



Contact: Megan Hollingsworth
Phone: (02) 8575 4116
Fax: (02) 9228 6244
Email: Megan.Hollingsworth@planning.nsw.gov.au
Postal: GPO Box 39, Sydney NSW 2001

Our ref: PP_2013_MARRI_003_00 (13/18552)
Your ref: 4738

Mr Brian Barrett
General Manager
Marrickville Council
PO Box 14
PETERSHAM NSW 2049

Dear Mr Barrett,

Planning proposal to amend Marrickville Local Environmental Plan 2011

I am writing in response to your Council's request for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to make various housekeeping amendments including: amending the zoning, Floor Space Ratio (FSR) and building height provisions for various sites; amending the Land Reservation Acquisition Map; including a new item in Schedule 1 – Additional Permitted Uses; extending land to which Schedule 5 – Environmental Heritage applies; and amending various clauses within Marrickville Local Environmental Plan (LEP) 2011.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to variations as outlined by the conditions in the attached Gateway determination and explained as follows.

As discussed and agreed with Council, the proposed amendment to Clause 5.4 *Controls relating to miscellaneous permissible uses* should be removed from the planning proposal at this stage until further investigation and evidence is prepared considering how local circumstances may inform a local solution. Council should work with Planning and Infrastructure on a new planning proposal to limit the size and location of boarding houses.

Council's intent to apply discretion when requesting noise attenuation measures for minor development works in areas subject to Clause 6.5 *Development in areas subject to aircraft noise* is supported. However, it is considered that amending the wording of the current model clause may undermine the application of the provision, and the inclusion of a sub-clause may be a more effective measure to assist Council achieve the intended outcome. Therefore, Council should amend the planning proposal to clarify the preferred approach and consult with Planning and Infrastructure on the content of the amendment.

Additionally, amendments to Clause 6.11 *Use of dwelling houses in business and industrial zones* are not necessary as they were implemented via the making of Amendment No.1 to Marrickville LEP 2011 in October 2013, hence can be deleted from this amendment.

It is also noted that SJB Planning is currently undertaking a traffic and design study to support the changes proposed to the zoning and FSR for land at 31-41 Bridge Street, Stanmore which assesses the traffic and built form impacts of the proposal. As per Council's suggestion, if this study is not finalised prior to commencement of public exhibition, Council is to remove the proposed zoning and FSR amendments from this proposal and consider the matter separately.

I have also agreed the planning proposal's inconsistency with S117 Direction 1.1 Business and Industrial Zones is of minor significance. No further approval is required in relation to this Direction.

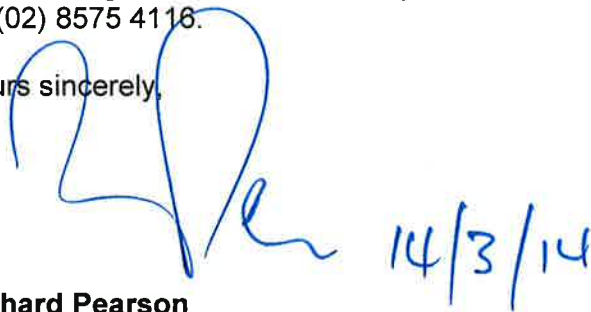
The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following 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 6 weeks prior to the projected publication date. A copy of the request should be forwarded to Planning and Infrastructure for administrative purposes.

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 may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Ms Hollingsworth of the Planning and Infrastructure regional office to assist you. Ms Hollingsworth can be contacted on (02) 8575 4116.

Yours sincerely,

A handwritten signature in blue ink, followed by the date '14/3/14' also in blue ink.

Richard Pearson
Deputy Director General
Growth Planning & Delivery

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Agency Ref: PP_2013_MARRI_003_00): to make various housekeeping amendments to the Marrickville LEP 2011.

I, the Deputy Director General, Growth Planning and Delivery at Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Marrickville Local Environmental Plan (LEP) 2011 to make various housekeeping amendments including: amending the zoning, Floor Space Ratio (FSR) and building height provisions for various sites; amending the Land Reservation Acquisition Map; including a new item in Schedule 1 – Additional Permitted Uses; extending land to which Schedule 5 – Environmental Heritage applies; and amending various clauses within the LEP should proceed subject to the following conditions:

1. Council is to amend the planning proposal prior to public exhibition to clarify the preferred approach to amending Clause 6.5 – *Development in areas subject to aircraft noise* being the inclusion of a sub-clause for minor alterations and additions, rather than through an amendment to the wording of the current model clause.
2. Prior to undertaking public exhibition, Council is to amend the planning proposal to remove proposed changes to Clauses 5.4 - *Controls relating to miscellaneous permissible uses* and 6.11 - *Use of dwelling houses in business and industrial zones*.
3. If SJB Planning's traffic and design study for land at 31- 41 Bridge Street, Stanmore is not finalised prior to commencement of public exhibition, Council is to amend the planning proposal to remove amendments proposed to the zoning and FSR for this land. If the study is finalised prior to commencement of public exhibition, it should be included as part of the exhibition material.
4. Prior to undertaking public exhibition, Council is to update the planning proposal to:
 - remove reference to 'Attachment O' within the planning proposal, as this is an error;
 - ensure all maps, including land zoning and land reservation acquisition maps are at an appropriate scale, correctly reflect all proposed changes and clearly identify the subject lands;
 - include appropriate acquisition authority in clause 5.1 - *Relevant acquisition authority*, to reflect proposed changes to the Land Reservation Acquisition Map;
 - remove 'Approach 1' from the planning proposal and clarify that Council's preferred approach is 'Approach 2,' which seeks to include the Probable Maximum Flood within the Flood Planning Area. Council is to amend the Flood Planning Maps accordingly.
5. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning 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 5.5.2 of *A Guide to Preparing LEPs (Planning & Infrastructure 2013)*.

6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Office of Environment and Heritage
- Essential Energy
- Sydney Catchment Authority
- Road and Maritime Services
- NSW Police Force
- NSW Fire and Rescue

Each public authority 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.

7. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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).

8. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 14 day of March 2014.



Richard Pearson
Deputy Director General
Growth Planning & Delivery
Planning & Infrastructure

Delegate of the Minister for Planning & Infrastructure



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Marrickville Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_MARRI_003_00	Planning proposal to make various housekeeping amendments to the Marrickville LEP 2011.

In exercising the Minister's functions under section 59, the Council must comply with Planning and Infrastructure's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 14 March 2014

Richard Pearson
Deputy Director General
Growth Planning & Delivery
Planning & Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by Planning and Infrastructure following receipt of the planning proposal
- Planning and Infrastructure will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure Planning and Infrastructure's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to Planning and Infrastructure with the RPA's request to have the LEP notified

Table 1 – To be completed by Planning and Infrastructure

Stage	Date/Details
Planning Proposal Number	PP_2013_MARRI_003_00
Date Sent to P&I under s56	9/10/2013
Date considered at LEP Review Panel	13/02/2014
Gateway determination date	14/03/2014

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to P&I requesting notification		

Table 3 – To be completed by Planning and Infrastructure

Stage	Date/Details
Notification Date and details	

Additional relevant information: