

Attachment D

Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP-2022-1682): to amend Schedule 1 of Sydney Local Environment Plan 2012 to facilitate the redevelopment of 10-12 Nimrod Street, Darlinghurst, for a theatre by permitting the use of the land as an entertainment facility and allowing an increase in the maximum floor space ratio and maximum height of buildings.

I, the Director, City of Sydney and Eastern District, 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 2012 to facilitate the redevelopment of 10-12 Nimrod Street, Darlinghurst, for a theatre by permitting the use of the land as an entertainment facility and allowing an increase in the maximum floor space ratio and maximum height of buildings proceed subject to the following conditions:

1. Prior to public exhibition the Planning Proposal is to be updated to:
 - (a) Detail how the amended heights and FSR will be limited to a 'Theatre' use only, given that this is not a defined term; and
 - (b) Identify whether limiting the height and FSR to entertainment facility is acceptable.
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 standard 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 20 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 should commence within 20 days following the date of the gateway determination as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

3. Council is advised that consultation is not required with public authorities. Should Council choose to consult with public authorities, each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
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. Council is to consult with Parliamentary Counsel about how the objectives and intended outcomes of the planning proposal may be achieved, in particular limiting application of additional allowable height of buildings and floor space ratio to use of the site as a theatre.
6. 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.
7. The LEP should be completed on or before 21 July 2023.

Dated 17th day of February 2023.



Katie Joyner
Director, City of Sydney and Eastern District
Planning and Land Use Strategy
Department of Planning and Environment

Delegate of the Minister for Planning and Homes