

## Gateway Determination

**Planning proposal (Department Ref: PP-2022-4306):** To amend Hornsby Local Environmental Plan 2013 to protect and enhance the environmental values within the Byles Creek Corridor and Study Area.

I, the Acting Executive Director, Metro Central and North at the Department of Planning 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 Hornsby Local Environmental Plan 2013 to rezone land within the Byles Creek Study Area, increase the minimum subdivision lot size, amend the minimum subdivision lot size objectives, and introduce a 'Riparian Land' additional local provision should proceed subject to the following conditions:

1. Prior to exhibition, Council is to update the proposal to:
  - (a) Consider alternative methods of achieving the planning proposal's objective to manage development in the Study Area without the rezoning of land. This should include consideration of whether the protection of this land would be sufficiently achieved by the proposed riparian corridor controls, and the existing DCP controls for tree and vegetation preservation, natural environment, and biodiversity.
  - (b) Make it clear that the additional clause 4.1 objectives would apply to all subdivision across the Hornsby LGA.
  - (c) Further address the proposed minimum subdivision lot size of 40ha for all residential land within the Study Area. This should:
    - i. Update the proposal to confirm the number of lots in the Study Area with subdivision potential, (the Byles Creek Planning Study references 5 lots), and how this number was determined.
    - ii. Address whether a subdivision application from any of these 5 lots could be supported, given the constraints of the land.
    - iii. Address whether subdivision of these lots could be considered on merit if the environmental considerations can be addressed.
    - iv. Provide data on approved subdivisions in the Study Area which have led to land clearing.
    - v. Consider identifying individual lots that can theoretically be subdivided under existing controls, rather than altering the minimum subdivision lot size of the entire Study Area.
    - vi. Propose an appropriate minimum subdivision lot size that responds to the existing character and subdivision potential of the Study Area.
  - (d) Address impacts on the delivery of housing in Hornsby and clarify consistency with the Hornsby Housing Strategy 2020.
  - (e) Amend associated mapping, and supplementary material in accordance with 1(a), (b), and (c) above.

- (f) Remove statement that the proposal “does not significantly reduce the development potential of any of the residential properties within the Study Area” (p.22).
- (g) Justify the proposal’s inconsistency with section 9.1 Ministerial direction objectives a) and b) of Direction 6.1 – Residential Zones. The potential for the planning proposal to set a precedent for the rezoning of other R2 zoned land near riparian corridors should also be addressed, as this would exclude Codes SEPP development and further reducing housing choice and efficient use of infrastructure and services.
2. The revised planning proposal is to be forwarded to the Minister for review and approval prior to exhibition.
3. 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 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).
- (c) Exhibition should commence within **4 months** following the date of the Gateway determination.
4. Consultation is required with the following public authorities:
- NSW Environment and Heritage Group
  - NSW National Parks and Wildlife Service
  - NSW Rural Fire Service
  - Relevant transmission easement authority
- 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 20 working 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 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).
6. Given the nature of the proposal, Council should not be authorised to be the plan-making authority to make this plan.
7. The timeframe for completing the LEP is to be **10 months** from the date of the Gateway determination.

Dated 18th day of May 2023.



**Alison Burton**  
**A/Executive Director Metro Central and North**  
**Planning and Land Use Strategy**  
**Department of Planning and Environment**

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