

FURTHER OBJECTION TO DEVELOPMENT PROPOSALS MP_07 0166 MOD 8

Dear Sirs

Please find set out below my objection to the MP07_0166 Mod 8 application to modify the Wahroonga Estate Concept Plan.

This application is a clear attempt to frustrate due process by imposing obligations on the local council by submitting a detailed proposal at this stage for the Department's approval.

As set out below the proposal is very light on detail which is as expected at this stage except for the floor plans, building height, footprint etc ie those issues the applicant is seeking Departmental approval for, which, as the applicant is aware, would be in contravention to Ku-ring-gai Council planning policy.

The decision regarding the detail of a planning application should rest with the local council. The decision should not be made for, and legally bind, the council by the Department. This detailed application should for the reasons set out in this letter be rejected as not being appropriate for Department of Planning approval.

The following submission is made in response to the additional information provided by the applicant in response to previous objections received by the Department of Planning in regard to the application. The following objections/concerns to proposed Modification 8 to approved MP 07 0166 (including amended documentation) for the following reasons:

Issue 1: Due Process

A previous concern was raised over the level of detail submitted at this stage of the planning process (Master Planning stage). Major Project MP_07 0166 approved the Wahroonga Estate Concept Plan. This is a CONCEPT PLAN ONLY and only sets the general location of building envelopes, footprints and height planes. The Concept Plan sets the maximum development permissible "in principle" only – the detailed designs and layouts are subject to detailed studies and further assessment at local level.

A concern was raised that if the current detailed plans proposed in MOD 8 are approved, the approval of detailed plans will circumvent Kuring-gai Council's authority and lock the Council into the approving the detailed plans. Ku-ring-gai Council has raised a serious concern over the level of detail that has been submitted at this stage of the proposal. This level of detail is supposed to be submitted at DA stage to the local consent authority (Ku-ring-gai Council) and subject to more detailed studies and reports and plans being submitted.

In the response to submissions, the applicant has stated that:

The floor plans are only indicative to demonstrate how future development within the proposed building envelopes may occur. It is not proposed that these plans would not form part of the approval as detailed in **Attachment C**.

The additional drawings including the sections and indicative floor plans have been provided for the purposes of demonstrating additional detail and clarity to assist with the assessment. (Page 1 – Ethos Urban Issues and Responses to Public Submissions, 16 August 2018)

If it is not proposed that the detailed floor plans will form part of the approval, then there is no need to include them. The MOD 8 proposal seeks to amend the residential building envelopes (in terms of height and location) and amend the residential car parking rates for Precinct B: Central Church Precinct. Detailed floorplans are therefore irrelevant to this application. In order to provide clarity, only height planes and site plans showing the location of the building envelope (and their approximate shape) are required with the application. A list of the number of units per building (with an indication of the number of bedrooms per unit) is all that is required to determine the number of parking spaces required.

As such, the concern over the level of detail submitted and the impact it could have on due process remains relevant. If the detailed plans submitted to Council at DA stage are substantially in accordance with the approved Part 3A plans (and any subsequent approved Section 75W modifications), then Council must approve the DA. If the DA is refused and the applicant appeals the refusal through the Land & Environment Court, the Court may consider the detailed floor plans submitted with this application to be relevant and that is concerning.

It is also noted that, whilst the applicant states that it is not intended that the indicative floor plans will form part of the approval, the applicant is proposing to add the following Condition of Consent:

A2 Development in Accordance with Plans and Documentation

(1) The development shall generally be in accordance with the following plans and documentation (including any appendices therein):

(f) Section 75W Modification Request '(MP07_0166 MOD 8) Modification to Building Envelopes of Precinct B: Central Church and Car Parking Requirements for Residential Flat Buildings, and Response to Submissions dated 16 August 2018 prepared by Ethos Urban, and Amended Building Envelope Plans and Indicative Floor Plans prepared by Group GSA listed in the table below

By including the indicative floor plans in a proposed condition of consent that requires the development to be built generally in accordance with the indicative floor plans, it appears that the applicant intends these to be part of the approval. The condition of consent would require Kuring-gai Council to approve a DA that included similar plans, thereby negating due process.

Further, it is noted that applicant deems it appropriate to provide detailed floorplans for the purpose of providing “clarity”, however feels it unnecessary to provide details and clarity over traffic movements, potential conflicts between pedestrians and vehicles, child safety and connection between school spaces/uses, water quality and run-off – all of which are, according to the applicant, only relevant at DA stage:

“Future development applications for the residential flat buildings will be required to ensure that a safe pedestrian connection footpath between the school and the sports field is provided.” (Page 4 – Ethos Urban Issues and Responses to Public Submissions, 16 August 2018)

It is questioned as to which matters are considered to be more important and relevant to determining the impact of a proposed development on surrounding uses and environments.

Issue 2: Building Design – height planes and building envelopes

The application proposes to encroach the approved height planes and limits. Kuring-gai Council has expressed concern that the proposed building heights, footprint and length and top storey footprints do not comply with the DCP requirements or with the maximum height controls set by the Kuring-gai LEP 2015. **The applicant previously justified the proposed increases and the proposed height plane encroachments due to the site having “acute slope” conditions (refer to Section 4.2.2 of the Planning Report by Ethos Urban, 1 Feb 2018). However, 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. It is noted that the applicant has not addressed this point. The previous justification is therefore incorrect and remains valid - any encroachment of the approved height plane is considered to be inappropriate and unjustified, particularly given the close proximity of the buildings to the school.**

The applicant has instead amended the plans by INCREASING the proposed height of Buildings A, B and C rooftop terraces and plant. This has been justified by stating that, although the proposed heights contravene the maximum height limits and height planes set by the Kuring-gai LEP 2015 and the DCP, “the built form controls established under the Part 3A Concept Approval prevails over the LEP provisions”. This is not considered to be a justification for an increase in the height planes for the buildings as the MOD 8 application seeks to increase the height limits of the buildings above and beyond what was approved under the Part 3A Concept Approval. Further, the Part 3A approval provides a concept approval only and sets the MAXIMUM height limit, building envelope, approximate location/footprint of buildings and use of buildings. The buildings could always be reduced in size, scale, height and form to allow the rooftop terraces and plant and building length to fit within the current concept approval. Maximum building height and maximum number of units is not required to be built. Therefore, it is considered that a smaller scale development could be submitted at DA stage in order to achieve the building height, length and location requirements set by the previous Part 3A approval. An increase in the height and building envelope is unnecessary. Given the proximity to the school and bushland, and the likely impact the proposed development (of this size and scale) is likely to have on child and pedestrian safety, church uses and facilities, traffic, parking, bushfire evacuations, stormwater and drainage, it is considered that it is not necessary to for the current approved height planes and building envelopes to be increased (refer to further comments below).

Orientation of units

A concern was raised in my earlier submission that many of the units proposed are entirely south facing. This is not best practice design for light and amenity reasons and will be further compromised by the need to provide small windows and louvre systems across the southern elevations of Buildings A, B and C due to their close proximity to the School buildings.

This matter has not been considered or addressed by the applicant and remains a valid concern, particularly if the detailed floorplans are approved as part of the current application.

Issue 3: Traffic

The applicant, in the Response to Submissions, has indicated that there is no need for an updated Traffic Study to be undertaken as:

“The Concept Plan 07 0166 considered the overall traffic impact for the approved land uses, gross floor area and maximum number of dwellings being provided within the Wahroonga Estate. An amended traffic statement was provided with the subject application which concluded that the proposed increase in the car parking spaces will have only a minor impact on the level of service and

average vehicle delay at the new proposed signalised intersection at Fox Valley Road". (Page 8 – Ethos Urban Issues and Responses to Public Submissions, 16 August 2018)

However, the current application is seeking to increase the number of residential parking spaces by an additional 89 spaces to that previously approved (bringing the total to 363 spaces). This is not a small number of additional spaces and will definitely result in increased traffic throughout the internal roads system and at the School Entry intersection (yet to be constructed).

As raised in my previous submission, the traffic situation within the Estate and the surrounding area (between Pennant Hills Road, The Comenarra Parkway, Fox Valley Road and the Pacific Highway) has changed considerably since the original traffic studies were undertaken, including expansion of the hospital, school site opening (and expanding) and a number of other high density new developments in the area (notably along the Pacific Highway). The original traffic studies are being relied on for the predicted traffic counts, parking and vehicular movements in and around the site. Over 1000 additional units (within residential developments) have been approved within the Thornleigh and Wahroonga area, and major school, childcare and commercial developments also approved (see the attached spreadsheet), and it is therefore considered that the original traffic studies are no longer relevant. They should not be used as the basis for calculating traffic and parking requirements for the site or for analysing traffic impacts and a new traffic study should be required to be undertaken for the following detailed reasons:

- The TTW TIA relies on traffic survey data from the previous TTPA traffic report which was collected in 2012 (now 6 years old). This traffic survey data is 'dated' and not reflective of current traffic conditions and background traffic growth that would have occurred during this period.
- The TTW TIA does not show what the background traffic growth has occurred (from 2012 to 2017) along Fox Valley Road and Pacific Highway within the assessment. The cumulative impacts of current, planned and future developments in the area appear not to have been taken into consideration.
- The TTW TIA does not assess the impacts on the following intersections which will be impacted by the proposed development:
 - Fox Valley Road and The Comenarra Parkway (this was assessed in TTPA but not the TTW report)
 - Fox Valley Road and Lucinda Avenue (not assessed in TTW report or TTPA report)
 - Fox Valley Road and Pacific Highway (not assessed in the TTW report and TTPA report)
- The TTW TIA has traffic signal cycle times for Fox Valley Road and the New Access Road intersection ranging between 70-80 seconds without clear justification of why this is the case. These traffic signal cycle times appear low and will need to be checked with RMS.
- The TTW analysis only examines the opening year of the proposed development. The analysis needs to examine at least the following scenarios in order to determine whether future upgrades may be required as a result of the proposed development:
 - Five years after opening year (without development) base line traffic
 - Five years after opening year (with development)
- The TTW TIA SIDRA traffic modelling has used pedestrian demand flows of 53 per hour across all approaches using the TTPA report data collected back

in 2012. There is no evidence provided within the TTW TIA report of the where the pedestrian demand flows have been derived from as the 2012 traffic survey data (from TTPA report) did not include pedestrian volumes. Since that time, the school has been approved, partially constructed and is operational and the hospital has undergone a major upgrade. Pedestrian volumes have increased substantially in around the site: the school currently has over 450 students (and will increase to over 800 students); the hospital has 550 beds, 2300 staff (including casuals), 1350 full time employees and a day surgery, clinic, day infusion centre, radiology, ultrasound, wound clinic, medical centre, Emergency, physiotherapy, visitors, contractors and volunteers; and the Wahroonga Church has a 1200 person capacity and the Fox Valley Community Centre has a 500 person capacity (also used as the Fox Valley Church on weekends).

- The TTW TIA does not provide a drawing (or analysis) showing the key desire lines for pedestrians leaving and entering the development and within the development. The TTW TIA does not illustrate how the desire lines will be met by existing and proposed facilities, particularly in regard to the adjacent school operations and activities and the implications that will arise from those activities.
- The TTW TIA does not adequately address the location and design of all site access and exit roads provided, in particular the potential conflicts with pedestrian movements during school hours.
- The TTW TIA does not show the Public Transport Accessibility Level of the proposed development and its accessibility to the public transport network, taking into account walk access time and service availability. It is noted that the site is NOT located within the vicinity of a railway station – the only public transport available to and from the site is via bus services. As such, cars are heavily depended upon.
- The TTW TIA does not address bicycle and pedestrian safety which is critical issue in the design of the proposed development to ensure that the internal circulation system and the external access points are designed for bicycle and pedestrian safety minimising bicycle/pedestrian conflicts with vehicles particularly during school hours.

The proposal also intends for the insertion of a new clause A2(1)(e) (pg 11 Planning Study). The RMS has not agreed to any changes to the Deed of Agreement as evidenced by its submission to MP07 0166 MOD6. It is therefore considered that such a clause cannot be included until the appropriate investigations are made.

It is further noted that the RMS recommended in its submission regarding the current proposal that *“the Department may wish to consider reducing proposed number of car parking and promote sustainable transport options (including car sharing scheme) since additional parking could have potential impact in the surrounding road network operations of signalised/un-signalised intersections”*. The applicant’s response to this recommendation - that the increased number of parking spaces is “based on the understanding of the market expectations and occupancy profiles of apartments for this location” - does not address RMS concerns regarding the potential impact that the additional parking/traffic could have on the surrounding road network operations and signalised intersections. This matter remains particularly concerning given that proposed Blocks A, B, C and D (four unit blocks out of five proposed) will all be using the one signalised intersection which is also shared by the entire school community (850 students) for drop-off/pick up and parking.

Issue 4: Parking

The following concerns were raised in my previous submission and have not been addressed in the applicant's Response to Submissions. The concerns remain relevant as the proposed development, whilst approved, will remove a large area of temporary parking that is allocated for a variety of uses across the entire Estate and the proposed parking will be for the units only (refer to the final two dot point below):

- There appears to be a major shortfall in the number of car spaces across the Estate allocated to the different uses of buildings within the site. Buildings A, B and C are proposed on the site of the temporary carpark. Whilst this carpark was intended to be temporary, the carpark currently provides parking for the school (until the school construction is completed), as well as for the Fox Valley Community Centre. Wahroonga Church (which has a capacity of 1200 people) previously had an additional 50 spaces, but lost them when the Fox Valley Community Centre was developed. Wahroonga Church has a capacity of 1200 people and has a total of 72 parking spaces (including 4 disabled parking spaces). The Fox Valley Community Centre (which also holds church services every Saturday Sabbath at the same time as the Wahroonga Church) has a capacity of 500 people and has a total of only 11 allocated spaces (including 3 disabled spaces). The parishioners of both churches use the Temporary Carpark, which is located on the site of the proposed development. It is proposed to offer free parking for church goers in the hospital carpark on Saturdays, however the hospital carpark has been calculated for the use of the hospital (which operates 24/7). It would appear that there is a shortfall in parking within this precinct of the Estate, based on the approved use of each building against Kuring-gai Council's minimum parking requirements. The parking calculations should not be 'borrowed' from the use of another building on site – it will result in a shortfall of spaces across the Estate and force church goers to park in surrounding streets. The temporary parking was not part of the calculations, but is currently absorbing much of the overflow. If the proposed development is constructed to its maximum potential, insufficient parking will be available for the approved use of both the Wahroonga Church and the Fox Valley Community Centre.
- The Minister for Planning originally declared the site to be a Site Significant Site and Major Project on the basis that the housing to be provided on the site would be ancillary to the use of the hospital (aged care and student/nursing accommodation). This would also reduce the traffic and parking impacts with residents living and working within the site and negate the need for parking associated with the housing. The current proposal is proposing additional carparking, but solely for the use of private residents who will reside in the proposed residential flat buildings.
- **Ku-ring-gai Council has indicated that:**
 - **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 needs to be undertaken, particularly if modifications are sought in the future for the parking requirements of other residential developments on the site.

- 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.
- The RMS recommended in its submission regarding the current proposal that *“the Department may wish to consider reducing proposed number of car parking and promote sustainable transport options (including car sharing scheme) since additional parking could have potential impact in the surrounding road network operations of signalised/un-signalised intersections”*. The proposed increase in parking associated solely with the unit blocks should therefore NOT be approved without an up-to-date traffic study of the site and the surrounding area being undertaken and a full comprehensive analysis of parking allocations for uses across the entire Wahroonga Estate site being undertaken.

Issue 5: Impact on the Wahroonga Adventist School

The following concerns were raised in my previous submission and have either not been addressed in the applicant's Response to Submissions (as indicated) or remain relevant for the reasons provided below:

- The apartments as they are currently proposed are too large, and too close to the school to provide adequate and appropriate safety between the school and its oval.
- The proposed unit developments will look directly onto and over all the school play and recreation spaces, thereby creating privacy issues and child safety concerns. The setbacks are insufficient between the proposed residential flat buildings and the school grounds. Whilst louvres are proposed on the windows that overlook the school, louvres only provide privacy from those looking IN – louvres do NOT prevent looking OUT of windows. **Whilst the amended plans increase some of the setbacks between the unit blocks and the school buildings, the height of the buildings is concerning in regard to overlooking and overshadowing, particularly given that the amended plans submitted seek to further increase the heights of the buildings. As previously mentioned, the height of the proposed apartment blocks do not reflect best practice design, in that the heights of the buildings should follow the topography of the land, stepping down the slope. The proposed design, that does NOT incorporate stepped heights following the topography of the land, will have an adverse impact on amenity, restrict viewing corridors and will not minimise overshadowing. Further, the applicant submitted the document titled, *Architectural Design Report dated February 2015 for Wahroonga Adventist School*, to justify the increase in the height planes of the proposed buildings, but this document states on Page 12 of 38 (and provides a supporting diagram) that:**

3.8 Solar Access

The location of the main campus facilities on School Lot 1 will be adjoining future residential development to the north and north-west. With the permissible height limit of these residential sites being 20.5m, the new school will potentially be impacted by overshadowing from future buildings along the north-western edge of the site.



indicative solar access diagram

Whilst the amended plans, have amended the location of the building envelopes slightly, it can be seen from the above diagram that a large proportion of the school site will remain in shadow. Accordingly, it is considered that the concerns remain valid and the proposal will result in negative adverse impacts on the adjacent school site. The proposed Mod 8 application to increase the height planes and height limits of the buildings should not be approved and the detailed floor plans should also not be approved for the above reasons.

- The building footprints proposed are dense and do not demonstrate adequate consideration of the school grounds and public domain adjacent to them. The proposed residential flat buildings will impact the northern aspect of the school and will compromise amenity – **refer to comments above.**
- The proposed flat buildings will obstruct the visual and physical links between the school and the playing fields, which are the main open area recreational spaces for the Prep-Year 12 school students. There does not appear to be any consideration of movement of large numbers of children between the sites, resulting in child safety issues. The design in its current form does not allow safe access for school children between the school and the playing fields/basketball courts. **In answer to this concern raised previously, the applicant has submitted that: “The approved concept masterplan, or previous modification has no physical or visual link to the playing fields. In addition to this, the approved school design has no opportunity for visual links to the playing field, as a vehicular car park entry and blank façade dominate the north-eastern and eastern façades. The connectivity and supervision of the children between the school and the sporting fields is managed through the school’s operations and the provision of continuous footpaths connecting the two”. When a development is going to result in an impact, that impact is supposed to assessed and measures put in place to overcome/mitigate any adverse impacts. To say that it is the School’s responsibility to manage child safety around the new development, with no indication of mitigating measures is inappropriate. The applicant also contends that the detail of pathways etc will be delivered at DA stage. However, it is submitted that the proposal to increase heights and building envelopes will reduce view corridors and visual links, and the proposal to increase parking will result in increased traffic on the internal roads and at the intersection shared by the school. Both of these will result in an increase in child safety issues and pedestrian/vehicular conflicts and these concerns are therefore relevant to THIS proposal. As no mitigating measures are being proposed (yet detailed floor plans are!), it is considered that the amendments proposed under MOD 8 should be refused.**

- The proposal does not include adequate space for foot paths (including disability access requirements) – **refer to comments above.**
- An additional set of traffic lights is proposed (required) on Fox Valley Road at the entry point for the school. This set of traffic lights will be located very close to the existing traffic lights. A 70m long right hand turning bay is proposed at the lights into the school entry. However, the distance between the traffic lights and the entry point to the drop off/pick up area (under the school buildings at basement level) is approximately only 20m long (space for only 3-4 cars) in the internal road system. A large percentage of students will be driven to school (given the limited public transport and the age of the students ranging from 4-18 years of age). It is likely that each drop off/pick up will take at least 3-4 minutes (conservative estimate). With the proposed 200 privately owned units also needing to use this intersection (350+ cars) during peak hour, this intersection (and subsequently the adjoining intersection to the hospital) is likely to become “choked”, causing gridlock in both directions (especially during the 8-8.45am period). Table 3.2 (see below) indicates the Estimated Traffic Generation for each Development Component and Cumulative Traffic Generation.

Table 3.2: Estimated Traffic Generation for Each Development Component and Cumulative Traffic Generation

Development Components	Additional Traffic Generation (veh trips/peak hour)	Additional Traffic Generation (veh trips/peak hour) - cumulative	
Hospital – Carpark	-	-	
Hospital – Education Centre Stage 1	-	-	
Hospital – CSB Expansion Stage 1A, 1B & Entry	184 (AM) & 144 (PM)	184 (AM) & 144 (PM)	
Wahroonga School			
a. Stage 1 (Middle School)	84 (AM only)	268 (AM) & 144 (PM)	
b. Stage 2 (Playing Field)	-	-	
c. Stage 4 (PE Courts)	-	-	
Commercial	101 (AM/PM)	369 (AM) & 245 (PM)	Comenarra / Fox Valley (Interim)
Wahroonga School			
d. Stage 3 (Junior School)	91 (AM only)	460 (AM) & 245 (PM)	Fox Valley Rd / School entrance
Residential – Fox Valley Road	90 (AM/PM)	550 (AM) & 335 (PM)	
Hospital – Education Centre Stage 2	-	550 (AM) & 335 (PM)	
Wahroonga School			
e. Stage 5 (Junior School)	(Included above)	-	
f. Stage 6 (Senior School)	50 (AM only)	600 (AM) & 335 (PM)	
Hospital – Shannon Building	131 (AM) & 66 (PM)	731 (AM) & 401 (PM)	Comenarra / Fox Valley (ultimate) + various Fox Valley intersections
Residential – Comenarra Parkway	35 (AM/PM)	766 (AM) & 436 (PM)	Comenarra / Browns
Other Fox Valley Road Residential	37 (AM/PM)	803 (AM) & 473 (PM)	

Indicative order of delivery ↓

This shows an estimated 1328 vehicle trips for the school alone in the AM (724 in the PM). If the current Application were to be approved (to the maximum number of 200 units and the proposed additional associated car parking), the additional trips generated will add another 550 trips at the intersection in the AM and 335 trips in the PM – bringing it to a total of 1878 trips at that intersection in the AM and 1059 trips in the PM – **this point is relevant to the concerns raised above regarding the impact that the proposed increase in parking spaces will have on the intersection and the internal road network. As previously mentioned, the RMS has also raised this matter in its submission.**

- Staging of the Developments: As mentioned above, the temporary carpark is currently providing parking for the school and temporary drop off/pick up zones. **The construction of the school is not yet complete (the second building is currently under construction and is due to open in 2019, and construction of the third building is yet to commence). The approved drop off/pick up zone for the school is located under all 3 school buildings, along with all the parking for the school (basement level). This will not be available for use until**

all 3 school buildings are constructed. The original staging of the proposed residential development was not due to start for several years after the school buildings were fully constructed, occupied and operational. **The current proposal brings forward the staging of the development and will result in residential developments being located on the site of the temporary carpark and drop off/pick up zones. If the residential development occurs prior to the school construction being completed, it will result in the school having NO drop off/pick up zones or adequate parking facilities. This will result in major safety issues for children, pedestrians and drivers and will result in traffic chaos.** As such, if the application is approved, no development of the temporary carpark should be permitted to occur until such time as the construction of all three school buildings are complete and fully operational. **This matter has not been addressed by the applicant in the Response to Submissions and remains valid. It is therefore requested that, if the Department resolves to approve the current modification application (which, for the reasons outlined above, is considered to be inappropriate), the following condition be placed on the consent:** **“Any construction work on the site of the temporary carpark for residential development is prohibited until all Construction Certificates and Occupation Certificates have been issued for all three approved school buildings on the adjacent school site”.**

Kind regards

Colin Morrow