

Mr Warwick Winn  
General Manager  
Penrith City Council  
PO Box 60  
PENRITH NSW 2751

Dear Mr Winn

**Planning proposal PP\_2018\_PENRI\_10\_00 to amend Penrith City Council Local Environmental Plan 2010**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and additional information received in respect of the planning proposal to alter the development controls for land at 2 Tench Avenue, Jamisontown, by amending the Penrith Local Environment Plan (LEP) 2010 as follows:

- increasing the maximum building height from 8.5m to 54m;
- adding a maximum floor space ratio of 1.2:1 and/or a 1.45:1 should a hotel component be included;
- introducing a requirement for a design competition; and
- applying a "sunset clause" where the proposed provisions will cease to exist three years after the date the LEP amendment is made.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with section 9.1 Direction: 6.3 *Site Specific Provisions* is justified in accordance with the terms of the Direction. No further approval is required in relation to this Direction.

I have considered Council's request to be the local plan-making authority and have determined not to condition the Gateway for Council to be the local plan-making authority. I have taken this view owing to the need to consider regional flood evacuation issues and in view of the proposed involvement of the Government Architects Office.

The amending local environmental plan (LEP) is to be finalised within nine months of 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 eight 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 Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Mr Ryan Klingberg to assist you. Mr Klingberg can be contacted on 9860 1561.

Yours sincerely



**Ann-Maree Carruthers**  
**Director**  
**Sydney Regions West**  
**Planning Services**

2/5/2019

Encl: Gateway determination

## Gateway Determination

**Planning proposal (Department Ref: PP\_2018\_PENRI\_10\_00):** to increase the maximum building height from 8.5m to 54m and add a maximum floor space ratio of 1.2:1 and/or a 1.45:1 should a hotel component be included as well as other associated provisions.

I, the Director, Sydney Region West at the Department of Planning and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Penrith Local Environmental Plan (LEP) 2010 to increase the maximum building height from 8.5m to 54m; add a maximum floor space ratio of 1.2:1 and/or 1.45:1 should a hotel component be included in proposed development; introduce a requirement for a design competition; and, include a clause that will remove the proposed controls within a three year time frame, should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to amend:
  - (a) the planning proposal, under Part 2 – Explanation of provisions, so that the current height control of 8.5m is added to the explanation and further commentary is included to clarify the manner in which it is intended for the design competition, and sunset clause, are proposed to operate; and, add a note under Part 2 that the manner in which Penrith LEP 2010 will be amended to achieve the intent will be subject to legal drafting;
  - (b) the schedule of deemed SEPPs within the proposal to further address SREP No 20 – Hawkesbury-Nepean River (No 2 – 1997) by making reference to the applicable provisions of the SEPP and clarifying the manner in which the proposal is consistent with these provisions; and
  - (c) the supporting Concept Flood Risk Management and Stormwater Management Report for the Winter Sports World (ACOR consultants – 27 June 2018) by including the following information:
    - the potential number of vehicles evacuating the site during a flood event, including visitors to the facility; and
    - the manner in which the facility will be managed during and after flood events, including securing and managing the site during floods of varying levels and duration, and recovery plans for the facility after flood events.

2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the planning proposal 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).
3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
  - Roads and Maritime Services;
  - Transport for NSW;
  - Government Architects Office;
  - Office of Environment and Heritage;
  - State Emergency Services;
  - NSW Rural Fire Service;
  - Sydney Water;
  - Telstra; and
  - Endeavour Energy.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

4. Council is to consult with the NSW Rural Fire Service prior to exhibition in terms of section 9.1 Direction 4.4 Planning for Bushfire Protection. Should the proposal be considered to be inconsistent with direction following receipt of advice from that authority, Council is to bring this matter to the attention of the Department prior to finalisation of the proposal.
5. Council is to consult with the Roads and Maritime Services and Transport for NSW and provide those authorities with anticipated traffic impacts on the external road network, identifying whether any road works are necessary to facilitate the expected increase in traffic volumes.
6. Council is to consult with the Government Architects Office to clarify proposed design competition requirements and is to obtain the agreement of that Office for this aspect of the proposal prior to finalisation of the plan.

7. A public hearing is not required to be held into the matter by any person or body under section 3.34(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).
8. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated                    2<sup>nd</sup> day of May 2019.



**Ann-Maree Carruthers**  
**Director, Sydney Region West**  
**Planning Services**  
**Department of Planning and**  
**Environment**

**Delegate of the Minister for Planning**  
**and Public Spaces**