

Planning agreement Explanatory Note

1 Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning agreement (**the Planning Agreement**) prepared under Subdivision 2 of Division 7.1 of Part 7 of the *Environmental Planning and Assessment Act 1979* (**the Act**).

This explanatory note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000*.

2 Parties to the Planning Agreement

- (i) Penrith City Council (**Council**)
- (ii) 3945 Penrith Pty Ltd and 4749 Penrith Pty Ltd as the developer (**the Developer**)

3 Description of the subject land

The Planning Agreement applies to Lot 1 DP 710350 and Lot 10 in DP 788189 known as 39-49 Henry Street, Penrith 2750 (**the Land**).

4 Description of the proposed change to the Penrith Local Environmental Plan 2010

The Developer is seeking an amendment to the planning controls for the Land in accordance with planning proposal no. PP_2018_PENRI_001_00 (**the Planning Proposal**) and has made an offer to enter into the Planning Agreement in connection with the amendment to the *Penrith Local Environmental Plan 2010* as a result of the Planning Proposal.

The amendments to the planning controls outlined in the Planning Proposal are to facilitate a mixed-use development on the Land as described in the Planning Proposal (or such other development proposed by the Developer on the Land for the purposes of giving effect to the amendments) that has a floor space ratio of 6:1 or greater (**Proposed Development**).

5 Objectives, nature and effect of the Planning Agreement

The Planning Agreement is a voluntary agreement under s7.4 of the Act. The objectives of the Planning Agreement is to require the Developer to carry out works, and dedicate land to Council, in connection with the amendments to the *Penrith Local Environmental Plan 2010* as a result of the Planning Proposal and the Proposed Development.

The works required to be carried out by the Developer under the Planning Agreement will comprise road upgrade works for the Henry Street and Evan Street intersection generally in accordance with the Concept Work Plan and Concept Scope of Works as set out in the Planning Agreement (**Works**). The Developer is also required to dedicate any part of the Land required to be dedicated to Council to facilitate the Works, as generally depicted on the Concept Work Plans annexed to the Planning Agreement, with final details to be determined in accordance with the Planning Agreement (**Dedication Land**).

Prior to the issue of a Construction Certificate for the Development, the Developer must provide to the Council: (i) a report prepared by a suitably qualified quantity surveyor which estimates the cost of carrying out the Works (**Cost of Works**); and (ii) security in an amount equivalent to 100% of the Cost of Works.

The Works required by the Planning Agreement, and the dedication of the Dedication Land, will be provided before the issue of an Occupation Certificate for the development or any part of the development.

The Planning Agreement:

- does not exclude the application of s7.11, s7.12 or s7.24 of the Act to the Proposed Development,
- is required to be registered on the title to the Land,
- imposes restrictions on the Developer assigning an interest under the agreement or transferring any part on the Land, and
- provides a dispute resolution method for a dispute under the Agreement, being mediation.

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Assessment of the merits of the Planning Agreement

In accordance with section 7.4(2) of the Act, the Planning Agreement requires contributions for the public purpose of providing road infrastructure comprising the Works.

The Planning Agreement promotes the public interest by ensuring that the required Works are carried out to improve road infrastructure in the locality.

The Planning Agreement promotes the objects of the Act by:

- promoting the social and economic welfare of the community by requiring the carry out of Works for public road infrastructure (section 1.3(a));
- promoting the orderly and economic use and development of land and good design and amenity of the built environment by ensuring improved traffic conditions (section 1.3(c)); and
- promoting increased opportunity for community participation in environmental planning assessment through public notification of this agreement and opportunity for the public to make submissions in response to it (section 1.3(j)).

The Planning Agreement provides for a reasonable means of achieving the above planning purposes by requiring the carrying out of the Works.

The Planning Agreement promotes the principles for local government in s8 of the *Local Government Act 1993* by:

- ensuring that lands and other assets are managed so that current and future local community needs can be met in an affordable way,
- providing a means by which Council can work with others to secure appropriate services for local community needs,
- ensuring that Council actively engages with the local community through the public notification of this Planning Agreement and allowing the wider community to make submissions to the Council in relation to the Agreement.

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No relevant capital works program by Council is associated with this agreement.