

NOTICE OF DETERMINATION OF MODIFICATION



22 July 2022

Winten (No 21) Pty Limited
Level 10
61 Lavender Street
MILSONS POINT NSW 2061

Dear Sir/Madam

Modification Application No:	MA2022/00053
Development Application No:	DA2015/10393
Land:	Lot 2 DP 1230960 Lot 3 DP 1230960
Property Address:	67 Minmi Road Minmi NSW 2287 610 Minmi Road Minmi NSW 2287
Development:	Two lot into 314 lot subdivision, associated roads, infrastructure, open space and bulk earthworks

Your application of 4 March 2022 has been considered, pursuant to the provisions of Section 4.56 of the Act. The application has been **Approved** and the details of the consent granted by Land and Environment Court as per Notice of Orders Made dated 19 December 2017 as further modified by Council as below are hereby modified, as specifically outlined in the modification details below and in the Notice of Determination that follows;

- Notice of Determination dated 02 February 2022 (MA2021/00438)

MODIFICATION DETAILS

A. Amended conditions

The entire Schedule 1 being deleted and replaced with the Conditions of Consent listed in Schedule No. 1 attached in order to consolidate this and all previous approvals

B. Reasons For The Determination & Consideration Of Community Views

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning

instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.

- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest

C. Reasons Why The Conditions Have Been Imposed

The conditions in Schedule 1 have been applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Provide for the ongoing management of the development; and
- Ensure the development is undertaken in an orderly manner.

Review of Determination:

- (i) You have the right to request a review of this determination under the Environmental Planning and Assessment Act 1979 provided that this determination is not made in respect of designated or crown development. The determination cannot be reviewed after a 12 month time period, from the date of determination or after an appeal to the Land and Environment Court is disposed of by the Land and Environment Court. To comply with these time frames any request for a review should be promptly made to Council.

Rights of Appeal:

- (ii) If you are dissatisfied with the determination of Council you may appeal to the Land and Environment Court within 12 months after the date on which you receive notice of the determination of the application or review. Otherwise the right to appeal is exercisable in accordance with the rules of the Land and Environment Court.

If you are considering exercising your rights of appeal or lodging a request for a review, it may be advisable to obtain legal advice regarding the interpretation of your rights in relation to such matters.

Edward Kenney
SENIOR DEVELOPMENT OFFICER

28 July 2022
Date of Determination

MODIFIED NOTICE OF DETERMINATION

Modified Application No: MA2022/00053

Application No:	MA2022/00053
Land:	Lot 2 DP 1230960 Lot 3 DP 1230960
Property Address:	67 Minmi Road Minmi NSW 2287 610 Minmi Road Minmi NSW 2287
Proposed Development:	Sec 4.56 modification to DA2015/10393 - subdivision - changes to staging plan and conditions of consent

SCHEDULE 1

PART A (ALL STAGES - GENERAL CONDITIONS)

- A.1 The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Prepared by	Reference_Version	Dated
Minmi East – Stage 1B – Without Prejudice Discussions, Plan of Proposed Subdivision	Monteath & Powys	150102AW_07	09.11.2017
Proposed Residential Subdivision, Minmi East, Stage 1B, Landscape DA Documentation	Moir Landscape Architecture	1178_D	10.10.2016
Landscape Master Plan Report, Proposed Residential Subdivision, Minmi East Stage 1B	Moir Landscape Architecture	1178_E	10.10.2016
Minmi 1B – 67 Minmi Road and 53 Railway Street Minmi: Bushfire Additional Response to RFS Information Request	Bushfire Planning Australia	1728 - Minmi 1B	23.11.2017

Aboriginal Cultural Management Plan, Minmi Development Site	McCardle Cultural Heritage	J15025	17.11.2015
Minmi Link Road Estate, Conservation Management Plan	ERM	0408695RP01_Final 03	22.08.2017
Minmi Link Road Development, Heritage Interpretation Strategy	RPS	PR126832	24.11.2015
Minmi East Precinct Post-Development Flood Modelling Assessment	BMT WBM	JDE:L.N20443.007	31/10/2017
Cover Sheet and Locality Plan	ACOR	NE150055 DA-1B-0100_K	11.12.2017
Proposed Development Layout	ACOR	NE150055 DA-1B-0200_G	11.12.2017
General Arrangement Plan Sheet 1	ACOR	NE150055 DA-1B-0201_H	11.12.2017
General Arrangement Plan Sheet 2	ACOR	NE150055 DA-1B-0202_H	11.12.2017
General Arrangement Plan Sheet 3	ACOR	NE150055 DA-1B-0203_H	11.12.2017
Stormwater Layout	ACOR	NE150055 DA-1B-0204_G	11.12.2017
Pathway and Traffic Regulation Plan	ACOR	NE150055 DA-1B-0205_L	11.12.2017
Proposed Services Plan	ACOR	NE150055 DA-1B-206_G	11.12.2017
Proposed Park Layout	ACOR	NE150055 DA-1B-207_B	11.12.2017
Typical Cross Sections Sheet 1	ACOR	NE150055 DA-1B-301_F	11.12.2017
Typical Cross Sections Sheet 2	ACOR	NE150055 DA-1B-302_F	11.12.2017
Typical Cross Sections Sheet 3	ACOR	NE150055 DA-1B-303_F	11.12.2017
Typical Cross Sections Sheet 4	ACOR	NE150055 DA-1B-304_F	11.12.2017
Typical Cross Sections Sheet 5	ACOR	NE150055 DA-1B-305_G	11.12.2017
Finished Surface Contours and Retaining Wall Plan Sheet 1	ACOR	NE150055 DA-1B-601_G	11.12.2017
Finished Surface Contours and Retaining Wall Plan Sheet 2	ACOR	NE150055 DA-1B-602_G	11.12.2017
Finished Surface Contours and Retaining Wall Plan Sheet 3	ACOR	NE150055 DA-1B-603_J	11.12.2017
Typical Retaining Wall Sections	ACOR	NE150055 DA-1B-701_F	11.12.2017
Finished Surface Cut / Fill Diagram Sheet 1	ACOR	NE150055 DA-1B-801_F	11.12.2017
Finished Surface Cut / Fill Diagram Sheet 2	ACOR	NE150055 DA-1B-802_F	11.12.2017
Finished Surface Cut / Fill Diagram Sheet 3	ACOR	NE150055 DA-1B-803_G	11.12.2017

Clearing Plan	ACOR	NE150055 DA-1B-805_G	11.12.2017
Water Quality Basin 1 Plan	ACOR	NE150055 DA-1B-901_F	11.12.2017
Water Quality Basin 2 Plan	ACOR	NE150055 DA-1B-902_H	11.12.2017
Water Quality Basin 3 Plan	ACOR	NE150055 DA-1B-903_F	11.12.2017
Water Quality Basin 4 Plan	ACOR	NE150055 DA-1B-904_F	11.12.2017
Water Quality Details	ACOR	NE150055 DA-1B-905_B	11.12.2017
Extent of Works in Unnamed Eastern Watercourse	ACOR	NE150055 DA-1B-1001_F	11.12.2017
Minmi East Precinct (Stage 1B) Revised Staging Plan	ADWJ	239736(1B)-PSK-010-C	14.07.2022
Erosion and Sediment Control Plan Sheet 1	ACOR	NE150055 DA-1B-1301_G	11.12.2017
Erosion and Sediment Control Plan Sheet 2	ACOR	NE150055 DA-1B-1302_G	11.12.2017
Erosion and Sediment Control Plan Sheet 3	ACOR	NE150055 DA-1B-1303_H	11.12.2017
Erosion and Sediment Control Details Sheet 1	ACOR	NE150055 DA-1B-1304_F	11.12.2017
Erosion and Sediment Control Details Sheet 2	ACOR	NE150055 DA-1B-1305_F	11.12.2017
Southern Roundabout Layout	ACOR	NE150055 DA-1B-1401_D	11.12.2017
Proposed Signalised Intersection Layout	ACOR	NE150055 DA-1B-1402_D	11.12.2017
Concept Northern Pedestrian Refuge Layout Plan	ACOR	NE150055 DA-1B-1403_E	11.12.2017
Proposed BGHRP CHR(S) Geometry	ACOR	NE150055 DA-1B-1404_B	11.12.2017
Concept Southern Pedestrian Refuge Layout Plan	ACOR	NE150055 DA-1B-1405_B	11.12.2017

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

A.2 Conditions applicable to a particular Stage of the development are set out in the following Parts of Schedule 1.

- i) Part B - Bulk Earthworks
- ii) Part C - Stage 1
- iii) Part D - Stage 2
- iv) Part E - Stage 3
- v) Part F - Stage 4
- vi) Part G - Stage 5
- vii) Part H - Stage 6
- viii) Part I – Stage 7
- ix) Part J – Rural Fire Service Conditions

A.3 Prior to the issue of a Construction Certificate for a particular stage (excluding bulk earthworks), all relevant general conditions of Schedule 1 (Part A), and all specific conditions relating to the Construction Certificate for the particular stage are to be complied with. Prior to the issue of a Construction Certificate for Bulk Earthworks, only conditions in Part B relating to the Construction Certificate are to be complied with.

A.4 Prior to the endorsement of a Subdivision Certificate for a particular stage, all relevant general conditions of Schedule 1 (Part A), and all specific conditions relating to the Subdivision Certificate for the particular stage are to be complied with.

(Note: Council may accept bonding of minor works to allow the certification of the Subdivision Certificate, subject to such works not being required to service proposed lots that will be transferred into private ownership.)

Construction of the proposed subdivision taking place generally in the consecutive manner indicated on the approved Master Plan (refer Condition A.1) except as otherwise provided by the conditions of this consent or as agreed in writing by Council. Consecutive stages may be constructed concurrently. Stages 6 and 7 may be constructed prior to Stage 5.

A.5 The Developer is responsible for all costs associated with this development, unless otherwise agreed by Council as being 'works-in-kind' as specifically identified in Council's applicable section 94 Development Contributions Plan.

A.6 All stages of the development are to comply with the full requirements of the NSW Rural Fire Service.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE for Stages 1 – 6 (excluding Bulk Earthworks)

A.7 The Developer preparing detailed design drawings and obtaining approval under section 138 of the *Roads Act, 1993* (NSW) from the Road Authority for Minmi Road (Council) for all works associated with Minmi Road with the exception of those works approved by the RMS (refer to Stage 4). A copy of the s138 consent issued by the Road Authority for a relevant Stage is to be provided to the Accredited Certifier prior to the issuing of a Construction Certificate for all other works associated with the respective Stage.

A.8 All subdivision and associated works are to be designed and constructed in accordance with relevant Austroads publications, associated RMS supplements and Technical Directions, Council's Development Control Plan and the Newcastle City Council – *Engineering Specifications for Development Design and Construction*.

A.9 Road infrastructure including intersection treatments, road pavement, foot/cycle/shared paths, kerb and gutter, stormwater drainage, services, landscaping (including street trees), street lighting, signage and markings being provided for each Stage of the subdivision, generally in accordance with the approved plans. Full details to be included in the detailed design drawings for a Construction Certificate application.

A.10 Each Construction Certificate application for road and drainage construction

works is to be accompanied by a comprehensive MUSIC model demonstrating that the proposed works will achieve the water quality reduction targets specified by Council's Development Control Plan.

A.11 Stormwater Management and associated Water Sensitive Urban Design (WSUD) measures are to be designed and constructed in accordance with Council's Development Control Plan and Standard Drawings that are current when making each application for Construction Certificate and in accordance with the following additional requirements:

- a) Bioretention swales shall be generally in accordance with the sketch titled 'Water Quality Details' (Ref. NE150055 DA-1B-905 dated 11/12/2017) as presented in the supplementary position paper by McCotter Consulting Services dated 27/10/2017 and as modified below;
- b) Upright kerb and gutter shall be provided to both sides of all roads;
- c) All roads shall be provided with a crown on the pavement centreline and 2-way crossfall (3%) toward the respective kerb and gutter;
- d) All footway and verge areas are to have 2.5% crossfall toward the respective kerb and gutter or Bio-retention swale;
- e) Kerb inlet pits located on the Bio-retention swale side of the road and immediately upstream of a swale surcharge pit shall be provided and constructed with a 900mm deep blind sump, for coarse sediment capture, below the invert level of the discharge pipe from the kerb inlet pit;
- f) All kerb inlet pits that capture flows that ultimately discharge into the Bio-retention swales are to be fitted with pit baskets to Council's requirements;
- g) The verge area between the kerb and gutter and the 1V in 3H batter slope within the swale shall be a minimum 1.5m wide in accordance with Table 1 of Council's Development Control Plan 2102 - Section 7.04 Movement Networks;
- h) Surcharge pits within the swale are to be in accordance with Council Standard Drawing A2207, with exception that the floor of the pit is to be constructed with permeable paving in lieu of the proposed seep holes and the pit shall have a concrete apron consistent with that shown on Council Standard Drawing A2206;
- i) Stone pitching for scour protection is to be laid around the edge of and flush with the concrete apron;
- j) The subsoil drain in the base of the Bio-retention trench is to be returned to a surface cleaning point within the concrete apron;
- k) The throttled subsoil drain is to be joined with the Bio-retention trench subsoil as soon as grade permits and this junction provided with a surface cleaning point;
- l) Batter slopes within the Bio-retention swale are to be a maximum slope of 1H:3V and the Bio-retention swale is to be constructed with a separate sacrificial layer of Bidum A64 laid over the surface of the filter media prior to the laying of a temporary full width/length turf cover;
- m) Bio-retention basins shall initially be constructed with a separate sacrificial layer of Bidum A64 laid over the surface of the filter media prior to the laying of a temporary full width/length turf cover;
- n) The Developer is responsible for removing all temporary and sacrificial measures and completing the construction and planting of the Bio-retention swales and Bio-retention basins in accordance with the terms of this consent; and
- o) Proprietary gross pollutant traps (GPT's) proposed upstream of all Bio-retention basins shall be centrifugal type with removable capture baskets such as 'Rocla CDSTM' or equivalent with an offline capture chamber.

A.12 Designs for flexible road pavements associated with the development shall be in

accordance with Council's Development Control Plan, relevant Austroad and RMS publications and the following additional requirements. Full details to be included in the detailed design drawings for a Construction Certificate application or application under s138 (*Roads Act, 1993*), as appropriate.

- i) Shall be accompanied by a .pdf copy of a pavement design report prepared and certified by a practising geotechnical engineer;
- ii) The minimum acceptable subgrade CBR to be 5%;
- iii) All roads to be Benkleman Beam tested prior to prime sealing with a maximum permissible deflection of 1.2mm being allowed for all internal roads, with the exception of the identified internal bus routes (9.6m carriageway width) which are to have a maximum permissible deflection of 1.0mm. New pavements associated with works on Minmi Road shall have a maximum permissible deflection of 0.8mm.
- iv) All roads to be primer sealed (7mm) prior to asphaltting; and
- v) The minimum wearing surface of all internal roads having a carriageway less than 9.6m width is to be a 40mm compacted thickness layer of asphaltic concrete (AC 10). Minmi Road and all other internal roads having a carriageway width of 9.6m or greater are to have a 50mm compacted thickness layer of asphaltic concrete (AC 14).

A.13 Intersections associated with the development shall be in accordance with Council's Development Control Plan, relevant Austroad and RMS publications and the following additional requirements. Full details to be included in the detailed design drawings for a Construction Certificate application or application under s138 (*Roads Act, 1993*), as appropriate.

- i) The standard design vehicle for all internal roads shall be a Medium Rigid truck (Austroad type MR) or equivalent;
- ii) All internal intersections are also to be capable of catering for 19.0m semi-trailer without encroachment onto kerbs, footways or verges; and
- iii) The standard design vehicle for Minmi Road shall be a Long single articulated vehicle (25.0m articulated low loader) noting that this vehicle cannot negotiate mountable kerbs or the roundabout annulus.

A.14 The circulating road pavement for all roundabouts is to be reinforced concrete designed and certified by a suitably qualified engineer as being in accordance with the RMS's '*Concrete Roundabout Pavements: A Guide to their Design and Construction*' or as agreed by Council. Full details to be included in the detailed design drawings for a Construction Certificate application or application under s138 (*Roads Act, 1993*), as appropriate.

A.15 The Developer is to obtain all necessary approval(s) from the Department of Industry - Crown Lands and Water pursuant the *Water Management Act, 2000* and keep all such approval(s) current for the duration of the respective works. A copy of such approval(s) is to be provided to the Accredited Certifier prior to the issuing of the respective Construction Certificate.

A.16 Prior to making application for a Construction Certificate for construction of Stages 1 to 6 the Developer is to provide further details on Aboriginal interpretation strategies, in accordance with the Heritage Interpretation Strategy. Any interpretation strategies involving land or roads to be dedicated to Council are to be agreed in writing by Council prior to the issue of the relevant Construction Certificate.

A.17 Prior to making application for a Construction Certificate for each Stage the

Developer is to submit to Council and obtain approval for all proposed road names within that stage.

- A.18 The Developer shall provide transport stops and shelters in the identified locations, at no cost to Council or the transport provider, and in accordance with Council's *'Transport Stops, Shelters and Seating Policy'* and relevant Council Standard Drawings. Full details to be included in the detailed design drawings for a Construction Certificate application.
- A.19 Vehicular access(es) from the kerb line to the useable parts of all proposed battle-axe lot(s) is to be constructed in accordance with Element 3.01 'Subdivision' of Newcastle Development Control Plan and AS2890.1:2004 - *'Parking Facilities Off-street car parking'*. Concrete pavement to be designed and constructed capable of sustaining all anticipated traffic loading associated with vehicles used during the construction of a future dwelling on the lots or a fully laden NSW Fire Brigade appliance. Full details to be included in the detailed design drawings for a Construction Certificate application.
- A.20 All disturbed, regraded or exposed areas being stabilised and suitably revegetated. All revegetation is to be undertaken using native plants propagated from local native seed from on-site or a nearby seed source. Propagation material is to be sourced from areas to be cleared in preference to areas that will be retained as bushland. Full details are to be included in documentation for a Construction Certificate application.
- A.21 Detailed Landscape Plans and Specifications being prepared for each Stage by a Landscape Architect or similar qualified professional practising at the membership level of Registered Landscape Architect of the Australian Institute of Landscape Architects and is also to comply with the following requirements. Full details to be included in the detailed design drawings for a Construction Certificate application.
- a) Existing trees on the site, which are to be retained, are to have no cut or fill under their canopy areas and the location of these trees is to be clearly identified on the Landscape Management Plan and Engineering Plans;
 - b) Areas of restricted access and fence detail to be erected during construction and areas proposed for storage/stockpile of plant and materials are to be identified;
 - c) To specify
 - Establishment methods for all new plantings;
 - Maintenance scheduling for all new plantings;
 - Guidelines for formative pruning of street trees;
 - Weed eradication program;
 - Reporting methods.
 - d) Street trees are to be provided with a nominated minimum 75 litre pot size, or as otherwise approved by Council, such to be installed prior to the certification of the Subdivision Certificate;
 - e) All street trees are to be selected and certified by the supplier to comply with the current NATSPEC guide with respect to root development, height, trunk diameter and branch structure and balance (refer to *Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003*);
 - f) For all roads, other than Minmi Road, street trees shall be planted at a minimum rate of one tree per allotment frontage (including both front and rear for lots with dual road frontage) or otherwise at a maximum spacing of 10m where allotment boundaries exceed 20m or where no allotments or Bio-retention swales are present at the road edge;
 - g) Street trees shall be planted at a maximum spacing of 10m within all footway areas to be constructed along Minmi Road with the exception of

- that part of Minmi Road within the Minmi Road 'High Street Mixed Use Precinct' within Stage 4 (land zoned B1 Neighbourhood Centre).
- h) Locations and spacing for street trees within the High Street Mixed Use Precinct (Stage 2) shall be determined as part of the detailed design for the High Pedestrian Activity Area (refer to Schedule 1 Part D conditions) and installed within structural soil vaults in accordance with Council Standard Drawings; and
 - i) All street trees are to be protected with tree guards to Council's requirements.
- A.22 Prior to the issue of a Construction Certificate for the first Stage, the Developer is to enter into the Voluntary Planning Agreement between Winten (no 21) Pty Ltd, Minmi Land Pty Ltd and the Minister for Planning on the terms of the offer dated 2 November 2017 and made pursuant to section 93I of the *Environmental Planning and Assessment Act 1979*.
- A.23 No trees are to be planted between the outer edge of the Bio-swale and the adjacent road edge. Isolated copses containing three to five fire retardant trees (minimum 45L stock) are to be established within all regrade batter planting areas and at appropriate spacing having regard to *Planning for Bushfire Protection, 2006*. Full details to be included in the detailed design drawings for a Construction Certificate application.
- A.24 Water, electricity and gas installations are to comply with Section 4.1.3 of the NSW Rural Fire Service document '*Planning for Bushfire Protection 2006*' (or as updated). Full details to be included in documentation for a Construction Certificate application.
- A.25 A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993 (NSW)*, before the issue of any respective Construction Certificate for Stages 1 to 6.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND

- A.26 Prior to any site works commencing, a Vegetation Management Plan (VMP) being prepared by a qualified bushland regeneration contractor and a copy being submitted to the Principal Certifying Authority and Council in .pdf format. The VMP is to address pre and post-development regeneration techniques, protection and maintenance aspects associated with areas proposed to be retained in the Developer's ownership (proposed Lots 601, 602 and 603) and those lands to be dedicated or transferred to Council (proposed Lot 604) and is to include but not be limited to;
- a) An appraisal of the present condition of the bushland;
 - b) Identification of potential threats to the bushland (including techniques to mitigate threats);
 - c) Harvesting and propagating of local native plant seed;
 - d) Specific recommendations for a five year management program and techniques to protect, regenerate and enhance the remnant bushland;
 - e) Recommendations for management strategies in perpetuity beyond the initial 5 year program.
 - f) Bush Fire Asset Protection Zones;
 - g) Archaeological and Aboriginal heritage; and

h) Recording and reporting mechanisms.

A.27 Construction Environmental Management Plans (CEMPs) are to be prepared for the Bulk Earthworks Stage and Stages 1 to 7 such to be designed and implemented to manage all environmental aspects associated with the clearing, earthworks and construction works, including off site impacts such as transport to and from the site. A copy of each CEMP is to be provided in .pdf format to the Principal Certifying Authority and Council and the CEMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The CEMP should include but not be limited to:

- a) Aboriginal Cultural Heritage;
- b) Heritage Conservation Management
- c) A site management strategy, identifying and addressing issues such as environmental health and safety, site access and security, 'no-go' zones and traffic/pedestrian/cyclist management;
- d) Continuous operations of the Blue Gum Hills Regional Park;
- e) A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment;
- f) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions;
- g) A noise and vibration management program, detailing measures to minimise the impact of the development on local amenity, particularly the existing residence at 81 Minmi Road, Minmi. Provision for noise and vibration monitoring during works should be incorporated into the program;
- h) A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works;
- i) A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material including felled trees and other vegetation;
- j) Vegetation clearing protocols to protect retained flora and minimise the introduction of weed propagules and to protect and relocate displaced fauna both during initial site clearing and ongoing construction works;
- k) Reporting to Council every 6 months until completion of the final Stage of the subdivision of all areas disturbed by the Bulk Earthworks Stage until such time as subsequent construction works have occurred in each of Stages 1 to 6. Such reporting shall be presented in report format (.pdf) and include details of current site conditions, maintenance activities undertaken since the previous report and recommendations for any required rectification/maintenance work; and
- l) A community relations plan, which aims to inform local residents and other local stakeholders of the proposed nature and timeframes for demolition and construction activities together with contact details for site management.

A.28 Prior to any clearing being commenced sufficient local native plant seed is to be sourced from bushland areas to be cleared and propagated for use in implementing the Vegetation Management Plan.

A.29 Prior to the disturbance of low lying alluvial soils below RL 5m, AHD, confirmation testing for the presence of acid sulphate soils being carried out by a qualified Geotechnical Engineer and an acid sulphate soils management plan being

prepared and implemented for any identified acid sulphate soils in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee's 'Acid Sulfate Soil Manual'.

- A.30 Written approval is to be obtained from the Road Authority for all proposed temporary changes to traffic conditions or traffic regulations on Minmi Road as a result of the bulk earthworks phase or construction works associated with Stages 1, 3, 4 and 5. The Developer shall be responsible for all costs associated with any public notification and implementation of the proposed temporary changes.
- A.31 Prior to any site works commencing, the location for repatriation of Aboriginal cultural artefacts shall be determined in accordance with the Aboriginal Cultural Heritage Management Plan. Repatriation of artefact must not occur within any land owned or proposed to be dedicated to Council.
- A.32 Closed Circuit Television (CCTV) digital recordings is to be undertaken of all pipes to be dedicated to Council and copies are to be provided to the Principal Certifying Authority and Council.

To facilitate the issuing of Council Asset numbers the Developer is to provide the Council with a Works as Executed plans (Electronic and Hardcopy format) of the completed stormwater drainage network a minimum of 5 business days prior to the commencement of the CCTV investigation. A Council Asset inspection officer will be available on site at the commencement of the CCTV investigation (minimum 2 days notification required Ph. 4974 2613). The CCTV recordings and reporting of defects shall and in accordance with the Specifications at Appendix 10 and Appendix 11 of Council's 'Stormwater and Water Efficiency for Development Technical Manual_July 2017' (or equivalent as amended by Council) and be provided to the Principal Certifying Authority and Council within one week of the completion of inspection work.

Council's Asset section will review the CCTV footage and report and advise acceptance or otherwise of the stormwater conduits. Any defects identified by Council are to be repaired prior to Practical Completion being achieved in respect of the Construction Certificates and prior to the Final Inspection Report being issued by the Road Authority for all works granted consent under section 138 of the *Roads Act, 1993*.

- A.33 All required landscape works are to be implemented by members of the Landscape Contractors Association of NSW and/or similar qualified contractors and under the supervision of a Landscape Architect or similar qualified professional practising at the membership level of Registered Landscape Architect of the Australian Institute of Landscape Architects.
- A.34 A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to achieving Practical Completion for each respective Stage of the development. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were approved under the respective Construction Certificate and/or section 138 consent (*Roads Act, 1993*) and is to verify that an effective maintenance program has been commenced.
- A.35 Council's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.

(Note: Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle.)

- A.36 A copy of the Notice of Determination and relevant Construction Certificates, including associated approved plans, being kept on-site at all times during construction works.
- A.37 The project manager nominating a community contact person and advising adjoining owners and Council of the name of the nominated contact person, along with a contact telephone number. The contact person is to be available at all times for the duration of the construction work.
- A.38 Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
➤ Monday to Friday, 7:00 am to 6:00 pm and
➤ Saturday, 8:00 am to 1:00 pm.
- No noise from construction/demolition work is to be generated on Sundays or public holidays.
- A.39 Mechanical rock breaking is to be confined to between 9.00am to 3.30pm Monday to Friday excluding any Public Holiday. Rock breaking methods must not include blasting.
- A.40 The Developer ensuring services and vehicular access are maintained at all times possible to all existing residences and buildings adjoining the development site.
- A.41 Compaction of earthworks is to be carried out under Level 1 supervision as per AS 3798-1996 "*Guidelines on earthworks for commercial and residential developments*".
- A.42 The removal of any asbestos material found during the works is to be undertaken in accordance with the requirements of the WorkCover Authority of NSW.
- A.43 Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
- A.44 Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) '*Waste Classification Guidelines Part 1: Classifying Waste*'.
- A.45 Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*.
- A.46 Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Council officers or the Principal Certifying

Authority on request.

- A.47 Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
- A.48 Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the Surveying and Spatial Information Act 2002 (NSW).
- A.49 Plans of any proposed traffic management devices, linemarking and signposting works on existing or proposed public roads being submitted to Council and approved by the Newcastle City Traffic Committee prior to those works being undertaken.
- A.50 The routes for import of any fill material or export of any spoil being submitted to and agreed to by Council prior to the commencement of haulage. Any deterioration or failures within public roads that can reasonably be attributable to such operations are to be restored to the requirements of, and at no cost to, Council.
- A.51 Toilet facilities being provided at or in the vicinity of the site on which work is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. The required toilet facilities are to be in place and operational prior to any other work being undertaken on the site.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- A.52 A total monetary contribution of \$ 3,973,926 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality. The total contribution may be made in staged payments applicable to each Subdivision Certificate application and shall be determined on the basis of the following:

- | | | |
|----|-----------------------|--------------------------------|
| a) | Traffic and Transport | \$919.29 per additional lot |
| b) | Social Infrastructure | \$12,327.13 per additional lot |

Note:

- i) This condition is imposed in accordance with the provisions of *The City of Newcastle's Western Corridor Section 94 Contribution Plan 2013* operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.
- ii) The City of Newcastle S94 Development Contributions Plan 2013 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94 Development Contributions

Plan 2013.

- iii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

- A.53 All areas shown as Public Reserve or Drainage Reserve on the approved Subdivision Plans within the respective Stage being cleared of weed, noxious plants and being left clean and free of all rubbish and excess construction materials and with any turfed areas mown, prior to being transferred to Council as specified by the terms of this consent.
- A.54 All construction and landscape works and public utility installations associated with a particular Stage are to be completed.
- A.55 A Final Inspection Report is to be issued by the Road Authority for any works granted consent under section 138 of the Roads Act, 1993 in association with the respective Stage of the development.
- A.56 The Developer making good any damage caused to a public road or associated structures, including drains and kerb and gutter, as well as to private property, and revegetating any disturbed areas resulting from the works.
- A.57 Written certification from the NSW Rural Fire Service or a recognised consultant that Asset Protection Zones (APZ), including temporary APZ's, have been established in accordance with the Bushfire Management Plan, being submitted to the Principal Certifying Authority and the Council.
- A.58 A Post Subdivision Bushfire Attack Level (BAL) Certificate (PSBC) is to be issued in relation to each stage by the NSW Rural Fire Service (NSW RFS) or a recognised consultant and copy (.pdf format) of the PSBC is to be provided to the Principal Certifying Authority and the Council prior to the issuing of the respective Subdivision Certificate.
- A.59 Prior to making application for a Subdivision Certificate for each Stage the Developer is to obtain from Council the required street addresses and show such addresses on the respective Administration Sheet.
- A.60 Prior to the issuing of each Subdivision Certificate the Developer is to submit geotechnical investigations in accordance with any requirements of Subsidence Advisory NSW to demonstrate that the risk of mine subsidence can be removed and/or managed within the development site by suitable means, or demonstrate

that the works are long term stable and there is no risk of subsidence, as appropriate to the intended future use of the land. This is to include consideration of options for grouting to ensure that mine subsidence risk is eliminated for all types of development proposed including larger floor plate structures. A copy of written confirmation that the requirements of Subsidence Advisory NSW is to be included with documentation for each Subdivision Certificate.

A.61 A Subdivision Certificate Application being submitted to the Principal Certifying Authority in respect of each Stage of the development, accompanied by the appropriate fee. Each application is to be supported .pdf copies of the following documentation, together with any other documentation required under the conditions of this consent:

- a) The original survey plan of subdivision prepared by a Registered Surveyor;
- b) The original instruments prepared under s88B of the *Conveyancing Act, 1919* as appropriate;
- c) A Section 50 Certificate from the Hunter Water Corporation Limited;
- d) Copies of NATSPEC certification in respect to tree plantings;
- e) A geotechnical assessment prepared by a suitably qualified geotechnical engineer that:
 - i) nominates the site classification and soil type of each allotment in accordance with Australian Standard AS 2870-2011 '*Residential Slabs and Footings*';
 - ii) indicates any areas of potential slip or subsidence which may influence future road and building design requirements;
 - iii) indicates the location, extent and suitability of any fill placed on the site;
 - iv) provides an assessment of the residual risk of Mine Subsidence having regard to the works done;
 - v) provides a report on all earthworks carried out under Level 1 supervision as per AS 3798-1996 '*Guidelines on earthworks for commercial and residential developments*'; and
 - vi) provides testing results for each phase of construction in relation to earthworks and road works.
- f) A statement from a registered surveyor verifying that:
 - i) no survey control marks were interfered with during site work; or
 - ii) that the requirements of the Department of Lands had been obtained in respect of any marks which were destroyed and that such requirements have been complied with.

A.62 The appropriate notation being placed on the plan of subdivision and an instrument under Section 88B of the *Conveyancing Act, 1919* being submitted to the Principal Certifying Authority setting out the terms of easements (including easements in gross) and/or rights of carriageway and/or restrictions as to user required for the subdivision, in respect of the following where applicable:

- a) Interallotment drainage lines in favour of upstream properties utilising the lines;
- b) Rights of carriageway in favour of the property serviced;
- c) Easements for services in favour of the property serviced and /or the appropriate utility provider;
- d) Temporary or permanent Asset Protection Zones and Fire Trails; and
- e) Public stormwater drains, existing and proposed stormwater outlets, overland flowpaths and any temporary culdesac heads or turning facilities in favour of Council.

(Note: i) Council in addition to the owner of any land benefited by the easement is to be a party whose consent is needed to release or vary easements or positive covenants, however, Council and the NSW Rural Fire Service must not be noted as prescribed bodies having benefit of any easements, restrictions or covenants relating to bushfire protection measures including Asset Protection Zones and Fire Trails.

ii) Council advises that it will not withhold consent to release the Positive Covenants or Easements in respect of temporary Asset Protection Zones and/or Easements for Fire Trails or temporary culdesac heads or turning facilities subject to adequate alternate measures being provided in lieu.)

A.63 The appropriate notation being placed on the respective plan of subdivision and an instrument under Section 88B of the *Conveyancing Act, 1919* for a 'restriction on use of land' to be imposed on all lots having a common boundary with Minmi Road that prohibits direct vehicular access to and from Minmi Road across any such boundary.

A.64 Appropriate documentation being submitted with the Subdivision Certificate application for each respective Stage such to provide for the release of any easement, right of carriageway or restriction as to user, including those affecting proposed public roads, made redundant by that particular Stage of the development.

A.65 Written evidence of arrangements being made with the Hunter Water Corporation Limited, or other approved supplier, for the provision of individual water supply and sewerage services to all lots within each stage, being submitted to the Principal Certifying Authority prior to certification of the Subdivision Certificate in respect of that Stage.

A.66 Written evidence of arrangements being made with Ausgrid, or other approved supplier, for the provision of underground electricity supply to all lots and street lighting within each Stage, being submitted to the Principal Certifying Authority prior to certification of the Subdivision Certificate in respect of that Stage.

(Note: Any required transformers are to be located in reserves or private property, with appropriate easements being created, and are not to be installed in road reserves.)

A.67 Written evidence of arrangements being made with the NBN Co. Ltd, or other approved supplier, for the provision of underground National Broadband Network services to all lots within each Stage, being submitted to the Principal Certifying Authority prior to certification of the Subdivision Certificate in respect of that Stage.

A.68 Written evidence of any arrangements made with Jemena, or other approved supplier, for the provisioning of underground natural gas services being submitted, to the Principal Certifying Authority prior to certification of the Subdivision Certificate in respect of each Stage of the development.

A.69 Certified works-as-executed (WAE) plans being lodged in .pdf format with the Principal Certifying Authority and with Council immediately after having achieved Practical Completion of works for each stage. The WAE plans are also to be registered with Council in digital form via Council's on-line lodgement portal and

in accordance with the 'A-Spec'TM Digital data Specification or as otherwise specified by the Council and are to include:

- a) Details of any alterations made to the approved plans;
- b) The location and type of service conduits;
- c) The location and extent of any temporary Asset Protection Zones and Fire Trails;
- d) Details of all kerbs and gutters, pits and pipelines, stormwater management devices and drainage swales; and
- e) Certification by a Registered Surveyor that all pipes, services and access driveways within proposed lots are totally within their respective easements;

Where the WAE plans indicate variations between the works as installed and the approved plans, the Principal Certifying Authority is to determine whether the works are acceptable or require reconstruction.

- A.70 A six-month defect liability period applying in respect of each Construction Certificate issued for Stages 1 to 7, prior to Council accepting maintenance responsibility for subdivision infrastructure, with the exception of the proposed landscaping. Each defect liability period is to commence at the date of registration of the respective plan of subdivision.

In this regard, a cash bond or bank guarantee in an amount equivalent to 5.0% of the final construction value of the subdivision works for which Council is accepting maintenance responsibility for, with the exception of the proposed landscaping, or an alternative lesser amount as may be agreed to by Council, is to be submitted to Council prior to certification of the Subdivision Certificate in respect of each Stage of the development.

(Note:

- i) A further inspection of the subdivision infrastructure will be undertaken by Council at the cessation of the Defect Liability period.
- ii) Any defects identified by Council are to be rectified by the developer prior to Council's acceptance of maintenance responsibility and the release of the bond.
- iii) In the event that the developer fails to rectify defects notified by Council within one month of notification, Council may elect to call on the bond to affect the required repairs.
- iv) A Final Inspection will be undertaken by Council at the completion of the specified maintenance period.)

- A.71 A 12-month maintenance period applying in respect of each applicable Stage of the development, prior to Council accepting maintenance responsibility for any proposed landscape works (including plants, mulch, tree guards and parkland embellishments). Each defect liability period is to commence at the date of registration of the respective plan of subdivision. A lesser maintenance period for individual elements may be agreed to by Council.

In this regard, a cash bond or bank guarantee in an amount equivalent to 25% of the value for the supply, installation and associated maintenance of the landscaping that Council is to accept maintenance responsibility for, or an alternative lesser amount as may be agreed to by Council, together with the required Landscape Establishment report, is to be submitted to Council prior to

certification of the Subdivision Certificate in respect of each Stage of the development.

(Note:

- i) A further two inspections (twelve month intervals) of the landscaping will be undertaken by Council officers in accordance with the terms of this consent.
- ii) Any defects or maintenance requirements identified by Council are to be rectified by the developer prior to Council's acceptance of maintenance responsibility and the release of the bond.
- iii) In the event that the Developer fails to undertake such maintenance within one month of notification, Council may elect to call on the bond to affect the required repairs or maintenance.
- iv) A Final Inspection will be undertaken by Council at the completion of the specified maintenance period.)

A.72 Lot 604 identified within the Vegetation Management Plan (VMP) is to be continuously maintained by the Developer in accordance with the VMP for a minimum of 5 years after commencement of vegetation management works within that area.

All bushland regeneration and on-going management and maintenance carried out by the Developer is to be undertaken by a qualified bushland regeneration contractor. A copy of the contractor's specification is to be submitted to Council and an initial site inspection is to be undertaken in the company of an appointed Council representative prior to undertaking any work identified in the VMP.

The Developer is to submit annual reports (.pdf format) to Council detailing works undertaken, the results of such work, identifying future works programs and any making any necessary recommendations to enhance the VMP.

In regard to the above requirements, a cash bond or bank guarantee in an amount equivalent to 100% of the contract price for the works that remain to be completed under the VMP, or an alternative lesser amount as may be agreed to by Council, is to be submitted to Council prior to certification of the Subdivision Certificate in respect of Stage 5 of the development.

The Developer may make written request to Council to 'draw down' the amount of security on an annual basis upon acceptance by Council of the works completed and identified in the respective annual report. The amount of each 'draw down' shall be agreed by Council (Council fees apply for reducing or replacing bonds and bank guarantees).

- (Note: i) As a minimum, Council officers will inspect Lot 604 identified in the VMP on an annual basis following receipt of the annual report.
- ii) Any maintenance requirements identified by Council are to be addressed by the Developer within one month of notification and are to be completed to Council's satisfaction prior to Council's acceptance of maintenance responsibility and the ultimate release of the bond.

- iii) In the event that the Developer fails to undertake such maintenance within one month of notification, Council may elect to call on the bond to affect the required repairs or maintenance.
- iv) A Final Inspection will be undertaken by Council at the completion of the respective 5 year maintenance period.)

A.73 The Developer shall prepare and submit to Council, for approval, a Five Year Water Sensitive Urban Design Management Plan, inclusive of estimated costings for the regular maintenance and cleaning of the Gross Pollutant devices and pit basket inserts and regular maintenance, cleaning and full reconstruction (worst case scenario) of all turfed (temporary) Bio-retention swales, Bio-retention basins and any other temporary erosion and sedimentation control basins within the respective Stage of the development.

In this regard, a cash bond or bank guarantee for 50% of the agreed value of once off reconstruction costs of the filter media and associated subsoil drainage and turfing over the 5 year period and maintenance (but excluding reconstruction for GPTs, pipes, headwalls and bulk earthworks) contained within the Management Plan, or an alternative lesser amount as may be agreed to by Council, is to be submitted to Council prior to certification of the Subdivision Certificate in respect of each Stage of the development.

(Note:

- i) A further five inspections (twelve month intervals) of the associated devices and infrastructure will be undertaken by Council officers in accordance with the terms of this consent.
- ii) Any defects or maintenance requirements identified by Council are to be rectified by the developer prior to Council's acceptance of maintenance responsibility and the release of the bond.
- iii) In the event that the Developer fails to undertake such maintenance within one month of notification, Council may elect to call on the bond to affect the required repairs or maintenance.
- iv) A Final Inspection will be undertaken by Council at the completion of the specified maintenance period.)

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT

- A.74 No estate entry features, billboards, promotional/sale signage or bunting is to be located on existing land owned by Council or on land or road reserves proposed to be dedicated to Council.
- A.75 The two proposed temporary billboards granted consent under this application are to be removed not later than four weeks after the sale, by the Developer, of all lots within Stage 7 of the development.
- A.76 The Developer shall undertake regular maintenance of all turfed (temporary) Bio-retention swales, Bio-retention basins, Gross Pollutant devices and pit basket inserts and any other temporary erosion and sedimentation control basins and devices for a period of 5 years from the date of registration of the plan of subdivision for that Stage at the Department of Lands or until all lots within the respective Stage have been sold , whichever is the later, at which time the

Developer shall be responsible for removing any accumulated sediment, all temporary controls and fully landscaping the Bio- retention swales and Bio- retention basins with appropriate native grass and sedge species selected from Appendix 4 of the Stormwater and Water Efficiency for Development Technical Manual (April 2015) or as updated and to the satisfaction of Council.

During the maintenance period in this condition the Developer shall record the sediment volumes removed from the devices until the end of the abovementioned maintenance period. A copy of this record is to be made available to Council to assist in determining a suitable maintenance schedule for the respective devices.

The Developer shall also ensure that the controls are cleaned and operating at maximum function immediately prior to the end of the maintenance period.

- A.77 The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services.
- A.78 No compensation being payable by Council for or in respect of any land required to be dedicated as road widening or public road as a result of complying with any condition of this consent.
- A.79 All land proposed as Drainage Reserve or Public Reserve is to be dedicated to Council on the respective plan of subdivision and at no cost to Council.
- A.80 The developer being responsible for all adjustments to and/or relocation of public utilities. Any necessary alterations being at the Developer's expense and to the requirements of the appropriate Authorities.
- A.81 A six-monthly Landscape Establishment Report (.pdf format) being submitted to Council for the term of a twelve month landscape defect and maintenance period commencing from the date of registration of the relevant Subdivision Certificate in respect of each Stage, verifying that satisfactory maintenance of the landscape works including street trees, re-vegetation and weeding, has been undertaken in accordance with the approved Landscape Plans and Vegetation Management Plan and any necessary rectification measures have been carried out to a high professional standard.
- A.82 It being the responsibility of the Developer to meet all expenses incurred in undertaking the development including expenses incurred in complying with conditions imposed under the terms of this consent.

ADVISORY MATTERS

- A.83 Prior to commencing any works, the following provisions of the *Environmental Planning and Assessment Act 1979* (the 'Act') and the *Environmental Planning and Assessment Regulation 2000* (the 'Regulation') are to be complied with:
 - a) A Construction Certificate is to be obtained in accordance with Section 81A(4)(a) of the Act;
 - b) A Principal Certifying Authority is to be appointed in accordance with Sections 81A(4)(b) and 109E(2) of the Act; and
 - c) Council is to be given at least two days notice of the date intended for commencement of subdivision works, in accordance with Section 81A(4)(c)

PART B (BULK EARTHWORKS)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- B.1 The Developer preparing engineering design drawings and specifications for the works proposed, such drawings to include but not limited to the following. Full details to be included in documentation for a Construction Certificate application.
- a) Detailed plans;
 - b) Longitudinal and cross sections of all roads if boxing out of the road formation is proposed as part of the Bulk Earthworks;
 - c) Preliminary designs for stormwater management measures, including pit, pipe and outlet invert levels for all Bio-retention basins;
 - d) Depth of cut and fill;
 - e) Details of retaining walls;
 - f) Proposed finished surface contours to 0.5m intervals;
 - g) Any temporary piped culverts;
 - h) The identification of areas of potential Acid Sulfate Soil;
 - i) Erosion and sedimentation controls;
 - j) 'No-Go' areas to ensure protection of remnant vegetation;
 - k) Proposed areas for stockpiling of topsoil and mulch and measures for containment and protection;
 - l) The Site Compound and associated machine and staff parking;
 - m) The exclusion of bulk earthworks associated with the future Road 11 crossing within the eastern unnamed watercourse. Bulk earthworks for the future Road 11 crossing are to be included with the Stage 7 Construction Certificate Application;
 - n) The exclusion of any works within proposed Lot 604; and
 - o) The exclusion of any 'boxing out' for future road pavements other than within Stage 1 but only if construction of the Stage 1 subdivision works is intended to immediately follow the bulk earthworks.
- B.2 The Developer must also comply with the following conditions: A.8, A.15 and A.20

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

- B.3 The Developer must also comply with the following conditions: A.26 to A.31 and A.35 to A.51.
- B.4 Prior to the commencement of work and during the construction phase remediation being carried out in accordance with the submitted Remediation Action Plan prepared by Douglas Partners dated 13 September 2021.

Advisory Matters

- B.5 The Developer must also comply with condition A.83.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION
CERTIFICATE OR CONSENT UNDER S138 ROADS ACT, 1993**

- C.1 Detailed designed drawings being prepared for reconstruction of the existing intersection of Minmi Road and the vehicular entrance to the Blue Gum Hills Regional Park (BGHRP) generally in accordance with the plan titled 'Proposed BGHRP CHR(S) Geometry' by ACOR Consultants (Ref. NE150055 DA-1B-1404(B) dated 11/12/17) and the following additional requirements. Full details to be provided in the application under s138 (Roads Act, 1993).
- a) The design speed shall be adopted having regard to the existing 70km/h speed zone (or 50km/h if that speed zone is changed) unless otherwise agreed by Council;
 - b) Extension of the kerb and gutter, footway and path (subject to detailed design) provision on the eastern side of Minmi Road from the intersection of Minmi Road and Road No. 3 to the entrance with the vehicular entrance to the BGHRP;
 - c) Termination of the above works at the BGHRP entrance with an appropriate kerb return and pedestrian/cycle ramp.
 - d) Construction of stormwater drainage as appropriate;
 - e) Street lighting as appropriate; and
 - f) Deletion of the proposed raised concrete pedestrian refuge from within the painted central island on Minmi Road.
- C.2 Detailed designed drawings being prepared for construction generally in accordance with the plan titled 'Concept Southern Pedestrian Refuge Layout Plan' by ACOR Consultants (Ref. NE150055 DA-1B-1405(B) dated 11/12/17) and the following additional requirements. Full details to be provided in the application under s138 (Roads Act, 1993).
- a) The design speed shall be adopted having regard to the existing 50km/h speed zone unless otherwise agreed by Council;
 - b) The refuge being located as close to the bridge over Back Creek as is possible having regard to the horizontal alignment on approach to the bridge, the available carriageway width on the bridge and the existing crossfall on Minmi Road;
 - c) Construction of a 2.5m wide shared path linking the refuge to the existing shared path located on the western side of Minmi Road adjacent the bridge;
 - d) Construction of a 2.5m wide shared path and associated bridging structure along the northern side of Minmi Road across Back Creek from the refuge to the shared path on Minmi Road at proposed Lot 101;
 - e) Installation of pedestrian/cycle fencing along Minmi Road between the refuge and the bridge over Back Creek. Such fencing to be in accordance with Austroads and RMS guidelines;
 - f) The construction of reinforced concrete retaining walls as required;
 - g) The refuge being widened to minimum dimensions of 3m x 3m;
 - h) Construction of concrete stairs with associated Bicycle Wheeling Ramps from the share path on the western side of the, traversing the road batter on the eastern side of Minmi Road and making smooth and appropriate connection with the existing 2.5m wide shared leading to Minmi Village; and
 - i) Street lighting as appropriate.

- C.3 The following works that form part of the Minmi Road upgrade at the eastern extremity of the development site and indicated as being within Stage 5 are to be designed and constructed in association with Stage 1. Full details to be provided in the application under s138 (Roads Act, 1993).
- a) The additional 1200mm reinforced concrete pipe under Minmi Road at the unnamed eastern watercourse generally in accordance with the plan titled 'Extent of Works in Unnamed Eastern Watercourse' prepared by ACOR (Ref. NE150055 DA-1B-1001 Rev. F dated 11/12/17) and associated works.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- C.4 Any additional road widening along Minmi Road associated with the shared path construction on the eastern side of Back Creek is to be shown on documentation for the Subdivision Certificate application.
- C.5 Following completion of the remediation works, a validation report being prepared by a suitably qualified consultant in accordance with the relevant Environment Protection Authority Guidelines and submitted to the Principle Certifying Authority and Council prior to the issuing of a Subdivision Certificate.

PART D (STAGE 2)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- D.1 The appropriate notation being placed on the respective plan of subdivision and an instrument under Section 88B of the Conveyancing Act, 1919 for a 'restriction on use of land' to be imposed on proposed Lot 220 that requires further development on this lot to meet the Townhouse lot typology requirements within the Minmi East Precinct Development Guidelines. The restriction is to be created in favour of Council.
- D.2 The Developer shall construct the full extent of the western fire trail (at the rear of Lots 198 and 201 – 214) as part of Stage 2 works.
- D.3 The Developer shall construct a temporary fire trail connection between Stage 2 and Minmi Road to provide secondary access during a bushfire emergency. The fire trail shall generally follow the alignment of Road No. 9, connecting the western fire trail (referenced in Condition D.2) to Minmi Road. Connection shall also be made between Road No. 6 within Stage 2 to the temporary fire trail. The temporary fire trail shall be gated to restrict general access to Minmi Road.
- D.4 A temporary cul-de-sac turning head is to be provided at Stage 2 in the vicinity of proposed Lot 213. The turning head is to be constructed having full depth road pavement with the exception that the final asphaltic concrete seal may be replaced with a two-coat bitumen spray seal

PART E (STAGE 3)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- E.1 The appropriate notation being placed on the respective plan of subdivision and an instrument under Section 88B of the Conveyancing Act, 1919 for a 'restriction on use of land' to be imposed on proposed Lot 239 that requires further development on this lot to meet the Small Courtyard lot typology requirements within the Minmi East Precinct Development Guidelines. The restriction is to be created in favour of Council.
- E.2 The Developer shall construct a temporary fire trail connection between Stage 3 and Minmi Road, generally along the alignment of Road No. 4 (unless otherwise agreed with Council) to provide secondary access during a bushfire emergency. The temporary fire trail shall be gated to restrict general access to Minmi Road.
- E.3 Two temporary cul-de-sac turning heads are to be provided at Stage 3 in the vicinity of proposed Lots 226 and 241. The turning heads are to be constructed having full depth road pavement with the exception that the final asphaltic concrete seal may be replaced with a two-coat bitumen spray seal

PART F (STAGE 4)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE OR CONSENT UNDER S138 ROADS ACT, 1993

- F.1 Prior to any application being made for an approval under s138 of the *Roads Act, 1993* or for any Construction Certificate, the Developer is to prepare conceptual design drawings for Minmi Road, for the full extent of the land zoned B1 Neighbourhood Centre (being the area identified within the approved Concept Plan (MP10_0090) as the Minmi High Street Mixed Use Precinct) for development as a 40km/h High Pedestrian Activity Area. The plans are to be developed in consultation with Council and satisfy the relevant publications by the Roads and Maritime Services (RMS) and Austroads and the following basic design criteria. The conceptual plans for the High Pedestrian Activity Area (HPAA) are to be provided to Council for consideration by the Newcastle City Traffic Committee (NCTC) and the RMS.
 - a) The following typical cross section for Minmi Road generally between centreline chainages 580 and 850;
 - i) 4.5m wide western footway
 - ii) 2.65m wide (Includes 0.45m gutter) protected bi-directional cycleway
 - iii) 1.0m wide separation
 - iv) 2.3m wide parallel parking lane
 - v) 3.5m wide northbound travel lane
 - vi) 2.0m wide median (minimum)
 - vii) 3.5m wide southbound travel lane
 - viii) 2.3m wide parallel parking lane
 - ix) 4.5m wide eastern footway
 - b) Gateway and traffic calming treatments at each end;
 - c) Parallel parking lanes shall be constructed with permeable paving;
 - d) Footway areas shall be full width concrete and brick banding as per Council Standard Drawing A1409;
 - e) Provision for transport stops and shelters; and

- f) Provision of street trees and landscaping.

In the event that the NCTC and RMS advise support for the conceptual plans for the HPAA, the Developer shall prepare detailed design drawings for the HPAA to be included in the application under s138 (*Roads Act, 1993*).

In the event that the NCTC and RMS do not support the conceptual plans for the HPAA, the Developer shall prepare detailed design drawings for Minmi Road generally in accordance with the plan titled 'Proposed Signalised Intersection Layout' prepared by ACOR (Ref. NE150055 DA-1B-1402 Rev. D dated 11/12/17), and to the requirements of Council and the RMS, to be included in the application under s138 (*Roads Act, 1993*).

- F.2 The Developer designing and obtaining all necessary approvals from the Roads and Maritime Services (RMS) for the Traffic Control Signals and all associated civil works at the intersection of Minmi Road and Road 9/Road 4 to the requirements of Council and the RMS. A copy of the written approval of the RMS for these works is to be provided to Council prior to the issuing of an approval under section 138 of the Roads Act, 1993 (NSW) for any other Stage 4 works associated with Minmi Road not included in the RMS approval.

- F.3 The Developer entering into a Works Authorisation Deed (WAD) with the RMS in regard to the Traffic Control Signals and associated works. In this regard the Developer is to submit detailed design plans and all relevant additional information, as may be required in the RMS's WAD documentation, for the RMS's assessment and final decision concerning the Traffic Control Signals.

(Note: The RMS advises that the conditions of this consent do not guarantee the RMS's final consent to the specific road work, traffic control facilities and other structures works associated with this intersection. The RMS must provide a final consent for each specific change to the road network associated with the Traffic Control Signals prior to the commencement of any work at this intersection.)

- F.4 'Stop' regulatory signage and line marking being provided on Road No. 2 at the intersection with Road No. 4 and on Road No. 6 at the intersection with Road No. 9. Full details to be included in documentation for a Construction Certificate application.
- F.5 The Developer preparing detailed design drawings for the construction and embellishment of the public park on proposed Lot 221. The designer is to prepare the drawings in consultation with Council and with regard to the plan titled 'Proposed Park Layout' prepared by ACOR (Ref. NE150055 DA-1B-207 Rev. B dated 11/12/17) and Figure B.1.2.2 of Appendix B Urban Design Guidelines (Nov. 2014) titled 'Neighbourhood Park 1 - Indicative Design'. Full details to be included in the detailed design drawings for a Construction Certificate application.
- F.6 'Stop' regulatory signage and line marking being provided on Road No. 6 at the intersection with Road No. 9. Full details to be included in documentation for a Construction Certificate application.

PART G (STAGE 5)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- G.1 Any additional road widening along Minmi Road associated with the transport stop and pedestrian refuge works at the eastern extremity of the development site is to be shown on documentation for the Subdivision Certificate application.
- G.2 The Developer will not, unless otherwise agreed with Council, be required to design or construct the Duckenfield Shared Pathway as shown on the Pathway and Traffic Regulation Plan DA-1B-0205 Issue L dated 11 December 2017 prepared by ACOR Consultants. The Developer must pay to Council an amount up to a maximum of \$550,000 (inclusive of GST) from the \$8 million fund referred to in the Concept Plan Approval MP 10_0090 for the design and construction of the Duckenfield shared pathway as shown on drawing no DA-1B-0205 Issue L dated 11 December 2017 prepared by ACOR Consultants, located on Lot 604 on the approved Subdivision Plans that is to be dedicated to Council. The Applicant is to pay those monies or enter into an agreement with Council for delivery of the shared pathway (up to a maximum amount of \$550,000 (inclusive of GST)) prior to the issue of a Subdivision Certificate for Stage 5.
- G.3 The proposed location of eastern boundary of proposed Lot 604 is to be agreed in writing by Council prior to being shown on documentation accompanying the Subdivision Certificate application.
- G.4 A Registered Surveyor is to confirm that all previously identified private encroachments into proposed Lot 604 have been removed, unless otherwise agreed by Council.
- G.5 The Developer is to remove any redundant fencing within proposed Lot 604 that is not located on the proposed boundary and fence the full length of the eastern boundary of proposed Lot 604 with rural style (galvanised post and wire strands).
- G.6 A final Landscape Establishment Report (.pdf format) being submitted to Council verifying that satisfactory maintenance of the landscape works including trees, re-vegetation and weeding, has been undertaken in accordance with the approved Landscape Plans and Vegetation Management Plan applicable to Lot 604 and any necessary rectification measures have been carried out to a high professional standard.
- G.7 In association with the VMP works within proposed Lot 604, the Developer is to investigate and establish, including property boundary surveys if necessary, the full extent of all existing private encroachments, improvements and structures within proposed Lot 604 relating to the existing adjoining properties on McCarthy Street and McIness Street including all areas of unauthorised vehicular access. The Developer is to undertake and document all consultations and mediations with the owners and occupiers of any neighbouring properties so identified and remove all identified encroachments, improvements and structures (unless otherwise agreed with Council) and make good the land within proposed Lot 604 prior to the land being dedicated to Council in terms prescribed by this consent.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT
--

- G.8 The vegetation management plan (VMP) works required to be undertaken by the Developer within proposed Lot 604 are to be commenced, at the latest, in association with the landscape works defects and maintenance period for Stage 5 and shall run continuously until satisfactorily completed and proposed Lot 604 is dedicated to Council in terms prescribed by this consent.

PART H (STAGE 6)

NIL

PART I (STAGE 7)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- I.1 If Stage 7 is to be constructed prior to Stage 5, all road widening and intersection works within the Minmi Road corridor fronting Stage 5, inclusive of the transport stop, must be completed prior to the issue of a Subdivision Certificate for Stage 7.

PART J (NSW RURAL FIRE SERVICE CONDITIONA) CONDITIONS

- J.1 T Prior to the issue of subdivision certificate, the following proposed lots shall be consolidated to ensure future residential buildings will not be exposed to radiant heat levels greater than 29kW/m²;
Lot 508 and Lot 509;
Lot 530 and Lot 531; and Lot
274 and Lot 275.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

- J.2 Prior to the issue of subdivision certificate, and in perpetuity, the entire site, excluding the areas of vegetation situated within the land zoned E2-Environmental Conservation under the Lake Macquarie Local Environmental Plan 2014 shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document Standards for asset protection zones.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- J.3 The provision of water, electricity and gas shall comply with section 4.1.3 of Planning for Bush Fire Protection 2006.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

- J.4 Public road access shall comply with section 4.1.3 (1) of Planning for Bush Fire Protection 2006.

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

- J.5 All property access roads for the proposed battle axe blocks shall comply with section 4.1.3 (2) of Planning for Bush Fire Protection 2006.

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:

- J.6 Prior to the issue of subdivision certificate, the proposed fire trails shown on the map prepared by Bushfire Planning Australia referenced 1728 D02-Asset

Protection Zones dated 23 November 2017 shall be provided and maintained in perpetuity in accordance with section 4.1.3 (3) of Planning for Bush Fire Protection 2006. To ensure the proposed fire trails are managed to an acceptable standard, and management occurs in perpetuity, an appropriate legal mechanism shall be created to allow for access and maintenance over the lots affected by the fire trails. The NSW RFS shall not be named as a beneficiary to this arrangement.

- J.7 The western fire trail shall be constructed in full as part of Stage 2 works. It must temporarily be extended to follow the alignment of future Road No. 9 through to Minmi Road. The short connection between Road No. 6 within Stage 2 to the temporary fire trail shall also be made. To ensure that the connection is utilised for emergency situations only, the fire trail shall be gated, to prevent regular through-traffic; and
- J.8 A temporary fire trail connection must be made between Stage 3 and Minmi Road via future Road No. 4. As above, the fire trail shall be gated.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

- J.9 At the issue of subdivision certificate, suitably worded instruments shall be created pursuant to section 88 of the Conveyancing Act 1919 over all proposed lots impacted by the Asset Protection Zones (APZ) identified on the map prepared by Bushfire Planning Australia referenced 1728 D02-Asset Protection Zones dated 23 November 2017, which prohibits the construction of buildings other than class 10b structures within the identified APZs.
- J.10 A minimum 1.8-metre-high radiant heat shield made of non-combustible materials shall be constructed along the common boundaries between residential allotments and the Water Quality Basins. All posts and rails shall be constructed of steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth.
- J.11 All landscaping shall comply with the principles of Appendix 5 of Planning for Bush Fire Protection 2006.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

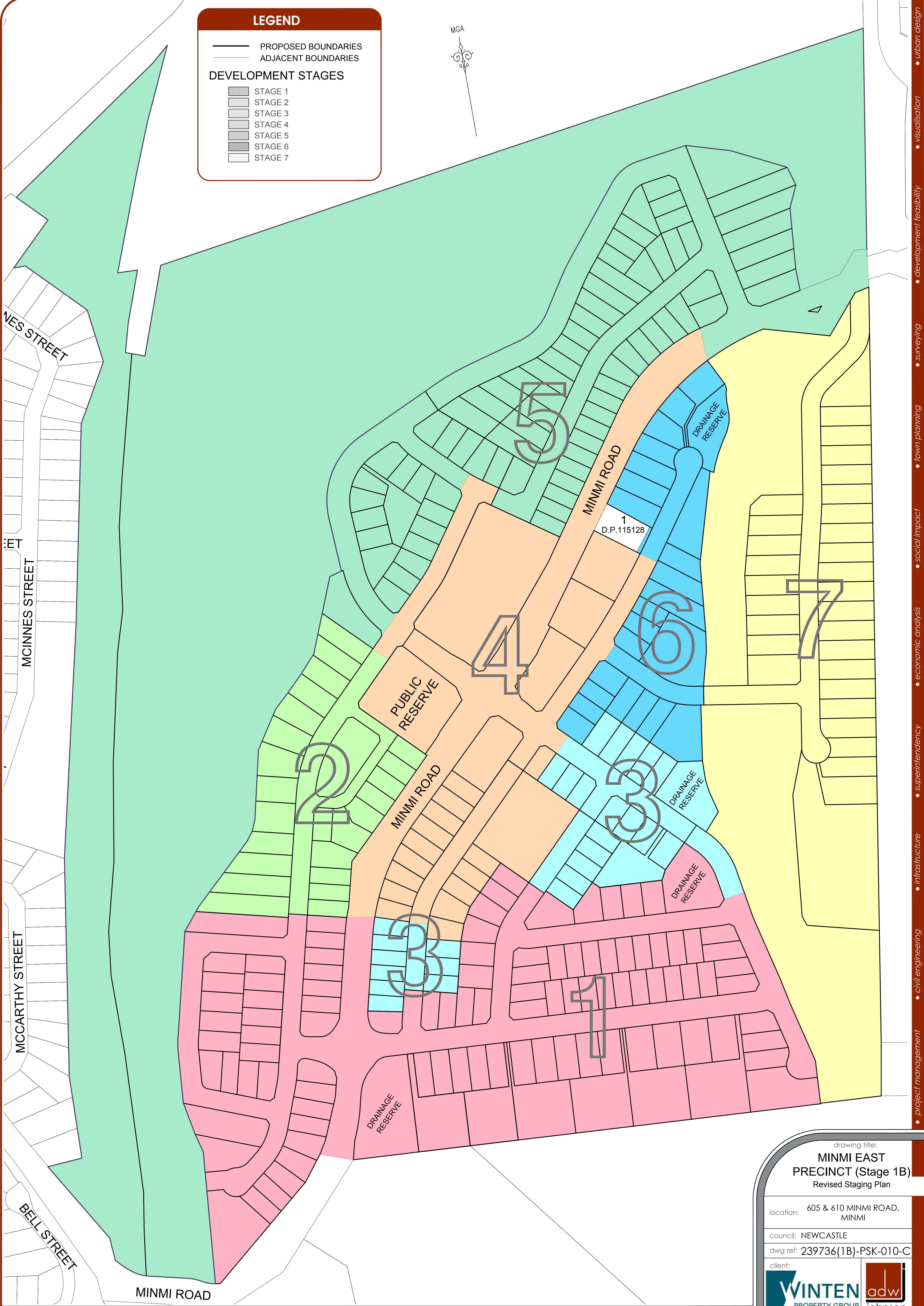
The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Newcastle Local Environmental Plan 2012 (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts; and
- Provide for the ongoing management of the development.



ver.	date	comment	drawn	pm	level information	scale (A1 original size)	notes
C	14/07/22	UPDATED STAGES	RC	LG	DATUM: - CONTOUR INTERVAL: -	0 30 60 75m SCALE: 1:1500 (FULL)	

drawing title:
**MINMI EAST
PRECINCT (Stage 1B)**
Revised Staging Plan

location: 605 & 610 MINMI ROAD,
MINMI

council: NEWCASTLE

dwg ref: 239736(1B)-PSK-010-C

client:



central coast office ph: (02) 4305 4300
hunter office ph: (02) 4978 5100
sydney office ph: (02) 8046 7411

www.adwjohnson.com.au

working beyond expectations

THIS PLAN IS PROVIDED FOR THE PURPOSES OF "WITHOUT PREJUDICE DISCUSSIONS".



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	5	PLAN AMENDMENTS	DS	AJM	KF	24/10/17	
	4	LOT AMENDMENTS	DS	AJM	KF	23/10/17	No
	3	PRELIMINARY AMENDMENTS TO LOT LAYOUT IN RESPONSE TO S34 OUTCOMES	DS	AJM	JB	18/10/17	
	No	REVISION	SVY	DFT	CHK	DATE	



Monteath & Powys Pty Ltd

PLANNING SURVEYING PROJECT MANAGEMENT

ENGINEERING DESIGN UAV GIS & MAPPING

NEWCASTLE SYDNEY GUNNEDAH MUSWELLBROOK

MonteathPowys.com.au

HEAD OFFICE

Suite 13, Tonella Commercial centre

125 Bull Street, Newcastle West 2302

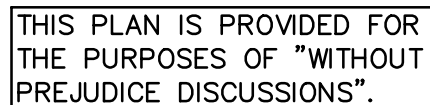
PO Box 2270, Dangar NSW 2309


P. (02) 4926 1388


Surveyed	Drafted	Checked
DS	MAK	JB
REGISTERED SURVEYOR		
@A1 : 1:2500		Original Size A1
@A3 : 1:5000		
DO NOT SCALE		


Client			WINTEN (No.21) PTY. LTD.		
Title			MINMI EAST - STAGE 1B - WITHOUT PREJUDICE DISCUSSIONS PLAN OF PROPOSED SUBDIVISION LOTS 2 & 3 DP 1230960		
CAD File: 150102AW_07			Ref No: 15/0102 Date: 25/09/2017		

Sheet No.	1/4
Revision	7



 SUPERLOT FOR MIXED USE DEVELOPMENT

 LAND TO BE DEDICATED AS PUBLIC ROAD
CONSOLIDATED WITH LOT 1 DP 115128

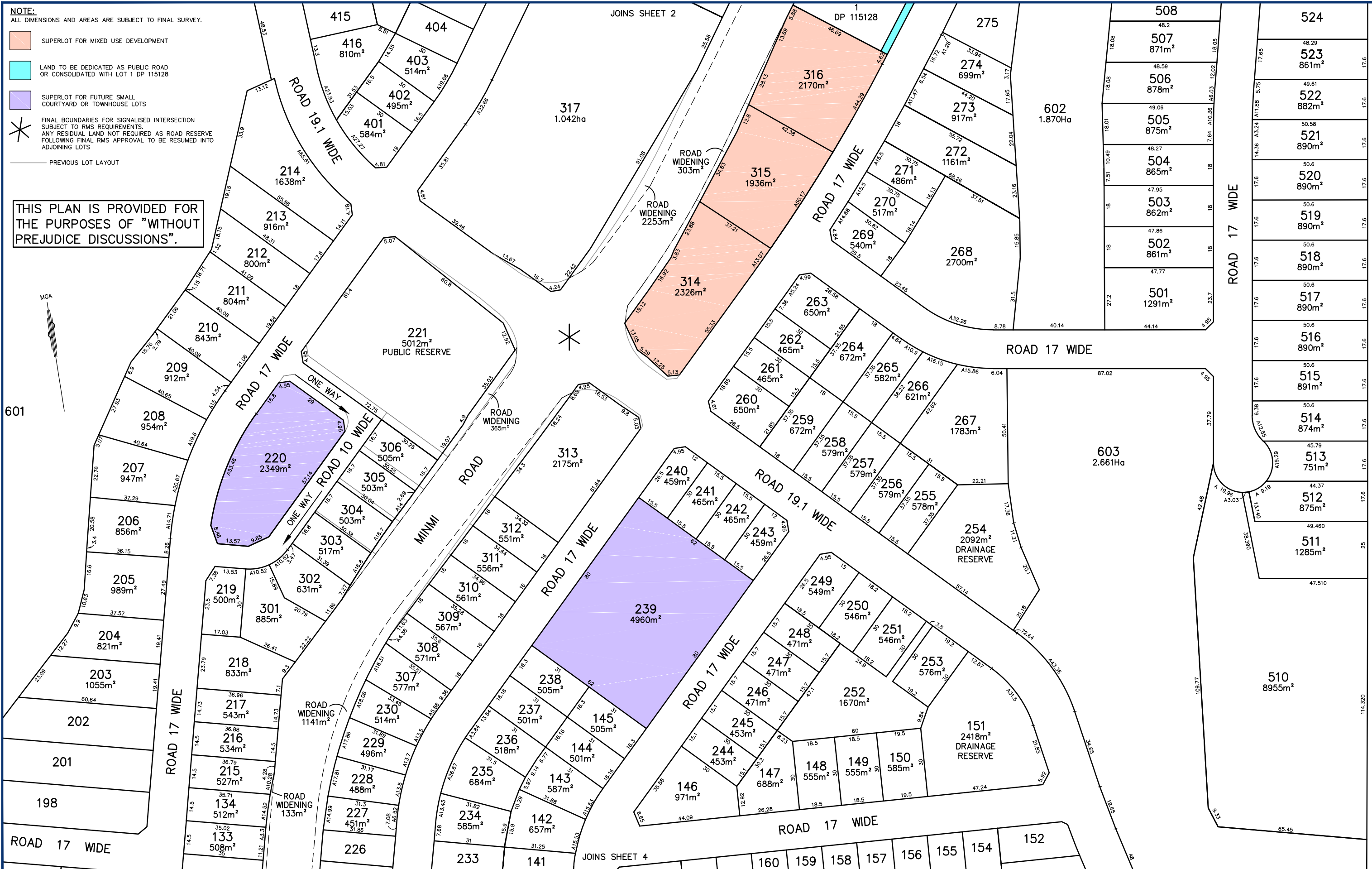
 SUPERLOT FOR FUTURE SMALL
COURTYARD OR TOWNHOUSE LOTS

601

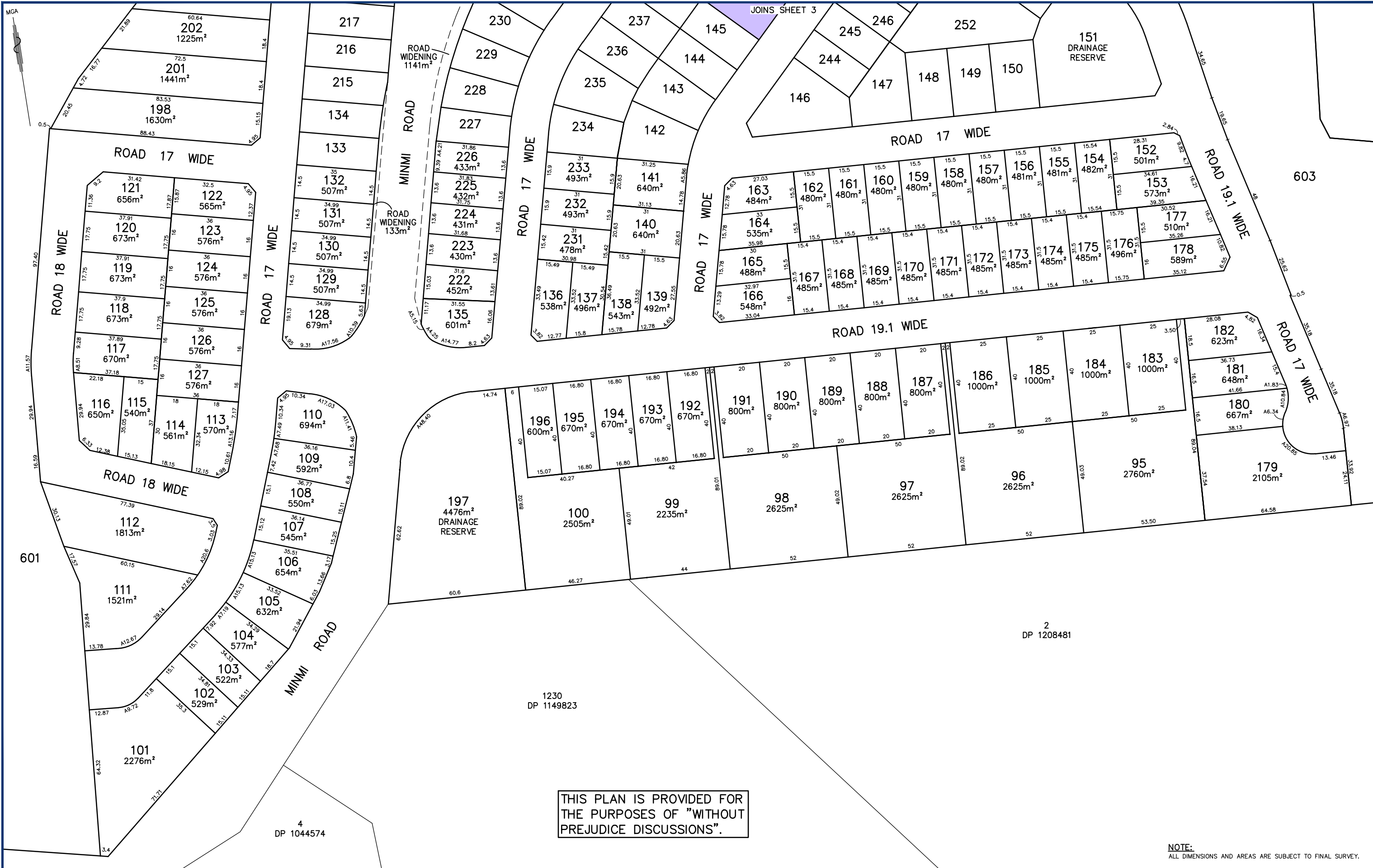
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DP 270583

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DP 844711

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	6	PLAN AMENDMENTS	DS	AJM	KF	26/10/17				
	5	PLAN AMENDMENTS	DS	AJM	KF	24/10/17	CONDITIONS OF USE.			
	4	LOT AMENDMENTS	DS	AJM	KF	23/10/17	THIS DOCUMENT MAY ONLY BE USED BY THE CLIENT FOR THE PURPOSE FOR WHICH IT WAS COMMISSIONED. USE OF THE DOCUMENT FOR ANY OTHER PURPOSE IS NOT PERMITTED UNLESS PRIOR WRITTEN APPROVAL HAS BEEN OBTAINED FROM MONTEATH & POWYS PTY LTD.			
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	No	REVISION	SVY	DFT	CHK	DATE				



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	5	PLAN AMENDMENTS				DS	AJM	KF	24/10/17				REGISTERED SURVEYOR						Original Size	
	4	LOT AMENDMENTS				DS	AJM	KF	23/10/17				@A1 : 1:750			A1				
	3	PRELIMINARY AMENDMENTS TO LOT LAYOUT IN RESPONSE TO S34 OUTCOMES				DS	AJM	JB	18/10/17				@A3 : 1:1500				DO NOT SCALE			
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