

# JOINT REGIONAL PLANNING PANEL (Sydney West Region)

<b>JRPP No</b>	<b>2013SYW034</b>
<b>DA Number</b>	<b>DA0053/13</b>
<b>Local Government Area</b>	<b>Ku-ring-gai Council</b>
<b>Proposed Development</b>	<b>Sydney Adventist Hospital - Demolish existing structures and construct 1 x 3 storey building and 2 x 4 storey buildings containing offices, central atrium, café and basement parking, landscaping and stormwater works and subdivision - DA0053/13 lodged pursuant to the Minister of Planning Major Project Approval No.07_0166 MOD 4, Concept Plan for Wahroonga Estate (Precinct D: Fox Valley Road East)</b>
<b>Street Address</b>	<b>172 Fox Valley Road, WAHROONGA</b>
<b>Applicant</b>	<b>Seventh-Day Adventist Church (Spd) Limited</b>
<b>Owner</b>	<b>Australasian Conference Association Limited</b>
<b>Number of Submissions</b>	<b>Fifteen for original plans; two for amended plans</b>
<b>Recommendation</b>	<b>Refusal</b>
<b>Report by</b>	<b>Joshua Daniel, Executive Assessment Officer</b>

## **EXECUTIVE SUMMARY**

<b>Primary Property</b>	172 Fox Valley Road, WAHROONGA NSW 2076
<b>Lot &amp; DP</b>	Part Lot 621 DP 1128314
<b>Additional Property(/ies)</b>	N/A
<b>Lot(s) &amp; DP (s)</b>	No related land
<b>Proposal</b>	Sydney Adventist Hospital - Demolish existing structures and construct 1 x 3 storey building and 2 x 4 storey buildings containing offices, central atrium, café and basement parking, landscaping and stormwater works and subdivision - DA0053/13 lodged pursuant to the Minister of Planning Major Project Approval No.07_0166 MOD 4, Concept Plan for Wahroonga Estate (Precinct D: Fox Valley Road East)
<b>Development application no.</b>	DA0053/13
<b>Ward</b>	COMENARRA
<b>Applicant</b>	Seventh-Day Adventist Church (Spd) Limited
<b>Owner</b>	Australasian Conference Association Limited
<b>Date lodged</b>	26/2/2013
<b>Issues</b>	Loss of trees, ecological impacts, ground floor street activation, public entry design, insufficient information
<b>Submissions</b>	Yes – 15 for original plans; 2 for amended plans
<b>Land &amp; Environment Court Recommendation</b>	N/A
<b>Assessment Officer</b>	Refusal Joshua Daniel

### **LEGISLATIVE REQUIREMENTS:**

<b>Zoning</b>	SP1 – Special Activities
<b>Permissible under Relevant legislation</b>	SEPP (Major Development) 2005 Wahroonga Estate Concept Plan – Major Project No. 07_0166 SREP (Sydney Harbour Catchment) 2005 SEPP (Infrastructure) 2007 SEPP 55
<b>Integrated development</b>	Yes (Rural Fires Act 1997)

## PURPOSE FOR REPORT

To determine Development Application No. 0053/13 which seeks consent to demolish existing structures and construct 1 x 3 storey building and 2 x 4 storey buildings containing offices, central atrium, café and basement parking, landscaping and stormwater works and subdivision - pursuant to the Minister of Planning Major Project Approval No.07\_0166 MOD 4, Concept Plan for Wahroonga Estate (Precinct D: Fox Valley Road East).

The application is required to be reported to the Joint Regional Planning Panel as the stated Capital Investment Value (CIV) of the works of \$22 million exceeds \$5 million and the proposal is for private infrastructure.

## HISTORY

### Site history:

The site has historically been used for the purposes of the Mission Hostel building, which forms part of the wider 'Wahroonga Estate' site, incorporating the Sydney Adventist Hospital.

### Background:

The site is the subject of Project Approval No. 07\_0166, Concept Plan for Wahroonga Estate. The Concept Approval was granted by the Minister for Planning under Part 3A of the *Environmental Planning and Assessment Act* on 31 March 2010 for the layout of land uses, maximum number of dwellings, gross floor area and building height controls, conceptual road design and traffic management works, landscaping and public domain treatments.

The development approved under the Concept Plan involved the following main elements:

- upgrade and expansion of the existing hospital to create a total floor area of 94,000m<sup>2</sup>;
- 500 new low, medium and high density private residential dwellings;
- 538 other accommodation types including seniors living and student accommodation;
- educational facilities including a school and faculty of nursing;
- commercial/retail floor space; and
- 31.4 hectares of environmental conservation lands.

The Concept Plan is arranged into five precincts (Precinct A, B, C, D & E) with details of existing and proposed development permitted in each precinct as specified by gross floor area and maximum number of dwellings for a range of land uses.

The subject site is located within 'Precinct D: Fox Valley Road East' for which Conditions A3 and A4 the Concept Approval specify the following parameters:

Precinct	Maximum Gross Floor Area (excluding dwellings)	Maximum Gross Floor Area by land uses	Maximum Dwellings
Precinct D: Fox Valley Road East	15,000m <sup>2</sup>	<ul style="list-style-type: none"> <li>15,000m<sup>2</sup> Commercial</li> </ul>	<ul style="list-style-type: none"> <li>8 Dwelling Houses</li> <li>88 Residential Flat Building Dwellings</li> </ul>

As specified by Condition A2 of the Concept Approval, future development subject to Part 4 of the Act is to be generally consistent with the terms of the approval of the Concept Plan, under section 75P(2)(a) of the Act.

The Concept Approval has been subject to several previously approved Modification applications as summarised below:

Date of Approval	Application Ref.	Proposal
14/05/2010	MP07_0166 MOD 1	Deletion of Condition B4(1) and replacement with a new condition requiring a Biodiversity Management Plan
04/12/2012	MP07_0166 MOD 2	Deletion of Condition B7 and replacement with a new condition requiring a Deed of Agreement with the RMS for road upgrade works to be undertaken by the Proponent
18/06/2013	MP07_0166 MOD 3	Deletion of Conditions A1, A2 & A3 and replacement with new conditions involving: <ul style="list-style-type: none"> <li>Confirmation that the maximum GFA of Precinct C: Central Hospital is 115,000m<sup>2</sup>; and</li> <li>Modification to maximum GFA of the Hospital land use to 90,450m<sup>2</sup>; and</li> <li>Modification to the maximum GFA of the Faculty of Nursing land use to 7,050m<sup>2</sup></li> </ul>
08/04/2014	MP07_0166 MOD 4	Deletion and replacement/modification of conditions involving: <ul style="list-style-type: none"> <li>modifications to the layout of building footprints and maximum building height of the proposed residential and mixed use development in Precinct C: Central Hospital;</li> <li>provision for direct service vehicle access to Precinct C: Central Hospital via The Comenarra Parkway;</li> <li>modifications to the alignment of the internal hospital road in Precinct C: Central Hospital, retaining the existing constructed alignment;</li> <li>modifications to the layout of building footprints and maximum building height of the proposed commercial development in Precinct D: Fox Valley</li> </ul>

		Road East; and <ul style="list-style-type: none"> <li>• modifications to the car-parking provisions and access arrangements of the proposed commercial development in Precinct D: Fox Valley Road East</li> </ul>
28/07/2014	MP07_0166 MOD 5	Deletion and replacement of conditions involving modifications to the Precinct B: Central Church development.

The subject application seeks consent for works within 'Precinct D: Fox Valley Road East' as modified by MP07\_0166 MOD 4 referenced above.

### **Development Application history:**

26 February 2013	Development Application was lodged.
08 March 2013	<p>A letter was sent to the applicant advising that the proposal has been reviewed by Council's Development Review Unit and allocated to an assessment officer.</p> <p>The application was notified/advertised for 30 days.</p>
28 June 2013	A preliminary assessment letter was sent to the applicant advising that the proposed scheme is incompatible with the Concept Approval issued by The Minister for Planning. Issues relating to urban design, landscaping, engineering, ecology, NSW Rural Fire Service, Environmental Health and neighbour objections were also communicated to the applicant.
16 July 2013	A letter from the applicant was received advising of their intention to submit an application to modify the Concept Approval and requesting Council to put the DA on hold until the modification application is determined.
15 August 2013	A JRPP briefing meeting was held regarding the status of the application.
21 August 2013	The Rural Fire Service formally close their file due to the requested information not being submitted by the applicant.
05 September 2013	A further JRPP briefing meeting is held regarding the status of the application.

13 September 2013	Council advised the applicant to withdraw their DA and to resolve matters relating to inconsistency with the Concept Approval prior to re-visiting the current proposal.
19 September 2013	The applicant advised Council that a Modification application has been submitted to the Department of Planning & Infrastructure.
20 September 2013	The JRPP was notified of the application status.
8 April 2014	Modification application (MP07_0166 MOD 4) was approved by Minister for Planning to resolve inconsistencies between the DA and the Concept Approval identified by Council.
21 May 2014	Council requests the applicant to provide a timeframe as to when the amended proposal will be lodged.
16 June 2014	The applicant lodged amended plans and documentation to ensure the DA was consistent with the Concept Approval as now modified.
27 June 2014	The amended proposal was notified/advertised for 30 days.
5 August 2014	An application status update and comments were provided to applicant.
14 August 2014	A further application status update and comments were provided to applicant.
5 September 2014	Council's comments are sent to applicant advising of issues to be addressed, including urban design, landscaping and ecology.
10 September 2014	Council proposed a meeting with the applicant to discuss outstanding issues.
26 September 2014	The applicant was provided with an update on additional information.
21 October 2014	The applicant lodged a response to the issues raised by Council.
16 December 2014	Council's comments were sent to the applicant advising of issues to be addressed including urban design, landscaping and ecology.

17 December 2014	A meeting was held with the applicant to discuss outstanding issues.
7 January 2015	Meeting notes regarding the outstanding issues were provided to the applicant.
9 February 2015	Additional information was received from the applicant in response to the outstanding issues.
10 March 2015	Council comments were sent to the applicant including specialist referral comments and summarising outstanding issues requiring response, including road widening status, engineering, urban design and landscaping.
18 March 2015	The applicant provided a final response to the outstanding issues identified by Council.

## **THE SITE AND SURROUNDING AREA**

### **The site:**

Heritage Item:	No
Heritage conservation area:	No
In the vicinity of a heritage item:	No
Bush fire prone land:	Yes
Endangered species:	Yes
Urban bushland:	No
Contaminated land:	No

The site is located at 172 Fox Valley Road, Wahroonga, it comprises part of the site known as 'Wahroonga Estate', incorporates the Sydney Adventist Hospital and has an overall area of 62.4ha.

The site subject to the development (Precinct D: Fox Valley Road East) has an approximate area of 2,564m<sup>2</sup> and comprises Part Lot 621 DP 1128314. The site is located on the corner of Fox Valley Road and The Comenarra Parkway and falls approximately 5 metres from Fox Valley Road to the eastern boundary where it adjoins the Environmental Conservation Zone (E2). The site currently consists of a two storey residential building. The adjoining property to the north is zoned Low Density Residential (R2).

### **Surrounding development:**

The site is bounded by:

- existing residential dwellings to the north
- the Central Hospital Precinct, including proposed student accommodation, key worker housing and the education centre to the west

- The Comenarra Parkway to the south
- bushland to the east

The area surrounding the Wahroonga Estate site is generally characterised by low density residential development, including the properties on the opposite side of The Comenarra Parkway.

## **THE PROPOSAL (AS AMENDED)**

The subject works are pursuant to Concept Approval No. 07\_0166 MOD 4, Concept Plan for Wahroonga Estate within Precinct D: Fox Valley Road East.

The amended proposal involves the demolition of the existing structures and construction of 1 x 3 storey building and 2 x 4 storey buildings containing offices, central atrium, café and basement parking, landscaping and stormwater works and subdivision.

The proposed four storey buildings (Buildings 2 & 3) will address the Fox Valley Road and The Comenarra Parkway intersection and the proposed three storey building (Building 1) is located to the rear (north-west) of the site looking out onto the native bushland.

The application also involves the removal of existing trees within the proposed building footprints and the subdivision of the site from the Wahroonga Estate.

## **COMMUNITY CONSULTATION**

Owners of surrounding properties were given notice of the original proposal. In response, submissions were received from the following:

### **Notification of original proposal - 8 March 2013**

1. Mrs D Zandstra	6 Kallang Parade, Wahroonga
2. Mr R D & Mrs G L Hinchcliffe	9 Seymour Close, Wahroonga
3. Doctor C Nelson	3/176 Fox Valley Road, Wahroonga
4. Dr I T De Mellow	19 Jordan Road, Wahroonga
5. Mr I & Mrs J L Soros	194 The Comenarra Parkway, Wahroonga
6. Mr S Procter	3 Lisa Valley Close, Wahroonga
7. Ms M R Leishman	114 Browns Road, Wahroonga
8. Mr D O'Kelly	17 Yanilla Avenue, Wahroonga
9. Ms S Harrison	PO Box 668, Parramatta
10. Ms D Harvey	PO Box 569, Turramurra
11. Mr M J & Mrs S Wilson	3 Yanilla Avenue, Wahroonga
12. Mr C White	21 Jordan Road, Wahroonga
13. Mr M Harvey	PO Box 569, Turramurra
14. Mr M Sharpin	PO Box 5280, South Turramurra
15. Mr P Rogers	(Address not provided)

The submissions raised the following issues:



### ***Overall height, bulk, scale***

The proposed development as amended satisfies the applicable building height and gross floor area provisions and is generally of a scale envisaged by the Concept Approval as modified. Notwithstanding, the proposed development is not supported in relation to urban design aspects of building form.

### ***Traffic, access, parking***

The proposal has been assessed by Council's Development Engineer and Strategic Transport Engineer having regard to issues of traffic, access and parking. In response, it is concluded that insufficient information has been provided to enable proper assessment of the proposal in relation to aspects of parking (car and bicycle), bicycle path planning, footpath provision and vehicle access.

### ***Impact to the streetscape***

The proposed development fails to adequately activate the ground level to both The Comenarra Parkway and Fox Valley Road street frontages and does not adequately respond to the intersection's location being a gateway to the precinct, resulting in an unsatisfactory streetscape outcome having regard to the requirements of the Concept Approval as modified.

### ***Inadequate setbacks to buildings***

The proposed building setbacks as amended are considered acceptable having regard to the Concept Approval as modified. However, the proposed development fails to satisfactorily address the streetscape.

### ***Development out of character***

The proposal as amended is consistent with the character of development envisaged for the site by the Concept Approval as modified.

### ***Adverse visual impacts***

The proposal as amended is consistent with the character of development envisaged for the site by the Concept Approval as modified. Notwithstanding, the proposal would result in an unsatisfactory streetscape outcome having regard to the requirements of the Concept Approval as modified.

### ***Poor architectural design (external stairway)***

Design aspects of stairways to the site frontage are not supported. The following issues are identified in the reasons for refusal of the application:

- i. The front stairs should be aligned in the direction of travel, with the above modification made, which can achieve a better northern landscape area,

- less excavation for the proposed fire stair structure and increase the amount and integration of landscape.
- ii. The extensive ramping and stairs to the lower ground café and entry does not constitute street activation, further there is a safety issue with stairs leading directly off the footpath, and a ramp cutting adjacent to the footpath especially as fencing to the footpath to make this safe will further detract from integrating the ground floor of the building with the public domain.

### ***Loss of amenity, noise impacts***

Neighbouring amenity, including noise impacts, attributable to the proposed development would be consistent with those envisaged by the Concept Approval as modified and are acceptable.

### ***Loss of playground space for school children***

The Concept Approval permits commercial development in the location of the site previously used for the purposes of the Mission Hostel.

### ***Bushfire risk***

A bush fire safety authority has been issued by the Commissioner of the NSW Rural Fire Service as required under the provisions of s.100B of the *Rural Fires Act 1997*, subject to conditions. Accordingly, the development is not likely to result in any significant bushfire risk.

### ***Ecological impacts***

The proposed development is not supported for reasons including adverse ecological impacts and insufficient information in this regard as discussed below by Council's Ecological Assessment Officer.

### ***Construction noise and amenity impacts***

Noise and amenity impacts associated with construction of the proposed development would be consistent with those envisaged by the Concept Approval as modified and are acceptable.

### ***Impacts to the Environmental E2 zone***

The proposed development is not supported for reasons including ecological impacts upon E2 lands which are inconsistent with the Concept Approval.

### **Notification of amended proposal - 27 June 2014**

Owners of surrounding properties were given notice of the amended plans. In response, submissions from the following were received:

1. Mr M Sharpin
2. Mr C White

PO Box 5280, South Turramurra  
21 Jordan Rd, Wahroonga

The submissions raised the following issues:

***Footpath along The Comenarra Parkway too narrow***

The proposal as amended is not supported for reasons including the insufficient width (1.5 metres) provided for the footpath along the site frontages, including The Comenarra Parkway. Council's Strategic Transport Engineer has indicated that, given the expected high pedestrian demand and requirement for the provision of bicycles, the footpath at the frontage of the site should be 2.5 metres wide, which would satisfactorily accommodate both pedestrians and cyclists.

***Traffic impacts and safety***

The proposal as amended has been assessed by Council's Development Engineer and Strategic Transport Engineer having regard to issues relating to traffic. In response, it is concluded that insufficient information has been provided to enable proper assessment of the proposal in relation to aspects of parking (car and bicycle), bicycle path planning, footpath provision and vehicle access.

***Scale and bulk***

The proposal as amended satisfies the applicable gross floor area provisions and is generally of a scale envisaged by the Concept Approval as modified. Notwithstanding, the proposed development is not supported in relation to urban design aspects of building form.

**INTERNAL REFERRALS**

**Engineering**

Council's Development Engineer commented on the amended proposal as follows:

*"The gross floor area (GFA) is given in the Statement of Environmental Effects as 6 575 square metres.*

*Subdivision has been included in the proposed development. This will add Lot 800 DP752031 and Lot 8 DP834966 to the site. Subdivision must be included on the description of the development, so that Sydney Water can issue a Section 73 Certificate.*

*Further information is required as listed below:*

***Water management***

*The Civil Design Report is the same as the original report. Only the date and one of the signatories have been changed. The plans are also substantially unchanged.*

*The Insites Subdivision Plan shows the future boundary of the site (also the boundary between the B1 and the E2 zoned lands), as well as a proposed easement, presumably to cover the stormwater pipe and dispersal trench*

*Council's Ecologist and Landscape Officer have both requested that the design be amended to protect trees and so that stormwater works are not located within the E2 zone. This will be difficult if not impossible, given that the boundary is practically adjacent to the basement, driveway and detention tank. However, it is up to the applicant to resolve this.*

*The Flora and Fauna Assessment references the Hyder Master Plan (Not the TTW plans as incorrectly stated in previous report), stating that the measures recommended will assist in prevention of excess water reaching the STIF and limit weed dispersal. The TTW report and plans do not show all of these measures, especially the rain gardens and ponds for treatment of nutrients.*

*Of the matters previously raised, the re-use of retained roof water for toilet flushing and irrigation (required under the Hyder Master Plan) could be conditioned. The water balance model could be submitted to the Principal Certifying Authority with the Construction Certificate design.*

*Nutrient removal, as required under the Hyder Master Plan, should be included on the DA plans, supported by a MUSIC model. This should be done now while the plans are being amended to address the ecological concerns. The Flora and Fauna Assessment should be amended to refer to the TTW design.*

### **Parking and traffic**

*A total of 248 parking spaces are identified on the architectural plans, with 9 accessible spaces. This is only slightly less than the 263 spaces which would be required if the whole development were assessed as a medical centre (1 space per 25 square metres GFA). The proposed parking provision is acceptable.*

*Vehicular access from both The Comenarra Parkway and Fox Valley Road is proposed. Roads and Maritime Services has not raised any objection to this.*

*The basement carpark layout appears to comply with AS2890.1:2004 Off street car parking and is satisfactory.*

*With regard to traffic generation and the surrounding road network, these matters have been considered in the Concept Approval, and measures to improve traffic conditions in the area as a result of the overall development at the SAN have been included in that approval.*

*No Work Place Travel Plan and Transport Access Guide has been included. However, since the number of parking spaces has been increased, Development Engineers do not raise this as an issue.*

### **Waste management**

*The size of the bin room has been increased which is satisfactory.*

*The traffic report contains turning paths for a 9.4 metres waste collection vehicle. Council's vehicle is 11 metres long. The boom gates are shown in a different location to the architectural plans. It is considered that the 11 metres truck will be able to manoeuvre along the driveway if required (private waste collection may be preferred, as it is understood that the SAN has its own contractor). There are no headroom constraints, as the driveway is unroofed.*

***The following information is required:***

- Water quality measures to achieve the targets identified in the Hyder Master Plan and the Flora and Fauna Assessment are to be shown on the water management plans. A MUSIC model is to be provided to confirm that the pollution reduction targets will be achieved.*
- The Flora and Fauna Assessment should be amended to refer to the TTW design”.*

**Planning comment**

The Subdivision Plan indicates the future boundary of the site (also the boundary between the B1 and the E2 zoned lands), as well as a proposed easement, to address the design and location of the proposed stormwater pipe and dispersal trench.

Council's Ecologist and Landscape Officer have both requested that the design be amended to protect trees, minimise adverse ecological impacts and so that stormwater works are not located within the E2 zone.

Whilst there are some amendments to the proposal that could be conditioned, these issues are fundamental aspects of the proposal that have not been resolved (Reasons 1, 2 and 6).

**Strategic Traffic and Transport**

Council's Strategic Transport Engineer commented on the amended proposal as follows:

*“With reference to the Commercial project (DA0053/13), Council's submission and the response by MacroPlan Dimasi, dated 21 October 2014 (and associated plans/documentation attached), the following comments are made:*

***Car parking***

- Council's previous submission raised issues in relation to the allocation of practitioner/patient parking, which would affect the allocation of the number of long term and short term parking spaces. This does not appear to have been clarified;*
- While the quantity of accessible parking spaces has improved, the location of the accessible parking spaces along the western edge of the 3 basement levels (which are not conveniently located close to the lifts) has not been clarified or addressed;*

- *The dedicated external loading dock has been noted on the plans.*

#### **Vehicle access**

- *Civil Plan C02 shows medians across the access points to restrict movements to left in/left out, with confirmation to be given on an alternative “kerb blister” configuration (which is assumed to be separate entry/exit crossings with a triangular median to direct traffic left in and left out). A median in the Fox Valley Road carriageway is preferred, as it forms a physical barrier, while the kerb blister configuration could be prone to non-compliance. However, this may require some additional localised widening of the Fox Valley Road to accommodate the median.*

#### **Bicycle parking and support facilities**

- *The response by MacroPlan Dimasi notes that bicycle parking and support facilities are documented and Plan DA-06 shows male/female & accessible facilities, and Plan DA-07 shows a staff change room. These have been noted in the respective plans.*
- *However, here is still no consideration for the provision for casual bicycle parking on the ground floor level.*

#### **Bike plan/bike routes/footpath on frontages of site**

- *Given the expected high pedestrian demand and requirement for the provision of bicycles, the footpath at the frontage of the site should be constructed to be 2.5m wide, which would satisfactorily accommodate both pedestrians and cyclists.”*

#### **Planning comment**

Whilst there are some amendments to the proposal that could be conditioned, a number of abovementioned issues are considered to result in poor amenity outcomes that have not adequately been resolved and the proposal is not supported in these respects (Reasons 4 and 6).

#### **Landscaping**

Council's Landscape and Tree Assessment Officer commented on the amended proposal as follows:

##### ***“Tree impacts***

*To maintain biodiversity and existing landscape character as well as express the ‘aspirations of the development within the environmental setting’, the significant trees within the site are to be retained where possible (p93, Section 9.3, Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital Final Preferred Project Report and Concept Plan (WER/SA Concept Plan, dated January 2010). The protection of existing trees is consistent with the ESD principles incorporated in the Concept Approval.*

An amended arborist report, prepared by Tree IQ, dated 20/10/14, has been submitted. The tree numbers refer to this report. The removal of four trees located within the nature strip and site frontage to The Comenarra Parkway (Trees 29-32) has been approved by Council as part of the road widening of The Comenarra Parkway/Fox Valley Road intersection, prior to this application as a condition of the Concept Approval. Further arborist comment on Trees 63, 65 and 66 has been provided by Tree IQ dated 21/01/15.

#### **Trees to be removed**

*Tree 28/ Jacaranda mimosifolia (Jacaranda)* This tree is located north of the existing building. To be removed for the proposed building. The tree is of moderate landscape significance and there is no objection to its removal.

*Tree 48/ Prunus sp. (Prunus)* This small tree is located at the base of a steep fill batter, directly east of the existing residence and within the adjoining zone. The tree is of low landscape significance and there is no objection to its removal.

*Tree 49/ Pittosporum undulatum (Sweet Pittosporum)* This small tree is located on a steep fill batter, directly east of the existing residence and within the adjoining E2 zone. The tree is of high landscape significance as it is representative of the Sydney Turpentine Ironbark Forest community. The tree is to be removed for the driveway.

*Tree 50/ Syncarpia glomulifera (Turpentine)* This tree is located at the base of a steep fill batter, directly east of the existing residence and within the adjoining E2 zone. The tree is of high landscape significance as it is representative of the Sydney Turpentine Ironbark Forest community. The tree is to be removed for the driveway.

*Tree 66/ Eucalyptus pilularis (Blackbutt)* This mature 22 metres high tree is located on the eastern boundary, within the adjoining zone. The tree is of high landscape significance as it is representative of the Sydney Turpentine Ironbark Forest community. The tree is visually prominent and of high landscape significance and should be retained. The tree is located within the E2 land which has been protected for its high conservation value. The tree is proposed basement will result in a major encroachment within the tree protection zone of this tree.

*Tree 74/ Melia azedarach 'Australasica' (White Cedar)* This tree is located at the base of a steep fill batter, directly east of the existing residence and within the adjoining zone. The tree is of low landscape significance and there is no objection to its removal.

#### **Trees to be retained**

*Tree 63/ Syncarpia glomulifera (Turpentine)* This tree is located on the eastern boundary, within the adjoining E2 zone. The tree is of high landscape significance as it is representative of the Sydney Turpentine Ironbark Forest community. The tree is approximately 3.5m from the proposed basement ramp. The construction encroachment within the tree protection zone is calculated as 19%. This percentage has been calculated without any engineering plans. There will be likely over-excavation for the rainwater tank and GPT, as they will not be able to be constructed with the anchored shotcrete method. This would be likely to encroach within the structural root zone of the tree (2.7m) The recommendation to thrust bore pipes outside of

*the anchored shotcrete method has not been detailed to demonstrate the receiving pit locations and pipe depths would not result in further impacts to the tree.*

*Tree 65/ Syncarpia glomulifera (Turpentine) This tree is located on the eastern boundary, within the adjoining E2 zone. The tree is of high landscape significance as it is representative of the Sydney Turpentine Ironbark Forest community. The tree is approximately 3.5m from the proposed driveway. The proposed construction encroachment within the tree protection zone is calculated as 17%. The recommendation to thrust bore pipes outside of the anchored shotcrete method has not been detailed to demonstrate the receiving pit locations and pipe depths would not result in further impacts to the tree.*

*The justification for the removal of Tree 66 is that 'the retention of approximately 90% of the trees with a Retention Value of Priority for Retention as part of a development is a good tree management outcome'. This statement is incorrect as it includes trees that are located within the E2 land and within adjoining properties that should be preserved as part of the development as they are outside the site. The actual proposal retains one tree, or approximately 5% of the trees located within the subject site with a Retention Value of Priority of Retention (Tree 40). This is not considered a good tree management outcome.*

*The Macro Dimasi submission (16/03/15) incorrectly identifies only one tree (Tree 66) as being removed within the E2 conservation zone. The proposal will remove three (3) locally occurring trees assessed as Priority for Retention (Trees 50 and 66) and Consider for Retention (Trees 49); and adversely impacts two locally occurring trees assessed as Priority for Retention (Trees 63 and 65). The construction impacts to Trees 63 and 65 are considered excessive and as conceded by the arborist would adversely impact the long term viability of these trees (Tree IQ response letter, 21/01/15).*

**Urban Design - building and road layout (B1 Part B Concept Approval)**

*The concept plan approval was subject to plans as described in the document titled Wairoonga Estate Redevelopment Incorporating Sydney Adventist Hospital Final Preferred Project Report and Concept Plan dated January 2010. The concept approval states that,*

*'Future development applications are to be generally consistent with the following elements which are indicative in the approved Concept Plan:*

*The concept approval incorporated a built form that was 'sensitively designed to reflect the constraints of the site' with envelopes that are 'well setback from the front and rear boundaries'(p92, WER/SA Concept Plan dated January 2010).*

**(a) Building Footprints**

*The proposal is consistent with the modified building footprint approved under the Concept Plan.*

**Assessment:**



*The proposed buildings leave a significant vacant area at the northern end of the site while protruding into the steepest part of the site adjacent to the E2 zone.*

**(b) Asset protection zone widths**

*All asset protection zones are to be located outside of the conservation land as shown on the Concept Plan. A 10m asset protection zone/defendable space has been provided as per the Concept Approval and is to be maintained as an Inner Protection Area as defined by Appendix 5 of Planning for Bushfire Protection.*

**Assessment:**

*To enable assessment of proposed bushfire protection measures, further information is required relating to the bushfire certification.*

**(c) Internal road location**

*The proposal includes an internal road between Fox Valley Road and The Comenarra Parkway directly adjacent to the conservation area. The driveway is approximately 3.5 metres above existing ground levels at the north eastern corner of the development.*

**(d) Detention basin location**

*The proposal has provided water sensitive urban design features such as rain-water re-use tanks and dispersion trenches. The tank is above ground approximately 2 metres at the eastern end.*

**Assessment:**

*To reduce the impact on the adjoining bushland it is preferred that the detention tank have greater setback from the site boundary and is located entirely within the basement/driveway.*

**Landscape design**

*Buildings with frontage to Fox Valley Road must have an active street frontage and provide a setback of at least 10m from the street boundaries ((4)B1 Part B Concept Approval).*

**Assessment:**

*The proposed buildings provide a setback of 10m from the street boundary.*

***Landscape - neighbourhood centre (p57, Section 8.7 WER/SA Concept Plan dated January 2010)***

*Landscape and public realm is to have an emphasis on high legibility and circulation. Bold and simple use of hard and soft landscape elements to be combined to provide a clear hierarchy of movement for pedestrian and vehicle access. Street tree planting will create shaded areas in front of shops and cafes whilst carefully selected hard landscape materials and street furniture will create a robust but attractive environment (p57, Section 8.7 WER/SA Concept Plan, dated January 2010).*

*This important pedestrian link to the south is clearly shown on the Pedestrian/Cycle Movement Plan (Figure 80, WER/SA Concept Plan, dated January 2010).*

**Assessment:**

*The public realm has an approximate 1.8 metres wide path along the front of Building 2. To increase legibility, casual surveillance and circulation this should be widened to 3 metres of 'paved pedestrian area', comparative to similar urban commercial pedestrian footpath widths and shown as 4 metre width in Section 13 to The Comenarra frontage (p57, Section 8.7 WER/SA Concept Plan, dated January 2010). The statement in the Macro Dimasi submission (16/03/15) that the wider paving will be inconsistent with the 'desired landscape setting' is not supported. The proposal is only required to provide an urban design response of street tree planting in front of the shops with 'hard landscape materials and street furniture' to be used to create a 'robust but attractive environment' (p57, Section 8.7 WER/SA Concept Plan, dated January 2010).*

*There is a conflict between the principal stepped access and the vehicle entry/exit to Fox Valley Road. Greater physical separation would improve legibility and safety of both pedestrian and vehicular movement.*

***Landscape transition between commercial to residential areas along Fox Valley Road East Precinct D (p65, Section 8.7 WER/SA Concept Plan dated January 2010)***

*New development within this precinct will focus on maintaining a transition from individual dwellings to the north through residential apartments to commercial buildings (p65, Section 8.7 WER/SA Concept Plan, dated January 2010).*

*To provide a transition to the northern landscape area (Fox Valley Road), the landscape treatment within the street frontage to the north of the site, should incorporate formally landscaped frontages including hedges and street tree planting (Figure 71, Section 8, WER/SA Concept Plan, dated January 2010).*

**Assessment:**

*The proposal provides a generous landscaped setback to Fox Valley Road. The level of detail provided of the proposed landscape treatment within the Fox Valley frontage is insufficient to enable assessment.*

***Surface and basement parking (Figure 79, WER/SA Concept Plan dated January 2010)***

*The concept plan proposed that within the Fox Valley Road East Precinct D, 'direct vehicle access to Fox Valley has been limited with parking to the rear of buildings or within covered undercroft garages' (p65, WER/SA Concept Plan dated January 2010).*

**Assessment:**

*The proposed basement parking is consistent with the concept approval. The proximity of the basement and associated entry road ramps to the E2 zone, is likely to result in excessive soil disturbance in the vicinity of existing trees located in the E2 zone.*

**Cut and Fill (B1(2) Part B Concept Approval)**

*To preserve the natural landscape, the proposed development should minimise earthworks, reflect the existing topography and excessive cut and fill should be avoided. Detail of all proposed cut and fill is to be provided through sections through the site.*

**Assessment:**

*The Excavation Plan indicates excavation across the majority of the site with little to no buffer provided to the adjacent E2 lands. To preserve the health and condition of existing bushland, a landscape buffer should be provided between the proposed cut and fill.*

**Stormwater plan**

*To limit erosion and scour within the bushland downstream, the stormwater discharge from the OSD tanks is proposed to be released through a 6 metres length dispersion trench. To preserve the E2 vegetation, the proposed stormwater design including gross pollutant tank and dispersion trench should be located entirely within the B2 zone land.*

**Bushfire Prone Land (section 9.8 WER/SA Concept Plan, dated January 2010)**

*The site is identified as being bushfire prone land in the Bushfire Report prepared by Australian Bushfire Protection Planners (ABPP). A 10m bushfire setback zone has been provided. The asset protection zone is to be wholly outside the E2 Environmental Conservation zoned land. All asset protection zones and other bushfire protection measures are to comply with ABPP's Bushfire Protection Assessment (November 2008) and Planning for Bushfire Protection 2006. Any landscape works associated with the application will require certification as part of the Bushfire Consultant's Report.*

**Other issues and comments**

*Drawing inconsistencies and inaccuracies*

- *Section A is incorrect as it omits the detention tanks. An additional section should be provided at the eastern end of the detention tank where there will be the greatest change in level between the driveway and the existing ground levels.*

**Conclusion**

*The proposal is not supported in the current form".*

**Planning comment**

The above mentioned concerns are fundamental aspects of the proposal that have not been resolved and the application is not supported in these respects (refer to below Reasons for Refusal 1, 3, 4 and 5).

**Urban Design**

Council's Urban Design consultant commented on the amended proposal as follows:

**1 “South-Western Corner Address – The PAC’s final Modification Instruction**  
(08.04.2014) Section B1 Urban Design requires the following:

(3) *Development sited at the intersection of The Comenarra Parkway and Fox Valley Road is to provide activation at ground level to both street frontages, and is to address both street frontages and the intersection, and respond to the intersection’s location forming a gateway to the precinct.*

(4) *Buildings with frontage to Fox Valley Road must have an active street frontage and provide a setback of at least 10 metres from the street front boundary.*

*The proposed design is to provide a public entry at the corner of Fox Valley Road and The Comenarra Parkway that establishes a clear directional and visual link to the internal lobby atrium. The current application proposes a single entry doorway into a private tenancy.*

*This corner is visually prominent, links to the existing neighbourhood centre to the south, will be the location of a signalised pedestrian crossing from the south and from the future Mixed Use Centre to the west. Therefore, this building entry – albeit a secondary entry – should visually and functionally activate this prominent corner. There is no way to control the type or operations of future tenancies to ensure any functional linkage between the corner and the central atrium can be achieved as proposed.*

*This is in further context of the building design that proposes solid walls addressing the corner (which is consistent with the overall architectural expression but does not achieve the required activation).*

**2 Northern Entry – MP07\_0166 MOD4 DGEAR states:**

*[open space and public domain] may be improved through a minor amendment to the proposed vehicle access point from Fox Valley Road, where relocating it further north directly opposite the secondary SAH vehicle entrance would provide a vacant area that could be suitably landscaped and provided for passive open space adjacent to the envisaged entrance of the commercial building.*

*The front stairs should be aligned in the direction of travel with the above modification made that can achieve a better northern landscape area, less excavation for the proposed fire stair structure and increase the amount and integration of landscape”.*

**Planning comment**

*The amended design fails to adequately activate the ground level to both street frontages, and fails to adequately respond to the intersection’s location being a gateway to the precinct. The siting and design of the main pedestrian entry also results in poor amenity outcome that has not been adequately addressed (Reason 4).*

These are fundamental aspects of the proposal that have not been resolved.

## Ecology

Council's Ecological Assessment Officer commented on the amended proposal as follows:

*"This ecological review of the subject property was based upon the results of a desktop assessment, review of reports/plans and a site inspection by John Whyte, Ecological Assessment Officer of Ku-ring-gai council in March 2013.*

*During the site inspection the native vegetation identified adjacent to the site was assessed and determined to be part of Sydney Turpentine Ironbark Forest an endangered ecological community (EEC) listed under Threatened Species Conservation Act 1995. The identification and present of the endangered STIF was also confirmed by the consulting ecological firm "Cumberland Ecology".*

*The proposal development would result in the direct removal of three STIF trees these being: Tree 49-Pittosporum undulatum (Sweet Pittosporum), Tree 50- Syncarpia glomulifera (Turpentine) & Tree 66-Eucalyptus pilularis (Blackbutt).*

**Note:** *Trees 49, 50 & 66 are located with the E2 Conservation lands and, as such, should be retained and protected. The removal of these trees is not supported for the construction of the driveway access and basement.*

### **Ecological impacts upon trees proposed for retention**

*T63 & 65-Turpentine will be affected by the proposed driveway.*

*The above impacts will result in a major encroachment within the tree protection zone (TPZ) of aforementioned trees which is contrary to the acceptable encroachment in accordance with AS 4970-2009 Protection of trees on development sites. Trees 63, 65 & T66 fall within the E2 Conservation Lands. The proposed impacts are unacceptable; a re-design is required to ensure that these trees are not detrimentally affected by the proposed works.*

### **Amended information/assessment**

#### *Ecological impact assessment*

*An amended ecological assessment (impact assessment) has been prepared in accordance with section 5a of the Environmental Planning & Assessment Act 1979 which assesses the direct and indirect impacts upon trees/vegetation which comprises part of the endangered onsite STIF community.*

*The impact assessment (7-part test) prepared by Cumberland Ecology is not considered to be satisfactory as it fails to consider the potential loss of Trees 63 & 65 which form part of Sydney Turpentine Ironbark Forest.*

*An amended impact assessment is to be provided which assesses the loss of these trees.*

*Amended plans are to be provided which demonstrate the retention of trees 63, 65 & T66 which fall within the E2 Conservation Lands. The driveway is to be relocated to ensure that 63, 65 & T66 Sydney Turpentine's trees are not detrimentally affected.*

*The arborist assessment has identified the impacts as a being major encroachment, the arborist needs to provide advice to ensure tree protection setbacks are met in accordance with AS 4970-2009 Protection of trees on development sites.*

### **Conclusion**

*The proposal is not supported in its current form".*

### **Planning comment**

The loss of trees as a concern is shared by both Council's Ecological Assessment Officer and Landscape and Tree Assessment Officer. The impact assessment (7-part test) prepared by Cumberland Ecology in accordance with section 5a of the Environmental Planning & Assessment Act 1979 is not considered to be satisfactory as it fails to consider the potential loss of the trees 63 & 65 which form part of Sydney Turpentine Ironbark Forest.

The proposed removal of Trees 49, 50 & 66 and impacts upon Trees 63 & 65 from within the E2 Conservation Zone is inconsistent with the Wahroonga Estate Redevelopment Biodiversity Management Plan. The amended proposal has not been sited so as to avoid critically/endangered ecological communities.

These are considered fundamental aspects of the proposal that have not been resolved (Reasons 1, 2, 3 and 5).

### **Environmental Health**

Council's Environmental Health Officer has raised no objections to the amended proposal, subject to conditions.

### **Building**

Council's Building Officer has raised no objections to the amended proposal, subject to conditions.

### **EXTERNAL REFERRALS**

#### **Rural Fire Service**

Under the provisions of section 91 of the Environmental Planning and Assessment Act 1979, the proposal is Integrated Development on the basis that a bush fire safety authority from the Commissioner of the NSW Rural Fire Service is required under the provisions of s.100B of the Rural Fires Act 1997. The following response has been provided as required under section 100B of the 'Rural Fires Act 1997'

*"I refer to your letter, dated 23 January 2015 seeking, general terms of approval for the above Integrated Development in accordance with Clause 55(1) of the Environmental Planning and Assessment Regulation 2000. This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:*

### **Asset Protection Zones**

*The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:*

*1. At the commencement of building works, and in perpetuity, the proposed development site shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.*

### **Water and Utilities**

*The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:*

*2. The provision of water, electricity and gas to the proposed buildings shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.*

### **Evacuation and Emergency Management**

*The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:*

*3. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006', including:*

*An Emergency /Evacuation Plan shall be prepared consistent with the NSW Rural Fire Service document 'Guidelines for the Preparation of Emergency/Evacuation plan'.*

### **Design and Construction**

*The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:*

- 1. The south-west, north-west and north-east elevations of Building 1, eastern elevation of Building 3, and roof structures of both buildings and the glazed connection between the two, shall comply with Sections 3 and 9 (BAL FZ) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'.*
- 2. However, any material, element of construction or system when tested to the method described in Australian Standard AS1530.8.2 Methods for fire tests on building materials, components and structures Part 8.2: Tests on elements of construction for buildings exposed to simulated bushfire attack-Large flaming sources shall comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted and there shall be no exposed timber.*

*All other elevations of Buildings 1 and 2 and Building 3 shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.*

#### **General Advice - consent authority to note**

*The Service recognises that the site is constrained and that the proposed development falls within the Flame Zone. Flame Zone development is high risk development; consequently, in situations such as this, the Service seeks to improve the overall fire safety of the existing development. This requires greater emphasis on construction standards, landscaping, siting, and vegetation management practices to ensure improved levels of protection are afforded to the development, its occupants and fire fighters. The Service has undertaken a merit based assessment of the proposal and provides the above advice in accordance with 'Planning for Bush Fire Protection 2006'.*

*This letter is in response to a further assessment of the application submitted and supersedes our previous general terms of approval dated 25 July 2014".*

## **STATUTORY PROVISIONS**

### **State Environmental Planning Policy No. 55 - Remediation of Land**

The provisions of SEPP 55 require a consent authority to consider the potential for a site to be contaminated. The subject site has a history of use associated with the Sydney Adventist Hospital. Council records indicate that the site is not considered to be contaminated.

A Preliminary Stage 1 Environmental Site Assessment was submitted with the application to determine the potential for soil and groundwater contamination on the site. The assessment report revealed that the potential for significant soil contamination is relatively low and, as such, that the site can be made suitable for the proposed development subject to recommended risk



minimisation works. The recommended works would be required to be undertaken as conditions of consent if the development were to be approved.

The proposed development is satisfactory having regard to the provisions of SEPP 55.

### **State Environmental Planning Policy (Infrastructure) 2007**

The proposed development is subject to the provisions of State Environmental Planning Policy (Infrastructure) 2007 and has been referred to the RMS for comment. In response, the RMS raised no objections to the proposal, subject to conditions.

### **State Regional Environmental Plan (Sydney Harbour Catchment) 2005**

Matters for consideration under SREP 2005 include biodiversity, ecology and environmental protection, public access to and scenic qualities of foreshores and waterways, maintenance of views, control of boat facilities and maintenance of a working harbour. The proposal will not detract from the scenic qualities of nearby watercourses and includes a storm water management system that has been designed to ensure environmental protection. The proposal is considered to meet the requirements of the SREP.

### **State Environmental Planning Policy (Major Development) 2005**

In December 2009, the Wahroonga Estate was declared a State significant site under Schedule 3 of the Major Development SEPP. The resulting SEPP Amendment rezoned the land to facilitate development proposed under the Concept Plan.

### **Concept Approval MP 07\_0166**

The Concept Approval was issued in March 2010 and has been subject to various modifications as discussed above (refer to History).

The function of the Concept Approval is to give in-principle approval for the Wahroonga Estate redevelopment incorporating Sydney Adventist Hospital. The approval provides certainty and direction with regard to the redevelopment potential of the site and guides further considerations to be made and addressed in order to realise the development envisaged under the Concept Approval.

The Concept Approval requires that future development subject to Part 4 of the Act is to be generally consistent with the terms of the approval of the Concept Plan as specified by Condition A2 (3).

A compliance assessment of issues and inconsistencies relating to the subject proposal against the relevant terms and further assessment requirements of the Concept Approval (as modified) in relation to Precinct D: Fox Valley Road East is provided below.

## **A1      Development Description**

*(1) Concept Plan approval is granted only to the carrying out of development solely within the Concept Plan area as described in the document titled 'Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital Environmental Assessment and Concept Plan' dated April 2009, as amended by the Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital Final Preferred Project Report and Concept Plan' dated January 2010, and the appendices of the document titled 'Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital Preferred Project Report and Concept Plan' dated September 2009, prepared by Urbis including:*

*(d) 16,000m<sup>2</sup> of commercial floor space in the Fox Valley Road East and Central Hospital Precincts*

### **Planning comment**

The proposed development within Precinct D: Fox Valley Road East Hospital satisfies the above criteria.

## **A2      Development in Accordance with Plans and documentation**

*(1) The development shall generally be in accordance with the following plans and documentation (including any appendices therein):*

*(a) Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital Environmental Assessment and Concept Plan dated April 2009, as amended by the Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital Final Preferred Project Report and Concept Plan dated January 2010, and the appendices of the document titled Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital Preferred Project Report and Concept Plan dated September 2009, prepared by Urbis.*

*(b) Section 75W Modification Request 'Claiming and Redistribution of Approved Wahroonga Estate Hospital Floorspace (07\_0166)' dated 23 November 2012 and Response to Submissions letter dated 22 February 2013, prepared by MacroPlanDimasi.*

*(c) Section 75W Modification Request '(MP07\_0166 MOD 4) Modification of Wahroonga Estate Concept Plan to better articulate residential and commercial development components' dated 18 September 2013 and Response to Submissions letter dated 19 November 2013, prepared by MacroPlanDimasi.*

*Except as otherwise provided for in the Department's administrative terms of approval and further assessment requirements as set out in this Schedule.*

*(2) In the event of any inconsistencies between the administrative terms of approval and further assessment requirements of this concept approval and the plans and documentation described in this Schedule, the administrative terms of approval and further assessment requirements of this concept approval prevail.*

*(3) Future development subject to Part 4 of the Act is to be generally consistent with the terms of the approval of the Concept Plan, under section 75P(2)(a) of the Act.*

#### Planning comment

The proposed development is considered to be generally in accordance with Condition A2.

#### **A3 & A4      Gross Floor Area & Dwellings**

Precinct	Maximum Gross Floor Area (excluding dwellings)	Maximum Gross Floor Area by land uses	Maximum Dwellings
Precinct D: Fox Valley Road East	15,000m <sup>2</sup>	<ul style="list-style-type: none"> <li>15,000m<sup>2</sup> (commercial)</li> </ul>	<ul style="list-style-type: none"> <li>8 Dwelling Houses</li> <li>88 Residential Flat Building Dwellings</li> </ul>

#### Planning comment

The proposed commercial development within Precinct D: Fox Valley Road East contains 6,575m<sup>2</sup> gross floor area (GFA) and satisfies the above criteria.

#### **A8      Building Height**

- (1) *Buildings shall generally comply with the Wahroonga Estate Height of Buildings Map, except as follows:*
- (a) Precinct C: Central Hospital residential building C shall be restricted to a maximum building RL of +180.0 m with plant and lift overrun protrusions up to a maximum RL of +182.0 m;*
  - (b) Precinct C: Central Hospital residential building D shall be restricted to a maximum building RL of +170.4 m with plant and lift overrun protrusions up to a maximum RL of +172.2 m;*
  - (c) Precinct C: Central Hospital student accommodation building A shall be restricted to a maximum building RL of +180.1 m with plant and lift overrun protrusions up to a maximum RL of +182.0 m;*

- (d) Precinct C: Central Hospital student accommodation building B shall be restricted to a maximum building RL of +170.1 m with plant and lift overrun protrusions up to a maximum RL of +172.2 m;*
- (e) Mixed use development in Precinct C: Central Hospital at the intersection of The Comenarra Parkway and Fox Valley Road shall be restricted to a maximum RL of +172.9 m; and*
- (f) Commercial development in Precinct D: Fox Valley Road East sited at the intersection of The Comenarra Parkway and Fox Valley Road shall be restricted to a maximum building RL of +171.7 m, with plant and lift overrun protrusions up to a maximum RL of +173.5 m.*

#### Planning comment

The proposed residential/student accommodation buildings match the above specified building height provisions for Precinct D. Accordingly, compliance is achieved in this regard.

### **B1      Urban Design**

*(1) Future development applications are to be generally consistent with the following indicative elements of the approved Concept Plan, unless it can be satisfactorily demonstrated to the consent authority that a superior built form and/or urban design outcome can be achieved with an alternative layout, while remaining consistent with the terms of approval and intent of the approved Concept Plan:*

- (a) Building footprints*
- (b) Assess Protections Zone widths*
- (c) Internal road location*
- (d) Detention basin location*

*(2) Buildings are to be sited to avoid critically / endangered ecological communities, achieve balance between cut and fill, minimise earthworks, provide adequate solar access and minimise impacts on privacy and overshadowing of residential uses within and surrounding the site, in accordance with SEPP 65 (State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development) and the Residential Flat Design Code.*

*(3) Development sited at the intersection of The Comenarra Parkway and Fox Valley Road is to provide activation at ground level to both street frontages, and is to address both street frontages and the intersection, and respond to the intersection's location forming a gateway to the precinct.*

*(4) Buildings with frontage to Fox Valley Road must have an active street frontage and provide a setback of at least 10 metres from the street front boundary.*

#### Planning comment

The loss of trees as a concern is shared by Council's Ecological Assessment Officer and Landscape Assessment Officer. The impact assessment (7-part test) prepared by Cumberland Ecology in accordance with section 5a of the Environmental Planning & Assessment Act 1979 is not considered to be satisfactory as it fails to consider the potential loss of the Trees 63 & 65 which form part of Sydney Turpentine Ironbark Forest.

The proposed removal of Trees 49, 50 & 66 and impacts upon Trees 63 & 65 from within the E2 Conservation Zone is inconsistent with the Wahroonga Estate Redevelopment Biodiversity Management Plan. The amended proposal has not been sited so as to avoid critically/endangered ecological communities and fails to adequately address the requirements of Condition B1 (2).

The amended design also fails to adequately activate the ground level to both The Comenarra Parkway and Fox Valley Road street frontages, and fails to adequately respond to the intersection's location being a gateway to the precinct. The siting and design of the main pedestrian entry also results in a poor amenity outcome for users of the commercial development (Reasons 1-6).

## **B8      *Transport***

*(1) A Work Place Travel Plan and Transport Access Guide are to be submitted for approval with development applications proposing employment generating activities (eg. for commercial development in the Central Hospital and Fox Valley Road East Precincts, the proposed school, Faculty of Nursing and hospital activities)*

*(2) All signposting and other bus infrastructure improvement works required for the proposed development are to be funded by the Proponent.*

*(3) A Bicycle and Pedestrian Linkages Plan for the site is to be submitted for approval with the first project or development application in the Central Hospital or Central Church precincts. The plan is to include details in relation to:*

*(a) Internal linkages within the site;*

*(b) Linkages between the Mount Pleasant precinct and other areas within the site;*

*(c) Linkages to existing formal Council networks for pedestrians and cyclists.*

### Planning comment

These matters so far as they relate to the Fox Valley Road East Precinct could be resolved by the imposition of conditions of consent.

## **B9      *Car Parking***

*(1) Residential car parking rates are to be determined having regard to the rates specified in the Preferred Project Report.*

*(2) Residential car parking is to be provided at grade or below ground level within the footprint of the building.*

*(3) The consent authority is to have regard to the provisions of the relevant Council Development Control Plan regulating car parking at the time of the application, the final Preferred Project Report and any other relevant traffic, transport and car parking reports when determining car parking requirements for employment generating land uses.*

*(4) Applications for non-residential land uses must be accompanied by a traffic and car parking assessment prepared by a suitably qualified traffic planner, demonstrating that sufficient car parking has been provided having regard to the RTA's Guide to Traffic Generating Developments and Council's DCP requirements.*

#### Planning comment

These matters so far as they relate to the Fox Valley Road East Precinct are considered to have been satisfactorily addressed.

### **Local Environmental Planning Instruments**

In December 2009, the Wahroonga Estate was declared a State significant site under Schedule 3 of the Major Development SEPP and the resulting SEPP Amendment rezoned the land to facilitate development proposed under the Concept Plan. Part 25 of Schedule 3 provides that no local environmental planning instruments apply to land within the Wahroonga Estate site.

### **Section 94 Development Contributions**

The Concept Approval provides Section 94 Development Contributions which would be attracted by the proposed development in the event of an approval.

### **LIKELY IMPACTS**

As indicated in the above assessment, the proposed development is assessed as having an unacceptable environmental impact upon the surrounding natural, social, economic and built environments, particularly given the requirements of the Concept Approval in relation to the protection of trees, ecology, street activation and amenity outcomes for users of the commercial precinct.

### **SUITABILITY OF THE SITE**

The site is considered to be suitable for development pursuant to the Concept Approval, however the submitted proposal is unsatisfactory for the reasons provided in the below Recommendation.

### **ANY SUBMISSIONS**

The submissions received have been considered in the assessment of this application. The proposed development should not be approved having

regard to the matters raised in the submissions received by Council insofar as those matters coincide with the reasons of refusal.

## **PUBLIC INTEREST**

Approval of the application is not considered to be in the public interest.

## **CONCLUSION**

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be satisfactory. Therefore, it is recommended that the application be refused.

## **RECOMMENDATION**

### **PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

THAT the Sydney West Joint Regional Planning Panel, as the consent authority, refuse consent to Development Application No. 0053/13, which seeks consent to demolish existing structures and construct 1 x 3 storey building and 2 x 4 storey buildings containing offices, central atrium, café and basement parking, landscaping and stormwater works and subdivision - pursuant to the Minister of Planning Major Project Approval No.07\_0166 MOD 4, Concept Plan for Wahroonga Estate (Precinct D: Fox Valley Road East), at 172 Fox Valley Road, Wahroonga, for the following reasons:

### **REASONS FOR REFUSAL**

#### **1. Loss of trees and adverse ecology impacts**

The proposal will remove three (3) locally occurring trees, two being assessed as “Priority for Retention” (Trees 50 and 66) and (Tree 49) assessed as “Consider for Retention” and adversely impact two (2) locally occurring trees assessed as “Priority for Retention” (Trees 63 and 65).

The retention of these trees is important in ensuring biodiversity and existing landscape character as well as to express the ‘aspirations of the development within the environmental setting’. (p93, Section 9.3, Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital Final Preferred Project Report and Concept Plan (WER/SA Concept Plan, dated January 2010). The protection of existing trees is consistent with the ESD principles incorporated in the Concept Approval.

#### **Particulars:**

##### **(a) Tree 49/ Pittosporum undulatum (Sweet Pittosporum)**

This tree is located on a steep fill batter, directly east of the existing residence and within the adjoining E2 zone. The tree is of high

landscape significance as it is representative of the Sydney Turpentine Ironbark Forest community. The tree is to be removed for the driveway.

(b) Tree 50/ Syncarpia glomulifera (Turpentine)

This tree is located at the base of a steep fill batter, directly east of the existing residence and within the adjoining E2 zone. The tree is of high landscape significance as it is representative of the Sydney Turpentine Ironbark Forest community. The tree is to be removed for the driveway.

(c) Tree 66/ Eucalyptus pilularis (Blackbutt)

This mature, 22 metres, high tree is located on the eastern boundary, within the adjoining zone. The tree is of high landscape significance as it is representative of the Sydney Turpentine Ironbark Forest community. The tree is visually prominent and of high landscape significance and should be retained. The tree is located within the E2 land which has been protected for its high conservation value. The tree is proposed to be removed as the basement will result in a major encroachment within the tree protection zone.

(d) Tree 63/ Syncarpia glomulifera (Turpentine)

This tree is located on the eastern boundary, within the adjoining E2 zone. The tree is of high landscape significance as it is representative of the Sydney Turpentine Ironbark Forest community. The tree is approximately 3.5m from the proposed basement ramp.

The construction encroachment within the tree protection zone is calculated as 19%. This percentage has been calculated without any engineering plans. There will be likely over-excavation for the rainwater tank and GPT, as they will not be able to be constructed with the anchored shotcrete method. This would be likely to encroach within the structural root zone of the tree (2.7m) The recommendation to thrust bore pipes outside of the anchored shotcrete method has not been detailed to demonstrate the receiving pit locations and pipe depths would not result in further impacts to the tree.

(e) Tree 65/ Syncarpia glomulifera (Turpentine)

This tree is located on the eastern boundary, within the adjoining E2 zone. The tree is of high landscape significance as it is representative of the Sydney Turpentine Ironbark Forest community. The tree is approximately 3.5m from the proposed driveway.

The proposed construction encroachment within the tree protection zone is calculated as 17%. The recommendation to thrust bore pipes outside of the anchored shotcrete method has not been detailed to demonstrate the receiving pit locations and pipe depths would not result in further impacts to the tree.



## **2. Ecological impacts upon E2 lands inconsistent with Concept Approval**

### Particulars:

- (a) The proposed removal of Trees 49, 50 & 66 & impacts upon Trees 63 & 65 from within the E2 Conservation Zone is inconsistent with the Wahroonga Estate Redevelopment Biodiversity Management Plan (BMP) prepared by Cumberland Ecology dated November 2010. The BMP was required as a condition of consent by the Department of Planning (DOP) to conserve and rehabilitate the E2 lands.
- (b) The proposed development is not consistent with chapter 7 “Vegetation management plan” objective 1 & 2;
  - 1. *To conserve and rehabilitate vegetation occurring within the E2 zone and to promote local biodiversity values. Particularly STIF which conform to CEECs listed under the EPBC Act;*
  - 2. *To ensure that redevelopment of the Wahroonga Estate does not exacerbate any Key Threatening Process”;*

## **3. Inadequate impact assessment**

### Particulars:

- (a) The impact assessment (7-part test) prepared by Cumberland Ecology in accordance with section 5a of the Environmental Planning & Assessment Act 1979 is not satisfactory as it fails to consider the potential loss of the trees 63 & 65 which form part of Sydney Turpentine Ironbark Forest.

## **4. Unsatisfactory urban design response**

The amended design of Building 2 fails to adequately activate the ground level to both The Comenarra Parkway and Fox Valley Road street frontages, nor adequately respond to the intersection’s location being a gateway to the precinct. The siting and design of the main pedestrian entry and associated landscaped design results in poor amenity outcome for users of the commercial precinct.

### Particulars:

#### (a) South-Western Corner Address

- i. The PAC’s final Modification Instruction (08.04.2014) Section B1 Urban Design requires the following:
  - (3) *Development sited at the intersection of The Comenarra Parkway and Fox Valley Road is to provide activation at*

*ground level to both street frontages, and is to address both street frontages and the intersection, and respond to the intersection's location forming a gateway to the precinct.*

- (4) *Buildings with frontage to Fox Valley Road must have an active street frontage and provide a setback of at least 10 metres from the street front boundary.*

- ii. This corner is visually prominent, links to the existing neighbourhood centre to the south, will be the location of a signalised pedestrian crossing from the south and from the future Mixed Use Centre to the west.
- iii. The application proposes a single entry doorway into a private tenancy at the corner of Fox Valley Road and The Comenarra and fails to provide a public entry that establishes a clear directional and visual link to the internal lobby atrium.
- iv. This building entry, albeit a secondary entry, must visually and functionally activate this prominent corner. The type or operations of future tenancies to ensure any functional linkage between the corner and the central atrium cannot be controlled as proposed.
- v. This is in further context of the building design that proposes solid walls addressing the corner (which is consistent with the overall architectural expression but does not achieve the required activation).

(b) Northern entry

- i. MP07\_0166 MOD4 DGEAR states:

*"[open space and public domain] may be improved through a minor amendment to the proposed vehicle access point from Fox Valley Road, where relocating it further north directly opposite the secondary SAH vehicle entrance would provide a vacant area that could be suitably landscaped and provided for passive open space adjacent to the envisaged entrance of the commercial building".*

- ii. The front stairs should be aligned in the direction of travel, with the above modification made, which can achieve a better northern landscape area, less excavation for the proposed fire stair structure and increase the amount and integration of landscape.
- iii. The extensive ramping and stairs to the lower ground café and entry does not constitute street activation, further there is a safety issue with stairs leading directly off the footpath, and a ramp cutting adjacent to the footpath especially as fencing to the footpath to make this safe will further detract from integrating the ground floor of the building with the public domain.

(c) Landscaping design

- i. The landscape design response by Macro Dimasi, dated (16/03/15) states that wider paving will be inconsistent with the 'desired landscape setting' is not supported. The proposal is required to provide an urban design response of street tree planting in front of the shops with '*hard landscape materials and street furniture*' to be used to create a '*robust but attractive environment*' (p57, Section 8.7 WER/SA Concept Plan dated January 2010).
- ii. Section 8.7 WER/SA Concept Plan, dated January 2010) - Neighbourhood centre (p57) encourages the provision of a clear hierarchy of pedestrian access and circulation and would be better achieved by widening the path along the front of Building 2 to 3-4 metres.

## 5. Insufficient information (landscaping and ecology)

### Particulars:

#### (a) Tree protection plan

Preparation of a Tree Protection Plan is required in accordance with Section 2.3.5 of AS4970-2009 Protection of Trees on Development Sites. Scaffolding requirements in relation to existing trees should also be considered.

#### (b) Landscape plan

The landscape plans are unsatisfactory for the following reasons:

- i. The landscape plan is to include detailed existing and proposed levels of all external areas including top of wall heights.
- ii. Proposed drainage pits and tanks are to be shown.
- iii. The landscape plan indicates the residual area of bushfire defensible space that is not taken up with the internal road is to be 'native ground covers planted within APZ easement' but details of actual groundcover species have not been provided.
- iv. The proposed depth of soil in the podium planting indicated on the landscape section AA (DA05) is insufficient for planting at the scale shown.
- v. A landscape section showing edge treatment to the E2 zone should be provided.

- vi. The low water use planting (DA09) plan should show the proposed rainwater tank and OSD tank in accordance with the amended stormwater plans.

(c) Drawing inconsistencies and inaccuracies

Section A is incorrect as it omits the detention tanks. An additional section should be provided at the eastern end of the detention tank where there will be the greatest change in level between the driveway and the existing ground levels.

(d) Landscape transition between commercial to residential areas along Fox Valley Road East Precinct D (p65, Section 8.7 WER/SA Concept Plan, dated January 2010)

The level of detail on the landscape plans provided does not enable assessment of the proposed landscape treatment within the Fox Valley frontage. The plans should identify the proposed location of proposed tree, shrub and groundcover species.

(e) Ecology assessment

The impact assessment (7-part test) prepared by Cumberland Ecology is unsatisfactory as it fails to consider the potential loss of the Trees 63 & 65 which form part of Sydney Turpentine Ironbark Forest. An amended impact assessment is required to assess the loss of these trees.

**6. Insufficient information (engineering, transport and traffic)**

Particulars:

(a) Water quality measures

- i. Water quality measures to achieve the targets identified in the Hyder Master Plan and the Flora and Fauna Assessment are to be shown on the water management plans. A MUSIC model is to be provided to confirm that the pollution reduction targets will be achieved.
- ii. The Flora and Fauna Assessment should be amended to refer to the TTW design.

(b) Car parking

- i. Clarification is required in relation to the allocation of practitioner/patient parking, which would affect the allocation of the number of long term and short term parking spaces. These have not been noted in the respective plans.

- ii. The location of the accessible parking spaces along the western edge of the 3 basement levels (which are not conveniently located close to the lifts) requires further resolution.

(c) Bicycle parking and support facilities

- i. The response by MacroPlan Dimasi notes that bicycle parking and support facilities are documented, and Plan DA-06 shows male/female & accessible facilities, and Plan DA-07 shows a staff change room. These have been noted in the respective plans.
- ii. There is no consideration for the provision for casual bicycle parking on the ground floor level.

(d) Bike plan/bike routes/footpath on frontages of site

Given the expected high pedestrian demand and requirement for the provision of bicycles, the footpath at the frontage of the site should be 2.5m wide, which would satisfactorily accommodate both pedestrians and cyclists.

(e) Vehicle access

Civil Plan C02 shows medians across the access points to restrict movements to left in/left out, with confirmation to be given on an alternative “kerb blister” configuration (which is assumed to be separate entry/exit crossings with a triangular median to direct traffic left in and left out). A median in the Fox Valley Road carriageway is preferred, as it forms a physical barrier, while the kerb blister configuration could be prone to non-compliance. This requires further clarification and some additional localised widening of the Fox Valley Road may be required to accommodate the median.

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ATTACHMENTS:

- A. Location Sketch: (TRIM: [2015/120701](#))
- B. Zoning Extract: (TRIM: [2015/120698](#))
- C. Concept Plan Determination MP07\_0166: (TRIM: [2015/119633](#))
- D. Concept Plan Determination MP07\_0166 MOD 1: (TRIM: [2015/119936](#))
- E. Concept Plan Determination MP07\_0166 MOD 2: (TRIM: [2015/119778](#))
- F. Concept Plan Determination MP07\_0166 MOD 3: (TRIM: [2015/119768](#))
- G. Concept Plan Determination MP07\_0166 MOD 4: (TRIM: [2015/119742](#))
- H. Rural Fire Service Bush Fire Safety Authority (TRIM: [2015/021633](#))
- I. Site Analysis Plan – Amended (TRIM: [2014/265793](#))
- J. Site Plan – Amended (TRIM: [2014/265794](#))
- K. Ground Floor Plan – Amended (TRIM: [2014/265802](#))
- L. Level 1 Plan – Amended (TRIM: [2014/265803](#))
- M. Level 2 Plan – Amended (TRIM: [2015/121627](#))
- N. Level 3 Plan – Amended (TRIM: [2015/121628](#))
- O. Roof Plan – Amended (TRIM: [2015/121631](#))
- P. Floor Plan Indicative Layout – Amended (TRIM: [2014/146538](#))
- Q. Basement 1 Plan – Amended (TRIM: [2014/265800](#))
- R. Basement 2 Plan – Amended (TRIM: [2015/121625](#))
- S. Basement 3 Plan – Amended (TRIM: [2014/265698](#))
- T. Elevations Sheet 1 – Amended (TRIM: [2014/146540](#))
- U. Elevations Sheet 2 – Amended (TRIM: [2014/146541](#))
- V. Sections Sheet – Amended (TRIM: [2014/146543](#))
- W. Landscape Plans – Amended (TRIM: [2014/265673](#))
- X. Subdivision Sheet 1 (TRIM: [2014/146578](#))
- Y. Subdivision Sheet 2 (TRIM: [2014/146580](#))
- Z. Sample Board (TRIM: [2014/146566](#))
- AA. Detail Surveys (TRIM: [2014/265670](#))
- BB. Statement of Environmental Effects (TRIM: [2014/145686](#))
- CC. Flora and Fauna Assessment (TRIM: [2014/265674](#))
- DD. Traffic Report (TRIM: [2014/145730](#))
- EE. Contamination Report (TRIM: [2014/145636](#))
- FF. Bushfire Report (TRIM: [2014/145612](#))
- GG. BCA Report (TRIM: [2014/145604](#))
- HH. Arborist Report (TRIM: [2014/145423](#))
- II. Access Report (TRIM: [2014/145399](#))