

APPENDIX 25

Council Reports and Minutes of Meetings

2 Planning Proposal - Amendment to building heights on land within the Panthers Penrith Precinct

Compiled by: Joel Carson, Senior Planner

Authorised by: Paul Grimson, City Planning Manager

Outcome	<i>We plan for our future growth</i>
Strategy	<i>Ensure services, facilities and infrastructure meet the needs of a growing population</i>
Service Activity	<i>Maintain a contemporary framework of land use and contribution policies, strategies and statutory plans</i>

Procedural note: Section 375A of the Local Government Act 1993 requires that a division be called in relation to this matter.

Executive summary

The purpose of this report is to present a Planning Proposal from Cabe / ESQ1818 Panthers Pty Ltd (the developer) which seeks to change the maximum permitted building heights for certain land within the Panthers Penrith Precinct, and to seek Council's resolution to forward a Planning Proposal to the Department of Planning and Environment with a request to issue a Gateway Determination.

Background

In 2012 Council endorsed a planning framework for the Panthers Penrith Precinct which provides for the development of an integrated 'entertainment, leisure and lifestyle precinct'. The amendments allowed outlet centres, general retail, campus style office premises, serviced apartments and high density residential dwellings to be permissible on the site.

Since then the Panthers Group has been working on various options for development of the site based on market trends. Currently a residential and general retail proposal has been prepared. A certain part of the residential component does not comply with the current height controls and therefore a Planning Proposal has been prepared and submitted to Council for consideration which seeks to amend the height controls.

On 12 April 2016 Council received a Planning Proposal from SJB Planning on behalf of the developer which requests an amendment to Penrith Local Environmental Plan 2010 (LEP 2010). The application seeks to change the maximum permitted building heights for an area of land within the Panthers Penrith Precinct, generally bound by Mulgoa Road to the east; Ransley Street to the south; Lake and Peachtree Creek to the west; and aged care, residential, vacant land and a Council site known as the Carpenters Site to the north. A copy of the submitted Planning Proposal is provided under separate enclosure.

The subject site has a total area of 66,656sqm and comprises six lots, being 65, 73, 73A, 83, 123-135 Mulgoa Road and 1 Retreat Drive, Penrith. The parcels are described as: Lot 1 DP1043008, Part Lot 1 DP1043008, Part of Lot 13 DP710086, Lot 1021 DP812335, Part of Lot 151 DP863625, and Lot 1 DP1064526. All lots are owned by the Panthers Group except for 1 Retreat Drive (Lot 1 DP1064526) which is owned by Penrith City Council. A plan showing the location of the subject site is provided at Attachment 1.

Current planning controls

The subject site is zoned SP3 Tourist under LEP 2010 with additional permitted uses that includes 'residential flat buildings' and 'retail premises'. The site-specific provisions of LEP 2010 place a maximum cap on the total gross floor area of 'retail premises other than outlet premises' at the Panthers Penrith Precinct at 12,500sqm and 'outlet centres' at 25,000sqm.

The maximum permitted Floor Space Ratio for the site is 1:1. The subject site also contains a heritage item of local significance in the south-eastern portion, being "The Willows" house (Item No. 815).

Under LEP 2010 three height controls apply to the subject site. A 15m height control applies to the north-western portion of the site, a 20m height control applies to the central portion, and a 24m height control applies to the south-eastern portion.

The Penrith Development Control Plan 2014 (DCP 2014) prescribes site-specific planning controls for the land known as the "Panthers Penrith Precinct", which is a sub-section of the wider "Riverlink Precinct" DCP chapter. The illustrative concept plan within the DCP identifies the subject site for indicative land uses consisting of 'Outlet Centre / Retail', 'Residential' and 'Hotel / Residential'.

Two planning agreements apply to the Panthers Penrith Precinct, being:

1. 'Planning Agreement Outlet Centre', executed 28 November 2012 between Council and the Panthers Group. This planning agreement relates to the ongoing management of an outlet centre, should it be granted development consent.
2. 'Planning Agreement Road Works', executed 28 November 2012 between Council, the Panthers Group and Roads and Maritime Services. This planning agreement sets out the mechanism for timing and delivery of the necessary State and local road infrastructure attributable to the Panthers Penrith Precinct.

The Planning Proposal

The Planning Proposal seeks to amend the LEP 2010 Height of Buildings Map to permit increased maximum building heights of 15m, 20m, 24m, 38m and 50m at the subject site and to reduce building heights in some locations. The purpose of the proposed amendment is to facilitate the development of the site for mixed-use and residential flat building purposes. The application is supported by a detailed analysis of the opportunities and constraints of the site, in particular the impact on traffic, flooding and urban design from the proposed amendment to the maximum building heights.

Attachment 2 presents a map comparing the current and proposed LEP 2010 height controls applying to the subject site.

A proposed scheme for the development of the subject site has been prepared which proposes a residential, mixed-use precinct incorporating a range of residential tower buildings. The scheme seeks development of the subject site for 11 buildings containing 859 apartments, three of which would sit above commercial podiums containing 3,305sqm of general retail floor space. Prominent gateway buildings are sought on the corner of Ransley Street and Mulgoa Road as well as at the western end of Ransley Street adjacent to the lake.

The development scheme seeks a combination of lower and taller buildings, redistributing height across the site with the intention to achieve a better built form outcome compared to the outcome that would otherwise be derived under the current applicable height controls. The proponent submits that the scheme would provide a built form outcome that would both

appropriately transition with surrounding built form and reflect an intention for key landmark and mixed-use buildings at certain locations.

No increase is sought to the maximum permitted Floor Space Ratio (FSR) prescribed by LEP 2010 for the subject site.

It is anticipated that the development scheme will be lodged with Council as a future development application.

Drawings of the proposed scheme for the development of the subject site are provided at Attachment 3.

The applicant has lodged with Council a proposed amendment to the Penrith Development Control Plan 2014 (DCP 2014) to reflect the proposed development scheme and the changes sought to LEP 2010. The proposed amendment seeks changes to relevant diagrams, proposed land uses, changes to heights, and changes to the layout and structure, including roads, through-site links and building envelopes. The proposed DCP amendment will be assessed by Council officers and reported to Council as a separate matter.

Assessment of Planning Proposal

Traffic

The submitted traffic analysis indicates that traffic generation from the proposed development scheme would be less than that which would be generated under the current endorsed scheme for the subject site.

Analysis for all external road connections indicates that the proposed changes would not have any adverse impact on the operation of intersections compared to agreed performance under the road works planning agreement. The triggers for road infrastructure in the planning agreement will need to be reviewed based on the proposed development scheme. This will be undertaken as part of the agency consultation associated with the Department of Planning and Environment's (DP&E) Gateway process.

Flooding

Development of the Panthers Penrith Precinct is not at this stage supported by a precinct-wide Flood Impact Assessment that has been accepted by Council. The impacts from the development and the flood planning controls required to appropriately manage flooding in the precinct are yet to be confirmed.

In 2015 a consultant working on behalf of the Panthers Group prepared a detailed Flood Impact Assessment for the Panthers Penrith Precinct site. This assessment was not accepted by Council. The same consultant is currently preparing an updated Flood Impact Assessment for the Panthers Penrith Precinct on behalf of the developer which incorporates the new proposed development scheme for the subject site. Council officers have requested that this assessment be finalised and submitted to Council for consideration.

In the absence of a detailed Flood Impact Assessment that is endorsed by Council, finished floor levels cannot be set. This may affect the final outcome of the proposed development scheme for the subject site. Flooding matters at the subject site will be addressed as part of a future development application assessment process.

Urban design

The proposed scheme for the development of the subject site will be workshopped at an upcoming Design Review Panel meeting. The final development outcome for the site is subject to change. Any matters that may arise from this meeting, such as design and orientation, will be addressed prior to the submission of the planning proposal to DP&E or as part of a future development application assessment process.

It is also proposed that additional controls are incorporated into the proposed amendment to DCP 2014 to achieve appropriate urban design outcomes and design excellence.

Retail outcomes

Given the proposed scheme that is before Council for consideration is predominantly residential development, it would be appropriate to manage the general retail floor space that could be distributed within the subject site. To manage the distribution of general retail floor space across the Panthers Penrith Precinct so that it does not compete with major commercial centres, it is proposed to limit the general retail floor space on the subject site to 3,500 square metres. This limitation will be imposed through an amendment to DCP 2014. This would result in 9,000 square metres of general retail available to be permitted on the balance of the Panthers Penrith Precinct.

Part of the subject site is on land that was intended for Outlet Centre in the previous vision. It is therefore also proposed that the provisions of LEP 2010 be amended to reflect the removal of an Outlet Centre from the development scheme for the Panthers Penrith Precinct.

Next steps

Should Council endorse the recommendation, the following steps will occur in accordance with the Environmental Planning and Assessment 1979:

1. Council Officers will continue to update the Planning Proposal, written instrument and associated maps.
2. Council Officers will prepare an amendment to Development Control Plan Chapter E13 Riverlink Precinct (Part B - Panthers Penrith Precinct) to reflect the proposed development scheme and the changes sought to LEP 2010, limit general retail floor space on the subject site to 3,500 square metres and incorporate controls to achieve appropriate urban design outcomes and design excellence.
3. Council Officers will forward the Planning Proposal to the Minister for Planning, seeking a 'Gateway Determination' and authorisation that the LEP plan making process may proceed.
4. Council Officers will liaise with the Department of Planning and Environment and negotiate any changes sought by the Department in the lead up to the Gateway Determination.
5. The Gateway Determination will, amongst other things, authorise a list of public authorities that Council must consult prior to finalisation of the Planning Proposal for public exhibition.
6. The Planning Proposal will be publicly exhibited for the period specified in the Gateway Determination.

7. Submissions to the Planning Proposal exhibition will be reviewed, and recommendations prepared for Council's consideration.
8. Following the conclusion of the community consultation, a Peer Review will be undertaken of the Planning Proposal and Process carried out by Council officers for the Planning Proposal.
9. The Planning Proposal will be presented to Council for endorsement and then forwarded to the Minister for Planning to make the LEP.

During these processes, amendments to the draft Planning Proposal will continue to be made. These changes may result from further consultations (such as with relevant government agencies), directions or suggestions from the Department of Planning and Environment or additional technical information, that subsequently affect the draft Planning Proposal.

Council officers will update Councillors of any significant changes to the draft Planning Proposal through briefings and relevant reports.

Conclusion

Council is in receipt of a Planning Proposal which seeks to change the maximum permitted building heights under LEP 2010 for an area of land within the Panthers Penrith Precinct.

Council officers have completed an assessment of the proposal. The justification and rationale for the proposed changes is generally supported.

RECOMMENDATION

That:

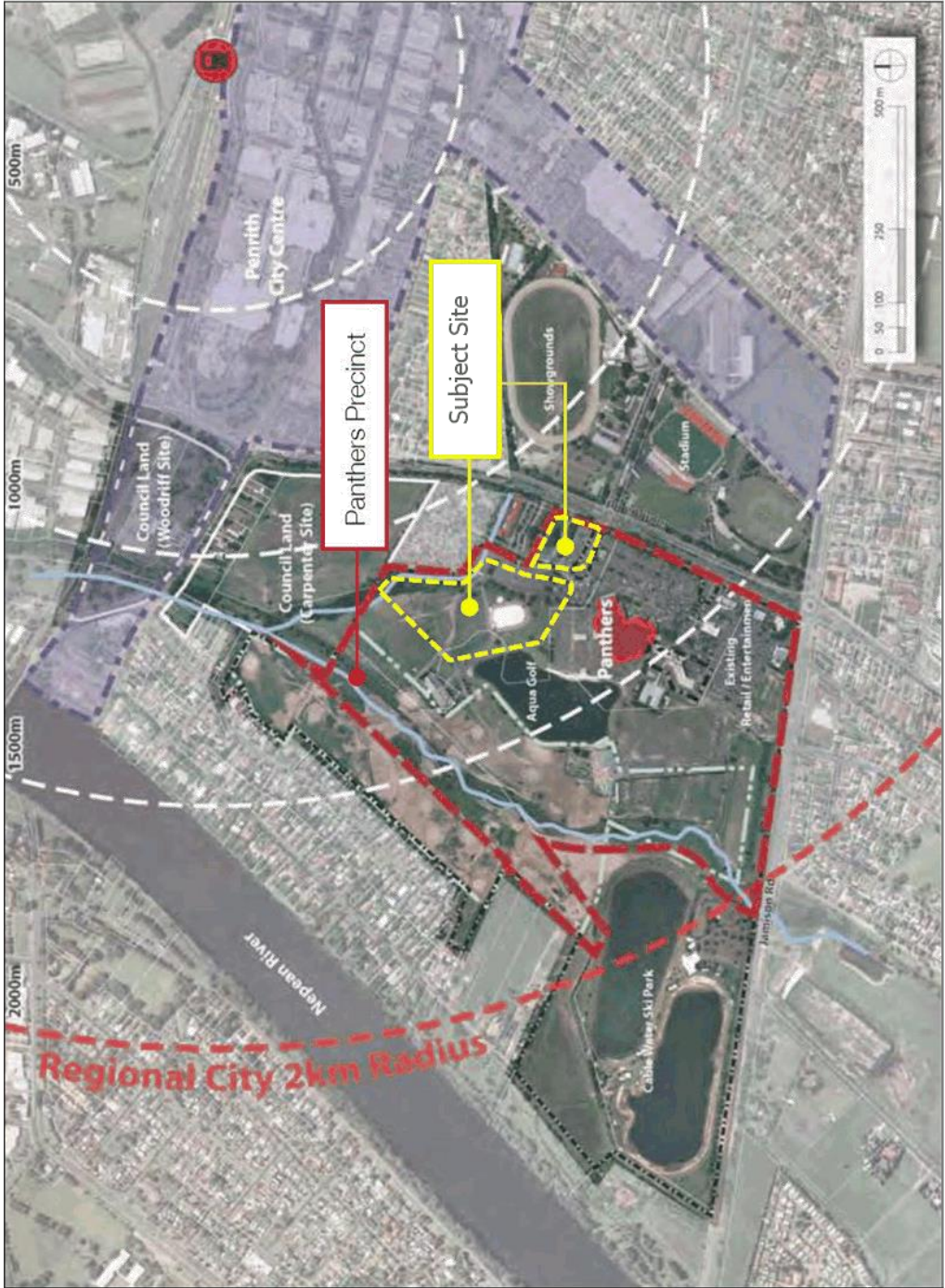
1. The information contained in the report on Planning Proposal - Amendment to building heights on land within the Panthers Penrith Precinct be received.
2. Council prepare an amendment to Development Control Plan Chapter E13 Riverlink Precinct (Part B - Panthers Penrith Precinct) to:
 - a. reflect the proposed development scheme and the changes sought to LEP 2010;
 - b. limit retail floor space on the subject site to 3,500 square metres;
 - c. incorporate controls to achieve appropriate urban design outcomes and design excellence.
3. Council commence a Gateway process for the consideration of a Planning Proposal in accordance with the requirements of the Environmental Planning and Assessment Act 1979 to:
 - a. change the building heights on subject site as identified in the enclosed Planning Proposal;
 - b. reflect the removal of an Outlet Centre as a permitted use within the Panthers Penrith Precinct
4. The General Manager be granted delegation to update and finalise the Planning Proposal (provided under separate cover and tabled tonight) before submitting it to the Department of Planning and Environment seeking a Gateway Determination.

5. Council publicly exhibit the Planning Proposal for a period to be specified in the Gateway Determination, in accordance with the community consultation requirements under Section 57 of the Environmental Planning and Assessment Act 1979 and in a form consistent with any revisions of the Planning Proposal directed by the Department of Planning and Environment as part of the Gateway Determination.
6. Following the conclusion of the community consultation referred to in resolution 5, a Peer Review be undertaken of the Planning Proposal and Process carried out by Council officers for the Planning Proposal.
7. A further report be presented to Council following the Public Exhibition.

ATTACHMENTS/APPENDICES

1.	Location of Subject Site	1 Page	Appendix
2.	Proposed changes to height controls	1 Page	Appendix
3.	Proposed scheme for the development of the subject site	2 Pages	Appendix

Location of Subject Site



Proposed changes to height controls



Current

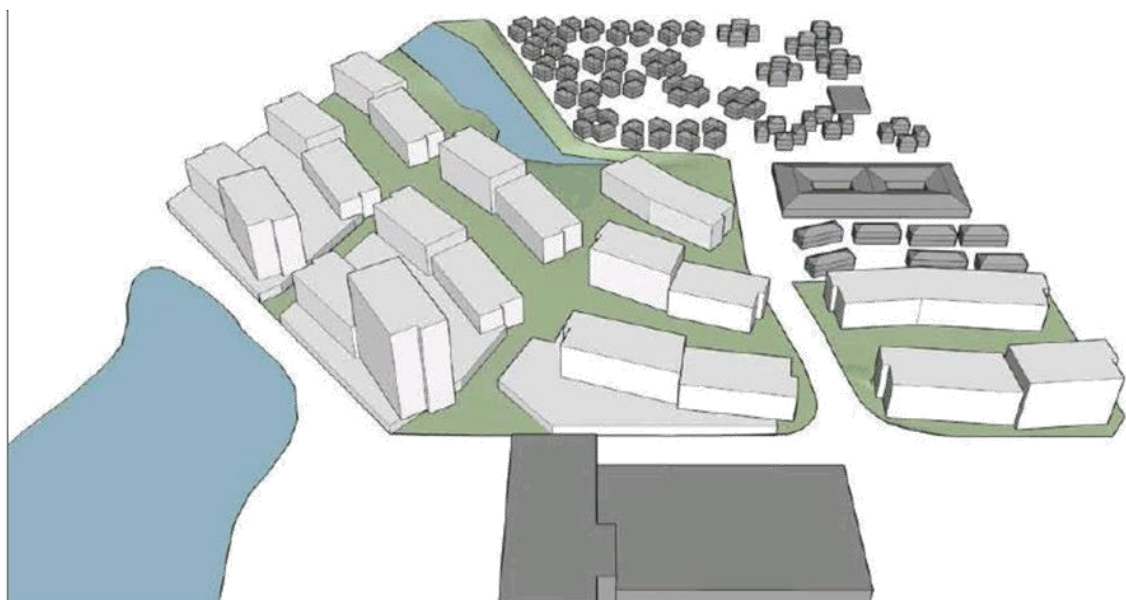


Proposed

Proposed scheme for the development of the subject site



Site layout plan



Proposed built form



Lakefront perspective



View from the south side of the lake

2010 as attached (Attachment 5) and forward it to the Minister with a request that the Minister amend *Penrith Local Environmental Plan 2010* in accordance with the *Environmental Planning and Assessment Act 1979*.

3. The General Manager be granted delegation to make any necessary minor changes required to the Planning Proposal prior to its submission to the Minister for Planning.

An AMENDMENT was MOVED by Councillor John Thain seconded Councillor Jim Aitken OAM that the item be deferred until the next Councillor Briefing and then Policy Review Meeting to allow for further discussion concerning the R3 zoning and minimum lot sizes.

The AMENDMENT was PUT.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

For

Councillor John Thain
Councillor Ben Goldfinch
Councillor Maurice Girotto
Councillor Prue Car MP
Councillor Karen McKeown
Councillor Greg Davies
Councillor Mark Davies
Councillor Jim Aitken OAM
Councillor Michelle Tormey
Councillor Marcus Cornish

Against

Councillor Bernard Bratusa
Councillor Ross Fowler OAM
Councillor Tricia Hitchen

The AMENDMENT was CARRIED and on becoming the SUBSTANTIVE MOTION was also CARRIED.

Councillor John Thain left the meeting, the time being 10:15pm

2 Planning Proposal - Amendment to building heights on land within the Panthers Penrith Precinct

135 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Planning Proposal - Amendment to building heights on land within the Panthers Penrith Precinct be received.
2. Council prepare an amendment to Development Control Plan Chapter E13 Riverlink Precinct (Part B - Panthers Penrith Precinct) to:
 - a. reflect the proposed development scheme and the changes sought to LEP 2010;
 - b. limit retail floor space on the subject site to 3,500 square metres;
 - c. incorporate controls to achieve appropriate urban design outcomes and design excellence.
3. Council commence a Gateway process for the consideration of a Planning Proposal in accordance with the requirements of the Environmental Planning and Assessment Act 1979 to:
 - a. change the building heights on subject site as identified in the

enclosed Planning Proposal;

- b. reflect the removal of an Outlet Centre as a permitted use within the Panthers Penrith Precinct
4. The General Manager be granted delegation to update and finalise the Planning Proposal (provided under separate cover and tabled tonight) before submitting it to the Department of Planning and Environment seeking a Gateway Determination.
5. Council publicly exhibit the Planning Proposal for a period to be specified in the Gateway Determination, in accordance with the community consultation requirements under Section 57 of the Environmental Planning and Assessment Act 1979 and in a form consistent with any revisions of the Planning Proposal directed by the Department of Planning and Environment as part of the Gateway Determination.
6. Following the conclusion of the community consultation referred to in resolution 5, a Peer Review be undertaken of the Planning Proposal and Process carried out by Council officers for the Planning Proposal.
7. A further report be presented to Council following the Public Exhibition.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

For

Councillor Ben Goldfinch
Councillor Bernard Bratusa
Councillor Maurice Giroto
Councillor Prue Car MP
Councillor Karen McKeown
Councillor Greg Davies
Councillor Mark Davies
Councillor Ross Fowler OAM
Councillor Jim Aitken OAM
Councillor Tricia Hitchen
Councillor Michelle Tormey
Councillor Marcus Cornish

Against**OUTCOME 3 - WE CAN GET AROUND THE CITY****5 2016/17 Australian Blackspot and Active Transport Programs - Acceptance of Project Funding**

Councillor John Thain returned to the meeting, the time being 10:17pm

136 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Maurice Giroto

That:

1. The information contained in the report on 2016/17 Australian Blackspot and Active Transport Programs - Acceptance of Project Funding be received.
2. Council accept grant funding of \$837,500 offered for the seven successful Black Spot Projects shown in Table 1, under the 100% Federally Funded Australian Black Spot Program for the 2016/17 financial year.
3. Council accept grant funding of \$500,000 offered for the successful Active