



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

Dear Mr Winn,

Planning proposal [PP_2019_PENRI_001_00] for Phase 1 of amendments to Penrith 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) received on 30 September 2019. The planning proposal is for Phase 1 of amendments as part of the review of Penrith Local Environmental Plan 2010 (Penrith LEP 2010) to align and implement the draft Penrith Local Strategic Planning Statement.

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 including the removal of Amendment 7 from the planning proposal.

I understand Council's desire to include an amendment to prohibit cemeteries and crematoriums in the Mulgoa Valley and parts of Wallacia. However, due to the significance of that proposed amendment and the need for further justification it is considered that this amendment should remain as a separate planning proposal.

In addition, I note that Council has requested that the Low Rise Medium Density Housing Code also applies to dual occupancies in the RU5 Village zone. The Gateway determination has been conditioned to allow Council to consider the need for a minimum lot size for this type of development to ensure the application of the code in this zone is consistent with Council's vision for the area.

I have also agreed, as delegate of the Secretary, that any inconsistencies with section 9.1 Directions 1.1 Business and Industrial Zones, 2.3 Heritage Conservation, and 6.3 Site Specific Provisions are minor or justified. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant section 9.1 Direction 3.1 Residential Zones and 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made. As required by Direction 4.4 Planning for Bushfire Protection the Gateway includes a condition requiring that Council consult with the Rural Fire Service prior to exhibition of the Plan. Having regard to the timeframe for finalisation of the Plan please contact the Department if you require assistance with this consultation.

Council is required to submit the planning proposal to the Department for finalisation prior to 30 June 2020. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning, Industry and Environment to draft and finalise the LEP should be made before the required 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 enquiries about this matter, I have arranged for Mr Mark Yee to assist you and can be contacted on 9860 1535.

Yours sincerely



17/02/20

Catherine Van Laeren
Acting Executive Director
Central River City and Western Parkland City

Encl: Gateway determination



Gateway Determination

Planning proposal (Department Ref: PP_2019_PENRI_001_00): for Phase 1 of amendments to Penrith LEP 2010 to align and implement the draft Penrith Local Strategic Planning Statement (Penrith LSPS).

I, the Acting Executive Director, Central River City and Western Parkland City, at the Department of Planning, Industry 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 Phase 1 of amendments to the Penrith Local Environmental Plan (LEP) 2010 to align and implement the draft Penrith Local Strategic Planning Statement should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal is to be amended as follows:
 - (a) update Amendment 1 of the planning proposal to include the following:
 - i. the number of potential lots that would be achieved under the minimum standards within the Low Rise Medium Density Housing Code considering the Codes SEPP exclusions (such as sites below the minimum lot size and land subject to heritage provisions);
 - ii. the number of potential lots under the proposed development standards;
 - iii. the number of dual occupancy and multi-dwelling housing developments approved in the R3 Medium Density Residential and R4 High Density Residential zones in the LGA in the past five years; and
Note: These numbers are to be shown under each relevant zone and by housing type.
 - iv. include the intention to introduce a new savings and transitional clause to ensure that proposed amendments do not affect any development applications or appeal processes;
 - (b) include the consideration of a minimum lot size for dual occupancy development in the RU5 Village zone;
 - (c) update Amendment 5 of the planning proposal to identify the preferred mechanism of the two proposed to introduce a new non-residential floor space ratio for development in the St Marys Town Centre;
 - (d) identify Amendment 6A as a separate amendment within the planning proposal and not part of the 'housekeeping' amendment section;
 - (e) remove Amendment 7 from the planning proposal and any references seeking to prohibit cemeteries and crematoriums in the Mulgoa Valley and parts of Wallacia;

- (f) include a note that the draft proposed clauses will be subject to legal drafting and may alter under this process;
 - (g) consult the NSW Rural Fire Service prior to public exhibition in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection and address any comments from this agency;
 - (h) update the consistency of the planning proposal with the relevant section 9.1 Directions as outlined in this report and address the consistency with Direction 7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan; and
 - (i) update the consistency of the planning proposal with the State Environmental Planning Policy (Affordable Rental Housing) 2009 and State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as outlined in this report.
2. The revised planning proposal is to be updated in accordance with condition 1 and forwarded to the Department for review and approval prior to public exhibition.
 3. 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
 4. Council is to inform all landowners affected by the proposed minimum lot size amendment in writing about the exhibition of the proposal, outlining the effect of the proposed changes.
 5. 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:
 - Sydney Water;
 - NSW Rural Fire Service; and
 - Greater Sydney Commission.

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.

6. 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).
7. Given the nature of the planning proposal, Council is not authorised to exercise delegation to make this plan.
8. Council is required to submit the planning proposal to the Department for finalisation prior to 1 July 2020.

Dated 17th day of February 2020.



Catherine Van Laeren
Acting Executive Director, Central
River City and Western Parkland City
Greater Sydney Place and
Infrastructure
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces



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

Dear Winn,

Planning proposal [PP_2019_PENRI_001_00] – Alteration of Gateway Determination

I refer to Council's email dated 6 March 2020 which requested the alteration to the Gateway determination for planning proposal [PP_2019_PENRI_001_00] for Phase 1 of amendments to Penrith LEP 2010 to align and implement the draft Penrith Local Strategic Planning Statement.

The alteration sought the deletion of Condition 1(c) which required an update of Amendment 5 of the planning proposal to identify the preferred mechanism of the two proposed to introduce a new non-residential floor space ratio for development in the B4 Mixed Use zone in the St Marys Town Centre.

It is understood that the deletion of Condition 1(c) is requested as Council would prefer to identify the preferred mechanism for Amendment 5 following feedback from public exhibition.

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 17 February 2020 for [PP_2019_PENRI_001_00]. The Alteration of Gateway determination is enclosed.

If you have any questions in relation to this matter, I have arranged for Mr Mark Yee to assist you. Mr Yee can be contacted on 9860 1535.

Yours sincerely

11 March 2020
Gina Metcalfe
Acting Director Central (Western)
Greater Sydney Place and Infrastructure

Encl: Alteration of Gateway Determination



Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2019_PENRI_001_00)

I, Acting Director, Central (Western) at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 17 February 2020 for the proposed amendment to the Penrith Local Environmental Plan 2010 as follows:

1. Delete:

“condition 1”

and replace with:

a new condition 1 as follows:

1. Prior to public exhibition, the planning proposal is to be amended as follows:

(a) update Amendment 1 of the planning proposal to include the following:

- i. the number of potential lots that would be achieved under the minimum standards within the Low Rise Medium Density Housing Code considering the Codes SEPP exclusions (such as sites below the minimum lot size and land subject to heritage provisions);
- ii. the number of potential lots under the proposed development standards;
- iii. the number of dual occupancy and multi-dwelling housing developments approved in the R3 Medium Density Residential and R4 High Density Residential zones in the LGA in the past five years; and

Note: These numbers are to be shown under each relevant zone and by housing type.

- iv. include the intention to introduce a new savings and transitional clause to ensure that proposed amendments do not affect any development applications or appeal processes;
- (b) include the consideration of a minimum lot size for dual occupancy development in the RU5 Village zone;
- (c) identify Amendment 6A as a separate amendment within the planning proposal and not part of the ‘housekeeping’ amendment section;
- (d) remove Amendment 7 from the planning proposal and any references seeking to prohibit cemeteries and crematoriums in the Mulgoa Valley and parts of Wallacia;
- (e) include a note that the draft proposed clauses will be subject to legal drafting and may alter under this process;

- (f) consult the NSW Rural Fire Service prior to public exhibition in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection and address any comments from this agency;
- (g) update the consistency of the planning proposal with the relevant section 9.1 Directions as outlined in this report and address the consistency with Direction 7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan; and
- (h) update the consistency of the planning proposal with the State Environmental Planning Policy (Affordable Rental Housing) 2009 and State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as outlined in this report.

Dated

11 March 2020



**Gina Metcalfe
Acting Director Central (Western)
Central River City and Western
Parkland City
Department of Planning, Industry and
Environment**

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