

**ITEM 13. PUBLIC EXHIBITION - 12-40 ROSEBERY AVENUE AND 108 DALMENY AVENUE ROSEBERY - PLANNING PROPOSAL AND DRAFT AMENDMENT TO SYDNEY DEVELOPMENT CONTROL PLAN 2012**

**FILE NO: S114564**

**SUMMARY**

This report seeks Central Sydney Planning Committee (CSPC) approval to submit a planning proposal (Attachment A) to the Greater Sydney Commission to begin the process of amending *Sydney Local Environmental Plan 2012*. The report further seeks CSPC approval to publicly exhibit the Planning Proposal alongside an associated draft amendment to *Sydney Development Control Plan 2012* (Attachment B). The proposed amendments relate to 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery and will facilitate a new residential development of approximately 380 dwellings and a new childcare centre.

The site is 1.5 hectares and is in the south eastern part of the Green Square Urban Renewal Area within the North Rosebery Precinct. The site is approximately 1.2 kilometres from Green Square station and approximately 400 metres from several bus services. It is also located in close proximity to goods, services and facilities, including existing and planned retail premises in Rosebery, the future Green Square Aquatic Centre and future community facilities at the former South Sydney Hospital Site. The site location is shown at Figures 1 and 2.

Redevelopment of the site offers a significant opportunity to create a residential development with good access to this infrastructure. It provides an opportunity to contribute to the vision and targets of *Sustainable Sydney 2030* by delivering approximately 380 new dwellings and a new public street and pedestrian link. This will provide greater connectivity and improve the walkability of the area. It is also consistent with key directions in the NSW Government's strategy *A Plan for Growing Sydney* as it will provide housing to suit different needs and lifestyles in an established urban location.

The Planning Proposal and draft DCP amendment were prepared in response to a Planning Justification Report submitted by JBA Urban Planning and subsequent detailed analysis undertaken by the City. The current controls limit development to a maximum floor space ratio (FSR) of 1.5:1 (including 0.5:1 community infrastructure floorspace) and a maximum height of up to 22 metres. The proposed controls will allow development up to an FSR of 2:1 (including 1:1 community infrastructure floorspace) and up to a height of 29 metres. The proposed amendments will encourage a more efficient use of the site and a built form outcome consistent with the surrounding context.

The proposed amendments are supported by an urban design study prepared by Bates Smart on behalf of the proponent (at Appendix A to Attachment A) and subsequent detailed analysis undertaken by the City. Bates Smart developed an indicative scheme to demonstrate the impact of the proposed controls as discussed further in the body of this report. This indicative scheme demonstrates that future development under the proposed controls will respect the surrounding context, adhere to key precinct-wide built form principles and is capable of achieving compliance with relevant residential amenity controls.

Future development under the proposed controls will also result in significant public benefits. The proposed additional FSR may only be realised where community infrastructure is provided. The redevelopment will therefore be accompanied by the delivery of critical infrastructure to support the new residential population. The proponent has also indicated an intention to deliver a childcare centre as part of a future development and this is reflected in the draft DCP amendment. The draft DCP amendment also includes provisions which aim to ensure that superior environmental sustainability outcomes will be achieved on the site through any future competitive design process.

## RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee approve *Planning Proposal: 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery* shown at Attachment A to the subject report, for submission to the Greater Sydney Commission with a request for a Gateway Determination;
- (B) the Central Sydney Planning Committee approve *Planning Proposal: 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery* for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 23 February 2016 that Council approve *draft Sydney Development Control Plan 2012 – 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery Amendment*, shown at Attachment B to the subject report, for public authority consultation and public exhibition in parallel with the Planning Proposal;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 23 February 2016 that Council seek authority from the Greater Sydney Commission to exercise the delegation of the Greater Sydney Commission of all the functions under section 59 of the *Environmental Planning and Assessment Act 1979* to make the amending local environmental plan;
- (E) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 23 February 2016 that Council delegate authority to the Chief Executive Officer to make any minor variations to *Planning Proposal: 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery* and *draft Sydney Development Control Plan 2012 – 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery Amendment* following receipt of the Gateway Determination; and
- (F) the Central Sydney Planning Committee note that, following consideration of any submissions, and modifications as necessary, *Planning Proposal: 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery* will be reported back to the Central Sydney Planning Committee for final approval and *draft Sydney Development Control Plan 2012 – 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery Amendment* will be reported back to the Central Sydney Planning Committee to note.

**ATTACHMENTS**

**Attachment A:** Planning Proposal: 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery

**Attachment B:** Draft Sydney Development Control Plan 2012 – 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery Amendment

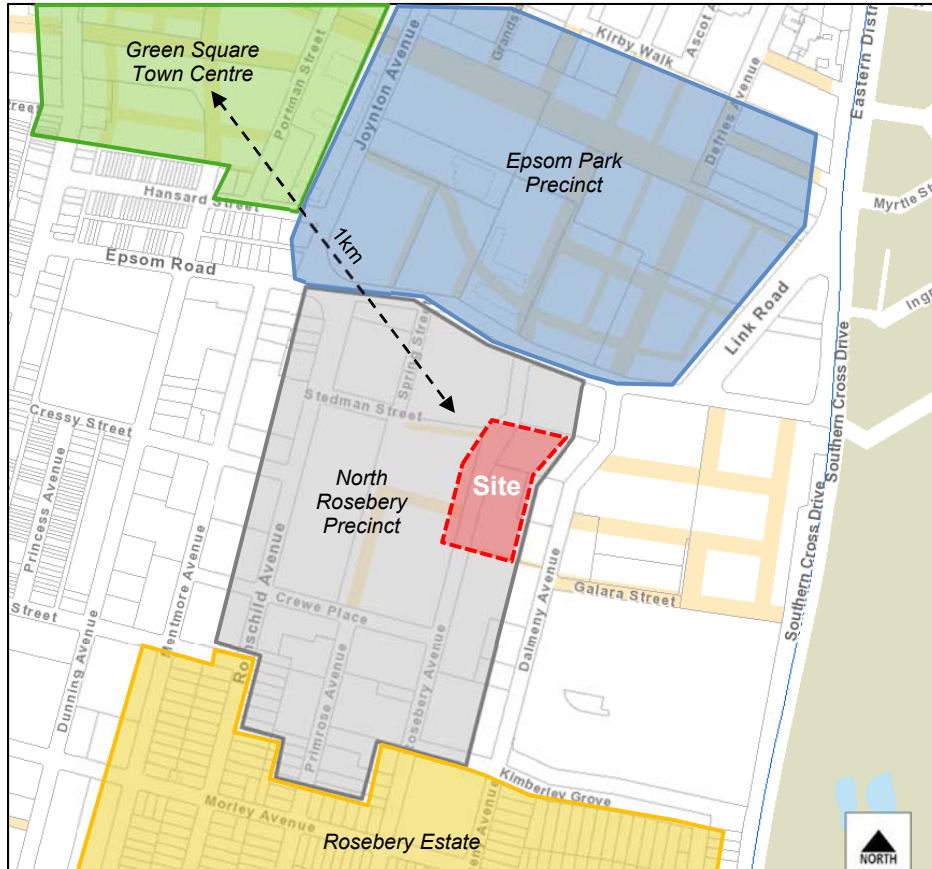
## BACKGROUND

### Purpose of this report

1. This report seeks Central Sydney Planning Committee (CSPC) approval of *Planning Proposal: 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery* (the Planning Proposal), at Attachment A, for submission to the Greater Sydney Commission with a request for a Gateway Determination to allow public exhibition.
2. The Planning Proposal seeks to amend height and floor space ratio (FSR) controls that apply to 12-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery (the site) under *Sydney Local Environmental Plan 2012* (Sydney LEP 2012).
3. This report also recommends that the CSPC note that subject to Council approval, *draft Sydney Development Control Plan 2012: 12-40 Rosebery Avenue and 108 Dalmeny Avenue Amendment* (the draft DCP amendment), at Attachment B, will be publicly exhibited alongside the Planning Proposal.
4. The draft DCP amendment seeks to amend *Sydney Development Control Plan 2012* (Sydney DCP 2012) to include detailed built form and public domain provisions to guide redevelopment of the site.

### Site details and context

5. The site comprises three separate lots with a total area of 15,198 square metres. The site and surrounding streets and precincts are shown in Figures 1 and 2.



**Figure 1: Location and context plan**



**Figure 2: Aerial photograph, July 2015**

6. The site is situated within the North Rosebery Precinct, annotated in Figure 1, in the south eastern corner of the Green Square Urban Renewal Area. This precinct is undergoing significant renewal from light industrial and commercial uses to predominantly residential uses.
7. The site is to the north of the Rosebery Residential Estate, to the south of the higher density Victoria Park and Epsom Park precincts, and approximately 1.2 kilometres to the south-east of Green Square station.
8. Existing development on the site comprises several two storey commercial units, at-grade concrete hardstand used for car parking and loading and some minor landscaping.
9. The site has frontages to Rosebery Avenue on the west and Dalmeny Avenue on the east. Adjacent sites to the east, south and west are at various stages of redevelopment for residential uses, while the site to the north is currently occupied by a three storey commercial building used by Optus for telecommunication and data services.

### **Current planning controls**

10. Sydney LEP 2012 contains zoning and principal development standards, as described below:
  - (a) 'B4 Mixed Use' zoning which permits a broad range of uses, including commercial and residential;

- (b) an FSR of 1.5:1. This comprises a 'base' FSR of 1:1 plus up to an additional 0.5:1 FSR subject to the provision of 'community infrastructure'. Up to a further 10% FSR may be awarded subject to a development undertaking a competitive design process under the design excellence provisions. This increases the potential maximum FSR to up to 1.65:1; and
  - (c) a maximum building height of 18 metres on the southern part of the site, 22 metres on the northern part and three metres along the southern boundary, reflecting the location of a future public street.
11. Sydney DCP 2012 contains detailed built form and public domain controls, as outlined below:
- (a) a maximum building height of between three and seven storeys, as shown at Figure 3. Numbers in brackets represent the preferred locations of additional storeys subject to development demonstrating design excellence;
  - (b) requirements for landscape setbacks; and
  - (c) delivery of part of a new public street along the southern boundary and part of a pedestrian link along the northern boundary.



Figure 3: Extract from current DCP Height in storeys map

### North Rosebery precinct planning controls review

12. The current planning controls are the outcome of a detailed review and update of the whole precinct's controls undertaken by the City between 2012 and 2014.

13. Prior to this review and update, the controls lacked the level of detail necessary to result in high quality and integrated built form and public domain across the precinct.
14. In reviewing the controls, the City established a set of built form principles as a foundation for the future planning controls. These included: a transition in height and density from north to south through the precinct; a range of building heights and diversity of building type; and a predominant five storey street wall height to minimise the perception of building bulk.
15. On the basis of these built form principles, the City drafted precinct-specific amendments to both Sydney LEP 2012 and Sydney DCP 2012. These amendments were publicly exhibited in 2013 and subsequently endorsed by Council and the Central Sydney Planning Committee. The amended controls came into force in February 2014.

### **Request to amend planning controls**

16. In May 2015, JBA Urban Planning (JBA), on behalf of Rosebery Properties Pty Ltd (the proponent), lodged a Planning Justification Report with the City. The justification report requests amendments to Sydney LEP 2012 to increase the FSR from 1.5:1 to 2:1 (excluding design excellence) and increase the height from between 18 metres and 22 metres to up to 29 metres.
17. The report contends that the current height and density controls are inconsistent with those of surrounding sites in the precinct and do not reflect the full redevelopment potential of the site.
18. It argues that the increased FSR and height will result in greater consistency and equity with adjacent sites and more efficient use of a site well serviced by key transport and social infrastructure and other complementary uses.

### **Indicative scheme**

19. The Planning Justification Report is accompanied by an Urban Design Study prepared by Bates Smart. This study is included at Appendix A to the Planning Proposal at Attachment A to this report.
20. The study identifies areas of the site where additional floor space and height may be accommodated while having regard to the built form principles for the broader precinct. It includes an indicative scheme which responds to these opportunities and illustrates the proposed density and height being sought.
21. In assessing the proposal, the City worked with Bates Smart and the proponent to arrive at an appropriate site layout and built form. A plan of the scheme showing the proposed arrangement of buildings and heights in storeys is at Figure 4 and described in detail below. The original Urban Design Study lodged with the City was amended by Bates Smart to reflect the outcome of this work. The amended study is at Appendix A to Attachment A of this report.



**Figure 4: Block plan of the proposed scheme. Height in storeys indicated for each building.**

22. The indicative scheme comprises a similar building footprint arrangement to that currently set out in Sydney DCP 2012, with three north-south buildings fronting both Dalmeny Avenue and Rosebery Avenue.
23. The scheme includes: three buildings in the centre oriented east-west; building heights of up to seven storeys in the north, decreasing to six storeys in the south; and a predominant five storey street wall height.
24. Amendments to the planning controls, as described below, will allow realisation of the indicative scheme or a similar scheme.

## KEY IMPLICATIONS

### Proposed amendments to Sydney LEP 2012

25. Key proposed amendments to Sydney LEP 2012 sought by the Planning Proposal at Attachment A include:
  - (a) amend height map sheet 18 to increase to the maximum height of buildings from between 18 metres and 22 metres to up to 29 metres;
  - (b) amend FSR map sheet 18 to increase the FSR achievable subject to provision of community infrastructure from 0.5:1 to 1:1, effectively increasing the maximum FSR from 1.5:1 to 2:1; and
  - (c) add a new clause in Part 6, Division 5 to limit the amount of floor area potentially achievable subject to design excellence under clause 6.21 from 10% to 8%. This is explained further below.



**Design Excellence**

26. Under clause 6.21 of Sydney LEP 2012, certain development may be eligible for up to an additional 10% FSR or building height in addition to the mapped FSR or height, subject to achieving design excellence through a competitive design process. The additional FSR is known as 'design excellence floorspace'.
27. Under this clause, and on the basis of the draft mapped 2:1 FSR, development on the site may be permitted up to an FSR of 2.2:1.
28. Bates Smart and the City modelled and tested development options at 2.2:1 and determined that the additional bulk and scale were excessive and not in keeping with the built form principles of the North Rosebery precinct. Testing showed that an acceptable outcome could be achieved at an FSR of 2.16:1.
29. On this basis, the Planning Proposal includes a draft clause to limit the potential 'design excellence floorspace' to a maximum of 8%, or 0.16:1 FSR. The preferred location of potential design excellence floorspace is indicated in brackets in Figure 4 and in the height in storeys map in the draft DCP amendment.

**Proposed amendments to Sydney DCP 2012**

30. Key proposed amendments to Sydney DCP 2012 sought by the DCP amendment at Attachment B include:
  - (a) changes to maps and provisions in Section 5.7 – Green Square, North Rosebery, within Sydney DCP 2012 to reflect the indicative scheme. These changes include: amending the height in storeys map to reflect a maximum height of up to 7 storeys; amending the setbacks maps to include some areas of 4 metre upper level setback and some areas of 4 metre landscaped setback; amending the public domain map to include an additional through site link; and adding new provisions to encourage the provision of public benefits on site, including childcare and best practice environmentally sustainable design; and
  - (b) amendments to maps within the Sydney DCP 2012 Map Book to reflect the indicative scheme.

**Benefits of amending the controls**

31. The site is in close proximity to significant existing and planned infrastructure, jobs and goods and services. The proposed amendments to Sydney LEP 2012 and Sydney DCP 2012 will facilitate redevelopment of the site.
32. Redevelopment will support the delivery of additional community infrastructure, a childcare centre and provision of best practice ecological sustainability outcomes to be secured through a future competitive design process. These benefits are discussed below.

**Additional community infrastructure**

33. The FSR for the site under the Sydney LEP 2012 FSR map is 1:1. Under clause 6.14 of Sydney LEP 2012, the site is eligible for an additional 0.5:1 FSR subject to the provision of community infrastructure. This is known as community infrastructure floorspace.

34. Community infrastructure includes, for example, new streets, flood management works and public open space, and is in addition to infrastructure delivered through Section 94 contributions.
35. It is proposed that the mapped FSR remains at 1:1, while the amount of community infrastructure floorspace under clause 6.14 is increased from 0.5:1 to 1:1. If a proponent elects to use any or all of this additional floor space in a future development, the delivery of community infrastructure required to support the additional density will be agreed and formalised via a planning agreement at the development application stage. The community infrastructure will then be delivered with the development.

#### Childcare

36. The proponent has indicated an intention to provide a privately operated childcare centre as part of the development. Adequate supply of quality child care is a critical issue for the City's growing population. Resident and worker population growth in the City has resulted in increasing demand for childcare places and a growing gap between supply and demand.
37. According to the City of Sydney Child Care Needs Analysis 2013, the gap between supply and demand in child care provision in the City South Village Group, within which the site falls, was approximately 350 places at the time of publication. This gap is projected to grow to 1,440 places by 2031.
38. This redevelopment will assist with narrowing this gap by delivering a new privately operated childcare centre. While the final development will be subject to a detailed development application finalising the exact floorspace, at this stage the proponent has indicated the centre will be in excess of 200 square metres, catering for up to 12 children.

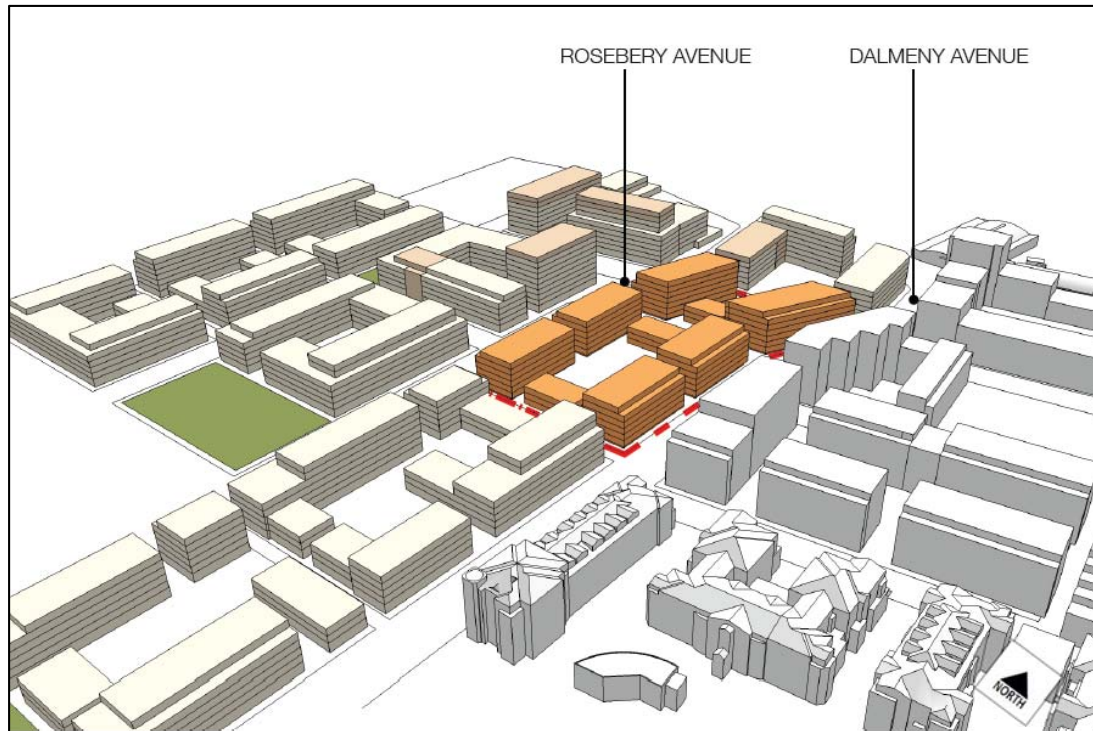
#### Ecologically Sustainable Design

39. The proponent has indicated an interest in delivering ecological sustainability initiatives as part of the development. This may comprise, for example, the inclusion of green walls or roofs or a commitment to exceeding minimum BASIX requirements for water and energy efficiency.
40. The draft DCP amendment includes a specific provision requiring that any brief for a future Design Competition must include mandatory objectives that all designs include best practice ecological sustainability outcomes.

#### **Consideration of environmental impacts**

##### Building bulk and scale

41. The Urban Design Study prepared by Bates Smart, at Attachment A, includes illustrations of the indicative scheme to show its bulk and scale in the context of surrounding development. Figure 5 shows the scheme facing north.



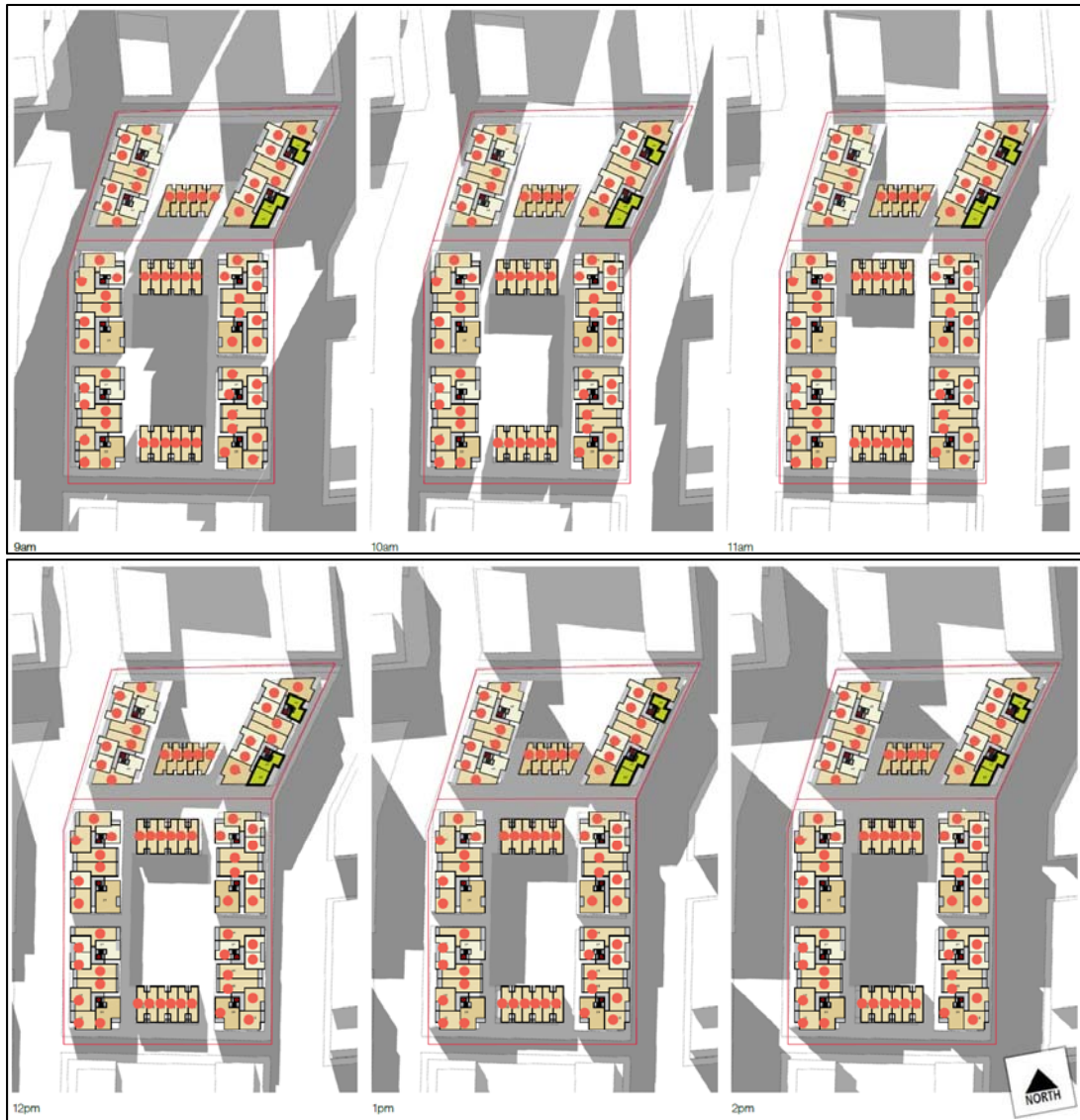
**Figure 5: Indicative scheme facing north-west**

42. Figure 5 shows the transition in height from north to south. The seven storey buildings respond to the surrounding eight and 10 storey buildings on adjacent sites to the north, while the six storey buildings respond to the predominant heights to the south.
43. The three storey buildings utilise the space in the centre of the site, allowing for a more efficient use of the land than under the current DCP controls. Their height contrasts with the taller adjacent buildings and responds to the broader precinct principle of achieving a diversity of building heights and types. The predominant five storey street wall height is consistent with the rest of the precinct.
44. Overall, the indicative scheme is appropriate to the surrounding built form context and the additional bulk and scale is in keeping with the broader built form principles for the North Rosebery Precinct.

#### Solar access

45. The Apartment Design Guide and Sydney Development Control Plan 2012 contain provisions setting out minimum solar access requirements to communal open spaces, private open spaces and habitable rooms. Bates Smart's Urban Design Study, at Attachment A, includes detailed modelling to test whether future development will be capable of complying with these provisions.

46. In particular, the impact of the three storey buildings on solar access to the internal courtyards was tested. As shown in Figure 6, the internal spaces receive in excess of the minimum two hours solar access on 21 June required by Sydney DCP 2012. The testing also illustrates that solar access to habitable rooms exceeds the minimums required by the Apartment Design Guide, with only three apartments, or 4%, on a typical floor (annotated green in Figure 6) receiving no direct sunlight between 9am and 3pm.



**Figure 6: Shadow diagrams between 9am and 3pm on 21 June**

47. Future development will be subject to a development application and compliance with all applicable provisions will need to be further demonstrated at this stage.

Traffic and transport

48. Parking and Traffic Consultants was engaged by the proponent to prepare a Traffic and Parking Assessment in support of the planning proposal request. A copy of the assessment is at Appendix B of Attachment A. The study assesses the impact of additional vehicle movements, which are attributed to the proposed additional residential density, on the operation of the local road network. The study assumes an increase in the number of dwellings from approximately 290 to 380.
49. The assessment found that the proposed increase in FSR from 1.5:1 to 2:1 will result in a combined additional 26 vehicle trips during the AM and PM peaks. The assessment concludes that these additional movements would have no noticeable impact on the overall road network operation. The City's Traffic and Transport unit reviewed the assessment and found the methodology and assumptions to be sound.
50. While the Traffic and Parking Assessment supports the proposed increase in density, a detailed traffic impact assessment will be required as part of any future development application.
51. As part of the City's broader review, the alignment of the proposed street on the southern boundary was reviewed. The future intersection of this street with Dalmeny Avenue and Galara Street to the east may result in compromised vehicular and pedestrian safety. Further analysis of this intersection and consideration of possible safety measures is required. The draft DCP amendment includes a provision noting that the configuration, design and access arrangements of this street are subject to further review and consultation with Roads and Maritime Services.

**Strategic Alignment - Sustainable Sydney 2030 Vision**

52. *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. The Planning Proposal and amendment to Sydney DCP 2012 are aligned with the following strategic directions and objectives:
  - (a) Direction 4 - A City for Walking and Cycling – Redevelopment of the site will result in greater connectivity between Rosebery Avenue and Dalmeny Avenue which is currently poor, due to large block sizes. The planning controls require a new public street along the southern boundary of the site and two new pedestrian links through the site. These new links will encourage greater trips by active transport.
  - (b) Direction 8 - Housing for a Diverse Population – Redevelopment of the site provides an opportunity to deliver a range of dwelling types in close proximity to employment opportunities and social and public transport infrastructure. The draft DCP controls specify different dwelling types which will contribute to diverse housing. The Green Square Affordable Housing Program will continue to apply to the site.

- (c) Direction 9 - Sustainable Development, Renewal and Design – The proposed planning controls are based on principles for sustainable development. These include provision of a ‘fine grain’ urban structure to maximise accessibility and legibility, built form that responds to the surrounding context and high quality public domain. The design excellence provisions in Sydney LEP 2012 will continue to apply to the site to achieve a high quality architectural outcome.

### **Social / Cultural / Community**

53. The Planning Proposal and DCP amendment will continue to provide certainty to the local community and the landowner by clearly establishing the City’s intended outcome for the site.
54. The Green Square Affordable Housing levy applies under Sydney LEP 2012. Assuming full development in accordance with the draft controls, a monetary contribution of approximately \$5 million (at current rates) towards the provision of affordable housing will be secured, equivalent to approximately 10 affordable housing units which would be delivered by the currently registered provider, City West Housing.
55. As discussed earlier in this report, the draft planning controls require provision of a childcare centre on site which represents a significant social benefit.

### **RELEVANT LEGISLATION**

56. *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.
57. On 27 January 2016, the *Greater Sydney Commission Act 2015* commenced. It makes several amendments to the *Environmental Planning and Assessment Act 1979*, including removing the ability of the Minister for Planning to make an LEP and giving this responsibility to the Greater Sydney Commission. Under the new legislation, the Greater Sydney Commission will be responsible for making the LEP amendment sought by the Planning Proposal.

### **CRITICAL DATES / TIME FRAMES**

58. Should Council and the CSPC endorse the Planning Proposal for exhibition and consultation, it will be forwarded to the Greater Sydney Commission. The Greater Sydney Commission will then provide a Gateway Determination to either proceed, with or without variation, to consultation, or to resubmit the Planning Proposal.
59. The typical timeframes, once a Gateway Determination has been issued, are 21 days for public authority consultation and 28 days for public exhibition. The Gateway Determination will also specify a date by which the local environmental plan amendment is to be finalised.
60. Following public authority consultation and public exhibition of the Planning Proposal and draft DCP amendment, the outcomes will be reported to Council and the CSPC.
61. In October 2012, the then Minister for Planning and Infrastructure delegated his plan-making functions to councils to improve the local plan-making process. In December 2012, Council resolved to accept the delegation. Following the making of the *Greater Sydney Commission Act 2015* in January 2016, the Minister’s delegation is now taken to mean the Greater Sydney Commission’s delegation.

62. Council needs to receive an authorisation on a case by case basis to exercise the delegation. The authorisation is given through the Gateway process and means a faster plan-making process with less involvement of the Department of Planning and Environment. This report recommends the CSPC note the recommendation to Council's Planning and Development Committee on 23 February 2016 that Council seek this delegation.

### **PUBLIC CONSULTATION**

63. The public exhibition process and requirements will be informed by the Gateway Determination. Subject to the Gateway Determination, it is proposed to publicly exhibit the Planning Proposal and the DCP amendment concurrently for a minimum period of 28 days with notification:
- (a) on the City of Sydney website;
  - (b) in newspapers that circulate widely in the area; and
  - (c) in writing to residents, landowners and community groups in the vicinity of the site.
64. A full package of exhibition material will be made available for viewing on the City of Sydney website, at the One Stop Shop at Town Hall House and at the Green Square Neighbourhood Service Centre.

### **GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Tim Aldham, Specialist Planner)