



NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Attn: Pilar Aberasturi

6 June 2018

Re: MP10_0155_MOD3 – Summer Hill Flour Mills

Dear Pilar,

I refer to various e-mail correspondence, and write to confirm the modification request to amend Condition 18 of Concept Approval MP10_0155 is sought pursuant to the provisions of Section 75W. This submission also serves to respond to the matters raised by the Inner West Council arising from the notification of the modification application.

1.0 Amended Application

The modification to the Concept Approval conditions is sought under Section 75W of the *Environmental Planning and Assessment (EP&A) Act 1979*.

The provisions of Clause 3BA of Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) (STOP) Regulation 2017 apply.

Clause 3BA of the STOP Regulation provides circumstances where a concept plan may be modified under S75W after the cut-off date of 1 March 2018 for the winding up of the transitional Part 3A modification provision.

Clause 3BA states:

- “(5) A concept plan may continue to be modified under section 75W pursuant to a request lodged on or after the cut-off date (whether or not the project is or has ceased to be a transitional Part 3A project), but only if the Minister is satisfied that:
- (a) the proposed modification is to correct a minor error, misdescription or miscalculation, or
 - (b) the proposed modification is of minimal environmental impact, or
 - (c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).”

Subclauses (a), (b), and (c) are not compounding, therefore, the Minister need only be satisfied that at least one (1) of the criteria of 3BA(5) are met for a modification request to be considered.

The modification request does not seek to correct a minor error, misdescription, or miscalculation. Therefore, Subclause 3BA(5)(a) is not applicable to the application.

The modification requested is considered to be of minimal environmental impact under Subclause 3BA(5)(b).

The determination that the modification is of minimal environmental impact is based upon the scope of the modification. The modification does not seek to delete the requirement for intersection upgrades to be undertaken. The modification seeks to amend the timing of the final implementation of the intersection work. The amended timing allows for the design resolution by Council of the adjacent Greenway project, which has potential impacts upon the final intersection design.

The revision to the condition still requires the intersection upgrade works to be implemented. The amendment provides the scope for Stage 3 to commence occupation prior to the finalisation of the intersection upgrade works. Inner West Council has recently adopted Greenway design concepts for exhibition, indicating the Greenway design will soon be finalised by Council, and any consequential impacts on the intersection design will be addressed.

The modification does not alter the final environmental impact of the development, rather alters the timing of the delivery of a management measure. The Minister could be satisfied that the modification is of minimal environmental impact, and therefore satisfies Subclause 3BA(5)(b) of Schedule 2 of the STOP Regulation 2017.

The concept plan as proposed to be modified will be substantially the same as the project as currently approved and previously modified under 3BA(5)(c).

The modification does not alter the description of the project, the approved number of dwellings, maximum permissible GFA, maximum permissible non-residential GFA, approved building envelopes, or the provision of publicly accessible open space. The project as sought to be modified with the revision to Condition 18 will be substantially the same development to the extent that the project will be the same as the project as approved and as previously modified. As there will be no alteration to the approved configuration or scope of the project as already approved, the Minister could be satisfied that the project is substantially the same development, satisfying Subclause 3BA(5)(b) Schedule 2 of the STOP Regulation 2017.

Given the satisfaction of Subclause 3BA(5)(b) and (c), the modification request under S75W is to be considered.

2.0 Inner West Council Submission

The submission from Inner West Council raises concern that there is insufficient incentive to ensure the signalisation of the Old Canterbury Road and Edward Street intersection is completed in a timely manner.

The proponent is obligated to comply with all of the terms of the Concept Approval, not just the signalisation of the intersection, and the modification does not alter these obligations. Regardless, the proponent is willing to offer a bond of \$50,000, payable to Council prior to the issue of an interim Occupation Certificate (OC) for works in Stage 3. The bond would be refundable once the intersection upgrade works have been completed.

The alternate wording incorporating the provision of a bond is provided below:

"18. Future application/s for Stage 3 shall provide the concept design for the proposed traffic signals at the intersection of Old Canterbury Road and Edward Street in accordance with the Roads and Maritime Services letter dated 30 August 2012.

The design of the intersection shall be generally in accordance with the ARUP concept (Drawing SKT004) but subject to further refinement and resolution of issues raised by the RMS in Attachment A of their letter dated 30 August 2012.

*The signals and associated civil works **are to be constructed and operational prior to the issue of an occupation certificate for the final buildings occupation** of Stage 3 of the development.*

Prior to the issue of an Interim Occupation Certificate for buildings within Stage 3, a refundable bond of \$50,000 is to be paid to Council which will be refundable upon completion of the required intersection upgrade works."

The timely completion of the works, as acknowledged by Council, is guided by Council's completion of its community engagement on the Greenway.

This process is nearing completion, which will allow the proponent to progress the intersection upgrades as required by the terms of the concept approval. The modification provides timing relief for the completion of these works without adversely impacting upon the construction works of the former flour mill site, which are well advanced. The determination of the modification under S75W consistent with the alternate wording of Condition 18 requiring the payment of a bond is sought.

We trust that the information provided addresses the issues raised, and will allow for the finalisation of the assessment of the modification request.

Should you wish to discuss any of the above matters, please do not hesitate to contact me on (02) 9380 9911 or by email at sbarwick@sjb.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Scott Barwick', with a stylized flourish at the end.

Scott Barwick
Associate Director