

# **Attachment E**

**Gateway Determination –  
Planning Proposal - 187 Thomas Street,  
Haymarket**

## Gateway Determination

**Planning proposal (Department Ref: PP-2020-1046):** to amend the Sydney Local Environmental Plan 2012 to increase the maximum building height from 50 metres to RL226.8 metres, increase the maximum floor space from 7.5:1 to 20:1 inclusive of design excellence, and introduce site specific provisions for 187-189 Thomas Street, Haymarket.

I, the 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. Prior to community consultation the planning proposal is to be revised as follows:
  - (a) provide further definition of 'above ground' and 'below ground' floor space ratio;
  - (b) address the principles for growth within the LSPS; and
  - (c) address section 9.1 Ministerial Direction 4.1 Acid Sulfate Soils.
2. Prior to finalisation of the planning proposal, information addressing the likelihood of site contamination is to be provided.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (d) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (e) 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 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 NSW;
  - Sydney Airport Corporation;
  - Airservices Australia;

- Commonwealth Department of Infrastructure, Cities and Regional Development;
  - Civil Aviation Safety Authority; and
  - Transport for NSW;
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 9th day of November 2020.



**David McNamara**  
**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-2020-1046 to amend Sydney Local Environmental Plan 2012 for 187-189 Thomas Street, Haymarket.**

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) to amend Sydney Local Environmental Plan 2012 to increase the maximum building height from 50 metres to RL226.8 metres, increase the maximum floor space from 7.5:1 to 20:1 inclusive of design excellence, and introduce site specific provisions for 187-189 Thomas Street, Haymarket.

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.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with section 9.1 Ministerial Direction 6.3 Site-Specific Provisions, 2.6 Remediation of Contaminated Land and 4.1 Acid Sulphate Soils are justified in accordance with the terms of the Direction. No further approval is required in relation to these Direction/s.

Council may still need to obtain the agreement of the Department of Planning and Environment's Secretary to comply with the requirements of section 9.1 Direction 3.5 Development Near Regulated Airports and Defence Airfields. Council should ensure this occurs prior to the plan being made

The Department's assessment of the proposal has identified that the Planning Proposal will need to be updated prior to exhibition to address the following:

- provide further definition of 'above ground' and 'below ground' floor space ratio;
- address the principles for growth within the LSPS;
- address section 9.1 Direction 4.1 Acid Sulfate Soils.

In addition, prior to finalisation of the planning proposal, information addressing the likelihood of site contamination is to be provided.

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



9/11/2020

**David McNamara**  
**Director, Eastern District (City of Sydney)**  
**Greater Sydney, Place and Infrastructure**  
**Department of Planning, Industry and Environment**