

Gateway Determination

Planning proposal (Department Ref: PP-2022-2714): to amend the Penrith LEP 2010 for affordable rental housing contributions in Glenmore Park Stage 3 and Orchard Hills North.

I, the A/Director, Central (Western) at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, 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 2010 to collect affordable rental housing contributions in Glenmore Park Stage 3 and Orchard Hills North should proceed subject to the following conditions:

1. Council is to update the planning proposal, prior to exhibition, as follows:
 - 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 '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. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard, as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 30 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 *Local*

Exhibition must commence within one month following the date of the gateway determination.

3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:

- NSW Rural Fire Service
- Department Planning and Environment's Housing Policy Team.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 30 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 EP&A 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 Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A 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 applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The LEP should be completed on or before March 2023. 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.

Dated 22nd day of October 2022.



Robert Hodgkins
A/Director
Central Western
Department of Planning and Environment

Delegate of the Minister for Planning and Homes