



Planning & Environment

**STATE SIGNIFICANT DEVELOPMENT:
Section 96 (1A) Modification
Amend subdivision layout to provide a
new laneway**

**Stage 3B (SSD 5349 MOD 1) of the
North Penrith development site**



Secretary's
Environmental Assessment Report
Section 96 (1A) of the
Environmental Planning and Assessment Act, 1979

June 2014

Cover Photograph: Aerial view of North Penrith development site (from the north looking south)

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Published June 2014

NSW Department of Planning & Environment

www.planning.nsw.gov.au

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1. INTRODUCTION

The purpose of this report is to assess a request to modify development consent (SSD 5349) for Stage 3B of the North Penrith Development Site, under Section 96 (1A) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act). The application seeks to modify the draft subdivision and landscaping plans to allow a new laneway.

1.1 The Site and Locality

The North Penrith development site is located adjacent to the Penrith Railway station which is immediately to the north of the Penrith city centre (see **Figure 1**). The subject site "Stage 3B" is located in the south-western sector of the North Penrith development site (see **Figures 1 and 2**). The site is located in the Penrith Local Government Area.

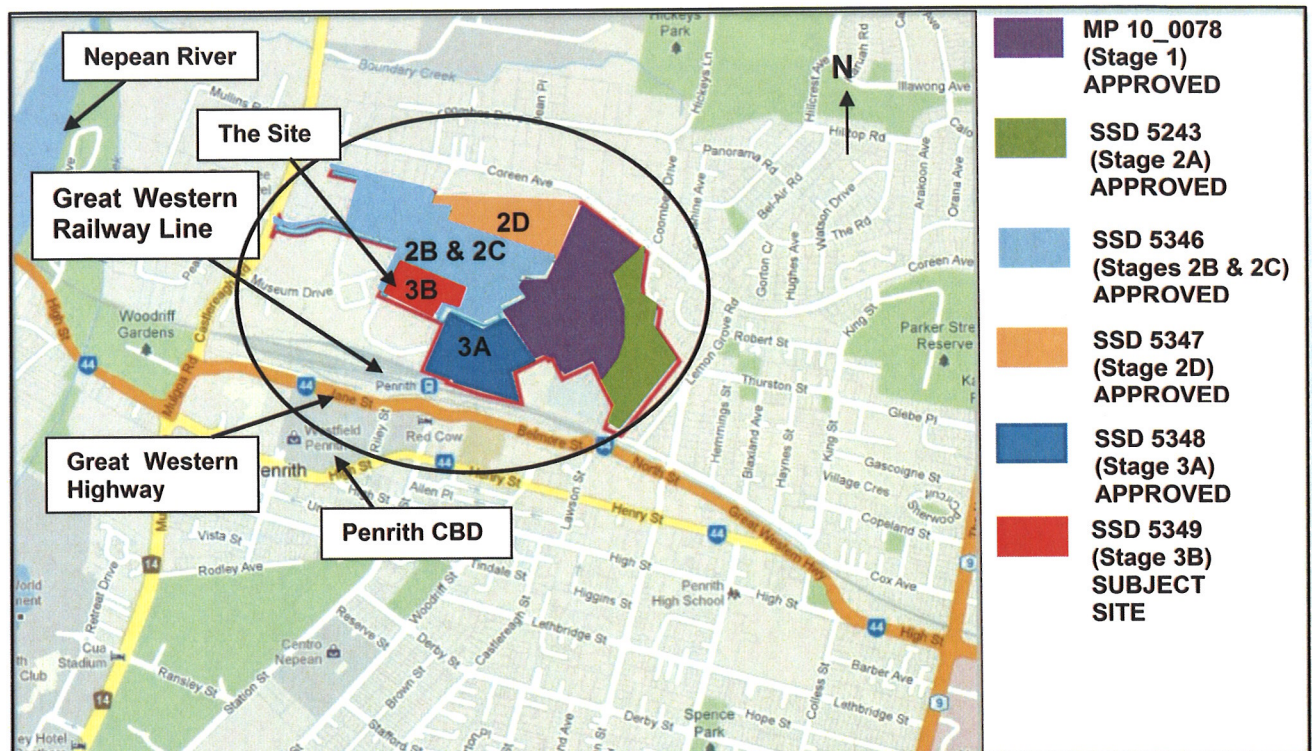


Figure 1: North Penrith Development Site Context and Stages of Development

The topography of the site is relatively flat rising gently towards the east. The North Penrith development site has an area of approximately 40.7 hectares. The most recent use of the site was as Department of Defence land where an army base was located until 1994. The Stage 3B site has an area of 2.4 hectares.

1.2 DEVELOPMENT HISTORY

On 9 November 2011, the then Minister for Planning approved a Concept Plan (MP10_0075) for development of the North Penrith development site comprising 900-1000 residential dwellings supported by retail, commercial and industrial development as well as recreational, community and open space facilities in a new transit oriented village. A Stage 1 Project Application (MP10_0078) was also approved at the same time for subdivision to create 97 residential lots, 16 super lots, 2 open space lots, 1 sewer pumping station lot and 2 residue lots. The approved Concept Plan layout is illustrated in **Figure 2**.

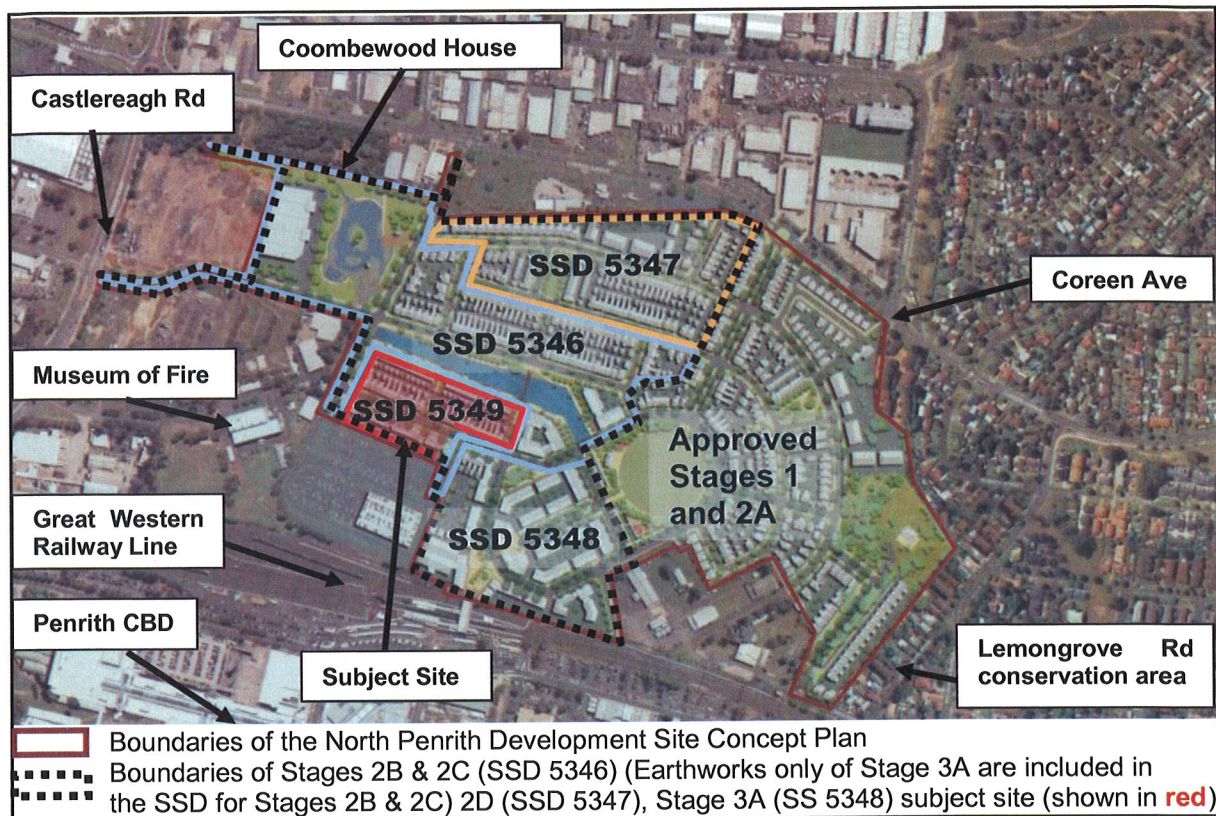


Figure 2: North Penrith Development Site Concept Plan Layout and location of **Stage 3B (SSD 5349)**

The Concept Plan approval provides the guiding principles which are to be applied to the development of the North Penrith development site and includes the staging and subdivision plans for the site, supporting North Penrith Design Guidelines 2013, and the statement of commitments. The North Penrith Design Guidelines 2013 supplement the framework identified within the Concept Plan approval and outline the envisaged land uses, density, built form controls, and subdivision layout controls for the North Penrith site.

In this regard, the Concept Plan and North Penrith Design Guidelines 2013 identified Stage 3B (the subject site) as 'opportunity lots' for development of higher densities and mixed development types such as residential flat buildings and/ or commercial/retail uses.

On 28 June 2013, the department approved the Stage 3B subdivision application (SSD 5349) for:

- construction of the internal road network and connections to existing road intersections;
- supply of utilities to service the subdivision;
- landscaping and public domain works; and
- subdivision to create the North Penrith 'Opportunity Site' lots including 3 superlots.

This is the approval that is proposed to be modified.

A number of other SSD applications have also been approved by the department (as shown on **Figures 1 and 2**) including:

- Stage 2A (SSD 5243), on 16 January 2013, for early works including earthworks, landscaping; and subdivision to create 31 residential lots, an integrated housing lot, 1 super lot, 1 heritage lot, 1 open space lot and road reserve;
- Stages 2B and 2C (including bulk earthworks to Stages 2D, 3A and 3B), on 28 June 2013, for demolition, tree removal and bulk earth works; subdivision to create 44 residential lots, 5 integrated lots, 2 apartment superlots, 2 open space lots and 1 industrial lot; and various associated infrastructure and utility works;
- Stage 2D (SSD 5347), on 28 June 2013, for subdivision to create 86 residential lots and 5 integrated lots; and various associated infrastructure and utility works; and
- Stage 3A (SSD 5348), on 7 May 2014, for subdivision to create 13 super lots; and various associated landscaping, infrastructure and utility works.

2. PROPOSED MODIFICATION

The proposal seeks to amend the approved subdivision by providing a new laneway running east-west between Kleinig Place to Combewood Avenue bisecting Lots 3101 and 3102 which results in the creation of an additional two super lots. The proposed laneway occupies approximately 1,119 m² of the existing area of the approved lots (**Figure 3**). **Table 1** below outlines the lot size of the approved and proposed lots.

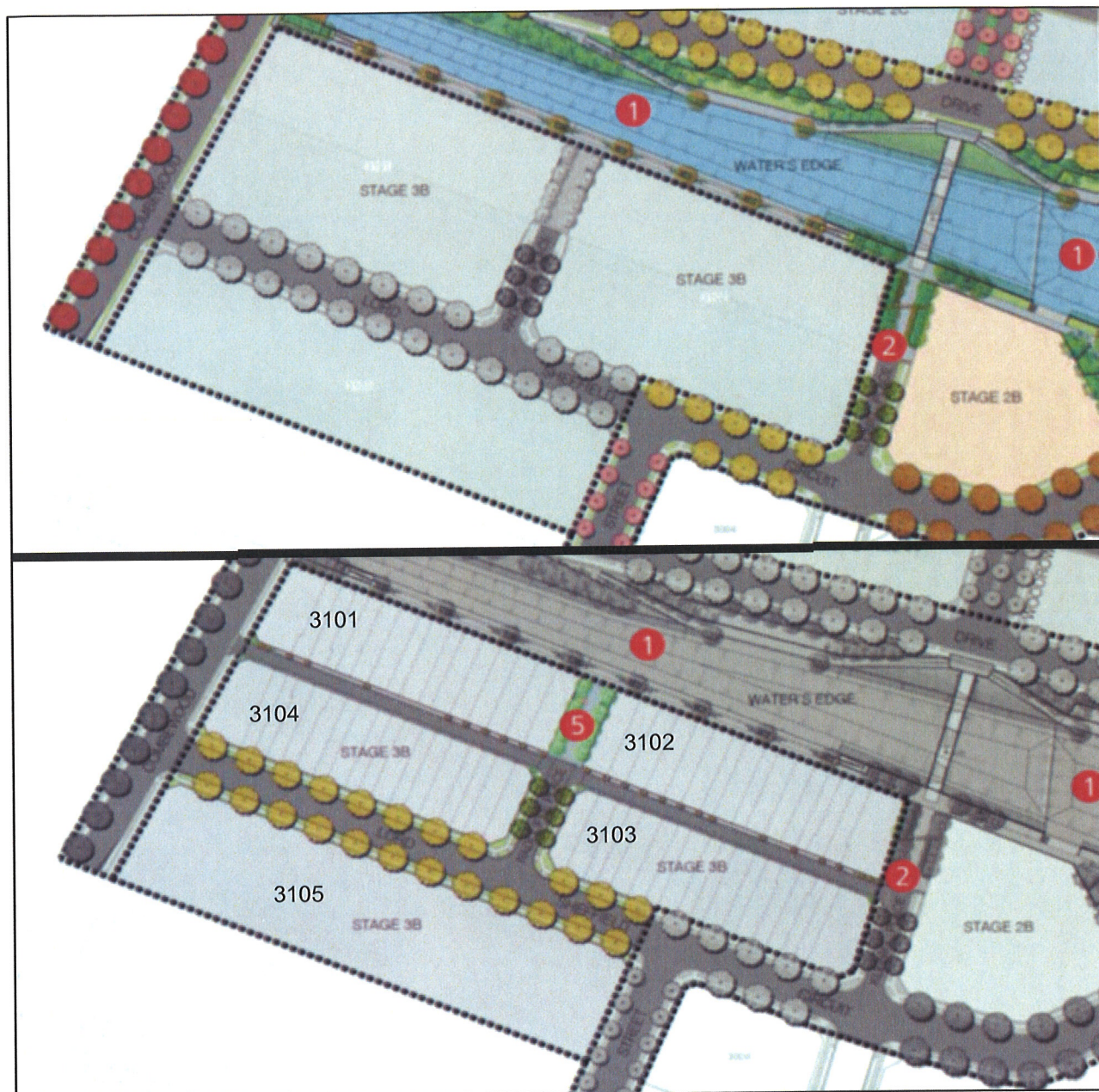


Figure 3: Comparison of approved (above) and proposed (below) subdivision, landscaping and road layout

Table 1: Comparison of approved and proposed Lot areas

Existing	Proposed Lots
Lot 3101 (6,883m ²)	Lot 3101 (3,049m ²)
	Lot 3104 (3,089m ²)
Lot 3102 (6,862m ²)	Lot 3102 (3,040m ²)
	Lot 3103 (3,084m ²)
Lot 3103 (6,370m ²)	Lot 3105 (6,370m ²)

3. STATUTORY CONTEXT

3.1 Modification of approval

Section 96(1A) of the *EP&A Act* requires the consent authority to be satisfied that the following matters are addressed in respect of all applications which seek modifications to approvals:

Section 96(1A) matters for consideration	Comment
<i>That the proposed modification is of minimal environmental impact.</i>	The department is satisfied that the proposed modification will have minimal environmental impact. Relevant environmental impacts are considered in Section 5 of this report.
<i>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).</i>	The proposed modification does not result in any additional adverse impacts on the surrounding locality. On this basis, the proposal, if approved, will result in a development that is considerably the same as the originally approved development.
<i>It has notified the application in accordance with the regulations.</i>	The Development Application was notified in accordance with the Regulations. Details of the notification are provided in Section 4 of this report.
<i>It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</i>	Penrith City Council did not object to the modification proposal but has commented on the proposed layout, which is discussed in Section 5 of this report. No public submissions were received in relation to the modification request.

3.2 Delegation

The original application was determined under the delegation of the then Minister for Planning; therefore the Minister remains the consent authority for any subsequent applications to modify the consent. Under the instrument of delegation dated 14 September 2011, the Minister delegated functions under Section 96 (1A) of the *EP&A Act* to Directors in the Major Projects Assessment Division where:

- the relevant local Council has not made an objection;
- a political donation disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.

The proposal complies with the terms of the delegation as Council does not object to the proposal, a political donation disclosure statement has not been made and no public submissions have been received by the department. Therefore the Director of Industry, Key Sites and Social Projects can determine the proposal under delegation.

4. CONSULTATION AND SUBMISSIONS

4.1 Notification

The application was notified in accordance with the EP&A Regulation 2000. The modification request was made available on the department's website and referred to Penrith City Council. Due to the minor nature of the proposal, the modification request was not exhibited by any other means.

No public submissions were received in relation to the modification request.

4.2 Penrith City Council

Council does not object to the proposed modification, however raised concern in relation to the future terrace housing intended to be developed on the modified lots. Although Council acknowledges that the proposed modification will result in lots which are consistent with the approved Concept Plan, it considers that terrace housing is an underutilisation of the site and that higher density residential development should be pursued. Council requested that further consideration be given for the future development of the site for apartments and achieving the minimum 3 storey building height.

5. CONSIDERATION OF PROPOSED MODIFICATIONS

The approval for Stage 3B included subdivision for three super lots for mixed use development. The proposal seeks to introduce a new laneway running east-west between Kleinig Place to Combewood Avenue bisecting Lots 3101 and 3102 which will create an additional two super lots (Figure 4).

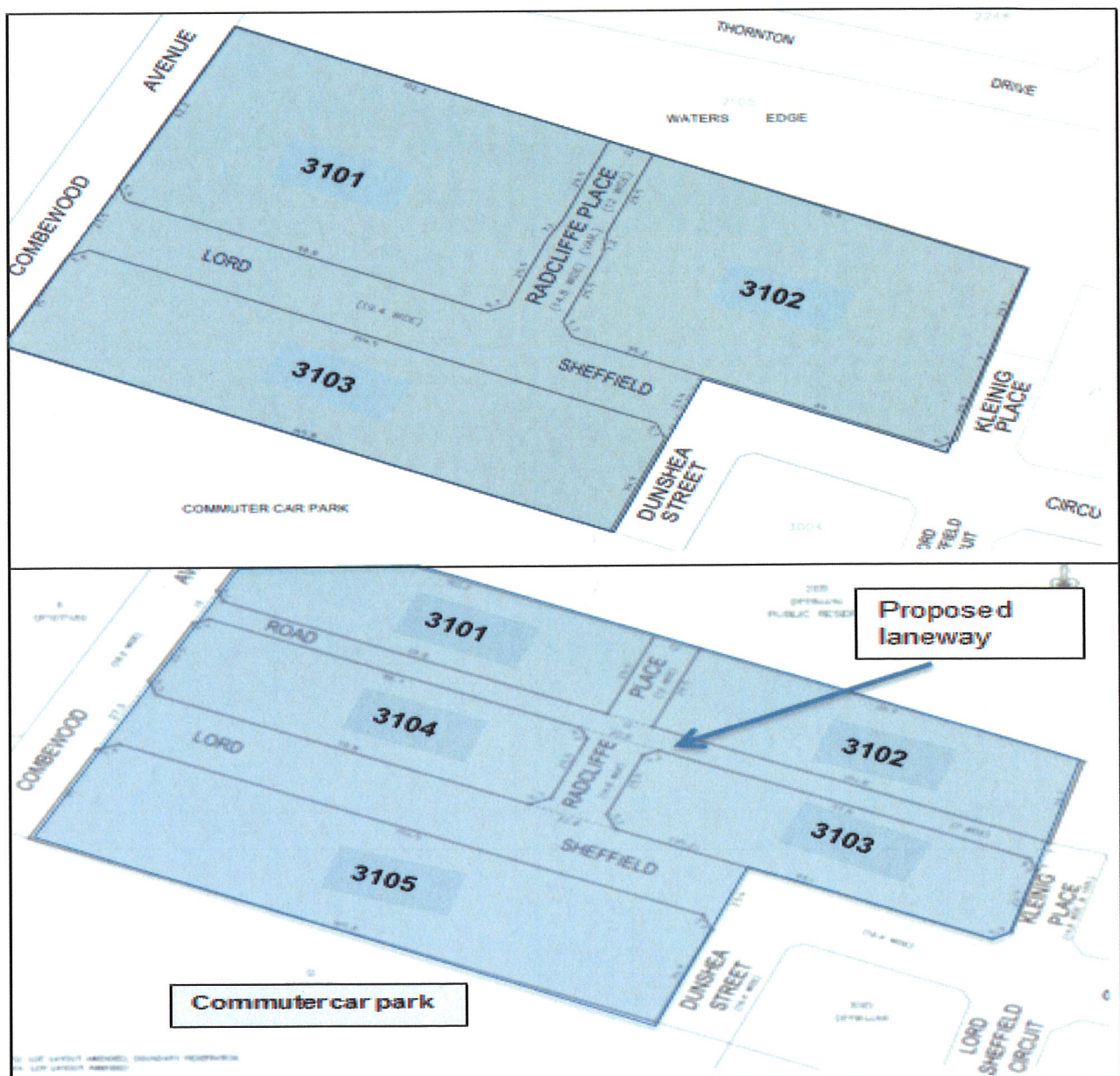


Figure 4: Approved subdivision layout (above) and proposed subdivision layout (below)

The department considers that the key assessment issues are:

- consistency with the Concept Plan approval in terms of subdivision and road layout; and
- the ability for new lots to accommodate the intended uses and built form as identified in the Concept Plan approval and underpinning North Penrith Design Guidelines 2013 which contain detailed controls for the future built form on the site.

The department notes the proposed new laneway will create a new subdivision pattern and road network within Stage 3B that is consistent with the Concept Plan approval. The proposed laneway may provide for servicing and access space which would allow for additional residential developments with frontages to public domain areas, such as the water's edge and Lord Sheffield Circuit which is considered a positive urban design outcome.

Council acknowledges that the location of the proposed laneway is consistent with the Concept Plan. However the documentation submitted with the application indicates the intention to develop Lots 3101-3104 for the purpose of terrace housing (presumed 2 storeys in height). Council considers that this represents an underutilisation of the land where higher density residential development (and some non-residential uses where appropriate) should be pursued in such close proximity to the Penrith City Centre and public transport links. Further, Council considers that the proposed subdivision along with the stated intent will impinge on future opportunities to achieve the intent of the Concept Plan.

The applicant responded that the subdivision and road layout is consistent with the Concept Plan approval and North Penrith Design Guidelines intent for Stage 3B. The applicant considers that an 'opportunity site' may accommodate a variety of land uses including residential, commercial/office, institution/education uses. Further, the proposal is consistent with the North Penrith Design Guidelines in that:

- Lots 3101 and 3102 fronting the public domain areas are intended as terrace housing, which can be designed to comply with the minimum 3 storey height control; and
- Lots 3103 and 3104 are intended to be developed for apartments.

The department notes the North Penrith Design Guidelines 2013 identifies:

- the entire subject site as an "opportunity site" for medium density residential development (and some non-residential uses where appropriate);
- Lots 3101 to 3102 as "canal edge lots" to have a minimum height of 3 stories;
- Lots 3103, 3104 and 3105 as "apartment sites"; and
- the proposed laneway is included in the subdivision layout.

Refer to **Figure 5**.

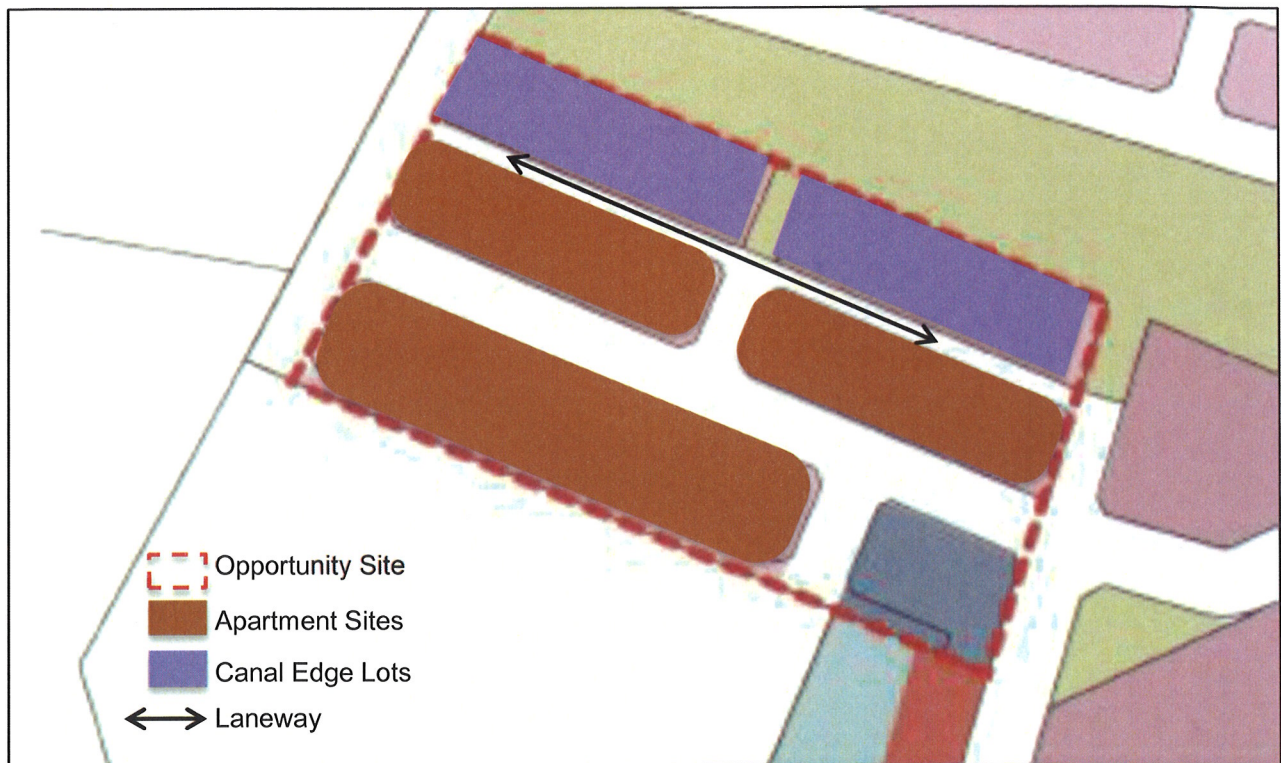


Figure 5: Extract from the North Penrith Design Guidelines identifying the intended subdivision layout being consistent with that currently proposed in Stage 3B (including laneway, apartment sites and canal edge lots)

The department notes that the modification does not propose to change the intended uses for the proposed lots as identified in the North Penrith Design Guidelines 2013.

Further, the area and dimensions of Lots 3103 and 3104 (which are identified as 'apartment sites') are consistent with the Design Guidelines as shown in **Figure 5**. In particular, the depth of Lots 3103 and 3104 is approximately 29 metres which is sufficient to cater for future residential flat development. The department therefore considers that Lots 3103 and 3104 are able to achieve the future higher density residential development as envisaged by the Design Guidelines.

On this basis, the department considers the proposed modification, noting it only relates to subdivision, will not preclude the future development of the super lots as intended by the Concept Plan and Design Guidelines. The exact building typology and form is a matter that may still be considered by Council in its assessment of future applications for development of the lots.

The department is satisfied that the proposal is consistent with the North Penrith Design Guidelines 2013 and will allow for future development to achieve the intended residential density and land uses identified in the objectives of the Design Guidelines. In this regard, the modified subdivision layout is supported.

6. CONCLUSION AND RECOMMENDATION

The department has assessed the merits of the modification request for Stage 3B of the North Penrith development site. The modification proposal is considered to be generally consistent with the approved State Significant Development (SSD) under Section 96(1A) of the *EP&A Act*.

The department considers the modified subdivision of Stage 3B continues to provide for an efficient redevelopment of land to meet the housing demands of the North West Subregion and support development of Penrith as a regional city. The department is satisfied the proposed modification is consistent with the Concept Plan approval and underpinning North Penrith Design Guidelines 2013. Further, the proposal will not result in further impact to the site and will not preclude the future development of the site for higher density residential development as intended by the Concept Plan approval and the North Penrith Design Guidelines 2013.

In accordance with Section 96(1A) of the EP&A Act, it is recommended that the Director, of Industry, Key Sites and Social Projects, as delegate for the Minister for Planning:

- **consider** the findings and recommendations of this report;
- **approve** the modification under delegated authority, subject to conditions; and
- **sign** the attached Modifying Instrument of Consent (**Appendix C**).

Endorsed by:

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Approved by:

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APPENDIX A MODIFICATION REQUEST

See the department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6435

APPENDIX B SUBMISSIONS

See the department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6435

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
