



# **Port Kembla Soybean Processing and Biodiesel Production Facility**

## **DA Modification Justification**

Document Number: 20140310-NOTE-DA Modification – Justification for Extension

**April 2014**

## 1 Context

National Biodiesel Limited's (NBL) Development Application (08\_0083), received project approval under Part 3A of the *Environmental Planning and Assessment Act 1979*. The original Section 75J Approval was granted on 5<sup>th</sup> May 2009.

In Schedule 2 of the project approval, item 5 under "Limits of Approval" states that:

*"If the Proponent does not substantially commence the building works associated with the project within 5 years of the date of this approval, this approval shall lapse."*

NBL are seeking an extension to this clause that will only require building works to have commenced by 5<sup>th</sup> May 2015.

This document provides the justification for a DA modification requesting a change to the above clause.

## 2 Environmental Planning & Assessment Act 1979

In 2011, Part 3A of the Environmental Planning and Assessment Act 1979 was repealed by the *Environmental Planning & Assessment (Part 3A Repeal) Act 2011 No. 22*. Despite this, Part 3A continues to apply to the project based on the transitional provisions identified in Clause 2 and 3 of Schedule 6A of the EP&A Act 1979 as follows:

### **Schedule 6A**

#### **2 Transitional Part 3A projects**

(1) *The following are, subject to this Schedule, "transitional Part 3A projects"*

(a) *an approved project (whether approved before or after the repeal of Part 3A),*

(5) *A transitional Part 3A project extends to the project as varied by changes to the Part 3A project or concept plan application, to the concept plan approval or to the project approval, whether made before or after the repeal of Part 3A.*

#### **3 Continuation of Part 3A-transitional Part 3A projects**

(1) *Part 3A of this Act (as in force immediately before the repeal of that Part and as modified under this Schedule after that repeal) continues to apply to and in respect of a transitional Part 3A project.*

(2) *For that purpose:*

(a) *any State environmental planning policy or other instrument made under or for the purposes of Part 3A, as in force on the repeal of that Part and as amended after that repeal, continues to apply to and in respect of a transitional Part 3A project,*

Based on the above legislation the project is a Part 3A-transisaional project and Section 75W continues to apply for the purpose of the modification of approved development consent.

The approval of this modification is being sought via a Section 75W Modification Application. Additionally, it is noted that a previous Section 75W Application for this project was accepted and approved by the Department of Planning and Infrastructure.

### **3 Background and History**

#### Initial Project Development

NBL formed in 2006 and established soybeans as the preferred biodiesel feedstock for the Australian market. NBL commenced early planning for a production facility and selected Port Kembla as a strategic site location for the Australian market. The production facilities were sized for economies of scale and future market demand, while fitting the envelope of the land allotted to NBL by Port Kembla Port Corporation (PKPC). The main technology provider was selected and engaged to complete concept engineering. Other conceptual engineering and a detailed Environmental Assessment of the project was completed.

On the 5<sup>th</sup> May 2009, NBL received project approval for its application to build the Port Kembla Soybean Processing and Biodiesel Project.

#### NBL Develops SoyBiodiesel® Market

To obtain project finance, NBL had to develop the biodiesel market in Australia. NBL has established SoyBiodiesel® as a viable biodiesel for the Australian market. NBL has experienced strong year on year growth since distribution commenced in February 2009. NBL supply around 80 customers including, Caltex, Mobil, United, SITA and others. NBL is now recognized by State and Commonwealth Governments and the industry as the supplier of premium sustainable fuel recommended by all major diesel OEM's in their warranties. NBL has distributed over 59 million litres of fuels in the last financial year and forecast strong growth in the coming financial year.

#### The First DA Modification

Following successful market development, NBL went to commence detailed design and project planning to execute the project. During this stage it was identified that the land allotment as per original DA was no longer available for NBL use, precipitating a change to our lease and subsequent plant layout. Port Kembla Port Corporation (PKPC) provided an alternate land allotment.

NBL commenced revised project planning including redesigning the site facilities and layouts. NBL completed detailed environmental assessment of the amended project plans. NBL submitted a DA Modification for the revised plans, which was approved on 14<sup>th</sup> March 2013.

#### Project Financing

Project financing began for the funding of Stage 1 soon after the DA Modification was approved in March 2013. An approved DA is critical in providing the confidence potential investors need in order to evaluate their investment in a project such as the Stage 1 development.

Various strategic investors and financial institutions have been considered as project financing partners for the project.

The process has culminated in a preferred partner being selected. Given the 5<sup>th</sup> May 2014 deadline to substantially commencing building works there is insufficient time for the preferred partner to finalise their contribution to construction planning. As such, NBL is now seeking an extension to the deadline to permit the remaining planning work to be completed before the current commencement of construction deadline.

## 4 Project Status

NBL have progressed project activities that will enable onsite construction to commence after the conclusion of commercial discussions with the preferred partner as outlined above. These activities include:

1. Detailed Civil Design

The detailed civil design has already commenced and will be finalised soon after the project funding arrangements have been finalised.

2. Bulk Liquid Storage Tank Supply and Installation

The bulk liquid storage tank supply and install has been tendered.

3. Preparation of Management Plans

The following management plans have been drafted in readiness for commencing onsite construction. They are in the process of being reviewed and finalised, ahead of submitting the required plans for review and/or approval by the Director General:

- a. Environmental Management Strategy (EMS)
- b. Dilapidation Report
- c. Construction Traffic Management Plan
- d. Green and Golden Bell Frog Management Plan
- e. Landscape and Visual Amenity Management Plan
- f. Stormwater Management Plan
- g. Water and Energy Efficiency Program

4. Engineering

Engineering design for Stage 1 continues to be progressed:

- a. Detailed process engineering has developed process flow diagrams, piping and instrumentation diagrams (P&IDs), and equipment lists for Stage 1.
- b. Mechanical and electrical design has commenced.

## 5 Section 75W Modification Application

NBL are seeking a Section 75W Modification to the project approval, requesting an amendment only to the date by which NBL are required to have substantially commenced building works.

In Schedule 2 of the project approval (Development Application 08\_0083), item 5 under "Limits of Approval" states that:

*"If the Proponent does not substantially commence the building works associated with the project within 5 years of the date of this approval, this approval shall lapse."*

NBL are seeking an amendment to this clause that will only require building works to have commenced by **5<sup>th</sup> May 2015**.

## 6 Justification for the DA modification

NBL are requesting the amendment to project approval as outlined above because for the following reasons:

1. NBL was delayed in commencing discussions with potential investors until the DA modification was approved, and the DA modification was required for reasons outside of NBL's control (change in land allotment).

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2. Additional time is required to allow NBL to finalise construction planning with in consultation with the preferred business partner before the commencement of construction.
  3. Notwithstanding that, it has also been identified that even if an instruction to commence construction was given immediately, there would be insufficient time to complete the necessary preconstruction activities and obtain the necessary approvals required to commence construction by the 5<sup>th</sup> May 2014.