

Strategic Planning

The proponent's responses to issues raised by Council generally go to state that the "proposed modifications are generally consistent with the approved building envelopes". Whilst this is generally correct the modification raises concerns as it will enable certain aspects of development that do not consider issues wider than the development itself.

Council has provided detail outlining concerns in the initial assessment regarding the modifications sought. The points raised in Council's initial submission still apply as this amendment has largely sought to only debate the retention of aspects that maximise the development potential and lock them into the Concept Plan thereby avoiding meeting the requirements and standards of this Council's policy documents which seek to ensure due consideration is given to the development itself but also to the neighbouring properties and local vicinity.

The following comment is provided regarding the proponent's **Attachment D Proposed Modifications to Consent, Attachment C Issues and Responses to Submissions** and **Response to Submissions Report**:

- **Condition: A2 Development in Accordance with Plans and Documentation**
(e) *Section 75W Modification Request (MP 07_0166 MOD 6) Modification to 'Deed of Agreement' dated 26 April 2017 and Response to Submissions dated 3 November 2017, prepared by MacroPlanDimasi.*

This condition, requested through MP 07_0166 MOD 6, has not yet been determined by the Department. Its inclusion here is misleading and pre-supposes the Department's decision to approve it.

➤ **It is requested this Condition be removed in its entirety.**

- **Condition: A2 Development in Accordance with Plans and Documentation**
(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*

Drawing No.	Revision	Name of Plan	Date
A001	C	Section 75W – Urban Form Control Diagram – Site Plan	08.03.2018
A002	C	Section 75W – Urban Form Control Diagram – Level 1	08.03.2018
A003	C	Section 75W – Urban Form Control Diagram – Level 2	08.03.2018
A004	C	Section 75W – Urban Form Control Diagram – Level 3	08.03.2018
A005	D	Section 75W – Urban Form Control Diagram – Level 4	08.03.2018
A006	D	Section 75W – Urban Form Control Diagram – Level 5	08.03.2018
A007	D	Section 75W – Urban Form Control Diagram – Roof Plan	08.03.2018
A008	D	Section 75W -Urban Form Control Diagram – Sections	08.03.2018

The proposed amendment to this Condition seeks to tie certain detailed drawings to the Concept Plan approval. These drawings stipulate building dimensions to every level of development, setbacks, location of plant, floor plate layout, excavation and infill etc.

The proponent appears to have already designed the development and seeks to gain its substantial approval through this Modification. This means that where conflicts arise during the DA process, they are able to overrule Council's requirements in accordance with Conditions A2 (2) and (3) of the Concept Plan approval which give precedence to the Concept Plan where inconsistencies arise.

This approach is not supported as there is no facility in this Modification process for any party to conduct due diligence and investigate the design in a clear and transparent manner to ensure the outcomes meet required standards, and to ensure all due consultation and concerns can be addressed and accommodated in amendments if required.

It is through the DA process that such dimensional and other details are assessed holistically in relation to multiple elements, such as amenity, parking, landscaping, servicing, access, waste collection, streetscape, integration into context etc. This ensures that the proponent's desire to achieve certain development outcomes have given due and just consideration to all aspects of the development, not just the achievement of a certain number of dwellings on the site.

A brief overview of the drawings clearly demonstrates inconsistencies with Council's standards and conflicts that will arise during assessment. The inclusion of these drawings will override all ability for Council to negotiate good onsite residential and neighbour amenity, environmental and built form considerations. For example there are clear conflicts between the outcomes that may be achieved from the listed drawings and Council's requirements for communal open spaces, deep soil and landscaping provisions, treatments of roof areas, upper storey setback provisions, treatment of roof and podiums, overshadowing, parking etc.

The proponent implies (in their 'Issues and Responses to Submissions' and 'Response to Submissions Report') that the proposal will meet Council's standards but has not provided any detailed evidence to substantiate this across the DCP standards.

In addition, the responses to Council's concerns repeatedly state the prevalence of the Concept Plan approval over Council's standards. This indicates an intention to utilise of the Concept Plan approval to bypass any DCP standards that might be in direct conflict with the current detail stipulated in the listed plans, sections being attached to this Condition.

For example it states (pg 4 Issues and Responses to Submissions) "The Concept Plan 07_0166 prevails over the provisions of the DCP to the extent of any inconsistency, including with respect to the top of the storey of a residential flat building not exceeding 60% of the Gross Floor Area of the storey immediately below it. No such requirement is made in the current approved envelopes nor those proposed." It is Council's understanding that the approved envelopes refer to the ground floor footprint of built form and that the built form, massing, modulation etc is determined by local controls which operate within the footprint and height plane stipulated through the Concept Plan approval. The proposed inclusion of the listed drawings stipulating the dimensions at each level is a mechanism that will enable avoidance and bypassing of Council's requirements for certain massing, modulation, integration of built form in this locality.

Council reiterates that no detailed drawings form part of the Concept Plan to ensure appropriate governance be applied in the assessment of this development. This is to ensure the outcomes are well considered and that they deliver on aspects beyond the number of units including built form and amenity in line with standards expected by Council and the community.

- **It is requested that Condition A2(f) be removed in its entirety and that only the Concept Plan as illustrated below, be modified and included to delineate a general building footprint for the residential flat buildings.**



Concept Plan drawing

Further to the above concerns regarding inclusion of dimensional details, the proposed layouts have not been modified to accommodate concerns raised previously by Council. The following amendments are again requested to the Concept Plan building footprints:

Building A – increased setback to south boundary with school building – to ensure amenity to both the residents on each level of the apartment building and to school children within school building which has a reduced setback to the boundary.

Building C and D – reduction of the building footprint to ensure suitable view corridor and access to the playing fields associated with the school, and to provide increased setbacks to street facing building lines that equate with Council's 10m setback to streets which facilitates deep soil landscaping, plus enable adequate separation from the street and vehicular access point into the school premises – ensuring acceptable amenity at this busy juncture.

Surface parking and road alignment – The proponent's diagram illustrates the introduction of new surface parking to the north and realignment of the road which was not included in the Concept Plan approval. The location of the proposed new car parking and road realignment illustrated in the diagram below indicates a likely additional impact to the E2 (Environmental Conservation) zone area to the north. This is not supported due to impacts on this area both from the probable removal of existing remnant (EEC) vegetation as well as resultant changes to local hydrology (further impacting downstream biodiversity), as illustrated in the aerial photo below. Furthermore due to slopes at this location it is unclear what level of cut/fill/construction would be required to provide at grade parking, and as such the resultant visual, ecological and hydrological impacts.

No study or investigation has been provided to support these amendments. If required, the amendments should be sought through the DA process where due ecological evidence can be provided and appropriately assessed.

As discussed above at grade parking and road alignment with the associated issues of runoff into the adjacent Coups Creek riparian lands did not form part of the Concept Plan approval and is strongly disagreed as a modification. All parking associated with the residential flat buildings is to be provided within the basement under building footprint as per Council's DCP standards as is being delivered by all developments within the LGA to ensure reduced hard surface and heat island impacts and deep soil provisions.



Proponent's diagram



Aerial photograph

- It is requested that the building footprint be adjusted to resemble key items included in the original Concept Plan approval, namely separation from the school buildings and school vehicular entry, and to enable connectivity between the school and its grounds.
- It is requested that the location of the new internal road to the north of the residential flat buildings remain in the same location as per the original Concept Plan approval, and that all surface carparking off this new internal road to the north be removed as per the original Concept Plan approval.

- **Condition: A8 Building Height**

(1)(j) *Precinct B: Central Church residential flat buildings shall be restricted to the maximum RLs as follows:*

<i>Building</i>	<i>Maximum RL - Roof</i>	<i>Maximum RL – Plant and Roof Terraces</i>
<i>A</i>	<i>183.300</i>	<i>185.700</i>
<i>B</i>	<i>183.300</i>	<i>185.700</i>
<i>C</i>	<i>183.300</i>	<i>185.700</i>
<i>D</i>	<i>183.100</i>	<i>185.700</i>
<i>E</i>	<i>175.800</i>	<i>178.000</i>

The proponent states that (pg3 - Issues and Responses to Public Submissions) “The proposed modifications to the maximum building heights provides clarity and certainty for the detailed design of future development applications therefore, the table of the building heights is appropriate and will provide certainty to the future consent authority.” The inclusion of this table does not provide Council with any certainty. In fact, it creates uncertainty for both Council and the community as it is a departure from the Concept Plan approval where it was understood that the height planes would be in accordance with local controls.

The arguments presented regarding building height plane (pg 2 - Issues and Responses to Public Submissions) are not agreed. Ku-ring-gai Council's DCP has been in operation since 2012 and has delivered substantial high quality development across the LGA. This includes to provision of plant within basements or within designed roof structures within height limits. Service elements on balconies are not permitted within the LGA as implied by the proponent.

- **It is requested that the proposed Condition A8(1)(j) be removed in its entirety and that the existing Concept Plan Condition A8(2) be retained with any requirement for development beyond the permitted heights be assessed on their merits through the DA process as is standard for all such development.**

- **Condition B9 Car parking**

(1A) *Notwithstanding (1) above, minimum residential car parking rates are to be as follows for the Central Church Precinct:*

- 1 bedroom apartment: At least 1 space per dwelling*
- 2 bedroom apartment: At least 1.67 spaces per dwelling for Buildings A-D and 1 space per dwelling for Building E*
- 3 bedroom apartment: At least 2 spaces per dwelling*
- Visitor parking: 1 visitor space per 6 dwellings*

This Condition is not supported. Car parking standards must be considered as part of the DA and align with the outcomes of the development. As in Council's previous submission, there is no objection to the rationale behind aligning the parking requirement with the Ku-ring-gai DCP rates, but Ku-ring-gai Council re-iterates its concern that the proposal seeks to provide parking in excess of the Ku-ring-gai DCP requirements, and seeks to remove the requirement for car sharing spaces.

Further, the proponent's proposal to utilise visitor parking on the SAN Hospital site by way of reducing onsite parking within this residential flat development is strongly opposed. The SAN Hospital visitor parking was provided to accommodate the visitors to that facility, no extra parking or consideration of proximity of parking was provided to accommodate this residential flat development and its visitor or other parking requirement. The paid visitor parking in the Hospital offers an impractical free period (around 15 minutes). This was not addressed by the applicant other than to reiterate the presence of the Hospital car park. In the long-term, the residential flat buildings may not remain in ownership of the SAN with units being sold on to residents, therefore there would be no association between the two developments and no ongoing association of shared parking facilities.

Ku-ring-gai Council's previous comments focused on the impacts of excessive parking provision and the benefits of car share provision (i.e. reduction in the number of trips generated, reduction in congestion and emissions, and provision of more affordable housing through the reduction the number of car spaces attached to a particular dwelling). Car share vehicles could be provided at the rate of around 1 car share vehicle per 90 dwellings (in less accessible locations) which would result in approximately 2-3 car share vehicles for Buildings A-E, which is not an onerous provision.

In addition to this, it is worth noting that the original concept plan approval and associated road improvements (Condition B7) was based on the original car parking rates of provision and the presence of a car share scheme. By increasing car parking provision and eliminating the provision of car share spaces/vehicles, this will likely have the effect of embedding car dependency and potentially increasing traffic generation which would undermine the benefits of the road improvements. As suggested in Council's previous submission, a cumulative assessment of the full build-out of the Wahroonga Estate should be undertaken, particularly if modifications are sought in the future for an excessive increase in the parking requirements of other residential developments on the site. This was not addressed by the applicant.

➤ **It is requested this Condition be removed in its entirety.**

Biodiversity protection

The following comment are submitted in relation to MP 07 0166 MOD 7. Council has not received any response from the Department of Planning and Environment or within the MP 07_0166 MOD 8 to address these issues raised.

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 Environment, 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.

Council officers are happy to meet with the Department of Planning and Environment and/or with proponent to clarify any of the stated issues.