

ASSESSMENT REPORT

TALLAWARRA LANDS (MP 09_0131 MOD 2)

1. INTRODUCTION

This report is an assessment of a request to modify the Concept Plan (MP 09_0131) for a mixed-use development at the Tallawarra Lands, Yallah, in the Wollongong local government area.

The request has been lodged by Dentons Australia, on behalf of Bridgehill (Tallawarra) Pty Ltd (the Proponent), pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to extend the lapse date of the Concept Plan approval by three years.

2. SUBJECT SITE

The subject site is located on the western foreshore of Lake Illawarra in the suburb of Yallah, approximately 13 kilometres (km) south-west of Wollongong. The site is commonly known as the Tallawarra Lands and comprises approximately 536 hectares of land that was previously used as a buffer zone to the former Tallawarra coal-fired power station (refer to **Figures 1 and 2**).



Figure 1: Site location (Base source: Nearmap)

The topography of the site comprises a mixture of steep ridges, undulating to flat land and low-lying flood affected wetland areas. The site includes Duck Creek and critical habitat for threatened species and endangered ecological communities.

The western boundary of the site adjoins the Princes Highway / Princes Motorway and the southern rail corridor. The eastern boundary adjoins the new Tallawarra Gas Turbine Power Station and Lake Illawarra. To the north of the site are the residential areas of Dapto and Koonawarra and to the south is Haywards Bay. The residential development in those suburbs is characterised by low density

detached housing with building heights up to two storeys. It is noted the Tallawarra Gas Turbine Power Station was approved in 2010 on land previously used for a coal-fired power station which was decommissioned in 1989.



Figure 2: Aerial view of the site and its surroundings (Base source: Nearmap)

3. APPROVAL HISTORY

On 23 May 2013, the Planning Assessment Commission (the Commission), as delegate of the then Minister for Planning, approved a Concept Plan (MP 09_0131) for a mixed-use development (the Concept Approval), including:

- residential, commercial, industrial and retail development
- public open space areas
- new recreational facilities
- environmental management
- conservation areas
- riparian corridors.

The Concept Approval layout is shown at **Figure 3**.

In approving the Concept Approval, the Commission imposed conditions A4 and A6 which stipulate:

A4 Lapsing of Approval

Approval of the Concept Plan shall lapse 5 years after the determination date shown on this Instrument of Approval (being 23 May 2018), 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

A6 First Future Application

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.



Figure 3 The Concept Approval layout (Source: MP 09_0131)

On 8 November 2016, the Proponent lodged a request for Secretary's Environmental Requirements (SEARs) for a modification to the Concept Approval (MP 09_0131 MOD 1), including:

- amendment to the residential superlot boundaries of the Northern and Central Precincts
- an increase of 470 residential lots (from 1,010 to 1,480 lots).

On 23 January 2017, the Secretary issued SEARs. At the time of the writing of this report, the Proponent had not lodged a modification request in response to these SEARs.

4. PROPOSED MODIFICATION

On 15 May 2017, the Proponent lodged a section 75W modification request (MP 09_0131 MOD 2) seeking approval to amend the approval to extend the lapse date of the Concept Approval by three years (to 23 May 2021).

The Proponent states the extension of the lapsing date is required to allow sufficient time for the separate modification request to be assessed and determined, and then to subsequently submit a development application to Wollongong City Council.

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the 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.

As the proposal does not change any aspect of the development other than the lapse date, 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 Section 75Y

Former section 75Y of the EP&A Act provides that a condition specifying a lapsing date on an approval may be modified to extend the lapsing period, and the Minister is to review the approval before extending the lapsing period. The Department has therefore reviewed the original approval, as discussed in **Section 7** of this report.

5.3 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Acting Executive Director, Key Sites and Industry Assessments, may determine the application under delegation as:

- the relevant local council has not made an objection
- a political disclosure statement has been made in relation to a previous related application
- there are no public submissions in the nature of objections.

6. CONSULTATION

6.1 Consultation

The Department made the modification request publicly available on its website and referred the request to Wollongong City Council (Council), Shellharbour City Council, Roads and Maritime Services (RMS), and the Department of Industry (DoI) for comment. Letters about the proposed modification were also sent to adjoining owners/occupiers.

Wollongong City Council did not object to the modification and provided no comments.

Shellharbour City Council did not make a submission on the proposal.

RMS did not make a submission on the proposal.

DoI did not object to the modification and provided no comments.

There were no **public** submissions received on the proposal.

7. ASSESSMENT

Section 75Y of the EP&A Act outlines that the Minister may modify the lapsing period of an approval granted under Part 3A of the EP&A Act, subject to a review of the approval before extending the lapsing period.

The Department has reviewed the original approval and is satisfied there are no circumstances which have materially changed since the approval that would result in a different determination of the application today. In particular:

- *The strategic planning context of the site has not materially changed:*

The original application was considered against the Wollongong Local Environmental Plan (WLEP) 2009 and the Department notes the WLEP 2009 has been amended since the approval of the Concept Approval. The Department has reviewed those amendments and is satisfied they do not affect the Concept Approval or change the Department's original assessment. In addition, the Department notes the Concept Approval is consistent with the recently adopted *Illawarra-Shoalhaven Regional Strategy* which highlights the site as a Regionally Significant Urban Release Area. The Department is therefore satisfied the development remains consistent with the strategic planning context for the site.

- *The physical context of the site has not materially changed:*

There have been no substantial changes to the site's physical surroundings. It is noted lands to the north and south of the site have been subdivided for residential development. However, this does not affect the Department's assessment of the Concept Approval.

- *No changes are proposed to the development itself:*

The only aspect of the proposal to be modified as part of this request is the lapsing date under condition A4. The current modification request does not seek to modify any other aspect of the development which would change the environmental impacts associated with the development. The Proponent intends to submit a separate modification request to amend the size of the superlots and increase the number of residential lots. Any such proposal would be appropriately notified and assessed on its merits.

- *The Department's assessment remains valid:*

The Department has reviewed the original assessment and is satisfied the assessment remains valid and no aspects of this assessment have changed since the time of the original determination.

The Department is therefore satisfied an extension to the lapsing period would not result in any change to the Department's original assessment, or any additional environmental impacts, beyond those already assessed and approved.

The Department considers an extension to the lapse date by three years (to 23 May 2021) is acceptable as the site remains suitable for the approved development and is consistent with the strategic planning context for the site. Furthermore, the proposed modification would not alter the overall nature of the Concept Approval and it would continue to achieve the same objectives for the site. In addition, the local councils did not object to the proposal and there were no public submissions received.

8. CONCLUSION

The Department has assessed the modification request 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 the extension of time is consistent with section 75Y, would not result in any adverse impacts and does not alter the original Concept Approval.

The Department also notes the proposal remains consistent with the strategic planning framework for the site and would play an important role in meeting the housing supply needs of the Illawarra. In addition, no objections to the proposal were received.

Consequently, it is recommended the modification be approved subject to the modification of condition A4.

9. RECOMMENDATION

It is RECOMMENDED that the Acting Executive Director, Key Sites and Industry Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **approves** the application under section 75W, subject to conditions
- **signs** the notice of modification (**Appendix A**).

Prepared by:
Matthew Rosel
Consultant Planner



Natasha Harras
Acting Director
Modification Assessments



Mike Young
Acting Executive Director
Key Sites & Industry Assessments

1/8/17

Endorsed.

APPENDIX A: NOTICE OF MODIFICATION

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=8466

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=8466

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8466