

Appendix 2

Gateway Determination

Alan Stoneham
General Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751



Dear Mr Stoneham

Planning proposal PP_2018_PENRI_004_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 floor space ratio and height of building development standards at 33-43 Phillip Street, St Marys.

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 noted that the proposal does not include adjoining land to the east of the site which is also zoned B4 Mixed Use. For the orderly development of the subject land and this adjoining land, I have conditioned the determination for Council to consider including the adjoining land in the planning proposal, and if found appropriate, to seek a revised determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Directions 1.1 Business and Industrial Zones and 3.1 Residential Zones are justified in accordance with the terms of the Direction. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of section 9.1 Direction 2.3 Heritage Conservation. Council should ensure this occurs prior to community consultation.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

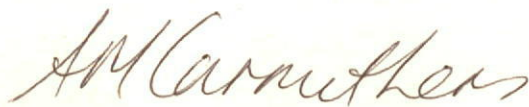
The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6

weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment.

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 Mr Michael Cividin to assist you. Mr Cividin can be contacted on 9860 1554.

Yours sincerely



Ann-Maree Carruthers
Director, Sydney Region West
Planning Services

27/8/18

Encl: Gateway determination
Local plan-making authority reporting template

Gateway Determination

Planning proposal (Department Ref: PP_2018_PENRI_004_00): to amend the Penrith Local Environmental Plan 2010 by increasing the height of building and floor space ratio controls for land located at 33-43 Phillip Street, St Marys.

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 height of building and floor space ratio (FSR) controls for land located at 33-43 Phillip Street, St Marys, should proceed subject to the following conditions:

1. Prior to community consultation, Council is to:
 - (a) Give consideration to the inclusion of the land immediately adjoining the subject site (to the east and zoned B4 Mixed Use) within the planning proposal and, if considered appropriate, seek an altered Gateway determination;
 - (b) amend the supporting urban design report by including an overshadowing diagram that shows shadows cast by the proposal on the existing surrounding development;
 - (c) amend the traffic assessment so that it addresses:
 - the proposed planning controls;
 - the recommendations of the Western City District Plan, including planned growth, as well as, reviewing the influence of the north-south rail-line and other infrastructure corridors; and,
 - amend page 18 of the planning proposal accordingly.
 - (d) include an addendum to the supporting studies that addresses the planning controls proposed under the planning proposal, where these differ from those controls currently addressed in the studies, and provide suitable commentary within these addendums.
 - (e) in view of the above, amend the note on page 17;
 - (f) amend the planning proposal by:
 - under Part 2 – Explanation of Provisions – for clarity, either refer to the existing and proposed maps in Part 4 of the planning proposal or duplicate, i.e. repeat, these maps under Part 2;
 - within *Section C – Environmental, Social and Economic*, include a section that addresses the proposal's relationship with the heritage listed railway buildings;
 - under the heading *Local Planning Directions and State Environmental Planning Policies* (p.14), amend the heading to Section 9.1 Directions, where appropriate;

- under the heading *Council's Framework – Strategic Planning* (p.14), provide commentary on the proposal's relationship with scenic protection land and views to the Blue Mountains;
 - under the heading of *Bulk and scale of development and overshadowing* (p.18),
 - include an overview of the report and how it has addressed the proposed increase in height and FSR controls; and,
 - include the key finding of the report in respect of overshadowing in mid-winter;
 - under the heading of Economics (p.19) by reference to the economic impact assessment (Hill PDA), provide advice clarifying that the proposal will not redirect expenditure from surrounding centres;
 - under Part 4 – Maps, enlarge these maps to be legible and include a key; and
 - within Schedule 3 – amend the heading to Section 9.1 Directions and include commentary on directions 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land.
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 and organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
- Transport for NSW – Sydney Trains;
 - Roads and Maritime Services;
 - Office of Environment and Heritage;
 - Sydney Water; and
 - Relevant service providers.

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 planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated 27th day of August 2018.



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

Delegate of the Greater Sydney Commission