

1 Proposed Winter Sporting Facility at 2 Tench Avenue, Jamisontown

Compiled by: Joel Carson, Senior Planner

Authorised by: Natasha Borgia, City Planning Manager
Kylie Powell, Director - City Futures

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

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

Proponent: Winter Sports World Pty Ltd

Land: 2 Tench Avenue, Jamisontown (Lot 1 DP 38950)

Land Owner: Peter Magnisalis & Viki Magnisalis

Executive Summary

The purpose of this report is to present the outcomes of a recent public exhibition of a Planning Proposal, draft Development Control Plan (DCP) and Voluntary Planning Agreement (VPA) offer prepared in support of a proposed Winter Sporting Facility at 2 Tench Avenue, Jamisontown, and to obtain Council's decision in respect to the proposal.

The Proposal was previously presented to the Councillor Briefing of 1 March 2021 and was more recently addressed in Councillor memos dated 13 April 2021 and 20 April 2021 that presented detail on the notification undertaken of the Planning Proposal, the development approval history of Nepean Shores, and confirmed intended future Council reporting dates.

The proposed development would bring several benefits such as investment, jobs, tourism and economic benefits, providing a facility of national significance and an iconic landmark in the Penrith region.

Whilst the proposal would bring many economic benefits to Penrith, the report recommends that the Planning Proposal is not supported, on the basis that the proposal is not suitable for this particular site. The site's design opportunities are limited due to the development's requirement for a strict building envelope and a 54m building height, meaning the design would significantly restrict solar access to dwellings at the adjacent Nepean Shores site. Whilst the proposal is consistent with the vision of the Riverlink precinct to promote tourism, it is inconsistent with the desired future character which is of a low scale-built form. On this basis, should the proposal advance to a development application it would be very difficult to approve.

Background

At its meeting of 26 November 2018, Council endorsed a Planning Proposal which seeks an amendment to Penrith Local Environmental Plan 2010 (LEP 2010) to enable development of 2 Tench Avenue, Jamisontown for a Winter Sporting Facility. Attachment 1 provides a site location map.

Following endorsement, Council subsequently submitted the Planning Proposal to the Department of Planning, Industry and Environment (DPIE) to request a Gateway Determination. A Gateway Determination was received on 2 May 2019, which enabled the proposal to proceed to public exhibition following completion of certain matters specified in the Gateway conditions.

It is envisaged that the proposed Winter Sporting Facility development would consist of:

- An indoor ski slope
- Ice skating rink
- Ice climbing facilities
- Rock climbing facilities
- Altitude training
- Gymnasium and training facilities
- Hotel accommodation (Approximately 170 hotel rooms plus a function centre)
- Food and drink premises (bars, cafes and restaurants)

Attachment 2 provides an artist's concept of the envisaged development for the site.

The proposed development scheme for the site is consistent with one of the key aspects of Council's vision for that part of the Riverlink Precinct, which is to provide for tourist-oriented development and related uses that are compatible with the promotion of tourism in Penrith. The proposed development is also a unique facility which is dependent on a specific gradient and height (54 metres).

The proposed LEP amendment seeks to create an additional local provision under Part 7 of LEP 2010 for the subject site, increasing the maximum permitted building height from 8.5m to 54m on the subject site on the condition that:

- A substantial component of the development is an indoor ski slope facility, and a Floor Space Ratio (FSR) control of 1.2:1 is not to be exceeded.
- A FSR control above 1.2:1 (up to a maximum of 1.45:1) would be considered if justified and if the development features a hotel component.
- The development is in accordance with a site-specific DCP prepared for the site which provides additional planning and design guidance for development.
- The design of the structure is prepared by way of a Design Competition.
- A "sunset clause" applies, where the local LEP provision would cease to exist three years after the date the LEP amendment is made. This is to enable controls specific to this proposal and ensure delivery. The sunset clause would require lodgement of a Development Application within 3 years of the LEP amendment being made. After 3 years, the additional local provision would expire.

The purpose of allowing for an additional FSR (from 1.2:1 to 1.45:1) is to provide incentive to the proponent to secure a hotel component in the development. The additional FSR would be allowed only if a hotel component is included in the development.

A copy of the exhibited Planning Proposal has been provided to Councillors as a separate enclosure and is publicly available on Council's website.

At its meeting of 28 September 2020, Council resolved to endorse for public exhibition a proposed draft amendment to Penrith Development Control Plan 2014 (DCP 2014) and a VPA offer associated with the proposed Winter Sporting Facility development.

It is intended that the draft DCP will facilitate the unique development sought on this site, provide greater certainty to development outcomes, and address potential impacts on

neighbouring properties, such as overshadowing, amenity, privacy, bulk and scale, and the desire to deliver design excellence.

The draft DCP includes development controls addressing several key elements including:

- Indicative building envelope, height limits and setbacks
- Views and visual impact
- Amenity impacts, such as solar impacts, privacy, acoustic
- Building design and design excellence
- Public domain and landscaping
- Traffic and parking management
- Sustainability
- Flooding and drainage

A copy of the draft DCP which was placed on public exhibition is provided at Attachment 3.

The VPA offer seeks to provide road improvements required as a result of increased traffic volumes anticipated from the proposed development. The proponent seeks to undertake road improvements to the Jamison Road / Blaikie Road intersection to incorporate a channelised right-turn treatment east-bound on Jamison Road.

The road improvements are required as a result of increased traffic volumes from the proposed Winter Sporting Facility development, as identified in the traffic analysis completed to support the proposal.

A copy of the VPA offer which was placed on public exhibition is provided at Attachment 4. Council's 28 September 2020 endorsement of the draft DCP and VPA offer enabled the public exhibition of the Planning Proposal, draft DCP and VPA offer to proceed concurrently.

Public exhibition

Public exhibition of the Planning Proposal, draft DCP and VPA offer occurred from 9 October to 6 November 2020.

The exhibition material was available during the exhibition period on Council's website and Your Say webpage. It is noted that on 25 March 2020, the NSW Government introduced COVID-19 legislation which made changes to the Environmental Planning and Assessment Act 1979 temporarily removing the requirement for Councils to display physical copies of certain documents at their offices.

While legislative changes introduced on 17 April 2020 removed the requirement for Councils to notify planning processes in local newspapers, the exhibition was advertised in the Western Weekender digital edition, as well as on Council's website. Officers from Council's City Planning Department were available to answer enquiries via telephone and email.

Council notified the Planning Proposal in accordance with Council's Community Participation Plan. Notification letters were provided to affected and adjoining land owners, as well as to residents of the Nepean Shores community located adjacent to the subject site.

Public submissions

A total of 93 public submissions were received on the proposal, consisting of 61 objections and 32 submissions in support.

Of the 93 submissions received, 50 submissions were made by residents of Nepean Shores, a community of short and long-term residents, located adjacent to the south of the subject site. All the Nepean Shores submissions were in objection to the proposal.

The remaining 43 non-Nepean Shores submissions consisted of 11 objections and 32 submissions in support. The non-Nepean Shores submissions consisted of a mix of local residents, business owners, winter sports enthusiasts, winter sports athletes, and interested parties from overseas.

It is noted that Hometown Australia, the owner and operator of Nepean Shores, has made a submission objecting to the proposal.

It is noted that Peter Magnisalis, the proponent and Managing Director of Winter Sports World Pty Ltd, has made a submission in support of the proposal, however objecting to the requirement for a Design Competition.

It is noted that Penrith Ice Palace, the operator of an existing nearby ice skating centre in Jamisontown, has made a late submission objecting to the proposal.

The matters raised in public submissions can be grouped under the following categories:

1. Reduction to the amenity of the adjacent Nepean Shores residential community.
2. Negative impacts on the Tench Avenue / Jamison Road locality and setting.
3. Positive impacts on the Tench Avenue / Jamison Road locality and setting.
4. Appropriateness of the subject site for the proposed development.
5. Economic and tourism benefits.
6. Benefits to the winter sports industry.

Attachment 5 provides a summary of the matters raised in public submissions.

The 'Considerations' section presented later in this report discusses the key matters considered in forming the recommendation made in this report in respect to the proposal.

Agency submissions

The proposal was referred to 8 agencies / public authorities with a request for comment, in accordance with the requirements of the Gateway Determination. Submissions were received from 6 public authorities.

No objections were raised from Sydney Water, Endeavour Energy and the NSW Rural Fire Service.

Transport for NSW submission regarding traffic assessment

The submission from Transport for NSW (TfNSW) requested the proponent to provide additional information in respect to the proponent's supporting traffic modelling analysis and flood evacuation plans, for review and comment. TfNSW recommends that the outstanding matters are addressed prior to the finalisation of the Planning Proposal, or at a minimum are to be resolved at the development application stage.

The proponent is of the view that the matters identified by TfNSW should be addressed at the future development application stage, as the proponent is currently in the process of liaising with TfNSW to address matters identified in the NSW Planning Secretary's Environmental Assessment Requirements (SEARs) issued in July 2020 for the State Significant Development (SSD-10475) Winter Sports Resort at the subject site. The SEARs

requires the proponent to prepare a Traffic and Transport Impact Assessment in consultation with Council and TfNSW.

In this regard, it is warranted that the matters identified in the TfNSW submission are further addressed as part of a future development application process instead of as part of this current Planning Proposal process.

NSW Environment, Energy and Science submission regarding flood evacuation

The submission from the NSW Environment, Energy and Science (EES), formerly the NSW Office of Environment and Heritage, requested the proponent to provide additional information in respect to the flood impact assessment, and the supporting emergency management planning for flood evacuation. It is anticipated that these matters will be addressed and resolved through receipt of a formal written submission from the NSW State Emergency Service (SES) on the proposal.

NSW State Emergency Service submission regarding flood evacuation

At this current time the outstanding submission from SES on the proposal has not been received. SES officers recently contacted Council officers to indicate informally that the development proposal and supporting flooding assessment have been considered, and that it is SES's view that there is sufficient flood evacuation capacity in the locality for the development to meet SES's evacuation timeframes. It is anticipated that a formal written submission from SES will be submitted to confirm this advice and will indicate that no concern is raised.

DPIE has advised Council officers that this matter will need to be resolved prior to finalisation of the Planning Proposal, through submission of the outstanding SES submission in support of the Planning Proposal. DPIE has agreed to follow this up with SES.

NSW Government Architects Office submission regarding Design Competition

In accordance with the requirements of the Gateway determination, Council consulted with the NSW Government Architect's Office (GAO) to clarify the proposed design competition requirements and to obtain the agreement of that Office for this aspect of the proposal.

Formal advice dated 15 February 2021 was received from the GAO and is provided at Attachment 6. This matter of the Design Competition is discussed in the next section of this report.

Design Competition

The GAO submission received in respect to the Planning Proposal confirms that a Design Competition for the proposed development is required, considering the visual prominence, scale, complexity and significance of the development proposal.

The GAO submission does state that the fixed and variable aspects of the reference design will be identified clearly in the endorsed design competition brief prior to the commencement of the competition. The process can be tailored to the specific conditions of the project, which have been discussed previously between Council, GAO, Winter Sports World, and DPIE. Precise details of the competition process will be agreed to and endorsed through consultation with GAO.

GAO states that the design competition brief should identify which elements are fixed, such as the geometry of the ski slope itself, and those elements where some change is possible,

such as lobbies, waiting areas, circulation spaces, cafe, change rooms, etc. The submission notes that international precedents indicate that varied and distinctive responses to the indoor ski slope typology exist.

The submission confirms that the selection of a winning design through a competition process must be completed prior to submission of a Development Application.

It is noted that the proponent wrote to Council on 6 March 2021 to request that the Design Competition be limited so that it only applies to the external components of the development, specifically being:

- The materials and finishes of the building
- Landscaping and urban spaces around the building
- Public domain (Council owned space along the roads)

Council's response to the proponent presented the information provided by GAO in its submission, particularly regarding the process of how a future design competition brief will be prepared. This process will involve the proponent, Council, GAO and other stakeholders.

Council takes direction from GAO in relation to Design Competition as it relates to the development proposal. Given the content of the GAO submission, it is premature to agree to certain fixed and variable elements of the design competition brief at this stage, given that the process of determining and agreeing on all the elements of a design competition brief requires a holistic appreciation of all matters, involve all stakeholders, and is only appropriate to address after a decision has been made in respect to the Planning Proposal. Placing any limitation on the design competition at this current time is not supported, as this would significantly limit the scope of preparing a design competition brief, thereby limiting the effectiveness and purpose of the design competition itself.

The benefit of a Design Competition is that it allows comparison of different approaches, with the goal of enabling delivery of a building that is striking, with its own identity, and that considers both form as well as function in its shape and design.

Solar access provision to Nepean Shores

The Planning Proposal seeks a significant increase in the permitted LEP building height control at the subject site from 8.5m to 54m. It also seeks to enable a significant FSR control of 1.2:1 up to potentially 1.45:1 if justified. The 54m building height is understood to be necessary to enable the gradient required for the indoor ski slope facility.

The proposed building height and FSR would deliver a very tall and large building, regardless of the outcomes of a Design Competition. The proponent has also indicated that the building envelope is fixed to be able to facilitate the proposal and therefore setbacks and heights cannot be altered. In consideration of the close proximity of the subject site adjacent to the north of Nepean Shores, and the site's east-west orientation with constrained dimensions, it is evident that the proposed building will significantly impact the Nepean Shores development in respect to overshadowing and provision of solar access.

Permissibility of Nepean Shores

Nepean Shores is an existing, lawful community of long term and short-term residents. Hometown Australia, the owner and operator of Nepean Shores, has indicated that the facility operates on a land-lease basis that provides permanent accommodation for residents aged over 50 years. It is understood there are approximately 200 long term residents in the development.

A Development Consent for DA87/0195 was granted on 24 December 1987 for a Movable Dwelling Park on the Nepean Shores site. The consent permitted a maximum 130 dwellings for long term residents and a maximum of 130 dwellings for short term residents. A subsequent modification to this consent was approved on 25 May in 2006 and refined the number of approved short and long dwellings to be a maximum of 140 long term dwellings and a maximum of 69 short term dwellings.

A further modification (DA87/0195.02) to the above consent was granted by the NSW Land and Environment Court on 7 April 2014 for a Movable Dwelling Park comprising 199 movable dwellings, of which a maximum of 157 dwellings are permitted as long term sites and 42 are for short term accommodation. The proposed modification had initially been refused by Council in a determination issued on 19 August 2013, due to concerns over high hazard flood risk. The conditions of the Court-approved modification require the development to be undertaken in accordance with a Flood Assessment Report prepared in 2014 to support the modification.

Given the history outlined above, Nepean Shores is a lawful, approved land use, operating under a valid development consent. Should Nepean Shores be subject to a natural disaster, the development can be rebuilt in accordance with the valid consent.

Solar access to Nepean Shores

The documentation supporting the Planning Proposal, namely the draft DCP, as well as indicative building envelope plans provided by the proponent, indicates that large parts of Nepean Shores will be overshadowed in mid-Winter between 9am and 3pm. This is particularly applicable to the dwellings on the northern boundary of Nepean Shores, which will be overshadowed all day in mid-Winter. Many of these affected dwellings contain long-term residents.

Between 9am and 3pm in mid-Winter, approximately 31 dwellings along the northern boundary and north-east corner of Nepean Shores would be overshadowed all day, being in either complete shadow or part-shadow. Of these, approximately 13 dwellings would be completely shadowed all day, of which 3 are short term dwellings and 10 are long term dwellings.

Assessment of Solar Access Impacts

In preparation of a Planning Proposal lodged under Section 3.33 of the Environmental Planning and Assessment Act 1979, the planning proposal authority (in this instance being Council) is required to address the justification for the objectives, outcomes and provisions and the process for their implementation. The impact on solar access from the proposed development on Nepean Shores is a relevant consideration and must be addressed as part of the Planning Proposal.

In consideration of SEPP 21 (Caravan Parks), which commenced in 1992, this applies to caravan park development approvals that will authorise the use of sites for short-term stays or for long-term residential purposes. There are no specific controls that address overshadowing in SEPP 21.

Although not being instruments that directly apply to indoor ski slopes, there is value in drawing upon the solar access requirements underlying SEPP 65 (Design Quality of Residential Apartment Development), and in turn the Residential Flat Design Code where the principles of solar access are relevant. The SEPP 65 guidelines are a guide or reference

that can be used to assist in assessing the impact. It is important therefore to address how the Planning Proposal will achieve the objectives of the guidelines.

The underlying objective of solar access according to the guidelines is predicated on:

Direct sunlight into living rooms and private open spaces is a key factor influencing residential amenity for apartments. It is beneficial for residents to experience the light and warmth of the sun in their living environment. It also reduces reliance on artificial lighting and heating, improving energy efficiency and environmental sustainability.

Page 5 of the Department of Planning and Environment's "Guide to preparing planning proposals" states that:

The planning proposal should contain enough information to identify relevant environmental, social, economic and other site-specific considerations. The scope for investigating any key issues should be identified in the initial planning proposal that is submitted for a Gateway determination. This would include listing what additional studies the PPA (planning proposal authority) considers necessary to justify the suitability of the proposed LEP amendment. The actual information/investigation may be undertaken after a Gateway determination has been issued and if required by the Gateway determination.

Pages 16 and 17 of the Guide describe issues relating to environmental, social, economic and other site-specific considerations. The impacts from the Planning Proposal must be identified, considered and addressed.

In reference to the Objects of the Environmental Planning and Assessment Act 1979, the following Objects warrant consideration in respect to solar access:

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

(g) to promote good design and amenity of the built environment,

Solar access provision should be addressed in the Planning Proposal as a merit consideration. The above references suggest that it should be addressed. The underlying objective of solar access according to the SEPP 65 guidelines is predicated on provision of direct sunlight to living rooms and private open spaces being a key factor influencing residential amenity that is a benefit for residents.

Given that the dwellings along the northern side of Nepean Shores will be overshadowed all day in mid-winter, and many of these dwellings are long term residents, council officers recently requested the proponent to provide a response in respect to concerns over the impact of solar access to Nepean Shores.

There is an absence of any applicable numeric planning controls to determine whether the impact of the proposal on the solar access to the adjoining property is acceptable. There is value in drawing upon the solar access requirements underlying SEPP 65 (Design Quality of Residential Apartment Development), and in turn the Residential Flat Design Code where the principles of solar access are relevant.

The SEPP 65 guidelines are a guide or reference that can be used to assist in assessing the impact. We don't consider the exact numerical controls directly relevant for this

development, however the principles of the provision of direct sunlight into living rooms and private open spaces to provide residential amenity are matters for consideration.

In the proponent's response dated 29 March 2021, the proponent has assessed the development proposal against the numeric controls provided in the SEPP 65 Apartment Design Guide (ADG). The proponent has demonstrated that the development proposal complies with the numeric controls of the ADG in respect to solar access, being:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter
- A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.
- Developments achieve a minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June.

Although compliance with the ADG solar access numeric controls is acknowledged, it is noted that the exact numerical controls should not be the primary point of focus, but rather the principle being the provision of direct sunlight into living rooms and private open spaces to provide residential amenity. The applicant has not demonstrated the achievement of the principles.

Council's concern is that the dwellings along the northern edge of Nepean Shores will be overshadowed all day in mid-winter, and many of these dwellings are long term residents. The impact on those affected dwellings is therefore severe.

In relation to the assessment of the proposal, should a development application be lodged, we have taken advice from our Development Services Department which has confirmed that, given the solar access would be assessed on its merits, officers would rely on the residential chapter and solar planning provisions contained in Council's DCP to assess impacts on Nepean Shores. These provisions include:

- 1) *Demonstrate that dwellings meet acceptable solar standards and that existing neighbouring and proposed private open spaces receive adequate solar access:*
 - a) *maximise potential for solar gain by placing windows in all exterior walls that are exposed to northern sun;*
 - b) *ensure that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to living zones of the dwelling, and the living zones of any adjoining dwellings;*
 - c) *ensure that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main private open spaces of the dwelling and main private open spaces of any adjoining dwellings, and*
 - d) *where existing overshadowing by buildings and fences reduces sunlight to less than this, sunlight is not further reduced by more than 20%.*

It is clear that the proposal would not be able to meet the above requirements and therefore would be difficult to approve should a development application be lodged on this basis alone.

The proponent has argued that of the 10 long term cabins that will be shadowed all day, only 4 have north-facing private open space areas, whilst the remaining 6 long term dwellings have primary living rooms and private open space that do not face north.

Although this fact is acknowledged, it is possible that the configuration of the affected dwellings may change over time with a change in tenant, or a replacement of the dwelling building, meaning that in the future more long terms cabins may orient their private open

space and living rooms northwards. It is noted that Council has received objections to the Planning Proposal from several of the impacted long-term dwellings situated in this part of Nepean Shores.

The proponent argues also that the long term dwellings along the northern boundary of Nepean Shores would have their solar access impacted by a development proposal that complies with the existing height and setback controls in Council's LEP and DCP. It is noted that no supporting analysis has been provided by the proponent to demonstrate this statement.

Regardless, it is not possible to draw a comparison between the impacts from a LEP/DCP-compliant scheme compared to the development sought by the Planning Proposal as development of a lower scale can be setback accordingly to address such impacts. The proposed development is significantly tall and bulky, and would place adjacent dwellings in shadow all day, which is a significant impact.

The proponent has also argued that existing trees already cast shadow on the dwellings along the northern boundary of Nepean Shores. Although this point is acknowledged, again it is not possible to draw a comparison between the impacts from overshadowing from trees compared to the development sought by the Planning Proposal, which would likely cause a much more severe and significant overshadowing impact. In *The Benevolent Society v Waverley Council [2010] NSWLEC 1082*, sunlight planning principles state amongst other matters that "*Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence*".

The proponent has argued that the overshadowing diagrams presented in the draft DCP present the maximum possible overshadowing on Nepean Shores, however this built form diagram cannot be altered as it is required to facilitate the proposal.

In its letter of 6 March 2021 (discussed earlier in this report) the proponent requested that the Design Competition be limited so that it only applies to the external components of the development. In its submission on the exhibition of the Planning Proposal the proponent has indicated that there is limited desire to amend the current design of the development. The subject site's east-west orientation with constrained dimensions, means that the options are limited to make a 'smaller' building. The proposed building height and FSR would deliver a very tall and large building, regardless of the outcomes of a Design Competition, or what controls are the proposed DCP. Therefore, it is likely that the significant impact on solar access provision to Nepean Shores will remain regardless of future detailed design.

Council's 3D model was employed to utilise electronic design files provided by the proponent to visualise the overshadowing that would result from the likely built form outcome sought on the Winter Sports World site. The model confirms that all 10 of the long term dwellings along the northern boundary of Nepean Shores will be overshadowed (in part or completely) all day in mid-winter.

Suitability of proposed building height for the locality

Council's planning controls and policies for the locality around Tench Avenue and Jamison Road currently permit only lower-scale built form (a maximum 8.5m building height), and promote a nature-focused river environment. The size of the proposed development would potentially change this setting. The proposed 54m height and 1.2:1 FSR are a significant diversion from the established planning controls and the building itself would be the first in the locality to disrupt views of the Blue Mountains.

There are several Council planning documents which identify the importance of maintaining or enhancing certain views in the area, including LEP 2010, DCP 2014, the 'Our River' Nepean River Masterplan (2013), Riverlink Precinct Urban Design Study (2009) and Riverlink Precinct Plan (2008). The important views identified to be maintained or enhanced are views to the Blue Mountains escarpment from roads and public areas, and views to and from the Nepean River.

DCP 2014 and the 'Our River' masterplan identify the area at the intersection of Jamison Road and Tench Avenue as an important gateway location, where a strong sense of arrival along Jamison Road is envisaged, and where vistas and view corridors to and from the river and to the Blue Mountains escarpment are to be enhanced. Tench Reserve in this location is planned to be developed as a significant embellished congregation area. The subject site is envisaged in these policies to contain a highly visible landmark building displaying design excellence with street activation.

It is noted that when Council initially considered the Planning Proposal at its 26 November 2018 Ordinary Meeting, the report acknowledged potential impacts on important views, and that the subject site is in a 'gateway' location. The report recommended that the merits of the proposal in respect to visual impact be further considered throughout the future community and agency engagement. The community and agency engagement which has since been completed enables Council to make an informed decision as to the merits of the Planning Proposal and draft DCP in respect to the proposed building height and the suitability of this in the context of the locality.

Given the above, it is concluded that the Planning Proposal lacks context and does not balance economic, social and environmental outcomes.

Consideration

After consideration of the matters raised in public and agency submissions, it can be concluded that several key matters are not able to be fully addressed and resolved as part of this current Planning Proposal process. It would also be difficult to approve a future Development Application given the above matters.

The GAO submission has provided Council with certainty that a future Design Competition process for the proposed development would be robust, and that Council would be significantly involved in key elements of that process. The preparation of the design competition brief will identify clearly the fixed and variable aspects of the reference design, and it is possible that the ultimate winning design may be different from the current draft design. Council and the proponent would be involved in the preparation of the design competition brief. GAO has indicated that varied and distinctive responses to the indoor ski slope typology exist. It is noted however that the proposed building height and FSR would deliver a very tall and large building and would not be able to alter the building envelope regardless of the outcomes of a Design Competition.

It is likely that the amenity of the Nepean Shores residential community would be significantly impacted by the proposed development, due to overshadowing and the imposing built form proposed in close proximity to homes. It is noted that other impacts such as noise, privacy, odour and construction impacts could potentially generate impacts however these matters are better addressed and resolved as part of a future Development Application process.

Residential uses are not currently permissible in the SP3 Tourist zone in which Nepean Shores and the proposed Winter Sporting Facility are situated. However, Nepean Shores is an existing, lawful community, approved in 1987, that has not indicated an intention to re-

develop. Consideration must be given to the impacts on these long-term residents. There is concern that the proposed development would de-value homes at Nepean Shores, and would either displace residents, or force them to remain with no viable alternative, creating social impacts extending beyond the site.

Council's planning controls and policies for the locality around Tench Avenue and Jamison Road currently permit only lower-scale built form, and promote a nature-focused river environment. The height and FSR proposed are a significant diversion from the established planning controls set by Council.

There are several Council planning documents which identify the importance of maintaining or enhancing certain views in the area, being views to the Blue Mountains escarpment from roads and public areas, and views to and from the Nepean River. These Council planning documents also identify the intersection of Jamison Road and Tench Avenue as an important gateway location that contains a highly visible landmark building displaying design excellence with street activation.

The proposed building height does not align with existing Council policy for the area in respect to built form, and would significantly impact solar access provision to Nepean Shores. The Planning Proposal should therefore not be supported.

Council officers have undertaken a significant amount of analysis in regards to the impacts on solar access to Nepean Shores, and have enabled the proponent to provide a submission as part of this process. Significant concern has been identified in respect to the impacts on solar access from the proposed development.

Should Council reject the Planning Proposal, then Council officers would request the Minister for Planning and Public Spaces to determine that the matter not proceed, as prescribed by Section 3.35 of the Environmental Planning and Assessment Act 1979 (the Act). As delegate for the Minister for Planning and Public Spaces, the Planning Secretary of the Department of Planning, Industry and Environment will be requested by Council to issue an altered Gateway Determination that states that the Planning Proposal should not proceed.

It should be noted that the Act enables the Minister to arrange for a review of a planning proposal to be conducted by, or with the assistance of, the Independent Planning Commission or a Sydney district or regional planning panel should Council reject the Planning Proposal.

Conclusion

It is clear that the proposed development would bring several benefits such as investment, jobs, tourism and economic benefits, providing a facility of national significance and an iconic landmark in the Penrith region.

The increase in maximum building height from 8.5m to 54m is significant and is a substantial deviation from existing Council policy for this area of the Riverlink Precinct. The proposed height would change the low-scale built form of the locality, providing an imposing building that would generate significant overshadowing of Nepean Shores, impact on views to the mountains, and change the nature of the Tench Avenue / Jamison Road gateway environment. If the proposal were to be supported, it would set a precedent for future development proposals to do the same.

It is also evident that it would be difficult to approve a subsequent development application for this proposal on this site.

It is therefore concluded that the Planning Proposal should not be supported.

DPIE timeframe for Council reporting and decision

On 6 April 2021 DPIE provided correspondence to Council that prescribes completion timeframes and milestones that Council must achieve for the finalisation of the Planning Proposal. The correspondence requires that the Planning Proposal is to be finalised by end of June 2021.

Financial implications

Should Council endorse the Planning Proposal, draft DCP and VPA offer, a Planning Agreement based on the VPA offer would be prepared, publicly notified, and executed by Council and the proponent. The proposed VPA offer encompasses the delivery of road improvements by the proponent as works in kind.

Risk implications

There are no identified risks should Council resolve to endorse the recommendation.

RECOMMENDATION

That:

1. The information contained in the report on Proposed Winter Sporting Facility at 2 Tench Avenue, Jamisontown be received
2. Council not support the Planning Proposal for the proposed Winter Sporting Facility at 2 Tench Avenue, Jamisontown.
3. A record of Council's decision be provided to the applicant.
4. Council request the Department of Planning, Industry and Environment to issue an altered Gateway Determination that states that the Planning Proposal should not proceed.

ATTACHMENTS/APPENDICES

1. Site Location Map	1 Page	Attachments Included
2. Envisaged Development	1 Page	Attachments Included
3. Draft DCP	30 Pages	Attachments Included
4. VPA Offer	4 Pages	Attachments Included
5. Matter raised in public submissions	2 Pages	Attachments Included
6. Submission from NSW Government Architects Office	3 Pages	Attachments Included

SITE LOCATION MAP

PROPOSED WINTER SPORTING FACILITY AT 2 TENCH AVENUE, JAMISONTOWN



ENVISAGED DEVELOPMENT
PROPOSED WINTER SPORTING FACILITY AT 2 TENCH AVENUE, JAMISONTOWN



E13

Riverlink Precinct

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13.4.2.1 2 Tench Avenue, Jamisontown

13.4.2.1.1 Introduction

A. Land to which this section applies

This section applies to development permitted pursuant to clause [XXXXX] of Penrith LEP 2010 at 2 Tench Avenue, Jamisontown (Lot 1 DP 38950) as identified in Figure E13.9.



Figure E13.9: Aerial Image of the Subject Site (Source: Six Maps 2018)

B. Relationship of this section to the Riverlink Precinct Section

Clause [XXXXX] of Penrith LEP 2010 permits a development on the site that incorporates an indoor ski slope.

This section provides specific controls for a development on the site that incorporates an indoor ski slope, in addition to the general controls elsewhere in this DCP. Where there is an inconsistency between this section and the rest of the DCP, the requirements of this section prevail.

C. Vision

It is envisaged that the subject site will be developed for an indoor skiing facility, utilising the site-specific provisions under LEP clause [XXXXX] and this section of the DCP.

The development will potentially accommodate an indoor ski slope and a range of other facilities such as an ice-skating rink, ice climbing facilities, rock climbing facilities, snow play areas, a gymnasium and training facilities. The development

may also accommodate hotel accommodation, function centre and food and drink premises.

D. Objectives

- (a) To contribute to the attainment of the objectives of the SP3 Tourist zone and Riverlink Precinct and Tourism and Recreation sub-precinct by facilitating the development of a unique indoor recreation facility that offers a range of winter sport related activities that will attract local, interstate and international visitors;
- (b) To promote quality urban design, architectural excellence and environmental sustainability in the planning, development and management of the development of the site;
- (c) To encourage the development of a high-quality building that positively contributes to the skyline and view corridors to and from the Blue Mountains and escarpment and provides an appropriate architectural response to the Gateway location of the site;
- (d) To ensure that the development provides an appropriate interface with the public domain and contributes to a positive pedestrian experience for visitors to the precinct;
- (e) To ensure that massing, setbacks, design and landscaping of the development minimise the visual, privacy, acoustic and overshadowing impacts of the development on this site;
- (f) To ensure the development is compatible with the flood characteristics of the site and that any development on the site has no impact on adjoining or upstream or downstream properties; and
- (g) To ensure local traffic impacts of the development are appropriately managed and adequate parking is provided on site.

13.4.2.1.2 Design Excellence

A. Background

This Part seeks to encourage urban design and architectural excellence as well as environmental sustainability. This Part supports the requirement of clause [XXXXX] of the Penrith LEP 2010 for a design competition to be held for the future development of the site.

Achieving design excellence for the development is particularly important given the building will be a visually prominent building.

B. Objectives

- a) To ensure that the development achieves design excellence;
- a) To encourage a high level of design consideration;
- b) To ensure that buildings contribute positively to the precinct character.
- c) To encourage the development of sustainable design.
- d) To encourage the use of high quality, durable and robust materials.

C. Controls

- 1) The development must achieve design excellence. In deciding whether the development exhibits design excellence, the following matters are to be taken into consideration:
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,
 - (c) Whether the building reinforces and enhances significant vistas and view corridors,
 - (d) how the development will address the following matters—
 - (i) the impact of the development on the heritage significance of 'Madang Park' which is listed as a heritage item with local significance in Schedule 5 of the Penrith LEP 2010.
 - (ii) the relationship of the development with buildings on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - (iii) bulk, massing and modulation of the building,
 - (iv) environmental impacts such as sustainable design, overshadowing, and reflectivity,

- (v) the achievement of the principles of ecologically sustainable development,
 - (vi) pedestrian, cycle, vehicular and service access, circulation and requirements,
 - (vii) the impact on, and any proposed improvements to, the public domain.
 - (viii) achieving appropriate interfaces at ground level between the building and the public domain.
 - (ix) excellence and integration of landscape design.
- 2) Any future development application must be accompanied by a report that details how the building achieves design excellence in relation to these matters.

13.4.2.1.3 Built Form

13.4.2.1.3.1 Indicative Building Envelope

A. Background

This section of the DCP will guide the building envelope for development on this site to control and minimise the potential environmental impacts of future development on this site on the surrounding properties and ensure that the development delivers an appropriate streetscape outcome along both Tench Avenue and Jamison Road.

Controlling the height and setbacks of the building will be essential to reducing the apparent bulk and scale of the building, creating an appropriate landscaped setting for the building and providing a physical and visual transition between the building and the surrounding properties. The setbacks will also ensure a reasonable level of solar access will be maintained to the adjoining properties.

B. Objectives

- a) To ensure future development achieves a high-quality streetscape;
- b) To minimise the impacts of overshadowing; and
- c) To ensure adequate separation and amenity is provided to the surrounding properties.
- d) To ensure the development is compatible with the flood characteristics of the site and that any development on the site has no impact on adjoining or upstream or downstream properties.

C. Controls

- 1) The building height and setbacks are to be generally consistent with the height and setbacks shown in Figures E13.10, E13.11, E13.12 and E13.13. The building envelope depicted in these Figures is indicative only and is to be refined through the design excellence process.
- 2) The ski slope may extend up to 2 metres into the 10 metre setback to Jamison Road, above a height of 6 metres above ground level, to allow for the articulation and modulation of the ski-slope.
- 3) The ski slope is to be setback from the southern boundary to minimize the visual and solar access impacts of the slope on the adjoining property. The height and setback of the ski slope from the southern boundary should be consistent with the indicative building envelope diagram included as Figure E13.12.

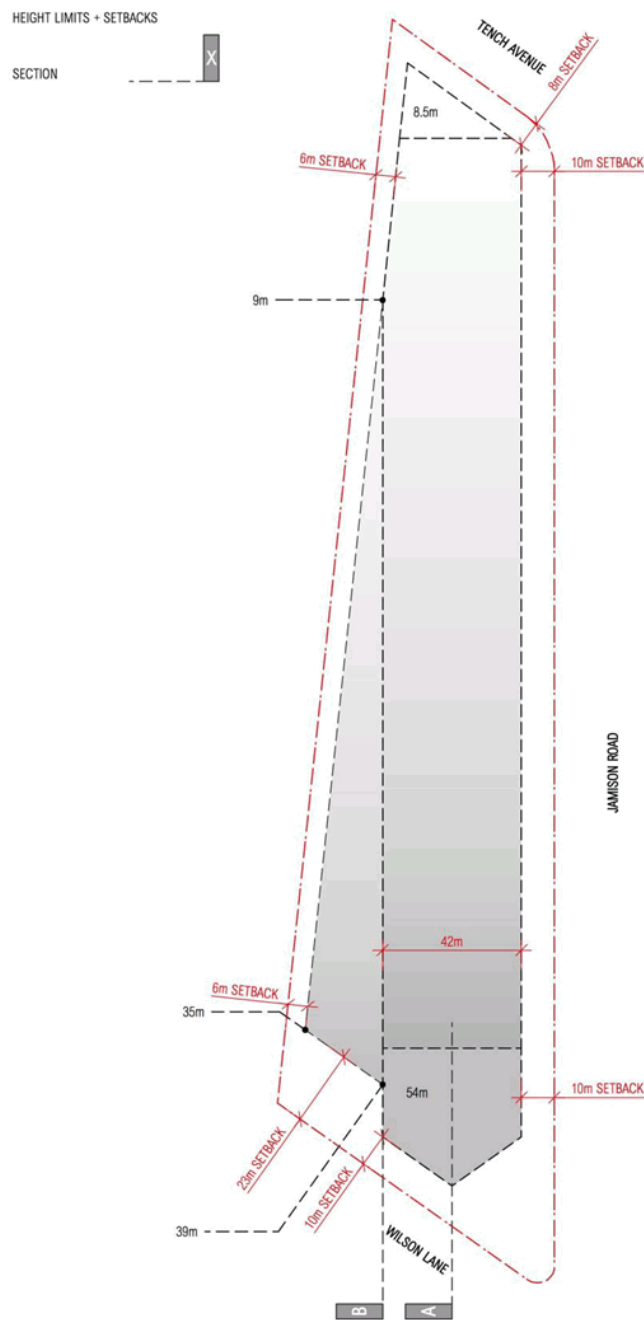
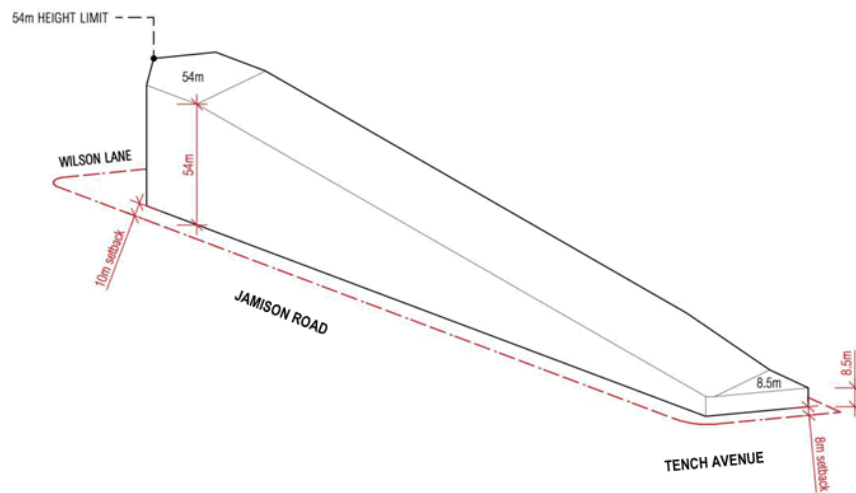


Figure E13.10: Site plan view of height limits and setbacks

SETBACKS + HEIGHT LIMITS



SETBACKS + HEIGHT LIMITS

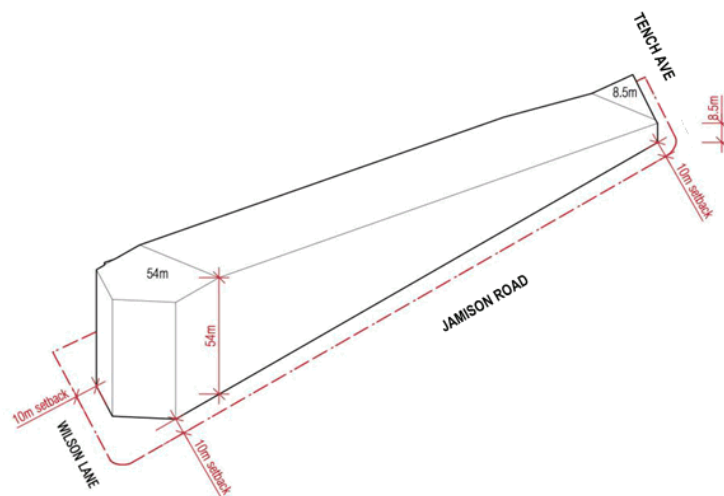
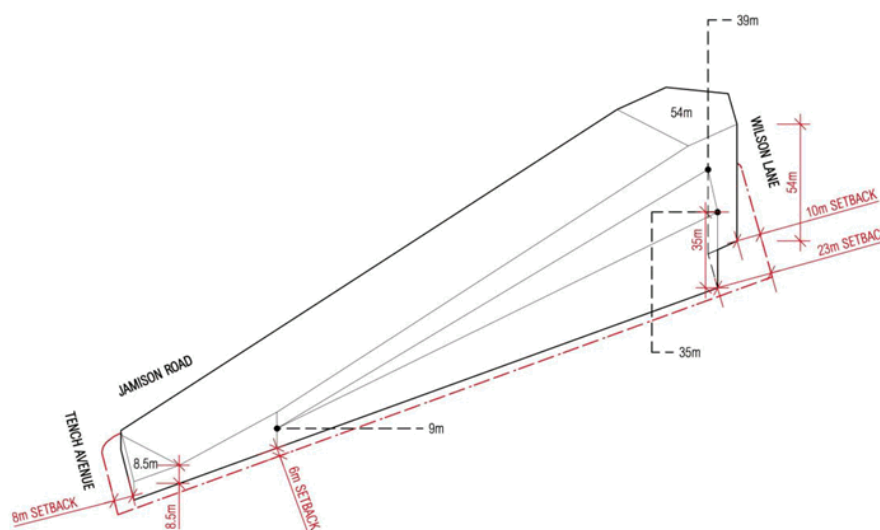


Figure E13.11: Indicative Building Envelope – Height limits and setbacks

SETBACKS + HEIGHT LIMITS



SETBACKS + HEIGHT LIMITS

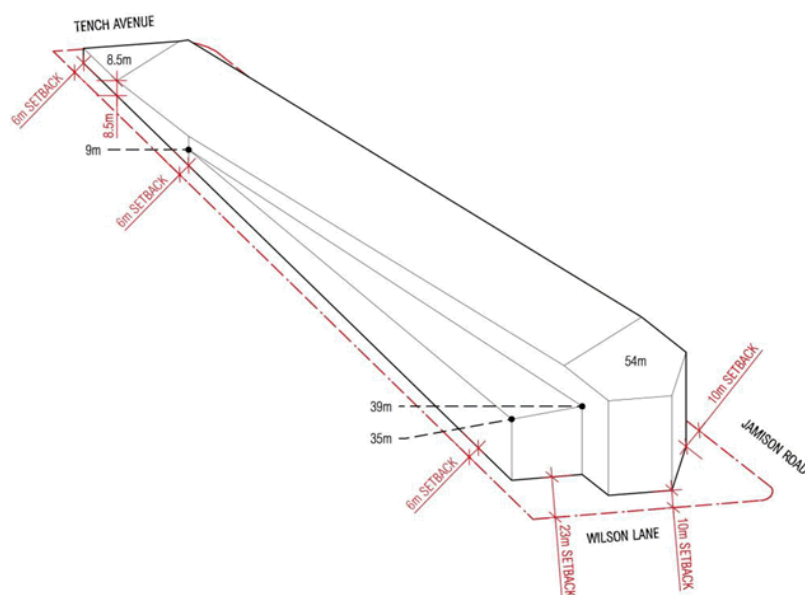


Figure E13.12: Building Envelope – Height limits and setbacks

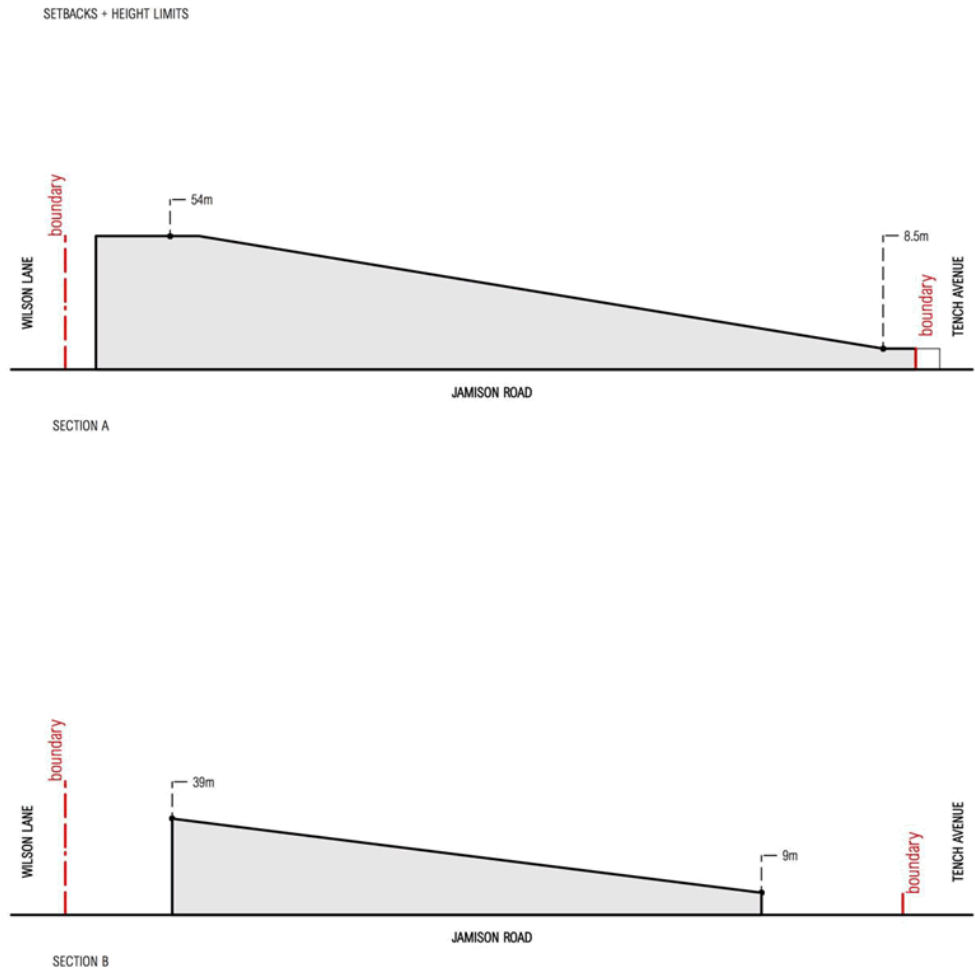


Figure E13.13: Sections – Height limits and setbacks

13.4.2.1.3.2 Building Design and Articulation

A. Background

The future development will be designed to be a landmark building for the area due to its height and unique shape. A high-quality architectural design is required for the building to ensure that the landmark building provides a positive contribution to the local skyline and attracts visitors to the Riverlink Tourism and Recreation Precinct.

The composition and detailing of the building façade will influence the apparent bulk and scale of the building, the success of the building's relationship with the public domain and the visual impact on the surrounding properties. The pattern or rhythm established by the proportions of the façade, the modulation of the external walls, the design of façade elements and the quality of the materials are therefore all-important considerations.

B. Objectives

- a) To ensure that new development makes a positive contribution to the skyline, streetscape and public domain;
- b) To ensure that the building's facades define and enhance the public domain.
- c) To create a transition between public and private space;
- d) To maintain a usable and pleasant public domain at street level;
- e) To ensure that an appropriate architectural treatment is provided at the intersection of Jamison Road and Tench Avenue; and
- f) To ensure that building elements such as awnings, screens, shading devices, roof structures and service elements are integrated into the overall building form and façade design.

C. Controls

- a) As the building will be visible from vantage points throughout the local area, both the northern and southern sides of the building are to be articulated and modulated to provide visual interest.
- b) Long continuous walls are to incorporate design treatments to reduce their visual mass and bulk. Such design treatments may include the use of architectural treatments or elements that serve to provide building articulation and modulation, the inclusion of greenwalls and the use of a variety of high quality external colours and materials.
- c) The intersection of Jamison Road and Tench Avenue is identified as a Gateway Location in the Riverlink Tourism and Recreation Precinct section of this DCP. The building is to respond to the Gateway Location of the site by:
 - Incorporating an active frontage to Tench Avenue (as required by the Riverlink Active Street Frontages section of this DCP),
 - Providing pedestrian access to the building from Tench Avenue. The building entry point is to be clearly visible from the street and enhanced as appropriate with awnings, building signage or high-quality architectural features that improve the clarity of a building's address and contribute to visitor and occupant safety and amenity.

- Delivering high quality building facades complemented by a landscape design that enlivens the public domain and contribute to a strong sense of arrival.
- d) A range of high quality, attractive and durable materials are to be used. A detailed schedule of external colours and finishes and photomontages are to be submitted with the development application.
- e) Building services such as roof plant and parking ventilation are to be coordinated and integrated with the overall façade and building design and screened from view.
- f) Ventilation louvres and car park entry doors are to be coordinated with the overall façade design.
- g) The building and landscaping design is to incorporate the strategies outlined in the Penrith Council Cooling the City Strategy. The Statement of Environmental Effects is to detail how the development is consistent with the strategies outlined in the Penrith Council Cooling the City Strategy.

13.4.2.1.3.3 Landscape and Public Domain Design

A. Objectives

- a) To ensure landscaping is integrated into the design of the development;
- b) To provide landscaped areas and deep soil zones within the site and maintain mature/significant vegetation where possible; and
- c) To ensure that the use of potable water for landscaping irrigation is minimized.
- d) To ensure landscaping is compatible with the flood constraints of the site.

B. Controls

- 1) A detailed Landscape Plan and Public Domain Plan prepared by a suitably qualified professional is to be submitted with the development application.
- 2) The Landscape Plan must address, and be consistent with, the requirements of the Landscape Design section of this DCP.
- 3) The Landscape Plan and Public Domain Plan must include details of the landscape treatment of the public domain between the site and the adjacent roads/lane. Cross-sections are required to be submitted to detail verge widths, footpath locations and space for tree plantings.
- 4) The public domain design must improve accessibility to the site by foot, bike and public transport by providing appropriate connections to the existing shared path on the northern side of Jamison Road and the bus stop on Tench Avenue.
- 5) A minimum setback of 6 metres is required to the southern boundary at ground level. The existing mature vegetation along the southern boundary is to be retained where possible and enhanced.

- 6) Landscaping is to be integrated in the setbacks of the development to Tench Avenue and Jamison Road to provide an attractive edge and shade to the footpath, and to screen and soften the bulk and scale of the façade.
- 7) The building's setback to the southern boundary, Jamison Road and Tench Avenue is to be a deep soil zone, except where pedestrian pathways and vehicular crossings are required.
- 8) Consideration should be given to including green walls into the façade design.
- 9) Recycled water should be used to irrigate landscaped areas. Details are to be submitted with the development application.
- 10) The development application should address the development's consistency with the Greener Places Design Guide Framework.
- 11) An urban tree canopy of at least 25% should be achieved in accordance with the Draft Greener Places Design Guide prepared by the Government Architect New South Wales.
- 12) Details of any proposed landscaping shall be included in a Flood Impact Assessment.

13.4.2.1.4 Views and Visual Impact

A. Background

The Penrith LEP 2010 permits a maximum building height of 54 metres for the development. The future development of the site will be a local landmark and visible from vantage points in Penrith and outside the area.

To ensure that view corridors to and from Penrith and the Blue Mountains are not adversely impacted by the development, and to ensure the development has a positive impact on the local skyline, a high standard of architectural design is required.

B. Objective

- a) To ensure the building provides a positive contribution to the local skyline and reinforces view corridors to the Blue Mountains.

C. Controls

- 1) The form and detailing of the building should create a visually interesting and attractive façade when viewed from the surrounding public domain and from a distance.
- 2) The building is to be setback from Jamison Road in accordance with the setbacks specified in the Indicative Building Envelope section of this Part of the DCP to ensure the view corridor along Jamison Road to the Blue Mountains is maintained and to minimize the visual dominance of the building on the view corridor.
- 3) Landscaping is to be provided in the building's setback to Jamison Road to soften the view corridor to the west from Jamison Road and to contribute to the landscaped, open character of the Precinct.
- 4) The building is to be setback from Tench Avenue in accordance with the setbacks specified in the Indicative Building Envelope section of this Part of the DCP to provide a consistent landscaped setback along Tench Avenue and ensure that views along Tench Avenue are not adversely impacted by the building.
- 5) The western façade of the building is to have a maximum height of 8.5 metres to provide consistency in the height of development adjacent to Tench Avenue and to provide an appropriate transition in scale from the foreshore park to the highest point of the building.
- 6) A Visual Impact Assessment (VIA) is to be submitted with the development application. The VIA is to be prepared in accordance with the relevant NSW Land and Environment Court Planning Principles. All photographs and observations should be made by a suitably qualified expert.
- 7) Photomontages showing the building from the key vantage points identified in Figure E13.14 are to be submitted to show how the building will reinforce and enhance significant vistas and view corridors.

VANTAGE POINTS



- VANTAGE POINTS:**
 01. From the M4 Bridge
 02. Yandhai Nepean Crossing
 03. The Blue Mountains escarpment
 04. Mt Portal lookout
 05. Regatta Park
 06. Lewers Gallery (Heritage Item)
 07. Corner Jamison Rd and Mulgoa Rd
 08. Corner Jamison Rd and Harris St
 09. Corner Jamison Rd and Racecourse Rd
 10. Corner Jamison Rd and York Rd
 11. Corner Jamison Rd and Blakie Rd
 12. Corner Jamison Rd and Wilson Ln
 13. Madang Park
 14. River Rd
 15. Tench Avenue

Figure E13.14: Vantage point locations for photomontages

13.4.2.1.5 Sustainability

13.4.2.1.5.1 Environmental Performance

A. Background

Ecologically sustainable development principles are to be applied in the design, construction and ongoing operation of the development to minimise the use of non-renewable resources.

B. Objectives

- a) To apply principles and processes that contribute to ecologically sustainable development (ESD);
- b) Minimise the impacts of the development on the environment;
- c) Minimise the use of potable water and encourage water re-use; and
- d) To minimise non-renewable energy consumption in the construction and use of the building.
- e) Consider the use of sustainable materials and building components.

C. Controls

Thermal Efficiency

- 1) The thermal performance of the building is to be optimised by using building materials and insulation that maximise the thermal efficiency of the building.
- 2) No direct external glazing to external walls to be provided from the snow and ice areas.
- 3) The areas of the building that accommodate uses reliant on snow and ice are to be sealed to reduce energy consumption in temperature regulation and to slow the decline of snow and ice quality.

Energy Efficiency

- 1) Development is to be designed and constructed to reduce the need for active heating and cooling by incorporating passive design measures including design, location and thermal properties of glazing, natural ventilation, appropriate use of thermal mass and external shading.
- 2) A renewable energy source is to be provided for the building, such as a Photovoltaic Solar System, that contributes to making electricity for the uses of the building.
- 3) Where possible heat removed from the snow and ice areas is to be captured and re-used.
- 4) Car parking areas are to include electric vehicle charging points.
- 5) Where possible, the responsible sourcing of construction and fit out materials are to be used, including recycled content and recyclable materials.

Water Efficiency

- 1) The following water saving measures are to be incorporated into the development:

- a) Where possible recycled or harvested rainwater is to be used for water use in the building and watering new gardens and landscape features.
- b) Snow and ice scraped off for cleaning / re-topping is to be placed in a drainage holding area so the ice can be melted, filtered and stored in the main water tank.
- c) Snow and ice melted from the bottom layer is to be drained and filtered into the main water tank.
- d) All water fixtures (low flow shower heads and taps, dual flush toilets, low flush/waterless urinals, etc) are to be the highest Water Efficiency Labelling Scheme (WELS) star rating available at the time of development.
- e) Stormwater capture and reuse, including water quality management is to be in accordance with Council's Policy Water Sensitive Urban Design Policy.
- f) Water efficient plants and / or locally indigenous vegetation are to be used for landscaping.

Requirements for Specific Uses

Indoor ski slope

After commissioning the ski slope, the ski slope component of the building shall meet the following criteria:

- 100% green energy sourced from the building, or other sources, such that the operations are energy carbon neutral for the making of snow, conditioning and lighting of the space and all internal power requirements.
- 100% of all water required for snow and ice making shall be sourced from the roof and water tanks specially constructed for the purpose.

Ice Hockey arena and ice climbing area

After commissioning the ice hockey arena and ice climbing area, this component of the development shall meet the following criteria:

- 100% green energy sourced from the building, or other sources, such that the operations are energy carbon neutral for the making of snow, conditioning and lighting of the space and all internal power requirements.
- 100% of all water required for snow and ice making shall be sourced from the roof and water tanks specially constructed for the purpose.

Snow centre foyer and reception, hotel and all ancillary retail areas

The snow centre foyer and reception, hotel and all ancillary retail areas shall be designed to achieve the equivalent of a Green Building Council of Australia Green Star 5-star rating.

13.4.2.1.5.2 Reflectivity

A. Background

Reflective materials used on the exterior of building can result in undesirable glare for pedestrians and potentially hazardous glare for motorists. Reflective materials can also impose additional heat load on other buildings. The excessive use of highly reflective glass should be discouraged. Buildings should be designed to minimise hazardous or uncomfortable glare arising from reflected sunlight.

B. Objective

- a) To restrict the reflection of sunlight from buildings to surrounding areas and buildings.
- b) to encourage the consideration of the use of sustainable materials and building components

C. Controls

- 1) Finishes and materials are to be of a low reflectivity. Visible light reflectivity from building materials used on the façades of new buildings should not exceed 20%.
- 2) New buildings and facades should not result in glare that causes discomfort or threatens safety of pedestrians or drivers.
- 3) Given the height of the building and proximity of the site to major roads a Reflectivity Report, prepared by a suitably qualified professional, is to be submitted that analyses the potential solar glare from the proposed development on pedestrians and motorists.

13.4.2.1.6 Amenity of Surrounding Properties

A. Background

The development of the site will need to be carefully managed to ensure the changing character of the Precinct does not unreasonably impact on the amenity of existing surrounding uses.

The design of the indoor skiing facility should minimise the potential visual, solar, privacy and acoustic impacts on the surrounding properties.

B. Objectives

- a) To maintain a reasonable level of amenity for the surrounding properties;
- b) To ensure the shadow cast by the development does not exceed the shadow generated by the permitted building envelope;
- c) To ensure that the noise generated by the uses and any associated plant and machinery complies with the relevant standards to protect the amenity of the surrounding properties;
- d) To ensure that development will not result in light overspill or glare from artificial illumination; and
- e) To provide clear and direct pedestrian entrances to the building to avoid unnecessary disturbance to the surrounding properties.

C. Controls

General

- 1) A Plan of Management is to be submitted with the development application for the indoor skiing facility to ensure that the development operates with minimal impact on the surrounding properties. The Plan of Management is to include details of:
 - Hours of operation. Where uses within the development have different hours these hours must be clearly identified.
 - Noise control measures including measures to be implemented to minimize the noise impact of visitors entering or leaving the premises between 10pm and 6am.
 - Deliveries and rubbish collection and details of measures to be implemented to minimize any impacts on the amenity of the surrounding properties.
 - Cleaning and maintenance of the grounds of the future development of this site.
 - Fire safety and emergency access
 - Flood evacuation procedure
 - Complaint management
 - Safety and security measures including:
 - Perimeter lighting.
 - Surveillance or security cameras.

- Fencing and secure gates.

Solar Access

- 1) The development is to comply with the indicative building envelope shown in Part 13.4.2.1.3.1 of this DCP to limit the extent of shadow cast by the development.
- 2) The development is not to result in any additional shadowing than is shown on the shadow diagrams that identify the shadow cast by the indicative building envelope. The shadow diagrams are included as Figures E13.15, E13.16 and E13.17.
- 3) The extent of shadow cast by the development is to be minimized. A design statement is to be submitted that outlines how the shadow cast by the building has been minimized.
- 4) Shadow diagrams showing the impact of the proposed development at each hour between 9am and 3pm on 21 June are to be submitted with the development application.

Visual and Privacy Impacts

- 1) The southern elevation must include visual interest through the modulation and articulation of the façade to provide an appropriate outlook from the adjoining property. The southern elevation should incorporate a range of materials to contribute to the visual interest of the façade and consideration should be given to the inclusion of green walls.
- 2) The setback of the ski slope to the southern boundary should accord with the setbacks shown in Figures E13.10 and E13.12 in order to limit the visual impact of the building on the properties to the south.
- 3) The number of windows and openings on the southern elevation is to be minimized in order to maintain a reasonable level of visual privacy to the adjoining properties to the south and prevent light spill. Generally only high-level windows should be provided. Where windows are necessary on the levels below the ski slope, measures to protect the privacy of the adjoining property are to be considered such as high sill windows, translucent glass windows or windows with privacy screens.
- 4) The overspill from artificial illumination is to be minimised. Indicative nighttime views are to be submitted with the application to demonstrate the extent of nighttime illumination.

Acoustic Impact

- 1) The developments must comply in all respects with the *Protection of the Environment Operations Act 1997*, and other relevant legislation.

- 2) Where possible noise generating plant and machinery are to be located away from noise sensitive uses on the surrounding properties.
- 3) A Noise Impact Statement is to be submitted with any future development application. The Noise Impact Statement is to be prepared by a qualified acoustic consultant in accordance with the requirements set out in Appendix F3 DA Submission Requirements of this DCP.

Signage

- 1) Signage for the development is to be integrated into the design of the building.
- 2) A Signage Strategy must accompany the development application that provides details of all directional and business identification signage required for the development.
- 3) Signage for the development is to be consistent with the Advertising and Signage provisions of the DCP.

SHADOW DIAGRAMS - SHEET 1

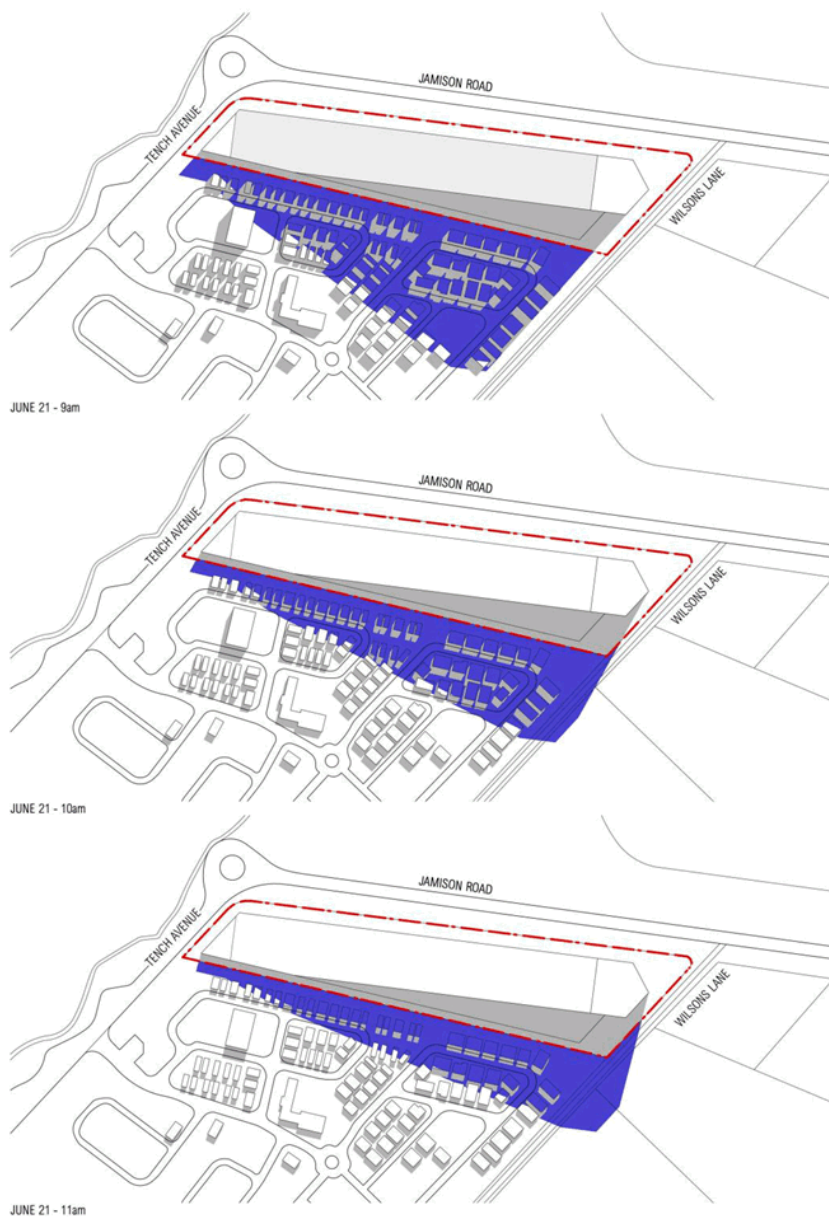


Figure E13.15 Shadow diagrams generated by the indicative building envelope showing maximum extent of shadow

SHADOW DIAGRAMS - SHEET 2



Figure E13.16 Shadow diagrams generated by the indicative building envelope showing maximum extent of shadow

SHADOW DIAGRAMS - SHEET 3

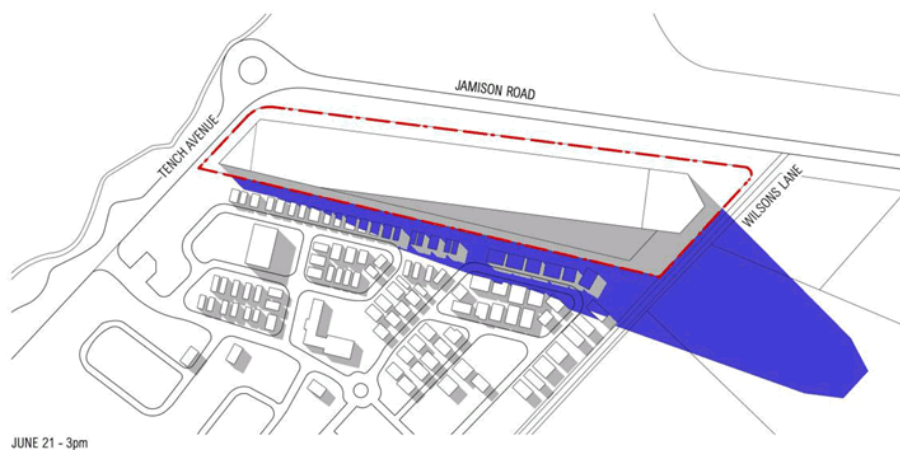


Figure 13.17 Shadow diagrams generated by the indicative building envelope showing maximum extent of shadow

13.4.2.1.7 Traffic, Parking and Site Access

A. Background

The future development on this site will accommodate a unique combination of uses. The traffic generation and parking needs will therefore differ from traditional single use sites and require site-specific responses and treatments.

B. Objectives

- a) To ensure that adequate car, motorcycle and bus parking is provided on site for staff and visitors;
- b) To ensure that driveways and parking structures do not dominate the public domain.
- c) To integrate adequate car parking and servicing access without compromising street character, landscape or pedestrian amenity and safety;

C. Controls

Traffic and Access

- 1) A Travel / Transport Plan is to be submitted with the development application and is to contain a range of measures to promote and maximise the use of more sustainable modes of travel to and from the site.
- 2) A Traffic Report is to be submitted with the development application for the development. The Traffic Report is to be prepared in accordance with the requirements set out in Appendix F3 DA Submission Requirements of this DCP.
- 3) The Traffic Report is to assess the impact of the development on the efficiency of the local road network and the performance of intersections.
- 4) The intersection of Jamison Road / Blaikie Road is to be upgraded in the form of an urban Channelised Right Turn treatment (CHR) to accommodate predicted traffic volumes during the AM and PM peak. The upgraded layout of the Jamison Road intersection with the CHR treatment is shown in Figure E13.18.
- 5) Vehicular access to the site is to be provided from Jamison Road or Wilson Lane in the zones shown in Figure E13.19.
- 6) All vehicular access to the development is to comply with Australian Standard AS2890.1 and AS2890.2 and accommodate vehicles up to and including a 14.5-metre-long bus/coach.
- 7) Potential pedestrian/vehicle conflict is to be minimised by:
 - a) Limiting the width and number of vehicle access points;
 - b) Ensuring clear site lines at pedestrian and vehicle crossings;
 - c) Separating pedestrian and vehicular accessways.
- 8) All vehicles must enter and leave the site in a forward direction.

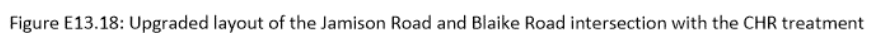




Figure E13.19: Vehicular access points

Parking

1) Car parking is to be provided at the following minimum rates:

Use	Parking Requirement
Indoor Recreation Facility	<p>Visitor: 1 space per 2.5 persons</p> <p>Staff: The staff parking rate shall be confirmed by a survey of a similar site in the Penrith LGA.</p> <p>The parking rate for staff shall be either 1 space per 2 staff or at the rate determined from a survey of a similar site in the Penrith LGA, whichever is the higher rate.</p>
Hotel	<p>Visitor: 1 space per room</p> <p>Manager: 1 space per manager</p> <p>Employees: 1 space per 6 employees</p>
Function Centre	<p>Table C10.2 of the DCP provides a parking rate for function centres of 1 space per 3.5 seats or 1 space per 3.5sqm of gross floor area, whichever is the greater. Given the people attending large functions would also stay at the hotel and use the indoor recreation facility, the lesser car parking rate should be applied for a function centre that forms part of the development.</p>

- 2) The Traffic Report is to assess the likely demand for bus, motorcycle and bicycle parking. The development must be designed to accommodate the assessed demand for bus, motorcycle and bicycle parking on the site.
- 3) All internal car, service vehicle and bus/coach parking facilities are to be designed in accordance with the relevant requirements of Australian Standards AS2890.1, AS2890.2, AS2890.3 and AS2890.6.
- 4) Bicycle parking and storage facilities shall be designed in accordance with Australian Standard AS2890.3 – Bicycle Parking Facilities.
- 5) The appearance of car parking and service vehicle entries is to be improved by locating parking, garbage collection, loading and servicing areas away from the street or screening these areas.
- 6) Structured parking that extends above ground where viewed from the public domain is to be architecturally treated or where possible sleeved with development.
- 7) The car park shall meet the minimum standards required under Section J of the National Construction Code.

13.4.2.1.8 Flooding and Drainage

A. Background

Flooding and stormwater are major considerations for the development.

A Stormwater Management Strategy (SMS) will minimise the impact on water quality, identify opportunities to maximise the reuse of stormwater runoff, reduce the demand on potable water supplies, reduce pollutants and enhance the landscaping opportunities within the development.

The SMS will be based upon the principles of Water Sensitive Urban Design (WSUD) and will be underpinned by a stormwater harvesting strategy aimed at maximizing the reuse of runoff for non-potable purposes, maintaining the ecological integrity of Peach Tree Creek and the Nepean River and complying with Penrith City Council's water management requirements as set out in Section C3 of this DCP.

The development will require an appropriate level of flood assessment and will include the need to undertake a detailed Flood Impact assessment. The applicant should recognise that a Flood Impact Assessment was not undertaken in preparation of this section of the DCP and as such the building footprint may need to be amended or reduced to ensure that any proposed development has no impact on upstream, downstream or adjoining properties when considering pre and post development flows. The assessment will need to include consideration of flood behaviour and hazard, and any mitigation measures required to ameliorate any impacts identified.

B. Objectives

- a) To manage development of the site with respect to its flooding characteristics;
- b) To develop the site in accordance with sound flood management principles;
- c) To achieve high quality outcomes for water quality and quantity; and
- d) To provide opportunities for WSUD initiatives.

C. Controls

1) The development application is to address the relevant sub-sections of the Water Management section of this DCP.

2) Any proposed development must have no adverse impacts on upstream, downstream or adjoining properties when considering pre and post development scenarios for all storms up to and including the 1% AEP.

2) A Stormwater Management Strategy (SMS) is to be prepared and be submitted with the development application and should identify and address:

- a) Impacts of stormwater generated both on and off the site;

- b) Overland flow paths;
- c) Opportunities to maximise the reuse of stormwater runoff;
- d) Means to reduce the demand on potable water supplies; and
- e) Reductions in pollutants entering the water system.

3) A Flood Study must be prepared in accordance with the Water Management section of the DCP and Councils Stormwater guidelines for Building Developments. The Flood Study must address:

- the Low Flood Island and any loss of flood storage and how this is proposed to be mitigated
- impacts of the development on the flood
- the impacts of flooding on the development

4) Any future Development Application is to be supported by a comprehensive Flood Evacuation Strategy and Emergency Response Plan, that is consistent with the relevant NSW State Emergency Service flood evacuation plan.

5) Any future Development Application is to be supported by a comprehensive Flood Impact Assessment. The flood impact assessment shall include but not be limited to an assessment of the proposed development and its impacts on upstream and downstream properties. The Development shall be designed to ensure that there are no impacts on upstream, downstream or adjoining properties with regard to increases in depth or velocity comparing pre and post development conditions.



26th August 2020

Penrith City Council
601 High Street
Penrith NSW 2750

Att: Joel Carson (Senior Planner)

RE: Voluntary Planning Agreement - Letter of Offer in Relation to the Planning Proposal for Winter Sporting Facility at 2-4 Tench Avenue Jamisontown

Winter Sports World propose to enter into a Voluntary Planning Agreement with Penrith City Council based on the following offer / terms for the provision of the development of Winter Sports World.

The Traffic Modelling Assessment & Report conducted by PDC Consultants 25/10/19 concluded that the road infrastructure & intersections were adequate as a result of the increased traffic volumes due to the development of Winter Sports World except for the Jamison Rd / Blaikie Road intersection.

Refer the attached Concept Intersection Layout Plan Jamison Rd / Blaikie Rd Intersection CHR Intersection Treatment, Drawing No 01 Rev F Dated 26/08/20. The Jamison Road / Blaikie Road intersection will need to be upgraded to incorporate a Channelised Right-Turn treatment as a result of the increase in traffic volumes from the Winter Sports World development. The Traffic Report acknowledged that the upgrade is necessary to ensure that the intersection operates satisfactorily.

In terms of any land acquisition, we note Jamison Road near its intersection with Blaikie Road is provided with a road reserve width of approximately 40 metres (refer to Appendix A - SixMaps screenshot) and this is more than adequate to accommodate the localised widening required (minimum 3.5 metres) to provide the CHR treatment. Accordingly, it is anticipated that there would be no requirement for land acquisition from private land owners near the subject intersection and that the upgrade can be wholly accommodated within Council's road reserve. However, upon completion of detailed design, it would be confirmed as to whether any land acquisition from private land owners is required.

Winter Sports World proposes to be responsible and pay for the costs associated with the upgrading of the Jamison Rd / Blaikie Road CHR Treatment in accordance with the Concept Drawings attached, to be completed prior to the issuing of an Occupation Certificate for the Winter Sports World Development. Traffic access to the site from the frontage roads will be considered as part of the normal DA assessment / approval process when more specific design details have been provided.



A summary of the scope of works for the Jamison Rd / Blaikie Road intersection CHR treatment upgrade is as follows:

- Provision of eastbound channelised right turn treatment on Jamison Rd into Blaikie Rd, to ensure the movement of traffic along Jamison Rd is not obstructed and the intersection operates satisfactorily;
- Provision for a kerbside lane and in both directions on Jamison Rd with minimum 3.5m wide lanes on Jamison Rd only for the extent of the works for the upgraded intersection design;
- Relocation of existing east-bound bus stop (located west of the Cables Wake Park entrance) to a location east of that entrance. This is due to widening of Jamison Rd in that location;
- Provision of pedestrian refuge on Jamison Rd median, east of Blaikie Rd, to provide access to the relocated bus stop;
- Provision of an indented bus bay on Jamison Rd at the location of the relocated bus stop, so as to ensure traffic flow along Jamison Rd is not obstructed;
- Provision of kerb ramps at the Jamison Road kerb (north and south sides), aligned to the pedestrian refuge;
- Provision of extended concrete walkways to link with existing shared path on northern side of Jamison Road;
- Relocation/modification to existing utilities as required;
- Works wholly within Council's road reserve;
- Winter Sports World to deliver the works prior to issuing of an Occupation Certificate for the Winter Sports World development.

All elements of this concept plan is subject to further refinement and change as a result of a detailed design, consultation with bus operators and to meet the requirements of Penrith City Council and relevant local traffic committee.

A road safety audit will need to be undertaken at the Panthers Cables Wake Park driveway entrance to address safety issues that result from the proposed changes on Jamison Road. The intersection design plans shall be updated to include any measures identified to address safety at this driveway.

The Flooding and Evacuation report and strategy completed by Wyndham Prince 1/11/19 concluded the strategy of early evacuation to be adequate with enough warning time without the need of altering road levels or other infrastructure upgrades. As such, upgrading of any roads or infrastructure due to flooding and evacuation constrains as a result of the Winter Sports World development is not applicable.

Please feel free to contact me should you have any questions.

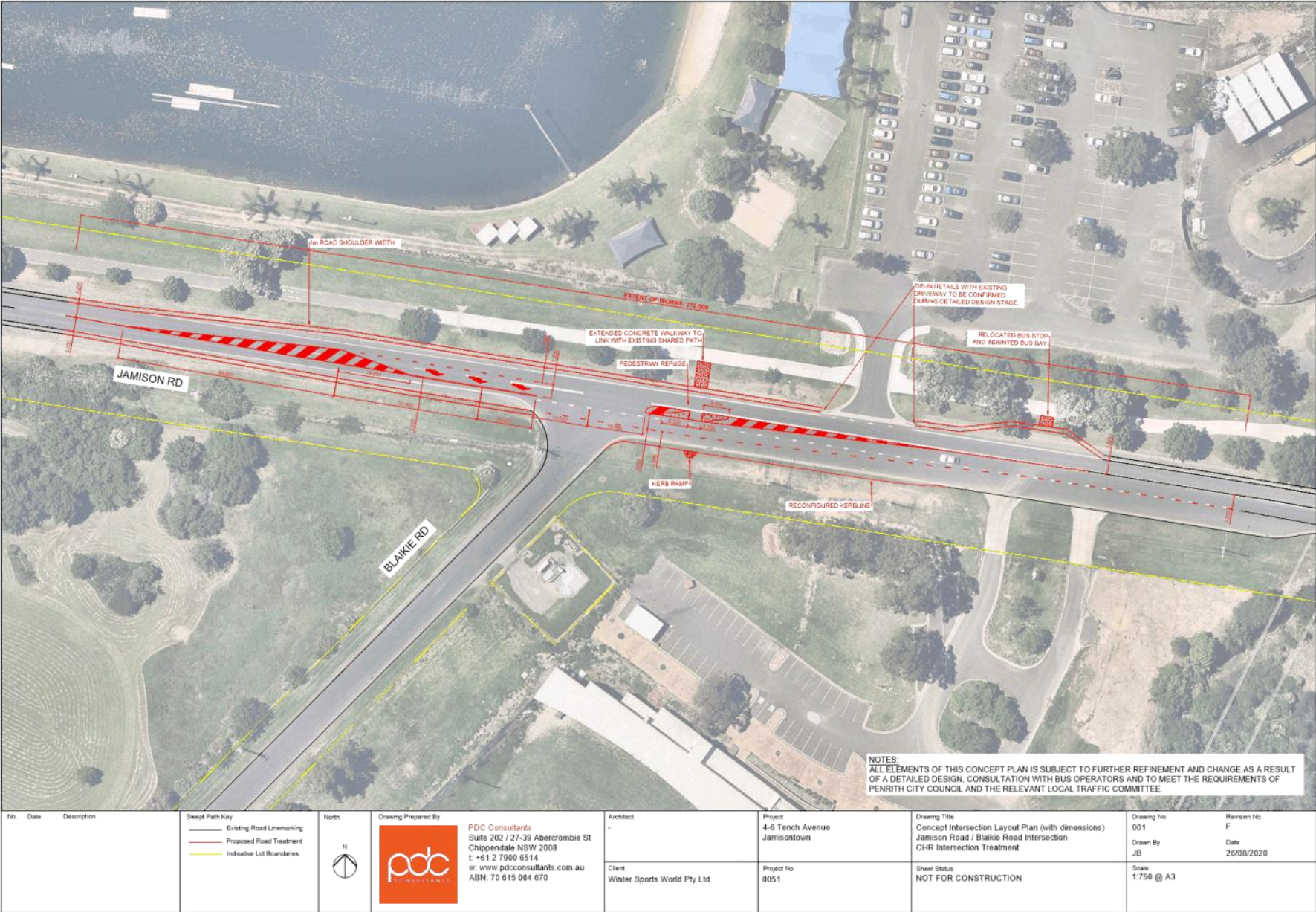
P. Magnisalis

Peter Magnisalis
Managing Director
Winter Sports World Pty Ltd
A: 2-4 Tench Av, Jamisontown NSW 2750
M: 0412 186 333
E: peter@wintersportsworld.com.au
W: wintersportsworld.com.au/



Appendix A – Six Maps Screen Shot





MATTERS RAISED IN PUBLIC SUBMISSIONS

PUBLIC EXHIBITION OF PLANNING PROPOSAL, DCP, VPA OFFER

PROPOSED WINTER SPORTING FACILITY AT 2 TENCH AVENUE, JAMISONTOWN

1. Reduction to the amenity of the adjacent Nepean Shores residential community.

- Peaceful setting and lifestyle reduced
- Imposing built form in close proximity to homes
- Blocking of views outwards from site
- Significant overshadowing of homes, blocking of sunlight for large parts of the day
- Noise and vibration, particularly from refrigeration machinery
- Reduced sale value of homes
- Privacy reduced from overlooking
- Air pollution and odour
- Construction impacts – noise, traffic, air etc
- The “ugly” back of house faces Nepean Shores
- Reduced air flow, increased heat at Nepean Shores
- Consider switching the tall building to the western end of site, to reduce impacts
- No benefit to Nepean Shores residents
- Nepean Shores is a lawful community, and is not intending to re-develop
- The development would either displace residents, or force them to remain with no viable alternative, creating social impacts extending beyond the site

2. Negative impacts on the Tench Avenue / Jamison Road locality and setting.

- The lower-scale, nature-focused environment of Tench Reserve would be changed
- The building does not fit with its surrounds and would be unsightly and dominating
- Traffic generated by the development would worsen existing traffic congestion
- Availability of on-street parking would be further reduced
- The development would be the first to disrupt views of the Blue Mountains
- The development would be the only that disrupts the locality’s low rise, vegetated nature
- The change is a significant diversion from established planning controls
- The height and FSR sought are excessive, delivering a substantial, intensive building
- The ‘Gateway’ designation of the site would not be met due to the oversized building
- The development would be highly reflective
- The development would increase water pollution and power consumption
- The nearby Madang Park heritage item would be impacted
- The development is not required as the locality already contains sufficient facilities
- Potential for increased anti-social behaviour
- The site should instead contain cafes and restaurants, like others on Tench Avenue

3. Positive impacts on the Tench Avenue / Jamison Road locality and setting.

- The design is world class and would fit with the locality
- The development would enhance the Tench Reserve precinct, bringing value to the region
- Penrith is an ideal location for the development
- The development would provide more activities for Penrith
- Penrith is in need of a new ice rink because the existing one in the locality is run down
- The location of the proposed ice skating rink is inappropriate, as it is too close to the existing ice skating centre at Jamisontown, and would compete with it to the detriment of the existing facility

4. Appropriateness of the subject site for the proposed development.

- The confined dimensions of the site would deliver an inappropriate, intensive built form
- Alternative locations should be considered, with less impact on residents
- Flood evacuation and traffic management must be addressed in a flood event
- The Design Competition is supported as it would obtain alternative design ideas
- The proponent objects to holding a Design Competition
- The environmental neutral nature of the development is supported
- The development incorporates sound elements from design examples internationally
- Instead of endorsing the proposal, there should be stakeholder engagement about constraints and opportunities, involving multiple sites at a sub-precinct level
- If Council is not supporting proposed improvements to Nepean Shores, why then should Council support this proposed development
- If Council were to support more ad hoc proposals in the locality, this would leave Nepean Shores 'frozen in time' and exposed to greater risk
- The proposal is a form of 'spot rezoning' that lacks context and does not balance economic, social and environmental outcomes
- The selection of the subject site for this development has been incorrectly guided by the ownership of the land and not by consideration of site suitability or the views of residents

5. Economic and tourism benefits.

- Investment and tourism would be brought to the river, Penrith and Western Sydney
- The proposal would be of state and national significance
- Jobs would be created, boosting the local economy and benefiting the community
- The project vision is exciting and sophisticated.
- The proposal would re-enforce Penrith's role as the 'adventure capital'
- The proposal would help achieve meeting demand for short-stay accommodation in the locality
- The proposal would be an iconic landmark in the Penrith region

6. Benefits to the winter sports industry.

- Snow and winter sports would be more accessible to people in Sydney, as there is no need to travel to the ski fields in the south of the state
- The skiing and snowboarding footprint in Australia would be changed
- There would be a world class facility
- Year-round access to winter sports training would be provided, reducing the need to travel
- Elite training facilities would be available for Australian athletes
- The location is ideal because Western Sydney has a large skiing community
- The proposal would increase participation in winter sports

GOVERNMENT ARCHITECT NEW SOUTH WALES

RE: Request for Design Competition Waiver –
Winter Sports World, Penrith

15 February 2021

Joel Carson
Senior Planner

joel.carson@penrith.city

PO Box 60, PENRITH
NSW 2751

Dear Joel,

Further to our correspondence and with reference to project background provided by Peter Magnisalis, we confirm that a waiver of the competition requirement subject to Clause 8.4 Subclause 4 of Penrith LEP is not supported for this project.

In light of the visual prominence, scale, complexity and significance of the proposal, a design competition process is required to select the preferred design proposal and team. We note that this process can be tailored to the specific conditions of the project, as discussed in meetings with Penrith Council, DPIE and the Proponent.

In arriving at this decision, GANSW has considered concerns put forward by the proponent regarding the limited scope for design differentiation from the reference design and matters relating to ownership of IP between the proponent and reference design architects. Investigations of a number of international precedents indicate that varied and distinctive responses to the indoor ski slope typology exist. The fixed and variable aspects of the reference design will be identified clearly in the endorsed design competition brief prior to the commencement of the competition.

The Draft GANSW Design Excellence Competition Guidelines acknowledge the financial and program implications of running a competition for architects, consultants and proponents; these are measured alongside the primary objective of delivering innovative and high-quality design outcomes for NSW through competitions that are fair to all stakeholders.

The Draft Guidelines note the following components of a competition can be varied to suit the project. These would be described within an endorsed Design Excellence Strategy.

- Number of entrants and the fee paid to those entrants
- The method for choosing the entrants
- The disciplines included within the Design Teams
- Number of Jurors and Technical Advisers

Government Architect
New South Wales

4 Parramatta Square
L17, 12 Darcy Street
Parramatta NSW 2150

government.architect
@planning.nsw.gov.au
T +61(02)9860 1450

governmentarchitect.nsw.gov.au



- Period of time that the entrants are given to prepare proposals
- Submission and presentation requirements

Acknowledging the work done to date in preparing the reference design for Winter Sports World, the following measures are recommended for consideration in preparing a proportionate competition strategy for this project:

- Keep the brief simple, clear and concise, reducing scope for inconsistencies; clearly define the fixed and variable aspects of the reference design
- Deliverables should contain sufficient information to communicate concept proposal (the level of detail required to communicate a fully resolved scheme should not be expected in the competition submissions).
- Reduce submission requirements [see below].
- Limit competition period
- Limit jury size
- Reduce number of competitors
- In order to support our local design industries, we strongly encourage Australian based practices
- No physical models should be required
- Limit photomontage visualisations to 2
- Payment of competitors to be commensurate with time and submission requirements
- Payment to technical advisors is by proponent and separate from any competition fee

The following is a sample of a reduced scope competition as described above:

Scale/ Complexity –	Large/Complex/Uncommon typology
Number of Entrants -	3
Method for selecting Entrants	Invited EOI to 6 firms or direct invitation
Design Team	Architects, Landscape Architects
Jury Size	3
Competition Period	4 weeks
Example Submission Requirements	20 x A3 pages report 1 x 20 minute digital slide presentation
Example Presentation Requirements	20 minute presentation to Jury

The precise details of the competition process for Winter Sports World will be agreed and endorsed through consultation with GANSW and defined in a detailed Design Excellence Strategy prepared by the proponent team.

Government Architect
New South Wales

4 Parramatta Square
L17, 12 Darcy Street
Parramatta NSW 2150

government.architect
@planning.nsw.gov.au
T +61(02)9860 1450

governmentarchitect.nsw.gov.au



Selection of a winning design and team through a tailored competition process as described above must be completed prior to the preparation and submission of any future Development Application.

Design development, post competition, occurring in parallel with the preparation of a Development Application and subsequent detailed design and documentation must be subject to a Design Integrity process. This will typically require maximum 3 design reviews involving minimum 2 of the 3 jurors, and chaired by a nominee of GANSW. Details of the Design Integrity Process will form part of the endorsed Design Excellence Strategy.

We thank you for your time in considering this matter and will be pleased to answer any questions you may have regarding the above advice.

Kind regards,



Olivia Hyde
Director Design Excellence
GANSW

Government Architect
New South Wales

4 Parramatta Square
L17, 12 Darcy Street
Parramatta NSW 2150

government.architect
@planning.nsw.gov.au
T +61(02)9860 1450

governmentarchitect.nsw.gov.au

