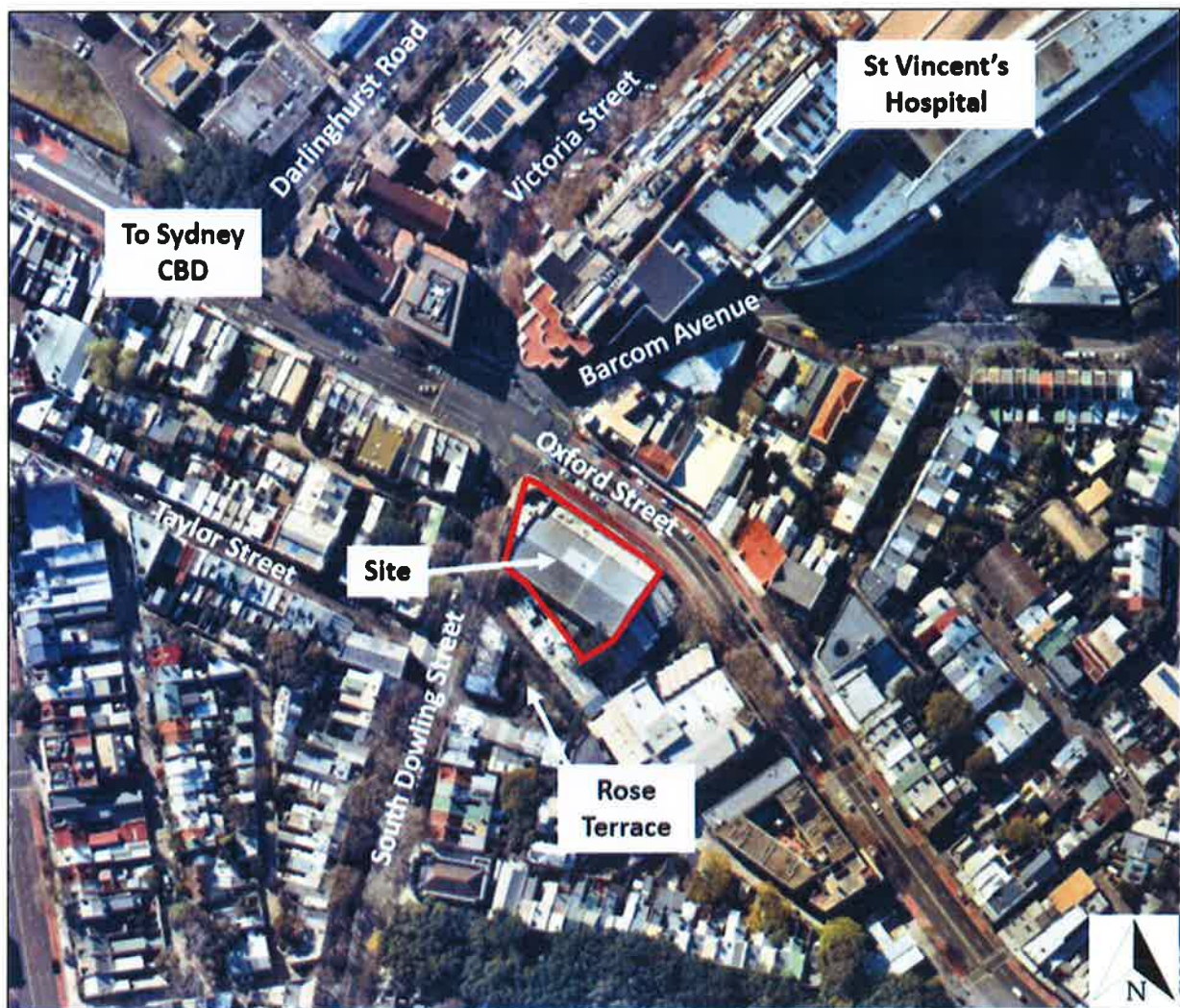
- Basement level 2: St Vincent's Hospital medical facilities consisting of approximately 318.75 m<sup>2</sup> of GFA to be used for research, education or other medical related uses plus waste storage, servicing and other site storage. The Department notes that basement storage is excluded from GFA as per the definition of GFA in Sydney LEP 2012;
- Basement level 1: Consists of a total GFA of 711.15 m<sup>2</sup>, including two multi-purpose venue rooms one of which includes approximately 222 m<sup>2</sup> of floor space which could hold approximately 300 people and the other which is approximately 157 m<sup>2</sup> and could hold approximately 50 people. In addition, this level would include a subterranean courtyard garden, staff amenities and service facilities;
- Ground floor: Consists of a total GFA of 815.64 m<sup>2</sup>, including the hotel lobby which can be accessed off the original cinema entry on the splay corner of Oxford and South Dowling Streets, a ground floor restaurant of approximately 273 m<sup>2</sup>, a ground level café of 119 m<sup>2</sup>, a courtyard garden and servicing access off South Dowling Street at the south-western corner of the site;
- Floors 1 to 4: Consists of a total GFA of 3,590.77 m<sup>2</sup>, including a new mid-range hotel consisting of 102 hotel rooms over 4 levels which includes a medical hotel with each room having basic medical facilities which will provide suitable and convenient accommodation for patients prior to treatment at St Vincent's Hospital and during the later part of their convalescence, as well as for patient's families, medical staff and others associated with St Vincent's Hospital. The hotel can also be used by patrons not associated with St Vincent's Hospital and will provide much needed visitor accommodation and support the local tourism industry.
- Floor 5: Consists of a total GFA of 235.82 m<sup>2</sup>, including a rooftop food and drink premises consisting of approximately 159 m<sup>2</sup> which can hold approximately 200 people.

No car parking is proposed on site.

The proposed development will facilitate approximately 380 jobs during construction, and 110 full time jobs during operation.

## **1.2 Site description**

The site is located at 1-11 Oxford Street, Paddington, approximately 1 kilometre (km) east of the Sydney CBD (**Figure 1**). The site is an irregular shape with a total area of approximately 1,574m<sup>2</sup> and is legally known as Lots 1 & 2 DP 130269 and Lot A DP 377984. The site has two street frontages, being Oxford Street to the north and South Dowling Street to the west. At the junction of these two streets, there is a 3 m wide splay corner.



**Figure 1:** Site location (shown in red) (Source: Nearmap)

The site currently contains a three-storey Federation Free Style building which was built in 1911 (**Figure 2**). The height of the existing building is approximately 20m, which exceeds the existing height of building control of 15m.

The building was the former home of the Academy Twin Cinema. During the 1970s, the building was substantially altered internally to accommodate a twin cinema complex. There are some original surviving elements including the configuration of the main stairs.





**Figure 2:** Existing Building (Source: Council's Planning Proposal)

Retail tenancies, including a guitar school, café and computer repair shop, are located at ground floor of the existing building. Office suites are located in the upper levels which can be accessed via a central staircase off Oxford Street. Operating over the ground floor and a basement level is a night club, which can be accessed via an entrance at the western end of the Oxford Street frontage. Fire exits from the night club lead to South Dowling Street.

The original cinema entrance located on the splay corner provides access to an upper level bar and restaurant on the South Dowling Street side of the building, via the main staircase. The auditorium has been fitted out for a private film and television screening space for temporary use by Foxtel. Screenings are invitational only and are not open to the general public.

The site has a slight slope from the south-eastern corner towards the intersection of South Dowling Street and Oxford Street, and the frontage along Oxford Street is flat.

### **1.3 Existing planning controls**

The site is subject to the following development controls under Sydney LEP 2012:

- it is zoned B2 Local Centre (**Figure 3**) which permits residential accommodation and commercial premises;
- it has a maximum building height of 15m (**Figure 4**); and
- it has a maximum floor space ratio of 2.5:1 (**Figure 5**).

The existing building on site has a height of approximately 20m and FSR of 1.51:1 above ground. It is noted that existing building height is above the current LEP control.

#### Heritage

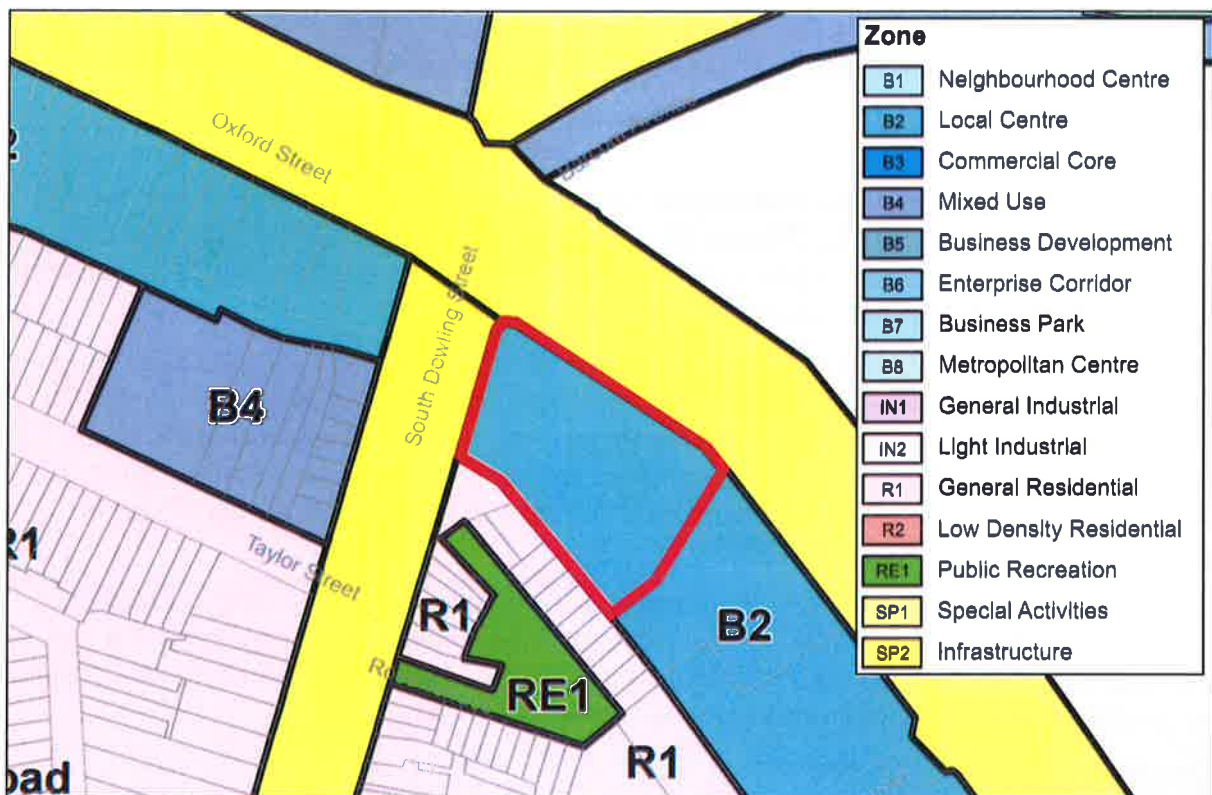
The site is located within the Paddington Urban Heritage Conservation Area (HCA) under the Sydney LEP 2012 (**Figure 6**). The building is identified as a contributory building in the Paddington Urban Conservation Area under the Sydney Development Control Plan 2012 (Sydney DCP 2012) (**Figure 7**).

The Busby's Bore, which is listed on the State Heritage Register (SHR 00568) and Schedule 5 of the Sydney LEP 2012 (I1) runs approximately 10.3m underneath the site. The bore was designed by John Busby and constructed between 1827 and 1837. It was built by convicts and developed to provide clean water to the colony of Sydney as the Tank Stream had become dangerously polluted. Sydney Water is currently the asset owner of the Busby's Bore.

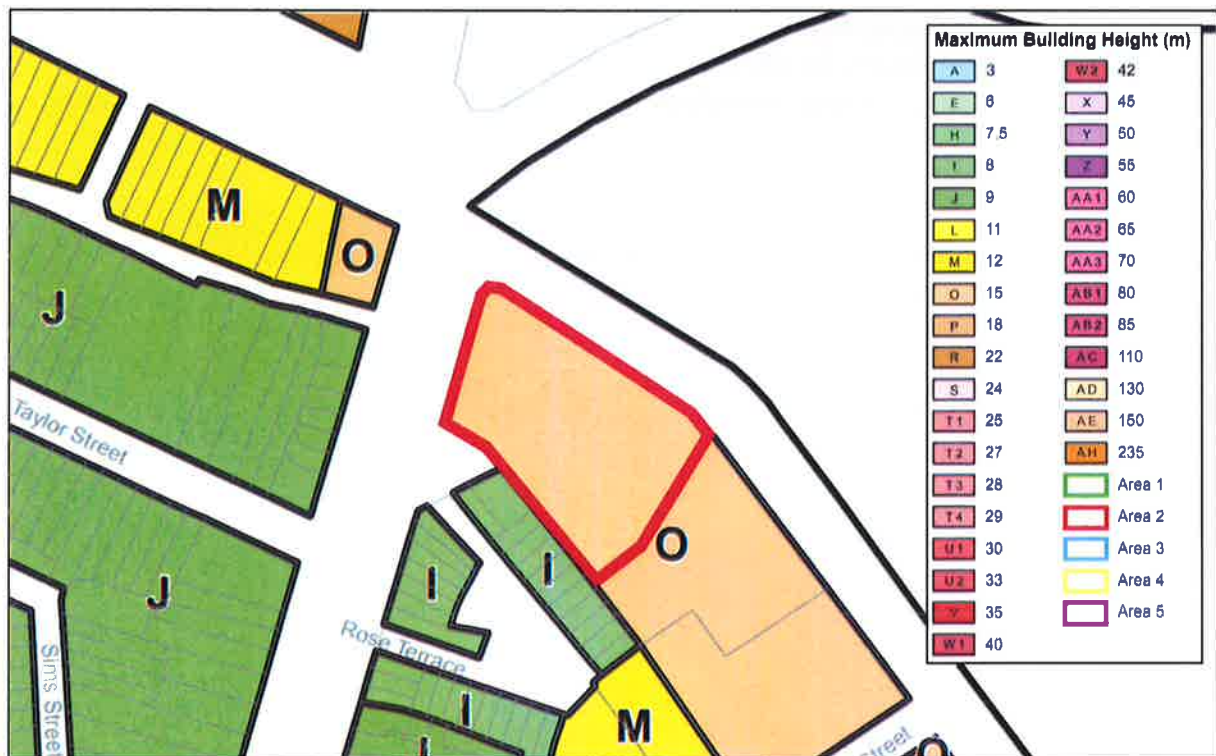
Clause 5.10 of the Sydney LEP 2012 applies to the site as the building is located within an HCA. Under this clause, the relevant consent authority may require a heritage management document and/or a heritage conservation management plan to be prepared prior to development consent being granted.

#### Development near SP2 zone

Clause 5.3 Development near zone boundaries of the Sydney LEP 2012 applies to the site, as the site adjoins land within SP2 Infrastructure Zone. The clause applies to land within 6m of any land in SP2 Infrastructure Zone. Development consent may be granted if the consent authority is satisfied the development is not inconsistent with the objectives of both zones, and the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles.



**Figure 3:** Land Zoning Map (site shown in red) (Source: Sydney LEP 2012)



**Figure 4:** Height of Buildings Map (site shown in red) (Source: Sydney LEP 2012)



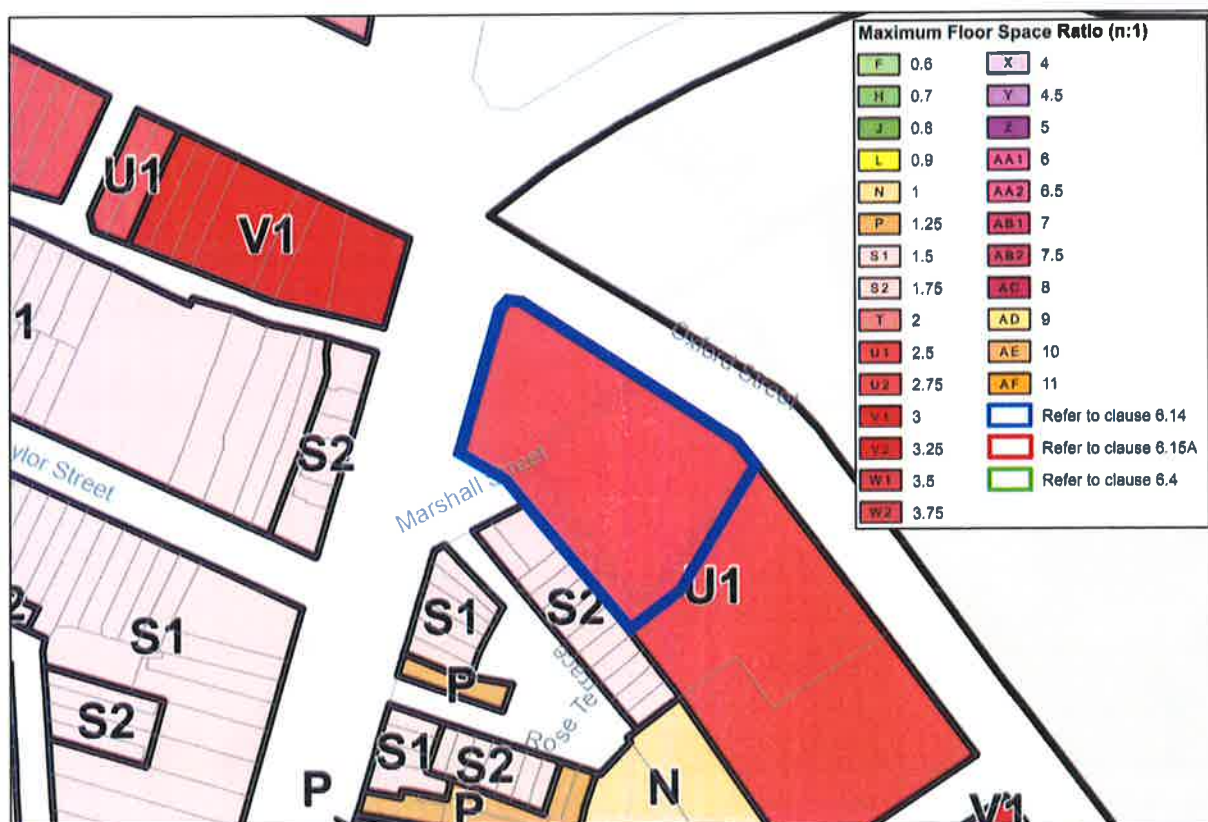


Figure 5: Floor Space Ratio Map (site shown in blue) (Source: Sydney LEP 2012)

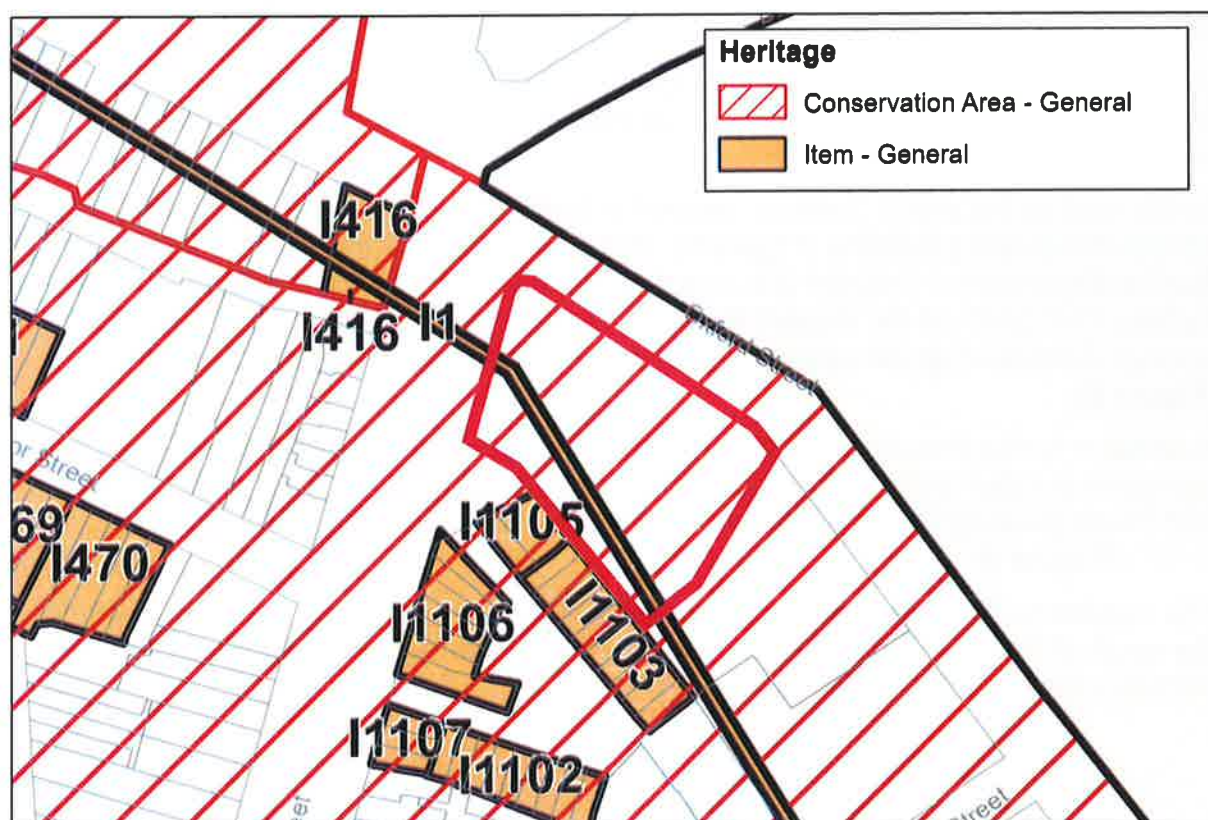
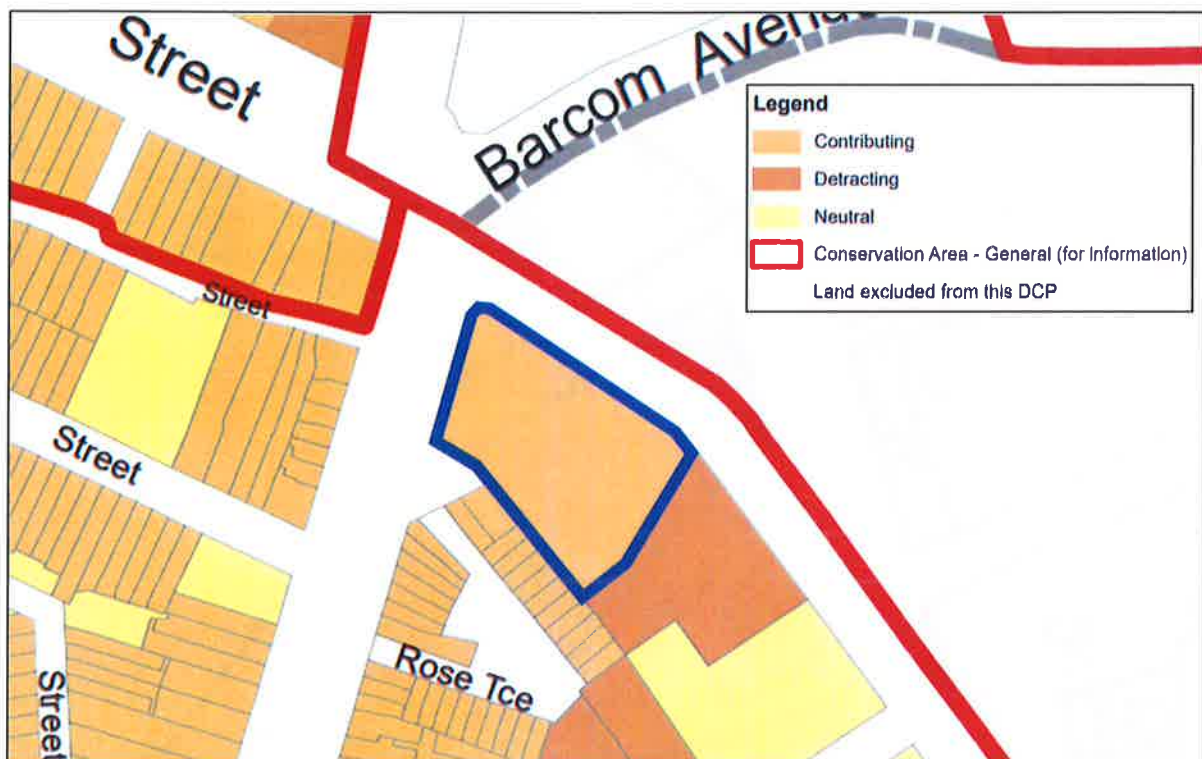


Figure 6: Heritage Map (site shown in red) (Source: Sydney LEP 2012)



**Figure 7:** Heritage Map (site shown in blue) (Source: Sydney DCP 2012)

#### 1.4 Surrounding area

The site is located on the eastern fringe of the Sydney Central Business District (CBD), at the junction of two major roads being Oxford Street and South Dowling Street.

Being located within the Paddington HCA, the surrounding area consists of buildings that range from 2-8 storeys, predominately developed with 2-3 storey Victorian terraces (**Figure 8**).

To the east of the site, a 3 storey residential building with a frontage to Oxford Street adjoins the existing building (**Figure 8**). Directly adjacent to the west of the site is Beauchamp Hotel, a 3 storey pub which is heritage listed under Schedule 5 of the Sydney LEP 2012 (I416) (**Figure 6**). St Vincent's Hospital, which ranges from 6-8 storeys, is located on the opposite side of Oxford Street to the north of the site (**Figure 8**).

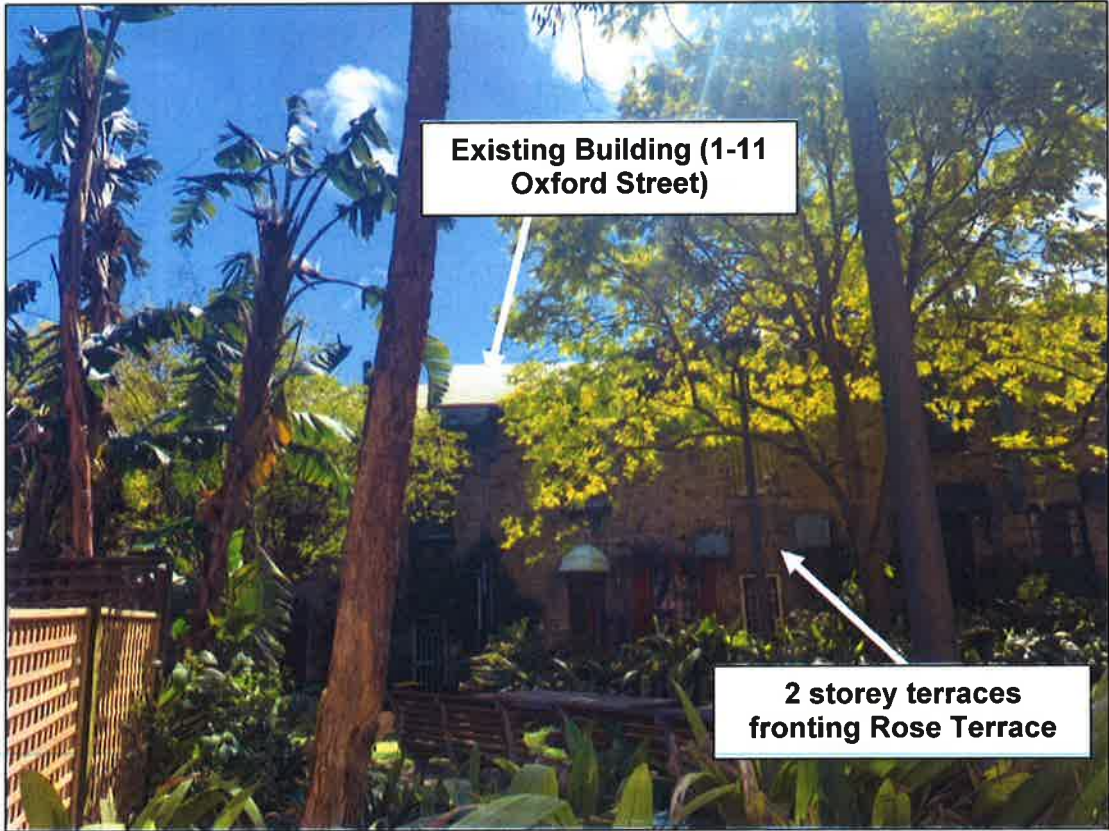
In addition to the Beauchamp Hotel, the site is surrounded by items of local heritage significance listed under Schedule 5 of the Sydney LEP 2012. These include 260-262 South Dowling Street (I1105) and 2-20 Rose Terrace (I1102, I1103, I1106, I1107) (**Figure 6**).

The nearest public open space to the site is Rose Terrace, which is located 10m to the south of the site (**Figure 1**). Surrounding Rose Terrace are 2 storey residential Victorian terraces (**Figure 9**).





**Figure 8:** Surrounding area (site shown in red) (Source: Nearmap)



**Figure 9:** Rose Terrace facing north towards the site (Source: DPIE 2019)

## Transport and Access

The site is located approximately 1km from Museum Station which provides good connections to other parts of the Sydney CBD, Sydney Airport, and the greater Sydney rail network. The site is located approximately 40m walking distance of bus stops on Oxford Street which provide further connections to the CBD, Bondi Junction, Rozelle, Marrickville and Chatswood, as well as access to shops and entertainment precincts such as Moore Park.

There is no parking on site, and restricted parking occurs along Oxford Street and South Dowling Street.

## **2. PROPOSAL**

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### **2.1 Objectives and intended outcomes**

Council states that the intended outcomes of the planning proposal are to:

- amend the Sydney LEP 2012 to allow additional height and floor space to facilitate the provision of 'hotel or motel accommodation', 'health services facility' and 'entertainment facility' uses;
- allow for a built form that protects heritage and manages environmental impact of the development; and
- redevelopment of the site will support sustainability, with the commitment of the development to higher Green Star, NABERS Energy and NABERS Water rating for the building, and increased tree canopy being included in the supporting site specific DCP controls.

The planning proposal's intended outcomes include sustainability, which is a DCP requirement. The planning proposal should only address the LEP amendment, as such the Department has recommended that the planning proposal be amended to remove objectives that relate to the development controls in the site-specific DCP.

Council states that the objectives of the planning proposal are to:

- facilitate the provision of hotel or motel accommodation, entertainment facility and health services facility uses to:
  - enhance Sydney's diverse hotel accommodation market that caters to changing visitor demand, consistent with the City's Visitor Accommodation Action Plan (2015), the Eastern City District Plan's tourism and industry objectives;
  - support the existing cluster of health related uses in the area, anchored by St Vincent's Hospital consistent with the District Plan actions for the Harbour CBD; and
  - enhance the local area's cultural and night-time economy including supporting Oxford Street's role in the proposed Eastern Creative Precinct.
- conserve and enhance the heritage significance of the contributory building within the Paddington HCA;
- ensure that the scale and massing of the height and floor space ratio controls is appropriate in response to its context within the Paddington HCA, setting of the surrounding heritage items, streetscapes and the surrounding low scale residential buildings;

- ensure the redevelopment of the site will not endanger the structural stability of the existing building and State heritage listed Busby's Bore heritage item; and
- restrict residential accommodation and serviced apartments from the proposed additional FSR.

## **2.2 Explanation of provisions**

The planning proposal seeks to amend the Sydney LEP 2012 to introduce a site-specific provision for 1-11 Oxford Street, Paddington to permit the following:

- increase the maximum building height from 15m to RL 68.655m AHD (22m); and
- increase maximum FSR permitted above ground from 2.5:1 to 2.95:1.

The additional building height and FSR is only to be awarded if:

- the site is developed predominantly for hotel or motel accommodation;
- a minimum of 400m<sup>2</sup> of floor space for health services facility and 300m<sup>2</sup> of floor space for entertainment facilities are provided at basement level;
- the development will not endanger the structural stability of the façade and adjoining parts of 1-11 Oxford Street, Paddington or the State heritage listed Busby's Bore which is located approximately 10.3m underneath the site, and
- that the development will not be used for the purpose of residential accommodation or serviced apartments.

The planning proposal also seeks to amend clause 4.6(8) to ensure no additional height or floor space can be achieved by way of a variation to the site-specific provision.

### Draft site-specific Sydney Development Control Plan 2012 (Sydney DCP 2012)

Further to the LEP amendments, Council has prepared a site-specific DCP. The DCP controls relate to built form, heritage conservation, public domain, access, and sustainability controls. The proposed DCP controls are reflected in the concept design submitted with the planning proposal. The draft site-specific development controls seek to:

- limit the maximum building envelope;
- provide measures for heritage conservation;
- limit vehicular access to one driveway off South Dowling Street; and
- provide targets for ecological development sustainability i.e NABERS.

Through the development application process, these development controls will be applied to the proposed development.

## **2.3 Mapping**

The planning proposal does not propose any mapping amendments to the Sydney LEP 2012.



### 3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not a result of any strategic study or report. The planning proposal has been initiated by the landowner and is informed by concept design plans, heritage impact statement, urban design report, geotechnical report, structural report, structural peer review report, justification report, transport impact assessment, acoustic assessment and an archaeological investigation.

A planning proposal is one mechanism to increase the development standards on the site to facilitate a refurbished building as the current development standards under Sydney LEP 2012 are not reflective of the existing building. The planning proposal is the result of collaboration between the proponent and St Vincent's Hospital. While the hotel will be available for anyone, the proposal will deliver visitor accommodation, in association with St Vincent's Hospital, and support health and medical research activities in the area.

### 4. STRATEGIC ASSESSMENT

#### 4.1 Regional / District

##### 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 1**.

**Table 1:** Consistency with Eastern City District Plan

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 proposal to be consistent with this priority as it will support entertainment activities within the Oxford Street locality. Heritage conservation considerations in the proposed site-specific clause will protect the heritage significance of the façade of 1-11 Oxford Street and Busby's Bore.
Planning priority E7: Growing a stronger and more competitive Harbour CBD;	The Department considers the proposal to be consistent with this priority as it will strengthen the competitiveness of the St Vincent's Hospital health cluster and contribute to the Harbour CBD's job targets.
Planning priority E8: Growing and investing in health and education precincts and the Innovation Corridor	The Department considers the proposal to be consistent with this priority as it provides health and medical facilities associated with St Vincent's Hospital.
Planning priority E13: Supporting growth of targeted industry sectors;	The Department considers the proposal to be consistent with this priority as it will provide visitor accommodation in close proximity to St Vincent's Hospital and the Sydney CBD.
Planning priority E17: Increasing urban tree canopy cover and delivering Green Grid connections; and	The Department considers the proposal to be consistent with this priority as it commits to providing four new street trees in the Oxford Street footpath (located within the site-specific DCP).

Consistency with Eastern City District Plan	
Priority	Comment
Planning priority E19: Reducing carbon emissions and managing energy water and waste efficiently.	The Department considers the proposal to be consistent with this priority as no car parking is proposed. The lack of on-site parking will encourage the use of public and active transport.

## 4.2 Local

### Sustainable Sydney 2030

Council's Sustainable Sydney 2030 Community Strategic Plan is the vision for the sustainable development of the City of Sydney to 2030 and beyond. It includes 10 strategic directions to guide the future of the City and 10 targets against which to measure progress. This planning proposal is consistent with key directions of the strategic plan as demonstrated in **Table 2**.

**Table 2:** Consistency with Sustainable Sydney 2030

Consistency with Sustainable Sydney 2030	
Direction	Comment
Direction 1 – A Globally Competitive and Innovative City	The Department considers the proposal is consistent with Direction 1, as it will support Sydney's tourism and contribute to the city's economy.
Direction 3 – Integrated Transport for a Connected City	The Department considers the proposal is consistent with Direction 3, as it will leverage the location being within proximity to public transport links to the CBD, eastern suburbs and other centres across Sydney.
Direction 5 – A Lively and Engaging City Centre	The Department considers the proposal is consistent with Direction 5, as the site will provide a range of active uses for the community, such a restaurant, café and entertainment facilities.
Direction 6 – Vibrant Local Communities and Economies	The Department considers the proposal is consistent with Direction 6, as it facilitates the expansion of health and education needs.
Direction 7 – A Cultural and Creative City	The Department considers the proposal is consistent with Direction 7, as it provides a new entertainment facility for medium sized performances.
Direction 9 – Sustainable development, renewal and design	The Department considers the proposal is consistent with Direction 9, as it provides accommodation and employment opportunities in an accessible location.

## 4.3 Section 9.1 Ministerial Directions

The proposal is consistent with the following applicable section 9.1 Ministerial Directions as identified in **Table 3**.

**Table 3:** 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>

Section 9.1 Direction	Consistent	Comment
		The planning proposal is consistent with the objectives and requirements of this Direction as it seeks to retain the existing B2 Local Centre zone and will provide for a range of employment uses such as entertainment facility, medical research facility, hotel, café, restaurant and rooftop food and drink premises.
<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>The planning proposal is supported by a Heritage Impact Statement prepared by Urbis which finds the proposed development will be sympathetic to the heritage values of the surrounding area. Detailed assessment of the heritage impact is discussed in section 5.2.3 of this report.</p>
<b>3. Housing, Infrastructure and Urban Development</b>		
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> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>(d) supporting the efficient and viable operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight.</li> </ul> <p>The planning proposal is consistent with the objectives and requirements of this Direction, as no car parking is provided as part of the proposal.</p>
<b>5. Regional Planning</b>		
5.1 Implementation of Regional Strategies	Yes	Refer to Section 4.1 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. The planning proposal states that the proposal will not contradict or hinder the application of this direction. However, no justification is provided in the planning proposal to address the consistency with the Direction.</p> <p>The Department recommends as a condition of Gateway for the proposal to be revised to address this Direction.</p>
<b>7 Metropolitan Planning</b>		
7.1 Implementation of a Plan for Growing Sydney	Yes	Refer to Section 4.1 of this report.



#### 4.4 State environmental planning policies (SEPPs)

The proposal is considered consistent with and is not expected to hinder the application of any relevant SEPPs, as outlined in **Table 3**.

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

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.	This planning proposal does not seek to amend the zoning or the land use. Therefore, the site is suitable for its intended use. Future DA's will need to consider SEPP No 55.	Yes

### 5. SITE-SPECIFIC ASSESSMENT

#### 5.1 Social

The Department considers the redevelopment of the site will allow for positive social effects given the planning proposal is the result of collaboration between the proponent, CE Boston Hotels and St Vincent's Hospital. The concept design proposed will assist the Hospital by providing accommodation to suit the needs of patients and their families.

While the hotel will be available for anyone, the Department understands that the hotel is intended so that St Vincent's Hospital would have a long-term lease of a proportion of the rooms, that could be used by patients before and after treatment. The Department considers the planning proposal has positive social impacts as it would relieve the capacity of beds within St Vincent's Hospital.

#### 5.2 Environmental

##### 5.2.1 Compatibility of uses

The planning proposal seeks to include a site-specific provision in the Sydney LEP 2012 to incentivise non-residential uses. Currently, the site is used for a variety of uses including a nightclub, restaurant, café and office space. The proposal seeks to facilitate development for hotel and motel accommodation, a medical facility with ancillary storage, entertainment facilities, a restaurant, a café, and a rooftop food and drink premises.

The planning proposal does not seek to change the zoning of the site. All proposed uses outlined in the concept design are permissible within B2 Local Centre zone of the Sydney LEP 2012.

The Department notes that a range and variety of uses are proposed for the site. The concept design plans identify separate access points for the hotel and motel accommodation, ground floor uses, entertainment facilities and medical facility. The Department acknowledges that the site can adequately accommodate separate access ways for the various uses. The variety of uses may have different acoustic impacts. The Department notes these potential access and acoustic impacts will be further assessed at development application (DA) stage when a detailed design is submitted.

## 5.2.2 Built Form

The planning proposal seeks to increase the maximum height of buildings from 15m to RL 68.655m (22m) and increase the maximum FSR above ground from 2.5:1 to 2.95:1. The site is currently occupied by a commercial building, with a floor space ratio of 1.51:1 above ground and a building height of approximately 20m.

**Table 4** shows the existing built form and existing planning controls in comparison to the proposed planning controls for the site.

**Table 4:** Existing built form, existing controls and proposed controls for the site.

Existing Built Form	Existing Sydney LEP 2012	Proposed
<b>Building Height</b>		
20 metres	15 metres	22 metres (RL 68.655)
<b>Floor Space Ratio</b>		
1.51:1 (above ground)	2.5:1	2.95:1 (above ground)

The planning proposal seeks to limit the amount of floor space above ground (**Table 5**). However, the planning proposal does not include a definition for 'above ground'. The Department has included a Gateway condition requiring 'above ground' FSR to be defined. **Table 5** provides a breakdown of the existing GFA, and proposed GFA outlined in the concept design plans.

**Table 5:** GFA Breakdown

Level	Existing GFA (m <sup>2</sup> )	Proposed GFA (m <sup>2</sup> )
Level 5	-	235.82
Level 4	-	655.06
Level 3	-	945.58
Level 2	402.37	998.82
Level 1	1,070.52	991.31
Ground Floor	908.30	815.64
Basement 1	271.43	711.15
Basement 2	-	318.75
<b>Total</b>	<b>2,652.62m<sup>2</sup></b>	<b>5,672.13m<sup>2</sup></b>

The proposed basement levels have a total GFA of 1029.9m<sup>2</sup>, which equates to a below ground FSR of 0.65:1. The Department notes the planning proposal is not seeking a maximum FSR below ground. As such, the Department considers the below ground GFA will not affect the above ground FSR and will not have an impact on the built form, bulk and scale of the development.

The planning proposal seeks to require 400m<sup>2</sup> of health services facility at basement level. The GFA Diagrams provided by the Proponent indicate that the proposed St Vincent's Medical Facility in the basement level has a GFA of 318.75m<sup>2</sup>. Therefore, there is a discrepancy between the planning proposal and the proponent's architectural drawings.

The planning proposal does not specify whether the minimum requirements relate to floor space or GFA.

The Department notes that basement storage is excluded from the calculation of GFA, as per the definition within the Sydney LEP 2012.

Council has not demonstrated that a minimum of 400m<sup>2</sup> of health services facility is achievable (noting that storage is not included in the calculation of GFA). As such, the Department has recommended a Gateway condition that Council update the planning proposal to reflect that a minimum 300m<sup>2</sup> of GFA for health services facility be provided rather than 400m<sup>2</sup>. The Department considers the proposed minimum requirement to be acceptable, as it will still provide for a health services facility to be provided as intended, whilst ensuring the requirement is achievable. In addition, the Department recommends the planning proposal be updated to reflect the minimum of 300m<sup>2</sup> of GFA for the entertainment facility to ensure there are no further discrepancies.

**Figures 10 and 11** illustrates what the proposal may look like once the site is redeveloped, and the proposed building envelope in contrast to the existing building.

The surrounding area is characterised by 2-3 storey Victorian terraces and contemporary developments. St Vincent's Hospital opposite the site ranges from 6 to 8 storeys. The Department considers the increase in height of approximately 2m and FSR of 1.44:1 to be acceptable, as it would not result in significant overshadowing impacts (see **Section 5.2.1.1**).



**Figure 10:** Proposed Development (Source: Proponent's Planning Proposal)





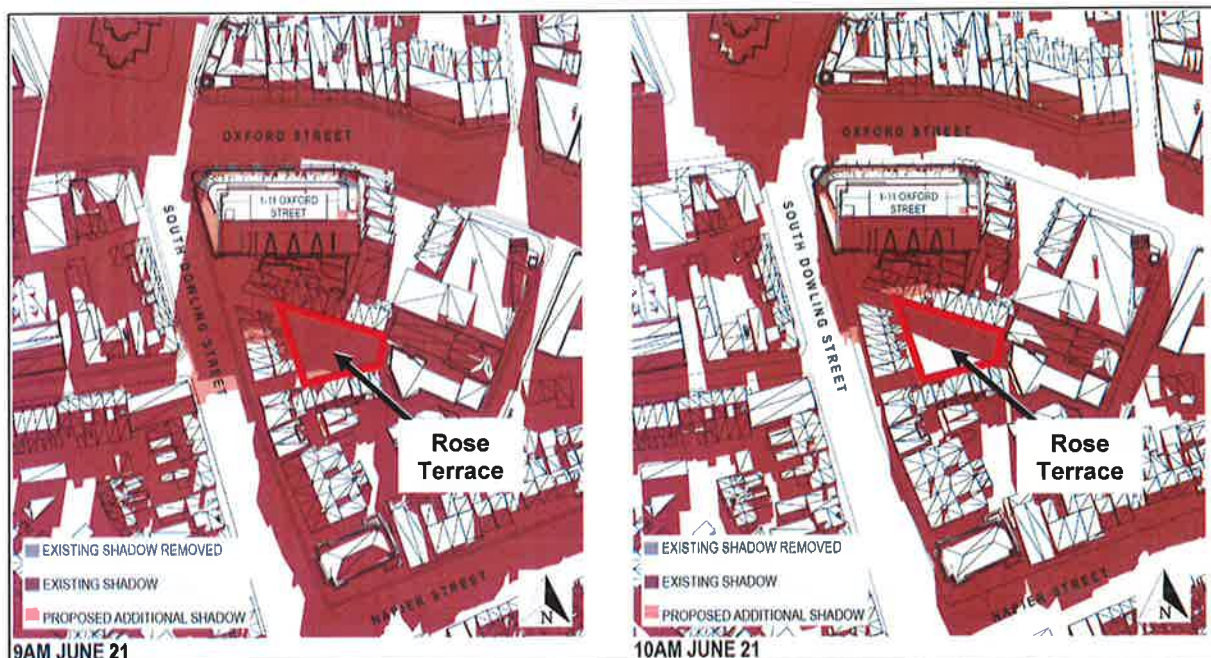
**Figure 11:** Proposed Building Envelope (shown in red) (Source: Proponent's Planning Proposal)

#### 5.2.2.1 Overshadowing

A shadow analysis has been undertaken as part of the planning proposal (**Figures 12-15**). The proposal would result in an additional building height of approximately 2m compared to the existing building and will result in minor additional overshadowing to neighbouring buildings.

Based on the shadow analysis conducted, during mid-winter there will be minor additional overshadowing on the terraces to the east and south of the site. This increase is considered acceptable as the buildings will continue to receive the minimum two hours of direct sunlight between 9.00am and 3.00pm on 21 June as required by Sections 4.1.3 and 4.2.3 of the Sydney DCP 2012. Rose Terrace, which is the nearest public open space, will only have minor additional overshadowing at 9am.

Given the impacts are minimal, the Department considers the overshadowing impacts to be acceptable.



**Figure 12:** Shadow Diagrams 9am and 10am (Source: Proponent's Planning Proposal)

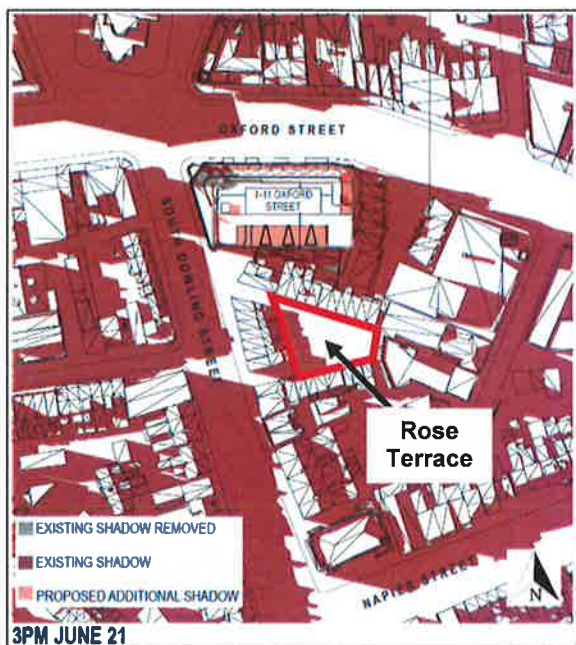


**Figure 13:** Shadow Diagrams 11am and 12pm (Source: Proponent's Planning Proposal)





**Figure 14:** Shadow Diagram 1pm and 2pm (Source: Proponent's Planning Proposal)



**Figure 15:** Shadow Diagram 3pm (Source: Proponent's Planning Proposal)

### 5.2.3 Heritage

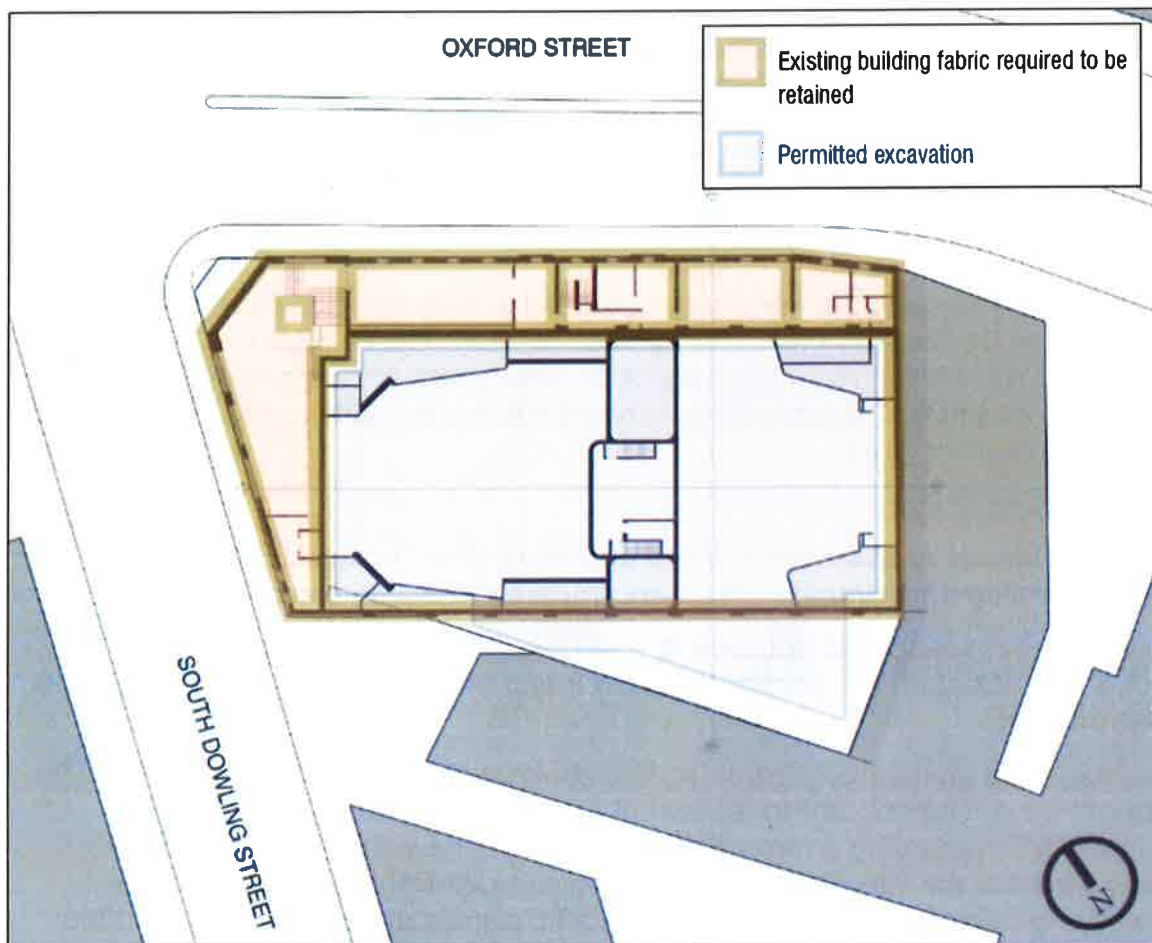
A Heritage Impact Statement (HIS), prepared by Urbis dated 8 May 2019, accompanied the planning proposal. The HIS concluded the property does not meet the threshold for local heritage listing under Schedule 5 of the Sydney LEP 2012. However, the existing building still makes an aesthetic and historic contribution to the Paddington HCA. The HIS also concludes the planning proposal, and amendments to the planning controls, will provide for a future outcome that is acceptable from a heritage perspective.

The proposal seeks to retain the facades fronting Oxford Street and South Dowling Street. The HIS states the retention of the existing building façade will enable the



history of the former cinema to be understood and interpreted within the streetscape of Oxford Street.

Council's planning proposal outlines the proposed development standards are based on retaining the existing facade and front rooms fronting Oxford Street and South Dowling Street (**Figure 16**). Therefore, excavation and new development is generally limited to the footprint of the two cinema spaces, which have been modified over time (**Figure 16**).



**Figure 16:** Existing façade (shown in yellow) (Source: Site-specific DCP)

A Structural Report, prepared by BG&E Pty Ltd dated 31 May 2019, accompanied the planning proposal, and stated that the existing brick façade will need to be temporarily supported during demolition and construction works prior to connection of permanent structure for restraint. Council commissioned a Peer Review, prepared by Shreeji Consultant dated 4 July 2019, which identified the structural report for the property is considered to be theoretically a structural feasible solution for the retention of the façade. The Peer Review stated however the structural report does not provide details of the risks associated with the proposed works, and methodologies to minimise these risks. The report therefore is not considered to be an adequate evaluation of the façade retention process. The Peer Review recommended additional structural information which should be provided to minimise risk to the structure. These recommendations have been incorporated into the site-specific DCP.

The proponent conducted preliminary consultation with the former Office of Environment and Heritage (OEH). The OEH advised that the proposed excavation for the new basement levels are likely to uncover archaeological remains and will be

within close proximity to the location of Busby's Bore. Busby's Bore has a physical curtilage extending to 3m from all surfaces of the horizontal channel of the Bore, and 3 metres from all surfaces of all of the vertical shafts and offset shafts and structure associated with the bore. The Baseline Archaeological Assessment, prepared by Archaeological Management & Consulting Group dated 13 June 2019, notes the depth of the Bore is approximately 10.3m, with the curtilage being approximately 7.38m below ground.

To mitigate the potential impacts to Busby's Bore, the former OEH recommends further archaeological and geotechnical work must be undertaken to gain an accurate indication of the alignment and depth of Busby's Bore. It is noted that these works will be completed at the DA stage.

In addition, the site-specific DCP notes any encroachments on Busby's Bore SHR curtilage are likely to require either a Section 57 Exemption Notification or a Section 60 Permit Application under the *Heritage Act 1977*.

The Department accepts the findings and conclusions of the HIS, Structural Report, Council's Peer Review and preliminary advice of OEH. The Department recommends a condition requiring Council to consult with Heritage Council and the former OEH. In addition, Sydney Water should also be consulted, who are the asset owner of the Busby's Bore.

#### 5.2.4 Traffic and Access

A Transport Impact Assessment (TIA), prepared by The Transport Planning Partnership dated 13 November 2018, accompanied the planning proposal.

The planning proposal does not seek to provide any on-site car parking. The TIA identifies the lack of on-site parking will favour and encourage the use of public and active transport.

The concept design incorporates an access driveway on South Dowling Street. The Proponent sought advice, at the request of Council, from Roads and Maritime Services (RMS) regarding a new driveway/loading zone with access from South Dowling Street to the site. RMS raised no objection "In-Principal" provided the driveway is located furthest away from the traffic signals at Oxford Street, and the design would need to restrict all vehicles to "left-in left-out" only and be in accordance with Australian Standards. RMS also advised it would conduct further assessment at the DA stage.

The TIA notes the site can accommodate waste and access arrangements. The TIA concludes that the proposal is acceptable from a transport perspective. The Department considers the planning proposal will have minimal traffic and access impacts. However, due to the proposed access arrangements on South Dowling Street, the Department has recommended that RMS and Transport for NSW (TfNSW) be consulted with during public exhibition.

### **5.3 Economic**

The proposed development will achieve a range of land uses on the site, comprising of hotel and motel accommodation, a medical facility with ancillary storage, entertainment facilities, a restaurant, a café, and a rooftop food and drink premises. The planning proposal will have the following economic benefits and is considered acceptable as it will:

- bring much needed economic activity from international visitors and patients, doctors, nurses, specialists and others associated with St Vincent's Hospital;
- support an existing health and education cluster; and
- support the tourism industry within Sydney.

#### **5.4 Infrastructure**

The site is located in an area that is well serviced by public transport including trains and buses. The TIA states that the proposal will not result in significant traffic and transport issues and will not have an adverse impact on the surrounding pedestrian and public networks.

The site is well serviced by a range of public utilities including electricity, telecommunications, water, sewer and stormwater. It is expected that these services would be upgraded where required by the developer and further details will be provided at the DA stage.

### **6. CONSULTATION**

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#### **6.1 Community**

Council has proposed a public exhibition period of 28 days. The Department considers this to be appropriate.

Council, as the planning proposal authority, will be responsible for public consultation. Council has advised that this will include newspaper notification, displays at Council customer service centres and on Council's webpage.

#### **6.2 Agencies**

The planning proposal does not specify any agencies that are to be notified of the proposal. As a State Heritage Item is located underneath the site and the site is located within a HCA, the Department recommends further consultation with the former Office of Environment and Heritage, the Heritage Council of NSW, Sydney Water during exhibition of the planning proposal.

Due to access arrangements, the Department also recommends consultation be held during exhibition of the planning proposal with TfNSW and RMS.

### **7. TIME FRAME**

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Council has included a project timeline of six months. However, a time frame of 12 months is considered more appropriate. This does not preclude the planning proposal from being finalised sooner.

The Gateway determination will be conditioned to update the project timeline to reflect the anticipated time frames for the plan-making process.

### **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested delegation to make the plan. The Department recommends issuing an authorisation for Council to exercise delegation to make this plan, provided the revised planning proposal is submitted to the Department for review and approval prior to public exhibition of the planning proposal.

## 9. CONCLUSION

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The Department recommends that the planning proposal proceed subject to conditions for the following reasons:

- it is generally consistent with the Eastern City District Plan and the relevant section 9.1 Ministerial Directions and State Environmental Planning Policies;
- it will facilitate a mix of land uses with good access to public transport;
- it will facilitate a positive social impact for the region by providing much needed visitor accommodation;
- it will provide a range of uses for the community, such as an entertainment facility, hotel, restaurant and café;
- it provides employment opportunities in an accessible location;
- it will support the existing cluster of health related uses, anchored by St Vincent's Hospital; and
- the proposed development will preserve the existing façade, achieves a building envelope that is cognisant of the heritage items, Paddington HCA and adjoining buildings.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Secretary note that the consistency with section 9.1 Direction 6.3 Site-specific Provisions is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be amended prior to community consultation as follows:
  - (a) remove provisions related to the site-specific DCP from the intended outcomes and explanation of provisions;
  - (b) provide justification to address the consistency with section 9.1 Direction 6.3 Site-specific Provisions;
  - (c) provide a definition of 'above ground' floor space ratio;
  - (d) update the planning proposal to state that a minimum 300m<sup>2</sup> of gross floor area for health services facility are provided at basement level;
  - (e) update the planning proposal to state that a minimum 300m<sup>2</sup> of gross floor area for entertainment facilities are provided at basement level; and
  - (f) update the project timeline to reflect the anticipated time frames for the plan-making process.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
  - The former Office of Environment and Heritage;
  - The Heritage Council of NSW;



- Sydney Water;
  - Roads and Maritime Services; and
  - Transport for NSW.
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 be the local plan-making authority.

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