

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

Our ref: PP\_2015\_PENRI\_004\_00

Dear Mr Stoneham

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**Planning proposal to amend Penrith Local Environmental Plan 2010**

I am writing in response to your 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 rezone land at 88-89 Nepean Gorge Drive, Mulgoa, and amend the minimum lot size for subdivision.

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.

As noted in the Determination, following consultation with agencies, Council may still 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.

Plan making powers were delegated to councils in October 2012. It is noted that Council has 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 in this instance, owing to the outstanding planning matters that need further attention. I am happy to reconsider a request from Council once the matters in the Determination have been resolved following consultation.

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 Mr Stephen Gardiner of the Department's regional office to assist you. Mr Gardiner can be contacted on (02) 9860 1536.

Yours sincerely



03/03/2016

**Catherine Van Laeren**  
**Director**  
**Sydney Region West**  
**Planning Services**

Encl:  
Gateway Determination

## Gateway Determination

**Planning proposal (Department Ref: PP\_2015\_PENRI\_004\_00):** to rezone land at 88-89 Nepean Gorge Drive, Mulgoa, and amend the minimum lot size for subdivision.

I, the Director, Sydney Region West, 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 to rezone land at 88-89 Nepean Gorge Drive, Mulgoa, and amend the minimum lot size for subdivision, should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to amend the planning proposal to
  - (a) confirm whether the following maps require amendment:
    - a. 6350\_COM\_LZN\_002\_020\_20140901
    - b. 6350\_COM\_LSZ\_002\_020\_20140814;
  - (b) amend the minimum lot size for the land proposed as E2 Environmental Conservation, so that the proposed biobank site cannot be further subdivided; and
  - (c) amend Part 6 - project timeline, consistent with this determination.
2. Prior to public exhibition, Council is to consult with:
  - (a) NSW Rural Fire Service and give consideration to the provision of Section 117 Direction 4.4 – Planning for Bushfire Protection to demonstrate consistency with the direction;
  - (b) Division of Resources & Energy, NSW Trade & Investment and give consideration to the provision of Section 117 Direction 1.3 Mining, Petroleum Production and Extractive Industries to demonstrate consistency with the direction; and
  - (c) Office of Environment and Heritage with respect to
    - i. Section 34A of the EP&A Act,
    - ii. the proposed Biobanking Agreement, and
    - iii. to consider any required access arrangements through the proposed E2 zone area (following consultation with the Rural Fire Service).

Comments from the Rural Fire Service and Office of Environment and Heritage should be considered in the context of the proposed zoning, and proposed Biobanking Agreement land area.

Council is to advise the Sydney Region West Branch of the Department prior to public exhibition if there is an inconsistency with the Direction which will require the Secretary's approval, or if a change is proposed to the planning proposal as a result of this work.

3. 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:
  - Transport for NSW - Roads and Maritime Services
  - Office of Environment and Heritage - Office of Heritage
  - Sydney Water
  - Endeavour Energy

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, including the proposed Biobanking Agreement and Bushfire Report and Conservation Management Plan for Fernhill and given at least 21 days to comment on the proposal.

4. 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)*.
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

3<sup>rd</sup> day of March 2016



**Catherine Van Laeren**  
**Director**  
**Sydney Region West**  
**Planning Services**  
**Department of Planning and Environment**  
  
**Delegate of the Greater Sydney**  
**Commission**