

## APPENDIX 5

### Gateway Determination

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

Attn: Breannan Dent

Dear Mr Winn

**Planning proposal PP\_2018\_PENRI\_009\_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) and additional information received on 11 April 2019 in respect of the planning proposal to alter the development controls for land at 351 and 359 High Street, Penrith (the site) by amending the Penrith Local Environmental Plan (LEP) 2010 as follows:

- amend the maximum building height from 12m to a split height control of 12m over the Australian Arms Hotel heritage item and 24m over the remainder of the site; and
- increase the maximum floor space ratio from 3:1 to 3.5:1.

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.

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 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 to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six 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 Minister for Planning and Public Spaces 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 Ms Chantelle Chow to assist you. Ms Chow can be contacted on 9860 1548.

Yours sincerely

Handwritten signature of Ann-Maree Carruthers and the date 10/5/2019.

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

Encl: Gateway determination  
Local plan-making authority reporting template

## Gateway Determination

**Planning proposal (Department Ref: PP\_2018\_PENRI\_009\_00):** to increase the maximum building height to part 12m and 24m and the floor space ratio to 3.5:1 for land at 351 and 359 High Street, Penrith.

I, the Director, Sydney Region West at the Department of Planning and Environment, as delegate of the Minister for Planning 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 amend the maximum building height for land at 351 and 359 High Street, Penrith from 12m to a split height control of 12m over the Australian Arms Hotel heritage item and 24m over the remainder of the site, and increase the maximum floor space ratio from 3:1 to 3.5:1 should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to amend the planning proposal as follows:
  - (a) include the number of additional jobs facilitated by this planning proposal; and
  - (b) include a legend for the current and proposed maps in Part 2 of the proposal.
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;
  - Office of Environment and Heritage;
  - 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. 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 **12 months** following the date of the Gateway determination.

Dated 10<sup>th</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**