

## **Attachment D**

**Gateway Determination, Letter to  
Council and Approval to Exhibit –  
1-11 Oxford Street, Paddington**

## Gateway Determination

***Planning proposal (Department Ref: PP\_2019\_SYDNE\_007\_00): to amend Sydney Local Environmental Plan 2012 to increase the maximum building height and maximum floor space ratio via a site-specific provision for 1-11 Oxford Street, Paddington.***

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) remove provisions related to the site-specific DCP controls from the intended outcomes and explanation of provisions;
  - (b) provide justification to address the consistency with section 9.1 Direction 6.3 Site-specific Provisions;
  - (c) provide a definition of 'above ground' floor space ratio;
  - (d) update the planning proposal to state that a minimum of 300m<sup>2</sup> of gross floor area for health services facility are provided at basement level;
  - (e) update the planning proposal to state that a minimum of 300m<sup>2</sup> of gross floor area for entertainment facilities are provided at basement level; and
  - (f) 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:

- The former Office of Environment and Heritage;
- The Heritage Council of NSW;
- Sydney Water;
- Roads and Maritime Services; 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 11<sup>th</sup> day of December 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\_007\_00 to amend Sydney Local Environmental Plan 2012 for 1-11 Oxford Street, Paddington.**

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 1-11 Oxford Street, Paddington.

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 Mr Luke Thorburn, Planning Officer, to assist you Mr Thorburn can be contacted on (02) 8275 1283.

Yours sincerely

 11.12.19

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

## Peter Failes

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**From:** Kate Masters <Kate.Masters@planning.nsw.gov.au>  
**Sent:** Tuesday, 14 January 2020 4:04 PM  
**To:** Peter Failes; Luke Thorburn  
**Cc:** Tim Wise; Wayne Williamson; Emma Hitchens  
**Subject:** RE: Revised Planning Proposal to satisfy conditions of the Gateway Determination - 1-11 Oxford Street, Paddington planning proposal

Hi Peter

I note the below, the Department considers that Council has met the conditions of Gateway determination for 1-11 Oxford Street and that the planning proposal can proceed to public exhibition.

Please do not hesitate to contact me should you have any queries.

Kind Regards,

Kate Masters

Specialist Planning Officer, Eastern District (City of Sydney)

Greater Sydney, Place and Infrastructure | Department of Planning, Industry and Environment

T 02 9274 6321 | E [kate.masters@planning.nsw.gov.au](mailto:kate.masters@planning.nsw.gov.au)

Level 24, 320 Pitt Street | GPO Box 39 | Sydney NSW 2001

[www.dpie.nsw.gov.au](http://www.dpie.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:** Peter Failes <PFailes@cityofsydney.nsw.gov.au>  
**Sent:** Tuesday, 14 January 2020 3:44 PM  
**To:** Luke Thorburn <Luke.Thorburn@planning.nsw.gov.au>  
**Cc:** Kate Masters <Kate.Masters@planning.nsw.gov.au>; Tim Wise <twise@cityofsydney.nsw.gov.au>; Wayne Williamson <WWilliamson@cityofsydney.nsw.gov.au>  
**Subject:** RE: Revised Planning Proposal to satisfy conditions of the Gateway Determination - 1-11 Oxford Street, Paddington planning proposal

Hi Luke,

In response to your concern and recommendation for instrument wording, as we discussed (and I understood was agreed), the reason we intentionally are referencing the floor space ratio above RL 47.455 is that we only want to control the FSR for this part of the site not the other lower parts.

Also, in this particular development site case, it is difficult to establish exactly where the ground level is located, given that the existing building covers nearly all the site. The survey and architectural plans shows what is estimated as the ground level (existing) as defined under the Standard Instrument LEP definitions, indicated as a dashed red line (see the sections on the Concept Design Plans – Dwg Nos. PP-12 and PP-13). I note that the ground level existing of part of the site relates to part of the proposed basement level that we do not want to include in the FSR control.

It is considered there is no particular need to refer to ground level in terms of the definition of FSR and GFA, given that GFA can include floor levels either above ground level existing or basements (defined as predominantly below ground level (existing)).

Accordingly, we do not believe that referring to ground level in the instrument will adequately reference the part of the site that we want to control under an FSR development standard and so will not achieve the intended outcome.

We reiterate that using an RL reference in the instrument clause is the best approach for this case.

Please confirm if after further consideration this is satisfactory, and if satisfactory please issue final approval of the planning proposal to enable the City of Sydney to proceed to Public Exhibition.

Regards,

Peter Failes  
Senior Specialist Planner  
Strategic Planning & Urban Design



Telephone: +612 9265 9426  
[cityofsydney.nsw.gov.au](http://cityofsydney.nsw.gov.au)

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**From:** Luke Thorburn <[Luke.Thorburn@planning.nsw.gov.au](mailto:Luke.Thorburn@planning.nsw.gov.au)>  
**Sent:** Monday, 13 January 2020 4:01 PM  
**To:** Peter Failes <[PFailes@cityofsydney.nsw.gov.au](mailto:PFailes@cityofsydney.nsw.gov.au)>  
**Cc:** Kate Masters <[Kate.Masters@planning.nsw.gov.au](mailto:Kate.Masters@planning.nsw.gov.au)>; Tim Wise <[twise@cityofsydney.nsw.gov.au](mailto:twise@cityofsydney.nsw.gov.au)>; Wayne Williamson <[WWilliamson@cityofsydney.nsw.gov.au](mailto:WWilliamson@cityofsydney.nsw.gov.au)>  
**Subject:** RE: Revised Planning Proposal to satisfy conditions of the Gateway Determination - 1-11 Oxford Street, Paddington planning proposal

Hi Peter,

Thank you for sending through the revised planning proposal for our review.

In relation to the condition requiring a condition of 'above ground' floor space ratio be provided, we note "ground" has been replaced with RL 47.455 as shown on the concept design plans. We note RL 47.455 does not accurately represent ground level.

Similar to *Clause 6.44 (5)(a)* of the Sydney LEP 2012, it is recommended the planning proposal be updated to state the floor space ratio of the above ground levels of the building does not exceed 2.95:1.

Please don't hesitate to contact if you have any questions.

Kind regards,

**Luke Thorburn**  
**Planning Officer, Eastern District (City of Sydney)**  
Greater Sydney, Place & Infrastructure | NSW Department of Planning, Industry and Environment

T 02 8275 1283 | E [luke.thorburn@planning.nsw.gov.au](mailto:luke.thorburn@planning.nsw.gov.au)

Level 27, 320 Pitt Street Sydney NSW 2001

[www.dpie.nsw.gov.au](http://www.dpie.nsw.gov.au)



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**From:** Peter Failes <[PFailes@cityofsydney.nsw.gov.au](mailto:PFailes@cityofsydney.nsw.gov.au)>

**Sent:** Tuesday, 17 December 2019 3:57 PM

**To:** Luke Thorburn <[Luke.Thorburn@planning.nsw.gov.au](mailto:Luke.Thorburn@planning.nsw.gov.au)>

**Cc:** Tim Wise <[twise@cityofsydney.nsw.gov.au](mailto:twise@cityofsydney.nsw.gov.au)>; Wayne Williamson <[WWilliamson@cityofsydney.nsw.gov.au](mailto:WWilliamson@cityofsydney.nsw.gov.au)>

**Subject:** Revised Planning Proposal to satisfy conditions of the Gateway Determination - 1-11 Oxford Street, Paddington planning proposal

Hi Luke,

Please find attached the Revised Planning Proposal, incorporating amendments to satisfy the conditions of the Gateway Determination for 1-11 Oxford Street, Paddington planning proposal.

I have sent you a copy showing the track changes to enable you to quickly see the amendments, as well as a copy in final view.

Please review and issue final approval of the planning proposal to enable the City of Sydney to proceed to Public Exhibition.

Letting you know I will be on leave from 18/12/2019 and back on 13/01/2020.

Please also include Tim Wise, Acting Manager (contact details: [twise@cityofsydney.nsw.gov.au](mailto:twise@cityofsydney.nsw.gov.au) +612 9265 9314) and Wayne Williamson who will be Acting Manager from 20/12/2019 to 17/01/2020 (contact details: [wwilliamson@cityofsydney.nsw.gov.au](mailto:wwilliamson@cityofsydney.nsw.gov.au) +612 9246 7754) in correspondence.

Contact above re any questions while I am on leave. Wayne reviewed the amendments so is across it if there are any matters to check while I am on leave and he is Acting Manager.

Peter Failes  
Senior Specialist Planner  
Strategic Planning & Urban Design



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Telephone: +612 9265 9426  
[cityofsydney.nsw.gov.au](http://cityofsydney.nsw.gov.au)



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**From:** Luke Thorburn <[Luke.Thorburn@planning.nsw.gov.au](mailto:Luke.Thorburn@planning.nsw.gov.au)>  
**Sent:** Wednesday, 11 December 2019 2:27 PM  
**To:** Peter Failes <[PFailes@cityofsydney.nsw.gov.au](mailto:PFailes@cityofsydney.nsw.gov.au)>  
**Cc:** Kate Masters <[Kate.Masters@planning.nsw.gov.au](mailto:Kate.Masters@planning.nsw.gov.au)>; Emma Hitchens <[Emma.Hitchens@planning.nsw.gov.au](mailto:Emma.Hitchens@planning.nsw.gov.au)>  
**Subject:** Planning Proposal - 1-11 Oxford Street, Paddington

Hi Peter,

Please find attached the Gateway determination for the above mentioned planning proposal.

All relevant information will be up on the Department's LEP tracker shortly.

Please do not hesitate to contact me should you have any queries.

Kind regards,

**Luke Thorburn**

**Planning Officer, Eastern District (City of Sydney)**

Greater Sydney, Place & Infrastructure | NSW Department of Planning, Industry and Environment

T 02 8275 1283 | E [luke.thorburn@planning.nsw.gov.au](mailto:luke.thorburn@planning.nsw.gov.au)

Level 27, 320 Pitt Street Sydney NSW 2001

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