

## Katelyn Davies

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**From:** Andrew Harvey <aharvey@urbis.com.au>  
**Sent:** Wednesday, 6 October 2021 7:04 PM  
**To:** Robert Craig  
**Cc:** Frank Katsanevas  
**Subject:** RE: Thornton Central - Community Infrastructure - Next steps

Hi Rob,

Hope you had a good break.

Keen to catch up on the below – would you have time over the coming days?

Kind regards,

**ANDREW HARVEY**  
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E [aharvey@urbis.com.au](mailto:aharvey@urbis.com.au)

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**From:** Andrew Harvey  
**Sent:** Thursday, 30 September 2021 10:08 AM  
**To:** Robert Craig <Robert.Craig@penrith.city>  
**Cc:** Frank Katsanevas <fkatsanevas@sthilliers.com.au> (fkatsanevas@sthilliers.com.au) <fkatsanevas@sthilliers.com.au>  
**Subject:** RE: Thornton Central - Community Infrastructure - Next steps

Hi Rob,

Thanks for your email below.

Would you have 15-20 mins or so to have a quick chat with Frank and I in the next few days – just wanted to discuss this in some further detail

Kind regards,

**ANDREW HARVEY**  
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**From:** Robert Craig <[Robert.Craig@penrith.city](mailto:Robert.Craig@penrith.city)>  
**Sent:** Wednesday, 22 September 2021 8:28 AM  
**To:** Andrew Harvey <[aharvey@urbis.com.au](mailto:aharvey@urbis.com.au)>  
**Cc:** Frank Katsanevas <[fkatsanevas@sthilliers.com.au](mailto:fkatsanevas@sthilliers.com.au)>; Peter Wood <[Peter.Wood@penrith.city](mailto:Peter.Wood@penrith.city)>; Gavin Cherry <[Gavin.Cherry@penrith.city](mailto:Gavin.Cherry@penrith.city)>  
**Subject:** RE: Thornton Central - Community Infrastructure - Next steps

Hi Andrew.

While I am mindful of your comments below, the complication is that a baseline maximum FSR for the site has not been established through the applicable statutory controls.

As such, the community infrastructure value should be based on GFA above the applicable maximum height limit + 10% (design competition bonus) – i.e. above 35.2m.

I understand if you would like to discuss this matter further, but to inform those discussions, it would be helpful to understand the two scenarios in terms of potential CI value (i.e. base FSR of 3.7:1 scenario v. height exceedance based scenario).

Regards, Rob.

**Robert Craig**  
Principal Planner



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**From:** Andrew Harvey <[aharvey@urbis.com.au](mailto:aharvey@urbis.com.au)>  
**Sent:** Monday, September 13, 2021 3:26 PM  
**To:** Robert Craig <[Robert.Craig@penrith.city](mailto:Robert.Craig@penrith.city)>  
**Cc:** 'Frank Katsanevas' <[fkatsanevas@sthilliers.com.au](mailto:fkatsanevas@sthilliers.com.au)>  
**Subject:** FW: Thornton Central - Community Infrastructure - Next steps

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Hi Rob,

Thanks again for your comments below. One item we wanted to clarify and respond to was in relation to the following comment in your notes:





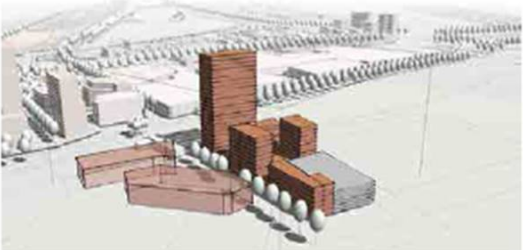
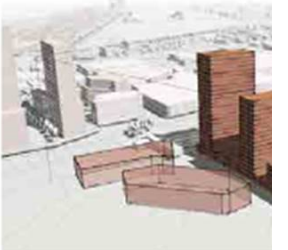
*In relation to the FSR "base case" of 3.7:1 referenced below (in the absence of a maximum FSR applying to the site under Clause 4.4 of the LEP), it will need to be demonstrated that this maximum FSR would be reasonably achievable based on the applicable planning provisions for a proposal not pursued under Clause 8.7 of the LEP (e.g. 32m maximum height limit, SEPP 65 / ADG compliance, etc). The previous DAs approved over Lot 3003 (DA17/0334), Lot 3004 (DA16/0411) and Lot 3005 (DA16/0412) could be used as a guide in this regard, although it is acknowledged that these proposals only provided for a maximum height of 6 storeys in each case. In addition, however, it should be noted that Council determines community infrastructure value based on GFA above the applicable maximum height limit (i.e. above 32m in this case) and/or above the applicable maximum FSR.*

Determining an appropriate 'base' FSR was a very important query from the applicant at the time the Draft LEP was being prepared formally by Council, and one which they provided written submissions and clarification on at the time. Essentially, as there was no 'base' FSR referenced in the documents, we needed very clear direction from Council as to what a reasonable position would be here – noting that this goes to the fundamental feasibility of the project. The reference in my email below was confirmation from Council's strategic team at the time that the 3.7:1 was reasonable, as it had been directly informed by work undertaken by Council's consultants (Connybeare Morrison) at the time for that very purpose. Unlike other 'key sites' which had an existing FSR – Thornton was different and not as clear cut.

I have extracted the relevant extracts from the Urban Design Analysis for the 'Key Sites' which determined the 'base case' for Site 11. I note that this option could also arguably accommodate another level (noting 10% design excellence would be required for developments over 24m) and push the height to 35m. However, this has been the consistent number (i.e. 3.7:1) that our team have been guided by Council on previously, and of which we have modelled the uplift scenarios – and also which informed the competitive design process we have undertaken on the site.

<https://we.tl/t-sCmGFRRkuC>

# 14.2 Key Site 11 | Urban Design Options Summary

Base Case	Option 1 - Precinct Identity Based	Option 2 - Height
FSR	3.7 :1	4.0 :1
Height Governed		
3.7 :1		
GFA Governed		
N/A		
HOB	80.0 m - 25 stories	80.0 m - 25 stories
		
Figure 158: Elevations		
		
Figure 159: Aerial View		
UD Concept	Optimised urban design layout with finer grained built form and connectivity.	High Spine urban concept with spine and primary open spaces
Shadow Impacts	Impacts largely on built form and Penrith Station.	Impacts largely on built form and
Recommendation on Urban Design Outcome:	<ul style="list-style-type: none"> <li>Increased height on this site is marking the gateway into Penrith.</li> <li>Transition into the adjoining development and overshadowing need to be taken into</li> <li>Height response towards the built form limitations at the other side of the railway (s outcome into the future.</li> </ul>	
Initial assessment on market incentives	While an additional FSR will convey value to the proponent, substantial increases to height to the proponent. Subject to feasibility from an urban design perspective, an incentive reflect the 'value created' by additional height. Additionally, the ability to construct a major financial benefit to the proponent. There is good potential for an incentive	

Happy to discuss further if you have any questions, as it is an important matter to resolve.

Kind regards,

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**From:** Robert Craig <[Robert.Craig@penrith.city](mailto:Robert.Craig@penrith.city)>  
**Sent:** Wednesday, 18 August 2021 12:22 PM  
**To:** Andrew Harvey <[aharvey@urbis.com.au](mailto:aharvey@urbis.com.au)>  
**Cc:** Peter Wood <[Peter.Wood@penrith.city](mailto:Peter.Wood@penrith.city)>; Gavin Cherry <[Gavin.Cherry@penrith.city](mailto:Gavin.Cherry@penrith.city)>; Natalie Stanowski <[natalie.stanowski@penrith.city](mailto:natalie.stanowski@penrith.city)>; Natasha Borgia <[natasha.borgia@penrith.city](mailto:natasha.borgia@penrith.city)>; Frank Katsanevas <[fkatsanevas@sthilliers.com.au](mailto:fkatsanevas@sthilliers.com.au)>; Mark Hovey <[mark@firstpoint.com.au](mailto:mark@firstpoint.com.au)>; [deb@firstpoint.com.au](mailto:deb@firstpoint.com.au); Justyn Ng <[JNg@sthilliers.com.au](mailto:JNg@sthilliers.com.au)>; Rob Battersby <[rbattersby@urbis.com.au](mailto:rbattersby@urbis.com.au)>  
**Subject:** RE: Thornton Central - Community Infrastructure - Next steps

Hi Andrew.

Firstly, my apologies for the delay in responding, your patience is appreciated.

While I don't necessarily have specific responses to all of your queries below at this stage, the following key points should assist the project team in moving forward in relation to the Thornton Central development proposal and the manner in which community infrastructure could be provided as part of the proposal.

- Community infrastructure is to be provided as part of the proposed development, either on the subject site (being Key Site 11 as referenced under Clause 8.7 of the LEP – i.e. Lots 3003, 3004 and 3005 in DP 1184498) or on another site in the Penrith City Centre and which forms part of the proposed development.
- Community infrastructure to be provided as part of the proposed development will need to meet an “over and above” test in terms of value to the City Centre.
- The Sydney Western City Planning Panel will be the determining authority for the proposal (CIV > \$30 million). The Panel has recently interpreted the requirement for “design excellence” at sub-clause (5)(b) of Clause 8.7 of the LEP as being “over and above” the “design excellence” warranted by Clause 8.4 – “excellence in design” as per the Panel’s decision on the refused City Centre DAs for the TOGA and Urban Apartments development proposals, being DA20/0148 (TOGA) and DA20/0167 (Urban Apartments).
- As an extension of the above principle, another key aspect identified in the Panel’s TOGA and Urban Apartments decisions is that key site development proposals pursued under Clause 8.7 of the LEP should include as a baseline outcome a significant contribution towards “city shaping features necessary for the area’s transformation into a high-density, pedestrianised, mixed-use urban place”. This could include “...fine grain precinct level activation, the creation of places, spaces activated [via] through-site pedestrian links, a wider mix

of uses...[to] deliver urban amenity for residents and create an attractive, distinctive and successful urban place”.

- In relation to the FSR “base case” of 3.7:1 referenced below (in the absence of a maximum FSR applying to the site under Clause 4.4 of the LEP), it will need to be demonstrated that this maximum FSR would be reasonably achievable based on the applicable planning provisions for a proposal not pursued under Clause 8.7 of the LEP (e.g. 32m maximum height limit, SEPP 65 / ADG compliance, etc). The previous DAs approved over Lot 3003 (DA17/0334), Lot 3004 (DA16/0411) and Lot 3005 (DA16/0412) could be used as a guide in this regard, although it is acknowledged that these proposals only provided for a maximum height of 6 storeys in each case. In addition, however, it should be noted that Council determines community infrastructure value based on GFA above the applicable maximum height limit (i.e. above 32m in this case) and/or above the applicable maximum FSR.
- Council’s Community Infrastructure Policy contribution rate of \$150 per sq.m for “over and above” GFA (noting this figure is subject to annual indexation from April 2018) is a reasonable basis for determining the necessary value of the community infrastructure offer.
- The Section 7.11 contributions applicable to the proposal will be \$1,940 per dwelling for open space facilities (figure current as at today, but subject to future quarterly indexation) in accordance with the Department of Planning’s Thornton Concept Plan approval (MP 10\_0075).

In relation to your more recent query from this morning, unfortunately there are no key site proposals pursued under Clause 8.7 of the LEP which I can point you to for reference as an example of a proposal which has successfully negotiated the community infrastructure process.

On a final note, as I mentioned earlier in the week, given the proposed development is noticeably different to the design competition winning scheme for the site, the design competition jury will need to provide written certification endorsed by the NSW Government Architect that the modified proposal is at least equivalent to the design excellence qualities of the design competition winning scheme.

I trust this information is of assistance.

Let me know if you would like to discuss further.

Regards.

**Robert Craig**  
Principal Planner

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**From:** Andrew Harvey <[aharvey@urbis.com.au](mailto:aharvey@urbis.com.au)>

**Sent:** Monday, July 19, 2021 12:54 PM

**To:** Robert Craig <[Robert.Craig@penrith.city](mailto:Robert.Craig@penrith.city)>

**Cc:** Peter Wood <[Peter.Wood@penrith.city](mailto:Peter.Wood@penrith.city)>; Natalie Stanowski <[natalie.stanowski@penrith.city](mailto:natalie.stanowski@penrith.city)>; Natasha Borgia <[natasha.borgia@penrith.city](mailto:natasha.borgia@penrith.city)>; Frank Katsanevas <[fkatsanevas@sthilliers.com.au](mailto:fkatsanevas@sthilliers.com.au)>; Mark Hovey



<[mark@firstpoint.com.au](mailto:mark@firstpoint.com.au)>; Deborah Landes <[deb@firstpoint.com.au](mailto:deb@firstpoint.com.au)>; Justyn Ng <[JNg@sthilliers.com.au](mailto:JNg@sthilliers.com.au)>; Rob Battersby <[rbattersby@urbis.com.au](mailto:rbattersby@urbis.com.au)>

**Subject:** Thornton Central - Community Infrastructure - Next steps

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Dear Rob,

Hope you had a good weekend.

Thank you very much for taking the time to meet with our team to discuss the Community Infrastructure and contribution components of the project. We greatly appreciated your teams time, and the individual comments and guidance from Peter, Natasha and Natalie on this topic.

I think we are all in agreement that Thornton has been a really fantastic urban renewal opportunity which St Hilliers and First Point Projects have really loved delivering, and seeing evolve over the last 7 years since their involvement. From a community infrastructure perspective, we wanted to re-emphasise our strong desire to work closely with Council to ensure that we can deliver benefits to the local community as this precinct develops further over the coming years. The subject site is a critical piece of the puzzle, and will really complete the precinct, with the community very keen to see the mixed use component come to fruition.

Before we go much further, I was hoping that we may be able to clarify a few points raised at the meeting:

- Any high level views from Council around community infrastructure potentially lacking in the Thornton precinct
- With regard to the potential exploration of the plaza area directly adjacent to the site whether Council agree that this is an area worth further consideration for community infrastructure.
- Views expressed by Natasha on the items that may have been 'promised' initially by Urban Growth but potentially not delivered in the end outcome in the public domain. In particular, we were interested in the public domain linkages to the river.
- Recent feedback expressed by Natalie from the local community on the local open space – it would be great to understand these views in further detail.
- Clarity that community infrastructure needs to physically form part of a development application (Peter you mentioned delivery 'on-site') but separately mentioned there may have been variation to this?

While I appreciate that we need to work through the community infrastructure that Council agrees would be aligned with the policy and needed locally, St Hilliers are also seeking to clarify that the following contributions at a high level are generally what the s7.11 and CI policy are the policy basis of where to start from:

Contribution Title	Purpose	Calculation / Assumptions	Amount	Payment Process
Section 94 Contributions Plan for District Open Space	Fund embellishment and establishment of a range of district open spaces / parks (generally outside Penrith City Centre)	<b># dwellings x \$1,895</b> * Indexed to current quarterly rate. * This assumes our DA would attract the standard condition of consent required under Major Projects Approval No MP 10-0075. * Section 94 contributions not levied to non-residential development.	<b>\$1,042,250 (based on current mix)</b>	<ul style="list-style-type: none"><li>▪ Contributions paid to Council prior to issue of Construction Certificate for a dwelling.</li><li>▪ Deferred or periodic payments may be permitted subject to agreement from Council.</li></ul>
Community Infrastructure Offer (under	Allow higher density development on	Assumptions:	<b>\$2,141,100</b> * we note that the type of CI is	The DA must include the following:

Penrith LEP Clause 8.7)	<p>certain land where it includes community infrastructure:</p> <ul style="list-style-type: none"> <li>Recreation Areas;</li> <li>Recreation facilities (indoor and outdoor);</li> <li>Recreation facilities (major);</li> <li>Public car parks;</li> <li>Public roads.</li> </ul>	<ul style="list-style-type: none"> <li>Site area: 10,980 sqm (below).</li> <li>Compliant scheme: 3.7:1 FSR (32 metres) (40,626 sqm GFA). See note below on base FSR assumption.</li> <li>CI scheme: 5:1 FSR (54,900 sqm GFA).</li> <li>CI GFA uplift: 14,274 sqm.</li> </ul> <p>Council's CI Policy: <b>\$150 per sqm of 'additional GFA'</b>.</p> <p>* Non-residential GFA is excluded from the calculation of CI Value.</p>	at the discretion of the consent authority based on a merits assessment.	<ul style="list-style-type: none"> <li>A letter of offer to enter into a Planning Agreement in relation to the CI offer.</li> <li>Nominate the preferred CI type and preferred item (if applicable).</li> <li>Details of the relevant stages for the payment of a CI contribution.</li> </ul> <p>If the CI offer is for dedication of land or property or carrying out of works, a valuation of the works is required.</p> <p><b>TBC</b> – CI contribution to be paid prior to issue of Construction Certificate.</p>
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Lastly, I have attached the correspondence from Council's strategic planning team from when the CI Policy and LEP Amendment were being finalised. The applicant put in submissions to clarify the 'base' position as there is currently no FSR applicable to the site. There was agreement from Council (based on a compliant architectural scheme) that the base FSR was 3.7:1 (so the uplift to 5:1 is only 1.3:1 or approx. 160 additional dwellings). See below:

**From:** Nicole Dukinfield [<mailto:nicole.dukinfield@penrith.city>]

**Sent:** Monday, 22 August 2016 3:31 PM

**To:** Andrew Harvey

**Cc:** [mark@firstpoint.com.au](mailto:mark@firstpoint.com.au); [SGinnivan@sthilliers.com.au](mailto:SGinnivan@sthilliers.com.au); Peter Strudwick; Ryan Macindoe

**Subject:** RE: Draft Public Benefit Policy - Site 11 (Thornton) - Query

Hi Andrew

I have spoken with our consultants who prepared the Public Benefit Policy who advised that the identification of 2.3:1 as a base FSR for Key Site 11 is in fact a typo.

The FSR should have been identified as 3.7:1, which is an equivalent 'base case' to the current building height, as identified on page 88 of the Urban Design Analysis.

As discussed on Friday, the draft Public Benefit Policy (which is informed by the Public Benefit Analysis) will be tabled to Council at this evening's Ordinary Meeting. If Council resolves to publicly exhibit the draft Policy, we will shortly arrange a workshop with the proponents of our 'live' proposals and our economic consultants for the opportunity to provide industry feedback. Any questions or issues can be raised at this workshop, in addition to making a submission during the exhibition period.

As seeking a resolution by the current Council for the Planning Proposal and Public Benefit Policy has been my main priority of late, I have no further feedback on the draft DCP component. We will determine a way forward on the DCP matter shortly.

Regards

**Nicole Dukinfield**  
Senior Planner



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■  
**From:** Andrew Harvey [<mailto:aharvey@urbis.com.au>]  
**Sent:** Friday, 19 August 2016 4:30 PM  
**To:** Nicole Dukinfield <[nicole.dukinfield@penrith.city](mailto:nicole.dukinfield@penrith.city)>  
**Cc:** [mark@firstpoint.com.au](mailto:mark@firstpoint.com.au); [SGinnivan@sthilliers.com.au](mailto:SGinnivan@sthilliers.com.au); Peter Strudwick <[pstrudwick@urbis.com.au](mailto:pstrudwick@urbis.com.au)>; Ryan Macindoe <[rmacindoe@urbis.com.au](mailto:rmacindoe@urbis.com.au)>; Deborah Dickerson ([DDickerson@hornsby.nsw.gov.au](mailto:DDickerson@hornsby.nsw.gov.au)) <[DDickerson@hornsby.nsw.gov.au](mailto:DDickerson@hornsby.nsw.gov.au)>  
**Subject:** Draft Public Benefit Policy - Site 11 (Thornton) - Query

Hi Nicole,

Thanks for our discussion earlier on the agenda for next week's Council Meeting, with respect to the 'Draft Public Benefit Policy' that will accompany the LEP amendment for the incentive clause for 'key sites'.

As discussed, having reviewed the background material that supports the 'Draft Public Benefit Policy' we note that the Thornton Site (Site 11) is somewhat of an anomaly as no FSR currently applies to the site. However, we note that the AEC report makes an assumption that the base FSR for the site is 2.3:1. We are unsure how this figure has been derived at, and was hoping that this could be clarified by the Council. If you could confirm that would be greatly appreciated.

Also, are you able to provide any feedback or status on the draft site-specific DCP for Site 11 that we sent through to you recently? The applicant is preparing a design competition brief, and clarity on these site-specific controls will be very useful. When are you anticipating for the draft DCPs to be reviewed, and ultimately endorsed by Council?

Kind regards,

**ANDREW HARVEY**  
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We look forward to discussing this matter further with you, and look forward to hearing back shortly.

Kind regards,

**ANDREW HARVEY**  
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