



22 February, 2012

Michael File
Director Strategic Assessment
Department of Planning
23-33 Bridget Street
SYDNEY NSW 2000

Dear Michael

North Penrith Project – Determination of Major Projects MP 10_0075 and MP 10_0078
Request for Amendments to approvals

Thank you for the determination of the abovementioned projects.

The purpose of this letter is to:

1. demonstrate compliance with Condition B2 of the approved Concept Plan (MP 10_0075) Approval;
2. outline minor changes Landcom seeks to undertake to the approved documentation, and consequently formally request a Section 75W Modifications to MP 10_0075 under the EP&A Act, 1979;
3. formally request a Section 75W Modifications to Condition B8 Development Contribution of Project Application MP 10_0078 under the EP&A Act, 1979; and
4. confirm the intent of conditions approved under the Project Application MP 10_0078 as they relate to the community centre.

The letter is accompanied by:

- North Penrith Design Guidelines 2011 to address Condition B2 of the approved Concept Plan (MP 10_0075) Approval (**Attachment A**);
- Schedule of Compliance with Condition B2 (**Attachment B**);
- Solar Access Study (**Attachment C**);
- Building Envelope Plan (**Attachment D**); and
- Project Application MP 10_0078 - Conditions of Approvals (**Attachment E**).

In addition, a completed application form and fee of \$5,000 for the assessment of the modification is enclosed.



1. Compliance with approved Concept Plan MP 10_0075

Condition B2 – Design Guidelines requires Landcom to make several amendments to the approved Development Control Plan. This document, renamed “North Penrith Design Guidelines 2011”, is amended and attached for your approval (refer to **Attachment A**). Landcom has also prepared a schedule at **Attachment B** which identifies how Condition B2 has been amended.

2. Section 75W Modification to Concept Plan MP 10_0075

Landcom has identified the following opportunities for refinement to the Concept Plan approval and North Penrith Design Guidelines 2011. Landcom accordingly now requests the Minister for Planning and Infrastructure (or his delegate) modify Concept Plan MP 10_0075 and Project Application MP_0078 under section 75W and Clause 3C of Schedule 6A of the Environmental Planning and Assessment Act, 1979 (EP&A Act).

- **Solar Access Controls**

Approved Condition B2(8) requires the amendment of Section 3.5, Clause 5 of the North Penrith Design Guidelines 2011. The approved condition requires that the majority of the all dwellings on the North Penrith site receive at least 2 hours of sunlight between 9am and 3pm at the winter solstice (21 June) to fifty percent of the area of required PPOS (of both the proposed development and the adjoining properties).

To understand the implications of this condition, Landcom commissioned a Solar Analysis Study. The Study, prepared by Allen Jack + Cottier and attached at **Appendix C**, took a wholistic approach to the issue of solar access within Stage1. AJC tested a selection of allotments that were unlikely to comply with the amended Section 3.5, Clause 5 due to their orientation, compact housing typology, context and fencing heights (shown in red). The Study demonstrates that a minor portion (17%) of the tested lots will not be able to achieve a minimum 2 hours of solar access between 9am and 3pm to 50% of the required PPOS during the winter solstice. Landcom is comfortable with the fact that the majority of lots will comply with this requirement.

However solar access is only one component in achieving good urban form. A balanced approach is required. The long term strategic benefits of achieving appropriate densities and housing diversity at North Penrith are greater than satisfying traditional solar access standards. The solar access requirements imposed by amended Section 3.5, Clause 5 have historically applied to detached housing on large allotments in Greenfield areas. They do not recognise the urban form and density Landcom is aiming to deliver on the North Penrith site, and do not recognise that there are emerging dwelling designs and layouts for smaller allotments that do not rely on conventional dwelling-PPOS-garage configurations.



Further the relationship between the connection of living spaces and private open space is equally important. It is important that the design appropriately locates and provides access to internal living spaces and external open spaces. The location of the PPOS has therefore dual benefits, well located open space that receives the optimum solar conditions and creates a pleasant internal living space.

To that end, Landcom has prepared a revised Building Envelope Plan that generally reflects the objectives and controls of the North Penrith Design Guidelines 2011 and identifies the preferred location of the PPOS (**Appendix D**). This Plan identifies that there are 20 lots within Stage 1 that are unable to comply with this condition. Further there is an additional 14 lots that would be marginal in achieving this condition. Both figures combined represent 17% of an expected yield of 200 lots. Therefore the majority will comply.

- **Vehicular Access and Garages**

In line with Landcom's intention to deliver innovative housing typologies and density, it is requested that Condition B2(10) be deleted on the basis that the current wording prohibits any form of vehicular access (including driveways) from being provided at the front and side boundaries. Landcom does not believe that this is the intended outcome and requests that sufficient flexibility be provided to enable vehicular access from the front and side boundaries where it can be demonstrate that a high quality urban outcome can be achieved.

Landcom has discussed this issue with Council's development assessment officers who have expressed concern about vehicular access from the front boundary on smaller lots, and particularly for those lots with widths of less than 8m. Landcom agrees that smaller lots require careful design consideration and accordingly the Section 3.7, Clause 4 of the Design Guidelines already requires all garaging for lots less than 8m wide to be accessed from the rear lane (if rear loaded). If there is no rear laneway, a single / tandem garage is permitted at the front which is considered a suitable outcome.

However, the North Penrith project also envisages allotments where solar access, the size and location of the required PPOS, and the built form controls will drive the placement and design of future dwellings in such a way that front or side boundary vehicular access will deliver the optimal urban design outcome. Landcom requests that the Concept Plan approval and Design Guidelines afford this flexibility.

3. Section 75W Modification to Project Application MP 10_0078

Landcom requests a modification to *Condition B8 - Development Contributions* of Project Application Approval MP 10_0078. Prior to approval of the Concept Plan and Stage 1 Project Application, there was some discussion regarding the appropriateness to levy contributions for District Open Space facilities within the context of the North Penrith project. Whilst Landcom will pay these contributions, and indeed has discussed the protocol with Council, there was no recognition of credit for the proposed All Abilities Playground.



The All Abilities Playground represents a total budgeted value of \$350,000. It has been incorporated and designed into the North Penrith project at the specific request of Council, in recognition of the site's proximity to the City Centre and strong public transport connections. The Playground will be a regional destination in its own right and accordingly Landcom considers that the requirement to pay district open space facilities in addition to the All Abilities Playground is excessive and contradictory to Section 94 principles such as appropriateness, apportionment, and nexus. Further, it is inequitable to require North Penrith residents to fully fund the All Abilities Playground and contribute to District Open Space, when residents from further afield will also utilise the Playground.

Landcom is delivering the All Abilities Playground as part of the approved Project Application Works, and requests that the value of the works be deducted from the total development contributions required to be paid pursuant to *Condition B8 - Development Contributions*. Landcom suggests the following wording:

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

The above rates shall be adjusted to accommodate a \$350,000 credit which is attributed to the approved All Abilities Playground.

The contributions are to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan".

In addition, Landcom and Council have agreed that payment of contributions will be made for lots subject to MP 10-0078 at the time of construction certification approvals for dwellings. Payment of contributions for integrated housing developments will be paid prior to issue of the relevant occupancy certificate.

Landcom therefore requests that the both C4 – Development Contributions MP 10-0075 and B8 – Development Contributions MP 10-0078 be amended to reflect this as follows:

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

Development Type	Contribution	Payment Timing
Multi-unit and Shop-Top Housing	\$1 566 for each new	Prior to Occupation Certificate
Dwelling Houses, Dual Occupancies and Subdivision	\$2,427.30 for each new dwelling	Construction Certificate of dwelling (aggregated payments to be made quarterly, in arrears)
Housing for older people	\$1,174.50 for each new dwelling	Prior to Occupation Certificate



Notwithstanding the above, in instances where an integrated housing development application has been approved, the contribution will be paid to Council prior to a Occupation Certificate being issued for the development.

The rates are subject to quarterly reviews. If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan".

If considered appropriate, Landcom would be willing to accept a suitably worded condition that requires the regular monitoring and reporting of contribution payments in an agreed format to the satisfaction of Council and the Department, as relevant.

4. Community Centre Project Application Conditions

Landcom has engaged Council as its PCA for the community facility, approved under Project Application 10_0078. Council's building surveyors seek clarification on the timing of payment in the condition of consent. Landcom requests the Department endorse the attached schedule at **Appendix E** which provides a marked up version of the suggested amendment to the conditions of consent. To be clear there is no payment of section 94 monies for the Community Centre and that no payment of section 94 monies area required prior to the approval of a construction certificate.

We trust this request for a modification contains all the necessary information you require and can be processed promptly to allow development on this strategic site to continue.

Finally one last matter relates to the wording in the SEPP Amendment (North Penrith) 2011. Council have brought to our attention the wording around the name of the replaced maps. Council is concerned that there was never any maps titled "Penrith City Centre Local Environmental Plan 2008 – North Penrith" and therefore there was never an opportunity to have any of those replaced as they never existed.

Should you have any queries about this matter, please do not hesitate to contact me on 9841 8702 or nwoodrow@landcom.nsw.gov.au.

Yours faithfully

Nicole Woodrow
Senior Development Manager