



Planning & Infrastructure

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Our ref: 11/14264
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Dear ^{Alan} Mr Stoneham

Planning Proposal PP_2011_PENRI_002_00 – Penrith LEP 2010 – Amendment 1

I refer to your letter on 8 June 2011 forwarding a revised Planning Proposal to amend the Penrith Local Environmental Plan (2010).

As the delegate of the Minister for Planning and Infrastructure, I have now determined under Section 56(2) of the Environmental Planning and Assessment Act 1979 ("the Act") that the revised Planning Proposal (PP_2011_PENRI_003_00) should proceed subject to the conditions in the attached Gateway Determination.

I have also altered my Determination of 12 May 2011, under Section 56(7) of the Act by determining that the planning proposal forwarded to the Department on 23 March 2011 (PP_2011_PENRI_002_00) should not proceed.

In this light, the ANEF Contour map provided electronically to the Department is not clear (due to converting to an electronic format). Council is reminded that the map to be exhibited to the community should clearly identify the land to which it applies.

Furthermore, prior to agency and community consultation, the Planning Proposal should be amended to include the justification and explanation of the changes proposed at 39 Smeeton Road, Londonderry as outlined in the Council report.

In addition, pursuant to Section 117 Direction 4.4 – Planning for Bushfire Protection, Council is required to consult with the NSW Rural Fire Service under Section 56(2)(d) of the Act prior to undertaking community consultation, under Section 57.

The Local Environmental Plan (LEP) is to be finalised within 6 months of the week following the date of the revised Gateway Determination date. Council should aim to commence the exhibition of the Planning Proposal within four weeks from the week following this revised determination. Council's request for the Department to draft and finalise the LEP should be made six weeks prior to the projected publication date.

If you have any questions in relation to this matter, please contact Peter Goth, Regional Director of the Department of Planning and Infrastructure's Sydney West region on (02) 9873 8589.

Yours sincerely

Tom Gellibrand 5/10/11
Deputy Director General
Plan Making and Urban Renewal
Delegate of the Minister for Planning and Infrastructure

Gateway Determination

Planning Proposal (Department Ref: PP_2010_PENRI_003_00): to address a number of minor discrepancies and anomalies in Penrith LEP 2010 including planning controls in Orchard Hills, subdivision controls for Community Title, clarification of heritages items and other minor matters.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of Environmental Planning and Assessment Act 1979 ("EP&A Act") that an amendment to the Penrith Local Environmental Plan 2010 to address a number of minor discrepancies and anomalies including:

- To clarify the relationship between Penrith Local Environmental Plan 2010 and Sydney Regional Environmental Plan No.25 – Orchard Hills by inserting 'Sydney Regional Environmental Plan No. 25 – Orchard Hills' into Clause 1.9(2);
- To clarify the minimum lot size requirements in Penrith Local Environmental Plan 2010 when land is subdivided under a community title scheme by inserting the optional "Clause 4.1AA Minimum subdivision lot size for community title schemes" of the Standard Instrument Order 2011;
- To address various minor discrepancies relating to a flood planning term, land use term, Schedule 1, 2 and 5, and the clause application, land zoning and heritage maps for Penrith Local Environmental Plan 2010;
- To remove the listing for the heritage item on land known as 1 Bundarra Road, Regentville, from Penrith Local Environmental Plan 2010 and insert the heritage item into draft Penrith Local Environmental Plan (Environmental Heritage Conservation) 2011.
- To retain the prohibition on "secondary dwellings" in the Twin Creeks estate under Clause 6.12 (4) of the Penrith Local Environmental Plan 2010, following an amendment to the definition of secondary dwelling under the Standard Instrument (Local Environmental Plans) Amendment Order 2011;
- To amend a mapping anomaly at 39 Smeeton Road, from a minimum lot size of AB3 (40Ha) to Z (2Ha).

should proceed subject to the following conditions:

1. The Relevant Planning Authority produces evidence of confirming mapping errors with the Roads and Traffic Authority (to indicate acceptance in amending the Land Reservation Acquisition Map).
2. The Relevant Planning Authority amend the Planning Proposal to include the justification and explanation of the changes proposed at 39 Smeeton Road, Londonderry as outlined in the Council report.
3. The Relevant Planning Authority produces a Map to clearly indicate the existing and proposed boundary of the application of Sydney Regional Environmental Plan No. 25 - Orchard Hills.



4. The Relevant Planning Authority amends the Planning Proposal with reference to 'Regentville Workers' Terrace'. The reference to deleting it from Penrith Local Environmental Plan 2010 is satisfactory, however the Relevant Planning Authority should delete the reference of amending the 'draft Penrith Local Environmental Plan (Environmental Heritage Conservation)' and instead state that the item will be listed in a suitable planning instrument that applies to that land.
5. The Planning Proposal is considered to be consistent with all s117 Directions and therefore the Director General not need to agree to any inconsistency. However, given the minimum lot size requirements are being altered, the Council will be required to consult with the Rural Fire Service prior to undertaking community consultation.
6. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* must be made publicly available for **14 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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Roads and Traffic Authority
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
8. A public hearing is not required to be held into the matter by any person or body under section 56(2) (e) of the Environmental Planning & Assessment 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).
9. The timeframe for completing the Local Environmental Plan is to be **6 months** from the week following the date of the Gateway determination.

Dated

5th

day of

October

2010.

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure