



MODIFICATION REQUEST:

***Application to Modify the Minister's
Approval for the Wahroonga Estate
Concept Plan***

(Major Project 07_0166 MOD 2)

- Transfer of the value of upgrading The Comenarra Parkway/Kissing Point Road intersection towards the cost of upgrading the Pacific Highway/Fox Valley Road intersection
- Update Proponent's contact details

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

November 2012

© Crown copyright 2012
Published October 2012
NSW Department of Planning & Infrastructure
www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

TABLE OF CONTENTS

1.	INTRODUCTION	1
2.	BACKGROUND	1
3.	PROPOSED MODIFICATION	4
4.	STATUTORY CONTEXT	4
	4.1 Modification of the Minister's Approval	4
	4.2 Continuing operation of Part 3A	4
	4.3 Delegated Authority	4
	4.4 Environmental Assessment Requirements	5
5.	CONSULTATION AND SUBMISSIONS	5
	5.1 Exhibition	5
	5.2 Public Authority Submissions	5
6.	ASSESSMENT	6
	6.1 Traffic Impacts	6
7.	CONCLUSION	9
8.	RECOMMENDATIONS	10
APPENDIX A	MODIFICATION REQUEST	11
APPENDIX B	SUBMISSIONS	12
APPENDIX C	RECOMMENDED MODIFYING INSTRUMENT	13
APPENDIX D	CONSOLIDATED INSTRUMENT OF APPROVAL	21

1. INTRODUCTION

This is an assessment of a Modification Application (MP 07_0166 MOD 2) prepared by Johnson Property Group, on behalf of Australasian Conference Association Limited ('**Proponent**'), requesting modifications to the existing Concept Plan approval (MP 07_0166) for 'Wahroonga Estate', which established key elements for the expansion of the existing Sydney Adventist Hospital (SAH) site.

The application primarily seeks to modify certain intersection upgrades required under the Concept Plan approval.

2. BACKGROUND

The 'Wahroonga Estate', incorporating the SAH, is a 62.4ha site located approximately 18km northwest of the Sydney CBD and 1km south of the intersection of the Pacific Highway, Pennant Hills Road and the F3 Freeway (see Figure 1).

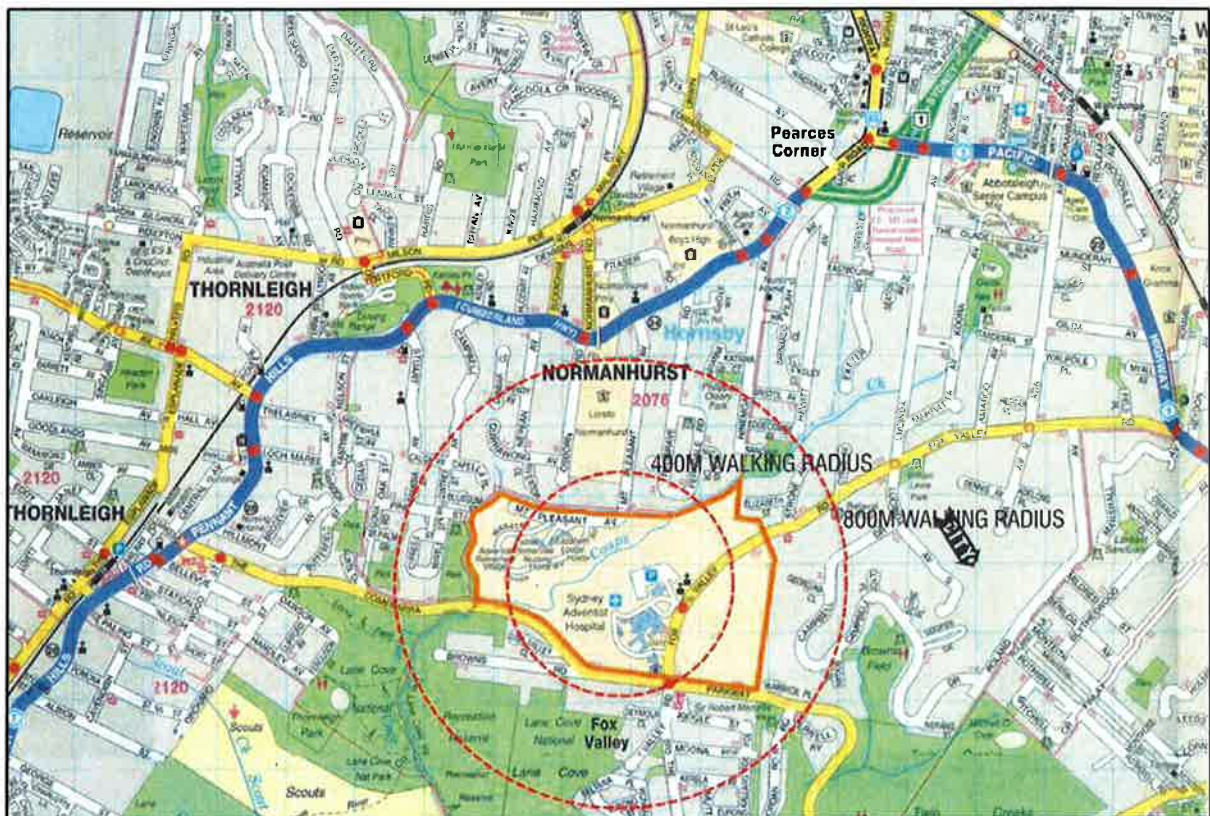


Figure 1: Project Location (Environmental Assessment, April 2009)

The majority of the site is located within the Ku-ring-gai Local Government Area (LGA), with a small portion located in the Hornsby LGA. The site comprises fifty-nine separate property titles managed by the Australasian Conference Association (ACA), as property trustees of the Seventh Day Adventist Church, and two property titles in private ownership.

On 18 December 2009, the site was listed as a State significant site within Schedule 3 of *State Environmental Planning Policy (Major Development) 2005* to establish a number of land use zones and development standards to facilitate its proposed redevelopment.

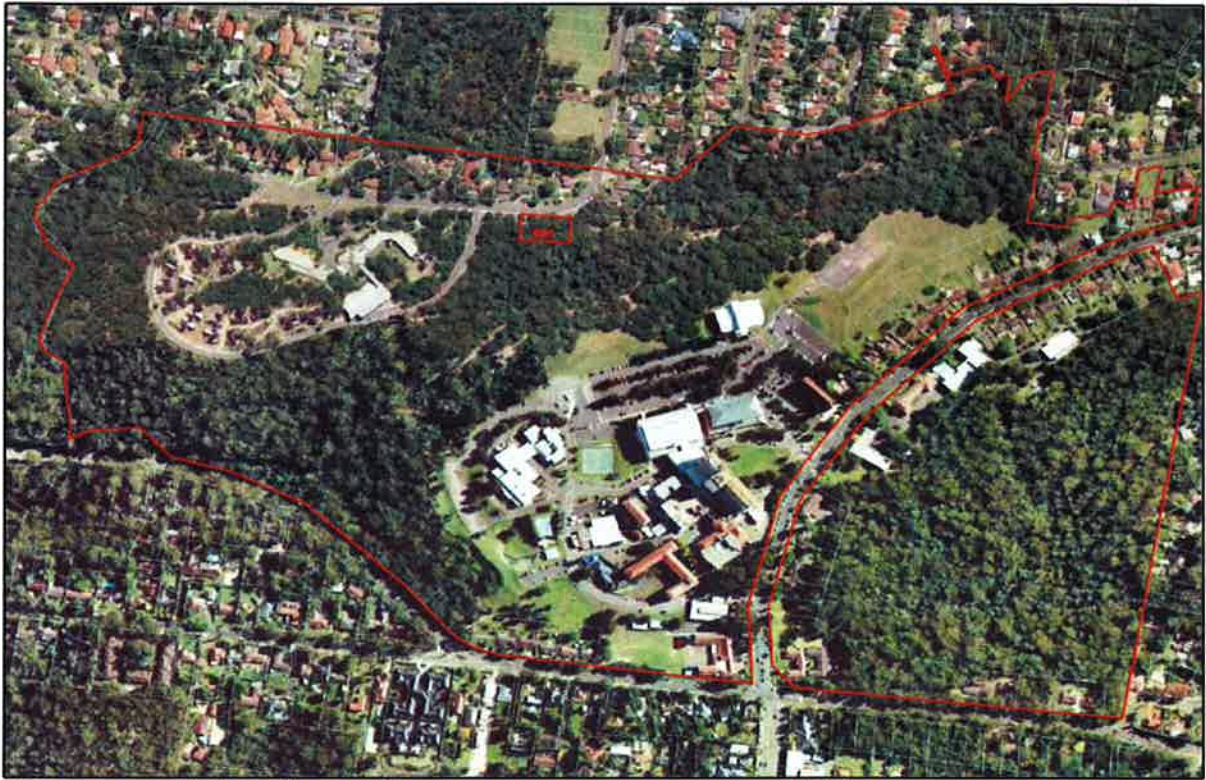


Figure 2: Aerial photograph of the site (Environmental Assessment, April 2009)

Concept Plan

On 31 March 2010, the former Minister for Planning & Infrastructure approved Concept Plan MP_0166, subject to conditions. The Concept Plan does not authorise the carrying out of any development of buildings or subdivision at the site. Rather, the Concept Plan established key elements for the expansion of the existing SAH, the development of up to 500 low, medium and high density residential dwellings, student accommodation, seniors housing, retail and commercial uses, a primary school, an upgraded faculty of nursing, a church, 31.4 hectares of conservation lands and associated infrastructure.

The Concept Plan granted approval for the following key elements:

- General layout of land uses;
- Maximum gross floor areas (GFA) for land uses;
- The maximum number of dwellings and other accommodation types;
- Building heights;
- Road design and traffic management works; and
- Landscape, open space and public domain treatments, including the protection and management of conservation areas.

The Concept Plan established five development precincts, with each precinct containing separate GFA controls and restrictions on the type, and maximum number of dwellings.

The Concept Plan layout, as approved, is shown in Figure 3 below.



Figure 3: Wahroonga Estate Concept Plan Layout

On 15 May 2010, the Concept Plan was modified to clarify the timing for the Proponent to obtain an approval from the Commonwealth Department of Water, Environment, Heritage and the Arts for a Biodiversity Management Plan.

Project Approval

On 3 March 2011, the Planning Assessment Commission ('PAC'), as delegate for the Minister, approved a project application (MP10_0070) for staged alterations and additions to the SAH. The approval consisted of:

- staged expansion and refurbishment of the Clinical Services Building (CSB);
- refurbishment of existing hospital buildings;
- construction of 3 – 4 storey Education Centre;
- demolition and construction of a new Shannon Wing;
- Relocation of Bethal House and Memorial Fountain to create the Merritt Kellogg Museum;
- staged construction of a multi-deck car park and new at-grade parking for 970 spaces;
- expanded at-grade staff car parks for an additional 86 spaces;
- temporary car park for 258 cars during construction;
- construction of a concourse;
- new entry to hospital;
- new perimeter road around multi-deck car park to connect existing access road; and
- new and upgraded landscaping.

On 23 December 2011, the PAC granted delegated approval to modify the project approval (MP10_0070 MOD 1) to allow alterations to car parking arrangements and pedestrian access at the SAH.

On 11 April 2012, the PAC granted delegated approval to further modify the project approval (MP10_0070 MOD 2) to allow an amended CSB built form and floor layout and an amended development staging schedule.

On 13 June 2012, the PAC approved modification application granted delegated approval to further modify the project approval (MP10_0070 MOD 3) to revise the design of the Education Centre, including a reduction to the building height, an increase in building footprint and additional car parking spaces.

3. PROPOSED MODIFICATION

On 13 December 2011, the Proponent submitted a modification application in accordance with section 75W of the EP&A Act to modify the Concept Plan. The s75W modification application seeks to:

- amend Condition B7(1) to:
 - delete the requirement for the Proponent to upgrade the Comenarra Parkway/Kissing Point Road intersection; and
 - transfer the funds for those works towards the cost of upgrading the Pacific Highway/Fox Valley Road intersection.
- update the Proponent's details.

4. STATUTORY CONTEXT

4.1 Modification of the Minister's Approval

Section 75W(2) of the EP&A Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project as modified would be consistent with the original approval.

As the proposal seeks a modification to the requirement for the Proponent to carry out road intersection upgrade works, the modification will require the Minister's approval.

4.2 Continuing operation of Part 3A

In accordance with clause 3C of Schedule 6A of the EP&A Act, section 75W as in force immediately before its repeal on 1 October 2011 continues to apply for the purpose of the modification of concept plans approved before the repeal of Part 3A.

Concept Plan MP 10_0070 was approved prior to the repeal of Part 3A. Accordingly, s.75W of the EP&A Act continues to apply for the purposes of the proposed modification of the Concept Plan.

4.3 Delegated Authority

The Minister is the approval authority for modification requests under s75W of the EP&A Act. However, the Executive Director, Urban Renewal and Major Sites may determine a s75W modification application, in accordance with the Instrument of Delegation issued by the Minister for Planning and Infrastructure, on 14 September 2011, where:

- the Council has not made an objection,
- there are less than 25 public submissions objecting to the proposal, and
- a political disclosure statement has not been made in relation to the application.

There have not been any submissions received from the public in relation to this modification application. Ku-ring-gai Council (Council) supports the modification application, and there has been no political disclosure statement made for this application or for any previous related applications.

Accordingly the modification application is able to be determined by the Executive Director, Urban Renewal and Major Sites, under delegation.

4.4 Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides the Director-General with scope to issue Environmental Assessment Requirements that must be complied with before the matter will be considered by the Minister. Environmental Assessment Requirements were not issued for this modification as the Proponent has addressed the key issues in the modification request.

5. CONSULTATION AND SUBMISSIONS

5.1 Exhibition

Under section 75W of the EP&A Act, requests for modification are not required to be publicly exhibited. However, pursuant to Section 75X (2)(f) of the EP&A Act, the Director-General is required to make s75W modification requests publicly available. In accordance with Clause 8G of the Environmental Planning and Assessment Regulation 2000, the Department made the modification request publicly available on the Department's website.

The Department also consulted with Council and Roads & Maritime Services ('RMS'). A copy of the submissions of Ku-ring-gai Council and RMS are attached at **Appendix B**.

5.2 Public Authority Submissions

Ku-ring-gai Council

Council advised that it supports the proposed modification and that Council had resolved to adopt the minutes of Council's Traffic Committee concerning the proposed upgrade of intersections associated with the planned development of the SAH site. The Traffic Committee report recommended not to support any upgrade to the intersection, and for funding for these works to be allocated to the intersection of Fox Valley Road and the Pacific Highway.

Council subsequently advised the Department it did not consider there to be a nexus between the approved development and upgrading of The Comenarra Parkway/ Kissing Point Road intersection. Council also advised it did not consider there to be a need for its upgrading. The intersection was upgraded by Council in 2004/2005, and Council advised that any improvement to the intersection would add to congestion on surrounding Yanko Road. Council advised there to be more benefit in upgrading the Fox Valley Road and Pacific Highway intersection.

The Department has considered the issues raised by Council in its submission in the Department's assessment of the proposed modification.

Roads & Maritime Services

The RMS originally objected to the proposed modification. However, through discussions with the Department and Council, RMS subsequently advised it supported Council's position to transfer the value of upgrading the Comenarra Parkway/Kissing Point Road intersection towards the cost of upgrading the Pacific Highway/Fox Valley Road intersection *"as this will provide a greater network efficiency solution."* RMS also requested some changes to the Department's draft amendment to Condition B7(1), as discussed below.

6. ASSESSMENT

The Department considers the key issue for the proposed modification relates to traffic impacts and the timing of the execution of the Deed of Agreement to facilitate the delivery of upgrades required for the proposal.

6.1 Traffic Impacts

The original assessment of the Concept Plan indicated that a number of intersections in the vicinity of the site required upgrading to accommodate the additional traffic generated by the proposal. Roads works identified included:

- i) reconstruction/upgrading of the existing traffic signals at the following intersections;
 - a. The Comenarra Parkway/Fox Valley Road;
 - b. Pacific Highway/Fox Valley Road; and
 - c. The Comenarra Parkway/Kissing Point Road.
- ii) intersection improvement works at specified locations on Fox Valley Road;
- iii) road widening works at The Comenarra Parkway between Fox Valley Road and Browns Road; and
- iv) road widening works along Fox Valley Road at specified locations.

Condition B7(2) also requires the Proponent to prepare an approved Traffic Management Plan prior to installing specified road signage at the Pennant Hills Road/Mount Pleasant Ave intersection.

The Concept Plan approval required the Proponent to enter into a deed with the RMS (formerly Roads and Traffic Authority, RTA) to undertake the works, with the deed to be finalised prior to the release of the first construction certificate for the site.

The nature of the works to be undertaken by the Proponent for each of the road works specified in Condition B7(1) are detailed in a submission from the RTA dated 18 June 2009 ('**2009 RTA Submission**'), which is referred to in Condition B7(1) and consequently forms part of the approved conditions of the Concept Plan.

The Comenarra Parkway/Kissing Point Road reconstruction/upgrade works

The scope of improvements to be undertaken to the intersection of The Comenarra Parkway/Kissing Point Road intersection are described in the RTA Submission as follows:

"The scope of improvements to the intersection of The Comenarra Parkway/Kissing Point Road will require the following works:

- *The Comenarra Parkway (west leg)*
 - *Left turn slip lane (min 50m storage) for the movement turning into Kissing Point Road (north);*
 - *Two eastbound through lanes;*
 - *One right turn lane (min 50m storage) for the movement turning into Kissing Point Road (south); and*
 - *A single westbound through lane."*

The diagram below illustrates the existing road configuration of The Comenarra Parkway/Kissing Point Road intersection and includes the future road configuration once the intersection upgrade works, as described above, have been carried out.

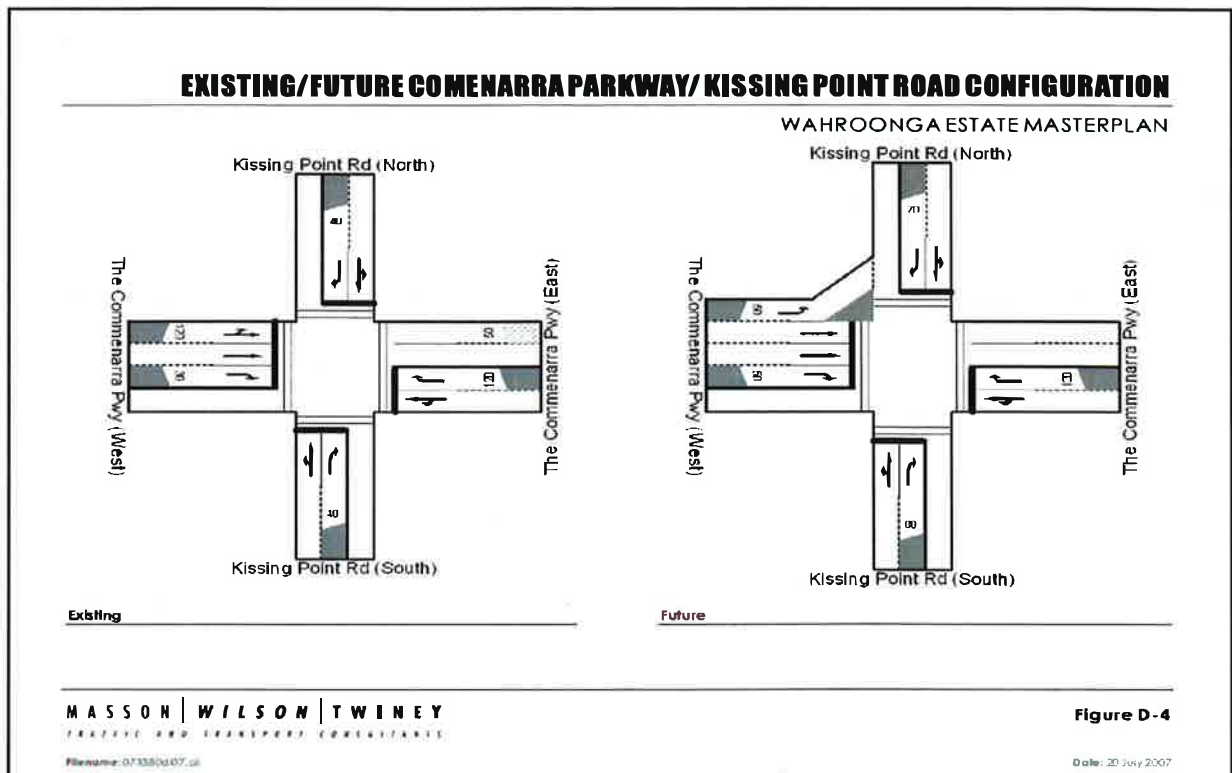


Figure 3: Existing/Future Comenarra Parkway/Kissing Point Road Configuration. (Wahroonga Estate Traffic Report, Appendix J, Environmental Assessment, April 2009).

The Wahroonga Estate Traffic Report that formed part of the Environmental Assessment for the Concept Plan application (**'Traffic Report'**) noted that a significant number of vehicles turn left into Kissing Point Road (north) from The Comenarra Parkway (west), especially during the morning peak period. It also noted that major periods of congestion at the intersection occur in winter during the netball season, due to a large netball facility near Kissing Point Road (south).

The Traffic Report included a number of recommended intersection upgrade works (which were subsequently adopted in the RTA Submission) that, once implemented, would reduce delays during the morning peak period and assist the operation of the intersection.

However, the Traffic Report's intersection analysis determined that the intersection upgrade works to the Comenarra Parkway/Kissing Point Road would not lead to significant improvements in the performance of the intersection, particularly during the evening peak hour. During those times, the intersection would continue to score the lowest ranked level of service due to the "extreme delay" experienced per vehicle at the intersection, such that additional intersection treatment works would still be required.

The Department has also been advised that any improvements to the Comenarra Parkway/Kissing Point Road would be problematic due to major difficulties associated with the required relocation of utility services, impacts on an affected property owner and land acquisition issues. RMS also advised the Department that improvement works to the intersection would now be deferred to accompany a future overall route planning study for The Comenarra Parkway.

The Department has also been informed that RMS and Ku-ring-gai Council have investigated the likely traffic impacts that would arise if no intersection improvement works were carried out at The Comenarra Parkway/Kissing Point Road, as well as the predicted traffic benefits likely to arise from bringing forward the scheduled improvement works at the Pacific Hwy/Fox

Valley Rd intersection. RMS & Council are satisfied that bringing forward the ultimate intersection upgrade works for the Pacific Hwy/Fox Valley Rd intersection would lead to regional traffic improvements for the whole network.

Department Comment

Noting the practical difficulties confronting the Proponent with undertaking the required intersection upgrade works to The Comenarra Parkway/Kissing Point Road intersection, upgrade works would not lead to significant improvements in the performance of this intersection, and the advice of RMS and Council, the Department is satisfied that the traffic impacts that would likely arise from the deletion of the requirement under the Concept Plan for the Proponent to carry out any intersection improvements to The Comenarra Parkway/Kissing Point Road intersection would be offset by the regional traffic improvements to be gained by bringing forward the timing of the upgrade works to the Pacific Highway/Fox Valley Road intersection.

Additionally, in light of these circumstances, it appears that a comprehensive route planning study for The Comenarra Parkway may be the most appropriate means of improving the long term performance of The Comenarra Parkway/Kissing Point Road intersection. However, due to the distance of the Kissing Point Road intersection from the site, the Department does not consider it appropriate for the Proponent to be responsible for undertaking those investigations, or carrying out any ultimate upgrade works that may be required.

Accordingly, it is recommended Condition B7(1) be amended to delete the requirement for the Proponent to reconstruct/upgrade the existing traffic signals at the Comenarra Parkway/Kissing Point Road intersection and transfer the funds for those works towards the reconstruction/upgrade to the Pacific Highway/Fox Valley Road intersection.

Draft Condition B7(1)

The amendment to Condition B7(1) provides the Proponent with the flexibility to provide either a monetary contribution or works in kind ('WIK') equivalent towards the cost of upgrading the Fox Valley Road and the Pacific Highway intersection. This is consistent with the approved Condition B7(1) of the Concept Plan.

RMS' submission requested the amended condition require the Proponent to carry out the intersection upgrade works, with no option to provide a monetary contribution equivalent for those works. The Department does not support this amendment, as it would remove the approved condition's flexibility for the Proponent to determine the manner in which the condition is satisfied.

The amendment to Condition B7(1) also requires the Proponent to contribute towards the estimated total cost of upgrading the Fox Valley Road/Pacific Highway intersection as follows:

- 100% towards the estimated total cost of upgrading The Comenarra Parkway/Kissing Point Road intersection; and
- 25% of the estimated total cost of upgrading the Fox Valley Road/Pacific Highway intersection.

RMS' submission requested the amended condition require the Proponent to carry out upgrade works to the Fox Valley Road/Pacific Highway intersection in accordance with a plan that had previously been prepared by the Proponent.

The Department understands this plan identifies the *total* traffic signal/civil upgrade works to the intersection, as described in the 2009 RTA Submission, including works in addition to those required by the conditions of the Concept Plan. In particular, the approved Condition

B7(1) requires the Proponent to contribute 25% of the estimated total costs of those works, in accordance with the 2009 RTA Submission.

The Department considers it reasonable and appropriate that the Proponent's existing obligation in Condition B7(1) to contribute 25% towards the estimated total cost of upgrading the Fox Valley Road/Pacific Highway intersection be maintained, with the additional obligation to transfer the funds from the cost of upgrading The Comenarra Parkway/Kissing Point Road intersection towards the upgrade of the Fox Valley Road/Pacific Highway intersection, in lieu of those works no longer being required to be carried out.

Timeframe for Executing Deed of Agreement

Condition B7(1) requires the Proponent and RMS to enter into a Deed of Agreement prior to the release of the first Construction Certificate for the site.

The Department is aware the parties have been in discussions regarding the terms of a draft Deed of Agreement since 2011, with at least one outstanding issue relating to the Proponent's estimated costings for the upgrade of The Comenarra Parkway/Kissing Point Road still to be resolved.

The Department is also aware that a Construction Certificate for the site was issued in 2011, following the PAC's delegated approval of MP 10_0070 to allow the commencement of works associated with Stage 1 of the Project Approval.

However, the Department does not consider there to have been any adverse environment impact caused by absence of a Deed of Agreement not having been executed prior to the issue of a Construction Certificate for the site, in contravention of Condition B7(1).

That is because the construction activities associated with the approved Stage 1 works for which the Construction Certificate has been issued (which includes the expansion and refurbishment of existing hospital buildings, construction of a multi level permanent car park, expansion of an existing at grade car park and construction of a temporary car park and internal permitter road) are not expected to have a significant impact on the road network, and any potential impacts would be short-term.

Rather, impacts on existing traffic movements, and increased traffic volumes, are not expected to occur until the first Stage of the development approved under the Project Approval is occupied and used, and in particular once the staged expansion of the Clinical Services Building approved under MP10_0070 has been completed.

Construction works for the Stage 1 works are expected to continue over the following 12 months, such that an Occupation Certificate for the first staged expansion of the Clinical Services Building is unlikely to be issued until the December 2013. Stage 1 (of the first precinct to be developed) is only a small component of the Concept Plan and the full impact of the proposal would not occur until around 2025 when all precincts under the Concept Plan have been completed.

In these circumstances, it is considered that Condition B7(1) of the Concept Plan should be amended to require the Deed of Agreement to be signed and executed prior to the first Occupation Certificate for the staged expansion of the Clinical Services Building on the site.

7. CONCLUSION

The Department is satisfied that any traffic impacts that would likely arise by amending Condition B7(1) of the Concept Plan to remove the requirement for the Proponent to carry out intersection improvements to The Comenarra Parkway/Kissing Point Road intersection

would be offset by the regional traffic improvements to be gained by bringing forward the timing of the upgrade works to the Pacific Highway/Fox Valley Road intersection.

Accordingly, the Department supports an amendment to Condition B7(1) to remove the requirement for any upgrade works to be undertaken at The Comenarra Parkway/Kissing Point Road intersection, and for those funds to be redirected towards the cost of upgrading the Pacific Highway/Fox Valley Road intersection.

The Department also supports amending Condition B7(1) to require a Deed of Agreement to be executed prior to the issue of the first Occupation Certificate for the staged expansion of the Clinical Services Building on the site.

Finally, the Department supports an amendment to the definition of 'Proponent' to refer to the owner of the site, including any of other party that may act on the approval, to ensure the Concept Plan approval accurately reflects the party that will be responsible for complying with the Proponent's obligations in the Concept Plan.

Consequently, the Department considers the modification should be approved subject to conditions.

8. RECOMMENDATIONS

It is recommended that the Minister's delegate, the Executive Director, Urban Renewal and Major Sites:

- i) **consider** the findings and recommendations of this report;
- ii) **approve** the request to modify the Wahroonga Estate Concept Plan (MP 07_0166) under s75W of the *Environmental Planning and Assessment Act, 1979*; and
- iii) **sign** the instrument of modification approval attached at Appendix B.

Prepared by:



Malcolm McDonald
Senior Planning Officer



Ann-Maree Carruthers
Team Leader

Approved by:



David McNamara
A/Director
Strategic Assessment



Giovanni Cirillo
Executive Director
Urban Renewal & Major Sites

APPENDIX A MODIFICATION REQUEST

APPENDIX B SUBMISSIONS

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT

APPENDIX D CONSOLIDATED CONCEPT PLAN APPROVAL
