

7 May 2018

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Ms Caroline McNally
Secretary
NSW Department of Planning and Environment
320 Pitt Street, Sydney NSW 2000

Attention: Anthony Witherdin (Director, Modification Assessments)

Dear Anthony,

**Part 3A Project Approval MP10_0230 – Section 75W Modification No.4
Woollooware Bay Town Centre, 461 Captain Cook Drive, Woollooware**

As you are aware, Part 3A Project Approval MP10_0230 for Woollooware Bay Town Centre Stage 1 (Retail/Club buildings) was approved by the (then) NSW Planning Assessment Commission as delegate of the Minister for Planning on 20 August 2013. Condition A6 of Schedule 2 of the Instrument of Approval states that *“this approval shall lapse 5 years after the date of approval unless the building works associated with the project have physically commenced”*. The project has not yet physically commenced, and accordingly the approval would lapse on 20 August 2018 if physical commencement does not occur first.

The Department is currently assessing section 75W Modification No. 4 to Project Approval MP10_0230 (MOD 4), which relates to further design changes to the Retail/Club building. We write to amend this modification application in order to allow for an extension to the lapse period set out in Condition A6.

As you are aware, the Independent Planning Commission recently determined to approve Modification No.2 to the Part 3A Concept Approval MP10_0229 to provide for future residential and visitor accommodation development above the approved Retail/Club building. Coordination of the construction and delivery of the approved Retail/Club building with the construction and delivery of the residential and visitor accommodation development (which will be subject to a separate Development Application) is vital to the successful delivery and functioning of the future town centre. In order to achieve this coordination, it is likely that construction in accordance with the Part 3A Project Approval will not commence until May 2019. This date is after the date upon which the Part 3A Project Approval currently lapses.

Accordingly, we request that as part of MOD 4 the Department amend Condition A6 of Schedule 2 of the Instrument of Approval as follows:

*This approval shall lapse **5 6** years after the date of approval unless the building works associated with the project have physically commenced.*

Section 3 of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (the Transitional Regulation) provides that Part 3A continues to apply with respect to transitional Part 3A projects. Section 75Y(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as in force prior to the repeal of Part 3A, states that where a Part 3A Project Approval is subject to a condition that it lapses on a specified date, *“any such condition may be modified under this Part [i.e. Part 3A using section 75W] to extend the lapsing period”*. Section 11 of the Transitional Regulations provides that an approval for a Part 3A Project lapses five years after the repeal of Part 3A unless the approval is the subject of a condition in force under section 75Y that provides for the approval to lapse on a later date. Accordingly, the Department has the power to amend Condition A6 and provide for the approval under section 75W.

Pursuant to sections 75W and 75Y(2) of the EP&A Act and section 11A(1) of Schedule 2 of the Transitional Regulation, **it is hereby requested that the Minister modify the date on which Part 3A Project Approval**

MP10_0230 would lapse by amending Condition A6 to provide for an additional period of 12 months (i.e. until 20 August 2019).

Should you have any queries, please do not hesitate to contact me regarding this matter using the details below.

Yours sincerely,



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