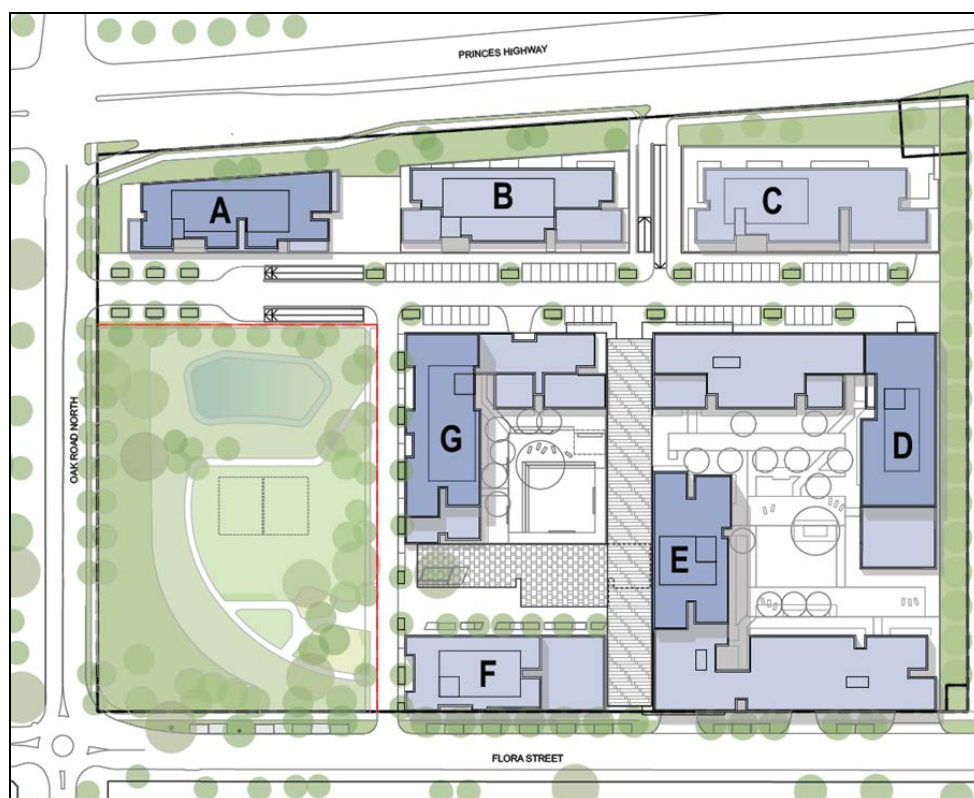


MODIFICATION REQUEST:

**Concept Plan Application for Mixed Use
Development at Kirrawee Brick Pit**

566-594 Princes Highway, Kirrawee

MP10_0076 MOD3



Secretary's Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

December 2014

Cover image: modified concept plan layout (source: proponent's RtS)

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EXECUTIVE SUMMARY

Sutherland & Associates (the proponent) seek approval to modify the concept approval (MP10_0076) for the Kirrawee Brick Pit redevelopment at 566-594 Princes Highway Kirrawee, pursuant to S75W of the *Environmental Planning and Assessment Act 1979*.

On 23 August 2012, the Planning Assessment Commission approved a concept plan for the mixed use retail/commercial and residential development consisting of nine building envelopes up to 14 storeys, 60,735m² of gross floor area (GFA), car parking, infrastructure works and open space.

The modification seeks to increase the density of the development and amend building envelope heights, locations, setbacks and separation distances, indicative open space design, staging and construction timing/delivery.

The Department publicly exhibited the application from 19 February 2014 until 11 April 2014 and received 15 public submissions (11 in objection) and six submissions from public authorities. Sutherland Shire Council objects to the proposal, its key concerns being density, residential amenity, heights and prejudicial impact on development potential of neighbouring sites.

The proponent submitted a Response to Submissions to address the issues raised during the exhibition period and to clarify key issues. Six further public submissions were received in response to the RtS.

The key issues in the Department's assessment are density and dwelling numbers, traffic impacts and car parking provision, amendments to building envelopes and open space and biodiversity.

The site is located within walking distance of local centres and public transport and is strategically well located to provide for increased densities. The proposed increase in residential GFA and the dwelling numbers is considered acceptable within the site context. The modification to building envelopes and increase of building heights across the site is considered acceptable. The proposed envelopes are compatible with the desired future character of the area and will ensure a high level of amenity for the development and surrounding sites.

The Department's assessment of the likely traffic impacts has been informed by the RMS' updated traffic generation rates for high density developments, which indicate reduced peak hour trips for residential development over the past 10 years. Although the proposal involves an increase in car parking spaces the traffic can be managed with acceptable impacts, consistent with the original concept approval.

The Department also considered matters relating to open space, retail impacts, future residential amenity, noise and community bus and taxi drop-off and is satisfied that the impacts have been satisfactorily addressed within the proponent's application, RtS and the Department's recommended conditions.

The Department therefore recommends that the Planning Assessment Commission approve the proposed modification subject to amended terms of approval, modifications and future assessment requirements.

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1. BACKGROUND

1.1 The site and surroundings

The site is known as the former Kirrawee Brick Pit and is located at 566-594 Princes Highway in the suburb of Kirrawee, approximately 25 kilometres south-west of the Sydney CBD. This site is within the Sutherland Shire Local Government Area (LGA). The site is located on the southern side of the Princes Highway and east of the Oak Road North intersection (refer to **Figure 1**).

The site is rectangular with frontages to Princes Highway to the north (252 metres), Oak Road North to the west (160 metres), Flora Street to the south (251 metres) and adjoins an industrial area immediately to the east. The site has a total area of 42,524m² and slopes from the south-western corner down approximately 5 metres to the north-western corner, and 10 metres to the eastern boundary. Other than a substation fronting Princes Highway, there are no buildings present on the site.

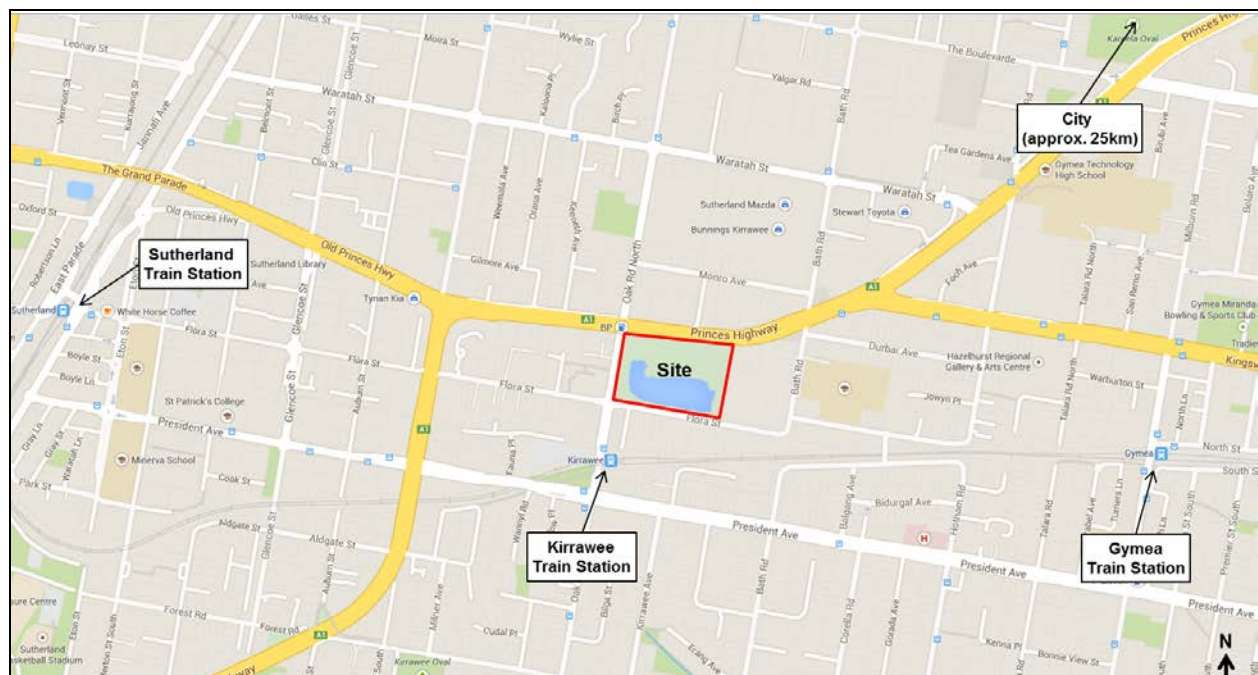


Figure 1: Local Context Plan (Base source: Google Maps)

The former brick quarry occupies the southern half of the site, and is approximately 215 metres in length, 90 metres wide and 6 metres deep. As a combined result of surface runoff and groundwater inflow the quarry is filled with water with an estimated volume of 42,717m³.

The site is located approximately 250 metres to the north of Kirrawee Village Centre and train station and approximately 1.5 kilometres to the east of Sutherland town centre and railway station.

The character of the surrounding area is mixed and includes industrial/warehouse buildings, commercial/retail buildings and medium and low density residential housing. The existing surrounding industrial areas to the east and south have been identified by Council as areas for transition from traditional warehouse and industrial uses to a higher density mixed use neighbourhood (refer to **Figure 2**).



Figure 2: Aerial photograph of the site, its surroundings and land uses (Base source: Nearmap)

1.2 Previous Approvals

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:

- mixed use development with associated open space;
- indicative building envelopes for nine buildings to a maximum height of 14 storeys;
- 60,735m² of gross floor area, comprising 45,505m² of residential (432 dwellings) and 15,230m² of retail/commercial floor space (including 3,900m² of supermarket and 1,470m² of discount supermarket);
- basement level, ground and above ground car parking (1,150 spaces);
- road layout to support the development;
- public pedestrian and cycle pathway;
- the public park, lake and surrounding forest; and
- landscaped areas throughout the site.

On 17 January 2013, the Deputy Director-General of Development Assessment Systems and Performance approved a modification application (MP10_0076 MOD1) to amend the wording of the Future Environmental Assessment Requirement (FEAR) 18, by removing the need for development below the finished ground level to exhibit design excellence.

On 16 May 2014, the Executive Director of Development Assessment Systems and Approvals approved a modification application (MP10_0076 MOD2) to amend FEARs B1 and B2 to enable the commencement of early works.

On 20 November 2014, the Executive Director Infrastructure Assessments approved a modification application (MP10_0076 MOD4) to defer requirements for the execution of the works authorisation deed, construction traffic management and control plans to enable early works to proceed.

2. PROPOSED MODIFICATION

2.1 Modification Description

On 27 November 2013, Sutherland & Associates (the proponent) lodged a modification request application under section 75W of the EP&A Act to modify the concept plan (MP10_0076) for the redevelopment of the Kirrawee Brick Pit.

On 17 July 2014 the proponent submitted a Response to Submissions (RtS), which was subsequently updated on four occasions. The RtS includes a response to the submissions made and also includes amendment and redistribution of building envelope heights, alteration of the size of both supermarkets, decrease of car parking numbers and amendments to illustrative plans and elevations.

The modification application, as amended, proposes the following key changes:

- 21,287.5m² increase of GFA (from 60,735m² to 82,022.5m²), comprising:
 - 67,832.5m² of residential (increase of 22,327.5m²); and
 - 14,189.8m² of retail/commercial including 4,740m² supermarket and 1,451m² discount supermarket (reduction of 1,048.2m²).
- reduction of the total number of building envelopes from nine to seven and reconfiguration and amendment of building envelope locations and footprints;
- alteration of building envelope heights, separation distances and setbacks;
- amended construction staging and timing of the delivery of the open space;
- removal of references to total dwelling and car parking space numbers;
- amendments to administrative conditions, future environmental assessment requirements (FEARs) and Statement of Commitments.

Comparison images of the approved and proposed modified concept plan are shown at **Figures 3 and 4**. Further details of the proposed modifications are provided at **Appendix A**.

2.1 Strategic Justification

The Department notes that since the approval of the original concept plan Council has nominated the Kirrawee village as an Urban Activation Precinct. Furthermore, draft Sutherland Shire Local Environmental Plan 2013, which was exhibited on 19 March 2013 and adopted by Council on 10 November 2014 proposes to increase the allowable Floor Space Ratio (FSR) for the application site from 1:1 to 2:1 and raise the height controls across the site from 4/5 storeys (approximately 12-15 metres) to 50 metres.

The current modification request, which proposes an overall increase in dwelling yield and GFA, has been made in response to the above increase in the site's development potential and to maximise the site's contribution to the delivery of new residential and employment accommodation.

NSW 2021

NSW 2021 is the NSW Government's strategic plan setting priorities for action and guiding resource attention. NSW 2021 is a 10 year plan to rebuild the economy, provide quality services, renovate infrastructure, restore government accountability and strengthen the location environment and community. The proposed additional 22,327.5m² of residential GFA (317 dwellings) at Kirrawee with excellent access to public transport will contribute to the Plan's goals

of delivering 25,000 new dwellings in Sydney each year, thereby improving housing affordability and availability (Goal 5); building liveable cities by locating people closer to jobs (Goal 20) and growing patronage on public transport (Goal 8). The proposed modification is therefore consistent with the NSW 2021 Plan.

Draft Metropolitan Strategy for Sydney to 2031

The Draft Metropolitan Strategy sets out the NSW Government's vision for Sydney to 2031. The Draft Strategy anticipates that the population of Sydney will increase by 1.3 million people by 2031 and this will result in the need for approximately 545,000 new homes and 625,000 new jobs across the metropolitan area. The South subregion, which includes Sutherland Local Government Area, is targeted to include an additional 42,000 dwellings and 43,000 jobs by 2031 (including 22,000 by 2021). The proposed modification and increased density would make a positive contribution to the dwelling and job targets under the Draft Strategy.

The Draft Strategy aims to locate new housing in places to give people a choice of housing that is more affordable and to enable them to work closer to where they live. It encourages balanced growth by stimulating housing growth in both infill and greenfield areas and aims to make the best use of transport and infrastructure, making Sydney more sustainable and efficient. In planning for balanced growth, the Draft Strategy focuses urban renewal in areas close to transport hubs and corridors and advocates efficient use of land in infill areas.

The proposed modification and increased density supports the strategic direction of the Draft Strategy by placing housing close to employment and improving employment opportunities for the surrounding area through the provision of retail accommodation. The provision of additional dwellings will encourage the use of public transport and make use of existing infrastructure due to its close proximity to the railway station and bus services.

Draft South Subregional Strategy

The Draft South Subregional Strategy identifies Kirrawee as a 'village' and the Princes Highway as a 'renewal/economic corridor'. The Strategy sets targets for housing and employment growth for the subregion, although these are now largely superseded as the Draft Metropolitan Strategy provides more recent targets for Sydney and the South Subregion. The proposed modification will create increased residential accommodation within Kirrawee and is also in close proximity to public transport services of Kirrawee railway station and local buses. The proposal will help Sutherland LGA achieve its dwelling target under the plan.



Figure 3: Approved (top) and proposed modified (bottom) concept plan layout (Source: MP10_0076 and proponent's RtS)

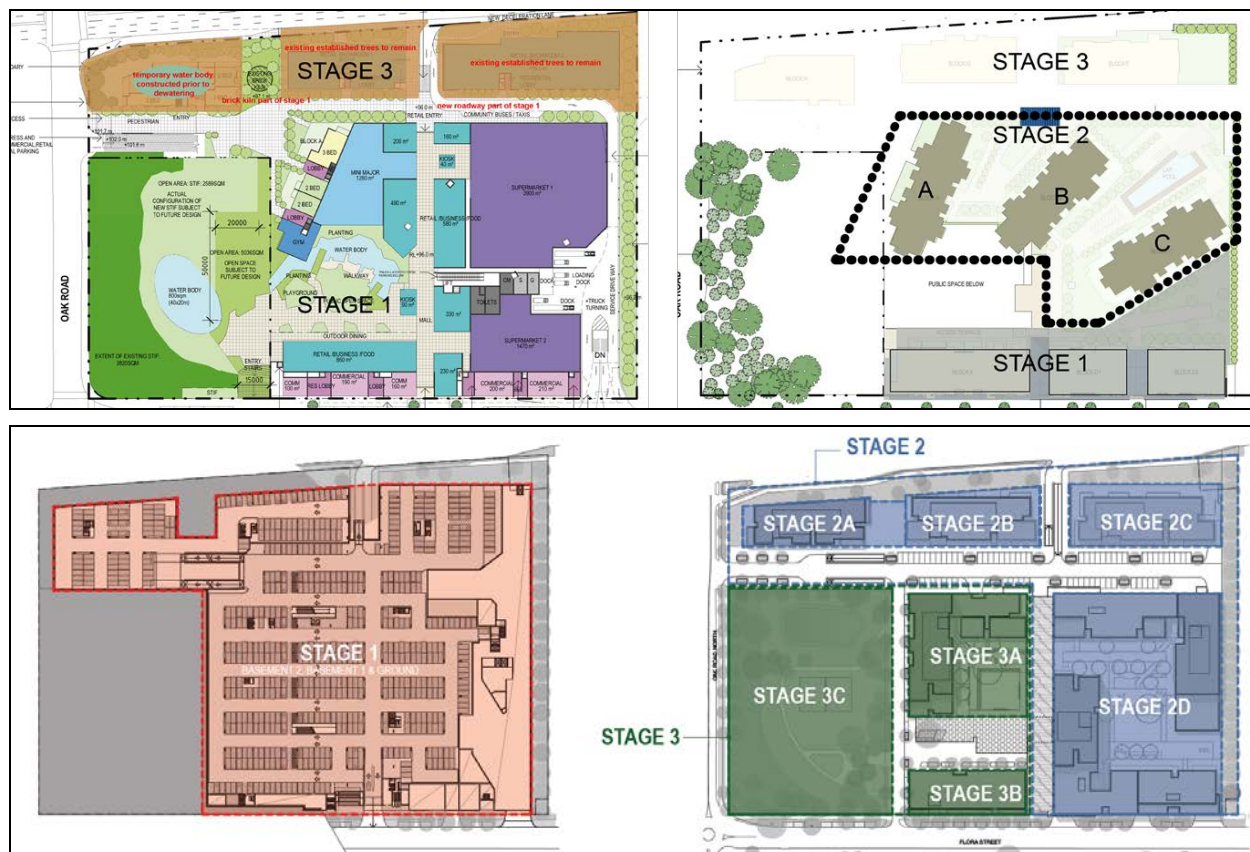


Figure 4: Approved (top) and proposed (bottom) indicative staging plan (Source: MP10_0076 and proponent's RtS)

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or her delegate) may approve or disapprove of the carrying out of the project under section 75W of the EP&A Act.

3.2 Modification of a Minister's Approval

The modification application has been lodged with the Secretary pursuant to section 75W of the EP&A Act. Section 75W provides for the modification of a Minister's approval including *'revoking or varying a condition of the approval or imposing an additional condition on the approval'*.

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to make substantial changes to the concept plan and modify specific conditions of the approval, which require further assessment and therefore approval is required.

3.3 Secretary's Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides that the Secretary may notify the proponent of Secretary's Environmental Assessment Requirements (SEARs) with respect to the proposed

modification that the proponent must comply with before the matter will be considered by the Minister.

In this instance, following an assessment of the modification request, it was not considered necessary to notify the proponent of SEARs as suitable information was provided to the Department to consider the application.

3.4 Delegated Authority

Under the Minister's delegation of 10 November 2014, the Planning Assessment Commission (PAC) may determine the application as Council objects to the proposal.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the EP&A Act, the Department is required to make a modification request publicly available. With regard to public notification the Department:

- referred the application to Sutherland Shire Council for comment;
- notified surrounding owners and occupiers from 19 February 2014 until 21 March 2014. The exhibition period was further extended to 11 April 2014 following the receipt of amendments to the application;
- published public exhibition notices in the Sydney Morning Herald, Daily Telegraph and St George / Sutherland Shire Leader on 18 February 2014;
- made the application publically available on the Department's website; and
- exhibited the RtS from 23 July 2014 until 22 August 2014.

The Department received a total of 21 submissions in response to the initial exhibition, comprising six submissions from public authorities and 15 from the general public (of which 11 were objections).

The Department received a further 13 submissions in response to the exhibition of the RtS, comprising seven submissions from public authorities and six submissions from the general public (of which five were objections).

Copies of the submissions can be viewed at **Appendix A**. A summary of the issues raised in the submissions is provided below.

4.2 Public Authority Submissions

A total of six submissions were received from public authorities in response to the exhibition. A further seven submissions were received in response to the RtS. The issues raised by the public authorities are summarised in the **Table 1** below. The issues raised have been addressed in detail in **Section 5** and/or by way of a recommended condition in the instrument of consent at **Appendix C**.

Table 1: Summary of public authority submissions

Sutherland Shire Council (Council)
<p>Council objected to the application raising a broad range of issues in relation to density, residential amenity, traffic impacts, heights and impact on development potential of neighbouring sites. Council maintained its objection and has raised the following key concerns with the amended proposal:</p> <ul style="list-style-type: none">• the proposal is inconsistent with Council's draft LEP maximum floor space ratio for the site and results in an uncharacteristic density and scale of development;• inappropriate height, scale and setback of building envelopes fronting Flora Street and the adjoining site to the east;• adverse impact on the development potential of sites along Flora Street and the site to the east;

<ul style="list-style-type: none"> increased traffic impacts; isolation of the planting strip along the eastern boundary; the park design should be determined at future DA stage; unacceptable delay to the timing of the provision of the park; proposal does not improve the Council's employment self-containment; and street access should be provided to Building D.
Transport for NSW (TfNSW), incorporating comments from Railcorp and Roads and Maritime Services
<p>TfNSW did not object to the proposal and recommended that:</p> <ul style="list-style-type: none"> the revised car parking conditions (B4 and B14) be further amended to include car parking rates for future applications; the proponent liaise with Council and the local bus operator to identify new convenient locations for bus stops on the Princes Highway; and the Construction Management Plan should specify any impact on bus services and pedestrian access to public transport and include mitigation measures where necessary.
Environment Protection Authority (EPA)
EPA considers that the impact from road traffic noise should be assessed and appropriate noise mitigation measures identified now at the concept plan stage.
Office of Environment and Heritage (OEH)
<p>OEH raised no objection to the proposal, noting that the 5,300m² compensatory Sydney Turpentine Ironbark Forest planting is proposed and the shadow cast by Building A would not adversely impact the lake, or flora/fauna around the lake. OEH made the following comments:</p> <ul style="list-style-type: none"> the eastern boundary planted strip is not a viable STIF habitat; and STIF should be retained as identified in the STIF Comparison Plan dated August 2014.
Heritage Council of NSW
The Heritage Division has confirmed that the proposed modification does not impact on the significant archaeology of the site.
NSW Office of Water (NOW)
<p>NOW raised concerns about the proposed lake and requested:</p> <ul style="list-style-type: none"> further clarification on the type of vegetation to be established around the lake; further clarification on the impact of shading from proposed towers would affect the long-term growth of wetland plants to be established around the lake's perimeter; and a vegetation management plan be prepared in accordance with NOW guidelines.

The Department has considered the issues raised in the Public Authority submissions in its assessment of the proposed modification.

4.3 Public Submissions

A total of 21 submissions were received from the public in response to the exhibition of the original application (15 submissions) and the RtS (6 submissions). Of the 21 submissions received 16 were in objection, one was in support and four provided comments on the proposal.

The Department has considered the issues raised in the public submissions in its assessment of the modification request application and has given specific consideration to the key issues raised in **Section 5** of this report. The concerns raised in the submissions are summarised in **Table 2**.

Table 2: Summary of issues raised in public submissions

Issue	Proportion of submissions (%)
Increase in traffic and impact on pedestrian safety	66.7
Inappropriate height bulk and scale	23.8

Issue	Proportion of submissions (%)
Increase car parking pressure and inadequate car parking provision	23.8
Flora and Oak Streets require upgrades to accommodate the development	23.8
Overcrowding on train services	19.0
Community and public bus stops are inconveniently located to the site	19.0
Increased overshadowing of neighbouring buildings and open space	14.3
The overall retail offer would have a significant adverse impact on local centres	9.5
Insufficient information of retention/protection of heritage kilns	9.5

Other issues raised (less than 5%) in resident submissions included:

- noise, nuisance and traffic impacts during construction;
- adverse impact on flora and fauna;
- water body should be larger;
- the site's future name should include reference to the 'Brick Pit';
- the application contains inaccurate / misleading information; and
- the retail units should not be decreased in size.

4.4 Response to Submissions

The proponent provided a response to the issues raised in submissions (**Appendix A**) and further clarification of the proposed modifications as outlined in **Section 2**.

The Department is satisfied that the issues raised in all submissions have been addressed through the RtS, this report and the recommended conditions.

5. ASSESSMENT

The Department considers that the key assessment issues are:

- density and indicative dwelling numbers;
- car parking provision and traffic impacts;
- amendments to building envelopes; and
- open space and biodiversity.

Each of these issues is discussed in the following sections of this report. **Section 5.6** of the report discusses other issues that were taken into consideration during the assessment of the application.

5.1 Density and indicative dwelling numbers

Density was a key issue in the Department's assessment of the original concept plan. The Department's assessment found that GFA of 60,735m² and 432 dwellings was appropriate for the site with acceptable built form, amenity, traffic and retail impacts.

The PAC agreed with the Department, stating that the concept plan will provide an appropriate redevelopment of a large infill site that is within a town centre and has good public transport accessibility.

The proposed modification seeks to increase both the GFA and dwelling numbers (refer to **Table 3**).

Table 3: Comparison of the approved/modified development statistics

	Approved	Modification	Change +/-
GFA	60,735	82,022.5	+ 21,287.5
Dwellings	432 (proposed)	721 (indicative)	+ 317 dwellings (dwelling nos. indicative)
FSR	1.43:1	1.92:1	+ 0.49

The Department has assessed the appropriateness of the increase to the GFA and dwelling numbers across the site below.

5.1.1 GFA / FSR

The modification seeks to increase the GFA by approximately 35% above the Concept Approval. The proponent considers that the site is capable of supporting a higher density and the proposed FSR complies with Council's draft LEP, which specifies a FSR for the site of 2:1.

Council has objected to the increase in density stating that:

- the FSR has been calculated incorrectly and does not comply with the Sutherland LEP. The park should be excluded from the site for the purposes of calculating density, which results in an FSR of 2.5:1;
- any increase in dwelling numbers should be limited to 73 apartments for the site (total 505 apartments) to accord with the updated targets in the Draft Metropolitan Strategy for Sydney (17% increase in housing targets);
- the increased density/height at the edges of the site results in a poor transition to surrounding developments, restricts the development potential of neighbouring sites and has an unacceptable impact in terms of character, bulk and scale; and
- the increased density/height would result in adverse overshadowing.

In response the proponent has provided the following justification for the increase in density:

- legal advice has confirmed that the calculation of the FSR for this site should include the area of the park;
- Council has misinterpreted the draft Metropolitan Strategy and the nature of the delivery of housing to meet targets. Some sites (like the application site) are much more capable of delivering housing than others;
- the increase in height at the edges of the site is acceptable in urban design terms and would not adversely impact on the development potential of neighbouring sites; and
- amendments to the height of building envelopes ensures that a sufficient amount of solar access is afforded to neighbouring sites, proposed future residential accommodation and the open space.

The Department notes that the Council and proponent disagree about the method for calculating the FSR for the site. The specific point of difference is whether the future public open space that is to be dedicated to Council is included within the site area. Noting that the park is excluded from the site on the FSR map within the draft Sutherland Shire LEP 2013, the Department accepts Council's method for calculating the FSR for the site. However, the Department has assessed the increase in density on its merits, with key consideration of:

- the capacity of the site to contribute toward broader strategic objectives having regard to its location and size; and
- the built form, amenity and traffic impacts of the proposal.

It is the Department's view that the increase in density is unlikely to result in significant impacts as:

- the terms of approval, modifications and FEARs of the concept approval as amended by this modification application will ensure that the resulting development is of an acceptable overall design, will not result in unreasonable impact and that future dwellings will achieve an appropriate standard of residential amenity;

- the development will be contained within the proposed modified building envelopes, which have been assessed as compatible with the desired future character of the area (refer to **Section 5.3**);
- the increase in density would not result in additional adverse traffic generation, as discussed in **Section 5.2**; and
- future development applications would be subject to the Council's S94 Development Contributions Plan and future payments towards Council's infrastructure would provide benefits to both this development and the wider community.

In light of the above, the proposed amendments relating to building envelope height, scale and location, car parking provision and residential amenity are acceptable, subject to amendments as discussed at **Sections 5.2, 5.3 and 5.6**.

5.1.2 Indicative dwelling numbers

The original concept plan provides for a total of 432 residential apartments. The application seeks to amend the development description in Term of Approval A1 by deleting reference to the number of apartments. The proponent considers that the concept approval should not dictate a specific number of apartments based on indicative floor plans which may change upon final resolution of the detailed design.

The Department notes that the indicative design includes the provision of 721 apartments (as amended), which would represent an increase of 289 dwellings across the concept plan site. However, this would be subject to further detailed design and development applications for subsequent stages. As outlined in **Section 2.1**, the site's location close to public transport and the Kirrawee Village centre make it strategically well located to support a higher dwelling yield.

The Department is of the view that the limitations/parameters imposed in terms of the GFA and extent of building envelopes, Terms of Approval, Modifications and FEARs provide sufficient comfort that a resulting development (regardless of its total number of apartments) can be delivered without adverse impact on visual amenity, residential amenity and the character of the surrounding area. However, the Department notes that for the traffic assessment, impact and mitigation measures have been modelled based on the provision of 749 dwellings (as proposed by the original modification request) across the concept plan site. The traffic impact assessment concludes that the traffic generation arising from the development, based on 749 dwellings and revised car parking rates, would have an acceptable impact as discussed at **Section 5.3**.

Given traffic is a key issue associated with the redevelopment of the site and to ensure that the mitigation measures (road upgrade works and traffic management measures) remain effective, the Department recommends:

- that the total number of dwellings be capped at 749 dwellings (notwithstanding the proposed reduction of dwelling numbers to 721);
- that the dwelling number forecast is monitored at each stage of the development to ensure that the overall site-wide dwelling cap will not be exceeded.

The Department recommends that Term of Approval A1 be amended accordingly and an additional Term of Approval be imposed requiring monitoring of dwelling forecasts with each development application for residential development on the site.

5.2 Amendments to building envelopes

The proposal seeks to reduce the total number of building envelopes from nine to seven, provide a more regular rectilinear envelope layout and an increase of building envelope heights across the site.

A comparison of the approved and proposed building envelope layout and scale is provided at **Figure 5**.

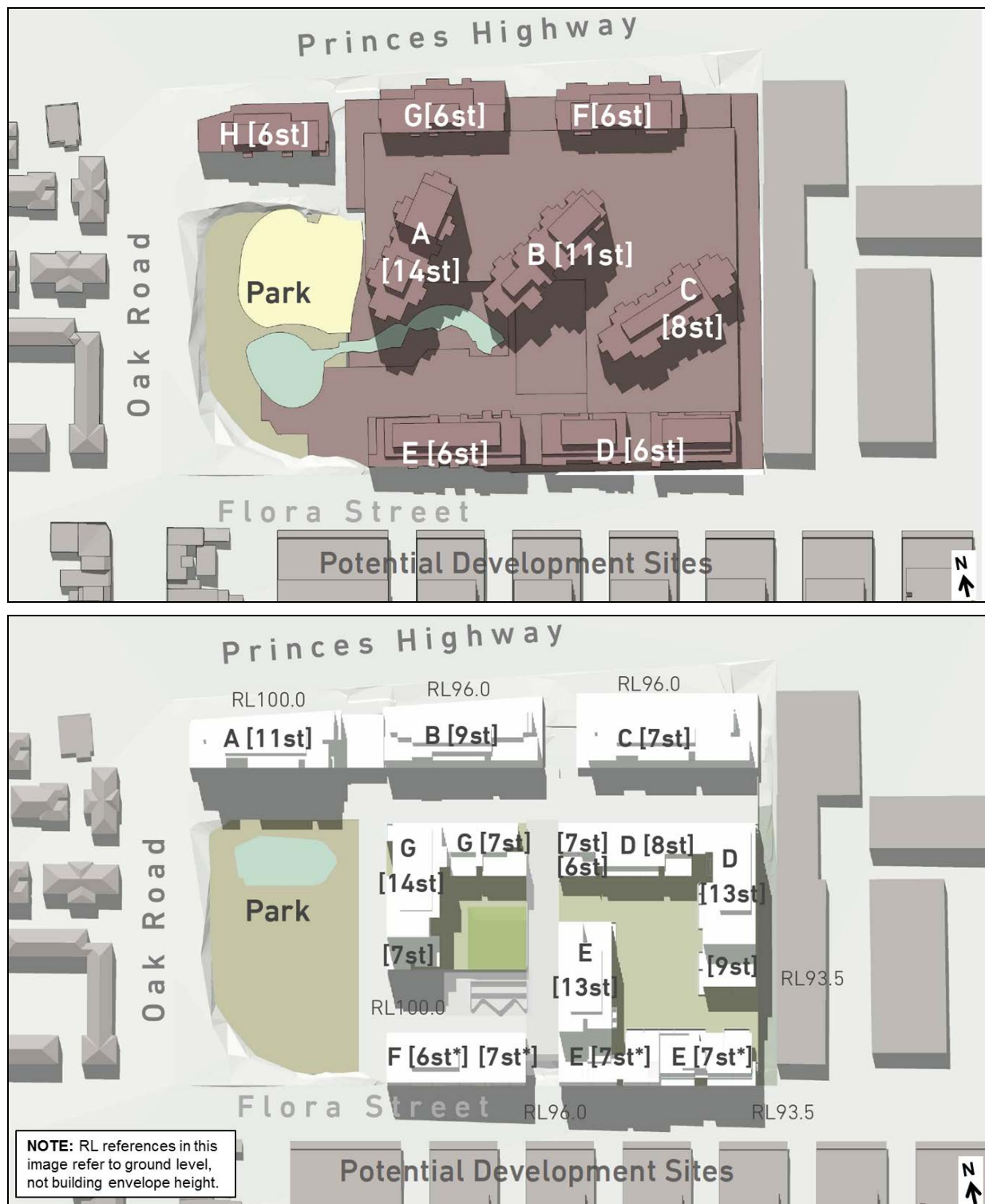


Figure 5: Approved (top) and proposed modified (bottom) concept plan layout and scale (Source: proponent's RtS)

The key issues associated with the amendments to the building envelopes are the:

- heights of building envelopes E and F and impact on Flora Street;
- height of building envelopes along the eastern boundary; and
- height of building envelopes A, B and C and impact on the Princes Highway.

5.2.1 Height of building envelopes E and F and their impact on Flora Street

The concept approval includes three 6 storey building envelopes, with no setbacks, fronting Flora Street. The proposal seeks to reduce the number of building envelopes from three to two in this location (referred to as E and F) and increase the height of these building envelopes by one additional storey to 7 storeys, with the following setbacks to the uppermost level:

- building envelope E – 3 metre setback from Flora Street that wraps around in part to the western elevation; and
- building envelope F – 2 metre setback from Flora Street.

Concerns were raised in public submissions regarding the scale of the development along Flora Street. Council has objected to any increase in height of building envelopes fronting Flora Street and is particularly concerned that an increase in height would:

- overshadow the development sites on the southern side of Flora Street and limit their redevelopment potential; and
- result in buildings that are out of scale within the Flora Street streetscape.

The Department notes that the application originally proposed 11 and 14 storey building envelopes (E and F) fronting Flora Street. The application has since been amended on two occasions in response to Council's and the Department's concerns about the height of these building envelopes and the application now proposes an increase of an additional storey (setback from the building edge).

It is the Department's view that the provision of two 7 storey building envelopes (with setbacks) fronting Flora Street is acceptable for the following reasons:

- the proponent's solar access analysis has confirmed that building envelopes E and F would not cast significant shadows over the development sites on the southern side of Flora Street. The Department therefore considers that the inclusion of an additional storey would not jeopardise the redevelopment potential of those sites (refer to **Figure 6**).
- Council's Development Control Plan and draft LEP 2013 envisage 5 storey (16m) buildings to the southern side of Flora street. The Department does not consider that the scale of the proposed buildings on the northern side would appear overbearing or out of scale in that context.

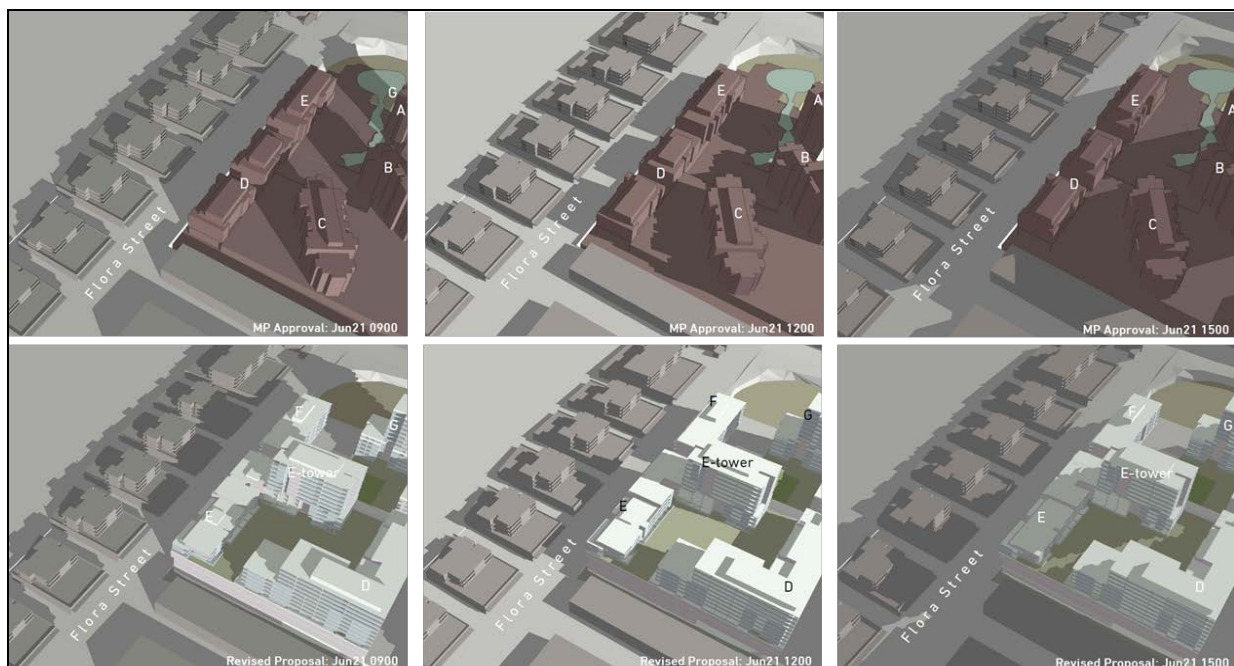


Figure 6: Overshadowing of Flora Street by the approved (top) and modified proposed (bottom) development (Source: proponent's RtS)

The proposed upper level Flora Street setback for building envelope E is three metres, while the upper level setback for building envelope F is two metres. The Department considers that a consistent three metre setback for both buildings would be more appropriate as it would reduce the visual impact of the additional storey and help establish a 6 storey street wall height along Flora Street. A two metre setback would not provide the same sympathetic and visually recessive outcome as a three metre setback along the Flora Street streetscape. The Department therefore recommends a new modification condition (**condition B2A**) that requires the upper level setback of building envelope F to be increased to three metres consistent with building envelope E.

5.2.2 Height of building envelopes along the eastern boundary

The proposal seeks to amend the layout, design and height of the building envelopes along the eastern boundary and this has an impact on the site's relationship with the adjoining development site to the east (the Eastern Site) (refer to **Figures 5 and 7**). **Table 4** below provides a comparison between the approved and modified concept plan at the eastern boundary.

Table 4: Comparison of the approved/modified building envelopes at the eastern boundary

Development Element	Approved	Modified	Change +/-
Eastern boundary landscaped setback	8 metres wide	- 8 metres wide; - 9m setback, level 5 and above	+1 metre level 5 and above
Building envelope fronting Princes Hwy	6 storeys (Building F)	7 storeys (Building C)	+1 storey
Centrally located building envelope	- 8 storeys - oriented at an angle to the boundary (Building C)	- part 9 part 13 storeys - along 68m of the boundary (Building D)	+1 to 5 storeys and additional bulk along boundary
Building envelope fronting Flora Street	6 storeys (Building D)	7 storeys (with setback) (Building E)	+1 storey

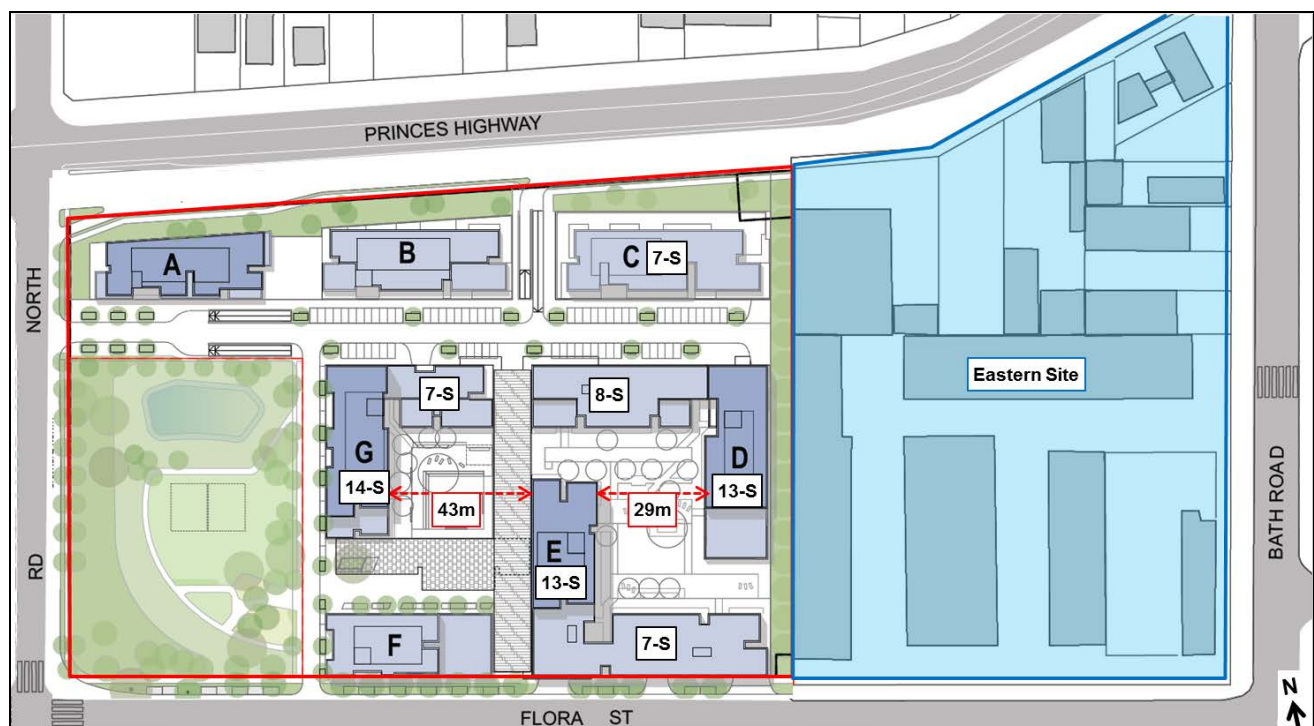


Figure 7: Relationship of the proposed modified concept plan to the Eastern Site (Base source: proponent's RtS)

5.2.3 Height of building envelopes E and F and their impact on Flora Street

Increase in scale and bulk along eastern boundary

At the eastern boundary of the site, the original concept plan includes the provision of a seven metre high retail podium above which are two buildings (six and eight storeys) that occupy approximately 25% of the total boundary length. By comparison the proposal includes a 15 metre high retail podium above which are three buildings (ranging in height from seven to 13 storeys) that occupy approximately 75% of the total boundary length (refer to **Figure 5**).

The Department notes that the bulk and scale of the proposed scheme has been increased along the eastern boundary of the site and most notably at the central portion of the site (building envelope D). It is the Department's view that the bulk and scale of the development in this location is acceptable as:

- it is located centrally along the eastern boundary and therefore does not have a significant visual impact on the main pedestrian and vehicular thoroughfares at Princes Highway and Flora Street;
- future development(s) on the Eastern Site, which has a height limit of 16 metres under the draft Sutherland Shire LEP 2013, will further screen views towards the proposal and therefore further reduce its visual impact; and
- the proposal would have an acceptable impact on the amenity of the future development and existing adjoining properties.

The increase of retail podium wall by eight metres will result in an increase of the height/extent of blank wall facing the eastern boundary. The eastern elevation of the retail podium would be visible obliquely from Flora Street and Princes Highway. The Department notes that the detailed design of the development will form part of future development applications. Subject to appropriate design and cladding of the eastern retail podium elevation, the Department is of the view that the proposal will not have an adverse visual impact on Flora Street or Princes Highway streetscapes. A discussion of the security implications of the eastern elevation of the retail podium is provided at **Section 5.4.2**.

Impact on adjoining site to the east

The Eastern Site currently contains low rise buildings used for light industrial and warehouse purposes. Council has identified the Eastern Site for transition from traditional industrial and warehouse uses to a higher density mixed use neighbourhood and Council's existing and draft LEPs reflect this approach. The following height controls apply to the Eastern Site:

- current LEP 2006 – developments up to 3 storeys; and
- draft LEP 2013 – developments up to 5 storeys.

Council has objected to the provision of a 13 storey building at the eastern boundary of the site stating that this would limit the reasonably expected development potential of the Eastern Site. Council has raised the following concerns:

- if approved in its current form Council would be compelled to review the draft LEP 5 storey height control for the Eastern Site; and
- the 13 storey building should include a 12m setback at level 5 and above to provide an equitable approach to achieve the recommended 24m separation between buildings that exceed 25m in height (in the Residential Flat Design Code (RFDC)).

The proponent has noted that Council's draft LEP proposes a 5 storey building height on the Eastern Site and the RFDC recommends 18 metres separation for 5 to 8 storey buildings (between habitable rooms). Consequently, the proponent considers that the inclusion of a 9 metre setback for the residential component at level 5 and above in this location is an appropriate and equitable response to the RFDC separation distance requirement.

The Department notes that the Council's 5 storey height control over the Eastern Site is currently a draft control (under the draft LEP 2013). Furthermore, Council has noted in its submission that it would consider amending this limitation should the proposed building envelope heights be approved in their current form. Therefore it is appropriate to assess the proposal against a potential future scenario where taller buildings are permissible on the Eastern Site.

The Department notes that the proposed modification provides for tall buildings (11, 13 and 14 storeys) adjacent to lower rise buildings (6, 7 and 8 storeys) and this variation in scale establishes a site-wide building scale hierarchy. Further, the proposal provides for a minimum building separation of 29 metres between the 13 storey building envelopes and that these taller buildings have a staggered layout to prevent tower crowding (refer to **Figure 7**).

The Eastern Site is a similar size to the concept plan site and it is reasonable to expect that the development of the Eastern Site may adopt a similar approach to tower separation distances (rather than the absolute minimum of the RFDC) and prevention of crowding. This being the case, the Department concludes that the development of that site would not be unreasonably jeopardised by the proposed nine metre (rather than 12 metre) setback along the shared boundary as:

- there are numerous options for the distribution of taller buildings within the Eastern Site if it were to be developed as a single development site; and
- the 13 storey element of the development of building envelope D is limited to approximately a quarter of the eastern boundary edge, therefore there would still remain a number of opportunities for the development of taller buildings, which could comply with the minimum separation requirements.

Notwithstanding the uncertainty around the likely final height controls for the Eastern Site, the Department concludes that the proposed 13 storey building, with a nine metre setback (at level 5 and above) is acceptable and would not have an unacceptable impact on the development potential of the Eastern Site.

5.2.4 Height building envelopes A, B and C and impact on Princes Highway

The concept approval includes three 6 storey building envelopes fronting the Princes Highway. The proposal seeks to amend the building envelopes (A, B and C) by increasing their footprints and also their height from 6 storeys to 7, 9 and 11 storeys (refer to **Figure 5**).

Concerns were raised in public submissions regarding the scale of the development and in particular overshadowing of nearby properties by building envelope A. Council did not object to the height or scale of building envelopes A, B and C and with reference to building envelope A, stated that a taller building on the corner of Oak Road North and Princess Highway would provide an appropriate entrance marker to Kirrawee Village Centre and Station.

The proponent considers that the proposed height and scale of building envelopes A, B and C would:

- appropriately mark the entrance to Kirrawee Station and Town Centre;
- provide an acceptable transition between existing and proposed buildings;
- reinforce the corner; and
- not have any adverse overshadowing impacts on neighbouring residential properties.

The Department acknowledges that existing properties along the Princes Highway within the immediate area are generally low to medium scale (2 to 5 storeys) and the concept approval allowed for a 6 storey buildings along Princes Highway.

The Department notes that the width of the Princes Highway is significant (comprising 6 lanes measuring approximately 28 metres, plus an additional 15 metre setback of industrial buildings on its northern side). The Department is of the view, given the width of the Princes Highway that it

is capable of being framed by buildings of a taller stature without having an unacceptable visual impact on the streetscene or surrounding area. The increase in the height of building envelopes B and C by 2 and 3 storeys is acceptable, particularly as the resulting buildings would be adjacent to the Eastern Site, which itself will be developed to a height of 5 storeys (or potentially greater).

The Department notes that the proposed height of building envelope A was reduced by two storeys (from 13 to 11 storeys) in response to the Department's concerns about its scale and relationship to neighbouring properties (**Figure 8**).

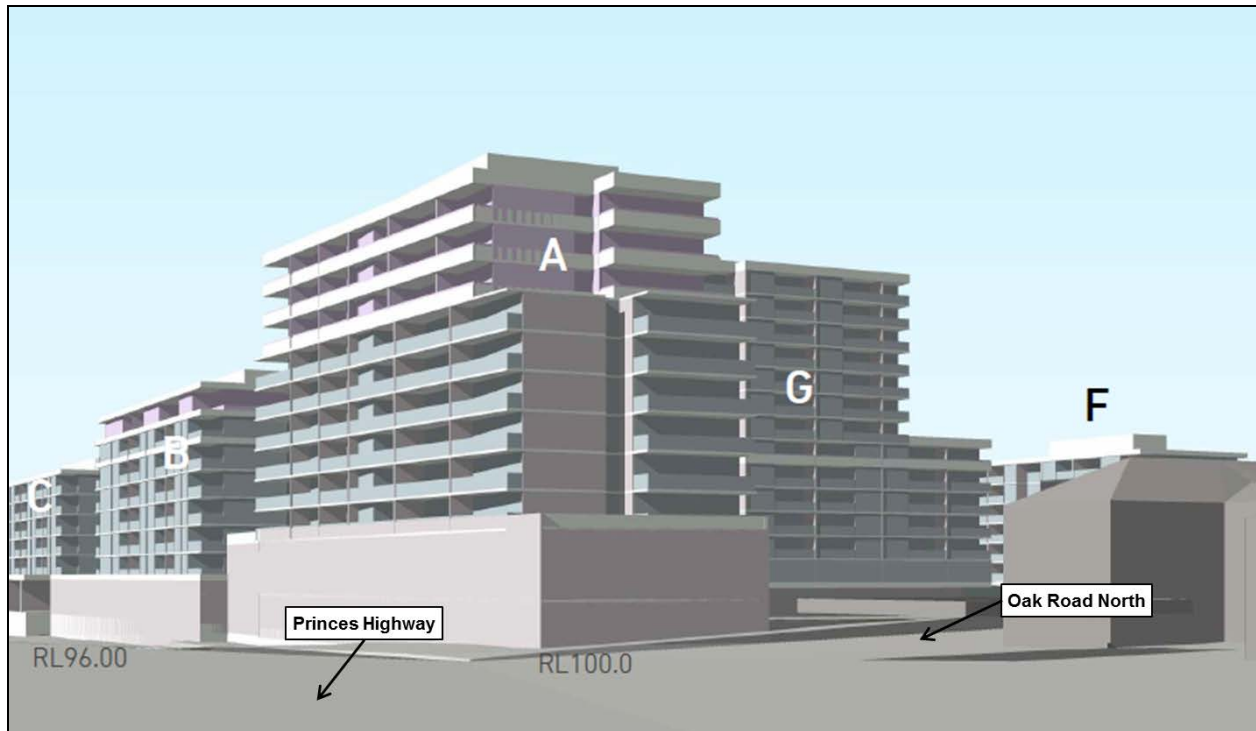


Figure 8: Indicative building (building envelope A) located on the corner of Oak Road North and the Princes Highway (Base source: proponent's RtS)

The corner of Oak Road North and Princess Highway is a prominent corner and forms the principal entry into the Kirrawee Town Centre. In such circumstances a taller building is considered appropriate to strongly announce the corner and establish an identifiable visual marker that appropriately reinforces this important entrance.

The Department acknowledges that the resulting building would present a larger scale than the existing surrounding buildings, however the 11 storey building is considered to relate appropriately to the rising stepped heights of Buildings B and C and also the greater scale of development located centrally within the site. The Department notes that the amended/reduced height of the building envelope from 13 to 11 storeys has ensured that there is no adverse overshadowing of neighbouring residential properties (refer to **Figure 10**). The impact of building envelope A on the open space and the lake is discussed further at **Section 5.4**.

5.3 Car parking provision and traffic impacts

Car parking provision and traffic impacts were key considerations in the Department's assessment of the concept plan. The Department notes that more than half of the public submissions received (66.7%) raised concern about the traffic impact of the proposed modification.

5.3.1 Car parking provision

The proposal seeks to increase car parking provision on the site, commensurate to the increase in indicative dwelling numbers and change in retail/commercial floor space.

The original concept plan application proposed 1,150 car parking spaces, providing for 603 residential spaces. The Department's assessment of the original application concluded that the site is well served by public transport and an increase in density in this area is acceptable. Furthermore, the Department recommended that the total car parking provision should be reduced to a total of 1,033 spaces (of which 486 would be for residential) to ensure the development had acceptable traffic impacts. The PAC did not concur with the Department's recommendation. The PAC stated that as the broader area is suburban it is likely that residents will have a relatively high level of car ownership and use, particularly for non-commuter trips. The PAC was concerned that if insufficient on-site parking is provided unreasonable pressure would be placed on on-street parking. The PAC concluded that the proponent's proposed car parking provision is appropriate for this site.

The concept approval provides both a modification and FEAR in relation to car parking:

- modification B4 provides for a maximum of 1,150 car parking spaces including 603 residential spaces and non-residential car parking to be provided in accordance with the non-residential car parking rates shown in **Table 5** (excluding 'medical')
- FEAR 14a requires a maximum of 1,150 spaces.

The proposal seeks to amend FEAR 14a by deleting reference to the maximum residential car parking figure and instead proposes that car parking provision be governed by proposed residential car parking rates. The proposal retains the approved non-residential car parking rates and adds medical use to the list of non-residential car parking rates as shown in **Table 5**.

Table 5: Proposed car parking rates

Residential car parking rates	Non-residential car parking rates (incl. replacement of 40 on-street parking spaces)
<ul style="list-style-type: none"> • 1 space per 1 bedroom unit; • 1.25 spaces per 2 bedroom unit; • 1.5 spaces per 3 bedroom unit; and • 0.125 visitor space per unit 	<ul style="list-style-type: none"> • Supermarket – 4.5 spaces per 100m²; • Mini-Major – 4.0 spaces per 100m²; • Speciality Retail (incl. secondary retail, kiosks) – 4.2 spaces per 100m²; • Showroom – 2.4 spaces per 100m²; • Office – 2.5 spaces per 100m²; and • Medical – 0.9 spaces per 100m².

The Department notes that the indicative scheme shows the provision of a total of 1,521 car parking spaces (1,013 residential and 508 non-residential) and this represents an increase of 410 above the residential parking in modification B4 and 371 spaces above the total approved 1,150 car parking spaces (refer to **Table 6**). Furthermore, the Department notes that the proposed non-residential car parking rates (refer to the right column of **Table 5**) are the same as the approved car parking rates, except for the addition of a rate for 'medical' use.

Table 6: Comparison of the approved and proposed car parking

Type	Concept Approval	Proposed Modification	Change +/-
Residential	603	1,013	+410
Non-residential	547	508	-39
Total	1,150	1,521	+371

Similar to the request to delete the maximum dwelling yield, the proponent considers that the concept approval should not dictate a specific number of car spaces as this figure will be determined as a result of the final number and type of apartments.

Council did not object to the amendment of FEAR 14a. TfNSW considered it appropriate that the maximum residential car parking requirement be deleted and recommended the residential car parking rates shown in **Table 5**.

The replacement of the maximum number of residential car parking spaces with car parking rates and amendment to FEAR 14a is considered acceptable for the following reasons:

- the removal of the maximum limitation allows for an appropriate level of flexibility and ensures that resulting land uses will be provided with car parking in accordance with the agreed car parking rates in future development applications;
- car parking provision in accordance with car parking rates will ensure that sufficient on-site parking is delivered that is tailored to the resulting dwelling mix so not to place unreasonable pressure on on-street car parking spaces;
- despite the increase in car parking provision, the expected traffic generation of the development would only result in a relatively minor impact (32 – 37 additional trips) as discussed in **Section 5.3.1**;
- the overall dwelling yield is capped at 749 as discussed in **Section 5.1.2** and this will have a consequential limitation on car parking provision;
- the indicative scheme has been shown to have an acceptable impact on surrounding road network and minor deviations from the 1,521 provision is unlikely to have significant impacts; and
- Council and TfNSW have both raised no objection to the approach.

Modification B4 contains a maximum overall and residential car parking figure and a specific car parking rate for non-residential parking provision. The Department notes that the application seeks to amend modification B4 to also reflect the above changes. However, as B4 duplicates requirements of FEAR 14a (as recommended to be amended), it can be deleted.

5.3.2 Traffic generation

As discussed in **Section 5.3.1**, the original concept plan included the provision of 1,150 car parking spaces and estimated that the residential and non-residential uses are likely to generate 1,117 vehicle trips during the Thursday peak and 1,213 trips during the Saturday midday peak. The Department's assessment concluded that the likely traffic generation was acceptable subject to the following works/road improvements being undertaken to mitigate the impacts on the local road network:

- upgrade and reconfiguration of the Princes Highway and Oak Road North intersection;
- installation of traffic signals at the Princes Highway and Bath Road intersection;
- installation of traffic signals at the Oak Road North and Flora Street intersection; and
- provision of a deceleration lane into the site from the Princes Highway.

The PAC accepted the findings of the Department's assessment and concluded that the traffic impact would be acceptable.

As discussed in **Section 5.3.1**, the application seeks increase parking by an indicative 371 spaces (from 1,150 to 1,521). This comprises an increase of 410 residential spaces and a reduction of 39 retail/commercial spaces. The proponent considers that there would not be an increase in traffic generation (compared to the concept approval) and that the surrounding road network would operate satisfactorily subject to the works/road improvements outlined within the concept approval. The proponent has confirmed that the Thursday (PM) and Saturday (midday) traffic periods (refer to **Table 6**) represent the two peak hour periods for the whole development.

Council objects to the proposal and considers that the increase in the number of apartments (and car parking spaces) would result in an increase in traffic generation from what was accepted in the original concept plan. Concern was also raised in public submissions about traffic impacts arising from the increase in density.

TfNSW and RMS raised no objection to the proposed increase in car parking.

The RMS Guide to Traffic Generating Development 2001 provides guidance on traffic generation and parking impacts of new developments. The Guide is currently in the process of being revised and in August 2013 the RMS published updated traffic generation rates for high density residential developments. The revised rates are based on surveys undertaken in 2010 across Sydney Metropolitan area (and regional NSW) and indicate a reduction in traffic generation in traffic generation over the past 10 years. A summary of the residential traffic generation for the development as originally assessed, under the proposed revised car parking rates and as modified is provided at **Table 7**.

Table 7: Comparison between the concept plan traffic generation and proposed modified traffic generation

Peak Hour Period	Approved Traffic Generation	Approved (Updated) Traffic Generation	Proposed Modification	Comparison between approved (updated) and proposed traffic generation
Thursday (pm)	1,117	1,019	1,056	+37 (3.6%)
Saturday (midday)	1,213	1,161	1,193	+32 (2.7%)

The Department notes as a result of the reduction of non-residential GFA and despite the increase in car parking provision (of 410 residential car spaces), the calculation of traffic generated by the development based on the updated traffic generation rates would be 4.3 - 8.7% (52 - 98 trips) less than that originally assessed for the development during morning and afternoon peak periods. If the updated rates were applied to the concept approval proposal, it represents only a 2.7 - 3.6% (32 - 37 trips) increase in traffic generation, which is considered to have an acceptable traffic impact, subject to the provision of the road improvements previously recommended.

5.4 Open space and biodiversity

The concept approval includes the provision of a large open space area (approximately 9,000m²), which proposes the retention of part of the existing lake, approximately 1,973m² of Sydney Turpentine Ironbark Forest (STIF) and provision of a grassed open area. The open space would be designed and built by the proponent and then transferred to Council upon completion. In addition to this on-site open space provision, 5,300m² off-site replacement STIF is also proposed at sites to be agreed with Council (secured as a biodiversity offset and included as part of a Voluntary Planning Agreement (VPA)).

The application does not alter the overall size of the open space (9,000m²) and maintains the biodiversity offset of 5,300m² off-site replacement STIF. However, it does propose the following changes to its composition and indicative layout (refer to **Figure 9**):

- increase the amount of retained STIF on-site by 405m², from 1,973m² to 2,378m²;
- reinstate/replant an additional 907m² of STIF within the open space;
- plant STIF within the 1,360m² eastern planting strip;
- relocation of the lake from the south to the northern end of the open space; and
- removal of pedestrian access to the park from the south west through the STIF.

The proposal also seeks to delay the construction and delivery of the park from the first stage of development (refer to **Figure 4**) until the final development application for the site.

A comparison of the approved and proposed indicative open space and eastern planted strip layout is provided at **Figure 9**.

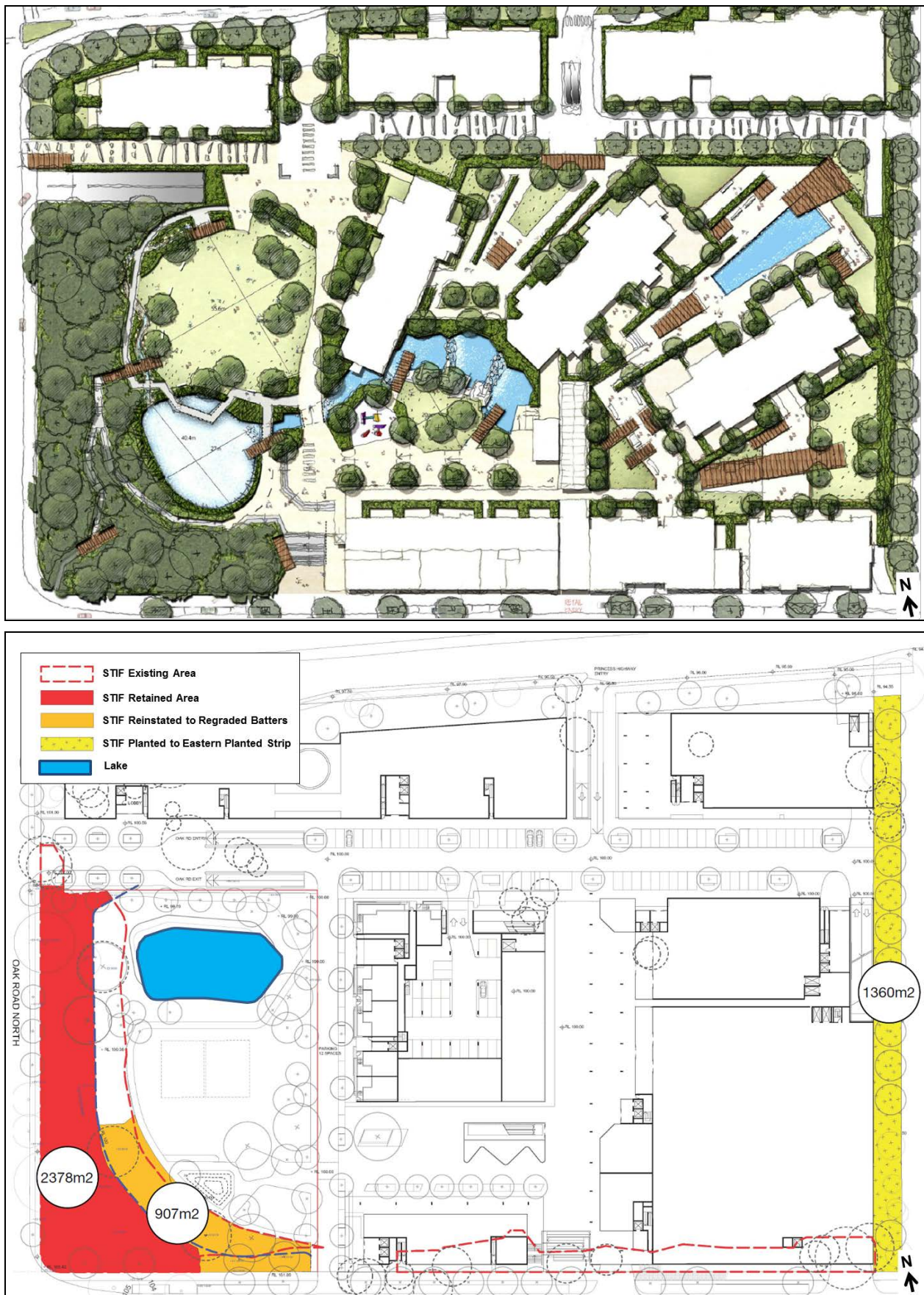


Figure 9: Concept approval (top) and proposed (bottom) STIF to be retained and provided onsite (Base source: MP10_0076 and proponent's RtS)

The Department considers the key issues to be:

- open space design and delivery; and
- proposed STIF in the eastern planted strip.

5.4.1 Open space design and delivery

The provision of open space and the partial retention and conservation of the on-site STIF was a key issue in the Department's assessment of the concept plan.

The Department's assessment considered the appropriateness of the open space taking into account the impact and retention of existing STIF, replacement off-site STIF provision and protection of ecology and bat populations. The Department found that matters relating to ecology and water quality can be adequately managed through relevant FEARs and addressed in detail at the development application stage.

The PAC agreed with the Department and noted that the open space represents a significant community benefit. The PAC imposed further requirements on the concept approval (by amending Term of Approval A11 and FEAR 10) relating to future design and accessibility of the open space, conservation of the STIF and required off-site STIF provision within 10 kilometres of the site.

Council objects to the proposed design and delivery of the open space and has raised the following concerns:

- the northern end of the open space is not an appropriate location for the proposed lake as:
 - the height of Building A would overshadow the lake and therefore adversely impact on the health of the water body and the growth/function of surrounding wetlands; and
 - retaining the lake in its current approved position would afford additional protection to the STIF, reflect the historic past of the site and be more logically located in terms of pedestrian movements;
- as the open space is to be dedicated to Council its design (including the location of the lake) should be determined under the future development application; and
- there is a lack of certainty around the staging and the delivery deadline of the open space.

NOW has raised concerns about the impact of the height of Building A on the vegetation to be established around the lake and long term growth of wetland plants. NOW also recommended that a vegetation management plan be provided.

Concerns were also raised in public submissions about the potential overshadowing of the open space.

Open space design location and overshadowing

The Department notes that Term of Approval A11 requires that the design of the open space be 'generally in accordance with the plans and documents' (which include the landscaping plan shown at **Figure 9**). The approved landscaping plan is conceptual in nature and not a detailed plan. However, it clearly divides the open space into three segments, being STIF along the western boundary, a lake at the southern end of the open space and open grassed area at the northern end of the open space.

The proposed modification includes an amended landscaping plan which amends the location of the lake and the open grassed area. The proponent states that the:

- relocation of the lake to the northern end of the open space would allow for the establishment of the grassed (active leisure) element directly opposite the western entrance to the east/west retail pedestrian thoroughfare and therefore create a visual link between the two spaces;
- proposed revised location of the grassed area would ensure that it achieves full unobstructed sun access throughout the year, maximising its useability in winter months; and

- the overshadowing of the relocated lake by Building A would not have an adverse impact on water quality or growth of wetlands vegetation.

The Department notes that the principal reason for the provision of a lake was to ensure that a source for the nearby bat colony was retained on site. The Department is of the view that in principle the relocation of the lake to the northern end of the open space is acceptable as:

- the provision of the grassed element opposite the main pedestrian entrance to the site would create a strong visual link that would reinforce the desire line between the two uses and encourage the use of the public open space;
- the lake would only be fully overshadowed for a short period at midday during mid-winter. At all other times of the day and year the lake will receive solar access (refer to **Figure 10**);
- the proponent has provided an updated ecology report that confirms that the future wetlands planting surrounding the lake would be viable despite the expected overshadowing at mid-winter;
- the revised location of the lake is within the boundary of the north western part of the existing lake and therefore reflects the actual location of part of the existing/historic water body;
- the revised location of the lake would not hinder pedestrian movements through the site; and
- a water source for the nearby bat colony is retained on the site.

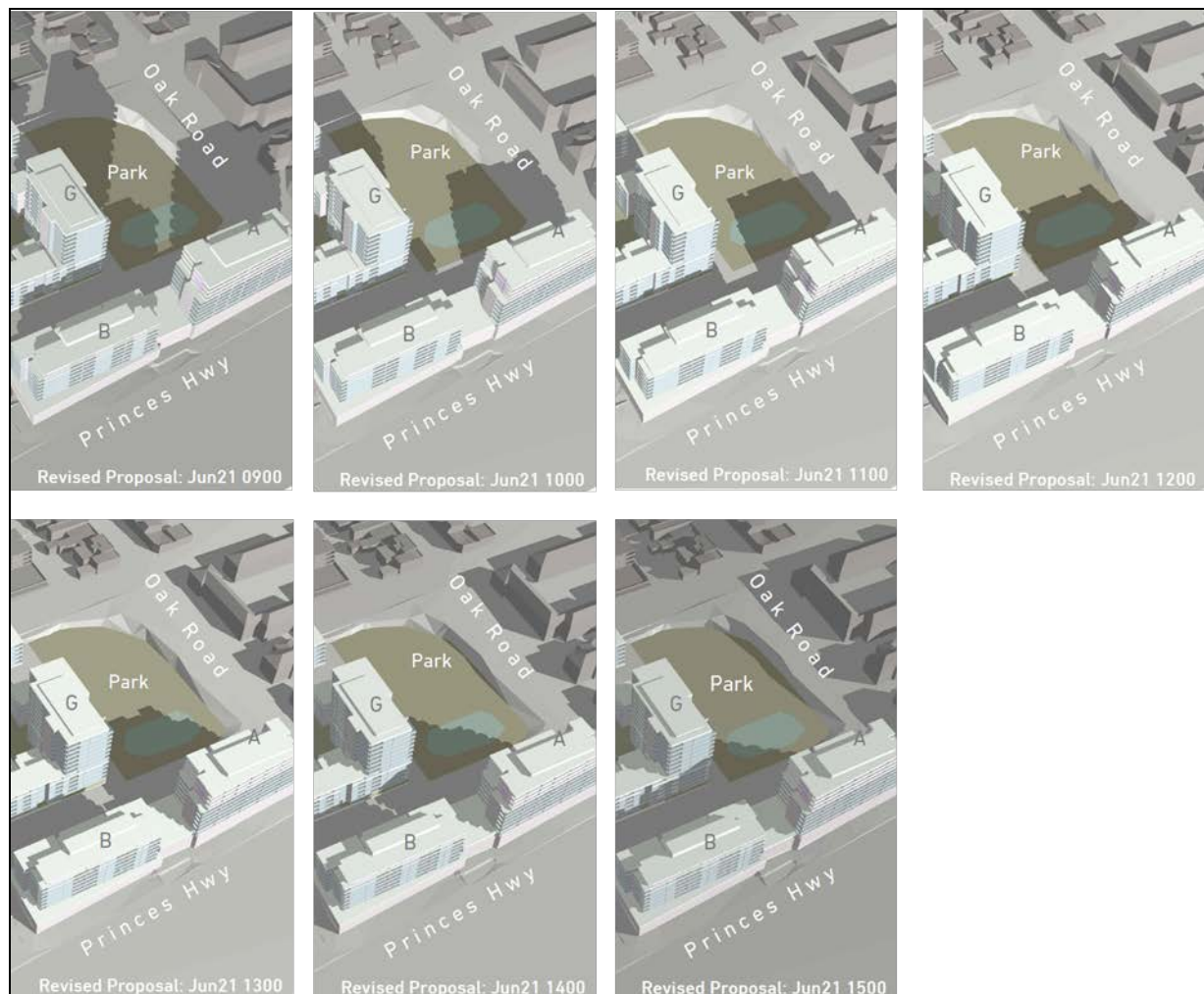


Figure 10: The shadow cast by Building A over the open space, relocated lake and neighbouring residential properties (Source: proponent's RtS)

In light of the above, and with reference to the Department's original assessment of the open space, the Department considers that there is merit for the location of the lake in either the

northern and southern end of the open space. The Department also notes that the proposal is at conceptual stage and therefore would be subject to future design development. Consequently, to ensure that the design options for the open space are not unreasonably limited, the Department recommends that Term of Approval A11 be amended to allow for the location of the lake at either the northern or southern end of the open space. The Department also recommends that a vegetation management plan be prepared for the open space with the future detailed development application.

Timing of the delivery of the open space

The application seeks to amend Term of Approval A11 and FEAR 17 to delay the delivery of the open space as follows:

Table 8: Proposed alterations to A11 and FEAR 17

A11 Public Park	The <u>final</u> development application for the first substantive stage of the development must provide for the design, management and tenure of the public park on the land within Zone 13 ...
FEAR 17 Staging of Development	<u>The first Future</u> applications shall provide details of the final form of staging of the development are to be submitted with the first application to ensure the orderly and coordinated development of the site. The initial stages of the development should include the construction of the retail precinct and lake and neighbourhood park within the south western portion of the site ...

The proponent has provided a revised indicative staging plan for the development (refer to **Figure 4**) and states that the delay of the delivery of the open space to the end of the development process will:

- allow the open space area to be used for construction materials, handling and loading and unloading of trucks. This will reduce the impact of truck movements on the surrounding roads and the need for on-street work zones; and
- ensure that the open space / public domain will not be damaged by ongoing construction works.

Council raised concern about the proposed amendments stating that the revised wording is ambiguous and did not support the delay of the delivery of the open space until the final development application as that could be a significant time in the future.

The Department concurs with Council that a clear deadline for the delivery of the open space should be provided. The Department also notes that the construction of the development could be facilitated and assisted by the use of the open space area for construction servicing/logistical purposes.

In light of the above, it is reasonable that the delivery of the open space be delayed to allow the use of this part of the site to support the construction process. However, the detailed design, management and dedication of the open space should be provided sooner than at the end of construction work in order to provide some certainty around the provision of this significant public benefit associated with the proposal. Consequently, the Department therefore recommends that:

- FEAR 17 be amended to require the delivery of the open space and lake prior to the issue of the first Occupation Certificate of the last residential building on site; and
- the design, management and tenure of the open space to be submitted around the mid-point of the development to allow Council sufficient time to assess/negotiate the design of the open space. Therefore, the Department recommends that Term of Approval A11 be amended to require the details be submitted with the development application containing Building D or the fourth residential building, whichever is the sooner.

5.4.2 Eastern planted strip

The approved concept plan includes the provision of a retail podium that is set back eight metres from the eastern side boundary. The space between the retail podium and the eastern side boundary is landscaped and referred to as the eastern planted strip. The eastern edge of the retail podium is a seven metre high concrete/brick wall.

The proposal seeks to amend the development by providing additional STIF planting within the eastern planted strip and as noted in **Table 9** and increase the height of the eastern edge of the retail podium to 15 metres (as discussed in **Section 5.2.2**).

Council raised concerns with the proposed eastern planted strip, stating that:

- the 15 metre high, 110 metre long blank wall of the retail podium combined with the insufficient set back to this boundary will create an inhospitable and isolated space between the site and the Eastern Site; and
- the eastern elevation of the development requires activation.

OEH advised that the eastern planted strip is not a viable location for STIF due to likely overshadowing impacts.

In response, the proponent argues that the eastern planted strip is acceptable for the following reasons:

- being eight metres wide the strip is not a narrow piece of land. When coupled with the likely future setback of the neighbouring Eastern Site the resulting planted strip could measure approximately 16m in width;
- the space would not be remote or isolated as it would be overlooked by approximately 65 apartments within the proposed development;
- the space would receive sufficient sunlight to sustain landscaping of some nature, if the provision of STIF is found not to be appropriate alternative more shade tolerant landscaping would be provided; and
- the provision of a landscaped buffer between developments is not an uncommon design response.

The Department notes that the proposed eastern planted strip between the retail podium and the eastern property boundary is consistent with the original concept approval. The proposed modification however would result in changes to surveillance and solar access to the planted strip (refer to **Table 9**).

Table 9: Comparison between the approved/proposed impact on the eastern planted strip

Impact	Concept Approval	Modified Concept Plan	Change
Access points	- Princes Hwy; and - Flora Street - new east/west road	- Princes Hwy; - Flora Street; and - new east/west road	No change
Surveillance	- no direct surveillance from the adjoining 7m high blank retail podium wall - above podium level, passive surveillance along 25% of the length of boundary from the side elevations of 6 and 8 storey buildings (Figure 5)	- no direct surveillance from the adjoining 15m high blank retail podium wall - above podium level, passive surveillance along 75% of the length of boundary by 7, 9 and 13 storey buildings	+8m increase in height of adjoining blank retail podium wall Significant increase in passive surveillance (level 5 and above)
Solar access	between 10am and 2pm in mid-winter	between 10am and 12:30pm in mid-winter	-1.5hrs solar access in winter

The Department notes that the proposal provides some improvements in terms of surveillance over the concept approval. However, both the concept approval and the proposed modification do not provide direct ground level activation or surveillance and both propose retail podiums with blank walls facing the planted strip.

Given that the height of the blank retail podium wall has been increased by eight metres (as discussed in **Section 5.2.2**), the Department recommends that future applications consider the design and accessibility of this space from a crime prevention perspective. It is recommended that FEAR 20, which relates to crime prevention, be amended to address CPTED principles including a plan of management, lighting, sightlines, access, gates and other design measures to ensure that the eastern planted strip is a safe space.

The Department notes that the increased scale of buildings along the eastern boundary would increase overshadowing of the eastern planted strip in mid-winter compared with the concept approval. The Department also acknowledges that any future redevelopment of the Eastern Site may further reduce solar access to the eastern planted strip. Given the habitat requirements of STIF (high levels of solar access) the Department concurs with OEH that the eastern planted strip is unlikely to be a suitable location for STIF planting. The Department notes however that the proponent is willing to provide alternative more shade tolerant landscaping and further investigation can be undertaken at the future development application stage.

The Department notes that the proposed planting within the eastern planting strip is in addition to the 5,300m² STIF biodiversity off-set and therefore if, following further investigation, STIF is not proposed within the eastern planted strip this would not impact on overall STIF conservation. On this basis, the retention of the eastern planted strip is supported.

5.5 Retail impact

In its assessment of the original application the Department considered the appropriateness of the quantum, location and type of retail floorspace and also engaged Leyshon Consulting to undertake an independent assessment of retail impacts to inform its assessment. The Department concluded that the site is a highly suitable location to allow retail expansion, the proposal would result in a positive impact on the overall retail facilities available to the community and the impact on surrounding centres is acceptable. The PAC concurred with this view and stated that there is an identified high demand for retail serviced in the local government area and a limited supply of land for major retail development.

The proposed modification seeks to decrease the total amount of retail/commercial floorspace from 15,330m² to 14,191m². With reference to the retail component, the proposal seeks to modify the proportional split of retail floorspace, as shown in **Table 10** below.

Table 10: Comparison of the retail component GFA of the approved and modified development

Floorspace category	Concept approval (sqm)	Modification (sqm)	Change (sqm) +/-	Change (%) +/-
Major Supermarket	3,900	4,740	+840	+21.5
Other Supermarket	1,470	1,451	-19	-0.1
Other Retail	4,090	3,828	-262	-6.4
Showrooms	2,870	4,172	+1,302	+45.3
Commercial and other ancillary floorspace	3,000	0	-3,000	-100
Total floorspace	15,330	14,191	-1,139	-7.4

Council does not object to the principle of the overall decrease in non-residential floorspace or the alteration of the proportional split of retail floorspace. However, Council has raised concern that the employment generated by the proposal would not improve employment self-containment in the local region.

Concerns were also raised in public submissions that the proposed increase in retail floorspace, particularly the supermarket (refer to **Table 10**), would adversely impact on the Kirrawee and in other nearby centres.

The proponent has engaged Leyshon Consulting to provide advice on the likely retail impacts of the modifications to the proposed retail component of the development. Leyshon outlines that the proposed would result in:

- a net increase in retail sales of \$10.9 million, of which \$7.5 million would relate to supermarket sales (per annum, \$2013);
- minor increased impact on surrounding centres:

Centre	Concept Approval	Modification	Change +/-
Sutherland	8.3%	9.1%	+0.8%
Kirrawee	14.0%	15.3%	+1.3%
GyMEA	6.1%	6.7%	+0.6%
Kareela	10.9%	11.9%	+1.0%

On this basis the proponent considers that the economic impacts as proposed by the modification are acceptable having regard to the existing shortfall of approximately 5,695m² in supermarket floorspace in the Kirrawee trade area. The proponent also notes that retail trade is the largest employer in Sutherland Shire (16.3% of total employment) and therefore the proposed additional retail space will support local employment.

The Department notes that the proposal will have only a minor additional impact on retail trading within neighbouring centres than previously considered acceptable in the concept approval and is therefore unlikely to have a significant or lasting adverse impact on nearby retail centres.

The Department concludes that the provision of modern retail accommodation, providing a mixture of retail uses and tenures will provide for a range of jobs and increase employment opportunities to the benefit the local and broader community.

5.6 Other

Future Residential Amenity

The Department has assessed the proposed modification against the aims and objectives of *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development* (SEPP 65) and accompanying Residential Flat Design Code (RFDC). The Department has also considered the relevant amenity criteria within the recently exhibited amendment to SEPP 65 and accompanying Draft Apartment Design Guide (ADG) (**Appendix B**). The Department considers that the future development applications may provide a high standard of residential accommodation for future residents. However, as with the original concept plan the indicative floorplans highlight a number of key inconsistencies and these are discussed below in **Table 11**.

Table 11: Key inconsistencies with the RFDC and ADC

Issue	Department's comment
Building depth	<p>The RFDC recommends that building depth should be no greater than 18 metres, while the draft ADG recommends that overall building depth not exceed 12-18 metres. The aim of these guidelines is to maintain residential amenity within apartments and to reduce the visual bulk of buildings. The majority of building envelopes (D, E, F and G) have depths of 26 metres, building envelopes B and C are deeper ranging from 26-34 metres. Building envelope A ranges in depth from 19-22 metres.</p> <p>The Department considers that the proposed building envelope depths are acceptable at the concept plan stage, noting that the indicative floor plan layouts show apartment depths of generally between 8 to 10 metres. Such depths would ensure that the apartments receive satisfactory solar access and natural ventilation. In addition, the Department notes that the building envelopes are generally 20-25% larger than the allowable gross floor area in order to allow some flexibility in the final design. Consequently, the future detailed design of the buildings at application stage will introduce building forms with less volume, greater building articulation and recesses in the facades to reduce the depth of buildings and provide satisfactory residential amenity. The Department also notes that condition A6 requires future development applications to be generally consistent with the RFDC.</p>
Dwelling depth	<p>The RFDC recommends that single aspect dwelling depth be should be no greater than eight metres and the draft ADG recommends that apartment depths be limited. The illustrative single aspect apartment layouts indicate that dwelling depths range between eight and nine metres (wall to opening). The Department considers the non-compliance of one metre to be minor in the context of the overall development and notes that resolution of this matter could be addressed as part of the consideration and assessment of the detailed application(s) for the site.</p>
Internal circulation	<p>The RFDC and draft ADG recommend that circulation corridors provide access to no more than eight dwellings. The illustrative apartment layouts indicate that the number of apartments off each core ranging between seven and 11 apartments. The Department notes that the cores that serve more than eight apartments per floor are provided with two lifts and/or stair cores and the resulting corridor lengths are not inconveniently long. The Department notes that the maximum provision of 11 apartments is an improvement over the concept approval which in some instances provided for 15 apartments per core.</p>
Dwellings with a southern aspect	<p>The RFDC recommends that no more than 10% of all dwellings within a development should be south facing single aspect dwellings. The draft ADG recommends that no more that 15% of dwellings within a development should be south facing / have no direct access to sunlight. The illustrative apartment layouts include the provision of 105 (14%) single aspect south facing apartments.</p> <p>The Department notes that the proposed building envelopes orientate main facades in line with existing and new street frontages (to the north, south, east and west) and this has been done to ensure an acceptable urban design outcome. The indicative floor plan layouts demonstrate that the single aspect south facing apartments have been minimised where possible. The Department is satisfied that despite the non-compliance, the number of single aspect south facing apartments can be designed to achieve satisfactory residential amenity.</p>

The application seeks to delete modification B1, which requires the submission of amended plans demonstrating that separation distances between residential buildings comply with the minimum requirements of the RFDC. The Department notes that the modified building locations and separation distances comply with the RFDC and draft ADG guidelines. Consequently, modification condition B1 is now redundant and the Department agrees that its deletion is appropriate.

The application also seeks to delete modification condition B2a, which requires roof terraces to be setback a minimum of 1.5m from the building edge. The consideration of the location and design of roof terraces is appropriate at the development application stage and therefore the Department agrees that the deletion of this requirement is acceptable.

Noise

The EPA has raised concerns that the impact of road traffic noise should be considered now at the concept planning stage as the site is located adjacent to a major road and will be subject of potential noise impacts.

The Department notes that an acoustic assessment was provided in support of the original application and the concept approval includes FEARs 8o and 19, which require future applications to:

- provide attenuation measures in accordance with EPA's environmental criteria; and
- comply with SEPP (Infrastructure) 2007 and the Department's 'Development Near Rail Corridors and Busy Roads' interim guidelines.

The Department considers that the existing conditions provide sufficient safeguards to ensure that the resulting residential accommodation is afforded an acceptable standard of amenity in terms of noise exposure.

Community bus and taxi drop off

Concern has been raised in public submissions about the importance of providing a community bus and taxi drop off points in convenient location to the retail element of the development.

FEAR 14h requires community bus and taxi drop off at the 'main central Flora Street pedestrian entry'. The proposal seeks to amend FEAR 14h as follows:

~~Relocation of the Flora Street~~ A community bus and taxi drop off ~~to the main central Flora Street pedestrian entry~~, shall be provided in a location and of a design that achieves reasonable accessibility for people with mobility restrictions between vehicles and the retail shops.

The Department considers that the amended FEAR is acceptable as it maintains the key objective to ensure that the community bus and taxi drop off locations are appropriately located to the retail shops.

Base RL levels

The application seeks to amend Term of Approval A1(b) to include base RL levels from which storey heights will be referenced/calculated:

Concept Plan approval is granted to the development as described below:

...

- b) Indicative building envelopes for **9 7** buildings to a maximum height of 14 Storeys **(above the nominated base RL on the plans)**;

...

The land slopes from west to east and has a fall of approximately six metres (two storeys). The Department notes that there are instances where the proposed base RL level is more than one metre above (up to two metres) the indicative ground level with key locations being along the Princes Highway frontage and internal road.

The Department is of the view that at it would be inappropriate to nominate a base RL for storey height at concept planning stage and in the absence of confirmation of the finished ground level for the development. This matter is more appropriately dealt with as part of future development applications. The Department therefore concludes that Term of Approval A1(b) should not be amended to refer to base RL levels.

Construction Management Plan

The Department notes that TfNSW has recommended that new conditions be imposed requiring:

- the provision of a Construction Management Plan that specifies potential impacts on bus services and pedestrian access to bus services during construction; and
- that the proponent liaise with the local bus operator to identify new locations for bus stop(s) in close proximity to the main entrance of the development on Princes Highway.

The Department notes that FEAR 8j of the concept approval requires that a Construction Traffic Management Plan be submitted to Council and RMS for review. A new FEAR is recommended (**FEAR 8s**) that requires the proponent to liaise with the local bus provider to identify conveniently located new bus locations.

Minor amendments to conditions

The application includes amendments to conditions A1, A2, A4, A5, A7 and C7 that take account of the revisions to the proposal including changes to floor area, referencing of building envelopes, titles and dates of supporting reports and drawings. The Department considers that these changes are minor and administrative in nature and are therefore acceptable.

6. CONCLUSION

The Department has assessed the merits of the proposed modification taking into consideration the issues raised in all submissions and is satisfied that the impacts have been satisfactorily addressed within the proposal and Department's recommended conditions. The Department concludes that the proposed modification is reasonable and results in a form and scale of development which is consistent with the desired future character of the area.

The Department concludes that the proposal is acceptable as it:

- is located within walking distance of local centres and public transport and is strategically well located to provide for increased densities. The proposed change to density is acceptable within the site context;
- will result in a built form that is compatible with the desired future character and use of the site, and the surrounding area and would not have a prejudicial impact on the development potential of neighbouring sites;
- sets the framework for the provision of a quality mixed use development adjacent to an existing centre and in close proximity to public transport;
- will have a similar traffic impact to what was originally envisaged under the concept approval;
- will ensure the provision of well-designed open space and public domain; and
- will provide for an increase in employment opportunities for the local community and will not have a significant or lasting impact on retail trading within neighbouring centres.

The proposed modification falls within the scope of section 75W of the EP&A Act and does not alter the original assessment as to the site's suitability for the approved development.

7. RECOMMENDATION


The Department supports the modifications subject to conditions.

It is recommended that the Planning Assessment Commission:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification under delegated authority, subject to conditions; and
- (c) **sign** the attached Instrument of Modification (**Appendix C**).

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4.12.14

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APPENDIX A RELEVANT SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Infrastructure's website as follows:

1. Modification Applications

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6286

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6286

3. Proponent's Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6286

APPENDIX B CONSIDERATION OF SEPP65 AND RFDC

State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP 65)

An amendment to the SEPP, including a draft Apartment Design Guide (ADG) to replace the Residential Flat Design Code (RFDC) was publically exhibited during September and October 2014. The recommendations of the ADG are similar to the RFDC, but do include some refinements and variations from the current guidelines. As the Department is yet to review the submissions received during the exhibition and prepare final recommendations, the making of the SEPP amendments and the ADG in its current form is neither imminent nor certain. The application has therefore been assessed primarily against the current SEPP and guidelines as set out below. The existing RFDC and draft ADG have been considered in the body of the report (**Sections 5.6**).

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. An assessment against these principles is provided below.

Key Principles of SEPP 65	Department Response
Principle 1: Context	The modifications to the concept plan alter the development's relationship to its context. However, the revised building envelope layouts, height and scale are considered acceptable as outlined in Section 5.3 .
Principle 2: Scale	The modifications to the concept plan result in increases in scale, particularly to the eastern boundary and Princes Highway frontage. The Department considers the proposed alterations are acceptable and would not have any adverse visual, amenity or public domain impacts as outlined in Section 5 .
Principle 3: Built Form	It is considered that the modifications, subject to the amendments recommended within this report, will enable the provision of future buildings that achieve an appropriate built form outcome as outlined in Sections 5.3 of this report. The FEARs and conditions of the original approval together with the new and amended FEARs and conditions ensure a high quality architectural design of future buildings.
Principle 4: Density	The modified proposal proposes an increase in residential GFA and indicative dwelling numbers across the concept plan site. The Department considers that the FEARs and conditions will ensure that the development is of an acceptable overall design and impact. The Department has undertaken a detailed assessment of density in Section 5.1 of this report.
Principle 5: Resource, Energy and Water Efficiency	No change from concept plan (MP10_0076)
Principle 6: Landscape	No change is proposed to the 5,300m ² biodiversity offset and the proposal increases the retention and provision of STIF on site, which represents a significant improvement to the overall site biodiversity and landscape. The changes to the indicative open space design are considered acceptable and subject to

	appropriate management and planting the eastern planted strip would provide an acceptable landscaped area. The Department has undertaken a detailed assessment of landscaping impacts in Section 5.4 .
Principle 7: Amenity	The Department has assessed the proposal in terms of solar access, cross ventilation and privacy. The Department is satisfied that future application will be capable of provided apartments that achieve a satisfactory level of amenity as outlined in Section 5.6 . More detailed consideration of amenity will be undertaken in the assessment of future applications.
Principle 8: Safety and Security	Subject to the appropriate management of the eastern planted strip the Department considers the proposal will be capable of achieving an satisfactory level of safety and security and outlined in Section 5.4 .
Principle 9: Social Dimensions and Housing Affordability	The modified concept plan is capable of providing for a mix of apartment types which would encourage a diverse social mix within the area.
Principle 10: Aesthetics	The Department considers that the FEARs and conditions will ensure that the future development will achieve a high standard of architectural design and appearance. More detailed consideration of aesthetics will be undertaken in the assessment of future applications.

Residential Flat Design Code (RFDC)

The Residential Flat Design Code (RFDC) is closely linked to the principles of SEPP 65. The RFDC sets out a number of “rules of thumb” which detail prescriptive standards for residential flat development that would ensure the development complies with the intent of the RFDC.

An assessment has been undertaken of the concept plan below:

Residential Flat Design Code Compliance			
	RFDC requirement	Proposed	Compliance
Building Separation	12-24 metres minimum	13-43 metres	No but can comply subject to detailed design
Building depth (general)	10-18 metres maximum	20-34 metres	No but can comply subject to detailed design
Dwelling depth (single aspect)	8 metres Wall to opening.	8-9metres (indicative layout)	No but can comply subject to detailed design
Open Space (OS)	25-30%	24,236m ² (57%)	Yes
Deep Soil Zone	25% of OS area	11,867m ² (28%)	Yes
Vehicle Access	6 metres	Achievable	Yes
Preferred Site Access	Vehicular entry off Secondary street	Achievable	Yes
Kitchen rear to abode window	8 metres minimum distance	Achievable	Yes
Apartment size	50, 70 and 95m ² Guideline	Achievable	Yes
Balcony depths	2 metres minimum	Achievable	Yes
Ceiling Heights	2.4-2.7 metres preferred	Achievable	Yes
Internal	8 units off single corridor	7 – 11	No, but acceptable

Circulation		(indicative layout)	
Storage	6m ³ to 10m ³	Achievable	Yes
Solar Access	70% with 2 hours between 9am-3pm	Achievable	Yes
Dwellings with southern aspect	10% maximum	14% (indicative layout)	No, but acceptable
General Natural Ventilation	60% minimum	Achievable	Yes
Specific Natural Ventilation	Achievable for 25% of Kitchens	Achievable	Yes

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
