

Mr Alan Stoneham
General Manager
Penrith City Council
PO Box 60
Penrith NSW 2751

16/02580

Dear Mr Stoneham

Planning proposal to amend Penrith Local Environmental Plan 2010

I am writing in response to Council's letter requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to insert an incentives clause to enable additional FSR controls for developments on eleven key sites within the Penrith City Centre in return for a public benefit.

As delegate of the Greater Sydney Commission, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I note the planning proposal does not address the consistency with Section 117 Direction 6.3 – Site Specific Provisions. Prior to public exhibition, the planning proposal is to be amended to assess the consistency with this Direction.

Council may need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

It is noted that Council intends to prepare supporting documents, a Public Benefit Analysis and Public Benefit Policy to inform the provisions of the incentive clause. Given the importance of these supporting documents it is recommended that Council exhibit an explanation of the public benefit principles that will inform the Public Benefit Policy so the community may better understand the application of the proposed incentives clause.

Plan making powers were delegated to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided not to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following 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 6 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 Commission may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Ms Tessa Parmeter of the Department's Sydney Region West office to assist you. Ms Parmeter can be contacted on (02) 9860 1555.

Yours sincerely

 14 April 2016
Stephen Murray
Executive Director, Regions
Planning Services

Encl:
Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP_2016_PENRI_002_00): to insert an incentives clause in Penrith Local Environmental Plan 2010 to enable additional FSR controls for developments on eleven key sites within the Penrith City Centre in return for a public benefit.

I, the Acting Executive Director, Regions, at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Penrith Local Environmental Plan (LEP) 2010 should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to:
 - 1.1 amend Part 2 – Explanation of Provisions, of the planning proposal to include a plain English explanation of the clause and include a note that the clause may be amended following legal drafting.
 - 1.2 amend the planning proposal to assess the planning proposal against Section 117 Direction 6.3 – Site Specific Provisions.
- 2 Council is to exhibit an explanation of the public benefit principles that will inform the Public Benefit Policy. Council is to provide a copy of the Public Benefit Policy and Public Benefit Analysis when the Plan is submitted for finalisation. The Urban Design Analysis is to be included with the public exhibition material.
- 3 Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning 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 LEPs (Department of Planning and Infrastructure 2013)*.
- 4 Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - Department of Infrastructure and Regional Development;
 - Transport for NSW;

- Transport for NSW – Sydney Trains;
- Transport for NSW – Roads and Maritime Services;
- Office of Environment and Heritage;
- NSW Office of Environment and Heritage – Heritage Division;
- Department of Education and Communities;
- Family and Community Services – Housing NSW;
- Department of Health;
- NSW Police Force;
- Sydney Water;
- Essential Energy;
- Telstra; and
- Adjoining LGAs.

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.

- 5 A public hearing is not required to be held into the matter by any person or body under section 56(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).
- 6 The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 14 day of April 2016


Stephen Murray
Acting Executive Director, Regions
Planning Services
Department of Planning and
Environment

Delegate of the Greater Sydney
Commission