

## Gateway Determination

**Planning proposal (Department Ref: PP-2021\_5704):** to amend the Willoughby Local Environmental Plan (LEP) 2012 for land at 9-11 Nelson Street, Chatswood to rezone from R3 Medium Density Residential to B4 Mixed Use, increase the maximum height of buildings from 12m to 90m, increase the maximum floor space ratio from 0.9:1 to 6:1 and associated clauses.

I, the Director 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 Willoughby Local Environmental Plan (LEP) 2012 to rezone, increase the maximum height of buildings and increase the maximum floor space ratio should proceed subject to the following conditions:

1. Prior to community consultation the proposal is to be updated to include:
  - (a) provide a consolidated revised proposal to include the documents considered by Council at their meeting 13 September 2021 and the updated appendices listed in the response to Request for Additional Information letter dated 23 June 2021, ensuring that the file names for the documents are clearly labelled as 'exhibition version';
  - (b) the figure for both the AM and PM peak times and in the supporting traffic report;
  - (c) add additional information in the objectives and intended outcomes to provide the number of jobs and dwellings as a result of the proposed increase to the planning controls;
  - (d) existing Active Street Frontages, Special Provisions Map and Lot Size Map;
  - (e) prepare and include digital maps for exhibition in the spatial viewer;
  - (f) incorporate the proposed changes outlined in the Council resolution to apply clause 4.4B Minimum non-residential floor space in the Mixed Use Zone;
  - (g) provide a plain English explanation in the planning proposal for the introduction of new clauses including the sun access provisions and the minimum non-residential which specifies a 17% FSR for non-residential uses;
  - (h) include an assessment of the proposal against the relevant priorities and actions of the Council endorsed Willoughby Local Housing Strategy;

- (i) correct the Local Strategic Planning Statement 'Priority 2' – enhancing walking and cycling connections to Willoughby's urban area, local centres and landscape features to state 'Priority 3';
  - (j) remove or update reference to clause 6.12 Size of shops in B3 and B4 in Chatswood as this clause is proposed to be removed in the Comprehensive LEP;
  - (k) provide additional detailed shadow diagrams to show the full degree of overshadowing to the neighbouring properties including the future developments at 613-627 Pacific Highway and 629-639 Pacific Highway, South Chatswood HCA and Artarmon HCA;
  - (l) address all of the following relevant Section 9.1 Ministerial Directions:
    - 2.6 Remediation of Contaminated Land;
    - 3.5 Development Near Regulated Airports and Defence Airfields;
    - 4.1 Acid Sulfate Soils; and
    - 6.3 Site Specific Provisions
  - (m) remove reference to revoked Directions;
  - (n) address SEPP (Housing) 2021 and remove reference to repealed SEPPs;
  - (o) Council should consider whether the planning proposal is likely to impact upon significant regional or district views for neighbouring properties and if a view sharing analysis should be prepared to support the proposal during exhibition;
  - (p) revise Table 4 Surrounding Planning Proposals on pages 18 and 19 to state the correct planning controls (54-56 Anderson Street, Chatswood; and 58 Anderson Street, Chatswood).
  - (q) consultation is required with the Department of Transport, Infrastructure, Regional Development and Communications (DTIRDC);
  - (r) a project timeline based on the issuing of this Gateway determination; and
  - (s) ensure any relevant updates required as part of the Gateway for the Comprehensive Planning Proposal LEP are updated in this planning proposal.
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
  - (a) 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 *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

3. 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:
  - Transport for NSW;
  - Ausgrid;
  - Sydney Water Corporation;
  - Department Education;
  - Department Health (Northern Sydney LHD);
  - Sydney Airport Corporation Limited (SACL); and
  - Airservices Australia.

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. 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.
6. The planning proposal must commence exhibition within **3 months** from the date of the Gateway determination.
7. The planning proposal must be reported to Council for a final recommendation **6 months** from the date of the Gateway determination.
8. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated 28<sup>th</sup> day of February 2022.



**Brendan Metcalfe**  
**Director, North District**  
**Eastern Harbour City**  
**Department of Planning and Environment**

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