



Mr Michael Edgar
General Manager
The Hills Shire Council
PO Box 7064
NORWEST NSW 2153

Dear Mr Edgar

Planning proposal PP_2019_THILL_003_00 to amend The Hills 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 amend The Hills Local Environmental Plan 2012 clause 5.4(9) to include provisions for secondary dwellings in rural zones.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should not proceed.

This decision is made on the basis that Clause 5.4(9) is a compulsory provision under the Standard Instrument – Principal Local Environmental Plan and that under the Standard Instrument cannot be legally amended. I note that Council only has discretion to set the maximum percentage within the clause. Further, the proposal does not sufficiently test secondary dwelling outcomes and different percentages.

I have also considered the proposal and conclude that the inconsistency of the proposal with Section 9.1 Direction 4.4 Planning for Bushfire Protection is not justified as Council has not demonstrated to the NSW Rural Fire Service that the proposal could comply with Planning for Bush Fire Protection 2006.

Should you have any enquiries about this matter, I have arranged for Ms Gina Metcalfe to assist you. Ms Metcalfe can be contacted on 9860 1542.

Yours sincerely

13.02.2020

**Catherine Van Laeren
Acting Executive Director
Central River City and Western Parkland City**

Encl: Gateway determination



Gateway Determination

Planning proposal (Department Ref: PP_2019_THILL_003_00): to amend The Hills Local Environmental Plan 2012 clause 5.4(9) to include provisions for secondary dwellings in rural zones.

I, the Acting Executive Director, Central River City and Western Parkland City, 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 Hills Local Environmental Plan (LEP) 2012 to amend clause 5.4(9) to include provisions for secondary dwellings in rural zones should not proceed for the following reasons:

1. The proposal contains unresolved inconsistencies with Section 9.1 Direction 4.4 Planning for Bushfire Protection;
2. The proposal cannot be legally made as clause 5.4(9) under the Standard Instrument – Principal Local Environmental Plan which is a ‘compulsory’ clause for local environmental plans; and
3. The proposal does not adequately demonstrate secondary dwelling outcomes and test scenarios of different percentages under clause 5.4(9)(b).

Dated 13th day of February 2020.

**Catherine Van Laeren
Acting Executive Director, Central
River City and Western Parkland City
Greater Sydney, Place and
Infrastructure
Department of Planning, Industry and
Environment**

**Delegate of the Minister for Planning
and Public Spaces**