

Mr Steven Head
General Manager
Hornsby Shire Council
PO Box 37
HORNSBY NSW 1630

18 May 2023

Dear Mr Head

Planning proposal PP-2022-4306 to amend Hornsby Local Environmental Plan 2013

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and additional information received on 17 January 2023 and 14 February 2023 in respect to the planning proposal to amend Hornsby Local Environmental Plan (LEP) 2015 to protect and enhance the environmental values within the Byles Creek Corridor and Study Area.

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

The Department supports the addition of Council's proposed riparian corridor local provision and amendments to the minimum subdivision lot size objectives with the view that these provisions will meet Council's objective to preserve the existing character and environmental qualities within and close to the Byles Creek corridor. These provisions will ensure development has consideration of the environmental impacts of any subdivision or development on the Byles Creek waterway.

Prior to exhibition, it will be critical for the Minister to understand the justification of all residential land within the Study Area having a minimum subdivision lot size of 40ha. To better understand this issue, Council is required to consider applying a more appropriate minimum subdivision lot size that aligns to the existing subdivision pattern and subdivision potential of the Study Area, having regard to the environmental constraints of the land. Currently, the proposal does not provide sufficient evidence to suggest that a 40ha minimum lot size is appropriate. Council should consider a more targeted approach to the minimum subdivision lot size for the Study Area. This could involve identifying individual lots with subdivision potential, that have high environmental value, and where further development will negatively impact Byles Creek.

The Department also requires further justification of the proposed rezoning of land within the Study Area and suggests Council consider and discuss alternative methods of managing development without the rezoning of land in the proposal as set out in the Local Environmental Plan Making Guideline. This should include consideration of whether ecological protection of this land would be effectively captured by the proposed riparian corridor provisions.

The proposal has not provided justification for the inconsistencies with section 9.1 Direction 6.1 Residential Zones. These inconsistencies remain unresolved until further justification has been provided, as required by the Gateway. Council should ensure that the amended planning proposal is forwarded to the Department for endorsement prior to exhibition.

I have determined not to authorise Council to be the local plan-making authority as some components of the proposal are not supported without further justification, and amendments are required prior to public exhibition.

The amending LEP is to be finalised on or before 10 months from the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made eight weeks in advance of the date the LEP is projected to be made.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

The Department's categorisation of planning proposals in the Local Environmental Plan Making Guideline (Department of Planning and Environment, 2021) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Ms Ashley Richards to assist you. Ms Richards can be contacted on 02 8289 6776.

Yours sincerely



Alison Burton
A/Executive Director Metro Central and North
Planning and Land Use Strategy

Encl: Gateway determination