

Gateway Determination

Planning proposal (Department Ref: PP-2022-1646): to introduce alternative floor space ratio and building height and site-specific provisions for land at 136-148 New South Head Road, Edgecliff.

I, the Executive Director, Metro East and South at the Department of Planning 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 Woollahra Local Environmental Plan (LEP) 2014 to introduce alternative floor space ratio and building height and site-specific provisions for land at 136-148 New South Head Road, Edgecliff should proceed subject to the following conditions:

1. The planning proposal is to be revised prior to exhibition to address the matters set out below:
 - a) Provide a plain-English explanation of the planning proposal that covers all aspects of the site-specific provision. An updated draft clause may be provided with an advisory note that it is an example only and will be subject to legal drafting by Parliamentary Counsel, should the proposal progress to finalisation.
 - b) Clarify that the proposal seeks to introduce a local provision that allows alternative maximum height of buildings and floor space ratio (FSR) if certain requirements are met, as such the existing maximum height of buildings and FSR controls will remain in the LEP as base controls.
 - c) Remove reference to “urban design and planning strategy and public domain plan” as a matter of consideration from the design excellence provision.
 - d) Remove all references to community infrastructure and affordable housing requirements (which include the recoupment of cost of provision) from the proposal.
 - e) Remove the site-specific heritage conservation requirement as this is already addressed via Clause 5.10 *Heritage conservation* of the Standard Instrument LEP.
 - f) Amend the proposed minimum non-residential floor space ratio from 3:1 to 1.6:1; and remove the proposed maximum non-residential FSR of 3.5:1. Provide an economic analysis to test the feasibility of a minimum non-residential FSR of 1.6:1 or a higher quantum that takes into consideration the growth scenarios in the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy.
 - g) Amend the proposed alternative height of buildings control from 42m to 46m, subject to further design testing of the floor-to-floor heights currently shown in the indicative concept scheme against the floor-to-ceiling heights provisions of the Apartment Design Guide, the requirements of the National Construction Code and the outcomes of the economic testing outlined in item f) above.
 - h) Outline the matters to be addressed in the site-specific Development Control Plan.
 - i) Clarify Council’s intent to establish a “design review panel” or “design advisory panel” to ensure design excellence is achieved for future development and utilise consistent terminology throughout the document.

- j) Replace existing reference to “business” zones (i.e. “B” zones) with the new employment zones (i.e. “E” and “MU” zones) as a result of the Department’s Employment Zones Reform work.
 - k) Include extracts of relevant existing LEP maps that apply to the site, including Land Zoning, Floor Space Ratio, Height of Buildings, Heritage and Land Acquisition Reservation maps.
 - l) Explain the reasons for identifying the site on a new Key Sites Map; or alternatively, remove any reference to such a map if it is not required.
 - m) Include commentary that addresses the relevant provisions of the Woollahra Local Housing Strategy and relevant requirements of the Department’s approval of the Strategy.
 - n) Confirm whether the site is identified as “flood-prone land” as defined in the *NSW Floodplain Development Manual 2005* when addressing section 9.1 Direction – 4.1 *Flooding*.
 - o) Provide an updated discussion to demonstrate that the inconsistency with section 9.1 Direction 1.4 – *Site Specific Provisions* is justified in accordance with the terms of the direction.
 - p) Provide written explanation of the potential overshadowing impacts on the property at 160 New South Head Road to supplement the “sun-eye diagrams” in the concept scheme; and include additional shadow analysis relating to the proposed built forms and public plaza areas on the southern side of New South Head Road under the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy*.
 - q) Confirm the location of the apartments within 235-287 New South Head Road (known as “Eastpoint tower”) to which the view sharing modelling in the concept scheme relates to.
 - r) Update the project timeline in accordance with the requirements 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 Guideline* (Department of Planning and Environment, 2022) 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 Guideline* (Department of Planning and Environment, 2022).

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
- Environment and Heritage Group, Department of Planning and Environment
- Ausgrid
- Sydney Water

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 20 working 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. 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 8 months following the date of the Gateway determination.
7. The planning proposal must be reported to council for a final recommendation no later than 6 months from the date of the Gateway determination.

Dated 21st day of April 2023.



Amanda Harvey
Executive Director, Metro East and South
Department of Planning and Environment

Delegate of the Minister for Planning and
Public Spaces