

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

IRF23/2114

30 August 2023

Dear Mr Head

Planning proposal PP-2023-1549 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) seeking to revise and improve planning controls and LEP objectives for rural lands to improve the economic viability of agricultural land, minimise rural residential land-use conflicts, and protect the rural landscape and biodiversity.

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. Council is required to update the planning proposal to address the conditions of the Gateway determination.

Council will still need to obtain the agreement of the Secretary to comply with the requirements of relevant applicable directions of the Minister under section 9.1 of the EP&A Act. These are direction 4.1 *Flooding*, direction 6.1 *Residential Zones*, and direction 9.1 *Rural Zones*. Council should ensure this occurs prior to public exhibition.

Direction 4.1 Flooding

The objectives of this Direction are to be consistent with government flood policies and ensure that proposed changes respond to flood risk appropriately. The proposal has not addressed Direction 4.1 Flooding as part of the planning proposal's assessment.

Direction 6.1 Residential Zones

The objective of the Direction is to encourage housing variety, use existing infrastructure efficiently and minimise the impact on the environment. The proposed amendment to include access-handles in rural areas for lot size calculation may facilitate additional subdivision of land, and a potential increase in dwelling provision. As new homes are possible, the potential change should be assessed against Direction 6.1.

Direction 9.1 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land. To be consistent with this direction a planning proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The proposal is partially consistent with the Direction as it seeks to allow complementary land-uses (agritourism and tourist and visitor accommodation) which will support the agricultural industries, without changing the rural character of the area. The proposal also includes an amendment which includes access-handles in the lot size calculation for rural blocks. This amendment needs to be further justified as it will likely result in an increased residential density on the land.

It is noted that prior to community consultation Council is required to remove the proposed amendment to the definition of “roadside stalls” under the Standard Instrument LEP. The Department will monitor the agritourism reforms over the next 12 months. Council’s suggested change to the “roadside stalls” definition may have merit, however the Department will need to consider its applicability state-wide, any other benefits/risks and stakeholder feedback. This change will be investigated as part of any future policy work for Agritourism and/or the Standard Instrument LEP.

It is noted that Council has not requested delegation to be the Local Plan-Making Authority (LPMA). Considering the nature of the planning proposal, Council may exercise local plan-making authority functions in relation to the planning proposal.

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 within 3 months from the date of the Gateway Determination. As this is a minor amendment, Council is to request Parliamentary Counsel’s Office commence drafting as soon as practicable. A copy of the request should be forwarded to the Department.

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.

Should you have any enquiries about this matter, I have arranged for Mr Matt Carpenter to assist you. Mr Carpenter can be contacted on 02 9585 6663.

Yours sincerely



30 August 2023
Brendan Metcalfe
Director, Metro North
Metro Central and North

Encl: Gateway determination