

Post-Exhibition Report – PP-2024-280

Planning Proposal seeks to exclude clause 8.2 (Sun Access) provision from 614–638 High Street and 83–93 Union Road, Penrith (0 homes and 0 jobs)

The planning proposal is at the post exhibition stage, which is the last stage before a Local Environmental Plan (LEP) may be made and finalised. The Sydney Western City Planning Panel (the Panel) determined at a rezoning review that the proposal had strategic and site merit (31 March 2025). Subsequently, a Gateway assessment was undertaken, and a Gateway determination was issued on 10 July 2025 for the proposal to proceed, subject to conditions. Consultation with agencies and the community required by the Gateway determination conditions has now been completed.

The purpose of this report is to provide a summary of the key matters raised by members of the public, Penrith City Council (Council) and agencies during the public exhibition of the planning proposal (**Attachment A**) for 614–638 High Street and 83–93 Union Road, Penrith (the site). The report makes a recommendation to the Panel that it submit the proposal to the Department of Planning, Housing and Infrastructure for finalisation.

Element	Description
Date of Gateway Determination	10 July 2025
Date Public Exhibition	4 September 2025 – 2 October 2025
Planning Proposal no.	PP-2024-280
LGA	Penrith
LEP to be amended	Penrith Local Environmental Plan 2010 (PLEP 2010)
Address	614-638 High Street and 83-93 Union Road, Penrith
Brief overview of the timeframe/progress of the planning proposal	<p>19 February 2024: Planning Proposal was submitted on the NSW Planning Portal.</p> <p>12 August 2024: Council resolved to submit a Council-led planning proposal (PP-2024-1880) to the Department for Gateway Determination.</p> <p>26 August 2024: The Council-led planning proposal submitted to the Department for Gateway determination.</p> <p>8 October 2024: Rezoning review lodged with the Department for this planning proposal.</p> <p>8 April 2025: The Panel determined that the planning proposal should be submitted to the Department for Gateway determination.</p> <p>10 July 2025: Gateway Determination issued by the Department.</p>

Element	Description
	<p>29 August 2025: Gateway alteration issued to resolve a mis-description in the property address.</p> <p>1 September 2025: PPA team authorised the exhibition of the planning proposal.</p> <p>4 September 2025 to 2 October 2025: Planning Proposal is publicly exhibited.</p> <p>24 October 2025: Council provided comments on Planning Proposal</p> <p>11 November 2025: Proponent provided a response to submissions.</p>
Finalisation date required by Gateway Determination	17 April 2026
Department contact:	Ayva Hamed, Planning Officer

1.1 The Site and local context

The site is located at 614–638 High Street and 83–93 Union Road, Penrith (Figure 1), being:

- **Key Site 3**
 - Part of 87-93 Union Road, Penrith (west of John Tipping Grove)
- **Key Site 10**
 - Part of 87-93 Union Road, Penrith (east of John Tipping Grove)
 - 614-632 High Street, Penrith
 - 83-85 Union Road, Penrith

The site consists of an open-air hardstand, two single-storey buildings and an existing residential flat building at 83 Union Road. The site is approximately 1km south-west of Penrith Station and neighbours public open spaces located to the south at 10 Mulgoa Road, Penrith.



Figure 1 - The site (Key Sites 3 and 10) is highlighted red with 10 Mulgoa Road highlighted yellow (Source: Nearmaps, 2025)

1.2 State Electorate and local member

The site falls within the Penrith state electorate. Laren McKown MP is the State Member.

The site falls within the Lindsay federal electorate. Melissa McIntosh MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

1.3 Planning Proposal

Table 1 – Overview of planning proposal

Element	Description
Site Area	Approximately 18,000m ²
Site Description	The planning proposal relates to 614–638 High Street and 83–93 Union Road, Penrith
Proposal summary	<p>The site is within the Penrith City Centre as defined in the Penrith LEP 2010 and as such Part 8 Local Provisions – Penrith City Centre apply.</p> <p>Currently, Clause 8.2 relates to sun access for public open spaces and does not allow proposals to exceed any development standard or access the applicable bonus provisions in the LEP, if there is any overshadowing of surrounding public open space.</p> <p>The proposal seeks to amend Penrith LEP 2010 to exempt Key Sites 3 and 10 from Clause 8.2 (Sun Access).</p> <p>The proposed amendment, by exempting Key Sites 3 and 10 from Clause 8.2, provides for access to the bonus floor space provisions under Clause 8.7 of the PLEP 2010 subject to the provision of community infrastructure. Any future development on Key Sites 3 and 10 will be subject to the development application process.</p>

The planning proposal (**Attachment A** and **Table 1**) seeks to amend the PLEP 2010 per the changes in **Table 2** below.

Table 2 – Current and proposed controls

Control	Current	Proposed
Zone	MU1 Mixed Use	No change.
Maximum height of the building	24m	No change.
Floor space ratio	3:1	No change. Note: The proposed changes will allow for the Clause 8.7 (4)

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Control	Current	Proposed
		FSR bonus of 6:1 to apply to both sites.
Additional Local Provision	Clause 8.2 (3) Sun Access states: "Despite clauses 4.3, 5.6 and 8.4, development consent may not be granted to development on land to which this Part applies if the development would result in overshadowing of public open space to a greater degree than would result from adherence to the controls indicated for the land on the Height of Buildings Map."	Proposed sub clause 8.2 (5) Sun Access to state: "Despite subclause (3), this clause does not apply in relation to development on land identified as "Key Site 3" and "Key Site 10" on the Key Sites Map". Note: the final drafting of the amended clause is a matter for Parliamentary Counsel's Office.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

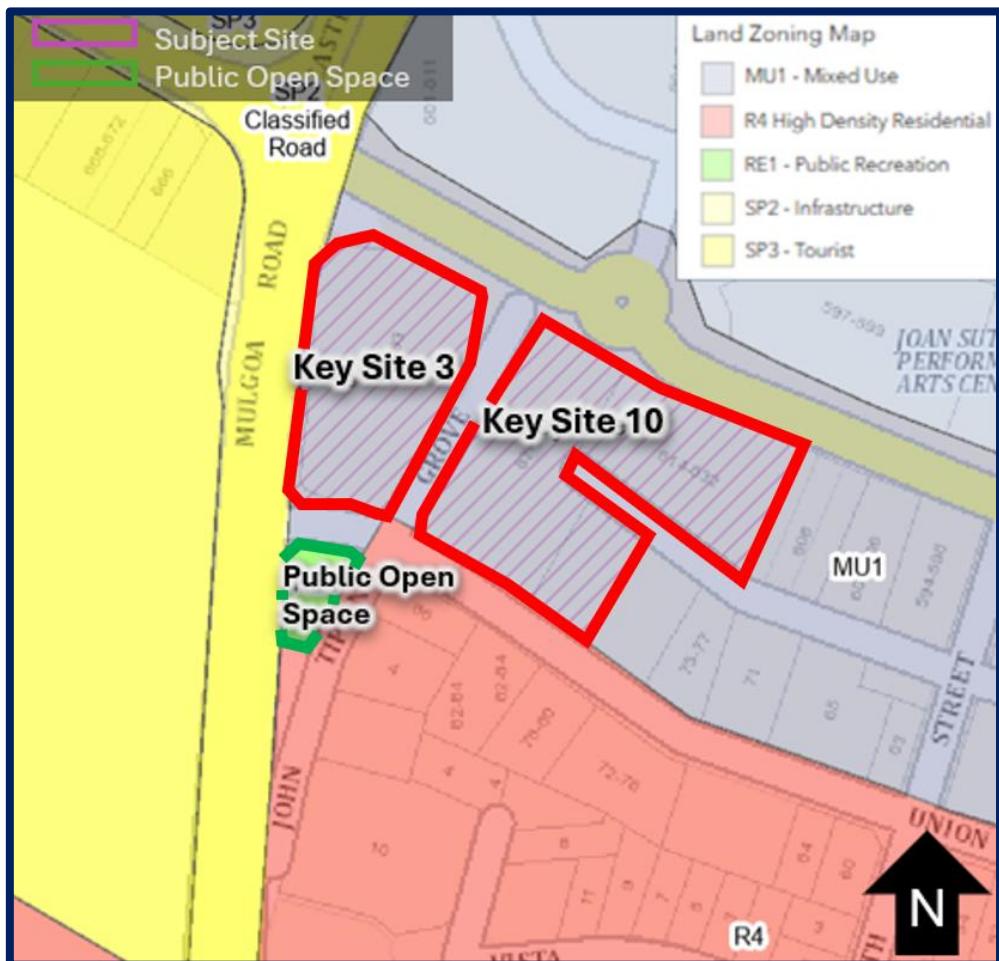


Figure 2 - Zoning of Site and Public Open Space (source: NSW Spatial Viewer 2025)

1.4 Rezoning Review

On 8 April 2025, the Panel considered a rezoning review for this planning proposal because Council failed to indicate support for the proposal within 90 calendar days.

The Panel determined to support the planning proposal because the proposal has demonstrated strategic and site specific merit.

The Panel's determination and reasons for its decision are provided in **Attachment B**.

The Panel appointed itself as the planning proposal authority (PPA).

The proposal was submitted to the Department for a Gateway determination on 13 May 2025.

1.5 Gateway determination

The Gateway determination issued on 10 July 2025 (**Attachment C**) determined that the proposal should proceed subject to the following conditions:

1. *Prior to public exhibition, the planning proposal is to be updated as follows:*
 - a. *Make relevant updates to ensure the planning proposal document is written in plain English, clearly and succinctly explains the proposed provisions, and aligns with the Local Environmental Plan Making Guideline.*
2. *Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:*
 - a. *the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guideline and must be made publicly available for a minimum of 20 working days; and*
 - b. *the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guideline.*
3. *Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:*
 - *Penrith City Council*
 - *Jemena*
4. *The timeframe for the LEP to be completed is on or before 17 April 2026.*

On 29 August 2025, a Gateway alteration (**Attachment C1**) was issued to amend a misdescription in the property address.

All condition of the Gateway determination (as altered) have been met (**Attachment D**).

2 Community Consultation

2.1 Public Exhibition

On 1 September 2025 the PPA team advised the Panel that the proposal have been satisfactorily amended to meet the Gateway Conditions for public exhibition to commence (**Attachment E**).

In accordance with the Gateway determination, the planning proposal and supporting material were publicly exhibited on the NSW Planning Portal for 20 working days, from 04 September 2025 to 02 October 2025.

3 Submissions

3.1 Submissions during exhibition

A total of 10 submissions were received during the exhibition period, including:

- 8 public submissions;
- a submission from Jemena (**Attachment G**); and
- a submission from Council (**Attachment H**).

Of the public submissions, 5 objected to the proposal (62.5%) and 3 supported the proposal (37.5%).

A table outlining the PPA Team and Proponent's response to submissions is provided as **Attachment J**.

3.1.1 Submissions supporting the proposal

A total of three public submissions were received supporting the proposal for reasons including:

- encourages new development in the Penrith City Centre; and
- economic benefits from new development and residents.

3.1.2 Submissions objecting to and/or raising issues about the proposal

In summary, the main concerns raised in community submissions include:

- solar access and overshadowing (50%);
- flooding, Adaptive Management Framework (AMF) and dwelling cap (25%);
- traffic (12.5%); and
- bulk and scale (12.5%).

3.1.3 Submissions from Agencies and Council

Jemena have no objection to this Planning Proposal, noting they would need to review any future development application because the Western Sydney Primary Main and Secondary High-Pressure Mains are within the site.

The agencies submission is provided in full at **Attachment G**.

A submission was received from Council which raised concerns with the proposal (**Attachment H**), including:

- the AMF and the dwelling cap that is imposed on residential development is emerging as a critical factor of this proposal and the future expansion of the City Centre;
- the introduction of the AMF meant that while there are approximately 8,000-9,000 residential lots zoned within the Probable Maximum Flood (PMF), there is a cap of 4,050 dwellings; and
- the best planning outcome would be achieved through a holistic approach to address all issues associated with the key sites and development in the CBD within the PMF. This

would achieve a more comprehensive planning policy for the Penrith City Centre, rather than a piecemeal approach.

3.2 Key Issues from submissions

3.2.1 Issue – Solar access and overshadowing

Community:

Solar access and overshadowing issues raise in community submissions include:

- overshadowing neighbouring parklands and residential development;
- result in the reduction in quality of life due to reduced solar access; and
- diminish the property value of the neighbouring properties.

Council Submission:

Council's submission did not raise any concerns about potential solar access and overshadowing impacts.

Proponent Response:

The proponent's response the solar access and overshadowing concerns includes:

- the public open space is an 'island' land parcel which does not exhibit any significant landscape qualities and demonstrates little amenity for either active or passive recreation uses;
- the overshadowing studies accompanying this Planning Proposal demonstrate that:
 - the public open space to the south of the site will be only partially overshadowed between 9.30am-10.30am in mid-winter; and
 - the public open space to the south of the site will be largely free from overshadowing after 12.30pm in mid-winter.
- solar access to nearby residential dwellings will form a matter for consideration as part of future DAs.

PPA Team Response:

The planning proposal adequately addresses community concerns about solar access and overshadowing impacts, because:

- the solar analysis supporting the proposal demonstrates that the overshadowing of the existing open space at 10 Mulgoa Road, Penrith is acceptable due to its form, shape, location, level of embellishment, usability, size and scale/type of vegetation;
- solar impacts to neighbouring residential developments will be subject to assessment during the development application process, with compliance required with the Apartment Design Guide as well as associated Council development standards and controls; and
- does not change existing land use permissibilities nor development standards applying to the site, including zoning, building height and FSR.

3.2.2 Issue – Flooding, the AMF and Dwelling Cap

Community:

Flooding and dwelling cap issues raised in community submissions include:

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- the site is within the AMF and dwelling cap area. The removal of the applicable sun access provision will allow for residential development which is inconsistent with disaster planning for large flood events;
- land being developed is within the PMF area; and
- the site is subject to flash flooding.

Council Submission:

Council submission raised the following concerns related to flooding, the AMF and the dwelling cap:

- the AMF and the dwelling cap that is imposed on residential development is emerging as a critical factor of this proposal and the future expansion of the City Centre;
- the introduction of the AMF meant that while there are approximately 8,000-9,000 residential lots zoned within the PMF, there is a cap of 4,050 dwellings;
- Council is responsible for monitoring development activity and there is capacity of 553 dwellings remaining in the cap;
- the dwelling cap may limit the ability of a consent authority to grant consent to development on the site;
- given the cap is in place we are concerned that developing sites in isolation will lead to poor urban outcomes with potential for very tall buildings to exist in isolation; and
- the best planning outcome would be achieved through a holistic approach to address all issues associated with the key sites and development in the CBD within the PMF. This would achieve a more comprehensive planning policy for the Penrith City Centre, rather than a piecemeal approach.

Proponent Response:

The proponent's response to flooding, the AMF and the dwelling cap, includes:

- acknowledging the need for Stage 2 of the AMF to be put in place as soon as possible, which will unlock the potential of the Penrith CBD. The proponents support Council's position that the AMF is a matter that requires urgent resolution;
- the sole purpose of this planning proposal is to facilitate the orderly and economic development on the site in a manner consistent with other key sites identified by the PLEP 2010, which cannot occur without enabling some overshadowing to a residual parcel of open space directly south already anticipated by the Key Site incentives in Clause 8.7;
- the AMF and dwelling cap will become a relevant matter for consideration during the development application process;
- the Penrith City Centre is an area in rapid transition, with development commencing in recent years to deliver intensified development outcomes commensurate with Penrith's identified nature as a Metropolitan Cluster. It is reasonable to expect that during this transitional phase, site-specific development outcomes may appear incongruous until such time that the City's physical form is more closely aligned with the density outcomes envisaged and anticipated under the area's strategic and statutory planning framework; and
- flooding considerations will be addressed as part of future detailed DAs, in accordance with relevant local flood planning controls.

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PPA Team Response

The PPA team notes Council's submission related to the AMF and dwelling cap within the Penrith City Centre.

The planning proposal does not alter the dwelling yield that applies to the site and its related contribution to the dwelling cap for the Penrith City Centre. The proposal:

- amends an existing provision relating to an overshadowing design outcome related to an existing area of public open spaces.
- does not change existing land use permissibilities; and
- does not change existing development standards which regulate development densities and yields applying to the site, including building heights and FSRs.

The status and capacity of the dwelling cap can be further considered through the development application process which can also account for detailed design and final dwelling numbers. This has been acknowledged by the proponent in their response to submissions.

Council is continuing to work with key state agencies, including the Department, NSW State Emergency Services and NSW Reconstruction Authority to review the AMF dwelling caps and understand the requirements to release stage 2 of the cap.

4 Next Steps

The Department is the Local Plan-Making Authority (LPMA) for this planning proposal.

The Panel's decision and the final planning proposal will be submitted to the Department through the NSW Planning Portal for finalisation.

The Department will prepare a finalisation report in accordance with the LEP Making Guidelines (August 2023) and will determine whether to make the LEP, with or without variation. The Department may defer the inclusion of a matter in the proposed LEP or not make the LEP.

In accordance with section 3.36(1) of the EP&A Act, the Department will organise drafting of the LEP and finalisation of maps and will consult the panel on any draft instrument.

5 Recommendation

Based on this post-exhibition report, it is recommended that the Panel determine that the planning proposal should be submitted to the Department for finalisation.

The planning proposal is considered suitable for finalisation because:

- the proposal demonstrates strategic and site specific merit;
- the conditions of the Gateway have been met; and
- agency and community consultation has occurred in accordance with the Gateway determination.

5.1 Attachments

Attachment A – Planning Proposal (August 2925)

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Attachment A1– UPG Overshadowing Studies (June 2019)

Attachment A2 – TOGA Overshadowing Studies (April 2023)

Attachment A3 – Response to Scoping report from Penrith City Council (November 2023)

Attachment B – Rezoning Review Record of Decision (April 2025)

Attachment C – Gateway Determination (July 2025)

Attachment C1 – Alteration of Gateway determination (August 2025)

Attachment D – Assessment Against Gateway Determination (August 2025)

Attachment E – Authorisation of exhibition

Attachment F – Jemena submission (October 2025)

Attachment G – Council submission (October 2025)

Attachment H – Community submissions (redacted)

Attachment I – Proponent response to submissions (November 2025)

Attachment I1 – Proponent public submission summary (November 2025)

Attachment J – Summary of community submissions and responses (November 2025)

A handwritten signature in black ink, appearing to read 'Alexander Galea'.

20 November 2025

Alexander Galea

Manager, Planning Proposal Authority Team

A handwritten signature in black ink, appearing to read 'Louise McMahon'.

26/11/25

Louise McMahon

Director, Planning Proposal Authority Team

Assessment officer

Ayva Hamed

Planning Officer, Planning Proposal Authority Team

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