

26 April 2017

Secretary
NSW Department Planning and Environment
GPO Box 39
Sydney NSW 2001

Attention: Peter McManus and David Gibson

Dear Peter,

**Re: SECTION 75W MODIFICATION REQUESTS
MP 07_0166 (CONCEPT PLAN) MODIFICATION 6 &
MP 10_070 (PROJECT APPROVAL) MODIFICATION 7
SAN HOSPITAL, WAHROONGA - ROAD WORKS**

This correspondence seeks to modify Major Project Approval 07_0166 issued for the Wahroonga Estate 31 March 2010 and Major Project Approval MP 10_0070 for Staged alterations and additions to Sydney Adventist Hospital Wahroonga issued on 3 March 2011.

The modification requests outlined in this submission are sought pursuant to Section 75W of the Environmental Planning and Assessment Act 1979 (EP&A Act). This submission is also accompanied by a Traffic Assessment prepared by GTA consultants dated 11 October 2016.

1.0 Details of Modification Sought

MP 07_0166 (Concept Plan) - Modification 6

This application seeks to modify Condition B7 which 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.*
 - e. *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*
 - f. *outline the extent of road upgrade works to be undertaken by the Proponent, including lane configuration, timing of works and estimated costs.*

Justification for Modification to Condition B7

Condition B7 of the Concept Approval requires the proponent to enter into a 'Deed of Agreement' with the RMS for road upgrade works and also details the works to be addressed in the Deed.

The RMS has subsequently advised that it is not prepared to enter into a Deed of Agreement for works on roads that do not fall under its control and that an alternate delivery mechanism or condition is required. As such Condition B7 is invalid and an alternative approach to secure the subject road upgrades is required.

Consistency with Concept Approval

Condition B7 of the Concept Approval requires that a binding Deed of Agreement be entered into by the proponent and the RMS. This condition was imposed on the basis of RMS advice at the time.

This Deed was to detail the road upgrade works to be undertaken by the proponent and include a monetary contribution or WIK equivalent of 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. It is confirmed that the Church will provide monetary contributions rather than WIK, which is reflected in the proposed modified condition below.

The requested modification requires the proponent to provide a monetary contribution to the RMS of 25% of the estimated total cost of upgrading the Pacific Highway and Fox Valley Road intersection, and

\$670,000, being 100% of the cost of also upgrading the Comenarra Parkway and Kissing Point Road intersection.

The required roadworks and monetary contributions are consistent with those of the current B7 Condition, only the requirement to enter into a Deed of Agreement has been removed.

Suggested Modified Condition

In light of RMS revised position, we propose that Condition B7 of the Concept Approval be modified to read as follows:

B7 Agency road requirements

- (1) As part of future development applications, the Proponent is to undertake detailed road upgrade works or monetary contributions prior to issue of Occupation Certificates for the staged development of the site as outlined 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 (note: works already completed);
 - ii. Interim upgrade of the intersection of The Comenarra Parkway and Fox Valley Road, prior to the Occupation Certificate of the Commercial building (DA 0053/13);
 - iii. New signalised intersection between Fox Valley Road and the Wairoonga School prior to the Occupation Certificate for the Wairoonga School – Stage 3 (Junior School) DA SSD 5535 ;
 - iv. Ultimate upgrade of (including upgrading of the existing traffic signals to) the intersection of The Comenarra Parkway and Fox Valley Road, prior to the Occupation Certificate of the Hospital - Shannon Building (Stage 3);
 - v. 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 the Occupation Certificate of the Hospital - Shannon Building (Stage 3);
 - vi. Widening The Comenarra Parkway to provide two traffic lanes in each direction between Fox Valley Road and Browns Road, prior to the Occupation Certificate of Residential – Comenarra (DA 0453/12);
 - b. the monetary contributions to be provided by the Proponent include:
 - i. A monetary contribution to RMS towards the estimated total cost of upgrading the Pacific Highway and Fox Valley Road intersection, comprising the equivalent of 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 based on Detailed Design Cost as determined by a Quantity Surveyor, where:

Detailed Design Cost means the estimated total costs of construction, design, environmental assessment, completion and handover of the Pacific Highway/Fox Valley Road intersection based on:

 - (A) the Detailed Design Documents;
 - (B) the reasonable costs incurred by the RMS in preparing the Detailed Design Documents;
 - (C) reasonable project management costs for co-ordinating activities associated with the Pacific Highway/Fox Valley Road intersection;
 - (D) the Costs associated with all Land Acquisitions to be undertaken by RMS to affect the Pacific Highway/Fox Valley Road intersection, including the compensation payable to the dispossessed land owners and all other

Costs incurred in connection with the Land Acquisition process, as determined by RMS;

- (E) reasonable consultant, contractor and subcontractor Costs to construct the Pacific Highway/Fox Valley Road intersection;*
- (F) all Costs reasonably incurred by RMS in association with the Pacific Highway/Fox Valley Road intersection, an estimate of which will be provided by RMS in accordance with any relevant Road Works WAD(s), including but not limited to:*
 - RMS' costs (internal and external) in reviewing any Detailed Design Documents and providing approvals and any other consents, conditions or directions in respect of the Pacific Highway/Fox Valley Road intersection;*
 - RMS' project management costs for co-ordinating activities associated with the Pacific Highway/Fox Valley Road intersection;*
 - the cost of surveillance and associated administration of surveillance of the Pacific Highway/Fox Valley Road intersection;*
 - costs associated with any review of the likely environmental impact of the Pacific Highway/Fox Valley Road intersection; and*
 - costs of emergency or special traffic control measures required by RMS as a result of the carrying out of the Pacific Highway/Fox Valley Road intersection.*

Detailed Design Document includes:

- (A) a drawing, specification, construction document, design calculation, software, sample, model, pattern and the like created for the construction of the Pacific Highway/Fox Valley Road Intersection Upgrade;*
- (B) a schedule setting out particulars of all notices, tests, hold points and materials as required by the individual sections of the Pacific Highway/Fox Valley Road Intersection Upgrade and the requirements of RMS, identifying all notification periods;*
- (C) any geotechnical investigation relating to the Pacific Highway/Fox Valley Road Intersection Upgrade; and*
- (D) details of all Land Acquisitions and utility adjustments required to undertake the Pacific Highway/Fox Valley Road Intersection Upgrade.*

Land Acquisition means the acquisition of any interest in land which RMS undertakes in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 in order to affect the Road Works including the process of negotiation with any land owner, the engagement of consultants and legal representatives, RMS' internal decision making processes, consultation with other Authorities, the preparation of reports, the carrying out of land surveys, the preparation and registration with Land and Property Information of plans of acquisition and any court appeal process.

Road Works WAD(s) means a works authorisation deed in respect of all or any part of the Road Works as reasonably required by the RMS, in the form generally set out in Annexure C, subject to such amendments as may be considered reasonably appropriate by RMS having regard to the nature of the Road Works.

Quantity Surveyor means an independent quantity surveyor and member of the Australian Institute of Quantity Surveyors.

The monetary contribution is to be made when RMS has finalised design, acquired land and is ready to commence work.

- ii. A monetary contribution to RMS in the amount of \$670,000 (subject to indexation from the base date 1 July 2012 in line with the percentage increase, if any, in the Bureau of Transport and Communications Economics Road Construction and Maintenance Price Index), being 100% of the estimated total cost of upgrading the Comenarra Parkway and Kissing Point Road intersection, being the following works:
 - a. a left turn slip lane (with min 50m storage) for the movement of traffic turning into Kissing Point Road (north);
 - b. two eastbound through lanes;
 - c. one right turn lane (min 50m storage) for the movement of traffic turning into Kissing Point Road (south); and
 - d. a single westbound through lane.

The monetary contribution is to be made at the same time as the monetary contribution at item b. i. above and attributed to the Pacific Highway and Fox Valley Road intersection works.

MP 10_070 Project Approval – Modification 7

This application also seeks to delete condition E1 of Major Project Approval 10_0070 which states:

“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 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.”*

Justification to modify Condition E1 of the Project Approval

Condition E1 of the Project Approval establishes a timeline for the delivery of certain roadworks in association with specific elements of the hospitals redevelopment. Modification is justified for the following reasons:

- 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).
- The upgrade of the Main Hospital Entry intersection was completed in line with the occupation of the Stage 1A and 2 hospital development.

- It is appropriate that the sequencing of the road upgrade works, and their related costs, be 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 Wahrenonga 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 landowners behalf to undertake or fund the necessary works. It is a response to RMS advice that it is no longer willing to enter into a 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 execution version. The modification now sought is a genuine effort to coordinate construction activity so as to minimise disruption to existing site uses and travelling public. It is logical that the roadworks are conditioned with development components under the overarching Concept Approval as opposed to being dependant on fixed timeframes.

Consistency with Project Approval

Condition E1 of the Project Approval requires the delivery of several roadworks in association with specific staged elements of the hospitals redevelopment.

The requested modification to Condition B7 of the Concept Plan requires detailed road upgrade works to be undertaken prior to issue of Occupation Certificates for the staged development of the site coinciding with completion of development on the site. The subject roadworks are consistent with those intended in the references to stages of the proposal.

2.0 Environmental Impacts

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. Those 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.

Appendix A is a recent report undertaken by GTA consultants which seeks to align the required road works to the sequencing of development that has occurred on the site to date and the staging of development that is expected to occur hereon.

3.0 Conclusion

This correspondence seeks to modify the sequencing and funding mechanism for the road upgrade works associated with the Wahrenonga Estate redevelopment, as specified in Major Project Approvals 10_0070 and 07_0166.

The physical configuration and contributions towards funding of the upgrades will not change, only their sequencing and associated funding mechanism. It is proposed to change the sequencing to reflect

current and future staging of the estate development and alter the funding mechanism in response to current RMS advice that has rendered the current B7 Condition invalid.

It is important to note that our client has, at great expense, attempted to progress the preparation of the Deed of Agreement and delivery of the subject roadworks, as detailed the RMS is now unwilling to enter into such a Deed and they have been unable to move forward with these works. The requested modifications are a reasonable means and genuine attempt to deliver the required works in a logical manner.

We believe the request to be reasonable and justifiable in traffic impact terms. We note that a portion of the required works have already been completed or instigated. Other intersection improvements are planned to take place in tandem with adjacent development works. Thereby minimising disruptions to the travelling public.

We would be pleased to discuss the recommended approach with the Department including any specifics relating to the suggested modifications. We can also make available our traffic consultants should you have any questions regarding the assessments that have been undertaken. Should you require any future clarification of this matter, please contact Carmel O'Connor on 9221 5211.

Yours sincerely,



Wayne Gersbach
General Manager – NSW

