

10 December 2018

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CPo/MO

Ms Carolyn McNally
Secretary
Department of Planning and Environment
320 Pitt Street
Sydney NSW 2000

Attention: Anthony Witherdin (Director Modification Assessment)

Dear Anthony,

**Response to Council Submission – Section 75W MOD 8 to Concept Approval MP07_0166
185A, 161 and 163 Fox Valley Road, Wahroonga**

1.0 Introduction

This Response to Council's Submission has been prepared by Ethos Urban on behalf of Bluestone Capital Ventures (Wahroonga) Pty Ltd (Capital Bluestone Pty Ltd) in relation to Council's comments received in response to the Response to Submissions (RtS) dated 16 August 2018 regarding the Section 75W No.8 (MOD 8) to Concept Approval MP07_0166 which relates to the Central Church Precinct of the Wahroonga Estate at Fox Valley Road, Wahroonga (the site).

Capital Bluestone and its specialist consultant team have reviewed and considered the issues raised in the Council submission and this RtS forms the response.

2.0 Description of Proposed Development (as amended)

Following the RtS dated the 16th of August 2018, further design development has been undertaken which has resulted in minor amendment to reduce the minimum residential car parking requirements for the two bedroom apartments for Buildings A, B, C and D. It is proposed to amend Condition B9(1A) Car Parking to reduce the minimum requirement for residential car parking for two bedroom apartments for Buildings A, B,C and D from 1.67 spaces (exhibited) to 1.5 spaces.

3.0 Council Comments

Council provided a submission outlining their comments in response to the RtS. A response to each of the comments is provided below and in the following sections.

Issue Raised	Proponent's Response
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.	Noted.

Issue Raised	Proponent's Response
<p>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.</p>	<p>Noted, a response to each of the additional comments is provided below in this table.</p>
<p>• Condition: A2 Development in Accordance with Plans and Documentation</p> <p><i>(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.</i></p> <p>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.</p>	<p>Noted, the proposed conditions in Section 4.0 have been amended to remove the reference to MOD 6.</p>
<p>The proposed amendment to this Condition: A2 Development in Accordance with Plans and Documentation 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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>The proposal is only seeking consent for the building envelopes to accommodate the residential flat buildings. The modifications to the conditions are provided in Section 4.0 and the plans listed in the condition relate to the proposed building envelopes.</p> <p>The purpose of the modification is to provide revised building envelopes for the residential flat buildings that are more functional and deliver higher residential amenity. The amendments to the building envelopes have been developed through the preliminary design process to accommodate the 200 apartments over the five residential flat buildings already approved under the Concept Plan (Condition 35).</p> <p>The Proponent's project team has been in contact with Council to organise a high level meeting to discuss the application prior to lodgement of application to present. To date Council has not been willing to meet.</p> <p>The Modification does not seek to approve the detailed design development of the buildings. The assessment of the detailed design assessing the amenity, parking, landscaping, servicing, access, waste, waste collection, streetscape and integration into the context will be subject to future development applications.</p>

Issue Raised	Proponent's Response
<p>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 Councils 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.</p> <p>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.</p> <p>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.</p>	<p>The Concept Plan prevails over local DCP provisions to the extent that there is any inconsistency. The proposed building envelopes and car parking rates will override the local DCP provisions to the extent that there is any inconsistency. Future development applications will provide the detailed designs and assessment against the relevant DCP standards.</p> <p>The proposed building envelopes and car parking rates will override the local DCP provisions to the extent of any inconsistency. The detailed assessment against the relevant DCP standards will form part of the future development applications.</p> <p>The proposed modifications are limited to the building envelopes. The proposed building envelopes are inclusive of the height and plant for the buildings and will not result in any adverse impacts.</p>

Concept Plan drawing

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.

It is requested that the building footprint be adjusted to resemble key items included in the original Concept Plan

The proposed building envelope and setback of 6m for Building A have considered the Wahroonga Adventist School and been designed to maximise residential amenity. An ADG assessment was submitted with the application demonstrating that the proposed building envelopes will be capable of complying with SEPP 65. The Wahroonga Adventist school has been designed with regard to the future residential flat buildings. The school senior building is located to the south of Building A, the design of the approved north western elevation of Building A incorporates louvres and blank facades to mitigate any potential amenity impacts between the school and the future residential flat buildings. The proposed reduction in the setback will not give rise to any additional adverse amenity impacts to both the residents of the future residential flat buildings or the Wahroonga Adventist school. Further commentary of the interface between the building envelopes and the school is provided in the RtS dated 16 August 2018.

The Concept Plan 07_0166 does not identify any specific view corridors to be provided between the location of the school buildings and the sports fields. The detailed design of the Sydney Adventist School under State Significant Development 5535 does not make any provision for such visual connection. The detailed design of the road including landscaping in the road reserve and any pathways between the Sydney Adventist School and sporting facilities will form part of future development applications. Future development applications will incorporate pathways between the school and the sporting fields to allow students and staff with safe access.

The existing use of the site is an at grade car park with turf. The proposal is not seeking consent for any removal of vegetation, therefore there is no impact on the EEC.

The detailed design of the at grade car parking and the road alignment servicing the residential flat buildings including the cut/fill/construction and the assessment of the visual, ecological and hydrological impacts will be subject to future development applications. The detailed design for the stormwater, hydraulic design and extent of cut and fill will be included in future development applications.

Detailed studies relating to local hydrology, visual and ecological impacts will be included in future development applications for the detailed design of the residential flat buildings.

Future development applications will provide an assessment of any potential run off from the at grade parking and road alignment into the adjacent Coups Creek riparian lands. The proposed location of the visitor car parking has resulted from the development of the detailed design and is generally consistent with the provision of landscaping in the Concept Plan. Providing at grade visitor parking is appropriate to assist in wayfinding and reduce potential impacts on the on-street car parking.

The proposed amendments to the building envelopes have been designed with consideration of the approved design of

Issue Raised	Proponent's Response
<p>approval, namely separation from the school buildings and school vehicular entry, and to enable connectivity between the school and its grounds.</p> <p>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.</p>	<p>the Sydney Adventist School in SSSD 5535. The Concept Plan 07_0166 does not identify any view corridors to be provided between the location of the school buildings and the sports fields.</p> <p>The proposed modification to the alignment and location of the at grade visitor car parking has resulted from the development of the detailed design. The proposed design of the road and location of the at grade visitor car parking provides clarity and certainty for future development applications, the location of the at grade car parking and configuration of the road is appropriate and will provide certainty to the future consent authority.</p>
<p>Condition: A8 Building Height</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>The Concept Approval provides for 5 to 6 storey residential flat buildings, which is consistent with the amended building envelopes. The proposed building height and envelopes have resulted from the development of the detailed design ensuring that the residential flat buildings can be achieved with good design with regard to the site topography and desired future character.</p> <p>The amendments to the building envelopes will therefore, provide clarity and certainty for the detailed design of future development applications. Therefore, the table of the building heights is appropriate and will provide certainty for the future consent authority.</p> <p>The development of the detailed design has considered the location of the plant and service elements to ensure good urban design can be achieved. The proposed building envelopes envisage the location of plant taking into consideration the residential amenity of the residential flat buildings. The future detailed designs will include further assessment of the plant and service elements on the balconies. The plant will be set back from the parapet to ensuring that there is minimal impact when viewed from the ground level. The proposed location for the plant zones on the roof level is a common location given the efficiencies in energy consumption and maintenance costs.</p> <p>The amended building envelopes will provide clarity and certainty for the detailed design of the future development applications. Therefore, the proposed changes to Condition A8(1)(j) as provided in the RtS dated 16 August 2018, are appropriate and will provide certainty for the future consent authority.</p>

Issue Raised	Proponent's Response
<p>Condition B9 Car parking</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>Refer to Section 3.1 below.</p> <p>In the amended traffic statement, the car parking assessment undertaken has not been based on the reliance upon the car parking spaces provided at the SAN Hospital. The proposed car parking rates will adequately service the proposed residential flat buildings.</p> <p>The DCP does not require car share parking spaces.</p> <p>Refer to Section 3.1.</p>

3.1 Traffic and Car Parking

The proposed car parking rates for two bedroom apartments for Buildings A, B C and D of 1.5 spaces generally aligns with Council DCP car parking minimum of 1.25 spaces and is therefore considered to be appropriate. It is noted that Council's DCP car parking rates do not require car sharing spaces. The Concept Plan 07_0166 considered the overall traffic impact for the proposed land uses, gross floor area and maximum number of dwellings being provided within the Wahroonga Estate, including the Wahroonga Adventist School and the five residential flat buildings.

The proposed modifications to the building envelopes do not change the total number of apartments approved under the Concept Plan 07_0166. Modification to Condition B9 Car Parking (1A) will enable a reduction in minimum of car parking spaces required for the detailed design of future development applications.

An amended traffic statement was provided with the subject application, the assessment concluded that the proposed increase in 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. The amended two bedroom car parking rates for Buildings A, B, C and D will further reduce the minor impact on the level of service and average vehicle delay at the new proposed signalised intersection at Fox Valley Road.

4.0 Proposed Modifications to Consent

The proposed modifications described above necessitate further amendments to the consent conditions as outlined in the RtS dated 16 August 2018. The amendments are identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

B9 Car parking

...

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

- b) 2 bedroom apartment: At least 1.5 spaces per dwelling for Buildings A-D and 1 space per dwelling for Building E***

...

5.0 Conclusion

Capital Bluestone and its project team have considered the submissions made in relation to the RtS dated 16 August 2018. A considered and detailed response to of Council's comments has been provided in **Section 3.0**.

We trust the above information is sufficient to allow a prompt assessment of the modification. Should you have any queries about this matter, please do not hesitate to contact the undersigned.

Yours sincerely,



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