



NSW GOVERNMENT

## Department of Planning

Strategic Sites and Urban Renewal, Strategic Assessments

### Planning Assessment Report

#### Application to Modify the Minister's Approval for the Pitt Town Concept Plan

#### Major Project 07\_0140 MOD 1

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## 1 BACKGROUND

The Minister for Planning approved a Concept Plan for the subdivision of Pitt Town on the 10 July 2008 subject to modifications. The approval provided for the subdivision of the site into 659 allotments within five precincts for new residential dwellings and associated recreational facilities and infrastructure services.

On the 14 January 2009 the proponent submitted a modification application under s.75W of the Environmental Planning and Assessment Act 1979 (the Act) seeking approval for changes to the conditions of approval.

The application seeks to modify the Concept Plan approval to correctly describe the property, increase the maximum number of lots in the Thornton Precinct to 72 and 'switch off' the integrated development and threatened species assessment requirements for future Part 4 applications.

The modifications to the property description are administrative in nature and supported. The increase in the number of lots in the Thornton Precinct will ensure the Concept Plan approval is consistent with the adopted Section 94 plan and is also supported. It should be noted that this modification does not increase in the total number of approved lots as three lots have been deleted from the Blighton Precinct for heritage reasons.

The proposed modification to 'switch off' the integrated development provisions for Part 4 applications is unnecessary because Section 75P(2)(b) of the Environmental Planning and Assessment Act already has this effect.

The proposed modification to 'switch off' the threatened species impact assessment provisions for Part 4 applications is not supported because even though there are no known threatened species on the site at present, this may not always be the case and in the event that threatened species (new or existing) were found on the site, an assessment of the potential impacts should be carried out.

## 2 THE PROPOSED MODIFICATIONS

The proposed modifications are as follows:

- modify the property description by removing Lot 1 DP 1057585; Lot 2 DP 1057585; Lot 3 DP 1057585; Lot 4 DP 1057585; Lot 2 DP 555257; Lot 1 DP 808945; Lot 2 DP 808945; Lot 3 DP 808945; Lot 1 DP 551960;
- increase the number of lots in the Thornton Precinct by 3 lots to 72 lots to ensure the Concept Plan approval is consistent with the approved Section 94 Plan;
- switch off the integrated development provisions for future Part 4 applications; and
- switch off the requirement for a threatened species impact assessment for future Part 4 applications.

### 3 ASSESSMENT PROCESS

Section 75W(2) of the Act provides that a proponent may request the Minister to modify his approval of a project. The Minister's approval is not required if the project as modified will be consistent with the original approval.

The proposed modification seeks to change the terms of the Minister's determination through amendments to the conditions of approval. Accordingly, the modification will require approval.

Section 75W(3) of the Act provides the Director-General with scope to issue environmental assessment requirements (DGRs) that must be addressed before the consideration by the Minister or his delegate. DGRs have not been issued for the modification due to the like nature of the modified proposal. It is considered that the impacts arising from the proposed modification are minimal and similar to the original proposal.

Section 75W(4) of the Act gives the Minister the authority to modify the approval (with or without conditions) or disapprove the modification. Following consideration of the proposed modification (see below), the Department recommends the modification be approved.

### 4 CONSULTATION

Pursuant to Section 75X (2)(f) of the Act the Director-General is required to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the Environmental Planning and Assessment Regulation 2000, the request for the modification was placed on the Department's website. Modifications are not required to be publicly exhibited.

### 5 CONSIDERATION

#### Property description

The proponent requests to modify the property description details by removing lots inadvertently listed in the Instrument of Approval. In August 2006 the Pitt Town Investigation area was rezoned by the Hawkesbury LEP Amendment No. 145. The rezoning included land which was not subject to the Concept Plan. As such these lots were unintentionally included in the Instrument of Approval and therefore it is necessary to remove them from the Concept Plan Instrument of Approval.

#### • Additional lots in Thornton Precinct

The Concept Plan approved a total of 659 lots on the site. Modification B3 lists the maximum number of lots permitted within each precinct (69 lots in Thornton) and totals 656 lots. The discrepancy has arisen because the subdivision plan submitted with the Concept Plan for the Thornton Precinct only numbered 69 lots and this was reflected in Modification B3.

The proposed modification is considered acceptable because the adopted Section 94 contributions plan envisaged 72 lots within the Thornton Precinct. It should also be noted that the modification does not result in the total number of lots exceeding 659 as three lots have been deleted from the Blighton Precinct for heritage reasons in accordance with Modification B2. The lot arrangements remain consistent with the Concept Plan approval and there are no additional impacts to the site.

#### Threatened species assessment

During the assessment of the Concept Plan it was determined that there were no listed threatened species on the site. Despite this the proponent has requested a condition in the instrument of approval to state that the *Threatened Species Conservation Act* does not apply to any future Part 4 or Part 5 applications. The proponent has requested this condition to ensure that all future applications carried out in accordance with the Concept Plan approval do not require a threatened species assessment.

There are no known existing threatened species on the site and therefore it is considered unlikely that future Part 4 or Part 5 applications would require any assessment under the *Threatened Species Conservation Act 1995*. However, there is the possibility that threatened species (new or existing)

could populate the site in the future. In particular, areas adjoining the boundary of the Concept Plan do contain threatened species such as *Acacia Pubescence* which could appear on the site in the future. In the event that threatened species were identified on the site in the future and the potential impacts on those species had not been fully considered by the Concept Plan, it would be appropriate to conduct a threatened species impact assessment as part of the Development Application. Whilst this is unlikely it would be inappropriate to 'switch off' the threatened species provisions for future Part 4 applications.

### Integrated development

In giving approval to the Concept Plan, the Minister determined that the remainder of the project be subject to the provisions of Part 4. Section 75P(2)(b) stipulates that *"if the Minister determines that approval to carry out the project or any particular stage of the project is to be subject to the other provisions of this Act, the following provisions apply:... the project or that stage of the project is not integrated development for the purposes of Part 4"*.

Therefore the integrated development provisions do not apply to future Part 4 applications and it is unnecessary to include any additional modifications to this effect.

## **6 CONCLUSION**

In conclusion, the modifications to the Thornton Precinct are acceptable and are consistent with the adopted Section 94 contributions plan. The proposed modifications to switch off the integrated development provisions for Part 4 applications are unnecessary as the Act already does so and to switch off the threatened species assessment requirements could lead to an unacceptable planning outcome should threatened species be identified on the site in the future that were not considered as part of the Concept Plan assessment.

## **7 RECOMMENDATION**

It is recommended that Executive Director of Strategic Sites and Urban Renewal under delegated authority, approve the modifications as detailed in this report and in doing so sign the attached Modification Approval under Section 75W (Modification of Minister's Approval) of Part 3A of the Act (**Tag A**). It is also recommended that the Executive Director of Strategic Sites and Urban Renewal sign the attached letter (**Tag B**).

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