

Gateway Determination

Planning proposal (Department Ref: PP-2022-4118): to partially rezone a site, amend development controls and apply new additional and local provisions.

I, the Executive Director, Metro West 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 Penrith Local Environmental Plan 2010 to rezone Deferred Matters land to E4 General Industrial, align height of building, minimum lot size and scenic and landscape values across the site and apply new additional permitted use and additional local provisions clauses should not proceed for the following reasons:

- Is inconsistent with Ministerial Directions 4.1 Flooding and 9.2 Rural Lands.
- The Flood Risk Management Strategy (Rienco, 2022) does not adequately support the proposal as it:
 - does not justify the inconsistency with Ministerial Direction 4.1
 - has not addressed the impacts of the proposal at the PMF level;
 - lacks consideration of the cumulative impacts on flood behaviour (both upstream and downstream) as a result of filling Lot 1.
 - lacks detail on how future industrial development on the site (as a result of the proposed rezoning) will impact on flood behaviour.
- The proposal seeks to 'fill' the site, which:
 - is not supported by strategic documents including the Western District Plan and
 - has the potential for cumulative impacts on flood behaviour and result in off-site impacts
- Given the level flood impact and hazard, it is not considered that the proposal could be supported by an updated flood impact assessment .
- The proposal also lacks sufficient justification to expand the proposed E4 General Industrial zoning across the site (and associated development control amendments).

Dated 15th day of June 2023.



Catherine Van Laeren
Executive Director, Metro West
Planning and Land Use Strategy
Department of Planning and Environment

Delegate of the Minister for Planning and Public Spaces

Mr Andrew Moore
General Manager
Penrith City Council
PO BOX 60
Penrith NSW 2751

Our ref: IRF23/3169

Dear Mr Moore

Planning proposal PP-2021-4118 to amend Penrith Local Environmental Plan 2010

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) in respect to partial rezoning of the land at 170 Russell Street, Emu Plains from Deferred Matter to E4 General Industrial. The proposal also:

- extends existing Height of Building, Scenic and Landscape Values and Additional Permitted Uses controls to the rezoned area of the land, and
- introduces a new Minimum Lot Size control and a new Additional Local Provisions clause to address flood mitigation and filling on the entirety of the site.

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.

I have also agreed, as delegate of the Secretary, the inconsistencies of the planning proposal with applicable directions of the Minister under section 9.1 of the Act is justified in accordance with the terms of the Direction and subject to conditions on the Gateway certificate.

- Ministerial direction 4.1 - Flooding
- Ministerial direction 9.1 - Rural Lands

Secretary's approval in relation to these directions is not required.

As requested by way of the Council resolution of 31 October 2024, I have determined to authorise Council to be the local plan-making authority. I am confident that the Department, the NSW Reconstruction Authority and Council can work together to resolve the minor outstanding matters relating to flood and evacuation, with Council as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within 9 months from 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 the Department of Planning, Housing and Infrastructure to draft and finalise the LEP should be made eight weeks in advance of the date the LEP is projected to be made.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses.

Should you have any enquiries about this matter, I have arranged for Mr Kye Sanderson to assist you. Mr Sanderson can be contacted on 02 9274 6180.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Grose', written in a cursive style.

19 March 2024

Jane Grose
Executive Director
Western Parkland City
Department of Planning, Housing and Infrastructure
Delegate of the Minister for Planning and Public Spaces

Encl: Gateway determination

Gateway Determination

Planning proposal (Department Ref: PP-2021-4118): Seeking a partial rezoning of the land from Deferred Matter to E4 General Industrial, extending the existing Height of Building, Scenic and Landscape Values and Additional Permitted Uses controls to the rezoned area of the land and introducing a new Minimum Lot Size control and a new Additional Local Provisions clause to address flood mitigation and filling on the entirety of the site.

I, the Executive Director at the Department of Planning, Housing and Infrastructure, 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 Penrith Local Environmental Plan 2010 to rezone land from Deferred Matter to E4 General Industrial along with the associated amendments should proceed subject to the following conditions:

The Council is authorised to exercise the functions of the planning proposal authority.

The Council will also exercise the functions of the Local Plan Making Authority under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
- (b) there are no outstanding written objections from public authorities.

The LEP should be completed within 9 months following the date of the gateway determination.

Gateway Conditions

1. Prior to exhibition consideration must be given by the planning proposal authority to:
 - a. Ensure the Planning Proposal documentation, including all maps, are updated to reflect current planning controls, as per the Penrith LEP 2010, and relevant State and local planning policies and strategies.
 - b. Ensure the proposed planning control maps are consistent with the intended amendments.
2. 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 standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) 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*

Exhibition must commence within 3 months following the date of the gateway determination.

3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
 - NSW Department of Climate Change, Energy, the Environment and Water
 - NSW Reconstruction Authority (NSWRA)
 - Transport for NSW
 - NSW State Emergency Services (SES)
 - Sydney Water
 - Endeavor Energy
 - Relevant infrastructure providers for telephone, NBN and gas

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.

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. Prior to finalisation, the Local Plan Making Authority (LPMA) in consultation with the NSW Reconstruction Authority must consider the proposed fill in the context of the most recent publicly available regional flood study for the Hawkesbury Nepean Catchment, and any off site impacts.
6. Prior to finalisation an amended evacuation plan must be provided to the LPMA that has been prepared to the satisfaction of the NSW SES and NSW RA. The amended evacuation plan must consider the Hawkesbury-Nepean Valley Flood Evacuation Model (FEM) and any implications the FEM has for the proposed rezoning in relation to the capacity of regional evacuation routes in the area.
7. Prior to finalisation the proponent must demonstrate to the satisfaction of the LPMA that the planning proposal will not result in hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event

Dated 19 March 2024



**Jane Grose
Executive Director
Western Parkland City
Department of Planning, Housing and
Infrastructure**

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

Mr Andrew Moore
General Manager
Penrith City Council
PO BOX 60
Penrith NSW 2751

Our ref: PP-2021-4118/IRF24/1197

Dear Mr Moore

Planning proposal PP-2023-4118 – Alteration of Gateway Determination

I refer to your email seeking an extension of time to complete planning proposal PP-2021-4118 which seeks to amend Penrith Local Environmental Plan 2010 to partly rezone land and apply relevant planning controls for the property at 170 Russell Street, Emu Plains.

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 19 March 2024 for PP-2023-4118. The Alteration of Gateway determination is enclosed.

If you have any questions in relation to this matter, I have arranged for Ian Bignell to assist you who can be contacted by emailing ian.bignell@planning.nsw.gov.au.

Yours sincerely



30 May 2024

Felicity No
Director Metro Central, West and South
Planning, Land Use Strategy Housing and Infrastructure
Department of Planning, Housing and Infrastructure

Encl: Alteration of Gateway Determination

Alteration of Gateway Determination

Planning proposal (Department Ref: PP-2021-4118)

I, Director Central, West and South Metro, at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 19 March 2024 for the proposed amendment to the *Penrith Local Environmental Plan 2010* as follows:

1. Amend the following wording in the preamble before condition 1:

Delete: The LEP should be completed within 9 months following the date of the gateway determination.

Replace with: The LEP should be completed within **12** months following the date of the gateway determination.

2. Amend the following wording at the end of condition 2:

Delete: Exhibition must commence within 3 months following the date of the gateway determination.

Replace with: Exhibition must commence within **6** months following the date of the gateway determination.

Dated 30 May 2024.



Felicity No
Director Metro Central, West and South
Planning and Land Use Strategy,
Housing and Infrastructure
Department of Planning, Housing and
Infrastructure

Delegate of the Minister for Planning and
Public Spaces

Mr Andrew Moore
General Manager
Penrith City Council
PO BOX 60
Penrith NSW 2751

Our ref: PP-2021-4118

Dear Mr Moore

Planning proposal PP-2023-4118 – Alteration of Gateway Determination

I refer to your email seeking an extension of time to complete planning proposal PP-2021-4118 which seeks to amend Penrith Local Environmental Plan 2010 to partly rezone land and apply relevant planning controls for the property at 170 Russell Street, Emu Plains.

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 19 March 2024 for PP-2023-4118 (and as amended 30 May 2024). The Alteration of Gateway determination is enclosed. The further extension of time for public exhibition commencement is supported. The extension of the LEP completion date is not supported at this time, however the Department is open to consider this request nearer to the current completion date, following public exhibition.

If you have any questions in relation to this matter, I have arranged for Mr Ryan Klingberg to assist you. Mr Klingberg can be contacted on telephone 9860 1561.

Yours sincerely



27 August 2024

Rukshan de Silva
Director Local Planning - Central, West and South
Planning, Land Use Strategy Housing and Infrastructure
Department of Planning, Housing and Infrastructure

Encl: Alteration of Gateway 2 Determination

Alteration of Gateway Determination

Planning proposal (Department Ref: PP-2021-4118)

I, Director Central, West and South Metro, at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 19 March 2024 and Alteration 1 dated 30 May 2024 for the proposed amendment to the *Penrith Local Environmental Plan 2010* as follows:

1. Amend the following wording at the end of condition 2:

Delete: Exhibition must commence within 6 months following the date of the gateway determination.

Replace with: Exhibition must commence within **8** months following the date of the gateway determination.

Dated 27 August 2024.



Rukshan de Silva
Director Local Planning (Central, West and South)
Planning and Land Use Strategy,
Housing and Infrastructure
Department of Planning, Housing and Infrastructure

Delegate of the Minister for Planning and Public Spaces