

Gateway Determination

Planning proposal (Department Ref: PP-2021-7451): to amend the North Sydney LEP 2013 as it applies to 391-423 Pacific Highway, 3-15 Falcon Street and 8 Alexander Street known as the Five Ways Triangle Site, Crows Nest by increasing the maximum building height from 16m to 62.5m, introducing an FSR of 5.8:1 and increasing the minimum non-residential FSR from 0.5:1 to 2.5:1.

I, the Acting Executive Director, Metro Central and North at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) that an amendment to the North Sydney Local Environmental Plan 2013 to increase the maximum building height, introduce an FSR and increase the minimum non-residential FSR should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to address the following:
 - (a) note the adopted North Sydney DCP 2013 amendment that commenced on 6 January 2023 and removing the reference to a site-specific DCP that is no longer required;
 - (b) correctly refer to the new and updated supporting documentation;
 - (c) address Ministerial Direction 5.3 Development Near Regulated Airports and Defence Airfields and the proposed height's exceedance of the Obstacle Limitation Surface for Sydney Airport;
 - (d) address the proposal's inconsistent street wall height with the St Leonards and Crows Nest 2036 Plan; and
 - (e) include an updated timeline based on the issuing of the Gateway determination.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working 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 *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

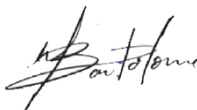
Exhibition must commence within **3 months** following the date of the gateway determination.
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:

- Transport for NSW;
- Sydney Metro;
- North Sydney Council;
- Ausgrid;
- Sydney Water Corporation;
- NSW Department of Education / Schools Infrastructure NSW;
- NSW Department of Health;
- Commonwealth Department of Transport, Infrastructure, Regional Development, Communications and the Arts (DTIRDCA);
- Sydney Airport;
- Civil Aviation Safety Authority (CASA); and
- Airservices Australia.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 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 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).
5. The Panel as planning proposal authority planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A 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 applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The LEP should be completed within **9 months** of the date of the Gateway determination.

Dated 2nd day of March 2023.



Cid Bartolome
Acting Executive Director
Metro Central and North
Department of Planning and Environment
Delegate of the Minister for Planning and Homes