

**PART 3A CONCEPT PLAN
APPLICATION
EPAA 1979**

Submission in Response to Public
Notification

**396 LANE COVE ROAD
MACQUARIE PARK**

planning submission in response to public notification

Submission to

NSW DEPARTMENT OF PLANNING

396 LANE COVE ROAD (32 – 46 WATERLOO ROAD) & 1 GIFFNOCK AVENUE
MACQUARIE PARK

Peter Le Bas

BA (Geog) (UNE) LLB (Hons1) GradCertLegP (UTS) MTCP (Syd) MPIA CPP
Urban Planner, Geographer and Lawyer
Practising Certificate No 2881

 **Turnbull**
PLANNING INTERNATIONAL PTY LIMITED
Town Planners

Suite 2301
Quattro Building 2
Level 3
4 Daydream Street
WARRIEWOOD NSW 2102
Phone: 02 9979 4922
Fax: 02 9979 4811

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www.turnbullplanning.com.au
info@turnbullplanning.com.au

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1.0 INTRODUCTION

1.1 Background

This document has been prepared in order to provide a response to public notification of a Concept Plan Application in respect of a property located at 396 Lane Cove Road in Macquarie Park.

The proponent's application provides for four (4) commercial buildings and ancillary basement parking containing over 1000 parking spaces in a development scheme that wraps itself around the Hyundai Motor Company Australia (HMCA) property. The HMCA site is located to the south and east of the subject, at 394 Lane Cove Road Macquarie Park.

Turnbull Planning International (TPI) has been briefed to review implications and any adverse impacts that may arise in terms of environmental amenity and convenience, as a result of the present Part 3A proposal.

We have viewed and photographed the property, the subject of the application, acquainted ourselves with the applicable statutory and subordinate planning controls and reviewed documents comprising the application.

1.2 Our Client

Our client's details are as follows:

Name	Address
Hyundai Motor Company of Australia (HMCA)	394 Lane Cove Road Macquarie Park

In preparing this submission we have interviewed our client's representatives including its Facilities Director, Chief Financial Officer & Company Secretary and an HMCA legal representative.

1.3 Planning Regime

Consideration has been given to the following legislation and other planning documents:

- *NSW State Plan;*
- *Metropolitan Transport Plan 2010;*
- *Ryde Bicycle Strategy and Masterplan 2007;*
- *Draft Inner North Subregional Strategy;*
- *Macquarie Park Pedestrian Movement Study;*
- *State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55);*
- *State Environmental Planning Policy (BASIX) 2004;*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *The NSW Environmental Planning and Assessment Act, 1979 (EPAA);*
- *Ryde Local Environmental Plan 2010 (RLEP 2010);*

» Ryde Development Control Plan 2010 (DCP 2010).

2.0 SITE LOCATION AND DESCRIPTION

Annexure 1 provides a palette of photographs showing the locality and including the land which is the subject of this submission.

The site is located in the heart of the Macquarie Park Corridor and enjoys excellent transport linkages by road and rail to the City, Sydney's North Shore, the Western sector and the developing Sydney North West Corridor.

Macquarie Park contains a mixture of new business parks and older industrial type buildings. Scattered in various locations along Lane Cove Road there is also 'remnant' residential development that is being progressively re-developed for purposes permitted under the latest regime of planning controls.

The subject property lies to the west of Lane Cove Road adjacent to Macquarie Park Railway Station. The land comprises an irregular shaped parcel located on the corner of Waterloo Road and Lane Cove Road in Macquarie Park. The property could be described as a gateway to the Macquarie Park Precinct.

The property falls from east (Lane Cove Road) to west (Coolinga Street). The change in grade is approximately 6m.

The subject site is described as Lot 5 in DP 1130105 and Lot 21 in DP 602327.

Lot 1 in DP 1130105 (the Macquarie Park Railway Station Portal adjacent to the site) has been used by the proponent in terms of transfer of FSR and GFA, following an agreement with the former TIDC (now TCA). This latter Lot does not, however, form part of the development site.

The land, the subject of the concept plan application has an area of approximately 16,289 sqm and abuts our client's property to its west (in terms of the 'dog leg') and north.

There are two (2) buildings currently erected on the land, both of which present as two (2) storeys. The existing buildings are used for commercial/industrial purposes.

Existing vegetation on the land comprises some 80 trees of varying species size and health. The trees are predominantly located on the northern part of the site where it fronts Waterloo Road.

Annexures 2 and 3 provide a locality plan and aerial photograph respectively.

Annexure 4 is a plan that depicts the relationship of the subject property with our client's property.

3.0 THE PROPOSAL

The development involves large floorplate high rise commercial floorspace to replace existing low rise commercial/industrial development.

The scheme currently on exhibition, involves the erection of four (4) buildings and a total of 83,368 sqm Gross Floor Area (GFA). Parking would be provided for 1042 vehicles in a shared basement car park. Buildings would achieve a height of up to RL 127.9. The overall FSR proposed appears to be some 5.12:1 based on site area and stated GFA.

Landuses proposed include office purposes and ancillary retail at ground floor level (restaurants and cafes). It appears that a helipad is proposed on the top of the east most building fronting Lane Cove Road (described by the proponent as Building A).

4.0 NATURE OF SUBMISSION

Having considered the site and its surrounds and the details of the proposals currently before DoP, it is our view that the development proposal is so far removed from the development standards that currently apply (bearing in mind also that these controls are very current, having only been gazetted only recently) and what could be argued as being acceptable in a planning context, that it should not be supported by the consent authority in its present form.

New development should contribute to the overall character of the area and have an appropriate 'neighbourhood fit' whether one is talking about a small local development or a significant project such as is presently proposed. The starting point for achieving this overall neighbourhood fit is appreciating the key elements that contribute to neighbourhood character. This development, in respect to the adjoining and nearby properties, presently completely fails to recognise those key elements. This being said, our client is more than willing to participate with the developers in meaningful dialogue in order to achieve an acceptable development outcome.

This submission constitutes an objection to the Concept Plan Application as submitted.

This objection is based on various grounds which are detailed in the following paragraphs.

5.0 KEY ISSUES

The following paragraphs deal with the Concept Plan proposal on an issues basis.

5.1 Statutory Controls

5.1.1 Floor Space Ratio

Floor Space Ratio constitutes a statutory development standard under Clause 4.4 of RLEP 2010 and provides various floor space ratios for the component parts of the site proposed to be amalgamated in this development.

The possible range involves an FSR between 2:1 and up to 3:1.

The Environmental Assessment Report (JBA Planning, November 2010) (the EAR) indicates that the proposal involves an overall FSR of 5.1:1 which is well in excess of the above maximums referred to in the RLEP 2010 and constitutes a gross breach of the development standard.

It is noted that the EAR contains conflicting information with respect to FSR.

Section 3.4 (page 18) of the EAR refers to a maximum FSR of 5:1. On page 29 of the report, the FSR is given to be 5.1:1. In Table 7 on page 33, the FSR given for the site on the corner of Waterloo and Lane Cove Roads is 7.22:1 (3:1 is permitted by the LEP) and the remaining portion of the site is proposed to be 3.96:1 (2:1 is permitted under the LEP).

Clause 4.4 RLEP 2010 provides objectives as follows:

- (a) to provide effective control over the bulk of future development,*
- (b) to allow appropriate levels of development for specific areas,*
- (c) to enable the consent authority to assess and respond appropriately to future infrastructure needs.*

(1A) In addition to the objectives specified in subclause (1), the objectives for the control of floor space ratios on land within the Macquarie Park Corridor are as follows:

- (a) to achieve a consolidation of development around railway stations, with the highest floor space ratios at the station nodes,*
 - (b) to allow feasible development of the sites around railway stations and facilitate focal points at the station areas,*
 - (c) to ensure that the peripheral locations of the corridor reflect the landscape needs and building setting requirements of the corporate building,*
 - (d) to reinforce the importance and function of the central spine (Waterloo Road and Riverside Main Street) with suitable built form,*
 - (e) to encourage the provision of a new street network,*
 - (f) to provide incentives for redevelopment in return for the provision of the proposed access network as a public benefit.*
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The proposal involves a significant and unacceptable breach of the development standard, is completely contrary to the aforementioned objectives, is inappropriate in the circumstances, has not been adequately justified and will have an overbearing effect on adjoining development.

The scale and bulk of the proposed development is totally out of context and conflicts with the desired future character of the area.

It is submitted that Clause 4.6 of the RLEP 2010 (Exceptions to development standards) does not in any way contemplate a breach of the FSR controls of this magnitude.

5.1.2 Proposed Height of Development

The height map referred to by Clause 4.3 of RLEP 2010 (Height of Buildings) specifies three (3) relevant height requirements for the amalgamated site. These are as follows:

Location	Maximum Height
V	37m
W	44.5m
U1	30m

Section 3.4 of the EAR which seeks concept approval, details the specifics of the development and provides concept plans. Section 3.5 is misleading, as it indicates the height of the development in finished RL's and storeys rather than metres (RL 129.3 and maximum of 17 storeys). This is of course, inconsistent with the language of Clause 4.3 of the RLEP 2010 which requires compliance with a maximum height in metres.

Page 33 of the submitted EAR deals with compliance with RLEP 2010. The three (3) buildings shown on Page 19 (Building D is not illustrated) achieve heights of 38.8m, 40m and 69.3m. The height development standards applicable are 30m, 37m, and 44.5m respectively. The height of the building located on the corner of Lane Cove and Waterloo Roads is nearly twice that allowed by RLEP 2010. Such a breach is in clear conflict with the planning framework and objectives and is excessive, uncharacteristic and environmentally detrimental in respect of the area and surrounding and nearby development. The visual and shadow impacts associated with such a development would be unsupportable (see below). The EAR attempts to suggest that application of the development standard is unreasonable and unnecessary in the particular circumstances. The points of justification are completely unsupportable. For instance it is suggested that the scale of development is satisfactory because it is similar to "comparable train stations" (P35). This argument completely ignores that each location where there is a train station enjoys its own character and responds appropriately to that character (the EAR compares the property with sites adjoining train stations in areas such as Liverpool, Parramatta, Wollongong and Gosford). This is quite apart from the fact that the area around each station is controlled by a particular set of appropriately considered standards and planning objectives. Whilst the reasoning in the EAR may justify a more modest breach of the current controls, the proposal is so extreme as to fly in the face of the legitimate planning controls and makes a mockery of the statutory planning standards. In this context it is submitted that Clause 4.6 of the RLEP 2010 (Exceptions to development standards)

does not contemplate a breach of the height controls of this magnitude.

It is clear that minimal consideration has been given to compliance with either of the development standards and that the so called 'justification' of the departures is unsupportable.

5.1.3 Parking & Traffic

The proposal provides for parking at the rate of 1 space per 80 sqm of GFA. This parking rate is compliant with that required pursuant to RLEP 2010. The parking rate in the development is also purportedly as agreed with DoP, the Roads and Traffic Authority and the NSW Ministry of Transport. The authors of this submission do not cavil with this standard, which has been arrived at, no doubt, after considerable research and investigation on the part of the aforementioned Government agencies.

We note that the rate adopted in the Concept Plan is stated as relating to properties most proximate to public transport facilities. Of course, the subject property is adjacent to a significant regional railway transport node. As such there is no objection to the parking rate that has been adopted in respect to this Concept Plan proposal, based on these particular criteria. However the RDCP 2010 properly recognises that parking rates should be less for larger developments and greater for those that are smaller in scale. As such a scheme that proposes FSR between 2:1 and 3:1 is permitted a rate of 1 space per 80 sqm of floorspace and a scheme that contains, for example, floorspace at 1:1 is permitted parking at the rate of 1 space per 46 sqm. In this case the proposed FSR is at a level that grossly exceeds that envisaged under the parking rate standard. In such a context the parking provision involved in this scheme could also be strongly argued to be excessive.

There is no argument in respect of the mode split targets and figures provided in the EAR (sourced from the NSW Government). What is problematic however, is the overall number of parking spaces in the development (over 1000 in total) in a location directly adjacent to Macquarie Park Railway Station Portal. This number of parking spaces arises as a direct result of the proponent's gross breach of the relevant statutory FSR control. The provision of this number of spaces will result in inappropriately increased traffic levels in a location where the road system, as is widely agreed, is operating at close to peak capacity. Given the gross exceedance of the development in terms of relevant statutory controls (ie GFA) and the related parking provision, we simply cannot agree with the statement in the EAR (P47) that the proposal represents a '.....minimalist approach to parking'. Parking provision as proposed, is completely unacceptable in this location.

In terms of traffic, we note that the entire basement parking provision is dependent upon one access point from Giffnock Avenue for vehicular traffic ingress and egress. In relation to the extant situation we note that access is provided (for a relatively small scale development) from a number of points in Giffnock Avenue, Coolinga Street and Waterloo Road. With the enormous increase in traffic generating capacity of the development, it is trite to suggest that

access points should be distributed around the site in suitable locations and not highly concentrated at the one location adjacent to a roundabout that already serves a number of relatively large developments (including HMCA). We are not in agreement with the EAR assertion that the development “....does not warrant the need for any [traffic] improvement works”.

5.1.4 Built Form Controls DCP 2010

We submit that the proposal in its present form pays lip service only to the current DCP 2010 controls.

The proposal is inconsistent with the height, building separation and floorplate controls as referred to in the DCP.

Parking provision is also at odds with the principles espoused in the DCP based on size of development (refer s4.5 RDCP 2010). This results in an incongruous situation where a development adjacent to a metropolitan railway station is provided with well over 1000 car parking spaces.

The DCP calls up ‘slender building form’ as being required in terms of bulk and scale for commercial typologies. It requires buildings over eight (8) storeys to be ‘slender in form’. The present Concept Plan application proposes built form that can only be described as squat and heavyset. The built form and floorplate in respect of Building A are not reflective of the controls referred to in s4.2.3 of the RDCP 2010 despite assertions to the contrary in the EAR. Whilst a building of 17 storeys is referred to, it does adopt a ‘slender form’ as referred to earlier and steps down to 13 storeys as one moves in a westerly direction from Lane Cove Road. This built form is in no way reflected in the current Concept Plan Application. In urban design terms the scheme scores very poorly in this regard.

It is an established planning principle that subordinate planning controls should inform the broader RLEP 2010 controls and whilst there may be some inconsistency as between the relevant environmental planning instrument and its subordinate development control plan, this does not provide an unfettered licence to simply ignore the law as it applies (as reflected by the LEP).

5.1.5 The Public Interest

We submit that the proposal in its present form is contrary to the public interest. This is because of the form of the application being so contrary to the legitimate regime of planning controls as to undermine confidence in the NSW Planning System. As such, the proposal, if approved would be contrary to the public interest.

5.2 Shadowing

The development, given its large bulk and overall height as proposed, will cause significant shadow impacts to our clients property as well as other more remote land parcels. The increased shadowing is a direct

result of the gross breaches of the relevant height and FSR development standards contained in the RLEP 2010.

Shadowing to our clients property occurs at all times of day during the winter solstice. We note that no elevational shadow diagrams have been submitted with the concept plan application, so as to permit a proper assessment.

Building A is:

- Excessively tall (comprising 17 storeys); and
- Has a very large footplate (not involving a podium and tower wherein shadowing impact could be lessened); and
- Has an east west orientation.

The outcome is that the building comprises all of the ingredients for a development that will cause unacceptable shadowing impacts to the adjacent development to the south (HMCA). The shadow diagrams submitted with the application (prepared by Bates Smart) bear this out.

Whilst the other buildings in the scheme (B, C and D) will cause significant shadow impacts in respect of our client's property, such shadows are somewhat closer to that which could be regarded as acceptable, given the overall height of these built elements and juxtaposition relative to the HMCA building. This notwithstanding these other buildings breach the statutory height and FSR controls and so cause an increase in shadowing impact that would otherwise not occur.

It beggars belief that the proponents planning consultant can claim that '....the proposed height exceedance will not result in any adverse overshadowing impacts...' (P39 EAR) and this statement (that is clearly incorrect based on the proponents own evidence), leads one to question the credibility of the entire Environmental Assessment Report.

5.3 Visual Impact and View Analysis

It is trite to suggest that the proposed building fronting Lane Cove Road will be completely at odds with the size and scale of our client's new building.

The likely visual impacts are significant in this case due to the breathtaking change in scale as between the HMCA building and proposed building A. This is caused by:

- The physical proximity of the new building and our clients building;
- An absence of articulation, adoption of a 'slender form' and overall design merit in terms of building A;
- The totally different development criteria applied in terms of the design outcome as between the existing and proposed built elements.

5.4 Helipad

A helipad is proposed to be located on Building A. This rates a very brief mention in the EAR (refer P 22). It does not however offer any assessment of the impact, aural or otherwise, that the relocated facility may have in terms of its far closer proximity to our clients building.

5.5 Obscuring of Existing Hyundai Signage

As is shown in the EAR (P42) the proposed development will completely obscure our clients sky sign which can presently be viewed from Lane cove Road at a significant distance in a northerly direction. Whilst retaining 'viewability' of this element is accepted as not being 'as of right', nonetheless, if proposed building A in the Concept Plan was compliant, or close to compliant with the local statutory controls (per the EAR at P35), this view obstruction would be unlikely to occur.

5.6 Landscaping

There are no objections raised in respect of the proposed landscaping for the site. This aspect appears to have been carefully thought through by the relevant expert consultant.

6.0 CONCLUSION

In our opinion the Concept Plan proposal requires significant modifications and reduction in scale to render it acceptable.

The proposal completely at odds with the existing regime of statutory and subordinate controls and whilst the overall concept in terms of proposed landuse itself is acceptable, the scale and size of the development will result in significant adverse environmental effects.

The mantra of providing a maximum benefit in terms of 'employment opportunities' per the Environmental Assessment Report should not come at the cost of a sound planning approach to development and the proposal makes a mockery of current planning controls and at the same time impacts severely on the local neighbourhood.

The proponent has failed to demonstrate that compliance with the relevant statutory controls is unreasonable and unnecessary in the particular circumstances of the matter. In fairness to the proponent we are unable to see how any argument could in any case justify such gross departures from the relevant statutory planning controls.

We consider that provision of a significantly scaled down version of the current proposal may be acceptable however the proposal as it has currently been promulgated is breathtaking in terms of its disregard for the comprehensive masterplanning and urban design work orchestrated by Ryde City Council over a period of many years.

Whilst it is recognised that the provisions of Clause 75R(3) provide the Minister with a wide discretion in Concept Plan applications submitted under Part 3A of the EPAA, the proposal currently under consideration is so far from

acceptable on any planning measure, that it would be inappropriate for such a discretion to be exercised.

This scheme has a number of significant flaws which have been identified in this submission.

In our view the scheme requires major modification before it can be supported. It is difficult not to conclude that the proposal represented in the current Concept Plan application is nothing but an ambit claim.

For the scheme to be wholeheartedly supported, benefit needs to flow to the community without significant impacts and costs, in an environmental context, to private stakeholders in the locality. This is not evident in the present Concept Plan iteration.

Peter A Le Bas

BA (Geog) (UNE) LLB (Hons1) GradCertLegP (UTS) MTCP (Syd) MPIA CPP

TURNBULL PLANNING INTERNATIONAL PTY LIMITED

ANNEXURE 1 - PHOTOGRAPHIC PALETTE

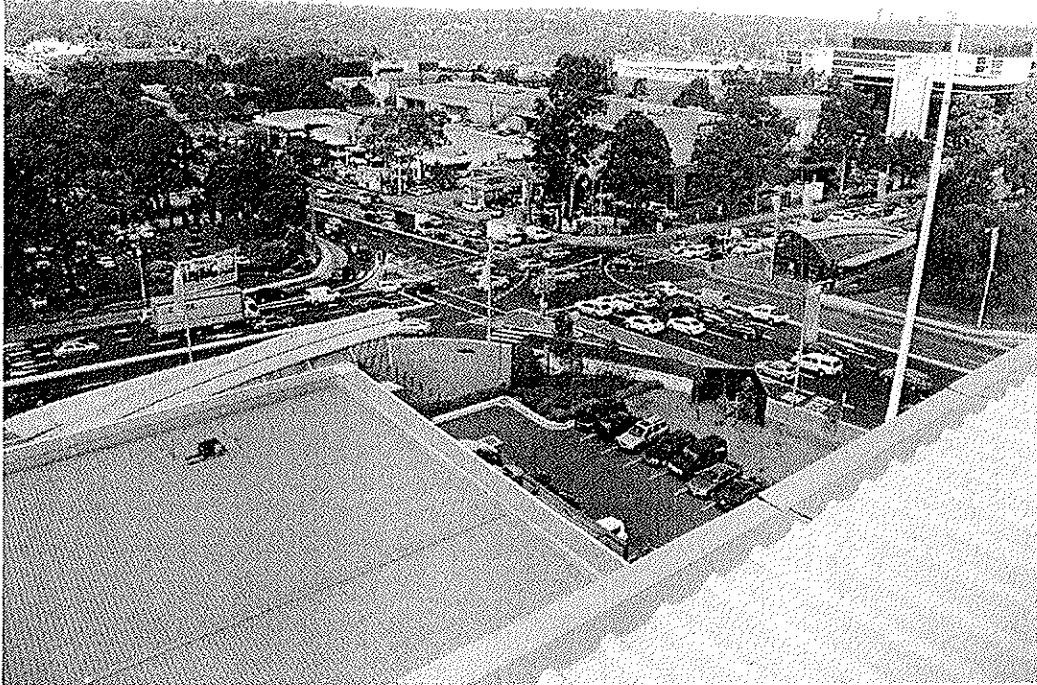


Photo Plate 1: 396 Lane Cove Road viewed from Hyundai Building roof level, looking north east towards intersection of Waterloo Road and Lane Cove Road.



Photo Plate 2: 396 Lane Cove Road viewed from Hyundai Building roof level, looking north.

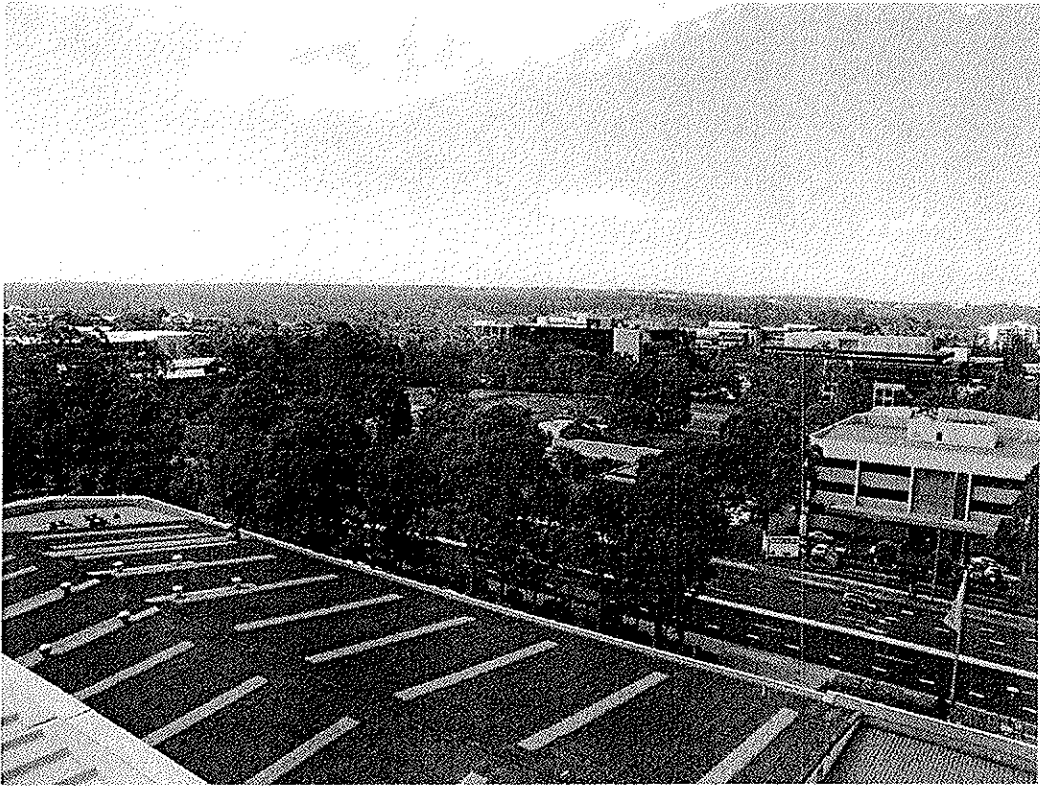


Photo Plate 3: Looking north west towards 396 Lane Cove Road from roof level of Hyundai building.

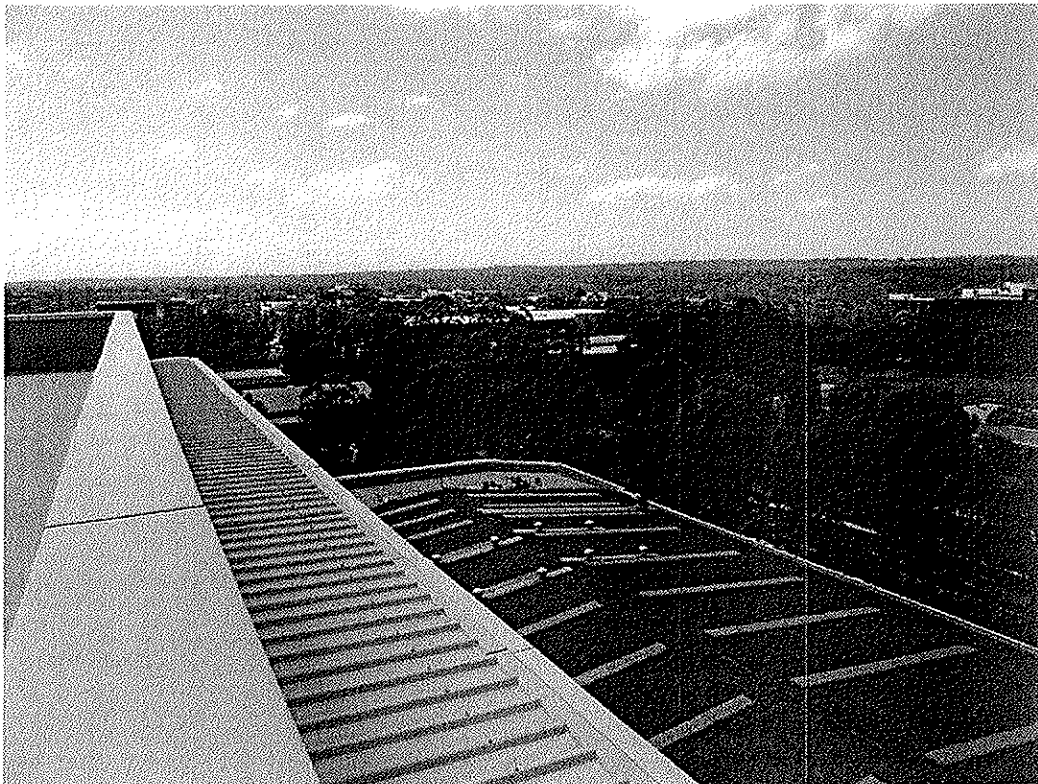


Photo Plate 4: Looking west towards 396 Lane Cove Road from roof level of Hyundai building.

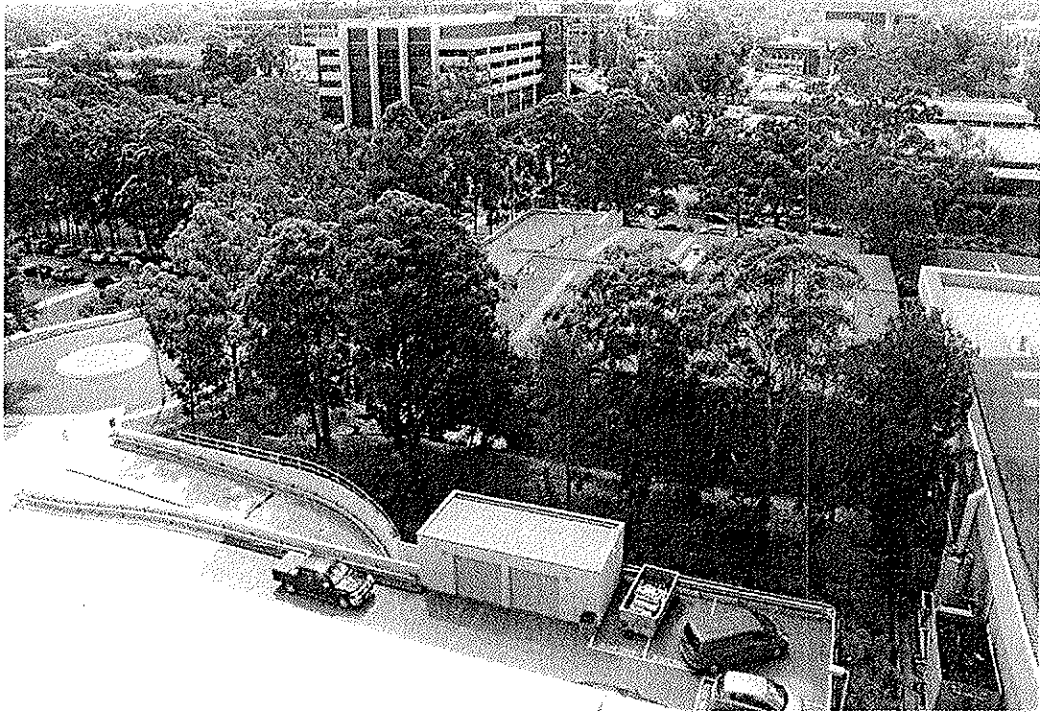


Photo Plate 5: Looking south west towards 'dog leg' portion of 396 Lane Cove Road from roof level of Hyundai building.

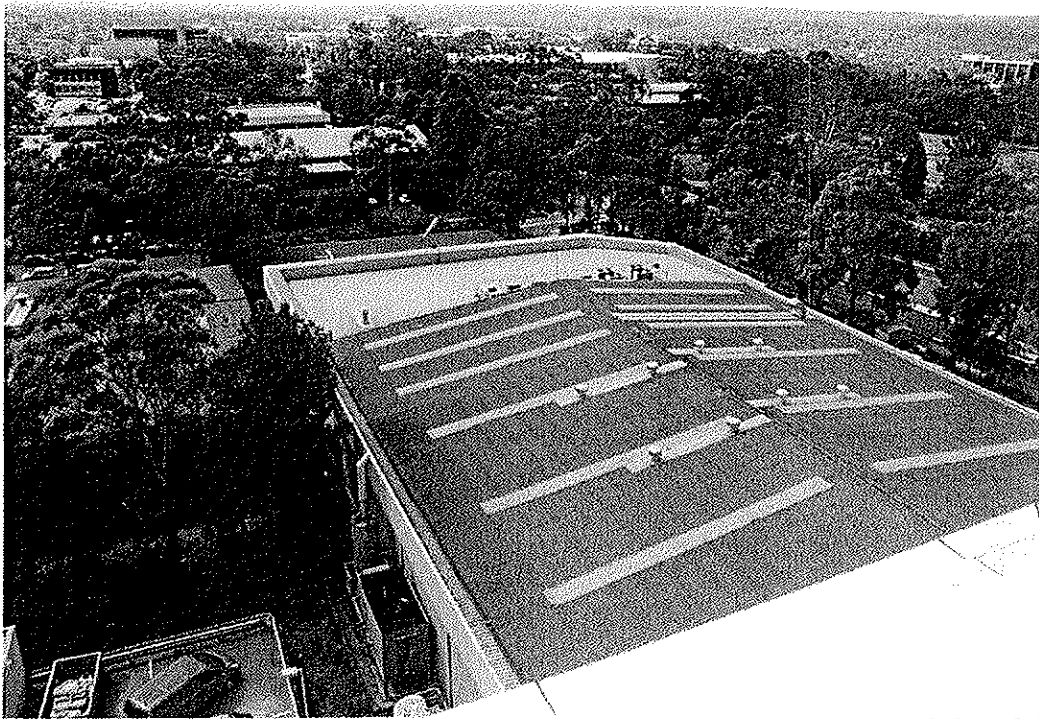


Photo Plate 6: Looking west towards 396 Lane Cove Road from roof level of Hyundai building and showing part of common boundary between properties.



Photo Plate 7: Looking west from ground level of Hyundai building and showing common boundary with 396 Lane Cove Road.



Photo Plate 8: Looking south from ground level of Hyundai building and showing common boundary with 396 Lane Cove Road.



Photo Plate 9: Looking west from ground level of Hyundai building and showing common boundary with 396 Lane Cove Road at junction of 'dog leg'.

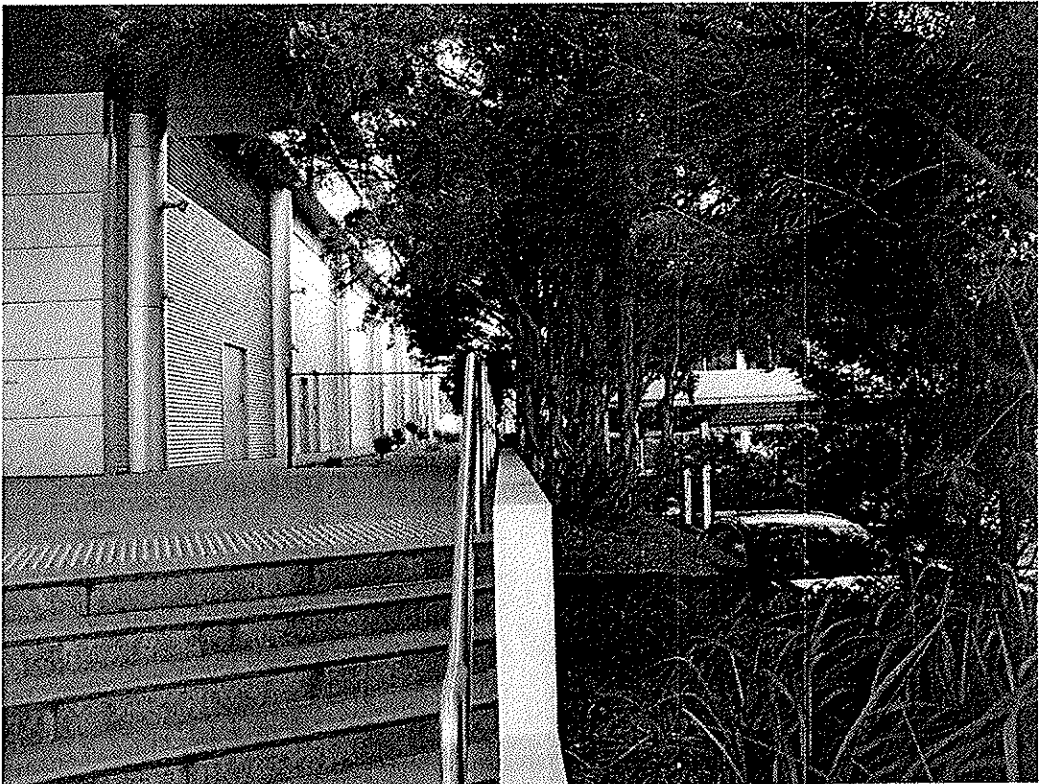
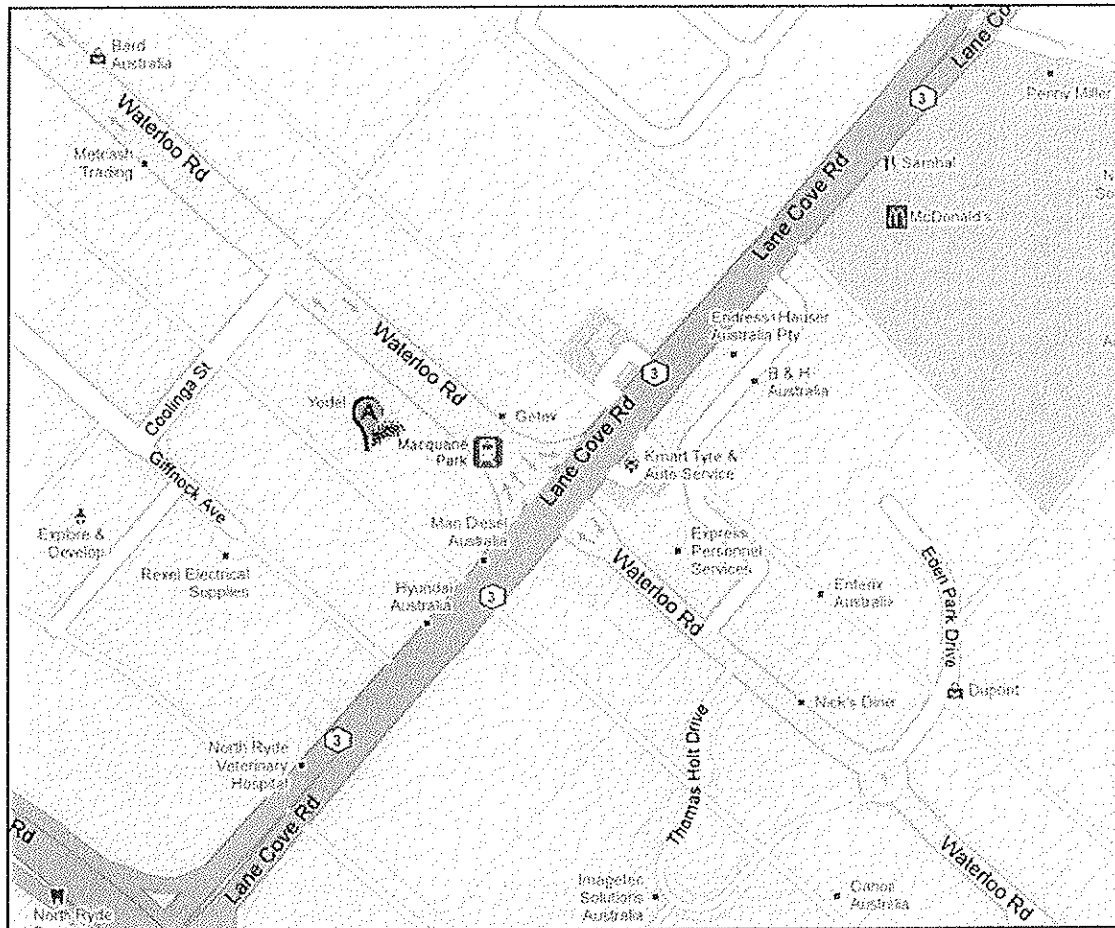


Photo Plate 10: Looking west from ground level of Hyundai building and showing common boundary with 396 Lane Cove Road viewed from Lane Cove Road sidewalk.

ANNEXURE 2 - LOCATION OF PROPERTY



LOCATION PLAN

'A' indicates Location

Courtesy of Google Maps

ANNEXURE 3 – AERIAL PHOTOGRAPH

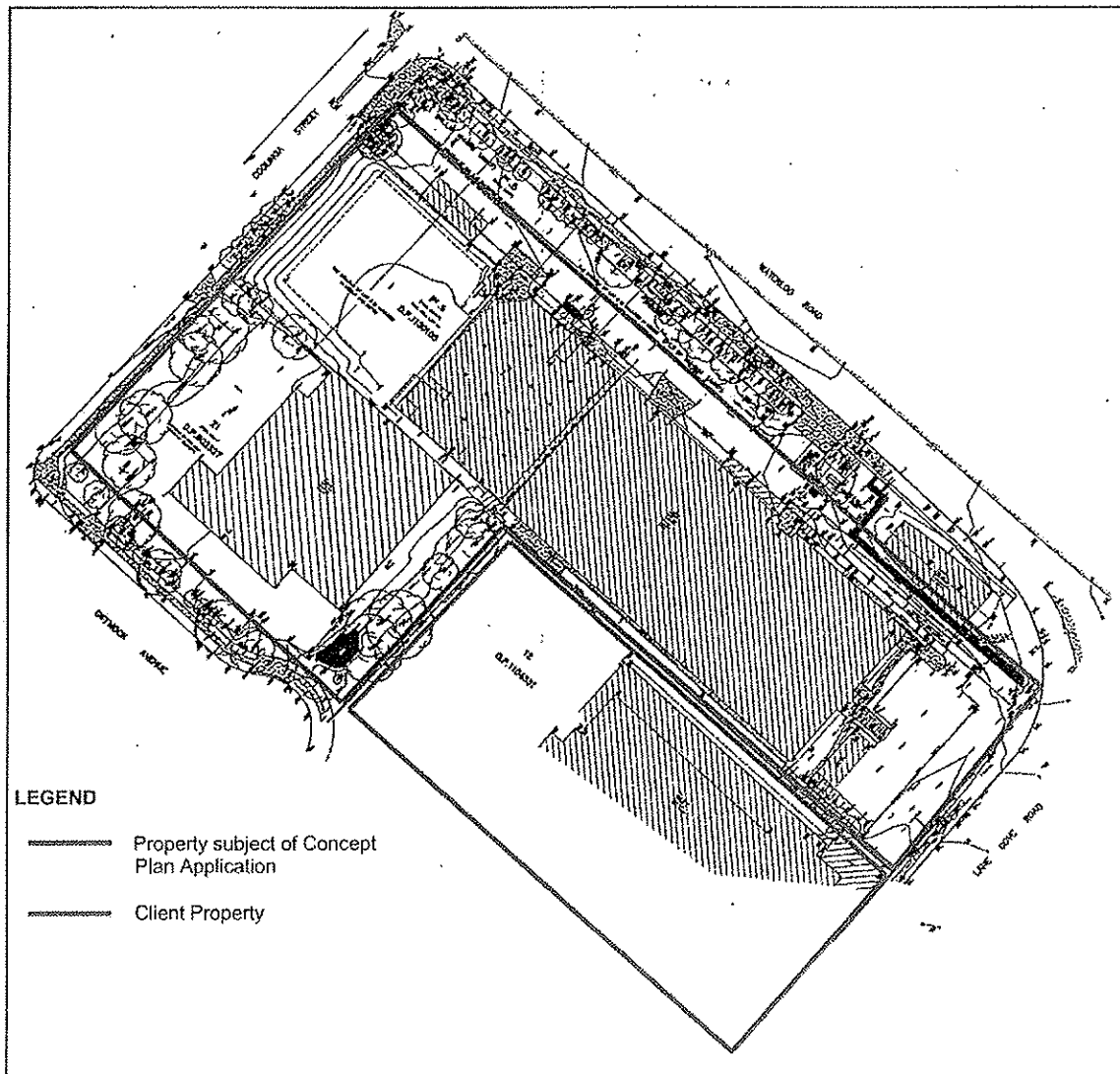


AERIAL PHOTOGRAPH

Red Pin Marks Location

Courtesy of Google Earth

ANNEXURE 4 – CLIENT SITE RELATIONSHIP WITH 396 LANE COVE ROAD



PLAN SHOWING RELATIONSHIP OF SUBJECT WITH CLIENT PROPERTY

Base Plan Courtesy of Adam Clerke Surveyors Pty Limited