

APPENDIX 11

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_002_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 facilitate the redevelopment of land at 57 Henry Street, Penrith by identifying the site as a key site and applying the existing incentive clause and a bonus floor space ratio of 6.5:1 to the site. The proposal also seeks to facilitate residential uses by applying additional permitted uses to the site.

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.

In making this determination I have given careful consideration to the potential overshadowing of the local heritage item and proposed open space. While I can appreciate the inherent merits associated with this proposal, I am also mindful of the need to ensure that proposed development of the site is managed to suitably address the concept of liveability. I have accordingly conditioned the determination to allow Council to further consider this issue.

I have also agreed, as delegate of the Secretary, any technical inconsistency with section 9.1 Direction 1.1 Business and Industrial Zones and Direction 6.3 Site Specific Provisions are justified in accordance with the terms of these directions. No additional approval is required in relation to this direction.

I have considered Council's request to be the local plan-making authority and the nature of the planning proposal and 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

26/10/18

Encl: Gateway determination

Gateway Determination

Planning proposal (Department Ref: PP_2018_PENRI_002_00): to amend the Penrith Local Environmental Plan 2010 to include 57 Henry Street, Penrith as a new key site (key site 12) in Part (4) of 8.7 Community Infrastructure to increase the total maximum bonus floor space ratio (FSR) to 6.5:1 and amend Schedule 1 of the LEP to facilitate 'shop top housing' as an additional permitted use.

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 include 57 Henry Street, Penrith as a new key site (key site 12) and include the site in Part (4) of 8.7 Community Infrastructure to increase the maximum bonus floor space ratio (FSR) to 6.5:1 and amend Schedule 1 of the LEP to facilitate residential flat buildings and shop top housing as an additional permitted use for a period of 3 years, with a minimum non-residential FSR of 0.75:1 should proceed subject to the following conditions:

1. Prior to community consultation, Council is to amend the planning proposal as follows:
 - (a) Remove the SP2 Infrastructure zoned part of site from the planning proposal, proposed maps (Key Sites Map and Additional Permitted Uses map) and all other relevant parts of the planning proposal.
 - (b) Within Part 1 – Introduction of the planning proposal, include a description of the subject site and surroundings, including a site photo with the site highlighted by edging or other suitable means.
 - (c) Under Part 2 – Explanation of Provisions include:
 - i. a plain English explanation of the proposed clauses and include a note that the clause may be amended following legal drafting; and,
 - ii. illustrate the existing zone, standards and provisions that currently apply to the land.
 - (d) Under Part 3 – Justification, include the following:
 - i. an analysis demonstrating overshadowing of the local heritage item and proposed open space under existing and proposed controls; and,
 - ii. commentary on the need to vary the proposed development controls or include a local provision to ensure that the proposed open space and heritage item receives two hours of sunlight between the hours of 12 noon and 2pm at winter solstice, including justification for Council's proposed course of action.

Should Council wish to vary the planning proposal to address overshadowing of the local heritage item and proposed open space, it should include this intention and explanation under Part 2 – Explanation of Provisions.

A revised Gateway determination will not be required to implement the above matters within condition 1(d).

2. Prior to exhibition, amend the supporting traffic study by addendum to take into consideration that the future use of the land may not include a large residential hotel and assess associated traffic impacts without that use.
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 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).
4. 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 – Rail Corp;
 - Transport for NSW;
 - Sydney Water;
 - Office of Environment and Heritage;
 - State Emergency Service; and
 - relevant infrastructure providers for telephone, 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.

5. 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).



Planning & Environment

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

Dated 26th day of October 2018.

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