



KIRRAWEE BRICK PIT
Mixed Use Concept Plan Application and
Preliminary Environmental Assessment
May 2010

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Appendix A – Quantity Surveyor Cost Report

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1.0 INTRODUCTION AND OVERVIEW

This Preliminary Environmental Assessment (“PEA”) has been prepared for Henroth Investments Pty Limited by City Plan Strategy and Development Pty Ltd in respect of a Concept Plan Application under Part 3A of the Environmental Planning and Assessment Act for a mixed use development on the site of the former Kirrawee Brick Pit.

The application relates to a site legally described as Lot 1 DP 179075, Lot 1 DP 589977 and Lot 2 DP 589977, also known as 566-594 Princes Highway, Kirrawee.

The proposal is for a mixed used development comprising residential, retail and commercial uses and building envelopes of between 4 and 9 storeys. The proposal also involves basement car parking and includes commuter parking, landscaping, services and provision for a major new public park. A more detailed description of the proposal is provided at **Section 4**.

The proposal meets the criteria as set out in Group 5 of Schedule 1 of SEPP (Major Development) 2005 for its declaration as a “*major project*” under Part 3A of the Act, being significantly in excess of the \$100 million threshold (being over \$220million) for such a declaration. This figure is confirmed by the Quantity Surveyor Cost Report attached at **Appendix A**.

However, the appropriateness of its declaration as a significant project warranting Ministerial determination is not merely because it satisfies a monetary value and is undoubtedly a large construction project. The appropriate development of this strategic site raises issues of genuine significance to regional planning which will be dealt with in this report.

This PEA therefore accompanies a request for:

- the Minister’s opinion that the proposal, with a capital investment value in excess of \$100 million, is development described in Schedule 1, Clause 13 of SEPP Major Development and is therefore a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* (“the Act”) applies; and
- the Minister’s authorisation to apply for approval of a Concept Plan for the proposal under Section 75M of the Act.

If the Minister is of the opinion that the development is a project to which Part 3A applies, the Proponent also requests the Director General to issue environmental assessment requirements pursuant to Section 75F of the Act.

This assessment has been prepared to assist the Director-General in the preparation of the Director-General’s environmental assessment requirements and seeks to address the following issues:

- A description of the Project Site and the surrounding locality;
- An overview of the background and planning history on the site
- A description of the proposal;

- An outline of the relevant statutory context;
- An overview of the environmental issues (including identification and consideration of the key issues); and
- A conclusion.

This assessment should be read in conjunction with the accompanying development plans prepared by Woodhead architects (**Appendix B**).

2.0 BACKGROUND & STRATEGIC OVERVIEW

2.1 Metropolitan Planning Context

The development of the Brick Pit site throws up some highly significant issues involving the relationship between local and state government planning principles. As such, to assist The Minister in determining whether to authorise the making of this Concept Plan, we consider it is important to outline in some detail how this proposal fits into the Metropolitan, regional and local planning context.

In 2005 the Sydney Metropolitan Strategy identified the need to accommodate significant levels of housing and employment demands principally in accessible, well serviced, established areas of Sydney. Very recent population projections released by the Federal and State Government, which show significantly higher population forecasts than projected in 2005, have highlighted that the challenges of meeting those demands are increasing. Indeed, the NSW government has recently released revised targets for 35,000 new dwellings and 29,000 jobs in the Southern Subregion by 2031 to satisfy forecast demands. Of these, the Sutherland LGA is envisaged to accommodate 10,100 additional dwellings and 8,000 additional jobs.

The Metropolitan Strategy, supported by the Draft South Sub-regional Strategy, established principles for how the growth targets may be met in the most environmentally, socially and economically sustainable manner.

These include the following aims and actions in relation to centres and housing:

- *“B2 - Increas[ing] densities in centres whilst improving livability*
- *B2.1.3 - Councils to investigate increasing densities in all centres where access to employment, services and public transport are provided or can be provided.”*
- *C1.3 - Plan for increased housing capacity targets in existing areas*
- *C2 - Plan for a housing mix near jobs, transport and services*
- *Focus residential development around Centres, Town Centres, Villages and Neighbourhood Centres.”*

The emphasis within the Strategies is very much on developing sites which are within established urban areas, close to reliable transport and other urban services.

It is not too glib a statement to say that readily available sites of any significant size that meet these criteria are scarce in any parts of the Metropolitan area, but particularly the southern region. This will be discussed in more detail below.

To this end, it is noted that the Project Site demonstrates the following attributes:

- It is a large site in single ownership (42,542 m²);
- It is located within 150 metres of Kirrawee train station which has recently had its track duplicated;
- It benefits from direct frontage to a regional road (Princes Highway);
- It is well serviced by buses;

- It has very few environmental constraints to development (with those that exist, threatened flora and fauna and heritage items being largely contained within the proposed park);
- It is surrounded by largely 'non-sensitive' land uses, principally industrial;
- It is directly opposite the Sutherland Industrial Employment Zone;
- It is located on a ridge, and therefore ideally suited to take advantage of flexible height controls; and
- It has a large hole in the ground that can be utilised productively.

It therefore represents a major, valuable asset to assist in meeting Metropolitan and subregional housing and jobs targets.

2.2 Planning History

The Brick Pit site has been vacant and unutilised since 1974. Since its sale by Sydney Water was foreshadowed in the late 1990's, it was recognised for its potential to accommodate substantial productive development and act as a catalyst for revitalisation of the Kirrawee centre.

Serious strategic planning for its future development took place during the early 2000's. At that time there was a very different metropolitan planning context to that identified in the subsequent 2005 Metropolitan Strategy and the current context. At that time population and jobs targets were not at their current levels and concepts of transit oriented development were not as clearly recognised by government in its formal policy settings. The current local planning controls (Sutherland LEP 2006 and DCP 2006) were premised on the earlier planning context and the "*block form*" urban design principles in vogue at that time.

Nonetheless, a previous development application by the current site owner was made in 2008, broadly in conformity with LEP and DCP. However, due to fully complying schemes being financially unviable (as will be discussed further below) a relatively modest amount of additional retail floor space (which was and remains fully permissible in the zone but more than contemplated by Council for the site) was introduced into that earlier application to improve its viability.

Retrospective changes to Council's controls introduced after the DA was lodged and before it was determined, led in part to the proposal being refused by the Land and Environment Court (ref. NSWLEC 1096 of 2008). Whilst the Court acknowledged the site was suitable for the development and specifically retail and supermarket development, it stated that it was constrained from approving it because of its inconsistency with the zone objectives. To this end, we note that paragraph 134 of the Judgement states that:

*"by far, the key difference between the parties related to the retail component of the development and whether this met the Zone 7 objectives (j), (k) and (l). This issue did not focus on the use per se but on the **scale of the retail development**. There was general agreement that retailing and a supermarket should be provided on the site. The site was seen as ideal for such a use as the brick pit created a large hole that now needs to*

be filled. A supermarket and parking is suited to such a below ground use....”

(emphasis added)

In other words, in broad terms its refusal of the retail component was as a result of a zoning constraint rather than any inherent unsuitability of the site or the merits of the application.

In this respect the Court, as was clear from its judgement, regarded itself as being constrained by the requirements of Part 4 of the Act and its requirement to give determinative weight to the provisions of the relevant Environmental Planning Instrument's and local planning controls.

2.3 Current Planning Context

The Minister under Part 3A is not constrained under the Act in the same manner as the Court was under a Part 4 application. If he were to conclude that the current application has merit, he is not bound by the objectives and prescriptions of an LEP (as expressly prescribed in Section 75R of the Act). Indeed, we submit that where the provisions of an LEP or DCP are incompatible with or constrain the achievement of State or regional planning objectives, the Minister has a positive duty to give greater weight to regional policies above local policies.

We submit that the current local controls are not consistent with current regional planning principles, as described above, and therefore should be given only limited weight in the assessment of any proposed development of the site submitted under Part 3A of the Act.

Further distinguishing the earlier Part 4 application and the current Part 3A application is a complete rethinking of its urban design principles. As indicated, the earlier application was obliged to demonstrate consistency with the physical form prescribed in the LEP and DCP. This is not considered to be the optimum urban design outcome for the site. Recent discussions between the land owner and Sutherland Council have confirmed this and Council officer's have indicated their preparedness to consider alternative physical forms that embody improved urban design outcomes.

2.4 Urban Design Outcomes

Woodhead, the architects for the proposal, have prepared an Urban Design Statement to accompany the concept proposal. As such, the proposal will contain major improvements in urban design outcomes, and will be described in **Section 6**.

The current application therefore purposefully seeks to set aside the density and land use constraints and the urban design form embodied in the current local planning controls on the basis that they represent an underutilisation of a valuable brown field site and a suboptimal urban form.

We submit that it is consistent with regional planning principles for those local controls to be set aside and for the Minister to maximise the utilisation of the site within in its assessed environmental, traffic and other physical capacity constraints.

To do otherwise by continuing to impose manifestly outdated planning controls would be to place an artificial restraint on its development potential below its real urban capability.

Underutilising the development potential of such a well located strategic redevelopment site represents an opportunity cost to the planning of the whole subregion. It underutilises established public infrastructure (such as the recently duplicated southern rail line) and generates a shortfall of housing stock and jobs that must be made up in other locations across the sub-region to meet Metropolitan Strategy housing targets. Given the scarcity of comparable redevelopment sites in the sub region, satisfying this shortfall may never be made up, and in any event, is likely to occur in areas with less amenity and accessibility than the Brick Pit site.

2.5 Role of the Site in Meeting Identified Planning Needs

Hill PDA has undertaken a detailed analysis of the demand and supply for various uses within the Sutherland Shire. This review sought to establish the demand for residential, industrial, commercial and retail uses across the Shire and land supply within the LGA to accommodate that growth.

Hill PDA identified significant demands in particular for residential and retail floor space and only modest or negligible demand for commercial and industrial floor space. It identifies a need to accommodate an additional 1.3 million sq.m of floorspace for all uses by 2036 within the Sutherland Shire.

It then undertook an assessment of nine Centres within the Shire, comprising Centre floorspace, to establish their capacity to accommodate this demand. Only a handful of short term development opportunities were identified, including the Brick Pit site. Even if all of these sites are developed, the realisation of 1.3 million sq.m of floorspace “will be a major challenge.”

The Brick Pit site therefore has an extremely important role to play in assisting the Shire to meet its forecast land use demands.

In addition, Hill PDA found that the comprehensive redevelopment of this major site would deliver a wide range of social and economic benefits to the community. As will be detailed in later sections, redeveloping this prominent site that has been derelict for decades, to provide a range of homes, jobs, shops and community services, will shift perceptions and act as a catalyst for further investment in the area.

2.6 The Role of Retail on the Site

The most obvious and manifestly ‘artificial’ development constraint within the current local planning controls is that relating to the amount of retail floor space that should be permitted. As stated by the Court, this does not relate to any physical constraint associated with the site or the locality but is rather a policy based constraint designed to lock existing centres into their existing hierarchical position, for a range of purported planning benefits. One of those purposes is to protect existing centres from competition that might affect their viability and ability to meet community needs.

There have been a number of recent Federal and State government discussion papers and reports supporting a market based approach to retail location in the interests of reducing barriers to market entry, increasing retail competition and reduced grocery prices.¹ However, and despite our understanding that a formal State government policy position is imminent, there remains no formally resolved retail location policy at the State level addressing this shift in planning thinking. This has caused the applicant to submit a scheme with significantly less retail space than is sustainable on the site and which instead relies on a scheme with a relatively modest amount of retail floorspace.

Hill PDA identifies substantial and growing unmet demand for retail floorspace within the Shire. It also finds that there are few alternative sites suitable and available to meet that demand. One of the few sites is the Flora Street car park site in Sutherland owned by Sutherland Shire Council. This places Council effectively in the position of a competing land owner for the supply of the limited land available to meet future retail floor space demand within the Shire. Council needs to be considered as much in the light of this competing interest, as in its role as a 'disinterested' determining authority. It further emphasises the appropriateness of this current application being assessed by the Minister under Part 3A or an independent tribunal.

Whilst there are myriad sound planning reasons to promote a much larger retail scheme on the site, the current scheme reflects the minimum necessary to obtain a viable scheme and provide "public goods" in the form of a fully embellished public park and commuter car parking. Given the lack of adverse impacts on other centres in the Shire, as concluded by Hill PDA in their preliminary economic assessment, there is no clear countervailing argument as to the benefits of imposing the artificial limitation implicit in the local planning controls.

Rather, as detailed below, there are significant comparative economic and social benefits derived from the proposed scheme compared to a scheme complying with Council's limitations.

¹ Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries - July 2008
Australian Competition and Consumer Commission

The Market for Retail Tenancy Leases in Australia - Public inquiry
August 2008 Productivity Commission

National Partnership Agreement to Deliver a Seamless National Economy: Report on Performance 2008–09 - December 2009
COAG Reform Council

Promoting Economic Growth and Competition through the Planning System - Review Report April 2010
NSW Dept of Planning

2.7 Net Community Benefit of Current Scheme

In terms of quantifiable benefits, Hill PDA found that its redevelopment would deliver numerous socio-economic benefits and overall net community benefit in the form of:

- A \$598m financial injection into the economy and approximately 4,792 job years during construction (1,166 direct and a further 3,626 indirect);
- There will be 484 direct jobs (full and part time) provided within the development and a further 459 indirect jobs, primarily relating to those companies supplying the retailers. These are conservative estimates and the total number of jobs could be as high as 966;
- Together these jobs could inject in the order of \$32.5m per annum into the economy, a significant proportion of which would be spent locally;
- Additional 484 apartments in Kirrawee, addressing the mismatch between the current stock (largely comprising detached dwellings) and the emerging demand for smaller and more affordable units;
- Private investment worth the equivalent of \$22.5m in community infrastructure to deliver a major new park and a 200 space commuter car park, while at the same time preserving a heritage Brick Kiln footing;
- In addition improvements to the surrounding highways will be funded privately to make a safer more attractive environment. Improvements include upgrading and new signals at surrounding junctions and the widening and enhancement of Flora street;
- Increased number and range of shops and services, reducing the need for local residents to travel further afield on a regular basis; and
- Greater competition between retailers to drive lower grocery prices for consumers currently estimated to be paying 18%-28% more for basic food items than other industrialised nations.

Hill PDA has also demonstrated that a scheme complying with the local planning controls is not commercially feasible, even with an assumed zero land value (in other words the land owner did not pay too much for the site).

It is an economic reality that no developer will commence a development that will realise a loss. The consequence of a “complying scheme” or a non-complying but still unviable scheme is that the development will not proceed. This would lead to the following scenario for the foreseeable future:

- A vacant, degraded site;
- No public park except in the unlikely event Council were to compulsorily acquire the zone 13 component of the site, pay for the works to fill in the hole and provide the finished public park themselves;
- No new jobs to meet metropolitan targets;
- No new dwellings to meet metropolitan targets;
- Less convenient and more expensive shopping opportunities; and
- No commuter car parking;
- No additional \$32.5 million injection to the community; and
- Escape expenditure.

If these are the “costs” of strictly applying the local planning controls, what are the benefits? We cannot point to any benefits associated with constraining the development potential of a strategic redevelopment site below its urban capability. In terms of retail planning, the only purported benefit is the protection of other centres from competition that might affect their ability to provide services for their community.

Hill PDA demonstrates that the site could sustain a major subregional shopping centre without creating any more significant impact on most retail centres, and even this will reduce in the longer term. It follows therefore that the lesser amount of retail floor space incorporated in this application, whilst greater than Council's contemplated amount, has no unacceptable impact on any adjoining centre and on the existing Kirrawee shops. This demand/shortfall of retail services to the locality will only increase as the population increases.

We submit that the current “non-conforming” scheme has many significant positive implications for regional planning than are achieved through compliance with a DCP formulated prior to formulation of the Metropolitan Strategy.

As a consequence of all of the above, we consider that there is a very strong case to support the Minister's consideration of the proposed scheme notwithstanding its non conformity with current local planning controls.

The Ministers' authorisation of the making of this Concept Plan will allow these issues to be further elucidated, scrutinised and assessed in a formal application.

3.0 THE PROJECT SITE & CONTEXT

3.1 The Locality

The site is located within the Southern Sydney suburb of Kirrawee, approximately 25km south of the Sydney CBD and within the Sutherland Shire LGA. The site is bounded by the Princes Highway and an industrial area to the north; a number of residential flat buildings and Oak Road to the west, light industrial development across Flora Street to the south and the James Cook Industrial Estate to the east (refer to Figure 1).

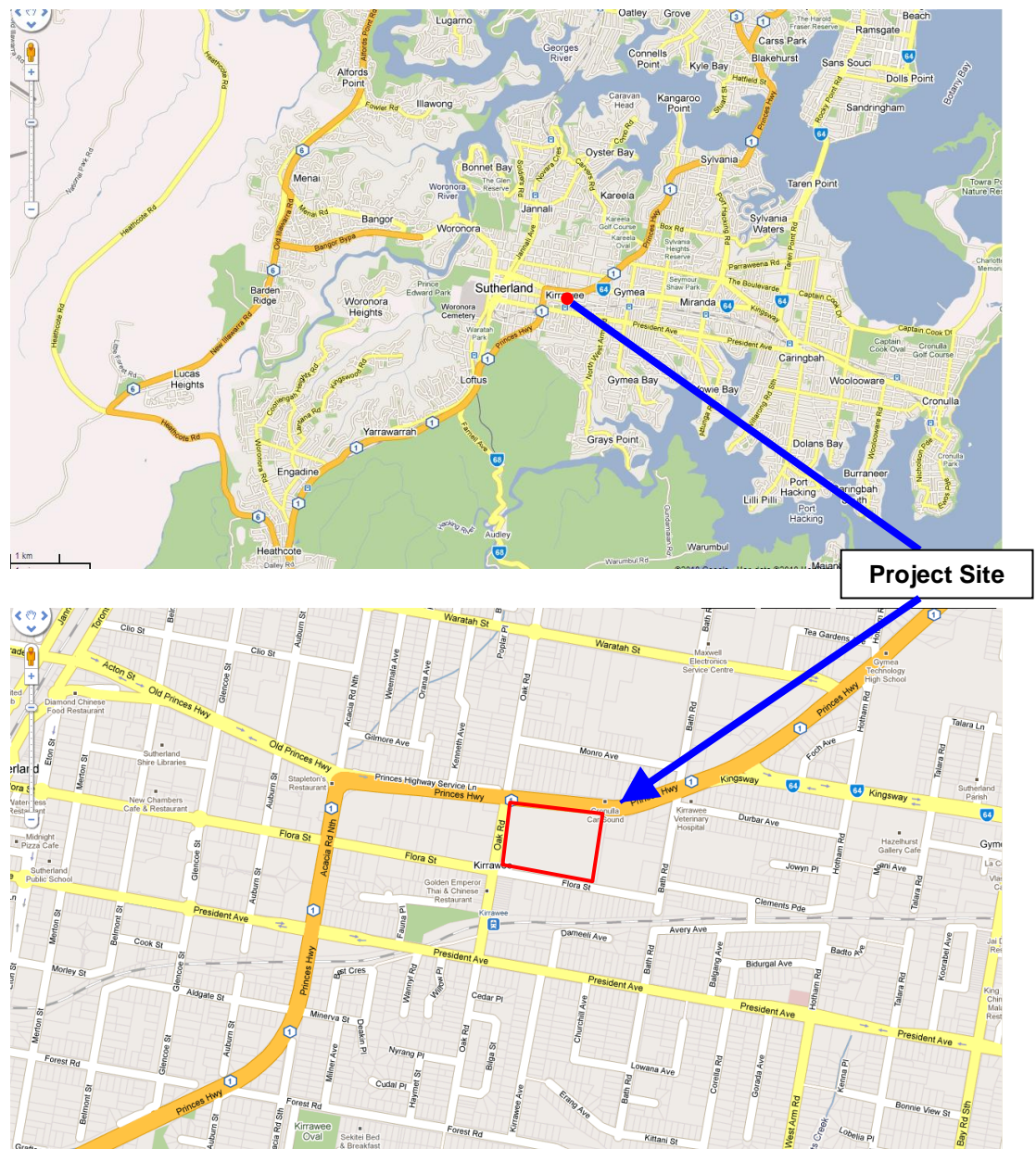


Figure 1: Regional and local context of the Project Site

3.2 The Site

The property description of the site is Lot 1 DP 179075, Lot 1 DP 589977 and Lot 2 DP 589977.

The site is adjacent to the Kirrawee shopping strip fronting Oak Road and is approximately 150 metres walking distance to the Kirrawee Rail Station, which is situated at the southern end of the Kirrawee shops. The site is also well serviced by public bus routes. See **Figure 3** for an aerial image of the site and immediate locality.

The site has a 252.13 metre frontage to the Princes Highway to the north and frontages to Oak Road to the west and Flora Street to the south. The site has a total area of 42,542m².

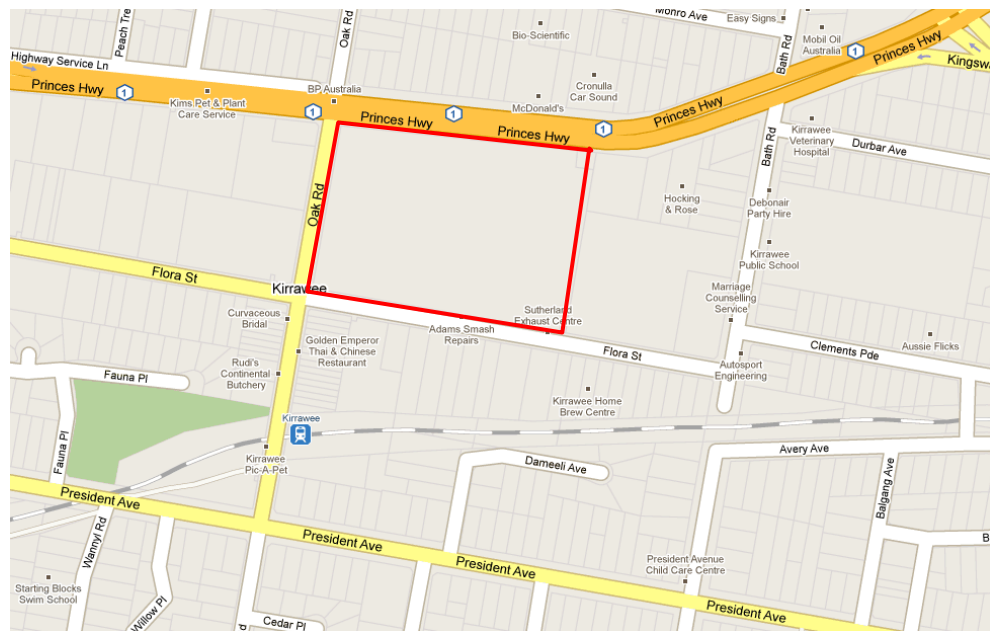


Figure 2: Local context of the Project Site



Figure 3: Aerial Photo of the Project Site

The Project Site was formerly owned by The Sutherland Brick Company and operated from the early 20th century until its closure and purchase by Sydney Water in 1974. The site has remained unused since that time.

The Project Site has a total area of 4.25 ha, and represents one of the largest remaining '*brownfield*' sites in the southern Sydney region. It bears the evidence of its former use as a brick pit. Its most obvious feature is a large excavated water filled pit which currently extends across the southern boundary of the site and is up to 20 metres deep, 18,000m² in area and 150,000m³ in volume.

The land slopes down approximately 5 metres from south-west to north-west and 10 metres to the eastern boundary.

The site is largely disturbed, vacant and cleared and provides a water source for native flora and fauna including two threatened fauna species, the Grey-headed Flying-fox and the Eastern Bent-wing Bat. There is some vegetation across the site with remnant vegetation to the west of the pit identified as the Sydney Turpentine Ironbark Forest (STIF) endangered ecological community.

In addition, there are some brick kiln footings on the site from the former brick pit use.

4.0 PROJECT DESCRIPTION

4.1 Overview

The application is for Concept Plan approval under Section 75M of the Act for the mixed use development described in Section 4.2 below.

4.2 Concept Plan

Approval under Section 75M of the Act is sought for the proposed concept plan comprising:

- Residential development – approximately 484 dwellings within eight separate buildings (equating to approximately 53,000sqm GFA);
- A retail shopping centre - including one full line supermarket and one smaller discount supermarket, specialty stores and a number of cafés with seating as part of a proposed piazza;
- Commercial and showroom uses;
- A commuter car park for approximately 200 spaces;
- All of these uses to be contained within structures below the “assumed” or actual ground level of the site and in a series of building envelopes up to 9 storeys above the podium level;
- A public park (approximately 9,000 sq.m);
- Various pocket parks or urban spaces within the development and general landscaping of the site;
- Associated site works (including dewatering), parking/loading, services and amenities;
- External road improvements.

The proposal has the following development parameters, noting that as more detailed design development occurs, these figures may vary to a limited extent in the subsequent detailed applications:

Development Parameter	Proposed GFA (approximates)
Site Area	42,542 m ²
Gross Floor Area	68,106 m ²
Floor Space Ratio	1.6:1
Commercial/Employment	
Full Line Supermarket	3,810 m ²
Discount Supermarket	1,460 m ²
Speciality Shops, kiosks & cafe	4,050 m ²
Flora Street Commercial	660 m ²
Princes Highway Retail/Showrooms	2,400 m ²
Internal Mall	1,820 m ²
Toilets/Centre Management	230 m ²
Total Retail/Commercial	14,350 m²

Residential	
Block A	9,040 m ²
Block B	9,270 m ²
Block C	8,235 m ²
Block D	4,960 m ²
Block E	4,330 m ²
Block F	6,113 m ²
Block G	3,584 m ²
Block H	8,224 m ²
Total Residential	53,456 m²
Car Parking	
Retail and Commercial	480
Residential	698
Commuter Parking	200
Total Car Parking	1,378
Open Space	
Large Park	9,000 m ²
Pocket Parks/Communal Open Space	7,700 m ²

Source: Woodhead

4.3 Development Plans

The Development, as described above, will be generally consistent with the concept plans submitted with this assessment at **Appendix B**.

4.4 Voluntary Planning Agreement

It should be noted that Council's Section 94A Contributions Plan requires the payment of a 1% levy on the total development cost, which is to fund the embellishment of the Brick Pit Park.

The Sutherland LEP 2006 also imposes an obligation on Council to acquire the Zone 13 Open Space land which comprises the park.

As a base level position, the applicant would therefore only be required to pay the 1% (approximately \$2.2 million) contribution and require Council to purchase the Zone 13 land at market value.

Notwithstanding this, the applicant proposes to enter into negotiations with Council to construct and provide (in lieu of a S94A contribution) a fully embellished public park of approximately 9,000 sq.m. This park will be available for use by the wider community.

Additionally, the applicant will also offer to construct the commuter car park providing approximately 200 spaces.

The delivery of these material public benefits and issues such as their ownership, transfer, ongoing management, maintenance and operation will be subject to discussions with the relevant authorities.

These items will be incorporated into a draft VPA which will accompany the Environmental Assessment.

4.5 Capital Investment Value

The Capital Investment Value of the project is estimated at \$220 Million. This figure is confirmed by the Quantity Surveyor Cost Report attached at **Appendix A**.

4.6 Consultation

In the formulation of the concept proposal and this Preliminary Environmental Assessment, the proponent and its design team has met with the following

- the Local Member for Miranda, Barry Collier;
- the Minister for Planning, Tony Kelly.
- Senior officers at the Department of Planning
- Senior Planners at Sutherland Council

The proponent has also held discussions with NSW Transport and Infrastructure in relation to the commuter car parking component of the project.

Community surveys were also undertaken by Hill PDA to assess consumer habits and sentiment as well as the retail impact of the proposal.

Previously, community surveys were undertaken by Woolcott Research in 2007. This survey aimed (amongst other things) to establish what the community would like to see delivered by the development of the Brick Pit site. This survey concluded that 62% of the respondents stated that it would be a good idea to put a new shopping centre at the Brickpit site.

As part of the formulation of the Environmental Assessment, further detailed consultation will be undertaken in accordance with the Department's '*Major Project Community Consultation Guidelines, October 2007*'.

4.7 Staging

As this is only a concept plan, the detailed elements of the proposal will necessarily be subject to subsequent applications.

The elements of the development within the pit, including the basement car parking and retail levels are likely to be included within the first development stages. In order not to saturate the market ahead of actual demand, the residential towers are likely to be developed over a number of stages. The public park will be staged in accordance with the outcome of further discussions with Council on its detailed embellishment, arrangement for transfer and the like. More details on the likely staging will be contained in the Environmental Assessment.

5.0 STATUTORY CONTEXT

5.1 Strategic Overview

The relevant statutory regime and assessment criteria applicable to the development comprises the following;

- Part 3A of the Environmental Planning & Assessment Act;
- Sydney Metropolitan Strategy & Draft South Sub-Regional Strategy
- State Environmental Planning Policy (Major Development) 2005;
- State Environmental Planning Policy No. 55 - Remediation of Land;
- State Environmental Planning Policy No.65 - Design Quality of Residential Flat Buildings;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Infrastructure) 2007;
- Sutherland Local Environmental Plan 2006; and
- Sutherland Development Control Plan 2006.

5.2 Part 3A of the Environmental Planning & Assessment Act 1979

This application is made under Part 3A of the Act and seeks the Minister's authorisation to apply for approval of a Concept Plan for the proposal under Section 75M of the Act.

5.3 Sydney Metropolitan Strategy & Draft South Sub-Regional Strategy

An initial assessment of the proposal against the Sydney Metropolitan Strategy and Draft South Sub-Regional Strategy has been provided in **Section 2.1** of this report.

5.4 SEPP (Major Development) 2005

Clause 6(1) of SEPP Major Development specifies that:-

“Development that, in the opinion of the Minister, is development of a kind:

(a) that is described in Schedule 1 or 2...is declared to be a project to which Part 3A of the Act applies.”

Schedule 1 of the SEPP sets out a number of “*Part 3A projects – Projects – Classes of Development*”. Clause 13 refers to Group 5 Residential, commercial or retail projects, and includes:

(1) Development for the purpose of residential, commercial or retail projects with a capital investment of more than \$100 million.

The proposed mixed use development will have a capital investment value of more than \$220 million. This application is therefore made in accordance with the provisions of Part 3A of the Act.

5.5 State Environmental Planning Policy No. 55 - Remediation of Land

Preliminary contamination assessment indicates that the site is able to support the proposed uses in the terms of SEPP 55.

A more detailed environmental audit will be submitted for consideration with any subsequent project application involving the construction of any of the proposed buildings.

5.6 State Environmental Planning Policy No. 65- Design Quality of Residential Flat Buildings

The residential flat building components of the development have been designed by Woodhead architects and GMU Architects and Urban Design and are consistent with the 10 design principles contained in SEPP 65. Because these are only at Concept Plan level, assessment under SEPP 65 is necessarily restricted to the broader elements of its design, such as the appropriateness of the overall placement and interrelationship of its components on the site, suitability of proposed heights and the like. Whilst it is necessary to ensure that the proposal, if approved, would have the capability of complying with the detailed design principles of the SEPP, these will only be able to be assessed once detailed applications are subsequently submitted for applications.

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

Whilst BASIX certification is not relevant to a concept application where no buildings are able to be constructed without further approvals, nothing associated with the proposal will prevent BASIX certification. Appropriate documentation will be supplied with the subsequent detailed assessment.

5.8 State Environmental Planning Policy (Infrastructure) 2007

Clause 104 of SEPP (Infrastructure) requires that before granting consent to a development of this size, the consent authority must refer the application to the Roads and Traffic Authority for comment and must consider the accessibility of the site, traffic and parking issues.

5.9 Sutherland Shire Local Environmental Plan 2006

SSSLEP 2006 prescribes the main land use zoning and development standards applicable to the Project Site.

Within the SSLEP, the Project Site is partly zoned 7 – Kirrawee Mixed Use and partly zoned 13 – Public Open Space. It is noted that the proposal is considered fully permissible with the exception of the commuter car parking which is prohibited in Zone 13 (but can only be approved by the Minister subject to approval of a Concept Plan under Part 3A).

Planning objectives for Zone 7 are outlined in Clause 12 of SSLEP 2006, with relevant objectives generally being:

- to take advantage of the zone's access and profile from the Princes Highway,
- to create development that mixes employment activities within a liveable urban environment,

- to encourage high employment-generating development that encompasses high technology industries, commercial display centres and light industries compatible with the existing locality and adjoining residential buildings,
- to allow the zone to support a live-and-work culture that provides for local employment and acts as a transition between employment activity and strict residential uses in the surrounding neighbourhood,
- to permit light industrial uses that are compatible with the desired future residential amenity of the zone,
- to ensure the design of all residential buildings is of a high architectural quality and all residential buildings have an attractive streetscape setting,
- to ensure development is carried out in a way that addresses the street concerned (achieving an attractive and vibrant streetscape) and reinforces surveillance of the public domain,
- to make provision for a prestigious gateway development capable of employing a substantial workforce,
- to provide a substantial area of public open space for employees, residents and the local community,
- to facilitate the re-vitalisation of the Kirrawee Town Centre and the Kirrawee railway station precinct,
- to ensure any expansion of retail activity within the zone maintains the role and function of Kirrawee Town Centre and does not adversely impact on the sustainability of other centres in the Sutherland Shire,
- to ensure any new shops integrate with and support the existing Kirrawee Town Centre,
- to ensure development is compatible with, and does not adversely impact on, the amenity of the surrounding residential area, particularly in terms of air pollutants, noise emissions and visual effects.

The proposal is for the use of a site that is zoned to accommodate residential and employment generating development.

The proposal presents a design that responds well to the size and shape of the site, providing an acceptable balance between retail, commercial, residential and open spaces. It will transform the site from its current isolated and vacant usage to one that connects physically and characteristically with the surrounding Kirrawee Town Centre and railway precinct. The development will incorporate high-quality urban design features and architectural merit and will create a landmark development which will take advantage of the site's access and profile from the Princes Highway.

The proposal will also create a sense of entry to Kirrawee centre from the Princes Highway and will provide active retail type uses fronting onto Flora Street that enliven the proposed public open space on the site whilst extending the main street character of the existing shops along Flora Street to link towards the primary school. The proposed open piazza will also create a "heart" to the town centre which currently does not exist.

Retailing is one of the highest forms of employment generating development, significantly more than typical business park and light industrial uses. The proposal will provide a transition between the existing employment activities and residential uses in the surrounding neighbourhood whilst facilitating the re-vitalisation of the Kirrawee Town Centre and railway station precinct.

However, and whilst a full assessment of the proposal against the provisions of the SSLEP will be made in the Environmental Assessment, we would refer to **Section 2** of this report and note that we consider that the current local controls are not consistent with current regional planning principles and therefore should be given only limited weight in the assessment of any proposed development of the site submitted under Part 3A of the Act.

Recent discussions with Sutherland Council have confirmed Council's preparedness to consider alternative physical forms that embody improved urban design outcomes.

It is again noted that the Minister under Part 3A is not constrained under the Act in the same manner as the Court or the Council would be under a Part 4 application. If he were to find that the current application has merit, he is not bound by the objectives and prescriptions of an LEP (as expressly prescribed in Section 75R of the Act). Indeed, we submit that where the provisions of an LEP or DCP are incompatible with or constrain the achievement of State or regional planning objectives, the Minister has a positive duty to give greater weight to regional policies above local policies where there is an inconsistency.

The current application contains major improvements in urban design outcomes, as set out in **Section 6**.

5.10 Sutherland Development Control Plan 2006

The Sutherland DCP 2006 provides more detailed provisions, supplementing the provisions of SSLEP 2006.

Although urban design guidelines for the Project Site are provided within the current Sutherland DCP 2006, Amendment 4, it is noted that this DCP is based on an urban design model that was prepared between 2001 and 2003 and which Council staff appear to accept warrants review.

It is considered that the proposed scheme provides a more economically sustainable and improved urban design and built form outcome than the guidelines as proposed within the DCP.

The proposal presents an innovative solution to the economic use of the land and relies on utilising the existing hole for productive floor space, thus reducing the need for introduced fill and associated resident disruption over an extended period.

The variations to the DCP will be addressed in more detail in the Environmental Assessment. However, some of the key issues are identified in Section 6 below.

6.0 OVERVIEW OF KEY ISSUES

In addition to the statutory controls addressed in **Section 5** of this report, **Section 6** provides an overview of key potential environmental, social and economic impacts associated with the proposal that will be addressed in the Environmental Assessment for this application.

6.1 Context and setting

The Project Site constitutes a strategically located and significant site within the Southern Sydney region still under single ownership. It is located adjacent to the Princes Highway and only 150m from Kirrawee train station.

The site is regularly serviced by major bus routes and demonstrates only limited and manageable environmental sensitivities. The surrounding area adjoining the site is characterised by predominantly industrial and commercial uses that are not considered sensitive.

The site is located close to an existing retail precinct with scope to complement and enhance the existing town centre.

In terms of the proposed buildings, they have been broken down into a scale to relate to the residential area to the west rather than the industrial units to the east and south.

The taller building forms will be located to the centre of the site and north along the Princes Highway to provide appropriate scale to the road and to reduce any impact on the adjoining land, whilst also acting to provide a buffer for noise to the remainder of the site. Although it is noted that the plans are at concept stage, retail/showroom uses are proposed at ground floor level along this boundary with residential uses above.

To Flora Street, the scale of the buildings will be four and five storeys respectively with commercial uses provided at ground floor and residential above. This will seek to activate this façade and will relate to the character of the existing retail strip.

Therefore the grain, scale and massing of the development is considered appropriate for the desired future character.

The proposal also involves a large active park for the whole community with numerous pocket parks interspersed throughout the site. This will provide amenity benefits to the future residents of both the site and the wider community to enjoy.

The proposal will encourage employment growth and a sustainable residential community within the locality.

As such, it is an entirely appropriate development both for its future occupants and within its physical and social context.

6.2 Built form

As indicated above, it is considered that the proposed scheme provides a more environmentally, economically sustainable and improved urban design and built form outcome than the guidelines as proposed within the current DCP. There will be less buildings and more open space than advocated by the DCP.

The proposal presents an innovative solution to the economic use of the land and relies on utilising the existing hole for productive floor space, thus reducing the need for introduced fill and associated resident disruption over an extended period.

Woodhead, the architects for the proposal, have prepared an Urban Design Statement to accompany the concept proposal as follows:

“This project seeks to fulfil the purpose of providing a heart to the Kirrawee centre with its mixture of retail, commercial and residential uses planned within a parkland setting and an active open piazza at its core.

The vision is to create a contemporary mixed use development for Kirrawee which will enhance and contribute to the “village” ambience and character of the existing local centre. With the proposed development of the 9,000m² public park, this could become the “Village Green” or “Town Common” focal point for the community

This development presents a unique opportunity by utilizing the existing deep pit excavation to place the majority of car parking, loading and retail facilities below a ground floor Podium for a distinctive garden type residential development.

The location with its proximity to the existing retail centre, railway station and major highway; surrounded by low and medium density residential development is a prime example of the kind of development that would be a real “people – place” while also fulfilling the weekly shopping and commercial needs of the local community. The residential component to the development will add a vitality reminiscent of the traditional European cities combined with Australian suburban “High Street” centres reflected in the Sydney City Council’s Living City concept and the State Government’s Metropolitan Strategy now being developed in other suburban locations such as Maroubra, Kogarah and Balgowlah but this development will be of a scale consistent with its location.

The concept’s design works with the topography of the site by adapting its unique features into a solution that gives emphasis to creating superior private and public spaces.

The design utilises the existing brick pit in a number of ways that are a positive contribution to the urban fabric of the local area. Some of these are:

- *The placement of 99% of the car parking below ground with the majority within the volume of the pit itself.*
- *Respecting the existing pit edges by retaining the Sydney Turpentine and Ironbark Forest remnant along the western and part southern rim.*

- *The placement of the water feature and open piazza are within the original pit area and at a level where they are viewed as below the street level of Oak Road and Flora Street.*
- *The placement of the 3 central residential towers (A, B+C) in a radial formation reinforces these spaces as the focal point of the development.*

The retail component of the development is “sleeved” under a landscaped podium (on which 5 of the 8 residential towers are located) as a continuation of the lower level piazza on its eastern side. The piazza is surrounded by external retail and cafes on the north and south sides complimenting the main body of retail to the east.

The general form of the buildings comprise the placing of predominantly lower height buildings along the main road frontages of Princes Highway and Flora Street with a higher 9 level building (Block H) on the corner of the Princes Highway and Oak Road. This reinforces the urban edge of the development.

The 3 higher 8-9 level central blocks (A,B+C) break this grid to “pivot” around the open spaces of the water feature and Piazza not just to present a dynamic vista from these areas but also to facilitate solar access during winter into these public spaces.

The retail centre has its entry on Flora Street and thus is the catalyst for active frontages along this street being some retail, commercial and residential lobbies.

All loading and servicing to the shopping centre is located under the podium with discreet access separated from adjoining properties (which are light industrial uses) by an 8m wide landscaped buffer.”

The variations to the DCP are further summarised below and will be addressed in more detail in the Environmental Assessment.

6.3 Height

As detailed on the architectural plans attached to this submission, the proposal involves up to eight (8) new buildings across the site and above ground level. These buildings propose differing heights ranging from four to nine storeys.

As the plans demonstrate, those buildings of up to nine storeys will be located to the centre of the site (Block A and Block B) to minimise impact on the adjoining land, with Block H located on the corner of Oak Road and the Princes Highway (albeit setback from the Princes Highway) to reinforce this strategic location.

As a consequence, the height and number of storeys of the buildings will exceed the controls as set out in SSLEP 2006. The Environmental Assessment will address these variations from a town planning and urban design perspective. In our preliminary assessment it appears the variation is an appropriate response to the site and produces an improved urban design outcome compared to a scheme complying strictly to the LEP.

6.4 Economic Impact

As set out in Section 2 of this Report, the previous Land & Environment Court decision was largely based on the fact that the amount of retail space was deemed inconsistent with the objectives of the SSLEP zoning. In particular, it was accepted that the site was suitable for a supermarket but rejected on the basis of insufficient economic analysis of the scheme for the Court to be satisfied it was consistent with zone objectives on retail development.

The current proposal involves two (2) supermarkets along with other speciality retailing. In support of the application, a preliminary but detailed economic impact assessment is being prepared by Hill PDA.

In concluding their initial analysis, Hill PDA found that the proposal would not have a significant impact on the economic sustainability of surrounding Centres with the level of impact being less than 10% for all nearby Centres except Kareela which will have a 10.3% impact. It should be noted at this stage that a number of shops in the Sutherland Shire trade greatly in excess of benchmark retail turnover levels (Hill PDA).

In addition, Hill PDA found that the proposal would deliver a wide range of social and economic benefits to the community and that it would be the scale of the opportunity that would ensure the urban renewal of this part of the Shire as outlined in Section 2 of this report.

6.5 Ecology and Natural Environment

The site currently comprises a highly disturbed “brownfield” site. The Environmental Assessment will assess tree retention on the site, proposed impacts on the natural environment and its relationship to the surrounding areas.

Flora

It is noted from previous investigations that the Project Site contains a remnant Sydney Turpentine Ironbark Forest (STIF) community adjacent to its western edges. It is intended to enhance the existing remnant STIF as well as plant new STIF species on and off site.

A full ecological assessment will be submitted with the Environmental Assessment. However, it is anticipated that the proposal will be designed to ensure that it will not have an adverse impact on the STIF.

Fauna

It is also noted from previous investigations that the Project Site provides a water source for the Grey-headed Flying-fox (GHFF) and Eastern Bent-wing Bat (EBWB) endangered ecological communities and that this is principally connected with the existing water source on the site.

As the architectural plans submitted with this report detail, the proposal will seek to retain an element of water within the park sufficient for the needs of the flying fox and Bent-wing Bat. This will be fully documented as part of the Environmental Assessment.

6.6 Public domain

The development incorporates a large proportion of what can be described as public domain works. It is noted that the Concept Application includes these elements as 'indicative' only with the intention being to agree the details once Concept Approval has been secured. In principle, these elements include the following:

- Provision of a large public park
- Retention of the STIF
- Provision of a water source sufficient for bats
- Numerous pocket parks
- Off site traffic improvements
- Widening of streets

Whilst the detailed design of the public domain will be subject to future staged applications, the size, location and distribution of the public domain features of the site are capable of providing a high quality public domain and public park.

6.7 Impact on neighbourhood

The relationship between the proposed development in the existing context of surrounding development will be addressed in the Environmental Assessment. Preliminary assessment is that the proposed development will provide significantly improved amenity to the existing neighbouring development in terms of acceptable open space and facilities whilst creating a real destination and enabling links to the rail line and activation of the area. It is also noted that the adjoining land uses comprise industrial and commercial uses that are not considered sensitive.

6.8 Water management

Appropriate water management principles are to be incorporated in the proposed development.

At this stage, it is considered that the development can demonstrate the ability to adequately deal with water quantity and quality issues. This ability will be further demonstrated in any future application.

6.9 Archaeological Heritage

Pursuant to the Sutherland Shire LEP, "the Princes Highway/Oak Road/Flora Street Site of former brickworks, Sutherland Brick Company claypits" is identified as an item of non-Aboriginal archaeological significance (No. A034). The heritage significance relates to kilns in close proximity to the northern boundary of the site.

Edward Higginbotham & Associates Pty Ltd (EHA) was previously engaged to prepare an Archaeological Assessment Report in support of the previous application. This report proposed the relocation of the kilns into the public park and concluded that the archaeological heritage of the site can be satisfactorily preserved. Further information on this will be provided as part of the Environmental Assessment.

6.10 Environmentally Sustainable Development

The details of environmentally sustainable development initiatives to be incorporated into the development will be contained in any subsequent project application. At this stage, general ESD principles upon which the concept is based will include:

- More accessible retail opportunities will reduce local private vehicle trips;
- The provision of commuter parking will promote public transport usage and, along with reducing local vehicle trips, will bring clear benefits in terms of reducing carbon emissions;
- Energy efficient appliances and water efficient devices will be used;
- Tanks for stormwater retention and reuse;
- Substantial deep soil areas for significant planting; and
- BASIX certification.

It is considered that the proposal is capable of demonstrating a high standard of ecological sustainability design (ESD).

In particular, the mixed use development integrates land uses in a location that is highly accessible by public transport. Locating retail uses, services and new residents in close proximity to the existing rail infrastructure will promote walkability and public transport usage and will reduce dependence on private vehicles.

Moreover, the decision to build within the existing pit, rather than filling it, will result in significant ESD benefits as numerous truck movements will not be required to transport spoil to fill the hole. The environmental impact and general disruption associated with heavy vehicles passing along local streets (up to 60 truck movements per day) to bring in the required estimated 250,000 m³ cubic metres of fill over a period of up to two years is highly significant.

6.11 Access, Car Parking and Transport

A full Traffic and Parking Assessment was undertaken as part of the previous application. As such, it is noted that the Court concluded at paragraph 232 that issues in relation to traffic had been “*largely resolved*”.

This document will, however, be updated as part of the Environmental Assessment to reflect the current development.

It is noted that the location of the site in immediate proximity to the Princes Highway, and within easy walking distance of Kirrawee Train Station provides significant advantages in terms of connectivity to the public transport network.

In relation to the proposed commuter parking the Traffic and Parking Assessment will assess any potential impact on the local traffic network against the benefit of reducing

the number and lengths of trips on the wider road network by improving access to and patronage of, the rail station.

In particular, the updated Traffic and Parking Assessment will assess the following:

- the anticipated daily and peak traffic movements to be generated by the development including the impact on nearby intersections and the surrounding road network.
- the suitability of the proposed basement car parking layout / design;
- the proposed car/truck parking and loading dock provisions in terms of adequacy to accommodate demand;
- the layout of car parking areas in terms of compliance with relevant standards; and
- proposals for pedestrian and cycle access.

6.12 Social Impact in the locality

The proposal will provide additional residential, commercial and retail floor space within a highly accessible location within walking distance of Kirrawee train station and adjacent to the Pacific Highway. This is considered consistent with the Metropolitan and Subregional Strategies which promote the supply of a significant majority of the region's housing demand in accessible established areas.

The area is a strategically important location given its accessibility to public transport. Higher density housing in such a location optimises the number of people able to take advantage of such an accessible location and reduces the demand for housing in far less accessible fringe areas of the Metropolitan Area.

In addition, the proposal will provide an element of adaptable housing, to enable occupation by disabled persons as well as 'ageing in place'. Furthermore, the residential element will be located in close proximity to essential services and retail facilities (both existing and proposed). It is also noted that an element of the residential development could be aged care housing.

The proposal incorporates a new community park providing good amenity to the future residents of this site and the existing residents within the wider Kirrawee suburb.

6.13 Safety, Security and Crime Prevention

Whilst detailed design incorporated in any subsequent project application will elucidate on this consideration, the open design of the development with clear addresses, passive surveillance of public spaces and the like, provides the basis of a safe and secure development.

6.14 Site Suitability

This is an important strategic site within the Southern Sydney Precinct. The proposed development on this prominent site can enhance the image of Kirrawee suburb as an attractive residential neighbourhood, also improving its economic viability.

The site is highly accessible with preliminary investigations into the physical suitability of the site for the proposed development having identified no unresolvable constraints to that development.

Previous Geotechnical analysis of the site was undertaken by URS and this concluded that the site is suitable for the development, provided geotechnical issues are properly evaluated and addressed during planning and detailed design. Further geotechnical assessment will be provided as part of the Environmental Assessment.

In relation to contamination, previous analysis of the site was undertaken by EIS with a Site Contamination Management Plan prepared in support of the previous application. As part of their assessment, it was concluded that investigations to date considerably exceed the minimum requirements of SEPP 55. This information will be submitted with the Environmental Assessment.

It is expected that utility services will be available to the site and will be adequate to meet the demand requirements of the proposed development or will be able to be readily augmented. Details will be provided at the relevant time in any future applications.

The site is not subject to any other known physical constraints to the proposed development. More detailed assessment of the issues listed above can and will be undertaken for any subsequent detailed application.


7.0 CONCLUSION

The proposed “Brick Pit” development at 566-594 Princes Highway, Kirrawee proposes to introduce approximately 484 residential units, two retail supermarkets and associated speciality retail, commercial floorspace, commuter parking and commercial car parking together with a major community park and associated facilities on a 42,500 sq.m vacant and degraded site under one ownership.

This assessment is preliminary in an effort to inform The Minister’s opinion pursuant to Clause 6(1) of SEPP Major Development that the development is a project to which Part 3A of the Act applies. The assessment also seeks to assist the Director General with issuance of environmental assessment requirements pursuant to Section 75F of the Act.

The preliminary assessment in this report concludes that the site is highly suitable for the development, subject to certain technical and design considerations. The development seeks to realise a range of regional and local planning objectives for what has been long recognised as a highly strategically important redevelopment site in the Sutherland Shire. In doing so, however, it seeks to move away from some of the more restrictive local planning controls which would render any meaningful development of the site unviable, with significant adverse social and economic consequences. The proposed development mix also enables the owner to construct and embellish a high quality 0.9 hectare public park and provide commuter parking.

Having regard to the above and in accordance with provisions in Part 3A of Act, it is requested that the Minister’s authorises the making of a Concept Plan for the proposal under Section 75M of the Act and that the Director General issue the environmental assessment requirements for the Concept Plan Application.

Job No/ Document No	Description of Issue	Prepared By/ Date	Reviewed by Project /Director	Approved by Project Manager/Director
26135	<i>First draft</i>	<i>CO/DR 12 May 2010</i>	<i>DR</i>	
26135	<i>Final draft</i>	<i>CO/DR 17 May 2010</i>	<i>DR</i>	
29135	<i>Final</i>	<i>CO/DR 18 May 2010</i>	<i>DR</i>	
Note: This document is preliminary unless it is approved by a Project Manager or Director of City Plan S & D				

Appendix A – Quantity Surveyor Cost Report

Appendix B – Architectural Plans