

Joint Regional Planning Panel Meeting 15 August 2015
150 EPPING ROAD, LANE COVE WEST

Subject: 150 Epping Road, Lane Cove West
Record No: DA14/25-01 - 46408/15
Division: Environmental Services Division
Author(s): Rebecka Groth

Property:	150 Epping Road, Lane Cove West
DA No:	DA25 /2015
Date Lodged:	8/05/2015
Cost of Work:	N/A
Owner:	Karimbla Properties (No. 35) Pty Ltd
Applicant:	Karimbla Construction Services (NSW) Pty Ltd

Description of the proposal to appear on determination	Modification to development consent to add a study room to two (2) units (Unit numbers 01 and 02) on levels 8 to 20 inclusive within approved Building A.
Zone	IN2 – Light Industrial. Mixed use development approved in the Part 3A Concept Plan (MP10_0148) and the subsequent modification (MP10_0148 MOD 1)
Is the proposal permissible within the zone	Yes
Is the property a heritage item	No
Is the property within a conservation area	No
Is the property adjacent to bushland	Yes
BCA Classification	N/A
Stop the Clock used	Yes
Notification	Notification was undertaken in accordance with Council's notification policy

SITE

Property	Lot No. 21 DP No. 825400
Area	31,740m ²
Shape	Highly Irregular
Adjoining properties	The site adjoins Epping Road to the north, Sam Johnson Way to the east, bushland and the SCJ facility to the south and an access road and commercial buildings to the west.

PREVIOUS APPROVALS/HISTORY

- A Part 3A (Master Plan) proposal applies to develop the site for mixed use purposes including residential towers, commercial office space and child care centre. The proposal was determined by a Planning Advisory Committee (PAC) appointed by the Minister for Planning in August 2012. The PAC approved a 'Planning Concept Plan' which overrides local controls and sets a range of provisions and standards that must be part of any subsequent Development Application (reference MP10_0148). The proposal includes demolition, remediation and the retention and rehabilitation of 1.35ha of bushland and the provision of a walking trail (undeveloped portion of the site).

The PAC granted approval to modify the concept approval on 2 December 2013 (reference MP10_0148 Mod 1). The modifications relate to the terms of approval and modifications to the statement of commitments including dedication of bushland, reduction in retail (258m² of GFA), community floor space (816m² of GFA) and residential floor space (353,310m² of GFA), deletion of commercial space and changes to the architectural drawings.

- Development consent for the decommissioning and demolition of Shell/Coles express service station was granted on 18 March 2013 (DA12/196).
- A modification to DA12/196 to amend Condition 2 and 5 relating to traffic management was approved in April 2012.
- In October 2013 a further modification to DA12/196 was approved on the site to increase the area of remediation.
- Development consent for the demolition of all above ground structures and the removal of all waste and materials on the subject site was granted on 7 January 2014 (DA13/191).
- Development consent for the installation of shoring walls and the excavation of the site within the basement parking area as per the concept plan was granted on 10 July 2014 (DA14/74). The proposed excavation level of RL 14.8 on the submitted plans corresponds to the basement levels indicated on the plans for DA14/25.
- Development consent for the construction of five (5) residential flat buildings (Buildings A to E), child care centre (Building F), retail space (Building G), associated communal recreation facilities, earthworks and landscaping, on-site parking for 638 vehicles, internal roads and land subdivision was granted by the Joint Regional Planning Panel on 21 October 2014 (DA14/25). Construction of this approved development has commenced on-site.
- Consent was granted for DA14/221 on 22 April 2015 for the fit out of Building F for the purposes of an 81 place child care centre. Building F and the future use were approved under DA14/25.
- A Section 96 application was received by Council on 22 July 2015 to amend condition 8 which relates to the strata subdivision of the units and car spaces to be dedicated to Council. This proposal is currently being assessed.
- A Development Application was lodged on 22 July 2015 to Stratum Subdivide the Site into Two Stratum Lots. This proposal is currently being assessed.

PROPOSAL

The proposal seeks consent to modify the development consent at 150 Epping Road including modifications to add a study room to two (2) units (Unit numbers 01 and 02) on levels 8 to 20 inclusive within approved Building A. A total of 26 units are to be amended.

The studies are defined as habitable rooms as per the BCA and as such additional S94 charges would be required.

Concerns raised during the assessment

During the assessment of the proposed modification the JRPP raised concern with the proposed change to Unit 01 in relation to compliance with daylight requirements as per the BCA and the Apartment Design Guide.

In response to the concerns raised, the applicant provided the following response which can be summarised as follows:

- The Apartment Design Guide and the changes to SEPP 65 apply to apartment development applications lodged after 19 June 2015 and determined after 17 July 2015. The current modification was lodged on 8 May 2015.
- The applicant provided calculations to demonstrate that the study in question complies with:
 - *the glazed panel to the study has an area of not less than 10% of the floor area of the study; and*
 - *the window area to the living/dining room is more than 10% of the floor area of the living/dining room (including corridors) and the study.*

The modification is deemed to be compliant with the BCA in the opinion of Council's Principal Building Surveyor.

An assessment of the proposed modification is provided below.

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

No change is proposed to the façade of Building A. It is considered the proposal would result in minimal environmental impact.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

The proposed modification is substantially the same development, the proposal involves internal changes only and would not result in any change to the gross floor area, car parking demand or change to the façade of Building A.

(c) it has notified the application in accordance with:

- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

The proposed modification was notified to adjoining owners for a period of 14 days commencing on the 14 May 2015.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be

No submissions have been made in response to the notification of the proposed modification.

Subsections (1), (2) and (5) do not apply to such a modification.

Noted.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

LANE COVE LOCAL ENVIRONMENTAL PLAN 2009 (Section 79C(1)(a)(i))

Zoning: IN2 – Light Industrial - Mixed use development approved in the Part 3A Concept Plan (MP10_0148) and the subsequent modification (MP10_0148 MOD 1)

Site Area: 31,740m²

	Proposed	Approved DA14/25 (Concept Plan)	Complies
Floor Space Ratio	No change to approved footprint	Footprint approved in concept plan which overrides the LEP	Yes
Height of Buildings	No change to approved footprint	Footprint approved in concept plan which overrides the LEP	Yes

OTHER PLANNING INSTRUMENTS

NSW Rural Fires Act 1997

The modification does not result in any change to the conditions of consent required previously by the NSW Rural Fire Services.

SEPP 19 – Bushland in Urban Areas

The proposed amendment does not involve work on the portion of the site affected by SEPP 19. Part of the eastern handle of the subject site, comprising Lot 101 is subject to SEPP 19. This portion of the site is to be dedicated to Lane Cove Council in conjunction with the VPA for the purposes of a public bushland reserve.

Section 94 Contributions

The proposed amendment generates an increase of 0.5 persons per study and is as follows:

0.5 persons x \$9,900 x 26 units = \$128,700.00

The total contributions required for the amended application would be: \$128,700.00

ANY PROPOSED INSTRUMENT

There are no proposed instruments which are relevant to the modification. It is noted that the current modification was lodged in May 2015. The Apartment Design Guide and changes to SEPP 65 apply to apartment development applications lodged after 19 June 2015 and determined after 17 July 2015.

ANY DEVELOPMENT CONTROL PLAN (Section 79C(1)(a)(iii))

There are no sections of the DCP which are specifically relevant to the proposed modification. There are no additional car parking requirements in this instance given the concept plan approved on-site parking for 638 vehicles which overrides Council's DCP.

ANY PLANNING AGREEMENT OR DRAFT PLANNING AGREEMENT (Section 79C(1)(a)(iia))

No change is proposed to the existing Voluntary Planning Agreement (VPA) entered into in association with DA14/25.

APPLICABLE REGULATIONS (Section 79C(1)(a)(iv))

There are no specific clauses of the regulations which are relevant to the proposal.

LIKLEY IMPACTS (Section 79C(1)(b))

The proposal was referred to Council's Principal Building Surveyor and his comments are summarised below.

Senior Building Surveyor

The Principal Surveyor advises that he has assessed the proposal to add a study room to two (2) units to floors 8 to 20 inclusive and confirms there is no objection to the modification and no changes to the conditions are required.

SUITABILITY OF THE SITE (Section 79C(1)(c))

The proposed being an amendment to the approved development, is considered suitable for the site.

SUBMISSIONS (Section 79C(1)(d))

No submissions have been received a result of the notification of the proposal.

PUBLIC INTEREST (Section 79C(1)(e))

The proposal is considered to be in the public interest.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

Noted.

CONCLUSION

The matters in relation to Section 79C of the Environmental Planning and Assessment Act 1979 have been satisfied.

The proposed modification is substantially the same development as the approved development application. The modification is not inconsistent with the approved footprints and would not result in adverse environmental impacts. No concerns have been raised by council officers in relation to the proposal.

On balance the proposed development would be reasonable and is regarded as being in the public interest. The proposal is recommended for approval subject to the following amended conditions:

Amend Condition 1:

Include the following plan numbers

2010-A-L8	Building A Level 8	A	Meriton Builders & Developers	5/5/2015
2011-A-L9	Building A Level 9	A	Meriton Builders & Developers	5/5/2015
2012-A-L10	Building A Level 10-20	A	Meriton Builders & Developers	5/5/2015

Add Condition 9A:

THE PAYMENT FOR AN ADDITIONAL **13 PERSONS** IN ACCORDANCE WITH COUNCIL'S SECTION 94 CONTRIBUTIONS PLAN. THIS PAYMENT BEING MADE PRIOR TO THE ISSUE OF THE FIRST OCCUPATION CERTIFICATE IS TO BE AT THE CURRENT RATE AT TIME OF PAYMENT. **THE AMOUNT IS \$128,700 AT THE CURRENT RATE OF \$9,900.00 PER PERSON (2015/2016 and FEES AND CHARGES)**
NOTE: PAYMENT MUST BE IN BANK CHEQUE. PERSONAL CHEQUES WILL NOT BE ACCEPTED.

THIS CONTRIBUTION IS FOR COMMUNITY FACILITIES, OPEN SPACE/ RECREATION AND ROAD UNDER THE LANE COVE SECTION 94 CONTRIBUTIONS PLAN WHICH IS

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AVAILABLE FOR INSPECTION AT THE CUSTOMER SERVICE COUNTER, LANE COVE COUNCIL, 48 LONGUEVILLE ROAD, LANE COVE.

Add Condition 9B:

The studies shown on plans 2010-A-L8 (Building A Level 8), 2011-A-L9 (Building A Level 9) and 2012-A-L10 (Building A Level 10-20), Rev A, prepared by Meriton Builders and Developers and dated 5/5/2015 are habitable rooms in accordance with the BCA and may be used as bedrooms.

All other conditions are to remain.

RECOMMENDATION

That pursuant to section 80(1)(a) of the Environmental Planning and Assessment Act 1979, the Joint Regional Planning Panel grants development consent to:

- Development Application DA14/25
- For the modification to development consent to add a study room to two (2) units (Unit numbers 01 and 02) on levels 8 to 20 inclusive within approved Building A.
- On (property address) 150 Epping Road, Lane Cove West

subject to the following amended conditions:

Amended Condition 1:

That the development be strictly in accordance with the following:

Drawing numbers	Title	Revision	Prepared by	Dated
A000	Cover Sheet	C	Meriton Builders & Developers	8/8/14
A001	Location Plan	B	Conybeare Morrison International Pty Ltd	28/5/14
A003	Footprint comparison – concept approval layout	B	Conybeare Morrison International Pty Ltd	28/5/14
A010	Site – Roof Plan	C	Meriton Builders & Developers	8/8/14
A011	Site – Typical	C	Meriton Builders & Developers	8/8/14
A012	Site – Level 04	C	Meriton Builders & Developers	8/8/14
A013	Site – Level 03	C	Meriton Builders & Developers	8/8/14
A020	Site – Level 02	C	Meriton Builders & Developers	8/8/14
A021	Site – Level 01	C	Meriton Builders & Developers	8/8/14

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A022	Site – Carpark Level 1	C	Meriton Builders & Developers	8/8/14
A023	Site – Carpark Level 2	C	Meriton Builders & Developers	8/8/14
A101	Buildings A + B – Roof Plans	C	Meriton Builders & Developers	8/8/14
A101A	Building A L21-24 & Building E L11-12	C	Meriton Builders & Developers	8/8/14
A102	Buildings A + B – Typical Layout	C	Meriton Builders & Developers	8/8/14
A103	Buildings A + B – Level 4	C	Meriton Builders & Developers	8/8/14
A104	Buildings A + B – Level 3	C	Meriton Builders & Developers	8/8/14
A105	Buildings A + B – Level 2	C	Meriton Builders & Developers	8/8/14
A106	Buildings A + B – Level 1	C	Meriton Builders & Developers	8/8/14
A150	Buildings A – Sections AA + BB	B	Conybeare Morrison International Pty Ltd	28/5/14
A151	Building B – Sections CC + DD	C	Meriton Builders & Developers	8/8/14
A160	Building A – North + East Elevations	C	Meriton Builders & Developers	8/8/14
A161	Building A – South + West Elevations	C	Meriton Builders & Developers	8/8/14
A162	Building B – Elevations	C	Meriton Builders & Developers	8/8/14
A180	Typical Adaptable Units 1+2	C	Meriton Builders & Developers	8/8/14
A181	Typical Adaptable Unit 3	C	Meriton Builders & Developers	8/8/14
A201	Buildings C + D + E – Roof Plans	C	Meriton Builders & Developers	8/8/14
A202	Buildings C + D + E – Typical Plan	C	Meriton Builders & Developers	8/8/14
A203	Buildings C + D + E – Level 4	C	Meriton Builders & Developers	8/8/14

A204	Buildings C + D + E – Level 3	C	Meriton Builders & Developers	8/8/14
A205	Buildings C + D + E – Level 2	C	Meriton Builders & Developers	8/8/14
A206	Buildings C + D + E – Level 1	C	Meriton Builders & Developers	8/8/14
A207	Buildings C + D + E – Level 1 Lower	C	Meriton Builders & Developers	8/8/14
A250	Buildings C + D – Sections EE + FF + GG	C	Meriton Builders & Developers	8/8/14
A251	Building E –	B	Conybeare Morrison	28/5/14

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	Sections HH + JJ		International Pty Ltd	
A260	Buildings C + D – Elevations	C	Meriton Builders & Developers	8/8/14
A261	Building E – North + East + South + West Elevations	C	Meriton Builders & Developers	8/8/14
A301	Buildings F + G – Plans	C	Meriton Builders & Developers	8/8/14
A302	Buildings F + G – Elevations	C	Meriton Builders & Developers	8/8/14
A501	Site Sections	B	Conybeare Morrison International Pty Ltd	28/5/14
A613	Bicycle Network Diagram	C	Meriton Builders & Developers	8/8/14
A614	Pedestrian Network Diagram	C	Meriton Builders & Developers	8/8/14
A615	Bicycle & Motor Cycle Network Diagram	C	Meriton Builders & Developers	8/8/14
A701	Rendering 1	A	Conybeare Morrison International Pty Ltd	5/3/14
A702	Rendering 2	A	Conybeare Morrison International Pty Ltd	5/3/14
A703	Rendering 3	A	Conybeare Morrison International Pty Ltd	5/3/14
A704	Rendering 4	A	Conybeare Morrison International Pty Ltd	5/3/14
A901	Material Finishes	A	Conybeare Morrison International Pty Ltd	14/3/14

2010-A-L8	Building A Level 8	A	Meriton Builders & Developers	5/5/2015
2011-A-L9	Building A Level 9	A	Meriton Builders & Developers	5/5/2015
2012-A-L10	Building A Level 10-20		Meriton Builders & Developers	5/5/2015

except as amended by the following conditions.

Add Condition 9A:

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Add Condition 9B:

The studies shown on plans 2010-A-L8 (Building A Level 8), 2011-A-L9 (Building A Level 9) and 2012-A-L10 (Building A Level 10-20), Rev A, prepared by Meriton Builders and Developers and dated 5/5/2015 are habitable rooms in accordance with the BCA and may be used as bedrooms.

All other conditions are to remain.

Michael Mason
Executive Manager
Environmental Services Division

ATTACHMENTS:

There are no supporting documents for this report.