



Planning Proposal to amend Penrith Local Environmental Plan 2010

Incentives Clause for Key Sites

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Introduction

1.1. Purpose of the Planning Proposal

An amendment to Penrith Local Environmental Plan (LEP) 2010 is proposed to insert an incentives clause for Key Sites.

The preparation of a Planning Proposal is the first step in the NSW Department of Planning and Environment's (DP&E) Gateway process for amending the Penrith LEP 2010. The Gateway process is the current process for making or amending Local Environmental Plans as outlined in Table 1.

No.	Step	Explanation
1	Planning Proposal	Council prepares a document explaining the effect of and justification for the making or amending of a local environmental plan, and submits the Planning Proposal to the NSW Minister for Planning for consideration.
2	Gateway	The Department of Planning and Environment, as a delegate of the Minister for Planning, determines whether a Planning Proposal should proceed.
3	Community Consultation	The Planning Proposal is publicly exhibited.
4	Assessment	Council considers the submissions received in response to the public exhibition, varying the Planning Proposal if necessary.
5	Drafting	Parliamentary Counsel prepares a draft local environmental plan.
6	Decision	The relevant planning authority approves the local environmental plan, making it law.

Table 1: Gateway Process

1.2. Background

Council is in receipt of three Planning Proposals seeking to amend the planning controls for separate sites within the City Centre. The intention of each of the Planning Proposals is to increase building height and FSR controls that currently apply to the sites under Penrith LEP 2010. This will facilitate delivery of residential/mixed use development at a higher density than currently permitted. The key features of each submitted Planning Proposal is provided below:

Site	Proposal	Current Controls	Proposed controls
164 Station Street, Penrith (also known as former Panasonic Site or 'Parkview' Site)	Residential development incorporating approximately 2,000 dwellings	Height: 20-24m FSR: 2:1	Height: No height control FSR: 2.5:1
41, 184 & 192 Lord Sheffield Circuit, Penrith (Thornton)	Mixed use development incorporating approximately 580 dwellings	Height: 32m FSR: No FSR control	Height: 130-132m FSR: 5:1
614-652 High Street & 87-91 Union Street, Penrith (Sinclair Hyundai site)	Mixed use development incorporating approximately 850 dwellings	Height: 24m FSR: 3:1	Height: up to 82m FSR: 6:1

Each of the submitted Planning Proposals provides detailed justification for the proposed amendments to the current building height and FSR controls which can be summarised as follows:

- The location and ownership patterns of the sites provide the opportunity to create landmark developments at key gateways to the City Centre in each case
- The proposed developments will enhance the housing mix and affordability in the Penrith LGA which has traditionally been dominated by single dwellings in greenfield settings
- The injection of additional residential development in the City Centre is in keeping with Council's strategies and statutory framework. In so doing, it will increase the resident catchment required to support existing retail and commercial businesses in the City Centre and substantially raise the level of activity, vibrancy and passive surveillance
- The proposals will further activate the City Centre by providing new ground floor retail/business uses, supporting Penrith's vision for a night-time economy
- The Planning Proposal will improve local amenity for residents and users of the City Centre by enhancing the public domain and landscape setting
- The proposed developments will improve connectivity in the City Centre by delivering new pedestrian and vehicular links
- The Planning Proposals will lead to the creation of short term jobs during construction and permanent long term jobs through the retail/business components and through local, population driven multiplier effects, and
- The proposed buildings will exhibit design excellence, as required through the prescribed LEP processes, thereby providing a positive contribution to urban design outcomes in the City Centre.

The justifications provided in the submitted Planning Proposals are generally supported subject to the testing of the specific building heights and FSRs proposed by an independent Urban Design Analysis (refer to section 1.4 below for further information on the Urban Design Analysis). For the past decade, Council has been encouraging and pursuing good quality mixed use development for the City Centre with limited success. The buoyancy of the residential market in recent times, the maturing metropolitan and local market appetite for centre-based living and the demonstrated bonefides of the three proponents suggests that these are genuine proposals that can bring significant benefits the City Centre. With appropriate design, the proposed developments can provide economic stimulus to the City Centre and further catalyse investment interest.

In addition, the injection of significant residential and business activity will greatly assist in implementing the outcomes envisaged by the Penrith Progression and in achieving Penrith's housing and jobs targets under the City Strategy and the metropolitan strategy (*A Plan for Growing Sydney*) as demonstrated in Section B3 and B4 of this report.

1.3. Council's response to the Planning Proposals

Whilst the market and other dynamics that determine the feasibility of centre based development are highly complex, it is clear from Council's own internal and external land economics examinations, and confirmed by the NSW Department of Planning and Environment's (DP&E) Urban Feasibility Modelling, that development feasibility in the City Centre has been disadvantaged predominantly by the following factors:

- In 2007, following Penrith's classification as a Regional City, the NSW Government's Cities Taskforce undertook an intensive exercise to prepare new a LEP, Development Control Plan (DCP) and Development Contributions Plan (CIP) for the Penrith City Centre. This was intended to contemporise the planning framework for the City Centre and "open it up for business".
- Amongst other things, this exercise applied the new zoning regime under the standard LEP template for NSW (predominantly B3 Commercial Core and B4 Mixed Use zones) to provide a range of flexible uses to the City Centre, and substantially raised building height and FSR controls across the whole of the City Centre.
- However, rather than acting as an attractor or catalyst for investment interest, this "blanket uplift" in height and FSR capability had the unintended effect of substantially raising the expectations of land owners in the City Centre about the value of their properties. Hence, the asking price for sites was set at an artificially and unrealistically high level. As a key baseline factor in determining the feasibility of development, in a local market that did not demonstrate the necessary rate of return and guarantee of uptake for urban apartments and retail/commercial floorspace to overcome the initial site costs, this presented an unacceptable level of investment risk.
- The unrealistically high base price for sites was then reinforced in the minds of land owners through approvals for aspirational development proposals that subsequently did not materialise.

The learnings from this experience, combined with a review of contemporary approaches from other LGAs in Sydney, NSW and across Australia, and collaboration with the NSW Government Architect's Office have shaped Council's approach to introduce an incentives clause to the LEP to respond to the submitted Planning Proposals. The construction and application of the incentives clause would also initially facilitate similar outcomes in other strategically important locations in the City Centre.

The proposed incentives clause operates as follows:

- It will only initially apply to land currently identified as being within the Key Sites in the City Centre as mapped in the LEP (see Figure 1 below). The Station (Panasonic) and High Street (Sinclair Hyundai) sites are already included in Key Sites but it will be necessary to amend the LEP to include a new Key Site for the Lord Sheffield Circuit (Thornton) site
- The existing building height and FSR provisions are retained
- The incentives clause allows a managed departure from existing building height and FSR provisions subject to the proposed development satisfying the existing design excellence provisions of the LEP and that an agreed material public benefit is provided in consideration for the additional FSR yield above the planned levels. Any material public benefit negotiated would also be in addition to development

contributions that apply to the site to satisfy the demand for facilities and services up to the original level reflected in the existing building height and FSR provisions

- For cases where a proposed development in a Key Site satisfies the design excellence and public benefit tests:
 - o a new maximum FSR is individually set in the incentives clause for each Key Site, and
 - o no maximum building height would apply to the proposed development



Figure 1: Key Sites map

1.4. Submission of Planning Proposal to DP&E

Council submits this Planning Proposal that includes a draft incentives clause outlining maximum FSRs for each Key Site. These FSRs are indicative only and are subject to testing by an independent Urban Design Analysis currently being carried out. The Urban Design Analysis will consider the impact of increased capacity on the Key Sites and confirm the maximum FSR to be inserted into the incentives clause.

Council accepts that the DP&E is unlikely to issue an approved Gateway Determination to publicly exhibit the Planning Proposal until the maximum FSR has been confirmed by the

Urban Design Analysis for all Key Sites. It is anticipated the Urban Design Analysis will be completed and submitted to the DP&E by the end of January 2016.

As this is a new mechanism for the Penrith LEP 2010, Council submits the Planning Proposal without the Urban Design Analysis and requests the DP&E immediately begin assessment of the Planning Proposal, including discussion with Legal Services and Parliamentary Counsel. This approach is preferred to begin the Gateway Determination process and to identify any issues with the intent and wording of the proposed incentives clause as soon as possible.

Part 1 - Objectives or Intended Outcomes

The objectives and intended outcomes of this Planning Proposal are to:

- Encourage investment in Penrith's City Centre
- Activate the City Centre by providing for residential development at a higher density than currently permitted
- Increase the development capacity of Key Sites whilst protecting the development potential of adjacent sites
- Provide for additional development capacity where appropriate, supported by an Urban Design Analysis
- Avoid wide-scale uplift across the City Centre which can impact on development feasibility and market expectation
- Provide an opportunity for proponents to access bonus FSR in return for a public benefit, to deliver improvements to the City Centre and across Penrith more broadly
- Provide a more balanced and equitable approach to growth and uplift in the City Centre
- Respond to demand for residential development in key locations and provide a fast-track process for current proponents and future proponents
- Respond to the initiatives of *Penrith Progression Action Plan*
- Ensure Penrith remains a competitive Regional City to other comparative LGAs
- Seek a Gateway Determination to progress the concept of an incentives clause further, providing certainty to Council, investors and the proponents of the submitted Planning Proposals.

Part 2 - Explanation of Provisions

The objectives and intended outcomes of the Planning Proposal will be achieved by:

1. Amend Part 8 of the Penrith LEP 2010 to insert the following clause:

8.7 Development incentives

- (1) *The objective of this clause is to provide incentives for development on certain land in the Penrith City Centre where the development provides a public benefit over and above any development contribution required by section 94, 94A or 94EF of the Act*
- (2) *This clause applies to land identified on the Key Sites Map*
- (3) *Development consent may be granted for development on land to which this clause applies if the development:*
 - a. *Does not exceed the following maximum floor space ratio:*
 - (i) *Key Site 1: 5.5:1*
 - (ii) *Key Site 2: 5.5:1*
 - (iii) *Key Site 3: 6:1*
 - (iv) *Key Site 4: 5:1*
 - (v) *Key Site 5: 2:1*
 - (vi) *Key Site 6: 2.5:1*
 - (vii) *Key Site 7: 5:1*
 - (viii) *Key Site 8: 5.5:1*
 - (ix) *Key Site 9: 5.5:1*
 - (x) *Key Site 10: 6:1*
 - (xi) *Key Site 11: 5:1*
 - b. *Meets the requirements of clause 8.4 Design excellence*
 - c. *Provides a public benefit*
- (4) *Clauses 4.3, 4.4 and 8.4 (5) do not apply to development to which subclause (3) applies*

Public benefit means a public benefit to the satisfaction of the consent authority and consistent with the relevant public benefit policy.

The amount of maximum FSR outlined above is indicative only, and is subject to confirmation of the outcomes of an Urban Design Analysis which will be submitted by the end of January 2016.

2. Insert Key Sites maps KYS_005 and KYS_012 to identify Lots 3003, 3004 and 3005 DP 1184498 at 41, 184 and 192 Lord Sheffield Circuit, Penrith (Thornton) as Key Site 11.

As the subject site is approximately 11,000m² in site area, Council considers the site appropriate to be identified on the Key Sites map to deliver design excellence and provide a positive urban design contribution. The site is well located adjacent to the Penrith station.

Part 3 - Justification

SECTION A– NEED FOR THE PLANNING PROPOSAL

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

Yes, the Planning Proposal is initially in response to demand for increased heights and FSR supported by three submitted Planning Proposals each providing an Urban Design study to support the proposed increase in development potential. These studies led Council to determine that instead of a site-specific approach to permitting additional development capacity in the City Centre, a broader approach should be taken to ensure more balanced and equitable distribution of growth.

Council has engaged consultants to prepare an Urban Design Analysis to test the controls proposed by the three submitted Planning Proposals and to determine an appropriate level of bonus FSR for the remaining Key Sites. The Urban Design Analysis will determine the future 'shape' of the City Centre skyline and other identify other constraints and opportunities relating to overshadowing, solar access and views. Preparation of this study is already underway and the final report will be submitted to the DP&E once finalised. This is expected to be lodged by the end of January 2016.

The Urban Design Analysis is one part of a series of studies that will support the operation of the incentives clause. Consultants are also preparing a Public Benefit Analysis to identify an appropriate mechanism and planning framework to measure and capture offers of a public benefit. The consultants have also been engaged to prepare a Public Benefits Policy to assist Council officers in the determination of development applications where proponents wish to access the increased heights and floor space and offer a public benefit in return.

Council will progress with each study at various stages of the Gateway process. It is requested that the DP&E issue an approved Gateway Determination once the Urban Design Analysis is submitted, to provide a level of certainty and approval to proceed with the Planning Proposal. Once the Gateway Determination has been issued, Council will proceed with preparation of a Public Benefits Analysis and Public Benefits Policy.

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

Council has considered other mechanisms to achieve the objectives of the submitted Planning Proposal and an analysis of these mechanisms is provided below.

Variation of height and floor space standards via clause 4.6 Exceptions to development standards

Council considered whether a variation to the existing height and floor space controls by utilising clause 4.6 Exceptions to development standards in the Penrith LEP 2010 could be used to approve development that exceeds the current planning controls.

When considering the three submitted Planning Proposals, each proposal seeks to vary the planning controls significantly. If Council were to approve the development based on the proposals, this would be a significant departure from the existing height and floor space standards and set an undesirable precedent.

It was also considered that the community should be provided certainty surrounding Council's preferred density levels, therefore assessing applications that significantly exceed the controls would be based solely on merit, and this should be avoided.

Amendments to LEP Maps

Council considered responding to the Planning Proposals by amending the height and floor space controls within the LEP maps. However, this would result in a site-specific response resulting in inconsistent application of controls that could impact on the development potential of adjoining sites.

Council is concerned that by responding to the three submitted Planning Proposals only, this could lead to an uneven distribution of development capacity across the City Centre. For this reason, Council has engaged a consultant to carry out an Urban Design and Public Benefit Analysis to identify a more equitable distribution of heights and floor space applicable to other Key Sites within the City Centre.

Broad-level uplift across the City Centre

Council also considered whether general uplift across the entire City Centre should be granted in responding to the three submitted Planning Proposals. It was considered that broad-level uplift across the City Centre could have implications on development feasibility and an unreasonable expectation of property values, hindering investment and revitalisation of the City Centre. By limiting the proposed increase in heights and FSRs to Key Sites and for proponents who are seeking to develop in the short-term, these concerns can be avoided.

As demonstrated above, the Planning Proposal to insert an incentives clause is the best way of achieving the objectives and intended outcomes.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional and sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes, the Planning Proposal is consistent with *A Plan for Growing Sydney* and the draft North West Subregional Strategy as demonstrated below.

A Plan for Growing Sydney

Goal/Direction/Action	Consistency
GOAL 1: SYDNEY'S COMPETITIVE ECONOMY	
Direction 1.7: Grow strategic centres – providing more jobs close to home	
Action 1.7.1: Invest in strategic centres across Sydney to grow jobs and housing and create vibrant hubs of activity	Penrith Education and Health Precinct is recognised as a Strategic Centre in the Plan – large and significant hubs for business and employment. The Planning Proposal presents an opportunity to provide for a significant amount of housing within the Penrith City Centre, which can support the adjacent Penrith Education and Health Precinct workforce population, providing homes close to jobs.
Action 1.7.4: Continue to grow Penrith, Liverpool and Campbelltown- Macarthur as Regional City Centres supporting their surrounding communities	The Planning Proposal recognises Penrith's role as a Regional City by providing for increased residential densities within the City Centre. The public benefit component of the incentives clause seeks to generate funds for key projects for the City Centre, which aims to revitalise the City Centre to strengthen its role as a location for jobs, homes and as an active centre.
GOAL 2: SYDNEY'S HOUSING CHOICES	
Direction 2.1: Accelerate housing supply across Sydney	
Action 2.1.1: Accelerate housing supply and local housing choices	The Planning Proposal has the potential to fast-track up to 4000 residential dwellings in the Penrith City Centre (based on the three submitted Planning Proposals alone) and provide for increased development potential on other Key Sites. Penrith has traditionally provided detached housing through greenfield development and this Planning Proposal seeks to encourage development of higher densities, offering more affordable and diverse housing types and in an area close to public transport, jobs and services.
Direction 2.2: Accelerate urban renewal across Sydney – providing jobs closer to home	
Action 2.2.2: Undertake urban renewal in transport corridors which are being transformed by investment, around Strategic Centres	Penrith's City Centre is located adjacent to the Penrith Education and Health Precinct (Strategic Centre), and this Planning Proposal will provide for increased densities and residential development opportunities close to an existing workforce population. The Penrith City Centre is well serviced by public transport and this Planning Proposal recognises the benefits of providing high densities close to jobs, transport and services. The Planning Proposal is aimed at attracting investment into the City Centre and strengthening Penrith's role as a Regional City. As Penrith is already beginning to see renewal in areas close to the railway corridor

including Kingswood and St Marys, this Planning Proposal has the potential to attract further renewal opportunities in Penrith.

GOAL 3: SYDNEY'S GREAT PLACES TO LIVE

Direction 3.1: Revitalise existing suburbs

Action 3.1.1: Support urban renewal by directing local infrastructure to centres where there is growth

The Planning Proposal seeks to capture a public benefit from proponents accessing the bonus floor space. Council wishes to use the funds generated by the incentives clause to provide better local infrastructure and amenity within the City Centre to create a place where people can work and live and within an attractive environment.

This Planning Proposal will direct new homes into the City Centre, with access to jobs, infrastructure and public transport capitalising on current demand for investment in the City Centre.

Draft North West Subregional Strategy

The Planning Proposal's consistency with the relevant directions and actions of the Draft North West Subregional Strategy are detailed below.

Goal/Direction/Action	Consistency
B. CENTRES AND CORRIDORS	
<i>B2.1.1 Councils to consider planning for housing growth in centres, particularly those well serviced by public transport.</i>	The Planning Proposal is consistent with this action as the Planning Proposal has the potential to fast-track up to 4000 dwellings in the City Centre as well as provide opportunities for residential development on other well-located sites close to jobs, services and public transport.
C. HOUSING	
<i>C2.1 Focus Residential Development around centres, town centres, villages and neighbourhood centres</i>	The Planning Proposal is consistent with this action as the Planning Proposal applies to land within the City Centre and aims to encourage a greater mix of housing by providing for high density development. As the Penrith LGA is predominantly low density, encouraging higher density forms of housing will result in greater housing mix and more affordable housing options.
<i>C2.3 Provide a mix of housing</i>	The proposed incentives clause aims to facilitate development, by providing an opportunity for renewal of key locations within the City Centre. By capturing a portion of the additional development capacity for a public benefit, Council will use any funds generated by the incentives clause for a community benefit.
<i>C3.1.1 North West Councils to identify opportunities to renew local centres and facilitate renewal through planning for increased housing densities and improved public amenity</i>	

4. Is the planning proposal consistent with Council's local strategy or other local strategic plan?

Yes, the Planning Proposal is consistent with *Council's Community Strategic Plan, City Strategy* and *Penrith Progression*, as demonstrated below.

Penrith Community Strategic Plan 2013

The Penrith Community Strategic Plan 2013 represents the community's vision for the Penrith LGA and establishes a number of outcomes and objectives to deliver on the Community's vision.

The consistency of this planning proposal with the Community Plan is demonstrated below.

Outcome 2 – We Plan for Future Growth

2.1 Facilitate development that encourages a range of housing types:

- *Council develops and enforces zoning and building controls to encourage a range of housing types*
- *Council also works with developers in delivering new communities*

The Planning Proposal achieves both objectives by responding to demand for higher densities in the City Centre. The proposal for an incentives clause is a mechanism to attract more diverse forms of housing, particularly within the City Centre. Council will be carrying out feasibility/market testing of the proposed mechanism to work with developers in understanding the characteristics of Penrith's housing market.

2.2 Ensure services, facilities and infrastructure meet the needs of a growing population:

- *Council strongly advocates other levels of government to secure services, facilities and infrastructure to support Penrith as it grows.*

The Planning Proposal achieves the above objective by locating new housing in the City Centre, which is close to existing jobs, services and public transport. By locating new development in existing urban areas, this reduces additional pressures on current infrastructure backlogs.

City Strategy

The Penrith City Strategy examines the long term issues facing Penrith, and provides directions for the City's future. It integrates a range of Council's adopted planning strategies and action plans. The *City Strategy* informs the *Community Strategic Plan*.

Housing

Objective: Plan for housing that meets community needs with regard to supply, choice, design quality, sustainability and affordability

- H3 A choice of housing that responds to a diverse community and changing household structures*
- H4 Housing design is of a high standard and enhances the character of the City*
- H6 Medium and high density residential development located in and adjacent to the City's centres*

The Planning Proposal is consistent with the objectives above as the Planning Proposal has the potential to fast-track up to 4000 dwellings within the City Centre. The proposed incentives clause is linked to Council's existing design excellence clause, which identifies principles for high quality design outcomes. As the Planning Proposal only affects land

within the City Centre, this supports the object to deliver new high density housing in Penrith's key centres.

Places

Objective: Revitalise our major centres to create vibrant places and offer quality living, working and leisure experiences

P12 Our centres focus activities for community services, retail, employment, and housing around key transport nodes

The Planning Proposal supports the above objective by providing for additional residential development Centre to activate the City Centre and to encourage a night-time economy.

Penrith Progression

Penrith Progression is a strategic document that contains actions which aim to transform the Penrith City Centre. A target of 10,000 City Centre residents and 5,000 dwellings is identified to deliver on the vision of Penrith Progression.

The Planning Proposal aims to help achieve this vision for the City Centre through the revitalisation of Key Sites that will support traditional City Centre functions, provide greater housing diversity and contribute to the development of a safe and vibrant night-time economy.

By inserting an incentives clause for development and offering bonus FSR in return for a public benefit, the Planning Proposal is a direct response to the following actions of Penrith Progression:

- 2.7 Promote high-density development on accessible sites that support sustainable travel options (walk, cycle, public transport)*
- 3.1 Review incentives clauses in the LEP to support increased heights in appropriate City Centre locations, based on community benefit outcomes*
- 3.2 Review planning controls for the signature sites to encourage quality sustainable development of a mature Regional City scale*
- 3.3 Review the Floor Space Ratio (FSR) to achieve better urban design outcomes and scale of development for the City Centre*
- 3.4 Consider the potential to use inclusionary planning concepts to encourage affordable housing and other good outcomes*
- 4.4 Define the City Centre's eastern and western High Street gateways with distinctive and innovative buildings or places*

The Planning Proposal is consistent with Penrith Progression, as it seeks to act upon a number of initiative and actions of the plan.

5. Is the Planning Proposal consistent with applicable state environmental planning policies?

Yes, the Planning Proposal is consistent with applicable SEPPs as demonstrated below.

Applicable SEPPs	Consistency
SEPP No 21 – Caravan Parks	The Planning Proposal does not affect existing provisions for the development of caravan parks, therefore the Planning Proposal is consistent with the SEPP.
SEPP No. 32 – Urban Consolidation (Redevelopment of Urban Land)	The Planning Proposal seeks to permit increased densities in the Penrith City Centre, which is well located close to public transport, jobs and services which is consistent with the objectives of the SEPP. The Planning Proposal is consistent with the SEPP.
SEPP 55 – Remediation of land	The Planning Proposal will not change the use of any land subject to this Planning Proposal. The Planning Proposal is consistent with the SEPP.
SEPP 65 – Design Quality of Residential Apartment Development	The Planning Proposal will not affect the application of the SEPP, and Council's existing Design Excellence clause will apply to any site that seeks to access the bonus FSR, maintaining high quality design outcomes for residential flat building development. The Planning Proposal is consistent with the SEPP.
SEPP (Affordable Rental Housing) 2009	The SEPP provides for bonus FSR in return for affordable housing. Although Council seeks to provide bonus FSR in return for a public benefit, this will not affect the application of the SEPP. The Planning Proposal is consistent with the SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Nothing in this Planning Proposal affects the application of the SEPP. The Planning Proposal is consistent with the SEPP.
SEPP (Infrastructure) 2007	Nothing in this Planning Proposal affects the application of the SEPP. The Planning Proposal is consistent with the SEPP.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (S.117 Directions)?

Yes, the Planning Proposal is consistent with all applicable Ministerial Directions, as demonstrated below.

Applicable Ministerial Directions	Consistency
1.1 Business and Industrial Zones	This direction applies when a Planning Proposal affects land within a business or industrial zone. The direction states that a Planning Proposal must retain these areas and not reduce the floor space for employment uses. The Planning Proposal seeks to provide for increased densities, and applies to land zoned B2 Local Centre, B3 Commercial Core and B4 Mixed Use. The Planning Proposal does not reduce the floor space for employment uses, but proposes to increase the availability of floor area for employment uses. The Planning Proposal is consistent with this direction.
2.1 Environment Protection Zones	This direction applies when a Planning Proposal is prepared. The direction states that a Planning Proposal must include provisions that protect and conserve environmentally sensitive areas and not reduce the environmental protection standards that apply to the land. As the Planning Proposal does not alter any existing provisions relating to environmental protection, the Planning Proposal is consistent with this direction.
2.3 Heritage Conservation	This direction applies when a Planning Proposal is prepared. A Planning Proposal must contain provisions that facilitate the conservation of heritage items and aboriginal places. As the Planning Proposal does not seek to amend any heritage provisions, the Planning Proposal is consistent with this direction.
2.4 Recreation Vehicle Areas	This direction applies when a Planning Proposal is prepared. The direction states that a Planning Proposal must not enable land to be developed for the purpose of a recreation vehicle area consistent with the listed criteria. As the Planning Proposal does not propose land for a recreation vehicle area, the Planning Proposal is consistent with this direction.
3.1 Residential Zones	This direction applies when a Planning Proposal affects land within a residential zone. The direction states that a Planning Proposal must include provisions that encourage various types and choice of housing. The Planning Proposal applies to land zoned R4 High Density Residential and seeks to provide for increased densities in the form of multi-unit housing. As Penrith has traditionally provided housing in the form of single detached dwellings through greenfield development, the Planning Proposal provides for greater housing mix, in the City Centre. This type of housing provides residents with more housing choice and affordable housing options. The Planning Proposal is consistent with this direction.
3.2 Caravan Parks and Manufactured Home Estates	This direction applies when a Planning Proposal is prepared. The direction states that the relevant planning authority must retain the provisions for caravan parks and manufactured home estates.

Applicable Ministerial Directions	Consistency
3.3 Home Occupations	As nothing in this Planning Proposal affects provisions for caravan parks or manufactured home estates, the Planning Proposal is consistent with this direction. This direction applies when a Planning Proposal is prepared. The direction states that Planning Proposals must permit home occupations to be carried out in dwelling houses without the need for development consent. The Planning Proposal does not alter existing provisions which already permit home occupations, therefore the Planning Proposal is consistent with this direction.
3.4 Integrating Land Use and Transport	This direction applies when a Planning Proposal affects urban land, including land zoned for residential, business, industrial, village or tourist purposes. A planning proposal must locate zones that give effect to <i>Improving Transport Choice – Guidelines for planning and development</i> and <i>The Right Place for Business and Services</i>. The Planning Proposal is consistent with both guidelines as the Planning Proposal seeks to encourage development in the City Centre, providing for jobs, services, activities and housing in the one location. For these reasons, the Planning Proposal is consistent with this direction.
4.3 Flood Prone Land	This direction applies when a Planning Proposal is prepared that affects flood prone land. The direction states that a Planning Proposal must not contain provisions which permit development in floodway areas; permit development that will result in significant flood impacts to other properties; permit a significant increase in the development of that land; are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services; or permit development to be carried out without consent. The Penrith City Centre is broadly affected by overland flooding including several Key Sites. However, the Planning Proposal will not result in a significant increase to the development of the land, as the land uses currently permissible will not change. It is considered that any site-specific flooding issues related to each site can be adequately addressed during development assessment stage and are not significant enough to warrant further investigation at this stage. For these reasons, the Planning Proposal is consistent with this direction.
4.4 Planning for Bushfire Protection	This direction applies when a Planning Proposal affects land mapped as bushfire prone. As the land subject to this Planning Proposal is not identified as bushfire prone, this direction is not applicable.
6.1 Approval and Referral Requirements	This Direction applies when a Planning Proposal is prepared. The Direction states that a Planning Proposal must minimise provisions relating to the concurrence, consultation or referral of development applications to a Minister or public authority and not identify development as designated development unless the development is likely to have a significant impact on the environment. The Planning Proposal is not likely to require the concurrence, consultation or referral of development applications to a Minister or public authority and is not considered to have significant impacts on the environment. The Planning Proposal is consistent with this direction.

Applicable Ministerial Directions	Consistency
6.2 Reserving Land for Public Purposes	This direction applies when a Planning Proposal is prepared. The direction states that a Planning Proposal must not affect zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary of the Department of Planning and Environment. As the Planning Proposal is not seeking to affect land reserved for public purposes, the Planning Proposal is consistent with this direction.
6.3 Implementation of A Plan for Growing Sydney	This direction applies to the Penrith LGA when a Planning Proposal is prepared. The direction states that a Planning Proposal must be consistent with the NSW Government's <i>A Growing Plan for Sydney</i>. Refer to Section B3 where it is demonstrated that the Planning Proposal is consistent with <i>A Plan for Growing Sydney</i> and the draft <i>North West Subregional Strategy</i>.

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

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

As the Planning Proposal affects land within urbanised areas, it is not expected that there are any critical habitats or threatened species that will be affected by the Planning Proposal. An assessment of biodiversity and environmental impacts will be carried out during development assessment stage.

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

As the Planning Proposal affects existing urban land, any environmental impacts or effects are likely to be site-specific and can be addressed at development assessment stage.

Urban Design Reports have been submitted with each submitted Planning Proposal, and an Urban Design Analysis will be submitted once complete. The Urban Design Analysis will identify any environmental effects including overshadowing, solar access and view loss.

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

Several Key Sites subject to the proposed incentives clause are identified as having a Heritage Item on the site.

As the sites are all existing urban areas with no zone changes proposed, the Planning Proposal will only result in an increased development capacity. It is considered that the impacts of any proposed future development on the Heritage Items can be addressed at development assessment stage.

As the nominated bonus FSR is indicative only, an Urban Design Analysis will be prepared to identify appropriate increases in building heights and floor area that do not detrimentally impact on adjacent sites.

SECTION D – STATE AND COMMONWEALTH INTERESTS

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

The Planning Proposal has the potential to fast-track up to 4,000 dwellings in the City Centre based on the submitted Planning Proposals alone, as well as providing opportunities for other Key Sites. This is likely to result in a significant population increase in the City Centre.

The City Centre is well serviced by a range of public transport options including rail and regular bus services and is also accessible to cyclists. Whilst there may be increases in traffic should each site that can access the bonus FSR be developed, this can be addressed at development assessment stage where more detailed traffic and utility reports will be requested.

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

No prior consultation has been carried out with public authorities and therefore their views are unknown at this stage.

Consultation will be carried out with the relevant public authorities once a Gateway Determination is issued to proceed with consultation.

Part 4 - Mapping

Key Sites maps KYS_005 and KYS_012 are proposed to be inserted to identify Lot 3003, 3004 and 3005 DP 1184498 at 41, 184 and 192 Lord Sheffield Circuit, Penrith (Thornton) as Key Site 11.

Indicative LEP maps are provided as an attachment to this Planning Proposal.

Part 5 - Community Consultation

Consultation with public authorities will be undertaken according to the conditions of the Gateway Determination.

Consultation with the community will consist of the following:

- Notice of the public exhibition of the Planning Proposal in the Western Weekender;
- On the Penrith City Council website at <https://www.penrithcity.nsw.gov.au/>; and
- In letters to affected landowners.

The written notice will:

- Give a brief description of the objectives or intended outcomes of the Planning Proposal
- Indicate the land affected by the Planning Proposal
- State where and when the Planning Proposal can be inspected
- Give the name and address of Council for receipt of submissions
- Indicate the last date for submissions
- Confirm whether the Minister has chosen to delegate the making of the LEP to Council

Council confirms that community consultation will be carried out consistent with the Department's *Guide to Preparing Local Environmental Plans*.

Part 6 – Project Timeline

Milestone	Timeframe
Date of gateway determination	February 2016
Anticipated timeframe for completion of required technical information	End of January 2016 for the Urban Design Analysis
Timeframe for government agency consultation (pre and post exhibition as required by Gateway)	March 2016
Commencement and completion dates for public exhibition period	April 2016
Timeframe for consideration of submissions	May – June 2016
Timeframe for consideration of a proposal post – exhibition	August 2016
Date of submission to the department to finalise the LEP	September 2016
Anticipated date relevant planning authority (RPA) will make the Plan	October 2016

Attachments

1. Draft LEP maps KYS_005 and KYS_012
2. Council Report and Minutes
3. Information Checklist
4. Evaluation Criteria for Delegation of Plan-Making Functions
5. Planning Proposal for 164 Station St, Penrith
6. Planning Proposal for 41, 184 & 192 Lord Sheffield Circuit, Penrith (Thornton)
7. Planning Proposal for 614-652 High Street & 87-91 Union Street, Penrith

Key Sites

☐ Cadastre 30/11/2015 @ Penrith City Council



Projection: GDA 1994
MGA Zone 56

Scale: 1:20,000 @ A3

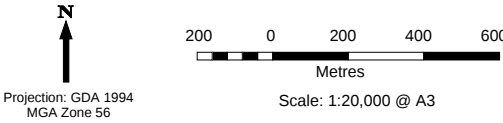
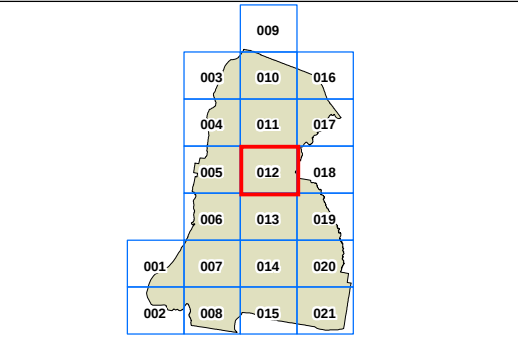
Map identification number:
6350_COM_KYS_005_020_20151130



Key Sites Map -
Sheet KYS-012

 Key Sites

Cadastre
 Cadastre 30/11/2015 @ Penrith City Council



**6 Planning Proposal to amend Penrith Local Environmental Plan
2010 - Incentives Clause for Key Sites**

Compiled by: Nicole Dukinfield, Senior Planner

Authorised by: Paul Grimson, City Planning Manager

Outcome	<i>We plan for our future growth</i>
Strategy	<i>Facilitate quality development that encourages a range of housing types, employment, recreation and lifestyle opportunities</i>
Service Activity	<i>Plan for and facilitate delivery of release areas and urban renewal in the City</i>

Executive Summary

A Planning Proposal has been prepared to amend Penrith Local Environmental Plan (LEP) 2010 to insert an incentives clause providing bonus floor space within the Penrith City Centre (Attachment 1). This responds to three (3) individual Planning Proposals that have been submitted to Council proposing increases to the current building height and Floor Space Ratio (FSR) controls for specific sites in the City Centre.

The proposed incentives clause will apply to land identified as a Key Site within the Penrith LEP 2010. It will enable development within the Key Sites to depart from the prescribed building height and FSR controls where a departure is justified, where the development exhibits design excellence and where an agreed public benefit is offered in return for the additional development potential. Based on the three submitted Planning Proposals alone, this will facilitate delivery of 4,000 residential apartments in the City Centre once gazetted and will avoid the need for multiple Planning Proposals and LEP amendments.

A series of studies, including an Urban Design Analysis, is being prepared to support the operation of the proposed incentives clause and to inform the setting of appropriate maximum FSRs for Key Sites in the City Centre.

It is recommended that Council resolve to forward the Planning Proposal to the Minister for Planning and Environment for a Gateway Determination, in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*.

Background

Council is in receipt of three Planning Proposals seeking to amend the planning controls for separate sites within the City Centre. The intention of each of the Planning Proposals is to increase building height and FSR controls that currently apply to the sites under LEP 2010. This will facilitate delivery of residential/mixed use development at a higher density than currently permitted. The three Planning Proposals are included in the enclosure provided separately for the assistance of Councillors. The key features of each submitted Planning Proposal is provided below:

Site	Proposal	Current Controls	Proposed controls
164 Station Street, Penrith (also known as former Panasonic Site or 'Parkview' Site)	Residential development incorporating approximately 2,000 dwellings	Height: 20-24m FSR: 2:1	Height: No height control FSR: 2.5:1
41, 184 & 192 Lord Sheffield Circuit, Penrith (Thornton)	Mixed use development incorporating approximately 580 dwellings	Height: 32m FSR: No FSR control	Height: Range from 130m-32m FSR: 5:1
614-652 High Street & 87-91 Union Street, Penrith (Sinclair Hyundai site)	Mixed use development incorporating approximately 850 dwellings	Height: 24m FSR: 3:1	Height: up to 82m FSR: 6:1

Each of the submitted Planning Proposals provides detailed justification for the proposed amendments to the current building height and FSR controls which can be summarised as follows:

- The location and ownership patterns of the sites provide the opportunity to create landmark developments at key gateways to the City Centre in each case
- The proposed developments will enhance the housing mix and affordability in the Penrith LGA which has traditionally been dominated by single dwellings in greenfield settings
- The injection of additional residential development in the City Centre is in keeping with Council's strategies and statutory framework. In so doing, it will increase the resident catchment required to support existing retail and commercial businesses in the City Centre and substantially raise the level of activity, vibrancy and passive surveillance
- The proposals will further activate the City Centre by providing new ground floor retail/business uses, supporting Penrith's vision for a night-time economy
- The Planning Proposal will improve local amenity for residents and users of the City Centre by enhancing the public domain and landscape setting
- The proposed developments will improve connectivity in the City Centre by delivering new pedestrian and vehicular links
- The Planning Proposals will lead to the creation of short term jobs during construction and permanent long term jobs through the retail/business components and through local, population driven multiplier effects, and
- The proposed buildings will exhibit design excellence, as required through the prescribed LEP processes, thereby providing a positive contribution to urban design outcomes in the City Centre.

The justifications provided in the submitted Planning Proposals are generally supported subject to the testing of the specific building heights and FSRs proposed. For the past decade, Council has been encouraging and pursuing good quality mixed use development for the City Centre with limited success. The buoyancy of the residential market in recent times, the maturing metropolitan and local market appetite for centre based living and the demonstrated bonafides of the three proponents suggests that these are genuine proposals that can bring significant benefits the City Centre. With appropriate design, the proposed developments can provide economic stimulus to the City Centre and further catalyse investment interest.

In addition, the injection of significant residential and business activity will greatly assist in implementing the outcomes envisaged by the Penrith Progression and in achieving Penrith's housing and jobs targets under the City Strategy and the metropolitan strategy (*A Plan for Growing Sydney*).

For the above reasons, it is recommended that Council resolve to commence the formal planning process to amend LEP 2010 generally in line with the key features of the submitted Planning Proposals described above subject to appropriate testing of the proposed building height and FSR controls being sought.

Proposed incentives clause

The three proposals now before us suggest the start of an exciting new era in the evolution of the City Centre. However, it is important that we adopt a sophisticated and informed approach to amending the LEP provisions and applying new policy settings to ensure that we deliver positive, high quality outcomes for the subject sites and avoid exacerbating current barriers to development elsewhere in the City Centre.

Over the past 12 – 18 months, Council has received multiple briefings on matters related to the Penrith City Centre and Penrith Progression etc. This has included discussion around the feasibility of new residential and mixed use development in the City Centre. Since the completion of the State office block in Station Street, very little new, private retail/commercial and residential floorspace has been developed in the City Centre despite multiple development applications having been approved.

Whilst the market and other dynamics that determine the feasibility of centre based development are highly complex, it is clear from our own internal and external land economics examinations, and confirmed by the NSW Department of Planning and Environment's (DP&E) Urban Feasibility Modelling, that development feasibility in the City Centre has been disadvantaged predominantly by the following factors:

- In 2007, following Penrith's classification as a Regional City, the NSW Government's Cities Taskforce undertook an intensive exercise to prepare new a LEP, development control plan (DCP) and development contributions Plan (CIP) for the Penrith City Centre. This was intended to contemporise the planning framework for the City Centre and "open it up for business".
- Amongst other things, this exercise applied the new zoning regime under the standard LEP template for NSW (predominantly B3 Commercial Core and B4 Mixed Use zones) to provide a range of flexible uses to the City Centre, and substantially raised building height and FSR controls across the whole of the City Centre.
- However, rather than acting as an attractor or catalyst for investment interest, this "blanket uplift" in height and FSR capability had the unintended effect of substantially raising the expectations of land owners in the City Centre about the value of their properties. Hence, the asking price for sites was set at an artificially and unrealistically high level. As a key baseline factor in determining the feasibility of development, in a local market that did not demonstrate the necessary rate of return and guarantee of uptake for urban apartments and retail/commercial floorspace to overcome the initial site costs, this presented an unacceptable level of investment risk.
- The unrealistically high base price for sites was then reinforced in the minds of land owners through approvals for aspirational development proposals that subsequently did not materialise.

The learnings from this experience, combined with a review of contemporary approaches from other LGAs in Sydney, NSW and across Australia, and collaboration with the NSW

Government Architect's Office have shaped the recommended approach to introduce an incentives clause to the LEP to respond to the submitted Planning Proposals. The construction and application of the incentives clause would also initially facilitate similar outcomes in other strategically important locations in the City Centre.

The recommended incentives clause operates as follows:

- It will only initially apply to land currently identified as being within the Key Sites in the City Centre as mapped in the LEP. The Station (Panasonic) and High Street (Sinclair Hyundai) sites are already included in Key Sites but it will be necessary to amend the LEP to include a new Key Site for the Lord Sheffield Circuit (Thornton) site
- The existing building height and FSR provisions are retained
- The incentives clause allows a managed departure from existing building height and FSR provisions subject to the proposed development satisfying the existing design excellence provisions of the LEP and that an agreed material public benefit is provided in consideration for the additional FSR yield above the planned levels. Any material public benefit negotiated would also be in addition to development contributions that apply to the site to satisfy the demand for facilities and services up to the original level reflected in the existing building height and FSR provisions
- For cases where a proposed development in a Key Site satisfies the design excellence and public benefit tests:
 - o a new maximum FSR is individually set in the incentives clause for each Key Site (see discussion regarding Urban Design and Public Benefit Analysis below), and
 - o no maximum building height would apply to the proposed development

Council will also pursue with the DP&E to embed a mechanism in the incentives clause that encourages proponents to commence works and avoid 'selling-on' the development consent to another purchaser. Options to be considered may include (but are not limited to) that where a development approved under the incentives clause is not substantially commenced within a set timeframe, both the development consent and access to the incentives clause will lapse; a timeframe for the cessation of the incentives clause; or granting Council the ability to issue shorter timeframe consents (for example 1 or 2 years). This discourages embedding expectations of higher land values for a site that is on-sold with a development consent in place that reflects the relief from building height limits and bonus floor space but with little or no commitment to the ultimate delivery of the development.

Any proposal that seeks to access the bonus floor space through the incentives clause will still be required to undergo the standard development assessment process and will need to demonstrate that there is no significant adverse impact on the amenity and/or development potential of adjoining sites.

As identified above, it is intended that the maximum FSR to be applied in the incentives clause for the sites that are subject to the three submitted Planning Proposals will reflect the FSRs nominated in those Planning Proposals subject to verification through the Urban Design Analysis. For the remaining Key Sites, a general increase in FSR of 1.5:1 is proposed comprising two elements:

- An increase of 1:1 to reflect current market trends and demand, and
- An additional 0.5:1 to incentivise delivery of the required material public benefit.

An exception to this approach is Key Site 5 (Nepean Village) and Key Site 6 (164 Station Street) which are proposed to have an increase of 0.5:1. Key Site 5 (Nepean Village) is already developed and is unlikely to require further increase in height and FSR, therefore the proposed increase of 0.5:1 will reflect an additional capacity to provide a public benefit

should redevelopment occur. Key Site 6 (164 Station Street) is supported by an Urban Design Analysis as provided in the submitted Planning Proposal. The Urban Design Analysis identifies that an increase in FSR of 0.5:1 is appropriate for the site.

It should be noted that the above FSR figures are indicative only and will also be tested through the Urban Design Analysis.

The proposed incentives clause has the following benefits:

- It does not increase existing building heights and FSR provisions across part or all of the City Centre and thus avoids further exacerbating development feasibility by significantly increasing owners' expectations of land values
- It provides significant incentives to increase the retail/commercial and residential yields critical to the growth, activation and revitalisation of the Penrith City Centre as envisaged under Council's adopted strategies
- It places fundamental emphasis on the achievement of excellence in design
- It ensures that the community benefits, and is not disadvantaged, from accepting higher levels of growth
- It provides a robust and safeguarded mechanism for considering higher yielding development without the need for repetitive and resource hungry individual LEP amendments.

It is not proposed to make any further amendments to the Key Sites map as part of this Planning Proposal, however a review will be carried out in 2016 as part of a separate Planning Proposal for the City Centre to determine if further Key Sites should be identified in the LEP.

Urban Design and Public Benefit Analysis

The existing building height and FSR controls that apply to the City Centre through LEP 2010 were underpinned by *Urban Design Analysis* prepared by the NSW Government Architects Office in June 2004. That study resulted from a detailed structural urban design analysis that took into account a number of matters including (but not limited to) the physical layout of the City Centre, topography, activities and uses, subdivision patterns and established a desirable "sky scape" for the City Centre, its approaches and surrounding areas.

There is no doubt that settlement patterns, the form of urban development, market preferences, demographics and the way in which we interact with our places and environment are evolving quite rapidly in the Sydney metropolitan area. These influences will also have implications for Penrith as we mature as a regional city. Urban centres are experiencing increasing demand for affordable and diverse housing in and around activity centres and transport nodes. This is being reflected in a greater social acceptance of higher buildings and apartment living. This is something that Council has generally welcomed and encouraged in the right locations.

However, Council has always sought to ensure that Penrith remains a great place in which to live and interact and to visit. This is a function of many things, but an important element that underpins the liveability of a place is the way in which the built form presents, looks and feels, and how it influences the quality of the environment at ground level. In turn this is fundamentally determined by the size, shape, height, bulk and location of buildings and their arrangement in relation to each other. So in embracing increased building height in the City Centre, it is important to ensure that this occurs in a way, and in the right locations, to contribute positively to Penrith's liveability.

The submitted Planning Proposals have each provided justification for the additional building height and FSRs being sought, and this is generally supported. However, as these proposals will result in a substantial departure from our current policy settings, have been developed in isolation of each other and as the incentives clause will apply to other Key Sites, Council has engaged consultants to prepare an Urban Design Analysis to test the three submitted Planning Proposals and to determine an appropriate level of bonus FSR for the remaining Key Sites. The Urban Design Analysis will inform a determination of the future 'shape' of the City Centre skyline and identify other constraints and opportunities relating to overshadowing, solar access and views.

Although it is not anticipated, any significant variation to the nominated FSRs recommended by the Urban Design Analysis will be reported to Council.

The Urban Design Analysis will form part of a series of studies that will support the operation of the incentives clause. Consultants are also preparing a Public Benefit Analysis to identify an appropriate mechanism and planning framework to measure and capture offers of a material public benefit. The consultants have also been engaged to prepare a Public Benefits Policy to assist Council officers in the determination of development applications where proponents wish to access the increased heights and floor space. This will provide consistency and transparency for the development industry and the community where negotiations regarding the provision of a public benefit are required.

The preparation of these three documents is considered best practice and important to the testing of such a contemporary planning mechanism. The DP&E has also encouraged Council to pursue this approach.

Next steps

Should Council support an amendment to Penrith LEP 2010 to insert an incentive clause as an appropriate mechanism to facilitating the three submitted Planning Proposals for the Penrith City Centre, the following actions will take place:

- The Planning Proposal will be finalised and submitted to the NSW Minister for Planning seeking a Gateway Determination in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*,
- For the purpose of its submission to the Minister, the Planning Proposal will reflect the indicative maximum FSRs outlined in this report. This will allow the DP&E to commence its review of the basis for the Planning Proposal and, most importantly, consider the appropriateness of the statutory construction of the proposed incentives clause in conjunction with Parliamentary Counsel.
- The DP&E will be advised that the maximum FSRs to be included in the LEP amendment will be confirmed when the Urban Design Analysis is completed towards the end of January 2016.
- The Gateway Determination will prescribe:
 - o any amendments to the Planning Proposal that are required or other conditions that must be met prior to public exhibition
 - o the relevant state agencies and stakeholders to be consulted and the timing of that consultation relative to public exhibition
 - o the timing and duration of the public exhibition, and
 - o the timeframe within which the LEP amendment is to be completed.
- Following public exhibition a further report will be presented to Council detailing any issues that were raised in submissions for Council's consideration.

An amendment to Chapter E11 City Centre of the Penrith Development Control Plan (DCP) 2014 may be required to support the LEP amendment and/or reflect the outcomes of the Gateway process. It is recommended that Council resolve to prepare an amendment to the DCP where necessary to ensure the DCP and LEP are consistent with each other.

Conclusion

The three submitted Planning Proposals signal an exciting evolution in the growth and development of the Penrith City Centre and are generally supported. Given the difficulties experienced with development feasibility since our planning framework for the Penrith City Centre was established by the NSW Government's Cities Taskforce it is important to apply a sophisticated and contemporary approach to manage the way in which higher buildings are facilitated in the City Centre. The proposed incentives clause can provide such a mechanism.

As it avoids the need to process three individual Planning Proposals, the incentives clause has the potential to fast-track up to 4,000 residential dwellings through a single LEP amendment, as well as providing opportunities for development on the other Key Sites in the future, without the need for subsequent amendments to the LEP.

RECOMMENDATION

That:

1. The information contained in the report on Planning Proposal to amend Penrith Local Environmental Plan 2010 - Incentives Clause for Key Sites be received
2. In accordance with Section 56 of the Environmental Planning and Assessment Act 1979, Council submit the attached Planning Proposal to amend the Penrith LEP 2010 to the NSW Minister for Planning for consideration under the Gateway process.
3. The General Manager be granted delegation to update and finalise the Planning Proposal, written instrument and associated maps before submitting it to the Department of Planning and Environment seeking a Gateway Determination.
4. Council request delegation for the General Manager to finalise the LEP amendment.
5. Council carry out the requirements of the Gateway Determination to process the Planning Proposal, including public exhibition.
6. Council amend Chapter E11 of the Penrith Development Control Plan 2014 where required to reflect the outcomes of the Planning Proposal.
7. A further report be presented to Council following the Public Exhibition.

ATTACHMENTS/APPENDICES

- | | | |
|---|-------------|-------------------------|
| 1. Planning Proposal to amend Penrith LEP 2010 -
Incentives clause for Key Sites | 28
Pages | Attachments
Included |
|---|-------------|-------------------------|

7 Planning Proposal to amend Penrith Local Environmental Plan 2010 - Incentives Clause for Key Sites

Councillor Kevin Crameri OAM left the meeting, the time being 10:19pm.

382 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Planning Proposal to amend Penrith Local Environmental Plan 2010 - Incentives Clause for Key Sites be received.
2. In accordance with Section 56 of the Environmental Planning and Assessment Act 1979, Council submit the attached Planning Proposal to amend the Penrith LEP 2010 to the NSW Minister for Planning for consideration under the Gateway process.
3. The General Manager be granted delegation to update and finalise the Planning Proposal, written instrument and associated maps before submitting it to the Department of Planning and Environment seeking a Gateway Determination.
4. Council request delegation for the General Manager to finalise the LEP amendment.
5. Council carry out the requirements of the Gateway Determination to process the Planning Proposal, including public exhibition.
6. Council amend Chapter E11 of the Penrith Development Control Plan 2014 where required to reflect the outcomes of the Planning Proposal.
7. A further report be presented to Council following the Public Exhibition.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

For

Against

Councillor Prue Car MP
Councillor Greg Davies
Councillor John Thain
Councillor Ross Fowler OAM
Councillor Jackie Greenow OAM
Councillor Maurice Giroto
Councillor Mark Davies
Councillor Ben Goldfinch
Councillor Tricia Hitchen
Councillor Bernard Bratusa
Councillor Marcus Cornish
Councillor Karen McKeown

ATTACHMENT 1 – INFORMATION CHECKLIST

STEP 1: REQUIRED FOR ALL PROPOSALS (under s55(a) – (e) of the EP&A Act)

- | | |
|--|--|
| <ul style="list-style-type: none"> Objectives and intended outcome Mapping (including current and proposed zones) Community consultation (agencies to be consulted) | <ul style="list-style-type: none"> Explanation of provisions Justification and process for implementation (including compliance assessment against relevant section 117 direction/s) |
|--|--|

STEP 2: MATTERS – CONSIDERED ON A CASE BY CASE BASIS (Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			- Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining) - Sea level rise		
- Demonstrated consistency with relevant Regional Strategy - Demonstrated consistency with relevant Sub-Regional strategy - Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy - Demonstrated consistency with Threshold Sustainability Criteria			Urban Design Considerations		
			- Existing site plan (buildings, vegetation, roads, etc) - Building mass/block diagram study (changes in building height and FSR) - Lighting impact - Development yield analysis (potential yield of lots, houses, employment generation)		
Site Description/Context			Economic Considerations		
- Aerial photographs - Site photos/photomontage			- Economic impact assessment - Retail centres hierarchy - Employment land		
Traffic and Transport Considerations			Social and Cultural Considerations		
- Local traffic and transport - TMAP - Public transport - Cycle and pedestrian movement			- Heritage impact - Aboriginal archaeology - Open space management - European archaeology - Social & cultural impacts - Stakeholder engagement		
Environmental Considerations			Infrastructure Considerations		
- Bushfire hazard - Acid Sulphate Soil - Noise impact - Flora and/or fauna - Soil stability, erosion, sediment, landslip assessment, and subsidence - Water quality - Stormwater management - Flooding - Land/site contamination (SEPP55)			Infrastructure servicing and potential funding arrangements		
			Miscellaneous/Additional Considerations		
			List any additional studies		

Attachment 4 - Evaluation criteria for the delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:

Penrith

Name of draft LEP:

Amendment to Penrith LEP 2010 -
Incentives clause for Key Sites

Address of Land (if applicable):

Refer to Key Sites map of Penrith
LEP 2010

Intent of draft LEP:

- * Insert an incentives clause into Penrith LEP 2010 (proposed cl. 8.7)
- * Amend the Key Sites map to identify a new key site - Key Site 11

Additional Supporting Points/Information:

Delegation has been requested to finalise this amendment, however as some of the land subject to this Planning Proposal is Council-owned, Council acknowledges the Department may use their discretion in issuing delegation, or not.



Evaluation criteria for the issuing of an Authorisation				
(NOTE - where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		✓		
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		✓		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		✓		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		✓		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		✓		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		✓		
Is the planning proposal proposed to rectify an anomaly in a classification?		✓		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		✓		
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?		✓		

If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		✓	
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		✓	
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		✓	
Spot Rezoning	Y/N		
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N	✓	
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N	✓	
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N	✓	
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?	Y		
Does the planning proposal create an exception to a mapped development standard?	N	✓	
Section 73A matters			
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE - the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).		✓	
NOTES ☐ Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance. ☐ Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.			