



Planning Proposal

To increase the maximum
permissible floor space for
development on 39-49 Henry
Street, Penrith

November 2018

Document prepared for submission to the NSW Government's "Gateway Process"
for making and amending local environmental plans.

Penrith City Council

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Contents

Introduction.....	5
Part 1 – Objectives and Intended Outcomes	8
Part 2 – Explanation of Provisions.....	9
Part 3 – Justification	13
Section A – Need for the Planning Proposal.....	13
Section B – Relationship to Strategic Planning Framework	16
The Greater Sydney Region Plan and Western City District Plan	16
Local Planning Directions and State Environmental Planning Policies.....	18
Council’s Framework – Strategic Planning.....	18
Council’s Framework – Local Planning Documents	21
Section C – Environmental, Social and Economic Impacts.....	22
Section D – State and Commonwealth Interests.....	24
Infrastructure Provision	24
State and Commonwealth Public Authorities.....	25
Part 4 – Mapping	26
Part 5 – Community Consultation	27
Part 6 Project Timeline	28

Appendices

- 1 Reports to and Minutes of Council Meetings
- 2 Summary: Consistency with the *Western City District Plan*
- 3 Summary: Consistency with Local Planning Directions
- 4 Summary: Consistency with State Environmental Planning Policies
- 5 Consistency with Council’s Community Plan
- 6 Extracts of *Penrith Local Environmental Plan 2010*
- 7 Map of properties to be notified
- 8 Gateway Determination

Documents Supporting the Public Exhibition

Department of Planning and Environment's *Guide to Preparing Local Environmental Plans* and *Guide to Preparing Planning Proposals*

Greater Sydney Region Plan - *A Metropolis of Three Cities*

Western City District Plan

Local Planning Directions

State Environmental Planning Policies

Penrith Local Environmental Plan 2010

Penrith Development Control Plan 2014

Council's Strategic Documents

Community Plan

Community Engagement Strategy

Delivery Program 2017-21

2017-18 Operational Plan

Resourcing Strategy

City Strategy

Penrith City Centre Vision

City Centre Vision

Community Infrastructure Policy

Technical Studies

Urban Design Study (including overshadowing analysis) – February 2018

Traffic and Parking Assessment Report – January 2018

Flood Impact Assessment – March 2018

Planning Proposal Acoustic Review – November 2017

Pedestrian Wind Environment Statement – November 2017

Introduction

This Planning Proposal recommends an amendment to *Penrith Local Environmental Plan 2010* (LEP 2010) to increase the maximum permissible floor space for development at 39-49 Henry Street, Penrith. The additional floor space is intended to provide an incentive for the development of the site with a new mixed-use development including apartments, a hotel, and ground floor commercial and retail premises.

The subject land is known as Lot 1 DP 710350 and Lot 10 DP 788189 and forms part of LEP 2010 Key Site 7, as identified in Figure 1. Under the provisions of Clause 8.7 of LEP 2010, the maximum height and floor space provisions may be exceeded in the development of Key Site 7 if the proposed development includes community infrastructure. The objectives of these provisions are to allow for higher density development on certain land in the City Centre where the development includes community infrastructure, and to ensure that the greater densities reflect desired character of the localities and minimise impacts.

The site is about 800 metres from Penrith Train Station on the edge of the City Centre's main commercial area. The site is immediately east of the Lemongrove Bridge between Henry Street and Jane Street, with 120 metres of frontage on Henry Street. It is largely vacant, but is also occupied by a derelict, single-storey commercial building.



Figure 1 – Site location

A Planning Proposal is the key document in the NSW Department of Planning and Environment's process, known as the *Gateway Process*, for making and amending local environmental plans such as LEP 2010. It explains the intended effect of the changes and sets out the justification for the recommended amendments. The Gateway Process has several steps (set out in Table 1) that may require this document to be revised as it progresses through the process.

No.	Step	Explanation
1	Planning Proposal	Council prepares a document explaining the intended effect of and justification for the making or amending of a local environmental plan.
2	Gateway Determination	The Minister for Planning, acting as a checkpoint, determines whether a Planning Proposal should proceed.

No.	Step	Explanation
3	Community Consultation	The Planning Proposal is publicly exhibited.
4	Assessment	Council considers the submissions received in response to the public exhibition, varying the Planning Proposal as necessary. It can also determine not to proceed with the Planning Proposal.
5	Drafting	Parliamentary Counsel prepares a draft local environmental plan.
6	Decision	The Minister for Planning approves the local environmental plan, making it law.

Table 1 – Gateway Process

The Department's *Guide to Preparing Local Environmental Plans* and *Guide to Preparing Planning Proposals* provide more detailed information on the Gateway Process. These guides are available on the Department's website. The remainder of this document is split into the following parts:

Part	Description
1	The objectives and intended outcomes of the Planning Proposal
2	An explanation of the provisions to be included in LEP 2010
3	Justification for the objectives and intended outcomes
4	Maps identifying the area to which this Planning Proposal applies
5	Details of the intended community consultation
6	Projected timeline

Table 2 – Parts of a Planning Proposal

Council considered and sponsored this Planning Proposal at its 14 May 2018 Policy Review Committee Meeting. A copy of the report to and the minutes of this meeting are provided in Appendix 1.

Part 1 – Objectives and Intended Outcomes

The objective of this Planning Proposal is to provide an incentive for the redevelopment of the site, subject to Council's development consent, with a new mixed-use building or buildings. The redevelopment of the site will:

- Provide a range of housing with good access to the City Centre, public transport, jobs, shops and services.
- Stimulate the eastern part of the City Centre, including the night-time economy, with new residents and the activity generated by the hotel and commercial uses.
- Generate new jobs in the hotel and commercial uses.
- Deliver much-needed short-term accommodation in the City Centre, and contribute to Penrith's tourism industry.
- Enhance the City Centre's appearance, especially its eastern gateway.
- Serve as a catalyst for further investment and development in the City Centre.

The objective, or incentive for redevelopment of the site, can be achieved by increasing the maximum permissible floor space for new development. The site has an area of 6,356m² and the current planning controls permit a gross floor space of 22,246m², or 3.5 times the size of the site. The intended outcome of this proposal is to increase the gross floor area to 47,465m² by amending relevant planning controls.

Part 2 – Explanation of Provisions

The intended outcome can be delivered by changing the planning controls that set the maximum permissible floor area of development on the site. LEP 2010 contains two controls that control floor area:

- Clause 4.4 Floor space ratio, and the Floor Space Ratio Map, and
- Clause 8.7 Community infrastructure on certain key sites.

4.4 Floor space ratio and the associated map function by setting a Development Standard, in this case a floor space ratio, for each property in the City Centre. The floor space ratio is the ratio of a building's total (or gross) floor area relative to the size of the piece of land upon which it is built. For example, the site has an area of 6,356m² and the current controls set a floor space ratio of 3.5:1, permitting a gross floor area of 22,246m². Figure 2 presents the existing maximum permitted floor space ratio controls applying to the subject land.

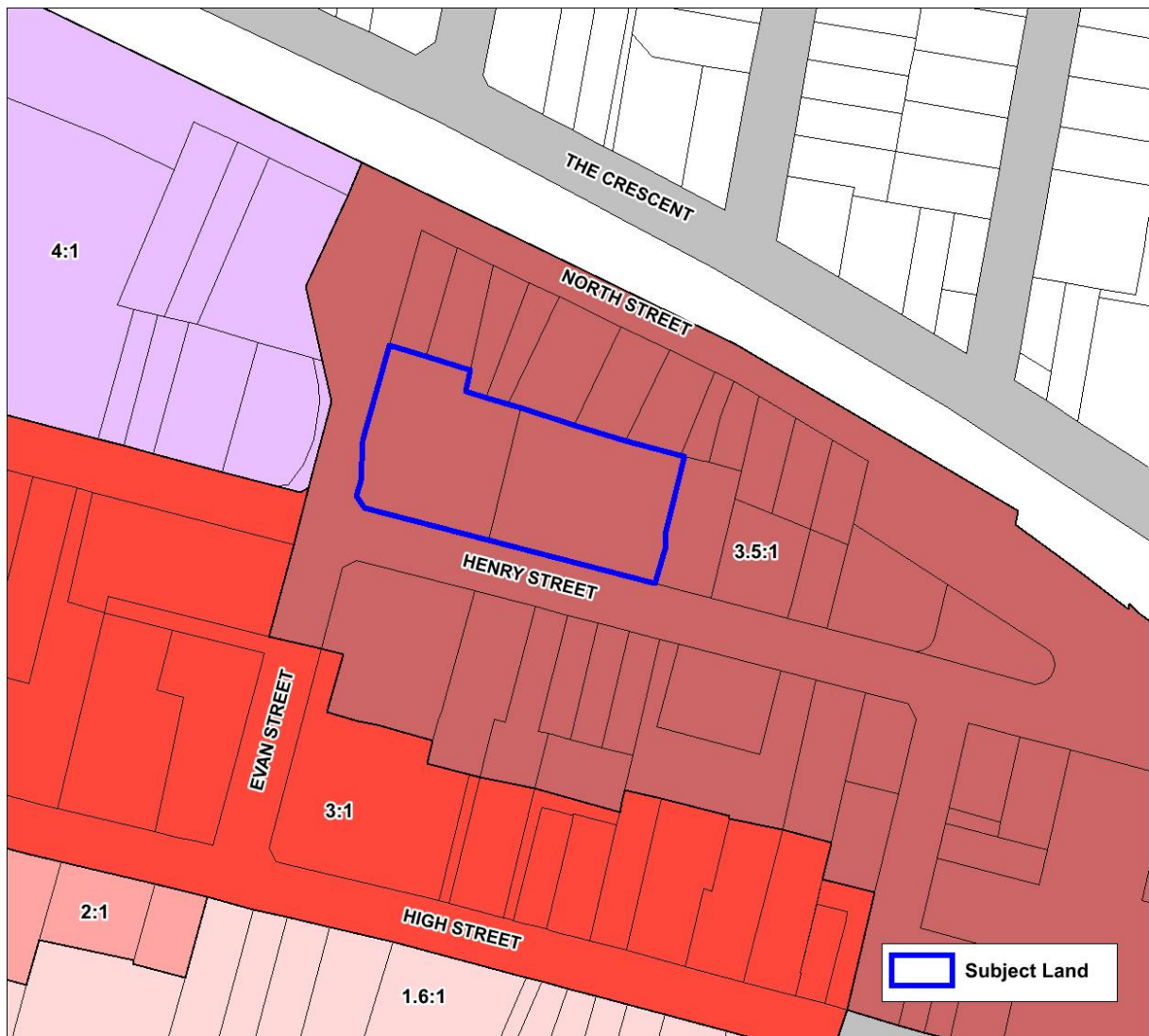


Figure 2 – Existing floor space ratio controls

8.7 Community infrastructure on certain key sites, works by supplementing the floor space ratio with a bonus residential floor space in return for the delivery of community infrastructure like recreation facilities, parks, roads and car parks. This control also removes the maximum building height. The current bonus floor space ratio for the site is 1.5:1, which increases the maximum floor space ratio to 5:1. Figure 1 identifies the location of Key Site 7, which incorporates the subject land. An extract of LEP 2010 clause 8.7 is presented below in Figure 3.

8.7 Community infrastructure on certain key sites

(1) The objectives of this clause are:

- (a) to allow higher density development on certain land in the City Centre where the development includes community infrastructure, and*
- (b) to ensure that the greater densities reflect the desired character of the localities in which they are allowed and minimise adverse impacts on those localities.*

(2) This clause applies to land identified as “Key Site 4”, “Key Site 6”, “Key Site 7”, “Key Site 8” or “Key Site 11” on the Key Sites Map.

(3) Despite clauses 4.3, 4.4 and 8.4 (5), the consent authority may consent to development on land to which this clause applies (including the erection of a new building or external alteration to an existing building) that exceeds the maximum height shown for the land on the Height of Buildings Map or the floor space ratio for the land shown on the Floor Space Ratio Map, or both, if the proposed development includes community infrastructure.

(4) The consent authority must not consent to the erection of a building on land to which this clause applies if the floor space ratio for the building exceeds the following floor space ratio:

- (a) in relation to development on any land identified as “Key Site 4” on the Key Sites Map—5:1,*
- (b) in relation to development on any land identified as “Key Site 6” on the Key Sites Map—2.5:1,*
- (c) in relation to development on any land identified as “Key Site 7” on the Key Sites Map—5:1,*
- (d) in relation to development on any land identified as “Key Site 8” on the Key Sites Map—5.5:1,*
- (e) in relation to development on any land identified as “Key Site 11” on the Key Sites Map—5:1.*

(5) In deciding whether to grant development consent under this clause, the consent authority must have regard to the following:

- (a) the objectives of this clause,*
- (b) whether the development exhibits design excellence,*
- (c) the nature and value of the community infrastructure to the City Centre.*

(6) In this clause, community infrastructure means development for the purposes of recreation areas, recreation facilities (indoor), recreation facilities (outdoor), recreation facilities (major), public car parks or public roads.

Figure 3 – Extract of clause 8.7 Community infrastructure on certain key sites

To achieve the proposed increase to the floor space ratio control, this Planning Proposal seeks to amend clause 8.7(4) to introduce bonus maximum floor space ratio controls for part of Key Site 7 as follows:

- A maximum floor space ratio of 6.5:1 for Lot 1 DP 710350, and
- A maximum floor space ratio of 8.5:1 for Lot 10 DP 788189.

It is noted that the proposed amendments to clause 8.7 of LEP 2010 are subject to legal drafting.

Figure 4 below presents the proposed maximum floor space ratio controls for the subject land.

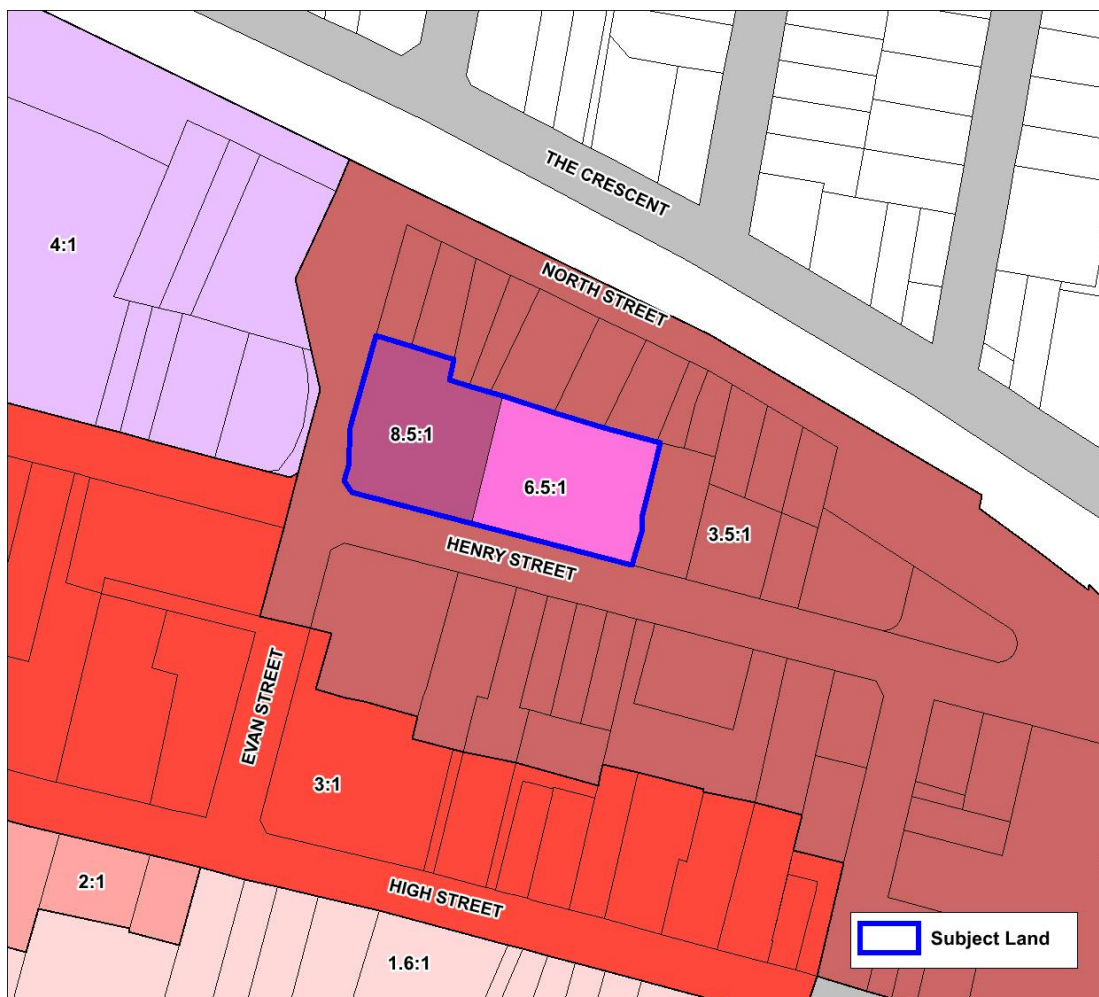


Figure 4 – Proposed maximum floor space ratio controls

The remainder of clause 8.7 will remain unchanged as will all other planning controls applying to the site.

Part 3 – Justification

This part of the Planning Proposal is split into the following sections:

Section Title	
A	Need for the Planning Proposal
B	Consistency with the Strategic Planning Framework
C	Environmental, Social and Economic Impacts
D	State and Commonwealth Interests

Table 3 – Sections in Part 3 of the Planning Proposal

Section A – Need for the Planning Proposal

The Planning Proposal is not the result of a strategic study or report prepared by Council. It has been prepared in response to a request from the landowner (via a rezoning application). The owner wishes to take advantage of the opportunities of the planned growth in Penrith and Western Sydney more generally and develop the site with a mixed-use building or buildings up to 34-storeys in height and containing 445 apartments, a 100-room hotel, and ground floor commercial and retail premises.

The site is zoned B4 Mixed Use in LEP 2010 and the potential uses are all permitted with Council's development consent. The supporting planning controls include a maximum building height of 24-32 metres (or 8-10 storeys) and a floor space ratio of 3.5:1. Maps presenting the current zoning and height controls at the site are presented in Figures 5 and 6.

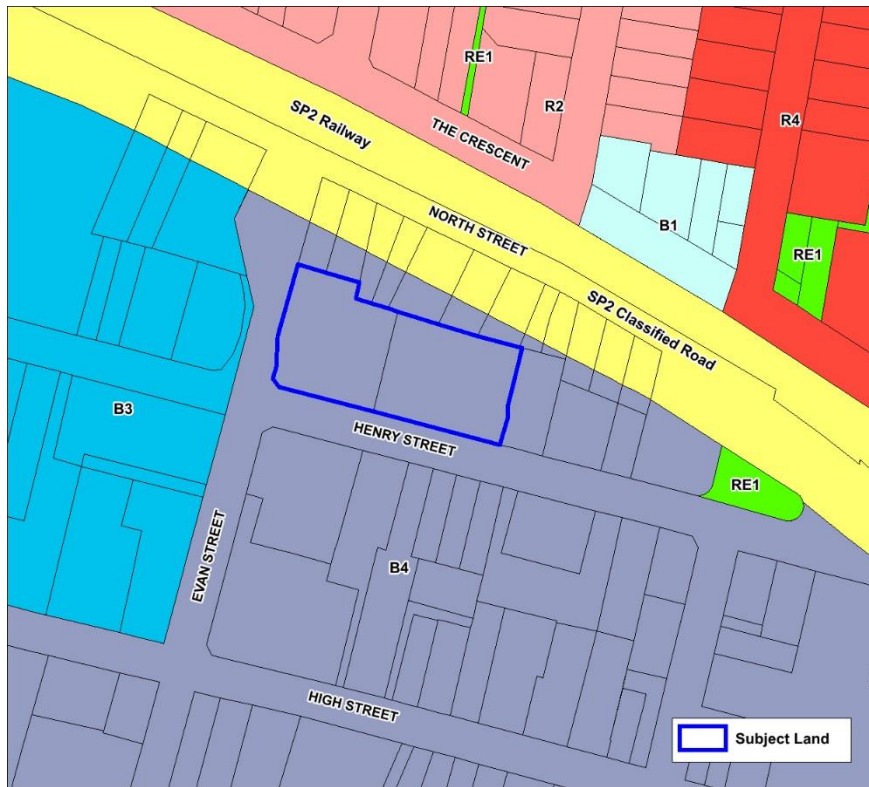


Figure 5 – Current zoning controls

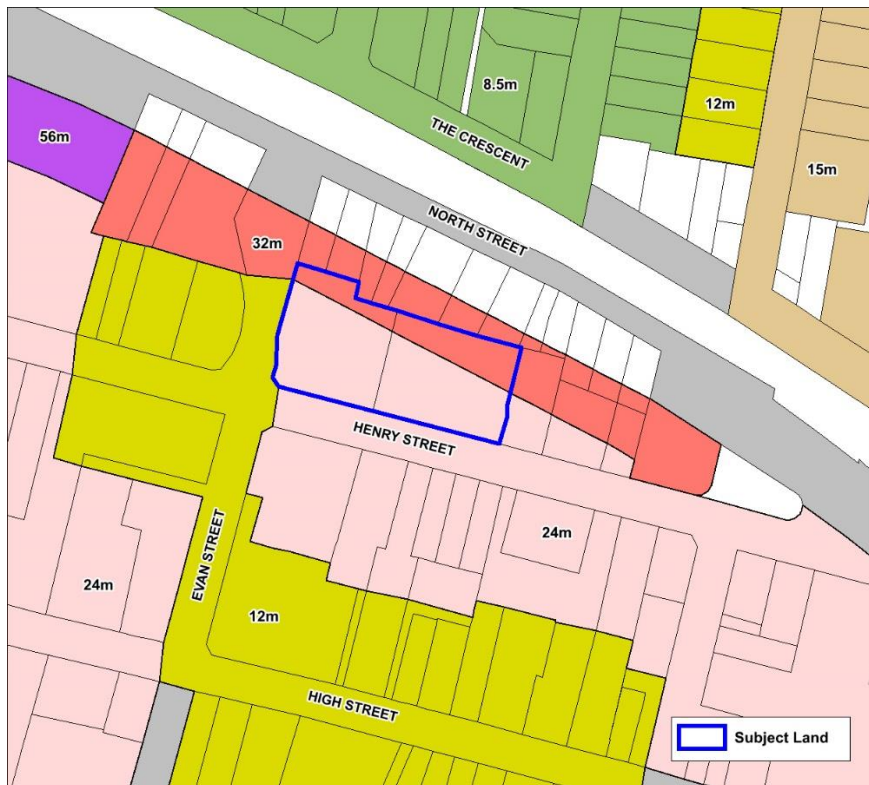


Figure 6 – Current height controls

The site is also part of a Key Site that benefits from a bonus floor space in return for the delivery of community infrastructure like recreation facilities, parks, roads and car parks. The provision of community infrastructure only applies to the site subject to proposed development. This control also removes the maximum building height. Key Sites are selected for their size and significant locations, such as entry-points into the City Centre. The aim of the bonus floor space control is to encourage higher density development on these sites. The bonus floor space ratio for the site is currently 1.5:1 increasing the maximum floor space ratio to 5:1.

The proposed development is not consistent with the current controls because the proposed amount of floor space is greater than what the current planning controls permit. The current controls have been in place for about 12 months and are considered to promote or allow feasible development. However, the viability of a hotel in the City Centre is largely untested. Considering the potential benefits of a hotel in this location, this Planning Proposal recommends increasing the bonus floor space ratio to provide a maximum floor space ratio of 6.5:1 for Lot 1 DP 710350 and 8.5:1 for Lot 10 DP 788189.

As the requirement to provide community infrastructure only applies to the site subject to proposed development, the proposed increase in the bonus floor space ratio, instead of the development standard, provides a flexible approach to encourage the redevelopment of the site.

Penrith City Council's application of Clause 8.7 would be guided by Council's Community Infrastructure Policy. Under this policy non-residential development would not be required to provide a Community Infrastructure Contribution, and Council would consider a monetary contribution as Community Infrastructure. For example:

- If some of or all the extra floor space is used to provide a hotel, the developer will not need to make a community infrastructure contribution, making the construction of a hotel more commercially viable.
- If some of or all of the extra floor space is used to provide new apartments, instead of a hotel, the developer will need to make a community infrastructure contribution.

- If the developer does not want to make a community infrastructure contribution, or a suitable contribution cannot be negotiated, the current planning controls remain in place (8-10 storeys and a floor space ratio of 3.5:1).

This approach also recognises that:

- residential development is already feasible on the site under current planning controls, and
- there is no guarantee that a hotel will be delivered.

Although the proposed increase in floor space could be delivered through the amendment of the floor space ratio development standard (*4.4 Floor space ratio* and associated map), this approach would not provide any incentive to deliver the proposed hotel. It would also allow the increased floor space to be used to provide extra residential density without making a community infrastructure contribution.

The scale of the proposed increase in the floor space ratio means that it could not be considered an acceptable exception to the current planning controls (if a development application were lodged without the proposed amendments set out in this document).

The type and size of any Community Infrastructure offer made by a proponent under clause 8.7 relating to the development of the subject land will be determined by Council through the application of its Community Infrastructure Policy. Such matters will be determined as a component of Council's assessment of a development application for development of the subject land.

Section B – Relationship to Strategic Planning Framework

The Greater Sydney Region Plan and Western City District Plan

This Planning Proposal is consistent with the Greater Sydney Commission's Greater Sydney Region Plan *A Metropolis of Three Cities* and the Western City District Plan.

The Greater Sydney Region Plan is "[...] *built on a vision of three cities where most residents live within 30 minutes of their jobs, education and health facilities, services*

and great places". One of these cities is the Western Parkland City, a polycentric city containing the established Greater Penrith area (as well as Liverpool and Campbelltown-Macarthur).

The Greater Sydney Region Plan identifies that the City Centre is a critical location *"for commercial and retail businesses and health, education and other services as the city grows"* and that it will need to *"contribute to a connected, vibrant Western Parkland City with more homes, jobs, services and open space"*.

The Western City District Plan implements the Greater Sydney Region Plan by setting planning priorities to ensure that the Western Parkland City meets infrastructure, liveability, productivity, and sustainability objectives. These strategic planning documents have elevated the importance of the City Centre.

The proposed development and the benefits it will bring to the City Centre are considered to help the City Centre respond to its new role. These benefits include:

- Significant investment in the Western Sydney economy, particularly the tourism industries through the provision of a 100-room hotel in the City Centre.
- Commercial and retail floor space to help meet job targets.
- Residential development that assists in meeting the current demand for dwellings and provides increased housing diversity with apartments.
- Housing close to existing services and jobs helping to reduce travel times and car dependency, whilst enabling more walking and cycling.
- A future built form outcome, settled through design excellence competition, which will respond to the site's significant location.

The proposed increase in floor space also aligns the site with comparable sites in other established centres within the Western City.

An assessment of consistency of the Planning Proposal against these objectives and planning priorities is provided in Appendix 2.

Local Planning Directions and State Environmental Planning Policies

This Planning Proposal is consistent with all applicable Local Planning Directions and State Environmental Planning Policies.

The Minister for Planning has issued *Local Planning Directions* that Council must follow when preparing a Planning Proposal. These directions cover:

- Employment and resources
- Environment and heritage
- Housing, Infrastructure and urban development
- Hazard and risk
- Regional planning
- Local plan making

An assessment of the consistency of this Planning Proposal with these Local Planning Directions is provided in Appendix 3.

The NSW Government also publishes State Environmental Planning Policies (SEPPs) and Sydney Regional Environmental Plans (SREPs or Deemed SEPPs). These documents deal with matters of State or Regional planning significance. An assessment of the consistency of this Planning Proposal with SEPPs is provided in Appendix 4.

Council's Framework – Strategic Planning

This Planning Proposal is consistent with Council's strategic planning framework. This framework consists of the following documents:

- Community Plan
- Community Engagement Strategy
- Delivery Program 2017-21
- 2017-18 Operational Plan
- Resourcing Strategy
- City Strategy (incorporating the *2007 Penrith City Centre Vision*)

The two key documents that this planning proposal need to consider are Council’s Community Plan and City Strategy.

Council’s Community Plan is a “big picture” plan based around the communities’ long-term aspirations to improve Penrith as a place to live, work and visit. These aspirations have been themed into seven outcomes (identified in Table 4), each with a subsequent set of strategies identifying the ways in which Council can deliver the outcomes.

Community Plan Outcomes
1. We can work close to home
2. We plan for our future growth
3. We can get around the City
4. We have safe, vibrant places
5. We care about our environment
6. We are healthy and share strong community spirit
7. We have confidence in our Council.

Table 4 – Outcomes set by Council’s Community Plan

The changes to the planning controls recommended by the Planning Proposal will principally assist in achieving the outcomes of providing work closer to home, planning for our future growth, and creating safe, vibrant places.

The recommended changes will encourage investment in the City Centre, primarily with the development of the site with new mixed-use development. The proposed development of the site with a hotel and limited commercial uses will generate new jobs. The proposed hotel will also diversify the range of businesses and employment opportunities in the City Centre. New residents will also support existing shops and services and create demand for new shops and services.

New residential development will assist in meeting the current demand for dwellings and the form of the housing, apartments, will provide increased housing diversity. Any new homes will also be close to existing services and jobs helping to reduce travel times and car dependency, whilst enabling more walking and cycling.

The future built form outcome on the site will be settled through a design excellence competition to ensure it responds to the site's significant location and enhances the City Centre's appearance, especially its eastern gateway. New development will also stimulate the eastern part of the City Centre, including the night-time economy, with new residents and the activity generated by the hotel and commercial uses.

An assessment of the consistency of this Planning Proposal with Council's Community Plan is provided in Appendix 5.

The City Strategy helps build a sustainable future for Penrith and its communities by examining the key issues facing us over the next 10-20 years and outlining how Council will respond. The City Strategy incorporates an earlier body of work planning the future of the City Centre – the *Penrith City Centre Vision* (published in 2007).

The Strategy contains a number of policy responses concerning, amongst other things, housing, jobs and the City's economy. The recommended changes to the planning controls are consistent with the following policy responses:

- Plan for housing that meets community needs with regard to supply, choice, design quality, sustainability and affordability.
- Attract strategic investment, facilitate employment diversity and growth, promote job clusters and encourage local workforce skills and training.
- Revitalise our major centres to create vibrant places and offer quality living, working and leisure experiences.

More recently, Council completed work on the *Penrith Progression*, an initiative to transform the City Centre and deliver jobs for the future. This work set a Vision for the City Centre supported with outcomes around the economy, green spaces, social and cultural matters, built form, and transport. Each outcome is supported with performance measures and actions. The recommended changes to the planning controls and the type and scale of development they aim to facilitate are consistent with and will help deliver the outcomes identified by the Penrith Progression.

Council's Framework – Local Planning Documents

Penrith Local Environmental Plan 2010 (LEP 2010) implements Council's strategic plans and policies by setting the land use zone for the site (B4 Mixed Use), and applying a number of other planning controls such as height of building and floor space ratio. The potential uses – residential development, hotel, commercial premises – are all permitted with Council's development consent.

In recognition of the location and importance of the Key Sites, Council encourages their development with taller buildings by providing a bonus floor space and removing the limit on building heights in return for community infrastructure such as recreation facilities, parks, roads and car parks. Council's consideration of development proposals seeking to use the bonus floor space ratio and the types of community infrastructure is governed by its *Community Infrastructure Policy* (adopted April 2018).

In providing developers the ability to develop Key Sites in the City Centre with taller developments, Council also requires a design excellence competition (between 3 or more architectural firms) as part of any future development application. This is to ensure that new development has a high standard of architectural design, materials and detailing and makes a positive contribution to the appearance of the City Centre.

An extract of applicable parts of LEP 2010 are provided in Appendix 6.

Penrith Development Control Plan 2014 (DCP 2014) also applies to the site, with *Part A Penrith City Centre of Chapter E11 Penrith*, setting detailed development controls for:

- The bulk, scale, and design of new buildings,
- Pedestrian amenity,
- Access, parking and services, and
- Sustainable development.

No changes are proposed to DCP 2014.

Section C – Environmental, Social and Economic Impacts

Note: This part of the planning proposal may be revised to reflect any updated technical studies provided by the applicants of the rezoning application or required by the Gateway Determination.

This section reviews the challenges and opportunities presented by the site and how any impacts of the proposed development might be managed.

Bulk and scale of development and overshadowing

The Urban Design Study identifies that the increased heights, up to 34 storeys, will affect additional properties when compared with a development under the current controls. However, these impacts are contained within the area zoned B4 Mixed Use associated with the City Centre and do not affect adjacent residential areas.

Any future development application(s) will have to address this matter in more detail and will need to examine ways to manage potential impacts.

Traffic and transport

The Traffic Study identifies that the traffic generated by the development will have a limited impact on existing roads. The most appropriate means of understanding and managing this impact is the proposed traffic and transport work supporting Council's current strategic work on the City Centre.

Detailed traffic modelling will be required to support any future development application. This is likely to be at a time when Council's broader body of work will be available and will provide an accurate reflection of future traffic activity in the City Centre.

Council will be guided by:

- any Gateway Determination, which may require further traffic modelling prior to the finalisation of the planning proposal, and
- the proposed consultation with the public authority Roads and Maritime Services.

The Traffic Study confirms the ability of any future development(s) on the site to provide adequate car parking.

Flooding

The Flood Study identifies that part of the site is affected by local overland flooding and contains significant, below ground, drainage infrastructure (a 1.5 by 1.2 metre box culvert). Although the impact of the proposed development on flooding elsewhere can be appropriately managed both of these matters may affect the future built footprint that could be achieved.

Council would not support any development over the drainage infrastructure due to the limitations on and the risks and costs associated with any future maintenance or upgrade activities. It is highly likely that this infrastructure will need to be relocated as part of any future development.

Noise and wind

The Wind and Acoustic Studies demonstrate that the impacts associated with noise from the nearby train line and wind tunnelling associated with tall buildings can be appropriately managed through suitable building design or mitigation measures (to be identified in any future development application(s)).

Contamination

The site is already zoned B4 Mixed Use and the planning proposal does not seek to introduce any more sensitive land uses than currently permitted. Detailed investigations would need to occur in support of any future development application(s).

Biodiversity

The site does not contain any existing vegetation and so there is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.

Social and economic

Urban renewal opportunities in the City Centre can create considerable social and economic benefits. The future development of the site with a mix of different uses will contribute to the overall liveability and productivity of the City Centre. The introduction of a greater mix of uses, including a hotel and residential accommodation, will:

- support the City's existing functions,
- deliver alternative housing options in proximity to existing services, jobs and transport,
- increase and diversify the range of businesses and employment opportunities in the City Centre, and
- increase the activity and vibrancy of the site and the eastern end of the City Centre, including its night time economy.

Section D – State and Commonwealth Interests

Note: This part of the planning proposal will be updated following consultation with Public Authorities.

Infrastructure Provision

The site is within an urban area and should be adequately serviced by all required infrastructure and utilities, including public transport. This section will be developed following any Gateway Determination and consultation with the public authorities responsible for the provision of that infrastructure. This work will confirm if the existing infrastructure has the capacity to accommodate the proposed development. If it identifies that there may be an expected shortfall in service provision, extra studies will be undertaken to identify the extent of the shortfall and potential mechanisms to address that shortfall.

State and Commonwealth Public Authorities

Consultation has not yet occurred with relevant State and Commonwealth public authorities, but will be undertaken in accordance with the requirements of any Gateway Determination.

Part 4 – Mapping

The amendments recommended by this Planning Proposal do not require any changes to the current local environmental plan maps.

Part 5 – Community Consultation

The Gateway Determination outlined the community consultation that should be undertaken if the proposal proceeds. It is proposed to publicly exhibit this Planning Proposal for a minimum of 28 days. The exhibition venues will include Council's Civic Centre and Library in Penrith. All exhibition material will also be available on Council's website.

Notice of the public exhibition will be given in local papers and on Council's website and social media pages. A notification letter will also be sent to the owners and occupiers of the properties identified on the map in Appendix 7.

Part 6 Project Timeline

Note: The project timeline may be updated as the Planning Proposal progresses through the Gateway Process.

No.	Action	Anticipated Date
1	Council sponsors the Planning Proposal	May 2018
2	Submission to NSW Planning & Environment	June 2018
3	Gateway Determination Issued	September 2018
4	Public Exhibition and consultation with public authorities	November / December 2018
5	Consideration of Submissions	December / January 2018
6	Council considers the Planning Proposal for endorsement	February 2019
7	Submission to NSW Planning & Environment	February 2019
8	Publication of Amendments to LEP 2010	April 2019

Table 5: Indicative Project Timeline