

Planning & Regulatory.S Masia
Reference: ECM5435031
Phone: 02 4974 2054



14 February 2018

Ms Emma Butcher
NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

PO Box 489, Newcastle
NSW 2300 Australia
Phone 02 4974 2000
Facsimile 02 4974 2222
Email

mail@ncc.nsw.gov.au
www.newcastle.nsw.gov

Dear Ms Butcher

MINMI LINK ROAD CONCEPT APPROVAL (MP10_0090 - MOD3)

Thank you for providing the opportunity for Council to review and comment on the proposed modification 3 to MP10_0090, including an extension in time to 14 February 2018 in which to make a submission.

Newcastle City Council does not support the proposed Modification 3 to MP10_0090.

Newcastle City Council is responsible as the consent authority, for the assessment of development applications lodged pursuant to Part 4 of the *Environmental Planning and Assessment Act 1979* for part of the land subject of the Concept Approval MP10_0090. It is imperative that the Concept Approval provide a robust planning framework over the subject land, including that comprehensive traffic impact analysis is carried out to inform the assessment of development applications.

Condition 1.31 of the Concept Approval is considered sound in that, firstly it requires a comprehensive assessment of the impacts of the development and secondly what upgrades are required to mitigate such impacts. It is considered that the proposed modifications to the condition would compromise this intent.

As a consent authority Council could not reasonably approve development without adequate information or alternatively with the understanding that the development could result in unacceptable traffic impacts if in the event required road upgrades were not identified and scheduled to be delivered by Local or State Government to correspond with the relevant development occurring.

It must be noted that Council has not and could not reasonably predict all upgrades necessary to mitigate the impacts of any particular development. Such information can only be identified during the detailed assessment of the potential impacts of each proposed development. An example of such can be found within Stage 1B of the Minmi development (subject of the Concept Approval) which has resulted in the requirement for a new roundabout, channelised and traffic controlled intersections on Minmi Road and other ancillary works all of which are not identified within Council's adopted contributions plan. The responsibility for funding and delivering all of works not identified within Council's contributions plan is the sole responsibility of the respective Developer.

The subject modification application appears to be made on the basis that the developer should not be responsible for paying for the same infrastructure twice, that

being via contributions under the SIC and/or Council's Section 94 Contributions Plan, and also directly. However, this does not need to occur under the current condition.

In relation to local contributions it is noted that Council's Western Corridor Section 94 Contributions Plan (dated August 2013) does include contributions for the local traffic network and that a development application within the subject land may be levied under that plan, with a proportion contributing to such traffic works. However, the timing of such upgrades is unknown being dependent on a number of factors, including sufficient funding generated. The delivery of upgrades by Council, through Section 94 funding, may not correspond with the need to mitigate specific traffic impacts associated with a particular development at the time.

In the event that particular local road upgrades are required to mitigate the impacts of a development, and where these works are also identified under Council's Section 94 Plan, then a more appropriate path forward would be for the works to be constructed by the developer, in which case Council would be open to enter into a works-in-kind agreement to offset the Section 94 levy (as provided for under Council's Section 94 Contributions Plan).

Similarly it is envisaged that the State Government could also consider such an arrangement.

Having regards to the above Newcastle City Council does not support the proposed Modification 3 to MP10_0090. Should you have any questions in relation to these matters please contact me on (02)4974 2054, or smasia@ncc.nsw.gov.au or Brian Cameron on (02)4974 263, or bcameron@ncc.nsw.gov.au.

Yours faithfully



Steven Masia
DEVELOPMENT ENGINEERING TEAM COORDINATOR