



Wahroonga Estate Modifications to Road Upgrade Requirements

Wahroonga Estate Concept Approval Modification 6 and
Sydney Adventist Hospital Project Approval Modification 7
Section 75W Modification Assessments
(MP07_0166 MOD 6 and MP10_0070 MOD 7)

September 2023



Published by the NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Wahoonga Estate Modifications to Road Upgrade Requirements

Subtitle: Concept Approval Modification 6 and Project Approval Modification 7 Section 75W Modification Assessment (MP07_0166 MOD 6 and MP10_0070 MOD 7)

Cover image: *Intersection of Fox Valley Road and The Comenarra Parkway (Google Maps)*

© State of New South Wales through Department of Planning, Industry and Environment 2023. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (September 2023) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Glossary

Abbreviation	Definition
Council	Ku-ring-gai Council
Department	Department of Planning and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
FEAR	Future Environmental Assessment Requirement
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
RMS	Roads and Maritime Services, TfNSW
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
RTS	Response to Submissions
SEPP	State Environmental Planning Policy
SSD	State Significant Development
TfNSW	Transport for NSW

Contents

1	Introduction	1
1.1	Background	1
1.2	Approval history	2
2	Proposed modification	7
2.1	Modification to FEAR B7 of the Concept Approval	7
2.2	Modification to Condition E1 of the Project Approval	8
3	Statutory context	10
3.1	Modification of the Minister’s Approval.....	10
3.2	Approval authority	10
3.3	Relevant matters for consideration.....	10
4	Engagement	12
4.1	Department’s engagement	12
4.2	Summary of submissions	12
4.3	Key issues raised in submissions.....	12
5	Assessment	17
5.1	Implications of deletion of Deed of Agreement under Concept Approval for obligations under the Project Approval.	17
5.2	Assessment of proposed changes to each road upgrade.....	18
5.3	Other issues	26
6	Evaluation	28
7	Recommendation	29
8	Determination	30
	Appendices	31
	Appendix A – MP 07_0166 MOD 6:.....	31
	Appendix B – MP10_0070 MOD 7:.....	31
	Appendix C – MP 07_0166 MOD 6:	31
	Appendix D – MP10_0070 MOD 7:	31

1 Introduction

This report provides the Department of Planning and Environment's assessment of two requests to modify approvals relating to the redevelopment of the Wahroonga Estate in the Ku-ring-gai Local Government Area, comprising:

- the Concept Approval for the redevelopment of the Wahroonga Estate (MP 07_0166)
- the Project Approval for the redevelopment of the Sydney Adventist Hospital (MP10_0070).

The requests seek to modify requirements relating to road upgrade works associated with the development of the estate.

The applications were lodged concurrently by MacroPlan Dimasi acting on behalf of the Australasian Conference Association Limited as Corporate trustee of the Seventh-Day Adventist Church (the Proponent), pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Subsequently, it was advised that Memphis Strategic is now acting on behalf of the Proponent.

1.1 Background

The Concept Plan site is known as the Wahroonga Estate and is located on Fox Valley Road and the Comenarra Parkway, approximately 18 km north-west of the Sydney CBD. The site has an area of 62.4 ha and is located within the Ku-ring-gai and Hornsby Local Government Areas. The location of the site is shown in **Figure 1**. The Wahroonga Estate incorporates the Sydney Adventist Hospital, the Wahroonga Adventist School and residential development and is being progressively developed in accordance with the Concept Plan Approval. Under the Project Approval, Stages 1 and 2 of the Sydney Adventist Hospital development have been completed. Stage 3 works are yet to commence.

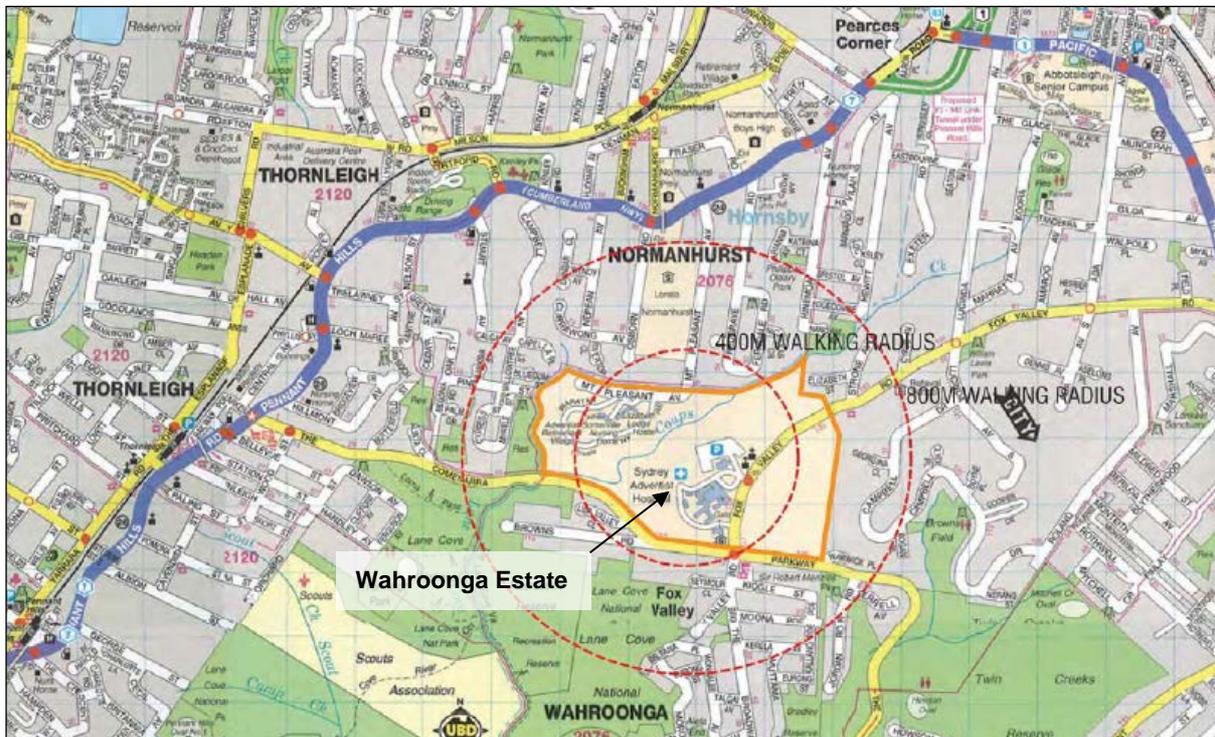


Figure 1 | Site Location

1.2 Approval history

State Significant Site Listing

On 18 December 2009, the site was listed as a State significant site within Schedule 3 of State Environmental Planning Policy (Major Development) 2005 (now contained in State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021) (Eastern Harbour City SEPP). The provisions established a number of land use zones and development standards to facilitate its proposed redevelopment. Those provisions, including building height controls have subsequently been removed from the Eastern Harbour City SEPP and incorporated into Ku-ring-gai LEP 2015.

Concept Plan

On 31 March 2010, the then Minister for Planning approved a Concept Plan for the Wahroonga Estate redevelopment (MP07_0166). The Concept Plan established five development precincts, with each containing separate land uses, restrictions on the type and maximum number of dwellings and restrictions on floor space. The Concept Plan included approval for the following key elements:

- an additional 28,000 sqm of floor space (providing a total of 94,000 sqm) for upgrade and expansion of the Sydney Adventist Hospital
- up to a total of 500 private residential dwellings across the site
- 17,000 sqm for seniors living in the Mount Pleasant Precinct
- 16,000 sqm of commercial floor space in the Fox Valley Road East and Central Hospital Precincts
- 14,500 sqm of floor space for Student Accommodation / Hostels / Group Homes / Boarding Houses in the Central Precinct
- 9,000 sqm of floor space for a K-12 school in the Central Church Precinct
- 3,500 sqm for expansion of the Faculty of Nursing in the Central Hospital Precinct
- 3,200 sqm of floor space for church uses in the Central Hospital Precinct
- 2,000 sqm of retail floor space in the Central Hospital Precinct
- the provision of 31.4 hectares of environmental conservation lands.

The application has been subject to the following modification applications:

Table 1 | Summary of Modifications to Concept Approval

Mod No.	Summary of Modifications	Approval Authority	Type	Status
MOD 1	Clarify the timing the Proponent has to obtain an approval from the Commonwealth Department of Water, Environment, Heritage and the Arts for Biodiversity Management Plan.	Department	75W	Approved on 15 May 2010
MOD 2	Amendments to Proponent details and the timing, funding and traffic infrastructure upgrade requirements.	Planning Assessment Commission	75W	Approved on 4 December 2012

MOD 3	Increase the maximum gross floor area within Precinct C: Central Hospital by 7,552 m ² .	Planning Assessment Commission	75W	Approved on 18 June 2013
MOD 4	Modification to building footprints and heights, car parking provisions, access arrangements and internal road alignment of Precinct C: Central Hospital and Precinct D: Fox Valley Road East	Planning Assessment Commission	75W	Approved on 8 April 2014
MOD 5	Modifications to the layout of building footprints, access arrangements and internal road alignment of Precinct B: Central Church and connection to a new signalised Fox Valley Road Intersection.	Planning Assessment Commission	75W	Approved on 28 July 2014
MOD 7	Modification to allow adaptive reuse of the existing Primary School building as a childcare facility within Precinct C: Central Hospital	N/A	75W	Withdrawn
MOD 8	Amendments to Precinct B, including changes to building envelopes, deletion of Building D and use of the associated land as part of the school grounds, changes to car parking rates	Independent Planning Commission	75W	Approved on 13 January 2021
MOD 9	Modifications to amend the residential building envelopes and residential car parking rates for Precinct D	Department	75W	Approved on 20 February 2023

Relevantly, MOD 2 included amendments to Future Environmental Assessment Requirement (FEAR) B7 to:

- delete a requirement for the Proponent to upgrade the Comenarra Parkway / Kissing Point Road and the Pacific Highway / Fox Valley intersections
- instead, make a monetary contribution (or works in kind) to upgrade the Pacific Highway / Fox Valley Road intersection, equivalent to 100% of the estimated cost of the Kissing Point Road upgrade +25% of the estimated cost of the Pacific Highway upgrade
- delay the timing for the required deed of agreement for the roadworks from prior to first occupation certificate on the site the prior to issue of the first occupation certificate for the staged expansion and refurbishment of the Clinical Services Building.

FEAR B7 currently requires:

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 the 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 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 referenced 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*

Project Approval

On 3 March 2011, the Planning Assessment Commission as delegate for the Minister for Planning approved a Project Application (MP10_0070) for staged alterations and additions to the Sydney Adventist Hospital, Wahroonga.

The approval consisted of:

- staged expansion and refurbishment of the Clinical Services Building (CSB);
- refurbishment of existing hospital buildings;
- construction of 3 – 4 storey Education Centre;
- demolition and construction of new Shannon Wing;
- relocation of Bethal House and Memorial Fountain to create the Merritt Kellogg Museum;
- staged construction of a multi-deck car park and new at-grade parking for 970 spaces;
- temporary carpark for 258 cars during construction;
- construction of a concourse;
- new entry to hospital;

- new perimeter road around multi-deck car park to connect to existing access road; and
- new and upgraded landscaping.

The application has been subject to the following modification applications:

Table 2 | Summary of Modifications to Project Approval

Mod No.	Summary of Modifications	Approval Authority	Type	Status
MOD 1	Increase temporary car park capacity, alterations to western at-grade carparks, amendments to multi-deck carpark, revised building entry and deletion of concourse building, revised entry to Clifford Building.	Planning Assessment Commission	75W	Approved on 23 December 2011
MOD 2	Modifications to the approved Clinical Services Building	Planning Assessment Commission	75W	Approved on 11 April 2012
MOD 3	Modifications to the Education Centre	Planning Assessment Commission	75W	Approved on 18 June 2013
MOD 4	Modifications to the Education Centre including five storey building expansion	Planning Assessment Commission	75W	Approved on 14 February 2014
MOD 5	Modifications to allow continued use of temporary car park by construction workers.	Planning Assessment Commission	75W	Approved on 9 September 2013
MOD 6	Modify condition E1 regarding timing of road upgrade works	N/A	75W	Withdrawn

Relevantly, condition E1 was modified as part of MOD 2 to change the timing of required road upgrade works to align with amended staging of the development. Condition E1 currently requires:

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 by Transport and Traffic Planning Associates, dated July 2010, as amended by MP10_0070 MOD 2, 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 Ku-ring-gai Traffic Committee and Council.*
- (c) 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.*

2 Proposed modification

The proposals, as originally lodged, sought to modify FEAR B7 of the Concept Approval (MP07_0166) and delete Condition E1 of the Project Approval (MP10_0070), which both relate to requirements for road upgrade works in the vicinity of the site.

The modification requests were subsequently amended in November 2017, July 2019, March 2020, December 2020 and May 2022. Revisions were made in response to the submissions of Council and TfNSW, and also to reflect changing conditions on the site, since the applications were initially lodged.

The proposals currently seek to modify both FEAR B7 of MP07_0166 and Condition E1 of MP10_0070 as detailed below.

2.1 Modification to FEAR B7 of the Concept Approval

The request seeks to replace FEAR B7 of Concept Approval MP07_0166 (outlined in Section 1.2) with the following requirements:

B7 Agency Road Requirements

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. Reconstruction of the intersection of The Comenarra Parkway and Fox Valley Road – to be completed by April 2021*
- ii. A) Upgrade the Main Hospital Entry Intersection – prior to Occupation for Stage 1A of the Hospital*

B) Provision of traffic signals and associated roadworks at the intersection of Fox Valley Road and the road adjacent to the school, subject to final designs to be authorised by TfNSW and Council – to be completed prior to occupation of stage 6 (Senior School) of SSD 5535 or end June 2025, whichever is the sooner.
- iii. Widening The Comenarra Parkway between Fox Valley Road and Browns Road to provide an eastbound kerbside approach of 210m to and a westbound kerbside departure of 85m from the Comenarra Parkway and Fox Valley Road intersection, together with traffic island and line-marking upgrades to the Browns Road intersection – to be completed prior to the issue of an Occupation Certificate for the Student Accommodation & Key Worker Housing project (DA 0453/12).*
- iv. widening Fox Valley Road between The Comenarra Parkway and the northern boundary of the site to accommodate two travel lanes in each direction – to be completed prior to occupation of stage 6 (Senior School) of SSD 5535 or end June 2025, whichever is the sooner..*

(b) *the monetary contributions to be provided by the proponent as a works in kind payment are to 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 end-December 2022.

Key changes sought include:

- remove the requirement for a binding Deed of Agreement to be entered into with TfNSW for roadworks / payment of contributions, and instead simply require that the referenced works / contributions be undertaken / paid, with specific staging or timeframes for requirements to be met
- replace a general requirement for 'intersection improvements where Fox Valley Road intersects with site accesses' with specific requirements for delivery to two site access intersection upgrades (at the hospital and at the school)
- reducing the required length of road widening to the Comenarra Parkway
- deleting a requirement for road widening on Fox Valley Road north of the site to Pacific Highway
- including a dollar value for the required monetary contributions in lieu of existing descriptions of how the contributions should be calculated.

The Proponent advises the main reason for the change is that TfNSW would not agree to enter into a Deed of Agreement with the Proponent as a number of the matters referred to in the FEAR do not relate to TfNSW matters, but to roadworks for which the Council is the relevant roads authority. Other modifications reflect changing requirements, site conditions, and agreements or approvals with TfNSW since the original approval.

2.2 Modification to Condition E1 of the Project Approval

The modification request initially proposed to delete Condition E1 on the basis that the works were covered by the proposed amended FEAR B7 of the Concept Approval, and as the works required by the condition have been completed and / or superseded by other events or current thinking. Following advice from the Department that a condition needs to be retained on the Project Approval which specifies the roadworks required under the approval, the modification request was amended and now seeks to replace Condition E1 of Project Approval MP10_0070 (outlined in Section 1.2) with the following requirements:

E1 Transport and Access

Prior to issue of Occupation Certificate, road upgrade works relative to the stages of the hospital development as outlined below shall be undertaken.

- (a) *Reconstruction of the intersection of The Comenarra Parkway and Fox Valley Road.*
- (b) *The provision of 'No Parking' along the hospital precinct's frontage to Fox Valley Road.*
- (c) *The reconstruction of the main hospital access intersection with Fox Valley Road to include traffic lights and an additional left turn egress lane.*
- (d) *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).*

Key changes sought include:

- removal of specified timing / staging for each requirement.
- replace a two-stage upgrade of the intersection of The Comenarra Parkway and Fox Valley Road with a single upgrade to reflect the upgrade already delivered and agreed to with TfNSW
- replace a requirement for an intersection upgrade at Pacific Highway / Fox Valley Road with a payment to TfNSW towards the cost of the intersection upgrade to reflect current agreements with TfNSW.

3 Statutory context

3.1 Modification of the Minister's Approval

The concept plan and project application were originally approved under Part 3A of the EP&A Act, which has been repealed. However, the projects satisfy the definition of a 'transitional Part 3A project' under clause 2(1) Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (STOP Regulation), which came into effect on 1 March 2018.

Under the ST&OP Regulation, the power to modify transitional Part 3A projects under section 75W of the Act, as in force immediately before its repeal on 1 October 2011 is being wound up but as the requests for these modifications were made before the 'cut-off date' of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the carrying out of the project.

The Department is satisfied the proposed changes are within the scope of section 75W of the EP&A Act, and do not constitute a new application.

3.2 Approval authority

The Minister for Planning is the approval authority for the modification requests. However, under the Minister's delegation dated 9 March 2022, the Executive Director, Key Sites and Regional Assessments, may determine the modification requests as:

- a political disclosure statement has not been received, and
- less than 50 unique submissions were received from the public objecting to the proposal, and
- Council has not made a submission by way of objection

While 105 objections from the public were received, they were all made after the original notification period and all took the form of a pro-forma letter with the majority containing substantially the same text. Therefore, in line with Departmental Policy and the definition of a 'Public submission' in Schedule 5 of the Minister's Instrument of Delegation, the submissions collectively have been counted as 29 unique submissions as outlined at **Section 4**.

3.3 Relevant matters for consideration

The following matters are relevant to the consideration of the modification request:

- relevant environmental planning instruments (EPIs)
- objects of the EP&A Act
- Environmental Planning and Assessment Regulation 2000.

Environmental Planning Instruments (EPIs)

The Department comprehensively assessed the project against the mandatory matters for consideration, including all applicable Environmental Planning Instruments (EPIs) as part of the original assessment of MP07_0166 and MP10_0070. The Department considers the modification requests do not alter its assessments of the proposals against the mandatory matters for consideration and the conclusions made as part of the original assessment.

The Department has also considered the modification requests against all relevant EPIs that currently apply to the proposals, noting there have been significant changes to applicable State Environmental Planning Policies (SEPPs) and inclusion of planning controls applicable to the site under Ku-ring-gai LEP 2015 since the original assessments were made. However, the Department is satisfied that the proposed changes to the delivery of road infrastructure upgrades result in no changes to consistency with any applicable EPIs.

Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment the objects should be considered to the extent they are relevant.

The Department has considered the objects of the EP&A Act, as they relate to the proposed modifications and is satisfied that the proposed changes to the delivery of road infrastructure upgrades would not adversely affect the achievement of any of the objects.

Environmental Planning and Assessment Regulation 2000

Since lodgement, the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) has been repealed by the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021). Under Schedule 6(3) of the 'savings, transitional and other provisions' of the EP&A Regulation 2021, the EP&A Regulation continues to apply (instead of the new EP&A Regulation 2021) to an application made but not finally determined before 1 March 2022.

Subject to any other references to compliance with the EP&A Regulation cited in this report, the relevant requirements of the EP&A Regulation, including requirements for notification and fees have been complied with.

4 Engagement

4.1 Department's engagement

The Department notified the modification requests concurrently for 19 days between 26 May and 13 June 2017. The requests were made publicly available on the Department's website. The Department also provided written notice to the Council and Transport for NSW (TfNSW).

The Response to Submissions (RTS) (November 2017), the Amended Modification Requests (July 2019) Amended Information (December 2020) and Further Amended Modification (May 2022) were also placed on the Department's website and referred to Council and TfNSW for comment.

4.2 Summary of submissions

MP07_0166 MOD 6 (Concept Plan)

During the original notification period, the Concept Plan modification received one submission in the nature of comments from Council and advice from TfNSW.

Additional comments and advice were also received from Council and TfNSW in response to the RTS and subsequent amendments to the Modification Request.

In mid 2018, 7 months after submission of the RTS and after the original notification period, a further 105 submissions were received from members of the public, all objecting to the proposal. However, the majority of the submissions took the form of a pro-forma letter and contained the same or substantially the same text. In line with Departmental Policy and the definition of a 'Public submission' in Schedule 5 of the Minister's Instrument of Delegation, the total number of submissions is therefore 29 unique submissions.

Links to the submissions are provided in **Appendix A**.

MP10_0070 MOD 7 (Project Approval)

During the original notification period, the Project Approval modification received a submission from Council and advice from TfNSW. Both comments were a response to the concurrent notification of the Concept Plan modification with neither submission making any comment in relation to the proposed modifications to the Project Application.

However, further submissions were received from Council and TfNSW in response to the RTS and subsequent amendments to the Modification Requests which addressed the proposed modifications to the Project Application.

Links to the submissions are provided in **Appendix B**.

4.3 Key issues raised in submissions

The key issues raised in the submissions are summarised in **Table 3**.

Table 3 | Summary of Issues raised in Submissions

Council	
Initial Application April 2017	<p>Concept Plan Modification</p> <ul style="list-style-type: none"> • Raised issues with the design of the intersection at Comenarra Parkway / Fox Valley Road and recommended changes to the timing for delivery of this intersection, including removal of interim upgrades. <p>Project Application Modification</p> <ul style="list-style-type: none"> • No comments made
Response to Submissions November 2017	<p>Concept Plan Modification</p> <ul style="list-style-type: none"> • Supports changes to the condition as it relates to intersection at Comenarra Parkway / Fox Valley Road, noting interim upgrades have been removed as requested • Identifies difficulties with upgrading the intersection at Comenarra Parkway / Kissing Point Road and suggests consideration be given to redirecting the funding for this intersection to the Pacific Highway / Fox Valley Road intersection upgrades. <p>Project Application Modification</p> <ul style="list-style-type: none"> • Advises Council has no objection to the proposed modification
Amended Modification Requests July 2019	<p>Concept Plan Modification</p> <ul style="list-style-type: none"> • Considers there may still be merit in upgrading the intersection at Comenarra Parkway / Kissing Point Road and suggests further consideration be given to the feasibility of this upgrade • Supports the proposed delay in the delivery of the intersection at the School entrance, given the design of the intersection is subject to ongoing unresolved discussions between Council, TfNSW and the Proponent • Requests clarification on the anticipated timing / dates for delivery each of the identified roadworks <p>Project Application Modification</p> <ul style="list-style-type: none"> • Advises Council has no objection to the proposed modification
Amended Modification Requests December 2020	<p>Concept Plan Modification</p> <ul style="list-style-type: none"> • Does not support the proposed design of the intersection at the School entrance • Generally supports the deletion of the requirement for Fox Valley Road to be upgraded to 2 lanes north of the site to Pacific Highway, except where 2 lanes are required in association with the design of the intersection at the School entrance (i.e. to Strone Avenue north of the intersection and to the hospital Entrance south of the intersection). • Acknowledges intersection upgrades at Fox Valley Road / Ada Road and Fox Valley Road / Lucinda Avenue came about largely as a result of the requirement to provide two southbound traffic lanes, no longer being pursued. However, safety issues / crash history at these intersections may justify an upgrade the intersections on safety grounds. • Does not object to deletion of the requirement to upgrade The Comenarra Parkway to 2 lanes, providing a road upgrade with a seagull intersection is provided at Browns Road. <p>Project Application Modification</p> <ul style="list-style-type: none"> • No comments made

Amended Modification Requests May 2022	<p>Concept Plan Modification</p> <ul style="list-style-type: none"> • Reiterated the comments made above • Advised that at a meeting with the Proponent in August 2022 it was agreed the Proponent would carry out further investigations to see if the Seagull intersection treatment at Brown Road could be delivered. • Advised that it considers that based on peak hour traffic volumes, warrants would be met for the signalisation of intersections on Fox Valley Road at Lucinda Avenue and Ada Avenue and that the Lucinda Avenue intersection should be prioritised due to higher crash history. <p>Project Application Modification</p> <ul style="list-style-type: none"> • No comments made
---	--

TfNSW / RMS

Initial Application April 2017	<p>Concept Plan Modification</p> <ul style="list-style-type: none"> • No supporting documents have been provided to substantiate the main reason for the modification: that is, that TfNSW not willing to enter into agreement for the works. • No supporting documents are provided to justify the proposed new trigger points for the timing of the roadworks. <p>Project Application Modification</p> <ul style="list-style-type: none"> • No comments made
---------------------------------------	---

Response to Submissions November 2017	<p>Concept Plan Modification</p> <ul style="list-style-type: none"> • No objections are raised subject to both monetary contributions being made by the end of 2017. • Both sets of contributions will be used by TfNSW to upgrade the intersection of Pacific Highway and Fox Valley Road <p>Project Application Modification</p> <ul style="list-style-type: none"> • No comments made
--	---

Amended Modification Requests July 2019	<p>Concept Plan Modification</p> <ul style="list-style-type: none"> • Agrees with changes relating to timing of main hospital entry intersection and timing of The Comenarra Parkway / Fox Valley Road intersection. • Recommends change to condition relating to timing of signalised intersection at the School entrance to ensure the intersection is delivered by June 2020. • Identifies that any upgrades to Fox Valley Road / Ada Road and Fox Valley Road / Lucinda Avenue intersections to signalised intersections must satisfy warrants and be approved by TfNSW. • Raises no objection to changes to monetary contributions to allow contributions for the intersection of Kissing Point Road / The Comenarra Parkway to be redirected to the upgrade of Fox Valley Road / Pacific Highway <p>Project Application Modification</p> <ul style="list-style-type: none"> • Does not support deletion of the condition, but suggests the condition be amended to provide an updated timeframe for delivery of the roadworks.
--	---

Amended Modification Requests December 2020	<p>Concept Plan Modification</p> <ul style="list-style-type: none"> • In relation to the design of the Comenarra Parkway and Fox Valley Road intersection, advises the design must be consistent with the requirements agreed and approved by TfNSW • Does not support the proposed design of the intersection at the School entrance. Requests additional information and modelling in relation to the intersection operation and design. Advises the proposed signalised intersection should not be delayed. • Advises it is a matter for Council to advise whether it is appropriate to delete the
--	--

requirement for two southbound travel lanes along Fox Valley Road.

- Does not support deletion of the requirement to provide two traffic lanes in each direction along the Comenarra Parkway north of the intersection with Fox Valley Road to Browns Road.
- Continues to raise no objection to changes to monetary contributions to allow redirection of contributions.

Project Application Modification

- Does not support deletion of the condition, but suggests the condition be amended to provide an updated timeframe for delivery of the roadworks.

**Amended
Modification
Requests
May 2022**

Concept Plan Modification

- Generally, does not have concerns in relation to the proposed wording for requirements, but recommends
 - the school access intersection should be designed and constructed in accordance with SSD 5535 for the school
 - the payment of monetary contributions should be linked to a specific occupation certificate

Project Application Modification

- Generally, does not have concerns in relation to the proposed wording for requirements, but recommends
 - works should be tied to specific occupation certificates
 - the requirement for monetary contributions can be removed as it is covered by FEAR B7.

Public Submissions

**Initial
Application
April 2017**

- No submissions received

**Response to
Submissions
November
2017**

Concept Plan Modification

- A new traffic study should be undertaken as the traffic situation has changed considerably since the initial approval and associated traffic studies
- Raises concerns that the traffic assessment does not address potential conflicts with pedestrians at site access and exit roads and does not address pedestrian and cycle safety
- Public transport accessibility is not identified, and notes the site is heavily dependent on cars as there is limited public transport access
- Notes that TfNSW does not agree to changes to the Deed of Agreement
- Considers the modification should be considered in conjunction with the traffic and parking impacts of MOD 8
- Concerns related to worsening traffic in the area impacting operation of the hospital and school
- Concerns not related to this modification comprising issues related to the broader development of the Concept Plan, operational issues with the Wahroonga Adventist School drop-off/pick-up, traffic concerns associated with a child care centre and specific concerns related to MOD 8.

Project Application Modification

- No submissions received

**Amended
Modification
Requests
July 2019,
December
2020, May
2022**

- No submissions received
-

5 Assessment

In assessing the merits of the proposed modification, the Department has considered:

- the Modification Reports and associated documents (**Appendix A and Appendix C**)
- the Environmental Assessment and conditions of the original approvals and previous modifications
- submissions received on the modification requests
- relevant EPIs, policies and guidelines
- the requirements of the EP&A Act.

Prior to assessing the impact of the proposed modifications on the scope of and timing for delivery of each of the key road upgrades (**Section 5.2**), the Department has considered the effect of deleting the requirement to enter into a Deed of Agreement under the Concept Approval on the obligations of the Proponent under the Project Approval (**Section 5.1**). Other issues are considered in **Section 5.3**.

5.1 Implications of deletion of Deed of Agreement under Concept Approval for obligations under the Project Approval.

MOD 6 to MP07_0166 seeks to remove FEAR B7 on the Concept Plan approval that requires future applications to ensure the proponent enters into a Deed of Agreement in conjunction with the development of the Clinical Services Building in order to resolve all outstanding road upgrade issues. Instead of a Deed of Agreement, proposed FEAR B7 seeks to specify that certain road works are to be carried out and specific payments of contributions are to be made at either particular dates, or in conjunction with development stages of other consents already issued.

The Applicant advises that the modification is sought because TfNSW would not agree to enter into a Deed of Agreement in part because a number of the matters specified in the FEAR were matters for which TfNSW was not the relevant roads authority. Both Council and TfNSW are agreeable to the concept of specifying particular works to be carried out / payments to be made in place of a Deed of Agreement which would have set out the same requirements. The Department is also supportive of this approach, as it will resolve the current impasse and enable the Proponent to resolve its outstanding road work obligations.

However, FEAR B7 of the Concept Plan is not a 'condition of a development consent' that on its own can require traffic upgrades or payment of contributions. Rather, its only function is to provide requirements that are to apply to the assessment of future development applications. It is the future applications issued under the Concept Approval, in this case the Project Approval for the Hospital (MP10_0070), that include legally enforceable conditions of consent which can require roadworks, contributions or other actions at certain stages of the development.

The obligations to take certain actions or carry out road upgrades and make contributions as envisaged by the Concept Plan are contained in the Project Approval MP10_0070, as well as other development approvals issued in accordance with the Concept Plan, such as SSD 5535, being the State Significant Development Approval for the Wahroonga Adventist School (discussed further in **Section 5.2**).

The requirements for traffic improvements under MP10_0070 apply to the development under conditions A2 and E1 of that approval. Condition E1, as set out in **Section 2**, requires specific roadworks to be carried out. However, Condition A2 also requires the development to be undertaken in accordance with plans and documents, including the Environmental Assessment Report (the 'EAR') prepared by Urbis dated August 2010. In the EAR (at pages 31 and 32), the Proponent acknowledges that as per FEAR B7, a Deed of Agreement in accordance with the requirements of the Concept Approval will need to be in place prior to the issue of the first construction certificate under MP10_0070. Therefore, the requirements of FEAR B7 of the Concept Approval, have been given effect through the EAR and Condition A2 of the Project Approval. It is noted that some amendments to the requirements of the Deed of Agreement were made through a modification to the Concept Approval (MP07_0166 Mod 2) in 2012, but the requirement to enter into the Deed still applies to the Project Approval.

As the Project Approval provides the legally enforceable conditions of consent and the requirements that must be met by the Proponent, it is important to ensure that the obligations proposed by the Proponent in FEAR B7 in lieu of the deletion of the requirement to enter into a Deed of Agreement are incorporated into the Project Approval. Otherwise, there would be no legally enforceable obligation on the Proponent to carry out the works. Therefore, although the Proponent has sought certain obligations to be imposed in FEAR B7, with very specific requirements in relation to the scope of works and the timing for requirements, the Department recommends that these obligations be specifically enumerated in the Project Approval, in lieu of the existing obligation under that approval to enter into a Deed of Agreement, unless they have already been incorporated into other development approvals under the Concept Plan. Conditions have been recommended accordingly, and as discussed in the following sections relevant to each road upgrade.

5.2 Assessment of proposed changes to each road upgrade

The impacts of the proposed modifications on the scope of or the timing for delivery for the road upgrade requirements are considered in detail below. **Figure 2** shows the location of each of the key upgrades discussed.

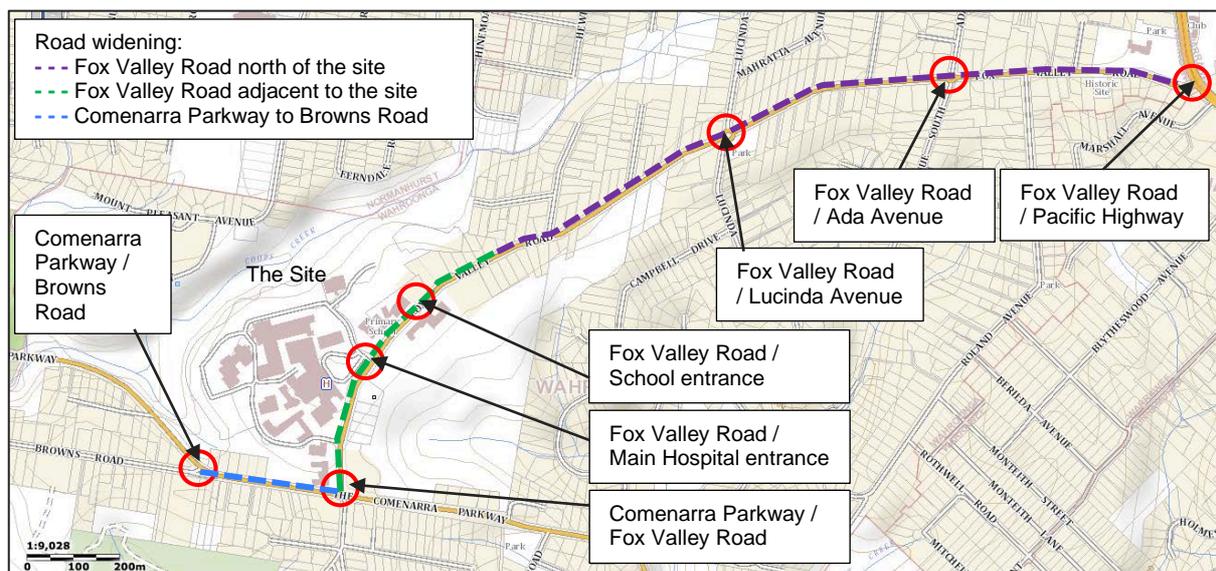


Figure 2 | Location of Road Upgrades (base image source: Six Maps)

Comenarra Parkway / Fox Valley Road Intersection

This intersection is located immediately adjacent to the Hospital Site. Concept Approval FEAR B7 requires the Proponent to enter into a deed of agreement to reconstruct this intersection, while Condition E1 of the Project Approval requires an initial upgrade of the intersection at Stage 1 of the Hospital redevelopment, and the ultimate upgrade of the intersection at Stage 3 of the Hospital redevelopment.

The request seeks to amend FEAR B7 to require that the intersection upgrade be completed by April 2021 and to amend Condition E1 of the Project Approval to just require one reconstruction of the intersection, to be completed prior to the issue of any occupation certificate.

Neither Council nor TfNSW have any concerns with the proposed amendments, noting the intersection works have already been completed in accordance with a Works Authorisation Deed and the completed works represent the 'ultimate' upgrade of the intersection.

Noting Council and TfNSW (as the relevant road authorities) advise they are satisfied with the proposed amendments and satisfied with the intersection upgrade as already completed by the Proponent, the Department has recommended that the instruments be amended to reflect the intersection upgrade that has already been carried out. Consistent with usual practice, timing for completion of the works is recommended to be specified in the Project Approval, rather than the Concept Approval FEAR.

Widening of Comenarra Parkway and treatment of intersection with Browns Road

Concept Approval FEAR B7 requires the Proponent to enter into a deed of agreement to widen the Comenarra Parkway immediately to the west as far as Browns Road (approximately 265 metres) (**Figure 2**).

The request seeks to amend FEAR B7 by deleting the requirement for a deed of agreement and requiring that the works be carried out prior to an occupation certificate for a DA that was issued by Council (DA0453/12 relating to student and key worker housing on the site). The application also seeks to amend the scope of works: instead of road widening all the way to Browns Road, the modification would limit the required widening to 210m on the northern side of the road and 85m on the southern side of the road, to reflect the existing road widening already carried out in conjunction with the construction of the intersection at the Comenarra Parkway and Fox Valley Road.

TfNSW advise it has no comments on this modification as it relates to Council roads only. It also notes that road widening associated with the construction of the intersection itself had been completed as part of the intersection upgrade.

Council advised that the change to the extent of the road widening is acceptable, however there is a need to deliver an intersection upgrade in the form of a 'seagull arrangement' at the intersection with Browns Road based on the design that was developed at the time of the Concept Approval. In response, the Proponent submitted potential intersection designs for discussion and met with Council in August 2022 to discuss the potential designs for the intersection of The Comenarra Parkway and Browns Road. An example of the type of arrangement discussed is shown in **Figure 3**. Although the current designs are compromised as they do not comply with Austroads Standards, Council advised that at the meeting it was agreed that the Proponent would carry out a detailed survey of the site and

a concept design to the relevant standards to determine whether the preferred option discussed at that meeting could be amended to meet the Austroads Standards.

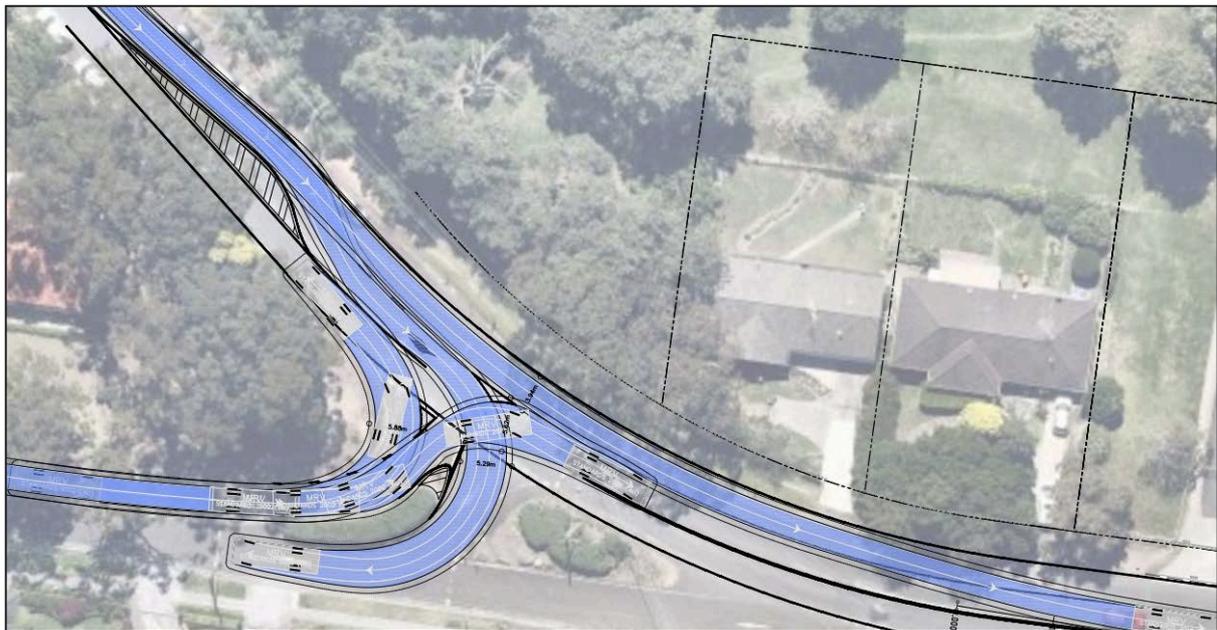


Figure 3 | Concept plan for seagull arrangement at intersection of Browns Road and The Comenarra Parkway (base image source: Amended Modification Applications, May 2022)

The Department agrees with Council that the road widening envisaged by the Deed of Agreement requirement included treatment of the intersection with Browns Road. The Department therefore recommends that in lieu of the existing requirement to enter into a deed of agreement to deliver road widening all the way to Brown Roads, a new condition be imposed to reflect the reduced extent of the road widening and to ensure the delivery of an upgraded intersection at Browns Road, where possible.

Noting that DA0453/12 issued by Council does not contain any road upgrade obligations, and the existing requirement to enter into a Deed of Agreement to resolve this issue comes from Project Approval MP10_0070, the Department considers the required road upgrades must be tied to the Project Approval, and cannot be tied to an existing, separate and unrelated approval which the Department has no involvement with. Noting the requirement to enter into a Deed of Agreement to resolve this matter is already overdue (as it was required to be entered into prior to occupation of the Clinical Services Building, which has been occupied now for a number of years), the Department recommends the delivery of the intersection be resolved as soon as possible and recommends the following timings:

- within 2 months of approval of this modification, the proponent complete a detailed survey and a concept design to the relevant standards and submit it to Council to determine whether the preferred option as discussed with Council could be delivered
- where the intersection upgrade could be achieved, within 4 months of approval of this modification, the design of the intersection upgrade is to be finalised to the satisfaction of Council
- within 18 months of approval of this modification, the intersection upgrade and road widening is to be completed by the Applicant in accordance with any requirements of Council.

A modification to FEAR B7 is also recommended to reflect the revised scope of the works required to be carried out under MP10_0070.

Site Access: Main Hospital Entry

The modification to FEAR B7 seeks to change an existing requirement to enter into a deed of agreement to deliver intersection improvements along Fox Valley Road at the site accesses and instead specify two specific intersection upgrades on Fox Valley Road, one at the main hospital entry and the other at the school.

Condition E1 of the Project Approval already requires upgrade at the main Hospital entry, and minor changes to the wording of the condition are sought.

Noting this upgrade has already been carried out, no concerns were raised by TfNSW or Council. The Department therefore recommends FEAR B7 be amended to remove the requirement for a Deed of Agreement and reflect the specific intersection upgrade as already provided. No significant changes to condition E1 are required, noting the condition has been satisfied.

Site Access: School Entry

Proposed FEAR B7 seeks to require:

“Provision of traffic signals and associated roadworks at the intersection of Fox Valley Road and the road adjacent to the school, subject to final designs to be authorised by TfNSW and Council – to be completed prior to occupation of stage 6 (Senior School) of SSD 5535 or end June 2025, whichever is the sooner”.

Council advise that it agrees with the provision of a signal-controlled intersection adjacent to the school with final designs for this work to be determined in consultation with the Proponent, TfNSW and Council. TfNSW recommended the condition should state that the proposed intersection is to be designed and constructed in accordance with Condition G11 of SSD 5535.

The Department notes that the requirement for the intersection upgrade has been assessed in detail as part of SSD 5535, being the development application for the Wahroonga Adventist School, which was issued in accordance with the Concept Approval. Condition G11 SSD 5535 requires the provision of a signalised intersection at Fox Valley Road and the new school access road. The required timing of the upgrade is also determined by that condition, being within 12 months of a Works Authorisation Deed (WAD), and noting the condition requires the execution of the WAD by 31 December 2021.

The Department considers the delivery of the intersection has been comprehensively assessed and appropriate requirements have been put in place under SSD 5535 to ensure delivery of the intersection. The Department considers any proposed changes to the timing of delivery of the intersection must be done as a modification to the SSD approval and would not be achieved by specifying alternative timing within the Concept Approval FEARS.

The Department therefore considers that the existing requirement for the Proponent to enter into a Deed of Agreement to deliver intersection improvements at the site accesses can be removed, and instead, FEAR B7 of the Concept Approval can refer to the specific site access upgrade at the school. However, there is no need for any aspect of the delivery of the intersection upgrade to be tied to the Project Approval for the Hospital, given the upgrade would be delivered as part of SSD 5535 instead.

Widening Fox Valley Road from Comenarra Parkway to northern boundary of the site

FEAR B7 states that the Proponent is to enter into a deed of agreement to widen Fox Valley Road between the Comenarra Parkway and the northern boundary of the site to accommodate two travel lanes in each direction.

Two travel lanes are currently provided from the Comenarra Parkway to just north of the main Hospital site access. Additional road widening is therefore still required from the Hospital site access, through the proposed new school intersection and to the northern boundary of the site (**Figure 2**).

The Proponent is seeking to amend the FEAR to remove the requirement for a deed of agreement, and to require the works be carried out within a specified timeframe, being “*prior to occupation of stage 6 (Senior School) of SSD 5535 or end June 2025, whichever is the sooner*”: that is, consistent with the proposed timeframe for delivery of the School intersection upgrade discussed above.

Neither Council nor TfNSW made any comments in relation to the proposed modification.

The Department considers it is appropriate that the remainder of the road widening be carried out in conjunction with the delivery of the school access intersection upgrade. However, SSD 5535 for the School does not specifically require this road widening, and although preliminary plans for the intersection upgrade under that approval include some road widening, full widening to the northern boundary of the Concept Approval site is not shown. Therefore, as the requirement for the Deed of Agreement for the road widening is attached to the Major Project Approval for the Hospital, the Department considers the requirement for the widening must remain attached to the Hospital Approval. It is therefore recommended that the Project Approval be amended to require the works be carried out by the end of June 2025 or by occupation of Stage 3, whichever is the sooner. This will enable the works to be carried out in conjunction with the new school intersection upgrade. It is recommended that FEAR B7 also be amended to reflect the need for the upgrade.

Widening of Fox Valley Road between northern boundary of the site and Pacific Highway

FEAR B7 states that the Proponent is to enter into a Deed of Agreement to widen Fox Valley Road to provide two southbound travel lanes from the Pacific Highway to the site. This is an extensive road widening, approximately 1.5 km in length, and would require the upgrade of two current roundabout intersections at Ada Avenue and Lucinda Avenue (**figure 2**), which currently operate as one-lane roundabouts.

The Proponent is seeking to delete the requirement for road widening and intersection upgrades. In November 2020 the Proponent submitted an updated traffic impact assessment, and on the basis of that assessment, the Proponent advised:

- road widening would affect many mature trees and services along the length of Fox Valley Road and there is no identified need for the road widening for any traffic mitigation purposes
- the provision of two-lane roundabouts at Lucinda and Ada Avenues would require significant property acquisitions and services relocation

- the provision of two-lane roundabouts is not justified for traffic mitigation purposes, noting that the existing roundabouts, would continue to operate at a good level of service (LOS A) during peak periods following completion of all development on the Concept Plan site.
- the provision of traffic signals at these locations would not require the same levels of property acquisition, but would result in a deterioration of the service of the intersection (to LOS B) during peak periods and is therefore also not justified.

TfNSW advised this is a matter for Council and provided no comments on this aspect of the modifications.

Council agreed that the road widening between Pacific Highway and the site is not required. However, Council advised that there may still be justification to upgrade the two intersections at Lucinda and Ada Avenues. Council acknowledged that the provision of two lane roundabouts cannot readily be achieved due to property acquisition and threatened species impacts, but upgrade to traffic signals could be achieved instead. Council advised there may be justification for the provision of traffic signals at these intersections on safety grounds, as there have been 5 crash incidents at the Lucinda Avenue intersection and 3 at the Ada Avenue intersection over a 5 year period. Council consider that based on the peak hour traffic volumes as outlined in the Proponent's updated traffic assessment, it is likely that warrants would be met for provision of traffic lights at these intersections. Council advises that priority should be given to the upgrade of the Lucinda Avenue intersection ahead of the upgrade of the Ada Avenue intersection, due to the higher crash history at that intersection.

The Proponent disagrees with Council and notes that over the past five years, traffic accidents at these intersections have been minimal with no accidents involving a right-angle collision or right hand turn at the intersections, suggesting there is no traffic safety reason to alter the current round about arrangements.

The Department has reviewed the original applications and can find no justification for general road widening on Fox Valley Road widening between the Pacific Highway and the site, other than road widening at the two intersections with Ada and Lucinda Avenues. The Department notes the provision of modified roundabouts at these locations incorporating two south-bound lanes was suggested by the Applicant as part of the suite of measures necessary to mitigate the traffic impacts of the original Concept Plan proposal. The traffic assessment, for that application, prepared in February 2009, found that following development of the entire Concept Plan site, the two intersections would both operate at a LOS F 'unsatisfactory' in the morning peak with average delays of 80 to 120 seconds unless the roundabout was modified to include two south-bound travel lanes, in which case it would operate at a LOS B 'good with acceptable delays and spare capacity' (with average delays of 20 to 28 seconds).

Subsequently, a traffic assessment prepared in July 2010 and submitted with the Project Application for the Hospital redevelopment, found that while Stages 1 and 2 of the Hospital development would not result in significant impacts to the operation of these intersections, the development of Stage 3 of the Hospital, would result in a significant deterioration of the Lucinda Road intersection (to LOS E 'at capacity', with average vehicle delays of 68 seconds during at AM peak). The assessment found no unacceptable impacts to the Ada Avenue intersection, which was assessed as likely to operate at LOS B.

The Department therefore considers the original need for the intersection upgrades arose from the identified traffic impacts of the development on intersection capacity, rather than any specific safety

concerns identified at the time of the original assessment. The Department agrees with the Proponent that the traffic accident history of the site on its own does not give rise to any specific need for the Proponent to upgrade the intersections and there is no evidence to suggest the development of the site would have a material adverse impact on traffic safety at the intersections. The Department considers that the intersections should only be required to be upgraded where the overall development would result in a material, and below satisfactory impact to the operation of the intersections.

The Department notes that the November 2020 Traffic Assessment by the Proponent found that following completion of development under the Concept Plan, the roundabouts would continue to operate at LOS A during peak periods. If this is the case, there could be no justification for the upgrade of the intersections. However, the Department considers it is not appropriate to make an assessment based solely on the 2020 Traffic Assessment noting:

- it results in very different findings from the 2009 and 2010 assessments, which predict LOS E and LOS F during the morning peak. A clear explanation for the difference in the results has not been provided.
- as indicated in the 2010 Traffic Assessment, the development of Stage 3 of the Hospital is likely to be a key traffic generator and that assessment found it to be the point at which the operation of the Lucinda Avenue intersection would fall to below satisfactory levels to LOS E. While the Proponent's 2020 Traffic Assessment appears to rely on the projected traffic movements from the 2010 Traffic Assessment, there are significant inconsistencies between the figures in each report. The 2020 report advised that in Stage 3, the worst case scenario as identified in the 2010 report, would result in 131 additional traffic movements in the am peak and 66 traffic movements in the PM peak. However, the 2010 report in fact advises that the worst case scenario for Stage 3 is an additional 315 movements in the AM peak and 210 in the PM peak. The difference in the figures has not been explained and could result in significant differences to the modelling.
- there is no known timeframe for the construction of Stage 3 of the Hospital and as such it is difficult to predict the likely traffic environment and traffic impacts of the development when it does eventually proceed.

The Department is satisfied that the intersections are currently operating well, at LOS A. However, the Department considers that further consideration should be given to the need to upgrade the intersections at the time of the development of Stage 3 of the Hospital. A Project Approval condition requiring a further detailed assessment of the operation of the Lucinda and Ada Avenue intersections at the time of commencement of construction of Stage 3 is recommended. Should that assessment find that, as predicted by the 2020 Traffic Study, the intersections would continue to operate at satisfactory levels then no further works should be required. However, if a material unsatisfactory impact to the intersections is identified, the Proponent will be required to mitigate the impacts and this may include reaching an agreement with Council for the upgrade of the intersections.

On balance, the Department considers this is a reasonable approach which removes the existing onerous and unnecessary requirement to enter into a deed of agreement for road widening along the entire length of the roadway and ensures that previous commitments to intersection upgrades are met, if they are needed to mitigate the impacts of the development.

Pacific Highway / Fox Valley Road Intersection

The second part of existing FEAR B7 requires the Deed of Agreement to include provisions for monetary contributions to TfNSW towards the upgrading of the intersection of Fox Valley Road and the Pacific Highway. The existing FEAR sets out how these contributions should be calculated and is based on a proportion of the estimated cost of very specific works to two intersections at Fox Valley Road/Pacific Highway and The Comenarra Parkway/Kissing Point Road. This is based on an earlier modification to the Concept Plan Approval (MP07_0166 MOD 2) where it was agreed that the Proponent was no longer required to upgrade these intersections and instead would make monetary contributions, equivalent to 100% of the estimated cost of the Kissing Point Road upgrade + 25% of the estimated cost of the Pacific Highway upgrade and that all the funds would be pooled and used to fund the Fox Valley Road and the Pacific Highway intersection upgrade.

Condition E1 of the Project Approval requires the upgrade scheme at Fox Valley Road/Pacific Highway intersection to be complete prior to the issue of an Occupation Certificate for Stage 3 of the Hospital Development.

The proposed modification to FEAR B7 seeks to update the requirements with a specific monetary contribution, indexed from 2012, and as agreed with TfNSW being equivalent to 100% of the Kissing Point Road upgrade and 25% of the Pacific Highway upgrade, and to impose a timeframe for payment of the contributions – being by the end of December 2022. The proposed modification to Condition E1 seeks to replace a requirement for completion of the upgrade works with a requirement for payment of a specific dollar figure, consistent with the proposed figure in FEAR B7 that equates to 25% of the estimated cost of the Pacific Highway upgrade.

TfNSW advise it has no concerns with the proposed amendments, but notes the amendment to Condition E1 only references one of the two monetary amounts that are required to be paid that will fund the intersection upgrade. TfNSW also recommend that timing for the payments be linked to a specific occupation certificate, rather than a date proposed the FEAR or the very general requirement for any occupation certificate in the proposed condition.

Council raised no concerns but noted the property acquisition associated with the Kissing Point Road upgrade was not included in the original calculations and is therefore unfunded, and therefore the intersection upgrade would likely have a long term timeframe.

The Department considers the scope of what was included in the Kissing Point Road intersection funding upgrade was resolved as part of earlier applications and is not within the scope of assessment of this application.

The Department supports the modification to specific (indexed) dollar figures, noting that these have been agreed to by TfNSW. The Department also considers that all figures referenced in FEAR B7 should be reflected in the requirements of the Project Approval and has recommended conditions accordingly. The Department considers payment of the contribution within 6 months of the date of Modification 7 to the Project Approval is appropriate, as works to the intersection are currently being carried out by TfNSW and therefore should be funded by the Proponent without delay. As requested by TfNSW, the condition also references a specific occupation certificate as discussed in Section 5.3.

5.3 Other issues

The Department's consideration of other issues is provided at **Table 4**.

Table 4 | Other Issues

Issue	Findings	Recommendation
Timing / trigger for road upgrades	<ul style="list-style-type: none"> TfNSW recommend the timing / trigger for road upgrades and payments of contributions be linked to occupation certificates. The Proponent has included specific timings for road upgrades within FEAR B7, however, in some cases they are proposed to be linked to occupation of developments that do not form part of the current modification requests and therefore there would be no mechanism to enforce the proposed timings. The Department considers that FEAR B7 does not need to specify timing for the specific road upgrades in terms of occupation of development, and that such timing / triggers are a matter for the development approvals issued under the Concept Approval. The Department therefore recommends timings / triggers for the required roadworks / contributions instead be included in the Project Approval for the Hospital. For consistency with the existing condition E1 which relates roadworks to occupation, and in line with TfNSW advice, the roadworks have been linked to occupation certificates under that approval – being either Stage 1 of Stage 3 as the two traffic generating stages. However, alternative dates are also recommended as part of the condition to ensure delivery of some roadworks is not delayed for an unknown period of time, noting the timing for delivery of Stage 3 is not yet known, and to ensure the condition does not result in non-compliances, noting some roadworks linked to Stage 1 were in fact delivered after occupation of the Stage. 	<ul style="list-style-type: none"> It is recommended that FEAR B7 does not specify timing for the specific road works instead the Project Approval include the timing / triggers for the road upgrades relative to occupation certificates issued under that approval, or alternative timings as appropriate.
Adequacy of traffic studies	<ul style="list-style-type: none"> Public submissions raised concerns that the traffic situation has changed considerably since the initial approvals and therefore the existing 10 year old studies should not be relied on for consideration of traffic movements or pedestrian volume. The Proponent subsequently undertook updated traffic modelling in 2020 which demonstrated that there has not been a significant change in traffic movements since the original traffic studies were carried out. 	<ul style="list-style-type: none"> The Department has recommended conditions to require updated traffic studies at Stage 3 of the Hospital redevelopment to assess traffic impacts at two intersections as discussed in Section 5.2. Otherwise, the Department is satisfied the information presented with the

		modification requests is adequate to make an assessment of the proposed changes.
Safety at site access	<ul style="list-style-type: none"> Public submissions raised concerns that the traffic assessment does not address potential conflicts with pedestrians at site access and exit roads and does not address pedestrian and cycle safety The Department notes that while earlier versions of this modification and modifications to the SSD Approval for the school sought to enable changes that would affect safety at the intersection adjacent to the school, the current modification requests do nothing to affect pedestrian and cycle safety compared to the existing approvals. 	<ul style="list-style-type: none"> No additional conditions are required as no additional safety concerns arise from the proposed modifications
Public transport	<ul style="list-style-type: none"> Public submissions raised concerns that transport accessibility is not identified, and notes the site is heavily dependent on cars as there is limited public transport access. 	<ul style="list-style-type: none"> The Department is satisfied the proposed modifications would not have any material impacts on public transport demand or access.
Deletion of Deed of Agreement	<ul style="list-style-type: none"> Public submissions note that TfNSW did not initially agree to removal of the Deed of Agreement The Department notes that further submissions from TfNSW make it clear that it supports deletion of the requirement to enter into Deed of Agreement 	<ul style="list-style-type: none"> The Department recommends the requirement for a Deed of Agreement be deleted in line with TfNSW advice
MP 07_0166 MOD 8	<ul style="list-style-type: none"> Public submissions request the modifications be considered in conjunction with the traffic and parking impacts of MOD 8. The Department notes MOD 8, which sought amendments to car parking rates and building envelopes for residential development adjacent to the school, was approved in January 2021. The traffic impacts associated with MOD 8 were comprehensively assessed as part of the assessment of that application and were found to be minor, with no material impacts for the operation the local road network, including adjacent intersections. 	<ul style="list-style-type: none"> The Department is satisfied the traffic and parking impacts of MOD 8 have been adequately considered in the past and do not affect the traffic outcomes for the modifications under assessment.
Other matters	<ul style="list-style-type: none"> Public submissions raised about the appropriateness of development associated with the Concept Plan, design concerns associated with MOD 8, operational matters associated drop-off/pick-up at Wahroonga Adventist School and traffic concerns with a childcare centre. The Department notes that this modification request deals with an alternative pathway for delivery of traffic upgrades only and does not seek to make any changes to other aspects of the Concept Plan or operation of the Wahroonga Adventist School. 	<ul style="list-style-type: none"> The Department is satisfied that no further changes are required.

6 Evaluation

The Department has assessed the proposed modifications in accordance with the relevant requirements of the EP&A Act. The Department considers the proposals to be acceptable, subject to the recommended conditions, as:

- the proposals would resolve the current issue of not being able to enter into a Deed of Agreement, and would provide a clear pathway to enable the Proponent to resolve its outstanding road work and contributions obligations
- modifications to the scope of the roadwork obligations are generally demonstrated to be appropriate in terms of traffic impacts and supported by Council and TfNSW, with the exception of three intersections (at Browns Road, Lucinda Avenue and Ada Avenue), and conditions have been recommended to ensure upgrades are delivered at these intersections where appropriate
- the modifications will otherwise not result in any significant environmental impacts or outcomes compared to the Concept Plan and Project Application for the Hospital, as approved.

The Department is satisfied that the modifications can be approved, subject to the recommended conditions (**Appendix C and Appendix D**).

7 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the modification requests MP 07_0166 MOD 6 and MP10_0070 MOD 7 fall within the scope of former section 75W of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modifications
- **modifies** the concept approval MP07_0166
- **modifies** the project approval MP10_0070
- **signs** the attached Modifications of Approval (**Appendix C** and **Appendix D**).

Recommended by:



Michelle Niles
Senior Case Manager
Major Projects Case Management

Recommended by:



Keiran Thomas
Director
Regional Assessments

8 Determination

The recommendation is **Adopted** by:

A handwritten signature in blue ink that reads "Sargeant". The signature is written in a cursive style with a large initial 'S'.

Anthea Sargeant

Executive Director

Key Sites and Regional Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – MP 07_0166 MOD 6:

- Modification Report and Associated Documents, Response to Submissions, amended Modifications and additional information
- Submissions

<https://www.planningportal.nsw.gov.au/daex/mod-wahroonga-ca-mp-070166-mod-6-deed-agreement-rms>

Appendix B – MP10_0070 MOD 7:

- Modification Report and Associated Documents, Response to Submissions, amended Modifications and additional information
- Submissions

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-7-timing-roadworks>

Appendix C – MP 07_0166 MOD 6:

Instrument of Modification

<https://www.planningportal.nsw.gov.au/daex/mod-wahroonga-ca-mp-070166-mod-6-deed-agreement-rms>

Appendix D – MP10_0070 MOD 7:

Instrument of Modification

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-7-timing-roadworks>