

**ITEM 9. DEVELOPMENT APPLICATION: 25-55 ROTHSCHILD AVENUE AND 5-13 ROSEBERY AVENUE ROSEBERY****FILE NO:** D/2014/1962**SUMMARY**

**Date of Submission:** 18 December 2014  
Amended Plans 15 May 2015

**Applicant:** Karimbla Properties (No49) Pty Ltd

**Architect:** PTW

**Developer:** Meriton

**Owner:** Dexus Fund Management Limited

**Cost of Works:** \$262,963,426

**Proposal Summary:** Stage 1 approval for mixed use development involving, 14 buildings, public domain works including new streets and public open space and land subdivision.

The application is integrated under the Water Management Act 2000. General Terms of Approval have been granted.

The proposal (as amended) seeks consent for a Stage 1 concept proposal, including the following:

- In-principle approval for demolition of all existing buildings with the exception of an existing 10 storey commercial building;
- Building envelopes to a height of 41 metres (10 storeys)
- Indicative future land uses of residential, child care centres and retail tenancies; and
- Concept public domain works including a new road, land dedications for road widening and a public park

Works are proposed to be completed over a period of 5 years in 4 phases as existing leases on the site expire. Stage 2 Development Applications will be submitted for the detailed design of each phase.

**Proposal Summary:**

The application was notified for 30 days in January / February 2015 and again for an additional 14 days in July 2015. As a result of the notification, 8 submissions were received raising the following concerns:

- Insufficient car parking
- Insufficient public transport
- Traffic congestion
- Loss of fig trees
- Park location
- Behaviour of workers
- View loss
- Solar access
- Overdevelopment

Amended plans were received on 15 May 2015 to include new land uses (child care centres) and at the request of Council Officers, minor variations to the Green Link and road infrastructure.

A Public Benefit Offer (PBO) for the delivery of community infrastructure including new roads, a public park, green link and dedications for road widening was submitted as part of the application.

A Voluntary Planning Agreement (VPA) to secure the works is currently being prepared but is yet to be exhibited at the time of preparing this report.

It is considered that, as amended, and subject to the imposition of recommended conditions, the proposed envelopes and indicative land uses generally respond to the constraints of the site and applicable planning controls. In those instances where numeric variation is sought to the planning controls, such as height, there is considered to be justifiable context and planning grounds to support the extent of the variation.

**Summary Recommendation:**

The determination of the application is recommended to be delegated to the Chief Executive Officer (CEO) to determine, subject to the exhibition of a VPA and the consideration of any submissions received.

**Development Controls:**

- (i) Sydney Local Environmental Plan 2012  
(Gazetted 14 December 2012, as amended)
- (ii) Sydney Development Control Plan 2012 (in  
force on 14 December 2012, as amended)
- (iii) State Environmental Planning Policy No. 32 -  
Urban Consolidation
- (iv) State Environmental Planning Policy No. 55 –  
Remediation of Land
- (v) State Environmental Planning Policy No. 65 –  
Design Quality of Residential Development
- (vi) State Environmental Planning Policy (Building  
Sustainability Index: BASIX) 2004
- (vii) State Environmental Planning Policy  
(Infrastructure) 2007

**Attachments:**

- A - Building Envelope Plans
- B - Indicative Floor Plans
- C - Shadow Analysis
- D - Updated Public Benefit Offer (PBO)

**RECOMMENDATION**

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2014/1962, subject to the submission of a Public Benefit Offer in accordance with Clause 6.14 of the Sydney Local Environmental Plan 2012 and the public exhibition of a Voluntary Planning Agreement with any submissions considered;
- (B) if the CEO determines to approve Development Application D/2014/1962, then consideration be given to granting a deferred commencement consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions set out in Part A below; and
- (C) in determining the application, the CEO consider the draft conditions of consent, as shown in part A and Part B below, and any other relevant conditions:

**PART A – DEFERRED COMMENCEMENT CONDITIONS****(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)**

The consent is now to operate until the following conditions are satisfied, with **24 months** of the date of this determination.

**(1) VOLUNTARY PLANNING AGREEMENT**

- (a) That a Voluntary Planning Agreement in accordance with an appropriate Public Benefit Offer be executed and submitted to Council.
  - (b) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement.
  - (c) The Voluntary Planning Agreement, as executed, must be registered on the title of land in accordance with the Voluntary Planning Agreement; and
  - (d) The payment of the monetary contribution must be provided to Council in accordance with the Voluntary Planning Agreement.
- evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within **24 months** of the date of this deferred commencement consent, failing which this deferred commencement will lapse pursuant to section 95(6) of the Environmental Planning and Assessment Act 1979.
- the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions as indicated above, have been satisfied.
- upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

**PART B – CONDITIONS OF CONSENT****(ONCE THE CONSENT IS IN OPERATION)**

Upon written confirmation from Council that the deferred commencement conditions contained in Part A have been satisfied, the consent will become operative from the date of that written confirmation, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

**SCHEDULE 1A****Approved Development/Design Modifications/Covenants and Contributions/Use and Operation**

**Note:** Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

**(1) STAGED DEVELOPMENT APPLICATION**

Pursuant to Clause 100 of the Environmental Planning and Assessment Regulation 2000, this Notice of Determination relates to a Stage 1 Development Application and any subsequent development applications (Stage 2) or applications required for any works on the site.

**(2) APPROVED STAGE 1 DEVELOPMENT**

- (a) Development consent is limited to a Stage 1 Concept Plan building envelope and indicative land uses within this envelope, in accordance with Development Application No. D/2014/1962 dated 18 December 2014 (as amended) and the following drawings:

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
A001 B	PTW	15 May 2015
A004 B	PTW	15 May 2015
A006 B	PTW	15 May 2015
A011 B	PTW	15 May 2015
A012 B	PTW	15 May 2015
A013 B	PTW	15 May 2015
A014 B	PTW	15 May 2015
A015 B	PTW	15 May 2015
A500 B	PTW	15 May 2015

Drawing Number	Architect	Date
A501 B	PTW	15 May 2015
A502 B	PTW	15 May 2015
A600 B	PTW	15 May 2015
A601 B	PTW	15 May 2015
A602 B	PTW	15 May 2015
A603 B	PTW	15 May 2015

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

**(3) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT**

The terms of the planning agreement entered into in accordance with the Deferred Commencement Conditions are to be complied with.

**(4) DESIGN EXCELLENCE STRATEGY**

Any Stage 2 DA is to be consistent the Design Excellence Strategy submitted as part of the Stage 1 DA, as amended from time to time with the permission of the Director City Planning, Development and Transport.

**(5) AIRPORT APPROVAL**

Prior to the lodgement of any Stage 2 DA approval for the relevant Phase, approval is to be sought and granted by the Civil Aviation Safety Authority.

**(6) MATTERS NOT APPROVED**

The following items are not approved and do not form part of this Stage 1 development consent:

- (a) Subdivision of the site;
- (b) Any tree removal;
- (c) Any demolition, excavation and / or construction;
- (d) the layout and number of residential apartments, retail premises or child care centre placements;
- (e) the layout and number of car parking spaces, bicycle space, car share or loading spaces/zones;

- (f) the precise quantum of floor space; or
- (g) a 10% design excellence uplift in floor space ratio.

**(7) ROOF TOP PLANT**

Rooftop plant associated with buildings 1A, 1B and 3B are to be minimised and sited to reduce any potential impact on the outlook of residents to the north of the site.

**(8) LOCATION OF RESIDENTIAL LAND USES**

No dual uses are approved within any building.

**(9) BUILDING ENVELOPES**

Subject to other conditions of this consent, the building envelopes are only approved on the basis that the ultimate building design, including services, balconies, shading devices and the like will be entirely within the approved envelopes and provide an appropriate relationship with neighbouring buildings.

**(10) DESIGN EXCELLENCE AND COMPETITIVE DESIGN PROCESS**

- (a) A competitive design process in accordance with the provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012 (as amended) shall be conducted prior to the lodgement of any Stage 2 Development Application (DA).
- (b) Specifically a competitive design process must take place for Phase 1 and 3, Phase 2 and Phase 4.
- (c) Each detailed design of the development must exhibit design excellence.

**(11) BUILDING HEIGHT**

The maximum height of each building, as defined by the Sydney Local Environmental Plan 2012 (as may be amended) must not exceed:

Building	Metres	Roof	Plant
1A	25.6	43.280 RL	46.080 RL
1B	24.7	41.500 RL	44.300 RL
1C	21.60	41.300 RL	44.100 RL
1D	21.5	39.950 RL	42.750 RL
1E	6.304	27.664 RL	Nil
2A	22.5	42.600 RL	45.400 RL
2B	25.6	45.700 RL	48.500 RL

Building	Metres	Roof	Plant
3A	21.6	39.880 RL	42.680 RL
3B	24.7	41.500 RL	44.300 RL
3C	21.60	41.300 RL	44.100 RL
3D	19.7	45.00 RL	42.200 RL
3E	6.304	27.664 RL	Nil
4A	21.5	40.100 RL	42.900 RL
4B	21.5	41.200 RL	44.000 RL
4C	41.06	58.340 RL	62.560 RL

## (12) FLOOR SPACE RATIO – OUTSIDE CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed the maximum permissible, and shall be calculated in accordance with the provisions of Clause 4.4 and 6.4 of the Sydney Local Environmental Plan 2012 (as amended).
- (b) Notwithstanding clause (a) above, the proposal may be eligible for up to a 10% design excellence uplift in floor space ratio pursuant to the provision of Clause 21(7) of the Sydney Local Environmental Plan 2012.
- (c) Precise details of the distribution of floor space shall be provided within any future Stage 2 development application and shall be in accordance with the Sydney DCP 2012.

## (13) TREES FOR RETENTION AND REMOVAL

- (a) All trees as detailed in Section 6 (a) of the submitted Arboricultural Assessment Report prepared by TALC and dated 26 November (with the **exception** of Trees **45, 47, 48, 49 and 50**) are approved for removal. The Development Application for each approved Phase shall include a tree location plan that clearly indicates trees nominated for removal / retention.
- (b) All trees as detailed in Table 3 (Schedule of works/trees to be retained) of the submitted Arboricultural Assessment Report prepared by TALC and dated 26 November (**with the inclusion of Trees 45, 47, 48, 49 and 50**) must be retained. The Stage 2 Development Application for each approved Phase shall include a tree location plan that clearly indicates trees nominated for removal / retention.

**(14) PROTECTION OF TREES 45 AND 25-34**

- (a) The new road off Rosebery Avenue shall be located/designed so that tree roots within the Structural Root Zone (SRZ in accordance with AS 4970 'Protection of trees on development sites') of Tree 45 will not be severed or damaged and to achieve viable retention of the tree. The design shall be developed in liaison with an AQF Level 5 Arborist and shall be the subject of an Arboricultural Impact Assessment to be submitted to the Tree Management team for approval with the relevant Stage 2 Development Application.
- (b) The shared pedestrian / cycleway to the north of Phase 4 shall be located clear of the Structural Root Zone (SRZ in accordance with AS 4970 'Protection of trees on development sites') of T25 – 34 (the existing fig trees) and shall be designed and constructed in such a way that will minimise the impact on the trees. The design shall be developed in liaison with an AQF Level 5 Arborist and shall be the subject of an Arboricultural Impact Assessment to be submitted to the Tree Management team for approval with the relevant Stage 2 Development Application.

**(15) WASTE FACILITIES**

Any Stage 2 Development Application is to provide details of the location, construction and servicing of the waste collection facilities for the proposed building. The design of the facilities is to be in accordance with Council's *"Policy for Waste Minimisation in New Developments."*

**(16) SUBDIVISION**

Any Stage 2 Development Application is to provide for plans for the amalgamation and subsequent subdivision of the site. The plans are to accurately indicate the layout of the subdivision and its staging, together with road and public reserve dedication consistent with any future Voluntary Planning Agreement for the site.

**(17) RESIDENTIAL LAND USE**

- (a) Each phase of the development must be designed to comply with the principles of 'State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development', the guidelines of the 'Apartment Design Guidelines' (ADG) and the provisions of the Sydney Development Control Plan 2012.
- (b) Each phase of the development shall be designed to be compliant with the dwelling mix requirements of Section 4.2.3.12 of the Sydney Development Control Plan 2012 (Sydney DCP 2012).
- (c) Each phase of the development shall be provided with an area/s of communal open space in accordance with the requirements of the ADG and the Sydney DCP 2012.
- (d) A BASIX certificate in accordance with the requirements of State Environmental Planning Policy (building Sustainability Index: BASIX) 2004 must be submitted with each Stage 2 Development Application.

**(18) RETAIL USE**

No quantum of retail use is approved as part of this development application.

**(19) CHILD CARE CENTRES**

Documentation shall be submitted with each Stage 2 Development Application for the child care centre uses and operations in accordance with the requirements of 4.4.4 of the Sydney DCP 2012. No child care placement numbers are approved as part of the subject Stage 1 consent and these numbers are to be established with under each State 2 Development Application.

**(20) PUBLIC ART**

- (a) A Public Art Strategy is to be developed for the site/development in accordance with the Sydney DCP 2012 and the Public Art Policy. This Strategy shall form part of the documentation lodged as part of the first Stage 2 Development Application.
- (b) The requirement to accommodate public art as part of the redevelopment of the site must form part of the competitive design process brief and the nominated location should form part of any future Stage 2 Development Application.

**(21) AUSGRID**

- (a) Consultation is required with Ausgrid to ensure that technical and statutory requirement in regards to the safe and reliable operation and maintenance of Ausgrid's networks are maintained.
- (b) Details of the consultation undertaken are to be provided with each Stage 2 Development Application.

**(22) CONTAMINATION – DETAILED SITE ASSESSMENT**

A Detailed Environmental Site Investigation (DESI) is to be submitted with each Stage 2 DA and is to be carried out by a suitably qualified and competent environmental consultant and submitted to the City Area Planning Manager for further review in accordance with the NSW Government Office of Environment and Heritage, Guidelines for Consultants Reporting on Contaminated Sites, EPA Sampling Design Guidelines 1995, Contaminated Land Management Act 1997 and SEPP 55 Remediation of Land” confirming that the site is suitable (or will be suitable, after remediation) for the proposed use.

Where the DESI states that the site requires remediation, a Remediation Action Plan (RAP) is to be prepared by a suitably qualified and competent environmental consultant in accordance with the NSW Government Office of Environment and Heritage, Guidelines for Consultants Reporting on Contaminated Sites and the Contaminated land Management Act 1997 and submitted to the City Area Planning Manager for approval.

**Note: SITE AUDITOR REVIEW**

Where a site is subject to significant contamination or past contaminating activities, the City may additionally request that the DESI and any subsequent Remediation Action Plan be peer reviewed by a Site Auditor and a section B Site Audit Statement provided to Council prior to consent being given from the Auditor confirming that the extent of contamination has been appropriately determined and that the site can be made suitable if the site is remediated in accordance with the proposed sand referenced RAP.

Where the DESI concludes that the site is suitable for the proposed use, the City may request that a Section A Site Audit Statement be obtained from a Site Auditor to confirm site suitability.

**(23) CONSTRUCTION NOISE MANAGEMENT PLAN**

A Construction Noise Management Plan must be prepared and submitted with each Stage 2 Development Application. This Plan must be prepared by a suitably qualified acoustic consultant and must detail, but not be limited to, the following:

- (a) the equipment to be used during the construction on site, the quantity of all equipment and a plan of how equipment will be operated on site cumulatively;
- (b) the type of work that will be conducted during the construction process;
- (c) details on (any) respite periods and any noise mitigation measures required; and
- (d) detail the extent of community consultation to be undertaken.

**(24) RESIDENTIAL ACOUSTIC AMENITY – ACOUSTIC REPORT**

An acoustic Impact Assessment must be undertaken by a suitably qualified acoustic consultant and submitted with each Stage 2 Development Application in accordance with the provision of the Sydney Development Control Plan 2012.

**(25) CAR PARKING SPACES AND DIMENSIONS**

- (a) The number and location of permissible car parking spaces is to be established as part of each Stage 2 Development Application.
- (b) The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking Facilities Part Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities.

**(26) BICYCLE PARKING AND END OF TRIP FACILITIES**

Details of the location, number and class of bicycle parking must be included in each Stage 2 Development Application.

Bicycle parking for residents and employees is to be provided in accordance with the provisions of the Sydney Development Control Plan 2012.

**(27) TRAFFIC WORKS**

Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RMS Technical Directives and must be referred to and agreed to by the Local Pedestrian, Cycling and Traffic Calming Committee prior to any work commencing on site.

**(28) PUBLIC DOMAIN LIGHTING**

- (a) The Applicant shall provide a system of underground street and pedestrian lighting along all roads, footpaths, and street closures in accordance with Ausgrid and Council standards. Prior to any Construction Certificate for public domain works or above ground building works being issued, whichever is later, a detailed Public Domain Lighting Plan for pedestrian and street lighting in the public domain must be prepared by a suitably qualified, practicing lighting engineer or lighting designer and must be submitted to and approved by Council. The Lighting Plan must be prepared in accordance with the City of Sydney's Interim Draft Sydney Lights Design Code, Sydney Streets Design Code, *Sydney Streets Technical Specification* and *Public Domain Manual* and must include the following:
  - (i) Vertical and horizontal illuminance plots for the public domain lighting design to demonstrate compliance with all relevant Australian Standards and to meet the lighting categories and requirements specified by the City;
  - (ii) The location, type and category of existing and proposed lights, including details of luminaire specifications, required to ensure compliance with City policies and Australian Standards;
  - (iii) Footing locations and structural details;
  - (iv) Location and details of underground electrical reticulation, connections and conduits;
  - (v) Certification by a suitably qualified, practicing lighting engineer or lighting designer to certify that the design complies with City policies and all relevant Australian Standards including AS 1158, AS 3000 and AS4282;
  - (vi) Structural certification for footing designs by a suitably qualified, practicing engineer to certify that the design complies with City of Sydney policies and Australian Standards.

- (b) The public domain lighting works are to be completed in accordance with the approved plans and the City of Sydney's *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.
- (c) Temporary lighting to facilitate Staging or until adjoining developments are constructed and permanent lighting installed are to form part of the submission.

#### **(29) ALIGNMENT LEVELS**

- (a) Footpath alignment levels for the building associated with this Stage 1 consent must be submitted to Council as a part of each Stage 2 Development Application for the relevant Phase. The submission must be prepared by a Registered Surveyor and must be in accordance with the City of Sydney's Public Domain Manual.
- (b) These alignment levels, as approved by Council, are then to be incorporated into the plans submitted with the application for a Construction Certificate, excluding a Construction Certificate for approved preparatory, demolition or shoring work as a part of each Stage 2 consent.
- (c) If a Public Domain Plan condition applies to the development the Alignment Levels application must be made concurrently with the submission of a Public Domain Plan.

#### **(30) PUBLIC DOMAIN PLAN**

The Public Domain Plan accompanying this Development Application has not been approved by this consent.

Three copies of a detailed Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be lodged with Council's Public Domain Section and be approved by the Director City Planning, Development and Transport as part of each Stage 2 Development Application for the relevant Phase and will be subject to review and require approval prior to any construction certificate being issued for any new building work (including internal refurbishments) excluding approved preparatory, demolition or shoring work.

The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must be made concurrently with the Alignment Levels application. The works to the public domain are to be completed in accordance with the approved plan and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

#### **(31) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT**

On-site detention, treatment and re-use is encouraged.

- (a) Details of the proposed stormwater disposal and drainage from the development including a system of on-site stormwater detention in accordance with Council's standard requirements and details of the provision and maintenance of overland flow paths must be submitted as a part each Stage 2 Development Application.
- (b) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant.
- (c) The requirements of Sydney Water with regard to the on site detention of stormwater must be ascertained and complied with.
- (d) An "Application for Approval of Stormwater Drainage Connections" must be submitted to the Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system.
- (e) A Positive Covenant must be registered on the title for all drainage systems involving On-site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection.

### **(32) PAVING MATERIALS**

The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

### **(33) TEMPORARY TURNING AREA**

- (a) Any road which is constructed and dedicated as a dead end street, as a result of the staged delivery of the site, must provide a temporary vehicle turning area.
- (b) Details of the vehicle turning must be submitted with the detailed design of the affected road.
- (c) All temporary turning areas must be designed to accommodate a Council waste collection vehicle as a minimum.
- (d) The vehicle turning area must remain until the relevant subsequent stages are complete and the turning area is no longer required.

### **(34) STORMWATER AND DRAINAGE MANAGEMENT**

Where temporary or interim stormwater works are required, permission is to be sought from the relevant authority (Council or Sydney Water) prior to works commencing. If a drainage line is to be removed or altered, replacing drainage line must have similar or better capacity.

### **(35) NEW PARK**

- (a) The Park Plan accompanying this Development Application has not been approved by this consent.

- (b) A detailed Landscape Plan for the new park prepared by a qualified landscape architect must be lodged as part of the relevant Stage 2 DA that incorporates the future park land. The detailed Landscape Plan shall be generally in accordance with a concept Park Plan to be prepared by the City.
- (c) The Landscape Plan submission should demonstrate that the following has been considered in the design development:
  - (i) Comments and directions by the City resulting from community consultation;
  - (ii) Incorporation of existing trees into the design;
  - (iii) Maintain strong visual connections between the through site links and the park;
  - (iv) Areas of shade in summer and direct sunlight in winter;
  - (v) Shade over play equipment (where applicable);
  - (vi) The environmental conditions of the site;
  - (vii) Areas of social interactions at nodes of activity;
  - (viii) Consideration of planting in accordance with the City's Greening Sydney Plan;
  - (ix) Integration of public domain materials palette to merge with park design materials;
  - (x) Ensure the design is robust and easily maintainable;
  - (xi) Safety and security during day and night; and
  - (xii) Maintenance access requirements.
- (d) The detailed landscape plan must include:
  - (i) Location of existing and proposed structures on the site including existing trees and services;
  - (ii) Details of earthworks including mounding and retaining walls and planter boxes;
  - (iii) Details of hard landscape treatments;
  - (iv) Details of lighting;
  - (v) Location, numbers and type of plant species;
  - (vi) Details of planting procedure and maintenance; and
  - (vii) Details of drainage and watering systems.

**(36) LANDSCAPE WORKS – GREEN LINKS**

- (a) The Landscape Plans accompanying this Development Application have not been approved by this consent.
- (b) Details of the proposed Green Links are to be submitted as part of the relevant Stage 2 DA. The Green Links shall be designed and constructed as high quality aesthetic environments and as functional and usable space to maximise both passive and active recreation opportunities (including access requirements for pedestrians and cyclists). The green links are to remain publicly accessible at all times after completion.
- (c) No obstructions relating to below ground car parks or adjacent buildings such as accessways or service vents are permitted within the Green Links. The green links shall provide continuous accessible paths of travel in accordance with the City of Sydney Access Development Control Plan 2004 and AS 1428-2009: Design for Access and Mobility. All continuous paths of travel shall be clearly indicated. The applicant shall submit a certificate of compliance from a suitably qualified Access Consultant for each stage. Green Links shall not be ramped to provide access to the buildings. Any required access to property shall be achieved through ramping or stairs within the property boundary and not within the encumbered land.
- (d) The Applicant shall include on the plans the extent of landscape areas on slab/planter boxes and provide details that include a cellular drainage system, water proofing, irrigation system, tanking and flushing tubes in accordance with relevant Council and Australian Standards. The minimum soil depths for planting on slab shall be 1000mm for trees, 600mm for shrubs and 300mm for groundcovers and turf.
- (e) The applicant shall provide a fully automatic irrigation system to all landscape areas and turf. Hosecock's/QCV's installed in landscaped areas are to be at one per 80m<sup>2</sup> of landscaped area, or a minimum of one for each separate landscaped space whichever is the greater. The applicant is responsible for all liaison, authorities certificates, approvals and commissioning from all relevant authorities.
- (f) Planting layout and massing for landscaped areas shall be in accordance with the following (unless determined otherwise by Council):

<b>Material Mature</b>	<b>Height</b>	<b>Minimum Spacing Minimum</b>	<b>Pot Size</b>
Trees	Varies	Varies	100L (min. 2.0m high)
Tall Shrubs	> 1.5m high	3-6 per sq.m.	10L
Shrubs	600mm-1.5m high	4-7 per sq.m.	5L pot
Groundcovers	<500mm high	5-10 per sq.m.	150mm pot

- (g) Lighting shall be designed by a suitably qualified Electrical/Lighting Engineer. The objectives of the lighting design shall be to provide an aesthetically pleasing, safe functional night time environment utilising variable high quality vandal resistant light fixtures.

- (h) Lighting shall comply with AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting. The lighting shall be designed in accordance with the appropriate P rating for the space as deemed necessary by the Electrical/ Lighting Engineer and in reference to AS1158.3.1 Road Lighting- Pedestrian Area Lighting. All materials and items within the Green Link shall be in accordance with the City's Policies including the Sydney Streets Code, Sydney Lights Code, Cycling Strategy and Action Plan 2007-2017 and Parks Manual.

## SCHEDULE 2

**The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:**

- Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
- Clause 98A Erection of signs
- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>

## SCHEDULE 3

### Terms of Approval

#### Other Integrated Development Approvals

Any future Stage 2 DA is to comply with the following Terms of Approval for Integrated Development as advised by Office of Water are as follows:

#### General

1. An authorisation shall be obtained from NSW Office of Water for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified in the authorisation.
2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.

3. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

#### Prior to excavation

4. Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken. These measurements should be included in a report provided to the NSW Office of Water in support of the dewatering licence application, along with a schedule and indicative level predictions for the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
5. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the parameters (e.g. permeability predicted by slug-testing, pump-testing or other means) and calculation method shall be included in the report submitted to the NSW Office of Water in support of the dewatering licence.
6. A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.
7. Groundwater quality testing shall be conducted on a suitable number of samples using a suitable suite of analytes and completed by a NATA-certified laboratory, with the results collated and certificates appended to a report supplied to the NSW Office of Water. Samples must be taken prior to the substantial commencement of dewatering, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
8. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (sometimes referred to as "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
9. Contaminated groundwater (i.e. above appropriate NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment Protection Authority (any such discharge would be regulated through a licence issued under the *Protection of the Environment Operations Act 1997* [POEO Act]). The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### During excavation

10. Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

11. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
12. Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water.
13. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
14. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
15. The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.
16. Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety procedures.

Following excavation

17. All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

## BACKGROUND

### The Site and Surrounding Development

1. The site has a legal description of Lot 3 of DP 1065657 and Lot 2 of 566811 and is commonly known as 25-55 Rothschild Avenue and 5-13 Rosebery Avenue Rosebery. The site has four street frontages, Stedman Street to the north, Rosebery Avenue to the east, Crewe Place to the south and Rothschild to the west.
2. The site is generally rectangular in shape with an area of 49.038sqm. The site has the following frontages
  - (a) North 83.835m to Stedman Street;
  - (b) East 250.905m to Rosebery Avenue;
  - (c) South 118.945m to Crewe Place; and
  - (d) West 229.375m to Rothschild Avenue.



Figure 1: Aerial view of subject site and surrounds

3. Existing on the site is a 10 storey commercial building in the north east quadrant of the site, three warehouse and commercial buildings, parking and circulation between the buildings.



Figure 2: Rothschild Avenue frontage (north west quadrant)



Figure 3: Stedmen Street frontage



Figure 4: Existing industrial buildings within site (under demolition August 2015)



Figure 5: Rosebery Avenue frontage



Figure 6: Crewe Place frontage



Figure 7: Existing mature fig trees on northern boundary view west



Figure 8: Rosebery Street frontage – existing tower

4. The site is generally flat with a gradual slope towards the south and south-west. A number of mature trees exist along the site boundaries to Crew Place, Rosebery Avenue and part of the north site boundary near Steadman Avenue.
5. To the north of the site on the opposite side of Steadman Avenue is a medium density residential building constructed by Meriton at 5 Rothschild Avenue known as Valentino.
6. To the east of the site on the opposite side of Rosebery Avenue is a medium density residential development known as Zeta Apartments which at 42-60 Rosebery Avenue and 94-100 and 102 Dalmeny Avenue that is currently under construction. The development includes a ground floor child care centre and the partial construction of a new road. Meriton is constructing the development.

7. To the south of the site on the opposite side of Crewe Place is a residential flat building known as Artise at 2 Crewe Place.
8. To the west of the site on the opposite side of Rothschild Avenue at 26-58 Rothschild Avenue is the former RTA site known as Otto which has recently been completed as a residential development.
9. Photos of the site and surrounds are provided below:



Figure 9: Existing heritage building to the north west of the site – 24 Rothschild Avenue



Figure 10: Recently completed 'Otto' development at 28-30 Rothschild Avenue



Figure 11: 'Otto' development at corner of Rothschild Avenue and Sweet Street



Figure 12: Existing 'Valentino' Meriton development at 59 Rothschild Avenue



Figure 13: 6-10 Rothschild Avenue – 8 storey building currently under construction



Figure 14: 'Arise' development 57 Rothschild Avenue (Crew Place frontage)

#### **HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION**

10. The subject site is located within the North Rosebery precinct which contains a detailed DCP as part of the Sydney DCP 2012. The detailed DCP sets envelopes and specific design controls for the redevelopment of the site.
11. The Applicant has submitted the subject Stage 1 application to amend the envelopes allowed by the detailed DCP and establish alternative envelopes. The Applicant does not seek additional FSR beyond that permitted within the Sydney LEP 2012 but does seek to redistribute the FSR and height within the site.
12. The Stage 1 application sets out a coordinated approach of dividing the site into 4 development phases each with associated public domain works and dedications. A Public Benefit Offer for the associated community infrastructure has been submitted by the applicant but at the time of preparing this report is yet to be finalised in a Voluntary Planning Agreement (VPA).
13. It is recommended the determination of the application be delegated to the Chief Executive Officer, subject to a draft VPA being exhibited and any submissions received considered.
14. The subject application was lodged 18 December 2014. At the time of lodgement, the application did not seek consent for child care uses. The application was amended on 15 May 2014 by way of the submission of amended plans to accommodate the child care centre uses at the request of the Applicant.

15. During the assessment, testing of the new road location and green link was carried out by Council with a design study. As a result of the study, the placement of the new road was adjusted to accommodate two existing significant trees to be retained, the creation of a 'pin wheel square' at the junction of the new road, green link and northern through site link was created and an alternative arrangement of on street car parking adjacent to the new park were made to the scheme.
16. The Applicant has amended the submitted envelopes at the request of Council officers to accommodate the above changes.

## PROPOSAL

17. The Applicant seeks consent for a Stage 1 concept proposal for the following:
  - (a) In-principle approval for demolition of all existing buildings on site with the exception of the existing 9 storey tower;
  - (b) 14 residential buildings, which have been tested to accommodate 94,398sqm of gross floor area (GFA) or a FSR of 1.925:1;
  - (c) Indicative future land uses of residential apartments, child care centres and retail / commercial tenancies;
  - (d) 4 separate basements over 2 levels; and
  - (e) A public park at the corner of Crew place and Rosebery Avenue, new streets, through site links and a green link, landscaping.
18. The Applicant seeks to develop the site in 4 phases as shown in Figure 15 below.

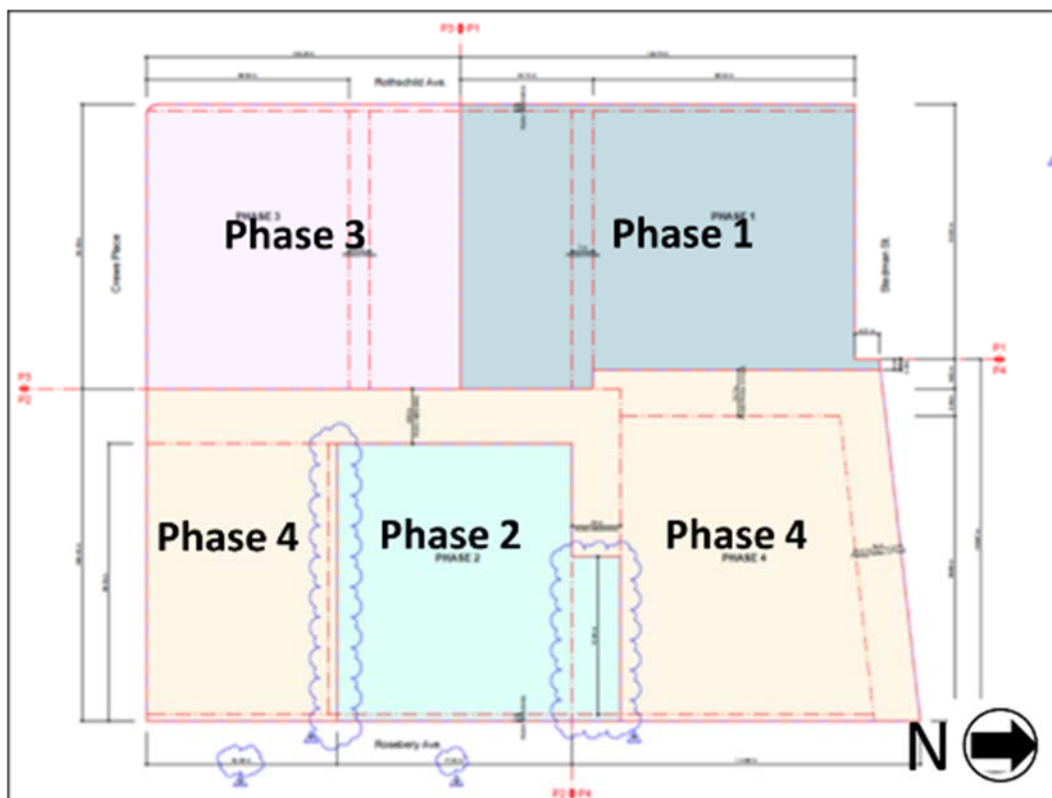


Figure 15: Phasing diagram

19. The Applicant has stated that Phasing has been structured around existing leases over various buildings on the site.
20. Specifically, the following phases are sought:

**Phase 1 – north west quadrant**

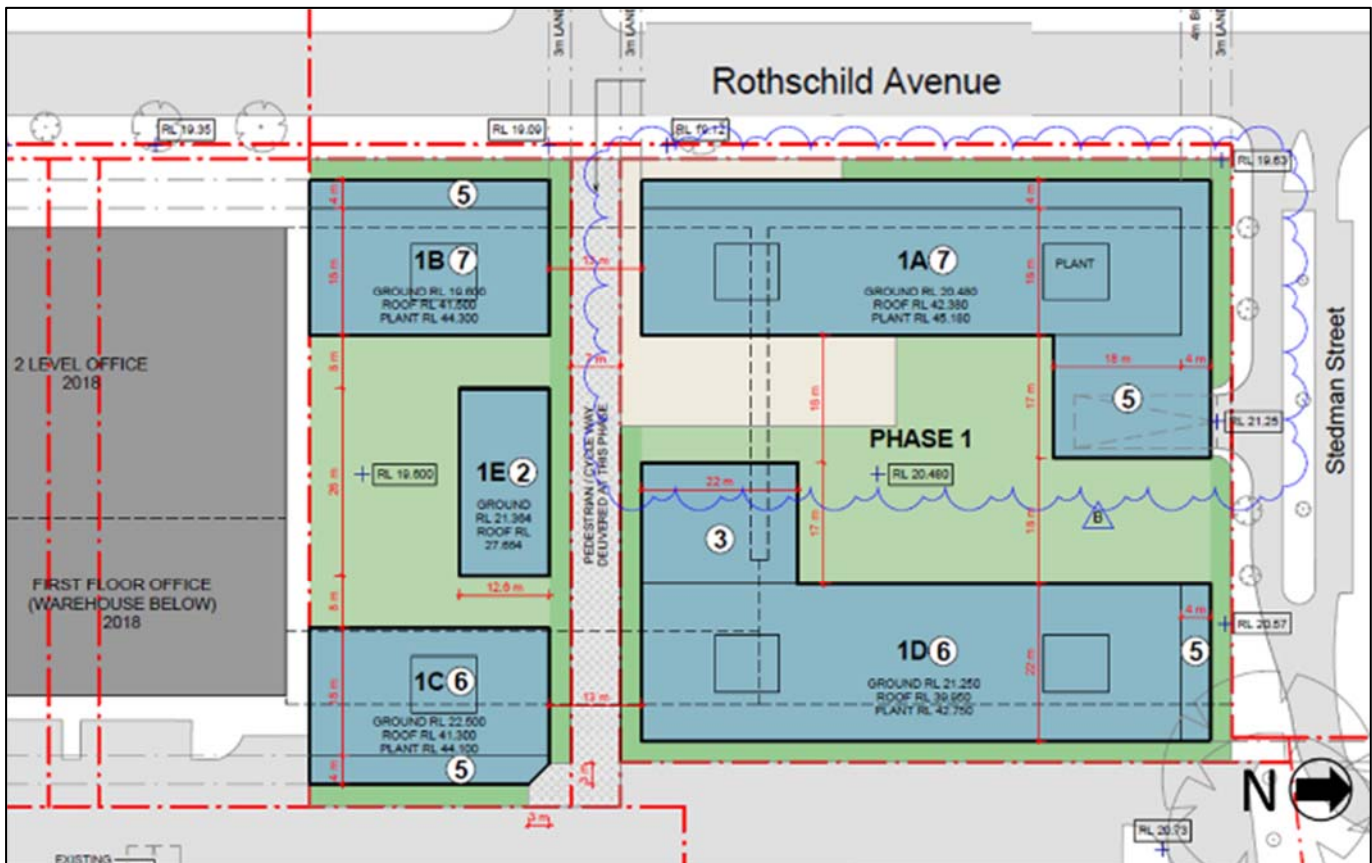


Figure 16: Phase 1 building envelopes

- (a) Phase 1 has a site area of 11,361 sqm (excluding dedication) and seeks indicative envelopes to accommodate approximately 291 apartments within 5 buildings ranging from two to 7 storeys and one basement car park. Phase 1 includes the dedication of approximately 260sqm along Rothschild Avenue for road widening and the construction of a pedestrian / cyclists through site link with easement running east west across the Phase.
- (b) A child care centre use within building 1A is also sought.

## Phase 2 – east central quadrant

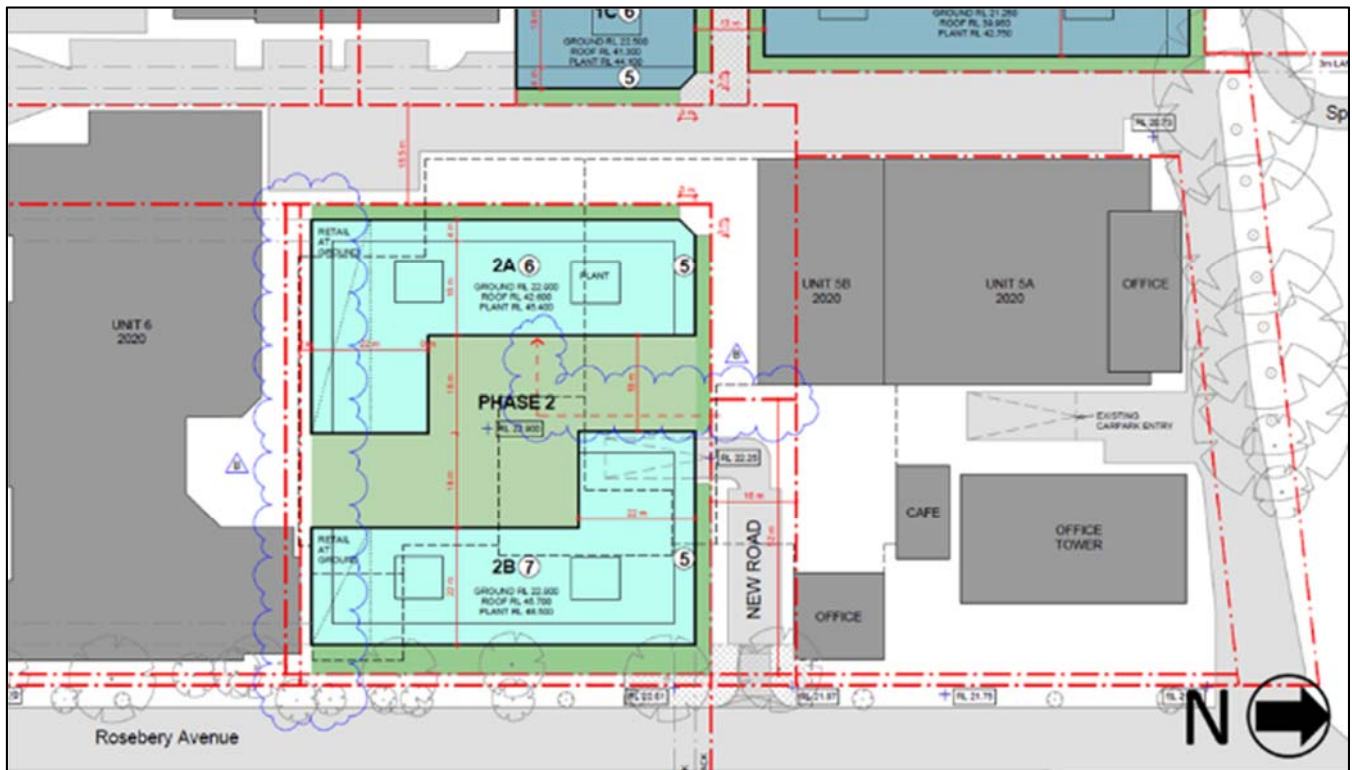


Figure 17: Phase 2 building envelopes

- (a) Phase 2 has a site area of approximately 6,896 sqm (excluding dedications) and seeks indicative envelopes to accommodate approximately 181 apartments within two buildings ranging in height from 6 to 7 storeys and one basement car park.
- (b) Phase 2 includes a dedication of approximately 1018 sqm for road widening along Rosebery Avenue and a section of new road to provide access to the site from Rosebery Avenue.
- (c) Retail uses at ground level on the southern side of the buildings 2A and 2B are also sought.

## Phase 3 – south west quadrant

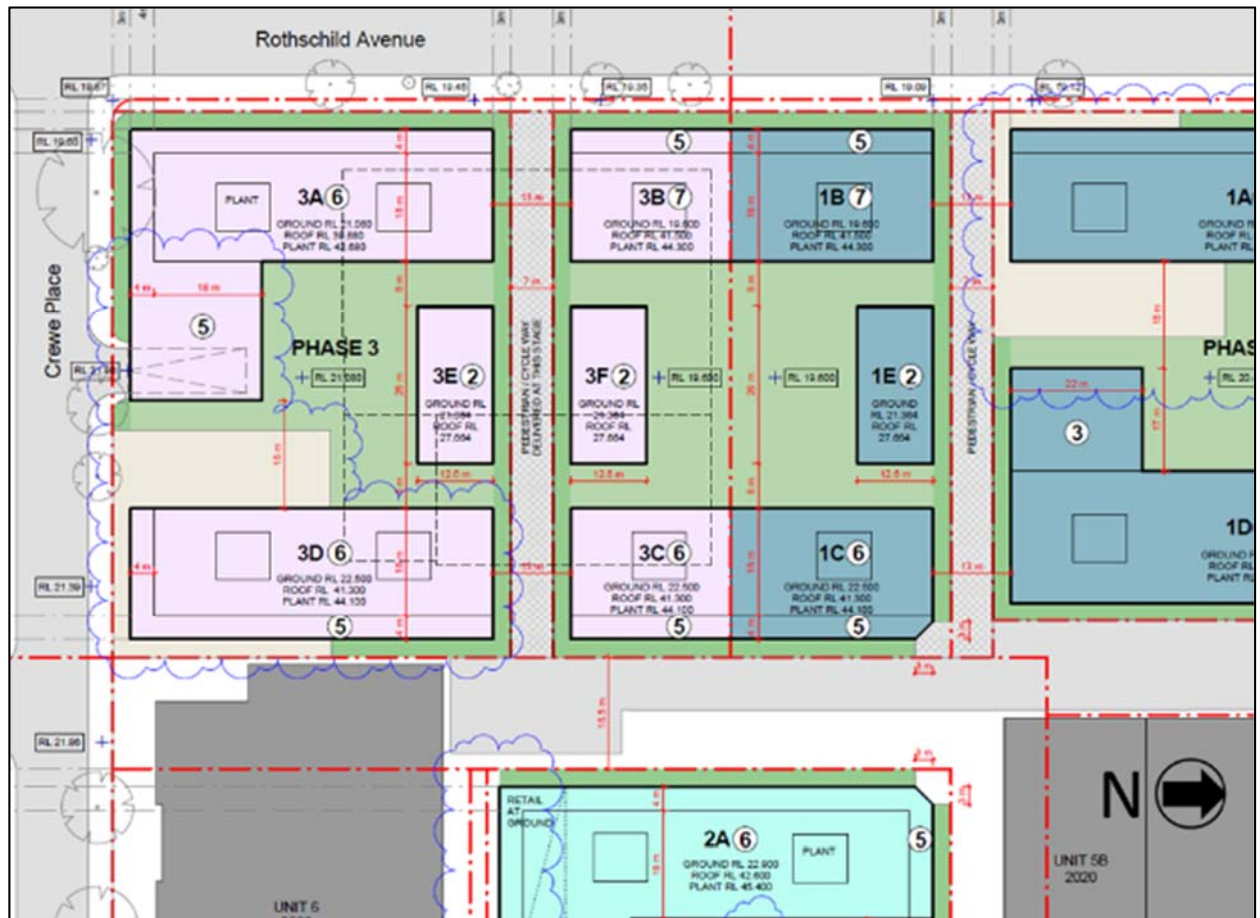


Figure 18: Phase 3 Building envelopes

- (a) Phase 3 has a site area of approximately 9,443 sqm (excluding dedications) and seeks indicative envelopes to accommodate 200 apartments within 6 apartments ranging in size from 2 to 7 storeys and one basement car park.
- (b) Phase 3 includes the dedication of approximately 204sqm for road widening fronting Rothschild Avenue and a pedestrian / cyclist through site link with easement running east – west through the phase.
- (c) A child care use is also sought within building 3D.

## Phase 4 – north east quadrant and new park

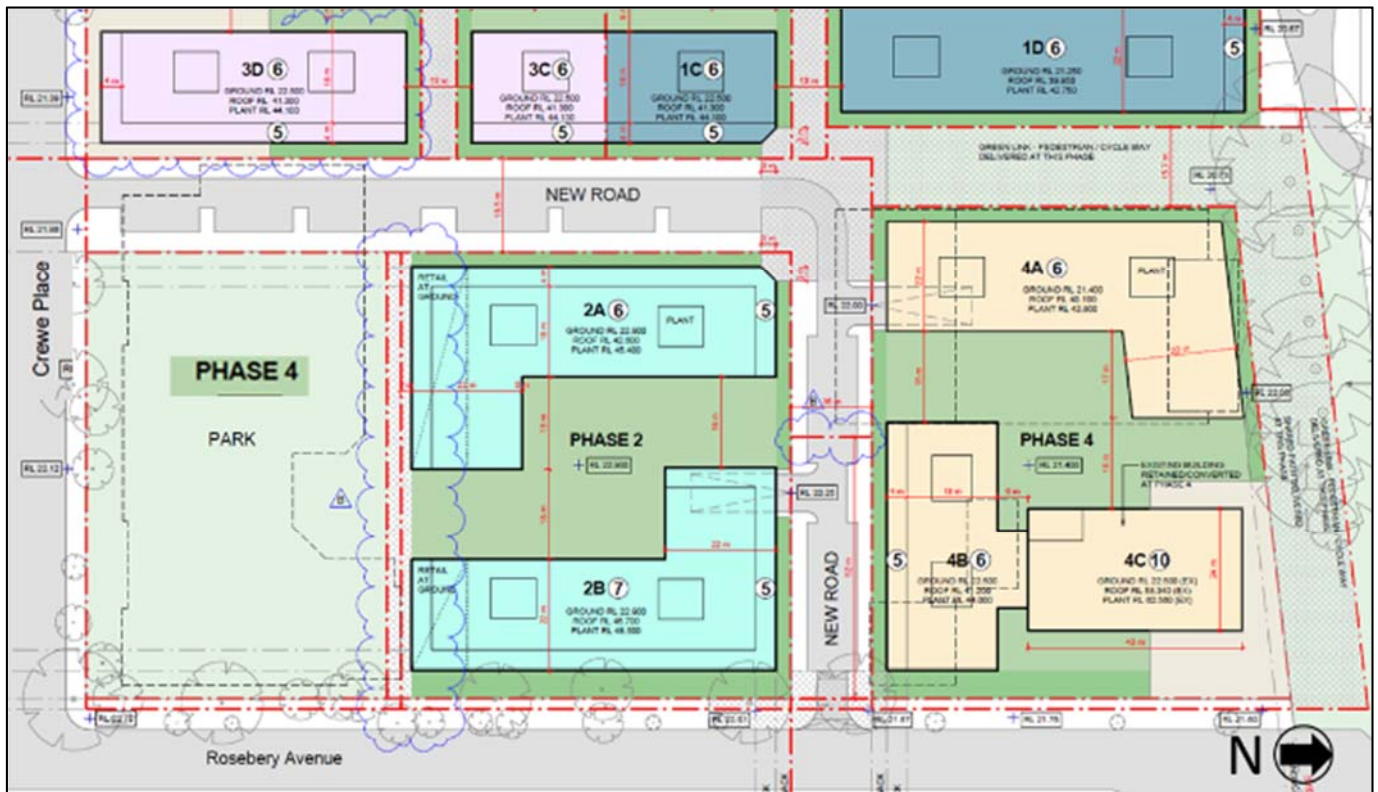


Figure 19: Phase 4 building envelopes

- (a) Phase 4 has a site area of approximately 7858 sqm (excluding dedications) and seeks indicative envelopes for approximately 221 apartments within 3 buildings ranging in height from 6 to 10 storeys and two basement levels.
- (b) The retention of an existing commercial building and refurbishment for residential use forms part of the proposal.
- (c) Phase 4 includes the dedication of approximately 11,998 sqm of land for road widening on Rosebery Avenue, the creation of a green link to the north and west of the phase, the remainder of the new internal road and a 5308sqm public park at the southern end of the site.
- (d) A child care use within building 4C is sought as part of the proposal.

## Design Competitions

21. The Applicant has requested to complete 3 design competitions for the 4 phases of the development. Specifically, Phases 1 and 3 are to be one competition site with separate competitions for Phases 2 and 4. No objection to this arrangement is made subject to the smaller 2 storey buildings (3E, 3F and 1E) being the subject of a separate design by an emerging boutique architect.
22. A design competition for Phase 1 and Phase 3 was held in August 2015, with SJB providing the winning scheme. Photomontages of the winning scheme are provided below.



Figure 20: Winning Design scheme - Crewe Place frontage



Figure 21: Winning Design scheme – Rothschild Avenue frontage

23. It is expected that any future Stage 2 DAs for the Phases 1 and 3 will be based on the winning scheme.
24. The three smaller 2 storey buildings are being designed by a boutique architect and are outside the design competition areas.

**ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

25. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
  - (a) **Integrated Development – Section 91 EP&A Act**
26. The application was referred to the NSW Office of Water as the proposal constitutes Integrated Development under Section 91 of the EP&A Act.
27. Preliminary assessment indicates that the groundwater table will be intercepted as a result of the excavation for the proposed basement car park. The construction dewatering proposed for the project is deemed to be an aquifer interference activity. The excavation and construction at the property will need to be conducted in accordance with the principles of the *Aquifer Interference Policy* as set out by the NSW Office of Water.
28. An authorisation for the take of ground water as part of the proposed dewatering and remediation of the site is required. The NSW Office of Water have provided General Terms of Approval (“GTA”) appropriate to the proposed aquifer interference activity. It is recommended that any future Stage 2 DA comply with these conditions.

***Environmental Planning Instruments and DCPs*****State Environmental Planning Policy No 55—Remediation of Land**

29. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
30. A Preliminary Site Contamination Assessment (PSCA), prepared by Coffey, dated 16 June 2014, was submitted with the development application. The PSCA identified that there is potential contamination risk involved with this site. The Council/City’s Health Unit is satisfied that at the conceptual stage without approval for any works the application is acceptable.
31. Conditions are recommended that development must not commence, including demolition or excavation until Council is satisfied that the land can be made suitable prior to approval of a Stage 2 application with further recommended conditions to be provided at that stage to protect the amenity of future occupants and neighbouring uses.

**State Environmental Planning Policy No 65—Design Quality of Residential Flat Development**

32. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 10 design quality principles, being:
  - (a) **Principle 1. 2 and 3: Context, Scale and Built Form**

The proposed scale and massing of the building envelopes are contextually appropriate to the north Rosebery precinct and provide appropriate forms to accommodate the intended future uses.

(b) **Principle 4: Density**

The proposal results in a density of development as envisioned by the planning controls. The proposed density is considered to be acceptable given the North Rosebery precinct location, particularly given the proximity to established and planned future infrastructure, public transport, community and recreation facilities.

(c) **Principle 5: Resource, energy and water efficiency**

The proposed envelopes and the indicative floor plates have been designed to maximise cross ventilation and solar access penetration into future residential apartments. The energy efficiency and sustainability of the design will form part of the future detailed design development application. Appropriate conditions are recommended for imposition to require that all Stage 2 application comply with the SEPP 65 (including the recently gazetted SEPP 65 amendments) and BASIX.

(d) **Principle 6: Landscape**

It is noted that the detailed North Rosebery precinct controls require dedication of land within the external perimeter to Council for footpath widening. The detailed DCP also defines setbacks on each frontage for landscaping.

The proposal seeks consent for an indicative building envelope only, and it will be necessary for a more detailed analysis and assessment of any scheme against the landscape principles as part of a future Stage 2 Development Application.

It should also be noted that prior to a Stage 2 Development Application, a competitive design process will be required to be held for this site. The provision and location of communal and private areas open space within the development will form part of the overall architectural design.

(e) **Principle 7: Amenity**

As the proposal is for a Stage 1 concept proposal only, a more rigorous assessment of the amenity for future residents will occur as part of the Stage 2 detailed design development application. However, as part of the subject application, indicative floor plans have been submitted in order to demonstrate that the floor plates and envelope sought are capable of accommodating a SEPP 65 compliant design. Based on these indicative floor plans, it is considered that the site is capable of providing an adequate level of amenity as:

- (i) 71% of the indicative apartments are able to receive two hours of solar access between 9.00am and 3.00pm on the winter solstice, which complies with the 70% requirement of the RFDC guidelines.
- (ii) 62% of the indicative apartments are naturally cross ventilated, which proves the floor plate is able to comply with the RFDC guideline of 60%.
- (iii) All apartments are able provide with private outdoor space, which will be detailed in the Stage 2 Development Applications.

- (iv) Storage areas are able to be provided within the development in accordance with the storage requirements of the RFDC.

(f) **Principle 8: Safety and Security**

The proposal is for a conceptual building envelope only, with the detailed design of the building to be the subject of a competitive design process prior to the lodgement of any Stage 2 DA. It is considered that each building is able to be designed to ensure compliance with the safety and security principles of the RFDC and the principles of the Crime Prevention through Environmental Design.

(g) **Principle 9: Social Dimensions**

The indicative scheme accommodates the following unit mix within the building envelopes:

- (i) 36% studio /1 bedroom (DCP control is maximum 40%)
- (ii) 43.7% 2 bedroom (DCP range is 10-75%)
- (iii) 20.3% 3 bedroom (DCP range is 10-100%)

It should be noted that this unit mix is not approved as part of the subject application and will be subject to change as part of the detailed design applications, however it does demonstrate that a generally compliant mix is able to be accommodated with the envelope. A condition requiring compliance with the Sydney DCP 2012 unit mix provisions is recommended for imposition.

(h) **Principle 10: Aesthetics**

The proposal is for conceptual building envelopes only, with the detailed design and aesthetics of the buildings to be the subject of complete design process prior to the lodgement of Stage 2 DAs.

- 33. Considering the constraints of the site and location within the North Rosebery Precinct of the Green Square redevelopment area, the development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls.
- 34. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls.
- 35. Amendments to SEPP 65 and the replacement of the RFDC with the Apartment Design Guide as a result of the publication of the State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 3) (SEPP 65 Amendment) formally commenced on 17 July 2015.
- 36. In accordance with the savings provision of the SEPP 65 Amendment, as this application was lodged prior to 19 June 2015, this application is assessed under the Residential Flat Design Code (RFDC); however, the SEPP 65 Amendment is a relevant document for consideration as a publically exhibited environmental planning instrument at the time the application was made.

**State Environmental Planning Policy (Infrastructure) 2007**

37. The provisions of SEPP (Infrastructure) 2007 (ISEPP) have been considered in the assessment of the development application.
38. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the ISEPP as the development contains existing substations.
39. In accordance with Clause 45 of the ISEPP, the application was referred to Ausgrid for a period of 21 days and no objection was raised. The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development.
40. The application is subject to Clause 104 of the ISEPP as the application provides parking for more than 200 motor vehicles and is traffic generating development. The application has been referred to the Roads and Maritime Services who have no objection to the proposal.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

41. Any future Stage 2 Development Application will be required to satisfy BASIX requirements. A condition is recommended for imposition to advise that any future residential scheme must comply with SEPP (Building Sustainability Index: BASIX) 2004, and that a BASIX certificate must be submitted with any future Stage 2 DA.

**State Environmental Planning Policy (Affordable Rental Housing) 2009**

42. The subject site is within the Green Square renewal area, any future Stage 2 Development Application will be subject to affordable housing contribution.

**State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)**

43. SEPP 32 provides for the increased availability of housing within the inner city and to assist in meeting the demand for housing close to employment, leisure and retail opportunities.
44. The proposed development of the site is consistent with the aims and objectives of SEPP.

**Sydney LEP 2012**

45. The site is located within the B4 Mixed Use zone under the Sydney Local Environmental Plan (Sydney LEP 2012). The proposal is defined as a 'residential flat building' and 'child care centre' and 'retail premises', all of which are permissible uses within the B4 Mixed Use Zone.
46. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings	Acceptable	<p>Clause 4.3 of SLEP 2012 permits a maximum height range between 3m (roads) and 33m (existing tower) over the subject site.</p> <p>Alternative envelopes have been proposed as part of the Stage 1 DA which exceed the height limit on some buildings but reduce the height on other buildings.</p> <p>The applicant has submitted a written 4.6 request to vary the development standard. Refer to Issues section.</p>
4.4 Floor Space Ratio	Yes	<p>Clause 4.4 of the Sydney LEP 2012 stipulates a base floor space ratio of 1:1 for the site. Based on the indicative land uses sought at this concept stage of the proposal, Clause 6.4 of the Sydney LEP 2012 provides an opportunity for a further 0.75:1 of floor space where community infrastructure is provided. This equates to a maximum FSR for the development of 1.75:1.</p> <p>The documentation submitted by the applicant demonstrates that the proposed building envelopes are able to accommodate a gross floor area, which would equate to a FSR of 1.925:1</p> <p>In order to achieve this FSR, the applicant is reliant on any future architectural design being awarded the 10 % design excellence floor space under the provisions of Clause 6.21(7) of the Sydney LEP 2012.</p> <p>Further discussion is provided at the issues section of this report, however, it should be noted that no gross floor area or FSR would be approved as part of the subject application.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3.</p> <p>See discussion under the heading Issues.</p>

Compliance Table		
Development Control	Compliance	Comment
5.9 Preservation of trees or vegetation	Able to comply	<p>The site includes 107 individual trees and a strand of approximately 200 smaller trees.</p> <p>Approximately 59 individual trees and a strand of 200 trees are to be removed.</p> <p>The application was referred to Council's Tree Services Unit who requested the retention of several High Retention Value trees.</p> <p>The Stage 1 design has been amended to retain these trees where possible.</p> <p>Refer to Issues section for discussion.</p>
5.10 Heritage conservation	Yes	<p>The concept plan seeks in-principle consent for the demolition of all existing buildings on site with the exception of an existing 9 storey commercial building.</p> <p>The existing buildings on site are of contemporary construction and do not have any heritage contribution to the street or immediate locality.</p> <p>The site itself is not of heritage significance and is not located in a conservation area or in proximity to a heritage item.</p>
Part 6 Local provisions - height and floor space		
Division 4 Design excellence	Able to comply	<p>In accordance with Clause 6.21(7) of SLEP 2012, an additional 10% FSR or height may be approved if a competitive design process has been undertaken, and it is considered that the scheme exhibits design excellence.</p> <p>As the proposal is a Stage 1 development application, no architectural design details have been provided. A competitive design process will need to be undertaken prior to any Stage 2 development application being lodged.</p>

Compliance Table		
Development Control	Compliance	Comment
<b>Part 7 Local provisions—general</b>		
Division 1 Car parking ancillary to other development	Able to comply	<p>The proposal includes 2 levels of basement car parking within 4 car parks as part of the concept proposal.</p> <p>Car parking numbers for residential, child care and retail tenancies can only be assessed as part of a Stage 2 DA. Parking numbers are determined having regard to the residential unit mix, number of child care places and volume of retail space which are only conceptual at this stage.</p> <p>A condition has been recommended for imposition to advise that no consent is granted to 'lock in' car parking numbers or number of basement levels as part of Stage 1 DA.</p>
Division 3 Affordable housing	Can comply	Future Stage 2 development application will be subject to affordable housing contributions.
7.16 Acid Sulphate Soils	Yes	The subject site is situated within a Class 5 area as shown on Acid Sulphate Soils Planning Maps and is approximately 20 m above sea level and 820m from a Class 3 zone. No Acid Sulphate Soils Management Plan is required.
7.17 Flood planning	Able to Comply	The site is identified by Council as being flood prone. See discussion under the heading Issues.
7.18 Airspace operations	Able to comply	Approval in part has been granted by Sydney Airport. It is recommended as a condition of consent that final approval be granted prior to the lodgement of any Stage 2 DA.

Compliance Table		
Development Control	Compliance	Comment
7.22 Development requiring preparation of a development control plan	Yes	<p>As the site area exceeds 5000sqm, the provisions of Clause 7.20 of SLEP 2012 are applicable and the preparation of a site specific DCP is required.</p> <p>A detailed site specific DCP has been prepared for the North Rosebery precinct.</p> <p>Notwithstanding the above, pursuant to the provisions of Section 83C(2) of the Environmental Planning and Assessment Act, 1979, the lodgement of a Stage 1 DA may be considered by the consent authority as satisfying this obligation.</p>

### Sydney DCP 2012

47. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – North Rosebery
<p>The subject site is located in the North Rosebery. The proposed Stage 1 DA is considered to be in keeping with the unique character of the area and design principles in that it meets the following objectives:</p> <ul style="list-style-type: none"> <li>• Provides new streets and pedestrian lanes to create a fine grain residential subdivision and a more permeable and walkable neighbourhood</li> <li>• Provides new areas of public open space for passive recreational use.</li> <li>• Provides active frontages to the proposed open spaces to increase surveillance and generate pedestrian activity</li> <li>• Provides dedicated setbacks for widen footpaths</li> </ul>

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed development will make a positive contribution to the public domain as it establishes dedicated setbacks for widen footpaths, pedestrian links, new roads, a green link and dedicated public park.
3.2 Defining the Public Domain	Yes	<p>The proposed development will enhance the public domain by ensuring adequate sun access to publicly accessible spaces through establishing building envelopes.</p> <p><u>Sunlight access to public accessible spaces</u></p> <p>Solar access to more than 50% of the future public park will be achieved between 9.00am and 3.00pm at winter solstice and is considered acceptable.</p>
3.3 Design Excellence and Competitive Design Processes	Able to comply	<p>Prior to a submission of a Stage 2 DA, a competitive design process will need to be undertaken.</p> <p>A Design Excellence Strategy has been submitted with the subject application in accordance with the requirements of Section 3.3.8 of SDCP 2012.</p>
3.5 Urban Ecology	Able to Comply	<p>The proposal involves the removal of approximately 59 individual trees and a strand of approximately 200 small trees.</p> <p>Refer to Issues section for discussion.</p>
3.6 Ecologically Sustainable Development	Able to comply	Compliance with the requirements of BASIX will be assessed at Stage 2. Details will need to be submitted with the future Stage 2 DA to demonstrate compliance.
3.7 Water and Flood Management	Able to comply	The proposed alignment is considered acceptable by Council's public domain and flood management units for the purpose of a Stage 1 approval.

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.8 Subdivision, Strata Subdivision and Consolidation	Able to comply	No approval is granted by this consent for subdivision of the site.  Subdivision of the site would be subject to future applications.
3.9 Heritage	Yes	Refer to Sydney LEP 2012 compliance table.
3.11 Transport and Parking	Can comply	The concept plan has indicatively illustrated 4 basement car parks. It is noted that parking numbers or rates are not approved as part of a Stage 1 DA, and would form part of the detailed Stage 2 DA design assessment when the exact land uses and residential apartment mix numbers are known.  Based on the indicative parking layout and number of spaces proposed, the City Access and Transport Unit have advised that they are of opinion that the proposal would not significantly increase traffic generation.  Appropriate conditions are recommended for imposition to advise that parking numbers and number of basement levels are not approved as part of this application, and outlines matters that must be included in any future Stage 2 DA (i.e. bicycle parking and on-site waste collection)
3.12 Accessible Design	Able to comply	A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the relevant legislation.
3.13 Social and Environmental Responsibilities	Able to comply	Details will need to be submitted with the future Stage 2 DA to demonstrate compliance with the CPTED principles.
3.14 Waste	Able to comply	A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1 Building height	Acceptable	<p>Alternative building heights (storeys) have been proposed as part of the Stage 1 DA. Additional levels have been added to several building while other have reduced in scale.</p> <p>Refer to Issues section for discussion.</p>
4.2.1.2 Floor to ceiling heights	Able to comply	It is recommended that a condition be imposed requiring the detailed design to be developed with floor to floor height of 3.1 metres to ensure that a finished internal clearance height of 2.7 metres.
4.2.3.1 Solar Access	Able to comply	Indicative floor plans indicate the proposed envelopes are capable of accommodating layouts that allow on average 70% of apartments to receive the minimum volume of sunlight.
4.2.3.12 Flexible housing and dwelling mix	Able to comply	Indicative floor plans were submitted with the concept plan demonstrating that the envelopes are able to accommodate a generally compliant unit mix, and that this layout can achieve the residential amenity criteria of the DCP and RFDC. Compliance with the unit mix provisions of the DCP will form part of the Stage 2 DA.
4.2.2 Building setbacks	Able to comply	Refer to North Rosebery specific DCP.
4.2.3 Amenity	Able to comply	<p>Indicative floor plans and SEPP 65 compliance tables have been provided as part of the Stage 1 development application which indicate a good level of compliance with the controls.</p> <p>Each Stage 2 development application will need to demonstrate compliance with the controls and address any non-compliances.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.4 Fine grain, architectural diversity and articulation	Able to Comply	As the proposal is a Stage 1 development application, no architectural design details have been provided. A competitive design process will need to be undertaken prior to any Stage 2 development application being lodged.
4.2.6 Waste minimisation	Able to comply	Indicative basement plans submitted for reference as part of the application show basement pick up of waste.  Final details relating to waste collection will be the subject of Stage 2 development applications.
4.2.7 Heating and Cooling Infrastructure	Able to comply	Details of the location of individual air conditioner and heating units will be provided as part of each Stage 2 development application.

5. Specific Areas		
5.7. Green Square – North Rosebery		
Development Control	Compliance	Comment
5.7.1 Local infrastructure and public domain  5.7.1.1 Public open space	Able to comply	The applicant seeks consent for envelopes to accommodate the maximum GFA permitted under Clause 6.14 of the Sydney LEP 2012 which can only be achieved where a development provides community infrastructure to the satisfaction of the consent authority.  A public benefit offer has been provided by the applicant to secure the required works outlined in the detailed DCP that applies to the site. Specifically the offer includes a new public park, new road, setbacks for road widening and a green link.

5. Specific Areas		
5.7. Green Square – North Rosebery		
Development Control	Compliance	Comment
		At the time of preparing this report the public benefit offer has not been prepared formalised into a Voluntary Planning Agreement (VPA). It is recommended the determination of the application be delegated to the Chief Executive Officer (CEO) to determine subject to the exhibition of a VPA with any submissions received considered.
5.7.1.2 Vehicle access, entries and circulation	Acceptable	<p>Figure 5.174 of the detailed DCP sets 4 preferred driveway locations for each phase of the development.</p> <p>The stage one complies with each of the preferred driveway locations with the exception of the northern quadrant.</p> <p>To remove motor vehicles from the green link the Council Officers requested the north east driveway be relocated to the new street.</p> <p>The applicant has complied with this request.</p> <p>Refer to Issues section for discussion.</p>
5.7.1.3 Public Open Space A new park at the corner of Crewe Place and Rosebery Avenue is to provide a minimum of 4500 sqm of deep soil planting for passive recreation.	Complies	The proposal includes a public park of 5308 sqm to be dedicated to Council.

5. Specific Areas		
5.7. Green Square – North Rosebery		
Development Control	Compliance	Comment
5.7.2 Building form and Design	Acceptable	<p>As part of the Stage 1 process alternative building envelopes have been proposed to redistribute the floor space and building height within the site. The alternative envelopes primarily increase the height of building to the north of the site and reduce the height of the internal maisonettes.</p> <p>Separation of the maisonettes into terrace style dwelling is also proposed as part of the alternative envelopes.</p> <p>The alternative envelopes have been tested against SEPP 65 and amenity provisions to ensure an appropriate level of amenity of the intended occupants and surrounding residents.</p> <p>Refer to Issues section for discussion. there is no additional impact</p>
5.7.2.1 Building setbacks at ground floor level	Able to Comply	<p>The proposed building envelopes are setback from each boundary in accordance with the DCP.</p> <p>The design of each ground floor apartment will be the subject of future Stage 2 development applications.</p>
5.7.2.2 above ground car parking	Complies	No above ground car parking is proposed.
5.7.2.3 Fencing	Able to Comply	Fencing on front property boundaries will be the subject of Stage 2 development applications.
5.7.2.4 Deep Soil Planting  Front setback gardens required for ground floor apartments are to be included as part of deep soil area	Complies	The proposed envelopes include 3m front setbacks that are to be deep soil landscaping.

5. Specific Areas		
5.7. Green Square – North Rosebery		
Development Control	Compliance	Comment
<p>5.7.3 Building Type and Use</p> <p>Retail / commercial uses are to front the new park</p> <p>Internal 'wing' buildings are to be maisonette / duplexes</p>	<p>Complies</p> <p>Complies</p>	<p>Amended plans provided by the applicant include retail uses fronting the new park</p> <p>The 'wing' buildings have been reduced in scale to two storey terrace style dwellings at the request of Council.</p>
5.7.4 Staging and implementation	Able to comply	<p>The applicant has proposed 4 phases each delivering dedications to Council. Phase 2 and Phase 4 include community infrastructure of roads, the green link and a public park.</p> <p>A public benefit offer has been provided by the applicant to secure the proposed community infrastructure. An associated Voluntary Planning Agreement is currently being negotiated with the applicant at the time of preparing this report but is yet to be exhibited.</p> <p>It is recommended the application be delegated to the Chief Executive Officer (CEO) to determine following execution and consideration of any submissions.</p>
5.7.5 Land Amalgamation	Able to comply	<p>The applicant has requested to amalgamate the two lots as part of the stage 1 DA approval.</p> <p>It is recommended as a condition of consent that the amalgamation be completed prior to the consent of any Stage 2 application.</p>
<p>5.7.6 Design Excellence</p> <p>Figure 5.184 provides an indicative location for additional height as part of a design excellence completion site</p>	Acceptable	<p>The applicant has provided a design excellence strategy as part of the Stage 1 DA which indicates where the additional Design Excellence bonus FSR could be located on the site.</p> <p>Refer to Issues section for discussion.</p>

**ISSUES****Community infrastructure bonus FSR**

48. A detailed DCP within the Sydney DCP 2012 sets out specific community infrastructure to be provided as part of the development. Specifically the detailed DCP requires the following:

(a) Community Park

A new community park to provide a minimum of 4500sqm of deep soil planting to allow for passive recreation is required at the corner of Crewe Place and Rosebery Avenue. The applicant has proposed a community park of 5308sqm in accordance with the control.

(b) New Road

A new internal road with a width of at least 16m forming a dog leg from Rosebery Avenue and Crewe Place. At the request from Council the road has been widened on the north west section to accommodate an alternative parking arrangement for 90 degree parking adjoining the western section of the park.

(c) Green Link

A green link forming a dog leg from Rosebery Avenue to meet the new internal road is required by the DCP. The Green link seeks to retain and protect the existing significant fig trees at the northern end of the site. The detailed DCP requires a driveway entrance from Rosebery Avenue to Phase 4 over the green link. At the request of Council officers following a design study of the site the driveway has been relocated to the new internal road. The green link will therefore be for exclusive pedestrian / cycle use without motor vehicle access.

(d) Pedestrian / cyclist links

Two through site links running west to east across Phases 1 and 3 to the new internal road are required by the detailed DCP. The links are 7m wide and provide public access by an easement only.

(e) Road widening

A 2m setback from the east, south and western boundaries of the site are required under the detailed DCP to accommodate future road widening. The detailed DCP seeks to establish appropriate new street frontage for future light rail on Rosebery Avenue.

49. The Applicant has provided a public benefit offer to secure the above infrastructure works. A Voluntary Planning Agreement (VPA) is currently being prepared but is yet to be finalised at the time of preparing this report.
50. It is recommended the determination of the application be delegated to the Chief Executive Officer subject to the exhibition of a VPA and the consideration of any submissions received.

### Distribution of Floor Space

51. The Applicant has sought the staging of the development of the site within 4 phases to provide a coordinated approach to the redevelopment and to accommodate existing leases over various existing buildings on the site.
52. A design excellence strategy has been submitted as part of the application which sets out the design brief for future competitive design processes and the distribution of up to 10% additional FSR (above the base FSR and community infrastructure).
53. The design excellence strategy is not a statutory document but can be used as a guide for future competitive processes. Clause 3.3.5 of the Sydney DCP 2012 sets out the distribution of any design excellence bonus floor space.
54. Using the formula provided within Clause 3.3.5 of the Sydney DCP 2012, the following indicative allocation of design excellence bonus GFA would apply.

Phase	Pro rata proportion of design excellence bonus of FSR	GFA awarded
Phase 1	3.10 %	2660.31 sqm
Phase 2	1.94 %	1664.84 sqm
Phase 3	2.47 %	2119.67 sqm
Phase 4	2.19%	1879.38sqm
Total	9.7 %	8,324.2 sqm

55. It should be noted that as the smaller two storey buildings are not part of competition sites it will not be possible to achieve the full allocation of 10% across the site.
56. The uplift of design excellence GFA is subject to the undertaking competitive processes in accordance with Clause 6.21(7) of the Sydney LEP 2012 and Clause 3.3.3 of the Sydney DCP 2012 and Clause 3.3.6 of the Sydney DCP 2012 which takes in to account the following planning matters:
  - (a) Site and context analysis;
  - (b) Public domain layout, including levels, uses, access and circulation, dedications and hierarchy of spaces;
  - (c) Built form massing and dimensioned envelopes;
  - (d) Overshadowing analysis;
  - (e) Stormwater management strategy;
  - (f) Traffic management and servicing strategy, parking numbers and location,
  - (g) Ecological sustainable development strategies and benchmark commitments (including connection to green infrastructure); and

- (h) Heritage impact statement.

## Height

57. The Applicant seeks alternative development envelopes to redistribute the permissible FSR (including bonuses) within the site. While there is no net increase in overall FSR, the height on several buildings exceeds that permissible within the Sydney LEP 2012 and shown within the detailed Sydney DCP 2012 that applies to the site as shown in Figures 22 and 23 below:



Figure 22: Comparison diagram comparing building envelopes identified in Part 5 of the Sydney DCP 2012 and the proposed alternative building envelopes



Figure 23: Proposed height in storeys identifying areas exceeding Sydney LEP 2012 height control

58. Specifically, the following amendments to buildings heights are proposed:
  - (a) Buildings 3E, 3F and 1E are reduced from 3 storeys to 2 storeys;
  - (b) Building 1D is lifted from 5 storeys to 6 storeys;
  - (c) Building 4A is lifted from 5 to 6 storeys; and
  - (d) Additional height is required for plant on the majority of buildings with the exception of the two storey terrace style buildings (3E, 3F and 1E) and building 4A.
59. The Applicant is relying on the provisions of Clause 4.6 of the Sydney LEP 2012 to seek an exception to the Height of Building standard for all buildings except of 3A, 3D, 3E, 3F, 3C, 1C, 1E, 4A and 4B.
60. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Council may grant the exception as the Director-General's concurrence can be assumed where Clause 4.6 is adopted as per Department of Planning Circular PS 08-003 dated 9 May 2008.
61. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the Height has been considered against the objectives and provisions of Clause 4.6 in the following table:

Clause 4.6 Requirement	Assessment
<p><b>4.6(4)(a)(i)</b></p> <p>The applicant must submit a written request to vary the development standard demonstrating that compliance is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the controls.</p>	<p>A written request has been submitted to Council justifying the proposed contravention of the height of building standard on the following basis:</p> <ul style="list-style-type: none"> <li>(a) The Sydney LEP 2012 height map sets a prescriptive massing strategy for the site that has taller buildings along the street edges with lower building in the centre of the site to facilitate solar access. The Stage 1 DA realise and improve upon this intent.</li> <li>(b) The Sydney LEP 2012 height map was not intended to be scaled from, instead it represents an indicative building envelope strategy for the site and the proposal complies with that strategy.</li> <li>(c) The proposed massing strategy is also generally consistent with the storeys controls set by the Sydney DCP 2012.</li> <li>(d) The Stage 1 DA proposes a compliant FSR therefore the height variation does not realise additional GFA.</li> <li>(e) As detailed in the SEE, the height non-compliance does not give rise to any unreasonable adverse overshadowing, privacy, view, bulk/scale/streetscape, heritage or other environmental effects.</li> </ul>
<p><b>4.6(4)(a)(ii)</b></p> <p>Council must be satisfied that the proposed development is consistent with the objectives of the development standard and the objectives for development within the zone and will be in the public interest</p>	<p>The objectives of the B4 zone are:</p> <ul style="list-style-type: none"> <li>(a) To provide a mixture of compatible land uses.</li> <li>(b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</li> <li>(c) To ensure uses support the viability of centres.</li> </ul> <p><b>Comment:</b> The proposal is generally consistent with these objectives.</p> <p>The objectives of the height development standard are:</p> <ul style="list-style-type: none"> <li>(a) To ensure the height of development is appropriate to the condition of the site and its context,</li> <li>(b) To ensure appropriate height transitions between new developments and heritage items and buildings in conservation areas to special areas,</li> <li>(c) To promote the sharing of views,</li> </ul>

Clause 4.6 Requirement	Assessment
	<p>(d) To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas.</p> <p>(e) In respect of Green Square:</p> <p>(i) to ensure the amenity of the public domain by restrict taller buildings to only part of the site, and</p> <p>(ii) to ensure the built form contributes to the physical definition of the street network and public spaces.</p> <p>The applicant submits that:</p> <ul style="list-style-type: none"> <li>• The proposed development responds to the context of the surrounding development and the desired future character of the locality.</li> <li>• There are no immediate heritage items in the vicinity, the elements of the development that exceed the controls are setback from the parapet and are not readily visible from the public domain.</li> <li>• The area of non-compliance is minor compared to the overall footprint of the development. There is no significant impact on view sharing.</li> <li>• The site is not located in Central Sydney or the Green Square Town Centre.</li> </ul> <p><b>Comment:</b></p> <p>The applicant's written rationale addresses the objectives associated with contravening the development standard and overall is considered to be acceptable.</p> <p>The proposed development is consistent with the objectives for height provided under Clause 4.3 of the Sydney LEP 2012 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposal is considered to set appropriate envelopes in the context of the site.</li> <li>• The excessive height generally relates to plant which is located in the centre of the roofs. Due to the location of the lift overruns there will be no additional overshadowing impact, will not be overly visible when standing at the street level and will not create adverse visual or streetscape impacts.</li> <li>• The proposed envelopes comply with the floor space ratio control.</li> <li>• The development is consistent with the objectives of the B4 Mixed use Zone.</li> </ul>

62. It is considered that the written statement provided by the Applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the height development standard and it is recommended that a Clause 4.6 exception be granted, pursuant to the Director-General's general concurrence of May 2008.

### **Solar Access**

63. The Applicant has provided indicative floor plans to demonstrate solar performance against the Residential Flat Development Code (RFDC) and Sydney DCP 2012 for the intended occupants and nearby residences.
64. The indicative floor plans demonstrate at least 70% of each Phase will provide 2 hours of sunlight to at least 1 sqm of living rooms windows at the winter solstice between 9.00am and 3.00pm.
65. Shadow diagrams including hourly elevation shadow diagrams submitted by the applicant demonstrate that neighbouring dwellings to the south will continue to receive more than 2 hours of sunlight at the winter solstice. All diagrams are provided at **Attachment C**.
66. Notwithstanding the above, all Stage 2 DAs will be subject assessment against the updated SEPP 65 requirements including the Apartment Design Guidelines.

### **Separation between buildings**

67. The RFDC includes minimum separation distances to provide visual and acoustic privacy for existing new occupants. Specifically for buildings up to 4 storeys a minimum of 12m is required, for buildings between 5 and 8 storeys a minimum of 18m is required and for buildings 9 or more storeys a minimum of 24m is required.
68. The proposed envelopes do not comply with the minimum separation distances as demonstrated in Figure 24 below.



Figure 24: Separation proposed building envelopes which do not comply with numerical provisions of Residential Flat Design Code

69. The majority of the non-compliances relate to building end conditions in Phase 1 and 3. Further non-compliances with the minimum separation requirements between the proposed 10 storey block and remaining buildings within Phases 4. Alternative layouts and design features could reasonably form part of the Stage 2 DAs to ensure adequate amenity is afforded the intended occupants.

### Trees

70. The detailed North Rosebery DCP specifies that deep soil relating to the site is to comprise 3m landscaped setbacks to the perimeter of the site. The proposed envelopes at are setback 2m from the boundary for road widening dedications, then a further 3m for deep soil landscaping as per the above control.
71. The proposed envelopes involves the removal of 59 individual trees and a stand of approximately 200 smaller trees. The majority of the trees to be removed are outside the required deep soil zone.
72. The Applicant was referred to Council's Tree Service Unit and Landscape architect who both raised concern with the removal of several significant at the entrance of New Road within Phases 2 and 4 on the eastern side of the site as shown in figures 25 and 26 below.



Figure 25: Existing tree to be retained Rosebery Avenue



Figure 26: Existing tree to be retained Rosebery Avenue

73. At the request of Council Officers, the Applicant has provided an alternative road arrangement and paving type to accommodate the retention of the proposed trees. It should be noted that long term retention of the trees is unlikely to be possible as the street are within or close to the 2m road widening setback that is to be dedicated to Council.

#### **Other Impacts of the Development**

74. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

#### **Suitability of the site for the Development**

75. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

#### **INTERNAL REFERRALS**

76. The application was referred to Council's Urban Designer, Public Domain Unit; Health Unit; Waste Services and Access and Transport Unit. Issues raised by the internal referrals have been addressed in this report and the recommended conditions.

**EXTERNAL REFERRALS****Notification, Advertising and Delegation (Submission(s) Received)**

77. The application constitutes integrated development with the Office of Water and, as such, the application was notified and advertised for 30 days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000 from 21 January 2015 to 21 February 2015. Terms of approval were granted 7 April 2015. Following amended plans to include the new child care centre uses, the application was notified for a further 14 days from 10 July 2015 to 21 February 2015.

78. As a result of all notifications a total of 8 submissions were received. The submissions raise the following concerns:

(a) *Insufficient car parking*

**Comment:** The Stage 1 DA provides a concept for the volume of car parking to be provided but does not set a specific figure. Final car parking numbers will be the subject of Stage 2 development applications and will be capped in accordance with the Sydney LEP 2012.

(b) *Insufficient public transport*

**Comment:** The site is in close proximity to nearby bus routes. The provision of public transport is outside the control of the consent authority however the Stage 1 envelopes and setbacks have incorporated provisions for a future light rail link on the Rothschild Avenue frontage of the site.

(c) *Insufficient shops*

**Comment:** The Stage 1 DA provides indicative non-residential uses to cater for small shops and retail uses. The site is outside the Green Square town centre and as such limited to a maximum of 1000sqm of retail uses.

(d) *Traffic congestion and driveway locations on Crewe Place*

**Comment:** The proposed basement access is consistent with the detailed DCP which has been developed by Council's Strategic Unit. A traffic study was submitted as part of the Stage 1 DA and reviewed by Council's Transport Unit. All future Stage 2 DAs will also be subject to transport assessment.

(e) *Unclear if existing fig trees are to be retained*

**Comment:** The existing fig trees to the north of the site are a significant landscape element and are to be retained.

(f) *The park should include a range of play equipment*

**Comment:** The detailed design of the park will be subject to a separate DA.

(g) *The Park should be relocated to adjoining the existing residential apartments at x Crewe Place*

**Comment:** The park location has been developed by Council's strategic planning unit as part of a detailed design DCP for the North Rosebery precinct.

- (h) The behaviour of workers is a concern with swearing and noise

**Comment:** Any future Stage 2 DA will be subject standard construction noise conditions.

- (i) *The new road should be a shared zone*

**Comment:** The detailed design of the new road will be considered as part of the Voluntary Planning Agreement and future Stage 2 DAs.

- (j) *View loss*

**Comment:** Concern has been raised by a resident within the Valentino development at 5-9 Rothschild Avenue to the north of the site that an existing outlook from level 7 will be lost as a result of the non-compliance with the Sydney LEP 2012 height controls.

Photo of the existing outlook south from the apartment over the subject site has been provided by the resident and is provided below:



Figure 27: Photo of outlook from existing balcony provided by resident over subject site with outlook south towards Botany Bay.

To address the possibility of view loss, the Applicant has provided the following view analysis.

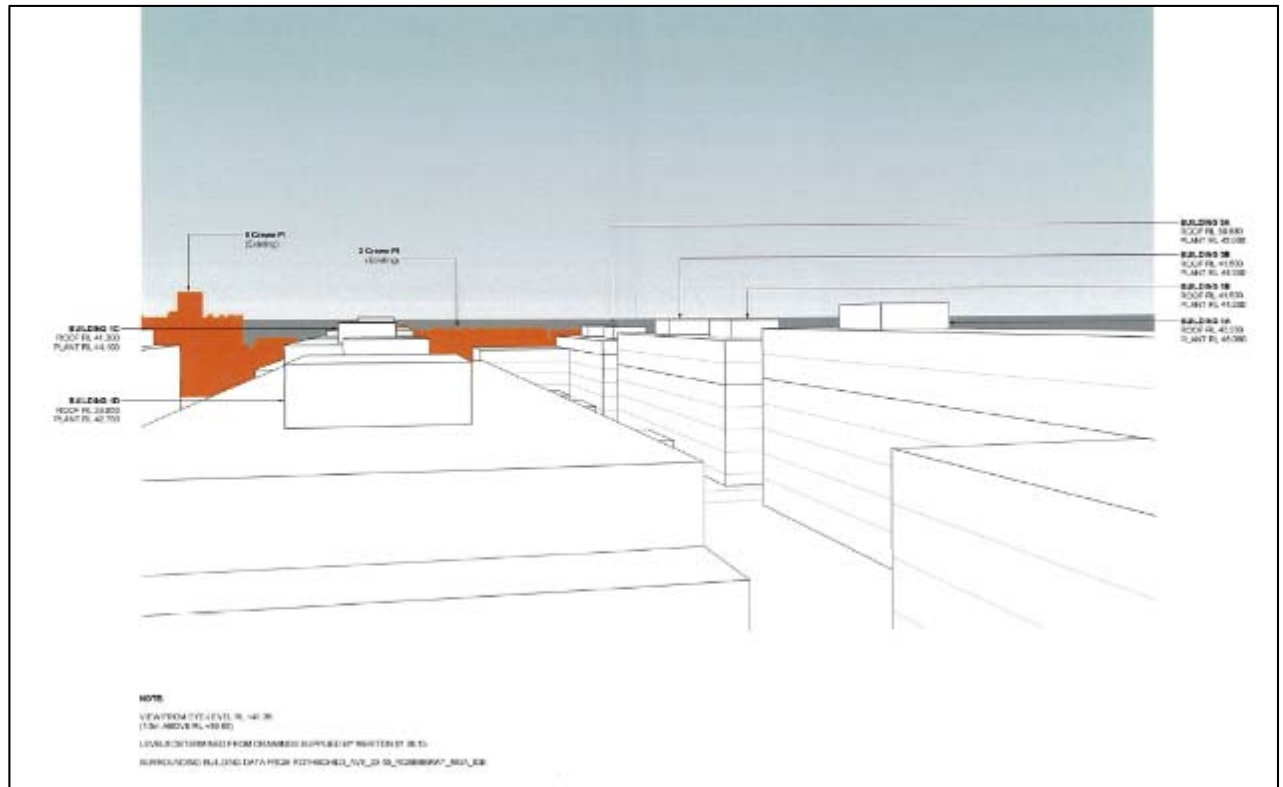


Figure 28: View analysis provided by the Applicant.

The view analysis provided by the Applicant demonstrates that the existing outlook to Botany Bay will be affected by the proposed envelopes; however, the level of impact will not be significant when considering that the majority of the impact is caused by buildings that are either consistent with the Sydney LEP 2012 height controls or marginally exceed the controls.

Specifically, buildings 1A, 1B and 3A are likely to cause the greatest reduction of outlook towards Botany Bay. Building 3A including the plant complies with the maximum height limit that applies to the site. Buildings 3B, 1B and 1A comply with the height limit however the proposed plant exceed the height limit for each building between 0.7m to 1.6m.

To minimise the outlook loss, it is recommended as a condition of consent that the plant associated with building 3B, 1B and 1A be minimised and sited to reduce the outlook loss to surrounding residents to the north of the site.

(k) *Solar access loss*

**Comment:** This issue has been address earlier in this report.

(I) *Building separation does not comply with minimum SEPP 65 requirements*

**Comment:** The non-compliance primarily relates to building separation which is addressed earlier in this report.

- (m) Sterilising development of site to the north with child care centre uses due to overshadowing and overlooking

**Comment:** The final design and fitout and use of the child care centres will be subject to separate Stage 2 applications and detailed.

## **PUBLIC INTEREST**

- 79. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

## **FINANCIAL IMPLICATIONS/S94 CONTRIBUTION**

### **Section 94 Contributions**

- 80. A section 94 contribution will form part of any Stage 2 Development Application.

## **RELEVANT LEGISLATION**

- 81. The Environmental Planning and Assessment Act 1979.

## **CONCLUSION**

- 82. The proposal seeks consent for a Stage 1 DA for master planning of 14 buildings, approximately 893 apartments, retail uses, 3 child care centres, basement car parking, a new public park and community infrastructure on the site at 25-55 Rothschild Avenue and 5-13 Rosebery Avenue Rosebery.
- 83. The Applicant amended the application on 15 May 2015 to include new child care uses within 3 of the 14 buildings. Amendments to the green link and new road have been made by the Applicant at the request of Council.
- 84. As part of the Stage 1 DA process, the following key outcomes to improve the master planning of the site beyond the detailed DCP have occurred:
  - (a) The Green Link along the northern boundary will now be motor vehicle free by relocating the basement entry to the new internal street;
  - (b) Retail uses have been established along the new part frontage at the ground floor level;
  - (c) On street car public parking adjacent to the new park has been increased and improved;
  - (d) A new 'pinwheel' square has been established at the internal junction of the new road, green link and through site link;
  - (e) Three new child care centres have been introduced;
  - (f) Alternative envelopes have been established to allow for low scale terrace style dwellings within Phases 1 and 3;
  - (g) The proposed public park has been increased in size beyond that required by the detailed DCP; and

- (h) Through minor amendments to the road alignment, two significant trees on the Rosebery Avenue frontage can be retained as part of the development.
- 85. It is considered that, as amended, and subject to the imposition of the recommended conditions, that the proposed building envelope and indicative land uses generally respond to the constraints of the site and applicable planning controls. In those instances where numeric variation is sought to the planning controls such as height, there is considered to be justifiable context and planning grounds to support the extent of the variation.
- 86. As such, Development Application D/2014/1962 is recommended for approval subject to the recommended conditions.
- 87. The Applicant has provided a public benefit offer to secure the above infrastructure works. A Voluntary Planning Agreement (VPA) is currently being prepared but is yet to be finalised at the time of preparing this report.
- 88. It is recommended the determination of the application be delegated to the Chief Executive Officer subject to the exhibition of a VPA and the consideration of any submissions received.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Jai Reid, Senior Planner)