

ASSESSMENT REPORT

Section 75W Modification

Blue Dolphin Redevelopment, Yamba, Clarence Valley Local Government Area (06_0133 MOD 3)

1. BACKGROUND

On 6 July 2007, the then Minister for Planning approved a Concept Plan for Major Project 06_0133 for the redevelopment of the Blue Dolphin Holiday Park. The concept plan allows for a mixed use tourist and residential development in three stages. **Figure 1** shows the context of the project site.



Figure 1: Site Context (site shown in red)

The concept plan approval includes:

- A staged, mixed use tourist and residential development with a maximum total gross floor area (GFA) of 59,700m², which comprises:
 - a maximum of 48,160m² residential GFA; and
 - a maximum of 11,540m² tourist facility GFA.
- Residential flat buildings, dwellings, tourist facilities, including accommodation, shops, refreshment rooms and a hotel (licensed premises);
- Tourist facility buildings, including accommodation, serviced apartments, hotel (pub), shop, recreation facilities, commercial premises (spa) and refreshment room uses;
- Building footprints and maximum building heights for each building;
- Road layout and basement car parking; and
- Landscaping.

In granting concept plan approval, the then Minister determined that no further assessment requirements were required in respect of part of the concept plan and granted project approval for the following components:

- Stage 1 of the development being the construction of two residential flat buildings comprising a total of 55 apartments and a height of four storeys. The approval included:
 - Four, one bedroom units;
 - 33 two bedrooms units; and
 - 18 three bedroom units;
- Strata subdivision of Stage 1 residential flat buildings;
- Internal road servicing Stage 1;
- Infrastructure and services ancillary to Stage 1;
- Single level basement car park including storage areas for individual strata units;
- Landscaping; and,
- Community Title subdivision of the entire Blue Dolphin site.

2. PREVIOUS MODIFICATIONS

Two modification applications have been approved by the Department, as follows:

06_0133 (MOD 1)

On 4 December 2007, the Executive Director of Major Project Assessments, as delegate of the then Minister for Planning, approved a modification request to permit amendments to the Stage 1 GFA, consequential variations to elevations, minor changes to the building footprints of the concept approval, and an increase in the size of a pool.

06_0133 (MOD 2)

On 27 June 2011, the then Director-General, as delegate of the Minister for Planning, approved a modification request to permit an extension of the lapsing date of the concept and project approvals, from five (5) years to seven (7) years (lapsing 6 July 2014).

3. PROPOSED MODIFICATION

The Proponent seeks to extend the lapsing date of the concept and project approvals by a further two years to 6 July 2016.

The Proponent has indicated that the Global Financial Crisis (GFC) and the depressed tourist and property market conditions on the north coast have been significant barriers to the commencement of the project. As a result, no physical works have occurred on the project site.

As the Proponent's name has changed since the date of the determination of the concept plan, the modification also requires consequential amendment to the name and definition of the Proponent within the relevant approvals.

4. STATUTORY CONSIDERATION

Section 75W

In accordance with clause 12 Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Under section 75W of the EP&A Act, the Minister is required to be satisfied that the proposed request is a modification of the approved project and not a new project.

The Department notes that:

- the primary function and purpose of the approved project would not change as a result of the proposed modification; and
- the environmental impacts associated with the project would remain unchanged and would be appropriately managed through the existing or modified conditions/terms of approval.

Therefore, it is considered that the proposed modification is within the scope of section 75W of the EP&A Act. Consequently, the Department is satisfied that the application should be assessed and determined under section 75W of the EP&A Act rather than requiring a new application to be lodged.

Approval Authority

The Minister has delegated her powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division in cases where all of the following circumstances are satisfied:

- where the relevant local Council/s has not made an objection; and
- where a political donations disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.

Clarence Valley Council raised no objection to the proposed modification. No political disclosure statement was made and there were no public submissions. Therefore, the Director, Industry, Key Sites and Social Projects may determine the modification request under delegated authority.

Consultation

Under section 75W of the EP&A Act, the Minister is required to make the application publicly available on the Department's website. The application was placed on the Department's website. Given the minor nature of the application, the Department considered that formal public notification of the application was unnecessary.

The modification application was referred to Clarence Valley Council. Council acknowledged the impact of the GFC on the viability of the project and noted the Proponent's intention to complete the approved project over time.

5. ASSESSMENT

The modification request is primarily administrative and seeks to modify Term of Approval A5 of the concept approval and Condition A8 of the project approval relating to the lapsing date of both approvals (currently 6 July 2014).

The Department acknowledges the Proponent's statement that the project will provide significant benefits to the north coast through the provision of employment and investment opportunities during the projects construction and operation, should the lapsing date be extended.

The Department considers that an extension of the lapse date would facilitate the realisation of the approved project. The extended lapse date would provide additional time for the Proponent to undertake necessary preliminary tenders and design works ahead of its anticipated commencement.

In addition, extension of the lapse date will not materially alter the environmental impacts of the approved project as assessed by the Department. Further, the proposed extension of the lapsing date to 6 July 2016 would be consistent with the broader transitional arrangements under Schedule 6A of the EP&A Act.

As such, the Department supports the modification request for the reasons detailed above and therefore recommends the modification request be approved.

6. CONCLUSION

The Department has assessed the proposed modification in accordance with the requirements of clause 8B of the *Environmental Planning & Assessment Regulation 2000*. This assessment has found that the proposed modification would not have any additional environmental impacts, and will provide additional time for the Proponent to obtain finance, engineering design and contractors, in order to commence work.

The project approval will provide an investment value of \$170 million for the north coast economy and associated benefits for employment and investment. Accordingly, the Department is satisfied that the modification to extend the lapse date by two years should be approved.

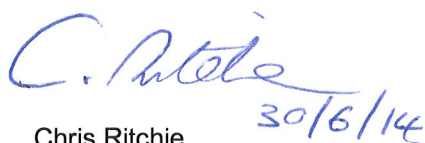
7. RECOMMENDATION

Under delegation of the Minister, it is RECOMMENDED that the A/Director, Industry, Key Sites and Social Projects:

- approve the proposed modification under section 75W of the EP&A Act; and
- sign the attached instruments (**Tag A**).

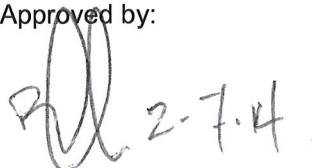
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