

Determinations of the City Strategy Committee Meeting

9 June 2015

Declaration of Interest:

Councillor Barry Johnston declared an interest in Item No. 15STRAT041 - *Stockland Glendale – Offer of Planning Agreement, Lake Macquarie Transport Interchange*, advising that he is a member of the Hunter and Central Coast Joint Regional Planning Panel, which is the determining body for the agreement. Councillor Johnston advised that to avoid any conflict of interest, he would exit the Council Chambers during discussion on the matter. Councillor Johnston left the Chambers at 8.38pm.

15STRAT041 Stockland Glendale – Offer of Planning Agreement, Lake Macquarie Transport Interchange

Folder No: F2014/01557/04
Report By: Director - City Strategy - Tony Farrell

43

Moved. Cr. Adamthwaite
Seconded. Cr. Wallace

Council:

- A. Agree to enter into a Planning Agreement with Stockland, generally in the terms as set out in the attached Letter of Offer from Stockland, in Attachment 1 to this report;
- B. Request the Hunter Central Coast Joint Regional Planning Panel to impose a condition of consent on DA/764/2014 for Stockland to enter into the Planning Agreement set out in Part A above; and
- C. Delegate authority to the General Manager in order to finalise and execute the Planning Agreement described in Part A above after DA/764/2014 issues.

In accordance with Section 375A of the Local Government Act 1993 a division took place.

<u>For the Motion</u>	<u>Against the Motion</u>
Cr. Fraser	
Cr. Wallace	
Cr. Coghlan	
Cr. Adamthwaite	
Cr. Denton	
Cr. Griffith	
Cr. Langford	
Cr. Pauling	

Determinations of the City Strategy Committee Meeting

9 June 2015

Cr. W Harrison
Cr. J Harrison
Cr. Dawson
(carried)

(Carried)

Councillor Johnston returned to the Council Chambers at 8.39pm.

As this concluded the business the
Chairperson terminated the meeting at 8.39pm.

Minutes adopted by resolution of Council,
at its meeting held on Monday 22 June 2015.

..... MAYOR



**City Strategy Committee
Supplementary Agenda
Tuesday 9 June 2015
Council Chambers
126-138 Main Road Speers Point
5.30pm**

City Strategy Committee Meeting:

9 June 2015

Brian Bell
General Manager

Index Details	Page No
City Strategy Committee Meeting - Tuesday 9 June 2015	3
15STRAT041 Stockland Glendale – Offer of Planning Agreement, Lake Macquarie Transport Interchange	3

City Strategy Committee Meeting - Tuesday 9 June 2015

15STRAT041 Stockland Glendale – Offer of Planning Agreement, Lake Macquarie Transport Interchange

Council Ref: F2014/01557/04 - D07447214

Report By: Director - City Strategy - Tony Farrell

Précis:

Council awarded a tender for Section 1, Stage 1, of the Lake Macquarie Transport Interchange (LMTI) at its meeting of 25 May 2015. The project has been in planning for an extended period and during the course of that planning, requests have been made of the adjoining landowner's (The Trust Company Limited) operating entity, Stockland Development P/L (Stockland), to contribute to the project.

The basis of the request to Stockland has been to recognise the benefit of the project to the adjoining landholding, occupied by the Stockland Glendale Shopping Centre.

Following agreement at officer level on the quantum of the contribution, and advice that a *Planning Agreement* is the most appropriate vehicle for the provision of the contribution, Stockland have made an offer to enter into a Planning Agreement with Council to make a contribution valued at \$3,218,430. Council is required to consider the offer.

Recommendation:

Council;

1. Agree to enter into a Planning Agreement with Stockland, generally in the terms as set out in the attached Letter of Offer from Stockland, in Attachment 1 to this report;
2. Council request the Hunter Central Coast Joint Regional Planning Panel to impose a condition of consent on DA/764/2014 for Stockland to enter into the Planning Agreement set out in 1. above.
3. Council delegate authority to the General Manager in order to finalise and execute the Planning Agreement described in 1. above after DA/764/2014 issues.

Background:

Council's recent award of a tender to Daracon Contractors Pty Ltd was a major milestone in delivery of the Lake Macquarie Transport Interchange (LMTI). The tendered works involve completion of Section 1 of the project, comprising;

- an extension of Glendale Drive to Main Road Cardiff,
- reconstruction of the Lake Road/Main Road intersection to accommodate the Stockland Drive extension

City Strategy Committee Meeting 9 June 2015

- provision of a new accesses for Downer's Railway workshops, Stockland's Glendale Shopping Centre (goods access), and the Cedar Street residential precinct
- a new bridge over winding creek
- a new roundabout for intersection of Stockland Drive, Downer's access and the future extension of Pennant Street, Cardiff across the Main Northern Rail line.

The section one works will ultimately contribute to the development of the LMTI by facilitating bus, pedestrian, cycle and private vehicle access to the rail station. In the short term, the project will relieve traffic congestion associated with the shopping centre and Hunter Sports Centre, while also improving the safety and convenience of access to the railway workshops, Hunter Sports Centre and the shopping centre for goods deliveries.

Notwithstanding the regional / state character of the project, Council has taken the lead in bringing the project to fruition. Council has facilitated the design, funding, property acquisitions, upstream stormwater works, community engagement, and construction contract tendering. As a result, state and regional transport networks will be enhanced, and access to private land holdings will be improved.

A specific beneficiary of the project, as described above, will be Stockland. Their Glendale Shopping Centre is already one of the largest and busiest shopping centres in the region.

Glendale as a whole is nominated as an Emerging Regional Centre in the Lower Hunter Regional Strategy, and is similarly designated in Council's own planning documents including *Lifestyle 2030* and LMLEP 2014. Future employment and housing growth will both support, and be supported by, continual expansion of retail, entertainment, commercial and eventually residential development in Glendale. The combination of Glendale's geographic advantage, the certainty provided by State and Local Government planning commitments, and the delivery of the LMTI will maximise the likelihood of Glendale delivering on its potential and consequently serving the community's interest.

Stockland's Glendale Shopping Centre has no capacity to increase its scale at present due to the limitations posed by the current transport system. In order to provide the economic and social benefits Glendale promises, Glendale shopping centre needs to continue to expand its scale and range of activities, and therefore the transport network needs to be improved.

The physical work needed to deliver the LMTI, Stage 1, is in the main to be located on land outside Stockland's holdings. The opportunities for Stockland to fairly contribute to the project are therefore limited to agreements with Council to contribute. That is, rather than directly undertake work associated with future stages of their own centre development. Stockland have consistently confirmed their willingness to make a contribution to the works associated with the LMTI, though the quantum of that contribution has been difficult to detail pending finalisation of designs and construction costs.

With the finalisation of the design, it was contemplated that a fair level of contribution from Stockland would comprise value equivalent to;

- 50% of the cost of the Stockland Drive extension (part of this road extension fronts the Stockland land holding, though the majority fronts Hunter Sports Centre and surplus Rail land)

City Strategy Committee Meeting 9 June 2015

- 50% of the cost of the new Stockland goods access road. This road pathway will be disturbed by the works to extend Stockland Drive and is likely to form part of the future access to Stage 2 of the LMTI (the rail station and bus interchange). This access road arrangement and its reconstruction is supported by a condition of consent on a previous development application (DA 2004/4413).
- 25% of the cost of the new roundabout serving the extension of Stockland Drive, the railway workshops, and the future Pennant Street extension
- Contingencies on the above items.
- Stockland land required to accommodate Section 2 of the project, approximately 2,400 m²

The costs of those elements were calculated based on a quantity surveyor's analysis of the final design. Those assessed costs were subsequently discounted against the cost of reconfiguring existing car parking on the shopping centre site.

The cash contribution described above is summarised in the following table.

Table 1: Summary of Calculated Stockland Cash Contribution to LMTI Stage 1

<i>Item (including contingency)</i>	<i>Amount \$</i>	<i>Sub Total</i>
Stockland Drive Extension	1,169,175	
Access Road Reconstruction	306,600	
New Roundabout	443,625	
		1,919,400
Less: Car Park reconfiguration	- 913,500	
Total	1,005,900	

The full contribution of Stockland to Stage 1 of the LMTI is therefore \$3,218,430 comprising;

- Cash contribution \$1,005,900
- Car park reconfiguration works \$913,500
- Land to be transferred at no cost \$1,299,030

The mechanism to facilitate Stockland's contribution has also been the subject of discussion between the parties, including respective legal representatives. Options explored were to have a simple deed between the parties, to undertake a Private Public Partnership (PPP) per the Local Government Act, or establish a Planning Agreement as proposed within this report.

The Planning Agreement was ultimately selected as a simple deed was not clearly available due to the catch-all provisions of the PPP legislation while a PPP requires

City Strategy Committee Meeting 9 June 2015

significant lead time to achieve and is costly to establish. The main disadvantage, on the face of it, of a Planning Agreement is that it is tied to a specific development. If the development doesn't proceed, as can sometimes be the case due to approval or commercial risk, the contribution obligation is not confirmed. In this instance, Stockland have agreed to include a provision in the agreement that confirms the contribution regardless of the development proceeding.

A relevant development application has been lodged for the subject Planning Agreement to be facilitated under. DA/764/2014 has been lodged by Stockland for their Glendale Shopping Centre site. The proposal comprises an increase in the Gross Floor Area by 7680m² to a total of 58,483m², being:

- new restaurant space,
- a net increase in specialty retail tenancies,
- a new mini major tenancy, and
- an expansion of Coles supermarket.

The proposal will include the creation of an internal mall area, a new "main street" strip and reconfiguration of the parking areas and access ways in the Southern corner of the existing main car park.

The application is being assessed by Council Staff for determination by the Joint Regional Planning Panel. It is understood the Panel is likely to consider the matter in late June or early July 2015.

Proposal:

It is proposed that Council resolve to enter into a Planning Agreement with Stockland, on terms generally consistent with those described in Attachment 1. The Planning Agreement would subsequently be attached to Stockland's current proposal to extend the shopping centre (DA/764/2014), under assessment by Council staff and to be determined by the JRPP. If ultimately entered into, the planning agreement will secure a contribution by Stockland to the LMTI valued at \$3,218,430. It will also ensure the smooth transfer of land owned by Stockland and required for LMTI Section 2 road works (page 9 of attachment 1), as well as the reconfiguration of the Stockland Shopping Centre car park, also to facilitate the Section 2 road works.

Consultation:

Several relevant members of Council staff have contributed to this matter including the Corporate Lawyer, Executive, Developer Contributions Coordinator, Senior Development Planner, Coordinator Project Management, Special Projects Officer – LMTI, and a member of Council's external legal panel (Matthews Folbigg), the quantity surveyor for the LMTI (McDonald International Consulting Engineers), and the project designers (SMEC).

On behalf of Stockland, senior staff from their development division, internal and external Legal Counsel (Addisons), planning consultant (Paradigm), and centre management from Glendale have participated in formulating the proposed planning agreement.

If Council determines that it favours proceeding with a planning agreement to facilitate Stockland's contribution to the LMTI Stage 1, then a public notification and consultation procedure is required by regulation. Proceeding with an agreement will also be dependent on support from the Joint Regional Panel in their assessment of DA/764/2014.

City Strategy Committee Meeting 9 June 2015

Implications:

Policy Implications:

The proposal to enter into a planning agreement with Stockland is consistent with previous Council planning determinations to support and facilitate the delivery of the LMTI. The planning agreement assists Council in that endeavour.

Environmental Implications:

There are no environmental implications arising from the planning agreement itself. The environmental implications of construction Section 1 of the LMTI was considered and determined as satisfactory by Council on 13 October 2014.

Social Implications:

There are no environmental implications arising from the planning agreement itself. The social implications of construction Section 1 of the LMTI was considered and determined as satisfactory by Council on 13 October 2014.

Infrastructure Asset Implications:

Entering into a planning agreement has no impact on the total value of the proposed asset, however it does reduce Council's potential contribution after the capital cost.

The LMTI will be an additional asset for the organisation to maintain. Whole of life costs have been paramount through every stage of the design to ensure the life of the asset is maximised and future maintenance costs are minimised. Council's Roads Assets section were involved in the preparation of the design brief for the LMTI to ensure whole of life costs were adequately considered during the design phase. Council's budget projections and long term financial modelling have also included maintenance costs for the LMTI.

Financial Implications:

Entering into a planning agreement with Stockland for delivery of Stage 1 of the LMTI, reduces Council's own financial exposure to the project by \$3,218,430.

Risk and Insurance Implications:

Entering into a planning agreement mitigates Council's financial risk in being responsible for delivery of Stage 1 of the LMTI. There is risk in drafting the agreement itself, due to the technical nature of the document, though this will be managed by using legal experts to represent Council's interests. A risk arises in respect of the issue of a development approval for Stockland's current application, however in the event such an approval is not forthcoming, Council officers will recommence discussions with Stockland regarding the appropriate vehicle for their contribution.

There are no extraordinary insurance issues arising from the planning agreement. Planning agreements are a standard Council activity and covered by our normal insurances.

Options:

Council may;

1. Agree to entering a planning agreement with Stockland to facilitate the terms generally outlined in attachment 1. This is the recommended action.

City Strategy Committee Meeting 9 June 2015

2. Seek to undertake a PPP with Stockland to facilitate their contribution to the LMTI Stage 1. This is not favoured as it requires the establishment of an external reference panel, approved by the Minister for Local Government, the drafting of new legal agreements to be reviewed by the external panel and ultimately endorsed by the Minister. The delay, cost and uncertainty of that process is considered not in Council's interests.
3. Forego a contribution from Stockland towards Stage 1 of the LMTI. This is not favoured as it increases Council's own obligations to delivery of the project.

Conclusion:

Stockland have been a long term supporter of the LMTI. Their interest has included indications of a willingness to contribute financially to the project. With the finalisation of a design for Stage 1 of the LMTI, the quantum of Stockland's potential contribution has been confirmed.

It is proposed Council enter into a Planning Agreement with Stockland, associated with DA/764/2014 in order to secure the nominated contribution.

General Manager - Brian Bell

Attachments:

1. Stockland Letter of Offer – Terms for a Voluntary Planning Agreement at 387 Lake Road Glendale – 4 June 2015 D07447444

Commercial Property
Retail | Office | Industrial



Stockland Commercial Property

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Sydney NSW 2000

T 02 9035 2979
F 02 8898 2979

www.stockland.com.au

4 June 2015

The General Manager
Lake Macquarie Council
Box 1906, Hunter Region
Mail Centre NSW 2310

Via email: farrell@lakemac.nsw.gov.au

Attention: Mr Tony Farrell - Director City Strategy

Dear Sir,

387 Lake Road, Glendale (Site)
Offer to enter into a Voluntary Planning Agreement with Lake Macquarie Council

1. Introduction

1.1 Stockland Development Pty Limited (**Stockland**) offers to enter into a voluntary planning agreement (**VPA**) under section 93F of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) with Lake Macquarie Council (**Council**) for:

- (a) the payment of monetary contributions towards the construction of road works associated with Section 1 of Stage 1 of the Lake Macquarie Transport Interchange; and
- (b) the transfer of part of the Site to the Council for the purposes of Section 2 of Stage 1 of the Lake Macquarie Transport Interchange (**LMTI Land**),

on the terms set out in this letter.

2. Land to which the VPA applies

2.1 The VPA will apply to land known as 387 Lake Road, Glendale being Lot 1 in DP 860494 known as the Stockland Glendale Shopping Centre (**Land**).

3. Development application to which the VPA relates

- 3.1 Stockland lodged a development application, DA No. 764/2014, with the Council on or about 22 May 2014, for alterations and additions to the Glendale Shopping Centre (**Development Application**).

4. Nature of public benefits to be made under the VPA

- 4.1 The VPA will require Stockland to make the following contributions to the Council:

- (a) the payment of a monetary contribution to the Council towards road works associated with Section 1 of Stage 1 of the Lake Macquarie Transport Interchange comprising;

- (i) Part 1A-extension to Stockland Drive;
- (ii) Part 1B-extension to Stockland access road; and
- (iii) Part 1C Stockland Drive, Pennant Street and Glendale Drive roundabout (**Road Works**).

The contribution by Stockland for the Road Works is \$1,919,400, less the agreed cost to Stockland of reconfiguring its car park to allow for the transfer of the LMTI Land being an amount of \$913,500.

The amount of total monetary contribution to be paid by Stockland under the VPA, excluding indexation, is \$1,005,900; and

- (b) the transfer of the LMTI Land to the Council for the purpose of road widening associated with Section 2 of Stage 1 of the Lake Macquarie Transport Interchange.

- 4.2 The monetary contribution that relates to the Stockland access road (see paragraph 4.1(a)(ii) above) is being paid by Stockland in lieu of Stockland's obligations in Conditions 8 and 9 of the development consent granted to Development Application No. 4413/2004 dated 13 September 2005. A provision to this effect will be included in the VPA.

- 4.3 A further provision will be included to the effect that Stockland will make the necessary application to the Council for the deletion of Conditions 8 and 9 from that development consent.

- 4.4 The VPA is to include provisions to the effect that:

- (a) the Council must use and apply the monetary contribution for the purposes of the road works referred to in paragraph 4.1(a) above; and

- (b) the Council must use the LMTI Land for the purposes of road widening and associated road works in connection with Section 2 of Stage 1, of the Lake Macquarie Transport Interchange only and not for the purpose of any commercial uses.

5. Time when the VPA would be entered into

- 5.1 The VPA would be entered into by Stockland and the Council after any development consent has been granted to the Development Application.
- 5.2 If the consent authority exercises its discretion to grant consent to the Development Application it could grant consent subject to a condition requiring Stockland to enter into a VPA with the Council in the terms of this offer, before the issue of a construction certificate for the Development: section 93I(3) of the EP&A Act.

6. Commencement of the VPA

- 6.1 The VPA is to take effect on execution by Stockland and the Council.

7. Timing of provision of the contributions

Monetary Contributions

- 7.1 Stockland offers to pay to the Council a deposit of \$50,295 (**Deposit**), being 5% of the total monetary contribution of \$1,005,900, on execution of the VPA by Stockland and the Council.
- 7.2 The VPA is to include a provision to the effect that the Council is to refund the Deposit to Stockland with interest, indexed in accordance with CPI, if all of the Stage 1 Section 1 Lake Macquarie Transport Interchange road works are not completed by the Council within five years from the date of the VPA.
- 7.3 The Stage 1 Section 1 Lake Macquarie Transport Interchange road works include the road works referred to in paragraph 4.1 above. They also include the road works to the east and south of the roundabout shown on the plan Figure 1 a copy of which is enclosed.
- 7.4 The balance of the monetary contribution being 95% (\$955,605) is to be paid to the Council after completion of all of the road works comprising Stage 1 Section 1 of Lake Macquarie Transport Interchange.
- 7.5 If all of the Stage 1 Section 1 of Lake Macquarie Transport Interchange road works are not completed, then the obligation on Stockland to pay the 95% payment does not arise. Accordingly, it is unnecessary to include a provision in the VPA in relation to a refund of the 95% payment.
- 7.6 The VPA is to include the following provisions in relation to completion of the Stage 1 Section 1 Lake Macquarie Transport Interchange road works:
- (a) The Council is to notify Stockland in writing of the completion of the Stage 1 Section 1 Lake Macquarie Transport Interchange road works;
 - (b) Stockland is then to notify the Council in writing of the amount of the monetary contribution to be paid by Stockland in accordance with the CPI indexation formula to be included in the VPA (see paragraph 9.2 below);
 - (c) If the Council agrees with the calculation of the monetary contribution by Stockland, the Council is to issue to Stockland tax invoice or other invoice;
 - (d) If the Council disagrees with the calculation of the monetary contribution by Stockland the dispute provisions will apply;

- (e) Stockland has 30 business days after the Council has issued a tax invoice or other invoice to make the payment; and
- (f) Payment is to be effected when cleared funds are deposited by Stockland into the bank account nominated by the Council.

Transfer of the LMTI Land

- 7.7 The LMTI Land is to be transferred to the Council within 12 months of the date of the execution of the VPA. The LMTI Land is shown on the plan in Figure 2 a copy of which is enclosed.
- 7.8 The transfer is to be taken to have been made on registration of the transfer of the LMTI Land to the Council.
- 7.9 The VPA is to include provisions to the effect that:
 - (a) Stockland will need to reconfigure its car park and subdivide the Site to create the parcel of land that will comprise the LMTI Land to be transferred to the Council;
 - (b) Stockland is to take the necessary steps to effect the subdivision of the Site and the Council is to pay Stockland's reasonable costs associated with the subdivision of the Site to create the LMTI Land parcel and the preparation of all documents required to be lodged with LPI to enable the registration of the transfer of the LMTI Land to the Council; and
 - (c) the Council is required to transfer back to Stockland the LMTI Land if the Council has not used the LMTI Land for the purposes of the Stage 1 Lake Macquarie Transport Interchange within ten years of the date of execution of the VPA.

8. Value of the Contributions

- 8.1 The value of the monetary contribution is to be specified in the VPA.
- 8.2 The value of the LMTI Land (\$1,299,030), is to be noted in the VPA and it is to be subject to indexation in accordance with CPI and a CPI formula is to be included in the VPA. The initial CPI to apply will be the number last published by the Australian Bureau of Statistics before 1 January 2015.
- 8.3 The VPA is to include a provision to the effect that the Council acknowledges and agrees that the value of each of the contributions is as specified in the VPA.

9. Indexation

- 9.1 The Deposit to be paid on execution of the VPA is not subject to indexation.
- 9.2 The balance of the monetary contribution will be subject to CPI and a CPI formula is to be included in the VPA. The initial CPI to apply will be the number last published by the Australian Bureau of Statistics before 1 January 2015.

10. Application of s94, s94A and s94EF to the Development

- 10.1 The VPA will not exclude the application of sections 94, 94A and 94EF of the EP&A Act to the Development.
- 10.2 The VPA is to include a provision to the effect that the Council must in determining the application of a section 94 or section 94A contribution or levy to the Development and any future development on the Site, take into consideration the benefits provided by Stockland under the VPA as required under section 93F(3)(e) of the EP&A Act.

11. Security and enforcement

- 11.1 To secure the payment of the 95% monetary contribution, Stockland agrees to provide to the Council at the time of execution of the VPA a bank guarantee with no expiry date in the amount of \$955,605.
- 11.2 The VPA is to include provisions to the effect that the Council may call on a bank guarantee only if:
- (a) Stockland has not made payment of the monetary contribution in accordance with the VPA only, and has failed to rectify the breach within 20 business days' after receiving written notice from the Council of the breach; or
 - (b) Stockland become insolvent.
- 11.3 The Council must return to Stockland the bank guarantee within 10 business days of receipt of a written request by Stockland and where either Stockland has paid the monetary contribution, or a third party who has purchased or been assigned Stockland's interests in the Site has provided a replacement bank guarantee to the Council in accordance with the assignment provision in the VPA (see Section 13 below).

12. Registration

- 12.1 The VPA is not to be registered on the title of the Land.

13. Assignment and dealings

- 13.1 Although Stockland does not have any current or future plans or proposal to assign or transfer its interest in the Site, it is prepared for the VPA to include a provision dealing with assignment and the transfer of the Site.
- 13.2 The provision will be to the effect that if Stockland enters into an agreement with a third party to sell, transfer, assign or novate or similarly deal with its right, title or interest in the Site or its rights or obligations under the VPA, Stockland may not complete the sale, transfer, assignment or novation, unless before completion of the relevant transaction, Stockland:
- (a) at no cost to the Council, has first procured the execution by the third party of an agreement in favour of the Council on the same terms as the VPA as if the third party were a party to the VPA and the third party has provided to the Council a replacement bank guarantee in lieu of the bank guarantee provided by Stockland; and
 - (b) satisfies the Council that it is not in breach of its obligations under the VPA at the time of completion of the transaction with the third party.

- 13.3 The above requirements are not to operate where:
- (a) Stockland provides notice to the Council that it will retain responsibility for the contributions under the VPA; or
 - (b) the transaction is by way of a mortgage or charge.
- 14. Indemnity**
- 14.1 The VPA is to include a provision to the effect that the Council indemnifies Stockland against any damage, loss or liability suffered by Stockland as result of any act or omission by the Council or any of its employees, agents or contractors in connection with the carrying out of the road works adjacent to or along the boundary of the Site unless the loss or damage or liability suffered or incurred by Stockland is caused by or contributed by the wilful or negligent act or omission of Stockland, its employees or anyone engaged by it including any contractors.
- 15. Defects Liability**
- 15.1 The Council is to remedy any defects in the road works adjacent to or along the boundary of the Site to Stockland's reasonable satisfaction and within a reasonable period, having regard to the nature of the defect, provided that Stockland has notified the Council of the defect within 12 months from the date on which Stockland receives notice from the Council of completion of the Stage 1 Section Lake Macquarie Transport Interchange road works.
- 16. Resolution of disputes**
- 16.1 Any dispute under the VPA is to be resolved by expert determination or mediation in accordance with processes specified in the VPA.
- 17. Legal costs**
- 17.1 The VPA is to provide that each party is to pay its own legal and other costs incurred relating to the VPA.
- 17.2 As noted in paragraph 7.9(b) above, Stockland's reasonable costs incurred in relation to the subdivision of the Site to create the LMTI Land parcel and the registration of the plan of subdivision creating that parcel of land, are to be paid it by the Council.
- 18. Board approval**
- 18.1 Entry into the VPA by Stockland is subject to approval by the Board of Stockland.
- 19. Other matters**
- 19.1 The VPA will include a GST provision to the effect that if a supply is made under the VPA and is subject to GST then the recipient of the supply must pay, in addition to the other consideration payable or to be provided for the supply, an additional amount equal to the GST and the recipient must pay the additional amount to the supplier at the same time as the other consideration is paid.
- 19.2 It is prudent to include a GST clause notwithstanding that GST is currently not payable in relation to payments made under a VPA. (At present, the Australian Tax Office's ruling CR2013/13 applies and developer contributions pursuant to a voluntary planning agreement are currently exempt from the payment of GST.)

19.3 The VPA is to include a provision to the effect that the VPA does not limit or fetter in any way the exercise of any statutory discretion or duty imposed on the Council.

19.4 The VPA is to include administrative provisions relating to:

- (a) notices;
- (b) entire agreement;
- (c) governing law and jurisdiction – in this case New South Wales;
- (d) the process for amending the VPA;
- (e) waiver; and
- (f) execution of the VPA in counterparts.

20. Conclusion

20.1 We look forward to the Council's response to the above matters and welcome the opportunity to discuss with the Council any matters in relation to the proposed VPA.

Yours faithfully,



Kimily Lord
Development Manager
Stockland Development Pty Ltd



Figure 1 – Stage 1 Part A B & C of works



Figure 2 – Land dedication plan