

# **Attachment C**

## **Gateway Determination**

## Gateway Determination

**Planning proposal (Department Ref: PP-2022-3168) to amend Clause 6.11A(4) of the Sydney Local Environmental Plan 2012 to extend the temporary heritage floor space allocation scheme for a further 3 years until 1 January 2026.**

I, the Director, Eastern District City of Sydney at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, 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 (including relevant attachments) be updated to:
  - (a) Provide an assessment and justification on the consistency with Section 9.1 Direction 3.2 Heritage Conservation
  - (b) Correct *Section 1. Objectives or Intended Outcomes* to refer to '3' years, not '2' years
  - (c) Ensure the proposal is consistent with the *Department's Local Environmental Plan Making Guideline*, September 2022 and replace any reference to the December 2021 version of the guideline with September 2022.
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 basic as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 10 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 Guidelines* (Department of Planning and Environment, 2021).

Exhibition must commence within 1 month following the date of the gateway determination.

3. Consultation is required with the following public authorities under section 3.34(2)(d) of the Act:
  - Heritage NSW;
  - Property 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 14 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. The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A 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 applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
6. The timeframe for completing the LEP is to be 3 months from the date of the Gateway determination.

Dated 6th day of October 2022.



**David McNamara**  
**Director, Eastern District City of Sydney**  
**Planning and Land Use and Strategy**  
**Department of Planning and Environment**

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



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

Dear Ms Barone,

**Planning proposal PP-2022-3168 to amend Sydney Local Environmental Plan 2012 to extend application of Clause 6.11A**

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 to amending Clause 6.11A(4) of the Sydney Local Environmental Plan 2012, to extend the temporary heritage floor space allocation scheme for a further three years until 1 January 2026.

As delegate of the Minister for Planning and Homes, 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 the planning proposal and conditioned the Gateway for Council to be authorised as the local plan-making authority.

Amending the local environmental plan (LEP) is to be finalised before 31 December 2022. 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 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning 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 Patrick Connor, Planning Officer, to assist you Mr Connor can be contacted on (02) 9995 6752.

Yours sincerely

6/10/2022

**David McNamara**  
**Director, Eastern District City of Sydney**  
**Planning and Land Use and Strategy**  
**Department of Planning and Environment**

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