

Ku-ring-gai Council submits the following comment with regards to MP 07 0166 MOD 7. Council officers are happy to meet with the Department to clarify any of the stated issues.

The key consideration for Council is to ensure the integration of this development into the SAN site without compromising or delaying other aspects of the Concept Plan delivery, particularly those regarding delivery of items that improve the public domain, such as road works, high quality built form and landscape provision and appropriate bulk/scale to public access ways; and connectivity between the school buildings and their open space provided at the rear of the RFB sites.

1. General

The proposal has submitted detailed plans and layouts that typically would be submitted at the DA stage. At DA stage such plans are assessed in relation to multiple elements, such as amenity, parking, landscaping, servicing, access etc. It is difficult therefore to properly assess these layouts in isolation.

At this concept plan level, the key consideration is the change to the building envelope, including the ground floor footprint and the maximum heights as approved under the Concept Plan.

Whilst it is understood that the included drawings illustrate the requirements for the building envelope changes, it is important to keep separate the overarching parameters of building envelope and the detailed drawings specifying the development. This separation ensures that there is no conflict at DA stage where the development will be considered holistically from all relevant facets and there is flexibility to accommodate Council's controls in the delivery outcomes.

Therefore all drawings proposed to be included in the concept plan approval list at Condition A2(1) (pg 12 Planning Study) should be deleted and only include high level diagrams that delineate building envelopes. This would be consistent with the level of detail at the concept level, and ensure that suitable consideration can be given to the detailed resolution of all aspects of the development at DA stage.



Existing Concept Plan diagram

It is recommended the proposed modification of the Concept Plan be limited to drawings indicating

- 1) a ground floor footprint and
- 2) the height plane.

2. Building height plane

The building height development standards of 20.5m for buildings A to D (northern half of RFB D) and 14.5m for buildings D (southern half of RFB D) and E are currently prescribed by the Ku-ring-gai Local Environmental Plan 2015 under the Concept Plan approval.

When these heights were formulated by Council they factored in the following site conditions and design requirements:

- a) Sloping sites;
- b) Floor to floor heights of 3.1m metres; and
- c) Lift overruns.

The site has an approximate fall from the rear of the school to buildings A to C of 3m and is not considered to be acute slope condition contrary to the justification provided at section 4.2.2 of the planning report by Ethos Urban, dated 1 February 2018.

The proposed modification can comply with the existing height requirements approved under the Concept Plan by locating all plant equipment in the basement. Council imposes as standard, a condition requiring all air conditioner condenser units to be located within the basement reducing roof top clutter and height projections.

Further, where structure for communal use is required on the roof top and exceeds the height controls, communal private space can be located at ground level with the provision of adequate landscaping to establish a garden setting including tall trees, aligning with a key landscape objective for future RFBs in the Ku-ring-gai LGA.

Complying with the building height development standards is not unreasonable when considering the above considerations which have gone into formulating Councils building heights.

With regards to Condition A8 (2) of the Concept Plan approval, a future development application to Council for the five residential flat buildings proposing a building height contravention against the prevailing standards of 20.5m and 14.5m will be required to satisfy the tests established under Condition A8(2) of the concept approval which are derived from the Clause 4.6 of the Standard Instrument. There is no guarantee that the above contravention will satisfy the tests in light of recent Land and Environment Court judgements. It is strongly advised that compliance is upheld as part of this modification.

The proposed Condition A8(j) (pg 13 Planning Study) and its associated RL Table seeking increase to building heights is not supported and it is recommended it be deleted.

Condition A8 (2) under the approved concept Plan should continue to prevail with any requirement for increase in heights being assessed at the development application stage where all matters and impacts with regards to the individual building heights, and the stipulations of A8(2)(a)(b)(c), can be considered in detail.

3. Ground floor footprint and building length

Buildings A, C and D are excessively long and exceed Council's building length control of 36m. This length is to control the bulk and scale of buildings to relate to the sub-urban context and enable buildings within landscaped settings to be delivered.

Under Council's DCP, under which this development will be assessed, buildings can exceed this control provided that:

- a) the façade is recessed in depth and width to appear as distinctive and separate building bays or wings; and
- b) the recess is retained as common area with landscaping which includes at least one medium tree (at least 8m canopy diameter at maturity).

It is recommended that the building footprints be reduced to 36m or demonstrate the inclusion of modulation, recesses and landscaping including trees as indicated in the current Concept Plan approval.

4. Ground floor footprint and relation to the School grounds

The footprints proposed are dense and do not demonstrate adequate consideration of the school grounds and public domain adjacent to them. These RFBs will impact the northern aspect of the school and present potential issues of compromised amenity.

With the separation of the School from the playing fields, which provide the only open area for the K-12 school students, it is maintained that the proposed RFBs should not obstruct, but instead strengthen the visual and physical links between the school and the playing fields.

The proposal does not accommodate any view corridors, nor does there appear to be any consideration of movement of large numbers of children between the sites. Building D has lost the chamfer to the NE corner indicated on the approved Concept Plan which allowed some visual link, instead proposing to protrude to a sharp point to maximise floor area at the loss of the visual link. Similarly, the proposed dog-leg return to building C obstructs the view corridor.

The design should allow safe access for school children between the school and the field – this should include adequate space for foot paths (including relevant consideration to disability access requirements).

It is recommended that the building footprints be adjusted to ensure the view corridor connecting the school and its open area is not obstructed.

5. Ground floor footprint and Setbacks

The front setbacks between Buildings C and D to the access road are very limited and need to be extended to ensure a suitable scale to the narrow access street and its footpaths.

It is recommended that foot print be adjusted to increase the setbacks to the access road and create a suitable public domain.

6. Top Storey footprint

If the Department is of the mind to include detailed drawings as part of the Concept Plan Approval, then the following points are made:

The top storey of buildings A, B, C and E are to be amended so that the GFA of the top storey of a residential flat building does not exceed 60% of the Gross Floor Area (GFA) of the storey immediately below it to ensure that all buildings are in keeping with the future desired character of the R4 zone, with vertical and horizontal modulation being applied to reduce the bulk and scale of the buildings. This is a DCP requirement for all RFBs within the Ku-ring-gai locality and supported by the ADG.

It is recommended that the top storey plans of all the buildings indicate a reduced floor plate to not exceed 60% of the Gross Floor Area (GFA) of the storey immediately below.

It is recommended that is the detailed floor plans are not included in the Concept Plan approval (as preferred by Council), that the Department include a condition to clarify the reduced upper floor footprint requirement in accordance with Council's DCP requirement.

7. Basement footprint and setbacks

If the Department is of the mind to include detailed drawings as part of the Concept Plan Approval, then the following points are made:

The plans and sections do not illustrate the accommodation of parking under the buildings. It is requested that Basement Levels plans be provided to ensure the basement setbacks are consistent with the building setbacks and sit under the building footprint. This is to guarantee the provision of deep soil landscaping, and ensure it can be achieved around the periphery of the site to accommodate trees of substantial mature height capable of framing and softening the building. This approach would be consistent with Council's objective of establishing a deep soil garden setting capable of supporting tall canopy trees in keeping with the character of the Ku-ring-gai LGA.

It is recommended the proposed modification to Condition A2(1) (pg 12 Planning Study) be limited to only

- the ground floor footprint
- the top storey footprint
- the basement footprint identical to the footprint of buildings above
- the height plane

all amended as per this submission.

8. Condition A2(1)

The proposal has inserted a new clause A2(1)(e) (pg 11 Planning Study). RMS has not agreed to any changes to the Deed of Agreement as evidenced by their submission to MP07 0166 MOD6. Such a clause cannot be included until the Department has made its investigations and determination.

It is recommended that the proposed clause A2(1)(e) be deleted and that the further proposed clause (f) adjust its numbering to reflect the deletion.

9. Display suite currently under assessment with Council

Council is currently in receipt of an application by the applicant for an exhibition home (display suite) within the building envelope of Building E (DA0058/18). Council raises concern that this proposed building, while temporary, may frustrate the delivery and connection to parts of the Wahroonga Estate and recommends that the Department of Planning and Environment as part of MOD 7 advise the applicant to withdraw the DA and include it within the s.75W for completeness.

It is recommended that the Department includes the temporary use proposed for an exhibition home (display suite) within this proposed MOD 7.

10. Traffic and Transport and Car Parking Rates

The Planning Report notes that the car parking rates being sought closer align to the Ku-ring-gai DCP (given the site is distant to rail stations), and that due to site-specific constraints applicable to Building E, different car parking rates to the other buildings are being requested.

While there is no objection to the rationale behind aligning the parking requirement with the Ku-ring-gai DCP rates, the proposal goes one step further and seeks to provide parking in excess of the Ku-ring-gai DCP requirements, and seeks to remove the requirement for car sharing spaces. Excess parking would result from additional spaces for the 2 and 3 bedroom units.

While not an explicit requirement of the Ku-ring-gai DCP, it is considered that parking in accordance with the Ku-ring-gai DCP requirements should be provided (as a maximum, not a minimum) and that the provision for car share vehicles be made to provide options for those residents who need access to a 2nd (or indeed 3rd) vehicle when they need it.

While the number of car share vehicles required under the Approved Concept Plan may be high, one car share operator suggests that car share vehicles could be provided at the rate of around 1 car share vehicle per 90 dwellings (in less accessible locations) resulting in around 2-3 car share vehicles for Buildings A-E, which is not an onerous provision. Maintaining lower parking provision and supplementing it with access to car share vehicles would likely reduce the number of trips, reduce congestion and emissions, and provide more affordable housing by reducing the number of car spaces attached to a particular dwelling.

It is noted that the recently completed Shout Ridge development at the former UTS Ku-ring-gai Campus site incorporates a car share vehicle in the basement of one of the buildings. This is a comparable site in terms of transport accessibility.

The reduction in on-site visitor parking provision (on the basis of a paid parking facility available nearby) is not supported. Visitors to the residential developments should not be required to pay for parking to visit residents, and the paid parking in the Hospital offers an impractical free period (around 15 minutes).

An intersection assessment was undertaken by TTW to assess the effects of additional parking on the intersection of Fox Valley Road/The Comenarra Parkway, and Fox Valley Road/access road. While the results of the modelling show minor impacts, a cumulative assessment of the full build-out of the Wahroonga Estate should be undertaken, particularly if modifications are sought in the future for the parking requirements of other residential developments on the site.

It is noted that there is an undetermined modification (MP 07_0166 MOD 6) relating to Agency road requirements, and it is unclear if the results of a cumulative assessment would impact on the potential road configuration at the intersection of Fox Valley Road/The Comenarra Parkway.

11. Bushfire

All dwellings should be located behind map APZ areas. This is to include any additional structures such as balconies, entrance awnings etc.

Whilst the majority of buildings show the buildings within the Proposed Concept Plan in Precinct B: Church Precinct, as being located outside mapped APZ areas. This is not the case for Drawing no A005, A006, A007, A011 and A012 (Attachment A) which show a building encroaching on the APZ. This error needs to be rectified to remove all buildings outside the APZ.

Council urge the NSW department of Planning to consider any implications likely to result from future adoption of the Planning for Bush Fire Protection 2017 (<https://www.rfs.nsw.gov.au/plan-and-prepare/building-in-a-bush-fire-area/planning-for-bush-fire-protection/planning-for-bush-fire-protection-2017-public-exhibition>), to ensure that the proposal will not result in increased APZ requirements within the E2 zone.

The proposal needs to demonstrate alignment with approvals given under MP 07_0166 including:

B5 Bushfire protection

- (1) All Asset Protection Zones are to be located outside of the conservation land as shown in the approved Concept Plan unless required for development constructed prior to the date of this instrument.*
- (2) Uses constituting 'Special Fire Protection Purposes' as defined in Planning for Bushfire Protection 2006 are to be undertaken in consultation with the NSW Rural Fire Service.*
- (3) All Asset Protection Zones and other bushfire protection measures are to comply with Planning for Bushfire Protection 2006.*

12. Biodiversity protection

The Biodiversity Management Plan is a 5 year plan, written in 2010.

It is assumed that the NSW Department of Planning and Environment has reviewed the works undertaken as per the approvals under MP07 0166 (and MP10 0070). Conditions of approval state that within three months of every 12 month anniversary of the commencement of the action, the person undertaking the action must submit a report addressing compliance with the conditions of approval, including details of how the Biodiversity Management Plan have been implemented.

Council request access to the annual reports to ensure compliance with conditions of the Biodiversity Management Plan. This includes:

- Vegetation monitoring (quadrats) for baseline and post-treatment monitoring (section 4.8.1).
- Observations of revegetation areas 1-4 (section 4.8.2).
- Photo monitoring (section 4.8.3)
- Vegetation Condition Map (Section 4.8.4) to be created on the completion of Primary and Secondary Weeding which will progressively assess the performance of weed control efforts.
- Discussion of any problems encountered in implementing the BMP.
- Comment on the stability of and condition of any associated stream works.
- Water quality monitoring (section 8.5).

Section 4.7.2 of the BMP addresses Maintenance in Perpetuity for the E2 zones. It states

“Generally, as regenerating natives become established, the need for maintenance lessens. However, the E2 Environmental Conservation zone is surrounded by established dwellings and it is expected that invasion of weeds from neighbouring areas may be an ongoing issue. Accordingly, maintenance will continue in perpetuity and as follows.

Maintenance will continue on from the completion of the initial 5 year maintenance period and will include 3 visits per year. Maintenance will include weeding of the entire E2 zone targeting known weed sources; stormwater outlets, watercourse entry points and bushland edges. Maintenance weeding will aim to maintain weed cover to < 5% throughout the E2 zone. Bush Regenerators will follow the information provided for each management zone. (Section 4.4)”.

Council seeks feedback as to how future work and condition (weed cover) on the site this will be monitored and supported. It is suggested that the NSW department of planning and the NSW Office of Environment and Heritage (OEH) consider management of these lands under a Conservation Agreement. There by providing associated benefits to the landowner, as well as increased security for the conservation of the E2 lands. It would also provide a mechanism for on-going monitoring of the site through OEH.

13. Development Contributions

Two contributions plan apply in the Ku-ring-gai Local Government area. Broadly speaking, *Ku-ring-gai Contributions Plan 2010* (being a direct, s94, contributions plan) applies to any development that increases the total number of dwellings, including non-private dwellings, anywhere in the LGA (however only non-residential located in the local centres is covered by this plan, and the SAN is not located in a local centre). *Ku-ring-gai s94A Contributions Plan 2015* (being an indirect, S94A, contributions plan) broadly speaking, applies to all development to which *Ku-ring-gai Contributions Plan 2010* does not apply (subject to the standard exceptions under the Regulations).

The applicant is requested to contact Council for an accurate assessment of the contributions that may be due on any Development Applications, Complying Development Certificates and the like that follow on from the concept approval.