Mr Michael Edgar  
General Manager  
The Hills Shire Council  
PO Box 7064  
BAULKHAM HILLS BC NSW 2153

Dear Mr Edgar

Planning Proposal PP_2017_THILL_006_00 to amend The Hills Local Environmental Plan 2012

I am writing in response to Council's request for a Gateway determination under Section 56 of the 'Environmental Planning and Assessment Act 1979' (the Act) on 31 July 2017 and additional information received on 14 August 2017 in respect of the planning proposal to permit a future medium to high density residential development at 55 Coonara Avenue, West Pennant Hills.

As delegate of the Greater Sydney Commission, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have considered Council's proposed mechanism to facilitate the proposed controls for the site, however the Gateway determination requires Council to amend the planning proposal prior to community consultation to utilise the zones and land use table of the Standard Instrument (Local Environmental Plans) Order 2006, and seek amendments to development standards for height of buildings, floor space ratio and lot sizes, rather than permit the proposed development via an amendment to Schedule 1 of The Hills Shire Council Local Environmental Plan 2012.

While Schedule 1 can be used in certain circumstances it is not appropriate to utilise the Schedule for a significant change of planning controls for a site.

Council is requested to consider and propose appropriate residential, open space, environmental protection and any other relevant zones, to facilitate the envisaged development while ensuring high value vegetation on the site is protected. These amendments will ensure consistency with Section 117 Direction 6.3 Site Specific Provisions.

The amendments required by the Gateway determination will ensure the outcomes sought by Council are achieved through the application of appropriate land use zones and their objectives, and other controls. This will ensure the protection and conservation of environmentally sensitive areas, consistent with Section 117 Direction 2.1 Environment Protection Zones.
I have agreed, as delegate of the Secretary, that the planning proposal's inconsistency with Section 117 Directions 1.1 Business and Industrial zones, and 5.9 North West Rail Link Corridor Strategy, are of minor significance.

It should be noted that the consistency with Section 117 Directions 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, and 6.2 Reserving Land for Public Purposes is currently unresolved and will require further justification as part of the Gateway and stakeholder consultation process.

Plan making powers were delegated to Councils by the Minister in October 2012. I note Council has not requested delegation to finalise the plan. I have considered the nature of the planning proposal and decided not to issue authorisation to exercise delegation in this instance given the site's proximity to the Cumberland State Forest and significant vegetation present on the site.

The amending LEP is to be finalised within 12 months of 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 8 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Greater Sydney Commission may take action under Section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Mr Sebastian Tauni to assist you. Mr Tauni can be contacted on 02 8217 2018.

Yours sincerely

[Signature]

Marcus Ray
Deputy Secretary
Planning Services
31/10/2017
Enc: Gateway Determination
Gateway Determination

Planning Proposal (Department Ref: PP_2017_THILL_006_00): to facilitate a future medium to high density residential development at 55 Coonara Avenue, West Pennant Hills.

I, the Deputy Secretary, Planning Services at the Department of Planning and Environment, as delegate of the Greater Sydney Commission, have determined under section 56(2) of the Environmental Planning and Assessment Act, 1979 (the Act) that an amendment to The Hills Local Environmental Plan (LEP) 2012 to facilitate a future medium to high density residential development at 55 Coonara Avenue, West Pennant Hills should proceed subject to the following conditions:

1. Prior to undertaking community consultation, Council is required to:
   (a) remove references to proposed amendments to Schedule 1 – Additional Permitted Uses;
   (b) amend the planning proposal to seek to rezone the site from B7 Business Park to R4 High Density Residential, RE1 Public Recreation, RU3 Forestry, and appropriate environmental management zones (such as E4 Environmental Living, E3 Environmental Management, and E2 Environmental Conservation), in accordance with Part 2 of The Hills Local Environmental Plan 2012;
   (c) amend the planning proposal to seek amendments to the minimum lot size map, floor space ratio map, and height of buildings map, in accordance with the Hills Local Environmental Plan 2012;
   (d) update the planning proposal to provide more information regarding community benefits associated with the proposal, including the identification of traffic and transport accessibility improvement options for the Cherrybrook precinct and additional supporting information for local infrastructure to be provided, and updated supporting studies as identified in Council’s report dated 25 July 2017;
   (e) update the Explanation of Provisions to include a satisfactory arrangements provision for contributions to State public infrastructure;
   (f) refer the planning proposal and its accompanying Ecological Assessment to the Rural Fire Service and update in accordance with any comments received;
   (g) update the planning proposal as required to ensure the following matters are addressed:
      1. ecological values (flora and fauna);
      2. the use of appropriate land use zones;
      3. investigation of infrastructure and traffic considerations; and

The Hills PP_2017_THILL_006_00 (17/10810)
(h) submit the updated planning proposal to the Department for endorsement.

2. Community consultation is required under Sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (the Act) as follows:

(a) the planning proposal must be made publicly available for a minimum of 28 days; and

(b) the relevant planning 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 Section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016).

3. Consultation is required with the following public authorities and organisations under Section 56(2)(d) of the Act and/or to comply with the requirements of relevant Section 117 Directions:

- Transport for NSW;
- Transport for NSW – Roads and Maritime Services;
- Office of Environment and Heritage;
- NSW Rural Fire Services;
- UrbanGrowth NSW;
- Hornsby Shire Council; and
- relevant authorities for the supply of water, electricity, and the disposal and management of sewage.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the 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).
5. The timeframe for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated **31st day of October 2017.**

Marcus Ray  
Deputy Secretary, Planning Services  
Department of Planning and Environment

Delegate of the Greater Sydney Commission
Mr Michael Edgar  
General Manager  
The Hills Shire Council  
PO Box 7064  
BAULKHAM HILLS BC 2153

Dear Mr Edgar

Planning proposal PP_2017_THILL_006_00 – Alteration of Gateway determination

I refer to your request to alter the Gateway determination for planning proposal PP_2017_THILL_006_00, which seeks to facilitate a medium to high-density residential development at 55 Coonara Avenue, West Pennant Hills.

I have determined as the delegate of the Greater Sydney Commission, in accordance with section 3.34(7) of the Environmental Planning and Assessment Act 1979, to alter the Gateway determination dated 31 October 2017, as enclosed. In making this decision, I have carefully considered the views of Council, the proponent and the community, who have made representations directly to the Department.

As requested, the altered Gateway determination has been amended to remove the RU3 zone, supports the inclusion of the R3 Medium Density Residential zone, and supports the dwelling cap of a maximum of 600 dwellings.

The altered Gateway determination provides for a local provision to facilitate the dwelling cap. While the Department supports the overall cap on development over the site, the remaining elements of Council’s proposed local provision are not supported as the Department considers existing clause 7.12 of The Hills Local Environmental Plan 2012 (LEP), the most appropriate mechanism to achieve key site outcomes, as this clause implements the methodology for housing mix and diversity within the Sydney Metro Northwest Corridor, which was agreed to by Council and the Minister for Planning.

If Council wishes to achieve these agreed outcomes for housing size, mix and parking, Council may consider seeking an incentive FSR for the site to enable clause 7.12 to apply to any additional residential flat buildings on the site.

The altered gateway determination continues to require the proposal to be updated to seek amendments to the minimum lot size map, floor space ratio map and height of buildings map. Regarding Council’s request to specify the minimum lot sizes and maximum height of building controls, the Department considers that the Gateway determination already provides the necessary flexibility for Council to consider and propose appropriate controls for the site as part of the revised planning proposal.
I note however that the Department is supportive of the heights contained in Council’s proposal, that is, heights ranging from 9 to 22 metres, to provide for development ranging from 2 to 6 storeys. Controls that facilitate the intended development are considered transparent and will give the community certainty as to the intended outcomes for the site. Any controls that will require consideration of a variation to these controls at the development application stage under Clause 4.6 of the LEP to enable the envisaged development, will not be supported.

The Gateway determination remains unaltered regarding the requirement to consider and propose the RE1 Public Recreation zone. I understand that Council is currently working with the proponent towards the dedication of 2.49ha for potential public open space (including the adjoining car park and a general-purpose community facility room) through a Voluntary Planning Agreement (VPA), and that this VPA is anticipated to be publicly exhibited in conjunction with the revised planning proposal. The proposed public open space should be identified in the revised planning proposal as RE1 Public Recreation. Council may wish to note in the revised proposal that this portion of the site may have an alternative zone should VPA not progress.

The Gateway determination also remains unaltered regarding the requirement to consider and propose appropriate environmental zone (or zones). In proposing appropriate environmental zones, Council is requested to seek the highest level of protection to relevant portions of the site.

The Department has considered Council’s concerns regarding the potential acquisition liability in relation to applying the E2 Environmental Conservation zone. Having considered the Departments Practice Note PN09-002, the Department is satisfied that the rezoning of land to E2 does not give rise to the need to compensate a landholder, whether or not the rezoning results in a reduced development potential for the land. Additionally, such a rezoning of land does not trigger any requirement for the State or Council to acquire the land if the land is not also designated for acquisition for a public purpose.

If you have any questions in relation to this matter, I have arranged for Ms Ann-Maree Carruthers, Director, Sydney Region West, to assist you. Ms Carruthers can be contacted on 9274 6270.

Yours sincerely

David Gainsford  
Acting Deputy Secretary  
Planning Services

Encl: Alteration of Gateway determination
Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2017_THILL_006_00)

I, the Acting Deputy Secretary, Planning Services at the Department of Planning and Environment, as delegate of the Greater Sydney Commission, have determined under section 3.34(7) of the Environmental Planning and Assessment Act 1979 to alter the Gateway determination dated 31 October 2017 for the proposed amendment to The Hills Local Environmental Plan 2012 to facilitate a medium to high-density residential development at 55 Coonara Avenue, West Pennant Hills as follows:

1. Delete condition 1(b) and replace with a new condition 1(b):

   “amend the planning proposal to seek to rezone the site from B7 Business Park to R3 Medium Density Residential, R4 High Density Residential, RE1 Public Recreation, and appropriate environmental zones (such as E4 Environmental Living, E3 Environmental Management, and E2 Environmental Conservation) in accordance with Part 2 of The Hills Local Environmental Plan 2012”.

2. At the end of condition 1(e), insert:

   “and to include a proposed local provision facilitating a maximum of 600 dwellings over the site.”

3. Delete condition 5, and replace with a new condition:

   “The timeframe for completing the LEP is to be 31 January 2019.”

Dated 13th day of June 2018.

David Gainsford
Acting Deputy Secretary
Planning Services
Department of Planning and Environment
Delegate of the Greater Sydney Commission

PP_2017_THILL_006_00 (IRF17/707)
Mr Michael Edgar  
General Manager  
The Hills Shire Council  
PO Box 7064  
BAULKHAM HILLS BC 2153  

Attn: Rebecca Templeman  

Dear Mr Edgar  

Planning proposal PP_2017_THILL_006_02 – Endorsement of updated proposal prior to exhibition  

I refer to your letter dated 16 October 2018 in relation the updated planning proposal PP_2017_THILL_006_2 to permit a residential development at the former IBM site (55 Coonara Avenue, West Pennant Hills) which was submitted for endorsement prior to community consultation.  

I have considered the nature of Council’s request and have concluded that the explanation of provisions and intended outcomes provide sufficient detail for the community to have their say on the proposal through the exhibition process. The planning proposal can proceed to exhibition.  

I also note Council’s request to alter the Gateway determination to extend the timeframe to make the plan and Council’s further request for a Gateway alteration to include a local provision to permit small lot housing, when a single development application for both subdivision and a dwelling design is submitted for approval.  

In relation to your request for a timeframe extension, I have decided, as delegate of the Greater Sydney Commission, that in accordance with section 3.34(7) of the Environmental Planning and Assessment Act 1979 (the Act) to alter the Gateway determination to extend the period to complete the plan by six months. The Alteration of Gateway Determination is enclosed.  

In relation to small lot it is noted that the original planning proposal proposed small lot housing with a minimum allotment size of 86m². As such, the existing Gateway determination dated 31 October 2017 (as altered on 13 June 2018) considered this proposed housing type. It is therefore considered that an alteration of the Gateway determination is not necessary.  

Should Council wish to proceed with this type of housing following public exhibition of the planning proposal, the mechanisms to deliver this outcome will be considered at the time of finalisation.
In response to recent reports of koala habitat associated with the site, Council is to ensure a copy of the supplementary assessment prepared by Keystone Ecological dated 12 November 2018 is made available with the planning proposal documentation during the public exhibition to enable the community to view and comment on this assessment. The planning proposal should also be referred to the Forestry Commission of NSW for comment as an adjoining landowner.

Should you have any enquiries about this matter, I have arranged for Mr Sebastian Tauni, Senior Planning Officer to assist you. Mr Tauni can be contacted on 8217 2018.

Yours sincerely

[Signature]

Ann-Maree Caruthers
Acting Executive Director, Regions Planning Services

Encl: Alteration of Gateway Determination
Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2017_THILL_006_02)

I, the Director, Sydney Region West at the Department of Planning and Environment, as delegate of the Greater Sydney Commission, have determined under section 3.34(7) of the Environmental Planning and Assessment Act 1979 to alter the Gateway determination dated 31 October 2017 (as altered 13 June 2018) for the proposed amendment to The Hills Local Environmental Plan 2012 as follows:

1. Delete condition 5, and replace with a new condition:

The timeframe for completing the LEP is to be 31 July 2019.

Dated 29th day of November 2018.

[Signature]

Acting Executive Director
Regions
Planning Services
Department of Planning and Environment

Delegate of the Greater Sydney Commission