

Our Ref: 15/0100 JB:kd

1 May 2018

NSW Department of Planning & Environment  
Modification Assessments  
GPO Box 39  
SYDNEY NSW 2001

**ATTENTION: Emma Butcher**

Dear Emma

**RE: MP10\_0090 MOD 3 – RESPONSE TO SUBMISSIONS**

We refer to the meeting held with Anthony Witherdin on 21 March 2018 to discuss Winten Property Group's proposed modifications to Condition 1.31 of the Concept Approval (MP10\_0090). As requested by Anthony, we have responded to the matters raised in submissions by NSW Roads & Maritime Services (RMS), Transport for NSW (TfNSW) and Newcastle City Council (NCC).

As a general comment, we wish to clarify that the intent of the modifications was not to avoid undertaking any form of traffic assessment to inform future development applications. Rather, it was to formally acknowledge that the subject development has been in the planning and approval phase for over a decade and that the relevant authorities have been aware of this when planning upgrades to the existing regional and local road network. These upgrades have been accounted for under the respective developer contributions schemes and will be delivered in a co-ordinated manner by the relevant statutory body.

We acknowledge that the wording of the proposed modifications may not reflect this intent, as suggested by Council. In this regard, we accept that refinements are required to the modified conditions originally proposed.

In addition, the Proponent proposes to undertake micro-simulation modelling for the development, in accordance with the RMS requirements provided 31 October 2017. However, it is proposed to undertake this modelling once for the entire development, rather than for each stage of the development, as per the current Concept Approval condition. Once completed, the modelling will be submitted to the RMS for their review and consideration. The modelling will include the intersections nominated by RMS to ensure that the results of the modelling can accurately inform the design of the Link Road / Minmi Road intersection upgrade.

It is expected that the outcomes of the micro-simulation modelling may be used to inform the relevant road authority (Council or RMS) regarding other necessary upgrades, and does not imply the upgrades will be undertaken by the Proponent.

On this basis, we propose the following amendments to Condition 1.31:

*The first development application for subdivision within each stage of the proposed development is to include a revised traffic and transport impact assessment prepared in consultation with Transport for NSW and the relevant Council(s). Each traffic assessment must include:*

- *Details of traffic generation and distribution from all land uses proposed within that stage including retail, sporting facilities and education facilities.*
- *Intersection analysis and micro-simulation modelling to determine the impact of the proposal on the existing regional and local road network. **Micro-simulation modelling is only required to be undertaken once incorporating the entire development, prior to the release of Stage 2 (Link Road South Precinct) unless otherwise agreed with the RMS.***
- ~~*Proposed timing for upgrades of key intersections, in particular Newcastle Link Road / Woodford Street / Cameron Park Road and Newcastle Link Road / Minmi Road in accordance with RMS requirements.*~~
- ~~*Details of any proposed upgrades to the road network, including timing and funding arrangements, to accommodate the proposed development. This is to include identification of suitable connection points for pedestrian and cycle links across Minmi Road and Newcastle Link Road.*~~

Responses to the specific matters raised by the RMS, TfNSW and NCC are provided as Attachment 1.

We trust that the information provided will assist your review of this matter, and your prompt response will be very much appreciated.

We would also be pleased to meet with DPE again to discuss the project and proposed modifications further. However in the meantime, please do not hesitate to contact Bill Sarkis or myself to discuss this matter further.

Yours faithfully

**MONTEATH & POWYS PTY LIMITED**

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## ATTACHMENT 1

### MP10\_0090 MINMI LINK ROAD – S75W MOD 3

### RESPONSE TO SUBMISSIONS

SUMMARY OF MATTER RAISED		PROPONENT RESPONSE
<b>NSW Roads &amp; Maritime Services (5 March 2018)</b>		
1	<p>TfNSW and RMS primary interests are in the road network, traffic and broader transport issues. In particular the efficiency and safety of the classified road network, the security of property assets and integration of land use and transport.</p>	<p>We understand that TfNSW and RMS core functions relate to the road network, traffic and broader transport issues which specifically include the integration of land use and transport.</p> <p>It is noted that the subject site has been in the planning and approval phase for over a decade and that RMS has been aware of this intended land use when considering upgrades to the Newcastle Link Road. Further, it is noted that the proposed upgrade of the Newcastle Link Road / Minmi Road intersection has been included in the draft SIC list since 2011.</p> <p>Given the regional significance of the Newcastle Link Road, the traffic generated by this development will represent a relatively minor percentage of traffic utilising the intersection. The RMS requirement that the Developer upgrade the intersection at its own cost has essentially sterilised development of this land, and potentially other nearby development sites.</p> <p>Housing affordability is a critical issue in NSW. The Premier has recognised this and has stated the need for a whole of Government approach to addressing her 12 priorities which include improving housing affordability and building local infrastructure.</p> <p>Given the significant planning work that has been completed for the Minmi site and the fact the intersection upgrade threshold will occur with or without the development proceeding, the RMS position on this matter does not align with the Premier's Whole of Government approach or the priorities of addressing housing affordability and delivering infrastructure.</p>

SUMMARY OF MATTER RAISED		PROPONENT RESPONSE
2	The development requires analysis and micro-simulation modelling to identify impacts of the proposal on existing regional and local roads (as per the wording of the condition), and not exclusively to the Newcastle Link Road and its intersections.	<p>It is acknowledged that traffic analysis is required to identify potential impacts the proposal may have on the existing regional and local roads.</p> <p>The Proponent agrees to undertake micro-simulation in accordance with RMS requirements dated 31 October 2017. The purpose of this modelling is to assist the relevant roads authority in determining and planning appropriate upgrades and inform the design of the proposed upgrade of the Newcastle Link Road / Minmi Road intersection as contemplated in the draft SIC.</p>
3	The fourth leg of the Link Road / Minmi Road intersection, and the resultant traffic load as a result of the connection, shall be modelled to assist in determining the appropriate intersection upgrade.	<p>Agreed.</p> <p>The micro-simulation modelling will include the fourth leg of the Link Road / Minmi Road intersection to assist in determining the appropriate intersection upgrade.</p>
4	The RMS is undertaking a Corridor Strategy of MR82, which includes analysis of the Newcastle Link Road. The outcomes of the analysis may be used towards satisfying Condition 1.31 in relation to the Link Road, it does not remove the requirement for other roads in the area.	<p>Noted.</p> <p>We appreciate RMS's offer to utilise the outcomes of the MR82 Corridor Strategy, however we are concerned that this would cause further delays to the release of lots in a priority growth area as identified by the NSW Government in the <i>Hunter Regional Growth Plan</i> and the Draft <i>Greater Newcastle Metropolitan Plan</i> and thereby further negatively impact housing affordability in the region. As such, it will be incorporated in the modelling undertaken by the Proponent.</p>

SUMMARY OF MATTER RAISED		PROPONENT RESPONSE
<b>NSW Transport for NSW (9 February 2018)</b>		
5	TfNSW supports RMS previous advice in relation to the Concept Plan that traffic and transport assessment be submitted with the first development application and for each of the development stages.	<p>Noted and agreed.</p> <p>As discussed previously, we agree that traffic assessment should be undertaken as part of the first development application for subdivision within each stage of the proposed development, as per the current wording. We note that we have not requested to modify this aspect of Condition 1.31.</p>
6	The overarching principle should be that development traffic will not result in unacceptable operation of the aforementioned intersection. Traffic analysis should be undertaken to demonstrate the operation of the existing intersection with current traffic conditions and additional demand from the development.	<p>Noted.</p> <p>We acknowledge TfNSW position that development traffic should not result in unacceptable operation of the Link Road / Minmi Road intersection. However, it is important to note that the intersection will reach capacity in the short term based on background traffic alone. That is, regardless of whether or not the Minmi Link Road Development proceeds.</p> <p>This is confirmed through traffic analysis undertaken as part of the Link Road South Precinct development application (DA2016/1936), whereby the intersection will reach LOS F by 2020 (AM Peak), <i>without</i> the development occurring.</p> <p>This reinforces that the operation of the roundabout is an existing issue within the traffic network as evidenced by the RMS inclusion of this project in the draft SIC since 2011, and upgrades would need to occur in the short term irrespective of the Minmi Link Road Development (or any other development) occurring.</p> <p>The Proponent considers it unreasonable to sterilise development that will represent minimal effect on the intersection before it reaches capacity in 2020, given that it is unlikely any dwellings will be constructed prior to 2020 when the intersection is expected to reach LOS F (failure).</p>

SUMMARY OF MATTER RAISED		PROPONENT RESPONSE
7	<p>TfNSW acknowledges the Link Road intersection is within the draft Hunter Special Infrastructure Contribution Scheme (SIC). Funding collected through the SIC would only partially offset the cost of any infrastructure identified in the infrastructure schedule, with the remainder funded by other means including direct allocations by NSW Government.</p> <p>Currently there is no funding allocation to the upgrade of this intersection.</p>	<p>Noted.</p> <p>However, the Draft Hunter SIC allocates \$45.9 million to the upgrade of the Link Road / Minmi Road intersection. Noting the nearby Link Road / Woodford Street / Cameron Park Drive (of similar size / scale) was constructed in 2013 for approximately \$18 million, it is difficult to comprehend how the amount nominated under the SIC represents only a partial offset to the cost of this infrastructure item.</p> <p>Nevertheless, this figure in itself reinforces that it is simply not possible for one developer to fund road infrastructure upgrades of this scale, hence the need for it to be funded via contributions toward State public infrastructure. The Proponent considers that suitable interim arrangements should be adopted in the meantime to maintain a steady supply of residential land in this Priority Housing Release Area while the planning for the necessary intersection upgrade occurs.</p>
8	<p>TfNSW would not support the removal of the condition requiring the intersection to be upgraded unless it could be shown that the existing intersection can operate at an acceptable level of service to RMS standard.</p>	<p>It is acknowledged that the existing intersection requires upgrading in the short term in order for it to operate satisfactorily, with or without the proposed development.</p> <p>The modification is necessary in response to the RMS interpretation of the Condition, suggesting that the Proponent is solely responsible for the construction and delivery of the intersection upgrade. This is despite the intersection reaching capacity by 2020 due to background traffic alone, and the fact that the intersection is nominated as a State infrastructure item under the Draft Lower Hunter SIC (2011) and the Draft Hunter SIC (2017). The purpose of the proposed modifications is to clarify that while the Proponent will contribute towards the upgrade of the intersection (through payment of the agreed SIC), it is the responsibility of the NSW Government to co-ordinate and deliver SIC-funded infrastructure.</p>
9	<p>Despite the intersection being included as an item in the Draft Hunter SIC, the fourth leg of the intersection should be fully funded by the developer.</p>	<p>The Proponent does not agree.</p> <p>It is noted that the intersection already includes a fourth leg. The fourth leg was constructed in recognition of the potential future development of the adjoining land. The developer is contributing to the intersection upgrade through the payment of SIC.</p>

SUMMARY OF MATTER RAISED	PROPONENT RESPONSE
<b>Newcastle City Council (14 February 2018)</b>	
<p>10</p> <ul style="list-style-type: none"> <li>Comprehensive traffic impact analysis is required to inform Council's assessment of development applications. Condition 1.31 is sound in that it requires a comprehensive assessment of the impact of the development and the upgrades required to mitigate impacts.</li> <li>Council could not reasonably approve development without adequate information / understanding 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.</li> <li>Council has not and could not reasonably predict all upgrades necessary to mitigate the impact of any particularly development. Such information can only be identified during the detailed assessment of potential impacts of each proposed development.</li> </ul>	<p>Noted.</p> <p>We agree that a traffic impact assessment is necessary to inform each development application, and appreciate the points Council has raised. We note that the proposed amendments were suggested predominately in the context of broader road upgrades, rather than those within the development site itself (such as the example provided by Council of Minmi Road within Minmi East Precinct – Stage 1B).</p> <p>The Proponent accepts that there is a need to appropriately assess and mitigate road impacts directly related to the development. In this regard, further modifications are proposed to the Condition to clarify this.</p>

SUMMARY OF MATTER RAISED	PROPONENT RESPONSE
<p>11 The proposed modification appears to be made on the basis that the developer should not be responsible for paying for the same infrastructure twice, that is, being via contributions and also directly. It is Council's opinion that this does not need to occur under the current condition.</p>	<p>We agree with Council's position in relation to local road upgrades, as we have not experienced what is essentially 'double dipping' at this stage in relation to local road upgrades under Section 94.</p> <p>Unfortunately, this is not the case for regional roads. As discussed in Section 5.1 of the S75W report, the Proponent acknowledges that it is possible to comply with the condition in its current form, as pointed out by Council. However, this can only be achieved with the co-operation of the RMS, given that the fundamental issue is that the Condition requires the timing of the proposed upgrades to be '<i>in accordance with the RMS requirements</i>'. Despite its inclusion in the Draft Lower Hunter SIC (2011) and Draft Hunter SIC (2017), the RMS repeated feedback has been that the developer is responsible for the construction and delivery of the intersection upgrades.</p> <p>The Proponent simply cannot fund the upgrade of the Newcastle Link Road / Minmi Road intersection. The Proponent has provided its contribution to State public infrastructure through entering into a voluntary planning agreement (VPA) with the NSW Government. The agreed contributions comprise land dedication and monetary contributions, representing the value of the current draft SIC rate (approximately \$81,994.00 per hectare of net developable area). The Proponent considers that the requirement to upgrade the intersection in addition to paying the SIC goes against the principles of fairness, reasonableness and equitability in relation to the provision of State public infrastructure.</p> <p>On this basis, the Proponent sees the proposed modification as necessary to resolve this issue.</p>
<p>12 Council's S94 Plan (August 2013) does include contributions for the local traffic network and that a development application within the subject land may be levied under the plan with a proportion contributing to such traffic works.</p> <p>However, the timing of such upgrades is unknown being dependent on a number of</p>	<p>Noted.</p> <p>Council's Section 94 Plan was prepared with full recognition of the Concept Plan, including the 1,520 dwellings situated within the Newcastle LGA, as confirmed in the Western Corridor Section 94 Background Document (GLN Planning, August 2013). It also captures a number of other developments in the Western Corridor, including 505 Minmi Road (110 dwellings), Xstrata (1,200 dwellings) and Seniors Living – Elmore Vale (15 dwellings).</p>

SUMMARY OF MATTER RAISED	PROPONENT RESPONSE
<p>factors, including sufficient funding generated. The delivery of upgrades by Council through S94 funding may not correspond with the need to mitigate specific traffic impacts associated with a particular development at the time.</p> <p>In the event 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 as WIK agreement to offset payment of Section 94.</p>	<p>Whilst it might be Council's preference that road infrastructure identified under the S94 Plan is delivered by the Developer through Works-in-Kind (WIK) agreements, the administration of S94 projects (including funding, timing and delivery) is ultimately Council's responsibility. In saying this, the Proponent will review those works nominated in the S94 Plan on a case-by-case basis with each development application, in consultation with Council, to determine whether a monetary contribution or WIK agreement is the more appropriate path.</p>