

31 August 2016

Mr Marcus Ray  
Deputy Secretary, Planning Services  
NSW Department of Planning and Environment  
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**ATTENTION: FIONA GIBSON**

Dear Fiona

**RE: MP10\_0090 MODIFICATION 1 – RESPONSE TO SUBMISSIONS**

We refer to the four (4) submissions received by the NSW Department of Planning & Environment through the notification period for MP10\_0090 – MOD 1. We have reviewed each of the submissions and provide the enclosed response to the matters raised, for the Department's consideration. Prior to determination of the application, we ask that a copy of the draft conditions be provided to us for review.

Should you have any queries regarding the enclosed information or wish to discuss our application further, please do not hesitate to contact either Jessica Bayley 0435 731 290 or myself.

*Per [Signature]*

**William Sarkis**  
**Development Director**  
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## MP10\_0090 MINMI LINK ROAD – S75W MOD 1

### RESPONSE TO SUBMISSIONS

RELEVANT CONDITION	SUMMARY OF MATTER RAISED	PROPONENT RESPONSE
<b>NSW Office of Environment &amp; Heritage (28 July 2016)</b>		
N/A	No objection.	Noted.
<b>NSW Rural Fire Service (18 August 2016)</b>		
N/A	No objection, subject to the comments provided in relation to S10/0011 dated 19 April 2011.	Noted.
<b>Lake Macquarie City Council (2 August 2016)</b>		
N/A	Clarification is sought for the connection between the urban design guidelines being prepared for Link Road South and this S75W application.	The proposed modification does not seek to amend conditions relating to the Urban Design Guidelines.
<b>1.15 Landscape &amp; Public Domain Plans</b>	No objection to the proposal to submit landscaping and public domain plans with the respective development applications, as per comments submitted 3/9/2015.	Noted.

RELEVANT CONDITION	SUMMARY OF MATTER RAISED	PROPONENT RESPONSE
<b>1.16 Location of Recreation Facilities</b>	<p>LMCC referred to their previous comment (3/9/2015) which agreed with NCC previous response that <i>‘Council would support a modification to this condition that deleted the two year timeframe post Concept Plan approval however Council is of the opinion that the number, nature and location of the recreational facilities is a critical unresolved matter affecting the entire Concept Plan area and must be discussed and agreed by both Council’s and the Secretary (Director General) “prior to the lodgement of the development application following Stage 1.”’</i></p>	<p>The provision and location of the required recreation facilities within Lake Macquarie LGA have been accounted for and determined through the current Section 94 plan, being <i>Lake Macquarie City Council Development Contributions Plan, Glendale Contributions Catchment – 2015</i>. This plan was adopted in May 2016 and took into account the development within the Lake Macquarie LGA. It is noted that Stage 5 (Link Road North) is currently the subject of a Local Government Boundary adjustment, where the intention is that Stage 5 will fall under the Newcastle LGA in the future. Based on the S94 Plan, supporting background documents and Council’s submission to the Concept Plan, it is understood that LMCC intend to upgrade existing sporting fields (rather than provide new facilities) or have sites already earmarked within the catchment for other recreational facilities, to which the development will contribute to under Section 94. Based on prior discussions with LMCC S94 Coordinator, it is understood that any application lodged for Stage 5 prior to the LGA boundary adjustment would be subject to the current LMCC Section 94 Plan rate, hence contributions for recreational facilities would still be collected to upgrade the existing facilities.</p> <p>In this regard, we are of the opinion that the lodgement of the Stage 2 (Link Road South) development application should not be held up by this matter and the revised condition as per our response to NCC comments below appropriately addresses this matter.</p>

RELEVANT CONDITION	SUMMARY OF MATTER RAISED	PROPONENT RESPONSE
<b>1.17 Staging Plan</b>	LMCC referred to their previous comments (dated 3/9/2015) which agreed with NCC previous response stating that <i>'Council agrees that these matters will need to be discussed, considered and resolved during the assessment of the respective development applications and that the delivery of the respective elements will be prior to the issuing of Construction Certificates or Subdivision Certificates, as appropriate.'</i>	Noted. The proposed modification seeks to confirm the timing for the provision of a staging plan. The Proponent has requested a timeframe be placed on Condition 1.17 in that the staging plan is required with each development application for subdivision. It is considered that this change will provide Council and the Proponent the opportunity to discuss the delivery of infrastructure and contributions through the development application process.
<b>1.25 Stormwater Management Plan</b>	LMCC referred to their previous comments (dated 3/9/2015) where it was considered that the overall stormwater management strategy for the whole of the development must be sorted before the first DA is lodged, and Council assumed this was addressed through the Concept Approval. As such each respective DA should be supported by a detailed stormwater management strategy for each respective stage that is consistent with the overall strategy.	Noted. The proposed modification seeks to amend the timing of the Condition so that the stage-specific stormwater management plan can be provided as part of future development applications rather than prior to lodgement of future development applications. However, in response to Council's comments we note that an overall stormwater management plan was submitted with the Concept Plan. Detailed stormwater management strategies will be provided with each development application for subdivision having regard to the Concept Plan and Council's requirements.
<b>1.38 Aboriginal Cultural Heritage Management Plan</b>	LMCC referred to their previous comments dated 3/9/2015, which stated that it would need to be determined through the DA process whether there are any areas of significant Aboriginal Cultural Heritage as this could impact the lot layout for example. The management of these areas would need to be resolved prior to issue of Construction Certificate.	Noted. A heritage impact assessment was undertaken as part of the Concept Plan, which resulted in Condition 1.38 requiring an ACHMP be prepared. The proposed modification seeks to allow the preparation of one overarching ACHMP.

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1.46 Construction Management Plan	No objection.	Noted.
1.49 Perimeter Roads	The proposed modification in relation to perimeter roads is unnecessarily complicated. The existing requirement is preferred as it is clearer and still provides flexibility as it states 'where practicable'.	<p>Noted. However, the proposed modification is a result of Newcastle Council's interpretation of the requirement, being that the statement 'where practicable' relates only to roads adjoining riparian corridors and that the requirement to include perimeter roads in the development area is a requirement in its own right to be applied across the development site. That is, perimeter roads must be provided throughout the development site regardless of whether it is practical or feasible, or in keeping with the infrastructure proposed which formed the basis of the Concept Plan.</p> <p>Noting LMCC concern that the proposed modification is unnecessarily complicated, we propose to simplify the wording originally proposed to the following:</p> <p><b><i>'Perimeter roads are to be included in the development site, where practicable. Riparian zones shall be adjoined by roads rather than subdivision lots, where practicable.'</i></b></p>

RELEVANT CONDITION	SUMMARY OF MATTER RAISED	PROPONENT RESPONSE
<b>Newcastle City Council (17 August 2016)</b>		
<b>1.15 Landscape &amp; Public Domain Plans</b>	No objection.	Noted.
<b>1.16 Location of Recreation Facilities</b>	<p>Council's preference is that that type and location of recreational facilities should be resolved at the earliest possible opportunity to give certainty and direction to Council's strategic planning for other local, district and regional recreational facilities.</p> <p>The Minmi East and Link Road South precincts are likely to yield the Proponent with between 5 and 10 years of land sales meaning the current uncertainty regarding recreation planning may be extended for this period if the proposed amendment was approved.</p> <p>The proposed wording for Condition 1.16 is unsatisfactory as references to 'Stage 1' and 'the second stage' are confusing as the 'second stage' may not necessarily be 'Stage 2'. References to 'development applications' should also be clarified.</p>	<p>The type of recreational facilities required to service the development are identified by Council's <i>Western Corridor Section 94 Plan</i>, which is consistent with the outcomes of the Concept Plan. We note that it is only the location of some of these facilities that remains unresolved.</p> <p>The Proponent is working with Newcastle City Council to determine suitable locations for recreation facilities, in particular the sporting fields (refer to meeting held 21 June 2016), and is currently reviewing various locations within the site. However, we note that the site is somewhat constrained in terms of topography and therefore finding suitable land within the site that meets Council's requirements may not be possible.</p> <p>The proposed modification seeks to amend the timing of resolving the location of the recreational facilities so that it is triggered by the next stage of development within the Newcastle LGA. This is on the basis that the recreation facilities for the development within Lake Macquarie LGA have already been resolved through their Section 94 Plan (as discussed previously). Further to this, it is understood that the existing recreation facilities within nearby suburbs can accommodate demand from Stages 1 and 2, being Minmi East (Newcastle LGA) and Link Road South (Lake Macquarie LGA) based on the Director General's Assessment Report for the Concept Plan. The Department considered that additional land for active recreational facilities 'should be identified prior to any development</p>

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		<p>being approved beyond Stage 2 (Link Road South)' to ensure that an appropriate land area could be secured (refer Section 5.2.2).</p> <p>Council's reference to the timeframe based on land sales for Stages 1 and 2 is somewhat unrelated in this regard, as the demand for the facilities will arise from later development stages. It is also possible that where land is identified within the site, it will form part of a later stage.</p> <p>As noted previously, the Proponent is currently reviewing options in consultation with Council to determine potential locations for the recreational facilities and is seeking to resolve this matter as soon as possible.</p> <p>The Proponent acknowledges Councils concern that the wording of this Condition may cause confusion, and proposes the following:</p> <p><b><i>Prior to approval of the development application for subdivision of Stage 3, 4 or 5 (whichever occurs first) as defined by the Indicative Staging Plan contained in the 'Minmi/Link Road Appendix A, Concept Plan Design Guidelines' (May 2014), the arrangements for provision of recreation facilities to meet demand for development within all stages including the skate park are to be identified. Suitable land for these facilities is to be identified within the development area, unless alternative arrangements can be made to accommodate these facilities within general proximity to the development site through negotiations with the relevant council(s). The location of the recreation facilities or alternative arrangements are to be submitted to the Director General for approval before the lodgment of the development application for Stage 3, 4 or 5 (whichever occurs first).</i></b></p>

RELEVANT CONDITION	SUMMARY OF MATTER RAISED	PROPONENT RESPONSE
<b>1.17 Staging Plan</b>	No objection.	Noted.
<b>1.25 Stormwater Management Plan</b>	<p>No objection to proposed modification.</p> <p>In addition to the proposed modification, Council have requested further amendments to Condition 1.25 to address concerns around the location of stormwater infrastructure within the riparian corridors.</p>	<p>Noted, Council do not object to the proposed modification.</p> <p>We also note that Council has requested further amendments to Condition 1.25. The suggested amendment does not form part of our application. We are comfortable with the application of this condition in its current form. We note that the application referred to by Council (DA2015/10390) has been prepared with regard to the Concept Plan/Approval, and is in accordance with the relevant NSW Office of Water guidelines (as confirmed by NOW). In this regard, we are of the opinion that the Condition is sufficient and therefore we do not seek any further amendments.</p> <p>While we are willing to discuss this matter further with the Department and Council if required, this is a separate matter and does not form part of this application.</p>