ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF FREEWAY NORTH CONCEPT PLAN AND PROJECT APPROVAL

Major Project No. 06_0199 (File No. 9042757)

I, the Minister for Planning, under the *Environmental Planning and Assessment Act* 1979 ("the EP&A Act") determine:

- (a) To approve, under section 75O(1) of the EP&A Act, the concept plan for the project as described in Schedule 1, subject to the modifications set out in Schedule 2.
- (b) To approve, under section 75J(1) of the EP&A Act, the project application for subdivision and subdivision works described in Schedule 3, subject to the conditions set out in Schedule 4.
- (c) That approval to carry out the remainder of the project is to be subject to Part 4 of the EP&A Act, under section 75P(1)(b) of the EP&A Act.

Kristina Keneally MP Minister for Planning

29 Septembry Sydney, 2008

PART A — TABLE

Application made by:	Harper Somers O'Sullivan (on behalf of Thornton Land Company) PO Box 428 Hamilton NSW 2303
Application made to:	Minister for Planning
Major Project Number:	06_0199
On land comprising:	Lot 14 DP 1091199; Lot 14 DP 207961; and Lot E DP 388733
Local Government Area	Newcastle City Council
For the carrying out of:	An industrial business park and 90 lot subdivision, with associated services and infrastructure as described in Modification A1, Part A, Schedule 2
Capital Investment Value	\$341 million
Type of development:	Concept approval under Part 3A of the Act
Determination made on:	
Determination:	Concept approval is granted subject to the modifications in the attached Schedule 2.
Date of commencement of approval:	This approval commences on the date of the Minister's approval.
Date approval is liable to lapse	5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the EP&A Act.

PART B — DEFINITIONS

In this approval the following definitions apply:

Act means the Environmental Planning and Assessment Act, 1979 (as amended).

Council means Newcastle City Council.

Department means the Department of Planning or its successors.

Director General means the Director General of the Department of Planning.

Minister means the Minister for Planning.

Project means development that is declared under Section 75B of the Act to be a project to which Part 3A of the Act applies.

Proponent means the person proposing the carry out of development comprising all or any part of the project, and includes persons certified by the Minister to be the proponent.

Regulations means the Environmental Planning and Assessment Regulations, 2000 (as amended).

RTA means the Roads and Traffic Authority.

Subject Site has the same meaning as the land identified in Part A of this schedule.

Freeway North Business Park has the same meaning as the land identified in Part A of this schedule.

Freeway North Business Park Concept Plan means the project described in Schedule 2, Part A, Modification A1 and the accompanying plans and documentation described in Schedule 2, Part A, Modification A2.

MODIFICATIONS TO THE FREEWAY NORTH BUSINESS PARK CONCEPT PLAN MP NO. 06_0199

PART A - ADMINISTRATIVE MODIFICATIONS

A1. Development Description

Concept approval is granted only to the carrying out of the development solely within the concept plan area as described in the document titled *"Freeway North Business Park"* prepared by Harper Somers O'Sullivan (dated March 2007) including:

- 1. A 90 lot industrial business park subdivision;
- 2. Associated services and infrastructure; and
- 3. Conservation lands.

A2. Development in Accordance with Plans and Documentation

The development shall also be generally consistent with the following plans and documentation:

- a) Freeway North Business Park Concept Plan and Environmental Assessment and supporting Appendices A-H, dated March 2007; except as amended by Preferred Project Report and supporting Appendices A & B, dated November 2007;
- b) Statement of Commitments prepared by Harper Somers O'Sullivan, dated 9 July 2008; and
- c) Aboriginal Heritage Impact Assessment and associated Aboriginal Heritage Management Plan prepared by South East Archaeology and dated July 2008;

except for otherwise provided by the Department's modifications of approval as set out in Schedule 2, Part B and the proponent's Statement of Commitments.

A3. Inconsistency Between Documentation

In the event of any inconsistency between the modifications of this concept approval and the plans and documentation described in Modification A2, Part A, Schedule 2 referred to above, the modifications of this concept approval prevail.

A4. Lapsing of Approval

Approval of MP No. 06_0199 (concept plan) shall lapse 5 years after the determination date in Part A of Schedule 1 unless an application is submitted to carry out a project or development for which concept approval has been given.

A5. Determination of Future Applications

The determination of future applications for development is to be generally consistent with the terms of approval of MP No. 06_0199 as described in Part A of Schedule 1 and subject to the modifications of approval set out in Parts A and B of Schedule 2. Future applications for development are subject to Part 4 of the EP&A Act except where Schedule 2 of State Environmental Planning Policy (Major Projects) 2005 applies.

PART B - DEPARTMENT OF PLANNING'S MODIFICATIONS

B1. Newcastle Development Control Plan 2005

The Freeway North Business Park is to be developed generally in accordance with the objectives and specific provisions of Newcastle Development Control Plan 2005 – Element 7.3 South Beresfield Industrial Precinct, with the exception of the Access Concept Plan, which has been amended with the consent of the RTA in this concept plan approval.

In this regard, where inconsistencies occur between Council policy and Section 6 Development Design Principles of the concept plan Environmental Assessment, Council policy shall prevail.

B2. Road Network and RTA Requirements

- (1) The proposed subdivision layout includes an internal road reserve to the northwest of the Freeway North Business Park site (to Avalon Drive). An appropriate road reserve shall be provided within Lot 14 DP 1091199 to the RTA's satisfaction as part of the subdivision to allow for an ultimate public road connection to Avalon Drive and the New England Highway. This proposed road link should only cater for light vehicles, buses and garbage trucks, as it will connect to a residential precinct.
- (2) The subject property is affected by a road widening for Weakleys Drive. The following shall be complied with:
 - Any new buildings or structures are erected clear of the land identified above.
 - This land and any land required for the roundabout and left in/left out intersections is set aside as public road.
 - The land affected by road widening is dedicated as public road reserve at no cost to the RTA or Council.

B3. Conservation Agreement

A Conservation Agreement under Part 4 Division 12 of the National Parks and Wildlife Act 1974, between the Minister administering the National Parks and Wildlife Act 1974 and Hunter Land (the Proponent) is to be entered into over the land known as Lots 2 to 4 DP 1061633. Execution of a Voluntary Conservation Agreement for Lots 2 to 4 DP 1061633 is required to offset vegetation removal on Freeway North and Freeway South Business Parks lands.

B4. Aboriginal Cultural Heritage

The salvage program outlined in the Aboriginal Heritage Management Plan (July 2008) is to be developed in consultation with the Mindarriba Local Aboriginal Land Council (MLALC) and the Lower Hunter Wonnaruna Council Inc (LHWC) and any other relevant Aboriginal groups. Representatives from all of these groups shall be provided the opportunity to participate in the collection program, including the temporary and long-term storage of artefacts.

B5. Bushfire Protection

The development shall meet the aims and objectives of *Planning for Bush Fire Protection 2006*, as detailed in a required Bushfire Management Plan, the provisions of which include:

- Suitable aggress/access throughout the proposed development as outlined within Planning for Bushfire Protection 2006.
- Adequate future water supplies for bushfire suppression operations.
- Minimising the vulnerability of buildings to ignition from radiation and ember attack by addressing the construction of assets in accordance with Australian Standard 3959 Building in Bush Fire Prone Areas.
- Reducing the rate of heat output (intensity) of a bushfire close to a development through the control of fuel levels.
- The future management of areas of hazard remaining within the subject area. This should focus on the level of hazard posed to future development by the land or adjacent land. The Plan of Management will need to include fuel management within the development and maintenance of asset protection zones in accordance with *Planning for Bushfire Protection 2006*.
- Minimising the impact of radiant heat and direct flame contact by separating the development from the bushfire hazard and identifying the extent to which future development can provide for asset protection zones (APZ) in accordance with *Planning for Bushfire Protection 2006*.

PART A - TABLE

Application made by:	Harper Somers O'Sullivan (on behalf of Thornton Land Company) PO Box 428 Hamilton NSW 2303
Application made to:	Minister for Planning
Major Project Number:	06_0199
On land comprising:	Lot 14 DP 1091199; Lot 14 DP 207961; and Lot E DP 388733
Local Government Area	Newcastle City Council
For the carrying out of:	Subdivision and subdivision works as described in Condition A1, Part A, Schedule 4.
Capital Investment Value	\$31 million
Type of development:	Project approval under Part 3A of the EP&A Act
Determination made on:	
Determination:	Project approval is granted subject to the conditions in the attached Schedule 4.
Date of commencement of approval:	This approval commences on the date of the Minister's approval.
Date approval is liable to lapse	5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the EP&A Act.

PART B — DEFINITIONS

In this approval the following definitions apply:

Act means the Environmental Planning and Assessment Act, 1979 (as amended).

Council means Newcastle City Council.

Department means the Department of Planning or its successors.

Director General means the Director General of the Department of Planning

Minister means the Minister for Planning.

Project means development that is declared under Section 75B of the EP & A Act to be a project to which Part 3A of the Act applies.

Proponent means the person proposing the carry out of development comprising all or any part of the project, and includes persons certified by the Minister to be the proponent.

Regulations means the Environmental Planning and Assessment Regulations, 2000 (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

Freeway North Business Park site has the same meaning as the land identified in Part A of this schedule.

Major Project No. 06_0199 means the project described in Condition A1, Part A, Schedule 4 and the accompanying plans and documentation described in Condition A2, Part A, Schedule 4.

CONDITIONS OF APPROVAL – FREEWAY NORTH BUSINESS PARK PROJECT APPROVAL MP NO. 06_0199

PART A - ADMINISTRATIVE CONDITIONS

A1. Development Description

Project approval is granted only to carrying out the development described in detail below:

- 1. A 90 lot subdivision and construction of associated works including streets, stormwater management works, utility services, and bulk earthworks;
- 2. Public domain improvements, including street trees; and
- 3. The use of the land for industrial business park related purposes and environmental conservation.

A2. Development in Accordance with Plans and Documentation

The development shall be in accordance with the following plans and documentation:

- a) Freeway North Business Park Preferred Project Report and supporting Appendices A & B, dated November 2007;
- b) Statement of Commitments prepared by Harper Somers O'Sullivan, dated 9 July 2008; and
- c) Freeway North Business Park *Indicative Lot Layout*, prepared by Harper Somers O'Sullivan, Job ref: 21717, dated 30 July 2008;

except for otherwise provided by the Department's conditions of approval as set out in Schedule 4, Part B and the proponent's Statement of Commitments.

A3. Inconsistency Between Plans and Documentation

In the event of any inconsistency between conditions of this project approval and the plans and documentation described in Condition A2, Part A, Schedule 4 referred to above, the conditions of this project approval prevail.

A4. Lapsing of Approval

Approval of Major Project No. 06_0199 (project approval) shall lapse 5 years after the determination date in Part A of Schedule 1 unless specified action has been taken in accordance with Section 75Y of the EP&A.

A5. Prescribed Conditions

The Applicant shall comply with the prescribed conditions of project approval under Clause 75J (4) of the Act.

A6. Determination of Future Applications

The determination of future applications for development is to be generally consistent with the terms of approval of MP No. 06_0199 as described in Part A of Schedule 1 and subject to the conditions of approval set out in Parts A and B of Schedule 2.

PART B - DEPARTMENT OF PLANNING'S CONDITIONS OF APPROVAL

B1. Weakleys Drive Intersection and RTA Roadworks Requirements

- (1) A roundabout and associated works shall be designed and constructed in accordance with the RTA's Road Design Guide and relevant Austroads guidelines at the proposed new access to the Freeway North Business Park on Weakleys Drive between Balook Drive and the New England Highway, approximately in the location identified in Newcastle Council's Development Control Plan for the area, to the satisfaction of the RTA. The following shall be included, as a minimum, as part of the works:
 - The roundabout shall be constructed as a 2-lane dual circulating roundabout.
 - Two lane approach and departures shall be provided on all legs of the roundabout.
 - The northern leg of the roundabout on Weakleys Drive shall be extended through to the two-lane section of the Weakleys Drive grade separated interchange project, currently being undertaken by

the RTA. Two-lanes northbound and southbound shall be provided between the proposed roundabout and the New England Highway interchange along Weakleys Drive. A raised central concrete median shall be included in the upgrade of the road.

- The southern approach leg of the roundabout on Weakleys Drive shall be extended from the roundabout to the south of the proposed left in/left out access to the Freeway North Business Park. The two-lane (northbound) approach shall be extended south beyond the left in/left out intersection to an extent to ensure safe merging/diverging of traffic northbound on Weakleys Drive.
- The southern departure leg (southbound) of the roundabout shall be constructed as two lanes to a length of 200m from the roundabout, excluding tapers.
- (2) The proposed left in/left out intersection to the subject site on Weakleys Drive between the proposed roundabout and Balook Drive shall be designed and constructed in accordance with the RTA's Road Design Guide and relevant Austroads guidelines with an exclusive left turn deceleration lane outside of the proposed two lane section of Weakleys Drive.
- (3) There shall be no direct vehicular access to any of the proposed lots off Weakleys Drive. All vehicular access to the proposed lots shall be via the two proposed intersections on Weakleys Drive and the internal local road network.
- (4) The subdivision certificate is not to be released until the proponent has fully constructed all road works on Weakleys Drive to the satisfaction of the RTA.
- (5) All work associated with the proposed development shall be undertaken at full cost to the Developer.
- (6) The proponent is required to enter into a Works Authorisation Deed (WAD) with the RTA. In this regard the proponent is required to submit detailed design plans and all relevant additional information, as may be required in the RTA's WAD documentation, for each specific change to the state road network for the RTA's assessment and final decision concerning the work.

B2. Road, Drainage and Pavement Works

Subdivision work for each stage, in accordance with this approval, must not be commenced until a Construction Certificate for the relevant work has been issued by Council or an accredited certifier.

All road, drainage and pavement works shall be designed in accordance with the relevant requirements of Council and the RTA and in accordance with the approved Statement of Commitments. Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to the relevant Certifying Authority prior to the issue of a Construction Certificate for the relevant stage.

B3. Erosion and Sediment Control

All erosion and sediment control measures are to be effectively maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

B4. Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during construction shall not be pumped to any street stormwater system unless separate prior approval is given in writing by Council.

B5. Dedication of Roads

Prior to the issue of the Subdivision Certificate, the Principal Certifying Authority is to issue a Compliance Certificate that the roads and drainage have been designed and constructed to relevant Council and AUSTROADS standards, and in accordance with the Construction Certificate requirements.

Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to Council for their records upon approval of the relevant Construction Certificate.

Council is to be notified of the intended construction timetable and kept up to date as work progresses. The subdivision works will be inspected during construction by the Principal Certifying Authority, or other suitably qualified person(s) at the discretion of the Principal Certifying Authority, and documentary evidence of

compliance with the terms of this consent and relevant Construction Certificate(s) will be obtained and forwarded to Council prior to proceeding to the subsequent stages of construction.

B6. Access

Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access, and created pursuant to Section 88B of the *Conveyancing Act* 1919.

B7. Services

Documentary easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

B8. Environmental Management Plan

Prior to any works commencing, the Developer will prepare an Environmental Management Plan (EMP) such to be designed and implemented to manage all environmental aspects associated with the construction, including off site impacts such as transport to and from the site. Two copies of the EMP will be provided to the Certifying Authority prior to issue of the Construction Certificate for Stage 1 of the development. The EMP will be maintained on site during all site works and be made available to Authorised Officers upon request.

The EMP will include but not be limited to:

- a) A site management program, identifying and addressing issues such as environmental health and safety, site security, and traffic management;
- A water management program detailing all erosion and sediment control, management of soil stockpiles, control and management of surface water and controls for the reworking of the existing water course;
- A dust management program, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions (This program is to be cross-referenced with the water management program);
- d) A noise vibration management program, detailing measures to minimise the impact of the construction phase on residential amenity, with noise and vibration monitoring during the construction phase incorporated into the program as necessary.

B9. Bushfire Management Plan

A Bushfire Management Plan will be prepared for the development (or each stage) and certified by a suitably qualified consultant or the NSW Rural Fire Service as complying with the requirements of the document *Planning for Bushfire Protection* and the requirements of the NSW Rural Fire Service. The required Plan will include, but not be limited to, the following and will be submitted with documentation accompanying the Construction Certificate application in respect of each stage:

- a) Location of permanent Asset Protection Zones (APZ) and fire trails;
- b) Location of temporary APZs and fire trails such that adequate protection is provided to the subdivision at all times during development;
- c) APZ establishment methods;
- d) Location of habitat trees to be retained;
- e) Areas of vegetation to be retained, removed or reinstated;
- f) Existing topography, adjacent to development and open space;
- g) Access to services;
- h) Extent of cut and fill, access points and 'links' to public areas;
- i) Existing and proposed plant species; and
- j) Archaeological heritage.

B10. Landscape Plans

Prior to any site works commencing, Landscape Plans will be prepared for the relevant stage by a suitably qualified person and submitted to the certifying authority for approval. Each landscape plan will indicate existing vegetation to be retained and removed, existing topography, adjacent development and open space, existing services, revegetation methods, public amenities, extent of cut and fill, access points and 'links' to open space, plant species, locations and landscape design principles, location of trees to be retained and removed and the criteria for habitat tree removal prior to works commencing. The Plan will also comply with the following:

- a) Existing trees on the site, which are to be retained, will have no cut or fill under their canopy areas and the location of these trees will be clearly identified on the Landscape Management Plan and Engineering Plans;
- b) A flora and fauna management/regeneration program, addressing areas of bush to be preserved/buffer areas, habitat trees, vegetation links, introduction of weed propagules, measures to be implemented to manage the identification, management and protection of flora and in particular, fauna, which is located both during initial site clearing and ongoing construction works.
- c) Areas of restricted access and fence detail to be erected during construction and areas proposed for storage/stockpile of plant and materials will be identified;
- d) Will specify
 - Establishment methods for all new plantings;
 - Maintenance scheduling for all new plants;
 - Weed eradication program;
 - Reporting methods.
- e) Street trees will be provided with a nominated minimum 100 litre pot size, or as otherwise approved by Council, to be installed prior to the certification of the subdivision plan;
- All street trees will be selected and certified by the supplier to comply with the current NATSPEC guide with respect to root development, height, trunk diameter and branch structure and balance (Refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003); and
- g) Street trees will be protected with suitable tree guards.

B11. Subdivision Certificate

A Subdivision Certificate application will be submitted in respect of each stage of the development, accompanied by the appropriate fee. Each application will be supported by the following documentation, together with any other documentation required under the Statement of Commitments:

- a) A survey plan of subdivision prepared by a Registered Surveyor;
- b) Instruments prepared under s88B of the Conveyancing Acts as appropriate, setting out the terms of easements and/or rights of carriageway and/or restrictions as to user required for the subdivision, in respect of the following where applicable:
 - 1) Interallotment drainage lines in favour of upstream properties utilising the lines;
 - 2) Easements for Asset Protection Zones;
 - 3) Easements for Fire Trails;
 - 4) Easements for pathways and cycleways;
 - 5) Restrictions on the Use of Land over temporary Asset Protection Zones;
 - 6) Restrictions on the Use of Land over temporary fire trails;
 - 7) Rights of carriageway in favour of the property serviced;
 - 8) Easements for services in favour of the property serviced and/or the appropriate utility provider; and
 - 9) Stormwater mains in favour of Council.

B12. Prior to Certification of Subdivision Plan

(1) Written certification from a suitably qualified consultant or the NSW Rural Fire Service that Asset Protection Zones, including temporary APZs, have been established for each stage, will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of that stage.

- (2) Written evidence of arrangements being made with the Hunter Water Corporation Limited, or other approved supplier, for the provision of individual water supply and sewerage services to all lots within each stage, will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of that stage.
- (3) Written evidence of arrangements being made with EnergyAustralia, or other approved supplier, for the provision of underground electricity supply to all lots and street lighting within each stage, will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of that stage.
- (4) Written evidence of arrangements being made with Telstra, or other approved supplier, for the provision of underground telephone services to all lots within each stage, will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of that stage.

B13. Works as Executed Plans

Certified works-as-executed (WAE) plans and documentation will be lodged with the Principal Certifying Authority on completion of works for each stage. The required WAE plans will be provided on a full copy stamped Construction Certificate drawings and will include:

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

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

B14. Inspections

The subdivision works will be inspected during construction by the Principal Certifying Authority, or other suitably qualified person(s) at the discretion of the Principal Certifying Authority, and documentary evidence of compliance with the terms of this consent and relevant Construction Certificate(s) will be obtained prior to proceeding to the subsequent stages of construction. Such inspections and documentation will be arranged at the following recommended key stages:

a) Sediment control		Upon initial erection of sediment control devices and prior to all other works;
	-	Upon erection of subsequent stage sediment controls nominated in the Land Management Plan;
		Upon completion of stormwater drainage; and
	~	Final inspection.
b) Earthworks	-	Subgrade prior to laying of fill; and
	-	Final inspection.
c) Road Construction	-	Subgrade prior to laying of sub-base;
		Sub-base prior to laying kerb and/or gutter;
	~	Kerb and/or gutter prior to laying base course;
	-	Base course prior to Benkleman Beam testing;
	-	Base course immediately prior to prime sealing;
	-	Prime seal prior to laying AC wearing surface;
		Footpaths prior to turfing; and
	**	Final inspection.
 d) Footpaths/cycleways 	-	Subgrade prior to laying of base course;
	-	Base course prior to laying of formwork;
	-	Formwork/reinforcement before placing concrete;
		After installation of curing methods; and
	-	Final inspection.

e) Stormwater Drainage	 Trench and bedding prior to laying of pipes;
	 Pipes prior to backfill;
	 Pits prior to backfill;
	 Backfill prior to capping; and
	- Final inspection.
f) Access handles	 Subgrade prior to laying base course;
	 Base course prior to laying of formwork;
	 Formwork/reinforcement before placing concrete;
	 After installation of curing methods; and
	- Final inspection.
g) Landscaping	 Prior to initial site works for each stage;
<i>.</i>	 Prior to any works within Public Reserves;
	 Prior to removal of any trees outside the construction zone;
	 Prior to commencement of landscape works;
	- Final inspection,
	- 6 months post final inspection; and
	- At the completion of the maintenance period.
h) Asset Protection Zones	 Prior to the removal of any vegetation; and
	- Final inspection.
	-