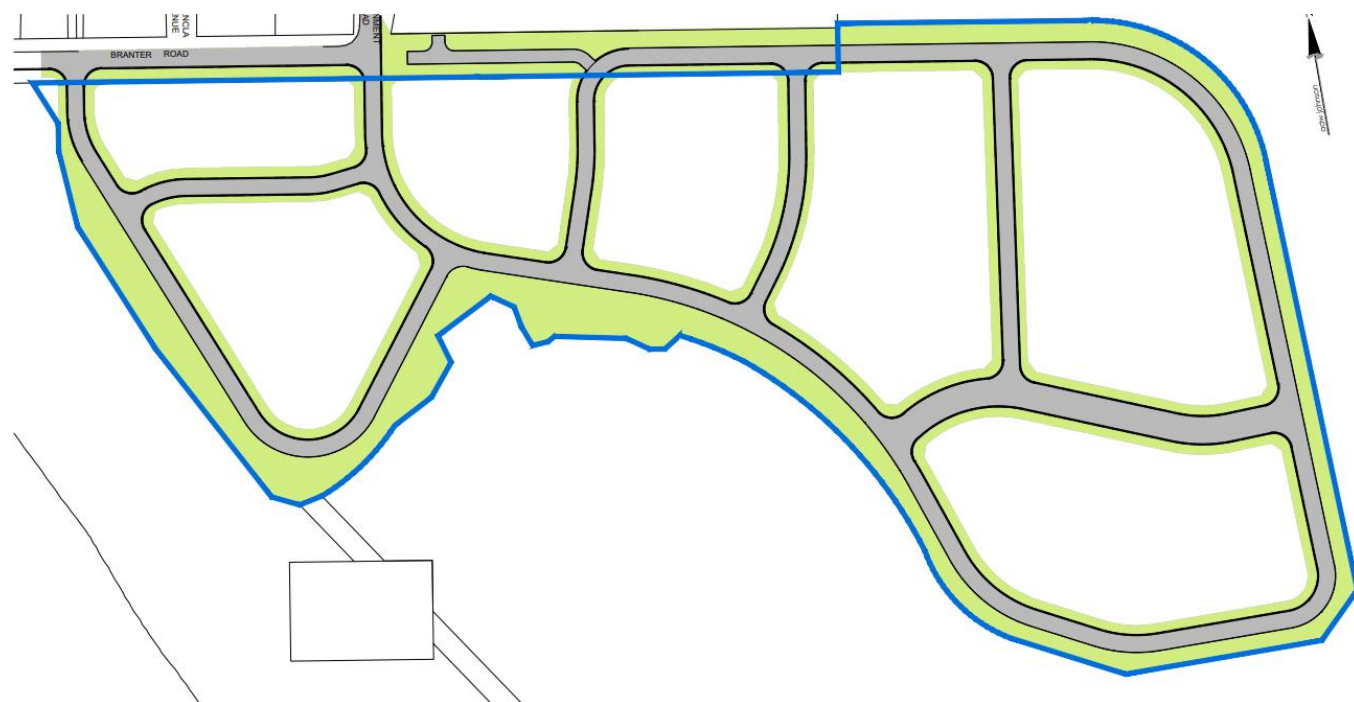


Nords Wharf Concept Plan Modification 2

Amendments to the Awabakal Drive and Pacific Highway
intersection upgrade requirements

(MP 10_0088 MOD 2)

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Glossary

Abbreviation	Definition
Council	Lake Macquarie Council
Department	Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
RMS	Roads and Maritime Services, TfNSW
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
Proponent	Nords Wharf Development Company Pty Ltd
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for NSW

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1 Introduction

This report provides an assessment of a request to modify the concept approval for the Nords Wharf residential subdivision (MP10_0088). The request seeks approval to amend Future Environmental Assessment Requirement (FEAR) 1.25 to require the Awabakal Drive and Pacific Highway intersection to be upgraded from a signalised seagull to a full traffic control signal in accordance with current Transport for NSW requirements.

The modification request was lodged by Nords Wharf Development Company Pty Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

The site is located approximately 90 kilometres north of Sydney and 30 kilometres south of Newcastle, in Lake Macquarie local government area (LGA). It is part of the Coal & Allied Southern Estates, comprising land holdings at Nords Wharf, Gwandalan and Catherine Hill Bay (**Figure 1**), located on the South Wallarah Peninsula, and within the Lower Hunter Region.



Figure 1 | Regional Context, with Coal and Allied Southern Estates shown in blue

The site is located adjacent to the southern extent of the existing township of Nords Wharf. It is situated on the eastern shore of Lake Macquarie, and to the west of the Pacific Highway. The site area is approximately 127 hectares comprising a developable area of 10.18 hectares (shown in blue in **Figure 2**) and 116.6 hectares of conservation lands (shown in green in **Figure 2**).



Figure 2 | Subject site

1.2 Approval history

On 12 July 2012, the then Planning Assessment Commission approved a concept plan (MP 10_0088) for a residential subdivision comprising 90 residential lots in a developable area of 10.18 hectares and dedication of 116.6 hectares of conservation land at Nords Wharf.

Project approval was also granted for the subdivision of land to enable the transfer of the conservation lands to a public authority, being a Minister or the Crown.

In September 2014, Council approved DA 640/2013 for the subdivision of the site into 84 lots. A modification application (DA 640/2013/A) is currently under assessment with Council.

On 12 March 2020, the Independent Planning Commission (IPC) approved MOD 1 to amend the internal road layout and internal residential footprint. MOD 1 also sought to upgrade the Pacific Highway and Awabakal Drive to a left-in, left-out only intersection.

This component of the request was not approved, and FEAR 1.25 was amended to clarify that the intersection upgrades are required to be undertaken in accordance with the original approval, with reference to the RMS advice dated 16 December 2010. The 2010 RMS advice outlined the design requirements for the Pacific Highway and Awabakal Drive intersection to be upgraded to a partially signalised seagull intersection.

2 Proposed modification

The request seeks to amend FEAR 1.25 to require the Awabakal Drive and Pacific Highway intersection to be upgraded from a signalised seagull to a full traffic control signal in accordance with current Transport for NSW (TfNSW) requirements. The proposed amended FEAR 1.25, as recommended by TfNSW, is outlined below.

Traffic and transport

- 1.25 *The detailed design for the upgrade of the Pacific Highway / Awabakal Drive intersection must be prepared in accordance with RMS's requirements intersection (outlined in the advice provided to the Department, Reference: 252DA144:1, dated 16 December 2010 and as amended by Condition 1.25A) **to the satisfaction of TfNSW requirements to a full signalised intersection.** In designing the upgrade, the Proponent should consider opportunities to provide a pedestrian phase in consultation with council and the RMS **TfNSW.***

The proposed modification is sought on the basis that TfNSW (formerly RMS) no longer supports the installation of signalised seagull intersection at this site, and requires full signalisation to address safety requirements.

A comparison of a seagull signalised intersection and full signalised intersection is provided at **Figures 3 and 4.**

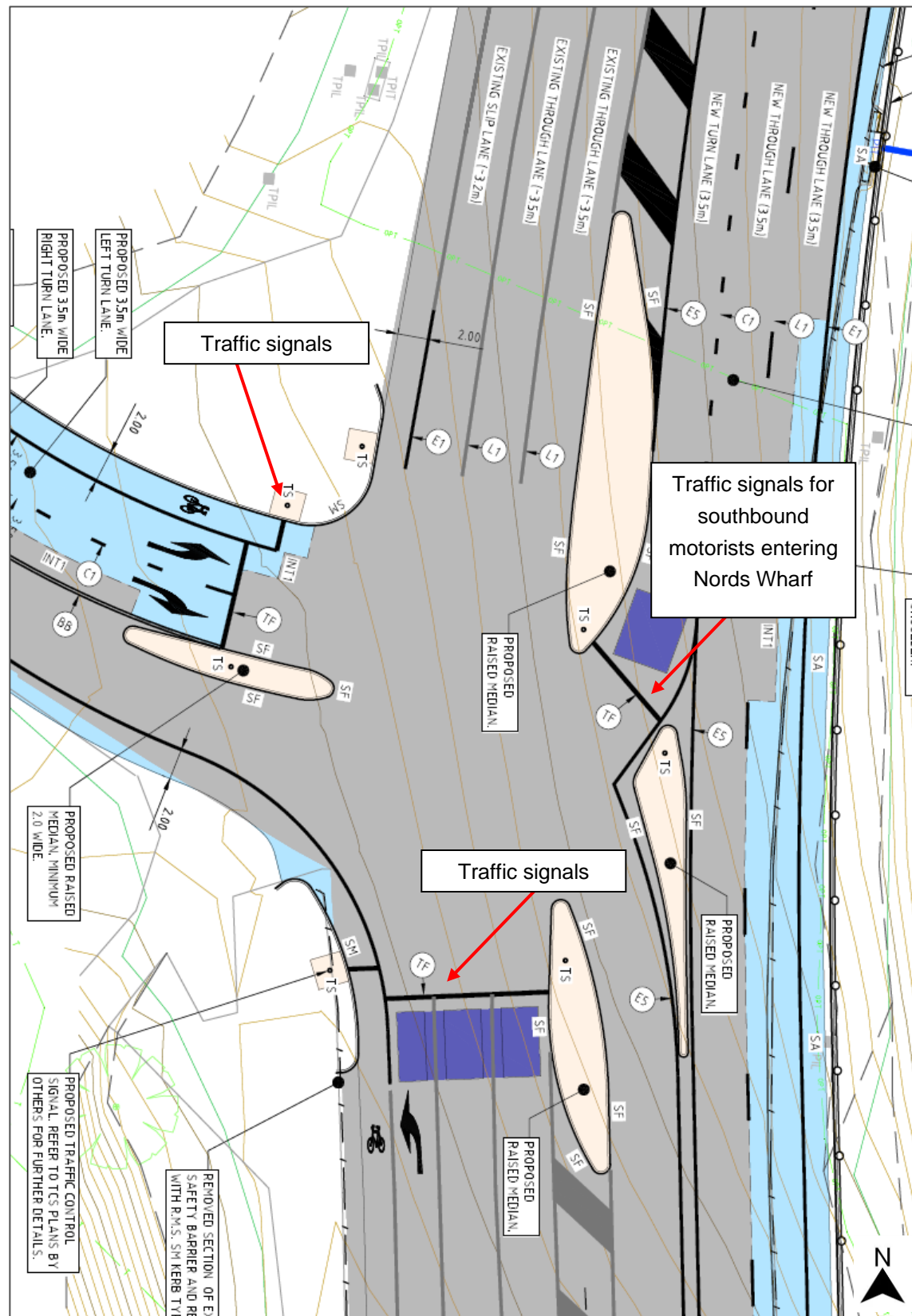


Figure 3 | Example Seagull Intersection layout (Base source: Applicant's submission to TfNSW)

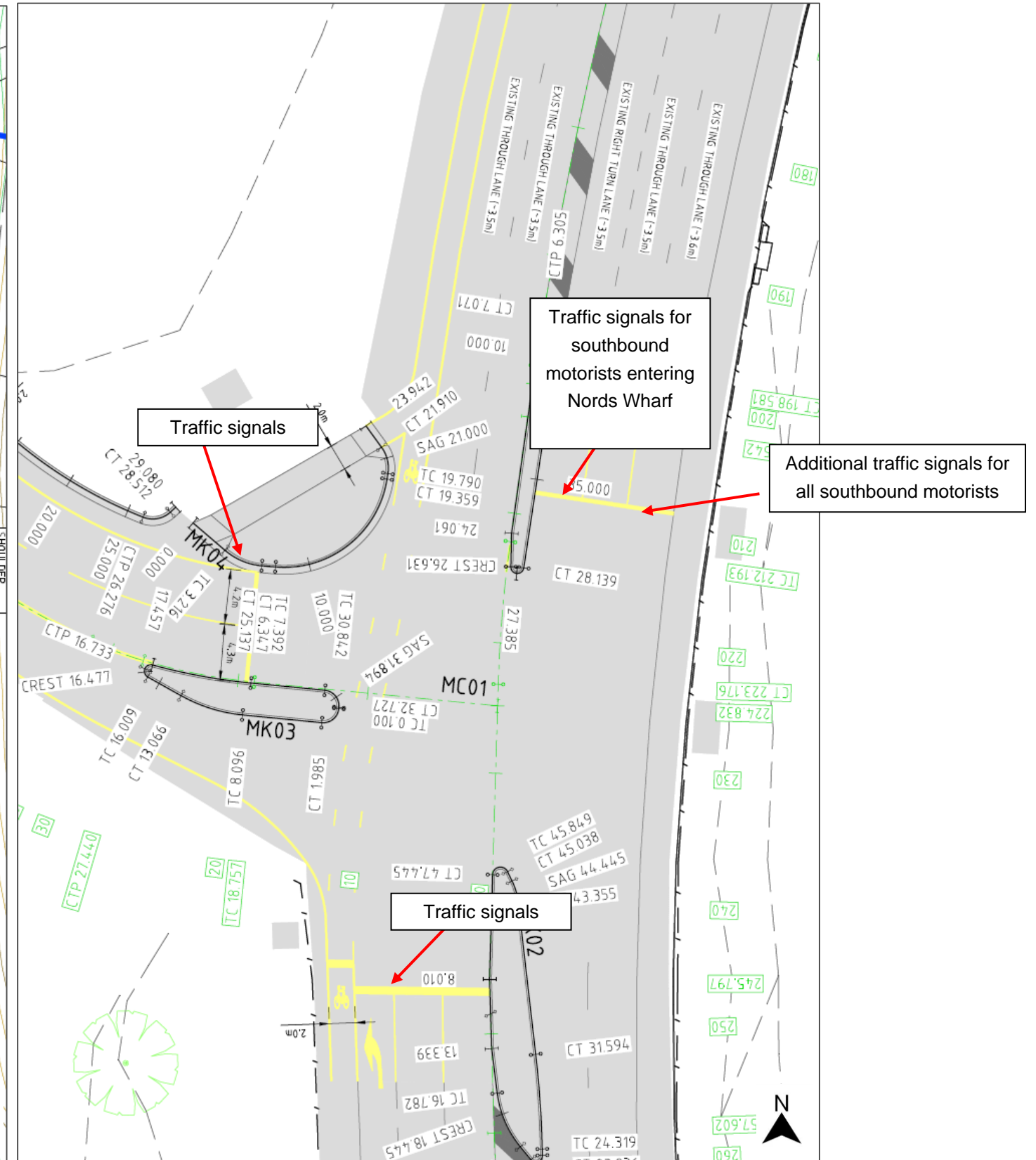


Figure 4 | Example Full Signalled Intersection layout (Base source: Applicant's submission to TfNSW)

3 Statutory context

3.1 Modification of the Minister's Approval

The concept plan was originally approved under Part 3A of the EP&A Act, which has been repealed. The power to modify concept plans approved under Part 3A of the EP&A Act under former section 75W of the EP&A Act is being wound up.

Clauses 3BA(5) of Schedule 2 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (ST&OP) Regulation) provides that an approved concept plan can only be modified under section 75W in response to a request lodged after 1 March 2018 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).*

This proposal was lodged on 7 May 2021 and seeks to amend FEAR 1.25 to amend the requirements for the Awabakal Drive and Pacific Highway intersection upgrade in accordance with current TfNSW requirements. The Department is satisfied that the proposal is within the scope of clause 3BA(5)(b) as it is of minimal environmental impact, as considered in **Section 5**.

3.2 Consent authority

The Minister for Planning and Public Spaces is the approval authority for the modification request. However, under the Minister's delegation dated 26 April 2021, the Director, Regional Assessments, may determine the application as:

- a political disclosure statement has not been received, and
- less than 15 unique submissions were received from the public objecting to the proposal
- Council has not made a submission by way of objection.

3.3 Mandatory matters for consideration

The Department comprehensively assessed the project against the mandatory matters for consideration under section 4.15 of the EP&A Act as part of the original assessment (of MP 10_0088). The Department considers this modification request does not alter its assessment of the proposal against these mandatory matters for consideration and the conclusions made as part of the original assessment.

The original concept plan was assessed against the provisions of the following Environmental Planning Instruments (EPIs):

- State Environmental Planning Policy No. 44 – Koala Habitat Protection

- State Environmental Planning Policy No. 71 – Coastal Protection
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 14 – Coastal Wetlands
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Lake Macquarie Local Environmental Plan 2004.

While SEPP 14, SEPP 44, SEPP 71 and the Lake Macquarie LEP 2004 have been replaced, the Department is satisfied that the proposed modification does not result in any significant changes that would alter the conclusions made as part of the original assessment.

The Department has also considered the proposal against relevant provisions of more recent EPIs, including State Environmental Planning Policy (Coastal Management) 2018, State Environmental Planning Policy (Koala Habitat Protection) 2021 and the Lake Macquarie LEP 2014, and is satisfied that the proposal is consistent with these controls.

4 Engagement

4.1 Department's engagement

The Department notified the modification request for 14 days between 14 May 2021 to 28 May 2021. The request was made publicly available on the Department's website and notified to TfNSW, Lake Macquarie City Council and surrounding landowners and residents.

In response to the notification, the Department received a submission from TfNSW and seven public submissions comprising three objections, two providing comments and two in support of the proposal. A summary of the submissions is provided below.

4.2 Agency Submissions

Council did not provide any comments in relation to the proposal.

TfNSW provided the following advice:

- that a signalised seagull intersection at the intersection of Pacific Highway / Awabakal Drive is not supported due to the following:
 - road geometry constraints (e.g. merging lanes near curves)
 - speed of traffic through the site
 - general traffic volumes through the intersection
 - traffic turning movement volumes.
- in this instance, changing to a full signalised intersection will provide improved road geometry, control of movements and lead to improved safety outcomes at the site.
- the requirements outlined in the December 2010 advice provided by the then Roads and Traffic should not be included in conditions.
- the wording of FEAR 1.25 shall be updated to require the Pacific Highway and Awabakal Drive intersection to be upgraded to the satisfaction of TfNSW requirements for a full signalised intersection.

4.3 Summary of public submissions

The Department received seven public submissions comprising three objections, two providing comments and two in support of the proposal.

The following issues were raised in submissions:

- increased traffic through the local roads of Nords Wharf and associated safety impacts
- interruption of traffic flow along the Pacific Highway
- the requirement for works under the Works Authorisation Deed to be completed prior to the issue of any Construction Certificate must remain
- a condition requiring construction traffic to only use Awabakal Drive and not travel through local roads should be imposed

- increased noise levels within Nords Wharf and the need for a noise barrier along the Pacific Highway
- support for increased safety for motorists turning south from Awabakal Drive.

5 Assessment

In assessing the merits of the proposed modification, the Department has considered:

- the Modification Report and associated documents (**Appendix A**)
- the Environmental Assessment and conditions of the original approval and previous modifications
- submissions received on the proposal
- relevant EPIs, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key issue associated with the proposal is the intersection upgrade requirements.

5.1 Intersection Upgrades

The proposal seeks to amend FEAR 1.25 to require the Awabakal Drive and Pacific Highway intersection to be upgraded from a signalised seagull to a full traffic control signal in accordance with current TfNSW requirements.

TfNSW has advised that signalised seagull arrangement is not safe at the location due to the geometry of the road and the traffic speed and volumes and that the provision of a full signalised intersection would lead to improved safety outcomes at the site.

Public submissions raised concerns about additional traffic flow through Nords Wharf as a result of the proposal, and the disruption of traffic on the Pacific Highway.

As demonstrated in **Figures 3 and 4**, the main change associated with the full signalisation is the addition of traffic lights along the Pacific Highway for motorists travelling south, allowing motorists to exit Nords Wharf without having to merge into oncoming traffic. It is noted that traffic signals were already proposed as part of the signalised seagull intersection design for motorists travelling south and turning right into Nords Wharf. Therefore the Department considers the proposal is unlikely to result in additional traffic on local roads within Nords Wharf, and the main impact is likely to be additional stopping along the Pacific Highway.

The Department notes that the intent of Condition 1.25 was always for the Awabakal Drive and Pacific Highway intersection to be upgraded in accordance with TfNSW (formerly RMS) requirements. In accordance with the *Roads Act 1993*, it is exclusively the function of TfNSW to make decisions as to what road work is to be carried out on highways. As the changes to the intersection have been requested by TfNSW, the Department is satisfied that impacts on traffic flow along the Pacific Highway and safety impacts have been considered in conjunction with the broader road network.

Public submissions also raised concerns about noise and construction traffic impacts associated with the proposed change to the intersection. FEAR 1.34 requires a Construction Management Plan (CMP) including a construction traffic management plan to be submitted with future development applications. Given the proposal relates to Concept Plan approval only, and DA/640/2013/A is currently under assessment with Council, the Department considers construction traffic and noise impacts will be addressed as part of this application.

It is noted that no change to the timing for the intersection upgrade is proposed, and in accordance with FEAR 1.25A the intersection upgrade works are still required to be completed prior to the issue of any Subdivision Certificate.

Given the above, the Department considers the proposal is unlikely to have unacceptable impacts on local roads or the Pacific Highway and is required to enable the upgrade of the Awabakal Drive and Pacific Highway intersection in accordance with current TfNSW requirements.

6 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department is satisfied that the modification is approvable, subject to the recommended conditions, on the basis that it would allow for the intersection of Awabakal Drive and Pacific Highway to be upgraded in accordance with current TfNSW requirements and would improve safety outcomes for the intersection.

The Department is satisfied that the modification can be approved, subject to the recommended conditions (**Appendix C**).

7 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application MP 10_0088 MOD 2 falls within the scope of section 75W EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the concept approval MP 10_0088
- **signs** the attached Modification of Minister's Approval (**Appendix C**).

Recommended by:



Emma Butcher
Senior Planner
Regional Assessments

Recommended by:



Louise Starkey
Team Leader
Regional Assessments

8 Determination

The recommendation is **Adopted** by:

A handwritten signature in blue ink, appearing to read 'K T' followed by a horizontal line.

Keiran Thomas

Director

Regional Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Modification report

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10680

Appendix B – Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10680

Appendix C – Notice of modification

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10680