



Gateway Determination

Planning proposal (Department Ref: PP-2021-4641): to introduce alternative floor space ratio and building height and site specific provisions for land at 99-117 Birrell Street, Waverley.

I, the A/Executive Director, Eastern Harbour City 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 Waverley Local Environmental Plan (LEP) 2012 to introduce alternative floor space ratio and building height and site specific provisions for land at 99-117 Birrell Street, Waverley should proceed subject to the following conditions:

1. The planning proposal (including relevant attachments) is to be revised prior to exhibition to address the matters set out below:
 - (a) Update the Explanation of Provisions to explain that the bonus/incentive provisions are only available if the properties are developed as part of the broader War Memorial Hospital site
 - (b) Provide a plain English explanation of the high-performance building standards in the body of the planning proposal, and that the alternative building height and FSR can only be achieved if the above standards are met; include a commentary addressing State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 by stating that the proposed higher BASIX commitments form part of an incentive provision.
 - (c) Remove all references to affordable housing contributions where they relate to an affordable housing contributions scheme prepared in accordance with State Environmental Planning Policy No. 70 Affordable Housing (Revised Schemes), as well as all references to monetary contributions or payment for affordable housing.
 - (d) Update the discussion on section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land to summarise the results of the preliminary site investigation for the subject Birrell Street site and include the full terms for any acronyms.
 - (e) Remove reference to section 9.1 Ministerial Direction 7.1, which was revoked on 9 November 2020.
 - (f) Address the Waverley Local Housing Strategy, which was endorsed by the Department on 16 July 2021.
 - (g) Update Part 6 Project Timeline to be consistent with the Gateway determination.
2. 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).
3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act:
- Transport for NSW;
 - NSW Health;
 - Sydney Water;
 - Heritage NSW – Department of Premier and Cabinet; and
 - Ausgrid.

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.

4. 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).
5. Council is not authorised to be the local plan-making authority to make this plan.
6. The time frame for completing the LEP is to be 9 months following the date of the Gateway determination.
7. The planning proposal must be reported to council for a final recommendation no later than 7 months from the date of the Gateway determination.

Dated 17 September 2021.



Laura Locke
A/Executive Director, Eastern Harbour City
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning and
Public Spaces