

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

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| JRPP No: | 2015SYE133 |
| DA No: | DA15/1134 |
| Local Government Area: | Sutherland Shire |
| Proposed Development: | Mixed use retail, commercial and residential development and associated public park including 749 dwellings, fitout and use of 2 supermarkets, 1 liquor store, 9000m2 public park with lake and surrounding forest, 1500m2 community facility, Torrens subdivision for road dedication, Torrens subdivision of 1 lot into 2 lots for public reserve dedication, 5 lot stratum subdivision and signage strategy |
| Street Address: | Lot 1 DP 589977, Lot 1 DP 179075, Lot 2 DP 589977 - 566-594 Princes Highway, Kirrawee |
| Applicant/Owner: | Combined Projects (Kirrawee) Pty Ltd |
| Number of Submissions: | 17 |
| Regional Development Criteria (Schedule 4A of the Act) | General Development over \$20 million |
| List of All Relevant s79C(1)(a) Matters | <ul style="list-style-type: none"> • Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) • Draft Sutherland Shire Development Control Plan 2015 (SSDCP2015) • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No 55—Remediation of Land • State Environmental Planning Policy No 64—Advertising and Signage • State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development |
| List all documents submitted with this report for the panel's consideration | <p>Draft Conditions of Consent</p> <p>Concept Approval MP10_0076 (Mod 3), Stamped Plans, and Planning Assessment Commission Report</p> <p>Table: Public Submissions</p> <p>Responses of External Authorities (RMS, Heritage, DPI (Water), Sydney Water, NSW Police comments)</p> <p>Report from the Architectural Review Advisory Panel.</p> <p>Table: Consistency with Concept Approval</p> |
| Recommendation: | Approval |
| Report By: | Evan Phillips - Environmental Assessment Officer (Planner) Sutherland Shire Council |

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

The application is referred to the JRPP as the development has a capital investment value of more than \$20 million and is nominated under Schedule 4A (3) of the Environmental Planning and Assessment Act 1979. The application nominates a CIV of \$281,445,430.00

1.2 Proposal

The application is for a mixed use retail, commercial and residential development and associated public park including 749 dwellings, fitout and use of 2 supermarkets, 1 liquor store, 9000m² public park with lake and surrounding forest, 1500m² community facility, Torrens subdivision for road dedication, Torrens subdivision of 1 lot into 2 lots for public reserve dedication, 5 lot stratum subdivision and signage strategy.

1.3 The Site

The subject site located at 566-594 Princes Highway Kirrawee is bounded by the Princes Highway to the north, Oak Road to the west, and Flora Street to the south. The site has an area of 42,524m². There are currently no buildings within the site although preparatory earthworks are underway. A large tract of remnant Sydney Turpentine Ironbark Forest (STIF) is located within the south – western corner of the site. The site is located between the Kirrawee Village Centre, Kirrawee Train Station and the Princes Highway.

1.4 The Issues

The main issues identified are as follows:

- Consistency with Concept Approval – Building Height, Gross Floor Area, Setback to Flora Street, Loading Dock;
- Delivery and Execution of the Voluntary Planning Agreement (Public Benefits of the Development);
- Urban Design & Residential Amenity;
- Traffic Impacts, Parking & Safety;
- Site Environmental and Civil Issues – balancing Parkland and Road Widening.

1.5 Conclusion

Following assessment of the proposal and having regard to the Heads of Consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, the development is largely considered worthy of support as it corresponds with the shape and character of development for the former Kirrawee Brick Pit site as established under the Major Project Concept Approval, and Council's Policies and Standards.

The detailed assessment reveals several (whilst relatively easily resolved) inconsistencies where the proposal has exceeded the terms of approval prescribed by the Planning Assessment Commission (PAC). This presents a significant issue for Council in terms of the appropriate mechanism for approval, especially when there are impacts associated with the inconsistencies. Council recommends a reduction in the mass of towers (particularly Building E), and reduction in the quantum of residential Gross Floor Area (GFA) where it exceeds the PAC approval and minor modification to the setback to the upper levels of towers adjoining Flora Street. There are significant outstanding issues related to the parkland and road works which need to be resolved both within the consent and through the VPA process. It is anticipated that an appropriate urban environment will be created and reasonable internal and external residential amenity will be afforded to future occupants, employees, visitors and for the general public subject to conditions of development consent recommended in "Appendix A" of this report.

2.0 DESCRIPTION OF PROPOSAL

The application proposes a mixed use retail, commercial and residential development and associated public park including 749 dwellings, fitout and use of 2 supermarkets, 1 liquor store, 9000m² public park with lake and surrounding forest, 1500m² community facility, Torrens subdivision for road dedication, and public reserve dedication, 5 lot stratum subdivision and signage strategy.

Specifically, the subject development application seeks to align with the Major Project Concept Approval (MP 10_0076) issued under Part 3A of the Environmental Planning & Assessment Act 1979 by the Department of Planning and proposes the following:

- Use of the site for a mixed use development (85,000m² of gross floor area with associated public open space);
- 69,310m² of residential floor space (749 dwellings) within 7 buildings ranging in height from 6 to 14 storeys above the Concept Approved finished ground level(s).
- 14,190m² of retail/commercial floor space including 4,740m² supermarket and 1,450m² discount supermarket. There are 19 proposed commercial spaces in total and the proposal includes the detailed use and fitout for a Coles supermarket/ liquor, Aldi supermarket/ liquor and First Choice Liquor;
- 3 basement levels, which include service / loading areas and retail / residential carparking spaces. Parking is also provided externally at ground level and at above ground level: Total of 1,564 parking spaces;
- Internal Road layout to support the development and loading facility / road access on the eastern side of the site accessed from Flora Street;
- Landscaping areas throughout the site, public pedestrian and cycle pathways;
- External site works and infrastructure upgrades (e.g. road widening, intersections, deceleration lanes);
- Torrens subdivision for road dedication, Torrens subdivision of one lot into two lots for public reserve dedication and 5 lot stratum subdivision.
- Signage strategy.
- Retention and conservation of the Heritage listed Pipe Kiln on the northern side of site.
- Draft Voluntary Planning Agreement – Monetary contribution for Kirrawee Centre including, Oak road, Flora St and Princes Highway. 9000m² public park with lake, surrounding forest retention (STIF); and 1500m² space for a community facility;



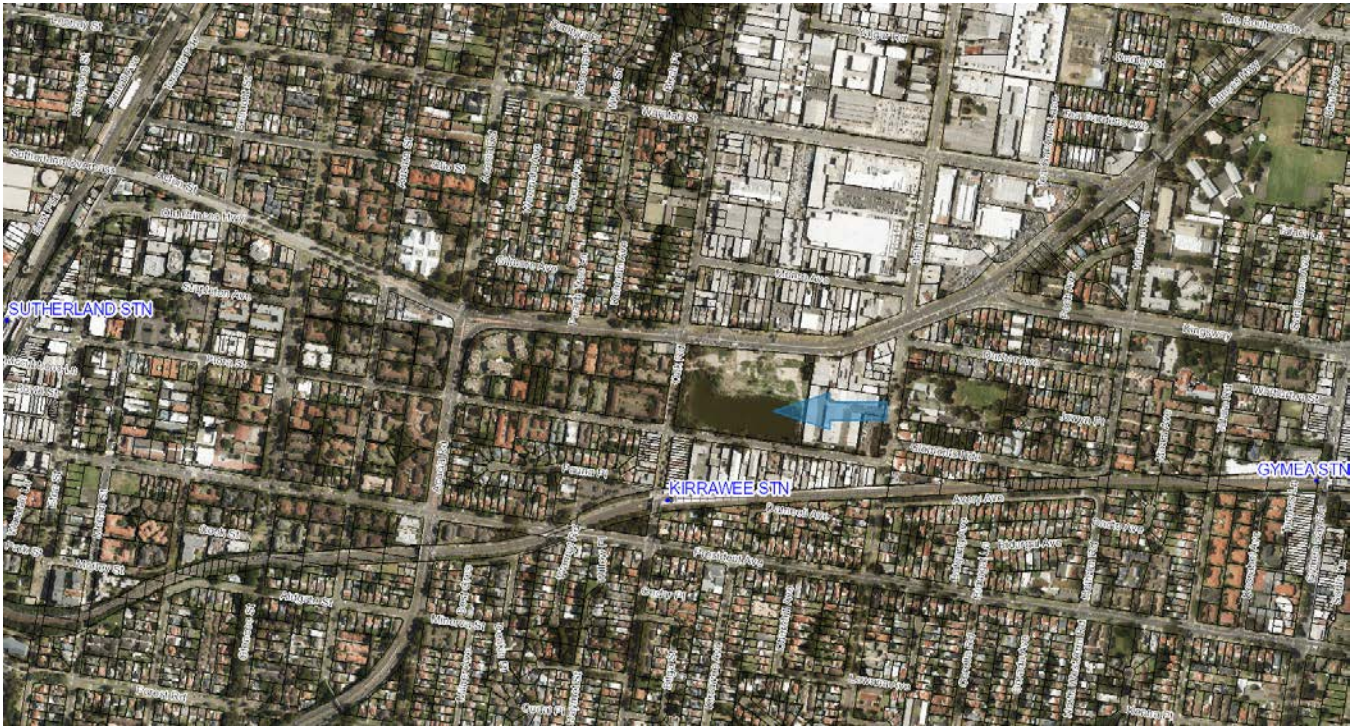
3.0 SITE DESCRIPTION AND LOCALITY

The 42,524m² former 'Brick Pit' site is located at 566-594 Princes Highway Kirrawee and is bounded by the Princes Highway to the north, Oak Road to the west, and Flora Street to the south. The site is located approximately 250m from the Kirrawee Centre and Railway Station. A large tract of remnant Sydney Turpentine Ironbark Forest (STIF) is accommodated within the south – western corner of the site, and the land accommodates items of local heritage significance given its extensive industrial history. There are currently no buildings or structures located within the site. At present, approved preparatory earthworks are underway.

The main Kirrawee Local Centre is located opposite Flora Street and along Oak Road to the south-west of the site. Development is characterised by single storey commercial and shop-top housing development within the 'strip' which leads to the Kirrawee Railway Station. Opposite Oak Road to the west of the site are 3 storey residential apartment buildings. Predominantly industrial / employment land uses are located to the south, east and opposite the Princes Highway to the north. Low density residential land uses and associated land uses (education / places of public worship) are located approximately 200m further along Flora Street / Bath Road to the east.



Aerial View of Site



Aerial View of Locality

4.0 BACKGROUND

The former 'Brick Pit' site has been subject of a previous Council Master Plan and several substantial yet unsuccessful large development schemes including a scheme refused by both Council and the Land & Environmental Court on the principal basis of adverse economic impacts.

On 23 August 2012 a Concept Plan approval for a mixed use development with associated public open space within the site was issued under 'Part 3A' by the Department of Planning (Major Project No. MP 10_0076). A breakdown of the Part 3A Approval and subsequent modifications and development applications to date is provided below:

Major Project MP10_0076

- Indicative building envelopes for 9 buildings to a maximum height of 14 levels above podium;
- 45,505m² of residential floor space (432 apartments) and 15,230m² of retail/commercial floor space (including a 3,900m² supermarket and 1,470m² discount supermarket) (60,735m² GFA in total);
- Basement, ground and above ground car parking;
- Road layout to support the development;
- Public pedestrian and cycle pathway;
- Public park with lake and surrounding forest; and
- Landscaping areas throughout the site.

MP10_0076 Modification 1 – Approved 17 January 2013, the modification amended wording to the Environmental Assessment Requirement Condition No. 18 so that design excellence provisions only relate to 'above ground' works.

MP10_0076 Modification 2 - Approved 16 April 2014, the modification permitted the commencement of early works on the site including dewatering, bulk excavation and remediation. An amendment was also made the methodology for the site dewatering and included an updated Dewatering Report and addendum to the Biodiversity Management Plan, and Geotechnical Report.

MP10_0076 Modification 3 – A Major Modification approved 30 January 2015 amended the development proposal permitting an increase in land use intensity and quantum of residential and commercial floor space within the site. This includes an increase in residential floor space to 68,310m² (cap of 749 dwellings), 7 buildings to a maximum height of 14 Storeys and a minor reduction in commercial floor space to 14,190m² (Total Gross Floor Area of 85,000m²).

A copy of the modifying instrument, PAC report and approved concept plans detailing the site planning, building envelopes and heights has been appended as **“Appendix B”**.

Related Development Application – DA14/0368 - Approved by Council 16 September 2014, the application granted conditional approval for the following early site works in two stages: The Stage 2 works were not to commence until the Voluntary Planning Agreement (VPA) detailing the off-site offsets for STIF vegetation had been formalised.

Early Works Stage 1

- Investigation and protection of the Heritage kiln.
- Protection measures erected around the Sydney Turpentine Ironbark Forest (STIF)
- Implementation of site safety measures, erosion and sediment control provisions.
- Dewatering of the Brick Pit.
- Stabilisation of the embankments of the former Brick Pit as per geotechnical assessment
- Demolition of existing structures (including slabs and electricity sub-station).
- Establishment of a temporary compensatory water habitat pond.
- Clearing and removal of vegetation not associated with STIF communities.

Early Works Stage 2

- Protection measures to STIF communities identified for retention under the approved Concept Plan.
- Clearing of vegetation approved for removal.
- Cut and fill, including excavating for the proposed basement car park and filling of the proposed public parkland.
- Permanent shoring of excavations.

MP10_0076 Modification 4 – Approved 20 November 2014, the modification amended Condition No. 8j to allow the release of a Construction Certificate for the Early Works stage, should this be necessary, with the satisfaction of the requirements of the condition deferred to release of the Construction Certificate for the first substantive stage of development.

Current Development Status - The applicant has entered into a VPA regarding the biodiversity offset for the STIF communities as required under the Concept Approval and has commenced early site preparation works under development consent DA14/0368. A second VPA has been drafted, but not yet agreed to between the parties and not yet publicly exhibited.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to enable an assessment of this application. Council Planning staff had intended that the second VPA should have been at least exhibited in time for reporting to the JRPP but no final agreement has been reached and so this is unfortunately not possible.

6.0 PUBLIC PARTICIPATION

The application was publicly exhibited until 29 October 2015 in accordance with Council's policy and other statutory requirements. An information session between Council Officers and interested residents was held during the exhibition period on 21 October 2015. The meeting was attended by 13 parties. Council received 17 written submissions (including 1 letter of support) at the end of the notification period and prior to the writing of this report. A summary of the main issues raised is provided below and a full list of who made the submissions is provided as "Appendix C"

- 6.1 Concept Approval: Adequacy of previous State approval for the site in relation to the suitability of the site and locality to sustain such a large number of units and amount of commercial floor space, along with the corresponding number of vehicles.

Comment: Matters with regards to the suitability of the site for the intensity of land use proposed has been the subject to prior assessment by the Planning Assessment Commission and approval of the 'Concept Plan' in which this application is based upon. Matters in relation to permitted building envelopes / heights, separation and setbacks, quantum of residential and commercial floor space and parking provision are set-out and cannot be revisited as part of this assessment. Consistency with the Concept Approval along with impacts generated by the proposal is discussed in further detail in the referral and assessment components of this report.

- 6.2 Urban Design including Building Height / Mass, Setbacks & Amenity: Proximity of buildings to highway and impacts including overshadowing and overlooking (privacy) to adjoining / surrounding land. Loss of development potential on adjoining sites.

Comment: These matters are discussed in further detail in the referral and assessment components of this report.

- 6.3 Access, Traffic and Parking: Cumulative traffic and parking impacts associated with the land use intensity. Provision of parking and loss of on street parking. Vehicular and pedestrian safety in relation to access / egress points (including loading) and changes to the surrounding road network (e.g. Proximity of school). Traffic management in vicinity to site and emergency vehicle accessibility. Need for walk bridge over highway, bus services, cycle routes and upgrades to local railway station.

Comment: These matters are discussed in further detail in the referral and assessment components of this report.

- 6.4 Public Park: Design of the park, its relationship to the Kirrawee centre and the degree to which it would be a 'private', as opposed to a truly 'public' park.

Comment: As part of the Voluntary Planning Agreement, the park is proposed to become Council's asset and be dedicated for public use. The final design, including connectivity to the Kirrawee Centre is currently in negotiation with council.

- 6.5 Commercial Operation: Provision of liquor supply, social impact, crime and amenity impacts from hours of operation.

Comment: These matters are discussed in further detail in the referral and assessment components of this report.

- 6.6 Utilities, Services & Infrastructure: Provision of water supply, sewerage and waste management associated with the development and strain on existing infrastructure.

Comment: Council has engaged contact with relevant public stakeholders during the course of assessment or recommended suitable conditions of consent to ensure suitable

arrangements are made for the development. It is anticipated that suitable arrangements can be made to accommodate the increase in demand generated by the development.

- 6.7 Finished Quality: Developers ability to deliver on their contractual and ethical obligations and achieve quality design outcome due to issues relating to other development sites and constructed buildings located outside of the Sutherland Shire.

Comment: should approval be granted, the development will need to conform to the design scheme approved and comply with relevant building codes and standards. Other contractual and ethical matters between a vendor / owner relating to the development is not relevant in the assessment of the application under the Environmental Planning & Assessment Act.

7.0 STATUTORY CONSIDERATIONS

The property is predominantly located within the B4 – Mixed Use under the provisions of SSLEP 2015. The proposed development and scope of works proposed (including commercial land uses) are permissible within the zone.

The following Environmental Planning Instruments (EPI's), Development Control Plans (DCP's), Codes or Policies are relevant to this application:

- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy 2004 (Building Sustainability Index)*
- *State Environmental Planning Policy No 55—Remediation of Land*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *State Environmental Planning Policy No 64—Advertising and Signage*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *Department of Planning and Environment - Apartment Design Guide (ADG)*
- *Sutherland Shire Local Environmental Plan 2015 (SSLEP2015)*
- *Draft Sutherland Shire Development Control Plan 2015 (SSDCP2015)*

8.0 STATEMENT OF COMPLIANCE

The statement of compliance below contains a summary of applicable development standards and controls and a compliance checklist relative to these:

8.1 State Environmental Planning Policy (Infrastructure) 2007

The following provisions of State Environmental Planning Policy (Infrastructure) 2007 apply to the development.

Clause 101 - Development with frontage to classified road

The development site has a direct frontage to a classified main road being the Princes Highway. The arrangement for vehicular access to the site from the Princes Highway (via a new slip-lane) has been largely resolved under the Concept Approval. The development application provides a detailed design which has been reviewed by the Roads & Maritime Service (RMS). The development includes a substantial suite of upgrades to the surrounding road network.

Clause 102 - Impact of road noise or vibration on non-road development

The land is immediately adjacent to the Princes Highway where the annual average daily traffic volume exceeds 40,000 vehicles. The impact of road noise or vibration on the residential development must be considered under the clause. The development application has been accompanied by a noise assessment addressing the acoustic criteria of the SEPP

which has been reviewed by Council Staff and the RMS. Suitable noise attenuation measures are incorporated into the design of the buildings which front the Princes Highway. An acceptable acoustic environment and reasonable amenity will be achieved for future occupants.

Clause 104 – Traffic Generating Development

The development is classified as traffic generating development and has been referred to the RMS for concurrence. The RMS response is further detailed in the 'external referrals' component of this report.

8.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index) 2004 (BASIX) aims to establish a scheme to encourage sustainable residential development across New South Wales. BASIX certificates accompany the development application addressing each building within the development. The proposal achieves the minimum performance levels / targets associated with water, energy and thermal efficiency.

8.3 State Environmental Planning Policy No. 55- Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) requires a consent authority to consider whether the land is contaminated and, if so, whether the land will be remediated before the land is used for the intended purpose. Previous environmental investigations have been undertaken prior to the Concept Approval and a Site Contamination Management Plan developed for the site outlining measures during works. Bulk excavation is currently being undertaken within the site subject to a separate consent. Suitable validation at the completion of preparatory site works will be required as a recommended condition of development consent to ensure the site is suitable for the land use and no external impacts (eg. groundwater migration) will result.

8.4 Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment

Greater Metropolitan Regional Environmental Plan No. 2 (GMREP2) includes a number of aims and objectives for the environment and water quality within the catchment. Appropriate stormwater management and water quality measures are proposed and there are minimal likely adverse impacts on existing coastal processes anticipated. Council is of the view that with the implementation of the recommended conditions of consent the proposal would be consistent with the aims and objectives of GMREP2.

8.5 State Environmental Planning Policy No. 64 – Advertising & Signage

The provisions of State Environmental Planning Policy No.64 (SEPP64) apply to all signage visible from a public space. The proposal includes a signage strategy for a total of 19 signage areas within the development. The proposal been assessed against Schedule 1 of SEPP64 'assessment criteria' (refer below) and is considered to generally satisfy the criteria subject to the imposition of suitable conditions of development consent in relation to provision, size and finished quality. The signage strategy is generally compatible with the scale / nature of the development and the desired amenity and visual character of the area.

| Schedule 1 Assessment Criteria | Assessment |
|---|---|
| Character of the area | The signage strategy reflects the mixed use zoning of the land and nature of the proposed development. The proposal is generally in keeping with the desired future character established by the Concept Plan. The signage generally respects the different character(s) of each interface of the site. |
| Special areas | Future signage is not anticipated to detract from the amenity or visual quality of the land including, environmental attributes and |

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| | heritage significance. |
| Views and vistas | The signage strategy is not anticipated to obscure or compromise views or be visually dominant in the skyline, particularly given the scale of the subject proposal. |
| Streetscape, setting or landscape | The signage strategy generally contributes to the visual interest of the buildings and is unlikely to dominate the streetscape or cause visual clutter. Suitable conditions are recommended to limit future signage provision along the frontages. |
| Site and building | Future signage will be suitably located within the site and is generally of a size and nature which integrates appropriately with the built form. Signage is recommended to be reduced in size to not exceed 20m ² and to be deleted where orientated immediately over the eastern side boundary (Princes Highway). |
| Associated devices | The signage is proposed to be securely fixed. |
| Illumination | The proposal seeks illumination of signage 24 hours a day with reduced level illumination between 10pm-5am. To enhance the amenity of the area a condition is recommended requiring no illumination outside of business trading hours. |
| Safety | The signage areas are not anticipated to reduce the safety of pedestrian and vehicle movements. Suitable conditions are recommended limiting illumination and non static / obtrusive signage. |

8.6 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development – Design Quality Principles

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Apartment Design Guide (ADG) seeks to improve the design quality of residential flat development through the application of a series of 9 design principles. Sutherland Shire Council engages its Architectural Review Advisory Panel (ARAP) to guide the refinement of development to ensure design quality is achieved. A brief assessment of the proposal having regard to the design quality principles is set out below:

| Design Quality Principles | Assessment |
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| Principle 1: Context and neighbourhood character | Although completely foreign in its current context, the proposal is in keeping with the desired future character <u>for the site</u> established by the Concept Plan and Council's recently gazetted LEP. In fact, this project is of such a scale that it, singularly, will begin to dictate the character of the locality and its surrounds. |
| Principle 2: Built form and scale | The proposed built form and scale is in keeping with the Concept Plan and must therefore be considered consistent with the future character envisaged for the Kirrawee locality. The proposed built form has been designed appropriately in accordance with the Apartment Design Guide to enable reasonable residential amenity and visual appearance. |
| Principle 3: Density | The density of the scheme submitted is consistent with the density permitted by the Concept Plan, as articulated by the maximum height and GFA. The site is earmarked as a 'dense urban area' and the density is deemed acceptable. |

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| Principle 4: Sustainability | The proposed development satisfies the minimum BASIX requirements. Ecologically Sustainable Development requirements are also required by the Concept Plan conditions. |
| Principle 5: Landscape | Extensive landscaping within the site frontage, internal roads and communal podium areas is proposed. Along with the dedication of the park, the development incorporates a suitable proportion of indigenous plantings. Subject to further recommended conditions, the landscape design is appropriate and provides practical and usable spaces with social opportunities and a high degree of amenity for future residents. |
| Principle 6: Amenity | The proposal generally satisfies the design criteria of the Apartment Design Guide to achieve reasonable residential amenity. This is discussed in more detail below. |
| Principle 7: Safety | The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles in the design of the project, and a CPTED report has been prepared. The common areas and thoroughfares are well activated and residential areas (including parking / lobby areas) are well secured. The NSW Police Force has also been engaged and generally support the proposal. Additional conditions are recommended to enhance safety and security around the site. |
| Principle 8: Housing diversity and social interaction | The proposal provides a mix of apartment types (1, 2 & 3 bedroom), encouraging diversity in the future occupation of the development in terms of social mix. Adaptable and livable housing options are also proposed. The development includes facilities to encourage social interaction including the landscaped podium and ground level mall areas and a public park. |
| Principle 9: Aesthetics | In general terms the building form, proportions and compositional strategies proposed for the development are of a good contemporary standard for buildings of this type. |

8.7 Apartment Design Guide (ADG) – Detailed Guidelines

The applicable design guidelines are contained within the ADG, which respects the 9 design quality principles set out in SEPP 65. The ADG illustrates good practice, though is not a statutory instrument. The ADG controls are also largely replicated in Council Development Control Plan SSDCP2015.

When considering all apartments and towers in the development “collectively”, the following table provides a compliance checklist of the main ADG design criteria. It is noted that the master plan / Concept Approval has established the majority of site planning controls and acceptable building forms, envelopes, setbacks and separation distances with respect to the ADG.

| Objective | Design Criteria | Proposal | ADG |
|---------------------|---|---|---|
| Building Separation | Up to 25m (5-8 storeys): 18m habitable rooms/balconies | Building A to B (11 to 9 storeys) = 18.31m | Yes – Up to 8th storey No (5.69m deficient where above 9 storey) (Note: Basement defined as storey) |
| | | Building B to C (8 to 7 storeys) = 18.085m | Yes |

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| | Over 25m (9+ storeys): 24m habitable rooms/balconies | <p>Building B to G (9 to 14 storeys, 8 to 7 storeys) = 23m</p> <p>Building C to D (7 to 13 storeys) = 23.1m</p> <p>Building D to E (south: 9 to 7 storeys) = 17.65m</p> <p>(central: 13 to 13 storeys) = 37.9m</p> <p>(N / W: 8 to 13 storeys) = 12.65m</p> <p>Building E to F (7 to 7 storeys) = 12.6m - 13m</p> <p>Building F to G (6 to 7 storeys) = 21.92m</p> <p>Building G to D (7 to 8 storeys) = 13.2m</p> | <p>Yes (Majority) No (1.0m deficient where above 9 storey)</p> <p>Yes (Majority) No (900mm deficient where above 9 storey)</p> <p>No (350mm deficient where between 5-8 storey / 6.35m deficient where above 9 storey)</p> <p>Yes</p> <p>Yes (Majority) No (11.35m deficient where above 9 storey)</p> <p>Yes (Majority) No (5.4m deficient where above 5 storey)</p> <p>Yes</p> <p>Yes (Majority) No (4.8m deficient where above 5 storey)</p> |
| Solar access | <p>Min 70% of apartments in a building receive a minimum of 2 hours direct sunlight (9 am and 3 pm at mid winter) to living</p> <p>Max 15% of apartments in a building receive no direct sunlight (9 am and 3 pm at mid winter)</p> | <p>562 out of 749 (75%)</p> <p>84 Of 749 (11.2%) –living rooms / complies with bedrooms</p> | <p>Yes</p> <p>Yes</p> |
| Natural ventilation | Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building. | 471 of 749 (63%) | Yes |

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| Communal Open Space | 25% Site Area | 9,000m ² public park, 3162m ² pedestrian plaza, 6252m ² landscaped podiums (43%) | Yes |
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The above noted deficiencies in building separation are further discussed in the assessment component of this report.

The following table provides a compliance checklist when all 7 apartment towers are assessed “individually”, as per the intent of the ADG. Generally, all individual apartments provide compliant rooms (ceiling, dimensions), balcony areas and storage provisions to afford reasonable internal amenity to future occupants. The internal plan and balcony depths, whilst in some minor instances are exceeded; reasonable amenity is provided to the apartments.

| Apartment Design Guide (ADG) –Building Key Design Criteria | | | |
|---|--|---|---|
| Objective | Design Criteria | Proposal | Complies |
| Communal Open Space (COS) | Communal open space has a minimum area equal to 25% of the site Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter) | Building A – None dedicated for building, reliant of the proposed public park Building B – Level 1/ min 50% sunlight Building C - Level 1/ min 50% sunlight Buildings D & E – Level 2 / min 50% sunlight Buildings F & G – Level 1 - Shared/ min 50% sunlight | Yes – All 7 buildings are within 1 site. Compliant COS is technically provided (Refer to assessment) |
| Solar access | Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter | Building A – 87 of 105 (82.9%) Building B – 53 of 75 (70.7%) Building C – 47 of 63 (74.6%) Building D – 132 of 156 (84.6%) Building E – 97 of 146 (64.6%) Building F – 33 of 49 (67.3%) Building G – 113 of 155 (72.9%) Building A – 18 of 105 (17.1%) Building B – 11 of 75 (14.7%) Building C – 15 of 63 (23.8%) Building D – 18 of 156 (11.5%) Building E – 7 of 146 (4.8%) Building F – 8 of 49 (16.3%) Building G – 7 of 155 (4.5%) | Yes Yes Yes Yes No - 5 deficient No - 1 deficient Yes No – 1 exceeds Yes No – 6 exceeds Yes Yes No – 1 exceeds Yes |
| Natural ventilation | At least 60% of apartments are naturally cross ventilated. | Building A – 71 of 105 (67.6%) Building B – 52 of 75 (69.3%) Building C – 45 of 63 (71.4%) Building D – 104 of 156 (66.7%) Building E – 94 of 146 (64.4%) Building F – 36 of 49 (73.5%) Building G – 104 of 155 (67.1%) | Yes Yes Yes Yes Yes Yes Yes |

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| | Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line | Building A – G Majority compliant. Several 'Large' 3 bedrooms apartment types exceed 18m when considering bedroom glass line to bedroom adjoining balcony. Compliant depth is provided from living area. | Yes - Acceptable |
| Ceiling heights | Habitable rooms 2.7m | Buildings A – G. 2.7m | Yes |
| Apartment Size & Layout | 1br bedroom – 50m ² 2br Bedroom – 70m ² 3br Bedroom 90m ² Habitable room with external wall window not less than 10% the floor area of room, Habitable room depths are limited to maximum 2.5 x the ceiling height In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window | Buildings A – G. Min 50m ² Min 74m ² Min 100m ² Daylight not borrowed from other rooms. Windows not less than 10%. Generally 2.5m Generally 8m | Yes Yes Yes Yes Yes – acceptable Yes – acceptable |
| Room Design | Master bedrooms = 10m ² Other Bedrooms = 9m ² Minimum Dimension = 3m | Buildings A – G. >10m ² Min 9m ² Min 3m | Yes Yes Yes |
| Primary Balconies | 1br = 8m ² / depth 2m 2br = 10m ² / depth 2m 3br = 12m ² / depth 2.4m | Min 8m ² / depth 2m Min 10m ² / depth 2m Min 12m ² / depth 2.4m Apartments generally exceed the requirement. Dual balconies and a range of dimensions are provided to podium levels. | Yes – acceptable |
| Common Circulation & Spaces | Maximum 8 apartments on level accessed by single lift core. | Building D – Lobbies D1 and D2 Building E – Lobby E1 provide to 9 apartments | Yes – acceptable |
| Storage | 1br apartment = 6m ³ 2br apartment = 8m ³ 3br apartment = 10m ³ At least 50% of storage | Buildings A – G. Storage provided for all apartments primarily within | Yes |

| | | | |
|--|-------------------------------------|--|--|
| | to be located within the apartments | individual units. Some with secondary storage areas within basement. | |
|--|-------------------------------------|--|--|

8.8 Local Controls – SSLEP 2015 and SSDCP 2015

The approved Concept Plan sets out the general planning parameters for the site. Clause 3B(2)(f) of Schedule 6A of the Environmental Planning & Assessment Act indicates that the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan. By and large, the numeric provisions of SSLEP2015 and Council's Draft DCP are not applicable to this proposal. Further Council's Development Control Plan largely replicates the before mentioned ADG design criteria.

The table below details the main standards / controls within SSLEP2015 & SSDCP2015 relevant to this application.

| Sutherland Shire Local Environmental Plan 2015 | | | |
|--|---|---|----------------|
| Clause | Standard | Proposed | Complies |
| Land Use Table | Zone B4 Objectives | The proposal is consistent with the objectives and consistent with the future surrounding urban form established by the Concept Plan. | Yes |
| 4.3 | Height of Buildings | 50m 2.53:1 These requirements have been set in the Concept Plan approval. | N/A |
| 4.4 | Floor Space Ratio | | |
| 5.9 | Preservation of trees or vegetation | The Concept Plan approval and associated VPA for the biodiversity offset has been established under a separate development consent for the early site works. | Yes |
| 5.10 | Heritage Conservation | Council and the NSW Heritage Council are satisfied with the conservation of the site's heritage significance (brick kiln) with conditions of consent. Not a known / evidence of aboriginal place of heritage significance. | Yes Yes |
| 6.2 6.3 6.4 | Earthworks Flood Planning Stormwater Management | The proposal incorporates the requirements of the Concept Approval and provides for a detailed design. A minimal threat or impact is presented subject to suitable design conditions. | Yes |
| 6.5 | Terrestrial Biodiversity | Terrestrial biodiversity is appropriately maintained and enhanced. | Yes |
| 6.16 – 6.18 | Urban Design | Proposal demonstrates a high quality design, with private open | Yes |

| | | | |
|--|--|---|--|
| | | spaces of sufficient area and dimensions. See discussion under SEPP 65 / ADG. | |
|--|--|---|--|

| Sutherland Shire Development Control Plan 2015 | | | |
|---|--|---|-----------------|
| Clause | Standard | Proposed | Complies |
| Chapter 16 – B4 Mixed Use Kirrawee | | | |
| 4.2.1 | Street trees retained / planted at 10m intervals | Proposed and reinforced in landscape design condition | Yes |
| 5.2 & 7.2 | Street, Side & Rear Setbacks | These requirements have been set in the concept plan approval. | N/A |
| 8.2.2 | Loading & unloading within site. | Proposed | Yes |
| 9.2 | Urban Design, residential flat buildings to achieve the quality of SEPP65 and the ADG (including solar access / dwelling mix / balcony sizes / storage provision). | Refer to previous discussions (at least 50% of the required storage is located within each dwelling) | Acceptable |
| 9.2.15 | Communal Open Spaces 25% of site | >25% when considering public park and site collectively. Building A has no dedicated podium | Yes |
| 10.2.1 | 20% adaptable dwellings | 20% proposed | Yes |
| 10.3.1 | 10% Livable dwellings | 10% proposed | Yes |
| 13.2.1 | Car Parking Rates | These requirements have been set in the concept plan approval. | N/A |
| 13.2.3 | Motorcycle Parking 1 space per 25 car spaces. | 22 motorcycle spaces for the non-residential component of the development is provided | Yes |
| 13.2.4 | Bicycle Parking – 1 space per 10 car spaces (first 200), 1 space per 20 thereafter | 128 proposed (78 resident / 20 staff / 30 visitor and shopping) | Yes |
| 15.2 | Waste storage | Adequate areas proposed. Collection by a private contractor. Suitable conditions are recommended. | Yes |
| Chapter 34 – Other Uses (Signage) | | | |
| 6.2.2 | Not greater than 25% of elevation above awning | All signs less than 25% | Yes |
| 6.2.(4)(5) | Not protrude > 300mm from face or be above parapet | Suitable condition will be placed on the development consent. Not above parapet. | Yes |

| | | | |
|--|--|--|-----|
| 6.3.2 (a) | Freestanding pole sign to not exceed 8m. | 3m - 8m | Yes |
| Chapter 36 – Late Night Trading | | | |
| 3.2.1 | Base Hours – 6am – midnight (bottle shops to cease at 10pm) | Hours of operation are consistent with the base hours and management plans are proposed for each commercial use. Suitable conditions are recommended in relation to outside of hours activities (e.g. deliveries) in light of the residential development within and in proximity to the site. | Yes |

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The application was referred to the following internal and external specialists for assessment and the following comments were received: A full copy of the State responses is included in **“Appendix D”**.

9.1. NSW Roads & Maritime Services

Comment: The application was referred to the NSW Roads and Maritime Services (RMS) for concurrence under Section 87 and Section 138 of the Roads Act, 1993. The RMS notes that the traffic impacts and infrastructure upgrade were previously assessed and determined under the Concept Approval.

Since this approval, the RMS has proposed to undertake road works in the next financial year as part of the ‘Gateway to the South’ program, which in part conflicts with the future plans and Strategic Designs for the locality as well as the Concept Approval and associated Works Authorisation Deed (WAD) issued for the development. The RMS has indicated that the change in design is based upon more recent traffic modelling which has included the Brick Pit redevelopment.

In lieu, the RMS request a hybrid design and amendment to the terms of the Concept Approval / WAD, and a monetary contribution to be paid by the developer for the RMS to complete their planned upgrade works (based on the cost of the works).

Concerns have also been raised regarding the adequacy of public consultation (particularly to businesses) during the assessment of MP10_0076 with respects to planned works the loss of on-street parking within Oak Road and Flora Street. It is noted that the subject and Major Project applications have been publicly exhibited (in the case of the Part 3A application, many times over a number of years) and the determination of MP10_0076 required the lost off-street parking to be recouped within the development site (40 spaces).

The RMS raise no objection to the proposed development subject to suitable conditions of development consent. Of most relevance are the following:

- An amended design which incorporates the changes required to suit new RMS plans for the Princes Highway and adjacent intersections/ roads.
- For all other works required under the Concept Approval MP10_0076 (all road works with the exception of intersection upgrades at Princes Highway/Oak Road and Princes Highway/Bath Road) to be completed by the developer in accordance with the executed WAD, and shall be fully operational, prior to the issue of any occupation certificate.

- Council should ensure that post development storm water discharge from the subject site into the Roads and Maritime drainage system does not exceed the pre-development application discharge.

Council recommends that suitable conditions be imposed requiring the applicant to fulfil / or come to agreement with the terms of the RMS concurrence where it has deviated from the terms issued in the Concept Approval and to satisfy the Department of Planning that this is acceptable. This will also entail changes to Council's street network and, as discussed in more detail below, potentially impact upon the parkland and the environmentally sensitive STIF community within it, requiring consultation with the Department and the NSW Office of Environment and Heritage.

9.2. Heritage Council of NSW

Comment: The Heritage Council has provided written response with regards to site archaeology and the conservation / reconstruction of the brick kiln. Generally no objection to the development application has been raised with respects to archaeology. If additional works are required for the development that extends beyond the scope of works assessed for the previously issued under the Concept Approval further application / consideration by the Heritage Council will be required. This requirement will be imposed as a Condition of development consent.

9.3. NSW Department of Primary Industries (Water)

Comment: The DPI has advised that the development approval and proposed activities is not a controlled activity as defined by the Water Management Act 2000. Should the proposed development be varied in any way that results in development extending onto land that is waterfront land, or encompassing works that are defined as controlled activities, then DPI should be notified and appropriate approvals sought.

9.4. Sydney Water

Comment: The development will result in a significant increase in demand for water and wastewater services and has been referred to Sydney Water for comment under Section 78 of the *Sydney Water Act 1994*. Further Condition 9 of the Concept Approval requires the subject development application to demonstrate that the certain Sydney Water requirements have been met. The applicant indicates that discussions have been undertaken with Sydney Water and requests that the requirements be imposed as a condition as these activities typically occurs post development consent (i.e. engage Water Servicing Coordinator / issuing of a Section 73 Certificate).

Sydney Water has advised that there is generally sufficient trunk water and waste water capacity to service the development. No objections have been raised for the final detailed design requirements to be determined as part of the normal Section 73 Certificate phase imposed via conditions of development consent.

9.5. NSW Police Force (Crime Risk Protocol)

Comment: The NSW Police advised that the development will result in an increase in activity, both in and around the location. This will subsequently increase the risk of crime, along with increase in crime opportunities and potential offenders within the development and its surrounds. After conducting the evaluation, the crime risk rating has been identified as 'medium' (based on a sliding scale of low, medium to high). NSW Police have recommended treatment options for consideration in terms of improving Crime Prevention Through Environmental Design factors such as lighting, access control and way-finding.

Should the application be supported, the Police recommend a condition of consent to address the above including the provision of appropriate lighting, CCTV, and security access controls to the development.

9.6. Architectural Review Advisory Panel

Comment: The application was considered by Council's ARAP on 22 October 2015. Specific concerns are raised regarding the treatment of the Public Park and public domain strategy, particularly in relation to the prominent Princes Highway frontage and the interface/ activation of the development to the Kirrawee Centre and surrounding context. The Panel also requested further development in the aesthetic rationale across the buildings in relation to site-specific context and the need for the project to demonstrate design excellence as a new paradigm for urban density and living within the Sutherland Shire LGA. ARAP generally supports the application subject to the applicant addressing the comments/ recommendations and the following points outlined the report summary:

- Further design consideration of Kiln Park and in particular pedestrian patterns and access adjacent to the eastern and northern boundaries.
- A review of the proposed pond design to more authentically conserve its heritage values.
- Rationalisation of the internal 'street network' and access to some buildings.
- Reconsideration of the Oak Road entry and exit basement ramp locations, and provision of a stronger landscape character.
- A review of the entire public domain strategy along the Princes Highway frontage.
- Consideration of the impact on future development of land to the east.
- A review of public domain quality and pedestrian entry from Flora Street.
- Preparation of Landscape Management Plans for 1) STIF protection and rehabilitation 2) Site specific arboriculture management and 3) Community gardens.

The report from that meeting has been appended as "Appendix E".

9.7. Architect

Comment: Council's Architect has undertaken a review of the development proposal with respects to urban design, architectural quality and residential amenity including compliance with SEPP65, the ADG and amendments made to the proposal in response to the recommendations of ARAP. The revised submission has generally attended to the ARAP comments but concerns are still apparent regarding the amenity of solar access for future residents and for general access through the development to individual units. Concerns have been raised regarding the connections of residential lobby D3 via the D2 lobby, and the reduced number of units devoid of solar access given the unconstrained nature of the site.

The revised pedestrian access from Flora Street to the Pedestrian Mall entry (between Buildings E & F) alienates the development from the public area and creates CPTED issues. The original configuration is a more appropriate outcome.

9.8. Heritage Architect

Comment: The Heritage impact Assessment and Conservation Management Plan (CMP) with respects to the brick pit kiln has been reviewed by Council's Heritage Architect. Generally no objections to the development proposal and scope of works (including interpretive centre) has been raised subject to suitable conditions of development consent and endorsement of the development scheme and documents by the Heritage Division of the Office of the Environment and Heritage.

9.9. Landscape Architect

Comment: Council's Landscape Architect has undertaken an assessment of the application with respect to landscaping, tree removal and retention and general site planning. No objections to the development proposal have been raised subject to the imposition of appropriate conditions of development consent including the requirement for a detailed landscape plan, tree retention and replacement, along with frontage improvements.

9.10. Engineering

Comment: Council's Senior Development Engineer has undertaken an assessment of the development proposal with respect to stormwater design / disposal, flood planning, internal / external public domain works, parking provision and design of parking / loading areas, traffic impacts and other matters with respects to impacts to the surrounds and public safety.

In providing this response, Council's Senior Development Engineer has collated responses from Council's Manager Asset Planning, Traffic & Transport Manager and Stormwater Management Manger. In large part, the civil design and car parking/ drainage design within the property boundaries of the site are well resolved and are readily covered by standard engineering conditions.

With regard to stormwater, the Engineer raised a significant concern about stormwater discharge off the site. A long-standing issue for Council has been the fact that the site drains to two separate catchments – one across the Highway towards Kirrawee industrial area and eventually into the Georges River near Kareela Golf Course, and one across the railway toward Gymea and into the Port Hacking near Grays Point. The proponent does not have the appropriate approvals from the RMS or Sydney Trains in place to drain under (or using) their infrastructure, as directed by Council before lodging the DA, provided information about the amount or rate of new stormwater discharge which will be generated by the development into either catchment. It is important to realise in this assessment that at present the site does not generate any stormwater discharge into Council's system. This issue is discussed in more detail below and it is recommended to be resolved by the imposition of detailed engineering conditions.

Conditions relating to flood planning have also been included in the recommended conditions of consent.

With regard to traffic matters, the parking provision is assessed as acceptable – given that it complies with the Concept Plan, although it is far less than Council's ordinary DCP requirements for a development of this scale. Traffic works are discussed under 'external referrals' above.

The public works component of the development remains substantially unresolved. The applicant has not been able to reach a satisfactory agreement with Council's properties and assets group at the time of reporting in respect of the public domain. Insofar as this relates to street frontage works, these will be subject to standard conditions of development consent. Works which are subject to the VPA, including embellishment of the parkland and upgrades within the Kirrawee Town Centre, will be resolved once the VPA is agreed, exhibited and executed. The staging of the VPA is discussed below.

No properly detailed plan for the nominated plan of strata or stratum subdivision was provided with the proposal and as such Council's Engineers has not provided consent conditions in this respect. A further application will need to be lodged to arrange the strata and stratum subdivision at a future stage.

9.11. Environmental Health

Comment: Council's Area Environmental Health Officer has undertaken an assessment of the application with respect to noise and amenity impacts (including from road), building ventilation and operation / fitout of the commercial tenancies within the development. Generally no objections to the proposal have been raised subject to the imposition of suitable conditions of development consent. Specific concerns have been raised regarding the proposed delivery and waste pickup hours and the potential impacts on the amenity of surrounding residential development. It has been recommended that these hours be restricted to 7am to 8.00pm Monday to Saturday and 8.00am to 8.00pm Sundays and Public Holidays for all commercial premises.

9.12. Community Services

Comment: Council's Communities Unit has undertaken an assessment of the proposed development with respect to social impact, crime risk and prevention, adaptable housing and general accessibility. Generally, no objection to the proposal was raised, subject to the imposition of conditions of development consent including the implementation of CPTED and accessibility measures, access provided as per the recommendations of the Accessibility Report, and protection against vandalism. Specific concerns have been raised in relation to the supply of alcohol within the development and safety of pedestrian movements traversing the Princes Highway (need for walk bridge). These concerns are discussed further in the assessment of this report.

9.13. Environmental Science

Comment: Council's Environmental Scientist has undertaken an assessment of the proposed development with respect to site contamination and environmental impact (including groundwater). No objections have been raised subject to the imposition of conditions of development consent with regards to validation reporting of at the site establishment phase and the management of groundwater in line with the terms of the Concept Approval.

10.0 ASSESSMENT

The development is largely consistent with the terms of the 'Part 3A' Concept Approval and applicable Policies and Standards. The detailed assessment below outlines several significant (whilst relatively easily resolved) inconsistencies where the proposal has exceeded the terms specified by the Planning Assessment Commission (PAC). Council recommends that these deficiencies be resolved through a series of design changes including a reduction in the mass of towers (particularly Building E), a reduction in the quantum of residential Gross Floor Area (GFA), and minor modification to the Flora Street setback where it exceeds the PAC approval.

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important in the assessment of this application.

10.1 Site Suitability & Zoning Objectives

The property is predominantly located within the B4 – Mixed Use under the provisions of SSLEP2015. The proposed development and scope of works proposed (including commercial land uses) are permissible within the zone with development consent. The objectives of the zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To permit light industrial uses that are compatible with the desired future residential amenity of the zone.*
- *To facilitate the re-vitalisation of the Kirrawee town centre and the Kirrawee railway station precinct.*
- *To ensure that any expansion of retail activity in the zone maintains the role and function of Kirrawee town centre and does not adversely impact on the sustainability of other centres in the Sutherland Shire.*

The south – west corner of the site (approximately 9000m²) is located within Zone RE1 – Public Recreation under SSLEP2015. The area of the proposed public park subject to dedication under a

Voluntary Planning Agreement is identified as a permissible land use within the zone. The objectives of the zone are as follows:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

The general site suitability, mix of floor space and scale of the development with respect to the desired future residential form, relationship to Kirrawee Centre (and others), and anticipated environmental impact is by large, acceptable and consistent with the objectives of the zone and SSDCP2015 by virtue of the Concept Approval. The provision of housing stock as well as balanced economic opportunity is consistent with the Sydney's broader planning agenda. SSLEP2015 and Council's Draft DCP reflects the planning parameters and use of the land as set out in the Concept Approval as close as possible. Council would still contend that retailing activities such as multiple full-line supermarkets should be concentrated on major-order accessible centres such as Sutherland and Miranda, but the quantum and nature of retail gross floor area has been approved under 'Part 3A'.

10.2 Consistency with 'Part 3A' Major Project Concept Approval

The approved Concept Plan sets out the planning parameters for the site including building levels, envelopes, finished heights, separation distances and setbacks to site boundaries. The overall quantum of residential and commercial floor space, parking provision and public open space is also specified. By and large, the proposal satisfies and aligns with the terms of the Concept Approval however several importance discrepancies exist, particularly in relation to building height, setbacks, gross floor area and basement provision.

A detailed table of compliance with the Concept Approval is attached as **"Appendix F"**.

The applicant asserts that Clause 3B(2)(d) of Schedule 6A of the Environmental Planning and Assessment Act, 1979 provides flexibility for inconsistencies as the development is only required to remain 'generally' consistent with the terms of the Concept Plan approval. Council is of the view that a degree of flexibility can be applied in certain instances where minor inconsistencies exist, such as those associated with the departures from the underground envelope (where no specific RL's were set out in the Concept Plan), ground levels, and changed requirement / position of Sydney Water etc. However, where the Concept Approval specifically sets out 'maximum' parameters (i.e. building height, apartment yield, floor space, setbacks) particularly 'to the millimetre' and these are exceeded, this would render the development inconsistent with the Concept Approval. The particular wording of these PAC approved conditions inhibits variation unless modification to the Concept Approval is first made through the appropriate Section 75W process. This question is quite separate to the merits of the proposal and in some areas where the proposal is inconsistent with the Concept Plan, Council does not raise issues with the planning merits. For example, small breaches in the maximum height are likely to be supported by Council. On the other hand, and as discussed in more detail below, significant breaches in building height, gross floor area, and encroachment into the street setback programmed by the PAC for Flora Street are unlikely to be supported as they will result in material impacts internally, on neighbours and the streetscape.

10.3 Voluntary Planning Agreement VPA

Condition A11A of the Concept Approval requires the applicant to enter into a Voluntary Planning Agreement (VPA) with Council. A Draft VPA which includes the dedication of a public park and community facility is currently being considered by Council in detail and negotiations between the applicant and Council staff prior to its public exhibition are in the final stages. Council is of the view that the VPA does not need to be exhibited concurrently with the subject application or executed prior to determination. That is, there is sufficient public knowledge of the form and content of the VPA as the core content of the VPA has been subject to prior assessment and endorsement by the PAC (including public exhibition

processes).

It is likely that the changes prompted by the RMS will require a change to the material covered by the VPA. The likely road widening in Oak Road will impact upon the quantum of parkland, which in turn will reduce the amount of STIF able to be conserved in situ. This will make staging of the delivery of the VPA critically important. The Concept Plan, which the DA consent must be consistent with, requires the VPA to be executed 'before the OC for the first substantive stage of the development'.

To ensure appropriate timing and delivery, including any required modifications of the Concept Approval where required, a suitable condition of consent is recommended in "Appendix A" requiring the proponent to draft, agree and exhibit' the VPA with Sutherland Shire Council prior to the issue of any Construction Certificate (CC) for above ground works. This will ensure that any road works and any other matters affecting the size, dimensions and location of the parkland/STIF are resolved prior to the commencement of substantive construction.

10.4 Building Height

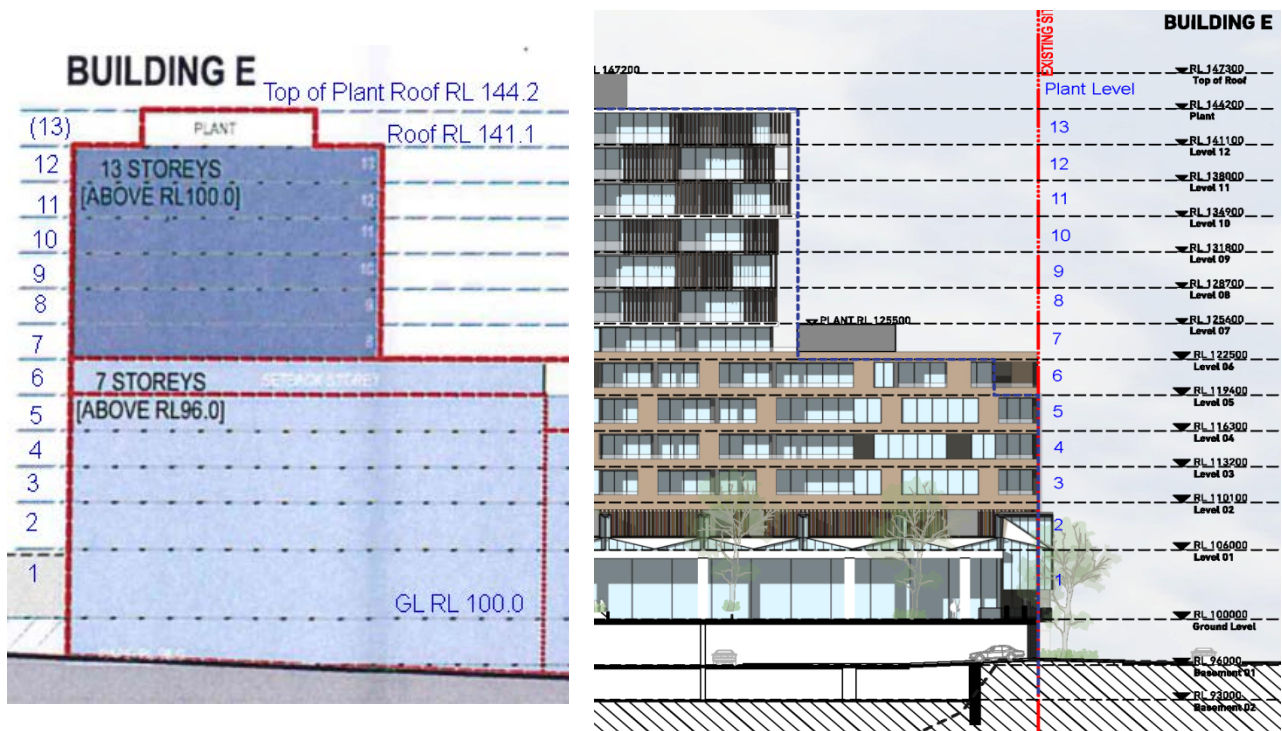
Condition A5 'Building Height' of the Concept Approval requires roof heights on the site to not exceed the levels (RL's) identified on Concept Plan Drawings. A detailed table of compliance of the proposal with the Concept Plan is provided below:

| | Concept Approval | Max Proposed | Complies |
|------------|---|--------------|------------------------|
| Building A | Roof Level for 13 storey's – RL 143.6 | RL 144.7 | No (exceeded by 1.1m) |
| | Overall Top of Plant - RL 147.2 | RL 147.1 | Yes |
| Building B | Roof Level for 9 storey's - RL:126.7 | RL 127 | No (exceeded by 300mm) |
| | Overall Top of Plant – RL 130.3 | RL 129.7 | Yes |
| Building C | Roof Level for 7 storey's – RL 122 | RL 122.3 | No (exceeded by 300mm) |
| | Overall Top of Plant – RL 125.6 | RL 125 | Yes |
| Building D | L- shaped Building: Roof Level for 8 storey (W) – None specified | N/A | N/A |
| | Roof Level for 13 storey (E) – RL 138 | RL 138.7 | No (exceeded by 700mm) |
| | Roof Level for 9 storey (S) – RL 125.6 | RL 125.9 | No (exceeded by 300mm) |
| | Overall Top of Plant – RL 141.1 | RL 141 | Yes |
| Building E | L- shaped Building: Roof Level for 7 storey (S/W) – None specified (approx RL 122.5) | N/A | N/A |
| | Roof Level for 7 storey (S/E) – None specified (approx RL 119.4) | N/A | N/A |
| | Roof Level for 13 storey – RL 141.1 | RL144.9 | No (exceeded by 3.8m) |
| | Overall Top of Plant – RL 144.2 | RL147.2 | No (exceeded by 3m) |
| Building F | Roof Level for 6-7 storey – RL 121 | RL 121.3 | No (exceeded by 300mm) |
| | Overall Top of Plant – RL 124.6 | RL 124 | Yes |
| Building G | L- shaped Building: Roof Level for 7 storey (N) – None Specified | N/A | N/A |
| | Roof Level for 7 storey (S) – None Specified | N/A | N/A |

| | | | |
|--|-------------------------------------|----------|------------------------|
| | Roof Level for 14 storey – RL 146.3 | RL 146.7 | No (exceeded by 400mm) |
| | Overall Top of Plant – RL 149.4 | RL 149.3 | Yes |

Council acknowledges that the visual perception of non compliance where minor (e.g. 300mm – 400m) will be relatively negligible from a human scale and the resulting impacts may well be negligible. These buildings generally provide compliant heights at the uppermost ceiling levels. Further, Building A has been elevated above the ground floor RL set out in the Concept Approval by 800mm to respond to site flood planning issues.

Building E is more than 3m above the ‘maximum’ heights presenting visually as an additional storey from that depicted in the Concept Elevation Diagrams. Unlike other building envelopes, an anomaly exists in the notation for Building E in the Concept Elevation Diagrams. Based on the finished RL’s, the Plan should depict the building as 12 storeys of residential above RL100 (refer to below Concept and proposed plans). The applicant has applied the 13 storeys for residential use ‘literally’ and provides for an additional level (with a plant room above that level) rendering Building E over 3m higher than the RL’s specified within the Concept Elevation Diagrams.



Council recommends that all vertical apartment towers which exceed the maximum roof and plant levels specified in the Concept Approval be reduced in height to comply. This can be achieved with the removal of the upper floor level(s) of each vertical apartment tower and / or minor adjustment to the internal ceiling heights where possible. Any reduction in internal heights should not however reduce internal residential amenity and compliance with relevant building standards and the Apartment Design Guide (e.g. plan / room depths and solar access). Should Building A be reduced by a storey, it is recommended that the 11 storey eastern component of Building A be also reduced to 10 storeys so as to enable an appropriate scale transition of built form along the Princes Highway.

Council does not want to see an awkward urban design outcome result from these changes, or apartments with inferior quality. It is apparent however that the proposal seeks to exceed the limits set by the PAC and so needs to be refined to respect these limits. Council amended its own LEP to respect the RL’s set in the Concept Plan approval in acceptance of these limits. There is no justifiable argument as to why the proposal should exceed the

heights specified in the Concept approval. Compliance also reinforces a level of reliability and certainty in the Planning system.

A suitable condition is provided in "Appendix A" of this report. The wording of the recommended condition will enable works relating to the basement parking levels to commence on site to afford the applicant opportunity to redesign the proposal accordingly, or to further seek modification to the Concept Approval through the appropriate Section 75W modification process.

Should the Joint Regional Planning Panel be satisfied that the minor variations in building height (300mm – 1.4m) from the Concept Approval can be supported without modification to the Concept Approval through the Section 75W process, Council will remain of the view that Building E is substantially not in accordance with the Concept Approval and should be reduced by a full storey (i.e. Residential Level 12).

Note: Amended plans were received 12 February 2016 whereby the ground RL's of Buildings A & B have been modified. Building A has been increased by 300mm to RL100.50 and Building B lowered by 300mm to RL100.20. Whilst amended elevation plans have not been received depicting alteration to overall RL's, it is assumed that the change occurs as adjustments to the ground floor – floor to ceiling heights. The level renders Building B compliant with the Concept Approval and Building A would exceed the height by the further 300mm.

10.5 Gross Floor Area (GFA)

Schedule 1 of the Ministers Approval (attached) indicates that the approved modification MP10_0076 MOD 3 includes 69,310m² of residential GFA. The applicant's GFA calculation plans indicates that 69,310m² of residential GFA is proposed.

Schedule 2, Part A of the Terms of Approval however sets out the Administrative Conditions of the development consent. Condition (a) A1 (c) provides amendments to the development description and indicates that the Concept Plan approval is granted to the development with 85,000m² of GFA comprising 68,310m² of residential (749 dwellings), 14,190m² of retail/commercial floor space and a 1,500m² community facility. There is a 1000m² disparity of residential GFA with the amendments made to the development description as when the individual components of the development are totalled (i.e. residential, commercial, community) the development does not achieve 85,000m² of GFA. It is assumed that the residual is either accidental or intended for incidental areas within the development which do not fit into the above descriptions. The internal area of the brick kiln is an example of incidental floor space which has not been included in the applicant's calculation as GFA.

The recommended removal of Level 12 of Building E (i.e. the additional storey) comprises approximately 826m² which makes the majority of the disparity. The remaining 173m² of GFA is equivalent to a 2 residential (minimum) apartments and whilst there are numerous areas within the development where the remainder of the GFA could be re-couped, Council considers Building D to be the most appropriate location.

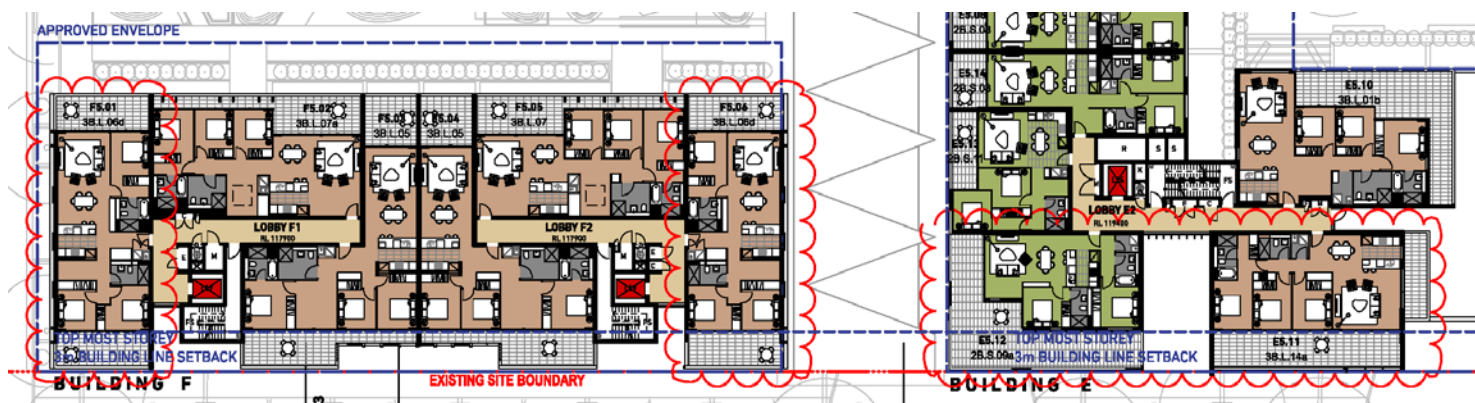
Building D provides the least amenity in terms of 'way finding' and common circulation for residents which is discussed further in this report. A suitable location for a reduction in residential GFA is with the removal of apartments D10.08 – 3 bedroom (118m²) and D6.07 – 2 bedroom (75m²). These apartments are located on upper floor / edge locations of Building D and would lessen the quantity of residential apartments lacking higher amenity. The resultant built form would both lessen the visual width / mass of the building and increase building separation.

Council recommends that a suitable condition be imposed to enable a degree of flexibility in the design incorporating either the above design opportunities and providing an alternative

whereby the applicant can undertake the GFA reduction elsewhere in the development to the satisfaction of Council. This will enable the full permitted 68,310m² of GFA as approved in the Concept Plan to be realised.

10.6 Setback to Flora Street

Condition B2A (Building Envelopes 'E' and 'F') of the Concept Approval requires the buildings to provide a minimum 3m setback to the 7th storey fronting Flora Street in order to achieve an appropriate scale of development. The submitted plans depict a 3m setback to the external glass line of the 7th storey of Buildings E and F, however there are projecting active use balcony spaces (and balustrades), blade walls, and stair wells (vertical circulation cores) located within the required setback (out to the street boundary).



Whilst in principle Council acknowledges that the secondary balcony spaces will enhance residential amenity and add architectural interest to the building, it is Council's view that the specific design parameter has not been satisfied, and as with building height / GFA, support for the variation cannot be provided unless modification to the Concept Approval is made.

Council recommends that Building F be relocated approximately 900mm northward within the site (i.e. to the minimum distance of the stair well encroachment within the 3m setback) or a combination of both relocation / adjustment to the internal floor plan to achieve the full 3m setback. Blade walls and balconies encroaching within the 7th Level 3m setback must also be deleted. The reduced balcony areas can be converted to narrow Juliet style balconies (i.e. balustrade edge moved to 3m setback alignment) or alternatively be deleted from the development and reinstated with window openings. It is noted that reasonable amenity is still achieved as these southern orientated balconies are secondary spaces accessed from passive use bedroom areas. Opportunity also exists for the internal non bedroom areas of Units F5.03 and F5.04 to be utilised for additional balcony space.

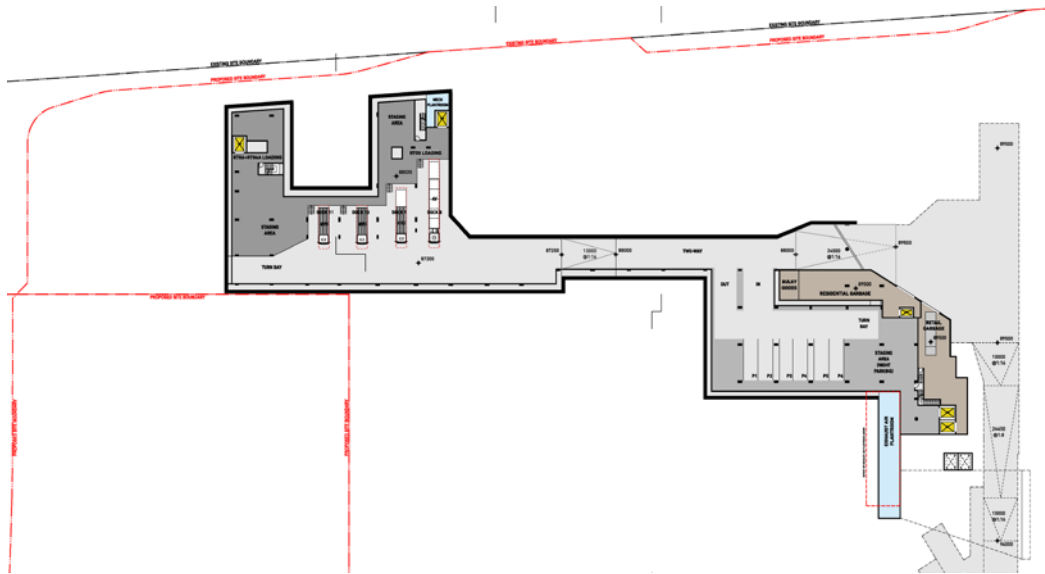
The blade walls and trafficable balconies encroaching within the 7th Level 3m setback of Building E are also recommended to be deleted and door openings to the balconies be converted to windows. The eastern orientated balcony of Unit E5.11 is however required to be enlarged to the minimum required to satisfy the ADG and Council's DCP. To further reinforce the intent of the Concept Approval, the roof form projecting over the 7th storey balconies is also recommended to be reduced to the length of a standard projecting eave in order to achieve an appropriate scale of development.

It is anticipated that the design changes will result in an acceptable urban design outcome and enable the development to maintain compliance with the Concept Approval and the ADG in terms of building envelopes, separation and balcony sizes.

10.7 Basement Level 3

The Concept Approval identifies 2 Levels of Basement parking within the development. Amended plans have been received during the course of assessment in which an additional

loading facility (Basement Level 3) is provided to service the commercial tenancies within Buildings A and B. This is proposed via an extension of the loading dock facility and driveway on the eastern side of the site accessed from Flora Street.



A significant shortfall in the Concept Approval is that any potential loading and unloading to service Buildings A and B would need to occur externally from ground level (public way), from the basement residential parking areas or from the loading dock facility provided at the eastern side of the site. It is Council's view that the provision of the additional facility is an appropriate development outcome given the overall scale and intensity of the development, as well as the unknown nature of future uses and servicing demands of the commercial spaces. Potential conflicts will be minimised and safety of future residents and the community enhanced. The basement level follows the general footprint parameters of the basement levels above and does not impede on the heritage Kiln, adjoining park or vegetation communities. As no lower RL has been specified in the Concept Approval and the works are entirely below ground resulting in no significant environmental impact, Council is supportive of the design modification.

Should the Joint Regional Planning Panel consider the loading facility as being not 'generally' consistent with the terms of the approval of the Concept Plan, this element of the development can be deleted via Design Change condition, and the applicant able to propose modification to the Concept Approval through the relevant Section 75W process

10.8 Building Separation

The proposed development largely achieves the separation distances between buildings in accordance with the Concept Plan. There are minor encroachments between buildings E – F (400mm shortfall), and D – E (350mm shortfall). Condition A6 of the Concept Approval also requires future development application(s) to be consistent with the provisions of the Residential Flat Design Code (now Apartment Design Guide).

The ADG requires building separation to be increased proportionally to the building height and depending on the interface nature of the buildings (i.e. habitable / non habitable). As indicated in the compliance table there are several deficiencies, some minor with the apartment buildings with respects to fully satisfying the requirements of the ADG. These are mainly upper floor locations. The master planned 'high density urban' nature of the site and known building envelopes / heights and interface between buildings however allows for adequate building separation to be achieved proportionally to their respected building heights. Suitable separation and architectural treatment is provided to the buildings (such as

the inclusion of louvered screens to windows) to maintain reasonable amenity and visual privacy for future occupants.

Specific concerns have been raised regarding the loss of development opportunity on the adjoining sites to the east, particularly with respects to the building height, scale and setback provided to the side boundary. It was concluded at the time of the Concept Approval that a 13 storey building with a 9m setback (at level 5 and above) is acceptable and would not have an unacceptable impact on the development potential of the eastern site. Whilst in conflict with the ADG, the proposed setback complies with terms of the Concept Plan and a 16m height maximum for future development applies under SSLEP2015 for the adjoining land. Treating the facade as non habitable where non compliant would unreasonably inhibit amenity and detract from the architectural quality of the development.

10.9 Solar Access

The development “collectively” satisfies the ADG provides in terms of providing compliant solar access. When considered individually as 7 distinct vertical apartment towers (as per the intent of the ADG and Council’s DCP) some apartment buildings perform exceedingly well, and others do not perform to the design criteria.

It is generally anticipated that on a large integrated developments in which a variety of building heights and envelopes are approved (including expectations for building separation) that solar performance may vary depending on the specific circumstances and internal relationships. By virtue of the Concept Approval and subsequent adoption of Council’s current SSLEP2015, the site is earmarked to be a dense urban area. The ADG contemplates this situation and provides that solar access may not always be able to be achieved for each individual building depending on site circumstances.

Amendments have been made during the course of assessment to improve Building A to better perform and align with the ADG amenity design criteria. The outstanding deficiencies identified are not considered to be critical in light of the overall scale of the individual towers so as to warrant any substantial re-design.

10.10 Communal Open Space

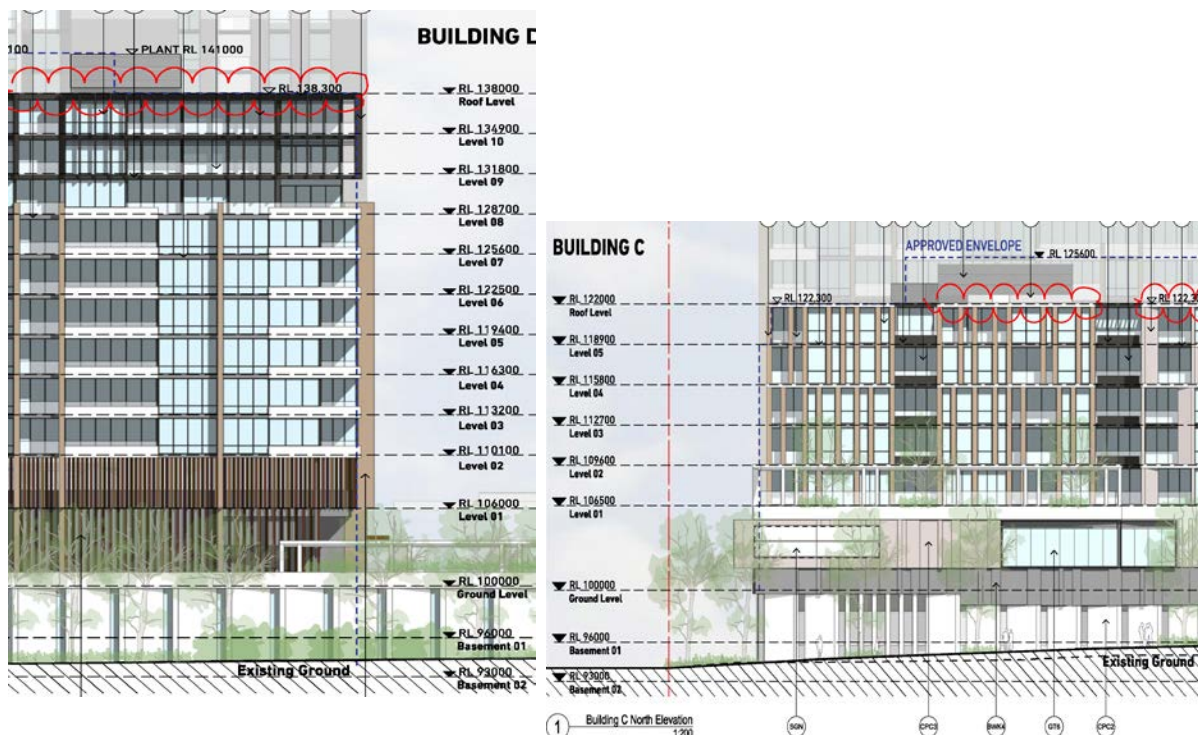
The site as a whole provides surplus Communal Open Space (COS) areas in accordance with the ADG and Council’s DCP when considering the 9,000m² public park dedication, 3,162m² pedestrian plaza, and 6,252m² of landscaped podiums (approx 43%). When considering each building separately however, Building A provides no dedicated COS, and half of Buildings B & C do not have a direct internal lift / foyer access to the COS podium spaces.

The ADG does indicate that ‘where developments are unable to achieve the design criteria, such as in a dense urban area, they should *‘demonstrate good proximity to public open space and facilities and / or provide contributions to public open space’*. The availability of an adjoining public park and mall area provide enhanced amenity for all future occupants. The majority of residences in the development have direct access to ‘resident only’ COS at podium level. The residential apartments lacking this immediate provision generally have a high level of amenity including balcony spaces and visual outlook towards the public park and beyond (to the south) and Sydney Basin to the north. The deficiency does not inhibit the developments ability to provide reasonable amenity for future occupants. A suitable condition is recommended to be placed on the development consent in relation to the hours of use of the COS so as to maintain reasonable residential amenity within the development.

10.11 Finished Levels, Orientation and ‘Way Finding’

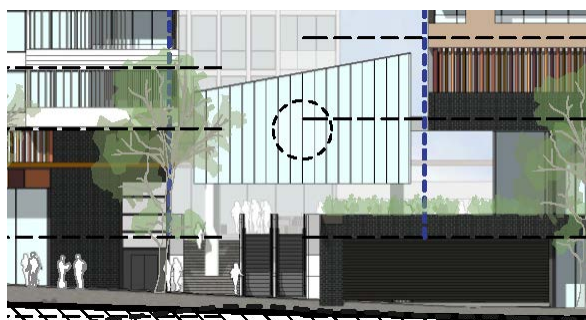
The Concept Approval depicts building envelopes, heights and finished levels for the development. The approved levels result in a built form and ground level which is elevated significantly at the eastern side of the site. Large exposed and elevated podium levels are

typically not a desired urban form and development outcome within the Sutherland LGA, and Council's Policies generally seek to accommodate basement parking as 'bona fide' below ground parking. The resultant and visible built form of Buildings C & D to the streetscape of the Princes Highway and eastern adjoining property is the 'back end' of the parking / loading basement level.



Whilst the Concept Approval nevertheless authorises this finished level, the treatment of the Princes Highway facade and setback area is a specific area of concern. The applicant proposes to visually treat the street setback area with earth mounding and intense landscaping. Architectural detail and treatment is further provided to the exposed external basement level wall which assists in ameliorating adverse visual impacts from the development to the streetscape. As this frontage has not been highly activated with ground / entry level commercial spaces (apart from Oak Road corner), of benefit is the development's ability to actively orientate itself internally and towards the Kirrawee Centre, which minimises pedestrian movement along the busy highway frontage.

The legibility and ease (levels etc) of access, including public access to park from Flora Street has been an area of general concern. The applicant has amended the proposal whereby the eastern most pedestrian access from Flora Street has been modified to a single stair set / elevator to not detract from the primary entry point adjoining the public park. The design modification whilst enabling dual vehicular entry to the basement level, does not result in appropriate streetscape presentation and 'way finding' from Flora Street to the pedestrian mall level. In order to increase activity, general surveillance and legibility of access from Flora Street, Council recommends that the originally submitted design scheme be reinstated for this portion of the development.



Original Proposed Entry From Flora Street



Revised Entry From Flora Street

Unlike other residential lobbies in the development, Lobby 3 of Building D (i.e. lift core) is not provided at ground level. Residents / visitors are required to access the D2 lobby on the north / eastern side of the building, and then traverse to the D3 lift core on Level 1 (within parking level). Alternatively, access the D3 lift core can be made via the Level 2 podium COS. Whilst not ideal, this development outcome is considered to be generally acceptable in light of the approved constraints of the building mass, configuration and location of commercial spaces. Further, amendments have been made whereby 'way finding' to this lobby is further rationalised and via a direct stair / hall connection provided from the D2 Lobby from ground level.

Lobbies D1 and D2 in Building D, and Lobby E1 in Building E provide a single lift core to more than 8 apartments on a number of levels which is inconsistent with the Design Criteria of the ADG. Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies and apartments should be demonstrated. The design guidance in the ADG further indicates that no more than 12 apartments should be provided off a circulation core on a single level. Lobbies D2 and E1 provide two (2) lifts and provide natural light (windows) allowing good amenity to be achieved. Lobby D1 is considered generally acceptable given its centralised location on the floor plan and along with the recommended removal of an apartment on Level 6.

10.12 General Urban Design & Residential Amenity

The development incorporates a notably more modern and urban aesthetic than surrounding buildings within the Kirrawee locality, but respects the character and zoning of the area as a mixed use area. The selection of material finishes respects the previous 'brick pit' land use, with treatment varying between individual buildings. Whilst, the development is notably of a scale and density, non comparable to any existing development within the Kirrawee locality, or the Sutherland Shire generally, the development is anticipated to integrate appropriately with the adjoining industrial built form, public domain areas and existing / desired future locality development.

The extent of overshadowing on the adjoining properties has generally been determined and deemed to be acceptable under the Concept Approval in which building heights, envelopes and setbacks have been set out. Future residential development on the adjoining sites is not anticipated to be unduly inhibited by the development. As mentioned earlier, the applicant demonstrates that reasonable solar access will be provided within the development in order to afford reasonable amenity for future occupants.

The site is a dense urban area by virtue of the Concept Approval and Council's current Local Plan. Concerns have been raised by residents in vicinity to the site and the broader Kirrawee catchment regarding privacy and overlooking from the apartment buildings and elevated balconies. The elevation of the site in Kirrawee, in itself will enable an expansive view aspect over the locality and wider Sydney region from residential levels. Whilst potential overlooking impacts are anticipated, the development has been suitably designed to minimise privacy impacts, both internally and externally.

Matters relating to ecologically sustainable development, energy efficiency and sustainable building techniques have been considered and the proposal incorporates appropriate measures and construction techniques in conjunction with the development.

The Crime Prevention through Environmental Design (CPTED) principle aims have been considered with regards to potential safety and security issues associated with the design of the development. The proposed development provides suitable opportunities for both active and passive surveillance and has been considered by the NSW Police Force and Council's Communities Team. The development is considered appropriate subject to suitable conditions of consent incorporating additional CPTED treatment measures.

The provision of adaptable / livable housing and an accessible built environment are required to be provided in accordance with Council's DCP. The residential / commercial entries and common / public open areas generally respond well to the existing levels in the public domain. Adequate facilities and provisions (e.g. parking, sanitary facilities) are accommodated within the development to enable an accessible built environment.

10.13 Site Environmental Issues

The subject property is identified as 'environmentally sensitive land' with respect to existing vegetation and habitat. The land also form part of Council's Green Web strategy as a 'Support' area. 'Support' areas provide ancillary habitat areas or secondary linkages between habitats. They also contain lands that form a buffer between developments adjacent key habitats and corridors.

Ecological assessments including a biodiversity management plan accompanied the Concept Approval and development application for the early site works. The extent of acceptable environmental impact, particularly in relation to the impact on the 2 threatened species and Sydney Turpentine Ironbark Forest (STIF) vegetation community within the 'public park' portion of the site has been determined to be generally acceptable as part of the related DA14/0368 and executed VPA (including biodiversity offset).

The proposal includes substantial indigenous plantings (shrubs and trees) along the sites frontages, within podium / communal areas and internal roads / thoroughfares. This is a significant improvement from the existing site conditions. Whilst largely planted within podiums, suitable conditions are recommended to enable appropriate soil depth for species to grow. Further a substantial deep soil zone (1360m²) is maintained along the length of the eastern side boundary for additional STIF vegetation in accordance with the Concept Approval. It is noted that the final landscape design of the public park is yet to be fully determined as part of the VPA.

The proposal contributes to streetscape character and residential amenity by using planting and landscape elements appropriate to the scale of the development. Terrestrial biodiversity is appropriately maintained and enhanced with the development proposal consistent Council's Policies and Standards. The park component is a major public benefit which will be the largest public open space of its kind between Sutherland and Miranda, in a Centre location adjacent to high densities of new housing and retail within the Brick Pits site.

10.14 Traffic Impact and Safety

Significant concerns have been raised regarding the cumulative traffic and safety impacts associated with the land use intensity, particularly in relation to adequacy and changing nature of the surrounding road network and proximity to sensitive land uses such as schools and lower density residential development.

Council acknowledges that the significant generation in vehicular movements, and interruption to the road network (particularly during road upgrades) will impact upon the Kirrawee locality and surrounding suburbs, potentially having a cumulative impact to the

larger road network. These are in one sense inevitable given the 'Part 3A' Approval, yet need to be suitably addressed and resolved / managed as part of this assessment. The RMS has largely determined that the scale and likely impacts of the development on the surrounding road network(s) is acceptable subject to suitable upgrading of existing road infrastructure and traffic management. The detailed requirements are outlined in Condition 8 of the Concept Approval and the subject application incorporates these requirements. Further a Works Authorisation Deed (WAD) issued by the RMS exists for the development. The RMS have provided comments and recommendations in relation to the current development application which largely reflects the Conditions in the Concept Approval yet deviates slightly to reflect the current strategic direction for the road network and the most recent RMS assessment for the locality. This includes widening on Oak Road which was not originally accounted for and will affect the scheme at its western edges (mostly within the future Council land). Council recommends that a suitable condition be imposed requiring the applicant to fulfil / or come to agreement with the terms of the RMS recommendations where it has deviated from the terms issued in the Concept Approval and to ensure the Department of Planning is satisfied.

The layout of the internal road network and access/ egress points, allows suitable emergency vehicle accessibility for the development. The servicing occurs appropriately within the site, and not externally from the public way. Suitable traffic management and operational measures are proposed and are to be incorporated into conditions of development consent, so as to minimise potential impacts on the surrounding environment. This includes restriction on delivery times which is discussed further in this report. The amendment made during the assessment process whereby the Flora Street vehicular basement entry has been widened to accommodate 2 entering vehicles is considered to be acceptable further alleviating potential congestion and queuing.

The detailed design of the external road frontage and public domain works will be finally determined as part of a detailed Roads Act application and WAD. The development incorporates suitable provision for bus/ taxi and bicycle zones external to the site. Concerns regarding pedestrian safety and the need for a walk bridge to provide a link to the business/ industrial zones on the northern side of the Princes Highway have been raised. This additional infrastructure would be of great benefit to the community in light of the substantial increase in residential population yet cannot be required by Council above the requirements of the RMS and works specified in the 'Part 3A' approval.

10.15 Parking Provision

Specific concerns have been raised regarding the adequacy of parking provision, loss of on-street parking and strain on the external street parking associated with the additional parking demand generated by the development. The 'Part 3A' Concept Approval sets out total parking spaces for the residential and non-residential components of the development which must be provided. Parking demand is based on the mix of apartment types for the residential component. The proposal provides parking consistent with the Concept Approval including appropriate calculation of non residential parking rates and the offsetting the 40 car spaces which are lost from the public way and 10 car parking spaces within the development allocated to a 'Green Travel Plan' car sharing scheme. Future commercial uses within the site are recommended to be restricted based on the parking supply and the generation rates contained within the Concept Plan.

The recommended design changes and resultant loss of residential apartments results in surplus basement parking area. Whilst the extent of basement footprint could be minimised to ensure the parking provision is maintained in accordance with the Concept Approval it is considered appropriate for secondary secure storage / parking be provided for the residences (i.e. above that required by the ADG and DCP). Further, so as to not result in adverse traffic generation and an undersupply of parking in the future, it is recommended that future uses within the commercial spaces be limited to ensure the overall provision of parking satisfy the parking rates set out in the Concept Approval.

10.16 Commercial Use, Business Operation & Residential Amenity

There are 19 commercial spaces proposed within the development which utilise the full permitted 14,190m² of retail/commercial floor space (including a 4,740m² supermarket and 1,450m² discount supermarket).

The application includes the detailed use and fitout for 3 tenancies for a Coles supermarket (tenancy 1), Aldi discount supermarket (tenancy 3) and a separate commercial space for First Choice Liquor (tenancy 2). Both the Coles and Aldi supermarkets accommodate ancillary liquor sales. The remainder of the commercial spaces within the development will require separate consent for their initial uses post construction of the development.

The land is identified as an 'Intermediate Activity Area' under SSDCP2015 and is subject to the standard Late Night Trading controls with respects to operating hours. Specific controls also exist for bottle shops/packaged liquor stores must cease trade at 10 pm. The proposal conforms to the 'Base Hours' specified within Council's DCP which are the standard operating hours premises may reasonably expect if a development application is approved. The hours of operation are as follows:

- Coles Supermarket and Aldi Supermarket - 6 am to midnight- seven days
- First Choice Liquor Store - 9am to 9pm- Monday to Saturday and 1am to 9pm- Sunday

The proposed hours in which the loading docks are in use is 6am to 11pm for Aldi (10pm for Coles). SSDCP2015 specifies that no loading/unloading of any goods should occur after 7pm and before 8:00am Monday to Saturday, or before 9:00am on Sunday and Public Holidays. Whilst the loading facilities are mainly internalised, the externalised nature of the vehicular access and delivery route to these facilities has the direct potential to impact adversely with existing surrounding environment (including within the development itself) and future re-development within Flora Street / Bath Road. Council recommends the delivery and waste pickup hours be restricted however to between 7am to 8:00pm Monday to Saturday and 8:00am to 8:00pm Sundays and Public Holidays. The additional hour of use is generally consistent with other examples of commercial premises operating within larger urban Centres with a direct residential interface.

The operational Plans of Management for the 3 retail spaces accompanying the development application are generally considered to be acceptable subject to appropriate on-going management and restrictions recommended in "Appendix A" of this report. The provision of liquor supply within the site and locality has been raised as a concern by Council's Community Unit, particularly the ancillary sales associated with Coles and Aldi in addition to the core liquor retail tenant (i.e. First Choice). No unacceptable impacts are anticipated given the retail nature of the sales, hours of operation, responsibilities of vendors, and prescribed CPTED measures.

10.17 Signage Strategy

The proposal includes a strategy for a total of 19 signage areas within the development, including wall signage and the provision of a freestanding pylon structure on the Princes Highway frontage. An Assessment of the proposal has been undertaken in accordance with Schedule 1 of SEPP64 (discussed in section 8), SSLEP2015 and SSDCP2015.

Concerns are raised regarding Signage area No. 6 on the Princes Highway Elevation of Building C, and No. 19 which is fixed to the eastern elevation of Building C. The size and area of signage area No. 6 is dominant in comparison to the scale and nature of signage within proximity to the site in the Kirrawee locality, and is not anticipated to integrate well with the scale and nature of the built form and established streetscape. The sign is recommended to be reduced in area to 20m². Further signage area No.19 is not located in an effective or

suitable location as it orientates itself immediately over the adjoining site on a secondary elevation. Combined with Signage No. 6, this proliferation is anticipated to dominate and clutter the streetscape and is recommended to be deleted. Signage Area 7 (fixed to the eastern elevation of building D / E) whilst also orientated over the adjoining property, is considered acceptable to assist in general 'way finding' and identification of the active Flora Street frontage. Signage No. 2 located on Building A (Princes Highway) is recommended to be reduced in width to 5.6m to match Signage 1 so as to provide an appropriate wrap around to the prominent corner location. The remainder of the signage strategy responds appropriately to the character and zoning as a mixed use site and are located in suitable locations. The height and scale of the freestanding pylon sign is consistent with and comparable to existing pylon signs along the Princes Highway associated with motor showroom land uses, including future pylon signage approved opposite the site.

Subject to minor refinement and recommended conditions the signage strategy is compatible with the scale / nature of the development and the desired visual character of the area. This also includes operational restrictions are also recommended to impacts and safety of any road and pedestrian movements.

11.0 SECTION 94 CONTRIBUTIONS

The Kirrawee Mixed Use Zone 7 Levy Plan is the applicable Section 94 Contribution to the subject site and majority of the Kirrawee centre. In accordance with the Concept Approval however, the applicant is to enter into a Voluntary Planning Agreement (VPA) with Sutherland Shire Council in lieu of standard Section 94 Contributions. The VPA is to provide for:

- a) construction, embellishment and dedication of public open space*
- b) construction and dedication of a 1,500m² community facility;*
- c) monetary contribution towards the beautification of Kirrawee Shopping Precinct (between Flora Street and Kirrawee Station); and*
- d) monetary contribution towards the upgrade of Oak Road (between Flora Street and the Princes Highway).*

It is Council's position, after receiving advice from the RMS and now having assessed the development in detail, that the VPA should also make provision for

e) works including the relocation of public utilities within Oak Road, and including or toward the widening of Oak Road and Flora Street and the signalisation of the intersection of Oak Road and Flora Streets.

The Draft VPA is yet to be exhibited and the final quality and 'finished product', which is in one sense not essential to the merits of this DA as it is required to be delivered prior to the release of the first Occupation Certificate in accordance with the Concept Approval.

Further additional S94A levy charges cannot be imposed by Council on the commercial fitout components of each spaces within the development (i.e. Coles, Aldi, First Choice and future unknown tenants/uses of other retail space) pursuant to Section 97F(5) of the Environmental Planning and Assessment Act which states:

(5) If a planning agreement excludes the application of section 94 or 94A to particular development, a consent authority cannot impose a condition of development consent in respect of that development under either of those sections (except in respect of the application of any part of those sections that is not excluded by the agreement).

12.0 DECLARATION OF AFFILIATION

Section 147 of the Environmental Planning and Assessment Act, 1979 requires the

declaration of donations/gifts in excess of \$1000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application a declaration has been made that there is no affiliation.

13.0 CONCLUSION

The property is predominantly located within the B4 – Mixed Use under the provisions of SSLEP 2015. The proposed development and scope of works proposed (including commercial land uses) are permissible within the zone.

Council received 17 written submissions (including 1 letter of support) during the course of assessment. The matters raised in these submissions have been considered and have been dealt with by design changes or conditions of consent where appropriate.

The proposal is by far, the largest high density development of a site within the LGA in history. Council acknowledges that social, economic and structural impacts to Kirrawee and surrounds are in one sense inevitable given the 'Part 3A' Approval, yet need to be suitably addressed, resolved and managed as part of this assessment. The suitability of the site for the development including the overall size, scale, quantum of floor space and potential external impact (including traffic) has been deemed acceptable by virtue of the Concept Approval. The provision of this housing stock as well as balanced economic opportunity is also consistent with the Sydney's broader planning agenda. The park component is a major public benefit providing public open space in a Centre location undergoing change to a higher density living environment.

The development is largely consistent with the terms of the Concept Approval. The areas where the development is 'over and above' the Concept Plan need to be restricted to ensure the limits placed on the site by the PAC are respected (i.e. building height, GFA, setbacks etc). Council has recommended suitable design conditions to overcome these deficiencies, and to allow opportunity for the applicant to commence below ground works, undertake the recommended design changes and apply to modify the terms of the Approval through the appropriate Section 75W mechanism if this is desired.

In light of the satisfactory compliance with the ADG design criteria / Council's DCP and minor nature of the departures the proposal, the proposal is considered to be worthy of support on balance. An appropriate internal and external environment will be provided for future residents both within and visiting the site. The occupation and use of several commercial spaces for Coles, Aldi and First Choice Liquor and associated signage strategy is considered acceptable subject to appropriate on-going operational management and suitable restrictions.

The matter with regards to the quality and 'finished product' of the public park, community facility and other public benefits, via the Voluntary Planning Agreement remains outstanding at the time of reporting. To ensure appropriate timing and delivery, including any required modifications of the Concept Approval, a suitable condition of consent is recommended enabling the VPA to be entered into prior to the issue of any Construction Certificate for the above ground works.

It is anticipated that a high quality design and development outcome for the urban environment of the Sutherland Shire and Kirrawee Mixed Use Zone will be attained. The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies.

Following detailed assessment it is considered that Development Application No. DA15/1134 may be supported for the reasons outlined in this report.

14.0 RECOMMENDATION

- 14.1 That Development Application No. DA15/1134 for Mixed use retail, commercial and residential development and associated public park including 749 dwellings, fitout and use of 2 supermarkets, 1 liquor store, 9000m² public park with lake and surrounding forest, 1500m² community facility, Torrens subdivision for road dedication, Torrens subdivision of 1 lot into 2 lots for public reserve dedication, 5 lot stratum subdivision and signage strategy on Lot 1 DP 589977, Lot 1 DP 179075, Lot 2 DP 589977 566-594 Princes Highway, Kirrawee be approved, subject to the draft conditions of consent detailed in Appendix “A” of the Report