

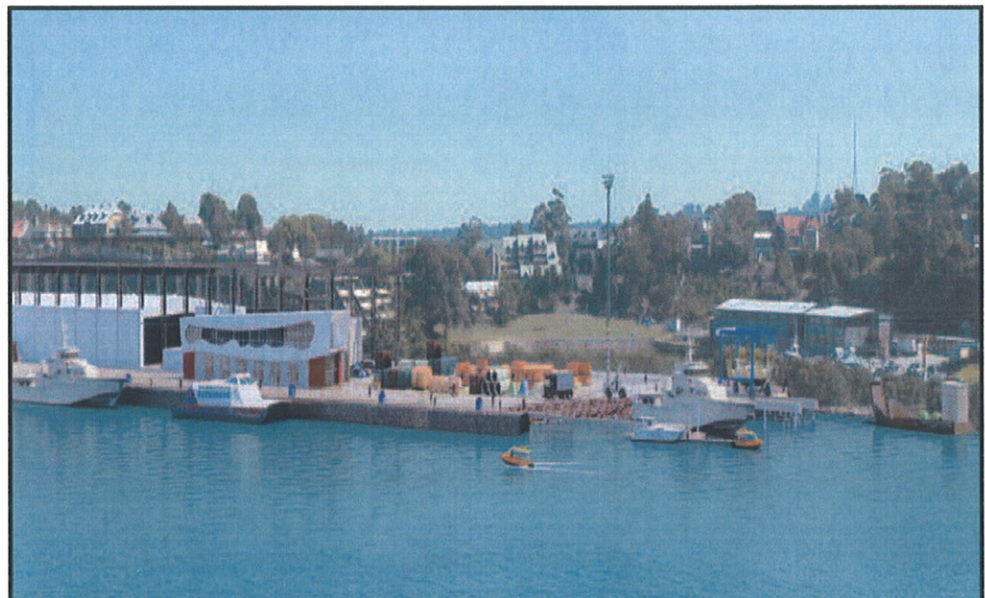


SECTION 75W MODIFICATION (MOD 2), BAILEY'S MARINE REFUELLING & SUPPLY FACILITY, BERTH 6, WHITE BAY, BALMAIN

MP 06_0037 (MOD 2)

Modification of Minister's Approval under section 75W of the *Environmental Planning and Assessment Act 1979*

October 2009



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1. SECTION 75W MODIFICATION

This is a report on an application (MP06_0037 MOD 2) seeking to modify the Project Approval for the construction and operation of a marine refuelling and supply facility (MRSF) at Berth 6, White Bay, Balmain (Lots 1 & 3).

1.1 MAJOR PROJECT APPLICATION

Project Application MP 06_0037 was approved by the Minister for Planning on 12 June 2009 and comprised the following:

- Development of the site for a 2 storey marine office building and single storey bulk storage building;
- Piling for boardwalk, floating pontoons, roll on roll off ramp and travel lift ramp;
- Demolition of existing concrete slabs and minor excavation;
- Excavation for four underground fuel tanks with a storage capacity of 110,000 litres each (385,000 litres of diesel and 55,000 litres of unleaded petrol);
- Installation of 5 refuelling dispensers along southern wharf and 3 on floating pontoon;
- Construction of roll on roll off ramp, travel lift ramp, wooden jetty, boardwalk and 3 temporary moorings;
- Mooring of steel pontoon attached to existing concrete dolphin; and
- Car parking for 30 vehicles.

1.2 PREVIOUS MODIFICATIONS

There has been one previous modification made to the Project Approval which was approved on 14 September 2009 by the Executive Director, Major DA Assessments, as delegate of the Minister for Planning, under the Instrument of Delegation dated 4 March 2009, under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The modification of the Project Approval included the following:

- Amendments to the wording of Conditions F1 and F2 which rectified a typological error relating to noise limit heading criteria. The conditions now refer to the correct criteria as $L_{A1}(1 \text{ Minute})$.
- An amendment to the proponent's trading name in Schedule 1. The name 'Bailey's Marine Fuels Pty Ltd' was replaced with 'Graham Bailey Pty Ltd trading as Baileys Marine Fuels Australia'.

1.3 PROPOSED MODIFICATION

The proponent seeks to amend the approval to delete Condition A4 – Lease Renewal and replace with a condition for a time limited approval that allows the development to be undertaken to 31 December 2020, as set out in Section 3.

2. STATUTORY CONTEXT

2.1 MODIFICATION OF A MINISTER'S APPROVAL

The modification application has been lodged with the Director General pursuant to section 75W of the EP&A Act. Section 75W provides for the modification of a Minister's approval including "revoking or varying a condition of the approval or imposing an additional condition of the approval".

2.2 ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGR'S)

It is considered unnecessary to notify the proponent of environmental assessment requirements, pursuant to section 75W(3) of the EP&A Act with respect to the proposed modification, as sufficient information was provided to the Department to consider the application, and the issues are not inconsistent to the DGR's issued on 8 September 2006.

2.3 CONSULTATION AND EXHIBITION

Under section 75W of the EP&A Act, a request for a modification of an approval does not require public exhibition. However, under section 75X(2) (f) of the EP&A Act, the Director General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the request for the modification was placed on the Department's website on 14 October 2009.

The modification application was not required to be referred to government agencies as the amendment does not intensify the approved use and does not result in any additional environmental impact.

3. CONSIDERATION OF PROPOSED MODIFICATION

The modification seeks to replace the following '*Condition A4 – Lease Renewal*' with the following '*Condition A4 – Time Limited Approval*':

A4 Lease Renewal

Prior to renewing any lease arrangements for the continuation of the use, the Proponent shall consult with the Director General, and the Proponent is to demonstrate that:

- (a) the environmental and amenity performance of the development are consistent with the condition of this approval; and
- (b) the use of the site and the operation of the facility is consistent with planning controls applicable at the time.

A4 Time limited approval

This Approval is time limited and the period during which development may be carried out pursuant to this Approval expires on 31 December 2020.

The Department considers that in the context of the on-going consideration of future uses of the Bays Precinct, including the Bays Precinct Taskforce, the requested time limit is reasonable. The proposed amendment is generally consistent with the assessment of the original major project application (MP 06_0037) and will not result in any additional environmental impact. Accordingly, the proposed amendment to Condition A4 can be approved. The Department considers that the wording however can be simplified as follows:

"This Approval expires on 31 December 2020."

4. DELEGATION

Under the instrument of delegation dated 4 March 2009, the Minister has delegated her functions under section 75W of the EP&A Act relating to modifying Part 3A approvals to the Deputy Director General, Development Assessment.

Having regard to the instrument of delegation, it is considered appropriate that the application be determined under delegation.

5. RECOMMENDATION

It is recommended that the Deputy Director General, as delegate of the Minister for Planning:

- (a) **Consider** the findings and recommendations of this report;
- (b) **Approve** the modification under section 75W of the *Environmental Planning and Assessment Act, 1979*; and
- (c) **Sign** the attached Instrument of Modification Approval (**TAG B**).

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