



Planning Proposal

Amendment of Building Heights and Permissible Uses

65, 73, 83, 123-125 Mulgoa Road and Lot 1
Retreat Drive, Penrith (Penrith Panthers Site)

September 2016

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Documents Supporting Public Exhibition

1. Department of Planning and Environment's *Guide to Preparing Local Environmental Plans* and *Guide to Preparing Planning Proposals*
<http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Environmental-Plans/The-Gateway-Process>

2. A Plan for Growing Sydney
www.strategy.planning.nsw.gov.au/sydney/

3. State Environmental Planning Policies
www.legislation.nsw.gov.au

4. Council's Community Plan
www.penrithcity.nsw.gov.au/Resources-and-Documents/Documents/Community-Plan/

5. Penrith Local Environmental Plan 2010
www.legislation.nsw.gov.au

6. Penrith Development Control Plan 2014
www.penrithcity.nsw.gov.au/Building-and-Development/Planning-and-Zoning/Planning-Controls/Development-Control-Plans/

7. Draft amendment to Penrith Development Control Plan 2014 (Part B of Chapter E13 Riverlink Precinct)

INTRODUCTION

This Planning Proposal recommends an amendment to some of the planning controls set by *Penrith Local Environmental Plan 2010* (LEP 2010) to enable the development of a mixed-use and residential precinct within the Penrith Panthers Site. The proposed precinct is located on 65, 73, 83, 123-135 Mulgoa Road and Lot 1 Retreat Drive, Penrith. The proposed development consists of 11 buildings containing approximately 850 apartments, with three of the buildings also providing space on the ground floor for shops, businesses and offices.

This document sets out the justification and explains the intended effect of the recommended amendment. The preparation of a Planning Proposal is the first step in the NSW Department of Planning and Environment's (the Department) Gateway Process, which is the current procedure for making changes to LEP 2010. The Gateway Process has a number of steps, set out in Table 1, that require this document to be revised as it progresses through the Gateway Process.

No.	Step	Explanation
1	Planning Proposal	Council prepares a document explaining the effect of and justification for making or amending a local environmental plan.
2	Gateway Determination	The Minister for Planning, acting as a checkpoint, determines whether a Planning Proposal should proceed.
3	Community Consultation	The Planning Proposal is publicly exhibited.
4	Assessment	Council considers any submissions it receives in response to the public exhibition, changing the Planning Proposal as necessary.
5	Drafting	Parliamentary Counsels Office prepares a draft of the local environmental plan.
6	Decision	The Minister approves the local environmental plan, making it law.

Table 1: Gateway Process

This Planning Proposal recommends the following changes to LEP 2010:

- Adjustment of the current height controls to ensure that any future development of the precinct is appropriate, attractive and interesting. Providing a variety of building heights across the Site allows landmark buildings in appropriate locations and the control of any potential impacts on existing development.
- Removing the ability to develop the Penrith Panthers site with an outlet centre (a building or place, containing one or more shops, selling surplus goods, seconds, samples, discontinued stock etc.) to provide certainty about future development.
- Correcting the address and property descriptions listed in Schedule 1 Additional Permitted Uses, Clause 22 "Use of certain land at 63, 73, 83, 109 and 123-135 Mulgoa Road and Lot 1 Retreat Road, Penrith"

The remainder of this document is split into the following parts:

Part	Explanation
1	The objectives and intended outcomes of the Proposal
2	An explanation of the planning controls
3	Justification for the objectives and intended outcomes
4	Maps identifying the Precinct and explaining the planning controls
5	Details of the Community Consultation
6	Predicted timeline

Table 2: Parts of a Planning Proposal

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

The objective of this Planning Proposal is to provide an alternative set of planning controls to enable the development of a mixed-use and residential precinct of approximately 66 hectares within the Penrith Panthers site. The precinct, identified as sites 1 to 6 in Table 3 and in Figures 1 and 2, is bounded by Mulgoa Road, Jamison Road, Peachtree Creek, the Mountain View Retreat Retirement Village, and the Council owned land known as the Carpenters Site (702 High Street, Penrith).

The precinct currently contains at grade car parking, a single storey pavilion, a single storey dwelling and detached garage, access roads and undeveloped land (grassed sites, formal and informal gardens, and mature and juvenile trees).

Map Ref.	Site Address	Legal Description	Owner
1	73 Mulgoa Road, Penrith	Part of Lot 1 DP 1043008	The Panthers Group
2	123-135 Mulgoa Road, Penrith	Part of Lot 13 DP 710086	The Panthers Group
3	83 Mulgoa Road, Penrith	Part of Lot 151 DP 863625	The Panthers Group
4	65 Mulgoa Road, Penrith	Lot 1021 DP 812335	The Panthers Group
5	Lot 1 Retreat Drive, Penrith	Lot 1 DP 1064526	Penrith City Council
6	73 Mulgoa Road, Penrith	Part of Lot 1 DP 1043008	The Panthers Group
7	73 Mulgoa Road, Penrith	Part of Lot 1 DP 1043008	The Panthers Group
	83 Mulgoa Road, Penrith	Part of Lot 151 DP 863625	The Panthers Group
	109 Mulgoa Road, Penrith	Lot 152 DP 863625	The Panthers Group
	123-135 Mulgoa Road, Penrith	Part of Lot 13 DP 710086	The Panthers Group

Table 3: Land to which proposal applies



Figure 1: Land to which proposal applies



Figure 2: Land within the Precinct – December 2015 Aerial Photo

The Penrith Panthers site, including the precinct, can currently be developed with a range of tourism related uses (including accommodation such as hotels, motels and serviced apartments), residential apartments, seniors housing, offices and shops including an outlet centre. The full range of uses is listed in the land use table for the *SP3 Tourism zone* and *Schedule 1 Additional permitted uses* in LEP 2010 (provided in *Appendix 1 Extracts of Penrith Local Environmental Plan 2010*). LEP 2010 also controls the height of buildings in the precinct limiting buildings to between 15-24 metres (or 4-7 storeys).

Council has received a proposal to develop the precinct with 11 buildings containing approximately 850 apartments, with three of the buildings also providing space (approximately 3,300m²) on the ground floor for shops, businesses and offices. Figure 3 provides an indicative diagram of the development and a full description of the development is provided in *Appendix 2 Details of proposed development*. The development of the precinct with new apartments is considered to present a good opportunity to provide additional homes (number and type) in a location with good access to leisure and entertainment facilities, and the jobs, shops and services provided by Penrith City Centre.

The proposed development seeks to locate a number of taller buildings (up to 50 metres tall - 14 storeys) in the centre of the precinct and reduce the height of buildings in locations next to existing developments, such as the Mountain View Retreat Retirement Village. This is to ensure that any future development will be appropriate, attractive and interesting.

Allowing taller buildings in appropriate locations provides opportunities for landmark buildings, and shorter buildings next to existing development helps reduce overshadowing and amenity impacts. The ability to develop taller buildings than currently allowed also allows for smaller building footprints, increasing the opportunity for public space and through-site links. To deliver this outcome, the current height controls need to be amended.



Figure 3 – Indicative development viewed from south side of existing lake

The proposed development is located on some of the land previously intended to accommodate a proposed outlet centre. This use is no longer being sought by the owners of the precinct, and needs to be removed from LEP 2010 to provide certainty about what type of development is allowed.

PART 2 – EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by making the following amendments to LEP 2010:

1. Amending Tile No. 6 of the Height of Buildings Map (in accordance with Part 4 of this Planning Proposal) to adjust maximum building heights within the precinct.
2. Updating the map legend on Tile No's 5-7, 11-13, and 18-20 of the Height of Buildings Map to ensure a consistent legend on all maps.
3. Amending Tile No. 2 of the Clause Application Map (in accordance with Part 4 of this Planning Proposal) to remove the *outlet centre* designation.
4. Amending *Part 9 Penrith Panthers Site* to:
 - a. remove references to specific types of retail premises and community title schemes and strata plan schemes (specific controls relating to the outlet centre) from *9.1 Objectives of Part*,
 - b. remove references to and controls for outlet centres from *9.3 Density of retail premises (including outlet centres)*,
 - c. delete *9.4 Minimum lot size for outlet centres for community title schemes or strata plan schemes*, and
 - d. update the numbering of this part.
5. Amending Schedule 1 Additional Permitted Uses, Clause 22 "Use of certain land at 63, 73, 83, 109 and 123-135 Mulgoa Road and Lot 1 Retreat Road, Penrith" to correct property descriptions.

Part 4 of this Planning Proposal explains the detailed mapping changes and Appendix 3 provides the proposed Clause Application Map and Height of Building Map.

Appendix 4 provides a copy of the proposed changes to *Part 9 Penrith Panthers Site*.

Appendix 5 provides a copy of the proposed changes to *Schedule 1 Additional Permitted Uses*, Clause 22.

All other planning controls in LEP 2010 applying to the precinct will not be changed and will continue to apply. These controls include specific controls for the Penrith Panthers site applying to campus style office developments and development control plans, and general controls relating to the subdivision of the precinct, heritage items and flood risk.

PART 3 – JUSTIFICATION

This part of the Planning Proposal addresses the need for the recommended amendments to LEP 2010, identifies necessary background studies, and examines potential community benefits. This part is split into the following sections:

Section Title	
A	Need for the Planning Proposal
B	Consistency with Strategic Planning Framework
C	Environmental, Social and Economic Impacts
D	State and Commonwealth Interests

Table 4: Sections in Part 3 of the Planning Proposal

Section A – Need For The Planning Proposal

This planning proposal is not the result of a strategic study or report prepared by Council. It has been prepared in response to a request from a landowner (via a rezoning application). The landowner wishes to redistribute the currently permissible floor space across the precinct, in taller and shorter buildings than currently allowed, to provide a better built outcome. This requires the amendment of the current height controls.

Allowing greater variation of building height across the precinct allows taller buildings in the centre of this development and reduced building heights in locations next to existing residential development. Taller buildings in appropriate locations will provide landmark buildings, helping to create an attractive and interesting development, while shorter buildings next to existing development helps reduce overshadowing and amenity impacts. The ability to develop taller buildings than currently allowed also allows for smaller building footprints, increasing the opportunity for public space and through-site links.

The development of the site with new apartments (850) presents an opportunity to provide additional housing supply and choice, supported by some limited commercial uses, in a location that has good access to leisure, and entertainment facilities and the jobs, shops and services provided by Penrith City Centre (less than 2km away).

The recommended amendment of the planning controls is considered the best means of achieving the proposed outcomes as it will allow the landowner to apply for development consent, a separate process subject to the checks and balances provided by relevant legislation. The proposed outcome cannot be achieved under the current planning controls, even within the flexibility provided by 4.6 *Exceptions to Development Standards* of LEP 2010.

The public exhibition of this planning proposal also allows the community, surrounding landowners, and interested stakeholders an opportunity to provide feedback on the proposed changes.

Removing the ability to develop the precinct with an outlet centre also provides certainty on the type of development that may occur in the future.

Section B – Relationship To Strategic Planning Framework

NSW Government's Framework – Metropolitan and District Plans

In December 2014, the NSW Government published *A Plan for Growing Sydney* setting out its vision for Sydney to be a strong global city and a great place to live. It also identifies key challenges facing Sydney, including the provision of housing for a significant population increase.

This plan also sets a number of goals for the economy, housing choice, healthy communities, a sustainable and resilient city, and the protection of the natural environment. The plan also sets directions and actions to deliver these goals; relevant directions for this Planning Proposal include:

- *Grow strategic centres – providing more jobs closer to home.*
- *Accelerating housing supply across Sydney.*
- *Improving housing choice to suit different needs and lifestyles.*

The NSW Government is also undertaking district planning to implement the actions in *A Plan for Growing Sydney*. A relevant priority for this Planning Proposal includes: *Work with Council to provide capacity for additional mixed use development in Penrith including offices, retail services and new homes close to transport.*

The proposed amendment of planning controls is considered to be consistent with *A Plan for Growing Sydney* and the priorities set by current district planning work, as:

- providing new residential and commercial floor space in an area supported by public transport, will support Penrith City Centre's development into a Regional City,
- increasing jobs and housing in the City Centre will help create vibrant hubs of activity and contribute to the provision of homes required by Penrith's communities, and
- improving walking and cycling connections between the City Centre and Nepean River provides opportunities for sustainable transport choices and contributes to the creation of healthier communities.

NSW Government's Framework – Local Planning Directions and State Environmental Planning Policies

The Minister for Planning and Environment issues *Local Planning Directions* that councils must follow when preparing a planning proposal. The directions cover the following broad categories:

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

This planning proposal is considered to be consistent with all applicable local planning directions. *Appendix 6 Consistency with local planning directions* evaluates the consistency of this planning proposal with the local planning directions.

The NSW Government also publishes *State Environmental Planning Policies* (SEPPs) and *Sydney Regional Environmental Plans* (SREPs or deemed SEPPs). These documents deal with matters of State or regional planning significance. *Appendix 7 Consistency with SEPPs*

examines the consistency of this planning proposal with all relevant SEPPs. There are no SEPPs that need to be considered by this planning proposal.

Council's Framework – Strategic Planning

Council's strategic planning framework consists of the following documents:

- Community Plan
- Community Engagement Strategy
- Delivery Program including the Operational Plan
- Resourcing Strategy
- City Strategy

The document of most relevance for this Planning Proposal is the Community Plan, which identifies the community's long term aspirations for Penrith City, setting outcomes and strategies. *Appendix 8 Consistency with Council's Community Plan* examines the consistency of the planning proposal with the outcomes and strategies, demonstrating that it is consistent with the Community Plan.

Council's Framework – Local Planning Documents

Penrith Local Environmental Plan 2010 (LEP 2010) applies to the precinct, setting the land use zone (SP3 Tourism) and applying a number of other planning controls, such as:

- the height of buildings in the precinct limiting buildings to between 15-24 metres (or 4-7 storeys),
- the maximum floor space of new development,
- how the heritage item (the house at 65 Mulgoa Road) is treated, and
- how flood risk should be managed

The Penrith Panthers site, including the precinct can currently be developed with a range of tourism related uses (including accommodation such as hotels, motels and serviced apartments), residential apartments, seniors housing, offices and shops including an outlet centre.

Appendix 1 Extracts of Penrith Local Environmental Plan 2010 provides relevant parts of LEP 2010.

To enable the proposed development, this planning proposal only recommends the amendment of the height of building control and the deletion of controls relating to the outlet centre. All other current controls will continue to apply to the precinct.

Penrith Development Control Plan 2014 (DCP 2014) also applies to the precinct, with *Part B Penrith Panthers of Chapter E13 Riverlink Precinct*, setting detailed controls for:

- the layout and appearance of new development and associated public spaces
- how new development should connect with surrounding areas, and
- how views of the Blue Mountains should be protected.

The relevant parts of DCP 2014 need to be amended to reflect and control the different development outcome recommended by this planning proposal. The proposed amendments to DCP 2014 will be on public exhibition the same time as this planning proposal.

Section C – Environmental, Social and Economic Impacts

Note: This part of the planning proposal may be revised to reflect any updated technical studies provided by the applicants of the rezoning application or required by the department's gateway determination.

Environmental Impacts – Bulk and scale of development and overshadowing

An analysis of potential development outcomes demonstrates that a development consistent with current planning controls could have adverse amenity impacts for any future occupants of development within the precinct as well as occupants of existing, adjacent developments. A development built to respond to current controls could result in bulky buildings with minimal variation in building height or type. It could also result in increased overlooking, overshadowing and amenity impacts for existing developments. *Appendix 9* provides an urban design analysis.

The alternative approach of re-distributing floor space across the precinct allows for reduced building heights closest to existing residential properties and taller buildings in appropriate locations. This transition of building height will provide a more interesting development with greater variation in building type and opportunities for landmark buildings. It will also provide increased opportunities for views from the development across the lakes. The ability to develop taller buildings than currently allowed also allows for smaller building footprints, increasing the opportunity for public space and through-site links.

A shadow analysis indicates that the proposed changes to building heights will not result in any unreasonable increased overshadowing impacts on neighbouring residential properties or any areas of public open space.

Environmental Impacts – Visual

The proposed increase in building heights will alter the landscape and skyline of the precinct and surrounds. The potential development will provide a key landmark for Penrith, helping to identify the precinct as a key economic driver and recreational and leisure precinct. The significant changes are located close to other tall structures and at the edge of Penrith City Centre. The urban design analysis identifies that it is possible to provide a well-balanced development with an appropriate visual presence from vantage points both near and far from the precinct. It also indicates that views to the Blue Mountains from public spaces will be preserved.

The development enabled by this planning proposal provides an opportunity to provide a generous landscaped buffer to the existing residential development.

Environmental Impacts – Transport

The development of the Penrith Panthers site, including the precinct, is subject to a 2014 *Masterplan Transport Strategy* that details the car parking, roads and intersections required by developments within the site. There is also a planning agreement for the delivery of transport infrastructure required by the development of the Penrith Panthers site.

The rezoning application is supported by a Traffic Impact Statement (*Appendix 10*) that indicates that the traffic generated by the proposed development is likely to be less than that which would be generated under current planning controls and that no additional transport works are required. However, the timing of the delivery of transport infrastructure identified in the planning agreement needs to be reviewed. The Traffic Impact Statement also identifies that additional analysis is required. This needs to be undertaken, provided to Council for review, and agreed with prior to the public exhibition of this planning proposal.

Environmental Impacts – Flood Risk

The planning proposal is not currently supported by a Flood Study that has been accepted by Council. The applicants of the rezoning application are currently preparing such a study and again this needs to be provided to Council for review, and agreed with prior to the public exhibition of this planning proposal.

Environmental Impacts – Watercourse

The development enabled by this planning proposal provides an opportunity to rehabilitate Showground Creek.

Social and Economic Impacts

The development enabled by this planning proposal will

- Deliver a broad supply of residential accommodation, contributing to the provision of diverse housing stock and catering to a range of demographic needs,
- Provide new commercial floor space in close proximity to existing and proposed residential, business and leisure attractors including the Panthers Leagues Club and stadium, iFly Indoor Skydiving Centre and Mercure Hotel, and
- Support job creation through the delivery of retail tenancies at ground floor.

Appendix 11 provides a socio-economic study.

Heritage Impacts

65 Mulgoa Road, Penrith (Lot 1021 DP 812335) contains the local heritage item “The Willows” (item 815). This proposal does not recommend the deletion of this listing meaning that the provisions that facilitate the conservation of heritage items and places will still apply.

Section D – State and Commonwealth Interests

Note: This part of the planning proposal will be updated following consultation with State Agencies.

Infrastructure Provision

The precinct is within an urban area and is adequately serviced by all required utilities and has access to public transport. Apart from the additional analysis required for transport infrastructure, the existing infrastructure has the capacity to accommodate the proposed development, subject to any necessary expansion at the detailed application stage. Appendix 12 provides a *Services Infrastructure Assessment* provides a capacity assessment of existing trunk infrastructure (electricity, gas, telecommunications, water, sewer and drainage) and potential servicing strategies.

State and Commonwealth Public Authorities

The Gateway Determination will outline the State and Commonwealth public authorities that need to be consulted. However:

- *Local Planning Direction 1.3 Mining, Petroleum Production and Extractive Industries* requires Council to consult the **Director-General of the Department of Primary Industries**.
- *Local Planning Direction 4.4 Planning for Bushfire Protection* requires Council to consult the **Commissioner of the NSW Rural Fire Service**.

In addition, it is proposed that the following authorities are consulted on the planning proposal:

- Roads and Maritime Services
- Railcorp
- Infrastructure NSW
- Ausgrid
- NSW Environment and Heritage
- Sydney Water

PART 4 – MAPPING

To deliver the proposed outcomes, the height of building map (tile number 6) needs to be amended to show new maximum building heights of 15, 20, 24, 38 and 50 metres across the precinct. *Figure 4* shows an extract of the current height of building map and the proposed changes. Appendix 3 provides the proposed Height of Building Map.

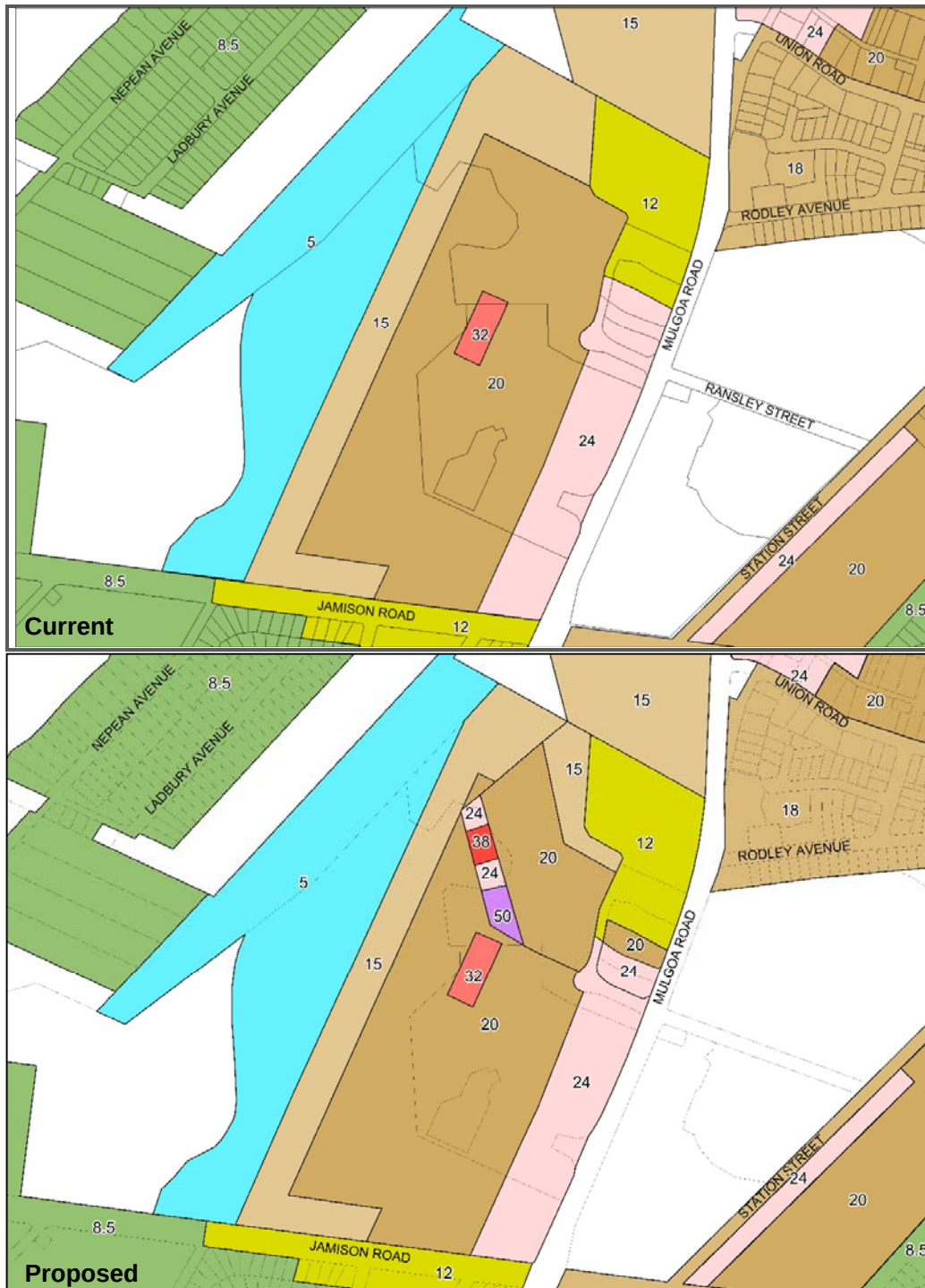


Figure 4 - Current and proposed height of building maps

The clause application map needs to be updated to remove the retail outlet designation. *Figure 5* shows the current and proposed clause application map and Appendix 3 provides the proposed *Clause Application Map*.



Figure 5 - Current and proposed clause application maps

All other LEP 2010 maps remain the same.

PART 5 – COMMUNITY CONSULTATION

Note: This part of the Planning Proposal may be revised to reflect any change to the community consultation requirements specified in the NSW Planning & Environment's Gateway Determination.

The Gateway Determination will outline the community consultation to be undertaken. However, it is recommended that the planning proposal be publicly exhibited for 28 days at the Penrith Civic Centre. All exhibition material will also be available in Penrith Library and on Council's website.

Notice of the public exhibition will be given in local papers and on Council's website and social media outlets. Notice of the public exhibition will also be provided by a letter to the owners and occupiers of adjoining and nearby properties (within 1 kilometre of the precinct).

Probity

Penrith City Council owns Lot 1 Retreat Drive, Penrith (Lot 1 DP 1064526) – Site 5 in Figure 1. Although no changes are proposed to the height of building controls applying to Council owned land, Council will commission a peer review of the Planning Proposal and community consultation process prior to finalising the proposal. This is in addition to the independent oversight provided by the NSW Government's Gateway Process.

PART 6 – INDICATIVE PROJECT TIMELINE

Note: The project timeline will be assessed by NSW Planning and Environment and may be amended to provide the necessary level of confidence that the proposed amendments to LEP 2010 will be finalised within a reasonable time.

No.	Action	Date/Anticipated Date
1	Council's sponsor of the Planning Proposal	May 2016
2	Submission to NSW Planning and Environment	July 2016
3	Gateway Determination	September 2016
4	Completion/refinement of required technical studies	October 2016
5	NSW Government Agency consultation	November 2016
6	Public exhibition	November 2016
8	Completion of consideration of submissions	December 2016
9	Peer review (because of council owned land)	December 2016
9	Submission to NSW Planning and Environment	December 2016
10	Publication of amended LEP 2010	February 2017