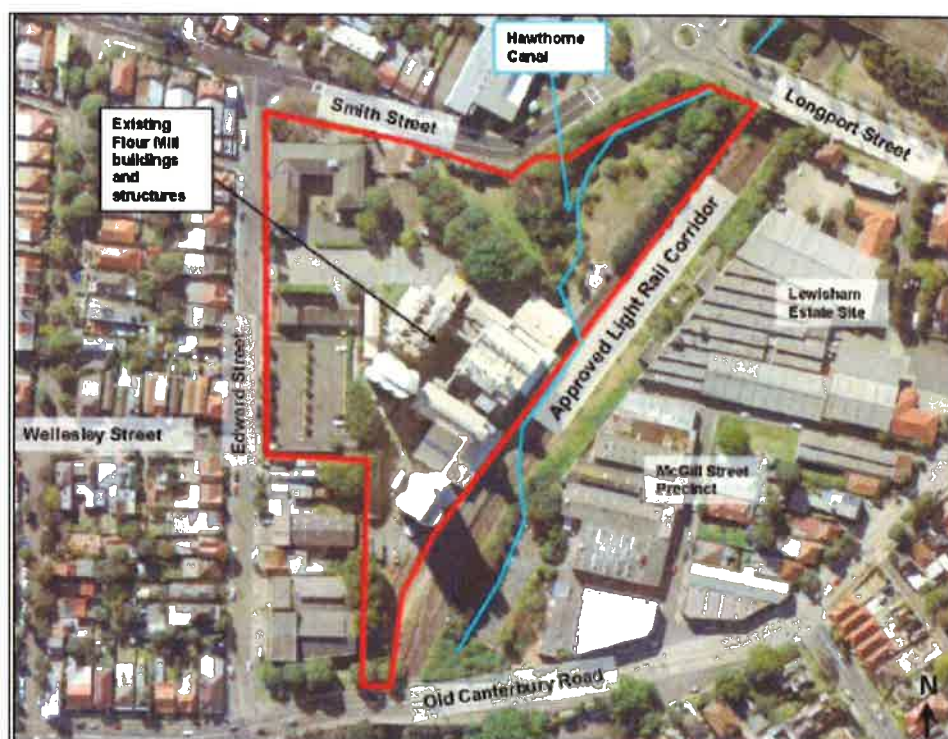


**MODIFICATION REQUEST TO CONCEPT
APPROVAL:**

***Former Allied Mills Flour site – mixed use
development***

MP 10_0155 MOD 3



Environmental Assessment Report
Section 75W of the *Environmental Planning and
Assessment Act 1979*

July 2018

Cover Photograph: Allied Mills Approved Concept Plan (Base Source: MP 10_0155 MOD 1)

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NSW Government

Department of Planning & Environment

1. BACKGROUND

1.1 Introduction

This report provides an assessment of an application to modify the approved Concept Plan for a mixed-use residential, retail and commercial development at the Former Allied Mills Flour Site, Summer Hill (MP 10_0155).

The modification request seeks approval to defer the completion of new traffic signals at the intersection of Edward Street and Old Canterbury Road (**Figure 1**).

The application has been lodged by EG Funds Management (the Proponent), pursuant to Section 75W of the *Environmental and Assessment Act 1979* (EP&A Act).

1.2 Subject Site

The Former Allied Mills Flour site (2 – 32 Smith Street) (**Figure 1**) is located in the suburb of Summer Hill, within the Inner West Local Government Area. It is located approximately six kilometres (km) west of the Sydney CBD and within 500 metres (m) of the Lewisham and Summer Hill railway stations.



Figure 1: Location of the approved signalised intersection upgrade works (shown in red) (Base Source: nearmap.com)

The site has an area of 24,738m² and bound by:

- Edward, Smith and Longport Street and Old Canterbury Road
- Lilyfield / Dulwich Hill light rail corridor to the east
- Lewisham Estate and McGill Street Precinct (residential redevelopment sites) to the east beyond the approved light rail corridor.

1.3 Previous Approvals

On 7 December 2012, the former Planning Assessment Commission (Commission) (now the Independent Planning Commission) approved a Concept Plan (MP 10_0155) for a mixed-use residential, retail and commercial development incorporating:

- adaptive re-use of the existing Mungo Scott Building, silo structures and 3 other buildings and 12 new building envelopes
- construction in 4 stages
- 280-300 dwellings (29,500-33,500 square meters (m²) gross floor area (GFA))
- 3,500 – 4,000m² GFA of commercial floor space
- 2,000 – 2,500m² GFA of retail floor space
- up to two levels of basement car parking and 63 on-street car parking spaces
- 4,806m² of public open space to be dedicated to Council and an additional 5,287m² of publicly accessible open space
- road works including a roundabout at Edward and Smith Streets as part of Stage 1 and a signalised intersection at Old Canterbury Road as part of Stage 3
- off-site pedestrian upgrade works in the surrounding area and to Summer Hill Village.

Relevant to this modification request, the Concept Approval (MP 10_0155) includes Future Environmental Assessment Requirement 18 (FEAR 18) requiring the delivery of traffic signals and associated civil works at the intersection of Old Canterbury Road and Edward Street prior to the issue of an occupation certificate for Stage 3 of the development.

Construction works are currently well advanced on all stages.

The Concept Approval has been previously modified on two occasions (**Table 1**).

Table 1: Summary of modifications

MOD No.	Summary of Modifications	Approval Date
MOD 1	Modifications to increase the maximum number of dwellings from 300 to 360, amendments to building envelopes, provision of affordable housing, on-street parking and timing of open space provision.	10 March 2015
MOD 2	Modification to no longer dedicate open space and roads to Council.	16 May 2016

2. PROPOSED MODIFICATION

This modification request (MP 10_0155 MOD 3) seeks approval to defer completion of traffic signals and civil works at the intersection of Edward Street and Old Canterbury Road from 'prior to occupation' to 'prior to the issue of a final occupation certificate' for Stage 3 in FEAR 18, as follows:

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 \$50,0000 is to be paid to Council which will be refundable upon completion of the required intersection upgrade works

The Proponent has requested this amendment to provide flexibility in the timing of the intersection upgrade works, to allow partial occupation of the Stage 3 while Council and RMS finalises the design of the intersection upgrade.

3. STATUTORY CONTEXT

3.1. Modification of the Minister's Concept Approval

The concept plan was originally approved under Part 3A of the EP&A Act. The application is a transitional Part 3A project under Schedule 2 to the *Environmental Planning & Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (ST&OP Regulation). The power to modify transitional Part 3A projects under section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 is being wound up.

However, under Clause 3BA(5) of Schedule 2 of the ST&OP Regulation, a concept plan may continue to be modified under section 75W, if lodged on or after 1 March 2018, where 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).

This modification request was lodged on 18 April 2018 and the Department considers that the proposed modification is of minimal environmental impact, as it relates to changes to FEAR 18 in relation to the timing for the delivery of traffic signals and associated civil works.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) can be satisfied that the concept plan may be modified under section 75W of the EP&A Act.

3.2. Environmental Planning Instruments

MP 10_0155 MOD 3 was assessed against the following environmental planning instruments (EPIs):

- State Environmental Planning Policy (State & Regional Development) 2011
- State Environmental Planning Policy (State Significant Precincts) 2005
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Urban Renewal) 2010
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55).

The Department has considered the proposed modifications against these EPIs, and is satisfied that the proposal continues to be consistent with the requirements of the EPIs.

3.3. Consent Authority

In accordance with the Minister for Planning's delegation of 11 October 2017, the Director, Key Sites Assessments, may determine this modification request as:

- the relevant Council has not made an objection; and
- there are no public submissions in the nature of objection; and
- a political disclosure statement has not been made.

4. CONSULTATION AND SUBMISSIONS

4.1. Notification and submissions

The modification request was made publicly available on the Department's website and referred to Inner West Council (Council) and the Roads and Maritime Services (RMS) for comment. Due to the minor nature of the proposed modification, it was not exhibited or notified by any other means.

The Department received submissions from two public authorities. Council and RMS did not object to the proposal. However, Council initially requested a bond to guarantee the delivery of the intersection works.

No submissions from the public were received.

4.2. Response to Submissions

The Proponent provided a response to submissions (RtS) (**Appendix A**), in which it proposed a refundable bond of \$50,000 paid to Council prior to the issue of an interim occupation certificate for buildings within Stage 3.

Council responded that it supported the principle of a bond, but requested that it be a minimum of 125% of the value of the intersection upgrade works, which would guarantee delivery of the works in a timely manner.

The Department has considered the comments raised by Council in the assessment of the proposal in **Section 5** of this report and/or by way of recommended conditions at **Appendix B**.

5. ASSESSMENT

The proposal seeks to defer the completion of new traffic signals and civil works at the intersection of Edward Street and Old Canterbury Road from 'prior to occupation' to 'prior to the issue of a final occupation certificate' for Stage 3. The Proponent requests this change to allow partial occupation and use of Stage 3 of the development, while RMS and Council finalise the design of the intersection upgrade works.

Council and RMS do not object to the proposal. However, Council has requested a bond to guarantee the delivery of the works. In response, the Proponent has proposed a bond to Council of \$50,000, whereas Council has requested a valuation and a bond of 125% the value of the works.

Having considered the information provided by the Proponent, together with the submissions, the Department supports the principle of the proposal to defer the required completion of the works, as this allows for the partial occupation of Stage 3 while Council and RMS finalise the design of the intersection upgrade. Changes to the timing of the works will also not result in additional adverse impacts on the surrounding area.

The Department agrees with Council that delivery of the traffic signals and civil works should be guaranteed through a bond. In this regard, the Department considers that the value of the bond should be commensurate to the value of the works, together with some contingency for additional costs, which will allow Council to deliver the works should this be required. The Department considers Council's suggestion for a bond of 125% the value of the works to be reasonable in this instance, and considers that this should be based on a valuation prepared by a suitably qualified professional.

The Department therefore supports the proposed modification, subject to a change in FEAR 18 requiring a valuation of the proposed intersection upgrade works and a bond payable to Council for 125% the value of the works, to be refunded upon completion of the works.

6. CONCLUSION

This modification request has been assessed in accordance with the requirements of the EP&A Act, and the Department is satisfied that the proposal complies with all statutory and strategic provisions subject to the recommended amendments to the conditions.

The Department's assessment concludes the proposed modification is acceptable on the basis that it would guarantee the delivery of the traffic signals and civil works, while allowing for the partial occupation of Stage 3 while Council and RMS finalise the design of the intersection upgrade and thereby maintains consistency with the objectives of the original approval.

Consequently, it is recommended the modification is approved, subject to the recommended conditions.

7. RECOMMENDATION

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning:

- a) **consider** the findings and recommendations of this report
- b) **be satisfied** that the proposed modification is within the scope of section 75W
- c) **approve** the modification (MP 10_0155 MOD 3) under section 75W of the EP&A Act, having considered matters in accordance with (a) and (b) above
- d) **signs** the attached Modification of Minister's Approval (**Appendix A**).

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Key Sites Assessments

Endorsed by:



David Glasgow
Acting Team Leader
Key Sites Assessments

Approved by:



Ben Lusher
Director
Key Sites Assessments

APPENDIX A RELEVANT SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9283

APPENDIX B RECOMMENDED INSTRUMENT OF MODIFICATION

The recommended conditions of consent can be found on the Department of Planning and Environment's website as follows:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9283