

Request to modify a major project



NSW GOVERNMENT
Department of Planning

Date duly made: ____/____/____

Modification No. _____

1. Before you lodge

This form is required under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act) in order to request the Minister to modify the Minister's approval to carry out a project or concept plan to which Part 3A of the Act applies.

Before making this request, it is recommended that you first consult with the Department of Planning (the Department) concerning your modification. The Director-General may issue environmental assessment requirements that must be complied with before your request will be considered by the Minister. If the changes proposed by the modification will result in a project that is consistent with the existing approval, the Minister's approval for a modification is not required.

Disclosure Statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Note: For more details about political donations disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

All modification requests must be lodged with the Director-General of the Department of Planning, by courier or mail. An electronic copy should also be e-mailed to the assessment contact officer assigned to the project.

NSW Department of Planning
Ground floor, 23-33 Bridge Street, SYDNEY NSW 2000
GPO Box 39 SYDNEY NSW 2001
Phone 1300 305 695

2. Details of the proponent

Company/organisation/agency

EDEN RESORT HOTEL Pty. Ltd

ABN

59091363165

☒ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

HEINRICH

Family name

RUIZ de ROXAS

Position

DIRECTOR

STREET ADDRESS

Unit/street no.

SUITE 600

Street name

72, LIVERPOOL ST. c/o RADIKNOX

Suburb or town

SYDNEY

State

NSW

Postcode

2000

POSTAL ADDRESS (or mark 'as above')

as above

Suburb or town

State

Postcode

Daytime telephone

02/8268 9068

Fax

Mobile

0425/2656 86

Email

radiknox@bigpond.com

R. Roxas

3. Identify the land

STREET ADDRESS (where relevant)

Unit/street no.

Street or property name

CATTLE BAY ROAD, BASS ST, CHANNO ST, BAY ST, TWO KOLA CT.

Suburb, town or locality

EDEN

Postcode

Local government area(s)

BEGA VALLEY SHIRE

State Electorate(s)

BEGA

REAL PROPERTY DESCRIPTION

LOTS 3 TO 5, 8, 9, 13, 16 and 17 Sec 15, DP 758379. LOT 1 DP 221120;
LOTS 1 & 2 DP 249511; LOTS 11 to 14 DP 707599; LOT 1 Sec 12 DP 758379; LOT 8 DP 63315;
LOTS 2, 3 & 18 SEC 14 DP 758379; LOTS 1 & 15 DP 227822; LOT 1 DP 660623; LOT 117 DP 750205.

Note: The real property description is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Lands.

Please ensure that you place a slash (/) to distinguish between the lot, section, DP and strata numbers. If the proposed modification applies to more than one piece of land, please use a comma to distinguish between each real property description.

OR: detailed description of land attached: ☐

MAP: A map of the site and locality should also be submitted with this request.

4. Details of the original major project or concept plan

Briefly describe what the original approval allows

MIXED RESIDENTIAL & TOURIST DEVELOPMENT

What was the original project application no.?

05-0032

What was the date of the approval?

22 August 2008

What was the original application fee?

\$64,065.00

Note: Clause 245K of the *Environmental Planning and Assessment Regulation 2000* provides information on calculating the maximum fee for a request for modification.

5. Describe the modification you propose to make to the approval

Describe the proposed modification

MODIFICATION TO THE TERMS OF THE LAPSING OF
APPROVAL IN SCHEDULE 1

Your modification request may need to be accompanied by an Environmental Assessment, including plans. An electronic and hard copy of this document will be required.

ESTIMATED CAPITAL INVESTMENT VALUE

Please indicate the estimated capital investment value (CIV) of the modification to the project approval or concept plan (excluding GST).

\$ NIL

FULL TIME EQUIVALENT JOBS

Please indicate the number of jobs created by the proposed modification. This should be expressed as a proportion of full time equivalent (FTE) jobs over a full year.

Construction jobs (FTE)

N/A

Operational jobs (FTE)

N/A

6. Landowner's consent (where required)

As the owner(s) of the above property, I/we consent to this request being made by the proponent:

Land

Eden Resort Hotel Pty Ltd

Signature

H. Ruiz de Roxas

Name

HEINRICH RUIZ DE ROXAS

Date

24/8/11

Land

Signature

Name

Date

Note: Under Clause 8F of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), certain applications for approval under Part 3A of the Act do not require consent of the landowner, however, the proponent is required to give notice of the application (e.g. linear infrastructure, mining & petroleum projects, and critical infrastructure).

7. Political donation disclosure statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Have you attached a disclosure statement to this request?

☐ Yes

☒ No

Note: For more details about political donations disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

8. Proponent's signature

As the proponent(s) of the project and in signing below, I/we hereby:

- provide a description of the modification to the project approval or concept plan and address all matters required by the Director-General pursuant to Section 75W of the Act, and
- declare that all information contained within this form is accurate at the time of signing.

Signature

H. Ruiz de Roxas

Name

HEINRICH RUIZ DE ROXAS

Date

24/8/11

In what capacity are you signing if you are not the proponent

DIRECTOR

Name, if you are not the proponent

N/A

07380
24 August 2011

Director-General
Department of Planning
GPO Box 39
SYDNEY NSW 2000

Attention: Michael Woodland / Mark Schofield

Dear Sir

**RE: REQUEST FOR S.75W MODIFICATION OF PART 3A CONCEPT PLAN APPROVAL
(NO.MP 05_0032) FOR CATTLE BAY, EDEN**

This request for a modification to the Part 3A Concept Plan Approval (MP05_0032) for Cattle Bay in Eden is submitted under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). We are writing on behalf of the applicant, Eden Resort Hotel Pty Ltd, to request the modification in order to clarify the terms relating to the lapsing of the Approval as described below.

**1.0 PART 3A CONCEPT PLAN APPROVAL (MP05_0032) FOR CATTLE BAY –
LAPSING OF APPROVAL**

The Part 3A Concept Plan Approval for Cattle Bay (MP05_0032) states the following in Schedule 1 in relation to the lapsing of the approval:

"Date approval is liable to lapse: 5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the Act."

The date of determination of the Part 3A Concept Plan Approval is 22 August 2008, and the date the approval is liable to lapse is 22 August 2013.

Section 75Y of the EP&A Act states the following:

"75Y Lapsing of approvals

(1) An approval under this Part may be subject to a condition that it lapses on a specified date unless specified action with respect to the approval has been taken (such as the commencement of work on the project or the submission of an application for approval to carry out a project for which concept approval has been given)."

The wording in the Part 3A Concept Plan Approval quoted above is unclear and open to interpretation as to what is the specified action that can be taken to prevent the approval from lapsing.

2.0 PROPOSED MODIFICATION

We request a modification to the terms in Schedule 1 of the Part 3A Concept Plan Approval for Cattle Bay to give greater clarity and certainty in the specified action that can be taken to activate and prevent the lapsing of the Approval. We request that the relevant part of Schedule 1 be modified to read as follows in accordance with Section 75Y of the EP&A Act:

"Date approval is liable to lapse: 5 years from the date of determination unless a project application or development application has been lodged to carry out the project or a part of the project for which this concept plan approval has been given."

3.0 ASSESSMENT AND CONCLUSION

The proposed modification clarifies the terms of the lapsing of the Part 3A Concept Plan Approval for Cattle Bay in accordance with Section 75Y of the EP&A Act. It is a relatively minor modification that does not raise any further environmental planning assessment issues and does not warrant any further advertising, notification or exhibition for public comment.

We trust this request for a modification can be processed promptly to clarify the terms of the lapsing of the Part 3A Concept Plan Approval for Cattle Bay. If you have any queries or would like to discuss this matter further, please do not hesitate to contact me on Ph.9409 4914 or awilson@jbaplanning.com.au.

Yours sincerely



Andrew Wilson
Associate