

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

Thank you for the opportunity to review the proponent's response to the submissions.

The responses provided do not address the majority of concerns raised in our previous submission. We re-attach that submission to this paper and request the Department give due consideration to that content.

In short, the proposed Mod 10 constitutes a substantial and significant departure from the approved Wahroonga Estate Concept Plan and is highly inconsistent with the legislated directions for a modification. To this effect the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, Schedule 2, 3BA states

- (1) For the purposes of this clause, the cut-off date is 1 March 2018.*
- (2) An approved project or a concept plan cannot be modified under section 75W on or after the cut-off date, except as provided by this clause.*
- ..*
- (5) A concept plan may continue to be modified under section 75W pursuant to a request lodged on or after the cut-off date (whether or not the project is or has ceased to be a transitional Part 3A project), but only if the Minister is satisfied that—*
 - (a) the proposed modification is to correct a minor error, misdescription or miscalculation, or*
 - (b) the proposed modification is of minimal environmental impact, or*
 - (c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).*

The proponent response insisting the modification is within the parameters of the approved Wahroonga Estate Concept Plan is fundamentally flawed.

The proposal results in a substantial departure from the Concept Plan approval both across the entirety of the Estate and within Precinct C where this site is located. It undermines the Estate Concept Plan as a whole and ignores the parameters of the Precinct planning that underpins the Concept Plan:

Wahroonga Estate:

- It gives negligible consideration to the Concept Plan approval that relied on detailed Precinct planning to determine their individual composition.
- It seeks to alter the composition of the Precincts, making wholesale transfers of dwelling numbers and altering the allocated dwelling types to remove diversity.
- It deletes housing provision and removes potential within Precincts A, B and D regardless of other private landowners within the Wahroonga Estate.
- It seeks to appropriate dwelling count that could potentially be taken up by other landowners/developers within the Estate.
- It creates inconsistency between development enabled through the Concept Plan and the aligned zoning transferred into the KLEP 2015 from the repealed SEPP (State Significant Precincts) 2005.
- It ignores the Concept Plan allocation of the transitional 4-storey street wall to Comenarra Parkway which all other buildings adjacent to this site, residential and hospital buildings fronting onto Comenarra, have adhered to.
- It ignores the Concept Plan allocation of a 4-storey street wall to the corners of Fox Valley Road and for the length of this site, matching that of the opposite corner commercial building delivered at 4-storey.

Precinct C:

- It seeks an increase of height from 4 storey RL172.9 to 10 storey RL194.2 - more than double the approved Concept Plan height for this precinct, at a 21.3m increase.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

- It seeks an increase of the building footprint - by at least one third extra site coverage to that of the approved Concept Plan, diminishing the landscaped area between the two building footprints and removing pathways and landscaping to Ludowici Way.
- It seeks an increase of residential flat unit dwellings from 105 dwellings allocated to this Precinct to 227 dwellings – more than double the number of units allocated under the approved Concept Plan.
- It proposes an increase of cars merging with Hospital traffic on Ludowici Way to exit at the Comenarra/Fox Valley corner – double to triple the numbers of vehicles.

The amendments sought by the proponent are beyond the scope of a modification. To enact these changes in a transparent and considered manner, the proponent would need to:

- either lodge a new concept plan which applies probity in the reassessment of the Estate and its Precincts and propose an aligned approach that includes other landowners, stakeholders and considerations of the surrounding context,
- or submit a planning proposal to amend the standards including height for this site – to ensure transparency of process and due consideration of private land owners affected by the proposed modification.

The proponent makes argument that biodiversity and bushfire provisions have prevented delivery of dwellings; however, Council is aware that neither of these parameters complexly prevent development as previously noted. The proponent response gives no consideration of modern construction and use of engineering solutions that are able to deliver dwellings in these areas, nor to Council's Development Control Plan which provides directions for development within such areas.

Recommendation:

Council requests the Department reject this modification as it constitutes a substantial departure from the Wahroonga Estate Concept Plan Approval. The modification will require amendment to every Precinct, thereby altering the essential parameters of the Estate Concept and its Precinct planning.

Council requests the Department require the modification proposal to

- either be deleted and the proponent develop the site within the existing parameters of the Wahroonga Estate Concept Plan and the provisions stipulated for Precinct C;
- or be amended to reflect a true 'modification' to the Wahroonga Estate Concept Plan Approval and not the radical departure that is being proposed, and that the modification reflect the EP&A Regulation provisions of:
 - (a) *the proposed modification is to correct a minor error, misdescription or miscalculation, or*
 - (b) *the proposed modification is of minimal environmental impact, or*
 - (c) *the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).*

Should the Department wish to enable some reasonable modification within the parameters of the approved Wahroonga Estate Concept Plan, then Council staff make the following suggestion for the Department's consideration (illustration provided):

Wahroonga Estate:

1. The proponent work with the RFS to develop agreed engineered design solutions under PBP 2019 that can deliver residential development within the various Precincts on and near bushfire prone land.
2. The proponent consider the opportunities to provide dwellings within areas of biodiversity across the relevant precincts.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

Precinct C:

- The proponent be required to deliver the remaining provisions allocated to this precinct within a marginally altered building envelope that will remain consistent with the approved Concept Plan Precinct C planning. The remaining potential within this Precinct is indicated in the below table:

CONCEPT PLAN APPROVAL MP07 0166 - Precinct C: Central Hospital - Dwelling Provision		
Approved Concept Plan Condition	Current delivery	MOD 10 proposal
A4 (1) <ul style="list-style-type: none"> 3 Dwelling Houses 105 Residential Flat Building Dwellings 	<ul style="list-style-type: none"> 60 key-worker housing units (35 x 1 bedroom and 25 x 2 bedroom units) 	<ul style="list-style-type: none"> 227 apartments within 2 buildings Note: the proposal seeks 182 units above the allowable number permitted within this Precinct.
	Remaining potential within Precinct C: 45 residential flat units	
A3 (1) <ul style="list-style-type: none"> 14,500 sqm Student Accommodation 1,500 sqm Hostels / Group Homes / Boarding Houses 	<ul style="list-style-type: none"> 2,144 sqm student accommodation (126 studio units) 	<ul style="list-style-type: none"> 0 Note: the proposal fails to include any of the affordable housing typologies likely to suit hospital staff (cleaners, carers, kitchen aids, security personnel etc) stipulated in the Approved Concept Plan for Precinct C.
	Remaining potential within Precinct C: <ul style="list-style-type: none"> 12,356 sqm of student accommodation 1,500 sqm Hostels / Group Homes / Boarding Houses 	

- The modification's proposed increased building footprint be allowed, but reduced to Ludowii Way to ensure provision of pathway and landscaping.

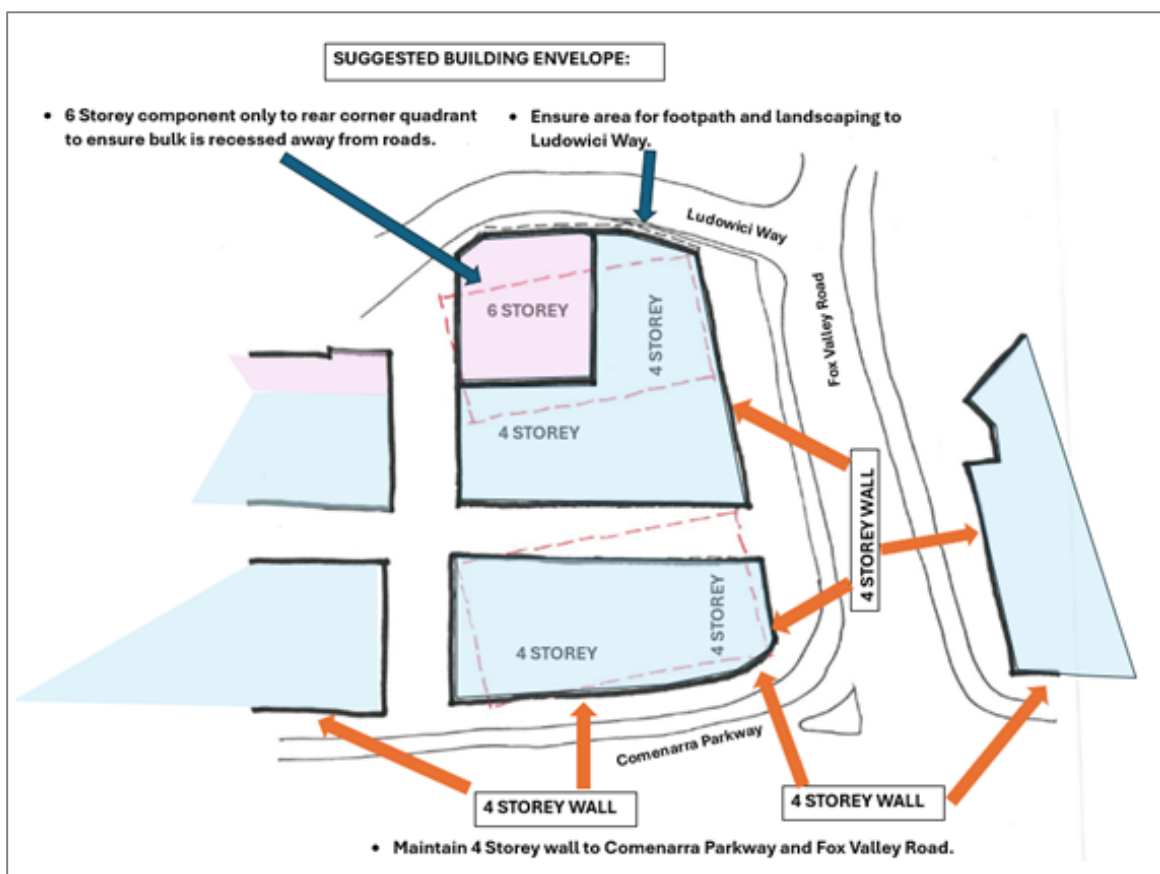
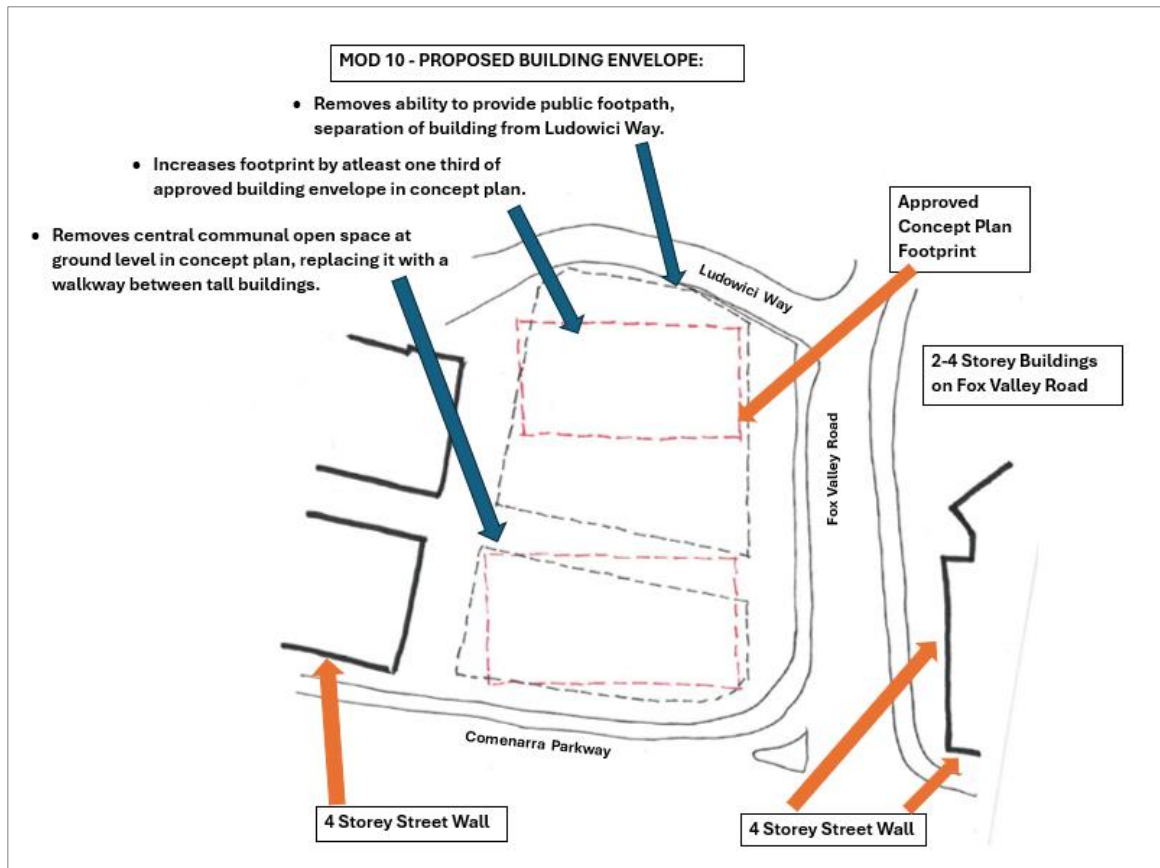
This will provide an increased footprint equating to an additional building to the approved Concept Plan footprint. This will enable 4 stories of additional development potential.

- The modification retain the approved Concept Plan heights and in particular the 4-storey street wall to both Comenarra Parkway and Fox Valley Road for the entire lengths of the site to retain the Concept Plan consistency already delivered by all other buildings at these street frontage locations.
- That the building located adjacent to Comenarra Parkway retain the Concept Plan approval 4-storey height to the entire footprint so that it presents as 4-storey to the corner and to both street frontages. This will reduce the issues of transition to the low density development to the south of the site.
- That the building located adjacent to Ludowici Way
 - retain the Concept Plan approval 4-storey height to the entire length of Fox Valley Road to a minimum of half of the building footprint measured from Fox Valley Road;
 - retain the Concept Plan approval 4-storey height to a minimum of half of the building footprint measured from the central walkway between the two buildings;
 - enable a maximum 6-storey height to the rear north-western quadrant of the building footprint adjacent to Ludowici Way, to take no more than one quarter of the building footprint area at that rear corner location.

This will retain the 4-storey street wall to Fox Valley Road consistent with the commercial building on the opposite side of Fox Valley Road as intended in the Concept Plan.

This will provide 2 additional floors recessed to the north-western corner that will limit and contain the bulk effects towards the hospital and retain the integrity of the Concept Plan 4-storey street wall and remove visual and amenity impacts to the public domain and low density areas.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)



Council refers the Department to Council's original submission attached to this paper. The majority of those points are not repeated here and we request the Department to consider that content in full as it remains relevant.

Below are re-iterated and clarifications arising from the proponent response.

PLANNING COMMENTS

State Environmental Planning Policy (Housing) 2021

The proposed increase to the building envelope height is to support the 112 dwellings which have not been developed across the various Precincts of the Wahroonga Estate.

The applicant's response to Issue 3 introduces factors such as increased biodiversity considerations, updated bushfire regulations, enhanced school playground requirements, and infrastructure upgrades over the past 15 years as reasons for the reduction in the number of approved units. However, these factors were not cited in previous modification requests that also resulted in a decrease in housing numbers. The reason for the reduction of dwelling yield across the Precincts is partly due to the proponent's decision to provide a high proportion of larger apartments within the Precincts.

The recent development application modifications (eMOD0170/22 and eMOD0173/24) to DA0539/21 for Buildings A, B, and C at 161, 163, and 185A Fox Valley Road, Wahroonga, have consistently aimed to reduce the total number of approved units by amalgamating smaller one- and two-bedroom apartments into larger three- and four-bedroom units. Specifically, this approach has led to a net reduction of 15 one- and two-bedroom units, suggesting a strategic decision to cater to market demand for more spacious residences.

Under the current Development Application No. eDA0516/24 (Precinct D), 59% of the proposed dwellings are 3-bedroom apartments. One 3-bedroom apartment is generally equivalent to a 1- and 2-bedroom apartment combined.

The proponent has designed building envelopes filled with larger apartments, which has resulted in a failure in achieving the maximum 500 dwellings approved under the Concept Plan. It is considered unreasonable to support an excessive building envelope height, which is unsympathetic to the local context, due to the proponent's decision to create larger apartment types to cater to market demands.

Council's submission in response to the Proposed MOD 10 has identified that the proposed increase to the building envelope height fails to meet several key design principles in Schedule 9 of the SEPP, specifically:

- Design Principal 1: Context and neighborhood character
- Design Principle 2: Built form and scale
- Design Principle 6: Amenity
- Design Principle 9: Aesthetics

The applicant provided a response to the deficiencies identified by Council, which have been considered below.

1. Design Principle 1: Context and neighborhood character

Applicant's response:

The Urban Design Report that accompanied the Modification Application analysed local context and concluded that the modified building envelope heights are consistent with the site's location within the Central Hospital Precinct, which is characterised by the most prominent buildings within the Wahroonga Estate, and is appropriate for this gateway site at the intersection of The Comenarra Pkwy and Fox Valley Rd.

Council's response:

The Urban Design Report was considered during the review process of the proposed Modification Application. Council however concludes that the concerns raised under the previous response remains applicable and valid. The proposed increase to the building envelope height is inconsistent with the site's

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

location, failing to meet the objectives of Design Principle 1 in Schedule 9 of the SEPP, which emphasized the importance of good design that respects the local context.

Particulars:-

- The proposed building envelopes achieve a maximum height of RL 194.2m, which represents a 21.3m increase from the approved envelopes (RL 172.9m). The height increase is excessive and is inconsistent with the local context.
- The properties directly south of the development site are zoned R2 Low Density Residential under the KLEP 2015. These sites are subject to a building height development standard of 9.5m. Existing developments on these properties include 1-2 storey dwellings and a part 1 and 2 storey childcare centre. The childcare centre has a ridge height of RL 163.11. The childcare centre will be located approximately 31.09m below the maximum height of the proposed building envelope and is set back approximately 21m from the development site.
- Owing to environmental constraints, including biodiversity and bushfire risk, much of the lots to the south, west and east of the site are zoned C4 Environmental Living. Due to these factors, the site is not in proximity to an area undergoing change and the proposal would result in tall buildings that would visually dominate the locality due to their excessive height, bulk and minimal street setbacks.
- The high-density medical buildings associated with the Sydney Adventist Hospital (SAN) are located approximately 125m north and 176m north-west from the development site. Whilst the buildings have a height ranging from 2-9 storeys, they are sited a significant distance from the development site and detail a minimum set back of 23m from Fox Valley Road. Further, due to the topographical slope from the north to the south of Fox Valley Road, the high-density SAN buildings are not visually prominent when viewed from the development site. The argument that the proposed height is consistent with the site's location within the Central Hospital Precinct is unsustainable given the fact that the site of the proposed modification is not within the visual catchment of any buildings of similar scale.
- The development site is subject to the Wahroonga Estate Concept Plan (MP07_0166), which allows the site to have a maximum height of 4 storeys (RL194.2). The approved height balances high density development, consistent with the E1 Local Centre zone, with a well-considered and transition to the adjacent low-density development.
- The proposed 10-storey height is deemed excessive, leading to overwhelming bulk and scale impacts on adjacent low-density developments. Moreover, when viewed from the public domain, the development's visual bulk fails to establish a harmonious relationship with existing development patterns and the changing character outlined in the approved Wahroonga Concept Plan. The 10 storey breaks the envisaged 4-story street wall to Comenarra Parkway and the low density residential sites along that roadway, including to the now built commercial building on the opposite corner of Fox Valley Road. The proposal undermines the ethos of the Wahroonga Estate Concept Plan and its primary consideration of the low density residential context of the Estate.
- The proposed height increase is not considered to be 'good design'. Inadequate consideration has been given to the local context (both established and that undergoing change) and the impact the proposal will have on it. The proposal therefore fails to meet Design Principle 1.

Applicant's response:

*There are 2 bus stops in the street adjoining the site, and four within easy walking distance (see **Figure 4**). Regular bus services are provided as follows:*

- *Route 573 connects the site to Turramurra railway station and town centre in 16 minutes.*
- *Route 589 connects the site to Thornleigh Station and town centre in 10 minutes.*

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

- *Route 589 connects the site to the Hornsby Strategic Centre, its Station and major CBD within 22 minutes.*

The site meets the definition of an 'accessible area' as defined under State Environmental Planning Policy (Housing) 2021.

By contrast, the apartment and townhouse areas in Precinct A are a 1.1 kilometre, uphill walk to the nearest public bus stop on Pennant Hills Rd.

The proposed redistribution of dwellings therefore significantly improves public transport accessibility and frequency of service for future residents within the already-approved dwelling cap.

Council's response:

The proposed increase in yield will place more reliance and demand on existing transport infrastructure. The applicant's response notes that the addition of 112 units will bring an anticipated extra population of 250-300 people.

The original objectives of the Wahroonga Estate Concept Plan seek to reduce reliance on private vehicles and encourage the use of alternative modes of transport. The proposal is contrary to this objective as it fails to incorporate a reliable public transport facility for future residents.

Additionally, the bus stops identified by the applicant may not adequately cater to the proposed increase in yield. Part 5.3.6 (Rapid) of the NSW Bus Industry Taskforce 'Second Report' (October 2023) states:

Rapid buses are a top tier bus product aimed at increasing regional connectivity. They are similar to light rail, with direct routes, turn-up-and-go services, and quality stops that are distinctive, legible and well-integrated with the urban environment. They enable land-use and housing growth around transit stops which provide sustainable transport choice.

*The rapid transit corridors proposed in Future Transport have been developed further by Transport in consultation with the Taskforce. The Taskforce proposes **40 rapid routes** to be delivered over the long term as illustrated in Figure 24. This includes the 39 rapid routes outlined in Transport's Future Transport Strategy and Directions for On-Street Transit White Paper and one addition.*



Figure 1: Proposed Rapid Bus Route Network for Sydney and the development site identified as a red dot (Source: NSW Bus Industry Taskforce Second Report (October 2023))

The bus stops identified by the applicant are not located on or in proximity to existing or proposed rapid bus routes, which are high-capacity bus-based transit systems designed to provide fast, reliable and efficient public transport. Rapid bus routes are managed under State Plans *Sydney Bus Future (2014)* and *Future Transport Strategy (2022)*.

Figure 2 is a map within the Future Transport Strategy, which details the future rapid bus network. The red dot on the map is the approximate location of the development site, which is not in proximity to an existing nor proposed rapid bus route.



Figure 2: the development site (identified as a red dot) is not in proximity to an existing or proposed rapid bus route (Source: Future Transport Strategy)

The NSW Bus Industry Taskforce 'Second Report' (October 2023) found that the bus services near the site were operating at below minimum service levels (**Figure 3**). It is therefore unreasonable to rely on the bus services identified by the applicant to cater to the proposed increase in yield.

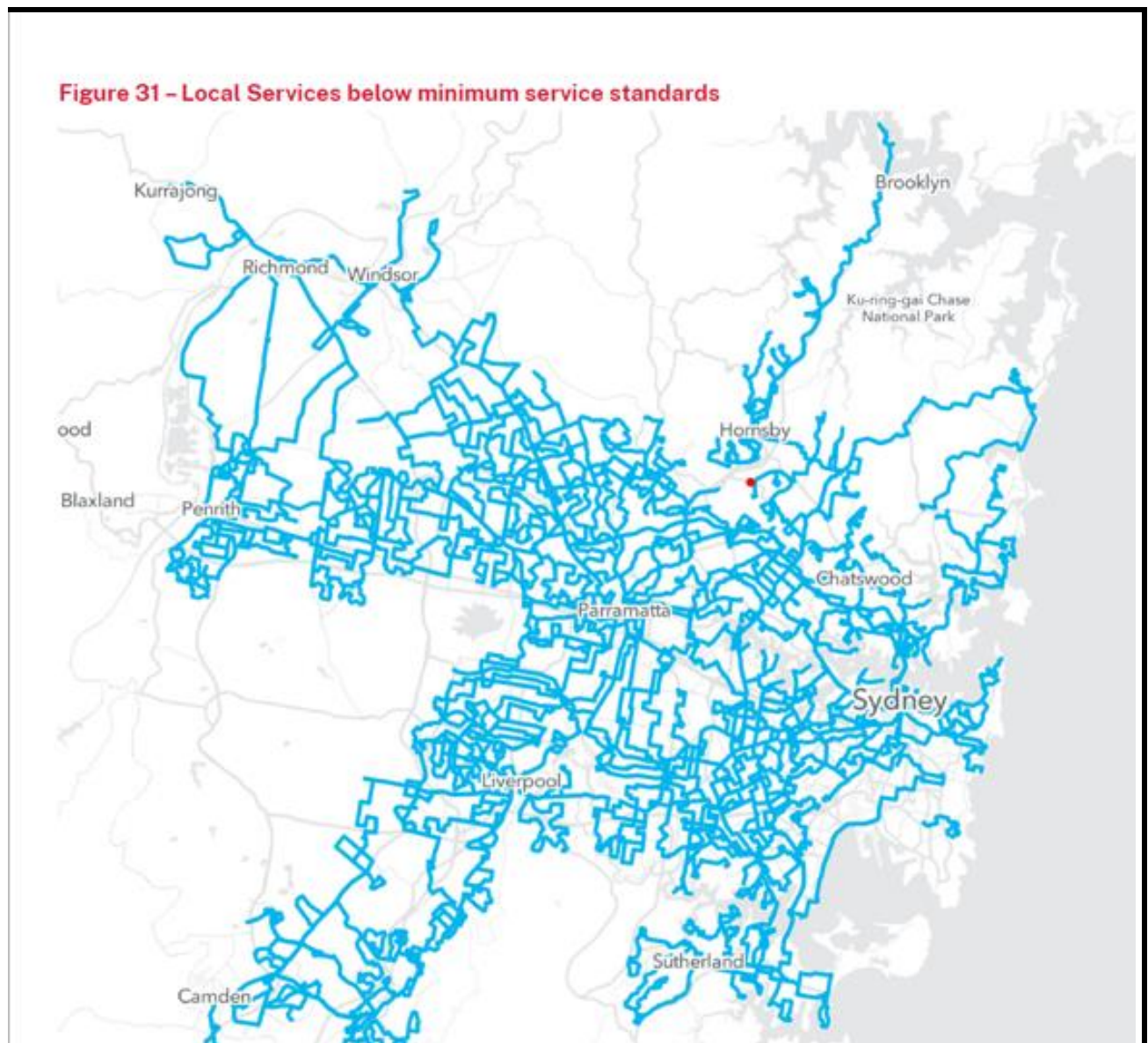


Figure 3: Bus services near the site (identified as a red dot) were operating at below minimum service levels (Source: Second Report' of the NSW Bus Industry Taskforce)

In conclusion, the proposed change to the approved building envelope, which seeks to cater to an increase in yield is not considered to be 'good design'. Inadequate consideration has been given to the local context (both established and that undergoing change) and the impact the proposal will have on it. The proposal therefore fails to meet Design Principle 1, Schedule 9 of the SEPP and the original objectives of the Concept Plan.

2. Design Principle 2: Built form and scale

Applicant's response:

Architectural detail will be provided with DAs for future buildings within the modified building envelopes. DAs will include a detailed assessment against Principle 2.

However, Principle 2 does not require new buildings to be the same scale as those within their immediate surroundings. The Wahroonga Estate Concept Plan

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

establishes the Central Hospital Precinct as being most suitable for taller buildings and contemplates significant change in scale and character, including construction of the future 11 – 12 storey Shannon Wing approved by MP 10_0070.

The Indicative Reference Design illustrates how future buildings on the site can be articulated and stepped to establish an appropriate design relationship between the height of adjoining buildings and the public domain.

The modified building envelopes retain the setbacks, landscaped spaces and retail frontages at street level that were incorporated into the approved Concept Plan envelopes. The street level envelopes are setback from both street frontages in accordance with the Concept Plan conditions and align with the setbacks of directly adjacent buildings to create a consistent landscaped setback and streetscape.

The modified heights are stepped down from adjacent buildings.

The NSW Apartment Design Guide (ADG), Part 2F considers how building separation distances contribute to an area's urban form, and recommends:

- 2 metres as an appropriate separation between habitable rooms and balconies up to 4 storeys;*
- 18 metres for 5 – 8 storeys; and*
- 24 metres for 9 storeys and above; plus*
- An additional 3 metres where there is a change in zoning from apartment buildings to a lower density zone.*

This provides the separation distance needed to minimise the visual transitions between buildings of different scale and typology.

The modified building envelopes are separated from the closest dwelling at 178 The Comenarra Pkwy by more than 36 metres, which exceeds the ADG recommendation of 15 metres (12 metres + 3 metres).

Part 3F 'Visual Privacy Design Criteria' of the ADG adopts the same separation distances relative to building height in order to achieve sufficient transitions between apartments and a lower density areas, as illustrated in the ADG Figure 3F.5.

Separation distances between the modified building envelopes and low-density housing are well more than the distances recommended to maintain visual privacy in Objective 3F-1 of the ADG.

The modified building envelopes and nearest houses are also separated by The Comenarra Pkwy, which is a 4-lane road that creates a visual and physical separation between the Central Hospital

Council's response:

The applicant's response has been considered. Council, however, concludes that the concerns raised under the previous response remain applicable and valid.

The proposed increase to the building envelope height is inappropriate to the existing and desired character of the street and surrounding buildings, thus failing to meet the objectives of Design Principle 2 in Schedule 9 of the SEPP, which emphasizes the importance of good design that respects the existing and desired future character of the street and surrounding buildings through appropriate heights and built forms.

Particulars:-

- The development site is located between the high-density SAN development to the north and north-west and low-density development to the south. Though a portion of the proposed southern façade is partially stepped in height, the proposed maximum height of 10 storeys fails to provide an appropriate visual transition between the existing neighbouring buildings, resulting in a significant adverse visual bulk and scale impact on the southern low scale development and streetscape.
- Though the applicant states that Principle 2 does not require new buildings to be of the same scale as those within the immediate surroundings, the approved 4 storey building envelope under the Wahroonga Estate Concept Plan provides a transition, aligning with the surrounding densities, topography and streetscape character. The building envelope, as approved, is consistent with Design Principle 2 in Schedule 1 of the SEPP.

Design Principle 6: Amenity

The applicant's response has been considered, as outlined below. Council, however, concludes that the concerns raised under the previous response remain applicable and valid.

The proposed increase to the building envelope height results in significant adverse overshadowing impacts to neighbouring properties, thus failing to meet the objectives of Design Principle 6 in Schedule 9 of the SEPP, which emphasizes the importance of good design that positively influences internal and external amenity for residents and neighbours through appropriate heights and built forms.

Applicant's comment relating to overshadowing of the childcare centre

Appendix B demonstrates that the Indicative Reference Design will not result in any additional overshadowing of the centre's outdoor play area. All shadows cast by the Indicative Reference Design are contained within the site, The Comenarra Pkwy road reserve, and the centre's northern landscaped frontage, northern façade, roof areas and the shadows already cast by the centre building.

*Council's response:***Particulars:-**

- Whilst shadows may be cast by factors including existing landscaping and roof forms, the submitted shadow diagrams reveal that the proposed height increase under the proposed MOD 10, combined with the site's orientation, will cause substantial overshadowing of low-density properties to the south. With an effective building height of approximately 37m to The Comenarra Parkway and the natural fall of the land to the south, the proposal would cast substantial shadows of approximately 110m in length at 9am and 3pm on the winter solstice.
- At midday (the best case scenario). the shadow length of over 55m would extend across at least half the depth of the R2 Low Density Residential zoned properties to the south. Affected properties would experience a substantial reduction in amenity to both internal and external areas. The north facing windows of the childcare centre at No. 172-176 The Comenarra Parkway will be fully to partially overshadowed from 9:15am to 3pm, the key hours of operation.

Applicant's comment relating to overshadowing of the childcare centre

DA0270/17 stamped plans show only one of the centre's nine playrooms has a window to the north-facing façade. The other rooms along this façade are the entrance, staff administrative areas, kitchen and cot/sleeping rooms (see Figure 21). A photograph taken during centre operating hours on 25 February 2025 shows that the playroom window's blind are closed (see Figure 22).

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

At the winter solstice, this window is overshadowed by the Indicative Reference Design shortly before 10:00 am until 2:00 pm as illustrated in the 'view from the sun' diagrams provided at Appendix B. Accordingly, at the worst-case period of the winter solstice, this window will continue to receive direct sunlight in the morning and afternoon periods of the centre's operations.

The Indicative Reference Design has no impact to solar access to the centre's other eight playrooms.

Council's response:

Particulars:-

- The proposed development's detrimental impact on solar access to the childcare centre contradicts the Child Care Centre Planning Guideline. Specifically:

1. Control 311, Part 3.3 requires optimising solar access to internal and external play areas through site orientation and building design.
2. Part 4.4 (Ventilation and natural light) emphasizes the importance of natural light for child safety and wellbeing (Education and Care Service National Regulations, Regulation 11).

The Child Care Centre Guideline places emphasis on natural light being crucial for children's development, wellbeing, and learning environments. It reduces reliance on artificial lighting and heating, promoting energy efficiency and comfort. The existing childcare centre was designed to meet these solar access requirements. The loss of solar access to the north facing playroom will result in detrimental impacts to those children utilising this space. An on-off site inspection, which notes that the blinds were closed, is not an adequate justification for the departure from the requirements of the Child Care Centre Guideline.

- The proposed development will significantly reduce solar access, negatively impacting the wellbeing and development of children using the facility. Controlled daylight exposure is essential, as sunlight promotes healthy muscle and bone development, and overall wellbeing (Control 4.11). Accordingly, the loss of unencumbered solar access during the core daylight period of approximately 9:15am to 3pm is inconsistent with the requirements of the Child Care Centre Guideline.
- Within a childcare centre, the kitchen and staff administrative areas are anticipated to be used for extended periods of time. Therefore, the loss of solar access to the north facing windows associated with the subject rooms will result in significant adverse amenity impacts to the staff utilising these rooms. The proposed modifications therefore fail to meet Design Principle 6.
- The justifications provided for the loss of solar access to the childcare centre, including that the outdoor space will not be overshadowed, are not well considered. Under Development Consent DA0270/17, the centre has an approved capacity of 127 children. Given the centre's approved capacity of 32 children ages 0-2 years, it is likely that a significant portion of the operating hours, especially during the winter solstice, will be spent indoors. This is particularly true for younger children, who require more frequent rest periods and are more sensitive to cold temperatures. Council, therefore, does not concur with the following statement provided by the applicant: "the proposed modification is not considered to have any significant adverse impact on solar access to the childcare centre internal areas".

Applicant's comment relating to overshadowing of the childcare centre

Further detailed assessment of the shadow impacts will be prepared submitted with a future DA for buildings within the modified building envelopes.

*Council's comment:***Particulars:-**

- To accurately determine the extent of the solar access impacts the proposed building envelope height increase will have on surrounding development, accurate and detailed solar access diagrams are required prior to the determination of MOD 10. Determining shadow impacts at DA stage will be too late to reduce the heights that are being proposed.
- The submitted shadow diagrams at a scale of 1:1500 are not of an appropriate scale to determine their accuracy. It is unclear whether allowances for topography have been made and whether the shadows cast from approved building envelopes is accurate. For example there appears to be only marginal differences in the shadows cast by the 4 storey envelopes to the west at midday and 3pm. As the shadow length at 3pm is approximately double that at midday, a clear difference in shadow length should be appreciable from the diagrams provided.
- As the proposal seeks approval for a three-dimensional building envelope, the Department should require the preparation of detailed shadow diagrams, prepared at an appropriate scale that, at a minimum, comply with the requirements of the Land and Environment Court for these types of plans.

Applicant's response to overshadowing of residential dwellings

As illustrated in Appendix B, the Indicative Reference Design within the modified building envelopes will only overshadow the dwellings and parts of their private open space in the morning at mid-winter.

After 11:00 am, most of 180 The Comenarra Pkwy's northern façade will receive full solar access through to the afternoon/evening period. After midday, most of 178 The Comenarra Pkwy's northern façade will receive sunlight, with full solar access to the façade from 1:00 pm onwards. After 11:00 am, there will be no overshadowing to the primary rear open space areas of either dwelling.

Section 7A.2(10) of the KDCP requires maintenance of direct sunlight for 3 hours to living rooms and primary open spaces of houses in adjoining lower density zones. It is understood that 178 The Comenarra Pkwy's living area faces the south toward the open deck, both 178 and 180 The Comenarra Pkwy will receive at least 3 hours of direct sunlight to their primary open spaces and living areas as required by KDCP.

*Council's response to overshadowing of residential dwellings***Particulars:-**

- Three hours of direct sunlight between 9am and 3pm on 21st June is to be maintained to the living rooms, primary private open spaces and any communal open spaces within residential development in adjoining lower density zones (Control 10(ii), Part 7A.2 of the KDCP). The north facing windows of No. 178 The Comenarra Parkway will receive approximately 2.5 hours of solar access on the winter solstice, between 12:30pm-3:00pm, contrary to Council's provisions.

Principle 9: Aesthetics*Applicant's response:*

The Concept Plan approved a transition in building heights and scales, with taller university, commercial and residential buildings along The Comenarra Pkwy, and at its intersection with Fox Valley Rd. The Concept Plan identifies the future context of the Central Hospital Precinct as comprising significantly taller and larger buildings than buildings in the locality outside of the Wahroonga Estate.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

The visual appearance of buildings within the Central Hospital Precinct will be subject to detailed architectural design which, as illustrated by the Indicative Reference Design, will be capable of achieving design excellence and make a positive contribution to the desired future context and streetscape.

Given the topography along Fox Valley Rd and The Comenarra Pkwy, cranked road alignments and mature trees, the modified building envelopes will not be visually prominent on immediate approach from key directions. They will only become a visual marker from vantage points that are closer to The Comenarra Pkwy and Fox Valley Rd intersection. Buildings within the modified envelopes are unlikely to be visible from most vantage points within residential areas to the south/south-west and even where visible would be read in conjunction with existing and future approved hospital buildings that are already taller and more visually prominent.

Council's response:

The applicant's response has been considered. Council however concludes that the concerns raised under the previous response remain applicable and valid.

Insufficient consideration has been given to the visual impact of the increased height on the existing and future local context, thus failing to meet the objectives of Design Principle 9 in Schedule 9 of the SEPP, which priorities the visual appearance of well-designed residential apartments developments which responds to and respect the local context, ensuring a visually aesthetic outcome.

Particulars:-

- The applicant states that the proposed modified building envelopes will not be visually prominent on the immediate approach from key directions due to factors including the topography, road alignment and mature trees. Council does not agree with this position, as the site is visually prominent due to its corner allotment configuration and its location at a cross intersection. Further, minimal street setbacks have been provided for adequate landscape treatment and tall canopy trees on the zone interface of the development, thus limiting the opportunity to soften the appearance of the development when viewed from the public domain or the adjoining properties.
- The applicant refers to larger scale buildings associated with the university, residential, and the hospital development as means to support the proposed building envelope height increase. As addressed above, the development site is located between the high-density SAN development to the north and north-west and low-density development to the south. The proposed 10 storey building envelope will have a detrimental visual impact, creating an abrupt transition from high to low density that disrupts the existing streetscape. The proposed building heights fail to address the interface issues that are a primary consideration of the Wahroonga Estate Concept Plan.
- The resulting built form will be dominant and overbearing when viewed from the established low-density zoned land to the south of the development site.
- The excessive built form fails to present as a well-designed residential apartment development which respects the local context. The proposed modification will result in significant adverse visual aesthetic outcomes, thus failing to achieve Design Principle 9 in Schedule 9 of the SEPP.

STRATEGIC TRAFFIC ENGINEER COMMENT

The proponent has failed to address the issues raised. Without repeating Council's same response over and over unnecessarily, below are provided additional responses to certain issues, noting that Council's original submission points still apply and should be noted by the Department.

	Issue Raised in Council's Submission	Applicant Response	Council Comment
12	The traffic generation assessment is reliant on the minimal generation of trips due to residents of apartments mostly working in or connected to various elements of the Estate, in which most residents are co-located with these elements and hence do not need to drive to work and therefore not generate peak hour trips. However, there is no assurance or evidence that this will be the case, and even if it is the case, no assurance of what proportion of residents would actually be connected to or work in the Estate.	We note that TfNSW have not raised any concerns regarding the traffic assessment undertaken as part of the exhibited Modification Application. The Traffic & Parking Assessment considered the characteristics of the site and the proximity of future dwellings to employment and services to determine an appropriate trip generation rate. This is consistent with industry practice for transport assessment. Residential movements comprise a relatively low proportion of overall vehicle movements associated with the Wahroonga Estate, Central Hospital Precinct and within the wider local road network.	Residential vehicle movements comprise a relatively low proportion of overall vehicle movements because of the discount applied. The residential vehicle movements would be substantial if the co-location benefits do not materialise (which there is no assurance), and this would apply to all residential development across the Wahroonga Estate
73	In relation to traffic generation, Section 4 of the Transport Assessment states the following: "It is inevitable that the residents of the proposed apartments will comprise a significant element of: - workers in the various elements in the Estate (i.e. Hospital, School, Medical Centre complex and the Adventist Administration) - residents who wish to live close to the Adventist School - residents who wish to live close to the Adventist Church facilities. - students attending the Education Centre (rented apartments) Accordingly, the peak traffic generation of the apartments will be constrained in terms of external commuter car movements and the proposed commercial/retail floorspace will essentially only	TfNSW has not raised any concerns in respect of traffic generated by the proposed modification on the road network. The assumptions made regarding trip generation are reasonable given the services and facilities available within and near the Wahroonga Estate and the expected characteristics of future residents. The assumptions made in the traffic statement are consistent with standard traffic modelling for mixed-use precincts where residents have access to a wide range of services and employment opportunities within walkable distance.	TfNSW has not raised concerns regarding the effects to the state classified road network, not local roads. Council's concerns are for conditions on local roads and impacts due to increased housing in a highly car-dependent areas without meaningful amenities and services, especially if the above co-location benefits do not materialise.

<p>provide for the “convenience” needs of the residents and workers in the precinct (i.e. it will not be a retail “destination”).”</p> <p>The traffic generation assessment is reliant on the minimal generation of trips due to residents of apartments mostly working in or connected to various elements of the Estate, in which most residents are co-located with these elements and hence do not need to drive to work and therefore not generate peak hour trips.</p> <p>However, there is no assurance or evidence that this will be the case, and even if it is the case, no assurance of what proportion of residents would actually be connected to or work in the Estate. It is also highly likely that the SAN working population proposed to live in these units would eventually move to other jobs way from this site. The proponent’s assessment does not discuss how these residents would then be vacated from those units and be replaced with other SAN staff. The proportion of residents which fall into the first and last categories above would have to be very high (greater than 2/3) to achieve the traffic generation rate applied in the assessment. Without a condition to tie the residency of the units to a mechanism that would guarantee the rentals of the units to the SAN key workers and accordingly vacate the units when those residents gain employment outside the SAN, it is dubious that the traffic generation claims can actually delivered.</p> <p>In a worst case scenario where no residents fall into the 1st and last categories above, the traffic generation of the mixed use site with 112 dwellings could be 75 vehicle trips per hour in the peaks. This is based on a traffic generation rate of 0.67 vehicle trips per dwelling adopted in the TIA that accompanied the Concept Plan Application, which would have factored in a degree of</p>	<p>Refer to response to #44 which outlines the restrictions on use imposed on the adjoining residential buildings to the west imposed under DA0453/12 which ensure that these dwellings are used in conjunction with the educational and health services provided directly within the Wahroonga Estate. It is noted that the Concept Plan, and associated traffic assessment, assumed that these dwellings would be market housing with no such restrictions, with a higher level of private car ownership and higher proportion of off-site trips. The effect of DA0453/12 is that a significantly higher proportion of trips from these 60 dwellings will be contained within the precinct, compared to the assessment undertaken at the Concept Plan stage which assumed no such restrictions. This means that there is additional capacity within the site in comparison to the approved Concept Plan to accommodate additional residential vehicle movements on this part of the site.</p> <p>Noting that TfNSW have not raised any objection or concerns, and that any future DA will be required to be accompanied by a further detailed Transport Impact Assessment to the satisfaction of the relevant consent authority.</p>
---	--

	<p>trip containment. In the situation where there is no trip containment, then given the site's location, these mixed use dwellings are likely to generate traffic similar to single detached dwellings, due to the site's location away from rail transport and other key amenities and services, and could result in up to 112 additional vehicle trips per hour in the peaks (or additional 2 movements per minute). This could also have impacts to potential evacuation due to bushfire. These scenarios should be tested by the proponent for their impacts to the surrounding road network and in particular on the Comenarra/Fox Valley intersection.</p> <p>Therefore, it would be useful to understand what proportion of residents fall into the 1st and last categories. The indicator could be analysis (by the proponent) of the data from pre-sales of apartments under construction in Precinct B (Church Central), since these were pitched as being largely for people working in or connected to various elements of the Estate. The investigation could also include data on car ownership.</p>		
77	<p>With regards to the access to public transport, there are only two available bus routes:</p> <p>Route 573 to Turrumurra train station, has services ceasing at 9pm during weekdays and 6pm on weekends. The buses run every 20 minutes during peak hours and hourly between 9am to 4.30pm off peak hours and on weekends.</p> <p>Route 589 to Thornleigh train station and Hornsby has services that cease at 7.30pm during weekdays and 5.15 on weekends. The buses run hourly during weekdays and 1.5-2 hourly on weekends and on weekends.</p> <p>These bus routes are basic and unlikely to rule out car use by residents in the new development. The traffic assessment needs to include the full assessment of traffic impacts of vehicles leaving the site</p>	<p>The Central Hospital Precinct is the area of the Wahroonga Estate that is best-served by bus routes. See #20.</p> <p>The bus services that are available to the site are superior to Precinct A, where the nearest bus stop is a 1.1 kilometres up-hill walk from the approved apartment and townhouse areas.</p> <p>Therefore, the proposed modification will bring residents of 65 new dwellings within the approved dwelling cap closer to public transport facilities.</p> <p>A detailed traffic, manoeuvring, parking and</p>	<p>Although "best served" by bus routes, bus services are limited to 3 services an hour at best, which are unlikely to offer incentives for residents to use them in place of a car trip. In fact, the 573 route has been identified as operating below minimum service levels according to the second report of the Bus Industry Taskforce (Oct 2023), and there are no plans for any all-day high frequency bus services/rapid bus services according to the NSW Future Transport Strategy and the second report of the Bus Industry Taskforce</p>

	for work/school trips, particularly the ingress and egress onto Fox Valley Road and movement on surrounding road networks.	transport assessment will be submitted with the DA for future buildings within the modified building envelopes, and will be considered by Council.	
--	--	--	--

ECOLOGY EXPERT COMMENT

Table 4, Item:

- 80-84 – the proponent has missed the point of Council’s submission. We are saying that although it might look like more people are outside of identified BFPL, the proposal includes re-locating these people to an area of significant evacuation concern. This re-distribution of population may have significant evacuation impacts and should be more carefully considered now.
It is too late to try and address this at DA stage, moreover, it is a significant departure from the original Concept Plan which sought to distribute housing and population across the Estate and avoid concentrating large numbers at this location for multiple reasons as previously submitted, including evacuation.
- 92 – the statement that *“the proposed modification does not alter the concept plan’s relationship with existing trees”* ignores the additional encroachment into the TPZ of the identified tree. The current proposal does demonstrate additional impacts to the concept, however it is noted that these may be addressed through detailed design.

STRATEGIC BUSHFIRE SPECIALIST COMMENT

Response to ‘Submissions Report – Wahroonga Estate Concept Plan Modification: MP07_0166 Mod 10) – Notes on Bushfire Issues

(Mark N Schuster, Strategic Bushfire Officer)

Chapter 4 of *PBP 2019* is entitled ‘Strategic Planning’ – a critical component of pre-DA planning pathway for any larger development in/adjacent to mapped Bushfire Prone Lands. As illustrated in Figure 1 (below) the development site (hatched red) is surrounded on all four aspects by Category 1 Bushfire Prone Land.

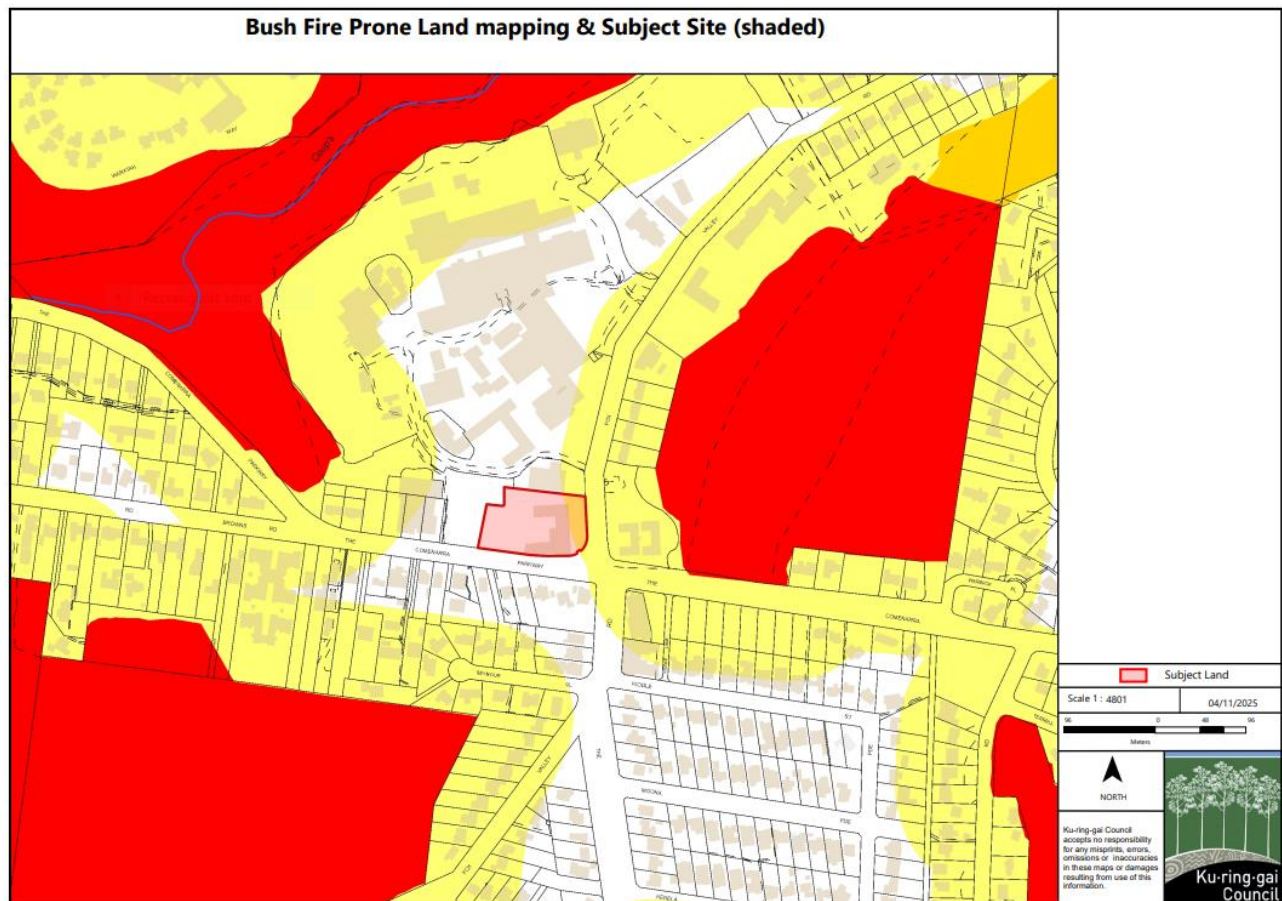


Figure 1. Mapped Bush Fire Prone Lands (BPL) 2024 – in relation to the development site (red hatching). Category 1 BPL = red; Buffer area (100m width) = yellow.

Due to such a locational constraint it is only logical, and required by PBP2019 (Chapter 4) that a Strategic Bushfire Study is required at the pre-DA stage. The study should include all of the following aspects (as per the requirements listed in Section 4.1 and Table 4.2.1 of PBP 2019).

These requirements are listed below, including Table 4.2.1:

Firefighting access and evacuation potential must be considered and an assessment of traffic volumes and evacuation routes will be required. The potential for these evacuation routes to be non-trafficable during a bush fire event will be factored into the assessment.

Some specific locations have significant fire history and are recognised as known fire paths. These areas may require detailed analysis. The broad principles which apply to this analysis are:

- ensuring land is suitable for development in the context of bush fire risk;
- ensuring new development on BFPL will comply with PBP;
- minimising reliance on performance-based solutions;
- providing adequate infrastructure associated with emergency evacuation and firefighting operations; and
- facilitating appropriate ongoing land management practices.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

A Strategic Bush Fire Study must include, as a minimum, the components in **Table 4.2.1** (excerpt from *PBP 2019*, chapter 4)

Table 4.2.1

Bush Fire Strategic Study

ISSUE	DETAIL	ASSESSMENT CONSIDERATIONS
Bush fire landscape assessment	A bush fire landscape assessment considers the likelihood of a bush fire, its potential severity and intensity and the potential impact on life and property in the context of the broader surrounding landscape.	<ul style="list-style-type: none"> ➤ The bush fire hazard in the surrounding area, including: <ul style="list-style-type: none"> ➤ Vegetation ➤ Topography ➤ Weather ➤ The potential fire behaviour that might be generated based on the above; ➤ Any history of bush fire in the area; ➤ Potential fire runs into the site and the intensity of such fire runs; and ➤ The difficulty in accessing and suppressing a fire, the continuity of bush fire hazards or the fragmentation of landscape fuels and the complexity of the associated terrain.
Land use assessment	The land use assessment will identify the most appropriate locations within the masterplan area or site layout for the proposed land uses.	<ul style="list-style-type: none"> ➤ The risk profile of different areas of the development layout based on the above landscape study; ➤ The proposed land use zones and permitted uses; ➤ The most appropriate siting of different land uses based on risk profiles within the site (i.e. not locating development on ridge tops, SFPP development to be located in lower risk areas of the site); and ➤ The impact of the siting of these uses on APZ provision.
Access and egress	A study of the existing and proposed road networks both within and external to the masterplan area or site layout.	<ul style="list-style-type: none"> ➤ The capacity for the proposed road network to deal with evacuating residents and responding emergency services, based on the existing and proposed community profile; ➤ The location of key access routes and direction of travel; and ➤ The potential for development to be isolated in the event of a bush fire.
Emergency services	An assessment of the future impact of new development on emergency services.	<ul style="list-style-type: none"> ➤ Consideration of the increase in demand for emergency services responding to a bush fire emergency including the need for new stations/brigades; and ➤ Impact on the ability of emergency services to carry out fire suppression in a bush fire emergency.
Infrastructure	An assessment of the issues associated with infrastructure and utilities.	<ul style="list-style-type: none"> ➤ The ability of the reticulated water system to deal with a major bush fire event in terms of pressures, flows, and spacing of hydrants; and ➤ Life safety issues associated with fire and proximity to high voltage power lines, natural gas supply lines etc.
Adjoining land	The impact of new development on adjoining landowners and their ability to undertake bush fire management.	<ul style="list-style-type: none"> ➤ Consideration of the implications of a change in land use on adjoining land including increased pressure on BPMs through the implementation of Bush Fire Management Plans.

As is noted in the requirements of a Strategic Bushfire Study, analysis must be undertaken on access/egress and specifically potential evacuation scenarios and routing. The applicants totally inadequate response statements (see response arguments in Table4, points 80-84) demonstrate a total lack of both understanding and knowledge of fire behaviour, potential high-level ember attack at the site (see Figure 1 –

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

indicating the totality of bushland surrounding this vulnerable ridgetop location) – further showing the need for a full evacuation analysis.

In my professional opinion, to address the full evacuation needs for a large development – such as this concept plan modification – at the DA stage is both negligent and will potentially place a large number of residents in in ‘harms way’ (i.e. exposure to ember attack with a potentially chaotic and dangerous evacuation procedure).

Rather, a full evacuation study and analysis must be undertaken, for this development which is surrounded by bushfire prone land (in an already very busy roading network area) before DA stage is reached. Otherwise we are really putting ‘the cart before the horse’ (in layman’s terms).

STRATEGIC COMMENT

Precinct B

The proponent states:

*During the assessment of MOD8, community feedback was provided to DPHI and the IPC in respect of the impact of residential building envelopes on land available to the Wahroonga Adventist School for outside play and recreation. In response to these issues raised by the community during the assessment of MOD8, an entire residential building envelope (Building D) that had previously been approved under the Concept Plan was deleted as illustrated in **Figures 11 and 12**. The removal of Building D resulted in a significant reduction in development capacity which precluded the ability to realise the full dwelling yield.*

Council response:

The deletion of the Building D as a result of impact assessment is not justification to relocate those impacts to another site within the Wahroonga Estate as proposed in this MOD 10 application. Each Precinct within the Wahroonga Estate was developed with maximum standards appropriate for that precinct. As previously stated in Council’s original submission, the standards are “maximums” subject to alteration upon detailed design and impact considerations. Just as building envelopes have been adjusted to increase footprint areas for improved site outcomes, equally footprints may be reduced for the same reasons.

Precinct A – Mount Pleasant.

Council response:

Insufficient information is provided here as to why townhouse/small units can’t be accommodated on these sites. There are provisions in the Riparian and Biodiversity sections of the DCP that allow for offsets and other benefits to be provided through development in these areas.

Precinct D – Fox Valley

Council response:

The recent development application modifications (eMOD0170/22 and eMOD0173/24) to DA0539/21 for Buildings A, B, and C at 161, 163, and 185A Fox Valley Road, Wahroonga, have consistently aimed to reduce the total number of approved units by amalgamating smaller one- and two-bedroom apartments into larger three- and four-bedroom units. Specifically, this approach has led to a net reduction of 15 one- and two-bedroom units, suggesting a strategic decision to cater to market demand for more spacious residences.

Under the current Development Application No. eDA0516/24 (Precinct D), 59% of the proposed dwellings are 3-bedroom apartments. One 3-bedroom apartment is generally equivalent to a 1- and 2-bedroom apartment combined.

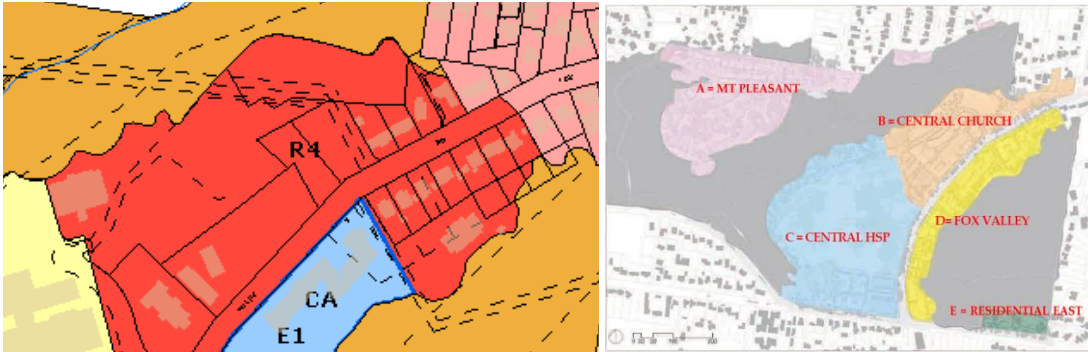
The proponent has designed building envelopes filled with larger apartments, which has resulted in a failure in achieving the maximum 500 dwellings approved under the Concept Plan. It is considered

unreasonable to support an excessive building envelope height, which is unsympathetic to the local context, due to the proponent's decision to create larger apartment types to cater to market demands.

157 – 159 and 132 – 134 Fox Valley Road

Council response:

As seen in the below zoning map excerpt, the sites have not been earmarked for low density single dwellings. The zoning permits high density development and the Wahroonga Estate Concept Plan does not prohibit development in this zoning. Whilst there are indicative single buildings shown on the concept plan, the proponent is entitled to deliver small footprint strata subdivided dwellings typologies that generally retain the indicative footprint.



Zoning Map – Wahroonga Concept Plan site

Adjacent sites similarly have split zoning of C2/R4 and it is not unusual to develop this type of land observing the zoning requirements. Further, the statements made by the proponent are incorrect. In their current Development Application No. eDA0516/24 (Precinct D), and as noted in their MOD 9 to the Wahroonga Estate Concept Plan, the APZ is only required to be 36m, not “up to 56 metres” as claimed. Nevertheless, it is noted that the APZ requirements on these sites might reduce their development potential.

Statutory effect of Concept Plan and relationship with Ku-ring-gai Local Environmental Plan 2015

Council response:

Whilst the arguments posed are understood, there is a clear link between the KLEP zoning mapping and the Wahroonga Estate Concept Plan that resulted from the transfer of the Estate zoning into the KLEP with the repeal of the State Significant Precincts SEPP.

It is Council's experience that through the modification process, the intentions of the Wahroonga Estate Concept Plan can be undermined as has already been the case. It is not unconceivable that an argument be made and supported at some point in the future to once again make such modifications that would enable increased dwelling numbers and further uptake of higher density zoned land. This Modification 10 is a case in point, where the substantial deviation from the ethos of the Wahroonga Estate Plan is being argued on development potential grounds alone. It is also noted that this current site still has sqm development potential for other housing provision which might similarly be requested to be applied elsewhere on the Wahroonga Estate site at some point in the future.

Updated Project Justification and Conclusion

The matters identified and responded to in proceeding sections have not resulted in any amendments to the scope of the proposed Modification Application. Accordingly, no further technical assessment of the Modification Application is required beyond that set out in the publicly exhibited Planning Report and accompanying technical studies.

Council response:

Insufficient investigation has been conducted to attempt delivery of dwellings within the allocated Precincts.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

Several of the matters raised will be responded to in the design and assessment of a future Development Application(s)

Council response:

The DA stage is too late to consider strategic planning issues. If the proposed Mod 10 standards are applied through this modification process, all negative impacts that emerge during the DA development of the proposal, many of which are already apparent, there will be no mechanism to wind back the development potential to deliver development that can properly address development related issues, including traffic, infrastructure, amenity and character.

Having regard to the environmental, strategic, and physical aspects of the approved Concept Plan and the proposed modification, the proposed modification is substantially the same as required under Clause 3BA(5)(c) of the Transitional Regulation.

Council response:

This comment is strongly refuted. The modification ignores the Concept Plan ethos and alters the basis of the approved Concept Plan. It undermines the precinct planning and distributions allocated to them.

Merely retaining the 500 dwelling cap does not result in alignment with the Concept, nor does the singular focus on development potential at the loss and cost to all other aspects approved through the Concept Pln.

The proposed modification is justified for the following reasons:

The Concept Plan (as proposed to be modified) will remain consistent with the relevant State and local strategic planning frameworks and State Environmental Planning Policies applicable to the Estate, particularly relating to the supply of new housing in Sydney's northern suburbs;

Council response:

This comment is strongly refuted. The modification does not align with district and metropolitan plan for the 30 minute city and the location of housing density close to transport hubs and facilities for the general community. The modification is generally inconsistent with the Ku-ring-gai LSPS.

In light of the merits of the proposal and in the absence of any significant adverse environmental, social or economic impacts, we recommend that the Modification Application be approved.

Council response:

Council does not support the modification as it is a gross departure from the Wahroonga Estate Concept Plan and undermines the progressive delivery of elements such as the 4-storey street walls and transitioning scale to low density areas. The delivery of built form at this location is almost complete and consistent with the Concept Plan. This proposal seeks to undo the actions of the last 15 years.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

- Council's comment is provided in response to the proponent's Table 4 responses below.
- To avoid the repetition of unaddressed issues, Council requests the Department refer to Council's original submission provided to the Department (again attached to this commentary).
- Some comment is provided below; however, it is noted that the proponent's response generally fails to address Council's issues and does not offer any constructive solutions that could ameliorate the impacts of the proposed modification, nor is there a consistency of evidence to support the substantial departure from the ethos of the Wahroonga Estate Concept Plan and its Precinct planning.

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	Introduction		
1.	Council strongly objects to transferring the dwelling potential to this one site. Key reasons are as follows with details provided in this submission	Refer detailed responses below.	Refer to Council submission
2.	The proposal fails to meet SEPP (<i>Housing</i>) Schedule 9 Design Principles Design Principle 1: Context and neighbourhood character Design Principle 2: Built form and scale Design Principle 6: Amenity Design Principle 9: Aesthetics	Refer to detailed response to Planning Comments section below.	Refer to Council submission
3.	The original concept plan was developed through extensive discussion between Council and the Department. Key to the Concept outcome was the placement of the intensified hospital development within a low-density residential area including environmental zones. Discussion of height, bulk and scale were pivotal to the Concept outcomes, making the hospital facility the prominent building forms to the centre of the site and stepping built form down across the SAN site enabling a transition to the low density surrounds and limiting impacts.	The original concept plan was approved in early 2010. Over the past 15 years additional biodiversity, bushfire and school playground requirements and infrastructure upgrades have altered the Wahroonga Estate's physical context, and reduced the volume on new housing that can be delivered as anticipated.	<p>The zoning developed as part of the Wahroonga Estate Concept Plan (to integrate the Wahroonga Estate Concept Plan into the existing residential context) has not changed since the 2010 approval. Whilst new standards for biodiversity/ bushfire have been developed to address social/ environmental issues, the context of the Estate has not altered and cannot be dismissed.</p> <p>Further, the proponent has not justifiably demonstrated why housing cannot be delivered within the biodiversity and bushfire areas. No consideration has been given for typologies that can be built in these areas, nor for modern construction standards that would enable suitable built form</p> <p>The proponent attributes the delivery of reduced</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
			dwelling counts within the Precincts on biodiversity/ bushfire standards; however, makes no reference to their own market selection of larger units that has diminished dwelling number count, nor to the fact that the provisions are upper limits provided as a guideline in the Concept Plan. The Concept Plan did not intend these numbers to outrank all other considerations across the Estate, including the hierarchy and distribution of development and the interface with the low density and bushland context within which the Estate is located.
4.	Insufficient evidence is provided to substantiate the claims for relocation of dwellings across the Wahroonga Estate. Zoning and building envelope considerations and amendments have been ignored. Without these amendments there is no guarantee that the higher density zonings and their potential would not be subject to future modifications to the Concept Plan Approval seeking increased dwelling numbers.	Refer to Section 3.3.	Refer to Council submission
5.	The proponent must submit a planning proposal to make the required rezoning amendments to the Ku-ring-gai Local Environmental Plan 2015 mapping with the modification being contingent on the completion of the rezoning.	A Planning Proposal to amend the Ku-ring-gai LEP 2015 (KLEP) is not required to facilitate the proposed modifications. Section 3B of Schedule of <i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i> provides for the continued application of approved Part 3A Concept Plans. Per Section 3B(2), the provisions of the Concept Plan continue to apply to development on the land and prevail to the extent of any inconsistency with an environmental planning instrument such as the KLEP. DPHI adopted this approach when assessing and approving Modifications 4, 5, 8 and 9 to the Concept Plan, which also modified the approved	It is Council's understanding that under the EP&A (Savings, Transitional and Other Provisions) Regulation 2017, Schedule 2, 3BA, a concept plan may continue to be modified provided: "(a) the proposed modification is to correct a minor error, misdescription or miscalculation, or (b) the proposed modification is of minimal environmental impact, or (c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates". The proposed Modification 10 is a substantial departure from the approved Wahroonga Estate Concept Plan and significantly alters the Concept and



Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
		building heights and envelopes.	<p>its related zoning.</p> <p>The land zoning works in tandem with, and is not overridden by, the Wahroonga Estate Concept Plan. The zoning of the Estate was developed to support the Concept Plan. It was contained in the now repealed SEPP (State Significant Precincts) 2005. At repeal, the applicable zoning was transferred into the KLEP 2015 to ensure the zoning remained applicable to the Concept Plan and its Precinct planning. Any shifting of dwelling potential and typology must not only be reflected in an update to all the Precinct conditions and numbers contained within the Concept Plan approval, but also amend the supporting zoning now embedded in the KLEP 2015. This substantial amendment to the Concept Plan and to the corresponding KLEP zoning demonstrates the demonstrates the incongruous nature of the proposed Modification !0.</p> <p>The proponent comparison to Modifications 4 -9 is irrelevant as those modifications made some adjustment to building heights and envelopes, but they did not alter the approved dwelling numbers within each Precinct, nor did they seek to perform wholesale transfers of dwelling counts from one Precinct to another. Mod 4-9 remained within the Estate Concept Plan requirements and were not substantial departures from the intentions of each Precinct.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
6.	<p>The proposed built form height and site coverage pays no regard to any of the surrounding buildings nor to its context. It only seeks to maximise dwelling numbers on the site and disregards the original Concept of providing 2 building footprints that would enable public open space between them attracting and allowing integration with the wider community utilising the new retail offer on the site</p>	<p>Refer to Urban Design Report prepared by Turner. The modified building envelopes continue to provide for two building footprints with ground floor commercial/retail over, with below ground parking, at a key gateway to the Wahroonga Estate. The footprint of the podium is required to accommodate the 1,200m² GFA of permitted non-residential uses in the most flexible form that will provide activation of the public domain, amenity for residents and visitors, good accessibility, and economic viability for the businesses occupying those spaces.</p> <p>The ground-level pedestrian link is connected and aligned with the through-site connection to the Avondale Campus via The Quarters, which adjoins the site to the west. This approach maintains the original design intent for the ground plane, noting that the Modification Application provides for an enhanced pedestrian experience compared to the original Concept Plan. The original Concept Plan (Figure 2) provided for extensive at-grade vehicular circulation and parking between the two approved building envelopes, with pedestrian spaces a secondary consideration within this space. With all parking provided in basement, the Modification Application provides for this space to be fully pedestrianised, providing both more space for pedestrians and a significantly more attractive and safe that will be an attractive alternative to the busy road environment for pedestrians coming from outside the Estate (see Figure 3).</p> <p>It is also noted that the original Concept Plan (Figure 2) was amended by Modification 4 in March 2014, which continued to provide at-grade vehicular circulation and parking for visitor and service</p>	<p>Refer to Council submission.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
		<p>vehicles in the space between the two building envelopes.</p>   <p><i>Figure 3 Indicative render of Mod 10 reference design</i> <i>Figure 2 Extract from original Concept Plan (left) and MOD4 (right)</i></p>	
7.	The proposal relates the built form to the tall hospital buildings and appears to forget that those buildings are not for residential purposes and not for private housing, they are the key hospital buildings and are located to the centre of the site where impacts on the low-density residential housing is not direct	The Concept Plan approved mixed use building envelopes on the site, with direct frontage onto The Comenarra Pkwy. The site is within the Central Hospital Precinct that is characterised by large buildings that are taller than the modified building envelopes.	<p>The response fails to understand that the tall non-residential hospital buildings are located at the centre of the site away from the edge interface with low density residential development. Whilst this site is in the same Precinct C, it is not within the centre of the hospital, it is located on the Comenarra Parkway alongside other residential and non-residential buildings which equally maintain the intended 4-storey transitional height.</p> <p>The Concept Plan established a four-story street wall along the Comenarra Parkway and Fox Valley Road entry to maintain the scale of built form to the streets and to the interface with the low density residential development. The proposal is a substantial departure from this approach and seeks to break the continuity that all other buildings on Comenarra and on the Fox Valley Road have maintained.</p>
8	The Planning Report makes generalised statements as to the reasons why the allocated dwelling numbers cannot be delivered within each Precinct. There is no evidence, no detailed assessment, no site and building form analysis to demonstrate the validity of their statements.	Refer to Section 3.3	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
9	The proposal has made no investigation of how the remaining potential within each precinct might be delivered and ignores housing typology. The proposal should include investigation of the R3, R4 and E1 zoning across the Estate and determine whether there is potential to deliver additional dwellings, particularly in areas that will not have adverse impacts on adjacent low-density housing and, in this case, the existing child care centre	Refer to Section 3.3 .	Refer to Council submission.
10	The proposal provides an inaccurate assessment against the Ku-ring-gai LSPS. The proposal for 10 storey residential flat buildings in this location is inconsistent with the principles for the location of high-density housing typologies, with only limited bus routes to Turramurra, Thornleigh and Hornsby, it does not meet the fundamental criteria of the Greater Sydney Regional Plan and the North District Plan for a 30 minute city.	<p>The Wahroonga Estate co-locates health services (NSW's largest private hospital), employment, tertiary and primary/secondary education, community facilities, retail, business services and housing. Future residents will be able to access these by foot in a few minutes. This is consistent with '30-minute city' planning principles. Bus services are available to three nearby rail stations as noted by Council. See response #20 for further information regarding bus accessibility.</p> <p>It is further noted that the Modification Application does not amend the overall dwelling cap, and the strategic planning matters raised in this respect have previously been resolved at the Concept Plan stage.</p>	<p>The health services referred to are private provisions. Similarly the schools are not public schools. The facilities are not open to all community as claimed by the proponent. Apart from any future retail, the facilities referred to are not public facilities. They are not open to the wider community nor to future residents of the site unless those residents are directly related to on site employment; however, no evidence nor relation with a housing provider is mentioned in the responses.</p> <p>Residents will still rely on public transport to access work away from this site given that no mechanism is included in this modification to ensure key worker housing will be delivered on the site. See council's submission. The proponent misunderstands the 30 minute city principles which relate to key transport hubs. This site cannot be considered to have key transport hub status due to the limited bus service available in the area.</p>
11	The proposal results in a substantial departure from the Approved Concept Plan.	- The modification does not represent a 'substantial departure' from the Concept Plan, rather it re-	The proponent fails to understand that the Wahroonga

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>It deletes housing provision within Precincts A, B and D, this is inconsistent with the Approval. Further it seeks to change the Approved intention for Precinct C. It proposes:</p> <p>An increase of height from 4 storey RL172.9 to 10 storey RL194.2 - more than double the Approved Concept Plan height at a 21.3m increase.</p> <p>An increase of the building foot print - by at least one third extra site coverage to that of the Approved Concept Plan.</p> <p>An Increase of residential flat unit dwellings from 105 to 227 – more than double the number of units allocated under the Approved Concept Plan.</p> <p>An increase of cars exiting at the Comenarra/Fox valley corner – double to triple the numbers of vehicles.</p>	<p>distributes dwelling yield already approved (no increase to 500 dwelling cap) to a location where mixed-use residential buildings are already approved.</p> <ul style="list-style-type: none"> - Noted, the proposed height is appropriate in the context of the gateway location of the site. - This statement disregards the removal of at-grade vehicular circulation and parking within the approved Concept Plan, with the modification application facilitating a significant improvement in the ground plane condition. - The modification maintains the overall dwelling cap of 500 dwellings approved under the Concept Plan. - This statement is not correct. Whilst the proposal increases the number of residential dwellings approved in this location, the hospital and future commercial/retail uses (unchanged by Modification Application) also generate traffic in this location, and the proposed residential uses represent a relatively small proportion of total vehicle trips in this location. 	<p>Estate Concept Plan is not just about the 500 dwelling cap. The Estate is divided into distinct Precincts with set standards allocated to those Precincts, set distribution of dwellings, population, building typology and uses that have a considered approach to safety, movement, access and wider environmental implications.</p> <p>Councils position remains the same. This is a substantial departure from the approved concept plan. It deletes housing and reconfigures all the Precincts to be different to that envisaged in the original Concept Plan. It increases the building envelope height to more than double than that approved and destroys the 4 storey street wall concept to Comenarra and Fox Valley Road. It increases the building footprint on this site by at least a third more than that approved in the Concept Plan. It more than doubles the units allocated for private residential within the Precinct from 105 to 227 and is likely to triple the number of vehicles on the site, exiting the site off Ludowici Way, a shared laneway with the hospital.</p> <p>The proponent's argument that by retaining the 500 dwelling cap, the Concept Plan remains the same is not accepted as it is a singular approach that gives no consideration to the considered Precinct planning across the Estate.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
12	The traffic generation assessment is reliant on the minimal generation of trips due to residents of apartments mostly working in or connected to various elements of the Estate, in which most residents are co-located with these elements and hence do not need to drive to work and therefore not generate peak hour trips. However, there is no assurance or evidence that this will be the case, and even if it is the case, no assurance of what proportion of residents would actually be connected to or work in the Estate.	We note that TfNSW have not raised any concerns regarding the traffic assessment undertaken as part of the exhibited Modification Application. The Traffic & Parking Assessment considered the characteristics of the site and the proximity of future dwellings to employment and services to determine an appropriate trip generation rate. This is consistent with industry practice for transport assessment. Residential movements comprise a relatively low proportion of overall vehicle movements associated with the Wahroonga Estate, Central Hospital Precinct and within the wider local road network.	Refer to Council submission.
13	The modification proposes the shifting of the population from areas of potential bushfire impacts in peripheral precincts into this Central Hospital precinct, however this location is no less under bushfire threat and more susceptible to issues of ridgetop evacuation. The Wahroonga Estate Concept Plan intentionally dispersed population across the Estate to avoid evacuation issues of large groups of people. This location is particularly concerning given it will affect the Ludowici Way exit from the hospital,	Refer to Section 3.3 .	The response does not address the issue. Refer to Council submission.
14	The addition of 112 units in this location at the intersection of Comenarra Parkway and Fox Valley Rd will bring an anticipated extra population of 250-300 people, many that may be vulnerable (elderly and children), into an already stressed intersection with limited exit potential from Ludowici Way due to the buildup of traffic at the intersection lights.	As noted in the Transport and Parking Assessment, and supported by TfNSW's response, the proposed modifications 'are unlikely to have a significant impact'. A detailed Transport Impact Assessment will be provided with any future DA.	Refer to Council submission.
15	The Planning Report also does not discuss building footprint impact on BV mapped vegetation or if this can or can't be avoided	Refer to Section 7.4 and Appendix D to the exhibited Planning Report. Refer to responses to CPHR submission in Table 3 .	Refer to Council submission.

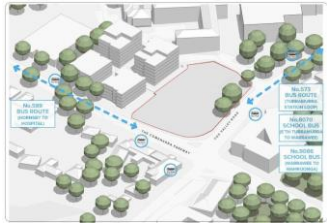
Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	through design.		
16.	Planning Comments		
17.	<p>Pursuant to SEPP (Housing) 2021 Sect 147, the consent authority must be satisfied that Residential Flat Buildings adequately address Schedule 9 design principles. However, the proposed height fails to meet specific design principles:</p> <p>Design Principle 1: Context and neighbourhood character</p> <p>Design Principle 2: Built form and scale</p> <p>Design Principle 6: Amenity</p> <p>Design Principle 9: Aesthetics</p> <p>The specific deficiencies are outlined below:</p>	Refer to detailed responses below.	Refer to Council submission.
18.	<p>Design Principle 1: Context and neighbourhood character</p> <p><i>Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's existing or future character.</i></p> <p><i>Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in the following areas—established areas,</i></p>	-	Refer to Council submission.



Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
19.	The proposed height increase is not considered to be 'good design'. Inadequate consideration has been given to the local context (both established and that undergoing change) and the impact the proposal will have on it.	The Urban Design Report that accompanied the Modification Application analysed local context and concluded that the modified building envelope heights are consistent with the site's location within the Central Hospital Precinct, which is characterised by the most prominent buildings within the Wahroonga Estate, and is appropriate for this gateway site at the intersection of The Comenarra Pkwy and Fox Valley Rd.	The response fails to recognise that this is a residential building and is in a different category to the hospital buildings at the centre of the site. Nevertheless, both residential and hospital buildings located on The Comenarra and on Fox valley Road at this vicinity deliver the Concept Plan 4-storey street wall. This development site has no different status to the sites on Comenarra and Fox Valley which have delivered on the 4-storey street wall.
20.	The site is located a substantial distance of more than 3km from nearest trains stations, with walking times to nearest train stations being approximately 45 minutes.	<p>There are 2 bus stops in the street adjoining the site, and four within easy walking distance (see Figure 4). Regular bus services are provided as follows:</p> <ul style="list-style-type: none"> • Route 573 connects the site to Turrumurra railway station and town centre in 16 minutes. • Route 589 connects the site to Thornleigh Station and town centre in 10 minutes. • Route 589 connects the site to the Hornsby Strategic Centre, its Station and major CBD within 22 minutes. <p>The site meets the definition of an 'accessible area' as defined under State Environmental Planning Policy (Housing) 2021.</p> <p>By contrast, the apartment and townhouse areas in Precinct A are a 1.1 kilometre, uphill walk to the nearest public bus stop on Pennant Hills Rd. The proposed redistribution of dwellings therefore significantly improves public transport accessibility and frequency of service for future residents within the already-approved dwelling cap.</p>	See Council submission. The proponent fails to understand that the frequency of bus services that the infrequent nature and limited timings of the bus service on this route does not constitute a transport hub nor high frequency efficient services for workers and residents alike.


Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
		 <p><i>Figure 4 Bus stops adjoining the site Source: Turner</i></p>	
21.	<p>The site is directly opposite R2 zoned lots that are subject to a building height development standard of 9.5m. Owing to environmental constraints, including biodiversity and bushfire risk, much of the lots to the south, west and east of the site are zoned C4 <i>Environmental Living</i>. Due to these factors the site is not in proximity to an area undergoing change and the proposal would result in tall buildings that would visually dominate the locality due to their excessive height and bulk plus minimal street setbacks.</p>	<p>The Wahroonga Estate has experienced significant change since the approval of the Concept Plan in 2010. The Concept Plan recognised the unique characteristics of the Estate and the importance of delivering housing (500 dwellings plus seniors housing and key worker/student accommodation) in conjunction with significant improvements to health, education and community facilities. The Estate has been undergoing change for 15 years and continues to do so in accordance with the Concept Plan.</p> <p>Since approval of the Concept Plan in 2010, the need for housing delivery has become more important, as identified in the National Housing Accord, and community expectations and acceptance of density have shifted in recognition of this. It is noted that only nine public submissions were received in respect of this Modification Application, in comparison to 677 submissions in respect of the original Concept Plan. Simultaneously, ecological and bushfire constraints have imposed more restrictive limits on new housing locations. The modified building envelopes are capable of being comfortably accommodated in this location, where approved street setbacks are maintained at this significant intersection and gateway to the Wahroonga Estate. The site is within a local centre,</p>	<p>The response argues current housing reforms but fails to relate to the requirements of housing being places within centres containing a transport hub. This site has basic bus routes and high car reliance for both the hospital workers and local residents. Further it fails to address the planning of the Precincts and the Estate's interface.</p> <p>During the mentioned 15 years of the Concept Plan, a number of modifications have been submitted all of which have operated within the bounds of the approved Concept. This Mod 10 seeks to depart and operate outside the Concept Plan parameters. As previously suggested, the proponent should investigate where dwelling potential can be delivered within each Precinct and consider provision of townhouses and small footprint apartment buildings.</p>


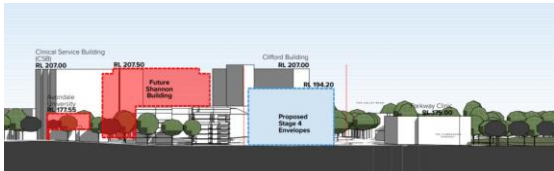
Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
		comprising a commercial building, retail centre, specialist medical rooms and a childcare centre, focused on The Comenarra Pkwy/Fox Valley Rd intersection. It adjoins The Quarters, which is a complex of four buildings containing 60 apartments and 126 student studios. The Avondale University Campus is next to The Quarters. Areas of low density housing are to the south and west of the site, and separated by The Comenarra Pkwy road reserve. The nearest houses are oriented away from the site, toward The Quarters and the University.	
22.	<p>The proposed building envelopes achieve a maximum height of RL 194.2m, which represents a 21.3m increase from the approved envelopes (RL 172.9m). The applicant justifies the height increase by stating that the, “proposed built form is considered to be contextually appropriate for the broader Wahroonga Estate, on top of being a more distinctive urban marker framing the intersection of Fox Valley Road and the Comenarra Parkway”.</p> <p>The properties to the south, zoned R2 <i>Low Density Residential</i> under the KLEP 2015 include 1-2 storey dwellings and a part 1 and 2 storey childcare centre (Figure 1, 2). The childcare centre has a ridge height of RL 163.11. The childcare centre will be located approximately 31.09m below the maximum height of the proposed building envelope and is set back approximately 21m from the development site.</p>  <p>Figure 1: properties to the immediate south of the development site are</p>	<p>Noted.</p> <p>The nearest houses to the site are not ‘to the immediate south’, but are to the south-west, and are oriented to The Quarters and Avondale University (see Figure 5). They are separated from the site by The Comenarra Pkwy road reserve. See response to #21.</p> <p>It is also noted that Council’s diagram incorrectly plots the western site boundary for this Modification Application, resulting in a larger interface being shown with detached residential dwellings to the south than is the case – see Figure 5.</p>  <p>Figure 5: Relationship of low density homes to The Quarters and Avondale University Source: Turner</p>	<p>It is unclear what incorrect diagram the proponent is referring to. The GIS map included in Council’s submission is an accurate survey plot similar to the Department’s standards. The diagrams provided in the proponent documents are conceptual and likely less accurate than Council’s GIS mapping. Further, the site is located to the north of low density residential dwellings and a single story childcare centre all of which are on low density zoned land that will be highly impacted by the proposed bulk and scale of the modification.</p>

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>zoned R2 Low Density Residential (Source: zoning map). Surrounding land is land C4 and C2 and R2.</p>  <p>Figure 2: low density development to the immediate south of the development site (Source: Google Maps)</p>		
23.	<p>The high-density medical buildings associated with the SAN are located approximately 125m north and 176m north-west from the development site.</p> <p>Whilst the buildings have a height ranging from 2- 9 storeys, they are sited a significant distance from the development site and detail a minimum set back of 23m from Fox Valley Road.</p> <p>Further, due to the topographical slope from the north to the south of Fox Valley Road, the high-density SAN buildings are not visually prominent when viewed from the development site.</p> <p>The argument that the proposed height is appropriate is unsustainable given the fact that the site of the proposed modification is not within the visual catchment of any buildings of similar scale.</p>	<p>The San Hospital buildings are physically large, and are set at a topographic high point. The San's future Shannon Wing will be an additional building within Precinct C of similar scale (see MP 10_070). Consequently, The San buildings dominant Precinct C, and are prominent landscape elements when viewed from Fox Valley Rd and Comenarra Pkwy, and beyond the local area where they can be seen from vantage points many kilometres away.</p> <p>Within this context, building heights transition across Precinct C from these large buildings to the site and the lower modified building envelopes (see Figures 6 and 7).</p> <p>The modified building envelopes on the site transition along the Comenarra Pkwy frontage, from the Avondale University campus and The Quarters apartment buildings to the site and its higher modified building envelopes at the gateway intersection.</p> <p>It is considered that the modified building envelopes are consistent with the site's built context, within an intensely developed medical, education and residential precinct, and location on a gateway intersection, within a local centre that accommodates professional commercial buildings, shops, cafes and a large childcare centre.</p>	<p>The response ignores the fact that the hospital buildings are non-residential buildings and of regional significance and that the housing is a completely different use and cannot be compared to the regional significance of the hospital buildings. Council's submission requested the proponent provide analysis of the nearest 10 story residential buildings in this context. That information has not been provided, instead seeking to justify the height of residential buildings against singular use hospital buildings.</p>

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
		 <p><i>Figure 6 Section through Central Hospital Precinct showing existing/approved buildings and modified envelopes Source: Turner</i></p>  <p><i>Figure 7 Section through Central Hospital Precinct showing existing/approved buildings and modified envelopes Source: Turner</i></p>	
24.	<p>The development site is subject to the Wahroonga Estate Concept Plan (MP07_0166), which allows the site to have a maximum height of 4 storeys (RL194.2). The approved height balances high density development, consistent with the E1 <i>Local Centre</i> zone, with a well-considered and transition to the adjacent low-density development.</p> <p>The proposed 10-storey height is</p>	<p>Refer to responses to #21-24 and exhibited Urban Design Report.</p> <p>Buildings may respond to, and be contextually appropriate within their setting without simply reflecting existing buildings in the locality.</p> <p>The Central Hospital Precinct is a medical, education and residential precinct of State-significance, and since 2010 new hospital buildings have been constructed, guided by the Concept Plan. The</p>	<p>Refer to Council submission. The proponent's attempt to compare this site and the sought after 10 stories with the Central Hospital buildings is a flawed argument. The Wahroonga Concept Plan differentiates between the hospital buildings and the residential buildings. Further the Estate Concept Plan for this Precinct differentiates between the hospital buildings located within the centre of the site and those located</p>



Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>deemed excessive, leading to overwhelming bulk and scale impacts on adjacent low-density developments.</p> <p>Moreover, when viewed from the public domain, the developments visual bulk fails to establish a harmonious relationship with existing development patterns and the changing character outlined in the approved Wahroonga Concept Plan.</p> <p>For the above reasons, the applicant's justification that the height increase is contextually appropriate is not concurred with. The proposal fails to meet Design Principle 1 in Schedule 9 of the SEPP, which emphasizes the importance of good design that respects the local context.</p>	<p>delivery of denser housing on the site within the Central Hospital Precinct, with a commensurate reduction in density in other locations throughout the Wahroonga Estate, responds to the site's physical context, characteristics and constraints in an appropriate manner.</p>	<p>along The Comenarra Parkway where buildings, despite use, were intentionally kept at four story to ensure a consistent street wall to The Comenarra Parkway and ensure a suitable transition to the low density one and two story development on the other side of The Comenarra Parkway.</p>
25.	<p>Design Principle 2: Built form and scale <i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i> <i>Appropriate built form— defines the public domain, and</i> <i>contributes to the character of streetscapes and parks, including their views and vistas.</i></p>	<p>Refer to detailed comments below.</p>	<p>Refer to Council submission.</p>
26.	<p>The proposed height of the development is inappropriate to the existing and desired character of the street and surrounding buildings.</p> <p>The development site is located between the high-density Sydney Adventist Hospital (SAN) development to the north and north-west and low-density development to the south.</p>	<p>Architectural detail will be provided with DAs for future buildings within the modified building envelopes. DAs will include a detailed assessment against Principle 2.</p> <p>However, Principle 2 does not require new buildings to be the same scale as those within their immediate surroundings. The Wahroonga Estate Concept Plan establishes the Central Hospital Precinct as being most suitable for taller buildings</p>	<p>The response fails to understand that this is a transition zone between low density development to the south and the high density tall hospital buildings to the centre of the site. The response fails to understand that all along The Comenarra Parkway a four story height was established to remain consistent along The Comenarra Parkway and into Fox Valley Road. This includes both residential and non-residential buildings</p>

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>The approved 4 storey building envelope under the Wahroonga Estate Concept Plan provides a transition, aligning with the surrounding densities, topography and streetscape character. The approved height is consistent with the Parkway San Clinic building, located to the immediate east of the development site (Figure 3). In contrast, though a portion of the southern façade is partially stepped in height (Figure 4), the proposed maximum height of 10 storeys fails to provide an appropriate visual transition between the existing neighbouring buildings, resulting in a significant adverse visual bulk and scale impact on the southern low scale development and streetscape. Consequently, the proposal does not meet Design Principle 2 in Schedule 9 of the SEPP, which emphasizes the importance of good design that respects the existing and desired future character of the street and surrounding buildings through appropriate heights and built form.</p>	<p>and contemplates significant change in scale and character, including construction of the future 11 – 12 storey Shannon Wing approved by MP 10_0070. The Indicative Reference Design illustrates how future buildings on the site can be articulated and stepped to establish an appropriate design relationship between the height of adjoining buildings and the public domain.</p> <p>The modified building envelopes retain the setbacks, landscaped spaces and retail frontages at street level that were incorporated into the approved Concept Plan envelopes. The street level envelopes are setback from both street frontages in accordance with the Concept Plan conditions and align with the setbacks of directly adjacent buildings to create a consistent landscaped setback and streetscape.</p> <p>The modified heights are stepped down from adjacent buildings.</p> <p>The NSW Apartment Design Guide (ADG), Part 2F considers how building separation distances contribute to an area's urban form, and recommends:</p> <ul style="list-style-type: none"> • 2 metres as an appropriate separation between habitable rooms and balconies up to 4 storeys; • 18 metres for 5 –8 storeys; and • 24 metres for 9 storeys and above; plus • An additional 3 metres where there is a change in zoning from apartment buildings to a lower density zone. <p>This provides the separation distance needed to minimise the visual transitions between buildings of different scale and typology.</p> <p>The modified building envelopes are separated from the closest dwelling at 178 The Comenarra</p>	<p>Along the perimeter of the hospital.</p>

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	  <p>Figure 3: 4 storey building 'Parkway San Clinic' located to the east of the development site; development site on the left (Source: Google Maps)</p> <p>Figure 4: Excessive height & built form, inconsistent with the existing & desired character of the locality (Source: Turner)</p>	<p>Pkwy by more than 36 metres, which exceeds the ADG recommendation of 15 metres (12 metres + 3 metres).</p> <p>Part 3F 'Visual Privacy Design Criteria' of the ADG adopts the same separation distances relative to building height in order to achieve sufficient transitions between apartments and a lower density areas, as illustrated in the ADG Figure 3F.5.</p> <p>Separation distances between the modified building envelopes and low-density housing are well more than the distances recommended to maintain visual privacy in Objective 3F-1 of the ADG.</p> <p>The modified building envelopes and nearest houses are also separated by The Comenarra Pkwy, which is a 4-lane road that creates a visual and physical separation between the Central Hospital Precinct's intense development and lower density residential areas to the site's west and south. See also response to #22.</p>	
27	<p>Design Principle 6: Amenity <i>Good design positively influences internal and external amenity for residents and neighbours.</i></p> <p>The submitted shadow diagrams reveal that the proposed height increase, combined with the site's orientation, will cause substantial overshadowing of low-density properties to the south (Figure 5). With an effective building height of approximately 37m to The Comenarra Parkway and the natural fall of the land to the south, the proposal would cast substantial shadows of approximately 110m in length at 9am and 3pm on the winter solstice. At midday (the best-case scenario) the shadow length of over 55m would extend across at least</p>	<p>Refer to Section 3.4.</p>	<p>The issues raised in council submission remain relevant.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>half the depth of the R2 Low Density Residential zoned properties to the south. Affected properties would experience a substantial reduction in amenity to both internal and external areas. The north facing windows of the childcare centre at No. 172-176 The Comenarra Parkway will be fully to partially overshadowed from 9:15am to 3pm. The proposed development's detrimental impact on solar access to the childcare centre contradicts the Child Care Centre Planning Guidelines.</p> <p>Specifically:</p> <p>Control 311, Part 3.3 requires optimising solar access to internal and external play areas though site orientation and building design. Part 4.4 (Ventilation and natural light) emphasizes the importance of natural light for child safety and wellbeing (Education and Care Service National Regulations, Regulation 11). The Guidelines places emphasis on natural light being crucial for children's development, wellbeing, and learning environments. It reduces reliance on artificial lighting and heating, promoting energy efficiency and comfort. The existing childcare centre was designed to meet these solar access requirements.</p> <p>However, the proposed development will significantly reduce solar access, negatively impacting the wellbeing and development of children using the facility. Controlled daylight exposure is essential, as sunlight promotes healthy muscle and bone development, and</p>		

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>overall wellbeing (Control 4.11).</p> <p>The applicant states that, “a satisfactory level of solar access will be maintained to the centre’s outdoor play areas, with the proposed modified envelopes resulting in negligible additional overshadowing of these areas”.</p> <p>The applicant's justification for the significant loss of solar access to the childcare centre, which has consent for 127 children (DA0270/17), is not well considered.</p> <p>Given the centre’s approved capacity of 32 children ages 0-2 years, it is likely that a significant portion of the operating hours, especially during the winter solstice, will be spent indoors. This is particularly true for younger children, who require more frequent rest periods and are more sensitive to cold temperatures.</p> <p>Council therefore does not concur with the following statement provided by the applicant: “It is considered that the potential overshadowing impacts arising from the proposed modified building envelopes is minimal and reasonable.”</p> <p>The submitted shadow diagrams at a scale of 1:1500 are not of an appropriate scale to determine their accuracy. It is unclear whether allowances for topography have been made and whether the shadows cast from approved building envelopes is accurate, for example there appears to be only marginal differences in the shadows cast by the 4 storey envelopes to the west at midday and 3pm. As the shadow length at</p>		

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	3pm is approximately double that at midday, a clear difference in shadow length should be appreciable from the diagrams provided As the proposal seeks approval for a three-dimensional building envelope the Department should require the preparation of detailed shadow diagrams, prepared at an appropriate scale that, at a minimum, comply with the requirements of the Land and Environment Court for these types of plans.		
28.	In addition to the above, the increased height is likely to exacerbate overlooking into the adjacent R2 Low Density Residential properties. As a result, the proposal fails to meet Design Principle 6 in Schedule 9 of the SEPP, which prioritises good design that enhances internal and external amenity for neighbouring properties.	The modified building envelopes comply with the maximum building separation distances for visual privacy set out in the ADG, and accordingly it is considered that the modified building envelopes can accommodate buildings with appropriate visual privacy for the nearest houses. Detailed design of future buildings within the modified building envelopes will include measures to minimise any specific visual privacy concerns, if required. See also response to #26.	The issues raised in council submission remain relevant.
29.	Design Principle 9: Aesthetic (3) <i>The visual appearance of well designed residential apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i> Insufficient consideration has been given to the visual impact of the increased height on the existing and future local context. The proposed height increase will have a detrimental visual impact, creating an abrupt transition from high to low density that disrupts the existing streetscape. Furthermore, the resulting built form will be	The Concept Plan approved a transition in building heights and scales, with taller university, commercial and residential buildings along The Comenarra Pkwy, and at its intersection with Fox Valley Rd. The Concept Plan identifies the future context of the Central Hospital Precinct as comprising significantly taller and larger buildings than buildings in the locality outside of the Wahroonga Estate. The visual appearance of buildings within the Central Hospital Precinct will be subject to detailed architectural design which, as illustrated by the Indicative Reference Design, will be capable of achieving design excellence and make a positive	Refer to above points regarding the difference between the central hospital buildings and the perimeter residential and hospital buildings which remain at a four story maximum height to Comenarra Parkway and Fox Valley Road.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>dominant and overbearing when viewed from the established low-density zoned land to the south.</p> <p>As a result, the proposal fails to meet Design Principle 9 in Schedule 9 of the SEPP, which priorities the visual appearance of well-designed residential apartments developments which respond to and respect the local context, ensuring a visually aesthetic outcome.</p>	<p>contribution to the desired future context and streetscape.</p> <p>Given the topography along Fox Valley Rd and The Comenarra Pkwy, cranked road alignments and mature trees, the modified building envelopes will not be visually prominent on immediate approach from key directions. They will only become a visual marker from vantage points that are closer to The Comenarra Pkwy and Fox Valley Rd intersection. Buildings within the modified envelopes are unlikely to be visible from most vantage points within residential areas to the south/south-west and even where visible would be read in conjunction with existing and future approved hospital buildings that are already taller and more visually prominent.</p>	
Strategic Planning Assessment			
30.	<p>Concept Plan Approval MP07_0166 relates to the maximum number of dwellings by dwelling type permissible within each precinct. This includes both existing and new dwellings. Condition A4 (1) of the Concept Plan Approval states “maximum numbers” for each precinct. The development of the Concept Plan involved detailed investigation into where, and how much, and what type of additional residential dwellings could be placed within the Estate to ensure its assimilation into the surrounding low density context. The maximum numbers state the upper thresholds for the Precincts when preparing development applications for the various sites.</p> <p>As with any development standard, the upper limit does not mean the total potential must be achieved regardless of impact and contradiction to the original Concept Plan drivers of the dwelling</p>	<p>Refer to Section 3.3.</p>	<p>Refer to Councils submission.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>count and allocation. The modification proposal to collect as yet unrealised development potential from other precincts and concentrate it onto this site is strongly not supported.</p> <p>Insufficient evidence is provided to substantiate the claims. No rezoning amendments nor building envelope changes are being proposed to cancel the development potential within those precincts where dwelling numbers are being removed.</p> <p>Without rezoning there is no guarantee that the higher density zonings and their potential would not be subject to future modifications to the Concept Plan Approval seeking increased dwelling numbers. Retention of existing building envelopes makes ambiguous the intention of the precinct development.</p>		
31.	<p>In the Concept Plan negotiations, this site at the corner of the Comenarra Parkway and Fox Valley Road was purposefully kept at the same maximum 4 storey height as the adjacent buildings so that the impacts on the low density dwellings and the neighbourhood centre to the south across The Comenarra Parkway would have limited impacts; and, so that the buildings would relate to the SAN's 4 storey commercial building on the opposite side of Fox Valley Road, which together with this site would form a gateway into Fox Valley Road.</p> <p>The original concept plan was developed through extensive discussion between Council and the Department. Key to the Concept outcome was the placement of the intensified hospital development within a low density residential</p>	<p>Refer to the exhibited Urban Design Report. Impacts of the proposed building envelope amendments are detailed further in Section 3.4, which demonstrates that the proposed amendments to the building envelope will not result in any significant impacts on neighbouring properties.</p> <p>Refer to Section 3.4.</p> <p>The space between the modified building envelopes is enhanced by being pedestrianised rather than dominated by at-grade roads and car parking as shown in the original Concept Plan. This will significantly enhance the quality of this space for pedestrians, including residents, workers and visitors to the precinct, and improve the east-west connectivity towards Avondale College through The</p>	<p>Refer to Councils submission.</p>

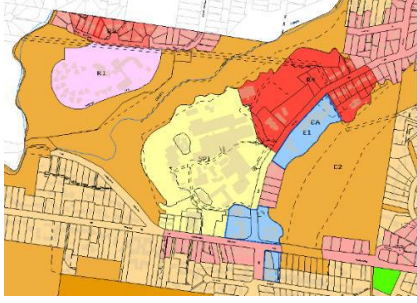
Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>area including environmental zones. Discussion of height, bulk and scale were pivotal to the Concept outcomes, making the hospital facility the prominent building forms to the centre of the site and stepping built form down across the SAN site enabling a transition to the low density surrounds and limiting impacts. The Concept plan 4 storey heights were purposefully placed to avoid the impacts that are now clearly demonstrated by this modification.</p> <p>The built form pays no regard to any of the surrounding buildings nor to its context. It only seeks to maximise dwelling numbers on the site and disregards the original Concept of providing 2 building footprints that would enable public open space between them attracting and allowing integration with the wider community utilising the new retail offer on the site. The proposed modification removes this integration, minimises the central open area between the 2 building footprints to a 10m walkway which will form a cavern beneath the 10 storey built form massing. The proposed stepping of the building will not enable solar access into that area and will not be able to sustain the gardens originally foreseen. The now passageway will be in perpetual shadow from the built form.</p> <p>The claim that the 10 storey building forms a gateway is disputed. The mass and bulk of the proposed 10 storey buildings in no way relates to the other SAN gateway 4 storey commercial building, and in no way forms the consistent entry</p>	<p>Quarters. The building footprints at Ground accommodate the permitted non-residential GFA in the most flexible and useable footprint to maximise the viability and success of those spaces. The northern face of the public domain space is only 1 storey high and so the southern edge of the space receives solar access between 12pm and 2pm on the Winter Solstice with increasing solar access throughout the rest of the year. It is also noted that the Concept Plan's 4 storey form provides a similar amount of overshadowing to the public domain, with solar access only along the southern edge on the Winter Solstice due to the sun's angle of elevation.</p> <p>Refer to Section 3.4.</p> <p>The Wahroonga Estate Concept Plan established a planning framework for the Central Hospital Precinct with a diverse range of health services, education, community, commercial, retail and housing. The Wahroonga Estate is a unique centre within the LGA centered around NSW' largest private hospital, located within the Central Hospital Precinct, which employs over 2,300 people, providing essential health care, education and pastoral care to residents of Kuring-gai and beyond. The Central Hospital Precinct has the largest concentration of higher-order employment and uses that support the Kuring-gai and wider community. It is strategically important and the role of the Estate is more akin to other specialised health and education precincts such as St Leonards or Westmead. Drawing comparison to local retail/service centres such as Wahroonga, Turramurra etc. fails to recognise the unique strategic role of the</p>	

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>into Fox Valley Road as envisaged by the Concept Plan.</p> <p>The minimal 'skirt' of lower heights to the roads does not disguise the 10 storey heights and their impacts. The proposal relates the built form to the tall hospital buildings and appears to forget that those buildings are not for residential purposes and not for private housing, they are the key hospital buildings and are located to the centre of the site where impacts on the low density residential housing is not direct.</p> <p>Nowhere on the site are there any residential buildings approved to the proposed bulk and scale. Council met with the proponent at their request and asked them where the closest comparable residential/mixed use buildings are located. The proponent should map this information and discuss what similarities/differences exist between the locations in terms of the availability of employment, education, health and recreation facilities, shops, services, public transport mentioned in the Planning Report and its attachments.</p>	<p>Wahroonga Estate, which was recognised in the Concept Plan and the overall dwelling yields (which are not amended by this Modification Application) to support these uses. The site is well located relative to facilities, shops and bus services, which will contribute to a high level of residential amenity and foster active and public transport modes.</p> <p>The stepping of the built form and height is not intended to 'disguise the 10 storey heights. It is a common urban design device on tall buildings to use stepped forms, street walls or podiums to relate to the heights of adjacent buildings as a visual datum, and to provide visual scale within the overall form of a taller building. This design feature responds to Condition B1 of the Concept Approval which states that the building should "respond to the intersection's location forming a gateway to the precinct".</p>	
32	<p>Proposed redistribution of dwellings</p> <p>The Planning Report makes generalised statements as to the reasons why the allocated dwelling numbers cannot be delivered within each Precinct. There is no evidence, no detailed assessment, no site and building form analysis to demonstrate the validity of their statements.</p>	Refer to Section 3.3	Refer to Councils submission.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council				Proponent Response	COUNCIL COMMENT
	 <p>Zoning Map – Wahroonga Concept Plan site</p>					
	Precinct A: Mount Pleasant	Precinct B: Central Church	Precinct C: Central Hospital	Precinct Fox Valley Road		
	CONCEPT PLAN APPROVAL MP07 0166					
A4 (1)	16 Dwelling Houses 38 Townhouses	9 Dwelling Houses	3 Dwelling Houses 105 Residential Flat Building Dwellings	8 Dwelling Houses		
	27 Residential Flat Building Dwellings	200 Residential Flat Building Dwellings		88 Residential Flat Building Dwellings		
A3 (1)	17,700m ² Seniors Housing	-	14,500m ² Student Accommodation 1,500m ² Hostels/ Group Homes / Boarding Houses	-		
	MP07 0166 - MOD 10 PROPOSAL					

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>Planning Report Dwelling Count</p> <p>16 Dwelling Houses</p> <p>9 Dwelling Houses 162 apartments (DA 0539/21)</p> <p>Planning Report Proposed redistribution of dwellings</p> <p>65 apartments and townhouses cannot be delivered</p> <p>38 apartments cannot be delivered</p>	<p>2 Dwelling Houses 60 apartments (DA0453/12) within Precinct C, to be used by ACA for student and employee housing</p> <p>8 Dwelling Houses 79 apartments</p> <p>6 Dwelling Houses</p> <p>9 apartments cannot be delivered</p>	
	Concept Plan Approval and Proposal Dwelling Numbers		
33	<p><u>Precinct A: Mount Pleasant</u></p> <p>The Concept Plan Approval permits a maximum of 16 houses, 38 townhouses and 27 residential flat units and 17,700m² for Seniors Housing. The Planning Report has grouped the dwelling count of the townhouses and residential flat units and states that 65 dwellings cannot be delivered in this Precinct.</p> <p>The Planning Report states there are 16 houses within the precinct. It has not stated the floor area of the Senior's Housing development. This needs to be included in their information to clarify the remaining potential on the R1 (General Residential) zoned land. Council counts at least 23 dwelling houses currently within this precinct with one as yet undeveloped lot, not 16 as the proponent claims. It is recognised that when townhouse development occurs in this</p>	<p>The Modification Application does not 'claim' there are 16 houses in Precinct A. This comes from MP 07_0166, Condition A4 , which sets maximum yields for dwellings in Precinct A:</p> <ul style="list-style-type: none"> • 16 Dwelling Houses • 38 Townhouses • 27 Residential Flat Building Dwellings <p>As discussed in Section 3.3.2, the apartments and townhouses anticipated by this maximum cannot be delivered as the areas within the Concept Plan set aside for these buildings are constrained by bushfire and biodiversity requirements.</p> <p>No modifications are proposed to the maximum yield of 16 dwelling houses in Precinct A, nor to the seniors housing floorspace referred to in Condition A3, which are separate from the 500 dwelling cap. Precinct A's existing houses and seniors housing will</p>	<p>There is no justification nor demonstration as to why townhouses and small apartments cannot be delivered in this Precinct with appropriate standards to cater for ecological aspects of the area. The potential on private land would require compensation to those land owners - there is no indication of how this will be achieved .</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	Precinct, the dwelling house numbers will be reduced.	not be affected by the modification.	
34.	<p>Of the 23+ properties with dwelling houses, 13 are located within R3 <i>Medium Density Residential</i> zoning. This zoning allows the development of up to 38 townhouses as stipulated in the Concept Plan approval. Whilst the SAN (under Australasian Conference Association Ltd) owns a number of these houses, there are also a number of private land owners within the R3 zoned land.</p> <p>The MOD application fails to justify why the 38 townhouses stated in the Concept Plan Approval will not be able to be delivered in the medium to long term by the SAN or by the private landowners. The planning Report (Page 17) provides a generalised statement: <i>65 apartments and townhouses cannot be delivered in Precinct A, as a result of new requirements for: retention of biodiversity of national and state-significance; and creation of bushfire Asset Protection Zones.</i></p> <p>It is unclear what exactly the “new requirements for retention of biodiversity of national and state- significance and creation of bushfire Asset Protection Zones” refer to. It is acknowledged that the land is located within a bushfire buffer area and has biodiversity mapping however no DA has been submitted to</p>	Refer to above and Section 3.3.	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	evidence any attempt at designing footprints within the site constraints.		
35.	The same applies for the land zoned R1 <i>General Residential</i> which permits townhouse development. There is every probability that in the future when the seniors housing requires upgrade that a new site plan could include townhouses (and residential flat buildings) for private use. Council has seen this situation with other seniors housing sites which seek to upgrade their ageing facility through replacement with townhouses and apartment blocks.	Refer to response to #33. The seniors living GFA is set by Condition A3 and is excluded from the dwelling cap under Condition A4. The seniors living buildings and site are physically separate from the apartment and townhouse areas within Precinct A. This Modification Application relates only to the residential dwelling cap and does not seek to alter the distribution or density of seniors living within the Concept Plan.	The seniors living area is within an R1 zone and it has been Council's experience that this gives a long-term possibility for renewal on the site in any long-term scenario where there is every possibility that residential flat buildings could replace the current development as has been seen at the Linfield Learning Village site which is constrained by bushfire and biodiversity, however multiple apartment buildings have been successfully built in that location with appropriate standards.
36.	The proponent needs to provide specific evidence to substantiate their statement and demonstrate why townhouses would not be able to be built on the allocated land within this Precinct.	See Section 3.3.2. See prior response to #5. The Concept Plan, including the dwelling caps required under Condition A4, has statutory effect pursuant to the provisions of the <i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i> (the Transitional Regulation).	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
37.	<p>Further, the proposal has combined the number of town houses with the number of residential flat units permitted in this Precinct and assumes they can be delivered as a different typology – residential flat units. This is contrary to the requirements of housing choice across the Wahroonga Estate.</p> <p>Townhouses cannot be cancelled out and replaced by residential flat units, particularly in the current climate where the missing middle is acknowledged and sought after.</p> <p>If the proponent has evidenced justification for the removal of townhouse development from this Precinct and its relocation elsewhere, then that relocation must be delivered as like for like with the same typology townhouse development delivery elsewhere on the Wahroonga Estate site.</p>	<p>Detached houses and townhouses comprise 72.5% of all dwellings within the Ku-ring-gai LGA, and 78% of all dwellings within the LGA have three or more bedrooms (ABS, 2021). The Wahroonga (East) – Warrawee Statistical Area 2, within which the Wahroonga Estate precinct is located, has even fewer smaller dwellings (ABS, 2021).</p> <p>The provision of apartments in lieu of a small number of townhouses is considered an appropriate and necessary response to the impact of bushfire and ecological constraints (refer to Section 3.3) which have reduced the land available for new housing within the Wahroonga Estate.</p> <p>The site on the intersection of Fox Valley Rd and The Comenarra Pkwy is well located for additional housing. Delivering townhouses on the site would be inefficient, and contrary to the distribution of land uses approved in the Concept Plan, which identified the site for mixed use housing.</p> <p>Delivering new housing supply, of any type, is currently an important planning objective for Sydney and NSW.</p> <p>While this Modification Application will result in a theoretical replacement of townhouses with apartments, given the townhouses cannot be delivered in Precinct A, there will be a net benefit to housing diversity within Ku-ring-gai with new housing provided that is suitable for the nurses, educators and students working, and for people who rely on the health, education and pastoral care offered in the Central Hospital Precinct, and/or who want to be close to shops, childcare and bus services.</p>	<p>The missing middle is a recognised phenomenon across Sydney, as evidenced by current State level reforms, and this location is no exception.</p> <p>Replacement of townhouses with apartments is not accepted as it diminishes housing diversity and housing choice in the area. Moreover, removing townhouse provision in this location to relocate apartments in an unsuitable location is not accepted. Whilst it is acknowledged that housing provision is important, it is also acknowledged that providing that housing alone without consideration of impacts nor consideration of alignment with the Estate Concept Plan and its precinct planning, is a significant contradiction to the ethos of the Estate Planning.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
38.	The Precinct enables 27 apartments to be built. The proponent has not provided detailed evidence as to why these units might not be delivered in the long term within the R1 zoning which allows mixed density residential development. Council has previously received redevelopment proposals on seniors housing sites where the proposals seek to replace the housing stock with consolidated modern homes, and at the same time to capitalise on their sites by including private housing on part of the site. This type of scenario would likely be possible in the long term future even with the site constraints.	Refer to Section 3.3.	Refer to Council submission.
39.	Should the dwelling numbers stated in the Concept Plan Approval be modified and any dwelling relocation occur, then this modification must amend the Concept Plan footprint drawing Plan to remove footprints and building envelopes relating to the Precinct's allocated dwelling numbers. The dwelling house figure must also reflect the 24 dwelling house lots in the Precinct. The Department must also make an amendment to the KLEP 2015 removing the R3 (<i>Medium Density Residential</i>) land and the R1 (<i>General Residential</i>) land, and replacing them with R2 (<i>Low Density Residential</i>) zoning, to prevent future modifications seeking to increase dwelling numbers and deliver the permissible townhouses on this R3 land and the permissible townhouses and apartment buildings on the R1 land.	Refer to Section 3.3.	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
40	<p><u>Precinct B: Central Church Precinct</u></p> <p>The Concept Plan Approval permits a maximum of 9 dwelling houses and 200 residential flat building dwellings.</p> <p>The Planning Report states there are 9 houses and 162 apartments with DA approval and the remaining 38 apartments cannot be delivered within the Precinct. The reasons given (page 17) are:</p> <p><i>38 apartments cannot be delivered in Precinct B as a result of new requirements for:</i></p> <p><i>additional open space for the Wahroonga Adventist School requested by the community in response to Concept Plan MP 07_0166 (Mod 8);</i></p> <p><i>retention of biodiversity of national and state significance; and creation of bushfire Asset Protection Zones.</i></p> <p>Council's count indicates there are currently 9 houses plus one as yet undeveloped lot. The SAN (under Australasian Conference Association Ltd) owns a some of these houses, there are also a number of private land owners.</p> <p>Of the 9+ properties with dwelling houses, 2 are located within R4 (High Density Residential) zoning at 157-159 Fox Valley Road. Both these properties are owned by the SAN. The adjacent properties at 153-155 and the rear vacant lot 3 DP 338598 within the R2 (Low Density Residential) zone are some of the lots also owned by the SAN.</p>	<p>The Concept Plan does not contemplate intensification of any privately-owned land within the Central Church Precinct. Refer to Section 3.3 for further discussion regarding the statutory effect of the Concept Plan.</p>	<p>Removal of potential from Precincts that include privately owned land impacts those land owners. The Wahroonga Estate Concept Plan includes multiple privately owned land alongside land belonging to the SAN.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
41.	The land at 157-159 is zoned R4 (<i>High Density Residential</i>). This land is capable of delivering a small residential flat building. The proponent has given a generalised statement but not provided any evidence to justify why development cannot occur on this land parcel. At the least, the proponent's urban design report should describe and illustrate the potential of the site and how the said constraints would prevent delivery of apartments on this land.	Refer to Section 3.3 .	Refer to Council submission.
42.	If dwelling potential is removed from this Precinct, then the Department must amend the R4 zoning as part of this modification to ensure future modifications do not apply to amend the 500 dwelling limit and utilise the zoning to deliver more housing in the long term.	Refer to Section 3.3 .	Refer to Council submission.
43.	<u>Precinct C: Central Hospital</u> The Concept Plan Approval permits a maximum of 3 dwelling houses and 105 residential flat building dwellings. It also permits 14,500m ² Student Accommodation and 1,500m ² Hostels / Group Homes / Boarding Houses. The Planning Report states there are 2 dwelling houses and 60 apartments (DA0453/12) to be used for student accommodation and employee housing. The proposal seeks to increase the residential flat units to a total of 227 units, the permitter 105 units plus the additional 112 units they seek to transfer from the other precincts.	Noted.	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
44	<p>Council records indicate that the student housing component of this DA only takes up approximately 2,144 sqm (126 studio units), and there are also 60 key-worker housing units (35 x 1 bedroom and 25 x 2 bedroom units) provided. Council has not yet sighted the conditioned restriction against the title of the property that will prevent the 60 units being used by tenants other than those that are in current employ of the SAN, and that will retain the housing as rentals only for SAN staff as tenants move to other employment companies.</p>	<p>No modifications are proposed to The Quarters project, or its approval DA0453/12. Notwithstanding, Condition 73 of The Quarters consent requires of a restriction on title prior to the issue of an Occupation Certificate. These buildings are under construction and a Occupation Certificate has not yet been sought, and accordingly the registration of this restriction is not yet required.</p> <p>The Quarter's 60 apartments are a component of the 105 maximum yield in the Central Hospital Precinct listed in Condition A4 of the Concept Plan approval MP 07_0166.</p> <p>The delivery of these 60 apartments has been accounted for in the proposed modification of Condition A4 (see accompanying planning report, page 27).</p> <p>The 126 student accommodation units are part of 13,000m² of GFA listed in Condition A3, and are not subject to the 500 dwelling cap, and are therefore not the subject of this Modification Application.</p>	<p>The 126 student accommodation has only utilised 2144 sqm out of the total allowable 14,500 sqm. This means this Precinct still has in the vicinity of 12,000 sqm that can be delivered as student housing. In addition there still remains 1,500 sqm for provision of Hostels / Group Homes / Boarding Houses.</p> <p>The Department should request the proponent include delivery of this affordable housing and diversity in this Precinct as envisaged in the Concept Plan approval.</p>
45.	<p>The Precinct still has the potential to deliver over 12,000sqm of student accommodation and 1,500 sqm Hostels / Group Homes / Boarding Houses and 45 residential flat units. The Concept Plan envisaged delivery of housing choice in this Precinct, particularly for lower income earners.</p> <p>The development on this corner location should include a variety of housing provision to accommodate different sectors of the population as well as the Precinct allocated 45 remaining apartments.</p> <p>The proposal's dwelling count does not include the 45 units still remaining to be delivered in this</p>	<p>The Modification Application does not seek to amend the separately approved provision under the Concept Plan for student accommodation or hostels/group homes/boarding houses. The proposed modification has accounted for the remaining 45 apartments within the Central Hospital Precinct yield listed Condition A4. (see accompanying Planning Report, page 17, Figure 13, Table 3 and Table 6).</p>	<p>Refer to Council submission and see above.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	precinct. If these are counted in, then the actual delivery potential of this precinct a would become 157 units. The proponent would then have the right to seek delivery of this number.		
46.	<p><u>Precinct D: Fox Valley Road</u></p> <p>The Concept Plan Approval permits a maximum of 8 dwelling houses and 88 residential flat building dwellings.</p> <p>The Planning Report states there are 8 houses and 79 proposed apartments with a remaining 9 apartments not able to be delivered within the Precinct. The reason given (page 17) is: <i>9 apartments cannot be delivered in Precinct D as a result of detailed design and building envelopes</i></p> <p>No evidence has been provided to demonstrate what the above statement means and why the delivery is not possible within the precinct.</p> <p>The Precinct contains both R4 (High Density Residential) zoning and E1 (Local Centre) zoning. Both these zones permit apartment buildings or mixed use buildings with shop top housing.</p>	Refer to Section 3.3.	<p>Refer to Council submission.</p> <p>No evidence has been provided to show why the apartments not delivered within precinct D cannot be incorporated into the E1 zoning which permits shop top housing.</p>
47.	Land at 136-144 is included in the current DA for the 79 apartments mentioned in the Planning Report. The land at 132-134 Fox Valley Road still carries development potential for a small residential flat building. The application must demonstrate why these sites cannot be developed for apartments, providing plans and details as justified evidence. It is not sufficient to make the generalised statements provided in the Planning Report.	Refer to Section 3.3.	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
48.	Further, within this Precinct, land at 148 Fox Valley Road has an E1 (Local Centre) zoning. This is a substantially large site and contains one heritage item building 1929 and two other commercial premises. No evidence nor justification has been provided as to why shop top housing wouldn't be able to be delivered on the land at some future point.	Refer to Section 3.3 .	Refer to Council submission.
49.	Council considers the 9 apartment shortfall being claimed for this Precinct can easily be delivered within the Precinct.	Refer to Section 3.3 .	Refer to Council submission.
50.	<p><u>Ku-ring-gai Local Strategic Planning Statement</u></p> <p>Page 22 of the Planning Report provides inaccurate assessment against the LSPS. It states:</p> <p><i>The proposed modification is in full alignment with the... (LSPS) planning priorities as it will enable the delivery of the approved number of dwellings within the Estate, which is located in a well-serviced centre and is close to transport, services and other facilities.</i></p> <p>The Planning Report also states, "Federal Government announced the Accord, which committed to delivering over one million houses in well- located areas before 2029". These recent housing reforms and placing new homes in well- located areas refers to localities with a high level of public transport such a train stations and bus interchanges, with facilities such as a supermarket and banking services. This site cannot be compared to that direction. It has only 2 bus routes which are truncated in service, and a few neighbourhood shops.</p>	The Modification Application will not increase the overall number of dwellings approved within the Wahroonga Estate under the Concept Plan. The proposed redistribution of dwellings within approved maximum yield will locate homes closer to public transport, employment, services, community facilities and open space in comparison with locations in Precincts B and D, but particularly when compared to Precinct A.	The assessment against the LS PS remain inconsistent. The issues have not been directly addressed and skirt around the actual circumstances of this proposal.
51.	As indicated below, the proposal is inconsistent	Refer to responses below.	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council		Proponent Response	COUNCIL COMMENT
	with the LSPS:			
52	LSPS Planning Priority	Council Assessment		
53.	K3: Providing housing choice close to transport, services and facilities to meet the existing and future requirements of a growing and changing community.	<p>Inconsistent</p> <p>The site is not located close to transport with only limited bus routes to Turramurra, Thornleigh and Hornsby, and in this regard does not meet the fundamental criteria of the GRSP and NDP for 30 minute city. Figure 2-16 Ku-ring-gai Centres identifies the South Wahroonga (Fox Valley Road) as an area that is not suitable for additional housing. K3 also</p>	Refer to response to #20 and #50	See Council submission. The site is not located close to a transport hub and has infrequent and limited bus routes which means reliance on cars for both workers and residence in the area.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>provides detailed principles for the location of future housing supply(p. 45)and notes:</p> <p><i>Locate high density housing types within a 10 minute walk (800m radius) of Primary and Secondary Local Centres: Gordon, Lindfield, Turramurra, St Ives (subject to provision of priority bus infrastructure from Mona Vale to Macquarie Park and Dee Why to Chatswood)</i></p> <p>The proposal for 10 storey residential flat buildings in this</p>		

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council		Proponent Response	COUNCIL COMMENT
		location are inconsistent with K3 and the principles for the location of high density housing typologies.		
54	LSPS Planning Priority	Council Assessment		
55.	K4: Providing a range of diverse housing to accommodate the changing structure of families and households and enable ageing in place.	Consistent. The proposal provides a range of 1, 2 and 3 bedroom dwellings which provides housing choice.	Noted.	
56.	K5: Providing affordable housing that retains and strengthens the local residential and business community.	Inconsistent. The proposal does not provide any detail on the amount of key worker housing to be provided and the mechanisms to ensure how any housing will be managed to	Key worker housing is already provided in excess of Concept Plan requirements in The Quarters (see DA0453/12). This Modification Application is for the redistribution of market dwellings already approved under the Concept Plan, and does not result in any changes which would give rise to the need for affordable or key worker housing.	This Precinct has an outstanding square meterage yet undeveloped for affordable housing typologies. Movement of market housing from other parts of the site to deliver those over and above the typologies allocated to this Precinct is not supported. This is a direct departure from the approved Concept Plan and its associated Precinct planning .

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council		Proponent Response	COUNCIL COMMENT
		<p>ensure it is used as affordable housing. There is no mention of partnership with a Community Housing Provider to guarantee key worker housing and affordability, and the ability to release those units once workers move away from the area. This must be conditioned within the Concept Plan to ensure delivery in perpetuity.</p>		
57.	K6: Revitalising and growing a network of centres that offer a unique character and lifestyle for local residents.	<p>Inconsistent The aim of this planning priority is to <i>support and build a sense of community</i></p>	Refer to response to #21.	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
		<p><i>identity by recognising and protecting local characteristics and qualities of the centres that residents value while offering a range of shops and new homes where people can live, work, shop and spend leisure time</i> (p.48)</p> <p>The proposal for a 10 storey residential flat building does not recognise the local characteristics of the surrounding context.</p>	
58.	<p>K7. Facilitating mixed use developments within the centres that achieve urban design excellence.</p>	<p>Inconsistent</p> <p>The aim of this planning priority is to support <i>safe, inclusive and walkable</i></p> <p>The Indicative Reference Design illustrates a potential architectural treatment. However, a detailed DA will be submitted to Council for future buildings within the modified building envelopes.</p> <p>The proposed modification will redistribute a portion of the Estate's future residents to a site that is well located relative to services, facilities and public transport. The Indicative Reference Design incorporates pedestrian pathways around and through</p>	<p>Reference is made to a system of pathways however it is noted that the new building footprint diminishes the pathway along Ludowici Way and removes the potential for landscaping and quality of walkways around the building</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council		Proponent Response	COUNCIL COMMENT
		<p><i>mixed use areas that exhibit urban design excellence and are connected to transport, social infrastructure and open spaces (p.48)</i></p> <p>The proposal for 10 storey residential flat buildings in this location does not demonstrate design excellence, and the location is not connected to frequent transport.</p>	<p>the site that will link people to other areas in the Estate, and services available in the adjoining local centre.</p>	
59	LSPS Planning Priority	Council Assessment		
60.	K12: Managing change and growth in a way that conserves and enhances Ku-ring- gai's	<p>Inconsistent</p> <p>The proposal for 10 storey</p>	Refer to response to #26 and Section 3.4.	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>unique visual and landscape character.</p>	<p>residential flat buildings in this location is inconsistent with the planning principle as it does not manage change in a way that enhances the local character of the surrounding area.</p> <p>K12 also includes detailed principles relating to interface areas (p.93) which require:</p> <p><i>Provide a buffer of transitional development between differing scales of building, or differing land use types or identified character</i></p>	

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>areas.</p> <p>The proposal for a 10 storeys residential flat building in this location provides a poor interface with the surrounding R2 Low Density Residential Development.</p>		
Substantial departure from approved Concept Plan			
61.	<p>Page 29 of the Planning Report states the modification is “Substantially the same development”. It states the below test and then goes on to say it meets the criteria:</p> <p><i>Clause 3BA(5)(c) of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (the Transitional Regulation) requires the consent authority to be satisfied that the consent as proposed to be modified is substantially the same as the existing consent (incorporating any modifications previously made). It is important to note that this comparative task is therefore between the Concept Approval as amended by MP10_0070 Modification 6 on 25 September 2023.</i></p> <p><i>The case law relevant to whether the Modification Application meets the 'substantially the same' test can be summarised as follows:</i></p> <p><i>The Modification Application must not result in a modified development that ‘radically</i></p>	Noted.	<p>The modification constitutes a substantial departure from the approved Concept Plan. The modification completely changes the intention of this Precinct in both built form massing, scaling, composition. It alters the street wall to Comenarra Parkway and Fox Valley Road. It ignores the buildings that have already been built along Fox Valley and Comenarra Parkway, both residential and non-residential, that have maintained consistency with the four story street wall as per the Concept Plan approval. It seeks to cherry pick elements (dwelling numbers) from all the other Precincts, justifying the removal as a result of biodiversity and bushfire requirements with no investigation into what typologies and construction could be delivered in those areas including for smaller less dense housing types.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p><i>transforms' the development originally approved in the existing consent. That test was espoused in the decision of Sydney City Council v Ilenace Pty Ltd (1984) 54 LGRA 217. This approach and test were also followed by Mason P in the NSW Court of Appeal in Transport Action Group Against Motorways Inc v Roads and Traffic Authority (1999) 104 LGERA 133. The Modification Application must not propose development that would change the substance of the existing consent and result in a 'wholesale rejection or replacement' of the existing consent (Sheller JA in Transport Action Group).</i></p> <p><i>In the circumstances of this proposal, the Modification Application meets the substantially the same test regardless of which of the above (or a combination of the above) tests are applied.</i></p> <p><i>The proposed modification would meet the 'substantially the same development' test as follows:</i></p> <p><i>The approved land uses within the building envelopes will not change as a consequence of the modification. The buildings as modified will incorporate commercial at ground level with Shop Top Housing apartments on the upper levels as approved.</i></p> <p>Council response to this comment: Agreed</p>		
62.	<p><i>The arrangement of the public domain and ground level, through-site and connecting pedestrian paths anticipated in the approved Concept Plan are addressed and incorporated into the proposed modified building envelopes.</i></p> <p>Council response to this comment: Not agreed.</p>	<p>Refer to response to #6. The public domain has not been reduced, rather significant areas of at-grade vehicular circulation and car parking have been undergrounded which maintains public domain area and enhances pedestrian amenity and safety</p>	<p>The communal open space that was envisaged between the buildings to draw in the general community to this site has been diminished to a narrow walkway through the site in between tall buildings. Vehicular parking has always been assigned</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	The public domain has been substantially reduced.		underground.
63.	<p><i>Given the scale of Concept Plan, the proposed modification is minor. The Concept Approval provides for a substantial expansion of The San, a new 800+ student school, 500 dwellings, (including 458 apartments and townhouses), student and seniors accommodation and conservation of 31.4 hectares of bushland to create an intense built environment comprising substantial buildings, with supporting road network upgrades, parking and utilities. The proposed modification affects only 112 apartments, which is a minor component of the overall approved project.</i></p> <p><i>Given the scale of the Estate, the proposed modification is minor. The Wahroonga Estate is 62ha, and the proposed modification only affects a 6,525m² site, or just 1% of the Estate's total area.</i></p> <p>Council response to this comment: Not agreed. Each Precinct must be considered on its own merits. Comparing the proposal to the entire Estate Concept Plan ignores the strategic thinking of dwelling allocation and placement within each precinct.</p>	<p>Narrowing the assessment of the 'substantially the same' test to each precinct individually is inconsistent with the statutory framework and caselaw that requires the development being modified to be considered as a whole, rather than narrowed to considering individual elements, such as the number of storeys within a specific building within the Estate. See <i>Realize Architecture Pty Ltd vs Canterbury Bankstown Council</i> [2023] NSWLEC 1437.</p>	<p>The response again ignores the composition of the Precincts that was fundamental to the development of the Wahroonga Estate Concept Plan. Had the Concept Plan intended to work as one large site than the Precincts with their particular requirements would not have been developed.</p> <p>Each Precinct was developed as a distinct area with certain requirements and considerations. These cannot be ignored and cannot be disassembled to suit the proponent's desire to only maximise dwelling delivery on this particular site. The proponent has not given any thought to where else on the Estate development would be more appropriate, for example within the E1 areas in shop top housing, nor has any consideration been given to where townhouse or small footprint apartment buildings could be delivered within biodiversity and bushfire areas.</p>
64.	<p><i>The approved dwelling cap of 500 dwellings will not be increased, and the ratio of apartments and townhouses (458) to houses (42) within that cap will not be altered.</i></p> <p>Council response to this comment: Not agreed. The proposal ignores housing typology and only counts dwelling numbers. It deletes the provision of townhouses.</p>	<p>Condition A4 is a functional condition that limits the maximum yield across the Estate to 500 dwellings, and distributes that number across the Estate's precincts.</p> <p>Condition A4 does not include any requirement for housing diversity, as reflected in the wording of the condition which seeks to establish 'maximum' limits rather than require any diversity in the final</p>	<p>The approved Concept Plan sought to deliver townhouses and apartments. This proposal deletes townhouse provision thereby deleting housing diversity.</p> <p>The proponent argues against the delivery of housing diversity contrary to the State Government's reforms which seek to deliver diversity and affordability alongside increased dwellings.</p>


Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
		number of dwellings delivered. Council's position that the Concept Plan requires the provision of townhouses within the final dwelling mix is not correct. See response #37.	
65.	<p><i>The proposed modification ensures that the Concept Plan's approved housing is delivered as planned to support and reinforce the expanded health and education campus. The loss of 112 (22%) of the 500 approved dwellings is contrary to the approved intention to create integrated and mutually supporting land uses within the Estate, and will reduce the efficient use of newly delivered supporting infrastructure.</i></p> <p>Council response to this comment: Not agreed. The Concept Plan provided upper limits (maximum) for dwellings within each precinct. It is not expected that the full potential will be met across the entire site as with any planning standards.</p>	The Modification Application seeks to redistribute the number of dwellings in Precincts A, B, C and D. Condition A4 (as modified) sets maximum limits on the number of dwellings that can be delivered within these precincts.	The response does not address Council's points. Refer to Council submission.
66.	<p>The proposal results in a substantial departure from the Approved Concept Plan. It deletes housing provision within Precincts A, B and D, this is inconsistent with the Approval. Further it seeks to change the Approved intention for Precinct C. It proposes:</p> <p>An increase of height from 4 storey RL172.9 to 10 storey RL194.2 - <u>more than double the Approved Concept Plan height at a 21.3m increase.</u></p> <p>An increase of the building footprint - <u>by at least one third extra site coverage to that of the Approved Concept Plan.</u></p> <p>An Increase of residential flat unit dwellings from</p>	This comment is a duplicate of #11, refer to previous response.	Refer to Council submission. The proposal is a substantial departure from the approved Wahroonga Estate Concept Plan.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	105 to 227 – <u>more than double the number of units allocated under the Approved Concept Plan.</u> An increase of cars exiting at the Comenarra/Fox valley corner – <u>double to triple the numbers of vehicles.</u>		
67.	This cannot be considered as “minor” nor “substantially the same development”. The key drivers for this (and the other) Precincts are compromised by this proposal seeking to move dwellings across precincts with the sole purpose of delivery but no regard for the Concept Plan reasoning for the location, typology, bulk, scale and assimilation into the essentially low density context.	Refer to previous responses and exhibited Planning Report that accompanied the Modification Application. The proposed modifications can comfortably be considered to be substantially the same as the approved Concept Plan having regard to the applicable statutory requirements.	The proposal is a substantial departure from the approved Wahroonga Estate Concept Plan.
68.	Further, the planning Report goes on to state that there is “minimal environmental impact” saying <i>The potential for additional impacts on views, landscape quality, overshadowing or privacy above those assessed with the Concept Approval (as modified) is minimised by the site’s location on a significant road intersection, and separated from sensitive low density residential areas.</i> The statement is highly inaccurate. Its bulk and scale will be highly visible from all locations around the site including the adjacent low density residences, and thus affect the views. The Concept plan gave detailed consideration to the issue of amenity and impact to the southern residential area which has no future potential growth given its proximity to bushfire hazard. The landscape quality is compromised through the increased site coverage and removal of ability to provide outdoor gardens and play	Noting that the Modification Application is not required to demonstrate that the ‘minimal environmental impact’ test is satisfied, provided that the ‘substantially the same’ test is satisfied as outlined above, we nonetheless maintain that the Modification Application also satisfies the ‘minimal environmental impact test’ as outlined in the exhibited Planning Report. The detailed architectural design will be assessed in future DAs for buildings within the modified building envelopes. The exhibited Urban Design Report concludes that taller buildings will sit comfortably on site, given the context of existing and future tall buildings within the Central Hospital Precinct and the Wahroonga Estate that are highly visible within the immediate locality and wider region. Refer response #6. The proposed undergrounding of at-grade roads and carparking significantly enhance the quality, safety and comfort of the public domain for pedestrians including residents, workers and	The response continues to insist that more than doubling the height of the building (and all its associated impacts) is a minimal alteration. Refer to Council's submission. The proposed modification is a substantial and significant departure from the approved Wahroonga Estate Concept Plan and is highly inconsistent with the legislated directions for a modification.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	area/amenity adjacent to new shops. The bulk and scale has compounded overshadowing and privacy intrusion particularly on the childcare development to the south which will no longer be able to meet its solar access conditions that the DA approval was contingent on. The proposal ignores the orientation of the site in relation to adjacent low density which the Concept Plan was particular in accommodating through its allocated building heights.	visitors to the precinct. Refer to Section 3.4 .	
69.	<p>The Planning Report (page 31) argues that the building design “will mitigate any appearance of bulk and scale”. This is disputed. Bulk and scale cannot be hidden. The large footprint will result in an inevitable massing of built form and the minor step backs will not diminish the massing and the visual impacts. Further, the Concept Plan envisaged a 4 storey presentation to Comenarra Parkway including across Fox Valley Road and into Fox Valley Road. This is what the gateway into the site related to. The 10 storey proposal to one side of Fox Valley in no way aligns with the 4 storey commercial building on the opposite side which together with this site was to form a consistent gateway into Fox Valley Road. A Gateway has even posts and is not lop sided.</p> 	<p>It is not necessary for buildings to be ‘hidden’ for visual impacts to be acceptable. A landmark building on the site will create an address and ‘gateway’ element for the Central Hospital Precinct, which is characterised by an intensive mix of specialised health, education and residential land uses accommodated in large buildings, set in a campus environment. The San Parkway clinic is on the opposite side of Fox Valley Rd and will not form a ‘gateway’ element to the Central Hospital Precinct with buildings on the site, as it is located on the opposite side of the road within Precinct D.</p> <p>Refer to the exhibited Urban Design Report for further detail.</p>	<p>This site was not determined to be a landmark site. The landmark area constitutes the tall central hospital buildings whereas this site, and the adjacent sites along Comenarra and Fox Valley, were envisaged as four story street walls interfacing with and transitioning down to the low density and environmental areas flanking the site.</p>

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
70.	The proposal compares the hospital buildings to this residential block. In the hierarchy of the Concept Plan the hospital building is the primary built form with all others transitioning down to surrounding low density residential areas.	The modified building envelopes are lower in height than the existing and approved hospital buildings within the Central Hospital Precinct as illustrated in response to #23.	The site forms part of the four story street wall to Comenarra Parkway and to Fox Valley Road. This four story street wall must be maintained to remain consistent with the Wahroonga Estate Concept Plan.
71.	The original Concept Plan discussions between the Department and Council were lengthy and detailed. The location of housing numbers and housing typologies included consideration of precinct attributes such as ecology and risk, integration into the existing low density context, proximity to services and urban hierarchy across the Estate. This proposal does not consider the ethos of the Concept Plan, only pushing for delivery of dwelling numbers regardless of impact and deviation from the Concept Plan approval.	The Planning Report and Section 3.3 explain the appropriate response that this Modification Application seeks to provide to changed biodiversity and bushfire planning constraints, and how these have been balanced against the 2025 imperative to deliver new housing supply in Sydney. See also response to #21.	No consideration has been given to what development can be built successfully within areas of biodiversity and bushfire considerations. The response refers to the 2025 delivery of new housing supply in Sydney and yet it refuses to consider housing diversity provision which is also part of that housing delivery. The housing reforms seek densities adjacent or close to transport hubs for ease of travel and reduction in car dependency. This site has neither a transport hub nor efficient and frequent bus services. It relies on two infrequent bus routes which do not run minimal services on weekends.
72.	Page 23 of the Planning Report describes the site as “relatively unconstrained, while being well served with health and recreation facilities, shops, public transport and new road infrastructure”. This statement is inaccurate and demonstrates the lack of consideration for the constraints that apply to this site as described in this submission. The proposal also fails to show what health (relating to residents) and recreation facilities, shops, public transport and new road infrastructure it is referring to. The road infrastructure mentioned in the Planning Report lists upgrades to mainly Fox Valley Road to accommodate the new school, the apartment buildings and the substantial increase	Health Facilities: The San Hospital is the largest private hospital in NSW, offering an array of in and out- patient services. The San GP Centre is located within the hospital precinct. The Parkway San Clinic opposite the site provides a range of specialist medical services, imaging, pathology and the like. There are several pharmacies within the Central Hospital Precinct. Recreation Facilities: A range of passive open spaces are provided within the Wahroonga Estate, as well as in the wider locality. 31 hectares of the Estate are zoned for conservation purposes. Shops: The site is immediately opposite the Fox Valley Rd shops, and the building envelopes on the site are approved for a mixed use project comprising ground floor commercial/retail space.	The health facilities being referred to are private provisions. They are not community nor public provisions. The general community would have to travel to Hornsby Hospital or Westmead, requiring cars or taxis. The local neighbourhood shops do not contain a major supermarket, only limited neighbourhood facilities. The neighbourhood shops cannot be compared to a local centre where the New South Wales government seeks to locate new residential development collocated with proper facilities for all sectors of the community. Public transport is limited to 2 bus routes with infrequent services particularly on weekends and through the night. Road upgrades were part of the

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	in hospital facilities. These upgrades would have been required even if the said 112 dwellings across the Precincts were not developed.	<p>Public Transport: The site is served by local bus services as described in #20.</p> <p>Road Infrastructure: Road upgrades have been undertaken within, immediately adjacent to and more widely in response to development approved in the Concept Plan, including the 500 approved dwellings. For example, upgrades to the Fox Valley Rd-Pacific Hwy intersection were partly funded by the ACA, and The Comenarra Pkwy/Fox Valley Rd intersection up-grade is a consequence of general traffic increases around the Estate.</p> <p>Education: The site is opposite a large childcare centre. There are other childcare services within the Wahroonga Estate A new Wahroonga Adventist K-12 has recently opened and has approval for expansion. The Avondale University campus is near the site. The ANU runs a clinical experience programme in The San.</p> <p>Community: The Wahroonga Estate includes several churches, community facilities, which serve the locality, and the wider Australian and Asia-Pacific region.</p>	<p>requirement to facilitate the extended hospital provision, the school and all the other augmentation across the site. The roadworks were necessary infrastructure required as part of the augmentation of the SAN site. The Adventist School again is a fee paying school and a denominational school, not open to all sectors of the community. The Church in the Estate facilitates worship by a small sector of religious belief. Access to wider religious community from this site is highly car dependent.</p>
Strategic Traffic Engineer Comments			
73	<p>In relation to traffic generation, Section 4 of the Transport Assessment states the following:</p> <p><i>"It is inevitable that the residents of the proposed apartments will comprise a significant element of:</i></p> <ul style="list-style-type: none"> <i>- workers in the various elements in the Estate (i.e. Hospital, School, Medical Centre complex and the Adventist Administration)</i> <i>- residents who wish to live close to the Adventist School</i> <i>- residents who wish to live close to the</i> 	<p>TfNSW has not raised any concerns in respect of traffic generated by the proposed modification on the road network.</p> <p>The assumptions made regarding trip generation are reasonable given the services and facilities available within and near the Wahroonga Estate and the expected characteristics of future residents.</p> <p>The assumptions made in the traffic statement are consistent with standard traffic modelling for mixed-use precincts where residents have access to a wide</p>	<p>The response does not address Councils' issues. It is not the role of Transport for New South Wales to investigate the claim of key worker housing and associated car ownership. Council has experience in these matters and therefore raises it for the Department's consideration: the numerics provided in the Transport assessment are not justified and no further evidence has been provided to demonstrate the accuracy of those numbers in relation to mechanisms for the claimed key worker housing. Refer to council submission.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p><i>Adventist Church facilities.</i></p> <p><i>- students attending the Education Centre (rented apartments) Accordingly, the peak traffic generation of the apartments will be constrained in terms of external commuter car movements and the proposed commercial/retail floorspace will essentially only provide for the "convenience" needs of the residents and workers in the precinct (i.e. it will not be a retail "destination")."</i></p> <p>The traffic generation assessment is reliant on the minimal generation of trips due to residents of apartments mostly working in or connected to various elements of the Estate, in which most residents are co-located with these elements and hence do not need to drive to work and therefore not generate peak hour trips. However, there is no assurance or evidence that this will be the case, and even if it is the case, no assurance of what proportion of residents would actually be connected to or work in the Estate. It is also highly likely that the SAN working population proposed to live in these units would eventually move to other jobs way from this site. The proponent's assessment does not discuss how these residents would then be vacated from those units and be replaced with other SAN staff.</p> <p>The proportion of residents which fall</p>	<p>range of services and employment opportunities within walkable distance.</p> <p>Refer to response to #44 which outlines the restrictions on use imposed on the adjoining residential buildings to the west imposed under DA0453/12 which ensure that these dwellings are used in conjunction with the educational and health services provided directly within the Wahroonga Estate. It is noted that the Concept Plan, and associated traffic assessment, assumed that these dwellings would be market housing with no such restrictions, with a higher level of private car ownership and higher proportion of off-site trips. The effect of DA0453/12 is that a significantly higher proportion of trips from these 60 dwellings will be contained within the precinct, compared to the assessment undertaken at the Concept Plan stage which assumed no such restrictions. This means that there is additional capacity within the site in comparison to the approved Concept Plan to accommodate additional residential vehicle movements on this part of the site.</p> <p>Noting that TfNSW have not raised any objection or concerns, and that any future DA will be required to be accompanied by a further detailed Transport Impact Assessment to the satisfaction of the relevant consent authority</p>	

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>into the first and last categories above would have to be very high (greater than 2/3) to achieve the traffic generation rate applied in the assessment. Without a condition to tie the residency of the units to a mechanism that would guarantee the rentals of the units to the SAN key workers and accordingly vacate the units when those residents gain employment outside the SAN, it is dubious that the traffic generation claims can actually delivered.</p> <p>In a worst case scenario where no residents fall into the 1st and last categories above, the traffic generation of the mixed use site with 112 dwellings could be 75 vehicle trips per hour in the peaks. This is based on a traffic generation rate of 0.67 vehicle trips per dwelling adopted in the TIA that accompanied the Concept Plan Application, which would have factored in a degree of trip containment. In the situation where there is no trip containment, then given the site's location, these mixed use dwellings are likely to generate traffic similar to single detached dwellings, due to the site's location away from rail transport and other key amenities and services, and could result in up to 112 additional vehicle trips per hour in the peaks (or additional 2 movements per minute). This could also have impacts to potential evacuation due to bushfire. These scenarios should be tested by the proponent for their impacts to the surrounding road network and in particular on the Comenarra/Fox Valley intersection.</p>		

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	Therefore, it would be useful to understand what proportion of residents fall into the 1st and last categories. The indicator could be analysis (by the proponent) of the data from pre-sales of apartments under construction in Precinct B (Church Central), since these were pitched as being largely for people working in or connected to various elements of the Estate. The investigation could also include data on car ownership.		
74.	It is Council's experience that residents in Kuring-gai will generally own 1-3 cars depending on the size of the apartment and composition of the group living in the apartment. Failure to provide sufficient onsite/basement parking results in congestion of street parking which will be problematic at this location as already evidenced by the numbers of SAN related vehicles parked outside the SAN premises on a regular basis preventing local resident and visitor parking in the surrounding streets.	The Modification Application does not seek to amend the parking rates approved in Condition B9 of the Concept Plan. All required parking will be contained in the basement levels.	Refer to Council submission.
75.	The sweeping justifications do not have any evidential models to substantiate them. In the absence of a clear mechanism to control residency and limit it to SAN staff in perpetuity, including finding a way to control car ownership, the proponent should provide figures for parking associated with residential flat buildings and the commercial/retail component of the proposal, and indicate the actual volume of vehicles making trips outside the SAN at peak and off-peak times.	Refer to response to #76. It is not necessary or reasonable to impose restrictions on the occupants or owners of dwellings, particularly at the Concept Plan level. TfNSW has not raised any concerns in respect of traffic generated by the proposed modification on the road network. A detailed traffic, manoeuvring, parking and transport assessment will be submitted with DAs for buildings within the modified building envelopes, and will be considered by Council prior to determining that application.	The response is flawed. On the one hand there is an argument being posed that key worker housing will be provided, on the other hand when Council has discussed car ownership, key worker housing and the logistics of key workers and workers who stop working on the site, and the implications for continuing to live on the site, car ownership when people have to work further away from the site. The dismissal in the response demonstrates a lack of evidence and understanding, and a lack of transparency in how the justifications actually work. The Department should not accept these arguments, particularly relating to key worker provisions and reduction of vehicles, because there is no evidence that this is the case and

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
			therefore no evidence that the parking numerics are correct.
76.	<p>The proponent's Planning Report states: <i>"The Assessment notes that a proportion of trips generated from the site if developed in accordance with the proposed modification will be: contained within the Estate or the site's proximity given the availability of employment, education, shops and services; and/or made by public transport given the proximity of bus stops.</i></p> <p>TTPA's Assessment concludes that the proposed modifications will not result in adverse traffic implications."</p> <p>The traffic assessment has made conclusions with limited substantive evidence backing its assumptions. The study needs to extrapolate on what shops, types of services, public education are available to the future residents that would negate the necessity of travel outside the hospital area to say a supermarket, public school or library.</p>	<p>Refer to response to #20 and #72.</p> <p>It is an accepted planning principle that new homes should be well-located relative to services and facilities. In this respect the site is preferable to Precinct A, which does not have near access to any facilities or services.</p> <p>The site is accessible by public transport to Thornleigh, Turramurra and Hornsby that have a range of retail, services and civic facilities, such as libraries.</p>	<p>The response tries to make comparison with Precinct A, however fails to understand the distribution of population and vehicles across the Estate, including access to major roads, dwelling distribution within the various Precincts across the Estate, as envisaged by the approved Concept Plan.</p>
77.	<p>With regards to the access to public transport, there are only two available bus routes: Route 573 to Turramurra train station, has services ceasing at 9pm during weekdays and 6pm on weekends. The buses run every 20 minutes during peak hours and hourly between 9am to 4.30pm off peak hours and on weekends. Route 589 to Thornleigh train station and Hornsby has services that cease at 7.30pm during weekdays and 5.15 on weekends. The buses run hourly during weekdays and 1.5-2 hourly on weekends and on weekends.</p>	<p>The Central Hospital Precinct is the area of the Wahroonga Estate that is best served by bus routes. See #20.</p> <p>The bus services that are available to the site are superior to Precinct A, where the nearest bus stop is a 1.1 kilometres up-hill walk from the approved apartment and townhouse areas.</p> <p>Therefore, the proposed modification will bring residents of 65 new dwellings within the approved dwelling cap closer to public transport facilities.</p> <p>A detailed traffic, manoeuvring, parking and transport assessment will be submitted with the DA</p>	<p>Comparing the poor and limited transport available at this site by saying it is better than that provided in Precinct A is a poor and flawed argument. This Precinct needs to be looked at on its merits and clearly the transport is not available here as portrayed by the proponent.</p>


Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	These bus routes are basic and unlikely to rule out car use by residents in the new development. The traffic assessment needs to include the full assessment of traffic impacts of vehicles leaving the site for work/school trips, particularly the ingress and egress onto Fox Valley Road and movement on surrounding road networks.	for future buildings within the modified building envelopes, and will be considered by Council.	
78.	<p>The Concept Plan Approval (B9) states: <i>Residential car parking rates are to be determined having regard to the rates specified in the Preferred Project Report, with the exception of residential car parking rates for the Residential Flat Buildings within the Central Church Precinct and Fox Valley Road East Precinct which are to be as follows:</i></p> <ul style="list-style-type: none"> <i>1 bedroom apartment: a maximum of 1 space per dwelling</i> <i>2 bedroom apartment: a maximum of 1.25 spaces per dwelling</i> <i>3 bedroom apartment: a maximum of 2 spaces per dwelling</i> <p><i>visitor parking: 1 visitor space per 4 dwellings</i></p> <p><i>car share spaces: a minimum of 1 car share space per 90 dwellings or part thereof</i></p> <p><i>Residential car parking is to be provided at grade or below ground level within the footprint of the building.</i></p> <p>The MOD proposal does not locate all car parking within the building footprint, instead excavating the entire site. This prevents deep soil provision that would support the planting of medium to large trees within the site between the buildings to deliver development</p>	<p>The Modification Application seeks approval for modified building envelopes. The Indicative Reference Design is provided for information only, with detailed building design to be the subject of a future DA. The DA will address the requirements of Kuring-gai DCP, the ADG and Condition B9.</p>	<p>The response has not addressed Council's issue. Refer to Council submission.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	that reflects the area character. All parking should be located directly beneath the building footprint.		
79.	The roadworks carried out on the Comenarra/Fox Valley corner formed part of the discussions at the onset of the Concept Plan, and were formalised in 2011 when the proponent engineers prepared concept plans for the various intersection upgrades. The orientation of the building footprints at this location were skewed to accommodate those works.	Noted. The modified building envelopes consider existing site conditions, including the completed intersection works.	Refer to Council submission.
Strategic Bushfire Specialist Comment			
80.	The <i>Wahroonga Estate Development Site</i> is situated along a significant ridge top – with adjacent extensive fire-prone bushland tracts in the Coupes Creek and upper Lane Cove valley/ridge topography. During a wildfire event, embers can carry up to 10km, through winds, and can start new ‘spot fires’ (as recently evidenced in the Los Angeles firestorm). Previous fire paths at the Wahroonga site (in 1994, 1997 and 2002) resulted in significant ember attack and a ‘spot over’ in 1997 starting a new fire. There is no doubt that given the obvious intensity and frequency of fires increasing with climate change and shifts in weather patterns, the ridge top hospital site, often subject to significant winds from northwest and southerly directions, will be subject to substantial ember attack in future fire events in this fire-prone area.	DAs can be submitted for buildings on the site within the already-approved building envelopes. Those DAs must be accompanied by a bush fire assessment that establishes ember attack risk and recommends mitigation measures if required, in accordance with the requirements of the <i>RFS Planning for Bushfire Protection Guideline 2019</i> .	Refer to Council submission.
81.	It is expected that any local wildfire activity, due to the rapid movement of fire fronts in the adjoining topography, will only allow for minimal notification time for residents	The modified redistribution of dwellings within the Wahroonga Estate responds to bushfire risk and mitigation requirements. The site is less subject to bushfire constraints than	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>to evacuate effectively. The combined issue of ember attack, rapidly progressing fire fronts and variable topography exponentially increases the risk factors to the hospital site. Blocking exit paths by placing large numbers of additional residents and vehicles at key intersections and exits for the hospital itself, such as this site, is not a sustainable approach to protection of the population.</p>	<p>Precinct A, where bushfire constraints preclude the delivery of apartments and town houses. Residents in Precincts B and D will evacuate along Fox Valley Rd and The Comenarra Pkwy, as will future residents on the site. Therefore, redistributing dwellings between Precincts B and D and the site will not affect evacuation routes as assessed with the Concept Plan.</p>	
82.	<p>Mapping undertaken by RedEye (for Ku-ring-gai Council) in 2023 illustrates the potential for significant ember attack in this vicinity. The mapping indicates the potential ember attack along the Fox Valley Rd/Comenarra ridge top confluence is expected to be significant. Approximately 85% of all Australian house loss during wildfire events is due to ember attack – rather than direct fire front radiant heat attack</p>  <p>Figure 1. Landscape-scale view of predictive modelling of potential Ember Attack intensity (derived from RedEye Phoenix Rapidfire bushfire scenario modelling, 2023).</p> <p>It should be noted that significant Fire Line Intensity areas exist directly adjacent to the SAN development site. Although not directly impacting the SAN site, such future fire will cause significant ember attack.</p>	<p>Refer to response to #80.</p>	<p>Refer to Council submission.</p>

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
83.	<p>Evacuation risk has been a point of discussion from the inception of the Wahroonga Estate Concept Plan.</p> <p>The ABPP report 'Bushfire Protection Assessment for The Modification to The Wahroonga Estate Concept Plan' (10th February 2025) is particularly evidence-free regarding the intensive modification, by the addition of 112 residential units into the SW corner of the Hospital Precinct. No explanation of fire paths, Fire Line Intensity (FLI) modelling, ember attack zones has been provided, in fact no scientific detail and evidence is included to justify the position.</p> <p>The addition of 112 units in this location at the intersection of Comenarra Parkway and Fox Valley Rd will bring an anticipated extra population of 250-300 people, many that may be vulnerable (elderly and children), into an already stressed intersection with limited exit potential from Ludowici Way due to the buildup of traffic at the intersection lights.</p> <p>The fire path modelling by RedEye in the below figure shows that in the event of a significant ember attack, highly probable in a bushfire event, the major ridgeline roads that could be used for evacuation, Comenarra Parkway and Fox Valley Rd, would be compromised and prevent traffic flows and escape as happened in the 'Black Saturday' fires (February 2009).</p>	Refer to response to #81.	Refer to Council submission.
84.	<p>The proponent's bushfire assessment makes minimal mention of significant ember attack, relying on radiant heat impacts utilising a dated AS3959-2018 methodology which does not take</p>	Refer to response to #80.	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>full account of significant ember attack. The report supports construction of units to BAL-12.5.</p> <p>However, based on the assumption of ember attack preventing adequate evacuation, the buildings should be constructed to allow 'shelter in place'. This would mean upgrading bushfire protection to BAL-19, but preferably BAL-29 construction.</p> <p>We understand that in light of the soon-to-be released findings of the recent catastrophic LA fires (which demonstrated ember attack and house-to-house fire transmission was not fully accounted for in land use planning or bushfire preparation measures), the AS-3959 revision committee is likely to consider significant amendment to the standards.</p>		
85.	<p>A more comprehensive bushfire report regarding the bushfire issues surrounding this site, particularly its location as the busy intersection serving South Turramurra and the local area should be provided by the proponent to ensure the proposal fully considers the risks to the future populations and the pressure of concentrating high volumes of population in one location especially when that location has compromised exit routes out of the site.</p> <p>The modification proposes the shifting of the population from areas of potential bushfire impacts in peripheral precincts into this Central Hospital precinct, however this location is no less under bushfire threat and more susceptible to issues of ridgetop evacuation. The Wahroonga Estate Concept Plan intentionally</p>	Refer to response to #81.	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	dispersed population around the site to avoid mass population in constricted localities such as at this corner site. It should be noted that the 65 units being moved from Precinct A Mount Pleasant would use a completely different evacuation route which would not rely on The Comenarra Pkwy or Fox Valley Rd. Dwellings in Precinct A Mount Pleasant would evacuate north up Mt Pleasant Ave towards Pennant Hills Rd. It is recommended that these dwellings remain at that location.		
86.	In addition, no reference has been made to PBP 2019 Special Fire Protection Purpose which requires more stringent fire protection for hospitals, and how it relates to the Central Hospital Precinct where this development is proposed, particularly on the issue of evacuation/stay in place which has not been fully addressed.	The Modification Application does not seek to amend any aspect of The San or its evacuation procedures.	Refer to Council submission.
87.	The enormous population increase at this corner location is not supported.	The characterisation of the modification, which maintains the existing approved dwelling cap across the Wahroonga Estate, as an 'enormous increase' is not correct.	Refer to Council submission.
Ecology Expert Comment			
88.	In relation to the ecology, specifically Sydney Turpentine Ironbark Forest on site, the information in the Ecological Assessment and Planning Report outlines that the project is subject to an approved Concept Plan, approved in 2010 as Major Project Approval <i>MP 07_0166</i> , for the expansion of the Sydney Adventist Hospital (the SAN), and a range of residential, commercial, educational, and religious development under the previous Part 3A of the	Noted. The Concept Plan does not require the retention of vegetation within the approved building envelopes and it is not proposed to modify requirements in respect of vegetation on the site	Refer to Council submission.


Comment to Proponent Response - Modification 10 (MP07 _0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	NSW <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) by the former NSW Department of Planning. A number of modifications have been approved since the approval of the Concept Plan. Impacts to biodiversity were assessed and approved as part of this process, with a large biodiversity offset secured in the form of rezoning substantial areas of bushland containing two Threatened Ecological Communities (TECs) as E2 (now C2) Environmental Conservation. These areas are managed under the Overall Project's Biodiversity Management Plan (BMP) (Cumberland Ecology Report 2012ORP1).		
89.	Although biodiversity impacts for the Concept Plan were formerly approved, subject to MP 07 0166, impacts of the Project are not approved due to the introduction of the NSW <i>Biodiversity Conservation Act 2016</i> (BC Act), which was enacted in 2017. However, under Clause 34A of the NSW <i>Biodiversity Conservation (Savings and Transitional) Regulation 2017</i> an application can be made to recognise previous Part 3A concept plan approvals and relevant offsetting arrangements. This application has not currently been applied for, and as such the biodiversity impacts for each future Development Application (DA) of the Project are required to be assessed in accordance with the BC Act.	Noted, it remains open to the landowner or a future applicant to seek certification under Clause 34A.	Refer to Council submission.
90.	The Ecological Assessment notes that up to 0.108 ha of native vegetation will be removed under the Project, however there is no comparison on the different levels of ecological impact between the two scenarios, e.g. the originally approved scenario vs the proposed mod. The ecological	Noted and agreed, the Concept Plan anticipated the removal of native vegetation within the site to accommodate buildings and at-grade, car parking and roads. The Modification Application does not alter the anticipated impacts on native vegetation from those expected under the Concept Plan.	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	assessment has only considered impacts of the proposed mod and BOS entry requirements, and does not include a comparison to the original approved footprint. This may be because they are proposing to complete a BDAR for the development regardless of any offsetting that has already been implemented through the existing rezoning offset. However, there is no discussion on footprint options assessment and options assessment for avoiding of impacts (any impacts or impacts in addition to the approved masterplan footprint). In noting this the difference in impact appears minimal.		
91.	The Ecological Report concludes that that due to the clearing of native vegetation on the Biodiversity Values Map a BDAR would be required or the only alternative to preparing a BDAR, is to pursue certification of existing offsetting arrangements for the Overall Project under Clause 34A of the NSW <i>Biodiversity Conservation (Savings and Transitional) Regulation 2017</i> .	Noted, this is a statutory requirement that would be necessary to undertake as part of a future DA once the detailed impacts of the buildings within the modified envelopes are determined.	Refer to Council submission.
92.	The Planning Report also does not discuss building footprint impact on BV mapped vegetation or if this can or can't be avoided through design. It may be that apartment design guide/ accessibility requirements limit the potential to retain BV mapped veg on site, but this has not been articulated. The Planning Report notes the removal of vegetation was required to facilitate delivery of building envelopes approved on the site in the Concept Plan. This aspect of the project is therefore not included as a proposed modification. However, it also does not specify if	The modified building envelopes are maximum envelopes. Further detailed building design is required before a DA for future buildings within the modified envelopes can be lodged. The design process will address the impacts on trees and the biodiversity values of the site. The detailed architectural design and construction management plan will address tree retention, removal and protection. This level of detail is not available at the Concept Plan stage. The proposed modification does alter the Concept Plan's relationship with existing trees (Figure 8).	Refer to Council submission.

Comment to Proponent Response - Modification 10 (MP07_0166-Mod-10)

#	Issue Raised by Council	Proponent Response	COUNCIL COMMENT
	<p>the same extent of vegetation is proposed for removal or if this has changed from the approved.</p> <p>The information in the Ecological Assessment and Planning Report demonstrates that they will be able to address biodiversity considerations at DA stage through a BDAR, however they have not clearly discussed the relative change in potential impact.</p> <p>Based on the footprint image provided there is not a significant difference in removal of BV mapped vegetation. There is only 1 tree in the BV mapped area (identified as “Planted Native Trees and Shrubs”) that might have had potential for retention in the previous footprint, but probably not in reality due to TPZ encroachment. See tree marked in Purple below.</p>  <p>Figure 2. Excerpt showing Building Footprints and tree removal</p>	 <p>Figure 8 Approved (left) and modified (right) envelopes showing location of trees</p> <p>Source: Turner</p>	