

Relevant Information for Central Sydney Planning Committee

FILE: D/2025/184 **DATE:** 18 September 2025

TO: The Central Sydney Planning Committee

FROM: Graham Jahn AM, Chief Planner / Executive Director City Planning,
Development and Transport

SUBJECT: Information Relevant To Item 4 – Development Application: 12-20 Rosebery
Avenue, Rosebery – D/2025/184

Alternative 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, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

(2) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the retail use must not exceed 0.015:1, for the residential use must not exceed 2.14 ~~3~~:1; and for the mixed-use must not exceed 2.15:1 calculated in accordance with the Sydney LEP 2012. For the purposes of the calculation of FSR, the Gross Floor Area of the retail component is 81sqm, for the residential component is 11,445sqm, and the total Gross Floor Area is 11,526sqm.

- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under Sydney LEP 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

Reason

To ensure the constructed development complies with the approved floor space ratio.

(3) BUILDING HEIGHT

- (a) The height of the building (for building A and B) must not exceed 28.83m, being RL 52.350 (AHD) for the lift overrun and to the top of the building and RL ~~50.70~~ **51.00** (AHD) to the parapet of the building **and RL 52.10 (AHD) to top of plant screening.**
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

Reason

To ensure the constructed development complies with the approved height.

(6) DESIGN MODIFICATIONS

- (a) The entrance to the lobby in building B is to be redesigned to create a high-quality entry experience:
 - (i) Increased landscaping and physical separation from the vehicle driveway provided.
 - (ii) Increased landscape presentation to Dalmeny Avenue.
 - (iii) Relocation of the hydrant booster southward and integration into the built fabric of the building. This must be accurately depicted/co-ordinated in plan and elevation. The fence line of B.G.03 may need to relocate further south to accommodate this.
- (b) ~~Remove drafting errors to show correct floor levels as per the updated flood report version C, August 2025.~~
- (c) The plans are to be amended to provide a target of 50% external solar shading (by area) to address summer solar heat gain through:
 - (i) external solar shading to the exposed glazing of the northern elevations of levels 1, 2 & 3 of both the Rosebery and Dalmeny Avenue buildings (50% effective at 12 midday in summer).
 - (ii) external solar shading to the exposed glazing of the western elevation of the Rosebery Avenue and Dalmeny Avenue buildings (50% effective at 3pm in summer). External shading is permitted to intrude in the 3m setback line from Rosebery Avenue for the upper

levels. Ground levels to both buildings are excluded from this requirement.

- (d) Additional privacy elements are to be incorporated into the private balcony balustrades **for the first two levels**, to provide adequate privacy to private open space from the public domain. This could be addressed via colour matched solid metal upstands being added behind the metal palisade balcony treatments up to a height of 760mm, **angled vertical louvres or via another alternative design option**.
- (e) Amend the balcony glazing extents / skylights in roof of apartments A.7.03 and A.7.05 to demonstrate a minimum of 2 hours winter solar access achieved to both living areas and private open space. The solar skylight analysis plan should be updated to adequately address this.
- (f) Studio Apartment B.G.04 is to be removed, with internal area reallocated to waste storage/loading, removal of all apartment glazing, and removal of external terrace and associated privacy screening which is to be replaced by landscaping.

The modifications are to be submitted to and approved by Council's Executive Director City Planning Development & Transport prior to the issue of a Construction Certificate.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(52) ALLOCATION OF PARKING

The number of car parking spaces to be provided for the development must comply with the table below **(except where modified as a result of Condition 5 above)**. Details confirming the parking numbers must be submitted to the satisfaction of the Registered Certifier prior to the issue of a Construction Certificate.

Car Parking Type	Number
Residential spaces	62
Accessible residential spaces	20
Residential visitor spaces	11
Car share parking	1
Motorcycle parking	9
Service vehicle spaces	1

Car Parking Type	Number
10.6m waste vehicle loading dock	1

Reason

To ensure the allocation of parking is in accordance with the Council's DCP.

(56) **PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MINOR WORKS)**

~~Prior to a Construction Certificate being issued, an archival photographic recording of the early 1960s building on site fronting Rosebery Avenue is to be prepared to Council's satisfaction. The recording is to be in digital form and prepared in accordance with the NSW Heritage Division guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record is to be submitted to Council to be lodged with Council's Archives.~~

~~The form of the recording is to be as follows:~~

- ~~(a) The Development Application number must be noted on the submitted information.~~
- ~~(b) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.~~
- ~~(c) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.~~
- ~~(d) The report is to be submitted on a USB or digital file transfer in PDF/A format, (created directly from the digital original), with the digital catalogue of images containing the following data for each location, image subject/description and date.~~
- ~~(e) The electronic images are to be taken with a minimum 8 megapixel camera, saved as JPEG TIFF or PDF files with a size of approximately 4-6MB, and cross referenced to the digital catalogue sheets and base plans. Choose only images that are necessary to document the process and avoid duplicate images.~~

Reason

~~To ensure appropriate archival documentation of the building.~~

(59) SITE AUDIT STATEMENT

~~Prior to the issue of a construction occupation certificate associated with the built form of the development (excluding building work directly related to remediation), a Section A Site Audit Statement must be obtained from a NSW Environment Protection Authority accredited Site Auditor and submitted to the Council's Area Planning Manager at email address:~~

Upon completion of the remediation works and prior to the issue of an Occupation Certificate, a Site Audit Report and a Site Audit Statement, prepared in accordance with the NSW Contaminated Land Management – Guidelines for the NSW Site Auditor Scheme 2017, which demonstrates the site is suitable for its approved land use, must be submitted to the Certifier.

A copy of the Site Audit Report and a Site Audit Statement must also be submitted to Council's Area Planning Manager for written approval prior to issue of an Occupation Certificate at the following address:

hbapplications@cityofsydney.nsw.gov.au

The Site Audit Statement must confirm that the site has been remediated in accordance with the approved Remedial Action Plan and clearly state that site is suitable for the proposed use.

- (a) In circumstances where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and must be approved by the Council's Health and Building Unit in writing through the Area Planning Manager before the Site Audit Statement is issued.
- (b) In circumstances where the Site Audit Statement conditions (if applicable) are not consistent with the consent, the development must not proceed until the inconsistency has been resolved to the satisfaction of Council (such as via a S4.55 modification of the consent pursuant to the provisions of the *Environmental Planning & Assessment Act 1979*).
- (c) **No Occupation Certificate is to be issued** by the Principal Certifier unless a Site Audit Statement has been submitted to and approved by Council in accordance with this condition.

Reason

To ensure that the site is appropriately remediated.

(60) LANDSCAPE OF THE SITE

- (a) A detailed landscape design including plans and details drawn to scale, and technical specification, by a registered landscape architect, must be submitted to and approved by Area Planning Manager prior to the issue of a Construction Certificate. These documents must include:
 - (i) Location of existing and proposed planting on the site including existing and proposed trees, planting in natural ground, and planting on structure.

- (ii) ~~Provide a 1m high and 500mm wide perimeter planter on the north and western edges of apartment B.G.04 private terrace to form a planter privacy screen.~~
 - (iii) Location and details of existing and proposed structures on the site including, but not limited to, paving, walls, services, furniture, shade structures, lighting and other features.
 - (iv) Details of earthworks and soil depths including finished levels and any mounding. The minimum soil depths for planting on structure must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding mulch and drainage layers.
 - (v) (Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.
 - (vi) Details of drainage, waterproofing and watering systems.
 - (vii) Landscape maintenance plan. This plan is to be complied with during occupation of the property.
- (b) All landscaping in the approved plan is to be complete prior to any Occupation Certificate being issued.

Reason

To ensure the development is supported by a good quality, buildable landscape scheme that meets the City's controls.

(61) ACCESSIBLE GREEN ROOFS

This condition applies to the communal terrace of level 1.

- (a) A detailed green roof design including plans and details drawn to scale, and technical specification, by a registered landscape architect, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. These documents must include:
 - (i) A statement that includes details of proposed use of the green roof, accessibility, and any noise and privacy treatments.
 - (ii) Location and details of existing and proposed services, walls, balustrades, hard surfaces, furniture, screens and shade structures, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.
 - (iii) Engineers report confirming structural capacity of building for proposed roof terrace loads.
 - (iv) Wind study (if applicable) confirming suitability of the roof for intended use.

- (v) Details of soil types and depth including any mounding. The minimum soil depths for planting on structure must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding mulch and drainage layers.
 - (vi) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.
 - (vii) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer.
 - (viii) Green roof maintenance plan. This plan is to be complied with during occupation of the property and must include any relevant maintenance methodology for safe working at height such as access requirements, location of any anchor points, gates, and transport of materials and green waste.
- (b) Prior to the issue of an Occupation Certificate, structural and waterproofing certifications for the green roof are to be submitted to and approved by the Principal Certifying Authority.
 - (c) All landscaping in the approved plan must be complete prior to the issue of an Occupation Certificate.

Reason

To ensure that the accessible green roof is designed to accommodate suitable landscaping and to ensure that adequate maintenance procedures are put in place.

(63) LANDSCAPE PLAN - TREES

- (a) The Landscape Plan prepared by Arcadia dated ~~11.02.2025~~ **18.07.2025** is not approved. A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. The plan must include:
 - (i) Replacement species for a *Ceratopetalum gummifera* (NSW Christmas Bush) in areas of deep soil with a species minimum mature height of 10m.
 - (ii) Setback new plantings of medium and large tree species by a minimum of 2m from the basement wall.
 - (iii) Demonstrate soil volumes and depths for the on-structure tree planting are in accordance with Volume 2 of the Sydney Landscape Code.
 - (iv) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features.

- (v) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths (excluding drainage and mulch) for planting structure must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers. Soil volume and types must meet the applicable requirement of the City of Sydney Landscape Code Volumes 1 and 2.
- (vi) Location, numbers, type and supply of plant species, with reference to Australian Standard 2303 'Tree stock for landscape use' and meet the requirements of this standard at the time of planting;
- (vii) The design must provide a minimum 15% canopy cover across the site. This must be provided by 30% of the species having a mature height of 6-8 metres, 30% mature heights of 10-15 metres and 40% mature heights of 20-30 metres;.
- (viii) Tree selection shall include a diverse range of species selected from the City of Sydney Tree Species List.
- (ix) New tree(s) must be planted in natural ground with adequate soil volumes to allow maturity to be achieved. Planter boxes will not be accepted for tree planting.
- (x) New tree(s) must be appropriately located away from existing buildings and structures to allow maturity to be achieved without restriction.
- (xi) Details of planting procedure and maintenance.
- (xii) Details of drainage, waterproofing and watering systems.
- (b) Prior to the issue of a Construction Certificate, a tree maintenance plan is to be submitted to and approved by the Council's Area Planning Manager.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

Reason

To ensure sufficient canopy cover is provided and healthy trees are established on the site.

(64) SPECIAL CONDITION- UPDATING OF RAP AND ARBORIST'S REPORT

The RAP and Arborist's Report must be updated and submitted to the City of Sydney Tree Team for approval prior to the release of the Construction Certificate. The RAP and Arborist's Report must ensure trees to be retained are not adversely impacted by the proposed works:

- (a) ~~Update RAP to include tree sensitive methods within the Tree Protection Zones of Trees 5 and 7~~
- (b) ~~Update Arborist's Report to include method statement and arboriculture inspections for the remediation works within the Tree Protection Zones of Trees 5 and 7~~

- (c) ~~Update Arborist Report to include a Pruning Specification for any street trees which will need to be pruned for clearance clearance/access, noting only minor pruning works will be approved~~
- (d) ***The wording in Part 9.2.8 of the Arboricultural Impact Assessment (AIA) must be amended as follows:***

During excavations within the SRZ, the Project Arborist must notify and consult with Council's Urban Forest Team prior to undertaking any proposed root pruning. Root pruning of any root greater than 40mm in diameter must not proceed without prior assessment and written approval from Council's Tree Management Officer. If the Urban Forest Team determines that the proposed root pruning will significantly impact the tree's condition, the root must be retained and excavations avoided. Where excavation cannot proceed, the contaminated soil must instead be capped at the existing soil grade above the roots.

Reason

To ensure the tree retention is adequately undertaken and managed.

(71) FLOOD PLANNING LEVELS

The development must be constructed to comply with the recommended flood planning levels indicated in Table 1 of the report titled Flood Impact Assessment prepared by BG&E consultants, **revision C**, dated ~~Feb~~ **August** 2025.

Details must be submitted to the Registered Certifier prior to the issue of any Construction Certificate demonstrating that the development will comply with the recommended flood planning levels.

Reason

To ensure the development complies with the recommended flood planning levels.

(114) CONSTRUCTED FLOOR LEVELS

A certification report prepared by a suitably qualified practitioner engineer (NPER) must be submitted to the Principal Certifier prior to issue of any Occupation certificate stating that the development has been constructed and the required levels achieved in accordance with the recommendations of the report titled Flood Impact Assessment prepared by BG&E consultants, **revision C**, dated ~~Feb~~ **August** 2025.

Reason

To ensure the development achieves the required floor levels.

Background

In correspondences dated 15 September 2025, the applicant submitted a request to modify some of the recommended conditions. The requested modifications are discussed below:

Requested Modification	Comments
Condition 2(a) restricts the floor space ratio for both the non-residential and residential floor areas of the development.	The FSR for the residential component has been updated to reflect the correct number, as clarified by the applicant.
Condition 3(a) restricts the building height to the top of the parapet. 50.70 as stated was to the top of the roof slab edge and not parapet.	The wording has been amended to reflect the parapet RL as clarified by the applicant.
Condition 6(b) requires the plans to be updated to reflect the correct floor levels as per the updated flood report. It was clarified that the current architectural plans show the correct levels as per the floor report.	6 (b) has been removed as it was clarified that the correct floor levels were updated on the plans, as required by the amended (August 2025 floor report).
<p>Condition 6(c) requires a target of 50% of external solar shading be provided to address solar heat gain, for the northern and western facades.</p> <p>The applicant requested that this condition be removed as this is a new request that was not made during the RFI process and that it is an arbitrary target with no performance measure outcome.</p> <p>The applicant also argues that the apartments have been designed to meet BASIX requirements and that meeting this condition would significantly change the approved façade design as approved in the winning scheme.</p> <p>A more comprehensive written response from the applicant is provided at attachment A of this document.</p>	<p>The condition is recommended to remain for the following reasons:</p> <p>Significant areas of exposed glazing on west facing facades increases direct summer heat loads. When combined with low amounts of natural ventilation this results in poor indoor air quality and increased reliance on artificial cooling.</p> <p>The most effective response is a combination of less glazing and external shading as it allows for more natural ventilation and better indoor air quality.</p> <p>The competition jury report required the design to be modified to include shading.</p> <p>DAP advised that external shading is required. These requests were intentionally general to allow the applicant flexibility to provide a well thought out design approach. The amendments made were not however considered sufficient and therefore, more specific design modification condition is recommended.</p>

Requested Modification	Comments
	<p>The Sustainable Building SEPP allows Councils to manage external shading because it does not intersect with thermal performance which relates to the energy efficiency of the envelope only.</p> <p>The NatHERS simulation model (used under the Sustainable Buildings SEPP) does not perform effectively in Sydney's climate.</p> <p>Councils experience is that reliance on performance glazing to comply with NatHERS, particularly on western facades, results in apartments that overheat in summer.</p> <p>Overheating affects resident health and requires them to use costly air conditioning, including in otherwise benign climate conditions. A skilled design, as intended by the condition, can resolve shading in summer and solar access in winter.</p>
<p>Condition 6(d) requires additional privacy elements to be incorporated into the private balcony balustrades to provide adequate privacy to the private open space from the public domain.</p> <p>The applicant requests that this condition be deleted as that privacy from the public domain has been adequately addressed through a careful design.</p> <p>Further, the requested introduction of 760mm high solid balcony panels is considered to be a significant departure from the competition approved façade design that impacts negatively upon the apartment's outlook and amenity.</p> <p>Attachment A provides view diagrams from the street which the applicant argues shows that direct views from the street into the apartment does not occur.</p>	<p>The subject condition is recommended to be amended to apply to the lower floors</p> <p>The intent of the condition is to mitigate views from the public domain into the private open space (balconies) of the apartments rather than just the living areas of the apartments.</p> <p>Council argues that the diagrams provided in Attachment A highlight that there are direct views from the public domain into the balconies and into at least 1 living area being the first floor apartment.</p> <p>Further to this, providing a more solid balustrade helps to strengthen the amenity for the occupants by reinforcing this as a private area.</p> <p>The wording of the condition has been significantly amended to a design solution and only relates to the first two levels of the building which are most impacted.</p>
<p>Condition 52 states the number of car parking spaces to be provided for the development. Compliance with Condition 5 would change this number</p>	<p>The wording of this condition has been amended to allow an exception as modified by condition 5.</p>

Requested Modification	Comments
Condition 56 requires a photographic archival documentation be provided of the early 1960's building on site fronting Rosebery Avenue however, there are no heritage buildings on site.	It is unreasonable to request this in this instance as there are no heritage significant buildings on site. It is therefore recommended that the condition be deleted.
Condition 59 needs to be amended as the site validation report cannot be prepared prior to construction as the RAP methodology adopts a cap and contain approach whereby the basement slab will cap any residual contamination. Therefore, suggested wording that this is satisfied prior to occupation certificate.	It is acknowledged and accepted that the that the basement slab must be built as part of the remediation strategy for the site.
Condition 60(a)(ii) required privacy screening for B.G.04 however, Condition 6(f) requires that studio to be removed and used for waste storage.	It is unnecessary to require privacy screening for a unit which will be removed through the design modification condition.
61 relates to the details and management of accessible green roofs. The applicant questioned the need for this condition as no accessible green roofs were proposed.	This condition relates to level 1 communal terrace area. Additional wording has been added to clarify this.
It was requested that Condition 63(a) be updated to reference the latest landscape plan being 18 July 2023 and Condition 63(a)(vii) fix an error.	This has been updated.
Update Condition 64 to reflect the updated RAP and Arborist Report	The condition was outdated and (iv) needed to be added.
Condition 71 and 114 reference an older version of the floor report and needed to be updated.	Conditions updated to reference the August 2025 floor report.

Prepared by: Kaitlin McCaffery, Specialist Planner

Approved

A handwritten signature in black ink, appearing to read 'GJH', is positioned to the right of the 'Approved' text.

GRAHAM JAHN AM

Chief Planner / Executive Director City
Planning, Development and Transport