

ASSESSMENT REPORT

Concept Plan for Commercial and Retail Development MP 09_0209 MOD 1

1. INTRODUCTION

This report is an assessment of a request to modify the Concept Approval for a commercial and retail development at the corner of 396 Lane Cove Road and 32 to 46 Waterloo Road, Macquarie Park, in the Ryde local government area.

The request has been lodged by JBA Urban Planning Consultants Pty Ltd on behalf of Frasers Property Australia (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to extend the lapse date of the Concept Approval by two years.

2. SUBJECT SITE

The subject site is located at 396 Lane Cove Road and 32-46 Waterloo Road and 1 Giffnock Avenue, Macquarie Park (see **Figure 1**). The site is irregular in shape and comprises two lots with a total area of 15,619 m². Macquarie Park train station directly adjoins the site. The site sits within the 'Macquarie Park Corridor' which is identified in the Metropolitan Plan for Sydney 2036 as a specialised centre which plays a vital economic and employment role for this region of Sydney.

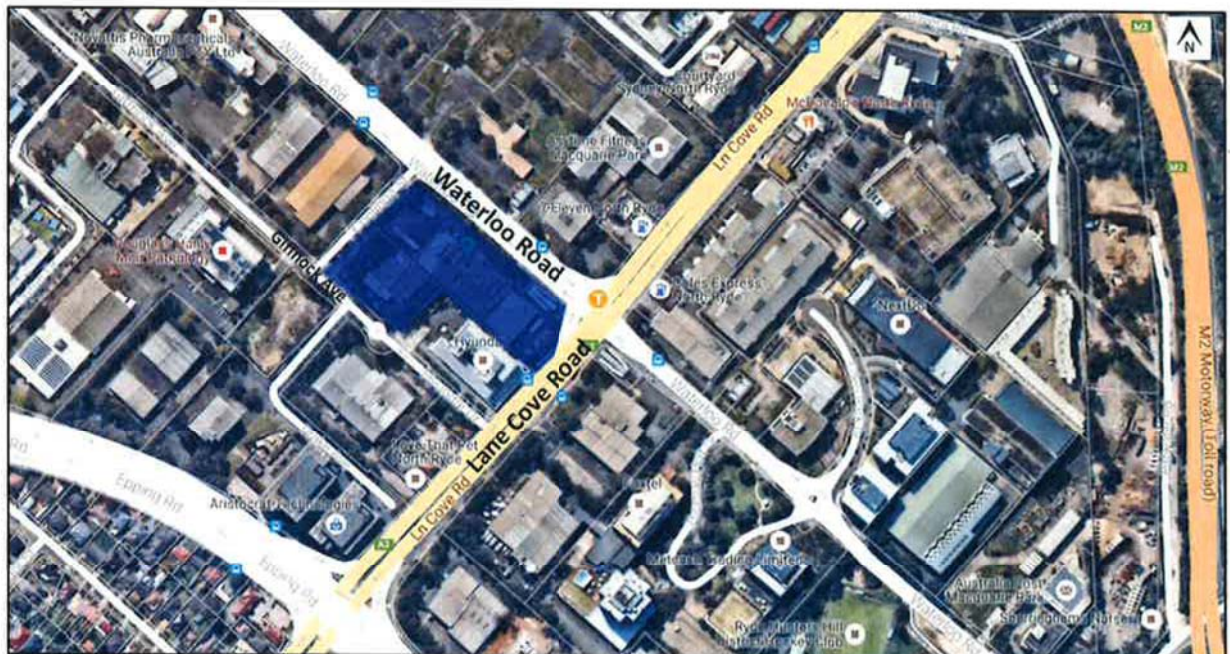


Figure 1: Site Location

3. APPROVAL HISTORY

On 29 May 2012, Concept Approval was granted under delegation for a commercial and retail development incorporating:

- indicative building envelopes for four separate buildings with heights ranging from 8 to 17 storeys plus plant level;
- maximum gross floor area of 83,368m²;
- basement car parking; and
- public domain works.

4. PROPOSED MODIFICATION

Term of Approval A8 provides that the approval shall lapse five years after the determination of the original application (29 May 2017) unless an application is submitted to carry out development under the Concept Approval. On 20 September 2016, the Proponent lodged a section 75W modification application (MP 09_0209 MOD 1) seeking approval to extend the lapse date by two years from 29 May 2017 to 29 May 2019.

The modification is requested on the basis that there is currently insufficient demand for commercial floor space in Macquarie Park and the Proponent has not been able to secure a tenant to lease the approved development. The Proponent therefore seeks an additional two years to prepare and submit an application to carry out development in accordance with the Concept Plan Approval.

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the Act.

The Department is satisfied that the proposed modification is within the scope of section 75W of the EP&A Act, and does not constitute a new application.

5.3 Section 75Y

Former section 75Y of the EP&A Act provides that a condition specifying a lapsing date on an approval may be modified to extend the lapsing period, and the Minister is to review the approval before extending the lapsing period. The Department has therefore reviewed the original approval, as discussed in **Section 7**.

5.3 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Director, Modification Assessments may determine the application under delegation as:

- the relevant local Council has not made an objection; and
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

6. CONSULTATION

The Department made the modification application publicly available on its website, and consulted with the City of Ryde Council (Council) about the proposed modification.

Council does not object to the proposal.

Transport for NSW (Sydney Trains) made a submission and advised they do not object to the proposal to extend the approval lapse date to 29 May 2019.

There were no **public** submissions received on the proposal.

7. ASSESSMENT

As currently approved, the Concept Approval is due to lapse five years from the date of determination (29 May 2017), unless an application is submitted to carry out a project or development which concept approval has been given.

The Proponent advises the key reason for extending the lapsing date, is due to the current lack of market demand for commercial office space in Macquarie Park. The Proponent has therefore not yet submitted an application to carry out development in accordance with the requirements of the Concept Approval.

Section 75Y of the EP&A Act outlines that the Minister may modify an existing lapsing condition, subject to a review of the approval before extending the lapsing period.

The Department has reviewed the original approval and is satisfied there are no circumstances which have significantly changed since the original approval which would result in a substantially different determination of the application today. In particular:

No changes are proposed to the development and therefore there are no changes to the environmental impacts of the development:

The only aspect of the proposal sought to be modified is the lapsing date. The current modification request does not seek to modify any other aspect of the development which would change the environmental impacts associated with the proposal.

The physical context of the site has not significantly changed:

The Department has reviewed the physical context of the site and notes there have been no material changes to the surrounding environment since the assessment of the original approval.

The statutory planning context of the site has not significantly changed:

The original application was assessed against the objectives of the EP&A Act and provisions of the relevant planning instruments. The site is zoned B3 Commercial Core under the Ryde Local Environmental Plan 2014. The approved commercial and retail development remains permissible within the zone. The Department is satisfied the development as originally approved would continue to achieve the objectives of the zone to provide a wide range of retail and business land uses to encourage employment opportunities in the area.

The Department notes, however the Floor Space Ratio (FSR) and height controls have changed since the time of the original assessment. The Department assessed the merits of the original application against the FSR controls of 3.3:1 to 4.95:1 and maximum height controls of 41 to 75 metres which applied at the time. The site now has an FSR control of 3:1 and a maximum height control of 65 metres. The approved development would therefore exceed the current controls.

The Department considers the non-compliance with the 65 metre height control is minor, with one building having a maximum height of 69.3 metres, and the remaining three buildings having heights of less than 40 metres.

Further, the Department gave detailed consideration to the proposed density in its original assessment and found the proposal to be acceptable as:

- it would not result in any significant amenity or traffic impacts;
- it is consistent with the wider state strategic planning objectives for the site in particular to provide additional employment opportunities within Macquarie Park and contribute to its role as a specialised centre; and
- the site is strategically well located for higher density commercial development as it is

within close walking distance to a train station and it would provide more jobs closer to home.

The Department also notes council raised no objection to extending the approval lapse date.

The Department is therefore satisfied that the changes to the height and FSR controls would not result in a material change to the Department's merit assessment of the application today.

8. CONCLUSION

The Department has assessed the modification application in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes an extension to the lapse date by two years is acceptable as:

- the extension would not change the overall nature of the Concept Approval or result in any additional impacts beyond those already assessed and approved; and
- the development remains consistent with the broader strategic planning framework for the site, to deliver employment opportunities within the Macquarie Park corridor and contribute to its role as a specialised centre.

Consequently, it is recommended that the modification be approved subject to the recommended condition.

9. RECOMMENDATION

It is RECOMMENDED that the Director, Modification Assessments as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the application under section 75W, subject to conditions; and
- **signs** the notice of modification (**Appendix A**).



Fiona Gibson
Planner
Modification Assessments



Anthony Witherdin
Director
Modification Assessments

APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7970

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7970

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7970