

29 July 2019

The Secretary
NSW Department of Planning & Environment
320 Pitt Street
GPO Box 39
SYDNEY, NSW, 2001

Attention: Anthony Witherdin & Michelle Niles - Regional Assessments
Email: michelle.niles@planning.nsw.gov.au

Re: Modification to Concept & Project Approvals concerning Roadworks for Wahroonga Estate

This correspondence follows a series of recent meetings through which the views of the Roads and Maritime Services (RMS), Ku-ring-gai Council and the landowner, being the Australasian Conference Association Limited as Corporate trustee of Seventh-Day Adventist Church (SPD) Limited (the Church), with respect to nominated roadworks relating to the Wahroonga Estate have been made known to the Department.

This correspondence also serves as an update of previous undetermined requests to modify Major Project Concept Approval 07_0166 issued for the Wahroonga Estate (i.e. Mod 6) and Major Project Approval MP 10_0070 issued for Staged Alterations and Additions to Sydney Adventist Hospital (i.e. Mod 7).

The previous requests were made by MacroPlan Dimasi on behalf of the Church. This correspondence serves as notice that the requests are now being coordinated and managed by Wayne Gersbach of Memphis Strategic.

Following recent discussions it is clear that all parties are in agreement that both the Estate Concept Approval and the Project Approval for the hospital development need to be modified as a result of the RMS decision not to enter into a Deed of Agreement for the roadworks across the Estate.

Ongoing consultation between the parties has occurred with respect to the following matters:

- Fox Valley Road and The Comenarra Parkway intersection;
- Kissing Point Road and The Comenarra Parkway intersection; and
- The school intersection.

The outcomes of the first two of these matters have informed this amended and updated request to modify the aforementioned approvals.

The third matter of the school intersection relates specifically to the requirements of a separate State Significant Development approval for the Wahroonga Adventist School (SSD 5535). As this work is also part of the original “intersection improvements where Fox Valley Road intersects with site accesses” envisaged under the Concept Approval, it is also addressed in this amended and updated modification request.

Fox Valley Road and Comenarra Parkway intersection

Works for the upgrade of this intersection are ongoing, with service investigation works now all-but complete. The Works Authorisation Deed (WAD) negotiations between RMS and the landowner will be finalised shortly in conjunction with the finalisation of works required by Telstra, Jemena, Ausgrid and Ku-ring-gai Council.

Following execution of the WAD with RMS and a separate agreement with Ku-ring-gai Council, the ongoing intersection works will continue.

Other works along Fox Valley Road are addressed in the updated modification request outlined below.

The Kissing Point Road and The Comenarra Parkway intersection

Council had previously agreed to an earlier modification to transfer the cost of these works as a monetary contribution to the upgrade of the Pacific Hwy/Fox Valley Road intersection. The previous modification (Mod 2) to Condition B7 of Concept Approval 07_0166 was sanctioned by the Department in December 2012.

In preparing the (now-defunct) draft Deed of Agreement with RMS the cost of the contribution was fixed at \$670,000 (indexed from 1st July 2012).

As part of recent discussions, it was suggested (by others) that Council might reconsider whether some roadworks at this intersection could be accommodated. The landowner has assisted Council in its deliberations by preparing concept design plans for the upgrade of the intersection and having these independently assessed by Transport and Traffic Planning Associates (TTPA).

TTPA has found that the preferred upgrade option for the Kissing Point Road approaches to The Comenarra Parkway would, with double diamond turn (DDO) signal phasing, reduce delays and queueing in peak periods without left turn slip lanes. The addition of left turn slip lanes would require property acquisitions and major service adjustments without necessarily achieving a better intersection performance. Whilst the preferred upgrade proposal would reduce delays and queueing during peak periods it does not provide any improvement in the Level of Service (LOS) from 'D' rating. The LOS would be unlikely to improve unless both the slip lanes were introduced and approaches from The Comenarra Parkway unconstrained. This would represent a major upgrade to the intersection.

The preferred upgrade intersection design and TTPA report have been forwarded to Ku-ring-gai Council.

Notwithstanding how the intersection works are progressed, it is clear that the preferred upgrade option would cause the cost of works to escalate beyond what was previously agreed, with the addition of the slip lanes and works to The Comenarra Parkway to constitute even greater costs

Accordingly, it is suggested that this matter not be revisited and that the condition remain as previously amended by the Department in December 2012.

The Church does not expect to be recompensed for the design work undertaken for the intersection or for the independent assessment by TTPA.

The school intersection

The school intersection design has been further refined with RMS, with approval from RMS first sought in April 2018.

Several design modifications and detailed analysis and traffic modelling incorporating traffic projections out to 2036 have since been undertaken at the request of the RMS, with the last of the required information provided to RMS on 28th June 2019. The Church still, however, awaits RMS's approval of its preferred design.

The separate SSD Approval for the Wahroonga Adventist School (SSD 5535) was modified in January 2019 in anticipation of finalised designs for this intersection being confirmed. The modification requires that the signalised intersection is operational within 12 months of an Occupation Certificate being issued for Stage 3 or prior to the issue of an Occupation Certificate for Stage 6 (being the senior school component of the project), whichever occurs sooner.

The delay in the RMS approval of the intersection works raises concern that it may not be possible to complete these works by the time specified in the recent SSD 5535 modification.

Accordingly, an alternate approach is suggested in this modification request that applies to the overall Estate development. Should the Department agree to the suggested approach a subsequent (or concurrent) further modification of the SSD 5535 approval will be sought.

Updated Details of Requested Modification

This application seeks to simultaneously modify both the Major Project Concept Approval MP 07_0166 for the Wahroonga Estate (via the proposed Mod 6) and the Major Project Approval MP 10_0070 issued for Staged Alterations and Additions to Sydney Adventist Hospital (via the proposed Mod 7). Details of the requested modifications are outlined below.

Mod 6 to Major Project Concept Approval MP 07_0166:

Mod 6 seeks to modify Condition B7 which presently states:

“B7 Agency road requirements

- 1) *A binding Deed of Agreement is to be entered into between the Proponent and the RMS prior to issue of the first Occupation Certificate for future staged expansion and refurbishment of the Clinical Services Building on the site. The Deed is to:*
 - a) *detail the road upgrade works to be undertaken by the Proponent, including:*
 - I. *reconstruction of (including upgrading of the existing traffic signals to) the intersection of The Comenarra Parkway and Fox Valley Road;*
 - II. *intersection improvements where Fox Valley Road intersects with site accesses;*
 - III. *widening The Comenarra Parkway to provide two traffic lanes in each direction between Fox Valley Road and Browns Road;*
 - IV. *widening Fox Valley Road between The Comenarra Parkway and the northern boundary of the site to accommodate two travel lanes in each direction. In*

addition, two southbound travel lanes must be provided along Fox Valley Road from the Pacific Highway to the site.

- V. a monetary contribution or 'works in kind' (WIK) equivalent towards the estimated total cost of upgrading the Pacific Highway and Fox Valley Road intersection, comprising the equivalent of:
1. 25 % of the estimated total cost of traffic signal/civil upgrade works and land acquisition costs associated with the upgrade of the Pacific Highway and Fox Valley Road intersection; and
 2. 100% of the estimated total cost of upgrading of The Comenarra Parkway and Kissing Point Rd intersection, being the following works:
 - a. a left turn slip lane (min 50m storage) for the movement turning into Kissing Point Road (north)
 - b. two eastbound through lanes;
 - c. one right turn lane (min 50m storage) for the movement turning into Kissing Point Road (south); and
 - d. a single westbound through lane.
- b) outline the arrangements for the Proponent and RMS to negotiate the scope, value and timing of any WIK towards the estimated total cost of upgrading the Pacific Highway and Fox Valley Road intersection referred to above; and
- c) outline the extent of road upgrade works to be undertaken by the Proponent, including lane configuration, timing of works and estimated costs.”

Condition B7 of the Concept Approval requires the proponent to enter into an overarching 'Deed of Agreement' with the RMS for all road upgrade works and also details the works to be addressed in the Deed. As noted, the RMS has advised that it is not prepared to enter into an overarching Deed of Agreement for works on roads, some of which do not fall under its control.

An alternate delivery mechanism is therefore required, such as entering into specific Works Authorisation Deeds (or similar) with RMS and/or Council for each intersection.

The Deed was to detail the road upgrade works to be undertaken by the proponent and include a monetary contribution or WIK equivalent to 25% of the estimated total cost of upgrading the Pacific Highway and Fox Valley Road intersection and also 100% of the estimated total cost of upgrading The Comenarra Parkway and Kissing Point Road intersection.

A monetary contribution of \$309,833 was agreed with the RMS for upgrading the Pacific Highway and Fox Valley Road intersection, and \$670,000 for The Comenarra Parkway and Kissing Point Road intersection. Both amounts are subject to indexation from the base date (1 July 2012) consistent with the Bureau of Transport and Communications Economics Road Construction and Maintenance Price Index.

This updated Mod 6 application suggests the following wording for Condition B7:

B7 Agency road requirements

- 1) The Proponent is to undertake detailed road upgrade works and make payment of specified monetary contributions prior to the issue of Occupation Certificates for the nominated staged development of the site or as otherwise specified below:
 - a) the road upgrade works to be undertaken by the Proponent, include:
 - I. Upgrade to the Main Hospital Entry intersection - prior to Occupation Certificate for Stage 1A Hospital;
 - II. Upgrade of the intersection of The Comenarra Parkway and Fox Valley Road - to be completed by mid-2020;
 - III. New signalised intersection between Fox Valley Road and the Wahroonga School - to physically commence within 12 months of the Occupation Certificate for Stage 3 and prior to Occupation Certificate for Stage 6 (senior school) of SSD 5535;
 - IV. Two southbound travel lanes along Fox Valley Road from the Pacific Highway to the development site, including reconstruction (or upgrade to a signalised intersection) of the existing roundabouts at the Fox Valley Road/Ada Avenue intersection and the Fox Valley Road/Lucinda Avenue intersection - prior to Occupation Certificate for the Shannon Building (Stage 3 of MP 10_0070 issued for Staged Alterations and Additions to Sydney Adventist Hospital);
 - V. Widening The Comenarra Parkway to provide two traffic lanes in each direction between Fox Valley Road and Browns Road - prior to Occupation Certificate for the SAN Residential Project (DA 0453/12);
 - b) the monetary contributions to be provided by the Proponent include:
 - I. A monetary contribution to RMS towards the upgrading the Pacific Highway and Fox Valley Road intersection, comprising an amount of \$309,833 (subject to indexation from the base date 1 July 2012 consistent with the Bureau of Transport and Communications Economics Road Construction and Maintenance Price Index); and
 - II. A monetary contribution to RMS in the amount of \$670,000 (subject to indexation from the base date 1 July 2012 consistent with the Bureau of Transport and Communications Economics Road Construction and Maintenance Price Index) toward the upgrade of the Pacific Highway and Fox Valley Road intersection in lieu of upgrading The Comenarra Parkway and Kissing Point Road intersection.

The monetary contributions are to be paid to the RMS by 31 August 2019.

The above modification is proposed in conjunction with the following proposed amendment of the major project hospital approval in order that both approvals accord and are in sync with each other.

Mod 7 to Major Project Approval MP 10_0070:

Mod 7 seeks to delete Condition E1 which presently states:

“E1 Transport and Access

Prior to issue of Occupation Certificate, road upgrade works relative to the stages of the hospital development as outlined in the Accessibility of Transport, Traffic and Parking Implications, prepared Transport and Traffic Planning Associates and dated July 2010 shall be undertaken.

These works include:

Stage 1

(a) Initial upgrade at The Comenarra Parkway/Fox Valley Road intersection.

(b) Install ‘No Parking’ along Fox Valley Road in accordance with the requirements of the Kuring-gai Traffic Committee and Council.

Stage 2

(a) Upgrade the hospital access intersection with an additional egress lane (LT ‘slip lane’).

Stage 3

(a) Ultimate upgrade at The Comenarra Parkway/Fox Valley Road Intersection.

(b) Upgrade scheme at Pacific Highway/Fox Valley Road intersection.”

Condition E1 was based on the original cumulative traffic counts by Halcrow (now GTA) that were undertaken for the Concept Plan Application and based on a development staging plan which specifies dates and therefore the cumulative traffic effects for various stages of the estate’s redevelopment.

Due to changes in market conditions, delays in statutory approvals for various stages of the estate’s redevelopment, as well as protracted negotiations with the RMS in relation to the scope of required works and the agreed mechanism for their delivery, the development of the estate will no longer take place according to the staging plan initially relied upon by Halcrow (GTA).

Some of the works required by the major project approval have already been implemented, e.g. the main hospital entry intersection was completed to align with the occupation of Stage 1A and 2 of the hospital redevelopment.

It is appropriate that the sequencing of the remaining road upgrade works, and their related costs, is amended to reflect the actual (current) staging of development rather than being dependent on a fixed time frame for development.

It is also considered more appropriate that the road upgrades are conditioned within the overarching Concept Approval for the Wahroonga Estate so that all project approvals and development applications that fall under the Concept Approval have a single point of reference that outlines the estate-wide road works and their intended delivery.

The current request to adjust the timing and funding mechanism for the road works is not an abrogation of responsibility on the landowner's behalf to undertake or fund the necessary works. It is a response to RMS advice that it is no longer willing to enter into an overarching Deed of Agreement for the funding of subject works despite considerable expense incurred by the landowner in preparing and documenting a Deed – to the point where there had been years of negotiation and the Deed had been through several iterations and developed to an executable version.

The modification now sought is a genuine effort to coordinate construction activity so as to minimise disruption to existing site uses and the travelling public and reflects the sentiment of recent meetings between RMS, Ku-ring-gai Council, the landowner and the Department. It is logical that the roadworks are conditioned to align with development components under the overarching Concept Approval as opposed to being dependant on fixed timeframes that are no longer relevant.

Although this modification seeks to alter the sequencing of road upgrade works, the potential environmental impacts are acceptable as the proposed sequencing reflects the likely stages of development. That is, as new stages of development come 'on line', commensurate road upgrade works will also be implemented. The nominated upgrade works and their timing have been developed by both traffic consultants who have worked on the project since its inception i.e. TTPA and GTA Consultants. Their inputs reflect relevant standards and guidelines.

Conclusion

This correspondence seeks to update the Department on progress that has been made in relation to roadworks associated with the redevelopment of the Wahroonga Estate. In doing so, the correspondence also serves as an update and amendment to two separate but inter-related major project modification requests that are yet to be determined by the Department.

The modifications seek to adjust the sequencing and funding of road upgrade works associated with the Wahroonga Estate redevelopment, as specified in Major Project Approvals 07_0166 and 10_0070.

The physical configuration of the specified road upgrades is not altered by the modification requests, only the sequencing of their completion and the timing of required funding contributions. It is proposed to change the sequencing to reflect current and future staging of the estate's development and to specify a timing for required contributions toward the upgrade of the Pacific Highway and Fox Valley Road intersection.

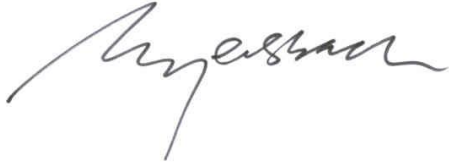
It is important to note that our client has, at great expense, attempted to progress the preparation of the overarching Deed of Agreement and delivery of the subject roadworks but, as detailed, the RMS is unwilling to enter into such a Deed.

The requested modifications present a genuine attempt to deliver the required works in a logical manner.

The request is reasonable and justifiable in traffic impact terms. A sizeable portion of the required works have already been completed or instigated. Other works are ongoing or are planned to take place in tandem with adjacent development works, thereby minimising disruptions to the travelling public.

It is hoped that the requested modifications can now be determined so that the intended works can progress as expected.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Wayne Gersbach". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

Wayne Gersbach | **Memphis Strategic**