

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development modification
Application number and project name	MP09_0169-Mod-4 Wolli Creek Mixed Use (Princes Highway)
Applicant	Yucorp Developments Wolli Creek Pty Ltd
Consent Authority	Minister for Planning

Decision

The Director under delegation from the Minister for Planning has, under 4.55(2) of the *Environmental Planning and Assessment Act 1979 (the Act)* modified the consent subject to conditions.

A copy of the instrument of modification and conditions is available [here](#).

A copy of the Department of Planning and Environment's assessment report is available at [here](#).

Date of decision

4 March 2022

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the reasons given by the consent authority for the grant of the original consent;
- the objects of the Act;
- all information submitted with the modification application during the assessment and information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report;
- the submissions made concerning the modification; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision. The Department's Assessment Report also identifies additional reasons for making the decision.

The decision maker was satisfied that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent (as last modified under section 75W).

The key reasons for granting the modification are as follows:

- the modification would allow the exiting operation to continue to operate and provide a range of benefits for the region and local area;
- the modification is permissible with consent, and the existing operation would not change within the horizon of the temporary retail use
- the modification would not result in any additional adverse impacts on the community or environment and these can be appropriately minimised, managed or offset to an acceptable level by existing conditions; and
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed in the assessment. Engagement on the proposed modifications is considered to be in line with the *Undertaking Engagement Guidelines for State Significant Projects* (DPE 2021), including the community participation objectives outlined in these guidelines.
- weighing all relevant considerations, the modification is in the public interest.

Attachment 1 – Consideration of Community Views

The applicant engaged with Bayside City Council during the preparation of the Modification report. The report detailed the findings of the engagement and how it influenced the scope and design of the project

Once the modification application and modification report was submitted to the Department, it was placed on exhibition from 1 October 2021 until 14 October 2021 (14 days). Three submissions were received, including one objection, primarily from residents living within 1 kilometres of the project site.

The key issues raised by the community (including in submissions) and considered in the Department’s Assessment Report and by the decision maker include noise and odour impacts from the existing loading dock and concerns regarding future development of the site. Other issues are addressed in detail in the Department’s Assessment Report.

<i>Issue</i>	<i>Consideration</i>
Amenity impacts from existing operation	<ul style="list-style-type: none"> • A submission raised concern regarding noise from service vehicles and odour impacts from the use of the sites loading dock. • Existing Conditions B29 and B33 required operational waste and loading dock design to meet Council requirements and have regard to the noise emissions at the detailed design stage. • Existing Conditions F3 and F4 adequately manage the hours of operation and the noise control of plant and machinery respectively. • The Statement of Commitments also manage hours deliveries are made to the site. Further detailed operational matters are addressed by consents issued by Council.
Future development	<ul style="list-style-type: none"> • This application seeks to extend the operational period of the development consent for the temporary retail use and does not propose any changes to built form. • Notwithstanding, the current development does not realise the potential for the site, noting the Bayside LEP permits a maximum height of 46 m and FSR or up to 5:1. On this basis, any future development application would be assessed on its merits by the relevant consent authority.