



Ms Monica Barone  
Chief Executive Officer  
City of Sydney Council  
GPO Box 1591  
SYDNEY NSW 2001

Dear Ms Barone

**Planning proposal PP\_2018\_SYDNE\_007\_00 to amend Sydney Local Environment Plan 2012**

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 allow bonus floor space and height controls for non-residential development to facilitate the delivery of commercial premises at 30-62 Barcom Avenue, Darlinghurst.

As delegate of the Minister of Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

The intended outcomes and explanation of provisions of the planning proposal do not align. The Department consulted with Council on this matter and Council has advised what will permit the additional height and floor space. Consequently, the Department has included a Gateway condition requiring the objectives, intended outcomes and explanation of provisions to be updated in the planning proposal report.

The planning proposal is to be amended to remove the provision for a 6-star National Australian Built Environment Rating System (NABERS) Energy Commitment Agreement. This provision would restrict the use of acceptable verification methods to demonstrate energy efficiency in the National Construction Code (NCC) 2019, require detailed building design to be known at the planning proposal stage and duplicate the requirements of the site-specific amendment to the Sydney DCP 2012. The Department fully supports sustainable development outcomes in the natural and built environment, including water and energy efficiency. Removal of this provision from the planning proposal will not prevent appropriate energy efficiency standards being achieved through the NCC 2019 and the site-specific DCP.

I have considered Council's request to be the local plan-making authority and have determined to condition the Gateway for Council to be the local plan-making authority. However, the revised planning proposal will have to be provided to the Department for review and approval prior to community and agency consultation.

The amending local environmental plan (LEP) is to be finalised within 12 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 8 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister for Planning and Public Spaces may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Kate Masters to assist you. Ms Masters can be contacted on 9274 6321.

Yours sincerely

 11 July 2019  
**Stephen Murray**  
Executive Director, Regions

Encl: Gateway determination