

6 May 2010

Mr Alan Stoneham
General Manager,
Penrith City Council,
P O Box 60,
Penrith NSW 2750

By e-mail: pencit@penrithcity.nsw.gov.au

Dear Mr Stoneham,

Re: Erosion of existing property rights by the draft *Penrith Local Environmental Plan 2008*

The Urban Taskforce is a non-profit organisation representing Australia's most prominent property developers and equity financiers. We provide a forum for people involved in the development and planning of the urban environment, to engage in constructive dialogue with government and the community.

While we understand that the exhibition period for the draft *Penrith Local Environmental Plan 2008* ("the plan") has expired, a serious matter has been brought to our attention that deserves careful consideration.

We have reviewed clauses in the plan that relate to minimum lot sizes and we are concerned that if included in Council's comprehensive LEP, they could erode existing property rights afforded to property owners pursuant to previous local environmental plans. We urge the Council to consider the use of an "exceptions clause" to protect property rights as detailed below.

We acknowledge that Council must prepare a new local plan that complies with the *Standard Instrument (Local Environmental Plans) Order 2006*. We appreciate that the Council may have reason to adopt clause 4.1 "Minimum subdivision lot size". The effect of this clause is to prevent the subdivision of land to create a lot that is less than the minimum lot size permitted in the applicable zone. We are concerned that the imposition of new minimum lot sizes under this draft plan that are more restrictive than those that existed under the current LEP, is an erosion of development rights enjoyed by a property owner.

While we understand that in most cases Council is unable to depart from the standard instrument, however we believe that Council is able to add clauses to address specific issues as appropriate. In this regard, we recommend the insertion of a clause at 4.1(5) that would preserve rights to subdivide lots created prior to the commencement of this draft plan. For example, the Council inserted clause 4.1(5) could say:

(5) This clause does not apply to:

- (b) a lot created before this Plan commenced, or
- (d) a lot for which subdivision approval was granted before this Plan commenced.

This approach acknowledges the existence of rights afforded to property owners under previous plans and/or approvals.

These comments are offered to encourage constructive dialogue between government and the development industry and we would welcome the opportunity to meet and discuss these issues in more detail.

Yours sincerely

Urban Taskforce Australia

A handwritten signature in black ink that reads "Aaron Gadiel". The signature is written in a cursive style with a long, sweeping horizontal line extending from the end of the name.

Aaron Gadiel
Chief Executive Officer