

**ATTACHMENT B**

**GATEWAY DETERMINATION FROM  
THE DEPARTMENT OF PLANNING AND  
INFRASTRUCTURE  
DATED 13 AUGUST 2013**





Ms Monica Barone  
General Manager  
City of Sydney Council  
GPO Box 1591  
SYDNEY NSW 2001

13/12683

Dear Ms Barone,

**Planning proposal to amend Sydney Local Environmental Plan 2012**

I am writing in response to your Council's letter dated 23 July 2013 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in respect of the planning proposal to amend Clause 6.21(7)(b) of Sydney Local Environmental Plan 2012. The proposed amendment is to ensure that the floor space incentive - which may be awarded for successfully demonstrating design excellence - includes up to 10% of any applicable accommodation floor space under Division 1 of the LEP or community floor space under Division 2 of the LEP, rather than only as a percentage of the FSR shown on the Floor Space Ratio Map.

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

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has accepted this delegation. 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 6 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 the Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department 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.

# ATTACHMENT B

Should you have any queries in regard to this matter, please contact Wayne Williamson of the Sydney Region East office of the Department on (02) 8575 4105

Yours sincerely,

*Grant* 13/8/13

**Juliet Grant  
Regional Director  
Sydney Region East  
Planning Operations and Regional Delivery**

## Gateway Determination

**Planning proposal (Department Ref: PP\_2013\_SYDNE\_008\_00):** to amend Clause 6.21(7)(b) in Sydney LEP 2012 so that, where a site is eligible for additional accommodation or community floor space, the potential 10% design excellence incentive is calculated based on the combined total FSR of that site.

I, the Regional Director, Sydney Region East at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* that an amendment to the Sydney Local Environmental Plan (LEP) 2012 to amend Clause 6.21(7)(b) so that the floor space incentive - which may be awarded for successfully demonstrating design excellence - includes up to 10% of any applicable accommodation floor space under Division 1 of the LEP or community floor space under Division 2 of the LEP should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act as follows:
  - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 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 (Department of Planning & Infrastructure 2013)*.
2. Consultation is required with the Sydney Harbour Foreshore Authority under section 56(2)(d) of the EP&A Act. Sydney Harbour Foreshore 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.
3. 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).



4. The timeframe for completing the LEP is to be **6 months** from the week following the date of the Gateway determination.

Dated 13<sup>th</sup> day of August 2013.

*Grant*

**Juliet Grant  
Regional Director  
Sydney Region East  
Planning Operations and Regional Delivery  
Department of Planning and Infrastructure**

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



**WRITTEN AUTHORISATION TO EXERCISE DELEGATION**

City of Sydney 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_SYDNE_008_00	Planning proposal to enable the amendment of Clause 6.2. 1(7)(b) in Sydney LEP 2012 so that, where a site is eligible for additional accommodation or community floor space, the potential 10% design excellence incentive is calculated based on the combined total FSR of that site.

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

Dated 13 August 2013

Juliet Grant  
Regional Director  
Sydney Region East  
Planning Operations and Regional Delivery  
Department of Planning and Infrastructure

## Attachment 5 – Delegated plan making reporting template

### Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department 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 the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

**Table 1 – To be completed by the department**

Stage	Date/Details
Planning Proposal Number	PP_2013_SYDNE_008_00
Date Sent to Department under s56	23/07/13
Date considered at LEP Review Panel	N/A
Gateway determination date	02/08/13

**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 DP&I requesting notification		

**Table 3 – To be completed by the department**

Stage	Date/Details
Notification Date and details	

**Additional relevant information:**