

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Penrith
<b>RPA</b>	Penrith City Council
<b>NAME</b>	Housekeeping Amendment 2017 (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2017_PENRI_04_00
<b>LEP TO BE AMENDED</b>	Penrith Local Environmental Plan 2010
<b>ADDRESS</b>	Various sites in the Penrith LGA
<b>DESCRIPTION</b>	Various sites in the Penrith LGA
<b>RECEIVED</b>	11 December 2017
<b>FILE NO.</b>	OBJ 09/04717
<b>IRF NUMBER</b>	IRF 17/702
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

### INTRODUCTION

#### Description of Planning Proposal

The planning proposal seeks to undertake housekeeping amendments to the Penrith Local Environmental Plan (LEP) 2010 to resolve 38 errors and/or anomalies identified in the LEP. The changes proposed in the planning proposal are of a minor nature and are categorised as follows:

- Minor alignment of zoning and other development standards to lot boundaries.
- Correction of labelling errors.
- Addition of missing mapped planning controls.
- Correction to maps to reflect mapping standards.
- Update of provisions to contemporise the plan.
- Update provisions to provide consistency in the application of development controls.
- Consistency with provisions in the Penrith Development Control Plan 2014 (DCP 2014).

The planning proposal applies to various land parcels across the Penrith Local Government Area (LGA).

#### Site Description

The subject parcels are identified and described in detail in **Attachment F**.

#### Summary of Recommendation

It is recommended that the planning proposal proceed, with conditions, given that it seeks to make various, minor housekeeping amendments to the Penrith LEP 2010, to better allow the orderly development of land within the local government area.

## PROPOSAL

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### Objectives or Intended Outcomes

The objectives of this planning proposal are to correct various errors and anomalies identified in the LEP by Council. These objectives will be achieved by making changes to the LEP written instrument and relevant LEP map tiles.

Rectifying these errors and anomalies will provide an accurate planning instrument and reduce the potential for delays, should development be proposed where errors and anomalies currently exist.

The objectives of this planning proposal are clear and adequate.

### Explanation of Provisions

The planning proposal seeks to amend the Penrith Local Environmental Plan (LEP) 2010. The amendments are categorised as follows:

1. Instrument amendments only.
2. Mapping amendments only.
3. Instrument and mapping amendments.

**Attachment F** provides site identification, current provisions and proposed provisions under this planning proposal for each site.

#### 1. Instrument amendments only

1. Update to the properties under Clause 7.12 (Maximum Gross Floor Area for Commercial Premises) to ensure the property description under this clause is contemporary.  
The planning proposal proposes to update the property description for four properties under clause 7.12 of the LEP.

##### Department comment

The proposed amendment is appropriate.

2. Update listing of Victoria Bridge, Penrith as a State Heritage item

Victoria Bridge (Item 146) is currently listed as a local heritage item under LEP 2010. On 27 May 2016, its heritage listing was changed from local to a State heritage item. The planning proposal proposes to amend Schedule 5 of the LEP 2010 to reflect this change.

##### Department comment

The proposed amendment is appropriate.

#### 2. Mapping Amendments Only

3. Active Street Frontage for the Penrith Health and Education Precinct

The mapped planning controls delineating active street frontage at the Penrith Health Education Precinct are currently prescribed in Penrith DCP 2014 (DCP 2014). The planning proposal seeks to add these controls in the LEP 2010 to provide consistency between LEP 2010 and DCP 2014.

##### Department comment

The LEP provision currently applies to the B3 and B4 zones, as follows:

### **7.8 Active street frontages**

- (1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B3 Commercial Core and Zone B4 Mixed Use.*
- (2) This clause applies to land identified as "Active Street Frontage" on the Active Street Frontages Map*
- (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.*
- (4) Despite subclause (3), an active street frontage is not required for any part of a Building that is used for any of the following:*
  - (a) entrances and lobbies (including as part of mixed use development),*
  - (b) access for fire services,*
  - (c) vehicular access.*
- (5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.*

The above provision is a model clause provided by the Department for SI LEPs.

An extract (**Attachment J**), from the relevant practice note provides (in summary) the following:

- Activity areas are usually formed along streets or as a node around, for example, major transport infrastructure.
- For that reason, it is recommended that this provision does not apply across any one zone, but only along the streets (or parts of streets) and pedestrian links where a concentration of businesses and/or retail is encouraged.
- This clause must be justifiable and applied only where it will not constrain uses able to respond to changing economic drivers.
- Only the B3 Commercial Core and B4 Mixed Use zones are considered suitable for inclusion into the model clause.

The land subject to this amendment is mainly zoned B4 (refer to zoning extract/aerial **Attachment I**). The adjoining zone is SP3 Health Service Facilities (i.e. Nepean Hospital).

Given the current zone of the land, the location of the land adjacent to Nepean Hospital and Kingswood railway station (immediately to the north), this amendment is supported.

Council's explanation, however, that the proposed amendment will provide consistency between LEP 2010 and DCP 2014 is not considered sufficient. Council has not provided any explanation for the need to include these active street frontage provisions in the LEP on planning grounds.

As a condition of the Gateway determination, it is therefore recommended that Council be required to amend the planning proposal to include an appropriate explanation prior to exhibition.

#### **4. Lot Size Controls at Claremont Meadows Stage 2 Adjacent to M4 Motorway**

The prescribed minimum lot size control for properties at the Eastern Precinct of Claremont Meadows Stage 2 that are located adjacent to M4 Motorway under LEP 2010, is currently 550 square metres, while 1,000 square metres is permitted under the DCP 2014. It is

proposed to increase the minimum lot size controls in the LEP 2010 for this site to 1,000 square metres to provide consistency between the LEP 2010 and DCP 2014

Department comment

This amendment is supported as the relevant council officer has advised that the site contains existing lots ranging in size from the smallest (950sqm) to the largest (2,290sqm). These lots are located adjacent to the M4 Motorway and large allotments offer a visual buffer between the residential development and the M4 Motorway.

Council's justification that the proposal will provide consistency between LEP 2010 and DCP 2014, however, is not considered adequate. As a condition of the Gateway determination, it is recommended that Council be required to amend the planning proposal to include the planning reasons supporting the proposed increase in the minimum lot size control to 1,000 square metres, prior to exhibition.

Further, while Council has provided the current and proposed Lot Size Map for the site, for ease of identification it is also recommended that the planning proposal be amended by Council, prior to exhibition, to include a current zoning map for the site for reference purposes.

5. Removal of Building Height Controls from RE1 Public Recreation zoned land in the vicinity of Nepean Hospital

The current maximum building height controls for four sites near Nepean Hospital at Kingswood are proposed to be removed. These four sites are currently zoned RE1 Public Recreation under the LEP 2010. Apart from this land, the LEP 2010 does not impose maximum height controls on RE1 Public Recreation zoned land and therefore the height controls for four of these sites are proposed to be removed.

Department comment

The proposed amendment is appropriate, however, while Council has provided the current and proposed Height of Buildings Map for the site, for ease of identification it is also recommended that the planning proposal be amended by Council, prior to exhibition, to include a current zoning map for the site for reference purposes.

6. Align mapped planning controls to subdivision boundaries at North Penrith

The Land Zoning, Height of Buildings and Lot Size Maps at North Penrith currently contain various mapping errors mainly because of the misalignment of these mapped controls with subdivision boundaries. These errors are proposed to be corrected through changes to the maps.

Department comment

The proposed amendment is appropriate, however, it is noted that the various mapping errors shown on the current zoning map are indicated by a large circular outline, which highlights a broad area rather than the specific site(s). This form of illustration is not considered appropriate and it is recommended that Council be required to highlight the specific site area(s), prior to exhibition, so that community may readily identify the affected sites.

7. Align planning controls to subdivision boundaries at Pandorea Street, Claremont Meadows

The boundaries of E2 Environmental Conservation, RE1 Public Recreation and R2 Low Density Residential zonings do not align correctly to the subdivision boundary at the Pandorea Street Reserve, Claremont Meadows. The planning proposal proposes to realign

the zoning boundaries applying to Pandorea Street, adjacent reserve and the Claremont Creek corridor. Realignment of the lot size and building height maps to align with the R2 Low Density Residential zoning is also proposed.

Department comment

The proposed amendment is appropriate, however, for clarity, it is recommended that the supporting maps in the proposal be amended by Council, prior to exhibition, to include the words 'Pandorea Street' in the appropriate location.

8. Align lot size control with location of RE1 Public Recreation zoned land at Glenmore Park Stage 2

There is a misalignment in the mapped lot size controls near land zoned RE1 Public Recreation at Glenmore Park Stage 2, Precinct C. It is proposed that the lot size map be amended so that this control does not apply to the RE1 Public Recreation zoned land and reflects the correct location of this RE1 Public Recreation zoned area. Further, the proposal seeks to apply this control to a small portion of residential zoned land adjoining the RE1 Public Recreation zone.

Department comment

The proposed amendment is appropriate, however, while Council has provided the current and proposed lot size map for the site, for ease of identification it is recommended that the planning proposal be amended by Council, prior to exhibition, to include a current zoning map for the site for reference purposes.

9. Improvement to labelling of State Heritage item 187 (Station Masters House), Penrith  
Some improvements are proposed to apply to the State significant heritage item 187 (the Station Master's House (former) at Jane Street, Penrith. This item is identified on four LEP heritage maps (i.e. map tiles). It is proposed to update two heritage maps, to depict a missing label (i.e. 187 & 188 in the extreme south west corner on tile 12) and insert an '&' between the two heritage items (i.e. 187 & 188 on tile 5) to better distinguish the two items on the map. The other two maps depicting this item do not require amendment.

Department comment

This proposed amendment is justified as it will improve identification of a State significant heritage item.

It is noted that the planning proposal erroneously refers to the 'Station Mater's House' instead of the 'Station Master's House'. It is recommended that this minor typographical error be amended by Council prior to exhibition.

10. Removal of '10 hectare for dwelling house' control from RE1 Public Recreation zoned land at Mulgoa Hall, Mulgoa

The '10 hectare for dwelling house' on the Clause Application Map currently applies to an area of RE1 Public Recreation zoned land at Mulgoa Hall, Mulgoa. Dwelling houses are prohibited in RE1 Public Recreation zones. It is proposed to amend the Clause Application Map to change the boundary of the '10 hectare for dwelling house' area so that it does not apply to land zoned RE1 Public Recreation.

Department comment

This proposed amendment is appropriate as it will correct a mapping anomaly.

11. Align planning controls to subdivision boundaries at Werrington

The land zoning, building height and lot size maps where applying to land at Werrington do not align with property boundaries. It is proposed to amend these maps accordingly.

Department comment

This proposed amendment is appropriate as it will correct an anomaly with the respective maps.

12. Alignment of zoning and lot size controls at Regentville Road, Glenmore Park

An incorrectly-mapped triangular portion of R3 Medium Density Residential zoned land, as part of Regentville Road at Glenmore Park and adjacent to 11 Heritage Court, is proposed to be rezoned to R2 Low Density Residential. This zone will be consistent with the adjoining zone.

An amendment to the Lot Size Map is also proposed to change the minimum lot size from 400 square metres to 550 square metres to be consistent with the lot size currently applying to the adjacent R2 Low Density Residential zoned land.

Department comment

This proposed amendment is justified as it will correct the relevant mapping anomalies.

13. Addition of missing lot size controls at Glenmore Park

The lot size map for a part of Glenmore Park currently does not contain a minimum lot size control. The area is zoned R2 Low Density Residential and accordingly it is proposed to apply 550 square metres as the minimum lot size to be consistent with the adjoining R2 zoned land.

Department comment

The proposed amendment is appropriate, however, while Council has provided the current and proposed lot size map for the site, for ease of identification it is recommended that the planning proposal be amended by Council, prior to exhibition, to include a current zoning map for the site for reference purposes.

14. Alignment of zoning; lot size; and, land reservation maps for Agnes Banks properties

The planning proposal seeks to partially amend the zoning and lot size maps for two properties on the eastern side of Castlereagh Road at Agnes Banks, which are currently zoned RU4 Primary Production Small Lots.

The Castlereagh Road frontage to these two properties is identified on the land reservation map as SP2 Classified Road. The RMS is the acquisition authority. The mapped zoning and lot size for this land is proposed to be amended to be consistent with the boundaries of the land reservation on the land reservation map, involving a change to the zone of the applicable land to SP2 Classified Road and the removal of the minimum lot size from the relevant map.

Department comment

This proposed amendment is justified as it corrects minor mapping anomalies. The subject land is not readily identifiable on the proposed land zone map within the proposal. For clarity, it is recommended that the proposal be amended by the inclusion of the appropriate section of the acquisition map for reference purposes and the identification of the two lots on these maps by labels identifying the subject land, i.e. Lot 10 DP 1171071 and Lot 11 DP 1171071.

15. Remove minimum lot size control from RE1 Public Recreation zoned land at Wallacia  
It is proposed to remove the minimum lot size controls from the Blaxland Crossing Reserve at Wallacia as the reserve is zoned RE1 Public Recreation and minimum lot size controls does not apply to RE1 Public Recreation zoned land.

Department comment

The proposed amendment is appropriate, however, while Council has provided the current and proposed lot size map for the site, for ease of identification it is recommended that the planning proposal be amended by Council, prior to exhibition, to include a current zoning map for the site for reference purposes.

16. Addition of missing zoning at corner of Old Bathurst Road and Russell Street EMU Plains

A splay part of the road reservation on the corner of Old Bathurst Road and Russell Street, Emu Plains, is not zoned on the zoning map. It is proposed to apply a R2 Low Density Residential zone to this part of the road reserve which will correlate with the adjacent R2 Low Density Residential zoned land.

Department comment

While it is noted that the splay is immediately adjacent to an IN1 zone, there is no planning impeditive to rezone the land to that zone and no objections are held to this approach to rectify the anomaly.

17. Correction to mapped planning controls on railway land at Russell Street Emu Plains

A small portion of the Western Railway Line land at Emu Plains is currently incorrectly zoned as IN1 General Industrial. This area is proposed to be zoned to SP2 Railway to provide consistency with the zoning of the remainder of the Western Railway Land in the locality. It is also proposed to remove the building height and lot size controls mapped for this land to provide consistency with other SP2 zoned land in the locality.

Department comment

This proposed amendment is appropriate and is supported. Consultation with the rail authority is recommended.

18. Correction to mapped planning controls at Carinda Drive and Stevenson Street, South Penrith

The proposal seeks to correct the zoning, building height and lot size maps for certain land at Carinda Drive and Stevenson Street, South Penrith. The RE1 Public Recreation zone (and controls), shown on these maps, extends into the streets. Proposed amendments, are as follows:

Zoning map: rezone the street at this location to R2 Low Density Residential to correlate with the R2 Low Density Residential zoning of adjacent land.

Building height map: apply a maximum building height of 8.5 metres to the relevant portion of Carinda Drive and Stevenson Street to correlate with the building height prescribed for adjacent residential areas.

Lot size map: apply a minimum lot size of 550 square metres to the relevant portion of Carinda Drive and Stevenson Street. A 550 square metres minimum lot size correlates with the minimum lot size prescribed for adjacent residential areas.

Department comment

This proposed amendment is justified as it will appropriately correct mapping errors.

19. Correction to mapped planning controls at Parklawn Place shops, North St Marys

It is proposed to correct the zoning; height; and, lot size controls for part of two roads which are zoned RE1 Public Recreation, located either side of the Parklawn Place shops at North St Marys. It is proposed to rezone these two areas as R2 Low Density Residential. A minimum lot size control of 550 square metres and a maximum building height of 8.5 metres is also proposed to be applied to align with the change in zoning. The proposed changes will correlate with the controls currently applying to the locality.

Department comment

This proposed amendment is supported to correct the anomaly.

20. Addition of missing lot size control to properties at Chameleon Drive, Erskine Park

Minimum lot size controls do not apply to three properties located on Chameleon Drive in Erskine Park. The properties are zoned R2 Low Density Residential. It is proposed to apply a minimum lot size of 550 square metres, which is consistent with the lot size control currently applying to the R2 Low Density Residential zoned land in this locality.

Department comment

The proposed amendment is appropriate, however, while Council has provided the current and proposed lot size map for the site, for ease of identification it is recommended that the planning proposal be amended by Council, prior to exhibition, to include a current zoning map for the site for reference purposes.

21. Removal of minimum lot size control from Lot 6 Donohoes Avenue, Mulgoa

Lot 6 Donohoes Avenue is zoned RE1 Public Recreation and a minimum lot size of 20 ha. applies. It is proposed to remove the lot size control as this control does not apply to RE1 Public Recreation zones.

Department comment

The proposed amendment is appropriate, however, while Council has provided the current and proposed lot size map for the site, for ease of identification it is recommended that the planning proposal be amended by Council, prior to exhibition, to include a current zoning map for the site for reference purposes.

22. Removal of minimum lot size from 137 -139 Vincent Road, Cranebrook

137-139 Vincent Road is zoned SP2 Infrastructure and has a minimum lot size of 1ha. The minimum lot size control is proposed to be removed as minimum lot size controls are not applied to SP2 zoned land.

Department comment

This proposed amendment is an appropriate means to remedy the anomaly.

23. Correction to mapped planning controls at 35-39 Putland Street, Claremont Meadows

A split zoning applies to 35-39 Putland Street. Owing to a misalignment of the mapped planning control within the property boundary, the R3 Medium Density Residential and B6 Enterprise Corridor zones apply. It was intended that the lot be entirely zoned R3 Medium Density Residential. The planning proposal seeks to amend the land zoning map accordingly. The lot size and building height maps are also proposed to be amended to 400 square metres and 8.5m respectively.



Department comment

This proposed amendment is appropriate to correct mapping errors.

24. Alignment of mapped building height controls at properties in Waterside (Cranebrook)

The mapped building height control at Jaeger Street, Waterside (Cranebrook) is proposed to be re-aligned to follow the subdivision boundary. The area currently contains a mix of 8.5 metres or 12 metres building height controls. The area is zoned R1 General Residential. The current mapped building height controls in the LEP align with the originally intended subdivision pattern and dwelling type delineated in DCP 2014.

Dwellings in this area have been constructed, however, the building heights do not align with the height controls as shown in the LEP map. It is proposed to amend the height of building map to align with the constructed dwelling type.

Department comment

This proposed amendment is appropriate. In this case, the amendment is clearly indicated in the supporting current and proposed height of buildings map in the proposal and a zone map is not necessary for reference purposes.

25. Alignment of 'Urban Release Area' and 'Clause Application' Map boundaries at Glenmore Park

The boundary of the Urban Release Area Map is proposed to be amended to align correctly with the boundary of the Clause Application Map at Glenmore Park Stage 2.

Department comment

This proposed amendment is appropriate and is clearly illustrated in the proposal.

26. Addition of Missing Lot Size Control at 5 Peppertree Drive, Erskine Park

Land at 5 Peppertree Drive currently does not contain a mapped minimum lot size control. It is proposed to apply a 550 square metres lot size control to this site, consistent with the lot size applied to the surrounding R2 Low Density Residential zoned lands.

Department comment

This proposed amendment is appropriate and is clearly illustrated in the proposal.

27. Removal of E2 Environmental Conservation zoned land from 23-25 Boscobel Road, Londonderry

The mapped zoning controls for 23-25 Boscobel Road, Londonderry, incorrectly include a small portion of E2 Environmental Conservation zoned land. This mapping is proposed to be corrected by rezoning this E2 Environmental Conservation portion of the site to RU4 Primary Production Small Lots, which is the predominant zoning of the site and the surrounding area.

Department comment

This proposed amendment is appropriate. Given the minor nature of the amendment, consultation with OEH is not considered to be necessary.

28. Realignment of mapped planning controls at Eastern Hilltop Park, Caddens

The boundaries of the planned Eastern Hilltop Park at Caddens have been reconfigured as part of a development application. The park site is currently zoned RE1 Public Recreation on the Land Zoning Map and is identified on the Land Reservation Acquisition Map.

A mapping amendment is proposed to LEP 2010 to reflect the revised park boundaries, which will result in changes to the Land Zoning Map; the Lot Size Map; and, the Height of Building Map. Council is the acquisition authority and the Land Reservation Acquisition Map will also be amended to reflect the new location of the park.

Department comment

This proposed amendment is appropriate.

29. Realignment of mapped scenic and landscape value controls at Gannet Drive, Cranbrook

Owing to a mapping error, mapped controls have not been correctly aligned with subdivision boundaries. Several privately-owned properties on Gannet Drive and Pipet Way, Cranbrook, are slightly and partially affected by the Scenic and Landscape Values Map.

The planning proposal proposes to amend Scenic and Landscape Values Map to correct this anomaly.

Department comment

This proposed amendment is appropriate.

30. Alignment of mapped planning controls with subdivision boundaries at Glenmore Park  
It is proposed to amend the zoning, lot size and building height mapped controls to align with the subdivision boundaries for a part of Glenmore Park Stage 2.

Department comment

This proposed amendment is appropriate.

31. Alignment of mapped planning controls and boundaries at St Charbel Boulevard, Werrington

Split zones have been applied to several properties at St Charbel Boulevard, Werrington. This is not warranted and is proposed to be corrected by applying a single zone for each applicable property. An R1 General Residential zone, and either an R3 Medium Density Residential zoning or a B7 Business Park zoning, currently apply.

It is proposed to extend the R1 General Residential zoning to each lot. This zone is the predominant zoning of that locality. With regard to the height of building control, some properties on Street Charbel Boulevard contain split building heights of 8.5 metres and 25 metres. It is proposed to extend the 8.5 metres building height across the full property, as it is the predominant building height in that locality.

Department comment

This proposed amendment is appropriate.

32. Addition of missing 650 square metres lot size to legend on map tiles

The legend on all map tiles for the Lot Size Maps is to be amended by adding a missing "O" label, which indicates 650 square metres lot size. The 650 square metres minimum lot size currently applies to "The Knoll" precinct at Kingswood, on Lot Size Map tile 13.

Department comment

This proposed amendment is appropriate, however, the label 'B' is to be removed from the key in the supporting diagram. The inclusion of the 'B' label is part of a further amendment in the planning proposal.

Further, an appropriate diagram is to be included in the planning proposal to highlight where the 'O' label currently applies.

33. Alignment of zoning and subdivision boundaries at Wilson and Baker Streets, Werrington

The zoning of an area between Wilson Street and Baker Street, Werrington is proposed to be amended to align with subdivision boundaries. The changes relate to the RE1 Public Recreation, R3 Medium Density Residential and E2 Environmental Conservation zonings in this area.

Department comment

This proposed amendment is appropriate, however, the supporting diagram is not clear and it is recommended that the supporting diagram includes the relevant lot descriptions.

34. Align planning controls with subdivision boundaries at Reserve at Joseph Street, Kingswood

The current zoning, building height and lot size controls at 36-38 Joseph Street, Kingswood, do not align with the subdivision boundary. It is proposed to amend these controls to align with the subdivision boundary.

Department comment

This proposed amendment is appropriate.

35. Addition of missing 225 square metres lot size to legend on map tiles

The legend on map tiles 001 to 013 and 016 to 021 for the Lot Size Map is to be amended by adding a missing "B" label, which indicates 225 square metres. Tiles 014 and 015 of Lot Size Map currently includes this label in the legend.

Department comment

This proposed amendment is appropriate, however, label 'O' should be removed from the supporting 'Proposed Lot Size Map Legend' as it is not part of this amendment.

## **INSTRUMENT AND MAPPING AMENDMENTS**

36. Active street frontage for Glenmore Park Town Centre

The mapping planning controls delineating active street frontage at the Glenmore Park Town Centre [currently prescribed in Figure E7 – Active street frontage of Part E7 (Glenmore Park) of DCP 2014] are proposed to be added to the LEP 2010 Active Street Frontages Map.

A change is also proposed to Clause 7.8 (Active street frontages) of LEP 2010 by adding 'Zone B2 Local Centre' to the list of zones covered by the clause objectives. The Glenmore Park Town Centre is zoned B2 Local Centre under LEP 2010.

Department comment

As discussed under amendment no.3 *Active Street Frontage for the Penrith Health and Education Precinct*, the application of active street frontages to land zoned B2 is discouraged.

This matter was discussed with the relevant council officer and it was advised:

- Council acknowledged the Department's views that the centre is zoned B2 Local Centre; is a stand-alone building; and, is car-based, and advised in response:
  - the centre's zoning; building footprint and car-based environment are not elements that prevent the ability to deliver an activated and pedestrianised environment; and,
  - rather, the centre has merit for inclusion under these provisions, given that the intention of Clause 7.8 Active street frontages is to promote uses that attract pedestrian traffic along ground floor street frontages.
- Consequently, the approach should be an outcome-based approach and not zone-based.
- Under the current Penrith LEP 2010, active street frontages are mapped in an SP3 zone at Memorial Avenue, Penrith, nearby the future Nepean River pedestrian and cyclist bridge.
- To promote and activated and pedestrianised environment active street frontages are also mapped in the Penrith City Centre (B3 and B4 zones) and St Marys town centre (B4 zone).
- In the Blue Mountains LEP 2015 there are various village centres zoned B2 and B1 that contain active street frontages - of note is the Winmalee shopping centre, zoned B2 - which is car-based; is a stand-alone building; and, is comparatively smaller in scale compared to the Glenmore Park town centre.
- In The Hills LEP 2012, there are centres zoned B2 and B7 which are under development and based around the future railway stations that contain active street frontages.
- Consequently, the Glenmore Park town centre is of a scale similar to these planned centres and the above precedents have been set to allow for active street frontages outside of B3 and B4 zones.
- In 2015 the Glenmore Park town centre Stage 2 development (DA14/0765) at the north end of the B2 zone was approved and is currently under construction.
- This development responds to the DCP requirement to provide for an active street frontage on its eastern frontage to Luttrell Street/Town Terrace through the provision of ground level retail floor space facing the street and street canopies (refer to attached plans – **Attachment K**).
- It is desired that future development applications for the development of the town centre will also seek to acknowledge and deliver active street frontages at the locations identified in the proposed active street frontages map sought in this planning proposal.
- It is noted that business premises and retail premises are permitted with consent in the B2, B3 and B4 zones under LEP 2010.
- The addition of B2 Local Centre zones to the active street frontages provisions would provide a greater ability for a consent authority to require delivery of active street frontages in the Glenmore Park town centre and prevent unwanted development such as office premises.
- Further, consideration could be given to further revising the provisions of Clause 7.8(1), through either the addition of B2 Local Centre zones to this sub-clause, or alternatively the removal of references to any zoning.

#### Department Consideration

The application of the provision relies upon the unique circumstances that apply to the land and other precedents cannot be relied upon as a general determinant. Further, the purpose of the clause is not to prevent 'unwanted' permitted development in the zone, but to

manage the street front to attract pedestrian traffic along the ground floor street while allowing appropriate permitted development permitted.

While this is the case, given that the site is a town centre; further shopping development is proposed (refer to **Attachment K**); and, the site is regularly served by a local bus service, it is considered that these characteristics warrant the application of the street frontage provisions.

Council's justification that the proposal will provide consistency between LEP 2010 and DCP 2014, however, is not considered adequate. As a condition of the Gateway determination, it is recommended that Council be required to amend the planning proposal to include the planning reasons supporting this amendment.

### 37. Removal of Cottage Heritage item 180 at 1—12 North Street, Penrith

Heritage item 180, being a cottage at 10-12 North Street, Penrith, no longer exists and is proposed to be removed from LEP 2010. The item has been demolished in accordance with an approved development consent. Council has advised that the demolition was supported by a Heritage Assessment Report (**Attachment G**).

It is proposed to amend Schedule 5 Environmental heritage, Part 1 Heritage items of the LEP, and the supporting map, by removing the item.

#### Department comment

This proposed amendment is appropriate. Given the circumstances, consultation with OEHL is not considered to be necessary.

### 38. Deletion of additional permitted uses from 2065-2113, The Northern Road and 1-29 Bradley Street, Glenmore Park

Clause 3 of Schedule 1 Additional Permitted Uses within LEP 2010 ceased to apply from 14 June 2015. Accordingly, the clause is proposed to be removed from LEP 2010 and the Additional Permitted Uses Map is proposed to be amended to remove the subject site from the map.

This clause relates to use of certain land at 2065-2113 The Northern Road and 1-29 Bradley Street, Glenmore Park, for development of seniors housing.

#### Department comment

This proposed amendment is adequate, however, for public exhibition purposes, it is recommended that a note be added by Council to the proposal explaining the circumstances surrounding the removal of the item.

### **Mapping**

The current and proposed maps are provided in Part 4 and Appendix C of the planning proposal. The planning proposal will amend the following maps:

Map	Tile Number
Land Zoning	003, 005, 006, 007, 011, 012, 013, 019
Lot Size	001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013, 014, 015, 016, 017, 018, 019, 020, 021
Land Reservation Acquisition	013
Height of Buildings	005, 007, 012, 013, 019
Scenic and Landscape Values	005, 012
Heritage	005, 012, 013

Map	Tile Number
Additional Permitted Uses	007, 014
Active Permitted Use	007, 014
Active Street Frontages	006, 013
Clause Application	002
Urban Release Areas	007

Refer to **Attachment G** for the current and proposed maps.

#### Department comment

The Department notes that the maps provided in the planning proposal are adequate for community consultation purposes.

### **NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is not a result of a strategic study or report. However, the proposed items have been identified from a review of LEP 2010.

It is noted that the planning proposal is the best and most appropriate means of achieving the Council's intended outcome. A planning proposal is the only means available to achieve amendments to development provisions under the Penrith LEP 2010.

### **STRATEGIC ASSESSMENT**

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#### **Regional/ District**

##### A Plan for Growing Sydney (2014)

As indicated in the proposal, given the nature of the proposal, it is not considered to be inconsistent with A Plan for Growing Sydney (2014)

##### Draft South West District Plan (2016)

As indicated in the proposal, it is not inconsistent with the objectives and actions of the Draft South West District Plan. The proposal is a housekeeping matter and does not raise any issues that are directly relevant the draft district plan.

#### Department comment

The proposal does not address the revised Draft Greater Sydney Region Plan (October 2017) and the Draft Western City District Plan (October 2017). It is considered that there is no inconsistency between the proposal and the two draft plans. As a matter of appropriate process, however, it is recommended that a Gateway condition be attached to the determination requiring Council to amend the proposal to include its consideration of consistency with the draft plans.

#### **Local**

##### Penrith Community Plan

The Penrith Community Plan 2013 (the Plan) represents the community's vision for the Penrith LGA over the next 20 years.

A comprehensive assessment of the objectives and strategies of the Plan was previously undertaken during the preparation of Amendment No 4 to LEP 2010. Further assessment is not required due to the nature of the planning proposal.

## **Section 117(2) Ministerial Directions**

The consistency of the planning proposal with the relevant Section 117 Directions is addressed below.

### Direction 1.1 Business and Industrial Zones

This Direction aims to encourage employment growth in suitable locations; protect existing employment land; and support the viability of identified strategic centres. This Direction applies as the proposal affects business and industrial zoned land.

#### Department Comment

Given the nature of the proposal, any inconsistency is of a minor nature and it is recommended that the delegate of the Secretary agree that the proposal may proceed on this basis.

### Direction 2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental and indigenous heritage significance.

The planning proposal involves two heritage items (i.e. improvement to labelling of a State significant heritage item – Item No 187 and remove a local heritage item, a cottage – Item No 180). Hence, this Direction applies to the planning proposal.

#### Department comment

The planning proposal is technically inconsistent with this Direction as it will delist local heritage item 180. This proposed amendment is required as the item has been demolished with consent of Council. Council has advised that the demolition was supported by a heritage Assessment Report (**Attachment G**).

Given the nature of the proposal, any inconsistency is of a minor nature and it is recommended that the delegate of the Secretary agree that the proposal may proceed on this basis.

### Direction 3.1 Residential Zones

This Direction aims to encourage a variety of housing types and choice, ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands. This Direction applies to the planning proposal as it affects a number of existing residential zoned sites.

#### Department comment

The planning proposal involves minor variations to permissible residential density of land. Given the nature of the proposal, any inconsistency is of a minor nature and it is recommended that the delegate of the Secretary agree that the proposal may proceed on this basis.

### Direction 4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. Council has not provided information if the sites are affected by acid sulfate soils. The relevant council officer has however verbally advised that some sites may contain acid sulfate soils.

#### Department comment

The Direction requires the preparation of an acid sulfate study for a planning proposal that will intensify the land uses on acid sulfate potential sites. The planning proposal is therefore

inconsistent with this Direction as Council has not considered an acid sulfate soils study for the proposal. However, the inconsistency is considered to be minor given the nature of the planning proposal.

Given the nature of the proposal, it is recommended that the delegate of the Secretary agrees that the inconsistency of the planning proposal with Direction 4.1 Acid Sulfate Soils is of a minor nature.

#### Direction 4.3 Flood Prone Land

This Direction aims to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and that potential flood impacts are considered. Council has not provided information if any of the site is flood prone. However, the relevant council officer has verbally advised that some sites may be affected by floods.

#### Department comment

Given the nature of the planning proposal, it is considered that inconsistency of the planning proposal with this Direction is of a minor nature.

It is recommended that the delegate of the Secretary agrees that any inconsistency of the planning proposal with Direction 4.3 Flood Prone Land is of minor significance.

#### Direction 4.4 Planning for Bushfire Protection

This direction applies when a council prepares a planning proposal that affects, or is in proximity to land mapped as bushfire prone land.

No information has been provided if any of the site is prone to bush fire. Council has advised that given the nature of the planning proposal, the proposed changes are of minor significance. Council however has indicated that it will consult with the NSW Rural Fire Service on the planning proposal to ensure compliance with the provisions of the direction.

It is recommended that Council consults with the NSW Rural Fire Service and addresses their concern, if any, and update the planning proposal, if required.

#### 6.2 Reserving Land for Public Purposes

This direction requires that a planning proposal shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary.

#### Department Comment

The planning proposal involves rezoning of numerous RE1 Public Recreation zoned sites. Therefore, technically the planning proposal does reduce the RE1 Public Recreation zoned land. However, as the purpose of these rezonings is to rectify various errors and anomalies found in the LEP 2010. The planning proposal is therefore considered to justifiably inconsistent with the direction.

Given the nature of the proposal, any inconsistency is of a minor nature and it is recommended that the delegate of the Secretary agree that the proposal may proceed on this basis.

#### Direction 7.1 Implementation of A Plan for Growing Sydney

The objective of this Direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.



#### Department comment

It is considered that the planning proposal achieves the overall intent of the Plan and does not undermine the achievement of its planning principles; directions; and priorities for subregions, strategic centres and transport gateways.

#### **State Environmental Planning Policies**

The planning proposal considered to be consistent with all State Policies as it is a housekeeping amendment with minor changes to the Penrith LEP 2010.

### **SITE SPECIFIC ASSESSMENT**

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#### **Environmental**

Given the amendments within the planning proposal, relate to rectifying errors and anomalies in the LEP 2010, it is not likely that any critical habitats or threatened species, populations or ecological communities or their habitats, will be adversely affected as a result of the planning proposal.

#### **Social and Economic**

The planning proposal will have positive social and economic impacts as it proposes to correct errors in the LEP 2010, thereby reducing the potential for delays in the planning process.

#### **Infrastructure**

The sites are currently serviced by the necessary infrastructure and utilities.

#### **Heritage**

As noted previously, the planning proposal affects a local heritage item within the Penrith LGA (i.e. delist item 180). The proposed amendment is required as a result of demolition of that item.

### **CONSULTATION**

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#### **Community**

Council proposes to undertake a community consultation period of 28 days. A community consultation period of 28 days is considered an appropriate amount of time to gauge the response by the community.

#### **Agencies**

Council proposes to consult the NSW Rural Fire Service in relation to the proposed amendments. To satisfy the section 117 direction, this consultation is supported.

Should NSW Rural Fire Service require any additional information, or specify any additional matters to be addressed, the planning proposal is to be updated to respond to the submission, a copy of which is to be included with the updated planning proposal.

In addition, it is recommended that Council consult with the rail authority in respect of amendment no. 17.

### **TIMEFRAME**

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Council proposes a timeframe of 12-months to finalise this planning proposal. Given the nature of the planning proposal, 12-months timeframe is considered appropriate.

## DELEGATION

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Council has not requested authorisation to exercise the plan making function under delegation in relation to this planning proposal. This matter was discussed with the relevant council officer and it was advised not requesting delegation was an oversight and authorisation is requested.

Given the minor nature of the planning proposal, it is recommended that authorisation be issued for Council to exercise the S.59 delegation in this instance.

## CONCLUSION

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It is recommended that the planning proposal proceed with conditions given that it will address errors and anomalies within the Penrith LEP 2010.

## RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. Agree any inconsistencies with Section 117 Directions: 1.1 Business and Industrial Zones; 2.3 Heritage Conservation; 3.1 Residential Zones; 4.1 Acid Sulfate Soils; 4.3 Floor Prone Land; and, 6.2 Reserving Land for Public Purposes; are of minor significance.

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

2. Prior to exhibition, Council is to amend the planning proposal in the following manner:

### Part 2 – Explanation of Provisions

- a) Remove the explanation that the amendment will ensure consistency with Council's development control plan and include the planning reasons supporting amendments:
  - i. 3. *Active Street Frontage for the Penrith Health and Education Precinct;*
  - ii. 4. *Lot Size controls at Claremont Meadows Stage 2 Adjacent to M4 Motorway; and,*
  - iii. 36. *Active street frontage for Glenmore Park Centre.*
- b) Include a current zoning map extract indicating the subject site(s) for reference purposes for the following amendments:
  - i. 4. *Lot Size controls at Claremont Meadows Stage 2 Adjacent to M4 Motorway;*
  - ii. 5. *Removal of building height controls form RE1 Public recreation land in the vicinity of Nepean Hospital;*
  - iii. 8. *Align lot size control with location of RE1 Public Recreation zoned land at Glenmore Park Stage 2;*
  - iv. 13. *Addition of missing lot size controls at Glenmore Park;*
  - v. 15. *Remove minimum lot size control from RE1 Public recreation zoned land at Wallacia;*
  - vi. 20. *Addition of missing lot size control to properties at Chameleon Drive, Erskine Park; and,*
  - vii. 21. *Removal of minimum lot size form 137-139 Vincent Road, Cranebrook.*

- c) Amend the diagram supporting amendment 6. *Align mapped planning controls to subdivision boundaries at North Penrith*, to clearly indicate the proposed changes on the 'Proposed Land Zoning Map'.
- d) Amend the supporting maps for amendment 7. *Align planning controls to subdivision boundaries at Pandorea Street, Claremont Meadows*, by including the words "Pandorea Street" in the appropriate location.
- e) Amend the word 'Mater's' to 'Masters' where appearing under the amendment heading of 9. *Improvement to labelling of State Heritage Item 187) Station Masters House*, Penrith.
- f) Under amendment 14. *Alignment of zoning; lot size; and, land reservation maps for Agnes Banks properties*, include an appropriate extract from the acquisition map for reference purposes and, for clarity, add labels to the supporting maps identifying the land subject to this amendment, i.e. Lot 10 DP117071 and Lot 11 DP 117071.
- g) Under amendment 32. *Addition of missing 650 square metres lot size to legend map tiles*, remove the 'B' label from the key supporting diagram and include an appropriate diagram highlighting the location of the area the 'O' label currently applies.
- h) Under amendment 33. *Alignment of zoning and subdivision boundaries at Wilson and Baker Streets, Werrington*, amend the supporting diagram to include relevant lot descriptions.
- i) Under 35. *Addition of missing 25 square metres lot size to legend on map tiles*, remove label 'O'.
- j) Under amendment 38. *Deletion of additional permitted uses from 2065-2113 The Northern Road and 1-29 Bradley Street, Glenmore Park*, add a note explaining the circumstances supporting the removal of the additional permitted use.

### Part 3 - Justification

- k) Council is to address the consistency of the proposal with the Draft Greater Sydney Region Plan (October 2017) and the revised Draft Western City District Plan (October 2017).
3. Prior to exhibition Council is to consult with Commissioner of the NSW Rural Fire Service to satisfy the requirement of S.117 Direction 4.4 Planning for Bushfire Protection and, if necessary, amend the planning proposal accordingly. The NSW Fire Services is to be provided with a copy of the relevant part(s) of the planning proposal and any relevant supporting material, and given at least 21 days to comment.
  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 local environmental plans (Department of Planning and Environment 2016).
  5. Consultation is required with Transport for NSW (Rail) in respect amendment 17. *Correction to mapped planning controls on railway land at Russell Street, Emu Plains*. That authority is to be provided with the relevant part(s) of the planning proposal and any relevant supporting material, and given at least 21 days to comment.

6. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.



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