

Planning and Regulatory. G.Mansfield
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Dear Ms Gibson

NOTIFICATION OF MODIFICATION REQUEST BULK LIQUIDS FACILITY GREENLEAF ROAD KOORAGANG

I refer to your email of 27 November, 2015 advising that Park Pty Ltd has submitted a request (07_0066 MOD 4) to further modify the project approval granted in 2008 for the marine fuel storage facility, biodiesel production facility, pipeline and associated infrastructure.

The submission dated 25 September, 2015 prepared by Umwelt Australia lodged in support of the request has been reviewed and the following comments are offered for your consideration:

1. Approved Project and Development Consent.

1.1 Proposed modifications

According to the Umwelt submission, the Section 75W request is seeking approval to the following modifications:

- inclusion of additional land (being Lots1-3 DP 557904)
- occupation of refurbished office and workshop (on Lot 3 formerly known as Lot 14)
- additional tank (i.e.T-13) to store diesel additive.

However, the 'Comparison of original approval and proposed modification' table which accompanied the submission states *'the proposed modification retains all works approved in the original approval but also includes the following additional items:'*

- refurbishment and fit out of amenities and service building.
- construction of a 272kl tank (T-8)
- constructing an additional minor tank (T-13).

The comment section of the table indicates that the works identified in the current modification request are now complete. The table also indicates that in respect of the approved phase 2 works approval is also being sought to *'bring forward the construction of a 4.8ML tank (T-6) from Stage 3 for the storage of diesel.'*

It is noted the Table 1-Review of Environmental Aspects (RoEA) does not consider the other modifications referred to above.

Furthermore, in regard to the building on Lot 3 Figure 2.1 of the Umwelt submission indicates the proposed uses as office and workshop, while Figures 2.3 and 2.4 refer to offices and warehouse. The original buildings on the approved project comprised a workshop, and an office and amenities.

It is requested that the proponent be required to confirm the details of all the modifications being proposed under the current request and submit an amended RoEA.

1.2 Other modifications

In comparing the details of the layout of the approved project as depicted in Figure 1.2 with the proposed site layout shown in Figure 2.1 of the Umwelt submission it is noted that several modifications have been undertaken to the approved project. Initially this caused some confusion because no explanation for these modifications is provided in the submitted documentation and a relevant modification approval could not be found on the Department's Major Project Register. However, I understand several modifications to the original layout were included in the approved Construction Certificate documentation and plans.

In accordance with condition 51 of the Project Approval, the Principal Certifying Authority for the project Mr Moore of Building Certification Associates Pty Ltd provided 'work-as-executed' (WAE) plans and written advice to the Department in early July, 2015 confirming *'the constructed terminal is generally in accordance with the Development Consent granted.'*

According to Mr Moore's letter dated 13 July, 2015 the original layout was modified, amongst other things, to remove the office and workshop, as well as relocate tank 7 (T-7) to inside the bund. In respect of the latter, Mr Moore refers to modification (MOD) 2 of the project approval. It is noted that while the terms of MOD 2 approved alterations to the design and use of T7, it did not include relocating the tank to inside the bund. It is noted that *'Attachment D contd WAE Layout Plan 'and stamped Work-As-Executed sheet 3 (13163-A01 Rev D) includes the adjoining allotments and the office and workshop and car park on Lot 3 the subject of the current s75W request.*

It is further noted both the Interim and Final Occupation Certificates for premises Lots 10-13 DP 234887 describe the development as *'Refurbishment of 2 existing tanks, piping, 1 new tank and buildings MODIFICATION -to general layout.* The plan accompanying the Umwelt submission titled 'Site layout Stage 1 & 2 Tanks' dated 10 November, 2015 indicates three new tanks (i.e.T-7, T-8 and T-13) have been constructed as part of the Stage 1 works. It is not indicated in the submitted documentation when tanks T-8 and T-13 were constructed.

1.2 Development Consent

According to the Umwelt submission, the existing building on Lot 3 currently being used by Park *'for the purposes of administrative, amenities and service functions'*

was originally granted development consent by Council on 11 April, 1975 (actually 1973) for the erection of an office and storage depot, but *'the building has been disused for a number of years and the consent has now lapsed.'*

The issue of abandonment of use is usually only a consideration in deciding whether an existing use 'right' pertains to a parcel of land. This issue and the permissibility of the current use of the building in general have not been addressed in the submitted documentation.

Accordingly, it is requested the Proponent be required to provide information regarding the permissibility of the proposed modifications in terms of the provisions of *Environmental Planning and Assessment Act, 1979* and State Environmental Planning Policy (Three Ports).

2.0 Newcastle Development Control Plan 2012

According to Table 1-Review of Environmental Aspects, the modification incorporates on the adjoining land a sufficient number of on-site staff and visitor parking spaces to satisfy the requirements of the Newcastle Development Control Plan, 2012 (DCP). No details have been provided to support this statement.

The conditions of the original development consent granted by Council in 1973 required a minimum of eight parking spaces and the provision of 'plantation' screens along the street frontage and boundaries of the car park. If this consent is not being relied on in respect of the current use, the modification should provide landscaping on site in accordance with the relevant requirements of the DCP.

It is requested that proponent be required to submit a table and amended plans which demonstrates complies with all relevant requirements of the DCP, including parking and landscaping.

3. Building Code of Australia

The Umwelt submission states that Building Certification Associates Pty Ltd have inspected the completed refurbishment works and *'has issued a BCA Compliance Statement confirming that the works have been completed to comply with the relevant provision of the BCA and are fit for the proposed use.'*

It is noted that the attached Statement comprises a letter dated 3 September, 2015 which indicates the 'office building' complies with the requirements of the BCA with regard to fire safety.

It is requested that the proponent be required to submit a more comprehensive consideration of the relevant clauses of the BCA.

4. Section 94A Development Contributions Plan


Condition 7 of Schedule 2 of the Project Approval required the proponent to make suitable provisions for a contribution to Council in accordance with the Newcastle Section 94A Development Contributions Plan, 2006.

The proponent subsequently paid to Council in 2008 a contribution of \$22,866 based on a Capital Investment Value (CIV) of \$2,286,652. If the CIV has increased as a result of the latest modification it is requested that the Department give consideration

to imposing an additional contribution in accordance with the Newcastle Section 94A Development Contributions Plan, 2009.

If you require further clarification of any matter raised in this letter, please contact me on (02) 4974 2767 or gmansfield@ncc.nsw.gov.au . Please note I will be on leave until 12 January, 2016.

Yours faithfully



Geof Mansfield
PRINCIPAL PLANNER (DEVELOPMENT)