



**Planning &
Environment**

***MODIFICATION REQUEST:
Bennelong Parkway, Wentworth Point
(MP 09_0160 MOD 3)***

Extension to Concept Approval lapse date



*Secretary's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979*

September 2014

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1. BACKGROUND

The purpose of this report is to determine an application to modify the approved Bay Park Concept Plan Approval (MP 09_0160) for a residential development including, public open space, parking and road works at 23 Bennelong Parkway, Wentworth Point under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Site and Locality

The site is known as 23 Bennelong Parkway, Wentworth Point (Lot 3 in DP 776611 and Lot 22 in DP 104874) located on the Homebush Bay peninsula approximately 19km from the Sydney CBD within the Auburn Local Government Area. This site adjoins Sydney Olympic Park and the Millennium Parklands to the south west, Parramatta River to the north and Homebush Bay to the east (**Figure 1**).

The Sydney Olympic Park Ferry Wharf is approximately 1 km to the north and the site is serviced by a bus route on Hill Road to the north-west which runs between the ferry wharf and Burwood via Newington, Strathfield and Olympic Park Train Station. Wentworth Point is an area in transition, having seen significant transformation since the Olympics from industrial, warehousing and distribution uses to a planned residential neighbourhood.

The approved Homebush Bay Bridge between Wentworth Point and Rhodes will also provide improved access to services, transport and retail facilities in Rhodes, once constructed.



Figure 1: Site Context and Location

1.2 Previous Approvals

On 22 June 2010, the Planning Assessment Commission (PAC) approved a Concept Plan for a residential development, public open space, parking and road works. The approval lapses 5 years

from the date of determination (being 22 June 2015) unless the development has physically commenced. All future stages of the project are subject to separate development applications under Part 4 of the EP&A Act.

On 28 April 2012, Auburn City Council approved a development application on the site (DA-48/2012) for demolition and decommissioning of a fuel storage facility including the backfill of land and remediation works. The applicant was TNT Australia Pty Limited (Junedark Pty Limited) (the current tenant of the site).

At the time of writing this report no physical works have commenced on site pursuant to the Concept Plan. The proponent has advised that the above approved works are a requirement of the current lease arrangements and will only be carried out at the end of the lease period in July 2015.

1.3 Previous Modifications

The Concept Plan has been modified on two separate occasions:

- On 22 December 2010, the department approved a modification (MP 09_0160 MOD 1) to amend the layout and number of units to the development; and
- On 22 July 2013, the department approved a modification (MP 09_0160 MOD 2) to increase the maximum height and density of the development, and increase the on-site car parking.

This subject application is Modification 3 (MP 09_0160 MOD 3).

2. PROPOSED MODIFICATION

The application seeks an extension to the Concept Approval that would lapse 5 years from the date of determination on 22 June 2015, by 3 years to 22 June 2018.

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

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

In accordance with clause 3 of Schedule 6A of the EP&A Act, Section 75W of the 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. Approved projects are transitional Part 3A projects.

Section 75W(2) of the Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project as modified would be consistent with the original approval. As the proposal involves modification to the terms of approval, the application will require the Minister's approval.

3.2 Environmental Assessment Requirements

In this instance, it was not considered necessary to notify the proponent of environmental assessment requirements pursuant to Section 75W (3) of the EP&A Act as sufficient information was provided to assess the modification application.

3.3 Delegated Authority

In accordance with the Minister's delegation of 4 April 2013 the Executive Director, Development Assessment Systems and Approvals may determine the application as:

- the relevant local Council has not made an objection;
- a political donation disclosure statement has been made, but only respect of a previous related application; and

- there are less than 10 public submissions in the nature of objections.

4. CONSULTATION AND SUBMISSIONS

4.1 Notification

In accordance with Section 75X (2) (f) of the EP&A Act, the department is required to make the modification request publicly available. The application was made available on the department's website and was referred to Auburn City Council. Due to the minor nature of the proposal, the modification request was not exhibited by any other means.

4.2 Auburn City Council

Council does not object to the proposed modification to extend the lapsing date of the approval.

5. ASSESSMENT

The Concept Approval granted by the PAC on 22 June 2010 would lapse 5 years from the date of determination (22 June 2015), unless development has physically commenced on the site.

The proponent has not physically commenced the development. The site is currently leased to TNT (Jundedark Pty Limited) until 31 July 2015, which prevents the proponent being able to physically commence works on the site. The proponent considers it is not in a position to direct the lessee to allow them to commence physical works until after the termination date, by which time the approval would have lapsed.

In this regard, the proposal seeks approval for a 3 year extension to the lapsing date from 22 June 2015 to 22 June 2018. The extension of time would also allow for:

- sufficient time to ensure consultants can be engaged to prepare quality design schemes consistent with the Concept Plan Approval;
- preparation for project development and construction;
- adequate timeframes for lodgement and approval of the required development application;
- satisfaction of post consent conditions to allow release of relevant Construction Certificates;
- marketing and pre-sales of the project to occur to achieve construction finance; and
- provide a better outcome for the public with a variety of housing options.

Section 75Y of the EP&A Act outlines that a condition may be modified to extend the 5 year lapsing period, provided that the Minister reviews the approval before extending the lapsing period.

The department considers it appropriate to extend the approval lapse date as the site will continue to remain suitable for the type of development that was originally assessed and approved in the Concept Plan. The Concept Approval remains consistent with the desired future character and land use of the Wentworth Point precinct. The proposed modification will not alter the overall nature of the approved Concept Plan as it will continue to achieve the same objectives assessed in the original development for residential purposes and public open spaces. The department considers that no other modifications are required.

Having reviewed the requirements under Section 75Y and given the above, the department considers the request for modification is acceptable.

In order to facilitate the proposed modification, the department recommends that a new Term of Approval A7 be imposed to provide a revised lapse date of 22 June 2018, as outlined in **Appendix C**.

6. CONCLUSION AND RECOMMENDATIONS

The department has assessed the application on its merits and is satisfied that it is appropriate to extend the approval lapse date by 3 years from 22 June 2015 to 22 June 2018.

The proposed modification is considered reasonable and will result in no environmental impacts beyond those assessed in the approved Bay Park Concept Plan. The extension to the lapsing date will allow the proponent additional time to obtain development approval from Auburn Council and commence construction of the development as envisaged in the Concept Approval. On this basis the modification is supported.

It is recommended that the Executive Director, Development Assessment Systems and Approvals, as delegate for the Minister for Planning:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification subject to the terms of approval under Section 75W of the *Environmental Planning and Assessment Act 1970*; and
- (c) **sign** the attached Instrument of Modification (**Appendix C**)

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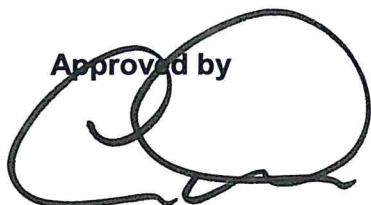
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APPENDIX A MODIFICATION REQUEST

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6598

APPENDIX B SUBMISSIONS

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6598

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
