



KU-RING-GAI COUNCIL – OBJECTION TO MODIFICATION 10

Overview:

Thank you for the opportunity to comment on the proposal to modify the Wahroonga Estate Concept Plan.

Council strongly objects to this modification proposal seeking transference of dwelling potential from various precincts across the Estate onto this one site.

Key reasons are as follows with details provided in this submission:

- The proposal fails to meet several key design principles of Schedule 9 of State Environmental Planning Policy (Housing) 2021:
 - Design Principle 1: Context and neighbourhood character
 - Design Principle 2: Built form and scale
 - Design Principle 6: Amenity
 - Design Principle 9: Aesthetics
- 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.
- 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.
- 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.
- 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.
- 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 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



Submission to Wahroonga Estate Concept Plan Modification 10 (MP07 _0166-Mod-10)

detailed assessment, no site and building form analysis to demonstrate the validity of their statements.

- 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.
- The proposal provides an inaccurate assessment against the Ku-ring-gai Local Strategic Planning Statement. 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.
- 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:
 - 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.
 - An increase of the building foot print - by at least one third extra site coverage to that of the Approved Concept Plan.
 - An Increase of residential flat unit dwellings from 105 to 227 – more than double the number of units allocated under the Approved Concept Plan.
 - An increase of cars exiting at the Comenarra/Fox valley corner – double to triple the numbers of vehicles.
- 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.
- 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,
- 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.
- 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.

PLANNING COMMENTS

The proposal

The proposal seeks to increase the height of the building envelopes in Precinct C within the Wahroonga Estate from 4 storeys (RL 172.9m) to approximately 10 storeys (RL 194.2). The subject land has sloping topography, with a fall from east to west of approximately 2m (From RL 157.5 to RL 155.7) across The Comenarra Parkway frontage and a rise from south to north of approximately 2m (from RL 157.5 to RL 159.4) across the Fox Valley Road frontage. When measured from the centre of the site (RL 158 approx.) the proposal would provide for a building height (per the standard instrument definition) of approximately 36.2m.

State Environmental Planning Policy (Housing) 2021

Pursuant to Section 147 of the State Environmental Planning Policy (Housing) 2021 (SEPP), the consent authority must be satisfied that the design of Residential Flat Buildings (RFBs) adequately addresses the design principles outlined in Schedule 9 of the SEPP. However, the proposed height increase fails to meet several key design principles, specifically:

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

The specific deficiencies are outlined below:

1. Design Principle 1: Context and neighborhood character

- (1) *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.*
- (2) *Responding to context involves identifying the desirable elements of an area's existing or future character.*
- (3) *Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*
- (4) *Consideration of local context is important for all sites, including sites in the following areas—*
 - (a) *established areas,*
 - (b) *areas undergoing change,*
 - (c) *areas identified for change.*

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 subject 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. 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 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 and bulk plus minimal street setbacks.

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”.

The properties to the south, zoned R2 Low Density Residential 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.

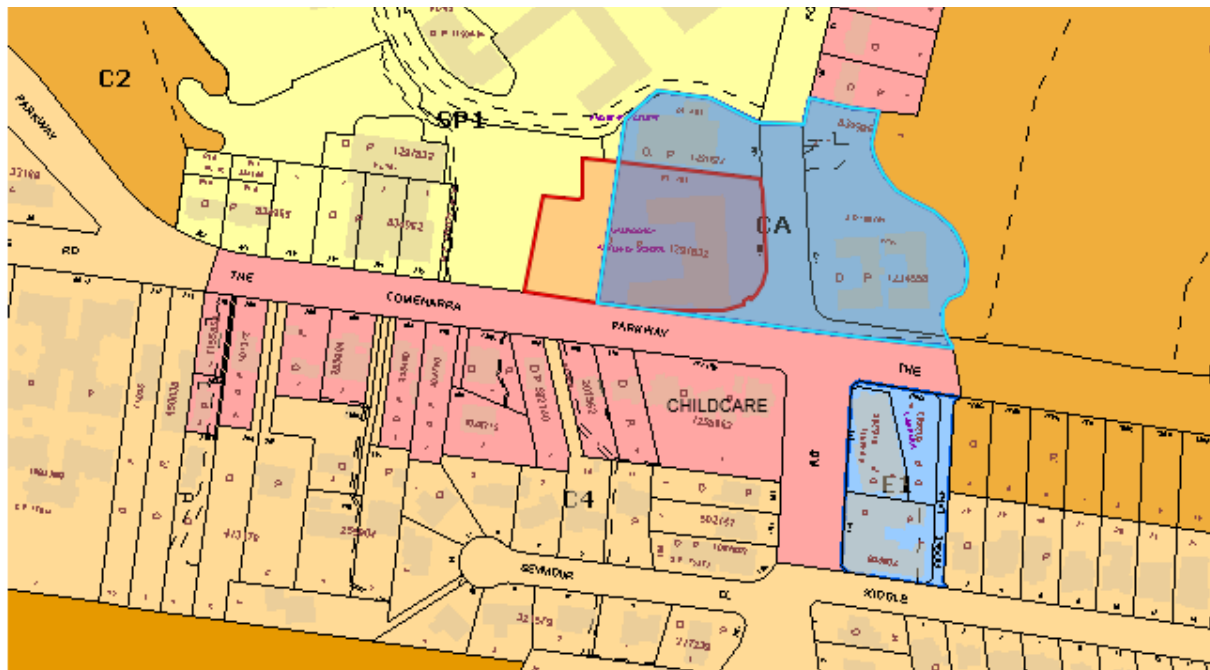


Figure 1: properties to the immediate south of the development site are zoned R2 Low Density Residential (Source: zoning map). Surrounding land is land C4 and C2 and R2.



Figure 2: low density development to the immediate south of the development site (Source: Google Maps)

The high-density medical buildings associated with the 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 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.

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 developments visual bulk fails to establish a harmonious relationship with existing development patterns and the changing character outlined in the approved Wahroonga Concept Plan.

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.

2. Design Principle 2: Built form and scale

- (1) *Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*
- (3) *Appropriate built form—*
 - (a) *defines the public domain, and*
 - (b) *contributes to the character of streetscapes and parks, including their views and vistas,*

The proposed height of the development is inappropriate to the existing and desired character of the street and surrounding buildings.

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.

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.



Figure 3: 4 storey building 'Parkway San Clinic' located to the east of the development site; development site on the left (Source: Google Maps)



Figure 4: Excessive height and built form, inconsistent with the existing and desired character of the locality (Source: Turner)

3. Design Principle 6: Amenity

- (1) *Good design positively influences internal and external amenity for residents and neighbours.*

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 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. Specifically:

1. Control 311, Part 3.3 requires optimising solar access to internal and external play areas though 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 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.

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 overall wellbeing (Control 4.11).

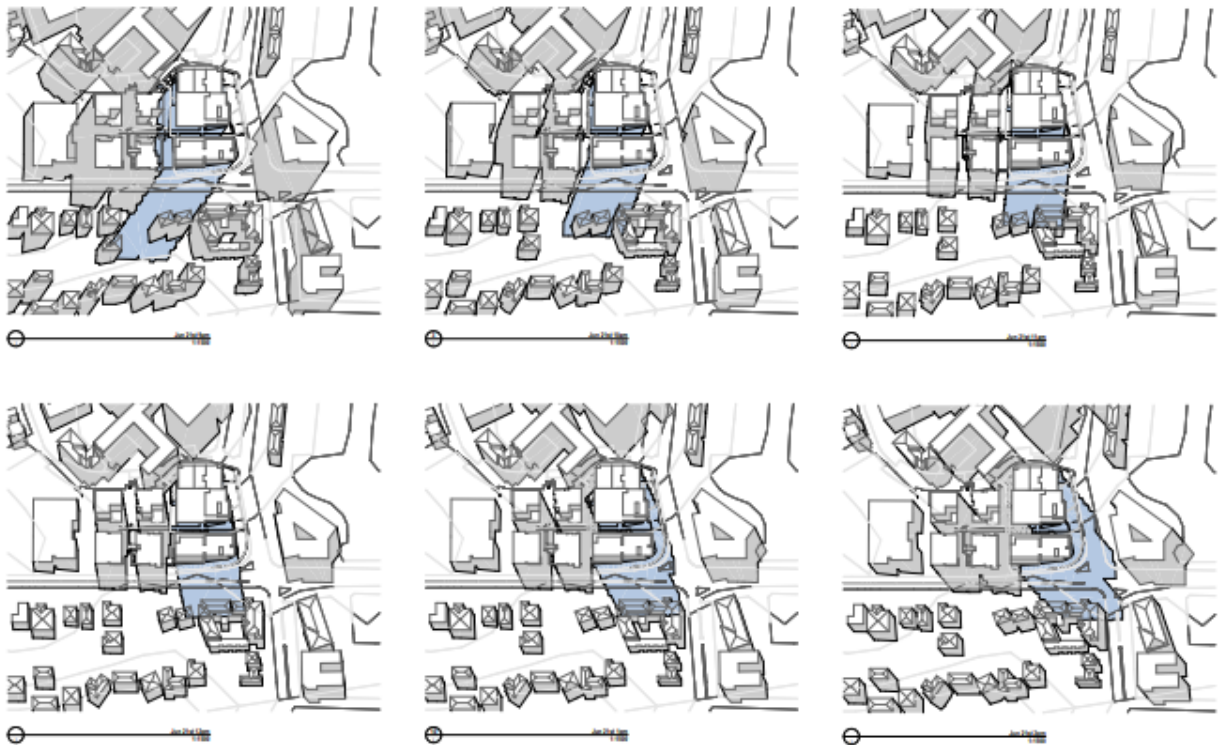
The applicant states that, "a satisfactory level of solar access will be maintained to the centre's outdoor play areas, with the proposed modified envelopes resulting in negligible additional overshadowing of these areas".

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. 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: "It is considered that the potential overshadowing impacts arising from the proposed modified building envelopes is minimal and reasonable."

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.

PROPOSAL | SHADOW DIAGRAMS | 1



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PROPOSAL

PROPOSAL | SHADOW DIAGRAMS | 2



Figure 5: Solar access impacts as a result of proposal (Source: Turner)

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.

4. Aesthetic

- (3) *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.*

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 dominant and overbearing when viewed from the established low-density zoned land to the south.

As a result, the proposal fails to meet Design Principle 9 in Schedule 9 of the SEPP, which prioritises the visual appearance of well-designed residential apartments developments which respond to and respect the local context, ensuring a visually aesthetic outcome.

STRATEGIC PLANNING ASSESSMENT

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.

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.

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 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.

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. 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.

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.

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 Concept plan 4 storey heights were purposefully placed to avoid the impacts that are now clearly demonstrated by this modification.

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.

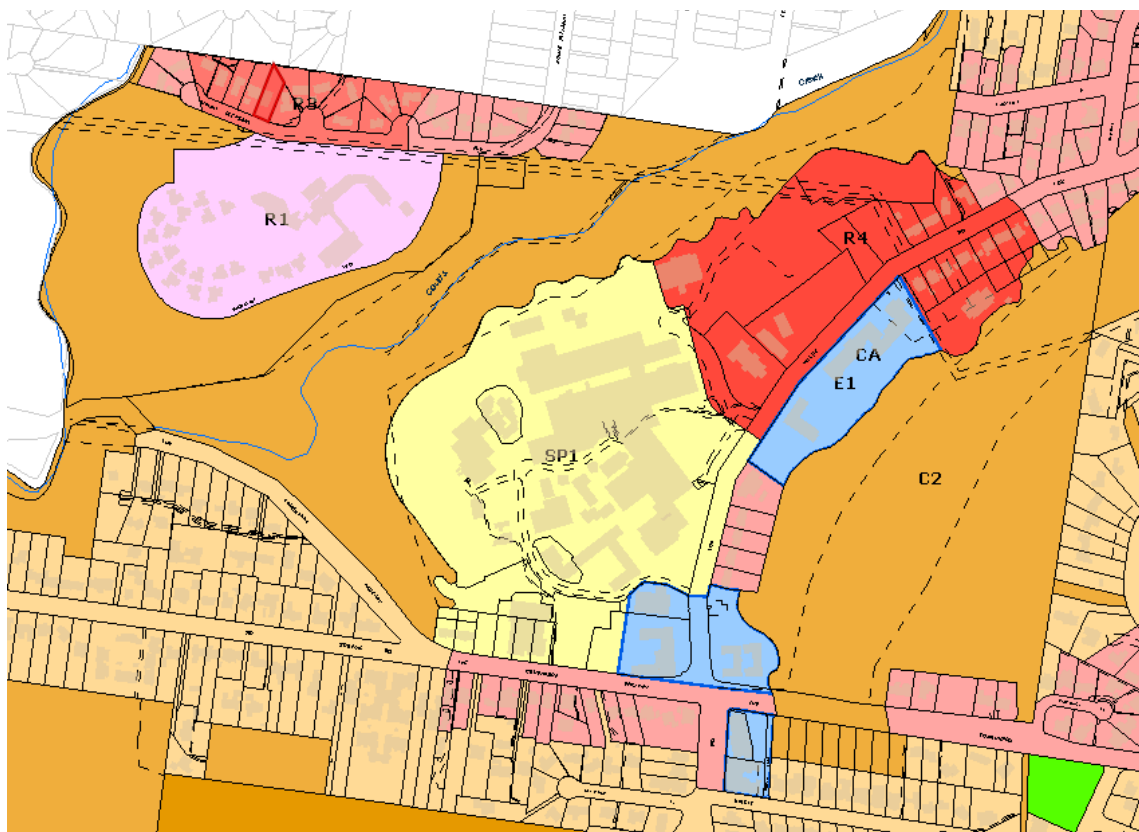
The claim that the 10 storey building forms a gateway is disputed. The mass and bulk of the proposed 10 storey buildings in no way relates to the other SAN gateway 4 storey commercial building, and in no way forms the consistent entry into Fox Valley Road as envisaged by the Concept Plan. The minimal '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.

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.

Proposed redistribution of dwellings

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.



Zoning Map – Wahroonga Concept Plan site

	Precinct A: Mount Pleasant	Precinct B: Central Church	Precinct C: Central Hospital	Precinct D: Fox Valley Road	Precinct E: Residential East
CONCEPT PLAN APPROVAL MP07 0166					
A4 (1)	<ul style="list-style-type: none"> 16 Dwelling Houses 38 Townhouses 27 Residential Flat Building Dwellings 	<ul style="list-style-type: none"> 9 Dwelling Houses 200 Residential Flat Building Dwellings 	<ul style="list-style-type: none"> 3 Dwelling Houses 105 Residential Flat Building Dwellings 	<ul style="list-style-type: none"> 8 Dwelling Houses 88 Residential Flat Building Dwellings 	<ul style="list-style-type: none"> 6 Dwelling Houses
A3 (1)	<ul style="list-style-type: none"> 17,700m² Seniors Housing 	-	<ul style="list-style-type: none"> 14,500m² Student Accommodation 1,500m² Hostels / Group Homes / Boarding Houses 	-	-
MP07 0166 - MOD 10 PROPOSAL					
Planning Report Dwelling Count	<ul style="list-style-type: none"> 16 Dwelling Houses 	<ul style="list-style-type: none"> 9 Dwelling Houses 162 apartments (DA 0539/21) 	<ul style="list-style-type: none"> 2 Dwelling Houses 60 apartments (DA0453/12) within Precinct C, to be used by ACA for student and employee housing 	<ul style="list-style-type: none"> 8 Dwelling Houses 79 apartments 	<ul style="list-style-type: none"> 6 Dwelling Houses
Planning Report Proposed redistribution of dwellings	<ul style="list-style-type: none"> 65 apartments and townhouses cannot be delivered 	<ul style="list-style-type: none"> 38 apartments cannot be delivered 	-	<ul style="list-style-type: none"> 9 apartments cannot be delivered 	-

Concept Plan Approval and Proposal Dwelling Numbers

Precinct A: Mount Pleasant

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.

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 Precinct, the dwelling house numbers will be reduced.

Of the 23+ properties with dwelling houses, 13 are located within R3 (Medium Density Residential) 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.

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:

- *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.*

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 evidence any attempt at designing footprints within the site constraints.

The same applies for the land zoned R1 (General Residential) 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.

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.

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. 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.

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.

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.

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 (Medium Density Residential) land and the R1 (General Residential) land, and replacing them with R2 (Low Density Residential) 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.

Precinct B: Central Church

The Concept Plan Approval permits a maximum of 9 dwelling houses and 200 residential flat building dwellings.

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:

38 apartments cannot be delivered in Precinct B as a result of new requirements for:

- *additional open space for the Wahroonga Adventist School requested by the community in response to Concept Plan MP 07_0166 (Mod 8);*
- *retention of biodiversity of national and state significance; and*
- *creation of bushfire Asset Protection Zones.*

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.

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.

The land at 157-159 is zoned R4 (High Density Residential). This land is capable of delivering a small residential flat building. The proponent has given a genialised 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.

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.

Precinct C: Central Hospital

The Concept Plan Approval permits a maximum of 3 dwelling houses and 105 residential flat building dwellings. It also permits 14,500m² Student Accommodation and 1,500m² 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.

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.

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. 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. The proposal's dwelling count does not include the 45 units still remaining to be delivered in this precinct. If these are counted in, then the actual delivery potential of this precinct would become 157 units. The proponent would then have the right to seek delivery of this number.

Precinct D: Fox Valley Road

The Concept Plan Approval permits a maximum of 8 dwelling houses and 88 residential flat building dwellings.

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:

- *9 apartments cannot be delivered in Precinct D as a result of detailed design and building envelopes*

No evidence has been provided to demonstrate what the above statement means and why the delivery is not possible within the precinct.

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.

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.

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 11929 and two other commercial premises. No evidence nor justification has been provided as to why shop top housing would not be able to be delivered on this land at some point in the future.

Council considers the 9 apartment shortfall being claimed for this Precinct can easily be delivered within the Precinct.

Ku-ring-gai Local Strategic Planning Statement (LSPS)

Page 22 of the Planning Report provides inaccurate assessment against the LSPS. It states:

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.

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.

As indicated below, the proposal is inconsistent with the LSPS:

LSPS Planning Priority	Council Assessment
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.</p> <p>Figure 2-16 Ku-ring-gai Centres identifies the South Wahroonga (Fox Valley Road) as an area that is not suitable for additional housing.</p> <p>K3 also provides detailed principles for the location of future housing supply(p.45)and notes:</p> <p><i>Locate high density housing types within a 10minute 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 location are inconsistent with K3 and the principles for the location of high density housing typologies.</p>
K4: Providing a range of diverse housing to accommodate the	<p>Consistent.</p> <p>The proposal provides a range of 1, 2 and 3 bedroom dwellings which provides housing choice.</p>

changing structure of families and households and enable ageing in place.	
K5: Providing affordable housing that retains and strengthens the local residential and business community.	<p>Inconsistent.</p> <p>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 ensure it is used as affordable housing.</p> <p>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>
K6: Revitalising and growing a network of centres that offer a unique character and lifestyle for local residents.	<p>Inconsistent</p> <p>The aim of this planning priority is to <i>support and build a sense of community 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>
K7. Facilitating mixed use developments within the centres that achieve urban design excellence.	<p>Inconsistent</p> <p>The aim of this planning priority is to support <i>safe, inclusive and walkable mixed use areas that exhibit urban design excellence and are connected to transport, social infrastructure and open spaces</i> (p.48)</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>
K12: Managing change and growth in a way that conserves and enhances Ku-ring-gai's unique visual and landscape character.	<p>Inconsistent</p> <p>The proposal for 10 storey 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 areas.</i></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 the Approved Concept Plan

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:

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.

The case law relevant to whether the Modification Application meets the 'substantially the same' test can be summarised as follows:

- The Modification Application must not result in a modified development that 'radically 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 was 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 LGRA 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).*

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.

The proposed modification would meet the 'substantially the same development' test as follows:

- 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.*

Council response to this comment: Agreed

- 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.*

Council response to this comment: Not agreed. The public domain has been substantially reduced.

- 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.*
- 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.*

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.

- 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.*

Council response to this comment: Not agreed. The proposal ignores housing typology and only counts dwelling numbers. It deletes the provision of townhouses.

- *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.*

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.

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:

- 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.
- An increase of the building foot print - by at least one third extra site coverage to that of the Approved Concept Plan.
- An Increase of residential flat unit dwellings from 105 to 227 – more than double the number of units allocated under the Approved Concept Plan.
- An increase of cars exiting at the Comenarra/Fox valley corner – double to triple the numbers of vehicles.

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.

Further, the planning Report goes on to state that there is “minimal environmental impact” saying

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.

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 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.

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.



Increase to building footprint

The proposal compares the hospital buildings to this residential block. In the hierarchy of the Concept Plan the hospital building is the e primary built form with all others transitioning down to surrounding low density residential areas.

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.

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 in hospital facilities. These upgrades would have been required even if the said 112 dwellings across the Precincts were not developed.

STRATEGIC TRAFFIC ENGINEER COMMENTS

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 provide for the "convenience" needs of the residents and workers in the precinct (i.e. it will not be a retail "destination")."

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.

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 be delivered.

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.

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.

It is Council's experience that residents in Ku-ring-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 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.

The proponent's Planning Report states:

"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.*

TTPA's Assessment concludes that the proposed modifications will not result in adverse traffic implications."

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.

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.

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.

The Concept Plan Approval (B9) states:

- (1) 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:*
 - (a) 1 bedroom apartment: a maximum of 1 space per dwelling*
 - (b) 2 bedroom apartment: a maximum of 1.25 spaces per dwelling*
 - (c) 3 bedroom apartment: a maximum of 2 spaces per dwelling*
 - (d) visitor parking: 1 visitor space per 4 dwellings*
 - (e) car share spaces: a minimum of 1 car share space per 90 dwellings or part thereof*
- (2) Residential car parking is to be provided at grade or below ground level within the footprint of the building.*

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 that reflects the area character. All parking should be located directly beneath the building footprint.

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.

STRATEGIC BUSHFIRE SPECIALIST COMMENT

The *Wahroonga Estate Development Site* 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.

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 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.

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 –

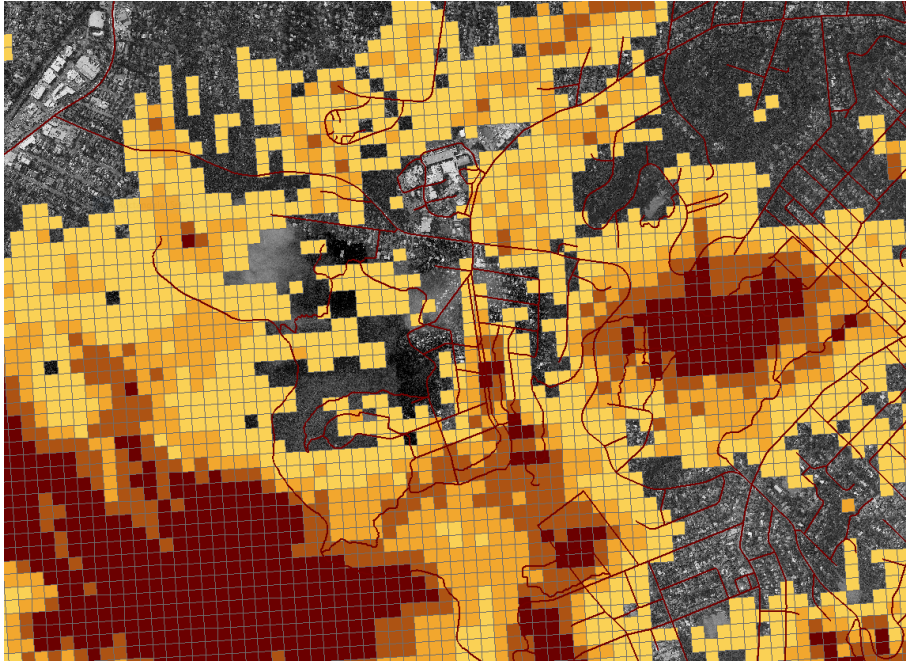


Figure 1. Landscape-scale view of predictive modelling of potential Ember Attack intensity (derived from RedEye Phoenix Rapidfire bushfire scenario modelling, 2023).

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.

Evacuation risk has been a point of discussion from the inception of the Wahroonga Estate concept Plan.

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.

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.

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).

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 full account of significant ember attack. The report supports construction of units to BAL-12.5. 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.

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.

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.

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 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.

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 enormous population increase at this corner location is not supported.

ECOLOGY EXPERT COMMENT

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 *MP 07_0166*, 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 NSW *Environmental Planning and Assessment Act 1979* (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 20120RP1).

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 *Biodiversity Conservation Act 2016* (BC Act), which was enacted in 2017. However, under Clause 34A of the NSW *Biodiversity Conservation (Savings and Transitional) Regulation 2017* 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.

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 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.

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 *Biodiversity Conservation (Savings and Transitional) Regulation 2017*.

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 same extent of vegetation is proposed for removal or if this has changed from the approved.

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.

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.



Figure 2. Excerpt showing Building Footprints and tree removal