

## **APPENDIX 10**

### **Community Infrastructure Policy**

**POLICY NAME**

Community Infrastructure Policy

**DATE ADOPTED**

30 April 2018

**ECM NUMBER**

-

**REVIEW DATE**

November 2022

**RELATED DOCUMENTS**

-Penrith Local Environmental Plan 2010

**POLICY NUMBER**

CEP 001

**COUNCIL MINUTE NUMBER**

67

**POLICY TYPE**

Council

**RESPONSIBLE DEPARTMENT**

City Economy And Planning

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**Purpose**

The purpose of this Policy is to provide guidance to the community, proponents and Council regarding an offer of Community Infrastructure as part of certain development within the Penrith City Centre.

**Policy Statement**

Council has introduced an incentives clause provision within Penrith Local Environmental Plan (LEP) 2010. The incentives clause applies to land identified as a Key Site in the LEP and enables development in excess of the prescribed building height and floor space controls. The intention of this policy is to allow access to additional Floor Space Ratio (FSR) in exchange for the provision of 'Community Infrastructure'.

In developing the incentives clause and this Policy, Council has undertaken a series of studies including urban design analysis and economic feasibility assessment. It is important to Council that this incentives scheme is not at the expense of good public amenity and high quality design. Equally, Council does not want the Community Infrastructure contribution to make development projects unviable. As a result, this Policy establishes a Community Infrastructure Contribution Rate that seeks a reasonable share of the increase in the residual land value arising from the additional floor area only.

**Scope**

This policy applies to development where clause 8.7 *Community Infrastructure on certain key sites* of Penrith Local Environmental Plan 2010 applies

# Community Infrastructure Policy

(Amendment No.1)

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## **i. AMENDMENTS TO THIS POLICY**

Amendment No.	Date made	Purpose of amendment
1	30 April 2018	To update the Policy to be consistent with the wording of clause 8.7 of Penrith LEP 2010

# 1. INTRODUCTION TO THIS POLICY

## 1.1 PURPOSE

Council has introduced an incentives clause provision within Penrith Local Environmental Plan (LEP) 2010. The incentives clause applies to land identified as a Key Site in the LEP and enables development in excess of the prescribed building height and floor space controls.

The intention of this policy is to allow access to additional Floor Space Ratio (FSR) in exchange for the provision of 'Community Infrastructure'.

Council's *Penrith Progression: A Plan for Action* identifies the need for additional housing and employment within the City Centre. The incentives clause provides a mechanism for developers to be able to obtain additional development on their site, but in a manner that supports the services and amenity our community expects of the City Centre. The policy provides a means of valuing the additional floor area and requiring a contribution toward City Centre improvements, ensuring that the benefits of additional development are shared with the broader community. This will assist in offsetting impacts that arise from additional population and demand on city services and facilities.

The proposed incentives clause applies to some Key Sites as identified within the Penrith LEP 2010. It will enable development within the relevant Key Sites to depart from the prescribed building height and FSR controls where it is justified, is well designed and where agreed Community Infrastructure will be provided.

In developing the incentives clause and this Policy, Council has undertaken a series of studies including urban design analysis and economic feasibility assessment. It is important to Council that this incentives scheme is not at the expense of good public amenity and high quality design. Equally, Council does not want the Community Infrastructure contribution to make development projects unviable. As a result, this Policy establishes a Community Infrastructure Contribution Rate that seeks a reasonable share of the increase in the residual land value arising from the additional floor area only.

It is intended that Community Infrastructure will be in the form of a land dedication (or provision of part of building such as for a community use), carrying out works or the payment of a monetary amount which Council would apply to the funding of City Centre improvement works. In order to access the additional floor area and make arrangements for the provision of Community Infrastructure, a developer will be required to enter into a Planning Agreement, which is the legal mechanism under the *Environmental Planning and Assessment Act* that enables this arrangement.

The purpose of this Policy is to provide guidance to the community, proponents and Council regarding an offer of Community Infrastructure as part of certain development within the Penrith City Centre.

This document outlines:

- a. An Introduction to this Policy
- b. Principles of Community Infrastructure
- c. The Assessment of a Community Infrastructure offer; and
- d. Implementation

A list of common terms and definitions used throughout this Policy is provided in Appendix 1.

## **1.2 APPLICATION OF THIS POLICY**

This Policy applies to development that meets the requirements of clause 8.7 of the Penrith LEP 2010.

## **1.3 AIMS OF THIS POLICY**

The aims of this Policy are to:

- Outline the background to the Policy;
- Provide an evidence-based framework justifying the Policy and its application;
- Identify the Community Infrastructure contribution rate;
- Identify how to calculate the value of a Community Infrastructure contribution;
- Identify Council's preferred Community Infrastructure;
- Outline the development assessment framework and processes regarding a Community Infrastructure contribution;
- Provide guidance on how and when Council will deliver Community Infrastructure; and
- Outline the frequency of the review of this Policy.

## **1.4 RELATIONSHIP WITH THE NSW PLANNING FRAMEWORK**

If there are any inconsistencies with this Policy and a relevant environmental planning instrument, the relevant environmental planning instrument prevails.

### **PENRITH LOCAL ENVIRONMENTAL PLAN 2010**

'Clause 8.7 Community Infrastructure on certain key sites' within the Penrith LEP 2010 enables certain land within the Penrith City Centre additional density where the development includes community infrastructure. This policy provides further guidance on the operation of clause 8.7. The provisions of Penrith LEP 2010 should be read in conjunction with this Policy.

Consistent with the aims of the Penrith LEP 2010, this Policy seeks to ensure that the development of land in Penrith is well managed, orderly and accommodates the needs of Penrith's existing and future community.

### **PENRITH DEVELOPMENT CONTROL PLAN 2014**

The Penrith Development Control Plan (DCP) 2014 supplements the provisions of the Penrith LEP 2010 with more detailed planning and design guidelines.

The provisions of the Penrith DCP 2014 should be read in conjunction with this Policy.

### **LOCAL INFRASTRUCTURE CONTRIBUTIONS UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

Part 7 Subdivision 3 of the Environmental Planning and Assessment Act 1979 (EP&A Act) outlines the legislation regarding Local Infrastructure Contributions for the purpose of community facilities and infrastructure.

Council utilises Local Infrastructure Contributions to deliver essential and basic infrastructure and facilities. This Policy relates to the provision of Community Infrastructure that is 'over and above' the base level that is being provided via development contributions. As a result, Local Infrastructure Contributions will still be required under Part 7 Subdivision 3 of the

EP&A Act and the relevant Development Contributions Plan in addition to an offer of Community Infrastructure.

Nothing in this Policy prevents a proponent from carrying out Works-in-Kind in lieu of a monetary contribution required under Part 7 Subdivision 3 of the EP&A Act.

### **PLANNING AGREEMENTS UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

Part 7 Subdivision 2 of the EP&A Act outlines the legislation regarding the application of Planning Agreements.

A Planning Agreement will be required to put legal arrangements in place for the provision of Community Infrastructure made under this Policy.

Nothing in this Policy prevents a proponent from entering into a Planning Agreement for purposes other than Community Infrastructure as defined by this Policy. In these circumstances, it may be possible for the Planning Agreement to deal with both the Community Infrastructure under this Policy and any other matters that are to be the subject of a Planning Agreement.

## **1.5 RELATIONSHIP WITH OTHER COUNCIL POLICIES AND PLANS**

### **PENRITH PROGRESSION – A PLAN FOR ACTION**

*Penrith Progression – A Plan for Action* outlines a vision and a series of actions that aim to transform the City Centre and deliver jobs for the future. The Plan aims for an additional 10,000 jobs and 10,000 residents within the City Centre by identifying key opportunity precincts and places, investment initiatives and 100 actions to deliver on the vision. The following vision is identified within the Plan for the 'New West':

- Building a bustling City Centre that's a pleasure to walk and get around
- Making inner city living a reality and business in the City Centre easy
- Connecting our river to the City Centre
- Creating a vibrant colourful outdoor life
- Adopting fresh ideas, projects and partnerships, helping us grow and prosper
- Delivering jobs for the future.

This Policy is consistent with the aims and vision of *Penrith Progression – A Plan for Action*. The offer of Community Infrastructure must be consistent with the overall aims and vision of *Penrith Progression – A Plan for Action*.

### **DELIVERY PROGRAM**

Council's strategic planning documents 2013-17 outline the actions and projects Council is working on for our community. Together, these documents provide an integrated strategic planning framework to deliver the best outcomes for our community's short, medium and long-term future.

The Delivery Program is Council's 4 year work program to help implement the Community Plan. Each year the Delivery Program is published including a 1 year Operational Plan for that financial year, which sets out the services, service activities and specific actions Council will deliver in that year, and the annual budget.

This Policy is consistent with the outcomes of the Operational and Delivery Plan. The offer of Community Infrastructure will typically be for items that are 'over and above' what Council has programmed to deliver in the Operational and Delivery Plan. Any monetary contributions received under this Policy will be applied to City Centre projects and may include projects that are identified in the Operational/Delivery Plan that are not fully funded by Local Infrastructure Contributions.

## **1.6 MONITORING AND REVIEW OF THIS POLICY**

This Policy will be reviewed on an annual basis for any housekeeping amendments.

The Community Infrastructure Contribution Rate will be regularly reviewed and indexed annually to ensure it remains in line with market conditions. Council will review the Community Infrastructure Contribution Rate in line with the Consumer Price Index (CPI). CPI is a general measure of price inflation for households, measuring the change over time as a basket of consumer goods and services.

A market review will be undertaken at least every five years to confirm land values. This will also allow for the Community Infrastructure Contribution Rate to be realigned based on market take-up and development activity in the preceding five year period.



## 2. PRINCIPLES OF COMMUNITY INFRASTRUCTURE

### 2.1 WHY IS COMMUNITY INFRASTRUCTURE REQUIRED?

Penrith is recognised as a Strategic Centre, highlighting a responsibility for additional employment, services and housing, benefitting the local area and wider catchment. To accommodate this growth, substantial new infrastructure is required. Some of this infrastructure can be delivered by Local Infrastructure Contributions, however the scope of these levies will generally only deliver 'baseline' or essential infrastructure.

The use and role of incentive-based infrastructure funding mechanisms can deliver additional public benefits to a community, particularly where due to statutory limitations, not all infrastructure can be funded by Local Infrastructure Contributions or levies. Local governments are increasingly implementing these new funding mechanisms to ensure that communities are adequately supported by quality infrastructure, facilities and amenities.

Council has introduced an incentives clause into Penrith LEP 2010 which allows additional FSR on some Key Sites. This additional FSR will result in an increase in residents within the City Centre, generating increased demand for services and facilities. In order to allow developers to access additional FSR, Council is seeking a Community Infrastructure contribution to ensure that our community receives a share of the benefit being given which will assist in offsetting any impact on amenity.

### 2.2 PRINCIPLES OF COMMUNITY INFRASTRUCTURE

To determine if an offer of Community Infrastructure will be considered acceptable by Council, the following Principles of Community Infrastructure must be met:

1. Community Infrastructure must be in the public interest and to the satisfaction of Council
2. Community Infrastructure must be over and above current development standards and Council policies
3. Community Infrastructure must contribute to the City Centre or to nearby locations and facilities likely to be used by City Centre occupants
4. Community Infrastructure must be achievable, measurable, economically viable and socially and environmentally sustainable
5. Community Infrastructure must be consistent with the themes within Council's Strategic Planning framework

#### **Principle 1: Community Infrastructure must be in the public interest and to the satisfaction of Council**

Council will only accept offers of Community Infrastructure that are in the interest of the general public. For this reason, offers of Community Infrastructure that only benefit private landowners will not be considered.

Community Infrastructure must be accessible by all members of the community, be interpreted as a public rather than private facility and with enjoyment by occupants of the new development being secondary or incidental.

**Principle 2: Community Infrastructure must be over and above current development standards and Council policies**

There are a number of building standards and codes in place which all development must meet. Council also has a number of local policies including Development Control Plans and Engineering Guidelines which specify requirements of development.

Generally, Council will not consider an offer of Community Infrastructure that would be considered general standards of development. For example, additional landscaping works or using high-quality materials would not be considered Community Infrastructure as these types of items are preferences by the developer and benefit the landowner, not the broader community.

**Principle 3: Community Infrastructure must contribute to the City Centre or to nearby locations and facilities likely to be used by City Centre occupants**

As the additional FSR is only available to land within the City Centre, impacts of the increased population will remain largely confined to the City Centre and its immediate surrounds. Therefore, Community Infrastructure which is located within, or immediately nearby and results in an improvement to the City Centre, or to the amenity enjoyed by City Centre occupants in immediately nearby areas, will be supported.

Community Infrastructure should not cause any detrimental impacts on amenity or services including pedestrian access, traffic, parking, existing utility infrastructure or manoeuvrability in and around the City Centre.

**Principle 4: Community Infrastructure must be achievable, measurable, economically viable and socially and environmentally sustainable**

The value of Community Infrastructure will be determined by the Community Infrastructure Contribution Rate. Therefore, the value of the Community Infrastructure must be measurable in terms of monetary value.

Whether Community Infrastructure is owned and maintained by Council or the developer/landowner, the long term economic viability and ongoing maintenance costs of Community Infrastructure will be a major consideration in determining the appropriateness of the Community Infrastructure offer. Any offer of Community Infrastructure must have longevity to ensure the Community Infrastructure is provided for the community's long term use.

Council will not consider Community Infrastructure that is anticipated to have high ongoing maintenance costs, and will require Community Infrastructure to be constructed from durable materials that are also environmentally sustainable.

Community Infrastructure must also be socially sustainable to include outcomes such as enhanced access, inclusiveness and equity. In testing whether Community Infrastructure is socially sustainable, the Community Infrastructure offered must improve the quality of life for the people of Penrith.

**Principle 5: Community Infrastructure must be consistent with the themes within Council's Strategic Planning framework**

Council has a suite of documents that guide the future vision and direction of our city, including the City Centre. An offer of Community Infrastructure should be consistent with the following Strategic Planning framework:

- The Community Plan, Operational Plan and Delivery Program
- Penrith Progression – A Plan for Action
- The City Strategy
- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014
- Any relevant District or Regional Plan, or other Council Plans or Strategies

## 2.3 TYPES OF COMMUNITY INFRASTRUCTURE

The following types of Community Infrastructure will be considered by Council:

- A monetary contribution; or
- Dedication of land or property; or
- Carrying out works; or
- A combination of all the above.

Should a proponent provide the dedication of land or property or carry out works, the value of this Community Infrastructure must be appropriately valued. Where the value of land or works is less than the calculated Community Infrastructure Contribution amount, it can be topped up with a monetary payment.

## 2.4 CALCULATION OF COMMUNITY INFRASTRUCTURE

Council engaged specialist economic consultants to undertake comprehensive analysis in developing a Community Infrastructure Contribution Rate. The aims of the analysis were to identify the following:

- An appropriate model or methodology for determining the value of incentive FSR; and
- An appropriate Community Infrastructure Contribution Rate.

A major consideration of this analysis was to develop a Community Infrastructure Contribution Rate that does not unreasonably impact on viability or development feasibility.

The findings of the study are presented in the *Public Benefit Analysis*, which can be viewed on Council's website.

### COMMUNITY INFRASTRUCTURE CONTRIBUTION RATE

To ensure an equitable and transparent application of a Community Infrastructure Contribution Rate, a dollar value is nominated to establish the value of the additional floor space.

**The Community Infrastructure Contribution Rate is \$150/sqm of additional Gross Floor Area.**

Additional Gross Floor Area is defined as any Gross Floor Area above the maximum total Floor Area identified on the Floor Space Ratio map within the Penrith LEP 2010.

For the purposes of calculating the Community Infrastructure Contribution Value, additional Gross Floor Area must be rounded to the nearest whole number.

Non-residential development will not be required to provide a Community Infrastructure Contribution. Non-residential floor area is excluded from the calculation of the Community Infrastructure Contribution Value.

Staged Development Applications may be prepared that includes the offer of Community Infrastructure. Where such proposals exceed height controls but do not access the additional FSR until later stages, the Community Infrastructure Contribution Rate will apply based on any additional Gross Floor Area above the existing maximum building height until the threshold for the additional FSR is reached. During the final stages of a development, the overall Community Infrastructure Contribution Value will be balanced based the rate per Additional Gross Floor Area. Refer to Appendix 3 for an explanation of this calculation method.

The Community Infrastructure Contribution Value is to be indexed annually based on the Consumer Price Index: All Groups (Sydney), to be indexed annually and at time of payment.

Under the provisions of clause 8.4(5) of the Penrith LEP 2010, up to 10% of existing FSR or height may be permitted to achieve design excellence. Any additional FSR permitted under clause 8.4(5) is not subject to this Policy or the Community Infrastructure Contribution Value.

### **COMMUNITY INFRASTRUCTURE CONTRIBUTION RATE METHODOLOGY**

The *Public Benefit Analysis* outlines the methodology in determining the nominated Community Infrastructure Contribution Rate. The calculation of the Community Infrastructure Contribution Rate is equates to a 50% share of the Residual Land Value increase from the additional FSR uplift. Residual land value is the value of land less costs and other assumptions.

The following steps were undertaken to determine the Community Infrastructure Contribution Rate:

- Generic feasibility of development
  - Under current planning controls (base Floor Space Ratio) to assess the likely Residual Land Value
  - With incentive Floor Space Ratio to assess the increase in land value (or land value uplift) with each square metre of Gross Floor Area.
- Based on a review of codified and accepted incentive floor space mechanisms, applied a 50% capture rate to the earlier assessed land value
- Defined a standard dollar contribution rate per square metre of residential Gross Floor Area based on land valuation prepared for the study

## 2.5 PREFERRED COMMUNITY INFRASTRUCTURE ITEMS

For the purposes of this Policy, Council's preferred Community Infrastructure is outlined below:

<b>Community Infrastructure as defined by clause 8.7</b>	<b>Council's preferred Community Infrastructure</b>
<i>Recreation Areas</i>  <i>Recreation facilities (indoor)</i>  <i>Recreation facilities (outdoor)</i>  <i>Recreation facilities (major)</i>	<ul style="list-style-type: none"> <li>• Works consistent with the Riverlink Masterplan and Detailed Landscape Masterplans</li> <li>• Upgrades to Jamison Park facilities (outside of the scope of the relevant Development Contributions Plan)</li> <li>• Embellishment of the City Park (outside of the scope of the relevant Development Contributions Plan)</li> </ul>
<i>Public car parks</i>	<ul style="list-style-type: none"> <li>• Multi-deck car park</li> <li>• Bicycle lockers</li> </ul>
<i>Public roads</i>	<ul style="list-style-type: none"> <li>• Intersection treatments and upgrades at High Street and Civic Centre</li> <li>• Road network upgrades consistent with the Penrith City Centre 40km/ scheme extension, previously identified road network and pedestrian amenity improvements in the City Centre, and the Penrith City Centre Car Parking Strategy</li> <li>• Additional street trees in priority areas outlined within Council's Cooling the City Strategy</li> <li>• Creation of new laneways or improvements to existing laneways</li> <li>• Public domain upgrades north of Station Street and Soper Place</li> <li>• Public domain upgrades to High Street, west of Mulgoa Road</li> <li>• Improved pedestrian links from City West to the River</li> <li>• Improved pedestrian links from City South to Jamison Park</li> <li>• Improvements to pedestrian safety and connectivity to Station Street (between High and Henry Streets)</li> <li>• Pedestrian lighting of footpaths and places within the City Centre</li> <li>• Creative lighting of objects, buildings, spaces and places</li> <li>• "Smart lighting" technology applications for the benefit of pedestrian and vehicle users</li> </ul>

	<ul style="list-style-type: none"><li>• Works outlined within the Public Domain Masterplan 2013 (outside the scope of the relevant Development Contributions Plan)</li></ul>
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## 3. ASSESSMENT

### 3.1 PREPARING A DEVELOPMENT APPLICATION

When preparing a Development Application that includes the offer of Community Infrastructure, the following steps must be undertaken:

1. The applicant must arrange a pre-lodgement meeting with Council's Development Services department to discuss the development proposal and offer.
2. With input from relevant Council staff, prepare a Community Infrastructure offer that includes a calculation of the Community Infrastructure Contribution Value required under this Policy, a description of the proposal (land dedication, works, monetary contributions), identifies location of any dedication or works and provides cost estimates/valuations. In principle agreement to the Community Infrastructure offer should be obtained before drafting a Planning Agreement.
3. Documentation submitted with a Development Application must include the following:
  - A letter of offer to enter into a Planning Agreement in relation to the Community Infrastructure offer
  - A statement addressing the requirements of clause 8.7 Community Infrastructure on certain key sites of the Penrith LEP 2010
  - Nominate the preferred Community Infrastructure type and preferred item (if applicable)
  - A Staging or Concept Plan must be provided where Staged Development Applications are lodged to determine the relevant stages for the payment of a Community Infrastructure Contribution
4. If the Community Infrastructure offer is for the dedication of land or property or carrying out of works, a valuation of the item/works must be submitted by a Registered Valuer or Quantity Surveyor. Council may review costings by independent Quantity Surveyor, at the cost of the developer.
5. Revised offers of a Community Infrastructure may be considered where a Section 96 application to modify a development is submitted.

### 3.2 ASSESSMENT OF COMMUNITY INFRASTRUCTURE

Any Development Application that includes the offer Community Infrastructure will follow Council's standard Development Assessment process and procedures.

A Community Infrastructure Panel has been established to make a recommendation to the consent authority (which may be the elected Council or the relevant Joint Regional Planning Panel) on whether to accept the offer of the Community Infrastructure. The Community Infrastructure Panel consists of Council's Manager City Planning, Development Services Manager and Legal Services Manager.

The Community Infrastructure offer will be assessed in line with the Principles of Community Infrastructure and the list of Preferred Community Infrastructure items and on the advice of other Council departments.

### **3.3 OFFERS TO CARRY OUT WORKS OR DEDICATE LAND**

Any offer to undertake works must be made in writing when lodging a Development Application and contain the following information:

- The works proposed to be undertaken;
- Whether such works are intended to be full or partial completion of the project;
- The estimated value of the works; and
- The timeframe for when the works are proposed to commence and be completed.

Community Infrastructure offers that include carrying out of works must be consistent with Council's Works-In-Kind Policy, which will be used to assess offers to undertake works.

Any offer to dedicate land (either torrens, strata or other) must be made in writing when lodging a Development Application and contain the following information:

- The land proposed to be dedicated;
- The proposed title arrangements (torrens, strata);
- If the land is to be retained in private ownership with public access, the arrangements for facilitating public access (easements, rights of ways);
- The estimated value of the land or property;
- The time frame for when the dedication (or other arrangement) is to occur; and
- A Plan of Management and/or Maintenance Plan.



## 4. TIMING AND IMPLEMENTATION

Council must be satisfied that the payment and delivery of Community Infrastructure is provided as the local population increases and as the additional FSR is granted.

To provide Council with a level of certainty regarding monetary contributions for Community Infrastructure, monetary contributions will generally be requested to be paid prior to the issue of a Construction Certificate. In circumstances where this is impracticable, payments may be deferred until prior to the release of the Subdivision Certificate or Occupation Certificate (whichever comes first).

For the carrying out of works, delivery of Community Infrastructure must be provided prior to the release of the Subdivision Certificate or Occupation Certificate (whichever comes first).

Timing of the delivery or payment of Community Infrastructure will be outlined within the terms of the Voluntary Planning Agreement.

It is only after a Planning Agreement has been executed that development consent will be granted. The applicant will be required to register the Planning Agreement on title. As the consent of any person with an interest in the land is required to consent to the registration of a Planning Agreement on title, it may not always be possible for the registration to occur. In this circumstance, appropriate security and other arrangements will need to be negotiated so that Council is satisfied that the Planning Agreement will be complied with.

With the exception of complex infrastructure projects, Council will endeavour to use monetary contributions received for the purposes of Community Infrastructure within five (5) years from the date the Planning Agreement is executed. Where monetary contributions are provided under different Planning Agreements, funds may be pooled and progressively applied towards the provision of Community Infrastructure.

## APPENDIX 1 – DEFINITIONS

### Additional Gross Floor Area

The Additional Gross Floor Area is the floor area above that currently identified on the Floor Space Ratio Map within Penrith LEP 2010.

### City Centre

The boundary of the City Centre is identified on the Clause Application Map within Penrith LEP 2010.

### Floor Space Ratio

The definition of Floor Space Ratio is the same as the definition outlined within clause 4.5 of the Penrith LEP 2010, being:

*The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.*

### Gross Floor Area

The definition of Gross Floor Area is the same as the definition within the Penrith LEP 2010, being:

*gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,*
  - but excludes:*
- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement:*
  - (i) storage, and*
  - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

## **Incentives clause**

The Incentives clause is that as defined by clause 8.7 of the Penrith LEP 2010.

## **Key Site**

A Key Site is a site identified on the Key Site Map within Penrith LEP 2010.

Refer to clause 8.7 of the Penrith LEP 2010 for Key Sites where the Incentives Clause applies.

## **Planning Agreement**

The definition of a Planning Agreement is the same as the definition within the Environmental Planning and Assessment Act 1979, being:

*A planning agreement is a voluntary agreement or other arrangement... between a planning authority (or 2 or more planning authorities) and a person (the developer):*

- (a) who has sought a change to an environmental planning instrument, or*
  - (b) who has made, or proposes to make, a development application or application for a complying development certificate, or*
  - (c) who has entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies,*
- under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.*

## **Community Infrastructure**

Community Infrastructure is defined by clause 8.7 of the Penrith LEP 2010

## **Community Infrastructure Contribution Rate**

The Community Infrastructure Contribution Rate is \$150/m<sup>2</sup> of Additional Gross Floor Area.

## **Community Infrastructure Contribution Value**

The Community Infrastructure Contribution Value is the Community Infrastructure Contribution Rate multiplied by the Additional Gross Floor Area sought.

## **Residual Land Value**

The Residual Land Value is defined as the maximum price a developer would be prepared to pay for a site in exchange for the opportunity to develop the site, whilst achieving target hurdle rates for profit and project return. This approach involves assessment of the value of the completed product, making a deduction for development costs and further deduction for profit and risk whilst ensuring the development achieves its target margin and profit.

*Note: In the event of an inconsistency, definitions listed in the Penrith LEP 2010, Environmental Planning and Assessment Act 1979 or Environmental Planning and Assessment Regulations 2000 override this Policy.*

## APPENDIX 2 – INCENTIVES CLAUSE

Extract from Penrith Local Environmental Plan 2010:

### 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.

Appendix 3 – Calculation method for Staged Development Applications

	Scenario 1	Scenario 2	Scenario 3
Current FSR control exceeded?	No	No	Yes
Current Height control exceeded?	No	Yes	Yes/No
Public Benefit required?	No	Yes	Yes
Calculation type	N/A	Based on GFA (m2) above height control until base FSR exceeded	Additional GFA (m2) above current FSR

SITE DETAILS

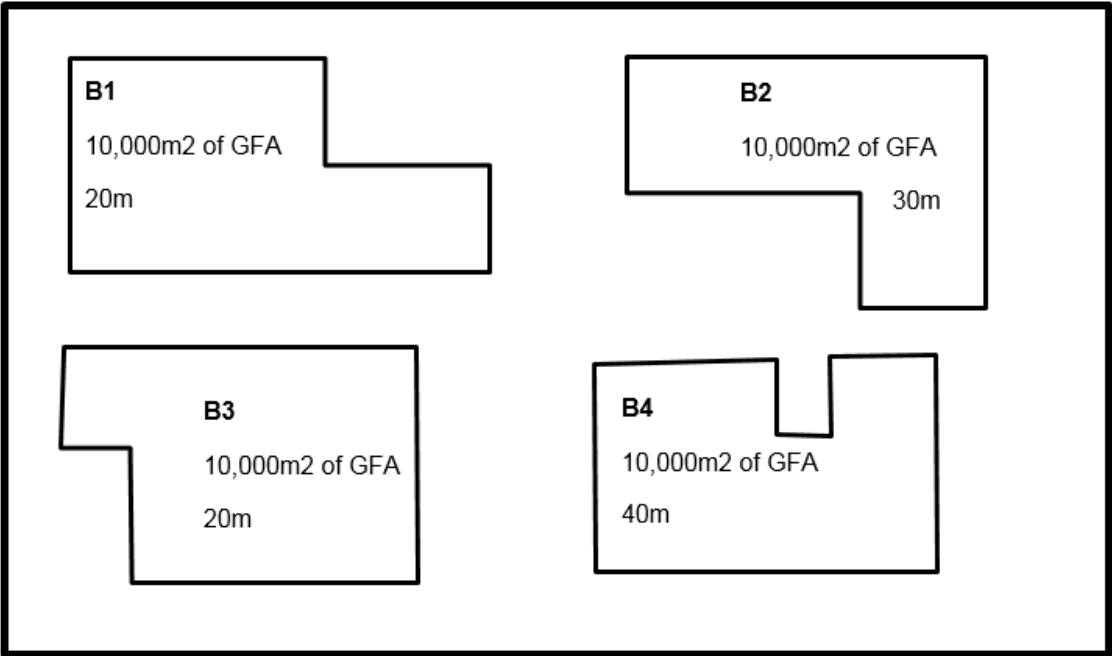
Site area: 10,000m2

Current FSR: 2:1 (Total FSR incl. bonus: 4:1)

Maximum building height: 20 metres

Total GFA of development = 40,000m2

If maximum capacity developed, PB contribution = \$3,000,000



CALCULATION OF A PUBLIC BENEFIT

DA 1 lodged for building 1:

No PB contribution required as FSR and height not exceeded (Scenario 1)

PB contribution: \$0

**Cumulative total = \$0**

DA 2 lodged for building 2:

PB contribution based on additional GFA above height limit (Scenario 2)

Eg. DA proposes 3,000m2 of GFA over height limit.

PB contribution: 3,000m2 x \$150 = \$450,000

**Cumulative total = \$450,000**

DA 3 lodged for building 3:

FSR now exceeded, no height exceeded (Scenario 3)

Total FSR for site so far is 30,000m2. Proponent would be required to contribute equivalent of 10,000m2 bonus FSR.

PB contribution:  $10,000\text{m}^2 \times \$150 = \$1,500,000$ .

However, already contributed \$450,000 as part of DA 2 for B2. Therefore, only \$1,050,000 required for this stage.

**Cumulative total = \$1,500,000**

**DA 4 lodged for building 4:**

FSR and height exceeded (Scenario 3)

Total FSR now 40,000m<sup>2</sup> (20,000m<sup>2</sup> of bonus FSR). DA 4 takes up 10,000m<sup>2</sup> of bonus FSR.

PB contribution:  $10,000\text{m}^2 \times \$150 = \$1,500,000$

**Cumulative total = \$3,000,000**