

Gateway Determination

Planning proposal (Department Ref: PP-2021-3579): *to increase the floor space ratio and building height controls and add an additional local provision for 203-231 Bronte Road and 94-98 Carrington Road, Waverley.*

I, the Director, Eastern and South Districts 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 Waverley Local Environmental Plan (LEP) 2012 to increase the floor space ratio and building height controls and add an additional local provision for 203-231 Bronte Road and 94-98 Carrington Road, Waverley should proceed subject to the following conditions:

1. The planning proposal (including relevant attachments) is to be revised prior to public exhibition to address the matters set out below:
 - i. remove any reference to a 10% height variation and replace with a more general provision describing that a variation in height may be considered due to site topography and where the development does not result in any unreasonable massing or amenity impacts;
 - ii. provide a more detailed assessment against the relevant directions and actions in the Waverley Local Strategic Planning Statement;
 - iii. include correct reference to the Waverley Community Strategic Plan 2018-2029;
 - iv. provide shadow diagrams to describe the impact on the adjoining residential properties to the south, including the impact on the northern windows and private open space areas;
 - v. provide further information to illustrate solar access to the future residential dwellings within the concept scheme (for example, 'view from the sun' diagrams); and
 - vi. update the project timeline to reflect the timeframe allowed to complete the LEP.
2. The planning proposal is to contain a provision for a site-specific development control plan (DCP) to consider:
 - i. promoting movement, legibility and wayfinding through the site;
 - ii. ensuring safety and security, activation and casual surveillance;
 - iii. amenity of the courtyard, including solar access;
 - iv. a staging plan for future development; and
 - v. consideration of environmental impacts such as overshadowing, solar access and visual and acoustic privacy.

3. Prior to the finalisation of the planning proposal:
 - i. provide confirmation from an appropriately qualified consultant that the whole site is suitable in its contaminated state (or will be made suitable after remediation), for all the purposes for which the land in the zone is permitted to be used; and
 - ii. include a stage 1 preliminary site investigation of the Reece Plumbing site (229 and 231 Bronte Road, and 98 Carrington Road) in accordance with the requirements of section 9.1 Direction 2.6 Remediation of Contaminated Land.
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 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:
 - Ausgrid;
 - Environment Protection Authority;
 - Heritage NSW;
 - Sydney Water; 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 planning proposal must be placed on exhibition no later than 3 months from the date of the Gateway determination.
8. The planning proposal must be reported to council (or Planning Panel) for a final recommendation no later than 7 months from the date of the Gateway determination.
9. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated 27 day of May 2021.



Laura Locke
Director, Eastern and South Districts
Greater Sydney, Place and
Infrastructure
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces

Mr John Clark
Acting General Manager
Waverley Council
PO Box 9
BONDI JUNCTION NSW 1355

Dear Mr Clark

Planning proposal PP-2021-3579 to amend Waverley 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 increase the floor space ratio (FSR) and building height, and add an additional local provision at 203-231 Bronte Road and 94-98 Carrington Road, Waverley.

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

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with section 9.1 Direction 6.3 Site Specific Provisions is justified in accordance with the terms of the Direction.

The Department's Urban Design team reviewed the proposal and concept scheme and identified some opportunities for improved legibility and useability of the through site-links and central courtyard, including to:

- widen the minimum dimension for the primary through site lane way between Carrington Road and Bronte Road to allow alfresco uses and greater pedestrian movement in the laneway
- widen lane way entry locations to improve legibility, activate edges and facilitate foot traffic
- create direct visual sightlines, notably for the primary link between Carrington Road and Bronte Road, to improve safety and security
- consider opportunities to improve amenity to the lane ways and central courtyard, including solar access
- consider a staging plan to ensure appropriate phasing in light of there being multiple landowners and landholdings.

I encourage Council to consider these points and continue to work with the Proponent to develop the site-specific Development Control Plan (DCP). If revisions

are made to the scheme in light of the above comments, it is noted there may be a need to verify the gross floor area and FSR figures to inform the final planning proposal.

In order to improve the urban design and environmental outcomes of the future development, the planning proposal is to be updated to address various matters including:

- additional contamination information and study to address section 9.1 Direction 2.6 Remediation of Contaminated Land; and
- further information to ensure good amenity is provided in the future residential dwellings in terms of solar access and to ascertain impacts to nearby residential dwellings in terms of overshadowing.

Further, the site-specific DCP is to include design and amenity considerations relating to the courtyard and lane ways, and environmental impacts, such as overshadowing, solar access and visual and acoustic privacy.

During assessment it was identified that the ADG Compliance Analysis counted some apartments as cross-ventilated that should not have been as they have single aspect. Council may wish to seek updated information to ensure consistency with the interpretation of cross-ventilation in the Apartment Design Guide.

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.

The amending local environmental plan (LEP) is to be finalised within **nine 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 Lawren Drummond to assist you. Ms Drummond can be contacted on 9274 6185.

Yours sincerely



Laura Locke
Director, Eastern and South Districts
Greater Sydney, Place & Infrastructure

Encl: Gateway determination