

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

Attention: Joel Carlson

Dear Mr Winn

Planning proposal PP_2018_PENRI_006_00 to amend Penrith Local Environmental Plan 2010.

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 subsequently provided by Council in respect of the planning proposal to rezone the area known as Orchard Hills North for urban purposes.

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 inconsistency with section 9.1 Directions 1.1 Business and Industrial Zones; 1.2 Rural Zones; and, 6.3 Site Specific Provisions is justified in accordance with the terms of the Directions. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of section 9.1 Directions 4.2 Mine Subsidence and Unstable Land; 4.3 Flood Prone Land; 4.4 Planning for Bushfire Protection; and, 6.2 Reserving Land for Public Purposes. Council should ensure this occurs prior to the plan being made.

I have considered Council's request to be the local plan-making authority and have determined not to condition the Gateway for Council to be the local plan-making authority. I have taken this decision primarily over the need for the consideration and co-ordination of the interests of state authorities.

In determining the matter, I was pleased to note that the involvement of Department staff with Council's steering committee for the proposal. I would look forward to the further involvement of the Department, particularly in assisting Council with any contribution requirements sought by state agencies.

I have also noted that Council does not wish to apply a minimum allotment size within the proposed amending local environmental plan and will apply this standard by way of a development control plan. While the Department does not hold in-principle objections, I would recommend that Council reconsiders this approach.

I am aware that Council currently is deferred from the Low Rise Medium Density Housing Code under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Should this deferral not continue the housing code may apply and housing density may increase beyond that envisaged by Council. A minimum lot size within the local environmental plan would provide greater certainty on the number of dwellings that would be delivered under the proposal. Council may therefore care to consider amending the proposal to include relevant standards.

In preparing the stage 2 transport assessment, it would be appreciated if Council is guided by advice provided by the Roads and Maritime Service over modelling methodology, assumptions and scope of the work for the study, taking into consideration proposed road widening.

In addition, I have noted that the proposal has not been referred to Penrith's Local Planning Panel. In this regard the circumstances surrounding the proposal are in keeping with the Minister's February 2018 Direction that applied at the time of the submission of the proposal to the Department. That Direction did not require the submission of the proposal to the panel prior to a Gateway determination.

A subsequent Ministerial Direction, however, does require this action to be taken. In keeping with the intent of the later Direction, I would recommend that the proposal be referred to the Panel for its consideration and views, prior to exhibition, and Council take these views into consideration.

I would remind Council that should the planning proposal be significantly altered prior to exhibition, consideration be given to Council seeking an altered Gateway determination. Should this arise, the matter should be discussed with Departmental officers from the regional office in this first instance.

Finally, I have also noted that the preliminary site investigation report did not identify the potential for gross or widespread contamination which may preclude rezoning but did recommend that when detailed proposals are made that individual properties be suitably investigated in accordance with the relevant NSW EPA endorsed guidelines to confirm site suitability.


The investigation report acknowledged certain limitations in its undertaking and I would request that Council ensure and acknowledge it is able to comply with the relevant provisions of State Environmental Planning Policy No. 55 – Remediation of Land, at the plan finalisation stage.

The amending local environmental plan (LEP) is to be finalised within 24 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 eight 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 Minister 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 further enquiries about this matter, I have arranged for Mr Matthew Black to assist you. Mr Black can be contacted on 9860 1553.

Yours sincerely

 22 February 2019
Stephen Murray
Executive Director Regions,
Planning Services

Encl: Gateway determination