

Item 6.**Development Application: 12-24 Rothschild Avenue, Rosebery – D/2020/549****File No.:** D/2020/549**Summary**

Date of Submission:	22 June 2020 Amended plans and information 20 January 2021
Applicant:	Deicorp Projects (Rosebery) Pty Ltd
Architect/Designer:	Candalepas Associates
Developer:	Deicorp Projects (Rosebery) Pty Ltd
Owners:	Deicorp Projects (Rosebery) Pty Ltd and Deicorp Asset Holdings Pty Ltd
Planning Consultant	Sutherland & Associates Planning
Heritage Consultant	Urbis
DAPRS	13 October 2020
DAP	17 September 2020
Cost of Works:	\$59,713,831
Zoning:	The site is in the B4 Mixed Use zone. The proposed land uses, being retail premises and residential flat building, are permitted with consent in the zone.
Proposal Summary:	The development seeks consent for the demolition of existing structures at 12-22 Rothschild Avenue, lot consolidation and subdivision, and construction of two residential flat buildings containing 176 apartments, one retail tenancy and two levels of basement parking. The development also proposes minor conservation works and basement lift access to 12 carparking spaces for the adjoining heritage item at 24 Rothschild Avenue.

The application is referred to the Central Sydney Planning Committee as the cost of works exceeds \$50 million dollars.

The proposed development is also Integrated Development under the Water Management Act 2000, requiring approval of Water NSW.

The site is located in the Green Square locality. As such the development is required to deliver community infrastructure as enshrined within the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) The application is accompanied by a public benefit offer to dedicate and embellish 296sqm of land for a through site link, provide a public access easement over 454sqm of land, and contribute \$1,022,125.30 towards the delivery of public infrastructure within the Green Square Urban Renewal Area.

A Voluntary Planning Agreement (VPA) is the mechanism for delivering community infrastructure. A VPA has been drafted and began the required 28-day public notification period on 12 March 2021. In order to consider any submissions at the end of the notification period, being 10 April 2021, the development is recommended to be deferred to the Chief Executive Officer (CEO) to determine the application. The recommendation is for deferred commencement approval to enable the VPA to be executed, bank guarantees provided, and the agreement registered on the title of the land.

Following comments from the Design Advisory Panel and Design Advisory Panel Residential Subcommittee, the development was amended. The amendments reinstated elements of the competition winning scheme which were considered to contribute to the achievement of design excellence.

The development was publicly notified on two occasions. The first notification related to the original proposal and was notified for 28 days between 17 August 2020 and 15 September 2020. Four (4) submissions were received.

The second notification related to the amended proposal and was notified for 14 days between 29 January 2021 and 13 February 2021. Six (6) submissions were received.

The key issues raised in submissions included traffic and parking, loss of trees, height and overshadowing.

The proposed development is compliant with the permitted floor space ratio (FSR) control under Sydney Local Environmental Plan 2012 (Sydney LEP 2012). The development includes an architectural roof feature which exceeds the permitted height standard by between 2.22% and 4.13%. This variation is supported by a clause 4.6 variation request.

The development is generally compliant with the Apartment Design Guide (ADG), including 64% of the development being naturally cross ventilated. The development achieves 51% compliance with the solar access requirement; while less than the required 70%, it is considered that the development optimises solar access. Overall, the development is considered to provide acceptable amenity for the future residents and acceptable amenity impacts on neighbouring developments.

The development provides for significant setbacks, large areas of deep soil planting and landscaping. The design provides for clear and legible pedestrian access and integrated public art. The facades are highly modulated which consider and respond to the adjoining heritage items and requirements of the Sydney DCP 2012. Overall, the development is considered to achieve design excellence.

Subject to the recommended conditions, as detailed in the report and Attachment A, it is considered that the proposed development is acceptable and generally compliant with the planning controls for the site.

Summary Recommendation: The recommendation is in two parts:

- the authority to determine the development application be delegated to the CEO to allow the exhibition of the VPA to be completed and any submissions received to be considered.
- if the CEO determines to approve the application, it is recommended that, pursuant to s4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement approval be granted subject to the conditions set out in Attachment A to the subject report.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) Water Management Act 2000
- (iii) Sydney Water Act 1994 No 88
- (iv) Sydney Airport Referral Act 1996
- (v) Commonwealth Airports Act 1996
- (vi) State Environmental Planning Policy No 55 - Remediation of Land
- (vii) State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development
- (viii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (ix) State Environmental Planning Policy (Infrastructure) 2007
- (x) Sydney Local Environmental Plan 2012
- (xi) Sydney Development Control Plan 2012

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 variation request
- D. Public Benefit Offer
- E. Draft Voluntary Planning Agreement

Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2020/549 after the Voluntary Planning Agreement, in accordance with the public benefit offer made by Deicorp Projects Rosebery Pty Ltd dated 9 March 2021, has been publicly exhibited and any submissions considered; and
- (B) if the Chief Executive Officer determines to approve the application, it is recommended that, pursuant to s4.16(3) of the Environmental Planning and Assessment Act 1979, Development Application No. D/2020/549 be granted a deferred commencement approval, subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for deferred commencement approval for the following reasons:

- (A) The development complies with the objectives of the B4 mixed use zone pursuant to the Sydney Local Environmental Plan 2012.
- (B) The development is consistent with the permitted floor space ratio pursuant to clauses 4.4, 6.14 and 6.21 of Sydney Local Environmental Plan 2012.
- (C) The submitted clause 4.6 variation request for the height development standard has adequately addressed the requirements of clause 4.6(3) of the Sydney Local Environmental Plan 2012. Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 mixed use zone and the objectives of the height development standard.
- (D) The development complies with the requirements of Clause 5.6 of Sydney Local Environmental Plan 2012. As such, a minor variation from the permitted height standard under clause 4.3 of Sydney Local Environmental Plan 2012, supported by the clause 4.6 variation is supported.
- (E) The development demonstrates design excellence pursuant to clause 6.21 of Sydney Local Environmental Plan 2012.
- (F) The development is generally consistent with the Design Quality Principles and the objectives of the Apartment Design Guide as per the State Environmental Planning Policy No 65 - Design Quality of Residential Apartments.

- (G) The development is consistent with the objectives of the Sydney Development Control Plan 2012.
- (H) The development facilitates the improvement of the public domain. It includes the delivery of public art, dedication and embellishment of land, the creation of two new through site links, and a monetary contribution to Green Square urban renewal area.

Background

The Site

1. The development application is for 12-22 Rothschild Avenue and 24 Rothschild Avenue, Rosebery. An aerial photograph of the sites is included below.



Figure 1: Aerial photograph of site and surrounding development. The land at 12-22 Rothschild is hatched in red. The land at 24 Rothschild (heritage item) is hatched in blue.

2. The land at 12-22 Rothschild Avenue contains six different titles including, lot 1 in deposited plan (DP) 314957, lot 5 in DP 309149, lots A and B in DP 322620, lot B in DP 308922 and lot 408 in DEP 315228. The land at 24 Rothschild Avenue contains four different titles including lots 1 and 2 in DP 456612 and lots 410 and 456 in DP 7534.

3. The land at 12-22 Rothschild Avenue is rectangular in shape with an area of approximately 5,925.1sqm. The land adjoins Rothschild Avenue to the east and Mentmore Avenue to the west. The site's northern boundary is a sawtooth shape and it adjoins the residential flat building development at 2 Mentmore Avenue and a half built dedicated through site link. There are four (4) driveway crossovers providing access to the site, two from Mentmore Avenue and two from Rothschild Avenue. The land currently contains a carpark and a warehouse building that has been used by the University of New South Wales.
4. The land at 24 Rothschild Avenue contains a single storey interwar building that is a locally listed heritage item under the Sydney LEP 2012 (item number I1382). This building is currently being used as an office building and display suite for the subject development. There is one driveway crossover for this site located on Rothschild Avenue and one on Mentmore Avenue. This site has a southern frontage to Cressy Street and is directly north of Sweet Acres Park. It adjoins Rothschild Avenue to the east, Mentmore Avenue to the west, and 12-22 Rothschild Avenue to the north.
5. While the DA is for both 12-22 and 24 Rothschild Avenue, the significant development is only occurring on 12-22 Rothschild Avenue. As such, 'site' for the purposes of determining the available gross floor area is 12-22 Rothschild Avenue, Rosebery.

Surrounding development

6. The development is located within the Green Square locality. It is a rapidly changing urban renewal area that is undergoing transition from warehouse and industrial land uses to high density mixed use and residential developments with supporting infrastructure.
7. There are two recently completed mixed use and residential developments to the immediate north:
 - The site at 2 Mentmore Avenue is a 7-storey residential flat building. This building is orientated east/west and has two blade walls with a recess in between that abut the existing northern boundary of 12-22 Rothschild Avenue. A picture of this site is shown in the figures below.
 - The site at 6-10 Rothschild Avenue is an 8-storey mixed use building. This development contains ground floor retail space which fronts the existing half built through site link. The subject development will dedicate and deliver the second half of the through site link connecting Rothschild Avenue with Mentmore Avenue. The upper levels contain residential apartments which are orientated north/south, with the southern side of the building containing external corridors, lifts, fire stairs and a privacy screen set back 6m from the site boundary. A picture of this site is shown in the figures below.
8. On the opposite side of Mentmore Avenue, at 5-11 Mentmore Avenue, is a locally listed heritage item identified under Sydney LEP 2012 (item number I1378) as 'Mentmore House'. The facade of this building was relocated from Pitt Street in the City centre. A picture of this site is shown in the figures below.
9. North of Mentmore House at 5-15 Dunning Avenue is an existing two storey concrete panel building. This site was approved in February 2020 (D/2019/390) for redevelopment with 3 x 7 storey residential flat buildings and a through site link. This through site link will match with the northern dedicated through site link proposed as part of this development.

10. South of Mentmore House, at the corner of Mentmore Avenue and Cressy Street is 17-21 Mentmore Avenue and 4 Cressy Street. This site contains a 7-storey residential flat building.
11. Sweet Acres park is located to the south, on the opposite side of Cressy Street.
12. On the opposite side of Rothschild Avenue at 5-9 Rothschild Avenue is an 8-storey mixed use development. It contains ground floor commercial and upper level residential apartments.
13. Directly to the east of the site, on the opposite side of Rothschild Avenue, is 25-29 Rothschild Avenue. It contains a 7-storey building with ground level childcare centre and upper level residential apartments. This building is part of the larger redevelopment of a previous 'super lot' by Meriton, which included the delivery of 5 buildings and a park extending from Stedman Street at the north to Crewe Place to the south and Rosebery Avenue to the east.
14. A site visit was carried out on 28 August 2020. Photos of the site and surrounds are provided below.



Figure 1: Site viewed from Mentmore Avenue, looking north



Figure 3: Site viewed from Mentmore Avenue, looking south. Red hatched line shows boundary between 12-22 and 24 Rothschild Avenue.



Figure 4: Site viewed from Mentmore Avenue, looking east across existing carpark



Figure 5: Seven-storey residential flat building at 2 Mentmore Avenue

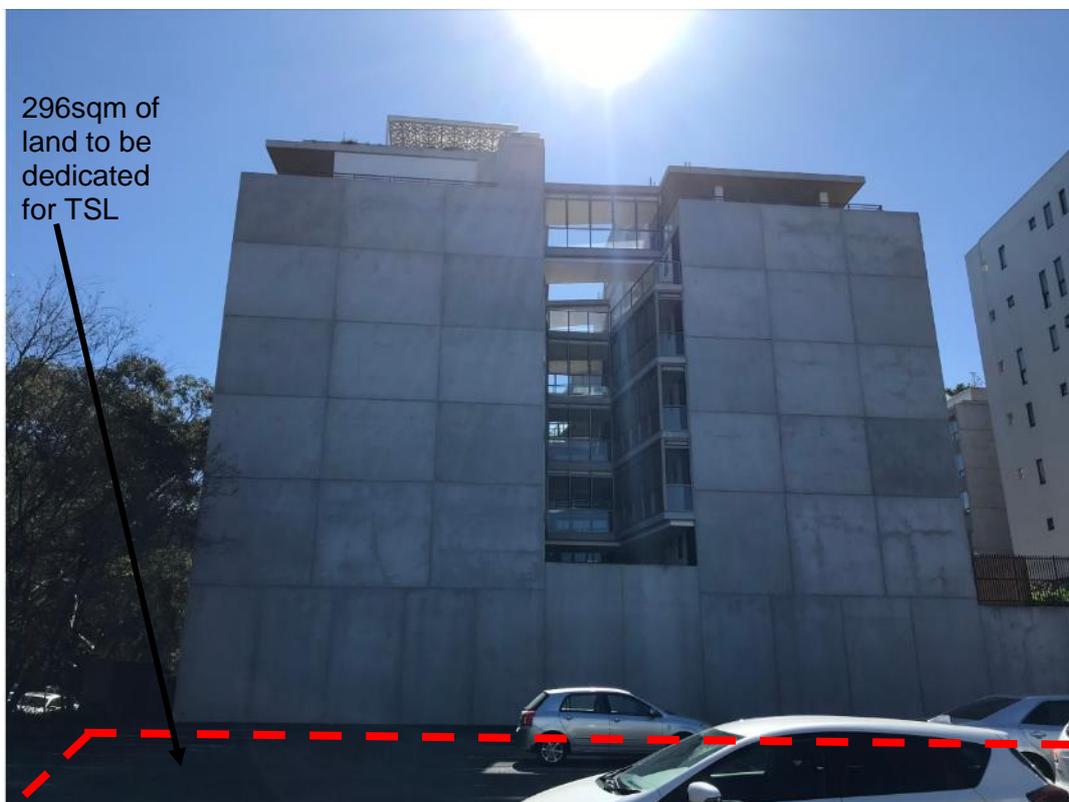


Figure 6: Seven-storey residential flat building at 2 Mentmore Avenue, as viewed from 12-22 Rothschild Ave



Figure 7: Mentmore House, locally listed heritage item at 5-11 Mentmore Avenue



Figure 8: Looking south west along Mentmore Avenue at Mentmore House and 13-21 Mentmore Avenue



Figure 9: Existing office and warehouse building at 5-15 Dunning Avenue. Site has been recently approved for 3 x 7 storey residential flat buildings (D/2019/390).



Figure 10: Looking north east across existing carpark to 6-10 Rothschild Avenue



Figure 11: Southern side of 6-10 Rothschild Avenue. Fence indicates boundary between 12-22 Rothschild Ave and the dedicated through site link.



Figure 12: Looking north east across existing carpark to 6-10 Rothschild Avenue and 5-9 Rothschild Avenue



Figure 13: Looking west at existing dedicated through site link. Subject development will provide land and complete embellishment works to complete link between Rothschild Ave and Mentmore Ave.



Figure 14: Looking south west at existing dedicated through site link. The subject development will provide land and complete embellishment works to complete the through sitelink between Rothschild Ave and Mentmore Ave.



Figure 15: Looking west across carpark towards Mentmore House



Figure 16: Looking east at 5-9 Rothschild Avenue



Figure 17: Looking south east at Stedman Street and 25-29 Rothschild Avenue



Figure 18: Eastern facade (Rothschild Avenue) of heritage item at 24 Rothschild Avenue



Figure 19: Southern facade (Cressy Street) of heritage item at 24 Rothschild Avenue



Figure 20: Western facade (Mentmore Avenue) of heritage item at 24 Rothschild Avenue



Figure 21: Sweet Acres Park, opposite side of Cressy Street

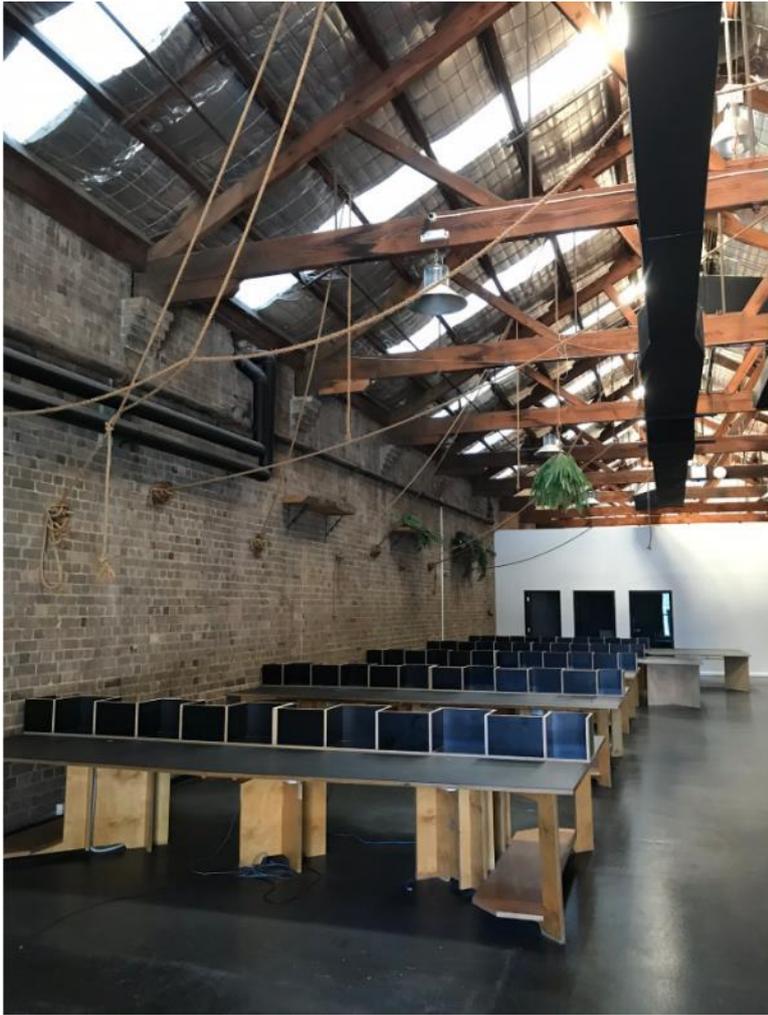


Figure 22: Inside of heritage item where basement lift access will be provided

History Relevant to the Development Application

Planning Proposal

15. The site was subject to a planning proposal. As a result, on 14 February 2020 the Sydney LEP 2012 and Sydney DCP 2012 were amended for both 12-22 and 24 Rothschild Avenue, Rosebery.

16. The planning proposal changed the floor space ratio (FSR) and building height controls for 12-22 and 24 Rothschild Avenue, Rosebery. That is;

	Previous controls	Sydney LEP 2012 following planning proposal
Height - 12-22 Rothschild Avenue	22m	27m and 29m
Height - 24 Rothschild Avenue (heritage item)	22m	9m
FSR - 12-22 Rothschild Avenue	1.5:1 base 0.5:1 community infrastructure bonus	1.75:1 base 0.5:1 community infrastructure bonus
FSR - 24 Rothschild Avenue (heritage item)	1.5:1 base 0.5:1 community infrastructure bonus	1:1

17. The planning proposal facilitated the following;
- The proposed changes sought to protect the heritage listed warehouse fronting Cressy Street by redistributing floor space and height from the heritage item to 12-22 Rothschild Avenue.
 - Building envelopes were established which include a 5-storey street wall height and additional setbacks for the upper levels. The intent of this form is to reduce the impacts on surrounding buildings.
 - The heritage item is to be retained for commercial use only and include a retail space to activate the northern through site link.
 - Improved permeability around the site including incorporating a new 6m heritage curtilage between the new buildings and heritage item, and landscaped deep soil setbacks from the eastern, western and northern boundaries.
18. The application is assessed against the amended planning controls in the assessment section below.

Competitive Design Process

19. The Sydney LEP 2012 and Sydney DCP 2012 require a competitive design process to be undertaken for the subject development. This competition was held between September and November 2019.
20. The competition panel selected the Candalepas Associates design as the scheme with the most potential to achieve design excellence.

21. The selection panel report identified elements of the scheme which should be retained, and elements which require further resolution. These are discussed in more detail under the heading 'Design Excellence' in the issues section below.

PreDA consultation

22. Two preDA meetings were held between Council Planning Staff and the applicant after the design competition and prior to lodgement of the subject development application.
23. Development consent has also been issued to use part of the heritage item as a sales suite for the development.

Amendments

24. Following a preliminary assessment of the development by Council Officers including input by the Design Advisory Panel (DAP) and the Design Advisory Panel Residential Subcommittee (DAPRS), a request for additional information and amendments was sent to the applicant.
25. The key issues raised in the letter to the applicant related to departures from the design competition scheme, landscaping, further arboricultural investigation, designs of the through site links and amenity of apartments.
26. The applicant responded to the request by providing amended plans and additional supporting information. Overall, the amendments addressed the issues raised in the issues letter and the scheme retains the quality of the competition winning proposal. The amended proposal is described and assessed below.

Proposed Development

27. The amended application seeks consent for demolition of all structures at 12-22 Rothschild Avenue, excavation and remediation.
28. The proposed remedial approach includes bulk excavation of contaminants and disposal offsite. Tree protection zones have also been established around all trees, and subject to further delineation and testing of the soils around the trees, an ongoing environmental management plan may be required.
29. The proposal seeks consent to remove 15 trees located within the site to facilitate the development. Of these 15 trees, 4 are identified as being low value trees and an additional 6 trees are located directly within the building footprint. No street trees are required to be removed to facilitate the development.
30. The development seeks to construct a two-level basement with access from Mentmore Avenue. The basement will be set in 5m from the Mentmore Avenue frontage and 7m from the Rothschild Avenue frontage. It will sit under the central communal open space and provide lift access to the two residential buildings.
31. Basement level 1 will also extend under 24 Rothschild Avenue, providing lift access from the carpark to 24 Rothschild Avenue. The basement will not be located under any land to be dedicated.

32. The basement will contain car parking for 141 residential spaces, 18 residential visitor spaces, 2 car share spaces, 1 retail space and 12 office spaces for 24 Rothschild Avenue. The basement also contains bike parking for residents, visitors and the retail premises. Waste collection, servicing and a turntable are proposed on basement level 1, allowing waste and site servicing to occur from within the basement. Residential storage rooms are also proposed throughout the basement for the residential apartments.
33. The development also includes the construction of two residential flat buildings, one fronting Mentmore Avenue (building A) and one fronting Rothschild Avenue (building B). There are 176 apartments proposed, of which there are 4 studios, 72 one-bedroom apartments, 85 two-bedroom apartments and 15 three-bedroom apartments.
34. Building A is setback 5m from Mentmore Avenue, is 8 storeys and includes 90 apartments. It provides for basement access, two communal outdoor seating areas and a communal music room on the ground level. There are also two communal open spaces that are 41sqm and 35sqm located on level 8 facing east. An architectural roof feature is also proposed on the roof of this building. It contains skylights which provide for additional light and air to the upper level apartments. The roof feature also conceals the proposed plant and solar panels, while adding vertical proportions to the building.
35. Building B is set back 7m from Rothschild Avenue, is 9-storeys in height and includes a ground floor retail tenancy which fronts the northern through site link. There are 86 apartments and communal open space facilities are located throughout the building. This includes two x 20sqm communal balconies located on levels 1 to 3 which face east, a 138sqm communal area located on the northern end of level 4 and a 78sqm communal area on the southern end of level 5. As with building A, an architectural roof feature is proposed to the roof the building, which contains skylights, plant and solar panels.
36. Building A and B are separated by a communal open space area which is flanked by four 4-storey 'pop outs'. There is also a 6m separation between and the development and the heritage item at 24 Rothschild Avenue. This area will include a 6m wide easement for public access, with a pedestrian entry to the communal courtyard proposed halfway along the length of this through site link. This easement for public access is being secured as part of the VPA.
37. North of the development, 296sqm of land is being dedicated to the City and embellished through the VPA. This connects with an existing TSL and will allow for continuous 6m wide pedestrian and bicycle access between Mentmore and Rothschild Avenue. A plan of this arrangement is shown below. The remainder of the VPA will secure a monetary contribution for use within the Green Square Urban Renewal area. This will likely include a contribution towards infrastructure aimed at improving the pedestrian access and safety around Sweet Acres Park.

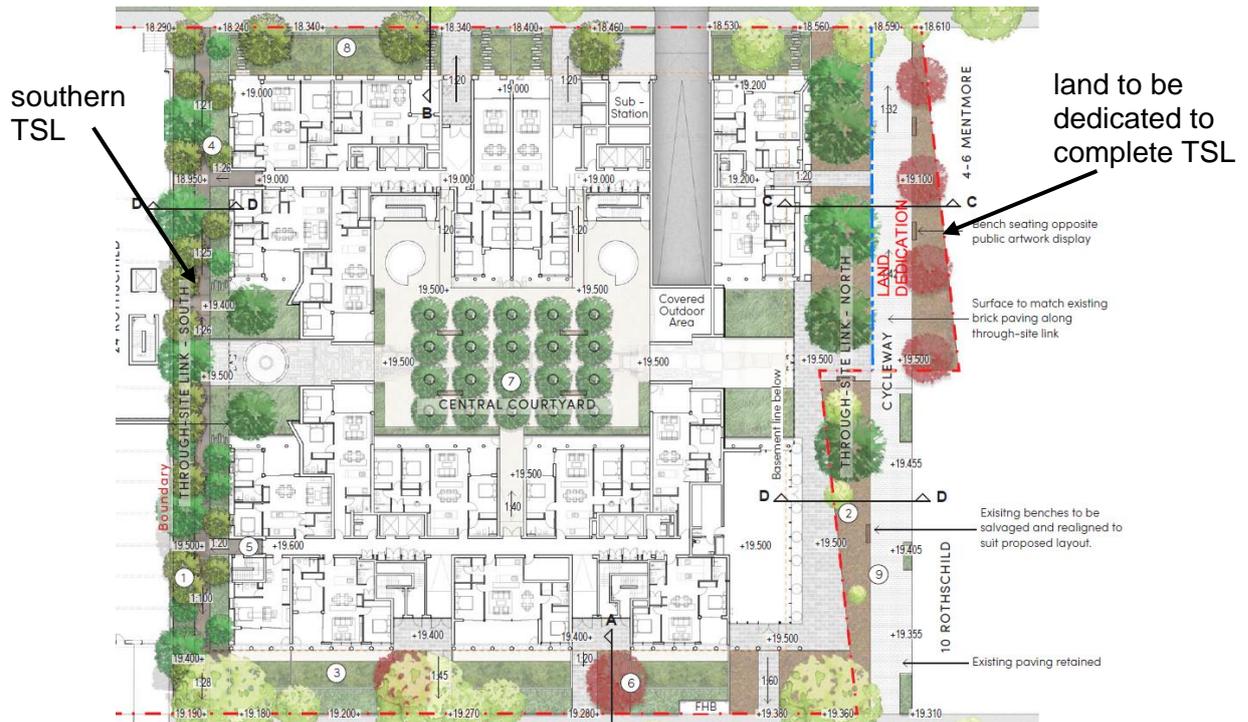


Figure 23: VPA works

38. The proposal includes space for outdoor dining in front of the 163sqm ground floor retail tenancy and access to the communal courtyard. The proposal includes integrated public art along the northern building facades as the building fronts the TSL. The public art is based on caryatids and columns identified in industrial buildings adjacent to the site.
39. The development also includes the removal of the shutters on the heritage item, and minor conservation works including restoration of the northern wall of the item.
40. Plans and elevations of the proposed development are provided at Attachment B. Photomontages are provided below.



Figure 24: Proposed photomontage - Rothschild Avenue



Figure 25: Proposed photomontage - Rothschild Avenue



Figure 26: Proposed photomontage - Mentmore Avenue including proposed public art on the northern wall of the building as it connects with the dedicated through site link



Figure 27: Proposed elevation - Mentmore Avenue

Assessment

41. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Water Management Act 2000

42. The proposed development is integrated development under the Environmental Planning and Assessment Act 1979. This is because the development will likely encounter ground water during the excavation process, and therefore is required to obtain a Water Supply approval under the Water Management Act 2000.
43. As such, the application and submissions were sent to Water NSW. Water NSW provided General Terms of Approval (GTAs) on 30 October 2020. Amended plans and submissions were sent to Water NSW and no change was made to the GTAs. The GTAs are included at Schedule 3 of the Notice of Determination, at Attachment A.

Sydney Water Act 1994

44. In accordance with Section 78 of the Sydney Water Act 1994, the application was referred to Sydney Water. This is because the development may increase the demand for water supplied by Sydney Water Corporation. A response was received, and conditions are recommended at Attachment A.

Airports Act 1996 (Cth)

45. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
46. Regulation 6(1) of the Airports (Protection of Airspace) Regulations 1996 declares the airspace above any part of either an OLS (Obstacle Limitation Surface) or PAN-OPS (Procedures for Air Navigation Systems) prescribed airspace.

47. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
48. Regulation 5, Schedules 3 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify that the site is subject to a prohibition of the construction of buildings more than 15.24m above existing ground level without prior approval.
49. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity on 18 February 2021.

State Environmental Planning Policies

State Environmental Planning Policy No 55 - Remediation of Land

50. The aim of State Environmental Planning Policy (SEPP) No 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.
51. The following information was submitted in support of this development:
 - (a) a Remedial Action Plan (RAP), reference E22282.E6_Rev, prepared by EI Australia and dated 10 June 2020;
 - (b) RAP Addendum, reference E24206_Ltr2_Rev2, prepared by EI Australia and dated 10 January (RAP - Addendum); and
 - (c) interim letters of advice, reference 200005 1A3, prepared by NSW accredited site auditor Tim Chambers and dated 15 June 2020 and 18 February 2021.
52. Site investigations have identified that asbestos, polycyclic aromatic hydrocarbons (PAH), heavy metals, polychlorinated biphenyls (PCBs), impacted fill and an abandoned underground storage tank (UST) require excavation and off-site removal.
53. The RAP proposes to bulk excavate and dispose the contaminants offsite. The interim advice dated 15 June 2020 confirmed that the above approach is appropriate and that the site can be made suitable for the proposed development.
54. Further clarification was sought about how the trees on and around the site would be retained if bulk excavation is proposed for remediation. A RAP addendum, prepared by EI Australia and dated 20 January 2021, and further letter of interim advice dated 18 February 2021 were submitted.
55. Figure 1 of the interim letter of advice superimposes the sampling locations where contamination requiring remediation was identified over the tree protection zones. It identifies two trees, tree 17 (located in landscape setback adjacent to Mentmore Avenue) and tree 37 (located in landscape setback adjacent to Rothschild Avenue).
56. The following strategy, as set out in part 2 of the interim letter of advice, is proposed to address this issue:
 - (a) Additional validation/delineation sampling (at least 5 samples in each affected area) be taken to delineate and refine the identified impacts in affected tree protection zones.

- (b) Where sampling indicates concentrations of contaminants above acceptable screening level concentrations, a risk assessment will be conducted to assess the site-specific risks posed by the residual impact. Where the risk assessment indicates acceptable risks, no further action will be required.
 - (c) Where unacceptable risks are identified, mitigation measures will be implemented, anticipated to include physical barrier systems. These measures will be governed and maintained by an environmental management plan (EMP) attached to the site, which must be legally enforceable, and a notation placed on the land title. The EMP must meet the requirements set under the NSW EPA (2017) guidelines for the NSW Site Auditor Scheme and will require approval from the appointed NSW EPA Accredited Auditor and the City of Sydney Council.
57. The Council's Health Unit has reviewed the information provided. Conditions of consent have been recommended to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
58. A condition is recommended to ensure that the remediation must ensure there is no need for any long-term environmental management for land to be dedicated to Council.
59. A condition is also recommended to ensure any long-term environmental management plan (LTEMP) on private land must be passive and must not include the requirement for ongoing monitoring or reporting.

State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes)

60. State Environmental Planning Policy (SEPP) No 70 relates to Section 7.32 of the Environmental Planning and Assessment Act 1979. It states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
61. Clause 7.13 (Contribution for purpose of affordable housing) of the Sydney Local Environmental Plan 2012 allows for circumstances where an affordable housing contribution may be levied for development of land in Green Square. This matter is discussed in further detail under the heading Financial Contributions below.

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

62. A BASIX Certificate (number 1101429M_03) has been submitted with the development application.
63. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy (Infrastructure) 2007

64. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

65. The application is subject to Clause 45 of the SEPP. As such, the application was referred to Ausgrid and Ausgrid provided conditions relating to overhead powerlines, underground powerlines and substations. These conditions are recommended to be included at Attachment A.

State Environmental Planning Policy (Vegetation in Non Rural Areas) 2017

66. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.
67. The proposed removal of 15 trees is supported as is discussed under section 3.5 of the Sydney DCP 2012 below. The removal of trees will not adversely impact on the heritage significance of 24 Rothschild Avenue.

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

68. The aim of State Environmental Planning Policy (SEPP) 65 is to improve the design quality of residential apartment development.
69. SEPP 65 applies to this application. It requires the consent authority take into consideration advice from a design review panel, the design quality, in the design quality principles, and the Apartment Design Guide (ADG). This is discussed further below.

Design Quality Principles

70. An amended design verification statement and SEPP 65 design report prepared by Candalepas Associates was submitted on 22 February 2021. It addresses the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.
71. An assessment of the proposal against the design quality is provided as follows:

(a) Principle 1: Context and Neighbourhood Character

The development, as proposed, is suitable for its context and surrounding neighbourhood character. It meets the desired future character as expressed in the Sydney DCP 2012 for the Beaconsfield Locality. The development provides for generous setbacks to the adjoining heritage item, Mentmore Avenue, Rothschild Avenue and to the northern through site link. The development responds to the adjoining heritage items, drawing on the quality and materiality of these buildings in the Mentmore and Rothschild Avenue facades.

(b) Principle 2: Built Form and Scale

The proposed form and scale are consistent with the site-specific planning controls in the Sydney DCP 2012. The buildings contain architectural roof features which sits between 2 and 4% above the height limit. These do not result in any unreasonable overshadowing on neighbouring properties. The facades are highly articulated with deep recesses that contribute to improved amenity for the residents.

(c) Principle 3 and 6: Density and Amenity

The development provides for a good level of amenity. There are some numeric non-compliances with solar access, but these are considered acceptable as the development still meets the objective of the ADG and optimises solar access to the development. The proposal provides the required setbacks within the site and between adjacent developments and the public domain. The proposal also provides for large amount of deep soil and communal open space. Overall, the proposed density is considered suitable for the site.

(d) Principle 4 and 5: Sustainability and Landscape

The development provides for large numbers of apartments achieving access to sunlight (95%) and natural cross ventilation (64%). The facade and skylights have been designed to optimise the winter sun and protect against the summer sun. The site provides for large areas of deep soil and landscaping.

(e) Principle 7: Safety

The development provides for clear legible entries, good passive surveillance of the through site links. The communal areas are easily accessible, well-lit and clearly defined to optimise safety.

(f) Principle 8: Housing Diversity and Social Interaction

The development provides for a mix of studio, one bedroom, two bedroom and three-bedroom apartments throughout the complex. The apartment types provide for flexible and practical uses and are suitable to a broad range of people. The development also provides for a variety of communal spaces enabling use for a diverse range of functions.

(g) Principle 9: Aesthetics

The design of the buildings are well resolved. The details of the facades and materials are discussed further in the issues section under the heading 'Design Excellence.'

Apartment Design Guide

72. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the Sydney DCP 2012. Compliance with the ADG is detailed below.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	29% of the site area is provided as communal open space.

3D Communal and Public Open Space	Compliance	Comment
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	The development offers a variety of communal open space areas. The upper level communal open space areas, the ground floor communal open space and the level 4 communal open space on podium all receive at least 50% direct sunlight at midwinter.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Yes	The development provides for approximately 20% of the site area as deep soil.

3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): <ul style="list-style-type: none"> 6m between habitable rooms / balconies 3m between non-habitable rooms 	Yes	The development provides for 18m separation between building A and B, 6m separation to the south (blank wall of heritage item) and a minimum of 12m to the north of the site.
Five to eight storeys (25 metres): <ul style="list-style-type: none"> 9m between habitable rooms / balconies 4.5m between non-habitable rooms 	Yes	The development provides for 18m separation between buildings A and B, 9m separation to the south and a minimum of 18m to the north.

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	No	The development achieves 51% solar access. This level of solar compliance is considered acceptable in this instance. This is discussed further in the issues section below.

4A Solar and Daylight Access	Compliance	Comment
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	5% of apartments do not receive direct sun between 9am and 3pm at midwinter.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	64% of the apartments in the proposal are naturally cross ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The overall apartment depth is 17.5m, glass line to glass line.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	A minimum floor to ceiling height of 2.7m is proposed for habitable rooms.
Non-habitable rooms: 2.4m	Yes	A minimum floor to ceiling height of 2.7m is proposed for non-habitable rooms. This floor ceiling height may reduce to 2.4m the final location of services is known.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Assessed as acceptable	While the development is in a mixed-use zone, the Sydney LEP 2012 and Sydney DCP 2012 make clear where the required retail tenancy is to be located. The remainder of the development is all residential.

4C Ceiling Heights	Compliance	Comment
		The ground floor retail tenancy has a floor to ceiling height of 3.65m. The remainder of the ground floor residential units have floor to ceiling heights of 3.3m. The retail tenancy is not subject to the ADG and the floor to ceiling height is considered under and consistent with the Sydney DCP 2012.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.</p>	Yes	All apartments meet the minimum unit sizes.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	Every habitable room has access to a window, and the design verification statement confirms that every habitable room has an external wall with a minimum glass area of 10% of the floor area of the room.
<p>Habitable room depths are to be no more than 2.5 x the ceiling height.</p> <p>8m maximum depth for open plan layouts.</p>	Assessed as acceptable	All living spaces are less than 8m deep when measured from the inside from a window to the kitchen cabinetry on the rear wall.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10sqm 	Yes	All bedrooms achieve the minimum size and dimension.

4D Apartment Size and Layout	Compliance	Comment
<ul style="list-style-type: none"> • all other bedrooms: 9sqm <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>		
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	Yes	All living rooms meet the minimum widths.
4m minimum width for cross over and cross through apartments.	Yes	All cross through apartments have a minimum width of 4m.

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments - minimum balcony area of 4sqm and minimum depth of 1m.</p> <p>One bed apartment - minimum balcony area of 8sqm and minimum depth of 2m.</p> <p>Two bed apartment - minimum balcony area of 10sqm and minimum depth of 2m.</p> <p>Three bed apartments - minimum balcony area of 12sqm with a minimum depth of 2.4m.</p> <p>Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15sqm and a minimum depth of 3m.</p>	Yes	All apartments meet the minimum balcony areas and minimum dimensions.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	Each core has a minimum of 2 lifts, and a maximum of 12 apartments per core.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	Other than on the ground floor, no living room or bedroom windows open directly into communal areas.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Each core has access to daylight and natural ventilation.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ <p>(Minimum 50% storage area located within unit)</p>	Subject to condition	It appears, based on the plans, that there is sufficient storage space provided for each apartment. A condition is recommended requiring a storage plan demonstrating compliance with the ADG minimum storage requirements to be submitted to the Principal Certifier prior to issue of any construction certificate.

Local Environmental Plans

Sydney Local Environmental Plan 2012

73. An assessment of the proposed development against the relevant provisions of the Sydney LEP 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is in the B4 Mixed Use zone. The proposed development is defined as retail premises and residential accommodation and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.
4.3 Height of buildings	Yes	<p>A maximum building height of 27m is permitted for building A (Mentmore Avenue) and 29m is permitted for building B (Rothschild Ave).</p> <p>A height of 27.6m is proposed for building A and 30.2m is proposed for building B. This equates to a 2.22% breach in height for building A and a 4.13% breach in height for building B.</p> <p>The additional height is caused by the architectural roof feature which contains skylights for the upper level apartments, solar panels and plant.</p> <p>The development seeks to rely on clause 5.6 of the Sydney LEP 2012 which permits architectural roof features to exceed the height limits.</p> <p>The development is also accompanied by a clause 4.6 variation request to support the additional height proposed by the architectural roof features.</p> <p>The additional height is recommended to be supported and this is discussed further in the issues section below.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 1.75:1 is permitted for the site as per clause 4.4 of Sydney LEP 2012.</p> <p>An additional 0.5:1 bonus FSR is permitted, pursuant to clause 6.14 of Sydney LEP 2012, where community infrastructure is provided.</p>

Provision	Compliance	Comment
		<p>As part of the subject application, a public benefit has been made to the City with a value of \$1,400,567.50. This includes:</p> <ul style="list-style-type: none"> (a) Land dedication for 296.1sqm northern through site link with a value of \$59,220 (b) Embellishment works with a value of \$228,422.20 (c) An easement for 454sqm public access for the southern through site link, with a value of \$90,800. (d) A financial contribution towards the delivery of public infrastructure within the Green Square Urban Renewal Area, with a value of \$1,022,125.30. <p>A draft planning agreement has been prepared and began public exhibition on 12 March 2021 for a 28-day period. As such, the application is recommended to be delegated to the CEO to allow the exhibition period of the draft planning agreement to be completed.</p> <p>An additional 0.225:1 FSR is also permitted as per clause 6.21(7)(b) of Sydney LEP 2012. This is because the subject development is a 'building demonstrating design excellence' and as such is eligible for an additional 10% floor space.</p> <p>Overall an FSR of 2.475:1 is permitted. An FSR of 2.461:1 is proposed.</p>

Provision	Compliance	Comment
4.5 Calculation of floor space ratio and site area	Yes	While the DA is for both 12-22 and 24 Rothschild Avenue, the significant development is only occurring on 12-22 Rothschild Avenue. As such, 'site' for the purposes of determining the available gross floor area is 12-22 Rothschild Avenue, Rosebery. This is consistent with applicant's calculation of site area and FSR.
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under clause 4.3 building height. A Clause 4.6 variation request has been submitted with the application.</p> <p>This is discussed further in the issues section below.</p>
5.6 Architectural roof features	Yes	The maximum building height limit is exceeded by the architectural roof feature on both buildings. The feature is acceptable as it is decorative and fully integrated with the design of the building. This is discussed in more detail in the issues section below.
5.10 Heritage conservation	Yes	<p>The site at 24 Rothschild Avenue is a locally listed heritage item pursuant to Schedule 5 of Sydney Local Environmental Plan 2012 (item number I1382). The site is also located opposite Mentmore House, which is another locally listed heritage item pursuant to Schedule 5 of Sydney Local Environmental Plan 2012 (item number I1378).</p> <p>The proposed development is considered acceptable. This is discussed further in the issues section below.</p>

Provision	Compliance	Comment
6.21 Design excellence	Yes	The proposed development demonstrates design excellence as per clause 6.21 of Sydney LEP 2012. The proposal is the result of a competitive design process, in accordance with the City of Sydney's Competitive Design Process. The development seeks to rely on clause 6.21(7)(b) for an additional 10% FSR. This is discussed further in the issues section below.
6.49 12 - 22 Rothschild Avenue, Rosebery	Yes	Clause 6.2(7)(a) which allows for up to an additional 10% height if the development underwent a competitive design process and demonstrates design excellence, is not relied on for this development.
6.50 24 Rothschild Avenue, Rosebery	Yes	<p>Clause 6.50(2) says that clauses 6.14 and 6.21 do not apply to the building on this land. These clauses are not relied on for any development at 24 Rothschild Avenue.</p> <p>This development also does not seek to change the existing land use of the premises at 24 Rothschild Avenue.</p>
7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	<p>The site is in the area marked category C under clause 7.5 of Sydney LEP 2012. A maximum of 141 residential car spaces are permitted and 141 residential are spaces proposed.</p> <p>A maximum of 18 visitor spaces are permitted and 18 are proposed.</p>
7.6 Office premises and business premises	Yes	The site is in the area marked category F under clause 7.6 of Sydney LEP 2012. A maximum of 25 spaces are permitted and 12 spaces are proposed.

Provision	Compliance	Comment
		These spaces are accessed through the driveway at 12-22 Rothschild Avenue, and basement access is provided via a lift to the heritage item. This is consistent with clause 6.3.16.6 of the Sydney DCP 2012 which requires car parking and servicing of the heritage item to be provided in the car park of the adjoining site.
7.7 Retail premises	Yes	The site is in the area marked category F under clause 7.6 of Sydney LEP 2012. A maximum of 3 spaces are permitted and 1 space is proposed.
7.13 Contribution for the purpose of affordable housing	Yes	The development is subject to an affordable housing contribution. This is discussed further in the contributions section below.
7.14 Acid Sulfate Soils	Yes	The site is located on class 5 land. An acid sulfate soils assessment was submitted. It concluded that the site will not be affected by acid sulfate soils.
7.15 Flood planning	Yes	<p>Flooding</p> <p>The site is identified as being affected by flooding from the Alexandra Canal catchment. A site-specific flood assessment has been submitted and includes appropriate flood planning levels for both frontages of the site.</p> <p>The recommended flood planning levels for the site are governed by the flood development control of 300mm above the adjoining invert of gutter level.</p> <p>The site-specific flood assessment assesses the proposed floor levels against the recommended flood planning levels and demonstrates compliance with recommended levels as indicated in Section 3.3 and Tables 2, 3 and 4 of the assessment.</p>

Provision	Compliance	Comment
		<p>This assessment is considered acceptable and therefore meets the requirements of Councils' interim Flood Risk Management Policy. Conditions of consent are recommended to ensure the development is constructed to comply with these recommended flood planning levels.</p> <p>Stormwater</p> <p>The site has an area of 5925sqm and is fully impervious. In conjunction with the specified Sydney Water on site detention requirements, the development will significantly reduce storm water runoff discharged from the site to Council's storm water system.</p> <p>The application is accompanied by a Storm Water Management Report. The proposed quantity control comprises of a 92m³ below ground detention storage tank with site discharge limited to 218 litres/sec with direct connection to a new kerb inlet pit in Mentmore Avenue. To convey this collected storm water runoff to the public drainage system located at the corner of Cressy Street and Mentmore Avenue approximately 60m of new Reinforced Concrete storm water pipe will be required to be constructed.</p> <p>This is considered acceptable and in accordance with Council's storm water specification an appropriate condition of consent is recommended to ensure compliance and appropriate details are submitted prior to issue of a construction certificate.</p> <p>Regarding storm water quality management, a summary of the City of Sydney MUSIC model link report required in accordance with Councils Technical Specification has been submitted. The recommended quality management strategy is a combination of a 10m³ rainwater storage tank in parallel with the 92m³ detention tank as well as enviro pod filters into gully pits and the detention tank.</p>

Provision	Compliance	Comment
		This strategy is considered acceptable and conditions are recommended.
7.16 Airspace operations	Not applicable	The proposed development does not penetrate the Obstacle Limitation Surface for Sydney Airport. As such this clause is not applicable.
7.20 Development requiring or authorising preparation of a development control plan	Yes	A site specific DCP was prepared for this site. The controls are addressed in section 6 below.
7.27 Active Street Frontage	Yes	The north eastern corner of the site, as it adjoins the northern through site link, is identified as requiring an active street frontage. The development provides for a 163sqm retail floor spaces, and space for outdoor dining. The retail space has direct access from Rothschild Avenue and from the northern through site link. It is appropriately designed to ensure it activates the street and through site link.

Development Control Plans

Sydney Development Control Plan 2012

74. An assessment of the proposed development against the relevant provisions within the Sydney DCP 2012 is provided in the following sections.

Section 2 – Locality Statements

75. The site is located within the Beaconsfield locality. The proposed development is considered to be consistent with the surrounding character of the locality in that it will provide denser urban development on the eastern edge of the locality. It will also provide public domain improvements, including two through site links to improve connectivity.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1.2.2 Through site links	Yes	The development provides for two through site links: <ul style="list-style-type: none"> A 6m wide easement (454sqm in total) is proposed over the heritage curtilage connecting the Rothschild Avenue and Mentmore Avenue.

Provision	Compliance	Comment
		<ul style="list-style-type: none"> A 296.1sqm of land is being dedicated and embellished at the northern end of the site, which will complete the half built through site link connecting Rothschild Avenue and Mentmore Avenue. This link is part of a larger network of through site links which provide greater access and permeability as sites redevelop. <p>These links are clear to the sky, provide a clear line of site between Rothschild Avenue and Mentmore Avenue, and will be embellished in accordance with the City's requirements. Conditions are also recommended to ensure that the public domain in front of 12-22 and 24 Rothschild Avenue is upgraded as part of the redevelopment of the site.</p>
3.1.5 Public Art	Yes	<p>A public art plan has been submitted with this development.</p> <p>The applicant has proposed a public art scheme for the northern through site link by the architect, Candelapas. It is based on caryatids (sculpted female figure serving as an architectural support) and columns identified in industrial buildings adjacent to the site. It will be highly visible from the dedicated through site link.</p> <p>The submitted public art plan has not identified an artist. It instead says that the applicant intends to engage a skilled artist, as requested by the City, to further develop the concept into a Detailed Public Art Plan.</p> <p>Conditions are recommended which require the applicants to submit their proposed artist or shortlist of artists to the City for review by the Public Art Team before further development of the Detailed Public Art Plan. This plan will also need to be reviewed by the City's Public Art Advisory Panel prior to any construction certificate being issued.</p>

Provision	Compliance	Comment
3.2.2 Addressing the street and public domain	Yes	The development provides generous deep soil, landscape setbacks to Mentmore Avenue and Rothchild Avenue. The residential entries are also clearly defined. The through site links will provide improved access and permeability, and the northern through site link includes public art, a retail tenancy, lights and planting to activate that space.
3.2.3 Active Frontages	Yes	This is addressed under clause 7.27 above.
3.3 Design Excellence and Competitive Design Processes	Yes	The subject development underwent a competitive design process in accordance with the City of Sydney's Competitive Design Policy.
3.4 Hierarchy of Centres, City South	Yes	The proposed retail use will not take away from Green Square Town Centre.
3.5 Urban Ecology	Yes	<p>The proposal does not require the removal of any street trees. The proposal does necessitate the removal of 15 trees from within the site. Of these 15 trees, 4 trees are low value in poor to average structural condition, with a short safe lifespan.</p> <p>Another 6 trees are located directly within the footprint of the building envelopes and are required to be removed to accommodate the development.</p> <p>The remaining 5 trees have works proposed in their structural root zones and will not remain viable.</p> <p>Two trees will also require pruning to less than 10% of their canopy to facilitate the development. The submitted arborist report has concluded that the pruning required will have a "low to negligible impact on the viability of the trees.</p>

Provision	Compliance	Comment
		<p>Council's tree management officer has raised concerns about the pruning of tree 46 as the tree is currently in fair/good health and appears to be slightly environmentally stressed with slight decline. As such, a condition is recommended to ensure as little pruning as possible occurs to this tree. Conditions are recommended in this respect.</p> <p>Given the large amounts of deep soil, including the 296sqm of land being dedicated to the City, there are significant opportunities for substantive replanting. There are also 3 driveway crossovers being removed as part of this redevelopment, so there are also additional opportunities for enhanced street tree planting.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under section 7.15 above.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The land at both 12-22 and 24 Rothschild comprises many small lots. The application proposes consolidation, and subsequent subdivision of 12-22 Rothschild Avenue which is acceptable. The heritage site (24 Rothschild Avenue) comprises 4 lots which bear no resemblance to the building as constructed and consolidation is recommended</p> <p>The proposed subdivision plan shows some basement parking (Lot 3) will be used by the heritage building. A Restrictive Covenant condition is recommended to ensure that the parking in Lot 3 can only be used by the occupants/tenants of the heritage building.</p> <p>The subdivision plans are also recommended to form part of the stamped plans.</p>

Provision	Compliance	Comment
3.9 Heritage	Yes	The site at 24 Rothschild Avenue is a local heritage item. This is discussed at clause 5.10 above and in the issues section below.
3.11 Transport and Parking	Yes	<p>The development proposes compliant parking numbers, as per clauses 7.5, 7.6 and 7.7 of the Sydney LEP 2012.</p> <p>There are also two (2) car share spaces proposed, which is consistent with section 3.11.2 of Sydney DCP 2012.</p> <p>The proposal also includes 176 residential bike parking spaces. Of the 176 spaces, 104 are located in a single consolidated area on basement 2 and the remainder will be located in residential storage rooms. The proposal also includes 18 visitor bike parking spaces. These are located next to the visitor car parking spaces. There are also 2 employee bike parking spaces which are located next to the retail waste room and car share spaces. There are also 3 visitor bike parking spaces for the retail tenancy. Conditions are recommended to ensure the proposed bike parking complies with the Australian Standards and Sydney DCP 2012.</p>
3.12 Accessible Design	Yes	There are 27 (15%) adaptable apartments, which is consistent with the adaptable apartment dwelling mix requirement in section 3.12.2 of the Sydney DCP 2012. Accessible access is provided to all communal areas.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A waste management plan has been submitted which generally complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development. Conditions are recommended requiring;

Provision	Compliance	Comment
		<ul style="list-style-type: none"> the doorway into the waste rooms to be wide enough to manoeuvre the 1100L bins (approximately double the size currently shown); a clear path of travel from the general waste holding room to the doorway that is no more than 10m; confirmation that there is enough width to manoeuvre the bins from the waste rooms to the holding areas; and mark the presentation area where the bulky waste will sit for collection.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	This is discussed under section 6 below.
4.2.2 Building setbacks	Yes	This is discussed under section 6 below.
4.2.3.1 Solar access	Assessed as acceptable	Solar access to the development, and the impact on neighbouring properties is discussed in the issues section below.
4.2.3.5 Landscaping	Subject to condition	This is discussed further in the issues section below and is addressed by conditions.
4.2.3.6 Deep Soil	Yes	This is addressed in the ADG compliance above. The development provides for 20% of the site area as deep soil.
4.2.3.12 Flexible housing and dwelling mix	Assessed as acceptable	The proposal includes 4 studios (2%), 72 x one-bedroom (41%), 85 x two-bedroom (48%) and 15 x three-bedroom (9%) apartments.

Provision	Compliance	Comment
		While not compliant with the DCP mix, the development does provide for a mix of all apartment sizes and typologies, which will provide for diversity.
4.2.5.4 Residential uses on the ground and first floor	Yes	The building is setback 5m from Mentmore Avenue and 7m from Rothschild Avenue. The setbacks are also deep soil. The floor levels of the residential apartments are 600mm higher than the adjacent footpath on Mentmore Avenue and 200mm higher than the adjacent footpath at Rothschild Avenue. Each apartment has its own direct entry from the street and there is sufficient space in front and behind the proposed fence line for deep soil plan. Further resolution is required in the landscape plans as to how the areas in of the residential dwellings will be treated. This is discussed under landscaping above and is recommended to be addressed by condition. Solid balustrades are also proposed above ground level for both buildings, which will assist providing privacy to the upper level apartments.
4.2.6 Waste and recycling Management	Yes	This is addressed under clause 3.14 above.
4.2.7 Heating and cooling infrastructure	Assessed as acceptable	<p>The plans show some AC condenser units in the corners of all balconies. As the AC units are concealed behind solid balustrades, the balconies are compliant the with the minimum private open space areas excluding the area taken up by the AC unit, and there is not enough space on the roof for all the AC condensers, the proposed arrangement is considered acceptable in this instance.</p> <p>The roofs also include plant which is concealed behind the architectural roof feature.</p>

Provision	Compliance	Comment
4.2.8 Letterboxes	Yes	The letterboxes are provided within the lobby of the building and a condition has been recommended to ensure that they are installed with non-master key locks for security.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	The retail tenancy, subject to conditions, will not adversely impact the amenity of neighbouring residential properties. The operation of this tenancy will be subject to a separate consent.

Section 5.2 – Specific Areas - Green Square

Provision	Compliance	Comment
5.2.3 Community infrastructure	Yes	The development provides for community infrastructure. This is secured through a VPA.
5.2.4 Local infrastructure 5.2.5.2 Through site links	Yes	The development will contribute to the improvement of local infrastructure by dedicating and embellishing land for the northern through site link, providing an easement over the southern through site link, and making a monetary contribution for infrastructure in the Green Square urban renewal area.
5.2.7 Stormwater management and waterways	Yes	This is addressed under 7.15 Flooding Planning above.
5.2.9 Building design	Yes	The development addresses Mentmore Ave and Rothschild Ave, and creates an enclosed, secure courtyard for the residents. The building separation is consistent with requirements of the ADG and section 6 of the DCP.
5.2.10 Setbacks	Yes	This is discussed below under section 6.

Section 6 – Specific Sites

Provision	Compliance	Comment
6.3.16.1 Land use	Yes	The location of the retail, commercial and residential uses are as per figure 6.158 structure and land use plan. That is, commercial uses, as existing, remain in the heritage item at 24 Rothschild Avenue, and the retail use is located in the north east corner of the site.
6.3.16.2 Built form	Assessed as acceptable	<p>The development as proposed is generally consistent with the built form controls.</p> <p>Figure 6.159 building heights in section 6.3 allows heights of 8 storeys to Mentmore Avenue and 9 storeys to Rothschild Avenue. This is consistent with the proposed development.</p> <p>Additional height is sought for the architectural roof feature. This is discussed further in the issues section below.</p> <p>The podium 'pop-outs' in the communal open space depart from the DCP envelopes. These create a sense of enclosure, privacy and security for the communal open space and are one of the key reasons why this proposal was selected as the winner of the competitive design process.</p> <p>The remainder of the variations to the DCP envelope relate to communal open space and private open space areas structures. These are minor, do not detract from the overall approved form, do not add additional bulk and will not result in any adverse amenity impacts. The massing itself is generally consistent with the DCP envelope.</p>
6.3.16.3 Building setbacks	Yes	All setbacks, including areas required to be deep soil, have been provided in accordance with figure 6.164 of the Sydney DCP 2012.

Provision	Compliance	Comment
6.3.16.4 Public domain	Yes	<p>The northern through-site link and dedication and arrangement of the building along this elevation is generally consistent with the requirements. The only departure is where the DCP requires individual access to ground floor dwellings, a single entry and lobby is provided to the two ground floor apartments fronting the through site link. This arrangement still provides for activation, passive surveillance and allows for greater areas of unencumbered deep soil.</p> <p>An easement for public access will be included over the heritage curtilage, and the basement slab has been stepped down under this area to allow for greater soil depth for planting.</p> <p>All of these works and dedications are captured within the draft VPA.</p>
6.3.16.5 Heritage	Yes	<p>The proposal is sympathetic to the adjoining and nearby heritage items. The works to provide basement access are supported. This is discussed further in the issues section below.</p>
6.3.16.6 Parking, vehicular access and servicing	Assessed as acceptable	<p>The driveway location is further south than shown in figure 6.164. This is supported as the building courtyard design appropriately disguises the driveway cut in the site and does not necessitate the removal of any street trees. Car parking for the heritage building is also provided in this basement car park.</p>
6.3.16.7 Flooding and stormwater	Yes	<p>This is acceptable and is discussed at clause 7.11 of the Sydney LEP 2012 above.</p>
6.3.16.8 Design excellence	Yes	<p>A competitive design process has been undertaken in accordance with the clause 6.21 of Sydney LEP 2012. No additional height under clause 6.21(7)(a) is sought, and the proposal is compliant with the maximum number of storeys.</p>

Discussion

Height

76. The site is subject to a maximum building height control of 27m for building A (Mentmore Avenue) and 29m for building B (Rothschild Avenue).
77. The proposed development has a maximum height of 27.6m for building A (Mentmore Avenue) and 30.2m for building B (Rothschild Avenue). This equates to a 0.6m or 2.2% variation for building A and a 1.2m or 4.13% variation for building B. The extent and location of the height breach is shown in the figure below.

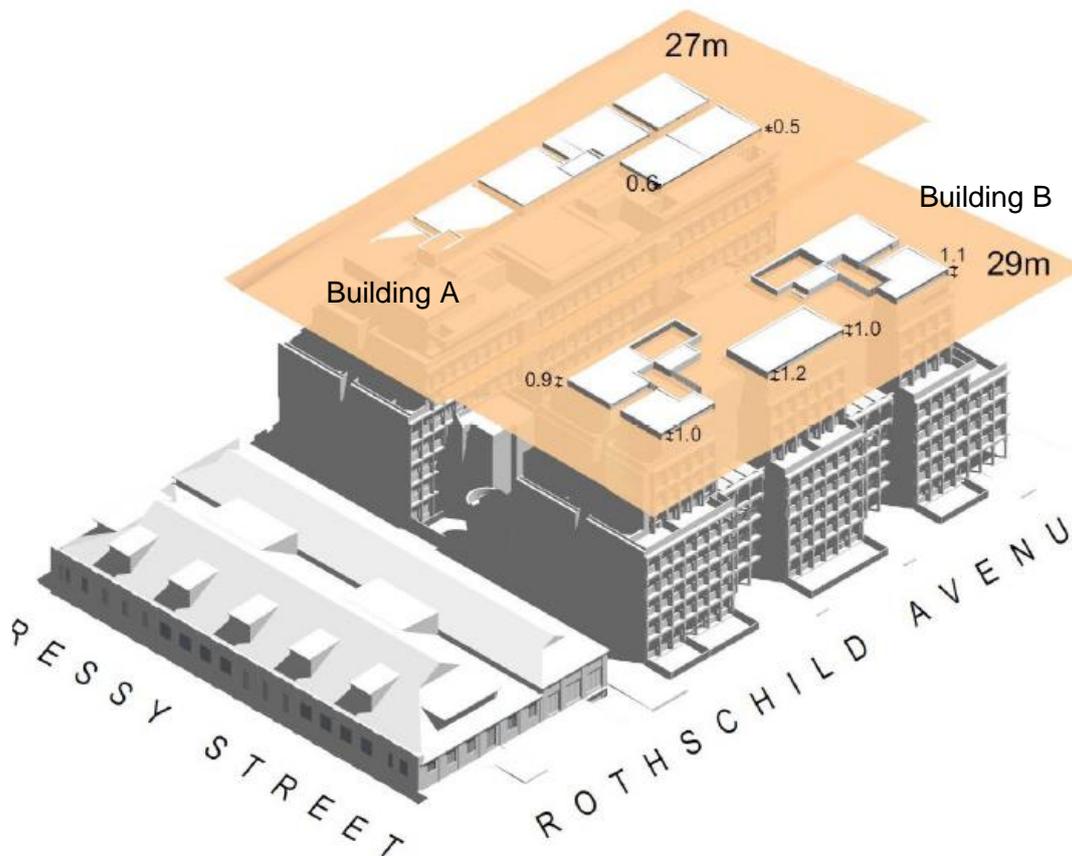


Figure 28: Extent and location of height variation

78. The breach of the building standard is due to the architectural roof feature, which includes skylights, photovoltaic panels, green roof infrastructure and plant equipment.
79. Architectural roof features are permitted to exceed the height standard, subject to objectives being met, as per clause 5.6 of the Sydney LEP 2012. The breakdown of what part of the buildings exceed the permitted height standard are shown in the figures below.

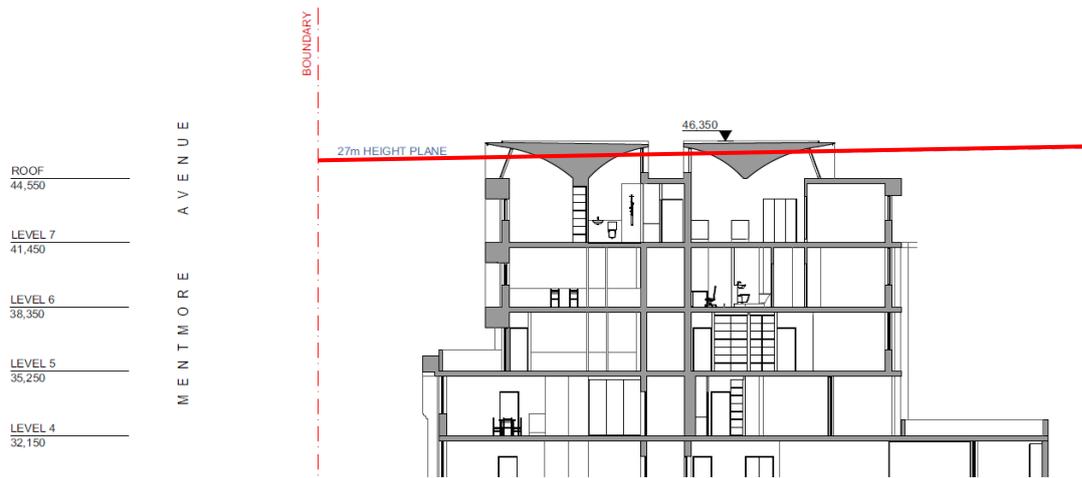


Figure 29: Extent of height variation on Mentmore Avenue building

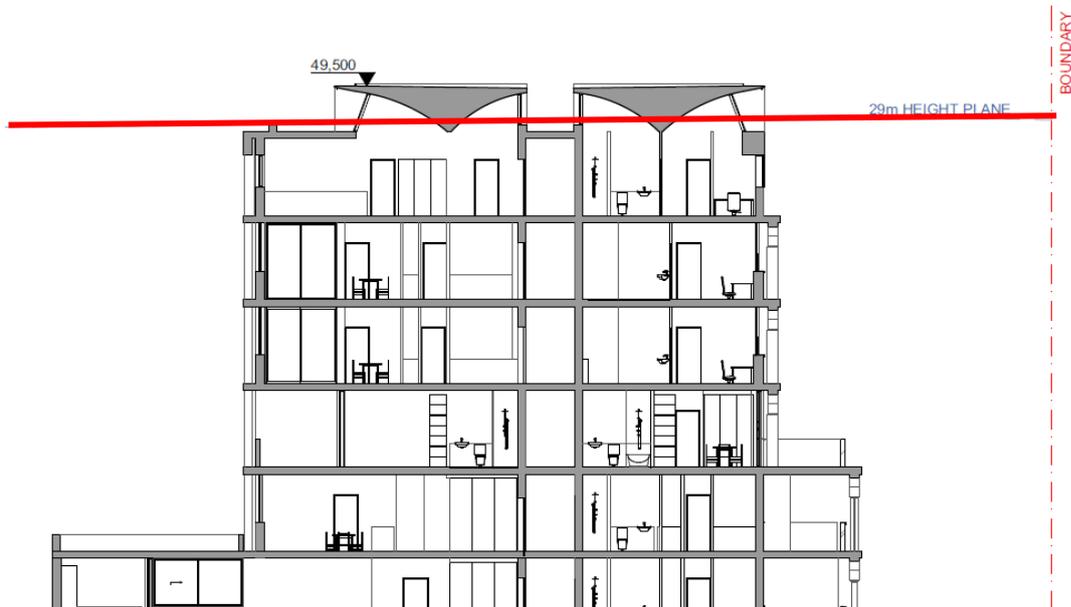


Figure 30: Extent of height variation on Rothschild Avenue building

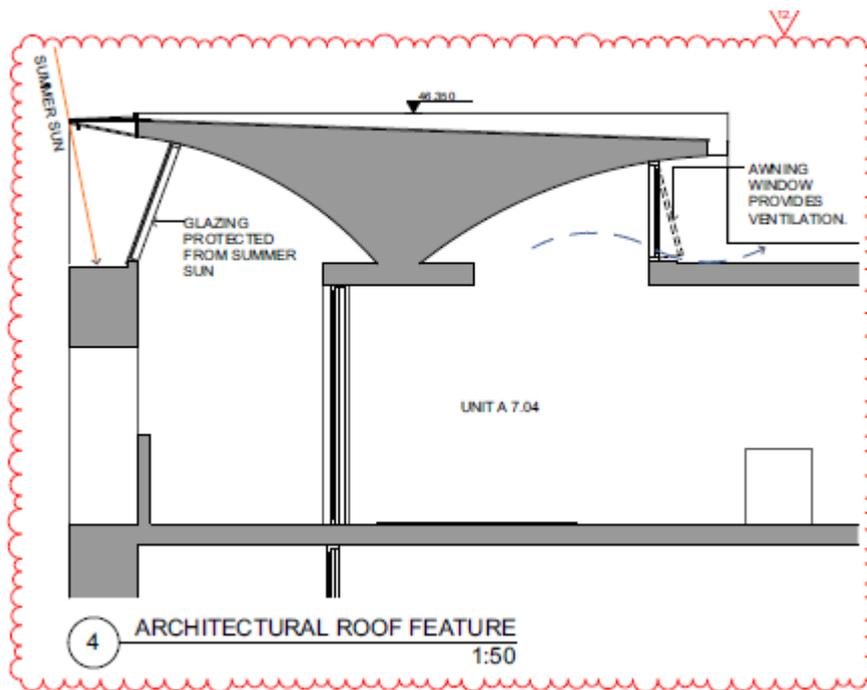


Figure 31: Section through skylights showing how architectural roof feature works to provide ventilation, sunlight and solar protection

80. A clause 4.6 variation request has been submitted to support the variation to the height standard. An overshadowing and design assessment have also been undertaken and are discussed under the relevant headings below.
81. In summary, the overall height of the development is considered acceptable. It is consistent with the requirements of clause 5.6 for architectural roof features and is supported through a clause 4.6 variation. The massing and building locations are consistent with the site-specific planning controls for the site in the Sydney DCP 2012. The architectural roof features are considered to be an important element in achieving design excellence.

Clause 4.6 Request to Vary a Development Standard

82. A written request has been submitted in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the height development standard by demonstrating:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
 - That there are sufficient environmental planning grounds to justify contravening the standard;
 - The proposed development will be consistent with the objectives of the zone; and
 - The proposed development will be consistent with the objectives of the standard.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

83. The applicant seeks to justify the contravention of the height development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The proposal is of a scale which is anticipated by the DCP with a 5-storey street wall and a total of 8 storeys to Mentmore Avenue and 9 storeys to Rothschild Avenue.
 - (ii) The variation is minor and facilitates a number of benefits for and from the development including increased amenity for the top floor apartments, ESD benefits by allowing a significant solar array to be provided on each building within the roof top element, and an appropriate and high quality architectural resolution to the top of the building.
 - (iii) The overshadowing assessment shows that the proposed development, does not result in any meaningful difference in relation to shadow impact, when compared to the shadow which results from compliant building envelopes. Detailed overshadowing analysis has been prepared by Candalepas Associates to identify the shadow impact to the apartments to the east on the opposite side of Rothschild Avenue. The analysis demonstrates that the reduction in solar access to the affected apartments is within the 20% reduction threshold provided by the ADG, with the maximum impact being 14.3% for two apartments.
 - (iv) The elements of the building which exceed the height controls do not result in any unreasonable impacts on the amenity of adjoining properties in terms of loss of privacy or view loss.
 - (v) The scale of the development in terms of its three-dimensional size will not be perceived as jarring or antipathetic in the streetscape and urban design context.
 - (vi) The proposed development involves a compliant floor space ratio and the proposed variation to the height control does not facilitate a density beyond that which is anticipated for the site under the applicable planning controls.
 - (vii) The proposed variation to the height control is minor and will not result in a building which is inconsistent with the desired future character of the development in the zone or the locality generally.
 - (viii) The competition panel specifically commended the roof feature, noting it as a key element to be retained in the design: "The skylights at roof level to improve the amenity of the upper level apartments and help provide proportion to the built form."
 - (ix) Requiring strict compliance would detrimentally impact on the quality of amenity provided for the residents and would diminish the architectural merit of the building and the achievement of an important feature of the design, as commended by the competition panel. Furthermore, given that there is no adverse impact in relation to the proposed variation, strict compliance would not result in any benefit to the streetscape or the amenity of adjoining properties.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The variation provides for an architectural roof feature. This enriches the design quality of the building, accommodates skylights for some of the roof top apartments and also conceals a solar array above each building.
 - (ii) When compared to a scheme with compliant height the proposal does not result in an unreasonable level of shadow.
 - (iii) The proposed variation to the height control allows for the most efficient and effective use of land to maximise residential amenity. Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council, most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.
 - (iv) A requirement to comply with the height control would fail to deliver a building with improved environmental performance and design outcomes. In this instance, there are sufficient environmental planning grounds to warrant the proposed variation to the current height control. This is because the proposal will achieve a superior outcome with a higher level of residential amenity within the site and without any adverse impact to adjacent sites.
- (c) The proposed development will be consistent with the objectives of the B4 mixed use zone;
- (i) The proposed development provides for residential accommodation and retail premises which are both permissible uses within the zone and compatible with the surrounding land uses. In particular, the proposed residential use replaces a non-residential use and has greater compatibility with the emerging residential character.
 - (ii) The proposal seeks to deliver a quantum of residential floor space which will maximise public transport patronage and the increased density of residential population on the site will serve to support the viability of nearby business and retail uses.
- (d) The proposed development will be consistent with the objectives of the height standard:
- (i) The majority of the proposed development complies with the height controls. The proposed areas of variation being an architectural roof feature above each building which contains skylights for top level apartments, accommodates solar panel arrays and plant.
 - (ii) The proposed development still presents as 8 storeys to Mentmore Avenue and 9 storeys Rothschild Avenue as anticipated by the Sydney DCP 2012. The height of the development therefore remains appropriate to the condition of the site and context.

84. It is considered that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)(a) and (b) of Sydney LEP 2012. As such, the requirement of clause 4.6(4)(a)(i) of Sydney LEP 2012 is considered to have been met.
85. As per clause 4.6(4)(a)(ii) of Sydney LEP 2012, the proposed development is also considered to be in the public interest because it is consistent with the objectives of the height standard and the objectives of the B4 mixed use zone. That is;
- (a) The height of the development is considered appropriate to the condition of the site. The height, when considered with the proposed setbacks, allows for an appropriate height transition between the subject building and the adjoining heritage items. This is discussed further below under the heading 'heritage'.
 - (b) The height of the development does not unreasonably compromise views or outlook.
 - (c) The height of the building in storeys and the setting of the building is as per the site specific DCP controls. This arrangement improves the amenity of the public domain by introducing extensive setbacks, new public spaces and through site links. The location of the taller buildings is as set by the Sydney DEP 2012.
 - (d) The proposed development includes a mix of compatible land uses, as set out in site specific planning controls for the site. The development includes residential and small-scale retail use, which will activate the public through site link connecting Mentmore Avenue and Rothschild Avenue.
 - (e) The site is located south of Green Square station and close to multiple bus stops. The location and accessibility of residential entries to the site, and the connection between the public domain and subject development create a highly permeable access arrangement which prioritise and encourage pedestrian.
86. For the reasons provided above the requested variation to the height standard is supported.

Architectural Roof Feature

87. The proposal includes an architectural roof feature on both building A (Mentmore Avenue) and building B (Rothschild Avenue). The extent of breach of the height limit caused by the architectural roof feature is shown in the figures 29 and 30 above.
88. Objective (1)(a) of clause 5.6 allows for minor architectural roof features to exceed the permitted height limits. As illustrated by the figures above, the top component of the architectural roof feature sits above the permitted height control. This breach is supported by a clause 4.6 variation request.
89. Objective (1)(b) of clause 5.6 requires that the architectural roof feature does not cause adverse visual impact or adversely affect the amenity of neighbouring premises. The extent of overshadowing caused by the architectural roof feature is not considered unreasonable in this instance. This is discussed further below.

90. Objective (1)(c) of clause 5.6 requires the architectural roof feature be integral part of a building's design. The proposed architectural roof feature is considered integral to the achievement of design excellence. The roof feature finishes the building by adding balance and vertical proportion to the development, contributes to the amenity of the upper level apartments by providing increased light and ventilation, and conceals the plant and PV array. The development still achieves an 8-storey form to Mentmore Avenue and 9 storey form to Rothschild Avenue, as set out in section 6 of the Sydney DCP 2012.
91. The proposed architectural roof feature meets the requirements of clause 5.6(3)(a) in that:
- (a) It compromises a decorative element on the upper most portion of the building.
 - (b) It is not an advertising structure.
 - (c) It does not include floor space and is not reasonably capable of modification to include floor space.
 - (d) It only causes minimal overshadowing, which is discussed in detail below.
92. As such, the architectural roof feature is considered acceptable.

Overshadowing

93. One of the key elements of the planning proposal was the movement of floor space from the heritage building into 12-22 Rothschild Avenue. This was to conserve the heritage building. In addition to the movement of floor space, the planning proposal also included a 6m setback from the heritage item, 5m setback from Mentmore Avenue, 7m setback from Rothschild Avenue and an additional 3m setback from the dedicated through site link. Associated with the movement of floor space and setbacks was an increase in height to 8 storeys on Mentmore Avenue and 9 storeys on Rothschild Avenue. The planning proposal identified that this massing would not result in unreasonable overshadowing to neighbouring developments.
94. The subject proposal is consistent with the 8 and 9 storey form, and retains the setbacks set out in the planning proposal, now forming part of section 6 in the Sydney DCP 2012.
95. Building A (Mentmore Avenue) proposes up to 0.6m additional height in the north east corner of the building. The breach in height is caused by the architectural roof feature. Based on the overshadowing information submitted, the additional height on the proposed development will not result in any additional overshadowing to the development at 13-21 Mentmore Avenue.
96. The additional height proposed across the development creates a minor amount of additional shadow (1.4% of the area) on Sweet Acres Park at 9am in the north west corner of the park. The shadow is gone from the corner of the park by 10am. The park is still considered to meet the requirements under clause 3.1.4(3)(a) under Sydney DCP 2012.

97. Building B (Rothschild Avenue) proposes between 0.9 to 1.2m additional height. This additional height incorporates the top half of the architectural roof feature which includes skylights, and conceals solar panels, green roof infrastructure and plant. Based on the overshadowing information submitted, the additional height on the eastern side of the building will result in some minor overshadowing of 8 apartments at 25-29 Rothschild Avenue.
98. The architectural roof feature, which causes the additional height, was commended by the competition panel and was identified in the competition report as something which needed to be retained for the design to retain its quality.
99. The application, when lodged, removed the architectural roof feature on the Rothschild Avenue building. In response to the original plans, DAP commented that the proposal had departed significantly from the competition scheme. Further, DAPRS recommended, subject to shadow testing, that the architectural roof feature be reinstated.
100. The amended proposal now includes a more refined architectural roof feature. As outlined below in the analysis below, the extent of this overshadowing caused by the roof feature is considered minor and therefore acceptable in this instance. In summary:
 - (a) Two apartments on level 4 at 25-29 Rothschild Avenue lose 15 mins of sun to the glazing line at 2.45pm at mid-winter. Numerically this equates to a 14.3% loss in solar access to the glazing line only for two apartments, which is within the 20% tolerance outlined under part 3-B of the ADG. These two apartments still receive sunlight to their private open space from 12pm and sunlight to their living room window from 1pm to 2.45pm.
 - (b) One apartment on level 2 will now receive less than 1sqm of sun to their living room windows at 2pm. This apartment still receive sunlight to their private open spaces from 12pm and sunlight to their living room windows from 1pm.
 - (c) The five apartments on level 5 now receive less than 1sqm of sun to their living room windows at 3pm at midwinter. Numerically this equates to a 12.5% loss in solar access to the glazing line. As above, this is within the 20% tolerance outlined under part 3-B of the ADG. These apartments still receive sunlight to their private open spaces from 12pm and sunlight to their living room windows from 1pm/1.15pm to 2.45pm.

101. The images submitted by the applicant which detail the above are shown below.

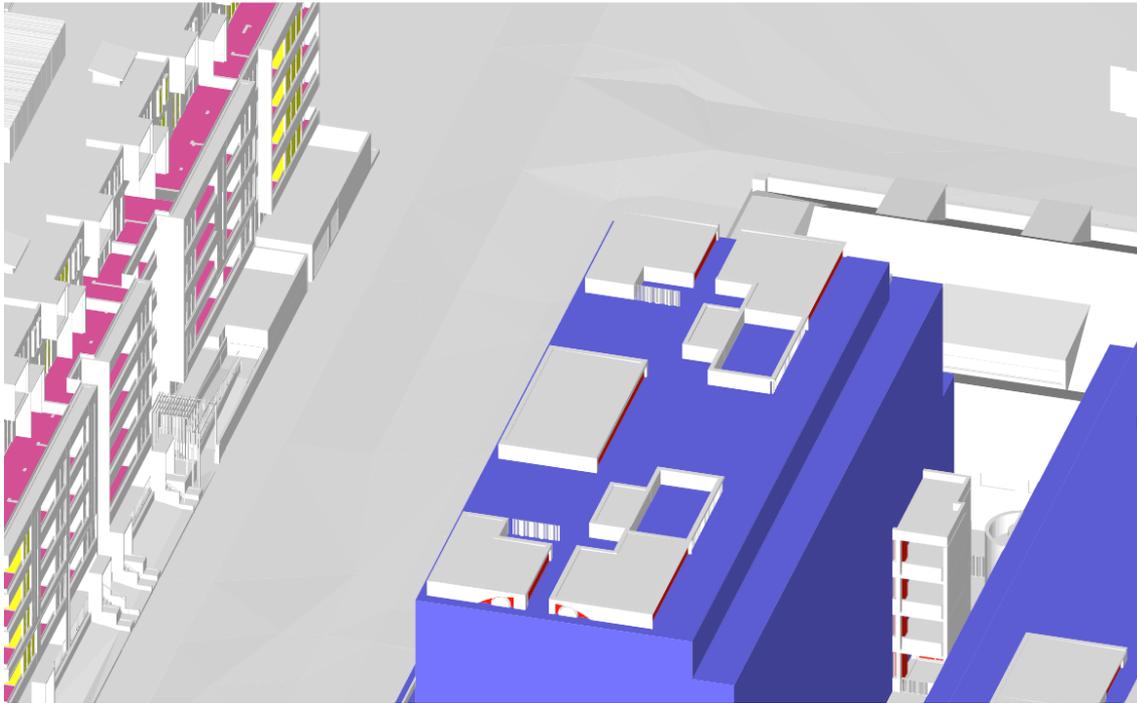


Figure 32: Shadow analysis, submitted by applicant, for 12pm at mid-winter (illustrating sun access to 25-29 Rothchild building in yellow and pink)

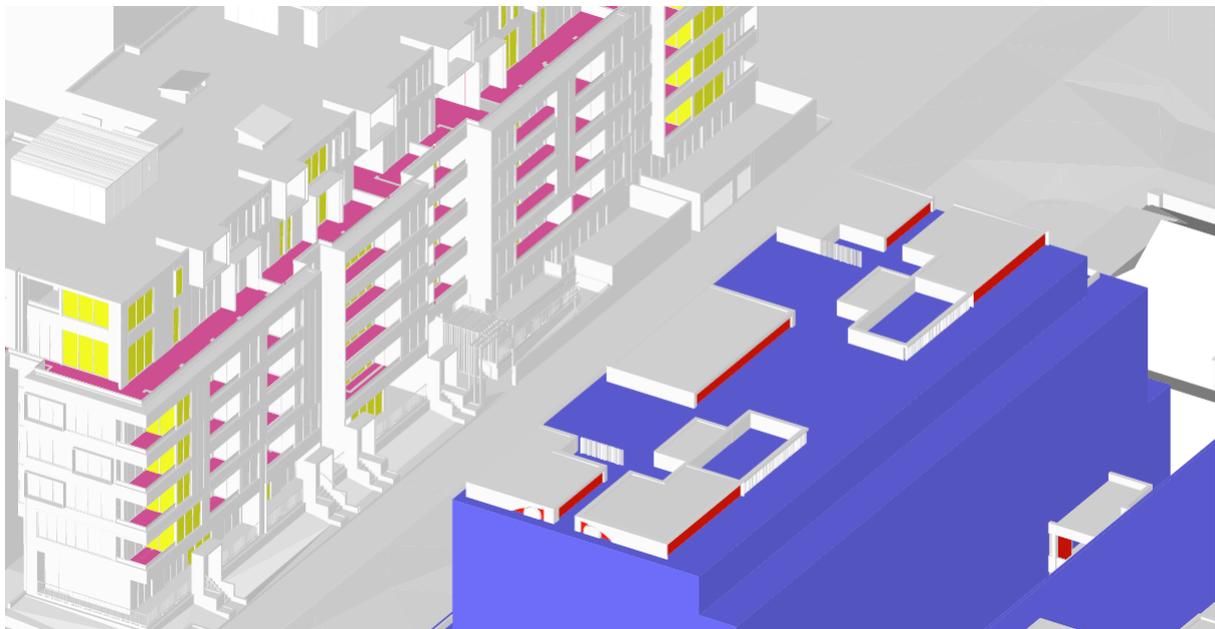


Figure 33: Shadow analysis, submitted by applicant, for 1pm at mid-winter

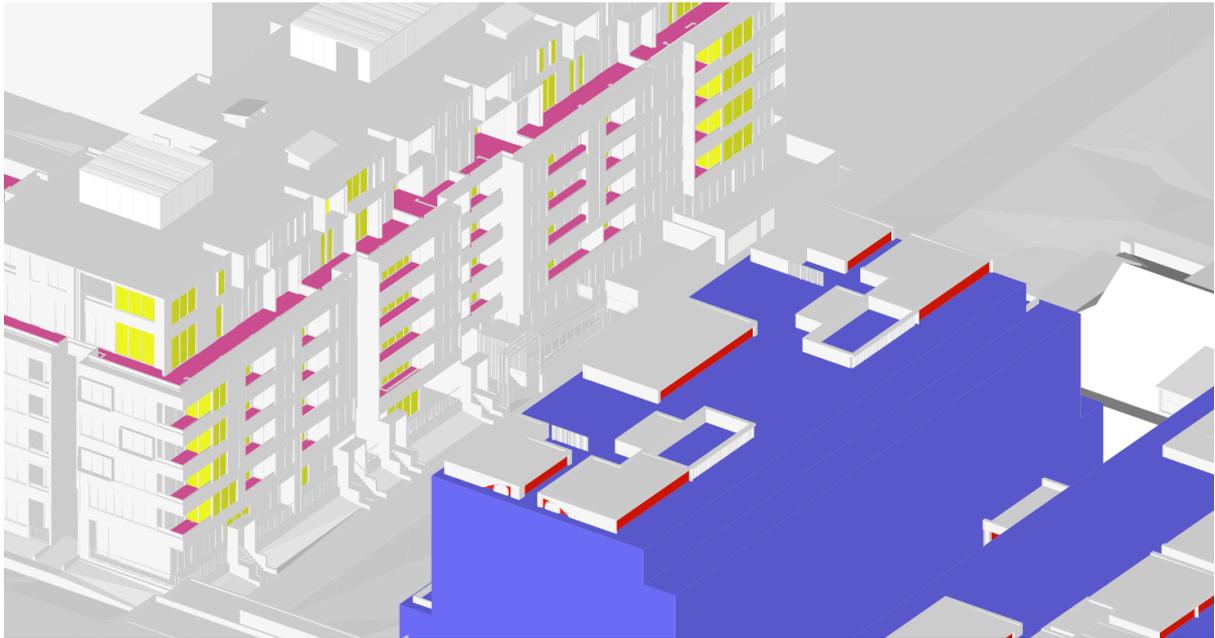


Figure 34: Shadow analysis, submitted by applicant, for 1.15pm at mid-winter

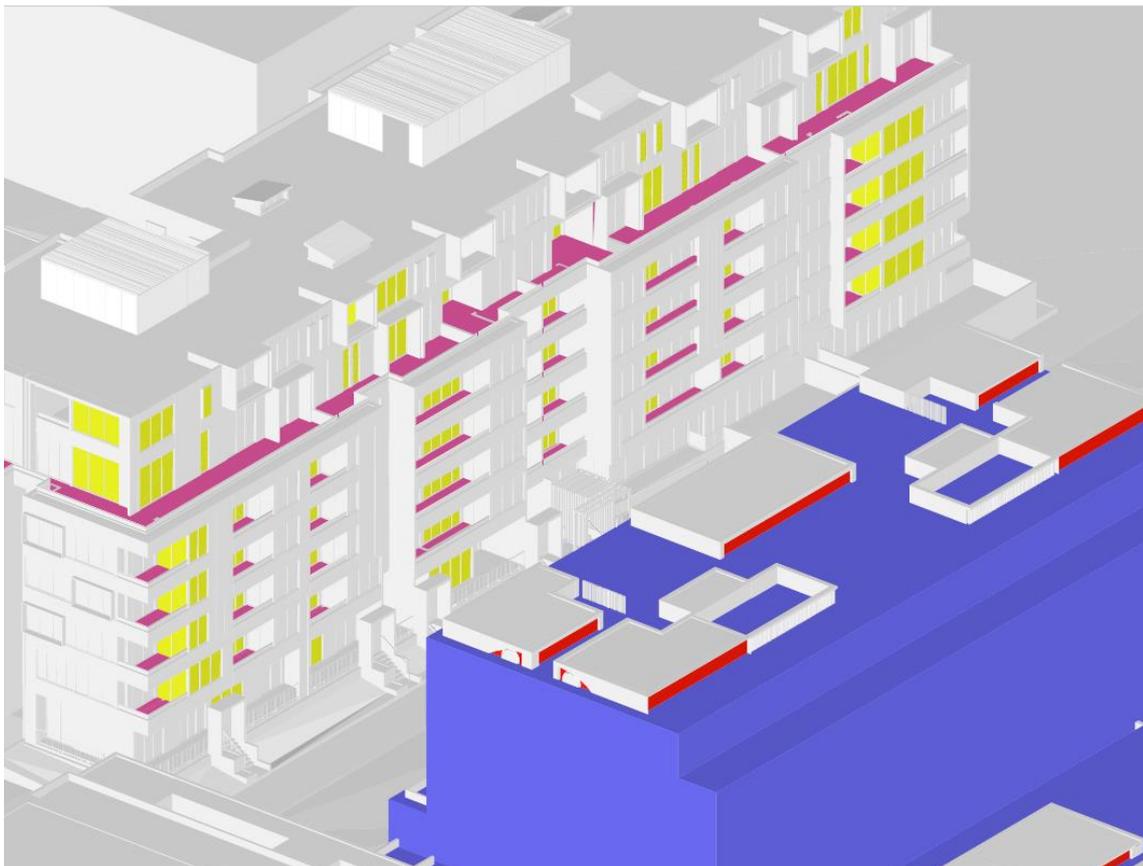


Figure 35: Shadow analysis, submitted by applicant, for 1.30pm at mid-winter

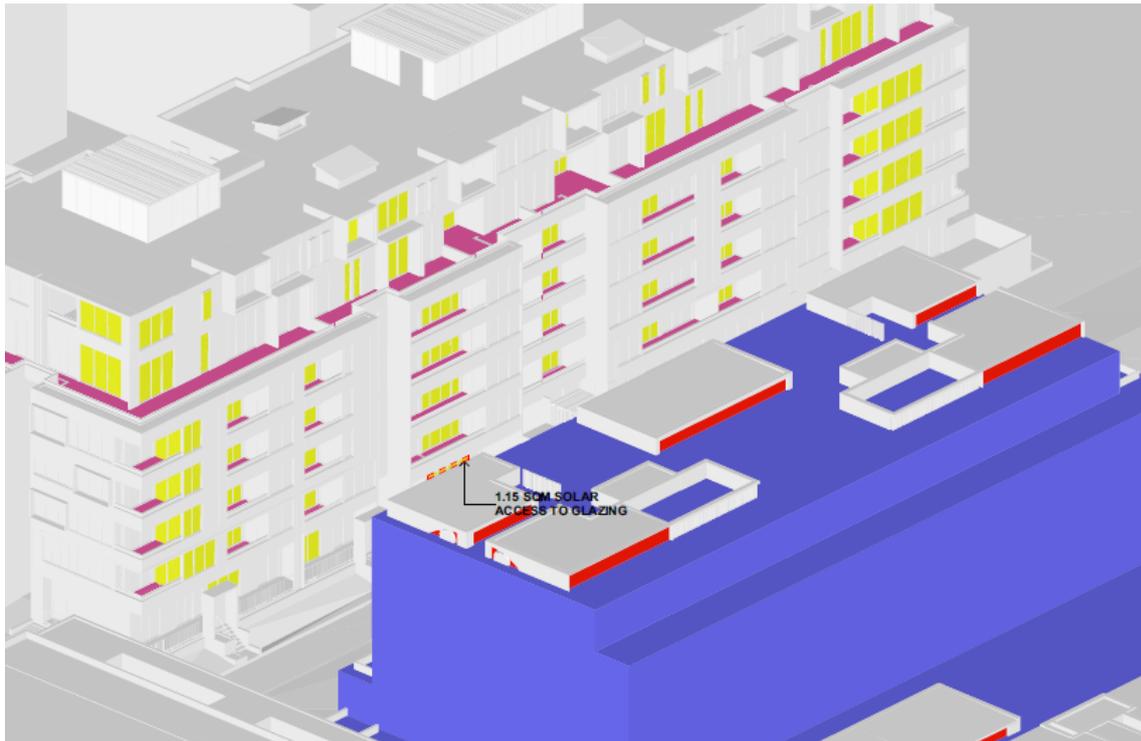


Figure 36: Shadow analysis, submitted by applicant, for 1.45pm at mid-winter

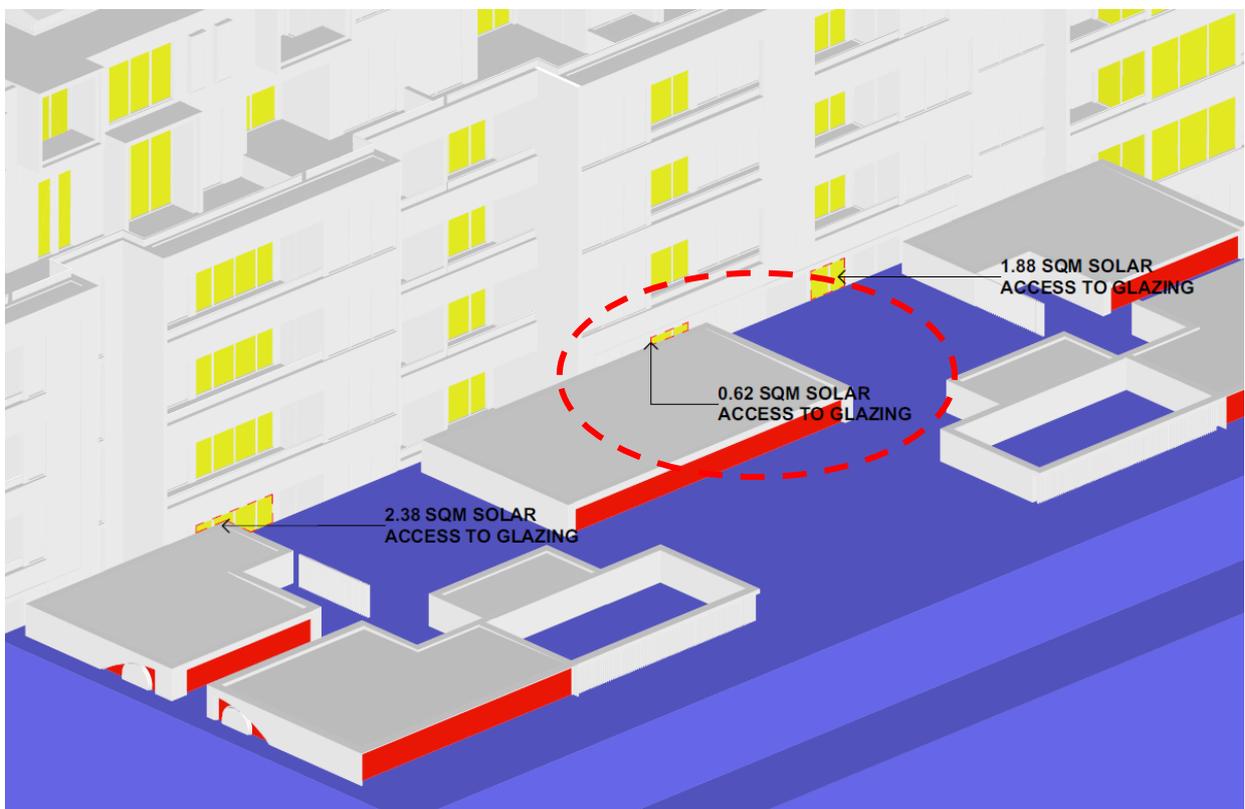


Figure 37: Shadow analysis, submitted by applicant, for 2pm at mid-winter

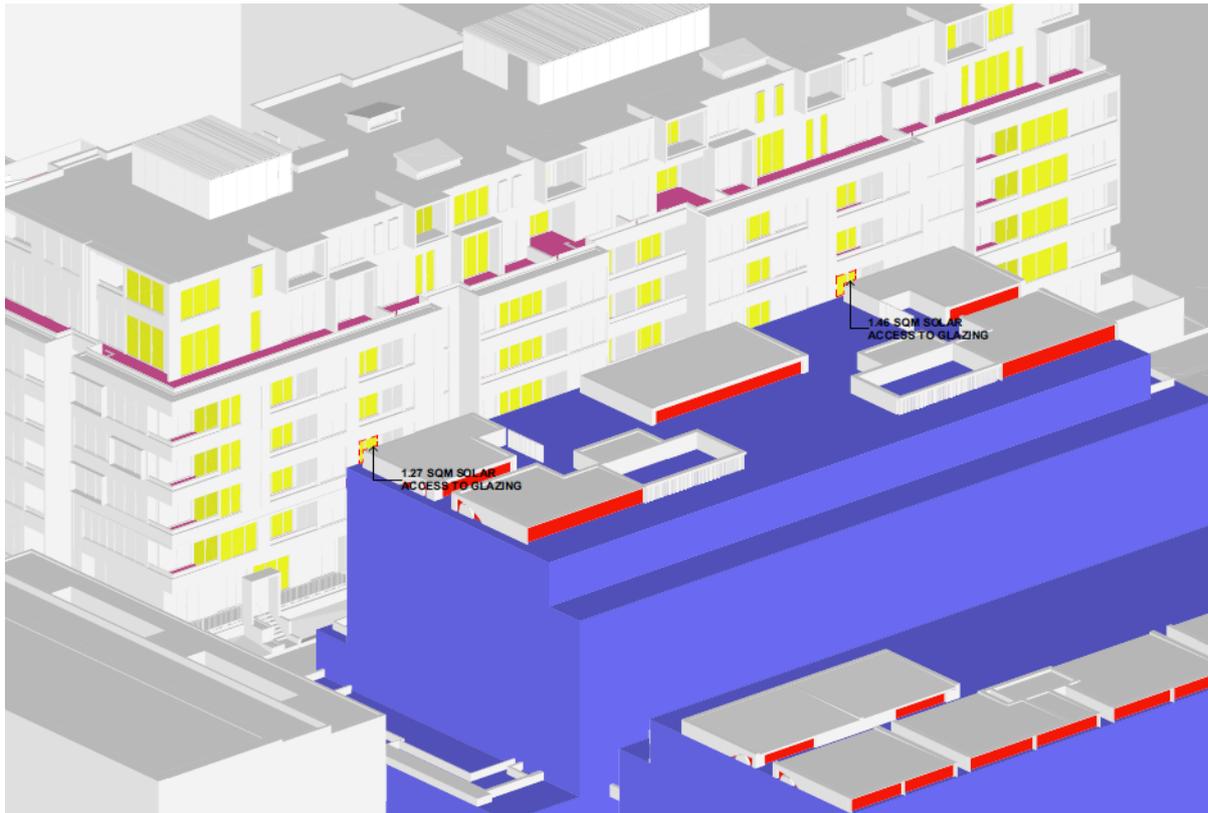


Figure 38: Shadow analysis, submitted by applicant, for 2.15pm at mid-winter



Figure 39: Shadow analysis, submitted by applicant, for 2.30pm at mid-winter

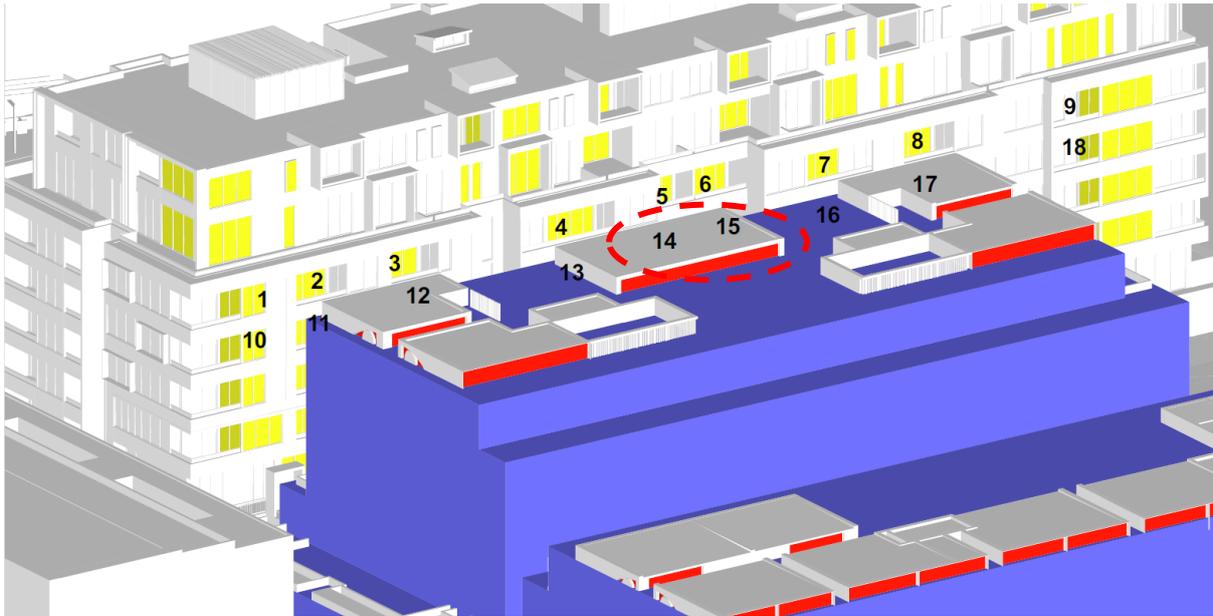


Figure 40: Shadow analysis, submitted by applicant, for 2.45pm at mid-winter

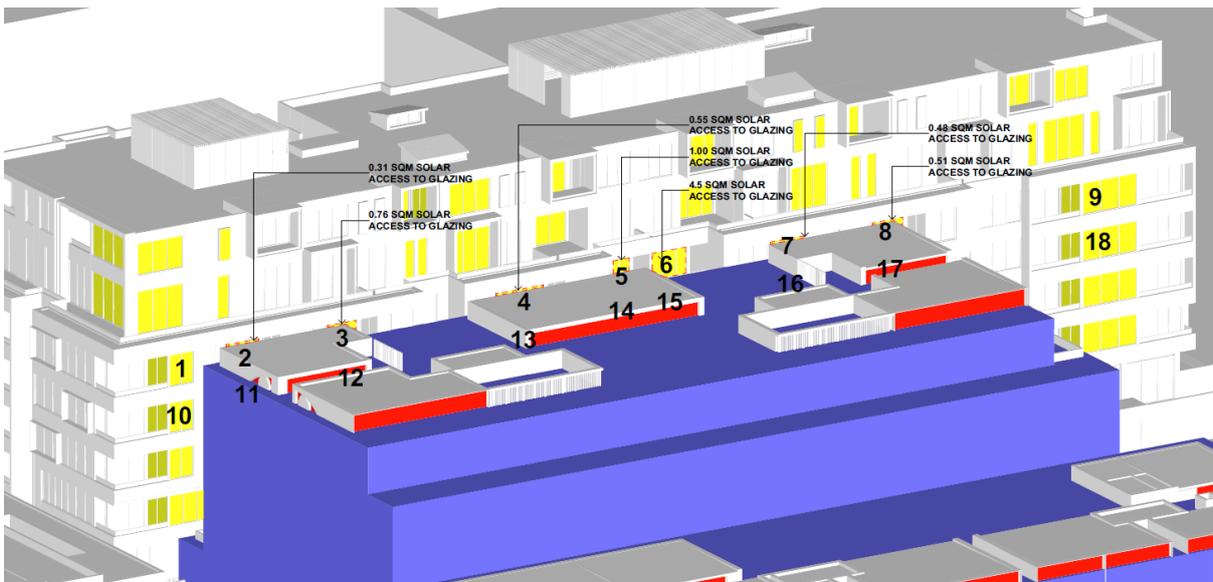


Figure 39: Shadow analysis, submitted by applicant, for 3pm at mid-winter

Design excellence

102. The proposed development is considered to demonstrate design excellence in accordance with clause 6.21 of Sydney LEP 2012.

Design Advisory Panel & Design Advisory Panel Residential Subcommittee

103. DAP were presented with the application, as originally lodged, on 17 September 2020. Concerns were raised that the scheme had departed from the competition scheme, that the proposal should be reviewed by Council's DAPRS, and that the public art should be reviewed by the Public Art Advisory Panel.

104. In relation to DAPs comments about the Public Art Advisory Panel, the City's public art team advised that they were satisfied with the level of detail provided at this time. A detailed public art plan will be required to be reviewed by the Public Art Advisory Panel prior to issue of a construction certificate.
105. Based on DAPs recommendations, the proposal was reviewed by DAPRS on 13 October 2020. DAPRS supported the proposal in principle and recommended the following:
- (a) The Panel subcommittee is satisfied this design is essentially consistent with the competition winning design and has the potential to meet the LEP criteria for achievement of design excellence when the issues raised have been resolved.
 - (b) The skylights were removed from the Rothschild Avenue building in the original submission. The Panel believes the DA proposal would be more consistent with the competition winning entry if the skylights were reintroduced.
 - (c) Apartments that project into the central courtyard space could be considered acceptable if privacy between all apartments can be reasonably achieved. It appears there is potential for cross viewing as well as additional shadow.
 - (d) The reduction in width of the proposed communal open spaces on levels 1 to 3. The original proposal of 9m wide spaces is considered a better outcome for occupants. Further, the wider communal open spaces on level 7 of the competition proposal are preferable to the deeper spaces now proposed in the DA.
 - (e) The proportions of the west elevation have changed from the competition proposal. The deep recesses between the 6 vertical elements have been eroded and result in a more monolithic street elevation.
 - (f) General encroachments on the upper levels that depart from the Sydney DCP may be considered reasonable however clarification of changes (reductions or additions) would assist the review process.
 - (g) Landscape to the central courtyard – the courtyard will play an important role in the amenity of the apartments as the development represents an increase in density. Larger trees should be considered to provide more visual and acoustic amenity to this space.
 - (h) Several amenity issues flagged by the original competition jury appear to still be present. These include solar access and room depth. These issues need to be resolved within the context of the developed design and to meet ADG requirements.
106. As part of the amended plans, the following changes were made to address the above concerns:
- (a) The skylights have been reinstated, albeit slightly lower than the competition scheme to mitigate overshadowing.
 - (b) Privacy screens have been added to pinch points in the building.
 - (c) The communal open space dimensions of the competition scheme have been reinstated in the amended proposal.

- (d) Greater modulation and greater recesses have been re-instated into the western elevation. This facade is more consistent with the design competition scheme.
- (e) Further landscaping detail is required and is proposed to be addressed by condition.

Competitive design process

107. The development underwent a competitive design process in accordance with clause 6.21(5) of Sydney LEP 2012. The competitive design process was held in accordance with City of Sydney Competitive Design Policy.

108. Candalepas Associates were the winners of the competitive design process. The panel recommendations for elements that need to be retained and refined, and the developments response to these is outlined in the table below.

Competitive Process Report Panel Recommendations	Design response
Elements to be retained	
The generous courtyard and open space network at ground floor level.	This has been retained and matches the competition scheme.
The fundamental massing and proposition of the built form.	This has been retained. Amendments were made following the comments of DAP and DAPRS to reinstate the massing, vertical elements, windows, skylights, facade modulation and recesses that were originally included in the competition scheme.
The skylights at roof level to improve the amenity of the upper level apartments and help provide proportion to the built form.	The skylights have been retained. Amendments were made following the comments of DAP and DAPRS to reinstate the skylights on the Rothschild Avenue building.
The variety of communal open space at ground level and provided throughout the buildings, particularly the communal spaces on level 7.	The variety of communal open spaces throughout the development have been retained. Amendments were made following DAP and DAPRS to reinstate the original size and proportions of the communal open space on levels 1 to 3 of Rothschild Avenue.
The richness and detailing of the facade.	Amendments were made following DAP and DAPRS to retain the facade, and the materials proposed are generally consistent with those identified in the competition scheme.

Competitive Process Report Panel Recommendations	Design response
Elements that required more resolution	
Refinement of the floor plans and apartment layouts	These have been resolved. The apartment layouts are now generally compliant with the ADG.
Greater consideration of solar access and cross ventilation for apartments to meet the ADG.	The development now achieves numeric compliance with the ADG for cross ventilation. The development meets the objective for optimising solar access, and this is discussed in more detail under the heading 'solar access' below.
The re-entrant corners need to be reviewed to ensure there is no opportunity for overlooking and noise transfer between apartments.	The amended scheme has one corner where opportunities for overlooking are proposed to be addressed through a privacy screen. While the design may result in some noise transfer, there is no clear design change resolution to overcome this issue, and on balance, given it only impact on one corner, it considered supportable.
The private open spaces to the studios and one-bedroom apartments need to be further reviewed.	The private open spaces to the studios and one-bedroom apartments are consistent with the requirements of the ADG.
Amenity of the through apartment, particularly depth of the kitchens from the facade, need to be reconsidered.	The amended depth of the cross through apartments, including the location of the kitchen, are now generally consistent with the requirements of the ADG.
Consideration of a stronger differentiation between the base and upper three floors of the building.	The differentiation between the podium and upper levels is managed primarily through setbacks.
Greater integration of the landscape architect in the development of the proposal.	A landscape architect is now involved in the project.

Design excellence

109. In relation to clause 6.21(4) of Sydney LEP 2012, the development is considered to demonstrate design excellence. That is;

- (a) The proposed development, designed by Candalepas Associates, provides a high standard of architectural design, materials and detailing appropriate to the building type and location, as required by clause 6.21(4)(a) of Sydney LEP 2012.

- (b) The proposed materials include brick, off-form concrete, marble, aluminium, glass reinforced concrete and glazing. These provide the building with character and enable improved amenity for occupants.
- (c) The development utilises strong materiality with articulated facades. The articulation assists in reducing the bulk of the building and providing improved residential amenity. The Mentmore Avenue elevation uses brick corbels to respond to the heritage character of 24 Rothschild Avenue. It is also characterised as a 'thickened façade' which is reflective of the facade of Mentmore House. The Rothschild Avenue facade uses a more industrial, repetitive, modulated facade.
- (d) The form and external appearance of the development will improve the quality and amenity of the public domain, as required by clause 6.21(4)(b) of Sydney LEP 2012.
- (e) The development provides extensive deep soil setbacks along Mentmore Avenue, Rothschild Avenue and to the north of the site, allowing for a dedicated through site link and landscaped area. A 6m setback is also provided between the heritage building at 24 Rothschild Avenue and the subject buildings, allowing for an easement for public access to be provided.
- (f) These setbacks and deep soil areas allow for meaningful landscaping to be integrated into the overall development, which will improve the quality of the interface between the buildings and the public domain. A condition is recommended to ensure that fire hydrant is integrated into the building as it currently sits in front of the garden within the landscaped setback.
- (g) The development also provides for clear and legible public entries to the buildings. This was commended by the panel in the competitive design process.
- (h) Public artwork has been included within the design of the building, with columnar art in the form of abstracted caryatids proposed facing the northern through site link.
- (i) The number of storeys, bulk, setbacks and land use are consistent with the site-specific planning controls in section 6 of the Sydney DCP 2012.
- (j) The development includes the use of architectural roof features which contribute to the quality of the building expression, offer improved amenity to the upper level apartments and conceal PV arrays, green roof infrastructure and plant.
- (k) The development is generally compliant with the ADG, providing for a reasonable level of residential amenity. Solar access is discussed below. While the additional height created by the architectural roof feature does create minor overshadowing to neighbouring buildings, this overshadowing is not considered unreasonable in this dense urban environment. This is discussed further above.
- (l) The development will not detrimentally impact on view corridors as per clause 6.21(4)(c) of the Sydney LEP 2012.

Solar access

110. The proposed development allows for 51% (90/176) of apartments to receive a full two hours of sun to both the living room and private open space areas at midwinter. This is less than the design criteria in part 4A of the ADG, which recommends 70% of apartments achieve this.
111. Despite the numeric departure, it is considered that the development meets the objective of part 4A in that it optimises the number of apartments that receive sunlight to habitable rooms, primary windows and primary open space areas. The reasoning for this is as follows:
- (a) The orientation of the site means that the sun at midwinter is very oblique. As such, the eastern living room windows lose the sun by 10am.
 - (b) While not technically compliant with the requirements of part 4A the ADG, a high number of apartments still receive large amounts of sunlight at midwinter. That is;
 - (i) 8 apartments (or 5%) receive 1.75 hours of sun to the living room and 3.25 hours of sun to the private open space areas.
 - (ii) 5 apartments (or 3%) receive 1.5 or more hours of sun to the living room and 1.5+ hours to private open space.
 - (iii) 14 apartments (8%) receive 1.25 hours of sun to living room and 2.25 to 3 hours of sun to private open space.
 - (c) Only 5% of the development receives no sun, which is significantly less than the maximum 15% which the ADG allows under part 4A.
 - (d) The design of the buildings includes deep reveals in the facades. This is a key component of the building expression and this design feature is another reason why the development is considered to demonstrate design excellence. It also provides for solar protection in summer. It is not considered reasonable to change this element of the design to increase technical numeric compliance with part 4B, as it is considered that it would result in a poorer urban design outcome.
112. On balance, the solar access is considered acceptable and is recommended to be supported.

Heritage

113. The proposed development at 12-22 Rothschild Avenue is adjacent to the heritage listed former warehouse at 24 Rothschild Avenue. It is not part of the listing curtilage. The proposal is also opposite Mentmore House at 5-11 Mentmore Avenue.
114. The proposal includes the following setbacks from the heritage warehouse at 24 Rothschild Avenue. These provide adequate space needed to help appreciate the three-dimensional built form of the heritage building:
- (a) 3m at the basement level;
 - (b) 6m from ground level to level 4;
 - (c) 9m from level 5 to level 6; and

- (d) 12m from level 7 onwards.
115. While the development exceeds the permitted height control under the Sydney LEP 2012, the proposed height of the new building consistent with the permitted height in storeys control in the Sydney DCP 2012. Although the building is taller in the context of the warehouse, due to the minimum 6m separation with incremental setbacks at the higher levels, the impact of the height on the heritage warehouse is acceptable.
116. There are minor physical impacts resulting from addition of a lift and a stair within the heritage warehouse to connect to the basement of the new development. These impacts are considered acceptable. This is because this connection occurs entirely below ground and does not alter the above ground visible external fabric of the heritage warehouse. The lift and stairs are located within the warehouse and do not conflict with the roof trusses.
117. Structural certification and details also have been provided for the proposed lift and stair excavation works. These demonstrate that the development will not impact on the structural integrity of the warehouse. There is no identified significant landscaping that will be affected by the development. The proposed design is contemporary and does not attempt to mimic or replicate heritage details.
118. The development also includes the removal of shutters to the windows of the heritage item which are a detracting element on the building's facade.
119. The side setbacks of the new building at 12-22 Rothschild Avenue match the side of the warehouse. The proposed buildings will not unreasonably obscure any views of the warehouse from both Rothschild Avenue and Mentmore Avenue.
120. The proposed predominant material of lighter coloured sandstock bricks is finished in a contemporary manner and is sympathetic in the context of the dark brown coloured warehouse brickwork. The other materials including glass, off form concrete and fibre cement cladding are also considered compatible in the historic context.
121. The proposed development is also considered to have minimal impact on Mentmore House. The proposed development remains separated from the heritage item by Mentmore Avenue. The development will respect the existing setting and unreasonably alter the views of Mentmore House.

Landscaping

122. The proposal appropriately integrates landscape and deep soil into the development. Subject to further detail, the development will provide for a high-quality landscape interface with the public domain, offer enhances tree canopy and greening, and provide outlook and amenity for occupants of the development.
123. The design of the northern through site link is acceptable and provides for large areas of deep soil planting, bench seats and a paved though site link.
124. The southern through site link is also generally resolved, as the basement is proposed to be stepped down to allow for adequate soil depth for planting above.
125. However further detail is required in relation to the front gardens, fixed amenities within the communal open spaces and location of balustrades and fences. The issues to be resolved by condition are listed below:
- (a) More details of the ground level fences are required.

- (b) Although in-principle commitments have been made to modify the arrangement of planting and balustrade to the upper level communal open spaces, this detail has not been confirmed on the landscape plans.
- (c) BBQs are provided to the level 3 and level 7 communal terraces in the landscape plan, however the large terraces on levels 4 and 5 remain un-designed.
- (d) Further detailed green roof details are also required.
- (e) The planting design needs further revision. The current concept scheme is lacking in diversity.
- (f) Front gardens in the street-fronting setbacks must be well-designed for people to use. The front fences shown on the plans must also be lightweight and the planting designed to conceal the fences from the public domain.

Consultation

Internal Referrals

126. The application was discussed with Council's Building Services Unit; Environmental Health Unit; Heritage and Urban Design Team; Public Domain Team; Transport and Access unit; Tree Management Unit; and Waste Management Unit. Relevant comments are discussed above, and conditions included at attachment A.

External Referrals

NSW Police

127. The application was referred to NSW Police for comment. A response was received on 24 August 2020. Relevant conditions have been included at Attachment A.

Advertising and Notification

128. In accordance with the City of Sydney Community Participation Plan 2019, the development, as lodged, was notified and advertised for a period of 28 days between 17 August 2020 and 15 September 2020. Four (4) submissions were received.

129. The submissions raised the following issues:

- **Issue:** Tree removal
- **Response:** This is addressed at section 3.5 Urban Ecology above. No street trees are being removed to facilitate this development. The proposal will require the removal of 15 trees, of which 4 are classified as low value, 6 are located directly in the building footprint and 5 will require significant works to their structural root zones. The development is providing significant areas of deep soil which will accommodate new planting, more street tree plantings will also occur as a result of the removal of 3 driveway crossovers.

- **Issue:** Oversupply of apartments and not in community interest
 - **Response:** The development is in the Green Square locality, which is an area undergoing transition from warehouse and industrial uses to higher density residential uses. The size of the proposed development is consistent with the permitted density controls for the site. The proposed development is contributing towards community infrastructure within the Green Square locality.
 - **Issue:** Asbestos removal
 - **Response:** This is addressed by conditions of consent.
130. In accordance with the City of Sydney Community Participation Plan 2019, the amended proposed development was notified for a period of 14 days between 29 January 2021 and 13 February 2021. Six (6) submissions were received.
131. The submissions raised the following issues:
- **Issue:** Tree removal
 - **Response:** This is addressed at section 3.5 Urban Ecology above and in the submission response above.
 - **Issue:** Height, overshadowing and loss of outlook
 - **Response:** Height and overshadowing are addressed in the issues section above. The proposal is setback a minimum of 5m from Mentmore Avenue and 7m from Rothschild Avenue. The upper levels are setback an additional 3m. The proposal will not result in an unreasonable loss of outlook.
 - **Issue:** Building scale, visual bulk and neighbourhood character
 - **Response:** The size and density of the development is considered acceptable. The development is accompanied by a Traffic Impact Assessment which supports the number of car spaces and vehicular movements proposed. The proposed development is consistent with the desired future character of the area.
 - **Issue:** Construction noise
 - **Response:** This is addressed and managed by conditions on the consent.
 - **Issue:** Limited street parking
 - **Response:** The developments provide for parking consistent with the Sydney LEP 2012. Any change to the available on street parking is addressed by the public domain plan condition.
 - **Issue:** Greenery on the roof, eastern side of the building and overall greening of the site.

- **Response:** The development provides for a green roof, a 7m landscape zone in front of the building on Rothschild Avenue and 5m on Mentmore Avenue. There is also a dedicated through site link to the north whereby land is being dedicated to create a pedestrian link and green space. There is also a 6m through site link where the basement slab has been lowered to allow for increased soil depth for planting. The development provides for adequate deep soil and landscaped spaces as required by the planning controls for the site. The final landscape design will be resolved by a condition of consent.

132. In accordance with section 7.5 of the Environmental Planning and Assessment Act, the draft planning agreement must be notified for a period of 28 days. The planning agreement began notification on 12 March 2021, and the determination of this application cannot be made until such time as the notification for the draft planning agreement is complete. For this reason, this decision is recommended to be delegated to the CEO.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

133. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
134. Credits have been applied for the most recent approved use of the site at 12-22 Rothschild Avenue. That is, the premises was used as an office for UNSW Global and contained 3,525sqm of GFA.
135. The following monetary contribution is required towards the cost of public amenities:
- | | |
|-----------------------------|----------------|
| (a) Open Space | \$1,940,506.30 |
| (b) Community Facilities | \$393,486.73 |
| (c) Traffic and Transport | \$326,361.92 |
| (d) Stormwater and drainage | \$129,087.23 |
| Total: | \$2,789,442.18 |

136. A condition relating to this development contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

137. The development is subject to an affordable housing contribution under the provisions of Clause 7.13 of Sydney LEP 2012.
138. As per the Green Square Affordable Housing Contribution Program, the contribution of \$1,588,744, subject to indexation based on the estimated house price index for Sydney, is payable prior to the issue of any construction certificate.

139. The figure is based on the residential rate of \$214.17 per sqm (21,653sqm) of the total residential floor area (21,653sqm) and \$71.36 per sqm of the total non-residential floor area (203sqm).

Relevant Legislation

140. Environmental Planning and Assessment Act 1979.

Conclusion

141. The development seeks consent for the demolition of existing structures at 12-22 Rothschild Avenue, lot consolidation and subdivision, and construction of two residential flat buildings containing 176 apartments, one retail tenancy and two levels of basement parking. The development also proposes basement lift access and 12 carparking spaces for the adjoining heritage item at 24 Rothschild Avenue.
142. Following comments from the Design Advisory Panel and Design Advisory Panel Residential Subcommittee, the development was amended. The amendments reinstated elements of the competition winning scheme which were considered to contribute to the achievement of design excellence.
143. The proposed development is compliant with the permitted floor space ratio (FSR) control under Sydney Local Environmental Plan 2012 (Sydney LEP 2012). The development includes an architectural roof feature which exceeds the permitted height standard by between 2.22% and 4.13%. This variation is supported via a clause 4.6 variation request.
144. The development is generally compliant with the Apartment Design Guide (ADG), including 64% of the development being naturally cross ventilated. The development also optimises solar access. Overall, the development is considered to provide acceptable amenity for the future residents and acceptable amenity impacts on neighbouring developments.
145. The development provides for significant setbacks, and large areas of deep soil planting and landscaping. The design includes clear and legible pedestrian access and integrated public art. The highly modulated facades consider and respond to the adjoining heritage items and requirements of the Sydney DCP 2012. Overall, the development is considered to achieve design excellence.
146. Subject to the implementation of conditions, as detailed in the report and Attachment A, it is considered that the proposed development is acceptable and generally compliant with the planning controls for the site.

GRAHAM JAHN AM

Director City Planning, Development and Transport

Erin Faulkner, Senior Planner