

Mr Craig Swift-McNair  
General Manager  
Woollahra Municipal Council  
PO Box 61  
DOUBLE BAY NSW 2028

Via: [records@woollahra.nsw.gov.au](mailto:records@woollahra.nsw.gov.au)

Dear Mr Swift-McNair

**Planning proposal PP-2020-4096 to amend Woollahra Local Environmental Plan 2014**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to interpret the term 'desired future character' in Woollahra Local Environmental Plan (LEP) 2014.

The Department acknowledges Council's intent to provide clarity around the term 'desired future character' in the Woollahra LEP 2014. The Department has undertaken a detailed assessment of the planning proposal and determined that it should not progress.

The proposal contains ambiguity and inconsistencies as to which provisions in the LEP are to be cross referenced in the definition for 'desired future character'. The proposed approach to interpreting 'desired future character' is considered rigid and does not consider the application of Clause 4.6 of the LEP and/or instances where there are 'existing use rights' where variation may be needed. The proposed term is also not used in any other LEP and is not defined by the Standard Instrument—Principal Local Environmental Plan.

As such, as delegate of the Minister for Planning and Homes, I have determined that the planning proposal should not proceed.

We recommend council use its DCP to consider local character and provide guidance that supports the development standards and objectives of its LEP. This approach can support local character by setting the overall context of local areas and providing controls to realise that vision.

Should you have any enquiries about this matter, I have arranged for Ms Laura Locke, Director Eastern and South Districts to assist you. Ms Locke can be contacted on 8275 1307.

Yours sincerely



**Amanda Harvey**  
**Executive Director, Metro East and South**  
**Planning and Land Use Strategy**  
24 August 2022

Encl: Gateway determination



## Gateway Determination

**Planning proposal (Department Ref: PP-2020-4096):** to interpret the term 'desired future character' in the Woollahra Local Environmental Plan 2014.

I, the Executive Director, Metro East and South, at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Woollahra Local Environmental Plan (LEP) 2014 to interpret the term 'desired future character' should not proceed for the following reasons:

1. The planning proposal does not provide a clear explanation of provisions, as there is ambiguity and inconsistencies as to which provisions in the Woollahra LEP 2014 are intended to be cross referenced in the definition for 'desired future character'. As a result, the proposed approach is difficult to interpret and apply.
2. The proposed approach to interpreting 'desired future character' by cross referencing existing development standards in Woollahra LEP 2014 does not allow for merit assessment of individual development proposals including the application of Clause 4.6 of the LEP and/or instances where there are 'existing use rights'.
3. The aim of plan, objectives of certain zones and development standards in the Woollahra LEP 2014 seek to ensure development is consistent or compatible with anticipated or expected future character. To define 'desired future character' by referring to these provisions appears to be circular reasoning and is therefore unnecessary.
4. This term is not defined under the *Standard Instrument—Principal Local Environmental Plan* nor has been defined in any other LEP.
5. Consideration of intended local character is better placed in Council's DCP as this sets the overall context of local areas and provides detailed planning controls and principles that support development standards in the LEP.

Dated 24th day of August 2022.

A handwritten signature in blue ink that reads 'Amanda Harvey'.

**Amanda Harvey**  
Executive Director, Metro East and South  
Department of Planning and Environment

**Delegate of the Minister for Planning and  
Homes**