



Port Kembla Soybean Processing and Biodiesel Production Facility

DA Modification Justification

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March 2015

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 5th May 2009.

There have been two approved modifications to the original approval. The term "Project Approval" relates to the conditions encapsulated by the original planning approval and the two approved modifications.

NBL are seeking an amendment to the clause that currently requires construction works to have commenced by 5th May 2015. The proposed change is to amend this condition to require construction to have commenced **by 5th May 2016**.

This document provides the justification and explanation for the amendment requested.

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In 2011, Part 3A of the Environmental Planning and Assessment Act 1979 was repealed by the *Environmental Planning & Assessment (Part 3A Repeal) Act 2011 No. 22*.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-transitional 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 previous Section 75W Applications for this project were accepted and approved by the Department of Planning and Environment.

3 Proposed DA Modification

3.1 Background to Previous Modifications

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 14th March 2013.

The Second DA Modification

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 were considered as project financing partners for the project. The search for a financing partner culminated in a preferred partner being selected. At the time of requesting the second modification, it was believed that an additional 12 months was adequate to finalise the funding for the project and allow construction to commence.

3.2 Project Status

While the preferred project financing partner was identified in early 2014, commercial discussions with project partners have been protracted and are scheduled to be completed by Q3 2015. Meanwhile NBL have progressed project activities that will enable onsite construction to commence after the conclusion of commercial discussions with the preferred partner. 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. Preliminary Tank Design
Preliminary tank design has been completed to enable to detailed civil design of tank foundations to be completed.
3. Preparation for Mobilisation to Site
Detailed scope of work has been developed in readiness to mobilise to site soon after the project funding arrangements have been finalised.
4. Staging Report
A Staging Report has been prepared and approved by NSW Department of Planning and Environment, outlining the work proposed to be undertaken soon after the project funding arrangements have been finalised.

5. 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

6. Process Engineering

Detailed process engineering has developed process flow diagrams, piping and instrumentation diagrams (P&IDs), and equipment lists for Stage 1.

7. Lead in High Voltage Design

Supply offers have been received from Endeavour Energy.

A Level 3 Accredited Service Provider has been engaged to complete the lead in HV design work and the Method of Supply documentation has been prepared.

8. Mechanical and electrical design

Preliminary mechanical and electrical design has progressed.

3.3 Proposed Amendment

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 current Project Approval, item 5 under “Limits of Approval” states that:

“If the Proponent does not substantially commence the building works associated with the project by 5 May 2015, this approval shall lapse.”

NBL are seeking an extension to this clause that will only require building works to have commenced by **5th May 2016**.

3.4 Justification for the Request for an Extension

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

1. The protracted financial close with the project partners has delayed onsite construction from commencing.
2. Additional time is required to allow NBL to achieve financial close and 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 5th May 2015.