

## Gateway Determination

**Planning proposal (Department Ref: PP\_2019\_BSIDE\_005\_00):** to increase the maximum building height shown for the western part of the land at 146-154 O'Riordan Street, Mascot from 22m to 44m.

I, the Director, Eastern and South Districts at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Botany Bay Local Environmental Plan (LEP) 2013 to increase the maximum building height shown for the western part of the land at 146-154 O'Riordan Street, Mascot from 22m to 44m should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated and amended to:
  - (a) Identify the lots and deposited plans of the subject site;
  - (b) Provide an updated project timeline, outlining the anticipated timeframes for the plan making process;
  - (c) Clearly explain the intended use for the site as envisaged under the submitted concept design;
  - (d) Detail and justify the proposed building height plane clause;
  - (e) Clearly address consistency with Ministerial Direction 3.5: Development near regulated airports and defence airfields.
  - (f) Provide an amended Urban Design Report which models the building height plane clause, including its visual impact and overshadowing impact.
2. Prior to the commencement of community consultation, consultation must occur with Sydney Airport and the Commonwealth Department of Infrastructure, Regional Development and Cities. Should it be advised that permission by the Commonwealth is required in accordance with (5)(d) of s9.1 Direction 3.5 and/or the Airports Act 1996, this permission must be granted prior to the commencement of community consultation.
3. Prior to community consultation, the amended planning proposal responding to conditions 1 and 2 is to be forwarded to the Department for review and endorsement.
4. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning

proposals as identified in section 6.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment, 2018).

5. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- Sydney Water;
- Heritage, Department of Premier and Cabinet; and
- Transport for NSW.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

6. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
7. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
8. The time frame for completing the LEP is to be 12 months following the date of the Gateway determination.

Dated 17 day of December 2019.



**Brendan Metcalfe**  
**A/Director, Eastern and South Districts**  
**Greater Sydney, Place and Infrastructure**  
**Department of Planning, Industry and**  
**Environment**

**Delegate of the Minister for Planning and**  
**Public Spaces**