

7 Westfield Penrith Planning Proposal (569-595 High Street, Penrith)

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Outcome	<i>We plan and shape our growing City</i>
Strategy	<i>Undertake strategic planning that will ensure balanced growth and liveability</i>
Principal Activity	<i>Facilitate appropriate land use outcomes for our city that are consistent with our Local Strategic Planning Statement</i>

Previous Items: 2- Westfield Penrith Planning Proposal (569-595 High Street, Penrith)- Councillor Briefing- 06 Sep 2021 7:00PM
3- Westfield Penrith Planning Proposal (569-595 High Street, Penrith)- Councillor Briefing- 21 Mar 2022 7:00PM

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

Proponent / Consultant: Scentre Group / Urbis

Subject Land: 569-595 High Street, Penrith (Lot 1 DP 1137699)

Landowner: Scentre Group and GTP Group

Executive Summary

The purpose of this report is to present a Planning Proposal for 569-595 High Street, Penrith, currently occupied by Westfield Penrith. The Planning Proposal seeks to amend the building height and floor space controls in the Penrith Local Environmental Plan 2010 to facilitate the development of the eastern portion of the land to enable a commercial and hotel development comprising two towers above a podium. A range of employment activities including entertainment and leisure, commercial offices, visitor accommodation and retail are proposed, all of which are currently permissible with consent.

Councillors have received the following memorandums and briefings on this Planning Proposal:

- 28 May 2021 – Memorandum notifying lodgement and introducing the Planning Proposal;
- 6 September 2021 – Councillor Briefing on the Planning Proposal and key issues following an initial assessment;
- 17 September 2021 – Memorandum providing additional information requested at the Councillor Briefing on economic benefits and timeframes; and
- 21 March 2022 – Councillor Briefing on the progress of the Planning Proposal and outstanding issues prior to referring the proposal to the Local Planning Panel.

While the Planning Proposal, originally submitted in May 2021, was considered to demonstrate strategic merit, several key issues were identified including the site's suitability for the proposed towers, the character and function of Riley Street and traffic impacts. The

Planning Proposal has now been updated to propose more suitable floor space and building height controls and respond to issues relating to Riley Street and traffic impacts.

In relation to traffic impacts, the proponent intends to submit a Letter of Offer to enter into a Voluntary Planning Agreement (VPA) for the provision of a monetary contribution towards traffic improvements to address increased congestion on the surrounding road network from the proposed development. The Letter of Offer is also intended to provide a monetary contribution towards car parking, community facilities, drainage and open space in accordance with the Penrith Civic Improvement Development Contributions Plan.

Once submitted, the Letter of Offer will be reviewed and considered by Council's Local Infrastructure Contributions Working Group, before being reported to Council for endorsement. Subject to Council's endorsement of the Planning Proposal, it is proposed that the Letter of Offer be exhibited with the Planning Proposal.

An assessment of the Planning Proposal has been completed, including the advice of the Local Planning Panel. The updated Planning Proposal is considered to be worthy of in-principle support to progress through the next steps of the Gateway process. The report recommends that Council endorse the updated Planning Proposal for submission to the Department of Planning and Environment (DPE) with a request for a Gateway Determination to enable public exhibition and agency consultation, subject to the receipt of a satisfactory Letter of Offer.

Background

On 17 May 2021, Council received a Planning Proposal seeking to amend the Floor Space Ratio (FSR) and Height of Buildings (HoB) controls prescribed by the Penrith Local Environmental Plan 2010 (LEP 2010) on part of the land at 569 – 595 High Street, Penrith. The land is currently occupied by Westfield Penrith shopping centre and is approximately 90,325m² with frontages to High Street, Henry Street, Riley Street, Jane Street, Belmore Street and Station Street.

Following an initial assessment by Council officers, the Planning Proposal was considered to demonstrate strategic merit as it aligns with the vision of the Penrith City Centre being a key employment centre in the Western Parkland City. However, several issues were identified that required resolution to determine site suitability. These issues related to the FSR and HoB controls for two proposed towers on the eastern portion of the land, the character and function of Riley Street, traffic and access, and environmentally sustainable design. On 6 September 2021, Councillors were briefed on the initial assessment of the Planning Proposal.

Attachment 1 provides a location map of the land and identifies the two proposed tower sites where changes to the FSR and HoB controls are sought (shown as Block A and Block B).

In November 2021, the proponent submitted an amended Planning Proposal in response to the issues raised in the initial assessment. In February 2022, following further assessment, Council officers requested some further changes to enable the Planning Proposal to be considered by the Local Planning Panel. On 21 March 2022, Councillors were briefed on the progress of the Planning Proposal, including the requested changes, which related to the FSR and HoB controls, Riley Street and traffic matters.

In June and August 2022, the proponent submitted further amendments to the Planning Proposal which responded to most but not all the requested changes. Following ongoing discussions with the proponent, the latest Planning Proposal was submitted, which responds to all requested changes and the advice of the Local Planning Panel, discussed later in this

report. A copy of the latest Planning Proposal has been provided to Councillors as an enclosure to this report.

Current Planning Controls under Penrith LEP 2010

Under LEP 2010, the land is zoned E2 Commercial Centre (previously B3 Commercial Core before the DPE's Employment Zones Reform), which provides for a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.

The land is currently subject to a maximum 1.5:1 FSR control and a maximum 20m HoB control. The land is also subject to the Penrith City Centre provisions in Part 8 of LEP 2010, which include provisions relating to sun access to public open spaces and building design excellence.

Planning Proposal

The Planning Proposal seeks to amend the floor space and building height controls in two specific locations on the land, one on the corner of Riley and Belmore Streets (referred to as Block A – The Hub) and the other on the corner of Henry and Station Streets (referred to as Block B – Borec House), as shown in Attachment 1.

The amendments sought in the Planning Proposal aim to facilitate the development of the eastern portion of the land to enable a commercial and hotel development comprising two towers above a podium, accommodating a range of employment activities including entertainment and leisure, commercial offices, visitor accommodation and retail.

The envisaged development proposes to provide more than 35,000m² of floor space including:

- Approx. 20,300m² of A-grade commercial office space;
- Approx. 6,000m² of expanded retail space; and
- Approx. 7,500m² for a 152-room hotel.

The envisaged development is forecast to create 78 direct jobs and 118 indirect jobs over its 3.5 year construction phase (and \$108.6 million in Gross Value Add). Once in operation, the development is forecast to create 1,360 direct jobs and 784 indirect jobs (and \$319 million in Gross Value Add per year).

To help understand how the Planning Proposal has evolved, the following table outlines the amendments sought to the LEP controls in the original Planning Proposal submitted in May 2021 compared with those in the latest updated Planning Proposal.

<i>LEP 2010 control</i>	<i>Original Planning Proposal</i>	<i>Latest Updated Planning Proposal</i>
Height of buildings	Increase maximum height to: • 99m (approx. 27 storeys) for Block A; and • 56m (approx. 15 storeys) for Block B.	Increase maximum height to: • 84m (approx. 22 storeys) for Block A; and • 47m (approx. 11 storeys) for Block B.

LEP 2010 control	Original Planning Proposal	Latest Updated Planning Proposal
Floor space	Increase maximum FSR to 1.91:1 across the entire Westfield site.	Retain existing maximum FSR control of 1.5:1 across the entire Westfield site but allow a maximum gross floor area of up to: • 24,000m² for Block A; and • 14,000m² for Block B; through a new site-specific clause in LEP 2010.

Attachment 2 shows the current floor space and building height controls. It also shows the proposed building height controls. The HoB map will also be used to identify the locations for the proposed maximum gross floor areas (outlined in blue) specified in the new LEP clause.

Attachment 3 includes some perspectives of the proposed towers from the concept scheme accompanying the Planning Proposal. It should be noted that, if the Planning Proposal proceeds, any future development on Block A and Block B will be subject to a development application process including an architectural design competition to achieve building design excellence.

Planning considerations

Strategic Merit

The Planning Proposal is considered to demonstrate strategic merit. The envisaged development aligns with the vision of the Penrith City Centre being a key employment centre in the Western Parkland City underpinned by office, retail and tourist uses, as outlined in the following plans and strategies:

- Western City District Plan (2018);
- Penrith Local Strategic Planning Statement (2020);
- East-West Corridor Interim Centres Strategy (2020);
- Penrith Progression (2015); and
- Penrith Economic Development Strategy (2017).

Zoning

The proposed commercial, hotel and retail uses are permissible with consent in the E2 Commercial Centre zone. The proposal is consistent with and meets the objectives of this zone.

Height of Buildings

Council has been unable to undertake a City Centre Review to create a built form framework for the Penrith CBD, including building heights, as the State Government is yet to resolve regional flood evacuation issues. Without this guidance, an assessment has been made based on the concept scheme in the Urban Design Report that accompanied the Planning Proposal and contextual matters including the land's location, overshadowing and the

requirements of Clause 8.2 Sun Access of LEP 2010, heritage and transition to surrounding buildings.

Clause 8.2 of the LEP is a key determinant of the maximum height for the towers on the land. This clause requires that *“development consent may not be granted to development ... if that development would result in overshadowing of public open space to a greater degree than would result from adherence to the controls ... on the Height of Buildings Map”* (currently 20m).

For Block A, the maximum height to ensure compliance with Clause 8.2 is 99m. However, this would produce a highly chamfered building which would reduce the useability of upper-level floor space and make it more of an ‘architectural feature’. The concept scheme proposes a height to 84m which is understood to be the functional height limit within the solar access plane. Although the upper levels will have some type of chamfer or step on the southern side of the building to prevent overshadowing, the upper levels are still likely to be usable. Reducing the maximum building height for Block A to 84m will also mean the envisaged development shown in the concept scheme will not overshadow the future City Park in any circumstances, ensuring greater sun access than that allowed under Clause 8.2.

For Block B, the maximum height to ensure compliance with Clause 8.2 is 56m. However, this would similarly produce a highly chamfered and stepped building. The concept scheme proposes a height of 47m taken to be the maximum functional height. Given the proximity of City Park and the intention to prevent overshadowing, only the rear section of the building will be able to achieve this height with the remainder of the building having a stepped configuration that reduces in height as the building moves towards the Park. This reduced maximum building height of 47m and stepped configuration will similarly mean greater sun access to City Park than that allowed under Clause 8.2.

Maximum building heights have also been informed by the contextual height analysis provided in the Urban Design Report. Attachment 4 shows the height of the proposed towers relative to the future built form of the City Centre. The Urban Design Report indicates that the height of the tower for Block A will be more to scale with the current 80m maximum height control for buildings along Belmore Street and consistent with heights determined in other Planning Proposals or development applications on key sites in the City Centre. The Report also notes Block A is close to key sites identified in Clause 8.7 of LEP 2010, which allows maximum heights to be exceeded in certain circumstances, suggesting that building heights for key sites between Station Street and Lawson Street could potentially be similar to those for key sites east of Lawson Street. In relation to Block B, the Urban Design Report indicates the tower, with its stepped configuration, is more to scale with maximum building heights along Henry Street.

Given the envisaged development can fit within the lower heights of 84m for Block A and 47m for Block B and these heights are more to scale with those in the City Centre and ensure no overshadowing of City Park, the updated Planning Proposal now reflects these heights for the two tower sites. While the concept scheme indicates these heights can accommodate any necessary services and lift overruns, in the event of additional flexibility being needed, the design excellence clause (Subclause 8.4 (5) of LEP 2010) provides some flexibility.

Views to the Mountains

Clause 8.4 of LEP 2010 requires consideration of built form and view corridors during the design competition and development application stage. In addition, Penrith Development Control Plan (DCP) 2014 includes controls relating to built form and maintaining views of the Blue Mountains escarpment, particularly those along High Street. While the two tower

locations are to the north of High Street, mid-range views of the mountains along Henry Street will be maintained as a stepped tower configuration will be required on Block B to prevent overshadowing of City Park. For Block A, mid-range views of the mountains will be partially affected by any proposed tower. It is noted, however, that when development occurs on land on the southern side of Belmore Street to the current allowable maximum height of 80m, a proposed tower on Block A and views of the mountains will likely be obscured when viewed from the east.

Floor Space

The original Planning Proposal proposed to increase the maximum FSR to 1.91:1 across all the land containing the Westfield Penrith shopping centre. However, to ensure greater certainty over future development outcomes, the approach proposed in the updated Planning Proposal is to apply a maximum gross floor area to each of the tower locations.

This approach, together with the proposed height of building and sun access controls, the design excellence process and the relevant controls in Penrith DCP 2014, should ensure there is sufficient certainty to control the scale, density and built form of the towers, while still providing scope to achieve a high-quality design outcome.

Riley Street Form and Function

The original Planning Proposal included a proposed formal shared zone in Riley Street, which would remove all parking and bus routes from Riley Street, limit the speed for vehicles to 10km/h and allow the street to function as a 'pedestrian prioritised' street where car and pedestrian movement are mixed. It also proposed an expansion of the public domain areas to add landscaping, street furniture and outdoor dining.

Riley Street forms part of the City Centre gateways that facilitate south to north vehicle movement into Jane Street (Great Western Highway) and in and out of the City Centre. The buses perform an important role in moving people around the City Centre with a critical bus service operating within Riley Street. Taxis and commercial vehicles also compete for the limited street space. It is considered that the use of street space must be prioritised and allocated for public transport, general traffic, taxis, emergency service and commercial service vehicles to manage congestion so the City Centre functions effectively and supports its role as a major commercial centre. Further, a formal shared zone would require approval from Transport for NSW.

Given the key role of Riley Street, Council officers advised the proponent that a formal shared zone as proposed is not supported. However, pedestrian elements and public domain embellishments that improve the place function and amenity of Riley Street can be built into the proposal. To guide any redesign or future configuration of Riley Street, a set of design principles and standards were provided to the proponent. They are included in Attachment 5 and essentially require maintaining the existing traffic arrangements in Riley Street.

The updated Planning Proposal and supporting Traffic and Transport Report no longer refer to a 'shared zone' and note Council's intention to use the design principles and standards as a basis for future discussions on the design of Riley Street.

Traffic and Access

Council officers raised a number of issues in the Traffic and Transport Report for the original Planning Proposal, including in relation to the use of certain modelling assumptions. The proponent has undertaken further traffic analysis to assess the impact of the envisaged development on the surrounding road network to determine the need for any mitigation

measures. The analysis indicates that, while local intersections will generally operate at levels that do not require mitigation measures, the development will have a cumulative impact on congestion across the surrounding network.

To address this cumulative impact, a monetary contribution towards future intersection improvement works is considered necessary. In this regard, the proponent intends to submit a Letter of Offer to enter into a Voluntary Planning Agreement (VPA) for the provision of a monetary contribution towards traffic improvement works to address increased congestion on the surrounding network. Once submitted, the Letter of Offer will be reviewed and considered by Council's Local Infrastructure Contributions Working Group, before being reported to Council for endorsement. Subject to Council's endorsement of the Planning Proposal, it is proposed that the Letter of Offer be exhibited with the Planning Proposal.

Flooding

The accompanying Flood Management Report indicates that:

- Based on the 2020 Penrith CBD Floodplain Risk Management Study and Plan, the land proposed for development is not affected by localised flooding up to and including the 0.5% Annual Exceedance Probability (AEP) flood event but is affected by the Probable Maximum Flood (PMF) event. This means the localised PMF event will inundate the basement and be a relatively short event (60-90 minutes) with little warning. The Report recommends a strategy to essentially remain in place and wait for waters to recede before safely evacuating.
- Based on the 2019 Hawkesbury-Nepean River Regional Flood Study, the land proposed for development is not affected by regional flooding up to and including the 1% AEP flood event but is affected by the PMF event. The regional PMF is slower rising and higher than the localised PMF event, potentially inundating the first floor. The Report recommends a strategy to evacuate people in advance of flood waters to higher ground given there will be additional time to prepare.

While flooding is an important consideration, particularly in the context of the recent Independent Flood Inquiry, the DPE's advice has been that "Council (is) to continue considering and making planning decisions including submitting planning proposals to the Department for Gateway determination as appropriate based on the existing suite of flood planning advice". That flood planning advice, referred to as the 'Adaptive Flood Risk Management Framework for Residential Development in the Penrith City Centre', is focused on managing sensitive land uses such as residential development, seniors housing, hospitals and child care centres in flood affected areas in the City Centre located below the PMF, particularly to ensure safe evacuation. The Framework places staged caps on the number of additional dwellings that can be considered in the City Centre based on factors such as infrastructure and emergency services capabilities. While the land is affected by the localised and regional PMF events, the envisaged development does not propose to include residential development or other sensitive land uses. Therefore, based this advice, the assessment of the Planning Proposal proceeded.

Since that advice, the DPE has provided further advice that "Council will continue to consult with DPE at the time enquiries come in for Planning Proposals for those areas that are below the PMF (and) this consultation is to be undertaken early in the rezoning process". Given this Planning Proposal was originally submitted in May 2021, clarification was sought from the DPE. The DPE has advised that the Planning Proposal can be reported to Council for its consideration. However, should Council support the Planning Proposal, the DPE will seek advice from relevant agencies on flooding ahead of issuing any Gateway determination.

Heritage

The proposed towers will be near the Red Cow Hotel complex, located on the south west corner of Jane and Station Streets. The Red Cow Hotel is listed as a heritage item in Schedule 5 of LEP 2010. Council's Heritage Advisor notes the envisaged development appears to respect the proximity of the heritage item, however, advises that detailed analysis will be needed on how development, particularly on Block A, respects the heritage item in terms of its detailing, site lines and materials, and ensures the safety of the heritage item during construction. Heritage issues and streetscape constraints are matters for consideration in Clause 8.4 Design excellence of LEP 2010 which will be part of the assessment of any future development application on the land.

Other matters

Council officers raised some further matters in response to the original Planning Proposal which have been addressed in the updated Planning Proposal. These matters included:

- An intention to prepare a site-specific Development Control Plan (DCP): A site-specific DCP is no longer proposed. The updated Planning Proposal provides an assessment of the concept scheme against current DCP controls for the Penrith City Centre, identifying a small number of departures relating to the floor plate size, maximum building depth and distance to source of daylight. While the supporting Urban Design Report provides justification for these departures, it should be noted that, any decision to progress the Planning Proposal does not mean Council endorsement or support of the concept scheme or the departures. Assessment of detailed design considerations for the towers will be subject to the more appropriate processes of a design competition and development application.
- Upgrades to the public domain and landscaping: The updated Planning Proposal provides further details as a basis for future discussions with Council anticipated to take place at the design competition and development application stage. These discussions will also need to have regard to the Penrith Civic Improvement Development Contributions Plan (CIP), which identifies several public domain projects within the Penrith City Centre. As part of the Letter of Offer, the proponent intends to provide a monetary contribution towards these projects in accordance with the CIP.
- Environmentally sustainable design: The updated Planning Proposal provides further details in the form of a Green Star Pathway Report, noting that this matter will also be subject to a design competition and development application.

Local Planning Panel Advice

In accordance with the requirements of Section 2.19 of the Environmental Planning and Assessment Act 1979, the Planning Proposal was referred to the Local Planning Panel on 26 October 2022 for advice. Advice provided by the Panel is to be taken into consideration in Council's assessment and preparation of the Planning Proposal.

The Local Planning Panel's advice and Council officer responses are provided below.

1. The Planning Proposal is considered to have strategic merit as the envisaged development aligns with the vision of Penrith City Centre as being a key employment centre in the Western Parkland City underpinned by office, retail and tourist uses, as outlined in the Western City District Plan, Penrith Local Strategic Planning Statement, Penrith Progression, East-West Corridor Interim Centres Strategy and Penrith Economic Development Strategy.

Council officer response:

Agreed.

2. Despite this, the site is sensitive and assessment of the Proposal should proceed with caution to avoid prejudicing the resolution of several significant issues. Chief amongst these are flooding and stormwater management, visual impacts and views towards the west, and potential overshadowing, while design excellence is crucial for this important central and prominent site.

The flooding considerations particularly warrant a narrow application of permitted uses, such that only employment and hotel uses should be subject to the additional height and floor space ratio. Other permitted uses (such as serviced apartments) are not considered suitable for additional floor space and height, despite currently being permissible.

Council officer response:*Flooding and stormwater management*

It is acknowledged that flooding and stormwater management are significant issues and, although the envisaged development is not captured by the DPE's 'Adaptive Flood Risk Management Framework for Residential Development in the Penrith City Centre', the DPE has agreed that the Planning Proposal can be reported to Council for its consideration. Should Council support the Planning Proposal, the DPE will seek advice from relevant agencies on flooding ahead of issuing any Gateway determination.

In terms of flooding considerations and permitted uses, the E2 Commercial Centre zone currently prohibits residential accommodation (including shop top housing) and permits serviced apartments (a type of tourist and visitor accommodation) consistent with the objectives of the zone and the vision for the Penrith City Centre.

It is understood the Panel's concern relates, in part, to the conversion of serviced apartments to residential flat buildings or shop top housing under State Environmental Planning Policy (Housing) 2021 (Housing SEPP). However, serviced apartments cannot be converted to these uses under the Housing SEPP as they are prohibited in the E2 zone.

While the Panel has not identified other permitted uses (besides serviced apartments) that are not suitable for additional floor space and height due to flooding considerations, it is important to note that any development application for a permissible use, such as child care facilities, educational establishments or for commercial and hotel uses as envisaged on the site, will still be subject to a merit assessment. The DPE will also be seeking advice from relevant agencies on flooding ahead of issuing any Gateway determination.

It is further noted that currently housing for seniors or people with a disability and build-to-rent housing is permitted with consent in the E2 zone under the Housing SEPP. Build-to-rent housing is large scale (at least 50 dwellings) purpose-built rental housing that is held in single ownership (on the same lot) and professionally managed. The Housing SEPP prevails over LEP 2010.

Visual impacts and views towards the west

Visual impacts and views towards the mountains are acknowledged as significant issues and are proposed to be considered and managed through existing provisions in Clause 8.4 Design excellence of LEP 2010 and controls in DCP 2014 for the Penrith City Centre. A new site-specific clause for the land is also proposed which will include additional

considerations to ensure any development positively contributes to the skyline and development on Block B respects views of the mountains when viewed along Henry Street.

Potential overshadowing

It is intended that the envisaged development will not overshadow City Park, ensuring the Park has greater sun access than that required by Clause 8.2 of LEP 2010. The requirement for no overshadowing is proposed to be included in the site-specific clause for the land.

Design excellence

Any development on the land that is greater than 24m or 6 storeys in height will be subject to Clause 8.4 of the LEP and an architectural design competition to ensure future development exhibits design excellence. In addition, it is proposed that the site-specific clause also require any development to appropriately interface and connect to adjacent public spaces to contribute to a positive pedestrian experience and provide a high-quality architectural response given the land's proximity to the Penrith Railway Station, a key arrival point to the City Centre.

3. The considerations for the site warrant an approach which is site-specific and only allows the additional floor space ratio and height subject to achieving certain outcomes in terms of design excellence, sustainability, and no additional overshadowing to open space to the south-east. In turn, the LEP clause(s) should be worded so they are not applicable to the site to the west (across Riley Street) nor able to be varied under Clause 4.6. In turn, this also favours wording to allow some tower location/shape flexibility, as opposed to the very narrow and specific footprint in draft controls seen by the Panel.

Council officer response:

The Planning Proposal proposes a new site-specific clause to:

- Identify building envelopes for Block A and Block B on the HoB Map;
- Limit gross floor areas to up to 24,000 square metres for Block A and 14,000 square metres for Block B (based on the concept scheme);
- Set maximum building heights to 84m for Block A and 47m on Block B to be shown on the HoB Map;
- Ensure development on Block A and Block B will not result in the overshadowing of public open space; i.e. City Park; and
- Include additional considerations to those in Clause 8.4 (discussed in item 2 above) relating to visual impacts and views to the mountains, connections to adjacent public spaces and the land's proximity to the Penrith Railway Station.

The site-specific clause is proposed to only allow the additional heights and gross floor areas subject to the consent authority being satisfied the development exhibits design excellence and environmental sustainability and does not overshadow City Park.

In addition, any future development on the land greater than 24m or 6 storeys in height will also be subject to Clause 8.4 of the LEP, which includes matters that must be considered in deciding whether the development exhibits design excellence. Those matters relate to:

- the standard of architectural design, materials and detailing;

- the form and external appearance and whether they improve the quality and amenity of the public domain;
- the impact on view corridors;
- land suitability; existing and proposed uses and the mix of uses;
- heritage issues and streetscape constraints;
- relationship with other buildings in terms of separation, setbacks, amenity and urban form;
- bulk, massing and modulation of buildings;
- street frontage heights;
- environmental impacts including sustainable design, overshadowing, wind and reflectivity;
- achievement of the principles of ecologically sustainable development;
- pedestrian, cycle, vehicular and service requirements; and
- impacts on and improvements to the public domain.

The site-specific clause will only apply to the building envelopes identified for Block A and Block B, and therefore will not apply to land west of Riley Street.

It is intended that the site-specific clause be exempt from Clause 4.6 so any development standards cannot be varied using Clause 4.6. This exemption will be addressed through an amendment to Clause 4.6.

This will not, however, remove the opportunity for some additional flexibility in maximum building heights (up to 10%) being considered under subclause 8.4 (5) provided the development is the result of an architectural design competition.

The Panel's advice suggests the very narrow and specific footprint identified by the building envelopes for Block A and Block B do not allow some tower location/shape flexibility. However, the intention of the building envelopes is to provide greater certainty over future development outcomes, particularly in the absence of the Penrith City Centre Review.

Further, increasing maximum building heights and floor space provisions over the land bounded by Riley, Belmore, Station and Henry Streets would require more detailed DCP controls to be prepared, as suggested by the Panel in item 6. However, it is considered these detailed controls should be informed by the City Centre Review, once it is completed.

4. The site-specific controls should incorporate objectives which are formulated to create the foundation for the future design competition. These objectives should address the issues identified in these comments, particularly in respect of design excellence. Future buildings will be visually prominent from public open space in the immediate vicinity, from surrounding streets including potential axial vistas, and from elevated positions within the broader district.

Council officer response:

It is proposed that the new site-specific clause include objectives to ensure any proposed development:

- Integrates tower forms with podium levels and land uses on the land;
- Enhances the architectural quality and sustainable built form of Westfield Penrith;
- Provides a high-quality architectural response given the land's proximity to Penrith Railway Station;

- Enhances the interface to and connections with adjacent public spaces;
- Positively contributes to the skyline and respects views of the mountains for development on Block B; and
- Does not overshadow City Park.

The objectives will be reflected in specific requirements, as previously discussed, which the consent authority must be satisfied with before granting consent.

Clause 8.4 Design excellence will also apply to development greater than 24m or 6 storeys in height.

5. The public domain upgrades should be for the entire block defined by Henry, Riley, Jane (Belmore) and Station Streets. The Panel was not persuaded by the wider public benefits of the schematic proposed works, which seem to be limited to drawing pedestrians into the shopping centre, rather than wider improvements. Similarly, there are a number of adverse existing public domain elements such as long ramps in the roadways, pedestrian bridges, loading areas and inactive frontages. Any mechanisms to improve these poor public domain interfaces should be fully explored prior to gazettal, through appropriate means.

Council officer response:

While the Planning Proposal includes an intention to provide public domain upgrades to key interfaces along Henry, Riley, Jane and Station Streets, the indicative map of proposed works, particularly in Riley Street, are not supported. Council officers have provided a set of design principles and standards to the proponent (Attachment 5) to guide any redesign or future configuration of Riley Street.

Discussions on future upgrades and the mechanism for delivering them are anticipated to take place at the design competition and development application stage given the above design principles and standards. Discussions will also need to have regard to the CIP, which identifies several public domain projects within the Penrith City Centre. As part of the Letter of Offer, the proponent intends to provide a monetary contribution towards these projects in accordance with the CIP.

The new site-specific clause also proposes to include an objective and requirement for any proposed development to provide an appropriate interface with and connections to adjacent public space and contribute to a positive pedestrian experience.

6. The Panel was not persuaded about the case to vary Development Control Plan floorplate controls at this stage, particularly for the proposed hotel. The height and floor space ratio should be calculated to facilitate buildings which would satisfy these controls. The Panel favoured some master planning controls for the site in the DCP, particularly to address street wall heights, public domain upgrades, tower setbacks, overshadowing, sustainability and the like.

Council officer response:

Additional master planning or DCP controls are not proposed for the land as these controls should be informed by the future Penrith City Centre Review.

Nevertheless, the more stringent controls proposed in the Planning Proposal, including define building envelopes, together with existing DCP controls, are intended to provide greater certainty over future development outcomes in the absence of the Penrith City Centre Review.

7. Subject to the receipt of an updated Traffic and Transport Report and due consideration of the above comments, the Planning Proposal be progressed through the next steps of the Gateway process.

Council officer response:

Noted.

A copy of the Local Planning Panel's advice is included in Attachment 6.

Financial Implications

There are no financial implications for Council associated with this stage of the process.

Risk Implications

There are no risk implications for Council associated with this stage of the process.

Next Steps

Should the Planning Proposal be endorsed by Council to proceed through the DPE's Gateway process for LEP amendments, the Planning Proposal will be forwarded to the Minister for Planning with a request to issue a Gateway Determination subject to the receipt of a satisfactory Letter of Offer. The submission will include a request to issue Council with Delegation to make the LEP amendment.

The Minister for Planning or delegate will then issue a Gateway Determination that will resolve whether the Planning Proposal may proceed through the Gateway process to public exhibition. The Gateway Determination may include conditions requiring that certain tasks be undertaken prior to commencement of public exhibition. This may include consulting with certain State agencies including relevant flooding and emergency management agencies and Transport for NSW. Consistent with Council's approach, it may also include a condition requiring a Letter of Offer to be exhibited concurrently with the Planning Proposal.

Once the pre-exhibition conditions of the Gateway Determination are satisfied, the Planning Proposal and Letter of Offer will be placed on public exhibition in accordance with the requirements of the Gateway Determination and other relevant legislation.

Following completion of public exhibition, a report will be prepared on the results of the exhibition for Council's consideration.

Conclusion

Council is in receipt of a Planning Proposal for 569-595 High Street, Penrith, currently occupied by Westfield Penrith. The Planning Proposal seeks to amend the building height and floor space controls in LEP 2010 to facilitate the development of the eastern portion of the land to enable a commercial and hotel development comprising two towers above a podium.

An assessment of the updated Planning Proposal has been completed, including the advice of the Local Planning Panel. The updated Planning Proposal is considered to be worthy of in-principle support to progress through the next steps of the Gateway process. The report recommends that Council endorse the updated Planning Proposal for submission to the DPE with a request for a Gateway Determination to enable agency consultation and public exhibition, subject to the receipt of a satisfactory Letter of Offer.

RECOMMENDATION

That:

1. The information contained in the report on Westfield Penrith Planning Proposal (569-595 High Street, Penrith) be received.
2. Council endorse the Planning Proposal (separately enclosed) to proceed through the Department of Planning and Environment's Gateway process for Local Environmental Plan amendments.
3. Council officers forward the Planning Proposal to the Minister for Planning with a request to issue a Gateway Determination subject to receipt of a Letter of Offer to the satisfaction of Council officers. (The submission will include a request to issue Council with Delegation for plan making authority).
4. The General Manager be granted delegation to make any necessary changes to the Planning Proposal referred to in resolution 2:
 - a. prior to Council's submission of the Planning Proposal to the Minister for Planning to request a Gateway Determination;
 - b. as a result of negotiated changes sought by the Department of Planning and Environment in the lead up to issuing a Gateway Determination; and
 - c. prior to public exhibition in response to the conditions of the Gateway Determination or negotiation with State agencies.
5. A further report be presented to Council on the Letter of Offer for endorsement.
6. Council publicly exhibits the Planning Proposal and Letter of Offer for a period specified in the Gateway Determination and in accordance with the community consultation requirements of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.
7. A further report be presented to Council following the public exhibition.

ATTACHMENTS/APPENDICES

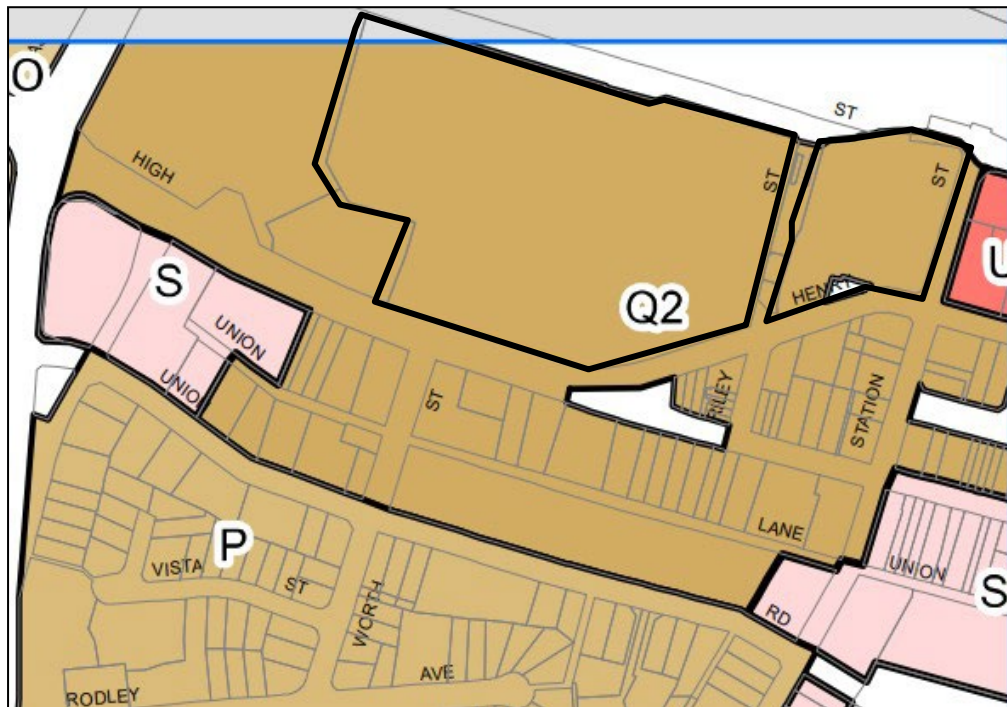
1. Westfield Penrith Land and Location of Proposed Towers	1 Page	Attachments Included
2. Current and Proposed Height of Buildings and Floor Space Controls	2 Pages	Attachments Included
3. Perspectives of Proposed Towers	2 Pages	Attachments Included
4. Contextual Height Analysis	1 Page	Attachments Included
5. Design Principles and Standards for Riley Street, Penrith	1 Page	Attachments Included
6. Local Planning Panel Advice	2 Pages	Attachments Included

Attachment 1: Westfield Penrith Land and Location of Proposed Towers on Block A and Block B



Attachment 2: Current and Proposed Height of Buildings and Floor Space Controls

Current height of buildings

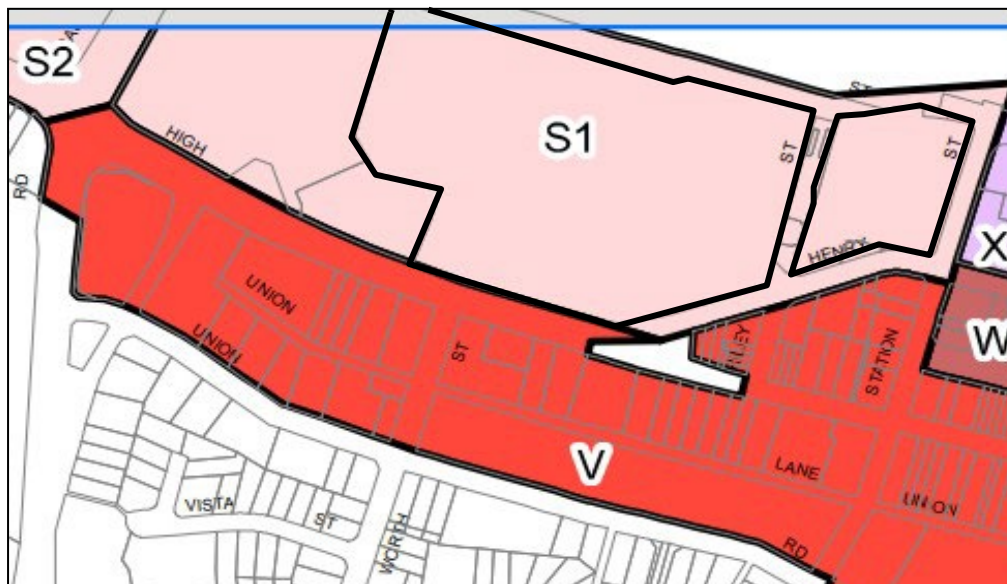


Height of Buildings Map -
Sheet HOB_006

Maximum Building Height (m)

Q2 20

Current floor space ratio

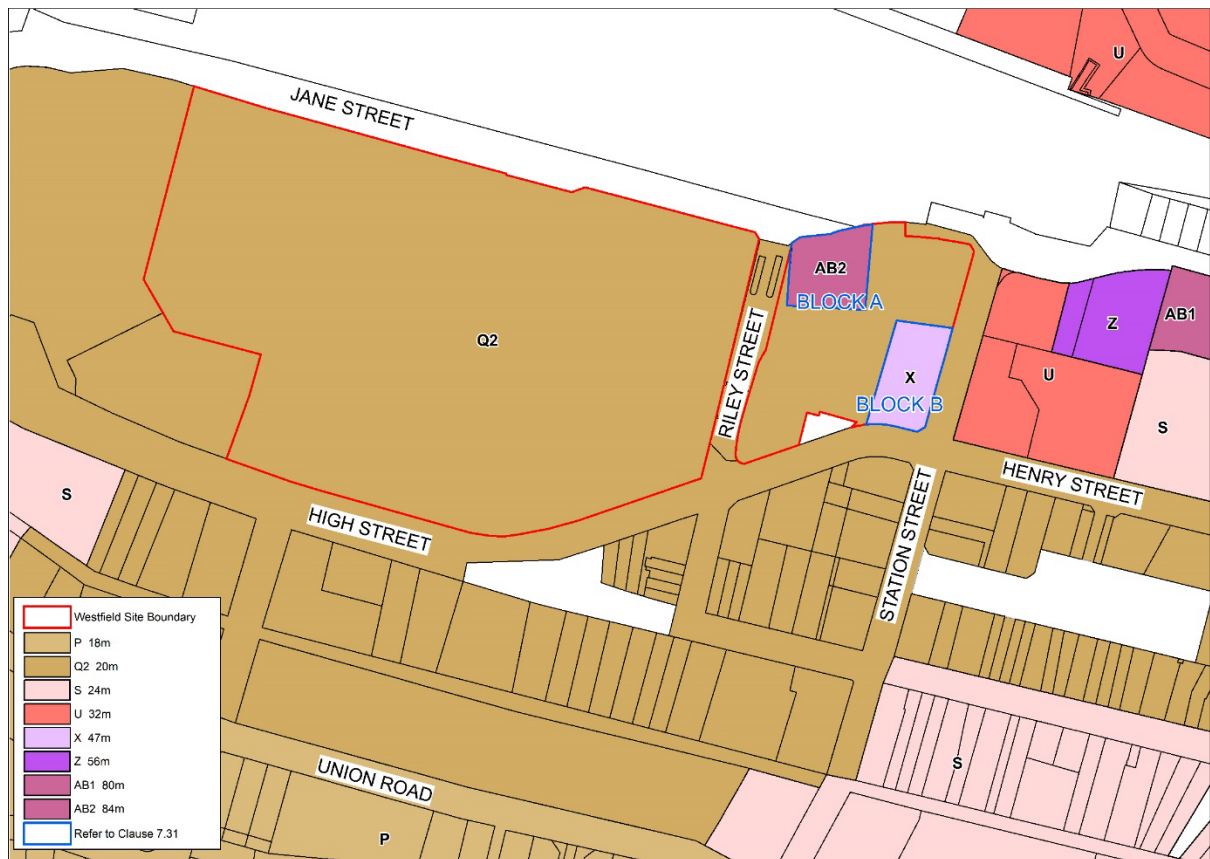


Floor Space Ratio Map -
Sheet FSR_006

Maximum Floor Space Ratio (n:1)

S1 1.5

Proposed height of buildings and locations for maximum gross floor areas for Block A and Block B (outlined in blue) to be specified in new LEP clause



Attachment 3: Perspectives of Proposed Towers

Block A (The Hub) – View North-east



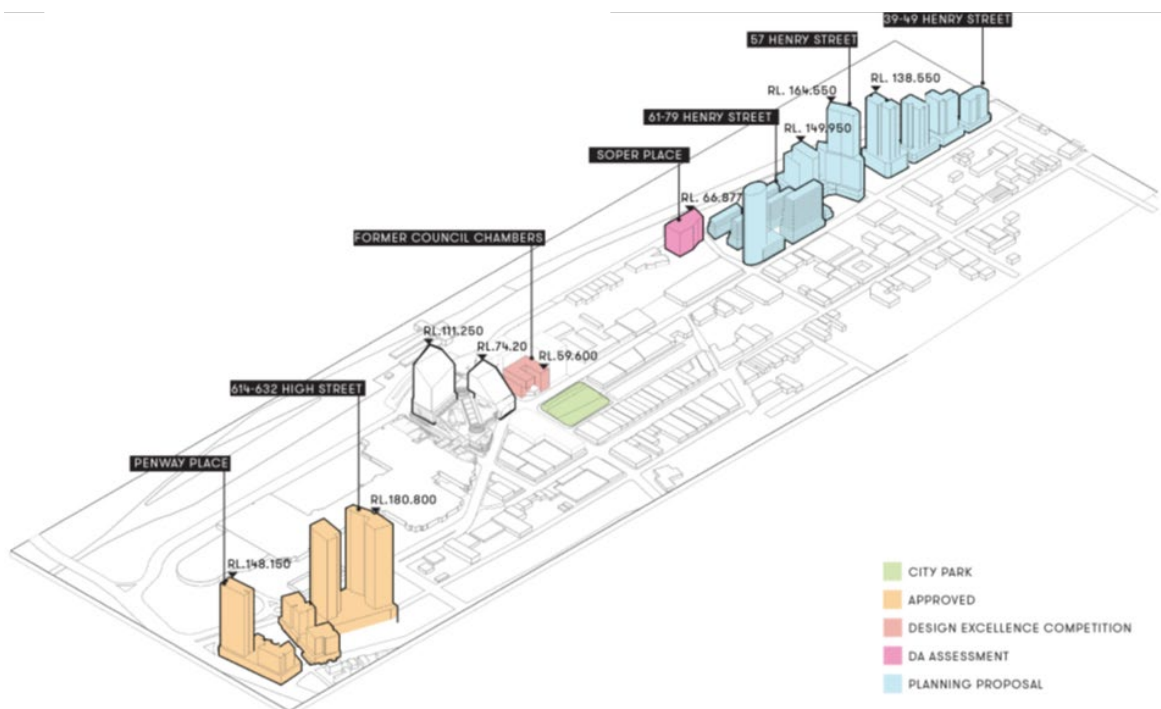
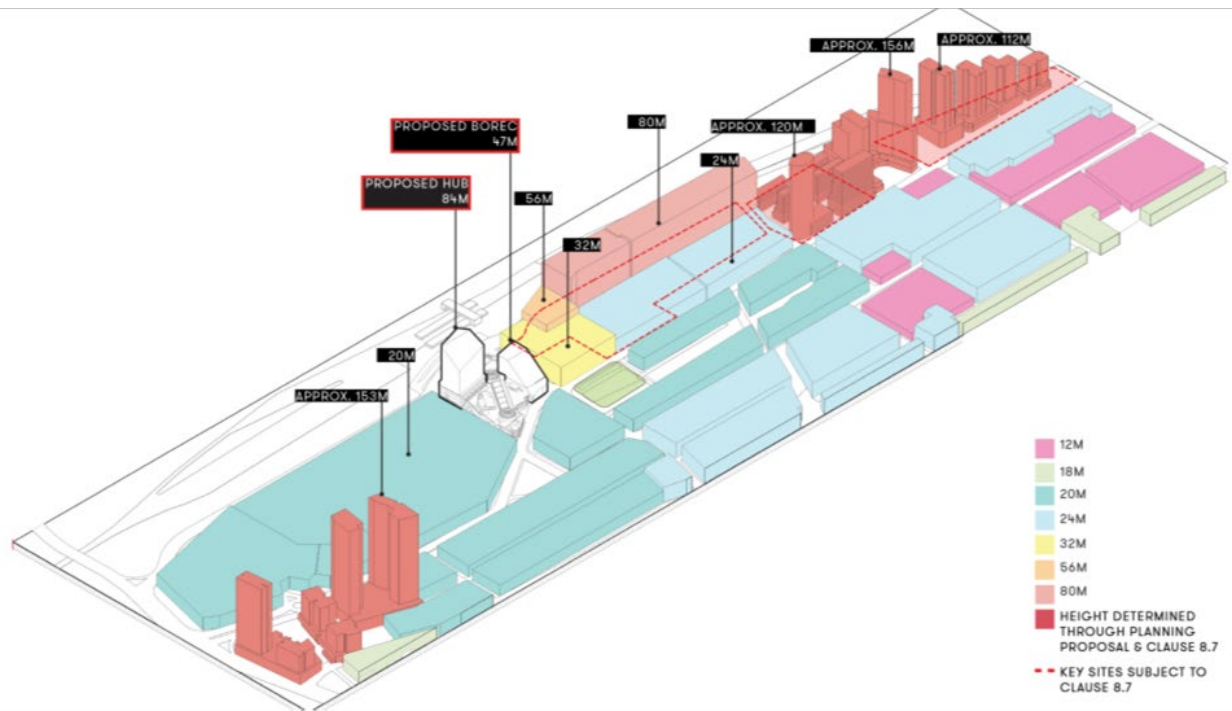
Block B (Borec House) – View North-west



Block A (The Hub) and Block B (Borec House) – View North-east



Attachment 4: Contextual Height Analysis – Urban Design Report



Attachment 5: Design Principles and Standards for Riley Street, Penrith

- Maintain a road carriageway with a bitumen surface for the trafficable portion to distinguish between vehicular movements and pedestrians.
- Maintain a speed limit of 40km/h; however, there is a view to reducing this to 30km/h in the future in line with Transport for NSW directions.
- Maintain bus services, taxi services and emergency services parking.
- Maintain on-street parking wherever practical – consolidation and/or review of lengths of zones can be considered.
- The proposed porte-cochere and/or valet facility is required to be undertaken within private land, not within public (council owned/managed) land. The existing on-street public parking spaces along Riley Street are a community facility and not allocated to a private landowner (Westfield Penrith Shopping Centre).
- Pedestrian elements and public domain embellishments that improve the amenity and place function of Riley Street can be built into the proposal, whilst maintaining the key movement elements outlined above.
- A transport consultant should identify where Riley Street sits on the Movement and Place framework when it is fully developed and comment on supportable infrastructure to that end.

Attachment 6:

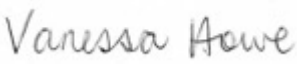
Local Planning Panel advice provided pursuant to Section 2.19 of the Environmental Planning & Assessment Act 1979

The Panel has considered Planning Proposal PP-2021-0001 for 569-595 High Street, Penrith (Westfield Penrith) (Lot 1 DP 1137699) and the preliminary assessment prepared by Council officers and provides the following advice:

1. The Planning Proposal is considered to have strategic merit as the envisaged development aligns with the vision of Penrith City Centre being a key employment centre in the Western Parkland City underpinned by office, retail and tourist uses, as outlined in the Western City District Plan, Penrith Local Strategic Planning Statement, Penrith Progression, East-West Corridor Interim Centres Strategy and Penrith Economic Development Strategy.
2. Despite this, the site is sensitive and assessment of the Proposal should proceed with caution to avoid prejudicing the resolution of several significant issues. Chief amongst these are flooding and stormwater management, visual impacts and views towards the west, and potential overshadowing, while design excellence is crucial for this important central and prominent site. The flooding considerations particularly warrant a narrow application of permitted uses, such that only employment and hotel uses should be subject to the additional height and floor space ratio. Other permitted uses (such as serviced apartments) are not considered suitable for additional floor space and height, despite currently being permissible.
3. The considerations for the site warrant an approach which is site-specific and only allows the additional floor space ratio and height subject to achieving certain outcomes in terms of design excellence, sustainability, and no additional overshadowing to open space to the south-east. In turn, the LEP clause(s) should be worded so they are not applicable to the site to the west (across Riley Street) nor able to be varied under Clause 4.6. In turn, this also favours wording to allow some tower location/shape flexibility, as opposed to the very narrow and specific footprint in draft controls seen by the Panel.
4. The site-specific controls should incorporate objectives which are formulated to create the foundation for the future design competition. These objectives should address the issues identified in these comments, particularly in respect of design excellence. Future buildings will be visually prominent from public open space in the immediate vicinity, from surrounding streets including potential axial vistas, and from elevated positions within the broader district.
5. The public domain upgrades should be for the entire block defined by Henry, Riley, Jane, and Station Streets. The Panel was not persuaded by the wider public benefits of the schematic proposed works, which seem to be limited to drawing pedestrians into the shopping centre, rather than wider improvements. Similarly, there are a number of adverse existing public domain elements such as long ramps in the roadways, pedestrian bridges, loading areas and inactive frontages. Any mechanisms to improve these poor public domain interfaces should be fully explored prior to gazettal, through appropriate means.
6. The Panel was not persuaded about the case to vary Development Control Plan floorplate controls at this stage, particularly for the proposed hotel. The height and floor space ratio should be calculated to facilitate buildings which would satisfy these controls. The Panel favoured some master planning controls for

the site in the DCP, particularly to address street wall heights, public domain upgrades, tower setbacks, overshadowing, sustainability and the like.

7. Subject to the receipt of an updated Traffic and Transport Report and due consideration of the above comments, the Planning Proposal be progressed through the next steps of the Gateway process.

Jason Perica (Chair) 	John Brunton 
Vanessa Howe 	

7 Westfield Penrith Planning Proposal (569-595 High Street, Penrith)

117 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Mark Davies

That:

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2. Council endorse the Planning Proposal (separately enclosed) to proceed through the Department of Planning and Environment's Gateway process for Local Environmental Plan amendments.
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6. Council publicly exhibits the Planning Proposal and Letter of Offer for a period specified in the Gateway Determination and in accordance with the community consultation requirements of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.
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

Councillor Karen McKeown OAM
 Councillor Robin Cook
 Councillor Todd Carney
 Councillor John Thain
 Councillor Marlene Shipley
 Councillor Glenn Gardiner
 Councillor Bernard Bratusa
 Councillor Mark Rusev
 Councillor Tricia Hitchen

Against

Councillor Kevin Crameri OAM
 Councillor Sue Day
 Councillor Jonathan Pullen

**THE TIMELY ACTIONING OF COUNCIL DECISIONS IS PARAMOUNT.
 SIGN OFF COMPLETED ACTIONS AND RETURN TO RECORDS**

Councillor Mark Davies
Councillor Ross Fowler OAM

For Action: Williams, Natasha - City Planning Manager

ADOPTED AT ORDINARY MEETING

Monday 29 May 2023

**THE TIMELY ACTIONING OF COUNCIL DECISIONS IS PARAMOUNT.
SIGN OFF COMPLETED ACTIONS AND RETURN TO RECORDS**