



**Planning &  
Infrastructure**

**MAJOR PROJECT ASSESSMENT:  
Section 75W Modification  
*150 Epping Road, Lane Cove*  
*(MP10\_0148 MOD 1)***



Director-General's  
Environmental Assessment Report  
Section 75W of the  
*Environmental Planning and Assessment Act 1979*

November 2013

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Published November 2013  
NSW Department of Planning & Infrastructure  
[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

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## EXECUTIVE SUMMARY

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On 14 August 2012, the Planning Assessment Commission (PAC) approved a Concept Plan (MP 10\_0148) for a mixed use development at 150 Epping Road, Lane Cove. The Concept Plan sought to demolish all existing structures and replace them with six building envelopes ranging in height from six to 20 storeys. The concept plan approval included:

- basement car parking;
- residential floor space for approximately 400 residential apartments, including 10% 'affordable housing' apartments;
- retail, commercial and community floor space;
- open space, internal vehicular/pedestrian access and associated landscaping;
- remediation of the land; and
- rehabilitation of 1.35 hectares of bushland and the provision of a walking trail and associated infrastructure.

Karimbla Properties (No. 35) Pty Ltd has lodged the current application. Following the submission of the proponent's Preferred Project Report, the application seeks to modify the Concept Approval in order to permit:

- a 511 square metre (sqm) reduction in retail floor area from 769 sqm to 258 sqm;
- deletion of all commercial floor area (previously 800 sqm);
- a 1,034 sqm reduction in community floor area from 1,850 sqm to 816 sqm;
- a 1,695 sqm increase in residential floor area from 31,615 sqm to 33,310 sqm;
- a new child care centre for 85 children;
- dedication to Lane Cove Council of 1.35 hectares of bushland on the site;
- deletion of a requirement to prepare a Stage 2 road safety audit;
- minor changes to various future assessment requirements; and
- deletion of a statement of commitment to provide a pedestrian bridge over Epping Road.

The application was publicly exhibited from 17 July to 15 August 2013. The site is within the Lane Cove Local Government Area (LGA) and adjoins the Willoughby LGA. Both Councils objected to the modification. The councils' submissions raised issues relating to urban design, loss of affordable housing, weakening of commitments regarding bushland dedication/voluntary planning agreement, concern regarding the loss of public amenity from the deletion of the pedestrian bridge, traffic impacts, and issues with revision to the future Section 94 contributions.

In addition to the two councils' submissions, seven agency and 16 public submissions were received. Of the agency submissions, two made no comments and five made comments. All public submissions objected to the proposal. The proponent substantially addressed all submissions in a Preferred Project Report and deleted/reversed many of the modifications originally sought, including:

- a reduction in affordable housing;
- deletion of the requirement for a traffic impact assessment for the Mowbray Road/Centennial Avenue intersection;
- compliance with SEPP 65 and the undertaking of a design competition;
- changes to some building envelope heights; and
- deletion of a requirement for details of a voluntary planning agreement with Council.

In assessing the modification, the Department considered the proponent's request and the issues raised in the submissions. Key issues for the assessment included the loss of public benefits from the proposed offsetting of Section 94 contributions, road safety and the deletion

of the commitment to provide a pedestrian bridge. Other matters considered are bushfire, contamination, hazards, vegetation management and groundwater.

The Department recommends that the application be approved, except amendments to Future Environmental Assessment Requirements relating to contamination groundwater investigations, riparian land vegetation management, bush fire, hazard analysis, and Section 94 contributions, respectively which are not supported and not recommended for approval.

In accordance with the Minister's delegation of 14 September 2011, the application is forwarded to the Planning Assessment Commission for determination as Lane Cove Council objected to the application.

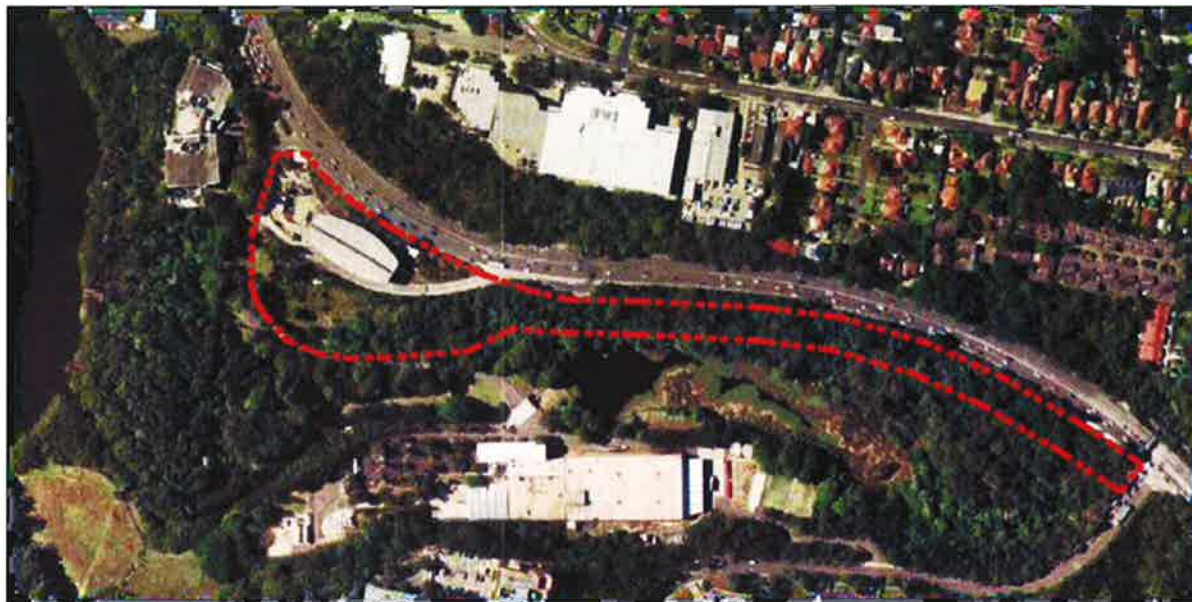
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## 1. BACKGROUND

The site is located on the southern side of Epping Road, between Sam Johnson Way and Mowbray Road within the Lane Cove Local Government Area (see **Figure 1**). It forms the northern edge of the Lane Cove West Industrial area. The site is located 12 km north west of the Sydney central business district, 3.8 km east of Macquarie Park Centre and 4 km south west of Chatswood. The site is legally described as Lot 21, DP 825400 and is known as 150 Epping Road, Lane Cove.



**Figure 1: Site location 150 Epping Road, Lane Cove**

The site has an area of 31,740 m<sup>2</sup> (3.1 ha). It is irregularly shaped, having the general shape of a spoon: a long thin handle at the eastern end and a larger wider body at the western end. The site has a frontage of approximately 700 m to Epping Road.

The site handle has an area of 1.35 ha (42% of the site). The land is largely vegetated and generally falls from north to south. The main body of the site has an area of 1.75 ha (58% of the site).

The site was most recently occupied by a service station and associated convenience store/ fast food restaurant. Lane Cove Council granted development approval to the demolition of the buildings and remediation of the site and those works are currently being undertaken.

The site has two vehicular access points from Epping Road. Vehicles travelling west can access the site via a slip lane, with a driveway providing access to the north eastern corner of the main body of the site or via a service road located on the western side of the site. Vehicles travelling east can access the site via a right-hand turning bay, which provides access to the slip lane.

On 14 August 2012, the Planning Assessment Commission (PAC) approved Concept Plan MP10\_0148 for a mixed use development at 150 Epping Road, Lane Cove. The concept plan sought to demolish all existing structures and replace them with six building envelopes ranging from six to 20 storeys. The concept plan included:

- remediation of the land;
- rehabilitation of 1.35 hectares of bushland and the provision of a walking trail and associated infrastructure;
- basement car parking;



- residential floor space for approximately 400 residential apartments, including 10% 'affordable housing' apartments;
- retail, commercial and community floor space; and
- open space, internal vehicular/pedestrian access and associated landscaping.

In making its decision, the PAC considered the Department's assessment and accepted the Department's recommendations. Consequently, the PAC approved the concept plan subject to strict compliance with *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development* and further assessment requirements for each project or development application submitted under the concept plan.

The proponent for the Concept Plan was Catra Pty Ltd. Karimbla Properties (No.35) Pty Ltd (the proponent for this modification) has purchased the site and approval.

## 2. PROPOSED MODIFICATION

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### 2.1 Modification Description

The application has been lodged in response to the proponent's review of market demand for the development and practical issues arising from the Future Assessment Requirements and Statement of Commitments of the concept plan approval.

The key components of the application comprise changes to the approved land-use mix, a new child care centre, dedication to Lane Cove Council of the bushland portion of the site, deletion of a commitment to provide a pedestrian bridge over Epping Road, and deletion of/changes to various Future Assessment Requirements.

Table 1 (at **Appendix A**) sets out the application as lodged and as subsequently amended by the Preferred Project Report (PPR) compared with the concept approval. The application as detailed in the proponent's PPR comprises the following:

- minor changes to building envelopes to reposition and change the building shapes from elliptical to regular shapes, and introduce a new lift overrun per envelope;
- increase the number of levels of building envelope A (from 23 to 24 levels), (excluding parking) by lowering ceiling heights;
- a new 650 m<sup>2</sup> child care centre for approximately 85 children;
- deletion of commercial floor space, reduction in retail and community floor space, and consequent increase in residential floor space but no increase in total gross floor area;
- deletion of the requirement for a stage 2 road safety audit;
- reduction in amount of basement car parking from 645 to 596 spaces over the same number of levels;
- dedication to Lane Cove Council free of cost of 1.35 ha of bushland on the site;
- deferral of the requirement for a riparian land/vegetation management plan prior to the issue of any Occupation Certificate;
- inclusion of offsets outlined in a proposed future the voluntary planning agreement;
- minor changes to the groundwater, bushfire, hazard analysis, noise management, contamination, air quality, construction management, parking, staging, geotechnical, public art, and sustainability future environmental assessment requirements; and
- corresponding changes to the proponent's statement of commitments, including deletion of a commitment to provide a pedestrian bridge over Epping Road.

Key changes from the exhibited proposal include retention of the concept approval requirements for:

- affordable housing;
- design excellence and consistency with SEPP 65;

- traffic impact assessment for the Mowbray Road/Centennial Avenue intersection;
  - building envelope heights;
  - details of a voluntary planning agreement; and
- the inclusion of new requirements for:
- dedication to Council of the riparian bushland handle of the site; and
  - consideration of funds to Council for a community bus.

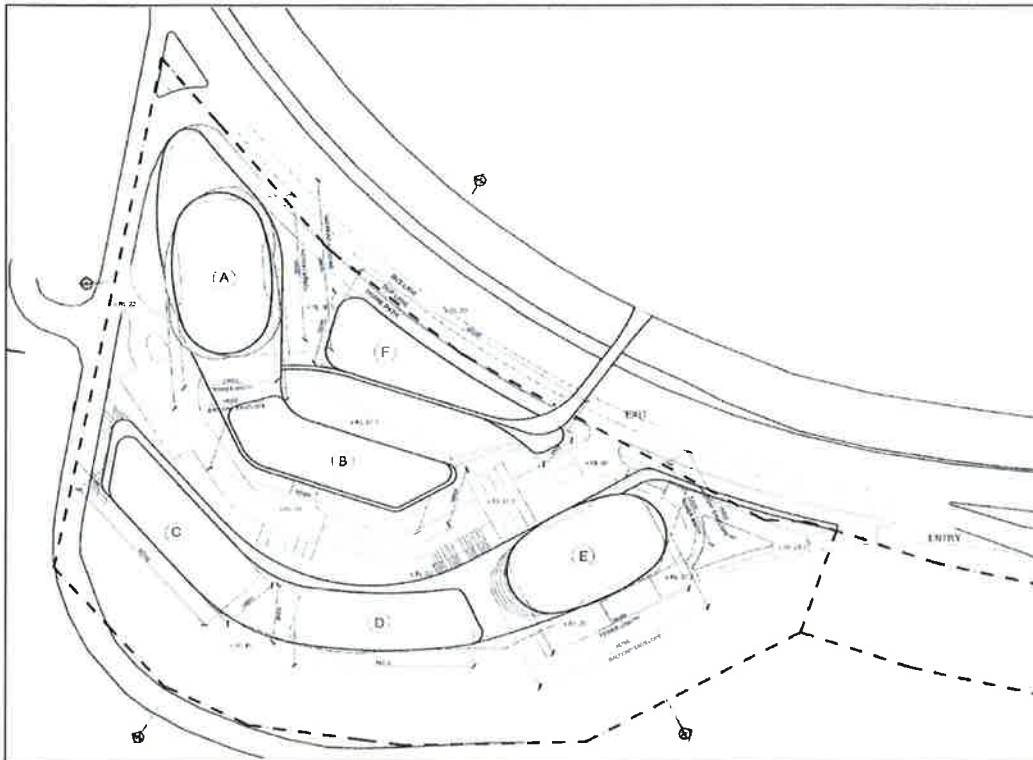


Figure 2: Site plan – Approved building envelopes

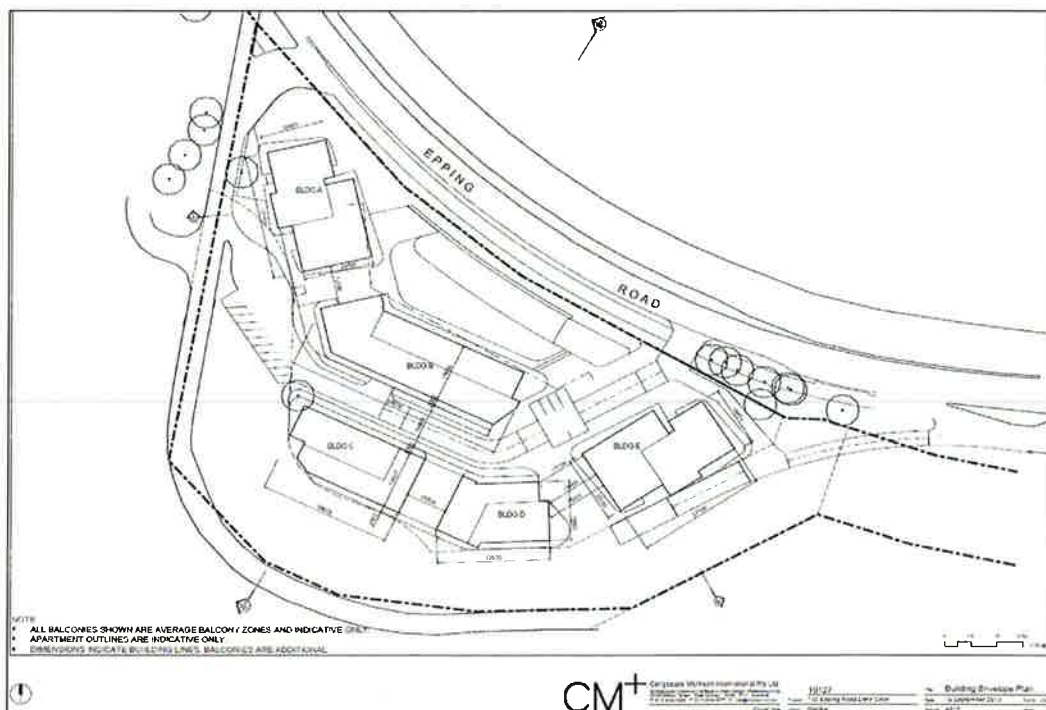


Figure 3: Site plan – Proposed modified building envelopes



### 3. STATUTORY CONTEXT

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#### 3.1 Modification of the Minister's Approval

Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A EP&A Act, continues to apply to section 75W modification applications for Part 3A projects.

The modification application has been lodged with the Director-General pursuant to section 75W of the EP&A Act. The Minister's approval is not required if the project as modified will be consistent with the original approval. As the subject modification seeks to amend the Concept Approval, the modification requires approval.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and the associated Regulation, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75J of the EP&A Act.

#### 3.2 Environmental Assessment Requirements

In this instance, it was not considered necessary to notify the proponent of environmental assessment requirements pursuant to section 75W(3) of the EP&A Act as sufficient information was provided to assess the modification.

#### 3.3 Delegated Authority

In accordance with the Minister's delegation of 14 September 2011, the Planning Assessment Commission (PAC) may determine the application as Council objected to the proposal.

### 4. CONSULTATION AND SUBMISSIONS

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#### 4.1 Exhibition

Under section 75W of the EP&A Act, a request for a modification of an approval does not require public exhibition, however, under section 75X(2)(f) of the EP&A Act, the Director-General is required to make the application publicly available. Notwithstanding, the modification application was publicly exhibited from 17 July 2013 to 15 August 2013.

Following the public exhibition, a total of seven submissions were received from agencies and 16 submissions received from the public. Of the agencies' submissions, two made no comments and five made comments. All public submissions objected to the proposal.

The proponent responded to the agencies' and public submissions in a PPR (see section 4.2 below). The Department referred the PPR to relevant agencies.

A summary of the agencies' submissions (to the application as submitted and as per the PPR), is as follows:

**Lane Cove Council** – objected to the application, raising concerns about the following issues:

- Council supports the dedication of the bushland handle free of charge. There should no offset given against section 94 contributions for the dedication of the bushland handle and the provision of walking tracks, as those elements were provided as an incentive to obtain support for the development;

- the proposed reduction from 10% to 4% affordable housing is unacceptable. The 10% housing will not be retained in perpetuity and a preferable alternative would be to provide 4% of the housing to Council for use as affordable housing in perpetuity;
- the commitment to provide a pedestrian bridge over Epping Road should be retained. The bridge would provide an important link to public transport for future residents of the development and workers from the adjoining industrial areas, as well as providing adjacent residents with links to walking tracks along Lane Cove river;
- the capital costs of providing a community bus should be provided;
- the requirement for a design competition and compliance with SEPP 65 should be retained to ensure the development is of a high quality;
- the requirement to undertake a stage 2 road safety audit, which assesses safety issues with ingress and egress should be retained;
- the requirement to undertake a traffic study for the Mowbray Road and Centennial Avenue intersection should be retained;
- reduction in proportion of 3 bedroom units inconsistent with DCP;
- the bushfire requirement should not be modified and APZs should not be located on public land;
- concern with the close proximity of the proposed child care centre to the Lane Cove Tunnel ventilation stack; and
- inconsistencies in floor space figures presented in the application.

Following the submission of the PPR, Lane Cove Council's concerns about the application remain, as follows:

- Council maintains that the pedestrian bridge over Epping Road should be provided;
- Council supports the proposal to retain 10% provision of affordable housing, but is still of the opinion it would be better for 4% of units to be dedicated to Council for use as affordable housing in perpetuity;
- section 94 contributions should not be offset against commitments included in the concept approval;
- the air quality assessment for building design measures to mitigate odour impacts from the adjoining National Starch facility should be provided at the DA stage; and
- the bushfire requirement should not be modified and APZs should not be located on public land.

Note: This application does not affect remediation requirements. A separate development approval for remediation has been obtained from Lane Cove Council.

**Willoughby City Council** - objected to the application with respect to the following issues:

- the commitment to provide a pedestrian bridge over Epping Road should be retained;
- there should be no reduction in affordable housing; and
- the requirement to undertake a traffic study for the Mowbray Road and Centennial Avenue intersection should not be deleted.

Following the submission of the PPR, Willoughby City Council's concerns about the application are as follows:

- removal of pedestrian bridge over Epping Road; and
- potential conflicts between adjoining industrial uses and the proposed child care centre.

**NSW Transport, Roads and Maritime Services (RMS)** - provided comments on the application, as follows:

- vehicular access point to the east of building envelope F should be exit only onto Epping Road and slip lane should be removed;

- the western access road should be for emergency not service vehicles; and
- concrete median/bollards required at the western end of the western emergency access road; and
- requested that the proponent demonstrate there will be no impacts on the Lane Cove Tunnel with regards to interference/interface with tunnel infrastructure.

Following the submission of the PPR, RMS raised no concerns about the application.

**NSW Health, Population Health** - provided comments on the application, as follows:

- a comprehensive contamination assessment should be required to better characterise contaminants on the site and to inform the site's remediation plan; and
- National Environment Protection Measure low density residential health-based investigation level should be applied unless the proponent can demonstrate that children at the proposed child care centre will have very limited access to contaminated soil.

Following the submission of the PPR, NSW Health concerns about the application remain, as follows:

- contamination across the whole site should be comprehensively assessed particularly regarding the proposed child care centre and the contamination requirement should not be modified as sought; and
- detailed hazard analysis would ensure impacts from neighbouring industrial facilities are controlled.

**Department of Primary Industries, Office of Water (DPI)** - provided comments on the application, as follows:

- provision of a Vegetation Management Plan (VMP) prior to final occupation is inconsistent with the intents of VMPs, generating a risk that construction will be completed without a VMP; and
- VMP should be required earlier in the process, for example, prior to construction commencing and be implemented prior to the issue of a final occupation certificate.

Following the submission of the PPR, DPI concerns about the application remain, as follows:

- provision of a VMP prior to final occupation is inconsistent with the intents of VMPs, generating a risk that construction will be completed without a VMP;
- VMP should be required earlier in the process, for example, prior to construction commencing and be implemented prior to the issue of a final occupation certificate; and
- modification of the groundwater requirement is justified only if proponent has provided recent, site-specific measurements conclusively demonstrating that groundwater is beneath the maximum excavation level.

**Rural Fire Service (RFS)** - provided comments on the application, as follows:

- no objections to proposed child care centre being constructed to BAL 12.5 in accordance with AS3159-2009 *Construction of Buildings in Bushfire Prone Areas*; and
- provision of other bushfire protection measures detailed within *Planning for Bushfire Protection 2006* for the child care centre will be accommodated by the recommendations contained in the RFS letter dated 25 July 2012 for the remainder of the concept development.

Following the submission of the PPR, RFS comments about the application remain, as follows:

- the bushfire requirement should not be modified as sought, and the requirements relating to other matters prescribed by *Planning for Bushfire Protection 2006* should remain.

**Sydney Water** - provided comments on the application relating to the capacity of water and wastewater infrastructure required for the development which can be addressed in the recommended modification instrument and future applications.

**Department of Premier and Cabinet, Office of Environment and Heritage** - had no comments to make on the application.

**Transport for NSW** - supported the comments made by RMS and advised it had no further substantive issue to add.

**Environment Protection Authority** - did not make a submission on the application.

A summary of the issues raised in the public submissions is set out in Table 2 below.

**Table 2: Public submissions summary**

Issue	Comments
Traffic and access	<ul style="list-style-type: none"> <li>Capacity of surrounding roads is inadequate to support traffic generated by the proposed development;</li> <li>traffic analysis of Mowbray Road/Centennial Avenue intersection is required given potential impacts of proposal on traffic flows and capacity particularly given proposed child care centre;</li> <li>deletion of slip lane and use of western access road during construction and operation will affect safety, access and corporate image of industrial buildings at Nos. 160 and 166 Epping Road;</li> <li>developers and future residents will use western private access road (owned by 160 Epping Road) servicing Nos. 160 and 166 Epping Road;</li> <li>lifting of restrictive covenant precluding any residential development of 150 Epping Road will affect access to Nos 160 and 166 Epping Road;</li> <li>reduction in on-site parking is unacceptable;</li> <li>proponent's traffic report contradicts landscape master plan in respect of service road/secondary egress road;</li> <li>pedestrian bridge is unnecessary, signalised at-grade crossing should be levied for better alternative; and</li> <li>community bus and pedestrian bridge are essential.</li> </ul>
Health	<ul style="list-style-type: none"> <li>Filtration required to protect children in the proposed child care centre from adverse health impacts of toxic and carcinogenic exhaust from the Lane Cove Tunnel western stack. The stack is located approximately 330 m south of the site.</li> </ul>
Design quality	<ul style="list-style-type: none"> <li>SEPP 65 compliance required;</li> <li>25 storey tower intrusive; and</li> <li>should comply with eight storey height control due to unacceptable visual impacts.</li> </ul>
Section 94 contributions	<ul style="list-style-type: none"> <li>Should be no offsets particularly for provision of the bushland handle or for the pedestrian bridge;</li> <li>contributions should be required for upgrade/continuation of bushland walking trail and bush regeneration; and</li> <li>contributions should be required for the upgrade of the</li> </ul>

	capacity of existing water infrastructure.
Site suitability	<ul style="list-style-type: none"> <li>Proposed child care centre introduces potential conflicts with adjoining industrial land uses in terms of industrial odour and potential industrial/chemical hazards;</li> <li>questionable whether child care centre complies with sunlight and air quality criteria; and</li> <li>unacceptable impacts on Lane Cove River Valley, the National Park, the Great North Walk, and residents of surrounding suburbs.</li> </ul>
Density	<ul style="list-style-type: none"> <li>Increase in residential floor space is unacceptable; and</li> <li>decrease in retail and community floor space will disadvantage the site's future residents.</li> </ul>
Bushland	<ul style="list-style-type: none"> <li>Pedestrian bridge (other than opposite and connecting to Cumberland Street ramp) would adversely impact endangered bushland species and natural sandstone rock outcrops;</li> <li>asset protection zone, and construction and operation of the proposal will potentially adversely impact upon adjacent bushland and requires management;</li> <li>lifting of covenant precluding residential development of the site will threaten environmental protection of reserve on Nos. 160 and 166 Epping Road; and</li> <li>ownership of bushland handle should vest in Lane Cove Council with continuing maintenance contribution from future owners of the proposed development.</li> </ul>
Public benefit	Requirement to provide details of a voluntary planning agreement should not be deleted.
Affordable housing	Should be retained at 10 percent of apartments (equivalent to 40 units).
Permissibility & strategic context	Contrary to relevant strategic and policy documents.

## 4.2 Proponent's Preferred Project Report

The Department has considered the issues raised in the agencies' and public submissions in its assessment of the modification as detailed in Section 5 below.



## 5. ASSESSMENT

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The Department considers that the key issues for the proposed modification are:

- deletion of a commitment to provide a pedestrian bridge over Epping Road;
- road safety; and
- Section 94 contributions.

### 5.1 Pedestrian bridge over Epping Road

The application seeks to modify Statement of Commitments B8 Traffic and Public Transport by deleting a commitment to provide a pedestrian bridge over Epping Road. This is indicated below:

#### ***B8. Traffic and Public Transport***

~~All roadworks related to the development will be paid for by the developer, including footpath works, bicycle way, roadworks within the site and immediately adjoining (where necessary/affected by the proposal) and management works during construction and for ongoing operation.~~

**Roadworks, footpaths and bicycle ways will be provided in accordance with a Voluntary Planning Agreement. Management of works will be undertaken by the proponent.**

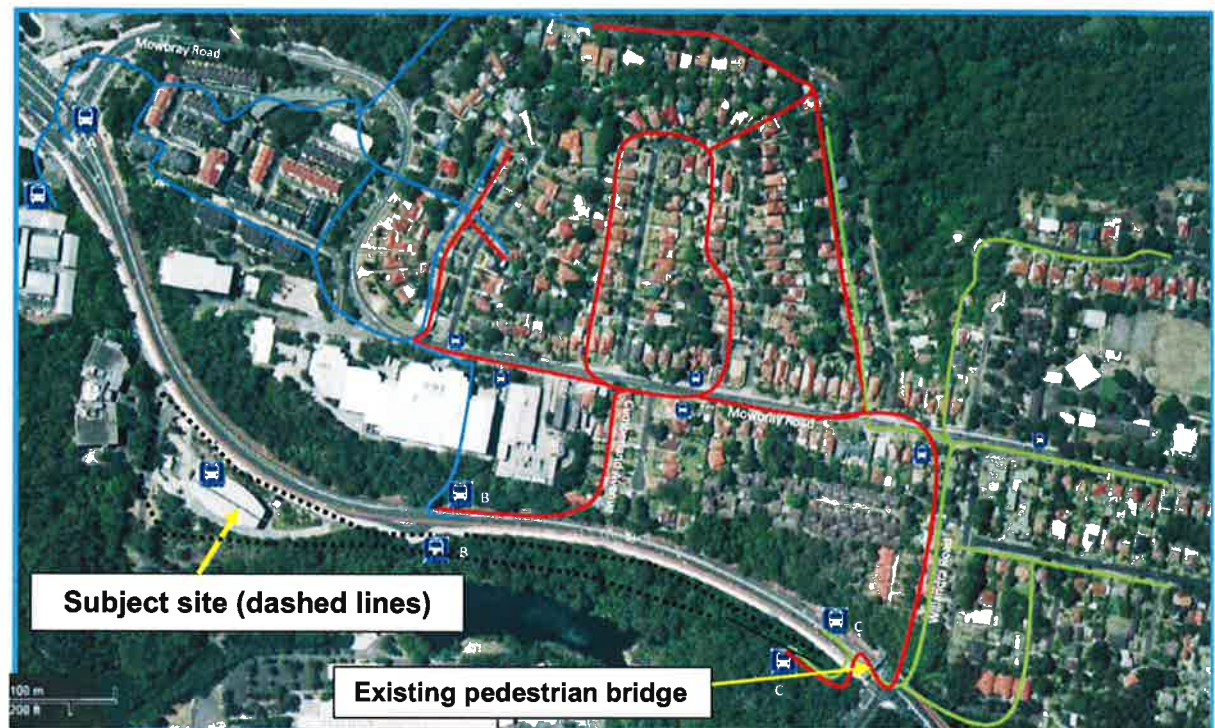
~~The developer will provide a pedestrian bridge over Epping Road, with disabled access, subject to agreement with the NSW Roads and Traffic Authority. An application for approval for the pedestrian bridge will be submitted with the RTA prior to a Development Application being lodged for the site.~~

The developer will also commit to changing the current bus stop just to the east of the development to an all-weather bus shelter **as outlined in a Voluntary Planning Agreement.**

Lane Cove Council and Willoughby City Council raised the following issues in respect of the proposed modification:

- a pedestrian bridge is fundamental to address the site's isolation;
- the bridge will provide an important community benefit for the site's future residents, providing a safe crossing to the bus stop on the eastern side of Epping Road; and
- there is a clear nexus between the proposed development and provision of access for future residents to city-bound bus services.

**Figure 4** below illustrates the location of the site in relation to bus stops on Epping Road and an existing pedestrian bridge adjacent to Sam Johnson Way. It also shows the nearest bus stops within the residential catchments of areas opposite the site. The bus stops are serviced by buses to Chatswood railway station, Ryde, West Ryde and Sydney CBD. The nearest bus stops are located directly in front of the site, then 250 m to the east and 590 m to the west.



**Figure 4: Proximity to Epping Road bus stops and existing pedestrian bridge (at Sam Johnson Way):**

*Bus stops A (approximately 300m from the site) - used by residents living in the areas denoted by blue line.*

*Bus stops B (directly in front of the site) - used by residents living in the areas denoted by the red line.*

*Bus stops C (approximately 590m from the site) - used by residents living in the areas denoted by the green line.*

The proponent's justification for the application and its response to the submissions is that:

- the bridge is not a highly desired link, is unlikely to be used frequently and would not be for the sole use of future residents of the site;
- a bridge was not required by RMS or Council in the original assessment;
- pedestrians can access bus stops on both sides of Epping Road via a pedestrian bridge/traffic signals at Sam Johnson Way, and traffic signals at Mowbray Road approximately 300 m distance from the site;
- a bridge is likely to attract signage, become unsightly and a public liability;
- the commitment was the previous proponent's and no agreements exist regarding costs, responsibility, ownership and maintenance;
- there has been no environmental, economic cost/benefit or access analysis of a bridge;
- the bridge would be located at the back of a business park with no direct connection to nearby residents; and
- it would be unreasonable to fund Council's alternative bridge location unless the total cost is fully offset against Section 94 contributions.

#### Department's Assessment:

The Department considers that provision of a pedestrian bridge is not a key component of the approved development. It was a commitment made by the original proponent and was not a key issue raised in the Department's original assessment. The Department also notes that RMS and Transport for NSW raised no concerns with the deletion of the pedestrian bridge.

The proponent's traffic assessment submitted with the application states that pedestrians will be able to access bus stops on both sides of Epping Road (via existing pedestrian

bridge/traffic signals at Sam Johnson Way, and existing traffic signals at Mowbray road, east and west of the site, respectively) without the need for the pedestrian bridge referred to in the statement of commitments.

The Department considers that the commitment to provide a pedestrian bridge was not sufficiently justified with regard to its location, future ownership and maintenance responsibilities, impacts on adjacent bushland, and its proximity to an existing pedestrian bridge over Epping Road at Sam Johnson Way.

The Department considers that pedestrian access to and from the site is satisfactory and the existing pedestrian infrastructure in the vicinity of the site provides continuous, safe access to bus stops on both sides of Epping Road, as illustrated in Figure 4. The Department also considers that the walking distance to the traffic signals at the Epping Road / Mowbray Road intersection (300m) and the existing pedestrian bridge at Sam Johnson Way (590m) is reasonable to access city-bound bus services.

In addition, the requirement for a pedestrian bridge (within close proximity of two existing pedestrian crossings) is considered to be unreasonable given the minimal public benefits that it would provide when considered against the significant financial costs associated with its construction (estimated at \$4-6m).

Accordingly, the department considers that and the deletion of the commitment to provide a pedestrian bridge is acceptable in the circumstances.

## 5.2 Road safety

The application seeks to delete Future Assessment Requirement number 8 that states:

### ~~8. 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 relevant findings are to inform the final design of the vehicular access arrangements.~~

Lane Cove Council raised the following issues in respect of this deletion:

- safety on the site is critical and an audit is essential due to Epping Road traffic volumes; and
- all required traffic studies must be undertaken before development application approval.

The proponent argues that a road safety audit is no longer required as the proposed modified access arrangements, including deletion of an on-site slip lane (see further details over) mean conflicts between traffic slowing down to enter the site's western end and traffic accelerating to exit via the eastern end will not occur.

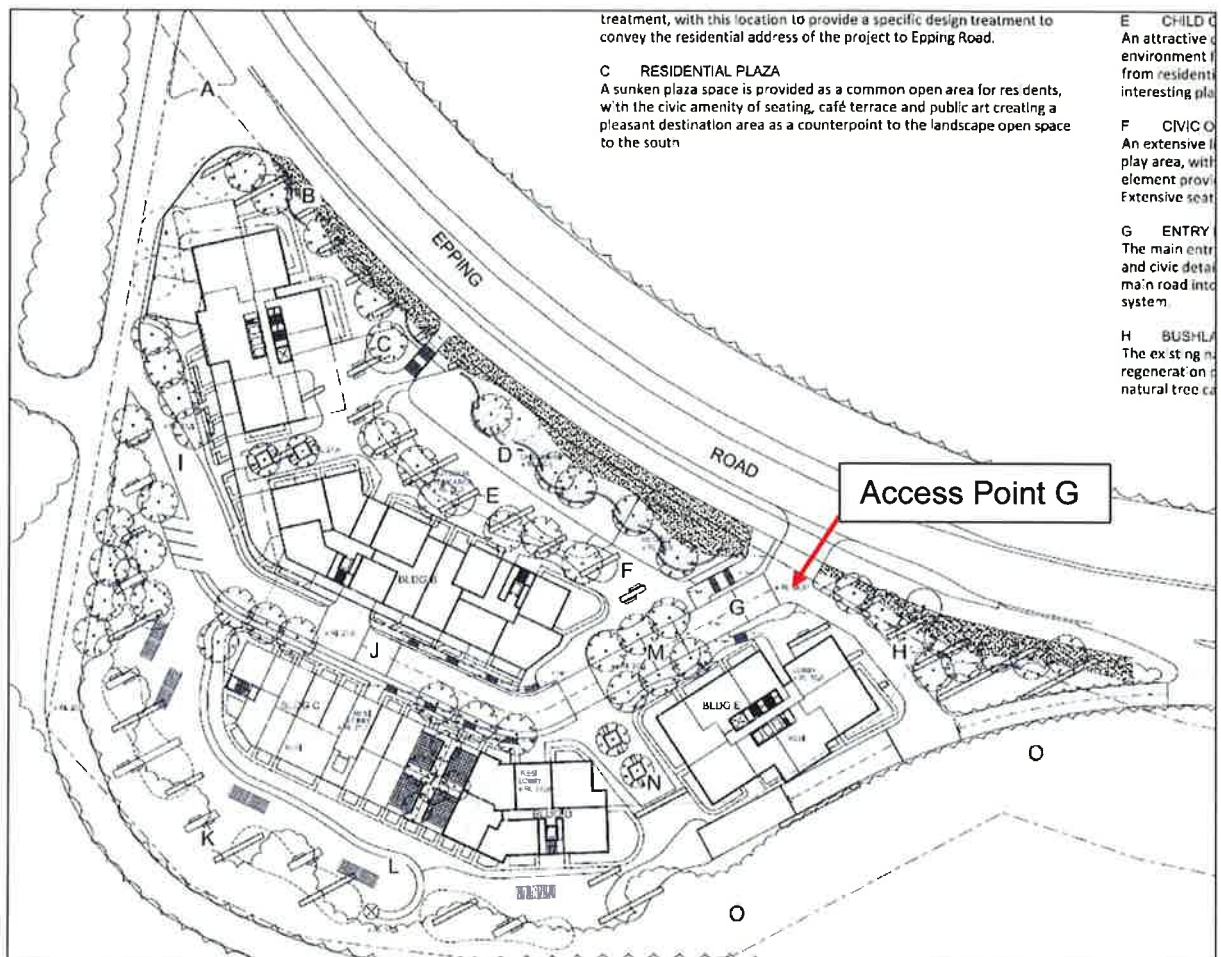
### Department's Assessment:

The proponent's PPR addressed comments made by the RMS on vehicular access to the site. The RMS recommended the requirement for a stage 2 road safety audit as part of the assessment of the original application. This was because the slip lane in front of the site may have resulted in traffic slowing down to enter the western end conflicting with traffic accelerating to exit via the eastern end. Consequently, the RMS required a road safety audit to review the access arrangements for vehicles entering and exiting the site.

The RMS did not object to the application (as amended in the PPR) as the change to the access point (denoted as "G" in **Figure 5** below) to an exit-only onto Epping Road will remove potential conflicts between vehicles entering and exiting the site. Accordingly, the



Department considers that this aspect of the application is reasonable and recommends it be approved.



**Figure 4: Proposed exit-only “G” (red arrow) from the site adjacent to slip lane**

### 5.3 Section 94 contributions

The application seeks to modify Future Assessment Requirement number 20 which requires payment of section 94 contributions in accordance with the requirements of Council’s contributions plan, to allow offsets for benefits in a proposed future VPA between Council and the proponent.

Lane Cove Council raised the following issues in respect of the application:

- offsetting/discounting of contributions is not supported as they provide infrastructure for future residents, including libraries, aquatic centres, and roads and open space;
- items included in the statement of commitments should not be claimed as offsets; and
- a VPA will provide additional, site-specific items.

#### Department’s Assessment:

The application will render the requirement uncertain as a VPA between Council and the proponent does not exist. The original proponent provided a letter of offer to Lane Cove Council (dated 9 March 2011) which has not been accepted by Council or progressed any further. The current proponent would need to re-initiate discussions with Council as the basis for a new offer. In the absence of any offer from the current proponent for a VPA, the Department recommends the condition not be modified.

*Lane Cove Council Section 94 Contribution Plan* does not provide for the offsetting of items against general contributions. The Department concurs with Lane Cove Council's comments that section 94 contributions are designed to meet broader community needs and that the other works/public benefits outside the scope of the section 94 plan were specific incentives proposed by the original proponent, given the uplift in the development potential associated with the proposal. The Department therefore considers that the offsetting of section 94 contributions against extra benefits offered by the original proponent is inappropriate in this instance. Accordingly, the Department recommends that Future Assessment Requirement not be amended.

## 5.4 Other issues

### Bushfire

The application seeks to modify Future Assessment Requirement number 17 by deleting the requirement to have regard to the comments of the RFS on the original application.

The proponent's justification for the modification and response to the RFS submission is that the RFS raised no objection to the proposal subject to compliance with relevant standards and requirements in relation to the child care centre.

#### Department's Assessment:

The RFS has requested the requirement not be modified in respect of the proposed child care centre and the remainder of the approved concept plan. This will ensure that the RFS' comments on the previous application continue to apply. The Department considers that the RFS comments are still relevant and provide important considerations for the assessment of future applications in relation to managing and mitigating potential bushfire risks on the site. Accordingly, the Department recommends that the requirement not be modified.

### Riparian land/vegetation management

The application seeks to modify Future Assessment Requirement number 16 to allow the riparian land/vegetation management plan to be submitted prior to the issue of any occupation certificate, instead of having to submit it with a future development application as is currently required.

The DPI commented on the application as follows:

- provision of a VMP prior to final occupation is inconsistent with the intent of VMPs and risks construction being completed without a VMP being undertaken;
- a VMP should be required earlier, for example, prior to construction commencing and be implemented prior to the issue of the occupation certificate; and
- the requirement should reference the revised *Guidelines for Vegetation Management Plans on Waterfront Land* (Office of Water, July 2012).

Alternatively, the DPI suggested that the requirement for a construction management plan (Future Assessment Requirement number 12) could be modified to include the requirements of a VMP, on the proviso the VMP is consistent with and continues on from the construction management plan.

The proponent's justification for the application and its response to the submissions is that construction is outside the riparian zone and the VMP can be approved before the issue of any occupation certificate. This will ensure the VMP is in place before any occupants are on the site.

### Groundwater



The application seeks to modify Future Assessment Requirement number 6 such that bore monitoring and approval for groundwater works be required only where deemed necessary by the proponent's groundwater investigation.

The proponent's justification for the application is that:

- the modification is minor;
- the resolution and outcome of measures should relate to the investigations; and
- preliminary investigation has found the water table is well below the proposed work zone/depth.

The DPI commented on the application as follows:

- the modification is only justified if the proponent has provided recent, site-specific measurements that conclusively demonstrate that groundwater is beneath the maximum excavation level.

#### Department's Assessment:

In respect of the VMP for riparian land/vegetation, a VMP is required where a proposal is likely to disturb or substantially modify a riparian corridor and contains details of how restoration or rehabilitation will be carried out. The main objective of a VMP is to provide a stable watercourse and riparian corridor which will emulate local native vegetation communities.

Works associated with the concept approval will occur in the bushland handle for services and walking infrastructure. The Department requires those works to be done to coincide with completion of the buildings. Council did not support the discounting of Section 94 contributions for upgrade works in the bushland.

The modification of Future Assessment Requirement number 16 reduces certainty around preparation and implementation of the VMP and ties it to the issue of *any* occupation certificate. The Department concurs with the comments of the DPI. Accordingly, the Department recommends that the application not be approved but rather the requirement to be modified to reference the revised *Guidelines for Vegetation Management Plans on Waterfront Land*.

In respect of the application for the groundwater requirement, the Department's considers that insufficient justification has been provided. The issues raised by the DPI are those that would be examined in a groundwater investigation as required by the approval. Accordingly, the Department recommends the modification not be approved.

#### **Changes to building envelopes**

The proposed change to the approved building envelopes from elliptical to regular shapes and a reduction in floor to ceiling heights (from 3.2 m to 3.1 m) will essentially retain the development's relationship with neighbouring development and will not result in any measurable amenity impacts. Future DAs for buildings will have to demonstrate compliance with SEPP 65 criteria and achieve design excellence, in accordance with Future Assessment Requirement number 1 of the concept plan approval. The proposed changes to the envelopes and footprints are therefore supported.

#### **Floor space mix**

The application proposes a change in the approved mix of land uses (see Table 1, Appendix A) but not to the total gross floor area (GFA). The proponent argues that the development

will still be a residential mixed use development with only a minor increase in residential GFA and will not be fundamentally different from the concept plan approval. It notes that the proposed reduction in retail GFA will remain appropriate to serve the needs of future residents on the site.

Lane Cove Council generally supported the proposed modified land-use mix. The Department's original assessment noted that likely future residents of the site would rely on the wider retail services available at the Lane Cove Town Centre which can be accessed by public bus services along Epping Road.

The retention of some retail and community GFA and the proposed addition of a child care centre will maintain an appropriate mix for the approved development. Accordingly, the revised land-use mix is supported.

### **Car parking**

The application proposes a reduction in the amount of on-site car parking from 646 to 596 spaces (see Table 1, Appendix A). The proponent's justification is that the application complies with the RTA Guide to Traffic Generating Development for high-density residential apartments with access to public transport. Furthermore, the application is consistent with Council's DCP objective to reduce on-site car parking in proximity to public transport. Lane Cove Council supports the proposed reduction in on-site car parking.

The Department is satisfied that the proposed reduction in on-site car parking is consistent with the RMS and Council's requirements. The Department accepts that the site is well serviced by public transport and recommends the application be approved accordingly.

### **Community bus**

The application proposes to amend Future Assessment Requirement No. 20 which requires future applications to detail proposed sustainability measures (such as a community bus). The proposed amendment would allow funds for a community bus to be given to Council through a Voluntary Planning Agreement. The proponent's justification is that this will enable funds to be provided to Council for an asset it can use and manage as part of a broader community transport network operation.

The application does not detract from the requirement for future applications to provide details on provision of a community bus and further, identifies that the necessary funds may be provided as part of a VPA. Accordingly, the Department supports the proposed modification.

### **Restrictive covenant**

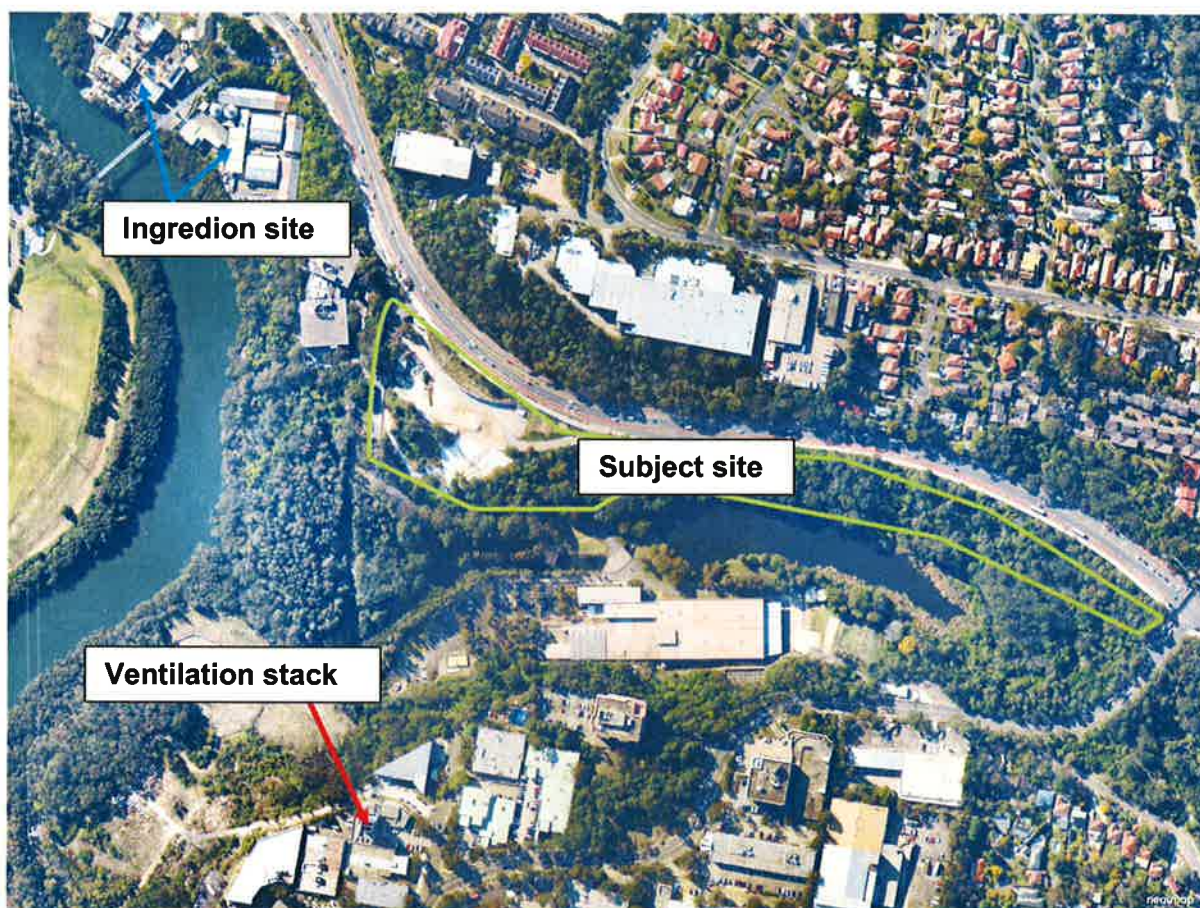
SC Johnson, the owner of 160 Epping Road, objected to the application on the grounds that without the existing restrictive covenant precluding residential development, the use of its site would be prejudiced. This would extend to vehicular conflicts and trespassing arising from unauthorised use by future residents of the development of the western access road (which is used by SC Johnson to access its site), employee safety and protection of its bushland reserve.

The covenant was created by SC Johnson when they undertook the subdivision to create the subject site (150 Epping Road). The Department's legal advice obtained in relation to the assessment of the original application indicated that the existence of a covenant did not preclude the site being considered for redevelopment under the concept plan. This is a private matter for resolution between the parties to the covenant. Accordingly, it is not a matter of consideration for the application.



## Air quality

Ingreion (formerly National Starch Pty Ltd), the owner of 170 Epping Road (to the north-west of the site – see **Figure 5**), objected to the application on the grounds of potential conflicts with the proposed child care centre and its site operations in terms of odour and potential chemical hazards.



**Figure 5: Location of site relative to Ingreion site and Lane Cove Tunnel western ventilation stack**

The Department's assessment of the original application considered industrial interface issues. It concluded that the site is physically separated from the balance of the industrial area due to topography and the locality is in transition from industrial to residential development. The Department's assessment also noted that the Office of Environment and Heritage (OEH), the EPA and NSW Health did not raise any concerns, and the operations of adjacent industrial activities were addressed by statutory requirements in respect of hazards and odour. Moreover, the future environmental assessment requirements included in the concept approval address issues relating to air quality and hazard analysis.

Public submissions raised the issue of potential impacts, particularly on the proposed child care centre, from emissions from the Lane Cove Tunnel ventilation stack. The OEH raised no objection to the original application in relation to air emissions from existing sources. The EPA, which now has responsibility for air quality matters, has not raised any concerns. Ambient air monitoring undertaken by the proponent for the original application demonstrated that pollutant emissions from the tunnel in conjunction with other nearby emission sources resulted in ground level concentrations typically well below relevant impact assessment criteria.

The proponent responded to these issues in its PPR on the basis that an odour and air quality report will be submitted for the child care centre fit-out. The proponent also argued that a child care centre has the same characteristics as the approved residential usage.

The Department considers there is sufficient separation distance from the location of the tunnel ventilation stack approximately 330 m to the south of the site (see **Figure 5**). The Department notes that the concept plan approval already requires the proponent to undertake a detailed air quality assessment (including odour) with the submission of future applications. The Department has revised the air quality assessment requirements (Future Assessment Requirement number 7) to include consideration of additional mitigation measures to minimise odour impacts in the detailed design stage of the development.

The Department considers that these requirements would ensure that any development on the site is appropriately designed to minimise odour impacts from the Ingression facility on future residents of the site.

### **Soil contamination**

NSW Health raised concern about the need to comprehensively assess contamination across the whole site particularly regarding the proposed child care centre. To address this issue, the Department's recommends that Future Assessment Requirement number four be modified to add the following contamination requirement:

*The National Environment Protection Measure low density residential health-based investigation level should be applied to the child care centre unless the proponent can demonstrate to the satisfaction of Council that children from the child care centre will have very limited access to contaminated soil.*

## **6. CONCLUSION AND RECOMMENDATIONS**

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The purpose of the application is to change the approved floor space mix, dedicate 1.35 hectares of bushland on the site to Lane Cove Council, delete a requirement to prepare a Stage 2 road safety audit and a commitment to provide a pedestrian bridge over Epping Road, and make minor changes to various future environmental assessment requirements.

The proposed modifications fall within the scope of section 75W of the EP&A Act and do not alter the original assessment as to the site's suitability for the approved development.

In assessing the application, the Department has reviewed the proponent's application and submission dated 14 June 2013, all agencies and public submissions, and the proponent's PPR dated 19 September 2013.

On balance, the Department considers that most of the modifications are reasonable. However the Department considers that insufficient justification has been advanced by the proponent for the modification of future environmental assessment requirements relating to contamination, groundwater, riparian land vegetation management, bushfire, hazard analysis and Section 94 contributions. Accordingly, the Department recommends the application in respect of those requirements not be approved.

It is recommended that the Planning Assessment Commission consider the report and its findings and approve the modification request under section 75W of the *Environmental Planning and Assessment Act 1979*, by signing the attached modifying instrument

 6/11/13.

A/Director  
Industry, Social Projects and Key Sites



13.11.13

Executive Director  
Development Assessment and  
Systems Performance



# APPENDIX A APPLICATION AND PREFERRED PROJECT REPORT

See also the Department's website at <http://majorprojects.planning.nsw.gov.au/page/>

**Table 1: Application as lodged and as subsequently amended by the PPR**

Schedule/Term of Approval/future environmental assessment requirements	Concept Approval	Application as submitted	Modification as per PPR
Term of Approval A1 Development Description	<ul style="list-style-type: none"> <li>• Demolition of all existing structures;</li> <li>• remediation of the land;</li> <li>• retention, and rehabilitation of 1.35ha of bushland and the provision of a walking trail and associated infrastructure;</li> <li>• a basement car park for approximately 646 spaces;</li> <li>• approximately 400 residential apartments including 10% 'affordable housing' apartments;</li> <li>• 769sqm of retail floor space;</li> <li>• 800sqm of commercial floor space;</li> <li>• 1,850sqm of community floor space;</li> <li>• up to 31,615sqm of residential floor space;</li> <li>• subdivision to create a development lot and open space lot; and</li> <li>• open space, internal vehicular/pedestrian access and associated landscaping.</li> </ul> <p>Note: The number of apartments and car spaces may vary by a maximum of 10% without any change to the approved gross floor area or building envelopes.</p>	<ul style="list-style-type: none"> <li>• Reduce basement parking from 646 to 596 spaces; and</li> <li>• increase total GFA from 35,034sqm to 36,927sqm;</li> <li>• decrease retail floor space from 769sqm to 258sqm;</li> <li>• decrease commercial floor space from 800sqm to 0sqm;</li> <li>• decrease community floor space from 1,850sqm to 816sqm;</li> <li>• add an 85-space child care centre of 650sqm;</li> <li>• change affordable housing from 10% on site to 4% monetary contribution; and</li> <li>• increase residential apartments from 400 to 403 (31,615sqm to 35,203sqm).</li> </ul>	<ul style="list-style-type: none"> <li>• Dedicate to Council 1.35 ha of bushland;</li> <li>• reduce basement parking from 646 to 596 spaces;</li> <li>• no change to approved total GFA;</li> <li>• decrease retail floor space from 769sqm to 258sqm;</li> <li>• decrease commercial floor space from 800sqm to 0sqm;</li> <li>• decrease community floor space from 1,850sqm to 816sqm;</li> <li>• add an 85-space child care centre of 650sqm;</li> <li>• no change to requirement to provide 10% 'affordable housing' apartments; and</li> <li>• increase residential floor space from 400 to 403 (31,615sqm to 33,310sqm).</li> </ul>
Term of approval A2	Development in accordance with the plans and documentation.	<p>Reference the proposed modified drawings to:</p> <ul style="list-style-type: none"> <li>• increase number of storeys of most of the building envelopes by reducing floor to ceiling heights from 3.2 m to 3.1 m;</li> <li>• increase heights of building envelopes C, D and E, reduce heights of building envelope A;</li> <li>• change the mix of land uses;</li> <li>• reduce on-site car</li> </ul>	<ul style="list-style-type: none"> <li>• Maintain the approved heights of building envelopes A, C and E;</li> <li>• slightly increase the height of building envelope B and reduce the height of building envelope D;</li> <li>• reduce floor to ceiling heights from 3.2 m to 3.1 m; and</li> <li>• retain Epping road slip Lane.</li> </ul>

Schedule/Term of Approval/future environmental assessment requirements	Concept Approval	Application as submitted	Modification as per PPR
		<p>parking;</p> <ul style="list-style-type: none"> <li>• minor changes to the shapes of the approved building envelopes (see Figures 1 and 2 below);</li> <li>• consequential changes to site circulation; and</li> <li>• delete Epping Road slip lane.</li> </ul>	
Modifications to the Concept Plan B1 Full compliance with SEPP 65	The concept approval is subject to each building (including any townhouses included building) strictly comply with <i>State Environmental Planning Policy 65 – Design Quality of Residential Flat Development</i> (SEPP 65) and the accompanying <i>Residential Flat Design Code 2002</i> .	Delete the requirement in its entirety.	As per Concept Approval – no change to the requirement.
Schedule 3 Future environmental assessment requirements No. 1 Building design	<p>(a) Future applications for development on the site shall achieve design excellence in accordance with the requirements of the Director General's Design Excellence Guidelines.</p> <p>(c) The development shall demonstrate compliance with the provisions of the <i>State Environmental Planning Policy 65 – Design Quality of Residential Flat Development</i> (SEPP 65) and the accompanying <i>Residential Flat Design Code 2002</i>, except where modified by this Concept Plan approval.</p>	<p>Delete the requirement and add the following:</p> <p>(a) Future design of the building shall be prepared by an architectural firm with outstanding experience in urban design. The architectural plans are to be peer reviewed prior to lodging the principal development application with Council (including any early works development applications).</p> <p>Amend the requirement, as follows:</p> <p>(c) replacement of the words "compliance with" with "generally satisfied".</p>	As per Concept Approval – no change to the requirement.
No. 3 Noise management assessment	Detailed noise management assessment, including medication measures.	Include the enclosure of balconies as a mitigation measure to minimise noise impacts to units from external sources.	As per application as submitted.
No. 4 Contamination	Detailed contamination assessment, remediation action plan in accordance with SEPP 55 guidelines, and a comprehensive human health risk assessment if contamination is identified.	Confirm that any future DAs will comply with the contamination requirements of the concept approval by adding the words, "Any future DA shall have regard to the following:" to the beginning of the requirement.	As per Concept Approval – no change to the requirement.
No. 6 Groundwater	Detailed groundwater investigation in accordance of the Office of Water requirements.	Add qualifying words to FAR6 (a) and (b) such that the respective requirements are triggered only if "required" by the groundwater investigation.	As per application as submitted.
No. 7 Air quality	Detailed air quality assessment including mitigation of impacts from the nearby National Starch	Include enclosed balconies and location of air intakes as mitigation measures to minimise odour impacts on	As per application as submitted.

Schedule/Term of Approval/future environmental assessment requirements	Concept Approval	Application as submitted	Modification as per PPR
	facility.	future residents of the site from the National Starch facility (now known as Ingredion ANZ Pty Ltd).	
No. 8 Vehicular access	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 relevant findings are to inform the final design of the vehicular access arrangements.	Delete the requirement in its entirety.	As per application as submitted.
No. 9 Traffic impact	Traffic impact analysis, in consultation with Lane Cove Council and RMS, of the impacts of the development on the operation of the intersection of Mowbray road and Centennial Avenue, including cumulative impacts and the need for any necessary upgrades.	Delete the requirement in its entirety.	As per Concept Approval – no change to the requirement.
No. 10 Parking plan	Provision of parking and bicycle requirements in accordance with Australian Standards and Lane Cove Council's DCP.	Delete the requirement to provide details of bicycle parking for the commercial component of the proposal as no commercial uses are included in the proposed modified development.	As per application as submitted.
No. 12 Construction management plan	Detailed construction management plan for both stages of the development and a construction environmental management plan.	Delete the reference to the stages of the development as the proposed modified development will not be staged.	As per application as submitted.
No. 14 Staging plan	A detailed staging plan showing sequential development and specifying the components of the first stage, including all road works to Epping Road for the entire development and a suitable buffer to the second stage.	Clarify that the requirement to prepare a staging plan applies only if staging is proposed, that road works to Epping Road shall be completed prior to the issue of an occupation certificate equating to 50% of the approved units, and deletion of the requirement to provide a suitable buffer to the second stage.	As per application as submitted, except that timing for completion is referenced to prior to "an occupation certificate".
No. 15 Geotechnical assessment	A geotechnical assessment of impacts of the development on the Lane Cove Tunnel during and after construction to be submitted to RTA for review and comment prior to being finalised.	Replace the words 'Roads and Traffic Authority (RTA)' with 'Roads and Maritime Services' to reflect the agency's name change.	As per application as submitted.
No. 16 Riparian land/vegetation management	Vegetation management plan addressing matters in	Change the timing for submission of management	As per application as submitted.

Schedule/Term of Approval/future environmental assessment requirements	Concept Approval	Application as submitted	Modification as per PPR
plan	the relevant Department of Water and Energy.	plan to prior to the issue of any Occupation Certificate and construction will occur outside the riparian zone and the plan can be approved before final occupation.	
No. 17 Bush fire	A report demonstrating how the final design complies with the <i>New South Wales Planning for Bushfire Protection Guidelines 2006</i> and <i>AS 3959-2009 Construction of Buildings in Bush Fire Prone Areas</i> and has regard to the comments from the NSW RFS in their letter dated 25 July 2012 (S12/0013).	Delete the requirement to have regard to the comments of the NSW RFS in its letter dated 25 July 2012 given that the proposed modification incorporates the RFS' requirements in the revised design and supporting assessment.	As per application as submitted.
No. 19 Hazard analysis	A detailed Hazard Analysis to ensure impacts from neighbouring industrial facilities are appropriately controlled and do not exceed the risk criteria in the <i>Hazardous Industry Planning Advisory Paper No. 4 Risk Criteria for Land Use Safety Planning, NSW Department of Planning</i> .	Delete the word, 'detailed' from the requirement to prepare a detailed hazard analysis.  The proponent wishes to modify this requirement as a detailed analysis should not be required under the provisions of the <i>Hazardous Industry Planning Advisory Paper No. 4 Risk Criteria for Land Use Safety Planning</i> as it is only a guideline document.	As per application as submitted.
No. 20 Section 94 contributions	Payment of developer contributions to Lane Cove Council towards the provision or improvement of public amenities and services. The amount of the contribution shall be determined by Council in accordance with the requirements of the Contributions Plan current at the time of approval.	Add a requirement to enable consideration of appropriate offsets for the cost of bushland upgrade works such as infrastructure for the use by the public and outlined in the riparian land/vegetation management plan and any other associated public benefits provided by the developer which can reasonably be provided as an "in-kind" credit include in the contribution payable, offsets out as outlined in a voluntary planning agreement.	Amend the requirement only to include in the contribution payable, offsets out as outlined in a voluntary planning agreement, and delete the reference to contribution rates at the time of 'approval'.
No. 23 Public access	a) Design details of a public walking trail with rest points, seats and information posts through the undeveloped riparian bushland portion of the site. b) Clearly set out the mechanism for creating rights of public access to the undeveloped riparian bushland with the relevant	Amend the timing of submission of details of a mechanism for creating rights of public access to the undeveloped riparian bushland to the 'final' occupation/use of the development.	As per application as submitted.

Schedule/Term of Approval/future environmental assessment requirements	Concept Approval	Application as submitted	Modification as per PPR
	instrument/s to be executed prior to commencement of the final occupation/use of the development.		
No. 24 Public art	Details of the type and location of a permanent public art installation commissioned by Catra Pty Ltd in accordance with Lane Cove Development Control Plan.	Amend the wording to delete reference to the previous proponent's/landowner's name and add a requirement that public art be constructed prior to the issue of the final occupation certificate for the development.	As per application as submitted.
No. 25 Sustainability measures	Details on the provision of sustainability measures such as car share spaces, a community bus, charge points for electric cars, bicycle parking and storage.	Delete the reference to a community bus.	Retain the reference to a community bus and amend the wording to clarify that funds for the measures listed in the requirement may be provided as part of a voluntary planning agreement.
No. 27 Bushland rehabilitation	Details on whether the undeveloped riparian bushland portion of the site will be dedicated to Lane Cove Council or retained in private ownership and maintained by the landowner.	Add the words "after considering the preference of Lane Cove Council" to the requirement.	Amend the wording only to clarify that the bushland will be dedicated to Lane Cove Council, and to delete reference to the alternative option of retaining the bushland in private ownership with maintenance by the landowner.
Schedule 4 Statement of Commitments B8 Traffic and Public Transport	The commitment provides, inter alia, that "The developer will provide a pedestrian Bridge over Epping Road with disabled access subject to agreement with the NSW Roads and Traffic Authority. An application for approval for the pedestrian bridge shall be submitted with the RTA prior to a Development Application being lodged for the site."	Delete the requirement to provide a pedestrian bridge.	As per application as submitted.



## **APPENDIX B SUBMISSIONS**

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See the Department's website at <http://majorprojects.planning.nsw.gov.au/page/>

## **APPENDIX C    CONCEPT APPROVAL MP10\_0148**

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See the Department's website at <http://majorprojects.planning.nsw.gov.au/page/>

# Modification of Minister's Approval

## Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation dated 14 September 2011, the Planning Assessment Commission approves the modification of the concept application referred to in Schedule 1, subject to the Terms of Approval in Schedule 2 and the Future Environmental Assessment Requirements in Schedule 3.

### MEMBER OF THE COMMISSION

Sydney

### MEMBER OF THE COMMISSION

2013

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### SCHEDULE 1

**Application No.:**

MP10\_0148 granted by the Planning Assessment Commission on 14 August 2012.

**Proponent:**

Catra Pty Ltd

**Approval Authority:**

Minister for Planning and Infrastructure

**Land:**

Lot 21 DP 825400

**Project:**

150 Epping Road, Lane Cove

Concept approval is granted to the development for:

- demolition of all existing structures;
- remediation of the land;
- rehabilitation of 1.35ha of bushland and the provision of a walking trail and associated infrastructure;
- basement car parking;
- residential floor space for approximately 400 residential apartments including 10% 'affordable housing' apartments;
- retail, commercial and community floor space; and
- open space, internal vehicular/pedestrian access and associated landscaping.

**Modification Application No. 1:**

Modifications to provide a child care centre, changes to the floor space mix, dedication to Council of 1.35 hectares of bushland, deletion of a requirement to prepare a Stage 2 road safety audit, clarification of staging, and minor changes to some Future Environmental Assessment Requirements.

## DEFINITIONS

<b>Act</b>	means the <i>Environmental Planning and Assessment Act 1979</i> (as amended).
<b>Advisory Notes</b>	means advisory information in relation to the approved development.
<b>BCA</b>	means the <i>Building Code of Australia</i> .
<b>Certifying Authority</b>	has the same meaning as Part 4A of the Act.
<b>Council</b>	means Lane Cove Council.
<b>Department</b>	means the Department of Planning and Infrastructure or its successors.
<b>Director-General</b>	means the Director-General of the Department or his nominee.
<b>Environmental Assessment (EA)</b>	means the Environmental Assessment prepared by Perica & Associates dated 28 June 2011.
<b>Minister</b>	means the Minister for Planning & Infrastructure.
<b>MP No. 10_0148</b>	means the Major Project described in the Environmental Assessment as amended by the Preferred Project Report.
<b>PCA</b>	means a Principal Certifying Authority and has the same meaning as Part 4A of the Act
<b>Preferred Project Report (PPR)</b>	means the Preferred Project Report prepared by Perica & Associates dated 5 March 2012.
<b>Proponent</b>	means Catra Pty Ltd or any party acting upon this approval.
<b>Regulation</b>	means the <i>Environmental Planning and Assessment Regulation 2000</i> (as amended).

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## SCHEDULE 2

### PART A - TERMS OF APPROVAL

(1) Term of Approval A1 is modified as follows:

#### **A1 DEVELOPMENT DESCRIPTION**

Concept approval is granted to the development as described below:

- demolition of all existing structures;
- remediation of the land;
- retention, ~~and rehabilitation~~ **and dedication to Council** of 1.35ha of bushland and the provision of a walking trail and associated infrastructure;
- a basement car park for approximately ~~646~~ **596** spaces
- approximately 400 residential apartments including 10% 'affordable housing' apartments,
- ~~769sqm~~ **258sqm** of retail floor space
- ~~800sqm~~ **0sqm** of commercial floor space
- ~~1,850sqm~~ **816sqm** of community floor space;
- up to ~~31,615sqm~~ **33,310sqm** of residential floor space;
- subdivision to create a development lot and open space lot; and
- open space, internal vehicular/pedestrian access and associated landscaping.

Note: The number of apartments and car spaces may vary by a maximum of 10% without any change to the approved gross floor area or building envelopes.

(2) Term of Approval A2 is modified as follows:

#### **A2 DEVELOPMENT IN ACCORDANCE WITH THE PLANS AND DOCUMENTATION**

The approval shall be generally in accordance with MP 10\_0148, ~~and the Environmental Assessment prepared by Perica & Associates 28 June 2011, and the revised Statement of Commitments (refer to Schedule 4), except where amended by the Preferred Project Report prepared by Perica and Associates dated 5 March 2012, and the Section 75W application Planning Report dated 14 June 2013 and Preferred Project Report dated 19 September 2013 both prepared by Meriton Property Services Pty Ltd,~~ and the following drawings:

<b>Architectural Drawings prepared by CM+(Conybeare Morrison International Pty Ltd)</b>			
<b>Drawing No.</b>	<b>Issue</b>	<b>Title of Plan</b>	<b>Date</b>
A010	<del>2</del> <b>4</b>	Building Envelope Plan	<del>27 July 2012</del> <b>16 September 2013</b>
A101	<del>2</del> <b>6</b>	Roof Plan	<del>27 July 2012</del> <b>16 September 2013</b>
A102	<del>2</del> <b>3</b>	Plan at RL 30.5	<del>27 July 2012</del> <b>6 June 2013</b>
A103	<del>2</del> <b>4</b>	Plan at RL 27.5	<del>27 July 2012</del> <b>16 September 2013</b>
A104	<del>2</del> <b>3</b>	Plan at RL <del>24.5</del> <b>24.3</b>	<del>27 July 2012</del> <b>6 June 2013</b>
A105	<del>2</del> <b>3</b>	Plan at RL <del>22</del> <b>21.1</b>	<del>27 July 2012</del>

			<b>6 June 2013</b>
A106	<b>2 3</b>	Plan at RL 19 18	<del>27 July 2012</del> <b>6 June 2013</b>
A201	<b>2 5</b>	Site Elevation - North	<del>27 July 2012</del> <b>19 August 3013</b>
A202	<b>2 5</b>	Site Elevation – West	<del>27 July 2012</del> <b>19 August 3013</b>
A203	<b>2 5</b>	Site Elevation – East	<del>27 July 2012</del> <b>19 August 3013</b>
A204	<b>2 6</b>	Site Section A	<del>27 July 2012</del> <b>19 August 3013</b>
A205	<b>2 6</b>	Site Section B	<del>27 July 2012</del> <b>19 August 3013</b>
A601	<b>2 4</b>	Schedule of Areas	<del>27 July 2012</del> <b>19 August 3013</b>

except for as modified by the following pursuant to Section 75O(4) of the Act.

(3) Term of Approval A3 is modified as follows:

### **A3 LAPSING OF APPROVAL**

Approval of the Concept Plan shall lapse 5 years after the determination date shown on this Instrument of Approval, unless an application is submitted to carry out a project or development **for** which concept approval has been given prior to the lapsing of the Concept Plan.

## **SCHEDULE 3**

### **FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS**

(1) Future Environmental Assessment Requirement 3 is modified as follows:

### **3. NOISE MANAGEMENT ASSESSMENT**

- a) A detailed Noise Management Assessment, prepared by a suitably qualified acoustic consultant in accordance with the NSW Industrial Noise Policy. The noise assessment shall identify which buildings or parts of buildings require acoustic treatment to habitable spaces to provide satisfactory indoor noise levels. The assessment is to include all noise sources surrounding the site including traffic and industrial activities. The mitigation measures to minimise noise impacts (eg. landscape buffers, building design, **enclosure of balconies**, construction techniques) are to inform the detailed design stage of the development.

(2) Future Environmental Assessment Requirement 4 is modified as follows:

### **4. CONTAMINATION**

- a) Preparation of a detailed contamination assessment, prepared by a suitably qualified person including a Sampling, Analysis and Quality Plan.
- b) A ~~Remediation~~ **Remedial** Action Plan, prepared by a suitably qualified person in accordance with *Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land (DUAP/EPA 1998)*, based on recommendations and conclusions in the Contamination Assessment Report, prepared by AECOM, dated 4 March 2011.

- c) Should contamination be identified through intrusive monitoring, a comprehensive human health risk assessment taking into account pathways of human exposure shall be conducted to inform the ~~remediation~~ **remedial** plan.
- d) **The National Environment Protection Measure low density residential health-based investigation level should be applied to the proposed child care centre unless the proponent can demonstrate to the satisfaction of Council that children from the child care centre will have very limited access to contaminated soil.**

(3) Future Environmental Assessment Requirement 7 is modified as follows:

## **7. AIR QUALITY**

- a) A detailed Air Quality Assessment, prepared by a suitably qualified consultant is to provide mitigation measures that can be incorporated into the design of the buildings to minimise odour impacts from the National Starch facility to future residents on the site. The assessment must be based on the current activities and analysis should be undertaken using the facility-specific data from the National Pollution Inventory. The mitigation measures to minimise odour impacts are to inform the detailed design stage of the development **(and may include measures such as enclosed balconies and location of air intakes).**

(4) Future Environmental Assessment Requirement 8 is modified as follows:

## **8. ~~VEHICULAR ACCESS~~**

~~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 relevant findings are to inform the final design of the vehicular access arrangements.~~

(5) Future Environmental Assessment Requirement 10 is modified as follows:

## **10. PARKING PLAN**

- a) A Parking Plan showing the proposed car parking areas including driveways, grades, turning paths, site distance requirements, aisle widths, aisle lengths and parking bay dimensions in accordance with AS 2890.1 – 2004, **including Amendment 1:2005 Parking Facilities – Off-street Car Parking** and AS2890.2 – 2002 **Off-street commercial vehicle facilities** ~~for heavy vehicle usage.~~
- b) Details of bicycle storage in the basement of apartments and bicycle lockers and bicycle parking areas for the retail ~~and commercial~~ components in accordance with Lane Cove Council's Development Control Plan.

(6) Future Environmental Assessment Requirement 12 is modified as follows:

## **12. CONSTRUCTION MANAGEMENT PLAN**

- a) A detailed Construction Management Plan (CMP) shall be provided for ~~both stages of~~ the development on the site to a level of detail commensurate to the type of application lodged. The CMP shall address, but not be limited to, the following matters where relevant: hours of work; contact details of site manager; erosion and sediment control; traffic management; noise and vibration management; waste management and flora and fauna management.

- b) The designs and construction methods and activities are to result in NIL or minimal harm to aquatic and riparian environments and will not cause erosion or sedimentation. All engineering, other structural works or natural landscaping proposed must be designed, constructed and operated by suitably qualified professionals, recognised in that specialised field. This also relates to vegetation rehabilitation practices in the eastern part of the site.
- c) The CMP shall be prepared in consultation with the RMS and NSW State Transit Authority.
- d) A Construction Environmental Management Plan (CEMP) shall provide details on measures to avoid, minimise, mitigate, manage and if required offset residual environmental impacts of the proposed construction works on surrounding bushland. The CEMP shall include the measures identified in the Flora and Fauna Assessment, prepared by Aecom, dated 7 March 2011.

(7) Future Environmental Assessment Requirement 14 is modified as follows:

#### 14. STAGING PLAN

- a) **If staging is proposed, a** A detailed Staging Plan showing the development being carried out in a sequential manner. ~~The first stage should include all~~ **All road works to Epping Road for the entire development, (within Epping Road and associated with the development) and access arrangements for new residents and provision of a suitable buffer to the second stage shall be completed prior to the first occupation certificate.**

(8) Future Environmental Assessment Requirement 15 is modified as follows:

#### 15. GEOTECHNICAL ASSESSMENT

- a) A Geotechnical Assessment is required to assess **and ensure there are no** the impacts of the development on the Lane Cove Tunnel during and after development construction. The assessment will need to include detailed information on the proposed final design, depth and type of footings and foundations of all the buildings. The Geotechnical Assessment is to be submitted to the Roads and ~~Traffic Authority~~ **Maritime Services (RTA-RMS)** for review and comment prior to being finalised **and construction commencing**, with any comments received within 30 days of being submitted to the **RTA RMS** included in the report.

(9) Future Environmental Assessment Requirement 16 is modified as follows:

#### 16. RIPARIAN LAND/VEGETATION MANAGEMENT PLAN

- a) A Vegetation Management Plan (VMP) shall be provided for riparian land in the undeveloped southern and eastern portions of the site. The VMP must consider the criteria identified in the ~~Vegetation Management Plan Guidelines, prepared by the Department of Water and Energy, (February 2008)~~ **Guidelines for Vegetation Management Plans on Waterfront Land** (Office of Water, July 2012). The VMP is to be prepared by a suitably qualified person and should address but not be limited to, the following:
  1. Provide details of vegetation to be retained and measures to protect riparian vegetation during the construction and operation phases of the development.
  2. Identify areas to be rehabilitated and details of the vegetation species, composition, planting, layout and densities of plants to re-vegetate these areas.



3. Long term financial commitment to any proposed conservation measures, including any mechanisms to be implemented to achieve this and costings.
4. Outline ongoing management arrangements, including but not limited to responsibilities, funding and long term maintenance.
5. Provide details on weed control, access control, rubbish control, planting, monitoring and timing of revegetation works within the retained vegetation and the areas to be revegetated.
6. A plan showing the location of the Asset Protection Zone (APZ) around the southern developable portion of the site in relation to riparian land and the proposed walking track and associated infrastructure and sewer infrastructure.

(10) Future Environmental Assessment Requirement 17 is modified as follows:

## 17. BUSHFIRE

- a) A report demonstrating how the final design complies with the *New South Wales Planning for Bushfire Protection Guidelines 2006* and *AS 3959-2009 Construction of Buildings in Bush Fire Prone Areas* and has regard to the comments from the NSW RFS in their letter dated 25 July 2012 (S12/0013).
- b) The proposed child care centre must be constructed to BAL 12.5 in accordance with AS 3959-2009 Construction of Buildings in Bush Fire Prone Areas.**

(11) Future Environmental Assessment Requirement 18 is modified as follows:

## 18. ABORIGINAL HERITAGE

- a) An Aboriginal Heritage Statement to assess the impact of the works to be undertaken for a walking trail and associated infrastructure in the eastern part of the site.
- b) Provide details of consultation with Aboriginal groups as set out in ~~the draft Guidelines of Aboriginal Cultural Heritage Impact Assessment and Community Consultation July 2005~~ **Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (DECCW, 2010).**

(12) Future Environmental Assessment Requirement 21 is modified as follows:

## 21. VOLUNTARY PLANNING AGREEMENT

- a) The future application for the first stage of building development **(if staged, otherwise the first development application)** shall provide details in the form of discussions and/or correspondence with Lane Cove Council regarding the progress or otherwise of a voluntary planning agreement.

(13) Future Environmental Assessment Requirement 23 is modified as follows:

## 23. PUBLIC ACCESS

- c) The future application shall provide design details of a public walking trail with rest points, seats and information posts through the undeveloped riparian bushland portion of the site.
- d) The future application shall clearly set out the mechanism for creating rights of public access to the undeveloped riparian bushland with the relevant instrument/s to be executed prior to commencement of the **final** occupation/use of the development.

(14) Future Environmental Assessment Requirement 24 is modified as follows:

#### **24. PUBLIC ART**

- a) The future application shall provide details of the type and location of a permanent public art installation ~~commissioned by Catra Pty Ltd in accordance with Part L of the Lane Cove Development Control Plan adopted on 22 February 2010.~~ **The public art shall be constructed prior to the issue of the final occupation certificate for the development.**

(15) Future Environmental Assessment Requirement 25 is modified as follows:

#### **25. SUSTAINABILITY MEASURES**

- a) The future application shall provide details on the provision of sustainability measures such as car share spaces, a community bus **(funds for which may be provided as part of a voluntary planning agreement with Council)**, charge points for electric cars, bicycle parking and storage.

(16) Future Environmental Assessment Requirement 27 is modified as follows:

#### **27. BUSHLAND REHABILITATION**

- a) The future application shall provide details on **the dedication, free of cost to Lane Cove Council and the upgrade to Council's agreed standard, of the** ~~whether the undeveloped riparian bushland portion of the site will be dedicated to Lane Cove Council or retained in private ownership and maintained by the landowner.~~

**End of Schedule 3**

## SCHEDULE 4

### STATEMENT OF COMMITMENTS

#### PART A – ADMINISTRATIVE COMMITMENTS

(1) Statement of commitment A1 is modified as follows:

##### **A1. Project Description**

A Mixed Use development comprising a total of ~~35,066~~ **35,034** sqm of Gross Floor Area (as defined under Lane Cove LEP 2009) ~~including 742 sqm of retail space, 800 sqm of commercial space, 1,850 sqm of community uses, and 31,674 sqm of residential Gross Floor Area (GFA), to accommodate a total of 402 units\* and approximately 645 car spaces.~~

*Responsibility – Proponent and Department of Planning*

(2) Statement of commitment A2 is modified as follows:

##### **A2. Future Development Applications**

Future Development Applications will be submitted to Lane Cove Council under Part 4 of the EP&A Act and be generally in accordance with the Concept Plan approval ~~submitted with this application.~~

*Responsibility -Proponent and Department of Planning*

\* *The final unit number may vary by +/- 10%, provided the gross floor area and envelopes are complied with. The same applies for car parking.*

#### PART B - GENERAL

(3) Statement of commitment B1 is modified as follows:

##### **B1. Bushfire Management**

Bushfire hazard will be managed consistent with Planning for Bushfire Protection Guidelines and be in accordance with the recommendations of the Bushfire Hazard Assessment report prepared by ~~Barry Eadie Consulting~~ **Building Code and Bushfire Hazard Solutions, as amended by any conditions of approval.**

*Responsibility -Proponent and Occupants*

(4) Statement of commitment B2 is modified as follows:

##### **B2 Land Contamination Investigation**

To ensure the site is suitable for residential purposes additional assessment will be carried out as required. Site audits will be carried out as necessary to certify the suitability of the site for the proposed uses and according to SEPP55 Guidelines and in accordance with the recommendations made in the Contamination Assessment Report prepared by Aecom **and/or conditions of any other development approval issued for the land.**

*Responsibility –Proponent*

(5) Statement of commitment B3 is modified as follows:

##### **B3. Flora and Fauna**

To ensure that impacts on the surrounding ecology are minimised, all works will comply with the mitigation measures outlined in the Flora and Fauna Assessment report prepared

by Aecom **and/or conditions of any other development approval issued for the land.**

*Responsibility -Proponent*

(6) Statement of commitment B4 is modified as follows:

**B4. Heritage**

An assessment of non-Indigenous and Aboriginal heritage was undertaken for the Concept Plan. Further Heritage Impact statements and Consultation shall be carried out in accordance with the recommendations of the Heritage Study prepared by Artefact Heritage Services **if required.**

*Responsibility -Proponent*

(7) Statement of commitment B5 is modified as follows:

**B5. Air Quality & Odour**

The Proponent commits to comply with the recommendations of the Air Quality & Odour Constraints Study prepared by Aecom **where required.**

*Responsibility -Proponent*

(8) Statement of commitment B7 is modified as follows:

**B7. Geotechnical and Contamination**

Preliminary geotechnical information has been assessed. Further detailed geotechnical assessment and reports will be undertaken at Development Application stage. A Remedial Action Plan will be prepared as part of any future Development Application or Project Application **if required.**

*Responsibility –Proponent*

(9) Statement of commitment B8 is modified as follows:

**B8. Traffic and Public Transport**

~~All roadworks related to the development will be paid for by the developer, including footpath works, bicycle way, roadworks within the site and immediately adjoining (where necessary/affected by the proposal) and management works during construction and for ongoing operation.~~

**Roadworks, footpaths and bicycle ways will be provided in accordance with a Voluntary Planning Agreement. Management of works will be undertaken by the proponent.**

~~The developer will provide a pedestrian bridge over Epping Road, with disabled access, subject to agreement with the NSW Roads and Traffic Authority. An application for approval for the pedestrian bridge will be submitted with the RTA prior to a Development Application being lodged for the site.~~

The developer will also commit to changing the current bus stop just to the east of the development to an all-weather bus shelter **as outlined in a Voluntary Planning Agreement.**

*Responsibility –Proponent / RTA RMS*



(10) Statement of commitment B9 is modified as follows:

**B9. Storm water**

All stormwater drainage and treatment **will be designed in consultation with Lane Cove Council** and design will conform to Lane Cove Council published requirements. Other Recommendations of the Stormwater Report prepared by Hyder will be complied with **taken into account where relevant to the buildings and land uses on the site.**

*Responsibility –Proponent*

(11) Statement of commitment B12 is modified as follows:

**B12. Developer Contributions and Voluntary Planning Agreement**

The developer has offered **proponent** to enter into a Planning Agreement (VPA) with Lane Cove Council **pursuant to conditions 20 and 21, in Schedule 3 of MP10\_0148 and any subsequent modifications to that approval, including section 94 / cash contribution offsets towards agreed works-in-kind**, in the terms outlined in a letter to Council dating 9th March 2011. Such a VPA would be prepared and exhibited prior to or concurrently with a development application for the future buildings.

*Responsibility –Proponent / Lane Cove Council*

(12) Statement of commitment B13 is modified as follows:

**B13. Dedications & Titling Arrangements**

Dedication of the E2 Zoned handle of the site is proposed to be dedicated to Council as outlined in a draft VPA.

~~It is envisaged that the site will be Community Title with 6 Torrens Title lots in one community lot. There would be approximately 460 strata lots on the site. The site will be appropriately subdivided to take into account the multiple land uses, public access and land dedications.~~

*Responsibility –Proponent / Department of Planning/Lane Cove Council*

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