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Appendix 3

SECTION 75W MODIFICATION ASSESSMENT

PROPOSED TWELVE LOT SUBDIVISION

LOT 12 DP 1021340

No: 21 HALL STREET, PITT TOWN

September 2013
(08974)

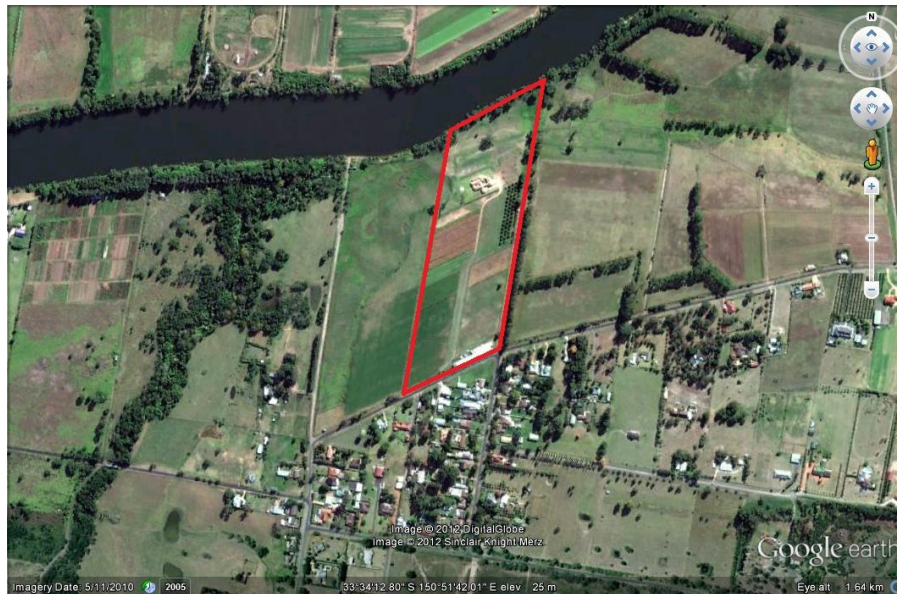
Prepared by Glenn Falson
BA; LG(Ord4); DTCP; M.EnvL; MPIA



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Introduction

This document presents information to support a section 75W modification to a Part 3A approval pursuant to the Environmental Planning and Assessment Act (1979). The Part 3A approval was granted in July 2008 over landholdings known as the Pitt Town Subdivision in north western Sydney. This modification seeks consent from the Department of Planning and Infrastructure (DoPI) for a revised lot configuration on Lot 12 DP 1021340 (Lot 12) for eleven (11) rural housing allotments and a 12th lot being a public reserve.

The land is within the Pitt Town residential release area and the proposal is generally consistent with the adopted Master Plan for the locality as per Condition A2 of the Instrument of Approval. The revised lot configuration is proposed to allow timely progress for the development of Lot 12.

This modification culminates in a belief that the land is suitable for the subdivision as proposed and that the grant of consent is appropriate in the circumstances of this case.

A development application was submitted for Hawkesbury City Council's (Council) consideration on this matter but later withdrawn on advice from Council staff. The modification application now submitted has incorporated matters that were discussed with the previous development application and the lot layout now proposed has been discussed with Council's Director of City Planning, Matt Owens. It is believed that the subdivision layout plan, whilst not absolutely in accordance with the original Master Plan layout, is generally consistent and meets the objectives and intent of the Master Plan.

Modification Background

This modification proposes a revised lot layout for Lot 12 due to the overlapping nature of lots with the adjoining Lot 11 DP 1021340 (Lot 11). Lot 11 is located directly to the west of Lot 12 and is owned by Johnson Property Group (JPG). The current Master Plan lot layout for lot's 11 and 12 is indicative only. This lot layout does not allow each landholder to develop their individual landholdings independently. This modification therefore presents a lot layout that is considered to be generally consistent with the Master Plan layout and allows both landholders to act independently without disadvantage.

The revised lot layout presented in this modification has been the subject of discussions and meetings with Hawkesbury City Council's (Council) Matt Owens and support staff and culminated in the lodgment of DA 0216/13 for the consideration of Council. Council staff advised that they were generally supportive of the proposed revised lot layout for Lot 12 but advised that this is a matter for DoPI to determine whether the revised lot layout is generally consistent with the original Master Plan. It should also be noted that the owner of Lot 12 did not consent to the overlapping lot layout design prior to the submission of the Part 3A Environmental Assessment and subsequent approval of the Master Plan.

DA 0216/13 was provided to adjoining landholders for comment by Council prior to the withdrawal of DA 0216/13. Comments from the adjoining landholders along with responses to the comments are set out in Appendix 2 of the application documentation.

Description of Land and Surroundings

The site is described as Lot 12 DP 1021340 and known as No 21 Hall Street Pitt Town. The site has an area of approximately 10ha.

There is an existing dwelling and old shed on the land. There are minimal other property improvements other than boundary fencing. There are remnants of previous orchards and consequently the land is almost entirely clear of vegetation other than for some scattered shade trees.

The land is regular in shape with a frontage to the Hawkesbury River.

The property is undulating and falls gently from the road frontage towards the river. The river frontage portion of the land is flood liable

however the majority of the property is well above the assessed 1:100 flood level.

Other properties in the locality range in size from small residential lots through rural residential lots to larger agricultural lots.

The nearest dwellings to the land are located opposite the site on Hall Street where there are a number of older residential lots.

Access to the site is from Hall Street, which is a sealed rural road in good condition. The site also has access to Hawkesbury Street which is constructed for half of its length and which runs down the side of the property from Hall Street to the river.

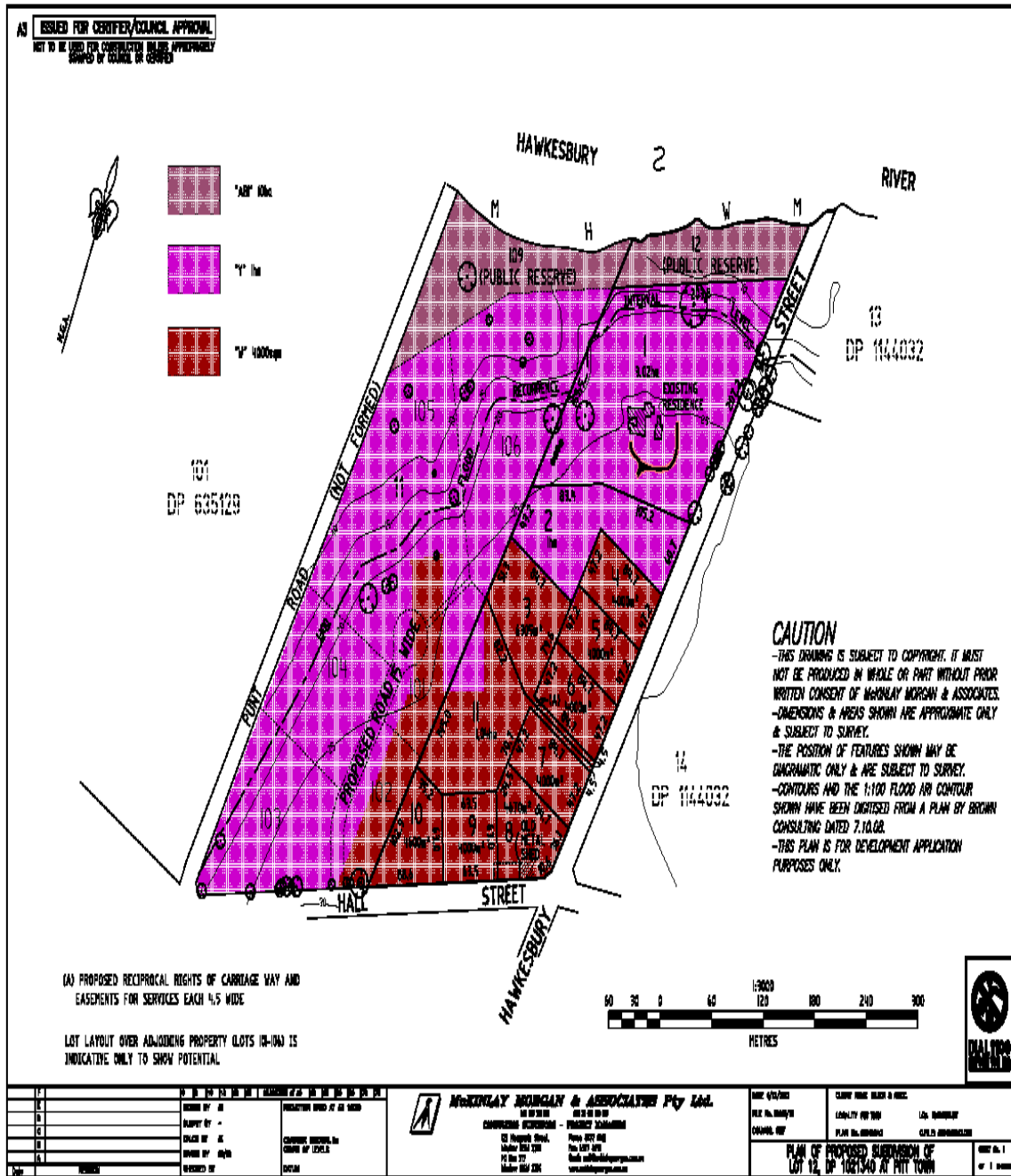
Description of Proposed Development

It is proposed to subdivide Lot 12 into 11 rural housing allotments and a 12th lot to be dedicated to Council as a public reserve. The rural housing lots range in area from 4000m² to 3.02ha. The 3.02ha lot will contain the existing dwelling.

The proposal is slightly different to the Master Plan that was drawn as part of the rezoning process for Pitt Town however is consistent with the Lot Size Map within State Environmental Planning Policy (Major Projects) Amendment (Pitt Town) 2008 which is the statutory guiding document for subdivision. Despite being slightly different than the Master Plan layout the proposal does not impact on adjoining lands to be developed in accordance with the Lot Size Map or general Master Plan principles. An assessment of the proposal against the provisions of the Part 3A approval for subdivision at Pitt Town and the Master Plan etc is incorporated into this report under a separate heading.

As a consequence of the subdivision it will be required to construct a small part of Hawkesbury Street from the end of the existing construction to the commencement of proposed Lot 1.

Whilst the proposed Public Reserve lot is shown on the Master Plan it is not included on the LEP zoning map as a Public Reserve. It is not known, therefore, if Council requires this land as public reserve or not. If not then the land can be included within the area of Lot 1.



Proposed Lot 12 Lot Layout

Note: Whilst a lot layout for Lot 11 is presented on the figure above, this is only a suggested layout and one of a variety of layouts that may possibly be used.

Pitt Town Residential Precinct and Concept Plan

The Pitt Town Residential Precinct and Concept Plans were approved by the Minister on the 12th October 2007 and 10th July 2008 respectively.



Extract from Masterplan

The revised lot layout for Lot 12 involves the removal of a link road between Hall Street and Hawkesbury Street as can be seen in the above diagrams. Consideration has been given to possible impacts on traffic dynamics due to the removal of this road and an assessment of traffic changes is presented in this modification document and Appendix 1 of the application.

Specifically the Concept Plan approval includes (of relevance to the revised subdivision application to which this reports relates) the following:

A1.

1. Approval to create subdivided lots not exceeding 659 allotments overall.
2. Boat ramp and parking not applicable to this proposal.
3. Infrastructure will be provided to this subdivision as described. Of note that the revised proposal now seeks approval on the basis of each lot being connected to the Pitt Town reticulated sewerage scheme.

A2.

Development to be “generally consistent” with the following documentation and plans:

- a) Pitt Town Residential Precinct Environmental Assessment. The subdivision is generally consistent with this Assessment.
- b) Pitt Town Masterplan. The development is generally consistent with this plan. The Masterplan for the area known in Pitt Town as “Blighton” is contained in two lots and these lots are in different ownership. The Masterplan has a proposed subdivision design that is similar to that proposed but not the same. The Masterplan lot layout does not account for the fact that the land is in two different ownerships and that there might have been a requirement to development these two lots independently. Further the Masterplan is not in accord with the subsequent Hawkesbury local environmental plans in terms of the Pitt Town Lot Size Map. This would mean that the Masterplan lot layout could not take place with the Lot Size Map lot size constraints. The LEP Lot Size Map requires that there only be two lot size minimums on the land being “W” equating to 4,000m² lots and “Y” equating to 10,000m² lots. The layout of the zones within the Lot Size Map does not correspond to the lot layout and sizes in the Masterplan. The array of lot sizes shown in the Masterplan has no similarity with the Lot Size Map requirements now within Council’s LEP. Further the Open Space land indicated within the Master Plan is not shown as any Open Space or Public Reserve zone and is not differentiated in the Lot Size Map. It has taken the zone of the surrounding 10ha zone and lot size “AB1”.

The land shown as Open Space in the Masterplan is indicated as “Public Reserve” on the subdivision application plan. For the purpose of this report and application these terms have the same meaning.

It is noteworthy in respect of the above that the lot layout and lot distribution shown for each of the Pitt Town precinct plans were considered by the Minister at the time “to be indicative only”¹. The slight alteration of the proposed subdivision layout from that indicated in the Masterplan is not therefore at odds with what might have been expected in respect of subdivision within the Blighton Precinct.

¹ Determination of Pitt Town Concept Plan, Condition B2.

General Consistency of revised lot layout with Master Plan

Determination and approval for the original Master Plan for Lot 12 in the Blighton Precinct of the Pitt Town Subdivision was issued in July 2008 (MPA No.07_0140). Condition B3 of Part B states that the lot layouts shown for each precinct are to be considered indicative only with the maximum allowable lots for each precinct to remain as per the Master Plan. This is acknowledgement that it is not possible to understand every small detail for future development at the time of approval and is a common approach used by government agencies for approval of large or complex projects.

Condition A2 of Schedule 2, Part A, states that any modification to the Master Plan shall be generally consistent with the Master Plan. The revised lot layout presented in this modification application is considered to be generally consistent with the Master Plan for the following reasons.

- The revised layout has the same number of lots and the lot sizes are consistent with the zoning rules in the Part 3A approval
- All lots in the revised layout have good access to either Hall or Hawkesbury streets
- The revised layout does not result in any additional environmental impacts
- The revised layout does not result in any additional demands on services or infrastructure
- The revised layout does not result in any increase in traffic volume or impacts on traffic flow or traffic safety
- The revised layout causes no additional impact on heritage matters
- The revised layout does not disadvantage any adjoining landholders

No disadvantage to adjoining landholders

The revised lot layout for Lot 12 does not result in any disadvantage to adjoining landholders as the lot layout is wholly contained within Lot 12 and requires no land not owned by the owner of Lot 12. Lot 11 to the east of Lot 12 is owned by Johnson Property Group (JPG). The proposed lot layout for Lot 12 results in advantage to the owner of Lot 11 to the west as the original lot configuration in the Master Plan has lots over lapping both Lots 11 and 12. This means that individual landholders are unable to act independently if they wish. However, the revised layout allows each landholder to

act independently whilst at the same time observing the intent of the original Master Plan by not creating any additional lots and not causing any additional impacts. The lot layout in the Master Plan would require JPG to purchase portions of Lot 12. The revised lot layout proposed means that JPG no longer needs to purchase land from Lot 12. However, if JPG still wish to purchase any Lot 12 land following approval of the revised lot layout herewith then they can still do this at market value as would have been the case with the Master Plan lot layout.

Traffic flow assessment

The revised lot layout for Lot 12 results in the removal of the internal link road between Hall St and Hawkesbury St. A traffic assessment has been carried out to determine whether the removal of this road will have any impact on traffic conditions with respect to Hall St and/or Hawkesbury St. The full traffic assessment is set out in Appendix 1 of the application.

The traffic assessment examined 4 potential areas where changes to traffic dynamics could occur as a result of the revised lot layout. The 4 areas examined are:

- Traffic generation
- Traffic distribution
- Environmental capacity of residential streets
- Traffic safety

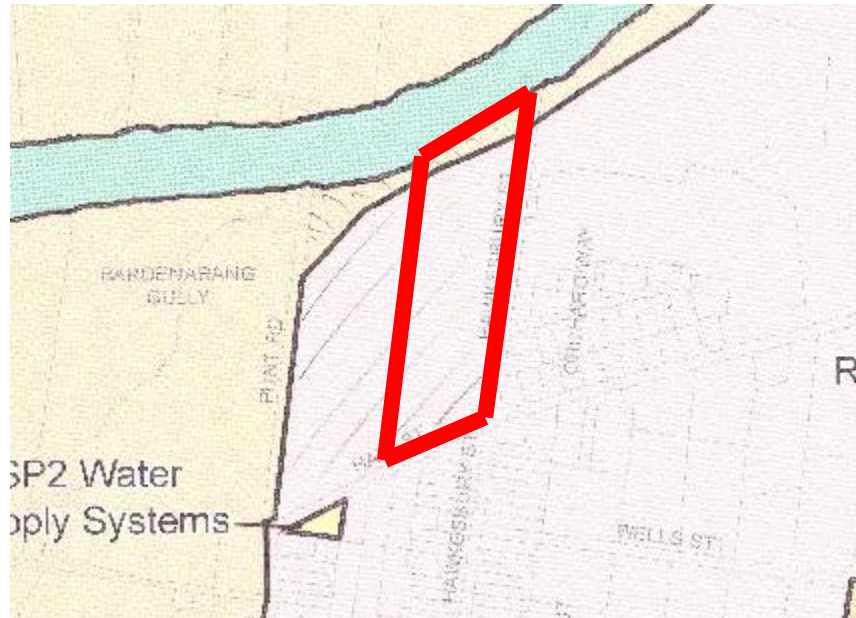
The assessment concluded that there will be no adverse impacts to traffic dynamics associated with the revised lot layout. One of the key reasons for this is that there will be no additional traffic generated as the revised lot layout results in no additional lots and therefore no additional dwellings as would be the case in the Master Plan.

Local Government Environmental Planning Instruments

Hawkesbury Local Environmental Plan 2012

The land, except for the proposed Public Reserve lot, is zoned Rural R5 – Large Lot Residential under the provisions of Hawkesbury Local Environmental Plan 2012 (the LEP). The proposed Public Reserve site is RU2 – Rural Landscape. The Subdivision would be a permissible use within these zones with

Council consent subject to LEP provisions if it were not for the fact that the Part 3A approval is still applicable at this time. The following comments are provided as if the proposal could be assessed under the LEP (which will be the case if the modification application is supported by DoPI). They are provided at this time to enable a complete understanding of assessment criteria.



Extract from LEP zone map.

For the purposes of this assessment we have discounted the fact that the proposed Public Reserve lot will be less than the minimum area provisions within the LEP for creation of lots in the RU2 zone as the lot corresponds with the zone boundary and it is clearly the intention that the R5 zone does not extend all of the way to the River and that the river front land be Public Reserve. In any case the creation of a Public Reserve lot is not constrained by LEP minimum area provisions due to the provision of SEPP (Exempt and Complying Codes) 2008 where the creation of a Public Reserve is “exempt development”. This makes sense as it would be nonsensical if Council or an applicant was constrained by an LEP minimum area provision when it wanted to create a Public Reserve.

Should Council not require the Public Reserve then the Public Reserve land can be contained within proposed Lot 1.

The following specific provisions of the LEP would be applicable and include an assessment of the proposal on each.

Clause 2.3(2) LEP Zone Objectives

This clause provides that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The following are the relevant zones and objectives for these zones.

Zone R5 Large Lot Residential

Objectives of zone

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*

The proposed lots are each capable of containing housing and maintaining scenic quality. The lots will provide allotments for large lot residential housing and is consistent with this objective. Thus the subdivision will provide lots that are characteristic with development that is envisaged by the R5 zone and Lot Size Map of the LEP.

- *To ensure that large residential allotments do not hinder the proper and orderly development of urban areas in the future.*

The locality is unlikely to be required for future denser urban development. The site is not within any urban development program of the NSW Government.

- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*

The subdivision will create demands for public amenities and services however these demands are consistent with the land being zoned for Large Lot residential development and envisaged when Pitt Town area was designated for subdivision.

The subdivision is permissible within the zone and is envisaged to take place in generally in accordance with the Pitt Town Master Plan.

The subdivision will result in the upgrading of Hawkesbury Street and construction of access to allotments and in the future dwellings will be constructed. These works and constructions can take place with proper environmental safeguards.

- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

Adjoining lands and other lands in the immediate vicinity of the site are proposed for similar subdivision to the subject site.

The subdivision will have no impact on rural land uses in the locality. Adjoining rural lands are also zoned for large lot residential housing which will take place in time. Nearby Lots 14 & 15 have been subdivided and it is understood houses are to be built on these lots soon.

- *To provide primarily for low density residential housing and associated facilities.*

This objective is met by the proposal.

Zone RU2 Rural Landscape

The RU2 zone applies to that part of the site proposed as Public Reserve.

Objectives of zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*

The proposed Public Reserve lot is not of a size for any meaningful agricultural use and would be frequently inundated by flood waters. It is identified in the Masterplan for public use and this is appropriate. In any case it would be too close to the residential development promoted by the adjoining Large Lot Residential Housing zone to be able to be used for any agricultural purpose.

If not required for public use it can be joined to the proposed Lot 1 and used as part of the adjoining large lot housing lot in conjunction with the remainder of that lot.

- *To maintain the rural landscape character of the land.*

The Public Reserve assists in maintaining the rural landscape. Even if included within the adjoining Lot 1 it would still maintain the rural character of the land.

- *To provide for a range of compatible land uses, including extensive agriculture.*

The Public Reserve will provide a compatible landscape to the adjoining housing lots.

- *To minimise the fragmentation and alienation of resource lands.*

The Public Reserve is part of rural land that is already fragmented by the zones provided for in the Pitt Town housing zones.

- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

The Public Reserve will not cause conflict with the adjoining housing zone.

- *To ensure that development occurs in a manner that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows; land surface conditions and important ecosystems such as waterways.*

There is no development of the Public Reserve land envisaged. It will have no effect on waterways.

- *To ensure that development retains or enhances existing landscape values which include a distinctive agricultural component.*

The Public Reserve will maintain the existing landscape.

- *To preserve the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality.*

The Public Reserve will not impact on scenic quality.

- *To protect hilltops, ridge lines, river valleys, rural landscape and other local features of scenic significance.*

The Public Reserve will not impact on scenic significance of the river valley.

- *To ensure that development does not create unreasonable or economic demands, or both, for provision or extension of public amenities or services.*

The Public Reserve does not require amenities or services.

Clause 4.1 Minimum subdivision lot size

(1) The objectives of this clause are as follows:

(a) to ensure that the pattern of allotments created by the proposed subdivision and the location of any proposed buildings on those lots will minimise the impact on any threatened species, populations or endangered ecological community or regionally significant wetland, waterways and groundwater as well as any agricultural activity in the vicinity;

No vegetation will be removed as a consequence of the subdivision. The land where the housing allotments are located is not identified within LEP Biodiversity Map as having any significant vegetation and is cleared former orchard land.

The land that is contained within the Public Reserve lot is identified as being “connectivity between significant vegetation”.

(b) to ensure that each of the allotments created in a subdivision contains a suitable area for the erection of a dwelling-house, an appropriate asset protection zone relating to bush fire hazard and a location for on-site effluent disposal where sewerage is not available; and,

The lots are each capable of containing these features. It is noted however that the lots are for residential purposes and do not contain vegetation that would be a bushfire hazard. It is also noted that the lots created are to be connected to the Pitt Town reticulated sewerage system or alternatively are of a size sufficient for on-site effluent disposal.

(c) to ensure a ratio between the depth of the allotment and the frontage of the allotment that is satisfactory having regard to the purpose for which the lot is to be used.

The shape of each lot is satisfactory for their intended use.

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

Each lot is equal to or greater than the requirements within the Lot Size Map.



LEP Lot Size Map

(3A) If a lot in a following zone is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size:

- (a) Zone R1 General Residential,*
- (b) Zone R2 Low Density Residential,*
- (c) Zone R3 Medium Density Residential.*

Not applicable.

Clause 4.1B Additional requirements for subdivision in certain rural, residential and environmental protection zones

(1) This clause applies to land in the following zones:

- (a) Zone RU1 Primary Production,*
- (b) Zone RU2 Rural Landscape,*
- (c) Zone RU4 Primary Production Small Lots,*
- (d) Zone RU5 Village,*
- (e) Zone R5 Large Lot Residential,*
- (f) Zone E3 Environmental Management,*
- (g) Zone E4 Environmental Living.*

The land is within both the RU2 zone and the R5 zone and thus this clause is applicable.

(2) Development consent must not be granted to a subdivision of land to which this clause applies unless:

(a) the pattern of lots created by the subdivision and the location of any buildings on those lots is not likely to have a significant impact on any threatened species, populations or endangered ecological community or regionally significant wetland, waterways, groundwater or agricultural activities in the locality, and

The land (apart from the Public Reserve lot) is cleared of native vegetation and zoned for subdivision as proposed. There will be no impact on threatened species, wetlands, waterways, groundwater or agricultural activities.

(b) the consent authority is satisfied that each lot to be created contains a suitable area for a dwelling house, an appropriate asset protection zone relating to bush fire hazard and an adequate sewage management system if sewerage is not available, and

The site is not bushfire prone and is cleared of bushland. Notwithstanding this each lot is capable of providing adequate asset protection zones. Each lot is capable of containing a dwelling and will be connected to the Pitt Town sewerage system.

(c) if sewerage is not available—the consent authority has considered a geotechnical assessment that demonstrates the land is adequate for the on-site disposal of effluent, and

Sewer is available and will be provided to each housing lot.

(d) the consent authority is satisfied that there is a satisfactory ratio between the depth of each lot and the frontage of each lot, having regard to the purpose for which the lot is to be used.

The lots are designed to contain housing and associated development.

Clause 4.2B Additional requirements for subdivisions in certain flood planning areas

(1) This clause applies to the subdivision of land:

(a) under clause 4.1, 4.1AA, 4.1A, 4.1C, 4.1E or 4.2, and

(b) that creates a lot other than for use for a public purpose, and

(c) in the following zones:

- (i) Zone RU1 Primary Production,*
- (ii) Zone RU2 Rural Landscape,*
- (iii) Zone RU4 Primary Production Small Lots,*
- (iv) Zone R5 Large Lot Residential,*
- (v) Zone E4 Environmental Living.*

The land is within both the RU2 zone and R5 zone and thus this clause is applicable.

(2) Development consent must not be granted for a subdivision to which this clause applies unless the consent authority is satisfied that there is an area of land on the lot that is above flood planning level and is sufficient for the erection of a dwelling house.

The housing lots lie at levels between 25 and 28 metres AHD and thus well above the assessed 1:100 level of 17.2m AHD.

Clause 5.9 Preservation of trees or vegetation

This clause provides basically that no vegetation shall be removed without consent. The land is cleared of native vegetation due to past orcharding practices. No vegetation is required to be removed as a consequence of the subdivision or from subsequent dwelling construction.

Clause 5.10 Heritage conservation

The land, apart from the Public Reserve lot, is contained within a Potential Archaeological Site and Potential Place of Aboriginal Heritage Significance on the LEP - Pitt Town Heritage Map. The land is also partly contained within the Conservation Area (General) on the LEP – Heritage Map.

The LEP heritage clause provides that development consent is required for any of the following:

- (e) erecting a building on land:*
 - (i) on which a heritage item is located or that is within a heritage conservation area, or*

This doesn't strictly apply to a subdivision although obviously the lots will be subsequently developed by the erection of dwellings.

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,

Ditto above comment.

(f) subdividing land:

(i) on which a heritage item is located or that is within a heritage conservation area, or

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

This applies and so development is required for the proposal.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

The subdivision will have no impact on the heritage significance of the site. Subsequent dwelling construction may need to have mechanisms in place for identifying archaeological items etc however the land is zoned for large lot housing and it is expected that there will be housing developed on this land and generally in accordance with the Pitt Town Masterplan.

(5) Heritage assessment

The consent authority may, before granting consent to any development:

(a) on land on which a heritage item is located, or

(b) on land that is within a heritage conservation area, or

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

It is believed that a heritage management plan is not required at this early subdivision stage (if at all). The site has been the subject of previous studies including, inter alia, those relating to heritage matters. The conclusion from these studies was that the land was suitable for large lot residential development. Further comments are provided on this under clause 6.9 heading later in this report.

Clause 5.11 Bush fire hazard reduction

The land is cleared and no vegetation is contained on any lot that would constitute a bushfire hazard.

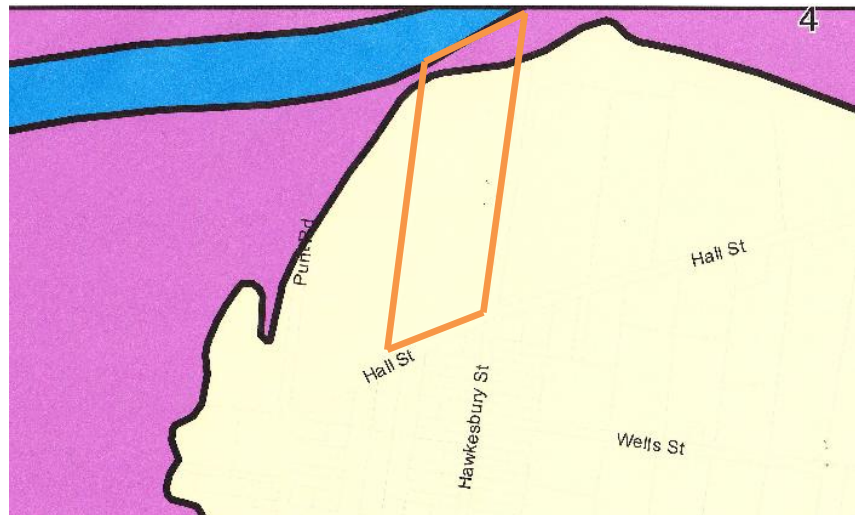
The land is not identified as within a bushfire hazard area on Council's Bushfire Prone Land Map. There is no requirement to refer the proposal to the Rural Fire Service for comment.



Extract from Council's Bushfire Prone Land map. Subject property outlined in blue.

Clause 6.1 Acid sulfate soils

The housing lots are within class 5 on Council's Acid Sulfate Soils Map and the Public Reserve within class 4. Neither of these classes requires any assessment or any works to be done in respect of the subdivision proposal. Depending on future construction on the lots there may be a requirement for further assessment at that time.



Extract from Acid Sulfate Soils Map.

Clause 6.2 Earthworks

There are no specified earth works as a result of the subdivision proposal. The site is relatively level and each lot has easy access to either Hall Street or Hawkesbury Street. There may be a requirement for earthworks for subsequent dwellings however the design of these dwellings is not known at this stage.

Clause 6.3 Flood planning

The Public Reserve lot is flood liable. The assessed 1:100 flood level for the locality is 17.2 metres. Lots 2-9 are well above the 1:100 flood level with levels ranging from 25 metres to approximately 28 metres AHD. Lot 1 has an area of 3.02ha and contains the existing dwelling. Approximately 90% of this lot is above the 1:100 level. The dwelling site is at 25 metres.

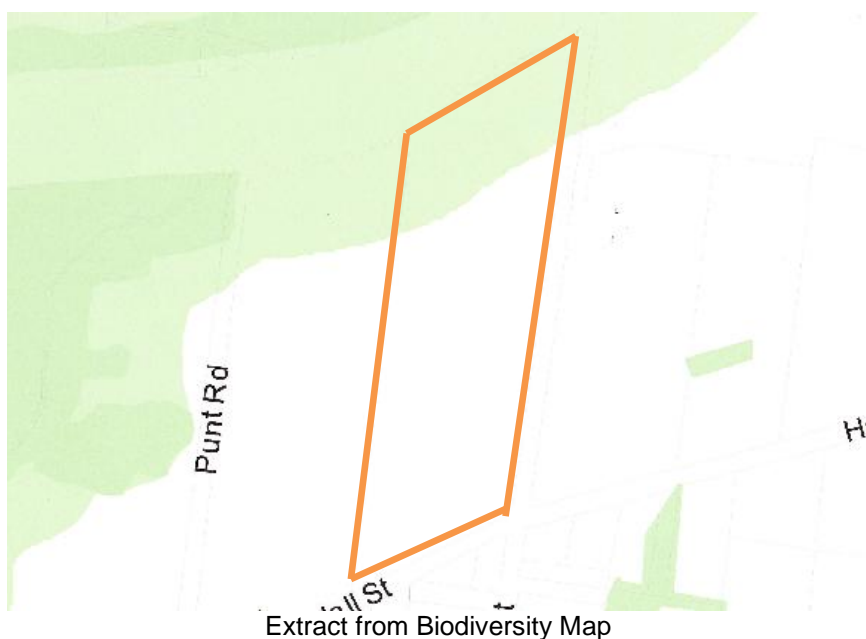
The subdivision complies with the requirements of clause 6.3.

Clause 6.4 Terrestrial biodiversity

- (1) *The objective of this clause is to maintain terrestrial biodiversity by:*
- (a) *protecting native fauna and flora, and*
 - (b) *protecting the ecological processes necessary for their continued existence, and*
 - (c) *encouraging the conservation and recovery of native fauna and flora and their habitats.*

- (2) *This clause applies to land identified as “Significant vegetation” and “Connectivity between significant vegetation” on the [Terrestrial Biodiversity Map](#).*
- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider:*
- (a) *whether the development:*
- (i) *is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) *is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) *has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (iv) *is likely to have any adverse impact on the habitat elements providing connectivity on the land.*
- (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
- (4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

That part of the land that corresponds to the Public Reserve lot is contained within a “connectivity between significant vegetation” area identified on Council’s Biodiversity Map. The proposed housing lots have no affectation. Nothing is required by this clause for this application.



Clause 6.7 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable road access.*

Water, sewer, electricity, telephone and garbage facilities are available to the site. Stormwater for subsequent dwellings is able to be contained on each site. Some detention may be required however would be subject to actual dwelling design on the lots. Road access will be available to each lot and Hawkesbury Street will need partial construction to allow this to take place for some of the lots.

Clause 6.8 Arrangements for designated State public infrastructure

(1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure, before the land to which this clause

applies is subdivided, to satisfy needs that arise from development on the land.

(2) This clause applies to the land identified as “Density Control” on the [Pitt Town Subdivision and Designated State Public Infrastructure Map](#).

(3) This clause does not apply:

(a) unless the subdivision would result in the density controls shown on that map being exceeded, or

(b) if all or any part of the land is in a special contributions area (as defined by section 93C of the Act).

(4) Development consent must not be granted for the subdivision of land to which this clause applies unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that land.

(5) Subclause (4) does not apply to:

(a) any lot identified in the certificate as a residue lot, or

(b) any lot to be created by a subdivision of land that was the subject of a previous development consent granted in accordance with this clause, or

(c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or

(d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.

This clause normally requires that subdivision consent shall not be granted unless the Director-General has certified in writing that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services in relation the land. However Hawkesbury Council’s S94 Contributions Plan 2008 provides the following in relation to certain lands at Pitt Town including the subject land:

“...the commitments made under the voluntary planning agreement are deemed to represent satisfactory arrangements under clause 55...”

Therefore there is no requirement to refer the proposal to the Director-General as any contributions payable etc is provided within the current S94 plan.

Clause 6.9 Additional requirements for subdividing in Pitt Town Heritage Area

(1) This clause applies to land identified as a “Potential archaeological site” or a “Potential place of Aboriginal heritage significance” on the [Pitt Town Heritage Map](#).

(2) Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority has, in addition to any other requirement specified by this Plan:

(a) considered a heritage impact statement that explains how the development will affect the conservation of the site and any relic or Aboriginal object known or reasonably likely to be located at the site, and

*(b) in relation to any potential place of Aboriginal heritage significance—*notified the local Aboriginal communities (in such a way as it thinks appropriate) of the development application and taken into consideration any comments received in response within 21 days after the notice was sent.**

(3) This clause does not apply to the subdivision of land to which clause 5.10 (2) (f) applies.

There has not been a heritage impact statement done for this proposal however this is not considered to be required given previous heritage studies that have been carried out. In the Director-General’s Environmental Assessment Report which is attached to the development application, the DG’s indicates a number of matters to be included in subsequent development of the site. These relate to the lot layout in the first place being generally in accordance with the Masterplan layout and subsequent construction requirements for housing, fencing and provision of services in relation to the conservation areas.

The subdivision has been designed to account for these provisions. Whilst the proposed lot layout is slightly different to that within the Masterplan the avoidance of impact on the conservation areas is not altered. The subdivision lot layout accords generally with the Masterplan and accords with the Lot Size Map of the LEP. The layout also allows the adjoining owner of Lot 11 to subdivide also generally in accordance with the Masterplan and an indicative subdivision layout of Lot 11 is included on the application plan.

There is not believed to be anything further required for the subdivision although it is accepted that subsequent development of each lot will need to account for the heritage and conservation constraints within the DG’s report.



Extract from LEP heritage map

***Sydney Regional Environmental Plan No 20 –
Hawkesbury Nepean River (No 2 - 1997)***

The Regional Plan has a number of general and specific planning heads of consideration for development within its defined area. The subject land is within the REP20 area however the only relevant consideration would be that relating to water and visual quality.

The subdivision will not adversely impact upon water or visual quality on the site and locality and is consistent with development anticipated to take place within the Large Lot Residential Housing zone.

Development Control Plan – Subdivision

Council's Subdivision Chapter within its comprehensive DCP is partially applicable. The subdivision is consistent with the provisions of this chapter. Specifically the following applies:

- The subdivision component of the proposal complies with the LEP provisions.
- The proposal does not impact on any historical subdivision pattern.
- Each housing lot will be connected to reticulated sewer.
- Lot sizes are compatible with the surrounding pattern.
- There will be no impact on native vegetation.
- Matters of visual amenity are satisfactory.
- Each lot has satisfactory access.
- The housing lots are above the 1:100 flood level including access to house sites.
- Stormwater can be contained on each allotment.
- Lot size and shape are satisfactory including adequate solar access.

Matters prescribed by the Regulations

There are no prescribed matters relevant to this application.

The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality

Context & Setting

The subdivision will not be noticeable in the overall context and setting of the locality given the Large Lot Residential housing zone and the anticipated development arising from these zones.

Access, Transport & Traffic

Each lot will have satisfactory access. Traffic generated by future housing is well able to be contained on the local road system. There is a local bus service along Hall Street that connects to Pitt Town and Windsor/McGraths Hill.

Public Domain

The only public domain issue that arises relates to the proposed Public Reserve lot. There is a discrepancy between the Pitt Town Masterplan that indicates this area as Open Space and the LEP maps that do not specifically zone the land as such. The area corresponding to the Public Reserve lot is left in a RU2 Rural

Landscape zone. This is the general rural zone that surrounds the Pitt Town urban area.

The consequence of this anomaly is that there is no mechanism for the acquisition or future use of the Public Reserve land. We are of the view that the Public Reserve land should not be a separate lot and should be included within proposed Lot 1. This is because if included within Lot 1 then the landowner will be able to maintain the site along with Lot 1. If not included then it is presumed that the land will in some way become into Council's ownership with the concomitant costs involved by Council for its maintenance. Additionally we understand that Council is not in a position to use or maintain of additional Public Reserve land in this vicinity.

We suggest that, as stated, the Public Reserve be included within Lot 1 until such time as Council knows what it wants to do with the land. This could be covered by an appropriate condition of consent concerning later acquisition of dedication or, if it comes to pass that Council does not require the land, a formal indication by Council to this effect.

Heritage

As indicated elsewhere in this report there are no identified heritage issues that need to be accounted for within this development proposal at this stage. There may be some requirement at a later stage depending on construction on or near identified conservation areas.

Other Land Resources

There are no land resources that would be affected as a result of the subdivision recognising that the land was a former orchard. The use of this orchard land for housing is inherent in the Large Lot Residential Housing zone in the LEP.

Water

Stormwater is able to be contained on each allotment. Potable reticulated town water is available to each lot.

Soils

There has not been any specific soil analysis done for this proposal although previous studies for the rezoning of the land have identified the land as suitable for housing as designed.

Flora & Fauna

There are no flora/fauna issues relevant to this site or application. No vegetation is to be removed as a consequence of the subdivision. The site is a cleared former orchard area.

Waste

Council's garbage and recycling service is available to the lots. There are no identified waste matters arising from the subdivision.

Social Impact in the Locality

The subdivision will have a positive social impact by providing additional housing opportunities in the locality and by providing recreational space along the River due to the Public Reserve lot.

Economic Impact in the Locality

There will be no adverse economic impacts arising from the development. There will be positive impacts associated with the subdivision due to subsequent house construction expenditure and the multiplier effect in the community due to this expenditure and ongoing expenditure from future residents.

Cumulative Impacts

There are no identified adverse cumulative impacts arising from the proposal other than the realisation that adjoining lands will also be developed in time in accordance with the zone permissibility.

The suitability of the site for the development

The site is suitable for the subdivision as proposed and as indicated in this report.

The public interest

It would be hard to imagine any legitimate negative public interest issues arising from this proposal.

Conclusion

The proposed revised lot layout for Lot 12 in this modification is considered to be generally consistent with the indicative lot layout in the Master Plan. Each lot complies with minimum area requirements and the lots will be flood free and able to be fully serviced.

There are no adverse environmental impacts associated with the proposal which is a result of development generally envisaged by the Pitt Town Master Plan and land assessment leading up to the release of residential land at Pitt Town.

The subdivision is appropriate for the site is consistent with the LEP general and zone objectives, is reasonable in all of the circumstances. The S75 modification application is, therefore, reasonable and is appropriate for approval by DoPI.