

Attachment D

**Gateway Determination, Letter to Council
and Approval to Exhibit**

Gateway Determination

Planning proposal (Department Ref: PP_2019_SYDNE_005_00): to increase the maximum building height and maximum floor space ratio via a site-specific provision for 72-84 Foveaux Street, Surry Hills.

I, the Acting Director, Eastern District (City of Sydney) 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 Sydney Local Environmental Plan (LEP) 2012 should proceed subject to the following conditions:

1. The planning proposal is to be amended prior to community consultation as follows:
 - (a) amend the explanation of provisions to include end of journey facilities as a site-specific requirement to achieve the additional floor space ratio and maximum building height;
 - (b) clarify whether end of journey floor space under Clause 6.13 of the Sydney LEP 2012 applies to the site-specific FSR and update the urban design report accordingly;
 - (c) remove provisions related to the site-specific DCP controls from the intended outcomes and explanation of provisions;
 - (d) update the objectives of the planning proposal to remove the first objective which states the proposal will 'meet B4 Mixed use zone objectives';
 - (e) remove the drafting instructions from the explanation of provisions;
 - (f) provide justification to address the consistency with section 9.1 ministerial Direction 6.3 Site-specific Provisions; and
 - (g) update the project timeline to reflect the anticipated time frames for the plan-making process.
2. The revised planning proposal is to be provided to the Department for review and approval prior to public exhibition.
3. 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, Industry and Environment, 2018).

4. 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:
- Heritage Department for Premier and Cabinet; and
 - Transport for NSW.
- 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.
5. 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).
6. 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.
7. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 10 day of September 2019.



Emma Hitchens
Acting Director, Eastern District (City of Sydney)
Greater Sydney, Place and Infrastructure
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning and Public
Spaces

Ms Monica Barone
Chief Executive Officer
City of Sydney Council
GPO Box 1591
SYDNEY NSW 2001

Dear Ms Barone

Planning proposal PP_2019_SYDNE_005_00 to amend Sydney Local Environmental Plan 2012

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to amend Sydney Local Environmental Plan 2012 to increase the maximum building height and maximum floor space ratio subject to site-specific provision for 72-84 Foveaux Street, Surry Hills.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions, enclosed is the Gateway determination.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority, provided that the revised planning proposal is submitted to the Department for review and approval prior to public exhibition.

Amending the local environmental plan (LEP) is to be finalised within 12 months of 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 Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning, Industry and Environment.

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 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Kate Masters, Specialist Planning Officer, to assist you Ms Masters can be contacted on 9274 623.

Yours sincerely



Emma Hitchens
Acting Director Eastern District (City of Sydney)
Greater Sydney, Place and Infrastructure
Department of Planning, Industry and Environment

Encl: Gateway determination

From: [Kate Masters](#)
To: [Daniel Thorpe](#); [Sally Peters](#); [Pinar Cabadag](#)
Cc: [Emma Hitchens](#); [Mary Su](#)
Subject: FW: Planning Proposal - 72-84 Foveaux Street Surry Hills - Sydney Local Environmental 120919.docx
Date: Monday, 16 September 2019 11:53:35 AM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.jpg](#)
[image010.jpg](#)
[image011.jpg](#)
[image012.jpg](#)
[Planning Proposal - 72-84 Foveaux Street Surry Hills - Sydney Local Environmental 160919.docx](#)

Hi Daniel

Thank-you for your email. I can confirm that the attached planning proposal is adequate for public exhibition.

Kind Regards,

Kate Masters

Specialist Planning Officer, Eastern District (City of Sydney)

Place, Design and Public Spaces | Department of Planning, Industry and Environment

T 02 9274 6321 | **E** Kate.Masters@planning.nsw.gov.au

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The Department of Planning, Industry and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.



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From: Daniel Thorpe <DThorpe@cityofsydney.nsw.gov.au>

Sent: Monday, 16 September 2019 11:28 AM

To: Mary Su <Mary.Su@planning.nsw.gov.au>; Pinar Cabadag <PCabadag@cityofsydney.nsw.gov.au>

Cc: Kate Masters <Kate.Masters@planning.nsw.gov.au>; Sally Peters <speters@cityofsydney.nsw.gov.au>

Subject: RE: Planning Proposal - 72-84 Foveaux Street Surry Hills - Sydney Local Environmental 120919.docx

Hi Mary and Kate,

Please see the amended Planning Proposal document. We have amended the Design Excellence section to ensure consistency with the objectives.

Happy to discuss.

Thanks

Daniel

Daniel Thorpe
Planner
Strategic Planning & Urban Design



Telephone: +612 9265 9865

From: Mary Su <Mary.Su@planning.nsw.gov.au>
Sent: Friday, 13 September 2019 3:13 PM
To: Pinar Cabadag <PCabadag@cityofsydney.nsw.gov.au>; Daniel Thorpe <DThorpe@cityofsydney.nsw.gov.au>
Cc: Kate.Masters@planning.nsw.gov.au; Sally Peters <speters@cityofsydney.nsw.gov.au>
Subject: RE: Planning Proposal - 72-84 Foveaux Street Surry Hills - Sydney Local Environmental 120919.docx

Hi Pinar & Daniel,

Before we approve the planning proposal for exhibition, we just have a minor edit.

The design excellence paragraph on page 22 & 23 still refers to the objectives of the proposal which we have conditioned to remove. To ensure consistency and clarity it might be best to revise the wording.

If you could send us an updated proposal once that change has been made that would be great. Once received we can issue you our approval for exhibition.

Thanks

Mary

Mary Su

Senior Planning Officer

Place, Design and Public Spaces | Department of Planning, Industry and Environment

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From: Sally Peters <speters@cityofsydney.nsw.gov.au>
Sent: Thursday, 12 September 2019 6:13 PM
To: Kate Masters <Kate.Masters@planning.nsw.gov.au>
Cc: Daniel Thorpe <DThorpe@cityofsydney.nsw.gov.au>; Pinar Cabadag <PCabadag@cityofsydney.nsw.gov.au>
Subject: Planning Proposal - 72-84 Foveaux Street Surry Hills - Sydney Local Environmental 120919.docx

Hi Kate,

Further to the Gateway determination please find attached an updated Planning Proposal for your review.

We are speaking with Ethos Urban about an addendum to the Urban Design report to clarify the reference to clause 6.13, and hope to have that with you tomorrow.

While I am not in the office tomorrow, should you have any queries please contact Daniel or Pinar.

Regards,

Sally