



27 August 2019

Regional Assessments  
Department of Planning, Industry & Environment  
GPO Box 39  
Sydney NSW 2001

Attention: Casey Joshua

**NEWCASTLE LINK ROAD (A15): MP10\_0090 MOD 4, MINMI LINK ROAD CONCEPT APPROVAL, SECTION 75W MODIFICATION**

Reference is made to the Department's email dated 13 August 2019, regarding the abovementioned application which was referred to Roads and Maritime Services (Roads and Maritime) for comment.

Roads and Maritime understands the Section 75W (s75W) modification application to be for amendment to the following conditions from the Part 3a Major Project approval:

MOD 4 seeks to amend the Further Environmental Assessment Requirements (*FEAR's*) through the modification of conditions 1.16, 1.31, 1.34 and 1.45 of the Concept Approval, as briefly outlined below:

- Condition 1.16: To clarify the reference to 'Stages 3, 4 and 5' so the condition relates only to land located within the Newcastle LGA
- Condition 1.31: To amend traffic assessment requirements for development applications (*please note this component is similar to MOD 3, which is still under assessment with the Department*)
- Condition 1.34: To clarify the term 'waste removal vehicle'; and
- Condition 1.45: To remove the requirement to obtain RFS satisfaction for the Bushfire Management Plan lodged with the development applications.

Roads and Maritime provides its comments on the proposed amendments to Condition 1.31 below.

Roads and Maritime response

Transport for NSW and Roads and Maritimes' 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 the integration of land use and transport.

In accordance with the *Roads Act 1993*, Roads and Maritime has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. The Newcastle Link Road is a classified (State) road and Minmi Road is an unclassified Regional road.

Condition 1.31 of MP10\_0090 Instrument of Approval states:

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 microsimulation modelling to determine the impact of the proposal on the existing regional and local road network.
- 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 network, including timing and funding arrangements, to accommodate the proposed development. This is to include identification of suitable pedestrian and cycle links across Minmi Road and Newcastle Link Road.

This s75W application seeks to modify the condition to read (strikethrough is removed, bold is additional wording):

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 microsimulation~~ modelling to determine the impact of the proposal on the existing ~~regional and~~ local road network.
- Proposed timing for upgrades of key **local** 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 **local** network, including timing and funding arrangements, to accommodate the proposed development. ~~This is to include identification of suitable pedestrian and cycle links across Minmi Road and Newcastle Link Road.~~

**Each development consent for stages 3, 4, and 5 must contain the following condition:**

1. **Prior to the issue of any subdivision certificate, or such later date as may be agreed in writing by Roads and Maritime Services (RMS), the Newcastle Link Road and Minmi Road intersection and the Newcastle Link Road and Cameron Park Drive intersection must be upgraded to the satisfaction of RMS. The timing for each upgrade is to be negotiated with RMS and will be the subject of a WAD with RMS.**

**Note: These works will require RMS approval under the Roads Act and the above condition does not guarantee final RMS approval of the specific road work, traffic control facilities and other structures or works, for which it is responsible, on the road network. RMS must provide a final consent for each specific change to the classified (State) road network prior to the commencement of any work.**

2. **Prior to the issue of any Construction Certificate for the proposed subdivision (excluding bulk earthworks), the applicant must provide microsimulation modelling of the Newcastle Link Road and Minmi Road intersection and the Newcastle Link Road and Cameron Park Drive intersection to RMS. The modelling must address:**
  - a. **The remaining life of the intersections,**
  - b. **The impact of the release of any lots on the intersections,**
  - c. **The proposed upgrade of each intersection and the impact of this upgrade on the Newcastle Link Road, and**

- d. ***The proposed upgrade operating at LOS D or better for a period of 10 years following the projected completion of the five stage Major Project MP10\_0090, using agreed background growth rates.***
3. ***For works on or physically impacting any Classified Road, the applicant must obtain RMS approval for all engineering plans and specifications relating to those works, prior to the issue of a Construction Certificate for those works.***

Roads and Maritime has reviewed the information provided and is of the view that a condition cannot be provided to satisfy the impact of this development prior to the conclusions of the microsimulation analysis being undertaken. The microsimulation analysis, coupled with intersection analysis, undertaken in consultation with Roads and Maritime, is the only way to ensure that appropriate mitigation measures are provided as a result of this development.

Roads and Maritime is aware of the restrictions placed on the consent authority under *State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)*, and notes that the consent authority cannot be satisfied that the safety, efficiency and on-going operation of the Newcastle Link Road will not be adversely affected by the proposed development. Clause 101 of the ISEPP states:

*(2) the consent authority must not grant consent to the development on land that has a frontage to a classified road unless it is satisfied that:*

*(b) the safety, efficiency and on-going operation of the classified road will not be adversely affected by the development as a result of:*

*(i) the design of the vehicular access to the land, or*

*(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land.*

The proposed amendment seeks to require the consent authority to place a condition on a future development application. Roads and Maritime is of the view that the Part 3A amendment as proposed cannot fetter the consent authority's full and proper assessment of the application as required under the provisions of the *Environmental Planning and Assessment Act, 1979*. In those circumstances, Roads and Maritime considers that a serious question arises as to whether such condition could lawfully be imposed as well as whether it is workable in practice.

On the Department's determination of this matter, please forward a copy of the Notice of Determination to Roads and Maritime for record and / or action purposes. Should you require further information please contact Hunter Land Use on 4908 7688 or by email at [development.hunter@rms.nsw.gov.au](mailto:development.hunter@rms.nsw.gov.au)

Yours sincerely



Peter Marler  
**Manager Land Use Assessment  
Hunter Region**