



TS/AD
16407
26 July 2016

Carolyn McNally
Secretary
Department of Planning and Environment
22-33 Bridge Street
SYDNEY NSW 2000

Attention: Natasha Harris

Dear Natasha

SECTION 75W MODIFICATION 1 OLYMPIC DRIVE, LUNA PARK

We write to you on behalf of Luna Park Sydney Pty Ltd requesting that the Department of Planning and Environment (the Department) initiate amendments to Project Approval MP06_0163 pursuant to Section 75W and Clause 12 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Specifically, an amendment to the Luna Park Project Approval is sought to allow the Construction Certificate for nominated and approved landscaping works at Lot 12 in DP1113743 to be released prior to the issue of Stage 1 and 2 Construction Certificates. This will not affect the timing of the landscaping works on Lot 11 in DP1113743, which is the location of the approved building at the site.

This application identifies the consent proposed to be modified, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained within Section 75W of the EP&A Act. It should be read in conjunction with the Environmental Assessment Report (EAR) dated February 2007.

1.0 CONSENT PROPOSED TO BE MODIFIED

Project Approval MP06_0163 was granted by the Minister for Planning on 28 February 2007, comprising the construction of a two storey building for use as a restaurant, excavation for basement car parking, landscaping and other associated works.

2.0 PROPOSED MODIFICATIONS TO CONSENT

2.1 Need for the Modification

The proposed modifications are required to allow landscaping works at Lot 12 in DP1113743 to be undertaken independently of the release of the Stage 1 and Stage 2 Construction Certificates in order to deliver the public benefit associated with the landscaping works upfront.

2.2 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~**bold strike through**~~ and words to be inserted are shown in ***bold italics***.

Amend Condition B1 as follows

B1 Staging of Construction Certificates

Separate Construction Certificates may be obtained relating to the following stages of development, as approved:

Lot 12 Landscaping Stage - Landscaping works at Lot 12 in DP1113743 as described and illustrated on the plan referred to in condition B7

Stage 1 – Early works involving remediation, excavation and archaeological investigation;

*Stage 2 – Construction of the building structure and all remaining works, **including remaining landscaping works at Lot 11 in DP1113743.***

The following conditions relate to each stage and must be completed, unless otherwise stated, prior to the issue of a Construction Certificate for each stage.

Amend B4 as follows:

- (3) *The requirements of Sydney Water with regard to the on-site detention and disposal of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water of the stormwater disposal system must be submitted prior to works commencing **(excluding landscaping of Lot 12 in DP1113743).***

Amend Condition B7 as follows:

B7 Landscaping of the Site

*Prior to ~~the issue of a Stage 2 Construction Certificate~~ **the issue of Lot 12 Landscaping Stage Construction Certificate**, a detailed landscape plan, drawn to scale, by a landscape architect or approved landscape consultant, and developed in consultation with Luna Park Reserve Trust, shall be submitted to and approved by the Certifying Authority.*

Amend Conditions C1, C2 and C7 as follows:

C1 Site Audit

*Prior to the commencement of construction works (excluding excavation **and Lot 12 Landscaping Stage works**).....*

C2 Archaeological Investigation

*Prior to the commencement of construction works (excluding excavation **and Lot 12 Landscaping Stage works**)....*

C7 Utility Services

- (1) ***Prior to the Issue of a Stage 1 Construction Certificate**, a survey is to be carried out.....*
(2) *Prior to the commencement of work **(excluding Lot 12 Landscaping Stage works)**, the Proponent*

3.0 ENVIRONMENTAL ASSESSMENT

This section of the report describes and assesses the potential environmental impacts associated with the proposed works.

3.1 Consistency with Project Application

This modification does not propose to alter the final outcome or built form as approved under MP06_0163. Rather, it seeks to enable the approved landscaping works at Lot 12 in DP1113743 (where no building works are approved to take place independent of the release of Stage 1 and 2 Construction Certificates.

3.2 Early Landscaping

The scope of the proposed modifications has been varied in order to limit the proposed landscaping works to Lot 12 in DP1113743, meaning that the landscaping works on Lot 11 in DP1113743 will continue to be delivered in an orderly manner during the course of the construction of the building on Lot 11 (as illustrated in **Figure 1** below.



Figure 1 – Aerial photograph, showing distinction between Lots 11 and 12 in DP1113743

Due to the absence of significant building works on Lot 12, there are far less geotechnical or archaeological works required to be undertaken on Lot 12 as identified by the relevant consultants' reports submitted with the original project application. Additionally, the approved Environmental Site Assessment (dated 1 September 2006) notes that any contaminated material is likely to be located in a 1.5m trench in the northern lot (Lot 11). Accordingly, landscaping can occur on Lot 12 in an orderly manner and in a manner that is unlikely to be disturbed by the need to carry out geotechnical, contamination or archaeological testing.

3.3 Consistency with relevant EPIs, Policies and Guidelines

This modification does not alter the project's consistency with the relevant EPIs, policies or guidelines assessed under the original project application and will not result in any additional environmental impacts.

3.4 Changes in Context

Site Context

Minor changes in the context of the site have taken place since the previous approval. Works to develop the park at Lot 10 in DP1113743 (approved under separate application) have now been completed, and that land dedicated as a public park.

Planning Context

The applicable legislation for the Luna Park site comprises the Luna Park Site Act 1990 No 59. Under this Act Section 6C permits the following uses for the cliff top area;

- a) *Hotels;*
- b) *Shops;*
- c) *Office accommodation;*
- d) *Car parking*
- e) *Such other commercial uses as may be declared by the regulations to be authorised uses for the cliff top areas.*

The above has not changed since the assessment of MP06_0163, and accordingly the planning context is comparable.

3.5 Site Suitability and the Public Interest

As the proposed modification seeks to enable the approved landscaping works at Lot 12 to be undertaken independent of the release of Stage 1 and 2 Construction Certificate, it is considered that the works to be enabled under the modification are suitable to the site and entirely consistent with the project approval.

The public interest will be served by providing a clear regime in which the landscaping works can be commenced and defined, as well as through the facilitation of faster landscaping works at an earlier stage of the development process. In essence, the public landscaping benefit of this approval will be brought forward and delivered upfront.

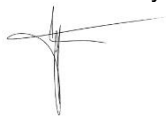
4.0 CONCLUSION

The proposed amendments to the Luna Park Project Application (MP06_0163) relate to allowing the Lot 12 landscaping works to take place independent of the release of Stage 1 and 2 Construction Certificate.

The proposed modification is not considered to have any adverse impacts and is likely to provide additional public benefit.

In light of the above, we therefore recommend that the proposed modification is supported. We trust that this information is sufficient to enable a prompt assessment of the proposed modification. Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or aduggan@jbaurban.com.au.

Yours faithfully



Andrew Duggan
Director