

## Appendix 8

### Gateway Determination

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

Attention: Mr Matthew Rose

Dear Mr Winn

**Planning proposal PP\_2018\_PENRI\_001\_00 to amend 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) in respect of the planning proposal to increase the total maximum bonus floor space ratio set in Clause 8.7 'Community infrastructure on certain key sites' from 5:1 to 8.5:1 (Lot 10 DP 788189) and 6.5:1 (Lot 1 DP 710350).

As delegate of the Greater Sydney Commission, 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.

I have considered Council's request to be the local plan-making authority and given the nature of the planning proposal, a key site within the Penrith CBD, have determined not to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 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 8 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 Greater Sydney Commission 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 Miss Charlotte Lowe to assist you. Miss Lowe can be contacted on 02 9373 2875.

Yours sincerely



**Ann-Maree Carruthers**  
**Director, Sydney Region West**  
**Planning Services**

27/9/18

Encl: Gateway determination

## Gateway Determination

**Planning proposal (Department Ref: PP\_2018\_PENRI\_001\_00):** to increase the total maximum bonus floor space ratio set in Clause 8.7 'Community infrastructure on certain key sites' of the LEP for 39-49 Henry Street, Penrith from 5:1 to 8.5:1 (Lot 10 DP 788189) and 6.5:1 (Lot 1 DP 710350).

I, the Director, Sydney Region West at the Department of Planning and Environment, as delegate of the Greater Sydney Commission, 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 total maximum bonus floor space ratio set in Clause 8.7 'Community infrastructure on certain key sites' of the LEP for 39-49 Henry Street, Penrith from 5:1 to 8.5:1 (Lot 10 DP 788189) and 6.5:1 (Lot 1 DP 710350)* should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to amend the planning proposal as follows:
  - (a) For clarity, amend the introduction section of the proposal to clarify the subject land i.e. Lot 1 DP 710350 and Lot 10 DP 788189, forms part of Key Site 7 and provide a short explanation of that key site. Attach a thumbnail map, or amend the aerial photo, to clarify the location of the subject land by the inclusion of a key and show the boundary of the key site. Include the site boundary within a key.
  - (b) Under Part 2 'Explanation of Provisions' amend to indicate:
    - The existing zone, standards and provisions that currently apply to the land, together with the proposed standards, with - where appropriate - the inclusion of thumbnail maps illustrating these controls. The subject land is to be highlighted to show its location on such maps;
    - Identify that the proposal is for Key Site 7 and clarify within the description of the proposed amendment that it is intended to introduce bonus maximum FSR controls of 6.5:1 and 8.5:1 for part of the key site area, described as Lot 1 DP 710350 and Lot 10 DP 788189; and
    - Amend the word 'part' to 'clause', where appearing (p.9).
  - (c) Under Part 3 – Justification:
    - Clarify that the provision of community infrastructure only applies to the site subject to proposed development and clarify, or remove, the term 'or an equivalent monetary contribution' to be consistent with clause 8.7 of the LEP (p.11);
    - Amend the discussion about community infrastructure (p.11) by removing the word 'residential' when describing the bonus floor space provisions, as

the Floor Space Ratio applies to all development under clause 8.7 of the LEP;

- Amend the incorrect lot description on Page 11; and
  - Include a note that the proposed amendments to clause 8.7(4) of the LEP is subject to legal drafting.
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 is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and 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 and / 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;
  - Sydney Water;
  - State Emergency Service; and
  - relevant utility providers for phone, gas and electricity.

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. 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).



5. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 27<sup>th</sup> day of September 2018.

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