

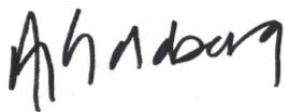
# Modification of Minister's Approval

## Section 75W of the *Environmental Planning & Assessment Act 1979*


As delegate of the Minister for Planning under delegation issued on 14 September 2011, the NSW Planning Assessment Commission approves the modification application referred to in schedule 1, subject to the conditions in schedules 2 and 3.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.



**Abigail Goldberg**  
MEMBER OF THE COMMISSION



**Annabelle Pegrum AM**  
MEMBER OF THE COMMISSION

Sydney

30 January 2015

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### SCHEDULE 1

<b>Application Number:</b>	MP10_0076
<b>Proponent:</b>	Sutherland & Associates
<b>The Authority:</b>	Minister for Planning
<b>The Land:</b>	Kirrawee Brick Pit, 566-594 Princes Highway, Kirrawee
<b>Concept Approval:</b>	Kirrawee Brick Pit Concept Plan granted on 23 August 2012 by the Planning Assessment Commission
<b>Project:</b>	Mixed use retail/commercial and residential development and associated public open space
<b>Modification:</b>	<p><b>MP 10_0076 MOD 3:</b> modification includes:</p> <ul style="list-style-type: none"><li>• 24,265m<sup>2</sup> increase of GFA (from 60,735m<sup>2</sup> to 85,000m<sup>2</sup>), comprising:<ul style="list-style-type: none"><li>• 69,310m<sup>2</sup> of residential;</li><li>• 14,190m<sup>2</sup> of retail/commercial (including 4,740m<sup>2</sup> supermarket and 1,450m<sup>2</sup> discount supermarket); and</li><li>• 1,500m<sup>2</sup> community facility.</li></ul></li><li>• reduction of the total number of building envelopes from nine to seven and reconfiguration and amendment of building envelope locations, footprints, heights, separation distances and setbacks;</li><li>• amended construction staging and timing of the delivery of the open space; and</li><li>• removal of the car parking cap and imposition of car parking rates.</li></ul>

The Concept Plan for MP10\_0076 is modified as follows:

## SCHEDULE 2 TERMS OF APPROVAL PART A – ADMINISTRATIVE CONDITIONS

- (a) Term of Approval A1 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold struck-out~~** words/numbers as follows:

### A1 DEVELOPMENT DESCRIPTION

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

- a) Use of the site for a mixed use development with associated public open space;
- b) Indicative building envelopes for **9 7** buildings to a maximum height of 14 Storeys;
- c) **60,735 85,000**m<sup>2</sup> of Gross Floor Area, comprising **45,505 68,310**m<sup>2</sup> of residential (**432 749** dwellings) and **15,230 14,190**m<sup>2</sup> of retail/commercial floor space (including **3,900 4,740**m<sup>2</sup> supermarket and **1,470 1,450**m<sup>2</sup> discount supermarket) **and 1,500m<sup>2</sup> community facility**;
- d) Basement level, ground and above ground car parking;
- e) Road layout to support the development;
- f) Public pedestrian and cycle pathway;
- g) Public park with lake and surrounding forest; and
- h) Landscaping areas throughout the site.

subject to compliance with the modifications of this approval.

- (b) Term of Approval A2 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold struck-out~~** words/numbers as follows:

### A2 DEVELOPMENT IN ACCORDANCE WITH THE PLANS AND DOCUMENTATION

The development shall be undertaken generally in accordance with:

- the Environmental Assessment dated December 2010 prepared by City Plan Services, except where amended by the Preferred Project Report dated 4 November 2011 including all associated documents and reports;
- the Revised Statement of Commitments prepared by Sutherland & Associates Planning Pty Ltd, dated October 2013; and
- Section 75W Modification to Concept Plan MP 10\_0076 MOD 2, prepared by Sutherland & Associates, dated October 2013 (as amended February 2014);
- **Section 75W Modification to Concept Plan MP 10 0076 (MOD3), prepared by Sutherland & Associates, dated November 2013 as amended by Response to Submissions dated July 2014 and Response to Department of Planning & Environment Correspondence dated 3 September 2014; South Village Kirrawee – Quality of Sunlight – New Parkland, Rev 1 dated 24.12.14 prepared by Turner, Letter from IONIC to the Planning Assessment Commission dated 22 January 2015;**
- **The draft Voluntary Planning Agreements prepared by Gadens Lawyers (reference 21009015.1 DTSDTA (community benefits) and 20497267.1 DTSDTS (biodiversity offset)); and**
- the following drawings:

Architectural Drawings prepared by Woodhead-Turner			
Drawing No.	Revision	Name of Plan	Date
<b>0040</b>	<b>B</b>	<b>Site Plan</b>	<b>19/10/11</b>

0041	B	Landscape Plan	19/10/11
0100	B	Typical Top Level Residential Floor Plan	19/10/11
0110	B	Typical Residential Floor Plan	19/10/11
0120	B	Upper Ground Floor Plan	19/10/11
0130	B	Lower Ground Floor Plan	19/10/11
0140	B	Basement 1 Plan	19/10/11
0150	B	Basement 2 Plan	19/10/11
0160	B	Basement 3 Plan	19/10/11
0180	B	Floor Plans Buildings A to C – Sheet 1	19/10/11
0180A	B	Floor Plans Buildings A to C – Sheet 2	19/10/11
0181	B	Floor Plans Building D1, D2, E	19/10/11
0182	B	Floor Plans Building F, G & H	19/10/11
0190	B	Roof Plan with indicative plant rooms	11/05/12
0300	C	Indicative Sections East West (Masterplan)	15/05/12
0301	C	Indicative Sections North South (Masterplan)	15/05/12
0500	B	Indicative Elevations North & South	04/10/11
0501	B	Indicative Elevations West & East	04/10/11
0600	C	Indicative Staging – Lower Ground Stage 1	31/10/13
0602	B	Indicative Staging – Upper Ground Stage 1	19/10/11
0603	B	Indicative Staging – Upper Ground Stage 2	19/10/11
0604	B	Indicative Staging – Upper Ground Stage 3	19/10/11
<u>A-SK-700-001</u>	<u>M</u>	<u>Envelope Plan Diagram</u>	<u>05/01/15</u>
<u>A-SK-700-002</u>	<u>N</u>	<u>Envelope Elevation Diagrams</u>	<u>22/01/15</u>
<u>A-SK-700-003</u>	<u>N</u>	<u>Envelope Elevation Diagrams</u>	<u>22/01/15</u>
<u>A-SK-700-004</u>	<u>M</u>	<u>GA Plans – Illustrative Staging Plan</u>	<u>22/01/15</u>
<u>A-SK-700-005</u>	<u>L</u>	<u>Envelope Plan Basement</u>	<u>23/09/14</u>
<u>13066-S75W 07</u>	<u>B</u>	<u>STIF Comparison Plan</u>	<u>August 2014</u>

except for as modified by the following pursuant to Section 75O(4) of the Act.

- (c) Term of Approval A4 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold struck out~~** words/numbers as follows:

#### A4 MAXIMUM GROSS FLOOR AREA

The development of the site for a mixed use development shall have a maximum Gross Floor Area of **60,735 85,000**m<sup>2</sup>, including a maximum of **15,230 15,690**m<sup>2</sup> of non-residential floor space. (Note: Above ground parking area is not included in the total GFA).

- (d) Insert a new Term of Approval A4A after Term of Approval A4 as follows (**bold and underlined**):

**A4A DWELLING CAP**

**Future Development Applications shall provide for a total number of dwellings up to a maximum of 749 across the Concept Plan site.**

**Future Development Applications shall include a projected dwelling forecast for each remaining stage demonstrating that the total dwelling numbers will adhere to the dwelling cap.**

- (e) Term of Approval A5 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold struck out~~** words/numbers as follows:

**A5 BUILDING HEIGHT**

Roof heights on the site shall not exceed the levels (RL's) as identified on Concept Plan Drawings ~~0300 and 0301~~ prepared by **Woodhead Turner Architects**, dated ~~15 May 2012~~ **22 January 2015**. Parapets, lift over-runs, vents, plant rooms, chimneys, aerials (of whatever type), rooftop gardens ~~and trees~~, etc, above the habitable roof heights shall not exceed the levels (RL's) as identified on Drawings ~~0190~~ **listed in Term of Approval A2.**

- (f) Term of Approval A6 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold struck out~~** words/numbers as follows:

**A6 BUILDING ENVELOPES, FORM, SOLAR ACCESS AND SEPARATION**

Building footprints and setbacks are to be generally consistent with the Concept Plan diagrams **listed in Term of Approval A2**, except where amended by the Department of Planning and Infrastructure's Modifications in Part B, **Schedule 2**. Future development **application(s)** should be consistent with the provisions of the Residential Flat Design Code except where amended by the Department of Planning and Infrastructure's Modifications in Part B.

- (g) Term of Approval A7 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold struck out~~** words/numbers as follows:

**A7 ROADWAYS**

New roadworks and internal roads are to be provided in accordance with the Concept Plan, and associated documents, set out in Drawings ~~0040 & 0130~~ **A-SK-700-001** prepared by **Woodhead Turner Architects**, ~~23 September 2014~~ **19 October 2014** ~~and the Traffic Management and Accessibility Plan prepared by Halcrow Pacific Pty Ltd dated 27 October 2011 (Version 4)~~, and as amended by the Future Assessment Requirements in Schedule 3.

- (h) Term of Approval A11 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold struck out~~** words/numbers as follows:

**A11 PUBLIC PARK**

The development application for ~~the first substantive~~ stage **2A** of the development must ~~provide for~~ **include** the design, management and tenure of the public park on the land ~~within Zone 13~~ **shown as 'new park' on drawing A-SK-700-005 listed in Term of Approval A2.**

The public park must:

- a) Be designed ~~by a qualified landscape architect and generally in accordance with the plans and documents referred to in Condition A2; and in consultation with the Council;~~
- b) Include a lake, which can be located as shown on Drawing 13066-S75W07B (dated August 2014) or in a location agreed by Council;
- c) Provide for the conservation of the Sydney Turpentine Ironbark Forest; and
- d) Be publicly accessible; ~~and~~
- e) Include high quality hard and soft landscaping and paving areas and a variety of recreation facilities;
- f) Be contiguous with and accessible from the public domain
- g) Include a Vegetation Management Plan that is consistent with NSW Office of Water's Guidelines for vegetation plans on waterfront land; and
- h) include future management requirement and an implementation program.

~~The public park may be provided in accordance with the terms of a planning agreement offered by the proponent and the subject of a Council resolution referred to in Appendix 16 of the Preferred Project Report.~~

- (i) Insert a new Term of Approval A11A (Voluntary Planning Agreement) after Term of Approval 11.

#### **A11A Voluntary Planning Agreement – Community Benefits**

The proponent shall enter into a Voluntary Planning Agreement (VPA) with Sutherland Shire Council prior to the release of the first Occupation Certificate for the first substantive development application. The VPA shall be generally consistent with the draft VPA prepared by Gadens Lawyers ((reference 21009015.1 DTS DTS) and Council's comments in its letter to the PAC (attached as Appendix 1 to the PAC determination report dated 30 January 2015) to provide for:

- a) construction, embellishment and dedication of public open space as shown as 'new park' on drawing A-SK-700-005
- b) construction and dedication of a 1,500m<sup>2</sup> community facility;
- c) monetary contribution towards the beautification of Kirrawee Shopping Precinct (between Flora Street and Kirrawee Station); and
- d) monetary contribution towards the upgrade of Oak Road (between Flora Street and the Princes Highway).

## **SCHEDULE 2 PART B – MODIFICATIONS**

- (j) Modification B1 (Building Envelope and Separation Modifications) is deleted.
- (k) Modification B2 (Development Design) is deleted.
- (l) Insert a new Modification B2A as follows (**bold and underlined**):

#### **B2A BUILDING ENVELOPES 'E' AND 'F'**

**Future development application(s) shall provide a minimum 3 metre setback to the 7<sup>th</sup> storey of building envelopes E and F fronting Flora Street to achieve an appropriate scale of development.**

- (m) Modification B4 (Car Parking) is deleted.

### SCHEDULE 3 FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS

- (n) Future Environmental Assessment Requirement 1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~bold struck out~~ words / numbers as follows:

1. **LANDSCAPING**

~~Future applications shall include detailed landscape plans demonstrating that sufficient soil depth can be provided for landscaping, particularly along street frontages and over podium/basement levels~~

**A landscape master plan must be submitted with the first substantive development application. The plan must be prepared in consultation with Council by a qualified landscape architect. The design and treatment of the public areas shall complement the landscape design of the public park.**

**The plan shall:**

- a) detail the proposed hard and soft landscape treatment of all public and private open space areas, street setback areas, internal roadway, areas adjacent to existing public roads;**
- b) include future management requirement for both public and private open spaces and the management regime for the private open spaces;**
- c) demonstrate that sufficient soil depth can be provided for landscaping, particularly along street frontages and over podium/basement levels;**
- d) include an implementation program.**

- (o) Future Environmental Assessment Requirement 4 is amended by the insertion of the **bold and underlined** words/numbers as follows:

4. Future applications shall demonstrate that any future development, **including public domain**, will incorporate ESD principles in the design, construction and ongoing operation phases of the development, including water sensitive urban design measures, energy efficiency, recycling and water disposal.

- (p) Future Environmental Assessment Requirement 5 (Contributions) is deleted.

- (q) Future Environmental Assessment Requirement 7 (Ground Floor Usage) is deleted.

- (r) A new Future Environmental Assessment Requirement 8s is added by the insertion of the **bold and underlined** words/numbers as follows:

**8s. BUS LOCATIONS**

**The proponent shall liaise with Council and the local bus operator to identify new locations for corresponding bus stops in close proximity to the main entrance of the development on the Princes Highway. Safe and efficient pedestrian connectivity to bus stops in the vicinity of the development should be provided.**

- (s) Future Environmental Assessment Requirement 10 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~bold struck out~~ words/numbers as follows:

**10. BIODIVERSITY OFFSET**

A Biodiversity offset Package (BOP) shall be adopted which is consistent with the Principles for the use of biodiversity offsets in NSW which can be found at the following website: <http://www.environment.nsw.gov.au/biocertification/offsets.htm>

**The BOP shall be secured generally in accordance with the draft Voluntary Planning Agreement prepared by Gadens Lawyers (reference 20497267.1 DTSDTS)**

The Biodiversity Offset Package (BOP) shall include, but not necessarily be limited to:

- The final biodiversity offsets selected and to be secured;
- The management and monitoring requirements for the offsets and other ecological measures proposed to ensure the outcomes of the BOP are achieved;
- Timing and responsibilities for the implementation of the provisions of the Package over time.

~~The BOP shall be secured by one of the following mechanisms:~~

- ~~• A conservation agreement under the *National Parks and Wildlife Act 1974*;~~
- ~~• A biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995*;~~
- ~~• A planning agreement under the *Environmental Planning & Assessment Act 1979*, where the agreement provides for the conservation and/or enhancement of the biodiversity values of an area of land to which the agreement relates. A Trust agreement with the Nature Conservation Trust;~~  
~~or~~
- ~~• A legally binding agreement that provides for the conservation and/or enhancement of the biodiversity values of an area of land.~~

The Sydney Turpentine Ironbark Forest (STIF) off-site biodiversity offset, proposed under the Biodiversity Management Plan, prepared by Cumberland Ecology, dated November 2011, shall be included as part of any Voluntary Planning Agreement and be amended to:

- Provide replacement plantings at a ratio of 2:1 equating to a minimum of 5,300m<sup>2</sup>;
- Establish the new plantings with vegetation of the same type as that in the STIF, preferably on a site/s within 10km of the brickpit site that is/are acceptable to Council and subject to the agreement of the NSW Office of Environment and Heritage;
- Formulate a suitable legal mechanism for securing the offset; and
- Adopt a schedule of works for the implementation of the offset over a period of a minimum of five(5) years.

The biodiversity offsets as identified in the approved BOP shall be secured by the Proponent to the clearing of any of the Sydney Turpentine Ironbark Forest.

- (t) Future Environmental Assessment Requirement 14 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold struck out~~** words/numbers as follows:

#### 14. CAR PARKING

Future applications shall address the following:

- a) ~~The total amount of car parking to be provided as part of the development shall not exceed 1,150 spaces. Total number of car parking spaces for the proposed development shall not exceed the following car parking rates:~~
- i. residential component of the development:
    - 1 space per 1 bedroom unit;
    - 1.25 spaces per 2 bedroom unit;
    - 1.5 spaces per 3 bedroom unit; and
    - 0.125 visitor space per unit (1 space per 8 units).
  - ii. non-residential component of the development (including the replacement of 40 street car parking spaces displaced by the development):
    - Supermarket – 4.5 spaces per 100m<sup>2</sup>;
    - Mini-Major (faster trade retail) – 4.0 spaces per 100m<sup>2</sup>;
    - Speciality Retail (incl. secondary retail, kiosks) – 4.2 spaces per 100m<sup>2</sup>;
    - Showroom – 2.4 spaces per 100m<sup>2</sup>;
    - Office – 2.5 spaces per 100m<sup>2</sup>; and
    - Medical – 0.9 spaces per 100m<sup>2</sup>.
- b) An updated schedule of parking allocations for the site shall be prepared and submitted with each subsequent application.
- c) Parking facilities (public, commercial and bicycle) shall be designed in accordance with relevant Australian Standards.
- d) The design of the parking and commercial vehicle facilities shall be designed so that all vehicles, including commercial vehicles, enter and exit the development in a forward direction.
- e) the provision and implementation of a car share scheme.
- f) All loading and unloading associated with the use of the development shall take place wholly within the site from designated loading bays as identified in the Concept Plan. Loadings bays shall not be used for storage or any other purpose that would restrict their use for the purposes of loading and unloading.
- g) ~~Henroth Investments~~ South Village Pty Ltd shall enter into an agreement with Sutherland Shire Council that will delegate powers to Council to enforce regulatory parking signs within the internal road network if requested by Council.
- h) ~~Relocation of the Flora Street A~~ community bus and taxi drop off ~~to the main central Flora Street pedestrian entry,~~ shall be provided in a location and of a design that achieves reasonable accessibility for people with mobility restrictions between vehicles and the retail shops.

- (u) Future Environmental Assessment Requirement 17 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold struck out~~** words/numbers as follows:

#### 17. STAGING OF DEVELOPMENT

~~Future~~ The first substantive applications shall provide details of the final ~~form of~~ staging program of the development ~~are to be submitted with the first application~~ to ensure the orderly and coordinated development of the site to the satisfaction of Council. ~~The initial stages of the development should include the construction~~



~~of the retail precinct and lake and neighbourhood park within the southwestern portion of the site.~~

~~Each stage described shall provide full details of inclusions in respect of:~~

- ~~a) Demolition;~~
- ~~b) Earthworks;~~
- ~~c) Buildings and all other structures (including basements);~~
- ~~d) Any elements of the overall public domain plan to be dedicated or embellished;~~
- ~~e) Any site remediation works;~~
- ~~f) Stormwater management works;~~
- ~~g) Any vehicular or pedestrian access to the site;~~
- ~~h) Measures to mitigate and manage nuisance caused by stages under construction to completed stages and clashes between stages including vehicle access, noise, parking and safety; and~~
- ~~i) Waste and Construction Management.~~

An access application shall be made to Council to obtain footpath crossing and boundary alignment levels before commencing the detailed design of internal driveways, paths and car park area.

- (v) Future Environmental Assessment Requirement 18 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~bold struck out~~ words/numbers as follows:

#### **18. DESIGN QUALITY**

All residential, retail, and commercial floor space that sits above the finished ground level and the landscape design for each substantive stage of development shall exhibit design excellence. The proponent shall invite a minimum of three registered independent architects or **firms architectural practices** with a reputation for delivering buildings and/or the public domain of the highest quality to tender for the residential, retail and commercial components of the development that sit above the finished ground level and the major landscape elements of the development, and at each substantive stage the proponent shall demonstrate to the relevant approval body the steps that have been taken to achieve design excellence for those elements.

- (w) Future Environmental Assessment Requirement 19 is amended by the insertion of the **bold and underlined** words/numbers as follows:

#### **19. DEVELOPMENT DESIGN GUIDELINES**

Future applications for the site shall be generally consistent with the Modifications in Part B and Future Assessment Requirements in Schedule 3 and shall address the following:

- a) the built form will comply with the provisions of the State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Residential Flat Design Code 2002, except **where modified by this Concept Plan approval in respect to the setback requirements along the eastern boundary for Building D.**
- b) sufficient building modulation/articulation is provided to achieve an acceptable built form.
- c) solar access to future apartments shall be consistent with the approved Concept Plan and as modified to achieve compliance with the requirements of the Residential Flat Design Code.
- d) future applications shall ensure that the internal residential amenity of the proposed apartments are not unduly affected by the noise and vibration impacts from the Princes Highway and should comply with the requirements of Clause

102 of State Environmental Planning Policy (Infrastructure) 2007 and the Department of Planning and Infrastructure's 'Development Near Rail Corridors and Busy Roads – Interim Guidelines'.

- (x) Future Environmental Assessment Requirement 20 is amended by the insertion of the **bold and underlined** words/numbers as follows:

## **20. CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

Future applications shall ensure all design and treatment recommendations as identified in the report titled Crime Prevention through Environmental Design – Overview of Concept Plan & Stage 1 Proposed Development prepared by Environmental Resources Management Australia and dated May 2009 shall be incorporated into the relevant Stage. In addition:

- i. **The ground level of all buildings should provide for passive surveillance particularly where they front the new internal roads and internal pedestrian thoroughfares of the development;**
- ii. The location of street furniture on internal streets and thoroughfares shall be identified on the plans for each stage. Street furniture shall be positioned to take advantage of well lit and open areas to minimise crime.
- iii. The landscape design shall provide adequate sight lines between the shopping centre entry and the community bus, taxi drop off and bike parking locations and avoid places of concealment within the adjoining public park.
- iv. Lighting shall be provided for the bus and taxi drop off area in accordance with the AS/NZS 1158.3.1:2005 Lighting for Roads and Public Spaces.
- v. **the eastern planted strip shall be designed to maximise safety in accordance with CPTED principles including lighting, clear sightlines, access control and other measures as necessary.**
- vi. **An Access and Management Plan shall be submitted to Council confirming how the eastern planted strip, located between the podium and the eastern boundary, shall be managed and/or general access prevented to ensure that it does not become a place of concealment and to minimise the potential for crime. The Access and Management Plan shall include any necessary mitigation measures.**

**End of Modifications to MP10\_0076**