



8 November 2018

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

**Attention: Michelle Niles**

**NELSON BAY ROAD (B63): MODIFICATION APPLICATION MP06\_0250 MOD 11, SEASIDE BOULEVARD, FERN BAY**

Reference is made to the Department's email dated 19 October 2018, regarding the abovementioned application which was referred to Roads and Maritime Services (Roads and Maritime) for comment.

Roads and Maritime understands the proposed modification seeks to postpone construction of an intersection with Nelson Bay Road as required by condition B5 of MP06\_0250. It is noted the intersection is not needed from a traffic perspective and is not a Roads and Maritime requirement. However, it is required for emergency access should a bushfire cause the primary access road to be closed.

It is further noted in seeking the modification, the proponents propose:

- To utilise security of \$2.4 million required by the Works Authorisation Deed with Roads and Maritime as assurance to provide the intersection as required by DPE.
- To remove the need to provide the intersection as a condition for their Stage 14, although they do not defer it to a later Stage of the development

Roads and Maritime Response

Transport for NSW and Roads and Maritime's 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.

Nelson Bay Road (B63) is a classified State road. Council is the roads authority for this road and all other public roads in the area, in accordance with Section 7 of the *Roads Act 1993*. Roads and Maritime concurrence is required for connections to the road with Council consent, under Section 138 of the *Roads Act*.

Roads and Maritime have reviewed the Mod 11 request by Monteath & Powys dated 28 September 2018, and maintain the position as outlined in previous correspondence that the proposed northern intersection of Seaside Boulevard to Nelson Bay Road is not required by Roads and Maritime. To assist the Department's determination of the proposal, the following is provided;

1. The proposal does not provide any proposed timing for the delivery of the intersection works should the developers not undertake any further development beyond Stage 14.
2. Security under the Roads and Maritime WAD relates to the delivery of the works by the developer to cover construction risk. The security is required following design acceptance immediately prior to construction after the receipt of which (along with other nominated requirements) RMS provides the Approval to Commence Construction (this functions as the S138 approval).
3. The WAD security cannot be relied on to deliver the intersection works as contemplated by the developer. Should the developer not undertake the works Roads and Maritime will not be responsible for delivery of the development works.
4. The Department should be satisfied that appropriate security is held to deliver the works on behalf of the developer, under a WAD with Roads and Maritime (including security for the WAD works) to ensure the funding and construction of the intersection is at the developers cost, and at no cost to Roads and Maritime, Transport for NSW, or Council.

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 Marc Desmond on 0475 825 820 or by emailing [development.hunter@rms.nsw.gov.au](mailto:development.hunter@rms.nsw.gov.au).

Yours sincerely



Peter Marler  
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**Hunter Region**