

ASSESSMENT REPORT

MIXED-USE DEVELOPMENT, KIRRAWEE BRICK PIT MP 10_0076 MOD 9

1. INTRODUCTION

This report is an assessment of a request to modify the Concept Approval (MP 10_0076) for a mixed-use development at the former Kirrawee Brick Pit in the Sutherland Shire local government area.

The request has been lodged by Sutherland Planning & Associates on behalf of South Village Pty Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proposal seeks approval to amend the Concept Plan to clarify how car parking spaces would be allocated to apartments within the approved development.

2. SUBJECT SITE

The subject site is located at 566-594 Princes Highway in the suburb of Kirrawee, approximately 25 kilometres (km) south-west of the Sydney CBD. It is located on the southern side of the Princes Highway and east of the Oak Road North intersection (see **Figure 1**).

The site is located approximately 250 metres (m) to the north of Kirrawee Village Centre and train station and was formally used as a Brick Pit.



Figure 1: Site location (Base source: Google Maps)

3. APPROVAL HISTORY

On 23 August 2012, the then Planning Assessment Commission (the Commission) granted Concept Plan approval for 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
- 60,735 m² of gross floor area, comprising 45,505 m² of residential (432 dwellings) and 15,230 m² of retail/commercial floor space (including 3,900 m² of supermarket and 1,470 m² 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
- landscaped areas throughout the site.

The Concept Plan has been modified on eight occasions, as summarised in **Table 1**.

Table 1 – Modifications to the approved Concept Plan

MOD	Key Modifications	Approved
1	• 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.	17 January 2013
2	• Amend FEARs B1 and B2 relating to building envelopes and building design modifications to enable the commencement of early works and amend the Statement of Commitments.	16 May 2014
3	• Increase GFA from 60,735 m² to 85,000 m², including: ○ 69,310m² of residential GFA (increase of 23,805m²) ○ 14,190m² of retail/commercial GFA (reduction of 1,040m²) ○ 1,500m² of community facility GFA (1,500m² increase) • Introduction of a dwelling cap of 749 dwellings • Reduce the total number of building envelopes from nine to seven • Reconfigure envelopes, footprints, heights, separation distances and setbacks • Amend construction staging and timing of delivery of open space • Removal of car parking cap and imposition of maximum car parking rates for residential and commercial development.	20 November 2014
4	• Defer requirements for the execution of the works authorisation deed, construction traffic management and control plans to enable early works to proceed.	30 January 2015
5	• Increase number of apartments from 749 to 808 apartments.	18 November 2017
6	• Amend FEAR 14 to clarify that maximum parking rates apply for all non-residential uses.	23 July 2018
7	• Amend FEAR A11A to modify the timing of entering into the Voluntary Planning Agreement.	12 April 2018
8	• Remove the requirement to provide a lake within the public park.	Under assessment

4. PROPOSED MODIFICATION

4.1 Modification as Lodged

The original proposal sought to modify FEAR 14 to state that the residential car parking rates represent an overall maximum and do not dictate the specific allocation of car parking spaces for each unit type. The proposed FEAR is outlined below:

- a) *Total number of car parking spaces for the proposed development shall not exceed the following car parking rates:*
- i. *Residential component of the development:*
- 1 space per 1-bedroom unit;
 - 1.25 spaces per 2-bedroom unit;

- 1.5 spaces per 3-bedroom unit;
- 0.125 visitor spaces per unit (1 space per 8 units).

Note: the above rates are to be used to determine the maximum collective quantum of residential car parking for the development and are not intended to dictate the specific allocation of car parking spaces to individual apartments. Car parking allocation to individual apartments is at the election of the developer.

4.2 Revised Modification

Following consultation with Sutherland Shire Council (Council), the Proponent agreed to amend the proposed wording of FEAR 14, as follows:

- a) *Total number of car parking spaces for the proposed development shall not exceed the following car parking rates:*
 - i. *Residential component of the development:*
 - 1 space per 1-bedroom unit;
 - 1.25 spaces per 2-bedroom unit;
 - 1.5 spaces per 3-bedroom unit;
 - 0.125 visitor spaces per unit (1 space per 8 units).

Residential parking must be allocated such that every unit has at least one car space, and residual parking spaces must be allocated as second parking spaces, with priority for 3-bedroom units, and subsequently 2-bedroom units. Any residual parking not allocated to individual units must be allocated as common property for visitor parking.

The revised wording of FEAR 14 is consistent with the car parking allocation recommended by the Proponent's traffic expert. It would ensure each unit is provided with at least one car parking space with the remaining spaces equitably distributed between the 2 and 3-bedroom units. Any surplus car parking would be allocated for visitor parking.

5. STATUTORY CONSIDERATION

5.1 Section 75W

The Concept Approval was originally approved under Part 3A of the EP&A Act. The power to modify concept plans approved under Part 3A of the EP&A Act under former section 75W of the EP&A Act is being wound up. Clauses 3BA(2) and (3) of Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (EP&A (ST&OP) Regulations) provide that an approved concept plan cannot be modified under section 75W on or after the cut-off date of 1 March 2018, unless the request to modify was lodged before 1 March 2018.

However, Clause 3BA(5) of Schedule 2 to the EP&A (ST&OP) Regulations provides that a concept plan may continue to be modified under section 75W in response to a request lodged before or after 1 March 2018 if the Minister is satisfied that:

- a) *the proposed modification is to correct a minor error, misdescription or miscalculation, or*
- b) *the proposed modification is of minimal environmental impact, or*
- c) *the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).*

This proposal seeks to amend an existing FEAR. The Department is satisfied that the proposal is within the scope of clauses 3BA(5)(b) and (c) as it is of minimal environmental impact and the project as modified is substantially the same as the project to which the Concept Plan currently relates.

5.2 Approval Authority

The Minister for Planning is the approval authority for the request. However, the Acting Executive Director, Key Sites and Industry Assessments may determine the request under delegation as:

- the relevant local council has not made an objection; and
- a political disclosure statement has been made, but only in respect of a previous related application; and
- there are no public submissions in the nature of objections.

6. CONSULTATION

The modification request was made publicly available on the Department's website and referred to Council. **Council** supports the wording of the amended FEAR. No **public** submissions were received.

7. ASSESSMENT

Car parking and traffic impacts were key considerations of the Department's assessment of the Concept Plan and subsequent modification requests. The Department supported applying maximum car parking rates for the development, given its proximity to Kirrawee Train Station and the need to minimise traffic generation in the area.

FEAR 14 sets the maximum car parking rates for the residential component of the development. The FEAR provides a mechanism to calculate the total number of residential car parking spaces permitted for the development, but, it does not specify how these car parking spaces would be allocated. The Proponent therefore seeks to amend FEAR 14, to clarify how the car parking spaces would be allocated for each unit type.

The Proponent's traffic expert recommended each unit should be provided with at least one car parking space, with the remaining spaces equitably distributed between the 2 and 3-bedroom units. Any surplus car parking would be allocated for visitor parking. Council and the Proponent both agreed this would be an appropriate way to allocate the approved car parking spaces.

The Department considers the proposed wording of FEAR 14 is acceptable as it would:

- clarify how the approved car parking spaces would be allocated
- maintain maximum car parking rates consistent with the Concept Plan approval
- not result in any additional car parking or traffic impacts beyond those already assessed and approved.

The Department's assessment therefore concludes the proposed modification is acceptable.

9. RECOMMENDATION

It is recommended that the Acting Executive Director, Key Sites and Industry Assessments, as delegate for the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **determines** that the request falls within the scope of section 75W of the EP&A Act;
- **approves** the modification request MP 10_0076 MOD 9, subject to conditions; and
- **signs** the attached notice of modification (**Appendix A**).

Recommended by:


Anthony Witherdin
Director
Regional Assessments

Approved by:


Chris Ritchie 15/8/18.
Acting Executive Director
Key Sites and Industry Assessments
as delegate of the Minister for Planning.

APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9455

APPENDIX B: SUPPORTING INFORMATION

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

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9455

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9455