



MODIFICATION REQUEST:

One Carrington Street

MP 09_0076 MOD 1

Modification to requirements of the Concept Plan

Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

March 2014

© Crown copyright 2014
Published March 2014
Planning & Infrastructure
www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

TABLE OF CONTENTS

1.	BACKGROUND	2
1.1.	Site Description	2
1.2.	Previous Approval	2
2.	PROPOSED MODIFICATION	3
3.	STATUTORY CONTEXT	3
3.1.	Continuing Operation of Part 3A to Modify Approvals	3
3.2.	Modification of a Minister's Approval	3
3.3.	Environmental Assessment Requirements	3
3.4.	Delegated Authority	4
4.	CONSULTATION AND SUBMISSIONS	4
5.	ASSESSMENT	5
6.	CONCLUSION	9
7.	RECOMMENDATIONS	10
APPENDIX A	MODIFICATION REQUEST	11
APPENDIX B	SUBMISSIONS	12
APPENDIX C	RECOMMENDED MODIFYING INSTRUMENT	13

1. BACKGROUND

The purpose of this report is to assess a request to modify the approved Concept Plan Application (MP 09_0076) for the CityOne development (now known as One Carrington Street) pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* ('the EP&A Act'). The application seeks to amend the Voluntary Planning Agreement (VPA) requirement, Future Environmental Assessment Requirements and Statement of Commitments.

1.1. Site Description

The Concept Plan site is located between George and York Street, Sydney within the core commercial office precinct in the northern part of Sydney's CBD (**Figure 1**). The site, the subject of this application, includes the Wynyard Station entries and concourse area and provides pedestrian access off George and Carrington Street.

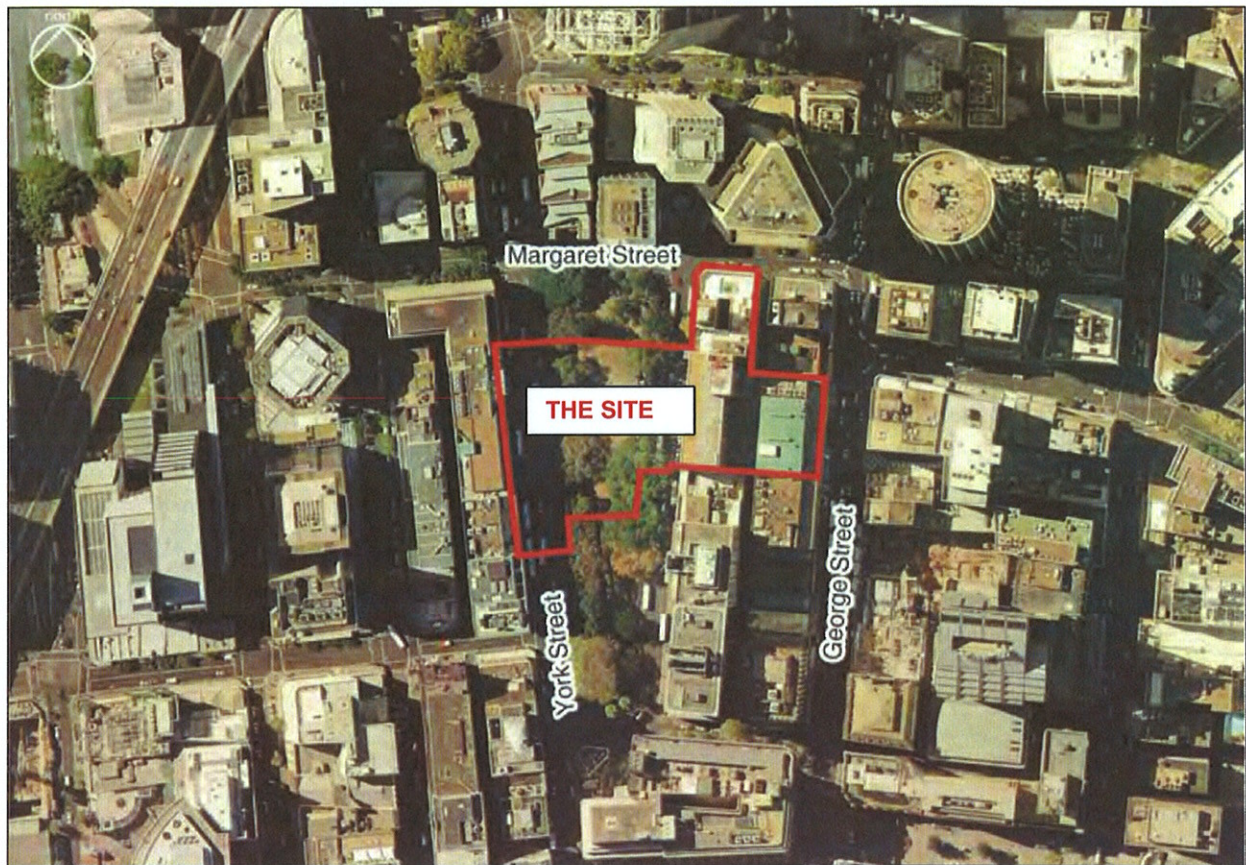


Figure 1 Concept Plan site and existing features shown outlined in red

1.2. Previous Approval

On 3 April 2012, the Planning Assessment Commission (PAC) approved a Concept Plan for the CityOne development, which included:

- upgrade of the eastern access ways to Wynyard Station, including retail areas and concourse layout;
- indicative building envelope to a maximum height to RL 159.7 AHD on the land between Carrington Street and George Street;
- use of the site for a mixed use development including commercial offices, business premises, shops, general retail food and drink premises, health/medical centre, public amenities, transport facilities, and tenant car parking; and
- development of former Shell House including refurbishment for the purpose of commercial and retail use.

2. PROPOSED MODIFICATION

The proponent seeks to modify requirements of the approval that relate to:

- Term of Approval A6 - Voluntary Planning Agreement;
- Future Environmental Assessment Requirement 7 - Workplace Travel Plan;
- Future Environmental Assessment Requirement 10 - Sydney Airport; and
- Statement of Commitments 1.b), 2.d), 9.c) and 16.d) being:
 - Public Benefit - 1.b);
 - Design – Concourse Areas - 2.d);
 - Crime and Safety - 9.c); and
 - Construction - 16.b).

The proponent also seeks to delete the following Statement of Commitments:

- Statement of Commitments 12.c), 12.e), 17.c), being:
 - Traffic, Parking and Servicing - 12.c) and 12.e); and
 - Environmentally Sustainable Development - 17.c).

One of the main purposes of the modification is to amend the timing of the VPA execution to enable the lodgement of a future application to construct the building envisaged under the approved Concept Plan while the VPA is being negotiated with Transport for NSW.

The proposal has taken the form of a number of iterations in response to feedback from key agencies. The critical aspects of the proposal are set out in **Section 5**.

Further details of the proposed modification are provided in **Appendix A**.

3. STATUTORY CONTEXT

3.1. Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the EP&A Act, Section 75W of the EP&A 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 EP&A Act.

3.2. Modification of a Minister's Approval

The modification application has been lodged with the Director-General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including *"revoking or varying a condition of the approval or imposing an additional condition of the approval"*.

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to modify specific requirements of the approved Concept Plan which requires detailed assessment, therefore approval to modify the applications are required.

3.3. Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides that the Director-General may notify the proponent of Director-General's Environmental Assessment Requirements (DGRs) with respect to the

proposed modification that the proponent must comply with before the matter will be considered by the Minister.

No additional environmental assessment requirements were issued with respect to the proposed modifications, as sufficient information was provided to the agency in order to consider the application and the issues raised remain consistent with the key assessment requirements addressed in the original DGRs.

3.4. Delegated Authority

On 14 September 2011, the Minister delegated his functions to senior staff within Planning and Infrastructure to determine Section 75W modification requests to the agency where:

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

City of Sydney Council originally made a submission objecting to parts of the proposed modifications. The proponent has withdrawn these components or modified the application to address Council's concerns. Council has since confirmed that it raises no objections to the application. There has not been a political disclosure statement made for this application and the agency received no public submissions.

Accordingly, the application is able to be determined by the Director of Industry, Key Sites and Social Projects, under delegation.

4. CONSULTATION AND SUBMISSIONS

In accordance with Section 75X of the EP&A Act and clause 8G of the EP&A Regulation, the Director-General is required to make the modification request publicly available. The modification request was made available on the agency's website on 20 September 2013 and referred to City of Sydney Council and Transport for NSW for comment. Due to the nature of the proposed modification, the modification request was not exhibited by any other means.

City of Sydney Council

The City of Sydney Council raised no objections to the modification of the timing of receipt of the Work Place Travel Plan (WPTP) and the Sydney Airport Corporation Approval, while the proposed modification to the VPA timing was considered to be acceptable.

Council however raised objections to aspects of the modifications to the Statement of Commitments, including the modifications to Commitment 2.d), 2.e), 3.d), 6.f), 7.a), 7.b), 9.c) and 22.a). Other modifications to Commitments that were proposed to be deleted were supported.

On 29 November 2013, the proponent submitted a response to Council's submission. The proponent withdrew a number of the proposed modified Commitments that were the cause for Council's objection. Commitments 2.d) and 9.c) were modified to address Council's issues.

Council, upon receipt of the response to submissions document, has confirmed that it raises no objections to the amended application.

Transport for NSW

TfNSW advised that it supports many of the proposed modifications (such as the modifications to the WPTP and the Sydney Airport requirement), however other matters should be addressed as part of negotiations of the Project Development Agreement and therefore proposed changes

to the timing are not supported. TfNSW recommended the inclusion of additional principles to the proposed VPA amendment.

On 20 December 2013, the proponent submitted a response to these comments. This response accepted the TfNSW view regarding the VPA timing and TfNSW's request to add principles into the VPA requirement. The proponent, however, raised concerns with the request to enable the cash contribution to be used by TfNSW's as it determines.

TfNSW responded to the proponent amendments and accepted the amendments, with the exception of the modification to bind TfNSW to limit spending any cash contribution within the Wynyard Precinct. This component was not agreed, on the basis that the allocation of a cash contribution received from the proponent is matter for Government to decide.

Following the receipt of further responses from the proponent and discussion with Planning and Infrastructure, TfNSW has amended its position and accepted that the original Concept Plan Approval indicates that the cash payment be directed towards physical works in Wynyard Park and the Station Precinct.

TfNSW has however commented that the final form and quantum of the public benefits to be made under the VPA, is yet to be finalised and will be discussed further in the Unsolicited Proposal which is currently being negotiated between TfNSW and the proponent.

5. ASSESSMENT

The agency's consideration of the modifications to the approval is provided below:

Modification to timing of the Voluntary Planning Agreement (VPA)

The proponent seeks to modify the timing of the VPA requirement to enable negotiations on the VPA to be carried out, during the assessment of the first application under the Concept Plan Approval. Term of Approval A6 was originally proposed to be modified as follows:

A6 Voluntary Planning Agreement

Prior to the ~~submission~~ of any future development consent becoming operable application pursuant to this Concept Plan, the Proponent shall provide written evidence to the Director-General that it has ~~entered into~~ executed a Voluntary Planning Agreement with Transport for NSW consistent with terms outlined in the PPR, Revised Statement of Commitments and subsequent Commercial Offer dated May 2011 and Supplementary Proposal dated August 2011.

Council commented that its preference is that the VPA conditions would form part of the approval to ensure public benefits are secured prior to determination of an application. Council however noted that the VPA relates to public infrastructure works associated with the entries and transit hall at Wynyard Station, which is dependent on the approval of detailed design for areas east of Carrington Street and west of George Street. Council therefore considered that the modifications to the VPA requirement are acceptable on the basis that they would have minimal impact on the execution of the VPA and delivery of public benefit.

TfNSW initially advised that it did not support the originally proposed changes to the timing of the VPA and also sought additional principles to be included in the VPA agreement.

Following discussions between the proponent, TfNSW and Planning and Infrastructure, the proponent modified the timing of the VPA requirement and incorporated the agreed principles as follows:

Prior to the submission **determination** of any future **Application**, pursuant to this Concept Plan, the Proponent shall provide written evidence to the Director-General that it has entered into **executed** a Voluntary Planning Agreement with Transport for NSW consistent with terms outlined in the PPR, Revised Statement of Commitments and subsequent Commercial Offer dated May 2011 and Supplementary Proposal dated August 2011. **The Voluntary Planning Agreement shall include at a minimum the following principles:**

- **Brookfield is to provide a through-site pedestrian Transit Hall linking George Street to the Wynyard Station concourse in accordance with Item 2 of the Statement of Commitments.**
- **The resolution of the detailed design of the Transit Hall is to be undertaken in consultation with Transport for NSW in accordance with Items 2(c) and 2(d) of the Statement of Commitments.**

The agency notes that the included principles are consistent with the approved Concept Plan, that referenced the Commercial Offer dated May 2011 and Supplementary Proposal dated August 2011. The agency therefore does not raise any concerns with these inclusions.

Noting that TfNSW has now accepted the modifications (as discussed in Section 4), the proposed modification to the VPA requirement is supported as it will enable further discussion between the parties of the VPA and will enable the lodgement of the future application under the Concept Plan without the VPA being entered into.

Modification to Workplace Travel Plan and Sydney Airport requirement

The proponent seeks to modify Future Environmental Assessment Requirement 7 and 10 as follows:

7. Workplace Travel Plan

Any future application for works east of Carrington Street seeking approval for commercial or retail (or similar) floor space shall provide details of a Workplace Travel Plan (WTP) **prior to issue of the relevant Occupation Certificate for that application**, which shall include travel demand management measures aimed at increasing the use of sustainable travel modes.

10. Sydney Airport

Any future application for works east of Carrington Street shall demonstrate **prior to determination, that** all necessary approvals have been obtained from Sydney Airport Corporation Limited and any other relevant government authority in relation to air safety matters.

The proposed modifications to the requirements are considered to be appropriate as the timing of when the documentation is to be provided is consistent with accepted practice and the requirements themselves are maintained. No concerns are raised and the modifications are supported.

Modification of Statement of Commitments

The proponent seeks to modify Statement of Commitments 1.b), 2.d), 9.c) and 16.b) as follows:

1. Public Benefit

Commitment	Timing
1.b) Thakral The proponent will enter into a Project Delivery Agreement with Transport for NSW Rail Corp , relating to the delivery of public infrastructure works on land generally west of Carrington Street.	To be demonstrated prior to a determination of an application the lodgement of the first Project Application for physical works on land generally east of Carrington Street.

The agency notes that the timing of the modified Commitment is consistent with the proposed modifications to Term of Approval A6 – Voluntary Planning Agreement discussed above and is supported. Amendments to the proponent and recognition of TfNSW is supported.

2. Design – Concourse Area

Commitment	Timing
2.d) The future Project Application(s) relating to the detailed design of the eastern access ways The Project Delivery Agreement will include detailed information on proposed materials, fixtures and finishes. Proposed materials, surfaces, lighting etc to be used in the public station accessways will be coordinated with Transport for NSW and where necessary, the City of Sydney Council, to ensure that the Wynyard Precinct reads as a totality.	To be demonstrated as part of the Project Delivery Agreement , with any relevant Project Application relating to works east of Carrington Street.

The agency notes that this modification transfers consideration of this issue from a future application to the Project Delivery Agreement. However, these issues would still need to be assessed through relevant development applications. No concerns are raised with this amendment as the requirement for this matter to be address is maintained and is best discussed between the proponent and Transport for NSW.

9. Crime and Public Safety

Commitment	Timing
9.c) A Crime and Public Safety Management Plan for the non-paid concourse areas owned and leased by the proponent Thakral is to be developed in consultation with Sydney Trains RailCorp and is to provide details with respect to operational management by trained staff and security personnel, regular patrolling of the Thakral leased areas, and installation of CCTV to provide a higher level of security and safety for the area.	To be demonstrated submitted with a letter of support from Sydney Trains to the certifying authority prior to the issue of a Construction Certificate for the non-paid concourse areas , as part of any relevant Project Application.

The agency notes that the amended Commitment endeavours to address matters raised by TfNSW and Council. The agency supports the modified Commitment as it will ensure that the plan need to be supported by Sydney Trains prior to issue of the Construction Certificate.

16. Construction

Commitment	Timing
<p>16.b) The Construction Management Plan will be prepared in consultation with Transport NSW and City of Sydney Council and will include details:</p> <ul style="list-style-type: none"> • in relation to scheduling and staging of demolition and construction works; • on how compliant pedestrian access between George Street and Wynyard Station will be maintained; • on the pedestrian access arrangements during construction works including the appropriate staging, methodology and management requirements to ensure that access to relevant adjoining development is maintained during construction; and • noise and dust management measures. 	<p>To be submitted with any relevant project application.</p>

The agency does not raise any concerns with the proposed amendment on the basis that both Council and TfNSW recognise that compliant access can not be achieved. The Commitment will require the Construction Management Plan to demonstrate how pedestrian access is maintained during construction, through discussion with Council and TfNSW.

Deletion of Statement of Commitments

The proponent seeks to delete Statement of Commitments 12.c), 12.e) and 17.c) on the basis that the Concept Plan Approval includes Modifications (B3 and B4) and Future Environmental Assessment Requirement (No. 8) which supersede these Commitments.

12. Traffic, Parking and Servicing

Commitment	Timing
<p>12.c) 177 existing car spaces within the Wynyard Lane Public Car Park will be decommissioned and no longer available for use as public car parking spaces. The 177 existing public car parking spaces will be for commercial office tenant use.</p>	<p>To be demonstrated with any relevant Project Application for works east of Carrington Street.</p>

Modification B3 requires that a maximum of 81 parking spaces are to be provided on the portion of the site on the eastern side of Carrington Street, with the existing car parking spaces provided in the Wynyard car park remaining for the use as a public car park.

Given the Modification B3 requirement, the Commitment is considered to be obsolete as it would be contrary to the Concept Plan approval. Therefore the agency raises no concerns with its deletion.

12.e) Off street bicycle parking and shower facilities are to be provided within the development in accordance with City of Sydney DCP 1996.	To be demonstrated with any relevant Project Application for works east of Carrington Street.
--	---

Modification B4 requires bicycle parking and end to trip facilities to be provided in accordance with the recommendations of the City One Wynyard – Report in Response to Authority Submissions as submitted in the PPR to the Concept Plan.

Given the Modification B4 requirement ensures an acceptable outcome in this regard, it is considered appropriate to delete the Commitment. Therefore the agency raises no concerns with its deletion.

17. Environmentally Sustainable Development

Commitment	Timing
17.c) The detailed design of the development is to review the sustainability targets for commercial office buildings and retail centres with the aim of maximising sustainability and future flexibility whilst reducing energy use and carbon/CO2 emissions.	To be demonstrated with any Project Application relating to the design of the commercial tower.

Future Environmental Assessment Requirement No. 8 – ESD requires the applicant to incorporate ESD principles as outlined in the Sustainability Report submitted in support of the Concept Plan. It is also noted that Commitment 17.a) requires the detailed design of the commercial office component of the development is to achieve a minimum 5 Green Star rating.

Commitment 17.a) and Future Environmental Assessment Requirement No. 8 ensure that the future application will need to demonstrate that the development achieves an appropriate environmental performance having regard to ESD principles and therefore the deletion of Commitment 17.c) is supported.

6. CONCLUSION

The agency has assessed the application on its merits and the proposed modification is considered to be reasonable. The agency is satisfied that the proposed amended requirements maintain the integrity of the Concept Plan approval. The proposed modifications to the timing of the VPA will enable the lodgement of the State Significant Development application without the need to have the VPA being entered into, which is supported.

Having regard to the above, the agency is satisfied that the proposed modifications are acceptable, subject to the recommended conditions.


7. RECOMMENDATIONS

It is therefore recommended that the Director of Industry, Key Sites and Social Projects, as delegate for the Minister for Planning and Infrastructure:

- **consider** the findings and recommendations of this report;
- **approve** the modification request, subject to conditions; and
- **sign** the attached modifying instrument (**Tag A**).

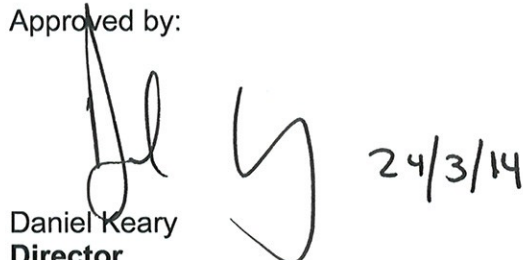
Prepared by: Mark Brown
Senior Planner - Industry, Key Sites and Social Projects

Endorsed by:



Ben Lusher
Manager
Key Sites and Social Projects

Approved by:



Daniel Keary
Director
Industry, Key Sites and Social Projects

APPENDIX A MODIFICATION REQUEST

See the agency's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6138

APPENDIX B SUBMISSIONS

See the agency's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6138

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
