

APPENDIX 3

Gateway Determination 17 Dec 2018

Mr Warwick Winn
General Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751

Dear Mr Winn

Planning proposal PP_2018_PENRI_005_00 to amend Penrith Local Environmental Plan 2018

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), and additional information provided by Council, in respect of the planning proposal to undertake housekeeping amendments to various provisions of the Penrith Local Environmental Plan 2010 (LEP).

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Directions: 1.1 Business and Industrial Zones; 2.1 Environment Protection Zone; 2.3 Heritage Conservation; 3.1 Residential Zones; 6.2 Reserving Land for Public Purposes; and, 6.3 Site Specific Provisions, are justified in accordance with the terms of each Direction.

My agreement, however, does not extend to any possible inconsistency with item 16 of the proposal, proposed amendments to 2-8 and 10 Twin Creeks Drive, Luddenham. Council may still need to obtain agreement of the Department's Secretary to comply with the requirements of Direction 2.1 Environmental Protection zones as it applies to this item.

To clarify this matter, I have conditioned the determination for Council to consult with the Office of Environment and Heritage and I ask that Council be guided by that authority's response. Should it be necessary, Council is to obtain agreement of the Department's Secretary to comply with the requirements of section 9.1 Direction 2.1 following consultation and prior to finalisation of the proposal.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within 9 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 to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment.

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 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for I have arranged for Mr Ryan Klingberg to assist you. Mr Klingberg can be contacted on 9860 1561.

Yours sincerely


Ann-Maree Carruthers
Director, Sydney Region West
Planning Services

17/12/2018

Encl: Gateway determination
Local plan-making authority reporting template

Gateway Determination

Planning proposal (Department Ref: PP_2018_PENRI_005_00): to undertake housekeeping amendments to various provisions of the Penrith Local Environmental Plan 2010 at various sites.

I, the Director, Sydney Region West at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Penrith Local Environmental Plan (LEP) 2010 to undertake housekeeping amendments to various provisions of the LEP at various sites should proceed subject to the following conditions:

1. Prior to exhibition, Council is to amend the planning proposal in the following manner:

Part 2 – Explanation of Provisions

- (a) **Item 1. Bus shelter advertising – introduce exempt development provisions:** amend the proposed provision to the following:
 - 1. Signage – Bus Shelter Advertising**
 - (1) Bus shelter advertising may only be located in Residential, Business, Industrial or Special Use zones.
 - (2) Must not extend beyond the perimeter of the bus shelter.
 - (3) A maximum of 2 advertising panels per bus shelter that may comprise an advertisement on 2 sides
 - (4) Must not contain flashing or neon signage.
 - (5) Must not obscure pedestrian paths of travel.
 - (6) Bus shelter advertising located on land that comprises a heritage items or within a heritage conservation areas are not exempt.
 - (7) Any illumination of the signage must be adjustable so that the light intensity can be managed.
 - (8) Illumination must not adversely impact on the amenity of residential dwellings, serviced apartments or other tourist and visitor accommodation.
 - (9) Illumination must not adversely impact upon the safety of pedestrians, cyclists or the safe passage of motor vehicles.
- (b) Include a note under this item that this clause is subject to legal drafting and the wording may alter during that process.
- (c) **Item 3. Captains Road, Nepean Avenue and Ladbury Avenue, Penrith –** clearly label the lots proposed to be amended on pages 11, 12 and 13.
- (d) **Item 7. Extension of the serviced apartments clause 8.6 to apply to land outside the Penrith City Centre:** amend the proposal under this item to indicate the zone(s) where serviced apartments are currently permissible.
- (e) **Item 11. Update land descriptions in Schedule 5 environmental heritage to address anomalies:** Council is to ensure that the proposed description of 'Lot C1' for Lemongrove Lodge is correct and, if necessary, amend the planning proposal in this regard.

Part 3 – Justification

- (f) Remove the reference to Section 117 Directions and replace with Section 9.1 in accordance with the *Environmental Planning and Assessment Act* 1979.

Part 4 – Mapping

- (g) While the maps provided in the planning proposal are generally adequate for community consultation purposes, for clarity, Council is to make the following alterations to conform with the Department's *A guide to preparing local environmental plans* (Department of Planning and Environment 2016):
- i. a key (or other identification method) is to be provided showing the relevant zones, and/or controls, under each diagram within Part 2 – Explanation of Provisions;
 - ii. the land subject to the proposal in the diagrams within Part 2 – Explanation of Provisions, where practicable, are to be illustrated by a coloured outline border and identified in the key; and, the red circle – where shown in these diagrams - is to be removed; and,
 - iii. given the minor spatial changes proposed for some items, the following diagrams within Part 2 – Explanation of Provisions, are to be enlarged and/or supported by a supplementary enlarged diagram, so that these amendments can better understood:
 - Item 9. Alignment of mapped planning controls with property boundaries at Bluestone Drive, Glenmore Park to correct an anomaly; and
 - Item 14. Land in the vicinity of Victoria Street, Werrington – anomaly in mapped planning controls; and
 - iv. the subject lot boundaries are to be identified on the diagrams supporting item 16. Number 2-8 & 10 Twin creeks Drive, Luddenham – amendment to land zoning, lot size controls and additional permitted use provisions, under Part 2 – Explanation of Provisions.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
- (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of **28 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 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 under section 3.34(2)(d) of the Act.

- the Office of Environment and Heritage;
- Roads and Maritime Services.

Each public authority 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 3.34(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 planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated 17th day of December 2018.



Ann-Maree Carruthers
Director, Sydney Region West
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning