

2 Planning Proposal for 61-79 Henry Street Penrith to Gateway

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Outcome	<i>We plan for our future growth</i>
Strategy	<i>Facilitate development in the City that considers the current and future needs of our community</i>
Service Activity	<i>Plan for and facilitate development in the City</i>

Previous Items: Planning Proposal for 61-79 Henry Street, Penrith - Councillor Briefing - 17 May 2021

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

Proponent: BCM Property Group

Landowner: Australian Foundation for Disability (AFFORD)

Executive Summary

This report seeks Council's endorsement to forward the Planning Proposal for 61-79 Henry Street, Penrith (the Henry Lawson Centre) to the Department of Planning, Industry and Environment, seeking a Gateway Determination to commence the plan making process. If endorsed, a Gateway Determination will set conditions for the Planning Proposal to proceed to public exhibition. The Planning Proposal was lodged by the proponent, BCM Property Group, on behalf of the property owners, the Australian Foundation for Disability (AFFORD).

The Planning Proposal seeks to amend planning controls within Penrith Local Environmental Plan (LEP) 2010 to allow Residential Accommodation as an Additional Permitted Use (APU) on the site. The Planning Proposal also seeks to ensure a minimum delivery of non-residential land uses to support the commercial core. No other LEP controls are proposed to be changed by the Planning Proposal.

The Planning Proposal was reported to Council at the Councillor Briefings held 4 May 2020, 9 November 2020 and 17 May 2021. Details outlining what was reported and discussed at these meetings has been included in the background section of this report.

An assessment of the Planning Proposal is complete. This report seeks Council's endorsement to provide the Planning Proposal to the Department of Planning, Industry and Environment for a Gateway Determination.

Site Description

The subject site, 61-79 Henry Street, Penrith, also known as 'The Henry Lawson Centre' (Lot 1, DP771927) is Zoned B3 Commercial Core and located in Penrith City Centre. Figure 1 identifies nearby local open space, heritage sites and the Penrith Court House Justice Precinct.

The site has an area of 16,160m², with frontages to Henry Street, Lawson Street and North Street. A 3m wide drainage easement runs through the centre of the site from east to west, with a branch to Henry Street.

Key planning controls that apply to the site under Penrith LEP 2010 are as follows:

- Zone: B3 Commercial Core
- Floor Space Ratio (FSR): 4:1
- Height of Buildings (HoB): 56m to the north of the site and 24m to the south

In Penrith City Centre, the B3 Commercial Core zone is intended to facilitate economic development and the provision of jobs in the City Centre. Residential development is not permissible in this zone.

The site is identified as Key Site 8 in Penrith LEP 2010. Key Sites are brought into effect by clause 8.7 of Penrith LEP 2010 and the Community Infrastructure Policy, which enables development to exceed HoB and FSR controls if community infrastructure is provided consistent with the requirements of the policy. For Key Site 8, development may exceed the building FSR and HoB controls, up to a total FSR of 5.5:1.

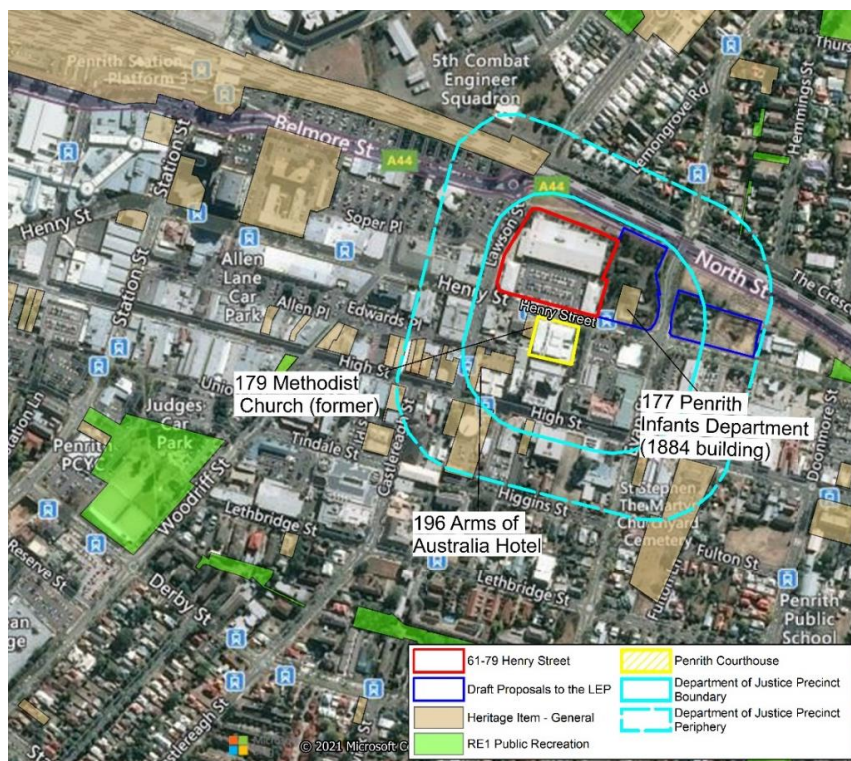


Figure 1 – Aerial view of the Subject Site

The Planning Proposal

The Planning Proposal seeks to permit residential accommodation land uses on the subject site as an APU, if development retains commercial uses through an FSR of 2:1 for non-residential uses. The additional permitted use is sought through an amendment to Schedule 1 of Penrith LEP 2010 and the Additional Permitted Uses map. The Planning Proposal does not seek to change the zone. Residential accommodation includes all residential land use types, including residential flat buildings, seniors housing and shop top housing.

A “sunset clause” is proposed so that the LEP provision will cease to be able to be applied to new development applications five years after the date the LEP amendment is made. This sunset clause is proposed to ensure that the development of the site occurs in a timely manner.

Future development of the site under the proposed LEP controls have the potential to deliver:

- 7,515sqm GFA of retail, e.g., supermarkets, speciality retail, restaurants and cafes,
- 16,715sqm GFA of commercial office campus with versatile floorplates,
- 8,080sqm GFA of hotel and serviced apartments,
- ~5,000sqm multi-purpose public domain area; and
- Around 455 residential apartments with a provision of seniors housing, assisted living and affordable housing.

A future proposed development could deliver up to, approximately, 88,880sqm of mixed-use gross floor area.

The Planning Proposal is provided as an enclosure to this report.

Background

The Planning Proposal was first reported to Council at the Councillor Briefing of 4 May 2020, where Councillors identified further matters to be addressed in the Planning Proposal assessment.

Council officers worked with the proponent to revise the Planning proposal in accordance with Council’s comments, then briefed Council on the Planning Proposal again on 9 November 2020 after Local Planning Panel advice had been received. At the briefing, Council was advised that further amendments to the Planning Proposal would be required to resolve key economic matters.

On 17 May 2021, Councillors received a briefing on the updated Planning Proposal. The proponent has now made a further update to resolve key considerations raised in the Briefing, and the final version of the Planning Proposal is provided as an enclosure to this report.

Local Planning Panel Advice

The proposal was presented to the Local Planning Panel (LPP) for advice on 23 September 2020. The LPP did not object to the Planning Proposal, however the LPP provided advice recommending matters that should be considered in assessing the Planning Proposal. These matters are generally consistent with considerations raised by Council and council officers. The LPP advice is provided in Attachment 1 and is summarised below.

- A further review of the proposed 1:1 ratio for commercial premises where residential accommodation is provided and the 0.5:1 ratio for hotel uses. This is to ensure development outcomes are aligned with Council’s broader strategic intent for provision of jobs and commercial floor space.
- Inclusion of a sunset clause.
- Further stormwater and drainage assessment and traffic impact analysis.
- Securing public benefits, such as open space and affordable dwellings.
- Removing application of LEP Clause 4.6 permitting variation of the floor space.

- Design and formulation of building envelopes should consider State controls and views to the Blue Mountains.

Assessment of Proposal

The assessment of the proposal against key considerations is provided below.

Economic Impact Assessment

The proposal seeks to reduce the potential employment floor space that could be achieved on the site if developed under existing controls. An assessment of economic matters has been necessary to ensure that the reduction of employment floorspace through the proposed FSR for the additional permitted residential land uses does not compromise Penrith City Centre's job or employment floor space targets.

This matter was raised by both Council and the Local Planning Panel and has been addressed through amendments to the Economic Impact Assessment (EIA) supporting the Planning Proposal and an independent assessment by Council.

The independent assessment determined an appropriate distribution of economic lands in the Penrith City Centre and enables an assessment of how the Planning Proposal will affect Penrith's economic and job growth targets.

The assessment found that:

- The site currently constitutes 13.67% of the Penrith City Centre's net capacity for employment lands under Council's existing planning controls.
- The subject site should provide 1,095 jobs to achieve Council's aspirational job target ratios from the Draft Employment Lands Strategy (ELS). The Economic Impact Assessment (EIA) provided as Appendix 4 of the Planning Proposal anticipates that the proposed ratio of 2:1 will generate approximately 1,317 jobs.
- To achieve its job targets, Council's initial assessment indicated that the site should have the capacity to deliver between 32,839sqm to 42,035sqm of employment lands to meet job targets. The first version of the Proposal provided 22,840sqm. The revised proposal now provides approximately 32,300sqm, with this floor space supported by the EIA. The seniors living and community use components may deliver additional employment floor space, however, there is no guarantee that these components will be delivered.
- The proposed minimum commercial FSR will not provide sufficient employment lands to accommodate the Job Containment Ratio generated through the Draft Employment Lands Strategy.
- Controls relying on the development of a hotel on the site may skew ratios of residential and commercial development. For this reason, and the fact that hotel development is already permissible under the zone, the proposed distinct hotel ratio is not supported.

The Draft Employment Lands Strategy (ELS) sets the objective to retain and protect employment lands in the Penrith City Centre. Draft ELS is currently on public exhibition which will conclude on 3 August 2021.

The Planning Proposal was submitted before the Draft ELS and supporting analysis of the Penrith Employment Lands was completed. The findings of the analysis supporting the ELS challenge the value of providing additional residential dwellings in the Penrith City Centre and identify a deficit in the supply of employment lands. Consideration of the potential for the site to provide affordable and accessible housing must be balanced against the economic impacts of the reduction of employment lands.

The above findings prompted Council officers to request that the proponent review their proposed ratios of residential to non-residential uses and the supporting EIA. As a result, the planning proposal was amended to provide a minimum non-residential FSR that has now been increased to 2:1. The Planning Proposal now provides sufficient information to address the reduction in commercial floor space and the Economic Impact Assessment has been updated to include consideration of the ELS.

Justice Precinct – Penrith Progression

The subject site is located within Justice Precinct under Penrith Progression – A Plan for Action. The development of this precinct is critical to achieving Council's economic targets for this area. The Planning Proposal has been updated to consider this plan, and initial consultation with the Department of Justice has been undertaken. The Department of Justice does not object to the Planning Proposal, however, they would oppose residential development directly overlooking the Court House identified in Figure 1. The amendments are consistent with Penrith Progression objectives. As the orientation and design of buildings will be finalised in a future Development Application, matters relating to overlooking the Court House by the proposed residential dwellings in the Justice Precinct will be considered at that stage.

Social Impact Assessment

The Planning Proposal seeks to permit a residential use in Penrith City Centre, where Council's existing planning controls and other policy documents are orientated toward the provision of employment lands. Council's existing contributions plans do not consider this land for residential development, and currently cannot fund additional community infrastructure. Access to community infrastructure is critical for future residents. If Council permits future residential accommodation on this site, it needs to consider how the social infrastructure required to support this future community can be delivered.

Council requested that the proponent provide a Social Needs Analysis (SNA) to assist with determining the existing and required social infrastructure. The proponent has provided the SNA, which identifies:

- a need for public open space, as there is no existing open space within 400m of the site. Various strategic plans, including the Penrith Sport and Recreation Strategy 2020, identify the need for high density residential dwellings to have access to public open space. The Western City District Plan specifies that all high density residential areas (over 60 dwellings per hectare) should be within 200 metres of open space.
- the community infrastructure and uses indicated in the Planning Proposal's concept designs are supported, however, there is no existing plan to deliver these outcomes.

The LPP supported the need to secure social infrastructure for the site. A key feature of the planning proposal was the ability to deliver affordable and diverse housing, including seniors housing, on a site within the city centre. However, the Planning Proposal did not provide any mechanism to secure this outcome. The proponent has agreed to submit a Voluntary Planning Agreement (VPA) to secure 20% of any future residential accommodation developed on the subject site as a mix of affordable, accessible and seniors living dwellings. Further work will be required in relation to achieving diverse housing outcomes during the development of a VPA and will be reported back to Council.

The proponent has also offered to submit a VPA to deliver open space as a form of community infrastructure to support the proposed delivery of residential accommodation, as there is limited access to existing public open space from the site. This open space may also be considered to contribute to the site's delivery of "community infrastructure" under clause 8.7 of the LEP, if the proponent seeks to capitalise on the site's additional floor space as a Key Site. It is expected that this matter will be resolved through future VPA negotiations after a Gateway Determination is received.

In addition, any future development will be required to provide contributions towards the delivery of local open space in Penrith City Centre.

The provision of open space and affordable housing are all outstanding matters, as the proponent has not come forward with a formal letter of offer to enter into a VPA at this time.

Council officers intend to commence the VPA process if the Planning Proposal is endorsed by Council and a Gateway Determination is received.

A draft VPA will be reported to Council for endorsement so it can be exhibited at the same time as the Planning Proposal.

Consistency with City Centres strategic framework

The Planning Proposal has been assessed in the context of two key Council strategies, the Draft Employment Lands (ELS) strategy and the Interim East-West Corridor Strategy that set the policy framework for future land use change within the Penrith City Centre, to ensure consistency with the strategy objectives. Council was briefed on the Draft ELS on 19 April 2021.

The Planning Proposal is generally consistent with the Interim East-West Corridor Strategy, which seeks to introduce residential land uses within the precinct around Evan Street and Henry Street. In respect to the Draft Employment Lands strategy, as detailed earlier, the proponent has revised the minimum commercial FSR proposed to maintain the integrity of our commercial core.

Flood Evacuation, Stormwater and Drainage

The site is affected by overland flow flooding but is not affected by the Nepean River Probable Maximum Flood.

Impacts of flooding need to be considered in the Planning Proposal, rather than a future development application, as the proposal is seeking to introduce residential land uses and the Ministerial Direction requires flood free access for any proposed new residential zoned land to be demonstrated.

Access to and from the site in a flood event is an ongoing concern, as the site may be isolated by a combination of Probable Maximum Flood (over roads off site) and overland flows (on site) during flooding events. The proponent has proposed a shelter in place strategy, however, this is not supported on the grounds of previous state agency advice in this regard. It is anticipated that the Gateway Determination will require consultation with State Emergency Services. The LPP also identified that further stormwater and drainage assessment is required.

The Soper Place and surrounding businesses are already at risk from flooding. It is important that future access to the site does not impede Soper Place flood management and that evacuation is achievable.

Penrith City Centre is a river city within the Hawkesbury Nepean Valley Catchment which comes with risks and challenges, particularly around flood evacuation. As a result, an Adaptive Management Framework (AMF) has been prepared by the Department of Planning, Industry and Environment (DPIE) to match development and greater resilience to flood management in the City.

When assessing development for the erection of a building for residential purposes on land in the Penrith City Centre, section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979 requires Council to consider the AMF (see also section 92(1)(f) of the Environmental Planning and Assessment Regulation 2000)

The AMF provides for development for the erection of a building for residential purposes in the Penrith City Centre to occur in 3 stages. The AMF proposes to deliver 14,500 dwellings to support Penrith as a Strategic Centre via the 3 stages broken down as follows:

- Stage 1 – 4050 dwellings
- Stage 2 – additional 6000 dwellings
- Stage 3 – additional 4000 dwellings

Each stage is managed through the issuing of construction certificates and will be unlocked as additional evacuation capacity is realised through the preparation and development of flood resilience measures.

To enable the planning proposal to proceed unfettered and for transparency, assessment has been undertaken on strategic merit. However, allowing residential development on the site will reduce the number of dwellings that may be approved through a development application process under the AMF. This will reduce the development potential of sites where residential development is already permissible under the zoning.

A Flood Evacuation Study and further information on flooding impacts on neighbouring sites was requested from the Proponents in Council's letters dated 1 April 2020 and 6 November 2020. This information is outstanding and is critical to determining whether it would be appropriate to permit residential development on this site. This information is to be provided if a Gateway Determination is received, and in consultation with public agencies such as SES, Infrastructure NSW, Transport for NSW, Sydney Water and Endeavour Energy.

Transport and Access

Access to the site is a key consideration of the planning proposal, to determine appropriate vehicular access to the site and the achievement of required parking. The Transport Impact Assessment identifies that Council's existing DCP 2014 controls for public parking access will continue to apply to the site. The car parking requirements for retail and commercial uses for Penrith City Centre set out in DCP 2014 as follows:

- Retail - 1 space per 30 square metres GFA.
- Commercial - 1 space per 100 square metres GFA and "a maximum 60 per cent of all commercial parking spaces, other than for service vehicles, car wash bays and parking spaces allocated to people with a disability, are to be provided on-site."

The proposal indicates that the site has capacity to deliver the required parking under DCP 2014.

Referral to the RMS post-gateway will enable Council to determine appropriate vehicle access to the site. This will inform detailed modelling and allow Council to identify whether additional funding will be necessary to support development of new road infrastructure. It is anticipated that transport works may be required similar to adjoining planning proposal sites at 39 and 57 Henry Street. This will also determine works that could potentially be considered in the VPA.

Integration with nearby planning proposals and development

Two sites opposite and adjoining the Planning Proposal are going through a period of significant change. Because of this, the Planning Proposal considers the following nearby development and will continue to be updated as plans progress for these sites:

- 57 Henry Street, Penrith: Council's engineers have assisted in coordinating stormwater approaches between these sites and note it is the responsibility of the downstream site (the subject site) to connect with the upstream site at 57 Henry Street.

- Soper Place: existing stormwater flooding on this site is a key consideration and will be addressed in detail after a Gateway Determination is received. On 11 February 2021, Council provided the proponents with the public exhibition details regarding the Development Application for the Soper Place Revitalisation.

Views to the Blue Mountains

The LPP raised concerns in respect to the impact of a future development on views to the Blue Mountains. The Planning Proposal does not seek to amend existing street frontage height DCP controls relating to building envelopes or views to the Blue Mountains, and the Penrith LEP 2010 height of building and Key Sites controls will apply to any future development. This will be a consideration at the time a development application is lodged for the site.

Development Delivery

The LPP raised concerns regarding the ability to deliver the planning proposal outcomes within a suitable timeframe. In response to LPP recommendations, the proponent has agreed to a 5-year sunset clause and has amended Part 2 of the Planning Proposal accordingly. The imposition of a Sunset Clause and the proposed structure of the controls work together to ensure simultaneous delivery of residential and non-residential development. This approach is supported by existing DCP 2014 controls for active ground-floor uses.

In response to LPP considerations, the proponent has amended Part 2 of the Planning Proposal to include a provision so that clause 4.6 of LEP 2010 does not apply to the minimum floor space ratio standards in the proposed Additional Permitted Use clause. This reduces the ability for future development to deliver less commercial floor space and increased residential floor space.

It is also proposed that future DCP Amendments for Penrith City Centre incorporate controls consolidating requirements for active and non-residential uses on the ground and second floor throughout development on both 57 Henry Street and 61-79 Henry Street, Penrith.

Next Steps

Should Council endorse the Planning Proposal, it will be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination. Where a Gateway Determination is received, public exhibition and community consultation occur once any conditions of the Gateway Determination are met. The preparation of a VPA to facilitate the planning proposal outcomes will be undertaken on receipt of the Gateway Determination and will be reported back to Council ahead of exhibition of the Planning Proposal.

Financial implications

The Planning Proposal does not have any financial implications for Council. The proponent has advised that a VPA offer will be forthcoming. Financial implications to Council will need to be considered once the offer is received.

Risk implications

Council's support of the Planning Proposal is subject to diverse housing outcomes being secured, and the provision of adequate open space for any future residents. The proponent has proposed to provide a VPA offer to secure these outcomes. While these matters do not prevent Council from referring the Planning Proposal to the Department for a Gateway Determination, the Planning Proposal and a future VPA will need to be publicly exhibited at the same time.

Council's support of the Planning Proposal is also subject to the confirmation through detailed studies to be completed after the Planning Proposal receives a Gateway Determination, that the proposed changes will not have adverse traffic or flooding impacts.

Conclusion

Council has received a Planning Proposal for 61-79 Henry Street, Penrith, which seeks to allow residential land uses as an additional permitted use while retaining the current zoning of the land for commercial core. It is recommended that the Planning Proposal be endorsed to proceed to a Gateway Determination. Support of the proposal is subject to further work after the gateway determination is received, to:

- confirm detailed information on Traffic and Flooding matters, and
- to secure public open space and affordable and accessible housing within any future proposed residential development.

RECOMMENDATION

That:

1. The information contained in the report on Planning Proposal for 61-79 Henry Street Penrith to Gateway be received.
2. Council endorse the enclosed Planning Proposal to be submitted to the Department of Planning and Environment seeking a Gateway Determination.
3. The General Manager be granted delegation to undertake any minor updates to the Planning Proposal prior to Council's submission of the Planning Proposal to the Department of Planning, Industry and Environment for a Gateway Determination.
4. Consultation with the community and public agencies be undertaken in accordance with any Gateway Determination issued by the Department of Planning and Environment.
5. Council resolve that should any future residential accommodation development occur on the lot:
 - a. The development should include a minimum of 20% of all dwellings developed on the site are to be provided as affordable, accessible and seniors living dwellings.
 - b. Adequate Public Open Space should be secured within 200m of any proposed high density development (development with over 60 dwellings).

And that these features must be secured before the Planning Proposal is publicly exhibited.

6. A further report come back to Council with details of a draft Voluntary Planning Agreement seeking endorsement for notification with the exhibition of the Planning Proposal.
7. A report be presented to Council on the submissions received during the public exhibition.

ATTACHMENTS/APPENDICES

1. Local Planning Panel Advice 2 Pages Appendix

Panel Advice provided pursuant to Section 2.19 of the EP&A Act 1979

The Panel has considered the Planning Proposal and the preliminary assessment prepared by Council officers and provides the following advice:

1. The Planning Proposal for 61-79 Henry Street, Penrith is generally supported, subject to consideration of the following matters:
 - a) The Local Planning Panel supports securing jobs in Penrith City Centre ahead of residential development. However, the Panel understand the Council has undertaken a strategic review of likely demand in the next 20 years. Assumptions may be incorrect as the State and Council efforts to attract investment to Western Sydney, and the Western Sydney Airport come to fruition in coming years. The site is large and proximate to services and transport nodes, suited to jobs creation. These factors warrant a further review of the proposed 1:1 ratio for commercial premises where residential accommodation is provided, and the 0.5:1 ratio for hotel development. The hotel development will not secure many jobs relative to floorspace. This review should consider the findings of the strategic investigations Council is currently completing. These investigations are understood to analyse the demand for commercial and residential floor space in Penrith City Centre and set targets for affordable housing. This is important work for the long term and decisions for the site need to consider the precedent that will be set for the B2 zoning, especially given land economics favour residential development and once land is developed and strata subdivided its potential for providing jobs is lost.





It is recommended that this planning proposal review provides:

- i) Predicted demand for Commercial Premises and Residential Accommodation in the Penrith City Centre to 2056. This information is to be represented in a manner that is clear, direct and logical, and include:
 - a) an analysis of the demand and supply of commercial and residential floor space across the Penrith City Centre. This needs to consider future demand generated by the Aerotropolis and other planned regional growth.
 - b) a calculation of floor space for community infrastructure, residential accommodation, affordable housing, seniors living, supported housing and provision of open space.
- ii) an analysis representing equitable distribution of commercial capacity across the Penrith City Centre. The minimum commercial floor space of the subject site should accommodate an equitable proportion of this commercial capacity.
- iii) The above should be peer reviewed by Council, if commissioned by the applicant.
- b) To secure the outcomes of the planning proposal within an appropriate timeframe, and should ownership of the site change, the planning proposal should include a sunset clause. This sunset clause could consider mechanisms like stipulating that a Construction Certificate is to be approved

Penrith Local Planning Panel Advice

23 SEPTEMBER 2020

- within a specified number of years from the commencement of the proposed amendments. Approval of a DA will not ensure development, only potential land speculation.
- c) To secure adequate public benefits, the planning proposal should be supported by an appropriate mechanism to ensure delivery of:
- i) At least 20% affordable, accessible and supported housing
 - ii) public open space of a type, size and shape in accordance with council policy, and
 - iii) community infrastructure. The additional permitted use of residential accommodation provides an uplift in the value of the land and as such any community infrastructure calculation in accordance with clause 8.7 of Penrith LEP 2010 should factor in the uplift as a result of the additional permitted residential use, irrespective of the currently permissible FSR and height.
- d) To ensure development outcomes are consistent with the intention of the planning proposal, the proposed Additional Permitted Use clause should specify that Clause 4.6 doesn't apply, so that the minimum non-residential floorspace or affordable housing is not eroded further.
- e) Any additional resident working population should be supported by an equivalent job provision in accordance with council's policy. This should be in addition to the jobs generated by the amended minimum commercial floor space required.
- f) To ensure views to the Blue Mountains are maintained, the planning proposal is to demonstrate consistency with council's objectives for building heights in the context of the city centre skyline.
- g) The design of the residential buildings should be carried out in accordance with State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development. This needs to be considered in formulating controls for building envelopes that include both commercial and residential accommodation within the Penrith City Centre.
- h) The applicant should submit a stormwater management strategy to establish that stormwater can be managed without inundation of the basement, given the potential for heavy stormwater runoff at times of mainstream flooding.

Jason Perica - Chair Person 	John Brunton – Expert 
Stephen Welsh – Community Representative 	Mary-Lynne Taylor - Expert 

2. The submission provided in Appendix 1 be endorsed and submitted to the Department of Planning, Industry and Environment as Council's final submission.

Having previously declared a Pecuniary Interest in Item 2, Councillor Ross Fowler OAM left the meeting, the time being 7:54pm.

2 Planning Proposal for 61-79 Henry Street Penrith to Gateway

147 RESOLVED on the MOTION of Councillor Bernard Bratusa seconded Councillor Tricia Hitchen

That:

1. The information contained in the report on Planning Proposal for 61-79 Henry Street Penrith to Gateway be received.
2. Council endorse the enclosed Planning Proposal to be submitted to the Department of Planning and Environment seeking a Gateway Determination.
3. The General Manager be granted delegation to undertake any minor updates to the Planning Proposal prior to Council's submission of the Planning Proposal to the Department of Planning, Industry and Environment for a Gateway Determination, and advise Councillors accordingly.
4. Consultation with the community and public agencies be undertaken in accordance with any Gateway Determination issued by the Department of Planning and Environment.
5. Council resolve that should any future residential accommodation development occur on the lot:
 - a. The development should include a minimum of 20% of all dwellings developed on the site are to be provided as affordable, accessible and seniors living dwellings.
 - b. Adequate Public Open Space should be secured within 200m of any proposed high density development (development with over 60 dwellings).

And that these features must be secured before the Planning Proposal is publicly exhibited.

6. A further report come back to Council with details of a draft Voluntary Planning Agreement seeking endorsement for notification with the exhibition of the Planning Proposal.
7. A report be presented to Council on the submissions received during the public exhibition.

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

For

Against

Councillor Kath Presdee
Councillor Robin Cook
Councillor Greg Davies

Councillor Todd Carney
Councillor Aaron Duke
Councillor John Thain
Councillor Kevin Crameri OAM
Councillor Jim Aitken OAM
Councillor Mark Davies
Councillor Brian Cartwright
Councillor Tricia Hitchen
Councillor Bernard Bratusa
Councillor Marcus Cornish
Councillor Karen McKeown OAM

3 Voluntary Planning Agreement offer by Lendlease for 16 Chapman Street Werrington

Councillor Ross Fowler OAM returned to the meeting, the time being 7:57pm.

148 RESOLVED on the MOTION of Councillor Bernard Bratusa seconded Councillor Todd Carney

That:

1. The information contained in the report on Voluntary Planning Agreement offer by Lendlease for 16 Chapman Street Werrington be received.
2. Council endorse the draft Voluntary Planning Agreement for 16 Chapman St, Werrington, provided as a separate enclosure to this report.
3. By agreement with Transport for NSW Council acquire the part of the land owned by Transport for NSW to deliver the Werrington Road roundabout.
4. Council agree to transfer the part of the land acquired from Transport for NSW to Lendlease Communities (Werrington) Pty Ltd in accordance with the terms of the Voluntary Planning Agreement provided as a separate enclosure to this report.
5. The General Manager be provided delegation to make any changes necessary to the draft Voluntary Planning Agreement resulting from negotiations with Transport for NSW, and advise Councillors accordingly.
6. Following the agreement with Transport for NSW, the draft Voluntary Planning Agreement be publicly notified in accordance with the requirements of *Environmental Planning and Assessment Regulation 2000* and *Penrith Developer Infrastructure Agreements Policy*.
7. Where any submissions are received in relation to the public notification of the draft Voluntary Planning Agreement, these be reported to Council.
8. Upon the conclusion of the notification, where no submissions are received, the draft Voluntary Planning Agreement be executed by the General Manager.

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

For

Against

Councillor Kath Presdee
Councillor Robin Cook