

3 Planning Proposal and draft Voluntary Planning Agreement Letter of Offer for 61-79 Henry Street, Penrith - Post Exhibition

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Outcome	<i>We plan and shape our growing City</i>
Strategy	<i>Undertake strategic planning that will ensure balanced growth and liveability</i>
Principal Activity	<i>Facilitate and plan for housing diversity and liveability</i>

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

Previous Items: Planning Proposal for 61-79 Henry Street, Penrith (Henry Lawson Centre) - Councillor Briefing - 04 May 2020
Planning Proposal for 61-79 Henry Street, Penrith - Councillor Briefing - 17 May 2021
Planning Proposal for 61-79 Henry Street Penrith to Gateway - Ordinary Meeting - 26 July 2021
Letter of Offer to enter into a Voluntary Planning Agreement (VPA) associated with a Planning Proposal for 61-79 Henry Street, Penrith - Ordinary Meeting - 26 September 2022
Planning Proposal and draft Voluntary Planning Agreement Letter of Offer for 61-79 Henry Street, Penrith - Post Exhibition - Councillor Briefing - 06 March 2023

Landowner: Australian Foundation for Disability (AFFORD)

Proponent: Sutherland and Associates Consulting

Executive Summary

The purpose of this report is to present the outcomes of the public exhibition of the Planning Proposal and draft Voluntary Planning Agreement (VPA) Letter of Offer for 61-79 Henry Street, Penrith (known as the Henry Lawson Centre), and seek Council's resolution to endorse the Planning Proposal for finalisation and submit to the Department of Planning and Environment (DPE) to make the Plan, after the VPA has been executed.

The following Councillor memos have been provided to Councillors related to this report:

1. 25 November 2020 – Update on Planning Proposal
2. 22 December 2020 – Update on Planning Proposal
3. 7 January 2019 – Advising of lodgement of Planning Proposal
4. 4 March 2022 – Update on Planning Proposal
5. 27 May 2022 – Update on Planning Proposal
6. 27 July 2022 – Update on Planning Proposal

At its Ordinary meeting of 26 July 2021, Council resolved to endorse to forward to Gateway a Planning Proposal to amend LEP 2010 to permit residential accommodation at 61-79 Henry Street, Penrith. A Gateway Determination was issued by DPE on 21 September 2021. At its Ordinary meeting of 26 September 2022, Council endorsed for public exhibition the Letter of Offer in conjunction with the Planning Proposal for the subject site. The Planning Proposal, draft Letter of Offer and the supporting documents were subsequently placed on public exhibition from 17 October 2022 to 14 November 2022. Consultation with public authorities was also undertaken during this period, as required by the Gateway Determination.

A total of two public submissions and six public authorities / organisations submissions were received. No objection was raised. However, some submissions have raised matters for Council's consideration. As a result, no amendments are proposed following the exhibition feedback, given they are matters that are already addressed in Council's current planning controls or are matters better addressed as part of a future development application.

The proponent has submitted an updated draft VPA for the subject site on 6 March 2023, which is currently being reviewed. The draft VPA will be reported to a future Council meeting seeking endorsement for it to be notified.

The report recommends that Council endorse the Planning Proposal for finalisation, and that Council and the proponent continue to work towards finalisation of an acceptable VPA Offer, which is to be reported to a future Council meeting for consideration. This report also recommends that the Planning Proposal be forwarded to DPE in accordance with the LEP plan making process for finalisation, after the VPA has been executed. The final Planning Proposal has been provided to Councillors as a separate enclosure and is publicly available on Council's website.

Background

Planning Proposal

In December 2019, a Planning Proposal was submitted to Council to amend LEP 2010 to permit residential accommodation as an Additional Permitted Use on the site at 61-79 Henry Street, Penrith, also known as 'The Henry Lawson Centre'.

Amendments are proposed to permit high density residential within the B3 Commercial Core, where it is not currently a permitted use. The Planning Proposal also seeks to ensure a minimum delivery of non-residential land uses to maintain the objectives of B3 Commercial Core zoning of the site. The inclusion of residential accommodation as an additional permitted use is proposed to:

- allow a viable mix of commercial, community and residential uses necessary to facilitate the redevelopment of the site and thereby contribute to the revitalisation of the Penrith City Centre.
- encourage housing diversity and social inclusion by allowing the Australian Foundation for Disability (AFFORD), the owner of the site, to provide housing for people with a disability, senior's housing and affordable housing within a mixed-use development on the site.

The Planning Proposal was reported to Council at the Councillor Briefings held on 4 May 2020, 9 November 2020, and 17 May 2021.

The Planning Proposal was presented to the Local Planning Panel (LPP) for advice on 23 September 2020. The LPP provided advice recommending matters that should be considered in assessing the Planning Proposal. This led to further amendments to the Planning Proposal, including to resolve key economic matters.

At its meeting of 26 July 2021, Council resolved to endorse to forward to Gateway a Planning Proposal to amend LEP 2010 to permit residential accommodation at 61-79 Henry Street, Penrith.

A Gateway Determination was issued by the Department of Planning and Environment (DPE) on 21 September 2021. Alterations to the Gateway Determination were subsequently issued by DPE on 25 November 2021 and on 7 April 2022. This related to altering the time frames set for the LEP, removing the requirement to submit planning proposal updates to DPE for endorsement before public exhibition and the condition on Adaptive Management Framework to confirm capacity prior to finalisation.

The Gateway Determination required further work to be completed, additional information to be submitted to Council and the Planning Proposal to be updated before it could be publicly exhibited. This included what the proposed amendments will deliver, types of affordable and diverse housing, community infrastructure benefits, housing supply analysis, consideration of access and mitigation of any traffic and intersection impacts resulting from the development, and further stormwater management and flood assessment.

The Gateway Determination also required consultation to occur with Transport for NSW (TfNSW) prior to public exhibition and the Planning Proposal being updated to reflect any changes arising out of the consultation. This was undertaken and TfNSW advised Council that it raised no objections to the Planning Proposal, however, provided some advisory comments for Council's consideration, relating to:

- considering the Hawkesbury Nepean Flood Risk Management Strategy 2017;
- no access permitted to the Great Western Highway classified road;
- any excavation adjacent to a classified road;
- any stormwater discharge to TfNSW drainage exceeding pre-development flow;
- works on, or installation of, traffic signals on any road would require TfNSW approval; and
- supporting travel demand management near transport interchanges, such as maximum parking rates to reduce private vehicle travel and support sustainable transport modes.

These matters raised by TfNSW have informed the finalisation of the Planning Proposal or are relevant to a future development application for the site.

TfNSW responded that they raised no further comments to Council for consideration prior to exhibition and that they would provide a formal submission during the exhibition period. TfNSW also gave further advice on the process if upgrades to the Great Western Highway / Lawson Street intersection were proposed.

Satisfaction of the above matters enabled the Planning Proposal to progress to public exhibition.

Specifically, the Planning Proposal, as endorsed by Council for the purposes of public exhibition and exhibited, was to make the following amendments to the Penrith Local Environmental Plan 2010:

1. Amend Schedule 1 – Additional Permitted Uses to insert the following clause:

XX Use of certain land at 61-79 Henry Street, Penrith

(1) This clause applies to land at 61-79 Henry Street, Penrith being that is identified as “XX” on the Additional Permitted Uses Map.

(2) Development for the purposes of residential accommodation is permitted with development consent, if the development includes a minimum floor space ratio of 2:1 for non-residential purposes.

2. Amend the Additional Permitted Uses map to identify 61-79 Henry Street, Penrith as containing Additional Permitted Uses.
3. Add a “sunset clause” where the additional permitted uses clause will cease to exist five years after the date the LEP amendment is made.
4. Include a provision so that clause 4.6 does not apply to the minimum floor space ratio standards in the additional permitted uses clause for the site.

Letter of Offer to enter into a VPA

The Planning Proposal identifies the need for social infrastructure and transport infrastructure to support future development on the subject site. However, the Planning Proposal is not the mechanism to secure these works, so accordingly, the landowner has offered to enter into a VPA with Council to facilitate these works.

A draft Letter of Offer to enter into a VPA has been submitted to Council which outlines the landowner’s intention to deliver a range of infrastructure works. This draft Letter of Offer was exhibited in conjunction with the Planning Proposal. The proposed infrastructure works generally include:

- Diverse and affordable housing to be delivered on site for the lifespan of the development, which means these dwellings will not ‘time out’ after a certain number of years. The dwellings will be delivered in accordance with the following:
 - A minimum of 15% of total approved dwellings on the site to be provided as seniors housing or housing for people with a disability (as identified in Part 5 of State Environmental Planning Policy (Housing) 2021), with at least 5% being provided for people with a disability;
 - A minimum of 5% of total approved dwellings on the site to be provided as affordable housing for the lifespan of the development (as identified in Part 2 of State Environmental Planning Policy (Housing) 2021); and
 - Note: As reported to Council on 26 September 2022, the mechanism for securing these dwellings for the lifespan of the development will be determined in the draft VPA which will be reported to Council prior to its notification.
- Public open space will be provided by way of a local park at least 0.3 hectares in total area. The open space will be publicly accessible, but privately owned and maintained.
- Road and infrastructure upgrades, including:
 - A new roundabout at the intersection of Lawson Street and Soper Place, providing entry/exit to the site; and

- Road upgrades at the intersection of Lawson Street and Henry Street to help mitigate traffic.

The proponent has recently submitted a draft VPA for the subject site on 27 January 2023. A preliminary review of the draft VPA has been undertaken to determine the outcomes exhibited in the Letter of Offer have been reflected. The following has been identified and further work is required to be undertaken by the proponent to ensure the intended outcomes are achieved:

- The draft VPA does not address that the affordable and diverse housing component will be delivered for the lifetime of the development. Furthermore, the draft VPA does not identify the mechanism for securing the dwellings in perpetuity.
- The draft VPA does not address the minimum percentage of the nominated dwellings that will be provided for people with a disability.
- The draft VPA does not clearly address that the public open space will privately owned and maintained, but still be publicly accessible. This has not been clearly addressed in the Schedule of Works in the draft VPA.

These preliminary issues have already been brought to the proponent's attention to ensure these matters can be promptly resolved. The proponent submitted an updated VPA on 6 March 2023, which is currently being reviewed. Further detailed feedback will be provided to the proponent once a comprehensive review of the updated draft VPA has been undertaken, including revision by Council's Legal Services team. The draft VPA will be reported to a future Council meeting seeking endorsement for it to be notified.

Public Exhibition

The Planning Proposal, the draft Letter of Offer and the supporting documents were placed on public exhibition from 17 October 2022 to 14 November 2022. Exhibition material was available to view online at the:

- Council's Your Say Penrith website;
- Civic Centre; and
- NSW Planning Portal.

The public exhibition was undertaken in accordance with the Gateway Determination, the community consultation requirements of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*, and Council's Community Participation Plan.

A notice was placed in the Western Weekender for four consecutive weeks throughout the public exhibition period. Written notification was given to the landowners and occupiers of 354 neighbouring properties.

Public Submissions

Two public submissions were received during the public exhibition, one being a Penrith Local Government Area resident and the other being NSW Police Force in response to the notification, given the site is located adjoining Penrith Police Station. The public submissions are summarised below with a more detailed summary of the submissions and Council officer responses to these at **Attachment 1**. No changes are proposed to the Planning Proposal in response to the matters raised in the submissions as the matters raised for consideration are already addressed through Council's current planning controls or are matters better addressed as part of a future development application.

The resident submission did not object to the Planning Proposal, noting it was an interesting proposal, but raised it would be good to include:

- varying car parking arrangements;
- high quality cycling facilities;
- high quality landscaping and advanced tree planting;
- increase in retail and commercial space; and
- hotel use

The NSW Police Force also did not object to the Planning Proposal but raised some issues for Council's consideration, as follows:

- Ensure there are safeguards for pedestrians and cyclists, including at footpath/vehicle entry locations;
- Consider traffic flow in Henry Street, due to increased vehicular traffic;
- Ensure there is sufficient car parking for residents and businesses to minimise traffic congestion on and around Henry Street;
- Include sufficient and highlighted 'Emergency Vehicle' parking aligned to the buildings; and
- Any residential accommodation to have further police appraisal to determine and encourage relevant crime prevention through environmental design (CPTED) principles.

Public Authority/Organisation Consultation

During the public exhibition period, Council formally sought comment from several public authorities/organisations in accordance with the requirements of the Gateway Determination. Submissions were received from most of the authorities/organisations consulted, however at the time of writing this report a submission from Department of Planning and Environment – Resilience Planning remains outstanding. The DPE Regional Team are assisting Council officers with obtaining this submission.

Six submissions were received, which are summarised below with a more detailed summary of the submissions and Council officer responses to these at **Attachment 2**. No changes are proposed to the Planning Proposal in response to the matters raised in the submissions. Similarly to the public submissions, these are matters that are currently within Council's current planning framework or are better addressed at the time a development application is lodged and there is more specific details of the proposal.

Transport for NSW (TfNSW)

- Provided confirmation that there is currently no planned or funded transport improvement projects that may require use of the land zoned SP2 Classified Road adjacent to the north of the site. The submission also outlined the process for obtaining endorsement for use of TfNSW land, should future redevelopment of their land be proposed;
- Future pedestrian demands and provision of pedestrian amenity improvements and safety measures resulting from the Planning Proposal;
- Vehicle trip generation analysis and required car parking to properly account for site being located within Penrith City Centre and being transit-oriented development; and
- Ensure loading and servicing demands can be wholly accommodated within the site.

Heritage NSW

- Based on the information provided there are currently no identified impacts on Aboriginal objects or places protected under the National Parks and Wildlife Act 1974, or State Heritage Register items protected under the Heritage Act 1977; and
- Ensure necessary heritage assessments are undertaken, and impacts addressed.

Endeavour Energy

- Confirmation that the advice of the submitted Utilities Infrastructure Report, dated December 2019, appears to be still relevant (although notes as it is three years old it should be updated), such as there is insufficient electricity capacity available to supply the development and that a new 11kV high voltage feeder will be required to be extended from Penrith Zone Substation; and
- As outlined in the attachment, the above matters raised by Endeavour Energy will be required as part of a future development application when details of the development and specific capacity requirements are known.

Sydney Water

- No objection, however, additional information is required to enable a full assessment of asset capacity, sizing or amplification to adequately plan for an uplift in demand.

SGSP (Australia) Assets Pty Ltd (branded as Jemena)

- No objection – it is noted that Sydney Primary gas main is within the reportable area, however the nature of the works will not impact Jemina works.

Telstra

- Telstra has significant network around the subject site;
- Discuss with Telstra on all road and footpath alterations along with proposed vehicle footpath cross over locations to prevent, as a minimum, any Telstra pits and manholes being located in vehicular or trafficable areas; and
- Any potential impact or change in the environment around Telstra network must be referred to Telstra as asset owner and authority for a warrant.

Adaptive Management Framework

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 DPE 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).

Currently the Penrith City Centre has potential to deliver approximately 8,800 dwellings that are permissible under its planning controls. However, based upon the State Government's flood modelling, it only has enough capacity in regional flood evacuation infrastructure to enable the safe evacuation (in a Probable Maximum Flood event) of an additional 4050 dwellings.

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 by Council in collaboration with the NSW Government.

The Planning Proposal has been assessed to fall well within Stage 1. From Council's records of pre-development applications, development applications under assessment, development approvals, current court proceedings, construction certificates, and dwellings the subject of a planning proposal, the maximum number of dwellings is approximately 54% of the 4050 dwelling cap for Stage 1. Accordingly, currently a construction certificate could be issued if consent is granted subject to a recommended condition. The granting of a construction certificate will however depend upon the timing of the granting of construction certificates for residential development on other sites within the Penrith City Centre.

It should be noted that approval of additional residential in the City Centre could remove capacity from other land already zoned if additional evacuation capacity is not found.

Next Steps

Should Council endorse the recommendation made in this report, it is anticipated that several processes will occur, which are described below:

- The proponent has recently submitted a draft VPA for the subject site on 27 January 2023. A preliminary review of the draft VPA has been undertaken to determine the outcomes of the exhibited Letter of Offer have been reflected. A number of issues have been identified and further work is required to be undertaken by the proponent to ensure the intended outcomes are achieved. These preliminary issues have already been brought to the proponent's attention to ensure these matters can be promptly resolved. The proponent submitted an updated VPA on 6 March 2023, which is currently being reviewed. Further detailed feedback will be provided to the proponent once a comprehensive review of the updated draft VPA has been undertaken, including revision by Council's Legal Services team.
- Once acceptable drafting of the VPA is resolved, a further report will be presented to a future Council meeting to seek endorsement of the draft VPA for public notification.
- Council will publicly notify the draft VPA, which will then be executed in relation to the subject site. It is noted that the Planning Proposal for the subject site, should it be endorsed by Council, will not be submitted for finalisation to DPE until the proposed infrastructure works in the draft Letter of Offer have been secured in an executed VPA, in accordance with the Council resolution of 26 July 2021 and 26 September 2022.
- Council will then submit the Planning Proposal to DPE in accordance with the LEP plan making process for finalisation and gazettal.
- DPE will finalise and gazette the LEP amendment sought by the Planning Proposal after receiving Council's request for finalisation.

Financial Implications

To mitigate infrastructure funding risks associated with the inclusion of residential accommodation use on the subject site, Council will not submit the Planning Proposal for

finalisation to DPE until the proposed infrastructure works offered in the draft Letter of Offer have been secured in an executed VPA, in accordance with the Council resolution of 26 July 2021 and 26 September 2022.

Risk Implications

The amended Gateway Determination, dated 7 April 2022, requires Council to complete the LEP amendment by April 2023. This is unlikely to be achieved, given the receipt of the draft VPA on 27 January 2023 and that negotiations with the proponent to draft an acceptable VPA are ongoing, which will then need to be reported to a separate Council meeting for consideration, be notified and then be executed. Only following this will the Planning Proposal be forwarded to DPE for finalisation and gazettal.

DPE provided advice that further timeframe extensions are unlikely to be granted unless there are extenuating circumstances and has encouraged Council to finalise the plan-making process as soon as possible. If these timeframes are not achieved, the Minister for Planning has the ability to 'call in' the Planning Proposal to be refused or made.

Council has had open dialogue and regular discussions with DPE, including noting the timing of receipt of the draft VPA and ongoing negotiations with the proponent to draft an acceptable VPA with positive benefits for the Penrith community, consistent with the draft Letter of Offer submitted by the proponent. Therefore, DPE is aware of Council's desire to progress the Planning Proposal to finalisation, subject to an acceptable VPA being executed. Accordingly, it is considered this would mitigate the risk of the Planning Proposal being called in, if there is delay beyond the required finalisation date.

Conclusion

The public exhibition of the Planning Proposal and draft Letter of Offer for 61-79 Henry Street, Penrith has concluded. This report has presented the outcomes of the public exhibition and consultation undertaken with public authorities/organisations.

A total of two public submissions and six public authorities / organisations submissions were received. No objection was raised. However, some submissions have raised matters for Council consideration and some submissions have outlined matters that are already addressed in Council's current planning controls or are matters better addressed as part of a future development application. No amendments to the Planning Proposal are recommended following the exhibition feedback.

This report recommends that Council endorses the Planning Proposal, and that Council and the proponent continue to work towards finalisation of an acceptable VPA Offer, which is to be reported to a future Council meeting for consideration. This report also recommends that the Planning Proposal be forwarded to DPE in accordance with the LEP plan making process, after the VPA has been executed.

RECOMMENDATION

That:

1. The information contained in the report on Planning Proposal and draft Voluntary Planning Agreement Letter of Offer for 61-79 Henry Street, Penrith - Post Exhibition be received
2. Council endorse the Planning Proposal as exhibited, which has been provided to Councillors as a separate enclosure and is publicly available on Council's website.

3. The General Manager be granted delegation to:
 - a. make any necessary minor typographical changes to the Planning Proposal, consistent with Council's adopted policy position; and
 - b. execute all necessary documents and undertake all necessary actions to give effect to Council's decision to make the LEP amendments.
4. Council and the proponent continue to work towards finalisation of an acceptable VPA Offer, which is to be reported to a future Council meeting for consideration.
5. Council officers forward the Planning Proposal to the Minister for Planning with a request to make the LEP amendment, after the VPA has been executed.
6. Council notify those who made submissions and provided feedback when the LEP amendment is made.

ATTACHMENTS/APPENDICES

1. 61-79 Henry Street, Penrith - Detailed summary of public submissions and officer responses	5 Pages	Attachments Included
2. 61-79 Henry Street, Penrith - Detailed summary of public authority submissions and officer responses	8 Pages	Attachments Included

DETAILED RESPONSES TO PUBLIC SUBMISSIONS

PUBLIC EXHIBITION - 61-79 HENRY STREET, PENRITH

Presented below are the issues raised in public submissions made on the public exhibition of the planning proposal and draft Voluntary Planning Agreement Letter of Offer at 61-79 Henry Street, Penrith and detailed Council officer responses.

Public Submission	Key issues raised	Council officer response
Resident	<p>Make the residential development a 'No residential parking development.' Could be a first for Western Sydney</p> <p>Ensure there is car share on the premises for residents to use instead of car ownership</p>	<p>The Council could vary the car parking controls, as a site-specific DCP controls for this site, such as reducing car parking rates, setting as maximum car parking rates, allowing unbundled car parking, and requiring car-share arrangements on the site.</p> <p>It is noted that the car parking rates applying under Penrith DCP 2014 are uniform instead of lowering within or near regional centres and within 800m of a railway station and are generally high compared to the rates under the Guide to Traffic Generating Developments, as outlined in the Transport Impact Assessment (TIA) supporting document for the Planning Proposal. Reduced car parking rates also reduces traffic generation and traffic impact on the surrounds. Under State Environmental Planning Policy (SEPP) 65 and the Apartment Design Guide (ADG), whichever is less between these two car parking rates can be applied as a minimum, although greater than the minimum could be allowed, compared to when a maximum rate is set, as controlled by some Councils.</p> <p>The same parking considerations have also been raised in advisory comments by TfNSW in pre consultation comments and comments during the public exhibition, given the location in the Penrith City Centre and walking proximity of the site to a railway station, frequent bus services, access to amenities and proposed mix of uses. This is also consistent with the TfNSW's Future Transport Strategy released September 2022 in the response to strategic direction P1.4 - Improve parking provision and management.</p> <p>Council's intended approach is to review parking policy holistically for the Penrith City Centre as part of the future Movement and Place Plan for Penrith and future integrated transport planning.</p>

Public Submission	Key issues raised	Council officer response
		However, in the interim, ad hoc opportunities for travel demand management measures and innovative car parking arrangements could be achieved through the design competition and DA processes.
	Ensure great cycling facilities are included	Cycling facilities are required under Penrith DCP 2014. The detail design of cycling facilities to contribute to achieving design excellence will be guided by the Penrith DCP 2014, the ADG and other relevant policy and guidelines and will be considered in detail in the required future architectural design competition and DA processes.
	Include high end landscaping with developed trees planted	The planning and design of landscaping and mitigating urban heat is required under Penrith LEP 2010 and Penrith DCP 2014. The detail design of landscaping and tree planting to contribute to achieving design excellence will be guided by Penrith DCP 2014, the ADG and other relevant policy and guidelines and will be considered in detail in the required future architectural design competition and DA processes.
	Ensure an increase in retail and commercial space	<p>The Planning Proposal, is for amendments to Penrith LEP 2010 to permit residential accommodation to allow a wide variety of residential land uses to enable a viable mix of commercial, community and residential uses on the site. This was evaluated in the supporting Economic Impact Assessment, prepared by Hill PDA, to be necessary to facilitate the redevelopment of the site and thereby contribute to the revitalisation of the Penrith City Centre.</p> <p>However, this is also balanced with requiring a substantial minimum of 2:1 of the floor space ratio (FSR) for non-residential purposes, to ensure the objectives of B3 Commercial Core zoning of the site are retained. The Economic Impact Assessment demonstrates that the provision of residential development will not be at the expense of meeting targets for employment generating floor space in the Penrith City Centre.</p> <p>The Economic Impact Assessment evaluates that it would be economically unjustifiable to provide 100% of the total GFA as commercial floor space as it would supply between 79%</p>

Public Submission	Key issues raised	Council officer response
		and 143% of the additional employment floorspace forecast demand for the Penrith City Centre over the next 35 years. This quantum of employment floorspace would be likely to result in long term vacancies and undermine the performance of the Penrith City Centre.
	Ensure Inclusion of a hotel	The supporting Concept Masterplan shows a hotel as part of the mixed of land uses and building envelopes that could be developed on the site, with this land use already being permissible on the site within the B3 Commercial Core zone. However, the Planning Proposal retains flexibility about the mix of non-residential land uses that could be developed on the site to not limit development options and viability, with no requirement for the provision of a hotel on the site being incorporated as part of the Planning Proposal.
	Make the development 6-star Green Star	<p>Green Star is a voluntary sustainability rating system for buildings in Australia by the Green Building Council of Australia. The Green Star rating system assesses the sustainability of projects at all stages of the built environment life cycle. The 6-star Greenstar Rating represents 'World Leadership' in environmentally sustainable building practices. As Green Star is a voluntary rating system, Council cannot impose a Green Star standard.</p> <p>Residential development is legislated under BASIX standards for energy use and thermal performance and sustainability standards, which have recently been raised.</p> <p>Under Clause 7.4 Sustainable development of Penrith LEP 2010 in deciding whether to grant development consent for development, the consent authority must have regard to the principles of sustainable development as they relate to the development based on a “whole of building” approach by considering each of the following—</p> <ul style="list-style-type: none"> (a) conserving energy and reducing carbon dioxide emissions, (b) embodied energy in materials and building processes, (c) building design and orientation, (d) passive solar design and day lighting,

Public Submission	Key issues raised	Council officer response
		<p>(e) natural ventilation,</p> <p>(f) energy efficiency and conservation,</p> <p>(g) water conservation and water reuse,</p> <p>(h) waste minimisation and recycling,</p> <p>(i) reduction of vehicle dependence,</p> <p>(j) potential for adaptive reuse.</p> <p>Also under Design excellence Clause 8.4 of Penrith LEP 2010, development of this site is be required to exhibit design excellence, including how the development will achieve the principles of ecologically sustainable development, to the highest levels.</p> <p>The development will require an architectural design competition to be held, that will also encourage design innovation including in regards to achieving design excellence in sustainable development to the highest levels.</p> <p>Other specific sustainability controls apply under Penrith Development Control Plan 2014 to non-residential development, such as water conservation, and outlines broader sustainable design principles.</p>
NSW Police Force	NSW Police Force have no objections, however, do bring to Penrith City Council's attention, the following issues.	
	With the proposed higher volume of both vehicular and pedestrian traffic, we would recommend consideration be given to any future planning that safeguards are implemented where necessary as the exposure/mix of pedestrian, cycling and vehicular traffic is likely to increase. This includes any footpaths with driveways crossing the footpath leading into the location.	The design of the public domain to ensure pedestrian and cycling safety and traffic management, including footpath; street intersections; street crossing; and integration with the proposed 3000 sqm public open space and intersection upgrades as part of the draft VPA Offer, will be considered in detail in the required future architectural design competition and DA processes.
	Police also recommend that traffic flow is considered due to the pending increase of vehicular traffic upon Henry Street.	Traffic matters have been considered in the TIA, supporting the Planning Proposal. The design of public domain and traffic management will be further considered in detail in the required future architectural design competition and DA processes.
	Police encourage developers to include sufficient parking for the residents and business owners of the location in question,	Car parking has been considered in the TIA, supporting the Planning Proposal. The provision of car parking needs to take into

Public Submission	Key issues raised	Council officer response
	to minimise any possible traffic congestion on and around Henry Street, Penrith.	<p>consideration the highly accessible location of the site, being within a regional centre and within 800m of a railway station, as required for residential under SEPP 65 and the ADG. Reduced provision of car parking can conversely assist minimising traffic volume and congestion on and around Henry Street and reduce impact of traffic on pedestrian and cycling safety also raised above. However, this needs to be considered in conjunction with other traffic management and street car parking management.</p> <p>The upgrade of Lawson Street / Soper Place with a new round-about to be the main vehicle entry point to basement car parking, will enable vehicles to access the site from and to Great Western Highway, which will reduce traffic congestion occurring on Henry Street.</p>
	Police encourage the developers to include sufficient and highlighted 'Emergency Vehicle' parking aligned to the buildings	The design of the public domain and provision of designated 'Emergency Vehicle' parking for close and easy access to building entries points of the development, especially for vulnerable building occupants such as disability housing and seniors housing, will be considered in detail in the required future architectural design competition and DA processes.
	Police also recommend that any residential accommodation being planned, be subject to further police appraisal to determine and encourage relevant CPTED Principles are included in any development.	Given the scale, mixed land uses and inclusion of public open space in the future development of the site, the future DA process should include referral to NSW Police Force for further appraisal of crime prevention through environmental design (CPTED) principles, to ensure CPTED principles are adequately considered and included in any development.

DETAILED RESPONSES TO PUBLIC AUTHORITY/ORGANISATION SUBMISSIONS

PUBLIC EXHIBITION - 61-79 HENRY STREET, PENRITH

Presented below are the issues raised in public authority/organisation submissions on the public exhibition of the planning proposal and draft Voluntary Planning Agreement Letter of Offer at 61-79 Henry Street, Penrith and detailed Council officer responses.

Agency	Key issues raised	Council officer response
Transport for NSW (TfNSW)	Consider the alignment of the proposal with the strategic directions outlined in the new Future Transport Strategy (FTS) – September 2022.	<p>The proposal is consistent with the FTS strategic direction <i>P1 Supporting growth through smarter planning</i> and strategic direction responses, with key descriptive text included below:</p> <p><i>P1.2 Support growth around public transport</i></p> <p><i>Growth around frequent public transport could accommodate some of NSW's growing need for jobs, education and housing, and simultaneously increase the viability of major public investments, particularly in metro, rail and light rail. Any subsequent increase in revenue would enable Transport to increase the number and frequency of services, extend operating hours and develop new routes.</i></p> <p><i>Cities with high population densities generally have higher rates of public and active transport use. Clustering new development (including housing, employment and services) around public transport nodes such as stations, wharves and rapid bus hubs can encourage public transport use, achieving substantial shifts in favour of more sustainable modes.</i></p> <p><i>Smarter high-density development can bring network-wide efficiencies, improve agglomeration economics, and deliver place making benefits, including more walkable neighbourhoods, and improved accessibility and liveability for residents.</i></p> <p><i>P1.4 Improve parking provision and management</i></p> <p><i>Careful parking management in metropolitan centres can encourage more people to use public transport, thereby reducing congestion, improving productivity on the roads, and making public transport services faster and more reliable. Provision of too much parking infrastructure can discourage people from</i></p>

Agency	Key issues raised	Council officer response
		<p><i>choosing sustainable and active modes while exacerbating congestion.</i></p> <p><i>Parking requirements imposed on the approval of new buildings can affect the affordability of homes and lock in car dependency, even in areas well served by public transport. Smarter location-based rules can reduce housing costs, increase diversity, give buyers and renters more options to buy only the parking they need, and reduce traffic as NSW grows.</i></p> <p>The Planning Proposal will allow residents to live close to work, public transport, shopping and entertainment venues. The site is located within 600 metres walking distance of Penrith railway station.</p> <p>The TIA demonstrates that sufficient car parking can be provided on the site for a mixed-use development on the site that includes a substantial residential component, which should be based on the lower minimum rates under the Guide to Traffic Generating Developments enabled under SEPP 65 and the ADG, which would be consistent with strategic direction response P1.4. The number of parking spaces required under a scheme that is consistent with the Planning Proposal is significantly less than a development that complies with the current LEP provisions.</p>
	<p><u>Great Western Highway and Lawson Street intersection</u></p> <p>Confirms that there is currently no planned or funded transport improvement projects that may require the land zoned SP2 Classified Road adjacent to the north of the site.</p> <p>Noting the (potential) mitigation measure outlined in the TIA, dated September 2022 to upgrade the existing round-about (Lawson Street / Great Western Highway intersection), Council can seek TfNSW's preliminary endorsement (also known as 'agreement in principle') of the proposed design of upgrade prior to any execution of a VPA or finalisation of the Planning Proposal.</p>	<p>This intersection is located on land owned and managed by TfNSW, therefore the need to upgrade this existing intersection is a matter to be determined by TfNSW, not Council.</p> <p>Accordingly, the VPA Offer does not propose to deliver traffic mitigation works at this intersection.</p>
	<p><u>Pedestrian Accessibility</u></p> <p>The proponent is encouraged to investigate the future pedestrian demands resulting</p>	<p>The design of the public domain to ensure pedestrian and cycling safety and traffic management, including footpath; street</p>

Agency	Key issues raised	Council officer response
	<p>from the planning proposal in context of the cumulative pedestrian demands in Penrith City Centre, and provision of further pedestrian improvements, setbacks and safety measures on identified key desire lines to safeguard and enhance pedestrian amenity. In particular, proposed upgrades of intersection (signalised or non-signalised) should consider improving the quality of crossing points, walkability and contribute to place-making.</p> <p>Supporting tools and guidelines can be referenced on NSW Government's Movement and Place webpage.</p>	<p>intersections; street crossing; and integration with the proposed 3000 sqm public open space and intersection upgrades as part of the draft VPA Offer, will be considered in detail in the required future architectural design competition and DA processes.</p>
	<p><u>Vehicle Trip Generation</u></p> <p>Mixed use development creates opportunities for multipurpose trips within a centre and reduces the tendency for car use to make separate trips between destinations. Conservative traffic generation estimates may overestimate actual traffic impacts for transit-oriented development.</p> <p>Trip generation analysis should take account of the potential for internalising trips through interaction between on-site mixed uses, nearby complementary uses and public transport access which typically do not capture internal trips within larger, mixed use developments or short trips to nearby uses by walking.</p>	<p>This is noted and would be further investigated during the DA process. The TIA also demonstrates the traffic and transport benefit associated with the Planning Proposal, given that it would generate significantly less traffic than a compliant scheme on the site, which is mostly attributed to the lower traffic generation associated with residential apartments and seniors living compared to commercial.</p>
	<p><u>Car Parking Rates</u></p> <p>TfNSW reiterates its previous advice provided to Council on 11 December 2021. The walking proximity of the site to a railway station, frequent bus services, access to amenities and proposed mix of uses should encourage Council to adopt an appropriate off-street car parking rate.</p> <p>Repurposeable carparking design, unbundled car parking, paid parking, or car-share programs to reduce the overall parking requirements are strategies that can be considered at detailed design stage.</p>	<p>Council's intended approach is to review parking policy holistically for the Penrith City Centre as part of the future Movement and Place Plan for Penrith and future integrated transport planning.</p> <p>However, in the interim, ad hoc opportunities for travel demand management measures and providing sustainable and innovative car parking arrangements could be achieved through the required future architectural design competition and DA processes.</p>
	<p><u>Freight and Servicing</u></p> <p>Ensure loading and servicing demands can be wholly accommodated within the site rather than relying on kerbside space so as</p>	<p>The upgrade of Lawson Street / Soper Place, with a new round-about to be the main vehicle entry point to basement car parking and service vehicle loading, will enable service</p>

Agency	Key issues raised	Council officer response
	to not preclude any street activation or improvements in the future.	<p>vehicles to access the site from and to Great Western Highway to minimise impact on the public domain.</p> <p>The Concept Masterplan indicates how the basement could be designed to accommodate movement of service vehicles via this main entry to/from a loading dock to achieve loading of freight and other servicing via lift cores of buildings.</p>
Heritage NSW	<p>Heritage NSW has reviewed the planning proposal and associated documents. There are no State Heritage Register (SHR) listed places on the subject site. Based on the information provided it is understood that there are currently no identified impacts on:</p> <ul style="list-style-type: none"> • Aboriginal objects or places protected under the National Parks and Wildlife Act 1974, or • State Heritage Register items protected under the Heritage Act 1977. <p>However, this does not mean that these impacts do not exist. It is recommended that if Council has not already done so, all necessary heritage assessments are undertaken, and impacts are sufficiently addressed.</p>	<p>The supporting Preliminary Historical Heritage Assessment and Due Diligence Aboriginal Heritage Assessment, prepared by Coast History and Heritage has considered the potential for impact on heritage items in the vicinity of the study area, and potential European and non-European archaeology within the study area for the purposes of the Planning Proposal.</p> <p>Preliminary Historical Heritage Assessment</p> <p>There are no listed heritage items within the study area. There are two adjacent listed heritage items:</p> <ul style="list-style-type: none"> • Methodist Church (former) • Penrith Infants Department (1884 Building) <p>In addition, there are three listed items in the immediate visual catchment (within about 100m), and another 15 in the neighbourhood (within about 200m) of the study area.</p> <p>The study area is occupied by the Henry Lawson Centre, which was constructed in the late 1980s or early 1990s. It is not considered to be of historical heritage significance.</p> <p>The c.1990 redevelopment is likely to have resulted in the removal of most, if not all, archaeological remains relating to earlier historical occupation of the study area. There is some potential that parts of deeper features, such as wells, may remain. If so, these are likely to date to the late nineteenth or early twentieth century.</p> <p>The proposed LEP amendment will not result in any physical changes to the study area, and will not in itself result in historical heritage impact.</p> <p>A comprehensive Statement of Heritage Impact will be required to be prepared once design and engineering plans for the</p>

Agency	Key issues raised	Council officer response
		<p>redevelopment proposal are further advanced, to be submitted and assessed as part of the future DA process.</p> <p><u>Due Diligence Aboriginal Heritage Assessment</u></p> <p>The Due Diligence Aboriginal Heritage Assessment assessed that there are no previously recorded Aboriginal sites within the study area or close by and none were located during the site inspection. The results of the background research and the site inspection suggest that the potential for the presence of Aboriginal objects within the study area is low.</p> <p>As part of this Due Diligence Aboriginal Heritage Assessment the Deerubbin Local Aboriginal Land Council (DLALC) were consulted, undertook a site inspection and prepared an Aboriginal cultural heritage assessment of the land. The assessment was that there was high disturbance of the landscape by past and present land use like buildings and carpark and no Aboriginal cultural material were found. Therefore, the DLALC raised no objections for the future development of 61-79 Henry Street, Penrith.</p> <p>The proposed amendment to Penrith LEP 2010 will not have any physical effect and will not impact Aboriginal heritage. For the reasons outlined above, the Due Diligence Aboriginal Heritage Assessment concluded that the proposed redevelopment, following the rezoning, will not have any impact to Aboriginal heritage within the area investigated and no further Aboriginal heritage investigations in relation to the proposals are required.</p> <p>However, as all Aboriginal sites ('objects') are protected under the National Parks and Wildlife Act 1974, procedures are required to be followed if something is unearthed during demolition or construction.</p>
Endeavour Energy	<p>The submission from Endeavour Energy refers to the supporting Utilities Infrastructure Report December 2019 prepared by J. Wyndham Prince, which includes as Appendix B - Electrical Servicing Report prepared by Power Line Design dated 10 December 2019, which concludes that:</p> <ul style="list-style-type: none"> • After investigating Endeavour Energy's existing network assets, as well as 	<p>The submission gives clear advice about the path forward for required upgrading, adjustments and construction in relation to electricity infrastructure for a future development of the site. These matters will be considered in detail at the DA and Construction stages.</p>

Agency	Key issues raised	Council officer response
	<p>reviewing Endeavour Energy's technical review. It is concluded that there is insufficient capacity available to supply the development from the existing 11kV high voltage feeders extending past the development site.</p> <ul style="list-style-type: none"> • A new 11kV high voltage feeder will be required to be extended from Penrith Zone Substation to supply the estimated 5000kVA load of the completed development during the first stage of the development. The new 11kV feeder route is expected to be extended predominantly through existing ducts along the proposed route. • It is also expected that Endeavour Energy will require the existing 11kV high voltage feeder PH1290 be extended to the development site to provide redundancy during one of the following stages. • If the 33kV overhead transmission feeder is not reticulated underground, the proximity of the conductors to the building must be taken into consideration during the buildings design to achieve safe approach distances for ordinary persons during construction and maintenance works. <p>The submission confirms that the advice of the submitted Utilities Infrastructure Report, dated December 2019, appears to be still relevant. However, as the Utilities Infrastructure Report is three years old, at an appropriate time it should be updated.</p> <p>The submission outlines the requirements about encroachment or required changes to easements; substations; and safety for development construction work near overhead power lines.</p> <p>The submission also provides advise about landscaping and that the planting of large / deep rooted trees to near electricity infrastructure is opposed by Endeavour Energy. Existing trees which are of low ecological significance in proximity of electricity infrastructure should be removed and if necessary replaced by an alternative smaller planting. The landscape designer will need to ensure any planting near electricity infrastructure achieves Endeavour</p>	

Agency	Key issues raised	Council officer response
	Energy's vegetation management requirements.	
Sydney Water	<p>Sydney Water offers no objection to the proposed LEP amendments, however would not approve the proposed development based on the information provided, which is insufficient to enable a full assessment of asset capacity, sizing or amplification requirements. Below are the future requirements necessary in order for Sydney Water to adequately plan for an uplift in demand at 61-79 Henry Street, Penrith:</p> <p>Growth data</p> <ul style="list-style-type: none"> Growth data is required to be completed and submit to Sydney Water via the Water Servicing Coordinator (WSC) feasibility process. <p>Water Servicing</p> <ul style="list-style-type: none"> Trunk potable water servicing will be serviced via the Penrith North Water Supply Zone. Engage a hydraulic consultant to conduct an Options Assessment to determine whether the trunk network has sufficient capacity and submit to Sydney Water via the WSC feasibility process, prior to any specific proposal being approved. The Proponent(s) should engage with Sydney Water to discuss commercial requirements, timescales and next steps as soon as possible to reduce any unnecessary delays attributed to conducting of any potentially lengthy studies. <p>Wastewater Servicing</p> <ul style="list-style-type: none"> Trunk wastewater servicing will be via the Penrith Sewer Catchment. Extensions and/or amplifications to the wastewater network will be required. Servicing requirements will be discussed via the WSC feasibility process and be finalised at the Section 73 stage. <p>Trade wastewater requirement</p> <ul style="list-style-type: none"> If development is going to generate trade wastewater, the developer must submit an application requesting permission to 	<p>It is in the interest of good forward planning that any future proponent initiates this required process with Sydney Water as soon as possible to reduce any unnecessary delays to the development of the site.</p>

Agency	Key issues raised	Council officer response
	<p>discharge trade wastewater to Sydney Water's wastewater system.</p> <p>This advice is not a formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application.</p>	
SGSP (Australia) Assets Pty Ltd (branded as Jemena)	Jemena has no objection – it is noted that Sydney Primary gas main is within the reportable area, however the nature of the works will not impact Jemena works.	No further action is required.
Telstra	<p>Telstra has significant network around the proposed land development of 61-79 Henry St Penrith. 'Before you dig Australia' (the old Dial before you dig) will illustrate the network in the vicinity of the development proposal.</p> <p>It is important for the developer and the planning team to discuss with Telstra, all road and footpath alterations along with proposed vehicle footpath cross over locations so as to prevent, as a minimum, any of the Telstra pits and manholes being located in vehicular or trafficable areas. This is not permitted and not negotiable.</p> <p>The developer and the planning team are to also acknowledge that no part of the Telstra network can be modified, and that any potential impact or change in the environment around Telstra network must be referred to Telstra i.e. Telstra being the asset owner and authority that must warrant the infrastructure in private or public lands.</p>	The future proponent will be required to investigate any implications of development on Telstra assets, as part of the future design process at DA stage and at construction stage.

DELIVERY PROGRAM REPORTS

OUTCOME 2 - WE ARE WELCOMING, HEALTHY, HAPPY AND CONNECTED

1 Endorsement of Library Services Strategy

58 RESOLVED on the MOTION of Councillor Robin Cook seconded Councillor Mark Rusev

That:

1. The information contained in the report Endorsement of Library Services Strategy be received
2. Council note the feedback received as part of the exhibition of the draft Library Services Strategy
3. Council endorse the amended Library Services Strategy.

2 Request for Major Event Sponsorship - Australian Pole Sports Federation

59 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Glenn Gardiner

That:

1. The information contained in the report on Request for Major Event Sponsorship - Australian Pole Sports Federation be received
2. Council provide sponsorship of \$10,000 (plus GST) to the Australia Pole Sports Federation in support of the 2023 Australian Pole and Aerial Championships.

OUTCOME 3 - WE PLAN AND SHAPE OUR GROWING CITY

Having previously declared a Non-Pecuniary Conflict of Interest – Less than Significant in Items 3, 4 and 5, and a Pecuniary Interest in Item 6, Councillor Karen McKeown OAM left the meeting, the time being 7:20pm.

3 Planning Proposal and draft Voluntary Planning Agreement Letter of Offer for 61-79 Henry Street, Penrith - Post Exhibition

60 RESOLVED on the MOTION of Councillor Bernard Bratusa seconded Councillor John Thain

That:

1. The information contained in the report on Planning Proposal and draft Voluntary Planning Agreement Letter of Offer for 61-79 Henry Street, Penrith - Post Exhibition be received
2. Council endorse the Planning Proposal as exhibited, which has been provided to Councillors as a separate enclosure and is publicly available on Council's website.
3. The General Manager be granted delegation to:

- a. make any necessary minor typographical changes to the Planning Proposal, consistent with Council's adopted policy position; and
 - b. execute all necessary documents and undertake all necessary actions to give effect to Council's decision to make the LEP amendments.
4. Council and the proponent continue to work towards finalisation of an acceptable VPA Offer, which is to be reported to a future Council meeting for consideration.
5. Council officers forward the Planning Proposal to the Minister for Planning with a request to make the LEP amendment, after the VPA has been executed.
6. Council notify those who made submissions and provided feedback when the LEP amendment is made.

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

For**Against**

Councillor Karen McKeown OAM
Councillor Robin Cook
Councillor Todd Carney
Councillor John Thain
Councillor Kevin Crameri OAM
Councillor Sue Day
Councillor Marlene Shipley
Councillor Glenn Gardiner
Councillor Bernard Bratusa
Councillor Mark Rusev
Councillor Tricia Hitchen

4 Planning Proposal for Affordable Rental Housing Contributions for Glenmore Park Stage 3 & Orchard Hills North

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

That:

1. The information contained in the report on Planning Proposal for Affordable Rental Housing Contributions for Glenmore Park Stage 3 & Orchard Hills North be received
2. Council endorses the Planning Proposal presented in this report and which has been provided to Councillors as a separate enclosure.
3. The General Manager be granted delegation to execute all necessary documents and undertake all necessary actions to give effect to Council's decision to make the LEP amendment.
4. Council officers forward the Planning Proposal to the Minister for Planning and Parliamentary Counsel with a request to make the LEP amendment.