

Planning Assessment Report

Application to Modify the Concept Plan and Stage 1 Project Approval for North Penrith

1 PROPOSED MODIFICATION

Landcom has lodged a s75W Modification Application to modify the Approved Concept Plan and Stage 1 Project Application for the North Penrith development (MP10_0075 and MP10_0078).

The requested modifications to the Concept Plan and Project Approval are as follows:

- Modification to Condition C4 of the Concept Plan Approval and Condition B8 of the Stage 1 Project Approval to allow payment of Section 94 contributions to be deferred until occupation certificate and to clarify contributions are payable for residential development only.
- Deletion of Condition B2 (10) of the Concept Plan Approval which says vehicle access to lots with rear lanes should be via the rear lane only.

Landcom and Penrith City Council also raised matters about the content of the Design Guidelines, including compliance with solar access requirements and clarification of objectives for key sites. These are post approval compliance matters which do not require modification to the Concept Plan or Stage 1 Project approvals. They will be dealt with separately as part of the Department's assessment of the revised Design Guidelines (as required by Condition B2 of the Concept Plan approval).

2 THE SITE

The North Penrith site is a 40.7 hectare area, located directly adjacent to the Penrith Railway Station and immediately to the north of the city centre (Figure 1). It is within the Penrith City Local Government Area and the North West subregion.

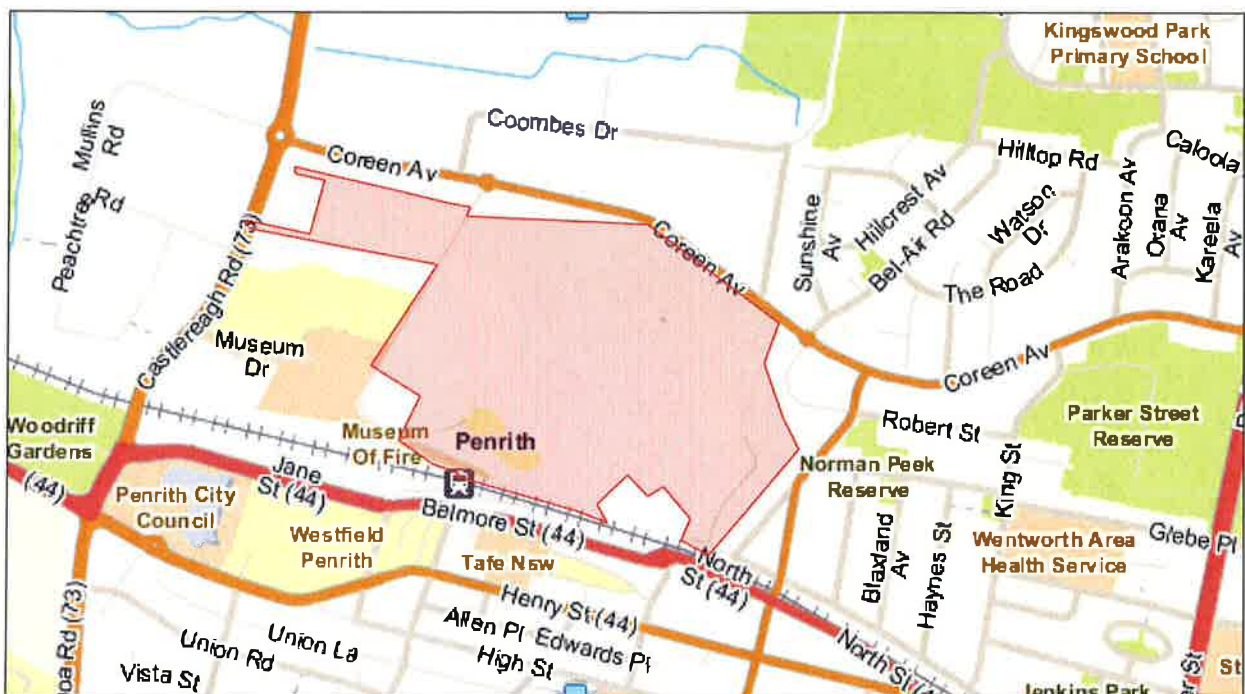


Figure 1: Locality map

3 STATUTORY CONTEXT

The site is zoned R1 General Residential, B4 Mixed Use, IN2 Light Industrial, R2 Low Residential and RE1 Public Recreation in Part 7 of the Penrith City Centre LEP 2008. Proposed modifications are not prohibited under the zoning.

On 9 November 2011, the Minister for Planning and Infrastructure approved a Part 3A Concept Plan and Stage 1 Project Application for North Penrith. The approved Concept Plan includes the following land uses:

- 1,000 dwellings
- 10,625m² of commercial floor space;
- 4,500m² of retail floor space (2,000m² supermarket and 2,500m² general retail);
- 7,000m² of light industrial floor space;
- 7.2 ha open space; and
- A heritage area including the Thornton Hall and surrounds.

The Stage 1 Project Approval is for subdivision to create 120 lots including site preparation works, bulk earthworks, internal and external road works, landscaping, and construction of a sales centre. Stage 1 is shown in Figure 2 below.

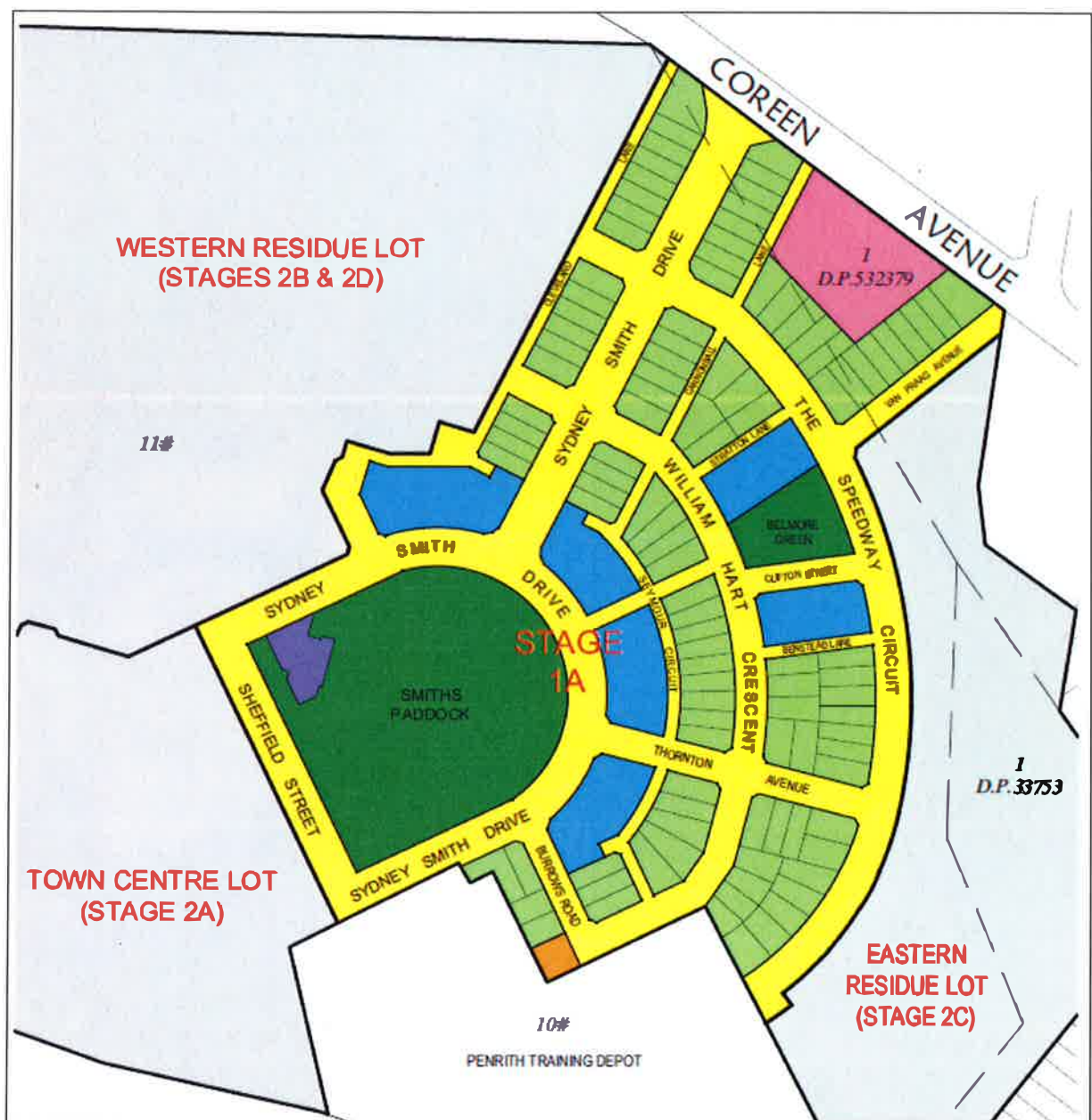


Figure 2: Stage 1 subdivision layout

3.1 Continuing operation of Part 3A

In accordance with clause 3 of Schedule 6A of the Environmental Planning and Assessment Act 1979 (EP&A Act), section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75W of the Act.

3.2 Determination under delegation

Under the Minister's delegation of 14 September 2011, the Department would determine the Modification if:

- the Council has not made an objection, and
- there are less than 25 public submissions objecting to the proposal, and
- a political disclosure statement has not been made in relation to the application.

The Modification was not exhibited and no submissions were received from the public. The Modification was referred to Penrith City Council, who did not object to the proposed modifications. As a result, the Department will determine the Modification under the Minister's delegation dated 14 September 2011.

4 CONSULTATION AND SUBMISSIONS

Pursuant to Section 75X (2)(f) of the Act, the Director-General is required to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the Environmental Planning and Assessment Regulation 2000, the request for the modification was placed on the Department's website.

The modification request was referred to Penrith City Council for comment. The matters raised in Council's response, relevant to this application are discussed in the following assessment section and in summary include:

- The amendment to defer payment of Section 94 contributions until occupation certificate is satisfactory.
- Restricting access to the rear for corner lots with rear lane access may be not be desirable and further clarification is required for access provisions to rear and corner lots.

5 ASSESSMENT

5.1 Payment of Section 94 Contributions

Condition C4 of the Concept Plan approval and Condition B8 of the Project Approval require that local infrastructure contributions be paid to Council per dwelling prior to a Construction Certificate being issued.

Landcom request that these conditions be amended so that contributions for integrated housing developments including multi-unit housing, shop top housing, and housing for older people be paid prior to the issue of the relevant occupation certificate. Other housing developments including dwellings and dual occupancies would still be paid at construction certificate stage.

Section 2.10 of the Penrith City Council's District Open Space and Facilities Contribution Plan allows for deferred or periodic payment of Section 94 Contributions where it will not prejudice the timing or the manner of the provision of public facilities included in the works program. It notes that Council may require the applicant to provide a bank guarantee to provide security for the deferred payment. The Department recommends the condition be modified so that the request for deferred payments is consistent with this Council Policy.

Landcom also request that clarification be provided that no Section 94 payments are required for the Community Facilities Building. It is recommended that a note is included in the condition to confirm that contributions are required for residential development only.

It is recommended that Condition C4 of the Concept Plan approval and Condition B8 of the Project Approval be amended to reflect Council's policy.

5.2 Vehicular access to residential allotments

Condition B2 (10) of the Concept Plan approval requires the North Penrith Design Guidelines be amended so that vehicular access for lots with rear lane access is only via the rear lane. The intention of this condition is to achieve good urban design, where possible retaining the pedestrian focus of the front boundary and avoiding a streetscape dominated by garages and driveways.

Landcom request that this condition be deleted on the basis that greater flexibility is required to achieve innovative housing typologies and density. Landcom note access from the front and side boundary may be appropriate where it can be demonstrated that a high quality urban outcome can be achieved. In particular, Landcom have advised this may be the case on corner lots where secondary access from the side boundary may be appropriate for an ancillary dwelling, attached dwelling or 'studio loft'.

To demonstrate a situation where side access may be appropriate to lots with rear lane access, Landcom has provided a plan of the proposed terrace housing in Stage 1 (refer to following Figure 4). The plan shows the location of 'studio lofts' at the rear of corner lots and demonstrates how access to these dwellings be provided at the side boundary.



Figure 4: Proposed access from side boundaries on corner lots

The Department considers that access from the side boundary may be appropriate on corner lots as it will not impact on the continuity of the front boundary. The Department agrees with Council's view that access from the side boundary of corner lots may improve safety, allowing a greater distance to be provided from the intersection of the rear lane and the access way.

However the provision of two separate access points on one corner lot as shown in Figure 4 above is not supported. The provision of two access points on one lot may compromise the private open space available for that lot. It may also have safety implications with an increase in the number of vehicle crossings and potential vehicle movements on the local roads. Given the site's location in close proximity to the train station, consideration should be given to reducing the number of on-site vehicle spaces provided to accommodate parking for both dwellings from one access point.

It is recommended that condition B2 (10) of the Concept Plan be amended to allow vehicles access from either the rear or side boundary of corner lots but not both.

6 RECOMMENDATION

It is recommended that the Executive Director Urban Renewal and Major Sites, as delegate of the Minister of Planning and Infrastructure:

- (A) **consider** all the relevant matters prescribed under Section 75W of the *Environmental Planning and Assessment Act 1979* as contained in the findings and recommendations of this report;
- (B) **determine** the application, subject to conditions, under Section 75W of the *Environmental Planning and Assessment Act 1979*, having considered all relevant matters in accordance with (A) above; and
- (C) **sign** the attached instrument of approval at Appendix A.

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Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 14 September 2011, I approve the modification of the project application referred to in schedule 1, subject to the conditions in schedule 2.



Giovanni Cirillo
Executive Director
Urban Renewal and Major Sites

23 January 2013
2012

Sydney

SCHEDULE 1

Concept Plan (MP10_0075) & Project Approval (MP10_0078) Granted by the Minister of Planning on 9 November 2011.

For the following:

The approved Concept Plan is for

- 1,000 dwellings
- 10,625m² of commercial floor space
- 4,500m² of retail floor space
- 7,000m² of light industrial floor space
- 7.2 ha open space
- A heritage area including the Thornton Hall and surrounds.

The approved Project Application is for Stage 1 of North Penrith including:

- subdivision to create 120 lots
- site preparation works
- bulk earthworks
- internal and external road works
- landscaping
- construction of a sales centre

Modification:

The proposed modification intends to:

- Include provisions to allow deferred payment of Section 94 Contributions where agreed to by Council.
- Clarify that Section 94 contributions are required for residential development only.
- Allow for vehicle access to corner lots from the side or rear boundary.

SCHEDULE 2**The Concept Plan Approval (MP10_0075) is modified by:****1. Replace Condition C4 with the following:**

1) Contributions shall be made payable to Penrith City Council for the purposes of district open space facilities at a rate per dwelling type as shown below.

Development Type	Contribution
Multi-dwelling housing, and Shop-Top Housing	\$1,566 for each new dwelling
Dwelling Houses, Dual Occupancies and Subdivision	\$2,427.30 for each new dwelling or new lot
Housing for older people	\$1,174.50 for each new dwelling

2) The contributions are to be paid to Council prior to Construction Certificate being issued for a dwelling.

3) Deferred or periodic payments may be permitted subject to agreement from Council. Council may require the applicant to provide a bank guarantee for the full amount of the contribution or the outstanding balance.

4) If not paid within the current quarterly period, the contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan.

Note: Section 94 Contributions are not required for the community facility or any other non-residential development.

2. Replace Condition B2 10) will the following:

Vehicular access to lots with rear lane access should only be via the rear lane. In the case of corner lots with rear lane access, vehicle access may be provided from either the rear or side boundary, but not both.

The Project Approval (MP10_0078) is modified by:**3. Replace Condition B8 will the following:**

1) Contributions shall be made payable to Penrith City Council for the purposes of district open space facilities at a rate per dwelling type as shown below.

Development Type	Contribution
Multi-dwelling housing, and Shop-Top Housing	\$1,566 for each new dwelling
Dwelling Houses, Dual Occupancies and Subdivision	\$2,427.30 for each new dwelling or new lot
Housing for older people	\$1,174.50 for each new dwelling

2) The contributions are to be paid to Council prior to Construction Certificate being issued for a dwelling.

3) Deferred or periodic payments may be permitted subject to agreement from Council. Council may require the applicant to provide a bank guarantee for the full amount of the contribution or the outstanding balance.

4) If not paid within the current quarterly period, the contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan.

Note: Section 94 Contributions are not required for the community facility or any other non-residential development.