



14 January 2019

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

Attention: Michelle Niles

**NELSON BAY ROAD (B63): RESPONSE TO SUBMISSIONS - MODIFICATION APPLICATION
MP06_0250 MOD 11, SEASIDE BOULEVARD, FERN BAY**

Reference is made to the Department of Planning and Environment's (the Department) email dated 21 December 2018, regarding the abovementioned Response to Submissions which was referred to Roads and Maritime Services (Roads and Maritime) for comment.

Roads and Maritime understand that MP06_0250 application for Mod 11 proposed the following amendments relevant to Roads and Maritime:

- Amend Condition A2 (12)(c), relating to staging, removing the requirement for the northern extension of Seaside Boulevard to Nelson Bay Road including the construction of an intersection from Stage 14,
- Amend condition B5, relating to the intersection upgrade detail, removing the requirement for the intersection to be provided within Stage 14,
- Amend condition E6, relating to roadworks, removing the need for the roadworks to be completed prior to the issuing of the subdivision certificate for the stage of which they are part.

On 8 November 2018, Roads and Maritime provided advice to the Department on Mod 11. Roads and Maritime reiterated that the intersection required by consent was not required by Roads and Maritime. Roads and Maritime have previously assessed access from the estate to the Nelson Bay Road corridor, determining that the existing roundabout controlled intersection at Seaside Drive can accommodate the full development.

Further, Roads and Maritime offered the following advice to Mod 11 to assist the Department with making a decision on the matter:

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.*

- Roads and Maritime consider these points relevant in the assessment of this matter.
- Roads and Maritime note that two objections were received to the proposed modification, from Transport for NSW and NSW Rural Fire Service, and also note Department's previous determination of Mod 9 maintaining the additional access onto Nelson Bay Road.

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 raise no objection should the Department require the condition to be maintained. Roads and Maritime make the following comments:

- Roads and Maritime have reviewed the Response to Submissions for Mod 11, by Monteath & Powys dated 17 December 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.
- Roads and Maritime will not be responsible for delivering the intersection works in the event that the developer does not deliver the works as required by consent.
- The Roads and Maritime approval via the WAD does not result in Roads and Maritime undertaking the works if the developer does not proceed. 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. The Department is to facilitate the construction of the intersection in accordance with Roads and Maritime requirements should the developer not undertake the works.
- Should the Department consider the intersection necessary, it is recommended that the timing be triggered by a lot threshold and not a stage.

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.

Yours sincerely

A handwritten signature in black ink, appearing to be 'P. Marler', with a large loop at the start and a wavy line at the end.

Peter Marler
Manager Land Use Assessment
Hunter Region