

Planning Services

Gateway Determination Report

LGA	Penrith LGA
PPA	Penrith City Council
NAME	39-49 Henry Street, Penrith (445 dwellings, 100 room hotel)
NUMBER	PP_2018_PENRI_001_00
LEP TO BE AMENDED	Penrith Local Environmental Plan 2010
ADDRESS	39-49 Henry Street, Penrith
DESCRIPTION	Refer page 5-9 of Attachment A2
RECEIVED	13 June 2018
FILE NO.	IRF18/3527
POLITICAL DONATIONS	A political donation has been submitted with the proposal. This is provided at Attachment E .
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The planning proposal (**Attachment A1-A8**) seeks to amend Penrith Local Environmental Plan (LEP) 2010 to increase the maximum floor space ratio (FSR) under Part (4) of Clause 8.7 'Community infrastructure on key sites' for 39-39 Henry Street, Penrith. The existing incentive Clause 8.7 would be amended to identify a maximum FSR of 6.5:1 for Lot 1 DP 710350 and 8.5:1 for Lot 10 DP 788189, on land within Penrith City Centre, which currently forms part of 'Key Site' 7.

The planning proposal would facilitate the provision of 445 dwellings and 100 room hotel.

Site description

The planning proposal applies 39-49 Henry Street, Penrith (Lot 1 DP 710350 and Lot 10 DP 788189), a rectangular shaped site with an area of approximately 6,356sqm. The site is located at the eastern end of Penrith CBD, approximately 800m east of Penrith Railway Station and the Penrith Westfield shopping complex.

The site is bounded by Evans Street to the west and Henry Street to the south. The site is largely vacant however is occupied by a derelict single storey commercial building. The site is outlined in blue in Figure 1, overleaf.



Figure 1 - Aerial photo of the Site

Existing planning controls

Under the Penrith Local Environmental Plan (LEP) 2010, the following zone and development controls apply to the site:

- B4 Mixed Use (see Figure 2 overleaf);
- a maximum FSR of 3.5:1 and a total maximum bonus FSR of 5:1 under Clause 8.7 of the LEP; identified on the 'Key Sites' map as part of 'Key Site 7' (see Figure 3 overleaf);
- a maximum building height of part 24m and part 32m.

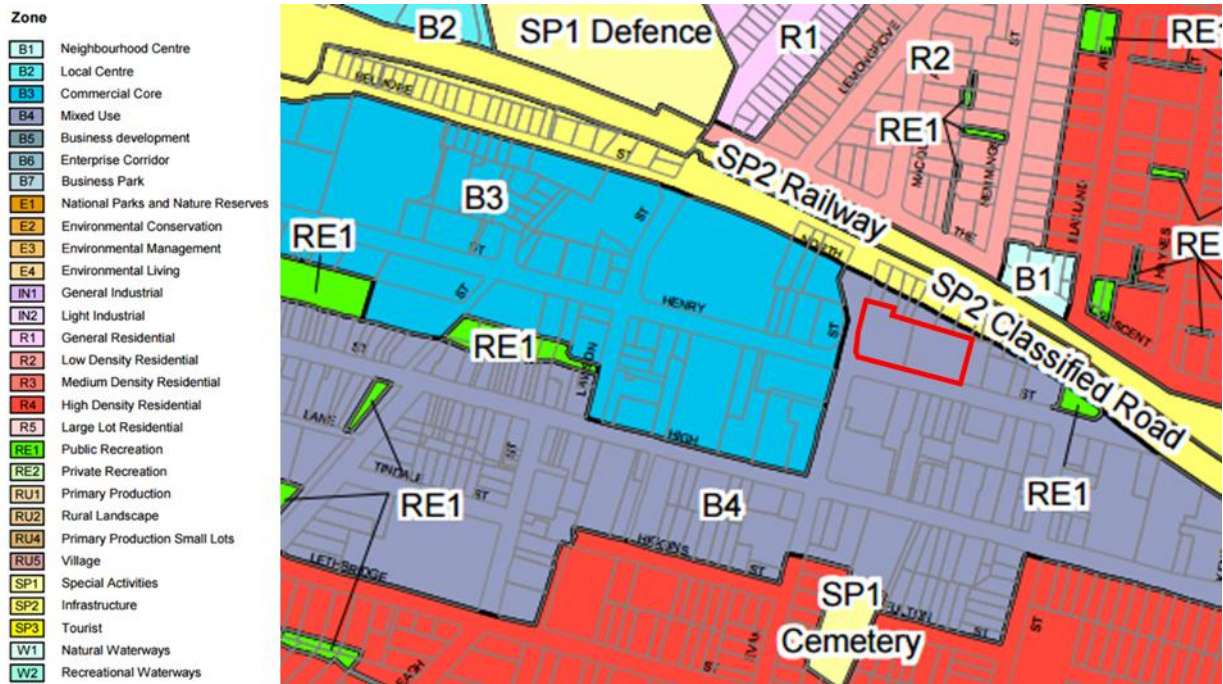


Figure 2 - Land Zoning Map Extract (site outlined in red)



Figure 3 – Key Sites Map Extract (site outlined in yellow)

Surrounding area

The subject site is zoned B4 Mixed Use and is surrounded by B3 Commercial Core and B4 Mixed Use zoned land. The existing B3 and B4 area contains mainly 2-3 storey buildings used for commercial and retail uses. The land to the west across Evans Street is proposed as Key Site 12 under PP_2018_PENRI_002_00 which is being assessed for Gateway determination.

Summary of recommendation

It is recommended that the planning proposal proceed with conditions as it will assist in revitalising the Penrith CBD and provide additional housing, commercial uses and short-term accommodation in a suitable location with access to jobs, infrastructure and services.

PROPOSAL

Part 1 - Objectives or intended outcomes

The objective of this planning proposal, as outlined in the proposal (**Attachment A2**), is to facilitate the redevelopment of land at 39-49 Henry Street, Penrith for mixed-use buildings, and to:

- provide a range of housing and hotel accommodation with good access to the City Centre, public transport, jobs, shops and services;
- stimulate the eastern part of the City Centre, including the night-time economy, with new residents and the activity generated by the hotel and commercial uses;
- generate new jobs in the hotel and commercial uses;
- deliver much-needed short-term accommodation in the City Centre, and contribute to Penrith's tourism industry;
- enhance the City Centre's appearance, especially its eastern gateway; and
- serve as a catalyst for further investment and development in the City Centre.

While the objectives of the planning proposal are clear and adequate, the description of the subject land requires further clarification. As there is some difficulty in describing the subject land as part of a key site in later parts of the proposal, it is considered that a site description under the proposal's introductory section (page 5) be included to provide advice on the subject land, i.e. Lot 1 DP 710350 and Lot 10 DP 788189, being part of Key site 7, as well as, a short explanation of the key site concept. Further, to assist with this description, a map be included identifying the subject land.

Part 2 - Explanation of provisions

The site is zoned B4 Mixed Use under Penrith LEP 2010. The proposed uses of residential flats, commercial uses and hotel accommodation are permissible under the zone. The planning proposal (**Attachment A2**) seeks to amend Penrith Local Environmental Plan (LEP) 2010, by amending Clause 8.7 (4) 'Community infrastructure on certain key sites' to identify:

- a maximum floor space ratio of 6.5:1 for Lot 1 DP 710350, and
- a maximum floor space ratio of 8.5:1 for Lot 10 DP 788189.

An excerpt of Clause 8.7 of the LEP is provided at **Attachment F**.

Consistent with Clause 8.7 of the LEP, if no community infrastructure offer is made, the existing height and FSR controls remain and the bonus FSR provisions specified in Clause 8.7(4) of the LEP are not applied.

The future built form outcome on the site will be settled through a design excellence competition in accordance with Clause 8.4 'Design Excellence' of the LEP (excerpt provided at **Attachment G**) to ensure it responds to the site's significant location and enhances the City Centre's appearance.

An Urban Design Study (**Attachment A3**) identifies a number of constraints and opportunities to enhance the site. The studies also outline a concept development proposal for the site, which includes a 39-storey building containing a 100-room hotel, parking and 214 units (Lot 10 DP 788189) and a 29 storey mixed use building containing ground and first floor retail/commercial and 213 units above (Lot 1 DP 710350). The planning proposal would facilitate the provision of 445 dwellings and a 100-room hotel.

It is recommended that prior to exhibition, Part 2 'Explanation of Provisions' of the planning proposal is amended to indicate the existing zone, standards and provisions that currently apply to the land, as well as the proposed standards.

Part 3 – Justification

Under this part (page 11) amendment is required by deleting the word 'residential' (and associated commentary) when describing the bonus floor space provisions, as the bonus FSR applies to all development.

In addition, Page 11 of the proposal incorrectly refers to Lot 1 DP 710350 instead of Lot 10 DP 788189 and a note needs to be included that the proposed amendments to clause 8.7(4) of the LEP is subject to legal drafting.

Mapping

The amendments proposed do not require any changes to the current LEP maps.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is not directly the result of a strategy or study. The proposal is supported by the following studies and reports:

- Urban Design Study (**Attachment A3**)
- Traffic and Parking Study (**Attachment A4**)
- Overshadowing Analysis (**Attachment A5**)
- Wind Assessment (**Attachment A6**)
- Acoustic Assessment (**Attachment A7**)
- Flood Study Report (**Attachment A8**)

The site forms part of Key Site 7 which has previously been identified and mapped in the LEP. Planning Proposal (PP_2016_PENRI_002_00) gazetted July 2017 applied Clause 8.7 Community infrastructure on certain key sites which identifies a total maximum FSR of 5:1 for Key Site 7.

The proposed amendments respond to issues regarding feasibility, viability and the potential benefits of a hotel in this location. The additional FSR on the site will allow the development of a hotel and mixed uses on the site and activate the eastern part of the city centre. It will facilitate potential delivery of community infrastructure on the site and also create jobs within the city centre.

The planning proposal is the best and most appropriate means of achieving Council's intentions. A planning proposal is the only means available to introduce these amendments under the Penrith LEP 2010.

STRATEGIC ASSESSMENT

Regional / District

Greater Sydney Region Plan – A Metropolis of Three Cities (March 2018)

The proposal is consistent with:

- *Objective 10 - Greater housing supply*: The proposal will supply a range of housing types in the right location to support Sydney's growing population.
- *Objective 11 – Housing is more diverse and affordable*: The planning proposal will facilitate the delivery of 445 dwellings of varying styles to support housing diversity in Penrith City Centre.
- *Objective 14 – A Metropolis of three cities*: The planning proposal supports the delivery of additional housing supply and tourist facilities at a walkable distance to train station and mixed-use are to support a 30 minute city.
- *Objective 22 – Investment in business and activity in centres*: The concept plan proposes the inclusion of a hotel which will stimulate business and provide employment in the Penrith City Centre.

Western City District Plan (March 2018)

The town centre is located within the Western City District therefore the Western City District Plan (the Plan) applies to this planning proposal. The proposal will provide greater housing supply in a location with access to jobs, services and public transport (Planning Priority W5). The proposal will also support the growth of the metropolitan cluster by revitalising the Penrith City Centre and creating a tourist hub.

Local

Penrith Community Plan

The Penrith Community Plan was adopted by Council on 26 June 2017 identifies the community's long-term aspirations for Penrith City, with outcomes and strategies to achieve this.

Council advises that the planning proposal is consistent with this Plan as it aligns with the intended outcomes and strategies to accommodate future growth and facilitate development.

Penrith City Strategy

The objective of the Strategy is help build a sustainable future for the Penrith Community.

Council advises that the proposal is consistent with the Strategy as it will assist in delivery of Council's policy for housing which seeks to plan for housing that meets the community needs with regard to supply, choice, design quality, sustainability and affordability. The proposal would also encourage investment and employment opportunities in the Penrith City Centre.

Section 9.1 Ministerial Directions

The planning proposal is consistent with the following Section 9.1 directions identified below.

Direction 1.1 Business and Industrial Zones

The proposal is not inconsistent with the direction as it will retain the current mixed use zone and permissibility.

Direction 3.1 Residential Zones

This direction aims to encourage a variety and choice of housing types, make efficient use of existing infrastructure and services, and minimise the impact of residential development on the environment and resource lands. This direction as the proposed bonus FSR increases will enable the delivery of an increased number of dwellings on the subject site.

The planning proposal is consistent with this direction as it will provide additional housing in a suitable location with access to existing infrastructure and services.

Direction 3.4 Integrating Land Use and Transport

The objective of this direction is to increase the choice of available transport and reduce dependence on cars.

The planning proposal is consistent with this direction as the site is in close proximity to Penrith train station and a number of bus stops therefore future residents will be able to adequately access public transport services.

4.3 Flood Prone Land

This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

The subject site is located outside the extent of the Probable Maximum Flood (PMF), although it is noted that the Penrith City Centre is broadly affected by overland flooding including the subject site. Discussions with Infrastructure NSW raised no issues with the proposal in relation to flooding or evacuation of the Penrith City Centre. It is considered that the flooding issues can be adequately addressed during development assessment stage as demonstrated within the Flood Study Report **(Attachment A8)**.

The Planning Proposal is consistent with this direction.

Direction 6.3 Site Specific Provisions

This direction aims to discourage unnecessarily restrictive site-specific development controls. The planning proposal is consistent with this direction as it allows greater FSR to be provided on the subject site, provided development meets the design excellence requirements and provides 'community infrastructure'.

The proposal is considered consistent with this Direction. However, for certainty, it is considered that any technical inconsistency with this direction is of a minor nature and the approval of the Secretary is recommended.

State Environmental Planning Policies

The planning proposal is consistent with all other relevant State Environmental Planning Policies.

SITE-SPECIFIC ASSESSMENT

Social

The planning proposal has the potential to generate further opportunities for community benefits that can be provided through the key sites incentives clause and a hotel.

An Urban Design Study (**Attachment A3**) has been submitted with the proposal which identified potential impacts including overshadowing and solar access. These matters would be further assessed as part of any future development application process.

Environmental

The planning proposal does not impose any adverse impact on the critical habitat or threatened species, populations or ecological communities or their habitats.

Economic

The planning proposal outlines that the introduction of a greater mix of uses on site, including a hotel and residential dwellings will increase the activity and economy of the eastern end of the Penrith City Centre.

Traffic and Transport

The proposed increases to the bonus floor space ratio will enable greater development on the subject site, which has the potential to create additional traffic impacts. A Traffic and Parking Study (**Attachment A4**) has been submitted which indicates that potential future traffic impacts are acceptable.

It is recommended that Council consult with the Roads and Maritime Services and Transport for NSW in relation to the planning proposal.

Infrastructure

Whilst the city centre has access to existing infrastructure and utilities, the increased development potential will increase the population and number of people accessing services in this area. As such, it is recommended that during the public exhibition stage, Council consults the relevant utility providers including Sydney Water.

Noise and wind

The Wind (**Attachment A6**) and Acoustic Studies (**Attachment A7**) demonstrates that the impacts associated with noise from the train line to the north can be appropriately managed through suitable building design or mitigation measures and will be assessed in detail in any future development application.

CONSULTATION

Community

A public exhibition period of 28 days is considered an appropriate amount of time to gauge the response by the community.

Agencies

The Department recommends that Council consulted the following State agencies in relation to the planning proposal:

- Roads and Maritime Services;
- Transport for NSW – Rail Corp;
- Transport for NSW;
- Sydney Water;
- State Emergency Service; and
- relevant utility providers for phone, gas and electricity.

Should these agencies require any additional information, or specify any additional matters to be addressed, the proposal is to be updated to respond to the submission, a copy of which is to be included with the updated planning proposal.

TIME FRAME

Council proposes a timeframe of 6-months to finalise this planning proposal. Given the nature of the planning proposal, a 12-month timeframe is considered appropriate.

LOCAL PLAN-MAKING AUTHORITY

Council has requested delegation of the plan making function be issued to it in relation to this planning proposal. Given the significant nature of the planning proposal, that is a key site within the Penrith CDB, it is recommended that delegation of plan making functions not be issued in this instance.

CONCLUSION

The Department recommends that the planning proposal proceeds with conditions, given that it will provide additional housing, commercial floor space and employment opportunities at a city centre location near Penrith Railway Station, and will activate the Penrith City Centre.

RECOMMENDATION

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to amend the planning proposal as follows:
 - a) For clarity, amend the introduction section of the proposal to clarify the subject land i.e. Lot 1 DP 710350 and Lot 10 DP 788189, forms part of Key Site 7 and provide a short explanation of that key site. Attach a thumbnail map, or amend the aerial photo, to clarify the location of the subject land by the inclusion of a key and show the boundary of the key site. Include the site boundary within a key.
 - b) Under Part 2 'Explanation of Provisions' amend to indicate:
 - The existing zone, standards and provisions that currently apply to the land, together with the proposed standards, with - where appropriate - the inclusion of thumbnail maps illustrating these controls. The subject land is to be highlighted to show its location on such maps.
 - Identify that the proposal is for key site 7 and clarify within the description of the proposed amendment that it is intended to introduce

bonus maximum FSR controls of 6.5:1 and 8.5:1 for part of the key site area, described as Lot 1 DP 710350 and Lot 10 DP 788189.

- Amend the word 'part' to 'clause', where appearing (p.9).

c) Under Part 3 – Justification:

- Clarify that the provision of community infrastructure only applies to the site subject to proposed development and clarify, or remove, the term 'or an equivalent monetary contribution' to be consistent with clause 8.7 of the LEP (p.11).
- Amend the discussion about community infrastructure (p.11) by removing the word 'residential' when describing the bonus floor space provisions, as the FSR applies to all development under clause 8.7 of the LEP.
- Amend the incorrect lot description on Page 11.
- Include a note that the proposed amendments to clause 8.7(4) of the LEP is subject to legal drafting.

2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - Roads and Maritime Services;
 - Transport for NSW;
 - Transport for NSW – Rail Corp;
 - Sydney Water;
 - State Emergency Service; and
 - relevant utility providers for phone, gas and electricity.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



18.09.2018

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27/09/2018

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