

ASSESSMENT REPORT

THE DAN LAND MP 06_0031 MOD 3

1. INTRODUCTION

This report is an assessment of a request to modify the Concept Plan and Project Approval (MP 06_0031) for a residential subdivision at 290 and 302 Minmi Road, Fletcher in the Newcastle local government area.

The request has been lodged by City Plan Services on behalf of Northwest Residential Pty Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to modify the Concept Plan and Project Application in relation to Stage 10 of the development for:

- conversion of super lots to individual lots; and
- amendments to the subdivision layout and access arrangements.

2. SUBJECT SITE

The subject site is located at 290 and 302 Minmi Road, Fletcher. The site is approximately 14 kilometres north-west of the Newcastle central business district, five kilometres west of Wallsend and two kilometres east of Minmi. The site is commonly referred to as the 'Dan Land' (**Figure 1**).



Figure 1: Site location as shown by red dot (Source: Proponent)

3. APPROVAL HISTORY

On 29 September 2006, then Minister for Planning approved the Dan Land Concept Plan and Project Application (MP 06_0031).

The Concept Approval allowed for subdivision and future construction of 400 residential dwellings and associated services and infrastructure. The approval also includes an environmental protection buffer to the adjoining Hexham wetlands.

The Project Approval comprised a 10 stage subdivision, providing a total of 337 community title lots and associated infrastructure works consistent with the approved Concept Plan. Works on stages 1-9 have commenced and are close to being finalised. Works have not yet commenced on Stage 10.

Stage 10, subject of this modification, comprises 30 residential lots, 8 super lots, an open space lot and a drainage lot. **Figure 2** shows the current approved subdivision layout and staging.



Figure 2: Approved subdivision layout (note: Stage 10 subject of this current modification application in **RED**) (Source: Proponent)

The approval has been modified on two occasions as detailed below.

- Modification 1 amended the staging of the subdivision, the requirement for cycle ways along the site frontage; and incorporation of community facilities within the northern portion of the site. This modification also included a new Condition B10 relating to amended access to Stage 10, which is relevant to the current modification.
- Modification 2 amended the Project Approval to enable the dedication of roads in the subdivision as public roads.

4. PROPOSED MODIFICATION

The Proponent lodged a section 75W modification request (MP 06_0031 MOD 3) seeking approval to modify the approved subdivision layout for Stage 10 of the Dan Land Concept Plan and Project Approval as summarised below:

- replace 8 super lots with 138 residential lots and 2 open space lots;
- increase the total number of lots from 400 to 438 lots across the entire estate;
- provide an amended road layout including direct vehicular access for lots fronting Minmi Road;
- replace the eastern-most vehicular access point to the estate off Minmi Road with a
 pedestrian pathway; and
- provision of a new vehicular access point further west along Minmi Road opposite Highland Way in accordance with Condition B10 (below).

Condition B10 reads:

B10. Stage 10 Road Layout & Design

A Construction Certificate for Stage 10 is not to be issued unless an amended Plan or Proposed Lots, Staging Plan, Landscape Master Plan and Vegetation Management Plan incorporating amendments to the road layout and design in Stage 10 has been submitted to the satisfaction of the Director General.

The amendments are to comprise the following:

- (a) In order to ensure consistency with the approved Concept Plan, provision is to be made for an appropriate road and pathway connection to the residential subdivision approved on Lot 2 in DP 1009255 by Council under DA 97/0555, provided the Director General is satisfied that a corresponding road connection within this subdivision is able to be achieved to the common boundary with Dan Land.
- (b) The eastern most intersection with Minmi Road is to be deleted, with the eastern permitter road within Stage 10 to be redesigned to terminate with a cul-de-sac not closer than 5m from the alignment of Minmi Road. A pedestrian pathway is to be constructed linking the cul-de-sac with the proposed Minmi Road footpath.
- (c) The proposed cul-de-sac opposite Highland Way is to be deleted and the western Perimeter road within Stage 10 to be extended to an intersection with Minmi Road at Highland Way.

The proposed subdivision layout as originally submitted is shown in Figure 3.

The modification is requested on the basis that it would result in a more efficient subdivision layout in response to the existing topography of the site.



Figure 3: Proposed modification as originally submitted (Source: Proponent)

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former Section 75W of the Act.

The Department is satisfied the proposed changes are within the scope of section 75W of the EP&A Act, and the proposal does not constitute a new application.

5.2 Approval Authority

The Minister for Planning is the approval authority for the request. However, the Planning Assessment Commission (the Commission) may determine the application under delegation as Newcastle City Council (Council) objects to the proposed modification.

6. CONSULTATION

The Department made the modification request publicly available on its website, notified adjoining property holders in writing and consulted with Newcastle City Council (Council) and the Rural Fire Service (RFS).

Council objected to the request due to the potential traffic safety impacts associated with lots gaining direct access off Minmi Road. Council also raised concern about:

- the subdivision layout;
- landscape and vegetation management;
- external road and pedestrian connectivity;
- internal road widths;
- bushfire risk;
- proposed land dedication; and
- proposed design guidelines.

RFS did not raise any objections to the proposal.

No **public** submissions were received.

6.2 Response to Submissions and additional information

The Proponent prepared a Response to Submissions (RTS) to address issues raised by the Department and Council and subsequently made the following key amendments to the proposed subdivision:

- reduction in the number of battle-axe lots from nine to three lots;
- provision of combined driveways on Minmi Road;
- provision of a new Internal Loop Road (Road 2);
- provision of a road reserve connection to the adjoining residential subdivision to the north east;
- deletion of a reference to footpath widths for local streets; and
- clarification the Proponent seeks approval to discharge Condition B10.

In addition, the Proponent provided: a Landscape Plan; an Arborist Report; Traffic Impact Assessment Reports; and Urban Design Guidelines to support the proposed modification.

The revised subdivision layout is shown in Figure 4.



Figure 4: Proposed modification (Source: Proponent)

7. ASSESSMENT

The Department considers the key issue associated with the proposed modification is traffic safety and vehicular access.

All other issues are considered in **Table 1** below.

7.1 Traffic safety and vehicular access

The approved subdivision includes three super lots with direct frontage to Minmi Road. Access to these lots is able to be provided from internal roads. The proposal now seeks approval to replace the superlots with individual lots resulting in 33 lots gaining direct access off Minmi Road.

Minmi Road has a sub-arterial function servicing minor collector roads from nearby residential centres. Minmi Road has a 60 km/h speed zone adjacent to the subject development site with speed increasing to 70 km/h to the west of the site. Current peak hour traffic volumes along Minmi Road are up to 800 vehicles per hour with a 4% heavy vehicle component.

To assess the potential traffic impacts associated with the proposal, the Proponent submitted a Traffic Impact Assessment (TIA). The TIA found the proposal would not adversely impact on the operation or amenity of Minmi Road. It also noted crash history does not indicate any significant road safety issues.

Council raised concern regarding traffic safety impacts resulting from lots gaining direct access off Minmi Road. Council also recommended the subdivision be amended so lots facing Minmi Road could gain access from a rear internal laneway, rather than directly off Minmi Road.

The Proponent confirmed it did not wish to amend the subdivision layout to include a rear laneway and sought determination of the proposal based on an assessment of the merits of lots gaining direct access off Minmi Road. The Proponent also submitted a 'Review of Access Issues' addressing Council's concerns, and proposed to combine the driveways servicing lots along Minmi Road, to reduce the total number of driveways and minimise potential traffic conflicts.

The Department engaged an independent traffic consultant (SAMSA Consulting) to review the potential traffic and safety issues associated with the proposal. While the SAMSA Report noted lots fronting Minmi Road would preferably gain access from a rear lane, it supported the proposed subdivision layout noting lots gaining direct access off Minmi Road would not result in any significant safety impacts. The SAMSA Report also included a number of recommended measures to be considered / investigated to further improve traffic safety along Minmi Road. The SAMSA Report was issued to Council and the Proponent for comment.

The Proponent responded to the findings of the SAMSA Report, concurring with some of the report's recommended measures to improve traffic safety, namely provision of a parking lane on the northern side of Minmi Road, a pedestrian crossing along Minmi Road and road safety audits.

Council reviewed the Proponent's 'Review of Access Issues' and the SAMSA Report and maintained its concern about potential conflicts between traffic, pedestrians and cyclists resulting from direct access off Minmi Road, noting the combined driveways along Minmi Road would only marginally mitigate potential traffic conflicts.

The SAMSA Report recommended other measures to improve traffic safety for lots gaining direct access to Minmi Road, including conditioning access movements onto Minmi Road in a forward only direction, and restricting right-turn movements with a central median between Britannia Boulevard and Highland Way. However, both Council and the Proponent raised

concern about the practicality of these recommended measures, and SAMSA concurred, noting the measures were intended for consideration / investigation only, and were not required to achieve an acceptable safety outcome.

On 10 March 2017, SAMSA Consulting provided a final report providing further consideration of the issues raised by Council. The report concluded:

...direct access off the northern side of Minmi Road would not create any significant road safety issues due to the following reasons:

- The road environment along Minmi Road is relatively low speed (60 km/h);
- The relatively low speed environment will be controlled / maintained by the existing and proposed roundabouts along Minmi Road at Brittania Boulevard and Highland Way (respectively);
- The alignment of Minmi Road provides for adequate sight distance in both directions for drivers entering and exiting the proposed driveways;
- Vehicle speeds entering and exiting the driveways are very low and sight distance for path users and drivers is adequate. Drivers entering and exiting properties are required to give way to path users and there is an expectation / familiarity by residents that paths crossing driveways would be used and vice versa for path users; and
- There is existing direct access off the southern side of Minmi Road, which appears to operate satisfactorily and sets a precedent for the local road environment. Direct access is also common in many other suburban areas.

The Department acknowledges Council's concerns, however, based on the findings of the SAMSA Report, the Department is satisfied the proposed access off Minmi Road is acceptable. The Department considers the proposal would not result in any significant traffic safety impacts, particularly given the low speed nature of the road and the traffic calming properties of the existing and proposed roundabouts.

The Department notes the proposal would be consistent with the existing residential development on the southern side of Minmi Road (which also has direct access off Minmi Road) which currently operates satisfactorily, and would contribute to the low speed environment associated with typical suburban developments. The Department also notes Stages 1-9 of the approved subdivision include 23 lots with direct access off Minmi Road.

In addition, the provision of a parking lane (wide shoulder area) along Minmi Road would assist with vehicle's reversing, and minimise adverse safety impacts. The Department also notes potential conflicts between vehicles, pedestrians and cyclists would be minimised by the straight alignment of Minmi Road, which allows for adequate sight distance for drivers entering and exiting driveways.

To further improve road safety, the Department has recommended a condition requiring independent road safety audits be submitted as part of the design finalisation, pre-opening and post-opening phase of the development. The audits would identify any residual road safety issues and require measures to be implemented to ensure they are appropriately addressed.

Council may impose a no parking zone along this section of Minmi Road, and extend the 60km/h speed zone to the west. This, in combination with the proposed roundabout, would further improve traffic safety along this section of Minmi Road.

The Department's assessment concludes the proposed access off Minmi Road is acceptable, and would not result in any significant road safety issues. Multiple traffic assessments have been undertaken, concluding the proposal would not unreasonably compromise the safety of vehicles, cyclists or pedestrians. In addition, the recommended condition requiring road safety audits would further ensure any potential safety issues are identified and appropriately addressed.

7.3 Other Issues

Table 2: Assessment of other issues

Issue	Consideration	Recommendation
Subdivision layout	 The Department raised concern about the proposed subdivision layout, including the number of proposed battle-axe lots, access and general permeability. In response, the Proponent submitted a revised subdivision plan which: reduced the number of battle-axe lots from 9 to 3; revised the internal access arrangements; removed cul-de-sacs; and 	No additional conditions or amendments necessary
	 included a new perimeter road. The Department is satisfied the above changes are acceptable and have improved the layout, permeability and accessibility of the proposed subdivision. 	
Density	 The proposal seeks approval to increase the overall number of residential lots across the site from 400 to 438 with lots ranging in size between 287 sq.m and 1,679 sq.m. The Department notes the majority of the proposed lots (68%) do not comply with the Newcastle Local Environment Plan 2012 (NLEP) which sets a minimum lots size of 400 sq.m. 	No additional conditions or amendments necessary
	 The Department considers the proposed density is acceptable as: it represents a minor 9% increase in the overall approved density across the site; the Concept Plan always envisaged higher densities within Stage 10 (with 250 sq.m townhouse lots); the proposal would improve the mix, type and affordability of housing in the area; Council's recent Planning Strategy encourages small lot housing close to commercial centres, such as the nearby Fletcher shops; 	
	 and the proposal would not result in adverse traffic impacts (as discussed in detail below). The Department also notes Council did not object to the increase in density and supported the provision of smaller lots as they are located close to the commercial centre of Fletcher. The Department's assessment therefore concludes the site is suitable 	
Small lot housing	 for the proposed density and it would not result in any adverse impacts. The proposal seeks approval for small lots which would support a range of different housing types including court yard, premium court yard, traditional, lifestyle and corner houses. Council advised the proposed small lot housing is supported, provided Design Guidelines (guidelines) are prepared to ensure appropriate building outcomes are achieved. In response, the Proponent submitted guidelines setting out controls for future development of the small lots. Council are supportive of the proposed guidelines but raised a number of administrative matters as well as concerns about road widths and the lack of footpaths. Council also raised concern about the garage width for premium court yard lots exceeding 50% of the dwelling façade and therefore being too dominant. In response, the Proponent updated the guidelines to address the administrative issues, reinstate the originally approved road widths and illustrate all proposed garage widths for premium court yard lots. While the garage widths for premium court yard lots would exceed 50% of the dwelling (worst case 64%), the Department is satisfied the garages would not dominate the streetscape as there are only 27 premium court yard lots and garages are required to be setback 1 m behind habitable rooms. Overall, the Department is satisfied the revised guidelines would ensure future development of the small lots achieves an appropriate urban design outcome. 	No additional conditions or amendments necessary
Road and pathway connection to	 Condition B10 (a) requires provision to be made for an appropriate road and pathway connection to the neighbouring residential subdivision (known as the Blue Gum Vista Estate, see Figure 2) provided the Director-General is satisfied a corresponding road connection within 	Condition B10 (a) recommended to l retained, as amended.

Issue	Consideration	Recommendation
Issue adjoining subdivision	 the neighbouring subdivision is able to be achieved to the common boundary with the Dan Land site. The condition was imposed as a part of the Department's assessment of MOD 1 as a road and pathway connection was envisaged as part of the Concept Plan approval and, at the time both Council and the Proponent expressed a desire to realise this connection between the two sites. Council raised concern that the proposed modification did not provide a road and pathway connection to the adjoining subdivision. Council also advised the adjoining subdivision includes an approved road to the boundary of the Dan Land site. In response, the Proponent provided a road reserve to the boundary of its site which is to be dedicated to Council (see Figure 4). The Proponent also advised that constructing a road to the adjoining subdivision would be problematic due to the difficult topography between the two sites. Council requested the Proponent commit to working with the adjoining landowner to construct the road and pathway connection. The Department notes the then Director-General previously confirmed he was satisfied a road connecting the two subdivisions could be achieved and the detailed design and construction responsibility of this road and pathway connection was a matter to be negotiated between Council and the landowners. The Department considers the condition requires the Proponent to construct a road and pathway to the boundary of its site, to connect with the approved road on the adjoining site. The provision of a road reserve does not satisfy this requirement. The Department therefore considers the condition is yet to be satisfied and recommends the condition the teranet way forward to resolve this issue. As a part of its assessment of MOD 1 the Department imposed conditions 10 (b) and (c) requiring the eastern most intersection with Minmi Road to be deleted, and the eastern most intersection with Minmi Road to be deleted and the wasterm per	Recommendation Recommendation The Department considers the proposed modification satisfies Condition B10 (b) and (c) and those parts of the condition can be deleted. The Department has also recommended a new condition regarding the construction of the proposed roundabout.
	• Subject to the recommended condition, the Department considers the requirements of Condition B10 (b) and (c) have been satisfied and the conditions can now be deleted.	
Internal road widths	 The original approval contains a Statement of Commitment (SOC) A 3.1 which specifies the approved road widths for the subdivision. The Proposal seeks approval to amend the road widths outlined in the 	The Department has recommended a new condition requiring amended plans to be

Issue	Consideration	Recommendation
	 SOC as follows: reduce local road widths from 15.5 m to 13.5 m, which would result in reducing the road pavement width from 7.5 m to 5.5 m; and delete a reference to footway widths. Council raised concern about reducing the local road widths as it would potentially result in adverse traffic and amenity impacts. Council also advised it no longer accepts 5.5 m road widths should be 8 m to provide adequate space for on street car parking, traffic movement and garbage collection. Council also raised concern that the reduced road widths may preclude a potential bus route being provided through the subdivision. While the Proponent agreed to update the guidelines (for small lot housing) to refer to the originally approved road widths in the SOC, the Proponent still argues the reduced road widths are acceptable as they meet AMCORD guidelines. The Proponent also expressed concern that maintaining the approved road widths would reduce lot yield and increase road infrastructure costs. The Department notes the SAMSA Report made the following comments with regard to the proposed road widths: although it satisfies AMCORD guidelines, the 5.5 m width barely allows two vehicles to pass and would not be suitable for larger vehicles; and any on-street parking would reduce the carriageway width and therefore, would need to be controlled. The Department notes the road widths specified in the SOC should be retained as it would: be consistent with the earlier stages of the approved subdivision; be more consistent with Counci's DCP requirements; provide space for on street parking and improve traffic flow throughout the subdivision; allow for a potential bus service to be provided through the subdivision; allow for a potential bus service to be provided through the subdivision; be more consistent with the Concept Plan approval; and ensure adequate pedestrian fa	submitted illustrating compliance with the road widths specified in SOC A 3.1.
Traffic generation	 The Proponent submitted a TIA to assess the traffic impacts associated with the additional lots and changes to the road layouts. The TIA concluded the proposed roundabout opposite Highland Way, would operate with spare capacity in both the AM and PM peaks and the proposal would not adversely impact on the operation and amenity of Minmi Road. Council accepts the TIA's conclusions, subject to the proposed roundabout and the extension of the 60km/h zone. The Department considers the proposal would not result in any adverse traffic impacts, noting the proposed roundabout has sufficient capacity to accommodate the traffic generated by the proposal. The Department also notes the 60km/h speed zone may be extended by Council. 	No additional conditions or amendments necessary
Trees and vegetation	 Council raised concern about the impact of the proposal on existing trees along Minmi Road as a result of the proposed lots now having direct frontage to and access from Minmi Road. In response, the Proponent submitted a Landscape Plan, Vegetation Management Plan and Arborist report to support the removal of the existing trees. The Arborist Report found of the 76 trees fronting Minmi Road, two are of high retention value, 51 of moderate value with the remainder low and very low retention value. The report recommended supplementary tree planting be carried out and the protection of trees which are potentially retainable. The Department notes no endangered ecological communities or 	The Department has recommended new conditions requiring compliance with the in the Arborist's Report and requiring street trees to be planted in accordance with Council's requirements.

Issue	Consideration	Recommendation
	 threatened species are located on the land fronting Minmi Road. The Department acknowledges Council's concerns in relation to the loss of trees, however the Department's assessment concludes the proposal is acceptable, subject to the recommendations outlined in the Arborist Report and replacement street tree planting being provided, in accordance with Council's requirements. 	
Section 94 contributions	 Council requested any additional lots be required to pay Section 94 Contributions in accordance with its Western Corridor Section 94 Contribution Plan 2013. The Department considers the payment of Section 94 Contributions for the additional lots in accordance with Council's updated Contributions Plan is reasonable and recommends the conditions be amended accordingly. 	The Department has recommended a modified condition requiring Section 94 Contributions be levied for the additional lots.

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modification is appropriate on the basis that:

- direct access from Minmi Road would not result in any significant traffic safety issues and the recommended safety audits would ensure any residual issues associated with the proposal are appropriately addressed;
- the proposal would not result in any adverse traffic impacts, noting the proposed roundabout would appropriately manage traffic volumes associated with the additional lots;
- the proposed design guidelines will ensure future development on the site achieves a good outcome;
- the removal of trees along Minmi Road is supported, subject to conditions requiring appropriate replanting in accordance with Council's requirements; and
- the Department has recommended the internal road widths remain as originally approved.

Consequently, it is recommended the modification is approvable subject to the recommended conditions.

9. **RECOMMENDATION**

It is RECOMMENDED the Planning Assessment Commission, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report, noting the Department considers the modification request is approvable;
- determines the Proponent's request is a modification under Section 75W of the EP&A Act; and
- if the Commission determines to modify the approval under Section 75W of the EP&A Act, **signs** the Modification of Approval at **Appendix A**.

Anthony Witherdin Director Modification Assessments Anthea Sargeant Executive Director Key Sites and Industry Assessments A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7243

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website, as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7243

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7243

3. Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7243