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File Ref: DN14/0007

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Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Mark Brown

Dear Sir

Development Referral No. DN14/0007

Proposal: Section 75W Modification (MOD 3) to Concept Plan for Kirrawee Brick Pit (MP10_0076) - Modification of Approved Envelopes

Property: 566-594 Princes Highway, Kirrawee

I refer to the exhibition of the Preferred Project Report (PPR) for MP10_0076 MOD 3 submitted by South Village Pty ATF South Village Trust seeking submissions in relation to the modification of the approved Concept Plan at the Kirrawee Brick Pit site.

Council is committed to the provision of additional housing and employment opportunities in the Shire, though is most concerned that new buildings are reasonable in scale and of high quality.

Council previously made a detailed submission to the Department, dated 17 April 2014, concerning the proposed modification (Mod 3) to the Concept Plan. A review of the proposal has identified that a number of concerns remain with the amended Concept Plan and Council wishes to object to the proposal in its current form.

While the amendments have addressed some of the site design and amenity issues of the previous scheme, Council remains concerned with the significant increase in scale and mass from the approved Concept Plan and the resulting impacts.

The proposed modification seeks to almost double the number of apartments by adding over 25,000m² of residential floor area to the scheme approved by the Planning Assessment Commission (PAC) just two years ago. This approval was granted only following the reduction of floor space by more than 4,000m².

The proposed residential density significantly exceeds the approved Concept Plan as well as Council's Draft Local Environmental Plan with little justification. While the massing of the buildings has been somewhat modified in response to comments from Council and the Architectural Review and Advisory Panel (ARAP), the density has not been reduced and the impacts of this on the Kirrawee locality largely remain unresolved.

The Department is requested to again consider Council's previous submission as many of the issues raised by Council have not been resolved by the PPR. There are three (3) key grounds why the current proposal should not be supported:

- Height of residential buildings and impact on private and public amenity.
- Restrictions placed on the development potential of surrounding properties.
- Lack of integration of the retail with the public domain and Kirrawee.

The following is a discussion about the main issues in response to the proponent's PPR.

Urban Design

Council previously raised significant concerns about the scale and intensity of the development, building form and height and how the proposal will integrate with the existing Kirrawee Town Centre. Council's response to the PPR remains largely unchanged.

Density and building height

In responding to the request to justify the proposed increase in floor space ratio having regard to the Draft Local Environment Plan 2013 the proponent argues that a Part 3(A) application is not constrained by development standards within a Local Environmental Plan (LEP).

While an application is not technically subject to the development standards within Council's LEP, the LEP forms part of the Director General's Requirements (DGRs) and therefore development assessment under Part 3(A) does require these standards to be considered. Any proposal beyond these standards is to be justified, usually using the objectives of State Policies and Strategies.

In this regard, the proponent uses the Draft Metropolitan Strategy for Sydney released in 2013 to justify the increase in apartments on this site, noting that minimum housing targets have increased by 17% in the Draft Strategy. If the Concept Plan was approved as it was determined to be consistent with State planning objectives, this may be a suitable argument to increase the number of apartments by 17% (73 apartments). It is unclear to Council how the Draft Strategy can be used to justify a 73% increase in dwellings, particularly when nearby land will be inhibited by the scale and intensity of the Brick Pit development.

Interestingly, there has been no attempt to address the 33% increase in employment target also proposed in the Draft Strategy. The additional floor space disregards the opportunity to provide any additional skilled employment opportunities on the site. The need to provide job opportunities on site which match the skill base of residents is a case Council has consistently argued, though which has been ignored by the proponent in their modification.

The proponent continues to argue that the proposal is consistent with Council's Draft LEP 2013 in terms of maximum Floor Space Ratio for the site. It is true that the approved Concept Plan has a FSR of 1.43:1 if expressed across the entire site and that a 'like-for-like' comparison is therefore 2:1.

This, however, is not the correct way to express FSR for this development. The built form as approved has an FSR of 1.8:1 as the park cannot, by definition under cl. 35(4) of *Sutherland Shire LEP 2006*, be included in the calculations.

Clause 35(4) Site

*The following is taken to be **excluded** from the site of proposed development for the purposes of this clause...:*

(a) land on which the proposed development is prohibited under this plan

Residential development is prohibited in the Public Open Space zone (whether in private ownership or not) and as such is, and always has been, excluded from the site for purpose of calculating density. Council resubmits the following table showing a like-for-like comparison of Council's current and proposed Density controls with the approved and proposed development.

	<i>FSR (if including the park in the Site Area):</i>	<i>FSR (excluding the park from the Site Area):</i>
<i>Max FSR under SSLEP 2006</i>	<i>1:1</i>	<i>1.27:1</i>
<i>Max FSR under DSSLEP 2013</i>	<i>1.58:1</i>	<i>2:1</i>
<i>Approved Concept Plan</i>	<i>1.43:1</i>	<i>1.8:1</i>
<i>Proposed Development</i>	<i>2:1</i>	<i>2.5:1</i>

The modified proposal will therefore exceed the density of development permitted by the draft plan.

Further to this, the proponent argues that the FSR of 2:1 under the Draft LEP 2013 is a result of the Concept Plan approval as opposed to any strategic analysis and is therefore 'largely irrelevant'. It is suggested that the density should be supported as long as *'the proposal meets the objectives for the density/FSR control and is found to be compatible with the local context'*.

The relevant objectives for Building Density control are as follows:

- (a) to ensure that development is in keeping with the characteristics of the site and the local area,*
- (b) to provide a degree of consistency in the bulk and scale of new buildings that relates to the context and environmental qualities of the locality,*
- (c) to minimise the impact of buildings on the amenity of adjoining residential properties.*

The desired future character and scale of the locality is indicated by the controls proposed in the Draft LEP. These controls are the result of several years of strategic analysis which occurred before and after the approval of the Brick Pit Concept Plan. These therefore give a clear indication of Council's desired direction for the locality and provide a solid base for assessment of the proposal against the objectives of the density/FSR control.

The Brick Pit site is in the middle of the locality's transition from the low density residential component of Kirrawee to the east, to the Sutherland Town Centre to the west. All land immediately surrounding the site is proposed to have a maximum height limit of 16m (5 storeys) and a floor space ratio of 1:1.

The Concept Plan approved a maximum height of 50m and 14 storeys with a maximum floor space ratio of 1.8:1. However, in order for these controls to be more compatible with the local context, significant emphasis was placed on the arrangement of the density and height within the site. This resulted in the highest buildings being placed in the centre of the site.

Buildings fronting Flora Street were kept to a 6 storey height limit with the 6th storey being set back from Flora Street to present the appearance of a 5 storey building to the street. A greater setback was also provided to the eastern boundary by setting all residential levels further west upon the retail/commercial podiums. All of these measures provided an appropriate transition to surrounding development while not restricting the development potential of these sites.

While the proposed maximum height remains as approved, the proposed floor space of 2.5:1 results in a consistently higher built form across the entire site and substantially increased impacts at the 'edges'. The proposed 13 storey building adjoining the eastern boundary and the nine (9) storey buildings fronting Flora Street do not provide an appropriate transition from the adjoining properties (with a proposed 5 storey height limit) and are not compatible in character, bulk or scale of the locality. Buildings of this scale, whilst acceptable within the site in isolated 'towers', will detract from Kirrawee village character.

The proposal therefore **does not** meet objectives (a) and (b) for Building Density.

With regards to objective (c), while there are currently few adjoining residential properties, land to the east and south of the site is zoned for mixed use. The proposal will reduce the development potential of these adjacent properties by reducing solar access and significantly increasing visual dominance of urban built form which is uncharacteristic of the area.

Eastern Adjoining Site

The adjoining sites consist of a proposed 16m (5 storey) height limit under the draft LEP. This is a reasonable control considering the building distribution of the development as approved. However, if a higher built form is subsequently approved adjacent to the site boundaries, it is evident that Council's draft development standards for these sites will need to be reviewed. This is particularly important given that the adjoining sites to the east complete the large urban block that contains the Brick Pit.

In this regard, Council reiterates that development of the brick pit site should not constrain good planning outcomes and further development opportunities on adjoining sites. State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (SEPP 65) requires a total separation of 24 metres between buildings that exceed 25 metres in height on adjoining sites. The PPR provides for just one additional metre (for a total of 9m) to the residential component of the eastern most buildings.

This will either restrict development on the adjoining site to 25 metres in height, resulting in an eight (8) storey building adjacent to a 13 storey building, or force the adjoining site to develop on a 15m setback from the boundary. Both of these outcomes are unacceptable. The burden of building separation should be equally shared by adjoining sites. If approval is given for a 13 storey building adjoining the eastern boundary, a building (residential component) setback of 12m from the eastern boundary should to be provided.

On this basis, Council continues to have strong concern that the new proposal will limit the reasonably expected development potential of the site to the east.

Further to this, it is proposed that a 15m high (5 storeys), 110m long blank wall address the eastern boundary. This includes the back end of a supermarket and the side wall of an above ground carpark. This, combined with the insufficient set back to this boundary will create an inhospitable, isolated no-man's land between the proposal and the adjoining sites to the east, which will ultimately be redeveloped for residential use. This elevation requires activation and more articulation.

Flora Street

A three dimensional solar study has been provided demonstrating the extent of over shadowing of Flora Street, providing a comparison between the approved six (6) storey Concept Plan and the nine (9) storeys now proposed. From these diagrams it is evident that a reasonable outcome is provided by the approved six (6) storey proposal, only lower levels of buildings on the southern side of Flora Street are over shadowed in the morning and afternoon.

Diagrams depicting the proposed nine (9) storey buildings demonstrate that compliance with the minimum solar access requirements of SEPP 65 can be achieved, however, this is **only if** the residential components are pushed to the back half of the site, directly adjoining the railway line. This proposal will therefore reduce the development potential of the site by limiting residential development to the rear portion of the site. This is far less desirable for acoustic amenity reasons, would deliver an awkward streetscape, and devalues future residential development.

These shadow diagrams indicate that the upper levels of Buildings F and E are located on the north side of the building, however, the floor plans do not reflect this. Solar access is therefore likely to be further reduced.

An additional impact of this would be that at street level the development would read as a single storey commercial/retail building on the southern side of the street and a nine (9) storey building on the northern side of the street. This transition in scale is extremely abrupt. The scale of the street and the potential to integrate the proposal with the surrounding precinct are significantly diminished by increasing built form on Flora Street from six (6) storeys to nine (9) storeys.

Kirrawee Centre

The proposal has created the potential to provide a positive interface with Flora Street, the eventual success of this interface will be dependent upon its detail treatment at street level. The current modification has improved on the original scheme but its interaction with Flora Street and activation of the frontage is tokenistic in places and requires further resolution given the importance of this street.

Residential Amenity

Solar access to the communal podium courtyards has improved but still remains limited to the northern most section. If this scheme is approved, the design of these courtyards should be carefully considered.

Additional street access has been provided to all but one section of Building D. Increased setbacks from the sites eastern boundary and development of the treatment of the eastern elevation could facilitate an appropriate pedestrian environment and provide a street address for residents of the south eastern portion of building D.

General accessibility is not the same as good access to transport. Kirrawee train station is a small suburban station near the end of the train line with limited services and limited capacity. Furthermore, due to the poor performance of the Princes Highway at this location and the restricted access currently to the site from the highway and from the suburbs north of the highway, the Princes Highway corridor forms more of a barrier to this location rather than promoting access.

This is evident by the significant upgrades to the Highway which have been required by Roads and Maritime Services (RMS) prior to occupation of this development. These upgrades have been determined by the estimated additional traffic generated by the approved Concept Plan. The proposal now seeks to add over 300 apartments. The impact of this on traffic generation is discussed below.

The Concept Plan was approved following a long and thorough assessment of the site's potential by Sutherland Shire Council, the Department, independent consultants and ultimately the PAC. Following this process, the Concept Plan was approved only after the floor space and height of the development was reduced, giving a clear indication of the site's

maximum development potential. Nothing has changed since that assessment in terms of the capacity of the site and locality to accommodate additional dwellings.

The proponent states that the application demonstrates that the site is able to support the increase level of density. On the contrary, the above noted negative impacts associated with the increase in density demonstrate that the new proposal is an overdevelopment of the site.

Major concerns associated with this proposal are the height of buildings on Flora Street and the set back / interface with the properties to the east. To address these issues a reduction in the proposed density is necessary.

Economic Impacts

The proponent contends that the changes are minor and, as the proposal includes increased housing numbers, there will be additional customer base. However, the employment generated by the proposal does not improve the Shire's employment self containment, as the development will provide predominantly low skilled retail jobs. This specific matter remains a concern as the proposal is essentially the same.

The proposal does not address the job targets of the Draft Metropolitan Strategy for Sydney. A sustainable design would provide a balance of housing and job opportunities on a site as significant as this.

Public Open Space

Condition A11 – Public Park

The proponent seeks to modify this condition by substituting the requirement for the 'design, management and tenure of the public park' from the **first substantive stage** of the development to the **final development application**.

Council strongly opposes this proposal as presented because the final development application may be for a shop fitout in 20 years time. The trigger point for these works requires a more relevant definition such as 'the occupation certificate for the first residential building'. The term "substantive" is undefined, nebulous, and would be almost impossible to enforce.

Design of public open space

It remains unclear why the lake has been relocated to the northern side of the park. The existing water body is the remnant of the its past use and is therefore a key element that gives the brick pit its strong character and retains the sites connection to its past. By locating it on the northern side it becomes alienated from the corner where many pedestrians arrive as well as from principle pedestrian movements inside the development.

The proposed additional height to Building A further reduces the suitability of the northern side of the park for the lake. The shadow diagrams show that the lake will be in shade for much of the year. This is not suitable to maintain a healthy water body, particularly if a natural filtration process is proposed to maintain water quality.

The proposal to removal all development within the Sydney Turpentine Ironbark Forest is supported. Keeping the lake in the location currently approved would provide further protection for this vegetation while providing the connection between these two systems.

As the park is proposed to be dedicated to Council, all aspects of the design, including the location of the lake, playground etc, should be determined under the Part 4 development application.

Traffic, Car Parking & Transport

Traffic generation

The new report makes some adjustment with regard to traffic generation rates for the retail component taking into consideration Council's previous comments, however, there is no significant difference in the final assumptions.

It remains Council's view that the increase in the number of units will result in an increase in traffic generation from what was accepted in the concept approval. It defies logic that 300 residential units can be added to the site without any material impact on traffic generation.

Access and Egress

All entry/exit points to the site (including the surface roads) must be access driveways with laybacks and meet the requirements of Section 3 and APPENDIX D of AS/NZS 2890.1. In this regard all entry/exit points must be analysed with regard to capacity and level of service.

Servicing & Internal Layout

The servicing and internal layout will need to be further assessed in detail with any future DA and accompanying loading dock management plan.

Council remains concerned that large vehicles cannot enter or leave the dock without crossing into the opposing traffic lane in Flora Street.

Stormwater Management & Flooding

Stormwater

Rainwater harvesting and on-site detention tanks have been indicated on the plans and provides some level of comfort that on-site reuse is being considered.

Whether or not the ideas can be expanded into a viable stormwater management strategy or be integrated into the overall design of the development is largely unknown. Concerns are raised regarding the abandonment of such opportunities in the future detailed design phase.

Conclusion

The overall site planning has again made some positive progress in terms of the development's integration with the existing Kirrawee centre and protection of the STIF vegetation. However, many of Council's concerns regarding density and height remain and other problems have also been introduced.

The numerous shortcomings of the development are generally a reflection of the overdevelopment of an outer suburban site.

The proposal is being presented as a modification of a remnant Part 3A application. The changes proposed significantly alter the density, design and impacts of the approved Concept Plan and under current planning legislation would constitute a fresh development application. It remains Council's opinion that the assessment of this application in this forum

is inconsistent with the current regime of assessing development of this scale.

Council objects to the proposal and ask that the application be refused in its current form. The proposal places unreasonable expectations on surrounding properties and the locality, particularly as;

- the bulk and scale is inconsistent with the context and environmental qualities of the locality
- increased height and density limits the development potential of surrounding properties.

If you need any clarification of the above comments, please contact Council's Development Assessment Officer Annette Birchall on 9710 0846 or email ABirchall@ssc.nsw.gov.au and quote the application number in the subject.

Yours faithfully



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