

Application to modify a development consent



NSW GOVERNMENT
Department of Planning

Date lodged: ____/____/____

DA modification no. _____
(Office use only)

1. Before you lodge

This form is to be used for applications to modify Part 4 development consents under section 96 or 96AA of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This form is also to be used for Part 4 development consents that are to be modified under section 75W of the Act.

Disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. For more details, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

Anyone wishing to lodge an application is recommended to call the Department of Planning to discuss their proposal and modification application requirements prior to lodging their application. You can lodge your completed form, together with attachments and fees at the relevant Department of Planning office listed below. Please lodge Part 4 modification applications with the Department of Planning head office or, for modification applications that are within the Kosciuszko ski resorts area, the Department's Alpine Resorts team.

NSW Department of Planning
Head Office
Ground Floor, 23–33 Bridge Street, Sydney NSW 2000
GPO Box 39 Sydney NSW 2001
Phone: 1300 305 695 Fax: (02) 9228 6555
Email: information@planning.nsw.gov.au

NSW Department of Planning
Alpine Resorts Team
Shop 5A, Snowy River Avenue
PO Box 36, Jindabyne NSW 2627
Phone: (02) 6456 1733 Fax: (02) 6456 1736
Email: alpineresorts@planning.nsw.gov.au

To minimise delay in receiving a decision about your application, please ensure you submit all relevant information to the Department. When your application has been assessed, you will receive a notice of determination.

2. Applicant and contact details

Company/organisation/agency

ABN

Australand Corporation (NSW) Pty Ltd

☒ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

Glenn

Family name

Colquhoun

STREET ADDRESS

Unit/street no.

48

Street name

Apollo Drive

Suburb or town

Shell Cove

State

NSW

Postcode

2529

POSTAL ADDRESS (or mark 'as above')

PO Box 4148

Suburb or town

Shellharbour

State

NSW

Postcode

2529

Daytime telephone

02 4297 7364

Fax

Mobile

Email

glenn.colquhoun@frasersproperty.com.au

3. Property description

Unit/street no. (or lot no. for Kosciuszko ski resorts)

Street or property name

Boollwarroo Parade

Suburb, town or locality

Shell Cove

Postcode

2529

Local government area

Shellharbour

Lot/DP or Lot/Section/DP or Lot/Strata no.

Please ensure that you put a slash (/) between lot, section, DP and strata numbers. If you have more than one piece of land, you will need to separate them with a comma e.g. 123/579, 162/2.

8032/1072187

Note: You can find the lot, section, DP or strata number on a map of the land or on the title documents for the land, if title was provided after 30 October 1983. If you have documents older than this, you will need to contact the NSW Department of Lands for updated details. If the subject land is located within the Kosciuszko ski resorts area, DP and strata numbers do not apply.

4. Details of the original development consent

Briefly describe your approved development in the space below. If the development has been modified previously you must list all previous modifications and the relevant determination date(s).

Construction of the Shell Cove Boat Harbour Precinct including residential, commercial, retail, community facilities, hotel, dry boat storage, business park, open space and wetlands.

What was the original development application no.?

MP 07_0027

What was the date consent was granted?

15/02/2011

What was the original application fee?

5. Type of modification

An application under section 96 of the EP&A Act is an application to modify a development consent. Modifications to a development consent can also be made under section 75W of the EP&A Act, or section 96AA for court granted consents.

There are five types of modification applications. Please tick the type of modification application that is being sought:

- ☐ Section 96(1) involving minor error, misdescription or miscalculation.
- ☐ Section 96(1A) involving minimal environmental impact, where the development as originally approved remains substantially the same.
- ☐ Section 96(2) other modification, where the development as originally approved remains substantially the same.
- ☐ Section 96AA modification of consent granted by the Land and Environment Court, where the development as originally approved remains substantially the same.
- ☒ Section 75W modification, involving use of Part 3A processes to modify the Part 4 consent.

Note: If the proposed modification will lead to the consented development being not 'substantially the same' (except in the case of a proposed modification under section 75W) then you will need to submit a new development application.

6. Extent of modification

Will the modified development be substantially the same as the development that was originally approved?

No ☐ Please submit a new development application.

Yes ☐ Please provide evidence that the development will remain substantially the same. (If you need to attach additional pages, please list below the material attached).

Not Applicable

Note: Question 6 does not apply to proposed modifications under section 75W.

7. Description of modification

- In the case of a section 96(1) application, indicate the nature of the minor error, misdescription or miscalculation in the space below.
- In the case of a section 96(1A), section 96(2) or section 96AA application describe the impact of the modification in the space below. A statement of environmental effects will need to accompany the application, which includes an assessment of the development as proposed to be modified in accordance with section 79C(1) of the EP&A Act. Provisions of the *Heritage Act 1977* may also apply for works to a heritage item or works adjoining a heritage item.
- In the case of a section 75W application under clause 8J(8) of the Environmental Planning and Assessment Regulation 2000, a development consent in force immediately before the commencement of Part 3A of the Act may be modified under section 75W as if the consent were an approval under that Part. However, approval from the Minister is required to lodge a section 75W application. **Applicants should contact the Department first if they are considering applying for a modification under section 75W.**

Regardless of the type of modification, please state below the specific conditions of consent to be modified, deleted or additional conditions request, and details of any other changes being sought.

Proposed amendment to the Concept Plan approval for the Shell Cove Boat Harbour Precinct including:

- A refined built form across the entire Boat Harbour Precinct;
- The introduction of a broader range of dwelling types, including additional apartments;
- Amendment to the hotel building, including relocation to the northern edge of the Town Centre; and
- A refined road and block layout.

Note: If your proposal is within Kosciuszko ski resorts area, please attach a copy of the Interim Lease Variation Approval received from the Department of Environment and Climate Change to your application.

8. General terms of approval from State agencies

If the original development application was classified as integrated development and required approval from one or more State agencies, list them in the space below and their respective general terms of approval. Depending on the type of modification, it may be necessary to refer the modification application to the approval body.

9. Number of jobs to be created

Please indicate the number of jobs the proposed development will create. This should be expressed as a proportion of full time jobs over a full year, (e.g. a person employed full time for 6 months would equal 0.5 of a full time equivalent job; six contractors working on and off over 2 weeks equate to 2 people working full time for 2 weeks, which equals approximately 0.08 of an FTE job).

Construction jobs (full time equivalent)

Operational jobs (full time equivalent)

10. Application fee

Part 15 of the Environmental Planning and Assessment Regulation 2000 sets out how to calculate the fees for an application for modification of a development consent. If your development needs to be advertised to the public you may also need to include an advertising fee.

Note: Advertising fees attract GST, all other fees do not.

Please contact the Department in order to calculate the fee for your modification application.

Estimated cost of the development

Original application fee

Total fees lodged

11. Political donation disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. Disclosure statements are to be submitted with your application.

Have you attached a disclosure statement to this application?

Yes ☒

No ☐

Note: For more details about political donation disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

12. Owner's consent

The owner(s) of the land to be developed must sign the application. If you are not the owner of the land, you must have all the owners sign the application. If the land is Crown land, an authorised officer of the NSW Department of Lands must sign the application. **An original signature must be provided.**

As the owner(s) of the above property, I/we consent to this application:

SMITH HARBOUR COUNCIL

[Signature]

Nina Lepouras

PUBLIC OFFICER

Signature

Name

Date

26.5.17

Date

Note: For applications within the Kosciuszko ski resorts area, the approval of the lessee rather than the owner is required.

13. Applicant's signature

The applicant, or the applicant's agent, must sign the application. Only an original signature will be accepted (photocopies or faxed copies will not be accepted).

Signature

[Signature]

Date

14/5/2017

In what capacity are you signing if you are not the applicant

Name, if you are not the applicant

14. Privacy policy

The information you provide in this application will enable the Department, and any relevant state agency, to assess your application under the *Environmental Planning and Assessment Act 1979* and other applicable state legislation. If the information is not provided, your application may not be accepted.

If your application is for designated development or advertised development, it will be made available for public inspection and copying during a submission period. Written notification of the application will also be provided to the neighbourhood. You have the right to access and have corrected any information provided in your application. Please ensure that the information is accurate and advise the Department of any changes.

Political donations disclosure statement



NSW GOVERNMENT
Department of Planning

Office use only:

Date received: ____/____/____

Planning application no. _____

This form may be used to make a political donations disclosure under section 147(3) of the *Environmental Planning Assessment Act 1979* for applications or public submissions to the Minister or the Director-General.

Please read the following information before filling out the Disclosure Statement on pages 3 and 4 of this form. Also refer to the 'Glossary of terms' provided overleaf (for definitions of terms in *italics* below). Once completed, please attach the completed declaration to your planning application or submission.

Explanatory information

Making a planning application or a public submission to the Minister or the Director-General

Under section 147(3) of the Environmental Planning and Assessment Act 1979 ('the Act') a person:

- (a) who makes a *relevant planning application* to the Minister or the Director-General is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by any *person with a financial interest* in the application, or
- (b) who makes a *relevant public submission* to the Minister or the Director-General in relation to the application is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by the person making the submission or any *associate of that person*.

How and when do you make a disclosure?

The disclosure to the Minister or the Director-General of a *reportable political donation* under section 147 of the Act is to be made:

- (a) in, or in a statement accompanying, the relevant planning application or submission if the donation is made before the application or submission is made, or
- (b) if the donation is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation is made.

What information needs to be included in a disclosure?

The information requirements of a disclosure of reportable political donations are outlined in section 147(9) of the Act.

Pages 3 and 4 of this document include a Disclosure Statement Template which outlines the information requirements for disclosures to the Minister or to the Director-General of the Department of Planning.

Note: A separate Disclosure Statement Template is available for disclosures to councils.

Warning: A person is guilty of an offence under section 125 of the *Environmental Planning and Assessment Act 1979* in connection with the obligations under section 147 only if the person fails to make a disclosure of a political donation or gift in accordance with section 147 that the person knows, or ought reasonably to know, was made and is required to be disclosed under section 147.

The maximum penalty for any such offence is the maximum penalty under Part 6 of the *Election Funding and Disclosures Act 1981* for making a false statement in a declaration of disclosures lodged under that Part.

Note: The maximum penalty is currently 200 penalty units (currently \$22,000) or imprisonment for 12 months, or both.

Glossary of terms (under section 147 of the *Environmental Planning and Assessment Act 1979*)

gift means a gift within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981*. Note. A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note: Under section 84(1) of the *Election Funding and Disclosures Act 1981* gift is defined as follows:

gift means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.

local councillor means a councillor (including the mayor) of the council of a local government area.

relevant planning application means:

- a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
 - b) a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
 - c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
 - d) an application for development consent under Part 4 (or for the modification of a development consent), or
 - e) any other application or request under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application,
- but does not include:
- f) an application for (or for the modification of) a complying development certificate, or
 - g) an application or request made by a public authority on its own behalf or made on behalf of a public authority, or
 - h) any other application or request that is excluded from this definition by the regulations.

relevant period is the period commencing 2 years before the application or submission is made and ending when the application is determined.

relevant public submission means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

reportable political donation means a reportable political donation within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981* that is required to be disclosed under that Part. Note. Reportable political donations include those of or above \$1,000.

Note: Under section 86 of the *Election Funding and Disclosures Act 1981* reportable political donation is defined as follows:

86 Meaning of "reportable political donation"

- (1) For the purposes of this Act, a reportable political donation is:
 - (a) in the case of disclosures under this Part by a party, elected member, group or candidate—a political donation of or exceeding \$1,000 made to or for the benefit of the party, elected member, group or candidate, or
 - (b) in the case of disclosures under this Part by a major political donor—a political donation of or exceeding \$1,000:
 - (i) made by the major political donor to or for the benefit of a party, elected member, group or candidate, or
 - (ii) made to the major political donor.
- (2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).
- (3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.
- (4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

a person has a financial interest in a relevant planning application if:

- a) the person is the applicant or the person on whose behalf the application is made, or
- b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it, or
- c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange), or
- d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

persons are associated with each other if:

- a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission), or
- b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
- c) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation, or
- d) they have any other relationship prescribed by the regulations.

If you are required under section 147(3) of the Environmental Planning and Assessment Act 1979 to disclose any political donations (see Page 1 for details), please fill in this form and sign below.

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