

15 May 2017

Carolyn McNally  
Secretary  
Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

Attention: Robert Byrne

Our ref: CAR36417989

Dear Ms McNally

**Application for Modification of Concept Plan Approval MP09\_0131 pursuant to section 75W of Environmental Planning & Assessment Act 1979**

We act on behalf of Bridgehill (Tallawarra) Pty Ltd, which has entered into a Put and Call Option with EnergyAustralia Tallawarra Pty Ltd (formerly known as TRUenergy Tallawarra Pty Ltd) for the purchase of the Northern Superlot, Central Superlot 1 and the Tourism Lot, being part of the land within the above Concept Plan Approval.

**Background**

Our client entered into the Put and Call Option on 24 January 2017. The site was subject to a Concept Plan (MP09\_0131) approved by the Planning Assessment Commission on 23 May 2013.

We understand that land comprising the former 565 hectare power station site underwent a process of rezoning and master planning, through the Concept Plan, essentially as a strategy to divest surplus land, with the modern gas fired Tallawarra power station only requiring some 150 hectares including its buffer land.

Our client is keen to purchase all of the land covered by the Concept Plan, but at this stage EnergyAustralia Tallawarra is reluctant to part with the Southern superlot due to concerns as to its prior use as an ash dam. Our client has secured a first right of refusal in relation to the Southern superlot but for current purposes must plan its future development without this part of the land, as EnergyAustralia Tallawarra has no current plans to sell.

Our client brings its considerable residential development experience to the task of turning the remainder of the developable land into a vibrant new residential community.

As a residential developer with a deep understanding of the market and experience in creating desirable places to live, our client has its own particular vision for the site which differs slightly from approved Concept Plan. To this end, our client has commenced the process of seeking a modification of the Concept Plan and Secretary's Environmental Assessment Requirements (SEARs) were issued on 23 January 2017. Our client is currently in the process of preparing the necessary information to address the SEARs, which is expected to take several months.

MP09\_031 MOD 1 (as it is currently known) proposes to change the land use and superlot boundaries under the Concept Plan and to increase the total number of residential lots.

### **Lapsing condition on Concept Plan Approval**

Condition A4 of the Concept Plan Approval provides:

*Approval of the Concept Plan shall lapse 5 years after the determination date shown on this Instrument of Approval, unless a Development Application is submitted to Council for approval to carry out all or part of the project the subject of this Concept Plan Approval.*

Condition A6 states:

*The first future application must be an application to Council for superlot subdivision of the entire site and is to be generally in accordance with the land use boundaries provided in the Concept Plan. In addition to other requirement of the Terms of Approval, this application must identify the sequential staging of the Concept Plan.*

The combined effect of the two conditions is that the Concept Plan Approval will lapse on 23 May 2018 unless a development application has been lodged with Council before that time for a superlot subdivision along the land use boundaries approved on the Concept Plan.

Having regard to the Future Environmental Assessment Requirements in Schedule 3, there is significant work involved in preparing this first application and it is likely to take several months.

Our client is reluctant to incur the substantial costs that would be associated with the preparation of this development application in circumstances where it is currently pursuing a section 75W application to modify the land use boundaries, which has the potential to amend the scope of the studies associated with this development application.

The landowner, EnergyAustralia Tallawarra Pty Ltd, is happy to let our client attempt to secure approval for its vision for the site, but is concerned about the risk of the Concept Plan Approval lapsing while MOD 1 (as it is currently known) is being pursued. For this reason, the parties have agreed that an application to modify condition A4 should be made.

We ask that condition A4 be amended as follows:

*Approval of the Concept Plan shall lapse ~~5~~ **8** years after the determination date shown on this Instrument of Approval, unless a Development Application is submitted to Council for approval to carry out all or part of the project the subject of this Concept Plan Approval.*

This would extend the lapsing date to 23 May 2021, 22 months after the sunset date of the Put and Call Option. This extension of the lapsing date would provide Bridgehill with an opportunity to realise its vision for the Northern and Central superlots, and tourism lot, while affording the landowner sufficient protection against the risk that the Concept Plan Approval may lapse in the meantime.

Please contact me if you have any questions or require any additional information in support of our client's application.

Yours sincerely



Christina Renner  
**Partner**  
Dentons Australia