



Planning Proposal to amend Penrith Local Environmental Plan 2010

57 Henry Street, Penrith

May 2019

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Introduction

Purpose of Planning Proposal

The purpose of the Planning Proposal is to amend the planning controls for land at 57 Henry Street, Penrith. An amendment to *Penrith Local Environmental Plan 2010* (LEP 2010) is required to amend the relevant controls.

The Department of Planning and Environment's (DP&E) Gateway Process is the current process for making or amending Local Environmental Plans (LEPs). The process has a number of steps which are outlined in Table 1. The preparation of a Planning Proposal is the first step in DP&E's Gateway Process for amending LEP 2010.

Table 1: Gateway Process

No.	Step	Explanation
1	Planning Proposal	Council prepares a Planning Proposal explaining the intended effect of a proposed LEP and sets out the justification for making the LEP.
2	Gateway Determination	The Department of Planning and Environment, as a delegate of the Minister for Planning, determines whether a Planning Proposal should proceed.
3	Community Consultation	The Planning Proposal is placed on public exhibition for the period identified in the Gateway Determination.
4	Assessment	Council considers the submissions received in response to the public exhibition, and varies the planning proposal if required.
5	Drafting	Parliamentary Counsel prepares a draft local environmental plan.
6	Decision	The relevant planning authority approves the local environmental plan, making it law.

The Subject Site

The location of the site, which sits across 7 lots (listed in Table 2), is identified in Figure 1.

Table 2 – Lot and Deposited Plan Numbers for subject site

Lot.	Deposited Plan	Subject site coverage over lot
1	905016	Full
1	103609	Full
1	724160	Full
1	1122794	Full
1	795083	Partial
B	159402	Partial
A	159402	Partial

The site fully covers 4 lots and partially covers 3 lots. The total area of the Subject Site is 7,363 sqm.

The subject site is about 650 metres from Penrith Train Station on the edge of the City Centre's main commercial area. The site is immediately west of the Lemongrove Bridge between Henry Street and Jane Street, with about 80 metres of frontage on Henry Street. It is currently occupied by a number of two-storey buildings and other structures associated with its former use as a school (since 1884) and more recently a NSW Government education and training facility.

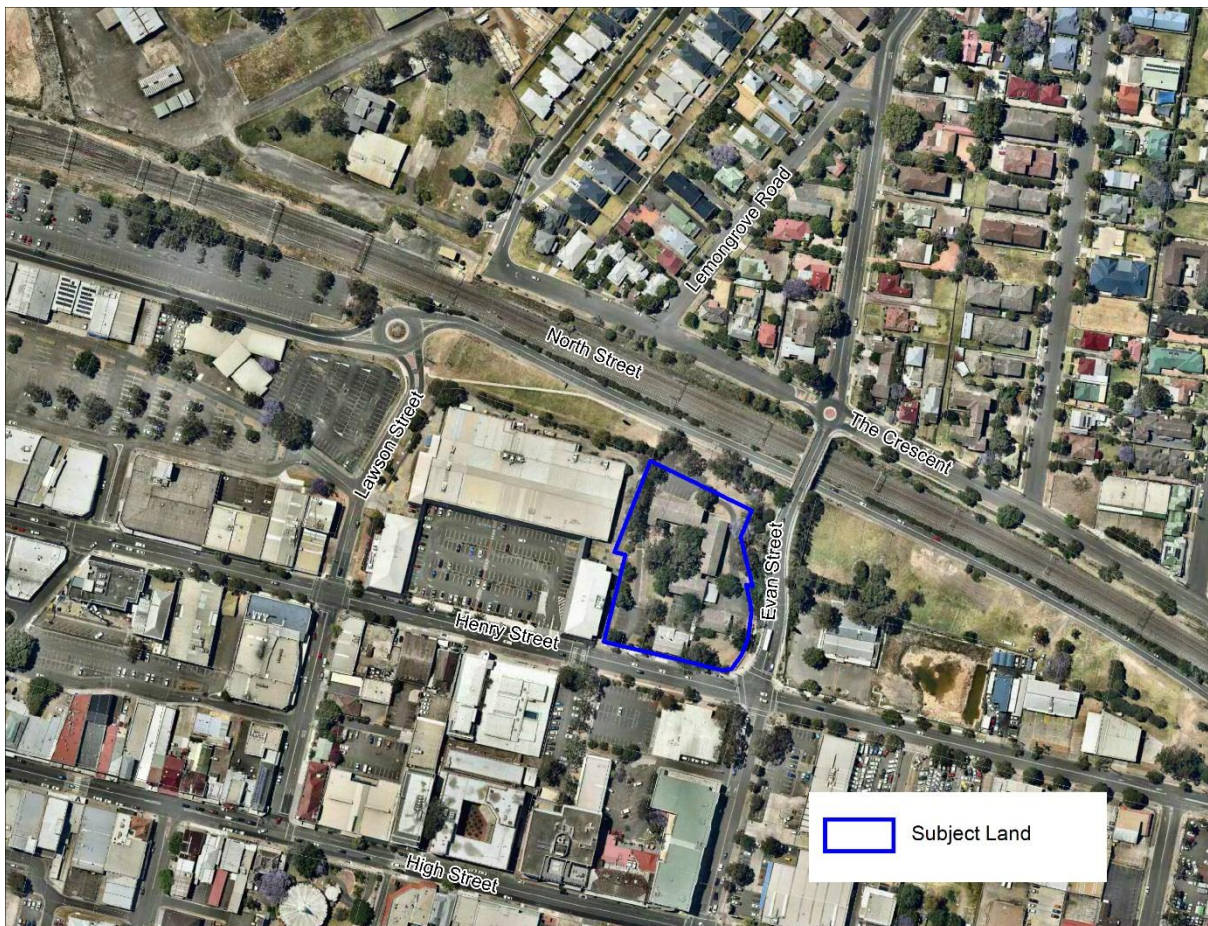


Figure 1 – Site Location

Development Vision

It is envisaged that the subject site would be developed to deliver a mixed-use development providing approximately 451 residential units in two towers; one at 25 storeys, the other at 41 storeys. The development would also provide approximately 4,023sqm in commercial office space and 1,495sqm in retail space. A concept site plan of the envisaged development is presented in Figures 2 and 3.

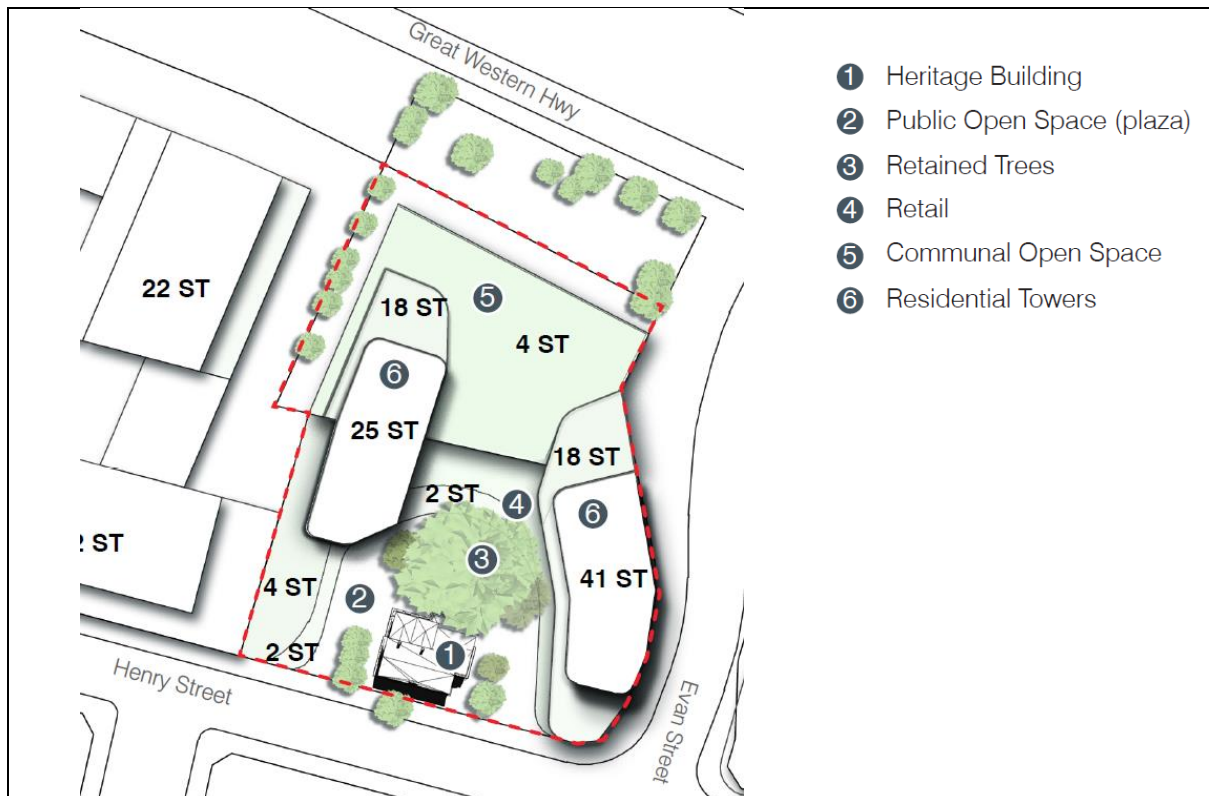


Figure 2 – Concept site plan of the envisaged development

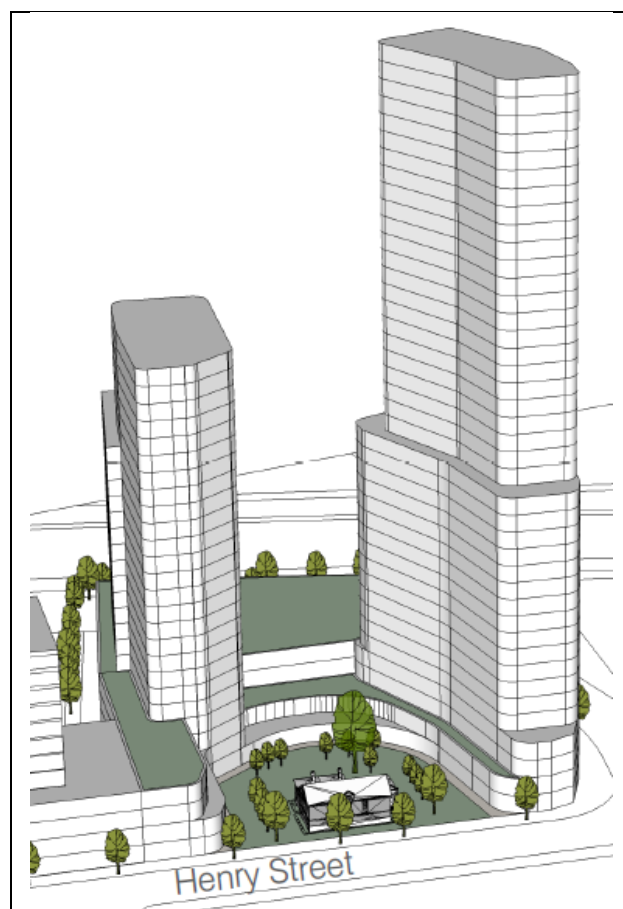


Figure 3 – Concept site plan of the envisaged development

Part 1 – Objectives or Intended Outcomes

The objective of this Planning Proposal is to facilitate, in the short term, the redevelopment of land at 57 Henry Street, Penrith for residential and employment purposes, whilst delivering additional community infrastructure within Penrith City Centre.

Specifically, the objectives for this Planning Proposal are to:

- Respond to current market conditions and feasibility challenges by providing the opportunity to redevelop, activate and revitalise the eastern end of the Penrith City Centre
- Promote development at a density and height that is consistent with the site's role as a Gateway and the development of those adjacent that promote tower forms along a height spine
- Ensure timely redevelopment of the site along with other Key Sites in the City Centre as envisaged by Council's Incentives Clause (clause 8.7 of Penrith LEP 2010)
- Allow for flexibility in the application of built form controls and address impacts upon the heritage building on site at the same time allowing for the adaptive reuse of this heritage item
- Allow the introduction of residential accommodation on the site to respond to market demand at the same time as ensuring adequate commercial land area remains available in the Commercial Core
- Maintain a proportion of commercial/retail development floor area on the land to provide for an increase in employment-related floor area
- Provide for additional Community Infrastructure from any density uplift for the benefit of the broader community

Part 2 – Explanation of Provisions

Existing Penrith LEP 2010 controls

Extracts of the current planning controls applying to the site under Penrith LEP 2010 are presented below.

Zoning

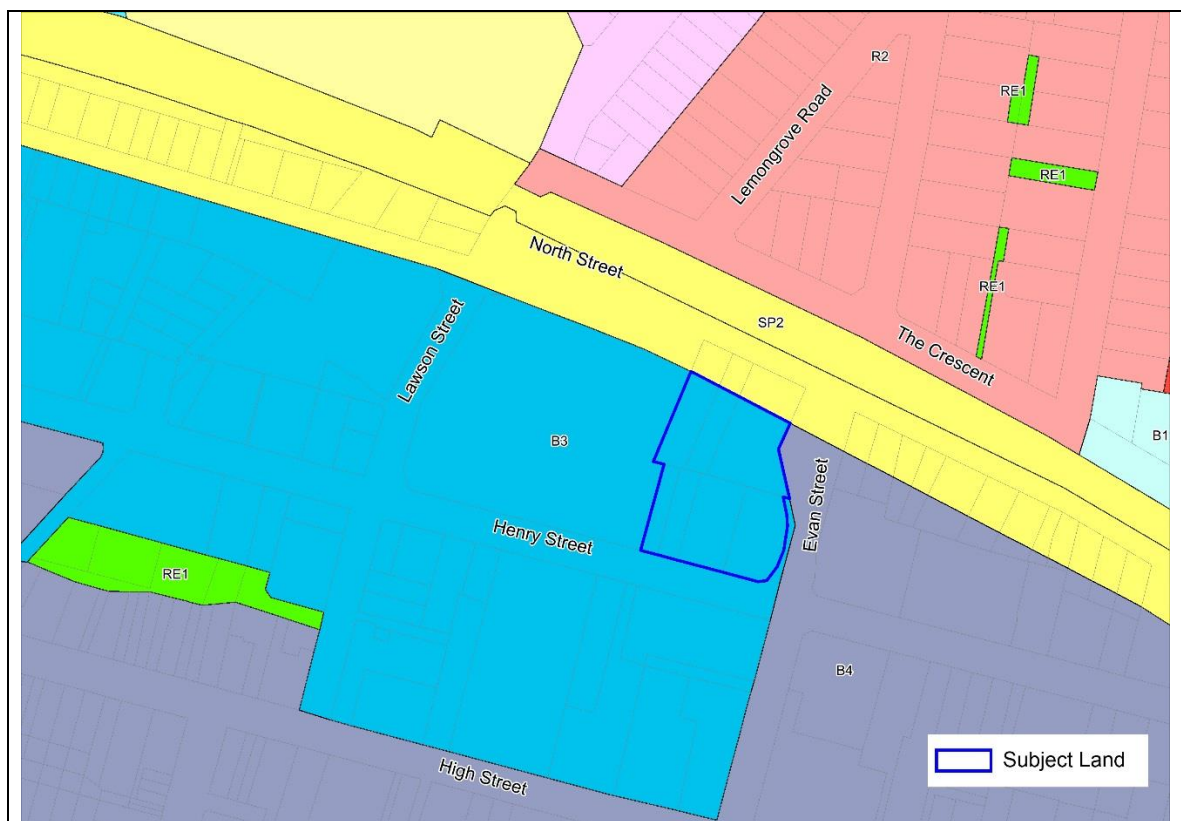


Figure 4 – Land use zoning of subject site

The following is an extract from the LEP 2010 land use table in respect to B3 Commercial Core zones:

Zone B3 Commercial Core

1 Objectives of zone

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To strengthen the role of Penrith City Centre as the business, retail and cultural centre of the region.*

2 Permitted without consent

Nil

3 Permitted with consent

Amusement centres; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Helipads; Hotel or motel accommodation; Information and education facilities; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Sex services premises; Signage; Tank-based aquaculture; Tourist and visitor accommodation; Veterinary hospitals

4 Prohibited

Bed and breakfast accommodation; Farm stay accommodation; Pond-based aquaculture; Any other development not specified in item 2 or 3

Floor Space

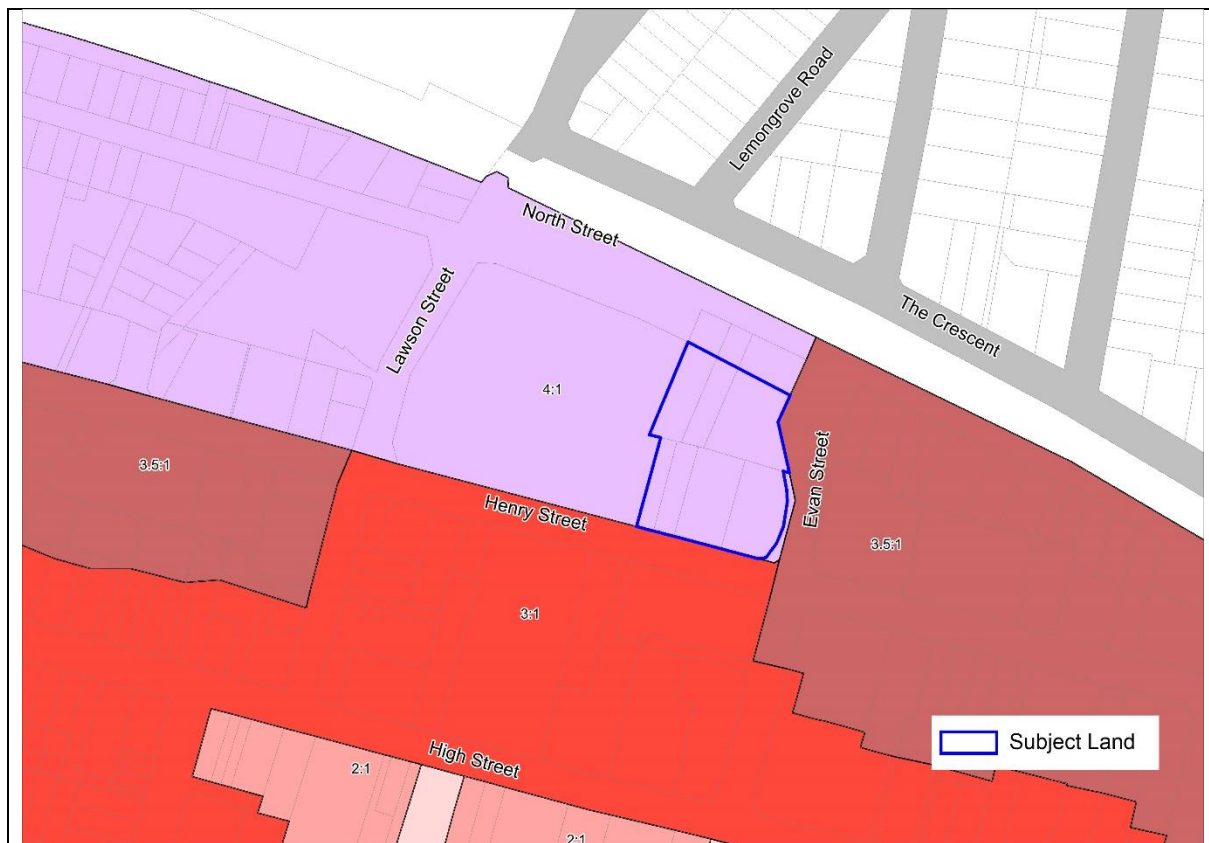


Figure 5 – Floor Space Ratio map of subject site

Building Height

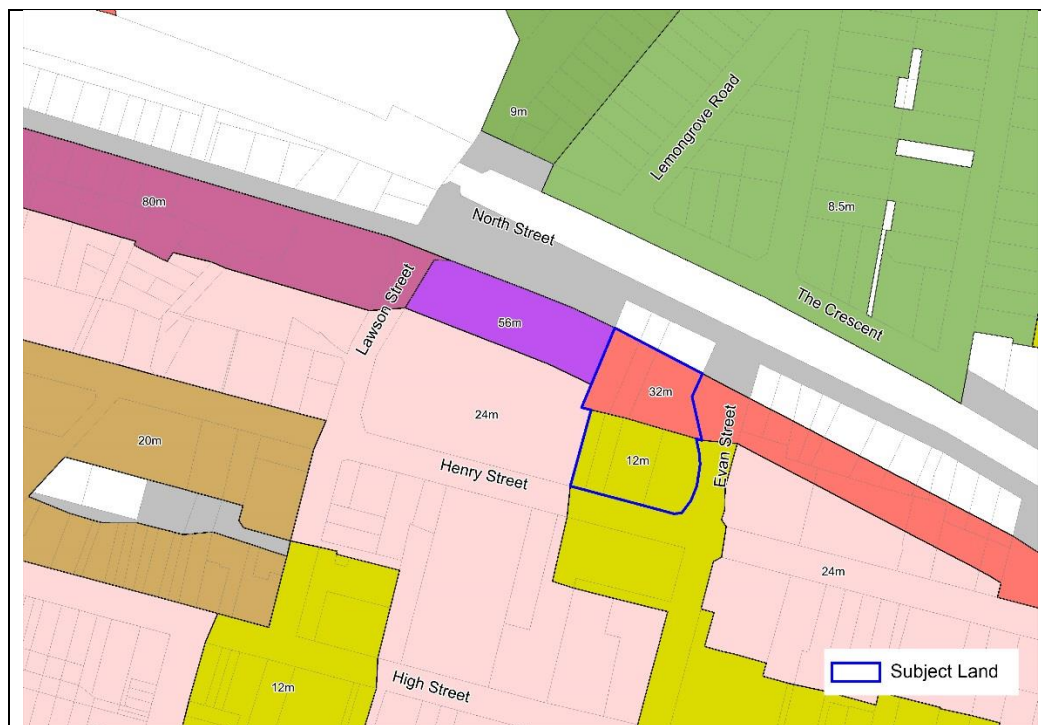


Figure 6 – Height of Buildings map of subject site

Heritage

Part of the subject site contains Local Heritage item no.177, being the Penrith Infants Department (1884 building).

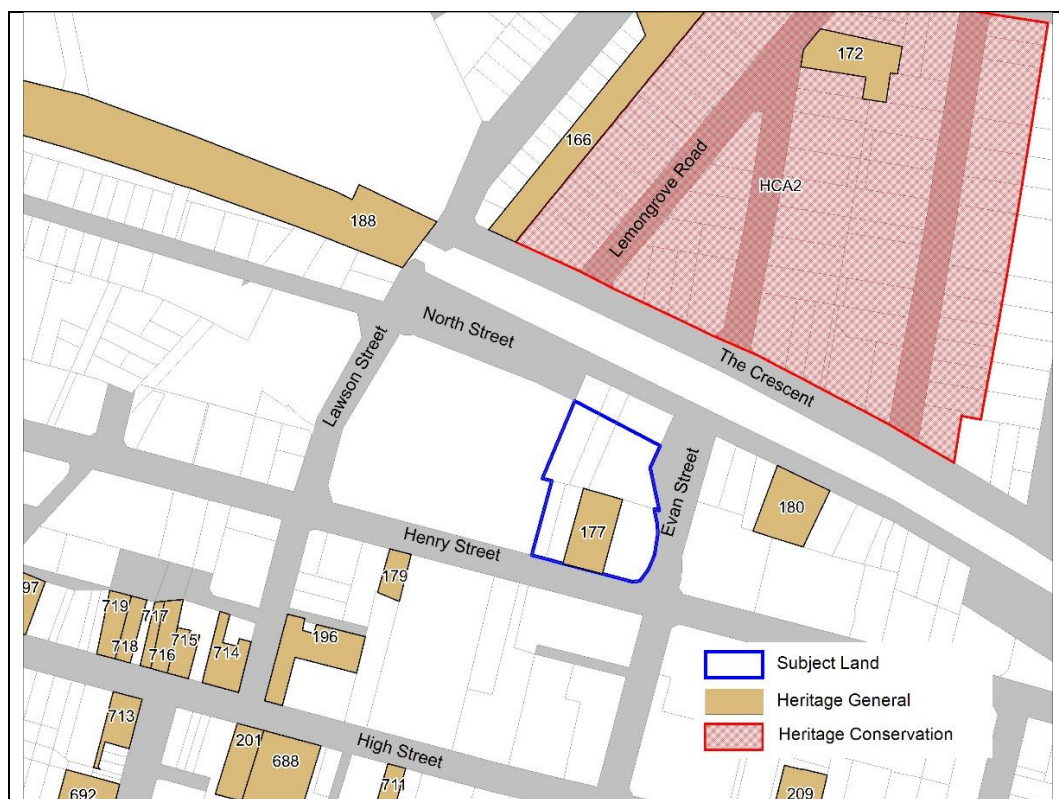


Figure 7 – Heritage map of subject site

Key Sites

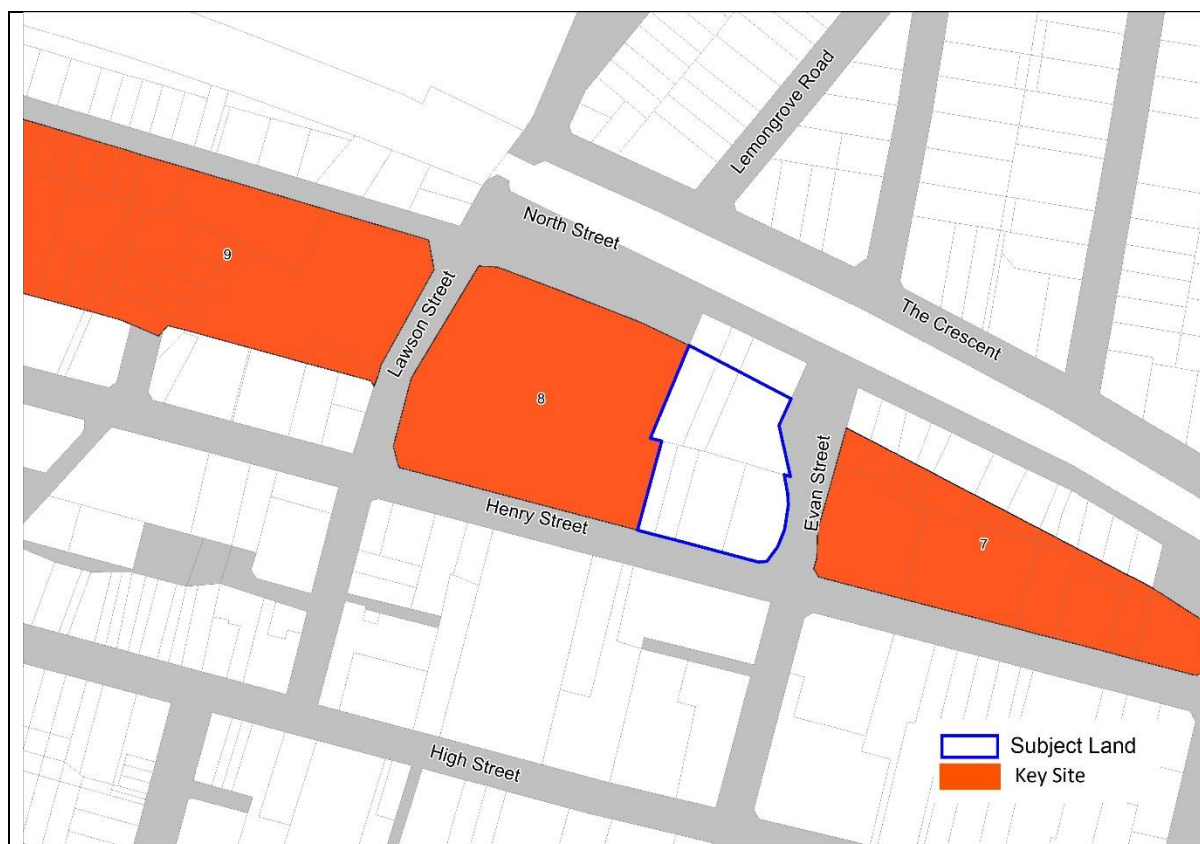


Figure 8 – Key Sites map of subject site

The subject site is not currently a Key Site. Clause 8.7 of LEP 2010 outlines provisions relating to Key Sites. The clause works by supplementing the existing floor space ratio with a bonus residential floor space in return for the delivery of community infrastructure such as recreation facilities, parks, roads and car parks. The control removes the maximum building height applying to the land. The control only applies to Key Sites in the City Centre. The Key Sites have been selected for their size, prominent location, and importance to the redevelopment of the City Centre. An extract of Clause 8.7 is presented below:

8.7 Community infrastructure on certain key sites

- (1) *The objectives of this clause are:*
 - (a) *to allow higher density development on certain land in the City Centre where the development includes community infrastructure, and*
 - (b) *to ensure that the greater densities reflect the desired character of the localities in which they are allowed and minimise adverse impacts on those localities.*
- (2) *This clause applies to land identified as “Key Site 4”, “Key Site 6”, “Key Site 7”, “Key Site 8” or “Key Site 11” on the Key Sites Map.*
- (3) *Despite clauses 4.3, 4.4 and 8.4 (5), the consent authority may consent to development on land to which this clause applies (including the erection of a new building or external alteration to an existing building) that exceeds the maximum height shown for the land on the Height of Buildings Map or the floor space ratio for*

the land shown on the Floor Space Ratio Map, or both, if the proposed development includes community infrastructure.

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

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

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

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

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

Additional Permitted Uses

No additional permitted use provisions currently apply to the subject site.

Proposed Penrith LEP 2010 controls

It is proposed that Penrith LEP 2010 is amended to facilitate the intended development vision for the subject site described earlier in this Planning Proposal. The incentive for redevelopment of the site can be achieved by permitting residential accommodation (currently a prohibited use on the site) and increasing the maximum permissible floor space achievable for new development.

The proposed LEP 2010 amendments are presented below. The amendments nominate the subject site as a Key Site, enabling the development of the site to access bonus floor space in return for provision of community infrastructure.

The amendments allow for additional uses not currently permitted on the site but still ensure provision of employment floor area. A 3 year “sunset clause” would apply, where a development would need to access the additional permitted uses within a 3 year period before those provisions cease to be available.

The amendments respond to issues of feasibility, loss of employment land and deliverability of the development. Note that the site would retain its Key Site status irrespective of the “sunset clause”.

The following amendments are proposed to the Penrith LEP 2010:

1. Amend the Key Sites map to identify 57 Henry Street, Penrith as Key Site 12

Amend the Key Sites map as shown below:

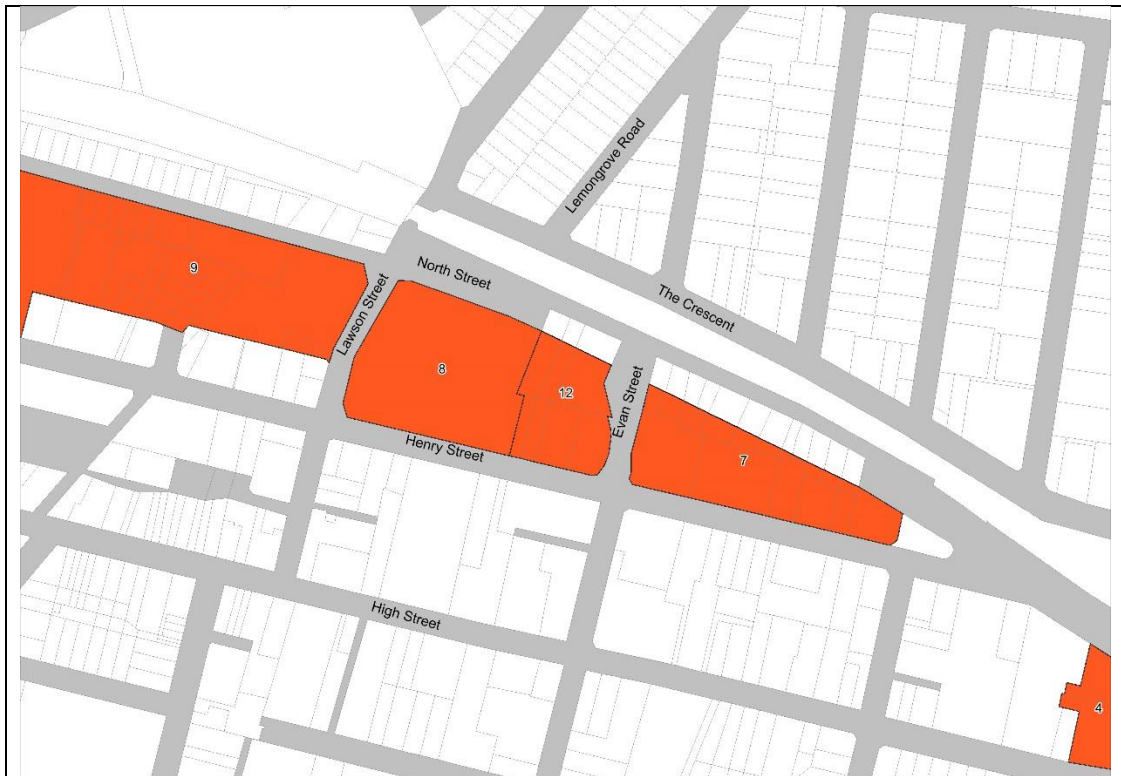


Figure 9 – Proposed Key Sites map of subject site

2. Amend clause 8.7 (4) as follows:

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

- (a) *in relation to development on any land identified as “Key Site 4” on the Key Sites Map—5:1,*
- (b) *in relation to development on any land identified as “Key Site 6” on the Key Sites Map—2.5:1,*
- (c) *in relation to development on any land identified as “Key Site 7” on the Key Sites Map—5:1,*
- (d) *in relation to development on any land identified as “Key Site 8” on the Key Sites Map—5.5:1,*
- (e) *in relation to development on any land identified as “Key Site 11” on the Key Sites Map—5:1,*
- (f) *in relation to development on any land identified as “Key Site 12” on the Key Sites Map—6.5:1.*

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

35 Use of certain land at 57 Henry Street, Penrith

- (1) This clause applies to land at 57 Henry Street, Penrith, being the land identified as “34” on the Additional Permitted Uses Map

(2) Development for the purposes of a residential flat building and shop top housing is permitted with development consent, if the development includes a minimum floor space ratio of 0.75:1 for non-residential uses

(3) This clause ceases to apply on and after three years from the date of gazettal of Amendment No. (TBC) to the Penrith Local Environmental Plan 2010

4. Amend the Additional Permitted Uses map to identify 57 Henry Street, Penrith as containing Additional Permitted Uses.

Amend the Additional Permitted Uses map as show below:

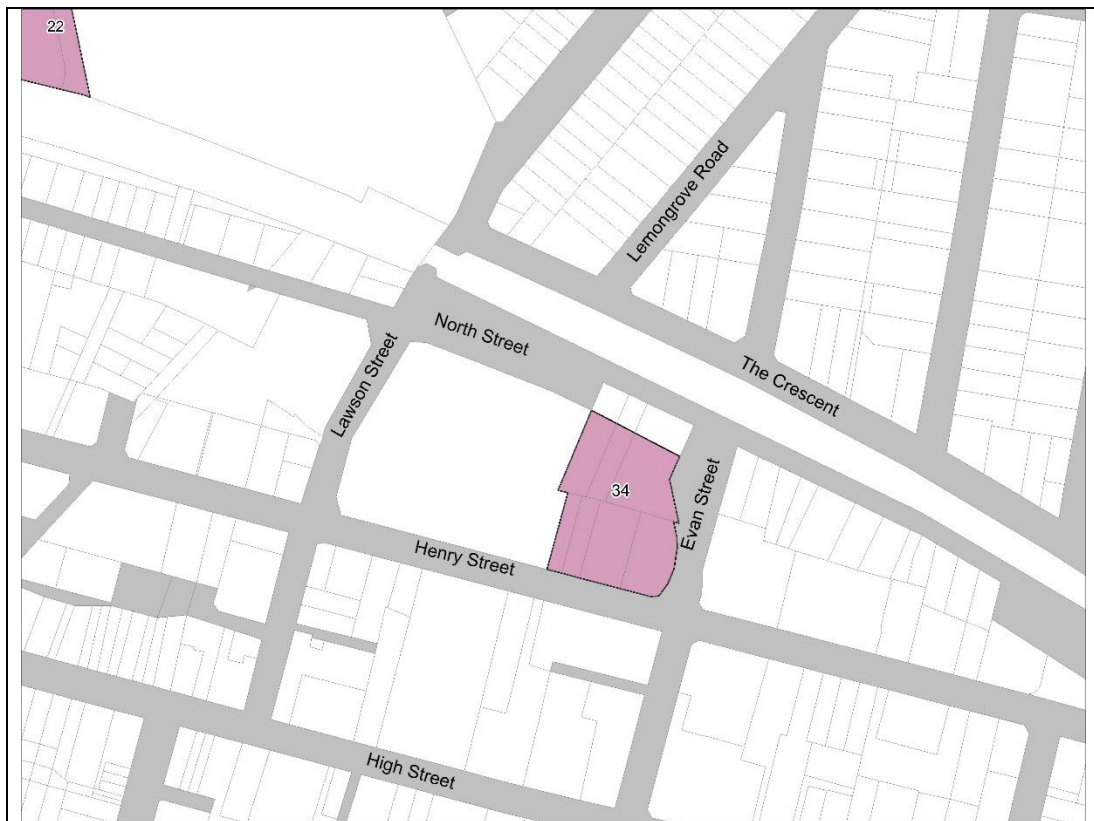


Figure 10 – Additional Permitted Uses map of subject site

Note: In respect to the “sunset clause” proposed under Schedule 1, Clause 35(3), the intention of this provision is that a development application which seeks a development of the subject site by utilising this provision would need to be lodged within 3 years of the date the LEP amendment is made.

Note: The above proposed clauses may be amended following legal drafting.

Part 3 – Justification

This part of the Planning Proposal presents the need for the proposed amendments to Penrith LEP 2010, the relationship with the strategic planning framework, the impacts of the proposed changes, and State and Commonwealth interests.

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any strategic study or report?

The proposal is not directly the result of a strategy or study.

The identification of the subject land as a Key Site is considered appropriate given that it aligns with the height spine along the railway line under the existing incentives clause provisions and other Key Sites, and essentially ‘fills the gap’ between the two existing Key Sites on either side of the site. It is assumed the site was not originally identified as a Key Site due to the site being owned by the NSW Government prior to the current ownership when this analysis was undertaken.

The Planning Proposal is supported by the following technical studies/reports:

- Heritage Impact Statement
- Economic Impact Assessment
- Urban Design Report
- Overshadowing Analysis
- Traffic Assessment Report
- Additional Information/responses to a request for further information

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal to amend the Penrith LEP 2010 is the only way to achieve the objectives and intended outcomes.

Section B – Relationship to Strategic Planning Framework

3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies?)

Greater Sydney Region Plan

The Greater Sydney Region Plan (GSRP) includes a series of ten directions with objectives linked to each direction. An assessment of the Planning Proposal has been provided against the relevant directions and objectives in the table below:

Table 3 – Assessment of the Planning Proposal against the Greater Sydney Region Plan

Directions	Consistency
<i>Housing the City</i>	
Objective 10: Greater Housing Supply	<p>Consistent.</p> <p>The GSRP identifies housing targets for the Western City including a housing supply target of 39,850 dwellings for the period between 2016 to 2021. As the Planning Proposal has the potential to facilitate approximately 550 dwellings and contribute to achieving the housing targets for the Western City.</p> <p>The GSRP outlines that housing is preferred in locations well supported by existing or planned services and amenity with an emphasis on public transport access. The Planning Proposal is located within the Penrith City Centre which is identified as part of the Metropolitan City Cluster. Penrith City Centre has access to a range of public transport options, jobs and services. The proposed development contributes to the provision of more transit-oriented development within the Western City.</p>
Objective 11: Housing is more diverse and affordable	<p>Consistent.</p> <p>The GSRP outlines the importance of providing diversity of housing types, sizes and price points to help improve affordability. The Planning Proposal has the ability to facilitate approximately 550 dwellings of different sizes and numbers of bedrooms within the Penrith City Centre which will contribute to the provision of greater housing diversity within the Penrith Local Government Area.</p> <p>As the Planning Proposal is not seeking to rezone the land, the Affordable Rental Housing Target is not applicable.</p>
<i>A city of great places</i>	
Objective 12: Great places that bring people together	<p>Consistent.</p> <p>The GSRP refers to place making principles and outcomes that enhance opportunities for more walkable, fine-grain neighbourhoods with public benefits. The Planning Proposal will facilitate the redevelopment of a site to provide better through-site links and improve amenity at the eastern end of the Penrith City Centre.</p> <p>As the Planning Proposal seeks to utilise Council's incentives clause, additional Community Infrastructure must be provided should these incentives be taken up.</p>
Objective 13: Environmental heritage is identified, conserved and enhanced	<p>Consistent.</p> <p>The GSRP outlines that sympathetic built form controls and adaptive reuse of heritage are important ways to manage the conservation of heritage significance, and that improved</p>

	<p>public access and connection to heritage through innovative interpretation is also required.</p> <p>The subject site includes a heritage item being previous the Penrith Infants Department. The Planning Proposal will provide an opportunity to revitalise the site and also facilitate the enhancement and management of the heritage item as well as potentially increase public access.</p>
<i>A well connected city</i>	
Objective 14: A Metropolis of three cities – integrated land use and transport creates walkable and 30-minute cities	<p>Consistent.</p> <p>A key principle of the GSRP is delivering on the vision for a 30-minute city where the community has access to jobs, homes and services within 30-minutes access to a metropolitan centre or cluster.</p> <p>The Planning Proposal has the potential to facilitate a minimum of 5,500 sqm of employment floor area and approximately 550 dwellings, within the Penrith City Centre which is part of the Metropolitan City Cluster. This will provide additional opportunities for residents to live close to jobs and other services.</p>
<i>Jobs and skills for the city</i>	
Objective 22: Investment and business activity in centres	<p>Consistent.</p> <p>The GSRP outlines that higher concentration of jobs and services should be provided within Metropolitan centres. Penrith City Centre is part of the Metropolitan City Cluster, which is considered a Metropolitan centre.</p> <p>It is important that in facilitating residential development on the subject site, that the provision of some employment-related floor area is provided in order to ensure that the Penrith City Centre commercial core is maintained and more strongly defined at its edge to transition to the adjacent mixed use zone. In response to this issue, it is proposed that a new provision be inserted into the Penrith LEP 2010 that requires a minimum floor area of non-residential floor space ratio where residential development is permitted. The proposal to include a minimum floor area of 0.75:1 for non-residential floor space will contribute a minimum of 5,500 sqm of higher quality employment floor area to the Penrith City Centre.</p>

Western City District Plan

The Western City District Plan (WCDP) identifies priorities and actions to realise the vision for the Western City District in line with the vision of the Greater Sydney Region Plan. The WCDP includes a number of Planning Priorities and an assessment of the Planning Proposal has been provided against the relevant directions below:

Table 4 – Assessment of the Planning Proposal against the Western City District Plan

Directions	Consistency
<i>Housing the city</i>	
Planning Priority W5: Providing housing supply, choice and affordability with access to jobs, services and public transport	<p>Consistent.</p> <p>The WCDP identifies a housing target for Penrith Local Government Area of 6,600 dwellings between the period of 2016-2021. The WCDP also identifies that opportunities for the provision of housing should be in urban renewal areas including areas with accessibility to jobs and regional transport.</p> <p>The Planning Proposal can facilitate approximately 550 dwellings within the Penrith City Centre which has access to jobs, good public transport links and services.</p>
<i>A city of great places</i>	
Planning Priority W6: Creating and renewing great places and local centres, and respecting the District's heritage	<p>The WCDP outlines a preference for place-based planning with high quality, community-specific and place-based outcomes.</p> <p>The Planning Proposal will facilitate the renewal of the site which is currently vacant and improve the amenity, connectivity and accessibility of the site for residents and the public. By facilitating an increase in people living within the Penrith City Centre, this will help activate the city at night and improve the night-time economy.</p>
<i>Jobs and skills for the city</i>	
Planning Priority W9: Growing and strengthening the metropolitan cluster	<p>Consistent.</p> <p>The WCDP outlines a series of actions for each of the cities that form the Metropolitan City Cluster including Greater Penrith (which includes the Penrith City Centre). Relevant actions for Greater Penrith that apply to this Planning Proposal includes:</p> <ul style="list-style-type: none"> • Support the transformation of the City Centre to grow to its ultimate potential • Facilitate the attraction of a range of uses that contribute to an active and vibrant City Centre • Activate primary and secondary streets and deliver contemporary urban public spaces • Promote urban living by improving amenity within the City Centre and activating public spaces • Support and demonstrate innovation <p>The Planning Proposal responds to these actions by:</p> <ul style="list-style-type: none"> • Responding to current market conditions and feasibility challenges by providing the opportunity to redevelop, activate and revitalise the eastern end of the Penrith City Centre • Allowing the introduction of residential accommodation on the site to respond to market

	<p>demand at the same time as ensuring adequate commercial land area remains available in the Commercial Core</p> <ul style="list-style-type: none"> • Demonstrating innovation by capturing additional Community Infrastructure from any density uplift through categorisation of the site as a Key Site
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4. Is the Planning Proposal consistent with Council's local strategy or other local strategic plan?

Penrith Community Plan

The Penrith Community Plan was adopted by Council on 26 June 2017 and represents the community's vision for the Penrith Local Government Area over the next 20 years.

The Plan outlines the priorities for the community and includes the following outcomes:

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

Table 5 – Assessment of Planning Proposal against the relevant local strategic plan

Outcomes	Consistency
Outcome 1: We can work close to home	
Strategy 1.1: Attract investment to grow the economy and increase the range of businesses operating in the region	<p>Consistent.</p> <p>The Planning Proposal will facilitate the redevelopment of a key gateway site within the Penrith City Centre delivering high quality floor area for employment-related uses. The availability of new employment floor area can act as a catalyst for new businesses to invest within the Penrith City Centre, growing the number of local jobs.</p>
Outcome 2: We plan for future growth	
Strategy 2.1: Facilitate development in the City that considers the current and future needs of our community	<p>Consistent.</p> <p>The Planning Proposal will facilitate the redevelopment of a site currently vacant within the Penrith City Centre.</p> <p>The Planning Proposal can also facilitate the provision of approximately 550 dwellings, providing greater diversity of housing stock and new housing and lifestyle options for the community.</p>

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

State Environmental Planning Policies

The NSW Government publishes State Environmental Planning Policies (SEPPs) and Sydney Regional Environmental Plans (SREPs or deemed SEPPs). These documents deal with matters of State or regional planning significance. The Planning Proposal is consistent with applicable State Environmental Planning Policies (SEPPs), as demonstrated below.

Table 6 – Assessment of the Planning Proposal against relevant State Environmental Planning Policies

SEPP	Applicable	Consistent
SEPP No 1—Development standards	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP No 19—Bushland in Urban Areas	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP No 21—Caravan Parks	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP No 30—Intensive Agriculture	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP No 33—Hazardous and Offensive Development	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP No 36—Manufactured Home Estates	No	N/A
SEPP No 44—Koala Habitat Protection	No	N/A
SEPP No 47—Moore Park Showground	No	N/A
SEPP No 50—Canal Estate Development	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	N/A
SEPP No 55—Remediation of Land	Yes	Consistent. A preliminary site investigation was undertaken and concludes that contaminants are

SEPP	Applicable	Consistent
		unlikely to be presents at the site at concentrations which would cause the site to be unsuitable for the proposed development. There is no evidence which suggests the site has been used for anything other than a school and other education-related buildings and activities since 1865.
SEPP No 62—Sustainable Aquaculture	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP No 64—Advertising and Signage	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP No 65—Design Quality of Residential Flat Development	Yes	Consistent. The Planning Proposal does not affect application of the SEPP. The proposed development will need to demonstrate consistency with this SEPP when a Development Application is lodged.
SEPP No 70—Affordable Housing (Revised Schemes)	No	N/A
SEPP No 71—Coastal Protection	No	N/A
SEPP (Affordable Rental Housing) 2009	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP (Coastal Management) 2018	No	N/A
SEPP (Educational Establishments and Child Care Facilities) 2017	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP (Infrastructure) 2007	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.

SEPP	Applicable	Consistent
SEPP (Integration and Repeals) 2016	No	N/A
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	No	N/A
SEPP (Kurnell Peninsula) 1989	No	N/A
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	No	N/A
SEPP (Rural Lands) 2008	No	N/A
SEPP (State and Regional Development) 2011	Yes	Consistent. The Planning Proposal does not affect application of the SEPP.
SEPP (State Significant Precincts) 2005	Yes	Consistent. The Planning Proposal does not affect application of the SEPP. The subject site is not identified as a State Significant Precinct.
SEPP (Sydney Drinking Water Catchment) 2011	No	N/A
SEPP (Sydney Region Growth Centres) 2006	No	N/A
SEPP (Three Ports) 2013	No	N/A
SEPP (Urban Renewal) 2010	No	N/A

SEPP	Applicable	Consistent
SEPP (Vegetation in Non-Rural Areas) 2017	Yes	Consistent. The Planning Proposal does not affect application of the SEPP. The proposed development will need to demonstrate consistency with this SEPP when a Development Application is lodged.
SEPP (Western Sydney Employment Area) 2009	No	N/A
SEPP (Western Sydney Parklands) 2009	No	N/A

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s9.1 directions)?

Section 9.1 Local Planning Directions

The Minister for Planning and Environment issues Local Planning Directions that Councils must follow when preparing a Planning Proposal. The Directions cover the following broad categories:

- employment and resources;
- environment and heritage;
- housing, infrastructure, and urban development; and
- hazard and risk.

An assessment of the Planning Proposal against the Local Planning Directions is provided below.

Table 7 – Assessment of the Planning Proposal against Local Planning Directions

Section 9.1 Direction	Comment
1. Employment and Resources	
1.1 Business and Industrial Zones This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	<p>The Planning Proposal seeks to facilitate the permissibility of residential development on the subject land as an Additional Permitted Use, which will not result in a reduction of land zoned B3 Commercial Core within the Penrith City Centre. This approach is preferred over rezoning the land to B4 Mixed Use, as Council is looking to provide an incentive in the short term to develop the land to activate the City Centre and in particular the eastern end of the City Centre and on a site which is currently vacant.</p> <p>The Planning Proposal is a response to current feasibility analysis that identifies that commercial development is not currently feasible within the Penrith City Centre, under the current market conditions. It has been identified that a 'catalyst' development could shift this situation. With this in mind, it is considered that by permitting residential development on the subject site, the site's redevelopment would deliver some much needed and desirable high-quality commercial/retail floor space, with a mandated minimum non-residential FSR for the site.</p> <p>This approach is considered an innovative response to challenging market conditions but is also supported for this site specifically for the following reasons:</p> <ul style="list-style-type: none"> ○ The site is located approximately 800m away from the train station and on the edge of the B3 Commercial Core zone

Section 9.1 Direction	Comment
	<ul style="list-style-type: none"> ○ The proposal has the potential to activate the eastern part of Penrith City Centre ○ The redevelopment of the site will bring better urban design outcomes than what is currently on the site, as the site has been vandalised and currently vacant ○ The sites' location, under single ownership and large site area, can facilitate taller buildings and greater densities ○ The proponents are seeking to utilise the incentives clause, therefore a significant Community Infrastructure offer will be provided. Only Key Sites can access this provision. <p>It is generally not recommended to support residential uses elsewhere within the B3 Commercial Core zone as this would discourage the consolidation of the Commercial Core zone.</p> <p>It is considered that this approach is a flexible and innovative response to 'incentivise' the delivery of the proposed development in the short term and therefore the permissibility of residential development should be facilitated but restricted on its permissibility to within a specified timeframe. For this reason it is proposed that the permissibility of residential be permitted but only for a period of up to three years from the date of the LEP amendments gazettal. This will act as an incentive in the short term and a minimum quantity of floor area for employment-related uses. If a development which includes a residential component is not progressed within the three year period, the market conditions and feasibility may be more favourable to facilitate the deliverability of a commercial building therefore it is important to preserve this site for future commercial uses should the proposal not be developed in the short term.</p> <p>The Planning Proposal justifies the proposed introduction of residential land uses for the subject land as being necessary to facilitate the provision of any floor area for employment uses on the site, therefore it is considered that the inconsistency with this Direction is of minor significance.</p>
1.2 Rural Zones	N/A

Section 9.1 Direction	Comment
This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).	
1.3 Mining, Petroleum Production and Extractive Industries This direction applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	N/A
1.4 Oyster Aquaculture This direction applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in: (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”; or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.	N/A
1.5 Rural Lands This direction applies when: (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.	N/A
2. Environment and Heritage	
2.1 Environment Protection Zones This direction applies when a relevant planning authority prepares a planning proposal.	The Planning Proposal is consistent with this Direction as the proposal will not alter existing provisions relating to environmentally sensitive lands or environmental protection zones.

Section 9.1 Direction	Comment
2.2 Coastal Protection This direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.	N/A
2.3 Heritage Conservation This direction applies when a relevant planning authority prepares a planning proposal. The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The Planning Proposal is consistent with this Direction as the Planning Proposal does not seek to amend any existing provisions relating to the heritage status of the subject site or heritage item.
2.4 Recreation Vehicle Areas This direction applies when a relevant planning authority prepares a planning proposal.	The Planning Proposal is consistent with this Direction as it does not include any provisions relating to a recreation vehicle area.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs This direction applies to the local government areas of Ballina, Byron, Kyogle, Lismore and Tweed.	N/A
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted.	The Planning Proposal is consistent with this Direction as the Planning Proposal will facilitate the development of approximately 550 dwellings within the Penrith City Centre with good access to public transport, services and other amenity. As the Penrith City Centre is well serviced by utilities and infrastructure, the Planning Proposal is not anticipated to require any specific provisions or requirements relating to the servicing of the land.
3.2 Caravan Parks and Manufactured Home Estates This direction applies when a relevant planning authority prepares a planning proposal.	The Planning Proposal is consistent with this Direction as the Planning Proposal does not affect any provisions for caravan parks or manufactured home estates.
3.3 Home Occupations This direction applies when a relevant planning authority prepares a planning proposal.	The Planning Proposal is consistent with this Direction as the Planning Proposal does not affect any existing provisions regarding the permissibility of home occupations.
3.4 Integrating Land Use and Transport This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove	The Planning Proposal is consistent with this Direction as the Planning Proposal seeks to encourage development in the City Centre, providing for jobs, services, better amenity and

Section 9.1 Direction	Comment
a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	housing within Penrith City Centre, which is well accessible by public transport.
3.5 Development Near Licensed Aerodromes This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	N/A
3.6 Shooting Ranges This direction applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.	N/A
4. Hazard and Risk	
4.1 Acid Sulfate Soils This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	N/A. The Planning Proposal does not include land that is identified as having a probability of containing acid sulfate soils.
4.2 Mine Subsidence and Unstable Land This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	N/A
4.3 Flood Prone Land This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	The Penrith City Centre is broadly affected by overland flooding including the subject site. It is considered that the flooding issues can be adequately addressed during development assessment stage as demonstrated within the Flooding and Overland Flow Report (Appendix 7). For these reasons, the Planning Proposal is consistent with this direction.
4.4 Planning for Bushfire Protection This direction applies when a relevant planning authority prepares a planning	N/A. The Planning Proposal does not include land that is identified as Bush Fire Prone.

Section 9.1 Direction	Comment
proposal that will affect, or is in proximity to land mapped as bushfire prone land.	
5. Regional Planning	
5.2 Sydney Drinking Water Catchments This Direction applies when a relevant planning authority prepares a planning proposal that applies to land within the Sydney drinking water catchment.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.8 Second Sydney Airport: Badgerys Creek Planning proposals must not contain provisions that enable the carrying out of development, either with or without development consent, which at the date of this direction, could hinder the potential for development of a Second Sydney Airport.	N/A
5.9 North West Rail Link Corridor Strategy	N/A
5.10 Implementation of Regional Plans This direction applies when a relevant planning authority prepares a planning proposal.	The Planning Proposal is consistent with this Direction and the Greater Sydney Region Plan as demonstrated in section B3 of this report.

Section C – Environmental, Social and Economic Impacts

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The Planning Proposal affects land within a highly urbanised City Centre location and it is not expected that there are any critical habitats or threatened species that will be affected by the Planning Proposal.

8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Proposed height and FSR

In line with the LEP incentives clause provisions under clause 8.7 of the Penrith LEP 2010, the proposal seeks a bonus FSR of 6.5:1. Consistent with the application of clause 8.7, FSR is proposed to be the principal development standard governed by this clause, with no

maximum building height applicable. This approach promotes a flexible and innovative urban design response and encourages the demonstration of design excellence on the Key Sites.

This Planning Proposal provides for a slightly higher bonus FSR than other Key Sites on either side of the subject land as the site is considered a 'gateway' location at the eastern portion of the City Centre and provides an opportunity for a landmark development along a key intersection.

Consistent with the other Key Sites, if no community infrastructure offer is provided, the existing height and FSR controls remain.

Heritage

The subject land has a heritage item listing being the Penrith Infants Department. The significance of the heritage item relates to the school being representative of a model suburban school building of its era and demonstrates the consolidation of public education within the Local Government Area following the Public Instruction Act of 1880.

The Planning Proposal was referred to Council's Heritage Advisor and Urban Design Review Panel with concerns raised regarding the limited curtilage around the heritage item and impact of the podium levels. In response to the issues raised, the revised Urban Design Analysis Report (prepared by Dickson Rothschild in Appendix 3) and the Heritage Impact Statement (prepared by Weir Phillips Heritage in Appendix 6) identifies that these issues can be mitigated for by lowering the podium height and by substantially enlarging and enhancing the curtilage of the heritage item.

Council will require a Conservation Management Plan to be submitted with a future Development Application, outlining the proposed uses and management of the heritage item and integration with the overall development of the site.

Traffic and access

A Traffic and Parking Assessment has been prepared (Appendix 2) which outlines the anticipated traffic generation of the proposal together with an analysis of parking and access for the development.

Modelling has not been undertaken for the traffic generation of the proposed development in the context of the existing road network, and the existing network capacity and operation of the Evan Street/Henry Street signalled intersection. It is proposed that traffic modelling for the development will be undertaken at Development Application stage, when Council's own traffic study will be available to provide a more accurate reflection of the traffic activity in Penrith City Centre at the completion of the development. As Council's traffic study is expected to be finalised by the end of 2018, these timeframes are likely to align.

Council will be guided by the NSW Department of Planning and Environment and Roads and Maritime Services as part of the Gateway process to determine whether further traffic modelling should be carried out prior to the finalisation of the Planning Proposal, or deferred to when a Development Application is submitted and Council's traffic modelling is finalised.

Flooding

The subject land is identified as being affected by local overland flooding. A Flooding and Overland Flow Report generally addresses Council's requirements in addressing overland flow (Appendix 7).

There are a number of matters that the proponents will be required to address as part of any future development application with regard to local overland flooding.

Overshadowing

An Overshadowing Analysis is provided at Appendix 9. In accordance with the requirements of condition 1(d) of the Gateway Determination, the analysis demonstrates the overshadowing of the proposed open space and existing heritage item on the subject site from 9am to 3pm in the future built context of the site and its adjoining developments. It is acknowledged that the Gateway Determination sets a goal for the open space and heritage item to receive 2 hours of sunlight between 12 noon and 2pm at winter solstice.

The Overshadowing Analysis has considered 3 possible development scenarios, being the built form outcome achievable under the existing LEP 2010 controls, that achievable under the current Planning Proposal, and that achievable under an alternate Planning Proposal which responds to the Gateway's solar access requirement.

Although the building density and heights are lower under the existing LEP controls comparable to the planning proposal schemes, the existing planning controls give rise to a very similar solar access outcome for the heritage item and surrounding open space compared to the planning proposal schemes.

The current planning proposal scheme provides the greatest number of hours of sunlight to the heritage item and the surrounding open space although in the morning hours. It achieves 3 hours of solar access without having to rely on restrictions to where towers can be placed on neighbouring Key Site 8.

The alternative planning proposal concept achieves sunlight to the heritage item from 12 p.m. to 1 p.m. but the overall number of hours of solar access is reduced in comparison to the current planning proposal scheme from 3 hours to 2 hours.

The length of the tower is significantly longer for the alternative planning proposal scheme and does not achieve the desirable central low backdrop to the heritage item as successfully as the current planning proposal concept. Careful architectural resolution of the single tower massing would be needed to ensure a high quality built form outcome.

Restrictions on where built form can occur on neighbouring Key Site 8 would need to be implemented to facilitate solar access to the heritage item and surrounding open space from 1 p.m. to 2 p.m. for any scheme on the subject site due to the existing subdivision orientation in relation to true north.

The benefit of the current planning proposal scheme is that ample solar access is achieved without restrictions to built form on Key Site 8.

In this respect, the amendments to LEP 2010 sought by this current Planning Proposal are considered appropriate.

9. Has the Planning Proposal adequately addressed any social and economic effects?

As demonstrated in this Planning Proposal, there is considerable public benefit in creating urban renewal opportunities within the Penrith City Centre. The vision for the site is to create a vibrant mixed use area that contributes to the overall liveability and productivity of Penrith City Centre. The introduction of a more diverse range of land uses, including residential accommodation, will support the City's existing functions.

An Economic Impact Assessment supporting the Planning Proposal has been undertaken by Hill PDA (Appendix 5).

The introduction of a greater mix of uses together with the adaptive reuse of the existing heritage building on site will promote the active use and vibrancy of the site and at the eastern end of the City Centre. The activation of the site will also create alternative housing options in close proximity to existing services, jobs and transport, as well as provide for employment-related floor area to generate more local jobs.

The provision of residential land uses at this eastern end of the City Centre is intended to provide social and economic benefits through the delivery of housing in a location close to public transport, community facilities and jobs. Further, the introduction of a residential population will assist in activating the eastern end of the Penrith City Centre, including contributing to a more vibrant night-time economy, contributing to the economic growth of existing commercial premises within the City Centre.

It is considered that the Planning Proposal will have positive social and economic benefits for the Penrith City Centre, in that it will establish a planning framework for the revitalisation of a key gateway site.

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the Planning Proposal?

The Penrith City Centre is well serviced by utility infrastructure and is supported by a range of public transport options including rail and regular bus services.

11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation will be carried out with the relevant public authorities consistent with the Gateway determination.

Part 4 – Mapping

The following map tiles are proposed to be amended as part of the Planning Proposal.

Table 8 – Mapping amendments

Map	Tile Number
Additional Permitted Uses	APU_013
Key Sites	KYS_013

The proposed LEP 2010 map tiles are provided at Appendix 1.

Part 5 – Community Consultation

The Gateway Determination outlines the community consultation to be undertaken.

The planning proposal will be publicly exhibited at the Penrith Council Civic Centre, Penrith Library, Council's St Marys Office and St Marys Library. All exhibition material will be available on Council's website.

Notice of the public exhibition will be given in the local newspaper and on Council's website. Notice of the public exhibition will also be provided by a letter to the land owners and occupiers of adjoining and affected properties.

Part 6 - Project Timeline

Table 9 – Project Timeline

Milestone	Timeframe
Gateway Determination	October 2018
Completion of required technical information	April 2019
Public exhibition and agency consultation	May and June 2019
Consideration of submissions	July and August 2019
Submission to the Department to finalise LEP	September/October 2019
Making of the LEP amendment	December 2019

Appendices

- Appendix 1: Draft Penrith LEP 2010 maps
- Appendix 2: Traffic and Parking Assessment
- Appendix 3: Urban Design Report
- Appendix 4: Preliminary Site Investigation – Contamination
- Appendix 5: Economic Impact Assessment
- Appendix 6: Heritage Impact Statement
- Appendix 7: Flooding and Overland Flow Report
- Appendix 8: Council Report and Minutes
- Appendix 9: Overshadowing Analysis
- Appendix 10: Community Infrastructure Policy
- Appendix 11: Gateway Determination