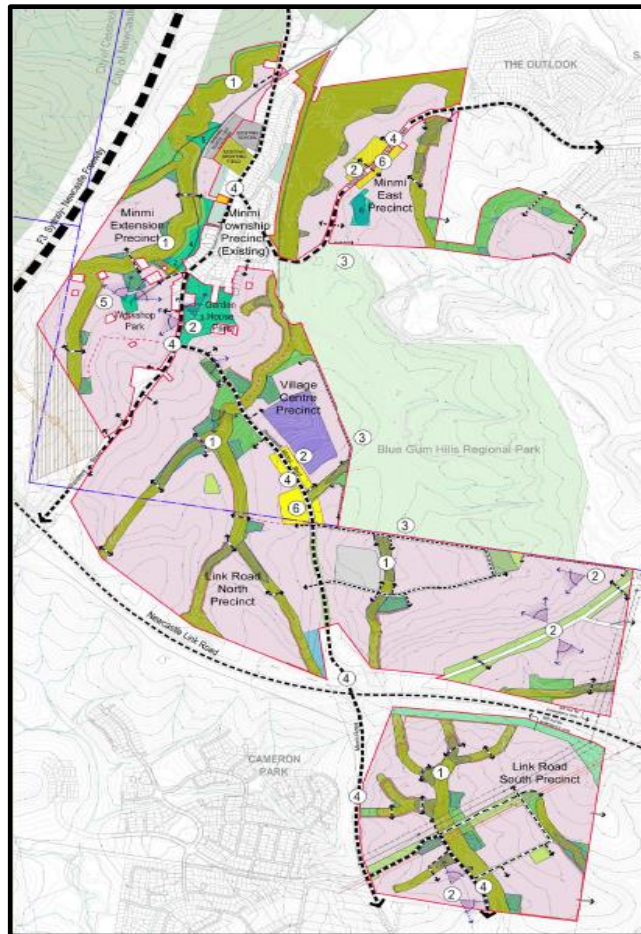


SECTION 75W MODIFICATION

WINTEN PROPERTY GROUP



SECTION 75W APPLICATION MAJOR PROJECT 10_0090 MINMI LINK ROAD DEVELOPMENT

MODIFICATION NO. 2

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Web: www.monteathpowys.com.au
ABN: 94 000 861 110

This report was prepared by Monteath & Powys Pty Limited.

PROJECT	Minmi Link Road Development
CLIENT	Winten Property Group
OUR REFERENCE	2015/0100
DATE	27 July 2016
AUTHOR	Jessica Bayley (BUrbRegPlan) Senior Planner
CERTIFICATION	I hereby certify that this Statement of Environmental Effects has been prepared in accordance with the requirement of the <i>Environmental Planning & Assessment Act 1979</i> and its associated Regulations. I certify that to the best of my knowledge the information contained within this report is neither false nor misleading.
SIGNATURE	

DOCUMENT CONTROL				
REVISION NO.	DATE	REVISION DETAILS	AUTHOR	APPROVED
A	27/7/2016	Final	JB	Client



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1. INTRODUCTION

This Section 75W application relates to the Part 3A Concept Approval issued in relation to the Minmi Link Road Development, referred to as MP10_0090.

Modification is sought to the determination the Minister has made under Section 75P. The proposed modification relates to the release of the Satisfactory Arrangements Certificate and timing for the resolution of State infrastructure contributions associated with the Minmi Link Road Development.

2. BACKGROUND

The Concept Approval was issued on 6 August 2013. The approval relates to a five stage development with up to 3,300 dwellings across the 520 hectare site at Minmi, including two commercial precincts, associated infrastructure and the dedication of approximately 1,561 hectares of environmental offset. The Concept Approval was sought on behalf of Coal & Allied Pty Ltd. It is noted, however, that in June 2015 Coal & Allied entered into a sale agreement with Winten Property Group, who are now responsible for the development of the land.

The Concept Approval requires that all development associated with the Concept Plan be subject to Part 4 or Part 5 of the Act, whichever is applicable. Monteath & Powys has submitted two Part 4 development applications for subdivision on behalf of Winten Property Group for the first stage of the development, being the Minmi East Precinct. The development applications are currently being assessed by Newcastle City Council and are referred to as DA2015/10360 and DA2015/10393.

3. CONSULTATION

The proposed modification relates to the release of Satisfactory Arrangements Certificates and the resolution of State infrastructure contributions for the Minmi Link Road Development. In this regard, consultation on this matter has primarily been through the Department's Developer Contributions team. The matter has been discussed with Lisa Chan (Acting Team Leader, Developer Contributions) at a meeting held 23 June 2016, with specific details of the proposed modifications presented via email. Appendix A contains details of the consultation to date.

In addition, a meeting was held with Natasha Harras (Team Leader, Modification Assessments) and Anthony Witherdin (Acting Director, Modification Assessments) on 22 July 2016 to discuss the proposed modifications contained in this application as well as those contained in Modification No. 1.

4. PROPOSED MODIFICATIONS

The Proponent is seeking a modification to Concept Approval MP10_0090 for the purposes of satisfying the Department of Planning & Environment's request for adequate 'security' prior to the release of a Satisfactory Arrangements Certificate in the instance the Proponent has not entered into a voluntary planning agreement (VPA) with the Minister for Planning by the time Council is in a position to determine the development applications for subdivision.

DIRECTION UNDER SECTION 75P(2)(a1):

An amendment is proposed to the Concept Plan approval to insert a direction under Section 75P(2)(a1) requiring subsequent development consents to be subject to a condition requiring a planning agreement to be entered into for the purposes of fulfilling obligations for the provisions of State Infrastructure Contributions set out in the Statement of Commitments, prior to release of the first Subdivision Certificate that creates a residential lot.

REASON FOR PROPOSED MODIFICATION:

The Proponent has lodged Part 4 development applications with Newcastle City Council for subdivision of the first stage of development, being Minmi East Precinct. The applications are subject to Clause 8.1(2) of Newcastle LEP 2012 which provides that consent must not be granted for subdivision unless the Secretary has certified in writing that satisfactory arrangements have been made for the provision of State public infrastructure. In this regard, the Proponent is seeking to obtain a Satisfactory Arrangements Certificate to satisfy Clause 8.1(2).

The Statement of Commitments that accompany the Concept Plan provides for obligations in respect of contributions for State public infrastructure. The Department has indicated that the Statement of Commitments in the Concept Plan alone are not considered adequate security for a Satisfactory Arrangements Certificate. As such, the Department has requested that the proponent provide adequate 'security' in lieu of an executed planning agreement.

This modification seeks to provide security in the form of a ministerial direction under section 75P(2)(a1).



When determining development under a concept plan is to be subject to Part 4, the Minister has the power to direct a consent authority to impose particular conditions on subsequent development consents for the purposes of fulfilling obligations in the statement of commitments (section 75P(1a)).

The direction would require Councils to impose a condition on the Part 4 development consents that would require the Proponent to enter into a planning agreement for the purposes of fulfilling obligations in the Statement of Commitments related to State infrastructure contributions, prior to the release of the first Subdivision Certificate that creates a residential lot.

Please note that the modification does not seek to remove the obligation to enter into a VPA with the Minister in relation to State infrastructure contributions, rather it seeks to defer this matter to ensure it is resolved prior to the release of the Subdivision Certificate that creates the first residential lot. The modification would enable Council to issue development consent under Part 4, allowing the Proponent to progress the engineering design and construction whilst resolving State infrastructure contributions with the Department concurrently.

The modification would require that that the Proponent must have entered into a Planning Agreement prior to Council releasing the Subdivision Certificate for the first development stage (likely DA2015/10360 Minmi East Precinct, Stage 1A). In practical terms, this means the Proponent is unable to register and release any residential lots until State infrastructure contributions have been resolved to the satisfaction of the Minister.

It is noted that negotiations for State infrastructure contributions for the overall development site have commenced and an offer was provided by the Proponent to the Department on 8 July 2016.

5. STATUTORY CONTEXT

The determination of a Concept Plan can be changed under s.75W of the Environmental Planning & Assessment Act (EP&A Act). Despite this section of the Act being repealed, the provisions of s.75W remain applicable due to the transitional arrangements for Part 3A.

Schedule 6A of the EP&A Act sets out the transitional arrangements for the repeal of Part 3A. A project that is the subject of an approved concept plan, whether approved before or after the repeal of Part 3A, is considered to be a transitional Part 3A project and subject to Schedule 6A. Clause 3C outlines that s.75W continues to apply for the purpose of the modification of a concept plan approved before or after the repeal of Part 3A, whether or not the project or any stage of the project is or was a transitional Part 3A project.

Section 75W stipulates the following:

1) *In this section:*

Minister's approval means an approval to carry out a project under this Part, and includes an approval of a concept plan.

Modification of approval means changing the terms of a Minister's approval, including:

- a) *Revoking or varying a condition of the approval or imposing an additional condition of the approval, and*
- b) *Changing the terms of any determination made by the Minister under Division 3 in connection with the approval.*

2) *The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.*

S.75W (1) is satisfied as MP10_0090 is a Concept Plan approved under Part 3A.

The proposed changes to the determination of the Concept Plan meet the definition of "modification of approval" in s.75W(1)(b).

The modification will not result in any environmental impacts, and is essentially an administrative matter.



6. CONCLUSION

Amendment to the Concept Approval is sought to provide security to enable the Department to issue a Satisfactory Arrangements Certificate for State infrastructure contributions, and require the Proponent to enter into a VPA with the Minister prior to the release of the Subdivision Certificate that creates the first residential lot. The proposed modification is essentially an administrative matter and will have no significant consequence to the approved Concept Plan or future development applications. In this regard, we look forward to the Department's favourable determination of this application.



APPENDIX A

EMAIL CORRESPONDENCE: DEVELOPER CONTRIBUTIONS TEAM (May – July 2016)

Jessica Bayley

From: Bill Sarkis <bsarkis@winten.com.au>
Sent: Monday, 18 July 2016 4:08 PM
To: Lisa.Chan@planning.nsw.gov.au
Cc: Jessica Bayley
Subject: RE: Minmi/Link Rd Project - SAC request
Attachments: 150100B.PDF; 0776_001.pdf

Hi Lisa,

Please find below response to your queries as shown in black.

In addition to below, but in accordance with our point number 4 in our email dated 8/7/16, and until a VPA is executed for this site, we are seeking a S75W modification under S75P(2)(a1) that will require Council to impose a development consent condition that the subdivision certificate cannot be issued until the SIC is resolved to the satisfaction of the Minister.

This need is required as a result of Council's LEP 2012, Clause 8.1 which requires that Development Consent cannot be issued unless the Director-General has certified in writing that satisfactory arrangements have been made regarding State Public Infrastructure.

The approach we are suggesting is considered appropriate in order to provide the relevant security that will enable the Minister to issue a SAC so that Council can determine development application and to be fair as it can also apply to any other development.

Please find attached the relevant extract from our S75W application for your consideration.

Please also note that we are **NOT** asking to remove the Concept Plan conditional requirement to enter into a VPA with the Minister, we are only seeking to **defer** this requirement to sometime before the subdivision certificate release is required. This will ensure that Council can issue development consent and while we are in the process of finalising engineering design/construction we will concurrently complete a satisfactory VPA with the Minister.

The fast tracking of our offer to enter into a VPA in accordance with previously submitted contribution schedule may supersede the S75P(2)(a1) direction.

I trust that this additional information will assist with your consideration and please do not hesitate to contact me if additional information or clarification is required.

Please also note that we are meeting Natasha Harras and Fiona Gibson this Friday at 10am and if convenient and required we can meet with you say at midday.

Regards

Bill Sarkis | Winten Property Group
T: 02 9929 5000 | www.winten.com.au
Level 10, 61 Lavender Street | Milsons Point NSW 2061

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From: Lisa.Chan@planning.nsw.gov.au [mailto:Lisa.Chan@planning.nsw.gov.au]
Sent: Thursday, 14 July 2016 4:37 PM

To: Bill Sarkis <bsarkis@winten.com.au>
Subject: RE: Minmi/Link Rd Project - SAC request

Hi Bill,

Thank you for your email.

Before the Department considers your request, could you please clarify the following:

1. Lot and DP number of the land subject to the VPA;

The lot and DP numbers of the land subject to the VPA are as follows:

- Lot 2 DP 1193703
- Lot 2 DP 877349
- Lot 3 DP 877349
- Lot 6 DP 1044574
- Lot 351 DP 1108608
- Lot 1 DP 1156243
- Lot 48 DP 115128

A plan is also attached highlighting the subject lots.

2. Street address;
3. Newcastle Link Road, Minmi
4. Justification for adopting the contribution rate applicable to the Thornton North area when the site does not sit within this area;

The contribution rate applicable to the Thornton North area was adopted for the subject site on the basis that both areas are identified within the draft Lower Hunter Special Contributions Area. It was also considered reasonable to apply a similar rate given that the Thornton North urban release area is in close proximity to the Minmi development site, being less than 15km north of our site.

5. Justification for a rate of \$23,000 per ha of NDA; and

We have adopted \$23,300 per hectare of NDA on the basis that similar rates (\$2.27sqm and \$2.33sqm) have been accepted by the Department on a number of nearby developments within Lower Hunter Contributions Area. In this regard, the proposed rate is considered to be current and acceptable to the Department until such time the draft Lower Hunter SIC is finalised and adopted. In relation to the proposed definition of NDA, we have adopted the definition used under the Growth Centres SEPP for ease and consistency.

This approach is considered fair and reasonable.

6. Reference to 75P(2)(a1) in your email. Please provide this section/clause from the relevant LPI as I could not locate this myself.

Newcastle LEP 2012 outlines the requirements for Satisfactory Arrangements under Part 8 Clause 8.1 and *Lake Macquarie LEP 2014* outlines these provisions under Part 6 Clause 6.1. I have provided the links below to the relevant clauses for you:

<http://www.legislation.nsw.gov.au/#/view/EPI/2012/255/part8/cl8.1>

<http://www.legislation.nsw.gov.au/#/view/EPI/2014/605/part6/cl6.1>

Regards
Lisa

Regards

Lisa Chan
A/Team Leader, Developer Contributions (Mon, Tue, Thu and Fri)
Department of Planning & Environment
GPO Box 39 SYDNEY NSW 2001
T 02 9228 6230
E lisa.chan@planning.nsw.gov.au

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From: Bill Sarkis [<mailto:bsarkis@winten.com.au>]
Sent: Friday, 8 July 2016 12:37 PM
To: Lisa Chan <Lisa.Chan@planning.nsw.gov.au>
Cc: Rock, Geoffrey (RTCA) <Geoffrey.Rock@riotinto.com>; Jessica Bayley <j.bayley@monteathpowys.com.au>
Subject: RE: Minmi/Link Rd Project - SAC request

Hi Lisa,

As requested, please see our responses below to the matters raised in your email dated 23 June 2016. You will notice that we have shifted the items around slightly to provide the Concept Plan background up front, followed by the subsequent consultation and proposed strategies to process the SAC.

1. The relevant requirements under the Concept Plan approval

The relevant requirements under the Concept Plan Approval are discussed under Condition 1.17 and the approved Statement of Commitments.

Condition 1.17 of the Concept Approval requires that prior to each stage of development the proponent is required to prepare a staging plan to be endorsed by Council outlining the schedule of delivery of various contributions and facilities for that stage, including State infrastructure contributions.

In addition, the Statement of Commitments (November 2011) approved as part of the Concept Plan outline the Proponent's commitments relating to State infrastructure contributions. The Proponent, being Coal & Allied at the time, offered to pay the State Infrastructure Contribution rate current at the time of future development applications, offset by land dedications and any appropriate works-in-kind (WIK). More specifically, the Proponent agreed to dedicate a site (approximately 4Ha) for a primary school within the Link Road North Precinct and dedicate 1.3Ha to form an extension the existing Minmi East Public School.

It was noted that at the time of writing the Statement of Commitments, the SIC for the Lower Hunter was in draft, and that the contributions associated with the site would be subject to future negotiations with the Department of Planning & Environment.

A copy of the approved Statement of Commitments is attached for your convenience. The commitments relating to State infrastructure Contributions are discussed on Page 2 of this document.

2. The level and nature of the contributions to be provided, including monetary contributions, the dedication of land and works in kind (WIK). For WIK, please provide a description of the WIK and the indicative cost

The following contributions were being considered to address State infrastructure contributions for the overall development:

- Land dedication of approximately 4Ha to Department of Education (DoE) for a primary school site within the Link Road North Precinct;
- Land dedication of approximately 1.3Ha to DoE to extend the existing Minmi Public School; and
- The upgrade of the Newcastle Link Road/Minmi Road intersection from a roundabout to a signalised intersection, to be undertaken as WIK. The indicative cost which will be dependent on the required upgrade works and the timing are not known at this time.

Based on consultation to date, the RMS and DoE are not in a position to identify the required WIK or to confirm the need for land dedications at this point in time. This is discussed below under Item 3. In this regard, we are proposing that a per-lot monetary contribution is more appropriate, to facilitate the prompt execution of a VPA, until these items are resolved. We are aware of recent Planning Agreements entered into for development sites at Thornton North where the Minister for Planning has accepted a monetary contribution at a rate of \$2.27 and \$2.33 per square metre of each residential lot. We propose to enter into a similar agreement, and offer to adopt the higher rate of \$2.33 per square meter which is \$23,300.00 per hectare of net developable area. We would expect that this monetary contribution would be offset by any proposed land dedication or possible WIK arrangements, subject to further discussions with the relevant State agencies.

We have prepared a draft schedule detailing the proposed contributions for the overall site, including monetary and land contributions. A copy is attached for your consideration.

We have also included a draft schedule for the purposes of addressing the Condition 1.17 of the Concept Approval, as discussed under Item 1 previously. This schedule relates to the Part 4 development applications currently being assessed by Newcastle City Council for the subdivision of the Minmi East Precinct (Stage 1), being DA 2015/10360 and DA 2015/10393. The schedule details the timing for the delivery of State infrastructure contributions for the purposes of addressing Condition 1.17, and is subject to the outcome of these discussions. Monetary contributions are proposed for the Minmi East Precinct on the basis that any land dedication or possible WIK would not be applicable to Stage 1 of the development.

3. Advice on any consultation undertaken with the RMS and Department of Education on the proposed contributions and any written advice received

Department of Education:

Consultation with DoE Asset Management Directorate has commenced, including a meeting held 22 June 2016 with Catherine Pyne and Stephanie Bashford (DoE Asset Planners). It is understood that the Department of Education are currently reviewing their approach to planning for schools across NSW, and the results of this review will determine whether or not there is a need for the two school sites identified through the Concept Plan. DoE anticipate that this review will be complete mid to late 2017. It was agreed that Winten could proceed with the land dedications proposed under the Concept Plan, with the delivery of the school sites being linked to the release of a certain number of lots. However, this would be subject to review once DoE have determined the need for schools in the locality.

Relevant DoE Officers:

- Lydia Awad (Statutory Planner, Planning & Demography, Asset Management Directorate)
- Joseph Lantz (Asset Planner, Planning & Demography, Asset Management Directorate)
- Catherine Pyne (Asset Planner, Planning & Demography, Asset Management Directorate)

Roads & Maritime Service:

Consultation with the Roads & Maritime Service (RMS) has commenced, including a meeting held 28 June 2016 with David Collaguazo and Marty Jenkins from RMS Hunter office. Upgrades to the Newcastle Link Road/Minmi Road intersection under the SIC were discussed. It is understood that the RMS require further analysis of the intersection to determine the extent and timing of works and require a Deed Containing Agreement before they can agree to include this item in a Ministerial VPA. We are in the process of briefing our traffic consultant to undertake the RMS required assessment to determine timing, lot threshold and the required works.

As this process will take some time, it is therefore critical that a suitable arrangement with the Minister be adopted in order to facilitate the issue of a SAC.

Whilst we are continuing to liaise with the RMS, it should be noted that there was no specific commitment under the Statement of Commitments or Concept Approval that obligates the Proponent to enter into a WIK agreement with the RMS for the provision of this intersection.

Relevant RMS Officers:

- Marty Jenkins (Manager, Land Use Assessment, Hunter Region)
- David Collaguazo (Acting Manager, Land Use Assessment, Hunter Region)

4. Proposed security measures if SAC is to be issued prior to notification of the Planning Agreement

Further to discussions between the Department, Coal & Allied (Geoffrey Rock) and Winten Property Group (Bill Sarkis), we propose the following approach to address the Department's concern regarding adequate security measures where the Satisfactory Arrangements Certificate is to be issued prior to notification of the Planning Agreement:

An application to modify Concept Approval MP10_0090 under s.75W has been lodged to address a number of matters including security measures for the SAC. The modification seeks to provide security in the form of a ministerial direction under 75P(2)(a1). The direction would require that the relevant council impose a condition on the first Part 4 development consent issued (likely Minmi East Stage 1A, within Newcastle LGA) that would require the proponent to enter into the planning agreement for fulfilling obligations in the statement of commitments related to State infrastructure contributions. It will be suggested that this must be fulfilled prior to the release of the first Subdivision Certificate that creates a residential lot.

The intent is that Council may issue development consent to the subdivisions under Part 4, allowing the development application to be determined and to progress to construction, however the Proponent must have entered into a Planning Agreement for fulfilling the obligations in the statement of commitments related to State infrastructure contributions for the overall development prior to Council issuing the Subdivision Certificate for the first stage. In practical terms, this means that the Developer is unable to register and release any residential lots until State infrastructure contributions have been resolved.

We note that DPE also raised the concern that in addition to adequate security being provided, they also seek to ensure that the proposed mechanism is fair and reasonable. It is considered that the proposed approach to the release of the SAC is both fair and reasonable as the requirement for a Planning Agreement to be entered into for the purposes of securing State infrastructure contributions prior to the release of Subdivision Certificate could be applied to any other Proponent.

Further detail is contained in the s.75W application that has been lodged with the Department of Planning & Environment (DPE ID: *Part3AMod 16_7735 (Part 3A 4060)*). Please refer to the attached copy.

In view of the above we request that the Department give favourable consideration to the following:

- 1) Support the approval of the s.75W that will facilitate the issue of development consent while requiring a VPA to be entered into prior to release of the first Subdivision Certificate that creates a residential lot;

2) Initiate action to prepare a VPA in accordance with our proposed contribution schedule.

We trust that these responses provide adequate detail for the Department to consider and process our request. Your prompt review and response will be appreciated.

Please do not hesitate to contact me should you require any additional information or clarification.

Regards

Bill Sarkis | Winten Property Group

T: 02 9929 5000 | www.winten.com.au

Level 10, 61 Lavender Street | Milsons Point NSW 2061

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From: Lisa.Chan@planning.nsw.gov.au [<mailto:Lisa.Chan@planning.nsw.gov.au>]

Sent: Thursday, 23 June 2016 2:52 PM

To: Bill Sarkis <bsarkis@winten.com.au>

Cc: Rock, Geoffrey (RTCA) <Geoffrey.Rock@riotinto.com>

Subject: RE: Minmi/Link Rd Project - SAC request

Hi Bill,

Thank you for your time this morning to discuss the request.

At this stage, I'm gathering all relevant documents which would assist our consideration of the request . As such, could you provide the following:

- * the level and nature of the contributions to be provided, including monetary contributions, the dedication of land and works in kind (WIK). For WIK, please provide a description of the WIK and the indicative cost
- * advice on any consultation undertaken with the RMS and Department of Education on the proposed contributions and any written advice received
- * proposed security measures if SAC is to be issued prior to notification of the Planning Agreement
- * the relevant requirements under the Concept Plan approval.

Regards

Lisa

Regards

Lisa Chan

A/Team Leader, Developer Contributions (Mon, Tue, Thu and Fri)

Department of Planning & Environment

GPO Box 39 SYDNEY NSW 2001

T 02 9228 6230

E lisa.chan@planning.nsw.gov.au

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From: Rock, Geoffrey (RTCA) [<mailto:Geoffrey.Rock@riotinto.com>]

Sent: Wednesday, 22 June 2016 3:51 PM

To: Lisa Chan <Lisa.Chan@planning.nsw.gov.au>

Subject: RE: Minmi/Link Rd Project - SAC request

Hi Lisa,

Please call me on 0409 545 318.

Agenda as follows:

- Geoffrey Rock to provide brief background to Minmi project;
- Discuss Coal & Allied proposal in relation to the provision of a Satisfactory Arrangements Certificate by the Department;

See attached plan showing the Minmi development site shaded blue, with the Stage 1A and Stage 1B areas outlined in red and yellow linework.

Regards

Geoff

Geoffrey Rock

Specialist Property Development
Coal Australia

Rio Tinto

M: 0409 545 318

T: 02 6570 0131

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From: Lisa.Chan@planning.nsw.gov.au [<mailto:Lisa.Chan@planning.nsw.gov.au>]

Sent: Tuesday, 21 June 2016 8:51 AM

To: Rock, Geoffrey (RTCA)

Subject: RE: Minmi/Link Rd Project - SAC request

Hi Geoffrey,

What's the best number to call you on for the teleconference?

I've sent you a meeting request. Could you forward this to Bill Sarkis?

Also, please provide an agenda so Martin and I can prepare for the meeting.

Regards

Lisa

Regards

Lisa Chan

A/Team Leader, Developer Contributions (Mon, Tue, Thu and Fri)

Department of Planning & Environment

GPO Box 39 SYDNEY NSW 2001

T 02 9228 6230

E lisa.chan@planning.nsw.gov.au

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Planning &
Environment

From: Rock, Geoffrey (RTCA) [<mailto:Geoffrey.Rock@riotinto.com>]

Sent: Monday, 20 June 2016 6:26 PM

To: Lisa Chan <Lisa.Chan@planning.nsw.gov.au>

Subject: RE: Minmi/Link Rd Project - SAC request

Thanks Lisa,

I can be available at 9.30 but would need to 'phone in.

Bill Sarkis, representing Winten Properties as the proponent of the development, would also be available to attend in person.

Let me know if that suits.

Regards

Geoff

Sent from my Windows Phone

From: Lisa.Chan@planning.nsw.gov.au

Sent: 20/06/2016 1:13 PM

To: [Rock, Geoffrey \(RTCA\)](#)

Subject: RE: Minmi/Link Rd Project - SAC request

Hi Geoffrey,

I've spoken to Martin and we would agree to have a meeting to discuss Rio Tinto's request.

Are you available this Thursday at 9:30am or 3:00pm? Please indicate your availability and attendees from Rio Tinto and I'll send you a meeting request.

Regards

Lisa

Regards

Lisa Chan
A/Team Leader, Developer Contributions (Mon, Tue, Thu and Fri)
Department of Planning & Environment
GPO Box 39 SYDNEY NSW 2001
T 02 9228 6230
E lisa.chan@planning.nsw.gov.au

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Environment

From: Rock, Geoffrey (RTCA) [<mailto:Geoffrey.Rock@riotinto.com>]
Sent: Monday, 20 June 2016 12:39 PM
To: Lisa Chan <Lisa.Chan@planning.nsw.gov.au>
Cc: Jess Meddows <jessica.meddows@planning.nsw.gov.au>
Subject: RE: Minmi/Link Rd Project - SAC request

Hi Lisa,

Yes, I confirm that the proposal as you have summarised below is consistent with our intended approach.

Let me know if you require any further information.

Regards
Geoff

Geoffrey Rock

Specialist Property Development
Coal Australia

Rio Tinto

M: 0409 545 318
T: 02 6570 0131

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From: Lisa.Chan@planning.nsw.gov.au [<mailto:Lisa.Chan@planning.nsw.gov.au>]
Sent: Monday, 20 June 2016 12:32 PM
To: Rock, Geoffrey (RTCA)
Cc: jessica.meddows@planning.nsw.gov.au
Subject: RE: Minmi/Link Rd Project - SAC request

Hi Geoffrey,

Thank you for your patience in the matter.

I'm reviewing your request and will provide a recommendation to my executive. However, just so I understand your proposal correctly, can you please confirm if the summary provided below is correct?

The proposal:

Upon the provision of an irrevocable letter of offer with terms accepted by all parties, the Secretary issues the Satisfactory Arrangements Certificate (SAC) to Council.

Council then issues consent to the DA upon receipt of the SAC.

The VPA be notified and executed prior to the issue of the first subdivision certificate.

Regards

Lisa

Regards

Lisa Chan

A/Team Leader, Developer Contributions (Mon, Tue, Thu and Fri)

Department of Planning & Environment

GPO Box 39 SYDNEY NSW 2001

T 02 9228 6230

E lisa.chan@planning.nsw.gov.au

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From: Rock, Geoffrey (RTCA) [<mailto:Geoffrey.Rock@riotinto.com>]

Sent: Monday, 20 June 2016 9:58 AM

To: Lisa Chan <Lisa.Chan@planning.nsw.gov.au>

Cc: Jess Meddows <jessica.meddows@planning.nsw.gov.au>

Subject: RE: Minmi/Link Rd Project - SAC request

Thanks Lisa,

I appreciate the update – look forward to hearing from you once you have had the opportunity to meet with your director.

Regards

Geoff

Geoffrey Rock

Specialist Property Development
Coal Australia

Rio Tinto

M: 0409 545 318

T: 02 6570 0131

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From: Lisa.Chan@planning.nsw.gov.au [<mailto:Lisa.Chan@planning.nsw.gov.au>]
Sent: Monday, 20 June 2016 9:56 AM
To: Rock, Geoffrey (RTCA)
Cc: jessica.meddows@planning.nsw.gov.au
Subject: RE: Minmi/Link Rd Project - SAC request

Hi Geoffrey,

I planned to discuss this matter with my director last week but given it was a short week and my director (Martin Reason) has only joined the Department three weeks ago and therefore have a busy schedule, I was not able to set aside a time for this.

However, I'll do so early this week.

If a meeting is required with Rio Tinto, I'll then contact you to arrange a time to meet.

Please call me if you wish to discuss the matter.

Regards
Lisa

Regards

Lisa Chan
A/Team Leader, Developer Contributions (Mon, Tue, Thu and Fri)
Department of Planning & Environment
GPO Box 39 SYDNEY NSW 2001
T 02 9228 6230
E lisa.chan@planning.nsw.gov.au

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From: Rock, Geoffrey (RTCA) [<mailto:Geoffrey.Rock@riotinto.com>]
Sent: Monday, 20 June 2016 9:51 AM
To: Lisa Chan <Lisa.Chan@planning.nsw.gov.au>
Cc: Jess Meddows <jessica.meddows@planning.nsw.gov.au>
Subject: FW: Minmi/Link Rd Project - SAC request

Hi Lisa,

We would welcome the opportunity to meet with the Department to discuss this matter.

It would be appreciated if you could please advise your availability to meet.

Please call me should you wish to discuss.

Regards
Geoffrey Rock

Specialist Property Development
Coal Australia

Rio Tinto

M: 0409 545 318
T: 02 6570 0131

This email is confidential and may also be privileged. If you are not the intended recipient, please notify us immediately and delete this message from your system without first printing or copying it.

From: Rock, Geoffrey (RTCA)
Sent: Monday, 6 June 2016 3:40 PM
To: 'Lisa.Chan@planning.nsw.gov.au'
Cc: jessica.meddows@planning.nsw.gov.au
Subject: RE: Minmi/Link Rd Project - SAC request

Hi Lisa,

Thank you for the advice provided.

As you may be aware, this project has a long history. Coal & Allied has previously offered to enter into a VPA with NSW Government for this project and included in the offer the payment of monetary contribution as per the **attached** letter dated 27 July 2010.

In progressing the VPA in the early part of 2011, the DoP decided not to include the monetary contributions in the VPA as the draft SIC was being progressed at the time. It is our understanding that the Minister has not yet determined the draft SIC. Consequently, the VPA was entered into for the provision of the Environmental Offset Land only and was finalised on 3rd October 2012.

We worked with Council and the Department subsequent to the Concept Approval being granted in August 2013 to address the modifications to the Concept Plan as required by the Planning Assessment Commission. Those modifications were finalised in February 2014 (as per the **attached** letter) and we have worked since then on being positioned to lodge the Development Applications for the first two stages.

In light of the long history of this matter, we wish to discuss the following approach with the Department:

1. Coal & Allied make a written, irrevocable offer to enter into a planning agreement with the Minister in relation to Developer Contributions addressing the relevant matters as per the checklist attached to your email;
2. Upon receipt of that letter to the satisfaction of the Minister, the Minister provide correspondence to Council advising generally as follows:
 - a. The Proponent has made an irrevocable written offer to enter into a planning agreement with the Minister in relation to Developer Contributions;
 - b. The Minister requests that as a condition of Approval, Council include the following requirement:
 - i. Prior to the release of the first subdivision certificate, the proponent must provide Council with an executed copy of the Voluntary Planning

Agreement with the Minister in relation to the provision of designated State Public Infrastructure.

3. Following issue of the Satisfactory Arrangements letter and prior to the release of the first subdivision certificate, the VPA be drafted, exhibited and executed.

The intent of this approach is to enable Council to continue with its' assessment of the DAs and to then utilise the time prior to commencement of the development for the drafting, exhibition and execution of the VPA.

I look forward to hearing from you once you have had the chance to review this.

Regards
Geoffrey Rock

Specialist Property Development
Coal Australia

Rio Tinto

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T: 02 6570 0131

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From: Lisa.Chan@planning.nsw.gov.au [<mailto:Lisa.Chan@planning.nsw.gov.au>]
Sent: Monday, 6 June 2016 1:41 PM
To: Rock, Geoffrey (RTCA)
Cc: jessica.meddows@planning.nsw.gov.au
Subject: Minmi/Link Rd Project - SAC request

Hi Geoffrey,

The Department has reviewed the information provided, including your advice regarding payment of monetary contributions included in the Statement of Commitment.

For your information, Clause 8.1(2) of Newcastle LEP sets out that development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.

The proposed subdivision for Minmi East Stages 1A and 1B under DA2015/10360 and 2015/10393 trigger the above clause and therefore the Secretary's certification is required.

The Department's policy on the issue of satisfactory arrangements certificate is upon the provision of an executed Planning Agreement. A statement in the Statement of Committee which commits the developer in entering into a Planning Agreement does not constitute satisfactory arrangements.

Coal and Allied is therefore requested to enter into a Planning Agreement with the Minister for Planning and make arrangements to contribution to the provision of designated State public infrastructure in relation to the proposed development.

In order to commence the process, please find attached a checklist which lists out matters to be provided to the Department. These will then form the terms of the offer and should be presented in a Letter of Offer.

Should you have any questions, please contact me to discuss.

Regards
Lisa

Regards

Lisa Chan
A/Team Leader, Developer Contributions (Mon, Tue, Thu and Fri)
Department of Planning & Environment
GPO Box 39 SYDNEY NSW 2001
T 02 9228 6230
E lisa.chan@planning.nsw.gov.au

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From: Rock, Geoffrey (RTCA) [<mailto:Geoffrey.Rock@riotinto.com>]
Sent: Wednesday, 4 May 2016 12:33 PM
To: Jess Meddows
Subject: Coal & Allied - Minmi/Link Rd Project

Hi Jessica,

As discussed briefly by 'phone earlier today, Coal & Allied Industries (a wholly owned subsidiary of Rio Tinto) has a Concept Approval (MP10_0090 – copy attached) for a development site at Minmi in the Lower Hunter.

Associated with that project, we have also entered into a VPA with NSW Government (copy attached) in respect of the commitment to transfer approx. 1,560ha of Environmental Offset Land to National Parks and Wildlife to offset the environmental impacts of the proposed development. For various reasons at the time, payment of monetary contributions was not included in the VPA, however the commitment to pay such contributions is included in the Statement of Commitments (copy attached) which form part of the Concept Approval.

We have reached a commercial agreement with Winten Property Group in relation to the site and under that agreement Winten Property lodged a Development Application with Newcastle City Council in December 2015 for the first stage of the development.

Coal & Allied and/or Winten Property expect to be positioned to meet with the Department in the near future to progress discussions in relation to the Statement of Commitment for payment of monetary contributions for the Minmi site, however in the meantime, and in consideration of the Statement of Commitments, we are seeking written confirmation from the Director-General to Newcastle City Council, as required by clause (2) of Regulation 8.1 of the Newcastle LEP (copied below), that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure.

NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012 - REG 8.1

Arrangements for designated State public infrastructure

8.1 Arrangements for designated State public infrastructure

(1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.

(2) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.

(3) Subclause (2) does not apply to:

- (a) any lot identified in the certificate as a residue lot, or
- (b) any lot to be created by a subdivision of land that was the subject of a previous development consent granted in accordance with this clause, or
- (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or
- (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.

(4) This clause does not apply to land in an urban release area if all or any part of the land is in a special contributions area (as defined by section 93C of the Act).

Subject to the Department's review of the information provided here, we would appreciate it if you could confirm that the Director-General is able to provide the requested correspondence to Newcastle City Council.

Please call me should you wish to discuss.

Regards
Geoffrey Rock

Specialist Property Development
Coal Australia

Rio Tinto

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