



File Ref: LP/03/199776

29 December 2011



PCU029578



Mr Chris King
Assessment Officer, Metropolitan & Regional Projects South
NSW Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001



Dear Mr King

Reference No: MP10-0076

**Proposal: Concept Plan for Mixed Use Residential and Commercial
Development - Kirrawee Brick Pit site, Kirrawee**

Property: 566-594 Princes Highway, KIRRAWEE NSW 2232

[In response, please quote File Ref: LP/03/199776]

I refer to your recent email dated 23 November 2011 regarding the Preferred Project Report for the above application.

For over a decade Council has collaborated with many NSW Government agencies to facilitate development of this site. Council supported the Master Plan produced by the Department prior to the sale of the site by Sydney Water. Council continues to support the development of this site in a manner which is appropriate for the site and its context.

Council previously made a detailed submission to the Department, dated 9 February 2011, concerning the proposed Concept Plan Application when on exhibition. It is noted that some issues raised by Council were required to be addressed by the proponent in its PPR following the exhibition period. There was an expectation that there would be significant amendments to the proposal in response to these concerns.

Whilst the proponent has made marginal adjustments to the proposed plan, Council remains concerned that the proposal is still of a scale and intensity that is inappropriate in the context of the Kirrawee centre.

In particular, the proposal still represents a considerable increase in scale and intensity inconsistent with the character of the Kirrawee town centre and its future role and function in the Sutherland Shire. It is noted that the proposal exceeds the development previously considered by Council and refused by the Land and Environment Court.

2009 (Court Refused Application)	2010 (Original Part 3A Proposal)	2011 (Current Part 3A Proposal)
250 dwellings	450 dwellings	432 dwellings
6,693m ² total retail floor area of which 4500m ² is supermarket	14,340m ² total retail floor area of which 5270m ² is supermarkets + 1280m ² mini major	15,230m ² total retail floor area of which 5370m ² is supermarkets + 1280m ² mini major
4,581m ² commercial floor area (GFA)	840m ² commercial floor area (GFA)	860m ²
0.9ha public park	0.9ha public park	0.9ha park
927 car parking spaces	1349 car parking spaces (inc. 200 commuter spaces)	1150 car parking spaces (commuter parking now deleted)
2-6 storey height	15 storey height	14 storey height
1:1 Density (42,045m ² GFA)	1.52:1 Density (64,837m ² GFA)	1.43:1 Density (60,735m ² GFA)

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

- quantity of retail floor space and lack of integration with existing shopping centre;
- height of residential buildings and urban design; and
- traffic impacts not adequately addressed.

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

ECONOMIC IMPACTS, CENTRE HIERARCHY AND IMPACT ON KIRRAWEE CENTRE

Council has consistently been concerned that the scale and nature of the retail component is contrary to the Kirrawee Local Area Master Plan and could threaten the viability of both the Kirrawee and Gympie Centres, as well as the supermarkets in Sutherland Centre. The proposal will undermine the potential for development in Sutherland Centre, the Shire's major centre. Sutherland Shire Local Environmental Plan 2006 and Sutherland Shire Development Control Plan 2006 define a hierarchy of centres where retailing has a role to play. With a proposed retail floor space that would be similar to Menai Centre and nearing Cronulla and Southgate Centres, it is evident that Kirrawee could no longer be characterised as a 'village'. The proposal is not consistent with the role and function of the Kirrawee Centre and it is concluded that the proponent has not adequately addressed this issue.

The role and function of various centres is reflected in Council's height and density development controls. In the Shire, Sutherland Centre, Miranda Centre, Caringbah Centre and to a lesser degree, Cronulla Centre, have the greatest building heights. Council acknowledges that appropriate heights of residential structures are acceptable in appropriate locations and recently resolved (ALT003-12) to endorse a nine (9)

storey planning proposal in the Cronulla centre. However, the Cronulla Centre is a significantly different urban form to Kirrawee and is able to accommodate some residential development to heights of this nature.

The proposed development includes two (2) central buildings 11 to 14 storeys. All of the proposed buildings are in excess of the current development controls for the site and are incongruous with this locality. It is considered that these increased heights are a product of excessive development of the site. The proposal is not consistent with Kirrawee as a village and the proponent has done little to justify the need for such intense development that changes the role and function of Kirrawee.

The applicant has not altered its approach in justifying the increase in size and scale of the development - on a strategic level the applicant argues that the proposal meets a need of the Sydney metropolitan area providing much needed housing, delivering jobs and ensuring that housing is provided close to public transport. While these are valid considerations they should not outweigh the basic planning principles established through the Sutherland Shire Local Environmental Plan 2006, Sutherland Shire Development Control Plan 2006 and the local area master plan. Indeed, the development would still deliver much needed housing located close to public transport, and employment opportunities, even if delivered at a smaller scale. However, a smaller proposal would be more sympathetic to its immediate environment, of a scale that can be readily absorbed into the local area and part of the local area rather than an insular, isolated community.

Retail component - The Land and Environment Court's decision to dismiss the previous (significantly smaller) proposal (DA08/0347) due to the scale and intensity of the proposal should not be disregarded. The Court judgment found that intensive retail land uses such as large supermarkets were not appropriate, and the proposed retail component of the development was inconsistent with the strategic framework and the role for Zone 7 and the Brick Pit Precinct established by LEP 2006 and DCP 2006. The Court refused proposal had the potential to impact upon the future role of Sutherland as an urban centre as well as elevating the role of Kirrawee beyond that of a local centre.

The economic peer review requested by DoPI and prepared by Leyshon Consulting does little to dispel Council's concerns and simply states that the regional demand for retail floor space justifies the proposal. Leyshon does concede that there is some doubt in relation to the impacts of the development (pg v). Leyshon states that these impacts would be 'relatively significant, but not of sufficient scale which, in this instance, warrants the applications refusal'. In this regard Leyshon concurs that the impact on Sutherland is in the medium-high category, resulting in a loss of trade for Sutherland of 8.3%. Leyshon also concedes that the majority of this loss would fall on the existing two (2) supermarkets – a \$5million (2014) or 15-20% loss in sales. However, it cannot be assumed that such a loss would not result in the closure of the Sutherland supermarkets. The localised impact on Kirrawee is also significant. Leyshon concludes that there may be a 14% impact on trade in Kirrawee. The Leyshon report does not address the need for any redevelopment of the brick pit site to have a supporting role, rather than a principal or dominating role, away from the Kirrawee town centre.

The economic modeling conducted by Leyshon is not disputed. However, the analysis does not address Council's concerns. There are known gaps in the retail offering. Provision should be made for retail outlets other than supermarkets. Even if the requested quantum of retail floor space is supported, only one (1) supermarket should be permitted so that other forms of retailing can be provided.

Leyshon's assertions that any supermarket development would be difficult to achieve in Sutherland, given site constraints, does not in itself justify such intense development in Kirrawee. Leyshon's assertion that there was no compelling reason to accommodate the floor space in Kirrawee or Sutherland is not supported. The report's assertion that the affect on trade alone is acceptable, does not take into consideration the relationship between large retail development and the subsequent accompanying development of businesses and services. Without such 'anchors' Sutherland Centre will decline.

It is evident that the economic impact on Sutherland is significant. Leyshon agree that, if approved, the proposal would result in "no substantial further retail development is likely to occur in Sutherland". The analysis does not justify Kirrawee receiving all of the potential floor space development to the possible detriment of Sutherland. In summary, Leyshon's report does not justify the proposal.

Employment - Whilst it is agreed that employment generation for retail and commercial development is generally similar, in the Sutherland Shire 75% of the resident workforce (comprised predominantly of managers, professionals and other white-collar workers) must find work outside the Shire. Persons employed in the retail establishments are likely to be drawn from adjacent local government areas because Sutherland Shire already has sufficient positions to accommodate local retail workers. The proposed retail development does little to improve employment self-containment rates for these workers and is not what was envisaged in the Kirrawee Local Area Master Plan/SSDCP2006 – a live work precinct. The Leyshon report does not adequately address the impact of the proposal upon the type of employment opportunities within the Sutherland Shire. A regional demand for retail floor space does not negate the need for employment generating businesses that will stimulate economic activity.

Connection existing retail - Some refinements have been made to the configuration of pedestrian entries into the site from Flora Street. However, the retail component of the development remains buried in the middle of the site. A clearly defined connection to the existing retail centre has not been achieved.

One of the conclusions of the independent retail study is that "if the majority of the retail components of the centre were at ground level on the Flora Street frontage of the site it would integrate better with the existing Kirrawee Centre". This was argued in Council's original submission and remains unresolved.

Irrespective of Council's basic concern about the quantity of retail floor space, if the retail component is to proceed then it should be positioned in the optimal location. A successful design would maximize the potential for people to move effortlessly

between the railway station, the existing strip of shops in Oak Road and the new retail centre. Pedestrian entry to the new centre should be at street level as close as possible to the intersection of Oak Road/Flora Street. Along Flora Street the retail function should be represented by shop frontages along the street.

When considering the retail component of the proposal, Council has examined long term options, as well as immediate consequences. Potential may exist in the future for the land between the development site and the railway station to be redeveloped for some form of business/commercial use. Flora Street has the potential to become a more significant street with a very different streetscape. However, the design of the current proposal is not oriented towards the street. It is internally focused.

As a minimum the retail component should be designed to better integrate with both the existing retail strip in Oak Road and any future business premises that will develop along Flora Street.

URBAN DESIGN

Council previously raised significant concerns about the scale and intensity of the development, building form and height, and how the proposal will integrate with the existing Kirrawee Town Centre. In particular Council was concerned that the proposal did not achieve the aims of the Local Area Master Plan. The LAM envisaged approximately 290 new dwellings, in predominantly 3-4 storey buildings.

The Department has requested that the proponent address these urban design issues and in response, the proposal has been marginally reduced (loss of one (1) storey in Block A, floor space reduced by approximately 4,000sq.m. and 18 residential units, more 'slender' buildings, split in block D).

Height - In response to the DoPI request for the height of the three (3) towers to be reduced, one (1) level was removed from Block A to reduce it from 15 levels to 14. The 11 storey section of Block B remains the same as does all of Block C. Generally, across the site the lowest height of buildings is five (5) to six (6) storeys. At the centre of the site the three (3) towers rise from a six (6) storey base to 10, 11 and 14 storeys.

Such heights exceed the building heights usually considered appropriate by Council. Particular consideration has been given by Council to the character of the Shire's landscape when evaluating appropriate building heights. Visually the Shire has been dominated by its tree cover that reaches a height of 15m to 20m dependent upon a range of natural factors. Respecting this landscape quality of the Shire, Council has sought to restrict residential development to a maximum height of six (6) storeys.

Recognition has been given to the particular urban character of the large centres such as Miranda, Cronulla, Caringbah and Sutherland where heights in excess of six (6) storeys have been accepted in limited circumstances. Nevertheless, in a centre such as Kirrawee, Council has not supported building heights in excess of six (6) storeys.

The PPR changes are marginal and do not change the fact that the proposal creates a dense urban environment at a scale that does not reflect surrounding development or the nature of this town centre.

The highly visible residential component is anomalous with the locality and the buildings sit well above the surrounding tree canopy. The three (3) residential towers have been marginally reduced but will still read as one (1) large building from a distance, particularly given the elevation of the site and the various locations from which the site will be visible, both within close proximity and from a significant distance.

Site planning - The reconfiguration of building forms to Flora Street provides some improvement; proposed building forms addressing Flora Street and Princes Highway both respond to their immediate context in a reasonable manner. However, there remains a lack of a clear design philosophy and rationale to support the "finger plan" concept of the three (3) central buildings. The resultant buildings remain largely detached from adjoining streets and are visually bulky.

Bulk / Scale - The reconfigured tower forms have helped to reduce the scale of the buildings to an extent. However, there remains a concern that tower blocks A and B will continue to read as a solid mass when approached from the Princes Highway. It is recommended that building forms located within the centre of the site should be kept to a maximum height of six (6) storeys. If a taller tower is to be located upon the site it should be kept to a single slender tower. It may also be more appropriate to locate the taller building form closer to the southern section of the site to reduce over shadowing of the proposed park and plaza.

Circulation - It is noted that steps have been taken to improve the connection of the residential towers (A, B and C) to the street network. However, the configuration of the towers in an arched plan at podium level still serves to isolate the residential buildings from the surrounding streets. Pedestrian paths to tower B are particularly indirect. It is possible to create an entry point to tower B at street level adjacent to bus pick up to improve the connection of this tower to the street network. However, the applicant has chosen to resist such improvements.

Buildings Fronting Flora Street - Block D which fronts Flora Street has been divided into two (2) to break the street elevation and to permit a pedestrian entrance to the residential portion. To compensate for this loss of floor space the height of building D2 has been increased by one (1) storey. Creating the physical break is important because the original scheme only allowed residents to access their units through the car park or shopping precinct. Unfortunately the increase in height has not been justified from a design perspective.

It is evident that improvements have been made to address some of the urban design issues previously raised. However, the fundamental concept of the proposal remains unaltered. The major concerns previously raised remain.

The current proposal remains too dense, forms no clear connection with the existing retail centre and lacks a clear pedestrian access strategy. Rather than being designed to integrate and enhance the existing neighbourhood, the development is designed to operate as an island principally accessed by motor vehicles. For these reasons the proposal cannot be supported.

PUBLIC OPEN SPACE

Improvements have also been made to the design of the public open space park on the Kirrawee Brick Pit site. The proposed park design now achieves Council's requirements for:

- conservation of the Sydney Turpentine Ironbark Forest;
- accessibility of the site for the public;
- accessibility for maintenance;
- water quality of the lake for human contact;
- water quality of the lake for consumption by flying foxes;
- amount of usable recreation space; and
- the configuration of the open space as an accessible public open space.

The design of the park, including the level of the water body, establishes how well the park integrates with Oak Road, Flora Street and the Kirrawee town centre. Council officers have endeavoured to have the design level of the park lifted. Although the optimal level has not been achieved, as a result of discussions with the proponent, the level of the park has been increased and finished ground levels are now suitable for disabled access to the water body, grassed area, and building forecourt. Boardwalk access to the park will be available from the corner of Oak Road and Flora Street, through augmented Sydney Turpentine Ironbark Forest (STIF) planting.

ECOLOGY

The previous development application for the subject site raised a number of environmental issues which in turn formed important components of the LEC judgement. The main concerns centred around the presence of remnant Sydney Turpentine Ironbark Forest (STIF) located across the western and southern portions of the site and the impacts upon two (2) threatened bat species known to utilise the existing pond as a water resource and impacts associated with potential contamination on the site as a result of the previous use of the site. These issues formed an integral component of the previous Court case and therefore are ones which are once again pertinent to the application at hand.

Overall, the majority of environmental issues associated with the proposed development of the brick pit site have either been adequately resolved or can be resolved through the imposition of conditions of consent. Previous uncertainty surrounding the water quality standard for the proposed habitat pond has now been addressed in the report by Equatica dated August 2011. Potential treatment mechanisms to deliver this water quality have also been addressed in the report by Northrop dated 14 September 2011.

DRAINAGE AND STORMWATER

The existing 43,000m² (approximate) site is not serviced by the public drainage network. The undeveloped site drains internally to the brick pit. The proposed development will result in the need to discharge large quantities of urban stormwater and groundwater off-site. Some of the downstream drainage systems are already subject to flooding and water pollution under existing conditions. The proposed development has the potential to exacerbate flooding and water pollution affecting both public and private assets.

The stormwater management plan being contemplated by Northrop is largely based on the principles of Water Sensitive Urban Design (WSUD), generally consistent with SSDCP 2006 and current urban design 'best practice'. The plan recommends that the generation of stormwater from the proposed development is minimised, reused on-site for beneficial purposes and treated through primarily natural processes prior to discharge off-site. It should be emphasised that the stormwater management plan is strictly of a conceptual nature with few details or designs to demonstrate its viability. The impact of the increased discharges from the site, on receiving waters and infrastructure have also not been addressed.

Whether or not the components of the plan can be integrated into the overall urban design of the proposed development without the necessity to make major changes, is largely unknown. Therefore, the Department of Planning and Infrastructure can have little confidence that the concept stormwater management plan can actually be achieved and the necessary outcomes realised.

VOLUNTARY PLANNING AGREEMENT

The PPR architectural plans indicate that the proposed park is subject to future design. The revised landscape statement and drawings generally satisfy Council's concerns regarding park design. However, it is important that Council have some certainty about the proposed park and landscape design specifications, detailing the methods of construction, planting and facilities, as agreed to by Council.

Council supports the proposed park and the finalisation of a draft Voluntary Planning Agreement (VPA). Council must have some certainty as to the type of park, facilities and construction. A VPA is required to ensure an appropriate park is provided with any subsequent development application, pursuant to the Part 3A concept application. The VPA will need to be publicly exhibited in accordance with the Act. Council has resolved (EAP069-12) : *That a further report be presented to Council to obtain approval to proceed with the finalisation of the Voluntary Planning Agreement once information is received from the Planning and Assessment Commission in relation to its decision on the development proposal.*

The provision of the public park on the site would be in lieu of any Section 94 Developer Contributions. However, it should be noted that Clause 93F (3A) of the Environmental Planning and Assessment Act 1979, states:

A planning agreement cannot exclude the application of section 94 or 94A in respect of development unless the consent authority for the development or the Minister is a party to the agreement.

It is noted that Council has sought further advice (letter dated 29 September 2011) from the Department regarding the requirements of clause 93F(3A) of the Act, as this provision requires the consent authority, which is unlikely to be Council, to be a party to the VPA.

Council has resolved not to take any further action on Sutherland Shire Draft Local Environmental Plan Amendment 10 to rezone part of the site from Zone 13 Public Open Space to Zone 7 Mixed Use – Kirrawee.

The proponent has made the following commitment in the PPR:

The applicant will enter into negotiations with Sutherland Council, and use its best endeavours to enter into Voluntary Planning Agreements generally consistent with the Council resolution of detailed at Appendix 16 of the PPR, before the time of the first substantive subsequent application.

Should no VPA be entered into with Council:

EITHER, the open space proposed within the Zone 13 land in this application will be retained by the proponent made accessible to the general public in lieu of any contributions applicable to the development of the site under any subsequent application OR ordinary contributions applicable to any element of the development of the site will be levied on the relevant subsequent application for that element.

TRAFFIC

In terms of traffic, Council believes that the amended proposal still exceeds existing capacity and constraints of the site and will impact on the operational capacity of the surrounding road network. A development of this size and scale will have significant impacts on the surrounding road network which cannot be resolved through conditions of consent that attempt to address matters of detail.

Northern Precinct - Council acknowledges that for the proposal to proceed, the intersection works required by the RTA on Princes Highway are necessary to maintain existing levels of service along the Highway. However, as previously raised with the RTA, DoPI and the Applicant, it is evident that the closure of the northern approach to Oak Road will have a significant adverse impact on traffic flows and accessibility within the road network on the northern side of Princes Highway. Vehicular access into this important employment area will therefore be compromised.

Existing TMAP modelling provided by Halcrow shows that the reassignment of traffic will result in the intersection of Waratah Street and Bath Road, falling from level of service B to level of service D in the Thursday PM peak. This is an unsatisfactory situation.

Additionally -

- prohibition of some turning movements at the intersections of Munro Avenue/Oak Road and Munro Avenue/Bath Road will significantly impact on accessibility for existing businesses in these streets;
- modelling needs to be revised to include the AM peak period and removal of the left turn on the Oak Road northern approach;
- under existing conditions queues in Waratah Street often extend to beyond the Bath Road Roundabout in the AM peak;
- the impact on the intersection Waratah Street and Princes Highway also needs to be examined.

This matter cannot be satisfactorily resolved until such a time that a detailed Traffic Management Plan for the Northern Precinct is prepared that maintains existing levels of service at the intersections of Bath Road and Waratah Street and Waratah Street and Princes Highway. This should include community consultation of all affected residents and businesses and approval of the local traffic committee.

Intersection of Flora Street and Oak Road – Previous concerns about this intersection continue, particularly:

- the proposed right turn filter arrangement will result in excessive queuing during peak periods and the safety of the intersection will be compromised because sight distances are regularly affected by opposing right turn movements;
- the loss of parking in kerbside lanes particularly on the southern approach;
- the routes of large service vehicles and the impacts on the local road network, local intersections and intersections with the highway.

Parking - Onsite parking provision is considered insufficient in terms of resident parking. The loss of 67 on street car parking spaces in Flora Street has not been catered for to the full extent in the proposed parking provision. Council maintains that greater car parking requirement in the DCP is a more accurate reflection of the characteristics of car ownership and use in the Sutherland Shire.

The use of motor vehicles is likely to continue to be high in the Sutherland Shire (and this development) as any growth in local employment opportunities is very limited. Although the Sydney CBD will continue to be a major trip destination for train users the strong motor vehicle trip focus and dependence is likely to continue to employment destinations such as Sydney Airport, St George area, Bankstown and Sydney's south west.

Whilst good access to public transport may serve to reduce car travel it will not necessarily reduce levels of car ownership and the subsequent need for parking.

CONCLUSION

Council in its previous submission raised significant concern with each of the issues discussed in this report. Although some minor improvements have been included the proposal still has many unresolved difficulties.

Council is of the opinion that the modifications to the proposal fail to address Council's primary concerns with the application as raised in its submission on 9 February 2011. (A copy of council's previous submission is attached for your attention.)

On this basis, Council still maintains its strong objection to the proposal and asks that the application be refused for the reasons outlined in this submission. Particularly because the proposal –

- is of a scale and intensity that is inappropriate in the context of the Kirrawee centre;
- fails to integrate the development successfully with the existing Kirrawee centre and it serves to operate in isolation from the Kirrawee centre and surrounding residential neighbourhood; and
- includes a retail component that will result in significant impacts on the Kirrawee centre and the future of retail activities in the Sutherland centre.

Council also wishes to reiterate its position that prior to the Planning Assessment Commission determining its findings on the proposal that the Commission should also hear submissions from all interested parties.

Should you require any further information in regard to the above matters please contact Mark Adamson, Manager West Assessment Team on 9710 0623.

Yours faithfully



John Brunton
Director - Environmental Services
for J W Rayner
General Manager

cc:

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Planning Assessment Commission
GPO Box 3415
SYDNEY NSW 2001

Mark Adamson – 9710 0623
Your Ref: MP10-0076
Council Ref: DN10/0007

9 February 2011



Mr Sam Haddad
Director General
NSW Planning
23-33 Bridge Street
SYDNEY NSW 2000

Dear Mr Haddad

Reference No: MP10-0076

**Proposal: Concept Plan for Mixed Use Residential and Commercial
Development at 566-594 Princes Highway, Kirrawee Brick Pit,
Kirrawee**

Property: 566-594 Princes Highway KIRRAWEE NSW 2232

I refer to the exhibition of MP10-0076 submitted by Henroth Investment Pty Ltd seeking submissions in relation to the Concept Plan for mixed use development at the Kirrawee Brick Pit site, Nos. 566-594 Princes Highway, Kirrawee.

A review of the application has identified a number of significant shortcomings with the concept and Council wishes to raise strong objection to the proposal in its current form.

Whilst it is acknowledged that the application is a Concept Plan at this point in time, it is apparent that the fundamental approach to the project is flawed, giving rise to a number of particular issues. This submission addresses the issues that require resolution at concept stage and includes further detailed analysis of particular matters by relevant experts appended to this submission, including Council's Architectural Review Advisory Panel, Traffic and Economic Impact Review.

Council concludes that the proposal is of a scale and intensity that is inappropriate in the context of the Kirrawee centre.

The retail component is contrary to the Kirrawee Local Area Masterplan sponsored by the Department of Planning and will result in significant impacts on the Kirrawee centre and future of retail activities in the Sutherland centre.

Whilst the showroom component fronting the Princes Highway is consistent with land uses anticipated in the location, the retail use of the remainder of the proposal is of an intensity that cannot be supported.

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The overall site planning fails to integrate the development successfully with the existing Kirrawee centre and it serves to operate in isolation from the Kirrawee centre and the surrounding residential neighbourhood.

The area required for the retention of the remnant Sydney Turpentine Ironbark Forest and water feature selected by the applicant also serves to further disenfranchise the proposal from the Kirrawee shopping strip.

The scale of the highly visible residential component is anomalous with the locality and the buildings sit well above the surrounding tree canopy. The three residential towers will read as a large building from a distance, particularly given the elevation of the site and the various locations from which the site will be visible, both within close proximity and from a significant distance.

In terms of traffic, the proposal goes beyond existing capacity and constraints of the site and will impact on the operational capacity of the surrounding road network.

It is concluded that the application fails to demonstrate that the proposal represents the most suitable land use for the site and is at an intensity that is compatible with the surrounding environment. These concerns are not matters of detail but relate to the fundamental nature of the concept.

Given the significant shortcomings of the proposal and interests of the community and the local area, Council raises strong objection to the proposal currently before the Department of Planning.

Council is aware this application requires determination by the Planning Assessment Commission.

Council formally requests (Mayoral Minute No 3/10-11) that the Minister and Chairperson of the Planning Assessment Commission hold an open enquiry where residents and Council can appear before it and that Council be allowed input to every amended proposal submitted by the proponents.

1.0 Background

The main issues identified in the 2009 refusal by the Land & Environment Court of a previous application are still, in the Council's opinion, relevant to the current application. The following table demonstrates the considerable increase in the size of the development, which in Council's view is not justified for the reasons outlined in this submission.

2009 (Court Refused Application)	2010 (Current Part 3A Proposal)	Variation
250 dwellings	450 dwellings (reports) 495 dwellings (plans) *	80% increase 98% increase
6,693m ² total retail floor area of which 4500m ² is supermarket	14,340m ² total retail floor area of which 5270m ² is supermarkets + 1280m ² mini major	114% increase
4,581m ² commercial floor area (GFA)	840m ² commercial floor area (GFA)	445% reduction
0.9ha public park	0.9ha public park	Nil
927 car parking spaces	1349 car parking spaces (including 200 commuter parking)	46% increase
2-6 storey height	4-15 storey height	150% increase
1:1 Density (42,045m ² GFA)	1.52:1 Density (64,837m ² GFA)	52% increase

* The information in the applicant's submission is inconsistent.

The proposal represents a considerable increase in scale and intensity that exceeds the development previously considered by Council and refused by the Land and Environment Court. The need to consider the site's context has been overlooked as the development relates poorly to its surroundings. The applicant's reference to the height of the brick stacks on the site to justify the building height is not supported by Council and will result in a building mass and form not in keeping with its surroundings.

Council is not supportive of the building height and density proposed which is contrary to current LEP, DCP and Master plan policies for the site and region. The increase in retail floor space to the original scheme will further affect the structure of centres within the Sutherland Shire and the provision of two supermarkets would have dire consequences on the retail function of other centres and traffic flow.

As a result of the substantial increase in floor area and intensity of the development Council has identified the following issues as relevant to the proposal and requires further consideration by the Department of Planning:

- Intensity and best use of the site.
- Economic impacts.
- Impact on Kirrawee centre.
- Traffic impacts.
- Public transport capacity.
- Useability of Park/Public domain/open space and accessibility.
- Ecology.
- Context - Built form and urban design.
- Architecture and site planning.

- Strategic context, housing and economic.
- Environmental and residential amenity.
- Drainage and stormwater management.
- Heritage.

2.0 Local Area Masterplan (LAM)

The proposal fails to respond to the design objectives outlined in the Kirrawee Living Centres project established by the Department of Planning in June 2001.

The development of the Kirrawee Brick Pit was seen as a significant opportunity to achieve the Government's urban consolidation objectives and employment generation possibilities, due to its location. The Living Centres Project resulted in the creation of the 'Kirrawee Local Area Masterplan' (LAM) adopted by Sutherland Shire Council in 2003. The LAM envisaged approximately 290 new dwellings, in predominantly 3-4 storey buildings and employment floor area of approximately 10,000m².

Of the residential housing the LAM identified that the form of housing would need to meet the changing needs of the Shire's population, particularly in providing housing for older persons and people with disabilities. The LAM also identified that the proposed employment uses would support the retail strip, possibly inspiring different retail uses to evolve over the years.

The applicant states in its Environmental Assessment that "*at the time of the formulation of the LAM, population and jobs targets were not at their current levels and concepts of transit orientated development were not as clearly recognised by the NSW government in its formal policy settings. The current local planning controls are premised on the earlier planning context and the "block form" urban design principles in vogue at that time*".

However, there are number of objectives raised within the LAM document which are still relevant to the site and its context. It is considered that a number of elements of the applicant's concept plan are contrary to the basic planning principles established through the Living Centres project. The current proposal ignores the sites context and constraints and will lead to the development of an insular community turning its back on the existing neighbourhood.

The applicant's approach in preparing this Concept Plan is to justify the increase in size and scale of the development on a strategic level in that it meets a need of the Sydney metropolitan area providing much needed housing, delivering jobs and ensuring that housing is provided close to public transport.

While these are valid considerations they should not outweigh the basic planning principles established through the Sutherland Shire Local Environmental Plan 2006, Sutherland Shire Development Control Plan 2006 and the local area masterplan.

Indeed the development would still deliver much needed housing, located close to public transport, and employment opportunities even if delivered at a smaller scale. However, a smaller proposal would be more sympathetic to its immediate environment, of a scale that can be readily absorbed into the local area and part of the local area rather than an insular, isolated community.

3.0 South Subregional Strategy

The Subregional Strategy translates objectives of the NSW Government's Metropolitan Strategy and State Plan to the local level. When finalised, the South Subregional Strategy will continue to guide land-use planning until 2031 in the Sutherland area. This subregional strategy will remain a key planning tool for Sutherland Council to implement the metropolitan strategy.

In relation to employment and centres, Sutherland is recognised as a "town centre" within the subregional strategy and therefore within the hierarchy of centres serves an important subregional role. Kirrawee centre is identified within the subregional strategy as a "village" and consequently its subregional status is more limited. The subregional strategy identifies a village as follows:

"A strip of shops and surrounding residential area within a 5 to 10 minute walk contains a small supermarket, hairdresser, take-away food shops. Contain between 2,100 and 5,500 dwellings."

The applicant's proposal, if approved, would upgrade the status of Kirrawee centre to a town centre and will compromise the Subregional strategy. The current proposal, as a result of the considerable provision of retail floor space, will be contrary to the objectives of the subregional strategy and would undermine the Centres hierarchy within the Sutherland Shire.

4.0 Court Refused Scheme (DA08/0347)

In considering the current application it is important to understand the threshold tests imposed by the Court in relation to the scale and intensity of the previous proposal and the extent to which the current proposal further intensifies the issues.

The principal areas of concern expressed within the Court decision in relation to the applicant's amended proposal were largely centred on:

- a) The strategic context.
- b) Economic impact
- c) Ecological and water quality and quantity issues.
- d) Urban design and landscape
- e) Traffic.

Expert evidence was offered on behalf of both Council and the Applicant relative to these issues. In their Judgment, Commissioners Tuor and Taylor found that intensive

retail land uses such as large supermarkets were not appropriate, and the proposed retail component of the development was inconsistent with the strategic framework and the role for Zone 7 and the Brick Pit Precinct established by LEP 2006 and DCP 2006.

On this basis, the appeal was dismissed and development consent was refused.

It was also held that the proposal had the potential to impact upon the future role of Sutherland as an urban centre as well as elevating the role of Kirrawee beyond that of a local centre.

In terms of ecological impacts, the Court was not satisfied that the proposal was adequately resolved to demonstrate it would not have a significant impact on the water volume and quality, and the threatened species reliant on it, and concluded the proposal remained inadequate for approval.

In terms of traffic, notwithstanding the divergence of opinion between the traffic experts on the effect of the development on the surrounding traffic networks, the court did not specifically adjudicate on the areas of disagreement between the experts as the application before it failed on a number of other grounds. Therefore, there was no resolution of the traffic impact of the development. However, Council's experts have concluded that a development of this size and scale will have significant impacts on the surrounding road network which cannot be resolved through detailed design or conditions of consent.

Environmental Impact

Council staff and external consultants (on behalf of Council) have considered the information submitted with the Part 3A proposal and have identified a number of issues in relation to the concept plan submitted. In some cases the issues can be addressed by condition or further information but for the most part the issues are so significant that the Concept Plan cannot be supported and to do so would have major detrimental impacts on the surrounding area.

5.0 Retail and Employment Issues

5.1 Retail

The applicant seeks to justify the new proposal from a strategic and economic perspective. However, according to the conclusions of a review prepared by Don Fox Planning on behalf of Council, the applicant's study ('A Centres Study for Sutherland Shire, 2010' prepared by Hill PDA), represents an inappropriate economic outcome.

The review prepared by Don Fox Planning (Attachment "A" to the submission) concludes that the Hill PDA study contains a number of opportune inconsistencies in support of the proposal. It also concludes that the proposed development is much larger than a local centre. The scale and nature of the retail component is contrary to the Kirrawee Local Area Masterplan and could threaten the viability of both the

Kirrawee and Gympsea centres, as well as the supermarkets in Sutherland Centre. In addition, the magnitude of retail component could challenge the planned hierarchy of other area centres, which would be contrary to the metropolitan strategy.

The review also finds that some limited convenience retailing, in conjunction with mixed-use development, is warranted however, it must be of an appropriate scale. Given that the previous application was rejected by the Court and was considerably smaller, there is a strong case to not support the current proposal.

Whilst the showroom component fronting the Princes Highway is consistent with land uses anticipated in the location, the retail use of the remainder of the proposal is of an intensity that cannot be supported. Council raises strong objection to the size of the retail floor area and to the provision of two supermarkets on the site. The impact of approving such a proposal will have dire consequences for the hierarchy of centres within Sutherland and will have considerable impact on existing centres.

This site should seek to meet the demands of the immediate area and provide innovative retail options which respect the existing and future planned growth within the Sutherland Shire, and Kirrawee in particular.

5.2 *Employment*

Given the size and regional significance of the subject site, and the wider State planning directives (e.g. improving employment self-containment and matching future jobs to local skill sets), the proposed development neither aligns with the site's employment generating potential nor delivers the types of employment opportunities Sutherland Shire residents need into the future. Consequently, from an employment perspective, the subject development on the brick pit site comes with unacceptably high opportunity costs.

According to data provided by the applicant ('A Centres Study for Sutherland Shire, 2010'), once operational, the retail component of the proposed development will supply approximately 486 new, direct employment opportunities. Nearly two-thirds (i.e. 330) of these are expected to be part-time positions. While part-time retail sales jobs meet the employment needs of an important subset of the working population, on balance they do not correspond with the local skill sets or employment demands of the majority of the Shire's resident workforce as identified in the independent, 'Building Employment Opportunities in Sydney's South (2010)' study.

The remaining number of full-time retail positions delivered by this proposal represents less than 2% of the Sutherland Shire employment capacity target of 8,000 new jobs by 2031, as set in the draft South Subregional Strategy (2008). Therefore, 'employment generation' is not a credible justification for the significant increase in the retail floor space component of this proposal over the applicant's previous application.

The retail sector is currently Sutherland Shire's largest employer by industry type and, according to the applicant's own study, the proportion of retail jobs in Sutherland Shire is already greater than for the Sydney GMA as a whole. However, only 10% of the Shire's resident workforce is employed in retail sales. Local retailers must therefore recruit from outside the local government area to fill sales positions. This effectively

makes Sutherland Shire a net importer of retail workers. The scale of the retail component proposed in this development exacerbates this imbalance.

In contrast to the Shire's oversupply of retail positions relative to the resident workforce, there is a pronounced undersupply of professional and managerial employment opportunities available to Shire residents. Thirty-seven percent (37%) of the Shire's resident population is employed in professional and managerial positions. This cohort represents the largest proportion of the Shire's resident workforce. However, the majority of these workers must commute outside the Shire to their workplace. This shortage of professional employment opportunities is a major contributor to Sutherland Shire's poor employment self-containment quotient.

As the Sutherland Shire (and Australia) continues its transition to a more knowledge based economy, Sutherland Shire Council seeks to expand the provision of high-skill employment opportunities locally, thus reap the economic, social and environmental benefits of improved employment self-containment. This vision was enshrined in Sutherland Shire's Employment Strategy 2031, adopted by Council in 2009, which aims to attract new, high-quality employers to large sites that can support and are zoned for commercial office development, such as the subject site.

Whereas there was general support by Council and the Land & Environment Court for the commercial component of the previous development proposal for this site, which included 4581m² of commercial floor space. The current proposal now includes only 840m² of commercial floor space and is projected to create just 28 new white-collar jobs. (As noted above, it was the scale of the retail component that was critical in the LEC judgment). This proposal therefore makes very little contribution to achieving the objectives of Council's Employment Strategy.

For the reasons stated above, from an economic and employment perspective, Sutherland Shire Council raises objection to the subject proposal and the information used to support the employment strategy for the site. The proposal will not meet the employment needs of the community and will place additional pressure on the road network and train services by relying heavily on retail workers from outside the area. This approach does little to support a sustainable approach to development and would be contrary to Government policies which seek to limit the environmental impact of development.

6.0 Centres and Accuracy of Population Data

The Centres Study prepared by Hill PDA provides an overview of the planning framework established by the DoP, including relevant housing and employment targets to accommodate growth to 2036. However, the study does not provide an open and balanced analysis of the opportunities and constraints influencing the growth of centres within the Sutherland Shire. Instead the report promotes the development as a means to achieving some of the required growth without any real justification.

The housing targets identified within Part 3 of the Study are indicative and should not be relied upon as a conclusive figure. The report does not take into account the release of the Metropolitan Plan for Sydney 2036 by the DoP in December 2010. The Metropolitan Plan sets a revised target of 58,000 additional new homes for the south subregion by 2036. However, the Metropolitan Plan does not provide the revised target for each LGA within the subregion. As such, the target for Sutherland Shire is unclear. The study applies the same ratio applied by the Draft South Subregional Strategy although this ratio may be amended when the Strategy is updated.

The Study also discusses population forecasts and acknowledges that a target can differ significantly from a forecast. However, census population data shows that the population growth of Sutherland Shire has significantly slowed over the past two Census periods. A declining population was recorded between 2001 and 2006 of around 1,015 people (approx -0.15%) or 212,813 (Estimated Resident Population). As such, the demographic trends affecting the Shire do not appear to have been adequately considered as part of the Study submitted by the applicant.

The negative growth rate represents a population that has been stagnant and the lack of growth has had long term adverse consequences and will impact on retailers, particularly in smaller centres. There has also been a decline in dwelling occupancy rates for Sutherland Shire between the 1996 and 2006 Census. Occupancy rates declined from 2.82 persons per household in 1996 to 2.65 persons per household in 2006.

The number of single and two person households continues to increase making up 53% of the Shire's households. This is reflective of an ageing population and social changes affecting living patterns. This explains why Sutherland Shire requires more dwellings to simply meet the needs of its existing population. The Australian Bureau of Statistics projects that there will be a steady demand for more dwellings as the number of households grow, even if there is no population growth.

The Local Area Masterplan, previously prepared for the site and adopted by Council, is still relevant as it identified that the site would need to provide seniors housing to meet the needs of an ageing population. The application does not provide any indication of how this can be achieved, with poor accessibility to communal areas and little consideration to the needs of an ageing population.

There is a range of factors which may account for declining occupancy rates. Social factors; such as increasing rates of divorce, an increase in older people living alone, families having fewer children, people marrying later in life and people choosing to remain single. This trend is being experienced elsewhere in Australia and in many other developed countries.

The declining household occupancy rate means that more dwellings are needed each year to house the existing population. Council has considered a number of reports in 2008 which provide detailed information in this regard and these conclude that an occupancy rate of around 2.35 is a sound basis on which to measure a 2031 Housing Strategy.

This varies from the Study which adopts an occupancy rate of 2.71, taken from the last Census. This occupancy rate has been used to calculate revised dwelling targets and as such the revised dwelling targets contained within the Study will be greater than the number anticipated by Council on this basis.

Accommodating growth has required a review of the potential of each centre in the Sutherland Shire, particularly those serviced by railway stations. There are a number of options available to enhance housing supply by revising floor space ratios and building heights in order to deliver more dwellings within existing higher density zones. Alternatively, zone boundaries can be changed to provide more opportunities for higher density development. Council is currently in the process of determining its preferred solution from a range of options for increased residential development as part of the 2031 Housing Strategy.

Council has analysed twenty one centres and ten centres were identified as having potential for an increase in dwelling numbers, namely; Caringbah, Miranda, Sutherland, Engadine, Gymea, Jannali, Loftus, Woollooware, Como and Sylvania Heights. Kirrawee was also considered, however, it rated as medium in terms of its suitability. Therefore a decision was made to pursue additional growth in the aforementioned centres instead.

It is argued by the applicant that the proposed development is justified on the basis that it achieves relevant housing targets, however, this is not a valid justification in itself. This could be said of any major development. The study does not provide a balanced analysis of the opportunities and constraints of the site.

For the reasons outlined above the proposal is not considered to be worthy of support and would not be consistent with Council's housing strategy. The justification that this development meets the housing targets for the Shire is flawed and should not be supported. As identified, there are other strategies available to increase housing supply without overloading one precinct with such a large scale development.

7.0 Traffic Impacts

7.1 Road Network and Design

Council's Traffic Consultant (McLaren Traffic Engineering) has provided a detailed review of the Applicant's Traffic Management and Accessibility Plan (TMAP) submitted with the current Part 3A application (see Attachment "B"). The McLaren report references previous detailed assessment and outcomes that arose during the 2008 Land and Environment Court Appeal and details numerous flaws and deficiencies in the TMAP, the most significant of which are summarised below.

7.2 Traffic Generation

The TMAP uses flawed methodology, particularly with regard to the retail component, and significantly underestimates peak traffic generations. The McLaren report estimates a traffic generation of 1570 vehicle trips per hour to and from the site for the Saturday morning peak. This is approximately 50% higher than the estimated generation contained in the TMAP.

Previous traffic surveys undertaken at nearby Kareela Shopping Centre support the McLaren generation rates.

7.3 Traffic Modelling

The TMAP's analysis of existing and projected traffic conditions uses only a SIDRA model and ignores a well developed SCATES model that the Roads and Traffic Authority (RTA) used for the "Pinch Point" Corridor Modelling in July 2008. As a result the TMAP modelling lacks sufficient scope and misleadingly presents existing traffic conditions far more favourably than the RTA model and that which is regularly observed on site. As an example, The TMAP results show the intersection of Oak Road and Princes Highway currently operating at a Level of Service C (Satisfactory) in the PM peak and Level of Service D (Near Capacity) in the AM peak. The 2008 RTA results establish that the intersection is actually operating at Level of Service D (Near Capacity) in the PM peak and Level of Service F (Requires Additional Capacity) in the AM peak.

The McLaren report calls for the Applicant to undertake both SCATES and Microsimulation modelling for existing and projected traffic conditions across a wider area using revised traffic generations rates.

7.4 External Traffic Impacts

Due to the inadequacies of its traffic modelling outlined above, The TMAP fails to address the likely traffic impacts on the road network. It also makes misleading comments with regard to the need for previously established works required by the RTA in the event of an approval as part of the assessment of the previous Land and Environment Court Proposal.

These works included:

- Reconfiguration of the Oak Road/Princes Highway intersection including a half road closure prohibiting all southbound traffic in Oak Road on its northern approach to the Highway.
- Construction of Traffic Signals at the Bath Road/Princes Highway intersection with left in/left out movements only to and from the Highway on both Bath Road approaches.

In this regard it should be noted that these works were required as a means to maintain existing service levels along Princes Highway. However, it is evident that they may have a significant adverse impact on traffic flows and accessibility within Council's road network on the northern side of Princes Highway. They will require changes including prohibition of some turning movements at the intersections of Munro Avenue/Oak Road and Munro Avenue/Bath Road and increased capacity at the intersection of Waratah Street and Bath Road.

Previous modelling of the latter intersection indicates that increased capacity cannot safely be achieved without prohibiting right turn movements from Waratah Street into Bath Road during peak periods under traffic signal control. Other intersections such as Bath Rd/The Boulevarde and Waratah Street/Princes Highway may also be affected. In the event of an approval, these changes should not be thrust upon

Council and the community in order to maintain existing service levels on the Princes Highway as a result of the proposed development without community consultation and adequate investigation and funding from the Applicant.

The McLaren report also raises concerns with regard to increased traffic movements and the need for traffic calming measures in Flora Street, Clements Parade, Avery Avenue and Oak Road.

It also takes issue with SIDRA modelling and the design of the proposed traffic signals at the intersection of Flora Street and Oak Road. It would appear that the modelling is flawed in that it uses incorrect cycle times and has not allowed for increased pedestrian demand resulting from the proposed development. The signalised layout may also require widening of the road carriageway and/or loss of parking in both Oak Road and Flora Street. Input data for the modelling needs to be provided as well as a concept design to determine required changes to the road alignment and parking.

7.5 Access and Egress

Major safety and traffic management concerns are raised with the left in/left out entry/exit to Oak Road and its proximity to the intersection of Princes Highway and proposed left turn slip lane.

Access and egress, including internal and external swept path analysis, has not been adequately investigated with respect to heavy vehicles servicing the site.

7.6 Parking

Onsite parking provision is considered insufficient in terms of resident parking and car wash bay provision. In addition, the loss of 67 on street car parking spaces in Flora Street has not been catered for in the proposed parking provision.

7.7 Internal traffic and Parking layout

The McLaren report raises a number of concerns with the internal layout including:

- The concentration of four (4) vehicle access directions at the first basement level for traffic entering from Oak Road.
- The capacity of proposed exit lanes to cater for peak traffic volumes.
- Pedestrian/cyclist and heavy vehicle/standard vehicle conflicts at the Flora Street entry/exit.
- Loading dock capacity and functionality.

7.8 Public Transport Integration

It is noted that the TMAP provides no assessment of the rail and bus network for existing and projected passenger demands.

Based on the report prepared by Council's Traffic Consultant, McLaren Engineering (see Attachment "B") and the assessment of Council staff the following conclusions are made with regard to traffic impacts likely to arise from the current Part 3A application.

- a) The current proposal represents significant overdevelopment of the subject site and if allowed to proceed will result in major adverse traffic impacts to the surrounding road network.
- b) Poor design associated with access and egress to and from the site and the internal road and parking layout and servicing arrangements will create significant traffic safety and traffic management issues.
- c) The applicant's Traffic Management and Accessibility Plan is fundamentally flawed in its analysis of existing traffic conditions and calculation of additional traffic generation arising from the proposal and should be rejected by the Roads and Traffic Authority and Department of Planning.

8.0 Public Transport

8.1 *Increase in Public Transport Demand*

RailCorp 2008 Census based data for the Sydney Metropolitan Area shows that mode share to rail can be as high as 35% when residents live within 500m of a rail station. This is 30% higher than the mode share to rail across the Sydney Metropolitan Area and the Sutherland Shire which both have a mode share to rail of 5%.

In the Sutherland Shire mode share to car is 78% (2008), 6% higher than the Sydney Metro Area. It is therefore considered that the trips generated from the development will be proportionally higher than the Sydney average. Taking into consideration the 35% mode share to rail it is estimated that the trips generated for the 2 and 3 bedroom units would on average be 0.30 and 0.38 trips per unit in the peak respectively, which is higher than the estimated 0.29 suggested in the applicants report.

The use of motor vehicles is likely to continue to be high in the Sutherland Shire (and this development) as any significant growth in local employment opportunities is very limited. Although the Sydney CBD will continue to be a major trip destination for train users the strong motor vehicle trip focus and dependence is likely to continue to employment destinations such as Sydney Airport, St George area, Bankstown and Sydney's south west.

8.2 *Train Loadings*

State Rail Data 2008 indicates that the average loading on trains from Cronulla to Sutherland is 130% (passengers as a % of seat capacity) during the peak hour and 105% over the peak period. The 130% loading is close to the optimum operational efficiency loading of 135% prescribed by CityRail though a maximum of 160% is possible but subjects passengers to a high level of discomfort and is operationally inefficient.

Since October 2010 six (6) services per hour have been provided during the peak hour (7am to 8am) and 4 trains per hour during the shoulder periods due to the rail duplication. Assuming a fleet of 8 set Tangara trains during the peak hour loaded at 130% this would approximate 1,092 passengers per train comprising 840 passenger seated and 252 passengers standing per train (1008 during the peak) by the time the train reaches Sutherland.

Although the two (2) additional peak services provide additional capacity of 1680 extra seats, the impact of the Brick Pits development on the train loadings will be dependent upon a variety of the factors and distribution of trips made. Until data becomes available from CityRail with regard to train loadings and additional services due to the rail duplication the impact from the Brick Pit development can only be speculative.

The new express services for example will be more attractive, but will also attract high passenger loadings, the additional 285 to 295 passenger trips generated from the development will only further contribute to the congestion experienced in that case. In the absence of any recent post rail duplication data it is also not known how many additional trips have been attracted to rail.

The additional two (2) trains per hour provides seating for 1680 passengers and assuming no major development along the rail line and mode share increase to rail between Cronulla and Sutherland and an even distribution of trips made there is sufficient capacity to cater for the demand.

During the peak period at 6:00am to 9:30am, approximately 640 passengers currently catch the train and 150 alight from trains at Kirrawee, the additional passengers are likely to be easily catered for at the station, which has recently been upgraded as part of the rail duplication works.

Rail Trips generated by the commercial and retail activity proposed on the site is unlikely to attract a much higher mode share of employee trips to rail that generally exists at 5 to future estimate of 8% of trips. This is unlikely to have any significant impact on train capacity.

8.3 *Bus Use*

Veolia Bus services are provided on the Princes Hwy that link Padstow, Sutherland, Miranda and Cronulla. Bus frequencies range from 15 to 20 minutes during the peak. It is unlikely that any major increase in mode share is likely as many of the key employment destinations (other than Westfield and Sutherland Hospital) are on the bus route. No express Metro Bus has been proposed for this area that could support greater mode shift.

8.4 *Commuter Car Park*

Kirrawee railway station is ideally suited as a park and ride station in comparison to Sutherland which has a much stronger regional public transport/bus rail focus.

It is likely that the commuter car park will help to induce additional trips to rail from the surrounding catchment. However, because of its close proximity to residential parking there is a strong danger that it may also induce residential parking (e.g. cars displaced by garages that are being used for storage) and/or encourage greater residential vehicle ownership (it serves as additional car parking space(s), or being used by employees from the town centre and new retail, commercial development). This could lead to a greater number of car trips being generated from the site, commuters being excluded.

It is important that measures will need to be applied at the commuter car park that discourages resident and local employee use.

9.0 Proposed VPA – Commuter Car Park

The applicant has volunteered to enter into a VPA with RailCorp for the construction of a commuter car park below the surface of the proposal. It is proposed that RailCorp will take full ownership, management and control of the car park upon its completion. At this point in time Council has not been made aware of the negotiations between the parties.

In considering the impacts of the proposal on the Kirrawee centre and its surrounds, it is concluded that the provision of a commuter car park is of little benefit in the location proposed and is likely to result in users having a greater reliance on the retail opportunities within the development site than the Oak Road shopping strip.

There is no demonstrated need for a commuter car park in Kirrawee. Presently commuters use the car park adjacent to the railway station and surrounding streets. The proposed entrance to the car park is over 350 metres away from the station, notwithstanding negotiating the basement parking arrangement. The car park serves only to attract commuters and others directly to the development site.

Convenience purchases between the station and the car park are most likely to be made in the new centre and within close proximity to parked vehicles. It will not serve to reinforce retail activity in the existing centre, it is likely to result in a far stronger focus on the development site. On this basis, the commuter car park is seen to have no demonstrable benefit to the Kirrawee centre.

In addition, should RailCorp not accept the VPA for the provision of a commuter car park it is likely that the developer will absorb the 200 car parking spaces into its development. It is unlikely that would reduce the scale of the development should the commuter car park not be taken by Railcorp. The outcome is likely to be that the traffic from the further 200 car parking spaces will be added to the surrounding streets. While commuter car parking would generate more movements on the road network in the morning and evening peak, the provision of 200 additional parking spaces, absorbed into the development, is likely to add increased traffic movements to the road network throughout the day.

These traffic movements have not been accounted for in the TMAP and would further exacerbate the traffic problems likely to be experienced in the area should the development be approved. Council contends that should the commuter car parking spaces not be accepted by RailCorp, they should be removed from the Concept Plan altogether, to ensure that they are not added to the development at a later stage with further detrimental impacts on the road network.

10.0 Useability of Park/Public Domain and Accessibility

An area of 9000m² in the south-west corner of the site is zoned 13 Public Open Space in SSLEP 2006. Council's intention in zoning the land public open space was to develop a town centre park for use by shoppers and workers in the Kirrawee shopping strip and to provide an accessible public park for the occupants of the large unit complexes west of Oak Road and the occupants of the development.

The area can function as a town centre park only if direct access is provided between the park and the town centre. Such an access would necessarily be located at the corner of Oak Road and Flora Street. In the existing design the access to the proposed public open space is poor. The park as shown in the applicant's Landscape Concept Plan will serve the customers of the proposed commercial and retail outlets within the development and the occupants of the proposed residential development, however, it will provide limited benefit to the general public.

In view of this Council cannot accept the public open space and is instigating measures to change zoning to remove Council's compulsion to acquire the land as it is currently not in the public interest or to the public benefit.

Council's vision for a public park within the Brick Pit site is that it will become a sustainable, easily accessible, highly visible and safe public open space providing all members of the community with space and facilities for passive recreation. However, the current proposal for the public open space does not meet these requirements.

Council has previously stated that, to address the maximum number of users and to give the park a significant presence, the entry to the park should be on the corner of Oak Road and Flora Street. This issue has not been addressed as the main entrance does not adequately service users in the broader community.

The current design has unresolved issues with access, surveillance, environmental implications and the private open space nature of the reserve as well as ongoing maintenance costs above those of a normal park. It is concluded that the park will be an extension of the development rather than a public park and as such it will be an asset for the proposed development but a liability for Council if it were to assume ownership of the park.

Based on this assessment Council will require that the park remain under the applicant's ownership and control. Council has indicated its willingness to evolve the park design further with the applicant although this has not been achieved. The application therefore fails to provide a useable area of open space for the public at large and consequently the layout and design of the park will further disenfranchise this development from the existing community.

11.0 Ecology

Background

The previous development application for the subject site raised a number of environmental issues which in turn formed important components of the LEC judgement. The main concerns centred around the presence of remnant Sydney Turpentine Ironbark Forest (STIF) located across the western and southern portions of the site and the impacts upon two threatened bat species known to utilise the existing pond as a water resource and impacts associated with potential contamination on the site as a result of the previous use of the site. These issues formed an integral component of the previous court case and therefore are ones which are once again pertinent to the application at hand.

Serious concerns are raised specifically in relation to the creation of a suitable habitat pond and the subsequent impacts upon the two threatened bat species which rely upon the pond as a water source.

Overall, the majority of environmental issues associated with the proposed development of the brick pit site have either been adequately resolved or can be resolved through the imposition of conditions of consent. Some uncertainty still remains regarding an agreed water quality standard for the proposed habitat pond. Until it can be demonstrated that suitable quality can be maintained in the pond, the proposed water quality standards cannot be supported.

The detailed environmental assessment is provided in Attachment "C" of this report. However, it should be noted that Council is concerned that the Concept Plan does not demonstrate that suitable water quality standards can be met and therefore the proposal should not be supported.

12.0 Built Form and Urban Design

The information submitted with the Part 3A proposal has been reviewed by Council's Architectural Review Advisory Panel (ARAP). The Panel concluded that the proposal has little relationship to its surroundings, would compromise the existing retail centres and would result in a poor urban design outcome for the site and locality.

The retail component is buried in the middle of the site, is not visible from or easily accessible to the surrounding retail and residential areas and the residential component and its circulation are not clearly legible, nor do they connect with any clear address.

Further, the traffic network within the site ignores the broader network beyond the site.

The location of the simple linear building forms on Flora Street and Princes Highway are considered a reasonable response to the site. However, extending buildings further along Flora Street to the west would create the opportunity for the proposed retail to form a stronger link with the existing shopping centre. Breaking down the buildings into smaller forms along Flora Street is also recommended.

The orientation and massing of the three (3) residential towers (A, B and C) are considered inappropriate. The three (3) building forms will read as a large building mass when approached from a distance. Individually the buildings are bulky but the angular relationship between the buildings will exaggerate this bulk.

The Panel in its report concluded:

"The current proposal is too dense; forms no clear connection to the existing retail centre or nearby residential neighbourhoods; and lacks a clear access, circulation and servicing strategy. Rather than being designed so that it will integrate into the neighbourhood and enhance its overall quality, the development is designed to operate as an island principally accessed by motor vehicle. This fundamental concept is not supported. There should be a desire to embrace Kirrawee; whereas the current proposal seeks to create a residential enclave.

The three (3) residential towers are poorly proportioned and inappropriately located. It is recommended that if a taller building is acceptable, it should be a single tall slender tower located on the perimeter of the site and all other built forms should be significantly lower. To improve SEPP No. 65 performance, the footprint of each residential building should be smaller.

Unsupported by a clear design philosophy and rationale, the 'finger' planning concept for tall central buildings appears to create far more site planning issues (and ultimate construction and sustainability issues) than it resolves.

The development of an appropriate strategy that responds to the constraints and opportunities of the site, as clearly identified in a comprehensive site analysis, is strongly recommended.

As the proposed park falls short of what should be provided as public open space, Council should decline the offer for this land to be dedicated and acknowledge that the space will provide a valuable outdoor area to enhance the character of the proposed retail development."

The issues addressed by ARAP are particularly relevant to the assessment of this proposal and are appended to Council's submission in Attachment "D".

Council concludes that the basic layout and design of the development is poor and acceptance of this Concept Plan will endorse a development which cannot achieve a high quality design outcome envisaged by SEPP65 'Design Quality of Residential Flat Development'. The applicant should have closer regard to the principles of good design and the design guidelines set out in the Residential Flat Design Code to ensure a high quality development.

The current proposal fails on many levels to deliver a good quality concept design for the site and locality. The proposal bears little relationship to its context and will turn its back on the surrounding neighbourhood to the detriment of Kirrawee centre and the broader community.

13.0 Proposed VPA - Open Space Sutherland Shire Council

The location of the STIF, proposed water body and the car parking beneath the area of open space significantly reduce the space available for a suitable open space area for genuine public recreation. The proposed park area has a poor address, poor access and poor accessibility.

The applicant is offering to enter into a voluntary planning agreement (VPA) with Council for the construction and dedication of a 9,000m² park in lieu of any developer contributions.

The proposed development is subject to three section 94 contribution plans - two traditional plans and one levy plan. The plans generate a contribution ranging from \$2.38 million to \$4.3 million. A contribution in the order of \$4 million from the traditional plans is likely.

The developer (in consultation with Council officers) drafted some principles for the design and delivery of the proposed park. In particular, it was noted that the public park should provide opportunities for a variety of active and passive recreation activities for residents of the development and the general community.

At this stage there are significant issues with the design of the park in terms of limited pedestrian access, visibility and security, and the level of the park is lower than the street level. The park as designed, functions largely as a building forecourt to the development. At this point in time it is concluded that there is little demonstrable benefit in the park, with all the associated ongoing obligations to Council and minimal genuine public benefit.

It should be noted that on the 23 August 2010 Council resolved:

2. That in order to ensure that public open space on the Kirrawee Brick Pit site is positioned in the most appropriate location and designed to provide a high quality urban park for the enjoyment of the community:

- (a) there is no longer a need for Council to acquire approximately 9000 sq metres of land located in the south western corner of Lot 2 DP 589977, 566-594 Princes Highway, Kirrawee and designated by the zoning of Public Open Space in Sutherland Local Environmental Plan 2006, and*
- (b) an alternative proposal be formulated by the Director Environmental Services to ensure that a superior piece of public open space will be provided on the site through either a contributions plan, prepared under s94 or s94A, or a voluntary planning agreement.*

The owners have been advised accordingly (letter dated 31 August 2010). Subsequently, several meetings were conducted to explore alternative proposals and to establish principles for creating a park which would deliver community benefits. This information is detailed in the application but there has been no material improvement in the park design.

Council has given the owner a written undertaking of its best endeavours to remove the relevant reservations and written notice that the land is no longer designated by that authority for future acquisition. On the 11 October 2010 Council resolved to formally remove Kirrawee Brick Pit from the acquisition list in the S94 Plan - 2005 Shire Wide Open Space and Recreation Facilities.

A separate report seeking to rezone the land currently zoned Zone 13 – Public Open Space to Zone 7 – Mixed Use (Kirrawee) was considered by Council at its meeting of 31 January 2010 (EAP102-11) where it resolved that:

- 1. That part of 566-594 Princes Highway, Kirrawee (the Kirrawee Brick pit site) Lot 2, DP 589977 currently zoned Zone 13 – Public Open Space be rezoned to Zone 7– Mixed Use (Kirrawee) as shown in the attached Map in Appendix A.*
- 2. That the Planning Proposal contained in Appendix B be endorsed and submitted to the Director General of the Department of Planning for gateway consideration as a standalone planning proposal (SSLEP 2006 - Amendment No. 11) in accordance with Section 55 and 56 of the Environmental Planning and Assessment Act 1979 and the relevant regulations.*
- 3. That the public utility of the proposed public park is significantly compromised by the concept design put forward in the Part 3A concept. Specifically the future public utility and public benefit of the proposed open space is far less than anticipated because:*
 - the finished level of the park is significantly below what was anticipated when the Kirrawee Masterplan was developed.*
 - the scale of the ornamental lake reduces useable recreational space.*
 - the difficulty in ensuring the lake retains adequate water quality to provide a suitable water source for endangered flying foxes, particularly given its proximity to the shopping centre forecourt;*
 - lack of general storm water management considerations resulting in unknown ongoing maintenance costs.*
 - the lack of space for active recreational activities.*
 - the extremely limited connectivity of the proposed park to the Kirrawee village due to the topography of the parkland and level changes.*
 - public liability and safety issues associated with the gradients proposed and the level of public surveillance.*

This resolution confirms Council's commitment to remove the public open space zoning from the site and to seek S94 Contributions in lieu of any voluntary planning agreement.

14.0 Drainage and Stormwater

The Concept Plan has been considered by Council's Stormwater Manager. The following comments are extracted from the detailed response which is included as Attachment "E" to this submission.

Background

The existing 43,000m² (approximate) site is not serviced by the public drainage network. The undeveloped site drains internally to the brick pit. The proposed development will result in the need to discharge large quantities of urban stormwater and groundwater off-site. Some of the downstream drainage systems are already subject to flooding and water pollution under existing conditions. The proposed development has the potential to exacerbate flooding and water pollution affecting both public and private assets.

Concept Stormwater Management Plan

The stormwater management plan being contemplated by Northrop is largely based on the principles of Water Sensitive Urban Design (WSUD), generally consistent with SSDCP 2006 and current urban design 'best practice'. The plan recommends that the generation of stormwater from the proposed development is minimised, reused on-site for beneficial purposes and treated through primarily natural processes prior to discharge off-site. It should be emphasised that the stormwater management plan is strictly of a conceptual nature with few details or designs to demonstrate its viability.

Whether or not the components of the plan can be integrated into the overall urban design of the proposed development without the necessity to make major changes is largely unknown. Therefore, the Department of Planning can have little confidence that the concept stormwater management plan can actually be achieved and the necessary outcomes realised. In terms of water quality, a particular concern for the drinking habits of the Grey Haired Flying Fox, the applicant has also failed to adequately demonstrate how an appropriate level of water quality can be achieved and maintained in the ornamental water body.

15.0 Heritage

The proposed concept plan for the development of the former Brickpit site at Kirrawee has more opportunities for an acceptable conservation of the heritage significance of the site than previous schemes but lacks a concise and detailed document to address conservation/maintenance works and interpretation issues.

The proposed works are of a scale and bulk that is not consistent with the history of the site and strong interpretation and display strategies shall be put in place to ameliorate the loss of context.

The documentation provided is incomplete and does not provide information on the actual conservation works proposed for the site but only the general policies for its management. A detailed works schedule would need to be prepared and approved before works commenced.

A copy of the full heritage assessment by Council's Heritage Architect is included in Attachment "F" of this submission.

16.0 Conclusion

The proposal before the Department of Planning is of a scale and intensity that is inappropriate in the context of the Kirrawee centre and Kirrawee generally.

The retail component is contrary to the Kirrawee Local Area Masterplan and will result in significant impacts on the Kirrawee centre and future of retail activities in the Sutherland centre. It does not expand the range of retail opportunities or satisfy customer needs.

Whilst the Showroom component fronting the Princes Highway is consistent with land uses anticipated in the location, the retail use of the remainder of the proposal is of an intensity that cannot be supported.

The overall site planning fails to integrate the development successfully with the existing Kirrawee centre and it serves to operate in isolation from the Kirrawee centre and surrounding residential neighbourhood.

The area required for the retention of the remnant Sydney Turpentine Ironbark Forest and water feature selected by the applicant also serves to further disenfranchise the proposal from the Kirrawee shopping strip.

The scale of the highly visible residential component is anomalous with the locality and the buildings sit well above the surrounding tree canopy. The three residential towers will read as a large building from a distance, particularly given the elevation of the site and the various locations from which the site will be visible, both within close proximity and from a significant distance.

In terms of traffic, the proposal goes well beyond its capacity and constraints and will impact on the operational capacity of the surrounding road network.

Whilst a number of matters may be resolved by design changes at later development application stage the fundamental issues that arise remain.

The numerous shortcomings of the development are symptoms of a proposal that is fundamentally flawed. Most particularly, its inability to relate to the Kirrawee centre and surrounding neighbourhood, the predominant retail land use and its intensity, overall scale and poor site planning. These failures relate directly to the submitted concept.

Council is of the opinion that the application fails to demonstrate the most suitable land use for the site and is at an intensity that is incompatible with the surrounding environment.

Given the significant shortcomings of the proposed Concept Plan Council raises strong objection to the proposal and would ask that the application be refused for the reasons outlined in this submission. Prior to the Planning Assessment Commission determining its position on the proposal Council submits that the Commission should hear submissions from all interested parties.

Should you require any further information in regard to the above matters please contact Mark Adamson of Council's Environmental Services Division on 9710 0623.

Yours sincerely

John Brunton
Director – Environmental Services
for
J W Rayner
General Manager