

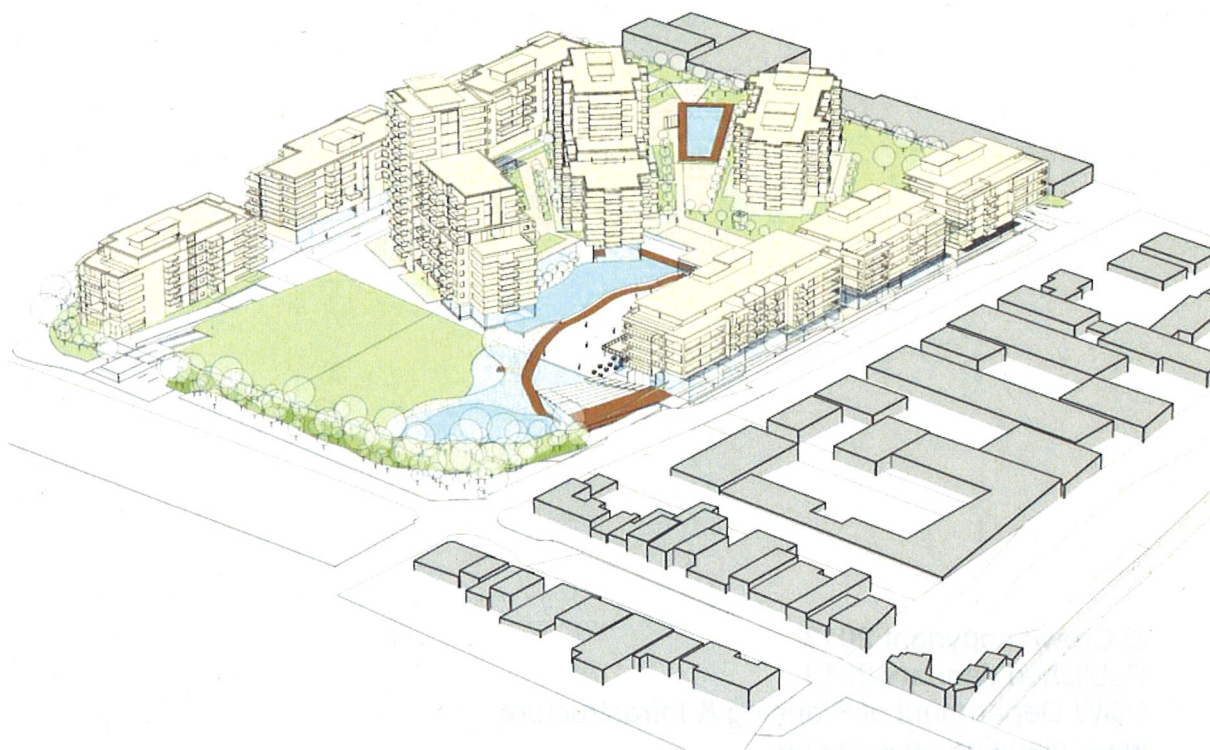


**Planning &  
Infrastructure**

***MODIFICATION REQUEST:***

***Mixed Use Development, Kirrawee Brick  
Pit Concept Plan (MP 10\_0071 MOD 1)***

***Modification of Future Environmental  
Assessment Requirement 18 - Design Quality***



Director-General's  
Environmental Assessment Report  
Section 75W of the  
*Environmental Planning and Assessment Act 1979*

January 2013

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# 1. BACKGROUND

## 1.1 The Site

City Plan Services, on behalf of Henroth Investments Pty Ltd, has lodged a section 75W application seeking approval to modify future environmental requirement 18 of Schedule 3 of the Kirrawee Brick Pit Concept Plan approval (MP10\_076 MOD 1) to alter the design excellence requirements for future development applications. The site, known as 566-594 Princes Highway, Kirrawee is located within the Sutherland local government area, approximately 25 km south-west of the Sydney CBD (see Figure 1).

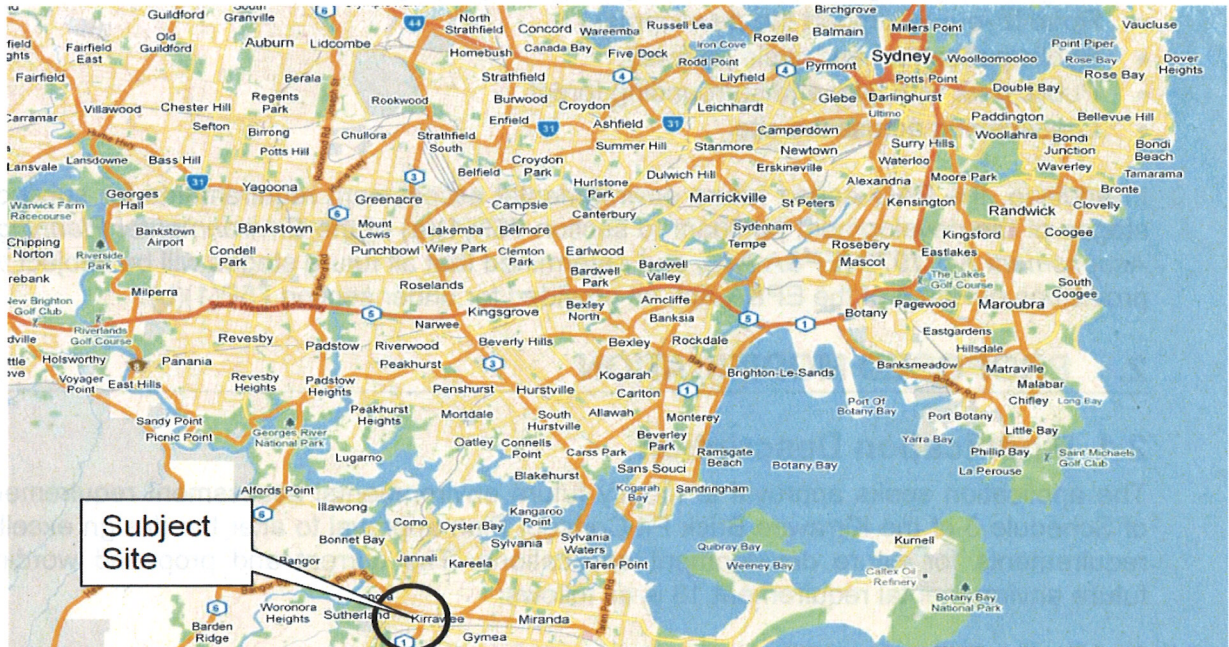


Figure 1: Location Plan

The site is located on the southern side of the Princes Highway and east of the Oak Road intersection (see Figure 2). The site is rectangular in shape with frontages of approximately 252 m to the Princes Highway to the north, 160 m to Oak Road to the west, 251 m to Flora Street to the south, and 177 m to the existing industrial area located immediately east. The site has a total area of 42,542 m<sup>2</sup>. The site slopes from the south-western corner down approximately 5 metres to the north-western corner and 10 m to the eastern boundary.

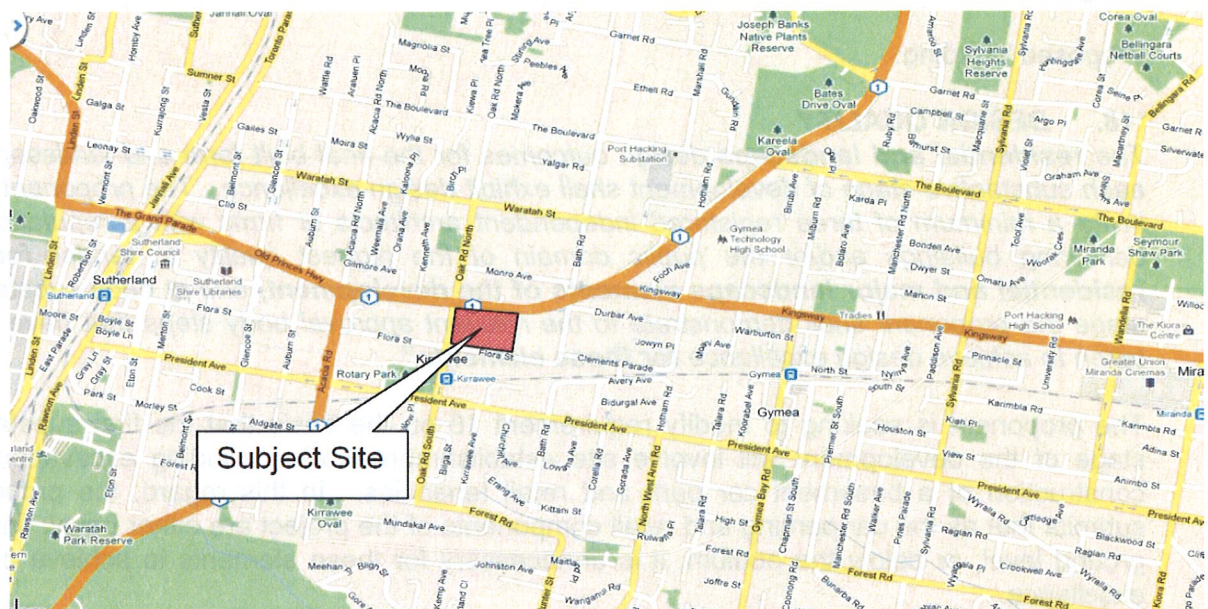


Figure 2: Subject Site



## 1.2 Approval History

On 23 August 2012, the Planning Assessment Commission (PAC) approved a Concept Plan (MP 10\_0076) permitting the redevelopment of the site for the following purposes:

- Use of the site for a mixed use development with associated public open space.
- Indicative building envelopes for nine buildings to a maximum height of 14 storeys.
- 60,735 m<sup>2</sup> of gross floor area, comprising 45,505 m<sup>2</sup> of residential (432 dwellings) and 15,230 m<sup>2</sup> of retail/commercial floor space (including 3,900 m<sup>2</sup> of supermarket and 1,470m<sup>2</sup> of discount supermarket).
- Basement level, ground and above ground car parking.
- Road layout to support the development.
- Public pedestrian and cycle pathway.
- Public park with lake and surrounding forest.
- Landscaping across the site.

In addition, the PAC issued future environmental assessment requirements for subsequent stages of the development pursuant to section 75P(1)(a) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and determined that all future stages will be subject to the provisions of Part 4 of the EP&A Act, as provided for under section 75P(1)(b).

## 2. PROPOSED MODIFICATION

### 2.1 Modification Description

The application seeks approval to modify future environmental assessment requirement 18 of Schedule 3 of the Kirrawee Brick Pit Concept Plan approval to alter the design excellence requirements for future development applications. The current and proposed wording of future environmental requirement 18 is as follows:

Current Wording:

#### **"18. DESIGN QUALITY"**

*The design outcomes for the final built form and landscape for each substantive stage of development shall exhibit design excellence. The proponent shall invite a minimum of three registered independent architects or firms with a reputation for delivering buildings and/or the public domain of the highest quality to tender, and at each substantive stage the proponent shall demonstrate to the relevant approval body steps that have been taken to achieve design excellence".*

Proposed Wording:

#### **"18. DESIGN QUALITY"**

*The **residential and landscape** design outcomes for ~~the final built form and landscape for~~ each substantive stage of development shall exhibit design excellence. The proponent shall invite a minimum of three registered independent architects or firms with a reputation for delivering buildings and/or the public domain of the highest quality to tender **for the residential and major landscape elements of the development**, and at each substantive stage the proponent shall demonstrate to the relevant approval body steps that have been taken to achieve design excellence **for those elements**".*

The proponent is seeking to modify requirement 18 on the basis that the first substantive stage of the development will involve site establishment works including excavation and construction of a basement car park and retail tenancies. In this regard, the proponent submits that as the car parking and retail components of the project are either below finished ground level, or below the podium, it is unnecessary for these elements to achieve design excellence.



### 3. STATUTORY CONTEXT

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#### 3.1 Modification of the Minister's Approval

Section 75W(2) of the EP&A Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project, as modified, would be consistent with the original approval. As the proposed modification seeks to amend the wording of future environmental assessment 18 of Schedule 3, the modification will require the Minister's approval.

#### 3.2 Environmental Assessment Requirements

Section 75(3) of the EP&A Act provides the Director-General with scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. DGRs were not issued for this modification as the proponent has addressed the key issues relevant to the modification request.

#### 3.3 Delegated Authority

The Minister delegated his functions to determine a modification request under section 75W of the Act where:

- The relevant local council has not made an objection.
- A political disclosure statement has been made, but only in respect of a previous application.
- There are less than 10 public submissions in the nature of objections.

No submissions have been received from the public and Sutherland Shire Council (council) raised no objection to the application. As the proponent has only made a political donation in relation to the original concept plan application, the application can be determined under delegation by the Deputy Director-General, Development Assessment and Systems Performance.

### 4. CONSULTATION AND SUBMISSIONS

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#### 4.1 Exhibition

Under section 75X(2)(f) of the EP&A Act and clause 8G of the EP&A Regulation 2000, the modification request was made publically available on the department's website. The department also notified the council of the application.

The council raised no objection to the application, however, it advised that any retail components above the finished ground level should be subject to the design excellence provisions. The department agrees with the council's comments and has recommended changes to the proponent's preferred wording of future environmental assessment requirement 18 to address this issue.

### 5. ASSESSMENT

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As previously outlined, the proponent is seeking to re-word future environmental assessment requirement 18 of Schedule 3 to alter the design excellence provisions for future development applications. The department has assessed the proponent's preferred wording of requirement 18 and agrees that the design excellence provisions should not relate to works below the finished ground level as they would have no impact on the quality of the development when viewed from within the public domain. Notwithstanding, as the indicative sections approved under the Concept Plan permit the creation of retail and commercial floor space above ground level (see **Figure 3** overleaf), the department considers it appropriate to vary the proponent's proposed wording to ensure that all retail and commercial floor space

which sits above the finished ground level will achieve design excellence. The department's preferred wording of requirement 18 is provided below:

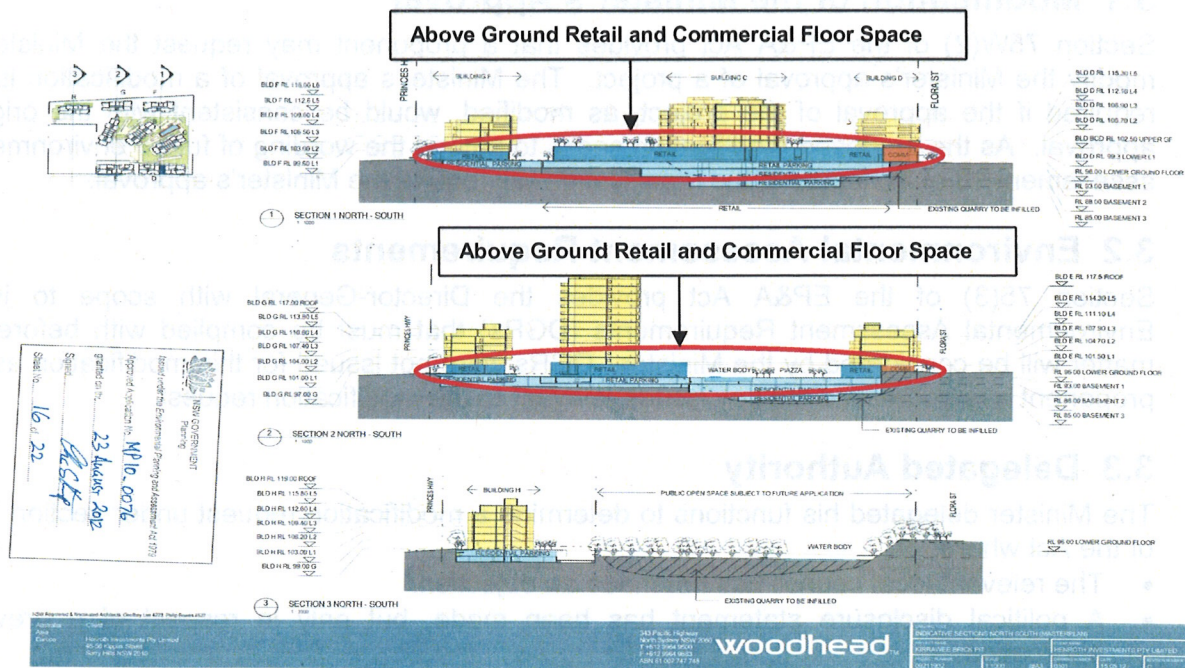


Figure 3: Indicative North-South Sections

#### "18. DESIGN QUALITY

**The All residential, retail, and commercial floor space that sits above the finished ground level and the landscape design outcomes for the final built form and landscape for each substantive stage of the development shall exhibit design excellence. The proponent shall invite a minimum of three registered independent architects or firms with a reputation for delivering buildings and/or the public domain of the highest quality to tender for the residential, retail and commercial components of the development that sit above the finished ground level and the major landscape elements of the development, and at each substantive stage the proponent shall demonstrate to the relevant approval body the steps that have been taken to achieve design excellence for those elements".**

Subject to future environmental assessment requirement 18 being amended as outlined above, the department considers that the proposed modification is acceptable.

#### 6. CONCLUSION

The department has assessed the application on its merits and is satisfied that it is appropriate to exclude below ground works from needing to achieve design excellence.



## 7. RECOMMENDATION

It is recommended that the Deputy Director-General, Development Assessment and Systems Performance:

- a) **Consider** the findings and recommendations of this report.
- b) **Approve** the modification, subject to conditions, under section 75W of the *Environmental Planning and Assessment Act, 1979*.
- c) **Sign** the attached Instrument of Modification (**Tag A**).

  
Director  
Metropolitan and Regional Projects North 7/11/13

  
Deputy Director-General  
Development Assessment and Systems Performance 17/11/13





## **APPENDIX A    MODIFICATION REQUEST**

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See the department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=5650](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5650)





## **APPENDIX B SUBMISSIONS**

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See the department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=5650](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5650)





## **APPENDIX C    RECOMMENDED MODIFYING INSTRUMENT**

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# Modification of Minister's Approval

## Section 75W of the *Environmental Planning & Assessment Act 1979*

I, the Deputy Director-General, Development Assessment and Systems Performance, as delegate of the Minister for Planning and Infrastructure under delegation executed on 1 October 2011, approve the modification of the application referred to in Schedule 1, subject to the conditions in Schedule 2.

Sydney

17 January

2013

### SCHEDULE 1

Application No.:	MP 10_0071
Proponent:	Henroth Investments Pty Ltd
Approval Authority:	Minister for Planning and Infrastructure
Land:	Kirrawee Brick Pit, 566-594 Princes Highway, Kirrawee
Project:	Mixed use development including: <ul style="list-style-type: none"><li>(a) Use of the site for a mixed use development with associated public open space;</li><li>(b) Indicative building envelopes for 9 buildings to a maximum height of 14 storeys;</li><li>(c) 60,735 m<sup>2</sup> of gross floor area, comprising 45,505 m<sup>2</sup> of residential (432 dwellings) and 15,230 m<sup>2</sup> of retail/commercial floor space (including 3,900m<sup>2</sup> supermarket and 1,470 m<sup>2</sup> discount supermarket);</li><li>(d) Basement level, ground level and above ground level car parking;</li><li>(e) Road layout to support the development;</li><li>(f) Public pedestrian and cycle pathway;</li><li>(g) Public park with lake and surrounding forest; and</li><li>(h) Landscaping areas throughout the site.</li></ul>
Modification Number:	MP 10_0071 MOD 1
Modification:	Modifications to future environmental assessment requirement 18 of Schedule 3 to remove the need for development below the finished ground level to exhibit design excellence.





## **SCHEDULE 2**

### **SCHEDULE 3 – FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS**

In Schedule 3, delete requirement 18 in its entirety and replace it with the following:

#### **18. DESIGN QUALITY**

All residential, retail, and commercial floor space that sits above the finished ground level and the landscape design for each substantive stage of development shall exhibit design excellence. The proponent shall invite a minimum of three registered independent architects or firms with a reputation for delivering buildings and/or the public domain of the highest quality to tender for the residential, retail and commercial components of the development that sit above the finished ground level and the major landscape elements of the development, and at each substantive stage the proponent shall demonstrate to the relevant approval body the steps that have been taken to achieve design excellence for those elements.

**END OF MODIFICATIONS TO MP 10\_0071 MOD 1**

