

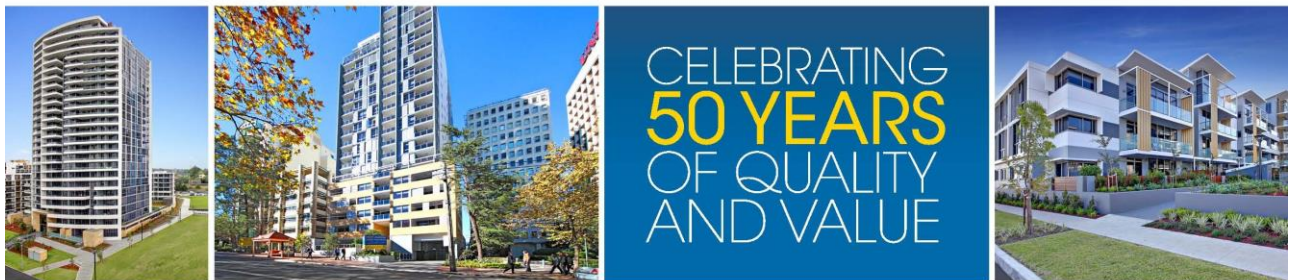
Planning Report

Section 75W Application

150 Epping Road, Lane Cove

Environmental Assessment Report – Modifications to Concept Plan

14 June 2013



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Executive Summary

Background and Site

A Concept Plan under Part 3A of the EPA Act 1979 was approved for the site in August 2012, although the development has not yet proceeded to lodgement of a development application. The aspects and terms of the Concept Plan approval have been reviewed, as commonly occurs for large developments in order to meet market demand and to address practical issues, and a number of modifications are proposed.

The site is irregular in shape and has an area of approximately 31740 sqm (3.174 Hectares) and a frontage in excess of 700m to Epping Rd. It is located on the edge of the Lane Cove West Industrial Area and to the south of a residential community. The site includes an elongated strip of land that remains in a vegetated state, with informal tracks through it and occupying 42% of the site area. An existing service station and convenience store occupied the site, recently vacating.

A development application for demolition of the service station and remediation has been approved by Lane Cove Council.

Proposal

In summary, the proposed modifications to the approved Concept Plan involve:

- (a) Retaining the mixed use development and open space/bushland uses, although changing the mix of retail, commercial, community and residential floorspace amounts;
- (b) An increase of total GFA by approximately 8% (from 35,034sqm to 36,927sqm);
- (c) A small increase in the estimated number of apartments by less than 1% (from 400 to 403 units);
- (d) Incorporation of a new Child Care Centre of 650sqm, and accommodating approximately 85 children;
- (e) A reduction in the basement carparking (and associated traffic impact) from 645 spaces to 596 spaces;
- (f) Slight changes to the building envelopes and footprints, while still being generally consistent with the approved envelopes;
- (g) A change to the provision of affordable housing from 10% provided on-site to 4%;
- (h) Changes to access arrangements including deleting the “slip lane” off Epping Road within the site;
- (i) Changes to the Statements of Commitments, including removal to enter into a Voluntary Planning Agreement;

- (j) Various changes to conditions, to reasonably relate to, and appropriately facilitate, the proposed residential and mixed use development;
- (k) Reduce the floor to ceiling heights from 3.2m to 3.1m; and
- (l) Identify the location of lift overruns.

Environmental Assessment

The key issues related to the proposed changes are considered to be:

- Urban design;
- Traffic and access;
- Bushfire;
- Acoustic impacts; and
- Uses and overall public benefit.

This Environmental Assessment concentrates on the proposed changes and their likely impact, as the use(s), relationship with surrounding land, overall form, environmental and infrastructure issues and development of the site has been considered, addressed and approved as part of the Concept Plan approval issued in August 2012.

This assessment concludes:

- The urban design aspects of the proposal are equivalent or better than the approved concept plan, particularly in regard to the relationship with Epping Road;
- Traffic impacts from the modified proposal will be less than the previous use, will be able to be accommodated within the road network, without leading to any unacceptable impacts on intersections;
- The proposed access arrangements to the site are improved;
- The proposal complies with bushfire planning guidelines and is supported by an expert bushfire assessment;
- The overall proposal still represents a mixed use, although there is a higher proportion of residential floorspace, and allows for creation of a vibrant community;
- Acoustic impacts from the surrounding environment upon the newly proposed child care centre, and from that child care centre to the development, will be able to be adequately addressed by design and management measures;
- The proposal will provide important capacity to absorb a growing population, consistent with the State Government's Metropolitan Plan, and noting significant increases in forecast required supply;
- The proposal will reduce pressure to provide necessary growth on other more constrained urban land within the Local Government Area;

- The proposal will reduce the carbon footprint and economic cost of alternative “Greenfield” development to accommodate growth;
- The proposal will still provide a higher contribution to affordable housing than the vast majority of new development;
- 42% of the site will still be protected as bushland;
- The overall proposal involves the investment of nearly \$160M, with the provision of around 50 full time operational jobs and 300 construction jobs over several years;
- The proposed child care centre will provide a public benefit and service to the proposed and surrounding communities; and
- The proposal will have negligible impacts on surrounding residential communities.

This Environmental Assessment concludes the proposal meets the objects of the EPA Act 1979, provides many public benefits, involves an acceptable environmental impact and should be approved.

1 Introduction

1.1 Background

A Concept Plan under the former part 3A of the EPA Act 1979 was approved by the Planning Assessment Commission (PAC) on 14 August 2012 (MP 10_041) following a public meeting. This allowed a mixed use residential development on part of the site (to the west), with open space/bushland on a remainder of the site (to the south and west). The residential uses were not permissible in the Industrial zoning applying to the site, although the uses became (and remain) permissible by virtue of the Concept Plan approval. It is expected the underlying LEP (Lane Cove LEP 2009) will be amended to reflect an appropriate zoning for the site in due course.

On 18 October 2010, Lane Cove Council resolved to increase the FSR of the Lane Cove West Industrial Park from 1:1 to 1.5:1 (including the subject site at the time), as part of a 12 month review of Lane Cove LEP 2009. This amendment has not been progressed to submission of a planning proposal to the Department of Planning and Infrastructure, nor exhibition by the Council.

A development application (and recent modification) has been approved by Lane Cove Council on 26 March 2013 (DA 196/12) for the demolition of the existing Shell Service station and (de)contamination of the land.

The site has recently been purchased by Karimbla Properties (No. 35) Pty Limited. A number of modifications are proposed to the approved, as outlined in this report.

1.2 Proposal and Approval sought

The proposal seeks approval for a modification to the approved Concept Plan, under Section 75W of the EPA Act 1979 ("saved" by virtue of Schedule 6A of the EPA Act 1979).

The proposed modifications to the concept Plan fall within 3 categories:

- (a) Modifications to the approved building envelopes and footprints;
- (b) Modification to the proposed component uses within the envelopes; and
- (c) Modifications to conditions of the approval, including the Statements of Commitments.

These are addressed in turn below and a copy of the amended conditions can be found at **Annexure 1**:

(a) Changes to Building envelopes and Footprints

The changes are depicted within the revised plans submitted at **Annexure 2**, by Conybeare Morrison International Pty Ltd, and are summarised below:

| Building | Approved height | Proposed Height (RL) # | Approved Storeys ## | Proposed Storeys ### |
|-----------|-----------------|------------------------|---------------------|----------------------|
| A | 97.6 | 96.1 | 23 | 24 |
| B | 40.3 | 40 | 6 | 6 |
| C | 38.2 | 40 | 6 | 7 |
| D | 38.2 | 40 | 6 | 7 |
| E | 60 | 64.8 | 10 | 12 |
| Epping Rd | 30 | 30 | 1 | 1 |

Table 1 – Changes to Building height/storeys (# RL to top of roof slab, ## total storeys indicated, whereas the height of the highest building was previously cited relative to Epping Road)

A lift overrun per building is introduced which was not shown on the original plans.

The footprint of the proposed buildings/building envelopes is shown in the plan extract below:

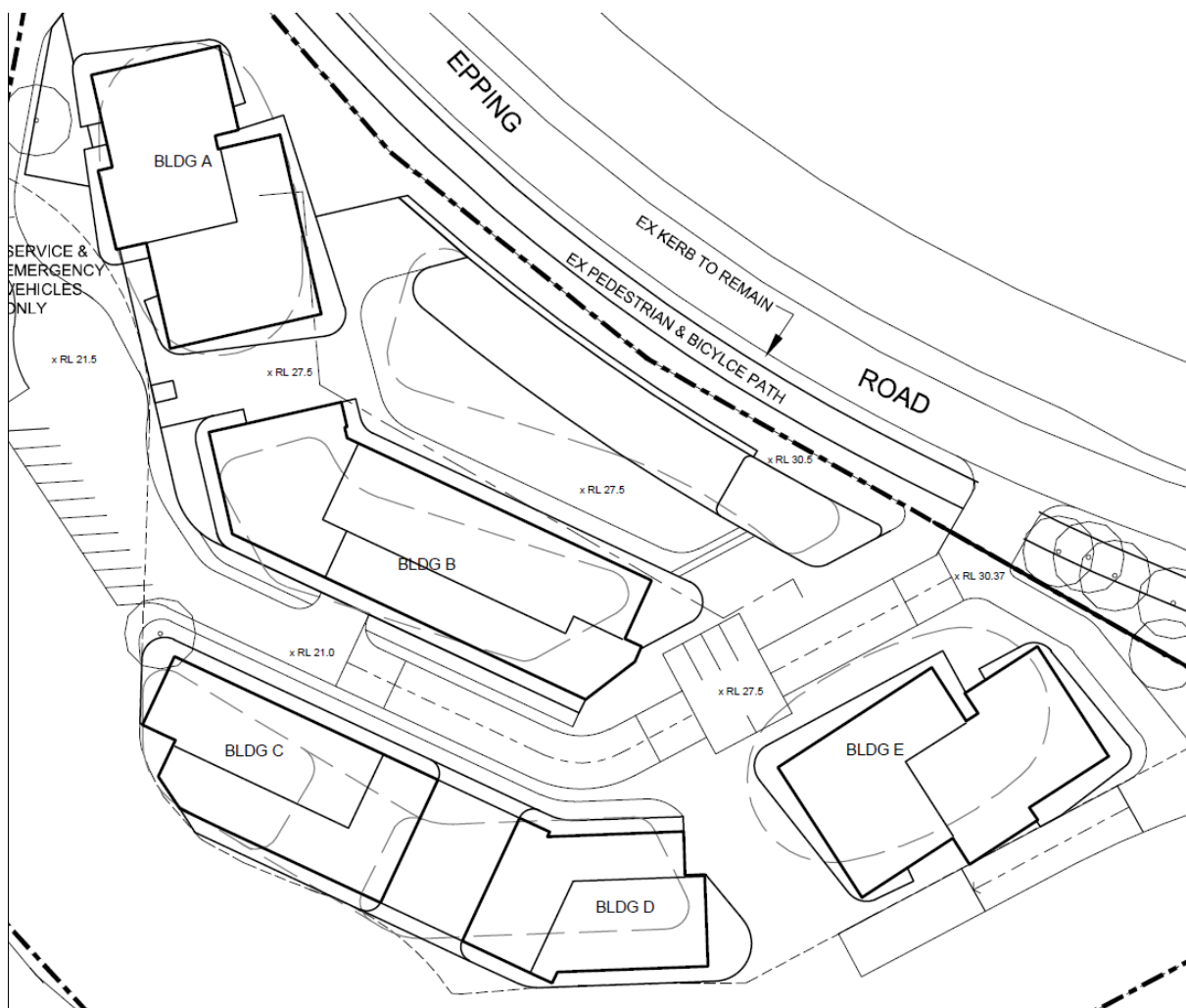


Figure 1 – Proposed building footprints (source CM+ proposed plans)

The above plan extract shows the originally approved building footprints (within the approved Concept Plan sought to be modified) in dashed lines. The following provides a brief description of the building footprint changes:

Building A is now proposed as a curved “parallelogram” shape as opposed to an “eclipse”, although generally in the same position, with some extension south-eastwards. Building B is a similar shape to that approved, with some movement northwards, towards Epping Road and Building A, with some regularisation of shape. Buildings C and D are located in generally the same position, with a movement eastwards of the break between the buildings, and Building D having a footprint further to the south-east. Building E has been made more regular in shape with some movement to the east and north. The proposed building to Epping Road is similar, although the previous “slip lane” to Epping Road has been removed, while retaining the landscaped roof element. Overall, the proposed building’s relationship with neighbouring development and Epping Road remains substantially the same as approved.

The proposed new access arrangements are generally consistent with that approved (with the main change being a change to delete the “slip-lane” parallel to Epping Road), and changes to circulation due to consequential minor changes to the building footprints.

(b) Changes to Uses/Floorspace

The following table summarises the proposed changes to overall floorspace and component uses of the development, compared to the approved development. Further detail of uses within buildings is provided within the proposed plans and “Schedule of Areas” within the submitted plans.

| Component | Approved | Proposed | Change | Comments |
|-------------|-----------|-----------|------------|--|
| Total GFA | 35,034sqm | 36,927sqm | +5.4% | The overall change in percentage terms is not significant and would change the overall FSR of the development from 1.1:1 to 1.16:1 |
| Residential | 31,615sqm | 35,203sqm | +11.3% | While the GFA of this component is increasing, the number of units is only increasing by less than 1%. |
| Retail | 769sqm | 258sqm | -509sqm | The quantum of retail is proposed to meet the demands of the future population. |
| Commercial | 800sqm | 0 | -800sqm | Commercial space would not be viable for this site and within the development proposed. |
| Community | 1850sqm | 816sqm | -1034sqm | The proposed community space is appropriate for the future population. |
| Child care | 0 | 650sqm | +650sqm | This will provide a service for the future community on site and the wider community. |
| Units | 400 | 403 | +0.75% | The increase in units is modest and within 10% allowed by the terms of the concept plan approval. |
| Affordable | 10% | 4% | -6% | The type of affordable housing is to pay a monetary contribution to Council or inclusion onto the NRAS. |
| Car spaces | 645 | 596 | -49 spaces | This will reduce traffic impacts due to less cars entering/leaving the site. |

Table 2 – Proposed components of development compared to Concept approval

Overall, the proposal is still for a residential mixed use development and despite the changes, the overall proposal is not fundamentally or radically altered or transformed. The essence of the proposal is not changing in a planning sense.

(c) Proposed Changes to conditions

A number of changes are proposed to the conditions of the Concept plan approval and the related Statement of Commitments. The following table provides a summary of the proposed changes and a justification to the Concept plan conditions.

Where matters are minor, procedural or the justification for the change is simply explained, this is included in the table below and not further elaborated upon in this report. Otherwise, the substance of the changes (being to the envelopes, uses and affordable housing) is addressed within this assessment.

| Matter | Change/Explanation | Justification |
|---------------|---|---|
| A1 | Change to description/component uses sought to be approved | Addressed in this assessment. |
| A2 | List of new plans for which approval is sought | Addressed in this assessment. |
| B1 | Delete term requiring compliance with SEPP 65 | Unnecessary as Condition 1C addresses compliance with SEPP 65 and the terms are overly prescriptive. |
| 1(a) and (c) | Revised condition to design competition and adding word “generally” comply to SEPP 65 | The proposed new wording for engagement of an architect and a peer review will achieve the intent of design excellence, while the term generally is applied for SEPP 65, as many of the “rules of thumb” need to be applied while considering a range of other matters. |
| 3(a) | Change to noise mitigation measures to add in an example of enclosed balconies | This may be an effective measure to address noise impacts to units from external sources. |
| 4 | Relate and confirm that a future DA will be undertaken for contamination matters. | No substantial change. |
| 6 | Groundwater – minor changes to add words “if required” | The resolution and outcome of measures should relate to the investigation. Preliminary investigation has found the watertable is well below the proposed work zone/depth. |
| 7 | Air Quality – adding an example of how air quality issues may be addressed | The proposed addition of words allows certain matters to be considered in the design evolution stage. |

| Matter | Change/Explanation | Justification |
|---------------|---|--|
| 8 | Vehicular Access, Stage 2 safety audit – delete condition | Deleted, as the changed access arrangements (deletion of a new on-site slip lane) is such that a Stage 2 safety audit is not needed. This is further addressed in the Transport Assessment. |
| 9 | Traffic Impact – Mowbray Road – delete condition | Deleted as this is not reasonably related to the development and overall changed traffic impacts are minor (see further discussion in this report). |
| 10 | Delete reference to commercial use | Procedural – no commercial uses proposed in the modification. |
| 12, 14 | Construction Management Plan and Staging Plan – delete reference to staging and works to be done at first stage | The redevelopment is proposed as one stage, not multiple stages (other than possible early works). Works on Epping Road should be for the site frontage and directly relate to the proposal. |
| 15 | Geotechnical Assessment | Correct reference to RMS rather than RTA. |
| 16 | Vegetation Management Plan – change timing of provision to after construction | Construction is outside the riparian zone and the VMP can be approved before a final occupation. |
| 17 | Bushfire – deletion of reference to a letter from RFS | Unnecessary as the revised design and supporting assessment has addressed RFS issues. |
| 19 | Hazard Analysis – delete “detailed” | Refinement is proposed, as the report is required to address a guideline. |
| 20, 21 | Section 94 and Voluntary Planning Agreement (VPA) | Council’s S94 Plan permits offsets and works-in-kind provisions, and therefore a Voluntary Planning Agreement is not required on this occasion. |
| 23 | Public Access – add word “final” prior to occupation Certificate | Refinement to reflect assumed desired intent. |
| 24 | Public Art – delete reference to landowner and add provision regarding timing | The land owner will change over time, and timing is needed (with the suggested timing of prior to final occupation certificate considered reasonable). |
| 26 | Housing affordability – change or inclusion into NRAS. | Addressed in this assessment. |

| Matter | Change/Explanation | Justification |
|--------------------------|---|--|
| Statement of Commitments | | |
| A1 and A2 | Description of proposal | Procedural changes (as changes sought are approved). Seek simplification. |
| B1 | Bushfire Management – reference to report | Correction/update to refer to bushfire analysis done upon which RFS considered the Concept Plan. |
| B2-B5, B7 | Land Contamination, Flora/Fauna, Heritage, air quality, geotechnical – minor changes | Refinements to refer to conditions of approval, and qualifications about outcomes depending on required analysis. |
| B8 | Traffic and Transport – Delete commitment to provide bridge over Epping Road | Not a highly desired link, and the bridge is unlikely to be used frequently, which is likely to then become a public liability. The proposed bridge was not demanded or sought by RMS or Council. Other linkages across Epping Road (e.g. at traffic lights) are provided. The bridge is likely to become a structure for large signage and become unsightly over time. Some minor corrections to typographical errors are proposed. |
| B12 | Developer Contributions – VPA | Deleted reference to a VPA as one is not required, and for reasons outlined responding to Condition 20 and 21 above. |
| B13 | Dedications and Titling – changes to contemplate public access over private land, and changes to likely form of title | The changes allow the possibility of Council not owning the bushland portion of the site (anticipated to be their preferred outcome) and also changes to reflect the likely desire to strata title the development, rather than a community title subdivision (which in any event will be considered by the Council in a subsequent DA). |

Table 3 – Terms and Statements of Commitments sought to be varied

An amended Statement of Commitments can be found at **Annexure 3**.

2 The Site

2.1 Site and particulars

The site comprises Lot 21 in DP 825400 and is known as 150 Epping Rd, Lane Cove West. It is irregular in shape and has an area of approximately 31740 sqm (3.174 Hectares) and a frontage in excess of 700m to Epping Rd. The site includes an elongated strip to the east that remains in a vegetated state, with informal tracks through it. The elongated portion of the site to the east of the current service station on the site accounts for approximately 42% of the site area, or 1.35 Hectares.

The site has the shape roughly equivalent to a spoon, following the curve of Epping Road.



Figure 2 - Site indicated on an aerial photograph

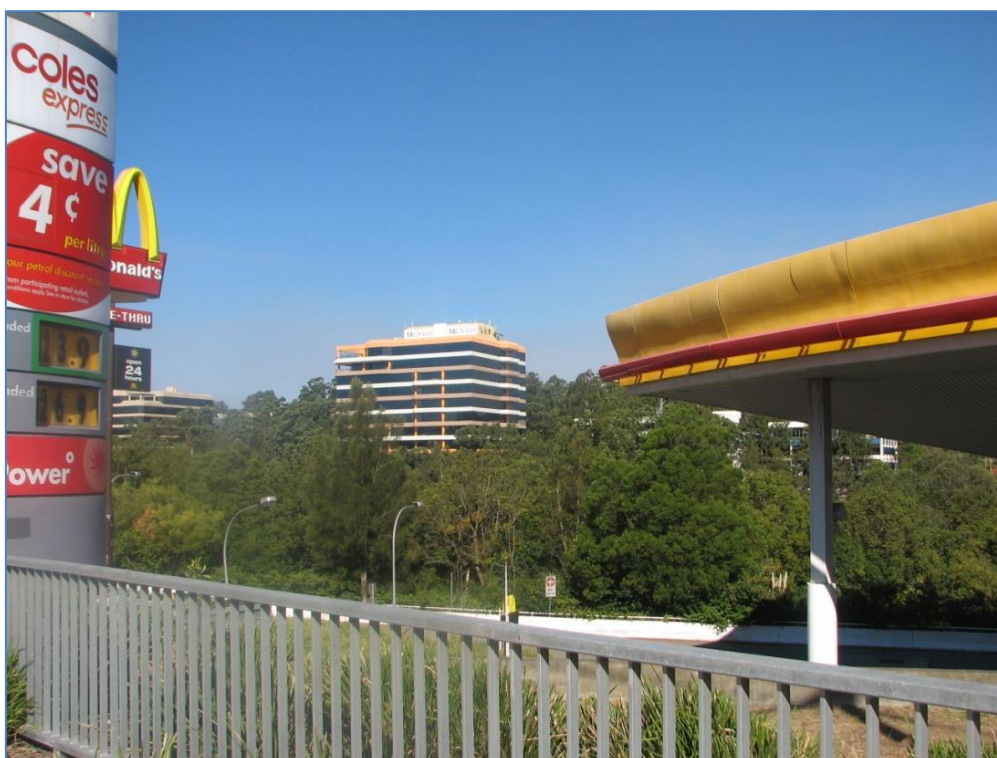
The site is occupied by a Shell Service Station with an associated convenience store, and a McDonalds restaurant, which are in the process of vacating the site.

The site is bound by Epping Road to the north, Sam Johnson way to the East, SC Johnson land, bushland and warehouse to the south and an access road and commercial buildings to the west (166 Epping Road). Further information on surrounding development is in Part 2.3 of this report.

The following photograph shows the site as viewed from Epping Road, looking west, and a view from Epping Road showing the main part of the site with existing service station facilities.



Photograph 1 – site viewed from the east on Epping Road



Photograph 2 – Site viewed from Epping Road, looking south-east prior to demolition



Photographs 3 and 4 - Stringybark Creek and Weir (source Artefact Heritage)

The site is characterised by pronounced changes in level, being located on the southern side of a hill, which falls to the river flat of Stringybark Creek and Lane Cove River. This offers a bushland setting and good outlook, although poses some design challenges in terms of orientation for buildings and open space in terms of solar access. The site has good solar access, as the 30m wide Epping Road provides no obstacles to the north, and the long axis of the site runs in an east-west direction.

The land to the north of the site is considerably higher, due to the cutting of Epping Road and retaining walls and natural rock, while land to the west and south of the site is considerably lower. The surrounding landform, being on the “bend” of a road and the wide Epping Road add to a perception of “separation” from surrounding areas, which is both an advantage in terms of minimising impact on neighbours, and a design and land use challenge in terms of integration and connections for future development of the site.

The main platform upon which the existing service station is located is between 6 -10m below the level of Epping Rd, and the site falls away steeply to the south. The site also falls from east to west.

2.2 Existing and surrounding development

The context of the site is featured by:

- Epping Road, being a State Road;
- The Lane Cove industrial precinct generally to the south and west of the site;
- Existing areas of native vegetation which separate the site from other parts of the industrial area, together with changes in slope/landform;
- Lane Cove River to the west, and Stringybark Creek to the south;
- Residential zones in Willoughby and Lane Cove areas, which are generally separated from the site by non-residential land uses, to the north and west of the site. This includes the Lane Cove North Estate development at the western end of Mowbray Road which involved a conversion of industrial land to residential; and
- The Lane Cove Tunnel and Epping to Chatswood rail link.

The site is within 3 kms of Macquarie Park, 4kms of Chatswood, 6kms of Royal North Shore Hospital, 8kms to North Sydney and 13kms of the Sydney CBD. These are important work destinations in a global city, and are all close to the site.

The terrain and location of open space between the site and the main area of the Lane Cove West Industrial Area is such that industrial uses are generally well separated from the site, and below the site. The industrial uses to the north of the site are well separated from the site by the wide Epping Road, and a steep embankment. There is a corn-starch factory (Penford Australia) to the west of the site (approximately 200m away) and the SC Johnson manufacturing and warehouse complex is located 150-200m to the south of the site, which includes shared access off Epping Road, to the west of the site. It is understood SC Johnson may be intending to close its manufacturing activity at the site within 6 years.



Photograph 5 - Looking south across Creek/weir to 20 Orion Street



Photograph 6 and 7 - Adjoining 166 Epping Road commercial building



Photograph 8 - "Nuss" warehouse building across Epping Road to the north-east

3 Strategic and Statutory Context

3.1 State Strategic Framework

3.1.1 NSW State Plan 2012

The NSW State Plan was released in 2011 and updated in 2010, providing guidance and outcomes to 2021. The State Plan provides an overall framework for the NSW Government in terms of its strategic direction regarding the economy. Infrastructure, development, housing, transport, health, community services and education, with various corresponding goals.

The proposal is consistent with the directions within the State Plan. Indeed, the proposal will assist in liveability, use of public transport, decreasing greenhouse gas emissions (by aspects of the development and urban infill development), and increasing housing close to jobs.

3.1.2 NSW Metropolitan Plan 2036 and Draft Inner North Subregional Strategy, July 2007

The Metropolitan Plan was finalised on 16 December 2010 and was an integrated growth and Transport Plan to guide Sydney for the next 25 years, until 2036. Importantly, it combined previously separate land use and transport Plans into one guiding document. The overall vision for the Plan is a sustainable, affordable, liveable and networked city.

The Plan has been reviewed and a draft Strategy (“draft Metropolitan Strategy for Sydney to 2031”) placed on exhibition and feedback sought from the Department of Planning and Infrastructure (March 2013). The date for the Plan has been reviewed to 2031, although overall estimates of growth have been based on previous forecasts.

The draft Strategy Plan puts forward a vision for Metropolitan Sydney, for a “strong global city and liveable local city”.

The draft Inner North Sub-Regional Strategy was exhibited in July 2007. As a result of an increased population growth and part of the Sydney Metropolitan Plan 2036, the housing targets in the Metropolitan Plan were **47% higher** than the draft subregional strategy, while the jobs targets were **3% higher**.

There are no actions within the Metropolitan Plan (or draft Metropolitan Strategy) that the proposal, as proposed to be modified, is inconsistent with. The proposal is consistent with a key aim of urban consolidation and reducing the urban footprint of Sydney, in accommodating significant expected increases in population. Indeed, the proposed increase in residential floorspace and units would assist in meeting future growth expectations, including in the subregion.

3.1.3 NSW Long Term Transport Masterplan (2012)

This document was prepared by Transport for NSW and provides strategic direction for overall transport planning to 2031, guiding investment and addressing challenges (over short, medium and longer term timeframes).

The masterplan includes the following key relevant objectives/challenges:

- Integration of transport modes to meet needs;
- Sustaining growth in Metropolitan Sydney;

The site is located on a strategic bus corridor, with multiple bus movements (addressed in Part 4.3), is within 4km of the train station at Macquarie Park and 1.5km from North Ryde (Delhi Road).

The proposal as modified is consistent with the Masterplan. Further discussion on the traffic and transport considerations of the modified proposal is contained in the Traffic report prepared by Colston Budd Hunt Kafes at **Annexure 4**.

3.2 Local Strategic and Statutory Framework

A Comprehensive LEP was gazetted on 19 February 2010, while an accompanying DCP was adopted 3 days later.

3.2.1 Lane Cove LEP 2009 (LCEP 2009) – Key standards

The following table outlines the key controls within LCLEP 2009, how the Concept Plan (relevant to the proposed modifications) compares to these standards and brief comments in response.

| Provision | Standard | Proposal | Comment |
|---------------|----------------------|--------------------------|---|
| Zoning | Light Industrial IN2 | Mixed – not permissible | A mixed use residential development has been approved via Part 3A of the Act and the proposed modification does not seek to alter the overall essence of the development. |
| FSR | 1.1:1 | 1.16:1 | The FSR standard applies to the whole site. FSRs of 2.1:1 exist in the vicinity, to the north. The Council has resolved to increase the FSR of the site/precinct to 1.5:1 on 18 October 2011, which generally equates to the FSR proposed. Refer to Annexure 5 for details. |
| Height | 18m | Varies – does not comply | There is minimal change to the overall height and the height of the highest building is not altering. The perception of the development from public land and surrounding land will not be significantly varied compared to the approval. |

| Provision | Standard | Proposal | Comment |
|----------------------------|--------------------------------|------------|--|
| Heritage | No items on the site | Complies | Adjoining items – no adverse impact on their setting. There will be no significant change of impact compared to the approved Concept Plan. |
| Riparian Areas | On eastern portion of the site | Complies | The proposed built envelopes are not in riparian areas. The mapped riparian area will be protected. |
| Acid Sulphate Soils | Not identified | Can comply | Adjoins Class 5 mapped sites. |

Table 4 – Concept Plan comparison to Lane Cove LEP 2009 key standards

3.2.2 Lane Cove DCP 2010 – Principles and Key Standards

A detailed assessment against the Council's DCP is below, and concentrates on matters relevant to the proposed modifications. The same architectural firm who undertook the Concept Plan design has been engaged for the proposed modification/design refinement (Conybeare Morrison) and comments below also have regard to the plans as lodged with the application.

The following principles and key provisions are those applicable for “residential flat buildings” in the DCP:

| PRINCIPLE | COMMENTS |
|-----------------------------|---|
| General Objectives | High amenity, sustainable development, and a high level of lifestyle and dwelling choice will be provided. The proposal provides a variety of housing, close to transport, does not detract from surrounding residential areas and protects significant landscape elements. |
| Density/site area | Site over 1500sqm. |
| Building Depth | Does not exceed 18m. |
| Building Width | Some buildings envelopes are longer than 40m, although the key objectives relating to articulation and scale will be complied with. |
| Setbacks | The site is unique due to its location and setting. Setbacks generally remain consistent with the approved Concept Plan. |
| Building Separation | Separation between buildings will comply |
| Design of Rooftop Areas | Green roofs are proposed over the child care centre. |
| Size of dwellings | Units will comply with minimum size requirements (no dwelling under 40sqm). |
| Private Open Space | Good sized balconies, open space and communal areas will be provided. |
| Ceiling Heights and Storage | Storage and height will comply with SEPP 65 requirements. |
| Car Parking | Able to comply. This is best addressed at DA stage when the mix of units is finalised. The parking proposed will be in the basement. |

| PRINCIPLE | COMMENTS |
|---------------------------------|--|
| Solar / Ventilation/ Privacy | A matter for detailed design stage. The objectives will be complied with. |
| Open Space/ Landscaped area | Will comply, 42% publicly accessible. Deep soil zones are provided together with generous communal open space. |

Table 5 – Concept Plan comparison to key principles and provisions of LCDCP 2009

3.2.3 Lane Cove Contributions Plan

Lane Cove Council has a Section 94 Contributions Plan, effective from 1996 and amended in at various times between 1999 and 2004.

The Plan includes a work schedule, and contribution rates for development based on such works and population projections. The population in Lane Cove has altered little in 18 years, increasing from around 31,000 in 1991 to 32,500 in 2009 (a 5 % increase over 18 years).

For residential development, the Plan requires contributions for community facilities (23%), open space/recreation (70%) and roadworks (7%). This is expressed as a “per person” rate, with an overall rate arrived at by assumed occupancy rates for various dwellings, calculated in accordance with the number of bedrooms (1.2 for 1 bedroom, 1.9 for 2 bedrooms, 2.4 for 3 bedrooms).

3.3 State Statutory Planning Framework

3.3.1 Environmental Planning and Assessment Act 1979 (“the Act”)

The proposal is saved as a Part 3A application (and specifically a modification under the former 75W of the Act as at 30 September 2011) by virtue of Schedule 6A of the Act.

Section 75O(3) and 75R of the Act (and 75N of the EPA Regulation 2000) allowed the Concept Plan to be approved despite being prohibited under Lane Cove LEP 2009. The proposed modification is also able to be approved despite uses being prohibited in Lane Cove LEP 2009.

3.3.2 State Environmental Planning Policies (SEPPs)

The SEPPs (and deemed SEPPs) relevant to the modification, and a response to each in the context of the proposed modifications, is outlined below:

3.3.3 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The above Plan is a deemed SEPP and applies to the waters and tributaries of Sydney Harbour. It includes zoning for land below mean high water mark, identifies strategic foreshore site, heritage items and wetland protection areas.

The objectives and principles outlined in Sections 2 and 13 of the deemed SEPP seek to “recognise, protect, enhance and maintain Sydney Harbour and its catchment... as a national public asset... for existing and future generations”. Section 13 also seeks to

ensure “*development is to protect and, where practicable, improve the hydrological, ecological and geomorphological processes on which the health of the catchment depends*”. These and other objectives seek to protect the Harbour, its setting and improve the water quality entering the harbour.

The approved Concept Plan meets these broad objectives and allows a potentially polluting use to be removed, the hillside to be reinstated and better water management to be achieved for the site and area.

Similarly, the modification sought remains consistent with this deemed SEPP.

3.3.4 SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)

The modification remains consistent with the intent of the Policy to allow the redevelopment of suitable urban sites for residential development of over 50 dwellings.

3.3.5 SEPP 55 – Remediation of Land

SEPP 55 provides that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated and if the land is contaminated, that the land is suitable for the proposed use(s) within the development. Where remediation is required to make the land suitable for the proposed use(s), the land is required to be remediated before the use commences.

The site remains suitable for the proposed uses and is addressed in a separate DA approval by Lane Cove Council, relating the decontamination of the site associated with the former service station use (DA 196/12) – refer to **Annexure 6**.

3.3.6 SEPP 65 – Design Quality of Residential Flat Development

The proposed modifications will result in a building form that is consistent with the principles of the SEPP. The proposal will be able to achieve the principles espoused in the SEPP through the detailed design at the development application stage, including a recommended process for peer review of the architectural solution.

Residential Flat Design Code

SEPP 65 is accompanied by a Code, which includes a number of “rules of thumb”. As the title implies, these are guides for achieving good design, and should not be slavishly applied, as there are many components to good design and good amenity. As outlined in the Prefix to the Code, it sets “broad parameters” and is structured in terms of local context, site design and building design.

The following table outlines these rules of thumb within the Code, and how the proposed development complies, based on the building envelopes and typical floor plan layouts (as proposed to be modified). However, as a Concept Plan, it should be noted that the floor plan layouts are indicative and have been provided to demonstrate how units may be configured, with detail to follow in a development application (DA).

| Rule of Thumb | Guideline | Proposal | Comments |
|---------------|--|-----------------|--|
| Local Context | | | |
| FSR | Test height against FSR for “good fit” | Complies | The proposal remains contextually appropriate. |
| Height | Test height against number of storeys and ceiling height | Complies | The height has been altered based on revision of the floor to ceiling heights, without resulting in a ceiling height below the 2700mm within the Code. The overall height of the highest building has not increased and the other buildings B-D have altered to a minor degree. Building E has increased by 4.8m, although the location of this building does not significantly change the overall perception of height from surrounding areas. Overall, the height of building forms remains generally the same as approved and remains contextually appropriate. |
| Unit depth | 10-18m | Partly complies | Buildings B, C & D are under 18m in depth. Buildings A & E have been developed as separated volumes which helps breaks up the overall mass and scale of the building. Both buildings have an 18.5m width towards Epping Road, and 20.5m at the other/rear end. These dimensions are appropriate for the design and scale of the building forms. All buildings provide a high level of residential amenity. |

| Rule of Thumb | Guideline | Proposal | Comments |
|---------------------|--|--------------------|--|
| Building Separation | Up to 4 storeys/ 12m: 6m-12m 5-6 storeys/up to 25m: 9m-18m 9 storeys+/25m+: 12-24m | Generally Complies | Building separation between C&D = 12m. Between E&D and A&B the distance is 12m or more. The distance between buildings over 25m is over 80m. Building design can ensure appropriate room placement and design measures to protect amenity and privacy. Appropriate proportions are created by building forms and separation. |
| Setbacks | Based on area | Complies | No consistent pattern exists in the area and a site-specific response has been developed. |
| Site Design | | | |
| Open Space | 25% minimum deep soil (of site area) | Complies | Over 55% deep soil, including 42% of the site in bushland state. |
| | 25-35% of site area communal open space | Complies | As above. |
| | 25sqm of open space for ground level units | Complies | Can be detailed at DA stage. |
| Planting | Minimum soil depths for various size trees | Will comply | Can be addressed in detailed design stage |
| Access | Comply with Australian Standards | Complies | Can be addressed in detailed design stage |
| | Barrier free access to 20% of dwelling | Complies | Buildings have been designed to have "individual" entrances |
| Driveways | Maximum of 6m | Can comply | Subject to detailed design and safe lines of sight. |
| | Locate away from pedestrian entries | Complies | Vehicular access is separated from entrances, except for central courtyard where limited car parking provides activation like a traditional street (as in the approved Concept Plan). |

| Rule of Thumb | Guideline | Proposal | Comments |
|------------------------|--|--|---|
| Building Design | | | |
| Unit Depth | Maximum 8m for “single aspect” | Can Comply | Subject to separate DA. |
| | Back of kitchen 8m from a window | Can Comply | Subject to separate DA. |
| | Cross-over apartments at least 4m wide | Can Comply | Subject to separate DA. |
| Unit size | 1 bedroom 50sqm 2 bedroom 70sqm 3 bedroom 95sqm | Can Comply | Subject to separate DA. |
| Balconies | Minimum 2m deep | Can Comply | Subject to separate DA. |
| Floor-ceiling heights | 3.3m for retail/ commercial | Complies | |
| | 3.3m for ground level residential | Can complies | Able to be addressed at DA stage. |
| | 2.7m for habitable, 2.25-2.4 for non-habitable | Complies | |
| Ground floor units | Maximise number, allow separate entries | Complies | Buildings designed with a good relationship to the ground |
| | Access to open space | Complies | Ground level units can/will have open space courtyards |
| Circulation | Maximum 8 (guide) for single core/ corridor | Complies | |
| Storage | Studio 6m ³ One bedroom 6m ³ Two bedroom 8m ³ Three bedroom 10m ³ | Can comply | Matter for detailed design. Adequate space has been accommodated in the envelopes. |
| Daylight Access | Minimum 70% of units receive 3 hours of sunlight in midwinter (9am-3pm) | Assessed across the whole development, the project complies. | The overall development allows for 70% of all units complying. Some individual buildings may not achieve strict compliance (as in the Concept Plan approval). |

| Rule of Thumb | Guideline | Proposal | Comments |
|---------------------|--|-------------|---|
| Natural Ventilation | 60% of units naturally cross ventilated | Complies | The overall development and each individual building will comply. |
| | 25% of kitchens have access to natural ventilation | Will comply | To be addressed through detailed design. |
| Waste management | Plans part of DA | Can comply | A matter for DA stage. |
| Water Conservation | Roofs not to contain lead, bitumen paint or asbestos | Will comply | Can be detailed at DA stage. |

Table 6: Residential Flat Design Code Compliance

3.3.7 Affordable Rental Housing – National Rental Affordability Scheme (NRAS)

A significant public benefit will be the affordable housing component of the future development, which will be achieved and implemented in accordance with the NRAS objectives, albeit at a lesser number than initially proposed as part of the Concept Approval.

It is proposed 4% of apartments can be made available to the National Rental Affordability Scheme (NRAS). This is considered reasonable and justified for the following reasons:

1. There is no statutory requirement for provision of affordable housing on the site;
2. The FSR of the proposal is similar to the pre-existing control in Lane Cove LEP 2009;
3. The provision of 4% is much higher than most new developments;
4. The 4% is equivalent to the rate of affordable housing provided within the adjoining Willoughby Council area (Lane Cove does not have an affordable housing contribution requirement);
5. The proposal itself will provide a good mix of dwelling types and a diverse building stock.

A recommended condition is contained in **Annexure 1**.

3.3.8 SEPP (Building Sustainability Index: BASIX) 2009

BASIX was introduced to ensure new buildings containing residential dwellings (with staged introduction for dwellings, units and alterations and additions) reduced the consumption of water and energy, compared to average use. The required targets can be achieved by various design methods which are not prescribed, merely the outcome of reduced water and energy use.

BASIX will be complied with at the relevant DA stage.

3.3.9 SEPP (Infrastructure) 2009

This SEPP aims to facilitate the effective delivery of infrastructure in NSW and outlines matters to be addressed and considered in new development adjacent to particular development or on/near certain infrastructure corridors.

Relevant provisions relating to traffic generating development can be addressed by appropriate referral and comment by the RMS with the Concept Plan.

3.3.10 Contaminated Land Management Act 1997

This is able to be regulated through the development consent process (noting a separate DA has been lodged and approved by Lane Cove Council regarding contamination).

4 Environmental Assessment

There are considered to be 5 main issues associated with the proposed modifications:

- a) Urban design;
- b) Traffic and access;
- c) Bushfire;
- d) Acoustic impacts; and
- e) Uses and overall public benefit.

These are addressed below.

4.1 Urban Design

The Concept Plan, as modified will continue to achieve a number of objectives (similar to the Concept Plan approval):

1. A vibrant mixed community with access to community facilities, service retailing and surrounding bushland;
2. A sustainable development, ensuring a potentially polluting use is replaced with one that is more suitable for a harbour catchment, with building and open space design guided by sustainable building practice;
3. “Restoring the hill” of which the development is a part. Previously little or no regard was paid to the existing topography and hillside.
4. Protecting a large portion of the site (1.35 Hectares, or 42% of the site) for publicly accessible bushland;
5. Respecting the bushland setting, reinforced by the massing of the proposal, including the provision of a green wall to Epping Road;
6. Ensuring high amenity for future residents;
7. Providing adequate and appropriate uses such as retail, community uses and child care, to service needs of future residents;
8. Meeting social obligations and assist in the provision of an appropriate affordable housing contribution;
9. Providing a framework which allows the achievement of high quality buildings, including an iconic building at an important gateway site;

The main changes to the concept plan relates to the building footprints, which have been described earlier and are minor in the context of the overall development, particularly when considering the setbacks of building forms from the street and boundaries.

Other changes in height of the buildings are minor, although Building E is proposed to be increased by two storeys, with an overall height increase of 4.8m. This is considered reasonable and appropriate noting the following:

- The increase in height is to ensure future compliance with solar access under SEPP 65;
- The number of storeys is increasing from 10 to 12 storeys, no perceived visual impact when being viewed from surrounding properties;
- The building is most removed from adjoining sites;
- The building provides the termination of a vista from Epping Road travelling east;
- The differential in height amongst other buildings helps to provide variety in scale;
- The change in height will have no negative impacts on neighbouring land or the amenity of any building occupants, nor the community to the north of the site;
- The building is well screened by vegetation from Epping Road and the southern boundary; and
- The proposed building to Epping Road is still low and provided with a landscaped roof to help the perception of a bushland/vegetated setting from Epping Road. The removal of the “slip lane” within the site and tunnels/bridges will help the presentation and relationship of the building with the surrounding public domain.

Overall, the urban design aspects of the modified proposal are neutral or positive compared to the approved Concept Plan.

4.2 Traffic and Access

The proposed modifications are supported by a Transport and Traffic assessment by Colston Budd Hunt and Kafes, the same firm who undertook the assessment of the original Concept Plan. Refer to **Annexure 4**.

The report finds:

- Removing access from the service road reduces the need for the slip lane into the site;
- Removal of the slip lane will remove potential safety conflicts and the need for a Stage 2 safety audit (hence the proposed removal of Condition 8);
- Service vehicles will be able to access the development and meet Australian Standards;

- The removal of the pedestrian bridge over Epping Road does not preclude pedestrians accessing bus stops on both sides of Epping Road, noting existing signalised intersections/traffic bridge with Sam Johnson Way and a pedestrian bridge would not shorten the walk for pedestrians;
- SIDRA analysis has been used, showing the intersection of Mowbray Road and Epping Road will operate at a satisfactory level after the development is complete and the road network will be able to accommodate the proposal as amended; and
- In terms of parking, the proposed parking provision is considered adequate.

The proposal also includes deletion of Condition 9, which required analysis and possible contribution to the intersection of Mowbray Road and Centennial Avenue. This condition is not reasonable as:

- The intersection is remote from the site;
- The traffic from the proposed development is generally commensurate with the previous use;
- The intersection currently operates at a satisfactory level of service, which would not be compromised by the proposal;
- The intersection carries regional and interstate traffic flows, and any increase in vehicle flows from the modification will have minuscule impact.

Overall, the access arrangements and parking aspects of the modified development as satisfactory.

4.3 Bushfire Issues

This aspect of the proposal has been assessed and addressed by a report from Building Code and Bushfire Hazard Solutions (**Annexure 7**), who were also involved in the bushfire assessment and resolution of the original Concept Plan. The main issue is the new proposed child care centre, as the proposed building envelopes comply with the previous advice/Asset Protection Zones established by the RFS.

The report concludes that the proposal as modified will comply with the technical requirements of *Planning for Bushfire Protection 2006*. This matter is also subject to a condition of the Concept approval (with minor proposed refinements/corrections) to ensure the matter remains consistent with this guideline at DA stage.

Bushfire considerations are appropriately considered in the design and building locations and are able to be appropriately regulated through the detailed design stage.

4.4 Acoustic Impacts

The acoustic impacts from the surrounding environment (nearby industrial uses and road noise) was considered and addressed as part of the Concept Plan approval.

There are two main considerations relevant to the proposed modifications:

- (a) Impact of road noise on the proposed child care centre; and
- (b) Impact from the proposed child care centre upon the future residents/occupants of the development.

This has been given consideration by an expert acoustic assessment by Acoustic Logic, as contained in **Annexure 8**.

The report finds that the proposal will be satisfactory and meet noise control criteria provided design and management measures are implemented, namely:

- The number of children in the outdoor play area is limited to 50;
- 6mm glass with STC of 29 is installed;
- Appropriate signage;
- Supervision of children by staff/management;
- A contact phone number; and
- A secondary acoustic review at fitout/detailed design stage.

Accordingly, it is considered the acoustic aspects of the proposed modification are acceptable and able to be appropriately regulated through the detailed design and approval phase.

5 Conclusion

The modification primarily results in an improvement to the amenity of future residents. The increase in number of storeys ensures compliance with solar access requirements of SEPP 65. Removal of unnecessary infrastructure such as the pedestrian footbridge and slip lane. Suitable introduction of Affordable Housing provision, and introduction of a child care centre to address future demand.

Overall, the modification is tweaking the concept plan approval to address market demand, statutory planning requests and adjustment of uses.

Annexure 1: Amended Conditions

Annexure 2: Amended Concept Plans

Annexure 3: Statement of Commitments

Annexure 4: Traffic Report

Annexure 5: Council FSR Report

Annexure 6: DA – Contamination Cleaning

Annexure 7: Bushfire Report

Annexure 8: Acoustic Report