

SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

Panel Reference	2018SSH002
DA Number	MA17/0572
LGA	Sutherland Shire
Proposed Development	Section 4.55(2) modification of DA15/1134: split 30 x 3 bedroom apartments into 60 x 1 bedroom apartments resulting in increased density from 749 approved apartments to 779 apartments within the development
Street Address	Lots 1 & 2 DP 1215969, (No. 45) Flora Street & (No. 580) Princes Highway, Kirrawee
Applicant/Owner	Combined Projects (Kirrawee) Pty Ltd South Village Pty Ltd
Date of DA lodgement	13 December 2017
Number of Submissions	Two
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP)	Development exceeds \$20 million
List of all relevant clause 4.15 matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) (BASIX) • Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) • Sutherland Shire Development Control Plan 2015 (SSDCP2015) • Apartment Design Guide (AGD).
List all documents submitted with this report for the Panel's consideration	Plans of development
Report prepared by	Daniel Lukic – Environmental Assessment Officer (Major Projects Planner) Sutherland Shire Council
Report date	June 2018

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

REASON FOR REPORT

In accordance with the provisions Section 20(1)(2) of *State Environmental Planning Policy (State and Regional Development) 2011*, the Sydney South Planning Panel (SSPP) remains as the consent authority for any modification application made pursuant to Section 4.15 of Environmental Planning and Assessment Act 1979 for a regionally significant development determined by the Joint Regional Planning Panel (JRPP) or SSPP.

PROPOSAL

The application seeks consent for approval for internal and external modifications to facilitate the splitting of 30 of the approved 3 bedroom apartments into 60 x 1 bedroom apartments, resulting in 30 additional apartments. External changes to the building facades are proposed in response to the internal changes. The amended floor plate for the upper levels of Building F also reflects the required changes in accordance with Condition 2(a).

THE SITE

The site is located between the Princes Highway, Oak Road and Flora Street, Kirrawee.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

- A. Pursuant to the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, the requested modification to Development Consent No. 15/1134 dated 02 May 2016 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 at Lot 1 DP 1215969, Lot 2 DP 1215969, (No. 45) Flora Street, Kirrawee & (No. 580) Princes Highway, Kirrawee be supported.
- B. Development Application No. 15/1134 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 at Lot 1 DP 1215969, Lot 2 DP 1215969, (No. 45) Flora Street, Kirrawee & (No. 580) Princes Highway, Kirrawee be modified as follows:

1. Approved Plans, Documents & Relationship with other Consents

The development must be undertaken in accordance with the terms and conditions of the Major Project MP10_0076 'Concept Approval' (Inclusive of Modifications 1 - 4) and Development Consent No. DA14/0368 (relating to the early works), except where modified by Modification Application MA17/0129 submitted to Council on 3 April 2017 and where superseded by the amendments submitted to Council in October 2017, except where modified by Modification Application MA18/0018 submitted to Council on 5 February 2018, **except where modified by Modification Application MA17/0572 submitted to Council on 13 December 2017**. The development must also be undertaken substantially in accordance with the details and specifications set out on the Plan / Drawings:

Plan number	Reference	Date
Architectural Plans - Prepared by Turner Architects		
DA-101-040 (Rev 3)	Site Plan - General Envelope Diagram	29.01.16
General Arrangement Plans		
DA-110-005 (Rev 4)	Basement 03	12.02.16
DA-110-006 (Rev 3)	Basement 02	29.01.16
DA-110-006 (Rev 4) submitted with MA17/0572	GA Plans – Overall Basement 2	09.03.18
DA-110-007 (Rev 3)	Basement 01	29.01.16
DA-110-008 (Rev 4)	Ground Level	12.02.16
DA-110-008 (Rev 10)	Ground Level	10.10.17
DA-110-010 (Rev 3)	Level 01, Building B-C & G Podium	29.01.16
DA-110-020 (Rev 3)	Level 02, Building D-E Podium	29.01.16
Except where modified by plans submitted with MA17/0572:		
DA-114-020 (Rev 3) and DA-115-020 (Rev 3)	GA Plans_1:200 Building D	16.03.18
	GA Plans_1:200 Building E	16.03.18
DA-110-030 (Rev 3)	Level 03	29.01.16
Except where modified by plans submitted with MA17/0572:		
DA-114-030 (Rev 3) and DA-115-030 (Rev 3)	GA Plans_1:200 Building D	16.03.18
	GA Plans_1:200 Building E	16.03.18

DA-110-040 (Rev 3) Except where modified by plans submitted with MA17/0572: DA-115-040 (Rev 3)	Level 04 GA Plans_1:200 Building E	29.01.16 16.03.18
DA-110-050 (Rev 3) Except where modified by plans submitted with MA17/0572: DA-115-050 (Rev 3) and DA-116-010 (Rev 5)	Level 05 GA Plans_1:200 Building E GA Plans_1:200 Building F	29.01.16 16.03.18 16.03.18
DA-110-060 (Rev 3)	Level 06	29.01.16
DA-110-070 (Rev 3) Except where modified by plans submitted with MA17/0572: DA-114-070 (Rev 3) and DA-115-070 (Rev 3)	Level 07 GA Plans_1:200 Building D GA Plans_1:200 Building E	29.01.16 16.03.18 08.03.18
DA-110-080 (Rev 3)	Level 08	29.01.16
DA-110-090 (Rev 3)	Level 09	29.01.16
DA-110-100 (Rev 3)	Level 10	29.01.16
DA-110-110 (Rev 3)	Level 11	29.01.16
DA-110-120 (Rev 3)	Level 12	29.01.16
DA-110-130 (Rev 3)	Level 13	29.01.16
DA-110-140 (Rev 3)	Roof Level	29.01.16
Elevations		
DA-250-001 (Rev 3)	North & South Elevations	29.01.16
DA-250-001 (Rev 6)	North & South Elevations	04.10.17
DA-250-101 (Rev 3)	East & West Elevations	29.01.16
Elevations 1:200		
DA-251-010 (Rev 1)	Building A	11.09.15
DA-251-020 (Rev 3)	Building A	29.01.16
DA-252-010 (Rev 3)	Building B	29.01.16
DA-252-010 (Rev 8)	Building B_Sheet_01	10.10.17
DA-253-010 (Rev 3)	Building C	29.01.16
DA-254-010 (Rev 3)	Building D	29.01.16
DA-254-020 (Rev 3)	Building D	29.01.16
DA-254-030 (Rev 3)	Building D	29.01.16
DA-254-040 (Rev 3)	Building D	29.01.16
DA-255-010 (Rev 3)	Building E	29.01.16

DA-255-020 (Rev 3)	Building E	29.01.16
DA-255-020 (Rev 5) submitted with MA17/0572	Building E_Sheet 02	08.03.18
DA-255-030 (Rev 3)	Building E	29.01.16
DA-255-040 (Rev 3)	Building E	29.01.16
DA-256-010 (Rev 4)	Building F	12.02.16
DA-256-010 (Rev 6) submitted with MA17/0572	Building F_Sheet 01	16.03.18
DA-257-010 (Rev 3)	Building G	29.01.16
DA-257-020 (Rev 3)	Building G	29.01.16
Sections		
DA-350-001 (Rev 4)	Section 1 & 2	29.01.16
DA-350-101 (Rev 3)	Section 3 & 4	29.01.16
DA-350-201 (Rev 3)	Section 5 & 6	29.01.16
DA-890-001 (Rev 4)	Additional Information N/S Section RT05	10.10.17
Staging Diagrams		
DA-730-006 (Rev 2)	Basement 02 to Level 01	31.01.18
DA-730-020 (Rev 2)	Staging Diagrams (Level 02 to Level 05)	31.01.18
DA-730-060 (Rev 2)	Level 06 to Level 09	31.01.18
DA-730-100 (Rev 2)	Level 10 to Level 13	31.01.18
Adaptable Apartment Plans		
DA-800-001 (Rev 3)	Sheet 01	29.01.16
DA-800-002 (Rev 3)	Sheet 02	29.01.16
DA-800-003 (Rev 1)	Sheet 03	11.09.15
DA-800-004 (Rev 1)	Sheet 04	11.09.15
DA-800-005 (Rev 1)	Sheet 05	11.09.15
DA-800-006 (Rev 1)	Sheet 06	11.09.15
DA-800-007 (Rev 1)	Sheet 07	11.09.15
Apartment Plans		
DA-810-101 (Rev 1)	1 Bedroom Small	11.09.15
DA-810-151 (Rev 1)	1 Bedroom Large	11.09.15
DA-810-201 (Rev 1)	2 Bedroom Small	11.09.15
DA-810-251 (Rev 3)	2 Bedroom Large	29.01.16
DA-810-301 (Rev 1)	3 Bedroom Small	11.09.15
DA-810-351 (Rev 3)	3 Bedroom Large	29.01.16
DA-810-352 (Rev 3)	3 Bedroom Large	29.01.16

<i>Retail Tenancy Plans</i>		
DA-811-010 (Rev 3)	Retail 01 Supermarket (Major) 1	29.01.16
DA-811-011 (Rev 3)	Retail 01 Supermarket (Major) 2	29.01.16
DA-811-020 (Rev 3)	Retail 02 Liquor	29.01.16
DA-811-030 (Rev 3)	Retail 03 Supermarket (Mini Major)	29.01.16
<i>Signage (External)</i>		
DA-850-008 (Rev 3)	Signage - Ground Level	29.01.16
DA-850-251 (Rev 3)	Signage - North & South Elevations	29.01.16
DA-850-252 (Rev 3)	Signage - East & West Elevations	29.01.16
DA-850-351 (Rev 3)	Signage - Sections 2 & 3	29.01.16
<i>Materials and Finishes</i>		
DA-950-001 (Rev 1)	External Finishes	11.09.15
<i>Landscape Plans - Prepared by Scott Carver Pty Ltd Note: The final design and delivery of the public park is to be determined and finalized as part of the VPA.</i>		
LD-DA000 (Rev 2)	Landscape Cover Sheet	27.01.2016
LD-DA100 (Rev 2)	Tree Management Plan	27.01.2016
LD-DA101 (Rev 2)	General Arrangement Plan	27.01.2016
LD-DA101 (Rev 3)	General Arrangement Plan	12.10.17
LD-DA102 (Rev 2)	Detail Plan 1	27.01.2016
LD-DA103 (Rev 2)	Detail Plan 2	27.01.2016
LD-DA104 (Rev 2)	Detail Plan 3	27.01.2016
LD-DA105 (Rev 2)	Detail Plan 4	27.01.2016
LD-DA106 (Rev 2)	Level 1 Podium Plan	27.01.2016
LD-DA107 (Rev 2)	Level 1 Building B Podium Plan	27.01.2016
LD-DA108 (Rev 2)	Level 1 Building C Podium Plan	27.01.2016
LD-DA109 (Rev 2)	Level 2 Podium Plan	27.01.2016
LD-DA110 (Rev 2)	Level 2 A&B Podium	27.01.2016
LD DA111 (Rev 1)	Building B – Ground Floor Plan	12.10.17
LD-DA200 (Rev 2)	Landscape Section AA	27.01.2016
LD-DA201 (Rev 2)	Landscape Section BB	27.01.2016
LD-DA202 (Rev 2)	Landscape Section CC	27.01.2016
LD-DA203 (Rev 2)	Landscape Section DD	27.01.2016
LD-DA204 (Rev 2)	Landscape Section EE	27.01.2016
LD-DA205 (Rev 2)	Landscape Section FF	27.01.2016
LD-DA206 (Rev 2)	Landscape Section GG	27.01.2016
LD-DA210 (Rev 2)	Level 1 Podium Section AA + BB	27.01.2016
LD-DA211 (Rev 2)	Level 2 Podium Section AA + BB	27.01.2016
LD-DA212 (Rev 1)	Landscape Section FF	12.10.17

<i>MA16/0352 - Landscape Plans Prepared by Scott Carver Pty Ltd relating to Structural set downs, frontage deep soil and landscape design.</i>		
<i>Sheet 1 of 2</i>	<i>Structural Set downs to Podium Landscape Areas</i>	<i>N/A</i>
<i>Sheet 2 of 2</i>	<i>Structural Set downs to Podium Landscape Areas</i>	<i>N/A</i>
<i>LD-CD130 (Rev 1)</i>	<i>Building G & F Level 1: General Arrangement Plan</i>	<i>30.01.2017</i>
<i>LD-CD133 (Rev 1)</i>	<i>Building G & F Level 1: Grading & Setout 01</i>	<i>30.01.2017</i>
<i>LD-CD134 (Rev 1)</i>	<i>Building G & F Level 1: Grading & Setout 02</i>	<i>30.01.2017</i>
<i>LD-CD136 (Rev 1)</i>	<i>Building B, Level 1 – Levels & Setout</i>	<i>30.01.2017</i>
<i>LD-CD138 (Rev 1)</i>	<i>Building C, Level 1 – Levels & Setout</i>	<i>30.01.2017</i>
<i>LD-CD150 (Rev 1)</i>	<i>Building D & E, Level 2: General Arrangement</i>	<i>1.02.2017</i>
<i>LD-CD153 (Rev 1)</i>	<i>Building D & E, Level 2: Levels & Setout 1</i>	<i>1.02.2017</i>
<i>LD-CD154 (Rev 1)</i>	<i>Building D & E, Level 2: Levels & Setout 2</i>	<i>1.02.2017</i>
<i>LD-CD101 (Rev 1)</i>	<i>Ground Floor – Detail Plan 1</i>	<i>14.03.2017</i>
<i>LD-CD102 (Rev 1)</i>	<i>Ground Floor – Detail Plan 2</i>	<i>14.03.2017</i>
<i>LD-CD103 (Rev 1)</i>	<i>Ground Floor – Detail Plan 3</i>	<i>14.03.2017</i>
<i>LD-CD104 (Rev 1)</i>	<i>Ground Floor – Detail Plan 4</i>	<i>15.03.2017</i>
<i>LD-CD200 (Rev 1)</i>	<i>Typical OSD Tank Landscape Sections</i>	<i>09.03.2017</i>
<i>LD-CD201 (Rev 1)</i>	<i>Typical OSD Tank Landscape Sections</i>	<i>09.03.2017</i>
<i>Internal Site Works Plans – Prepared by NORTHROP</i>		
<i>DA1.01</i>	<i>Cover Sheet, Drawing Schedule and Locality Plan</i>	<i>28.01.16</i>
<i>DA1.11</i>	<i>Specification Notes – Sheet 1</i>	<i>28.01.16</i>
<i>DA1.12</i>	<i>Specification Notes – Sheet 2</i>	<i>28.01.16</i>
<i>DA1.21</i>	<i>General Arrangement Plan</i>	<i>28.01.16</i>
<i>DA1.31</i>	<i>Typical Sections – Sheet 1</i>	<i>28.01.16</i>
<i>DA1.32</i>	<i>Typical Sections – Sheet 2</i>	<i>28.01.16</i>
<i>DA1.40</i>	<i>Property Acquisition Works - Overall</i>	<i>28.01.16</i>
<i>DA1.41</i>	<i>Property Acquisition Works – Sheet 1</i>	<i>28.01.16</i>
<i>DA1.42</i>	<i>Property Acquisition Works – Sheet 2</i>	<i>28.01.16</i>
<i>DA1.43</i>	<i>Property Acquisition Works – Sheet 3</i>	<i>28.01.16</i>
<i>DA2.01</i>	<i>Concept Sediment and Erosion Control Plan</i>	<i>28.01.16</i>
<i>DA2.11</i>	<i>Sediment and Erosion Control Details – Sheet 1</i>	<i>28.01.16</i>
<i>DA3.01</i>	<i>Bulk Earthworks Plan</i>	<i>28.01.16</i>

DA4.01	Concept Stormwater Management Plan – Overall	28.01.16
DA4.02	Stormwater Catchment Plan	28.01.16
DA4.11	Concept Stormwater Management Plan – Sheet 1	28.01.16
DA4.12	Concept Stormwater Management Plan – Sheet 2	28.01.16
DA4.13	Concept Stormwater Management Plan – Sheet 3	28.01.16
DA4.14	Concept Stormwater Management Plan – Sheet 4	28.01.16
DA4.31	Stormwater Management Devices – Sheet 1	28.01.16
DA4.32	Stormwater Management Devices – Sheet 2	28.01.16
DA4.33	Stormwater Management Devices – Sheet 3	28.01.16
DA4.34	Stormwater Management Devices – Sheet 4	28.01.16
DA4.35	Stormwater Management Devices – Sheet 5	28.01.16
DA5.01	Concept Siteworks and grading Plan – Overall	28.01.16
DA5.11	Concept Siteworks and Grading Plan – Sheet 1	28.01.16
DA5.12	Concept Siteworks and Grading Plan – Sheet 2	28.01.16
DA5.13	Concept Siteworks and Grading Plan – Sheet 3	28.01.16
DA5.14	Concept Siteworks and Grading Plan – Sheet 4	28.01.16
DA5.31	Road Longitudinal Sections – Sheet 1	28.01.16
DA5.32	Road Longitudinal Sections – Sheet 2	28.01.16
DA5.41	Road Cross Sections – Sheet 1	28.01.16
DA5.42	Road Cross Sections – Sheet 2	28.01.16
DA5.43	Road Cross Sections – Sheet 3	28.01.16
DA9.01	Details – Sheet 1	28.01.16
<i>External Works Plans – Prepared by NORTHROP</i>		
DA11.01	Cover Sheet, Drawing Schedule and Locality Plan	28.01.16
	Inclusive to	
DA20.06	Details – Sheet 6	28.01.16

<i>Torrens and Stratum Title Subdivision – Prepared by John Walton</i>		
<i>2750-15DP1 (Ver 1)</i>	<i>Draft Subdivision Road Dedication Sheets 1-2</i>	<i>28.09.15</i>
<i>2750-15DP2 (Ver 1)</i>	<i>Draft Subdivision Park dedication Sheets 1-2</i>	<i>28.09.15</i>
<i>2750-15DP3</i>	<i>Draft Subdivision 5 Lot Stratum Sheets 1-8</i>	<i>29.01.16</i>

and any details on the application form and on any supporting information received with the application except as amended by the following conditions.

Note: *The following must be submitted to Sutherland Shire Council prior to the commencement of any building or subdivision work.*

- i) A Construction Certificate/s.*
- ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.*
- iii) Notification of the commencement of building and/or subdivision works with a minimum of 2 days' notice of such commencement.*

Under section 109E(2) of the Environmental Planning and Assessment Act 1979, please note that Sutherland Shire Council must be appointed as the Principal Certifying Authority for all subdivision works.

ASSESSMENT OFFICER'S COMMENTARY

1.0 DESCRIPTION OF PROPOSAL

An application has been made under the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 (EP&A Act) to modify the terms of Development Consent No. 15/1134.

The specific modification involves the creation of 30 additional 1 bedroom apartments. Essentially, 3 bedroom apartments approved in the original application will be modified internally to create the additional 1 bedroom apartments. External changes to the building facades are proposed in response to the internal changes. The amended floor plate for the upper levels of Building F also reflects the required changes in accordance with Condition 2(a).

Appendix A – previous modification application 17/0129 approved conditions of consent

Appendix B – proposed plans of development.

2.0 SITE DESCRIPTION AND LOCALITY

The former 'Brick Pit' site is 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 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. The construction of the mixed use development has substantially commenced.

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 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 / place of public worship) are located approximately 200m further along Flora Street / Bath Road to the east.



Image A: Aerial View of Site



Image B: Aerial View of Locality

3.0 BACKGROUND

Masterplan Approval

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 of the Environmental Planning & Assessment Act 1979 by the Department of Planning (Major Project No. MP 10_0076). A breakdown of the Part 3A Approval and subsequent modifications to date is provided below:

Application	Details
Major Project MP10_0076	<ul style="list-style-type: none"> 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.
Modification 1 Approved 17 January 2013	The modification amended wording to the Environmental Assessment Requirement Condition No. 18 so that the design excellence provisions only relate to 'above ground' works.
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.

Modification 3 Approved 30 January 2015	The modification amends the development proposal permitting an increase in land use intensity and quantum of residential and commercial floor space within the site. 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, C & D".
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.
Modification 5 Approved 18 October 2017	This modification amended Condition A4A to allow for a maximum of 808 residential units on the site (an increase from 749). The increase in apartment numbers is to be achieved by modifying the design of three bedroom apartments to create a greater number of 1 bedroom apartments. The modification does not modify the gross floor area, building height, external envelope and/or total parking allocation. Condition A6 was amended to reflect the replacement of the Residential Flat Design Code with the Apartment Design Guide.
Modification 6 Submitted January 2018, yet to be determined	Consent is sought to amend Condition 14 of the Concept Approval which deals with onsite parking rates specific to the development. The applicant is of the opinion that the SSPP erred in the construct of the condition for Modification Application MA17/0129 and is of the opinion that the Development Consent (as amended) is inconsistent with the Concept Approval. The changes sought are to remove any ambiguity so that the Concept Plan and the Development Consent align.
Modification 7 Approved 12 April 2018	The modification amends Condition A11A dealing with the timing of the execution of the VPA and the staging of the development - the latter to ensure that the staging in the Concept Plan and the development consent align. The deferral of the execution of the VPA was essential due to delays in the design and hence the delivery of the public park. The changes will allow for Occupation Certificates to be issued for that part of the development in Stage 1 and will afford additional time for both the applicant and Council to finalise the design of the park which is also linked to works identified in the VPA.
Modification 8 Submitted February 2018, yet to be determined	Consent is sought to modify the public park by removing the lake. The removal of the lake will allow for an additional 800m ² of Endangered Ecological Community vegetation to be provided within the public park.

Development Application No. 15/1134

Development consent was granted by the then Joint Regional Planning Panel on 2 May 2016 to Development Application No. 15/1134 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.

Modification Application No. 17/0752

A history of the development proposal is as follows:

- The application was lodged on 13 December 2017
- The application was publicly exhibited from 15 January 2018 to 21 February 2018.
- Two submissions were received.
- On 25 January 2018, an email was sent to the applicant highlighting errors made in the BASIX Certification and corrections needed to apartment references
- On 6 February 2018, amended BASIX Certificates were received
- On 7 February 2018, an Information Session was held at Council. Three (3) people attended. The following issues were raised:
 - The development not being able to provide sufficient car parking for residential occupants
 - Impacts upon the operation of the public road system
 - Road intersections already being congested and the need for road improvements ‘
 - The development will impact on-street car parking along Flora Street
 - Impacts upon the Kirrawee local centre
 - Concerns raised regarding the ability of the development to fit in more apartments
- On 21 February 2018, the Sydney South Planning Panel were briefed on the proposed development. Three issues were discussed, being:
 - BASIX compliance and clarification,
 - ADG compliance, in particular the minimum requirements for bedroom sizes, balcony sizes, cross ventilation, separation between balconies and general internal amenity, and
 - Concerns raised about potential increase in intensity of use by increase dwelling, on traffic, parking demand and waste generation/collection
- On 1 March 2018, a letter was sent to the applicant seeking more information and clarification on the following:
 - Issues with the number of apartments gaining access from one lift core pursuant to Section 4F-1(1) of the ADG
 - Issues raised with non-compliant balcony sizes and depth pursuant to Section 4E-1(1) of the ADG
 - Issues raised with non-compliant main bedroom sizes pursuant to Section 4D-3(1) of ADG
 - Issues raised with a lack of additional personal storage space being provided for the new apartments
 - Concerns raised with the lack of information on waste storage as a result of an increase in apartments
 - Issues raised relating to a lack of information on how privacy between adjoining balconies is to be controlled without affecting the external appearance and building aesthetic
 - Amendments sought to inconsistencies between plans

- Issues raised regarding internal amenity as a result of a lack of screening to full height glazed areas
- On 27 March 2018, the applicant submitted amended plans and responses addressing issues raised by Council

4.0 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.

5.0 PUBLIC PARTICIPATION AND INFORMATION SESSION

As the application involves a modification under Section 4.55(2) of the EP&A Act, the application was advertised in accordance with the Administrative Provisions of Sutherland Shire Development Control Plan 2015. A total of two (2) submissions were received. An Information Session was held at Council on 7 February 2018. Three people attended.

A summary of the main issues is provided below:

Address	Date of submission	Issues
No address given	26 January 2018	1, 2
Oak Road, Kirrawee	16 January 2018	1, 2, 3
48/81 Flora Street, Kirrawee	14 May 2018	4, 5 Note: the third objector's letter is divided into two parts, objecting to the subject modification application and raising issues regarding Modification Application No.8 to the Part 3A Concept Plan Approval. The latter issues do not relate to the subject application and as such, no assessment and/or comments are provided.

Issue 1: *I am opposed to the number of apartments. The development is a large, ugly monstrosity and will be a detriment upon the landscape.*

Comments: Apart from minor changes to the façade in response to internal, the exterior of the development will remain the same. Concerns regarding the design and treatments used on the exterior of the development and concerns regarding the development's impacts upon the street/land/town/skyscape were considered during the assessment of the original development application and based on the merits of the application, consent was granted.

Regarding the number of apartments, the Planning Assessment Commission permitted a total of 808 apartments to be located across the development site. Approval of this application will accord with the Part 3A Concept Approval (as amended) issued by the Department of Planning and Environment.

Issue 2: *The development will be a great burden to traffic and roads in the local area. The roads are already at breaking point during peak times.*

Comments: In the assessment of Modification Application No.5 to the Concept Plan approval, the Planning Assessment Commission were satisfied that the increase in the number of apartments did not warrant any additional intersection upgrades or the like than what has already been approved in the Concept Plan and in the original development consent. Refer to Section 9.6 of this report for more details.

Issue 3: *Is there enough car parking to provide for the 30 additional apartments?*

Comments: A total of 1041 car parking spaces are required to be provided by the development in accordance with the condition of consent of the Concept Plan approval. However, a total of 1023 spaces will be provided, representing a shortfall of 35 spaces.

In the assessment of Modification Application No.5 to the Concept Plan approval, the Planning Assessment Commission were satisfied that the increase in the number of apartments warranted additional parking and were content that some apartment will not have an allocated parking space. Refer to Section 9.6 of this report for more details.

Issue 4: *What are the intentions for the use of the Community Hub? Information in the media reports that Council may turn the community space into shops and then sold eventually. It appears that the community hub will be lost forever.*

Comments: This is a separate matter to this application and will be dealt with in another assessment report to the Panel at a later date.

Issue 5: *We have received notification that another Modification Application has been received where the builders want to move the completion of the park back to stage 2, please retain its construction in Stage 1. What has happened to the pond and the children's playground within the park?*

Comments: Modification Application No.7 to the Part 3A Concept Plan approval was determined by the Department of Planning and Environment on 12 April 2018. The approval granted consent for the park to defer the construction and delivery of the park as part of the Stage 2 works.

Modification Application No.8 to the Concept Plan approval is currently being assessed by the Department of Planning and Environment. This application seeks consent for modifications to the park as described in Section 3 of this assessment report. The assessment of the aforementioned modification application is a separate issue to the apartment yield modification application and issues raised by the objector will be commented on in a later assessment report to the Panel.

6.0 STATUTORY CONSIDERATIONS

The subject land is located within Zone B4 Mixed Use and Part RE1 Private Recreation pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a mixed use is a permissible land use within the zone with development consent from Council.

The following Environmental Planning Instruments (EPI's) and Development Control Plans are relevant to this application:

- State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Sutherland Shire Local Environmental Plan 2015 (SSLEP2015)
- Sutherland Shire Development Control Plan 2015 (SSDCP2015)
- Apartment Design Guide (AGD).

7.0 COMPLIANCE

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 4.15 of the Act and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important to this application.

State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development including the Apartment Design Guide (AGD).

Apartment Design Guide (ADG) – Key Controls			
	Control	Proposed	Complies
Solar access (proposed dwelling)	Living rooms and private open space, 2 hours direct sunlight in mid-winter to 70% of units.	Solar access achieved	Yes
Natural ventilation	60% of apartments to be naturally cross ventilated.	Cross ventilation requirements are achieved	Yes
Apartment size	1br: 50m ² 2br: 70m ² 3br: 90m ²	Amended plans have been submitted resulting in all apartments satisfying this control	Yes
Private open space	Primary Balconies 1 bed – 8m ² , min. 2m depth 2 bed – 10m ² , min. 2m depth 3+ bed – 12m ² , min 2.4m depth Ground level & podium – 15m ² , min. 3m depth	All private open space areas for the new apartments comply	Yes

Residential storage	6m ³ per 1br apartment 8m ³ per 2br apartment 10m ³ per 3+br apartment Note: At least 50% of storage to be located within the apartments	Amended plans have been submitted resulting in all new apartments satisfying this control	Yes.
Number of apartments off one lift core	The maximum number of apartments off a circulation core on a single level is eight For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Building D has ten apartments that gain access off one lift core on three separate levels.	No. Variation of 25%. See Section 9.2 in this report.
Bedroom sizes	Master bedrooms minimum area of 10m ² Bedrooms have minimum 3m depth	Amended plans have been submitted resulting in all new apartments satisfying this control	

The minor exterior changes to the building do not give rise to any non-compliance to SEPP65 provisions. In regard to the nine design principals contained within the SEPP (context & character, built form & density, sustainability, landscape, amenity, safety, housing diversity & social interaction, aesthetic), the development does not result in significant changes to the aesthetic of the development and the relationship of the development to its context remains unaffected by the amended proposal.

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

Amended BASIX Certificates were provided by the applicant correcting the errors contained in the reports. The amended information certifies that the development complies.

Sutherland Shire Local Environmental Plan 2015)

The proposed amendments do not generate any non-compliance against relevant clauses from the Local Environmental Plan.

Sutherland Shire Development Control Plan 2015

An assessment of the development against the relevant controls from the DCP is provided below:

Sutherland Shire Draft DCP 2015 Chapter 6 – Residential Flat Buildings		
Residential Flat Building – R4 Zone		
REQUIRED	PROPOSAL	COMPLY
8.2 Adaptable Housing		
CI 1. All new multi dwelling housing must provide dwellings designed in accordance with the Australian <i>Adaptable Housing Standard (AS4299)</i> to Class C Certification at the following rates: <ul style="list-style-type: none"> • Developments of 6 or more dwellings – 20% adaptable 	A total 21% of dwellings within the development will be constructed to accord with adaptable requirements.	Yes
8.3 Liveable housing		
CI 1. In addition to complying with the adaptable housing rates in clause 1 above, all new residential flat buildings must provide 'livable dwellings (i.e., dwellings designed to Silver Standard <i>Livable Housing Design Guidelines</i>) at the following rates: <ul style="list-style-type: none"> • Developments of 6 or more dwellings –10% of dwellings. 	A total 10% of dwellings within the development will be constructed to accord with livable requirements.	Yes
11.2 Waste Management Requirements.		
CI 1. Provision must be made for waste management, including storage and collection, in accordance with Sutherland Shire Council's "Waste Collection Policy for Multi-Unit Dwellings and Residential Flat Buildings."	Additional information has been submitted that has demonstrated the development has sufficient capacity to accommodate additional waste streams generated by an additional thirty apartment	Yes

8.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The application was referred to the following internal and external specialists for assessment and the following comments were received:

8.1 Architect (Assessment Team)

The application was referred to Council's Architect who raised a number of issues with the original amended plans of development, however; has advised that the revised plans submitted by the applicant in response to the issues and concerns will have a minimal impact in the context of the whole development. Concerns raised regarding internal amenity, plan inconsistencies and the external façade & treatments have been resolved in the amended plans.

9.0 ASSESSMENT

A detailed assessment of the application has been carried out having regard to the Heads of Consideration under Section 4.15(1) of the EP&A Act.

The following matters are considered important to this application.

9.1 Proposed Modification, consistency with Concept Plan and development consent

On 18 October 2018, the Department of Planning and Environment (Planning Assessment Commission) approved Modification Application No.5 to the Part 3A Concept Plan approval for the Brick Pit site. The Concept Plan was amended as follows:

- a) Schedule 2 Part A – Condition A4A Dwelling Cap was amended to permit a total number of dwellings up to a maximum of 808 units across the Concept Plan site
- b) Schedule 2 Part A – Condition A6 was amended where future development applications being consistent with the Apartment Design Guide.

Consent is sought to amend the plans of development to increase the number of residential apartments to a total of 779.

A summary of the changes is provided below:

Element	Originally Approved	Proposed
Residential GFA	63,310m ²	63,310m ²
Apartments	749	779
Apartment Mix	189 x 1 bed (25.2%) 403 x 2 bed (53.8%) 157 x3 bed (21%)	249 x 1 bed (32%) 403 x 2 bed (52%) 127 x 3 bed (16%)
Residential Car Parking	929	929
Visitor Parking	94	94
Solar Access	75%	74%
Cross Ventilation	63%	61.5%
Adaptable apartments	150 (20%)	167(21%)

The proposed development is consistent with the Part 3A Concept Plan approval (as amended) as the modification application does not alter building levels, envelopes, quantum of gross floor areas, finished heights, separation distances and setbacks. The modification application is substantially the same as originally approved. The increase in the number of apartments will result in changes to the façade of some of the apartment buildings, the alterations are minimal.

The proposal is consistent with the Concept Plan approval.

9.2 Issues with the number of apartments gaining access from one lift core pursuant to

In accordance with Section 4F-1(1) of the ADG, the maximum number of apartments that gain access off one lift core on a single level is eight (for buildings that are less than 10 storeys in height).

The applicant has sought variation to this control, supported by the following justification:

- *There is a high level of amenity within the circulation cores is achieved by providing natural light and ventilation to the corridors and additional width to corridor spaces and lift entries, significantly wider than the minimums required for accessibility. Clear, legible way-finding is also provided.*
- *The design objectives for circulation continues to achieve high amenity [4F-1] and safety and appropriate social interaction between residents [4F-2].*
- *The ADG permits up to 12 apartments to be accessed from a single corridor where it is not practical to achieve the 8 apartments. This dispensation was already in the current approval and the increase of a single apartment is not considered to detrimentally affect the amenity of the common areas or apartments.*
- *ADG requirements for cross ventilation and solar access are maintained for the development.*

Comments: Design Guidance Control 6 of Section 4F-1 does give guidance for when the number of apartments off a single lift core exceeds eight and Control 7 does allow for no more than 12 apartments gaining access off a single lift core.

The proposed changes result in three levels within Building D having more than eight but less than 12 apartments gaining access off one lift core. Despite the numerical non-compliance with Control 6, communal circulation areas will still be afforded with ample solar access and have cross ventilation, retain the wider than required corridors and other design solutions resulting in providing acceptable levels of amenity. Based on the merits of the application, it is recommended that the Panel support the variation and grant consent to the application.

9.3 Lack of additional personal storage space being provided for the new apartments

Amended plans of development have been submitted showing an increase in the number of personal and secure storage cages within Basement Level 2. The development is satisfactory.

9.4 Issues with relating to a lack of information on how privacy between adjoining balconies

Screening and wall extensions have been provided to reduce overlooking and direct views between private open space balcony areas.

9.5 Lack of internal amenity as a result of a lack of screening to full height glazed areas

The plans have been amended where additional screening has been added, resulting in adequate shading and screening being provided to building glazing. The changes are considered acceptable and will reduce reliance on mechanical measures to maintain internal amenity and comfort levels.

9.6 Car Parking and traffic generation

During the assessment of Modification Application No.5 to the Part 3A Concept Plan, it was brought to the Department of Planning and Environment's attention that an increase in the number of apartments would result in a lack of 36 parking spaces onsite, a significant deficiency that would have unacceptable impacts offsite.

Furthermore, Council objected to the modification application citing an increase in apartment numbers would have a greater impact upon the operation of the public road system and further deteriorating intersection level of service, something that has been argued since the assessment of Modification Application No.3 to the Concept Plan which resulted in apartment numbers increasing from 459 to 749.

Despite Council's objections to the increase in apartment numbers, on 18 October 2017 the Planning Assessment Commission (PAC) approved the application to increase the apartment yield from 749 to 808.

In accordance with the car parking rates prescribed by Condition 14(a)(i) of the Concept Plan, a total of 1041 car parking spaces must be provided for the residential component of the development. However, the development will only provide a total of 1023 spaces (929 residential and 94 visitor spaces) as a result of the PAC approval.

Despite Council's concerns with a lack car parking and traffic generation that will occur as a result of the increase in apartment yield, the determination by the PAC did not require any increase to parking spaces, further intersection and/or road works. As such, Council cannot raise any objection in this regard and recommends that the Panel grant consent to the application.

10.0 DEVELOPER CONTRIBUTIONS

The persons or entity having the benefit of this consent is required to enter into a Voluntary Planning Agreement with Council. Contributions and/or works in kind have been calculated based on the quantum of gross floor areas for both commercial and residential uses. This application does not increase the gross floor area of the residential portion of the development and as such, approval of the application will not require or increase the demand for public facilities within the area.

11.0 DECLARATION OF AFFILIATION

Section 10.4 of the EP&A Act 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 no declaration has been made.

12.0 CONCLUSION

The subject land is located within Zone B4 Mixed Use pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a mixed use is a permissible land use within the zone with development consent from Council.

This application satisfies the requirement that the development to which the consent as modified relates will remain substantially the same development as that originally granted consent.

The application has been assessed having regard to the Heads of Consideration under Section 4.15(1) and Section 4.55(2) of the EP&A Act, together with the provisions of SSLEP2015 and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that the Modification Application No. 17/0572 can be supported.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Major Development Assessment (DL).