

Memorandum

Reference:	Infostore
To:	Development Services Team
From:	Natalie Stanowski, A/City Planning Coordinator
Date:	6 March 2024
Subject:	CI Panel Referral – Thornton Central

Please find below a referral from Councils Community Infrastructure (CI) Panel in relation to the review of development applications DA22/0213 and DA22/0214 for 'Thornton Central' and specifically the CI proposal submitted with each of the applications.

An assessment of the proposal has been undertaken, with consideration of:

- Penrith Local Environmental Plan 2010 (LEP 2010),
- Council's Community Infrastructure Policy, and
- Penrith Developer Infrastructure Agreements Policy.

The CI proposals have been lodged in support of the application of Clause 8.7 of LEP 2010. For the purposes of this assessment, the CI Panel has reviewed Clause 8.7 in relation to the nature and value of the community infrastructure to the City Centre, the relevant objectives and the definition of 'Community Infrastructure'.

Relevant objective:

- (a) to allow higher density development on certain land in the City Centre where the development includes community infrastructure, and...

Definition of Community Infrastructure:

In this clause, **community infrastructure** means development for the purposes of recreation areas, recreation facilities (indoor), recreation facilities (outdoor), recreation facilities (major), public car parks or public roads.

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This advice does not assess whether the proposal is consistent with Clause 8.7 in respect to the proposed height or FSR. An assessment of the specifics in respect to the letter of offer has not been undertaken at this time, except in relation to credits for development contributions, which is noted at the end of this referral.

INTERNAL NOTE: THE PROPONENT HAS NOT PROVIDED FIGURES TO SUPPORT THE CALCULATION OF THE REQUIRED CI CONTRIBUTION. BASIC CALCULATIONS HAVE BEEN UNDERTAKEN BY COUNCIL OFFICERS AS BELOW:

PROPOSAL 1- BUILDINGS A+B= 19,318M2 additional floor Space X \$180= \$3,477,240

PROPOSAL 2- BUILDINGS C+D= 12,751m2 additional floor Space x \$180= \$2,295,180

For the purposes of this referral, each proposal is considered separately.

Proposal 1 - On-Site Level 1 Tenancy - Construction, Fit-Out and Dedication of public recreation facilities (indoor)

1) Does the proposal demonstrate that it is 'Community Infrastructure'? The proposal is required to demonstrate that it can be defined as community infrastructure and that the proposal is fit for purpose for the defined community infrastructure use.

Summary: The application has not demonstrated that the proposed use of the nominated space can be categorised as a recreation facility (Indoor). Based on the provided information, the Panel are unable to support the proposal.

Comments:

- The proponent has not demonstrated that the proposed works and use represent a recreation facility (Indoor) and that it is 'fit for purpose'. The

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suitability of the facility and its proposed use are critical to assessing the applicability of Clause 8.7 and the nature of the proposal.

- The design appears to be compromised by pillars, which will affect functionality of the proposed facility.
- There is an irregular floor shape for a recreation facility, which in Councils experience, may compromise programming and longevity of the space.
- The submitted plans do not show the layout and capacity of the space in relation to any proposed equipment, courts, boxing rings or the like.
- The submitted plans do not provide allowances for toilets, showers, office spaces, entrance/foyer etc., which will reduce the activity space.
- Whilst the submitted documentation indicates that the proposal is *'purpose fit in collaboration with PCYC'* and a that a *'new bespoke fit out included'*, details of the fit out have not been provided in the application for assessment.

2) Is the value of the proposal consistent with the required contribution rate and has the proposed community infrastructure been appropriately valued.

Summary: Further information is required to determine if the valuation method of the works and use is suitable.

Comments:

- A valuation for the tenancy has been provided by the proponent and is currently under internal review.
- A revised Community infrastructure contribution value for the community infrastructure proposal (Recreation Facility (Indoor)) has been provided at \$8,555,582. This has been reduced from the initial submitted offer of \$9,643,288.
- The value of the proposal has been calculated by the proponent based on the tenancy rental value, outgoings, utilities, parking spaces and fit out. Justification for this method of valuation has not been provided by the

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proponent. The suitability of this method of valuing the proposal is questioned. This is compared to where a facility was being dedicated to Council, where just the land value and building costs would be considered. At the least, the inclusion of the costs of parking spaces, outgoing and utilities should be reconsidered.

- The cost to the community to use the proposed space has not been included nor the value to the City Centre with regard to other Recreation Facilities (Indoor).

3) The nature of the proposal community infrastructure to the City Centre. Does the proposal achieve the principles outlined in Clause 3.2 of the CI Policy?

Summary:

- The application does not demonstrate that:
 - the facility is in the interest of the general public,
 - contributes to the city centre, and
 - the proposal demonstrates long-term economic viability and that ongoing maintenance costs can be managed in an economically viable and socially responsible manner.

Based on the information provided, the Panel is not satisfied that the nature of the proposal is in the public interest and contributes to the City Centre.

Comments:

- Justification provided by the proponent that the delivery of the proposed facility aligns strongly with the *Penrith Sport and Recreation Strategy 2020* is not accepted. The strategy identifies that there is a low provision of public indoor recreation centres, but a good supply of health and fitness centres. Indoor recreation centres in the strategy references facilities with indoor court space. The strategy recognises that there is a large gap in indoor court space. The Strategy does not state that there is a particular need for facilities

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for 'unstructured activities', rather it states that social recreation is an emerging trend. 'Unstructured activities' currently operate at a number of community and commercial facilities across Penrith LGA. A demand assessment has not been submitted to demonstrate that the proposal is going to contribute to the city centre and be in the public interest.

- The proponent has not provided sufficient information for the panel to determine the availability and accessibility of the facility to the general public. The Policy requires that the infrastructure is to be able to be interpreted as public rather than private. The inherent nature of the location of the facility on the first floor and the leasing arrangements may be perceived by the public as a private facility.
- The proponent has not provided supporting information that demonstrates the long-term economic viability and ongoing maintenance costs can be managed in an economically viable and socially responsible manner. There is no evidence of a lease arrangement and costs to the future tenants, any impacts to the strata and how the tenancy is fit for purpose for long term viability.
- The panel notes that a restrictive covenant is proposed in favour of Council to prevent the lot being used for any other purpose. This places the onus on Council to be responsible for the ongoing monitoring of a private facility, which is not supported.

Proposal 2: Enhanced embellishment of Thornton Pedestrian through-site link

- 1) *Does the proposal demonstrate that it is 'Community Infrastructure'? The proposal is required to demonstrate that it can be defined as community infrastructure and that the proposal is fit for purpose for the defined community infrastructure use.*

Summary: The panel are not satisfied that the proposal can be defined as a Recreation Area through enhanced embellishment of a through site link and are

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unable to support the proposal as community infrastructure.

Comment:

- The proponent has provided additional information in support of defining the proposal as a 'recreation area', specifically a children's playground. It is noted that the proponent has submitted conflicting advice, defining the proposal as a 'public road'.
- The panel does not support the characterisation of the proposal as a children's playground for a number of reasons, including:
 - It does not comply with the definition of Childrens playspace under Penrith Sport & Recreation Strategy 'A local playspace should ideally be located within 500m of all residents, offer a range of opportunity for 4-12 years but also include equipment for toddlers, include a minimum of 5 pieces of equipment, and also offer a level of imaginative and non-structured play areas.'
 - It is unlikely to meet the spatial requirements under the Penrith Sport & Recreation Strategy of 0.3ha-0.5ha.
- The plans submitted with the DA do not indicate a children's playground, rather the landscape strategy focuses on the pedestrian throughfare role of the space.

2) Is the value of the proposal consistent with the required contribution rate and has the proposed community infrastructure been appropriately valued

Summary: The application includes elements that are not supported as community infrastructure, and further the application does not provide sufficient information to assess and determine whether the proposed community infrastructure has been appropriately valued. The Panel are unable to be satisfied that the value of the proposal is in accordance with Councils CI Policy.

Comments:

- The proponent has not provided Council a QS report to support the valuation of the embellishments proposed.

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- Initial submitted documents valued the embellishment works at \$609,880. A revised value was provided to Council at \$3,782,108.
- The panel does not support inclusion of operational expenses in the consideration of the value of community infrastructure, and no supporting information has been provided to justify the proposed operational costs.
- Further, the inclusion of certain embellishment items such as feature trees, seating pods and lighting are considered general requirements for such a space and are not accepted as community infrastructure.
- The value of the CI proposal for this DA is unlikely to be sufficient to satisfy the CI Policy and Clause 8.7.

3) The nature of the proposal community infrastructure to the city centre. Does the proposal achieve the principles outlined in Clause 3.2 of the CI Policy?

Summary: The panel are unable to be satisfied that the nature of the proposal is acceptable and contributes to the city centre and provides a high amenity and viable facility.

Comments:

- The proponent has not provided sufficiently detailed plans for Council (i.e. dimensioned) to clearly establish the functionality of the space and the suitability of play equipment within the space. The panel are concerned that the function of the space, primarily as a site through link, conflicts with the proposed play equipment and safe use of the space .
- Accessibility of the space, with play equipment, has not been assessed by Councils Access Committee. The panel raise concerns with the likelihood of conflicts between the access requirements of the community and the inclusion of play equipment in the space.
- Supporting information demonstrates limited solar access to the children's playground during mid-winter, which does not support a high amenity environment.

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- The applicant has not provided sufficient supporting documentation to Council in respect to the how the playground contributes to the city centre and if it is in the public interest. An existing children's playground is located within 300m of the subject site, which includes a range of play equipment including waterplay. The proponent has not demonstrated how this proposal would not just primarily benefit occupants of the buildings or commercial tenants.
- The proponent has not satisfactorily demonstrated the long-term economic viability and ongoing maintenance costs can be managed in an economically viable and socially responsible manner. The inclusion of operational costs as community infrastructure is not supported. Ongoing costs will therefore be the responsibility of the strata.
- The proponent has not provided evidence of security that Council has certainty that the space will continue to operate with the additional embellishment into the future.
- The inclusion of certain embellishment items such as feature trees, seating pods and lighting are considered general requirements for such a space, at least in the context of design excellence, and are not accepted as community infrastructure.

Development Contribution Credits

Council does not support the crediting of 'additional' CI contributions towards Development Contribution obligations of the proposal. Any contributions made under Clause 8.7 of Penrith LEP 2010 have no relationship to Councils contribution plan. Development Contributions made under 7.11 of the Environmental Planning and Assessment Act.