



IRF22/2780

## Gateway determination report – PP-2022-2714

---

Amend the Penrith LEP 2010 for affordable rental housing contributions in Glenmore Park Stage 3 and Orchard Hills North.

October 22



Published by NSW Department of Planning and Environment

[dpie.nsw.gov.au](https://dpie.nsw.gov.au)

Title: Gateway determination report – PP-2022-2714

Subtitle: Amend the Penrith LEP 2010 for affordable rental housing contributions in Glenmore Park Stage 3 and Orchard Hills North.

---

© State of New South Wales through Department of Planning and Environment 2022. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (October 22) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

## Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

# Contents

<b>1</b>	<b>Planning Proposal .....</b>	<b>5</b>
1.1	Overview and objectives of planning proposal .....	5
1.2	Explanation of provisions .....	6
1.3	Site description and surrounding area.....	6
1.4	Mapping.....	8
<b>2</b>	<b>Need for the planning proposal .....</b>	<b>9</b>
<b>3</b>	<b>Strategic assessment .....</b>	<b>9</b>
3.1	Regional Plan .....	<b>Error! Bookmark not defined.</b>
3.2	District Plan .....	9
3.3	Local.....	11
3.4	Local planning panel (LPP) recommendation.....	12
3.5	Section 9.1 Ministerial Directions .....	13
3.6	State environmental planning policies (SEPPs) .....	14
<b>4</b>	<b>Site-specific assessment .....</b>	<b>14</b>
4.1	Environmental.....	14
4.2	Social and economic.....	15
4.3	Infrastructure .....	16
<b>5</b>	<b>Consultation.....</b>	<b>16</b>
5.1	Community .....	16
5.2	Agencies.....	16
<b>6</b>	<b>Timeframe .....</b>	<b>16</b>
<b>7</b>	<b>Local plan-making authority .....</b>	<b>17</b>
<b>8</b>	<b>Assessment Summary.....</b>	<b>17</b>
<b>9</b>	<b>Recommendation.....</b>	<b>17</b>

**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Attachment A - Planning Proposal prepared by Penrith City Council September 2022
Attachment B - Affordable Rental Housing Contributions Scheme prepared by Atlas Urban Economics dated 23 September 2022
Attachment C - Schedule 2 Viability Assessment prepared by Atlas Urban Economics
Attachment D - Local Planning Panel Advice June 2022

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Penrith City Council</b>
<b>PPA</b>	<b>Penrith City Council</b>
<b>NAME</b>	<b>Affordable Rental Housing Contributions Scheme – Glenmore Park Stage 3 and Orchard Hills North</b>
<b>NUMBER</b>	<b>PP-2022-2714</b>
<b>LEP TO BE AMENDED</b>	<b>Penrith Local Environmental Plan (LEP) 2010</b>
<b>ADDRESS</b>	<b>Land in Glenmore Park Stage 3 and Orchard Hills North (refer to section 1.5)</b>
<b>DESCRIPTION</b>	<b>Land subject to planning proposals PP-2020-2803 Glenmore Park Stage 3 and PP-2020-1693 Orchard Hills North (refer to section 1.5)</b>
<b>RECEIVED</b>	<b>1/08/2022</b>
<b>FILE NO.</b>	<a href="#"><b>IRF22/2780</b></a>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

The planning proposal (**Attachment A**) provides a framework to levy affordable rental housing contributions on land proposed to be rezoned for residential development in Glenmore Park Stage 3 and Orchard Hills North. The rezoning of this land is currently subject to two separate planning proposals (PP-2020-2803 Glenmore Park Stage 3 and PP-2020-1693 Orchard Hills North).

The objectives of the planning proposal are to:

- Introduce a new local provision in the Penrith LEP 2010 to collect affordable rental housing development contributions for the delivery of affordable rental housing in the Penrith LGA. This scheme is proposed to apply to the residential release areas of Glenmore Park Stage 3 and Orchard Hills North.
- Remove the need to negotiate individual voluntary planning agreements (VPAs) for the purpose of affordable rental housing contributions.

- Enable the consent authority to insert conditions of consent on development applications to require affordable rental housing contributions in line with the draft Affordable Rental Housing Contributions Scheme (ARHCS).

The precise wording of the proposed clause will be subject to review by Parliamentary Counsel's Office and Department's Legal team prior to finalisation.

The operation of the proposed clause will be supported by a draft Affordable Rental Housing Contributions Scheme (ARHCS) (**Attachment B**). The proposed contribution rates are outlined in Table 1 below. Contributions collected through the scheme will be levied in addition to local (section 7.11 and 7.12) and state (section 7.24) infrastructure contributions.

**Table 1 Proposed contribution rates by precinct over time.**

Year of commencement	Contribution per ha NDA	Contribution Rate (% GRV)
<b>Glenmore Park Stage 3</b>		
2024	\$151,933	2%
2027	\$303,866	4%
<b>Orchard Hills North</b>		
2024	\$75,967	1%
2027	\$151,933	2%

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Penrith LEP 2010 as follows:

- Introduce a new local provision in the Penrith LEP 2010 to collect affordable rental housing development contributions for the delivery of affordable rental housing in the Penrith LGA.
- The clause will apply to land in Orchard Hills North and Glenmore Park Stage 3 once they have been rezoned for residential development.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

The planning proposal applies to land in Orchard Hills North and Glenmore Park Stage 3. The land is currently subject to two separate planning proposals outlined in Table 2 below.

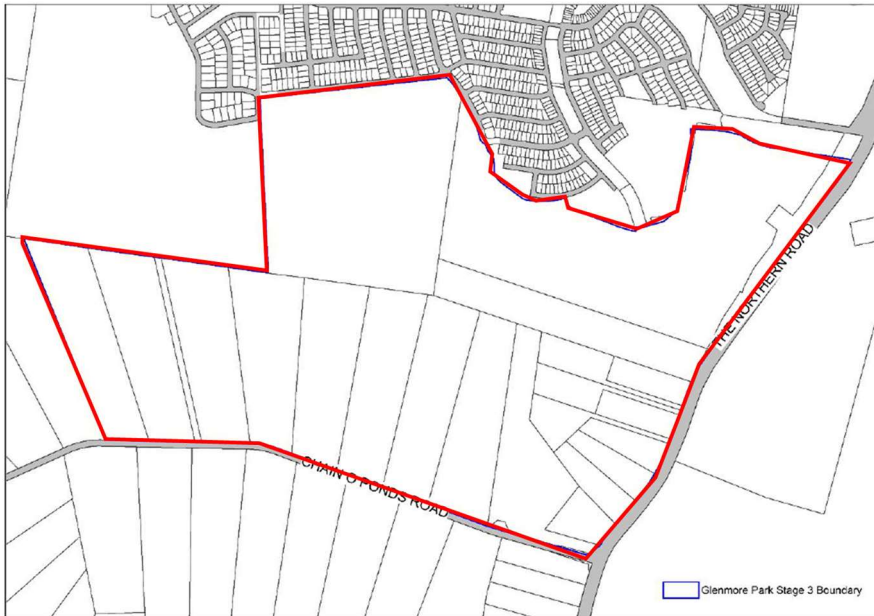
**Table 2 Rezoning planning proposals and status.**

Planning proposal	Status	Summary
PP-2020-2803 Glenmore Park Stage 3	Gateway implementation	The proposal seeks to rezone land south of Glenmore Park identified as Glenmore Park Stage 3 (GP3) which includes 206 hectares of land for urban development. The rezoning will deliver up to 2,300 dwellings.
PP-2020-1693 Orchard Hills North	Gateway Implementation	The proposal seeks to rezone land known as Orchard Hills North which includes 151.9 hectares of land for urban development. The rezoning will deliver up to 1,700 dwellings.

### **Glenmore Park Stage 3**

The site is located 6km south of Penrith CBD and 50km from Sydney CBD. It is bound by Glenmore Park in the north, The Northern Road in the east, Chain-O-Ponds Road in the south, and by Mulgoa Nature Reserve and rural-residential properties to the west.

The site has 25 lots and a total area of 206 ha (Figure 1). It is primarily owned or controlled by Vianello and Mirvac, with 8 lots and an unformed public road owned by others.

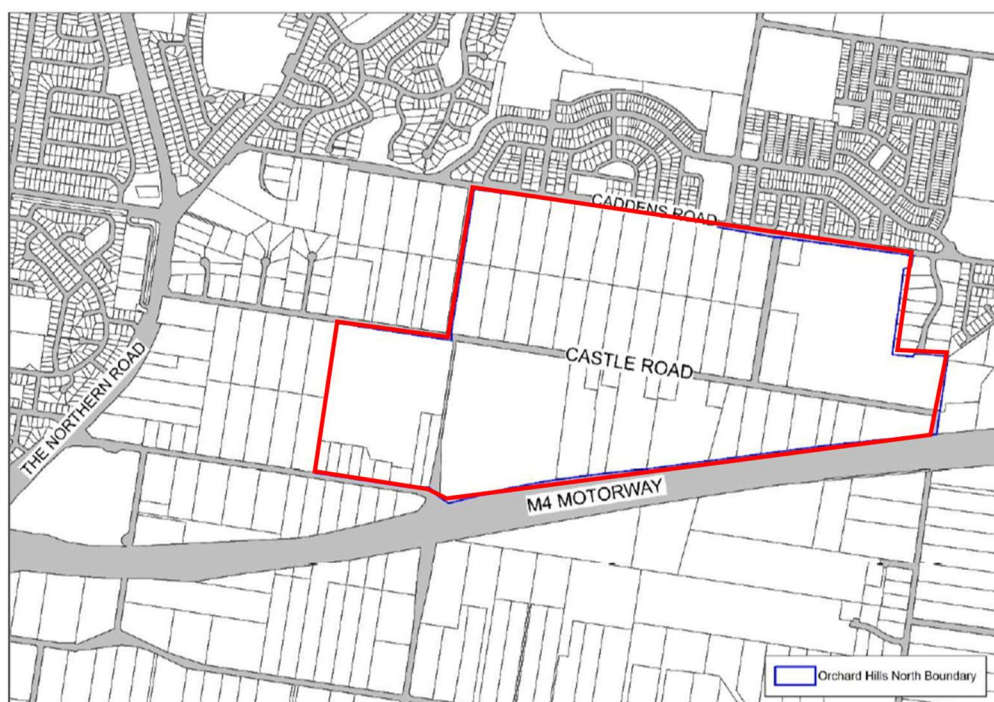


**Figure 1 Glenmore Park Stage 3 boundary (source: Penrith City Council, 2022)**

### **Orchard Hills North**

The site (Figure 2) is located 5km south east of the Penrith CBD and 50km from Sydney CBD. It is bordered by Caddens Road, Kingswood Road, Frogmore Road and the M4 Motorway. Werrington Creek and Claremont Creek both transverse section of the land and there is a riparian zone in the south -east corner. The total site area comprises 54 existing lots approximately 151.9 hectares in area and is primarily owned by Legacy Properties. Other lots within the precinct are owned by Council (occupied by the Rural Fire Service) and the Brethren Church.





**Figure 2 Orchard Hills North boundary (source: Penrith City Council, 2022)**

## 1.5 Mapping

The planning proposal does not include mapping amendments.

Map amendments to rezone the land will occur as part of the planning proposals PP-2020-2803 Glenmore Park Stage 3 and PP-2020-1693 Orchard Hills North. Further consultation with Parliamentary Counsel and the Department's Legal team in the finalisation stage may reveal that a new map is required to support the proposed provision to collect affordable rental housing contributions.

The maps shown in figures 1 and 2 are suitable for community consultation purposes.

## 1.6 Background

The need for affordable rental housing in the Penrith LGA is based on evidence in both the draft *Western Sydney Affordable Housing Strategy (WSAHS)* and the draft *Penrith Local Housing Strategy*.

In 2016, there were some 2,411 low and 5,726 moderate income households experiencing mortgage and rental stress respectively. In addition to these households, demand for affordable rental housing is driven by Penrith's other specialised groups who could equally require affordable rental housing, including:

- 2,343 households across the Penrith LGA renting in social housing accommodation and the 1,973 households currently on the waiting list.
- 10,150 residents who require assistance with core activities due to a disability.
- 2,218 individuals who required some form of homelessness service in the Penrith area (2021).

- 12,250 higher education students residing in the Penrith LGA, including 6,900 university students.

Council currently seeks the provision of 3% affordable rental housing for all its release areas under its *Sustainability Blueprint for Urban Release Areas*. The only mechanism currently available to ensure the delivery of affordable rental housing is by negotiating this through a Voluntary Planning Agreement (VPA), which can be challenging when release areas have fragmented land ownership.

Section 7.32 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) allows Councils to levy contributions for affordable housing if a State Environmental Planning Policy (SEPP) identifies a need for affordable housing in the LGA. In February 2019, State Environmental Planning Policy No. 70 - Affordable Housing (Revised Schemes) (SEPP 70) was amended to apply to all councils across NSW. The provisions of SEPP 70 have now been consolidated into Part 2 of the Housing SEPP 2021.

The planning proposal relies on Section 7.32 of the Act and the Housing SEPP 2021 to enable the affordable rental housing contributions scheme.

## 2 Need for the planning proposal

**Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?**

The planning proposal will support Council's Local Strategic Planning Statement and Draft Local Housing Strategy, specifically in relation to priorities and actions for the delivery of affordable housing. See section 3.2 for a detailed assessment of the planning proposal against Council's relevant strategic planning documents.

**Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Council can negotiate Voluntary Planning Agreements (VPAs) with landowners for affordable housing contributions. This process can be ad hoc with fragmented land ownership and an administrative burden.

Under Section 7.32 of the EP&A Act, councils may place consent conditions on developments which require contributions for affordable housing in that local government area (LGA). Under Section 7.32(3)(b) of the Act, any condition imposed on a development consent must be authorised by an LEP and must be in accordance with an affordable housing contribution scheme for dedications or contributions set out in, or adopted by, the LEP.

The planning proposal process is the only means to amend the Penrith LEP 2010 to reference the affordable rental housing contribution scheme and enable Council to impose consent conditions for affordable rental housing contributions. The implementation of the scheme is a more streamlined approach compared to negotiating VPAs.

## 3 Strategic assessment

### 3.1 District Plan

The Greater Sydney Commission released the Western City District Plan on 18 March 2018 which applies to the nominated areas. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure, collaboration, liveability, productivity and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the EP&A Act. The following table includes an assessment of the planning proposal against relevant directions and actions.

**Table 5 District Plan assessment**

District Plan Priorities	Justification
W3 Providing services and social infrastructure to meet people's changing needs	<p>To foster healthy, creative, culturally rich and socially connected communities, the Western City District Plan recognises cultural richness and diversity as one of Greater Sydney's key strengths. A key component to retain cultural richness and diversity is to deliver a diverse housing mix (density, tenure and affordability). The proposal will contribute to and enable the delivery of affordable rental housing in the Penrith LGA. This will in turn, retain the cultural richness and diversity of the Western City District.</p> <p>The proposal is consistent with this priority.</p>
W4 Providing housing supply, choice and affordability, with access to jobs, services and public transport	<p>The Western City District Plan identifies a housing target for the Penrith City local government area of a minimum of 6,600 dwellings between 2016-2021, which reflects delivery potential under current planning controls. The District Plan requires councils to develop 6-10 year housing targets through a local housing strategy/local strategic planning statement, which is discussed further in Section 3.2 of this report.</p> <p>The proposal will support the efficient delivery of housing by removing the need to negotiate individual VPAs for affordable rental housing contributions.</p> <p>The proposal is consistent with this priority.</p>

## 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

**Table 6 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement (LSPS) 2040	<p>Council's LSPS includes priorities and actions to support the provision of new homes and improve the affordability of housing:</p> <ul style="list-style-type: none"> <li>Priority 3: Provide new homes to meet the diverse needs of our growing community.</li> </ul> <p>This priority outlines the approach to the supply of new housing in existing planned residential areas such as Glenmore Park and new urban release areas such as Orchard Hills North. The proposal will ensure that new housing supply contributes to the provision of affordable rental housing.</p> <ul style="list-style-type: none"> <li>Priority 4: Improve the affordability of housing.</li> </ul> <p>The LSPS states <i>"we need to protect our existing stock and increase the supply of affordable rental housing and identify how, where and by whom any new affordable rental housing might be provided."</i> The proposal supports this intent and is a result of <i>Action 4.1 Develop an Affordable Housing Policy</i>.</p> <p>The proposal is consistent with the relevant priorities and actions in Council's LSPS.</p>
Draft Local Housing Strategy	<p>Council's Draft Local Housing Strategy (LHS) includes the following housing affordability objective, <i>"to support the provision of specialised and affordable housing to accommodate residents with particular needs with regard to design, location, tenure and cost."</i></p> <p>The planning proposal is an action from the LHS, specifically Action C1 as it will lead to the establishment of a scheme for affordable housing delivery that includes a combination of mechanisms including contributions towards affordable rental housing.</p> <p>The proposal is consistent with the relevant priorities and actions in Council's LHS.</p>
Sustainability Blue Print for Urban Release Areas (2005)	<p>The Sustainability Blue Print for Urban Release Areas (2005) is a guide for Council, developers and other relevant stakeholders involved in planning and development of new release areas within the Penrith LGA.</p> <p>The guide specifically identifies affordable rental housing as an item of social infrastructure which should be incorporated into the development of new residential release areas. It stipulates a minimum of 3% of all residential allotments are to be provided for the purpose of affordable housing or monetary contributions toward the same. Council currently negotiates for these contributions through individual VPAs.</p> <p>The planning proposal will achieve this intent in the Sustainability Blue Print for Urban Release Areas (2005). The current mechanism of negotiating VPAs to collect contributions will be replaced with a more efficient and transparent framework in Glenmore Park Stage 3 and Orchard Hills North, being a condition of consent on development applications.</p>

Penrith Community Plan	<p>The Penrith Community Plan identifies seven community outcomes:</p> <ol style="list-style-type: none"> <li>1. We can work close to home</li> <li>2. We plan for our future growth</li> <li>3. We can get around our City</li> <li>4. We have safe, vibrant places</li> <li>5. We care for our environment</li> <li>6. We are healthy and share a strong community spirit</li> <li>7. We have confidence in our Council.</li> </ol> <p>Under outcome 2, the Plan acknowledges the desire to provide housing that meets community needs without compromising the character and amenity of the neighbourhoods. Particularly Strategy 2.1: Facilitate development in the City that considers the current and future needs of our community. It indicates that Council will ensure different housing types are delivered to suit different needs, developers make a fair contribution and homes keep up with changing needs.</p> <p>The proposal is consistent with the Community Plan.</p>
Guidelines for an Affordable Housing Contribution Scheme (the Guidelines)	<p>The Department's Guidelines for an Affordable Housing Contribution Scheme (the Guidelines) advises councils on what they should include in an affordable housing contribution scheme to satisfy the legislative requirements, and how to develop an affordable housing contribution scheme under Section 7.32(1)(c) of the Act. The Guidelines require that an affordable housing contribution scheme sets out how, where, and at what rate development contributions can be collected by Council for affordable housing.</p> <p>The Department's Housing Policy team has provided comments on the draft ARHCS against the guidelines. This is discussed in section 4.2 below.</p>

### 3.3 Local planning panel (LPP) recommendation

The planning proposal was considered by the Local Planning Panel at its meeting on 22 June 2022. The Panel's advice generally supported the proposal subject to several matters (**Attachment D**).

Council provided the following response to LPP's advice in the Council report (**Attachment E**).

*"In response to the Panel's comments, minor amendments to the Planning Proposal have been made to indicate the appropriate naming of Affordable Rental Housing. The Local Planning Panel's advice is noted, and Council staff will ensure suitable explanatory documentation is provided during public exhibition. As discussed earlier in this report, the preparation of a policy on how Council will levy contributions and how these will be spent is underway. It is intended that this policy will be finalised prior to the gazettal of this Planning Proposal."*

The Department is satisfied that Council has addressed the LPP's advice in the updated planning proposal.

## 3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Consistent	The proposal is consistent with the Regional Plans as it supports priorities relating to affordable housing.
1.10 Implementation of the Western Sydney Aerotropolis Plan	Consistent	The proposal is consistent with the Western Sydney Aerotropolis Plan as it will not prevent the application of the airport safeguards provisions in the SEPP.
3.2 Heritage Conservation	Consistent	There are two heritage items within the Orchard Hills North precinct. The proposal does not affect existing heritage conservation provisions in Penrith LEP 2010.
4.1 Flooding	Consistent	The proposal does not affect existing provisions in Penrith LEP 2010 in relation to flood prone land.
4.3 Planning for Bushfire Protection	Consistent	<p>The proposal applies to land that is mapped as bushfire prone land or in proximity to land mapped as bushfire prone land.</p> <p>The proposal does not propose to rezone any land or increase development densities as this forms part of the rezoning proposals for residential development in the Glenmore Park Stage 3 and Orchard Hills North precincts.</p> <p>In accordance with this direction, a Gateway condition has been included to require consultation with the NSW Rural Fire Service. Any comments made by RFS will also need to be considered.</p>
5.1 Integrating Land Use and Transport	Consistent	The proposed provision to collect affordable rental housing development contributions will support the delivery of affordable rental housing in locations with access to housing, jobs and services by walking, cycling and public transport.
6.1 Residential Zones	Consistent	<p>The proposal applies to the Glenmore Park Stage 3 and Orchard Hills North residential release areas currently subject to two separate Planning Proposal that propose residential development.</p> <p>It will support the objectives of this direction to encourage a variety and choice of housing types to provide for existing and future housing needs.</p>



9.1 Rural Zones	Consistent	The proposal does not rezone land or increase the density of development.
-----------------	------------	---------------------------------------------------------------------------

### 3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

**Table 8 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Housing State Environmental Planning Policy (Housing SEPP) – Part 2	<p>The EP&amp;A Act allows for the collection of contributions for affordable housing where a need for affordable housing is identified in a planning instrument and where:</p> <ul style="list-style-type: none"> <li>the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or</li> <li>the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or</li> <li>the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or</li> <li>the regulations so provide.</li> </ul>	Yes	<p>The planning proposal contains provisions that require new development on land shown on the maps in section 1.5 to contribute towards affordable housing.</p> <p>As discussed in section 4.2 of this report, the planning proposal was reviewed by the Department's Housing Policy team and it is considered that the draft ARHCS addresses majority of the requirements of the Guidelines. Conditions will be included on the gateway determination to address outstanding comments.</p>

## 4 Site-specific assessment

### 4.1 Environmental

The planning proposal will not result in any negative environmental impacts as the proposal does not seek to rezone or change the current development standards applicable to the land.

## 4.2 Social and economic

Overall, the proposal will result in multiple benefits for the Penrith LGA. The following table provides an assessment of the social and economic impacts associated with the proposal.

**Table 10 Social and economic impact assessment**

Social and Economic Impact	Assessment
Social	<p>The socio-economic profile of Penrith indicates a need to provide affordable rental housing for very low to moderate income households in the Penrith LGA. Significant and sustained price growth in property values has outpaced wage rises, resulting in declining housing affordability and growing debate around the need to improve accessibility to the housing market.</p> <p>Less affordable rental housing negatively impacts individuals, the community and the local economy. Approximately 17.4% of Penrith residents were in housing stress in 2016, with 18.3% projected to be in housing stress by 2041. In 2016, there were between 2,411 and 5,726 low to moderate income households experiencing mortgage and rental stress respectively.</p> <p>The planning proposal will have a positive social impact as it seeks to support the delivery of affordable rental housing in the Penrith LGA.</p>
Economic	<p>A key consideration in introducing new contribution requirements in the Penrith LEP 2010 is the impact on development viability. To understand the economic impacts of the proposed affordable rental housing contribution rates, independent work was undertaken to test the local housing needs of Penrith and assessed the feasibility that examined the capacity of development to tolerate affordable rental housing contributions within the urban release areas of Glenmore Park Stage 3 and Orchard Hills North.</p> <p>The viability testing conducted by Atlas Urban Economics (<b>Attachment C</b>) determined that residential development can accommodate an affordable rental housing contribution and still be viable.</p>

The Department's Housing Policy team reviewed the ARHC to assess its consistency with the relevant guidelines and section 7.32 of the EP&A Act. The Department worked with Council to clarify the viability and operation of the contributions scheme. The viability assessment (**Attachment C**) satisfactorily demonstrates that the contributions scheme will not have a negative impact on the feasibility of development in the applicable area. However, further clarification is sought regarding the operation of the scheme, specifically:

- A clear framework to avoid double dipping is required. (i.e. if the contribution is paid at the subdivision stage, then no further affordable housing contribution can be levied at the future built form stage). This could be achieved including a comment to clarify that an exclusion would apply to *'development that has been the subject of a condition under this scheme under a previous development consent relating to the subdivision of the land on which the development is to be carried out, unless the proposed works increase demand for or reduce availability of affordable housing,'* within the proposal.
- Clarification on the application of contribution arrangements in Section 3.1 is required relating to *'development where no further approvals are required, before the consent is*



*issued*'. Council has previously advised that contribution will be required at subdivision stage so the intent of this point is unclear.

- Under Section 3.3, it is recommended the Conditions of Consent should restate the total NDA that that AHC is applicable to, to ensure consistency with the contribution rate.
- It is noted that the scheme seeks to not apply contributions to development for affordable or social housing. This is supported however clarification is required if developments that partially contain affordable and/or social housing with market housing are exempt from the scheme.
- As the charge will be calculated at the subdivision stage, it may be unknown at that time if some or part of residential land may be used for social or affordable housing and the number of dwellings this may apply to. As the payment is to be paid upon the issuing of a construction certificate, there may be issues where the rate or number of dwellings in the construction certificate is not accurate due to the inclusion of affordable or social housing.

The above comments that require further clarification in the scheme have been included as conditions in the gateway determination. These comments need to be addressed prior to public exhibition.

## 4.3 Infrastructure

The planning proposal will not directly result in the need for either state or local infrastructure upgrades as the proposal does not seek to rezone or change the current development standards applicable to the land.

# 5 Consultation

## 5.1 Community

Council proposes a community consultation period of 28 days. The exhibition period proposed is considered appropriate and forms the conditions of the Gateway determination.

## 5.2 Agencies

It is recommended the following agencies be consulted during exhibition of the planning proposal and given 30 days to comment:

- NSW Rural Fire Service

The Department's Housing Policy team has reviewed and provided comments on the ARCS. These comments have been incorporated into the gateway conditions and must be addressed prior to exhibition.

# 6 Timeframe

Council proposes a 6 month time frame to complete the LEP. The Department supports a time frame of 6 months to allow for time to address the Gateway conditions post-Gateway.

Exhibition of the planning proposal must occur as soon as practicably possible to ensure that sufficient notice is provided to the market.

The planning proposal must also be finalised prior to or at the same time as the rezoning planning proposals for Glenmore Park Stage 3 and Orchard Hills North.

Milestone	Timeframe
Public exhibition	November - December 2022
Consideration of submissions	December 2023
Council post-exhibition report	February 2023
Notification of LEP amendment	Prior to or at the same time as the rezoning planning proposals for Glenmore Park Stage 3 and Orchard Hills North.

A condition to the above effect is recommended in the gateway determination.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority. Given the planning proposal is for the collection of affordable rental housing contributions which will be managed by Council, the matter is deemed to be of local significance. The Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It demonstrates strategic merit as it is consistent with:
  - The Western City District Plan, particularly:
    - Planning Priority W4 Fostering healthy, creative, culturally rich and socially connected communities
    - Planning Priority W5 Providing housing supply, choice and affordability with access to jobs, services and public transport
  - Penrith City Council's Local Strategic Planning Statement and draft Local Housing Strategy, particularly:
    - Priority 3: Provide new homes to meet the diverse needs of our growing community.
    - Priority 4: Improve the affordability of housing.
  - Relevant Section 9.1 Ministerial Directions and state environmental planning policies.
  - Is generally consistent with the Department's *Guideline for developing an affordable housing contribution scheme* (February 2019), subject to Gateway conditions.
  - Demonstrates strategic merit to proceed to public exhibition.

Based on the assessment outlined in this report, the proposal must be updated before consultation to address comments from the Department's Housing Policy Team.

## 9 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to exhibition, the planning proposal and associated Affordable Rental Housing Contribution Scheme is to be updated to address the comments below:
  - A clear framework to avoid double dipping is required (i.e. if the contribution is paid at the subdivision stage, then no further affordable housing contribution can be levied at the future built form stage). This could be achieved including a comment to clarify that an exclusion would apply to *'development that has been the subject of a condition under this scheme under a previous development consent relating to the subdivision of the land on which the development is to be carried out, unless the proposed works increase demand for or reduce availability of affordable housing,'* within the proposal.
  - Clarification on the application of contribution arrangements in Section 3.1 is required relating to 'development where no further approvals are required, before the consent is issued'. Council has previously advised that contribution will be required at subdivision stage so the intent of this point is unclear.
  - Under Section 3.3, it is recommended the Conditions of Consent should restate the total NDA that that AHC is applicable to, to ensure consistency with the contribution rate. It is noted that the scheme seeks to not apply contributions to development for affordable or social housing. This is supported however clarification is required if developments that partially contain affordable and/or social housing with market housing are exempt from the scheme.
  - As the charge will be calculated at the subdivision stage, it may be unknown at that time if some or part of residential land may be used for social or affordable housing and the number of dwellings this may apply to. As the payment is to be paid upon the issuing of a construction certificate, there may be issues where the rate or number of dwellings in the construction certificate is not accurate due to the inclusion of affordable or social housing.
2. Prior to community consultation, the planning proposal is to be revised to address conditions 1 and 2.
3. Consultation is required with the following public authorities:
  - Department of Planning and Environment – Housing Policy team.
  - NSW Rural Fire Service
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. The planning proposal must be exhibited within 1 month from the date of the Gateway determination.
6. The planning proposal must be reported to council for a final recommendation within one month from the date of the Gateway determination.
7. The timeframe for completing the LEP is to be 6 months from the date of the Gateway determination. The LEP must be completed prior to or at the same time as the finalisation of PP-2020-2803 Glenmore Park Stage 3 and PP-2020-1693 Orchard Hills North.
8. The proposed LEP provision will be subject to review by the Department's Legal team and Parliamentary Counsel Office as part of finalisation.
9. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



\_\_\_\_\_  
(Signature)

20/10/2022

Elma Sukurma

Manager, Central (Western)



\_\_\_\_\_  
(Signature)

22/10/2022

Robert Hodgkins

Director, Central (Western)

Assessment officer

Gabrielle Coleman

Senior Planner, Metro West

02 9995 5247