

**Item 4.****Development Application: 12-20 Rosebery Avenue, Rosebery - D/2025/184****File Number: D/2025/184****Summary**

<b>Date of Submission:</b>	5 March 2025  Amended plans received on 16 June 2025, 30 July 2025 and 27 August 2025
<b>Applicant:</b>	Rosebery Properties Pty Ltd
<b>Architect/Designer:</b>	WMK Architecture
<b>Developer:</b>	Rosebery Properties Pty Ltd
<b>Owner:</b>	Rosebery Properties Pty Ltd
<b>Planning Consultant:</b>	Willowtree Planning
<b>Heritage Consultant:</b>	Comber Consultants
<b>DAP:</b>	29 May 2025
<b>Cost of Works:</b>	\$100,646,700.00
<b>Zoning:</b>	MU1 - Mixed Use Zone  The proposal is for a mixed-use development, comprising a retail premises and residential flat buildings, which are permissible within the zone.
<b>Proposal Summary:</b>	Approval is sought for a mixed-use development comprising: <ul style="list-style-type: none"><li>• demolition of structures, site preparation and remediation works and removal of 14 trees</li><li>• the construction of two, 8 storey residential flat buildings, containing 143 residential units</li><li>• one level of basement car parking and one retail premises and</li></ul>

- communal facilities, end of journey facilities and landscaping.

### **Voluntary Planning Agreement**

A draft Voluntary Planning Agreement (VPA) has been prepared between the Proponent and the City as part of the Planning Proposal for the site. The VPA secures the following:

1. The dedication to Council of a 6 metre wide strip of land on the northern side of the site which will be a laneway.
2. The embellishment (works-in-kind) of this 6 metre wide strip of land to form a laneway.
3. The creation of 2 metre wide easement on the southern side of the site which will be a through-site link.
4. Monetary Contribution towards community infrastructure in the Green Square Urban Renewal Area.

The draft VPA is required to be publicly exhibited for 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. The exhibition of the VPA has not yet commenced.

### **Competitive design process**

A competitive design process was held for the site in accordance with clause 6.21D of the Sydney Local Environmental Plan 2012:

The WMK Architects entry was selected as the preferred scheme. The proposed development is generally consistent with this scheme subject to the recommended conditions. The recommendations of the selection panel have been addressed in this report.

### **Notification**

The application was notified for a period of 28 days between 25 March and 23 April 2025, with 4 submissions received. The key issues raised relate to transport and traffic impacts, solar access, view loss, articulation and setbacks, materials, privacy and tree retention.

### **Assessment**

The proposal was reviewed by the City's Design Advisory Panel (DAP) on 12 May 2025.

Amended plans were submitted on 30 July 2025 addressing issues raised by Council and the DAP.

The amended proposal, subject to conditions, adequately addresses the relevant issues and those raised, as detailed in this report. The proposal in its final form responds appropriately to surrounding development and provides a built form that is generally consistent with the desired future character of the Green Square Epsom Park locality, reflected by the planning controls that apply.

The development achieves a standard of architectural design that demonstrates design excellence in accordance with clause 6.21 of the Sydney Local Environmental Plan 2012 and will contribute significant public benefits captured in the Planning Agreement.

The application has a development cost in excess of \$50 million and is therefore required to be determined by the Central Sydney Planning Committee.

**Summary Recommendation:** The development application is recommended for approval, subject to conditions.

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021
- (ii) Water Management Act, 2000
- (iii) Airports Act, 1996
- (iv) SEPP (Resilience and Hazards) 2021
- (v) SEPP (Housing) 2021
- (vi) SEPP (Transport and Infrastructure) 2021
- (vii) SEPP (Biodiversity and Conservation) 2021
- (viii) Sydney Local Environmental Plan 2012
- (ix) Sydney Development Control Plan 2012

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Landscape Plans
- D. Competitive Design Alternatives Report
- E. Submissions

## Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Development Application No. D/2025/184, following the drafting and conclusion of the public exhibition of the Voluntary Planning Agreement generally in accordance with the public benefit offer dated 8 September 2025 and considering any public submissions received in response; and
- (B) if the Chief Executive Officer determines to approve the application, consideration be given, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, to granting deferred commencement consent to Development Application No. D/2025/184 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal provides well located housing that satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the recommended conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The development is permissible with consent in the MU1 mixed-use zone and is consistent with the objectives of the zone.
- (C) The proposed development complies with the maximum height of buildings development standard contained in Clause 4.3 of Sydney Local Environmental Plan 2012.
- (D) The proposed development is consistent with the draft Voluntary Planning Agreement between The Council of the City of Sydney and Rosebery Properties Pty Ltd c/o Corio Projects Pty Ltd.
- (E) The proposed development is consistent with the design intent of the selected scheme of the competitive design alternatives process for the site, held in accordance with the City of Sydney Competitive Design Policy.
- (F) The proposed development is consistent with the aims and objectives of relevant planning controls including the State Environmental Planning Policy (Housing) 2021, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances or are resolved by the recommended conditions of consent.
- (G) The proposed development provides a positive contribution that is suitable in terms of its context, scale and building form which is consistent with the desired future character of the area. The proposed development exhibits design excellence in

accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.

- (H) The proposed development has a form, bulk and massing that is suitable for the site and its context and is appropriate in the setting of the Green Square Epsom Park locality.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 2 in DP 229802, known as 12-20 Rosebery Avenue, Rosebery. It is irregular in shape with area of approximately 5,348.5sqm. It has a primary street frontage of 58.7m to Rosebery Avenue and a secondary street frontage of 65m to Dalmeny Avenue. The site is located within a larger street block bound by Epsom Road to the North and Kimberley Grove to the south.
2. The site contains part-one, part-two storey commercial buildings with an expanse of hardstand areas used for parking and loading/unloading and landscaping on the street frontages. The eastern side of the building fronting Rosebery Avenue was formerly used as a gym and the western side of the building fronting Dalmeny Avenue is used as office premises and a warehouse.
3. The surrounding area is characterised by a mixture of land uses, primarily being commercial and mixed-use development.
  - To the south at 20-40 Rosebery Avenue and 108 Dalmeny Avenue which is currently occupied by several light industrial and commercial buildings that are two (2) to three (3) storey in height. However, a State Significant Development Application (SSDA-49320959) has recently been approved for the demolition of existing structures and the construction of an integrated seniors living development comprising a 34-bed residential care facility and 170 independent living units at the site within six (6) buildings that will be up to eight (8) storeys in height.
  - Beyond 20-40 Rosebery Avenue, is a residential development operated by Meriton including a childcare centre that is located at 42-60 Rosebery Avenue and 94-102 Dalmeny Avenue.
  - On the opposite side of Rosebery Avenue, at 1-3 Rosebery Avenue is a two (2) storey commercial premises. It is noted that part of the building on this site is listed as a heritage item in SLEP 2012. A residential flat building is located to the south of the 1-3 Rosebery Avenue.
  - Several residential flat buildings are located to the east on the opposite side of Dalmeny Avenue.
  - The adjacent site at 1-3 Rosebery Avenue is a local heritage item, I1379 Former Warehouse and factory known as 'National Springs'.
4. The site is located within the Alexandria Canal Stormwater Catchment and is identified as being subject to flooding.

5. A site visit was carried out on 11 April 2025. Photos of the site and surrounds are provided below.



**Figure 1:** Aerial view of site and surrounds



**Figure 2:** Site viewed from Dalmeny Avenue, facing south





**Figure 3:** Site viewed from northern boundary, location of dedication



**Figure 4:** Existing substation outside the site





**Figure 5:** View of site from Rosebery Avenue, facing east



**Figure 6:** View of site from Rosebery Avenue



**Figure 7:** Part of the site and SSD site, view from Rosebery Avenue

## History Relevant to the Development Application

### Site History

6. On 8 April 2016, a site-specific planning proposal to amend the maximum building height and floor space ratio (FSR) controls in the SLEP 2012 was finalised and came into force. The site-specific planning proposal included three separate lots owned by the Proponent and their related entities, being:
  - Lot 2 DP 229802 (the site)
  - Lot 100 DP 730818 (known as 22-40 Rosebery Avenue)
  - Lot 1 DP 311533 (known as 108 Dalmeny Avenue)
7. Concurrently, the Sydney Development Control Plan 2012 (SDCP 2012) was amended to include site-specific provisions relating to building form and location, bulk and massing, design excellence strategy, street frontage heights, setbacks and vehicular entries under Section 5 – Specific Areas.

### Competitive Design Alternatives Process

8. An invited competitive design alternatives process was required to be undertaken for the development site pursuant to Section 6.3.27.5 of Sydney DCP 2012.

9. A Competitive Design Alternatives Process was undertaken between June 2024 and August 2024 and secured the architectural concept, responding to a competitive design alternatives process brief (the Brief) prepared by Willowtree and endorsed by the City on 31 May 2024.
10. Three architectural firms that were invited to participate in the competition:
  - Bates Smart
  - BVN & Studio Prineas
  - WMK Architecture
11. The selection panel determined the scheme prepared by WMK Architecture best demonstrated design excellence and was announced as the winning scheme of the competitive process.
12. PDA/2024/241 - pre-lodgement advice was provided to the applicant on 8 November 2024 prior to the lodgement of the detailed design which is the subject of this application.

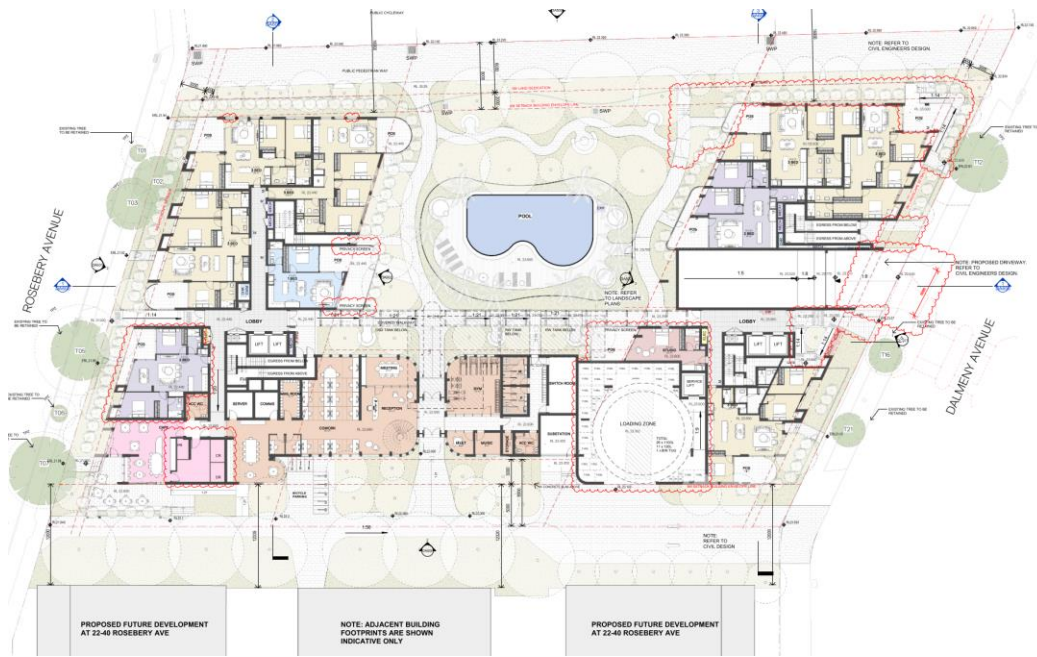
### **Amendments**

13. Following a preliminary assessment of the proposed development by Council staff, and the Design Advisory Panel (DAP), a request for additional information and amendments was sent to the applicant on 6 June 2025. The letter raised issues regarding outstanding design competition issues that had not been addressed, DAP comments, non-compliances with the ADG, landscaping and trees, transport matters, waste management, ESD and public art.
14. The applicant responded on 30 July 2025.
15. A further request for amendments was sent to the applicant on 21 August 2025 to address the outstanding issues in relation to the 2m deep soil setback, entry lobby design to building B, waste management and ESD. No formal response was received and these matters form part of the discussion section and conditions of consent.

### **Proposed Development**

16. The application seeks consent for a mixed use development comprising:
  - demolition of structures, site preparation and remediation works and the removal of 14 trees
  - the construction of two, 8 storey residential flat buildings, containing 143 residential units
  - one level of basement car parking and one retail premises and
  - communal facilities, end of journey facilities and landscaping.
  - 6m wide land dedication to the northern boundary and 2m wide private easement along the southern boundary.





**Figure 8:** Proposed ground floor plan



**Figure 9:** Artist's impression of Building A viewed from Rosebery Avenue





**Figure 10:** Artist's impression of Building B viewed from Dalmeny Avenue

## Assessment

17. 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

18. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was forwarded to Water NSW as Integrated Development, as the proposed basement levels will have an impact on groundwater levels. A dewatering activity requires a Water Supply Work approval under the Water Management Act 2000.
19. The geotechnical report submitted with the application found that standing groundwater is at between 5.6m and 6.7m depth below existing surface levels. The proposal seeks to excavate to a depth of approximately 3.5m below ground surface and therefore, dewatering is not required.

## Airports Act 1996

20. Section 182 of the Commonwealth Airports Act 1996 stipulates that constructing a building, or other structure that intrudes into the prescribed airspace, is a controlled activity. The proposal seeks approval to erect a development with a maximum building height of 29m (52.35m above Australian Height Datum (AHD)).

21. 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).
22. The location lies within an area defined in the Schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24m AHD without approval of the CASA.
23. The proposal exceeds the 15.24m height limit. Approval from CASA has been provided.

## **State Environmental Planning Policies**

### **State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4**

#### **Remediation of Land**

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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.
33. The proposal seeks to change the sites use from a non-residential (commercial) to residential use and therefore, a Detailed Site Investigation (DSI) was undertaken. The DSI identified asbestos containing fill, metals and petroleum products.
34. A Remediation Action Plan (RAP) relating to the site, accompanied by a letter of interim advice from an Accredited Site Auditor, has been submitted with the development application.
35. The RAP proposes to excavate and dispose of contaminated soil off site. The interim advice and further advice from the Site Auditor, confirms the above approach is appropriate. The site auditor has recommended a validation report be developed, which should be submitted prior to an occupation certificate being issued.
36. A Hazardous Material Survey (HMS) has been submitted which indicates that no asbestos containing materials were found in the structures on site, during the assessment, however a condition is recommended that if any suspect material is found throughout the development process, all work should cease until the area can be analysed by a qualified technician. A condition has been recommended to comply with the HMS.
37. The Council's health officer has reviewed the information provided and recommends conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
38. The Council's health officer is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

### **State Environmental Planning Policy (Housing) 2021**

39. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

40. Section 7.32 of the EP&A Act and 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.
41. 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
42. This matter is discussed in further detail under the heading Financial Contributions below.

#### **Chapter 4 - Design of Residential Apartment Development**

43. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.
44. When determining an application for a residential flat development of 3 or more floors and containing 4 or more apartments, the SEPP requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 9.
45. The applicant has submitted a design verification statement and design report prepared by WMK Architects with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.
46. An assessment of the proposal against the design quality is provided as follows:

(a) Principle 1: Context and Neighbourhood Character

The proposed design has responded to the existing local character and future desired character of the Rosebery and greater Green Square area. The development includes two multi storey buildings linked by a shared podium and basement that have been designed in accordance with the envelopes defined in the development controls. Through-site links between Rosebery and Dalmeny Avenue are located at the northern and southern boundaries of the site to increase permeability and pedestrian amenity.

The proposal has been designed as a careful response to the context, including overall massing, height variance, view sharing, pedestrian access, active street frontages, sunlight and ventilation, natural and suburban context, public domain, and primary views to the important vistas and surrounds.

(b) Principle 2: Built Form and Scale

The proposal meets the LEP height plane and site specific DCP controls.

The building mass is manipulated to provide a mix of recessed and prominent façade features using the balconies to articulate proportions similar to those of the adjacent developments, to further integrate the proposal into the adjacent scale and proportion.

The use of a regular massing rhythm creates separation between balconies, whilst maintaining a consistent massing treatment at each level.

(c) Principle 3: Density

The proposed 143 residential dwellings have a mix of dwelling types as follows:

- 20 x studio apartments, representing 14% of the total
- 53 x 1-bedroom apartments, representing 37% of the total
- 42 x 2-bedroom apartments, representing 29.5% of the total
- 28 x 3-bedroom apartments, representing 19.5% of the total

Of these, 22 apartments are proposed to be adaptable apartments.

Of these, 29 apartments are proposed to be Silver Level Liveable Housing under the NCC catering for the elderly or less capable.

The proposal has abundant access to open space and the Green Square Centre is within walking distance to the north-west with public parks, retail, public services and additional transport amenity.

(d) Principle 4: Sustainability

The principles of Ecologically Sustainable Development (ESD) have been considered in the planning of this development and the applicant has committed to achieving environmental objectives during the construction and operation of the proposal.

The proposal includes a range of apartment types using natural cross ventilation, including corner and through apartments. The buildings are generally orientated in a north-south axis with expansive facades facing east and west. Apartments have a range of sunlight access from 9am to 3pm during mid-winter and meet the requirements of the ADG.

The design responds to western sun with screening to increase shade and solar protection to balconies as well as a deep eave feature and large balconies to provide shade.

Subject to conditions the deep soil zones allow for recharge of ground water and waste facilities and management allows for recycling and the future reuse of materials and waste.

Residential units within the development have been assessed in terms of their passive energy design and achieve BASIX compliance.

(e) Principle 5: Landscape

The Landscape proposal for the development provides amenity for residents and the surrounding neighbourhood and follows guidelines for best practice initiatives. Diversity of landscape is provided with the use of deciduous and evergreen plants, a mix of deep soil larger trees, with planters, and two through site links designed to provide public access. Native tree planting for privacy has been added for additional amenity to the western boundary. All planting proposed is co-ordinated with planting in the public domain, native indigenous and endemic landscapes.



Landscaping within the development softens the edge of each building, provides clear entry points to the site and enhance the privacy of internal courtyards and balconies.

(f) Principle 6: Amenity

Visual privacy is achieved by building location and orientation. Adequate separation is provided in the development and neighbouring residential sites. Privacy between apartments is maintained through a combination of separation, orientation of balcony enclosures, screens and the configuration of internal layouts.

Daylight has been considered for the general amenity of all apartments, meeting the ADG requirements. The depth of the dwellings has been restricted to maintain reasonable access to natural daylight to all rooms. In addition, dwellings include measures to create cross ventilation to optimise the internal environment and reduce reliance on air conditioning.

Most apartments are provided with at least one balcony or courtyard, directly accessed from the primary living space, and in some cases, also from bedrooms or secondary living spaces. The primary private open space has an area and configuration conducive to furnishing and recreational use, as well as providing the apartment access to ventilation. Where private open space directly faces the public domain, particularly at the lower levels, balustrades and screens are employed for enclosure and occupant privacy.

(g) Principle 7: Safety

The proposal optimises safety and security, within the development and public domain. The demarcation between public and private domain are clearly identified through appropriate fencing, level change and clearly articulated resident lobbies and entries. Balconies facing the surrounding streets provide suitable places to overlook the public domain for passive surveillance and outlook.

(h) Principle 8: Housing Diversity and Social Interaction

The development provides a broad range of apartment types and sizes, each with different characteristics and offering a high level of amenity. The design layout will promote a mix of household types, social diversity and sustainability.

Social sustainability will be enhanced through the provision of common facilities within the development, such as the communal open landscaped spaces at ground level.

(i) Principle 9: Aesthetics

As outlined above, the development achieves a built form that has good proportions and a balanced composition of elements.

The proposed design uses a variety of materials, colours and textures which creates a visual appearance of a well designed apartment development and responds to the existing and future local context.

47. 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 apartment design controls under the Sydney Development Control Plan 2012. Consequently compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

2E Building Depth	Consistency	Comment
12-18m (glass to glass)	Yes	<p>The building depths for the development vary in depth. The envelopes and depths were tested during the design competition process. The proposal aligns with the approved envelopes and therefore, meet the design criteria of 2E.</p> <p>Where greater building depths are proposed, the units achieve adequate amenity in terms of solar access and cross ventilation.</p>

2F Building Separation	Consistency	Comment
<p>Up to 4 storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>12m between habitable rooms / balconies</li> <li>9m between habitable and non-habitable rooms</li> <li>6m between non-habitable rooms</li> </ul>	Yes	27-28m is provided between building A and B, from the ground floor up.
<p>5 to 8 storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>18m between habitable rooms / balconies</li> <li>12m between habitable and non-habitable rooms</li> <li>9m between non-habitable rooms</li> </ul>	Yes	27-28m is provided between building A and B, on all upper levels.

<b>3D Communal and Public Open Space</b>	<b>Consistency</b>	<b>Comment</b>
Communal open space has a minimum area equal to 25% of the site.	Yes	27.6% or 1477sqm of communal open spaces is provided.
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	More than 50% of the COS area receives at least 2 hours of sunlight between 9am and 2pm on 21 June.

<b>3E Deep Soil Zones</b>	<b>Consistency</b>	<b>Comment</b>
Deep soil zones are to have a minimum area equivalent to 10% of the site and have a minimum dimension of 6m	Yes	11% or 591sqm of deep soil, with minimum dimension of 6m will be provided.

<b>3F Visual Privacy</b>	<b>Consistency</b>	<b>Comment</b>
<p>Up to 4 storeys (12 metres):</p> <ul style="list-style-type: none"> <li>6m between habitable rooms / balconies</li> <li>3m between non-habitable rooms</li> </ul> <p>5 to 8 storeys (25 metres):</p> <ul style="list-style-type: none"> <li>9m between habitable rooms / balconies</li> <li>4.5m between non-habitable rooms</li> </ul>	Yes	<p>Ground to Level 7:</p> <ul style="list-style-type: none"> <li>Internal: 30.8m</li> <li>North boundary: Min 8m to the site boundary and 16m from the building line to the future development on the adjoining site</li> <li>Southern boundary: 5m to the site boundary and 12m from the building line to the future development on the adjoining site.</li> </ul> <p>It is noted that angled window modules are provided on Levels 4 -7 of the southern facade of the buildings such that they open at an angle and do not directly overlook adjoining dwellings to the south. The smaller return of the pop-out windows includes the glazing, which assists in providing views and natural light without causing direct overlooking.</p>

3F Visual Privacy	Consistency	Comment
		<p>In addition, privacy screens are proposed for balconies on the southern facade that are within the required 9m setback above Level 4 and above to minimise any privacy impacts.</p> <p>Overall, the development meets the design criteria of this section..</p>
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	Complies

4A Solar and Daylight Access	Consistency	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	<p>70.6% (101 units) receive a minimum of 2 hours.</p> <p>14.7% (21 units) receives less than 2 hours</p>
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	14.7% (21 units) receive no direct sunlight.

4B Natural Ventilation	Consistency	Comment
All habitable rooms are naturally ventilated.	Yes	<p>The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms.</p> <p>Depths of habitable rooms support natural ventilation.</p>
Minimum 60% of apartments in the first 9 storeys of the building are naturally cross ventilated.	Yes	71.3% (102 units) are naturally cross ventilated.



<b>4B Natural Ventilation</b>	<b>Consistency</b>	<b>Comment</b>
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	No cross-over or cross-through apartments proposed.

<b>4C Ceiling Heights</b>	<b>Consistency</b>	<b>Comment</b>
Habitable rooms: 2.7m	Yes	All habitable rooms will have a minimum 2.7m ceiling heights.
Non-habitable rooms: 2.4m	Yes	All non-habitable rooms will have a minimum 2.4m ceiling heights.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Yes	Achieved.

<b>4D Apartment Size and Layout</b>	<b>Consistency</b>	<b>Comment</b>
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35sqm</li> <li>• 1 bed: 50sqm</li> <li>• 2 bed: 70sqm</li> <li>• 3 bed: 90sqm</li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.</p>	Yes	All units comply.
Every habitable room is to have a window in an external	Yes	All units comply.

<b>4D Apartment Size and Layout</b>	<b>Consistency</b>	<b>Comment</b>
wall with a minimum glass area of 10% of the floor area of the room.		
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	All units comply.
8m maximum depth for open plan layouts.	Yes	All units comply.
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> <li>• master bedroom: 10sqm</li> <li>• all other bedrooms: 9sqm</li> </ul> Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	All units comply.
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• 2-bedroom or more: 4m</li> </ul>	Yes	All units comply.

<b>4E Private Open Space and Balconies</b>	<b>Consistency</b>	<b>Comment</b>
Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m.  One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m.  2 bed apartments are to have a minimum balcony area of	Yes	All units are provided with private open space/balconies that meet the minimum requirements.

<b>4E Private Open Space and Balconies</b>	<b>Consistency</b>	<b>Comment</b>
<p>10sqm with a minimum depth of 2m.</p> <p>3 bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m.</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.	Yes	Achieved.

<b>4F Common Circulation and Spaces</b>	<b>Consistency</b>	<b>Comment</b>
<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>Where design criteria 1 (above) is not achieved, no more than 12 apartments should be provided off a circulation core on a single level</p>	Partial	<p>Between 10 and 11 units are accessed off the circulation core up to Level 6 in Building A and Level 5 in building B. This then reduces to 7 units for Level 7 and above in Building A and 8 units for Level 6 and above in Building B.</p> <p>The central building, referred to as building G, has a maximum height of 8.31m.</p> <p>This is acceptable as the design meets the design guidance for this section.</p>
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.	Partial	<p>This is achieved by all units with the exception of studio BG.04 that has a bedroom window located on the walkway from the lobby and through the communal area.</p> <p>Notwithstanding the above, the location of this studio is not supported due to its poor amenity sharing a wall with the loading zone and communal area.</p> <p>Therefore, this unit is recommended to be removed as part of a condition of consent which requires this area for a bin holding area.</p>

<b>4F Common Circulation and Spaces</b>	<b>Consistency</b>	<b>Comment</b>
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Achieved.

<b>4G Storage</b>	<b>Consistency</b>	<b>Comment</b>
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> <p>(Minimum 50% storage area located within unit)</p>	Yes	The minimum storage is provided with at least 50% each unit and the remaining in the basement.

<b>4J Noise and Pollution</b>	<b>Consistency</b>	<b>Comment</b>
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	<p>A acoustic report was provided with the development which outlines how noise impacts are mitigated within apartments as well as through the design layout and acoustic treatments.</p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</p>

### **State Environmental Planning Policy (Sustainable Buildings) 2022**

48. The aims of this Policy are as follows—

- (a) to encourage the design and delivery of sustainable buildings,
- (b) to ensure consistent assessment of the sustainability of buildings,
- (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored,

- (d) to monitor the embodied emissions of materials used in construction of buildings,
- (e) to minimise the consumption of energy,
- (f) to reduce greenhouse gas emissions,
- (g) to minimise the consumption of mains-supplied potable water,
- (h) to ensure good thermal performance of buildings.

## **Chapter 2 Standards for residential development - BASIX**

- 49. A BASIX Certificate has been submitted with the development application 1782962M.
- 50. The submitted architectural plans incorporate the relevant matters listed in the BASIX Certificate and the plans have been stamped with the NaTHERS rating.
- 51. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in to the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.
- 52. The applicant has submitted a City of Sydney Design for Environmental Performance report template to address the above. The template identifies design and technology responses for environmental performance that the applicant proposes to be incorporated in the development.

## **State Environmental Planning Policy (Transport and Infrastructure) 2021**

- 53. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

## **Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network**

### **Clause 2.48 Determination of development applications – other development**

- 54. The application is subject to Clause 2.48 of the SEPP as the development will be carried out immediately adjacent to an electricity substation. The development is proposed within close proximity to existing overhead and underground electricity networks assets in Dalmeny Avenue.
- 55. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised, subject to recommended conditions of consent.

## **Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017**

- 56. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.
- 57. 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.

58. The subject site is not a heritage item or within a heritage conservation area. An Arborist report has been prepared (refer Appendix 16), a total of twenty-four (24) trees were assessed and the report concluded that a total of fourteen (14) trees will require removal and one (1) tree, being a Phoenix canariensis, due to the proposed works as the TPZ will be transplanted
59. Council's Tree Management Unit supported the removal of the proposed trees.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

60. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

#### Part 1 Preliminary

Provision	Compliance	Comment
1.9 - Application of SEPPs	Yes	The Site is located within Green Square. The provisions of Chapter 3, Part 4 of the Housing SEPP that deals with built-to-rent housing is not applicable to the proposed development.

#### Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the MU1 Mixed Use zone. The proposed development is defined as mixed-use development, comprising a residential flat building and a retail premises and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

#### Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	<p>The site is subject to two height provisions. The central portion of the site is subject to a maximum height of 12m. The remainder of the site is subject to a maximum height of 29m</p> <p>The proposed heights are as follows:</p> <p>Buildings A and B – 28.83m</p>



Provision	Compliance	Comment
		<p>Central Building – 8.31m</p> <p>The development meets the maximum height controls for the site.</p>
<p>4.4 Floor space ratio</p> <p>6.14 Community infrastructure floor space at Green Square</p> <p>6.21D Competitive design process</p> <p>6.36 - 12–20 Rosebery Avenue, 22–40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery</p>	Yes	<p>CI 4.4 of SLEP 2012 stipulates a base FSR of 1:1.</p> <p>The site is located within 'Area 8' within the floor space ratio map, pursuant to Clause 6.14 of Sydney LEP 2012 an additional quantum of floor space equating to 1:1 can be awarded, subject to the provision of community infrastructure within the Green Square locality.</p> <p>The proposed works associated with the second Voluntary Planning Agreement (VPA) involving the 6m dedication of land for public through-site-link, 2m wide easement on the southern boundary and monetary contribution towards community infrastructure in Green Square, is considered to provide appropriate community infrastructure within Green Square (refer to details under Clause 6.14 below).</p> <p>Clause 6.36 of SLEP stipulates that development on the site, that exhibit design excellence, is not eligible for additional building height under Clause 6.21 of Sydney LEP 2012. As such, up to 8% additional floor space ratio only, may be approved in accordance with Clause 6.21 as the proposed scheme is a winner of a competitive design process and exhibits design excellence.</p> <p>A maximum floor space ratio of 2.16:1 is permitted in accordance with Clause 4.4, 6.14, 6.21 and 6.36 of SLEP 2012.</p> <p>A floor space ratio of 2.15:1 or 11,526sqm is proposed</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>

**Part 5 Miscellaneous provisions**

Provision	Compliance	Comment
5.1 and 5.1A Development on land intended to be acquired for public purposes	N/A	The site is not identified as land for acquisition for public purposes.
5.10 Heritage conservation	N/A	<p>The site is not a heritage item or within a heritage conservation area.</p> <p>The site is directly adjacent to a local heritage listed item, I1379 Former warehouse 'National Springs' at 1-3 Rosebery Avenue.</p> <p>See DCP discussion further below.</p>
5.21 Flood planning	Yes	<p>The site is identified as being subject to flooding. The Site is located within the Alexandria Canal stormwater drainage catchment and is subject to overland flow down both Rosebery Avenue and Dalmeny Avenue in a northerly direction towards Epsom Road.</p> <p>The application proposes development at or below the flood planning level. A flood report, prepared by BG&amp;E, accompanies the application demonstrating that the development is able to comply with the City's Flood Risk Management Policy and required flood planning levels and is supported by Councils Public Domain Unit.</p>

**Part 6 Local provisions – height and floor space**

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.14 Community infrastructure floor space at Green Square	Yes	The proposed development is eligible for an additional floor space ratio of 1:1 or 5,348.6sqm, subject to the provision of community infrastructure within the Green Square locality. Green Square community infrastructure is defined under the Clause 6.14 of Sydney LEP 2012 as development in Green Square for the purposes of recreation areas, recreation facilities (indoor or outdoor),

Provision	Compliance	Comment
		<p>public roads, drainage or flood mitigation works.</p> <p>The proposal achieves consistency with Clause 6.14 through the proposed VPA, which involves the following</p> <ul style="list-style-type: none"> <li>• The dedication to Council of a 6m wide strip of land on the northern boundary to be publicly accessible through-site link (TSL) along the northern boundary of the site, connecting Dalmeny Avenue and Rosebery Avenue.</li> <li>• The embellishment (works-in-kind) of this 6 metre wide strip of land to form a laneway.</li> <li>• The creation of 2 metre wide easement on the southern side of the site which will be a through site link.</li> </ul> <p>Monetary Contribution towards community infrastructure in the Green Square Urban Renewal Area.</p> <p>The above proposed Green Square community infrastructure is considered commensurate with the intensity of development and contributes towards infrastructure for the desired character of the locality.. The proposed dedication of land for public roads will improve pedestrian amenity, connectivity from Dalmeny Avenue and Rosebery Avenue and will support the greater densities in the locality. The proposal achieves the objectives of Clause 6.14.</p> <p>The draft VPA is required to be publicly exhibited for 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. The exhibition of the VPA has not yet commenced.</p>
Division 4 Design excellence		

Provision	Compliance	Comment
6.21 Design excellence	Yes	<p>The proposed design was selected as the preferred scheme via competitive design alternatives process.</p> <p>The design of the development is of a high standard and uses materials and detailing which will contribute positively to the character of the North Rosebery/Green Square locality.</p> <p>The proposed form, scale, height and massing responds to new developments in the North Rosebery Precinct and surrounding residential developments. The built form is split into two main buildings to reduce bulk and minimise overshadowing to the surrounding developments.</p> <p>The proposed form and external appearance of the development will improve the quality and amenity of the public domain and includes a mix of land uses that provides for a development that is suitable for the site.</p> <p>The bulk, massing and modulation of buildings provides a distinct site identity with active street frontages, which enhance the public domain.</p> <p>The proposal includes well integrated landscaped areas and subject to conditions maximises provision of deep soil. The buildings and basement levels are designed to retain the existing street tree canopy surrounding the site.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The proposal provides for pedestrian, cycle, vehicular, service access and provides a permeable link between Dalmeny Avenue and Rosebery Avenue</p> <p>The development, subject to conditions, achieves design excellence.</p>

Provision	Compliance	Comment
		A building demonstrating design excellence is eligible for an amount of additional floor space, to be determined by the consent authority, up to 8%. The proposed development is the subject of a competitive design competition.
Division 5 Site specific provisions		
6.36 - 12–20 Rosebery Avenue, 22–40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery	Yes	As outlined above in this table.

**Part 7 Local provisions – general**

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing 7.7 Retail Premises	Yes	A maximum of 127 car parking spaces are permitted. The proposed development includes 94 car parking spaces and complies with the relevant development standards.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	See contribution section further below.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The site is not located within 500m of class 1-4 and the application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.
7.16 Airspace operations	Yes	The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport. The concurrence of Sydney Airport Corporation, as a proxy for the Civil

Provision	Compliance	Comment
		Aviation Safety Authority, has been received subject to conditions of consent.
7.17 Development in areas subject to airport noise	N/A	The subject site is located outside of the ANEF Contour area.
7.19 Demolition must not result in long term adverse visual impact	Yes	The proposal seeks to develop the Site and it will be comprehensively redeveloped under a single development consent.
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>This clause is applicable to the proposal given the Site has an area greater than 5,000sqm and the proposed development has a building height greater than 25m.</p> <p>As outlined previously, site-specific amendments were incorporated into Section 5 of the SDCP 2012 at the time the planning proposal was gazetted in April 2016. The Proposal achieves the key intent and generally aligns with the relevant SDCP 2012 provisions.</p>
7.26 Public art	Yes	<p>A preliminary public art strategy was submitted with the application.</p> <p>The public art strategy is supported and will be within the property and commissioned, owned and maintained by the property owner.</p>

## Development Control Plans

### Sydney Development Control Plan 2012

61. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.



## Section 2 – Locality Statements

62. The site is located within the North Rosebery locality. The proposed development is in keeping with the unique character and the design principles of the locality in accordance with Section 2.5.9 of Sydney DCP 2012, on the basis that:
- (a) the propose eight (8) storey mixed use flat building will be consistent with strategic direction of the North Rosebery locality, providing predominately residential uses with a future cafe at the southern end of Building A, positioned along Rosebery Avenue.
  - (b) the development provides a non-residential development and active frontages at ground level along Rosebery Avenue, to enhance pedestrian activity contributing to the public domain, whilst providing a buffer for traffic noise to residential uses above;
  - (c) the proposal involves the dedication of 6m wide land along the northern boundary of the Site for a future laneway and provision for an easement for public access along the southern boundary of the Site.
  - (d) the development has been designed to maintain a good level of solar access to the public domain and reinforce the pedestrian scale with a series of public laneways to provide permeable connections into and across the site.

## Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements 3.1.1.4 Footpaths 3.1.2.2 Through-site links	Yes	<p>The proposal provides a through-site link along the northern boundary which connects Dalmeny Avenue and Rosebery Avenue, in accordance with Section 5.3 of the DCP. The through-site link is designed to be direct and accessible, is 6m wide and open to the sky. When the site to the north is redeveloped, they will provide a 6m dedication which will result in this through-site link being 12m.</p> <p>The through-site link will include landscaping to assist in guiding people along the link while enabling long sight lines.</p> <p>The through-site link is proposed to be dedicated to the City, and will be publicly accessible 24 hours.</p> <p>Similarly, footpath widening areas along Dalmeny and Rosebery Avenue, will be embellished in accordance with Council's technical specifications</p>

Provision	Compliance	Comment
		<p>outlined in the Public Domain Manual and Sydney Streets Design Code.</p> <p>The footpaths will allow the growth of street trees.</p> <p>The proposal was discussed with Council's Public Domain Unit who advised the development is acceptable subject to recommended conditions..</p> <p>Conditions are recommended to require submission of concept and detailed Public Domain Plans prior to the issue of any Construction Certificate.</p>
3.1.5 Public Art	Yes	The revised public art plan, prepared by The Curators Department for Corio Projects, is considered acceptable by the City Public Art Unit.
3.1.6 Sites greater than 5,000sqm	Yes	<p>The application provides a public art strategy, a through-site link and provides residential accommodation and a retail use.</p> <p>The development provides a well connected street network and a clear public address for all buildings within a development.</p>
<p>3.2. Defining the Public Domain</p> <p>3.2.2 Addressing the street and public domain</p> <p>3.2.3 Active frontages</p>	Yes	<p>An active frontage is required to the Rosebery Avenue frontage, pursuant to Clause 3.2.3 of Sydney DCP 2012. The development contributes to the activity, safety and amenity of both streets</p> <p>Both buildings have been designed to positively address the street, maximises the number of entries enhance the public domain.</p> <p>The development positively addresses the public domain and is consistent with the requirements of this provision.</p>
3.2.6 Wind Effects	Yes	A pedestrian wind study has been submitted with the application. The report recommendations are

Provision	Compliance	Comment
		<p>incorporated into the design and will minimise wind impacts.</p> <p>The requirements of this section are met.</p>
3.2.7 Reflectivity	Yes	<p>Section 3.2.7 stipulates that the light reflectivity from building materials used on facades must not exceed 20%.</p> <p>A condition is recommended to ensure reflectivity values do not exceed the 20% control, and to ensure a consistent value be extended to entire façade to avoid variability in appearance.</p>
3.2.8 External Lighting	Yes	<p>The proposal does not include any external lighting.</p> <p>A condition is recommended to require a separate application to seek any external lighting.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The proposed development was the subject of a competitive design process and is eligible for an additional 10% floor space pursuant to Clause 6.21D(3)(d)..</p> <p>Despite clause 6.21D(3), a building demonstrating design excellence on land under CI 6.36 of SLEP, is eligible for an additional 8%. This is discussed in the LEP section above.</p>
3.4 Hierarchy of Centres, City South	Yes	<p>The site is not identified as being located within a major centre, local village or small village in the Hierarchy of Centres, City South map.</p> <p>Section 3.4 stipulates that retail development is permissible outside centres provided it does not have a negative impact on the viability and economic role of planned centres in the Southern areas, and it will result in a net community benefit.</p> <p>The proposal provides a retail premises (café) on the ground floor, facing</p>

Provision	Compliance	Comment
		Rosebery Avenue and contributes to the neighbourhood character of the area.
3.5 Urban Ecology	Yes	<p>The proposed development results in the removal of fourteen (14) trees. See further details in the 'Biodiversity Act' section above.</p> <p>New tree planting will be provided at a rate of 2:1. Further, includes landscaping on the ground plane, level 1 communal open space and level 2 which contribute towards the biodiversity of the site.</p> <p>The site provides 11% of deep soil area, 21.8% of tree canopy and 71% of tree shaded landscape.</p> <p>Council's Landscape Specialist recommends that the revised Landscape plans form part of the approved set of drawings.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The proposal satisfies BASIX and environmental requirements.</p> <p>The architectural plans have been stamped by the NatHERS consultant, Refer to SEPP (Sustainable Buildings) section above.</p>
3.7 Water and Flood Management	Yes	<p>The site is identified as being on flood prone land.</p> <p>The proposal was accompanied by a site specific flood report and integrated water management report.</p> <p>See discussion under section 7.15 above.</p>
3.9 Subdivision, Strata Subdivision and Consolidation	Yes	<p>the proposal seeks the following plan of subdivision:</p> <p>Stage 1 – 12-20 Rosebery Avenue:</p> <ul style="list-style-type: none"> <li>6m wide land dedication along the northern boundary</li> <li>2m wide easement for public access to be provided along the southern boundary to create a private through-site link.</li> </ul>

Provision	Compliance	Comment
		<p>Stage 2 -Seniors Living Site to the south:</p> <ul style="list-style-type: none"> <li>Residual 4m easement to north provided</li> </ul> <p>The application was referred to Council's Specialist Surveyor, who supports the proposed subdivision, subject to appropriate conditions of consent.</p> <p>In addition to standard surveyor conditions, a revised plan of subdivision to align with the requirements of the draft VPA will be required to be submitted and approved by the City.</p>
3.9 Heritage	Yes	<p>The site is not a heritage item or within a heritage conservation area.</p> <p>The site is located adjacent to locally heritage listed item, I1379 Former warehouse 'National Springs' at 1-3 Rosebery Avenue. The proposed development does not adversely impact the adjacent heritage item and meets the controls within this section.</p> <p>A Historical Archaeological Assessment and Aboriginal Archaeological Assessment was submitted with the application.</p> <p>The Historical Archaeological Assessment concluded that 'the study area is a highly disturbed landscape currently occupied by buildings and car parks. The study area has been assessed as being of nil historical archaeological potential.</p> <p>The Aboriginal Archaeological Assessment report concludes that, 'the study area is in a highly disturbed location which historically was impacted by sand mining activities and later was further disturbed by the construction of commercial buildings, services, and carparks. Based on the above, conditions have been recommended to</p>

Provision	Compliance	Comment
		manage unexpected finds during demolition and construction works.
3.11 Transport and Parking	Yes	<p>A traffic assessment was submitted with the application.</p> <p>The proposal provides a 94 car parking spaces in 1 basement level and includes:</p> <ul style="list-style-type: none"> <li>• 1 car share space</li> <li>• 20 accessible spaces</li> <li>• 143 bicycle spaces and storage cages</li> <li>• 9 motorbike spaces</li> <li>• 1 large and 1 small loading space</li> </ul> <p>The basement entry is a 6m wide crossing off Dalmeny Avenue.</p> <p>The site is serviced through a ground level loading zone/turntable off Dalmeny Avenue on the southern boundary. The turntable is provided to allow the vehicle to enter and exit in a forward direction.</p> <p>The loading dock has been designed to accommodate Council's Waste vehicles.</p>
3.12 Accessible Design	Yes	<p>Section 3.12.2 of Sydney DCP 2012 requires adaptable dwellings to be spread amongst all unit sizes to accommodate various household sizes. As the proposed development seeks 30 or more dwellings, a minimum of 21.45 of units are required to be adaptable (rate of 15% of dwellings).</p> <p>The proposal provides a total of 22 adaptable units spread across the various unit sizes and complies with this provision.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>

Provision	Compliance	Comment
3.14 Waste	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.  Refer to discussion section below.
3.16 Signage and Advertising	Yes	A condition is recommended requiring a separate application for signage, including preparation of a signage strategy for building A
3.17 Contamination	Yes	See SEPP assessment section above.

## Section 4 – Development Types

### 4.2 Residential Flat, Commercial and Mixed Use Developments

63. In accordance with Clause 149 of the SEPP (Housing) 2021, any DCP provisions pertaining to visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage are of no effect, if the Apartment Design Guide also specifies a requirement, standard or control in relation to the same matter. The remaining provisions are addressed in the following table:

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	The buildings meet the requirements of the site specific DCP controls in Section 5 of the DCP.
4.2.2 Building setbacks	Yes	The buildings meet the requirements of the site specific DCP controls in Section 5 of the DCP.
4.2.3 Amenity		
4.2.3.4 Design features to manage solar access	Yes	Recessed balconies combined with privacy screens and landscaping will assist in managing heat from mid-summer sun whilst maintaining access to daylight and outlook in some locations.  A recommended condition of consent addresses the need for summer solar



Provision	Compliance	Comment
		<p>shading to manage solar gain on exposed areas of glass.</p> <p>The Proposal satisfies BASIX requirements.</p>
<p>4.2.3.5 Landscaping</p> <p>4.2.3.6 Deep Soil</p>	Yes	Refer to discussion in Section 3.5 of Sydney DCP 2012 above. Landscape plans were provided with the application and have been assessed by Council's Landscape Specialist, which are acceptable subject to conditions.
4.2.3.8 Common Open Space	Yes	<p>28% (1499m<sup>2</sup>) of COS is provided.</p> <p>More than 30% of the COS will receive more than 2 hours sunlight on 21 June between 9am and 3pm.</p>
4.2.3.10 Outlook	Yes	All apartments are provided with a pleasant outlook from windows, across the site and surrounds.
4.2.3.11 Acoustic privacy	Yes	<p>A noise Impact Assessment prepared by a suitably qualified acoustic consultant was submitted with the application</p> <p>The proposal incorporates passive noise mitigation measures (plenums and treated balconies) to ensure the required internal noise level requirements are satisfied.</p> <p>The recommendations within the acoustic report will form part of the consent.</p>
<p>4.2.3.12 Flexible housing and dwelling mix</p> <ul style="list-style-type: none"> <li>• Studio: 5% - 10%;</li> <li>• 1 bedroom: 10% – 30%</li> <li>• 2 bedroom: 40% – 75%; and</li> <li>• 3+ bedroom: 10% - 100%</li> </ul>	No	<p>The Proposal comprises 143 apartments across two (2) buildings and provides the following breakdown:</p> <ul style="list-style-type: none"> <li>• Studio – 20 (13.99%)</li> <li>• 1 Bed – 53 (37.06%)</li> <li>• 2 Bed – 42 (29.37%)</li> <li>• 3 Bedroom – 28 (19.58%)</li> </ul>

Provision	Compliance	Comment
		<p>The DCP allows the maximum percentage of 1 bedroom dwellings may be increased above 30% provided that the numbers of studio dwellings and 1 bedroom dwellings combined does not exceed 40% of the total dwellings proposed.</p> <p>The proposal provides 50% of dwellings that are either studios or 1 bedroom apartments.</p> <p>The proposed dwelling mix is considered to be acceptable in this instance as a variety of dwelling types are still provided to cater for the needs of the existing and future resident population and to encourage a diverse population and achieve social diversity.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	The building locations and typologies reflect those commended during the design excellence processes and provide a fine grain-built form and varied architectural character.
4.2.7 Heating and cooling infrastructure	Yes	Heating and cooling infrastructure is located at suitable centralised locations in the basement and roof levels of the building.
4.2.8 Letterboxes	Yes	The letterboxes are provided within the lobby of the building A and B 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	<p>Subject to conditions, the retail portion of the development will not adversely impact the amenity of neighbouring residential properties.</p> <p>The future occupation of the proposed commercial and retail tenancies will form the subject of future development applications to Council, at which time, the operating hours and noise impacts will be considered.</p>

## Section 5 – Specific Areas

## 5.2 Green Square

Provision	Compliance	Comment
5.2.2 Objectives of Green Square	Yes	The structure plan requires a public street along the northern boundary, this has been included in the Proposal and will be dedicated as a laneway for pedestrians and cyclists, on this basis it will be consistent with the Green Square Structure Plan.
5.2.3 Community infrastructure	Yes	<p>Proposed community infrastructure works:</p> <ul style="list-style-type: none"> <li>• Embellishment and dedication of 6m land dedication along northern boundary for future lane for pedestrian and cycling access; and</li> <li>• Creation of a 2m wide pathway along the southern boundary for public access and service vehicles.</li> </ul> <p>Discussed further in LEP section.</p>
5.2.4 Local Infrastructure	Yes	The northern laneway is consistent with the competitive design process and positioned in a location to be consistent with the SDCP 2021.
5.2.5 Pedestrian and bike networks	Yes	<p>The northern boundary, to be dedicated to the City for pedestrian and cycle use, will be 6m in width and the adjoining site at 57-65 Epsom Road will also provide land dedication to increase the width, this satisfies the intent of the DCP,</p> <p>Refer to Section 3 DCP assessment above.</p>
5.2.9 Building Design	Yes	The proposed building design has been well considered by WMK and ensures that all ground level units have separate entry with main building and COS entry points provided along each street frontage and northern and southern boundary.

Provision	Compliance	Comment
		<p>Building facades provide articulation and modulation with a high level of architectural interest.</p> <p>Angled window modules are provided on Levels 4 -7 of the southern facade of the buildings such that they open at an angle and do not directly overlook adjoining dwellings to the south. The smaller return of the pop-out windows includes the glazing, which assists in providing views and natural light without causing direct overlooking.</p> <p>In addition, privacy screens are proposed for balconies on the southern facade that are within the required 9m setback above Level 4 and above to minimise any privacy impacts.</p> <p>Subject to conditions, the development provides adequate visual privacy between the two buildings on site and to adjoining developments.</p> <p>A recommended condition of consent addresses the need for summer solar shading to manage solar gain on exposed areas of glass.</p>
5.2.10 Setbacks	Yes	<p>The proposed setbacks are as follows:</p> <ul style="list-style-type: none"> <li>Northern setback is 2m</li> <li>Southern setback is 2m</li> </ul> <p>Setbacks areas are landscaped to ensure the development contributes to the streetscape and desired character of the locality.</p>

### 5.7 Green Square - North Rosebery

Provision	Compliance	Comment
<p>5.7.1 - Local infrastructure and public domain</p> <p>5.7.1.1 Street network</p>	Yes	<p>Northern boundary nominates 6m land dedication and southern boundary 6m wide easement for public access in accordance with figure 5.188.</p>

Provision	Compliance	Comment
5.7.1.2 Vehicle Access, entries and circulation		Complies, refer section 5.2.3 above,
5.7.2 Building form and design	Yes	<p>The controls require a maximum number of storeys of 7 storeys</p> <p>A maximum street frontage height of 5 storeys on Rosebery Avenue and 6 storeys on Dalmeny Avenue.</p> <p>The proposal consists of:</p> <p>Building A (Rosebery Ave): 8 storey with 5 storey wall height.</p> <p>Building B (Dalmeny Ave): 8 storey with 6 storey wall height.</p> <p>In accordance with figure 5.191 of SDCP 2012, 8 storeys is permitted under the design excellence process.</p>
5.7.2.1 Building Setbacks	Yes	<p>Rosebery and Dalmeny Avenue require a 3m landscape setback and a 4m street frontage height. Both frontages provide a 3m landscape setback and a 4m street frontage height.</p> <p>The Northern and southern boundaries provide a minimum 2m landscape setback.</p> <p>A 2m deep soil setback is required on the northern boundary. The current basement encroaches into that 2m setback. See further below in discussion section.</p> <p>A recommended condition of consent addresses the need to setback the basement for proposed tree planting.</p>
5.7.2.3 Fencing	Yes	<p>The fences to the private and communal open space areas have been designed to provide privacy for the residents as well as providing passage surveillance to both street frontages and the through-site link.</p> <p>Further, adequate landscaping has been used to create visual interest and</p>

Provision	Compliance	Comment
		integrate the fencing into the design as to not create visual clutter.
5.7.2.4 Deep soil planting	Yes	<p>The private front gardens for the ground floor apartments are included as deep soil area. The basement has been setback from both Dalmeny and Rosebery Avenue to achieved this.</p> <p>Subject to conditions the development meets the minimum deep soil requirements in Section 4.2.3.6 of the DCP.</p>
5.7.3 Building type and use	No, acceptable	<p>Figure 5.193 North Rosebery Typology and Uses indicates the location of potential childcare centre where building A is proposed. As stated in the DCP, these locations are indicative only. Childcare uses are no longer required as addressed prior to the competitive design process in consultation with the City.</p>
5.7.4 Staging and implementation	Yes	<p>The application does not impede the redevelopment of adjoining properties. The site at 22-40 Rosebery and 108 Dalmeny Avenue is the subject of a SSDA approval and can therefore be developed separately.</p> <p>The proposal has two public road frontages and can be accessed via a public street.</p> <p>The staging and delivery of the northern boundary through-site link is in accordance with the DCP.</p>
5.7.5 Land amalgamation	Yes	<p>As per 5.7.5 (2) a competitive design process has been undertaken for the site and demonstrates that 12-20 Rosebery Avenue (Site A) can be developed separately of 22-40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery.</p>
5.7.6 Design excellence	Yes	<p>A competitive design process as required under Clause 6.21D of SLEP 2012 was undertaken for the site. The</p>

Provision	Compliance	Comment
		<p>design prepared by WMK was endorsed as the winning scheme on 10 September 2024.</p> <p>The design has evolved following the competitive design process and is considered to continue to exhibit design excellence.</p> <p>The Jury comments are addressed in the discussion section of this report below.</p>
5.7.6.1 Design Excellence Strategy - 12-40 Rosebery Avenue and 108 Dalmeny Avenue	No, acceptable	<p>The subject application was the subject of a competitive design process for 12-20 Rosebery Avenue only.</p> <p>The additional floor space is accommodated within the envelopes as shown in Figure 5.191 of SDCP 2012 and does not exceed the maximum FSR as stated in the LEP section of this report.</p> <p>The redevelopment of the sites separately is acceptable and tested through the competitive design process.</p>

## Discussion

### Response to Competitive Design Alternatives Report Recommendations

64. The design competition jury selected the WMK scheme as the winning scheme. The WMK scheme was deemed by the Jury as the most capable of achieving design excellence, subject to nine recommendations.
65. The following table summarises the key principles of the design that were identified to be maintained and further refined by the Selection Panel. The development application retains the design integrity and key aspects of the winning scheme.

Key principles of design to be maintained	
Recommendation	Comment
1. Site layout and spatial organisation	The integration of the communal landscape areas and connections to communal resident facilities is maintained,



Key principles of design to be maintained	
<ul style="list-style-type: none"> <li>The Panel considered that the design of the ground floor plane had a clear and considered relationship with the central courtyard and the proposed through site link both spatially and visually. This is achieved by integrating the communal landscape areas and connections to communal resident facilities, the majority of which are open spaces and foster interaction amongst the residents.</li> <li>The provision of communal uses along the southern boundary, including the careful design and positioning of utility services and functionality on the ground floor, contributes to the success of the overall design.</li> <li>Creating a community heart on the ground floor adjacent to the through site link is strongly supported. As such, the environmental amenity of this key space should be retained as the scheme is developed.</li> </ul>	<p>the majority of which is open space and foster interaction amongst the residents.</p> <p>The heart of communal open space area (pool, landscaping etc.) adjacent to northern through-site link.</p> <p>The landscaping, deep soil and communal areas are well designed and create a positive environment for residents and users of the northern and southern through-site links.</p>
<p>2. Landscape strategy</p> <p>The fluidity and integration of comprehensive landscaping across the site along with the billabong shaped swimming pool and use of native species should be retained and developed.</p>	<p>Retained and further developed with additional information as part of this detailed application.</p>
<p>3. Compositional expression of the facades</p> <ul style="list-style-type: none"> <li>The breaking up of the facades along the principal street frontages by means of articulating the corners with curved balconies and deep recesses with permeable entries that extend up through the buildings gives a scale and rhythm to the street. This is irrespective of the fine- grain façade detailing, which should be explored during design development.</li> <li>The earthy tones and material expression of the façade should be retained and developed.</li> </ul>	<p>The breaking up of facades and articulation has been maintained. Further fine grain façade detailing has been explored and development for this current application.</p> <p>The proposed colours and finishes are supported.</p>

Key principles of design to be maintained	
<p>4. Layout</p> <ul style="list-style-type: none"> <li>The provision of breezeways and spatial arrangement of the lift lobbies at the upper levels of the buildings should be retained, as this provides daylight and views to both the communal open spaces and the street, improved cross ventilation and functional lift strategy,</li> <li>On the upper levels, the placement of living areas on the northern façade of the buildings offered high levels of residential amenity, which were considered by the Panel to be positive aspects of the scheme and must be retained.</li> </ul>	Retained and supported.
<p>5. Wayfinding</p> <p>The intention to provide clear and visible building entries that extend up through the buildings from the principal streets is supported and should be retained.</p>	Retained and supported.
<p>6. Rooftop communal open space</p> <p>The provision of a communal roof top space on level 1 of the communal building, including access from residential levels to this space, should be retained, This space provides a recreational space with outlook and solar access for future residents to socialise and enables passive surveillance over the through site link.</p>	<p>The communal open space is retained on level 1 and can be accessed by all residents as it sits between both buildings.</p> <p>The design is supported.</p>
Key principles of design to be refined	
Recommendation	Comment
<p>7. Façade design</p> <ul style="list-style-type: none"> <li>The facade resolution and detailing should be adjusted to provide more depth on the upper levels to address solar gain.</li> </ul>	<p>The facade treatment has been further developed to address the individual requirements of each cardinal elevation. Depth and setback glazing have been adopted where solar gain is prominent and solar shading is preferable.</p> <p>The design has been further developed to address the individual requirements of</p>

Key principles of design to be maintained	
<ul style="list-style-type: none"> <li>Investigate opportunities for increased facade depth on the western façade to provide passive shading.</li> </ul>	<p>each cardinal elevation. Depth and setback glazing have been adopted where solar gain is prominent and solar shading is preferable.</p>
<p>8. Landscape design</p> <ul style="list-style-type: none"> <li>Develop a landscape plan that retains the integration of the central courtyard with the adjoining public domain to the north and south.</li> <li>The design of the central courtyard should provide flexibility to accommodate small and large groups and enable social interaction, as well as providing visual amenity when not in active use.</li> <li>It is recommended that a colonnade or the like be provided from the concierge to the building fronting Dalmeny Avenue adjacent to the central courtyard for weather protection.</li> </ul>	<p>The landscape plan retains the integration of the central courtyard with the adjoining public domain to the north and south.</p> <p>The central courtyard provides flexibility to accommodate small and large groups to enable social interaction, as well as providing visual amenity when not in active use.</p> <p>The colonnade is central and connected to the concierge and both buildings.</p>
<p>9. Operational design</p> <ul style="list-style-type: none"> <li>The Panel supports the arrangement of community facilities on the ground floor, acknowledging the spaces must be rationalised for the weather and operational preferences of the Proponent while retaining the design vision, as this is a particular strength of the scheme.</li> <li>The afterhours security arrangements of the publicly accessible areas must be developed in conjunction with the Proponent and should be suitably integrated into the design of the ground floor plane.</li> </ul>	<p>The ground floor design and community facilities are maintained. They have been further developed and are considered to positively contribute to the development and the public domain.</p> <p>A condition has been recommended for an afterhours plan of management be submitted prior to the issue of a construction certificate.</p>
<p>10. Layout and design of residential component</p> <ul style="list-style-type: none"> <li>Residential interfaces at ground level between public domain streets/links should feature generous landscaping, well-resolved levels, and direct access, ensuring a thoughtful balance between</li> </ul>	<p>These recommendations have been incorporated into the current design.</p> <p>The residential interfaces at ground level between public domain streets/links feature generous landscaping, well-resolved levels, and direct access. Passive surveillance to the street and</p>

Key principles of design to be maintained	
<p>passive surveillance to the street and privacy to private open spaces.</p> <ul style="list-style-type: none"> <li>Private open space for all dwellings on the ground floor is to be directly accessible from the public domain.</li> <li>The apartment mix should be further explored to achieve compliance with the Brief requirements.</li> <li>Explore a solution, where possible, to eliminate dog-legged corridors, as this limits the extent of natural light and ventilation and is a potential safety concern.</li> <li>Internal floor plan layout should be developed to respond to the Apartment Design Guide (ADG) requirements and operational requirements of the Proponent</li> <li>Any further design changes must achieve compliance with the solar access and cross ventilation requirements outlined in the ADG.</li> </ul>	<p>privacy to private open spaces has been well considered.</p> <p>All dwellings on the ground floor are designed to be directly accessible from the public domain.</p> <p>The apartment mix has been revised to be as close as practical to the Brief and the 'dog leg' corridors have been minimised or eliminated from the design.</p> <p>As outlined above, the internal floor plan layouts, solar access and cross ventilation meet the requirements of the ADG.</p>
<p>11. Building setbacks and street wall height</p> <ul style="list-style-type: none"> <li>Building setbacks should consider Tree Protection Zones for the trees retained within the site and the public reserve.</li> <li>Deep soil landscape setback should be provided on the principal street frontages and the northern laneway in accordance with the SDCP 2012 requirements.</li> <li>A 4m setback from the site boundary to the glass line enclosing an internal space at the ground floor should be provided.</li> <li>The design should be tested to ensure the 6-storey street wall proposed on Dalmeny Avenue does not cause additional overshadowing on Building B. 99-111 Dalmeny Avenue. Alternatively, a 6-storey street wall may be explored on Rosebery Avenue to</li> </ul>	<p>Building setbacks have considered Tree Protection Zones in line with recommendations from the Arboriculture Assessment</p> <p>Except at basement level along the norther dedication, deep soil landscape setbacks have been provided on the principal street frontages and the northern laneway in accordance with the SDCP 2012 requirements and by condition of consent.</p> <p>A 4m setback from the site boundary to the glass line has been provided.</p> <p>An overshadowing analysis to the building at 99-111 Dalmeny has been provided. This analysis is to be read in conjunction with the City of Sydney endorsed overshadowing report (S11776_12-20 ROSEBERY AVE_SHADOW REPORT_230815) prepared by Bates Smart during the planning proposal stage,</p>

Key principles of design to be maintained	
redistribute floor space and avoid overshadowing impacts on adjoining buildings on Dalmeny Avenue.	<p>that provides a detailed assessment of overshadowing impacts upon the building located at 99-111 Dalmeny Avenue.</p> <p>This analysis has been provided as verification that the proposed building envelope is consistent with the analysis and requirements as detailed in the Bates Smart Report. Specific reference is made to the compliance requirements and findings on page 4. Of that report (View from the Sun Analysis) The proposed building steps at the upper levels of the north east corner of the site. Allowing solar access to Building B, 99-111 Dalmeny Avenue.</p> <p>The design has been tested against overshadowing of the Dalmeny neighbours. A 6 storey street wall to Rosebery Ave was investigated as suggested..</p>
<p>12. Other design consideration</p> <p>The detailed design of the proposed public domain areas (land dedication to the north and through site link to the south) is to occur in collaboration with City's public domain team.</p>	<p>The detailed design of the proposed public domain areas forms part of this application.</p> <p>A VPA and easement form part of this application for a 6m wide dedication to the north and 2m to the south.</p> <p>Other relevant public domain conditions are recommended.</p>

### Design Advisory Panel Comments

66. The application was reviewed by Councils Design Advisory Panel on 29 May 2025 who were supportive of the application and recommended the following:

Design recommendations	
Recommendation	Comment
There is a lack of shading to the western apartments at level 5 and above and to the northern apartments at the lower levels. The	Minor changes were made in the amended plans to address the northern

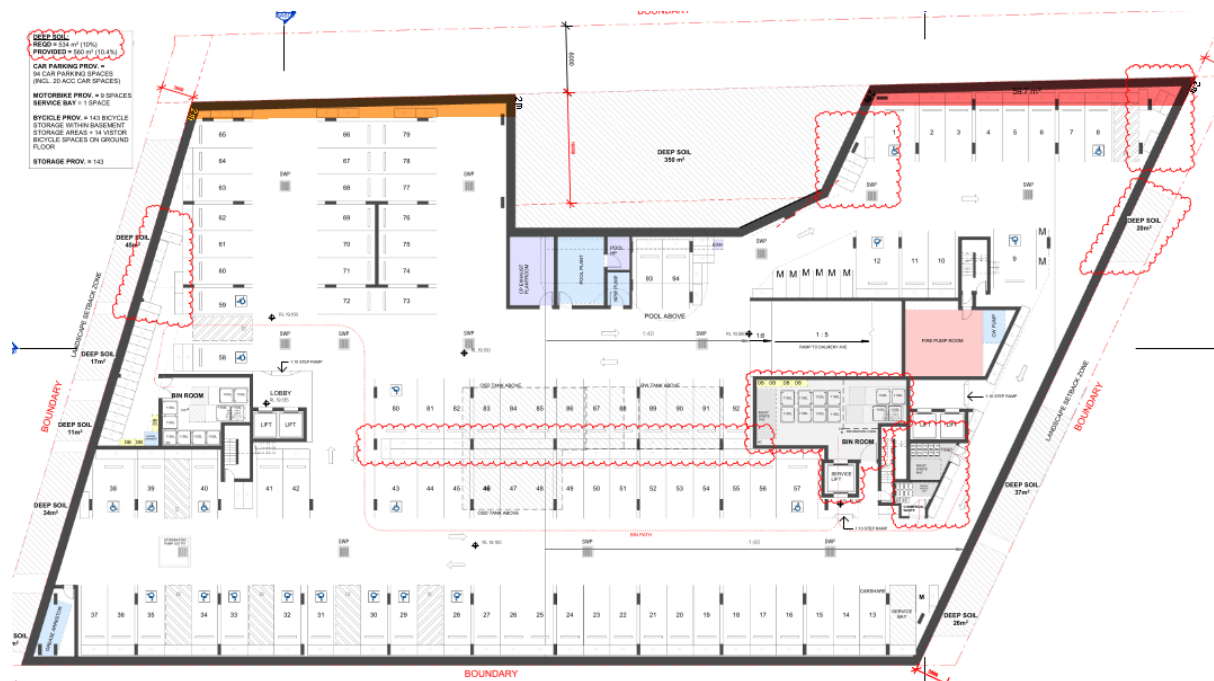
Design recommendations	
Panel recommended that adequate shading be provided to these apartments.	<p>apartments but not the western apartments.</p> <p>A condition of consent is recommended to provide external shading to unprotected glazed areas of the northern and western elevations.</p>
There is an excess of hardstand area in the southern through-site link. The Panel recommended that this be softened with planting.	<p>The amended architectural drawings and landscape drawings reduce the footpaths and hardstand areas and provide landscaping and planting.</p> <p>The changes create a more permeable and environmentally responsive ground plane that enhances both ecological performance and visual amenity.</p>
At building B level 1, there is a large, north-facing blank wall which could be improved with more protected openings for the benefit of the apartments.	Protected glass openings have been thoughtfully integrated into the northern apartments, transforming previously blank wall areas into dynamic facade elements that enhance natural light penetration and visual connectivity whilst maintaining privacy and security standards.
Additional privacy elements should be incorporated into the private balcony balustrades to prevent overlooking from the public domain.	<p>Privacy protection from the public domain has been integrated through a multi-layered design strategy that ensures optimal resident amenity without compromising architectural quality.</p> <p>The upper-level apartments feature strategically configured balcony depths that create natural visual barriers when viewed from street level, whilst ground floor apartments benefit from a combination of landscape fencing, architectural screens, and targeted planting that establishes effective privacy zones.</p> <p>This approach delivers superior residential privacy through thoughtful spatial planning and landscape integration that enhances rather than detracts from the overall design composition.</p>
More operable windows would improve building amenity.	The design includes fixed glazing, operable awning windows, and sliding

## Design recommendations

glass doors that has been specifically engineered to optimise natural ventilation performance whilst maximising energy efficiency and resident comfort throughout all seasonal conditions.

## Deep Soil Landscape Setback

67. Section 5.7.2.1 of Sydney DCP sets out the site specific building setbacks for the subject site. In accordance with this section, a 2m deep soil landscape setback is required for the northern boundary. The current basement design encroaches into this setback as shown below:

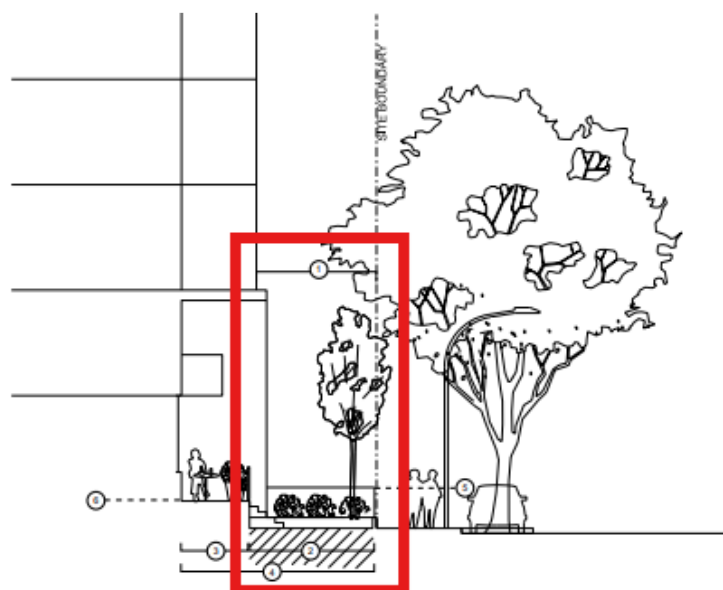


**Figure 11:** Indicative 2m setback for the basement level, outlined in red and orange





**Figure 12:** Building setbacks and building setback and alignment map as per SDCP 2012



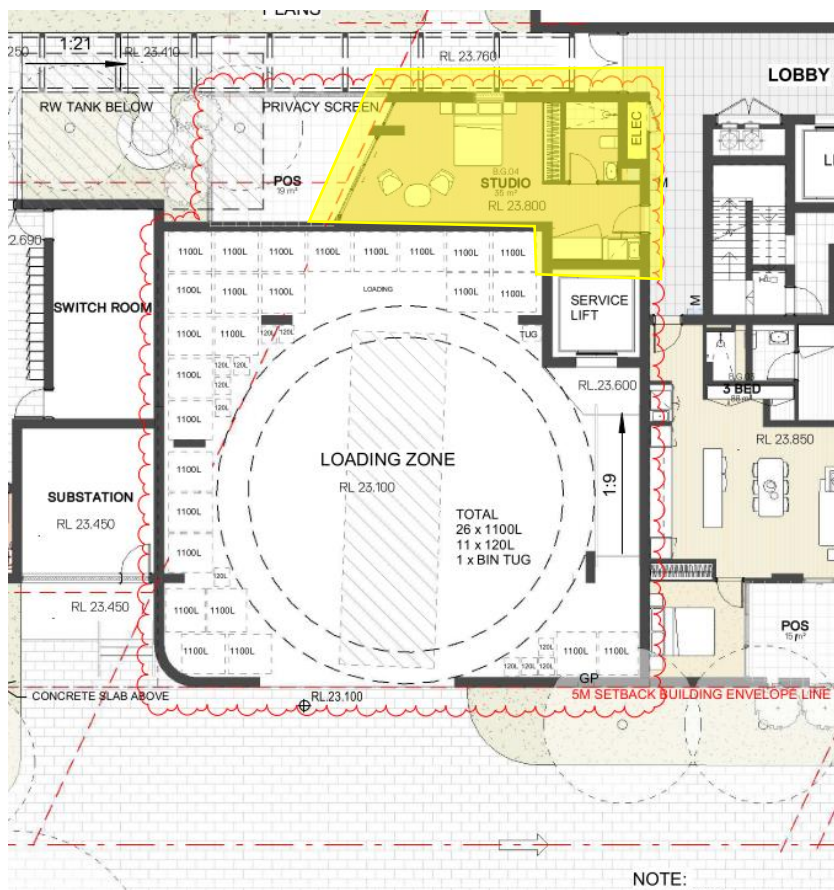
1. Primary building setback, clear full height – landscape setback minimum 2m
2. Deep soil landscape planting area – refer to landscape setback in *Building setback and alignment map*
3. Ground floor private open space deck - min. 1.2m
4. Setback from the site boundary to the glass line
5. Site boundary fence – max. 1.4m high
6. Ground floor private open space deck max. 1m above street level

**Figure 13:** Section 5, Figure 5.189 typical ground floor requirements of SDCP 2012

68. The Jury Report for the design excellence competition recommended that a 2m deep soil landscape setback be provided to the northern laneway. Further to this, Council required this to be addressed via pre-lodgement advice in 2023, 2024 and the 2 subsequent requests for additional information letters during the assessment of the subject application.
69. The amended set of architectural plans removed the footpaths and other hard stand pavement on the ground floor that encroached into this area however, the basement level was not setback.
70. To address the above and satisfy the jury comments and achieve compliance with the site specific DCP, a design modification condition has been recommended to provide a 2m deep soil setback to the basement level.

## Waste Management

71. The current waste management arrangements for the ground floor loading dock does not involve a separate and dedicated waste holding area but rather proposes to place all the bins within the loading dock, around the turntable, see image of floor plan below:



**Figure 14:** Studio apartment BG.04 to be deleted, highlighted in yellow

72. As shown above, the amended plans have only provided space for the waste collection vehicle without providing spatial considerations for an orderly waste holding area and therefore, the area cannot be serviced in a disorderly fashion as the bins would huddled around and overhanging the turntable.
73. The current proposal is not acceptable. To address this issue, a design modification condition is recommended which requires the studio apartment (highlighted yellow in the above figure) at the rear of the loading dock be replaced with a waste holding area. Plans provided in 2023, post design competition showed the loading dock with no studio at the rear and this arrangement provided more space for the orderly serving of the site.
74. Further to the above, the studio is considered to have poor amenity and is in conflict with the design criteria of the ADG as the bedroom window looks out to the common walkway. The POS area for this studio has privacy and acoustic impacts from its location adjacent to the main communal open space area for the site.

### **Design of Building B Entry Lobby**

75. The jury report recommended that the detailed DA, the subject of this application needed careful design and positioning of utilities on ground floor aiding to the success of the overall design. Further, this design adjustment was requested in both request for additional information letters sent to the applicant during the assessment process.
76. The current design of the entry to Building B does not achieve this as it has low presence along Dalmeny Avenue as it is immediately adjacent to the vehicle driveway entry and requires numerous stairs to reach the finished level of the lobby which results in a poor user experience for residents and pedestrians.
77. It is acknowledged that the site is flood affected and this restricts the floor level of the entry level and subsequently results in design of the ramp. However, the entry is dominated by the basement entry, a fire hydrant and a lack of landscaping which creates a poor pedestrian experience.
78. Therefore, a design modification condition is recommended to submit amended plans that provide a simplified entrance to the lobby of building B and widened in size to allow for direct access for users by relocating the hydrant booster and providing a path that is perpendicular to the street. This allows for more landscaping and separation from the vehicle driveway, thus improves presence of the lobby.

### **Consultation**

#### **Internal Referrals**

79. The application was discussed with Council's:
  - (a) Building Services;
  - (b) Environmental Health Officer;
  - (c) Heritage and Urban Design;
  - (d) Public Domain;

- (e) Safe City;
- (f) Surveyors;
- (g) Transport and Access;
- (h) Landscape and Tree Management
- (i) Waste Management.
- (j) Public Art; and
- (k) Planning Agreements

80. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in Attachment A.

## External Referrals

### Ausgrid

- 81. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
- 82. A response was received raising no objections to the proposed development.

### Sydney Airport

- 83. 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.
- 84. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity.

## Advertising and Notification

- 85. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 25 March 2025 and 23 April 2025. A total of 641 properties were notified and four (4) submissions were received.
- 86. The submissions raised the following issues:
  - (a) **Issue:** Construction noise

**Response:** a number of conditions are recommended to mitigate and manage demolition and construction noise such as restricted hours and noise limits

- (b) **Issue:** Traffic Impacts and vehicle access on Dalmeny Avenue

**Response:** The analysis in the Traffic Assessment compares traffic volumes generated by the approved industrial use on the site (18 trips in AM and PM periods) to the proposed use (13 in AM, 16 in the PM). This is an acceptable approach to determining if further traffic assessment is required for the proposed use.

Regardless of the approved development, the proposed use is expected to generate around 16 trips per hour, or 1 trip every 4 minutes, which is considered low levels of traffic generation and would not warrant traffic modelling. As a new development, the proposal is required to conform to Council's maximum limit on car parking and minimum number of bicycle parking, therefore, discouraging car ownership and encouraging walking and cycling.

The subject development is proposing 94 on-site car parking spaces, compared to the 127 spaces that are allowable under the Council's LEP. The proposal includes the provision of a new shared path along the south frontage of the site, further increasing pedestrian and cycling amenity for the area.

Further to this, the development underwent a planning proposal and design competition in which the basement and servicing entries off Dalmeny Avenue were tested and resolved as being the most appropriate for traffic impacts in the area.

- (c) **Issue:** Solar access and Overshadowing impacts to neighbours

**Response:** as outlined within this report, the site's proposal is within the desired building envelope and the design has appropriately managed the overshadowing and solar access impacts on surrounding neighbours.

- (d) **Issue:** Privacy

**Response:** the development has been designed to minimise direct overlooking between both buildings and to adjoining neighbours. The development complies with the minimum building separation and building setback controls.

- (e) **Issue:** Tree Retention

**Response:** whilst some tree removal was required to facilitate the development, tree replacement has been provided with a 2:1 ratio resulting in the development meeting the minimum tree canopy requirement and ensuring street trees are provided to the public domain along Rosebery and Dalmeny Avenue. Further, conditions have been imposed ensuring the protection of the existing trees on site during demolition and construction.

## Financial Contributions

### Contribution under Section 7.11 of the EP&A Act 1979

87. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan.
88. A condition relating to this local infrastructure contribution is recommended. The condition requires the contributions to be paid prior to the issue of a construction certificate.

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

89. The site is located within the Green Square affordable housing contribution area. As the proposed development includes additional floor space, a contribution is required at a rate of \$11,646.80 per square metre of total residential floor area being 15,145sqm and 81sqm of non-residential floor area, totalling \$5,301,157.49. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.
90. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable. A condition of consent is recommended requiring the payment of an affordable housing contribution prior to the issue of a construction certificate.

### Housing and Productivity Contribution

91. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
92. The site is located within the Greater Sydney region, the development is a type of residential development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.
93. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

### Relevant Legislation

94. Environmental Planning and Assessment Act 1979.
95. Heritage Act 1977.
96. Sydney Airspace Referral Act 1969

### Conclusion

97. The proposal seeks consent for the demolition of existing structures, excavation and construction of 8 storey mixed use development including 143 dwellings with a basement level and a ground floor cafe tenancy

98. The development has been subject of an alternative competitive design process and the WMK scheme was selected as the winning scheme. The proposal maintains the design integrity of the winning scheme, subject to conditions, and has been refined through the course of assessment to satisfactorily address the Design Advisory Panel and Selection Panel comments.
99. The proposal meets the requirements of Chapter 4 of the Housing State Environmental Planning Policy 2021 and is consistent with the design quality principles and objectives of the NSW Apartment Design Guide. The application has been assessed against and meets the relevant provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
100. The development achieves a high standard of architectural design, materials and detailing, well integrated landscaping and will contribute positively to the public domain. The proposal is appropriate in its setting and surrounding context. Overall, the proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
101. Matters raised by internal and external referrals have been adequately addressed, as discussed within this report.
102. The application was notified in accordance the requirements of the EP&A Regulations 2021 and the City's Public Participation Plan. Four (4) submissions were received. These submissions have been considered in the assessment of this application.
103. For the reasons detailed in this report, it is recommended that authority be delegated to the CEO to determine the application, following the conclusion of the public exhibition of the VPA and consideration of any public submissions received. It is recommended that the CEO consider granting deferred commencement development consent subject to the recommended conditions included in Attachment A.

**GRAHAM JAHN AM**

Chief Planner / Executive Director City Planning, Development and Transport

Kaitlin McCaffery, Specialist Planner