



12365
10 March 2014

Director General
Planning and Infrastructure
23-33 Bridge St
SYDNEY NSW 2000

Attention: Ben Lusher

Dear Sir,

**SECTION 96(1A) MODIFICATION APPLICATION
NORTH PENRITH - STAGE 3B (SSD_5349)**

On behalf of UrbanGrowth NSW, we hereby submit an application pursuant to section 96(1A) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify Development Consent SSD_5349 relating to the North Penrith Development Site, Penrith. The modification seeks approval of a new laneway through the approved super lots to facilitate the delivery of the subdivision layout that will allow for terrace houses/medium density to be delivered expeditiously to the housing market.

This application outlines the consent approved by the Executive Director, Development Assessment Systems and Approvals, as delegate of the Minister for Planning and Infrastructure, describes the proposed modification and provides a planning assessment of the relevant matters for consideration contained in Section 96(1A) and 79C(1) of the EP&A Act. It should be read in conjunction with the following attachments:

- Section 96 application form;
- A copy of the Notice of Determination for SSD_5349 (**Attachment A**);
- Draft Plan of Subdivision prepared by Craig and Rhodes and dated July 2013 (**Attachment B**);
- Updated Civil / Engineering Plans prepared by J. Wyndham Prince and dated March 2014 (**Attachment C**); and
- Updated Landscaping Plans prepared by Place Design and dated March 2014 (**Attachment D**).

1.0 BACKGROUND

Development consent SSD5349 was granted by Executive Director, Development Assessment Systems and Approvals, as delegate of the Minister for Planning and Infrastructure on 28 June 2013 for the construction of the internal road layout, subdivision, utilities and landscaping pertaining to the Stage 3B site within the North Penrith development. Bulk earthworks as approved under the Stage 2B/2C consent (SSD 5346) are substantially completed within the Stage 3B area.

UrbanGrowth NSW has now revised the subdivision layout as per the original consent in order to further refine the design and enable the expeditious delivery of terrace houses/medium density across the Stage 3B site.

2.0 PROPOSED MODIFICATIONS TO CONSENT

The proposed modification to the development consent comprises a Draft Plan of Subdivision (**Attachment B**) and updated Civil and Landscaping Plans to reflect the proposed new laneway (**Attachments C and D**).

The east-west aligned laneway comprises a 4.8m carriageway and verges of 0.5m and 1.5m width. It will extend from the approved Kleinig Place to the east and Combewood Avenue to the west. The new rear laneway and lot amendment will allow for the rear-loaded terrace houses/ medium density to be constructed with facades fronting the public domain areas (i.e. the water feature and Lord Sheffield Circuit) as originally envisaged by the concept design of Stage 3B, and more broadly the North Penrith development.

The proposed laneway will result in the creation of additional lots. The changes to the identification numbers and area sizes of the approved and proposed lots are detailed in **Table 1** below. The insertion of the new laneway will occupy approximately 1,119m² of the existing lots area as approved under SSD_5349.

Table 1 – Proposed new lot numbers and areas

Existing Approved Lots	Proposed Lots
Lot Number 3101 (6,883m ²)	Lot Number 3,101 (3049m ²)
	Lot Number 3,104 (3089m ²)
Lot Number 3102 (6,862m ²)	Lot Number 3,102 (3040m ²)
	Lot Number 3,103 (3084m ²)

2.1 Modifications to Conditions

The proposed modification described above necessitates an amendment to the consent conditions which as identified below. Words proposed to be deleted are shown in ~~bold strike-through~~ and words to be inserted are shown in ***bold italics***.

Condition A2 The Applicant shall carry out the development generally in accordance with the:

d) following drawings, except for:

- 1) Any modifications which are exempt or complying development;*
- 2) Otherwise provided by the conditions of this consent.*

Plan of Subdivision Drawings prepared by Craig & Rhodes			
Drawing No.	Revision	Name of Plan	Date
07210L30	[01]	North Penrith: Stage 3B – Plan of Proposed Subdivision	08/10/2012
07210L30	[02]	North Penrith Stage 3B Subdivision: <i>Plan of Proposed Subdivision</i>	03/03/2014

3.0 SUBSTANTIALLY THE SAME DEVELOPMENT

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if “it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”.

The development, as proposed to be modified, is substantially the same development as that originally approved in SDD_5349. The laneway, proposed to facilitate the development of rear accessed lots, does not substantially alter the original consent as the development remains a

predominantly residential subdivision and it will not materially alter any approved works or conditions under the consent. Furthermore, the proposal is consistent in that it:

- reflects a design refinement that will promote a high-quality urban design outcome for the future development of terrace houses/medium density across the Stage 3B site;
- remains consistent with the intent of the original application for the Stage 3B subdivision;
- does not adversely impact any environmental factors; and
- is consistent with objectives and controls of the North Penrith Design Guidelines 2013.

4.0 ENVIRONMENTAL ASSESSMENT

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if “it is satisfied that the proposed modification is of minimal environmental impact”. The following assessment demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

The following key planning strategies and policy instruments are relevant to the Stage 3B DA and were used in assessment for preparation of the EIS submitted supporting the original consent:

- Metropolitan Strategy and Draft South West Sub-Regional Strategy;
- State Environmental Planning Policy (State And Regional Development) 2011;
- Penrith City Centre Local Environmental Plan 2008;
- State Environmental Planning Policy No.19 – Bushland in Urban Areas;
- State Environmental Planning Policy No.55 – Remediation of Land;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (BASIX) 2004;
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008;
- Penrith City Centre Local Environmental Plan 2008;
- Penrith City Centre Development Control Plan 2006; and
- North Penrith Design Guidelines.

Importantly, the proposed laneway will not result in any changes to the above environmental planning instruments and will not give rise to any additional assessment impacts as already documented within the EIS prepared by JBA Planning Consultants and dated 20/11/2013. In order to assess the impacts of the proposed modification, assessment is provided below under the relevant subheadings with regards to the North Penrith Design Guidelines 2013.

4.1 Subdivision

As UrbanGrowth NSW is now seeking a more refined subdivision plan (refer to **Attachment B**), there is now greater certainty regarding the layout and design of future residential uses to be located within Stage 3B. The proposed subdivision lots, now benefitting from the proposed insertion of the laneway, are entirely consistent with the Concept Plan approval and the relevant provisions of the approved Design Guidelines. In particular:

- The proposed subdivision creates proposed Lots 3101, 3102, 3103, and 3104 in the location and configuration approved under the Concept Plan and Figure 6 of the approved Design Guidelines;
- The proposed subdivision creates a new laneway as identified in the approved Concept Plan and throughout the approved Design Guidelines;
- The creation of proposed Lots 3103 and 3104 creates development blocks for future residential development;

- The future uses of the proposed lots are generally consistent with the preferred uses illustrated in Figure 18 of the Design Guidelines.

4.2 Engineering Plans

The revised Engineering Plans (**Appendix C**) illustrate the location and proposed configuration of the 7m wide laneway that comprises 0.7m and 1.5m verges and a 4.8m lane. The Plans also provide a typical end-to-end cross section for the laneway.

The location and size of the proposed laneway is entirely consistent with the form and function as seen throughout the North Penrith Design Guidelines 2013. The laneway section slightly differs from the typical sections approved under the Concept Plan (In narrower carriageway width, and wider verges), however the reconfigured section does not raise any new or additional traffic related impacts. It should also be noted that the new laneway proposed by this modification is consistent with every other laneway approved and under construction across the entire North Penrith Development Project. The laneway will therefore not raise any additional environmental impacts as per the original application submitted for the SSD_5349 consent.

The Engineering Plans also detail the proposed drainage layout and storm water and soil management plans for the proposed new laneway. As consistent with the Concept Plan, stormwater will channel to the drainage systems as approved under SSD_5349. The laneway will be constructed as an elevated crest between the approved road corridors to the north and south, therefore creating the topography to allow stormwater to flow via the existing and approved drainage mechanisms.

4.3 Landscaping

Revised landscaping plans have been prepared by Place Design (**Attachment D**) to show the proposed landscaping works. The Plans include the planting of Ornamental Pear trees within the 1.5m verge on the northern side of the laneway. For the corner splays created by the laneway, the landscaping will be flat lying grassed areas. No other changes are proposed to the landscaping as part of this application.

The landscaping plans for the proposed laneway and corner splays have been designed to add amenity through the protection of public domain surveillance, whilst not adversely impacting vehicle and pedestrian safety. The landscaping design remains entirely consistent with the principles established under the Concept Plan approval and the existing Stage 3B consent. Therefore no new or additional issues are raised beyond those already approved and deemed acceptable as part of the Concept Plan and SSD_5349 approval.

5.0 CONCLUSION

The proposed modification for the insertion of the laneway and its associated lot and landscaping amendments are a minimal design change that will form the next step in facilitating UrbanGrowth NSW's delivery of housing across Stage 3B. The proposed modification is of minimal environmental impact as no other impacts arise above those already approved and deemed acceptable in the original application applying to SSD_5349. Furthermore, as has been shown, the inclusion of the laneway is entirely consistent with the urban design subdivision and road layout of the North Penrith Design Guidelines 2013.

In accordance with section 96(1A) of the EP&A Act, the Minister (or his delegate) may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request. Should you have any queries about this matter, please do not hesitate to contact me on 9409 4970 or jstanley@jbaplanning.com.au

Yours faithfully



James Stanley
Urban Planner Intern



Stephanie Ballango
Associate