



Lane Cove Council

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21 August 2013
Our ref: 42139/13

Mr S. Haddad,
Director-General,
NSW Department of Planning and Infrastructure,
GPO Box 39,
SYDNEY NSW 2001

Attention: Ms Jane Flanagan

Dear Mr Haddad,

RE: Mixed Use Redevelopment - 150 Epping Road, Lane Cove West: Modification No. 1 to MP10_0148

I refer to your letter of 10 July 2013 regarding the Department's exhibition of proposed amendments to the Mixed Use redevelopment proposal for 150 Epping Road, Lane Cove West: Modification No. 1 to MP10_0148. Council appreciates the extension of time allowed for the submission to be made after the Council meeting of 19 August at which a report on the matter was considered.

Council's submission takes into account views expressed at the Community Session held on 13 August, in response to a presentation by Meriton, and in the public's written submissions, and is detailed in Attachment 1 to this letter.

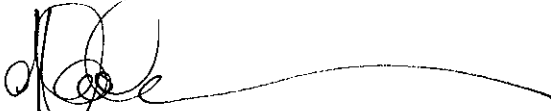
Council urges the Department to consider the modified application in relation to the concerns summarized in this submission, with the highest regard to be given to the following key issues:-

- The dedication to Council of the bush handle, with links onsite to be retained to the surrounding walking paths network
- Affordable housing to be dedicated to Council in perpetuity, though at the reduced rate of 4% if necessary
- Provision of a pedestrian bridge over Epping Rd and of a community bus
- No discounting of the general Section 94 rate
- Compliance with SEPP 65 and
- A traffic study being undertaken to include the Mowbray Road and Centennial Avenue intersections.

In relation to a future development application, Meriton advised Council by letter of 27 June 2013 that it intends to hold a design competition to select an architect firm to prepare the DA and inviting Council to comment on the draft Design Brief. Council responded on 10 July with comments on the brief, but recommended that the design competition be deferred until after the proposed Concept Plan amendments had been determined by the Department.

Council requests that the Department give serious consideration and support to Council's attached submissions, in particular in regard to the key issues above, and thanks you for the opportunity to comment on the exhibition.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michael Mason', followed by a long, horizontal, wavy line that extends to the right.

Michael Mason,
Executive Manager – Environmental Services

COUNCIL SUBMISSIONS ON MODIFICATION TO MIXED USE PROPOSAL – 150 EPPING ROAD, LANE COVE WEST: August 2013

Note: Community Session refers to the meeting, with Meriton presentation, held on 13 August 2013 in the Council Chamber.

A. DEVELOPER CONTRIBUTIONS/ SECTION 94/ VOLUNTARY PLANNING AGREEMENT

The PAC's Concept Plan approval included a requirement for a VPA in accordance with the terms of a letter from Rose Group of 9 March 2011 as shown attached as AT-1. Whilst a number of Council's concerns are addressed by the VPA, Council has not at any stage formally agreed to the contents of the VPA. Of specific concern is Meriton's assertion that any matters not specifically noted as free of cost should be offset against s94 contributions.

Council's position is that these matters in the VPA are specific to the site and were provided by the proponent as an incentive to have the site rezoned and FSR concentrated on the current footprint. The s94 contributions play a different role by contributing to general identified community infrastructure not specific to the site.

It is not appropriate that the general Section 94 contributions be discounted in return for the works to be provided under the VPA, having regard to the benefits received by the owner in the significant height approved and the FSR calculated across the entire site.

Meriton are also proposing to delete the requirement for a VPA, and instead have suggested any commitments be conditions of any Development consent. Council does not support this arrangement, as the requirements would then not be specifically a requirement of the PAC approval, and as a result reduce certainty in their delivery as they would be subject to appeal in the Land and Environment Court.

Again, the matters in the VPA are specific to the site and were provided by the proponent as an incentive to have the site rezoned; they should not be diluted. The proposed amendments to matters covered by the VPA are indicated below with comment

Voluntary Planning Agreement in letter of 8 March 2011 –condition of PAC approval of August 2012	Proposed Amendments by Meriton	Council submission
Public use of bushland "handle" The provision of public access to the part of the Land to be zoned E2 – Environmental Conservation	Where Council prefers not to own the land, a covenant shall be placed on title to allow public access, although infrastructure works to be used	<i>Modified proposal supported:</i> Council supports the dedication of the bush handle free of cost (Option 1.1) to secure the land permanently. Maintenance would then be supervised on the basis of Council standards and expertise.

Voluntary Planning Agreement in letter of 8 March 2011 –condition of PAC approval of August 2012	Proposed Amendments by Meriton	Council submission
1.1 Public access to the E2 land may be achieved through the dedication of the E2 Land to the Council free of cost. 1.2 Alternatively, if preferred by the Council, the E2 land could remain in private ownership with legal rights of footway for the public.	by the public and ongoing costs will be sought to be offset against Section 94 obligations.	It is noted that the development would still have the benefit of this land for calculation of floor space across, and that the site's residents will benefit from proximity to the locality's walking paths network. It would also be reasonable that the area be upgraded to Council's agreed standard free of cost prior to dedication to Council.
Public walking paths The provision of a public walking track through the land with linkage to the existing walking track along the Lane Cove River. 2.1 The Walking Track will be provided to reasonable Council standards and may include the following features and similar features, subject to negotiation with the Council: (i) rest points; (ii) seats; and (iii) information posts. 2.2 The Walking Track will be maintained by Catra or its successors in title free of cost to the Council.	The developer undertakes to provide some public benefits beyond that needed for the development (eg upgrade of bushland area on site), provided there is a credit given against s94 contributions, as is reasonable.	<i>Modified proposal not supported:</i> This reworded offer is too insubstantial. The concept of giving credits against the VPA matters is not supported, as they are specific to the site and were provided by the applicant as an incentive for the concentration of FSR at the western end and to have the site rezoned. It is noted and supported that the developer confirmed at the Community Session that the public shall have access also through the developed portion of the site both through the public walking track and via the internal road. A suitable location for the links would be discussed with Council's Open Space Section.
Affordable housing The provision of 10% of the total residential units as "affordable housing" units, as defined by the	Meriton proposes that the total number of affordable housing units to be reduced from 10% to 4% in line with recent	<i>Modified proposal not supported, but an alternative is recommended:</i> The amount of affordable housing included in the PAC approval was a key incentive for consideration of the original proposal and aligns with the quantum in the Affordable Housing SEPP.

Voluntary Planning Agreement in letter of 8 March 2011 –condition of PAC approval of August 2012	Proposed Amendments by Meriton	Council submission
EPA Act and the State Environmental Planning Policy (Affordable Rental Housing) 2009 [i.e. to be returned to the owner after 10 years]. 3.1 An application will be made to participate in the National Rental Affordability Scheme.	decisions from the Planning and Assessment Commission.	At each stage since Rose Group originally approached Council seeking support for a redevelopment of nine storeys, then twelve storeys, culminating in the Planning Assessment Commission's Part 3A approval in August 2012 for twenty storeys, affordable housing has been offered as a central incentive for the scheme. • This included a letter to Council from Rose Group of 16 February 2010 stating that "the proposal has the potential to be a showcase for affordable housing integration into new development for Lane Cove". • The Preferred Project Report of 5 March 2012 advised that "a significant public benefit will be the affordable housing component", to be 10%. • The Director-General's Environmental Assessment Report of May 2012 stated that "the proposed development includes the provision of affordable housing which is a key priority under the Metro Plan. The future development application for residential development will need to demonstrate that 10% of the dwellings will be affordable housing for a minimum of 10 years". • The Concept Plan approval of 14 August 2012 required 10% affordable housing to be provided under Schedule 3: Future Environmental Assessment Requirements and Schedule 4: Statement of Commitments. Council submits that the developer's proposed reduction from 10% (40 units) to 4% (17 units, based on 403 dwellings) is unacceptable unless the dwellings are provided in perpetuity to Council, as under e.g. the Willoughby City Council affordable housing scheme referred to by Meriton. As emphasised by the Department above, key-worker housing is an important objective of the Metropolitan Strategy, and Council's proposal would be an appropriate contribution towards meeting this need on a long-term basis. Council recognises that 10% would not be provided in perpetuity, as this was not a PAC requirement. However the provision of 4% in perpetuity would be comparable with the original requirement, and in fact preferable to losing the affordable housing after 10 years.
Community bus The provision of best practice sustainability design measures for	No change to 4.1 (i), (ii), (iv) and (v).	<i>Modified proposal not supported:</i> Council submits that the capital cost for a community bus at least should be provided, with an ongoing scheme for its operation/ maintenance to be potentially set up by Council.

Voluntary Planning Agreement in letter of 8 March 2011 –condition of PAC approval of August 2012	Proposed Amendments by Meriton	Council submission
the Development Proposal on the land beyond the mandatory environmental measures required under BASIX. 4.1 The proposed sustainability design measures may include the following, subject to negotiation with Council: (i) Car share spaces; (ii) Water saving initiatives; (iii) Community bus; (iv) Charge points for electric cars; and (v) Bicycle parking & storage.	4.1 (iii) Meriton would like to delete the requirement to provide a community bus as this would be an unnecessary continuing cost imposed on the future owners corporation and be of little or no benefit as this is not a retirement community and future occupants would be coming and going at all times of the day and night.	This would be a reasonable balance between the demand created by the new development and the potential use by other residents including the Mowbray precinct. This takes into account the site's isolation, the need to minimize car usage given pressure due to Metro Strategy growth on the road network, car parking e.g. at the Village etc. It recognises also the community comments that school children from the new development would require school transport, in particular since the site is in the catchment for Ryde, not Lane Cove, schools, as well as Department of Education data that the occupancy rate for children in units is at least half that for houses.
Public art The provision of public art at the entrance to the land. 5.1 The proposed public art will be commissioned by Catra generally in accordance with the provisions of Part L of the Lane Cove Development Control Plan 2010 and at reasonable cost. 5.2 In particular, the proposed planning agreement will confirm that the proposed public art will be:- (i) provided for the development at no cost to Council;	No change	<i>Modified proposal supported:</i> The cost is to be effectively guided by the DCP.

Voluntary Planning Agreement in letter of 8 March 2011 –condition of PAC approval of August 2012	Proposed Amendments by Meriton	Council submission
(ii) maintained by Catra [Rose Group] or its successor in title.		
Pedestrian crossing - Epping Rd The provision of traffic lights or a pedestrian overbridge at Epping Road. 6.1 Subject to RTA approval.	Meriton seeks to delete this clause on the grounds that the RMS does not support either new traffic lights or a pedestrian bridge as they believe there are adequate crossing points for pedestrians to access bus stops along Epping Road on both sides of the road.	<i>Modified proposal not supported:</i> Council submits that the pedestrian bridge should be provided at no cost to Council in a location to be discussed with Council (preferably adjacent to the Cumberland St bus stop). The location in the Concept Plan approval was not signed off by Council and is not in an appropriate location to promote easy use of public transport. This was strongly supported by almost all comments at the Community Session, on the grounds of pedestrian safety and promotion of public transport use. It is important that the bridge's location avoid impact on the escarpment and its significant vegetation. It should be accessible. The nearest existing eastbound bus stops are 350+ metres to Mowbray Rd or 550+ metres to Sam Johnson Way. For a development of this size the developer should provide both the footbridge and a new eastbound bus stop and shelter adjacent to the site on Epping Road. The pedestrian bridge would serve an important role for employees from the Lane Cove West and Mowbray Rd industrial areas, the recently-upzoned Mowbray precinct and the Willoughby side north of Mowbray Rd. This relates not only to access to public transport but also for the public walking network

Voluntary Planning Agreement in letter of 8 March 2011 –condition of PAC approval of August 2012	Proposed Amendments by Meriton	Council submission
		between the River and the bushland south and north of Epping Rd. Council has not received any comment from the RMS rejecting the bridge or traffic lights.
Section 94 7. The provision of s94 contributions towards the provision or improvement of amenities or services. 7.1 In calculating the s94 contributions applicable to the Planning Proposal under the Lane Cove s94 Contribution Plan, the Council must take into consideration the in-kind development contributions otherwise provided by the owner in the proposed planning agreement.	Except for those items in this agreement that are stated as being free of cost to the Council we propose to claim an offset from the s94 contributions for the cost of the remaining items.	<i>Modified proposal not supported:</i> Council does not support offsetting/discounting of the general Section 94 contribution, as this provides infrastructure for use by future residents including the Library, Aquatic Centre, roads, open space etc. The VPA is to provide additional items of specific relevance to this site. There is no justification to vary from the 2012 approval in this regard. The Part 3A Approval's requirement for a future DA to be accompanied by the Voluntary Planning Agreement provided in writing to Council on 9 March 2011 has been deleted from the Amended Concept Plan. This is not acceptable to Council, nor is the watered-down replacement undertaking "to provide some public benefits beyond that needed for the development (eg upgrade of bushland area on site) provided there is a credit given against s94 contributions, as is unreasonable". This gives no certainty to Council and its community, or confidence in Meriton's willingness for its development to contribute to the locality in any meaningful way.
VPA drafting 8. The drafting of the proposed planning agreement by the owner.	No change	<i>Modified proposal supported:</i> Subject to Council, and the Department if required, signing off on the draft before finalization.

B. GENERAL CONDITIONS OF CONCEPT APPROVAL

Condition	Proposed Amendments by Meriton	Council comment
Height and FSR	To increase FSR to 1.16:1 and	<i>Modified proposal not supported:</i> FSR should remain at 1.1:1 and new storeys

Plans are to be in accordance with PAC's approval of 14 August 2012.	36,927m ² (up from 35,034m ²) - not significant To add two storeys to lower buildings.	be deleted.. This development will have a significant visual impact, not only due to its highest building but to the bulk of the other buildings, especially viewed from Lane Cove National Park, River and Ryde. No further increase would be acceptable. The current proposal is already for an extremely high building relative to the low-scale of the site's visual and environmental catchment near the boundary of three council areas. The increase in GFA by 5.4% in excess of the PAC's approval is not justified and is not supported. Meriton's advice to Council at the Community Session that it would be withdrawing the additional FSR and storeys on the lower buildings is supported
SEPP 65 The Concept Approval Part B – Modifications to the Concept Plan states: "B1: Full Compliance with SEPP 1: The concept approval is subject to each building (including any townhouses included in the building) strictly complying with State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Residential Flat Design Code 2002".	The developer had proposed modified Commitments which excluded this required. Meriton has, however, confirmed on 13 August 2013 that SEPP 65 will be fully complied with.	<i>Modified proposal not supported:</i> The building must "strictly" meet the requirements of SEPP 65 which is State policy applicable across NSW. The Design Competition should be additional to SEPP 65 standards, not an alternative, and promote an iconic building form, avoiding bland and unoriginal design, but as distinct from "sticking out like a sore thumb". The developer's proposal to "generate a high quality design solution for the site and introduce buildings that respect its immediate context" should seek to reference the natural environment component of the visual catchment. The objective to "achieve a design with an emphasis on high quality landscaping integrated with the buildings" should be extended for the landscaping to integrate sensitively with the vegetation surrounding the site.
Vehicular Access a) A Stage 2 Road Safety Audit, prepared by a suitably qualified consultant is to review the proposed access arrangements for vehicles entering and exiting the site. The safety audit is to be undertaken in consultation with the RTA and any	Delete	<i>Modified proposal not supported:</i> Safety on this site is critical due to the traffic volumes on Epping Road, therefore the Audit is essential. All required traffic studies must be undertaken before DA approval. See below re traffic study being required.

relevant findings are to inform the final design of the vehicular access arrangements.			
Traffic Impact a) A Traffic Analysis, prepared by a suitably qualified traffic consultant detailing the impact of the proposed development on the operation of the intersection at Mowbray Road/Centennial Avenue, having regard to cumulative impacts from the Mowbray Road Precinct. In the event the traffic analysis determines the proposed development contributes to the need to upgrade the intersection then the proponent shall negotiate with Lane Cove Council to ascertain proportionate monetary contributions to fund the upgrade of the intersection. b) The traffic analysis shall be undertaken in consultation with Lane Cove Council and the Roads and Maritime Services.	Delete	<i>Modified proposal not supported:</i> A Traffic Analysis is important and should not be deleted. It is understood that The PAC was aware of and understood the potential impacts of the recent rezoning of the Mowbray Precinct to high density residential, within this site's traffic precinct. The cumulative impact of then adding this development would make it particularly important that traffic analysis of the Mowbray Rd and Centennial Av be undertaken, as well as other requisite traffic studies, prior to DA approval. The methodology behind the Colston Budd trip generation rates should be recalculated without discounting vehicle trip numbers arising from on-site surveys of the old petrol station, which did not generate demand so much as serve passing traffic. Council calls for the traffic impact analysis and amelioration measures recommended to be undertaken as required by the PAC.	<i>Modified proposal not supported:</i> Council does not agree to Section 94 contributions being discounted for works e.g. "bushland upgrade works (such as infrastructure for the use by the public and outlined in the Riparian Land/Vegetation Management Plan)". The original proposal was proposed to the Department and Council with these types of works as additional inclusions. The incoming residents in the site will use and add pressure to the traffic, urban services, recreational and community facilities throughout Lane Cove. The Section 94 contributions are to be fully paid as by all developers increasing population in Lane Cove. It is considered that such works must be at the proponents cost and to the standards of the Department of Water and Energy.
Riparian Land/ Vegetation Management Plan A Vegetation Management Plan shall be provided for the riparian land in the southern and eastern portions of the site. The VMP must consider the criteria identified in the Vegetation Management Plan Guidelines of the Dept of Water and Energy (February 2008).			

C. OTHER DEVELOPER DESIGN, FLOOR SPACE DISTRIBUTION ETC

PAC approval of August 2012	Proposed changes - Meriton comment	Council comment
Residential 31,615m ² – 400 units	35,203m ² – 403 units, the number of units is increasing less than 1%,	<i>Modified proposal not supported:</i> The floor space figures contain inconsistencies. In particular, there has been no satisfactory explanation of the increase by 3,588m ² to accommodate only 3 additional units. This issue is unclear and therefore is not supported, as it appears to be a potential to further overdevelopment of the site.
Retail 769m ²	258m ² – the quantum of retail is proposed to meet the demands of the future population.	<i>Modified proposal supported:</i> No objection is raised; however this reduction to a small shop highlights an increase in expected trips from this isolated site to the Village and the benefit of a regular community bus service.
Commercial 800m ² approx.	0m ² – not viable for this site.	<i>Modified proposal supported:</i> Given the addition of a child care centre, outlined below.
Community 1,850m ²	816m ² [approximately 30 x 27m ²] is appropriate for the future population.	<i>Modified proposal supported, subject to additional recommendation:</i> Given the site's geographic and social isolation, in addition to a pool, gym and small meeting room, appropriate outdoor recreation facilities, e.g. communal garden area, outdoor exercise equipment for all age groups separate to the Child Care, should be provided, and are not currently specified in the Concept Plan.
Child care 0m ²	650m ² – this will provide a service for the future community on site and the wider community.	<i>Modified proposal supported:</i> The provision of a childcare centre should have regard to its proximity to the Lane Cove Tunnel Ventilation stack. Community comments were made as to the need for sunlight in the play area and location away from traffic noise.
Car spaces 645 plus or minus 10%	596 – this will reduce traffic impacts due to fewer cars entering/ leaving the site.	<i>Modified proposal supported, subject to comment:</i> The Concept Plan approval allows for a 10% reduction in vehicle numbers. Meriton have indicated they will meet Council's DCP requirements; therefore no objection is raised to the vehicle numbers.

D. OTHER ISSUES

Proposed changes	Council comment
Bedroom mix providing for only 5% 3- bedroom units	<i>Modified proposal not supported:</i> The development should provide 10% 3BRs in accordance with the DCP, on the policy of providing housing for all stages of the life-cycle. Meriton confirmed at the

	Community Session that 10% will be provided.
Director-General's Design Excellence Guidelines compliance	<i>Modified proposal not supported:</i> The Part 3A Approval requirement for future development applications to achieve design excellence in accordance with these Guidelines has been deleted and replaced with a proposal for peer review of one architectural firm. This inconsistency in the documentation supporting the Design Brief has not been explained and is not supported.
Bushfire: The proposed concept plan amendment has deleted the Part 3A Approval's requirement that the final design "has regard to the comments of the RFS in their letter dated 25 July 2012". It states that this part of the condition "is deleted as the amended design has addressed bushfire safety issues".	<i>Modified proposal not supported:</i> This is a particularly important issue having regard to the inclusion of a child care centre. No dilution of the PAC requirements or requirement to consult with the RMS and Council at the DA stage on this issue would be supported. Council policy does not support the requirement of an Asset Protection Zone on public land in the absence of positive public benefit from a development and does not support any variation from the 2012 PAC approval in this regard.
Air quality	Council and residents have, in previous and current submissions, drawn attention to air pollution issues in relation to the unfiltered Tunnel stack in the nearby industrial area. This significant issue is particularly important given the proposed child care centre on-site and the DA should seek to minimize impacts by the design and location of the new complex. This issue has been raised also in relation to the National Starch factory to the west.
Adaptable and visitable units	The percentage of adaptable and visitable units in the finalised proposal should be in accordance with the Council DCP.
Water management	Consideration of the capacity of wastewater drainage infrastructure will be an issue of concern to existing and future residents of the locality. Bush revegetation after any works on public land should be undertaken at the developer's expense.