

Contact: Jenny Smithson

24 February, 2011

**Cardno (NSW/ACT) Pty Ltd**  
ABN 95 001 145 035

Mr Mark Schofield  
Team Leader  
Metropolitan and Regional South  
Department of Planning  
GPO Box 39  
SYDNEY NSW 2001

Level 3  
Cardno Building  
910 Pacific Highway  
Gordon NSW 2072  
Australia

Phone: 61 2 9496 7700  
Fax: 61 2 9499 3902

[www.cardno.com.au](http://www.cardno.com.au)

Dear Mark,

**SUBMISSIONS REPORT IN RESPONSE TO EXHIBITION OF FERN BAY  
SECTION 75W MODIFICATION 1 (MAJOR PROJECT APPROVAL 06\_0250)**

I refer to your letter dated 16 February, 2011, addressed to the Aspen Group in response to the advertising of the EA for the above project which ended on February 15, 2011. Attached to your letter were copies of the submissions lodged during that period. This comprised only 3 letters, all from referral agencies.

Cardno acts on behalf of the Aspen Group on this matter.

Accordingly this letter comprises the **Submissions Report** required by the Director General under s75H of the EP+A Act and addresses issues raised in the submissions.

In this regard, Aspen and Cardno are of the view that no substantive issues have been raised in the submissions. There is no objection raised to the modifications sought although minor adjustments to condition wording are suggested in some instances. Therefore we respond as follows.

**Response from Port Stephens Council**

We note that, in their response, the Council:

- ✓ With regard to our requested modification to Condition B1, has no objection to modifying the timing of the basin approval to co-incide with the stage in which the works are required.
- ✓ With regard to our requested modification to Condition B4, acknowledges that the works cannot be completed until the additional road reserve has been negotiated and therefore agrees that the condition needs to be modified. However, the Council suggests that the construction of the works be required prior to the release of Stage 7 or 100 lots, whichever occurs first. Aspen has no objection to this suggested modification in principle but believes it would be better to simply link the works to the 100<sup>th</sup> lot (and on the basis that 100 lots refers only to the lots the subject of this approval, ie none of which have yet been created).
- ✓ With regard to our requested modification to Condition B14, has no major issue with the staging proposed particularly given a detailed Landscape Master Plan exists for the entire estate.

### **Response from the RTA**

We note that, in their response, the RTA has clarified their responsibilities including that connections to Nelson Bay Road require their concurrence but the road itself is the responsibility of the Council. The letter then states that *"the RTA....has no objections to the proposed modifications"* but suggests that Condition B4 be amended to clarify that the works proposed under Condition B4 need to be in accordance with the requirements of Council, in consultation with the RTA where there is a potential interface between the road pavement and the shared cycleway/footpath.

Aspen has no objection to Condition B4 being modified as suggested by the RTA to enable this clarification of responsibilities.

### **Response from DECCW**

We note that this response states that *"DECCW....has no objection to the modifications sought by the proponent"*. As no issue is raised with the modifications sought, no Aspen response is required.

The letter further reminds Aspen of its responsibilities under the POEO Act in terms of any stockpiling. Aspen duly notes this reminder.

### **Suggested Final Wording of Modified Conditions**

The following contains our suggested and requested final wording of the conditions the subject of the modification request. This wording essentially reflects the wording provided to you by email from the project engineer, Greg Williams, earlier this week. The wording changes are highlighted for ease of reference.

#### **B1 Design Modifications**

##### **Suggested Modified Consent Condition:**

*To ensure a vegetative link is retained within the Stockton Regional Corridor, between the Worimi Regional Park and the Worimi Conservation Area, proposed detention basin no. 6 (as identified on 'Concept Site Drainage Plan – Proposed Swales and Basins', Sheet 1 of 4, prepared by Martens and associates Pty Ltd, dated 29/12/2009) shall be relocated from the Community Conservation Lands into the development footprint. Details shall be submitted to and approved by the Department of Planning prior to the issue of the Construction Certificate for Civil Works associated with any Stage that falls within the catchment area of Basin 6 (Clearing and/or Bulk Earthworks Construction Certificates may be issued prior to this requirement being satisfied).*

#### **B4 Construction of Shared Footpath/Cycleway along Nelson Bay Road**

##### **Suggested Modified Consent Condition:**

*The shared footpath/cycleway along Nelson Bay Road must be constructed prior to the issue of a Subdivision Certificate that creates the 100<sup>th</sup> residential lot of the approval. It shall be designed and constructed at the cost of the Proponent, in accordance with the requirements of Council (The Roads and Traffic Authority should be consulted if there is a potential interface between the road pavement and the shared footpath/cycleway).*

*Detailed plans for the footway/cycleway (extending from the existing roundabout at the intersection of Nelson Bay Road and Fullerton Cove Road to the bus shelter at Bayway Village to the south) shall be approved by Council, prior to the issue of a Construction Certificate for Civil works that create the 100<sup>th</sup> residential lot of the approval (Clearing and/or Bulk Earthworks Construction Certificates may be issued for the stage prior to the approval of Construction Certificate for Civil works). The plans should be prepared in accordance with Footpath and Cycleway drawing (drawing no. 29850A, Sheet 19 of 22, prepared by Daly Smith Pty Ltd, dated 25/3/2010).*

**B14 Landscaping and Revegetation Plan**
**Suggested Modified Consent Condition:**

*A detailed Landscaping and Revegetation Plan for each Stage is to be approved by Council prior to the issue of a Construction Certificate for Civil works (Clearing and/or Bulk Earthworks Construction Certificates may be issued without a detailed Landscaping and Revegetation Plan). The plan shall update the Landscape Master Plan (Drawing L2, prepared by Verge Landscape Architects, dated 18/05/2007, provided in Annex G of the EA) and Streetscaping Planting Plan (Figure 4 in the Submissions Report, prepared by ERM, dated December 2009) to reflect the final subdivision layout (as required by Condition B2)*

*The plans/s shall include, but not be limited to the following:.....(remainder of condition stays the same)*

**Minor modification to wording of Schedule 1 – Part C – Definitions**

Further to your email correspondence with Craig Maher of Barker Ryan Stewart it is also requested that there be a minor modification to the definition of "Council" under Schedule 1 – Part C – Definitions to reflect that a Certifying Authority can replace the Council in certain instances (ie conditions associated with construction certificates). The current Project Approval defines Council as "means Port Stephens Council". In accordance with the EP&A Act we request that the definition of Council instead read "means Port Stephens Council or a Certifying Authority where applicable under the EP+A Act".

**Preferred Project Report and Proponent's Statement of Commitments**

There are no proposed changes to the approved project required to minimise its environmental impact and therefore a Preferred Project Report is not required. Accordingly there is also no requirement to revise the Proponent's Statement of Commitments.


**Exhibition Fee Invoice**

I am advised that the outstanding invoice for the exhibition costs was paid by Aspen yesterday. Please advise if this is not case.

On the basis of confirmation of that payment could you please advise when the modified approval will likely be issued. Advice by email or phone would be fine.

Mark, thankyou for your attention to this matter. If you have any queries or require additional information, please do not hesitate to contact me at your convenience.

Yours faithfully



Jenny Smithson  
 Senior Principal – Planning

for Cardno

cc; Mr Damien Carpenter – Aspen  
 Mr Rob Monteath – Monteath & Powys