



25 March 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
GPO Box 39
SYDNEY NSW 2001

Our Ref: 12/2019/PLP
Your Ref: PP_2019_THILL_003_00

Dear Ms Van Laeren,

**The Hills Shire Council: Request for Review of Gateway Determination –
Secondary Dwellings in Rural Areas**

I am writing to request a review of the Gateway Determination for the abovementioned planning proposal which seeks to amend The Hills Local Environmental Plan 2019 for secondary dwellings in rural areas. This proposal seeks to provide appropriate maximum size criteria for secondary dwellings in rural areas and will ensure that a variety of housing options is available within rural areas, in a form that respects local character.

The Department of Planning, Industry and Environment's Gateway Determination dated 13 February 2020 advises that this planning proposal 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).*

The Department's decision on this proposal is extremely disappointing and is not in the spirit of empowering Councils to strategically plan for their local areas. Each council should have the discretion to determine their own positions with respect to the percentage and/or size of secondary dwellings, taking into account local conditions and Council's experience of development outcomes that are being achieved under the existing LEP provisions. This is especially true of a proposal which is informed by local place-based planning and is seeking to promote housing provision, diversity and affordability.

The proposal is considered appropriate to proceed as it has sound strategic merit and it provides a reasonable and practical response to a local issue. There is evidence that the existing LEP

provisions are resulting in inequitable and inappropriate development outcomes in the Shire's rural areas.

In response to the matters raised in the Gateway Determination:

- This planning proposal relates to the size of secondary dwellings in rural areas, not their permissibility or location criteria. It would not result in any change to existing bushfire assessment requirements, which will continue to apply as they currently do;
- It is incorrect that *"the proposal cannot be legally made"*. The Minister for Planning and Public Spaces has the power to make amendments to the Standard LEP Template; and
- Sufficient testing has been undertaken to clearly demonstrate the need for revised planning controls for secondary dwellings, as demonstrated in the planning proposal and Attachment 4 to this letter.

Please find attached the following information for your consideration:

- A completed application form;
- A review of Gateway Determination and Department's Planning Report responding to each of the reasons for refusal and providing further justification as to why the proposal should progress; and
- A copy of the planning proposal and supporting information as submitted for Gateway.

Should you have any queries or wish to discuss this matter further, please contact Nicholas Carlton, Manager Forward Planning on 9843 0416.

Yours sincerely



David Reynolds

GROUP MANAGER – SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS

Attachment 1: Gateway Review Application Form

Attachment 2: Gateway Determination (13 February 2020)

Attachment 3: Further Letter from Department Regarding Planning Proposal (18 February 2020)

Attachment 4: Council's Response to Gateway Determination

Attachment 5: Planning Proposal including Council and LPP Reports (8 July 2019)

Attachment 6: Council Notice of Motion (24 July 2018)

Attachment 7: Summary and Correspondence with Department following Submission of Proposal