

## Planning Services

IRF18/5218

### Gateway Determination Report

<b>LGA</b>	Penrith
<b>PPA</b>	Penrith City Council
<b>NAME</b>	Annual Amendment 2018 (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2018_PENRI_005_00
<b>LEP TO BE AMENDED</b>	Penrith Local Environmental Plan 2010
<b>ADDRESS</b>	Various sites in the Penrith LGA
<b>DESCRIPTION</b>	Various sites in the Penrith LGA
<b>RECEIVED</b>	29 June 2018 – subject to discussions with council officers
<b>FILE NO.</b>	IRF18/3878
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## INTRODUCTION

### Description of planning proposal

The planning proposal seeks to undertake amendments to the Penrith Local Environmental Plan 2010 (LEP) to resolve sixteen (16) errors and/or anomalies identified in the LEP by council officers. The changes proposed in the planning proposal are of a minor nature and are categorised as follows:

- minor alignment of zoning and other development standards to lot boundaries;
- correction of labelling errors;
- removal of heritage items; and,
- update of provisions to contemporise the plan.

The planning proposal applies to various land parcels across the Penrith Local Government Area (LGA).

### Site description

The subject amendments are identified and described in detail in the planning proposal (**Attachment A**).

### Summary of recommendation

It is recommended that the planning proposal proceed, with conditions, given that it seeks to make various, minor amendments to the Penrith LEP 2010 to better allow the orderly development of land within the LGA.

## PROPOSAL

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### Objectives or intended outcomes

The objectives of this planning proposal are to correct various errors and anomalies identified in the LEP by Council. These objectives will be achieved by making changes to the LEP written instrument and relevant LEP map tiles.

Rectifying these errors and anomalies will provide an accurate planning instrument and reduce the potential for delays, should development be proposed where errors and anomalies currently exist.

The objectives of this planning proposal are clear and adequate.

### Explanation of provisions

The planning proposal seeks to amend the Penrith Local Environmental Plan (LEP) 2010. The proposal consists of sixteen (16) amendments which involves a mix of the following housekeeping and policy amendments:

Item No.	Item	Nature of Change
1	Bus shelter advertising – introduce exempt development provisions	Policy
2	Penrith Panthers site - Minimum lot size control mapping anomaly	Housekeeping
3	Captains Road, Nepean Avenue and Ladbury Avenue, Penrith – anomalies in mapped planning controls	Housekeeping
4	Removal of ‘Canine council dwelling’ local heritage item 846, Orchard Hills – item no longer exists	Policy
5	Removal of ‘brick cottage’ local heritage item 830, Luddenham – item no longer exists	Policy
6	Local heritage item 878 (scarred tree and Aboriginal artefact scatter) at Bradley Street, Glenmore Park - anomaly in mapped heritage controls	Housekeeping
7	Extension of the serviced apartments clause 8.6 to apply to land outside the Penrith City Centre	Policy
8	Update to land covered by Thornton Hall local heritage item 166, Penrith to correct an anomaly	Housekeeping
9	Alignment of mapped planning controls with property boundaries at Bluestone Drive, Glenmore Park to correct an anomaly	Housekeeping
10	Rezoning of part of Princess Mary Street, St Marys that has a zoning anomaly	Housekeeping
11	Update land descriptions in Schedule 5 environmental heritage to address anomalies	Housekeeping
12	119 Station Street, Penrith (Penrith swimming pool site) – anomaly in zoning controls	Housekeeping
13	Expansion of additional permitted uses at 32-52 Harris Street, North St Marys	Policy

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Item No.	Item	Nature of Change
14	Land in the vicinity of Victoria Street, Werrington - anomaly in mapped planning controls	Housekeeping
15	Western end of Glenmore Park Stage 2 - anomaly in mapped planning controls	Housekeeping
16	Number 2-8 & 10 Twin Creeks Drive, Luddenham – amendment to land zoning, lot size controls and additional permitted use provisions	Policy

**Attachment A** provides site identification, current provisions and proposed provisions for each site.

### **1. Bus shelter advertising – introduce exempt development provisions**

The planning proposal seeks to introduce exempt development provisions into the Penrith LEP 2010 for bus shelter advertising to allow advertising to be displayed without development consent.

#### Department comment

The proposed amendment is appropriate as it will streamline the process for implementing bus shelter advertising. The proposed provision is as follows:

#### **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 in the vicinity of heritage items (on or near heritage items or within heritage conservation areas) are not exempt.*

Consideration has been given to the *Transport Corridor Outdoor Advertising and Signage Guidelines* (pg. 42-44) and Council's development control plan. Following this review, it is considered appropriate and recommended, that further specific requirements for illumination be included in the proposed exempt development provisions for: amenity purposes; heritage sensitivities; and, to maintain safety for pedestrians and motorists. This has been included as a recommended condition in the determination, as follows (alterations in shown red text):

#### **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 item 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 on the safety of pedestrians, cyclists or motor vehicles.*

These proposed amendments were discussed with the council officer responsible for the proposal and no objections were raised to these alterations.

Given the extent of the proposed provision, it is also recommended that a further condition be attached to the determination for Council to include a note in the proposal that this clause is subject to legal drafting and the wording may alter during that process. Other drafted provisions in the proposal are minor (i.e. items: 7 and 13) and it is not considered necessary to include the note for these items.

In addition, consultation with Roads and Maritime Service during the exhibition period is recommended for this item.

## **2. Penrith Panthers site - minimum lot size control mapping anomaly**

The planning proposal seeks to correct the minimum lot size map by removing three lots from that map (Lot Size Map – Tile 006), which are located within the Penrith Panthers site. The parcels of land are part of the road reserve on Retreat Drive; Lot 1 Retreat Drive (Lot 1 DP 1064526); and, 65 Mulgoa Road (Lot 1021 DP 812335).

### **Department comment**

The proposed amendment is appropriate as it will provide consistency across the Penrith Panthers site. A condition to the Gateway determination has been recommended, however, to clearly indicate on the diagrams in the planning proposal the lots proposed to be removed from the Minimum Lot Size map prior to exhibition.

## **3. Captains road, Nepean Avenue and Ladbury Avenue, Penrith – anomalies in mapped planning controls**

The planning proposal seeks to amend the Penrith LEP to add five (5) sites to the minimum lot size map (Lot Size Map – Tile 006). The five sites are identified overleaf, as:

- western portion of 6-8 Captains Road (Lot1 on DP1154043);
- 10 Captains Road (Lot113 on DP1036534);
- 12 Captains Road (Lot112 on DP1036534);
- 14 Captains Road (Lot111 on DP1036534); and,
- Part of the Nepean Avenue road reserve.

These lots are zoned R2 Low Density Residential, and for consistency with other land zoned R2, a minimum allotment size of 600sqm is proposed.

The proposal also seeks to amend the Penrith LEP to remove that part of the site located at 20-22 Ladbury Avenue (Lot 2 on DP1154043), which currently appears on

the building height map. This portion is zoned RE2 Private Recreation, and to be consistent with other similarly zoned land, it is proposed to remove the height of building standard.

Department comment

The proposed amendment is appropriate to align with the adjoining lots zoned R2 Low Density Residential.

Regarding 20-22 Ladbury Avenue, this site is zoned as RE2 Private Recreation. For consistency it is deemed acceptable to remove the height of building control.

**4. Removal of 'Canine Council dwelling' local heritage item 846, Orchard Hills – item no longer exists**

The planning proposal seeks to amend Schedule 5 of the Penrith LEP 2010 to remove the 'Canine Council dwelling' (Item 846) from the local heritage item list (refer below).

The Canine Council dwelling (Item 846) was an inter-war twentieth century farmhouse cottage situated next to the Leeholme sales ring. Council has advised that this dwelling was demolished in approximately 2007 and this dwelling no longer exists.

Suburb	Item name	Address	Property description	Significance	Item no	Map tiles
Orchard Hills	Canine Council dwelling	391-395 Mamre Road	Lot 2, DP 547057	Local	846	014, 020

Department comment

The proposed amendment is appropriate. It is noted that Council's compliance team has confirmed the absence of the dwelling and indicated that it will take no further action in relation to this matter.

**5. Removal of 'Brick Cottage' local heritage item 830, Luddenham – item no longer exists**

The planning proposal seeks to amend Schedule 5 of the Penrith LEP 2010 to remove the 'Brick Cottage' (Item 830) from the local heritage item list (refer over). The building was extensively fire damaged in 2009 and subsequently demolished in 2010, without development approval.

Suburb	Item name	Address	Property description	Significance	Item no	Map tiles
Luddenham	Brick Cottage	406 Park Road	Part Lot 2, Section A, DP 1452	Local	830	008

Department comment

The proposed amendment is appropriate given its demolition. It is noted that Council's compliance team has confirmed the absence of the cottage and advised that it will take no further action in relation to this matter.

**6. Local heritage item 878 (scarred tree and aboriginal artefact scatter) at Bradley Street, Glenmore Park - anomaly in mapped heritage controls**

The planning proposal proposes to amend Schedule 5 of the Penrith LEP 2010 to amend the property description of the heritage item: 'Scarred Tree and Aboriginal Artefact Scatter' (Item 878) in the local heritage item list. This amendment is required to reflect a recent subdivision near this heritage item.

Suburb	Item name	Address	Property description	Significance	Item no	Map tiles
Glenmore Park	Scarred tree and Aboriginal artefact scatter	<del>Lot 200 Bradley Street</del> Lot 2000 Bradley Street	<del>Lot 200, DP 1162982</del> Part Lot 2, Section A, DP 1452	Local	878	007

Department comment

The proposed amendment is appropriate. This reflects the recent subdivision and ensures the appropriate lot containing the Scarred tree and Aboriginal artefact scatter is correctly listed in the LEP.

**7. Extension of the serviced apartments clause 8.6 to apply to land outside the Penrith city centre**

The planning proposal seeks to remove Clause 8.6 Serviced Apartments from PLEP 2010 and insert this clause as a local clause (7.26 Service Apartments) so that it applies to a wider area.

The clause imposes design outcomes for serviced apartments by applying requirements to meet SEPP No. 65 (Design Quality of Residential Apartment Development) and the design principles included in the Apartment Design Guide (ADG).

Clause 8.6 Serviced Apartments currently applies to land identified as "Penrith City Centre" on the Clause Application Map (refer to the following).



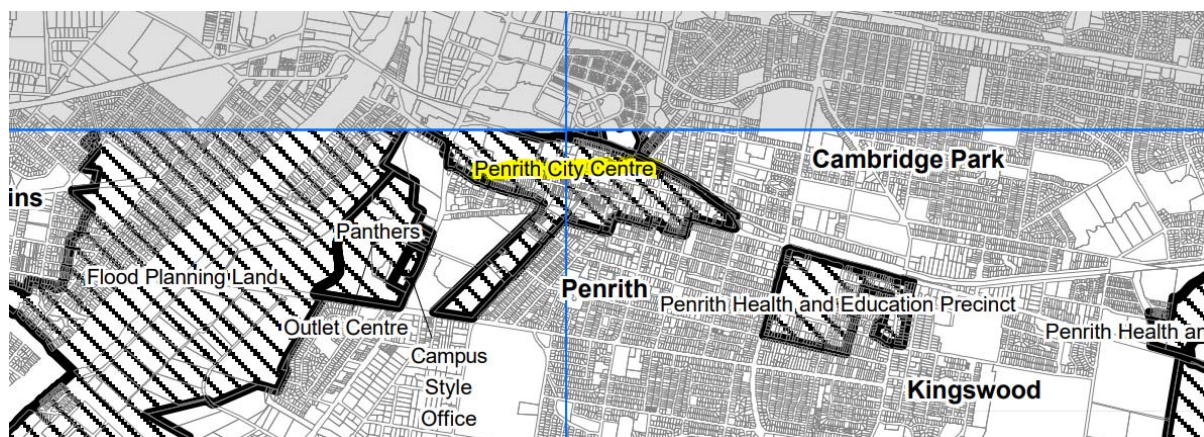


Figure 1: 'Penrith City Centre': Clause Application map

### Department comment

This amendment is supported. Compliance with SEPP No. 65 and the ADG will see improved design principles applied to serviced apartments, ensuring consistency with appropriate provisions if the use of these buildings is proposed to be changed to regular strata residences.

For clarity, however, it is recommended that Council amends the proposal under this item to indicate the zone(s) where serviced apartments are currently permissible.

### **8. Update to land covered by Thornton Hall local heritage item 166, Penrith to correct an anomaly**

The planning proposal proposes to amend Schedule 5 of the Penrith LEP 2010 to amend the address and property description of the heritage item: 'Thornton Hall' (Item 166), in the local heritage item list.

This amendment is required to reflect a subdivision which has occurred under SSD 5243 Stage 2A Infrastructure, landscaping and subdivision works of the North Penrith Council Plan (MP 10-0075). Thornton Hall is identified as existing on Lot 2032 DP 1181618.

Suburb	Item name	Address	Property description	Significance	Item no	Map tiles
Penrith	Thornton Hall	Lot 11, The Crescent  Thornton House 33 Mountain View Crescent, Penrith	Lot 1, DP 33753  Lot 2032, DP 1181618	Local	166	012, 013

#### Department comment

The proposed amendment is appropriate. The amendment reflects the recent subdivision and ensures the lot containing Thornton Hall is correctly listed in the LEP.

#### **9. Alignment of mapped planning controls with property boundaries at Bluestone Drive, Glenmore Park to correct an anomaly**

Council proposes to align property boundaries with zones by amending various maps applying to a number of properties at Bluestone Drive and Bradley Street, Glenmore Park, as follows:

- 156 Bradley Street;
- 89 Bluestone Drive;
- 87 Bluestone Drive;
- 85 Bluestone Drive;
- 83 Bluestone Drive;
- 81 Bluestone Drive;
- 79 Bluestone Drive;
- 77 Bluestone Drive.

The proposed boundary adjustments are to the current zone, height of building; and, lot size maps.

#### Department comment

This is a minor amendment to recognise lot layout following rezoning and no objection is raised to this amendment proceeding. It is recommended, however, that given the small variation, the supporting diagrams be enlarged in the proposal to clearly show the exact amendment(s).

#### **10. Rezoning of part of princess Mary Street, St Marys that has a zoning anomaly**

The planning proposal seeks the following relating to part of Princess Mary Street:

- I. rezone from RE1 Pubic Recreation to B4 Mixed use as this area is a roadway and does not warrant a RE1 zoning (refer Land Zoning Map – Tile 019);
- II. apply a 15 metre height of buildings control, as there is no current control over this part of the road and the proposed height is consistent with the land immediately to the east (refer to Height of Building Map – Tile 019); and,
- III. apply a 1,200 square metre minimum lot size (MLS) control as there is no current MLS control over this part of the road and the proposed control is consistent with the land immediately to the east (refer to Lot Size Map – Tile 019).

#### Department comment

It is noted that under the LEP the controls of roads are generally consistent with the adjoining zone. As such, the proposed amendments are appropriate to be consistent with surrounding controls.



## **11. Update land descriptions in Schedule 5 environmental heritage to address anomalies**

The planning proposal proposes to amend Schedule 5 of the Penrith LEP 2010 to amend the property description of the following five local heritage items.

Suburb	Item name	Address	Property description	Significance	Item no
Cranebrook	'Kenilworth' dwelling and trees	<del>6-9 Tallwood Road</del> 6-9 Tallowood Place	Lot 26, DP 855247	Local	36
Emu Plains	Emu Plains Public School (former) and trees	207-219 Great Western Highway	<del>Part 1, Lot 1, DP 650753</del> Part Lot 1, DP 650753	Local	76
Luddenham	Showground	428-452 Park Road	<del>Lot 1, DP 931531</del> <del>Lot 2, DP 972057</del>  Lot 1, DP 931631 Lot 2, DP 972057	Local	679
Penrith	Lemongrove Lodge	<del>22-24 Lemongrove Avenue</del>  22-24 Lemongrove Road	<del>Lot C1, DP 162094</del>  Lot 1C, DP 162091	Local	172
Penrith	Penrith Power Station (former)	1 Museum Drive	<del>Lot 1, DP 1040950</del>  Lot 1306, DP 1234327	Local	259

### **Department comment**

The proposed amendment is appropriate. These are minor housekeeping items.

With regards to item number 172: Lemongrove Lodge - Lot C1 appears to be the correct description. Council's request to change to '1C' therefore appears to be erroneous. A condition for Council to verify the description is recommended and, if necessary, amend the proposal accordingly.

## **12. 119 Station Street, Penrith (Penrith swimming pool site) – anomaly in zoning controls**

The planning proposal seeks to change the zoning at the Penrith Swimming Pool site, located at 119 Station Street (Lot 11, DP 11769887), from RE2 Private Recreation to RE1 Public Recreation.

The swimming pool was acquired by Council in February 2013. Prior to the purchase, the site was owned by the same land owners as the adjacent Penrith Showground, which is zoned RE2 Private Recreation.

Department comment

The proposed amendment is appropriate as it accurately reflects the current use and ownership.

**13. Expansion of additional permitted uses at 32-52 Harris Street, North St Marys**

It is proposed to amend Schedule 1: *Additional permitted uses* of the Penrith LEP 2010 for a building located at 32-52 Harris Street, North St Marys. There are three tenancies on the ground floor of the multi-level car park adjoining St Marys train station. The ground floor has had high vacancy rate.



Figure 2: Three tenant shops at 32-52 Harris Street, North Saint Mary's

The property is currently subject to additional uses of business premises and community facilities (with development consent). Council seeks to include a further additional use of recreation facilities (indoor) for the property. This additional use is expected to improve the vacancy rate; pedestrian activation; and, security.

The amended clause subclause will read as:

*(2) Development for the purpose of recreation facilities (indoor), business premises and community facilities is permitted with development consent.*

Department comment

The proposed amendment is appropriate. Given the circumstances and other factors, including proximity to the train station, parking, pedestrian footbridge and town centre, this approach is deemed acceptable.

#### **14. Land in the vicinity of Victoria Street, Werrington - anomaly in mapped planning controls**

This amendment proposes to make corrections to the zone, building height and lot size maps in the vicinity of Victoria Street, Werrington, to align mapped boundaries with property boundaries and/or correctly apply these boundaries in the locality. In summary, it is proposed to:

- *Zone Change*: remove the RE1 Zone from Cottage Street and apply a R2 zone as it is a road adjoining R2 zoned land; and, re-align the RE1 zone at 265 Victoria Street;
- *Building Height Change*: align the boundary of the height control to correctly comply with properties boundaries along Victoria Street; and, adjust the mapped height control boundary in the vicinity of 265 Victoria Street;
- *Lot Size Map Changes*: align the mapped lot size control correctly to the property boundaries along Willian Street

#### **Department comment**

The Department supports these minor amendments.

#### **15. Western end of Glenmore Park Stage 2 - anomaly in mapped planning controls**

Council proposes to rectify minor mapping anomalies for zoning; lot size; and, building height; on the western boundary of the Glenmore Park (Stage 2) Release Area. The following properties are affected by this amendment:

- 90b Forestwood Drive, Mulgoa (Lot 6401 DP 1231223);
- 90a Forestwood Drive, Mulgoa (Lot 6400 DP 1231223);
- Lot 641 Forestwood Drive, Glenmore Park (Lot 641 DP 1222236);

and it is proposed to amend the following:

- Land Zoning map – tile 007;
- Height of Buildings map – tile 007; and,
- Lot Size map – tile 007.

#### **Department comment**

The Department supports rectification of this GIS data as it is a housekeeping measure aimed at removing ambiguity and does not propose to change planning controls.

#### **16. Number 2-8 & 10 Twin Creeks Drive, Luddenham – amendment to land zoning, lot size controls and additional permitted use provisions**

This item proposes to amend the land zoning and minimum lot size controls at 2-8 Twin Creeks Drive (Lot 47 DP 270417) and remove 10 Twins Creek Drive, Luddenham (Lot 221, DP 270417) from Schedule 1: *permitted additional uses* of Penrith LEP 2010 and replace with a RE2 Private Recreation Zone.

2-8 Twin Creeks Drive (Lot 47 DP 270417): The proposed changes to the planning controls is to recognise the existing golf course and ancillary clubhouse on the site. The land is currently zoned E4 Environmental living conservation, but the golf course and clubhouse operate under existing use rights. It is proposed to rezone the portion of land with the golf course and clubhouse to RE2 Private Recreation. Additionally, it is proposed to remove the current 4000sqm minimum lot size control applying to this land as there is no requirement to apply this control to RE2 zoned land.

10 Twins Creek Drive, Luddenham (Lot 221, DP 270417): This property is a vacant lot sized 9,364 sqm, zoned E4 Environmental living and is included under Clause 16 of Schedule 1: *additional permitted uses* of Penrith LEP 2010. The additional permitted use is for the purposes of hotel or motel accommodation, neighbourhood shops and recreation facilities (outdoor) and may be permitted with development consent. The RE2 zone permits 'hotel or motel accommodation' and 'recreation facilities (outdoor)' with development consent, however, 'neighbourhood shops' will become a prohibited land use under this change.

#### Department comment

2-8 Twin Creeks Drive (Lot 47 DP 270417): this part of the proposed rezoning is not supported by an ecological study. An aerial photo of the site indicates that a stand of trees is located on land currently zoned as E4 and proposed to be rezoned as RE2 (refer Figure 8, following).

It is also noted that this stand is located near to a smaller patch of vegetation which is also proposed to be rezoned to RE2, however, this patch is subject to a natural resources sensitives land provision under the LEP and is appropriately protected.

This larger stand is highlighted in red outline on the aerial photo and the smaller stand in blue outline. Further, the boundary of the proposed rezoning is outlined in green. Refer to Figure 9, following.

In discussions with the Office of Environment and Heritage, it was indicated that there is the possible presence of protected Cumberland Plain Woodland on the site, however, this has not been confirmed by survey.

Council advised an ecological study had not been conducted to assess the ecological significance of the site. This was discussed with council officers who did not support the preparation of a supporting study. This approach was taken on the basis that the proposed zone simply seeks to better reflect the current use of the land, which does not warrant a supporting study. In addition, continuance of the E4 zone is not appropriate as it permits dwellings. Further, the proposed RE2 zone is restrictive i.e. a limited number of permitted land uses, and therefore the stand of vegetation is adequately protected by this means.

The RE2 land use table (extract Penrith LEP 2010) is as follows:

#### **Zone RE2 Private Recreation**

##### **1 Objectives of zone**

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

2 *Permitted without consent*  
*Nil*

3 *Permitted with consent*  
*Building identification signs; Caravan parks; Centre-based child care facilities; Community facilities; Environmental facilities; Environmental protection works; Function centres; Hotel or motel accommodation; Information and education facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restaurants or cafes; Roads*

4 *Prohibited*  
*Any development not specified in item 2 or 3*

The RE4 land use table (extract Penrith LEP 2010) is as follows:

**Zone E4 Environmental Living**

1 *Objectives of zone*

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- To ensure that residential development does not have an adverse effect on those values.*
- To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- To ensure land uses are compatible with the available infrastructure, services and facilities and with the environmental capabilities of the land.*
- To preserve and improve natural resources through appropriate land management practices.*

2 *Permitted without consent*  
*Home occupations*

3 *Permitted with consent*  
*Bed and breakfast accommodation; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Flood mitigation works; Home-based child care; Home businesses; Home industries; Information and education facilities; Places of public worship; Recreation areas; Respite day care centres; Roads; Schools; Secondary dwellings*

4 *Prohibited*  
*Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3*

On balance and given the circumstances, it is not considered that Council should be compelled to undertake a supporting study. To ensure that this matter is appropriately considered, however, it is recommended that Council be required to consult with the Office of Environment and Heritage during the exhibition period.







## Mapping

A description of the maps to be amended are provided in Part 4 and provided in Appendix 1 of the planning proposal. The planning proposal will amend the following maps:

Map	Tile Number
Lot Size Map	006, 007, 013, 014, 015, 019, 020, 021
Height of Buildings Map	006, 007, 013, 019
Heritage Map	007, 008, 012, 013, 014, 020
Land Zoning Map	006, 007, 013, 014, 015, 019, 020, 021
Additional Permitted Uses Map	014, 020

Refer to **Attachment F** for a copy of these maps.

### Department comment

While the maps provided in the planning proposal are generally adequate for community consultation purposes, the following is recommended in conformity with the Department's *A guide to preparing planning proposals*:

- 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; and
- 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 - currently shown in these diagrams - is to be removed.

Further, 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.

In addition, it is recommended that the subject lot boundaries 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.

## NEED FOR THE PLANNING PROPOSAL

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The planning proposal is not a result of a strategic study or report. However, the proposed items have been identified from a review of LEP 2010.

It is noted that the planning proposal is the best and most appropriate means of achieving the Council's intended outcome. A planning proposal is the only means available to achieve amendments to development provisions under the Penrith LEP 2010.

## **STRATEGIC ASSESSMENT**

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### **Regional / District**

#### A Metropolis of Three Cities (2018)

As indicated in the proposal, given the nature of the proposal, it is not considered to be inconsistent with A Metropolis of Three Cities (2018).

#### Western City District Plan (2018)

As indicated in the proposal, the amendments are not inconsistent with the objectives and actions of the Western City District Plan (2018). The proposal is a housekeeping matter and does not raise any issues that are directly relevant to the District Plan.

### **Local**

#### Penrith Community Plan

The Penrith Community Plan 2013 (the Plan) represents the community's vision for the Penrith LGA over the next 20 years.

Further assessment is not required due to the nature of the planning proposal.

### **Section 9.1 Ministerial Directions**

Relevant minor amendments are proposed, as follows:

- Direction 1.1 Business and Industrial Zones applies:
  - Item 10: proposed rezoning of a roadway from an RE1 Public Recreation Zone to a B4 Mixed Uses Zone;
- Direction 2.1 Environment Protection Zone applies:
  - Item 16: seeks to replace an E4 Environmental Living Zone with a RE2 Private Recreation Zone.
- Direction 2.3 Heritage Conservation applies:
  - Items 4; 5; 6; 8; and, 11: various heritage matters;
- Direction 3.1 Residential Zones applies:
  - Item 3: seeks to apply a 600sqm minimum lot standard to land zoned R2 Low Density Residential;
  - Item 8: seeks realignment of the zone boundary between the R1 General Residential and R2 Low Density Residential zones;
- Directions 3.1 Residential Zones and 2.1 Environment Protection Zones apply:
  - Item 15: seeks to realign the zone boundary between the R2 Low Density Residential Zone and the E2 Environmental Conservation Zone;
- Directions 3.1 Residential Zones and 6.2 Reserving Land for Public Purposes apply:
  - Item 14: seeks to remove a RE1 Public Recreation Zone and replace with a R2 Low Density Residential Zone over a roadway;
- Direction 6.2 Reserving Land to Public Purposes applies:
  - Item 12: proposed rezoning of a public pool from RE2 Private Recreation to RE1 Public Recreation;
- Direction 6.3 Site Specific Provisions applies:

- Item 13: proposed additional use.

The planning proposal is consistent with the Directions, except for technical inconsistencies with:

- Direction 1.1 Business and Industrial Zones;
- Direction 2.1 Environment Protection Zone;
- Direction 2.3 Heritage Conservation;
- Direction 3.1 Residential Zones;
- Direction 6.2 Reserving Land for Public Purposes; and,
- Direction 6.3 Site Specific Provisions.

With the exception item 16, any inconsistencies with these directions are of a minor and technical nature, as discussed in this report. It is accordingly recommended to satisfy the directions that the Secretary's delegate agree that any inconsistency is of minor significance.

In regard to item 16, this direction applies as the planning proposal aims to rezone land from E4 Environmental Living to RE2 Private Recreation. It is noted that the subject land is located near land zoned as E2 Environmental Conservation, with an area mapped on the LEP's Natural Resources Sensitivity Land map.

#### Department comment

To clarify whether the proposed RE2 zone is appropriate, and complies with the direction, it is recommended that Council consults with the Office of Environment and Heritage (OEH). A response from OEH will clarify the matter and, depending upon the response, may require the Secretary's delegate to further consider whether any inconsistency exists with the Direction.

#### **State environmental planning policies (SEPPs)**

The planning proposal is consistent with all State Policies given the nature of the proposal which seeks to rectify minor anomalies and minor policy amendments to the Penrith LEP 2010.

### **SITE-SPECIFIC ASSESSMENT**

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#### **Social**

The planning proposal will have positive social impacts as it proposes to rectify anomalies which may alleviate unnecessary delays in the planning process. It is noted that the planning proposal did not provide a detailed assessment of the social impacts from the proposal. It is considered the proposal will result in minimal social impacts.

#### **Environmental**

Given the amendments within the planning proposal, relate to rectifying errors and anomalies in the LEP 2010, it is generally considered that it is unlikely that any critical habitats or threatened species, populations or ecological communities or their habitats, will be adversely affected because of the planning proposal.

However, as the land at 2-8 Twin Creeks Drive (Twin Creeks Golf Course – item 16) has not been investigated for environmental sensitivities; consultation with the Office of Environment and Heritage is recommended.

### **Economic**

The planning proposal will have positive economic impacts as it proposes to correct errors in the LEP 2010, thereby reducing the potential for delays in the planning process. It is noted that the planning proposal did not provide a detailed response to economic considerations. It is considered, however, that there will be no adverse impacts as a result of the proposal.

### **Infrastructure**

The sites are currently serviced by the necessary infrastructure and utilities.

### **Heritage**

As noted previously, the planning proposal affects a number of local heritage items within the Penrith LGA (i.e. delist items 846 & 830). The proposed amendments are required as a result of the demolition of these items. The proposal also seeks to amend the location and lot details of some heritage items to appropriately rectify errors and anomalies.

## **CONSULTATION**

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### **Community**

Council proposes to undertake a community consultation period of 28 days. A community consultation period of 28 days is considered appropriate.

### **Agencies**

Council has not proposed to consult with any public agencies as part of this proposal. Given the proposal involves amendments to local heritage items and environmental matters it is recommended that Council consult with the Office of Environment and Heritage during public exhibition.

## **TIME FRAME**

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Council proposes a timeframe of approximately 6 months to finalise this planning proposal. Given the nature of the planning proposal, a 9-month timeframe has been recommended.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has requested authorisation to be the local plan-making authority under delegation in relation to this planning proposal.

Given the minor nature of the planning proposal, it is recommended that the request for authorisation be issued for Council to exercise the S.3.6 delegation in this instance.

## **CONCLUSION**

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It is recommended the proposal proceed with conditions given that it will address errors and anomalies within the Penrith LEP 2010.

## RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with the following section 9.1 Directions are of minor significance:

- 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.

Note: in respect of Section 9.1 Direction 2.1 Environment Protection Zone as it applies to item 16, however, it is recommended that the delegate of the Secretary agree that Council consults with the Office of Environment and Heritage (OEH), which will clarify whether there is an inconsistency with the Direction.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - Office of Environment & Heritage;
  - Roads and Maritime Services.
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. 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.
5. Prior to community consultation, Council is to amend the planning proposal to:

### 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) under this item to clearly illustrate the exact amendment(s).
  - (f) 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

- (g) 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

- (h) While the maps provided in the planning proposal are generally adequate for community consultation purposes, for clarity, Council is to make the following alterations in conformity 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.



22/11/18

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17/12/2018

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