

## Gateway Determination

**Planning proposal (Department Ref: PP\_2018\_PENRI\_006\_00):** to rezone the area known as Orchard Hills North for urban development.

I, the Executive Director Regions, Planning Services 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 rezone the area known as Orchard Hills North should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to amend the planning proposal in the following manner:
  - (a) under *Part 1 – Objectives or intended outcomes*, include the intention to introduce a flexibility boundary clause to apply to the subject land and other specified release areas;
  - (b) under *Part 2 – Explanation of provisions* Council is to:
    - remove draft clause 6.20 from the planning proposal and amend the text under the heading: 2 Amendments to Part 6 – Additional clause, to indicate the intent of introducing an additional clause to increase the flexible boundary to land that is subject to Part 6 of the LEP, providing details including advice that the clause will not apply to the following:
      - land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or
      - land within the coastal zone, or
      - land proposed to be developed for the purpose of sex services or restricted premises, or
      - land in Zone B4 Mixed Use;
    - include maps of the land release areas subject to the above proposed amendment in the planning proposal; and
    - under the heading: 1.2 *minimum lot size*, specify the minimum allotment sizes proposed to be included in the development control plan;
  - (c) under *Part 3 – Justification*, provide the current situation with the release of the Implementation Plan for the Western Sydney City Deal;
  - (d) under *Part 4 – Mapping*, include:
    - the relevant current maps in Attachment F;
    - highlight the subject land on the current and existing maps by thin red outline or other appropriate identification means;
    - identify the existing and proposed maps by an appropriate label denoting 'current' and 'proposed'; and
    - amend the text within that Part to indicate that both current and proposed maps are included in Appendix F;

- (e) Under *Section C – Environmental Social and Economic Impacts*, clarify the inconsistencies between the vegetation clearance rates specified in the planning proposal and in the supporting ecological study;
  - (f) replace the words 'Section 117 Direction(s)' with the words 'Section 9.1 Direction(s)', where appearing in the planning proposal; and
  - (g) address the justifiable inconsistency with section 9.1 Direction 1.1 Business and Industrial Zones in Table 19 of the proposal,
  - (h) amend the supporting agriculture assessment on page 52 to indicate that section 9.1 Direction 1.2 – Rural Zones applies and that direction 1.5 Rural lands, does not apply, and make necessary corresponding amendments to the commentary on that page.
2. As part of the supporting exhibition material, Council is to include a site-specific development control plan; a stage 2 transport assessment to support the rezoning, identifying intersection and network traffic modelling to understand the implications of the development on surrounding networks and critical intersections; and a draft local contributions plan for the proposal.
3. In preparing the development control plan, Council is to include proposed development standards that are not proposed to be included in the LEP.
4. To satisfy section 9.1 Direction 4.2 Mine Subsidence and Unstable Land, Council is to consider detailed geotechnical investigations to identify the geotechnical limitations of different areas of the site and to include specific design and construction guidelines for the development within the development control plan, prior to the finalisation of the LEP.
5. Prior to exhibition consultation is required with the NSW Rural Fire Service under section 3.34(2)(d) of the Act to comply with the requirement of the relevant Section 9.1 Direction. The NSW Rural Service 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.
6. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal 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);
7. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
  - NSW Rural Fire Service;
  - Roads and Maritime Services;
  - Transport for NSW;
  - Department of Planning and Environment;
  - Office of Environment and Heritage;



- Deerubbin Local Aboriginal Land Council;
- Department of Education;
- Department of Primary Industries – Agriculture;
- NSW Office of Water;
- NSW Environment Protection Authority
- NSW State Emergency Service;
- NSW Police Service;
- Fire and Rescue NSW;
- NSW Health – Western Sydney Local Health District; and
- Sydney Water and other relevant authorities for the supply of electricity, gas, and telecommunications.

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.

8. In consulting with authorities, Council is to consult with the relevant authorities over the need for state infrastructure contributions to support the proposal.
9. Following agency consultation, should an agency(s) require a state contribution(s), Council is to prepare a state infrastructure schedule detailing requested contributions (costs and apportionment) and provide the schedule to the Department at the earliest opportunity and prior to finalisation of the LEP amendment.
10. 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).
11. The time frame for completing the LEP is to be **24 months** following the date of the Gateway determination.

Dated 22nd day of February 2019.



**Stephen Murray**  
Executive Director Regions  
Planning Services  
Department of Planning and Environment

**Delegate of the Minister for Planning**