

## Record of Kick-Off Briefing Sydney Western City Planning Panel

<b>PANEL REFERENCE, DA NUMBER &amp; ADDRESS</b>	PPSSWC-232 – DA-611/2018/A – 146 Newbridge Road, Moorebank
<b>APPLICANT / OWNER</b>	Applicant: Ewen McKenzie - BENEDICT INDUSTRIES PTY LTD Owner: TANLANE PTY LTD
<b>APPLICATION TYPE (DA, Concept DA, MOD, INTEGRATED, DESINGATED)</b>	S4.55(2) Modification Application Modification to Development Consent DA-611/2018 under Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, the following deferred commencement conditions (DCCs) are deleted, and where required, replaced with general conditions: DCC1. amendment to the VPA; DCC2. gain in-principle approval from TfNSW regarding the signalisation of the intersection of Brickmaker's Drive and new Link Road; and DCC3(a), 3(b), 3(c), 3(g) and 3(k) in relation to environmental management/contamination. It is not proposed to modify the design, construction or operation of the marina.
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	S4.55(2) Modification Application
<b>KEY SEPP/LEP</b>	State Environmental Planning Policy No 19 – Bushland in Urban Areas State Environmental Planning Policy No 33 – Hazardous and Offensive Development State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy No 71 – Coastal Protection State Environmental Planning Policy (Infrastructure) 2007 Liverpool Local Environmental Plan 2008
<b>CIV</b>	S4.55(2) Modification Application Original DA (DA-611/2018) \$ 51,632,975
<b>BRIEFING DATE</b>	9 May 2022

### ATTENDEES

<b>APPLICANT</b>	Phil Towler, Ernest Dupere
<b>PANEL</b>	Justin Doyle (Chair), Nicole Gurrán, Karress Rhodes, Nathan Hagarty, Angus Gordon

<b>COUNCIL OFFICER</b>	Kelly Coyne, Kevin Kim
<b>CASE MANAGER</b>	Apology - George Dojas
<b>PLANNING PANELS SECRETARIAT</b>	Mellissa Felipe, Jeremy Martin

## ISSUES LIST

- Introduction
  - The Panel discussed potential conflicts of interest matters/code of conduct for members of the Panel in relation to the zoning determination for the subject site, noting that as previously disclosed that he had appeared as counsel in unrelated proceedings concerning land in a different part of Sydney some years ago in which a company associated with Benedict Industries was a party adverse to his client's interests.
  - The Chair advised that he did not see any conflict arising which would affect his decision making in this case, and confirmed with the applicant's representatives that it had no objection to his remaining on the Panel.
- Applicant summary:
  - The applicant introduced the timeline of the original deferred commencement consent and the subject modification application. The applicant stated that it was principally the timing for particular conditions that is proposed for modification and that there are no substantive impacts from the proposal. It was asserted that the intent of the conditions would be preserved.
  - The applicant advised that the existing consent is likely to become inoperative due to time constraints in achieving a VPA amendment and TfNSW agreement.
  - The applicant stated that there are no disagreements with Council regarding the VPA.
  - The applicant stated that they will need complete access to carry out the investigative works necessary for a Detailed Site Investigation (DSI) to consider potential contamination under the existing stockpiles of materials, although they are not predicting contamination will be found.
  - The applicant stated the opening of the river to the site was considered in the original assessment with the boundary location and that Council were satisfied with the concept. The applicant stated that a memo was sent to Council with no modifications proposed for the relevant substantive conditions. The requirement for protocols were discussed at length. The applicant stated that a DSI is required to prepare protocols for the final works proposed in the RAP.
  - The applicant stated that Council processes in relation to the VPA will be timely and enquired on the ability to commence preliminary works to complete additional requirements for the assessment of the application.
- Council summary:
  - Council stated that the VPA amendments have been referred internally to the Property section and comments remain pending at this time.
  - Council sought clarification regarding the proposed modifications to Conditions 4 and 28 from the applicant.

#### Chair/Panel comments

- An extension of the time for satisfaction of the deferred commencement conditions would not seem to be problematic if that proved necessary.
- The Council was asked if there was a document recording the status of the VPA and intersection design identifying whether there were fundamental problems, timeline issues or likely substantial amendments.
- The Chair proposed that the Planning Panel Secretariat liaise with TfNSW to note that the project was 'regionally significant' and before the Panel for assessment, and to request advice as to the status of TfNSW's consideration.
- The Chair noted that deferred commencement condition 6 sought to be modified concerned submission of "Protocols for opening the basin to the Georges River". The protocols for the opening of the basin to the Georges River were intended to address management of potential differences in water level and water quality in the basin (having regard to the extent of suspended sediment) with those in the adjacent part of the Georges River, at the time of the opening. A principal objective of the protocols was intended to be to ensure that the opening can be achieved without disturbance to the river or destabilisation of the entrance embankment. Given that the entrance is to feature a rock revetment configuration the protocols should provide a general methodology as to how the revetment is to be constructed in the vicinity of the entrance so as to ensure there is no adverse impact on the water quality of the Georges River. The panel expected that protocols should be able to be prepared now by an appropriately qualified engineer.
- The Panel asked for further explanation as to why the Applicant cannot undertake testing of the material beneath the stockpiles necessary to prepare the DSI by drilling and coring which would not ordinarily be the subject of a development consent.
- The possibility of a separate development application or for the staging of works was discussed.
- The Panel requested that the applicant provide access to 'Appendix A which was not accessible on the Planning Portal. This is to be facilitated through the Planning Panel Secretariat.
- The Chair stated that a tentative briefing be held as soon as practicable once the additional information discussed at the briefing was to hand to expedite determination of the application.

Council is yet to undertake its full application assessment, so this record is not a final list of the issues they will need to consider in order to draft their recommendation.

The application is yet to be considered by the Sydney Western City Planning Panel and therefore future comment will not be limited to the detail contained within.

#### KEY ISSUES IDENTIFIED FOR CONSIDERATION

- The status of the VPA.
- Status of the intersection design.
- Potential for and need for staging of the contamination investigation of the stockpiles and remediation works on site.
- Appropriate protocol for opening the basin to the Georges River.

## **REFERRALS REQUIRED**

### Internal

- Property

### External

- TfNSW

**TENTATIVE PANEL BRIEFING DATE: June 2022**

**TENTATIVE PANEL DETERMINATION DATE: July/August 2022**